LAWS
of
UTAH 2022

Published by Authority
Utah Legislative Printing Office

STATE EXECUTIVES

SPENCER J. COX
Governor

DEIDRE M. HENDERSON
Lieutenant Governor

SEAN REYES
Attorney General

JOHN DOUGALL
State Auditor

MARLO M. OAKS
State Treasurer

SUPREME COURT

MATTHEW B. DURRANT
Chief Justice

THOMAS R. LEE
Associate Chief Justice

CONSTANIDINOS HIMONAS
Justice

JOHN A. PEARCE
Justice

PAIGE M. PETERSON
Justice

MEMBERS OF THE SIXTY-FOURTH
UTAH STATE LEGISLATURE

UTAH STATE SENATE
Officers

President –
J STUART ADAMS (R)

Secretary of the Senate –
JENNIFER STORIE

Sergeant–at–Arms –
THOMAS SHEPHERD

Members

1st District –
LUZ ESCAMILLA (D) .... Salt Lake

2nd District –
DEREK L. KITCHEN (D) .... Salt Lake

3rd District –
GENE DAVIS (D) .... Salt Lake

4th District –
JANI IWAMOTO (D) .... Salt Lake

5th District –
KAREN MAYNE (D) .... Salt Lake

6th District –
WAYNE A. HARPER (R) .... Salt Lake

7th District –
MICHAEL K. MCKELL (R) .... Utah

8th District –
KATHLEEN RIEBE (D) .... Salt Lake

9th District –
KIRK A. CULLIMORE (R) .... Salt Lake

10th District –
LINCOLN FILLMORE (R) .... Salt Lake

11th District –
DANIEL MCCAY (R) .... Salt Lake, Utah

12th District –
DANIEL W. THATCHER (R) .... Salt Lake, Tooele

13th District –
JACOB L. ANDEREGG (R) .... Salt Lake, Utah

14th District –
MICHAEL S. KENNEDY (R) .... Utah

15th District –
KEITH GROVER (R) .... Utah

16th District –
CURTIS S. BRAMBLE (R) .... Utah, Wasatch

17th District –
SCOTT D. SANDALL (R) .... Box Elder, Cache, Tooele

18th District –
ANN MILLNER (R) .... Davis, Morgan, Weber

19th District –
JOHN D JOHNSON (R) .... Morgan, Summit, Weber

20th District –
DAVID G. BUXTON (R) .... Davis, Weber

21st District –
JERRY W. STEVENSON (R) .... Davis

22nd District –
J. STUART ADAMS (R) .... Davis

23rd District –
TODD WEILER (R) .... Davis, Salt Lake

24th District –
DERRIN R. OWENS (R) .... Beaver, Garfield, Juab,
Kane, Millard, Piute,
Sanpete, Sevier, Utah, Wayne

25th District –
CHRIS H. WILSON (R) .... Cache, Rich

26th District –
RONALD WINTERTON (R) .... Daggett, Duchesne,
Summit, Uintah, Wasatch

27th District –
DAVID P. HINKINS (R) .... Carbon, Emery, Grand,
San Juan, Utah, Wasatch

28th District –
EVAN J. VICKERS (R) .... Beaver, Iron,
Washington

29th District –
DON L. IPSON (R) .... Washington

HOUSE OF REPRESENTATIVES

Officers

Speaker –
BRAD R. WILSON (R)

Sergeant-at-Arms –
MIKE MITCHELL

Chief Clerk –
MEGAN S. ALLEN

Members

1st District	JOEL FERRY (R)	Box Elder, Cache
2nd District	JEFFERSON MOSS (R)	Utah
3rd District	MICHAEL J. PETERSEN (R)	Cache
4th District	DAN N. JOHNSON (R)	Cache
5th District	CASEY SNIDER (R)	Cache
6th District	A. CORY MALOY (R)	Utah
7th District	RYAN D. WILCOX (R)	Weber
8th District	STEVE WALDRIP (R)	Weber
9th District	CALVIN R. MUSSELMAN (R)	Weber
10th District	ROSEMARY T. LESSER (D)	Weber
11th District	KELLY B. MILES (R)	Davis, Weber
12th District	MIKE SCHULTZ (R)	Davis, Weber
13th District	KAREN M. PETERSON (R)	Davis
14th District	KARIANNE LISONBEE (R)	Davis
15th District	BRAD R. WILSON (R)	Davis
16th District	STEPHEN G. HANDY (R)	Davis
17th District	STEWART E. BARLOW (R)	Davis
18th District	TIMOTHY D. HAWKES (R)	Davis
19th District	RAYMOND P. WARD (R)	Davis
20th District	MELISSA G. BALLARD (R)	Davis
21st District	DOUGLAS V. SAGERS (R)	Tooele
22nd District	CLARE COLLARD (D)	Salt Lake
23rd District	SANDRA HOLLINS (D)	Salt Lake
24th District	JENNIFER DAILEY-PROVOST (D)	Salt Lake
25th District	JOEL K. BRISCOE (D)	Salt Lake
26th District	ANGELA ROMERO (D)	Salt Lake
27th District	BRADY BRAMMER (R)	Utah
28th District	BRIAN S. KING (D)	Salt Lake, Summit
29th District	MATTHEW GWYNN (R)	Box Elder, Weber
30th District	MIKE WINDER (R)	Salt Lake
31st District	ELIZABETH WEIGHT (D)	Salt Lake
32nd District	SUZANNE HARRISON (D)	Salt Lake
33rd District	JUDY ROHNER (R)	Salt Lake
34th District	KAREN KWAN (D)	Salt Lake
35th District	MARK A. WHEATLEY (D)	Salt Lake
36th District	DOUG OWENS (D)	Salt Lake
37th District	CAROL SPACKMAN MOSS (D)	Salt Lake
38th District	ASHLEE MATTHEWS (R)	Salt Lake
39th District	JAMES A. DUNNIGAN (R)	Salt Lake

40th District	STEPHANIE PITCHER (D)	Salt Lake
41st District	MARK A. STRONG (R)	Salt Lake
42nd District	JORDAN D. TEUSCHER (R)	Salt Lake
43rd District	CHERYL K. ACTON (R)	Salt Lake
44th District	ANDREW STODDARD (R)	Salt Lake
45th District	STEVE ELIASON (R)	Salt Lake
46th District	GAY LYNN BENNION (D)	Salt Lake
47th District	KEN IVORY (R)	Salt Lake
48th District	KEVEN J. STRATTON (R)	Salt Lake
49th District	ROBERT M. SPENDLOVE (R)	Salt Lake
50th District	SUSAN PULSIPHER (R)	Salt Lake
51st District	JEFF STENQUIST (R)	Salt Lake
52nd District	CANDICE PIERUCCI (R)	Salt Lake
53rd District	KERA BIRKELAND (R)	Daggett, Duchesne, Morgan, Rich, Summit
54th District	MIKE L. KOHLER (R)	Summit, Wasatch
55th District	SCOTT H. CHEW (R)	Duchesne, Uintah
56th District	KAY J. CHRISTOFFERSON (R)	Utah
57th District	JON HAWKINS (R)	Utah
58th District	STEVEN J. LUND (R)	Juab, Sanpete
59th District	VAL L. PETERSON (R)	Utah
60th District	NELSON T. ABBOTT (R)	Utah
61st District	MARSHA JUDKINS (R)	Utah
62nd District	TRAVIS M. SEEGMILLER (R)	Washington
63rd District	ADAM ROBERTSON (R)	Utah
64th District	NORMAN K. THURSTON (R)	Utah
65th District	STEPHEN L. WHYTE (R)	Utah
66th District	JEFFERSON S. BURTON (R)	Utah
67th District	DOUGLAS R. WELTON (R)	Utah
68th District	MERRILL F. NELSON (R)	Beaver, Juab, Millard, Tooele, Utah
69th District	CHRISTINE F. WATKINS (R)	Carbon, Duchesne, Emery, Grand
70th District	CARL R. ALBRECHT (R)	Emery, Grand, Sanpete, Sevier
71st District	BRADLEY G. LAST (R)	Iron, Washington
72nd District	REX P. SHIPP (R)	Iron
73rd District	PHIL LYMAN (R)	Beaver, Garfield, Kane, Piute, San Juan, Sevier, Wayne
74th District	V. LOWRY SNOW (R)	Washington
75th District	WALT BROOKS (R)	Washington

TABLE of CONTENTS

STATE EXECUTIVES iii
MEMBERS OF THE SIXTY-FOURTH UTAH STATE LEGISLATURE v

2021 SECOND SPECIAL SESSION
64th LEGISLATURE

CHAPTER 1 3
UTAH TECH UNIVERSITY 3

CHAPTER 2 10
CONGRESSIONAL BOUNDARIES DESIGNATION 10

CHAPTER 3 13
UNEMPLOYMENT INSURANCE RATES AMENDMENTS 13

CHAPTER 4 16
PRETRIAL AMENDMENTS 16

CHAPTER 5 57
UTAH STATE HOUSE BOUNDARIES DESIGNATION 57

CHAPTER 6 61
ELECTION SCHEDULE AMENDMENTS 61

CHAPTER 7 68
INTERLOCAL COOPERATION ACT AMENDMENTS 68

CHAPTER 8 72
STATE FLAG AMENDMENTS 72

CHAPTER 9 74
WORKPLACE COVID-19 AMENDMENTS 74

CHAPTER 10 76
STATE BOARD OF EDUCATION BOUNDARIES AND ELECTION DESIGNATION 76

CHAPTER 11 80
UTAH STATE SENATE BOUNDARIES AND ELECTION DESIGNATION 80

RESOLUTION PASSED AT THE SECOND SPECIAL SESSION

CONCURRENT RESOLUTION URGING CONGRESS AND THE PRESIDENT TO PROTECT CONSUMER PRIVACY IN BANKING AND FINANCIAL TRANSACTIONS 84

2022 GENERAL SESSION
64th LEGISLATURE

CHAPTER 1 87
PUBLIC EDUCATION BASE BUDGET AMENDMENTS 87

CHAPTER 2 .... **102**

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET 102

CHAPTER 3 .... **117**

EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET 117

CHAPTER 4 .... **135**

SOCIAL SERVICES BASE BUDGET 135

CHAPTER 5 .... **158**

IN-PERSON LEARNING AMENDMENTS 158

CHAPTER 6 .... **161**

HIGHER EDUCATION BASE BUDGET 161

CHAPTER 7 .... **171**

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET 171

CHAPTER 8 .... **192**

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET 192

CHAPTER 9 .... **206**

NATIONAL GUARD, VETERANS AFFAIRS, AND LEGISLATURE BASE BUDGET 206

CHAPTER 10 .... **212**

CORRECTIONAL OFFICER ELIGIBILITY AMENDMENTS 212

CHAPTER 11 .... **216**

JUDICIAL PERFORMANCE EVALUATION COMMISSION AMENDMENTS 216

CHAPTER 12 .... **229**

TAX AMENDMENTS 229

CHAPTER 13 .... **232**

ELECTION SCHEDULE AMENDMENTS 232

CHAPTER 14 .... **247**

DAY OF REMEMBRANCE OBSERVING THE INCARCERATION OF JAPANESE AMERICANS DURING WORLD WAR II 247

CHAPTER 15 .... **249**

TAX SALE NOTICE AMENDMENTS 249

CHAPTER 16 .... **251**

DRIVER LICENSE TESTING MODIFICATIONS 251

CHAPTER 17 .... **252**

TEACHER PROFESSIONAL DEVELOPMENT AMENDMENTS 252

CHAPTER 18 .... **254**

ELECTION MODIFICATIONS 254

CHAPTER 19 .... **280**

SPECIAL LICENSE PLATE DESIGNATION 280

CHAPTER 20 .... **285**

BOARD OF BANK ADVISORS SUNSET EXTENSION 285

CHAPTER 21 . . . . **286**

CHILD CARE AMENDMENTS 286

CHAPTER 22 . . . . **294**

STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM FUND AMENDMENTS 294

CHAPTER 23 . . . . **296**

EXTENSION OF THE UTAH COUNCIL ON VICTIMS OF CRIME 296

CHAPTER 24 . . . . **298**

OPEN AND PUBLIC MEETINGS ACT MODIFICATIONS 298

CHAPTER 25 . . . . **300**

EMPLOYMENT ADVISORY COUNCIL AMENDMENTS 300

CHAPTER 26 . . . . **301**

STATE MONUMENTS ACT AMENDMENTS 301

CHAPTER 27 . . . . **303**

STATE WATER POLICY AMENDMENTS 303

CHAPTER 28 . . . . **305**

STATE CONSTRUCTION CODE AMENDMENTS 305

CHAPTER 29 . . . . **323**

COUNTY PROPERTY TAX STATEMENT AMENDMENTS 323

CHAPTER 30 . . . . **324**

EDUCATION SUNSET EXTENSIONS 324

CHAPTER 31 . . . . **325**

HOSPITALITY AND TOURISM MANAGEMENT CTE PILOT PROGRAM SUNSET EXTENSION 325

CHAPTER 32 . . . . **327**

BUSINESS AND LABOR REPORTING REQUIREMENTS 327

CHAPTER 33 . . . . **333**

EXTENSION FOR CONTROLLED SUBSTANCE PRESCRIPTION REQUIREMENTS 333

CHAPTER 34 . . . . **334**

UTAH SUBSTANCE USE AND MENTAL HEALTH ADVISORY COUNCIL SUNSET EXTENSION 334

CHAPTER 35 . . . . **337**

STUDY ON STATE HOSPITAL CAPACITY SUNSET AMENDMENTS 337

CHAPTER 36 . . . . **338**

INTERGENERATIONAL POVERTY MITIGATION AMENDMENTS 338

CHAPTER 37 . . . . **345**

WILDLIFE CONSERVATION FUND 345

CHAPTER 38 . . . . **346**

STATE AND LOCAL EMPLOYEE DISASTER SERVICES 346

CHAPTER 39 . . . . **349**

LOCAL HEALTH DEPARTMENT ORDER AMENDMENTS 349

CHAPTER 40 .... **356**
BUDGETARY PROCEDURES MODIFICATIONS 356

CHAPTER 41 .... **359**
TANGIBLE PERSONAL PROPERTY TAX AMENDMENTS 359

CHAPTER 42 .... **361**
SPEED LIMIT DESIGNATION AMENDMENTS 361

CHAPTER 43 .... **362**
INSTREAM WATER FLOW AMENDMENTS 362

CHAPTER 44 .... **368**
UTAH ENERGY INFRASTRUCTURE AMENDMENTS 368

CHAPTER 45 .... **375**
BIG GAME AMENDMENTS 375

CHAPTER 46 .... **380**
COMMERCIAL DRIVER LICENSE AMENDMENTS 380

CHAPTER 47 .... **389**
VEHICLE MERGER AMENDMENTS 389

CHAPTER 48 .... **390**
LICENSE PLATE REVISIONS 390

CHAPTER 49 .... **397**
VEHICLE INSPECTION AMENDMENTS 397

CHAPTER 50 .... **398**
WATER CONSERVATION MODIFICATIONS 398

CHAPTER 51 .... **401**
WATERSHED RESTORATION INITIATIVE 401

CHAPTER 52 .... **403**
TARGET SHOOTING REGULATIONS 403

CHAPTER 53 .... **404**
DONATION OF FOOD 404

CHAPTER 54 .... **406**
SOVEREIGN LANDS REVENUE AMENDMENTS 406

CHAPTER 55 .... **408**
STATE RESOURCE MANAGEMENT PLAN AMENDMENTS 408

CHAPTER 56 .... **409**
VEHICLE REGISTRATION AMENDMENTS 409

CHAPTER 57 .... **414**
OUTDOOR RECREATION RELATED EDUCATION 414

CHAPTER 58 .... **416**
FISHING AND HUNTING RESTRICTIONS FOR NONPAYMENT OF
CHILD SUPPORT 416

CHAPTER 59 .... **418**
UTAH LAKE AUTHORITY 418

CHAPTER 60 .... **436**
UTAH LAKE AMENDMENTS 436

CHAPTER 61 .... **438**
SECONDARY WATER METERING AMENDMENTS 438

CHAPTER 62 .... **444**
GEOLOGICAL CARBON SEQUESTRATION AMENDMENTS 444

CHAPTER 63 .... **455**
UTAH STATE RAILROAD MUSEUM AUTHORITY AMENDMENTS 455

CHAPTER 64 .... **457**
LAW ENFORCEMENT USE OF UNMANNED AIRCRAFT 457

CHAPTER 65 .... **458**
UTAH WATERSHEDS COUNCIL AMENDMENTS 458

CHAPTER 66 .... **460**
CAPITAL ASSETS RELATED TO WATER 460

CHAPTER 67 .... **463**
LOCAL FOOD ADVISORY COUNCIL AMENDMENTS 463

CHAPTER 68 .... **464**
NATURAL RESOURCES REVISIONS 464

CHAPTER 69 .... **524**
PUBLIC TRANSIT CAPITAL DEVELOPMENTMODIFICATIONS 524

CHAPTER 70 .... **535**
STATE ENGINEER MODIFICATIONS 535

CHAPTER 71 .... **536**
WATER RIGHTS ADJUDICATION AMENDMENTS 536

CHAPTER 72 .... **538**
MINING OPERATIONS AMENDMENTS 538

CHAPTER 73 .... **543**
AGENCY FEE ASSESSMENT AMENDMENTS 543

CHAPTER 74 .... **547**
HEMP AND CBD AMENDMENTS 547

CHAPTER 75 .... **552**
WATER REPORTING AMENDMENTS 552

CHAPTER 76 .... **555**
LARGE PUBLIC TRANSIT DISTRICT AMENDMENTS 555

CHAPTER 77 .... **556**
RECREATION INFRASTRUCTURE AMENDMENTS 556

CHAPTER 78 .... **565**
GREAT SALT LAKE WATERSHED ENHANCEMENT 565

CHAPTER 79 .... **570**
DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS 570

CHAPTER 80 .... **580**
WILDLIFE ACCIDENT PROTECTIONS 580

CHAPTER 81 .... **581**
GREAT SALT LAKE AMENDMENTS 581

CHAPTER 82 .... **584**
UTAH INLAND PORT AUTHORITY AMENDMENTS 584

CHAPTER 83 .... **606**
STATE ROAD JURISDICTION AMENDMENTS 606

CHAPTER 84 .... **609**
GRAZING ADVISORY BOARD AMENDMENTS 609

CHAPTER 85 .... **612**
WATER RIGHTS PROOFS ON SMALL AMOUNTS OF WATER 612

CHAPTER 86 .... **614**
ELECTRIC ASSISTED BICYCLE USE AMENDMENTS 614

CHAPTER 87 .... **620**
TRESPASS PENALTY AMENDMENTS 620

CHAPTER 88 .... **623**
ATV WEIGHT LIMIT AMENDMENTS 623

CHAPTER 89 .... **625**
FINE AMENDMENTS 625

CHAPTER 90 .... **627**
WATER AMENDMENTS 627

CHAPTER 91 .... **630**
ELECTRONIC VEHICLE REGISTRATION AMENDMENTS 630

CHAPTER 92 .... **631**
TOWING AMENDMENTS 631

CHAPTER 93 .... **649**
UNMANNED AIRCRAFT AMENDMENTS 649

CHAPTER 94 .... **650**
FOOD SECURITY AMENDMENTS 650

CHAPTER 95 .... **652**
AIR QUALITY POLICY AMENDMENTS 652

CHAPTER 96 .... **654**
DIVISION OF OIL, GAS, AND MINING AMENDMENTS 654

CHAPTER 97 .... **657**
MEDICAL CANNABIS GOVERNANCE STUDY 657

CHAPTER 98 .... **659**
COLORADO RIVER AUTHORITY OF UTAH AMENDMENTS 659

CHAPTER 99 .... **662**
AVIATION AMENDMENTS 662

CHAPTER 100 . . . . **666**
ENERGY EFFICIENCY AMENDMENTS 666

CHAPTER 101 . . . . **671**
RIGHT-OF-WAY DISPOSAL AMENDMENTS 671

CHAPTER 102 . . . . **674**
AIR RIFLE HUNTING AMENDMENTS 674

CHAPTER 103 . . . . **675**
VETERINARIAN REGULATIONS AMENDMENTS 675

CHAPTER 104 . . . . **676**
RAILROAD CROSSING MODIFICATIONS 676

CHAPTER 105 . . . . **684**
MODIFICATIONS TO DRIVER LICENSE EXAMINATION 684

CHAPTER 106 . . . . **686**
WATER RELATED SALES AND USE TAX AMENDMENTS 686

CHAPTER 107 . . . . **694**
DEPARTMENT OF TRANSPORTATION ADJUDICATION
PROCESS REVISIONS 694

CHAPTER 108 . . . . **697**
MINERAL EXPLORATION TAX CREDIT 697

CHAPTER 109 . . . . **700**
GOVERNMENT RECORDS ACCESS REVISIONS 700

CHAPTER 110 . . . . **707**
LANE FILTERING AMENDMENTS 707

CHAPTER 111 . . . . **708**
EMERGENCY RESPONSE AMENDMENTS 708

CHAPTER 112 . . . . **711**
INTIMATE IMAGE DISTRIBUTION AMENDMENTS 711

CHAPTER 113 . . . . **713**
DNA SPECIMEN ANALYSIS AMENDMENTS 713

CHAPTER 114 . . . . **716**
FIRST RESPONDER MENTAL HEALTH SERVICES AMENDMENTS 716

CHAPTER 115 . . . . **719**
OFFENDER SUPERVISION AMENDMENTS 719

CHAPTER 116 . . . . **729**
DRIVING OFFENSES AMENDMENTS 729

CHAPTER 117 . . . . **771**
HEALTH CARE WORKER PROTECTION AMENDMENTS 771

CHAPTER 118 . . . . **773**
COMMISSION ON HOUSING AFFORDABILITY AMENDMENTS 773

CHAPTER 119 . . . . **776**
COVID-19 VACCINE EXEMPTIONS 776

CHAPTER 120 .... **779**
FORENSIC BIOLOGICAL EVIDENCE PRESERVATION 779

CHAPTER 121 .... **789**
VOTER ROLL MAINTENANCE AMENDMENTS 789

CHAPTER 122 .... **793**
PUBLIC SAFETY DISABILITY BENEFITS AMENDMENTS 793

CHAPTER 123 .... **796**
MEDICATION FOR INMATES 796

CHAPTER 124 .... **798**
SEXUAL SOLICITATION AMENDMENTS 798

CHAPTER 125 .... **802**
TRANSPARENCY IN LOBBYING AND DISCLOSURES AMENDMENTS 802

CHAPTER 126 .... **816**
FINANCIAL DISCLOSURES AMENDMENTS 816

CHAPTER 127 .... **822**
POST COUNCIL MEMBERSHIP AMENDMENTS 822

CHAPTER 128 .... **824**
GOVERNMENT RECORDS FEE AMENDMENTS 824

CHAPTER 129 .... **826**
RURAL COWORKING AND INNOVATION CENTER GRANT
PROGRAM AMENDMENTS 826

CHAPTER 130 .... **827**
USE OF FORCE REVISIONS 827

CHAPTER 131 .... **829**
FORCIBLE ENTRY WARRANT MODIFICATIONS 829

CHAPTER 132 .... **832**
DIVISION OF JUVENILE JUSTICE SERVICES RULEMAKING
AMENDMENTS 832

CHAPTER 133 .... **834**
VICTIMS’ RIGHTS REVISIONS 834

CHAPTER 134 .... **836**
DUI AMENDMENTS 836

CHAPTER 135 .... **845**
JUVENILE JUSTICE MODIFICATIONS 845

CHAPTER 136 .... **848**
TRAFFIC VIOLATION AMENDMENTS 848

CHAPTER 137 .... **851**
DUI PENALTY AMENDMENTS 851

CHAPTER 138 .... **855**
POWER OF ATTORNEY AMENDMENTS 855

CHAPTER 139 .... **856**
COMMUNITY CORRECTIONAL CENTER REVISIONS 856

CHAPTER 140 .... **858**
VETERAN ACCESS TO STATE PARKS 858

CHAPTER 141 .... **859**
MENTAL ILLNESS PSYCHOTHERAPY DRUG TASK FORCE 859

CHAPTER 142 .... **861**
PROTECTION OF ANIMALS AMENDMENTS 861

CHAPTER 143 .... **869**
OFF-ROAD VEHICLE SAFETY EDUCATION 869

CHAPTER 144 .... **875**
DEPARTMENT OF CORRECTIONS EDUCATION SERVICES 875

CHAPTER 145 .... **877**
DOMESTIC VIOLENCE OFFENDER TREATMENT BOARD 877

CHAPTER 146 .... **879**
DRIVING PRIVILEGE CARD AMENDMENTS 879

CHAPTER 147 .... **881**
HIGHER EDUCATION AND CORRECTIONS COUNCIL 881

CHAPTER 148 .... **885**
CRIME VICTIM REPARATIONS AMENDMENTS 885

CHAPTER 149 .... **889**
BEHAVIORAL HEALTH AMENDMENTS 889

CHAPTER 150 .... **894**
LAW ENFORCEMENT RECORDING RELEASE AMENDMENTS 894

CHAPTER 151 .... **896**
CAMPAIGN FINANCE AMENDMENTS 896

CHAPTER 152 .... **903**
JUVENILE COMPETENCY AMENDMENTS 903

CHAPTER 153 .... **908**
CYBERSECURITY COMMISSION 908

CHAPTER 154 .... **913**
PHYSICIAN WORKFORCE AMENDMENTS 913

CHAPTER 155 .... **918**
JUVENILE JUSTICE CHANGES 918

CHAPTER 156 .... **946**
ELECTION SECURITY AMENDMENTS 946

CHAPTER 157 .... **954**
INHERITANCE DISQUALIFICATION AMENDMENTS 954

CHAPTER 158 .... **957**
DRIVER LICENSE AND LICENSE PLATE AMENDMENTS 957

CHAPTER 159 .... **965**
WEAPON POSSESSION PENALTY AMENDMENTS 965

CHAPTER 160 966
VEHICLE REGISTRATION MODIFICATIONS 966

CHAPTER 161 970
FALSE EMERGENCY REPORTING AMENDMENTS 970

CHAPTER 162 972
AUTOCYCLE AMENDMENTS 972

CHAPTER 163 976
UNINSURED MOTORIST AMENDMENTS 976

CHAPTER 164 989
THEFT BY EXTORTION AMENDMENTS 989

CHAPTER 165 990
MARIJUANA DEFINITIONS AMENDMENTS 990

CHAPTER 166 1002
BEREAVEMENT LEAVE MODIFICATIONS 1002

CHAPTER 167 1012
LOCAL ELECTION AMENDMENTS 1012

CHAPTER 168 1015
PROPERTY TAX APPEALS PROCESS AMENDMENTS 1015

CHAPTER 169 1018
DEPARTMENT OF GOVERNMENT OPERATIONS 1018

CHAPTER 170 1055
ELECTION REVISIONS 1055

CHAPTER 171 1067
UTAH RETIREMENT SYSTEMS REVISIONS 1067

CHAPTER 172 1090
EMERGENCY MANAGEMENT ADMINISTRATION COUNCIL
SUNSET EXTENSION 1090

CHAPTER 173 1091
SEARCH AND RESCUE ADVISORY BOARD SUNSET EXTENSION 1091

CHAPTER 174 1092
UTAH PROTECTION OF PUBLIC EMPLOYEES ACT AMENDMENTS 1092

CHAPTER 175 1097
CRIMINAL CODE EVALUATION TASK FORCE SUNSET EXTENSION 1097

CHAPTER 176 1099
DRIVER SPEEDING AMENDMENTS 1099

CHAPTER 177 1101
BEREAVEMENT LEAVE AMENDMENTS 1101

CHAPTER 178 1110
IDENTIFICATION FOR VEHICLE REGISTRATION AMENDMENTS 1110

CHAPTER 179 1111
ASSET FORFEITURE AMENDMENTS 1111

CHAPTER 180 1120
MILITARY VEHICLE LICENSE PLATE AMENDMENTS 1120

CHAPTER 181 1125
CRIMINAL CODE RECODIFICATION 1125

CHAPTER 182 1211
OFFICER INTERVENTION AND REPORTING AMENDMENTS 1211

CHAPTER 183 1213
TINTED VEHICLE WINDOWS AMENDMENTS 1213

CHAPTER 184 1214
PROTECTION AGAINST EXTORTION AMENDMENTS 1214

CHAPTER 185 1217
SEXUAL EXPLOITATION AMENDMENTS 1217

CHAPTER 186 1252
HIGHER EDUCATION STUDENT ASSISTANCE AMENDMENTS 1252

CHAPTER 187 1255
CRIMINAL JUSTICE AMENDMENTS 1255

CHAPTER 188 1274
PARENTAL REPRESENTATION AMENDMENTS 1274

CHAPTER 189 1276
MEDICAL RATIONING AMENDMENTS 1276

CHAPTER 190 1278
WRONGFUL DEATH ACTION AMENDMENTS 1278

CHAPTER 191 1279
POST DISASTER RECOVERY AND MITIGATION RESTRICTED
ACCOUNT AMENDMENTS 1279

CHAPTER 192 1282
BCI BACKGROUND CHECK AMENDMENTS 1282

CHAPTER 193 1287
NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT 1287

CHAPTER 194 1329
SCHOOL AND CHILD CARE CENTER WATER TESTING REQUIREMENTS 1329

CHAPTER 195 1333
UTAH RURAL JOBS ACT AMENDMENTS 1333

CHAPTER 196 1340
RENTER'S CREDIT AMENDMENTS 1340

CHAPTER 197 1341
STUDENT TRIBAL REGALIA USE AMENDMENTS 1341

CHAPTER 198 1342
INSURANCE AMENDMENTS 1342

CHAPTER 199 1409
CIGARETTE AMENDMENTS 1409

CHAPTER 200 .... **1413**
ECONOMIC DEVELOPMENT MODIFICATIONS 1413

CHAPTER 201 .... **1426**
PROPERTY THEFT AMENDMENTS 1426

CHAPTER 202 .... **1449**
JUSTICE COURT JUDGE ELECTIONS AMENDMENTS 1449

CHAPTER 203 .... **1451**
JUVENILE JUSTICE SERVICES AMENDMENTS 1451

CHAPTER 204 .... **1454**
DIVISION OF REAL ESTATE AMENDMENTS 1454

CHAPTER 205 .... **1469**
RETIREMENT SYSTEM AMENDMENTS 1469

CHAPTER 206 .... **1476**
DIABETES PREVENTION PROGRAM 1476

CHAPTER 207 .... **1478**
STATE FINANCE REVIEW COMMISSION 1478

CHAPTER 208 .... **1492**
STUDENT INTERVENTION EARLY WARNING PROGRAM 1492

CHAPTER 209 .... **1495**
STATE EMPLOYMENT AMENDMENTS 1495

CHAPTER 210 .... **1505**
SMALL CLAIMS AMENDMENTS 1505

CHAPTER 211 .... **1507**
ALCOHOL EDUCATION AMENDMENTS 1507

CHAPTER 212 .... **1509**
COURT-APPOINTED
THERAPISTS AMENDMENTS 1509

CHAPTER 213 .... **1514**
STUDENTS WITH DISABILITIES FUNDING REVISIONS 1514

CHAPTER 214 .... **1516**
SCHOOL NURSING SERVICES AMENDMENTS 1516

CHAPTER 215 .... **1518**
VICTIM ADDRESS CONFIDENTIALITY PROGRAM 1518

CHAPTER 216 .... **1530**
WETLAND AMENDMENTS 1530

CHAPTER 217 .... **1532**
FAMILY TERMINOLOGY AMENDMENTS 1532

CHAPTER 218 .... **1539**
STATE TRANSIENT ROOM TAX MODIFICATIONS 1539

CHAPTER 219 .... **1543**
WILDFIRE AMENDMENTS 1543

CHAPTER 220 .... **1545**
DISABILITY OMBUDSMAN PROGRAM 1545

CHAPTER 221 .... **1547**
OCCUPATIONAL THERAPY LICENSURE COMPACT 1547

CHAPTER 222 .... **1560**
ATTORNEY GENERAL PROSECUTION REVIEW AMENDMENTS 1560

CHAPTER 223 .... **1565**
JORDAN RIVER RECREATION AREA AMENDMENTS 1565

CHAPTER 224 .... **1567**
UTAH HEALTH WORKFORCE ACT 1567

CHAPTER 225 .... **1577**
WATER WELL AMENDMENTS 1577

CHAPTER 226 .... **1579**
MEDICAID WAIVER FOR MEDICALLY COMPLEX CHILDREN AMENDMENTS 1579

CHAPTER 227 .... **1580**
SCHOOL EPILEPSY TRAINING AMENDMENTS 1580

CHAPTER 228 .... **1581**
SALES AND INCOME TAX AMENDMENTS 1581

CHAPTER 229 .... **1595**
CIVICS EDUCATION AMENDMENTS 1595

CHAPTER 230 .... **1601**
WATER WISE LANDSCAPING AMENDMENTS 1601

CHAPTER 231 .... **1603**
VITAL RECORDS SPECIAL CHARACTERS 1603

CHAPTER 232 .... **1605**
EFFECTIVE TEACHERS IN HIGH POVERTY SCHOOLS INCENTIVE PROGRAM AMENDMENTS 1605

CHAPTER 233 .... **1607**
MEDICAL ASSISTANT AMENDMENTS 1607

CHAPTER 234 .... **1613**
SOVEREIGN LANDS TRESPASSING AMENDMENTS 1613

CHAPTER 235 .... **1615**
PROPERTY TAX EXEMPTION AMENDMENTS 1615

CHAPTER 236 .... **1620**
EDUCATION INNOVATION PROGRAM 1620

CHAPTER 237 .... **1629**
POINT OF THE MOUNTAIN STATE LAND AUTHORITY AMENDMENTS 1629

CHAPTER 238 .... **1646**
INCOME TAX REVISIONS 1646

CHAPTER 239 .... **1661**
PROPERTY TAX AMENDMENTS 1661

CHAPTER 240 .... **1680**
PUBLIC-PRIVATE PARTNERSHIP AMENDMENTS 1680

CHAPTER 241 .... **1683**
ACUPUNCTURIST LIABILITY AMENDMENTS 1683

CHAPTER 242 .... **1687**
PROPERTY TAX DEFERRAL AMENDMENTS 1687

CHAPTER 243 .... **1692**
DIVISION OF CONSUMER PROTECTION AMENDMENTS 1692

CHAPTER 244 .... **1700**
UTAH POWERSPORT VEHICLE FRANCHISE ADVISORY
BOARD AMENDMENTS 1700

CHAPTER 245 .... **1702**
OFFICE OF AMERICAN INDIAN-ALASKA NATIVE HEALTH
AND FAMILY SERVICES 1702

CHAPTER 246 .... **1706**
EXECUTIVE RESIDENCE COMMISSION SUNSET EXTENSION 1706

CHAPTER 247 .... **1707**
LEGISLATIVE PROCESS COMMITTEE SUNSET EXTENSION 1707

CHAPTER 248 .... **1708**
VOTING HISTORY AMENDMENTS 1708

CHAPTER 249 .... **1709**
UTAH STATEWIDE RADIO SYSTEM RESTRICTED ACCOUNT
SUNSET AMENDMENTS 1709

CHAPTER 250 .... **1711**
EXPUNGEMENT MODIFICATIONS 1711

CHAPTER 251 .... **1729**
BALLOT AMENDMENTS 1729

CHAPTER 252 .... **1734**
MOBILE WORKFORCE INCOME TAX AMENDMENTS 1734

CHAPTER 253 .... **1740**
BEHAVIORAL HEALTH SERVICES AMENDMENTS 1740

CHAPTER 254 .... **1744**
HIGHER EDUCATION PERFORMANCE FUNDING GOALS 1744

CHAPTER 255 .... **1746**
DEPARTMENT OF HEALTH AND HUMAN SERVICES AMENDMENTS 1746

CHAPTER 256 .... **1837**
MEDICAL CANNABIS PATIENT PROTECTION AMENDMENTS 1837

CHAPTER 257 .... **1840**
COORDINATING COUNCIL FOR PERSONS WITH DISABILITIES
SUNSET EXTENSION 1840

CHAPTER 258 .... **1841**
INCOME TAX MODIFICATIONS 1841

CHAPTER 259 .... **1844**
TRANSPORTATION AMENDMENTS 1844

CHAPTER 260 .... **1871**
COUNTY AMENDMENTS 1871

CHAPTER 261 .... **1873**
DELINQUENT PROPERTY TAX COLLECTION AMENDMENTS 1873

CHAPTER 262 .... **1875**
SPECIAL NEEDS OPPORTUNITY SCHOLARSHIP PROGRAM AMENDMENTS 1875

CHAPTER 263 .... **1883**
ALIMONY MODIFICATIONS 1883

CHAPTER 264 .... **1887**
TARGETED BUSINESS INCOME TAX CREDIT AMENDMENTS 1887

CHAPTER 265 .... **1892**
SCHOOL BOARD EXPANSION REQUIREMENTS 1892

CHAPTER 266 .... **1895**
SCHOOL INFORMATION MANAGEMENT SYSTEM AMENDMENTS 1895

CHAPTER 267 .... **1897**
AFFORDABLE HOUSING TAX AMENDMENTS 1897

CHAPTER 268 .... **1899**
COSMETIC MANUFACTURING CERTIFICATE PROGRAM 1899

CHAPTER 269 .... **1900**
CHIROPRACTIC PRACTICE AMENDMENTS 1900

CHAPTER 270 .... **1902**
PROTECTIVE ORDER AND STALKING INJUNCTION EXPUNGEMENT 1902

CHAPTER 271 .... **1904**
DISTRICT AND JUVENILE COURT JUDGE AMENDMENTS 1904

CHAPTER 272 .... **1905**
COURT FEE WAIVER AMENDMENTS 1905

CHAPTER 273 .... **1918**
TAX ADMINISTRATION AMENDMENTS 1918

CHAPTER 274 .... **1926**
REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE 1926

CHAPTER 275 .... **1977**
BUSINESS TAX AMENDMENTS 1977

CHAPTER 276 .... **1989**
JUDICIARY AMENDMENTS 1989

CHAPTER 277 .... **1997**
NURSE APPRENTICE LICENSING ACT 1997

CHAPTER 278 .... **2007**
SPECIAL EDUCATION LICENSING AMENDMENTS 2007

CHAPTER 279 .... **2009**
COMMUNITY HEALTH WORKER CERTIFICATION PROCESS 2009

CHAPTER 280 .... **2011**
ELECTRICAL FACILITY SALES TAX EXEMPTION 2011

CHAPTER 281 .... **2022**
INDIGENT DEFENSE AMENDMENTS 2022

CHAPTER 282 .... **2026**
WATER AS PART OF GENERAL PLAN 2026

CHAPTER 283 .... **2036**
STATE BIRD OF PREY DESIGNATION 2036

CHAPTER 284 .... **2037**
ANESTHESIOLOGIST ASSISTANT LICENSING ACT 2037

CHAPTER 285 .... **2039**
EARLY LITERACY OUTCOMES IMPROVEMENT 2039

CHAPTER 286 .... **2049**
REAUTHORIZATION OF ADMINISTRATIVE RULES 2049

CHAPTER 287 .... **2050**
CHILD WELFARE AMENDMENTS 2050

CHAPTER 288 .... **2070**
COUNTY GOVERNANCE AMENDMENTS 2070

CHAPTER 289 .... **2080**
POLLUTION CONTROL EQUIPMENT TAX AMENDMENTS 2080

CHAPTER 290 .... **2081**
MEDICAL CANNABIS ACT AMENDMENTS 2081

CHAPTER 291 .... **2122**
REGULATORY SANDBOX IN EDUCATION 2122

CHAPTER 292 .... **2128**
CARDIOPULMONARY RESUSCITATION IN SCHOOLS 2128

CHAPTER 293 .... **2130**
REVISIONS TO PROPERTY TAX 2130

CHAPTER 294 .... **2134**
LIMITS RELATED TO BIG GAME 2134

CHAPTER 295 .... **2135**
POST CONVICTION REPRESENTATION AMENDMENTS 2135

CHAPTER 296 .... **2137**
MANUFACTURING MODERNIZATION GRANT PROGRAM 2137

CHAPTER 297 .... **2140**
PROTECTIVE ORDER REVISIONS 2140

CHAPTER 298 .... **2143**
FUND OF FUNDS MODIFICATIONS 2143

CHAPTER 299 . . . . **2150**
ELECTION FUNDING AMENDMENTS 2150

CHAPTER 300 . . . . **2151**
APPROPRIATIONS ADJUSTMENTS 2151

CHAPTER 301 . . . . **2190**
STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS 2190

CHAPTER 302 . . . . **2279**
PUBLIC EMPLOYEES'INSURANCE PLAN AMENDMENTS 2279

CHAPTER 303 . . . . **2281**
IDENTITY THEFT REPORTING SYSTEM AMENDMENTS 2281

CHAPTER 304 . . . . **2288**
UNIFORM PARTITION OF HEIRS' PROPERTY ACT 2288

CHAPTER 305 . . . . **2293**
UNIFORM EASEMENT RELOCATION ACT 2293

CHAPTER 306 . . . . **2299**
LOCAL LICENSING AMENDMENTS 2299

CHAPTER 307 . . . . **2305**
RETAIL FACILITY INCENTIVE PAYMENTS AMENDMENTS 2305

CHAPTER 308 . . . . **2320**
CHILD WELFARE INTERVIEW REQUIREMENTS 2320

CHAPTER 309 . . . . **2324**
PERIOD PRODUCTS IN SCHOOLS 2324

CHAPTER 310 . . . . **2326**
WATER FACILITY AMENDMENTS 2326

CHAPTER 311 . . . . **2327**
PREFERENCES OF WATER RIGHTS AMENDMENTS 2327

CHAPTER 312 . . . . **2330**
CUSTODIAL INTERROGATION AMENDMENTS 2330

CHAPTER 313 . . . . **2332**
FEDERAL LAND DISPOSAL LAW AMENDMENTS 2332

CHAPTER 314 . . . . **2335**
RAILROAD CROSSING MAINTENANCE AMENDMENTS 2335

CHAPTER 315 . . . . **2342**
REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS 2342

CHAPTER 316 . . . . **2349**
FULL–DAY KINDERGARTEN 2349

CHAPTER 317 . . . . **2355**
AURICULAR DETOXIFICATION AMENDMENTS 2355

CHAPTER 318 . . . . **2356**
TRANSFER OF DOMESTIC VIOLENCE CASES 2356

CHAPTER 319 .... **2359**
COUNTY OFFICER FEES AMENDMENTS 2359

CHAPTER 320 .... **2360**
FEDERALISM COMMISSION AMENDMENTS 2360

CHAPTER 321 .... **2364**
PRIMARY CARE SPENDING AMENDMENTS 2364

CHAPTER 322 .... **2365**
PROJECT ENTITY OVERSIGHT COMMITTEE 2365

CHAPTER 323 .... **2368**
OFFICE OF STATE DEBT COLLECTION AMENDMENTS 2368

CHAPTER 324 .... **2373**
TELEPHONE SOLICITATION AMENDMENTS 2373

CHAPTER 325 .... **2382**
BALLOT MEASURE AMENDMENTS 2382

CHAPTER 326 .... **2434**
UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT 2434

CHAPTER 327 .... **2445**
ACCESS TO MEDICAL RECORDS AMENDMENTS 2445

CHAPTER 328 .... **2448**
PROPERTY AND FINANCIAL OFFENSE AMENDMENTS 2448

CHAPTER 329 .... **2455**
REFUGEE AND IMMIGRANT STUDENT POLICIES AMENDMENTS 2455

CHAPTER 330 .... **2459**
LOCAL DISTRICT MODIFICATIONS 2459

CHAPTER 331 .... **2460**
STATE HOLIDAY MODIFICATIONS 2460

CHAPTER 332 .... **2462**
REGULATORY SANDBOX PROGRAM AMENDMENTS 2462

CHAPTER 333 .... **2471**
OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS 2471

CHAPTER 334 .... **2473**
JUVENILE AMENDMENTS 2473

CHAPTER 335 .... **2592**
JUVENILE AMENDMENTS CROSS REFERENCES 2592

CHAPTER 336 .... **2662**
ENVIRONMENTAL QUALITY REVENUE AMENDMENTS 2662

CHAPTER 337 .... **2666**
SCHOOL DROPOUT PREVENTION AMENDMENTS 2666

CHAPTER 338 .... **2668**
EMPLOYEE VERIFICATION REQUIREMENTS 2668

CHAPTER 339 2669
PUBLIC PROSECUTOR MODIFICATIONS 2669

CHAPTER 340 2670
POLITICAL ACTION COMMITTEE AMENDMENTS 2670

CHAPTER 341 2673
CIVIL COMMITMENT REVISIONS 2673

CHAPTER 342 2675
MUNICIPAL ALTERNATE VOTING METHODS AMENDMENTS 2675

CHAPTER 343 2681
PARENT ACCESS TO SCHOOL DATA COMPARISON 2681

CHAPTER 344 2682
JOINT TENANCY PRESUMPTION AMENDMENTS 2682

CHAPTER 345 2683
MENTAL HEALTH PROFESSIONAL LICENSING AMENDMENTS 2683

CHAPTER 346 2686
VOLUNTEER GOVERNMENT WORKERS AMENDMENTS 2686

CHAPTER 347 2690
INSURANCE COVERAGE FOR EMERGENCY MEDICAL SERVICE PERSONNEL 2690

CHAPTER 348 2694
SCHOOL READINESS AMENDMENTS 2694

CHAPTER 349 2697
REAL ESTATE INTEREST TERMINATION AMENDMENTS 2697

CHAPTER 350 2698
MICROENTERPRISE HOME KITCHEN AMENDMENTS 2698

CHAPTER 351 2700
GROUND AMBULANCE INTERFACILITY TRANSPORT LICENSING 2700

CHAPTER 352 2704
CHARTER SCHOOL ADMISSIONS AMENDMENTS 2704

CHAPTER 353 2707
MEDICATION DISPENSER AMENDMENTS 2707

CHAPTER 354 2711
EDUCATIONAL LANGUAGE SERVICES AMENDMENTS 2711

CHAPTER 355 2717
LOCAL LAND USE AMENDMENTS 2717

CHAPTER 356 2742
DENTAL PROVIDER MALPRACTICE AMENDMENTS 2742

CHAPTER 357 2746
JORDAN RIVER IMPROVEMENT AMENDMENTS 2746

CHAPTER 358 2748
GUARDIANSHIP BILL OF RIGHTS 2748

CHAPTER 359 . . . . **2753**
RESTITUTION AMENDMENTS 2753

CHAPTER 360 . . . . **2759**
TRANSIENT ROOM TAX AMENDMENTS 2759

CHAPTER 361 . . . . **2763**
STATE INNOVATION AMENDMENTS 2763

CHAPTER 362 . . . . **2766**
ECONOMIC AND WORKFORCE DEVELOPMENT AMENDMENTS 2766

CHAPTER 363 . . . . **2815**
BLOCKCHAIN AND DIGITAL INNOVATION TASK FORCE 2815

CHAPTER 364 . . . . **2817**
TRAVEL INSURANCE AMENDMENTS 2817

CHAPTER 365 . . . . **2825**
BIRTH CERTIFICATE AMENDMENTS 2825

CHAPTER 366 . . . . **2827**
UTAH MEDICAL CANDOR ACT 2827

CHAPTER 367 . . . . **2831**
PUBLIC SAFETY EMPLOYEE PERSONAL DATA AMENDMENTS 2831

CHAPTER 368 . . . . **2834**
FUNDING INDEPENDENCE IN FOREIGN LANGUAGE EDUCATION 2834

CHAPTER 369 . . . . **2837**
STATE HISTORIC PRESERVATION OFFICE AMENDMENTS 2837

CHAPTER 370 . . . . **2840**
HIGHER EDUCATION FINANCIAL AID AMENDMENTS 2840

CHAPTER 371 . . . . **2854**
EMINENT DOMAIN APPRAISAL AMENDMENTS 2854

CHAPTER 372 . . . . **2857**
EVICTION RECORDS AMENDMENTS 2857

CHAPTER 373 . . . . **2859**
TITLE 39A – NATIONAL GUARD AND MILITIA ACT 2859

CHAPTER 374 . . . . **2909**
MODIFICATIONS TO CIVIL COMMITMENT 2909

CHAPTER 375 . . . . **2916**
MEDICAL PANEL GOVERNMENTAL IMMUNITY AMENDMENTS 2916

CHAPTER 376 . . . . **2918**
CONVENTION AND TOURISM BUSINESS ASSESSMENT AREA ACT 2918

CHAPTER 377 . . . . **2925**
SENSITIVE MATERIALS IN SCHOOLS 2925

CHAPTER 378 . . . . **2928**
SCHOOL ENROLLMENT AMENDMENTS 2928

CHAPTER 379 2930
ANESTHESIA AND SEDATION AMENDMENTS 2930

CHAPTER 380 2932
BALLOT PROCESSING AMENDMENTS 2932

CHAPTER 381 2937
LOCAL DISTRICTS AMENDMENTS 2937

CHAPTER 382 2946
NURSING EDUCATION PROGRAM AMENDMENTS 2946

CHAPTER 383 2947
EARLY COLLEGE AND CONCURRENT ENROLLMENT
PROGRAM AMENDMENTS 2947

CHAPTER 384 2951
EXPUNGEMENT FEE AMENDMENTS 2951

CHAPTER 385 2959
RECYCLING TRANSPARENCY AMENDMENTS 2959

CHAPTER 386 2960
PAID PROFESSIONAL HOURS FOR EDUCATORS 2960

CHAPTER 387 2963
TRAFFIC SAFETY DATA SHARING AMENDMENTS 2963

CHAPTER 388 2964
GOVERNMENT RECORD AMENDMENTS 2964

CHAPTER 389 2974
ASSOCIATE PHYSICIAN LICENSE AMENDMENTS 2974

CHAPTER 390 2978
JUSTICE REINVESTMENTINITIATIVE MODIFICATIONS 2978

CHAPTER 391 2981
JAIL PHOTO DISTRIBUTION PROHIBITION 2981

CHAPTER 392 2988
VOTING ADMINISTRATION AMENDMENTS 2988

CHAPTER 393 2990
PROBATION AND PAROLE EMPLOYMENT INCENTIVE PROGRAM 2990

CHAPTER 394 2993
MEDICAID AMENDMENTS 2993

CHAPTER 395 2997
ONLINE COURSE ACCESS AMENDMENTS 2997

CHAPTER 396 2998
GRID RESILIENCE COMMITTEE 2998

CHAPTER 397 3000
AUDIT COMMITTEE AUTHORITY AMENDMENTS 3000

CHAPTER 398 3002
TITLE IX REPORTING 3002

CHAPTER 399 .... **3003**
SCHOOL SAFETY AMENDMENTS 3003

CHAPTER 400 .... **3006**
AMENDMENTS TO THE DIVISION OF CONSUMER PROTECTION 3006

CHAPTER 401 .... **3012**
EDUCATION RESEARCH AND INNOVATION AMENDMENTS 3012

CHAPTER 402 .... **3017**
ELECTED PUBLIC BODY TRANSPARENCY AMENDMENTS 3017

CHAPTER 403 .... **3020**
HOMELESS SERVICES AMENDMENTS 3020

CHAPTER 404 .... **3033**
COMMUNITY PARAMEDICINE AMENDMENTS 3033

CHAPTER 405 .... **3036**
DIGITAL USER ASSET PAYMENT AMENDMENTS 3036

CHAPTER 406 .... **3038**
UTAH HOUSING AFFORDABILITY AMENDMENTS 3038

CHAPTER 407 .... **3093**
USE OF PUBLIC EDUCATION STABILIZATION ACCOUNT ONE-TIME FUNDING 3093

CHAPTER 408 .... **3098**
EDUCATION REPORTING AMENDMENTS 3098

CHAPTER 409 .... **3104**
PUBLIC EDUCATION BUDGET AMENDMENTS 3104

CHAPTER 410 .... **3116**
CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS 3116

CHAPTER 411 .... **3137**
STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS 3137

CHAPTER 412 .... **3164**
CONSUMER ALCOHOLIC BEVERAGE PURCHASING 3164

CHAPTER 413 .... **3166**
LICENSING AMENDMENTS 3166

CHAPTER 414 .... **3172**
SCHOOL STANDARDS REVIEW COMMITTEE SUNSET EXTENSION 3172

CHAPTER 415 .... **3173**
OCCUPATIONAL AND PROFESSIONAL LICENSING MODIFICATIONS 3173

CHAPTER 416 .... **3289**
MENTAL HEALTH PROFESSIONAL PRACTICE ACT AMENDMENTS 3289

CHAPTER 417 .... **3292**
STATE FILM PRODUCTION INCENTIVES AMENDMENTS 3292

CHAPTER 418 .... **3296**
CRIMINAL STALKING EXEMPTION AMENDMENTS 3296

CHAPTER 419 .... **3301**
AGREEMENTS TO PROVIDE STATE SERVICES SUNSET EXTENSION 3301

CHAPTER 420 .... **3303**
REAL PROPERTY RECORDING AMENDMENTS 3303

CHAPTER 421 .... **3306**
STATE FACILITIES MANAGEMENT AMENDMENTS 3306

CHAPTER 422 .... **3352**
PROJECT ENTITY OVERSIGHT MODIFICATIONS 3352

CHAPTER 423 .... **3366**
LIMITATIONS ON EMPLOYER LIABILITY 3366

CHAPTER 424 .... **3367**
SOLID AND HAZARDOUS WASTE AMENDMENTS 3367

CHAPTER 425 .... **3369**
PAID LEAVE MODIFICATIONS 3369

CHAPTER 426 .... **3373**
WIRELESS COMMUNICATION DEVICE USE IN A MOTOR VEHICLE 3373

CHAPTER 427 .... **3380**
PERMANENT COMMUNITY IMPACT FUND BOARD AMENDMENTS 3380

CHAPTER 428 .... **3382**
FIREARM PREEMPTION AMENDMENTS 3382

CHAPTER 429 .... **3387**
PRECONSTRUCTION AND CONSTRUCTION LIENS AMENDMENTS 3387

CHAPTER 430 .... **3391**
CRIMINAL CODE RECODIFICATION CROSS REFERENCES 3391

CHAPTER 431 .... **3469**
SPECIAL EDUCATION AMENDMENTS 3469

CHAPTER 432 .... **3473**
PROPERTY DECONTAMINATION AMENDMENTS 3473

CHAPTER 433 .... **3477**
HOUSING AND TRANSIT REINVESTMENT ZONE AMENDMENTS 3477

CHAPTER 434 .... **3495**
GENETIC PRIVACY AMENDMENTS 3495

CHAPTER 435 .... **3498**
UTAH COMMUNICATIONS AUTHORITY AMENDMENTS 3498

CHAPTER 436 .... **3505**
CONSTRUCTION REGISTRY AMENDMENTS 3505

CHAPTER 437 .... **3507**
CRIMINAL JUSTICE DATA MANAGEMENT TASK FORCE 3507

CHAPTER 438 .... **3509**
ADVANCED PRACTICE REGISTERED NURSE COMPACT 3509

CHAPTER 439 .... **3521**
COMMUNITY ASSOCIATION REGULATION AMENDMENTS 3521

CHAPTER 440 .... **3532**
NATUROPATHIC PHYSICIAN AMENDMENTS 3532

CHAPTER 441 .... **3536**
GUARDIANSHIP AND CONSERVATORSHIP AMENDMENTS 3536

CHAPTER 442 .... **3542**
CHILD WELFARE APPEALS AMENDMENTS 3542

CHAPTER 443 .... **3544**
ADMINISTRATIVE RULES AMENDMENTS 3544

CHAPTER 444 .... **3569**
MARRIAGE SOLEMNIZATION AMENDMENTS 3569

CHAPTER 445 .... **3570**
BEHAVIORAL HEALTH CURRICULUM PROGRAM 3570

CHAPTER 446 .... **3571**
ALARM SYSTEM AMENDMENTS 3571

CHAPTER 447 .... **3577**
ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS 3577

CHAPTER 448 .... **3677**
DIGITAL ASSET AMENDMENTS 3677

CHAPTER 449 .... **3678**
FINANCIAL INSTITUTIONS MODIFICATIONS 3678

CHAPTER 450 .... **3685**
RECORDING AMENDMENTS 3685

CHAPTER 451 .... **3686**
FUNDS AMENDMENTS 3686

CHAPTER 452 .... **3716**
MEDICAL CANNABIS ACCESS AMENDMENTS 3716

CHAPTER 453 .... **3739**
ALCOHOLIC BEVERAGE CONTROL ACT ENFORCEMENT FUND 3739

CHAPTER 454 .... **3740**
TIRE RECYCLING FUND AMENDMENTS 3740

CHAPTER 455 .... **3742**
AUTOMOBILE AMENDMENTS 3742

CHAPTER 456 .... **3748**
INCOME TAX FUND AMENDMENTS 3748

CHAPTER 457 .... **3773**
BUSINESS NAME PROHIBITIONS 3773

CHAPTER 458 .... **3783**
UTAH BROADBAND CENTER ADVISORY COMMISSION 3783

CHAPTER 459 3786
MISSING CHILD IDENTIFICATION PROGRAM 3786

CHAPTER 460 3787
EMERGENCY MEDICAL SERVICE PERSONNEL AMENDMENTS 3787

CHAPTER 461 3788
HIGHER EDUCATION DATA PRIVACY AND GOVERNANCE REVISIONS 3788

CHAPTER 462 3799
CONSUMER PRIVACY ACT 3799

CHAPTER 463 3809
MILITARY INSTALLATION DEVELOPMENT AUTHORITY REVISIONS 3809

CHAPTER 464 3819
MILITARY SERVICEMEMBER CHILD ENROLLMENT 3819

CHAPTER 465 3822
PHARMACY PRACTICE AMENDMENTS 3822

CHAPTER 466 3826
COUNSELING STATE COMPACT 3826

CHAPTER 467 3841
HOMELESS SERVICES MODIFICATIONS 3841

CHAPTER 468 3843
CONGREGATE CARE PROGRAM AMENDMENTS 3843

CHAPTER 469 3857
HEALTH CARE LIABILITY INSURANCE AMENDMENTS 3857

CHAPTER 470 3858
CHILD SUPPORT AMENDMENTS 3858

CHAPTER 471 3872
PARENT–TIME AMENDMENTS 3872

CHAPTER 472 3884
ETHNIC STUDIES AMENDMENTS 3884

CHAPTER 473 3888
SCHOOL TURNAROUND PROGRAM REVISIONS 3888

CHAPTER 474 3896
STATUTE OF LIMITATIONS FOR CRIMINAL CONDUCT AMENDMENTS 3896

CHAPTER 475 3897
PUBLIC EMPLOYEES' HEALTH PROGRAM AMENDMENTS 3897

CHAPTER 476 3898
GROW YOUR OWN TEACHER AND SCHOOL COUNSELOR
PIPELINE PROGRAM 3898

CHAPTER 477 3900
ROCKY MOUNTAIN CENTER FOR OCCUPATIONAL AND
ENVIRONMENTAL HEALTH AMENDMENTS 3900

CHAPTER 478 3901
STUDENT ELIGIBILITY IN INTERSCHOLASTIC ACTIVITIES 3901

RESOLUTIONS PASSED AT THE GENERAL SESSION

CONCURRENT RESOLUTION TO WORK TOGETHER TO ADDRESS THE CLIMATE, PUBLIC LANDS, AND CARBON SEQUESTRATION 3909
CONCURRENT RESOLUTION CALLING FOR PROTECTION OF ARCHAEOLOGICAL SITES 3911
CONCURRENT RESOLUTION CONDEMNING THE UNDEMOCRATIC GOVERNMENT OF VENEZUELA 3912
CONCURRENT RESOLUTION REGARDING IMPROVING AIR QUALITY THROUGH ENHANCED ZERO EMISSION RAIL 3913
CONCURRENT RESOLUTION ACKNOWLEDGING COMPLETION OF BOARD GOVERNANCE TRAINING 3915
CONCURRENT RESOLUTION REGARDING AN INTERLOCAL AGREEMENT CREATING THE JORDAN RIVER COMMISSION 3916
CONCURRENT RESOLUTION HONORING THE WORK OF PRIMARY CARE PROVIDERS TO THE CITIZENS OF UTAH 3917
CONCURRENT RESOLUTION CREATING THE BRIDAL VEIL FALLS STATE MONUMENT 3918
CONCURRENT RESOLUTION CONDEMNING ANTISEMITISM 3919
CONCURRENT RESOLUTION RECOGNIZING STUDENT ATHLETES' RIGHT TO RELIGIOUS FREEDOM AND MODESTY 3920
CONCURRENT RESOLUTION SUPPORTING UTAH'S ECONOMIC AND CULTURAL RELATIONSHIP WITH TAIWAN 3921
CONCURRENT RESOLUTION CONCERNING THE CONFLICT IN UKRAINE 3922
JOINT RESOLUTION SUPPORTING SERVICES FOR VETERANS 3923
JOINT RESOLUTION RECOGNIZING THE UTAH OLYMPIC LEGACY 3924
JOINT RESOLUTION AMENDING COURT RULES OF PROCEDURE AND EVIDENCE TO ADDRESS THE MEDICAL CANDOR PROCESS 3925
JOINT RULES RESOLUTION - LEGISLATIVE PROCEDURE REVISIONS 3931
JOINT RESOLUTION RECOGNIZING THE EMPLOYMENT FIRST INITIATIVE 3939
APPROPRIATIONS PROCEDURES JOINT RESOLUTION 3940
HOUSE RULES RESOLUTION - AMENDMENTS TO HOUSERULES 3943
CONCURRENT RESOLUTION AUTHORIZING STATE PICKUP OF PUBLIC SAFETY AND FIREFIGHTER EMPLOYEE RETIREMENT CONTRIBUTIONS 3949
CONCURRENT RESOLUTION HIGHLIGHTING UTAH'S WILLINGNESS TO COOPERATE WITH THE FEDERAL PARTNERS FOR EFFICIENT AND SUSTAINABLE MANAGEMENT OF PUBLIC LANDS 3950
CONCURRENT RESOLUTION HIGHLIGHTING UTAH'S RARE EARTH MINERAL POSITION 3952
CONCURRENT RESOLUTION ON FISCAL SUSTAINABILITY 3953
CONCURRENT RESOLUTION HONORING 125TH ANNIVERSARY OF THE NATIONAL PARENT TEACHER ASSOCIATION 3954
CONCURRENT RESOLUTION ENCOURAGING SUPPORT FOR INTERNATIONALLY ADOPTED INDIVIDUALS 3955
CONCURRENT RESOLUTION CALLING ON LOCAL GOVERNMENTS TO TREAT ABOVE-TREND REVENUE GROWTH AS ONE-TIME REVENUE 3956
CONCURRENT RESOLUTION RECOGNIZING THE IMPORTANCE OF THE AGRICULTURE INDUSTRY 3956
CONCURRENT RESOLUTION HONORING THE LIFE ANDACHIEVEMENTS OF HELEN FOSTER SNOW 3958
JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES 3959

JOINT RESOLUTION URGING CONGRESS TO PROPOSE THE KEEP NINE AMENDMENT TO THE UNITED STATES CONSTITUTION 3961
JOINT RESOLUTION TO TERMINATE PUBLIC HEALTH ORDERS PERTAINING TO FACE COVERINGS 3961
JOINT RULES RESOLUTION – ELECTRONIC MEETINGS MODIFICATIONS 3962
JOINT RESOLUTION EMPHASIZING A DESIRE AND READINESS TO HOST A FUTURE OLYMPIC And PARALYMPIC WINTER GAMES 3965
SENATE RULES RESOLUTION – SENATE ACCESS PROCEDURES 3966

LEGISLATION, LAW WITHOUT SIGNATURE, AND LINE ITEMS VETOED BY THE GOVERNOR

The Governor vetoed 3 line items in H.B. 3.
See page 3973 for the Governor's letter that explains the vetoed lines.
See Chapter 300, page 2151, for complete text. 3967
The Governor vetoed H.B. 11 and on March 25, 2022,
the Legislature overrode that veto.
H.B. 11 is Chapter 478, page 3901, within this volume.
The Governor's Veto Letter is on page 3969.................................... 3967

2022 THIRD SPECIAL SESSION
64th LEGISLATURE

CHAPTER 1 3979
SEX-DESIGNATED INTERSCHOLASTIC ATHLETICS INDEMNIFICATION 3979

INDEXES

UTAH CODE SECTION INDEX 3981

TECHNICAL ACTION INDEX.. 4009

SUBJECT INDEX 4019

BILL NUMBER INDEX 4065

LAWS

of the

STATE OF UTAH, 2021

Passed at the

SECOND SPECIAL SESSION

of the

SIXTY-FOURTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
November 9, 2021 and
Adjourned Sine Die November 10, 2021

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2021 Second Special Session of the Sixty-Fourth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2021 Second Special Session of the Sixty-Fourth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 9th of November 2021 and adjourned on 10th of November 2021.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the Great Seal of
the State of Utah at Salt Lake City,

this 30th day of November 2022

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 2001

Passed November 10, 2021
Approved November 12, 2021
Effective July 1, 2022

UTAH TECH UNIVERSITY

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill codifies the name of Utah Tech University.

Highlighted Provisions:

This bill:

- codifies the name of Utah Tech University;
- requires the Utah Tech University board of trustees to report to the Education Interim Committee regarding the institution's Heritage Committee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-1-102, as last amended by Laws of Utah 2020, Chapter 365
53B-2-101, as last amended by Laws of Utah 2017, Chapter 382
53B-2-111, as last amended by Laws of Utah 2021, Chapter 169
53B-2a-112, as last amended by Laws of Utah 2020, Chapter 365
53B-8-103, as last amended by Laws of Utah 2020, Chapter 365
53B-16-101, as last amended by Laws of Utah 2021, Chapter 187
53B-26-301, as enacted by Laws of Utah 2020, Chapter 361
53B-31-101, as enacted by Laws of Utah 2021, Chapter 379
53B-31-201, as renumbered and amended by Laws of Utah 2021, Chapter 379
53B-31-301, as enacted by Laws of Utah 2021, Chapter 379
53B-31-401, as enacted by Laws of Utah 2021, Chapter 169 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 169
53G-5-102, as last amended by Laws of Utah 2020, Chapter 365
63I-5-201, as last amended by Laws of Utah 2021, Chapter 184
63N-1b-101, as enacted by Laws of Utah 2021, Chapter 282 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 187

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

Section 1. Section 53B-1-102 is amended to read:

53B-1-102. Utah system of higher education.

(1) The Utah system of higher education consists of the following institutions:

(a) degree-granting institutions, which are:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) [~~Dixie State~~] Utah Tech University;

(vii) Utah Valley University; and

(viii) Salt Lake Community College;

(b) technical colleges, which are:

(i) Bridgerland Technical College;

(ii) Davis Technical College;

(iii) Dixie Technical College;

(iv) Mountainland Technical College;

(v) Ogden-Weber Technical College;

(vi) Southwest Technical College;

(vii) Tooele Technical College; and

(viii) Uintah Basin Technical College;

(c) the Utah Board of Higher Education; and

(d) other public post-high school educational institutions as the Legislature may designate.

(2) A change in the name of an institution within the Utah system of higher education is not a change in the role or mission of the institution, unless otherwise authorized by the board.

(3) It is not the intent of the Legislature to increase the number of research universities in the state beyond the University of Utah and Utah State University.

(4) An institution or board described in Subsection (1) is empowered to sue and be sued and to contract and be contracted with.

Section 2. Section 53B-2-101 is amended to read:

53B-2-101. Institutions of higher education -- Corporate bodies -- Powers.

(1) The following institutions of higher education are bodies politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as such:

(a) the University of Utah;

(b) Utah State University;

(c) Weber State University;

(d) Southern Utah University;

(e) Snow College;

(f) [~~Dixie State~~] Utah Tech University;

(g) Utah Valley University;

(h) Salt Lake Community College;

(i) Bridgerland Technical College;

(j) Davis Technical College;

(k) Dixie Technical College;

(l) Mountainland Technical College;

(m) Ogden-Weber Technical College;

(n) Southwest Technical College;

(o) Tooele Technical College; and

(p) Uintah Basin Technical College.

(2) (a) An institution of higher education may have and use a corporate seal and may, subject to this title, take, hold, lease, sell, and convey real and personal property as the interest of the institution requires.

(b) An institution of higher education is vested with all the property, franchises, and endowments of, and is subject to, all the contracts, obligations, and liabilities of the institution's respective predecessor.

(c) (i) An institution of higher education may enter into business relationships or dealings with private seed or venture capital entities or partnerships consistent with Utah Constitution Article VI, Section 29, Subsection (2).

(ii) A business dealing or relationship entered into under Subsection (2)(c)(i) does not preclude the private entity or partnership from participating in or receiving benefits from a venture capital program authorized or sanctioned by the laws of this state, unless otherwise precluded by the specific law that authorizes or sanctions the program.

Section 3. Section 53B-2-111 is amended to read:

53B-2-111. Utah Tech University -- Institutional name change.

(1) As used in this [~~Section~~] section:

(a) "Board of trustees" means the board of trustees of [~~Dixie State~~] Utah Tech University.

(b) "Institution" means [~~Dixie State~~] Utah Tech University.

(2) (a) Dixie State [~~College of Utah~~] University shall be known as [~~Dixie State~~] Utah Tech University.

(b) [~~Dixie State~~] Utah Tech University is a continuation of Dixie State College of Utah and Dixie State University and shall:

(i) possess all rights, titles, privileges, powers, immunities, franchises, endowments, property, and claims of Dixie State University and Dixie State College of Utah; and

(ii) fulfill and perform all obligations of Dixie State University and Dixie State College of Utah, including obligations relating to outstanding bonds and notes.

(3) The board of trustees in consultation with the Utah Board of Higher Education shall:

(a) create a committee to recommend a name for the institution; and

(b) ensure that the committee:

(i) represents students, university personnel, community members, and industry leaders in the committee's membership;

(ii) provides opportunity for input from and collaboration with the public, including:

(A) residents of southwestern Utah;

(B) institutional partners; and

(C) university faculty, staff, students, and alumni;

(iii) reviews options for the institution's name; and

(iv) makes recommendations regarding the institution's name to the board of trustees.

(4) (a) The board of trustees shall:

(i) review the committee's recommendation described in Subsection (3)(b); and

(ii) choose whether to forward a name for the institution to the Utah Board of Higher Education.

(b) Should the board of trustees choose to forward a name for the institution to the Utah Board of Higher Education under Subsection (4)(a), the board of trustees shall ensure that the name:

(i) reflects the institution's mission and significance to the surrounding region and state; and

(ii) enables the institution to compete and be recognized nationally.

(c) Should the board of trustees recommend a name for the institution under Subsection (4)(a), the Utah Board of Higher Education shall vote on whether to approve and recommend the name to the Legislature.

(5) Should the Utah Board of Higher Education and the board of trustees recommend a name for the institution to the Legislature through the process described in Subsections (3) and (4), the Utah Board of Higher Education and the board of trustees shall recommend the name for the institution to the Legislative Management Committee no later than November 1, 2021.

(6) (a) Except as provided in Subsection (6)(b), the board of trustees shall designate the institution's main campus as the "Dixie Campus" for a period of no less than 20 years.

(b) After July 1, 2042, if the board of trustees seeks to alter the designation described in

Subsection (6)(a), the board of trustees shall first obtain the approval of the Utah Board of Higher Education.

Section 4. Section 53B-2a-112 is amended to read:

53B-2a-112. Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) [~~Dixie State~~] Utah Tech University for Dixie Technical College.

(2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's higher education institution and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's higher education institution, if applicable.

(b) The State Building Board shall make a finding that the requirements of this section are met before the State Building Board may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 5. Section 53B-8-103 is amended to read:

53B-8-103. Waiver of nonresident differential in tuition rates -- Utah Tech University good neighbor tuition waivers.

(1) Notwithstanding any other provision of law:

(a) (i) The board may determine when to grant a full or partial waiver of the nonresident differential in tuition rates charged to undergraduate students pursuant to reciprocal agreements with other states.

(ii) In making the determination described under Subsection (1)(a)(i), the board shall consider the potential of the waiver to:

(A) enhance educational opportunities for Utah residents;

(B) promote mutually beneficial cooperation and development of Utah communities and nearby communities in neighboring states;

(C) contribute to the quality of educational programs; and

(D) assist in maintaining the cost effectiveness of auxiliary operations in Utah institutions of higher education.

(b) (i) Consistent with its determinations made pursuant to Subsection (1)(a), the board may enter into agreements with other states to provide for a full or partial reciprocal waiver of the nonresident tuition differential charged to undergraduate students.

(ii) An agreement shall provide for the numbers and identifying criteria of undergraduate students, and shall specify the institutions of higher education that will be affected by the agreement.

(c) The board shall establish policy guidelines for the administration by the affected Utah institutions of any tuition waivers authorized under this section, for evaluating applicants for such waivers, and for reporting the results of the reciprocal waiver programs authorized by this section.

(d) A report and financial analysis of any waivers of tuition authorized under this section shall be submitted annually to the general session of the Legislature as part of the budget recommendations of the board for the system of higher education.

(2) (a) [~~Dixie State~~] Utah Tech University may offer a good neighbor full waiver of the nonresident differential in tuition rates charged to undergraduate students:

(i) pursuant to reciprocal agreements with other states; or

(ii) to a resident of a county that has a portion of the county located within 70 miles of the main campus of [~~Dixie State~~] Utah Tech University.

(b) (i) A student who attends [~~Dixie State~~] Utah Tech University under a good neighbor tuition waiver shall pay a surcharge per credit hour in addition to the regular resident tuition and fees of [~~Dixie State~~] Utah Tech University.

(ii) The surcharge per credit hour shall be based on a percentage of the approved resident tuition per credit hour each academic year.

(iii) The percentage assessed as a surcharge per credit hour shall be set by the board.

(c) [~~Dixie State~~] Utah Tech University may restrict the number of good neighbor tuition waivers awarded.

(d) A student who attends [~~Dixie State~~] Utah Tech University on a good neighbor tuition waiver may not count the time during which the waiver is received towards establishing resident student status in Utah.

Section 6. Section 53B-16-101 is amended to read:

53B-16-101. Establishment of institutional roles and general courses of study.

(1) Except as institutional roles are specifically assigned by the Legislature, the board:

(a) shall establish and define the roles of the various institutions of higher education; and

(b) shall, within each institution of higher education's primary role, prescribe the general course of study to be offered at the institution of higher education, including for:

(i) research universities, which provide undergraduate, graduate, and research programs and include:

(A) the University of Utah; and

(B) Utah State University;

(ii) regional universities, which provide career and technical education, undergraduate associate and baccalaureate programs, and select master's degree programs to fill regional demands and include:

(A) Weber State University;

(B) Southern Utah University;

(C) [~~Dixie State~~] Utah Tech University; and

(D) Utah Valley University;

(iii) comprehensive community colleges, which provide associate programs and include:

(A) Salt Lake Community College; and

(B) Snow College; and

(iv) technical colleges and degree-granting institutions that provide technical education, and include:

(A) each technical college; and

(B) the degree-granting institutions described in Section 53B-2a-201.

(2) (a) Except for the University of Utah, and subject to Subsection (2)(b), each institution of higher education described in Subsections (1)(b)(i) through (iii) has career and technical education included in the institution of higher education's primary role.

(b) The board shall determine the extent to which an institution described in Subsection (2)(a) provides career and technical education within the institution's primary role.

(3) The board shall further clarify each institution of higher education's primary role by clarifying:

(a) the level of program that the institution of higher education generally offers;

(b) broad fields that are within the institution of higher education's mission; and

(c) any special characteristics of the institution of higher education, such as being a land grant university.

Section 7. Section 53B-26-301 is amended to read:

53B-26-301. Definitions.

As used in this part:

(1) "Advisory council" means the Deep Technology Talent Advisory Council created in Section 53B-26-303.

(2) (a) "Deep technology" means technology that leads to new products and innovations based on scientific discovery or meaningful engineering innovation.

(b) "Deep technology" may include technology that leads to new products and innovations related to one or more of the following:

(i) advanced materials;

(ii) artificial intelligence;

(iii) augmented and virtual reality;

(iv) biotechnology;

(v) photonics;

(vi) quantum computing;

(vii) robotics;

(viii) secure computing; and

(ix) other emerging technologies as determined by the advisory council.

(3) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, [~~Dixie State~~] Utah Tech University, Utah Valley University, or Salt Lake Community College.

Section 8. Section 53B-31-101 is amended to read:

CHAPTER 31. UTAH TECH UNIVERSITY

Part 1. General Provisions

53B-31-101. Title.

This chapter is known as "[~~Dixie State~~] Utah Tech University."

Section 9. Section 53B-31-201 is amended to read:

53B-31-201. Nonprofit corporations or foundations -- Purpose.

(1) [~~Dixie State~~] Utah Tech University may form a nonprofit corporation or foundation controlled by the president of the university and the board to aid and assist the university in attaining its charitable, communications, and other related educational objectives, including support for media innovation, film festivals, film production, print media, broadcasting, television, and digital media.

(2) The nonprofit corporation or foundation may receive and administer legislative appropriations, government grants, contracts, and private gifts to carry out its public purposes.

Section 10. Section 53B-31-301 is amended to read:

53B-31-301. Utah Tech University Higher Education for Incarcerated Youth Program.

(1) As used in this section:

(a) "Interactive video conferencing" means two-way, real-time transmission of audio and video signals between devices or computers at two or more locations.

(b) "Program" means the [~~Dixie State~~] Utah Tech University Higher Education for Incarcerated Youth Program.

(c) "Student" means an individual who is:

(i) in the custody of the Division of Juvenile Justice Services within the timeframe of the course being offered; and

(ii) subject to the jurisdiction of the Youth Parole Authority.

(2) Consistent with policies established by the board, [~~Dixie State~~] Utah Tech University shall, subject to legislative appropriation, establish and administer the [~~Dixie State~~] Utah Tech University Higher Education for Incarcerated Youth Program to provide:

(a) students needing high school credits opportunities for concurrent enrollment courses;

(b) a consistent, two-year, flexible schedule of higher education courses delivered through interactive video conferencing to students;

(c) a pathway for students to earn college credits that:

(i) apply toward earning a certificate, associate degree, bachelor's degree; or

(ii) satisfy scholarship requirements or other objectives that best meet the needs of an individual student; and

(d) advisory support to students and academic counselors who participate in the program to ensure that the students' higher education courses align with the academic and career goals defined in the students' plans for college and career readiness.

Section 11. Section 53B-31-401 is amended to read:

53B-31-401. Heritage Committee.

[~~Should the Dixie State University board of trustees and the Utah Board of Higher Education forward a name to the Legislature that does not include the term "Dixie" under Section 53B-2-111, the~~]

(1) The board of trustees shall establish a Heritage Committee to identify and implement strategies to preserve the heritage, culture, and history of the region on the campus of [~~the institution~~] Utah Tech University, including the regional significance of the term "Dixie."

(2) At or before the November interim meeting in 2022, the board of trustees shall report to the Education Interim Committee regarding the establishment of the Heritage Committee described in Subsection (1).

Section 12. Section 53G-5-102 is amended to read:

53G-5-102. Definitions.

As used in this chapter:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash;

(b) stock or other investments;

(c) real property;

(d) equipment and supplies;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

(2) "Board of trustees of a higher education institution" or "board of trustees" means:

(a) the board of trustees of:

(i) the University of Utah;

(ii) Utah State University;

(iii) Weber State University;

(iv) Southern Utah University;

(v) Snow College;

(vi) [~~Dixie State~~] Utah Tech University;

(vii) Utah Valley University; or

(viii) Salt Lake Community College; or

(b) a technical college board of trustees described in Section 53B-2a-108.

(3) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

Section 13. Section 63I-5-201 is amended to read:

63I-5-201. Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) [~~Dixie State~~] Utah Tech University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 14. Section 63N-1b-101 is amended to read:

63N-1b-101. Definitions.

As used in this chapter:

(1) "Apprenticeship program" means a program that:

(a) combines paid on-the-job learning with formal classroom instruction to prepare students for careers; and

(b) includes:

(i) structured on-the-job learning for students under the supervision of a skilled employee;

(ii) classroom instruction for students related to the on-the-job learning;

(iii) ongoing student assessments using established competency and skills standards; and

(iv) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

(3) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

(4) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, [~~Dixie State~~] Utah Tech University, Utah Valley University, or Salt Lake Community College.

(5) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

(6) "Master plan" means the computer science education master plan described in Section 63N-1b-304.

(7) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

(8) "State board" means the State Board of Education.

(9) "Talent program" means the Talent Ready Utah Program created in Section 63N-1b-302.

(10) "Talent subcommittee" means the Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301.

(11) "Technical college" means:

(a) the same as that term is defined in Section 53B-1-101.5; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

(12) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

(13) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 15. Effective date.

This bill takes effect July 1, 2022.

CHAPTER 2
H. B. 2004

Passed November 10, 2021
Approved November 12, 2021
Effective November 12, 2021

CONGRESSIONAL BOUNDARIES DESIGNATION

Chief Sponsor: Paul Ray
Senate Sponsor: Scott D. Sandall

LONG TITLE

Redistricting Boundary Information:

The Congressional district boundary information may be found at https://le.utah.gov.

Block equivalency file: HB2004_BEF.txt

Block equivalency file security code: 4cb8a686520fdb1c2385e0a9812ff403

General Description:

This bill, which includes this printed text and the electronic data affiliated with this text that is available on the Legislature's website and also included on the electronic storage device accompanying this bill when presented to the governor, establishes new United States Congressional district boundaries for Utah.

Highlighted Provisions:

This bill:

- repeals current United States Congressional district boundaries for Utah and establishes new United States Congressional district boundaries for Utah;
- establishes the block equivalency file that is part of this bill in electronic form as the legal boundaries of United States Congressional district boundaries for Utah;
- provides a hash code to verify the authenticity of the block equivalency file; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

20A-13-101.1, as last amended by Laws of Utah 2013, Chapter 383

20A-13-101.5, as last amended by Laws of Utah 2013, Chapter 383

20A-13-102, as last amended by Laws of Utah 2013, Chapter 383

20A-13-102.2, as last amended by Laws of Utah 2021, Chapter 162

20A-13-103, as last amended by Laws of Utah 2018, Chapter 330

20A-13-104, as last amended by Laws of Utah 2021, Chapters 162 and 345Utah Code Sections Affected by Revisor Instructions:

20A-13-101.5, as last amended by Laws of Utah 2013, Chapter 383

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

Section 1. Section 20A-13-101.1 is amended to read:

20A-13-101.1. Definitions.

As used in this part:

(1) "Census block" means any one of the [~~115,406~~] 71,207 individual geographic areas into which the Bureau of the Census of the United States Department of Commerce has divided the state of Utah, to each of which the Bureau of the Census has attached a discrete population tabulation from the [~~2010~~] 2020 decennial census.

(2) "Congressional block [~~assignment~~] equivalency file" means the electronic file designated as HB2004_BEF.txt that assigns each of Utah's [~~115,406~~] 71,207 census blocks to a particular Congressional district.

(3) "Congressional shapefile" means the electronic shapefile that:

(a) is the resulting projection of the Congressional block equivalency file; and

(b) stores the boundary of each of the four United States Congressional district boundaries for Utah.

(4) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

Section 2. Section 20A-13-101.5 is amended to read:

20A-13-101.5. Representatives to the United States Congress -- Four representative districts -- When elected -- District boundaries.

(1) (a) The state of Utah is divided into four districts for the election of representatives to the Congress of the United States, with one member to be elected from each Congressional district.

(b) At the general election to be held in [~~2012~~] 2022, and biennially thereafter, one representative from each Congressional district shall be elected to serve in the Congress of the United States.

(2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the [~~2010~~] 2020 national decennial census as the official data for establishing Congressional district boundaries.

(3) (a) [~~Notwithstanding Subsection (2), the~~] The Legislature enacts the district numbers and boundaries of the Congressional districts designated in the Congressional block equivalency file and resulting Congressional shapefile that is the electronic component of [~~the bill that enacts this section~~] this bill.

(b) [~~That~~] The Legislature shall ensure that the Congressional shapefile, and Congressional boundaries generated from [~~that~~] the Congressional shapefile, [~~may be accessed via~~] are accessible on the Utah Legislature's website.

Section 3. Section 20A-13-102 is amended to read:

20A-13-102. Congressional districts -- Filing -- Legal boundaries.

(1) (a) The Legislature shall file a copy of the Congressional [~~shapefile~~] block equivalency file enacted by the Legislature and the resulting Congressional shapefile with the lieutenant governor's office.

(b) The legal boundaries of Utah's Congressional districts are contained in the Congressional shapefile on file with the lieutenant governor's office.

(2) (a) The lieutenant governor shall:

(i) verify the Congressional block equivalency file that the Legislature files under Subsection (1) using block equivalency file security code "4cb8a686520fdb1c2385e0a9812ff403" and the corresponding Congressional shapefile;

[~~(i)~~] (ii) generate maps of each Congressional district from the Congressional shapefile; and

[~~(ii)~~] (iii) ensure that [~~those~~] the district maps are available for viewing on the lieutenant governor's website.

(b) If there is any inconsistency between the district maps and the Congressional shapefile resulting from the Congressional block equivalency file, the Congressional shapefile is controlling.

Section 4. Section 20A-13-102.2 is amended to read:

20A-13-102.2. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the Congressional shapefile in the possession of the lieutenant governor's office.

[~~(1)~~] (2) Each county clerk shall obtain a copy of the [~~Congressional shapefile~~] redistricting boundary data for the clerk's county from the lieutenant governor's office.

[~~(2)~~] (3) (a) A county clerk may create one or more county maps that identify the boundaries of Utah's Congressional districts as generated from the [~~Congressional shapefile~~] redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of Utah's Congressional districts within the county, the county clerk shall submit the county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of Utah's Congressional districts established by the Legislature in the [~~Congressional shapefile~~] redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the [~~Congressional shapefile~~] redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for a new review under this Subsection [~~(2)~~] (3).

[~~(3)~~] (4) (a) Subject to the requirements of this Subsection [~~(3)~~] (4), each county clerk shall establish voting precincts and polling places within each Utah Congressional district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a map from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of Utah's Congressional districts established by the Legislature in the [~~Congressional shapefile~~] redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the [~~Congressional shapefile~~] redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the Utah Geospatial

Resource Center for a new review under this Subsection [~~(3)~~] (4).

Section 5. Section 20A-13-103 is amended to read:

20A-13-103. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a Congressional district in the Congressional shapefile [~~enacted by the Legislature~~] in the possession of the lieutenant governor's office, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate Congressional district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single Congressional district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more Congressional districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 6. Section 20A-13-104 is amended to read:

20A-13-104. Uncertain boundaries -- How resolved.

(1) As used in this section, "affected party" means:

(a) a representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether the representative or another individual resides in a particular Congressional district;

(b) a candidate for Congressional representative whose Congressional district boundary is uncertain because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified or who is uncertain about whether the candidate or another individual resides in a particular Congressional district; or

(c) an individual who is uncertain about which Congressional district contains the individual's residence because the boundary in the Congressional shapefile used to establish the district boundary has been removed, modified, or is unable to be identified.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Congressional district boundary;

(ii) the number of the Congressional district in which an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Congressional block equivalency file and the resulting Congressional shapefile [~~and obtain and review~~]; and

(ii) any other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall [~~review the Congressional shapefile, obtain and review any relevant data,~~]:

(i) complete the review described in Subsection (2)(b); and

(ii) make a determination.

(d) When the lieutenant governor determines the location of the Congressional district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Utah Geospatial Resource Center created under Section 63A-16-505.

(e) If the lieutenant governor determines the number of the Congressional district in which a particular individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the individual;

(ii) the affected party who filed the petition, if different than the individual whose Congressional district number was identified; and

(iii) the county clerk of the affected county.

Section 7. Effective date.

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

Section 8. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Section 20A-13-101.5 from "this bill" to the bill's designated chapter number in the Laws of Utah.

CHAPTER 3
H. B. 2002

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

UNEMPLOYMENT INSURANCE RATES AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies provisions related to the Employment Security Act.

Highlighted Provisions:

This bill:

- modifies provisions related to the Unemployment Compensation Fund, including the Unemployment Insurance Division's calculation of employer contribution rates to the Unemployment Compensation Fund for calendar years 2022, 2023, and 2024; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-4-303, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 17

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

Section 1. Section 35A-4-303 is amended to read:

35A-4-303. Determination of contribution rates.

(1) (a) An employer's basic contribution rate is the same as the employer's benefit ratio and is determined by dividing the total benefit costs charged back to an employer during the immediately preceding four fiscal years by the total taxable wages of the employer for the same time period, calculated to four decimal places, disregarding any remaining fraction.

(b) In calculating the basic contribution rate under Subsection (1)(a), if four fiscal years of data are not available:

(i) the data of the number of complete fiscal years that is available shall be divided by the total taxable wages for the same time period; or

(ii) if the employer is a new employer, the basic contribution rate shall be determined as described in Subsection (5).

(2) (a) Subject to Subsection (2)(b), the division shall determine the social contribution rate by dividing all social costs as defined in Subsection 35A-4-307(1) applicable to the preceding four fiscal years by the total taxable wages of all employers subject to contributions for the same period, calculated to four decimal places, disregarding any remaining fraction, and rounding the result to three decimal places as follows:

(i) if the fourth decimal place is four or less, the third decimal place does not change; or

(ii) if the fourth decimal place is five or more, rounding the third decimal place up.

(b) For calendar years 2012 and 2013 only, if the calculation of the social contribution rate under Subsection (2)(a) is greater than 0.004, the social contribution rate for that calendar year is 0.004.

(c) For calendar year 2021 only, if the calculation of the social contribution rate under Subsection (2)(a) is greater than 0.002, the social contribution rate for that calendar year is 0.002.

(d) For calendar year 2022 only, if the calculation of the social contribution rate under Subsection (2)(a) is greater than 0.003, the social contribution rate for that calendar year is 0.003.

(e) For calendar years 2023 and 2024 only, if the calculation of the social contribution rate under Subsection (2)(a) is greater than 0.004, the social contribution rate for that calendar year is 0.004.

(3) (a) The division shall set the reserve factor at a rate that sustains an adequate reserve.

(b) For the purpose of setting the reserve factor:

(i) the adequate reserve is defined as between 18 and 24 months of benefits at the average of the five highest benefit cost rates in the last 25 years;

(ii) the division shall set the reserve factor at 1.0000 if the actual reserve fund balance as of June 30 preceding the computation date is determined to be an adequate reserve;

(iii) the division shall set the reserve factor between 0.5000 and 1.0000 if the actual reserve fund balance as of June 30 preceding the computation date is greater than the adequate reserve;

(iv) the division shall set the reserve factor between 1.0000 and 1.5000 if the actual reserve fund balance as of June 30 prior to the computation date is less than the adequate reserve;

(v) if the actual reserve fund balance as of June 30 preceding the computation date is insolvent or negative or if there is an outstanding loan from the Federal Unemployment Account or other lending institution, the division shall set the reserve factor at 2.0000 until the actual reserve fund balance as of June 30 preceding the computation date is determined by the division to be solvent or positive and there is no outstanding loan;

(vi) the division shall set the reserve factor on or before January 1 of each year;

(vii) money made available to the state under Section 903 of the Social Security Act, 42 U.S.C. 1103, as amended, which is received on or after January 1, 2004, may not be considered in establishing the reserve factor under this section for the rate year 2005 or any following rate year; [~~and~~]

(viii) for calendar year 2021 only, the division may not set the reserve factor to be more than 1.0500[~~.~~];

(ix) for calendar year 2022 only, the division may not set the reserve factor to be more than 1.1500; and

(x) for calendar years 2023 and 2024 only, the division may not set the reserve factor to be more than 1.2000.

(4) (a) Beginning January 1, 2009, an employer's overall contribution rate is:

(i) except as provided in Subsection (4)(a)(ii) or (iii), the employer's basic contribution rate multiplied by the reserve factor established under Subsection (3)(b), calculated to four decimal places, disregarding any remaining fraction, plus the social contribution rate established under Subsection (2), and the result calculated to three decimal places, disregarding any remaining fraction;

(ii) if under Subsection (4)(a)(i), the overall contribution rate calculation for an employer is greater than 9% plus the applicable social contribution rate, the overall contribution rate for the employer shall be reduced to 9% plus the applicable social contribution rate; or

(iii) if under Subsection (4)(a)(i), the overall contribution rate calculation for a new employer is less than 1.1%, the overall contribution rate for the new employer shall be increased to 1.1%.

(b) Beginning January 1, 2012, an employer's overall contribution rate is:

(i) except as provided in Subsection (4)(b)(ii) or (iii), the employer's basic contribution rate multiplied by the reserve factor established under Subsection (3)(b), calculated to four decimal places, disregarding any remaining fraction, plus the social contribution rate established under Subsection (2), and the result calculated to three decimal places, disregarding any remaining fraction;

(ii) if under Subsection (4)(b)(i), the overall contribution rate calculation for an employer is greater than 7% plus the applicable social contribution rate, the overall contribution rate for the employer shall be reduced to 7% plus the applicable social contribution rate; or

(iii) if under Subsection (4)(b)(i), the overall contribution rate calculation for a new employer is less than 1.1%, the overall contribution rate for the new employer shall be increased to 1.1%.

(c) The overall contribution rate described under this Subsection (4) does not include the addition of any penalty applicable to an employer:

(i) as a result of delinquency in the payment of contributions as provided in Subsection (9); or

(ii) that is assessed a penalty rate under Subsection 35A-4-304(5)(a).

(5) (a) Except as otherwise provided in this section, the basic contribution rate for a new employer is based on the average benefit cost rate experienced by employers of the major industry, as defined by department rule, to which the new employer belongs.

(b) Except as provided in Subsection (5)(c), by January 1 of each year, the basic contribution rate to be used in computing a new employer's overall contribution rate under Subsection (4) is the benefit cost rate that is the greater of:

(i) the amount calculated by dividing the total benefit costs charged back to both active and inactive employers of the same major industry for the last two fiscal years by the total taxable wages paid by those employers that were paid during the same time period, computed to four decimal places, disregarding any remaining fraction; or

(ii) 1%.

(c) If the major industrial classification assigned to a new employer is an industry for which a benefit cost rate does not exist because the industry has not operated in the state or has not been covered under this chapter, the employer's basic contribution rate is 5.4%. This basic contribution rate is used in computing the employer's overall contribution rate under Subsection (4).

(6) Notwithstanding any other provision of this chapter, and except as provided in Subsection (7), if an employing unit that moves into this state is declared to be a qualified employer because it has sufficient payroll and benefit cost experience under another state, a rate shall be computed on the same basis as a rate is computed for all other employers subject to this chapter if that unit furnishes adequate records on which to compute the rate.

(7) An employer who begins to operate in this state after having operated in another state shall be assigned the maximum overall contribution rate until the employer acquires sufficient experience in this state to be considered a "qualified employer" if the employer is:

(a) regularly engaged as a contractor in the construction, improvement, or repair of buildings, roads, or other structures on lands;

(b) generally regarded as being a construction contractor or a subcontractor specialized in some aspect of construction; or

(c) required to have a contractor's license or similar qualification under Title 58, Chapter 55, Utah Construction Trades Licensing Act, or the equivalent in laws of another state.

(8) (a) If an employer acquires the business or all or substantially all the assets of another employer and the other employer had discontinued operations upon the acquisition or transfers its trade or business, or a portion of its trade or business, under Subsection 35A-4-304(3)(a):

(i) for purposes of determining and establishing the acquiring party's qualifications for an experience rating classification, the payrolls of both employers during the qualifying period shall be jointly considered in determining the period of liability with respect to:

(A) the filing of contribution reports;

(B) the payment of contributions; and

(C) the benefit costs of both employers;

(ii) the transferring employer shall be divested of the transferring employer's unemployment experience provided the transferring employer had discontinued operations, but only to the extent as defined under Subsection 35A-4-304(3)(c); and

(iii) if an employer transfers its trade or business, or a portion of its trade or business, as defined under Subsection 35A-4-304(3), the transferring employer may not be divested of its employer's unemployment experience.

(b) An employing unit or prospective employing unit that acquires the unemployment experience of an employer shall, for all purposes of this chapter, be an employer as of the date of acquisition.

(c) Notwithstanding Section 35A-4-310, when a transferring employer, as provided in Subsection (8)(a), is divested of the employer's unemployment experience by transferring all of the employer's business to another and by ceasing operations as of the date of the transfer, the transferring employer shall cease to be an employer, as defined by this chapter, as of the date of transfer.

(9) (a) A rate of less than the maximum overall contribution rate is effective only for new employers and to those qualified employers who, except for amounts due under division determinations that have not become final, paid all contributions prescribed by the division for the four consecutive calendar quarters in the fiscal year immediately preceding the computation date.

(b) Notwithstanding Subsections (1), (5), (6), and (8), an employer who fails to pay all contributions prescribed by the division for the four consecutive calendar quarters in the fiscal year immediately preceding the computation date, except for amounts due under determinations that have not become final, shall pay a contribution rate equal to the overall contribution rate determined under the experience rating provisions of this chapter, plus a surcharge of 1% of wages.

(c) An employer who pays all required contributions shall, for the current contribution year, be assigned a rate based upon the employer's own experience as provided under the experience rating provisions of this chapter effective the first day of the calendar quarter in which the payment was made.

(d) Delinquency in filing contribution reports may not be the basis for denial of a rate less than the maximum contribution rate.

(10) If an employer makes a contribution payment based on the overall contribution rate in effect at the time the payment was made and a provision of this section retroactively reduces the overall contribution rate for that payment, the division:

(a) may not directly refund the difference between what the employer paid and what the employer would have paid under the new rate; and

(b) shall allow the employer to make an adjustment to a future contribution payment to offset the difference between what the employer paid and what the employer would have paid under the new rate.

Section 2. Effective date.

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

CHAPTER 4
H. B. 2003

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

PRETRIAL AMENDMENTS

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to the pretrial process.

Highlighted Provisions:

This bill:

- recodifies Title 77, Chapter 20, Bail, and Chapter 20b, Bail Surety;
- amends provisions related to a bail commissioner;
- amends provisions related to a mistake made in charging an offense;
- defines terms related to bail;
- addresses the collection of pretrial information for a magistrate or judge;
- amends provisions related to the release of individuals by a sheriff or bail commissioner on own recognizance;
- addresses the release of an individual by a bail commissioner on a financial condition;
- addresses the release of an individual by a magistrate or judge, including the standards and guidance for pretrial status orders and imposing pretrial release or detention;
- addresses motions for pretrial detention filed by prosecuting attorneys;
- addresses pretrial detention hearings, including the time in which a pretrial detention hearing shall be held;
- addresses modification of a pretrial status order;
- addresses the release from pretrial conditions when charges are not filed within 120 days;
- modifies the time-period requirement for an issuance of a warrant for failure to appear and for a prosecuting attorney to send notice of a failure to appear to a surety;
- modifies the time-period requirement for bail bond forfeiture;
- provides that a justice court judge, who is exercising the authority of a magistrate, may not perform any act or function in a capital felony case;
- addresses affidavits of indigency and requires certain individuals to submit an affidavit of indigency to the court;
- creates a pilot program to verify the indigency of certain individuals;
- repeals statutes related to bail; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-22-5.5, as last amended by Laws of Utah 2021, First Special Session, Chapter 6
17-32-1, as last amended by Laws of Utah 2021, First Special Session, Chapter 6
17-32-2, as last amended by Laws of Utah 1990, Chapter 283
31A-1-301, as last amended by Laws of Utah 2021, Chapter 252
31A-35-504, as last amended by Laws of Utah 2016, Chapter 234
63M-7-215, as enacted by Laws of Utah 2020, Chapter 185
77-17-8, as last amended by Laws of Utah 2021, Chapter 431
77-18a-1, as last amended by Laws of Utah 2021, Chapters 147 and 431
78A-2-220, as last amended by Laws of Utah 2021, Chapter 431
78A-7-118, as last amended by Laws of Utah 2017, Chapter 115
78B-7-802, as last amended by Laws of Utah 2021, Chapter 159
78B-9-108, as last amended by Laws of Utah 2017, Chapter 447
78B-22-202, as enacted by Laws of Utah 2019, Chapter 326

ENACTS:

77-20-101, Utah Code Annotated 1953
77-20-102, Utah Code Annotated 1953
77-20-201, Utah Code Annotated 1953
77-20-202, Utah Code Annotated 1953
77-20-204, Utah Code Annotated 1953
77-20-205, Utah Code Annotated 1953
77-20-206, Utah Code Annotated 1953
77-20-207, Utah Code Annotated 1953
77-20-208, Utah Code Annotated 1953
77-20-401, Utah Code Annotated 1953
77-20-504, Utah Code Annotated 1953
78B-22-201.5, Utah Code Annotated 1953
78B-22-1001, Utah Code Annotated 1953
78B-22-1002, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

77-20-103, (Renumbered from 77-20-1.1, as last amended by Laws of Utah 2021, Chapter 431)
77-20-203, (Renumbered from 77-20-3.2, as enacted by Laws of Utah 2021, First Special Session, Chapter 6)
77-20-301, (Renumbered from 77-20-8, as last amended by Laws of Utah 2021, Chapter 431)
77-20-302, (Renumbered from 77-20-10, as last amended by Laws of Utah 2021, Chapter 431)
77-20-402, (Renumbered from 77-20-4, as last amended by Laws of Utah 2021, Chapters 260 and 431)
77-20-404, (Renumbered from 77-20-9, as last amended by Laws of Utah 2021, Chapter 431)
77-20-501, (Renumbered from 77-20b-101, as last amended by Laws of Utah 2021, Chapters 260 and 431)

77-20-502, (Renumbered from 77-20b-102, as last amended by Laws of Utah 2021, Chapter 431)
77-20-503, (Renumbered from 77-20-8.5, as last amended by Laws of Utah 2021, Chapter 431)
77-20-505, (Renumbered from 77-20b-104, as last amended by Laws of Utah 2021, Chapter 431)

REPEALS:
10-3-920, as last amended by Laws of Utah 2015, Chapter 99
77-20-1, as last amended by Laws of Utah 2021, Chapters 88, 94, 431 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 431
77-20-3.1, as enacted by Laws of Utah 2021, Chapter 431
77-20-7, as last amended by Laws of Utah 2021, Chapter 431
77-20b-100, as enacted by Laws of Utah 2016, Chapter 234
77-20b-103, as last amended by Laws of Utah 2016, Chapter 234
77-20b-105, as last amended by Laws of Utah 2016, Chapter 234

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

Section 1. Section 17-22-5.5 is amended to read:

17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1) (a) Except as provided in Subsection (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.

(5) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section [~~77-20-3.2~~] 77-20-203 or 77-20-204.

Section 2. Section 17-32-1 is amended to read:

17-32-1. Appointment of bail commissioners.

(1) The county executive, with the advice and consent of the county legislative body, may appoint one or more responsible and discreet members of the sheriff's department of the county as a bail commissioner.

[~~(2) A bail commissioner may:~~]

[~~(a) receive bail for an individual arrested in the county for a felony;~~]

[~~(b) fix and receive bail for an individual arrested in the county for a misdemeanor under the laws of the state, or for a violation of any of the county ordinances in accordance with the uniform bail schedule adopted by the Judicial Council or a reasonable bail for county ordinances not contained in the schedule; and~~]

[~~(c) authorize the release of an individual from a jail facility on the individual's own recognizance in accordance with Section 77-20-3.2.~~]

[~~(3) An individual who has been ordered by a magistrate, judge, or bail commissioner to give bail may deposit the amount with the bail commissioner:~~]

[~~(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or~~]

[~~(b) by a bond issued by a licensed bail bond surety.~~]

[~~(4) Any money or bond collected by a bail commissioner shall be delivered to the appropriate court within three days of receipt of the money or bond.~~]

[~~(5) The court may review the amount of bail ordered by a bail commissioner and may modify the amount of bail required for good cause.~~]

(2) The power, duties, and responsibilities of a bail commissioner are described in this chapter and Sections 77-20-203, 77-20-204, and 77-20-401.

Section 3. Section 17-32-2 is amended to read:

17-32-2. Collection of fines by bail commissioners -- Disposition.

(1) [~~In addition to the duty of fixing bail, a~~] A bail commissioner shall have power to [~~collect and receipt~~] receive money tendered in payment of the fine of [~~a person~~] an individual serving sentence in default of the payment of the fine when the court is closed.

[~~(2) Money collected by a bail commissioner shall be delivered to the court that issued the commitment order within three days of receipt of the money.~~]

(2) A bail commissioner shall deliver any money received by a bail commissioner under Subsection (1) to the court that issued the commitment order within three days after the day on which the money is received.

Section 4. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) an expense reimbursement contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection (178).

(4) "Adult" means an individual who has attained the age of at least 18 years.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection [~~77-20-7~~] 77-20-501(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" or "blanket contract" means a group insurance policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection (94).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-8-205; or

(b) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by a parent organization; and

(ii) whose purpose is to insure risks of the parent organization and other risks as authorized under:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34) (a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(c) "Stock corporation" means a stock insurance corporation.

(35) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children's Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(42) (a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) "Crop insurance" includes multiperil crop insurance.

(43) (a) "Customer service representative" means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

(44) "Deadline" means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

(46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) "Department" means the Insurance Department.

(48) "Director" means a member of the board of directors of a corporation.

(49) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

(a) perform the duties of:

(i) that individual's occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(50) "Disability income insurance" means the same as that term is defined in Subsection (85).

(51) "Domestic insurer" means an insurer organized under the laws of this state.

(52) "Domiciliary state" means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(53) (a) "Eligible employee" means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection (53)(b).

(b) "Eligible employee" includes:

(i) an owner who:

(A) works on a full-time basis;

(B) has a normal work week of 30 or more hours; and

(C) employs at least one common employee; and

(ii) if the individual is included under a health benefit plan of a small employer:

(A) a sole proprietor;

(B) a partner in a partnership; or

(C) an independent contractor.

(c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (53)(a)(i).

(54) "Employee" means:

(a) an individual employed by an employer; and

(b) an owner who meets the requirements of Subsection (53)(b)(i).

(55) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

(56) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

(57) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

(58) (a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

(59) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

(60) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

(61) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

(62) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

(63) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

(64) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

(65) "Expense reimbursement insurance" means insurance:

(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and

(b) written:

(i) as a daily limit for a specific number of days in a hospital; and

(ii) to have a one or two day waiting period following a hospitalization.

(66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(67) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (67)(a).

(68) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

(69) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(70) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

(71) (a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

(72) "Franchise insurance" means an individual insurance policy provided through a mass

marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

(73) "General lines of authority" include:

(a) the general lines of insurance in Subsection (74);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

(74) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

(75) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

(76) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

(77) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

(78) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

(79) (a) "Health benefit plan" means, except as provided in Subsection (79)(b), a policy, contract, certificate, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) hospital indemnity or other fixed indemnity insurance;

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan;

(xii) short-term limited duration health insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

(80) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

(81) (a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

(82) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(83) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

(84) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(85) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

(86) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

(87) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

(88) "Independently procured insurance" means insurance procured under Section 31A-15-104.

(89) "Individual" means a natural person.

(90) "Inland marine insurance" includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

(91) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

(92) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

(93) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

(94) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club as outlined in Subsection (125);

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy offering title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections (94)(a) through (h) in a manner designed to evade this title.

(95) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

(96) "Insurance group" means the persons that comprise an insurance holding company system.

(97) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

(98) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

(99) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection (99)(a):

(i) applies only to this title;

(ii) does not define the meaning of "insured" as used in an insurance policy or certificate; and

(iii) includes an enrollee.

(100) (a) "Insurer" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and

(vi) a health maintenance organization.

(b) "Insurer" does not include a governmental entity.

(101) "Interinsurance exchange" means the same as that term is defined in Subsection (160).

(102) "Internationally active insurance group" means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least $50,000,000,000; or

(ii) total gross written premiums of at least $10,000,000,000.

(103) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(104) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

(105) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

(106) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

(107) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

(108) (a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

(109) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

(110) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

(111) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

(112) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

(113) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

(114) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

(115) "Limited lines authority" includes the lines of insurance listed in Subsection (114).

(116) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

(117) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections (117)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage; or

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement.

(118) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

(119) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

(120) "Member" means a person having membership rights in an insurance corporation.

(121) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

(122) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

(123) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

(124) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

(125) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections (125)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

(126) "Mutual" means a mutual insurance corporation.

(127) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

(128) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

(129) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

(130) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

(131) "Order" means an order of the commissioner.

(132) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

(133) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

(134) "Outline of coverage" means a summary that explains an accident and health insurance policy.

(135) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection (135)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection (135)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

(136) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

(137) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

(138) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

(139) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

(140) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

(141) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection (141)(a) or (b), the calendar year.

(142) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

(143) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

(144) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy offering life insurance over a period of years.

(145) "Policy summary" means a synopsis describing the elements of a life insurance policy.

(146) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

(147) "Preexisting condition," with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

(148) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

(149) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

(150) "Proceeding" includes an action or special statutory proceeding.

(151) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

(152) (a) Except as provided in Subsection (152)(b), "property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

(153) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

(154) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

(155) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

(156) (a) Except as provided in Subsection (156)(b), "rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not mean:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

(157) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

(158) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

(159) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

(160) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

(161) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

(162) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

(163) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

(164) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

(165) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

(166) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

(167) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections (167)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

(168) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection (168).

(169) (a) "Self-insurance" means an arrangement under which a person provides for spreading its own risks by a systematic plan.

(b) Except as provided in this Subsection (169), "self-insurance" does not include an arrangement under which a number of persons spread their risks among themselves.

(c) "Self-insurance" includes:

(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates, subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.

(d) "Self-insurance" does not include an arrangement with an independent contractor.

(170) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

(171) "Short-term limited duration health insurance" means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

(172) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

(173) (a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) "Small employer" does not include a sole proprietor that does not employ at least one employee.

(174) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to

the Health Insurance Portability and Accountability Act.

(175) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

(176) Subject to Subsection (91)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

(177) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

(178) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternals; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

(179) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or

personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

(180) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

(181) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

(182) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

(183) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

(184) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage under Subsection (152).

(185) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

(186) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

(187) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 5. Section 31A-35-504 is amended to read:

31A-35-504. Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond agency license.

(1) As used in this section:

(a) "Agency" means a bail bond agency.

(b) "Judgment" means a judgment of bail bond forfeiture issued under Section [~~77-20b-104~~] 77-20-505.

(2) (a) (i) An agency shall pay a judgment not later than 15 days following service of notice upon the agency from a prosecutor of the entry of the judgment.

(ii) An agency may pay a bail bond forfeiture to the court prior to judgment.

(b) (i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the agency of a judgment shall notify the commissioner of the failure to pay the judgment.

(ii) The commissioner shall notify the agency, by the most expeditious means available, of the nonpayment of the judgment.

(iii) The agency shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii). If the judgment is not satisfied at the end of the five days, the commissioner may suspend the agency's license under Subsection (3).

(c) If notice of entry of judgment is served upon the agency by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).

(d) A prosecutor may not proceed under Subsection (2)(b) if an agency, within 15 days after service of notice of the entry of judgment is served:

(i) files a motion to set aside the judgment or files an application for an extraordinary writ; and

(ii) provides proof that the agency has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.

(e) As used in this section, the filing of the following tolls the time within which an agency is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:

(i) a motion to set aside a judgment; or

(ii) an application for extraordinary writ.

(3) The commissioner shall suspend the license of the agency not later than five days following the agency's failure to satisfy the judgment as required under Subsection (2)(b).

(4) If the prosecutor receives proof of or notice of payment of the judgment during the suspension period under Subsection (3), the prosecutor shall immediately notify the commissioner of the payment. The notice shall be in writing and by the most expeditious means possible, including facsimile or other electronic means.

(5) The commissioner shall lift a suspension under Subsection (3) within five days of the day on which all of the following conditions are met:

(a) the suspension has been in place for no fewer than 14 days;

(b) the commissioner has received written notice of payment of the unpaid forfeiture from the prosecutor; and

(c) the commissioner has received:

(i) no other notice of any unpaid forfeiture from a prosecutor; or

(ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that the unpaid forfeiture has been paid.

(6) The commissioner shall commence an administrative proceeding and revoke the license of an agency that fails to meet the conditions under Subsection (5) within 60 days following the initial date of suspension.

(7) This section does not restrict or otherwise affect the rights of a prosecutor to commence collection proceedings under Subsection [~~77-20b-104~~] 77-20-505(5).

Section 6. Section 63M-7-215 is amended to read:

63M-7-215. Pretrial Release Programs Special Revenue Fund -- Funding -- Uses.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Fund" means the Pretrial Release Programs Special Revenue Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Pretrial Release Programs Special Revenue Fund."

(3) The Division of Finance shall administer the fund in accordance with this section.

(4) The fund shall consist of:

(a) money collected and remitted to the fund under Section [~~77-20-9~~] 77-20-403;

(b) appropriations from the Legislature;

(c) interest earned on money in the fund; and

(d) contributions from other public or private sources.

(5) The commission shall award grants from the fund to county agencies and other agencies the commission determines appropriate to assist counties with establishing and expanding pretrial services programs that serve the purpose of:

(a) assisting a court in making an informed decision regarding an individual's pretrial release; and

(b) providing supervision of an individual released from law enforcement custody on conditions pending a final determination of a criminal charge filed against the individual.

(6) The commission may retain up to 3% of the money deposited into the fund to pay for administrative costs incurred by the commission, including salary and benefits, equipment, supplies, or travel costs that are directly related to the administration of this section.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall establish a grant application and review process for the expenditure of money from the fund.

(8) The grant application and review process shall describe:

(a) the requirements to complete the grant application;

(b) requirements for receiving funding;

(c) criteria for the approval of a grant application; and

(d) support offered by the commission to complete a grant application.

(9) Upon receipt of a grant application, the commission shall:

(a) review the grant application for completeness;

(b) make a determination regarding the grant application;

(c) inform the grant applicant of the commission's determination regarding the grant application; and

(d) if approved, award grants from the fund to the grant applicant.

(10) Before November 30 of each year, the commission shall provide an electronic report to the Law Enforcement and Criminal Justice Interim Committee regarding the status of the fund and expenditures made from the fund.

Section 7. Section 77-17-8 is amended to read:

77-17-8. Mistake in charging offense -- Procedure -- Witnesses.

(1) If, at any time before verdict or judgment, a mistake is made in charging the proper offense, and there is probable cause to believe that the defendant is chargeable with another offense, the court may

[~~commit the defendant or require the defendant to give bail under Section 77-20-1 for the defendant's appearance to answer to the proper charge when filed, and may also require witnesses to give bail for their appearance.~~]:

(a) release the individual on the individual's own recognizance, as defined in Section 77-20-102, during the time the individual awaits trial or other resolution of criminal charges;

(b) designate a condition, or a combination of conditions, described in Subsection 77-20-205(4), to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(c) order the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(2) A court may require a witness to post monetary bail, as defined in Section 77-20-102, to ensure that the witness appears in court.

Section 8. Section 77-18a-1 is amended to read:

77-18a-1. Appeals -- When proper.

(1) A defendant may, as a matter of right, appeal from:

(a) a final judgment of conviction, whether by verdict or plea;

(b) an order made after judgment that affects the substantial rights of the defendant;

(c) an order adjudicating the defendant's competency to proceed further in a pending prosecution; or

(d) an order denying bail[~~, as provided in Subsection 77-20-1(9)~~] under Chapter 20, Bail.

(2) In addition to any appeal permitted by Subsection (1), a defendant may seek discretionary appellate review of any interlocutory order.

(3) The prosecution may, as a matter of right, appeal from:

(a) a final judgment of dismissal, including a dismissal of a felony information following a refusal to bind the defendant over for trial;

(b) a pretrial order dismissing a charge on the ground that the court's suppression of evidence has substantially impaired the prosecution's case;

(c) an order granting a motion to withdraw a plea of guilty or no contest;

(d) an order arresting judgment or granting a motion for merger;

(e) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(f) an order granting a new trial;

(g) an order holding a statute or any part of it invalid;

(h) an order adjudicating the defendant's competency to proceed further in a pending prosecution;

(i) an order finding, pursuant to Title 77, Chapter 19, Part 2, Competency for Execution, that an inmate sentenced to death is incompetent to be executed;

(j) an order reducing the degree of offense pursuant to Section 76-3-402;

(k) an illegal sentence; or

(l) an order dismissing a charge pursuant to Subsection 76-2-309(3).

(4) In addition to any appeal permitted by Subsection (3), the prosecution may seek discretionary appellate review of any interlocutory order entered before jeopardy attaches.

Section 9. Section 77-20-101 is enacted to read:

CHAPTER 20. BAIL

Part 1. General Provisions

77-20-101. Title.

This chapter is known as "Bail."

Section 10. Section 77-20-102 is enacted to read:

77-20-102. Definitions.

As used in this chapter:

(1) "Bail bond" means the same as that term is defined in Section 31A-35-102.

(2) "Bail bond agency" means the same as that term is defined in Section 31A-35-102.

(3) "Bail bond producer" means the same as that term is defined in Section 31A-35-102.

(4) "Bail commissioner" means a bail commissioner appointed in accordance with Section 17-32-1.

(5) "Exonerate" means to release and discharge a surety, or a surety's bail bond producer, from liability for a bail bond.

(6) "Financial condition" or "monetary bail" means any monetary condition that is imposed to secure an individual's pretrial release.

(7) "Forfeiture" means:

(a) to divest an individual or surety from a right to the repayment of monetary bail; or

(b) to enforce a pledge of assets or real or personal property from an individual or surety used to secure an individual's pretrial release.

(8) "Magistrate" means the same as that term is defined in Section 77-1-3.

(9) "Own recognizance" means the release of an individual without any condition of release other than the individual's promise to:

(a) appear for all required court proceedings; and

(b) not commit any criminal offense.

(10) "Pretrial detention hearing" means a hearing described in Section 77-20-206.

(11) "Pretrial release" or "bail" means the release of an individual from law enforcement custody during the time the individual awaits trial or other resolution of criminal charges.

(12) "Pretrial risk assessment" means an objective, research-based, validated assessment tool that measures an individual's risk of flight and risk of anticipated criminal conduct while on pretrial release.

(13) "Pretrial services program" means a program that is established to:

(a) gather information on individuals booked into a jail facility;

(b) conduct pretrial risk assessments; and

(c) supervise individuals granted pretrial release.

(14) "Pretrial status order" means an order issued by a magistrate or judge that:

(a) releases the individual on the individual's own recognizance while the individual awaits trial or other resolution of criminal charges;

(b) sets the terms and conditions of the individual's pretrial release while the individual awaits trial or other resolution of criminal charges; or

(c) denies pretrial release and orders that the individual be detained while the individual awaits trial or other resolution of criminal charges.

(15) "Principal" means the same as that term is defined in Section 31A-35-102.

(16) "Surety" means a surety insurer or a bail bond agency.

(17) "Surety insurer" means the same as that term is defined in Section 31A-35-102.

(18) "Temporary pretrial status order" means an order issued by a magistrate that:

(a) releases the individual on the individual's own recognizance until a pretrial status order is issued;

(b) sets the terms and conditions of the individual's pretrial release until a pretrial status order is issued; or

(c) denies pretrial release and orders that the individual be detained until a pretrial status order is issued.

(19) "Unsecured bond" means an individual's promise to pay a financial condition if the individual fails to appear for any required court appearance.

Section 11. Section 77-20-103, which is renumbered from Section 77-20-1.1 is renumbered and amended to read:

[~~77-20-1.1~~]. 77-20-103. Release data requirements.

(1) The Administrative Office of the Courts shall submit the following data on cases involving individuals for whom the Administrative Office of the Courts has a state identification number broken down by judicial district to the Commission on Criminal and Juvenile Justice before July 1 of each year:

(a) for the preceding calendar year:

(i) the number of individuals charged with a criminal offense who failed to appear at a required court preceding while on pretrial release[~~, in accordance with Section 77-20-1,~~] under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) the number of offenses that carry a potential penalty of incarceration an individual committed while on pretrial release[~~, in accordance with Section 77-20-1,~~] under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition; and

(iii) the total amount of fees and fines, including bond forfeiture, collected by the court from an individual for the individual's failure to comply with a condition of release under each of the following categories of release:

(A) an individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition; and

(b) at the end of the preceding calendar year:

(i) the total number of outstanding warrants of arrest for individuals who were released from law enforcement custody[~~, in accordance with Section 77-20-1,~~] on pretrial release under each of the following categories of release:

(A) the individual's own recognizance;

(B) a financial condition; and

(C) a release condition other than a financial condition;

(ii) for each of the categories described in Subsection (1)(b)(i), the average length of time that the outstanding warrants had been outstanding; and

(iii) for each of the categories described in Subsection (1)(b)(i), the number of outstanding warrants for arrest for crimes of each of the following categories:

(A) a first degree felony;

(B) a second degree felony;

(C) a third degree felony;

(D) a class A misdemeanor;

(E) a class B misdemeanor; and

(F) a class C misdemeanor.

(2) Each county jail shall submit the following data, based on the preceding calendar year, to the Commission of Criminal and Juvenile Justice before July 1 of each year:

(a) the number of individuals released upon payment of monetary bail before appearing before a court;

(b) the number of individuals released on the individual's own recognizance before appearing before a court; and

(c) the amount of monetary bail, any fees, and any other money paid by or on behalf of individuals collected by the county jail.

(3) The Commission on Criminal and Juvenile Justice shall compile the data collected under this section and shall submit the compiled data in an electronic report to the Law Enforcement and Criminal Justice Interim Committee before November 1 of each year.

Section 12. Section 77-20-201 is enacted to read:

Part 2. Preconviction Bail

77-20-201. Right to bail -- Capital felony.

(1) An individual charged with, or arrested for, a criminal offense shall be admitted to bail as a matter of right, except if the individual is charged with:

(a) a capital felony when the court finds there is substantial evidence to support the charge;

(b) a felony committed while on parole or on probation for a felony conviction, or while free on bail awaiting trial on a previous felony charge, when the court finds there is substantial evidence to support the current felony charge;

(c) a felony when there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that the individual would constitute a substantial danger to any other individual or to the community, or is likely to flee the jurisdiction of the court, if released on bail;

(d) a felony when the court finds there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that the individual violated a material condition of release while previously on bail;

(e) a domestic violence offense if the court finds:

(i) that there is substantial evidence to support the charge; and

(ii) by clear and convincing evidence, that the individual would constitute a substantial danger to an alleged victim of domestic violence if released on bail;

(f) the offense of driving under the influence or driving with a measurable controlled substance in the body if:

(i) the offense results in death or serious bodily injury to an individual; and

(ii) the court finds:

(A) that there is substantial evidence to support the charge; and

(B) by clear and convincing evidence, that the person would constitute a substantial danger to the community if released on bail; or

(g) a felony violation of Section 76-9-101 if there is substantial evidence to support the charge and the court finds, by clear and convincing evidence, that the individual is not likely to appear for a subsequent court appearance.

(2) Notwithstanding any other provision of this section, there is a rebuttable presumption that an individual is a substantial danger to the community under Subsection (1)(f)(ii)(B):

(a) as long as the individual has a blood or breath alcohol concentration of .05 grams or greater if the individual is arrested for, or charged with, the offense of driving under the influence and the offense resulted in death or serious bodily injury to an individual; or

(b) if the individual has a measurable amount of controlled substance in the individual's body, the individual is arrested for, or charged with, the offense of driving with a measurable controlled substance in the body and the offense resulted in death or serious bodily injury to an individual.

(3) For purposes of Subsection (1)(a), any arrest or charge for a violation of Section 76-5-202, aggravated murder, is a capital felony unless:

(a) the prosecuting attorney files a notice of intent to not seek the death penalty; or

(b) the time for filing a notice to seek the death penalty has expired and the prosecuting attorney has not filed a notice to seek the death penalty.

Section 13. Section 77-20-202 is enacted to read:

77-20-202. Collection of pretrial information.

(1) On or after May 4, 2022, when an individual is arrested without a warrant for an offense and booked at a jail facility, an employee at the jail facility, or an employee of a pretrial services program, shall submit the following information to the court with the probable cause statement to the extent that the information is reasonably available to the employee:

(a) identification information for the individual, including:

(i) the individual's legal name and any known aliases;

(ii) the individual's date of birth;

(iii) the individual's state identification number;

(iv) the individual's mobile phone number; and

(v) the individual's email address;

(b) the individual's residential address;

(c) any pending criminal charge or warrant for the individual, including the offense tracking number of the current offense for which the individual is booked;

(d) the individual's probation or parole supervision status;

(e) whether the individual was on pretrial release for another criminal offense prior to the booking of the individual for the current criminal offense;

(f) the individual's financial circumstances to the best of the individual's knowledge at the time of booking, including:

(i) the individual's current employer;

(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;

(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;

(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;

(v) the number, ages, and relationships of any dependents;

(vi) any financial support or benefit that the individual receives from a state or federal government; and

(vii) any other information about the individual's financial circumstances that may be relevant; and

(g) any ties the individual has to the community, including:

(i) the length of time that the individual has been at the individual's residential address;

(ii) any enrollment in a local college, university, or trade school; and

(iii) the name and contact information for any family member or friend that the individual believes would be willing to provide supervision of the individual.

(2) Upon request, the jail facility, or the pretrial services program, shall provide the information described in Subsection (1) to the individual, the individual's attorney, or the prosecuting attorney.

(3) Any information collected from an individual under Subsection (1) is inadmissible in any court proceeding other than:

(a) a criminal proceeding addressing the individual's pretrial release or indigency for the offense, or offenses, for which the individual was arrested or charged with; or

(b) another criminal proceeding regarding prosecution for providing a false statement under Subsection (1).

(4) Nothing in this section prohibits a court and a county from entering into an agreement regarding information to be submitted to the court with a probable cause statement.

Section 14. Section 77-20-203, which is renumbered from Section 77-20-3.2 is renumbered and amended to read:

[~~77-20-3.2~~]. 77-20-203. Sheriff and bail commissioner authority to release an individual from jail on own recognizance.

(1) As used in this section:

[~~(a) "County bail commissioner" means a bail commissioner appointed in accordance with Section 17-32-1.~~]

[~~(b)~~] (a) "Qualifying offense" means the same as that term is defined in Section 78B-7-801.

[~~(c)~~] (b) "Violent felony" means the same as that term is defined in Subsection 76-3-203.5(1)(c)(i).

(2) A county sheriff or a [~~county~~] bail commissioner may release an individual from a jail facility on the individual's own recognizance if:

(a) the individual was arrested without a warrant;

(b) the individual was not arrested for:

(i) a violent felony;

(ii) a qualifying offense;

(iii) the offense of driving under the influence or driving with a measurable controlled substance in the body if the offense results in death or serious bodily injury to an individual; or

(iv) an offense described in Subsection 76-9-101(4);

(c) law enforcement has not submitted a probable cause statement to a court or magistrate;

(d) the individual agrees in writing to appear for [~~pending criminal charges~~] any future criminal proceedings related to the arrest; and

(e) the individual qualifies for release under the written policy described in Subsection (3) for the county.

(3) (a) A county sheriff shall create and approve a written policy for the county that governs the release of an individual on the individual's own recognizance.

(b) The written policy shall describe the criteria an individual shall meet to be released on the individual's own recognizance.

(c) A county sheriff may include in the written policy the criteria for release relating to:

(i) criminal history;

(ii) prior instances of failing to appear for a mandatory court appearance;

(iii) current employment;

(iv) residency;

(v) ties to the community;

(vi) an offense for which the individual was arrested;

(vii) any potential criminal charges that have not yet been filed;

(viii) the individual's health condition;

(ix) any potential risks to a victim, a witness, or the public; and

(x) any other similar factor a sheriff determines is relevant.

(4) Nothing in this section prohibits a [~~district~~] court and a county from entering into an agreement regarding release.

Section 15. Section 77-20-204 is enacted to read:

77-20-204. Bail commissioner authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section 23-19-15;

(b) Section 23-20-4;

(c) Section 23-20-4.7;

(d) Title 76, Chapter 6, Part 4, Theft;

(e) Title 76, Chapter 6, Part 5, Fraud;

(f) Title 76, Chapter 6, Part 6, Retail Theft;

(g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;

(h) Title 76, Chapter 6, Part 8, Library Theft;

(i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;

(j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;

(k) Title 76, Chapter 6, Part 11, Identity Fraud Act;

(l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;

(m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;

(n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;

(o) Title 76, Chapter 6a, Pyramid Scheme Act;

(p) Title 76, Chapter 7, Offenses Against the Family;

(q) Title 76, Chapter 7a, Abortion Prohibition;

(r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;

(s) Title 76, Chapter 9, Part 3, Cruelty to Animals;

(t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;

(u) Title 76, Chapter 9, Part 5, Libel; or

(v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a bail commissioner may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(iv) law enforcement has not submitted a probable cause statement to a magistrate; or

(b) (i) the individual is arrested for, or charged with, an eligible felony offense;

(ii) the individual is not on pretrial release for a separate criminal offense;

(iii) the individual is not on probation or parole;

(iv) the primary risk posed by the individual is the risk of failure to appear;

(v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

(vi) law enforcement has not submitted a probable cause statement to a magistrate.

(3) A bail commissioner may not fix a financial condition at a monetary amount that exceeds:

(a) $5,000 for an eligible felony offense;

(b) $1,950 for a class A misdemeanor offense;

(c) $680 for a class B misdemeanor offense;

(d) $340 for a class C misdemeanor offense;

(e) $150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or

(f) $80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.

(4) If an individual is arrested for more than one offense, and the bail commissioner fixes a financial condition for release:

(a) the bail commissioner shall fix the financial condition at a single monetary amount; and

(b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.

(5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a

financial condition fixed by a bail commissioner in accordance with this section.

(6) If a bail commissioner fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the bail commissioner fixes the financial condition.

(7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah Rules of Criminal Procedure:

(a) a bail commissioner may not fix or modify a financial condition for an individual; and

(b) if a bail commissioner fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) Nothing in this section prohibits a court and a county from entering into an agreement regarding release.

Section 16. Section 77-20-205 is enacted to read:

77-20-205. Pretrial release by a magistrate or judge.

(1) (a) At the time that a magistrate issues a warrant of arrest, or finds there is probable cause to support the individual's arrest under Rule 9 of the Utah Rules of Criminal Procedure, the magistrate shall issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) At the time that a magistrate issues a summons, the magistrate may issue a temporary pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges; or

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges.

(2) (a) Except as provided in Subsection (2)(c), at an individual's first appearance before the court, the magistrate or judge shall issue a pretrial status order that:

(i) releases the individual on the individual's own recognizance during the time the individual awaits trial or other resolution of criminal charges;

(ii) designates a condition, or a combination of conditions, to be imposed upon the individual's release during the time the individual awaits trial or other resolution of criminal charges; or

(iii) orders the individual be detained during the time the individual awaits trial or other resolution of criminal charges.

(b) In making a determination under Subsection (2)(a), the magistrate or judge may not give any deference to a magistrate's decision in a temporary pretrial status order.

(c) The magistrate or judge shall delay the issuance of a pretrial status order described in Subsection (2)(a):

(i) until a pretrial detention hearing is held if a prosecuting attorney makes a motion for pretrial detention as described in Section 77-20-206;

(ii) if a party requests a delay; or

(iii) if there is good cause to delay the issuance.

(d) If a magistrate or judge delays the issuance of a pretrial status order under Subsection (2)(c), the magistrate or judge shall extend the temporary pretrial status order until the issuance of a pretrial status order.

(3) In making a determination about pretrial release under Subsection (1) or (2), a magistrate or judge shall impose only conditions of release that are reasonably available and necessary to reasonably ensure:

(a) the individual's appearance in court when required;

(b) the safety of any witnesses or victims of the offense allegedly committed by the individual;

(c) the safety and welfare of the public; and

(d) that the individual will not obstruct, or attempt to obstruct, the criminal justice process.

(4) Except as provided in Subsection (5), a magistrate or judge may impose a condition, or combination of conditions, under Subsection (1) or (2) that requires an individual to:

(a) not commit a federal, state, or local offense during the period of pretrial release;

(b) avoid contact with a victim of the alleged offense;

(c) avoid contact with a witness who:

(i) may testify concerning the alleged offense; and

(ii) is named in the pretrial status order;

(d) not consume alcohol or any narcotic drug or other controlled substance unless prescribed by a licensed medical practitioner;

(e) submit to drug or alcohol testing;

(f) complete a substance abuse evaluation and comply with any recommended treatment or release program;

(g) submit to electronic monitoring or location device tracking;

(h) participate in inpatient or outpatient medical, behavioral, psychological, or psychiatric treatment;

(i) maintain employment or actively seek employment if unemployed;

(j) maintain or commence an education program;

(k) comply with limitations on where the individual is allowed to be located or the times that the individual shall be, or may not be, at a specified location;

(l) comply with specified restrictions on personal associations, place of residence, or travel;

(m) report to a law enforcement agency, pretrial services program, or other designated agency at a specified frequency or on specified dates;

(n) comply with a specified curfew;

(o) forfeit or refrain from possession of a firearm or other dangerous weapon;

(p) if the individual is charged with an offense against a child, limit or prohibit access to any location or occupation where children are located, including any residence where children are on the premises, activities where children are involved, locations where children congregate, or where a reasonable person would know that children congregate;

(q) comply with requirements for house arrest;

(r) return to custody for a specified period of time following release for employment, schooling, or other limited purposes;

(s) remain in custody of one or more designated individuals who agree to:

(i) supervise and report on the behavior and activities of the individual; and

(ii) encourage compliance with all court orders and attendance at all required court proceedings;

(t) comply with a financial condition; or

(u) comply with any other condition that is reasonably available and necessary to ensure compliance with Subsection (3).

(5) (a) If a county or municipality has established a pretrial services program, the magistrate or judge shall consider the services that the county or municipality has identified as available in determining what conditions of release to impose.

(b) The magistrate or judge may not order conditions of release that would require the county or municipality to provide services that are not currently available from the county or municipality.

(c) Notwithstanding Subsection (5)(a), the magistrate or judge may impose conditions of release not identified by the county or municipality so long as the condition does not require assistance or resources from the county or municipality.

(6) (a) If the magistrate or judge determines that a financial condition, other than an unsecured bond, is necessary to impose as a condition of release, the magistrate or judge shall consider the individual's ability to pay when determining the amount of the financial condition.

(b) If the magistrate or judge determines that a financial condition is necessary to impose as a condition of release, and a bail commissioner fixed a financial condition for the individual under Section 77-20-204, the magistrate or judge may not give any deference to:

(i) the bail commissioner's action to fix a financial condition; or

(ii) the amount of the financial condition that the individual was required to pay for pretrial release.

(c) If a magistrate or judge orders a financial condition as a condition of release, the judge or magistrate shall set the financial condition at a single amount per case.

(7) In making a determination about pretrial release under this section, the magistrate or judge may:

(a) rely upon information contained in:

(i) the indictment or information;

(ii) any sworn or probable cause statement or other information provided by law enforcement;

(iii) a pretrial risk assessment;

(iv) an affidavit of indigency described in Section 78B-22-201.5;

(v) witness statements or testimony; or

(vi) any other reliable record or source, including proffered evidence; and

(b) consider:

(i) the nature and circumstances of the offense, or offenses, that the individual was arrested for, or charged with, including:

(A) whether the offense is a violent offense; and

(B) the vulnerability of a witness or alleged victim;

(ii) the nature and circumstances of the individual, including the individual's:

(A) character;

(B) physical and mental health;

(C) family and community ties;

(D) employment status or history;

(E) financial resources;

(F) past criminal conduct;

(G) history of drug or alcohol abuse; and

(H) history of timely appearances at required court proceedings;

(iii) the potential danger to another individual, or individuals, posed by the release of the individual;

(iv) whether the individual was on probation, parole, or release pending an upcoming court proceeding at the time the individual allegedly committed the offense or offenses;

(v) the availability of:

(A) other individuals who agree to assist the individual in attending court when required; or

(B) supervision of the individual in the individual's community;

(vi) the eligibility and willingness of the individual to participate in various treatment programs, including drug treatment; or

(vii) other evidence relevant to the individual's likelihood of fleeing or violating the law if released.

(8) An individual arrested for violation of a jail release agreement, or a jail release court order, issued in accordance with Section 78B-7-802:

(a) may not be released before the individual's first appearance before a magistrate or judge; and

(b) may be denied pretrial release by the magistrate or judge under Subsection (2).

Section 17. Section 77-20-206 is enacted to read:

77-20-206. Motion for pretrial detention -- Pretrial detention hearing.

(1) (a) If the criminal charges filed against an individual include one or more offenses eligible for detention under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8, the prosecuting attorney may make a motion for pretrial detention.

(b) Upon receiving a motion for pretrial detention under Subsection (1)(a), the judge shall set a pretrial detention hearing in accordance with Subsection (2).

(2) If a pretrial status order is not issued at an individual's first appearance and the individual remains detained, a pretrial detention hearing shall be held at the next available court hearing that is:

(a) no sooner than seven days from the day on which the defendant was arrested; and

(b) no later than fourteen days from the day on which the defendant was arrested.

(3) (a) An individual, who is the subject of a pretrial detention hearing, has the right to be represented by counsel at the pretrial detention hearing.

(b) If a judge finds the individual is indigent under Section 78B-22-202, the judge shall appoint counsel to represent the individual in accordance with Section 78B-22-203.

(4) At the pretrial detention hearing:

(a) the judge shall give both parties the opportunity to make arguments and to present relevant evidence or information;

(b) the prosecuting attorney and the defendant have a right to subpoena witnesses to testify; and

(c) the judge shall issue a pretrial status order in accordance with Subsection (5) and Section 77-20-205.

(5) After hearing evidence on a motion for pretrial detention, and based on the totality of the circumstances, a judge may order detention if:

(a) the individual is accused of committing an offense that qualifies for detention of the individual under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8; and

(b) the prosecuting attorney demonstrates substantial evidence to support the charge, and meets all additional evidentiary burdens required under Subsection 77-20-201(1) or Utah Constitution, Article I, Section 8.

(6) An alleged victim has the right to be heard at a pretrial detention hearing on a motion for pretrial detention.

(7) If a defendant seeks to subpoena an alleged victim who did not willingly testify at the pretrial detention hearing, a defendant may issue a subpoena, at the conclusion of the pretrial detention hearing, compelling the alleged victim to testify at a subsequent hearing only if the judge finds that the testimony sought by the subpoena:

(a) is material to the substantial evidence or clear and convincing evidence determinations described in Section 77-20-201 in light of all information presented to the court; and

(b) would not unnecessarily intrude on the rights of the victim or place an undue burden on the victim.

Section 18. Section 77-20-207 is enacted to read:

77-20-207. Modification of pretrial status order.

(1) A motion to modify a pretrial status order may be made:

(a) by a party at any time after a pretrial status order is issued; and

(b) only upon a showing that there has been a material change in circumstances.

(2) (a) If a party makes a motion to modify the pretrial status order, the party shall provide notice to the opposing party sufficient to permit the opposing party to prepare for a hearing and to permit each alleged victim to be notified and be present.

(b) A hearing on a motion to modify a pretrial status order may be held in conjunction with a preliminary hearing or any other pretrial hearing.

(3) In ruling upon a motion to modify a pretrial status order, the judge may:

(a) rely on information as provided in Subsection 77-20-205(7);

(b) base the judge's ruling on evidence provided at the hearing so long as each party is provided an opportunity to present additional evidence or information relevant to pretrial release; and

(c) modify the pretrial status order, including the conditions of release, upon a finding that there has been a material change in circumstances.

Section 19. Section 77-20-208 is enacted to read:

77-20-208. Release from conditions when charges not filed in specified time period.

(1) If a prosecuting attorney does not file an information, indictment, or a request to extend time under Subsection (2), within 120 days after the day on which a bail commissioner released the individual on a financial condition under Section 77-20-203 or within 120 days after the day on which a temporary pretrial status order was issued for the individual:

(a) the individual shall be relieved from any condition of pretrial release;

(b) the court shall refund any monetary bail in accordance with Subsection 77-20-402(5); and

(c) if a bail bond was used to post monetary bail, the bail bond shall be exonerated without further order of the court.

(2) A request to extend time shall:

(a) be served on:

(i) the individual and the individual's attorney; and

(ii) if a bail bond was used to post monetary bail, the surety; and

(b) except as provided in Subsection (3), be granted for a period of up to 60 days.

(3) The magistrate may grant a request to extend time for a period of up to 120 days upon a showing of good cause.

(4) Nothing in this section prohibits the filing of charges against an individual at any time.

Section 20. Section 77-20-301, which is renumbered from Section 77-20-8 is renumbered and amended to read:

Part 3. Postconviction Bail

[~~77-20-8~~]. 77-20-301. Grounds for detaining or releasing defendant on conviction and prior to sentence.

(1) Upon conviction, by plea or trial, the court shall order that the convicted defendant who is waiting imposition or execution of sentence be detained, unless the court finds, by clear and convincing evidence, presented by the defendant that the defendant:

(a) is not likely to flee the jurisdiction of the court[~~,~~] if released; and

(b) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) If the court finds the defendant does not need to be detained, the court shall order the release of the defendant on suitable conditions, [~~which may include the conditions under Subsection 77-20-10(2)~~] including conditions of release described in Subsection 77-20-205(4).

Section 21. Section 77-20-302, which is renumbered from Section 77-20-10 is renumbered and amended to read:

[~~77-20-10~~]. 77-20-302. Grounds for detaining defendant while appealing the defendant's conviction -- Conditions for release while on appeal.

(1) The court shall order that a defendant who has been found guilty of an offense in a court of record and sentenced to a term of imprisonment in jail or prison, and who has filed an appeal or a petition for a writ of certiorari, be detained, unless the court finds:

(a) the appeal raises a substantial question of law or fact likely to result in:

(i) reversal;

(ii) an order for a new trial; or

(iii) a sentence that does not include a term of imprisonment in jail or prison;

(b) the appeal is not for the purpose of delay; and

(c) by clear and convincing evidence presented by the defendant, that the defendant:

(i) is not likely to flee the jurisdiction of the court[~~,~~] if released; and

(ii) will not pose a danger to the physical, psychological, or financial and economic safety or well-being of any other person or the community if released.

(2) (a) If the court makes a finding under Subsection (1) that justifies not detaining the defendant, the court shall order the release of the defendant, subject to only conditions [~~that result in the least restrictive condition or combination of conditions that the court determines will~~] of release that are reasonably available and necessary to reasonably ensure the appearance of the defendant as required and the safety of any other individual, property, and the community. [~~The conditions may include that the defendant:~~]

[~~(a) post appropriate bail;~~]

[~~(b) execute a bail bond with a surety under Title 31A, Chapter 35, Bail Bond Act, in an amount necessary to ensure the appearance of the defendant as required;~~]

[~~(c) (i) execute a written agreement to forfeit, upon failing to appear as required, designated property, including money, as is reasonably necessary to ensure the appearance of the defendant; and~~]

[~~(ii) post with the court indicia of ownership of the property or a percentage of the money as the court may specify;~~]

[~~(d) not commit a federal, state, or local crime during the period of release;~~]

[~~(e) remain in the custody of a designated person who agrees to assume supervision of the defendant and who agrees to report any violation of a release condition to the court, if the designated person is reasonably able to assure the court that the defendant will appear as required and will not pose a danger to the safety of any other person or the community;~~]

[~~(f) maintain employment, or if unemployed, actively seek employment;~~]

[~~(g) maintain or commence an educational program;~~]

[~~(h) abide by specified restrictions on personal associations, place of abode, or travel;~~]

[~~(i) avoid all contact with the victims of the offense and with any witnesses who testified against the defendant or potential witnesses who may testify concerning the offense if the appeal results in a reversal or an order for a new trial;~~]

[~~(j) report on a regular basis to a designated law enforcement agency, pretrial services agency, or other designated agency;~~]

[~~(k) comply with a specified curfew;~~]

[~~(l) not possess a firearm, destructive device, or other dangerous weapon;~~]

[~~(m) not use alcohol, or any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner;~~]

[~~(n) undergo available medical, psychological, or psychiatric treatment, including treatment for drug or alcohol dependency, and remain under the supervision of or in a specified institution if required for that purpose;~~]

[~~(o) return to custody for specified hours following release for employment, schooling, or other limited purposes;~~]

[~~(p) satisfy any other condition that is reasonably necessary to ensure the appearance of the defendant as required and to ensure the safety of any other person and the community; and~~]

[~~(q) if convicted of committing a sexual offense or an assault or other offense involving violence against a child 17 years old or younger, is limited or denied access to any location or occupation where children are, including:~~]

[~~(i) any residence where children are on the premises;~~]

[~~(ii) activities, including organized activities, in which children are involved; and~~]

[~~(iii) locations where children congregate, or where a reasonable person should know that children congregate.~~]

(b) The conditions under Subsection (2)(a) may include conditions described in Subsection 77-20-205(4).

[~~(3)~~] (c) The court may, in [~~its~~] the court's discretion, amend an order granting release to impose additional or different conditions of release.

[~~(4)~~] (3) If the defendant is found guilty of an offense in a court not of record and files a timely notice of appeal [~~pursuant to~~] in accordance with Subsection 78A-7-118(1) for a trial de novo, the court shall stay all terms of a sentence, unless at the time of sentencing the judge finds by a preponderance of the evidence that the defendant poses a danger to another person or the community.

[~~(5)~~] (4) If a stay is ordered, the court may order [~~post-conviction~~] postconviction restrictions on the defendant's conduct as appropriate, including:

(a) continuation of any [~~pre-trial~~] pretrial restrictions or orders;

(b) sentencing protective orders under Section 78B-7-804;

(c) drug and alcohol use;

(d) use of an ignition interlock; and

(e) posting appropriate monetary bail.

[~~(6)~~] (5) The provisions of Subsections [~~(4) and (5)~~] (3) and (4) do not apply to convictions for an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

[~~(7)~~] (6) Any stay authorized by Subsection [~~(4)~~] (3) is lifted upon the dismissal of the appeal by the district court.

Section 22. Section 77-20-401 is enacted to read:

Part 4. Monetary Bail

77-20-401. Payment of monetary bail to sheriff or bail commissioner -- Specific payment methods.

(1) Subject to Subsection 77-20-402(2), if an individual has been required by a bail commissioner, or ordered by a magistrate or judge, to post monetary bail as a condition of pretrial release, the individual may post the amount of monetary bail with the bail commissioner:

(a) in money, by cash, certified or cashier's check, personal check with check guarantee card, money order, or credit card, if the bail commissioner has chosen to establish any of those options; or

(b) by a bail bond issued by a surety.

(2) A bail commissioner shall deliver any monetary bail received under Subsection (1) to the appropriate court within three days after the day on which the monetary bail is received by the bail commissioner.

Section 23. Section 77-20-402, which is renumbered from Section 77-20-4 is renumbered and amended to read:

[~~77-20-4~~]. 77-20-402. Payment of monetary bail to court -- Specific payment methods -- Refund of monetary bail.

[~~(1) (a) Except as provided in Subsection (2), the judge or magistrate shall set bail at a single amount per case or charge.~~]

[~~(b)~~] (1) Subject to Subsection (2), a defendant may choose to post the amount [~~described in Subsection (1)(a)~~] of monetary bail imposed by a judge or magistrate by any of the following methods:

(i) in cash;

(ii) by [~~written undertaking with sureties~~] a bail bond with a surety;

(iii) by [~~written undertaking without sureties~~] an unsecured bond, at the discretion of the judge or magistrate; or

(iv) by credit or debit card, at the discretion of the [~~judge or bail commissioner~~] judge or magistrate.

(2) A judge or magistrate may limit a defendant to a specific method of posting monetary bail described in Subsection (1)[~~(b)(i), (ii), (iii), or (iv)~~]:

(a) if, after charges are filed, the defendant fails to appear in the case on a bail bond and the case involves a violent offense;

(b) in order to allow the defendant to voluntarily remit the fine in accordance with Section 77-7-21 and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(c) if the defendant has failed to respond to a citation or summons and the offense with which the defendant is charged is listed in the shared master offense table as one for which an appearance is not mandatory;

(d) if a warrant is issued for the defendant solely for failure to pay a criminal accounts receivable, as defined in Section 77-32b-102, and the defendant's monetary bail is limited to the amount owed; or

(e) if a court has entered a judgment of bail bond forfeiture under Section [~~77-20b-104~~] 77-20-505 in any case involving the defendant.

(3) [~~Bail~~] Monetary bail may not be accepted without receiving in writing at the time the bail is posted the current mailing address, telephone number, and email address of the surety.

(4) [~~Bail~~] Monetary bail posted by debit or credit card, less the fee charged by the financial institution, shall be tendered to the courts.

(5) (a) [~~Bail~~] Monetary bail refunded by the court may be refunded by credit to the debit or credit card[~~,~~] or in cash.

(b) The amount refunded shall be the full amount received by the court under Subsection (4), which may be less than the full amount of the monetary bail set by the [~~court~~] judge or magistrate.

[~~(6)~~] (c) Before refunding monetary bail that is posted by the defendant in cash, by credit card, or by debit card, the court may apply the amount posted toward a criminal accounts receivable, as defined in Section 77-32b-102, that is owed by the defendant in the priority set forth in Section 77-38b-304.

Section 24. Section 77-20-404, which is renumbered from Section 77-20-9 is renumbered and amended to read:

[~~77-20-9~~]. 77-20-404. (Codified as 77-20-403) Disposition of forfeited monetary bail.

If [~~by reason of the neglect of the defendant to appear,~~] money deposited as a financial condition or money paid by [~~sureties on bond~~] a surety on a bail bond is forfeited and the forfeiture is not discharged or remitted, the clerk with whom [~~it~~] the money is deposited or paid shall, immediately after final adjournment of the court, pay over the money forfeited as follows:

(1) the forfeited amount in cases in precinct justice courts or in municipal justice courts shall be distributed as provided in Sections 78A-7-120 and 78A-7-121; and

(2) in all other cases:

(a) where the financial condition was paid by a surety:

(i) 60% of the forfeited amount shall be paid to the Pretrial Release Programs Special Revenue Fund established in Section 63M-7-215;

(ii) 20% of the forfeited amount shall be paid to the General Fund; and

(iii) 20% of the forfeited amount shall be paid to the prosecuting agency that brings an action to collect under Section [~~77-20b-104~~] 77-20-505; and

(b) where the financial condition was paid without the assistance of a surety:

(i) 75% of the forfeited amount shall be paid to the Pretrial Release Programs Special Revenue Fund established in Section 63M-7-215; and

(ii) 25% of the forfeited amount shall be paid to the General Fund.

Section 25. Section 77-20-501, which is renumbered from Section 77-20b-101 is renumbered and amended to read:

Part 5. Bail Surety

[~~77-20b-101~~]. 77-20-501. Liability on a bail bond -- Failure to appear -- Notice to surety.

(1) (a) Unless exonerated under Subsection 77-20-504(5), the principal and the surety on a bail bond are liable on the bail bond during all proceedings and for all court appearances required of the defendant up to and including the surrender of the defendant for sentencing, regardless of any contrary provision in the bail bond agreement.

(b) Any failure of the defendant to appear when required is a breach of the conditions of the bail bond and subjects the bail bond to forfeiture regardless of whether notice of the required appearance was given to the surety.

[~~(1)~~] (2) (a) If a defendant, who has posted [~~bail~~] monetary bail by a bail bond, fails to appear before the appropriate court as required, the court shall[~~,~~]:

(i) within [~~30~~] 28 days after the day on which the defendant fails to appear, issue a bench warrant that includes the original case number[~~. The court shall also direct that the surety be given notice of the nonappearance.~~]; and

(ii) direct the clerk of the court to notify the surety of the defendant’s failure to appear.

(b) The clerk of the court shall:

[~~(a)~~] (i) email notice of [~~nonappearance~~] the defendant’s failure to appear to the surety at the email address provided on the bond;

[~~(b)~~] (ii) notify the surety as listed on the bail bond of the name, address, and telephone number of the [~~prosecutor~~] prosecuting attorney;

[~~(c)~~] (iii) email a copy of the notice sent under Subsection [~~(1)(a)~~] (2)(b)(i) to the [~~prosecutor’s~~] prosecuting attorney’s office at the same time notice is sent under Subsection [~~(1)(a)~~] (2)(b)(i); and

[~~(d)~~] (iv) ensure that the name, address, business email address, and telephone number of the surety or the surety’s agent as listed on the bail bond is stated on the bench warrant.

[~~(2)~~] (3) The [~~prosecutor~~] prosecuting attorney may email notice of [~~nonappearance~~] the defendant’s failure to appear to the address of the surety as listed on the bail bond within [~~37~~] 35 days after the [~~date of the defendant’s failure to appear~~] day on which the defendant fails to appear.

[~~(3) If notice of nonappearance is not emailed to a surety as listed on the bail bond, other than the defendant, in accordance with Subsection (1) or (2), the surety and the surety’s bail bond producer are relieved of further obligation under the bail bond if the surety’s current name and address or the current name and address of the bail bond agency are on the bail bond in the court’s file.~~]

(4) (a) (i) If a defendant appears in court within seven days after a missed, scheduled court appearance, the court may reinstate the bail bond without further notice to the surety.

(ii) If the defendant, while in custody, appears on the case for which the bail bond was posted, the court may not reinstate the bail bond without the consent of the bail bond company.

(b) If a defendant fails to appear within seven days after a scheduled court appearance, the court may not reinstate the bail bond without the consent of the surety.

[~~(c) If the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges and the court is notified of the arrest, or the court recalls the warrant due to the defendant’s having paid the fine and prior to entry of judgment of forfeiture, the court shall exonerate the bail bond.~~]

[~~(d) Unless the court makes a finding of good cause why the bond should not be exonerated, the court shall exonerate the bail bond if:~~]

[~~(i) the surety has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;~~]

[~~(ii) the defendant has been released on a bond secured from a subsequent surety for the original charge and the failure to appear;~~]

[~~(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant’s own recognizance, pursuant to a pretrial release, under a court order regulating jail capacity, or by a sheriff’s release under Section 17-22-5.5;~~]

[~~(iv) the surety has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending, and the payment is in an amount equal to the cost of government transportation under Section 76-3-201; or~~]

[~~(v) the surety demonstrates by a preponderance of the evidence that:~~]

[~~(A) at the time the surety issued the bail bond, it had made reasonable efforts to determine that the defendant was legally present in the United States;~~]

[~~(B) a reasonable person would have concluded, based on the surety’s determination, that the defendant was legally present in the United States; and~~]

[~~(C) the surety has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.~~]

[~~(e) Under circumstances not otherwise provided for in this section, the court may exonerate the bail bond if it finds that the prosecutor has been given reasonable notice of a surety’s motion and there is good cause for the bail bond to be exonerated.~~]

[~~(f) If a surety’s bail bond has been exonerated under this section and the surety remains liable for the cost of transportation of the defendant, the surety may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.~~]

Section 26. Section 77-20-502, which is renumbered from Section 77-20b-102 is renumbered and amended to read:

[~~77-20b-102~~]. 77-20-502. Time for bringing defendant to court -- Defendant in custody in another jurisdiction -- Notice to prosecuting attorney.

(1) (a) If notice of [~~nonappearance~~] a defendant’s failure to appear is emailed to a surety under Section [~~77-20b-101~~] 77-20-501, the surety may bring the defendant before the court, or surrender the defendant into the custody of a county sheriff within the state, within [~~six months after the date of nonappearance, during which time a forfeiture action on the bail bond may not be brought~~] 180 days after the day on which the defendant failed to appear in court as required.

(b) A forfeiture action may not be brought during the 180-day time period described in Subsection (1)(a).

(2) A surety may request an extension of the [~~six-month~~] 180-day time period in Subsection (1)[~~,~~] if the surety within that time:

(a) files a motion for extension with the court; and

(b) mails the motion for extension and a notice of hearing on the motion to the [~~prosecutor~~] prosecuting attorney.

(3) The court may extend the [~~six-month time in Subsection (1) for not more than 60 days, if~~] 180-day time period in Subsection (1) for no more than 30 days if:

(a) the surety has complied with Subsection (2); and

(b) the court finds good cause.

(4) If a surety is unable to bring a defendant to the court because the defendant is and will be in the custody of authorities of another jurisdiction, the surety shall:

(a) notify the court and the prosecuting attorney; and

(b) provide the name, address, and telephone number of the custodial authority.

Section 27. Section 77-20-503, which is renumbered from Section 77-20-8.5 is renumbered and amended to read:

[~~77-20-8.5~~]. 77-20-503. Surrender of defendant by surety -- Arrest of defendant.

(1) (a) (i) [~~Sureties~~] A surety may at any time prior to a defendant's failure to appear, surrender the defendant and obtain [~~exoneration of bail,~~] an exoneration of the bail bond by notifying the clerk of the court in which the bail bond was posted of the defendant's surrender and requesting exoneration.

(ii) Notification shall be made immediately following the surrender by [~~surface mail, electronic~~] mail, email, or fax.

(b) To effect surrender of the defendant, a certified copy of the surety's [~~undertaking~~] bail bond from the court in which [~~it~~] the bail bond was posted or a copy of the bail bond agreement with the defendant shall be delivered to the on-duty jailer, who shall:

(i) detain the defendant in the on-duty jailer's custody as upon a commitment[~~,~~]; and [~~shall~~]

(ii) in writing acknowledge the surrender upon the copy of the [~~undertaking or bail~~] bail bond or bail bond agreement.

(c) The certified copy of the [~~undertaking~~] bail bond or copy of the bail bond agreement upon which the acknowledgment of surrender is endorsed shall be filed with the court. [~~The court may then, upon proper application, order the undertaking exonerated and may order~~]

(d) Upon a filing described in Subsection (1)(c), the court, upon proper application, may:

(i) exonerate the bail bond; and

(ii) order a refund of any paid premium, or part of a premium, as [~~it~~] the court finds just.

(2) For the purpose of surrendering the defendant, the [~~sureties~~] surety may:

(a) arrest the defendant:

(i) at any time before the defendant is finally exonerated; and

(ii) at any place within the state; and

(b) surrender the defendant to any county jail booking facility in Utah.

(3) An arrest under this section is not a basis for exoneration of the bail bond under Section [~~77-20b-101~~] 77-20-504.

(4) A surety acting under this section is subject to Title 53, Chapter 11, Bail Bond Recovery Act.

Section 28. Section 77-20-504 is enacted to read:

77-20-504. Exoneration of a bail bond.

(1) The court shall exonerate a bail bond if:

(a) (i) a defendant, who has posted monetary bail by a bail bond, fails to appear before the appropriate court as required;

(ii) notice of the defendant's failure to appear is not emailed to the surety as listed on the bail bond as described in Subsection 77-20-501(2) or (3); and

(iii) the surety's current name and email address, or the bail bond agency's current name and email address, are listed on the bail bond in the court's file;

(b) the defendant is arrested and booked into a county jail booking facility pursuant to a warrant for failure to appear on the original charges for which the bail bond was issued and the surety provides written proof of the arrest and booking to the court and the prosecuting attorney;

(c) the court recalls a warrant for failure to appear due to the defendant's having paid the fine and before entry of a judgment of forfeiture of the bail bond;

(d) the surety provides written proof to the court and the prosecuting attorney that the defendant is in custody and the surety has served the defendant's bail bond revocation on the custodial authority; or

(e) unless the court makes a finding of good cause why the bail bond should not be exonerated:

(i) the surety has delivered the defendant to the county jail booking facility in the county where the original charge or charges are pending;

(ii) the defendant has been released on a bail bond secured from a subsequent surety for the original charge and the failure to appear;

(iii) after an arrest, the defendant has escaped from jail or has been released on the defendant's own recognizance under a court order regulating jail capacity or by a sheriff's release under Section 17-22-5.5;

(iv) the surety has transported or agreed to pay for the transportation of the defendant from a location outside of the county back to the county where the original charge is pending and the payment is in an amount equal to the cost of government transportation under Section 76-3-201; or

(v) the surety demonstrates, by a preponderance of the evidence, that:

(A) at the time the surety issued the bail bond, the surety made reasonable efforts to determine that the defendant was legally present in the United States;

(B) a reasonable person would have concluded, based on the surety's determination, that the defendant was legally present in the United States; and

(C) the surety has failed to bring the defendant before the court because the defendant is in federal custody or has been deported.

(2) Under circumstances not otherwise provided for in Subsection (1), the court may exonerate the bail bond if the court finds:

(a) that the prosecuting attorney has been given reasonable notice of a surety's motion to exonerate the bail bond; and

(b) there is good cause for the bail bond to be exonerated.

(3) If a surety's bail bond has been exonerated under Subsection (1) or (2) and the surety remains liable for the cost of transportation of the defendant, the surety may take custody of the defendant for the purpose of transporting the defendant to the jurisdiction where the charge is pending.

(4) If the defendant is subject to extradition or other means by which the state can return the defendant to law enforcement custody within the court's jurisdiction, and the surety gives notice under Subsection 77-20-502(4)(a), the surety's bail bond shall be exonerated:

(a) if the prosecuting attorney elects in writing not to extradite the defendant immediately; and

(b) if the prosecuting attorney elects in writing to extradite the defendant, to the extent the bail bond exceeds the reasonable, actual, or estimated costs to extradite and return the defendant to law enforcement custody within the court's jurisdiction, upon the occurrence of the earlier of:

(i) the prosecuting attorney's lodging a detainer on the defendant; or

(ii) 60 days after the day on which the surety gives notice to the prosecuting attorney under Subsection 77-20-502(4)(a) if the defendant remains in custody of the same authority during that 60-day time period.

(5) (a) Except as provided in Subsection (6), the court shall exonerate the bail bond, without motion, upon sentencing the defendant.

(b) If the defendant's sentence includes commitment to a jail or prison, the court shall exonerate the bail bond when the defendant appears at the appropriate jail or prison, unless the judge does not require the defendant to begin the commitment within seven days, in which case the bail bond is exonerated upon sentencing.

(c) For purposes of this Subsection (5), an order of the court accepting a plea in abeyance agreement and holding that plea in abeyance in accordance with Title 77, Chapter 2a, Pleas in Abeyance, is considered to be the same as a sentencing upon a guilty plea.

(d) Any suspended or deferred sentencing is not the responsibility of the surety and the bail bond is exonerated without any motion, upon acceptance of the court and the defendant of a plea in abeyance, probation, fine payments, post sentencing reviews, or any other deferred sentencing reviews or any other deferred sentencing agreement.

(6) If a surety issues a bail bond after sentencing, the surety is liable on the bail bond during all proceedings and for all court appearances required of the defendant up to and including the defendant's appearance to commence serving the sentence imposed under Subsection (5).

Section 29. Section 77-20-505, which is renumbered from Section 77-20b-104 is renumbered and amended to read:

[~~77-20b-104~~]. 77-20-505. Forfeiture of a bail bond.

(1) If a surety fails to bring the defendant before the court within [~~the time provided in Section 77-20b-102,~~] the time period described in Section 77-20-502, the prosecuting attorney may request the forfeiture of the bail bond by:

(a) filing a motion for bail bond forfeiture with the court, supported by proof of notice to the surety of the defendant's [~~nonappearance~~] failure to appear; and

(b) emailing a copy of the motion to the surety.

(2) A court shall enter judgment of bail bond forfeiture without further notice if the court finds, by a preponderance of the evidence:

(a) the defendant failed to appear as required;

(b) the surety was given notice of the defendant's [~~nonappearance~~] failure to appear in accordance with Section [~~77-20b-101~~] 77-20-501;

(c) the surety failed to bring the defendant to the court within the [~~six-month~~] 180-day time period under Section [~~77-20b-102~~] 77-20-502; and

(d) the [~~prosecutor~~] prosecuting attorney has complied with the notice requirements under Subsection (1).

(3) If the surety shows, by a preponderance of the evidence, that [~~it~~] the surety has failed to bring the

defendant before the court because the defendant is deceased through no act of the surety, the court may not enter judgment of bail bond forfeiture and the bail bond is exonerated.

(4) (a) The amount of bail forfeited is the face amount of the bail bond, but if the defendant is in the custody of another jurisdiction and the state extradites or intends to extradite the defendant, the court may reduce the amount forfeited to the actual or estimated costs of returning the defendant to the court's jurisdiction.

(b) A judgment under Subsection (5) shall:

[~~(a)~~] (i) identify the surety against whom judgment is granted;

[~~(b)~~] (ii) specify the amount of monetary bail forfeited;

[~~(c)~~] (iii) grant the forfeiture of the bail bond; and

[~~(d)~~] (iv) be docketed by the clerk of the court in the civil judgment docket.

(5) A [~~prosecutor~~] prosecuting attorney may immediately commence collection proceedings to execute a judgment of bail bond forfeiture against the assets of the surety.

Section 30. Section 78A-2-220 is amended to read:

78A-2-220. Authority of magistrate.

(1) Except as otherwise provided by law, a magistrate as defined in Section 77-1-3 shall have the authority to:

(a) commit a person to incarceration prior to trial;

(b) set or deny bail under Section [~~77-20-1~~] 77-20-205 and release upon the payment of monetary bail, as defined in Section 77-20-102, and satisfaction of any other conditions of release;

(c) issue to any place in the state summonses and warrants of search and arrest and authorize administrative traffic checkpoints under Section 77-23-104;

(d) conduct an initial appearance;

(e) conduct arraignments;

(f) conduct a preliminary examination to determine probable cause;

(g) appoint attorneys and order recoupment of attorney fees;

(h) order the preparation of presentence investigations and reports;

(i) issue temporary orders as provided by rule of the Judicial Council; and

(j) perform any other act or function authorized by statute.

(2) A judge of the justice court may exercise the authority of a magistrate specified in Subsection (1) with the following limitations:

(a) a judge of the justice court may conduct an initial appearance, preliminary examination, or arraignment as provided by rule of the Judicial Council; and

(b) a judge of the justice court may not [~~set bail in a capital felony nor deny bail in any case~~] perform any act or function in a capital felony case.

Section 31. Section 78A-7-118 is amended to read:

78A-7-118. Appeals from justice court -- Trial or hearing de novo in district court.

(1) In a criminal case, a defendant is entitled to a trial de novo in the district court only if the defendant files a notice of appeal within 28 days of:

(a) sentencing, except as provided in Subsection (4)(b); or

(b) a plea of guilty or no contest in the justice court that is held in abeyance.

(2) Upon filing a proper notice of appeal, any term of a sentence imposed by the justice court shall be stayed as provided for in Section [~~77-20-10~~] 77-20-302 and the Rules of Criminal Procedure.

(3) If an appeal under Subsection (1) is of a plea entered pursuant to negotiation with the prosecutor, and the defendant did not reserve the right to appeal as part of the plea negotiation, the negotiation is voided by the appeal.

(4) A defendant convicted and sentenced in justice court is entitled to a hearing de novo in the district court on the following matters, if the defendant files a notice of appeal within 28 days of:

(a) an order revoking probation;

(b) imposition of a sentence, following a determination that a defendant failed to fulfill the terms of a plea in abeyance agreement;

(c) an order denying a motion to withdraw a plea, if the plea is being held in abeyance and the motion to withdraw the plea is filed within 28 days of the entry of the plea;

(d) a postsentence order fixing total or court ordered restitution; or

(e) an order denying expungement.

(5) The prosecutor is entitled to a hearing de novo in the district court if an appeal is filed within 28 days of the court entering:

(a) a final judgment of dismissal;

(b) an order arresting judgment;

(c) an order terminating the prosecution because of a finding of double jeopardy or denial of a speedy trial;

(d) a judgment holding invalid any part of a statute or ordinance;

(e) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence prevents continued prosecution of an infraction or class C misdemeanor;

(f) a pretrial order excluding evidence, when the prosecutor certifies that exclusion of that evidence impairs continued prosecution of a class B misdemeanor;

(g) an order granting a motion to withdraw a plea of guilty or no contest;

(h) an order fixing total restitution at an amount less than requested by a crime victim; or

(i) an order granting an expungement, if the expungement was opposed by the prosecution or a victim before the order was entered.

(6) Upon entering a decision in a hearing de novo, the district court shall remand the case to the justice court unless:

(a) the decision results in immediate dismissal of the case; or

(b) the hearing de novo was on a pretrial order and the parties and the district court agree to have the district court retain jurisdiction.

(7) The district court shall retain jurisdiction over the case on trial de novo.

(8) The decision of the district court is final and may not be appealed unless the district court rules on the constitutionality of a statute or ordinance.

Section 32. Section 78B-7-802 is amended to read:

78B-7-802. Conditions for release after arrest for domestic violence and other offenses -- Jail release agreements -- Jail release court orders.

(1) Upon arrest or issuance of a citation for a qualifying offense and before the individual is released [~~on bail, recognizance, or otherwise~~] under Section 77–20–204 or 77–20–205, the individual may not telephone, contact, or otherwise communicate with the alleged victim, directly or indirectly.

(2) (a) After an individual is arrested or issued a citation for a qualifying offense, the individual may not be released before:

(i) the matter is submitted to a magistrate in accordance with Section 77–7–23; or

(ii) the individual signs a jail release agreement.

(b) If an arrested individual is booked into jail, the arresting officer shall ensure that the information presented to the magistrate includes whether the alleged victim has made a waiver described in Subsection (5)(a).

(c) [~~(i)~~] If the magistrate determines there is probable cause to support the charge or charges of one or more qualifying offenses, the magistrate shall [~~determine whether the arrested individual may be held without bail, in accordance with Section 77–20–1~~] issue a temporary pretrial status order, as defined in Section 77–20–102, in accordance with Section 77–20–205.

[~~(ii) If the magistrate determines that the arrested individual has the right to be admitted to bail, the magistrate shall determine:~~]

[~~(A) whether any release conditions, including electronic monitoring, are necessary to protect the alleged victim; and~~]

[~~(B) any bail that is required to guarantee the arrested individual's subsequent appearance in court.~~]

(d) The magistrate may not release an individual arrested for a qualifying offense unless the magistrate issues a jail release court order or the arrested individual signs a jail release agreement.

(3) (a) If an individual charged with a qualifying offense fails to either schedule an initial appearance or to appear at the time scheduled by the magistrate within 96 hours after the time of arrest, the individual shall comply with the release conditions of a jail release agreement or jail release court order until the individual makes an initial appearance.

(b) If the prosecutor has not filed charges against an individual who was arrested for a qualifying offense and who appears in court at the time scheduled by the magistrate under Subsection (2), or by the court under Subsection (3)(b)(ii), the court:

(i) may, upon the motion of the prosecutor and after allowing the individual an opportunity to be heard on the motion, extend the release conditions described in the jail release court order or the jail release agreement by no more than three court days; and

(ii) if the court grants the motion described in Subsection (3)(b)(i), shall order the arrested individual to appear at a time scheduled before the end of the granted extension.

(c) (i) If the prosecutor determines that there is insufficient evidence to file charges before an initial appearance scheduled under Subsection (3)(a), the prosecutor shall transmit a notice of declination to either the magistrate who signed the jail release court order or, if the releasing agency obtains a jail release agreement from the released arrestee, to the statewide domestic violence network described in Section 78B–7–113.

(ii) A prosecutor's notice of declination transmitted under this Subsection (3)(c) is considered a motion to dismiss a jail release court order and a notice of expiration of a jail release agreement.

(4) Except as provided in Subsections (3) and (11) or otherwise ordered by a court, a jail release agreement or jail release court order expires at midnight after the earlier of:

(a) the arrested or cited individual's initial scheduled court appearance described in Subsection (3)(a);

(b) the day on which the prosecutor transmits the notice of the declination under Subsection (3)(c); or

(c) 30 days after the day on which the individual is arrested or issued a citation.

(5) (a) (i) After an individual is arrested or issued a citation for a qualifying offense, an alleged victim who is not a minor may waive in writing any condition of a jail release agreement by:

(A) appearing in person to the law enforcement agency that arrested the individual or issued the citation to the individual for the qualifying offense;

(B) appearing in person to the jail or correctional facility that released the arrested individual from custody; or

(C) appearing in person to the clerk at the court of the jurisdiction where the charges are filed.

(ii) An alleged victim who is not a minor may waive in writing the release conditions prohibiting:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly; or

(B) knowingly entering on the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim.

(iii) Except as provided in Subsection (5)(a)(iv), a parent or guardian may waive any condition of a jail release agreement on behalf of an alleged victim who is a minor in the manner described in Subsections (5)(a)(i) and (ii).

(iv) A parent or guardian may not, without the approval of the court, waive the release conditions described in Subsection (5)(a)(ii) on behalf of an alleged victim who is a minor, if the alleged victim who is a minor:

(A) allegedly suffers bodily injury as a result of the qualifying offense;

(B) summons or attempts to summon emergency aid for the qualifying offense; or

(C) after the time at which the qualifying offense is allegedly committed and before the time at which the arrested or cited individual signs the jail release agreement, discloses to a law enforcement officer that the arrested or cited individual threatened the alleged victim who is a minor with bodily injury.

(v) Upon waiver, the release conditions described in Subsection (5)(a)(ii) do not apply to the arrested or cited individual.

(b) A court or magistrate may modify a jail release agreement or a jail release court order in writing or on the record, and only for good cause shown.

(6) (a) When an individual is arrested or issued a citation and subsequently released in accordance with Subsection (2), the releasing agency shall:

(i) notify the arresting law enforcement agency of the release, conditions of release, and any available information concerning the location of the alleged victim;

(ii) make a reasonable effort to notify the alleged victim of the release; and

(iii) before releasing the individual who is arrested or issued a citation, give the arrested or cited individual a copy of the jail release agreement or the jail release court order.

(b) (i) When an individual arrested or issued a citation for domestic violence is released under this section based on a jail release agreement, the releasing agency shall transmit that information to the statewide domestic violence network described in Section 78B-7-113.

(ii) When an individual arrested or issued a citation for domestic violence is released under this section based upon a jail release court order or if a jail release agreement is modified under Subsection (5)(b), the court shall transmit that order to the statewide domestic violence network described in Section 78B-7-113.

(c) This Subsection (6) does not create or increase liability of a law enforcement officer or agency, and the good faith immunity provided by Section 77-36-8 is applicable.

(7) An individual who is arrested for a qualifying offense that is a felony and released in accordance with this section may subsequently be held without bail if there is substantial evidence to support a new felony charge against the individual.

(8) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged victim with written notice containing:

(a) the release conditions described in this section, and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or

(ii) the magistrate issues a jail release order that specifies the release conditions;

(b) notification of the penalties for violation of any jail release agreement or jail release court order;

(c) the address of the appropriate court in the district or county in which the alleged victim resides;

(d) the availability and effect of any waiver of the release conditions; and

(e) information regarding the availability of and procedures for obtaining civil and criminal protective orders with or without the assistance of an attorney.

(9) At the time an arrest is made or a citation is issued for a qualifying offense, the arresting officer shall provide the alleged perpetrator with written notice containing:

(a) notification that the alleged perpetrator may not contact the alleged victim before being released, including telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(b) the release conditions described in this section and notice that the alleged perpetrator will not be released, before appearing before the court with jurisdiction over the offense for which the alleged perpetrator was arrested, unless:

(i) the alleged perpetrator enters into a jail release agreement to comply with the release conditions; or

(ii) the magistrate issues a jail release court order;

(c) notification of the penalties for violation of any jail release agreement or jail release court order; and

(d) notification that the alleged perpetrator is to personally appear in court on the next day the court is open for business after the day of the arrest.

(10) (a) A pretrial or sentencing protective order issued under this part supersedes a jail release agreement or jail release court order.

(b) If a court dismisses the charges for the qualifying offense that gave rise to a jail release agreement or jail release court order, the court shall dismiss the jail release agreement or jail release court order.

(11) (a) This section does not apply if the individual arrested for the qualifying offense is a minor who is under 18 years old, unless the qualifying offense is domestic violence.

(b) A jail release agreement signed by, or a jail release court order issued against, a minor expires on the earlier of:

(i) the day of the minor's initial court appearance described in Subsection (3)(a);

(ii) the day on which the prosecutor transmits the notice of declination under Subsection (3)(c);

(iii) 30 days after the day on which the minor is arrested or issued a citation; or

(iv) the day on which the juvenile court terminates jurisdiction.

Section 33. Section 78B-9-108 is amended to read:

78B-9-108. Effect of granting relief -- Notice.

(1) If the court grants the petitioner's request for relief, except requests for relief under Subsection 78B-9-104(1)(g), [~~it~~] the court shall either:

(a) modify the original conviction or sentence; or

(b) vacate the original conviction or sentence and order a new trial or sentencing proceeding as appropriate.

(2) If the court grants the petitioner's request for relief under Subsection 78B-9-104(1)(g), the court shall:

(a) vacate the original conviction and sentence; and

(b) order the petitioner's records expunged pursuant to Section 77-40-108.5.

(3) (a) If the petitioner is serving a felony sentence, the order shall be stayed for five days. Within the stay period, the respondent shall give written notice to the court and the petitioner that the respondent will pursue a new trial or sentencing proceedings, appeal the order, or take no action.

(b) If the respondent fails to provide notice or gives notice at any time during the stay period that it intends to take no action, the court shall lift the stay and deliver the order to the custodian of the petitioner.

(c) If the respondent gives notice of intent to appeal the court's decision, the stay provided for by Subsection (3)(a) shall remain in effect until the appeal concludes, including any petitions for rehearing or for discretionary review by a higher court. The court may lift the stay if the petitioner can make the showing required for a certificate of probable cause under Section [~~77-20-10 and URCP 27~~] 77-20-302 and Utah Rules of Criminal Procedure, Rule 27.

(d) If the respondent gives notice that it intends to retry or resentence the petitioner, the trial court may order any supplementary orders as to arraignment, trial, sentencing, custody, bail, discharge, or other matters that may be necessary.

Section 34. Section 78B-22-201.5 is enacted to read:

78B-22-201.5. Affidavit of indigency.

(1) Except as provided in Subsection (5), on or after January 1, 2022, an individual, who is seeking appointment of an indigent defense service provider, shall submit an affidavit of indigency described in Subsection (2) to the court.

(2) An affidavit of indigency shall include the following information:

(a) the individual's identifying information, including:

(i) the individual's legal name and any known aliases;

(ii) the individual's mobile or residential phone number;

(iii) the individual's residential address; and

(iv) the individual's date of birth; and

(b) the individual's financial information, including:

(i) any financial support or benefit that the individual receives from a state or federal government;

(ii) the individual's monthly income, including any alimony or child support that contributes to the individual's monthly income;

(iii) the individual's monthly expenses, including any alimony or child support obligation that the individual is responsible for paying;

(iv) the individual's ownership of, or any interest in, personal or real property, including any savings or checking accounts or cash;

(v) the number, ages, and relationships of any dependents; and

(vi) any extraordinary financial conditions that would prevent the individual from retaining private counsel.

(3) The affidavit of indigency shall:

(a) require the signature of the individual; and

(b) include a statement that:

(i) by signing the affidavit the individual confirms that, to the best of the individual's knowledge, the information in the affidavit is true;

(ii) the individual may be subject to a criminal penalty for a written false statement under Section 76-8-504;

(iii) the individual authorizes an indigent defense system to contact or request information from the individual or a third party to verify whether an individual is indigent; and

(iv) the individual may be ordered to pay the cost of the individual's indigent defense services if a court determines that the individual is not indigent.

(4) The Judicial Council or Supreme Court shall adopt an affidavit of indigency form described in Subsection (2) to be distributed to an individual seeking the appointment of an indigent defense service provider.

(5) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Section 35. Section 78B-22-202 is amended to read:

78B-22-202. Determining indigency.

(1) A court shall find an individual indigent if the individual:

(a) has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services; or

(b) has insufficient income or other means to pay for legal counsel and the necessary expenses of representation without depriving the individual or the individual's family of food, shelter, clothing, or other necessities, considering:

(i) the individual's ownership of, or any interest in, personal or real property;

(ii) the amount of debt owed by the individual or that might reasonably be incurred by the individual because of illness or other needs within the individual's family;

(iii) the number, ages, and relationships of any dependents;

(iv) the probable expense and burden of defending the case;

(v) the reasonableness of fees and expenses charged by an attorney and the scope of representation undertaken when represented by privately retained defense counsel; and

(vi) any other factor the court considers relevant.

(2) Notwithstanding Subsection (1), a court may not find an individual indigent if the individual transferred or otherwise disposed of assets since the commission of the offense with the intent of becoming eligible to receive indigent defense services.

(3) (a) The court may:

(i) make a finding of indigency at any time[~~.~~]; and

(ii) rely on information contained in an affidavit of indigency described in Section 78B-22-201.5 in making a finding about whether an individual is an indigent individual.

(b) An individual's inability to submit, or to provide the information required in, an affidavit of indigency under Section 78B-22-201.5 does not preclude a court from:

(i) making a finding about whether an individual is an indigent individual under this section; or

(ii) appointing an indigent defense service provider under Section 78B-22-203.

Section 36. Section 78B-22-1001 is enacted to read:

Part 10. Indigency Verification

78B-22-1001. Verification of indigency -- Pilot program.

(1) Beginning on July 1, 2022, and ending on June 30, 2025, an indigent defense system in Cache County, Davis County, Duchesne County, and San Juan County shall conduct a pilot program to verify the indigency of individuals who were provided indigent defense services by the indigent defense system, except as provided in Subsection (5).

(2) Under the pilot program described in Subsection (1), the indigent defense system shall review and verify financial information in a statistically significant sample of cases for each calendar year where, except as provided in Subsection (5):

(a) an individual was found to be indigent by a court; and

(b) the indigent defense system provided indigent defense services to the individual.

(3) To verify financial information under Subsection (2), the indigent defense system may require an individual to provide financial documentation or proof demonstrating that the individual qualifies as indigent under Section 78B-22-202.

(4) An indigent defense system described in Subsection (1) shall report to the Judiciary Interim

Committee and the Law Enforcement and Criminal Justice Interim Committee, concerning the results of the pilot program described in this section, on or before November 1 of each year of the three-year pilot program.

(5) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Section 37. Section 78B-22-1002 is enacted to read:

78B-22-1002. Recovery of costs for indigent defense services.

(1) Except as provided in Subsection (2), a court shall order an individual to pay the indigent defense system for the cost of indigent defense services in accordance with Subsection 76-3-201(4)(e) and Section 77-32b-104 if:

(a) the individual was provided indigent defense services by the indigent defense system; and

(b) the indigent defense system provides financial documentation or proof to the court that demonstrates that the individual is not indigent under Section 78B-22-202.

(2) This section does not apply to a minor, who is appointed an indigent defense service provider, or the minor's parent or legal guardian.

Section 38. Repealer.

This bill repeals:

Section 10-3-920, Bail commissioner -- Powers and duties.

Section 77-20-1, Right to bail -- Pretrial status order -- Denial of bail -- Detention hearing -- Motion to modify.

Section 77-20-3.1, Release on own recognizance -- Changing amount of bail or conditions of release.

Section 77-20-7, Duration of liability on undertaking -- Notices to sureties -- Exoneration if charges not filed.

Section 77-20b-100, Definitions.

Section 77-20b-103, Defendant in custody -- Notice to prosecutor.

Section 77-20b-105, Revocation of bail bond.

Section 39. Effective date.

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

CHAPTER 5
H. B. 2005

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

UTAH STATE HOUSE BOUNDARIES DESIGNATION

Chief Sponsor: Paul Ray
Senate Sponsor: Scott D. Sandall

LONG TITLE

Redistricting Boundary Information:

The Utah State House of Representatives district boundary information may be found at https://le.utah.gov.

Block equivalency file: HB2005_BEF.txt

Block equivalency file security code: 12aedd41d1bb9feedeee526ed9f74eb2

General Description:

This bill, which includes this printed text and the electronic data affiliated with this text that is available on the Legislature's website and also included on the electronic storage device accompanying this bill when presented to the governor, establishes new Utah State House of Representative district boundaries.

Highlighted Provisions:

This bill:

- repeals current Utah State House of Representatives boundaries and establishes new Utah State House of Representatives boundaries;
- establishes the block equivalency file that is part of this bill in electronic form as the legal boundaries of the Utah State House of Representatives districts;
- provides a hash code to verify the authenticity of the block equivalency file; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

36-1-201.1, as last amended by Laws of Utah 2017, Chapter 243

36-1-201.5, as last amended by Laws of Utah 2021, Chapter 345

36-1-202, as last amended by Laws of Utah 2013, Chapter 382

36-1-202.2, as last amended by Laws of Utah 2021, Chapter 162

36-1-203, as last amended by Laws of Utah 2018, Chapter 330

36-1-204, as last amended by Laws of Utah 2021, Chapters 162 and 345Utah Code Sections Affected by Revisor Instructions:

36-1-201.5, as last amended by Laws of Utah 2021, Chapter 345

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

Section 1. Section 36-1-201.1 is amended to read:

36-1-201.1. Definitions.

As used in this part:

(1) "Census block" means any one of the [~~115, 406~~] 71,207 individual geographic areas into which the Bureau of the Census of the United States Department of Commerce has divided the state of Utah, to each of which the Bureau of the Census has attached a discrete population tabulation from the [~~2010~~] 2020 decennial census.

(2) "House block [~~assignment~~] equivalency file" means the electronic file designated as HB2005_BEF.txt that assigns each of Utah's [~~115, 406~~] 71,207 census blocks to a particular Utah State House of Representatives district.

(3) "House shapefile" means the electronic shapefile that:

(a) is the resulting projection of the House block equivalency file; and

(b) stores the boundary of each of the 75 Utah House of Representatives districts.

(4) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information [~~and includes the boundary change in Subsection 36-1-201.5(4)(b)~~].

Section 2. Section 36-1-201.5 is amended to read:

36-1-201.5. Utah State House of Representatives -- House district boundaries.

[~~(1) As used in this section:~~]

[~~(a) "County boundary" means the county boundary's location in the database as of January 1, 2017.~~]

[~~(b) "Database" means the State Geographic Information Database created in Section 63A-16-506.~~]

[~~(c) "Local school district boundary" means the local school district boundary's location in the database as of January 1, 2010.~~]

[~~(d) "Municipal boundary" means the municipal boundary's location in the database as of January 1, 2010.~~]

[~~(2)~~] (1) The Utah State House of Representatives shall consist of 75 members, with one member to be elected from each Utah House of Representative district.

[~~(3)~~] (2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the [~~2010~~] 2020 national decennial census as the official data for establishing House district boundaries.

[~~(4)~~] (3) (a) [~~Notwithstanding Subsection (3), and except as modified by Subsection (4)(b), the~~] The

Legislature enacts the district numbers and boundaries of the House of Representatives districts designated [~~by the~~] in the House block equivalency file and resulting House shapefile that is the electronic component of [~~2013 General Session H.B. 366, State House Boundary Amendments.~~] this bill:

(i) for purposes of nominating and electing members of the Utah State House of Representatives beginning January 1, 2022; and

(ii) for all other purposes beginning January 1, 2023.

[~~(b) The boundary between House District 1 and House District 5 in the shapefile described in Subsection (4)(a) is changed to follow the county boundary of Box Elder County and Cache County from the intersection of Cache, Box Elder, and Weber counties, north to the intersection of House District 1, House District 3, and House District 5.~~]

[~~(c)~~] (b) [~~That~~] The Legislature shall ensure that the House shapefile, and the legislative boundaries generated from [~~that~~] the House shapefile, [~~may be accessed via~~] are accessible on the Utah Legislature's website.

Section 3. Section 36-1-202 is amended to read:

36-1-202. House districts -- Filing -- Legal boundaries.

(1) (a) The Legislature shall file a copy of the House [~~shapefile~~] block equivalency file enacted by the Legislature and the resulting House shapefile with the lieutenant governor's office.

(b) The legal boundaries of House districts are contained in the House shapefile on file with the lieutenant governor's office.

(2) (a) The lieutenant governor shall:

(i) verify the House block equivalency file that the Legislature files under Subsection (1) using block equivalency file security code "12aedd41d1bb9feedeee526ed9f74eb2" and the corresponding House shapefile;

[~~(i)~~] (ii) generate maps of each House district from the House shapefile; and

[~~(ii)~~] (iii) ensure that [~~those~~] the district maps are available for viewing on the lieutenant governor's website.

(b) If there is any inconsistency between the district maps and the House shapefile resulting from the House block equivalency file, the House shapefile is controlling.

Section 4. Section 36-1-202.2 is amended to read:

36-1-202.2. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the House shapefile in the possession of the lieutenant governor's office.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of House districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of House districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of House districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each House district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a voting precinct map from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the county map accurately reflects the boundaries of House districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the voting precinct map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the Utah Geospatial Resource Center for a new review under this Subsection (4).

Section 5. Section 36-1-203 is amended to read:

36-1-203. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a Utah State House of Representatives district in the House shapefile [~~enacted by the Legislature~~] in the possession of the lieutenant governor's office, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate House district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single House district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more House districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 6. Section 36-1-204 is amended to read:

36-1-204. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a representative whose Utah State House of Representatives district boundary is uncertain because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the representative or another individual resides in a particular House district;

(ii) a candidate for representative whose House district boundary is uncertain because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the candidate or another individual resides in a particular House district; or

(iii) an individual who is uncertain about which House district contains the individual's residence because the feature used to establish the district boundary in the House shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other identifiable tangible or intangible object such as a road or political subdivision boundary that is used to establish a House district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the House district boundary;

(ii) the number of the House district in which an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the House block equivalency file and the resulting House shapefile; and

(ii) any other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) complete the review [~~the House shapefile;~~] described in Subsection (2)(b); and

[~~(ii) review any relevant data; and~~]

[~~(iii)~~] (ii) make a determination.

(d) When the lieutenant governor determines the location of the House district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate House district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Utah Geospatial Resource Center created under Section 63A-16-505.

(e) If the lieutenant governor determines the number of the House district in which a particular individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the individual;

(ii) the affected party who filed the petition, if different than the individual whose House district number was identified; and

(iii) the county clerk of the affected county.

Section 7. Effective date.

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

Section 8. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Section 36-1-201.5 from "this bill" to the bill's designated chapter number in the Laws of Utah.

CHAPTER 6
S. B. 2001

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

ELECTION SCHEDULE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends scheduling provisions of the Election Code.

Highlighted Provisions:

This bill:

- modifies the deadline for filing a declaration of candidacy and conforms signature-gathering deadlines and the candidate certification deadline to that modification;
- clarifies provisions relating to the schedule for redistricting local school board districts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-9-202, as last amended by Laws of Utah 2021, Chapter 183
20A-9-407, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-9-408, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-9-409, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-14-201, as last amended by Laws of Utah 2021, Chapters 162 and 345
63I-2-220, as last amended by Laws of Utah 2021, Chapter 101

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

Section 1. Section 20A-9-202 is amended to read:

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

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

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

(ii) pay the filing fee.

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

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

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

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

(iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other; and

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

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

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

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

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

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

(ii) pay the filing fee.

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

(3) (a) Before the deadline described in Subsection (1)(b), each lieutenant governor candidate shall:

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

(ii) pay the filing fee; and

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

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

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

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

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

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

(5) (a) A declaration of candidacy filed under this section is valid unless a written objection is filed with the clerk or lieutenant governor before 5 p.m. on the last business day that is at least 10 days before the deadline described in Subsection 20A-9-409(4)(c).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) pay the filing fee; and

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

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

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

(8) An individual filing a declaration of candidacy for president or vice president of the United States shall pay a filing fee of $500.

Section 2. Section 20A-9-407 is amended to read:

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

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

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

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

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

(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(b) pay the filing fee.

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

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district [~~on or after the second Friday in March and before 5 p.m. on the third Thursday in March before the next regular general election; and~~]:

(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(b) pay the filing fee.

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

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before the deadline described in Subsection 20A-9-202(1)(b).

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

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

Section 3. Section 20A-9-408 is amended to read:

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

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

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

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

(a) within the period beginning on January 1 before the next regular general election and ending at 5 p.m. [~~on the third Thursday in March of the same year~~] 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

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

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

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

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

(v) other information required by the lieutenant governor;

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

(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(c) pay the filing fee.

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

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

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

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

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

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

(v) other information required by the lieutenant governor;

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

(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(c) pay the filing fee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

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

Section 4. Section 20A-9-409 is amended to read:

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

(1) The regular primary election is held on the date specified in Section 20A-1-201.5.

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

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

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

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

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

(a) there is more than one:

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

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

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

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

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

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

(b) Before the deadline described in Subsection (4)(c), the lieutenant governor shall:

(i) provide to the county clerks:

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

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

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

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

Section 5. Section 20A-14-201 is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Redistricting.

(1) (a) The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for local school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1)(a).

(b) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

(2) (a) County and municipal legislative bodies shall [~~reapportion district boundaries~~] redistrict local school board districts to meet the population, compactness, and contiguity requirements of this section:

(i) at least once every 10 years;

(ii) if a new school district is created:

(A) within 45 days after the canvass of an election at which voters approve the creation of a new school district; and

(B) at least 60 days before the candidate filing deadline for a school board election;

(iii) whenever school districts are consolidated;

(iv) whenever a school district loses more than 20% of the population of the entire school district to another school district;

(v) whenever a school district loses more than 50% of the population of a local school board district to another school district;

(vi) whenever a school district receives new residents equal to at least 20% of the population of the school district at the time of the last [~~reapportionment~~] redistricting because of a transfer of territory from another school district; and

(vii) whenever it is necessary to increase the membership of a board [~~from five to seven members~~] as a result of changes in student membership under Section 20A-14-202.

(b) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last [~~reapportionment~~] redistricting, the local school board may assign the new territory to one or more existing school board districts.

(3) (a) [~~Reapportionment~~] Redistricting does not affect the right of any school board member to complete the term for which the member was elected.

(b) (i) After [~~reapportionment~~] redistricting, representation in a local school board district shall be determined as provided in this Subsection (3).

(ii) If only one board member whose term extends beyond [~~reapportionment~~] redistricting lives within a [~~reapportioned~~] redistricted local school board district, that board member shall represent that local school board district.

(iii) (A) If two or more members whose terms extend beyond [~~reapportionment~~] redistricting live within a [~~reapportioned~~] redistricted local school board district, the members involved shall select one member by lot to represent the local school board district.

(B) The other members shall serve at-large for the remainder of their terms.

(C) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

(iv) If there is no board member living within a local school board district whose term extends beyond [~~reapportionment~~] redistricting, the seat shall be treated as vacant and filled as provided in this part.

(4) (a) If, before an election affected by [~~reapportionment~~] redistricting, the county or municipal legislative body that conducted the [~~reapportionment~~] redistricting determines that one or more members shall be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the [~~reapportioned~~] redistricted local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

(5) Within 10 days after any local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the Utah Geospatial Resource Center created under Section 63A-16-505.

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

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

[~~(1) On January 1, 2021:~~]

[~~(a) Subsection 20A-1-201.5(1), the language that states "Except as provided in Subsection (4)," is repealed.~~]

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

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

[~~"(i) the fourth Tuesday in June; or~~]

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

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

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

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

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

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

(1) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.

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

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

[~~(4) Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, is repealed January 1, 2026.~~]

[~~(5) Section 20A-7-407 is repealed January 1, 2021.~~]

[~~(6) Section 20A-1-310 is repealed January 1, 2021.~~]

Section 7. Effective date.

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

CHAPTER 7
S. B. 2002

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

INTERLOCAL COOPERATION ACT AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill amends provisions related to project entities and taxed interlocal entities.

Highlighted Provisions:

This bill:

- establishes a time after which a commercial project entity may no longer exercise eminent domain;
- clarifies that project entities and certain taxed interlocal entities are subject to audits by the Office of the Legislative Auditor General;
- establishes a time after which a taxed interlocal entity that is a project entity may no longer create a segment;
- modifies a provision that states that certain governmental laws do not apply to taxed interlocal entities; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-13-314, as last amended by Laws of Utah 2014, Chapter 59
11-13-603, as last amended by Laws of Utah 2021, Chapter 84
11-13-604, as last amended by Laws of Utah 2020, Chapter 381

ENACTS:

11-13-316, Utah Code Annotated 1953

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

Section 1. Section 11-13-314 is amended to read:

11-13-314. Eminent domain authority of certain commercial project entities.

(1) (a) Subject to [~~Subsection (2)~~] Subsections (2) and (3), a commercial project entity that existed as a project entity before January 1, 1980, may, with respect to a project or facilities providing additional project capacity in which the commercial project entity has an interest, acquire property within the state through eminent domain, subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(b) Subsection (1)(a) may not be construed to:

(i) give a project entity the authority to acquire water rights by eminent domain; or

(ii) diminish any other authority a project entity may claim to have under the law to acquire property by eminent domain.

(2) Each project entity that intends to acquire property by eminent domain under Subsection (1)(a) shall comply with the requirements of Section 78B-6-505.

(3) A commercial project entity that has not taken a final vote to approve the filing of an eminent domain action as described in Subsection 78B-6-504(2)(c) prior to November 10, 2021, may not exercise the authority described in Subsection (1).

Section 2. Section 11-13-316 is enacted to read:

11-13-316. Project entity oversight.

(1) Notwithstanding any other provision of law, a project entity is a political subdivision that:

(a) pursuant to Utah Constitution, Article VI, Section 33, is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state; and

(b) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary for the legislative auditor general or the office to fulfill the duties described in Subsection (1)(a).

(2) Subsection (1) takes precedence over Section 36-12-15.

Section 3. Section 11-13-603 is amended to read:

11-13-603. Taxed interlocal entity.

(1) [~~Notwithstanding~~] Except for purposes of an audit, examination, or review by the Office of the Legislative Auditor General as described in Subsection (8) and notwithstanding any other provision of law:

(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;

(b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;

(c) an official of a project entity is not a public treasurer; and

(d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.

(2) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(3) (a) A taxed interlocal entity is not a participating local entity as defined in Section 67-3-12.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:

(A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or

(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section 67-3-12.

(4) (a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:

(a) Part 4, Governance;

(b) Part 5, Fiscal Procedures for Interlocal Entities;

(c) Subsection 11-13-204(1)(a)(i) or (ii)(J);

(d) Subsection 11-13-206(1)(f);

(e) Subsection 11-13-218(5)(a);

(f) Section 11-13-225;

(g) Section 11-13-226; or

(h) Section 53-2a-605.

(6) (a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(7) (a) A governmental law enacted after May 12, 2015, and on or before November 10, 2021, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is a project entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity."

(b) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is an energy services interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the energy services interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon an energy services interlocal entity."

[~~(b)~~] (c) Sections 11-13-601 through 11-13-608 constitute an exception to [~~Subsection (7)(a)~~] Subsections (7)(a) and (7)(b) and are applicable to and binding upon a taxed interlocal entity.

(8) (a) Notwithstanding any other provision of law, a taxed interlocal entity that is a project entity is a political subdivision that:

(i) pursuant to Utah Constitution, Article VI, Section 33, is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state; and

(ii) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary of the legislative auditor general or the office to fulfill the duties described in Subsection (8)(a)(i).

(b) Subsection (8)(a) takes precedence over Section 36-12-15.

Section 4. Section 11-13-604 is amended to read:

11-13-604. Segments authorized.

(1) (a) (i) [~~To~~] If a taxed interlocal entity is a project entity, and to the extent authorized in a taxed interlocal entity's organization agreement or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, the governing board of a taxed interlocal entity may by resolution adopted on or before November 10, 2021, establish or provide for

the establishment of one or more segments that have separate rights, powers, privileges, authority or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:

[~~(i)~~] (A) property;

[~~(ii)~~] (B) assets;

[~~(iii)~~] (C) projects;

[~~(iv)~~] (D) undertakings;

[~~(v)~~] (E) opportunities;

[~~(vi)~~] (F) actions;

[~~(vii)~~] (G) debts;

[~~(viii)~~] (H) liabilities;

[~~(ix)~~] (I) obligations; or

[~~(x)~~] (J) any combination of the items listed in Subsections (1)(a)(i)(A) through [~~(viii)~~] (H).

(ii) If a taxed interlocal entity is not a project entity, and to the extent authorized in a taxed interlocal entity's organization agreement, the governing board of a taxed interlocal entity may by resolution establish or provide for the establishment of one or more segments that have separate rights, powers, privileges, authority, or by a majority of the public entities that are parties to a taxed interlocal entity's organization agreement, or duties with respect to, as specified in the segment's organizing resolution, the taxed interlocal entity's:

(A) property;

(B) assets;

(C) projects;

(D) undertakings;

(E) opportunities;

(F) actions;

(G) debts;

(H) liabilities;

(I) obligations; or

(J) any combination of the items listed in Subsections (1)(b)(ii)(A) through (H).

(b) To the extent provided in the organization agreement of a segment's associated entity, a segment may have a separate purpose from the associated entity.

(c) The name of a segment shall:

(i) contain the name of the segment's associated entity; and

(ii) be distinguishable from the name of any other segment established by the associated entity.

(2) Notwithstanding any other provision of law, the debts, liabilities, and obligations incurred, contracted for, arising out of the conduct of or otherwise existing with respect to a particular segment are only enforceable or chargeable against the assets of that segment, and not against the assets of the segment's associated entity generally or any other segment established by the segment's associated entity if:

(a) the segment is established by or in accordance with an organizing resolution;

(b) separate records are maintained for the segment to the extent necessary to avoid the segment's records constituting a fraud upon the segment's creditors;

(c) the assets associated with the segment are held and accounted for separately from the assets of any other segment established by the associated entity to the extent necessary to avoid the segment's accounting for the segment's assets constituting a fraud upon the segment's creditors;

(d) the segment's organizing resolution provides for a limitation on liabilities of the segment; and

(e) a notice of limitation on liabilities of the segment is recorded in accordance with Section 11-13-605.

(3) Except as otherwise provided in the segment's organizing resolution, a segment that satisfies the conditions described in Subsections (2)(a) through (e):

(a) is treated as a separate interlocal entity; and

(b) may:

(i) in its own name, contract, hold title to property, grant liens and security interests, and sue and be sued;

(ii) exercise all or any part of the powers, privileges, rights, authority, and capacity of the segment's associated entity; and

(iii) engage in any action in which the segment's associated entity may engage.

(4) Except as otherwise provided in the organization agreement of the segment's associated entity or in the segment's organizing resolution, a segment is governed by the organization agreement of the segment's associated entity.

(5) Subject to Subsection (4), a segment's organizing resolution:

(a) may address any matter relating to the segment, including the segment's governance or operation, to the extent that the organization agreement of a segment's associated entity does not address the matter; and

(b) to the extent not addressed in the organization agreement of the segment's associated entity, shall address the following matters:

(i) the powers delegated to the segment;

(ii) the manner in which the segment is to be governed, including whether the segment's governing body is the same as the governing board of the segment's associated entity;

(iii) subject to Subsection (6), if the segment's governing body is different from the governing board of the segment's associated entity, the manner in which the members of the segment's governing body are appointed or selected;

(iv) the segment's purpose;

(v) the manner of financing the segment's actions;

(vi) how the segment will establish and maintain a budget;

(vii) how to partially or completely terminate the segment and, upon a partial or complete termination, how to dispose of the segment's property;

(viii) the process, conditions, and terms for withdrawal of a participating public agency from the segment; and

(ix) voting rights, including whether voting is weighted, and, if so, the basis upon which the vote weight is determined.

(6) An organizing resolution shall provide that if a segment's governing body is different from the governing board of the segment's associated entity, the Utah public agencies that are parties to the organization agreement of the segment's associated entity may appoint or select members of the segment's governing body with a majority of the voting power.

(7) A segment may not:

(a) transfer the segment's property or other assets to the segment's associated entity or to another segment established by the segment's associated entity if the transfer impairs the ability of the segment to pay the segment's debts that exist at the time of the transfer, unless the segment's associated entity or the other segment gives fair value for the property or asset; or

(b) assign a tax or other liability imposed against the segment to the segment's associated entity or to another segment established by the segment's associated entity if the assignment impairs a creditor's ability to collect the amount due when owed.

(8) If a segment and a segment's associated entity or another segment established by the segment's associated entity are involved in a joint action or have a common interest in a facility, the segment's or the segment's associated entity's maintenance of records and accounts related to the joint action or common interest does not constitute a violation of Subsection (2)(b) or (c).

(9) Except as otherwise provided in this part or where clearly not applicable, the provisions of law that apply to a segment's associated entity also apply to the segment, including Subsection 11-13-205(5), as if the segment were a separate legal or administrative entity.

(10) (a) To the extent an associated entity is a taxpayer as defined in Section 59-8-103, the associated entity shall pay tax on the associated entity's gross receipts at the rate of tax that would apply if all gross receipts of the associated entity and the associated entity's segments, in the aggregate, were the gross receipts of a single taxpayer.

(b) Each segment of an associated entity that is a taxpayer as defined in Section 59-8-103 shall pay tax on the segment's gross receipts each period described in Subsection 59-8-105(1) at the same rate of tax as the rate of tax paid by the segment's associated entity for the same period.

(c) Notwithstanding Subsections (10)(a) and (b):

(i) an associated entity is not liable for the tax imposed on a segment; and

(ii) a segment of an associated entity is not liable for the tax imposed on the segment's associated entity or on another segment of the segment's associated entity.

[~~(11) Notwithstanding any other provision of law, a segment is a project entity if the segment's associated entity is a project entity.~~]

Section 5. Effective date.

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

CHAPTER 8
S. B. 2003

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

STATE FLAG AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill modifies provisions related to the state flag.

Highlighted Provisions:

This bill:

- extends the term of each member of the State Flag Task Force;
- extends the date on which the State Flag Task Force is required to select proposed state flag designs and report to the Legislature regarding the State Flag Task Force's recommendations for a new state flag;
- extends the sunset date of the State Flag Task Force; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

36-29-202, as enacted by Laws of Utah 2021, Chapter 205

36-29-203, as enacted by Laws of Utah 2021, Chapter 205

63I-2-236, as last amended by Laws of Utah 2021, Chapters 205 and 250

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

Section 1. Section 36-29-202 is amended to read:

36-29-202. State Flag Task Force -- Creation -- Membership -- Meetings -- Vacancies -- Per diem and expenses -- Staff.

(1) There is created the State Flag Task Force.

(2) The task force consists of the following nine members:

(a) the governor, or the governor's designee;

(b) the lieutenant governor, or the lieutenant governor's designee;

(c) three members of the Senate, appointed by the president of the Senate;

(d) three members of the House of Representatives, appointed by the speaker of the House of Representatives; and

(e) the executive director of the Department of Cultural and Community Engagement.

(3) Each individual with authority to appoint a member of the task force under Subsection (2) shall make the appointment on or before June 1, 2021.

(4) The governor shall appoint a chair of the task force.

(5) A majority of the task force constitutes a quorum for the transaction of task force business.

(6) The task force shall ensure that each meeting of the task force complies with Title 52, Chapter 4, Open and Public Meetings Act.

(7) The term of each member of the task force ends on November 30, [~~2022~~] 2023.

(8) (a) A member of the task force may be removed from the task force by the individual who appointed the member.

(b) Within 14 days after the day on which a vacancy occurs on the task force for any reason, the individual who originally appointed the member shall fill the vacancy in accordance with Subsection (2).

(9) (a) Subject to Subsection (9)(b), a task force member may not receive compensation or benefits for the member's service on the task force but may receive per diem and reimbursement for travel expenses incurred as a task force member in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

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

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

(10) The Department of Cultural and Community Engagement shall provide staff support for the task force and assist the task force in conducting task force meetings.

Section 2. Section 36-29-203 is amended to read:

36-29-203. Task force duties.

(1) The task force shall:

[~~(1)~~] (a) convene the task force's initial meeting on or before June 11, 2021;

[~~(2)~~] (b) establish and adopt guiding principles for the task force regarding flag design and the goals of recommending a revised or new state flag for the state;

[~~(3)~~] (c) create a process for the submission and task force assessment of proposed designs for a revised or new state flag of Utah, including a process that includes the design community;

[~~(4)~~] (d) on or before September 15, [~~2021~~] 2022, select a group of up to 10 proposed flag designs that:

[~~(a)~~] (i) represent the state; and

[~~(b)~~] (ii) adhere to the guiding principles described in Subsection [~~(2)~~] (1)(b);

[~~(5)~~] (e) create a process that includes the gathering of public input to review the proposed flag designs described in [~~Subsections (2) and (3)~~] Subsection (1)(d), including the public input of children and young people in the state, and to select a proposed revised or new state flag of Utah; and

[~~(6)~~] (f) on or before November 1, [~~2021~~] 2022, provide a written report and recommendations to the Economic Development and Workforce Services Interim Committee and the Legislature regarding:

[~~(a)~~] (i) the proposed flag designs described in Subsection [~~(3)~~] (1)(d);

[~~(b)~~] (ii) the process and results of the review of the proposed flag designs described in Subsection [~~(5)~~] (1)(e);

[~~(c)~~] (iii) the task force's recommendation for the design of a revised or new state flag of Utah; and

[~~(d)~~] (iv) proposed legislation retaining the current flag, revising the current flag, or designating a new state flag of Utah, which may include a recommendation to designate the current state flag of Utah described in Section 63G-1-501 as the governor's flag.

[~~(7)~~] (2) The task force may:

(a) create working groups to carry out the task force's duties under this section, including working with one or more graphic designers or other professionals to review and improve designs for consideration by the task force; and

(b) accept contributions from private or public sources for the purpose of awarding a prize to one or more creators of flag designs selected and recommended by the task force.

Section 3. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-29-107.5 is repealed on November 30, 2023.

(2) The following sections regarding the State Flag Task Force are repealed on January 1, [~~2023~~] 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

Section 4. Effective date.

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

CHAPTER 9
S. B. 2004

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

WORKPLACE COVID-19 AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill enacts provisions related to COVID-19 vaccination and testing in the workplace.

Highlighted Provisions:

This bill:

- requires an employer to relieve an employee of a COVID-19 vaccination mandate under certain conditions;
- requires an employer to pay for COVID-19 workplace testing;
- prohibits an adverse action against an employee who claims relief; and
- prohibits an employer from keeping or maintaining a record or copy of an employee's proof of vaccination, except under certain conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

26-68-201, Utah Code Annotated 1953

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

Section 1. Section 26-68-201 is enacted to read:

26-68-201. Employee COVID-19 vaccination and testing.

(1) As used in this section:

(a) (i) "Adverse action" means an action that results in:

(A) the refusal to hire a potential employee; or

(B) the termination of employment, demotion, or reduction of wages of an employee.

(ii) "Adverse action" does not include:

(A) an employer's reassignment of an employee; or

(B) the termination of an employee, if reassignment of the employee is not practical.

(b) "COVID-19 vaccine" means a substance that is:

(i) (A) approved for use by the United States Food and Drug Administration; or

(B) authorized for use by the United States Food and Drug Administration under an emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

(ii) injected into or otherwise administered to an individual; and

(iii) intended to immunize an individual against COVID-19 as defined in Section 78B-4-517.

(c) "Employee" means an individual suffered or permitted to work by an employer.

(d) (i) Except as provided in Subsection (1)(d)(ii), "employer" means the same as that term is defined in Section 34A-6-103.

(ii) "Employer" does not include:

(A) a person that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a COVID-19 vaccine, unless the person is the state or a political subdivision of the state that is not an academic medical center; or

(B) a federal contractor.

(e) "Workplace" means the same as that term is defined in Section 34A-6-103.

(2) Except as provided in Subsection (6), an employer who requires an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccine shall relieve the employee or prospective employee of the requirement if the employee or prospective employee submits to the employer a statement that receiving a COVID-19 vaccine would:

(a) be injurious to the health and well-being of the employee or prospective employee;

(b) conflict with a sincerely held religious belief, practice, or observance of the employee or prospective employee; or

(c) conflict with a sincerely held personal belief of the employee or prospective employee.

(3) Except as provided in Subsection (6), an employer shall pay for all COVID-19 testing an employee receives in relation to or as a condition of the employee's presence at the workplace.

(4) Except as provided in Subsection (6), an employer may not take an adverse action against an employee because of an act the employee makes in accordance with this section.

(5) (a) An employer may not keep or maintain a record or copy of an employee's proof of vaccination, unless:

(i) otherwise required by law;

(ii) an established business practice or industry standard requires otherwise; or

(iii) the provisions of this section do not apply as described in Subsection (6)(a).

(b) Subsection (5)(a) does not prohibit an employer from recording whether an employee is vaccinated.

(6) (a) The provisions of this section do not apply to a contract for goods or services entered into before November 5, 2021, unless the contract is between an employer and the employer's employee.

(b) An employer may require an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccination without providing the relief described in Subsection (2), if the employer:

(i) employs fewer than 15 employees; and

(ii) establishes a nexus between the requirement and the employee's assigned duties and responsibilities.

Section 2. Effective date.

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

CHAPTER 10
S. B. 2005

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

STATE BOARD OF EDUCATION BOUNDARIES AND ELECTION DESIGNATION

Chief Sponsor: Scott D. Sandall
House Sponsor: Paul Ray

LONG TITLE

Redistricting Boundary Information:

The Utah State Board of Education district boundary information may be found at https://le.utah.gov.

Block equivalency file: SB2005S07_BEF.txt

Block equivalency file security code: 3045e67dd19fd1085282c1d9a89a7873

General Description:

This bill, which includes this printed text and the electronic data affiliated with the text that is available on the Legislature's website and also included on the electronic storage device accompanying this bill when presented to the governor, establishes new Utah State Board of Education district boundaries.

Highlighted Provisions:

This bill:

- repeals current Utah State Board of Education district boundaries and establishes new Utah State Board of Education district boundaries;
- establishes election dates for Utah State Board of Education districts to ensure that Utah State Board of Education terms are staggered;
- establishes the block equivalency file, which is part of this bill in electronic form, as the legal boundaries of Utah State Board of Education districts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

20A-14-101.1, as last amended by Laws of Utah 2013, Chapter 455
20A-14-101.5, as last amended by Laws of Utah 2021, Chapter 345
20A-14-102, as last amended by Laws of Utah 2013, Chapter 455
20A-14-102.1, as last amended by Laws of Utah 2018, Chapter 330
20A-14-102.2, as last amended by Laws of Utah 2021, Chapters 162 and 345
20A-14-102.3, as last amended by Laws of Utah 2021, Chapter 162
20A-14-103, as last amended by Laws of Utah 2018, Chapter 19Utah Code Sections Affected by Revisor Instructions:
20A-14-101.5, as last amended by Laws of Utah 2021, Chapter 345
20A-14-103, as last amended by Laws of Utah 2018, Chapter 19

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

Section 1. Section 20A-14-101.1 is amended to read:

20A-14-101.1. Definitions.

As used in this part:

(1) "Board" means the State Board of Education.

(2) "Board block [~~assignment~~] equivalency file" means the electronic file designated as SB2005S07_BEF.txt that assigns each of Utah's [~~115,406~~] 71,207 census blocks to a particular State Board of Education district.

(3) "Board shapefile" means the electronic shapefile that:

(a) is the resulting projection of the Board block equivalency file; and

(b) stores the boundary of each of the 15 State Board of Education districts.

(4) "Census block" means any one of the [~~115,406~~] 71,207 individual geographic areas into which the Bureau of the Census of the United States Department of Commerce has divided the state of Utah, to each of which the Bureau of the Census has attached a discrete population tabulation from the [~~2010~~] 2020 decennial census.

(5) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

Section 2. Section 20A-14-101.5 is amended to read:

20A-14-101.5. State Board of Education -- Number of members -- State Board of Education district boundaries.

[~~(1) As used in this section:~~]

[~~(a) "County boundary" means the county boundary's location in the database as of January 1, 2010.~~]

[~~(b) "Database" means the State Geographic Information Database created in Section 63A-16-506.~~]

[~~(c) "Local school district boundary" means the local school district boundary's location in the database as of January 1, 2010.~~]

[~~(d) "Municipal boundary" means the municipal boundary's location in the database as of January 1, 2010.~~]

[~~(2)~~] (1) The State Board of Education shall consist of 15 members, with one member to be elected from each State Board of Education district.

[~~(3)~~] (2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the [~~2010~~] 2020 national decennial census as the official data for establishing State Board of Education district boundaries.

[~~(4)~~] (3) (a) Notwithstanding Subsection [~~(3)~~] (2), the Legislature enacts the district numbers and boundaries of the State Board of Education districts designated in the Board block equivalency file and resulting Board shapefile that is the electronic component of [~~the bill that enacts this section.~~] this bill:

(i) for purposes of nominating and electing certain members of the State Board of Education beginning January 1, 2022; and

(ii) for all other purposes beginning January 1, 2023.

(b) [~~That~~] The Legislature shall ensure that the Board shapefile, and the State Board of Education district boundaries generated from [~~that~~] the Board shapefile, [~~may be accessed via~~] are accessible on the Utah Legislature's website.

Section 3. Section 20A-14-102 is amended to read:

20A-14-102. State Board of Education districts -- Filing -- Legal boundaries.

(1) (a) The Legislature shall file a copy of the Board [~~shapefile~~] block equivalency file enacted by the Legislature and the resulting Board shapefile with the lieutenant governor's office.

(b) The legal boundaries of State Board of Education districts are contained in the Board shapefile on file with the lieutenant governor's office.

(2) (a) The lieutenant governor shall:

(i) verify the Board block equivalency file that the Legislature files under Subsection (1) using block equivalency file security code "3045e67dd19fd1085282c1d9a89a7873" and the resulting Board shapefile;

[~~(i)~~] (ii) generate maps of each State Board of Education district from the Board shapefile; and

[~~(ii)~~] (iii) ensure that [~~those~~] the district maps are available for viewing on the lieutenant governor's website.

(b) If there is any inconsistency between the district maps and the Board shapefile resulting from the Board block equivalency file, the Board shapefile is controlling.

Section 4. Section 20A-14-102.1 is amended to read:

20A-14-102.1. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a State Board of Education district in the Board shapefile [~~enacted by the Legislature~~] in the possession of the lieutenant governor's office, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate State Board of Education district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single State Board of Education district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more State Board of Education districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 5. Section 20A-14-102.2 is amended to read:

20A-14-102.2. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a state school board member whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the member or another individual resides in a particular State Board of Education district;

(ii) a candidate for state school board whose State Board of Education district boundary is uncertain because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the candidate or another individual resides in a particular State Board of Education district; or

(iii) an individual who is uncertain about which State Board of Education district contains the individual's residence because the feature used to establish the district boundary in the Board shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a State Board of Education district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the State Board of Education district boundary;

(ii) the number of the State Board of Education district in which an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Board block equivalency file and the resulting Board shapefile; and

(ii) any other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days of receipt of the request, the lieutenant governor shall:

(i) complete the review [~~the Board block shapefile~~] described in Subsection (2)(b); and

[~~(ii) review any relevant data; and~~]

[~~(iii)~~] (ii) make a determination.

(d) If the lieutenant governor determines the precise location of the State Board of Education district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate State Board of Education district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Utah Geospatial Resource Center created under Section 63A-16-505.

(e) If the lieutenant governor determines the number of the State Board of Education district in which a particular individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the individual;

(ii) the affected party who filed the petition, if different than the individual whose State Board of Education district number was identified; and

(iii) the county clerk of the affected county.

Section 6. Section 20A-14-102.3 is amended to read:

20A-14-102.3. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the Board shapefile in the possession of the lieutenant governor's office.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of State Board of Education districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of State Board of Education districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of State Board of Education districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or inform the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each State Board of Education district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a voting precinct map from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of State Board of Education districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the voting precinct map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the Utah Geospatial

Resource Center for a new review under this Subsection (4).

Section 7. Section 20A-14-103 is amended to read:

20A-14-103. State Board of Education members -- Term -- Requirements.

(1) Unless otherwise provided by law[~~, each State Board of Education member elected from a State Board of Education district at a nonpartisan election shall serve out the term of office for which that member was elected.~~] and except as provided in Subsection (2):

(a) voters in the following districts, as designated in the Senate block equivalency file, shall elect a State Board of Education member for a term of four years:

(i) at the 2022 General Election, State Board of Education Districts 1, 2, 4, 5, 8, 11, and 14; and

(ii) at the 2024 General Election, State Board of Education Districts 3, 6, 7, 9, 10, 12, 13, and 15; and

(b) a State Board of Education member representing a district described in Subsection (1)(a)(ii) on the effective date of this bill shall represent the realigned district, if the State Board of Education member resides in the realigned district, for a term of office that ends January 6, 2025.

(2) (a) As used in this Subsection (2), "District 6" means District 6 as designated in the Senate block equivalency file.

(b) If one of the incumbent State Board of Education members from District 6 files written notice with the lieutenant governor by close of business on January 3, 2022, that the member will not seek election to the State Board of Education from District 6:

(i) the filing incumbent member may serve until January 2, 2023, in representation of the district to which the member was elected at the 2020 General Election; and

(ii) the other incumbent member from District 6 shall serve out the term for which the member was elected, in representation of District 6, which is until January 6, 2025.

(c) If neither or both incumbent State Board of Education members in District 6 file the written notice described in Subsection (2)(b):

(i) the incumbent members may serve until January 2, 2023, in representation of the district to which the members were elected at the 2020 General Election;

(ii) the lieutenant governor shall designate District 6 as an office to be filled in the 2022 General Election in the notice of election required by Section 20A-5-101;

(iii) the State Board of Education member elected from District 6 at the 2022 General Election shall be elected to serve a term of office of two years; and

(iv) the State Board of Education member elected from District 6 at the 2024 General Election shall be elected to serve a term of office of four years.

[~~(2)~~] (3) (a) A person seeking election to the State Board of Education shall have been a resident of the State Board of Education district in which the person is seeking election for at least one year as of the date of the election.

(b) A person who has resided within the State Board of Education district, as the boundaries of the district exist on the date of the election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection [~~(2)~~] (3).

[~~(3)~~] (4) A State Board of Education member shall:

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

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

[~~(4)~~] (5) A State Board of Education member may not, during the member's term of office, also serve as an employee of the State Board of Education.

Section 8. Effective date.

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

Section 9. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the following references:

(1) in Section 20A-14-101.5, from "this bill" to the bill's designated chapter number in the Laws of Utah; and

(2) in Section 20A-14-103, from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 11
S. B. 2006

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

UTAH STATE SENATE BOUNDARIES AND ELECTION DESIGNATION

Chief Sponsor: Scott D. Sandall
House Sponsor: Paul Ray

LONG TITLE

Redistricting Boundary Information:

The Utah State Senate district boundary information may be found at https://le.utah.gov.

Block equivalency file: SB2006S02_BEF.txt

Block equivalency file security code: 4dde7d733138e1360e155dfaf98a0cd5

General Description:

This bill, which includes this printed text and the electronic data affiliated with this text that is available on the Legislature's website and also included on the electronic storage device accompanying this bill when presented to the governor, establishes new Utah State Senate district boundaries and election designations.

Highlighted Provisions:

This bill:

- repeals current Utah State Senate boundaries and establishes new Utah State Senate boundaries;
- designates the election year for each Utah State Senate district;
- establishes the block equivalency file that is part of this bill in electronic form as the legal boundaries of the Utah State Senate districts;
- provides a hash code to verify the authenticity of the block equivalency file; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

36-1-101.1, as last amended by Laws of Utah 2013, Chapter 454
36-1-101.5, as last amended by Laws of Utah 2021, Chapter 345
36-1-102, as last amended by Laws of Utah 2011, Third Special Session, Chapter 7
36-1-103, as last amended by Laws of Utah 2013, Chapter 454
36-1-103.2, as last amended by Laws of Utah 2021, Chapter 162
36-1-104, as last amended by Laws of Utah 2018, Chapter 330
36-1-105, as last amended by Laws of Utah 2021, Chapters 162 and 345Utah Code Sections Affected by Revisor Instructions:
36-1-101.5, as last amended by Laws of Utah 2021, Chapter 345
36-1-102, as last amended by Laws of Utah 2011, Third Special Session, Chapter 7

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

Section 1. Section 36-1-101.1 is amended to read:

36-1-101.1. Definitions.

As used in this part:

(1) "Census block" means any one of the [~~115,406~~] 71,207 individual geographic areas into which the Bureau of the Census of the United States Department of Commerce has divided the state of Utah, to each of which the Bureau of the Census has attached a discrete population tabulation from the [~~2010~~] 2020 decennial census.

(2) "Senate block [~~assignment~~] equivalency file" means the electronic file designated as SB2006S02_BEF.txt that assigns each of Utah's [~~115,406~~] 71,207 census blocks to a particular Utah State Senate district.

(3) "Senate shapefile" means the electronic shapefile that:

(a) is the resulting projection of the Senate block equivalency file; and

(b) stores the boundary of each of the 29 Utah State Senate districts.

(4) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

Section 2. Section 36-1-101.5 is amended to read:

36-1-101.5. Utah State Senate -- District boundaries.

[~~(1) As used in this section:~~]

[~~(a) "County boundary" means the county boundary's location in the database as of January 1, 2010.~~]

[~~(b) "Database" means the State Geographic Information Database created in Section 63A-16-506.~~]

[~~(c) "Local school district boundary" means the local school district boundary's location in the database as of January 1, 2010.~~]

[~~(d) "Municipal boundary" means the municipal boundary's location in the database as of January 1, 2010.~~]

[~~(2)~~] (1) The Utah State Senate shall consist of 29 members, with one member to be elected from each Utah State Senate district.

[~~(3)~~] (2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the [~~2010~~] 2020 national decennial census as the official data for establishing Senate district boundaries.

[~~(4)~~] (3) (a) [~~Notwithstanding Subsection (3), the~~] The Legislature enacts the district numbers and boundaries of the Senate districts designated in the Senate block equivalency file and resulting Senate shapefile that is the electronic component of [~~the bill that enacts this section.~~] this bill:

(i) for purposes of nominating and electing certain members of the Utah State Senate beginning January 1, 2022; and

(ii) for all other purposes beginning January 1, 2023.

(b) [~~That~~] The Legislature shall ensure that the Senate shapefile, and the Senate district boundaries generated from [~~that~~] the Senate shapefile, [~~may be accessed via~~] are accessible on the Utah Legislature's website.

Section 3. Section 36-1-102 is amended to read:

36-1-102. Election of senators -- Staggered terms.

[~~(1)~~] Unless otherwise provided by law, [~~each senator elected from~~] and notwithstanding Subsection 20A–1–503(3):

(1) voters in the following districts, as designated in the Senate block equivalency file, shall elect a senator for a term of four years:

(a) at the 2022 General Election, Senate Districts [~~2, 3, 5, 9, 11, 12, 15, 17, 18, 21, 22, and 26~~] 1, 5, 6, 7, 9, 11, 12, 13, 14, 18, 19, 20, 21, 23, and 28; and

(b) at the [~~2010~~] 2024 General Election [~~shall serve out the term of office for which he or she was elected~~], Senate Districts 2, 3, 4, 8, 10, 15, 16, 17, 22, 24, 25, 26, 27, and 29; and

(2) a senator representing a district described in Subsection (1)(b) on the effective date of this bill shall represent the realigned district, if [~~he or she~~] the senator resides in [~~that~~] the realigned district, for a term of office that ends January 1, 2025.

[~~(2) At the general election to be held in 2012, senators elected from Senate Districts 1, 6, 7, 8, 10, 13, 14, 16, 19, 20, 23, 24, 25, 27, and 29 shall be elected to serve a term of office of four years.~~]

[~~(3) (a) Because the senator from Senate District 28 was appointed to fill a mid-term vacancy that occurred more than two years before the next regular general election, Subsection 20A–1–503(3) requires that the vacancy be filled for the unexpired term at the next general election.~~]

[~~(b) Consequently:~~]

[~~(i) at the general election to be held in 2012, the senator elected from Senate District 28 shall be elected to serve a term of office of two years; and~~]

[~~(ii) at the general election to be held in 2014, the senator elected from Senate District 28 shall be elected to serve a term of office of four years.~~]

[~~(4) (a) If one of the incumbent senators from new Senate District 4 files written notice with the lieutenant governor by close of business on January 3, 2012, that the senator will not seek election to the Senate from that Senate District 4, that incumbent senator may serve until January 1, 2013, and the other incumbent senator from District 4 shall serve out the term for which the member was elected, which is until January 1, 2015.~~]

[~~(b) (i) If one of the incumbent senators in Senate District 4 does not file the written notice authorized by Subsection (4)(a), the lieutenant governor shall designate Senate District 4 as an office to be filled in the 2012 regular general election in the notice of election required by Section 20A–5–101.~~]

[~~(ii) If the Subsection (4)(b)(i) contingency occurs:~~]

[~~(A) the senator elected from Senate District 4 at the 2012 regular general election shall be elected to serve a term of office of two years; and~~]

[~~(B) the senator elected from Senate District 4 at the 2014 regular general election shall be elected to serve a term of office of four years.~~]

Section 4. Section 36-1-103 is amended to read:

36-1-103. Senate districts -- Filing -- Legal boundaries.

(1) (a) The Legislature shall file a copy of the Senate [~~shapefile~~] block equivalency file enacted by the Legislature and the resulting Senate shapefile with the lieutenant governor's office.

(b) The legal boundaries of Senate districts are contained in the Senate shapefile on file with the lieutenant governor's office.

(2) (a) The lieutenant governor shall:

(i) verify the Senate block equivalency file that the Legislature filed under Subsection (1) using block equivalency file security code "4dde7d733138e1360e155dfaf98a0cd5" and the resulting Senate shapefile;

[~~(i)~~] (ii) generate maps of each Utah State Senate district from the Senate shapefile; and

[~~(ii)~~] (iii) ensure that [~~those~~] the district maps are available for viewing on the lieutenant governor's website.

(b) If there is any inconsistency between the district maps and the Senate shapefile resulting from the Senate block equivalency file, the Senate shapefile is controlling.

Section 5. Section 36-1-103.2 is amended to read:

36-1-103.2. County clerk, Utah Geospatial Resource Center, and lieutenant governor responsibilities -- Maps and voting precinct boundaries.

(1) As used in this section, "redistricting boundary data" means the Senate shapefile in the possession of the lieutenant governor's office.

(2) Each county clerk shall obtain a copy of the redistricting boundary data for the clerk's county from the lieutenant governor's office.

(3) (a) A county clerk may create one or more county maps that identify the boundaries of Senate districts as generated from the redistricting boundary data.

(b) Before publishing or distributing any map or data created by the county clerk that identifies the boundaries of Senate districts within the county, the clerk shall submit the county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a county map and data from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the county map and data to evaluate if the county map and data accurately reflect the boundaries of Senate districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the county map and data are correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the county map and data are correct or notify the county clerk that the county map and data are incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the county map and data submitted are incorrect, the county clerk shall:

(i) make the corrections necessary to conform the county map and data to the redistricting boundary data; and

(ii) resubmit the corrected county map and data to the lieutenant governor and to the Utah Geospatial Resource Center for a new review under this Subsection (3).

(4) (a) Subject to the requirements of this Subsection (4), each county clerk shall establish voting precincts and polling places within each Senate district according to the procedures and requirements of Section 20A-5-303.

(b) Within five working days after approval of voting precincts and polling places by the county legislative body as required by Section 20A-5-303, each county clerk shall submit a voting precinct map identifying the boundaries of each voting precinct within the county to the lieutenant governor and to the Utah Geospatial Resource Center for review.

(c) Within 30 days after receipt of a voting precinct map from a county clerk, the Utah Geospatial Resource Center shall:

(i) review the voting precinct map to evaluate if the voting precinct map accurately reflects the boundaries of Senate districts established by the Legislature in the redistricting boundary data;

(ii) determine whether the voting precinct map is correct or incorrect; and

(iii) communicate those findings to the lieutenant governor.

(d) The lieutenant governor shall either notify the county clerk that the voting precinct map is correct or notify the county clerk that the map is incorrect.

(e) If the county clerk receives notice from the lieutenant governor that the voting precinct map is incorrect, the county clerk shall:

(i) make the corrections necessary to conform the voting precinct map to the redistricting boundary data; and

(ii) resubmit the corrected voting precinct map to the lieutenant governor and to the Utah Geospatial Resource Center for a new review under this Subsection (4).

Section 6. Section 36-1-104 is amended to read:

36-1-104. Omissions from maps -- How resolved.

(1) If any area of the state is omitted from a Utah State Senate district in the Senate shapefile [~~enacted by the Legislature~~] in the possession of the lieutenant governor's office, the county clerk of the affected county, upon discovery of the omission, shall attach the area to the appropriate Senate district according to the requirements of Subsections (2) and (3).

(2) If the omitted area is surrounded by a single Senate district, the county clerk shall attach the area to that district.

(3) If the omitted area is contiguous to two or more Senate districts, the county clerk shall attach the area to the district that has the least population, as determined by the Utah Population Committee.

(4) The county clerk shall certify in writing and file with the lieutenant governor any attachment made under this section.

Section 7. Section 36-1-105 is amended to read:

36-1-105. Uncertain boundaries -- How resolved.

(1) As used in this section:

(a) "Affected party" means:

(i) a senator whose Utah State Senate district boundary is uncertain because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the senator or another individual resides in a particular Senate district;

(ii) a candidate for senator whose Senate district boundary is uncertain because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified or who is uncertain about whether the candidate or another individual resides in a particular Senate district; or

(iii) an individual who is uncertain about which Senate district contains the individual's residence because the feature used to establish the district boundary in the Senate shapefile has been removed, modified, or is unable to be identified.

(b) "Feature" means a geographic or other tangible or intangible mark such as a road or political subdivision boundary that is used to establish a Senate district boundary.

(2) (a) An affected party may file a written request petitioning the lieutenant governor to determine:

(i) the precise location of the Senate district boundary;

(ii) the number of the Senate district in which an individual resides; or

(iii) both Subsections (2)(a)(i) and (ii).

(b) In order to make the determination required by Subsection (2)(a), the lieutenant governor shall review:

(i) the Senate block equivalency file and the resulting Senate shapefile; and

(ii) any other relevant data such as aerial photographs, aerial maps, or other data about the area.

(c) Within five days [~~of receipt of the request~~] after the day on which the lieutenant governor receives the request described in Subsection (2)(a), the lieutenant governor shall:

[~~(i) review the Senate shapefile;~~]

[~~(ii) review any relevant data; and~~]

(i) complete the review described in Subsection (2)(b); and

[~~(iii)~~] (ii) make a determination.

(d) When the lieutenant governor determines the location of the Senate district boundary, the lieutenant governor shall:

(i) prepare a certification identifying the appropriate Senate district boundary and attaching a map, if necessary; and

(ii) send a copy of the certification to:

(A) the affected party;

(B) the county clerk of the affected county; and

(C) the Utah Geospatial Resource Center created under Section 63A-16-505.

(e) If the lieutenant governor determines the number of the Senate district in which a particular individual resides, the lieutenant governor shall send a letter identifying that district by number to:

(i) the individual;

(ii) the affected party who filed the petition, if different than the individual whose Senate district number was identified; and

(iii) the county clerk of the affected county.

Section 8. Effective date.

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

Section 9. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the following references:

(1) in Section 36-1-101.5, from "this bill" to the bill's designated chapter number in the Laws of Utah; and

(2) in Section 36-1-102, from "the effective date of this bill" to the bill's actual effective date.

H.C.R. 201

Passed November 10, 2021
Approved November 16, 2021
Effective November 16, 2021

CONCURRENT RESOLUTION URGING CONGRESS AND THE PRESIDENT TO PROTECT CONSUMER PRIVACY IN BANKING AND FINANCIAL TRANSACTIONS

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This concurrent resolution urges Congress and the President to protect consumers from certain banking and financial transaction reporting requirements under consideration by Congress and the federal government.

Highlighted Provisions:

This resolution:

- urges Congress and the President to protect consumers from harmful, intrusive, and burdensome Internal Revenue Service reporting requirements for financial institutions.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the Biden Administration and some in Congress have proposed changes to tax information reporting which would require financial institutions to provide the Internal Revenue Service reports of incoming and outgoing transactions from every customer financial account with gross inflows and outflows that range from $600 to $10,000 in a tax year;

WHEREAS, these proposals would require financial institutions to include in the reports for both personal and business accounts a breakdown for physical cash, transactions with foreign accounts, and transfers to and from another account with the same owner;

WHEREAS, savings, transactional, loan, and investment accounts at these financial institutions would be subject to this proposed requirement;

WHEREAS, there are real concerns over data privacy and security if this proposed requirement is implemented;

WHEREAS, keeping member and customer account information private and secure is among the primary goals of all financial institutions in this state;

WHEREAS, this proposed requirement at any threshold dollar amount could jeopardize the privacy and security of accounts and personal information;

WHEREAS, privacy is cited as one of the primary reasons individuals choose not to open a bank account;

WHEREAS, this proposed requirement lays a foundation for new and future barriers for unbanked or underbanked individuals;

WHEREAS, financial institutions throughout the state of Utah and the nation are already subject to many burdensome regulations;

WHEREAS, the inclusion of this new, hyper-extensive reporting requirement would increase that burden in an untenable and destructive manner for many community-based financial institutions;

WHEREAS, the Fourth Amendment to the United States Constitution guarantees every Utahn the right to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures;

WHEREAS, that fundamental right shall not be violated, and no warrants shall be issued, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized;

WHEREAS, Utahns' bank account information is personal and private information and effects, and any proposal to forcibly acquire universal access to that information without a warrant based on probable cause is a violation of the constitutional rights of every Utahn and the oath of office of every member of Congress; and

WHEREAS, the Internal Revenue Service should not have universal access to every American's private financial information because in recent years its administration and staff have used their authority and access to confidential personal information to engage in openly political behavior:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls upon the United States Congress and the President to protect consumers from harmful, intrusive, and burdensome Internal Revenue Service reporting requirements for financial institutions.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Secretary of the Treasury of the United States, the President of the United States, and the members of Utah's Congressional Delegation.

LAWS

of the

STATE OF UTAH, 2022

Passed at the

GENERAL SESSION

of the

SIXTY-FOURTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
January 18, 2022
and Adjourned Sine Die on
March 4, 2022

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2022 General Session of the Sixty-Fourth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2022 General Session of the Sixty-Fourth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 18th of January 2022 and adjourned sine die on the 4th of March 2022.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of Utah at Salt Lake City,

this 30th day of November 2022

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 1

Passed January 27, 2022
Approved February 2, 2022
Effective February 2, 2022
(Exception clause in Section 7)

PUBLIC EDUCATION BASE BUDGET AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2021, and ending June 30, 2022, and appropriates funds for the support and operation of public education for the fiscal year beginning July 1, 2022, and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) initially at $3,908 for fiscal year 2022-2023;
- adjusts the number of weighted pupil units to reflect anticipated student enrollment in fall 2022;
- extends flexibility in the use of restricted stated funding through fiscal year 2023;
- appropriates funds to the Uniform School Fund Restricted - Public Education Budget Stabilization Account;
- makes an appropriation from the Uniform School Fund Restricted - Trust Distribution Account to the School LAND Trust Program to support educational programs in the public schools;
- provides appropriations for other purposes as described; and
- approves intent language.

Monies Appropriated in this Bill:

This bill appropriates ($29,433,600) in operating and capital budgets for fiscal year 2022, including:

- $3,630,500 from the Uniform School Fund; and
- ($33,064,100) from various sources as detailed in this bill.

This bill appropriates ($1,000,000) in expendable funds and accounts for fiscal year 2022.

This bill appropriates $23,400,000 in restricted fund and account transfers for fiscal year 2022.

This bill appropriates ($4,000) in fiduciary funds for fiscal year 2022.

This bill appropriates $6,328,636,000 in operating and capital budgets for fiscal year 2023, including:

- $8,294,800 from the General Fund;
- $3,750,150,500 from the Uniform School Fund;
- $182,459,700 from the Education Fund; and
- $2,387,731,000 from various sources as detailed in this bill.

This bill appropriates $3,327,000 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $565,264,900 in restricted fund and account transfers for fiscal year 2023, including:

- $248,100,000 from the Uniform School Fund;
- $315,414,900 from the Education Fund; and
- $1,750,000 from various sources as detailed in this bill.

This bill appropriates $118,600 in fiduciary funds for fiscal year 2023.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-208, as last amended by Laws of Utah 2021, Chapters 319 and 382
53F-2-209, as enacted by Laws of Utah 2021, Chapter 341
53F-2-301.5, as last amended by Laws of Utah 2021, Chapter 6
53F-2-302.1, as enacted by Laws of Utah 2021, Chapter 6

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. Section 53F-2-208 is amended to read:

53F-2-208. Cost of adjustments for growth and inflation.

(1) In accordance with Subsection (2), the Legislature shall annually determine:

(a) the estimated state cost of adjusting for inflation in the next fiscal year, based on a rolling five-year average ending in the current fiscal year, ongoing state tax fund appropriations to the following programs:

(i) education for youth in custody, described in Section 53E-3-503;

(ii) the Basic Program, described in Title 53F, Chapter 2, Part 3, Basic Program (Weighted Pupil Units);

(iii) the Adult Education Program, described in Section 53F-2-401;

(iv) state support of pupil transportation, described in Section 53F-2-402;

(v) the Enhancement for Accelerated Students Program, described in Section 53F-2-408;

[~~(v)~~] (vi) the Concurrent Enrollment Program, described in Section 53F-2-409; and

[~~(vi)~~] (vii) the [~~Enhancement for At-Risk Students Program~~] gang prevention and intervention program, described in Section 53F-2-410; and

(b) the estimated state cost of adjusting for enrollment growth, in the next fiscal year, the current fiscal year's ongoing state tax fund appropriations to the following programs:

(i) a program described in Subsection (1)(a);

(ii) educator salary adjustments, described in Section 53F-2-405;

(iii) the Teacher Salary Supplement Program, described in Section 53F-2-504;

(iv) the Voted and Board Local Levy Guarantee programs, described in Section 53F-2-601; and

(v) charter school local replacement funding, described in Section 53F-2-702.

(2) (a) In or before December each year, the Executive Appropriations Committee shall determine:

(i) the cost of the inflation adjustment described in Subsection (1)(a); and

(ii) the cost of the enrollment growth adjustment described in Subsection (1)(b).

(b) The Executive Appropriations Committee shall make the determinations described in Subsection (2)(a) based on recommendations developed by the Office of the Legislative Fiscal Analyst, in consultation with the state board and the Governor's Office of Planning and Budget.

Section 2. Section 53F-2-209 is amended to read:

53F-2-209. Limited LEA budgetary flexibility.

(1) Notwithstanding any other provision of the Utah Code, for fiscal [~~year 2021~~] years 2021, 2022, and 2023:

(a) except as provided in Subsection (1)(b), an LEA may:

(i) use up to 35% of the LEA's state restricted funding for each formula-based program to flexibly and without restriction respond to changing circumstances and student needs resulting from the COVID-19 emergency, as that term is defined in Section 53-2c-102;

(ii) transfer fund balances between funds as necessary to flexibly expend funds as described in Subsection (1)(a)(i); and

(b) an LEA may not:

(i) transfer funds under Subsection (1)(a)(i) related to the school LAND Trust Program, established in Section 53G-7-1206, or a qualified grant program; or

(ii) expend the transferred funds for capital projects or improvements.

(2) Notwithstanding any other provision of the Utah Code, for any funds for which the state imposes restrictions on the use of the funds:

(a) any expenditure that would have been required to be made before the end of fiscal year 2021 without the application of this section is extended to fiscal year 2022; and

(b) any expenditure that would have been required to be made before the end of fiscal year 2022 without the application of this section is extended to fiscal year 2023[~~.~~]; and

(c) any expenditure that would have been required to be made before the end of fiscal year 2023 without the application of this section is extended to fiscal year 2024.

(3) (a) Nothing in this section authorizes an LEA to violate federal law or federal restrictions on the LEA's funds.

(b) An LEA that takes an action that this section authorizes shall ensure that the LEA continues to meet federal maintenance of effort requirements.

Section 3. Section 53F-2-301.5 is amended to read:

53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(k) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2021, is $575,931,800~~] 2022, is $645,921,400 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, [~~2021, is .001554~~] 2022, is .001579.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, [~~2021, is $22,484,800~~] 2022, is $16,218,800 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, [~~2021, is .000063~~] 2022, is .000040.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 4. Section 53F-2-302.1 is amended to read:

53F-2-302.1. Enrollment Growth Contingency Program.

(1) As used in this section:

(a) "Program funds" means money appropriated under the Enrollment Growth Contingency Program.

(b) "Student enrollment count" means the enrollment count on the first school day of October, as described in Subsection 53F-2-302(3).

(2) There is created the Enrollment Growth Contingency Program to mitigate funding impacts on an LEA resulting from student enrollment irregularities during fiscal years 2021 [~~and~~], 2022, and 2023.

(3) Subject to legislative appropriations, the state board, in consultation with the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget, shall use program funds to:

(a) for fiscal years 2021 [~~and~~], 2022, and 2023 and for an LEA that has declining enrollment, pay costs associated with Subsection 53F-2-302(3) to hold LEA funding distributions at the prior year's average daily membership; [~~and~~]

(b) for fiscal year 2022, fund ongoing impacts of student enrollment changes in the 2021-2022 academic year, including:

(i) assigning additional weighted pupil units to an LEA experiencing a net growth in weighted pupil units over the fiscal year 2022 base allocations associated with student enrollment increases following the student enrollment count; and

(ii) at the request of an LEA that experienced a significant decline in student enrollment during the 2020-2021 academic year, pre-fund significantly higher anticipated student enrollment growth before the student enrollment count; and

[~~(iii)~~] (c) for fiscal years 2022 and 2023, with any remaining weighted pupil units, pay other weighted pupil unit related costs in accordance with Section 53F-2-205.

(4) If the state board pre-funds anticipated student enrollment growth under Subsection (3)(b)(ii), the state board shall:

(a) verify the LEA's enrollment after the student enrollment count; and

(b) balance funds as necessary based on the actual increase in student enrollment.

Section 5. Fiscal Year 2022 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 4(a). Operating and Capital Budgets.

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

Public Education

State Board of Education - Minimum School Program

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

From Beginning Nonlapsing Balances	(37,474,800)
From Closing Nonlapsing Balances	37,474,800

Item 2 To State Board of Education - Minimum School Program -Related to Basic School Programs

From Uniform School Fund, One-Time	3,630,500
From Beginning Nonlapsing Balances	19,700,100
From Closing Nonlapsing Balances	19,700,100)
Schedule of Programs:	
Educator Salary Adjustments	3,630,500

Item 3 To State Board of Education - Minimum School Program -Voted and Board Local Levy Programs

From Local Revenue, One-Time	(15,000,000)
Schedule of Programs:	
Board Local Levy Program - Early Literacy Program	(15,000,000)

State Board of Education

Item 4 To State Board of Education - Child Nutrition Programs

From Beginning Nonlapsing Balances	2,587,400
From Closing Nonlapsing Balances	(2,587,400)

Item 5 To State Board of Education - Child Nutrition - Federal Commodities

From Beginning Nonlapsing Balances	600
Schedule of Programs:	
Child Nutrition - Federal Commodities	600

Item 6 To State Board of Education - Educator Licensing

From Revenue Transfers, One-Time	(13,000)
From Beginning Nonlapsing Balances	1,282,500
From Closing Nonlapsing Balances	(849,500)
Schedule of Programs:	
STEM Endorsement Incentives	420,000

Item 7 To State Board of Education - Fine Arts Outreach

From Beginning Nonlapsing Balances	823,300
From Closing Nonlapsing Balances	(1,352,300)
Schedule of Programs:	
Professional Outreach Programs in the Schools	(404,000)
Provisional Program	(125,000)

Item 8 To State Board of Education – Contracted Initiatives and Grants

From Revenue Transfers, One-Time	(19,900)
From Beginning Nonlapsing Balances	7,702,900
From Closing Nonlapsing Balances	(4,462,000)
From Lapsing Balance	(9,000)
Schedule of Programs:	
Computer Science Initiatives	220,000
Software Licenses for Early Literacy	73,000
Elementary Reading Assessment Software Tools	610,000
ELL Software Licenses	124,600
Interventions for Reading Difficulties	16,500
Paraeducator to Teacher Scholarships	6,000
ProStart Culinary Arts Program	25,000
School Turnaround and Leadership Development Act	2,068,100
UPSTART	14,000
Special Needs Opportunity Scholarship Administration	4,800
Education Technology Management System	50,000

Item 9 To State Board of Education – MSP Categorical ProgramAdministration

From Revenue Transfers, One-Time	(29,500)
From Beginning Nonlapsing Balances	2,822,500
From Closing Nonlapsing Balances	(3,011,200)
Schedule of Programs:	
Adult Education	28,400
At-risk Students	60,400
Early Learning Training and Assessment	(307,000)

Item 10 To State Board of Education – Science Outreach

From Beginning Nonlapsing Balances	492,800
From Closing Nonlapsing Balances	(82,800)
Schedule of Programs:	
Informal Science Education Enhancement	410,000

Item 11 To State Board of Education – Policy, Communication, and Oversight

From Beginning Nonlapsing Balances	1,049,300
From Closing Nonlapsing Balances	(28,692,000)
From Lapsing Balance	(57,900)
Schedule of Programs:	
Financial Operations	300,000
Student Support Services	(28,000,600)

Item 12 To State Board of Education – System Standards and Accountability

From Beginning Nonlapsing Balances	16,813,600
From Closing Nonlapsing Balances	(10,520,900)
Schedule of Programs:	
Teaching and Learning	1,172,700
Assessment and Accountability	5,100,000
Teacher Retention in Indigenous Schools Grants	20,000

Item 13 To State Board of Education – State Charter School Board

From Beginning Nonlapsing Balances	1,114,000
From Closing Nonlapsing Balances	(1,114,000)

Item 14 To State Board of Education – Teaching and Learning

From Revenue Transfers, One-Time	(200)
From Beginning Nonlapsing Balances	71,300
From Closing Nonlapsing Balances	(22,700)
Schedule of Programs:	
Student Access to High Quality School Readiness Programs	48,400

Item 15 To State Board of Education – Utah Schools for the Deaf and the Blind

From Beginning Nonlapsing Balances	855,900
From Closing Nonlapsing Balances	(855,900)

The Legislature intends that the Utah Schools for the Deaf and the Blind use balances from the USDB Land Acquisition item funded during the 2021 General Session to fund furnishings and remodeling on the acquired land.

Item 16 To State Board of Education – Statewide Online EducationCosts for Non-Public Students

From Revenue Transfers, One-Time	(32,000)
From Beginning Nonlapsing Balances	(406,700)
From Closing Nonlapsing Balances	438,700

Subsection 4(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

Public Education

State Board of Education

Item 17 To State Board of Education – Charter School Revolving Account

From Beginning Fund Balance	(7,300)
From Closing Fund Balance	7,300

Item 18 To State Board of Education – Hospitality and TourismManagement Education Account

From Beginning Fund Balance	363,000
From Closing Fund Balance	(363,000)

Item 19 To State Board of Education – School Building Revolving Account

From Beginning Fund Balance	56,100
From Closing Fund Balance(56,100)	

Item 20 To State Board of Education – Charter School Closure Reserve Account

From Closing Fund Balance	(1,000,000)

Schedule of Programs:

Charter School Closure Reserve Account	(1,000,000)

Subsection 4(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public Education

Item 21 To Uniform School Fund Restricted – Public Education Economic Stabilization Restricted Account

From Beginning Fund Balance	(23,167,300)
From Closing Fund Balance	46,567,300

Schedule of Programs:

Public Education Economic Stabilization Restricted Account	23,400,000

Public Education

State Board of Education

Item 22 To State Board of Education – Education Tax Check-off

Lease Refunding

From Beginning Fund Balance	2,000
From Closing Fund Balance	(2,000)

Item 23 To State Board of Education – Schools for the Deaf and the Blind Donation Fund

From Beginning Fund Balance	(985,100)
From Closing Fund Balance	981,100

Schedule of Programs:

Schools for the Deaf and the Blind Donation Fund	(4,000)

Section 6. Fiscal Year 2023 Appropriations.

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

(2) The value of the weighted pupil unit for fiscal year 2023 is initially set at $3,908.

Subsection 5(a). Operating and Capital Budgets.

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

Public Education

State Board of Education – Minimum School Program

Item 24 To State Board of Education – Minimum School Program –Basic School Program

From Uniform School Fund	2,900,416,700
From Uniform School Fund, One-Time	15,095,500
From Local Revenue	670,518,100
From Beginning Nonlapsing Balances	20,505,800
From Closing Nonlapsing Balances	(20,505,800)

Schedule of Programs:

Kindergarten (26,667 WPUs)	104,214,600
Grades 1 – 12 (612,549 WPUs)	2,393,841,500
Foreign Exchange (328 WPUs)	1,281,800
Necessarily Existent Small Schools (10,708 WPUs)	41,846,900
Professional Staff (57,387 WPUs)	224,268,400
Special Education – Add-on (89,232 WPUs)	348,718,700
Special Education – Self-Contained (11,189 WPUs)	43,726,600
Special Education – Preschool (11,372 WPUs)	44,441,800

Special Education - Extended School Year (460 WPUs)	1,797,700
Special Education - Impact Aid (2,072 WPUs)	8,097,300
Special Education - Extended Year for Special Educators (909 WPUs)	3,552,400
Career and Technical Education - Add-on (29,257 WPUs)	114,336,400
Class Size Reduction (42,604 WPUs)	166,496,500
Enrollment Growth Contingency	13,945,600
Students At-risk Add-on (19,016 WPUs)	75,464,100

(1) In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Basic School Program line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(a) school readiness, as measured by:

(i) the percentage of students who are ready for kindergarten (target = 64% in literacy and 76% in numeracy); and

(ii) the percentage of students who demonstrate proficiency on a kindergarten exit assessment (target = 75% in literacy and 85% in numeracy);

(b) early indicator of academic success, as measured by the percentage of students who are proficient in English language arts and mathematics at the end of grade 3 (target = 67%);

(c) proficiency in core academic subjects, as measured by:

(i) proficiency on a statewide assessment, including:

(A) the percentage of students who are proficient in English language arts, on average, across grades 3 through 8 (target = 64%);

(B) the percentage of students who are proficient in mathematics, on average, across grades 3 through 8 (target = 66%); and

(C) the percentage of students who are proficient in science, on average, across grades 4 through 8 (target = 67%); and

(ii) proficiency on a nationally administered assessment, including:

(A) the percentage of grade 4 students who are proficient in English language arts (target = 41%);

(B) the percentage of grade 4 students who are proficient in mathematics (target = 46%);

(C) the percentage of grade 4 students who are proficient in science (target = 45%);

(D) the percentage of grade 8 students who are proficient in English language arts (target = 38%);

(E) the percentage of grade 8 students who are proficient in mathematics (target = 39%); and

(F) the percentage of grade 8 students who are proficient in science (target = 50%);

(d) post-secondary access, as measured by the percentage of students who score at least 18 on the ACT (target = 77%);

(e) high school completion, as measured by the percentage of students who graduate from high school in four years (target = 90%); and

(f) preparation for college, as measured by the percentage of students who have earned a concentration in or completed a certificate in career and technical education or have earned credit in an Advanced Placement, a concurrent enrollment, or an International Baccalaureate course (target = 87%).

(2) The Legislature further intends that the State Board of Education include in the report described in Subsection (1) any recommended changes to the performance measures.

Item 25 To State Board of Education - Minimum School Program -Related to Basic School Programs

From Uniform School Fund	735,077,800
From Education Fund Restricted - Charter School Levy Account	31,273,900
From Teacher and Student Success Account	131,953,600
From Uniform School Fund Restricted - Trust Distribution Account	95,849,800
From Beginning Nonlapsing Balances	47,487,800
From Closing Nonlapsing Balances	(47,487,800)

Schedule of Programs:

Pupil Transportation To and From School	113,585,000
At-risk Students - Gang Prevention	2,172,500
Youth in Custody	28,700,100
Adult Education	16,129,800
Enhancement for Accelerated Students	6,239,400
Concurrent Enrollment	13,371,100
Title I Schools Paraeducators Program	300,000
School LAND Trust Program	95,849,800
Charter School Local Replacement	233,250,600
Early Literacy Program	14,550,000

Educator Salary Adjustments	191,584,700
Teacher Salary Supplement	22,266,100
School Library Books and Electronic Resources	765,000
Matching Fund for School Nurses	1,002,000
Dual Immersion	5,030,000
Teacher Supplies and Materials	5,500,000
Beverley Taylor Sorenson Elementary Arts Learning Program	12,880,000
Early Intervention	24,455,000
Digital Teaching and Learning Program	19,852,400
Effective Teachers in High Poverty Schools Incentive Program	688,000
Elementary School Counselor Program	2,100,000
Pupil Transportation Rural School Reimbursement	500,000
Pupil Transportation – Rural School Grants	1,000,000
Teacher and Student Success Program	146,953,600
Student Health and Counseling Support Program	25,480,000
Grants for Professional Learning	3,935,000
Charter School Funding Base Program	3,015,000
English Language Learner Software	3,000,000

Item 26 To State Board of Education – Minimum School Program –Voted and Board Local Levy Programs

From Uniform School Fund	99,560,500
From Local Levy Growth Account	108,461,300
From Local Revenue	766,188,200
From Education Fund Restricted – Minimum Basic Growth Account	56,250,000

Schedule of Programs:

Voted Local Levy Program	650,375,600
Board Local Levy Program	380,084,400

State Board of Education – School Building Programs

Item 27 To State Board of Education – School Building Programs –Capital Outlay Programs

From Education Fund	14,499,700
From Education Fund Restricted – Minimum Basic Growth Account	18,750,000

Schedule of Programs:

Foundation Program	27,610,900
Enrollment Growth Program	5,638,800

State Board of Education

Item 28 To State Board of Education – Child Nutrition Programs

From Education Fund	400
From Federal Funds	171,060,500
From Dedicated Credits Revenue	6,200
From Dedicated Credit – Liquor Tax	50,026,000
From Revenue Transfers	(395,900)
From Beginning Nonlapsing Balances	2,925,400
From Closing Nonlapsing Balances	(1,439,400)

Schedule of Programs:

Child Nutrition	222,183,200

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Child Nutrition Programs line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) school districts and charter schools served (target = 100% districts and 50% charters);

(2) LEAs implement an alternative breakfast model based on their student eligibility percentage as outlined in statute (target = 80%); and

(3) LEAs participating in the National School Breakfast Program (target = 90%).

Item 29 To State Board of Education – Child Nutrition –Federal Commodities

From Federal Funds	19,159,300

Schedule of Programs:

Child Nutrition – Federal Commodities	19,159,300

Item 30 To State Board of Education – Educator Licensing

From Education Fund	4,114,000
From Revenue Transfers	(253,000)
From Beginning Nonlapsing Balances	981,900
From Closing Nonlapsing Balances	(508,500)

Schedule of Programs:

Educator Licensing	2,468,100
STEM Endorsement Incentives	1,620,000
National Board-Certified Teachers	246,300

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Educator Licensing line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) background check response and notification of local education agency within 72 hours (target = 100%);

(2) teachers in a Utah local education agency who hold a standard Professional License (target = 95%); and

(3) teachers in a Utah local education agency who have demonstrated preparation in assigned subject area (target = 95%).

Item 31 To State Board of Education – Fine Arts Outreach

From Education Fund	5,210,000
From Beginning Nonlapsing Balances	1,540,900
From Closing Nonlapsing Balances	(1,540,900)
Schedule of Programs:	
Professional Outreach Programs in the Schools	4,906,000
Provisional Program	250,000
Subsidy Program	54,000

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Fine Arts Outreach line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) local education agencies served in a three-year period (target = 100% of districts and 90% of charters);

(2) number of students and educators receiving services (target = 500,000 students and 26,000 educators); and

(3) efficacy of education programming as determined by peer review (target = 90%).

Item 32 To State Board of Education – Contracted Initiatives and Grants

From General Fund	7,884,500
From Education Fund	52,859,500
From General Fund Restricted – Autism Awareness Account	50,700
From Revenue Transfers	(167,700)
From Beginning Nonlapsing Balances	17,807,700
From Closing Nonlapsing Balances	(14,893,700)
From Lapsing Balance	(9,000)
Schedule of Programs:	
Autism Awareness	41,700
Carson Smith Scholarships	8,153,200
Computer Science Initiatives	117,500
Contracts and Grants	3,252,300
Software Licenses for Early Literacy	10,674,200
Early Warning Pilot Program	325,000
Elementary Reading Assessment Software Tools	3,767,100
General Financial Literacy	465,500
Intergenerational Poverty Interventions	1,051,800
Interventions for Reading Difficulties	366,500
IT Academy	500,000
Kindergarten Supplement Enrichment Program	25,100
Paraeducator to Teacher Scholarships	30,500
Partnerships for Student Success	3,430,900
ProStart Culinary Arts Program	521,500
School Turnaround and Leadership Development Act	4,043,000
UPSTART	20,300,400
ULEAD	571,500
Supplemental Educational Improvement Matching Grants	154,700
Competency-Based Education Grants	2,931,700
Special Needs Opportunity Scholarship Administration	57,900
Education Technology Management System	1,850,000
School Data Collection and Analysis	900,000

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Contracted Initiatives and Grants line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before

October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) Carson Smith Scholarship annual compliance reporting (target = 100%);

(2) number of students served by UPSTART (target = 20,200);

(3) School Turnaround and Leadership Development Act schools meeting the exit criteria or qualifying for an extension (target = 100%);

(4) Partnerships for Student Success Program average number of partners forming a partnership with a lead grant applicant within a school feeder pattern (target = 15 partners);

(5) percentage of grade 3 students at Partnerships for Student Success schools who met reading benchmark at year end (target = 55%);

(6) percentage of grade 8 students at Partnerships for Student Success schools proficient in mathematics (target = 24%);

(7) high school graduation rate for students at Partnerships for Student Success schools (target = 86%);

(8) Intergenerational Poverty Interventions Grant Program improvement in reading proficiency rates for regularly participating after-school students (target = 8 points);

(9) Intergenerational Poverty Interventions Grant Program improvement in mathematics proficiency rates for regularly participating after-school students (target = 7 points); and

(10) Intergenerational Poverty Interventions Grant Program improvement in science proficiency rates for regularly participating after-school students (target = 4 points).

Item 33 To State Board of Education - MSP Categorical

Program Administration

From Education Fund	7,486,100
From Revenue Transfers	(394,500)
From Beginning Nonlapsing Balances	4,463,500
From Closing Nonlapsing Balances	(3,735,300)

Schedule of Programs:

Adult Education	325,600
Beverley Taylor Sorenson Elementary Arts Learning Program	115,900
CTE Comprehensive Guidance	274,500
Digital Teaching and Learning	520,400
Dual Immersion	601,200
At-risk Students	449,900
Special Education State Programs	265,300
Youth-in-Custody	1,290,100
Early Literacy Program	433,800
CTE Online Assessments	659,300
CTE Student Organizations	1,039,900
State Safety and Support Program	557,600
Student Health and Counseling Support Program	324,600
Early Learning Training and Assessment	961,700

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the MSP Categorical Program Administration line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) number of schools engaged in Digital Teaching and Learning (target = 740 schools);

(2) professional learning for Dual Immersion educators (target = 1,800 educators);

(3) support for guest Dual Immersion educators (target = 150 educators);

(4) Beverley Taylor Sorenson Elementary Arts Learning Program fidelity of implementation (target = 50 site visits); and

(5) Beverley Taylor Sorenson Elementary Arts Learning Program survey completion for schools with intervention when responses show concern for implementation (target = 100%).

Item 34 To State Board of Education - Regional Education Service Agencies

From Education Fund	2,000,000

Schedule of Programs:

Regional Education Service Agencies	2,000,000

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Regional Education Service Agencies line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) professional learning services (target = 3,000 educator training hours and 20,000 participation hours);

(2) technical support services (target = 7,000 support hours); and

(3) higher education services (target = 1,500 graduate level credit hours).

Item 35 To State Board of Education - Science Outreach

From Education Fund	5,765,000
From Beginning Nonlapsing Balances	82,800
From Closing Nonlapsing Balances	(39,700)

Schedule of Programs:

Informal Science Education Enhancement	5,570,000
Provisional Program	238,100

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Science Outreach line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) student science experiences (target = 380,000);

(2) student field trips (target = 375,000); and

(3) educator professional learning (target = 2,000 educators).

Item 36 To State Board of Education - Policy, Communication, and Oversight

From General Fund	410,200
From Education Fund	19,963,100
From Federal Funds	157,315,800
From Dedicated Credits Revenue	64,300
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	5,084,200
From General Fund Restricted - Mineral Lease	1,315,800
From Gen. Fund Rest. - Land Exchange Distribution Account	16,200
From General Fund Restricted - School Readiness Account	65,500
From Revenue Transfers	3,786,600
From Uniform School Fund Rest. - Trust Distribution Account	752,400
From Education Fund Restricted - Underage Drinking Prevention Program Restricted Account	1,751,300
From Beginning Nonlapsing Balances	36,534,200
From Closing Nonlapsing Balances	(8,977,100)
From Lapsing Balance	(64,500)

Schedule of Programs:

Board and Administration	5,312,300
Data and Statistics	2,413,500
Financial Operations	4,106,200
Indirect Cost Pool	8,107,900
Information Technology	14,277,700
Math Teacher Training	110,700
Policy and Communication	2,229,500
School Trust	697,000
Special Education	81,912,000
Student Support Services	98,851,200

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Policy, Communications, and Oversight line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) educators participating in trauma-informed practices training (target = 6,000); and

(2) local education agency Individuals with Disabilities Education Act noncompliance correction (target = 100%).

Item 37 To State Board of Education - System Standards and Accountability

From General Fund	100
From Education Fund	23,390,900
From Federal Funds	36,884,200
From Dedicated Credits Revenue	6,954,900
From Expendable Receipts	446,000
From General Fund Restricted - Mineral Lease	404,100
From Revenue Transfers	(1,458,300)
From Beginning Nonlapsing Balances	18,044,500
From Closing Nonlapsing Balances	(6,533,000)

Schedule of Programs:

Teaching and Learning	32,146,900
Assessment and Accountability	28,438,400
Career and Technical Education	17,046,700
Teacher Retention in Indigenous Schools Grants	501,400

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the System Standards and Accountability line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) local education agencies served by Teaching and Learning (target = 100%);

(2) career and technical education professional development (target = 5,500 educators);

(3) Readiness Improvement Success Empowerment (RISE) summative assessments delivered to the field on schedule (target = March 14, 2023); and

(4) Utah Aspire Plus summative assessments delivered to the field on schedule (target = March 6, 2023).

Item 38 To State Board of Education - State Charter School Board

From Education Fund	3,859,300
From Revenue Transfers	(223,200)
From Beginning Nonlapsing Balances	5,444,100
From Closing Nonlapsing Balances	(4,932,100)
Schedule of Programs:	
State Charter School Board	4,148,100

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the State Charter School Board line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) one or more State Charter School Board members or staff members will have met with State Charter School Board schools (target = 100% by January 2023);

(2) State Charter School Board charter governing board members will have received training on expectations of governing board members and effective school governance (target = 50% by January 2023); and

(3) charter LEAs authorized by the State Charter School Board will have all the required policies publicly available and will have posted their meetings, minutes, and recordings, as required by the Open and Public Meetings Act, or be placed on warning or probation (target = 100% by end of the 2022-2023 school year).

Item 39 To State Board of Education - Teaching and Learning

From Education Fund	171,700
From Revenue Transfers	(22,200)
From Beginning Nonlapsing Balances	22,600
Schedule of Programs:	
Student Access to High Quality School Readiness Programs	172,100

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Teaching and Learning line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) in literacy, the percentage of students who participate in High Quality School Readiness who are proficient (earn Proficiency Level 3) on the Kindergarten Entry and Exit Profile (KEEP) Entry compared to students who participate in non-High Quality School Readiness programs tracked by the state (target = 65%);

(2) in numeracy, the percentage of students who participate in High Quality School Readiness who are proficient (earn Proficiency Level 3) on the KEEP Entry compared to students who participate in non-High Quality School Readiness programs tracked by the state (target = 74%); and

(3) significant differences in literacy and numeracy achievement as measured by the KEEP Entry and grade 3 Readiness Improvement Success Empowerment (RISE) proficiency (target to be determined by USBE by September 30, 2022).

Item 40 To State Board of Education - Utah Charter School Finance Authority

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

Item 41 To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund	36,949,300
From Federal Funds	107,500
From Dedicated Credits Revenue	1,710,100
From Revenue Transfers	6,130,400
From Beginning Nonlapsing Balances	3,517,000
From Closing Nonlapsing Balances	(3,970,600)

Schedule of Programs:

Support Services	16,000
Administration	9,245,900
Transportation and Support Services	11,301,200
Utah State Instructional Materials Access Center	2,156,600
School for the Deaf	12,506,500
School for the Blind	9,217,500

In accordance with Section 63J-1-903, the Legislature intends that the State Board of Education report performance measures for the Utah Schools for the Deaf and the Blind line item. The State Board of Education shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in Fiscal Year 2022 appropriations bills. For Fiscal Year 2023, the department shall report the following performance measures:

(1) average growth on vocabulary assessments for the deaf and hard of hearing campus students (target = greater than 2 standard score points);

(2) outreach educational services - provide contracted outreach services (target = 100%);

(3) deaf-blind educational services - improve communication matrix scores (target = 2.5%); and

(4) average percentage of growth for blind and visually impaired students attending campus programs (target = 51%).

Item 42 To State Board of Education - Statewide Online EducationCosts for Non-Public Students

From Education Fund	6,190,700
From Revenue Transfers	(60,900)
From Beginning Nonlapsing Balances	938,200
From Closing Nonlapsing Balances	(642,300)

Schedule of Programs:

Statewide Online Education Program	6,425,700

School and Institutional Trust Fund Office

Item 43 To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Account	3,303,100

Schedule of Programs:

School and Institutional Trust Fund Office	3,303,100

Subsection 5(b). Expendable Funds and Accounts.

The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

Public Education

State Board of Education

Item 44 To State Board of Education - Charter School Revolving Account

From Dedicated Credits Revenue	4,600
From Interest Income	132,200
From Repayments	1,511,400
From Beginning Fund Balance	7,293,000
From Closing Fund Balance	(7,429,800)

Schedule of Programs:

Charter School Revolving Account	1,511,400

Item 45 To State Board of Education - Hospitality and TourismManagement Education Account

From Dedicated Credits Revenue	300,000
From Interest Income	5,200
From Beginning Fund Balance	632,800
From Closing Fund Balance	(588,000)

Schedule of Programs:

Hospitality and Tourism Management Education Account	350,000

Item 46 To State Board of Education - School Building Revolving Account

From Dedicated Credits Revenue	500
From Interest Income	112,800
From Repayments	1,465,600
From Beginning Fund Balance	10,185,500
From Closing Fund Balance	(10,298,800)

Schedule of Programs:

School Building Revolving Account	1,465,600

Item 47 To State Board of Education - Charter School Closure ReserveAccount

From Beginning Fund Balance	1,000,000
From Closing Fund Balance	(1,000,000)

Subsection 5(c). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Public Education

Item 48 To Uniform School Fund Restricted - Public Education

Economic Stabilization Restricted Account

From Uniform School Fund	248,100,000
From Beginning Fund Balance	632,700
From Closing Fund Balance	(632,700)
Schedule of Programs:	
Public Education Economic Stabilization Restricted Account	248,100,000

Item 49 To Education Fund Restricted - Minimum Basic Growth Account

From Education Fund	75,000,000
Schedule of Programs:	
Education Fund Restricted - Minimum Basic Growth Account	75,000,000

Item 50 To Underage Drinking Prevention Program Restricted Account

From Liquor Control Fund	1,750,000
Schedule of Programs:	
Underage Drinking Prevention Program Restricted Account	1,750,000

Item 51 To Local Levy Growth Account

From Education Fund	108,461,300
Schedule of Programs:	
Local Levy Growth Account	108,461,300

Item 52 To Teacher and Student Success Account

From Education Fund	131,953,600
Schedule of Programs:	
Teacher and Student Success Account	131,953,600

Subsection 5(d). Fiduciary Funds.

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

Public Education

State Board of Education

Item 53 To State Board of Education - Education Tax Check-off Lease Refunding

From Beginning Fund Balance	39,600
From Closing Fund Balance	(37,400)
Schedule of Programs:	
Education Tax Check-off Lease Refunding	2,200

Item 54 To State Board of Education - Schools for the Deaf and the Blind Donation Fund

From Dedicated Credits Revenue	115,000
From Interest Income	5,400
From Beginning Fund Balance	269,900
From Closing Fund Balance	(273,900)
Schedule of Programs:	
Schools for the Deaf and the Blind Donation Fund	116,400

Section 7. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections of this bill take effect on July 1, 2022:

(a) Section 53F-2-301.5;

(b) Section 5, Fiscal Year 2023 Appropriations;

(c) Subsection 5(a), Operating and Capital Budgets;

(d) Subsection 5(b), Expendable Funds and Accounts;

(e) Subsection 5(c), Restricted Fund and Account Transfers; and

(f) Subsection 5(d), Fiduciary Funds.

CHAPTER 2
H.B. 5

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY BASE BUDGET

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates ($73,244,700) in operating and capital budgets for fiscal year 2022, including:

- $10,000,000 from the General Fund; and
- ($83,244,700) from various sources as detailed in this bill.

This bill appropriates $26,580,200 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $24,000,400 in business-like activities for fiscal year 2022.

This bill appropriates $505,201,100 in operating and capital budgets for fiscal year 2023, including:

- $81,249,900 from the General Fund;
- $495,000 from the Education Fund; and
- $423,456,200 from various sources as detailed in this bill.

This bill appropriates $55,548,400 in expendable funds and accounts for fiscal year 2023, including:

- $50,000,000 from the General Fund; and
- $5,548,400 from various sources as detailed in this bill.

This bill appropriates $73,797,400 in business-like activities for fiscal year 2023.

This bill appropriates $9,112,900 in restricted fund and account transfers for fiscal year 2023, including:

- $8,070,500 from the General Fund; and
- $1,042,400 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 1

To Department of Agriculture and Food – Administration	
From General Fund Restricted – Cat and Dog Community Spay and Neuter Program Restricted Account, One-Time	200
From Closing Nonlapsing Balances	(567,700)
Schedule of Programs:	
Chemistry Laboratory	(120,600)
General Administration	(347,900)
Utah Horse Commission	(99,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $449,500 of the appropriations provided for the Administration line item in Item 43, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures from General Fund are limited to: Computer Equipment/Software $100,000; Employee Training/Incentives $100,000; Equipment/Supplies $94,500; Special Projects/Studies $100,000; Furnishings/Equipment $55,000.

Item 2

To Department of Agriculture and Food – Animal Industry	
From Closing Nonlapsing Balances	(705,900)
Schedule of Programs:	
Animal Health	77,100
Brand Inspection	(187,700)
Meat Inspection	(595,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $705,900 of the appropriations provided for the Animal Health line item in Item 44, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures from General Fund are limited to: Computer Equipment/Software $200,000 Employee Training/Incentives $200,000; Special Projects/Studies $305,900.

Item 3

To Department of Agriculture and Food – Invasive Species Mitigation	
From Beginning Nonlapsing Balances	(612,500)
From Closing Nonlapsing Balances	(591,000)
Schedule of Programs:	

Invasive Species Mitigation	(1,203,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $591,100 of the appropriations provided for Invasive Species Mitigation in Item 46, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Invasive species mitigation projects.

Item 4

To Department of Agriculture and Food – Marketing and Development

From Closing Nonlapsing Balances	(349,100)
Schedule of Programs:	
Marketing and Development	(349,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $349,100 of the appropriations provided for the Marketing and Development line item in Item 47, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of General Fund are limited to: Employee Training/Incentives $25,000; Equipment/Supplies $50,000; Special Projects/Studies $274,100.

Item 5

To Department of Agriculture and Food – Plant Industry

From Federal Funds, One-Time	(1,352,600)
From Closing Nonlapsing Balances	(1,375,600)
Schedule of Programs:	
Environmental Quality	(1,352,600)
Grazing Improvement Program	(560,500)
Plant Industry	(815,100)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,375,600 of the appropriations provided for the Plant Industry line item in Item 48, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of General Fund are limited to: Computer Equipment/Software $200,000; Employee Training/Incentives $63,300; Special Projects/Studies $186,700. Expenditures of Dedicated Credits are limited to: $400,000 to continue development of a department-wide computer system to manage regulatory programs, including DTS staffing; $525,600 Capital purchases/equipment.

Item 6

To Department of Agriculture and Food – Predatory Animal Control

From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention, One-Time	(92,200)
From Closing Nonlapsing Balances	(86,600)
Schedule of Programs:	
Predatory Animal Control	(178,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $86,600 of the appropriations provided for Predatory Animal Control in Item 49, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to equipment/supplies.

Item 7

To Department of Agriculture and Food – Rangeland Improvement

From Closing Nonlapsing Balances	(524,800)
Schedule of Programs:	
Rangeland Improvement	(524,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $524,800 of the appropriations provided for Rangeland Improvement in Item 50, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to rangeland improvement projects.

Item 8

To Department of Agriculture and Food – Regulatory Services

From Beginning Nonlapsing Balances	23,600
From Closing Nonlapsing Balances	(1,028,900)
Schedule of Programs:	
Regulatory Services Administration	(746,391)
Bedding & Upholstered	(25)
Weights & Measures	(181,074)
Food Inspection	(77,837)
Dairy Inspection	(17)
Egg Grading and Inspection	44

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,028,900 of the appropriations provided for the Regulatory Services line item in Item 51, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of General Fund are limited to Employee Training/Incentives $100,000; Equipment/Supplies $100,000; Special Projects/Studies $100,000. Expenditures of Dedicated Credits are limited to: $728,900 to continue development of a Food Safety Management computer system to manage regulatory programs, purchase equipment and supplies, and large-scale truck repair.

Item 9

To Department of Agriculture and Food – Resource Conservation

From Federal Funds – American Rescue Plan, One-Time	20,000,000
From Closing Nonlapsing Balances	(2,244,500)
Schedule of Programs:	
Conservation Commission	(74,000)
Resource Conservation	17,829,500

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $2,384,500 of the appropriations provided for Resource Conservation in Item 52, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Water Efficiency and Optimization projects $2,000,000; training/incentives $100,000; equipment/supplies/special projects $284,500.

Item 10

To Department of Agriculture and Food – Medical Cannabis

From Qualified Production Enterprise Fund, One–Time	(790,200)
Schedule of Programs:	
Medical Cannabis	(790,200)

Item 11

To Department of Agriculture and Food – Industrial Hemp

From Dedicated Credits Revenue, One–Time	272,000
From Closing Nonlapsing Balances	(400,000)
Schedule of Programs:	
Industrial Hemp	(128,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $400,000 of the appropriations provided for Industrial Hemp in Item 55, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Training/incentives $100,000; equipment/ supplies $300,000.

Item 12

To Department of Agriculture and Food – Analytical Laboratory

From Qualified Production Enterprise Fund, One–Time	(919,500)
From Closing Nonlapsing Balances	(100,000)
Schedule of Programs:	
Analytical Laboratory	(1,019,500)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $100,000 of the appropriations provided for Analytical Laboratory in Item 264, Chapter 442, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Laboratory supplies and equipment.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 13

To Department of Environmental Quality – Drinking Water

From Federal Funds – American Rescue Plan, One–Time	3,500,000
From Closing Nonlapsing Balances	(268,700)
Schedule of Programs:	
Drinking Water Administration	(906,700)
Safe Drinking Water Act	300,200
System Assistance	3,889,800
State Revolving Fund	(52,000)

The legislature intends that that the Division of Drinking Water, as part of the Water Development Coordinating Council, report to the Natural Resources, Agriculture and Environmental Quality Appropriations subcommittee a prioritized list of the statewide financial needs for drinking water infrastructure by June 1st, 2022.

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $268,700 of the appropriations provided for Drinking Water in the Laws of Utah in Item 56, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to Drinking Water Source Sizing Requirements.

Item 14

To Department of Environmental Quality – Environmental Response and Remediation

From Closing Nonlapsing Balances	(135,000)
Schedule of Programs:	
Environmental Response and Remediation	(211,000)
Voluntary Cleanup	14,800
CERCLA	79,500
Tank Public Assistance	1,200
Leaking Underground Storage Tanks	2,300
Underground Storage Tanks	(21,800)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $135,00 of the appropriations provided for Environmental Response and Remediation in in Item 57, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to Underground Petroleum Storage Tank (UST) Operator certification $25,000; Aboveground Petroleum Storage Tank (AST) program $35,000; data processing hardware $30,000; technological services $45,000.

Item 15

To Department of Environmental Quality – Executive Director's Office

From Closing Nonlapsing Balances	(1,000,000)
Schedule of Programs:	
Executive Director Office Administration	(1,011,600)
Radon	11,600

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $1,000,000 of the appropriations provided for Executive Directors Office in Item 58, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to high level nuclear waste opposition $10,000; capital improvements/ maintenance, data processing software, document management database, and equipment $840,000; administrative law judge $150,000.

Item 16

To Department of Environmental Quality – Waste Management and Radiation Control

From Closing Nonlapsing Balances	(650,000)
Schedule of Programs:	
Waste Management and Radiation Control	(272,800)
Hazardous Waste	(430,400)
Solid Waste	175,300
Radiation	200
Low Level Radioactive Waste	(83,100)
WIPP	3,600
Used Oil	(57,200)
Waste Tire	6,700
X-Ray	7,700

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $650,000 of the appropriations provided for

Waste Management and Radiation Control in Item 58, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to research and development to replace obsolete and outdated programming and databases $550,000; capital improvements and maintenance, data processing software and equipment $75,000; stakeholder outreach and education $25,000.

Item 17

To Department of Environmental Quality – Water Quality

From Beginning Nonlapsing Balances	54,600
From Closing Nonlapsing Balances	(2,326,100)
Schedule of Programs:	
Water Quality Support	(1,989,500)
Water Quality Protection	(398,300)
Water Quality Permits	114,200
Onsite Waste Water	2,100

The legislature intends that that the Division of Water Quality, as part of the Water Development Coordinating Council, report to the Natural Resources, Agriculture, and Environmental Quality Appropriations subcommittee a prioritized list of the statewide financial needs for wastewater infrastructure by June 1st, 2022.

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $2,326,100 of the appropriations provided for Division Water Quality in Item 60, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to Agriculture Voluntary Incentive Program $2,000,000; independent scientific review activities as outlined in R317–1–10, $121,500; inland port monitoring, $54,600; data processing software and consultant services $100,000; equipment $50,000.

Item 18

To Department of Environmental Quality – Trip Reduction Program

From Beginning Nonlapsing Balances	(1,600)
From Closing Nonlapsing Balances	(498,400)
Schedule of Programs:	
Trip Reduction Program	(500,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $498,400 of the appropriations provided for Trip Reduction Program in Item in Item 61, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to reduction of trips – free fare days.

Item 19

To Department of Environmental Quality – Air Quality

From Beginning Nonlapsing Balances	(157,900)
From Closing Nonlapsing Balances	(12,167,000)
Schedule of Programs:	
Compliance	(167,400)
Permitting	(751,600)
Planning	(10,548,300)
Air Quality Administration	(857,600)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $12,167,000 of the appropriations provided for Division of Air Quality in Item 62, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to reducing future operating permit fees $100,000; permit annual fees $400,000; air monitoring equipment $550,000; air quality research $380,000; mobile monitoring data collection $12,000; electric vehicle charging equipment $4,025,000; replace wood–fired stoves and fireplaces with gas appliances $6,500,000, and Box Elder County air quality $200,000.

Item 20

To Department of Environmental Quality – Laboratory Services

From Closing Nonlapsing Balances	(250,000)
Schedule of Programs:	
Laboratory Services	(250,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $250,000 of the appropriations provided for Laboratory Services in Item 178, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to laboratory testing services.

DEPARTMENT OF NATURAL RESOURCES

Item 21

To Department of Natural Resources – Administration

From Closing Nonlapsing Balances	(225,000)
Schedule of Programs:	
Executive Director	(225,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $225,000 appropriations provided for DNR Administration line item in Item 64, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Computer Equipment/ Software $75,000; Equipment/Supplies $25,000; and Current Expense $125,000.

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided for the Division of Fleet Operations to install telematics devices on DNR vehicles in Item 180, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2022.

Item 22

To Department of Natural Resources – Contributed Research

From Expendable Receipts, One–Time	2,000,000
Schedule of Programs:	
Contributed Research	2,000,000

Item 23

To Department of Natural Resources – DNR Pass Through

From Beginning Nonlapsing Balances	(2,262,700)
From Closing Nonlapsing Balances	(10,250,000)
Schedule of Programs:	
DNR Pass Through	(12,512,700)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $10,250,000 appropriations provided for the Department of Natural Resources in Item 68, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to projects that have been obligated by contract but unexpended at the end of fiscal year 2022: Utah Lake Funding $9,795,000; and Bear Lake Improvements $350,000; Utah County Fire Rehabilitation $105,000.

Item 24

To Department of Natural Resources – Forestry, Fire and State Lands

From Beginning Nonlapsing Balances	8,093,200
From Closing Nonlapsing Balances	(13,000,000)
Schedule of Programs:	
Division Administration	(33,500)
Fire Management	(435,000)
Fire Suppression Emergencies	5,738,200
Forest Management	33,600
Lone Peak Center	438,800
Program Delivery	200,000
Project Management	(10,848,900)

Under the terms of 631–1–603 of the Utah Code, the Legislature intends that up to $12,000,000 appropriations provided for the Division of Forestry, Fire, and State Lands in Item 69, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Sovereign Lands Related Projects $6,264,000; Little Willow Water Line $18,000; Shared Stewardship $2,500,000; Aspen Regeneration $1,360,000; Fire Mitigation $458,000; and Strategic and Targeted $1,400,000.

Item 25

To Department of Natural Resources – Oil, Gas and Mining

From Beginning Nonlapsing Balances	220,300
From Closing Nonlapsing Balances	(3,600,000)
Schedule of Programs:	
Abandoned Mine	(47,400)
Administration	81,700
Coal Program	(558,700)
Minerals Reclamation	88,700
OGM Misc. Nonlapsing	(3,086,800)
Oil and Gas Program	142,800

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $400,000 appropriations provided for the Division of Oil, Gas and Mining line item in Item 70, Chapter 7, Laws of Utah 2021 shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Mining Special Projects/Studies $250,000; Computer Equipment/Software $50,000; Employee Training/Incentives $50,000; Equipment/Supplies $50,000.

Item 26

To Department of Natural Resources – Species Protection

From Dedicated Credits Revenue, One–Time	(2,450,000)
From Designated Sales Tax, One–Time	2,450,000
From Beginning Nonlapsing Balances	835,000
From Closing Nonlapsing Balances	(1,235,000)
Schedule of Programs:	
Species Protection	(400,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $1,235,000 appropriations provided for the Species Protection program in Item 73, Chapter 7, Laws of Utah 2021 shall not lapse at the close of Fiscal Year 2022. Expenditures are limited to: Implementation of the Desert Tortoise Reserve $835,000, and Implementation of Species Protection Program Projects $400,000.

Item 27

To Department of Natural Resources – Utah Geological Survey

From Beginning Nonlapsing Balances	747,700
From Closing Nonlapsing Balances	(2,207,900)
Schedule of Programs:	
Administration	(681,100)
Board	1,800
Energy and Minerals	(672,100)
Geologic Hazards	88,800
Geologic Information and Outreach	203,400
Geologic Mapping	207,800
Ground Water	323,400
Technical Services	(932,200)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $2,207,900 appropriations provided for the Utah Geological Survey line item in Item 74, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Employee Training/Incentives $50,000; Current Expense $50,000; Equipment/Supplies $200,000; Computer Equipment/Software $200,000; Grant Projects Match $500,000; Bonneville Salt Flats Restoration, $477,900, and Great Salt Lake Groundwater Studies, $730,000.

Item 28

To Department of Natural Resources – Water Resources

From Federal Funds – American Rescue Plan, One–Time	(45,000,000)
From Dedicated Credits Revenue, One–Time	(150,000)
From Designated Sales Tax, One–Time	150,000

From Beginning Nonlapsing Balances	(925,600)
From Closing Nonlapsing Balances	(18,700,000)

Schedule of Programs:

Administration	(723,700)
Construction	(59,044,600)
Planning	(4,380,600)
Funding Projects and Research	(476,700)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $18,700,000 appropriations provided for the Division of Water Resources line item in Item 75, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Operating Budget Items $300,000; Water Conservation Funding $300,000; Water Banking $200,000; Dam Safety Construction Project $13,000,000; Water Infrastructure $400,000; Agricultural Water Optimization $350,000; Transparent Water Billing $1,900,000, Secondary Water Metering $2,000,000, and Integrating Water Planning and Land Use Planning $250,000.

Item 29

To Department of Natural Resources – Water Rights

From Dedicated Credits Revenue, One-Time	(3,996,800)
From Designated Sales Tax, One-Time	3,996,800
From Closing Nonlapsing Balances	(1,000,000)

Schedule of Programs:

Adjudication	(893,300)
Administration	(350,000)
Applications and Records	142,500
Canal Safety	(400)
Dam Safety	(13,400)
Field Services	114,600

Under the terms of 63-1-603, the Legislature intends that up to $1,000,000 appropriations provided for the Division of Water Rights line item in Item 76, Chapter 76, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Computer Equipment/ Software Development $800,000; Professional Services $100,000; Equipment/Supplies $40,000; Employee Training/Incentives $5,000; Travel $15,000; Postage $25,000; Advertising $15,000.

Item 30

To Department of Natural Resources – Watershed

From Dedicated Credits Revenue, One-Time	(500,000)
From Designated Sales Tax, One-Time	500,000
From Beginning Nonlapsing Balances	(709,300)
From Closing Nonlapsing Balances	(3,000,000)

Schedule of Programs:

Watershed	(3,709,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Watershed program in Item 77, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to projects obligated by contract in FY 2022 up to $3,000,000.

Item 31

To Department of Natural Resources – Wildlife Resources

From General Fund, One-Time	10,000,000
From Federal Funds, One-Time	6,500,000
From General Fund Restricted – Boating, One-Time	(1,173,900)
From Beginning Nonlapsing Balances	(700,000)
From Closing Nonlapsing Balances	(1,100,000)

Schedule of Programs:

Habitat Section	16,499,900
Law Enforcement	(1,173,900)
Wildlife Section	(1,799,900)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations up to $400,000 provided for the Wildlife Resources line item in Item 78, Chapter 7, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: implementation of the Mule Deer Protection Plan $200,000 and implementation of the Predator Control Plan $200,000.

The Legislature intends that up to $700,000 of Wildlife Resources budget be used for big game depredation expenses and that these funds shall not lapse at the close of Fiscal Year 2022. The Legislature further intends that half of the funds be from the General Fund Restricted – Wildlife Resources account and the other half from the General Fund.

Item 32

To Department of Natural Resources – Wildlife Resources Capital Budget

From Beginning Nonlapsing Balances	(599,400)
From Closing Nonlapsing Balances	(599,400)

Schedule of Programs:

Fisheries	(1,198,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for the Wildlife Resources Capital line item in the Laws of Utah 2021, Chapter 7, Item 79 shall not lapse at the close of Fiscal Year 2022. Expenditures of these funds are limited to Operations and Maintenance of the Hatchery Systems in the state: $599,400.

Item 33

To Department of Natural Resources – Public Lands Policy Coordinating Office

From Beginning Nonlapsing Balances	(499,500)
From Closing Nonlapsing Balances	(5,810,100)

Schedule of Programs:

Public Lands Policy Coordinating Office	(6,309,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that General

Fund appropriations provided for the Public Lands Policy Coordinating Office, in Item 2, Chapter 382, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditure of these funds are limited to: activities and opportunities related to our Shared Stewardship Agreement with the Forest Service $500,000; Wild Horse and Burro Management $317,000; to offset future volatility of the Constitutional Defense Restricted Account $500,000; RS2477 and other litigation $328,600.

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $6,354,400 of the General Fund appropriations provided for the Public Lands Policy Coordinating Office, in Item 196, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditure of these funds are limited to: Public Land Education $500,000; Monroe Mountain Data Gathering $360,800; Resource Management Plan Updates $493,600; Protection of Utah Natural Resources and Public Lands $5,000,000.

Item 34

To Department of Natural Resources – Division of Parks

From Beginning Nonlapsing Balances	376,700
Schedule of Programs:	
State Park Operation Management	376,700

The Legislature intends that the Division of State Parks be allowed to purchase up to five new vehicles in FY 2022 for the newly created Utahraptor and Lost Creek state parks.

Item 35

To Department of Natural Resources – Division of Parks – Capital

From Beginning Nonlapsing Balances	11,226,600
Schedule of Programs:	
Donated Capital Projects	306,000
Major Renovation	723,100
Region Renovation	228,300
Renovation and Development	9,969,200

Item 36

To Department of Natural Resources – Division of Recreation

Schedule of Programs:	
Recreation Services	(1,436,200)
Recreation Administration	1,436,200

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $383,500 appropriations provided for the Division of Recreation line item in Item 290, Chapter 442, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to the creation of a long term plan for Utah's outdoor recreation assets.

Item 37

To Department of Natural Resources – Division of Recreation– Capital

From Beginning Nonlapsing Balances	5,884,000
Schedule of Programs:	
Boat Access Grants	682,100
Off-highway Vehicle Grants	5,066,300
Trails Program	135,600

Item 38

To Department of Natural Resources – Office of Energy Development

From Beginning Nonlapsing Balances	(147,500)
From Closing Nonlapsing Balances	(1,037,500)
Schedule of Programs:	
Office of Energy Development	(1,185,000)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $1,037,500 of the appropriations provided for the Office of Energy Development, Laws of Utah 2021, Chapter 280, Item 8 shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: $165,000 for OED administration special projects, $750,000 for the Isotopes Research Center, and $122,500 for the San Rafael Director.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 39

To Department of Agriculture and Food – Salinity Offset Fund

From Beginning Fund Balance	74,600
From Closing Fund Balance	(74,600)

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 40

To Department of Environmental Quality – Hazardous Substance Mitigation Fund

From Beginning Fund Balance	192,500
From Closing Fund Balance	(183,300)
Schedule of Programs:	
Hazardous Substance Mitigation Fund	9,200

Item 41

To Department of Environmental Quality – Waste Tire Recycling Fund

From Waste Tire Recycling Fund, One-Time	(209,300)
From Beginning Fund Balance	(172,000)
From Closing Fund Balance	(223,800)
Schedule of Programs:	
Waste Tire Recycling Fund	(605,100)

Item 42

To Department of Environmental Quality – Conversion to Alternative Fuel Grant Program Fund

From Beginning Fund Balance	22,100
From Closing Fund Balance	(22,100)

DEPARTMENT OF NATURAL RESOURCES

Item 43

To Department of Natural Resources – UGS Sample Library Fund	
From Dedicated Credits Revenue, One–Time	(2,400)
From Beginning Fund Balance	(2,400)
From Closing Fund Balance	4,800

Item 44

To Department of Natural Resources – Wildland Fire Suppression Fund	
From Beginning Fund Balance	26,985,300
Schedule of Programs:	
Wildland Fire Suppression Fund	26,985,300

Item 45

To Department of Natural Resources – Wildland Fire Preparedness Grants Fund	
From Beginning Fund Balance	190,800
Schedule of Programs:	
Wildland Fire Preparedness Grants Fund	190,800

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

DEPARTMENT OF AGRICULTURE AND FOOD

Item 46

To Department of Agriculture and Food – Qualified Production Enterprise Fund	
From Dedicated Credits Revenue, One–Time	1,250,000
From Revenue Transfers, One–Time	768,000
From Beginning Fund Balance	3,014,600
From Closing Fund Balance	(3,075,800)
From Lapsing Balance	543,600
Schedule of Programs:	
Qualified Production Enterprise Fund	2,500,400

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 47

To Department of Environmental Quality – Water Development Security Fund – Drinking Water	
From Federal Funds – American Rescue Plan, One–Time	21,500,000
Schedule of Programs:	
Drinking Water	21,500,000

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 48

To Department of Agriculture and Food – Administration	
From General Fund	2,838,400
From Federal Funds	222,400
From Dedicated Credits Revenue	307,600
From Revenue Transfers	71,200
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention	30,000
From Beginning Nonlapsing Balances	449,500
Schedule of Programs:	
General Administration	3,889,100
Sheep Promotion	30,000

Item 49

To Department of Agriculture and Food – Animal Industry	
From General Fund	3,682,800
From Education Fund	250,000
From Federal Funds	2,166,800
From Dedicated Credits Revenue	173,600
From General Fund Restricted – Horse Racing	46,700
From General Fund Restricted – Livestock Brand	1,513,400
From Revenue Transfers	3,900
From Beginning Nonlapsing Balances	705,900
From Closing Nonlapsing Balances	(1,184,900)
Schedule of Programs:	
Animal Health	2,651,400
Auction Market Veterinarians	72,700
Brand Inspection	2,065,700
Meat Inspection	2,444,400
Horse Racing Commission	124,000

Item 50

To Department of Agriculture and Food – Building Operations	
From General Fund	417,200
Schedule of Programs:	
Building Operations	417,200

Item 51

To Department of Agriculture and Food – Invasive Species Mitigation	
From General Fund Restricted – Invasive Species Mitigation Account	2,014,200
From Beginning Nonlapsing Balances	591,100
From Closing Nonlapsing Balances	(341,100)
Schedule of Programs:	
Invasive Species Mitigation	2,264,200

Item 52

To Department of Agriculture and Food – Marketing and Development	
From General Fund	785,000
From Federal Funds	322,300

From Dedicated Credits Revenue	22,400
From Beginning Nonlapsing Balances	349,100
Schedule of Programs:	
Marketing and Development	1,478,800

Item 53

To Department of Agriculture and Food – Plant Industry

From General Fund	591,000
From Federal Funds	2,235,700
From Dedicated Credits Revenue	3,583,300
From Agriculture Resource Development Fund	203,300
From Revenue Transfers	393,700
From Pass–through	184,200
From Beginning Nonlapsing Balances	1,375,600
From Closing Nonlapsing Balances	(293,700)
Schedule of Programs:	
Environmental Quality	203,700
Grain Inspection	493,500
Grazing Improvement Program	2,254,100
Insect Infestation	771,300
Plant Industry	4,550,500

Item 54

To Department of Agriculture and Food – Predatory Animal Control

From General Fund	1,260,400
From Revenue Transfers	741,900
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention	600,000
From Beginning Nonlapsing Balances	86,600
From Closing Nonlapsing Balances	(135,600)
Schedule of Programs:	
Predatory Animal Control	2,553,300

Item 55

To Department of Agriculture and Food – Rangeland Improvement

From Gen. Fund Rest. – Rangeland Improvement Account	4,013,300
From Beginning Nonlapsing Balances	524,800
From Closing Nonlapsing Balances	(549,000)
Schedule of Programs:	
Rangeland Improvement	3,989,100

Item 56

To Department of Agriculture and Food – Regulatory Services

From General Fund	1,631,300
From Federal Funds	1,588,200
From Dedicated Credits Revenue	3,777,200
From Revenue Transfers	1,300
From Pass–through	61,400
From Beginning Nonlapsing Balances	1,028,900
From Closing Nonlapsing Balances	(1,215,700)
Schedule of Programs:	
Regulatory Services Administration	1,010,300
Bedding & Upholstered	234,800
Weights & Measures	1,760,200
Food Inspection	2,060,800
Dairy Inspection	354,900
Egg Grading and Inspection	1,451,600

Item 57

To Department of Agriculture and Food – Resource Conservation

From General Fund	1,503,800
From Federal Funds	839,300
From Dedicated Credits Revenue	11,200
From Agriculture Resource Development Fund	938,700
From Revenue Transfers	377,600
From Utah Rural Rehabilitation Loan State Fund	139,900
From Beginning Nonlapsing Balances	2,384,500
Schedule of Programs:	
Conservation Commission	257,700
Resource Conservation	5,334,100
Resource Conservation Administration	603,200

Item 58

To Department of Agriculture and Food – Utah State Fair Corporation

From Dedicated Credits Revenue	3,592,400
Schedule of Programs:	
State Fair Corporation	3,592,400

Item 59

To Department of Agriculture and Food – Industrial Hemp

From Dedicated Credits Revenue	901,900
From Beginning Nonlapsing Balances	400,000
Schedule of Programs:	
Industrial Hemp	1,301,900

Item 60

To Department of Agriculture and Food – Analytical Laboratory

From General Fund	993,900
From Federal Funds	2,000
From Dedicated Credits Revenue	279,300
From Beginning Nonlapsing Balances	100,000
From Closing Nonlapsing Balances	(100,000)
Schedule of Programs:	
Analytical Laboratory	1,275,200

DEPARTMENT OF NATURAL RESOURCES

Item 61

To Department of Natural Resources – Administration

From General Fund	5,097,200
From General Fund Restricted – Sovereign Lands Management	83,300
From Beginning Nonlapsing Balances	225,000
Schedule of Programs:	
Administrative Services	1,517,100
Executive Director	3,260,800
Lake Commissions	129,500
Law Enforcement	242,000
Public Information Office	256,100

The Legislature intends that the Department of Natural Resources transfer $95,000 to the Bear Lake Commission to be expended only as a one–to–one match with funds from the State of Idaho.

Item 62

To Department of Natural Resources – Building Operations

From General Fund	1,420,900

Schedule of Programs:	
Building Operations	1,420,900

Item 63

To Department of Natural Resources – Contributed Research	
From Expendable Receipts	1,512,200
Schedule of Programs:	
Contributed Research	1,512,200

Item 64

To Department of Natural Resources – Cooperative Agreements	
From Federal Funds	20,489,800
From Expendable Receipts	8,124,900
From Revenue Transfers	5,708,700
Schedule of Programs:	
Cooperative Agreements	34,323,400

Item 65

To Department of Natural Resources – DNR Pass Through	
From General Fund	1,008,400
From Beginning Nonlapsing Balances	10,250,000
Schedule of Programs:	
DNR Pass Through	11,258,400

Item 66

To Department of Natural Resources – Forestry, Fire and State Lands	
From General Fund	3,434,200
From Federal Funds	6,752,000
From Dedicated Credits Revenue	8,422,800
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	1,100
From General Fund Restricted – Sovereign Lands Management	8,413,400
From Revenue Transfers	10,000,000
From Beginning Nonlapsing Balances	13,000,000
Schedule of Programs:	
Division Administration	1,719,800
Fire Management	3,972,300
Fire Suppression Emergencies	12,189,800
Forest Management	2,439,800
Lands Management	1,095,500
Lone Peak Center	4,385,900
Program Delivery	9,073,800
Project Management	15,146,600

Item 67

To Department of Natural Resources – Oil, Gas and Mining	
From Federal Funds	7,866,700
From Dedicated Credits Revenue	259,400
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining	2,306,300
From Gen. Fund Rest. – Oil & Gas Conservation Account	4,371,200
From Beginning Nonlapsing Balances	3,600,000
Schedule of Programs:	
Abandoned Mine	5,290,800
Administration	2,377,300
Board	200,400
Coal Program	2,585,200
Minerals Reclamation	1,132,800
OGM Misc. Nonlapsing	3,200,000
Oil and Gas Program	3,617,100

Item 68

To Department of Natural Resources – Species Protection	
From Designated Sales Tax	2,450,000
From General Fund Restricted – Species Protection	827,000
From Beginning Nonlapsing Balances	1,235,000
Schedule of Programs:	
Species Protection	4,512,000

Item 69

To Department of Natural Resources – Utah Geological Survey	
From General Fund	4,434,100
From Federal Funds	1,367,500
From Dedicated Credits Revenue	335,900
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account	613,000
From General Fund Restricted – Mineral Lease	719,800
From Gen. Fund Rest. – Land Exchange Distribution Account	22,100
From Revenue Transfers	1,034,000
From Beginning Nonlapsing Balances	2,207,900
Schedule of Programs:	
Administration	1,382,300
Board	3,500
Energy and Minerals	1,492,600
Geologic Hazards	1,225,300
Geologic Information and Outreach	2,109,000
Geologic Mapping	1,557,400
Ground Water	2,034,300
Technical Services	929,900

Item 70

To Department of Natural Resources – Water Resources	
From General Fund	5,826,600
From Federal Funds	1,040,300
From Dedicated Credits Revenue	5,100
From General Fund Restricted – Agricultural Water Optimization Restricted Account	2,800
From Designated Sales Tax	150,000
From Water Resources Conservation and Development Fund	3,879,600
From Beginning Nonlapsing Balances	18,700,000
Schedule of Programs:	
Administration	1,638,800
Board	34,000
Cloudseeding	350,000
Construction	20,517,800
Interstate Streams	553,200
Planning	6,152,800
West Desert Operations	5,000
Funding Projects and Research	352,800

Item 71

To Department of Natural Resources – Water Rights	
From General Fund	9,110,900
From Federal Funds	128,100
From Dedicated Credits Revenue	390,900

From Designated Sales Tax 3,996,800
From Beginning Nonlapsing
Balances 1,000,000
Schedule of Programs:
Adjudication 4,019,300
Administration 1,142,300
Applications and Records 4,794,900
Dam Safety 1,149,800
Field Services 1,374,000
Technical Services 2,146,400

Item 72
To Department of Natural Resources – Watershed
From General Fund 3,613,800
From Designated Sales Tax 500,000
From General Fund Restricted – Sovereign
Lands Management 2,000,000
From Beginning Nonlapsing
Balances 3,000,000
Schedule of Programs:
Watershed 9,113,800

Item 73
To Department of Natural Resources –
Wildlife Resources
From General Fund 7,656,500
From Federal Funds 29,358,400
From Expendable Receipts 112,600
From General Fund Restricted –
Aquatic Invasive Species
Interdiction Account 1,014,500
From General Fund Restricted –
Mule Deer Protection Account 517,000
From GFR Public Safety and
Firefighter Tier II Retirement
Benefits Account 39,500
From General Fund Restricted –
Predator Control Account 830,700
From General Fund Restricted –
Support for State–owned
Shooting Ranges Restricted Account 26,200
From Revenue Transfers 114,300
From General Fund Restricted –
Wildlife Conservation Easement
Account 15,300
From General Fund Restricted –
Wildlife Habitat 3,349,000
From General Fund Restricted –
Wildlife Resources 41,184,700
From Beginning Nonlapsing
Balances 1,100,000
Schedule of Programs:
Administrative Services 11,405,200
Aquatic Section 21,332,400
Conservation Outreach 6,017,100
Director's Office 2,656,500
Habitat Council 3,349,000
Habitat Section 9,457,800
Law Enforcement 9,618,300
Wildlife Section 21,482,400

Item 74
To Department of Natural Resources –
Wildlife Resources Capital Budget
From General Fund 599,400
From Federal Funds 2,500,000
From General Fund Restricted –
State Fish Hatchery Maintenance . . . 1,205,000
From Beginning Nonlapsing Balances . . . 599,400
Schedule of Programs:
Fisheries 4,903,800

Item 75
To Department of Natural Resources –
Public Lands Policy Coordinating Office
From General Fund 2,921,800
From General Fund Restricted –
Constitutional Defense 1,241,000
From Beginning Nonlapsing
Balances 8,000,000
Schedule of Programs:
Public Lands Policy Coordinating
Office 12,162,800

Item 76
To Department of Natural Resources –
Division of Parks
From General Fund 4,411,400
From Federal Funds 85,600
From Dedicated Credits Revenue 1,097,800
From GFR Public Safety and
Firefighter Tier II Retirement
Benefits Account 32,400
From General Fund Restricted –
State Park Fees 24,637,100
From Revenue Transfers 136,600
From General Fund Restricted – Zion
National Park Support Programs 4,000
Schedule of Programs:
Executive Management 284,100
Park Management Contracts 1,000,000
State Park Operation
Management 27,335,000
Planning and Design 698,500
Support Services 1,087,300

Item 77
To Department of Natural Resources –
Division of Parks – Capital
From Federal Funds 212,500
From Expendable Receipts 175,000
From General Fund Restricted –
State Park Fees 472,700
Schedule of Programs:
Donated Capital Projects 175,000
Major Renovation 8,500
Region Renovation 100,000
Renovation and Development 576,700

Item 78
To Department of Natural Resources –
Division of Recreation
From General Fund 4,800
From Federal Funds 2,013,200
From General Fund Restricted –
Boating 5,038,600
From Gen. Fund Rest. – Off–highway
Access and Education 19,000
From General Fund Restricted –
Off–highway Vehicle 6,595,800
Schedule of Programs:
Recreation Management 1,106,700
Recreation Agreements 36,800
Recreation Oversight 9,140,600
Recreation Construction 213,000
Recreation Services 678,900
Recreation Administration 2,495,400

Item 79

To Department of Natural Resources –
Division of Recreation– Capital

From Federal Funds	4,407,200
From General Fund Restricted – Boating	575,000
From General Fund Restricted – Off–highway Vehicle	3,900,000
Schedule of Programs:	
Boat Access Grants	350,000
Land and Water Conservation	447,600
Recreation Capital	420,000
Off–highway Vehicle Grants	3,675,000
Trails Program	3,989,600

Item 80

To Department of Natural Resources –
Office of Energy Development

From General Fund	1,627,700
From Education Fund	245,000
From Federal Funds	842,700
From Dedicated Credits Revenue	51,800
From Expendable Receipts	180,300
From Ut. S. Energy Program Rev. Loan Fund (ARRA)	223,200
From Beginning Nonlapsing Balances	1,037,500
Schedule of Programs:	
Office of Energy Development	4,208,200

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 81

To School and Institutional
Trust Lands Administration

From Land Grant Management Fund	11,723,000
Schedule of Programs:	
Accounting	506,000
Administration	1,141,900
Auditing	433,200
Board	94,300
Development – Operating	1,369,800
Director	973,700
External Relations	177,100
Grazing and Forestry	732,500
Information Technology Group	1,390,700
Legal/Contracts	1,216,600
Mining	745,700
Oil and Gas	695,300
Surface	2,246,200

Item 82

To School and Institutional
Trust Lands Administration – Land
Stewardship and Restoration

From Land Grant Management Fund	852,400
Schedule of Programs:	
Land Stewardship and Restoration	852,400

Item 83

To School and Institutional Trust
Lands Administration – School and
Institutional Trust Lands
Administration Capital

From Land Grant Management Fund	5,000,000
Schedule of Programs:	
Capital	5,000,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 84

To Department of Agriculture and Food –
Salinity Offset Fund

From Revenue Transfers	2,200
From Beginning Fund Balance	1,075,100
From Closing Fund Balance	(1,030,000)
Schedule of Programs:	
Salinity Offset Fund	47,300

Item 85

To Department of Agriculture and Food – Dept. Agriculture and Food Laboratory Equip. Fund

From Dedicated Credits Revenue	118,200
Schedule of Programs:	
Dept. Agriculture and Food Laboratory Equip. Fund	118,200

DEPARTMENT OF NATURAL RESOURCES

Item 86

To Department of Natural Resources –
UGS Sample Library Fund

From Dedicated Credits Revenue	400
From Beginning Fund Balance	81,100
From Closing Fund Balance	(81,500)

Item 87

To Department of Natural Resources –
Wildland Fire Suppression Fund

From General Fund, One–Time	50,000,000
From Interest Income	50,000
From General Fund Restricted – Mineral Bonus	1,069,300
Schedule of Programs:	
Wildland Fire Suppression Fund	51,119,300

Item 88

To Department of Natural Resources –
Wildland Fire Preparedness Grants Fund

From Wildland Fire Suppression Fund	99,300
Schedule of Programs:	
Wildland Fire Preparedness Grants Fund	99,300

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF AGRICULTURE AND FOOD

Item 89

To Department of Agriculture and Food – Agriculture Loan Programs

From Agriculture Resource Development Fund	298,000
From Utah Rural Rehabilitation Loan State Fund	160,400
Schedule of Programs:	
Agriculture Loan Program	458,400

Item 90

To Department of Agriculture and Food – Qualified Production Enterprise Fund

From Dedicated Credits Revenue	2,561,700
From Beginning Fund Balance	3,075,800
From Closing Fund Balance	(3,075,800)
Schedule of Programs:	
Qualified Production Enterprise Fund	2,561,700

DEPARTMENT OF NATURAL RESOURCES

Item 91

To Department of Natural Resources – Internal Service Fund

From Dedicated Credits Revenue	487,000
Schedule of Programs:	
ISF – DNR Warehouse	487,000
Budgeted FTE	2.0

Item 92

To Department of Natural Resources – Water Resources Revolving Construction Fund

From Water Resources Conservation and Development Fund	3,800,000
Schedule of Programs:	
Construction Fund	3,800,000

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 93

To General Fund Restricted – Agriculture and Wildlife Damage Prevention Account

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

Item 94

To General Fund Restricted – Invasive Species Mitigation Account

From General Fund	2,000,000
Schedule of Programs:	
General Fund Restricted – Invasive Species Mitigation Account	2,000,000

Item 95

To General Fund Restricted – Rangeland Improvement Account

From General Fund	3,846,300
Schedule of Programs:	
General Fund Restricted – Rangeland Improvement Account	3,846,300

Item 96

To General Fund Restricted – Mule Deer Protection Account

From General Fund	250,000
Schedule of Programs:	
General Fund Restricted – Mule Deer Protection	250,000

Item 97

To General Fund Restricted – Constitutional Defense Restricted Account

From Gen. Fund Rest. – Land Exchange Distribution Account	1,042,400
Schedule of Programs:	
General Fund Restricted – Constitutional Defense Restricted Account	1,042,400

Item 98

To General Fund Restricted – Public Lands Litigation Restricted Account

From Beginning Fund Balance	4,500,000
From Closing Fund Balance	(4,500,000)

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 99

To Department of Environmental Quality – Drinking Water

From General Fund	1,449,300
From Federal Funds	4,618,300
From Dedicated Credits Revenue	743,300
From Revenue Transfers	(340,600)
From Water Dev. Security Fund – Drinking Water Loan Prog.	1,034,200
From Water Dev. Security Fund – Drinking Water Orig. Fee	231,500
From Beginning Nonlapsing Balances	268,700
Schedule of Programs:	
Drinking Water Administration	986,000
Safe Drinking Water Act	2,520,600
System Assistance	3,727,800
State Revolving Fund	770,300

Item 100

To Department of Environmental Quality – Environmental Response and Remediation

From General Fund	905,900
From Federal Funds	5,208,200
From Dedicated Credits Revenue	1,093,300
From General Fund Restricted – Petroleum Storage Tank	54,200
From Petroleum Storage Tank Cleanup Fund	629,500
From Petroleum Storage Tank Trust Fund	1,965,600
From Revenue Transfers	(636,200)
From General Fund Restricted – Voluntary Cleanup	725,800
From Beginning Nonlapsing Balances	135,000
Schedule of Programs:	
Voluntary Cleanup	695,100
CERCLA	4,799,000
Tank Public Assistance	54,200
Leaking Underground Storage Tanks	2,601,900
Underground Storage Tanks	1,931,100

Item 101

To Department of Environmental Quality – Executive Director's Office

From General Fund	2,545,900
From Federal Funds	327,400
From Dedicated Credits Revenue	1,000
From General Fund Restricted – Environmental Quality	913,600
From Revenue Transfers	2,725,500
From Beginning Nonlapsing Balances	1,000,000
From Closing Nonlapsing Balances	(1,000,000)
Schedule of Programs:	
Executive Director Office Administration	5,226,600
Local Health Departments	1,118,400
Radon	168,400

Item 102

To Department of Environmental Quality – Waste Management and Radiation Control

From General Fund, One-Time	877,900
From Federal Funds	1,448,400
From Dedicated Credits Revenue	2,539,000
From Expendable Receipts	165,700
From General Fund Restricted – Environmental Quality	6,386,200
From Revenue Transfers	(198,800)
From Gen. Fund Rest. – Used Oil Collection Administration	855,400
From Waste Tire Recycling Fund	157,100
From Beginning Nonlapsing Balances	650,000
Schedule of Programs:	
Hazardous Waste	5,494,700
Solid Waste	1,436,800
Radiation	1,699,400
Low Level Radioactive Waste	2,626,400
WIPP	152,300
Used Oil	955,100
Waste Tire	157,300
X-Ray	358,900

Item 103

To Department of Environmental Quality – Water Quality

From General Fund	3,528,100
From Federal Funds	5,217,100
From Dedicated Credits Revenue	2,556,600
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining	98,000
From Revenue Transfers	335,600
From Gen. Fund Rest. – Underground Wastewater System	82,800
From Water Dev. Security Fund – Utah Wastewater Loan Prog.	1,659,400
From Water Dev. Security Fund – Water Quality Orig. Fee	108,700
From Beginning Nonlapsing Balances	2,326,100
Schedule of Programs:	
Water Quality Support	5,446,200
Water Quality Protection	6,704,400
Water Quality Permits	3,679,000
Onsite Waste Water	82,800

Item 104

To Department of Environmental Quality – Trip Reduction Program

From Beginning Nonlapsing Balances	498,400
Schedule of Programs:	
Trip Reduction Program	498,400

Item 105

To Department of Environmental Quality – Air Quality

From General Fund	6,171,300
From Federal Funds	7,348,500
From Dedicated Credits Revenue	6,382,100
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining	675,000
From Clean Fuel Conversion Fund	122,600
From Revenue Transfers	(1,122,900)
From Beginning Nonlapsing Balances	12,167,000
Schedule of Programs:	
Compliance	4,550,500
Permitting	3,250,200
Planning	22,801,400
Air Quality Administration	1,141,500

Item 106

To Department of Environmental Quality – Laboratory Services

From General Fund	900,000
From Beginning Nonlapsing Balances	250,000
Schedule of Programs:	
Laboratory Services	1,150,000

The Legislature intends that the Department of Environmental Quality and the newly created Department of Health and Human Services report by October 1st, 2022, a comprehensive plan for: 1) the most cost-effective mechanisms to procure high volume environmental chemistry analyses with emphasis on the states ambient water quality monitoring needs, 2) developing new laboratory methods that are not commercially available but would benefit the public interest, and 3) an optimal governance structure to oversee state environmental testing resources.

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 107

To Department of Environmental Quality – Hazardous Substance Mitigation Fund

From Dedicated Credits Revenue	6,000
From Interest Income	139,000
From Beginning Fund Balance	5,278,100
From Closing Fund Balance	(5,094,800)
Schedule of Programs:	
Hazardous Substance Mitigation Fund	328,300

Item 108

To Department of Environmental Quality – Waste Tire Recycling Fund

From Dedicated Credits Revenue	3,589,700
From Beginning Fund Balance	4,504,600
From Closing Fund Balance	(4,280,800)
Schedule of Programs:	
Waste Tire Recycling Fund	3,813,500

Item 109

To Department of Environmental Quality – Conversion to Alternative Fuel Grant Program Fund

From Interest Income	800
From Beginning Fund Balance	52,000
From Closing Fund Balance	(30,300)
Schedule of Programs:	
Conversion to Alternative Fuel Grant Program Fund	22,500

Subsection 3(c). Business-like Activities. Legislature authorizes the State Divisio The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. Then of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 110

To Department of Environmental Quality – Water Development Security Fund – Drinking Water

From Federal Funds	9,000,000
From Dedicated Credits Revenue	2,455,700
From Interest Income	745,000
From Designated Sales Tax	3,587,500
From Revenue Transfers	2,221,400
From Repayments	10,508,200
Schedule of Programs:	
Drinking Water	28,517,800

Item 111

To Department of Environmental Quality – Water Development Security Fund – Water Quality

From Federal Funds	8,500,000
From Dedicated Credits Revenue	3,878,800
From Interest Income	3,958,200
From Designated Sales Tax	3,587,500
From Revenue Transfers	1,700,000
From Repayments	16,348,000
Schedule of Programs:	
Water Quality	37,972,500

Subsection 3(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 112

To General Fund Restricted – Environmental Quality

From General Fund	1,724,200
Schedule of Programs:	
GFR – Environmental Quality	1,724,200

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 3
H.B. 6

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

EXECUTIVE OFFICES AND CRIMINAL JUSTICE BASE BUDGET

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $60,437,600 in operating and capital budgets for fiscal year 2022, including:

- $14,602,100 from the General Fund; and
- $45,835,500 from various sources as detailed in this bill.

This bill appropriates $2,033,600 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $2,163,500 in business-like activities for fiscal year 2022.

This bill appropriates $176,200 in fiduciary funds for fiscal year 2022.

This bill appropriates $1,031,259,900 in operating and capital budgets for fiscal year 2023, including:

- $768,725,500 from the General Fund;
- $49,000 from the Education Fund; and
- $262,485,400 from various sources as detailed in this bill.

This bill appropriates $32,869,600 in expendable funds and accounts for fiscal year 2023, including:

- $4,275,900 from the General Fund; and
- $28,593,700 from various sources as detailed in this bill.

This bill appropriates $83,576,000 in business-like activities for fiscal year 2023, including:

- $227,200 from the General Fund; and
- $83,348,800 from various sources as detailed in this bill.

This bill appropriates $216,000 in restricted fund and account transfers for fiscal year 2023, including:

- $7,486,400 from the General Fund; and
- ($7,270,400) from various sources as detailed in this bill.

This bill appropriates $3,695,200 in fiduciary funds for fiscal year 2023.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

ATTORNEY GENERAL

Item 1

To Attorney General

From Beginning Nonlapsing Balances	2,622,600
From Closing Nonlapsing Balances	(551,200)
Schedule of Programs:	
Administration	695,700
Civil	514,300
Criminal Prosecution	861,400

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $3,000,000 in appropriations to the Attorney General's Office in Item 52 of Chapter 8 Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to purchase of computer hardware and software, specific program development/operation, pass-thru funds appropriated by the Legislature, and other one-time operational and capital expenses.

Item 2

To Attorney General - Children's Justice Centers

From Beginning Nonlapsing Balances	414,600
Schedule of Programs:	
Children's Justice Centers	414,600

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that up to $450,000 in appropriations to the Attorney General's Office Childrens Justice Centers Item 53 of Chapter 8, Laws of Utah, not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to costs passed-through to operate the local centers or for one-time operational expenses.

Item 3

To Attorney General - Contract Attorneys

Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General - Contract Attorneys in Item 54 of

Chapter 8, Laws of Utah, not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to professional services for attorneys under contract with the Office of the Attorney General and other litigation expenses.

Item 4

To Attorney General – Prosecution Council

From Beginning Nonlapsing Balances	95,600
Schedule of Programs:	
Prosecution Council	95,600

Under Section 63–J–1–603 of the Utah Code, the Legislature intends that appropriations provided for the Utah Prosecution Council Item 55 of Chapter 8, Laws of Utah, not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to training and technical assistance to prosecutors. Funds set aside for training commitments and other agreements may cross fiscal years; thus, non–lapsing authority is requested to meet financial commitments.

Item 5

To Attorney General – State Settlement Agreements

From General Fund, One–Time	6,855,000
Schedule of Programs:	
State Settlement Agreements	6,855,000

Under Section 63–J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General – State Settlements Item 56 of Chapter 8, Laws of Utah, and this H.B. 6, "Executive Offices and Criminal Justice Base Budget" not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to payment of costs associated with the Commerce Clause litigation up to $1,650,000, the Utah Monuments litigation up to $5,000,000, and the False Claims Lawsuit Settlement Agreement up to $1,855,000.

BOARD OF PARDONS AND PAROLE

Item 6

To Board of Pardons and Parole

From Beginning Nonlapsing Balances	1,000,000
Schedule of Programs:	
Board of Pardons and Parole	1,000,000

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $1,000,000 provided for the Board of Pardons and Parole in Item 57 of Chapter 8 Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds shall be limited to capital improvements, computer equipment, electronic records development, employee training, contract costs associated with defense counsel for offenders, or psychological evaluations for offenders.

UTAH DEPARTMENT OF CORRECTIONS

Item 7

To Utah Department of Corrections – Programs and Operations

From General Fund, One–Time	(2,000,000)
From Federal Funds, One–Time	(1,346,300)
From Dedicated Credits Revenue, One–Time	(83,700)
From Beginning Nonlapsing Balances	10,000,000
Schedule of Programs:	
Adult Probation and Parole Administration	(1,772,300)
Adult Probation and Parole Programs	1,022,600
Department Administrative Services	6,208,200
Department Executive Director	8,100,200
Department Training	764,400
Prison Operations Administration	4,783,600
Prison Operations Central Utah/Gunnison	162,900
Prison Operations Draper Facility	(13,661,800)
Prison Operations Inmate Placement	84,900
Programming Administration	98,900
Programming Education	39,100
Programming Skill Enhancement	487,800
Programming Treatment	251,500

Under Section 63J–1–603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections – Programs and Operations in item 58 of chapter 8, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The Department plans to spend any non–lapsing balances on the following types of items: stab & ballistic vests, uniforms, radio supplies & equipment, authorized vehicle purchases, inmate support & food costs, inmate programming/treatment, firearms & ammunition, computer equipment/software & support, equipment & supplies, employee training & development, building & office maintenance/remodeling, furniture, and special projects.

Item 8

To Utah Department of Corrections – Department Medical Services

From General Fund, One–Time	(33,100)
From Beginning Nonlapsing Balances	1,856,800
Schedule of Programs:	
Medical Services	1,823,700

Under Section 63J–1–603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections – Medical Services in item 59 of chapter 8, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The non–lapsing funds would be used to purchase pharmaceuticals, medical supplies & equipment, computer equipment/software, contractual medical services, and employee training & development

Item 9

To Utah Department of Corrections – Jail Contracting

From Beginning Nonlapsing Balances	5,000,000
From Closing Nonlapsing Balances	(2,064,800)
Schedule of Programs:	
Jail Contracting	2,935,200

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections – Jail Contracting in item 60 of chapter 8, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. Any non-lapsing funds would be used for housing additional inmates, and treatment and vocational programming for inmates housed at the county jails.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 10

To Judicial Council/State Court Administrator – Administration

From Beginning Nonlapsing Balances	3,000,300
Schedule of Programs:	
Administrative Office	2,603,800
Data Processing	(11,000,000)
District Courts	(1,000,000)
Grants Program	12,000,000
Juvenile Courts	343,000
Law Library	53,500

Under Section 63J-1-603(3) of the Utah Code, the Legislature intends that appropriations of up to $3,200,000 provided to the Judicial Council/State Court Administrator – Administration in Laws of Utah 2021 Chapter 008, Item 61, shall not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to market comparability salary adjustments and career track advancement; employee retention, training, education assistance, and incentives; translation and interpreter services; IT programming and contracted support; computer equipment and software; courts security; special projects and studies; temporary employees (law clerks); trial court program support and senior judge assistance; grant match; furniture and repairs; and purchase of Utah code and rules for judges.

Under Sections 63J-1-603 and 63J-1-602.1(66) of the Utah Code, the Legislature intends that any unspent funds remaining in the Law Library (Budget Line BAAA, Appropriation Code BAB) shall not lapse at the close of Fiscal Year 2022. Unused funds are to be used to supplement the costs of the Courts Self-help Center.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that any unspent funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs shall not lapse at the close of Fiscal Year 2022. Unused funds are to be used to benefit the community through juvenile community service programs such as graffiti removal and community service.

Item 11

To Judicial Council/State Court Administrator – Contracts and Leases

From Beginning Nonlapsing Balances	500,000
Schedule of Programs:	
Contracts and Leases	500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator-Contracts and Leases in Laws of Utah 2021 Chapter 8, Item 62 shall not lapse at the close of Fiscal Year 2022. The use of any non-lapsing funds is limited to lease cost increases, contractual obligations and support.

Item 12

To Judicial Council/State Court Administrator – Grand Jury

From Beginning Nonlapsing Balances	400
Schedule of Programs:	
Grand Jury	400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $800 provided to the Judicial Council/State Court Administrator-Grand Jury in Laws of Utah 2021 Chapter 8, Item 63 shall not lapse at the close of Fiscal Year 2022. The use of any non-lapsing funds is limited to expenses related to the grand jury.

Item 13

To Judicial Council/State Court Administrator – Guardian ad Litem

From Beginning Nonlapsing Balances	500,000
Schedule of Programs:	
Guardian ad Litem	500,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided to the Judicial Council/State Court Administrator-Guardian ad Litem in Laws of Utah 2021 Chapter 8, Item 64 shall not lapse at the close of Fiscal Year 2022. The use of any non-lapsing funds is limited to employee training, development, and incentives; computer equipment and software, special projects and studies, and temporary employees.

Item 14

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

From Beginning Nonlapsing Balances	1,261,400
Schedule of Programs:	
Jury, Witness, and Interpreter	1,261,400

Under Section 63J-1-603 of the Utah Code, the Legislature intends that the appropriations of up to $2,000,000 provided to the Judicial Council/State Court

Administrator–Juror, Witness, Interpreter in Laws of Utah 2021 Chapter 8, Item 65 shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to expenses for jury, witness fees and interpretation services.

GOVERNORS OFFICE

Item 15

To Governors Office – CCJJ – Factual Innocence Payments

From Beginning Nonlapsing Balances	(204,900)
From Closing Nonlapsing Balances	161,000
Schedule of Programs:	
Factual Innocence Payments	(43,900)

These payments are made to individuals who have been determined by a court to be factually innocent and eligible to receive reimbursement for the number of years they were incarcerated. The quarterly payments are based on the average nonagricultural wage in Utah. Three individuals are currently receiving quarterly payments.

Item 16

To Governors Office – CCJJ – Jail Reimbursement

From Beginning Nonlapsing Balances	724,500
Schedule of Programs:	
Jail Reimbursement	724,500

Item 17

To Governors Office – CCJJ – Salt Lake County Jail Bed Housing

From Beginning Nonlapsing Balances	200,000
Schedule of Programs:	
Salt Lake County Jail Bed Housing	200,000

Item 18

To Governors Office – Commission on Criminal and Juvenile Justice

From Beginning Nonlapsing Balances	54,100
Schedule of Programs:	
CCJJ Commission	(272,200)
County Incentive Grant Program	46,600
Extraditions	104,700
Judicial Performance Evaluation Commission	39,400
Law Enforcement Services Grants	47,600
Sentencing Commission	(4,200)
State Asset Forfeiture Grant Program	(35,600)
State Task Force Grants	(214,800)
Substance Use and Mental Health Advisory Council	(53,500)
Utah Office for Victims of Crime	396,100

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations up to $1,700,000 provided for the Commission on Criminal and Juvenile Justice Commission in Items 17 and 69 of Chapter 8 Laws of Utah 2021 not lapse at the close of fiscal year 2022. The Legislature also intends that dedicated credits that have not been expended shall also not lapse at the close of fiscal year 2022. The use of any unused funds is limited to employee incentives, one–time remodeling costs, equipment purchases, one–time DTS projects, research and development contract extradition costs, meeting and travel costs, state pass through grant programs, legal costs associated with deliberations required for judicial retention elections and voter outreach for judicial retention elections.

Item 19

To Governors Office – Constitutional Defense Council

From Beginning Nonlapsing Balances	13,300
Schedule of Programs:	
Constitutional Defense Council	13,300

Item 20

To Governors Office – Governor's Office

From Beginning Nonlapsing Balances	3,134,200
From Closing Nonlapsing Balances	(1,090,000)
Schedule of Programs:	
Administration	178,900
Literacy Projects	4,800
Lt. Governor's Office	1,860,500

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $2,150,000 provided for the Governor's Office in Item 71 of Chapter 8 Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to one–time expenditures of the Governor and Lieutenant Governors Offices.

Item 21

To Governors Office – Governors Office of Planning and Budget

From Beginning Nonlapsing Balances	1,366,200
From Closing Nonlapsing Balances	(1,500,000)
Schedule of Programs:	
Administration	(408,800)
Management and Special Projects	(350,000)
Planning Coordination	625,000

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $1,500,000 provided for the Governor's Office – Governor's Office of Planning and Budget in Item 72 of Chapter 8 Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any funds is limited to one–time expenditures of the Governors Office of Management and Budget.

Item 22

To Governors Office – Indigent Defense Commission

From General Fund Restricted – Indigent Defense Resources, One–Time	1,300
From Beginning Nonlapsing Balances	68,200
Schedule of Programs:	
Office of Indigent Defense Services	(124,300)
Indigent Appellate Defense Division	81,600
Child Welfare Parental Defense Program	112,200

Item 23

To Governors Office – Quality Growth Commission – LeRay McAllister Program

From Beginning Nonlapsing Balances	2,084,100
Schedule of Programs:	
LeRay McAllister Critical Land Conservation Program	2,084,100

Item 24

To Governors Office – Suicide Prevention

From Beginning Nonlapsing Balances	100,000
Schedule of Programs:	
Suicide Prevention	100,000

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided for the Governor's Office – Suicide Prevention in Item 74 of Chapter 8 Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any funds is limited to the same purposes as the original appropriations.

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 25

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

From General Fund, One–Time	(143,400)
From Federal Funds, One–Time	(491,300)
From Dedicated Credits Revenue, One–Time	(841,400)
From Beginning Nonlapsing Balances	4,500,000
Schedule of Programs:	
Administration	6,573,500
Community Programs	(188,900)
Correctional Facilities	1,267,200
Early Intervention Services	(844,800)
Rural Programs	(24,300)
Youth Parole Authority	39,100
Case Management	(609,200)
Community Provider Payments	(3,188,700)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $4,500,000 provided for the Department of Human Services – Division of Juvenile Justice Services in Items 97 and 98 of Chapter 4, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to IT, data processing and technology based expenditures; capital expenditures and developments, projects, facility repairs, maintenance, critical needs, and improvements; other charges for pass–through expenditures; and short–term projects and studies that promote efficiency and service improvement. The Legislature further intends that, at the close of fiscal year 2022 accounting, the Division of Finance transfer any fiscal year 2022 closing nonlapsing balances in the Programs and Operations line item to the Juvenile Justice & Youth Services line item as fiscal year 2023 beginning nonlapsing balances.

OFFICE OF THE STATE AUDITOR

Item 26

To Office of the State Auditor – State Auditor

From Beginning Nonlapsing Balances	213,100
Schedule of Programs:	
State Auditor	213,100

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $500,000 provided for the Office of the State Auditor in Item 76 of Chapter 8, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to the same purposes of the original appropriation including local government oversight, audit activities, and data analysis.

DEPARTMENT OF PUBLIC SAFETY

Item 27

To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management

From Beginning Nonlapsing Balances	3,334,000
From Closing Nonlapsing Balances	(3,334,000)

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations up to $8,000,000 provided for The Department of Public Safety – Emergency Management – Emergency and Disaster Management not lapse at the close of Fiscal Year 2022. Funding will be used for reimbursement for emergency costs and loans that qualify as determined in statute.

Item 28

To Department of Public Safety – Driver License

From Beginning Nonlapsing Balances	5,148,600
From Closing Nonlapsing Balances	(6,160,700)
Schedule of Programs:	
Driver License Administration	(1,927,800)
Driver Services	1,047,600
Motorcycle Safety	(55,000)
Uninsured Motorist	(76,900)

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety – Driver License for the Uninsured Motorist Program not lapse at the close of Fiscal Year 2022. This amount excludes any nonlapsing funds from accounts listed under section 63J–1–602.1 and 63J–1–602.2. Funding shall be used for one–time enhancements to the uninsured motorist program and other one–time operating expenses.

Item 29

To Department of Public Safety – Emergency Management

From Beginning Nonlapsing Balances	1,148,600
From Lapsing Balance	(300,000)
Schedule of Programs:	
Emergency Management	848,600

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $1,000,000 provided for The Department of Public Safety – Emergency Management not lapse at the close of Fiscal Year 2022. Funding shall be used for equipment, technology, and emergencies or disasters.

Item 30

To Department of Public Safety – Highway Safety

From Beginning Nonlapsing Balances	981,400
Schedule of Programs:	
Highway Safety	981,400

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $100,000 provided for The Department of Public Safety – Highway Safety not lapse at the close of Fiscal Year 2022. This amount excludes any nonlapsing funds from accounts listed under section 63J–1–602.1 and section 63J–1–602.2. Funding shall be used for equipment, technology, and other one–time operating expenses.

Item 31

To Department of Public Safety – Peace Officers' Standards and Training

From General Fund, One–Time	(76,400)
From General Fund Restricted – Public Safety Support, One–Time	76,400
From Beginning Nonlapsing Balances	708,700
Schedule of Programs:	
Basic Training	76,500
POST Administration	632,200

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations up to $1,000,000 provided for The Department of Public Safety – Peace Officers' Standards and Training not lapse at the close of Fiscal Year 2022. Funding shall be used for equipment, technology, and other one–time operating expenses. Funding shall be used for equipment, technology, one–time operating expenses and appropriated one–time funding for various training as required by the legislature.

Item 32

To Department of Public Safety – Programs & Operations

From General Fund, One–Time	10,000,000
From Beginning Nonlapsing Balances	12,268,100
From Closing Nonlapsing Balances	(333,700)
Schedule of Programs:	
CITS State Crime Labs	670,800
Department Commissioner's Office	9,934,600
Highway Patrol – Federal/ State Projects	103,600
Highway Patrol – Field Operations	11,225,400

Under section 63J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $16,500,000 provided for The Department of Public Safety – Programs and Operations line item not lapse at the close of Fiscal Year 2022. This amount excludes any nonlapsing funds from accounts listed under section 63J–1–602.1 and section 63J–1–602.2. Funding shall be used for equipment, helicopter purchase, technology, emergencies, funding from Senate Bill 68 "Law Enforcement Weapons Amendments" passed in the 2021 General Session, and other one–time operating expenses and capital purchases.

Item 33

To Department of Public Safety – Bureau of Criminal Identification

From Beginning Nonlapsing Balances	1,300,000
Schedule of Programs:	
Non–Government/Other Services	1,300,000

Under section 63J–1–603 of the Utah Code, the legislature intends that appropriations of up to $4,000,000 provided for The Department of Public Safety – Bureau of Criminal Identification not lapse at the close of Fiscal Year 2022. Funding shall be used for training, equipment purchases, and other one–time operating expenses. Funding shall be used for training, equipment purchases, and other one–time operating expenses. Carryover funding shall also be used to offset cyclical downturns in revenues collected by BCI as these revenues make up a majority of its budget

STATE TREASURER

Item 34

To State Treasurer

From Beginning Nonlapsing Balances	300,000
Schedule of Programs:	
Treasury and Investment	200,000
Unclaimed Property	100,000

Under Section 63–J–1–603 of the Utah Code, the Legislature intends that appropriations of up to $400,000 provided for the Office of the State Treasurer in Item 85 of Chapter 8, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to Computer Equipment/Software, Equipment/Supplies, Special Projects and Unclaimed Property Outreach.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 35

To Attorney General – Crime and Violence Prevention Fund

From Beginning Fund Balance	(101,900)
Schedule of Programs:	

Crime and Violence Prevention Fund	(101,900)

Item 36

To Attorney General – Litigation Fund

From Beginning Fund Balance	2,125,400
From Closing Fund Balance	(752,200)
Schedule of Programs:	
Litigation Fund	1,373,200

GOVERNORS OFFICE

Item 37

To Governors Office – Crime Victim Reparations Fund

From Beginning Fund Balance	1,090,100
From Closing Fund Balance	(1,090,100)

Item 38

To Governors Office – Justice Assistance Grant Fund

From Interest Income, One–Time	(87,000)
From Beginning Fund Balance	(3,453,500)
From Closing Fund Balance	4,032,800
Schedule of Programs:	
Justice Assistance Grant Fund	492,300

Item 39

To Governors Office – State Elections Grant Fund

From Beginning Fund Balance	602,600
From Closing Fund Balance	(602,600)

Item 40

To Governors Office – Municipal Incorporation Expendable Special Revenue Fund

From Beginning Fund Balance	8,200
Schedule of Programs:	
Municipal Incorporation Expendable Special Revenue Fund	8,200

Item 41

To Governors Office – IDC – Child Welfare Parental Defense Fund

From Beginning Fund Balance	(38,400)
From Closing Fund Balance	54,800
Schedule of Programs:	
Child Welfare Parental Defense Fund	16,400

Item 42

To Governors Office – Pretrial Release Programs Special Revenue Fund

From Beginning Fund Balance	245,400
Schedule of Programs:	
Pretrial Release Programs Special Revenue Fund	245,400

DEPARTMENT OF PUBLIC SAFETY

Item 43

To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund

From Beginning Fund Balance	1,483,200
From Closing Fund Balance	(1,483,200)

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

ATTORNEY GENERAL

Item 44

To Attorney General – ISF – Attorney General

From Beginning Fund Balance	2,250,800
Schedule of Programs:	
Civil Division	1,530,000
Child Protection Division	720,800
Budgeted FTE	(0.8)

UTAH DEPARTMENT OF CORRECTIONS

Item 45

To Utah Department of Corrections – Utah Correctional Industries

From Dedicated Credits Revenue, One–Time	(187,600)
From Beginning Fund Balance	(269,600)
From Closing Fund Balance	369,900
Schedule of Programs:	
Utah Correctional Industries	(87,300)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that the appropriation for the Utah Department of Corrections – Utah Correctional Industries in item 97 of chapter 8, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. Any non–lapsing retained earnings would be used in the ongoing operations of UCI.

DEPARTMENT OF PUBLIC SAFETY

Item 46

To Department of Public Safety – Local Government Emergency Response Loan Fund

From Beginning Fund Balance	4,033,000
From Closing Fund Balance	(4,033,000)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 47

To General Fund Restricted – Indigent Defense Resources Account

From Revenue Transfers, One–Time	(1,300)
From Beginning Fund Balance	1,300

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

ATTORNEY GENERAL

Item 48

To Attorney General – Financial Crimes Trust Fund

From Beginning Fund Balance	139,800
Schedule of Programs:	
Financial Crimes Trust Fund	139,800

GOVERNORS OFFICE

Item 49

To Governors Office – Indigent Inmate Trust Fund

From Beginning Fund Balance	36,400
Schedule of Programs:	
Indigent Inmate Trust Fund	36,400

STATE TREASURER

Item 50

To State Treasurer – Navajo Trust Fund

From Beginning Fund Balance	97,300
From Closing Fund Balance	(97,300)

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 51

To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services

From General Fund	90,940,300
From Federal Funds	2,763,100
From Dedicated Credits Revenue	1,410,700
From Expendable Receipts	27,500
From General Fund Restricted – Juvenile Justice Reinvestment Account	4,913,200
From Revenue Transfers	(504,300)
Schedule of Programs:	
Juvenile Justice & Youth Services	14,109,400
Secure Care	21,642,300
Youth Services	36,765,400
Community Programs	27,033,400

In accordance with UCA 63J-1-201, the Legislature intends that the Division of Juvenile Justice Services report performance measures for the Administration line item, whose mission is "To be a leader in the field of juvenile justice by changing young lives, supporting families and keeping communities safe." The Division of Juvenile Justice Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) Avoid new felony or misdemeanor charge while enrolled in the Youth Services program and within 90 days of release (Target = 100%); and (2) Reduce the risk of recidivism by 25% within 3 years (Target = 25%).

ATTORNEY GENERAL

Item 52

To Attorney General

From General Fund	15,174,400
From Federal Funds	3,703,600
From Dedicated Credits Revenue	945,400
From Attorney General Crime & Violence Prevention Fund	17,300
From Attorney General Litigation Fund	8,900
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	1,700
From General Fund Restricted – Tobacco Settlement Account	66,000
From Revenue Transfers	987,800
From Beginning Nonlapsing Balances	551,200
Schedule of Programs:	
Child Protection	1,244,000
Civil	4,212,300
Criminal Prosecution	16,000,000

Item 53

To Attorney General – Children's Justice Centers

From General Fund	4,522,300
From Federal Funds	450,000
From Dedicated Credits Revenue	64,500
From Expendable Receipts	380,700
Schedule of Programs:	
Children's Justice Centers	5,417,500

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney Generals Office report performance measures for the Children's Justice Centers line item, whose mission is "to provide a comprehensive, multidisciplinary, inter-governmental response to child abuse victims in a facility known as a Children's Justice Center, to facilitate healing for children and caregivers, and to utilize the multidisciplinary approach to foster more collaborative and efficient case investigations." The Attorney Generals Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percentage of caregivers that strongly agreed that the CJC provided them with resources to support them and their children (Target = 88.7%); 2) Percentage of caregivers that strongly agreed that if they knew anyone else who was dealing with a situation like the one their family faced, they would tell that person about the CJC (Target = 90.9%); 3) Percentage of multidisciplinary team (MDT) members that strongly believe clients benefit from the collaborative approach of the MDT (Target = 89.1%).

Item 54

To Attorney General – Contract Attorneys

From Dedicated Credits Revenue	1,500,000
Schedule of Programs:	
Contract Attorneys	1,500,000

Item 55

To Attorney General – Prosecution Council

From General Fund	676,400
From Federal Funds	35,300
From Dedicated Credits Revenue	78,400
From Revenue Transfers	290,300
Schedule of Programs:	
Prosecution Council	1,080,400

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney Generals Office report performance measures for the Prosecution Council line item, whose mission is "to provide training and continuing legal education and provide assistance for state and local prosecutors." The Attorney Generals Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) The percentage of prosecutors whose continuing legal education credits come solely from UPC conferences; 2) The percentage of prosecutors asked at conferences who respond they will use a trauma expert at trial as a result of this trauma-informed training; 3) The percentage of prosecutors asked at conferences which provide training on domestic violence and using all available evidence who respond they will proceed to trial without the participation of the victim.

BOARD OF PARDONS AND PAROLE

Item 56

To Board of Pardons and Parole

From General Fund	6,857,800
From Dedicated Credits Revenue	2,300
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	5,800
Schedule of Programs:	
Board of Pardons and Parole	6,865,900

In accordance with UCA 63J-1-201, the Legislature intends that the Board of Pardons and Parole report performance measures for their line item, whose mission is "The mission of the Board is to provide fair and balanced release, supervision, and clemency decisions that address community safety, victim needs, offender accountability, risk reduction, and reintegration." The Board shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: (1) percent of decisions completed within 7 Days of the Hearing (Target 75%); (2) percent of results completed within 3 Days of decision (Target 90%); (3) percent of mandatory JRI (77-27-5.4) time cuts processed electronically (Target 90%).

UTAH DEPARTMENT OF CORRECTIONS

Item 57

To Utah Department of Corrections – Programs and Operations

From General Fund	246,275,800
From General Fund, One-Time	1,273,500
From Education Fund	49,000
From Dedicated Credits Revenue	3,851,800
From G.F.R. – Interstate Compact for Adult Offender Supervision	29,600
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	917,000
From General Fund Restricted – Prison Telephone Surcharge Account	1,800,000
From Revenue Transfers	7,500
Schedule of Programs:	
Adult Probation and Parole Programs	87,915,000
Department Training	2,942,100
Prison Operations Central Utah/Gunnison	48,744,300
Prison Operations Inmate Placement	3,392,800
Programming Education	2,201,700
Programming Skill Enhancement	11,711,800
Programming Treatment	12,410,300
Prison Operations Utah State Correctional Facility	84,886,200

Item 58

To Utah Department of Corrections – Department Medical Services

From General Fund	34,555,100
From Dedicated Credits Revenue	629,500
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	5,500
Schedule of Programs:	
Medical Services	35,190,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Medical Services line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percentage of Health Care Requests closed out within 3 business days of submittal; 2) Percentage of Dental Requests closed out within 7 days of submittal; 3) Average number of days after intake for an inmate to be assigned a mental health level; 4) Percentage of missed medical, dental, or mental health appointments; and 5) Percentage of inmates receiving a physical evaluation at intake.

Item 59

To Utah Department of Corrections – Jail Contracting

From General Fund	34,141,500
From Federal Funds	50,000
From Beginning Nonlapsing Balances	2,064,800
From Closing Nonlapsing Balances	(1,032,400)
Schedule of Programs:	
Jail Contracting	35,223,900

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Corrections report performance measures for the Utah Correctional Industries line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of work–eligible inmates employed by UCI in prison; and 2) Percent of workers leaving UCI who are successfully completing the program.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 60

To Judicial Council/State Court Administrator – Administration

From General Fund	107,404,100
From Dedicated Credits Revenue	1,711,700
From General Fund Restricted – Children's Legal Defense	426,700
From General Fund Restricted – Court Security Account	11,175,400
From General Fund Restricted – Dispute Resolution Account	565,000
From General Fund Restricted – DNA Specimen Account	269,600
From General Fund Rest. – Justice Court Tech., Security & Training	1,144,700
From General Fund Restricted – Nonjudicial Adjustment Account	1,055,900
From General Fund Restricted – State Court Complex Account	322,000
From General Fund Restricted – Tobacco Settlement Account	193,700
From Revenue Transfers	140,400
Schedule of Programs:	
Court of Appeals	4,685,600
Courts Security	11,176,900
District Courts	55,688,500
Judicial Education	792,200
Justice Courts	1,429,700
Juvenile Courts	45,966,500
Law Library	1,123,100
Supreme Court	3,546,700

Item 61

To Judicial Council/State Court Administrator – Grand Jury

From General Fund	800
Schedule of Programs:	
Grand Jury	800

Item 62

To Judicial Council/State Court Administrator – Guardian ad Litem

From General Fund	8,337,600
From Dedicated Credits Revenue	68,900
From General Fund Restricted – Children's Legal Defense	516,500
From General Fund Restricted – Guardian Ad Litem Services	110,500
From Revenue Transfers	10,000
Schedule of Programs:	
Guardian ad Litem	9,043,500

Item 63

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

From General Fund	2,535,400
From Dedicated Credits Revenue	10,000
Schedule of Programs:	
Jury, Witness, and Interpreter	2,545,400

GOVERNORS OFFICE

Item 64

To Governors Office – CCJJ – Factual Innocence Payments

From Beginning Nonlapsing Balances	448,400
From Closing Nonlapsing Balances	(352,400)
Schedule of Programs:	
Factual Innocence Payments	96,000

Item 65

To Governors Office – CCJJ – Jail Reimbursement

From General Fund	12,725,100
Schedule of Programs:	
Jail Reimbursement	12,725,100

In accordance with UCA 63J–1–903, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Jail Reimbursement line item, whose mission is "reimburse counties that incarcerate an inmate in county jails for (1) felony offenders placed on probation and given jail time as a condition of probation; and (2) and paroles on a 72 hour hold. The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) the number of felony offenders placed on probation and given jail time as a condition of probation; 2) Parolees on a 72-hour hold; and 3) Percent of statutory rate reimbursed to counties.

Item 66

To Governors Office – Commission on Criminal and Juvenile Justice	
From General Fund	5,120,100
From Federal Funds	24,017,300
From Dedicated Credits Revenue	108,000
From Crime Victim Reparations Fund	514,000
From General Fund Restricted – Criminal Forfeiture Restricted Account	2,099,100
Schedule of Programs:	
Extraditions	422,500
Judicial Performance Evaluation Commission	579,400
Law Enforcement Services Grants	477,600
Sentencing Commission	193,800
State Asset Forfeiture Grant Program	2,099,100
State Task Force Grants	1,361,300
Utah Office for Victims of Crime	26,724,800

Item 67

To Governors Office – Emergency Fund	
From General Fund Restricted – State Disaster Recovery Restr Acct	500,000
Schedule of Programs:	
Governor's Emergency Fund	500,000

Item 68

To Governors Office – Governor's Office	
From General Fund	2,469,500
From Dedicated Credits Revenue	1,540,100
From Expendable Receipts	15,200
From Beginning Nonlapsing Balances	840,000
From Closing Nonlapsing Balances	(500,000)
Schedule of Programs:	
Governor's Residence	479,700
Literacy Projects	134,900
Lt. Governor's Office	3,477,800
Washington Funding	272,400

Item 69

To Governors Office – Governors Office of Planning and Budget	
From General Fund	1,184,700
From General Fund, One-Time	(100,000)
From Beginning Nonlapsing Balances	1,500,000
From Closing Nonlapsing Balances	(1,000,000)
Schedule of Programs:	
Administration	1,584,700

Item 70

To Governors Office – Indigent Defense Commission	
From General Fund	104,200
From Dedicated Credits Revenue	45,000
From Expendable Receipts	300,600
From General Fund Restricted – Indigent Defense Resources	6,670,400
From Revenue Transfers	309,600
Schedule of Programs:	
Office of Indigent Defense Services	6,280,600
Indigent Appellate Defense Division	1,000,000
Child Welfare Parental Defense Program	149,200

In accordance with UCA 63J-1-903, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Indigent Defense Commission line item, whose mission is to assist the state in meeting the states obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and state law. The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percentage of indigent defense systems using Indigent Defense Commission grant money for regionalization (Target=50%); 2) Percentage of total county indigent defense systems using Indigent Defense Commission resources to use separate indigent defense service providers (Target =30 %); and 3) Percentage of indigent defense systems using Indigent Defense Commission grants to operate independently-administered defense resources (Target=40%).

Item 71

To Governors Office – Suicide Prevention	
From General Fund	100,000
Schedule of Programs:	
Suicide Prevention	100,000

Item 72

To Governors Office – Colorado River Authority of Utah	
From General Fund Restricted – Colorado River Authority of Utah Restricted Account	600,000
Schedule of Programs:	
Colorado River Authority of Utah	600,000

OFFICE OF THE STATE AUDITOR

Item 73

To Office of the State Auditor – State Auditor	
From General Fund	3,776,500
From Dedicated Credits Revenue	3,497,000
Schedule of Programs:	
State Auditor	7,273,500

In accordance with UCA 63J-1-903, the Legislature intends that the Office of the State Auditor report performance measures for the Office of the State Auditor line item, whose mission is "to provide Utah taxpayers and government officials with an independent assessment of financial operation, statutory compliance, and performance management for state and local government. The Office of the State Auditor shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Annual financial statement audits completed in a timely manner (within six months) – excluding State ACFR) (Target = 65%); (2) State of Utah Annual Comprehensive Financial Report (ACFR) audit completed and released in a timely manner (within five months or 153 days) (Target = 153 days or less); (3) State of Utah Single Audit Report (Federal Compliance Report) completed and released in a timely manner (w/in six months or 184 days). Federal requirement is nine months. (Target = 184 days or less); (4) Monitoring of CPA firms performing local government financial audits. (Target = 100% over an ongoing three–year period).

DEPARTMENT OF PUBLIC SAFETY

Item 74

To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management

From Expendable Receipts	1,000,000
From Beginning Nonlapsing Balances	7,032,900
From Closing Nonlapsing Balances	(7,032,900)
Schedule of Programs:	
Emergency and Disaster Management	1,000,000

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Public Safety report performance measures for the Division of Homeland Security Emergency and Disaster Management line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) distribution of funds for appropriate and approved expenses (Target 100%).

Item 75

To Department of Public Safety – Driver License

From General Fund	2,300
From Federal Funds	199,800
From Dedicated Credits Revenue	25,600
From Department of Public Safety Restricted Account	29,940,500
From Public Safety Motorcycle Education Fund	505,600
From Uninsured Motorist Identification Restricted Account	2,500,000
From Pass–through	59,700
From Beginning Nonlapsing Balances	2,211,000
From Closing Nonlapsing Balances	(71,700)
Schedule of Programs:	
DL Federal Grants	199,800
Driver Records	11,322,800
Driver Services	20,725,300
Motorcycle Safety	489,900
Uninsured Motorist	2,635,000

Item 76

To Department of Public Safety – Emergency Management

From General Fund	1,893,900
From Federal Funds	29,583,200
From Dedicated Credits Revenue	749,700
From General Fund Restricted – Post Disaster Recovery and Mitigation Rest Account	300,000
From Lapsing Balance	(300,000)
Schedule of Programs:	
Emergency Management	32,226,800

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Public Safety report performance measures for the Emergency Management line item, whose mission is, "To provide the people an open, fair, efficient, and independent system for the advancement of justice under the law." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) percentage of personnel that have completed the required National Incident Management System training (Target=100 percent).

Item 77

To Department of Public Safety – Emergency Management – National Guard Response

From Beginning Nonlapsing Balances	150,000
From Closing Nonlapsing Balances	(150,000)

Item 78

To Department of Public Safety – Highway Safety

From General Fund	100
From Federal Funds	6,704,600
From Dedicated Credits Revenue	16,300
From Department of Public Safety Restricted Account	1,323,800
From Public Safety Motorcycle Education Fund	58,100
Schedule of Programs:	
Highway Safety	8,102,900

Item 79

To Department of Public Safety – Peace Officers' Standards and Training

From General Fund	1,511,800
From Dedicated Credits Revenue	86,300
From Uninsured Motorist Identification Restricted Account	1,500,000
Schedule of Programs:	
Basic Training	2,458,700
Regional/Inservice Training	639,400

Item 80

To Department of Public Safety – Programs & Operations

From General Fund	91,989,600
From Transportation Fund	5,458,500
From Federal Funds	360,300
From Dedicated Credits Revenue	12,936,100
From General Fund Restricted – Canine Body Armor	25,000
From Department of Public Safety Restricted Account	3,719,600
From General Fund Restricted – DNA Specimen Account	1,533,200
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	1,180,000
From General Fund Restricted – Fire Academy Support	3,537,200
From General Fund Restricted – Firefighter Support Account	250,000
From Gen. Fund Rest. – Motor Vehicle Safety Impact Acct.	2,785,800
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	288,700
From General Fund Restricted – Reduced Cigarette Ignition Propensity & Firefighter Protection Account	80,800
From Revenue Transfers	6,400
From Gen. Fund Rest. – Utah Highway Patrol Aero Bureau	218,900
From Beginning Nonlapsing Balances	1,818,000
From Closing Nonlapsing Balances	(1,817,800)
From Lapsing Balance	(1,100,000)

Schedule of Programs:

Aero Bureau	1,582,800
CITS Communications	11,985,100
CITS State Bureau of Investigation	7,728,200
CITS State Crime Labs	9,719,300
Department Intelligence Center	1,644,700
Fire Marshal – Fire Fighter Training	522,700
Fire Marshal – Fire Operations	3,694,000
Highway Patrol – Commercial Vehicle	4,290,200
Highway Patrol – Federal/ State Projects	4,233,100
Highway Patrol – Field Operations	57,594,600
Highway Patrol – Protective Services	8,435,000
Highway Patrol – Safety Inspections	586,200
Highway Patrol – Special Enforcement	3,897,500
Highway Patrol – Special Services	4,828,400
Highway Patrol – Technology Services	1,685,900
Information Management – Operations	842,600

Item 81

To Department of Public Safety – Bureau of Criminal Identification

From General Fund	2,733,800
From Dedicated Credits Revenue	4,172,000
From General Fund Restricted – Concealed Weapons Account	4,015,500
From Revenue Transfers	2,031,100

Schedule of Programs:

Law Enforcement/Criminal Justice Services	2,854,400
Non-Government/Other Services	10,098,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Public Safety report performance measures for the Bureau of Criminal Identification line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) percentage of LiveScan fingerprint card data entered into the Utah Computerized Criminal History (UCCH) and Automated fingerprint identification System (AFIS) databases, or deleted from the queue (Target=7 days).

STATE TREASURER

Item 82

To State Treasurer

From General Fund	1,040,500
From Dedicated Credits Revenue	1,035,900
From Land Trusts Protection and Advocacy Account	406,000
From Qualified Patient Enterprise Fund	2,000
From Unclaimed Property Trust	2,060,700

Schedule of Programs:

Advocacy Office	406,000
Money Management Council	113,600
Treasury and Investment	1,972,300
Unclaimed Property	2,053,200

In accordance with UCA 63J-1-903, the Legislature intends that the State Treasurers Office report performance measures for the State Treasurer line item, whose mission is "To serve the people of Utah by safeguarding public funds, prudently managing and investing the States financial assets, borrowing from the capital markets at the lowest prudently available cost to taxpayers, and reuniting individuals and businesses with their unclaimed property." The State Treasurer shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Spread Between PTIF Interest Rate and Benchmark Rate (Target = 0.30%), 2) Ratio of Claim Dollars Paid to Claim Dollars Collected (Target = 50%), and 3) Total Value of Unclaimed Property Claims Paid (Target = $20 Million).

In accordance with UCA 63J-1-903, the Legislature intends that the State Treasurers

Office report performance measures for the State Treasurer line item, whose mission is "To serve the people of Utah by safeguarding public funds, prudently managing and investing the States financial assets, borrowing from the capital markets at the lowest prudently available cost to taxpayers, and reuniting individuals and businesses with their unclaimed property." The State Treasurer shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) The dollar increase of the permanent fund balance; 2) The number of positive news stories, volume, reach, and engagement; and 3) The financial return of new unique projects compared to projects in previous years.

UTAH COMMUNICATIONS AUTHORITY

Item 83
To Utah Communications Authority – Administrative Services Division
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct. 11,413,600
Schedule of Programs:
911 Division 11,413,600

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ATTORNEY GENERAL

Item 84
To Attorney General – Crime and Violence Prevention Fund
From Dedicated Credits Revenue 250,000
Schedule of Programs:
Crime and Violence Prevention Fund 250,000

Item 85
To Attorney General – Litigation Fund
From Dedicated Credits Revenue 2,000,000
From Beginning Fund Balance 915,300
Schedule of Programs:
Litigation Fund 2,915,300

GOVERNORS OFFICE

Item 86
To Governors Office – Crime Victim Reparations Fund
From General Fund 3,769,400
From Federal Funds 2,500,000
From Dedicated Credits Revenue 2,731,900
From Interest Income 82,000
From Beginning Fund Balance 8,111,600
Schedule of Programs:
Crime Victim Reparations Fund 17,194,900

Item 87
To Governors Office – Justice Assistance Grant Fund
From Beginning Fund Balance 3,462,100
From Closing Fund Balance . . . . (1,104,700)
Schedule of Programs:
Justice Assistance Grant Fund 2,357,400

Item 88
To Governors Office – State Elections Grant Fund
From General Fund 500,000
From Federal Funds 4,818,400
From Interest Income 5,500
From Beginning Fund Balance 602,600
From Closing Fund Balance . . . . (602,600)
Schedule of Programs:
State Elections Grant Fund 5,323,900

Item 89
To Governors Office – Municipal Incorporation Expendable Special Revenue Fund
From Dedicated Credits Revenue 18,000
From Beginning Fund Balance 900
From Closing Fund Balance . . . . (900)
Schedule of Programs:
Municipal Incorporation Expendable Special Revenue Fund 18,000

Item 90
To Governors Office – IDC – Child Welfare Parental Defense Fund
From General Fund 6,500
From Interest Income 1,000
Schedule of Programs:
Child Welfare Parental Defense Fund 7,500

Item 91
To Governors Office – Pretrial Release Programs Special Revenue Fund
From Dedicated Credits Revenue 300,000
Schedule of Programs:
Pretrial Release Programs Special Revenue Fund 300,000

DEPARTMENT OF PUBLIC SAFETY

Item 92
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue 3,505,700
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account 16,500
From Beginning Fund Balance 5,712,600
From Closing Fund Balance . . . . (4,732,200)
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 4,502,600

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ATTORNEY GENERAL

Item 93
To Attorney General – ISF – Attorney General

From General Fund	227,200
From Dedicated Credits Revenue	56,133,400
Schedule of Programs:	
Civil Division	34,559,100
Child Protection Division	10,738,200
Criminal Division	11,063,300
Budgeted FTE	318.9

UTAH DEPARTMENT OF CORRECTIONS

Item 94
To Utah Department of Corrections – Utah Correctional Industries

From Dedicated Credits Revenue	28,000,000
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	1,400
From Beginning Fund Balance	6,616,800
From Closing Fund Balance	(7,402,800)
Schedule of Programs:	
Utah Correctional Industries	27,215,400

DEPARTMENT OF PUBLIC SAFETY

Item 95
To Department of Public Safety – Local Government Emergency Response Loan Fund

From Beginning Fund Balance	4,278,700
From Closing Fund Balance	(4,278,700)

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 96
To General Fund Restricted – Indigent Defense Resources Account

From General Fund	6,670,400
From Revenue Transfers	(6,670,400)

Item 97
To Colorado River Authority of Utah Restricted Account

From General Fund	600,000
From Revenue Transfers	(600,000)

Item 98
To General Fund Restricted – DNA Specimen Account

From General Fund	216,000
Schedule of Programs:	
General Fund Restricted – DNA Specimen Account	216,000

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

ATTORNEY GENERAL

Item 99
To Attorney General – Financial Crimes Trust Fund

From Trust and Agency Funds	1,225,000
Schedule of Programs:	
Financial Crimes Trust Fund	1,225,000

GOVERNORS OFFICE

Item 100
To Governors Office – Indigent Inmate Trust Fund

From Dedicated Credits Revenue	25,300
From Beginning Fund Balance	795,900
From Closing Fund Balance	(733,200)
Schedule of Programs:	
Indigent Inmate Trust Fund	88,000

STATE TREASURER

Item 101
To State Treasurer – Navajo Trust Fund

From Trust and Agency Funds	4,724,800
From Beginning Fund Balance	88,646,300
From Closing Fund Balance	(90,988,900)
Schedule of Programs:	
Navajo Trust Fund	2,382,200

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ATTORNEY GENERAL

Item 102
To Attorney General

From General Fund	6,491,600
From Dedicated Credits Revenue	155,500
Schedule of Programs:	
Administration	6,647,100

In accordance with UCA 63J-1-903, the Legislature intends that the Attorney Generals Office report performance measures for the Attorney General line item, whose mission is “to uphold the constitutions of the United States and of the State of Utah, to enforce the law, and to protect the interests of the State of Utah and its people, environment, and resources.” The Attorney Generals Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Customer satisfaction score; and 2) Attorney and staff competence score.

UTAH DEPARTMENT OF CORRECTIONS

Item 103

To Utah Department of Corrections – Programs and Operations

From General Fund	36,658,900
From Dedicated Credits Revenue	395,100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	17,600
Schedule of Programs:	
Adult Probation and Parole Administration	3,933,900
Department Administrative Services	13,741,800
Department Executive Director	7,887,500
Prison Operations Administration	10,669,000
Programming Administration	839,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Corrections report performance measures for the Programs and Operations line item, whose mission is "Our dedicated team of professionals ensures public safety by effectively managing offenders while maintaining close collaboration with partner agencies and the community. Our team is devoted to providing maximum opportunities for offenders to make lasting changes through accountability, treatment, education, and positive reinforcement within a safe environment." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) AP&P: Percentage of all probationers and parolees ending supervision who earned early termination; and 2) DPO: Per capita rate of convictions for violent incidents inside the state prisons.

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 104

To Judicial Council/State Court Administrator – Administration

From General Fund	11,809,400
From Federal Funds	701,900
From Dedicated Credits Revenue	1,671,900
From General Fund Restricted – Children's Legal Defense	54,100
From General Fund Restricted – Court Trust Interest	257,900
From General Fund Rest. – Justice Court Tech., Security & Training	75,000
From General Fund Restricted – Online Court Assistance Account	237,300
From Revenue Transfers	955,100
Schedule of Programs:	
Administrative Office	5,955,000
Data Processing	8,342,900
Grants Program	1,464,700

Item 105

To Judicial Council/State Court Administrator – Contracts and Leases

From General Fund	16,673,000
From Dedicated Credits Revenue	258,800
From General Fund Restricted – State Court Complex Account	4,435,800
Schedule of Programs:	
Contracts and Leases	21,367,600

GOVERNORS OFFICE

Item 106

To Governors Office – Commission on Criminal and Juvenile Justice

From General Fund	3,212,200
From Federal Funds	5,995,000
Schedule of Programs:	
CCJJ Commission	9,036,000
Substance Use and Mental Health Advisory Council	171,200

In accordance with UCA 63J-1-903, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Commission on Criminal and Juvenile Justice item, whose mission is "(a) promote broad philosophical agreement concerning the objectives of the criminal and juvenile justice system in Utah; (b) provide a mechanism for coordinating the functions of the various branches and levels of government concerned with criminal and juvenile justice to achieve those objectives; and coordinate statewide efforts to reduce crime and victimization in Utah." The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of victim reparations claims processed within 30 days or less (Target=75%); 2) Number of grants monitored (Target =143 or 55%); 3) Website Visits to Judges.Utah.Gov (Target=100% improvement).

Item 107

To Governors Office – Governor's Office

From General Fund	4,078,400
From Dedicated Credits Revenue	2,900
From Beginning Nonlapsing Balances	250,000
Schedule of Programs:	
Administration	4,331,300

In accordance with UCA 63J-1-903, the Legislature intends that the Governors Office report performance measures for the Governors Office line item. The Governors Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percentage of registered voters that voted during an even–year general election (Target = 90%); 2) Number of constituent affairs responses; 3) Suicide Rate (Target = 22.2 per 100,000).

Item 108

To Governors Office – Governors Office of Planning and Budget

From General Fund	4,087,200
From Dedicated Credits Revenue	26,500
Schedule of Programs:	
Management and Special Projects	951,700
Budget, Policy, and Economic Analysis	2,194,100
Planning Coordination	967,900

In accordance with UCA 63J–1–903, the Legislature intends that the Governors Office report performance measures for the Governors Office of Planning and Budget line item. The Governors Office shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) the overall percentage of the budget with a defined performance measure (Target = establish a baseline for the percentage of the budget with a measure).

DEPARTMENT OF PUBLIC SAFETY

Item 109

To Department of Public Safety – Driver License

From Dedicated Credits Revenue	1,200
From Department of Public Safety Restricted Account	2,291,200
From Beginning Nonlapsing Balances	3,949,700
From Closing Nonlapsing Balances	(3,997,600)
Schedule of Programs:	
Driver License Administration	2,244,500

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Public Safety report performance measures for the Driver License Division line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) average customer call wait time (Target=30 seconds).

Item 110

To Department of Public Safety – Peace Officers' Standards and Training

From General Fund	1,310,800
Schedule of Programs:	
POST Administration	1,310,800

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Public Safety report performance measures for the POST line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) percentage of presented cases of law enforcement personnel complaints or misconduct allegations ratified by POST Council (Target=95 percent), and (2) percentage of law enforcement officers completing 40 hours of mandatory annual training (Target= 100 percent).

Item 111

To Department of Public Safety – Programs & Operations

From General Fund	7,156,900
From Transportation Fund	37,000
From Federal Funds	3,915,000
From Dedicated Credits Revenue	320,400
From Department of Public Safety Restricted Account	366,100
From General Fund Restricted – Public Safety Honoring Heroes Account	300,000
From Revenue Transfers	2,040,400
From General Fund Restricted – Utah Law Enforcement Memorial Support Restricted Account	50,000
From Pass–through	15,100
Schedule of Programs:	
CITS Administration	562,000
Department Commissioner's Office	5,717,700
Department Fleet Management	512,200
Department Grants	5,975,500
Highway Patrol – Administration	1,433,500

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Public Safety report performance measures for their Programs and Operations line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) median DNA case turnaround time (Target=60 days)

UTAH COMMUNICATIONS AUTHORITY

Item 112

To Utah Communications Authority – Administrative Services Division

From General Fund Restricted – Utah Statewide Radio System Acct.	20,000,500

Schedule of Programs:

Administrative Services Division	20,000,500

In accordance with UCA 63J-1-201, the Legislature intends that the Utah Communications Authority (UCA) report performance measures for their line item, whose mission is to "provide administrative and financial support for statewide 911 emergency services." The UCA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Management and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) the UCA shall maintain the statewide public safety communications network in a manner that maximizes network availability for its users; (2) monitor best practices and other guidance for PSAPs across Utah; and (3) ensure compliance with applicable laws, policies, procedures, and other internal controls to ensure adequate administration of the organization.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 4
H.B. 7

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

SOCIAL SERVICES BASE BUDGET

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $295,812,500 in operating and capital budgets for fiscal year 2022, including:

- ($9,476,500) from the General Fund; and
- $305,289,000 from various sources as detailed in this bill.

This bill appropriates ($48,679,100) in expendable funds and accounts for fiscal year 2022.

This bill appropriates ($370,149,400) in business-like activities for fiscal year 2022.

This bill appropriates ($75,960,500) in restricted fund and account transfers for fiscal year 2022, including:

- $1,235,700 from the General Fund; and
- ($77,196,200) from various sources as detailed in this bill.

This bill appropriates $7,878,539,800 in operating and capital budgets for fiscal year 2023, including:

- $1,321,496,100 from the General Fund;
- $3,000,000 from the Education Fund; and
- $6,554,043,700 from various sources as detailed in this bill.

This bill appropriates $55,572,800 in expendable funds and accounts for fiscal year 2023, including:

- $2,542,900 from the General Fund; and
- $53,029,900 from various sources as detailed in this bill.

This bill appropriates $168,082,700 in business-like activities for fiscal year 2023.

This bill appropriates $269,383,500 in restricted fund and account transfers for fiscal year 2023, including:

- $95,537,000 from the General Fund; and
- $173,846,500 from various sources as detailed in this bill.

This bill appropriates $221,955,200 in fiduciary funds for fiscal year 2023.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

DEPARTMENT OF HEALTH

Item 1

To Department of Health - Children's Health Insurance Program

From General Fund, One-Time	(6,733,300)
From Federal Funds, One-Time	60,289,700
From Federal Funds - Enhanced FMAP, One-Time	3,060,200
From General Fund Restricted - Medicaid Restricted Account, One-Time	21,700,000
From Beginning Nonlapsing Balances	2,317,600
Schedule of Programs:	
Children's Health Insurance Program	80,634,200

The Department of Health may use up to a combined maximum of $21,700,000 from the General Fund Restricted - Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services and Children's Health Insurance Program only in the case that non-federal fund appropriations provided for FY 2022 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2022 when combined with federal matching funds.

Item 2

To Department of Health - Disease Control and Prevention

From Beginning Nonlapsing Balances	1,423,400
Schedule of Programs:	
Health Promotion	1,425,000
Utah Public Health Laboratory	(338,500)
Office of the Medical Examiner	336,900

The Legislature intends that the Department of Health and Human Services report by June 1, 2022 to the Social Services Appropriations Subcommittee on the status of fixing software notifications for alkalinity testing as per an internal audit finding identified in May 2019.

The Legislature intends that the Department of Health and Human Services report by June 1, 2022 to the Social Services Appropriations Subcommittee on the agency's proposed plans for outsourcing vs insourcing at the public health lab certain tests for forensic pathology for the medical examiner and the financial and other ramifications of those plans.

Item 3

To Department of Health – Executive Director's Operations

From Revenue Transfers, One–Time	(77,600)
From Beginning Nonlapsing Balances	1,527,500
Schedule of Programs:	
Adoption Records Access	29,000
Center for Health Data and Informatics	207,600
Executive Director	100,300
Program Operations	1,190,600
Center for Medical Cannabis	(77,600)

Item 4

To Department of Health – Family Health and Preparedness

From Beginning Nonlapsing Balances	1,586,500
From Closing Nonlapsing Balances	(577,200)
Schedule of Programs:	
Director's Office	145,000
Emergency Medical Services and Preparedness	300,800
Health Facility Licensing and Certification	47,700
Maternal and Child Health	110,000
Primary Care	338,900
Emergency Medical Services Grants	66,900

Item 5

To Department of Health – Medicaid and Health Financing

From Beginning Nonlapsing Balances	2,641,200
Schedule of Programs:	
Financial Services	2,641,200

Item 6

To Department of Health – Medicaid Services

From General Fund, One–Time	12,729,200
From Federal Funds, One–Time	54,742,100
From Federal Funds – Enhanced FMAP, One–Time	74,417,500
From General Fund Restricted – Medicaid Restricted Account, One–Time	21,700,000
From Beginning Nonlapsing Balances	18,657,500
Schedule of Programs:	
Accountable Care Organizations	175,367,000
Other Services	80,000
Provider Reimbursement Information System for Medicaid	6,799,300

The Department of Health may use up to a combined maximum of $21,700,000 from the General Fund Restricted – Medicaid Restricted Account and associated federal matching funds provided for Medicaid Services and Children's Health Insurance Program only in the case that non–federal fund appropriations provided for FY 2022 in all other items of appropriation within the respective line item are insufficient to pay appropriate claims within the respective line item for FY 2022 when combined with federal matching funds.

Item 7

To Department of Health – Primary Care Workforce Financial Assistance

From Beginning Nonlapsing Balances	1,770,900
From Closing Nonlapsing Balances	(1,324,300)
Schedule of Programs:	
Primary Care Workforce Financial Assistance	446,600

Item 8

To Department of Health – Rural Physicians Loan Repayment Assistance

From Beginning Nonlapsing Balances	312,400
From Closing Nonlapsing Balances	(85,900)
Schedule of Programs:	
Rural Physicians Loan Repayment Program	226,500

DEPARTMENT OF HUMAN SERVICES

Item 9

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

From General Fund, One–Time	(163,700)
From Federal Funds – Enhanced FMAP, One–Time	163,700
From Beginning Nonlapsing Balances	160,600
Schedule of Programs:	
Administration – DAAS	160,600

Item 10

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

From General Fund, One–Time	(1,626,700)
From Federal Funds – Enhanced FMAP, One–Time	1,626,700
From Beginning Nonlapsing Balances	2,860,600
Schedule of Programs:	
Administration – DCFS	2,860,600

Item 11

To Department of Human Services – Executive Director Operations

From Beginning Nonlapsing Balances	32,700
Schedule of Programs:	
Executive Director's Office	32,700

Item 12

To Department of Human Services – Office of Public Guardian

From Beginning Nonlapsing Balances	3,800
Schedule of Programs:	
Office of Public Guardian	3,800

Item 13

To Department of Human Services – Division of Services for People with Disabilities

From General Fund, One–Time	(13,002,200)
From Federal Funds – Enhanced FMAP, One–Time	13,002,200
From Beginning Nonlapsing Balances	4,434,300
Schedule of Programs:	
Administration – DSPD	4,434,300

Item 14

To Department of Human Services – Division of Substance Abuse and Mental Health

From General Fund, One–Time	(679,800)
From Federal Funds – Enhanced FMAP, One–Time	679,800
From Beginning Nonlapsing Balances	12,207,700
Schedule of Programs:	
Administration – DSAMH	12,207,700

DEPARTMENT OF WORKFORCE SERVICES

Item 15

To Department of Workforce Services – Administration

From Beginning Nonlapsing Balances	700
Schedule of Programs:	
Executive Director's Office	700

Item 16

To Department of Workforce Services – General Assistance

From Beginning Nonlapsing Balances	2,036,500
Schedule of Programs:	
General Assistance	2,036,500

Item 17

To Department of Workforce Services – Housing and Community Development

From General Fund, One–Time	(100)
From Federal Funds, One–Time	(200)
From Gen. Fund Rest. – Pamela Atkinson Homeless Account, One–Time	(100)
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account, One–Time	(300)
From Beginning Nonlapsing Balances	1,158,500
From Lapsing Balance	(1,000,000)
Schedule of Programs:	
Homeless Committee	(700)
Weatherization Assistance	158,500

Item 18

To Department of Workforce Services – Operations and Policy

From Beginning Nonlapsing Balances	1,020,000
Schedule of Programs:	
Other Assistance	1,000,000
Utah Data Research Center	20,000

Item 19

To Department of Workforce Services – State Office of Rehabilitation

From Beginning Nonlapsing Balances	1,259,700
From Closing Nonlapsing Balances	(1,000,000)
Schedule of Programs:	
Deaf and Hard of Hearing	336,300
Executive Director	(76,600)

Item 20

To Department of Workforce Services – Unemployment Insurance

From General Fund Restricted – Special Admin. Expense Account, One–Time	1,000,000
From Beginning Nonlapsing Balances	60,000
Schedule of Programs:	
Unemployment Insurance Administration	1,060,000

Item 21

To Department of Workforce Services – Office of Homeless Services

From General Fund, One–Time	100
From Federal Funds, One–Time	200
From Gen. Fund Rest. – Pamela Atkinson Homeless Account, One–Time	100
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account, One–Time	300
From Beginning Nonlapsing Balances	1,500,000
Schedule of Programs:	
Homeless Services	1,500,700

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 22

To Department of Workforce Services – Individuals with Visual Impairment Fund

From Beginning Fund Balance	(13,200)
From Closing Fund Balance	(26,800)
Schedule of Programs:	
Individuals with Visual Impairment Fund	(40,000)

Item 23

To Department of Workforce Services – Individuals with Visual Impairment Vendor Fund

From Beginning Fund Balance	(54,600)
From Closing Fund Balance	49,600
Schedule of Programs:	
Individuals with Visual Disabilities Vendor Fund	(5,000)

Item 24

To Department of Workforce Services – Intermountain Weatherization Training Fund

From Lapsing Balance	(69,800)
Schedule of Programs:	
Intermountain Weatherization Training Fund	(69,800)

Item 25

To Department of Workforce Services – Navajo Revitalization Fund

From Beginning Fund Balance	39,200
From Closing Fund Balance	(710,000)
Schedule of Programs:	
Navajo Revitalization Fund	(670,800)

Item 26

To Department of Workforce Services – Permanent Community Impact Bonus Fund

From Beginning Fund Balance	(389,100)
From Closing Fund Balance	(6,171,400)
Schedule of Programs:	
Permanent Community Impact Bonus Fund	(6,560,500)

Item 27

To Department of Workforce Services – Permanent Community Impact Fund

From Beginning Fund Balance	(2,319,800)
From Closing Fund Balance	(4,641,200)
Schedule of Programs:	
Permanent Community Impact Fund	(6,961,000)

Item 28

To Department of Workforce Services – Uintah Basin Revitalization Fund

From Beginning Fund Balance	(1,319,100)
From Closing Fund Balance	(530,900)
Schedule of Programs:	
Uintah Basin Revitalization Fund	(1,850,000)

Item 29

To Department of Workforce Services – Utah Community Center for the Deaf Fund

From Beginning Fund Balance	(6,300)
From Closing Fund Balance	6,100
Schedule of Programs:	
Utah Community Center for the Deaf Fund	(200)

Item 30

To Department of Workforce Services – Olene Walker Low Income Housing

From Beginning Fund Balance	3,835,900
From Closing Fund Balance	(36,402,900)
Schedule of Programs:	
Olene Walker Low Income Housing	(32,567,000)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 31

To Department of Health and Human Services – Organ Donation Contribution Fund

From Dedicated Credits Revenue, One–Time	100
From Beginning Fund Balance	104,700
From Closing Fund Balance	(104,800)

Item 32

To Department of Health and Human Services – Spinal Cord and Brain Injury Rehabilitation Fund

From Beginning Fund Balance	126,200
From Closing Fund Balance	(126,200)

Item 33

To Department of Health and Human Services – Traumatic Brain Injury Fund

From Beginning Fund Balance	160,600
From Closing Fund Balance	(165,400)
Schedule of Programs:	
Traumatic Brain Injury Fund	(4,800)

Item 34

To Department of Health and Human Services – Pediatric Neuro–Rehabilitation Fund

From Beginning Fund Balance	50,000
Schedule of Programs:	
Pediatric Neuro–Rehabilitation Fund	50,000

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

DEPARTMENT OF WORKFORCE SERVICES

Item 35

To Department of Workforce Services – Economic Revitalization and Investment Fund

From Beginning Fund Balance	(95,700)
From Closing Fund Balance	96,700
Schedule of Programs:	
Economic Revitalization and Investment Fund	1,000

Item 36

To Department of Workforce Services – State Small Business Credit Initiative Program Fund

From Beginning Fund Balance	(104,900)
From Closing Fund Balance	104,900
From Lapsing Balance	(56,234,000)
Schedule of Programs:	
State Small Business Credit Initiative Program Fund	(56,234,000)

Item 37

To Department of Workforce Services – Unemployment Compensation Fund

From Beginning Fund Balance	(920,940,600)
From Closing Fund Balance	761,981,600
From Lapsing Balance	(154,957,400)
Schedule of Programs:	
Unemployment Compensation Fund	(313,916,400)

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 38

To Department of Health and Human Services – Qualified Patient Enterprise Fund

From Beginning Fund Balance	1,894,100
From Closing Fund Balance	(1,894,100)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 39

To General Fund Restricted – Homeless Account	
From Beginning Fund Balance	306,500
From Closing Fund Balance	(306,500)

Item 40

To General Fund Restricted – Homeless to Housing Reform Account	
From Beginning Fund Balance	6,862,300
From Closing Fund Balance	(15,712,300)
Schedule of Programs:	
General Fund Restricted – Homeless to Housing Reform Restricted Account	(8,850,000)

Item 41

To General Fund Restricted – School Readiness Account	
From Beginning Fund Balance	(121,600)
From Closing Fund Balance	1,023,300
Schedule of Programs:	
General Fund Restricted – School Readiness Account	901,700

Item 42

To Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	
From General Fund Restricted – Tobacco Control Restricted Account, One–Time	950,900
Schedule of Programs:	
Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	950,900

Item 43

To Medicaid Expansion Fund	
From General Fund, One–Time	1,235,700
From Dedicated Credits Revenue, One–Time	(284,200)
From Expendable Receipts, One–Time	59,200
From Beginning Fund Balance	44,975,200
From Closing Fund Balance	(114,449,000)
Schedule of Programs:	
Medicaid Expansion Fund	(68,463,100)

Item 44

To General Fund Restricted – Children's Hearing Aid Program Account	
From Beginning Fund Balance	264,300
From Closing Fund Balance	(264,300)

Item 45

To General Fund Restricted – Medicaid Restricted Account	
From Beginning Fund Balance	40,971,000
From Closing Fund Balance	(40,971,000)

Item 46

To Adult Autism Treatment Account	
From Expendable Receipts, One–Time	(500,000)
Schedule of Programs:	
Adult Autism Treatment Account	(500,000)

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF WORKFORCE SERVICES

Item 47

To Department of Workforce Services – Administration	
From General Fund	4,136,400
From Federal Funds	9,234,200
From Dedicated Credits Revenue	141,300
From Expendable Receipts	71,800
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	20,400
From Housing Opportunities for Low Income Households	5,000
From Medicaid Expansion Fund	1,200
From Navajo Revitalization Fund	10,400
From Olene Walker Housing Loan Fund	20,000
From OWHT–Fed Home	5,000
From OWHTF–Low Income Housing	20,000
From Permanent Community Impact Loan Fund	149,700
From Qualified Emergency Food Agencies Fund	4,100
From General Fund Restricted – School Readiness Account	17,000
From Revenue Transfers	3,373,200
From Uintah Basin Revitalization Fund	3,600
Schedule of Programs:	
Administrative Support	11,383,500
Communications	1,410,400
Executive Director's Office	1,099,100
Human Resources	1,800,800
Internal Audit	1,519,500

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Workforce Services report performance measures for the Administration line item, whose mission is to "be the best–managed State Agency in Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) provide accurate and timely department–wide fiscal administration as measured by audit findings or responses (Target: zero audit findings); 2) percent of DWS programs/systems that have reviewed, planned for, or mitigated identified risks (target: 100%); and 3) percent of DWS facilities for which an annual facilities risk assessment is completed using the Division of Risk Management guidelines and checklist (target: 98%).

Item 48

To Department of Workforce Services – Community Development Capital Budget

From Permanent Community Impact Loan Fund	93,060,000
Schedule of Programs:	
Community Impact Board	93,060,000

Item 49

To Department of Workforce Services – General Assistance

From General Fund	4,768,700
From Revenue Transfers	251,800
Schedule of Programs:	
General Assistance	5,020,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the General Assistance line item, whose mission is to "provide temporary financial assistance to disabled adults without dependent children to support basic living needs as they seek longer term financial benefits through SSI/SSDI or employment." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) positive closure rate (SSI achievement or closed with earnings) (Target = 65%), (2) General Assistance average monthly customers served (Target = 730), and (3) internal review compliance accuracy (Target = 95%).

Item 50

To Department of Workforce Services – Nutrition Assistance – SNAP

From Federal Funds	416,244,900
Schedule of Programs:	
Nutrition Assistance – SNAP	416,244,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Nutrition Assistance line item, whose mission is to "provide accurate and timely Supplemental Nutrition Assistance Program (SNAP) benefits to eligible low-income individuals and families." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) SNAP – Accuracy of Paid Benefits (Target= 97%), (2) SNAP – Certification Timeliness – percentage of cases where a decision of eligibility was made within 30 calendar days (Target = 95%), and (3) SNAP – Calendar Days to Decision from Application Submission to Eligibility Decision (Target = 12 days).

Item 51

To Department of Workforce Services – Operations and Policy

From General Fund	52,586,600
From Education Fund	3,000,000
From Federal Funds	290,242,200
From Dedicated Credits Revenue	1,417,300
From Expendable Receipts	1,033,100
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	38,200
From Housing Opportunities for Low Income Households	2,000
From Medicaid Expansion Fund	3,325,700
From Navajo Revitalization Fund	7,000
From Olene Walker Housing Loan Fund	40,000
From OWHT-Fed Home	2,000
From OWHTF-Low Income Housing	35,000
From Permanent Community Impact Loan Fund	251,800
From Qualified Emergency Food Agencies Fund	3,500
From General Fund Restricted – School Readiness Account	9,051,900
From Revenue Transfers	60,340,000
From Uintah Basin Revitalization Fund	2,800
Schedule of Programs:	
Child Care Assistance	89,513,100
Eligibility Services	86,272,300
Facilities and Pass-Through	8,091,300
Information Technology	43,016,000
Nutrition Assistance	96,000
Other Assistance	294,600
Refugee Assistance	7,400,000
Temporary Assistance for Needy Families	70,088,100
Trade Adjustment Act Assistance	1,500,000
Utah Data Research Center	1,408,700
Workforce Development	106,393,500
Workforce Investment Act Assistance	4,530,000
Workforce Research and Analysis	2,775,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Operations and Policy line item, whose mission is to "meet the needs of our customers with responsive, respectful and accurate service." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) labor exchange – total job placements (Target = 30,000 placements per calendar quarter), (2) TANF recipients – positive closure rate (Target = 78% per calendar month), (3) Eligibility Services – internal review compliance accuracy (Target = 95%), and (4) Utah Data Research Center– total number of research items completed for the year meeting statutory requirements and research center's priorities.

Item 52

To Department of Workforce Services – Special Service Districts

From General Fund Restricted – Mineral Lease	3,015,800
Schedule of Programs:	
Special Service Districts	3,015,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Special Service Districts line item, whose mission is to "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) the total pass through of funds to qualifying special service districts in counties of the 5th, 6th, and 7th class (completed quarterly).

Item 53

To Department of Workforce Services – State Office of Rehabilitation

From General Fund	22,205,600
From Federal Funds	50,844,400
From Dedicated Credits Revenue	549,800
From Expendable Receipts	557,000
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	500
From Housing Opportunities for Low Income Households	1,000
From Medicaid Expansion Fund	200
From Navajo Revitalization Fund	500
From Olene Walker Housing Loan Fund	1,000
From OWHT-Fed Home	1,000
From OWHTF-Low Income Housing	1,000
From Permanent Community Impact Loan Fund	2,300
From Qualified Emergency Food Agencies Fund	500
From General Fund Restricted – School Readiness Account	400
From Revenue Transfers	59,600
From Uintah Basin Revitalization Fund	500
From Beginning Nonlapsing Balances	8,000,000
From Closing Nonlapsing Balances	(8,000,000)
Schedule of Programs:	
Blind and Visually Impaired	3,870,400
Deaf and Hard of Hearing	3,194,700
Disability Determination	15,994,000
Executive Director	1,060,700
Rehabilitation Services	50,105,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Utah State Office of Rehabilitation line item, whose mission is to "empower clients and provide high quality services that promote independence and self-fulfillment through its programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Vocational Rehabilitation – Percentage of all VR clients receiving services who are eligible or potentially eligible youth (ages 14-24) (Target >=39.8%), (2) Vocational Rehabilitation – maintain or increase a successful rehabilitation closure rate (Target = 55%), and (3) Deaf and Hard of Hearing Total number of individuals served with DSDHH programs (Target = 8,000).

Item 54

To Department of Workforce Services – Unemployment Insurance

From General Fund	1,042,500
From Federal Funds	27,157,600
From Dedicated Credits Revenue	645,000
From Expendable Receipts	31,400
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	1,000
From Housing Opportunities for Low Income Households	1,000
From Medicaid Expansion Fund	100
From Navajo Revitalization Fund	500
From Olene Walker Housing Loan Fund	1,500
From OWHT-Fed Home	1,000
From OWHTF-Low Income Housing	1,500
From Permanent Community Impact Loan Fund	7,400
From Qualified Emergency Food Agencies Fund	500
From General Fund Restricted – School Readiness Account	1,200
From Revenue Transfers	126,300
From Uintah Basin Revitalization Fund	500
Schedule of Programs:	
Adjudication	5,369,700
Unemployment Insurance Administration	23,649,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Unemployment Insurance line item, whose mission is to "accurately assess eligibility for unemployment benefits and liability for employers in a timely manner." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Percentage of employers registered with the department within 90 days of employers first reporting employee wages (Target => 98.5%), (2) Percentage of unemployment insurance separation determinations that meet quality standards as outlined and defined by the USDOL (Target => 98%), and (3) percentage of Unemployment Insurance benefits payments made within 14 calendar days (Target => 98%).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 55

To Department of Health and Human Services – Operations

From General Fund	18,977,600
From Federal Funds	20,502,300
From Dedicated Credits Revenue	3,044,600
From General Fund Restricted – Children with Cancer Support Restricted Account	2,000
From General Fund Restricted – Children with Heart Disease Support Restr Acct	2,000
From Revenue Transfers	3,022,600
From Lapsing Balance	(4,000)
Schedule of Programs:	
Executive Director Office	2,029,800
Ancillary Services	2,552,400
Finance & Administration	12,821,400
Data, Systems, & Evaluations	13,963,200
Public Affairs, Education & Outreach	1,568,100
American Indian / Alaska Native	453,100
Continuous Quality Improvement	4,449,100
Customer Experience	7,710,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Executive Director Operations line item, whose mission is "to strengthen lives by providing children, youth, families and adults individualized services to thrive in their homes, schools and communities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Office of Quality and Design: Percent of contracted providers who meet or exceed the Department of Health and Human Services quality standard (Target = 85%), 2) Office of Licensing: Initial foster care homes licensed within three months of application completion (Target = 96%), and 3) System of Care: Percent of children placed in residential treatment out of children at-risk for out-of-home placement (Target = 10%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Operations line item, whose mission is "protect the public's health through preventing avoidable illness, injury, disability, and premature death; assuring access to affordable, quality health care; and promoting health lifestyles by providing services and oversight of services which are applicable throughout all divisions and bureaus of the Department." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures:1) Births occurring in a hospital are entered by hospital staff into the electronic birth registration system within 10 calendar days (Target = 99%) and 2) percentage of all deaths registered in the electronic death registration system within five calendar days (Target = 80% or more).

Item 56

To Department of Health and Human Services – Clinical Services

From General Fund	14,748,800
From Federal Funds	5,173,200
From Dedicated Credits Revenue	10,270,400
From Expendable Receipts	158,000
From Department of Public Safety Restricted Account	327,900
From Gen. Fund Rest. – State Lab Drug Testing Account	738,500
From Revenue Transfers	123,000
From Beginning Nonlapsing Balances	135,900
From Closing Nonlapsing Balances	(50,000)
Schedule of Programs:	
Medical Examiner	7,781,300
State Laboratory	15,938,800
Primary Care & Rural Health	5,360,700
Health Clinics of Utah	2,054,900
Health Equity	490,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Primary Care and Rural Health program, whose mission is "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: Percentage of clinicians that remained at their service obligation site for up to one year after completing their obligation (Target = 75%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Primary Care and Rural Health program, whose mission is "As the lead state primary care organization, our mission is to elevate the quality of health care through assistance and coordination of health care interests, resources and activities which promote and increase quality healthcare for rural and underserved populations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: total underserved individuals served (Target = 4,000).

Item 57

To Department of Health and Human Services - Department Oversight

From General Fund	8,241,300
From Federal Funds	5,522,000
From Dedicated Credits Revenue	1,861,700
From Revenue Transfers	2,791,000
From Beginning Nonlapsing Balances	3,990,400
From Closing Nonlapsing Balances	(4,142,000)
Schedule of Programs:	
Licensing & Background Checks	15,640,900
Internal Audit	1,713,900
Admin Hearings	909,600

Item 58

To Department of Health and Human Services - Health Care Administration

From General Fund	9,639,500
From Federal Funds	116,213,600
From Federal Funds - CARES Act	1,400
From Dedicated Credits Revenue	16,700
From Expendable Receipts	12,609,300
From Medicaid Expansion Fund	2,974,500
From Nursing Care Facilities Provider Assessment Fund	1,141,000
From Revenue Transfers	44,305,800
Schedule of Programs:	
Integrated Health Care Administration	87,903,100
LTSS Administration	7,148,700
PRISM	46,100
Utah Developmental Disabilities Council	673,700
Seeded Services	91,130,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Substance Abuse and Mental Health line item, whose mission is "to promote hope, health and healing, by reducing the impact of substance abuse and mental illness to Utah citizens, families and communities." The Department of Health and Human Services shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Local substance abuse services: Percent of clients successfully completing treatment (Target = 60%), 2) Mental health centers: Percent of clients stable, improved, or in recovery while in current treatment (Adult and Youth Outcomes Questionnaire) (Target = 84%), and 3) Utah State Hospital: Percent of forensic patients found competent to proceed with trial (Target = 65%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Health Care Administration line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) average decision time on pharmacy prior authorizations (Target = 24 hours or less); 2) percent of clean claims adjudicated within 30 days of submission (Target = 98%); and 3) Number of calls related to topics covered by training (Target = staff to work with agency).

Item 59

To Department of Health and Human Services - Integrated Health Care Services

From General Fund	800,788,900
From General Fund, One-Time	25,217,300
From Federal Funds	3,570,054,700
From Federal Funds, One-Time	43,102,300
From Federal Funds - CARES Act	505,800
From Dedicated Credits Revenue	10,252,800
From Expendable Receipts	213,605,400
From Expendable Receipts - Rebates	189,267,600
From General Fund Restricted - Statewide Behavioral Health Crisis Response Account	15,903,100
From Ambulance Service Provider Assess Exp Rev Fund	4,420,100
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	261,700
From Hospital Provider Assessment Fund	56,045,500
From Medicaid Expansion Fund	156,021,200
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	4,600
From Nursing Care Facilities Provider Assessment Fund	37,855,200

From General Fund Restricted – Psychiatric Consultation Program Account	322,800
From General Fund Restricted – Survivors of Suicide Loss Account	40,000
From General Fund Restricted – Tobacco Settlement Account	12,144,100
From Revenue Transfers	176,005,800
From Pass-through	1,813,000
Schedule of Programs:	
Children's Health Insurance Program Services	156,121,700
Medicaid Accountable Care Organizations	1,537,439,000
Medicaid Behavioral Health Services	228,526,300
Medicaid Home & Community Based Services	382,617,300
Medicaid Hospital Services	319,283,700
Medicaid Pharmacy Services	297,302,900
Medicaid Long Term Care Services	347,062,600
Medicare Buy-In & Clawback Payments	107,547,900
Medicaid Other Services	560,302,600
Offsets to Medicaid Expenditures	(41,066,500)
Expansion Accountable Care Organizations	565,607,600
Expansion Behavioral Health Services	78,876,200
Expansion Hospital Services	295,502,600
Expansion Other Services	128,829,400
Expansion Pharmacy Services	126,549,800
Non-Medicaid Behavioral Health Treatment & Crisis Response	139,874,400
State Hospital	83,254,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Children's Health Insurance Program Services program, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) percent of children less than 30 months old that received at least six or more well-child visits (Target = 50% or more) and 2) percent of adolescents who received one meningococcal vaccine and one TDAP (tetanus, diphtheria, and pertussis) between the members 10th and 13th birthdays (Target = 80%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Integrated Health Care Services line item, whose mission is "Provide access to quality, cost-effective health care for eligible Utahans." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) percentage of children 3-17 years of age who had an outpatient visit with a primary care practitioner or obstetrics/gynecologist and who had evidence of Body Mass Index percentile documentation (Target = 70%); 2) the percentage of adults 18-85 years of age who had a diagnosis of hypertension and whose blood pressure was adequately controlled, (Target = 65%); 3) Average Days to Approve Placement of Medicaid Clients in Nursing Home Facilities (Target = 7.0) and 4) annual state general funds saved through preferred drug list (Target = 21,000,000).

Item 60

To Department of Health and Human Services – Long-Term Services & Support

From General Fund	183,845,800
From General Fund, One-Time	(8,624,900)
From Federal Funds	15,994,000
From Federal Funds – CARES Act	441,300
From Dedicated Credits Revenue	1,925,800
From Expendable Receipts	1,330,000
From Revenue Transfers	310,421,500
Schedule of Programs:	
Aging & Adult Services	27,246,100
Adult Protective Services	4,751,100
Office of Public Guardian	1,178,900
Aging Waiver Services	1,274,900
Services for People with Disabilities	14,142,500
Community Supports Waiver Services	374,398,500
Disabilities – Non Waiver Services	2,765,500
Disabilities – Other Waiver Services	34,675,100
Utah State Developmental Center	44,900,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Aging and Adult Services line item, whose mission is "to provide leadership and advocacy in addressing issues that impact older Utahans, and serve elder and disabled adults needing protection from abuse, neglect or exploitation." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Medicaid Aging Waiver: Average cost of client at 15% or less of nursing home cost (Target = 15%), 2) Adult Protective Services: Protective needs resolved positively (Target = 95%), and 3) Meals on Wheels: Total meals served (Target = 9,200).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Office of Public Guardian line item, whose mission is "to ensure quality coordinated services in the least restrictive, most community-based environment to meet the safety and treatment needs of those we serve while maximizing independence and community and family involvement." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of cases transferred to a family member or associate (Target = 10%), 2) Annual cumulative score on quarterly case process reviews (Target = 85%), and 3) Percent reduction in the amount of time taken to process open referrals (Target = 25%).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Services for People with Disabilities line item, whose mission is "to promote opportunities and provide supports for persons with disabilities to lead self-determined lives." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Community-based services: Percent of providers meeting fiscal and non-fiscal requirements of contract (Target = 100%), 2) Community-based services: Percent of individuals who report that their supports and services help them lead a good life (National Core Indicators In-Person Survey) (Target=100%), and 3) Utah State Developmental Center: Percent of maladaptive behaviors reduced from time of admission to discharge (Target = 80%).

Under Subsection 62A-5-102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2023 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, individuals who turn 18 years old and leave state custody from the Divisions of Child and Family Services and Juvenile Justice Services, individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2023 on the use of these nonlapsing funds.

Item 61

To Department of Health and Human Services - Public Health, Prevention, & Epidemiology

From General Fund	11,713,800
From Federal Funds	255,644,500
From Dedicated Credits Revenue	840,100
From Expendable Receipts	1,649,700
From Expendable Receipts - Rebates	6,000,000
From General Fund Restricted - Cancer Research Account	20,000
From General Fund Restricted - Children with Cancer Support Restricted Account	10,500
From General Fund Restricted - Children with Heart Disease Support Restr Acct	10,500
From General Fund Restricted - Cigarette Tax Restricted Account	3,150,000
From General Fund Restricted - Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	9,043,700
From General Fund Restricted - Emergency Medical Services System Account	2,010,700
From General Fund Restricted - Tobacco Settlement Account	3,292,900
From Revenue Transfers	3,853,400

Schedule of Programs:

Communicable Disease & Emerging Infections	237,519,700
Integrated Health Promotion & Prevention	41,433,400
Preparedness & Emergency Health	16,149,200
Local Health Departments	2,137,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Public Health, Prevention, and Epidemiology line item, whose mission is "prevent chronic disease and injury, rapidly detect and investigate communicable diseases and environmental health hazards, provide prevention-focused education, and institute control measures to reduce and prevent the impact of disease." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) gonorrhea cases per 100,000 population (Target = 109 people or less); 2) Accidental/Undetermined Overdose Deaths Involving at Least One Opioid Prescription (Target = 220); and 3) The rate of youth in grades 8, 10, and 12 who are current vape product users (Target = 7% or less).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of

Health and Human Services report on the following performance measures for the Local Health Departments program, whose mission is "To prevent sickness and death from infectious diseases and environmental hazards; to monitor diseases to reduce spread; and to monitor and respond to potential bioterrorism threats or events, communicable disease outbreaks, epidemics and other unusual occurrences of illness." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: reduce the number of cases of pertussis among children under 1 year of age, and among adolescents aged 11 to 18 years (Target = 395 or less.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Vaccine Commodities program, whose mission is "The mission of the Utah Department of Health and Human Services Immunization Program is to improve the health of Utah's citizens through vaccinations to reduce illness, disability, and death from vaccine-preventable infections. We seek to promote a healthy lifestyle that emphasizes immunizations across the lifespan by partnering with the 13 local health departments throughout the state and other community partners. From providing educational materials for the general public and healthcare providers to assessing clinic immunization records to collecting immunization data through online reporting systems, the Utah Immunization Program recognizes the importance of immunizations as part of a well-balanced healthcare approach." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Increase the number of providers reporting vaccine administrations to the Utah Statewide Immunization Information System (USIIS) by 2% over the previous year (Target = staff to work with agency); 2) Vaccination rates among teens age 13-15 with one Tdap (Tetanus, Diphtheria, Pertussis), two Varicella, one Meningococcal conjugate (Target = 80%); and 3) Percentage of Utah children age 24 months who have received all recommended vaccines (Target = 75%).

Item 62

To Department of Health and Human Services - Children, Youth, & Families

From General Fund	154,595,300
From Federal Funds	132,319,200
From Dedicated Credits Revenue	3,440,400
From Expendable Receipts	870,100
From Expendable Receipts - Rebates	8,900,000
From General Fund Restricted - Adult Autism Treatment Account	502,300
From General Fund Restricted - Children's Account	340,000
From Gen. Fund Rest. - Children's Hearing Aid Pilot Program Account	294,100
From Gen. Fund Rest. - K. Oscarson Children's Organ Transp.	107,300
From General Fund Restricted - Choose Life Adoption Support Account	100
From General Fund Restricted - National Professional Men's Basketball Team Support of Women and Children Issues	100,000
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	900
From Revenue Transfers	(7,574,500)
Schedule of Programs:	
Child & Family Services	126,735,500
Domestic Violence	7,355,800
In-Home Services	2,166,200
Out-of-Home Services	37,041,600
Adoption Assistance	21,037,200
Child Abuse & Neglect Prevention	6,585,600
Children with Special Healthcare Needs	34,443,100
Maternal & Child Health	58,530,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Child, Youth, and Families line item, whose mission is "to keep children safe from abuse and neglect and provide domestic violence services by working with communities and strengthening families." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Administrative performance: Percent satisfactory outcomes on Qualitative Case Reviews for Child Status and System Performance (Target = 85%/85%); 2) Child Protective Services: Absence of maltreatment recurrence within 6 months (Target = 94.6%); 3) Out-of-home services: Percent of cases closed to permanency outcome/median months closed to permanency (Target = 90%/12 months); 4) the percent of children who demonstrated improvement in social-emotional skills, including social relationships (Goal = 69% or more); 5) Monthly average for time between inspections for assisted living facilities (Target = 24 months); and 6) Percentage of Live Utah Births Screened for the Mandated

Newborn Heel Stick Conditions (Excluding Those Parents who Refused Newborn Blood Screening) (Target = 100%).

Item 63

To Department of Health and Human Services – Office of Recovery Services

From General Fund	14,582,400
From Federal Funds	23,356,900
From Dedicated Credits Revenue	4,508,700
From Expendable Receipts	3,689,600
From Medicaid Expansion Fund	51,200
From Revenue Transfers	3,062,200
Schedule of Programs:	
Recovery Services	14,807,300
Child Support Services	24,808,600
Children in Care Collections	770,300
Attorney General Contract	5,579,500
Medical Collections	3,285,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Office of Recovery Services line item, whose mission is "to serve children and families by promoting independence by providing services on behalf of children and families in obtaining financial and medical support, through locating parents, establishing paternity and support obligations, and enforcing those obligations when necessary." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Statewide Paternity Establishment Percentage (PEP Score) (Target = 90%), 2) Child support services: Percent of support paid (Target = 70.3%), and 3) Ratio of collections to cost (Target = > $6.25 to $1).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 64

To Department of Workforce Services – Individuals with Visual Impairment Fund

From Dedicated Credits Revenue	45,700
From Interest Income	18,500
From Beginning Fund Balance	1,244,700
From Closing Fund Balance	(1,283,900)
Schedule of Programs:	
Individuals with Visual Impairment Fund	25,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Fund, whose mission is to "assist blind and visually impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Grantees will maintain or increase the number of individuals served (Target >=165), (2) Grantees will maintain or increase the number of services provided (Target>=906), and (3) Number of individuals provided low-vision services (Target = 2,400).

Item 65

To Department of Workforce Services – Individuals with Visual Impairment Vendor Fund

From Trust and Agency Funds	163,800
From Beginning Fund Balance	92,000
From Closing Fund Balance	(102,600)
Schedule of Programs:	
Individuals with Visual Disabilities Vendor Fund	153,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Individuals with Visual Impairment Vendor Fund, whose mission is to "assist Blind and Visually Impaired individuals in achieving their highest level of independence, participation in society and employment consistent with individual interests, values, preferences and abilities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Number of business locations receiving upgraded equipment purchased by fund will meet or exceed previous year's total (Target = 12), (2) Number of business locations receiving equipment repairs and/or maintenance will meet or exceed previous year's total (Target = 32), and (3) Business Enterprise Program will establish new business locations in government and/or private businesses to provide additional employment opportunities (Target = 4).

Item 66

To Department of Workforce Services – Navajo Revitalization Fund

From Dedicated Credits Revenue	115,800
From Interest Income	150,000
From Other Financing Sources	1,000,000

From Beginning Fund Balance	9,026,500
From Closing Fund Balance	(9,247,300)
Schedule of Programs:	
Navajo Revitalization Fund	1,045,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Navajo Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) provide support to Navajo Revitalization Board with resources and data to enable allocation of new and re-allocated funds to improve quality of life for those living on the Utah portion of the Navajo Reservation (Target = allocate annual allocation from tax revenues within one year).

Item 67

To Department of Workforce Services - Permanent Community Impact Bonus Fund

From Interest Income	8,802,100
From Gen. Fund Rest. - Land Exchange Distribution Account	100
From General Fund Restricted - Mineral Bonus	8,342,200
From Beginning Fund Balance	441,754,800
From Closing Fund Balance	(458,864,200)
Schedule of Programs:	
Permanent Community Impact Bonus Fund	35,000

Item 68

To Department of Workforce Services - Permanent Community Impact Fund

From Dedicated Credits Revenue	1,200,000
From Interest Income	4,275,000
From General Fund Restricted - Mineral Lease	25,467,900
From Gen. Fund Rest. - Land Exchange Distribution Account	11,500
From Beginning Fund Balance	182,967,900
From Closing Fund Balance	(170,883,300)
Schedule of Programs:	
Permanent Community Impact Fund	43,039,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Permanent Community Impact Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) new receipts invested in communities annually (Target = 100%), (2) The Community Impact Board funds the Regional Planning Program and community development specialists, who provide technical assistance, prepare tools, guides, and resources to ensure communities meet compliance with land use planning regulations (Target = 24 communities assisted), and (3) Maintain a minimum ratio of loan-to-grant funding for CIB projects (Target: At least 45% of loans to 55% grants).

Item 69

To Department of Workforce Services - Uintah Basin Revitalization Fund

From Dedicated Credits Revenue	220,000
From Interest Income	200,000
From Other Financing Sources	7,000,000
From Beginning Fund Balance	15,093,100
From Closing Fund Balance	(16,743,100)
Schedule of Programs:	
Uintah Basin Revitalization Fund	5,770,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Uintah Basin Revitalization Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) provide Revitalization Board with support, resources, and data to allocate new and re-allocated funds to improve the quality of life for those living in the Uintah Basin (Target = allocate annual allocation from tax revenues within one year).

Item 70

To Department of Workforce Services - Utah Community Center for the Deaf Fund

From Dedicated Credits Revenue	5,000
From Interest Income	2,000
From Beginning Fund Balance	16,600
From Closing Fund Balance	(17,600)
Schedule of Programs:	
Utah Community Center for the Deaf Fund	6,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Utah Community Center for the Deaf Fund, whose mission is to "provide services in support of creating a safe place, with full communication where every Deaf, Hard of Hearing and Deafblind person is embraced by their community and supported to grow to their full potential." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Increase the number of individuals accessing interpreter certification exams in Southern Utah (Target=25).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 71

To Department of Health and Human Services - Organ Donation Contribution Fund

From Dedicated Credits Revenue	112,300
From Interest Income	6,500
From Beginning Fund Balance	166,000
From Closing Fund Balance	(94,800)
Schedule of Programs:	
Organ Donation Contribution Fund	190,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Organ Donation Contribution Fund, whose mission is "Promote and support organ donation, assist in maintaining and operation a statewide organ donation registry, and provide donor awareness education." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: Increase Division of Motor Vehicle/Drivers License Division donations (Target = $103,000).

Item 72

To Department of Health and Human Services - Maurice N. Warshaw Trust Fund

From Interest Income	4,300
From Beginning Fund Balance	157,700
From Closing Fund Balance	(157,700)
Schedule of Programs:	
Maurice N. Warshaw Trust Fund	4,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Maurice N. Warshaw Trust Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 73

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

From Dedicated Credits Revenue	37,800
From Interest Income	1,500
From Beginning Fund Balance	144,100
From Closing Fund Balance	(131,900)
Schedule of Programs:	
Out and About Homebound Transportation Assistance Fund	51,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Out and About Homebound Transportation Assistance Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 74

To Department of Health and Human Services - Utah State Developmental Center Long-Term Sustainability Fund

From Dedicated Credits Revenue	12,100
From Interest Income	14,500
From Revenue Transfers	38,700
From Beginning Fund Balance	16,837,100
From Closing Fund Balance	(16,902,400)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Long-Term Sustainability Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 75

To Department of Health and Human Services - Utah State Developmental Center Miscellaneous Donation Fund

From Dedicated Credits Revenue 3,000
From Interest Income 3,000
From Beginning Fund Balance 589,000
From Closing Fund Balance . . . . (589,000)
Schedule of Programs:
Utah State Developmental Center
Miscellaneous Donation Fund 6,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Miscellaneous Donation Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 76

To Department of Health and Human Services – Utah State Developmental Center Workshop Fund
From Dedicated Credits Revenue 70,000
From Beginning Fund Balance 17,700
From Closing Fund Balance . . . . (17,700)
Schedule of Programs:
Utah State Developmental
Center Workshop Fund 70,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Workshop Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 77

To Department of Health and Human Services – Utah State Hospital Unit Fund
From Dedicated Credits Revenue 21,200
From Interest Income 4,000
From Beginning Fund Balance 273,900
From Closing Fund Balance . . . . (268,500)
Schedule of Programs:
Utah State Hospital Unit Fund 30,600

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Hospital Unit Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 78

To Department of Health and Human Services – Mental Health Services Donation Fund
From General Fund 100,000
From Beginning Fund Balance 100,000
Schedule of Programs:
Mental Health Services
Donation Fund 200,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Health and Human Services report performance measures for the Mental Health Services Donation Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 79

To Department of Health and Human Services – Suicide Prevention and Education Fund
From General Fund Restricted –
Concealed Weapons Account 43,500
Schedule of Programs:
Suicide Prevention and
Education Fund 43,500

Item 80

To Department of Health and Human Services – Pediatric Neuro–Rehabilitation Fund

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Pediatric Neuro–Rehabilitation Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: Percentage of children that had an increase in functional activity (Target = 70%).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF WORKFORCE SERVICES

Item 81

To Department of Workforce Services – Economic Revitalization and Investment Fund

From Interest Income	100,000
From Beginning Fund Balance	2,164,300
From Closing Fund Balance	(2,263,300)
Schedule of Programs:	
Economic Revitalization and Investment Fund	1,000

Item 82

To Department of Workforce Services – State Small Business Credit Initiative Program Fund

From Interest Income	123,600
From Beginning Fund Balance	4,222,000
From Closing Fund Balance	(4,345,600)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the State Small Business Credit Initiative Program Fund, whose mission is to "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Minimize loan losses (Target < 3%)

Item 83

To Department of Workforce Services – Unemployment Compensation Fund

From Federal Funds	1,286,300
From Dedicated Credits Revenue	18,557,800
From Trust and Agency Funds	205,579,400
From Beginning Fund Balance	864,949,600
From Closing Fund Balance	(923,451,100)
Schedule of Programs:	
Unemployment Compensation Fund	166,922,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Unemployment Compensation Fund, whose mission is to "monitor the health of the Utah Unemployment Trust Fund within the context of statute and promote a fair and even playing field for employers." (1) Unemployment Insurance Trust Fund balance is greater than the minimum adequate reserve amount and less than the maximum adequate reserve amount per the annual calculations defined in Utah Code, (2) Maintain the average high cost multiple, a nationally recognized solvency measure, greater than 1 for the Unemployment Insurance Trust Fund balance (Target =>1), and (3) Contributory employers unemployment insurance contributions due paid timely (paid by the employer before the last day of the month that follows each calendar quarter end). (Target>=95%).

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 84

To General Fund Restricted – Homeless Account

From General Fund	1,817,400
From Beginning Fund Balance	942,800
From Closing Fund Balance	(942,800)
Schedule of Programs:	
General Fund Restricted – Pamela Atkinson Homeless Account	1,817,400

Item 85

To General Fund Restricted – Homeless to Housing Reform Account

From General Fund	12,850,000
From Beginning Fund Balance	15,712,300
From Closing Fund Balance	(7,062,300)
Schedule of Programs:	
General Fund Restricted – Homeless to Housing Reform Restricted Account	21,500,000

Item 86

To General Fund Restricted – School Readiness Account

From General Fund	3,000,000
From Beginning Fund Balance	2,781,400
From Closing Fund Balance	(515,400)
Schedule of Programs:	
General Fund Restricted – School Readiness Account	5,266,000

Item 87

To Electronic Cigarette Substance and Nicotine Product Tax Restricted Account

From Dedicated Credits Revenue	15,000,000
Schedule of Programs:	
Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	15,000,000

Item 88

To Statewide Behavioral Health Crisis Response Account

From General Fund	15,903,100
Schedule of Programs:	

Statewide Behavioral Health
Crisis Response Account 15,903,100

Item 89
To Ambulance Service Provider
Assessment Expendable Revenue Fund
From Dedicated Credits Revenue 3,217,400
Schedule of Programs:
Ambulance Service Provider
Assessment Expendable
Revenue Fund 3,217,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Ambulance Service Provider Assessment Fund, whose mission is “Provide access to quality, cost-effective health care for eligible Utahans.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: percentage of providers who have paid by the due date (Target => 85%).

Item 90
To Hospital Provider Assessment Fund
From Dedicated Credits Revenue 56,045,500
Schedule of Programs:
Hospital Provider Assessment
Expendable Special
Revenue Fund 56,045,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Hospital Provider Assessment Expendable Revenue Fund, whose mission is “Provide access to quality, cost-effective health care for eligible Utahans.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: percentage of hospitals who have paid by the due date (Target => 85%).

Item 91
To Medicaid Expansion Fund
From General Fund 59,312,100
From Dedicated Credits Revenue ... 122,450,900
From Expendable Receipts 357,200
From Beginning Fund Balance 174,619,500
From Closing Fund Balance ...... (245,985,100)
Schedule of Programs:
Medicaid Expansion Fund 110,754,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Medicaid Expansion Fund, whose mission is “Provide access to quality, cost-effective health care for eligible Utahans.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: percentage of hospitals who have paid by the due date (Target => 85%).

Item 92
To Nursing Care Facilities Provider
Assessment Fund
From Dedicated Credits Revenue 37,225,100
Schedule of Programs:
Nursing Care Facilities Provider
Assessment Fund 37,225,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Nursing Care Facilities Provider Assessment Fund, whose mission is “Provide access to quality, cost-effective health care for eligible Utahans.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: percentage of nursing facilities who have paid by the due date (Target = 85%).

Item 93
To Psychiatric Consultation Program Account
From General Fund 322,800
Schedule of Programs:
Psychiatric Consultation
Program Account 322,800

Item 94
To Survivors of Suicide Loss Account
From General Fund 40,000
Schedule of Programs:
Survivors of Suicide Loss Account 40,000

Item 95
To General Fund Restricted - Children’s
Hearing Aid Program Account
From General Fund 291,600
From Beginning Fund Balance 264,300
From Closing Fund Balance .... (264,300)
Schedule of Programs:
General Fund Restricted -
Children’s Hearing Aid Account 291,600

Item 96
To General Fund Restricted - Medicaid
Restricted Account
From Beginning Fund Balance 40,971,000
From Closing Fund Balance .... (40,971,000)

Item 97
To Emergency Medical Services System Account
From General Fund 2,000,000

Schedule of Programs:

Emergency Medical Services System Account	2,000,000

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 98

To Department of Health and Human Services – Human Services Client Trust Fund

From Interest Income	8,900
From Trust and Agency Funds	5,369,100
From Beginning Fund Balance	2,150,800
From Closing Fund Balance	(2,150,800)

Schedule of Programs:

Human Services Client Trust Fund	5,378,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Human Services report performance measures for the Human Services Client Trust Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 99

To Department of Health and Human Services – Human Services ORS Support Collections

From Trust and Agency Funds	212,842,300

Schedule of Programs:

Human Services ORS Support Collections	212,842,300

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the Office of Recovery Services (ORS) Support Collections fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 100

To Department of Health and Human Services – Utah State Developmental Center Patient Account

From Interest Income	1,000
From Trust and Agency Funds	2,002,900
From Beginning Fund Balance	897,200
From Closing Fund Balance	(897,200)

Schedule of Programs:

Utah State Developmental Center Patient Account	2,003,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Developmental Center Patient Account. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Item 101

To Department of Health and Human Services – Utah State Hospital Patient Trust Fund

From Trust and Agency Funds	1,731,000
From Beginning Fund Balance	163,000
From Closing Fund Balance	(163,000)

Schedule of Programs:

Utah State Hospital Patient Trust Fund	1,731,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report performance measures for the State Hospital Patient Trust Fund. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of internal reviews completed for compliance with statute, federal regulations, and other requirements (Target = 1).

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF HEALTH

Item 102

To Department of Health – Disease Control and Prevention

The Legislature intends that the Department of Health and Human Services report by August 1, 2022 to the Social Services Appropriations Subcommittee on the net impact to the Spinal Cord and Brain Injury Rehabilitation Fund of implementing cost sharing. Include how much would need to be charged and to which clients in order to justify the cost of the cost sharing program. Additionally, explore the costs and revenues of recouping funds from lawsuit settlements.

The Legislature intends that the Department of Health and Human Services report by October 1, 2022 to the Social Services Appropriations Subcommittee on the impacts of Health's interventions to reduce the 7.8% non-compliance rate of retailers selling tobacco products to youth as well as what other state's with lower noncompliance rates are doing that Utah is not.

The Legislature intends that the Department of Health and Human Services report by October 1, 2023 to the Social Services Appropriations Subcommittee in collaboration with local health departments on options to adjust the funding formula for FY 2025 to adjust for areas with higher smoking rates as well as shifting more existing funding sources to address the rates of electronic cigarette use and the pros and cons of that approach.

The Legislature intends that the Department of Health and Human Services report by October 1, 2022 to the Social Services Appropriations Subcommittee on the cost and likely impact of suggested interventions to reduce the number of sudden unexplained infant deaths.

The Legislature directs the Utah Department of Environmental Quality and the Utah Department of Health (the Departments) to develop a comprehensive plan for 1) the most cost-effective mechanisms to procure high volume environmental chemistry analyses with emphasis on the states ambient water quality monitoring needs, 2) a structure for development of new laboratory methods that are not commercially available but would benefit the public interest, 3) an optimal governance structure to oversee state environmental testing resources, and 4) Health's plan to internally fund future equipment purchases and report on their plans by October 1, 2022.

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by October 1, 2022 projected Medicaid match by funding source for tobacco cessation efforts based on new cost allocation methodology.

The Legislature intends that the Department of Health and Human Services report in collaboration with the Tax Commission, Public Safety, State Board of Education, and local health departments, to the Social Services Appropriations Subcommittee by October 1, 2022 on projected shortfalls in the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account and potential solutions.

DEPARTMENT OF WORKFORCE SERVICES

Item 103

To Department of Workforce Services – Housing and Community Development

From General Fund	1,420,400
From Federal Funds	43,574,600
From Dedicated Credits Revenue	810,700
From Expendable Receipts	1,028,400
From Housing Opportunities for Low Income Households	505,700
From Navajo Revitalization Fund	61,100
From Olene Walker Housing Loan Fund	505,700
From OWHT-Fed Home	505,700
From OWHTF-Low Income Housing	505,700
From Permanent Community Impact Loan Fund	1,325,800
From Qualified Emergency Food Agencies Fund	37,200
From Revenue Transfers	555,200
From Uintah Basin Revitalization Fund	43,700
Schedule of Programs:	
Community Development	7,459,500
Community Development Administration	1,259,700
Community Services	4,293,200
HEAT	23,104,900
Housing Development	4,517,100
Weatherization Assistance	10,245,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Housing and Community Development line item, whose mission is to "actively partner with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) utilities assistance for low-income households - unique number of eligible households assisted with home energy costs (Target = 28,000 households), (2) Weatherization Assistance - unique number of low-income households assisted by installing permanent energy conservation measures in their homes (Target = 504 homes), and (3) Affordable housing units funded from Olene Walker and Private Activity Bonds (Target = 2,800).

Item 104

To Department of Workforce Services – Office of Homeless Services

From General Fund	1,610,100
From Federal Funds	4,659,600
From Dedicated Credits Revenue	19,600
From Gen. Fund Rest. – Pamela Atkinson Homeless Account	2,397,900
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	12,797,400
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account	5,307,000
Schedule of Programs:	
Homeless Services	26,791,600

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Office of Homeless Services line item, whose mission is to "make homelessness rare, brief, and nonrecurring." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) HUD Performance Measure: Length of time persons remain homeless (Target = Reduce by 10%), (2) HUD Performance Measure: The extent to which persons who exit homelessness to permanent housing destinations return to homelessness (Target = Reduce by 10%), (3) HUD Performance Measure: Number of homeless persons (Target = Reduce by 8%), (4) HUD Performance Measure: Jobs and income growth for homeless persons in CoC Program-funded projects (Increase by 10%), (5) HUD Performance Measure: Number of persons who become homeless for the first time (Target = Reduce by 6%), and (6) HUD Performance Measure: successful housing placement – Successful exits or retention of housing from Permanent Housing (PH) (Target = 93% or above).

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF WORKFORCE SERVICES

Item 105

To Department of Workforce Services – Intermountain Weatherization Training Fund

From Dedicated Credits Revenue	69,800
From Beginning Fund Balance	3,500
From Closing Fund Balance	(3,500)
From Lapsing Balance	(69,800)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Intermountain Weatherization Training Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Excluding contractors, the total number of weatherization assistance program individuals trained (Target=400), and (2) number of individuals trained each year (Target => 6).

Item 106

To Department of Workforce Services – Qualified Emergency Food Agencies Fund

From Designated Sales Tax	540,000
From Revenue Transfers	375,000
Schedule of Programs:	
Emergency Food Agencies Fund	915,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Qualified Emergency Food Agencies Fund, whose mission is "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) The number of households served by QEFAF agencies (Target: 50,000) and (2) Percent of QEFAF program funds obligated to QEFAF agencies (Target: 100% of funds obligated).

Item 107

To Department of Workforce Services – Olene Walker Low Income Housing

From General Fund	2,242,900
From Federal Funds	6,750,000
From Dedicated Credits Revenue	20,000
From Interest Income	3,080,000
From Revenue Transfers	(800,000)

From Beginning Fund Balance	210,068,600
From Closing Fund Balance	(218,091,500)
Schedule of Programs:	
Olene Walker Low Income Housing	3,270,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Workforce Services report performance measures for the Olene Walker Housing Loan Fund, whose mission is to "aligned with the Housing and Community Development Division, which actively partners with other state agencies, local government, nonprofits, and the private sector to build local capacity, fund services and infrastructure, and to leverage federal and state resources for critical programs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) housing units preserved or created (Target = 811), (2) construction jobs preserved or created (Target = 2,750), and (3) leveraging of other funds in each project to Olene Walker Housing Loan Fund monies (Target = 15:1).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 108

To Department of Health and Human Services - Spinal Cord and Brain Injury Rehabilitation Fund

From Dedicated Credits Revenue	352,500
From Beginning Fund Balance	915,300
From Closing Fund Balance	(915,300)
Schedule of Programs:	
Spinal Cord and Brain Injury Rehabilitation Fund	352,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Spinal Cord and Brain Injury Rehabilitation Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: Percentage of those receiving Medicaid/Medicare at intake that are no longer using Medicaid/Medicare 12 months after discharge (Target = 50%).

Item 109

To Department of Health and Human Services - Traumatic Brain Injury Fund

From General Fund	200,000
From Beginning Fund Balance	581,400
From Closing Fund Balance	(415,200)
Schedule of Programs:	
Traumatic Brain Injury Fund	366,200

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health report on the following performance measures for the Traumatic Brain Injury Fund, whose mission is "The Violence and Injury Prevention Program is a trusted and comprehensive resource for data related to violence and injury. Through education, this information helps promote partnerships and programs to prevent injuries and improve public health." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: The percentage of Traumatic Brain Injury Fund clients referred for a neuro-psych exam or MRI that receive an exam (Target = 100%).

Subsection 3(c). Business-like Activities.

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 110

To Department of Health and Human Services - Qualified Patient Enterprise Fund

From Dedicated Credits Revenue	2,081,700
From Revenue Transfers	(1,422,600)
From Beginning Fund Balance	3,409,100
From Closing Fund Balance	(2,908,500)
Schedule of Programs:	
Qualified Patient Enterprise Fund	1,159,700

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Health and Human Services report on the following performance measures for the Qualified Patient Enterprise Fund, whose mission is "cover expenses related to carrying out the departments duties under the Utah Medical Cannabis Act. Duties include establishing a medical cannabis verification and inventory control system, drafting rules required for implementation of the new law, educating stakeholders and the public, and processing applications." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measure: License 1 additional pharmacy, bring the total of licensed pharmacies to 15, by June 30, 2023 (Target = one).

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 5
H. B. 183

Passed January 24, 2022
Approved February 2, 2022
Effective February 2, 2022

IN-PERSON LEARNING AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions regarding in-person learning requirements and test to stay programs within public schools.

Highlighted Provisions:

This bill:

- suspends a test to stay program requirement;
- amends provisions regarding the computation of the case threshold that triggers the test to stay program requirement;
- clarifies when a student may return to school during a test to stay event;
- provides additional procedural requirements for the application of an exception to an in-person learning requirement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

26-6-42, as enacted by Laws of Utah 2021, Chapter 435

53G-9-210, as last amended by Laws of Utah 2021, First Special Session, Chapter 7 Utah Code Sections Affected by Revisor Instructions:

26-6-42, as enacted by Laws of Utah 2021, Chapter 435

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

Section 1. Section 26-6-42 is amended to read:

26-6-42. Department support for local education agency test to stay programs -- Department guidance for local education agencies.

(1) As used in this section:

(a) "Case threshold" means the same as that term is defined in Section 53G-9-210.

(b) "COVID-19" means the same as that term is defined in Section 53G-9-210.

(c) "Local education agency" or "LEA" means the same as that term is defined in Section 53G-9-210.

(d) "Test to stay program" means the same as that term is defined in Section 53G-9-210.

(2) At the request of an LEA, the department shall provide support for the LEA's test to stay program if a school in the LEA reaches the case threshold, including by providing:

(a) COVID-19 testing supplies;

(b) a mobile testing unit; and

(c) other support requested by the LEA related to the LEA's test to stay program.

(3) The department shall ensure that guidance the department provides to LEAs related to test to stay programs complies with Section 53G-9-210, including the determination of whether a school meets a case threshold described in Subsection 53G-9-210(3).

(4) Subsection (2) regarding the requirement to support an LEA's test to stay program does not apply after the effective date of this bill unless the test to stay requirement is triggered under Subsection 53G-9-210(2)(c).

Section 2. Section 53G-9-210 is amended to read:

53G-9-210. Requirement for in-person instruction -- Test to stay programs -- Face coverings.

(1) As used in this section:

(a) "Case threshold" means as applicable, the number of students in a school, or percentage of students in a school who meet the conditions described in Subsection (3).

(b) "COVID-19" means:

(i) severe acute respiratory syndrome coronavirus 2; or

(ii) the disease caused by severe acute respiratory syndrome coronavirus 2.

(c) "Estimated incubation period" means a period of time that the Department of Health identifies as the number of days between exposure and symptom onset for a given variant of COVID-19.

[~~(c)~~] (d) "Extracurricular activity" means the same as that term is defined in Section 53G-7-501.

[~~(d)~~] (e) "Face covering" means a mask, shield, or other device that is intended to be worn in a manner to cover the mouth, nose, or face to prevent the spread of COVID-19.

[~~(e)~~] (f) "In-person instruction" means instruction offered by a school that allows a student to choose to attend school in-person at least four days per week if the student:

(i) is enrolled in a school that is not implementing a test to stay program; or

(ii) (A) is enrolled in a school that is implementing a test to stay program; and

(B) meets the test to stay program's criteria for attending school in person.

[~~(f)~~] (g) "Local Education Agency" or LEA means:

(i) a school district;

(ii) a charter school, other than an online-only charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

[~~(g)~~] (h) "School" means a school other than an online-only charter school or an online-only public school.

(i) "Remote learning" means learning that occurs through technology that provides synchronous and asynchronous learning experiences that maximize student learning and instructional time.

[~~(h)~~] (j) "Test to stay program" means a program through which an LEA provides testing for COVID-19 for students during an outbreak of COVID-19 at a school in order to:

(i) identify cases of COVID-19; and

(ii) allow individuals to attend school in person who:

(A) test negative for COVID-19 [~~to attend school in person.~~] during the test to stay program; or

(B) are cleared to return to school after the estimated incubation period.

(2) (a) An LEA shall:

(i) except as provided in Subsection (2)(b), beginning on March 22, 2021, ensure that a school offers in-person instruction; and

(ii) if the determination described in Subsection (2)(c) has been made, require a school that reaches the case threshold to:

(A) fulfill the requirement described in Subsection (2)(a)(i) by initiating a test to stay program for the school; and

(B) provide a remote learning option for students who do not wish to attend in person.

(b) [~~The~~] Beginning January 31, 2022, the requirement to provide in-person instruction described in Subsection (2)(a) does not apply for a temporary period of remote learning within an LEA or a given school within an LEA if:

(i) the COVID-19 case rates within one or more schools within the LEA have surpassed the case threshold;

(ii) the local governing board requests application of the exception by delivering to the governor, the president of the Senate, the speaker of the House of Representatives, and the state superintendent of public instruction [~~jointly concur with an LEA's~~] a letter that details:

(A) information regarding the case threshold requirement described in Subsection (2)(b)(i);

(B) the local governing board's assessment that due to public health emergency circumstances within the LEA or given school, the risks related to in-person instruction temporarily outweigh the value of in-person instruction[~~.~~];

(C) a public meeting of the local governing board in which the board voted to request the exception described in this Subsection (2)(b);

(D) a specific and temporary period of time for which the local governing board seeks a pivot to remote learning within the LEA or given school; and

(E) the measures the local governing board will implement for the LEA or given school to return to in-person learning following the identified temporary remote learning period; and

(iii) the governor, the president of the Senate, the speaker of the House of Representatives, and the state superintendent of public instruction jointly confer and approve, or approve with modifications, the request described in Subsection (2)(b)(i).

(c) The requirement to initiate a test to stay program described in Subsection (2)(a)(ii) only applies if, in consultation with the Department of Health, the governor, the president of the Senate, the speaker of the House of Representatives, and the state superintendent of public instruction jointly determine that a variant of COVID-19 currently affecting the public education system is of a type that testing and isolation under a test to stay program would be effective in mitigating the harmful public health effects of the variant.

(3) (a) For purposes of determining whether a school has reached the school's case threshold, a student is included in positive cases for the school if the student:

(i) within the preceding [~~14 days~~] number of days equal to the estimated incubation period:

(A) attended at least some in-person instruction at the school; and

(B) tested positive for COVID-19; and

(ii) did not receive the student's positive COVID-19 test results through regular periodic testing required to participate in LEA-sponsored athletics or another LEA-sponsored extracurricular activity.

(b) (i) A school with 1,500 or more students meets the case threshold if at least 2% of the school's students meet the conditions described in Subsection (3)(a).

(ii) A school with fewer than 1,500 students meets the case threshold if 30 or more of the school's students meet the conditions described in Subsection (3)(a).

(4) (a) An LEA may not test a student for COVID-19 who is younger than 18 years old without the consent of the student's parent.

(b) An LEA may seek advance consent from a student's parent for future testing for COVID-19.

(5) An LEA, an LEA governing board, the state board, the state superintendent, or a school may not require an individual to wear a face covering to attend or participate in in-person instruction, LEA-sponsored athletics, or another

LEA-sponsored extracurricular activity, or in any other place on the campus of a school or school facility after the end of the 2020-2021 school year.

Section 3. Effective date.

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

Section 4. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Section 26-6-42 from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 6
S.B. 1

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

HIGHER EDUCATION BASE BUDGET

Chief Sponsor: Keith Grover
House Sponsor: Kelly B. Miles

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education agencies and institutions;
- provides appropriations for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates ($20,107,600) in operating and capital budgets for fiscal year 2022, including:

- ($1,000,000) from the General Fund;
- $1,000,000 from the Education Fund; and
- ($20,107,600) from various sources as detailed in this bill.

This bill appropriates $2,244,801,600 in operating and capital budgets for fiscal year 2023, including:

- $404,885,900 from the General Fund;
- $881,742,500 from the Education Fund; and
- $958,173,200 from various sources as detailed in this bill.

This bill appropriates $22,824,000 in restricted fund and account transfers for fiscal year 2023, all of which is from the Education Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

UNIVERSITY OF UTAH

Item 1

To University of Utah – Education and General	
From Beginning Nonlapsing Balances	71,199,500
From Closing Nonlapsing Balances	(71,412,300)
Schedule of Programs:	
Education and General	(212,800)

Item 2

To University of Utah – Educationally Disadvantaged	
From Beginning Nonlapsing Balances	1,300,000
From Closing Nonlapsing Balances	(1,300,000)

Item 3

To University of Utah – School of Medicine	
From Beginning Nonlapsing Balances	10,101,200
From Closing Nonlapsing Balances	(10,101,200)

Item 4

To University of Utah – Cancer Research and Treatment	
From Beginning Nonlapsing Balances	1,524,400
From Closing Nonlapsing Balances	(1,524,400)

Item 5

To University of Utah – University Hospital	
From Revenue Transfers, One-Time	(6,819,800)
From Beginning Nonlapsing Balances	442,500
From Closing Nonlapsing Balances	(442,500)
Schedule of Programs:	
University Hospital	(6,819,800)

Item 6

To University of Utah – School of Dentistry	
From Beginning Nonlapsing Balances	320,200
From Closing Nonlapsing Balances	(320,200)

Item 7

To University of Utah – Public Service	
From General Fund, One-Time	(1,000,000)
From Education Fund, One-Time	1,000,000
From Beginning Nonlapsing Balances	(98,000)
From Closing Nonlapsing Balances	98,000

Item 8

To University of Utah – Statewide TV Administration	
From Beginning Nonlapsing Balances	(5,700)
From Closing Nonlapsing Balances	5,700

Item 9

To University of Utah – Poison Control Center	
From Beginning Nonlapsing Balances	386,900
From Closing Nonlapsing Balances	(386,900)

Item 10

To University of Utah – Center on Aging	
From Beginning Nonlapsing Balances	(2,600)
From Closing Nonlapsing Balances	2,600

Item 11
To University of Utah – Rocky Mountain Center for Occupational and Environmental Health

From Beginning Nonlapsing Balances	31,100
From Closing Nonlapsing Balances	(31,100)

UTAH STATE UNIVERSITY

Item 12
To Utah State University – Education and General

From Revenue Transfers, One–Time	1,380,800
From Beginning Nonlapsing Balances	5,577,500
From Closing Nonlapsing Balances	(5,577,500)
Schedule of Programs:	
Education and General	1,405,500
Operations and Maintenance	(24,700)

Item 13
To Utah State University – USU – Eastern Education and General

From Beginning Nonlapsing Balances	(462,900)
From Closing Nonlapsing Balances	462,900

Item 14
To Utah State University – Educationally Disadvantaged

From Beginning Nonlapsing Balances	(34,000)
From Closing Nonlapsing Balances	34,000

Item 15
To Utah State University – USU – Eastern Educationally Disadvantaged

From Beginning Nonlapsing Balances	40,700
From Closing Nonlapsing Balances	(40,700)

Item 16
To Utah State University – USU – Eastern Career and Technical Education

From Revenue Transfers, One–Time	(5,500)
From Beginning Nonlapsing Balances	1,479,500
From Closing Nonlapsing Balances	(1,479,500)
Schedule of Programs:	
USU – Eastern Career and Technical Education	(5,500)

Item 17
To Utah State University – Uintah Basin Regional Campus

From Education Fund, One–Time	(155,600)
From Dedicated Credits Revenue, One–Time	(51,900)
Schedule of Programs:	
Uintah Basin Regional Campus	(207,500)

Item 18
To Utah State University – Regional Campuses

From Education Fund, One–Time	580,400
From Dedicated Credits Revenue, One–Time	(7,437,100)
From Revenue Transfers, One–Time	(126,500)
From Beginning Nonlapsing Balances	2,527,900
From Closing Nonlapsing Balances	(2,527,900)
Schedule of Programs:	
Administration	34,600
Uintah Basin Regional Campus	(1,537,600)
Brigham City Regional Campus	(5,662,200)
Tooele Regional Campus	182,000

Item 19
To Utah State University – Brigham City Regional Campus

From Education Fund, One–Time	(207,300)
From Dedicated Credits Revenue, One–Time	(69,200)
Schedule of Programs:	
Brigham City Regional Campus	(276,500)

Item 20
To Utah State University – Tooele Regional Campus

From Education Fund, One–Time	(217,500)
From Dedicated Credits Revenue, One–Time	(72,500)
Schedule of Programs:	
Tooele Regional Campus	(290,000)

Item 21
To Utah State University – Water Research Laboratory

From Beginning Nonlapsing Balances	(178,900)
From Closing Nonlapsing Balances	178,900

Item 22
To Utah State University – Agriculture Experiment Station

From Revenue Transfers, One–Time	16,600
From Beginning Nonlapsing Balances	3,003,100
From Closing Nonlapsing Balances	(3,003,100)
Schedule of Programs:	
Agriculture Experiment Station	16,600

Item 23
To Utah State University – Cooperative Extension

From Revenue Transfers, One–Time	329,900
From Beginning Nonlapsing Balances	8,290,400
From Closing Nonlapsing Balances	(8,290,400)
Schedule of Programs:	
Cooperative Extension	329,900

Item 24
To Utah State University – Prehistoric Museum

From Beginning Nonlapsing Balances	19,800
From Closing Nonlapsing Balances	(19,800)

Item 25
To Utah State University – Blanding Campus

From Revenue Transfers, One–Time	(117,300)
From Beginning Nonlapsing Balances	449,500
From Closing Nonlapsing Balances	(449,500)
Schedule of Programs:	
Blanding Campus	(117,300)

WEBER STATE UNIVERSITY

Item 26
To Weber State University – Education and General

From Revenue Transfers, One–Time	(1,786,500)
From Beginning Nonlapsing Balances	(584,900)
From Closing Nonlapsing Balances	584,900
Schedule of Programs:	
Education and General	(1,786,500)

Item 27

To Weber State University – Educationally Disadvantaged

From Beginning Nonlapsing Balances	(34,400)
From Closing Nonlapsing Balances	34,400

SOUTHERN UTAH UNIVERSITY

Item 28

To Southern Utah University – Education and General

From Beginning Nonlapsing Balances	4,862,400
From Closing Nonlapsing Balances	(4,862,400)

Item 29

To Southern Utah University – Educationally Disadvantaged

From Beginning Nonlapsing Balances	37,200
From Closing Nonlapsing Balances	(37,200)

Item 30

To Southern Utah University – Rural Development

From Beginning Nonlapsing Balances	(33,300)
From Closing Nonlapsing Balances	33,300

UTAH VALLEY UNIVERSITY

Item 31

To Utah Valley University – Education and General

From Dedicated Credits Revenue, One–Time	(159,400)
From Other Financing Sources, One–Time	(6,700)
From Beginning Nonlapsing Balances	3,564,500
From Closing Nonlapsing Balances	(3,564,500)
Schedule of Programs:	
Education and General	(6,700)
Operations and Maintenance	(159,400)

Item 32

To Utah Valley University – Educationally Disadvantaged

From Beginning Nonlapsing Balances	(8,300)
From Closing Nonlapsing Balances	8,300

Item 33

To Utah Valley University – Fire and Rescue Training

From Beginning Nonlapsing Balances	164,800
From Closing Nonlapsing Balances	(164,800)

SNOW COLLEGE

Item 34

To Snow College – Education and General

From Dedicated Credits Revenue, One–Time	(1,401,500)
From Revenue Transfers, One–Time	(753,400)
From Beginning Nonlapsing Balances	3,251,000
From Closing Nonlapsing Balances	(3,251,000)
Schedule of Programs:	
Education and General	(2,154,900)

UTAH TECH UNIVERSITY

Item 35

To Utah Tech University – Education and General

From Revenue Transfers, One–Time	680,000
From Other Financing Sources, One–Time	(555,000)
From Beginning Nonlapsing Balances	3,477,100
From Closing Nonlapsing Balances	(3,477,100)
Schedule of Programs:	
Education and General	125,000

Item 36

To Utah Tech University – Educationally Disadvantaged

From Beginning Nonlapsing Balances	(500)
From Closing Nonlapsing Balances	500

Item 37

To Utah Tech University – Zion Park Amphitheater

From Beginning Nonlapsing Balances	20,000
From Closing Nonlapsing Balances	(20,000)

SALT LAKE COMMUNITY COLLEGE

Item 38

To Salt Lake Community College – Education and General

From Dedicated Credits Revenue, One–Time	(92,100)
From Revenue Transfers, One–Time	(3,688,300)
From Beginning Nonlapsing Balances	8,152,400
From Closing Nonlapsing Balances	(8,279,800)
Schedule of Programs:	
Education and General	(4,172,000)
Operations and Maintenance	264,200

Item 39

To Salt Lake Community College – Educationally Disadvantaged

From Beginning Nonlapsing Balances	11,700
From Closing Nonlapsing Balances	(11,700)

Item 40

To Salt Lake Community College – School of Applied Technology

From Beginning Nonlapsing Balances	254,800
From Closing Nonlapsing Balances	(254,800)

UTAH BOARD OF HIGHER EDUCATION

Item 41

To Utah Board of Higher Education – Administration

From Revenue Transfers, One–Time	485,700
From Beginning Nonlapsing Balances	2,490,200
From Closing Nonlapsing Balances	(2,490,200)
Schedule of Programs:	
Administration	485,700

Item 42

To Utah Board of Higher Education – Student Assistance

From Beginning Nonlapsing Balances	76,000
From Closing Nonlapsing Balances	(76,000)

Item 43

To Utah Board of Higher Education – Student Support

From Education Fund, One-Time 1,700
From Beginning Nonlapsing Balances ... 617,300
From Closing Nonlapsing Balances .... (218,600)
Schedule of Programs:
Math Competency Initiative 400,400

Item 44
To Utah Board of Higher Education – Math Competency Initiative
From Education Fund, One-Time .... (1,700)
Schedule of Programs:
Math Competency Initiative .... (1,700)

Item 45
To Utah Board of Higher Education – Medical Education Council
From Dedicated Credits Revenue, One-Time .... (15,000)
From Revenue Transfers, One-Time ... (83,500)
From Beginning Nonlapsing Balances 27,800
From Closing Nonlapsing Balances ..... (27,800)
Schedule of Programs:
Medical Education Council .... (98,500)

BRIDGERLAND TECHNICAL COLLEGE

Item 46
To Bridgerland Technical College
From Revenue Transfers, One-Time 182,000
From Beginning Nonlapsing Balances 91,600
From Closing Nonlapsing Balances ..... (91,600)
Schedule of Programs:
Bridgerland Technical College 182,000

DAVIS TECHNICAL COLLEGE

Item 47
To Davis Technical College
From Dedicated Credits Revenue, One-Time .... (115,700)
From Revenue Transfers, One-Time 125,400
From Beginning Nonlapsing Balances 1,323,000
From Closing Nonlapsing Balances ... (1,323,000)
Schedule of Programs:
Davis Technical College 9,700

DIXIE TECHNICAL COLLEGE

Item 48
To Dixie Technical College
From Revenue Transfers, One-Time 310,000
From Beginning Nonlapsing Balances 78,400
From Closing Nonlapsing Balances ..... (74,900)
Schedule of Programs:
Dixie Technical College 313,500

MOUNTAINLAND TECHNICAL COLLEGE

Item 49
To Mountainland Technical College
From Beginning Nonlapsing Balances ... 278,200
From Closing Nonlapsing Balances .... (615,600)
Schedule of Programs:
Mountainland Technical College .... (337,400)

OGDEN-WEBER TECHNICAL COLLEGE

Item 50
To Ogden-Weber Technical College
From Dedicated Credits Revenue, One-Time .... (1,700)
From Beginning Nonlapsing Balances 2,146,500
From Closing Nonlapsing Balances ... (2,146,500)
Schedule of Programs:
Ogden-Weber Technical College .... (1,700)

SOUTHWEST TECHNICAL COLLEGE

Item 51
To Southwest Technical College
From Beginning Nonlapsing Balances .... (27,000)
From Closing Nonlapsing Balances 27,000

TOOELE TECHNICAL COLLEGE

Item 52
To Tooele Technical College
From Dedicated Credits Revenue, One-Time .... (400)
From Beginning Nonlapsing Balances 92,900
From Closing Nonlapsing Balances ..... (92,900)
Schedule of Programs:
Tooele Technical College .... (400)

UINTAH BASIN TECHNICAL COLLEGE

Item 53
To Uintah Basin Technical College
From Dedicated Credits Revenue, One-Time .... (500)
From Beginning Nonlapsing Balances ... 216,400
From Closing Nonlapsing Balances .... (199,500)
Schedule of Programs:
Uintah Basin Tech Equipment ...... (188,300)
Uintah Basin Technical College 204,700

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

UNIVERSITY OF UTAH

Item 54
To University of Utah – Education and General
From General Fund 199,068,900
From Education Fund 106,875,700
From Dedicated Credits Revenue ... 311,906,600
From Dedicated Credits – State Land Grants 443,800
From Education Fund Restricted – Performance Funding Rest. Acct. 4,522,900
From Beginning Nonlapsing Balances 79,801,200
From Closing Nonlapsing Balances .... (80,921,100)
Schedule of Programs:

Education and General	551,469,800
Operations and Maintenance	70,228,200

Item 55
To University of Utah – Educationally Disadvantaged

From Education Fund	722,500
From Revenue Transfers	34,500
From Beginning Nonlapsing Balances	1,598,800
From Closing Nonlapsing Balances	(1,598,800)
Schedule of Programs:	
Educationally Disadvantaged	757,000

Item 56
To University of Utah – School of Medicine

From Education Fund	38,813,400
From Dedicated Credits Revenue	31,076,500
From General Fund Restricted – Cigarette Tax Restricted Account	2,800,000
From Beginning Nonlapsing Balances	19,607,400
From Closing Nonlapsing Balances	(19,607,400)
Schedule of Programs:	
School of Medicine	72,689,900

Item 57
To University of Utah – Cancer Research and Treatment

From Education Fund	8,002,100
From General Fund Restricted – Cigarette Tax Restricted Account	2,000,000
From Beginning Nonlapsing Balances	1,713,100
From Closing Nonlapsing Balances	(1,713,100)
Schedule of Programs:	
Cancer Research and Treatment	10,002,100

Item 58
To University of Utah – University Hospital

From Education Fund	5,454,200
From Dedicated Credits Revenue	455,800
From Revenue Transfers	18,915,900
From Beginning Nonlapsing Balances	871,300
From Closing Nonlapsing Balances	(871,300)
Schedule of Programs:	
University Hospital	24,217,000
Miners' Hospital	608,900

Item 59
To University of Utah – School of Dentistry

From Education Fund	2,905,000
From Dedicated Credits Revenue	4,156,700
From Beginning Nonlapsing Balances	428,100
From Closing Nonlapsing Balances	(428,100)
Schedule of Programs:	
School of Dentistry	7,061,700

Item 60
To University of Utah – Public Service

From Education Fund	2,275,100
From Beginning Nonlapsing Balances	356,700
From Closing Nonlapsing Balances	(356,700)
Schedule of Programs:	
Seismograph Stations	779,900
Natural History Museum of Utah	1,364,100
State Arboretum	131,100

Item 61
To University of Utah – Statewide TV Administration

From Education Fund	2,750,500
From Beginning Nonlapsing Balances	117,300
From Closing Nonlapsing Balances	(117,300)
Schedule of Programs:	
Public Broadcasting	2,750,500

Item 62
To University of Utah – Poison Control Center

From Education Fund	2,938,900
From Beginning Nonlapsing Balances	614,200
From Closing Nonlapsing Balances	(614,200)
Schedule of Programs:	
Poison Control Center	2,938,900

Item 63
To University of Utah – Center on Aging

From Education Fund	117,200
From Beginning Nonlapsing Balances	1,100
From Closing Nonlapsing Balances	(1,100)
Schedule of Programs:	
Center on Aging	117,200

Item 64
To University of Utah – Rocky Mountain Center for Occupational and Environmental Health

From Education Fund	6,400
From General Fund Restricted – Workplace Safety Account	174,000
From Beginning Nonlapsing Balances	36,600
From Closing Nonlapsing Balances	(36,600)
Schedule of Programs:	
Center for Occupational and Environmental Health	180,400

Item 65
To University of Utah – SafeUT Crisis Text and Tip

From General Fund	250,000
From Education Fund	2,645,000
Schedule of Programs:	
SafeUT Operations	2,895,000

UTAH STATE UNIVERSITY

Item 66
To Utah State University – Education and General

From General Fund	99,644,600
From Education Fund	73,447,400
From Dedicated Credits Revenue	130,100,400
From Dedicated Credits – State Land Grants, One–Time	257,000
From Education Fund Restricted – Performance Funding Rest. Acct.	3,175,300
From Revenue Transfers, One–Time	2,015,600
From Beginning Nonlapsing Balances	24,927,800
From Closing Nonlapsing Balances	(24,132,300)
Schedule of Programs:	
Education and General	267,622,300
USU – School of Veterinary Medicine	5,448,400
Operations and Maintenance	36,365,100

Item 67
To Utah State University – USU – Eastern Education and General

From Education Fund	10,094,300
From Dedicated Credits Revenue	3,091,900

From Beginning Nonlapsing
Balances 1,132,100
From Closing Nonlapsing Balances ... (1,132,100)
Schedule of Programs:
USU – Eastern Education and
General 13,186,200

Item 68
To Utah State University –
Educationally Disadvantaged
From Education Fund 98,100
Schedule of Programs:
Educationally Disadvantaged 98,100

Item 69
To Utah State University – USU –
Eastern Educationally Disadvantaged
From Education Fund 102,800
From Beginning Nonlapsing Balances ... 105,300
From Closing Nonlapsing Balances .... (105,300)
Schedule of Programs:
USU – Eastern Educationally
Disadvantaged 102,800

Item 70
To Utah State University – USU – Eastern
Career and Technical Education
From Education Fund 6,373,700
From Beginning Nonlapsing
Balances 1,643,300
From Closing Nonlapsing Balances ... (1,643,300)
Schedule of Programs:
USU – Eastern Career and Technical
Education 6,373,700

Item 71
To Utah State University – Regional Campuses
From Education Fund 15,013,100
From Dedicated Credits Revenue 22,132,000
From General Fund Restricted –
Infrastructure and Economic
Diversification Investment Account 250,000
From Revenue Transfers 324,200
From Beginning Nonlapsing
Balances 5,441,500
From Closing Nonlapsing Balances ... (5,441,500)
Schedule of Programs:
Administration 6,009,400
Uintah Basin Regional Campus 10,744,300
Brigham City Regional Campus 8,894,500
Tooele Regional Campus 12,071,100

Item 72
To Utah State University – Water
Research Laboratory
From Education Fund 2,293,800
From General Fund Restricted –
Mineral Lease 1,745,800
From Gen. Fund Rest. – Land
Exchange Distribution Account 66,400
From Beginning Nonlapsing
Balances 2,165,800
From Closing Nonlapsing Balances ... (2,165,800)
Schedule of Programs:
Water Research Laboratory 4,106,000

Item 73
To Utah State University – Agriculture
Experiment Station
From Education Fund 14,567,600
From Federal Funds 1,813,800
From Beginning Nonlapsing
Balances 3,414,300
From Closing Nonlapsing Balances ... (3,414,300)
Schedule of Programs:
Agriculture Experiment Station 16,381,400

Item 74
To Utah State University – Cooperative Extension
From Education Fund 18,651,900
From Federal Funds 2,088,500
From Dedicated Credits Revenue 250,000
From Revenue Transfers 69,600
From Beginning Nonlapsing
Balances 9,677,800
From Closing Nonlapsing Balances ... (9,677,800)
Schedule of Programs:
Cooperative Extension 21,060,000

Item 75
To Utah State University – Prehistoric Museum
From Education Fund 486,400
From Beginning Nonlapsing Balances 30,400
From Closing Nonlapsing Balances ..... (30,400)
Schedule of Programs:
Prehistoric Museum 486,400

Item 76
To Utah State University – Blanding Campus
From Education Fund 2,914,600
From Dedicated Credits Revenue 1,082,100
From Beginning Nonlapsing Balances ... 555,400
From Closing Nonlapsing Balances .... (555,400)
Schedule of Programs:
Blanding Campus 3,996,700

Item 77
To Utah State University – USU – Custom Fit
From Education Fund 273,100
Schedule of Programs:
USU – Custom Fit 273,100

WEBER STATE UNIVERSITY

Item 78
To Weber State University – Education
and General
From General Fund 267,700
From Education Fund 103,201,400
From Dedicated Credits Revenue 79,158,700
From Education Fund Restricted –
Performance Funding Rest. Acct. 1,688,700
From Beginning Nonlapsing
Balances 3,021,000
From Closing Nonlapsing Balances ... (2,779,000)
Schedule of Programs:
Education and General 167,140,200
Operations and Maintenance 17,418,300

Item 79
To Weber State University –
Educationally Disadvantaged
From Education Fund 410,200
From Beginning Nonlapsing Balances 94,100
From Closing Nonlapsing Balances ..... (94,100)
Schedule of Programs:
Educationally Disadvantaged 410,200

SOUTHERN UTAH UNIVERSITY

Item 80

To Southern Utah University – Education and General

From General Fund	20,100
From Education Fund	54,101,500
From Dedicated Credits Revenue	51,164,500
From Education Fund Restricted – Performance Funding Rest. Acct.	798,600
From Beginning Nonlapsing Balances	11,461,200
From Closing Nonlapsing Balances	(11,461,200)
Schedule of Programs:	
Education and General	96,311,700
Operations and Maintenance	9,773,000

Item 81

To Southern Utah University – Educationally Disadvantaged

From Education Fund	99,300
From Beginning Nonlapsing Balances	63,600
From Closing Nonlapsing Balances	(63,600)
Schedule of Programs:	
Educationally Disadvantaged	99,300

Item 82

To Southern Utah University – Shakespeare Festival

From Education Fund	21,600
Schedule of Programs:	
Shakespeare Festival	21,600

Item 83

To Southern Utah University – Rural Development

From Education Fund	113,800
From Beginning Nonlapsing Balances	7,200
From Closing Nonlapsing Balances	(7,200)
Schedule of Programs:	
Rural Development	113,800

UTAH VALLEY UNIVERSITY

Item 84

To Utah Valley University – Education and General

From General Fund	100,005,700
From Education Fund	37,812,800
From Dedicated Credits Revenue	146,730,600
From Education Fund Restricted – Performance Funding Rest. Acct.	2,038,300
From Other Financing Sources	135,000
From Beginning Nonlapsing Balances	21,803,200
From Closing Nonlapsing Balances	(21,803,200)
Schedule of Programs:	
Education and General	264,822,400
Operations and Maintenance	21,900,000

Item 85

To Utah Valley University – Educationally Disadvantaged

From Education Fund	190,700
From Beginning Nonlapsing Balances	1,700
From Closing Nonlapsing Balances	(1,700)
Schedule of Programs:	
Educationally Disadvantaged	190,700

Item 86

To Utah Valley University – Fire and Rescue Training

From General Fund	300,000
From Education Fund	4,274,900
From Beginning Nonlapsing Balances	164,800
From Closing Nonlapsing Balances	(164,800)
Schedule of Programs:	
Fire and Rescue Training	4,574,900

SNOW COLLEGE

Item 87

To Snow College – Education and General

From General Fund	90,200
From Education Fund	29,480,700
From Dedicated Credits Revenue	12,279,200
From Education Fund Restricted – Performance Funding Rest. Acct.	405,800
From Revenue Transfers	753,400
From Beginning Nonlapsing Balances	5,354,200
From Closing Nonlapsing Balances	(5,354,200)
Schedule of Programs:	
Education and General	37,246,600
Operations and Maintenance	5,762,700

Item 88

To Snow College – Educationally Disadvantaged

From Education Fund	32,000
Schedule of Programs:	
Educationally Disadvantaged	32,000

Item 89

To Snow College – Career and Technical Education

From Education Fund	2,965,000
Schedule of Programs:	
Career and Technical Education	2,965,000

Item 90

To Snow College – Snow College – Custom Fit

From Education Fund	298,100
Schedule of Programs:	
Snow College – Custom Fit	298,100

UTAH TECH UNIVERSITY

Item 91

To Utah Tech University – Education and General

From General Fund	100,500
From Education Fund	50,430,500
From Dedicated Credits Revenue	35,173,800
From Education Fund Restricted – Performance Funding Rest. Acct.	499,600
From Revenue Transfers	150,000
From Other Financing Sources	555,000
From Beginning Nonlapsing Balances	7,076,100
From Closing Nonlapsing Balances	(7,076,100)
Schedule of Programs:	
Education and General	78,183,700
Operations and Maintenance	8,725,700

Item 92

To Utah Tech University – Educationally Disadvantaged

From Education Fund	25,500
Schedule of Programs:	
Educationally Disadvantaged	25,500

Item 93

To Utah Tech University – Zion Park Amphitheater

From Education Fund	59,000
From Dedicated Credits Revenue	35,100
From Beginning Nonlapsing Balances	22,400
From Closing Nonlapsing Balances	(22,400)
Schedule of Programs:	
Zion Park Amphitheater	94,100

SALT LAKE COMMUNITY COLLEGE

Item 94
To Salt Lake Community College – Education and General

From General Fund	30,900
From Education Fund	105,027,600
From Dedicated Credits Revenue	59,555,700
From Education Fund Restricted – Performance Funding Rest. Acct.	1,720,800
From Revenue Transfers	3,688,300
From Beginning Nonlapsing Balances	11,334,700
From Closing Nonlapsing Balances	(11,334,700)
Schedule of Programs:	
Education and General	147,261,600
Operations and Maintenance	22,761,700

Item 95
To Salt Lake Community College – Educationally Disadvantaged

From Education Fund	178,400
From Beginning Nonlapsing Balances	10,200
From Closing Nonlapsing Balances	(10,200)
Schedule of Programs:	
Educationally Disadvantaged	178,400

Item 96
To Salt Lake Community College – School of Applied Technology

From Education Fund	9,168,500
From Dedicated Credits Revenue	1,028,600
From Beginning Nonlapsing Balances	516,500
From Closing Nonlapsing Balances	(516,500)
Schedule of Programs:	
School of Applied Technology	10,197,100

Item 97
To Salt Lake Community College – SLCC – Custom Fit

From Education Fund	460,800
Schedule of Programs:	
SLCC – Custom Fit	460,800

UTAH BOARD OF HIGHER EDUCATION

Item 98
To Utah Board of Higher Education – Administration

From General Fund	5,107,300
From Education Fund	8,955,700
From Revenue Transfers, One–Time	963,500
From Beginning Nonlapsing Balances	4,668,300
From Closing Nonlapsing Balances	(268,300)
Schedule of Programs:	
Administration	19,426,500

Item 99
To Utah Board of Higher Education – Student Assistance

From Education Fund	33,817,800
From Beginning Nonlapsing Balances	407,900
From Closing Nonlapsing Balances	(407,900)
Schedule of Programs:	
Regents' Scholarship	18,074,900
Student Financial Aid	3,252,800
New Century Scholarships	1,983,900
Success Stipend	1,391,200
Western Interstate Commission for Higher Education	840,200
T.H. Bell Teaching Incentive Loans Program	2,031,800
Veterans Tuition Gap Program	125,000
Public Safety Officer Career Advancement Reimbursement	146,000
Student Prosperity Savings Program	50,000
Talent Development Incentive Loan Program	1,547,400
Access Utah Promise Scholarship Program	2,274,600
Career and Technical Education Scholarships	1,100,000
Adult Learner Grant	1,000,000

Item 100
To Utah Board of Higher Education – Student Support

From Education Fund	10,104,700
From Beginning Nonlapsing Balances	1,411,000
From Closing Nonlapsing Balances	(1,411,000)
Schedule of Programs:	
Services for Hearing Impaired Students	796,300
Higher Education Technology Initiative	4,498,800
Utah Academic Library Consortium	3,410,000
Math Competency Initiative	1,399,600

Item 101
To Utah Board of Higher Education – Medical Education Council

From Education Fund	1,814,300
From Dedicated Credits Revenue	215,000
From Revenue Transfers	190,500
From Beginning Nonlapsing Balances	513,200
From Closing Nonlapsing Balances	(513,200)
Schedule of Programs:	
Medical Education Council	2,219,800

Subsection 2(b). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 102
To Performance Funding Restricted Account

From Education Fund	22,824,000
Schedule of Programs:	
Performance Funding Restricted Account	22,824,000

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed

during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

BRIDGERLAND TECHNICAL COLLEGE

Item 103
To Bridgerland Technical College
From Education Fund 17,591,400
From Dedicated Credits Revenue 1,452,400
From Education Fund Restricted – Performance Funding Rest. Acct. 291,100
From Beginning Nonlapsing Balances . . . 334,400
From Closing Nonlapsing Balances . . . . (334,400)
Schedule of Programs:
Bridgerland Tech Equipment 1,022,200
Bridgerland Technical College 18,312,700

Item 104
To Bridgerland Technical College – USTC Bridgerland – Custom Fit
From Education Fund 500,000
Schedule of Programs:
USTC Bridgerland – Custom Fit 500,000

DAVIS TECHNICAL COLLEGE

Item 105
To Davis Technical College
From Education Fund 20,523,200
From Dedicated Credits Revenue 2,007,100
From Education Fund Restricted – Performance Funding Rest. Acct. 385,300
From Beginning Nonlapsing Balances 1,323,000
From Closing Nonlapsing Balances . . . (1,323,000)
Schedule of Programs:
Davis Tech Equipment 1,112,100
Davis Technical College 21,803,500

Item 106
To Davis Technical College – USTC Davis – Custom Fit
From Education Fund 684,600
Schedule of Programs:
USTC Davis – Custom Fit 684,600

DIXIE TECHNICAL COLLEGE

Item 107
To Dixie Technical College
From Education Fund 9,617,900
From Dedicated Credits Revenue 737,700
From Education Fund Restricted – Performance Funding Rest. Acct. 124,400
From Beginning Nonlapsing Balances 74,900
From Closing Nonlapsing Balances . . . . . (74,900)
Schedule of Programs:
Dixie Tech Equipment 544,900
Dixie Technical College 9,935,100

Item 108
To Dixie Technical College – USTC Dixie – Custom Fit
From Education Fund 345,000
Schedule of Programs:
USTC Dixie – Custom Fit 345,000

MOUNTAINLAND TECHNICAL COLLEGE

Item 109
To Mountainland Technical College
From Education Fund 17,935,400
From Dedicated Credits Revenue 1,426,300
From Education Fund Restricted – Performance Funding Rest. Acct. 235,000
From Beginning Nonlapsing Balances . . . 615,600
From Closing Nonlapsing Balances . . . . (615,600)
Schedule of Programs:
Mountainland Tech Equipment 982,800
Mountainland Technical College . . . 18,613,900

Item 110
To Mountainland Technical College – USTC Mountainland – Custom Fit
From Education Fund 684,600
Schedule of Programs:
USTC Mountainland – Custom Fit 684,600

OGDEN-WEBER TECHNICAL COLLEGE

Item 111
To Ogden–Weber Technical College
From Education Fund 18,508,500
From Dedicated Credits Revenue 1,697,400
From Education Fund Restricted – Performance Funding Rest. Acct. 268,600
From Beginning Nonlapsing Balances 2,146,500
From Closing Nonlapsing Balances . . . (2,146,500)
Schedule of Programs:
Ogden–Weber Tech Equipment 1,070,100
Ogden–Weber Technical College 19,404,400

Item 112
To Ogden–Weber Technical College – USTC Ogden–Weber – Custom Fit
From Education Fund 684,600
Schedule of Programs:
USTC Ogden–Weber – Custom Fit 684,600

SOUTHWEST TECHNICAL COLLEGE

Item 113
To Southwest Technical College
From Education Fund 6,726,100
From Dedicated Credits Revenue 336,700
From Education Fund Restricted – Performance Funding Rest. Acct. 134,300
From Beginning Nonlapsing Balances 27,000
From Closing Nonlapsing Balances . . . . . (27,000)
Schedule of Programs:
Southwest Tech Equipment 508,000
Southwest Technical College 6,689,100

Item 114
To Southwest Technical College – USTC Southwest – Custom Fit
From Education Fund 345,000
Schedule of Programs:
USTC Southwest – Custom Fit 345,000

TOOELE TECHNICAL COLLEGE

Item 115

To Tooele Technical College	
From Education Fund	5,581,900
From Dedicated Credits Revenue	248,800
From Education Fund Restricted – Performance Funding Rest. Acct.	90,400
From Beginning Nonlapsing Balances	92,900
From Closing Nonlapsing Balances	(92,900)
Schedule of Programs:	
Tooele Tech Equipment	384,300
Tooele Technical College	5,536,800

Item 116

To Tooele Technical College – USTC Tooele – Custom Fit	
From Education Fund	325,000
Schedule of Programs:	
USTC Tooele – Custom Fit	325,000

UINTAH BASIN TECHNICAL COLLEGE

Item 117

To Uintah Basin Technical College	
From Education Fund	10,411,700
From Dedicated Credits Revenue	410,000
From Education Fund Restricted – Performance Funding Rest. Acct.	120,900
From Beginning Nonlapsing Balances	199,500
From Closing Nonlapsing Balances	(188,300)
Schedule of Programs:	
Uintah Basin Tech Equipment	673,200
Uintah Basin Technical College	10,280,600

Item 118

To Uintah Basin Technical College – USTC Uintah Basin – Custom Fit	
From Education Fund	410,000
Schedule of Programs:	
USTC Uintah Basin – Custom Fit	410,000

Section 4. Effective Date.

If approved by two–thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 7
S.B. 4

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR BASE BUDGET

Chief Sponsor: Michael K. McKell
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $47,822,800 in operating and capital budgets for fiscal year 2022, including:

- $3,080,800 from the General Fund; and
- $44,742,000 from various sources as detailed in this bill.

This bill appropriates ($2,105,700) in expendable funds and accounts for fiscal year 2022.

This bill appropriates ($265,000) in business-like activities for fiscal year 2022.

This bill appropriates $4,713,500 in restricted fund and account transfers for fiscal year 2022, including:

- $5,000,000 from the General Fund; and
- ($286,500) from various sources as detailed in this bill.

This bill appropriates $383,855,400 in operating and capital budgets for fiscal year 2023, including:

- $112,985,400 from the General Fund;
- $23,517,900 from the Education Fund; and
- $247,352,100 from various sources as detailed in this bill.

This bill appropriates $37,254,000 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $28,281,700 in business-like activities for fiscal year 2023.

This bill appropriates $43,709,700 in restricted fund and account transfers for fiscal year 2023, including:

- $24,732,200 from the General Fund; and
- $18,977,500 from various sources as detailed in this bill.

This bill appropriates $450,000 in fiduciary funds for fiscal year 2023.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 1

To Department of Alcoholic Beverage Control - DABC Operations

From Beginning Nonlapsing Balances	500,000
From Closing Nonlapsing Balances	(500,000)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that $500,000 of the appropriations provided to the Department of Alcoholic Beverage Control shall not lapse at the close of Fiscal Year 2022. The use of any non-lapsing funds is limited to infrastructure, development and implementation of DABC's operating system, D365 (DABC automated system).

Item 2

To Department of Alcoholic Beverage Control - Parents Empowered

From Beginning Nonlapsing Balances	93,400
Schedule of Programs:	
Parents Empowered	93,400

Under Section 63J-1-601(22) of the Utah Code, the Legislature intends that $100,000 of the appropriations provided to the Underage Drinking Prevention Media and Education Campaign Restricted Account in 32B-2-306 shall not lapse at the close of FY 2022. The use of any non-lapsing funds is limited to the Underage Drinking Prevention Media and Education campaigns.

DEPARTMENT OF COMMERCE

Item 3

To Department of Commerce - Building Inspector Training

From Beginning Nonlapsing Balances	1,468,000
From Closing Nonlapsing Balances	(1,287,400)
Schedule of Programs:	
Building Inspector Training	180,600

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to Commerce – Building Inspector Training in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $3,000,000.

Item 4

To Department of Commerce – Commerce General Regulation

From Beginning Nonlapsing Balances	4,555,400
From Closing Nonlapsing Balances	(400,000)
Schedule of Programs:	
Occupational and Professional Licensing	183,300
Office of Consumer Services	1,869,300
Public Utilities	2,102,800

Item 5

To Department of Commerce – Office of Consumer Services Professional and Technical Services

From Beginning Nonlapsing Balances	4,393,800
Schedule of Programs:	
Professional and Technical Services	4,393,800

Item 6

To Department of Commerce – Public Utilities Professional and Technical Services

From Beginning Nonlapsing Balances	3,225,500
Schedule of Programs:	
Professional and Technical Services	3,225,500

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 7

To Governor's Office of Economic Opportunity – Administration

From Beginning Nonlapsing Balances	3,117,400
Schedule of Programs:	
Administration	3,117,400

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Administration in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $6,500,000.

Item 8

To Governor's Office of Economic Opportunity – Business Development

From Beginning Nonlapsing Balances	8,868,900
From Closing Nonlapsing Balances	(2,000,000)
Schedule of Programs:	
Corporate Recruitment and Business Services	6,212,500
Outreach and International Trade	656,400

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Business Development in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $9,200,000.

Item 9

To Governor's Office of Economic Opportunity – Office of Tourism

From Dedicated Credits Revenue, One–Time	(50,000)
From Beginning Nonlapsing Balances	3,395,400
From Closing Nonlapsing Balances	(3,350,000)
Schedule of Programs:	
Administration	49,100
Film Commission	632,200
Marketing and Advertising	(1,181,700)
Operations and Fulfillment	495,800

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Office of Tourism in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $24,000,000.

Item 10

To Governor's Office of Economic Opportunity – Pass–Through

From Beginning Nonlapsing Balances	1,804,500
Schedule of Programs:	
Pass–Through	1,804,500

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Pass Through in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $115,000.

Item 11

To Governor's Office of Economic Opportunity – Pete Suazo Utah Athletics Commission

From Beginning Nonlapsing Balances	3,900
Schedule of Programs:	
Pete Suazo Utah Athletics Commission	3,900

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity –Pete Suazo Athletic Commission in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $150,000.

Item 12

To Governor's Office of Economic Opportunity – Utah Office of Outdoor Recreation

From Beginning Nonlapsing Balances	34,900
Schedule of Programs:	
Utah Children's Outdoor Recreation and Education Grant	34,900

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Office of Outdoor Recreation in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $200,000.

Item 13

To Governor's Office of Economic Opportunity – Rural Employment Expansion Program

From Beginning Nonlapsing Balances	1,120,000
From Closing Nonlapsing Balances	(1,000,000)
Schedule of Programs:	
Rural Employment Expansion Program	120,000

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Employment Expansion Program in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $3,400,000.

Item 14

To Governor's Office of Economic Opportunity – Talent Ready Utah Center

From Beginning Nonlapsing Balances	15,185,700
From Closing Nonlapsing Balances	(2,000,000)
Schedule of Programs:	
Talent Ready Utah Center	15,034,200
Utah Works Program	(1,848,500)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Talent Ready Utah in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $24,000,000.

Item 15

To Governor's Office of Economic Opportunity – Rural Coworking and Innovation Center Grant Program

From Beginning Nonlapsing Balances	374,500
Schedule of Programs:	
Rural Coworking and Innovation Center Grant Program	374,500

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Coworking & Innovation Center in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $1,700,000.

Item 16

To Governor's Office of Economic Opportunity – Rural Rapid Manufacturing Grant

From Beginning Nonlapsing Balances	72,300
Schedule of Programs:	
Rural Rapid Manufacturing Grant	72,300

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural Rapid Manufacturing Grant in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $220,000.

Item 17

To Governor's Office of Economic Opportunity – Inland Port Authority

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Inland Port Authority in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $9,000,000.

Item 18

To Governor's Office of Economic Opportunity – Point of the Mountain Authority

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Point of the Mountain Authority in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $9,000,000.

Item 19

To Governor's Office of Economic Opportunity – Rural County Grants Program

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Rural County Grants Program in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $2,300,000.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 20

To Department of Cultural and Community Engagement – Administration

From General Fund, One–Time	300,000
From Beginning Nonlapsing Balances	269,700
From Closing Nonlapsing Balances	(380,100)
From Lapsing Balance	(7,300)
Schedule of Programs:	
Administrative Services	425,900
Executive Director's Office	61,600
Information Technology	(147,200)
Utah Multicultural Affairs Office	(158,000)

Under section 63J–1–603 of the Utah Code, the Legislature intends that up to $550,000 of the General Fund provided by Item 84, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2022. These funds are to be used for special projects, building maintenance, renovation, and outreach.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $625,000 of the General Fund provided by Item 84, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2022. These funds are to be used for digital, IT, and innovation purposes.

Under section 63J-1-603 of the Utah Code, the Legislature intends that up to $280,000 of the General Fund provided by Item 84, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Administration Division not lapse at the close of Fiscal Year 2022.

Item 21

To Department of Cultural and Community Engagement - Division of Arts and Museums

From General Fund, One-Time	2,000,000
From Beginning Nonlapsing Balances	5,687,300
From Closing Nonlapsing Balances	(225,000)
Schedule of Programs:	
Administration	(12,500)
Community Arts Outreach	(3,542,500)
Grants to Non-profits	10,975,000
Museum Services	42,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $280,000 of the General Fund provided by Item 85, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2022. These funds will be used as intended as the "Milk Money" appropriated during the 2018 General Session.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of the General Fund provided by Item 85, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2022. These funds are to be used for cultural outreach, community programming, and the purchase of art.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of the General Fund provided by Item 85, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Division of Arts and Museums not lapse at the close of Fiscal Year 2022. These funds are to be used for cultural outreach.

Item 22

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism

From Beginning Nonlapsing Balances	81,300
Schedule of Programs:	
Commission on Service and Volunteerism	81,300

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of the General Fund provided by Item 86, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Commission on Service and Volunteerism not lapse at the close of Fiscal Year 2022. These funds will be used for community outreach and programming.

Item 23

To Department of Cultural and Community Engagement - Historical Society

From Beginning Nonlapsing Balances	(14,800)
From Closing Nonlapsing Balances	27,500
Schedule of Programs:	
State Historical Society	12,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of the General Fund provided by Item 87, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Historical Society Division not lapse at the close of Fiscal Year 2022. These funds will be used for publishing and promoting the Historical Quarterly magazine.

Item 24

To Department of Cultural and Community Engagement - Indian Affairs

From Beginning Nonlapsing Balances	49,100
From Closing Nonlapsing Balances	(14,200)
From Lapsing Balance	(31,200)
Schedule of Programs:	
Indian Affairs	3,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $300,000 of the General Fund provided by Item 88, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Indian Affairs Division not lapse at the close of Fiscal Year 2022.

Item 25

To Department of Cultural and Community Engagement - Pass-Through

From Beginning Nonlapsing Balances	1,589,000
Schedule of Programs:	
Pass-Through	1,589,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriation of General Fund provided by Item 89, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts - Pass Through not lapse at the close of Fiscal Year 2022. These funds will be used for contractual obligations and support.

Item 26

To Department of Cultural and Community Engagement - State History

From Beginning Nonlapsing Balances	(75,500)
From Closing Nonlapsing Balances	(316,700)
Schedule of Programs:	
Administration	27,800
Historic Preservation and Antiquities	(365,100)

History Projects and Grants	103,100
Library and Collections	(36,100)
Public History, Communication and Information	(121,900)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $225,000 of the General Fund provided by Item 90, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts – State History Division not lapse at the close of Fiscal Year 2022. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 27

To Department of Cultural and Community Engagement – State Library

From Beginning Nonlapsing Balances	(122,100)
From Closing Nonlapsing Balances	(85,700)
Schedule of Programs:	
Administration	(146,600)
Blind and Disabled	14,600
Bookmobile	(18,100)
Library Development	(95,100)
Library Resources	37,400

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $700,000 of the General Fund provided by Item 91, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts – Division of State Library not lapse at the close of Fiscal Year 2022. These funds will be used for operations, application maintenance, projects, and community outreach.

Item 28

To Department of Cultural and Community Engagement – Stem Action Center

From General Fund, One–Time	780,800
From Beginning Nonlapsing Balances	1,400,000
From Closing Nonlapsing Balances	(106,400)
From Lapsing Balance	(148,000)
Schedule of Programs:	
STEM Action Center	(278,000)
STEM Action Center – Grades 6–8	2,204,400

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $3,000,000 of the General Fund provided by Item 92, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts – STEM Action Center Division not lapse at the close of Fiscal Year 2022. These funds will be used for contractual obligations and support.

Item 29

To Department of Cultural and Community Engagement – One Percent for Arts

From Pass–through, One–Time	(1,100,000)
From Beginning Nonlapsing Balances	(1,726,000)
From Closing Nonlapsing Balances	3,101,200
Schedule of Programs:	
One Percent for Arts	275,200

The Legislature intends that any appropriation received by the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division. Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

INSURANCE DEPARTMENT

Item 30

To Insurance Department – Health Insurance Actuary

From Beginning Nonlapsing Balances	152,200
From Closing Nonlapsing Balances	(152,200)

Item 31

To Insurance Department – Insurance Department Administration

From Federal Funds, One–Time	(281,400)
From Federal Funds – American Rescue Plan, One–Time	(50,400)
From General Fund Rest. – Insurance Fraud Investigation Acct., One–Time	(3,300)
From Beginning Nonlapsing Balances	1,415,200
From Closing Nonlapsing Balances	(1,151,700)
From Lapsing Balance	(124,500)
Schedule of Programs:	
Administration	(192,800)
Insurance Fraud Program	(3,300)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Insurance – Insurance Department in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $500,000.

Item 32

To Insurance Department – Title Insurance Program

From Beginning Nonlapsing Balances	6,200
From Closing Nonlapsing Balances	(6,200)

LABOR COMMISSION

Item 33

To Labor Commission

From Beginning Nonlapsing Balances	716,900
From Closing Nonlapsing Balances	(716,900)
From Lapsing Balance	(1,060,800)
Schedule of Programs:	
Industrial Accidents	(582,400)
Workplace Safety	(478,400)

PUBLIC SERVICE COMMISSION

Item 34

To Public Service Commission

From Beginning Nonlapsing Balances	333,600
From Closing Nonlapsing Balances	(333,200)
Schedule of Programs:	
Administration	400

UTAH STATE TAX COMMISSION

Item 35

To Utah State Tax Commission – License Plates Production

From Beginning Nonlapsing Balances	905,800
From Closing Nonlapsing Balances	(385,600)
Schedule of Programs:	
License Plates Production	520,200

Item 36

To Utah State Tax Commission – Tax Administration

Schedule of Programs:	
Administration Division	1,039,100
Auditing Division	(1,297,600)
Motor Vehicles	(69,200)
Property Tax Division	(535,200)
Tax Payer Services	150,800
Tax Processing Division	712,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Tax Commission – Administration up to $1,000,000 not lapse at the close of FY 2022. The use of nonlapsing funds is limited to protecting and enhancing the State's tax and motor vehicle systems and processes; paying for mailed postcard reminders; continuing to protect the State's revenues from tax fraud, identity theft, and security intrusions; and litigation and related costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 37

To Department of Commerce – Architecture Education and Enforcement Fund

From Beginning Fund Balance	39,500
From Closing Fund Balance	(39,500)

Item 38

To Department of Commerce – Consumer Protection Education and Training Fund

From Beginning Fund Balance	800,000
Schedule of Programs:	
Consumer Protection Education and Training Fund	800,000

Item 39

To Department of Commerce – Cosmetologist/Barber, Esthetician, Electrologist Fund

From Beginning Fund Balance	2,700
From Closing Fund Balance	(2,700)

Item 40

To Department of Commerce – Land Surveyor/Engineer Education and Enforcement Fund

From Beginning Fund Balance	39,700
From Closing Fund Balance	(39,700)

Item 41

To Department of Commerce – Landscapes Architects Education and Enforcement Fund

From Beginning Fund Balance	(21,300)
From Closing Fund Balance	21,300

Item 42

To Department of Commerce – Physicians Education Fund

From Beginning Fund Balance	(7,500)
From Closing Fund Balance	7,500

Item 43

To Department of Commerce – Real Estate Education, Research, and Recovery Fund

From Beginning Fund Balance	457,700
From Closing Fund Balance	(457,700)

Item 44

To Department of Commerce – Residence Lien Recovery Fund

From Beginning Fund Balance	75,600
From Closing Fund Balance	(75,600)

Item 45

To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund

From Beginning Fund Balance	184,000
From Closing Fund Balance	(184,000)

Item 46

To Department of Commerce – Securities Investor Education/Training/Enforcement Fund

From Beginning Fund Balance	(155,500)
From Closing Fund Balance	155,500

Item 47

To Department of Commerce – Electrician Education Fund

From Beginning Fund Balance	83,900
From Closing Fund Balance	(83,900)

Item 48

To Department of Commerce – Plumber Education Fund

From Beginning Fund Balance	26,000
From Closing Fund Balance	(26,000)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 49

To Governor's Office of Economic Opportunity – Outdoor Recreation Infrastructure Account

From Beginning Fund Balance	3,049,800
From Closing Fund Balance	(5,000,000)
Schedule of Programs:	
Outdoor Recreation Infrastructure Account	(1,950,200)

Under Section 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – Outdoor Recreation

Infrastructure Account in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non-lapsing funds is limited to contractual obligations and support $20,000,000.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 50

To Department of Cultural and Community Engagement - History Donation Fund

From Interest Income, One-Time	(6,900)
From Beginning Fund Balance	(7,500)
From Closing Fund Balance	14,400

Item 51

To Department of Cultural and Community Engagement - State Arts Endowment Fund

From Dedicated Credits Revenue, One-Time	(20,400)
From Interest Income, One-Time	(7,700)
From Beginning Fund Balance	(7,300)
From Closing Fund Balance	21,700
Schedule of Programs:	
State Arts Endowment Fund	(13,700)

Item 52

To Department of Cultural and Community Engagement - State Library Donation Fund

From Interest Income, One-Time	(24,900)
From Beginning Fund Balance	(21,500)
From Closing Fund Balance	46,400

Item 53

To Department of Cultural and Community Engagement - Heritage and Arts Foundation Fund

From Beginning Fund Balance	1,516,800
Schedule of Programs:	
Heritage and Arts Foundation Fund	1,516,800

INSURANCE DEPARTMENT

Item 54

To Insurance Department - Insurance Fraud Victim Restitution Fund

From Beginning Fund Balance	(26,800)
From Closing Fund Balance	124,100
Schedule of Programs:	
Insurance Fraud Victim Restitution Fund	97,300

Item 55

To Insurance Department - Title Insurance Recovery Education and Research Fund

From Beginning Fund Balance	604,300
From Closing Fund Balance	(604,200)
Schedule of Programs:	
Title Insurance Recovery Education and Research Fund	100

PUBLIC SERVICE COMMISSION

Item 56

To Public Service Commission - Universal Public Telecom Service

From Dedicated Credits Revenue, One-Time	(6,258,800)
From Beginning Fund Balance	4,071,500
From Closing Fund Balance	(368,700)
Schedule of Programs:	
Universal Public Telecommunications Service Support	(2,556,000)

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

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 57

To Department of Alcoholic Beverage Control - State Store Land Acquisition Fund

From Beginning Fund Balance	5,000,000
From Closing Fund Balance	(5,000,000)

INSURANCE DEPARTMENT

Item 58

To Insurance Department - Individual & Small Employer Risk Adjustment Enterprise Fund

From Licenses/Fees, One-Time	(265,000)
Schedule of Programs:	
Individual & Small Employer Risk Adjustment Enterprise	(265,000)

LABOR COMMISSION

Item 59

To Labor Commission - Employers Reinsurance Fund

From Premium Tax Collections, One-Time	(11,212,300)
From Beginning Fund Balance	11,212,300

Item 60

To Labor Commission - Uninsured Employers Fund

From Beginning Fund Balance	7,455,800
From Closing Fund Balance	(7,455,800)

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 61

To General Fund Restricted - Industrial Assistance Account

From General Fund, One-Time	5,000,000
From Beginning Fund Balance	3,673,800
From Closing Fund Balance	(3,960,300)
Schedule of Programs:	

General Fund Restricted – Industrial Assistance Account	4,713,500

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – GFR – Industrial Assistance Account in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $25,000,000.

Item 62
To General Fund Restricted – Motion Picture Incentive Fund

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – GFR – Motion Picture Incentive Fund in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $3,000,000.

Item 63
To General Fund Restricted – Tourism Marketing Performance Fund

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to the Governor's Office of Economic Opportunity – GFR – Tourism Marketing Performance Fund in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support $24,000,000.

Item 64
To General Fund Restricted – Native American Repatriation Restricted Account

From Beginning Fund Balance	60,000
From Closing Fund Balance	(60,000)

Subsection 1(e). Fiduciary Funds. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

LABOR COMMISSION

Item 65
To Labor Commission – Wage Claim Agency Fund

From Beginning Fund Balance	(542,100)
From Closing Fund Balance	542,100

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 66
To Department of Alcoholic Beverage Control – DABC Operations

From Liquor Control Fund	68,567,600
From Liquor Control Fund, One–Time	(54,700)
From Beginning Nonlapsing Balances	500,000
From Closing Nonlapsing Balances	(500,000)
Schedule of Programs:	
Administration	1,033,800
Executive Director	3,451,300
Operations	3,892,700
Stores and Agencies	54,839,900
Warehouse and Distribution	5,295,200

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Alcoholic Beverage Control report performance measures for the DABC Operations line item, whose mission is, "Conduct, license, and regulated the sale of alcoholic products in a manner and at prices that: Reasonably satisfy the public demand and protect the public interest, including the rights of citizens who do not wish to be involved with alcoholic products." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) On Premise licensee audits conducted (Target = 85%); 2) Percentage of net profit to sales (Target = 23%); Supply chain (Target = 97% in stock); 4) Liquor payments processed within 30 days of invoices received (Target = 97%).

Item 67
To Department of Alcoholic Beverage Control – Parents Empowered

From Liquor Control Fund	660,300
From General Fund Restricted – Underage Drinking Prevention Media and Education Campaign Restricted Account	2,444,100
Schedule of Programs:	
Parents Empowered	3,104,400

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Alcoholic Beverage Control report performance measures for the Parents Empowered line item, whose mission is, "pursue a leadership role in the prevention of underage alcohol consumption and other forms of alcohol misuse and abuse. Serve as a resource and provider of alcohol educational, awareness, and prevention programs and materials. Partner with other government authorities, advocacy groups, legislators, parents, communities, schools, law enforcement, business and community leaders, youth, local municipalities, state and national organizations, alcohol industry members, alcohol licensees, etc., to work collaboratively to serve in the interest of public health, safety, and social well-being, for the benefit of every one in our communities." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) Ad awareness of the dangers of underage drinking and prevention tips (Target =70%); 2) Ad awareness of "Parents Empowered" (Target =60%); 3) Percentage of students who used alcohol during their lifetime (Target = 16%).

DEPARTMENT OF COMMERCE

Item 68

To Department of Commerce – Building Inspector Training

From Dedicated Credits Revenue	833,300
From Beginning Nonlapsing Balances	2,100,000
From Closing Nonlapsing Balances	(833,300)

Schedule of Programs:

Building Inspector Training	2,100,000

Item 69

To Department of Commerce – Commerce General Regulation

From General Fund	600
From Federal Funds	492,700
From Dedicated Credits Revenue	1,511,100
From General Fund Restricted – Commerce Service Account	26,917,900
From General Fund Restricted – Factory Built Housing Fees	106,800
From Gen. Fund Rest. – Geologist Education and Enforcement	21,100
From Gen. Fund Rest. – Latino Community Support Rest. Acct	12,500
From Gen. Fund Rest. – Nurse Education & Enforcement Acct.	51,400
From General Fund Restricted – Pawnbroker Operations	144,700
From General Fund Restricted – Public Utility Restricted Acct.	6,172,400
From Revenue Transfers	1,003,100
From General Fund Restricted – Utah Housing Opportunity Restricted	20,400
From Pass-through	136,700
From Beginning Nonlapsing Balances	800,000
From Closing Nonlapsing Balances	(600,000)

Schedule of Programs:

Administration	7,322,400
Building Operations and Maintenance	374,700
Consumer Protection	2,439,600
Corporations and Commercial Code	2,812,800
Occupational and Professional Licensing	11,963,400
Office of Consumer Services	1,468,100
Public Utilities	5,274,200
Real Estate	2,664,100
Securities	2,472,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report performance measures for the Commerce General Regulation line item, whose mission is "to protect the public and to enhance commerce through licensing and regulation." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For 2023, the department shall report the following performance measures: 1) Increase the percentage of all available licensing renewals to be performed online by licensees in the Division of Occupational and Professional Licensing. (Target = Ratio of potential online renewal licensees who actually complete their license renewal online instead of in person on paper to be greater than 94%) 2) Increase the utility of and overall searches within the Controlled Substance Database by enhancing the functionality of the database and providing outreach. (Target = 5% increase in the number of controlled substance database searches by providers and enforcement through increased outreach) 3) Achieve and maintain corporation annual business online filings vs. paper filings above to or above (Target = 97% of the total filings managed to mitigate costs to the division and filer in submitting filing information).

Item 70

To Department of Commerce – Office of Consumer Services Professional and Technical Services

From General Fund Restricted – Public Utility Restricted Acct.	503,100
From Beginning Nonlapsing Balances	503,100
From Closing Nonlapsing Balances	(503,100)

Schedule of Programs:

Professional and Technical Services	503,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report performance measures for the Office of Consumer Services Professional and Technical Services line item, whose mission is to "assess the impact of utility regulatory actions and advocate positions advantageous to residential, small commercial, and irrigation consumers of natural gas, electric and telephone public utility service." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Evaluate total "dollars at stake" in the individual rate cases or other utility regulatory actions to ensure that this fund is hiring contract experts in cases that overall have high potential dollar impact on customers. (Target = 10%, i.e. total dollars spent on contract experts will not exceed 10% of the annual potential dollar impact of the utility actions.), 2) The premise of having a state agency advocate for small utility customers is that for each individual customer the impact of a utility action might be small, but in aggregate the impact is large. To ensure that contract experts are used in cases that impact large numbers of small customers, consistent with the vision for this line item, the dollars spent per each instance of customer impact could be measured. (Target = less than ten cents per customer impact.)

Item 71

To Department of Commerce – Public Utilities Professional and Technical Services

From General Fund Restricted –	
Public Utility Restricted Acct.	150,000
From Beginning Nonlapsing Balances	150,000
From Closing Nonlapsing Balances	(150,000)
Schedule of Programs:	
Professional and Technical Services	150,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Commerce report performance measures for the Public Utilities Professional and Technical Services line item, whose mission is to "retain professional and technical consultants to augment division staff expertise in energy rate cases." The Department of Commerce shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall the following performance measures: 1) contract with industry professional consultants who possess expertise that the Division of Public Utilities requires for rate and revenue discussion and analysis of regulated utilities (Target = A fraction of consultant dollars spent vs. the projected cost of having full time employees with the extensive expertise needed on staff to complete the consultant work target of 40% average savings.)

FINANCIAL INSTITUTIONS

Item 72

To Financial Institutions – Financial Institutions Administration

From General Fund Restricted –	
Financial Institutions	8,557,700
Schedule of Programs:	
Administration	8,237,700
Building Operations and Maintenance	320,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Financial Institutions report performance measures for the Financial Institutions Administration line item, whose mission is to "to charter, regulate, and supervise persons, firms, organizations, associations, and other business entities furnishing financial services to the citizens of the state of Utah." The Department of Financial Institutions shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: (1) Depository Institutions not on the Departments ”Watched Institutions" list (Target = 80.0%), (2) Number of Safety and Soundness Examinations (Target = Equal to the number of depository institutions chartered at the beginning of the fiscal year), and (3) Total Assets Under Supervision, Per Examiner (Target = $3.8 billion).

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 73

To Department of Cultural and Community Engagement – Administration

From General Fund	9,959,300
From General Fund, One-Time	(5,613,200)
From Dedicated Credits Revenue	192,400
From General Fund Restricted –	
Martin Luther King Jr Civil Rights Support Restricted Account	7,500
From Beginning Nonlapsing Balances	756,400
From Closing Nonlapsing Balances	(416,500)
From Lapsing Balance	(7,300)
Schedule of Programs:	
Administrative Services	2,307,300
Executive Director's Office	573,400
Information Technology	1,218,900
Utah Multicultural Affairs Office	779,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Administration line item, whose mission is, "Increase value to customers through leveraged collaboration between divisions and foster a culture of continuous improvement to find operational efficiencies." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: (1) Digitally share the States historical and art collections (including art, artifacts, manuscripts, maps, etc.) The percentage of collection digitized and available online. (Target = 35%); (2) Expand the reach and impact of youth engagement without disrupting the quality of programming by engaging a target number of students from a wide range of schools. (Target

= 1,450 Students and 60 Schools); and (3) Implement procedures to ensure that programming is available to vulnerable student populations by measuring the percentage of students attending that align with identified target audiences. (Target = 78%).

Item 74

To Department of Cultural and Community Engagement - Division of Arts and Museums

From General Fund	9,348,200
From Federal Funds	914,200
From Dedicated Credits Revenue	128,400
From Beginning Nonlapsing Balances	225,000
From Closing Nonlapsing Balances	(250,000)
Schedule of Programs:	
Administration	712,800
Community Arts Outreach	1,973,800
Grants to Non-profits	7,371,600
Museum Services	307,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Arts and Museums line item, whose mission is, "connect people and communities through arts and museums." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) Foster collaborative partnerships to nurture understanding of art forms and cultures in local communities through a travelling art exhibition program emphasizing services in communities lacking easy access to cultural resources. Measure the number of counties served by Travelling Exhibitions annually (Target = 69% of counties annually); 2)Support the cultural and economic health of communities through grant funding, emphasizing support to communities lacking easy access to cultural resources. The number of counties served by grant funding will be tracked (Target=27); 3) : Provide training and professional development to the cultural sector, emphasizing services to communities lacking easy access to cultural resources. The number of people served will be tracked (Target=2500)

Item 75

To Department of Cultural and Community Engagement - Commission on Service and Volunteerism

From General Fund	447,600
From Federal Funds	4,916,500
From Dedicated Credits Revenue	37,800
Schedule of Programs:	
Commission on Service and Volunteerism	5,401,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Commission on Service and Volunteerism line item. The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2021 appropriations bills and the current status of the following performance measure for FY 2022: 1) Assist organizations in Utah to effectively use service and volunteerism as a strategy to fulfill organizational missions and address critical community needs by measuring the percent of organizations trained that are implementing effective volunteer management practices (Target = 85%); 2) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of AmeriCorps programs showing improved program management and compliance through training and technical assistance (Target = 90%); 3) Manage the AmeriCorps program for Utah to target underserved populations in the focus areas of Economic Opportunity, Education, Environmental Stewardship, Disaster Preparedness, Healthy Futures, and Veterans and Military Families by measuring the percent of targeted audience served through Americorps programs (Target = 88%).

Item 76

To Department of Cultural and Community Engagement - Historical Society

From Dedicated Credits Revenue	125,100
From Beginning Nonlapsing Balances	63,800
From Closing Nonlapsing Balances	(38,900)
Schedule of Programs:	
State Historical Society	150,000

Item 77

To Department of Cultural and Community Engagement - Indian Affairs

From General Fund	391,300
From Dedicated Credits Revenue	55,600
From General Fund Restricted - Native American Repatriation	61,200
From Beginning Nonlapsing Balances	130,700
From Closing Nonlapsing Balances	(56,500)
Schedule of Programs:	
Indian Affairs	582,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Indian Affairs line item, whose mission is, "to address the socio-cultural challenges of the eight federally-recognized Tribes residing in Utah." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) Assist the eight tribal nations of Utah in preserving culture and growing communities by measuring the percent of attendees participating in the Youth Track of the Governor's Native American Summit (Target = 30%); 2) Assist the eight tribal nations of Utah in preserving culture and interacting effectively with State of Utah agencies by managing an effective liaison working group as measured by the percent of mandated state agencies with designated liaisons actively participating to respond to tribal concerns (Target = 70%); 3) Represent the State of Utah by developing strong relationships with tribal members by measuring the percent of tribes personally visited on their lands annually. (Target = 80% annually).

Item 78

To Department of Cultural and Community Engagement - Pass-Through

From General Fund	1,520,900
From Gen. Fund Rest. - Humanitarian Service Rest. Acct	6,000
From General Fund Restricted - National Professional Men's Soccer Team Support of Building Communities	100,000
Schedule of Programs:	
Pass-Through	1,626,900

Item 79

To Department of Cultural and Community Engagement - State History

From General Fund	2,899,300
From Federal Funds	1,271,000
From Dedicated Credits Revenue	620,400
From Beginning Nonlapsing Balances	665,800
From Closing Nonlapsing Balances	(1,330,500)
Schedule of Programs:	
Administration	592,700
Historic Preservation and Antiquities	2,138,900
History Projects and Grants	128,100
Library and Collections	714,400
Public History, Communication and Information	551,900

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the State History line item, whose mission is, "to preserve and share the past for a better present and future." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) Support management and development of public lands by completing cultural compliance reviews (federal Section 106 and Utah 9-8-404) within 20 days. (Target = 95%); 2) Promote historic preservation at the community level. Measure the percent of Certified Local Governments actively involved in historic preservation by applying for a grant at least once within a four year period and successfully completing the grant-funded project (Target = 60% active CLGs); 3) Provide public access to the states history collections. Percentage of collection prepared to move to a collections facility: Identified, Digitized, Cataloged, Packed for moving and long term storage (Target = 33%).

Item 80

To Department of Cultural and Community Engagement - State Library

From General Fund	3,832,400
From Federal Funds	1,893,600
From Dedicated Credits Revenue	1,896,800
From Beginning Nonlapsing Balances	803,100
From Closing Nonlapsing Balances	(1,038,400)
Schedule of Programs:	
Administration	698,400
Blind and Disabled	1,814,500
Bookmobile	950,800
Library Development	1,884,500
Library Resources	2,039,300

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the State Library line item, whose mission is, "to preserve and share the past for a better present and future." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) Improve library service throughout Utah by supporting libraries and librarians through training, grant funding, consulting, youth services, outreach, and more. The Division measures the number of online and in-person training hours provided to librarians. (Target = 8,000 annually); 2) Provide library services to people lacking physical access to a library. Total Bookmobile circulation annually. (Target = 445,000 items annually); 3) Provide library services to people who are blind or print disabled. Total Blind and Print Disabled circulation annually (Target = 305,500 items annually); 4) Advance and promote equal access to information and library resources to all Utah residents. The Division measures resources viewed/used annually from all state-wide database resources on Utahs online Public Library (Target=314,945); and 5) Provide access to online eBooks and audiobooks through the Beehive Library Consortium. The Division measures the number of checkouts of digital materials across the state through its subscription to OverDrive (Target=3,404,811).

Item 81

To Department of Cultural and Community Engagement – Stem Action Center

From General Fund	10,645,500
From Federal Funds	280,800
From Dedicated Credits Revenue	252,200
From Beginning Nonlapsing Balances	106,400
From Lapsing Balance	(202,200)

Schedule of Programs:

STEM Action Center	2,027,700
STEM Action Center – Grades 6–8	9,055,000

In accordance with UCA 63J–1–201, the Legislature intends that the Department of Cultural and Community Engagement report performance measures for the Utah STEM Action Center line item, whose mission is, "to promote science, technology, engineering and math through best practices in education to ensure connection with industry and Utah's long–term economic prosperity." The Department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measure for FY 2023: 1) Percentage of communities off the Wasatch Front served by the STEM bus (Target=40%); 2); Number of events with engagement of Corporate Partners (Target=50%); and 3) Percentage of grants and dollars awarded off the Wasatch Front (Target=40%).

Item 82

To Department of Cultural and Community Engagement – One Percent for Arts

From Pass–through	500,000
From Beginning Nonlapsing Balances	1,584,600
From Closing Nonlapsing Balances	(941,600)

Schedule of Programs:

One Percent for Arts	1,143,000

INSURANCE DEPARTMENT

Item 83

To Insurance Department – Bail Bond Program

From General Fund Restricted – Bail Bond Surety Administration	39,700

Schedule of Programs:

Bail Bond Program	39,700

Item 84

To Insurance Department – Health Insurance Actuary

From General Fund Rest. – Health Insurance Actuarial Review	207,400
From Beginning Nonlapsing Balances	276,100
From Closing Nonlapsing Balances	(210,200)

Schedule of Programs:

Health Insurance Actuary	273,300

Item 85

To Insurance Department – Insurance Department Administration

From General Fund	10,000
From Federal Funds	333,200
From Dedicated Credits Revenue	8,800
From General Fund Restricted – Captive Insurance	1,418,800
From General Fund Restricted – Criminal Background Check	165,000
From General Fund Restricted – Guaranteed Asset Protection Waiver	129,100
From General Fund Restricted – Insurance Department Acct.	9,271,600
From General Fund Rest. – Insurance Fraud Investigation Acct.	2,499,300
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	3,300
From General Fund Restricted – Relative Value Study Account	119,000
From General Fund Restricted – Technology Development	625,000
From Beginning Nonlapsing Balances	3,582,900
From Closing Nonlapsing Balances	(2,595,600)

Schedule of Programs:

Administration	9,900,000
Captive Insurers	1,425,000
Criminal Background Checks	175,000
Electronic Commerce Fee	1,062,200
GAP Waiver Program	129,100
Insurance Fraud Program	2,760,100
Relative Value Study	119,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Insurance report performance measures for the Insurance Administration line item, whose mission is to "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) timeliness of processing work product (Target = 95% within 45 days); 2) timeliness of resident licenses processed (Target = 75% within 15 days); 3) increase the number of certified examination and captive auditors to include Accredited Financial Examiners and Certified Financial Examiners (Target = 25% increase); 4) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

Item 86

To Insurance Department – Title Insurance Program

From General Fund Rest. – Title Licensee Enforcement Acct.	128,700
From Beginning Nonlapsing Balances	125,600
From Closing Nonlapsing Balances	(105,200)

Schedule of Programs:

Title Insurance Program	149,100

In accordance with UCA 63J–1–903, the Legislature intends that the Department of

Insurance report performance measures for the Title Insurance Program line item, whose mission is to "to foster a healthy insurance market by promoting fair and reasonable practices that ensure available, affordable and reliable insurance products and services." The Department of Insurance shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measure: 1) timely response to reported allegations of violations of insurance statute and rule (Target = 90% within 75 days).

LABOR COMMISSION

Item 87

To Labor Commission

From General Fund	6,860,600
From Federal Funds	3,130,700
From Dedicated Credits Revenue	116,000
From Employers' Reinsurance Fund	85,300
From General Fund Restricted – Industrial Accident Account	3,679,900
From Trust and Agency Funds	2,800
From General Fund Restricted – Workplace Safety Account	1,676,100
From Beginning Nonlapsing Balances	716,900
From Closing Nonlapsing Balances	(716,900)
Schedule of Programs:	
Adjudication	1,544,100
Administration	2,178,100
Antidiscrimination and Labor	2,362,100
Boiler, Elevator and Coal Mine Safety Division	1,716,900
Building Operations and Maintenance	216,700
Industrial Accidents	2,222,600
Utah Occupational Safety and Health	4,086,600
Workplace Safety	1,224,300

In accordance with UCA 63J-1-903, the Legislature intends that the Labor Commission report performance measures for the Labor Commission line item, whose mission is to "achieve safety in Utah's workplaces and fairness in employment and housing." The Labor Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: (1) Percentage of workers compensation decisions by the Division of Adjudication within 60 days of the date of the hearing (Target-100%), (2) Percentage of decisions issued on motions for review within 90 days of the date the motion was filed (Target-100%), (3) Percentage of UOSH citations issued within 45 days of the date of the opening conference (Target-90%) (4) Number and percentage of elevator units that are overdue for inspection (Target-0%), (5) Percentage of the improvement over baseline of the number of employers determined to be in compliance with the state requirement for workers compensation insurance coverage (Target-25%), (6) Percentage of employment discrimination cases completed within 180 days of the date the complaint was filed (Target-70%).

PUBLIC SERVICE COMMISSION

Item 88

To Public Service Commission

From Dedicated Credits Revenue	600
From General Fund Restricted – Public Utility Restricted Acct.	2,684,900
From Revenue Transfers	11,200
From Beginning Nonlapsing Balances	1,063,900
From Closing Nonlapsing Balances	(926,700)
Schedule of Programs:	
Administration	2,795,000
Building Operations and Maintenance	38,900

In accordance with UCA 63J-1-903, the Legislature intends that the Public Service Commission report performance measures for the Administration line item, whose mission is to "provide balanced regulation ensuring safe, reliable, adequate, and reasonably priced utility service." The Public Service Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on: (1) Electric or natural gas rate changes within a fiscal year not consistent or comparable with other states served by the same utility (Target = 0); (2) Number of appellate court cases within a fiscal year modifying or reversing Public Service Commission decisions (Target = 0); (3) Number, within a fiscal year, of financial sector analyses of Utah's public utility regulatory climate resulting in an unfavorable or unbalanced assessment (Target= 0).

UTAH STATE TAX COMMISSION

Item 89

To Utah State Tax Commission – License Plates Production

From Dedicated Credits Revenue	4,005,900
From Beginning Nonlapsing Balances	698,100
From Closing Nonlapsing Balances	(618,300)
Schedule of Programs:	
License Plates Production	4,085,700

Item 90

To Utah State Tax Commission – Liquor Profit Distribution

From General Fund Restricted – Alcoholic Beverage Enforcement and Treatment Account	6,365,000
Schedule of Programs:	
Liquor Profit Distribution	6,365,000

Item 91

To Utah State Tax Commission – Rural Health Care Facilities Distribution

From General Fund Restricted – Rural Healthcare Facilities Acct	218,900
Schedule of Programs:	
Rural Health Care Facilities Distribution	218,900

Item 92

To Utah State Tax Commission – Tax Administration

From General Fund	29,317,200
From Education Fund	23,517,900
From Transportation Fund	5,857,400
From Federal Funds	629,300
From Dedicated Credits Revenue	7,763,100
From General Fund Restricted – Electronic Payment Fee Rest. Acct	7,609,700
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account	4,288,100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	1,200
From General Fund Rest. – Sales and Use Tax Admin Fees	12,104,300
From General Fund Restricted – Tobacco Settlement Account	18,500
From Revenue Transfers	177,600
From Uninsured Motorist Identification Restricted Account	146,100
From Beginning Nonlapsing Balances	1,000,000
From Closing Nonlapsing Balances	(1,000,000)
Schedule of Programs:	
Administration Division	11,413,900
Auditing Division	12,627,100
Motor Vehicle Enforcement Division	4,514,200
Motor Vehicles	25,291,200
Multi-State Tax Compact	282,200
Property Tax Division	5,631,300
Seasonal Employees	116,600
Tax Payer Services	13,183,200
Tax Processing Division	7,445,300
Technology Management	10,925,400

In accordance with UCA 63J-1-903, the Legislature intends that the Utah State Tax Commission report performance measures for the Tax Administration line item, whose mission is "to collect revenues for the state and local governments and to equitably administer tax and assigned motor vehicle laws." The Utah State Tax Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: (1) Tax returns processed electronically (Target = 81%), (2) Closed Delinquent Accounts from assigned inventory (Target 5% improvement), (3) Motor Vehicle Large Office Wait Times (Target: 94% served in 20 minutes or less).

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF COMMERCE

Item 93

To Department of Commerce – Architecture Education and Enforcement Fund

From Licenses/Fees	3,000
From Beginning Fund Balance	68,000
From Closing Fund Balance	(56,000)
Schedule of Programs:	
Architecture Education and Enforcement Fund	15,000

Item 94

To Department of Commerce – Consumer Protection Education and Training Fund

From Licenses/Fees	261,400
From Beginning Fund Balance	500,000
From Closing Fund Balance	(500,000)
Schedule of Programs:	
Consumer Protection Education and Training Fund	261,400

Item 95

To Department of Commerce – Cosmetologist/Barber, Esthetician, Electrologist Fund

From Licenses/Fees	54,100
From Interest Income	1,000
From Beginning Fund Balance	64,100
From Closing Fund Balance	(31,900)
Schedule of Programs:	
Cosmetologist/Barber, Esthetician, Electrologist Fund	87,300

Item 96

To Department of Commerce – Land Surveyor/Engineer Education and Enforcement Fund

From Licenses/Fees	9,000
From Beginning Fund Balance	111,200
From Closing Fund Balance	(88,800)
Schedule of Programs:	
Land Surveyor/Engineer Education and Enforcement Fund	31,400

Item 97

To Department of Commerce – Landscapes Architects Education and Enforcement Fund

From Licenses/Fees	4,100

From Beginning Fund Balance 16,700
From Closing Fund Balance . . . . (15,800)
Schedule of Programs:
Landscapes Architects Education and Enforcement Fund 5,000

Item 98
To Department of Commerce – Physicians Education Fund
From Dedicated Credits Revenue 1,200
From Licenses/Fees 22,000
From Beginning Fund Balance 88,900
From Closing Fund Balance . . . . (87,100)
Schedule of Programs:
Physicians Education Fund 25,000

Item 99
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 134,300
From Beginning Fund Balance 706,700
From Closing Fund Balance . . . . (380,000)
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 461,000

Item 100
To Department of Commerce – Residence Lien Recovery Fund
From Dedicated Credits Revenue 20,000
From Licenses/Fees 30,000
From Beginning Fund Balance 797,500
From Closing Fund Balance . . . . (347,500)
Schedule of Programs:
Residence Lien Recovery Fund 500,000

Item 101
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 157,400
From Interest Income 10,400
From Beginning Fund Balance 1,020,400
From Closing Fund Balance . . . . (1,001,800)
Schedule of Programs:
RMLERR Fund 186,400

Item 102
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 202,600
From Beginning Fund Balance 85,000
From Closing Fund Balance . . . . (7,200)
Schedule of Programs:
Securities Investor Education/ Training/Enforcement Fund 280,400

Item 103
To Department of Commerce – Electrician Education Fund
From Licenses/Fees 28,800
From Beginning Fund Balance 83,900
From Closing Fund Balance . . . . (83,900)
Schedule of Programs:
Electrician Education Fund 28,800

Item 104
To Department of Commerce – Plumber Education Fund
From Licenses/Fees 11,500
From Beginning Fund Balance 26,000
From Closing Fund Balance . . . . (26,000)
Schedule of Programs:
Plumber Education Fund 11,500

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 105
To Department of Cultural and Community Engagement – History Donation Fund
From Dedicated Credits Revenue 2,600
From Interest Income 1,500
From Beginning Fund Balance 266,200
From Closing Fund Balance . . . . (270,300)

Item 106
To Department of Cultural and Community Engagement – State Arts Endowment Fund
From Interest Income 2,000
From Beginning Fund Balance 403,900
From Closing Fund Balance . . . . (405,900)

Item 107
To Department of Cultural and Community Engagement – State Library Donation Fund
From Interest Income 4,100
From Beginning Fund Balance 1,216,600
From Closing Fund Balance . . . . (1,220,700)

Item 108
To Department of Cultural and Community Engagement – Heritage and Arts Foundation Fund
From Dedicated Credits Revenue 500,000
Schedule of Programs:
Heritage and Arts Foundation Fund . . . 500,000

INSURANCE DEPARTMENT

Item 109
To Insurance Department – Insurance Fraud Victim Restitution Fund
From Licenses/Fees 425,000
From Beginning Fund Balance 200,000
From Closing Fund Balance . . . . (100,000)
Schedule of Programs:
Insurance Fraud Victim Restitution Fund 525,000

Item 110
To Insurance Department – Title Insurance Recovery Education and Research Fund
From Dedicated Credits Revenue 48,000
From Beginning Fund Balance 604,200
From Closing Fund Balance . . . . (556,400)
Schedule of Programs:
Title Insurance Recovery Education and Research Fund 95,800

PUBLIC SERVICE COMMISSION

Item 111
To Public Service Commission – Universal Public Telecom Service
From Dedicated Credits Revenue 16,500,000
From Beginning Fund Balance 14,368,900
From Closing Fund Balance . . . . (8,020,400)
Schedule of Programs:
Universal Public Telecommunications Service Support 22,848,500

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 112

To Department of Alcoholic Beverage Control - State Store Land Acquisition Fund

From Beginning Fund Balance	5,000,000
From Closing Fund Balance	(5,000,000)

LABOR COMMISSION

Item 113

To Labor Commission - Employers Reinsurance Fund

From Dedicated Credits Revenue	3,000,000
From Interest Income	1,466,000
From Premium Tax Collections	17,300,000
From Beginning Fund Balance	10,801,100
From Closing Fund Balance	(10,801,100)
Schedule of Programs:	
Employers Reinsurance Fund	21,766,000

Item 114

To Labor Commission - Uninsured Employers Fund

From Dedicated Credits Revenue	5,045,400
From Interest Income	102,500
From Premium Tax Collections	1,350,400
From Trust and Agency Funds	17,400
From Beginning Fund Balance	15,052,100
From Closing Fund Balance	(15,052,100)
Schedule of Programs:	
Uninsured Employers Fund	6,515,700

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 115

To Latino Community Support Restricted Account

From Dedicated Credits Revenue	12,500
Schedule of Programs:	
Latino Community Support Restricted Account	12,500

Item 116

To General Fund Restricted - Native American Repatriation Restricted Account

From General Fund	20,000
From Beginning Fund Balance	120,000
From Closing Fund Balance	(140,000)

Item 117

To General Fund Restricted - Rural Health Care Facilities Fund

From General Fund	218,900
Schedule of Programs:	
General Fund Restricted - Rural Health Care Facilities Fund	218,900

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

LABOR COMMISSION

Item 118

To Labor Commission - Wage Claim Agency Fund

From Dedicated Credits Revenue	1,600,000
From Beginning Fund Balance	21,863,300
From Closing Fund Balance	(23,013,300)
Schedule of Programs:	
Wage Claim Agency Fund	450,000

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 119

To Governor's Office of Economic Opportunity - Administration

From General Fund	2,800,100
Schedule of Programs:	
Administration	2,800,100

In accordance with UCA 63J-1-903, the Legislature intends that the Governors Office of Economic Opportunity report performance measures for the Administration line item, whose mission is to "Enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governors Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: 1) Finance processing: invoices and reimbursements will be processed and remitted for payment within five days (Target = 90%), 2) Contract processing efficiency: all contracts will be drafted within 14 days and all signed contracts will be processed and filed within 10 days of receiving the partially executed contract. (Target = 95%), 3) Public and Community Relations – Increase development, dissemination, facilitation and support of media releases, media advisories, interviews, cultivated articles and executive presentations. (Target = 10%).

Item 120

To Governor's Office of Economic Opportunity – Business Development

From General Fund	9,605,000
From Federal Funds	690,700
From Dedicated Credits Revenue	406,100
From General Fund Restricted – Industrial Assistance Account	260,100
From Beginning Nonlapsing Balances	5,000,000
Schedule of Programs:	
Corporate Recruitment and Business Services	11,285,700
Outreach and International Trade	4,676,200

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Business Development line item, whose mission is to "grow the economy by identifying, nurturing, and closing proactive corporate recruitment opportunities and by providing robust business services to organizations throughout the state." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: 1) Corporate Recruitment: increase year over year average wage by 2%. 2) Business services: increase the total number of businesses served by 4% per year. 3) Compliance: number of completed assessments/number of annual reports received 60%.

Item 121

To Governor's Office of Economic Opportunity – Office of Tourism

From General Fund	4,379,100
From Transportation Fund	118,000
From Dedicated Credits Revenue	301,000
From General Fund Rest. – Motion Picture Incentive Acct.	1,438,300
From General Fund Restricted – Tourism Marketing Performance	22,822,800
From Beginning Nonlapsing Balances	3,350,000
Schedule of Programs:	
Administration	1,128,200
Film Commission	2,766,100
Marketing and Advertising	25,672,800
Operations and Fulfillment	2,842,100

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Office of Tourism report performance measures for the Tourism and Film line item, whose mission is to "promote Utah as a vacation destination to out-of-state travelers, generating state and local tax revenues to strengthen Utah's economy and to market the entire State Of Utah for film, television and commercial production by promoting the use of local professional cast & crew, support services, locations and the Motion Picture Incentive Program." The Utah Office of Tourism shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: 1) Tourism Marketing Performance Account – Increase state sales tax revenues in weighted travel-related NAICS categories as outlined in Utah Code 63N-7-301 (Target = Revenue Growth over 3% or Consumer Price Index – whichever baseline is higher). 2) Film Commission Metric – Increase the number of rural film locations in our locations directory for potential clients (Target = 50% rural).

Item 122

To Governor's Office of Economic Opportunity – Pass-Through

From General Fund	11,377,900
Schedule of Programs:	
Pass-Through	11,377,900

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Pass-through line item, whose mission is to "enhance quality of life by increasing and diversifying Utahs revenue base and improving employment opportunities." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: 1) Contract processing efficiency: all contracts will be drafted within 14 days following submission of vendor data , including scope of work, into the Salesforce system by the intended recipient. (Target = 95%), 2) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 123

To Governor's Office of Economic Opportunity – Pete Suazo Utah Athletics Commission

From General Fund	176,200
From Dedicated Credits Revenue	70,200
Schedule of Programs:	
Pete Suazo Utah Athletics Commission	246,400

In accordance with UCA 63J-1-903, the Legislature intends that the Pete Suazo Utah Athletic Commission report performance measures for the Pete Suazo Athletic Commission line item, whose mission is Maintaining the health, safety, and welfare of the participants and the public as they are involved in the professional unarmed combat sports. The Pete Suazo Utah Athletic Commission shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: 1) High Profile Events – The Pete Suazo Utah Athletic Commission (PSUAC) averages 37 "Combat Sports" events and one "high profile event" per year. PSUAC will target one additional "high profile event" next year. 2) Licensure Efficiency –The PSUAC has averaged 991 licenses issued annually over the last 3 years, with less than 5% of those licenses issued in advance of the events. Implementation of an online registration will improve efficiency (Target = 90%). 3) Increase revenue – Annual average revenue of nearly $30,000 over the last 3 years. (Target = 12%)

Item 124

To Governor's Office of Economic Opportunity – Rural Employment Expansion Program

From General Fund	1,500,000
From Beginning Nonlapsing Balances	1,000,000

Schedule of Programs:

Rural Employment Expansion Program	2,500,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Rural Employment Expansion Program line item, whose mission is to ”partner growing companies statewide with a quality workforce in rural Utah." The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measure: (1) Business development: Increase state-wide business participation in program (Target = 5%).

Item 125

To Governor's Office of Economic Opportunity – Talent Ready Utah Center

From General Fund	1,427,900
From Dedicated Credits Revenue	50,500
From Beginning Nonlapsing Balances	2,000,000

Schedule of Programs:

Talent Ready Utah Center	477,900
Utah Works Program	3,000,500

In accordance with UCA 63J-1-903, the Legislature intends that Talent Ready Utah report performance measures for the Talent Ready Utah line item, whose mission is ”focus and optimize the efforts businesses make to enhance education." Talent Ready Utah shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: (1) Support new industry and education partnership each year (Target = 20%). (2) Expand current pathway programs throughout school districts in the state each year (Target = 5%). (3) Create/Support new pathway programs each year (Target = 10%).

Item 126

To Governor's Office of Economic Opportunity – Rural Coworking and Innovation Center Grant Program

From General Fund	750,000

Schedule of Programs:

Rural Coworking and Innovation Center Grant Program	750,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Rural Coworking and Innovation Center Grant Program line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures for FY 2022: (1) Program Efficiency: Award the total legislative appropriation for fiscal year. (Target = 100%) (2) Assessment: Completed projects will be assessed against scope of work and budget. (Target = 100%). (3) Finance processing: invoices will be processed and remitted for payment within five days. (Target = 90%)

Item 127

To Governor's Office of Economic Opportunity – Inland Port Authority

From General Fund	3,049,400

Schedule of Programs:

Inland Port Authority	3,049,400

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Inland Port Authority line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The

Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures: (1) Finance & Budget: Accounting standards will be in compliance with state regulations and guidance set forth by the State Auditors Office; budget reports will be made quarterly and maintain board approved balances. (Target = 98%). (2) Business Development: Report on business development in targeted areas to focus needs in all counties 29 counties across the state. (Target = 24). (3) Communications: Actively respond to requests via webpage for information, comments, or other purposes. (Target = 95%).

Item 128

To Governor's Office of Economic Opportunity – Point of the Mountain Authority	
From General Fund	1,750,100
Schedule of Programs:	
Point of the Mountain Authority	1,750,100

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Point of the Mountain Authority line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures for FY 2023: (1) Engage a planning team to develop the framework master plan for The Point by June 30, 2022. (2) Conduct a process to gather input on the proposed master plan from the Working Groups, key stakeholders, and the public by June 30, 2021. (3) Create a process to evaluate development proposals from outside parties for The Point by June 30, 2022.

Item 129

To Governor's Office of Economic Opportunity – Rural County Grants Program	
From General Fund	6,550,000
Schedule of Programs:	
Rural County Grants Program	6,550,000

In accordance with UCA 63J-1-903, the Legislature intends that the Governor's Office of Economic Opportunity report performance measures for the Rural County Grants Program line item, whose mission is to "enhance quality of life by increasing and diversifying Utah's revenue base and improving employment opportunities" The Governor's Office of Economic Opportunity shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report on the following performance measures for FY 2023: (1) Draft and send all pass through contracts for signature within 14 days following submission of vendor data including scope of work, 95%. (2) Process and remit invoices for payment within five days, 90%.

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 130

To Governor's Office of Economic Opportunity – Outdoor Recreation Infrastructure Account	
From Dedicated Credits Revenue	5,006,600
From Beginning Fund Balance	5,000,000
Schedule of Programs:	
Outdoor Recreation Infrastructure Account	10,006,600

Item 131

To Governor's Office of Economic Opportunity – Transient Room Tax Fund	
From Revenue Transfers	1,384,900
Schedule of Programs:	
Transient Room Tax Fund	1,384,900

Subsection 3(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 132

To General Fund Restricted – Industrial Assistance Account	
From General Fund	250,000
From Beginning Fund Balance	18,985,000
Schedule of Programs:	
General Fund Restricted – Industrial Assistance Account	19,235,000

Item 133

To General Fund Restricted – Motion Picture Incentive Fund	
From General Fund	1,420,500
Schedule of Programs:	
General Fund Restricted – Motion Picture Incentive Fund	1,420,500

Item 134

To General Fund Restricted – Tourism Marketing Performance Fund	
From General Fund	22,822,800
Schedule of Programs:	
General Fund Restricted – Tourism Marketing Performance	22,822,800

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 8
S.B. 6

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

INFRASTRUCTURE AND GENERAL GOVERNMENT BASE BUDGET

Chief Sponsor: Chris H. Wilson
House Sponsor: Douglas V. Sagers

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $457,721,200 in operating and capital budgets for fiscal year 2022, including:

- $354,030,000 from the General Fund; and
- $103,691,200 from various sources as detailed in this bill.

This bill appropriates $2,690,800 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $90,916,500 in business-like activities for fiscal year 2022, including:

- $30,000,000 from the General Fund; and
- $60,916,500 from various sources as detailed in this bill.

This bill appropriates $85,706,000 in restricted fund and account transfers for fiscal year 2022, including:

- $62,000,000 from the General Fund;
- $27,000,000 from the Education Fund; and
- ($3,294,000) from various sources as detailed in this bill.

This bill appropriates $769,594,300 in capital project funds for fiscal year 2022, including:

- $232,000,000 from the General Fund; and
- $537,594,300 from various sources as detailed in this bill.

This bill appropriates $3,413,330,100 in operating and capital budgets for fiscal year 2023, including:

- $196,741,400 from the General Fund;
- $137,396,900 from the Education Fund; and
- $3,079,191,800 from various sources as detailed in this bill.

This bill appropriates $43,260,600 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $413,205,700 in business-like activities for fiscal year 2023.

This bill appropriates $22,099,300 in restricted fund and account transfers for fiscal year 2023, all of which is from the General Fund.

This bill appropriates $1,325,280,700 in capital project funds for fiscal year 2023, including:

- $95,077,400 from the General Fund;
- $120,000,000 from the Education Fund; and
- $1,110,203,300 from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

CAREER SERVICE REVIEW OFFICE

Item 1

To Career Service Review Office

From General Fund, One-Time	30,000
From Beginning Nonlapsing Balances	(30,000)
From Closing Nonlapsing Balances	30,000
Schedule of Programs:	
Career Service Review Office	30,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that appropriations provided for Career Service Review Office in Item 45, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to grievance resolution: $30,000.

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 2

To Utah Education and Telehealth Network - Digital Teaching and Learning Program

From Dedicated Credits Revenue, One-Time	(108,200)
From Beginning Nonlapsing Balances	93,500
From Closing Nonlapsing Balances	324,000
Schedule of Programs:	
Digital Teaching and Learning Program	309,300

Item 3

To Utah Education and Telehealth Network

From Beginning Nonlapsing Balances	14,140,000

From Closing Nonlapsing Balances	(2,644,000)
Schedule of Programs:	
Administration	2,926,300
Course Management Systems	1,502,800
Instructional Support	1,256,300
KUEN Broadcast	40,000
Operations and Maintenance	31,800
Public Information	(79,200)
Technical Services	5,485,000
Utah Telehealth Network	333,000

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 4

To Department of Government Operations – Administrative Rules

From Beginning Nonlapsing Balances	207,000
From Closing Nonlapsing Balances	(156,300)
Schedule of Programs:	
DAR Administration	50,700

Item 5

To Department of Government Operations – DFCM Administration

From Beginning Nonlapsing Balances	628,800
From Closing Nonlapsing Balances	(523,600)
Schedule of Programs:	
DFCM Administration	36,400
Energy Program	68,800

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided for DFCM Administration in Item 7, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to information technology projects, customer service, optimization efficiency projects, time–limited FTE's, and Governor's Mansion maintenance: $1,500,000; and Energy Program operations $200,000.

Item 6

To Department of Government Operations – Executive Director

From Closing Nonlapsing Balances	(100,000)
Schedule of Programs:	
Executive Director	(100,000)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $250,000 of appropriations provided for the Executive Director line item in Item 52, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: general operations of the Executive Directors Office $85,000; capital improvements/maintenance, DP software, and equipment $50,000; leadership training $25,000; website maintenance $50,000; and internal auditing $40,000.

Item 7

To Department of Government Operations – Finance – Mandated

From General Fund, One–Time	4,000,000
From Beginning Nonlapsing Balances	13,864,200
From Lapsing Balance	(12,524,300)
Schedule of Programs:	
State Employee Benefits	3,387,900
Redistricting Commission	863,500
Emergency Disease Response	1,088,500

Item 8

To Department of Government Operations – Finance – Mandated – Ethics Commissions

From Beginning Nonlapsing Balances	2,700
From Closing Nonlapsing Balances	2,600
Schedule of Programs:	
Executive Branch Ethics Commission	5,000
Political Subdivisions Ethics Commission	300

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided for Ethics Commission in Item 54, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to Ethics Commission investigations and Commission and staff expenses: $120,000.

Item 9

To Department of Government Operations – Finance Administration

From Beginning Nonlapsing Balances	3,320,600
From Closing Nonlapsing Balances	(3,199,500)
Schedule of Programs:	
Finance Director's Office	30,200
Financial Information Systems	190,200
Financial Reporting	(125,000)
Payables/Disbursing	11,700
Payroll	73,400
Technical Services	(59,400)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $3,400,000 appropriations provided for the Finance Administration line item in Item 55, Chapter 3, Laws of Utah 2021 shall not lapse at the close of FY 2022. Expenditures of these funds are limited to maintenance and operation of statewide systems $2,650,000; websites $100,000; training $150,000; professional services and studies $200,000; computer replacement $50,000; and costs associated with federal funds accountability $250,000. The Legislature further intends that up to $2,500,000 appropriations provided for the FINET Statewide Accounting System Upgrade in Item 18, Chapter 440, Laws of Utah 2021 shall not lapse at the close of FY 2022.

Item 10

To Department of Government Operations – Inspector General of Medicaid Services

From Beginning Nonlapsing Balances	218,700
From Closing Nonlapsing Balances	(344,800)
Schedule of Programs:	
Inspector General of Medicaid Services	(126,100)

Under terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $500,000 appropriations provided for the Inspector General of Medicaid Services line item in Item 56, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022.

Expenditures of these funds are limited to: additional staff $100,000; training $15,000; travel $10,000; and case management system $375,000.

Item 11

To Department of Government Operations – Judicial Conduct Commission

From Beginning Nonlapsing Balances	69,900
From Closing Nonlapsing Balances	(54,500)
Schedule of Programs:	
Judicial Conduct Commission	15,400

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $100,000 of appropriations provided for Judicial Conduct Commission line item in Item 57, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to professional services for investigations.

Item 12

To Department of Government Operations – Post Conviction Indigent Defense

From Beginning Nonlapsing Balances	32,600
From Closing Nonlapsing Balances	(32,600)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of appropriations provided for Post Conviction Indigent Defense line item in Item 58, Chapter 3, laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to legal costs for death row inmates.

Item 13

To Department of Government Operations – State Archives

From Beginning Nonlapsing Balances	(3,700)
From Closing Nonlapsing Balances	(57,200)
Schedule of Programs:	
Archives Administration	(146,200)
Patron Services	101,500
Preservation Services	35,300
Records Analysis	(51,500)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $150,000 of appropriations provided for the State Archives line item in Item 60, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds limited to: electronic records management and preservation $75,000; records repository systems improvements $25,000; and computer systems upgrades $50,000.

Item 14

To Department of Government Operations – Chief Information Officer

From Beginning Nonlapsing Balances	181,700
From Closing Nonlapsing Balances	(20,250,000)
Schedule of Programs:	
Chief Information Officer	(20,068,300)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $20,250,000 of appropriations provided for the Chief Information Officer line item in Item 66, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to costs associated with DTS rate study, other IT initiatives, to implement the provisions relating to a technology innovation program (H.B. 395, 2018 General Session) $250,000; and for network enhancement, data security, and broadband (S.B. 1001 Item 45, 2021 Special Session 1) $20,000,000.

Item 15

To Department of Government Operations – Integrated Technology

From Federal Funds, One-Time	(408,900)
From Beginning Nonlapsing Balances	300,100
From Closing Nonlapsing Balances	(600,000)
Schedule of Programs:	
Utah Geospatial Resource Center	(708,800)

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that up to $600,000 of appropriations provided for the Integrated Technology Services line item in Item 57, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to: Utah Geospatial Resource Center projects $175,000; Google imagery $100,000; Global Positioning System Reference Network upgrades and maintenance $300,000; and Survey Monument Restoration grant obligations to local government $25,000.

Item 16

To Department of Government Operations – Human Resource Management

From Beginning Nonlapsing Balances	(21,800)
From Closing Nonlapsing Balances	40,900
Schedule of Programs:	
ALJ Compliance	20,000
Statewide Management Liability Training	(900)

CAPITAL BUDGET

Item 17

To Capital Budget – Capital Development – Higher Education

From Capital Projects Fund, One-Time	461,300
From Beginning Nonlapsing Balances	221,948,200
From Closing Nonlapsing Balances	(197,409,500)
Schedule of Programs:	
Capital Dev – Higher Ed	25,000,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 18

To State Board of Bonding Commissioners – Debt Service – Debt Service

From General Fund, One-Time	350,000,000
Schedule of Programs:	
G.O. Bonds – State Govt	350,000,000

TRANSPORTATION

Item 19

To Transportation – Aeronautics

From Beginning Nonlapsing Balances	1,773,800
Schedule of Programs:	
Administration	(200)
Airport Construction	1,773,800
Civil Air Patrol	200

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that any unexpended funds from the one–time appropriation of $5,000,000 from the Aeronautics Restricted Account to the Aeronautics line item in Item 22, Chapter 282, Laws of Utah 2014, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to airport construction projects.

Item 20

To Transportation – Engineering Services

From Beginning Nonlapsing Balances	1,063,900
Schedule of Programs:	
Construction Management	100,000
Engineering Services	85,000
Environmental	20,000
Highway Project Management Team	300,000
Planning and Investment	(20,000)
Materials Lab	(173,400)
Preconstruction Admin	124,000
Program Development	18,900
Research	621,000
Structures	(11,600)

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $2,700,000 of appropriations provided for Engineering Services in Item 72, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to engineering special services projects, $300,000; and road usage charge program, $2,000,000. The Legislature intends that up to $400,000 in unexpended funds for the State Planning and Research (SPR) program state match shall not lapse at the close of FY 2022. Expenditures of these funds are limited to SPR state match for federal projects.

Item 21

To Transportation – Operations/ Maintenance Management

From Beginning Nonlapsing Balances	2,290,800
Schedule of Programs:	
Equipment Purchases	200,000
Lands and Buildings	90,800
Maintenance Administration	2,000,000

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $2,200,000 of appropriations provided for Operations/Maintenance Management in Item 73, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to highway maintenance, $2,000,000; and equipment purchases, $200,000.

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that up to $1,500,000 in unexpended proceeds that are derived from the sale of real property or an interest in real property from a maintenance facility shall not lapse at the close of FY 2022. Expenditures of these funds are limited to the purchase or improvement of another maintenance facility, including real property.

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $2,000,000 in unexpended funds for lands and buildings shall not lapse at the close of FY 2022. Expenditures of these funds are limited to the improvement of a maintenance facility.

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that any unexpended funds from the one–time appropriation of $6,000,000 for Advanced Traffic Management System in Item 45, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to Advanced Traffic Management System.

Item 22

To Transportation – Region Management

From Beginning Nonlapsing Balances	200,000
Schedule of Programs:	
Region 2	200,000

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $200,000 of appropriations provided for the Region Management line item in Item 74, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to region management.

Item 23

To Transportation – Safe Sidewalk Construction

From Beginning Nonlapsing Balances	160,000
Schedule of Programs:	
Sidewalk Construction	160,000

Item 24

To Transportation – Support Services

From Beginning Nonlapsing Balances	1,021,400
Schedule of Programs:	
Administrative Services	1,400
Community Relations	150,000
Data Processing	300,000
Human Resources Management	70,000
Ports of Entry	500,000

Under terms of Utah Code Annotated Section 63J–1–603, the Legislature intends that up to $800,000 of appropriations provided for Support Services in Item 77, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to computer software development projects, $300,000; and building improvements, $500,000.

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that any unexpended funds from the one-time appropriation of $850,000 from the Transportation Fund to Support Services in Item 138, Chapter 463, Laws of Utah 2018, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to the development of rules and standards.

Item 25

To Transportation – Amusement Ride Safety	
From Beginning Nonlapsing Balances	200,000
Schedule of Programs:	
Amusement Ride Safety	200,000

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $200,000 of appropriations provided for Amusement Ride Safety in Item 80, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to the amusement ride safety program.

Item 26

To Transportation – Transit Transportation Investment	
From Transit Transportation Investment Fund, One-Time	232,000,000
From Beginning Nonlapsing Balances	15,630,900
From Closing Nonlapsing Balances	(200,000,000)
Schedule of Programs:	
Transit Transportation Investment	47,630,900

The Legislature intends that any unexpended funds from the one-time appropriation of $101,600,000 for the Transportation Investment Fund in Item 2, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

Item 27

To Transportation – Pass-Through	
From Rail Transportation Restricted Account, One-Time	32,000,000
Schedule of Programs:	
Pass-Through	32,000,000

The Legislature intends that the Department of Transportation pass-through $29.0 million to Brigham City for the Forest Street railroad crossing.

Item 28

To Transportation – Railroad Crossing Safety	
From Beginning Nonlapsing Balances	152,500
From Closing Nonlapsing Balances	(200,000)
Schedule of Programs:	
Railroad Crossing Safety Grants	(47,500)

Under terms of Utah Code Annotated Section 63J-1-603, the Legislature intends that up to $500,000 of appropriations provided for the Railroad Crossing Safety Grants in Item 2, H.B. 4002, 2020 Fourth Special Session, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to railroad crossing safety grants.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 29

To Department of Government Operations – State Debt Collection Fund	
From Beginning Fund Balance	2,768,200
From Closing Fund Balance	(77,400)
Schedule of Programs:	
State Debt Collection Fund	2,690,800

Item 30

To Department of Government Operations – Wire Estate Memorial Fund	
From Beginning Fund Balance	3,300
From Closing Fund Balance	(3,300)

TRANSPORTATION

Item 31

To Transportation – County of the First Class Highway Projects Fund

The Legislature intends that, if amounts appropriated from the County of the First Class Highway Projects Fund to Debt Service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

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

DEPARTMENT OF GOVERNMENT OPERATIONS - ISF

Item 32

To Department of Government Operations – ISF – Division of Facilities Construction and Management – Facilities Management

The Legislature intends that the DFCM Internal Service Fund may add up to 15 FTEs, and up to 10 vehicles, and multiple capital assets, beyond the authorized level if new facilities come on line or maintenance agreements are requested. Any added FTEs, vehicles, and capital assets will be reviewed and may be approved by the Legislature in the next legislative session.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 33

To Department of Government Operations – Division of Facilities Construction and Management – Facilities Management

From Dedicated Credits Revenue, One–Time	(678,300)
From Beginning Fund Balance	1,917,400
From Closing Fund Balance	(4,886,400)
Schedule of Programs:	
ISF – Facilities Management	(3,647,300)
Budgeted FTE	6.1

Item 34

To Department of Government Operations – Division of Finance

From Dedicated Credits Revenue, One–Time	(119,400)
From Beginning Fund Balance	61,400
From Closing Fund Balance	(316,800)
Schedule of Programs:	
ISF – Purchasing Card	(374,800)
Budgeted FTE	(0.7)

Item 35

To Department of Government Operations – Division of Fleet Operations

From Dedicated Credits Revenue, One–Time	3,278,800
From Other Financing Sources, One–Time	1,000,000
From Beginning Fund Balance	4,989,500
From Closing Fund Balance	(6,286,900)
Schedule of Programs:	
ISF – Fuel Network	10,860,800
ISF – Motor Pool	(7,411,000)
ISF – Travel Office	(291,300)
Transactions Group	(177,100)
Budgeted FTE	(3.0)

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that appropriations for the Fleet Operations line item in Item 92, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to capital outlay authority granted within FY 2022 for vehicles not delivered by the end of FY 2022.

Item 36

To Department of Government Operations – Division of Purchasing and General Services

From Dedicated Credits Revenue, One–Time	64,500
From Beginning Fund Balance	1,922,500
From Closing Fund Balance	(1,987,800)
Schedule of Programs:	
ISF – Federal Surplus Property	(1,400)
ISF – State Surplus Property	600
Budgeted FTE	(6.3)

Item 37

To Department of Government Operations – Risk Management

From Dedicated Credits Revenue, One–Time	(1,093,300)
From Premiums, One–Time	1,032,500
From Interest Income, One–Time	(682,300)
From Other Financing Sources, One–Time	(179,600)
From Beginning Fund Balance	5,840,600
From Closing Fund Balance	(5,323,000)
Schedule of Programs:	
ISF – Risk Management Administration	(183,400)
ISF – Workers' Compensation	(2,477,300)
Risk Management – Auto	(370,200)
Risk Management – Liability	(1,989,000)
Risk Management – Property	4,614,800
Budgeted FTE	1.0

Item 38

To Department of Government Operations – Enterprise Technology Division

From Dedicated Credits Revenue, One–Time	9,073,000
From Beginning Fund Balance	3,983,800
From Closing Fund Balance	(355,700)
Schedule of Programs:	
ISF – Enterprise Technology Division	12,701,100
Budgeted FTE	31.7

Item 39

To Department of Government Operations – Utah Inland Port Authority Fund

From Long–term Capital Projects Fund, One–Time	50,000,000
Schedule of Programs:	
Inland Port Authority Fund	50,000,000

The Legislature intends that the Division of Finance hold and maintain the $50,000,000 provided by this appropriation in the Long–term Capital Projects Fund as funds that may be used to secure, in accordance with this section, the $150,000,000 in debt associated with UIPA Crossroads Public Infrastructure District, Tax Differential Revenue Bonds, Series 2021. The Division of Finance shall deposit the appropriation into the Inland Port Revolving Loan Fund only if (1) the Utah Supreme Court issues, before June 30, 2022, an order that awards damages other than damages to compensate for harm incurred as a result of the unconstitutional provisions of the Utah Inland Port Authority as sought in Salt Lake City Corporation v. Inland Port Authority, et al., case no. 20200118; and (2) the courts decision precipitates a redemption of UIPA Crossroads Public Infrastructure District, Tax Differential Revenue Bonds, Series 2021. If all the qualifications of this section are not met, the Division of Finance shall lapse the appropriation to the Long–term Capital Projects Fund at the close of fiscal year 2022.

Item 40

To Department of Government Operations – Human Resources Internal Service Fund

From Dedicated Credits Revenue, One–Time	(224,900)
From Beginning Fund Balance	(59,100)
From Closing Fund Balance	(52,200)
Schedule of Programs:	
Information Technology	(356,200)
ISF – Payroll Field Services	20,000
Budgeted FTE	6.9

TRANSPORTATION

Item 41

To Transportation – State Infrastructure Bank Fund	
From General Fund, One–Time	30,000,000
From Interest Income, One–Time	257,900
From Beginning Fund Balance	126,300
From Closing Fund Balance	(386,000)
Schedule of Programs:	
State Infrastructure Bank Fund	29,998,200

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 42

To Rail Transportation Restricted Account	
From General Fund, One–Time	32,000,000
From Closing Fund Balance	(3,294,000)
Schedule of Programs:	
Rail Transportation Restricted Account	28,706,000

Item 43

To Education Budget Reserve Account	
From Education Fund, One–Time	27,000,000
Schedule of Programs:	
Education Budget Reserve Account	27,000,000

Item 44

To General Fund Budget Reserve Account	
From General Fund, One–Time	30,000,000
Schedule of Programs:	
General Fund Budget Reserve Account	30,000,000

Subsection 1(e). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

CAPITAL BUDGET

Item 45

To Capital Budget – DFCM Capital Projects Fund	
From Prison Project Fund, One–Time	25,000,000
From Beginning Fund Balance	(222,491,800)
From Closing Fund Balance	807,506,500
Schedule of Programs:	
DFCM Capital Projects Fund	610,014,700

The Legislature intends that, should savings and offsets related to prison construction exceed the $110 million transferred in Appropriations Adjustments (Senate Bill 3, Item 379, 2021 General Session), the Division of Facilities Construction and Management may transfer up to an additional $25 million from the Prison Project Fund to the Capital Projects Fund for construction of other capital development projects previously authorized by the Legislature.

Item 46

To Capital Budget – DFCM Prison Project Fund	
From Other Financing Sources, One–Time	(2,250,000)
From Beginning Fund Balance	(130,503,300)
Schedule of Programs:	
DFCM Prison Project Fund	(132,753,300)

Item 47

To Capital Budget – SBOA Capital Projects Fund	
From Beginning Fund Balance	(117,000)
From Closing Fund Balance	117,000

TRANSPORTATION

Item 48

To Transportation – Transportation Investment Fund of 2005	
From Beginning Fund Balance	157,898,500
From Closing Fund Balance	(113,254,500)
Schedule of Programs:	
Transportation Investment Fund	44,644,000

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 to Debt Service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

Item 49

To Transportation – Transit Transportation Investment Fund	
From General Fund, One–Time	232,000,000
From Beginning Fund Balance	15,688,900
Schedule of Programs:	
Transit Transportation Investment Fund	247,688,900

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 50

To Department of Government Operations – Administrative Rules	
From General Fund	707,100
From Beginning Nonlapsing Balances	480,600
From Closing Nonlapsing Balances	(487,700)

Schedule of Programs:	
DAR Administration	700,000

Item 51

To Department of Government Operations – DFCM Administration

From General Fund	3,660,000
From Education Fund	734,800
From Dedicated Credits Revenue	1,333,800
From Capital Projects Fund	3,862,500
From Beginning Nonlapsing Balances	712,900
From Closing Nonlapsing Balances	(189,000)
Schedule of Programs:	
DFCM Administration	9,330,900
Energy Program	607,000
Governor's Residence	177,100

Item 52

To Department of Government Operations – Finance – Elected Official Post–Retirement Benefits Contribution

From General Fund	1,248,800
Schedule of Programs:	
Elected Official Post–Retirement Trust Fund	1,248,800

Item 53

To Department of Government Operations – Executive Director

From General Fund	1,704,800
From Dedicated Credits Revenue	238,700
From Beginning Nonlapsing Balances	250,000
From Closing Nonlapsing Balances	(239,200)
Schedule of Programs:	
Executive Director	1,954,300

Item 54

To Department of Government Operations – Finance – Mandated

From General Fund	9,054,500
From General Fund Restricted – Economic Incentive Restricted Account	3,255,000
From Gen. Fund Rest. – Land Exchange Distribution Account	308,200
Schedule of Programs:	
Development Zone Partial Rebates	3,255,000
Internal Service Fund Rate Impacts	112,300
Land Exchange Distribution	308,200
State Employee Benefits	8,942,200

The Legislature intends that, if revenues deposited in the Land Exchange Distribution Account exceed appropriations from the account, the Division of Finance distribute the excess deposits according to the formula provided in UCA 53C–3–203(4).

Item 55

To Department of Government Operations – Finance – Mandated – Ethics Commissions

From General Fund	17,300
From Beginning Nonlapsing Balances	98,100
From Closing Nonlapsing Balances	(94,300)
Schedule of Programs:	
Executive Branch Ethics Commission	10,800
Political Subdivisions Ethics Commission	10,300

Item 56

To Department of Government Operations – Finance Administration

From General Fund	8,545,100
From Transportation Fund	450,000
From Dedicated Credits Revenue	1,854,500
From Gen. Fund Rest. – Internal Service Fund Overhead	1,337,600
From Qualified Patient Enterprise Fund	2,500
From Beginning Nonlapsing Balances	3,400,000
From Closing Nonlapsing Balances	(270,800)
Schedule of Programs:	
Finance Director's Office	583,100
Financial Information Systems	8,513,400
Financial Reporting	1,922,400
Payables/Disbursing	1,942,600
Payroll	2,117,400
Technical Services	240,000

Item 57

To Department of Government Operations – Inspector General of Medicaid Services

From General Fund	1,267,000
From Federal Funds	19,500
From Medicaid Expansion Fund	36,700
From Revenue Transfers	2,502,100
From Beginning Nonlapsing Balances	500,000
Schedule of Programs:	
Inspector General of Medicaid Services	4,325,300

The Legislature intends that the Inspector General of Medicaid Services retain up to an additional $60,000 of the states share of Medicaid collections during FY 2023 to pay the Office of the Attorney General for the state costs of the one attorney FTE that the Office of the Inspector General is using.

Item 58

To Department of Government Operations – Judicial Conduct Commission

From General Fund	293,600
From Beginning Nonlapsing Balances	64,300
From Closing Nonlapsing Balances	(52,900)
Schedule of Programs:	
Judicial Conduct Commission	305,000

Item 59

To Department of Government Operations – Post Conviction Indigent Defense

From General Fund	33,900
From Beginning Nonlapsing Balances	169,100
From Closing Nonlapsing Balances	(169,100)
Schedule of Programs:	
Post Conviction Indigent Defense Fund	33,900

Item 60

To Department of Government Operations – Purchasing

From General Fund	867,000
Schedule of Programs:	
Purchasing and General Services	867,000

Item 61

To Department of Government Operations – State Archives

From General Fund	3,323,000
From Federal Funds	44,100

From Dedicated Credits Revenue	67,600
From Beginning Nonlapsing Balances	150,000
Schedule of Programs:	
Archives Administration	1,832,300
Patron Services	799,900
Preservation Services	296,400
Records Analysis	656,100

Item 62

To Department of Government Operations – Finance Mandated – Mineral Lease Special Service Districts

From General Fund Restricted – Mineral Lease	27,797,500
Schedule of Programs:	
Mineral Lease Payments	24,162,700
Mineral Lease Payments in Lieu	3,634,800

The Legislature intends that, if the amount available in the Mineral Bonus Account from payments deposited in the previous fiscal year exceeds the amount appropriated, the Division of Finance distribute the excess according to the formula provided in UCA 59–21–2(1).

Item 63

To Department of Government Operations – Chief Information Officer

From General Fund	738,200
From Beginning Nonlapsing Balances	20,250,000
Schedule of Programs:	
Chief Information Officer	20,988,200

Item 64

To Department of Government Operations – Integrated Technology

From General Fund	1,245,200
From Federal Funds	707,200
From Dedicated Credits Revenue	1,224,400
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct.	337,100
From Beginning Nonlapsing Balances	600,000
Schedule of Programs:	
Utah Geospatial Resource Center	4,113,900

Item 65

To Department of Government Operations – Human Resource Management

From General Fund	42,400
From Beginning Nonlapsing Balances	65,000
From Closing Nonlapsing Balances	(68,300)
Schedule of Programs:	
ALJ Compliance	20,000
Statewide Management Liability Training	19,100

CAPITAL BUDGET

Item 66

To Capital Budget – Capital Development – Other State Government

From Capital Projects Fund	2,077,400
From Capital Projects Fund, One–Time	89,300,000
Schedule of Programs:	
Offender Housing	2,077,400
Capitol Hill North Building	68,000,000
Salt Lake Veteran Nursing Home	21,300,000

Item 67

To Capital Budget – Capital Improvements

From General Fund	85,076,600
From Education Fund	106,538,600
Schedule of Programs:	
Capital Improvements	191,615,200

Item 68

To Capital Budget – Pass–Through

From General Fund	3,000,000
Schedule of Programs:	
Olympic Park Improvement	3,000,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 69

To State Board of Bonding Commissioners – Debt Service – Debt Service

From General Fund	71,875,400
From Transportation Investment Fund of 2005	356,279,800
From Federal Funds	1,358,400
From Dedicated Credits Revenue	29,423,600
From County of First Class Highway Projects Fund	7,779,400
From Beginning Nonlapsing Balances	22,640,500
From Closing Nonlapsing Balances	(23,545,800)
Schedule of Programs:	
G.O. Bonds – State Govt	71,875,400
G.O. Bonds – Transportation	364,059,200
Revenue Bonds Debt Service	29,876,700

TRANSPORTATION

Item 70

To Transportation – Aeronautics

From Federal Funds	1,184,900
From Dedicated Credits Revenue	425,300
From Aeronautics Restricted Account	7,283,100
Schedule of Programs:	
Administration	945,400
Aid to Local Airports	2,240,000
Airplane Operations	1,121,900
Airport Construction	4,506,000
Civil Air Patrol	80,000

Item 71

To Transportation – B and C Roads

From Transportation Fund	181,658,400
Schedule of Programs:	
B and C Roads	181,658,400

Item 72

To Transportation – Highway System Construction

From Transportation Fund	189,382,700
From Federal Funds	389,242,400
From Expendable Receipts	1,550,000
Schedule of Programs:	
Federal Construction	219,746,900
Rehabilitation/Preservation	356,905,500
State Construction	3,522,700

Item 73

To Transportation – Cooperative Agreements

From Federal Funds	65,323,800
From Expendable Receipts	49,897,100

Schedule of Programs:	
Cooperative Agreements	115,220,900

Item 74

To Transportation – Engineering Services

From Transportation Fund	30,420,500
From Federal Funds	37,367,700
From Dedicated Credits Revenue	2,216,400
Schedule of Programs:	
Civil Rights	279,100
Construction Management	2,050,000
Engineer Development Pool	1,798,900
Engineering Services	3,148,400
Environmental	2,404,700
Highway Project Management Team	886,600
Planning and Investment	566,600
Materials Lab	5,950,500
Preconstruction Admin	2,674,100
Program Development	36,198,200
Research	6,970,700
Right–of–Way	3,124,200
Structures	3,952,600

Item 75

To Transportation – Operations/ Maintenance Management

From Transportation Fund	168,894,000
From Transportation Investment Fund of 2005	6,901,400
From Federal Funds	8,960,200
From Dedicated Credits Revenue	10,727,400
Schedule of Programs:	
Equipment Purchases	12,923,700
Field Crews	17,365,400
Lands and Buildings	4,700,000
Maintenance Administration	11,458,900
Maintenance Planning	1,770,300
Region 1	24,170,800
Region 2	31,808,000
Region 3	22,651,600
Region 4	46,993,400
Seasonal Pools	1,641,800
Shops	1,279,800
Traffic Operations Center	15,132,400
Traffic Safety/Tramway	3,586,900

Item 76

To Transportation – Region Management

From Transportation Fund	28,714,800
From Federal Funds	2,679,600
From Dedicated Credits Revenue	2,293,000
Schedule of Programs:	
Region 1	7,195,500
Region 2	11,618,200
Region 3	6,008,100
Region 4	8,865,600

Item 77

To Transportation – Safe Sidewalk Construction

From Transportation Fund	500,000
From Beginning Nonlapsing Balances	540,300
From Closing Nonlapsing Balances	(540,300)
Schedule of Programs:	
Sidewalk Construction	500,000

Item 78

To Transportation – Share the Road

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

Item 79

To Transportation – Support Services

From Transportation Fund	39,734,900
From Federal Funds	4,344,800
Schedule of Programs:	
Administrative Services	3,620,000
Building and Grounds	967,700
Community Relations	1,534,600
Comptroller	3,251,400
Data Processing	12,948,800
Human Resources Management	3,373,900
Internal Auditor	1,235,300
Ports of Entry	11,179,600
Procurement	1,304,400
Risk Management	4,664,000

Item 80

To Transportation – Transportation Investment Fund Capacity Program

From Transportation Fund	1,813,400
From Transportation Investment Fund of 2005	1,216,373,200
From Beginning Nonlapsing Balances	777,950,800
From Closing Nonlapsing Balances	(741,137,400)
Schedule of Programs:	
Transportation Investment Fund Capacity Program	1,255,000,000

There is appropriated to the Department of Transportation from the Transportation Investment Fund of 2005, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Investment Fund of 2005, to be used by the department for the construction, rehabilitation, and preservation of State and Federal highways in Utah. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance or increase the appropriations otherwise made by this act to the Department of Transportation for other purposes.

The Legislature intends that any unexpended funds from the one–time appropriation of $35,000,000 for the TIF Capacity Program in Item 48, Chapter 441, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to requirements in Chapter 441, Laws of Utah 2021.

The Legislature intends that any unexpended funds from the one–time appropriation of $733,000,000 for the TIF Capacity 2021 in Item 1, Chapter 387, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to requirements in Chapter 387, Laws of Utah 2021.

Item 81

To Transportation – Motorcycle Safety Awareness

From General Fund Restricted – Motorcycle Safety Awareness Support Rest Account	12,500

Schedule of Programs:
Motorcycle Safety Awareness 12,500

Item 82
To Transportation – Amusement Ride Safety
From General Fund Restricted – Amusement Ride Safety Restricted Account 357,100
Schedule of Programs:
Amusement Ride Safety 357,100

Item 83
To Transportation – Transit Transportation Investment
From Transit Transportation Investment Fund 15,687,000
From Beginning Nonlapsing Balances 200,000,000
From Closing Nonlapsing Balances .... (200,000,000)
Schedule of Programs:
Transit Transportation Investment 15,687,000

Item 84
To Transportation – Transportation Safety Program
From Transportation Safety Program Restricted Account 15,000
Schedule of Programs:
Transportation Safety Program 15,000

Item 85
To Transportation – Pass–Through
From General Fund 2,876,700
Schedule of Programs:
Pass–Through 2,876,700

Under terms of Utah Code Annotated Section 63J–1–603(3)(a), the Legislature intends that up to $700,000 of appropriations provided for Engineering Services in Item 83, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to technical planning assistance.

Item 86
To Transportation – Railroad Crossing Safety
From Rail Transportation Restricted Account 366,000
From Beginning Nonlapsing Balances ... 200,000
Schedule of Programs:
Railroad Crossing Safety Grants 566,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 87
To Department of Government Operations – State Archives Fund
From Beginning Fund Balance 2,600
From Closing Fund Balance .... (2,600)

Item 88
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 3,638,800
From Other Financing Sources 200
From Beginning Fund Balance 986,600
From Closing Fund Balance .... (1,003,400)
Schedule of Programs:
State Debt Collection Fund 3,622,200

Item 89
To Department of Government Operations – Wire Estate Memorial Fund
From Beginning Fund Balance 171,500
From Closing Fund Balance .... (171,500)

TRANSPORTATION

Item 90
To Transportation – County of the First Class Highway Projects Fund
From Licenses/Fees 2,020,500
From Interest Income 393,500
From Revenue Transfers 40,523,500
From Beginning Fund Balance 36,314,700
From Closing Fund Balance .... (39,613,800)
Schedule of Programs:
County of the First Class Highway Projects Fund 39,638,400

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 91
To Department of Government Operations – Division of Facilities Construction and Management – Facilities Management
From Dedicated Credits Revenue 39,647,200
From Beginning Fund Balance 5,233,600
From Closing Fund Balance .... (5,188,300)
Schedule of Programs:
ISF – Facilities Management 39,692,500
Budgeted FTE 162.0
Authorized Capital Outlay 396,600

Item 92
To Department of Government Operations – Division of Finance
From Dedicated Credits Revenue 664,300
From Beginning Fund Balance 359,700
From Closing Fund Balance .... (320,500)
Schedule of Programs:
ISF – Purchasing Card 703,500
Budgeted FTE 2.5

Item 93

To Department of Government Operations – Division of Fleet Operations

From Dedicated Credits Revenue	65,110,800
From Other Financing Sources	2,500,000
From Beginning Fund Balance	56,000,800
From Closing Fund Balance	(59,376,400)
Schedule of Programs:	
ISF – Fuel Network	38,651,700
ISF – Motor Pool	24,855,300
ISF – Travel Office	209,300
Transactions Group	518,900
Budgeted FTE	41.0
Authorized Capital Outlay	21,000,000

Item 94

To Department of Government Operations – Division of Purchasing and General Services

From Dedicated Credits Revenue	20,447,500
From Other Financing Sources	27,500
From Beginning Fund Balance	11,487,000
From Closing Fund Balance	(11,700,900)
Schedule of Programs:	
ISF – Central Mailing	12,750,000
ISF – Cooperative Contracting	4,242,000
ISF – Federal Surplus Property	65,000
ISF – Print Services	2,543,500
ISF – State Surplus Property	660,600
Budgeted FTE	91.0
Authorized Capital Outlay	4,070,000

Item 95

To Department of Government Operations – Risk Management

From Premiums	71,909,800
From Interest Income	1,011,100
From Other Financing Sources	367,500
From Beginning Fund Balance	10,836,700
From Closing Fund Balance	(15,341,100)
Schedule of Programs:	
ISF – Risk Management Administration	1,837,600
ISF – Workers' Compensation	7,684,400
Risk Management – Auto	2,449,600
Risk Management – Liability	24,417,000
Risk Management – Property	32,395,400
Budgeted FTE	34.0
Authorized Capital Outlay	300,000

Item 96

To Department of Government Operations – Enterprise Technology Division

From Dedicated Credits Revenue	135,900,800
From Beginning Fund Balance	26,991,900
From Closing Fund Balance	(23,470,500)
Schedule of Programs:	
ISF – Enterprise Technology Division	139,422,200
Budgeted FTE	730.6
Authorized Capital Outlay	6,000,000

Item 97

To Department of Government Operations – Utah Inland Port Authority Fund

From Long-term Capital Projects Fund, One-Time	50,000,000
Schedule of Programs:	
Inland Port Authority Fund	50,000,000

The Legislature intends that the Division of Finance hold and maintain the $50,000,000 provided by this appropriation in the Long-term Capital Projects Fund as funds that may be used to secure, in accordance with this section, the $150,000,000 in debt associated with UIPA Crossroads Public Infrastructure District, Tax Differential Revenue Bonds, Series 2021. The Division of Finance shall deposit the appropriation into the Inland Port Revolving Loan Fund only if (1) the Utah Supreme Court issues, between July 1, 2022 and June 30, 2023, an order that awards damages other than damages to compensate for harm incurred as a result of the unconstitutional provisions of the Utah Inland Port Authority as sought in Salt Lake City Corporation v. Inland Port Authority, et al., case no. 20200118; and (2) the courts decision precipitates a redemption of UIPA Crossroads Public Infrastructure District, Tax Differential Revenue Bonds, Series 2021. If all the qualifications of this section are not met, the Division of Finance shall lapse the appropriation to the Long-term Capital Projects Fund at the close of fiscal year 2023.

Item 98

To Department of Government Operations – Human Resources Internal Service Fund

From Dedicated Credits Revenue	15,433,100
From Beginning Fund Balance	972,000
From Closing Fund Balance	(1,297,900)
Schedule of Programs:	
Administration	1,315,400
Information Technology	862,000
ISF – Core HR Services	264,900
ISF – Field Services	9,689,800
ISF – Payroll Field Services	909,900
Policy	2,065,200
Budgeted FTE	128.0
Authorized Capital Outlay	1,500,000

TRANSPORTATION

Item 99

To Transportation – State Infrastructure Bank Fund

From Interest Income	1,500,000
From Beginning Fund Balance	78,161,400
From Closing Fund Balance	(64,661,400)
Schedule of Programs:	
State Infrastructure Bank Fund	15,000,000

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 100

To General Fund Non-budgetary Accrual Account

From General Fund, One-Time	18,439,300
Schedule of Programs:	
General Fund Non-budgetary Accrual Account	18,439,300

Item 101

To Rail Transportation Restricted Account

From General Fund	3,660,000
Schedule of Programs:	
Rail Transportation Restricted Account	3,660,000

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

CAPITAL BUDGET

Item 102

To Capital Budget – Capital Development Fund

From General Fund	2,077,400
Schedule of Programs:	
Capital Development Fund	2,077,400

Item 103

To Capital Budget – DFCM Capital Projects Fund

From General Fund, One-Time	93,000,000
Schedule of Programs:	
DFCM Capital Projects Fund	93,000,000

Item 104

To Capital Budget – DFCM Prison Project Fund

From Beginning Fund Balance	130,270,500
Schedule of Programs:	
DFCM Prison Project Fund	130,270,500

Item 105

To Capital Budget – SBOA Capital Projects Fund

From Dedicated Credits Revenue	450,000
From Other Financing Sources	10,200,000
From Beginning Fund Balance	5,265,300
From Closing Fund Balance	(5,265,300)
Schedule of Programs:	
SBOA Capital Projects Fund	10,650,000

Item 106

To Capital Budget – Higher Education Capital Projects Fund

From Education Fund	100,689,700
Schedule of Programs:	
Higher Education Capital Projects Fund	100,689,700

Item 107

To Capital Budget – Technical Colleges Capital Projects Fund

From Education Fund	19,310,300
Schedule of Programs:	
Technical Colleges Capital Projects Fund	19,310,300

TRANSPORTATION

Item 108

To Transportation – Transportation Investment Fund of 2005

From Transportation Fund	43,172,500
From Licenses/Fees	95,759,100
From Interest Income	11,114,900
From County of First Class Highway Projects Fund	2,666,500
From Designated Sales Tax	688,503,800
From Beginning Fund Balance	417,311,000
From Closing Fund Balance	(304,056,500)
Schedule of Programs:	
Transportation Investment Fund	954,471,300

Item 109

To Transportation – Transit Transportation Investment Fund

From Designated Sales Tax	32,935,800
From Beginning Fund Balance	21,489,500
From Closing Fund Balance	(39,613,800)
Schedule of Programs:	
Transit Transportation Investment Fund	14,811,500

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAREER SERVICE REVIEW OFFICE

Item 110

To Career Service Review Office

From General Fund	296,100
Schedule of Programs:	
Career Service Review Office	296,100

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 111

To Utah Education and Telehealth Network – Digital Teaching and Learning Program

From Education Fund	174,000
From Beginning Nonlapsing Balances	15,400
Schedule of Programs:	
Digital Teaching and Learning Program	189,400

Item 112

To Utah Education and Telehealth Network

From General Fund	868,700
From Education Fund	29,949,500
From Federal Funds	4,349,700
From Dedicated Credits Revenue	14,946,700
From Beginning Nonlapsing Balances	3,780,800
From Closing Nonlapsing Balances	(1,136,800)
Schedule of Programs:	
Administration	3,473,400
Course Management Systems	2,703,100
Instructional Support	4,652,100
KUEN Broadcast	652,500
Operations and Maintenance	451,900
Public Information	352,800
Technical Services	38,705,700
Utah Telehealth Network	1,767,100

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 9
S.B. 7

Passed January 27, 2022
Approved February 2, 2022
Effective July 1, 2022

NATIONAL GUARD, VETERANS AFFAIRS, AND LEGISLATURE BASE BUDGET

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and appropriates funds for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

This bill appropriates $1,677,500 in operating and capital budgets for fiscal year 2022.

This bill appropriates $73,100 in expendable funds and accounts for fiscal year 2022.

This bill appropriates $1,070,800 in restricted fund and account transfers for fiscal year 2022.

This bill appropriates $114,133,700 in operating and capital budgets for fiscal year 2023, including:

- $50,819,700 from the General Fund; and
- $63,314,000 from various sources as detailed in this bill.

This bill appropriates $44,403,700 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $12,000,000 in restricted fund and account transfers for fiscal year 2023, including:

- $12,009,500 from the General Fund; and
- ($9,500) from various sources as detailed in this bill.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

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

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

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

CAPITOL PRESERVATION BOARD

Item 1

To Capitol Preservation Board

Under terms of Section 63J-1-603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Capitol Preservation Board in item 14, Chapter 4, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. Use of any nonlapsing funds is limited to one-time operations costs.

LEGISLATURE

Item 2

To Legislature - Senate

From Beginning Nonlapsing Balances	49,900
From Closing Nonlapsing Balances	(49,900)

Item 3

To Legislature - House of Representatives

From Beginning Nonlapsing Balances	69,900
From Closing Nonlapsing Balances	(182,800)
Schedule of Programs:	
Administration	(112,900)

Item 4

To Legislature - Office of Legislative Research and General Counsel

From Beginning Nonlapsing Balances	1,326,300
From Closing Nonlapsing Balances	(526,500)
Schedule of Programs:	
Administration	799,800

Item 5

To Legislature - Office of the Legislative Fiscal Analyst

From Beginning Nonlapsing Balances	(200)
From Closing Nonlapsing Balances	200

Item 6

To Legislature - Office of the Legislative Auditor General

From Beginning Nonlapsing Balances	232,500
From Closing Nonlapsing Balances	(232,500)

Item 7

To Legislature - Legislative Services

From Dedicated Credits Revenue, One-Time	(66,100)
From Beginning Nonlapsing Balances	1,299,700
From Closing Nonlapsing Balances	(1,091,900)
Schedule of Programs:	
Administration	141,700

UTAH NATIONAL GUARD

Item 8

To Utah National Guard

From Beginning Nonlapsing Balances . . . 441,200
From Closing Nonlapsing Balances 227,100
Schedule of Programs:
West Traverse Sentinel Landscape 668,300

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 9
To Department of Veterans and Military Affairs – Veterans and Military Affairs
From Beginning Nonlapsing Balances . . . 180,600
Schedule of Programs:
Administration 50,000
Cemetery 90,600
Outreach Services 40,000

Under terms of Section 63J–1–603(3)(a) Utah Code Annotated, the Legislature intends that appropriations provided for the Department of Veterans and Military Affairs in Item 23, Chapter 4, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. Use of any nonlapsing funds is limited to one–time operations costs.

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 10
To Capitol Preservation Board – State Capitol Fund
From Beginning Fund Balance 186,700
From Closing Fund Balance . . . . (113,600)
Schedule of Programs:
State Capitol Fund 73,100

UTAH NATIONAL GUARD

Item 11
To Utah National Guard – National Guard MWR Fund
From Beginning Fund Balance 9,200
From Closing Fund Balance . . . . (9,200)

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 12
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Beginning Fund Balance 1,045,600
From Closing Fund Balance . . . . (1,045,600)

Subsection 1(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 13
To New Public Safety and Firefighter tier II Retirements Benefits Restricted Account
From Beginning Fund Balance 1,070,800
Schedule of Programs:
New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account 1,070,800

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

CAPITOL PRESERVATION BOARD

Item 14
To Capitol Preservation Board
From General Fund 5,649,400
From General Fund, One–Time . . . . . . (1,386,800)
Schedule of Programs:
Capitol Preservation Board 4,262,600

In accordance with UCA 63J–1–903, the Legislature intends that the Capitol Preservation Board (CPB) report performance measures for the CPB line item, whose mission is “to be the stewards of the Capitol [to] maintain, improve, and oversee the buildings and grounds on the Capitol Hill Complex.” The CPB shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the CPB shall report the following performance measures: 1) Stewardship plan for a safe, sustainable environment through maintenance, facility operations, and improvements (Target = Report on number of major projects completed); 2) Provision of high quality tours, information, and education to the public (Target = 50,000 students and 200,000 visitors annually); 3) Provision of event and scheduling program for all government meetings, free speech activities, and public events (Target = 4,000 annually); and 4) Provision of exhibit and curatorial services on Capitol Hill to maintain the collections of artifacts for use and enjoyment of the general public (Target = 9,000 items).

LEGISLATURE

Item 15
To Legislature – Senate
From General Fund 3,289,400
From Beginning Nonlapsing Balances 1,926,100

From Closing Nonlapsing Balances	(1,926,100)
Schedule of Programs:	
Administration	3,289,400

Item 16

To Legislature – House of Representatives

From General Fund	5,404,000
From Beginning Nonlapsing Balances	3,554,600
From Closing Nonlapsing Balances	(3,441,700)
Schedule of Programs:	
Administration	5,516,900

Item 17

To Legislature – Office of Legislative Research and General Counsel

From General Fund	10,424,100
From Beginning Nonlapsing Balances	5,497,200
From Closing Nonlapsing Balances	(5,497,200)
Schedule of Programs:	
Administration	10,424,100

The Legislature intends that the Office of Legislative Research and General Counsel (LRGC) report performance measures for the LRGC line item, which "is responsible for drafting and processing all legislation, performing policy research and analysis, providing legal counsel, and staffing legislative committees." The LRGC shall report to the Subcommittee on Oversight before October 31, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, LRGC shall report on the following performance measures: 1) Bills ready for introduction within two business days after receiving approval from the sponsor (Target = 95%); 2) Bills numbered and ready for introduction on the first day of the annual general session (Target = 200 bills); 3) Live priority bills completed or abandoned by the 5th Friday of the session (Target = 85%); 4) Timely distribution of "Interim Highlights" to the Legislature (Target = Four business days after interim); 5) Review bills that have passed a chamber within 24 hours of the bill's passage (Target = 98%); 6) Comply with court–established deadlines when representing the Legislature, a legislator, or a legislative employee in litigation (Target = 100%); 7) Comply with time limits for submission of ballot titles and impartial analyses (Target = 100%); and 8) Comply with Open and Public Meeting notice requirements for legislative committees (Target = 100%).

Item 18

To Legislature – Office of the Legislative Fiscal Analyst

From General Fund	4,309,900
From Beginning Nonlapsing Balances	1,485,800
From Closing Nonlapsing Balances	(1,485,800)
Schedule of Programs:	
Administration and Research	4,309,900

The Legislature intends that the Office of the Legislative Fiscal Analyst (LFA) report performance measures for the LFA line item, whose mission is to "affect good government through objective, accurate, relevant budget advice." The LFA shall report to the Subcommittee on Oversight before October 31, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, LFA shall report on the following performance measures: 1) On–target revenue estimates (Target = 92% accurate for estimates 18 months out, 98% accurate for estimates four months out); 2) Correct appropriations bills (Target = 99%); 3) Unrevised fiscal notes (Target = 99.5%); and 4) Timely fiscal notes (Target = 95%).

Item 19

To Legislature – Office of the Legislative Auditor General

From General Fund	5,506,700
From Beginning Nonlapsing Balances	1,560,100
From Closing Nonlapsing Balances	(1,560,100)
Schedule of Programs:	
Administration	5,506,700

The Legislature intends that the Office of the Legislative Auditor General (LAG) report performance measures for the LAG line item, whose mission is "to serve the Utah Legislature and the citizens of Utah by providing objective and credible information, in–depth analysis, findings, and conclusions that help legislators and other decision–makers improve programs, reduce costs, and promote accountability." The LAG shall report to the Subcommittee on Oversight before October 31, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, LAG shall report on the following performance measures: (1) Total audits completed each year (Target = 20); (2) Number of agency recommendations and implementation status (implemented, in process, partial implementation, or not implemented); and (3) Number of legislative recommendations and implementation status (implemented, in process, partial implementation, or not implemented).

Item 20

To Legislature – Legislative Services

From General Fund	6,016,400
From Dedicated Credits Revenue	200,000
From Beginning Nonlapsing Balances	3,590,700
From Closing Nonlapsing Balances	(3,382,900)
Schedule of Programs:	
Administration	1,481,000
Pass–Through	711,800
Information Technology	4,231,400

The Legislature intends that Legislative Services (LS) report performance measures for the LS line item, which provides centralized "back office" administrative functions for the legislative branch. The LS shall report to the Subcommittee on Oversight before October 31, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, LS shall report on the following performance measures: 1) New employee onboarding and computer account set up within one business day after receiving notification of hire (Target = 100%); (2) Former employee offboarding and computer account removed within one business day after termination (Target = 100%); and (3) Legislative committee rooms opened, tested, and ready for meetings no later than one hour before any scheduled meetings (Target = 100%).

Item 21

To Legislature – Legislative Services Digital Wellness Commission	
From General Fund	300,000
Schedule of Programs:	
Digital Wellness Commission	300,000

UTAH NATIONAL GUARD

Item 22

To Utah National Guard	
From General Fund	7,588,600
From Federal Funds	58,977,000
From Dedicated Credits Revenue	46,100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	7,000
From Beginning Nonlapsing Balances	2,772,900
Schedule of Programs:	
Administration	1,332,600
Operations and Maintenance	66,859,000
Tuition Assistance	1,200,000

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the UNG line item, whose mission is "to provide mission-ready military forces to assist both state and federal authorities in times of emergency or war." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, UNG shall report on the following performance measures: 1) Personnel readiness (Target = 100% assigned strength); 2) Individual training readiness (Target = 90% completion of qualifications); 3) Collective unit training readiness (Target = 100% fulfillment of every mission assigned by the Commander in Chief; 4) Installation readiness (Target = Installation Status Report of category 2 or higher for each facility); 5) Facility maintenance cost per square foot (Target = $3.50); 6) Utility cost per square foot (Target = $2.14); 7) Tuition assistance applications fulfilled (Target = 700); and 8) Percentage of tuition assistance applications fulfilled (Target = 75%)

The Legislature intends that the Utah National Guard be allowed to increase its vehicle fleet by up to three vehicles with funding from existing appropriations.

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

CAPITOL PRESERVATION BOARD

Item 23

To Capitol Preservation Board – State Capitol Fund	
From Dedicated Credits Revenue	373,500
From Beginning Fund Balance	1,523,100
From Closing Fund Balance	(1,106,200)
Schedule of Programs:	
State Capitol Fund	790,400

UTAH NATIONAL GUARD

Item 24

To Utah National Guard – National Guard MWR Fund	
From Dedicated Credits Revenue	2,736,700
From Beginning Fund Balance	361,000
From Closing Fund Balance	(361,000)
Schedule of Programs:	
National Guard MWR Fund	2,736,700

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the Morale, Welfare, and Recreation Fund line item, which "is focused on enriching the lives of our fellow service members by offering a selection of military services and discounts." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, UNG shall report on the following performance measures: 1) Financial sustainability (Target = Ratio of income to expenses at least 100%); and 2) Enhanced morale (Target = Average score of 4 or higher [out of 5] on customer feedback).

Subsection 2(c). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

Item 25

To General Fund Restricted – National Guard Death Benefits Account	
From General Fund	9,500
From Beginning Fund Balance	357,000

From Closing Fund Balance	(366,500)

Item 26

To West Traverse Sentinel Landscape Fund

In accordance with UCA 63J-1-201, the Legislature intends that the Utah National Guard (UNG) report performance measures for the West Traverse Sentinel Landscape Fund line item, whose purpose is "to provide: matching funds for established federal funding programs concerning sentinel landscapes; matching funds for local and private funding programs that assist with sentinel landscape designations; and incentives for landowners who voluntarily participate in land management practices that are consistent with Camp Williams's military missions." The UNG shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, UNG shall report on the following performance measures: 1) Number of acres preserved; 2) Number of acres under agreement for preservation.

Item 27

To Firefighters Retirement Trust & Agency Fund

From General Fund	12,000,000
From Beginning Fund Balance	101,800
From Closing Fund Balance	(101,800)
Schedule of Programs:	
Firefighters Retirement Trust & Agency Fund	12,000,000

Section 3. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023 for programs reviewed during the accountable budget process. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 3(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 28

To Department of Veterans and Military Affairs - Veterans and Military Affairs

From General Fund	2,798,000
From Federal Funds	682,400
From Dedicated Credits Revenue	307,900
Schedule of Programs:	
Administration	468,300
Cemetery	823,700
Military Affairs	146,200
Outreach Services	2,085,100
State Approving Agency	265,000

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report performance measures for the DVMA line item, whose purpose is to "Advocate for and honor veterans for their unique contributions; Connect veterans, family members, community groups, service organizations, military installations, support groups, and other stakeholders to each other and external resources; and Grow military missions and associated military installation workloads, consistent with national security." The DVMA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, DVMA shall report on the following performance measures: 1) Provide programs that assist veterans with filing and receiving compensation, pension, and educational benefits administered by the U.S. Veterans Administration (Target = 5% annual growth); 2) Assist in ensuring veterans are employed in the Utah workforce (Target = Veterans unemployment rate no greater than the statewide unemployment rate); 3) Increase the number of current conflict veterans who are connected to appropriate services (Target = 10% annual increase); and 4) Veterans cemetery customer satisfaction (Target = 95%).

Item 29

To Department of Veterans and Military Affairs - DVMA Pass Through

From General Fund	920,000
Schedule of Programs:	
DVMA Pass Through	920,000

Subsection 3(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 30

To Department of Veterans and Military Affairs - Utah Veterans Nursing Home Fund

From Federal Funds	40,643,700
From Dedicated Credits Revenue	232,900
From Beginning Fund Balance	9,369,100
From Closing Fund Balance	(9,369,100)
Schedule of Programs:	
Veterans Nursing Home Fund	40,876,600

In accordance with UCA 63J-1-201, the Legislature intends that the Department of Veterans and Military Affairs (DVMA) report performance measures for the Veterans

Nursing Home line item, whose purpose is to accept donations and gifts, and receive funds from state and federal agencies, insurance reimbursements, or cash payments, for the benefit of each home and its residents. The DVMA shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, DVMA shall report on the following performance measures: 1) Occupancy rate (Target = 95% average); 2) Number of homes in top 30% of all veterans homes nationally (Target = 3); 3) Performance ratings (Target = 4.75 [out of 5]); and 4) Customer satisfaction (Target = 4.5 [out of 5]).

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 10
S. B. 96

Passed February 4, 2022
Approved February 9, 2022
Effective February 9, 2022

CORRECTIONAL OFFICER ELIGIBILITY AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill removes the prohibition for 19-year-olds to work as correctional officers for the Department of Corrections.

Highlighted Provisions:

This bill:

- removes the prohibition for 19-year-olds to work as correctional officers for the Department of Corrections;
- removes the repeal date from the pilot program allowing 19-year-olds to work as correctional officers;
- allows 19-year-olds to become special function officers; and
- adds special function officers to the list of 19-year-olds who may work as correctional officers, as long as they are also certified as correctional officers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-6-203, as last amended by Laws of Utah 2021, First Special Session, Chapter 13

53-13-104, as last amended by Laws of Utah 2019, Chapter 90

53-13-105, as last amended by Laws of Utah 2016, Chapter 300

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

64-13-21.5, as last amended by Laws of Utah 1998, Chapter 282

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

Section 1. Section 53-6-203 is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(a) be either:

(i) a United States citizen; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be at least:

(i) 19 years old at the time of certification as a special function officer or correctional officer; or

[~~(i)~~] (ii) 21 years old at the time of certification as a [~~special function~~] law enforcement officer; [~~or~~]

[~~(ii) as of July 1, 2019, 19 years old at the time of certification as a correctional officer;~~]

(c) be a high school graduate or furnish evidence of successful completion of an examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer; and

(g) meet all other standards required by POST.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Section 2. Section 53-13-104 is amended to read:

53-13-104. Correctional officer.

(1) (a) "Correctional officer" means a sworn and certified officer employed by the Department of Corrections, any political subdivision of the state, or any private entity which contracts with the state or its political subdivisions to incarcerate inmates who is charged with the primary duty of providing community protection.

(b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions:

(i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;

(ii) supervising and preventing the escape of persons in state and local incarceration facilities;

(iii) guarding and managing inmates and providing security and enforcement services at a correctional facility; and

(iv) employees of the Board of Pardons and Parole serving on or before September 1, 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and provide security to the Board of Pardons and Parole, and who are designated by the Board of Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace Officer Standards and Training Division.

(2) (a) Correctional officers have peace officer authority only while on duty. The authority of correctional officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(b) Correctional officers may carry firearms only if authorized by and under conditions specified by the director of the Department of Corrections or the chief law enforcement officer of the employing agency.

(3) (a) An individual may not exercise the authority of an adult correctional officer until the individual has satisfactorily completed a basic training program for correctional officers and the director of the Department of Corrections has certified the completion of training to the director of the division.

(b) An individual may not exercise the authority of a county correctional officer until:

(i) the individual has satisfactorily completed a basic training program for correctional officers and any other specialized training required by the local law enforcement agency; and

(ii) the chief administrator of the local law enforcement agency has certified the completion of training to the director of the division.

(4) (a) The Department of Corrections of the state shall establish and maintain a correctional officer basic course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall:

(i) consist of no fewer than 40 hours per year; and

(ii) be conducted by the agency's own staff or other agencies.

(5) The local law enforcement agencies may establish correctional officer basic, advanced, or in-service training programs as approved by the director of the division with the advice and consent of the council.

(6) [~~(a) Beginning July 1, 2019, an~~] An individual shall be 19 years [~~of age~~] old or older before being certified or employed as a correctional officer under this section.

[~~(b) A person under the age of 21 years who is certified as a correctional officer may only be employed in a jail facility.~~]

Section 3. Section 53-13-105 is amended to read:

53-13-105. Special function officer.

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

(i) state military police;

(ii) constables;

(iii) port-of-entry agents as defined in Section 72-1-102;

(iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;

(v) school district security officers;

(vi) Utah State Hospital security officers designated pursuant to Section 62A-15-603;

(vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(8);

(viii) fire arson investigators for any political subdivision of the state;

(ix) ordinance enforcement officers employed by municipalities or counties may be special function officers;

(x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;

(xi) railroad special agents deputized by a county sheriff under Section 17-30-2 or 17-30a-104, or appointed pursuant to Section 56-1-21.5;

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys;

(xiv) criminal tax investigators designated under Section 59-1-206; and

(xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a [~~peace~~] special function officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be conducted by the agency's own staff or by other agencies.

(5) (a) An individual shall be 19 years old or older before being certified or employed as a special function officer.

(b) A special function officer who is under 21 years old may only work as a correctional officer in accordance with Section 53-13-104.

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

[~~(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.~~]

[~~(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.~~]

[~~(6)~~] (4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

[~~(7)~~] (5) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(8)~~] (6) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(9)~~] (7) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(10)~~] (8) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

[~~(11)~~] (9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(12)~~] (10) Section 53E-3-515 is repealed January 1, 2023.

[~~(13)~~] (11) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14)~~] (12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(15)~~] (13) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

[~~(16)~~] (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17)~~] (15) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

[~~(18)~~] (16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(19)~~] (17) Section 53F-5-203 is repealed July 1, 2024.

[~~(20)~~] (18) Section 53F-5-212 is repealed July 1, 2024.

[~~(21)~~] (19) Section 53F-5-213 is repealed July 1, 2023.

[~~(22)~~] (20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (23) Section 53F-9-501 is repealed January 1, 2023.

[~~(26)~~] (24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (25) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 5. Section 64-13-21.5 is amended to read:

64-13-21.5. Powers of correctional officers and POST certified correctional enforcement or investigation officers.

(1) Employees of the department who are designated by the executive director as correctional officers may exercise the powers and authority of a [~~peace~~] correctional officer [~~only when~~] as needed to properly carry out the following functions:

(a) performing the officer's duties within the boundaries of a correctional facility;

(b) supervising an offender during transportation;

(c) when in fresh pursuit of an offender who has escaped from the custody of the department; or

(d) when requested to assist a local, state, or federal law enforcement agency.

(2) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as correctional enforcement or investigation officers have the following duties as specified by the executive director:

(a) providing investigative services for the department;

(b) conducting criminal investigations and operations in cooperation with state, local, and federal law enforcement agencies; and

(c) providing security and enforcement for the department.

Section 6. Effective date.

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

CHAPTER 11
H. B. 40

Passed February 4, 2022
Approved February 11, 2022
Effective February 11, 2022

JUDICIAL PERFORMANCE EVALUATION COMMISSION AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill amends provisions relating to the Judicial Performance Evaluation Commission.

Highlighted Provisions:

This bill:

- defines terms;
- provides that the Judicial Performance Evaluation Commission will determine whether a judge meets or exceeds minimum performance standards, rather than making a recommendation regarding retaining a judge;
- makes conforming changes in the Election Code and the Government Records Access and Management Act; and
- makes other technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-7-702, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
78A-12-102, as last amended by Laws of Utah 2014, Chapter 152
78A-12-201, as last amended by Laws of Utah 2017, Chapter 374
78A-12-203, as last amended by Laws of Utah 2017, Chapters 81 and 374
78A-12-205, as last amended by Laws of Utah 2017, Chapter 81
78A-12-206, as last amended by Laws of Utah 2017, Chapter 374

ENACTS:

20A-7-702.5, Utah Code Annotated 1953

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

Section 1. Section 20A-7-702 is amended to read:

20A-7-702. Voter information pamphlet -- Form -- Contents.

[~~(1)~~] The voter information pamphlet shall contain the following items in this order:

[~~(a)~~] (1) a cover title page;

[~~(b)~~] (2) an introduction to the pamphlet by the lieutenant governor;

[~~(c)~~] (3) a table of contents;

[~~(d)~~] (4) a list of all candidates for constitutional offices;

[~~(e)~~] (5) a list of candidates for each legislative district;

[~~(f)~~] (6) a 100-word statement of qualifications for each candidate for the office of governor, lieutenant governor, attorney general, state auditor, or state treasurer, if submitted by the candidate to the lieutenant governor's office before 5 p.m. on the first business day in August before the date of the election;

[~~(g)~~] (7) information pertaining to all measures to be submitted to the voters, beginning a new page for each measure and containing, in the following order for each measure:

[~~(i)~~] (a) a copy of the number and ballot title of the measure;

[~~(ii)~~] (b) the final vote cast by the Legislature on the measure if it is a measure submitted by the Legislature or by referendum;

[~~(iii)~~] (c) the impartial analysis of the measure prepared by the Office of Legislative Research and General Counsel;

[~~(iv)~~] (d) the arguments in favor of the measure, the rebuttal to the arguments in favor of the measure, the arguments against the measure, and the rebuttal to the arguments against the measure, with the name and title of the authors at the end of each argument or rebuttal;

[~~(v)~~] (e) for each constitutional amendment, a complete copy of the text of the constitutional amendment, with all new language underlined, and all deleted language placed within brackets;

[~~(vi)~~] (f) for each initiative qualified for the ballot:

[~~(A)~~] (i) a copy of the measure as certified by the lieutenant governor and a copy of the fiscal impact estimate prepared according to Section 20A-7-202.5; and

[~~(B)~~] (ii) if the initiative proposes a tax increase, the following statement in bold type:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

[~~(vii)~~] (g) for each referendum qualified for the ballot, a complete copy of the text of the law being submitted to the voters for their approval or rejection, with all new language underlined and all deleted language placed within brackets, as applicable;

[~~(h)~~] (8) a description provided by the Judicial Performance Evaluation Commission of the selection and retention process for judges, including, in the following order:

[~~(i)~~] (a) a description of the judicial selection process;

[~~(ii)~~] (b) a description of the judicial performance evaluation process;

[~~(iii)~~] (c) a description of the judicial retention election process;

[~~(iv)~~] (d) a list of the criteria of the judicial performance evaluation and the [~~minimum performance~~] certification standards;

[~~(v)~~] (e) the names of the judges standing for retention election; and

[~~(vi)~~] (f) for each judge:

[~~(A)~~] (i) a list of the counties in which the judge is subject to retention election;

[~~(B)~~] (ii) a short biography of professional qualifications and a recent photograph;

[~~(C)~~] (iii) a narrative concerning the judge's performance;

[~~(D)~~] (iv) for each certification standard [~~of performance~~] under Section 78A-12-205, a statement identifying whether [~~or not~~], under Section 78A-12-205, the judge met the standard and, if not, the manner in which the judge failed to meet the standard;

[~~(E) a statement identifying whether or not the Judicial Performance Evaluation Commission recommends the judge be retained or declines to make a recommendation and the number of votes for and against the commission's recommendation;~~]

(v) a statement that the Judicial Performance Evaluation Commission:

(A) has determined that the judge meets or exceeds minimum performance standards;

(B) has determined that the judge does not meet or exceed minimum performance standards; or

(C) has not made a determination regarding whether the judge meets or exceeds minimum performance standards;

[~~(F)~~] (vi) any statement, described in Subsection 78A-12-206(3)(b), provided by a judge [~~who is not recommended for retention by~~] whom the Judicial Performance Evaluation Commission [~~under Section 78A-12-203~~] determines does not meet or exceed minimum performance standards;

[~~(G)~~] (vii) in a bar graph, the average of responses to each survey category, displayed with an identification of the minimum acceptable score as set by Section 78A-12-205 and the average score of all judges of the same court level; and

[~~(H)~~] (viii) a website address that contains the Judicial Performance Evaluation Commission's report on the judge's performance evaluation;

[~~(i)~~] (9) for each judge, a statement provided by the Utah Supreme Court identifying the cumulative number of informal reprimands, when consented to by the judge in accordance with Title 78A, Chapter 11, Judicial Conduct Commission, formal reprimands, and all orders of censure and suspension issued by the Utah Supreme Court under Utah Constitution, Article VIII, Section 13, during the judge's current term and the immediately preceding term, and a detailed summary of the supporting reasons for each violation of the Code of Judicial Conduct that the judge has received;

[~~(j)~~] (10) an explanation of ballot marking procedures prepared by the lieutenant governor, indicating the ballot marking procedure used by each county and explaining how to mark the ballot for each procedure;

[~~(k)~~] (11) voter registration information, including information on how to obtain a ballot;

[~~(l)~~] (12) a list of all county clerks' offices and phone numbers;

[~~(m)~~] (13) the address of the Statewide Electronic Voter Information Website, with a statement indicating that the election officer will post on the website any changes to the location of a polling place and the location of any additional polling place;

[~~(n)~~] (14) a phone number that a voter may call to obtain information regarding the location of a polling place; and

[~~(o)~~] (15) on the back cover page, a printed copy of the following statement signed by the lieutenant governor:

"I, ______________ (print name), Lieutenant Governor of Utah, certify that the measures contained in this pamphlet will be submitted to the voters of Utah at the election to be held throughout the state on ____ (date of election), and that this pamphlet is complete and correct according to law.

SEAL

Witness my hand and the Great Seal of the State, at Salt Lake City, Utah this ____ day of ____ (month), ____ (year)

(signed) ____________________________

Lieutenant Governor"

[~~(2) No earlier than 75 days, and no later than 15 days, before the day on which voting commences, the lieutenant governor shall make all information provided in the voter information pamphlet available on the Statewide Electronic Voter Information Website Program described in Section 20A-7-801.~~]

[~~(3) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.~~]

Section 2. Section 20A-7-702.5 is enacted to read:

20A-7-702.5. Publication of voter information pamphlet.

(1) No earlier than 75 days, and no later than 15 days, before the day on which voting commences, the lieutenant governor shall make all information provided in the voter information pamphlet

available on the Statewide Electronic Voter Information Website Program described in Section 20A-7-801.

(2) The lieutenant governor may distribute a voter information pamphlet at a location frequented by a person who cannot easily access the Statewide Electronic Voter Information Website authorized by Section 20A-7-801.

Section 3. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation

concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote [~~on whether or not to recommend that the voters retain a judge including~~], in relation to whether a judge meets or exceeds minimum performance standards under

Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) [~~(a)~~] an image taken of an individual during the process of booking the individual into jail, unless:

[~~(i)~~] (a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

[~~(ii)~~] (b) a law enforcement agency releases or disseminates the image after determining that:

[~~(A)~~] (i) the individual is a fugitive or an imminent threat to an individual or to public safety; and

[~~(B)~~] (ii) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

[~~(iii)~~] (c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest[~~.~~];

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 4. Section 78A-12-102 is amended to read:

78A-12-102. Definitions.

As used in this chapter:

(1) "Commission" means the Judicial Performance Evaluation Commission established by this chapter.

(2) "Does not meet or exceed minimum performance standards" means that:

(a) (i) a judge does not meet the certification standards under Section 78A-12-205; and

(ii) the presumption, described in Subsection 78A-12-203(4)(b)(ii), that the judge does not meet or exceed minimum performance standards is not overcome by substantial countervailing evidence; or

(b) a judge meets the certification standards under Section 78A-12-205, but the presumption, described in Subsection 78A-12-203(4)(b)(i), that the judge meets or exceeds minimum performance standards is overcome by substantial countervailing evidence.

[~~(2)~~] (3) Except as provided in Section 78A-12-207, "judge" means a state court judge or a state court justice who is subject to a retention election.

[~~(3)~~] (4) "Justice" means a judge who is a member of the Supreme Court.

[~~(4)~~] (5) "Justice court judge" means a judge appointed pursuant to Title 78A, Chapter 7, Justice Court.

(6) "Meets or exceeds minimum performance standards" means that:

(a) (i) a judge meets the certification standards under Section 78A-12-205; and

(ii) the presumption that the judge meets or exceeds minimum performance standards, described in Subsection 78A-12-203(4)(b)(i), is not overcome by substantial countervailing evidence; or

(b) a judge does not meet the certification standards under Section 78A-12-205, but the presumption described in Subsection 78A-12-203(4)(b)(ii), that the judge does not meet or exceed minimum performance standards, is overcome by substantial countervailing evidence.

Section 5. Section 78A-12-201 is amended to read:

78A-12-201. Judicial Performance Evaluation Commission -- Creation -- Membership.

(1) There is created an independent commission called the Judicial Performance Evaluation Commission consisting of 13 members, as follows:

(a) two members appointed by the president of the Senate, only one of whom may be a member of the Utah State Bar;

(b) two members appointed by the speaker of the House of Representatives, only one of whom may be a member of the Utah State Bar;

(c) four members appointed by the members of the Supreme Court, at least one of whom, but not more than two of whom, may be a member of the Utah State Bar;

(d) four members appointed by the governor, at least one of whom, but not more than two of whom, may be a member of the Utah State Bar; and

(e) the executive director of the Commission on Criminal and Juvenile Justice.

(2) (a) The president of the Senate and the speaker of the House of Representatives shall confer when appointing members under Subsections (1)(a) and (b) to ensure that there is at least one member from among their four appointees who is a member of the Utah State Bar.

(b) Each of the appointing authorities may appoint no more than half of the appointing authority's members from the same political party.

(c) A sitting legislator or a sitting judge may not serve as a commission member.

(3) (a) A member appointed under Subsection (1) shall be appointed for a four-year term.

(b) A member may serve no more than three consecutive terms.

(4) At the time of appointment, the terms of commission members shall be staggered so that approximately half of commission members' terms expire every two years.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the same appointing authority that appointed the member creating the vacancy.

(6) (a) Eight members of the commission constitute a quorum.

(b) The action of a majority of the quorum constitutes the action of the commission, except that [~~a decision of the commission to recommend that a judge be retained or not be retained may not be made except by a vote of at least six members. If because of absences the commission is unable to have at least six votes recommending that a judge be retained or not retained, the commission may meet a second time to consider whether to recommend that the judge be retained or not retained~~] the commission may not make a determination that a judge meets or exceeds minimum performance standards, or that a judge does not meet or exceed minimum performance standards, by a vote of less than six members.

(c) If, because of absences, the commission is unable to make a determination described in Subsection (6)(b) by at least six votes, the commission may meet a second time to make a determination.

[~~(c)~~] (d) If a vote on the question of whether [~~to recommend a judge be retained or not be retained ends in a tie or if a decision does not have six votes required by Subsection (6)(b), the commission may make no recommendation concerning the judge's~~

~~retention~~] a judge meets or exceeds minimum performance standards or does not meet or exceed minimum performance standards ends in a tie or does not pass by at least six votes, the record shall reflect that the commission made no determination in relation to that judge.

Section 6. Section 78A-12-203 is amended to read:

78A-12-203. Judicial performance evaluations.

(1) Beginning with the 2012 judicial retention elections, the commission shall prepare a performance evaluation for:

(a) each judge in the third and fifth year of the judge's term if the judge is not a justice of the Supreme Court; and

(b) each justice of the Utah Supreme Court in the third, seventh, and ninth year of the justice's term.

(2) Except as provided in Subsection (3), the performance evaluation for a judge under Subsection (1) shall consider only the following information but shall give primary emphasis to the information that is gathered and relates to the performance of the judge during the period subsequent to the last judicial retention election of that judge or if the judge has not had a judicial retention election, during the period applicable to the first judicial retention election:

(a) the results of the judge's most recent judicial performance survey that is conducted by a third party in accordance with Section 78A-12-204;

(b) information concerning the judge's compliance with [~~minimum performance~~] certification standards established in accordance with Section 78A-12-205;

(c) courtroom observation;

(d) the judge's judicial disciplinary record, if any;

(e) public comment solicited by the commission;

(f) information from an earlier judicial performance evaluation concerning the judge except that the commission shall give primary emphasis to information gathered subsequent to the last judicial retention election; and

(g) any other factor that the commission:

(i) considers relevant to evaluating the judge's performance for the purpose of a retention election; and

(ii) establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The commission shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules concerning the conduct of courtroom observation under Subsection (2), which shall include the following:

(a) an indication of who may perform the courtroom observation;

(b) a determination of whether the courtroom observation shall be made in person or may be made by electronic means; and

(c) a list of principles and standards used to evaluate the behavior observed.

(4) (a) As part of the evaluation conducted under this section, the commission shall [~~determine whether to recommend that the voters retain the judge.~~] do one of the following:

(i) determine, by a vote of at least six members, that the judge meets or exceeds minimum performance standards;

(ii) determine, by a vote of at least six members, that the judge does not meet or exceed minimum performance standards;

(iii) determine, by a majority vote, that the information concerning the judge is insufficient to make a determination described in Subsection (4)(a)(i) or (ii); or

(iv) fail to make a determination described in Subsection (4)(a)(i), (ii), or (iii) by the number of votes required for one of those determinations.

(b) (i) If a judge meets the [~~minimum performance~~] certification standards established in accordance with Section 78A-12-205, there is a rebuttable presumption that [~~the commission will recommend the voters retain~~] the judge meets or exceeds minimum performance standards.

(ii) If a judge fails to meet the [~~minimum performance~~] certification standards established in accordance with Section 78A-12-205, there is a rebuttable presumption that [~~the commission will recommend the voters not retain~~] the judge does not meet or exceed minimum performance standards.

[~~(c) The commission may elect to make no recommendation on whether the voters should retain a judge if the commission determines that the information concerning the judge is insufficient to make a recommendation.~~]

[~~(d) (i)~~] (c) If the commission deviates from a presumption [~~for or against recommending the voters retain a judge or elects to make no recommendation on whether the voters should retain a judge~~] described in Subsection (4)(b), the commission shall provide a detailed explanation of the reason for that deviation [~~or election~~] in the commission's report under Section 78A-12-206.

[~~(ii)~~] (d) If the commission makes [~~no recommendation because of a tie vote~~] the determination described in Subsection (4)(a)(iii) or fails to make a determination described in Subsection (4)(a)(i), (ii), or (iii) by the number of votes required for those determinations, the commission shall note that fact in the commission's report.

(5) (a) The commission shall allow a judge who is the subject of a judicial performance retention evaluation, and who has not passed one or more of the [~~minimum performance~~] certification standards on the retention evaluation, to appear and speak at any commission meeting during which

the judge's judicial performance evaluation is considered.

(b) The commission may invite any judge to appear before the commission to discuss concerns about the judge's judicial performance.

(c) (i) The commission may meet in a closed meeting to discuss a judge's judicial performance evaluation by complying with Title 52, Chapter 4, Open and Public Meetings Act.

(ii) The commission may meet in an electronic meeting by complying with Title 52, Chapter 4, Open and Public Meetings Act.

(d) Any record of an individual commissioner's vote [~~on whether to recommend that the voters retain a judge~~] under Subsection (4) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(e) (i) A member of the commission, including a member of the Utah State Bar, may not be disqualified from voting [~~on whether to recommend that the voters retain a judge~~] under Subsection (4) solely because the member appears before the judge as an attorney, a fact witness, or an expert, [~~so long as~~] unless the member is [~~not~~] a litigant in a case pending before the judge.

(ii) Notwithstanding Subsection (5)(e)(i), a member of the commission shall disclose any conflicts of interest with the judge being reviewed to the other members of the commission before the deliberation and vote [~~of whether to recommend that a judge be retained or not be retained~~] under Subsection (4).

(iii) Information disclosed under this Subsection (5)(e) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(f) The commission may only disclose the final commission vote [~~on whether or not to recommend that the voters retain a judge~~] described in Subsection (4).

(6) (a) If the Utah Supreme Court issues a public sanction of a judge after the commission [~~makes a decision on whether to recommend the judge for retention~~] makes or fails to make a determination described in Subsection (4), but before the publication of the voter information pamphlet in accordance with Section 20A-7-702, the commission may elect to reconsider the commission's [~~recommendation~~] action.

(b) The commission shall invite the judge described in Subsection (6)(a) to appear before the commission during a closed meeting for the purpose of reconsidering the commission's [~~recommendation~~] action.

(c) The judge described in Subsection (6)(a) may provide a written statement, not to exceed 100 words, that shall be included in the judge's evaluation report.

(d) The commission shall include in the judge's evaluation report:

(i) the date of the reconsideration;

(ii) any change in the [~~decision of whether to recommend that the voters retain the judge~~] action of the commission; and

(iii) a brief statement explaining the reconsideration.

(e) The commission shall submit revisions to the judge's evaluation report to the lieutenant governor by no later than August 31 of a regular general election year for publication in the voter information pamphlet, and publish the revisions on the commission's website, and through any other means the commission considers appropriate and within budgetary constraints.

(7) (a) The commission shall compile a midterm report of the commission's judicial performance evaluation of a judge.

(b) The midterm report of a judicial performance evaluation shall include information that the commission considers appropriate for purposes of judicial self-improvement.

(c) The report shall be provided to the evaluated judge, the presiding judge of the district in which the evaluated judge serves, and the Judicial Council. If the evaluated judge is the presiding judge, the midterm report shall be provided to the chair of the board of judges for the court level on which the evaluated judge serves.

(d) (i) The commission may provide a partial midterm evaluation to a judge whose appointment date precludes the collection of complete midterm evaluation data.

(ii) For a newly appointed judge, a midterm evaluation is considered partial when the midterm evaluation is missing a respondent group, including attorneys, court staff, court room observers, or intercept survey respondents.

(iii) A judge who receives partial midterm evaluation data may receive a statement in acknowledgment of that fact on the judge's voter information pamphlet page.

(iv) On or before the beginning of the retention evaluation cycle, the commission shall inform the Judicial Council of the name of any judge who receives a partial midterm evaluation.

(8) The commission shall identify a judge whose midterm evaluation:

(a) fails to meet [~~minimum performance~~] certification standards in accordance with Section 78A-12-205 or as established by rule; or

(b) otherwise demonstrates to the commission that the judge's performance would be of such concern if the performance occurred in a retention evaluation that the judge would be invited to appear before the commission in accordance with Subsection (5)(b).

(9) The commission may make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, as necessary to administer the evaluation required by this section.

Section 7. Section 78A-12-205 is amended to read:

78A-12-205. Certification standards.

(1) The commission shall establish [~~minimum performance~~] certification standards requiring that:

(a) the judge have no more than one public sanction issued by the Utah Supreme Court during the judge's current term; and

(b) the judge receive a minimum score on the judicial performance survey as follows:

(i) an average score of no less than 65% on each survey category as provided in Subsection 78A-12-204(7); and

(ii) if the commission includes a question on the survey that does not use the numerical scale, the commission shall establish the [~~minimum performance~~] certification standard for all questions that do not use the numerical scale to be substantially equivalent to the standard required under Subsection (1)(b)(i).

(2) The commission may establish an additional [~~minimum performance~~] certification standard if the commission by at least two-thirds vote:

(a) determines that satisfaction of the standard is necessary to the satisfactory performance of the judge; and

(b) adopts the standard.

(3) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a [~~minimum performance~~] certification standard.

Section 8. Section 78A-12-206 is amended to read:

78A-12-206. Publication of the judicial performance evaluation -- Response by judge.

(1) (a) The commission shall compile a retention report of [~~its~~] the commission's judicial performance evaluation of a judge.

(b) The report of a judicial performance evaluation nearest the judge's next scheduled retention election shall be provided to the judge at least 45 days before the last day on which the judge may file a declaration of the judge's candidacy in the retention election.

(c) A report prepared in accordance with Subsection (1)(b) and information obtained in connection with the evaluation becomes a public record under Title 63G, Chapter 2, Government Records Access and Management Act, on the day following the last day on which the judge who is the subject of the report may file a declaration of the judge's candidacy in the judge's scheduled retention election if the judge declares the judge's candidacy for the retention election.

(d) Information collected and a report that is not public under Subsection (1)(c) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(2) Within 15 days of receiving a copy of the commission's report under Subsection (1)(b):

(a) a judge who is the subject of an unfavorable [~~retention recommendation under this section~~] action under Subsection 78A-12-203(4) may:

(i) provide a written response to the commission about the report; and

(ii) request an interview with the commission for the purpose of addressing the report; and

(b) a judge who is the subject of a favorable [~~retention recommendation under this section~~] action under Subsection 78A-12-203(4) may provide a written response to the commission about the commission's report.

(3) (a) After receiving a response from a judge in any form allowed by Subsection (2), the commission may meet and reconsider [~~its decision to recommend the judge not be retained~~] the commission's action.

(b) If the commission does not change [~~its decision to recommend the judge not be retained~~] the commission's action, the judge may provide a written statement, not to exceed 100 words, that shall be included in the commission's report.

(4) The retention report of a judicial performance evaluation shall include:

(a) the results of the judicial performance survey, in both raw and summary form;

(b) information concerning the judge's compliance with the [~~minimum performance~~] certification standards, including stating how many of the [~~minimum performance~~] certification standards the judge met;

(c) information concerning any public discipline that a judge has received that is not subject to restrictions on disclosure under Title 78A, Chapter 11, Judicial Conduct Commission;

(d) a narrative concerning the judge's performance;

(e) the commission's [~~recommendation concerning whether the judge should be retained, or the statement required of the commission if it declines to make a recommendation~~] determination under Subsection 78A-12-203(4);

(f) the number of votes for and against [~~the commission's recommendation~~] a determination described in Subsection 78A-12-203(4); and

(g) any other information the commission considers necessary to include in the report to explain the [~~performance~~] certification standards and the [~~recommendation~~] determination or lack of a determination made.

(5) (a) The commission may not include in [~~its~~] the commission's retention report specific information concerning an earlier judicial performance evaluation.

(b) The commission may refer to information from an earlier judicial performance evaluation concerning the judge in the commission's report only if necessary to explain performance in the current reporting period and giving primary emphasis to the information gathered during the current reporting period.

(6) The retention report of the commission's judicial performance evaluation shall be made publicly available on an Internet website.

(7) The commission may make the report of the judicial performance evaluation immediately preceding the judge's retention election publicly available through other means within budgetary constraints.

(8) The commission shall provide a summary of the judicial performance evaluation for each judge to the lieutenant governor for publication in the voter information pamphlet in the manner required by Title 20A, Chapter 7, Issues Submitted to the Voters.

(9) The commission shall provide the Judicial Council with:

(a) the judicial performance survey results for each judge; and

(b) a copy of the retention report of each judicial performance evaluation.

(10) The Judicial Council shall provide information obtained concerning a judge under Subsection (9) to the subject judge's presiding judge, if any.

Section 9. Effective date.

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

CHAPTER 12
S. B. 59

Passed February 10, 2022
Approved February 11, 2022
Effective May 4, 2022
(Retrospective operation to January 1, 2022)

TAX AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Casey Snider
Cosponsors: J. Stuart Adams
Jacob L. Anderegg
Curtis S. Bramble
David G. Buxton
Kirk A. Cullimore
Lincoln Fillmore
Keith Grover
Wayne A. Harper
David P. Hinkins
Don L. Ipson
John D. Johnson
Michael S. Kennedy
Michael K. McKell
Ann Millner
Derrin R. Owens
Scott D. Sandall
Jerry W. Stevenson
Daniel W. Thatcher
Evan J. Vickers
Todd D. Weiler
Chris H. Wilson
Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies income tax provisions.

Highlighted Provisions:

This bill:

- amends the corporate franchise and income tax rates;
- amends the individual income tax rate;
- expands eligibility for the social security benefits tax credit by increasing the threshold for the income-based phaseout; and
- enacts a state earned income tax credit and provides for apportionment of that credit.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-104, as last amended by Laws of Utah 2020, Chapter 354
59-7-201, as last amended by Laws of Utah 2018, Chapter 456
59-10-104, as last amended by Laws of Utah 2018, Chapter 456
59-10-1002.2, as last amended by Laws of Utah 2021, Chapters 68 and 428
59-10-1042, as enacted by Laws of Utah 2021, Chapter 428

ENACTS:

59-10-1044, Utah Code Annotated 1953

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

Section 1. Section 59-7-104 is amended to read:

59-7-104. Tax -- Minimum tax.

(1) Each domestic and foreign corporation, except a corporation that is exempt under Section 59-7-102, shall pay an annual tax to the state based on the corporation's Utah taxable income for the taxable year for the privilege of exercising the corporation's corporate franchise or for the privilege of doing business in the state.

(2) The tax shall be [~~4.95%~~] 4.85% of a corporation's Utah taxable income.

(3) The minimum tax a corporation shall pay under this chapter is $100.

Section 2. Section 59-7-201 is amended to read:

59-7-201. Tax -- Minimum tax.

(1) There is imposed upon each corporation, except a corporation that is exempt under Section 59-7-102, a tax upon the corporation's Utah taxable income for the taxable year that is derived from sources within this state other than income for any period that the corporation is required to include in the corporation's tax base under Section 59-7-104.

(2) The tax imposed by Subsection (1) shall be [~~4.95%~~] 4.85% of a corporation's Utah taxable income.

(3) In no case shall the tax be less than $100.

Section 3. Section 59-10-104 is amended to read:

59-10-104. Tax basis -- Tax rate -- Exemption.

(1) A tax is imposed on the state taxable income of a resident individual as provided in this section.

(2) For purposes of Subsection (1), for a taxable year, the tax is an amount equal to the product of:

(a) the resident individual's state taxable income for that taxable year; and

(b) [~~4.95%~~] 4.85%.

(3) This section does not apply to a resident individual exempt from taxation under Section 59-10-104.1.

Section 4. Section 59-10-1002.2 is amended to read:

59-10-1002.2. Apportionment of tax credits.

(1) A nonresident individual or a part-year resident individual that claims a tax credit in accordance with Section 59-10-1017, 59-10-1018, 59-10-1019, 59-10-1022, 59-10-1023, 59-10-1024, 59-10-1028, 59-10-1042, [~~or~~] 59-10-1043, or 59-10-1044 may only claim an apportioned amount of the tax credit equal to:

(a) for a nonresident individual, the product of:

(i) the state income tax percentage for the nonresident individual; and

(ii) the amount of the tax credit that the nonresident individual would have been allowed to claim but for the apportionment requirements of this section; or

(b) for a part-year resident individual, the product of:

(i) the state income tax percentage for the part-year resident individual; and

(ii) the amount of the tax credit that the part-year resident individual would have been allowed to claim but for the apportionment requirements of this section.

(2) A nonresident estate or trust that claims a tax credit in accordance with Section 59-10-1017, 59-10-1020, 59-10-1022, 59-10-1024, or 59-10-1028 may only claim an apportioned amount of the tax credit equal to the product of:

(a) the state income tax percentage for the nonresident estate or trust; and

(b) the amount of the tax credit that the nonresident estate or trust would have been allowed to claim but for the apportionment requirements of this section.

Section 5. Section 59-10-1042 is amended to read:

59-10-1042. Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) (a) A claimant may not:

(i) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

(ii) claim a tax credit under this section and a tax credit under Section 59-10-1019.

(b) A claimant that qualifies for a tax credit under this section and a tax credit under Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1019.

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, [~~$25,000~~] $31,000;

(b) for a federal individual income tax return that is allowed a single filing status, [~~$30,000~~] $37,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, [~~$50,000~~] $62,000; or

(d) for a return under this chapter that is allowed a joint filing status, [~~$50,000~~] $62,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 6. Section 59-10-1044 is enacted to read:

59-10-1044. Nonrefundable earned income tax credit.

(1) As used in this section:

(a) "Federal earned income tax credit" means the federal earned income tax credit described in Section 32, Internal Revenue Code.

(b) "Qualifying claimant" means a resident or nonresident individual who qualifies and claims the federal earned income tax credit for the current taxable year.

(2) Subject to Section 59-10-1002.2, a qualifying claimant may claim a nonrefundable earned income tax credit equal to 15% of the amount of the federal earned income tax credit that the qualifying claimant was entitled to claim on a federal income tax return for the current taxable year.

(3) A qualifying claimant may not carry forward or carry back the amount of the earned income tax credit that exceeds the qualifying claimant's tax liability.

Section 7. Retrospective Operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2022.

CHAPTER 13
S. B. 170

Passed February 11, 2022
Approved February 14, 2022
Effective February 28, 2022

ELECTION SCHEDULE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions relating to the election schedule.

Highlighted Provisions:

This bill:

- modifies the deadlines by which a political party is required to provide certain notifications;
- modifies the period for filing a declaration of candidacy and a notice of intent to gather signatures;
- clarifies provisions relating to the residency requirement of a candidate; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-1-508, as last amended by Laws of Utah 2019, Chapters 212, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 212

20A-1-509.1, as last amended by Laws of Utah 2019, Chapter 255

20A-8-402.5, as last amended by Laws of Utah 2019, Chapter 255

20A-9-101, as last amended by Laws of Utah 2020, Chapter 344

20A-9-201, as last amended by Laws of Utah 2021, Chapters 20 and 183

20A-9-406, as last amended by Laws of Utah 2020, Chapters 22, 31, and 49

20A-9-407, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6

20A-9-408, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6

20A-9-502, as last amended by Laws of Utah 2018, Chapter 11

20A-9-503, as last amended by Laws of Utah 2020, Chapter 22

20A-14-203, as last amended by Laws of Utah 2016, Chapter 16

ENACTS:

20A-9-201.5, Utah Code Annotated 1953

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

Section 1. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

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

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5(3) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than five days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (3)(c)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(d) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected, but before the [~~second Friday in March of the next even-numbered year~~] first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the [~~second Friday in March of the next even-numbered year~~] first day of the declaration of candidacy filing period described in Section 20A-9-201.5, but more than 75 days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, within five days after the day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 2. Section 20A-1-509.1 is amended to read:

20A-1-509.1. Procedure for filling midterm vacancy in county or district with 15 or more attorneys.

(1) When a vacancy occurs in the office of county or district attorney in a county or district having 15 or more attorneys who are licensed active members in good standing with the Utah State Bar and registered voters, the vacancy shall be filled as provided in this section.

(2) (a) The requirements of this Subsection (2) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs before the [~~third Thursday in March of the even-numbered year~~] first day of the declaration of candidacy filing period described in Section 20A-9-201.5.

(b) When the conditions established in Subsection (2)(a) are met, the county clerk shall notify the public and each registered political party that the vacancy exists.

(c) All persons intending to become candidates for the vacant office shall:

(i) file a declaration of candidacy according to the procedures and requirements of Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy;

(ii) if nominated as a party candidate or qualified as an independent or write-in candidate under Chapter 9, Candidate Qualifications and Nominating Procedures, run in the regular general election; and

(iii) if elected, complete the unexpired term of the person who created the vacancy.

(d) If the vacancy occurs [~~after the second Friday in March and before the third Thursday in March,~~] during the declaration of candidacy filing period described in Section 20A-9-201.5:

(i) the time for filing a declaration of candidacy under Section 20A-9-202 shall be extended until 5 p.m. seven days after the [~~county clerk gives notice under Subsection (2)(b), but no later than 5 p.m. the fourth Thursday in March.~~] last day of the filing period described in Section 20A-9-201.5; and

(ii) the county clerk shall notify the public and each registered political party that the vacancy exists.

(3) (a) The requirements of this Subsection (3) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the third Thursday in March of the even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions established in Subsection (3)(a) are met, the county clerk shall:

(i) notify the public and each registered political party that the vacancy exists; and

(ii) identify the date and time by which a person interested in becoming a candidate shall file a declaration of candidacy.

(c) All persons intending to become candidates for the vacant office shall:

(i) before 5 p.m. within five days after the day on which the county clerk gives the notice described in Subsection (3)(b)(i), file a declaration of candidacy for the vacant office as required by Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(ii) if elected, complete the unexpired term of the person who created the vacancy.

(d) The county central committee of each party shall:

(i) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(ii) certify the name of the candidate or candidates to the county clerk:

(A) before 5 p.m. no later than 60 days before the day of the regular primary election; or

(B) electronically, before midnight no later than 60 days before the day of the regular primary election.

(4) (a) The requirements of this Subsection (4) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of two years or more; and

(ii) 75 days or less remain before the regular primary election but more than 65 days remain before the regular general election.

(b) When the conditions established in Subsection (4)(a) are met, the county central committees of each registered political party that wish to submit a candidate for the office shall, not later than five days after the day on which the vacancy occurs, certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(c) The candidate elected shall complete the unexpired term of the person who created the vacancy.

(5) (a) The requirements of this Subsection (5) apply when the office of county attorney or district attorney becomes vacant and:

(i) the vacant office has an unexpired term of less than two years; or

(ii) the vacant office has an unexpired term of two years or more but 65 days or less remain before the next regular general election.

(b) When the conditions established in Subsection (5)(a) are met, the county legislative body shall give notice of the vacancy to the county central committee of the same political party of the prior officeholder and invite that committee to submit the names of three nominees to fill the vacancy.

(c) That county central committee shall, within 30 days after the day on which the county legislative body gives the notice described in Subsection (5)(b), submit to the county legislative body the names of three nominees to fill the vacancy.

(d) The county legislative body shall, within 45 days after the vacancy occurs, appoint one of those nominees to serve out the unexpired term.

(e) If the county legislative body fails to appoint a person to fill the vacancy within 45 days, the county clerk shall send to the governor a letter that:

(i) informs the governor that the county legislative body has failed to appoint a person to fill the vacancy within the statutory time period; and

(ii) contains the list of nominees submitted by the party central committee.

(f) The governor shall appoint a person to fill the vacancy from that list of nominees within 30 days after receipt of the letter.

(g) A person appointed to fill the vacancy under this Subsection (5) shall complete the unexpired term of the person who created the vacancy.

(6) Nothing in this section prevents or prohibits independent candidates from filing a declaration of candidacy for the office within the required time limits.

Section 3. Section 20A-8-402.5 is amended to read:

20A-8-402.5. Notification of political convention dates.

(1) Before 5 p.m. no later than [~~February 15 of each even-numbered~~] the first Monday of October of each odd-numbered year, a registered political party shall notify the lieutenant governor of the dates of each political convention that will be held by the registered political party [~~that~~] the following year.

(2) If, after providing the notice described in Subsection (1), a registered political party changes the date of a political convention, the registered political party shall notify the lieutenant governor of the change before 5 p.m. no later than one business day after the day on which the registered political party makes the change.

Section 4. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Federal office" means an elective office for United States Senator and United States Representative.

(6) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) for the office of a state senator or state representative, the lieutenant governor or the applicable clerk described in Subsection (6)(c) or (d);

(c) the county clerk, for county offices and local school district offices;

(d) the county clerk in the filer's county of residence, for multicounty offices;

(e) the city or town clerk, for municipal offices; or

(f) the local district clerk, for local district offices.

(7) "Local district office" means an elected office in a local district.

(8) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(9) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; or

(vi) any municipal or local district offices.

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

(11) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

(12) "Qualified political party" means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on [~~September 30~~] the first Monday of October of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

Section 5. Section 20A-9-201 is amended to read:

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

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

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a United States citizen;

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

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

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

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

(i) a United States citizen;

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

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

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

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

(i) is a United States citizen;

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

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

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

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

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

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

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

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

(a) inform the individual that:

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

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

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

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

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

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

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

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

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

(i) signing the pledge is voluntary; and

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

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

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

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

(a) accept the candidate's pledge; and

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

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

(i) be substantially as follows:

"State of Utah, County of ____

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

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

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

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

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

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

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

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

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

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

(i) who is disqualified; or

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

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

(ii) The lieutenant governor shall:

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

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

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

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

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

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

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

"Affidavit of Impecuniosity

Individual Name
____________________Address__________________

Phone Number _________________

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

Date______________Signature________________

Affiant

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

____
(signature)

Name and Title of Officer Authorized to Administer Oath

____________________".

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

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

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

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

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

Section 6. Section 20A-9-201.5 is enacted to read:

20A-9-201.5. Declaration of candidacy filing period for a qualified political party.

(1) In 2022, for a qualified political party, the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election begins at 8 a.m. on February 28, 2022, and ends at 5 p.m. on March 4, 2022.

(2) Beginning on January 1, 2024, for a qualified political party, the filing period to file a declaration of candidacy for an elective office that is to be filled at the next regular general election:

(a) begins the later of:

(i) January 2 of the year in which the next regular general election is held; or

(ii) if January 2 is on a weekend, the first business day after January 2; and

(b) ends at 5 p.m. on the fourth business day after the day on which the filing period begins.

Section 7. Section 20A-9-406 is amended to read:

20A-9-406. Qualified political party -- Requirements and exemptions.

The following provisions apply to a qualified political party:

(1) the qualified political party shall, no later than 5 p.m. on [~~November 30~~] the first Monday of

October of each odd-numbered year, certify to the lieutenant governor the identity of one or more registered political parties whose members may vote for the qualified political party's candidates and whether unaffiliated voters may vote for the qualified political party's candidates;

(2) the following provisions do not apply to a nomination for the qualified political party:

(a) Subsections 20A-9-403(1) through (3)(b) and (3)(d) through (4)(a);

(b) Subsection 20A-9-403(5)(c); and

(c) Section 20A-9-405;

(3) an individual may only seek the nomination of the qualified political party by using a method described in Section 20A-9-407, Section 20A-9-408, or both;

(4) the qualified political party shall comply with the provisions of Sections 20A-9-407, 20A-9-408, and 20A-9-409;

(5) notwithstanding Subsection 20A-6-301(1)(a), (1)(e), or (2)(a), each election officer shall ensure that a ballot described in Section 20A-6-301 includes each individual nominated by a qualified political party:

(a) under the qualified political party's name, if any; or

(b) under the title of the qualified registered political party as designated by the qualified political party in the certification described in Subsection (1), or, if none is designated, then under some suitable title;

(6) notwithstanding Subsection 20A-6-302(1)(a), each election officer shall ensure, for ballots in regular general elections, that each candidate who is nominated by the qualified political party is listed by party;

(7) notwithstanding Subsection 20A-6-304(1)(e), each election officer shall ensure that the party designation of each candidate who is nominated by the qualified political party is displayed adjacent to the candidate's name on a mechanical ballot;

(8) "candidates for elective office," defined in Subsection 20A-9-101(1)(a), also includes an individual who files a declaration of candidacy under Section 20A-9-407 or 20A-9-408 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office;

(9) an individual who is nominated by, or seeking the nomination of, the qualified political party is not required to comply with Subsection 20A-9-201(1)(c);

(10) notwithstanding Subsection 20A-9-403(3), the qualified political party is entitled to have each of the qualified political party's candidates for elective office appear on the primary ballot of the qualified political party with an indication that each candidate is a candidate for the qualified political party;

(11) notwithstanding Subsection 20A-9-403(4)(a), the lieutenant governor shall include on the list provided by the lieutenant governor to the county clerks:

(a) the names of all candidates of the qualified political party for federal, constitutional, multicounty, and county offices; and

(b) the names of unopposed candidates for elective office who have been nominated by the qualified political party and instruct the county clerks to exclude such candidates from the primary-election ballot;

(12) notwithstanding Subsection 20A-9-403(5)(c), a candidate who is unopposed for an elective office in the regular primary election of the qualified political party is nominated by the party for that office without appearing on the primary ballot; and

(13) notwithstanding the provisions of Subsections 20A-9-403(1) and (2) and Section 20A-9-405, the qualified political party is entitled to have the names of its candidates for elective office featured with party affiliation on the ballot at a regular general election.

Section 8. Section 20A-9-407 is amended to read:

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

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

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

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

(a) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy in person with the filing officer[~~:~~] during the declaration of candidacy filing period described in Section 20A-9-201.5; and

[~~(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

[~~(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

(b) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political

party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) file a declaration of candidacy with the county clerk designated in the interlocal agreement creating the prosecution district[~~:~~] during the declaration of candidacy filing period described in Section 20A-9-201.5; and

[~~(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

[~~(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

(b) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, [~~before the deadline described in Subsection 20A-9-202(1)(b)~~] during the declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) (a) A qualified political party that nominates a candidate under this section shall certify the name of the candidate to the lieutenant governor before the deadline described in Subsection 20A-9-202(1)(b).

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

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

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

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

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

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

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

[~~(a) within the period beginning on January 1 before the next regular general election and ending at 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201~~]

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

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

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

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

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

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer[~~:~~] during the declaration of candidacy filing period described in Section 20A-9-201.5; and

[~~(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

[~~(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

(c) pay the filing fee.

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

[~~(a) on or after January 1 before the next regular general election~~]

(a) during the declaration of candidacy filing period described in Section 20A-9-201.5, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

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

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

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

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

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer[~~:~~] during the declaration of candidacy filing period described in Section 20A-9-201.5; and

[~~(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

[~~(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and~~]

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, [~~before the deadline described in Subsection 20A-9-202(1)(b)~~] during the declaration of candidacy filing period described in Section 20A-9-201.5, file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Upon timely receipt of the signatures described in Subsections (8) and (9)(a), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

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

Section 10. Section 20A-9-502 is amended to read:

20A-9-502. Certificate of nomination -- Contents -- Circulation -- Verification -- Criminal penalty.

(1) The candidate shall:

(a) prepare a certificate of nomination in substantially the following form:

"State of Utah, County of ____________________

I, ______________, declare my intention of becoming an unaffiliated candidate for the political group designated as ____ for the office of ____. I do solemnly swear that I can qualify to hold that office both legally and constitutionally if selected, and that I reside at ____ Street, in the city of ____, county of ____, state of ______, zip code ____, phone ____, and that I am providing, or have provided, the required number of holographic signatures of registered voters required by law; that as a candidate at the next election I will not knowingly violate any election or campaign law; that, if filing via a designated agent for an office other than president of the United States, I will be out of the state of Utah during the entire candidate filing period; I will file all campaign financial disclosure reports as required by law; and I understand that failure to do so will result in my disqualification as a candidate for this office and removal of my name from the ballot.

____

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

____

Notary Public (or other officer qualified to administer oaths)";

(b) bind signature sheets to the certificate that:

(i) are printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(ii) are ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for the purpose of binding;

(iii) contain the name of the proposed candidate and the words "Unaffiliated Candidate Certificate of Nomination Petition" printed directly below the horizontal line;

(iv) contain the word "Warning" printed directly under the words described in Subsection (1)(b)(iii);

(v) contain, to the right of the word "Warning," the following statement printed in not less than eight-point, single leaded type:

"It is a class A misdemeanor for anyone to knowingly sign a certificate of nomination signature sheet with any name other than the person's own name or more than once for the same candidate or if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures.";

(vi) contain the following statement directly under the statement described in Subsection (1)(b)(v):

"Each signer says:

I have personally signed this petition with a holographic signature;

I am registered to vote in Utah or intend to become registered to vote in Utah before the county clerk certifies my signature; and

My street address is written correctly after my name.";

(vii) contain horizontally ruled lines, 3/8 inch apart under the statement described in Subsection (1)(b)(vi); and

(viii) be vertically divided into columns as follows:

(A) the first column shall appear at the extreme left of the sheet, be 5/8 inch wide, be headed with “For Office Use Only,” and be subdivided with a light vertical line down the middle;

(B) the next column shall be 2-1/2 inches wide, headed “Registered Voter’s Printed Name (must be legible to be counted)”;

(C) the next column shall be 2-1/2 inches wide, headed “Holographic Signature of Registered Voter”;

(D) the next column shall be one inch wide, headed “Birth Date or Age (Optional)”;

(E) the final column shall be 4-3/8 inches wide, headed “Street Address, City, Zip Code”; and

(F) at the bottom of the sheet, contain the following statement: “Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be certified as a valid signature if you change your address before petition signatures are certified or if the information you provide does not match your voter registration records.”; and

(c) bind a final page to one or more signature sheets that are bound together that contains, except as provided by Subsection (3), the following printed statement:

“Verification

State of Utah, County of ____

I, _______________, of ____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were signed by persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person’s name on the signature sheets in my presence;

I believe that each has printed and signed the person’s name and written the person’s street address correctly, and that each signer is registered to vote in Utah or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet.

____

(Signature) (Residence Address) (Date)”.

(2) An agent designated to file a certificate of nomination under Subsection 20A-9-503[~~(1)~~](2)(b) may not sign the form described in Subsection (1)(a).

(3) (a) The candidate shall circulate the nomination petition and ensure that the person in whose presence each signature sheet is signed:

(i) is at least 18 years old;

(ii) except as provided by Subsection (3)(b), meets the residency requirements of Section 20A-2-105; and

(iii) verifies each signature sheet by completing the verification bound to one or more signature sheets that are bound together.

(b) A person who is not a resident may sign the verification on a petition for an unaffiliated candidate for the office of president of the United States.

(c) A person may not sign the verification if the person signed a signature sheet bound to the verification.

(4) (a) It is unlawful for any person to:

(i) knowingly sign a certificate of nomination signature sheet:

(A) with any name other than the person’s own name;

(B) more than once for the same candidate; or

(C) if the person is not registered to vote in this state and does not intend to become registered to vote in this state before the county clerk certifies the signatures; or

(ii) sign the verification of a certificate of nomination signature sheet if the person:

(A) except as provided by Subsection (3)(b), does not meet the residency requirements of Section 20A-2-105;

(B) has not witnessed the signing by those persons whose names appear on the certificate of nomination signature sheet; or

(C) knows that a person whose signature appears on the certificate of nomination signature sheet is not registered to vote in this state and does not intend to become registered to vote in this state.

(b) Any person violating this Subsection (4) is guilty of a class A misdemeanor.

(5) (a) The candidate shall submit the petition and signature sheets to the county clerk for certification when the petition has been completed by:

(i) at least 1,000 registered voters residing within the state when the nomination is for an office to be filled by the voters of the entire state; or

(ii) at least 300 registered voters residing within a political division or at least 5% of the registered voters residing within a political division, whichever is less, when the nomination is for an office to be filled by the voters of any political division smaller than the state.

(b) In reviewing the petition, the county clerk shall count and certify only those persons who signed the petition with a holographic signature who:

(i) are registered voters within the political division that the candidate seeks to represent; and

(ii) did not sign any other certificate of nomination for that office.

(c) The candidate may supplement or amend the certificate of nomination at any time on or before the filing deadline.

Section 11. Section 20A-9-503 is amended to read:

20A-9-503. Certificate of nomination -- Filing -- Fees.

(1) [~~(a)~~] Except as provided in Subsection (1)(b), after the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the candidate shall:

[~~(i) between the second Friday in March and the close of normal office hours on the third Thursday in March of the year in which the regular general election will be held:~~]

[~~(A)~~] (a) (i) file the petition in person with the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office, or the county clerk, if the office the candidate seeks is a county office, during the declaration of candidacy filing period described in Section 20A-9-201.5; and

[~~(B)~~] (ii) pay the filing fee; or

[~~(ii)~~] (b) not later than the close of normal office hours on June 15 of any odd-numbered year:

[~~(A)~~] (i) file the petition in person with the municipal clerk, if the candidate seeks an office in a city or town, or the local district clerk, if the candidate seeks an office in a local district; and

[~~(B)~~] (ii) pay the filing fee.

[~~(b) (i)~~] (2) (a) The provisions of this Subsection [~~(1)(b)~~] (2) do not apply to an individual who files a declaration of candidacy for president of the United States.

[~~(ii)~~] (b) Subject to Subsections [~~(3)~~] (4)(c) and 20A-9-502(2), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

[~~(A)~~] (i) the individual is located outside of the state during the entire filing period;

[~~(B)~~] (ii) the designated agent appears in person before the filing officer; and

[~~(C)~~] (iii) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

[~~(2)~~] (3) (a) At the time of filing, and before accepting the petition, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that he does not meet the requirements, the filing officer may not accept the petition.

[~~(3)~~] (4) (a) An individual filing a certificate of nomination for president or vice president of the United States under this section shall pay a filing fee of $500.

(b) Notwithstanding Subsection (1), [~~a person~~] an individual filing a certificate of nomination for president or vice president of the United States:

(i) may file the certificate of nomination [~~between the second Friday in March and the close of normal office hours on August 15 of the year in which the regular general election will be held~~] during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(ii) may use a designated agent to file the certificate of nomination.

(c) An agent designated under Subsection [~~(1)(b)(ii)~~] (2) or described in Subsection [~~(3)~~] (4)(b)(ii) may not sign the certificate of nomination form.

Section 12. Section 20A-14-203 is amended to read:

20A-14-203. Becoming a member of a local board of education -- Declaration of candidacy -- Election.

(1) An individual may become a candidate for a local school board by:

[~~(a) (i) in the 2016 general election, by filing a declaration of candidacy with the county clerk, in accordance with Section 20A-9-202, before 5 p.m. on March 17, 2016; or~~]

[~~(ii) in a general election held after 2016, by filing a declaration of candidacy with the county clerk on or after the second Friday in March, and before 5 p.m. on the third Thursday in March, before the next regular general election; and~~]

(a) filing a declaration of candidacy with the county clerk during the declaration of candidacy filing period described in Section 20A-9-201.5; and

(b) [~~by~~] paying the fee described in Section 20A-9-202.

(2) (a) The term of office for an individual elected to a local board of education is four years, beginning on the first Monday in January after the election.

(b) A member of a local board of education shall serve until a successor is elected or appointed and qualified.

(c) A member of a local board of education is "qualified" when the member takes or signs the constitutional oath of office.

Section 13. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on February 28, 2022.

CHAPTER 14
S. B. 58

Passed February 16, 2022
Approved February 17, 2022
Effective May 4, 2022

DAY OF REMEMBRANCE OBSERVING THE INCARCERATION OF JAPANESE AMERICANS DURING WORLD WAR II

Chief Sponsor: Jani Iwamoto
House Sponsor: Karen Kwan
Cosponsors: Curtis S. Bramble
Kirk A. Cullimore
Gene Davis
Luz Escamilla
Lincoln Fillmore
Wayne A. Harper
Don L. Ipson
Derek L. Kitchen
Ann Millner
Derrin R. Owens
Kathleen A. Riebe
Jerry W. Stevenson
Todd D. Weiler
Chris H. Wilson
Ronald M. Winterton

LONG TITLE

General Description:

This bill designates an annual day of remembrance observing the incarceration of Japanese Americans during World War II.

Highlighted Provisions:

This bill:

- designates an annual day of remembrance observing the incarceration of Japanese Americans during World War II; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-401, as last amended by Laws of Utah 2021, Chapter 93

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

Section 1. Section 63G-1-401 is amended to read:

63G-1-401. Commemorative periods.

(1) The following days shall be commemorated annually:

(a) Utah History Day at the Capitol, on the Friday immediately following the fourth Monday in January, to encourage citizens of the state, including students, to participate in activities that recognize Utah's history;

(b) Day of Remembrance for Incarceration of Japanese Americans, on February 19, in remembrance of the incarceration of Japanese Americans during World War II;

[~~(b)~~] (c) Utah State Flag Day, on March 9;

[~~(c)~~] (d) Vietnam Veterans Recognition Day, on March 29;

[~~(d)~~] (e) Utah Railroad Workers Day, on May 10;

[~~(e)~~] (f) Dandy-Walker Syndrome Awareness Day, on May 11;

[~~(f)~~] (g) Armed Forces Day, on the third Saturday in May, in honor of men and women who are serving or have served in the United States Armed Forces around the world in defense of freedom;

[~~(g)~~] (h) Juneteenth Freedom Day, on the third Saturday in June, in honor of Union General Gordon Granger proclaiming the freedom of all slaves on June 19, 1865, in Galveston, Texas;

[~~(h)~~] (i) Arthrogryposis Multiplex Congenita Awareness Day, on June 30;

[~~(i)~~] (j) Navajo Code Talker Day, on August 14;

[~~(j)~~] (k) Rachael Runyan/Missing and Exploited Children's Day, on August 26, the anniversary of the day three-year-old Rachael Runyan was kidnaped from a playground in Sunset, Utah, to:

(i) encourage individuals to make child safety a priority;

(ii) remember the importance of continued efforts to reunite missing children with their families; and

(iii) honor Rachael Runyan and all Utah children who have been abducted or exploited;

[~~(k)~~] (l) Constitution Day, on September 17;

[~~(l)~~] (m) POW/MIA Recognition Day, on the third Friday in September;

[~~(m)~~] (n) Victims of Communism Memorial Day, on November 7;

[~~(n)~~] (o) Indigenous People Day, on the Monday immediately preceding Thanksgiving; and

[~~(o)~~] (p) Bill of Rights Day, on December 15.

(2) The Department of Veterans and Military Affairs shall coordinate activities, special programs, and promotional information to heighten public awareness and involvement relating to Subsections [~~(1)(f) and (l)~~] (1)(g) and (m).

(3) The month of April shall be commemorated annually as Clean Out the Medicine Cabinet Month to:

(a) recognize the urgent need to make Utah homes and neighborhoods safe from prescription medication abuse and poisonings by the proper home storage and disposal of prescription and over-the-counter medications; and

(b) educate citizens about the permanent medication disposal sites in Utah listed on useonlyasdirected.org that allow disposal throughout the year.

(4) The second full week of April shall be commemorated annually as Animal Care and Control Appreciation Week to recognize and increase awareness within the community of the

services that animal care and control professionals provide.

(5) The first full week of May shall be commemorated annually as State Water Week to recognize the importance of water conservation, quality, and supply in the state.

(6) The third full week of June shall be commemorated annually as Workplace Safety Week to heighten public awareness regarding the importance of safety in the workplace.

(7) The second Friday and Saturday in August shall be commemorated annually as Utah Fallen Heroes Days to:

(a) honor fallen heroes who, during service in the military or public safety, have sacrificed their lives to protect the country and the citizens of the state; and

(b) encourage political subdivisions to acknowledge and honor fallen heroes.

(8) The third full week in August shall be commemorated annually as Drowsy Driving Awareness Week to:

(a) educate the public about the relationship between fatigue and driving performance; and

(b) encourage the Department of Public Safety and the Department of Transportation to recognize and promote educational efforts on the dangers of drowsy driving.

(9) The third full week of September shall be commemorated annually as Gang Prevention Awareness Week.

(10) The month of October shall be commemorated annually as Italian-American Heritage Month.

(11) The month of November shall be commemorated annually as American Indian Heritage Month.

(12) The first full week of December shall be commemorated annually as Avalanche Awareness Week to:

(a) educate the public about avalanche awareness and safety;

(b) encourage collaborative efforts to decrease annual avalanche accidents and fatalities; and

(c) honor Utah residents who have lost their lives in avalanches, including those who lost their lives working to prevent avalanches.

CHAPTER 15
H. B. 106

Passed February 14, 2022
Approved February 22, 2022
Effective February 22, 2022

TAX SALE NOTICE AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to a notice of a tax sale.

Highlighted Provisions:

This bill:

- as an alternative to certified mail, allows a county auditor to send a notice of a tax sale by any delivery service that includes tracking and delivery confirmation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1351, as last amended by Laws of Utah 2021, Chapter 386

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

Section 1. Section 59-2-1351 is amended to read:

59-2-1351. Sales by county -- Notice of tax sale -- Entries on record.

(1) (a) Upon receiving the tax sale listing from the county treasurer, the county auditor shall select a date for the tax sale for all real property:

(i) on which a tax or tax notice charge delinquency exists;

(ii) that was not previously redeemed; and

(iii) upon which the period of redemption is expiring in the nearest tax sale.

(b) The county auditor shall conduct the tax sale in May or June of the current year.

(c) The tax sale may occur:

(i) at the front door of the county courthouse in the county where the real property is located; or

(ii) through an electronic process if:

(A) the tax sale occurs in the same format as a tax sale would occur at the front door of the county courthouse except that participation is through an electronic means;

(B) members of the public are able to observe and participate, including making bids and payment arrangements, in the tax sale; and

(C) the county auditor includes information about how the public may access the tax sale through the electronic process with the description of the place of the tax sale in the notice provided in accordance with Subsections (2) and (3).

(2) The county auditor shall provide notice of the tax sale as follows:

(a) send by certified and first class mail, or by first class mail and another shipping service that includes tracking and delivery confirmation, to the last-known recorded owner, the occupant of any improved property, and all other interests of record, as of the preceding March 15, at the last-known addresses; and

(b) publish:

(i) four times in a newspaper published and having general circulation in the county, once in each of four successive weeks immediately preceding the date of sale; and

(ii) in accordance with Section 45-1-101 for four weeks immediately preceding the date of sale; and

(c) if no newspaper is published in the county, post in five public places in the county, as determined by the auditor, at least 25 but no more than 30 days before the date of sale.

(3) The notice shall be in substantially the following form:

NOTICE OF TAX SALE

Notice is hereby given that on __________(month\day\year), at __ o'clock __. m., at [the physical or electronic address of the tax sale], I will offer for sale at public auction and sell to the highest bidder for cash, under the provisions of Section 59-2-1351.1, the following described real property located in the county and now delinquent and subject to tax sale. A bid for less than the total amount of taxes, tax notice charges, interest, penalty, and administrative costs which are a charge upon the real estate will not be accepted.

(Here describe the real estate)

IN WITNESS WHEREOF I have hereunto set my hand and official seal on __________(month\day\year).

_______________County Auditor

_______________County

(4) (a) The notice sent [~~by certified mail~~] in accordance with Subsection (2)(a) shall include:

(i) the name and last-known address of the last-known recorded owner of the property to be sold;

(ii) the parcel, serial, or account number of the delinquent property; and

(iii) the legal description of the delinquent property.

(b) The notice published in a newspaper in accordance with Subsection (2)(b) shall include:

(i) the name and last-known address of the last-known recorded owner of each parcel of property to be sold; and

(ii) the street address or the parcel, serial, or account number of the delinquent parcels.

Section 2. Effective date.

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

CHAPTER 16
H. B. 163

Passed February 18, 2022
Approved February 22, 2022
Effective February 22, 2022

DRIVER LICENSE TESTING MODIFICATIONS

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to driver license testing for an individual who is a covered humanitarian parolee.

Highlighted Provisions:

This bill:

- amends provisions related to testing to obtain a driver license to allow a covered humanitarian parolee the same testing procedures provided to refugees and approved asylees; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-3-206, as last amended by Laws of Utah 2018, Chapter 128

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

Section 1. Section 53-3-206 is amended to read:

53-3-206. Examination of applicant's physical and mental fitness to drive a motor vehicle.

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2) (a) Notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow a refugee [~~or~~], an approved asylee, or a covered humanitarian parolee to take an examination of the person's knowledge of the state traffic laws in the person's native language:

(i) the first time the person applies for a limited-term license certificate; and

(ii) the first time the person applies for a renewal of a limited-term license certificate.

(b) Upon the second renewal of a refugee's [~~or~~], an approved asylee's, or a covered humanitarian parolee's limited-term license certificate for a refugee [~~or~~], an approved asylee, or a covered humanitarian parolee that has taken the knowledge exam in the person's native language under Subsection (2)(a), the division shall re-examine the person's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for a refugee [~~or~~], an approved asylee, or a covered humanitarian parolee to take an examination of the person's knowledge of the state traffic laws in the person's native language.

(3) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

(4) The division shall examine each applicant according to the class of license applied for.

(5) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform Commercial Driver License Act, of this chapter.

Section 2. Effective date.

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

CHAPTER 17
H. B. 184

Passed February 14, 2022
Approved February 22, 2022
Effective February 22, 2022

TEACHER PROFESSIONAL DEVELOPMENT AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends a notice requirement for a reallocation of instructional hours or school days for teacher preparation time or teacher professional development.

Highlighted Provisions:

This bill:

- amends a notice requirement for a reallocation of instructional hours or school days for teacher preparation time or teacher professional development; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-2-102, as last amended by Laws of Utah 2020, Chapter 224

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

Section 1. Section 53F-2-102 is amended to read:

53F-2-102. Definitions.

As used in this chapter:

(1) "Basic state-supported school program," "basic program," or "basic school program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in the enacted public education budget, except as otherwise provided in this chapter.

(2) "LEA governing board" means a local school board or charter school governing board.

(3) "Pupil in average daily membership" or "ADM" means a full-day equivalent pupil.

(4) (a) "Minimum School Program" means the state-supported public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The Minimum School Program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the state board.

(c) (i) The state board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by an LEA governing board, shall receive full support by the state board as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) (i) An LEA governing board may reallocate up to 32 instructional hours or four school days established under Subsection (4)(c) for teacher preparation time or teacher professional development.

(ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is subject to the approval of two-thirds of the members of an LEA governing board voting in a regularly scheduled meeting:

(A) at which a quorum of the LEA governing board is present; and

(B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(iii) If an LEA governing board reallocates instructional hours or school days as provided by this Subsection (4)(d), the school district or charter school shall notify students' parents of the school calendar at least:

(A) 90 days before the beginning of the school year[~~.~~]; or

(B) for the 2021-2022 and 2022-2023 school years, due to circumstances within the LEA or a given school due to the COVID-19 pandemic, at least 14 calendar days before the reallocated instructional hours or school days.

(iv) Instructional hours or school days reallocated for teacher preparation time or teacher professional development pursuant to this Subsection (4)(d) is considered part of a school term referred to in Subsection (4)(b).

(e) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

(i) Basic School Program;

(ii) Related to Basic Programs;

(iii) Voted and Board Levy Programs; or

(iv) Minimum School Program.

(5) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each school district or charter school.

Section 2. Effective date.

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

CHAPTER 18
S. B. 18

Passed February 17, 2022
Approved March 3, 2022
Effective March 3, 2022

ELECTION MODIFICATIONS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies or repeals certain provisions relating to election administration to reflect current practice and to make technical changes.

Highlighted Provisions:

This bill:

- modifies or repeals code provisions to reflect current practice in election administration; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-20-5, as last amended by Laws of Utah 2000, Chapter 3
17B-1-306, as last amended by Laws of Utah 2021, Chapters 84, 345, 355, and 415
20A-1-102, as last amended by Laws of Utah 2020, Chapters 31, 49, 255, and 354
20A-1-509.3, as enacted by Laws of Utah 1997, Chapter 139
20A-1-608, as enacted by Laws of Utah 1993, Chapter 1
20A-1-611, as last amended by Laws of Utah 2011, Chapter 396
20A-2-207, as last amended by Laws of Utah 2020, Chapters 31 and 95
20A-3a-201, as enacted by Laws of Utah 2020, Chapter 31
20A-3a-202, as last amended by Laws of Utah 2021, Chapter 100
20A-3a-801, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-306, as last amended by Laws of Utah 2019, Chapter 433
20A-4-403, as last amended by Laws of Utah 2007, Chapter 238
20A-4-405, as enacted by Laws of Utah 1993, Chapter 1
20A-5-102, as last amended by Laws of Utah 2020, Chapter 31
20A-5-403, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-5-406, as last amended by Laws of Utah 2020, Chapter 31
20A-5-601, as last amended by Laws of Utah 2020, Chapter 31
20A-7-211, as last amended by Laws of Utah 2019, Chapter 206
20A-7-611, as last amended by Laws of Utah 2021, Chapter 140
20A-9-201, as last amended by Laws of Utah 2021, Chapters 20 and 183
20A-9-503, as last amended by Laws of Utah 2020, Chapter 22
20A-11-202, as last amended by Laws of Utah 2011, Chapter 347
20A-11-901, as last amended by Laws of Utah 2019, Chapter 154
20A-13-101.5, as last amended by Laws of Utah 2021, Second Special Session, Chapter 2
20A-14-101.5, as last amended by Laws of Utah 2021, Second Special Session, Chapter 10
20A-15-104, as last amended by Laws of Utah 2009, Chapter 202
67-1a-2, as last amended by Laws of Utah 2020, Chapters 49 and 352
67-1a-3, as enacted by Laws of Utah 1984, Chapter 68

REPEALS:

20A-16-406, as last amended by Laws of Utah 2020, Chapter 31
20A-16-407, as last amended by Laws of Utah 2020, Chapter 31
67-1a-14, as last amended by Laws of Utah 2016, Chapter 348

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

Section 1. Section 17-20-5 is amended to read:

17-20-5. Report of election and appointment of officers.

Within 10 days after the day on which a county clerk issues a certificate of election or a certificate of appointment made to fill vacancies in elective county offices, the county clerk shall [~~prepare and forward to~~] notify the lieutenant governor [~~a certified report showing~~] of the following:

(1) the name of the county;

(2) the name of the county office to which the [~~person~~] individual was elected or appointed;

(3) the date of the election or appointment of the [~~person~~] individual;

(4) the date of the expiration of the term for which the [~~person~~] individual was elected or appointed;

(5) the date of the certificate of election or appointment; and

(6) the date of the qualification of the [~~person~~] individual elected or appointed.

Section 2. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63A-16-601, for 10 days before the first day for filing a declaration of candidacy; [~~and~~]

(b) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; and

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district, during office hours, within the candidate filing period for the applicable election year in which the election for the local district board is held.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

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

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

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

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____________, being first duly sworn, say that I reside at (Street) ____________, City of ________________, County of ________________, state of Utah, (Zip Code) ______, (Telephone Number, if any)____________; that I meet the qualifications for the office of board of trustees member for ______________________ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

____

Subscribed and sworn to (or affirmed) before me by ____________ on this ______ day of ____________, ____.

(Signed) ________________________

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling [~~locations~~] places designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a local district if:

(i) the local district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the local district was created before January 1, 2020.

(b) The board of a local district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512(1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the local district board, subject to Subsection (15)(d).

(d) (i) The local district board shall provide to property owners eligible to vote at the local district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The local district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the local district board shall provide a ballot to all property owners eligible to vote at the local district election.

(B) A local district board shall allow at least five days for ballots to be returned.

(iv) A local district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 3. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

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

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

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

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

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

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

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

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

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

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

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

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

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

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

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

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

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

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

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

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

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

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

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

(22) "Election judge" means a poll worker that is assigned to:

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

(b) act as the presiding election judge; or

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

(23) "Election officer" means:

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

(b) the county clerk for:

(i) a county ballot and election; and

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

(c) the municipal clerk for:

(i) a municipal ballot and election; and

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

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

(i) a local district ballot and election; and

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

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

(i) a school district ballot and election; and

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

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

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

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

(26) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

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

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

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

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

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

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

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

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

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

(36) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(37) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

(38) "Municipal executive" means:

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

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

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

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

(40) "Municipal legislative body" means:

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

(b) the council of a metro township.

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

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

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

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

(45) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

(46) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

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

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

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

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

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

(b) "Poll worker" includes election judges.

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

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

(51) "Polling place" means a building where voting is conducted.

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

(53) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(54) "Primary convention" means the political party conventions held during the year of the regular general election.

(55) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

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

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

(57) "Provisional ballot" means a ballot voted provisionally by a person:

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

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

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

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

(59) (a) "Public figure" means an individual who, due to the individual being considered for, holding,

or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

(60) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

(61) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling [~~location~~] place and provides the voter with a ballot.

(62) "Registration form" means a form by which an individual may register to vote under this title.

(63) "Regular ballot" means a ballot that is not a provisional ballot.

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

(65) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(66) "Resident" means a person who resides within a specific voting precinct in Utah.

(67) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

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

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

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

(c) lacks the official endorsement.

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

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

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

(76) "Valid voter identification" means:

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

(i) a currently valid Utah driver license;

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

(A) the state; or

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

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

(iv) a currently valid United States passport; or

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

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

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

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

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

(iii) a certified birth certificate;

(iv) a valid social security card;

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

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

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

(viii) certified naturalization documentation;

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

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

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

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

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

(xiii) a current Utah vehicle registration.

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

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

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

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

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

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

(82) "Voting booth" means:

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

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

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

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 4. Section 20A-1-509.3 is amended to read:

20A-1-509.3. Procedure for making interim replacement.

(1) Until the vacancy is filled as provided in Section 20A-1-509.1 or 20A-1-509.2 and the new county attorney or district attorney has qualified, the county legislative body may appoint an interim replacement to fill the vacant office by following the procedures and requirements of this [~~subsection~~] Subsection (1).

(a) The county legislative body shall appoint a deputy county or district attorney to serve as acting county or district attorney if there are at least three deputies in the office that has the vacancy.

(b) The county legislative body may contract with any member of the Utah State Bar in good standing to be acting county or district attorney if:

(i) there are not at least three deputies in the office that has the vacancy; or

(ii) there are three or more deputies in the office but none of the deputies is willing to serve.

(2) [~~A person~~] An individual appointed as interim replacement under this section shall hold office until [~~his~~] a successor is selected and has qualified.

Section 5. Section 20A-1-608 is amended to read:

20A-1-608. Promises of appointment to office forbidden.

(1) [~~In~~] An individual may not, in order to aid or promote [~~his~~] the individual's nomination or election, [~~a person may not~~] directly or indirectly appoint or promise to appoint [~~any person~~] an individual or secure or promise to secure, or aid in securing the appointment, nomination, or election of [~~any person~~] an individual to any public or private position or employment, or to any position of honor, trust, or emolument.

(2) Nothing contained in this section prevents:

(a) a candidate from stating publicly [~~his~~] the candidate's preference for, or support of, any other candidate for any office to be voted for at the same primary or election; or

(b) a candidate for any office in which the [~~person~~] individual elected will be charged with the duty of participating in the election or nomination of [~~any person~~] an individual as a candidate for any office from publicly stating or pledging [~~his~~] the candidate's preference for, or support of, [~~any person~~] an individual for that office or nomination.

Section 6. Section 20A-1-611 is amended to read:

20A-1-611. Cost of defense of action.

Nothing contained in this chapter prevents any candidate from employing counsel to represent

[~~him~~] the candidate in any action or proceeding affecting [~~his~~] the candidate's rights as a candidate or from paying all costs and disbursements arising from that representation.

Section 7. Section 20A-2-207 is amended to read:

20A-2-207. Registration by provisional ballot.

(1) Except as provided in Subsection (6), an individual who is not registered to vote may register to vote, and vote, on election day or during the early voting period described in Section 20A-3a-601, by voting a provisional ballot, if:

(a) the individual is otherwise legally entitled to vote the ballot;

(b) the ballot is identical to the ballot for the precinct in which the individual resides;

(c) the information on the provisional ballot form is complete; and

(d) the individual provides valid voter identification and proof of residence to the poll worker.

(2) If a provisional ballot and the individual who voted the ballot comply with the requirements described in Subsection (1), the election officer shall:

(a) consider the provisional ballot a voter registration form;

(b) place the ballot with the other ballots, to be counted with those ballots at the canvass; and

(c) as soon as reasonably possible, register the individual to vote.

(3) Except as provided in Subsection (4), the election officer shall retain a provisional ballot form, uncounted, for the period specified in Section 20A-4-202, if the election officer determines that the individual who voted the ballot:

(a) is not registered to vote and is not eligible for registration under this section; or

(b) is not legally entitled to vote the ballot that the individual voted.

(4) Subsection (3) does not apply if a court orders the election officer to produce or count the provisional ballot.

(5) The lieutenant governor shall report to the Government Operations Interim Committee on or before October 31, 2020, regarding:

(a) implementation of registration by provisional ballot, as described in this section, on a statewide basis;

(b) any difficulties resulting from the implementation described in Subsection (5)(a);

(c) the effect of registration by provisional ballot on voter participation in Utah;

(d) the number of ballots cast by voters who registered by provisional ballot:

(i) during the early voting period described in Section 20A-3a-601; and

(ii) on election day; and

(e) suggested changes in the law relating to registration by provisional ballot.

(6) For an election administered by an election officer other than a county clerk:

(a) if the election officer does not operate a polling [~~location~~] place to allow early voting, the individual may not register to vote, under this section, during an early voting period; and

(b) if the election officer does not operate a polling [~~location~~] place on election day, the individual may not register to vote, under this section, on election day.

Section 8. Section 20A-3a-201 is amended to read:

20A-3a-201. Voting methods.

(1) Except for an election conducted entirely by mail under Section 20A-7-609.5, a voter may vote as follows:

(a) by mail;

(b) at a polling [~~location~~] place during early voting hours;

(c) at a polling [~~location~~] place on election day when the polls are open;

(d) if the voter is an individual with a disability, by voting remotely, via a mechanical ballot or via electronic means if approved by the election officer;

(e) electronically or via a federal write-in absentee ballot if the voter is a covered voter, as defined in Section 20A-16-102; or

(f) by emergency ballot, in accordance with Part 3, Emergency Ballots.

(2) A voter may not vote at a polling place if the voter voted by mail or in a manner described in Subsections (1)(d) through (f).

Section 9. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling [~~location~~] place or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) after May 1, 2022, instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5; and

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (10)(c)(ii).

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter; and

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with Chapter 3a, Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604;

(d) is not required to pay return postage for a ballot; and

(e) is subject to an audit conducted under Subsection (9).

(9) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.

(10) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (10)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (10)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (10)(a) before the deadline described in Subsection (10)(b); or

(B) an election after the election described in Subsection (10)(c)(ii)(A).

(d) An individual who submits a request under Subsection (10)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 10. Section 20A-3a-801 is amended to read:

20A-3a-801. Watchers.

(1) As used in this section, "administering election officer" means:

(a) the election officer; or

(b) if the election officer is the lieutenant governor, the county clerk of the county in which an individual will act as a watcher.

(2) (a) Any individual may become a watcher in an election at any time by registering as a watcher with the administering election officer.

(b) An individual who registers under Subsection (2)(a) is not required to be certified by a person under Subsection (3) in order to act as a watcher.

(c) An individual who registers as a watcher shall notify the administering election officer of the dates, times, and locations that the individual intends to act as a watcher.

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

(e) An administering election officer shall provide a copy of this section, or instructions on how to access an electronic copy of this section, to a watcher at the time the watcher registers under this Subsection (2).

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee may certify an individual as an official watcher for the person:

(i) by filing an affidavit with the administering election officer responsible to designate an individual as an official watcher for the certifying person; and

(ii) if the individual registers as a watcher under Subsection (2)(a).

(b) A watcher who is certified by a person under Subsection (3)(a) may not perform the same function described in Subsection (4) at the same time and in the same location as another watcher who is certified by that person.

(c) A watcher who is certified by a person under Subsection (3)(a) may designate another individual to serve in the watcher's stead during the watcher's temporary absence by filing with a poll worker an affidavit that designates the individual as a temporary replacement.

(4) A watcher may:

(a) observe the setup or takedown of a polling [~~location~~] place;

(b) observe a voter checking in at a polling [~~location~~] place;

(c) observe the collection, receipt, and processing of a ballot, including a provisional ballot or a ballot cast by a covered voter as defined in Section 20A-16-102;

(d) observe the transport or transmission of a ballot that is in an election official's custody;

(e) observe the opening and inspection of a manual ballot;

(f) observe ballot duplication;

(g) observe the conduct of logic and accuracy testing described in Section 20A-5-802;

(h) observe ballot tabulation;

(i) observe the process of storing and securing a ballot;

(j) observe a post-election audit;

(k) observe a canvassing board meeting described in Title 20A, Chapter 4, Part 3, Canvassing Returns;

(l) observe the certification of the results of an election; or

(m) observe a recount.

(5) (a) A watcher may not:

(i) electronically record an activity described in Subsection (4) if the recording would reveal a vote or otherwise violate a voter's privacy or a voter's right to cast a secret ballot;

(ii) interfere with an activity described in Subsection (4), except to challenge an individual's eligibility to vote under Section 20A-3a-803; or

(iii) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public.

(b) A person who violates Subsection (5)(a)(iii) is guilty of a third degree felony.

(6) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

(i) limit the number of watchers at a single location;

(ii) remove a watcher for violating a provision of this section;

(iii) remove a watcher for interfering with an activity described in Subsection (4);

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4); or

(v) ensure that a voter's ballot secrecy is protected throughout the watching process.

(b) If an administering election officer limits the number of watchers at a single location under Subsection (6)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

Section 11. Section 20A-4-306 is amended to read:

20A-4-306. Statewide canvass.

(1) (a) The state board of canvassers shall convene:

(i) on the fourth Monday of November, at noon; or

(ii) at noon on the day following the receipt by the lieutenant governor of the last of the returns of a statewide special election.

(b) The state auditor, the state treasurer, and the attorney general are the state board of canvassers.

(c) Attendance of all members of the state board of canvassers [~~shall be~~] is required to constitute a quorum for conducting the canvass.

(2) (a) The state board of canvassers shall:

(i) meet in the lieutenant governor's office; and

(ii) compute and determine the vote for officers and for and against any ballot propositions voted upon by the voters of the entire state or of two or more counties.

(b) The lieutenant governor, as secretary of the board shall file a report in [~~his~~] the lieutenant governor's office that details:

(i) for each statewide officer and ballot proposition:

(A) the name of the statewide office or ballot proposition that appeared on the ballot;

(B) the candidates for each statewide office whose names appeared on the ballot, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition;

(D) the total number of votes cast statewide for each candidate and for and against each ballot proposition; and

(E) the total number of votes cast statewide; and

(ii) for each officer or ballot proposition voted on in two or more counties:

(A) the name of each of those offices and ballot propositions that appeared on the ballot;

(B) the candidates for those offices, plus any recorded write-in candidates;

(C) the number of votes from each county cast for each candidate and for and against each ballot proposition; and

(D) the total number of votes cast for each candidate and for and against each ballot proposition.

(c) The lieutenant governor shall:

(i) prepare certificates of election for:

(A) each successful candidate; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes;

(ii) authenticate each certificate with [~~his~~] the lieutenant governor's seal; and

(iii) deliver a certificate of election to:

(A) each candidate who had the highest number of votes for each office; and

(B) each of the presidential electors of the candidate for president who received a majority of the votes.

(3) If the lieutenant governor has not received election returns from all counties on the fifth day before the day designated for the meeting of the state board of canvassers, the lieutenant governor shall:

(a) send a messenger to the clerk of the board of county canvassers of the delinquent county;

(b) instruct the messenger to demand a certified copy of the board of canvasser's report required by Section 20A-4-304 from the clerk; and

(c) pay the messenger the per diem provided by law as compensation.

(4) The state board of canvassers may not withhold the declaration of the result or any certificate of election because of any defect or informality in the returns of any election if the board can determine from the returns, with reasonable certainty, what office is intended and who is elected to it.

(5) (a) At noon on the fourth Monday after the regular primary election, the lieutenant governor shall:

(i) canvass the returns for all multicounty candidates required to file with the office of the lieutenant governor; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) Not later than the August 1 after the primary election, the lieutenant governor shall certify the results of the primary canvass to the county clerks.

(6) (a) At noon on the fourth Tuesday in March of a year in which a presidential election will be held, the lieutenant governor shall:

(i) canvass the returns of the presidential primary election; and

(ii) publish and file the results of the canvass in the lieutenant governor's office.

(b) The lieutenant governor shall certify the results of the presidential primary election canvass to each registered political party that participated in the primary not later than the April 15 after the primary election.

Section 12. Section 20A-4-403 is amended to read:

20A-4-403. Election contest -- Petition and response.

(1) (a) In contesting the results of all elections, except for primary elections and bond elections, a registered voter [~~shall~~] may contest the right of [~~any person~~] an individual declared elected to [~~any~~] office by filing a verified written complaint with the district court of the county in which [~~he~~] the registered voter resides within 40 days after the day on which the canvass concludes.

(b) The complaint shall include:

(i) the name of the [~~party~~] voter contesting the election;

(ii) a statement that the [~~party~~] voter is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the [~~person~~] individual whose right to the office is contested;

(iv) the office to which [~~that person~~] the individual was ostensibly elected;

(v) one or more of the grounds for an election contest specified in Section 20A-4-402;

(vi) the [~~person~~] individual who was purportedly elected to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all [~~persons~~] individuals who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given in one or more specified voting precincts to [~~a person~~] an individual whose election is contested, which, if taken from [~~him~~] the individual, would reduce the number of [~~his~~] legal votes for the individual below the number of legal votes given to [~~some other person~~] another individual for the same office; or

(ii) [~~that~~] legal votes for another [~~person~~] individual were rejected, which, if counted, would raise the number of legal votes for that [~~person~~] individual above the number of legal votes cast for the [~~person~~] individual whose election is contested.

(d) (i) The court may not take or receive evidence of any of the votes described in Subsection (1)(c) unless the [~~party~~] individual contesting the election delivers to the [~~opposite party~~] respondent, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which [~~he~~] the individual intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(2) (a) In contesting the results of a primary election, when contesting the petition nominating an independent candidate, or when challenging any person, election officer, election official, board, or convention for failing to nominate [~~a person~~] an individual, a registered voter [~~shall~~] may contest the right of [~~any person~~] an individual declared nominated to [~~any~~] office by filing a verified written complaint within 10 days after the [~~date of~~] day on which the canvass for the primary election concludes, after the date of filing of the petition, or after the date of the convention, respectively, with:

(i) the district court of the county in which [~~he~~] the registered voter resides if [~~he~~] the registered voter is contesting a nomination made only by voters from that county; or

(ii) the Utah Supreme Court, if [~~he~~] the registered voter is contesting a nomination made by voters in more than one county.

(b) The complaint shall include:

(i) the name of the [~~party~~] voter contesting the nomination;

(ii) a statement that the voter contesting [~~party~~] the nomination is a registered voter in the jurisdiction in which the election was held;

(iii) the name of the [~~person~~] individual whose right to nomination is contested or the name of the

[~~person~~] individual who failed to have their name placed in nomination;

(iv) the office to which [~~that person~~] the individual was nominated or should have been nominated;

(v) one or more of the grounds for an election contest specified in Subsection (1);

(vi) the [~~person~~] individual who was purportedly nominated to the office as respondent; and

(vii) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all [~~persons~~] individuals who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were given to [~~a person~~] an individual whose election is contested, which, if taken from [~~him~~] the individual, would reduce the number of [~~his~~] legal votes given to the individual below the number of legal votes given to [~~some other person~~] another individual for the same office; or

(ii) legal votes for another [~~person~~] individual were rejected, which, if counted, would raise the number of legal votes for that [~~person~~] individual above the number of legal votes cast for the [~~person~~] individual whose election is contested.

(d) (i) The court may not take or receive evidence of any [~~the~~] votes described in Subsection (2)(c), unless the [~~party~~] voter contesting the election delivers to the opposite party, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which [~~he~~] the voter intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(3) (a) In contesting the results of a bond election, a registered voter [~~shall~~] may contest the validity of the declared results by filing a verified written complaint with the district court of the county in which [~~he~~] the registered voter resides within 40 days after the date of the official finding entered under Section 11-14-207.

(b) The complaint shall include:

(i) the name of the [~~party~~] voter contesting the election;

(ii) a statement that the [~~party~~] voter is a registered voter in the jurisdiction in which the election was held;

(iii) the bond proposition that is the subject of the contest;

(iv) one or more of the grounds for an election contest specified in Section 20A-4-402; and

(v) if the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the name and address of all [~~persons~~] individuals who allegedly cast illegal votes or whose legal vote was rejected.

(c) When the reception of illegal votes or the rejection of legal votes is alleged as a cause of contest, it is sufficient to state generally that:

(i) illegal votes were counted in one or more specified voting precincts which, if taken out of the count, would change the declared result of the vote on the proposition; or

(ii) legal votes were rejected in one or more specified voting precincts, which, if counted, would change the declared result of the vote on the proposition.

(d) (i) The court may not take or receive evidence of any of the votes described in Subsection (3)(c) unless the [~~party~~] voter contesting the election delivers to the [~~opposite party~~] respondent, at least three days before the trial, a written list of the number of contested votes and by whom the contested votes were given or offered, which [~~he~~] the voter intends to prove at trial.

(ii) The court may not take or receive any evidence of contested votes except those that are specified in that list.

(4) The court may not reject any statement of the grounds of contest or dismiss the proceedings because of lack of form, if the grounds of the contest are alleged with [~~such~~] sufficient certainty as will advise the defendant of the particular proceeding or cause for which the election is contested.

(5) (a) The petitioner shall serve a copy of the petition on the respondent.

(b) (i) If the petitioner cannot obtain personal service of the petition on the respondent, the petitioner may serve the respondent by leaving a copy of the petition with the clerk of the court with which the petition was filed.

(ii) The clerk shall make diligent inquiry and attempt to inform the respondent that [~~he~~] the respondent has five days to answer the complaint.

(c) The respondent shall answer the petition within five days after the day of service.

(d) If the reception of illegal votes or the rejection of legal votes is alleged as a ground for the contest, the defendant shall [~~set forth~~] include in the answer the name and address of all [~~persons~~] individuals whom the [~~defendant~~] respondent believes were properly or improperly admitted or denied the vote.

(e) If the answer contains a counterclaim, the petitioner shall file a reply within 10 days after the day of service of the counterclaim.

(6) (a) The provisions of this Subsection (6) provide [~~additional~~] requirements that apply to municipal election contests that are in addition to the other requirements of this section governing election contest.

(b) Municipal election contests shall be filed, tried, and determined in the district court of the county in which the municipality is located.

(c) (i) As a condition precedent to filing a municipal election contest, the petitioner shall file a written affidavit of intention to contest the election with the clerk of the court within seven days after the day on which the votes are canvassed.

(ii) The affidavit shall include:

(A) the petitioner's name;

(B) the fact that the petitioner is a qualified voter of the municipality;

(C) the respondent's name;

(D) the elective office contested;

(E) the time of election; and

(F) the grounds for the contest.

(d) (i) Before the district court takes jurisdiction of a municipal election contest, the petitioner shall file a bond with the clerk of the court with the sureties required by the court.

(ii) The bond shall name the respondent as obligee and be conditioned for the payment of all costs incurred by the respondent if the respondent prevails.

Section 13. Section 20A-4-405 is amended to read:

20A-4-405. Election contests -- Costs.

(1) The court shall enter judgment for costs against the party contesting the election if:

(a) the proceedings are dismissed for:

(i) insufficiency of pleading or proof; or

(ii) want of prosecution; or

(b) the election is confirmed by the court.

(2) The court shall enter judgment for costs against the party whose election was contested if the election is annulled and set aside.

(3) (a) Each party is liable for the costs of the officers and witnesses that appeared on [~~his~~] the party's behalf.

(b) The party may pay, and the officers and witnesses may collect, those costs in the same manner as similar costs are paid and collected in other cases.

Section 14. Section 20A-5-102 is amended to read:

20A-5-102. Voting instructions.

(1) Each election officer shall:

(a) print instructions for voters;

(b) ensure that the instructions are printed in English, and any other language required under the Voting Rights Act of 1965, as amended, in large clear type; and

(c) ensure that the instructions inform voters:

(i) about how to obtain ballots for voting;

(ii) about special political party affiliation requirements for voting in a regular primary election or presidential primary election;

(iii) about how to prepare ballots for deposit in the ballot box;

(iv) about how to record write-in votes;

(v) about how to obtain a new ballot in the place of one spoiled by accident or mistake;

(vi) about how to obtain assistance in marking ballots;

(vii) about obtaining a new ballot if the voter's ballot is defaced;

(viii) that identification marks or the spoiling or defacing of a ballot will make it invalid;

(ix) about how to obtain and vote a provisional ballot;

(x) about whom to contact to report election fraud;

(xi) about applicable federal and state laws regarding:

(A) voting rights and the appropriate official to contact if the voter alleges [~~his~~] that the voter's rights have been violated; and

(B) prohibitions on acts of fraud and misrepresentation;

(xii) about procedures governing mail-in registrants and first-time voters; and

(xiii) about the date of the election and the hours that the polls are open on election day.

(2) Each election officer shall:

(a) provide the election judges of each voting precinct with sufficient instruction cards to instruct voters in the preparation of their ballots;

(b) direct the election judges to post:

(i) general voting instructions in each voting booth; and

(ii) at least three instruction cards and at least one sample ballot elsewhere in and about the polling place.

Section 15. Section 20A-5-403 is amended to read:

20A-5-403. Polling places -- Booths -- Ballot boxes -- Inspections -- Arrangements.

(1) Except as provided in Section 20A-7-609.5, each election officer shall:

(a) designate polling places for each voting precinct in the jurisdiction; and

(b) obtain the approval of the county or municipal legislative body or local district governing board for those polling places.

(2) (a) For each polling place, the election officer shall provide:

(i) an American flag;

(ii) a sufficient number of voting booths or compartments;

(iii) the voting devices, voting booths, ballots, ballot boxes, and any other records and supplies necessary to enable a voter to vote;

(iv) the constitutional amendment cards required by Part 1, Election Notices and Instructions;

(v) the instructions required by Section 20A-5-102; and

(vi) a sign, to be prominently displayed in the polling place, indicating that valid voter identification is required for every voter before the voter may vote and listing the forms of identification that constitute valid voter identification.

(b) Each election officer shall ensure that:

(i) each voting booth is at a convenient height for writing, and is arranged so that the voter can prepare the voter's ballot screened from observation;

(ii) there are a sufficient number of voting booths or voting devices to accommodate the voters at that polling place; and

(iii) there is at least one voting booth or voting device that is configured to accommodate persons with disabilities.

(c) Each county clerk shall provide a ballot box for each polling place that is large enough to properly receive and hold the ballots to be cast.

(3) (a) All polling places shall be physically inspected by each county clerk to ensure access by a person with a disability.

(b) Any issues concerning inaccessibility to polling places by a person with a disability discovered during the inspections referred to in Subsection (3)(a) or reported to the county clerk shall be:

(i) forwarded to the Office of the Lieutenant Governor; and

(ii) within six months of the time of the complaint, the issue of inaccessibility shall be either:

(A) remedied at the particular location by the county clerk;

(B) the county clerk shall designate an alternative accessible location for the particular precinct; or

(C) if no practical solution can be identified, file with the Office of the Lieutenant Governor a written explanation identifying the reasons compliance cannot reasonably be met.

(4) (a) The municipality in which the election is held shall pay the cost of conducting each municipal election, including the cost of printing and supplies.

(b) (i) Costs assessed by a county clerk to a municipality under this section may not exceed the actual costs incurred by the county clerk.

(ii) The actual costs shall include:

(A) costs of or rental fees associated with the use of election equipment and supplies; and

(B) reasonable and necessary administrative costs.

(5) The county clerk shall make detailed entries of all proceedings had under this chapter.

(6) (a) Each county clerk shall, to the extent possible, ensure that the amount of time that an individual waits in line before the individual can vote at a polling [~~location~~] place in the county does not exceed 30 minutes.

(b) The lieutenant governor may require a county clerk to submit a line management plan before the next election if an individual waits in line at a polling [~~location~~] place in the county longer than 30 minutes before the individual can vote.

(c) The lieutenant governor may consider extenuating circumstances in deciding whether to require the county clerk to submit a plan described in Subsection (6)(b).

(d) The lieutenant governor shall review each plan submitted under Subsection (6)(b) and consult with the county clerk submitting the plan to ensure, to the extent possible, that the amount of time an individual waits in line before the individual can vote at a polling [~~location~~] place in the county does not exceed 30 minutes.

Section 16. Section 20A-5-406 is amended to read:

20A-5-406. Delivery of ballots.

(1) An election officer shall deliver manual ballots to the poll workers of each voting precinct in the election officer's jurisdiction in an amount sufficient to meet voting needs during the voting period.

(2) For mechanical ballots, an election officer shall:

(a) deliver the voting devices and mechanical ballots before voting commences at the polling place;

(b) ensure that the voting devices, equipment, and mechanical ballots are properly secured before commencement of voting;

(c) when mechanical ballots or voting devices containing mechanical ballots are delivered to a polling [~~location~~] place, ensure that security procedures, developed by the election officer, are followed to document chain of custody and to prevent unauthorized access; and

(d) repair or provide substitute voting devices, equipment, or electronic ballots, if available, if any poll worker reports that:

(i) the voting devices or equipment were not delivered on time;

(ii) the voting devices or equipment do not contain the appropriate electronic ballot information;

(iii) the safety devices on the voting devices, equipment, or electronic ballots appear to have been tampered with;

(iv) the voting devices or equipment do not appear to be functioning properly; or

(v) after delivery, the voting devices, equipment, or electronic ballots were destroyed or stolen.

Section 17. Section 20A-5-601 is amended to read:

20A-5-601. Appointment of poll workers in elections where candidates are distinguished by registered political parties.

(1) (a) This section governs appointment of poll workers in elections where candidates are distinguished by registered political parties.

(b) On or before March 1 of each even-numbered year, an election officer shall provide to the county chair of each registered political party a list of the number of poll workers that the party must nominate for each polling place.

(c) On or before April 1 of each even-numbered year, the county chair and secretary of each registered political party shall file a list with the election officer containing the names of individuals in the county who are willing to serve as poll workers, who are qualified to serve as poll workers in accordance with this section, and who are competent and trustworthy.

(d) The county chair and secretary shall submit names equal in number to the number required by the election officer, plus one.

(2) Each election officer shall provide for the appointment of individuals to serve as poll workers at each election.

(3) (a) For each election, each election officer shall provide for the appointment of at least three registered voters, or one individual who is 16 or 17 years [~~of age~~] old and two registered voters, one of whom is at least 21 years [~~of age~~] old, from the list to serve as poll workers.

(b) An election officer may appoint additional poll workers, as needed.

(4) For each set of three poll workers appointed for a polling place for an election, the election officer shall ensure that:

(a) two poll workers are appointed from the political party that cast the highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the jurisdiction holding the election at the last regular general election before the appointment of the poll workers; and

(b) one poll worker is appointed from the political party that cast the second highest number of votes for governor, lieutenant governor, attorney general, state auditor, and state treasurer, excluding votes for unopposed candidates, in the county, city, or local district, as applicable, at the last regular general election before the appointment of the poll workers.

(5) The election officer shall provide for the appointment of any qualified county voter as a poll worker when:

(a) a political party fails to file the poll worker list by the filing deadline; or

(b) the list is incomplete.

(6) A registered voter of the county may serve as a poll worker at any polling [~~location~~] place in the county, municipality, or district, as applicable.

(7) An election officer may not appoint a candidate's parent, sibling, spouse, child, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, or son-in-law to serve as a poll worker in a polling place where the candidate appears on the ballot.

(8) The election officer shall fill all poll worker vacancies.

(9) If a conflict arises over the right to certify the poll worker lists for any political party, the election officer may decide between conflicting lists, but may only select names from a properly submitted list.

(10) The clerk shall establish compensation for poll workers.

(11) The election officer may appoint additional poll workers to serve in the polling place as needed.

Section 18. Section 20A-7-211 is amended to read:

20A-7-211. Return and canvass -- Conflicting measures -- Law effective on proclamation.

(1) The votes on the law proposed by the initiative petition shall be counted, canvassed, and delivered as provided in Title 20A, Chapter 4, Part 3, Canvassing Returns.

(2) After the state board of canvassers completes [~~its~~] the canvass, the lieutenant governor shall certify to the governor the vote for and against the law proposed by the initiative petition.

(3) (a) The governor shall immediately issue a proclamation that:

(i) gives the total number of votes cast in the state for and against each law proposed by an initiative petition; and

(ii) declares those laws proposed by an initiative petition that were approved by majority vote to be in full force and effect on the date described in Subsection 20A-7-212(2).

(b) When the governor believes that two proposed laws, or that parts of two proposed laws approved by the people at the same election are entirely in conflict, [~~he~~] the governor shall proclaim that measure to be law that [~~has received~~] receives the greatest number of affirmative votes, regardless of the difference in the majorities which those measures [~~have received~~] receive.

(c) Within 10 days after the governor's proclamation, any qualified voter who signed the initiative petition proposing the law that is declared by the governor to be superseded by another measure approved at the same election may bring an action in the appropriate court to review the governor's decision.

(4) Within 10 days after the day on which the court issues an order in an action described in Subsection (3)(c), the governor shall:

(a) proclaim all those measures approved by the people as law that the court [~~has determined~~] determines are not entirely in conflict; and

(b) of all those measures approved by the people as law that the court determines to be entirely in conflict, proclaim as law, regardless of the difference in majorities, the law that [~~received~~] receives the greatest number of affirmative votes, to be in full force and effect on the date described in Subsection 20A-7-212(2).

Section 19. Section 20A-7-611 is amended to read:

20A-7-611. Temporary stay -- Effective date -- Effect of repeal by local legislative body.

(1) Any proposed law submitted to the people by referendum petition that is rejected by the voters at any election is repealed as of the date of the election.

(2) If, at the time during the process described in Subsection [~~20A-7-307(2)~~] 20A-7-607(2), the local clerk determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the local clerk shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(3) The temporary stay described in Subsection (2) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the local clerk declares the petition insufficient, five days after the day on which the local clerk declares the petition insufficient; or

(b) if the local clerk declares the petition sufficient, the day on which the local legislative body issues the proclamation described in Section 20A-7-610.

(4) A proposed law submitted to the people by referendum petition that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the local legislative body; or

(b) the effective date specified in the proposed law.

(5) If, after the local clerk issues a temporary stay order under Subsection (2)(a), the local clerk declares the petition insufficient, the proposed law takes effect the later of:

(a) five days after the day on which the local clerk declares the petition insufficient; or

(b) the effective date specified in the proposed law.

(6) (a) A law adopted by the people under this part is not subject to veto.

(b) The local legislative body may amend any laws approved by the people under this part after the people approve the law.

(7) If the local legislative body repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 20. Section 20A-9-201 is amended to read:

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

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

(a) be a United States citizen;

(b) meet the legal requirements of that office; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) a United States citizen;

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

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

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

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

(i) a United States citizen;

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

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

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

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

(i) is a United States citizen;

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

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

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

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

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

(e) Before accepting a declaration of candidacy for the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state legislator, or State Board of Education member, the filing officer shall ensure that the individual filing the declaration of candidacy also makes the conflict of interest disclosure described in Section 20A-11-1603.

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

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

(a) inform the individual that:

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

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

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

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

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

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

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

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

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

(i) signing the pledge is voluntary; and

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

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

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

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

(a) accept the candidate's pledge; and

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

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

(i) be substantially as follows:

"State of Utah, County of ____

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

____

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

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

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

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

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

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

(8) (a) Except for a candidate for president or vice president of the United States, the fee for filing a declaration of candidacy is:

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

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

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

(i) who is disqualified; or

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

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

(ii) The lieutenant governor shall:

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

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

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

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

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

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

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

"Affidavit of Impecuniosity

Individual Name ____________________________

Address____________________________

Phone Number ________________

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

Date ______________

Signature________________________________

Affiant

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

____

(signature)

Name and Title of Officer Authorized to Administer Oath

______________________".

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

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

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

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

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

Section 21. Section 20A-9-503 is amended to read:

20A-9-503. Certificate of nomination -- Filing -- Fees.

(1) (a) Except as provided in Subsection (1)(b), after the certificate of nomination has been certified, executed, and acknowledged by the county clerk, the candidate shall:

(i) between the second Friday in March and the close of normal office hours on the third Thursday in March of the year in which the regular general election will be held:

(A) file the petition in person with the lieutenant governor, if the office the candidate seeks is a constitutional office or a federal office, or the county clerk, if the office the candidate seeks is a county office; and

(B) pay the filing fee; or

(ii) not later than the close of normal office hours on June 15 of any odd-numbered year:

(A) file the petition in person with the municipal clerk, if the candidate seeks an office in a city or town, or the local district clerk, if the candidate seeks an office in a local district; and

(B) pay the filing fee.

(b) (i) The provisions of this Subsection (1)(b) do not apply to an individual who files a declaration of candidacy for president of the United States.

(ii) Subject to Subsections (3)(c) and 20A-9-502(2), an individual may designate an agent to file a declaration of candidacy with the appropriate filing officer if:

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

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

(C) the individual communicates with the filing officer using an electronic device that allows the individual and filing officer to see and hear each other.

(2) (a) At the time of filing, and before accepting the petition, the filing officer shall read the constitutional and statutory requirements for candidacy to the candidate.

(b) If the candidate states that [~~he~~] the candidate does not meet the requirements, the filing officer may not accept the petition.

(3) (a) An individual filing a certificate of nomination for president or vice president of the United States under this section shall pay a filing fee of $500.

(b) Notwithstanding Subsection (1), a person filing a certificate of nomination for president or vice president of the United States:

(i) may file the certificate of nomination between the second Friday in March and the close of normal office hours on August 15 of the year in which the regular general election will be held; and

(ii) may use a designated agent to file the certificate of nomination.

(c) An agent designated under Subsection (1)(b)(ii) or described in Subsection (3) (b)(ii) may not sign the certificate of nomination form.

Section 22. Section 20A-11-202 is amended to read:

20A-11-202. State office candidate -- Personal campaign committee required -- Candidate as a political action committee officer.

(1) (a) (i) Each state office candidate shall select no more than one personal campaign committee, consisting of one or more persons, to receive

contributions, make expenditures, and file reports connected with the candidate's campaign.

(ii) A state office candidate may serve as [~~his~~] the candidate's own campaign committee.

(iii) A state office candidate may be designated by a political action committee as an officer who has primary decision-making authority as described in Section 20A-11-601.

(b) Except for expenses made by a registered political party to benefit a party's candidates generally, a state office candidate or other person acting in concert with or with the knowledge of the state office candidate may not receive any contributions or make any expenditures on behalf of a state office candidate other than through:

(i) a personal campaign committee established under this section; and

(ii) a political action committee established under Part 6, Political Action Committee Registration and Financial Reporting Requirements.

(2) (a) The state office candidate shall file a written statement signed by the candidate or authorized member of the candidate's personal campaign committee with the lieutenant governor that:

(i) informs the lieutenant governor that the state office candidate's personal campaign committee has been selected; and

(ii) provides the name and address of each member and the secretary of the committee.

(b) A state office candidate or the candidate's personal campaign committee may not make any expenditures on behalf of the candidate until the statement has been filed.

(c) A state office candidate may revoke the selection of any member of the campaign committee by:

(i) revoking that [~~person's~~] individual's appointment or election in writing;

(ii) personally serving the written revocation on the member whose selection is revoked; and

(iii) filing a copy of the written revocation with the lieutenant governor.

(d) (i) The state office candidate may select a replacement to fill any vacancy on the campaign committee.

(ii) The state office candidate shall file that replacement's name and address with the lieutenant governor.

(3) A member of a state office candidate's personal campaign committee may not make an expenditure of more than $1,000 unless the state office candidate or the secretary of the personal campaign committee authorizes the expenditure in writing.

(4) A state office candidate or the candidate's personal campaign committee may not make any expenditures prohibited by law.

Section 23. Section 20A-11-901 is amended to read:

20A-11-901. Political advertisements -- Requirement that ads designate responsibility and authorization -- Report to lieutenant governor -- Unauthorized use of endorsements.

(1) (a) Whenever any person makes an expenditure for the purpose of financing an advertisement expressly advocating for the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, the advertisement:

(i) if paid for and authorized by a candidate or the candidate's campaign committee, shall clearly state that the advertisement has been paid for by the candidate or the campaign committee;

(ii) if paid for by another person but authorized by a candidate or the candidate's campaign committee, shall clearly state who paid for the advertisement and that the candidate or the campaign committee authorized the advertisement; or

(iii) if not authorized by a candidate or a candidate's campaign committee, shall clearly state the name of the person who paid for the advertisement and state that the advertisement is not authorized by any candidate or candidate's committee.

(2) (a) A person that makes an expenditure for the purpose of financing an advertisement related to a ballot proposition shall ensure that the advertisement complies with Subsection (2)(b) if the advertisement expressly advocates:

(i) for placing a ballot proposition on the ballot;

(ii) for keeping a ballot proposition off the ballot;

(iii) that a voter refrain from voting on a ballot proposition; or

(iv) that a voter vote for or against a ballot proposition.

(b) An advertisement described in Subsection (2)(a) shall:

(i) if paid for by a political issues committee, clearly state that the advertisement was paid for by the political issues committee;

(ii) if paid for by another person but authorized by a political issues committee, clearly state who paid for the advertisement and that the political issues committee authorized the advertisement; or

(iii) if not authorized by a political issues committee, clearly state the name of the person who paid for the advertisement and state that the advertisement is not authorized by any political issues committee.

(3) The requirements of Subsections (1) and (2) do not apply to:

(a) lawn signs with dimensions of four by eight feet or smaller;

(b) bumper stickers;

(c) campaign pins, buttons, and pens; or

(d) similar small items upon which the disclaimer cannot be conveniently printed.

(4) (a) A person who is not a reporting entity and pays for an electioneering communication shall file a report with the lieutenant governor within 24 hours of making the payment or entering into a contract to make the payment.

(b) The report shall include:

(i) the name and address of the person described in Subsection (4)(a);

(ii) the name and address of each person contributing at least $100 to the person described in Subsection (4)(a) for the purpose of disseminating the electioneering communication;

(iii) the amount spent on the electioneering communication;

(iv) the name of the identified referenced candidate; and

(v) the medium used to disseminate the electioneering communication.

(5) A person may not, in order to promote the success of any candidate for nomination or election to any public office, or in connection with any question submitted to the voters, include or cause to be included the name of any person as endorser or supporter in any political advertisement, circular, poster, or publication without the express consent of that person.

(6) (a) It is unlawful for a person to pay the owner, editor, publisher, or agent of any newspaper or other periodical to induce [~~him~~] the owner, editor, publisher, or agent to advocate or oppose editorially any candidate for nomination or election.

(b) It is unlawful for any owner, editor, publisher, or agent to accept any payment to advocate or oppose editorially any candidate for nomination or election.

Section 24. Section 20A-13-101.5 is amended to read:

20A-13-101.5. Representatives to the United States Congress -- Four representative districts -- When elected -- District boundaries.

(1) (a) The state of Utah is divided into four districts for the election of representatives to the Congress of the United States, with one member to be elected from each Congressional district.

(b) At the general election to be held in 2022, and biennially thereafter, one representative from each Congressional district shall be elected to serve in the Congress of the United States.

(2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2020 national decennial census as the official data for establishing Congressional district boundaries.

(3) (a) The Legislature enacts the district numbers and boundaries of the Congressional districts designated in the Congressional block equivalency file and resulting Congressional shapefile that is the electronic component of Laws of Utah 2021, Second Special Session, Chapter 2[~~.~~]:

(i) for purposes of nominating and electing members of the United States Congress beginning January 1, 2022; and

(ii) for all other purposes beginning January 3, 2023.

(b) The Legislature shall ensure that the Congressional shapefile, and Congressional boundaries generated from the Congressional shapefile, are accessible on the Utah Legislature's website.

Section 25. Section 20A-14-101.5 is amended to read:

20A-14-101.5. State Board of Education -- Number of members -- State Board of Education district boundaries.

(1) The State Board of Education shall consist of 15 members, with one member to be elected from each State Board of Education district.

(2) The Legislature adopts the official census population figures and maps of the Bureau of the Census of the United States Department of Commerce developed in connection with the taking of the 2020 national decennial census as the official data for establishing State Board of Education district boundaries.

(3) (a) Notwithstanding Subsection (2), the Legislature enacts the district numbers and boundaries of the State Board of Education districts designated in the Board block equivalency file and resulting Board shapefile that is the electronic component of Laws of Utah 2021, Second Special Session, Chapter 10:

(i) for purposes of nominating and electing certain members of the State Board of Education beginning January 1, 2022; and

(ii) for all other purposes beginning January [~~1~~] 2, 2023.

(b) The Legislature shall ensure that the Board shapefile, and the State Board of Education district boundaries generated from the Board shapefile, are accessible on the Utah Legislature's website.

Section 26. Section 20A-15-104 is amended to read:

20A-15-104. Ballot -- Form -- Manner of marking and voting.

(1) The requirements of this section govern the form of the ballot and the specific procedures for electing delegates to the ratification convention.

(2) Each county clerk shall ensure that the ballot to select delegates to the ratification convention:

(a) is separate from and printed on different color stock than any other ballot to be used at the same election;

(b) contains the following information in this order:

(i) the text of the proposed amendment;

(ii) instructions to the voter;

(iii) three perpendicular columns of equal width;

(iv) at the head of the first perpendicular column, in plain type, the words "For Ratification of Proposed Change in Constitution of the United States";

(v) at the head of the second perpendicular column, in plain type, the words "Against Ratification of Proposed Change in Constitution of the United States";

(vi) no heading or names at the head of the third perpendicular column;

(vii) in the column headed "For Ratification of Proposed Change in Constitution of the United States," the names of the nominees nominated as in favor of ratification;

(viii) in the column headed "Against Ratification of Proposed Change in Constitution of the United States," the names of the nominees nominated as against ratification; and

(ix) in the column without heading, spaces permitting the voter to write in other names; and

(c) is arranged so that the voter may, by making a single mark, vote for the entire group of nominees whose names are contained in any column.

(3) Each county clerk shall ensure that the ballot to select delegates to the ratification convention is in substantially the following form:

"OFFICIAL BALLOT for delegates to convention to ratify or reject proposed amendment to the Constitution of the United States. The Congress has proposed an amendment to the Constitution of the United States that provides: (insert here the text of the proposed amendment).The Congress has also directed that the proposed amendment be ratified by conventions in the states.

INSTRUCTIONS TO VOTERS

Do not vote for more than 21.

To vote for all candidates in favor of ratification, or for all candidates against ratification, make a cross-mark in the CIRCLE at the head of the list of candidates for whom you wish to vote. If you do this, make no other mark.

To vote for an individual candidate, make a cross-mark in the SQUARE immediately adjacent to the name.

To vote for a person other than candidates listed on the ballot, write in the person's name in blank column.

For ratification of proposed change in Constitution of the United States.

(Name of Candidate) ______________________

Against ratification of proposed change in Constitution of the United States.

(Name of Candidate) ______________________".

(4) If the election of delegates to the ratification convention is held at the same time as the regular general election, the county clerk shall:

(a) give the same ballot number to a regular general election ballot and a ballot to elect delegates to a ratification convention;

(b) direct the election judges to:

(i) hand to each voter the general election ballot and the ratification convention ballot with identical ballot numbers;

(ii) instruct the voter to mark each ballot and deposit each ballot in the ballot box; and

(iii) mark any ballot "void" that the voter declines to use and return it to the county clerk.

(5) Each voter shall indicate [~~his~~] the voter's choice by making one or more cross-marks in the appropriate spaces provided on the ballot.

Section 27. Section 67-1a-2 is amended to read:

67-1a-2. Duties enumerated.

(1) The lieutenant governor shall:

(a) perform duties delegated by the governor, including assignments to serve in any of the following capacities:

(i) as the head of any one department, if so qualified, with the advice and consent of the Senate, and, upon appointment at the pleasure of the governor and without additional compensation;

(ii) as the chairperson of any cabinet group organized by the governor or authorized by law for the purpose of advising the governor or coordinating intergovernmental or interdepartmental policies or programs;

(iii) as liaison between the governor and the state Legislature to coordinate and facilitate the governor's programs and budget requests;

(iv) as liaison between the governor and other officials of local, state, federal, and international governments or any other political entities to coordinate, facilitate, and protect the interests of the state;

(v) as personal advisor to the governor, including advice on policies, programs, administrative and personnel matters, and fiscal or budgetary matters; and

(vi) as chairperson or member of any temporary or permanent boards, councils, commissions, committees, task forces, or other group appointed by the governor;

(b) serve on all boards and commissions in lieu of the governor, whenever so designated by the governor;

(c) serve as the chief election officer of the state as required by Subsection (2);

(d) keep custody of the Great Seal of Utah;

(e) keep a register of, and attest, the official acts of the governor;

(f) affix the Great Seal, with an attestation, to all official documents and instruments to which the official signature of the governor is required; and

(g) furnish a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the office of the lieutenant governor to any person who requests it and pays the fee.

(2) (a) As the chief election officer, the lieutenant governor shall:

(i) exercise general supervisory authority over all elections;

(ii) exercise direct authority over the conduct of elections for federal, state, and multicounty officers and statewide or multicounty ballot propositions and any recounts involving those races;

(iii) assist county clerks in unifying the election ballot;

(iv) (A) prepare election information for the public as required by statute and as determined appropriate by the lieutenant governor; and

(B) make the information under Subsection (2)(a)(iv)(A) available to the public and to news media on the Internet and in other forms as required by statute or as determined appropriate by the lieutenant governor;

(v) receive and answer election questions and maintain an election file on opinions received from the attorney general;

(vi) maintain a current list of registered political parties as defined in Section 20A-8-101;

(vii) maintain election returns and statistics;

(viii) certify to the governor the names of those persons who have received the highest number of votes for any office;

(ix) ensure that all voting equipment purchased by the state complies with the requirements of Sections 20A-5-302, 20A-5-802, and 20A-5-803;

[~~(x) conduct the study described in Section 67-1a-14;~~]

[~~(xi)~~] (x) during a declared emergency, to the extent that the lieutenant governor determines it warranted, designate, as provided in Section 20A-1-308, a different method, time, or location relating to:

(A) voting on election day;

(B) early voting;

(C) the transmittal or voting of an absentee ballot or military-overseas ballot;

(D) the counting of an absentee ballot or military-overseas ballot; or

(E) the canvassing of election returns; and

[~~(xii)~~] (xi) perform other election duties as provided in Title 20A, Election Code.

(b) As chief election officer, the lieutenant governor may not assume the responsibilities assigned to the county clerks, city recorders, town clerks, or other local election officials by Title 20A, Election Code.

(3) (a) The lieutenant governor shall:

(i) determine a new municipality's classification under Section 10-2-301 upon the city's incorporation under Title 10, Chapter 2a, Part 2, Incorporation of a Municipality, based on the municipality's population using the population estimate from the Utah Population Committee; and

(ii) (A) prepare a certificate indicating the class in which the new municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the municipality's legislative body.

(b) The lieutenant governor shall:

(i) determine the classification under Section 10-2-301 of a consolidated municipality upon the consolidation of multiple municipalities under Title 10, Chapter 2, Part 6, Consolidation of Municipalities, using population information from:

(A) each official census or census estimate of the United States Bureau of the Census; or

(B) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census; and

(ii) (A) prepare a certificate indicating the class in which the consolidated municipality belongs based on the municipality's population; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the consolidated municipality's legislative body.

(c) The lieutenant governor shall:

(i) determine a new metro township's classification under Section 10-2-301.5 upon the metro township's incorporation under Title 10, Chapter 2a, Part 4, Incorporation of Metro Townships and Unincorporated Islands in a County of the First Class on and after May 12, 2015, based on the metro township's population using the population estimates from the Utah Population Committee; and

(ii) prepare a certificate indicating the class in which the new metro township belongs based on the metro township's population and, within 10 days after preparing the certificate, deliver a copy of the certificate to the metro township's legislative body.

(d) The lieutenant governor shall monitor the population of each municipality using population information from:

(i) each official census or census estimate of the United States Bureau of the Census; or

(ii) the population estimate from the Utah Population Committee, if the population of a municipality is not available from the United States Bureau of the Census.

(e) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has increased beyond the population for its current class, the lieutenant governor shall:

(i) prepare a certificate indicating the class in which the municipality belongs based on the increased population figure; and

(ii) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

(f) (i) If the applicable population figure under Subsection (3)(b) or (d) indicates that a municipality's population has decreased below the population for its current class, the lieutenant governor shall send written notification of that fact to the municipality's legislative body.

(ii) Upon receipt of a petition under Subsection 10-2-302(2) from a municipality whose population has decreased below the population for its current class, the lieutenant governor shall:

(A) prepare a certificate indicating the class in which the municipality belongs based on the decreased population figure; and

(B) within 10 days after preparing the certificate, deliver a copy of the certificate to the legislative body of the municipality whose class has changed.

Section 28. Section 67-1a-3 is amended to read:

67-1a-3. Employment of personnel.

The lieutenant governor, with the approval of the governor, may employ personnel necessary to carry out the duties and responsibilities of [~~his~~] the lieutenant governor's office.

Section 29. Repealer.

This bill repeals:

Section 20A-16-406, Disposition of ballot by county clerk.

Section 20A-16-407, Duty of election judges.

Section 67-1a-14, Study of signing a petition online -- Report.

Section 30. Effective date.

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

CHAPTER 19
H. B. 13

Passed February 11, 2022
Approved March 15, 2022
Effective October 15, 2022

SPECIAL LICENSE PLATE DESIGNATION

Chief Sponsor: Steve Eliason
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill creates a support special group license plate to support the Live On suicide prevention campaign.

Highlighted Provisions:

This bill:

- creates a support special group license plate to support the Live On suicide prevention campaign;
- requires that an individual requesting the license plate make a donation to the Governor's Suicide Prevention Fund to support the Live On campaign; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-418, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
62A-15-1103, as enacted by Laws of Utah 2018, Chapter 414

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

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of State Parks or the Division of Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness;

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

(xxxii) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families; [~~or~~]

(xxxiii) public education on behalf of the Kiwanis International clubs[~~.~~]; or

(xxxiv) the Live On suicide prevention campaign.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection

41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; [~~or~~]

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund[~~.~~]; or

(II) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Substance Abuse and Mental Health.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 62A-15-1103 is amended to read:

62A-15-1103. Governor's Suicide Prevention Fund.

(1) There is created an expendable special revenue fund known as the Governor's Suicide Prevention Fund.

(2) The fund shall consist of donations described in Section 41-1a-422, gifts, grants, and bequests of real property or personal property made to the fund.

(3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4) or 62A-15-1101(3).

(4) Subject to Subsection (3), money in the fund shall be used for the following activities:

(a) efforts to directly improve mental health crisis response;

(b) efforts that directly reduce risk factors associated with suicide; and

(c) efforts that directly enhance known protective factors associated with suicide reduction.

(5) The division shall establish a grant application and review process for the expenditure of money from the fund.

(6) The grant application and review process shall describe:

(a) requirements to complete a grant application;

(b) requirements to receive funding;

(c) criteria for the approval of a grant application;

(d) standards for evaluating the effectiveness of a project proposed in a grant application; and

(e) support offered by the division to complete a grant application.

(7) The division shall:

(a) review a grant application for completeness;

(b) make a recommendation to the governor or the governor's designee regarding a grant application;

(c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;

(d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and

(e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.

(9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.

(10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.

(11) The governor shall make an annual report to the Legislature regarding the status of the fund, including a report on the contributions received, expenditures made, and programs and services funded.

Section 4. Effective date.

This bill takes effect on October 15, 2022.

CHAPTER 20
H. B. 14

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

BOARD OF BANK ADVISORS SUNSET EXTENSION

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the repeal date of the Board of Bank Advisors.

Highlighted Provisions:

This bill:

- sunsets the Board of Bank Advisors in 2032.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-207, as last amended by Laws of Utah 2021, Chapter 31

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

Section 1. Section 63I-1-207 is amended to read:

63I-1-207. Repeal dates, Title 7.

(1) Section 7-1-203, which creates the Board of Financial Institutions, is repealed July 1, 2031.

(2) Section 7-3-40, which creates the Board of Bank Advisors, is repealed July 1, [~~2022~~] 2032.

(3) Section 7-9-43, which creates the Board of Credit Union Advisors, is repealed July 1, 2023.

CHAPTER 21
H. B. 15

Passed February 17, 2022
Approved March 15, 2022
Effective May 4, 2022

CHILD CARE AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Ann Millner
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Kera Birkeland
Marsha Judkins
Karianne Lisonbee
Jefferson Moss
Candice B. Pierucci
Judy Weeks Rohner
Christine F. Watkins
Mike Winder

LONG TITLE

General Description:

This bill modifies provisions related to child care.

Highlighted Provisions:

This bill:

- modifies definitions applicable to the Department of Health's licensing and certification of child care providers;
- clarifies the Department of Health's authority over municipalities and counties to regulate licensed and certified child care programs;
- allows a community reinvestment agency to use the agency's housing allocation to pay for the expansion of child care facilities within the agency's boundaries;
- requires the Department of Health to make rules allowing licensed and certified child care providers to provide after school care for a reasonable number of children in excess of capacity limits;
- increases the number of children that a residential child care provider may care for without a certificate from the Department of Health;
- removes limitations on the number of children under two years old that a certified residential child care provider may care for;
- establishes a limit on the total number of children that a person may care for in the person's home without a license or certificate from the Department of Health, regardless of whether a child is related;
- requires the Office of Child Care to provide grants to certain child care providers from COVID-19 relief funds;
- requires the Office of Child Care to report information about the office's expenditure of COVID-19 relief funds on an annual basis;
- requires a proposal for a housing and transportation reinvestment zone to promote the objective of increasing access to child care; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-412, as last amended by Laws of Utah 2020, Chapter 241
26-39-102, as last amended by Laws of Utah 2015, Chapter 220
26-39-301, as last amended by Laws of Utah 2018, Chapter 58
26-39-401, as renumbered and amended by Laws of Utah 2008, Chapter 111
26-39-402, as last amended by Laws of Utah 2018, Chapter 415
26-39-403, as last amended by Laws of Utah 2017, Chapter 366
63I-2-235, as last amended by Laws of Utah 2021, Chapter 318
63N-3-603, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

ENACTS:

10-8-84.6, Utah Code Annotated 1953
17-50-339, Utah Code Annotated 1953
35A-3-212, Utah Code Annotated 1953

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

Section 1. Section 10-8-84.6 is enacted to read:

10-8-84.6. Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act.

(b) "Child care program" does not include a child care program for which a municipality provides oversight, as described in Subsection 26-39-403(2)(e).

(2) A municipality may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which child care is provided in a child care program.

(3) This section does not prohibit a municipality from:

(a) requiring a business license to operate a business within the municipality; or

(b) imposing requirements related to building, health, and fire codes.

Section 2. Section 17-50-339 is enacted to read:

17-50-339. Prohibition on licensing or certification of child care programs.

(1) (a) As used in this section, "child care program" means a child care facility or program operated by a person who holds a license or certificate from the Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act.

(b) "Child care program" does not include a child care program for which a county provides oversight, as described in Subsection 26-39-403(2)(e).

(2) A county may not enact or enforce an ordinance that:

(a) imposes licensing or certification requirements for a child care program; or

(b) governs the manner in which care is provided in a child care program.

(3) This section does not prohibit a county from:

(a) requiring a business license to operate a business within the county; or

(b) imposing requirements related to building, health, and fire codes.

Section 3. Section 17C-1-412 is amended to read:

17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance of bonds for housing -- Action to compel agency to provide housing allocation.

(1) (a) An agency shall use the agency's housing allocation to:

(i) pay part or all of the cost of land or construction of income targeted housing within the boundary of the agency, if practicable in a mixed income development or area;

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

(iii) lend, grant, or contribute money to a person, public entity, housing authority, private entity or business, or nonprofit corporation for income targeted housing within the boundary of the agency;

(iv) plan or otherwise promote income targeted housing within the boundary of the agency;

(v) pay part or all of the cost of land or installation, construction, or rehabilitation of any building, facility, structure, or other housing improvement, including infrastructure improvements, related to housing located in a project area where a board has determined that a development impediment exists;

(vi) replace housing units lost as a result of the project area development;

(vii) make payments on or establish a reserve fund for bonds:

(A) issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which are used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(viii) if the community's fair share ratio at the time of the first adoption of the project area budget is at least 1.1 to 1.0, make payments on bonds:

(A) that were previously issued by the agency, the community, or the housing authority that provides income targeted housing within the community; and

(B) all or part of the proceeds of which were used within the community for the purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

(ix) relocate mobile home park residents displaced by project area development;

(x) subject to Subsection (7), transfer funds to a community that created the agency; or

(xi) pay for or make a contribution toward the acquisition, construction, or rehabilitation of housing that:

(A) is located in the same county as the agency;

(B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit college or university; and

(C) only students of the relevant college or university, including the students' immediate families, occupy.

(b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or any portion of the agency's housing allocation to:

(i) the community for use as described in Subsection (1)(a);

(ii) a housing authority that provides income targeted housing within the community for use in providing income targeted housing within the community;

(iii) a housing authority established by the county in which the agency is located for providing:

(A) income targeted housing within the county;

(B) permanent housing, permanent supportive housing, or a transitional facility, as defined in Section 35A-5-302, within the county; or

(C) homeless assistance within the county;

(iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8, Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within the community; [~~or~~]

(v) pay for or make a contribution toward the acquisition, construction, or rehabilitation of income targeted housing that is outside of the community if the housing is located along or near a major transit investment corridor that services the community and the related project has been approved by the community in which the housing is or will be located[~~.~~]; or

(vi) pay for or make a contribution toward the expansion of child care facilities within the boundary of the agency, provided that any recipient of funds from the agency's housing allocation reports annually to the agency on how the funds were used.

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

(b) An agency that has entered into an interlocal agreement as described in Subsection (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation meets the requirements for at least one agency that is a party to the interlocal agreement.

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

(a) issue bonds to finance a housing–related project under this section, including the payment of principal and interest upon advances for surveys and plans or preliminary loans; and

(b) issue refunding bonds for the payment or retirement of bonds under Subsection (4)(a) previously issued by the agency.

(5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the housing fund each year in which the agency receives sufficient tax increment to make a housing allocation required by the project area budget.

(b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

(6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing allocation in accordance with the project area budget and the housing plan adopted under Subsection 17C–2–204(2), the loan fund board may bring legal action to compel the agency to provide the housing allocation.

(b) In an action under Subsection (6)(a), the court:

(i) shall award the loan fund board reasonable attorney fees, unless the court finds that the action was frivolous; and

(ii) may not award the agency the agency's attorney fees, unless the court finds that the action was frivolous.

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C–1–409(1)(a)(v), and 17C–1–411(1)(d) may not exceed the community's annual local contribution as defined in Section 35A–8–606.

Section 4. Section 26-39-102 is amended to read:

26-39-102. Definitions.

As used in this chapter:

(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee, created in Section 26–1–7.

(2) "Capacity limit" means the maximum number of qualifying children that a regulated provider may care for at any given time, in accordance with rules made by the department.

[~~(2)~~] (3) (a) "Center based child care" means[~~, except as provided in Subsection (2)(b), a child care program licensed under this chapter~~] child care provided in a facility or program that is not the home of the provider.

(b) "Center based child care" does not include:

(i) [~~a~~] residential child care [~~provider certified under Section 26–39–402~~]; or

(ii) care provided in a facility or program exempt under Section 26–39–403.

(4) "Certified provider" means a person who holds a certificate from the department under Section 26–39–402.

[~~(3)~~] (5) "Child care" means continuous care and supervision of [~~five or more~~] a qualifying [~~children~~] child, that is:

(a) in lieu of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

[~~(4)~~] (6) "Child care program" means a child care facility or program operated by a [~~person who holds a license or certificate issued in accordance with this chapter~~] regulated provider.

[~~(5)~~] (7) "Exempt provider" means a person who provides care described in Subsection 26–39–403(2).

(8) "Licensed provider" means a person who holds a license from the department under Section 26–39–401.

[~~(6)~~] (9) "Licensing committee" means the Child Care Center Licensing Committee created in Section 26–1–7.

[~~(7)~~] (10) "Public school" means:

(a) a school, including a charter school, that:

(i) is directly funded at public expense; and

(ii) provides education to qualifying children for any grade from first grade through twelfth grade; or

(b) a school, including a charter school, that provides:

(i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and

(ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

[~~(8)~~] (11) "Qualifying child" means an individual who is:

(a) (i) under the age of 13; or

(ii) under the age of 18, if the person has a disability; and

(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a [~~licensed or certified residential child care~~] regulated provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

(12) "Regulated provider" means a licensed provider or certified provider.

[~~(9)~~] (13) "Residential child care" means child care provided in the home of [~~a~~] the provider.

Section 5. Section 26-39-301 is amended to read:

26-39-301. Duties of the department -- Enforcement of chapter -- Licensing committee requirements.

(1) With regard to residential child care licensed or certified under this chapter, the department may:

(a) make and enforce rules to implement this chapter and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers, considering the age of the children and the type of program offered by the licensee; and

(b) make and enforce rules necessary to carry out the purposes of this chapter, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees.

(2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.

(3) The department shall make rules that allow a regulated provider to provide after school child care for a reasonable number of qualifying children in excess of the regulated provider's capacity limit, without requiring the regulated provider to obtain a waiver or new license from the department.

[~~(3)~~] (4) Rules made under this chapter by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(4)~~] (5) (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

[~~(5)~~] (6) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

[~~(6)~~] (7) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

(a) a licensed residential child care provider; or

(b) an owner or employee of a licensed child care center.

[~~(7)~~] (8) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

(a) by qualifying children;

(b) for the care of qualifying children; or

(c) to store classroom materials.

[~~(8)~~] (9) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since January 1, 2004, is exempt from the licensing committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection [~~(7)~~] (9)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

[~~(9)~~] (10) The licensing committee, with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

[~~(10)~~] (11) The department shall set and collect licensing and other fees in accordance with Section 26-1-6.

[~~(11) Nothing in this chapter may be interpreted to grant a municipality or county the authority to license or certify a child care program.~~]

Section 6. Section 26-39-401 is amended to read:

26-39-401. Licensure requirements -- Expiration -- Renewal.

(1) Except as provided in Section 26-39-403, and subject to Subsection (2), a person shall [~~be licensed or certified in accordance with this chapter if the person~~] obtain a license from the department if:

[~~(a) provides or offers child care; or~~]

[~~(b) provides care to qualifying children and requests to be licensed.~~]

(a) the person provides center based child care for five or more qualifying children;

(b) the person provides residential child care for nine or more qualifying children; or

(c) the person:

(i) provides child care;

(ii) is not required to obtain a license under Subsection (1)(a) or (b); and

(iii) requests to be licensed.

(2) Notwithstanding Subsection (1), a certified provider may, in accordance with rules made by the department under Subsection 26-39-301(3), exceed the certified provider's capacity limit to provide after school child care without obtaining a license from the department.

[~~(2)~~] (3) The department may issue licenses for a period not exceeding 24 months to child care providers who meet the requirements of:

(a) this chapter; and

(b) the department's rules governing child care programs.

[~~(3)~~] (4) A license issued under this chapter is not assignable or transferable.

Section 7. Section 26-39-402 is amended to read:

26-39-402. Residential Child Care Certificate.

[~~(1) A residential child care provider of five to eight qualifying children shall obtain a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.~~]

(1) Except as provided in Section 26-39-403, a person shall obtain a Residential Child Care Certificate from the department if:

(a) the person provides residential child care for seven or eight qualifying children; or

(b) the person:

(i) provides residential child care for six or less qualifying children; and

(ii) requests to be certified.

(2) The minimum qualifications for a Residential Child Care Certificate are:

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section 26-1-6; and

(iii) in accordance with Section 26-39-404, identifying information for each adult person and each juvenile age 12 through 17 years of age who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section 62A-4a-1006;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a [~~residential care~~] certified provider [~~of five to eight qualifying children~~] in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

[~~(5) Notwithstanding this section:~~]

[~~(a) a license under Section 26-39-401 is required of a residential child care provider who cares for nine or more qualifying children;~~]

[~~(b) a certified residential child care provider may not provide care to more than two qualifying children under the age of two; and~~]

[~~(c) an inspection may be required of a residential child care provider in connection with a federal child care program.~~]

[~~(6)~~] (5) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 8. Section 26-39-403 is amended to read:

26-39-403. Exclusions from chapter -- Criminal background checks by an excluded person.

(1) (a) [~~The~~] Except as provided in Subsection (1)(b), the provisions and requirements of this chapter do not apply to:

[~~(a)~~] (i) a facility or program owned or operated by an agency of the United States government;

[~~(b)~~] (ii) group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;

[~~(c)~~] (iii) a health care facility licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;

[~~(d)~~] (iv) care provided to a qualifying child by or in the home of a parent, legal guardian, grandparent, brother, sister, uncle, or aunt;

[~~(e)~~] (v) care provided to a qualifying child, in the home of the provider, for less than four hours a day or on a sporadic basis, unless that child care directly affects or is related to a business licensed in this state; [~~or~~]

[~~(f)~~] (vi) care provided at a residential support program that is licensed by the Department of Human Services[~~.~~];

(vii) center based child care for four or less qualifying children, unless the provider requests to be licensed under Section 26-39-401; or

(viii) residential child care for six or less qualifying children, unless the provider requests to be licensed under Section 26-39-401 or certified under Section 26-39-402.

(b) Notwithstanding Subsection (1)(a), a person who does not hold a license or certificate from the department under this chapter may not, at any given time, provide child care in the person's home for more than 10 children in total under the age of 13, or under the age of 18 if a child has a disability, regardless of whether a child is related to the person providing child care.

(2) The licensing and certification requirements of this chapter do not apply to:

(a) care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

(b) care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

(c) care provided to a qualifying child at a public school by an organization other than the public school, if:

(i) the care is provided under contract with the public school or on school property; or

(ii) the public school accepts responsibility and oversight for the care provided by the organization;

(d) care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

(e) care provided by an organization that:

(i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

(ii) provides care pursuant to a written agreement with:

(A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

(B) a county that provides oversight for the program; and

(iii) provides care to a child who is over the age of four and under the age of 13; or

(f) care provided to a qualifying child at a facility where:

(i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;

(ii) the duration of the care is less than four hours for an individual qualifying child in any one day;

(iii) the care is provided on a sporadic basis;

(iv) the care does not include diapering a qualifying child; and

(v) the care does not include preparing or serving meals to a qualifying child.

(3) An exempt provider shall submit to the department:

(a) the information required under Subsections 26-39-404(1) and (2); and

(b) of the children receiving care from the exempt provider:

(i) the number of children who are less than two years old;

(ii) the number of children who are at least two years old and less than five years old; and

(iii) the number of children who are five years old or older.

(4) An exempt provider shall post, in a conspicuous location near the entrance of the exempt provider's facility, a notice prepared by the department that:

(a) states that the facility is exempt from licensure and certification; and

(b) provides the department's contact information for submitting a complaint.

(5) (a) [~~The~~] Except as provided in Subsection (5)(b), the department may not release the information [~~it~~] the department collects from exempt providers under Subsection (3) [~~except in~~].

(b) The department may release an aggregate count of children receiving care from exempt providers, without identifying a specific provider.

Section 9. Section 35A-3-212 is enacted to read:

35A-3-212. Use of COVID-19 relief funds -- Grants to child care providers -- Reporting requirements.

(1) As used in this section:

(a) "COVID-19 relief funds" means federal funds provided to the office under:

(i) the American Rescue Plan Act, Pub. L. No. 117-2;

(ii) the Coronavirus Aid, Relief, and Economic Security Act, Pub. L. No. 116-136; or

(iii) the Coronavirus Response and Relief Supplemental Appropriations Act, Pub. L. No. 116-260.

(b) "Eligible child care provider" means:

(i) a child care provider that enters into a contract with an employer to provide child care for the employer's employees, either on-site or off-site of the employer's place of business; or

(ii) a regulated residential child care provider.

(c) (i) "Employer" means:

(A) a public employer;

(B) a private employer; or

(C) a cooperative organized for the purpose of providing child care for members' employees.

(ii) "Employer" includes a local education agency, as defined in Section 53E-1-102.

(d) "Regulated residential child care provider" means a person who holds a license or certificate from the Department of Health to provide residential child care in accordance with Title 26, Chapter 39, Utah Child Care Licensing Act.

(2) (a) Subject to availability of funds and requirements under applicable federal law, the office shall use COVID-19 relief funds to provide grants to eligible child care providers to assist in paying start-up costs associated with the provision of child care.

(b) The office shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish criteria and procedures for applying for and awarding grants under this Subsection (2).

(3) In fiscal years 2022 through 2024, the office shall submit to the department, for inclusion in the department's annual written report described in Section 35A-1-109, an annual report that provides:

(a) a complete accounting of the COVID-19 relief funds expended by the office during the previous fiscal year;

(b) a description of the services, projects, and programs funded by the office with COVID-19 relief funds during the previous fiscal year, including the amount of COVID-19 relief funds allocated to each service, project, or program; and

(c) information regarding the outcomes and effectiveness of the services, projects, and programs funded by the office with COVID-19 relief funds during the previous fiscal year.

Section 10. Section 63I-2-235 is amended to read:

63I-2-235. Repeal dates -- Title 35A.

(1) Section 35A-1-104.6 is repealed June 30, 2022.

(2) Section 35A-3-212 is repealed June 30, 2025.

Section 11. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing;

(c) conservation of water resources through efficient land use;

(d) improving air quality by reducing fuel consumption and motor vehicle trips;

(e) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(f) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2); [~~and~~]

(g) increasing access to employment and educational opportunities[~~.~~]; and

(h) increasing access to child care.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed housing units within the housing and transit reinvestment zone are affordable housing units;

(b) a dedication of at least 51% of the developable area within the housing and transit reinvestment zone to residential development with an average of 50 multi-family dwelling units per acre or greater; and

(c) mixed-use development.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) A municipality or public transit county may only propose a housing and transit reinvestment zone that:

(a) subject to Subsection (5):

(i) (A) for a municipality, does not exceed a 1/3 mile radius of a commuter rail station; or

(B) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(ii) has a total area of no more than 125 noncontiguous square acres;

(b) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(c) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(5) If a parcel is bisected by the 1/3 mile radius, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a).

(6) The notice of commencement of collection of tax increment required in Subsection (4)(c) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Opportunity.

CHAPTER 22
H. B. 17

Passed February 3, 2022
Approved March 15, 2022
Effective July 1, 2022

STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM FUND AMENDMENTS

Chief Sponsor: Carol Spackman Moss
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill addresses the State Small Business Credit Initiative Program Fund.

Highlighted Provisions:

This bill:

- transfers the administration of the State Small Business Credit Initiative Program Fund from the Department of Workforce Services to the Governor's Office of Economic Opportunity; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

RENUMBERS AND AMENDS:

63N-3-801, (Renumbered from 35A-8-1201, as renumbered and amended by Laws of Utah 2012, Chapter 212)

63N-3-802, (Renumbered from 35A-8-1202, as last amended by Laws of Utah 2012, Chapter 347 and renumbered and amended by Laws of Utah 2012, Chapter 212)

63N-3-803, (Renumbered from 35A-8-1203, as last amended by Laws of Utah 2014, Chapter 371)

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

Section 1. Section 63N-3-801, which is renumbered from Section 35A-8-1201 is renumbered and amended to read:

Part 8. State Small Business Credit Initiative Program Fund

[~~35A-8-1201~~]. 63N-3-801. Creation and administration.

(1) There is created an enterprise fund known as the "State Small Business Credit Initiative Program Fund" administered by the [~~director of the division or the director's designee~~] office.

(2) The [~~division~~] executive director or the executive director's designee is the administrator of the fund.

(3) Revenues deposited into the fund shall consist of:

(a) grants, pay backs, bonuses, entitlements, and other money received from the federal government to implement the State Small Business Credit Initiative; and

(b) transfers, grants, gifts, bequests, and other money made available from any source to implement this part.

(4) (a) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act.

(b) Interest and other earnings derived from the fund money shall be deposited in the fund.

(5) The [~~division~~] office may use fund money for administration of the fund, but not to exceed 4% of the annual receipts to the fund.

Section 2. Section 63N-3-802, which is renumbered from Section 35A-8-1202 is renumbered and amended to read:

[~~35A-8-1202~~]. 63N-3-802. Distribution of fund money.

(1) (a) The [~~director~~] office shall make loans and loan guarantees from the fund for the Small Business Credit Initiative created under the [~~federal government's~~] Small Business Jobs Act of 2010, 12 U.S.C. Sec. 5701 et seq., as amended, to use federal money for programs that leverage private lending to help finance small businesses and manufacturers that are creditworthy but not receiving the loans needed to expand and create jobs.

(b) In making loans and loan guarantees under this part, the [~~director~~] office shall give due consideration to small businesses in underserved communities throughout the state that have been deeply impacted by recession and not seen a comparable resurgence in their economies.

(2) The [~~director~~] office shall distribute federal money in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

[~~(3) The director may, with the approval of the executive director of the department:~~]

(3) The office may:

(a) enact rules to establish procedures for the loan and loan guarantee process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Section 3. Section 63N-3-803, which is renumbered from Section 35A-8-1203 is renumbered and amended to read:

[~~35A-8-1203~~]. 63N-3-803. Annual accounting.

(1) The [~~director~~] office shall monitor the activities of recipients of the loans and loan guarantees issued under this part on a yearly basis to ensure compliance with the terms and conditions

imposed on the recipient by the [~~director~~] office under this part.

(2) An entity receiving a loan or loan guarantee under this part shall provide the [~~director~~] office with an annual accounting of how the money it received from the fund was spent.

[~~(3) The director shall provide the following information to the department for inclusion in the department's annual written report described in Section 35A-1-109:~~]

(3) The office shall include the following information in the office's annual written report described in Section 63N-1a-306:

(a) an accounting of expenditures made from the fund; and

(b) an evaluation of the effectiveness of the loan and loan guarantee program.

Section 4. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 23
H. B. 20

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

EXTENSION OF THE UTAH COUNCIL ON VICTIMS OF CRIME

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill repeals the sunset date of the Utah Council on Victims of Crime.

Highlighted Provisions:

This bill:

- repeals the sunset date of the Utah Council on Victims of Crime; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

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

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

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.~~]

[~~(22)~~] (21) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(22) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.~~]

[~~(26)~~] (25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30)~~] (28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(30)~~] (28)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31)~~] (29) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (30) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

CHAPTER 24
H. B. 22

Passed February 18, 2022
Approved March 15, 2022
Effective May 4, 2022

OPEN AND PUBLIC MEETINGS ACT MODIFICATIONS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill makes changes to the Open and Public Meetings Act related to electronic meetings.

Highlighted Provisions:

This bill:

- requires a public body to establish how a quorum is calculated for electronic meetings;
- prohibits a public body from permitting a member to vote or take other action by proxy during an electronic meeting unless the body adopts a resolution, rule, or ordinance allowing a member to act by proxy; and
- requires all non-unanimous votes during an electronic meeting to be taken by roll call.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-207, as last amended by Laws of Utah 2021, Chapter 242

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

Section 1. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) A resolution, rule, or ordinance described in Subsection (2)(a) that governs an electronic meeting held after December 31, 2022, shall establish the conditions under which a remote member is included in calculating a quorum.

[~~(b)~~] (c) [~~The~~] A resolution, rule, or ordinance described in Subsection (2)(a) may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; [~~or~~]

(v) if the public body is statutorily authorized to allow a member of the public body to act by proxy, establish the conditions under which a member may vote or take other action by proxy; or

[~~(v)~~] (vi) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

(3) A public body that convenes or conducts an electronic meeting shall:

(a) give public notice of the meeting:

(i) in accordance with Section 52-4-202; and

(ii) except for an electronic meeting under Subsection (5)(a), post written notice at the anchor location; and

(b) in addition to giving public notice required by Subsection (3)(a), provide:

(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and

(ii) a description of how the members will be connected to the electronic meeting.

(4) (a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public who are not physically present at the anchor location may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a) (i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means; or

(b) (i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

(8) Unless a public body adopts a resolution, rule, or ordinance described in Subsection (2)(c)(v), a public body that is conducting an electronic meeting may not allow a member to vote or otherwise act by proxy.

(9) Except for a unanimous vote, a public body that is conducting an electronic meeting shall take all votes by roll call.

CHAPTER 25
H. B. 24

Passed February 4, 2022
Approved March 15, 2022
Effective May 4, 2022

EMPLOYMENT ADVISORY COUNCIL AMENDMENTS

Chief Sponsor: Clare Collard
Senate Sponsor: Derek L. Kitchen

LONG TITLE

General Description:

This bill addresses the Employment Advisory Council within the Department of Workforce Services.

Highlighted Provisions:

This bill:

- extends the sunset date of the Employment Advisory Council from 2022 to 2032.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-235, as last amended by Laws of Utah 2021, Chapters 28 and 282

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

Section 1. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(4) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, [~~2022~~] 2032.

(5) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

(6) Section 35A-9-501 is repealed January 1, 2023.

(7) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

(8) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.

(9) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

(10) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

(11) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

CHAPTER 26
H. B. 27

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

STATE MONUMENTS ACT AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill makes changes to the State Monuments Act.

Highlighted Provisions:

This bill:

- defines terms;
- amends the procedure for considering a proposed state monument;
- repeals sections related to the procedure for considering a proposed state monument and the management of a state monument; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-4-1202, as enacted by Laws of Utah 2019, Chapter 360
79-4-1203, as enacted by Laws of Utah 2019, Chapter 360
79-4-1208, as enacted by Laws of Utah 2019, Chapter 360

REPEALS:

79-4-1204, as enacted by Laws of Utah 2019, Chapter 360
79-4-1205, as enacted by Laws of Utah 2019, Chapter 360
79-4-1207, as enacted by Laws of Utah 2019, Chapter 360

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

Section 1. Section 79-4-1202 is amended to read:

79-4-1202. Definitions.

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

(1) "Application" means a written application that an individual, non-profit corporation, government agency, county council or commission, tribal entity, historical society, preservation organization, or other interested group may submit to the division to nominate a historic landmark, historic or prehistoric structure, geologic formation, cultural site, or archaeological resource for designation as a state monument.

[~~(1)~~] (2) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee or the House or Senate Natural Resources, Agriculture, and Environment Standing Committee.

[~~(2)~~] (3) "State monument" means public land:

(a) owned or managed by the state;

(b) designated by the state for preservation of a historic landmark, historic or prehistoric structure, geologic formation, cultural site, or archeological resource; and

(c) confined to the smallest area compatible with proper care and management of the historic landmark, historic or prehistoric structure, geologic formation, cultural site, or archeological resource to be protected.

Section 2. Section 79-4-1203 is amended to read:

79-4-1203. Division duties -- Committee duties.

[~~(1) (a) The division shall periodically:~~]

[~~(i) evaluate state property for potential designation as a state monument; and~~]

(1) (a) When the division receives a completed application, the division shall:

(i) evaluate the application;

(ii) as applicable, comply with the requirements described in Subsections (2) through (5); and

(iii) provide a written report to a committee that includes:

[~~(ii)~~] (A) [~~report~~] the results of the evaluation described in Subsection (1)(a)(i) [~~to the committee.~~];

(B) all resolutions described in Subsections (2) and (3);

(C) all comments submitted by a legislator under Subsection (4); and

(D) the results of the division's consultation with a state agency under Subsection (5).

(b) The division may:

(i) evaluate private and federal land with the potential to be purchased by, transferred to, or leased to, the state for potential designation as a state monument; and

(ii) enter into negotiations with the relevant federal agency or private entity to pursue the transfer, sale, or lease of federal land for the proposed state monument, as appropriations allow.

(2) (a) The division shall submit a completed application and the results of the division's evaluation of the application to the legislative body of all counties that will contain some or all of the proposed state monument within the county's geographic borders.

(b) No later than 45 days after the day on which a county's legislative body receives the information described in Subsection (2)(a), the county legislative body shall:

(i) adopt a resolution stating the county's support for or opposition to the proposed state monument; and

(ii) submit the resolution to the division.

(3) (a) The division shall submit a completed application and the results of the division's evaluation of the application to the legislative body of any municipality that will contain some or all of the proposed state monument within the municipality's geographic borders.

(b) Within 45 days after the day on which a municipality's legislative body receives the information described in Subsection (3)(a), the municipality's legislative body shall:

(i) adopt a resolution stating the municipality's support for or opposition to the proposed state monument; and

(ii) submit the resolution to the division.

(4) The division shall:

(a) submit a completed application and the results of the division's evaluation of the application to each legislator whose legislative district is located partially or wholly within the geographic borders of the proposed state monument; and

(b) invite the legislators to submit comments on the proposed state monument.

(5) (a) If any part of a proposed state monument would fall within the jurisdictional boundaries of a state agency other than the division, the division shall consult with the state agency regarding the proposed state monument.

(b) A committee may not recommend a proposed state monument to the Legislature if designating the state monument may cause a state agency to breach a fiduciary, contractual, or other legal obligation governing management or use of land that would be included within the geographic borders of the state monument.

[~~(2)~~] (6) [~~The division shall make rules, in~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules and prescribe forms for the submission of an application and for the administration of a state monument, subject to valid existing rights and Section 79–4–1208.

(7) Except as provided in Subsection (8), after receiving and reviewing a report described in Subsection (1)(a)(iii), a committee shall:

(a) recommend the proposed state monument to the Legislature pursuant to Section 79–4–1206;

(b) return the proposed state monument to the division for further study and evaluation; or

(c) reject the proposed state monument.

(8) If a county or municipality adopts a resolution opposing a proposed state monument under Subsection (2) or (3), a committee may not recommend the proposed state monument to the Legislature.

Section 3. Section 79-4-1208 is amended to read:

79-4-1208. Management.

(1) (a) Subject to Subsection (2), the division [~~may be~~] is responsible for the management of a state monument [~~or~~].

(b) The division may contract with another organization, agency, or entity for management services related to the management of a state monument.

(2) Upon Title 63L, Chapter 8, Utah Public Land Management Act, becoming effective as described in Section 63L–8–602, the government entity responsible for management of the public lands [~~shall: (a) be~~] is responsible for the management of a state monument[~~; and~~].

[~~(b) provide staff support to a management committee created in Section 79–4–1207.~~]

Section 4. Repealer.

This bill repeals:

Section 79-4-1204, County proposal.

Section 79-4-1205, Report.

Section 79-4-1207, Management committee.

CHAPTER 27
H. B. 37

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

STATE WATER POLICY AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends the state water policy.

Highlighted Provisions:

This bill:

- includes recharge of aquifers as part of the state water policy; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-21, as enacted by Laws of Utah 2020, Chapter 160

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

Section 1. Section 73-1-21 is amended to read:

73-1-21. State water policy.

(1) It is the policy of the state that:

(a) Utah shall pursue adequate, reliable, affordable, sustainable, and clean water resources, recognizing that Utah is one of the most arid states in the nation and as such, there is, and will continue to be, a need to ensure Utah's finite water resources are used beneficially;

(b) Utah will promote:

(i) water conservation, efficiency, and the optimal use of water resources, while identifying intended and unintended consequences to ensure appropriate choice and implementation of particular strategies;

(ii) water resource development and the creation of new water infrastructure necessary to meet the state's growing demand and promote economic development;

(iii) compliance with state statutes regarding Lake Powell pipeline development and Bear River development;

(iv) the timely replacement of aging or inefficient water resource, drinking water, wastewater, and storm water infrastructure;

(v) the optimal use of agricultural water to sustain and improve food production and the productive capacity of agricultural lands;

(vi) water quality in rivers and lakes that:

(A) complies with state clean water and safe drinking water statutes; and

(B) protects public health;

(vii) water pricing and funding mechanisms that:

(A) provide revenue stability while encouraging conservation, efficiency, and optimization efforts;

(B) adequately cover infrastructure needs; and

(C) balance social, economic, public interest, and environmental values;

(viii) respect for water rights;

(ix) standards for accurate water use measurement, tracking, enforcement, and reporting;

(x) efforts to educate and engage the public in:

(A) individual actions that protect water quality, including preventing and mitigating water pollution; and

(B) conservation practices and the efficient and optimal use of water resources;

(xi) the implementation of cyber security and physical security measures for water infrastructure;

(xii) the study and consideration of mechanisms for increased flexibility in water use such as water banking and split season uses;

(xiii) continued improvements in the management of water resources through protection, restoration, and science-based evaluation of Utah watersheds, [~~and~~] increased reservoir capacity, and aquifer recharge or aquifer storage and recovery;

(xiv) the development and beneficial use of Utah's allocated share of interstate rivers, including Utah's allocations under the 1922 and 1948 Colorado River Compacts and the 1980 Amended Bear River Compact;

(xv) the study and development of strategies and practices necessary to address declining water levels and protect the water quality and quantity of the Great Salt Lake, Utah Lake, and Bear Lake, taking into consideration natural climate change, natural weather systems and patterns, and normal cyclic water level change over time, while balancing economic, social, and environmental needs;

(xvi) regulations and practices, including voluntary practices, that maintain sufficient stream flows and lake levels to provide reasonable access to recreational activities and protect and restore water quality, quantity, and healthy ecosystems, including protecting groundwater and surface water sources from pollution;

(xvii) equitable access to safe, affordable, and reliable drinking water to protect public health;

(xviii) regulations and practices that encourage effective treatment of wastewater to maximize its availability for beneficial use and minimize depletion and the further degradation of other waters;

(xix) the control of invasive species that threaten or degrade waters of the state;

(xx) coordination among the state, water providers, water users, local governments, government agencies, and researchers in the study of ways weather and climate will impact future water supplies, demand, and quality;

(xxi) water laws, rules, and enforcement that are consistent with this Subsection (1) and encourage transparency, order, and certainty in the use of public water;

(xxii) the support and funding of research, science, and technology necessary to achieve the provisions of this Subsection (1); and

(xxiii) the collaboration, cooperation, and engagement of stakeholders in the identification and advancement of actions that support the provisions of this Subsection (1); and

(c) Utah supports the timely and appropriate negotiated settlement of federally reserved water right claims for both Native American trust lands and other existing federal reservations, and opposes any future designation of public lands that does not quantify any associated federally reserved water rights.

(2) State agencies are encouraged to conduct agency activities consistent with Subsection (1) and implement policies established by the Legislature that promote the near- and long-term stewardship of water quality and water resources.

(3) This section does not create a cause of action against the state's or a state agency's action that is inconsistent with Subsection (1) and does not waive governmental immunity under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(4) The Natural Resources, Agriculture, and Environment Interim Committee shall review the state water policy annually and recommend priority balancing and any other changes to the Legislature.

CHAPTER 28
H. B. 39

Passed February 17, 2022
Approved March 15, 2022
Effective July 1, 2022

STATE CONSTRUCTION CODE AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies Title 15A, State Construction and Fire Codes Act, and creates an exemption from licensure in the Professional Engineers and Professional Land Surveyors Licensing Act.

Highlighted Provisions:

This bill:

- amends provisions of Title 15A, State Construction and Fire Codes Act, by amending the:
  - Statewide Amendments to the International Residential Code;
  - Statewide Amendments to the International Plumbing Code;
  - Statewide Amendments to the International Mechanical Code; and
  - the State Fire Code;
- creates a licensing exemption for a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout or Fire Alarm Systems; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

15A-3-202, as last amended by Laws of Utah 2021, Chapters 102 and 199
15A-3-203, as last amended by Laws of Utah 2019, Chapter 20
15A-3-205, as last amended by Laws of Utah 2019, Chapter 20
15A-3-206, as last amended by Laws of Utah 2021, Chapters 102 and 199
15A-3-306, as last amended by Laws of Utah 2019, Chapter 20
15A-3-402, as last amended by Laws of Utah 2020, Chapter 441
15A-5-202, as last amended by Laws of Utah 2019, Chapter 103
15A-5-302, as last amended by Laws of Utah 2019, Chapter 103
58-22-305, as last amended by Laws of Utah 2020, Chapter 339

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

Section 1. Section 15A-3-202 is amended to read:

15A-3-202. Amendments to Chapters 1 through 5 of IRC.

(1) In IRC, Section R102, a new Section R102.7.2 is added as follows: "R102.7.2 Physical change for bedroom window egress. A structure whose egress window in an existing bedroom is smaller than required by this code, and that complied with the construction code in effect at the time that the bedroom was finished, is not required to undergo a physical change to conform to this code if the change would compromise the structural integrity of the structure or could not be completed in accordance with other applicable requirements of this code, including setback and window well requirements."

(2) In IRC, Section R108.3, the following sentence is added at the end of the section: "The building official shall not request proprietary information."

(3) In IRC, Section 109:

(a) A new IRC, Section 109.1.5, is added as follows: "R109.1.5 Weather-resistant exterior wall envelope inspections. An inspection shall be made of the weather-resistant exterior wall envelope as required by Section R703.1 and flashings as required by Section R703.8 to prevent water from entering the weather-resistive barrier."

(b) The remaining sections are renumbered as follows: R109.1.6 Other inspections; R109.1.6.1 Fire- and smoke-resistance-rated construction inspection; R109.1.6.2 Reinforced masonry, insulating concrete form (ICF) and conventionally formed concrete wall inspection; and R109.1.7 Final inspection.

(4) IRC, Section R114.1, is deleted and replaced with the following: "R114.1 Notice to owner. Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or other pertinent laws or ordinances or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent or to the person doing the work; and shall state the conditions under which work will be permitted to resume."

(5) In IRC, Section R202, the following definition is added: "ACCESSORY DWELLING UNIT: A habitable living unit created within the existing footprint of a primary owner-occupied single-family dwelling."

(6) In IRC, Section R202, the following definition is added: "CERTIFIED BACKFLOW PREVENTER ASSEMBLY TESTER: A person who has shown competence to test Backflow prevention assemblies to the satisfaction of the authority having jurisdiction under Utah Code, Subsection 19-4-104(4)."

(7) In IRC, Section R202, the definition of "Cross Connection" is deleted and replaced with the following: "CROSS CONNECTION. Any physical

connection or potential connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical, whereby there exists the possibility for flow from one system to the other, with the direction of flow depending on the pressure differential between the two systems (see "Backflow, Water Distribution")."

(8) In IRC, Section 202, the following definition is added: "ENERGY STORAGE SYSTEM (ESS). One or more devices, assembled together, that are capable of storing energy for supplying electrical energy at a future time."

(9) In IRC, Section 202, in the definition for gray water a comma is inserted after the word "washers"; the word "and" is deleted; and the following is added to the end: "and clear water wastes which have a pH of 6.0 to 9.0; are non-flammable; non-combustible; without objectionable odors; non-highly pigmented; and will not interfere with the operation of the sewer treatment facility."

(10) In IRC, Section R202, the definition of "Potable Water" is deleted and replaced with the following: "POTABLE WATER. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming to the Utah Code, Title 19, Chapter 4, Safe Drinking Water Act, and Title 19, Chapter 5, Water Quality Act, and the regulations of the public health authority having jurisdiction."

(11) IRC, Figure R301.2(5), is deleted and replaced with R301.2(5) as follows:

"TABLE NO. R301.2(5)
GROUND SNOW LOADS FOR SELECTED LOCATIONS IN UTAH

City/Town	County	Ground Snow Load (lb.ft2)	Elevation (ft)
Beaver	Beaver	35	5886
Brigham City	Box Elder	42	4423
Castle Dale	Emery	32	5669
Coalville	Summit	57	5581
Duchesne	Duchesne	39	5508
Farmington	Davis	35	4318
Fillmore	Millard	30	5138
Heber City	Wasatch	60	5604
Junction	Piute	27	6030
Kanab	Kane	25	4964
Loa	Wayne	37	7060
Logan	Cache	43	4531
Manila	Daggett	26	6368
Manti	Sanpete	37	5620
Moab	Grand	21	4029
Monticello	San Juan	67	7064
Morgan	Morgan	52	5062
Nephi	Juab	39	5131
Ogden	Weber	37	4334
Panguitch	Garfield	41	6630
Parowan	Iron	32	6007
Price	Carbon	31	5558
Provo	Utah	31	4541
Randolph	Rich	50	6286
Richfield	Sevier	27	5338
St. George	Washington	21	2585
Salt Lake City	Salt Lake	28	4239
Tooele	Tooele	35	5029
Vernal	Uintah	39	5384

Note: To convert lb/ft^2 to kN/m^2, multiply by 0.0479. To convert feet to meters, multiply by 0.3048.

1. Statutory requirements of the Authority Having Jurisdiction are not included in this state ground snow load table.

2. For locations where there is substantial change in altitude over the city/town, the load applies at and below the cited elevation, with a tolerance of 100 ft (30 m).

3. For other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values.

(12) IRC, Section R301.6, is deleted and replaced with the following: "R301.6 Utah Snow Loads. The snow loads specified in Table R301.2(5b) shall be used for the jurisdictions identified in that table. Otherwise, for other locations in Utah, see Bean, B., Maguire, M., Sun, Y. (2018), "The Utah Snow Load Study," Utah State University Civil and Environmental Engineering Faculty Publications, Paper 3589, http://utahsnowload.usu.edu/, for ground snow load values."

(13) In IRC, Section R302.2, the following sentence is added after the second sentence: "When an access/maintenance agreement or easement is in place, plumbing, mechanical ducting, schedule 40 steel gas pipe, and electric service conductors including feeders, are permitted to penetrate the common wall at grade, above grade, or below grade."

(14) In IRC, Section R302.3, a new exception 3 is added as follows: "3. Accessory dwelling units separated by walls or floor assemblies protected by not less than 1/2-inch (12.7 mm) gypsum board or equivalent on each side of the wall or bottom of the floor assembly are exempt from the requirements of this section."

(15) In IRC, Section R302.5.1, the words "self-closing device" are deleted and replaced with "self-latching hardware."

(16) IRC, Section R302.13, is deleted.

(17) In IRC, Section R303.4, the number "5" is changed to "3" in the first sentence.

(18) In IRC, Section R310.6, in the exception, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(19) IRC, Sections R311.7.4 through R311.7.5.3, are deleted and replaced with the following: "R311.7.4 Stair treads and risers. R311.7.5.1 Riser height. The maximum riser height shall be 8 inches (203 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).R311.7.5.2 Tread depth. The minimum tread depth shall be 9 inches (228 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured as above at a point 12 inches (305 mm) from the side where the treads are narrower. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point. Within any flight of stairs, the greatest winder tread depth at the 12-inch (305 mm) walk line shall not exceed the smallest by more than 3/8 inch (9.5 mm).R311.7.5.3 Profile. The radius of curvature at the leading edge of the tread shall be no greater than 9/16 inch (14.3 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosing shall not exceed 1/2 inch (12.7 mm). Risers shall be vertical or sloped from the underside of the leading edge of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted, provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere.

Exceptions.

1. A nosing is not required where the tread depth is a minimum of 10 inches (254 mm)

2. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less."

(20) IRC, Section R312.2, is deleted.

(21) IRC, Sections R313.1 through R313.2.1, are deleted and replaced with the following: "R313.1 Design and installation. When installed, automatic residential fire sprinkler systems for townhouses or one- and two-family dwellings shall be designed and installed in accordance with Section P2904 or NFPA 13D."

(22) In IRC, Section R314.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(23) In IRC, Section R315.2.2, the words "or accessory dwelling units" are added after the words "sleeping rooms".

(24) In IRC, Section 315.3, the following words are added to the first sentence after the word "installed": "on each level of the dwelling unit and."

(25) In IRC, Section R315.5, a new exception, 3, is added as follows:"3. Hard wiring of carbon monoxide alarms in existing areas shall not be required where the alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for hard wiring, without the removal of interior finishes."

(26) A new IRC, Section R315.7, is added as follows: " R315.7 Interconnection. Where more than one carbon monoxide alarm is required to be installed within an individual dwelling unit in accordance with Section R315.1, the alarm devices shall be interconnected in such a manner that the actuation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm.

Exception: Interconnection of carbon monoxide alarms in existing areas shall not be required where alterations or repairs do not result in removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.”

(27) In IRC, Section R317.1.5, the period is deleted and the following language is added to the end of the paragraph: “or treated with a moisture resistant coating.”

(28) In IRC, Section 326.1, the words “residential provisions of the” are added after the words “pools and spas shall comply with”.

(29) [~~In IRC, Section R327.1 is deleted and replaced with the following:~~] A new IRC, Section 327, Stationary Storage Battery Systems, is added as follows:

“327.1 General. Energy storage systems (ESS) shall comply with the provisions of this section.

Exceptions:

1. ESS listed and labeled in accordance with UL 9540 and marked “For use in residential dwelling units”, where installed in accordance with the manufacturer’s instruction and NFPA 70.

2. ESS less than 1kWh (3.6 megajoules).[“~~ (30) In IRC, Section R327.2 is deleted and replaced with the following: “~~]

327.2 Equipment listings. ESS shall be listed and labeled in accordance with UL 9540.Exception: Where approved, repurposed unlisted battery systems from electric vehicle are allowed to be installed outdoors or in detached sheds located not less than 5 feet (1524 mm) from exterior walls, property lines and public ways.[“~~(31) In IRC, Section R327.3 is deleted and replaced with the following: “~~]

327.3 Installation. ESS shall be installed in accordance with the manufacturer’s instructions and their listing.[“~~(32) In IRC, Section R327, a new section 327.3.1 is added as follows: “~~]

327.3.1 Spacing. Individual units shall be separate from each other by not less than three feet (914 mm) except where smaller separation distances are documented to be adequate based on large-scale fire testing complying with Section 1206.2.3 of the adopted International Fire Code [~~” (33) In IRC, Section 327.4 is deleted and replaced with the following: “~~]

327.4 Locations. ESS shall be installed only in the following locations:

1. Detached garages and detached accessory structures.

2. Attached garages separated from the dwelling unit living space in accordance with Section R302.6.

3. Outdoors or on the exterior side of exterior walls located not less than 3 feet (914 mm) from doors and windows directly entering the dwelling unit.

4. Enclosed utility closets, basements, storage or utility spaces within dwelling units with finished or noncombustible walls and ceilings. Walls and ceilings of unfinished wood-framed construction shall be provided with not less than 5/8-inch (15.9 mm) Type X gypsum wallboard.

ESS shall not be installed in sleeping rooms, or closets or spaces opening directly into sleeping rooms.[~~”(34) In IRC, Section 327.5 is deleted and replaced with the following: “~~]

327.5 Energy ratings. Individual ESS units shall have a maximum rating of 20 kWh. The aggregate rating of the ESS shall not exceed:

1. 40 kWh within utility closets, basements, and storage or utility spaces.

2. 80 kWh in attached or detached garages and detached accessory structures.

3. 80 kWh on exterior walls.

4. 80 kWh outdoors on the ground.

ESS installations exceeding the permitted individual or aggregate ratings shall be installed in accordance with Sections 1206.2.1 through 1206.2.12 of the adopted International Fire Code [“~~ (35) In IRC, Section 327.6 is deleted and replaced with the following: “~~]

327.6 Electrical installation. ESS shall be installed in accordance with NFPA 70. Inverters shall be listed and labeled in accordance with UL 1741 or provided as part of the UL 9540 listing. Systems connected to the utility grid shall use inverters listed for utility interaction.[“~~ (36) In IRC, Section 327, a new section 327.7 is added as follows: “~~]

327.7 Fire detection. Rooms and areas within dwelling units, basements, and attached garages in which ESS are installed shall be protected by smoke alarms in accordance with Section R314. A heat detector, listed and interconnected to the smoke alarms, shall be installed in locations within dwelling units and attached garages where smoke alarms cannot be installed based on their listing [“~~ (37) In IRC, Section 327, a new section 327.8 is added as follows: “~~]

327.8 Protection from impact. ESS installed in a location subject to vehicle damage shall be protected by approved barriers.[“~~ (38) In IRC, Section 327, a new section 327.9 is added as follows: “~~]

327.9 Ventilation. Indoor installations of ESS that include batteries that produce hydrogen or other flammable gasses during charging shall be provided with mechanical ventilation in accordance with Section M1307.4.[“~~ (39) In IRC, Section 327, a new section 327.10 is added as follows: “~~]

327.10 Electric vehicle use. The temporary use of an owner or occupant’s electric-powered vehicle to power a dwelling unit while parked in an attached or detached garage or outdoors shall comply with the vehicle manufacturer’s instructions and NFPA 70.[“~~ (40) In IRC, Section 327, a new section 327.11 is added as follows: “~~]

327.11 Signage. A sign located on the exterior of the dwelling shall be installed at a location approved by the authority having jurisdiction which identifies the battery chemistry included in the ESS. This sign shall be of sufficient durability to withstand the environment involved and shall not be handwritten."

[~~(41)~~] (30) In IRC, Section R403.1.6, a new Exception 3 is added as follows: "3. When anchor bolt spacing does not exceed 32 inches (813 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(42)~~] (31) In IRC, Section R403.1.6.1, a new exception is added at the end of Item 2 and Item 3 as follows: "Exception: When anchor bolt spacing does not exceed 32 inches (816 mm) apart, anchor bolts may be placed with a minimum of two bolts per plate section located not less than 4 inches (102 mm) from each end of each plate section at interior bearing walls, interior braced wall lines, and at all exterior walls."

[~~(43)~~] (32) In IRC, Section R404.1, a new exception is added as follows: "Exception: As an alternative to complying with Sections R404.1 through R404.1.5.3, concrete and masonry foundation walls may be designed in accordance with IBC Sections 1807.1.5 and 1807.1.6 as amended in Section 1807.1.6.4 and Table 1807.1.6.4 under these rules."

[~~(44)~~] (33) In IRC, Section R405.1, a new exception is added as follows: "Exception: When a geotechnical report has been provided for the property, a drainage system is not required unless the drainage system is required as a condition of the geotechnical report. The geological report shall make a recommendation regarding a drainage system."

Section 2. Section 15A-3-203 is amended to read:

15A-3-203. Amendments to Chapters 6 through 15 of IRC.

(1) In IRC, Section N1101.5 (R103.2), all words after the words "herein governed." are deleted and replaced with the following: "Construction documents include all documentation required to be submitted in order to issue a building permit."

(2) In IRC, Section N1101.12 (R303.3), all wording after the first sentence is deleted.

(3) In IRC, Section N1101.13 (R401.2), add Exception as follows:

"Exception: A project complies if the project demonstrates compliance, using the software RESCheck 2012 Utah Energy Conservation Code, of:

(a) on or after January 1, 2017, and before January 1, 2019, "3 percent better than code";

(b) on or after January 1, 2019, and before January 1, 2021, "4 percent better than code"; and

(c) after January 1, 2021, "5 percent better than code.""

(4) In IRC, Table N1102.2 (R402.1.2), in the column titled MASS WALL R-VALUE, a new footnote j is added as follows:

"j. Log walls complying with ICC400 and with a minimum average wall thickness of 5 inches or greater shall be permitted in Zones 5 through 8 when overall window glazing has a .31 U-factor or lower, minimum heating equipment efficiency is 90 AFUE (gas) or 84 AFUE (oil), and all other component requirements are met."

(5) In IRC, Section N1102.4.1 (R402.4.1), in the first sentence, the word "and" is deleted and replaced with the word "or."

(6) In IRC, Section N1102.4.1.1 (R402.4.1.1), the last sentence is deleted and replaced with the following: "Where allowed by the code official, the builder may certify compliance to components criteria for items which may not be inspected during regularly scheduled inspections."

(7) In IRC, Section N1102.4.1.2 (R402.4.1.2), the following changes are made:

(a) In the first sentence:

(i) "The building or dwelling unit" is deleted and replaced with "A single-family dwelling";

(ii) after January 1, 2019, replace the word "five" with "3.5"; and

(iii) the words "in Climate Zones 1 and 2, and three air changes per hour in Climate Zones 3 through 8" are deleted.

(b) The following sentence is inserted after the first sentence: "A multi-family dwelling and townhouse shall be tested and verified as having an air leakage rate of not exceeding five air changes per hour."

(c) In the third sentence, the word "third" is deleted.

(d) The following sentence is inserted after the third sentence: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed training provided by Blower Door Test equipment manufacturers or other comparable training."

(8) In IRC, Section N1103.3.3 (R403.3.3):

(a) the exception for duct air leakage testing is deleted; and

(b) the exception for duct air leakage is replaced:

(i) on or after January 1, 2017, and before January 1, 2019, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 65% of all ducts (measured by length) located entirely within the building thermal envelope.";

(ii) on or after January 1, 2019, and before January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 75% of all ducts (measured by length) located entirely within the building thermal envelope."; and

(iii) on or after January 1, 2021, with the following: "Exception: The duct air leakage test is not required for systems with all air handlers and at least 80% of all ducts (measured by length) located entirely within the building thermal envelope."

(9) In IRC, Section N1103.3.3 (R403.3.3), the following is added after the exception: "The following parties shall be approved to conduct testing: Parties certified by BPI or RESNET, or licensed contractors who have completed either training provided by Duct Test equipment manufacturers or other comparable training."

(10) In IRC, Section N1103.3.4 (R403.3.4):

(a) in Subsection 1, the number 4 is changed to 8, the number 113.3 is changed to 170, the number 3 is changed to 6, the number 85 is changed to 114.6; and

(b) in Subsection 2:

(i) on or after January 1, 2017, and before January 1, 2019, the number 4 is changed to 8 and the number 113.3 is changed to 226.5;

(ii) on or after January 1, 2019, and before January 1, 2021, the number 4 is changed to 7 and the number 113.3 is changed to 198.2; and

(iii) on or after January 1, 2021, the number 4 is changed to 6 and the number 113.3 is changed to 169.9.

(11) In IRC, Section N1103.3.5 (R403.3.5), the words "or plenums" are deleted.

(12) In IRC, Section N1103.5.3 (R403.5.3), Subsection 5 is deleted and Subsections 6 and 7 are renumbered.

(13) IRC, Section N1103.6.1 (R403.6.1), is deleted and replaced with the following: "N1103.6.1 (R403.6.1) Whole-house mechanical ventilation system fan efficacy. Fans used to provide whole-house mechanical ventilation shall meet the efficacy requirements of Table N1103.6.1 (R403.6.1).

Exception: Where an air handler that is integral to tested and listed HVAC equipment is used to provide whole-house mechanical ventilation, the air handler shall be powered by an electronically commutated motor."

(14) In IRC, Section N1103.6.1 (R403.6.1), the table is deleted and replaced with the following:

TABLE N1103.6.1 (R403.6.1)
MECHANICAL VENTILATION SYSTEM FAN EFFICACY

FAN LOCATION	AIR FLOW RATE MINIMUM (CFM)	MINIMUM EFFICACY (CFM/WATT)	AIR FLOW RATE MAXIMUM (CFM)
HRV or ERV	Any	1.2 cfm/watt	Any
Range hoods	Any	2.8 cfm/watt	Any
In-line fan	Any	2.8 cfm/watt	Any
Bathroom, Utility room	10	1.4 cfm/watt	<90
Bathroom, Utility room	90	2.8 cfm/watt	Any

(15) In IRC, Section N1106.4 (R406.4), the table is deleted and replaced with the following:

TABLE N1106.4 (R406.4)
MAXIMUM ENERGY RATING INDEX

CLIMATE ZONE	ENERGY RATING INDEX
3	65
5	69
6	68

(16) In IRC, Section N1103.7 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with N1103.7.1".

(17) A new IRC, Section N1103.7.1 is added as follows: "N1103.7.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC load calculation training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

[~~(16)~~] (18) In IRC, Section M1307.2, the words "In Seismic Design Categories D0, D1, and D2, and in townhouses in Seismic Design Category C", are deleted, and in Subparagraph 1, the last sentence is deleted.

(19) In IRC, Section M1401.3 the word "approved" is deleted in the first sentence and the following is added after the word methodologies ", complying with M1401.3.1".

(20) A new IRC, Section M1401.3.1, is added as follows: "M1401.3.1 Qualifications. An individual performing load calculations shall be qualified by completing HVAC load calculation training from one of the following:

1. HVAC load calculation education from ACCA;

2. A recognized educational institution;

3. HVAC equipment manufacturer's training; or

4. Other recognized industry certification."

(21) In IRC, Section M1402.1, the following is added at the end of the second sentence: "or UL/CSA 60335-2-40."

(22) In IRC, Section M1403.1, the characters "/ANCE" are deleted.

[~~(17)~~] (23) IRC, Section M1411.8, is deleted.

(24) In IRC, Section M1412.1, the characters "/ANCE" are deleted.

(25) In IRC, Section M1413.1, the characters "/ANCE" are deleted.

Section 3. Section 15A-3-205 is amended to read:

15A-3-205. Amendments to Chapters 26 through 35 of IRC.

(1) A new IRC, Section P2602.3, is added as follows: "P2602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized, provided that the source has been developed in accordance with Utah Code, Sections 73-3-1 and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the local health department having jurisdiction."

(2) A new IRC, Section P2602.4, is added as follows: "P2602.4 Sewer required. Every building in which plumbing fixtures are installed and all premises having drainage piping shall be connected to a public sewer where the sewer is accessible and is within 300 feet of the property line in accordance with Utah Code, Section 10-8-38; or an approved private sewage disposal system in accordance with Utah Administrative Code, Chapter 4, Rule R317, as administered by the Department of Environmental Quality, Division of Water Quality."

(3) In IRC, Section P2705, Item 5, the words "lavatory" and "lavatories" are deleted.

(4) In IRC, Section P2705, a new Item 6 is added as follows: "6. Lavatories. A lavatory shall not be set closer than 12 inches from its center to any side wall or partition. A lavatory shall be provided with a clearance of 24 inches in width and 21 inches in depth in front of the lavatory to any side wall, partition, or obstruction." Remaining item numbers are renumbered accordingly.

(5) In IRC, Section P2801.8, all words in the first sentence up to the word "water" are deleted.

(6) A new IRC, Section P2902.1.1, is added as follows: "P2902.1.1 Backflow assembly testing. The premise owner or the premise owner's designee shall have backflow prevention assemblies operation tested in accordance with administrative rules made by the Drinking Water Board at the time of installation, repair, and relocation and at least on an annual basis thereafter, or more frequently as required by the authority having jurisdiction. Testing shall be performed by a Certified Backflow Preventer Assembly Tester. The assemblies that are subject to this paragraph are the Spill Resistant Vacuum Breaker, the Pressure Vacuum Breaker Assembly, the Double Check Backflow Prevention Assembly, the Double Check Detector Assembly Backflow Preventer, the Reduced Pressure Principle Backflow Preventer, and Reduced Pressure Detector Assembly. Third-party certification for backflow prevention assemblies will consist of any combination of two certifications, laboratory or field. Acceptable third-party laboratory certifying agencies are ASSE, IAPMO, and USC-FCCCHR. USC-FCCCHR currently provides the only field testing of backflow protection assemblies. Also see www.drinkingwater.utah.gov and rules made by the Drinking Water Board."

(7) In IRC, Section P2902.1, the following subsections are added as follows:

"P2902.1.1 General Installation Criteria.

Assemblies shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance, and to insure the safety of the backflow technician.

P2902.1.2 Specific Installation Criteria.

P2902.1.2.1 Reduced Pressure Principle [~~Blackflow~~] Backflow Prevention Assembly.

The reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly may not be installed in a pit.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, a storm drain, or a vent.

c. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation in accordance with Section 303.4.

d. The bottom of the assembly shall be installed a minimum of 12 inches above the floor or ground.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

P2902.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position only, unless listed or approved for vertical installation

.b. The bottom of the assembly shall be a minimum of 12 inches above the ground or floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance between all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

P2902.1.2.3 Pressure Vacuum Break Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum break assembly or a spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground, in a vault, or in a pit.

e. The assembly shall be installed in a vertical position."

(8) In IRC, Table 2903.2, the following changes are made in the column titled "MAXIMUM FLOW RATE OR QUANTITY":

(a) In the row titled "Lavatory faucet" the text is deleted and replaced with "1.5 gpm at 60 psi".

(b) In the row titled "Shower head" the text is deleted and replaced with "2 gpm at 80 psi".

[~~(8)~~] (9) In IRC, Section 2903.5, at the beginning of the second sentence, insert "If installed,".

[~~(9)~~] (10) In IRC, Section P2903.9.3, the first sentence is deleted and replaced with the following: "Unless the plumbing appliance or plumbing fixture has a wall-mount valve, shutoff valves shall be required on each fixture supply pipe to each plumbing appliance and to each plumbing fixture other than bathtubs and showers."

[~~(10)~~] (11) IRC, Section P2910.5, is deleted and replaced with the following: "P2910.5 Potable water connections.

When a potable water system is connected to a nonpotable water system, the potable water system shall be protected against backflow by a reduced pressure backflow prevention assembly or an air gap installed in accordance with Section 2901."

[~~(11)~~] (12) IRC, Section P2910.9.5, is deleted and replaced with the following: "P2910.9.5 Makeup water.

Where an uninterrupted nonpotable water supply is required for the intended application, potable or reclaimed water shall be provided as a source of makeup water for the storage tank. The makeup water supply shall be protected against backflow by means of an air gap not less than 4 inches (102 millimeters) above the overflow or by a reduced pressure backflow prevention assembly installed in accordance with Section 2902."

[~~(12)~~] (13) In IRC, Section P2911.12.4, the following words are deleted: "and backwater valves."

[~~(13)~~] (14) In IRC, Section P2912.15.6, the following words are deleted: "and backwater valves."

[~~(14) In IRC, Section P2913.4.2, the following words are deleted: "and backwater valves."~~]

(15) IRC, Section P3009, is deleted and replaced with the following: "P3009 Connected to nonpotable water from on-site water reuse systems.

Nonpotable systems utilized for subsurface irrigation for single-family residences shall comply with the requirements of R317-401, UAC, Graywater Systems."

(16) In IRC, Section P3103.6, the following sentence is added at the end of the paragraph: “Vents extending through the wall shall terminate not less than 12 inches from the wall with an elbow pointing downward.”

(17) In IRC, Section P3104.4, the following sentence is added at the end of the paragraph: “Horizontal dry vents below the flood level rim shall be permitted for floor drain and floor sink installations when installed below grade in accordance with Chapter 30, and Sections P3104.2 and P3104.3. A wall cleanout shall be provided in the vertical vent.”

Section 4. Section 15A-3-206 is amended to read:

15A-3-206. Amendments to Chapters 37, 39, and 44 and Appendix F of IRC.

(1) In IRC, Section E3601.6.2, a new exception is added as follows: “Exception: An occupant of an accessory dwelling unit is not required to have access to the disconnect serving the dwelling unit in which they reside.”

(2) In IRC, Section E3705.4.5, the following words are added after the word “assemblies”: “with ungrounded conductors 10 AWG and smaller”.

(3) In IRC, Section E3901.4.5, the last sentence in the exception is deleted and replaced with the following: “Receptacles mounted below the countertop in accordance with this exception shall not be located more than 14 inches from the bottom leading edge of the countertop.”

(4) In IRC, Section E3901.9, the following exception is added: “Exception: Receptacles or other outlets adjacent to the exterior walls of the garage, outlets adjacent to an exterior wall of the garage, or outlets in a storage room with entry from the garage may be connected to the garage branch circuit.”

(5) IRC, Section E3902.16 is deleted.

(6) In Section E3902.17:

(a) following the word “Exception” the number “1.” is added; and

(b) at the end of the section, the following sentences are added: “2. This section does not apply for a simple move or an extension of a branch circuit or an outlet which does not significantly increase the existing electrical load. This exception does not include changes involving remodeling or additions to a residence.”

(7) IRC, Chapter 44, is amended by deleting the standard for “ANCE.”

(8) In IRC, Chapter 44, the standard for ASHRAE is amended by changing “34-2013” to “34-2019.”

(9) In IRC, Chapter 44, the standard for CSA, is amended by changing the:

(a) standard reference number “UL/CSA/ANCE 60335-2-40-2012” to “UL/CSA 60335-2-40-2019”; and

(b) title “Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors” to “Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition.”

(10) In IRC, Chapter 44, the standard for UL, is amended by changing the:

(a) standard reference number “1995-2011” to “1995-2015”;

(b) standard reference number “UL/CSA/ANCE 60335-2-40-2012” to “UL/CSA 60335-2-40-2019”; and

(c) title “Standard for Household and Similar Electrical Appliances, Part 2: Particular Requirements for Motor-Compressors” to “Standard for Household and Similar Electrical Appliances, Part 2-40, Requirements for Electric Heat Pumps, Air Conditioners and Dehumidifiers-3rd Edition.”

[~~(7)~~] (11) IRC, Chapter 44, is amended by adding the following reference standard:

“Standard reference number	Title	Referenced in code section number
USC-FCCCHR 10th Edition Manual of Cross Connection Control	Foundation for Cross-Connection Control and Hydraulic Research University of Southern California Kaprielian Hall 300 Los Angeles CA 90089-2531	Table P2902.3”

[~~(8)~~] (12) In IRC, Chapter 44, is amended by adding the following reference standard: “UL 9540-20: Energy Storage Systems and Equipment; R327.1, R327.2 and R327.6.”

[~~(9)~~] (13) (a) When passive radon controls or portions thereof are voluntarily installed, the voluntary installation shall comply with Appendix F of the IRC.

(b) An additional inspection of a voluntary installation described in Subsection (9)(a) is not required.

Section 5. Section 15A-3-306 is amended to read:

15A-3-306. Amendments to Chapter 6 of IPC.

(1) IPC, Section 602.3, is deleted and replaced with the following: “602.3 Individual water supply. Where a potable public water supply is not available, individual sources of potable water supply shall be utilized provided that the source has been developed in accordance with Utah Code, Sections 73-3-1, 73-3-3, and 73-3-25, as administered by the Department of Natural Resources, Division of Water Rights. In addition, the quality of the water shall be approved by the

local health department having jurisdiction. The source shall supply sufficient quantity of water to comply with the requirements of this chapter."

(2) IPC, Sections 602.3.1, 602.3.2, 602.3.3, 602.3.4, 602.3.5, and 602.3.5.1, are deleted.

(3) In IPC, Table 604.4, the following changes are made in the column titled "MAXIMUM FLOW RATE OR QUANTITY":

(a) In the row titled "Lavatory, private" the text is deleted and replaced with "1.5 gpm at 60 psi".

(b) In the row titled "Shower head" the text is deleted and replaced with "2 gpm at 80 psi".

(c) In the row titled "Urinal" the text is deleted and replaced with "0.5 gallon per flushing cycle".

[~~(3)~~] (4) A new IPC, Section 604.4.1, is added as follows: "604.4.1 Manually operated metering faucets for food service establishments. Self closing or manually operated metering faucets shall provide a flow of water for at least 15 seconds without the need to reactivate the faucet."

[~~(4)~~] (5) IPC, Section 606.5, is deleted and replaced with the following: "606.5 Water pressure booster systems. Water pressure booster systems shall be provided as required by Section 606.5.1 through 606.5.11."

[~~(5)~~] (6) A new IPC, Section 606.5.11, is added as follows: "606.5.11 Prohibited installation. In no case shall a booster pump be allowed that will lower the pressure in the public main to less than the minimum water pressure specified in Utah Administrative Code R309-105-9."

[~~(6)~~] (7) In IPC, Section 608.1, the words "and pollution" are added after the word "contamination."

[~~(7)~~] (8) In IPC, Section 608.1, the following subsections are added as follows: "608.1.1 General Installation Criteria.

An assembly shall not be installed more than five feet above the floor unless a permanent platform is installed. The assembly owner, where necessary, shall provide devices or structures to facilitate testing, repair, and maintenance and to insure the safety of the backflow technician.

608.1.2 Specific Installation Criteria.

608.1.2.1 Reduced Pressure Principle [~~Blackflow~~] Backflow Prevention Assembly.

A reduced pressure principle backflow prevention assembly shall be installed as follows:

a. The assembly shall not be installed in a pit or below grade where the relief port could be submerged in water or where fumes could be present at the relief port discharge.

b. The relief valve of the assembly shall not be directly connected to a waste disposal line, including a sanitary sewer, storm drain, or vent.

c. The assembly shall be installed in a horizontal position, unless the assembly is listed or approved for vertical installation in accordance with Section 303.4.

d. The bottom of each assembly shall be installed a minimum of 12 inches above the ground or the floor.

e. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

608.1.2.2 Double Check Valve Backflow Prevention Assembly.

A double check valve backflow prevention assembly shall be installed as follows:

a. The assembly shall be installed in a horizontal position unless the assembly is listed or approved for vertical installation.

b. The bottom of the assembly shall be a minimum of 12 inches above the ground or the floor.

c. The body of the assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. If installed in a pit, the assembly shall be installed with a minimum of 12 inches of clearance around all sides of the vault, including the floor and roof or ceiling, with adequate room for testing and maintenance.

608.1.2.3 Pressure Vacuum Breaker Assembly and Spill Resistant Pressure Vacuum Breaker Assembly.

A pressure vacuum breaker assembly and spill resistant pressure vacuum breaker assembly shall be installed as follows:

a. The assembly shall not be installed in an area that could be subject to backpressure or back drainage conditions.

b. The assembly shall be installed a minimum of 12 inches above all downstream piping and the highest point of use.

c. The assembly shall be a minimum of 12 inches from any wall, ceiling, or obstacle, and shall be readily accessible for testing, repair, and maintenance.

d. The assembly shall not be installed below ground or in a vault or pit.e. The assembly shall be installed in a vertical position."

[~~(8)~~] (9) In IPC, Section 608.3, the word "and" before the word "contamination" is deleted and replaced with a comma and the words " or pollution" are added after the word "contamination" in the first sentence.

[~~(9)~~] (10) In IPC, Section 608.6, the words "with the potential to create a condition of either contamination or pollution or" are added after the word "substances."

[~~(10)~~] (11) In IPC, Section 608.7, the following sentence is added at the end of the paragraph: "Any connection between potable water piping and sewer-connected waste shall be protected by an air gap in accordance with Section 608.14.1."

[~~(11)~~] (12) IPC, Section 608.8, is deleted and replaced with the following: " 608.8 Stop and Waste Valves installed below grade. Combination stop-and-waste valves shall be permitted to be installed underground or below grade. Freeze proof yard hydrants that drain the riser into the ground are considered to be stop-and-waste valves and shall be permitted. A stop-and-waste valve shall be installed in accordance with a manufacturer's recommended installation instructions."

[~~(12)~~] (13) IPC, Section 608.14.3, is deleted and replaced with the following: " 608.14.3 Backflow preventer with intermediate atmospheric vent. Backflow preventers with intermediate atmospheric vents shall conform to ASSE 1012 or CSA CAN/CSA-B64.3. These devices shall be permitted to be installed on residential boilers, without chemical treatment, where subject to continuous pressure conditions, and humidifiers in accordance with Section 608.17.10. The relief opening shall discharge by air gap and shall be prevented from being submerged."

[~~(13)~~] (14) IPC, Section 608.14.4, is deleted.

[~~(14)~~] (15) IPC, Section 608.16.3, is deleted and replaced with the following: " 608.16.3 Protection by a backflow preventer with intermediate atmospheric vent. Connections to residential boilers only, without chemical treatment, and humidifiers shall be protected by a backflow preventer with an intermediate atmospheric vent."

[~~(15)~~] (16) IPC, Section 608.16.4, is deleted and replaced with the following: " 608.16.4 Protection by a vacuum breaker. Openings and outlets shall be protected by atmospheric-type or pressure-type vacuum breakers. Vacuum breakers shall not be installed under exhaust hoods or similar locations that will contain toxic fumes or vapors. Fill valves shall be set in accordance with Section 425.3.1. Atmospheric Vacuum Breakers - The critical level of the atmospheric vacuum breaker shall be set a minimum of 6 inches (152 mm) above the flood level rim of the fixture or device. Pipe-applied vacuum breakers shall be installed not less than 6 inches (152 mm) above the flood level rim of the fixture, receptor, or device served. No valves shall be installed downstream of the atmospheric vacuum breaker. The atmospheric vacuum breaker shall not be installed where it may be subjected to continuous pressure for more than 12 consecutive hours at any time. Pressure Vacuum Breaker - The critical level of the pressure vacuum breaker shall be set a minimum of 12 inches (304 mm) above the flood level of the fixture or device."

[~~(16)~~] (17) In IPC, Section 608.16.4.2, the following is added after the first sentence: "Add-on-backflow prevention devices shall be non-removable. In climates where freezing temperatures occur, a listed self-draining frost proof hose bibb with an integral backflow preventer shall be used."

[~~(17)~~] (18) In IPC, Section 608.17.1.2, the words "or ASSE 1024" are deleted.

[~~(18)~~] (19) IPC, Section 608.17.2, is deleted and replaced as follows: " 608.17.2 Connections to boilers. The potable supply to a boiler shall be protected by an air gap or a reduced pressure principle backflow preventer, complying with ASSE 1013, CSA B64.4 or AWWA C511.Exception: The potable supply to a residential boiler without chemical treatment may be equipped with a backflow preventer with an intermediate atmospheric vent complying with ASSE 1012 or CSA CAN/CSA-B64.3."

[~~(19)~~] (20) In IPC, Section 608.17.4.1, a new exception is added as follows: "Exception: All class 1 and 2 systems containing chemical additives consisting of strictly glycerine (C.P. or U.S.P. 96.5 percent grade) or propylene glycol shall be protected against backflow with a double check valve assembly. Such systems shall include written certification of the chemical additives at the time of original installation and service or maintenance."

[~~(20)~~] (21) IPC, Section 608.17.7, is deleted and replaced with the following: " 608.17.7 Chemical dispensers. Where chemical dispensers connect to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.14.1, Section 608.14.2, Section 608.14.5, Section 608.14.6 or Section 608.14.8. Installation shall be in accordance with Section 608.1.2. Chemical dispensers shall connect to a separate dedicated water supply line, and not a sink faucet."

[~~(21)~~] (22) IPC, Section 608.17.8, is deleted and replaced with the following: " 608.17.8 Portable cleaning equipment. Where the portable cleaning equipment connects to the water distribution system, the water supply system shall be protected against backflow in accordance with Section 608.14.1 or Section 608.14.2."

[~~(22)~~] (23) A new IPC, Section 608.17.11, is added as follows: " 608.17.11 Automatic and coin operated car washes. The water supply to an automatic or coin operated car wash shall be protected in accordance with Section 608.14.1 or Section 608.14.2."

[~~(23)~~] (24) IPC, Section 608.18, is deleted and replaced with the following: " 608.18 Protection of individual water supplies. See Section 602.3 for requirements."

Section 6. Section 15A-3-402 is amended to read:

15A-3-402. Amendments to Chapters 1 through 5 of IMC.

(1) In IMC, Table 403.3.1.1, note h is deleted and replaced with the following:

"h. 1. A nail salon shall provide each manicure station where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of Occupational and Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with:

a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and an activated carbon filter that is capable of filtering and recirculating air to inside space at a rate not less than 50 cfm per station; or

b. a source capture system capable of exhausting not less than 50 cfm per station.

c. A nail salon that complies with Note h. la or h. lb is not required to comply with the labeling, listing, or testing requirements described in International Mechanical Code sections 301.7 or 301.8.

2. For a source capture system described in paragraph 1, the source capture system inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.

3. Where one or more exhausting source capture systems described in paragraph 1 operate continuously during occupancy, the source capture system exhaust rate shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.

4. The requirements of this note apply to:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(2) In IMC, Section 502.20 is deleted and rewritten as follows:

"502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide each manicure station with a source capture system in accordance with Table 403.3.1.1, note h. For a manicure table that does not have factory-installed source capture system inlets for recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and vertically from the point of any acrylic chemical application.

Exception: Section 502.20 applies to a manicure station in:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(3) In IMC, Section 908.1, the following words are added at the end of the last sentence: "or UL/CSA 60335-2-40."

(4) In IMC, Section 918.1, the following words are added after "1995": "or UL/CSA 60335-2-40."

(5) In IMC, Section 918.2, the following words are added at the end of the sentence: "or UL/CSA 60335-2-40."

(6) In IMC, Section 1101.2, the words "471 or 1995" are deleted and replaced with "471, 1995, or UL/CSA 60335-2-40."

(7) In IMC, Section 1101.6, the following sentence is added at the end of the paragraph: "High probability systems utilizing A2L refrigerants shall comply with ASHRAE 15."

(8) In IMC, Chapter 15, the standard for ASHRAE, is amended by changing the:

(a) standard reference number "15-2016" to "15-2019"; and

(b) standard reference number "34-2016" to "34-2019";

(9) In IMC, Chapter 15 is amended by adding the following referenced standard to CSA:

"Standard reference number	Title	Referenced in code section number
CSA: CSA C22.2 60335-2-40-2019	Standard for Household and Similar Electrical Appliances. Part 2-40: Particular Requirements for Electrical Heat Heat Pumps, Air-Conditioners and Dehumidifiers - 3rd Edition	M1403.1, M1412.1, M1413.1"

(10) In IMC, Chapter 15 is amended by adding the following referenced standard to UL:

"Standard reference number	Title	Referenced in code section number
UL:60335-2-40-2019	Standard for Household and Similar Electrical Appliances. Part 2-40: Particular Requirements for Electrical Heat Heat Pumps, Air-Conditioners and Dehumidifiers - 3rd Edition	M1403.1, M1412.1, M1413.1"

Section 7. Section 15A-5-202 is amended to read:

15A-5-202. Amendments and additions to IFC related to administration, permits, definitions, and general and emergency planning.

(1) For IFC, Chapter 1, Scope and Administration:

(a) IFC, Chapter 1, Section 102.5, is deleted and rewritten as follows:

"102.5 Application of residential code.

If a structure is designed and constructed in accordance with the International Residential Code, the provisions of this code apply only as follows:

1. The construction and design provisions of this code apply only to premises identification, fire apparatus access, fire hydrants and water supplies, and construction permits required by Section 105.7.

2. This code does not supercede the land use, subdivision, or development standards established by a local jurisdiction.

3. The administrative, operational, and maintenance provisions of this code apply."

(b) IFC, Chapter 1, Section 102.9, is deleted and rewritten as follows:

"102.9 Matters not provided for.

Requirements that are essential for the public safety of an existing or proposed activity, building or structure, or for the safety of the occupants thereof, which are not specifically provided for by this code, shall be determined by the fire code official on an emergency basis if:

(a) the facts known to the fire code official show that an immediate and significant danger to the public health, safety, or welfare exists; and

(b) the threat requires immediate action by the fire code official.

102.9.1 Limitation of emergency order.

In issuing its emergency order, the fire code official shall:

(a) limit the order to require only the action necessary to prevent or avoid the danger to the public health, safety, or welfare; and

(b) give immediate notice to the persons who are required to comply with the order, that includes a brief statement of the reasons for the fire code official's order.

101.9.2 Right to appeal emergency order.

If the emergency order issued under this section will result in the continued infringement or impairment of any legal right or interest of any party, the party shall have a right to appeal the fire code official's order in accordance with IFC, Chapter 1, Section 109."

(c) IFC, Chapter 1, Section 105.4.1, Submittals, is amended to add the following after the last sentence:

"Fire sprinkler system layout may be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout. Fire alarm system layout may be prepared and submitted by a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems."

[~~(c)~~] (d) IFC, Chapter 1, Section 105.6.16, Flammable and combustible liquids, is amended to add the following section: "12. The owner of an underground tank that is out of service for longer than one year shall receive a Temporary Closure Notice from the Department of Environmental Quality and a copy shall be given to the AHJ."

[~~(d)~~] (e) A new IFC, Chapter 1, Section 109.1.1, Application of residential code, is added as follows:

"109.1.1 Application of residential code.

For development regulated by a local jurisdiction's land use authority, the fire code official's interpretation of this code is subject to the advisory opinion process described in Utah Code, Section 13-43-205, and to a land use appeal authority appointed under Utah Code, Section 10-9a-701 or 17-27a-701."

[~~(e)~~] (f) In IFC, Chapter 1, Section 109, a new Section 109.4, Notice of right to appeal, is added as follows: "At the time a fire code official makes an order, decision, or determination that relates to the application or interpretation of this chapter, the fire code official shall inform the person affected by the order, decision, or determination of the person's right to appeal under this section. Upon request, the fire code official shall provide a person affected by an order, decision, or determination that relates to the application or interpretation of this chapter a written notice that describes the person's right to appeal under this section."

[~~(f)~~] (g) IFC, Chapter 1, Section 110.3, Notice of violation, is deleted and rewritten as follows:

"110.3 Notice of violation.

If the fire code official determines that a building, premises, vehicle, storage facility, or outdoor area is in violation of this code or other pertinent laws or ordinances, the fire code official is authorized to prepare a written notice of violation that describes the conditions deemed unsafe and, absent immediate compliance, specifies a time for reinspection."

(2) For IFC, Chapter 2, Definitions:

(a) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Ambulatory Surgical Center: "AMBULATORY SURGICAL CENTER. A building or portion of a building licensed by the Department of Health where procedures are performed that may render patients incapable of self preservation where care is less than 24 hours. See Utah Administrative Code, R432-13, Freestanding Ambulatory Surgical Center Construction Rule."

(b) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Assisted Living Facility. "ASSISTED LIVING FACILITY. See Residential Treatment/Support Assisted Living Facility, Type I Assisted Living Facility, and Type II Assisted Living Facility."

(c) IFC, Chapter 2, Section 202, General Definitions, FOSTER CARE FACILITIES is amended as follows: The word "Foster" is changed to the word "Child."

(d) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Group E, day care facilities, is amended as follows:

(i) On line three delete the word "five" and replace it with the word "four"; and

(ii) On line four after the word "supervision" add the words "child care centers."

(e) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.

(f) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, Five or fewer children in a dwelling unit, is amended as follows: The word "five" is deleted and replaced with the word "four" in both places.

(g) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child day care -- residential child care certificate or a license. Areas used for child day care purposes with a residential child care certificate, as described in Utah Administrative Code, R430-50, Residential Certificate Child Care, or a residential child care license, as described in Utah Administrative Code, R430-90, Licensed Family Child Care, may be located in a Group R-2 or R-3 occupancy as provided in Residential Group R-3, or shall comply with the International Residential Code in accordance with Section R101.2."

(h) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Educational Group E, a new section is added as follows: "Child care centers. Each of the following areas may be classified as accessory occupancies:

1. Hourly child care centers, as described in Utah Administrative Code, R381-60, Hourly Child Care Centers;

2. Child care centers, as described in Utah Administrative Code, R381-100, Child Care Centers; and

3. Out-of-school-time programs, as described in Utah Administrative Code, R381-70, Out of School Time Child Care Programs."

(i) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, is amended as follows: Insert "Type I" in front of the words "Assisted living facilities".

(j) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-1, Five or fewer persons receiving custodial care is amended as follows: On line four after "International Residential Code" the rest of the section is deleted.

(k) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-2, is amended as follows:

(i) On line three delete the word "five" and insert the word "three";

(ii) On line six the word "foster" is deleted and replaced with the word "child"; and

(iii) On line 10, after the words "Psychiatric hospitals", add the following to the list: "both intermediate nursing care and skilled nursing care facilities, ambulatory surgical centers with five or more operating rooms, and Type II assisted living facilities. Type II assisted living facilities with five or fewer persons shall be classified as a Group R-4. Type II assisted living facilities with at least six and not more than 16 residents shall be classified as a Group I-1 facility".

(l) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Classification as Group E, is amended as follows:

(i) On line two delete the word "five" and replace it with the word "four"; and

(ii) On line three delete the words "2 1/2 years or less of age" and replace with the words "under the age of two".

(m) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Institutional Group I-4, day care facilities, Five or fewer occupants receiving care in a dwelling unit, is amended as follows: On lines one and three the word "five" is deleted and replaced with the word "four".

(n) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, the words "and single family dwellings complying with the IRC" are added after the word "Residential Group R-3 occupancies".

(o) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, Care facilities within a dwelling, is amended as follows: On line three after the word "dwelling" insert "other than child care".

(p) IFC, Chapter 2, Section 202, General Definitions, OCCUPANCY CLASSIFICATION, Residential Group R-3, a new section is added as follows: "Child Care. Areas used for child care purposes may be located in a residential dwelling unit when all of the following conditions are met:

1. Compliance with Utah Administrative Code, R710-8, Day Care Rules, as enacted under the authority of the Utah Fire Prevention Board;

2. Use is approved by the Department of Health under the authority of Utah Code, Title 26, Chapter 39, Utah Child Care Licensing Act, and in any of the following categories:

1.1. Utah Administrative Code, R430-50, Residential Certificate Child Care; or

1.2. Utah Administrative Code, R430-90, Licensed Family Child Care; and

1.3 Compliance with all zoning regulations of the local regulator.”

(q) IFC, Chapter 2, Section 202, General Definitions, RECORD DRAWINGS, is amended as follows: Delete the words “a fire alarm system” and replace them with “any fire protection system”.

(r) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Residential Treatment/Support Assisted Living Facility. “RESIDENTIAL TREATMENT/ SUPPORT ASSISTED LIVING FACILITY. A residential facility that provides a group living environment for four or more residents licensed by the Department of Human Services, and provides a protected living arrangement for ambulatory, non-restrained persons who are capable of achieving mobility sufficient to exit the facility without the physical assistance of another person.”

(s) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type I Assisted Living Facility. “TYPE I ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides a protected living arrangement, assistance with activities of daily living and social care to two or more ambulatory, non-restrained persons who are capable of mobility sufficient to exit the facility without the assistance of another person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents.”

(t) IFC, Chapter 2, Section 202, General Definitions, the following definition is added for Type II Assisted Living Facility. “TYPE II ASSISTED LIVING FACILITY. A residential facility licensed by the Department of Health that provides an array of coordinated supportive personal and health care services to two or more residents who are:

A. Physically disabled but able to direct his or her own care; or

B. Cognitively impaired or physically disabled but able to evacuate from the facility, or to a zone or area of safety, with the physical assistance of one person. Subcategories are:

Limited Capacity: two to five residents;

Small: six to sixteen residents; and

Large: over sixteen residents.”

Section 8. Section 15A-5-302 is amended to read:

15A-5-302. Amendments and additions to NFPA related to National Fire Alarm and Signaling Code.

For NFPA 72, National Fire Alarm and Signaling Code, 2016 edition:

(1) NFPA 72, Chapter 2, Section 2.2, NFPA Publications, is amended to add the following NFPA standard: “NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, 2016 edition.”

(2) NFPA 72, Chapter 10, Section 10.5.1, System Designer, Subsection 10.5.1.3(2), is deleted and rewritten as follows:[~~ “National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.”~~] “Certification by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems.”

(3) NFPA 72, Chapter 10, Section 10.5.2, System Installer, Subsection 10.5.2.3(2), is deleted and rewritten as follows:[~~ “National Institute of Certification in Engineering Technologies (NICET) fire alarm level II certified personnel.”~~] “Certification by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems.”

(4) NFPA 72, Chapter 10, Section 10.5.3, Inspection, Testing, and Maintenance Personnel, Subsection 10.5.3.1, is deleted and rewritten as follows:

“Service personnel shall be qualified and experienced in the inspection, testing, and maintenance of fire alarm systems. Qualified personnel shall meet the certification requirements stated in rule made by the State Fire Prevention Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.”

(5) NFPA 72, Chapter 10, Section 10.12, Fire Alarm Signal Deactivation, Subsection 10.13.2, is amended to add the following sentence: “When approved by the AHJ, the audible notification appliances may be deactivated during the investigation mode to prevent unauthorized reentry into the building.”

(6) In NFPA 72, Chapter 23, Section 23.8.5.9, Signal Initiation -- Fire Pump, Subsection 23.8.5.9.3 is added as follows: “Automatic fire pumps shall be supervised in accordance with NFPA 20, Standard for the Installation of Stationary Pumps for Fire Protection, and the AHJ.”

(7) NFPA 72, Chapter 26, Section 26.3.4, Indication of Central Station Service, Subsection 26.3.4.7 is amended as follows: On line two, after the word “notified”, insert the words “without delay” and delete the words, “within 30 calendar days”.

Section 9. Section 58-22-305 is amended to read:

58-22-305. Exemption from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following may engage in the following acts or practices without being licensed under this chapter:

(a) a person offering to render professional engineering, professional structural engineering, or professional land surveying services in this state when not licensed under this chapter if the person:

(i) holds a current and valid professional engineer, professional structural engineer, or professional land surveyor license issued by a licensing authority recognized by rule by the division in collaboration with the board;

(ii) discloses in writing to the potential client the fact that the professional engineer, professional structural engineer, or professional land surveyor:

(A) is not licensed in the state;

(B) may not provide professional engineering, professional structural engineering, or professional land surveying services in the state until licensed in the state; and

(C) that such condition may cause a delay in the ability of the professional engineer, professional structural engineer, or professional land surveyor to provide licensed services in the state;

(iii) notifies the division in writing of the person's intent to offer to render professional engineering, professional structural engineering, or professional land surveying services in the state; and

(iv) does not provide professional engineering, professional structural engineering, or professional land surveying services, or engage in the practice of professional engineering, professional structural engineering, or professional land surveying in this state until licensed to do so;

(b) a person preparing a plan and specification for a one or two-family residence not exceeding two stories in height;

(c) a person licensed to practice architecture under Title 58, Chapter 3a, Architects Licensing Act, performing architecture acts or incidental engineering or structural engineering practices that do not exceed the scope of the education and training of the person performing engineering or structural engineering;

(d) unlicensed employees, subordinates, associates, or drafters of a person licensed under this chapter while preparing plans, maps, sketches, drawings, documents, specifications, plats, and reports under the supervision of a professional engineer, professional structural engineer, or professional land surveyor;

(e) a person preparing a plan or specification for, or supervising the alteration of or repair to, an existing building affecting an area not exceeding 3,000 square feet when structural elements of a building are not changed, such as foundations, beams, columns, and structural slabs, joists, bearing walls, and trusses;

(f) an employee of a communications, utility, railroad, mining, petroleum, or manufacturing company, or an affiliate of such a company, if the professional engineering or professional structural engineering work is performed solely in connection with the products or systems of the company and is not offered directly to the public;

(g) an organization engaged in the practice of professional engineering, structural engineering, or professional land surveying, provided that:

(i) the organization employs a principal; and

(ii) all individuals employed by the organization, who are engaged in the practice of professional engineering, structural engineering, or land surveying, are licensed or exempt from licensure under this chapter; [~~and~~]

(h) a person licensed as a professional engineer, a professional structural engineer, or a professional land surveyor in a state other than Utah serving as an expert witness, provided the expert testimony meets one of the following:

(i) oral testimony as an expert witness in an administrative, civil, or criminal proceeding; or

(ii) written documentation included as part of the testimony in a proceeding, including designs, studies, plans, specifications, or similar documentation, provided that the purpose of the written documentation is not to establish specifications, plans, designs, processes, or standards to be used in the future in an industrial process, system, construction, design, or repair[~~.~~];

(i) a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Water-Based System Layout, who submits a fire sprinkler system to the authority having jurisdiction, the fire code official, or the building official for approval;

(j) a person certified by the National Institute for Certification in Engineering Technologies at level III or IV in Fire Alarm Systems, who submits a fire alarm system layout to the authority having jurisdiction, the fire code official, or the building official for approval;

(k) a fire code or building official reviewing construction documents for code compliance; and

(l) a fire code or building official conducting an inspection for code compliance.

(2) Nothing in this section shall be construed to restrict a person from preparing plans for a client under the [~~exemption~~] exemptions provided in [~~Subsection (1)(b)~~] Subsections (1)(b), (1)(i), or (1)(j), or taking those plans to a professional engineer for the engineer's review, approval, and subsequent fixing of the engineer's seal to that set of plans.

Section 10. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 29
H. B. 41

Passed February 4, 2022
Approved March 15, 2022
Effective May 4, 2022

COUNTY PROPERTY TAX STATEMENT AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the annual property tax statement each county auditor prepares for the State Tax Commission and the State Auditor.

Highlighted Provisions:

This bill:

- repeals the requirement that the county auditor annually provide the State Auditor a property tax statement; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-325, as last amended by Laws of Utah 2000, Chapter 86

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

Section 1. Section 59-2-325 is amended to read:

59-2-325. Statement transmitted to commission.

(1) The county auditor shall, before November 1 of each year[~~,~~]:

(a) prepare from the assessment rolls of that year a statement showing:

(i) the amount and value of all property in the county, as classified by the county assessment rolls, and the value of each class;

(ii) the total amount of taxes remitted by the county board of equalization;

(iii) the state's share of the taxes remitted;

(iv) the county's share of the taxes remitted;

(v) the rate of county taxes; and

(vi) any other information requested by the [~~state auditor. The statement shall be made in duplicate, upon forms provided by the state auditor, and as soon as prepared shall be transmitted, one copy to the state auditor and one copy to the commission.~~] commission; and

(b) provide a copy of the statement to the commission.

(2) The county auditor shall prepare the statement in the manner prescribed by the commission.

CHAPTER 30
H. B. 42

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

EDUCATION SUNSET EXTENSIONS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Kathleen A. Riebe

LONG TITLE

General Description:

This bill extends certain repeal dates related to the public education system.

Highlighted Provisions:

This bill:

- extends a repeal date related to the State Instructional Materials Commission;
- extends a repeal date related to a provision that allows for resolution of criminal conduct by a student; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, [~~2022~~] 2027.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.~~]

[~~(18)~~] (17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(19)~~] (18) Section 53F-5-203 is repealed July 1, 2024.

[~~(20)~~] (19) Section 53F-5-212 is repealed July 1, 2024.

[~~(21)~~] (20) Section 53F-5-213 is repealed July 1, 2023.

[~~(22)~~] (21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (24) Section 53F-9-501 is repealed January 1, 2023.

[~~(26)~~] (25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (26) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, [~~2022~~] 2027.

CHAPTER 31
H. B. 43

Passed February 8, 2022
Approved March 15, 2022
Effective May 4, 2022

HOSPITALITY AND TOURISM MANAGEMENT CTE PILOT PROGRAM SUNSET EXTENSION

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill extends the repeal date for the Hospitality and Tourism Management Career and Technical Education Pilot Program.

Highlighted Provisions:

This bill:

- extends the repeal date for the Hospitality and Tourism Management Career and Technical Education Pilot Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

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

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515, regarding the Hospitality and Tourism Management Career and Technical Education Pilot Program, is repealed January 1, [~~2023~~] 2025.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.~~]

[~~(18)~~] (17) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(19)~~] (18) Section 53F-5-203 is repealed July 1, 2024.

[~~(20)~~] (19) Section 53F-5-212 is repealed July 1, 2024.

[~~(21)~~] (20) Section 53F-5-213 is repealed July 1, 2023.

[~~(22)~~] (21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (24) Section 53F-9-501 is repealed January 1, 2023.

[~~(26)~~] (25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (26) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 32
H. B. 44

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

BUSINESS AND LABOR REPORTING REQUIREMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill removes expired reporting requirements.

Highlighted Provisions:

This bill:

- removes expired reporting requirements related to:
  - the Inland Port Authority community enhancement program;
  - the cost of insulin manufacturing and factors that determine the price of insulin;
  - hospital costs and workers' compensation;
  - the effectiveness of the Labor Commission and state law in addressing discrimination in matters of compensation; and
  - education and training standards for state plumber and electrician apprenticeship programs; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-58-202, as last amended by Laws of Utah 2020, Chapters 126 and 263
34A-2-107, as last amended by Laws of Utah 2020, Chapter 156
34A-2-705, as last amended by Laws of Utah 2018, Chapters 268 and 319
34A-5-104, as last amended by Laws of Utah 2018, Chapter 317
58-55-201, as last amended by Laws of Utah 2020, Chapters 154 and 339

REPEALS:

31A-22-626.5, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

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

Section 1. Section 11-58-202 is amended to read:

11-58-202. Port authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

(i) emissions monitoring and reporting; and

(ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of the authority jurisdictional land and land in other authority project areas, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the authority jurisdictional land;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

(q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;

(r) own and operate an intermodal facility if the authority considers the authority's ownership and operation of an intermodal facility to be necessary or desirable;

(s) own and operate publicly owned infrastructure and improvements in a project area outside the authority jurisdictional land; and

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform.

(3) (a) Beginning April 1, 2020, the authority shall:

(i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and

(ii) maintain an accurate digital file of the boundary that is easily accessible by the public.

(b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:

(A) with a single tax identification number; and

(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).

(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.

(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.

(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.

(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.

(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this Subsection (3)(b).

(4) (a) The authority may establish a community enhancement program designed to address the impacts that development or inland port uses within project areas have on adjacent communities.

(b) (i) The authority may use authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (4)(a).

(ii) Authority money designated for use under Subsection (4)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the authority arising out of the authority's activities with respect to the community enhancement program.

[~~(c) On or before October 31, 2020, the authority shall report on the authority's actions under this Subsection (4) to:~~]

[~~(i) the Business, Economic Development, and Labor Appropriations Subcommittee of the Legislature;~~]

[~~(ii) the Economic Development and Workforce Services Interim Committee of the Legislature; and~~]

[~~(iii) the Business and Labor Interim Committee of the Legislature.~~]

(5) An intermodal facility owned by the authority is subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Section 2. Section 34A-2-107 is amended to read:

34A-2-107. Appointment of workers' compensation advisory council -- Composition -- Terms of members -- Duties -- Compensation.

(1) There is created a workers' compensation advisory council composed of:

(a) the following voting members whom the commissioner shall appoint:

(i) five employer representatives; and

(ii) five employee representatives;

(b) the following nonvoting members whom the commissioner shall appoint:

(i) a representative of the workers' compensation insurance carrier that provides workers' compensation insurance under Section 31A-22-1001;

(ii) a representative of a workers' compensation insurance carrier different from the workers' compensation insurance carrier listed in Subsection (1)(b)(i);

(iii) a representative of health care providers;

(iv) the Utah insurance commissioner or the insurance commissioner's designee;

(v) the commissioner or the commissioner's designee; and

(vi) a representative of hospitals; and

(c) the following nonvoting members:

(i) a member of the Senate whom the president of the Senate shall appoint; and

(ii) a member of the House of Representatives whom the speaker of the House of Representatives shall appoint.

(2) Employers and employees shall consider nominating members of groups who historically may have been excluded from the council, such as women, minorities, and individuals with disabilities.

(3) (a) Except as required by Subsection (3)(b), as terms of current council members expire, the commissioner, the president of the Senate, or the speaker of the House of Representatives shall appoint in accordance with Subsection (1) each new member or reappointed member to a two-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

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

(b) The commissioner shall terminate the term of a council member who ceases to be representative as designated by the member's original appointment.

(5) The council shall confer at least quarterly for the purpose of advising the commission, the division, and the Legislature on:

(a) the Utah workers' compensation and occupational disease laws;

(b) the administration of the laws described in Subsection (5)(a); and

(c) rules related to the laws described in Subsection (5)(a).

(6) Regarding workers' compensation, rehabilitation, and reemployment of employees who acquire a disability because of an industrial injury or occupational disease the council shall:

(a) offer advice on issues requested by:

(i) the commission;

(ii) the division; and

(iii) the Legislature; and

(b) make recommendations to:

(i) the commission; and

(ii) the division.

[~~(7) (a) The council shall:~~]

[~~(i) study how to reduce hospital costs for purposes of medical benefits for workers' compensation;~~]

[~~(ii) study hospital billing and payment trends in the state;~~]

[~~(iii) study hospital fee schedules used in other states; and~~]

[~~(iv) collect information from third-party hospital bill review companies in the state or region, to identify an average reimbursement rate that represents the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services in the state.~~]

[~~(b) In accordance with Section 68-3-14, the council shall submit a written report to the Business and Labor Interim Committee no later than September 1, 2019, 2020, and 2021. Each written report shall include:~~]

[~~(i) recommendations on how to reduce hospital costs for purposes of medical benefits for workers' compensation;~~]

[~~(ii) aggregate data on hospital billing and payment trends in the state;~~]

[~~(iii) the results of the council's study of hospital fee schedules from other states; and~~]

[~~(iv) the approximate rate at which a workers' compensation insurance carrier or self-insured employer should expect to reimburse a hospital for billed hospital fees for covered medical services, calculated in accordance with Subsection (7)(a)(iv).~~]

[~~(c) For each report described in Subsection (7)(b), the commission may contract with a third-party expert to assist with the council's duties described in Subsections (7)(a) and (b).~~]

[~~(8)~~] (7) The commissioner or the commissioner's designee shall serve as the chair of the council and call the necessary meetings.

[~~(9)~~] (8) The commission shall provide staff support to the council.

[~~(10)~~] (9) (a) Except as provided in Subsections [~~(10)~~] (9)(b) and [~~(10)~~](c), a member may not receive compensation or benefits for the member's service.

(b) A member who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(c) A member who is a legislator may receive compensation and travel expenses in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 3. Section 34A-2-705 is amended to read:

34A-2-705. Industrial Accident Restricted Account.

(1) As used in this section:

(a) "Account" means the Industrial Accident Restricted Account created by this section.

(b) "Advisory council" means the state workers' compensation advisory council created under Section 34A-2-107.

(2) There is created in the General Fund a restricted account known as the "Industrial Accident Restricted Account."

(3) (a) The account is funded from:

(i) .5% of the premium income remitted to the state treasurer and credited to the account pursuant to Subsection 59-9-101(2)(c)(iv); and

(ii) amounts deposited under Section 34A-2-1003.

(b) If the balance in the account exceeds $500,000 at the close of a fiscal year, the excess shall be transferred to the Uninsured Employers' Fund created under Section 34A-2-704.

(4) (a) From money appropriated by the Legislature from the account to the commission and subject to the requirements of this section, the commission may fund:

(i) the activities of the Division of Industrial Accidents described in Section 34A-1-202;

(ii) the activities of the Division of Adjudication described in Section 34A-1-202; and

(iii) the activities of the commission described in Section 34A-2-1005[~~; and~~].

[~~(iv) the activities of the commission described in Subsection 34A-2-107(7)(c), up to $50,000 for each of the three reports described in Subsection 34A-2-107(7)(b).~~]

(b) The money deposited in the account may not be used for a purpose other than a purpose described in this Subsection (4), including an administrative cost or another activity of the commission unrelated to the account.

(5) (a) Each year before the public hearing required by Subsection 59-9-101(2)(d)(i), the commission shall report to the advisory council regarding:

(i) the commission's budget request to the governor for the next fiscal year related to:

(A) the Division of Industrial Accidents; and

(B) the Division of Adjudication;

(ii) the expenditures of the commission for the fiscal year in which the commission is reporting related to:

(A) the Division of Industrial Accidents; and

(B) the Division of Adjudication;

(iii) revenues generated from the premium assessment under Section 59-9-101 on an admitted insurer writing workers' compensation insurance in this state and on a self-insured employer under Section 34A-2-202; and

(iv) money deposited under Section 34A-2-1003.

(b) The commission shall annually report to the governor and the Legislature regarding:

(i) the use of the money appropriated to the commission under this section;

(ii) revenues generated from the premium assessment under Section 59-9-101 on an admitted insurer writing workers' compensation insurance in this state and on a self-insured employer under Section 34A-2-202; and

(iii) money deposited under Section 34A-2-1003.

Section 4. Section 34A-5-104 is amended to read:

34A-5-104. Powers.

(1) (a) The commission has jurisdiction over the subject of employment practices and discrimination made unlawful by this chapter.

(b) The commission may adopt, publish, amend, and rescind rules, consistent with, and for the enforcement of this chapter.

(2) The division may:

(a) appoint and prescribe the duties of an investigator, other employee, or agent of the commission that the commission considers necessary for the enforcement of this chapter;

(b) receive, reject, investigate, and pass upon complaints alleging:

(i) discrimination in:

(A) employment;

(B) an apprenticeship program;

(C) an on-the-job training program; or

(D) a vocational school; or

(ii) the existence of a discriminatory or prohibited employment practice by:

(A) a person;

(B) an employer;

(C) an employment agency;

(D) a labor organization;

(E) an employee or member of an employment agency or labor organization;

(F) a joint apprenticeship committee; and

(G) a vocational school;

(c) investigate and study the existence, character, causes, and extent of discrimination in employment, apprenticeship programs, on-the-job training programs, and vocational schools in this state by:

(i) employers;

(ii) employment agencies;

(iii) labor organizations;

(iv) joint apprenticeship committees; and

(v) vocational schools;

(d) formulate plans for the elimination of discrimination by educational or other means;

(e) issue publications and reports of investigations and research that:

(i) promote good will among the various racial, religious, and ethnic groups of the state; and

(ii) minimize or eliminate discrimination in employment because of race, color, sex, religion, national origin, age, disability, sexual orientation, or gender identity;

(f) prepare and transmit to the governor, at least once each year, reports describing:

(i) division proceedings and investigations;

(ii) decisions the division renders; and

(iii) other work performed by the division;

(g) recommend policies to the governor, and submit recommendation to employers, employment agencies, and labor organizations to implement those policies;

(h) recommend legislation to the governor that the division considers necessary concerning discrimination because of:

(i) race;

(ii) sex;

(iii) color;

(iv) national origin;

(v) religion;

(vi) age;

(vii) disability;

(viii) sexual orientation; or

(ix) gender identity; and

(i) within the limits of appropriations made for the division's operation, cooperate with other agencies or organizations, both public and private, in the planning and conducting of educational programs designed to eliminate discriminatory practices prohibited under this chapter.

(3) In addition to processing complaints made in accordance with this chapter, the division shall investigate an alleged discriminatory practice involving an officer or employee of state government when requested by the Career Service Review Office.

(4) (a) In an investigation held under this chapter, the division may subpoena a person to compel the person to:

(i) cooperate and participate in an interview; or

(ii) produce for examination a book, paper, or other information relating to the matters raised by the complaint.

(b) If a person fails or refuses to obey a subpoena issued by the division, the division may petition the district court to enforce the subpoena.

(c) If a person asserts a privilege against self-incrimination, testimony and evidence from the witness may be compelled pursuant to Title 77, Chapter 22b, Grants of Immunity.

[~~(5) In 2018, before November 1, the division shall submit, in accordance with Section 68-3-14, a written report to the Business and Labor Interim Committee on the effectiveness of the commission and state law in addressing discrimination in matters of compensation.~~]

Section 5. Section 58-55-201 is amended to read:

58-55-201. Boards created -- Duties.

(1) There is created the Plumbers Licensing Board consisting of seven members as follows:

(a) three members shall be licensed from among the license classifications of master or journeyman plumber, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(b) three members shall be licensed plumbing contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(c) one member shall be from the public at large with no history of involvement in the construction trades.

(2) (a) There is created the Alarm System Security and Licensing Board consisting of five members as follows:

(i) three individuals who are officers or owners of a licensed alarm business;

(ii) one individual from among nominees of the Utah Peace Officers Association; and

(iii) one individual representing the general public.

(b) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(ii) advise the division in its investigation of these complaints.

(c) A board member who has, under this Subsection (2)(c), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(3) There is created the Electricians Licensing Board consisting of seven members as follows:

(a) three members shall be licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(b) three members shall be licensed electrical contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(c) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.

(4) The duties, functions, and responsibilities of each board described in Subsections (1) through (3) include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession the board represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

[~~(5) The division, in collaboration with the Plumbers Licensing Board and the Electricians Licensing Board, shall provide a preliminary report on or before October 1, 2019, and a final written report on or before June 1, 2020, to the Business and Labor Interim Committee and the Occupational and Professional Licensure Review Committee that provides recommendations for consistent educational and training standards for plumber and electrician apprentice programs in the state, including recommendations for education and training provided by all providers, including institutions of higher education and technical colleges.~~]

Section 6. Repealer.

This bill repeals:

Section 31A-22-626.5, Affordable insulin study.

CHAPTER 33
H. B. 47

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

EXTENSION FOR CONTROLLED SUBSTANCE PRESCRIPTION REQUIREMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill extends the repeal date for controlled substance prescription regulations.

Highlighted Provisions:

This bill:

- extends the repeal date for controlled substance prescription regulations.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-258, as last amended by Laws of Utah 2021, Chapter 32

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

Section 1. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Section 58-11a-302.5 is repealed July 1, 2022.

(3) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(4) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(6) Subsection 58-37-6(7)(f)(iii), relating to the seven-day opiate supply restriction, is repealed July 1, [~~2022~~] 2032, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(13) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2022.

(14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(16) The following sections are repealed [~~on~~] July 1, 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

CHAPTER 34
H. B. 48

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

UTAH SUBSTANCE USE AND MENTAL HEALTH ADVISORY COUNCIL SUNSET EXTENSION

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill extends the sunset date for the Utah Substance Use and Mental Health Advisory Council.

Highlighted Provisions:

This bill:

- extends the sunset date for the Utah Substance Use and Mental Health Advisory Council; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-232, as last amended by Laws of Utah 2019, Chapter 246

63I-1-262, as last amended by Laws of Utah 2021, Chapters 29 and 91

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

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

Section 1. Section 63I-1-232 is amended to read:

63I-1-232. Repeal dates, Title 32A.

In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, [~~2023~~] 2033:

(1) Subsection 32B-2-306(1)(a) is repealed;

(2) Subsection 32B-2-306(4), the language that states "advisory council" is repealed and replaced with "department";

(3) Subsections 32B-2-306(4)(b) and (e) are repealed;

(4) Subsection 32B-2-306(5)(a), the language that states "in cooperation with the advisory council" is repealed;

(5) Subsection 32B-2-306(5)(b) is amended to read:

"(b) The department shall:

(i) prepare a plan detailing the intended use of the money appropriated under this section; and

(ii) conduct the media and education campaign in accordance with the guidelines created by the department under Subsection (4)(c).";

(6) Subsection 32B-2-402(1)(b) is repealed;

(7) Sections 32B-2-404 and 32B-2-405, the language that states "advisory council" is repealed and replaced with "department";

(8) Subsection 32B-2-405(2), the language that states "by a majority vote" is repealed; and

(9) Subsection 32B-2-405(4)(a)(i), the language that states "majority vote of" is repealed.

Section 2. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

(2) Section 62A-4a-213 is repealed July 1, 2024.

(3) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

[~~(4) Section 62A-15-114 is repealed December 31, 2021.~~]

[~~(5)~~] (4) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(6)~~] (5) Section 62A-15-118 is repealed December 31, 2023.

[~~(7)~~] (6) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

[~~(8)~~] (7) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(9)~~] (8) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, [~~2023~~] 2033.

[~~(10)~~] (9) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

Section 3. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

[~~(5)~~] (6) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(6)~~] (7) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(7)~~] (8) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[~~(8)~~] (9) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

[~~(9)~~] (10) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

[~~(10)~~] (11) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.~~]

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), relating to the Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.~~]

[~~(22)~~] (21) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(22) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, [~~2023~~] 2033:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1)(a) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.~~]

[~~(b)~~] (29) (a) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

[~~(c)~~] (b) Notwithstanding Subsection [~~(30)(b)~~] (29)(a), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31)~~] (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (31) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (32) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

CHAPTER 35
H. B. 49

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

STUDY ON STATE HOSPITAL CAPACITY SUNSET AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill repeals the sunset date for provisions related to the study of long-term needs for adult beds in the state hospital.

Highlighted Provisions:

This bill:

- repeals the sunset date for provisions requiring the Forensic Mental Health Coordinating Council, in consultation with the Utah Substance Use and Mental Health Advisory Council, to study the long-term needs for adult beds in the state hospital; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-262, as last amended by Laws of Utah 2021, Chapters 29 and 91

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

Section 1. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

(2) Section 62A-4a-213 is repealed July 1, 2024.

(3) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

(4) Section 62A-15-114 is repealed December 31, 2021.

(5) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

(6) Section 62A-15-118 is repealed December 31, 2023.

[~~(7) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.~~]

[~~(8)~~] (7) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(9)~~] (8) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[~~(10)~~] (9) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

CHAPTER 36
H. B. 50

Passed February 3, 2022
Approved March 15, 2022
Effective May 4, 2022

INTERGENERATIONAL POVERTY MITIGATION AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill amends provisions related to intergenerational poverty mitigation.

Highlighted Provisions:

This bill:

- repeals:
  - the Utah Intergenerational Welfare Reform Commission;
  - the Intergenerational Poverty Advisory Committee; and
  - the Intergenerational Poverty Plan Implementation Pilot Program;
- requires the Department of Workforce Services to prepare an annual intergenerational poverty report for inclusion in the department's annual written report, formerly reported by the Utah Intergenerational Welfare Reform Commission;
- requires the Department of Cultural and Community Engagement, the Department of Health, the State Board of Education, and the Department of Human Services to submit a report to the Department of Workforce Services related to intergenerational poverty mitigation for inclusion in the intergenerational poverty report; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A–9–201, as last amended by Laws of Utah 2014, Chapter 371
53E–1–203, as last amended by Laws of Utah 2021, Chapters 129 and 251
53F–5–207, as last amended by Laws of Utah 2020, Chapter 103
53F–5–402, as last amended by Laws of Utah 2019, Chapter 186
63I–1–235, as last amended by Laws of Utah 2021, Chapters 28 and 282
63M–7–209, as enacted by Laws of Utah 2018, Chapter 126

ENACTS:

9–1–210, Utah Code Annotated 1953
26–1–43, Utah Code Annotated 1953
35A–9–202, Utah Code Annotated 1953
53E–1–206, Utah Code Annotated 1953
62A–1–123, Utah Code Annotated 1953

REPEALS:

35A–9–301, as last amended by Laws of Utah 2021, Chapter 92
35A–9–302, as last amended by Laws of Utah 2016, Chapter 296
35A–9–303, as last amended by Laws of Utah 2017, Chapter 407
35A–9–304, as last amended by Laws of Utah 2021, Chapter 92
35A–9–305, as last amended by Laws of Utah 2014, Chapter 371
35A–9–306, as enacted by Laws of Utah 2013, Chapter 59
35A–9–501, as enacted by Laws of Utah 2018, Chapter 232

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

Section 1. Section 9-1-210 is enacted to read:

9-1-210. Intergenerational poverty mitigation reporting.

(1) As used in this section:

(a) "Cycle of poverty" means the same as that term is defined in Section 35A–9–102.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A–9–102.

(2) On or before October 1 of each year, the department shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A–9–202.

(3) The report shall:

(a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section 2. Section 26-1-43 is enacted to read:

26-1-43. (Codified as 26-1-44) Intergenerational poverty mitigation reporting.

(1) As used in this section:

(a) "Cycle of poverty" means the same as that term is defined in Section 35A–9–102.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A–9–102.

(2) On or before October 1 of each year, the department shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A–9–202.

(3) The report shall:

(a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section 3. Section 35A-9-201 is amended to read:

35A-9-201. Intergenerational poverty tracking system -- Data -- Analysis.

(1) The department shall establish and maintain a system to track intergenerational poverty.

(2) The system shall:

(a) identify groups that have a high risk of experiencing intergenerational poverty;

(b) identify incidents, patterns, and trends that explain or contribute to intergenerational poverty;

(c) assist case workers, social scientists, and government officials in the study and development of effective and efficient plans and programs to help individuals and families in the state to break the cycle of poverty; and

(d) gather and track available local, state, and national data on:

(i) official poverty rates;

(ii) child poverty rates;

(iii) years spent by individuals in childhood poverty;

(iv) years spent by individuals in adult poverty; and

(v) related poverty information.

(3) The department shall:

(a) use available data in the tracking system, including public assistance data, census data, and other data made available to the department;

(b) develop and implement methods to integrate, compare, analyze, and validate the data for the purposes described in Subsection (2); and

(c) protect the privacy of individuals living in poverty by using and distributing data within the tracking system in compliance with:

(i) federal requirements; and

(ii) the provisions of Title 63G, Chapter 2, Government Records Access and Management Act[~~; and~~].

[~~(d) include in the annual written report described in Section 35A-1-109, a report on the data, findings, and potential uses of the tracking system.~~]

Section 4. Section 35A-9-202 is enacted to read:

35A-9-202. Intergenerational poverty report.

(1) The department shall annually prepare an intergenerational poverty report for inclusion in the department's annual written report described in Section 35A-1-109.

(2) The intergenerational poverty report shall:

(a) report on the data, findings, and potential uses of the intergenerational poverty tracking system described in Section 35A-9-201;

(b) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty;

(c) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty; and

(d) include the following reports:

(i) the report described in Section 9-1-210 by the Department of Cultural and Community Engagement;

(ii) the report described in Section 26-1-43 by the Department of Health;

(iii) the report described in Section 53E-1-206 by the State Board of Education; and

(iv) the report described in Section 62A-1-123 by the Department of Human Services.

Section 5. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

(vii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) through October 1, 2022, the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Interventions Grant Program;

[~~(vii)~~] (viii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and

[~~(viii)~~] (ix) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 6. Section 53E-1-206 is enacted to read:

53E-1-206. State board report on intergenerational poverty mitigation.

(1) As used in this section:

(a) "Cycle of poverty" means the same as that term is defined in Section 35A-9-102.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(2) On or before October 1 of each year, the state board shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.

(3) The report shall:

(a) describe policies, procedures, and programs that the state board has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section 7. Section 53F-5-207 is amended to read:

53F-5-207. Intergenerational Poverty Interventions Grant Program -- Definitions -- Grant requirements -- Reporting requirements.

(1) As used in this section:

(a) "Eligible student" means a student who is classified as a child affected by intergenerational poverty.

(b) "Intergenerational poverty" has the same meaning as in Section 35A-9-102.

(c) "LEA governing board" means a local school board or a charter school governing board.

(d) "Local education agency" or "LEA" means a school district or charter school.

(e) "Program" means the Intergenerational Poverty Interventions Grant Program created in Subsection (2).

(2) The Intergenerational Poverty Interventions Grant Program is created to provide grants to eligible LEAs to fund additional educational opportunities at eligible LEAs, for eligible students, outside of the regular school day offerings.

(3) Subject to future budget constraints, the state board shall distribute to LEAs money appropriated for the program in accordance with this section.

(4) The state board shall:

(a) solicit proposals from LEA governing boards to receive money under the program; and

(b) award grants to an LEA governing board on behalf of an LEA based on criteria described in Subsection (5).

(5) In awarding a grant under Subsection (4), the state board shall consider:

(a) the percentage of an LEA's students that are classified as children affected by intergenerational poverty;

(b) the level of administrative support and leadership at an eligible LEA to effectively implement, monitor, and evaluate the program; and

(c) an LEA's commitment and ability to work with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts to provide services to the LEA's eligible students.

(6) To receive a grant under the program on behalf of an LEA, an LEA governing board shall submit a proposal to the state board detailing:

(a) the LEA's strategy to implement the program, including the LEA's strategy to improve the academic achievement of children affected by intergenerational poverty;

(b) the LEA's strategy for coordinating with and engaging the Department of Workforce Services to provide services for the LEA's eligible students;

(c) the number of students the LEA plans to serve, categorized by age and intergenerational poverty status;

(d) the number of students, eligible students, and schools the LEA plans to fund with the grant money; and

(e) the estimated cost per student.

(7) (a) The state board shall annually [~~report to the Utah Intergenerational Welfare Reform Commission, created in Section 35A–9–301, by November 30 of each year,~~] prepare, for inclusion in the State Superintendent's Annual Report described in Section 53E–1–203, a report on:

(i) the progress of LEA programs using grant money;

(ii) the progress of LEA programs in improving the academic achievement of children affected by intergenerational poverty; and

(iii) the LEA's coordination efforts with the Department of Workforce Services, the Department of Health, the Department of Human Services, and the juvenile courts.

(b) The state board shall provide the report described in Subsection (7)(a) to the Education Interim Committee upon request.

(c) An LEA that receives grant money pursuant to this section shall provide to the state board information that is necessary for the state board's report described in Subsection (7)(a).

(8) The state board may use up to 8.5% of the money appropriated for the program in accordance with this section for administration and evaluation of the program.

Section 8. Section 53F-5-402 is amended to read:

53F-5-402. Partnerships for Student Success Grant Program established.

(1) There is created the Partnerships for Student Success Grant Program to improve educational outcomes for low income students through the formation of cross sector partnerships that use data to align and improve efforts focused on student success.

(2) Subject to legislative appropriations, the state board shall award grants to eligible partnerships that enter into a memorandum of understanding between the members of the eligible partnership to plan or implement a partnership that:

(a) establishes shared goals, outcomes, and measurement practices based on unique community needs and interests that:

(i) are aligned with the recommendations of the [~~five- and ten-year plan to address~~] intergenerational poverty report described in Section [~~35A–9–303~~] 35A–9–202 on how the state should act to address intergenerational poverty; and

(ii) address, for students attending a school within an eligible school feeder pattern:

(A) kindergarten readiness;

(B) grade 3 mathematics and reading proficiency;

(C) grade 8 mathematics and reading proficiency;

(D) high school graduation;

(E) postsecondary education attainment;

(F) physical and mental health; and

(G) development of career skills and readiness;

(b) coordinates and aligns services to:

(i) students attending schools within an eligible school feeder pattern; and

(ii) the families and communities of the students within an eligible school feeder pattern;

(c) implements a system for:

(i) sharing data to monitor and evaluate shared goals and outcomes, in accordance with state and federal law; and

(ii) accountability for shared goals and outcomes; and

(d) commits to providing matching funds as described in Section 53F–5–403.

(3) In making grant award determinations, the state board shall prioritize funding for an eligible partnership that:

(a) includes a low performing school as determined by the state board; or

(b) addresses parent and community engagement.

(4) In awarding grants under this part, the state board:

(a) shall distribute funds to the lead applicant designated by the eligible partnership as described in Section 53F–5–401; and

(b) may not award more than $500,000 per fiscal year to an eligible partnership.

Section 9. Section 62A-1-123 is enacted to read:

62A-1-123. Intergenerational poverty mitigation reporting.

(1) As used in this section:

(a) "Cycle of poverty" means the same as that term is defined in Section 35A–9–102.

(b) "Intergenerational poverty" means the same as that term is defined in Section 35A–9–102.

(2) On or before October 1 of each year, the department shall provide an annual report to the

Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.

(3) The report shall:

(a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and

(b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Section 10. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(4) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.

(5) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

[~~(6) Section 35A-9-501 is repealed January 1, 2023.~~]

[~~(7)~~] (6) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

[~~(8)~~] (7) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.

[~~(9)~~] (8) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(10)~~] (9) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(11)~~] (10) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 11. Section 63M-7-209 is amended to read:

63M-7-209. Trauma-informed justice program.

(1) As used in this section:

(a) "Committee" means the Multi-Disciplinary Trauma-Informed Committee created under Subsection (2).

(b) "First responder" includes:

(i) a law enforcement officer, as defined in Section 53-13-103;

(ii) emergency medical service personnel, as defined in Section 26-8a-102; and

(iii) a firefighter.

(c) "Trauma-informed" means a policy, procedure, program, or practice that demonstrates an ability to minimize retraumatization associated with the criminal and juvenile justice system.

(d) "Victim" means the same as that term is defined in Section 77-37-2.

(2) (a) The commission shall create a committee known as the Multi-Disciplinary Trauma-Informed Committee to assist the commission in meeting the requirements of this section. The commission shall provide for the membership, terms, and quorum requirements of the committee, except that:

(i) at least one member of the committee shall be a victim;

(ii) the executive director of the Department of Health or the executive director's designee shall be on the committee;

(iii) the executive director of the Department of Human Services or the executive director's designee shall be on the committee; and

[~~(iv) a member of the Utah Intergenerational Welfare Reform Commission, created in Section 35A-9-301, as chosen by the chair of the Utah Intergenerational Welfare Reform Commission shall be on the committee; and~~]

[~~(v)~~] (iv) the commission shall terminate the committee on June 30, 2020.

(b) The commission shall use the Utah Office for Victims of Crime, the Utah Office on Domestic and Sexual Violence, and the Utah Council on Victims of Crime in meeting the requirements of this section.

(3) (a) The committee shall work with statewide coalitions, children's justice centers, and other stakeholders to complete, by no later than September 1, 2019, a review of current and recommended trauma-informed policies, procedures, programs, or practices in the state's criminal and juvenile justice system, including:

(i) reviewing the role of victim advocates and victim services in the criminal and juvenile justice system and:

(A) how to implement the option of a comprehensive, seamless victim advocate system that is based on the best interests of victims and assists a victim throughout the criminal and juvenile justice system or a victim's process of recovering from the trauma the victim experienced as a result of being a victim of crime; and

(B) recommending what minimum qualifications a victim advocate must meet, including recommending trauma-informed training or trauma-informed continuing education hours;

(ii) reviewing of best practice standards and protocols, including recommending adoption or creation of trauma-informed interview protocols, that may be used to train persons within the criminal and juvenile justice system concerning trauma-informed policies, procedures, programs, or practices, including training of:

(A) peace officers that is consistent with the training developed under Section 76-5-608;

(B) first responders;

(C) prosecutors;

(D) defense counsel;

(E) judges and other court personnel;

(F) the Board of Pardons and Parole and its personnel;

(G) the Department of Corrections, including Adult Probation and Parole; and

(H) others involved in the state's criminal and juvenile justice system;

(iii) recommending outcome based metrics to measure achievement related to trauma-informed policies, procedures, programs, or practices in the criminal and juvenile justice system;

(iv) recommending minimum qualifications and continuing education of individuals providing training, consultation, or administrative supervisory consultation within the criminal and juvenile justice system regarding trauma-informed policies, procedures, programs, or practices;

(v) identifying needs that are not funded or that would benefit from additional resources;

(vi) identifying funding sources, including outlining the restrictions on the funding sources, that may fund trauma-informed policies, procedures, programs, or practices;

(vii) reviewing which governmental entities should have the authority to implement recommendations of the committee; and

(viii) reviewing the need, if any, for legislation or appropriations to meet budget needs.

(b) Whenever the commission conducts a related survey, the commission, when possible, shall include how victims and their family members interact with Utah's criminal and juvenile justice system, including whether the victims and family members are treated with trauma-informed policies, procedures, programs, or practices throughout the criminal and juvenile justice system.

(4) The commission shall establish and administer a performance incentive grant program that allocates money appropriated by the Legislature to public or private entities:

(a) to provide advocacy and related service for victims in connection with the Board of Pardons and Parole process; and

(b) that have demonstrated experience and competency in the best practices and standards of trauma-informed care.

(5) The commission shall report to the Judiciary Interim Committee, at the request of the Judiciary Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee by no later than the September 2019 interim regarding the grant under Subsection (4), the committee's activities under this section, and whether the committee should be extended beyond June 30, 2020.

Section 12. Repealer.

This bill repeals:

Section 35A-9-301, Creation of the Utah Intergenerational Welfare Reform Commission.

Section 35A-9-302, Chair of commission -- Meetings -- Quorum -- Staff support.

Section 35A-9-303, Purpose and duties of commission.

Section 35A-9-304, Intergenerational Poverty Advisory Committee -- Creation -- Duties.

Section 35A-9-305, Annual report by the commission.

Section 35A-9-306, Members serve without pay -- Reimbursement for expenses.

Section 35A-9-501, Intergenerational Poverty Plan Implementation Pilot Program.

CHAPTER 37
H. B. 78

Passed February 11, 2022
Approved March 15, 2022
Effective May 4, 2022

WILDLIFE CONSERVATION FUND

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts provisions related to funding conservation and exposition programs.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Wildlife Conservation Fund; and
- outlines what the fund consists of and how it can be distributed.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

23-13-20, Utah Code Annotated 1953

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

Section 1. Section 23-13-20 is enacted to read:

23-13-20. Wildlife Conservation Fund.

(1) As used in this section:

(a) "Fund" means the Wildlife Conservation Fund created by this section.

(b) "Wildlife conservation permit program" means a program under which the division issues permit opportunities to be sold by a conservation organization for auction to the highest bidder at a fund-raising event.

(c) "Wildlife exposition program" means a program under which the division allocates permits to a drawing administered by a selected conservation organization as part of a regional or national exposition for the purpose of generating revenue to fund wildlife conservation activities in Utah.

(2) There is created an expendable special revenue fund known as the "Wildlife Conservation Fund."

(3) The fund consists of:

(a) wildlife conservation permit program revenue transferred to the division pursuant to rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) wildlife exposition program revenue transferred to the division pursuant to rules, made by the Wildlife Board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) money appropriated to the fund by the Legislature;

(d) contributions, grants, gifts, transfers, bequests, and donations to the fund accepted by the division and specifically directed to the fund; and

(e) interest and earnings on the fund.

(4) (a) The fund shall earn interest and other earnings.

(b) The interest and earnings described in Subsection (4)(a) shall be deposited into the fund.

(5) (a) The division shall use proceeds in the fund to carry out the purposes of the wildlife conservation permit program or wildlife exposition program.

(b) Deposits into and expenditures from the fund shall specifically identify the wildlife conservation permit program or wildlife exposition program to which the deposits and expenditures apply.

(c) The division shall make expenditures from the fund consistent with the rules governing the applicable program.

(6) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding the amount of money in the fund from the sources of money for the fund and how the money is expended.

CHAPTER 38
H. B. 169

Passed February 11, 2022
Approved March 15, 2022
Effective May 4, 2022

STATE AND LOCAL EMPLOYEE DISASTER SERVICES

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies and enacts provisions related to state and local government disaster response personnel.

Highlighted Provisions:

This bill:

- defines terms;
- in a declared emergency, classifies a state, municipal, or county employee as a disaster response personnel for the state, municipality, or county;
- requires a state or local disaster response personnel to perform duties as assigned in the state or local emergency operations plan;
- provides exceptions for when an employee is classified as a disaster response personnel; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2a-104, as last amended by Laws of Utah 2021, Chapters 106 and 437

ENACTS:

53-2a-221, Utah Code Annotated 1953

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

Section 1. Section 53-2a-104 is amended to read:

53-2a-104. Division duties -- Powers.

(1) Subject to limitation by the Legislature as described in Subsection 53-2a-206(5), the division shall:

(a) respond to the policies of the governor and the Legislature;

(b) perform functions relating to emergency management as directed by the governor or by the commissioner, including:

(i) coordinating with state agencies and local governments the use of personnel and other resources of these governmental entities as agents of the state during an interstate disaster in accordance with the Emergency Management Assistance Compact described in Section 53-2a-402;

(ii) coordinating the requesting, activating, and allocating of state resources, including use of state disaster response personnel in accordance with Section 53-2a-221, during an intrastate disaster or a local state of emergency;

(iii) receiving and disbursing federal resources provided to the state in a declared disaster;

(iv) appointing a state coordinating officer who is the governor's representative and who shall work with a federal coordinating officer during a federally declared disaster; and

(v) appointing a state recovery officer who is the governor's representative and who shall work with a federal recovery officer during a federally declared disaster;

(c) prepare, implement, and maintain programs and emergency operation plans to provide for:

(i) prevention and minimization of injury and damage caused by disasters;

(ii) prompt and effective response to and recovery from disasters;

(iii) identification of areas particularly vulnerable to disasters;

(iv) coordination of hazard mitigation and other preventive and preparedness measures designed to eliminate or reduce disasters;

(v) assistance to local officials, state agencies, and the business and public sectors, in developing emergency action plans;

(vi) coordination of federal, state, and local emergency activities;

(vii) coordination of emergency operations plans with emergency plans of the federal government;

(viii) coordination of urban search and rescue activities;

(ix) coordination of rapid and efficient communications in times of emergency; and

(x) other measures necessary, incidental, or appropriate to this part;

(d) coordinate with local officials, state agencies, and the business and public sectors in developing, implementing, and maintaining a state energy emergency plan in accordance with Section 53-2a-902;

(e) coordinate with state agencies regarding development and construction of state buildings within a flood plain to ensure compliance with minimum standards of the National Flood Insurance Program, 42 U.S.C. Chapter 50, Subchapter I, as described in Section 53-2a-106;

(f) administer Part 6, Disaster Recovery Funding Act, in accordance with that part;

(g) conduct outreach annually to agencies and officials who have access to IPAWS; and

(h) coordinate with counties to ensure every county has the access and ability to send, or a plan to send, IPAWS messages, including Wireless

Emergency Alerts and Emergency Alert System messages.

(2) Every three years, organizations that have the ability to send IPAWS messages, including emergency service agencies, public safety answering points, and emergency managers shall send verification of Federal Emergency Management Agency training to the Division.

(3) (a) The Department of Public Safety shall designate state geographical regions and allow the political subdivisions within each region to:

(i) coordinate planning with other political subdivisions, tribal governments, and as appropriate, other entities within that region and with state agencies as appropriate, or as designated by the division;

(ii) coordinate grant management and resource purchases; and

(iii) organize joint emergency response training and exercises.

(b) The political subdivisions within a region designated in Subsection (3)(a) may not establish the region as a new government entity in the emergency disaster declaration process under Section 53-2a-208.

(4) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish protocol for prevention, mitigation, preparedness, response, recovery, and the activities described in Subsection (3);

(b) coordinate federal, state, and local resources in a declared disaster or local emergency; and

(c) implement provisions of the Emergency Management Assistance Compact as provided in Section 53-2a-402 and Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(5) The division may consult with the Legislative Management Committee, the Judicial Council, and legislative and judicial staff offices to assist the division in preparing emergency succession plans and procedures under Title 53, Chapter 2a, Part 8, Emergency Interim Succession Act.

(6) The division shall report annually in writing not later than October 31 to the Law Enforcement and Criminal Justice, and Political Subdivisions Interim Committees regarding the status of the emergency alert system in the state. The report shall include:

(a) a status summary of the number of alerting authorities in Utah;

(b) any changes in that number;

(c) administrative actions taken; and

(d) any other information considered necessary by the division.

Section 2. Section 53-2a-221 is enacted to read:

53-2a-221. State and local disaster response personnel.

(1) As used in this section:

(a) "Local disaster response personnel" means a local government employee who, in accordance with this section, is reassigned duties in order to respond to a disaster.

(b) "Local government" means a municipality or county.

(c) "State agency" means any department or unit of Utah state government with authority to employ personnel.

(d) "State disaster response personnel" means an employee of a state agency or local government who, in accordance with this section, is reassigned duties in order to respond to a disaster.

(2) (a) If the governor declares a state of emergency under Section 53-2a-206, an employee of a state agency is, subject to Subsection (6), a state disaster response personnel for the duration of the declared state of emergency.

(b) If a chief executive officer of a municipality or county declares a local emergency under Section 53-2a-208, an employee of the municipality or county, respectively, is, subject to Subsection (6), a local disaster response personnel for the duration of the declared state of emergency.

(3) (a) During a state emergency, a state disaster response personnel shall perform duties as assigned in accordance with an emergency operations plan adopted by the division under Section 53-2a-104.

(b) During a local emergency, a local disaster response personnel shall perform duties as assigned in accordance with an emergency operations plan adopted by a county or municipality under Section 53-2a-1403.

(4) After a declaration of emergency as described in Subsection (2)(a) or (2)(b), the governor or chief officer may activate state or local disaster response personnel to report to work immediately.

(5) (a) Notwithstanding Subsection (4), a state or local disaster response personnel may check on the security of the state or local disaster response personnel's immediate family before reporting to work.

(b) A plan described in Subsection (3)(a) or (3)(b) shall exempt a state agency or local government employee from acting as a state or local disaster response personnel, respectively, if:

(i) the employee's immediate family is in imminent danger because of the disaster; or

(ii) the employee's health precludes the employee from performing the duties otherwise assigned to that employee in accordance with the plan.

(c) An employee described in Subsection (5)(b)(i) or (5)(b)(ii) is exempt only for the duration of the time the employee's immediate family is in imminent danger or the underlying cause of the employee's health concern exists.

(6) An employee shall perform his or her assigned state or local disaster response personnel duties only for the duration of the declared state or local emergency, respectively, or until the disaster response duties are no longer needed, whichever occurs first.

(7) A state or local disaster response personnel may not be assigned to perform duties:

(a) that are technical in nature unless the state or local disaster response personnel is trained to perform those duties; or

(b) that the state or local disaster response personnel is physically not capable of performing.

(8) A state or local disaster response personnel may be relocated as necessary to respond to the disaster but only for the duration of the declared emergency.

(9) A state agency or local government:

(a) may not decrease a state or local disaster response personnel's pay only because the state or local disaster response personnel is performing duties as assigned during the emergency;

(b) at the state agency's or local government's discretion, may increase a state or local disaster response personnel's pay; and

(c) shall reimburse a state or local disaster response personnel for incidentals incurred, including any relocation expenses, while the employee is performing his or her duties as a state or local disaster response personnel.

CHAPTER 39
H. B. 182

Passed March 4, 2022
Approved March 15, 2022
Effective May 4, 2022

LOCAL HEALTH DEPARTMENT ORDER AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill excludes state facilities and the capitol hill complex from the authority and jurisdiction of a local health department pertaining to an order of constraint.

Highlighted Provisions:

This bill:

- excludes state facilities and the capitol hill complex from the authority and jurisdiction of a local health department pertaining to an order of constraint;
- prohibits a chief executive officer of a municipality from exercising emergency powers in response to a pandemic or an epidemic;
- prohibits a chief executive officer or a municipality or county from vetoing an action by the relevant local legislative body to terminate an order of constraint or a declaration of a local emergency;
- enacts a provision indicating that the Disaster Response and Recovery Act preempts and supersedes any law of a political subdivision of the state pertaining to disaster and emergency response; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-53-302, as last amended by Laws of Utah 2011, Chapter 209
26A-1-108, as last amended by Laws of Utah 2018, Chapter 256
26A-1-114, as last amended by Laws of Utah 2021, Chapter 437
53-2a-102, as last amended by Laws of Utah 2021, Chapter 106
53-2a-205, as last amended by Laws of Utah 2021, Chapter 437
53-2a-208, as last amended by Laws of Utah 2021, Chapter 437
53-2a-213, as renumbered and amended by Laws of Utah 2013, Chapter 295

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

Section 1. Section 17-53-302 is amended to read:

17-53-302. County executive duties.

Each county executive shall:

(1) exercise supervisory control over all functions of the executive branch of county government;

(2) direct and organize the management of the county in a manner consistent with state law, county ordinance, and the county's optional plan of county government;

(3) carry out programs and policies established by the county legislative body;

(4) faithfully ensure compliance with all applicable laws and county ordinances;

(5) exercise supervisory and coordinating control over all departments of county government;

(6) except as otherwise vested in the county legislative body by state law or by the optional plan of county government, and subject to Section 17-53-317, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions;

(7) except as otherwise delegated by statute to another county officer, exercise administrative and auditing control over all funds and assets, tangible and intangible, of the county;

(8) except as otherwise delegated by statute to another county officer, supervise and direct centralized budgeting, accounting, personnel management, purchasing, and other service functions of the county;

(9) conduct planning studies and make recommendations to the county legislative body relating to financial, administrative, procedural, and operational plans, programs, and improvements in county government;

(10) maintain a continuing review of expenditures and of the effectiveness of departmental budgetary controls;

(11) develop systems and procedures, not inconsistent with statute, for planning, programming, budgeting, and accounting for all activities of the county;

(12) if the county executive is an elected county executive, exercise a power of veto over [~~ordinances enacted~~] the legislative enactments by the county legislative body, [~~including~~] which are defined as county ordinances and budget appropriations, and include an item veto upon budget appropriations, in the manner provided by the optional plan of county government;

(13) review, negotiate, approve, and execute contracts for the county, unless otherwise provided by statute;

(14) perform all other functions and duties required of the executive by state law, county ordinance, and the optional plan of county government; and

(15) sign on behalf of the county all deeds that convey county property.

Section 2. Section 26A-1-108 is amended to read:

26A-1-108. Jurisdiction and duties of local health departments -- Registration as a limited purpose entity.

(1) (a) [~~A~~] Except as provided in Subsection (1)(b), a local health department has jurisdiction in all unincorporated and incorporated areas of the county or counties in which it is established and shall enforce state health laws, Department of Health, Department of Environmental Quality, and local health department rules, regulations, and standards within those areas.

(b) Notwithstanding Subsection (1)(a), a local health department's jurisdiction or authority to issue an order of constraint pursuant to a declared public health emergency does not apply to any facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

(2) (a) Each local health department shall register and maintain the local health department's registration as a limited purpose entity, in accordance with Section 67-1a-15.

(b) A local health department that fails to comply with Subsection (2)(a) or Section 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

Section 3. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7) [~~and~~], (8), and (11), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Occupational and Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on its own initiative or in cooperation with the Department of Health or Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within its boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) (i) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(ii) A vote by the relevant county governing body to terminate a public health emergency or an order of constraint as described in Subsection (7)(d)(i) is not subject to veto by the relevant chief executive officer.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(11) An order of constraint issued by a local health department pursuant to a declared public health emergency does not apply to a facility, property, or area owned or leased by the state, including the capitol hill complex, as that term is defined in Section 63C-9-102.

Section 4. Section 53-2a-102 is amended to read:

53-2a-102. Definitions.

As used in this chapter:

(1) "Alerting authority" means a political subdivision that has received access to send alerts through the Integrated Public Alert and Warning System.

(2) "Attack" means a nuclear, cyber, conventional, biological, act of terrorism, or chemical warfare action against the United States of America or this state.

(3) "Commissioner" means the commissioner of the Department of Public Safety or the commissioner's designee.

(4) "Director" means the division director appointed under Section 53-2a-103 or the director's designee.

(5) "Disaster" means an event that:

(a) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomena, or technological hazard; and

(b) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require response by government, not-for-profit, or private entities.

(6) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(7) "Emergency manager" means an individual designated as the emergency manager for a political subdivision as described in Section 53-2a-1402.

(8) "Energy" includes the energy resources defined in this chapter.

(9) "Expenses" means actual labor costs of government and volunteer personnel, and materials.

(10) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(11) "Internal disturbance" means a riot, prison break, terrorism, or strike.

(12) "IPAWS" means the Integrated Public Alert and Warning System administered by the Federal Emergency Management Agency.

(13) "Municipality" means the same as that term is defined in Section 10-1-104.

(14) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, or drought[~~, or epidemic~~].

(15) "Officer" means a person who is elected or appointed to an office or position within a political subdivision.

(16) "Political subdivision" means the same as that term is defined in Section 11-61-102.

(17) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

(18) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

(19) "Terrorism" means activities or the threat of activities that:

(a) involve acts dangerous to human life;

(b) are a violation of the criminal laws of the United States or of this state; and

(c) to a reasonable person, would appear to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping.

(20) "Urban search and rescue" means the location, extrication, and initial medical stabilization of victims trapped in a confined space as the result of a structural collapse, transportation accident, mining accident, or collapsed trench.

Section 5. Section 53-2a-205 is amended to read:

53-2a-205. Authority of chief executive officers of political subdivisions -- Ordering of evacuations.

(1) (a) In order to protect life and property when a state of emergency or local emergency has been declared, subject to limitation by the Legislature as described in Subsection 53-2a-206(5), and subject to Section 53-2a-216, the chief executive officer of each political subdivision of the state is authorized to:

(i) carry out, in the chief executive officer's jurisdiction, the measures as may be ordered by the governor under this part; and

(ii) take any additional measures the chief executive officer may consider necessary, subject to the limitations and provisions of this part.

(b) The chief executive officer may not take an action that is inconsistent with any order, rule, regulation, or action of the governor.

(c) A chief executive officer of a municipality may not exercise powers under this chapter to respond to an epidemic or a pandemic.

(2) Subject to Section 53-2a-216, when a state of emergency or local emergency is declared, the authority of the chief executive officer includes:

(a) utilizing all available resources of the political subdivision as reasonably necessary to manage a state of emergency or local emergency;

(b) employing measures and giving direction to local officers and agencies which are reasonable and necessary for the purpose of securing compliance with the provisions of this part and with orders, rules, and regulations made under this part;

(c) if necessary for the preservation of life, issuing an order for the evacuation of all or part of the population from any stricken or threatened area within the political subdivision;

(d) recommending routes, modes of transportation, and destinations in relation to an evacuation;

(e) suspending or limiting the sale, dispensing, or transportation of alcoholic beverages, explosives, and combustibles in relation to an evacuation, except that the chief executive officer may not restrict the lawful bearing of arms;

(f) controlling ingress and egress to and from a disaster area, controlling the movement of persons within a disaster area, and ordering the occupancy or evacuation of premises in a disaster area;

(g) clearing or removing debris or wreckage that may threaten public health, public safety, or private property from publicly or privately owned land or waters, except that where there is no immediate threat to public health or safety, the chief executive officer shall not exercise this authority in relation to privately owned land or waters unless:

(i) the owner authorizes the employees of designated local agencies to enter upon the private land or waters to perform any tasks necessary for the removal or clearance; and

(ii) the owner provides an unconditional authorization for removal of the debris or wreckage and agrees to indemnify the local and state government against any claim arising from the removal; and

(h) invoking the provisions of any mutual aid agreement entered into by the political subdivision.

(3) (a) If the chief executive is unavailable to issue an order for evacuation under Subsection (2)(c), the chief law enforcement officer having jurisdiction for the area may issue an urgent order for evacuation, for a period not to exceed 36 hours, if the order is necessary for the preservation of life.

(b) The chief executive officer may ratify, modify, or revoke the chief law enforcement officer's order.

(4) Notice of an order or the ratification, modification, or revocation of an order issued under this section shall be:

(a) given to the persons within the jurisdiction by the most effective and reasonable means available; and

(b) filed in accordance with Subsection 53-2a-209(1).

Section 6. Section 53-2a-208 is amended to read:

53-2a-208. Local emergency -- Declarations -- Termination of a local emergency.

(1) (a) [~~A~~] Except as provided in Subsection (1)(b), a chief executive officer of a municipality or county may declare by proclamation a state of emergency if the chief executive officer finds:

[~~(a)~~] (i) a disaster has occurred or the occurrence or threat of a disaster is imminent in an area of the municipality or county; and

[~~(b)~~] (ii) the municipality or county requires additional assistance to supplement the response and recovery efforts of the municipality or county.

(b) A chief executive officer of a municipality may not declare by proclamation a state of emergency in response to an epidemic or a pandemic.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, or metro township shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section 23-13-12.5, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to Title 53, Chapter 2a, Part 3, Statewide Mutual Aid Act.

(6) (a) Except as provided in Subsection (6)(b), a state of emergency described in Subsection (1) expires the earlier of:

(i) the day on which the chief executive officer finds that:

(A) the threat or danger has passed;

(B) the disaster reduced to the extent that emergency conditions no longer exist; or

(C) the municipality or county no longer requires state government assistance to supplement the response and recovery efforts of the municipality or county;

(ii) 30 days after the day on which the chief executive officer declares the state of emergency; or

(iii) the day on which the legislative body of the municipality or county terminates the state of emergency by majority vote.

(b) (i) (A) The legislative body of a municipality may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the municipality.

(B) The legislative body of a county may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the county.

(ii) The legislative body of a municipality or county may by majority vote extend a state of emergency for a time period stated in the motion.

(iii) If the legislative body of a municipality or county extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated by the legislative body in the motion.

(iv) An action by a legislative body of a municipality or county to terminate a state of emergency as described in this Subsection (6)(b) is not subject to veto by the relevant chief executive officer.

(c) Except as provided in Subsection (7), after a state of emergency expires in accordance with this Subsection (6), the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency.

(7) (a) After a state of emergency expires in accordance with Subsection [~~(2)~~] (6), the chief executive officer may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the chief executive officer finds that exigent circumstances exist.

(b) A state of emergency declared in accordance with Subsection (7)(a) expires in accordance with Subsections (6)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (7)(a) expires, the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

Section 7. Section 53-2a-213 is amended to read:

53-2a-213. Authority additional to other emergency authority.

(1) The special disaster emergency authority vested in the governor and political subdivisions of the state pursuant to this part shall be in addition to, and not in lieu of, any other emergency authority otherwise constitutionally or statutorily vested in the governor and political subdivisions of the state.

(2) The provisions of this chapter supersede and preempt any provision of law of a political subdivision of the state pertaining to disaster and emergency response.

CHAPTER 40
H. B. 190

Passed February 17, 2022
Approved March 15, 2022
Effective May 4, 2022

BUDGETARY PROCEDURES MODIFICATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends and repeals provisions governing budgetary procedures and requirements.

Highlighted Provisions:

This bill:

- directs that Medicaid funds are nonlapsing for the 2021-22 fiscal year;
- repeals provisions relating to the funding of the Department of Human Services programs; and
- repeals language exempting an agency with an overexpended line item for the fiscal year beginning July 1, 2019, and ending June 30, 2020, from presenting a report to the Board of Examiners in certain circumstances.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-402.5, as enacted by Laws of Utah 2020, Third Special Session, Chapter 3

62A-1-111, as last amended by Laws of Utah 2021, Chapters 22 and 262

63J-1-206, as last amended by Laws of Utah 2021, Chapters 22 and 344

REPEALS:

62A-1-111.6, as enacted by Laws of Utah 2021, Chapter 22

63J-1-217.5, as enacted by Laws of Utah 2020, Third Special Session, Chapter 3

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

Section 1. Section 26-18-402.5 is amended to read:

26-18-402.5. Nonlapsing Medicaid funds.

(1) Notwithstanding Subsection 26-18-402(3), for fiscal years 2019-20 [~~and~~], 2020-21, and 2021-22, the funds described in Subsections 26-18-402(3)(a) and 26-18-402(2)(a)(ii) are nonlapsing.

(2) This section supersedes any conflicting provisions of Utah law.

Section 2. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;

(14) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

(15) provide training and educational opportunities for the department's staff;

(16) collect child support payments and any other money due to the department;

(17) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

(18) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

(19) carry out the responsibilities assigned to the department by statute;

(20) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

(21) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

(22) within appropriations authorized by the Legislature, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions; and

(23) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department[~~; and~~].

[~~(24) reallocate unexpended funds as provided in Section 62A-1-111.6.~~]

Section 3. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

[~~(iii) The executive director of the Department of Human Services may transfer unrestricted General Fund money appropriated to the department between line items within the department in accordance with Section 62A-1-111.6.~~]

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205; and

(b) the Department of Government Operations may transfer money appropriated for the purpose of paying the costs of paid employee postpartum recovery leave under Section 63A-17-511 to another department, agency, institution, or division.

Section 4. Repealer.

This bill repeals:

Section 62A-1-111.6, Reallocating unexpended money to designated priority programs -- Reporting -- Limitation.

Section 63J-1-217.5, Reporting requirements for overexpenditure of budget by agency for fiscal year 2020.

CHAPTER 41
H. B. 199

Passed February 17, 2022
Approved March 15, 2022
Effective January 1, 2023

TANGIBLE PERSONAL PROPERTY TAX AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies the signed statement requirements for claiming a property tax exemption for certain tangible personal property.

Highlighted Provisions:

This bill:

- removes the requirement that a taxpayer file a signed statement after the first calendar year in which a taxpayer qualifies for a property tax exemption for tangible personal property if the taxpayer continues to qualify for the exemption for consecutive subsequent years.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1115, as last amended by Laws of Utah 2021, Chapter 388

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

Section 1. Section 59-2-1115 is amended to read:

59-2-1115. Exemption of certain tangible personal property.

(1) As used in this section:

(a) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(b) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used on a public highway, public waterway, or public land or in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) In accordance with Utah Constitution, Article XIII, Section 3, Subsection (2)(a)(vi), which provides that the Legislature may by statute exempt tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue, the Legislature exempts the tangible personal property described in this Subsection (2).

(b) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of $25,000 or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(b), the item is exempt from taxation if:

(i) the item is owned by a business and is not critical to the actual business operation of the business; and

(ii) the acquisition cost of the item is less than $500.

(3) (a) For a calendar year beginning on or after January 1, 2023, the commission shall increase the dollar amount described in Subsection (2)(b):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2021; and

(ii) up to the nearest $100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

[~~(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(b) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(b).~~]

[~~(c)~~] (b) If a taxpayer qualifies for an exemption described in Subsection (2)(b) [~~for five consecutive years~~] and files a signed statement [~~for each of those years in accordance with Section 59-2-306 and Subsection (4)(b)~~] in accordance with Subsection (4)(a), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

[~~(d)~~] (c) If a taxpayer qualifies for an exemption described in Subsection (2)(c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 2. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 42
H. B. 235

Passed March 1, 2022
Approved March 15, 2022
Effective May 4, 2022

SPEED LIMIT DESIGNATION AMENDMENTS

Chief Sponsor: Steven J. Lund
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill addresses the process by which a county or municipality establishes a speed limit.

Highlighted Provisions:

This bill:

- allows a county or municipality to establish a speed limit without completing a traffic engineering and safety study; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-602, as last amended by Laws of Utah 2016, Chapter 137

41-6a-603, as renumbered and amended by Laws of Utah 2005, Chapter 2

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

Section 1. Section 41-6a-602 is amended to read:

41-6a-602. Speed limits established on state highways.

(1) (a) The Department of Transportation shall determine the reasonable and safe speed limit for each highway or section of highway under its jurisdiction.

(b) For each highway or section of highway, each speed limit shall be based on a traffic engineering and safety study consistent with the requirements and recommendations in the most current version of the "Manual on Uniform Traffic Control Devices."

(c) The traffic engineering and safety studies shall include:

(i) the design speed;

(ii) prevailing vehicle speeds;

(iii) accident history;

(iv) highway, traffic, and roadside conditions; and

(v) other highway safety factors.

(2) [~~In addition to the provisions of Subsection (1), the~~] The Department of Transportation may establish different speed limits on a highway or section of highway based on:

(a) time of day;

(b) highway construction;

(c) type of vehicle;

(d) weather conditions; and

(e) other highway safety factors.

(3) (a) Except as provided in Subsection (3)(b) and (c), a posted speed limit may not exceed 65 miles per hour.

(b) Except as provided in Subsection (3)(c), a posted speed limit on a freeway or other limited access highway may not exceed 75 miles per hour.

(c) (i) The Department of Transportation may establish a posted speed limit on a freeway or other limited access highway that exceeds the maximum speed limit in Subsection (3)(b) if the speed limit is based on a highway traffic engineering and safety study.

(ii) If the Department of Transportation establishes a posted speed limit that exceeds the limit under Subsection (3)(b), the Department of Transportation shall evaluate the results and impacts of increasing a speed limit under this Subsection (3)(c).

(d) This Subsection (3) is an exception to the provisions of Subsections (1) and (2).

(4) When establishing or changing a speed limit, the Department of Transportation shall consult with the following entities prior to erecting or changing a speed limit sign:

(a) the county for state highways in an unincorporated area of the county;

(b) the municipality for state highways within the municipality's incorporated area;

(c) the Department of Public Safety; and

(d) the Transportation Commission.

(5) The speed limit is effective when appropriate signs giving notice are erected along the highway or section of the highway.

Section 2. Section 41-6a-603 is amended to read:

41-6a-603. Speed limits established by counties and municipalities.

(1) A county or municipality may determine the reasonable and safe speed limit for each highway or section of highway under its jurisdiction as specified under Title 72, Chapter 3, Highway Jurisdiction and Classification Act.

(2) Each speed limit shall be established in accordance with the provisions of Subsections 41-6a-602[~~(1),~~] (2), (3), and (5).

CHAPTER 43
H. B. 33

Passed February 17, 2022
Approved March 21, 2022
Effective May 4, 2022

INSTREAM WATER FLOW AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill makes changes related to change applications for certain uses of water.

Highlighted Provisions:

This bill:

- defines terms;
- provides that certain entities or individuals may file a change application to provide water for an instream flow or for use on sovereign lands;
- amends the process by which a change application for instream flow or use on sovereign lands is considered; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-3, as last amended by Laws of Utah 2020, Chapter 421
73-3-8, as last amended by Laws of Utah 2020, Chapter 421
73-3-30, as last amended by Laws of Utah 2021, Chapter 280

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

Section 1. Section 73-3-3 is amended to read:

73-3-3. Changes to a water right.

(1) [~~For purposes of~~] As used in this section:

(a) "Change" means a change to the:

(i) point of diversion;

(ii) place of use;

(iii) period of use;

(iv) nature of use; or

(v) storage of water.

(b) "Fixed time change" means a change for a fixed period of time exceeding one year and not exceeding 10 years, including a fixed time change described in Section 73-3-30.

(c) "Permanent change" means a change, for an indefinite period of time, including a permanent change described in Section 73-3-30.

(d) "Person entitled to the use of water" means:

(i) the holder of an approved but unperfected application to appropriate water;

(ii) the record owner of a perfected water right;

(iii) a person who has written authorization from a person described in Subsection (1)(d)(i) or (ii) to file a change application on that person's behalf; or

(iv) a shareholder in a water company who is authorized to file a change application in accordance with Section 73-3-3.5.

(e) (i) "Quantity impairment" means any reduction in the amount of water a person is able to receive in order to satisfy an existing right to the use of water that would result from an action proposed in a change application, including:

(A) diminishing the quantity of water in the source of supply for the existing right;

(B) a change in the timing of availability of water from the source of supply for the existing right; or

(C) enlarging the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use.

(ii) "Quantity impairment" does not mean a decrease in the static level of water in an underground basin or aquifer that would result from an action proposed to be taken in a change application, if the volume of water necessary to satisfy an existing right otherwise remains reasonably available.

(f) "Split season change" means a change when the holder of a perfected right grants to a water user the right to make sequential use of a portion of the water right.

(g) "Temporary change" means a change for a period of time, not exceeding one year, including a temporary change described in Section 73-3-30.

(2) (a) A person who proposes to file a change application may request consultation with the state engineer, or the state engineer's designee, before filing the application to review the requirements of the change application process, discuss potential issues related to the change, and provide the applicant with information.

(b) Statements made and information presented in the consultation are not binding on the applicant or the state engineer.

(c) The consultation described in Subsection (2)(a) may occur in the state engineer's regional office for the region where the proposed change would occur.

(3) (a) A person entitled to the use of water may make a change to an existing right to use water, including a right involved in a general determination of rights or other suit, if:

(i) the person makes the change in accordance with this section;

(ii) except as provided by Section 73-3-30, the change does not impair an existing right without just compensation or adequate mitigation; and

(iii) the state engineer approves the change application, consistent with Section 73-3-8.

(b) A change application on a federal reclamation project water right shall be signed by:

(i) the local water users organization that is contractually responsible for:

(A) the operation and maintenance of the project; or

(B) the repayment of project costs; and

(ii) the record owner of the water right.

(c) A change application on a United States Indian Irrigation Service water right that is serving the needs of a township or municipality shall be signed by:

(i) the local public water supplier that is responsible for the operation and maintenance of the public water supply system; and

(ii) the record owner of the water right.

(4) (a) Before making a change, a person entitled to the use of water shall submit a change application upon forms furnished by the state engineer.

(b) The application described in Subsection (4)(a) shall include:

(i) the applicant's name;

(ii) the water right description, including the water right number;

(iii) the water quantity;

(iv) the stream or water source;

(v) if applicable, the point on the stream or water source where the water is diverted;

(vi) if applicable, the point to which it is proposed to change the diversion of the water;

(vii) the place, nature, period, and extent of the currently approved use;

(viii) the place, nature, period, and extent of the proposed use;

(ix) if the change applicant is submitting a change application in accordance with Section 73-3-3.5, the information required by Section 73-3-3.5;

(x) any proposed change to the storage of water; and

(xi) any other information that the state engineer requires.

(c) A shareholder in a water company who seeks to make a change to a water right to which the water company is the record owner shall file a change application in accordance with Section 73-3-3.5.

(5) In a proceeding before the state engineer, the applicant has the burden of producing evidence sufficient to support a reasonable belief that the change can be made in compliance with this section and Section 73-3-8, including evidence:

(a) that the change will not cause a specific existing right to experience quantity impairment; or

(b) if applicable, rebutting the presumption of quantity impairment described in Subsection 73-3-8(6)(c).

(6) A change of an approved application to appropriate water does not:

(a) affect the priority of the original application to appropriate water; or

(b) extend the time period within which the construction of work is to begin or be completed.

(7) Any person who makes a change without first filing and obtaining approval of a change application providing for the change:

(a) obtains no right by the change;

(b) is guilty of an offense punishable under Section 73-2-27 if the change is made knowingly or intentionally; and

(c) shall comply with the change application process.

(8) (a) This section does not apply to the replacement of an existing well by a new well drilled within a radius of 150 feet from the point of diversion of the existing well.

(b) A replacement well must be drilled in accordance with the requirements of Section 73-3-28.

Section 2. Section 73-3-8 is amended to read:

73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals -- Request for agency action.

(1) (a) It shall be the duty of the state engineer to approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2) (a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) An extension may not exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3) (a) Before the approval of any application for the appropriation of water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals therefrom by precipitation or otherwise, the applicant shall file with the state engineer a copy of a contract for the payment of royalties to the state.

(b) The approval of an application shall be revoked if the applicant fails to comply with terms of the royalty contract.

(4) (a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that the temporary change will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe the temporary change would impair an existing right.

(5) (a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application to prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed.

(d) A condition described in Subsection (5)(c) may not include a reduction in the currently approved diversion rate of water under the water right identified in the change application solely to account for the difference in depletion under the nature of the proposed use when compared with the nature of the currently approved use.

(6) (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time change application if the person proposing to make the change is unable to meet the burden described in Subsection 73-3-3(5).

(b) If otherwise proper, the state engineer may approve a change application upon one or more of the following conditions:

(i) for part of the water involved;

(ii) that the applicant acquire a conflicting right; or

(iii) that the applicant provide and implement a plan approved by the state engineer to mitigate impairment of an existing right.

(c) (i) There is a rebuttable presumption of quantity impairment, as defined in Section 73-3-3, to the extent that, for a period of at least seven consecutive years, a portion of the right identified in a change application has not been:

(A) diverted from the approved point of diversion; or

(B) beneficially used at the approved place of use.

(ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use requirement is excused by:

(A) Subsection 73-1-4(2)(e);

(B) an approved nonuse application under Subsection 73-1-4(2)(b);

(C) Subsection 73-3-30[~~(7)~~](6); or

(D) the passage of time under Subsection 73-1-4(2)(c)(i).

(d) The state engineer may not consider quantity impairment based on the conditions described in Subsection (6)(c) unless the issue is raised in a:

(i) timely protest that identifies which of the protestant's existing rights the protestant reasonably believes will experience quantity impairment; or

(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, the protestants, and the persons identified by the state engineer under Subsection (6)(d)(ii) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

Section 3. Section 73-3-30 is amended to read:

73-3-30. Change application for an instream flow.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources[~~,~~] created in Section 23-14-1, [~~or~~] the Division of State Parks[~~,~~] created in Section 79-4-201, or the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

[~~(b) "Fishing group" means an organization that:~~]

[~~(i) is exempt from taxation under Section 501(c)(3), Internal Revenue Code; and~~]

[~~(ii) promotes fishing opportunities in the state.~~]

[~~(2) (a) A division may file a change application, as provided by Section 73-3-3, for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, necessary within the state for:~~]

(b) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

(c) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

(d) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.

(2) (a) Pursuant to Section 73-3-3, a division may file a permanent change application, a fixed time change application, or a temporary change application, or a person entitled to the use of water may file a fixed time change application or a temporary change application, to provide water within the state for:

(i) an instream flow within a specified section of a natural or altered stream; or

(ii) use on sovereign lands.

(b) The state engineer may not approve a change application filed under this section unless the proposed instream flow or use on sovereign lands will contribute to:

(i) the propagation or maintenance of [~~fish~~] wildlife;

(ii) [~~public recreation~~] the management of state parks; or

(iii) the reasonable preservation or enhancement of the natural [~~stream~~] aquatic environment.

[~~(b)~~] (c) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

(C) [~~acquired~~] secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

[~~(c)~~] (d) A division may:

(i) purchase a water right for the purposes [~~provided~~] described in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

[~~(d)~~] (e) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

[~~(3) (a) A fishing group may file a fixed time change application on a perfected, consumptive water right for the purpose of providing water for an instream flow, within a specified section of a natural or altered stream channel, to protect or restore habitat for three native trout:~~]

[~~(i) the Bonneville cutthroat;~~]

[~~(ii) the Colorado River cutthroat; or~~]

[~~(iii) the Yellowstone cutthroat.~~]

[~~(b) Before filing an application authorized by Subsection (3)(a) to change a shareholder's proportionate share of water, the water company shall submit the decision to approve or deny the change request required by Subsection 73-3-3.5(3) to a vote of the shareholders:~~]

[~~(i) in a manner outlined in the water company's articles of incorporation or bylaws;~~]

[~~(ii) at an annual or regular meeting described in Section 16-6a-701; or~~]

[~~(iii) at a special meeting convened under Section 16-6a-702.~~]

[~~(c) The specified section of the natural or altered stream channel for the instream flow may not be further upstream than the water right's original point of diversion nor extend further downstream than the next physical point of diversion made by another person.~~]

[~~(d) The fishing group shall receive the Division of Wildlife Resources'~~]

(3) (a) A person entitled to the use of water shall obtain a division director's approval of the proposed change before filing [~~the~~] a fixed time change application or a temporary change application with the state engineer.

(b) By approving a proposed fixed time change application or temporary change application, a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

[~~(e) The director of the Division of Wildlife Resources may approve a proposed change if:~~]

[~~(i) the specified section of the stream channel is historic or current habitat for a species listed in Subsections (3)(a)(i) through (iii);~~]

[~~(ii) the proposed purpose of use is consistent with an existing state management or recovery plan for that species; and~~]

[~~(iii) the fishing group has:~~]

[~~(A) entered into a programmatic Candidate Conservation Agreement with Assurances with the United States Fish and Wildlife Service, as authorized by 16 U.S.C. Secs. 1531(a)(5) and 1536(a)(1), that gives the water right holder the option to receive an enhancement of survival permit, as authorized by 16 U.S.C. Sec. 1539(a)(1)(A), or a certificate of inclusion, for a fixed time change application that benefits a candidate species of trout; or~~]

[~~(B) until a programmatic Candidate Conservation Agreement with Assurances described in Subsection (3)(e)(iii)(A) becomes valid and enforceable, entered into a contract with the water right holder agreeing to defend and indemnify the water right holder for liability under Section 1538(a) of the Endangered Species Act, 16 U.S.C. Secs. 1531 through 1544, for an action taken by the water right holder under the terms of the water right holder's agreement with the fishing group for a fixed time change application.~~]

[~~(f) The director may deny a proposed change if the proposed change would not be in the public's interest.~~]

[~~(g) (i) In considering a fixed time change application, the state engineer shall follow the same procedures as provided in this title for an application to appropriate water.~~]

[~~(ii) The rights and the duties of a fixed time change applicant are the same as provided in this title for an applicant to appropriate water.~~]

[~~(h) A fishing group may refile a fixed time change application by filing a written request with the state engineer no later than 60 days before the application expires.~~]

[~~(i) (i) The water right for which the state engineer has approved a fixed time change application will automatically revert to the point of diversion and place and purpose of use that existed before the approved fixed time change application when the fixed time change application expires or is terminated.~~]

[~~(ii) The applicant shall give written notice to the state engineer and the lessor, if applicable, if the applicant wishes to terminate a fixed time change application before the fixed time change application expires.~~]

(4) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:

(a) [~~set forth the~~] a legal description of [~~the points on the stream channel between which the instream flow will be provided by the change application; and~~]:

(i) the segment of the natural or altered stream that will be the place of use for an instream flow; or

(ii) the location where the water will be used on sovereign lands; and

(b) [~~include~~] appropriate studies, reports, or other information required by the state engineer demonstrating [~~the necessity for the instream flow in the specified section of the stream and~~]:

(i) the projected benefits to the public resulting from the change[~~.~~]; and

(ii) the necessity for the proposed instream flow or use on sovereign lands.

[~~(5) (a) For a permanent change application or a fixed time change application filed according to this~~

~~section, 60 days before the date on which proof of change for an instream flow is due, the state engineer shall notify the applicant by mail or by any form of communication through which receipt is verifiable of the date when proof of change is due.~~]

[~~(b) Before the date when proof of change is due, the applicant must either:~~]

[~~(i) file a verified statement with the state engineer that the instream flow uses have been perfected, setting forth:~~]

[~~(A) the legal description of the points on the stream channel between which the instream flow is provided;~~]

[~~(B) detailed measurements of the flow of water in second-feet changed;~~]

[~~(C) the period of use; and~~]

[~~(D) any additional information required by the state engineer; or~~]

[~~(ii) apply for a further extension of time as provided for in Section 73-3-12.~~]

[~~(c) (i) Upon acceptance of the verified statement required under Subsection (5)(b)(i), the state engineer shall issue a certificate of change for instream flow use in accordance with Section 73-3-17.~~]

[~~(ii) The certificate expires at the same time the fixed time change application expires.~~]

[~~(6)~~] (5) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.

[~~(7)~~] (6) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

[~~(8)~~] (7) A physical structure or physical diversion from the stream is not required to implement a change [~~for instream flow use~~] under this section.

[~~(9) This section does not allow enlargement of the water right that the applicant seeks to change.~~]

[~~(10) A change application authorized by this section may not impair a vested water right, including a water right used to generate hydroelectric power.~~]

[~~(11) The state engineer or the water commissioner shall distribute water under an approved or a certificated instream flow change application according to the change application's priority date relative to the other water rights located within the stream section specified in the change application for instream flow.~~]

[~~(12)~~] (8) An approved [~~fixed time~~] change application described in this section does not create a right of access across private property or allow any infringement of a private property right.

CHAPTER 44
H. B. 46

Passed February 7, 2022
Approved March 21, 2022
Effective May 4, 2022

UTAH ENERGY INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill repeals the Utah Energy Infrastructure Authority and modifies provisions related to the Utah Energy Infrastructure Board.

Highlighted Provisions:

This bill:

- defines terms;
- repeals provisions related to the Utah Energy Infrastructure Authority;
- moves the Utah Energy Infrastructure Board under the Office of Energy Development;
- clarifies the duties of the Utah Energy Infrastructure Board regarding the evaluation of an application for a tax credit under the High Cost Infrastructure Development Tax Credit Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63E-1-102, as last amended by Laws of Utah 2018, Chapter 393
79-6-602, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-603, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-604, as renumbered and amended by Laws of Utah 2021, Chapter 280

ENACTS:

79-6-903, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

79-6-901, (Renumbered from 63H-2-102, as last amended by Laws of Utah 2021, Chapter 280)
79-6-902, (Renumbered from 63H-2-202, as last amended by Laws of Utah 2021, Chapter 280)

REPEALS:

63H-2-101, as last amended by Laws of Utah 2012, Chapter 37
63H-2-201, as last amended by Laws of Utah 2012, Chapter 37
63H-2-203, as enacted by Laws of Utah 2009, Chapter 378
63H-2-204, as last amended by Laws of Utah 2021, Chapter 282
63H-2-301, as last amended by Laws of Utah 2012, Chapter 37
63H-2-302, as last amended by Laws of Utah 2012, Chapter 37
63H-2-401, as last amended by Laws of Utah 2014, Chapter 301
63H-2-402, as last amended by Laws of Utah 2012, Chapter 37
63H-2-403, as enacted by Laws of Utah 2009, Chapter 378
63H-2-404, as last amended by Laws of Utah 2012, Chapter 37
63H-2-501, as enacted by Laws of Utah 2009, Chapter 378
63H-2-502, as last amended by Laws of Utah 2021, Chapters 84 and 345
63H-2-503, as enacted by Laws of Utah 2009, Chapter 378
63H-2-504, as last amended by Laws of Utah 2021, Chapter 345

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

Section 1. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Beef Council, created by Section 4-21-103;

(ii) Utah Dairy Commission created by Section 4-22-103;

(iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

(iv) Utah State Railroad Museum Authority created by Section 63H-5-102;

(v) Utah Housing Corporation created by Section 63H-8-201;

(vi) Utah State Fair Corporation created by Section 63H-6-103;

(vii) Utah State Retirement Office created by Section 49-11-201;

(viii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

(ix) School and Institutional Trust Fund Office created by Section 53D-1-201;

(x) Utah Communications Authority created by Section 63H-7a-201;

[~~(xi) Utah Energy Infrastructure Authority created by Section 63H-2-201;~~]

[~~(xii)~~] (xi) Utah Capital Investment Corporation created by Section 63N-6-301; and

[~~(xiii)~~] (xii) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 2. Section 79-6-602 is amended to read:

79-6-602. Definitions.

As used in this part:

(1) "Applicant" means a person that conducts business in the state and that applies for a tax credit under this part.

(2) "Energy delivery project" means a project that is designed to:

(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or

(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.

[~~(2)~~] (3) "Fuel standard compliance project" means a project designed to retrofit a fuel refinery in order to make the refinery capable of producing fuel that complies with the United States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40 C.F.R. Sec. 79.54.

[~~(3)~~] (4) "High cost infrastructure project" means a project, including an energy delivery project or a fuel standard compliance project:

(a) (i) that expands or creates new industrial, mining, manufacturing, or agriculture activity in the state, not including a retail business;

(ii) that involves new investment of at least $50,000,000 in an existing industrial, mining, manufacturing, or agriculture entity, by the entity; or

(iii) for the construction of a plant or other facility, including a fueling station, for the storage, production, or distribution of hydrogen fuel used for transportation, electricity generation, or industrial use;

(b) that requires or is directly facilitated by infrastructure construction; and

(c) for which the cost of infrastructure construction to the entity creating the project is greater than:

(i) 10% of the total cost of the project; or

(ii) $10,000,000.

[~~(4)~~] (5) "Infrastructure" means:

(a) an energy delivery project [~~as defined in Section 63H-2-102~~];

(b) a railroad as defined in Section 54-2-1;

(c) a fuel standard compliance project;

(d) a road improvement project;

(e) a water self-supply project;

(f) a water removal system project;

(g) a solution-mined subsurface salt cavern; or

(h) a project that is designed to:

(i) increase the capacity for water delivery to a water user in the state; or

(ii) increase the capability of an existing water delivery system or related facility to deliver water to a water user in the state.

[~~(5)~~] (6) (a) "Infrastructure cost-burdened entity" means an applicant that enters into an agreement with the office that qualifies the applicant to receive a tax credit as provided in this part.

(b) "Infrastructure cost-burdened entity" includes a pass-through entity taxpayer, as defined in Section 59-10-1402, of a person described in Subsection [~~(5)~~] (6)(a).

[~~(6)~~] (7) "Infrastructure-related revenue" means an amount of tax revenue, for an entity creating a high cost infrastructure project, in a taxable year, that is directly attributable to a high cost infrastructure project, under:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Individual Income Tax Act; and

(c) Title 59, Chapter 12, Sales and Use Tax Act.

[~~(7)~~] (8) "Office" means the Office of Energy Development created in Section 79-6-401.

[~~(8)~~] (9) "Tax credit" means a tax credit under Section 59-7-619 or 59-10-1034.

[~~(9)~~] (10) "Tax credit certificate" means a certificate issued by the office to an infrastructure cost-burdened entity that:

(a) lists the name of the infrastructure cost-burdened entity;

(b) lists the infrastructure cost-burdened entity's taxpayer identification number;

(c) lists, for a taxable year, the amount of the tax credit authorized for the infrastructure cost-burdened entity under this part; and

(d) includes other information as determined by the office.

Section 3. Section 79-6-603 is amended to read:

79-6-603. Tax credit -- Amount -- Eligibility -- Reporting.

(1) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the office, in consultation with the Utah Energy Infrastructure [~~Authority~~] Board created in Section [~~63H-2-202~~] 79-6-902, and other state agencies as necessary, shall, in accordance with the procedures described in Section 79-6-604, certify:

(a) that the project meets the definition of a high cost infrastructure project under this part;

(b) that the high cost infrastructure project will generate infrastructure-related revenue;

(c) the economic life of the high cost infrastructure project; and

(d) that the applicant has received a certificate of existence from the Division of Corporations and Commercial Code.

(2) (a) Before the office enters into an agreement described in Subsection (3) with an applicant regarding a project, the Utah Energy Infrastructure [~~Authority~~] Board shall evaluate the project's net benefit to the state, [~~based on whether the project~~] including:

(i) whether the project is likely to increase the property tax revenue for the municipality or county where the project will be located;

(ii) whether the project would contribute to the economy of the state and the municipality, tribe, or county where the project will be located;

[~~(ii)~~] (iii) whether the project would provide new infrastructure for an area where the type of infrastructure the project would create is underdeveloped;

(iv) whether the project is supported by a business case for providing the revenue necessary to finance the construction and operation of the project;

[~~(iii)~~] (v) whether the project would have a positive environmental impact on the state;

(vi) whether the project promotes responsible energy development;

[~~(iv)~~] (vii) whether the project would upgrade or improve an existing entity in order to ensure the entity's continued operation and economic viability; [~~and~~]

[~~(v)~~] (viii) whether the project is less likely to be completed without a tax credit issued to the applicant under this part[~~.~~]; and

(ix) other relevant factors that the board specifies in the board's evaluation.

(b) Before the office enters into an agreement described in Subsection (3) with an applicant regarding an energy delivery project, in addition to the criteria described in Subsection (2)(a) the Utah Energy Infrastructure Board shall determine that the project:

(i) is strategically situated to maximize connections to an energy source project located in the state that is:

(A) existing;

(B) under construction;

(C) planned; or

(D) foreseeable;

(ii) is supported by a project plan related to:

(A) engineering;

(B) environmental issues;

(C) energy production;

(D) load or other capacity; and

(E) any other issue related to the building and operation of energy delivery infrastructure; and

(iii) complies with the regulations of the following regarding the building of energy delivery infrastructure:

(A) the Federal Energy Regulatory Commission;

(B) the North American Electric Reliability Council; and

(C) the Public Service Commission of Utah.

[~~(b)~~] (c) The Utah Energy Infrastructure [~~Authority~~] Board may recommend that the office deny an applicant a tax credit if [~~the applicant's project does not~~], as determined by the Utah Energy Infrastructure [~~Authority~~] Board[~~,~~]:

(i) the project does not sufficiently benefit the state based on the criteria described in Subsection (2)(a)[~~.~~]; or

(ii) for an energy delivery project, the project does not satisfy the conditions described in Subsection (2)(b).

(3) Subject to the procedures described in Section 79-6-604, if an applicant meets the requirements of Subsection (1) to receive a tax credit, and the applicant's project receives a favorable recommendation from the Utah Energy Infrastructure [~~Authority~~] Board under Subsection (2), the office shall enter into an agreement with the applicant to authorize the tax credit in accordance with this part.

(4) The office shall grant a tax credit to an infrastructure cost-burdened entity, for a high cost infrastructure project, under an agreement described in Subsection (3):

(a) for the lesser of:

(i) the economic life of the high cost infrastructure project;

(ii) 20 years; or

(iii) a time period, the first taxable year of which is the taxable year when the construction of the high cost infrastructure project begins and the last taxable year of which is the taxable year in which the infrastructure cost-burdened entity has recovered, through the tax credit, an amount equal to:

(A) 50% of the cost of the infrastructure construction associated with the high cost infrastructure project; or

(B) if the high cost infrastructure project is a fuel standard compliance project, 30% of the cost of the infrastructure construction associated with the high cost infrastructure project.

(b) except as provided in Subsections (4)(a) and (d), in a total amount equal to 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a);

(c) for a taxable year, in an amount that does not exceed the high cost infrastructure project's infrastructure-related revenue during that taxable year; and

(d) if the high cost infrastructure project is a fuel standard compliance project, in a total amount that is:

(i) determined by the Utah Energy Infrastructure [~~Authority~~] Board, based on:

(A) the applicant's likelihood of completing the high cost infrastructure project without a tax credit; and

(B) how soon the applicant plans to complete the high cost infrastructure project; and

(ii) equal to or less than 30% of the high cost infrastructure project's total infrastructure-related revenue over the time period described in Subsection (4)(a).

(5) An infrastructure cost-burdened entity shall, for each taxable year:

(a) file a report with the office showing the high cost infrastructure project's infrastructure-related revenue during the taxable year;

(b) subject to Subsection (7), file a report with the office that is prepared by an independent certified public accountant that verifies the infrastructure-related revenue described in Subsection (5)(a); and

(c) provide the office with information required by the office to certify the economic life of the high cost infrastructure project.

(6) An infrastructure cost-burdened entity shall retain records supporting a claim for a tax credit for the same period of time during which a person is required to keep books and records under Section 59-1-1406.

(7) An infrastructure cost-burdened entity for which a report is prepared under Subsection (5)(b) shall pay the costs of preparing the report.

(8) The office shall certify, for each taxable year, the infrastructure-related revenue generated by an infrastructure cost-burdened entity.

Section 4. Section 79-6-604 is amended to read:

79-6-604. Tax credit -- Application procedure.

(1) An applicant shall provide the office with:

(a) an application for a tax credit certificate;

(b) documentation that the applicant meets the requirements described in Subsection 79-6-603(1), to the satisfaction of the office, for the taxable year for which the applicant seeks to claim a tax credit; and

(c) documentation that expressly directs and authorizes the State Tax Commission to disclose to the office the applicant's returns and other information concerning the applicant that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code.

(2) (a) The office shall, for an applicant, submit the documentation described in Subsection (1)(c) to the State Tax Commission.

(b) Upon receipt of the documentation described in Subsection (1)(c), the State Tax Commission shall provide the office with the documentation described in Subsection (1)(c).

(3) If, after the office reviews the documentation from the State Tax Commission under Subsection (2)(b) and the information the applicant submits to the office under Section 79-6-603, the office, in consultation with the Utah Energy Infrastructure [~~Authority~~] Board created in Section [~~63H-2-202~~] 79-6-902, determines that the applicant is not eligible for the tax credit under Section 79-6-603, or that the applicant's documentation is inadequate, the office shall:

(a) deny the tax credit; or

(b) inform the applicant that the documentation supporting the applicant's claim for a tax credit was inadequate and request that the applicant supplement the applicant's documentation.

(4) Except as provided in Subsection (5), if, after the office reviews the documentation described in Subsection (2)(b) and the information described in Subsection 79-6-603(6), the office, in consultation with the Utah Energy Infrastructure [~~Authority~~] Board created in Section [~~63H-2-202~~] 79-6-902, determines that the documentation supporting an applicant's claim for a tax credit adequately demonstrates that the applicant is eligible for the tax credit under Section 79-6-603, the office shall, on the basis of the documentation:

(a) enter, with the applicant, into the agreement described in Subsection 79-6-603(3);

(b) issue a tax credit certificate to the applicant; and

(c) provide a duplicate copy of the tax credit certificate described in Subsection (4)(b) to the State Tax Commission.

(5) The office may deny an applicant a tax credit based on the recommendation of the Utah Energy Infrastructure [~~Authority~~] Board, as provided in Subsection 79-6-603(2).

(6) An infrastructure cost-burdened entity may not claim a tax credit under Section 59-7-619 or 59-10-1034 unless the infrastructure cost-burdened entity receives a tax credit certificate from the office.

(7) An infrastructure cost-burdened entity that claims a tax credit shall retain the tax credit certificate in accordance with Subsection 79-6-603(7).

(8) Except for the information that is necessary for the office to disclose in order to make the report described in Section 79-6-605, the office shall treat a document an applicant or infrastructure cost-burdened entity provides to the office as a protected record under Section 63G-2-305.

Section 5. Section 79-6-901, which is renumbered from Section 63H-2-102 is renumbered and amended to read:

Part 9. Utah Energy Infrastructure Board Act

[~~63H-2-102~~]. 79-6-901. Definitions.

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

[~~(1) "Agency" is as defined in Section 17C-1-102.~~]

[~~(2) "Assessment area" is as defined in Section 11-42-102.~~]

[~~(3) "Assessment bonds" is as defined in Section 11-42-102.~~]

[~~(4) "Authority" means the Utah Energy Infrastructure Authority created in Section 63H-2-201.~~]

[~~(5) "Authority bond" means a bond issued by the authority in accordance with Part 4, Bonding.~~]

(1) "Application" means an application for a tax credit under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act.

[~~(6)~~] (2) "Board" means the [~~board~~] Utah Energy Infrastructure Board created [~~under~~] in Section [~~63H-2-202~~] 79-6-902.

[~~(7) "Community" means the county, city, or town in which is located a qualifying energy delivery project financed by an authority bond.~~]

[~~(8)~~] (3) "Electric interlocal entity" [~~has the same meaning as~~] means the same as that term is defined in Section 11-13-103.

[~~(9)~~] (4) "Energy advisor" means the energy advisor appointed under Section 79-6-201.

[~~(10) "Energy delivery project" means a project that is designed to:~~]

[~~(a) increase the capacity for the delivery of energy to a user of energy inside or outside the state; or~~]

[~~(b) increase the capability of an existing energy delivery system or related facility to deliver energy to a user of energy inside or outside the state.~~]

[~~(11) "Independent state agency" is as defined in Section 63E-1-102.~~]

[~~(12) "Project area" is as defined in Section 17C-1-102.~~]

[~~(13) "Public entity" means:~~]

[~~(a) the United States or an agency of the United States;~~]

[~~(b) the state or an agency of the state;~~]

[~~(c) a political subdivision of the state or an agency of a political subdivision of the state;~~]

[~~(d) another state or an agency of that state; or~~]

[~~(e) a political subdivision of another state or an agency of that political subdivision.~~]

[~~(14) "Qualifying energy delivery project" means a project approved by the board in accordance with Part 3, Qualifying Energy Delivery Projects.~~]

[~~(15) "Record" means information that is:~~]

[~~(a) inscribed on a tangible medium; or~~]

[~~(b) (i) stored in an electronic or other medium; and~~]

[~~(ii) retrievable in perceivable form.~~]

[~~(16) "Tax increment bond" is as defined in Section 11-27-2.~~]

(5) "Fuel standard compliance project" means the same as that term is defined in Section 79-6-602.

(6) "Office" means the Office of Energy Development created in Section 79-6-401.

(7) "Tax credit" means the same as that term is defined in Section 79-6-602.

Section 6. Section 79-6-902, which is renumbered from Section 63H-2-202 is renumbered and amended to read:

[~~63H-2-202~~]. 79-6-902. Utah Energy Infrastructure Board.

(1) There is created within the office the Utah Energy Infrastructure [~~Authority~~] Board that consists of nine members as follows:

(a) members appointed by the governor:

(i) the energy advisor or the director of the Office of Energy Development, who shall serve as chair of the board;

(ii) one member from the Governor's Office of Economic Opportunity;

(iii) one member from a public utility or electric interlocal entity that operates electric transmission facilities within the state;

(iv) two members representing the economic development interests of rural communities as follows:

(A) one member currently serving as county commissioner of a county of the third, fourth, fifth, or sixth class, as described in Section 17-50-501; and

(B) one member of a rural community with work experience in the energy industry;

(v) two members of the general public with relevant industry or community experience; and

(vi) one member of the general public who has experience with public finance and bonding; and

(b) the director of the School and Institutional Trust Lands Administration created in Section 53C-1-201.

(2) (a) The term of an appointed board member is four years.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) The governor may remove a member of the board for cause.

(d) The governor shall fill a vacancy in the board in the same manner under this section as the appointment of the member whose vacancy is being filled.

(e) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(f) A board member shall serve until a successor is appointed and qualified.

(3) (a) Five members of the board constitute a quorum for conducting board business.

(b) A majority vote of the quorum present is required for an action to be taken by the board.

(4) [~~(a) Except as provided in Subsections (4)(b) and (4)(c), the~~] The board shall meet [~~once each month, on a day determined by the board,~~] as needed to review an application [~~referred to the board by the Office of Energy Development under Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act~~].

[~~(b) Subject to Subsection (4)(c), the board may cancel the board's meeting for a given month if there are no applications described in Subsection (4)(a) pending board approval.~~]

[~~(c) The board shall meet no less frequently than once each quarter, on a day determined by the board.~~]

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

(a) Section 63A-3-106;

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

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

Section 7. Section 79-6-903 is enacted to read:

79-6-903. Powers and duties of the board -- Oversight -- Staff support.

(1) Subject to the provisions of this part and in accordance with Title 79, Chapter 6, Part 6, High Cost Infrastructure Development Tax Credit Act, the board shall:

(a) evaluate each application using the criteria described in Subsections 79-6-603(1) and (2);

(b) make recommendations to the office regarding each application; and

(c) for an application related to a fuel standard compliance project, determine the amount of the authorized tax credit using the criteria described in Subsection 79-6-603(4).

(2) The office shall:

(a) oversee the board's performance;

(b) provide the board office space, furnishings, and supplies; and

(c) provide the board staff support.

(3) With the consent of the attorney general, the office may retain legal counsel to advise the board on matters relating to the board's operations.

Section 8. Repealer.

This bill repeals:

Section 63H-2-101, Title.

Section 63H-2-201, Creation of Utah Energy Infrastructure Authority.

Section 63H-2-203, Powers of the board and authority -- Officers.

Section 63H-2-204, Dissolution of authority.

Section 63H-2-301, Prioritization of energy delivery projects.

Section 63H-2-302, Approval of qualifying energy delivery project.

Section 63H-2-401, Resolution authorizing issuance of authority bond -- Characteristics of bond.

Section 63H-2-402, Sources from which an authority bond may be made payable -- Authority powers regarding authority bond.

Section 63H-2-403, Purchaser of an authority bond.

Section 63H-2-404, Obligee rights -- Board may confer other rights.

Section 63H-2-501, Fiscal year.

Section 63H-2-502, Annual authority budget -- Auditor forms -- Requirement to file form.

Section 63H-2-503, Audits.

Section 63H-2-504, Relation to other state statutes.

CHAPTER 45
H. B. 62

Passed February 24, 2022
Approved March 21, 2022
Effective May 4, 2022

BIG GAME AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Michael K. McKell
Cosponsors: Mike Schultz

LONG TITLE

General Description:

This bill addresses provisions related to big game.

Highlighted Provisions:

This bill:

- amends the definition provision;
- modifies provisions related to damage to cultivated crops, livestock forage, fences, or irrigation equipment;
- addresses under what circumstances a landowner or lessee may kill big game animals;
- amends provisions related to compensation for damage caused by big game animals;
- addresses appeals;
- enacts limitations on compensating people to locate big game animals; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-16-1.1, as enacted by Laws of Utah 2003, Chapter 228
23-16-3, as last amended by Laws of Utah 2011, Chapter 297
23-16-3.1, as enacted by Laws of Utah 2003, Chapter 228
23-16-3.2, as last amended by Laws of Utah 2008, Chapter 382
23-16-4, as last amended by Laws of Utah 2011, Chapter 297

ENACTS:

23-20-33, Utah Code Annotated 1953

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

Section 1. Section 23-16-1.1 is amended to read:

23-16-1.1. Definitions.

As used in this chapter:

(1) "72 hours" means a time period that begins with the hour a request for action is made pursuant to Section 23-16-3 and ends 72 hours later with the exclusion of any hour that occurs on the day of a legal holiday that is on a Monday or Friday and listed in Section 63G-1-301.

[~~(1)~~] (2) "Cultivated crops" means:

(a) annual or perennial crops harvested from or on cleared and planted land; [~~and~~]

(b) perennial orchard trees on cleared and planted land;

[~~(b)~~] (c) crop residues that have forage value for livestock[~~.~~]; and

(d) pastures.

[~~(2)~~] (3) "Depredation mitigation plan" means the plan described in Subsection 23-16-3(2).

(4) "Growing season" means the portion of a year in which local conditions permit normal plant growth.

(5) "Management unit" means a prescribed area of contiguous land designated by the division for the purpose of managing a species of big game animal.

[~~(3)~~] (6) "Mitigation review panel" means the panel created under Section 23-16-3.2.

Section 2. Section 23-16-3 is amended to read:

23-16-3. Damage to cultivated crops, livestock forage, fences, or irrigation equipment by big game animals -- Notice to division -- Depredation mitigation plan.

(1) (a) If on private land big game animals [~~are damaging~~] damage cultivated crops, livestock forage, fences, or irrigation equipment [~~on private land~~], the landowner or lessee shall immediately, upon discovery of the damage, request that the division take action to alleviate the depredation problem.

(b) The landowner or lessee shall allow division personnel reasonable access to the property sustaining damage to verify and alleviate the depredation problem.

(2) (a) Within 72 hours after receiving the request for action under Subsection (1)(a), the division shall investigate the situation, and if it appears that depredation by big game animals may continue, the division shall:

(i) remove the big game animals causing depredation; or

(ii) implement a depredation mitigation plan [~~which has been~~] that is approved, in writing, by the landowner or lessee.

(b) A depredation mitigation plan may provide for any or all of the following:

(i) the scheduling of a depredation hunt;

(ii) issuing permits to the landowners or lessees, to take big game animals causing depredation during a general or special season hunt authorized by the Wildlife Board;

(iii) allowing landowners or lessees to designate recipients who may obtain a mitigation permit to take big game animals on the landowner's or lessee's land during a general or special season hunt authorized by the Wildlife Board; or

(iv) a description of how the division will assess and compensate the landowner or lessee under Section 23-16-4 for damage to cultivated crops, fences, or irrigation equipment.

(c) (i) The division shall specify the number and sex of the big game animals that may be taken pursuant to Subsections (2)(b)(ii) and (iii).

(ii) Control efforts shall be directed toward antlerless animals, if possible.

(d) A permit issued for an antlered animal shall be approved by the division director or the director's designee.

(e) The division and the landowner or lessee shall jointly determine the number of big game animals taken pursuant to Subsection (2)(b)(ii) of which the landowner or lessee may retain possession.

(f) In determining appropriate remedial action under this Subsection (2), the division shall consider:

(i) the extent of damage experienced or expected in a single growing season; and

(ii) any revenue the landowner derives from:

(A) participation in a cooperative wildlife management unit;

(B) use of landowner association permits;

(C) use of mitigation permits; and

(D) charging for hunter access.

(3) Any fee for accessing the owner's or lessee's land shall be determined by the landowner or lessee.

(4) (a) If the landowner or lessee who approved the depredation mitigation plan under Subsection (2)(a)(ii) subsequently determines that the plan is not acceptable, the landowner or lessee may revoke [~~his or her~~] the landowner's or lessee's approval of the plan and again request that the division take action pursuant to Subsection (2)(a)(i).

(b) A subsequent request for action provided under Subsection (4)(a) shall be considered to be a new request for purposes of the 72-hour time limit specified in Subsection (2)(a).

(5) (a) The division may enter into a conservation lease with the owner or lessee of private lands for a fee or other remuneration as compensation for depredation.

(b) Any conservation lease entered into under this section shall provide that the claimant may not unreasonably restrict hunting on the land or passage through the land to access public lands for the purpose of hunting, if those actions are necessary to control or mitigate damage by big game animals.

Section 3. Section 23-16-3.1 is amended to read:

23-16-3.1. Landowner or lessee authorized to kill big game animals.

(1) (a) A landowner or lessee may kill big game animals damaging those cultivated crops on private land if:

(i) it is necessary to protect cultivated crops;

(ii) 72 hours has expired since [~~notice was~~] a request for action is given pursuant to Subsection 23-16-3(1)(a);

(iii) the landowner or lessee has provided or sent written notice of an intent to kill the big game animal to the nearest regional office;

(iv) the landowner or lessee kills the big game animal within 90 days, or a longer period, if approved, in writing, by the division, after having requested that the division take action to prevent depredation under Subsection 23-16-3(1)(a); and

(v) the killing is not prohibited by Subsection (2)(a) or (3).

(b) Immediately after killing a big game animal under Subsection (1)(a), the landowner or lessee shall notify the division of the killing.

(c) The carcass of [~~an~~] a big game animal killed under Subsection (1)(a) [~~shall become~~] is the property of the division and [~~shall be disposed of by the division~~] the division shall dispose of the carcass.

(d) [~~Any money~~] Money derived from the sale of big game animals killed shall be placed in the Wildlife Resources Account created in Section 23-14-13.

(e) A landowner or lessee who kills big game animals pursuant to this section shall:

(i) make reasonable effort to prevent the big game animals from wasting; and

(ii) provide the division reasonable access to the landowner's or lessee's land to retrieve and dispose of the big game animals.

(2) (a) The division director may prohibit the killing of big game animals under Subsection (1)(a) if, within 72 hours after a landowner or lessee has requested that the division take action to remove depredating big game animals, the division:

(i) determines that the restitution value of the big game animal or animals, as established under Section 23-20-4.5, is more than twice the estimated value of the cultivated crops that have been or will be damaged or consumed within a single growing season;

(ii) determines that the prohibition is consistent with the management plan established under Section 23-16-7;

(iii) notifies the landowner or lessee of the prohibition; and

(iv) offers the landowner or lessee a depredation mitigation plan.

(b) A landowner or lessee who is offered a depredation mitigation plan may:

(i) accept the plan in writing; or

(ii) refuse to accept the plan and appeal the plan, in writing, to the division director.

(3) After a landowner or lessee has killed a big game animal under Subsection (1)(a), the division director may prohibit any further killing of big game animals if:

(a) the division takes the actions described in Subsections (2)(a)(i) through (iv); [~~and~~] or

(b) the mitigation review panel reviews and approves the depredation mitigation plan.

Section 4. Section 23-16-3.2 is amended to read:

23-16-3.2. Mitigation review panel.

(1) A mitigation review panel may be convened to review [~~the~~]:

(a) a depredation mitigation [~~plans.~~] plan; or

(b) division action under Section 23–16–4.

(2) Membership of the mitigation review panel shall consist of:

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

(b) (i) the commissioner of the Department of Agriculture and Food or the commissioner's designee; or

(ii) a representative of agricultural interests appointed by the commissioner of the Department of Agriculture and Food; and

(c) a representative of Utah State University Extension Service appointed by the Vice President and Dean for University Extension.

(3) (a) The division director shall convene a mitigation review panel if:

(i) a landowner or lessee appeals a depredation mitigation plan under Subsection 23–16–3.1(2)(b)(ii); [~~or~~]

(ii) the division director requests review of a depredation mitigation plan[~~.~~]; or

(iii) the division receives a petition of an aggrieved party to a final division action under Section 23–16–4.

(b) Within five business days of an appeal under Subsection 23–16–3.1(2)(b)(ii) or a division request for review [~~under Subsection 23–16–3.1(3)(b)~~], the mitigation review panel shall review the depredation mitigation plan and approve or modify the plan.

(c) A mitigation review panel shall act on a petition described in Subsection (3)(a)(iii) in accordance with rules made by the Wildlife Board under Subsection 23–16–4(6).

(4) Judicial review of a mitigation review panel action [~~shall be~~] under this section is governed by Title 63G, Chapter 4, Administrative Procedures Act.

Section 5. Section 23-16-4 is amended to read:

23-16-4. Compensation for damage to crops, fences, or irrigation equipment -- Limitations -- Appeals.

(1) The division may provide compensation to claimants for damage caused by big game animals to:

(a) cultivated crops [~~from or on cleared and planted~~] on private land;

(b) fences on private land; or

(c) irrigation equipment on private land.

(2) To be eligible to receive compensation as provided in this section, the claimant shall:

(a) notify the division of the damage within 72 hours after the damage is discovered; and

(b) allow division personnel reasonable access to the property to verify and alleviate the depredation problem.

(3) (a) The appraisal of the damage shall be made by the claimant and the division as soon after notification as possible.

(b) In determining damage payment, the division and claimant shall consider:

(i) the extent of damage experienced; and

(ii) any revenue the landowner derives from:

(A) participation in a cooperative wildlife management unit;

(B) use of landowner association permits;

(C) use of mitigation permits; and

(D) charging for hunter access.

(c) The division and claimant may not include speculative damages or claims of future value in an appraisal or damage payment beyond the growing season when the damage occurred under this section.

[~~(c)~~] (d) In determining how to assess and compensate for damages to cultivated crops, the division's determination shall be based on the:

(i) estimated number of big game animals that damaged or consumed cultivated crops;

(ii) estimated quantity of cultivated crops damaged or consumed by big game animals;

[~~(i)~~] (iii) [~~full replacement value in the local market~~] local market value of the cultivated crops that actually have been or will be damaged or consumed by big game animals; [~~and~~]

[~~(ii) cost of delivery of a replacement crop to the location of the damaged crop or other location that is not farther from the source of the replacement crop.~~]

(iv) replacement value of an equivalent aged tree for perennial orchard trees; and

(v) other documented costs directly incurred by the landowner or lessee because of damage to cultivated crops by big game animals.

[~~(d)~~] (e) If the claimant and the division are unable to agree on a fair and equitable damage payment, [~~they~~] the claimant and division shall designate a third party, consisting of one or more persons familiar with the crops, fences, or irrigation equipment and the type of big game animals doing the damage, to appraise the damage.

(4) (a) [~~Notwithstanding Section 63J-1-504, the~~] The total amount of compensation that may be provided by the division pursuant to this section and the total cost of fencing materials provided by the division to prevent crop damage may not exceed the legislative appropriation for fencing material and compensation for damaged crops, fences, and irrigation equipment.

(b) (i) [~~Any~~] A claim of $1,000 or less may be paid after appraisal of the damage as provided in Subsection (3), unless the claim brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of $1,000.

(ii) [~~Any~~] A claim for damage to irrigation equipment may be paid after appraisal of the damage as provided in Subsection (3).

(c) (i) [~~Any~~] A claim in excess of $1,000, or claim that brings the total amount of claims submitted by the claimant in the fiscal year to an amount in excess of $1,000, shall be treated as follows:

(A) $1,000 may be paid pursuant to the conditions of this section; and

(B) the amount in excess of $1,000 may not be paid until the total amount of the approved claims of all the claimants and expenses for fencing materials for the fiscal year are determined.

(ii) If the total exceeds the amount appropriated by the Legislature pursuant to Subsection (4)(a), claims in excess of $1,000, or [~~any~~] a claim that brings the total amount of a claimant's claims in a fiscal year to an amount in excess of $1,000, shall be prorated.

(5) The division may deny or limit compensation if the claimant:

(a) [~~has failed~~] fails to exercise reasonable care and diligence to avoid the loss or minimize the damage; [~~or~~]

(b) fails to provide the division reasonable access to the property;

(c) fails to allow the division to use reasonable mitigation tools to alleviate the damage;

[~~(b)~~] (d) [~~has~~] unreasonably [~~restricted~~] restricts hunting on land under the claimant's control or passage through the land to access public lands for the purpose of hunting, after receiving written notification from the division of the necessity of allowing [~~such~~] the hunting or access to control or mitigate damage by big game[~~.~~] animals; or

(e) fails to provide supporting evidence of cultivated crop values and claimed costs to the division during the damage appraisal process.

(6) (a) The Wildlife Board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with Subsection (6)(d), specifying procedures for the appeal of division actions under this section.

(b) Upon the petition of an aggrieved party to a final division action, [~~the Wildlife Board~~] a mitigation review panel may review the action on the record and issue an order modifying or rescinding the division action.

(c) [~~A qualified hearing examiner may be appointed~~] A mitigation review panel may appoint a third party designated under Subsection (3)(e) for purposes of taking evidence and making recommendations for [~~a board~~] an order of the mitigation review panel. The [~~board~~] mitigation review panel shall consider the recommendations of the [~~examiner~~] designated third party in making decisions.

(d) [~~Board~~] A mitigation review panel's review of final agency action and judicial review of final [~~board action shall be~~] action by a mitigation review panel is governed by Title 63G, Chapter 4, Administrative Procedures Act.

Section 6. Section 23-20-33 is enacted to read:

23-20-33. Limitation on compensating people to locate big game animals.

(1) As used in this section:

(a) "Compensate" or "compensated" means anything of value in excess of $25 that is paid, loaned, given, granted, donated, or transferred to a person for or in consideration of locating or monitoring the location of big game animals.

(b) "Retain" or "retained" means a written or oral agreement for the delivery of outfitting services or hunting guide services between an outfitter or hunting guide and the recipient of those services.

(2) Except as provided in Subsections (3) and (4), a person may not compensate another person to locate or monitor the location of big game animals on public land in connection with or furtherance of taking a big game animal under this title.

(3) A person may compensate a registered outfitter or hunting guide, as defined in Section 58-79-102, to help the person locate and take a big game animal on public land if:

(a) the outfitter or hunting guide is registered and in good standing under Title 58, Chapter 79, Hunting Guides and Outfitters Registration Act;

(b) the person has retained the outfitter or hunting guide and is the recipient of the outfitting services and hunting guide services, as defined in Section 58-79-102;

(c) the person possesses the licenses and permits required to take a big game animal;

(d) the person retains and uses not more than one outfitter or hunting guide in connection with taking a big game animal; and

(e) the retained outfitter or hunting guide uses no more than one compensated individual in locating or monitoring the location of big game animals on public land.

(4) A registered outfitter or hunting guide in good standing may compensate another person to locate or monitor the location of big game animals on public land if:

(a) the outfitter or hunting guide has been retained by the recipient of the outfitting services or hunting guide services to assist the recipient take a big game animal on public land;

(b) the recipient possesses the licenses and permits required to take a big game animal;

(c) the recipient is not simultaneously using another outfitter or hunting guide to assist in taking the same species and sex of big game animal; and

(d) the outfitter or hunting guide compensates not more than one other individual to locate or monitor the location of big game animals in connection with assisting the recipient take a big game animal on public land.

(5) A violation of:

(a) this section constitutes an unlawful take under Section 23-20-3; and

(b) Subsection (4) constitutes unlawful conduct under Sections 58-1-501, 58-1-502, and 58-79-501.

CHAPTER 46
H. B. 68

Passed February 11, 2022
Approved March 21, 2022
Effective May 4, 2022

COMMERCIAL DRIVER LICENSE AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill amends provisions related to commercial driver licenses.

Highlighted Provisions:

This bill:

- amends provisions related to a medical examiner's certificate or medical self certification for a commercial driver license;
- amends provisions related to disqualification of a commercial driver for certain offenses related to trafficking of persons;
- amends provisions related to commercial driver licenses to remove references to transition dates that are no longer necessary; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-205, as last amended by Laws of Utah 2021, Chapters 247 and 284
53-3-407, as last amended by Laws of Utah 2015, Chapter 422
53-3-410.1, as last amended by Laws of Utah 2016, Chapter 175
53-3-414, as last amended by Laws of Utah 2020, Chapter 218

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

Section 1. Section 53-3-205 is amended to read:

53-3-205. Application for license or endorsement -- Fee required -- Tests -- Expiration dates of licenses and endorsements -- Information required -- Previous licenses surrendered -- Driving record transferred from other states -- Reinstatement -- Fee required -- License agreement.

(1) An application for an original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months after the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed and requirements are completed.

(3) An application and fee for a motorcycle or taxicab endorsement entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests within six months after the date of the application;

(b) a motorcycle learner permit after the motorcycle knowledge test is passed; and

(c) a motorcycle or taxicab endorsement when all tests are passed.

(4) An application for a commercial class A, B, or C license entitles the applicant to:

(a) not more than two attempts to pass a knowledge test when accompanied by the fee provided in Subsection 53-3-105(18);

(b) not more than two attempts to pass a skills test when accompanied by a fee in Subsection 53-3-105(19) within six months after the date of application;

(c) both a commercial driver instruction permit and a temporary license permit for the license class held before the applicant submits the application if needed after the knowledge test is passed; and

(d) an original commercial class A, B, or C license and license certificate when all applicable tests are passed.

(5) An application and fee for a CDL endorsement entitle the applicant to:

(a) not more than two attempts to pass a knowledge test and not more than two attempts to pass a skills test within six months after the date of the application; and

(b) a CDL endorsement when all tests are passed.

(6) (a) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement test within the number of attempts provided in Subsection (4) or (5), each test may be taken two additional times within the six months for the fee provided in Section 53-3-105.

(b) (i) [~~Beginning July 1, 2015, an~~] An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by the division if the out-of-state resident pays the fee provided in Subsection 53-3-105(19).

(ii) The division shall:

(A) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the out-of-state resident has obtained a valid CDIP; and

(B) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(7) (a) (i) Except as provided under Subsections (7)(a)(ii), (f), and (g), an original class D license expires on the birth date of the applicant in the eighth year after the year the license certificate was issued.

(ii) An original provisional class D license expires on the birth date of the applicant in the fifth year following the year the license certificate was issued.

(iii) Except as provided in Subsection (7)(f), a limited term class D license expires on the birth date of the applicant in the fifth year the license certificate was issued.

(b) Except as provided under Subsections (7)(f) and (g), a renewal or an extension to a license expires on the birth date of the licensee in the eighth year after the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (7)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) (i) A regular license certificate and an endorsement to the regular license certificate held by an individual described in Subsection (7)(e)(ii), that expires during the time period the individual is stationed outside of the state, is valid until 90 days after the individual's orders are terminated, the individual is discharged, or the individual's assignment is changed or terminated, unless:

(A) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(B) the licensee updates the information or photograph on the license certificate.

(ii) The provisions in Subsection (7)(e)(i) apply to an individual:

(A) ordered to active duty and stationed outside of Utah in any of the armed forces of the United States;

(B) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(A) and is residing outside of Utah;

(C) who is a civilian employee of the United States State Department or United States Department of Defense and is stationed outside of the United States; or

(D) who is an immediate family member or dependent of an individual described in Subsection (7)(e)(ii)(C) and is residing outside of the United States.

(f) (i) Except as provided in Subsection (7)(f)(ii), a limited-term license certificate or a renewal to a limited-term license certificate expires:

(A) on the expiration date of the period of time of the individual's authorized stay in the United States or on the date provided under this Subsection (7), whichever is sooner; or

(B) on the date of issuance in the first year following the year that the limited-term license certificate was issued if there is no definite end to the individual's period of authorized stay.

(ii) A limited-term license certificate or a renewal to a limited-term license certificate issued to an approved asylee or a refugee expires on the birth date of the applicant in the fifth year following the year that the limited-term license certificate was issued.

(g) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(8) (a) In addition to the information required by Title 63G, Chapter 4, Administrative Procedures Act, for requests for agency action, an applicant shall:

(i) provide:

(A) the applicant's full legal name;

(B) the applicant's birth date;

(C) the applicant's sex;

(D) (I) documentary evidence of the applicant's valid social security number;

(II) written proof that the applicant is ineligible to receive a social security number;

(III) the applicant's temporary identification number (ITIN) issued by the Internal Revenue Service for an individual who:

(Aa) does not qualify for a social security number; and

(Bb) is applying for a driving privilege card; or

(IV) other documentary evidence approved by the division;

(E) the applicant's Utah residence address as documented by a form or forms acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b); and

(F) fingerprints and a photograph in accordance with Section 53-3-205.5 if the applicant is applying for a driving privilege card;

(ii) provide evidence of the applicant's lawful presence in the United States by providing documentary evidence:

(A) that the applicant is:

(I) a United States citizen;

(II) a United States national; or

(III) a legal permanent resident alien; or

(B) of the applicant's:

(I) unexpired immigrant or nonimmigrant visa status for admission into the United States;

(II) pending or approved application for asylum in the United States;

(III) admission into the United States as a refugee;

(IV) pending or approved application for temporary protected status in the United States;

(V) approved deferred action status;

(VI) pending application for adjustment of status to legal permanent resident or conditional resident; or

(VII) conditional permanent resident alien status;

(iii) provide a description of the applicant;

(iv) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(v) state whether the applicant has ever had a license suspended, cancelled, revoked, disqualified, or denied in the last 10 years, or whether the applicant has ever had a license application refused, and if so, the date of and reason for the suspension, cancellation, revocation, disqualification, denial, or refusal;

(vi) state whether the applicant intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (15);

(vii) state whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry;

(viii) state whether the applicant is a veteran of the United States military, provide verification that the applicant was granted an honorable or general discharge from the United States Armed Forces, and state whether the applicant does or does not authorize sharing the information with the Department of Veterans and Military Affairs;

(ix) provide all other information the division requires; and

(x) sign the application which signature may include an electronic signature as defined in Section 46-4-102.

(b) Unless the applicant provides acceptable verification of homelessness as described in rules made by the division, an applicant shall have a Utah residence address, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b).

(c) An applicant shall provide evidence of lawful presence in the United States in accordance with Subsection (8)(a)(ii), unless the application is for a driving privilege card.

(d) The division shall maintain on the division's computerized records an applicant's:

(i) (A) social security number;

(B) temporary identification number (ITIN); or

(C) other number assigned by the division if Subsection (8)(a)(i)(D)(IV) applies; and

(ii) indication whether the applicant is required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(9) The division shall require proof of an applicant's name, birth date, and birthplace by at least one of the following means:

(a) current license certificate;

(b) birth certificate;

(c) Selective Service registration; or

(d) other proof, including church records, family Bible notations, school records, or other evidence considered acceptable by the division.

(10) (a) Except as provided in Subsection (10)(c), if an applicant receives a license in a higher class than what the applicant originally was issued:

(i) the license application is treated as an original application; and

(ii) license and endorsement fees is assessed under Section 53-3-105.

(b) An applicant that receives a downgraded license in a lower license class during an existing license cycle that has not expired:

(i) may be issued a duplicate license with a lower license classification for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(b)(i).

(c) An applicant who has received a downgraded license in a lower license class under Subsection (10)(b):

(i) may, when eligible, receive a duplicate license in the highest class previously issued during a license cycle that has not expired for the remainder of the existing license cycle; and

(ii) shall be assessed a duplicate license fee under Subsection 53-3-105(25) if a duplicate license is issued under Subsection (10)(c)(i).

(11) (a) When an application is received from an applicant previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(12) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license is accompanied by the additional fee or fees specified in Section 53-3-105.

(13) An individual who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(14) An applicant who applies for an original license or renewal of a license agrees that the individual's license is subject to a suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(15) (a) A licensee shall authenticate the indication of intent under Subsection (8)(a)(vi) in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all applicants who, under Subsection (8)(a)(vi), indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(16) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all applicants who indicate their status as a veteran under Subsection (8)(a)(viii).

(17) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division shall, upon request, release to the Sex and Kidnap Offender Registry office in the Department of Corrections, the names and addresses of all applicants who, under Subsection (8)(a)(vii), indicate they are required to register as a sex offender in accordance with Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (8)(a)(vi) or (viii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) An applicant who knowingly fails to provide the information required under Subsection (8)(a)(vii) is guilty of a class A misdemeanor.

(20) A person may not hold both an unexpired Utah license certificate and an unexpired identification card.

(21) (a) An applicant who applies for an original motorcycle endorsement to a regular license certificate is exempt from the requirement to pass the knowledge and skills test to be eligible for the motorcycle endorsement if the applicant:

(i) is a resident of the state of Utah;

(ii) (A) is ordered to active duty and stationed outside of Utah in any of the armed forces of the United States; or

(B) is an immediate family member or dependent of an individual described in Subsection (21)(a)(ii)(A) and is residing outside of Utah;

(iii) has a digitized driver license photo on file with the division;

(iv) provides proof to the division of the successful completion of a certified Motorcycle Safety Foundation rider training course; and

(v) provides the necessary information and documentary evidence required under Subsection (8).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(i) establishing the procedures for an individual to obtain a motorcycle endorsement under this Subsection (21); and

(ii) identifying the applicable restrictions for a motorcycle endorsement issued under this Subsection (21).

Section 2. Section 53-3-407 is amended to read:

53-3-407. Qualifications for commercial driver license -- Fee -- Third parties may administer skills test.

(1) (a) As used in this section, "CDL driver training school" means a business enterprise conducted by an individual, association, partnership, or corporation that:

(i) educates and trains persons, either practically or theoretically, or both, to drive commercial motor vehicles; and

(ii) prepares an applicant for an examination under Subsection (2)(a)(iii) [~~or (2)(c)(i)(B)~~].

(b) A CDL driver training school may charge a consideration or tuition for the services provided under Subsection (1)(a).

(2) (a) Except as provided in [~~Subsections (2)(c) and (d)~~] Subsection (2)(c), a CDL may be issued only to a person who:

(i) is a resident of this state or is an out-of-state resident if the person qualifies for a non-domiciled CDL as defined in 49 C.F.R. Part 383;

(ii) [~~beginning July 1, 2015,~~] has held a CDIP for a minimum of 14 days prior to taking the skills test under 49 C.F.R. Part 383, including a person who is upgrading a CDL class or endorsement requiring a skills test under 49 C.F.R. Part 383;

(iii) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and

(iv) has complied with all requirements of 49 C.F.R. Part 383 and other applicable state laws and federal regulations.

(b) A person who applies for a CDL is exempt from the requirement to pass a skills test to be eligible for the license if the person:

(i) is a resident of the state of Utah;

(ii) has successfully completed a skills test administered by a state or a party authorized by a state or jurisdiction that is compliant with 49 C.F.R. Part 383; and

(iii) held a valid Utah CDIP at the time the test was administered.

[~~(c) (i) Until June 30, 2015, a temporary CDL may be issued to an out-of-state resident who:~~]

[~~(A) is enrolled in a CDL driver training school located in Utah;~~]

[~~(B) has passed a test of knowledge and skills for driving a commercial motor vehicle, that complies with minimum standards established by federal regulation in 49 C.F.R. Part 383, Subparts G and H; and~~]

[~~(C) has complied with all requirements of 49 C.F.R. Part 383, Subparts G and H.~~]

[~~(ii) A temporary CDL issued under this Subsection (2)(c):~~]

[~~(A) is valid for 60 days; and~~]

[~~(B) may not be renewed or extended.~~]

[~~(iii) Except as provided in this section and Subsections 53-3-204(1)(a)(v), 53-3-205(8)(a)(i)(E) and (8)(b), and 53-3-410(1)(c), the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a temporary CDL issued under this Subsection (2)(c) in the same way as a commercial driver license issued under this part.~~]

[~~(d)~~] (c) The department shall waive [~~the skills test~~] any tests specified in this section for a commercial driver license applicant who, subject to the limitations and requirements of 49 C.F.R. Sec. 383.77, meets all certifications required for a waiver under 49 C.F.R. Sec. 383.77 and certifies that the applicant:

(i) is a member of the active or reserve components of any branch or unit of the armed forces or a veteran who received an honorable or general discharge from any branch or unit of the active or reserve components of the United States Armed Forces;

(ii) is or was regularly employed in a position in the armed forces requiring operation of a commercial motor vehicle; and

(iii) has legally operated, while on active duty for at least two years immediately preceding application for a commercial driver license, a vehicle representative of the commercial motor vehicle the driver applicant operates or expects to operate.

[~~(e)~~] (d) An applicant who requests a waiver under Subsection [~~(2)(d)~~] (2)(c) shall present a completed application for a military skills test waiver at the time of the request.

(3) Tests required under this section shall be prescribed and administered by the division.

(4) The division shall authorize a person, an agency of this state, an employer, a private driver training facility or other private institution, or a department, agency, or entity of local government to administer the skills test required under this section if:

(a) the test is the same test as prescribed by the division, and is administered in the same manner; and

(b) the party authorized under this section to administer the test has entered into an agreement with the state that complies with the requirements of 49 C.F.R. Sec. 383.75.

(5) (a) [~~Beginning July 1, 2015, an~~] An out-of-state resident who holds a valid CDIP issued by a state or jurisdiction that is compliant with 49 C.F.R. Part 383 may take a skills test administered by a party authorized under this section.

(b) A person authorized under this section to administer the skills test may charge a fee for administration of the skills test.

(c) A person authorized under this section to administer the skills test shall:

(i) electronically transmit skills test results for an out-of-state resident to the licensing agency in the state or jurisdiction in which the person has obtained a valid CDIP; and

(ii) provide the out-of-state resident with documentary evidence upon successful completion of the skills test.

(6) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(7) A person authorized under this section to administer the skills test is not criminally or civilly liable for the administration of the test unless he administers the test in a grossly negligent manner.

(8) The division may waive the skills test required under this section if it determines that the applicant meets the requirements of 49 C.F.R. Sec. 383.77.

Section 3. Section 53-3-410.1 is amended to read:

53-3-410.1. Medical certification requirements.

(1) A person whose medical certification status is:

(a) "non-excepted interstate" under Subsection 53-3-402(12)(a) is required to provide the division a medical self-certification and an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45 upon request by the division;

(b) "excepted interstate" under Subsection 53-3-402(12)(b) is required to provide to the division a medical self-certification upon request by the division;

(c) "non-excepted intrastate" under Subsection 53-3-402(12)(c) is required to, upon request by the division:

(i) provide to the division a medical self-certification; and

(ii) comply with the requirements of Section 53-3-303.5; or

(d) "excepted intrastate" under Subsection 53-3-402(12)(b) is required to, upon request by the division:

(i) provide to the division a medical self-certification; and

(ii) (A) provide to the division an updated medical examiner's certificate under 49 C.F.R. Sec. 391.45; or

(B) comply with the requirements of Section 53-3-303.5.

(2) A request by the division for a person to comply with Subsection (1) [~~shall correspond with~~] to provide a:

[~~(a) the expiration of the previously submitted medical examiner's certificate;~~]

[~~(b) the expiration of the previously submitted medical self-certification; or~~]

[~~(c) documentary evidence received by the division under Subsection (1) that indicates the driver may not be medically qualified to operate a CMV.~~]

(a) medical examiner's certificate, shall correspond with:

(i) the initial application for a CDL or CDIP;

(ii) the transfer of a CDL from another jurisdiction to Utah;

(iii) the expiration of the previously submitted medical examiner's certificate; or

(iv) documentary evidence received by the division under Subsection (1) that indicates the driver may not be medically qualified to operate a CMV; or

(b) medical self-certification, shall correspond with:

(i) the initial application for a CDL or CDIP;

(ii) the transfer of a CDL from another jurisdiction to Utah;

(iii) the renewal of a CDL or CDIP;

(iv) the upgrade of a commercial license class; or

(v) documentary evidence received by the division under Subsection (1) that indicates the driver may not be medically qualified to operate a CMV.

(3) (a) Except as provided in Subsection (3)(b), if the division determines that a person is no longer medically qualified to operate a CMV, the person shall be required to downgrade the person's CDL to a class D license.

(b) If the division determines that a person is incompetent to drive a motor vehicle or has a mental or physical disability rendering the person unable to safely drive a motor vehicle upon the highways, the division shall deny the person's driving privileges as described in Section 53-3-221.

(4) If a person fails to comply with a request under this section, the person shall be required to downgrade the person's CDL to a class D license.

(5) Failure to comply with the requirement of this section shall result in the denial of the license under Section 53-3-221.

Section 4. Section 53-3-414 is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.

(1) (a) An individual who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

(i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(ii) driving a commercial motor vehicle while the concentration of alcohol in the person's blood, breath, or urine is .04 grams or more;

(iii) leaving the scene of an accident involving a motor vehicle the person was driving;

(iv) failing to provide reasonable assistance or identification when involved in an accident resulting in:

[~~(A) death in accordance with Section 41-6a-401.5; or~~]

[~~(B)~~] (A) personal injury in accordance with Section 41-6a-401.3;

(B) death in accordance with Section 41-6a-401.5; or

(v) using a motor vehicle in the commission of a felony;

(vi) refusal to submit to a test to determine the concentration of alcohol in the person's blood, breath, or urine;

(vii) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

(viii) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of [~~automobile homicide under Section 76-5-207, manslaughter under Section 76-5-205, or negligent homicide under Section 76-5-206~~] manslaughter under Section 76-5-205, negligent homicide under Section 76-5-206, or Section 76-5-207.

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1), (5), or (14) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division; and

(B) complies with 49 C.F.R. Sec. 383.51;

(ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving:

(a) the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4)[~~.~~]; or

(b) an act or practice of severe forms of trafficking in persons as defined and described in 22 U.S.C. Sec. 7102(11).

(6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(7) (a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than $2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than $5,000.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

(10) (a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under Title 77, Chapter 40, Utah Expungement Act.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

CHAPTER 47
H. B. 76

Passed February 17, 2022
Approved March 21, 2022
Effective May 4, 2022

VEHICLE MERGER AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Daniel McCay
Cosponsor: Mike Winder

LONG TITLE

General Description:

This bill modifies traffic code provisions relating to vehicle merging.

Highlighted Provisions:

This bill:

- requires an operator of a vehicle to use the zipper method when two traffic lanes merge into one traffic lane.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

41-6a-903.1, Utah Code Annotated 1953

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

Section 1. Section 41-6a-903.1 is enacted to read:

41-6a-903.1. Right-of-way -- Zipper merge.

(1) As used in this section:

(a) "Merge point" means the point at which two traffic lanes merge into one traffic lane.

(b) "Zipper method" means a method of merging vehicles at a merge point that involves the operators of the merging vehicles:

(i) using both lanes of traffic until the vehicles reach the merge point; and

(ii) once the vehicles reach the merge point, alternating yielding the right-of-way into the single traffic lane.

(2) An operator of a vehicle shall use the zipper method when merging at a congested merge point.

(3) A violation of this section is an infraction.

CHAPTER 48
H. B. 88

Passed March 1, 2022
Approved March 21, 2022
Effective November 1, 2022

LICENSE PLATE REVISIONS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill creates the Utah Dark Sky support special group license plate.

Highlighted Provisions:

This bill:

- creates a support special group license plate called the Utah Dark Sky license plate;
- directs donations for the support special group license plate to the State Park Fees Restricted Account;
- allows the Division of State Parks to use of money in the fund to advance the Utah State Park dark sky initiative; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-418, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
79-4-402, as renumbered and amended by Laws of Utah 2009, Chapter 344

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

Section 1. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of State Parks or the Division of Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness;

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

(xxxii) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families; [~~or~~]

(xxxiii) public education on behalf of the Kiwanis International clubs[~~.~~]; or

(xxxiv) the Division of State Parks to advance the Utah State Parks dark sky initiative.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 2. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; [~~or~~]

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund[~~.~~]; or

(II) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 3. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(18) The Technology Development Restricted Account created in Section 31A-3-104.

(19) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

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

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

(35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(36) The DNA Specimen Restricted Account created in Section 53-10-407.

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

(38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

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

(41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

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

(44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

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

(48) The Relative Value Study Restricted Account created in Section 59-9-105.

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

(50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(52) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(55) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(57) The Immigration Act Restricted Account created in Section 63G-12-103.

(58) Money received by the military installation development authority, as provided in Section 63H-1-504.

(59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(63) The Motion Picture Incentive Account created in Section 63N-8-103.

(64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

[~~(77)~~] (78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[~~(78)~~] (79) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 4. Section 79-4-402 is amended to read:

79-4-402. State Park Fees Restricted Account.

(1) There is created within the General Fund a restricted account known as the State Park Fees Restricted Account.

(2) (a) Except as provided in Subsection (2)(b), the account shall consist of revenue from:

(i) contributions deposited into the account in accordance with Section 41-1a-422;

[~~(i)~~] (ii) all charges allowed under Section 79-4-203;

[~~(ii)~~] (iii) proceeds from the sale or disposal of buffalo under Subsection 79-4-1001(2)(b); and

[~~(iii)~~] (iv) civil damages collected under Section 76-6-206.2.

(b) The account shall not include revenue the division receives under Section 79-4-403 and Subsection 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section 79-4-203.

Section 5. Effective date.

This bill takes effect on November 1, 2022.

CHAPTER 49
H. B. 108

Passed February 11, 2022
Approved March 21, 2022
Effective May 4, 2022

VEHICLE INSPECTION AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to inspection of vehicle identification numbers.

Highlighted Provisions:

This bill:

- allows certain other parties to perform vehicle identification number inspections if an applicant shows that a vehicle identification inspection is impractical given the circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-802, as last amended by Laws of Utah 2005, Chapter 32

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

Section 1. Section 41-1a-802 is amended to read:

41-1a-802. Identification number inspectors -- Duties.

(1) The following are qualified identification number inspectors:

(a) the commission;

(b) designated officers and employees of the division;

(c) a person operating a safety inspection station under Title 53, Chapter 8, Part 2, Motor Vehicle Safety Inspection Act;

(d) an official inspection station certified inspector;

(e) a dealer licensed under Subsection 41-3-202(1), (2), (3), or (4); [~~and~~]

(f) all peace officers or designated employees of law enforcement agencies of the state[~~.~~];

(g) all peace officers of the federal government, another state, the District of Columbia, or Canada; or

(h) other qualified identification number inspectors expressly authorized by the division.

(2) The qualified identification number inspectors shall, upon the application for the first title or registration in this state of any vehicle:

(a) physically inspect the identification number of the vehicle;

(b) make a record of the identification number inspection [~~upon an application~~] on a form [~~provided~~] approved by the division; and

(c) verify the facts in the application.

(3) If an applicant demonstrates to the satisfaction of the division that it is not practical for a vehicle identification number to be physically inspected by a qualified inspector described in Subsection (1), the division may authorize a physical inspection by an alternative identification number inspector described in Subsection (4).

(4) The following are alternative vehicle identification number inspectors:

(a) an officer or employee of an agency or instrumentality of another state, the District of Columbia, or Canada, if that agency or instrumentality enforces the motor vehicle laws of another state, the District of Columbia, or Canada;

(b) an owner, operator, or employee of a motor vehicle inspection station that is licensed or authorized by another state, the District of Columbia, or Canada to perform safety or emissions inspections;

(c) a new or used motor vehicle dealer that is licensed by another state, the District of Columbia, or Canada; or

(d) a person the division expressly authorizes in writing to perform a vehicle identification number inspection of a vehicle.

CHAPTER 50
H. B. 121

Passed March 2, 2022
Approved March 21, 2022
Effective May 4, 2022

WATER CONSERVATION MODIFICATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Michael K. McKell
Cosponsors: Carl R. Albrecht
Stewart E. Barlow
Gay Lynn Bennion
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Steve Eliason
Stephen G. Handy
Suzanne Harrison
Timothy D. Hawkes
Sandra Hollins
Dan N. Johnson
Marsha Judkins
Karen Kwan
Rosemary T. Lesser
Phil Lyman
Ashlee Matthews
Carol Spackman Moss
Doug Owens
Karen M. Peterson
Stephanie Pitcher
Susan Pulsipher
Angela Romero
Douglas V. Sagers
Rex P. Shipp
Jeffrey D. Stenquist
Christine F. Watkins
Elizabeth Weight
Mark A. Wheatley
Mike Winder

LONG TITLE

General Description:

This bill modifies provisions related to conservation of water and related provisions regarding lawn or turf.

Highlighted Provisions:

This bill:

- imposes requirements related to water conservation at state government facilities and by state agencies;
- provides for incentives to replace lawn or turf with drought resistant landscaping;
- grants rulemaking authority;
- requires the Legislative Water Development Commission to study water conservation in the state; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-27-103, as last amended by Laws of Utah 2021, Chapter 354

ENACTS:

63A-5b-1108, Utah Code Annotated 1953
73-10-36, Utah Code Annotated 1953

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

Section 1. Section 63A-5b-1108 is enacted to read:

63A-5b-1108. Water conservation and state government facilities.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "Grounds" means the real property, whether fenced or unfenced, of the parcel of land on which is located a state government facility, including a public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the property.

(c) (i) Except as provided in Subsection (1)(c)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

(d) "Reconstructed" means that a building is subject to construction that affects the exterior of the building or the building's grounds.

(e) (i) "State agency" means a department, division, office, entity, agency, or other unit of state government.

(ii) "State agency" includes an institution of higher education.

(f) (i) "State government facility" means a building, structure, or other improvement that is constructed on property owned by the state, the state's departments, commissions, institutions, or other state agency.

(ii) "State government facility" does not include:

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

(B) a privately owned structure that is located on property owned by the state, the state's department, commission, institution, or other state agency; or

(C) a structure that is located on land administered by the trust lands administration under a lease, permit, or contract with the trust lands administration.

(2) (a) Unless exempted under Subsection (2)(b), a state agency that owns or occupies a state government facility that is built or reconstructed on or after May 4, 2022, may not have more than 20% of the grounds of the state government facility be lawn or turf.

(b) The division may exempt a state government facility from the restrictions of Subsection (2)(a) if the division determines that the purposes of a state agency that occupies the state government facility requires additional lawn or turf.

(3) (a) A state agency shall reduce the state agency's outdoor water use as compared to the state agency's outdoor water use for fiscal year 2020:

(i) in an amount equal to or greater than 5% by the end of fiscal year 2023; and

(ii) in an amount equal to or greater than 25% by the end of fiscal year 2026.

(b) A state agency shall submit the following information to the division:

(i) by no later than October 1, 2022:

(A) the state agency's water use for fiscal year 2020; and

(B) the state agency's water use for fiscal year 2022;

(ii) by no later than October 1, 2023, the state agency's water use for fiscal year 2023; and

(iii) by no later than October 1, 2026, the state agency's water use for fiscal year 2026.

(c) The division shall:

(i) post the information provided to the division under this Subsection (3) on a public website; and

(ii) by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a uniform measure for purposes of this section of a state agency's water use.

(4) Except when allowed by the division, a state agency may not water landscapes at a state government facility between the hours of 10 a.m. and 6 p.m.

(5) A state agency shall do the following at a state government facility:

(a) follow weekly lawn watering guides if issued by the division;

(b) manually shut off systems during rain and wind events if the landscape irrigation system does not have rain and wind shutoff functions;

(c) implement a leak-detection and repair program for outdoor use;

(d) coordinate with the division to implement water efficient methods, technologies, and practices; and

(e) at least annually:

(i) evaluate opportunities to update irrigation technology with devices that:

(A) meet national recognized standards for efficiency;

(B) include rain and wind shutoff functions; and

(C) include soil moisture sensors;

(ii) evaluate opportunities to:

(A) subject to Subsection (2), limit lawn or turf on the grounds of a state government facility and replace lawn or turf with water-wise plants; and

(B) update facility-management technology to include metering for water-consuming processes related to irrigation and mechanical systems; and

(iii) audit and repair a landscape irrigation system so that the landscape irrigation system is operating at maximum acceptable efficiency.

Section 2. Section 73-10-36 is enacted to read:

73-10-36. (Codified as 73-10-37) State incentives to use drought resistant landscaping.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) (i) Except as provided in Subsection (1)(b)(ii), "lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(ii) "Lawn or turf" does not include a golf course, park, athletic field, or sod farm.

(c) "Owner" means an owner of private land where a water end user is located.

(d) "Water end user" means a person who enters into a water contract to obtain water from a retail water provider for residential, commercial, industrial, or institutional use.

(2) (a) Subject to a $5,000,000 aggregate annual cap, the division may provide an incentive to an owner to remove lawn or turf from land owned by the owner and replace the lawn or turf with drought resistant landscaping.

(b) If the division provides an incentive under this section, the division shall provide the incentive in the order that an application for the incentive is filed.

(c) To be eligible for an incentive under this section, the owner shall at the time the owner applies for the incentive:

(i) have living lawn or turf on the land owned by the owner that the owner intends to replace with drought resistant landscaping;

(ii) be in good standing with a retail water provider so that the owner has no unpaid water bills; and

(iii) participate voluntarily in the removal of the lawn or turf in that the removal is not required by governmental code or policy.

(d) An owner may not receive an incentive under this section if the owner has previously received an incentive under this section for the same property.

(e) The division may not provide an owner an incentive under this section in an amount greater than 50% of the cost of replacing the lawn or turf with drought resistant landscaping.

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

(a) establishing the process by which an owner obtains an incentive under this section; and

(b) defining what constitutes drought resistant landscaping.

Section 3. Section 73-27-103 is amended to read:

73-27-103. Duties and powers of commission.

(1) The commission shall consider and make recommendations to the Legislature and governor on the following issues:

(a) how the water needs of the state's growing agricultural, municipal, and industrial sectors will be met;

(b) what the impact of federal regulations and legislation will be on the ability of the state to manage and develop its compacted water rights;

(c) how the state will fund water projects;

(d) whether the state should become an owner and operator of water projects;

(e) how the state will encourage the implementation of water conservation programs; and

(f) other water issues of statewide importance.

(2) The commission shall consult with the Division of Water Resources and the Board of Water Resources regarding:

(a) recommendations for rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3); and

(b) the scope of any request for proposals that may be issued by the Division of Water Resources and Board of Water Resources to assist in creating the rules, criteria, targets, processes, and plans described in Subsection 73-10g-105(3).

(3) The commission shall support community efforts to develop a unified, state water strategy to promote water conservation and efficiency that:

(a) is consistent with Section 73-1-21;

(b) is created with the aid of stakeholders including water conservancy districts created under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act;

(c) includes model ordinances or policies consistent with the unified, statewide water strategy that may be adopted by political subdivisions; and

(d) respects different needs of different political subdivisions or geographic regions of the state.

(4) The commission may:

(a) form one or more working groups from the membership of the commission to consider and study the issues described in this section; and

(b) meet up to six times per calendar year without approval from the Legislative Management Committee.

(5) (a) In addition to supporting community efforts to develop a unified, state water strategy to promote water conservation and efficiency under Subsection (3), the commission shall study water conservation in the state on public and private land including:

(i) the management of water resources in the state; and

(ii) programs and policies to promote water conservation in the state that also protect and support existing water rights.

(b) The commission shall report the commission's findings under this Subsection (5), including any proposed legislation, to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2022 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

CHAPTER 51
H. B. 131

Passed February 18, 2022
Approved March 21, 2022
Effective May 4, 2022

WATERSHED RESTORATION INITIATIVE

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill creates the Watershed Restoration Initiative within the Department of Natural Resources.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Watershed Restoration Initiative within the Department of Natural Resources;
- sets the policies and objectives of the initiative;
- describes how the initiative will be administered and funded;
- requires the initiative to submit an annual report to the Natural Resources, Agriculture, and Environment Interim Committee; and
- creates the Watershed Restoration Expendable Special Revenue Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-2-601, Utah Code Annotated 1953
79-2-602, Utah Code Annotated 1953
79-2-603, Utah Code Annotated 1953
79-2-604, Utah Code Annotated 1953
79-2-605, Utah Code Annotated 1953
79-2-606, Utah Code Annotated 1953

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

Section 1. Section 79-2-601 is enacted to read:

Part 6. WATERSHED RESTORATION INITIATIVE

79-2-601. Definitions.

As used in this part:

(1) "Administrative costs" means the costs of administering the initiative, including costs for staffing, rent, data processing, legal, finance, accounting, travel, maintenance, and office supplies.

(2) "Director" means the director of the initiative who is appointed under Section 79-2-602.

(3) "Division" means the Division of Wildlife Resources created in Section 23-14-1.

(4) "Initiative" means the Watershed Restoration Initiative created in Section 79-2-602.

(5) "Restoration" means to assist the recovery of ecosystems and ecosystem services that have been mismanaged, degraded, or destroyed.

(6) "Watershed" means the geographical surface area that drains water into a stream, river, or other body of water.

Section 2. Section 79-2-602 is enacted to read:

79-2-602. Watershed Restoration Initiative -- Creation -- Objectives.

(1) There is created within the department the Watershed Restoration Initiative under the general supervision of the executive director.

(2) The policies and objectives of the initiative are to manage, restore, and improve watershed ecosystems throughout the state by focusing on improving:

(a) watershed health and biological diversity;

(b) water quality and yield; and

(c) opportunities for sustainable uses of natural resources.

(3) Consistent with this part, the initiative may integrate, coordinate, or partner with federal, state, local, private, and non-profit plans and programs to further the initiative's objectives.

(4) To achieve and implement the policies and objectives under Subsection (2), the initiative shall:

(a) develop and oversee a watershed restoration project proposal process to develop statewide watershed restoration priorities, including ranking criteria;

(b) maintain a website that includes:

(i) an events calendar;

(ii) tracking of watershed restoration projects;

(iii) a description of the watershed restoration project proposal process, including applicable ranking criteria; and

(iv) the name and contact information of each person with decision-making responsibilities related to ranking and selecting watershed restoration project proposals;

(c) organize and oversee a biennial statewide watershed restoration workshop;

(d) assign funding to watershed restoration projects, and manage and track project budgets;

(e) provide initiative partners with contract support, reporting, and tracking assistance regarding incoming and outgoing watershed restoration project funds;

(f) ensure that watershed restoration projects meet applicable cultural resource requirements;

(g) upon request and as appropriate, provide performance reporting and initiative information to the media, partners, and the executive and legislative branches of state government;

(h) prepare and provide training and technical support for watershed restoration project managers; and

(i) provide the executive director with reports and recommendations regarding the initiative's performance and funding.

Section 3. Section 79-2-603 is enacted to read:

79-2-603. Director -- Appointment -- Qualifications -- Staff.

(1) The executive director shall appoint a director to administer the initiative.

(2) The director shall:

(a) be the executive and administrative head of the initiative; and

(b) have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the initiative's affairs.

(3) The director is appointed by the executive director.

(4) (a) The department shall staff the initiative.

(b) With approval of the executive director and the division director, and under the direction of the director, division staff with relevant expertise or experience may assist the director with administering the initiative.

Section 4. Section 79-2-604 is enacted to read:

79-2-604. Funding.

The initiative is funded from the following sources:

(1) appropriations made to the initiative by the Legislature; and

(2) contributions, including in-kind assistance, from other public and private sources.

Section 5. Section 79-2-605 is enacted to read:

79-2-605. Reporting.

The initiative shall prepare and submit to the Natural Resources, Agriculture, and Environment Interim Committee, on or before November 1 of each year, an annual report that includes:

(1) by source, the initiative's total annual resources, including partner funds;

(2) the initiative's historical annual funding amounts from year to year;

(3) the total amount of state funding used to leverage non-state partner resources;

(4) the total administrative costs related to the initiative, including the costs of each initiative partner that receives funds through the initiative; and

(5) performance metrics that demonstrate the initiative's impact and effectiveness.

Section 6. Section 79-2-606 is enacted to read:

79-2-606. Watershed Restoration Expendable Special Revenue Fund -- Creation -- Source of funds -- Use of funds.

(1) As used in this section, "fund" means the Watershed Restoration Expendable Special Revenue Fund created in Subsection (2).

(2) There is created an expendable special revenue fund known as the "Watershed Restoration Expendable Special Revenue Fund."

(3) The fund consists of:

(a) gifts, grants, donations, contributions, or any other conveyance of money that may be made to the fund from public or private sources; and

(b) interest and earnings on fund money.

(4) The state treasurer shall:

(a) invest money in the fund in accordance with the Title 51, Chapter 7, State Money Management Act; and

(b) deposit interest and earnings derived from investing fund money into the fund.

(5) The director may only use fund money for a watershed restoration project designated or approved by the donor.

CHAPTER 52
H. B. 141

Passed February 10, 2022
Approved March 21, 2022
Effective May 4, 2022

TARGET SHOOTING REGULATIONS

Chief Sponsor: Stephen L. Whyte
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the regulation of target shooting in wildlife management areas.

Highlighted Provisions:

This bill:

- defines terms; and
- authorizes the Division of Wildlife Resources to close a wildlife management area to target shooting in certain circumstances and with certain conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

23-21-2.6, Utah Code Annotated 1953

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

Section 1. Section 23-21-2.6 is enacted to read:

23-21-2.6. Target shooting prohibitions.

(1) As used in this section:

(a) "County sheriff" means the individual holding the office of county sheriff in the portion of a wildlife management area where target shooting will be, or is, prohibited under this section.

(b) "Director" means the director of the Division of Wildlife Resources.

(c) "Extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger.

(2) Subject to Subsections (3) and (4), the division may prohibit the use of firearms for target shooting within all or part of a wildlife management area if the director finds, and the county sheriff agrees, that conditions in that portion of the wildlife management area are extremely hazardous.

(3) A prohibition under this section:

(a) shall undergo a formal review by the director and the county sheriff every 14 days;

(b) may not prohibit an individual from legally possessing a firearm or lawfully participating in a hunt; and

(c) may only remain in place for as long as extremely hazardous conditions exist in the area that is subject to the prohibition.

(4) The director and the county sheriff shall:

(a) via a written document, agree to the terms of a prohibition under this section, including:

(i) the exact area where target shooting is prohibited; and

(ii) the date when the prohibition becomes effective; and

(b) comply with Subsection (4)(a) at each formal review under Subsection (3)(a).

CHAPTER 53
H. B. 142

Passed February 14, 2022
Approved March 21, 2022
Effective May 4, 2022

DONATION OF FOOD

Chief Sponsor: Joel Ferry
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses donation of wild game meat.

Highlighted Provisions:

This bill:

- defines terms;
- addresses liability related to donated food;
- establishes conditions under which wild game meat may be donated to a charitable organization;
- imposes notice requirements;
- imposes restrictions on the purchase, sale, or offer for sale or barter of donated wild game meat;
- authorizes the Department of Agriculture and Food to act if the department has reason to believe that the donated wild game meat is unwholesome;
- addresses donations to the Division of Wildlife Resources that are earmarked for costs associated with processing wild game meat for donation; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-34-102, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-34-106, as renumbered and amended by Laws of Utah 2017, Chapter 345

ENACTS:

4-34-108, Utah Code Annotated 1953
23-14-14.3, Utah Code Annotated 1953

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

Section 1. Section 4-34-102 is amended to read:

4-34-102. Definitions.

For purposes of this chapter:

(1) "Agricultural product" means [~~any~~] a fowl, animal, fish, vegetable, or other product or article, fresh or processed, [~~which~~] that is customary food, or [~~which~~] that is proper food for human consumption.

(2) [~~"Gleaner" means a person who harvests~~] "Glean" means to harvest, for free distribution, an agricultural crop that has been donated by the owner.

(3) "Government food pantry" means the following when receiving, accepting, gleaning, or distributing food donated under this chapter, or a food pantry sponsored by one of the following that accepts, gleans, or distributes food donated under this chapter:

(a) an association of political subdivisions created under Title 11, Chapter 13, Interlocal Cooperation Act;

(b) a county; or

(c) a municipality as defined in Section 10-1-104.

[~~(3)~~] (4) "Nonprofit charitable organization" means [~~any~~]:

(a) an organization [~~which was~~] that is organized and is operating for charitable purposes and [~~which~~] that meets the requirements of the Internal Revenue Service of the U.S. Department of Treasury that exempt the organization from income taxation under [~~the provisions of~~] the Internal Revenue Code[~~.~~]; or

(b) a government food pantry.

(5) "Wild game" means the same as that term is defined in Section 4-32-105.

Section 2. Section 4-34-106 is amended to read:

4-34-106. Limitation of liability of donor, nonprofit charitable organization, and county.

[~~Except~~] In addition to Section 78B-4-502, except in the event of an injury resulting from gross negligence, recklessness, or intentional conduct, [~~neither a county nor an agency of a county nor a donor of an agricultural product participating in good faith in a food donation program, nor a nonprofit charitable organization receiving, accepting, gleaning, or distributing any agricultural product donated in good faith to it under this chapter shall be~~] the following are not liable for damages in [~~any~~] a civil action or subject to prosecution in [~~any~~] a criminal proceeding for [~~any~~] injury that occurs as a result of [~~any~~] an act or the omission of [~~any~~] an act, including injury resulting from ingesting the donated agricultural product[~~.~~] or meat from wild game:

(1) a county or an agency of a county that participates in good faith in a food donation program;

(2) a donor of an agricultural product who participates in good faith in a food donation program;

(3) a donor of wild game meat, including a custom meat processor, who complies with Section 4-34-108 and participates in good faith in a food donation program; or

(4) a nonprofit charitable organization receiving, accepting, gleaning, or distributing an agricultural product or meat from wild game donated under this chapter in good faith to the nonprofit charitable organization.

Section 3. Section 4-34-108 is enacted to read:

4-34-108. Donation of wild game meat.

(1) As used in this section:

(a) "Big game" means the same as that term is defined in Section 23-13-2.

(b) "Custom meat processor" means a person who processes meat but is exempt from licensure under Section 4-32-106 as a licensed meat establishment.

(c) "Department" means the Department of Agriculture and Food.

(2) Wild game, including big game, lawfully taken by a licensed hunter may be donated to a nonprofit charitable organization to feed individuals in need.

(3) Donated wild game meat shall meet the following conditions:

(a) come from an animal in apparent good health before harvest of the animal;

(b) come from an animal with intact intestines;

(c) be field-dressed immediately after harvest of the animal and be handled in a manner in keeping with generally accepted wild game handling procedures;

(d) be processed by a custom meat processor as soon as possible after harvest of the animal;

(e) be clearly marked as "not for sale";

(f) be clearly marked as "donated wild game meat" in letters not less than three-eighths of an inch in height; and

(g) may not come from a road-kill animal and a road-kill animal may not be donated under this section.

(4) (a) A donor or custom meat processor of the wild game meat being donated shall advise the nonprofit charitable organization receiving the donated wild game meat that the donated wild game meat should be thoroughly cooked before human consumption.

(b) Before serving donated wild game meat, the nonprofit charitable organization shall prominently post a sign indicating:

(i) that the donated wild game meat is donated wild game meat;

(ii) the type of meat processing used; and

(iii) that the meat has not been inspected.

(5) The Department of Natural Resources may donate wild game meat in the Department of Natural Resources' possession if this section is followed.

(6) A person may not buy, sell, or offer for sale or barter donated wild game meat.

(7) The department may examine, sample, seize, or condemn donated wild game meat if the department has reason to believe that the donated wild game meat is unwholesome under Chapter 5, Utah Wholesome Food Act.

Section 4. Section 23-14-14.3 is enacted to read:

23-14-14.3. Donations related to donation of wild game meat -- Wild Game Meat Donation Fund.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources.

(b) "Fund" means the expendable special revenue fund created in this section.

(c) "Nonprofit charitable organization" means the same as that term is defined in Section 4-34-102.

(d) "Wild game" means the same as that term is defined in Section 4-32-105.

(2) There is created an expendable special revenue fund known as the "Wild Game Meat Donation Fund."

(3) The fund consists of:

(a) donations made to the division for the purpose of addressing the processing of wild game meat that is donated in accordance with Section 4-34-108 to a nonprofit charitable organization to feed individuals in need;

(b) appropriations from the Legislature; and

(c) interest and earnings on the fund.

(4) The state treasurer shall invest the money in the fund according to Title 51, Chapter 7, State Money Management Act, except that interest or other earnings derived from those investments shall be deposited into the fund.

(5) The division may use money in the fund only to address the processing of wild game meat that is donated in accordance with Section 4-34-108 to a nonprofit charitable organization to feed individuals in need.

(6) The division shall coordinate with the Department of Agriculture and Food to implement this section.

CHAPTER 54
H. B. 157

Passed March 3, 2022
Approved March 21, 2022
Effective July 1, 2022

SOVEREIGN LANDS REVENUE AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Jerry W. Stevenson
Cosponsors: Carl R. Albrecht
Stewart E. Barlow
Gay Lynn Bennion
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Steve Eliason
Joel Ferry
Stephen G. Handy
Suzanne Harrison
Jon Hawkins
Sandra Hollins
Brian S. King
Karen Kwan
Rosemary T. Lesser
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Merrill F. Nelson
Doug Owens
Karen M. Peterson
Candice B. Pierucci
Susan Pulsipher
Angela Romero
Douglas V. Sagers
Mike Schultz
Casey Snider
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Steve Waldrip
Raymond P. Ward
Elizabeth Weight
Mark A. Wheatley
Ryan D. Wilcox
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill addresses issues related to revenues received by the state from activities on sovereign lands.

Highlighted Provisions:

This bill:

- modifies the Sovereign Lands Management Account statute, including changing what revenue is deposited into the account and changing uses of the money in the account;
- creates the Great Salt Lake Account, including defining terms, addressing what revenue is deposited into the account, and specifying uses of the money in the account; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Natural Resources -- Watershed, as an ongoing appropriation:
  - from the General Fund, $2,000,000; and
- to Department of Natural Resources -- Division of Forestry, Fire, and State Lands, as an ongoing appropriation:
  - from the General Fund, $5,709,400.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

65A-5-1, as last amended by Laws of Utah 2021, Chapter 97
65A-5-2, as last amended by Laws of Utah 2014, Chapter 313

ENACTS:

65A-5-1.5, Utah Code Annotated 1953

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

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

65A-5-1. Sovereign Lands Management Account.

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

(2) The [~~account~~] Sovereign Lands Management Account shall consist of the following:

(a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section 65A-5-1.5;

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

(c) [~~any~~] fees deposited by the division; and

(d) amounts deposited into the account in accordance with Section 59-23-4.

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

(b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.

(c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.

[~~(4) The Legislature may appropriate money in the account to reimburse one or more state government entities for money spent on the operation of national parks, national monuments, national forests, and national recreation areas in the state during a fiscal emergency, as defined in Section 79-4-1102.~~]

[~~(5)~~] (4) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section 65A-10-8 as directed by the Great Salt Lake Advisory Council created in Section 73-30-201.

[~~(6) After the expenditures under Subsections (3) through (5), the division shall use money appropriated from the Sovereign Lands Management Account to provide for salary increases to state personnel employed by the division to perform wildland fire management with the division prioritizing salary increases for county fire wardens and assistant wardens.~~]

Section 2. Section 65A-5-1.5 is enacted to read:

65A-5-1.5. Great Salt Lake Account.

(1) As used in this section:

(a) "Account" means the Great Salt Lake Account created in this section.

(b) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a natural deposit of the mineral.

(2) (a) There is created within the General Fund a restricted account known as the "Great Salt Lake Account" consisting of:

(i) revenues deposited into the account under Subsection (3);

(ii) appropriations from the Legislature; and

(iii) interest and other earnings described in Subsection (2)(b).

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the account into the account.

(3) The division shall deposit into the account the royalty income received by the state from mining that occurs on or after July 1, 2022, of a mineral from the sovereign lands of the Great Salt Lake if during the fiscal year beginning July 1, 2020, the state did not receive royalty income from the mining of that same mineral from the sovereign lands of the Great Salt Lake.

(4) Upon appropriation by the Legislature, money in the account may be used to manage the water levels of the Great Salt Lake.

Section 3. Section 65A-5-2 is amended to read:

65A-5-2. Deposit and allocation of money received.

(1) (a) [~~Subject to Subsection (3), the~~] The division shall pay to the state treasurer [~~all~~] money received, accompanied by a statement showing the respective sources of [~~this~~] the money.

(b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.

(2) (a) [~~All money~~] Money received by the division as a first or down payment on [~~applications~~] an application to purchase, permit, or lease state lands or minerals shall be paid to the state treasurer and held in suspense pending final action on [~~those applications~~] the application.

(b) After final action [~~these payments~~] a payment described in Subsection (2)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

[~~(3) The division shall provide a separate accounting for all fees received under Subsection 65A-5-1(4).~~]

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Watershed

From General Fund	$2,000,000
Schedule of Programs:	
Watershed	$2,000,000

ITEM 2

To Department of Natural Resources -- Division of Forestry, Fire, and State Lands

From General Fund	$5,709,400
Schedule of Programs:	
Division Administration	$1,135,400
Fire Management	$712,300
Forest Management	$341,200
Program Delivery	$3,103,900
Project Management	$416,600

Section 5. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 55
H. B. 160

Passed February 17, 2022
Approved March 21, 2022
Effective May 4, 2022

STATE RESOURCE MANAGEMENT PLAN AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill adopts the statewide resource management plan.

Highlighted Provisions:

This bill:

- modifies provisions related to the process for the Public Lands Policy Coordinating Office to propose changes to the state resource management plan and legislative adoption;
- adopts the statewide resource management plan on file with the Public Lands Policy Coordinating Office; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63L-10-103, as last amended by Laws of Utah 2019, Chapter 246

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

Section 1. Section 63L-10-103 is amended to read:

63L-10-103. Statewide resource management plan adopted.

(1) The statewide resource management plan, dated [~~January 2, 2018~~] November 10, 2021, and on file with the office, is hereby adopted.

(2) The office shall, to the extent possible and as funding allows, monitor federal, state, and local government compliance with the plan.

(3) (a) If the office [~~modifies~~] finds the need to modify the plan, the office shall notify the commission of the modification and the office's reasoning for the modification [~~within 30 days of the day on which the modification is made~~].

(b) The office shall coordinate with the commission to discuss policy direction and to draft any modifications to the plan.

(c) A modification to the plan takes effect only after being approved by the Legislature.

(4) (a) The commission may request additional information of the office regarding any modifications to the plan, as described in Subsection (3).

(b) The office shall promptly respond to any request for additional information, as described in Subsection (4)(a).

(c) The commission may make a recommendation that the Legislature approve a modification or disapprove a modification, or the commission may decline to take action.

(5) The office shall annually:

(a) prepare a report detailing what changes, if any, are recommended for the plan and deliver the report to the commission before August 31; and

(b) report on the implementation of the plan at the federal, state, and local levels to the commission before August 31.

(6) If the commission makes a recommendation that the Legislature approve a modification, the commission shall prepare a bill in anticipation of the annual general session of the Legislature to implement the change.

CHAPTER 56
H. B. 186

Passed February 18, 2022
Approved March 21, 2022
Effective January 1, 2023

VEHICLE REGISTRATION AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies provisions related to motor vehicle registration.

Highlighted Provisions:

This bill:

- amends the motor vehicle registration fee for certain vehicles;
- defines terms;
- modifies eligibility for the road usage charge program (program);
- amends the Department of Transportation's rulemaking authority related to the program;
- sets the road usage charge rate and road usage charge cap for vehicles enrolled in the program;
- beginning January 1, 2032, allows the Transportation Commission to set the road usage charge rate for vehicles enrolled in the program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-1206, as last amended by Laws of Utah 2020, Chapter 377
63I-2-272, as last amended by Laws of Utah 2021, Chapter 358
72-1-213.1, as last amended by Laws of Utah 2021, Chapter 222

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

Section 1. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that is less than 40 years old; and

(h) in addition to the fee described in Subsection (1)(b):

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle[~~:~~]; and

(B) each motor vehicle not described in this Subsection (1)(h) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

[~~(A) $90 during calendar year 2020; and~~]

[~~(B) $120 beginning January 1, 2021, and thereafter;~~]

(ii) $21.75 for each hybrid electric motor vehicle[~~:~~]; and

[~~(A) $15 during calendar year 2020; and~~]

[~~(B) $20 beginning January 1, 2021, and thereafter;~~]

(iii) $56.50 for each plug-in hybrid electric motor vehicle[~~:~~].

[~~(A) $39 during calendar year 2020; and~~]

[~~(B) $52 beginning January 1, 2021, and thereafter; and~~]

[~~(iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane:~~]

[~~(A) $90 during calendar year 2020; and~~]

[~~(B) $120 beginning January 1, 2021, and thereafter.~~]

(2) (a) At the time application is made for registration or renewal of registration of a vehicle

under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) an amount equal to the road usage charge cap described in Section 72-1-213.1 for:

(A) each electric motor vehicle[~~:~~]; and

(B) each motor vehicle not described in this Subsection (2)(b) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane;

[~~(A) $69.75 during calendar year 2020; and~~]

[~~(B) $93 beginning January 1, 2021, and thereafter;~~]

(ii) $16.50 for each hybrid electric motor vehicle[~~:~~]; and

[~~(A) $11.25 during calendar year 2020; and~~]

[~~(B) $15 beginning January 1, 2021, and thereafter;~~]

(iii) $43.50 for each plug-in hybrid electric motor vehicle[~~:~~].

[~~(A) $30 during calendar year 2020; and~~]

[~~(B) $40 beginning January 1, 2021, and thereafter; and~~]

[~~(iv) for each motor vehicle not described in Subsections (2)(b)(i) through (iii) that is fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:~~]

[~~(A) $69.75 during calendar year 2020; and~~]

[~~(B) $93 beginning January 1, 2021, and thereafter.~~]

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, [~~2022~~] 2024, the commission shall, on January 1, annually adjust the registration fees described in Subsections [~~(1)(h)(i)(B), (1)(h)(ii)(B), (1)(h)(iii)(B), (1)(h)(iv)(B), (2)(b)(i)(B), (2)(b)(ii)(B), (2)(b)(iii)(B), and (2)(b)(iv)(B)~~] (1)(h)(ii) and (iii) and (2)(b)(ii) and (iii) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that is 40 years old or older is $40.

(b) A vintage vehicle that is 40 years old or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 2. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) Subsections 72–1–213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

(2) Subsections 72–1–213.1(13)(a) and (b), related to the road usage charge rate and road usage charge cap, are repealed January 1, 2033.

[~~(2)~~] (3) Section 72–1–216.1 is repealed January 1, 2023.

Section 3. Section 72-1-213.1 is amended to read:

72-1-213.1. Road usage charge program.

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means [~~the same as that term is defined in Section 41–1a–102.~~]:

(i) an electric motor vehicle as defined in Section 41–1a–102; or

(ii) a motor vehicle powered exclusively by a fuel other than:

(A) motor fuel;

(B) diesel fuel;

(C) natural gas; or

(D) propane.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(e) "Road usage charge cap" means the maximum fee charged to a participant in the program for a registration period.

(f) "Road usage charge rate" means the per–mile usage fee charged to a participant in the program.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41–1a–1206(1)(h) or (2)(b).

(5) [~~(a)~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

[~~(i)~~] (a) shall make rules to establish:

[~~(A)~~] (i) processes and terms for enrollment into and withdrawal or removal from the program;

[~~(B)~~] (ii) payment periods and other payment methods and procedures for the program;

[~~(C)~~] (iii) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

[~~(D)~~] (iv) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

[~~(E)~~] (v) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

[~~(F)~~] (vi) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

[~~(G)~~] (vii) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

[~~(H)~~] (viii) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

[~~(I)~~] (ix) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

[~~(ii)~~] (b) may make rules to establish:

[~~(A)~~] (i) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

[~~(B)~~] (ii) a process for collection of an unpaid road usage charge or penalty; or

[~~(C)~~] (iii) integration of the program with other similar programs, such as tolling.

[~~(b) The department shall make recommendations to and consult with the commission regarding road usage mileage rates for each type of alternative fuel vehicle.~~]

[~~(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.~~]

[~~(7)~~] (6) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

[~~(8)~~] (7) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection [~~(8)~~] (7)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection [~~(8)~~] (7)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection [~~(8)~~] (7)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

[~~(9)~~] (8) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program including:

(i) registration and ownership information pertaining to an alternative fuel vehicle;

(ii) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section within the time period described in Subsection [~~(8)~~] (7)(a)(iii); and

(iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

[~~(10)~~] (9) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

[~~(11)~~] (10) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period [~~as set by the department and the commission pursuant to Subsections (5) and (6)~~] in accordance with Subsection (5); and

(c) comply with all other provisions of this section and other requirements of the program.

[~~(12)~~] (11) (a) On or before June 1, 2021, and except for the vehicles excluded in Subsection [~~(12)~~] (11)(b), the department shall submit to a legislative committee designated by the Legislative Management Committee a written plan to enroll all vehicles registered in the state in the program by December 31, 2031.

(b) The plan described in Subsection [~~(12)~~] (11)(a) may exclude authorized carriers described in Subsection 59-12-102(17)(a).

(c) [~~Beginning in 2021, on~~] On or before October 1 of each year, the department shall submit annually an electronic report recommending strategies to expand enrollment in the program to meet the deadline provided in Subsection [~~(12)~~] (11)(a).

[~~(13)~~] (12) [~~Beginning in 2021, the~~] The department shall submit annually, on or before October 1, to the legislative committee that receives the report described in Subsection [~~(12)~~] (11)(a), an electronic report that:

(a) states for the preceding fiscal year:

(i) the amount of revenue collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program; and

(b) provides for the current fiscal year, an estimate of:

(i) the revenue that will be collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program.

(13) (a) Beginning on January 1, 2023:

(i) the road usage charge rate is 1.0 cent per mile; and

(ii) the road usage charge cap is:

(A) $130.25 for an annual registration period; and

(B) $100.75 for a six-month registration period.

(b) Beginning on January 1, 2026:

(i) the road usage charge rate is 1.25 cents per mile; and

(ii) the road usage charge cap is:

(A) $180 for an annual registration period; and

(B) $139 for a six-month registration period.

(c) Beginning on January 1, 2032:

(i) the road usage charge rate is 1.5 cents per mile, unless the commission establishes a different road usage charge rate in accordance with Subsection (14); and

(ii) the road usage charge cap is:

(A) $240 for an annual registration period; and

(B) $185 for a six-month registration period.

(d) Beginning in 2024, the department shall, on January 1, annually adjust the road usage charge rates described in this Subsection (13) by taking the road usage charge rate for the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the road usage charge rate of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index as determined by the State Tax Commission; and

(ii) 0.

(e) Beginning in 2024, the State Tax Commission shall, on January 1, annually adjust the road usage charge caps described in this Subsection (13) by taking the road usage charge cap for the previous year and adding an amount equal to the greater of:

(i) an amount calculated by multiplying the road usage charge cap of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(ii) 0.

(f) The amounts calculated as described in Subsection (13)(d) shall be rounded up to the nearest .01 cent.

(g) The amounts calculated as described in Subsection (13)(e) shall be rounded up to the nearest 25 cents.

(h) On or before January 1 of each year, the department shall publish:

(i) the adjusted road usage charge rate described in Subsection (13)(d); and

(ii) adjusted road usage charge cap described in Subsection (13)(e).

(14) (a) Beginning January 1, 2032, the commission may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the road usage charge rate for each type of alternative fuel vehicle.

(b) (i) Before making rules in accordance with Subsection (14)(a), the commission shall consult with the department regarding the road usage charge rate for each type of alternative fuel vehicle.

(ii) The department shall cooperate with and make recommendations to the commission regarding the road usage charge rate for each type of alternative fuel vehicle.

Section 4. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 57
H. B. 206

Passed February 24, 2022
Approved March 21, 2022
Effective May 4, 2022

OUTDOOR RECREATION RELATED EDUCATION

Chief Sponsor: Scott H. Chew
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions to require outdoor recreation education related to gates or fences used for agricultural purposes.

Highlighted Provisions:

This bill:

- requires that the importance of gates or fences used for agriculture and how to close gates be part of hunter education and the off-highway vehicle safety education and training program;
- clarifies rulemaking authority; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-19-11, as last amended by Laws of Utah 2017, Chapter 46
23-19-12, as last amended by Laws of Utah 1979, Chapter 90
41-22-31, as last amended by Laws of Utah 2021, Chapter 280
41-22-32, as repealed and reenacted by Laws of Utah 2017, Chapter 38

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

Section 1. Section 23-19-11 is amended to read:

23-19-11. Age restriction -- Hunter education required.

(1) (a) Except as provided in Section 23-19-14.6, an individual born after December 31, 1965, may not acquire or possess a hunting license or permit unless the individual has successfully completed a division-approved hunter education course.

(b) A division-approved hunter education course shall include education concerning the importance of gates and fences used in agriculture and how to properly close a gate.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Wildlife Board may make rules establishing:

(a) criteria and standards for approving a hunter education course, including a course offered in another state or country; and

(b) procedures for verifying and documenting that an individual seeking a hunting license or permit has successfully completed a division-approved hunter education course.

(3) (a) It is unlawful for an individual to obtain, attempt to obtain, or possess a hunting license or permit in violation of the hunter education requirements in Subsection (1).

(b) A hunting license or permit obtained or possessed in violation of this section is invalid.

Section 2. Section 23-19-12 is amended to read:

23-19-12. Instruction in hunter education -- Issuance of certificate of competency.

(1) The Division of Wildlife Resources shall provide for individuals interested in obtaining an instructor's certificate in hunter education a course of instruction in:

(a) the safe handling of firearms[~~,~~];

(b) conservation[~~,~~];

(c) hunting ethics[~~,~~];

(d) information required by Subsection 23-19-11(1)(b); and

(e) related subject matter [~~for individuals interested in obtaining an instructor's certificate in hunter education. Certified instructors will~~].

(2) A certified instructor may, on a voluntary basis, give instruction in the course of hunter education, as established by the Division of Wildlife Resources, to [~~all~~] eligible persons who, upon the successful completion of the course, shall be issued a certificate of competency in hunter education.

Section 3. Section 41-22-31 is amended to read:

41-22-31. Division to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall:

(i) make rules, after consultation with the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program; and [~~shall~~]

(ii) implement [~~this~~] the program.

(b) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.

(c) Components of the program shall include:

(i) the preparation and dissemination of off-highway vehicle information and safety advice to the public [~~and~~];

(ii) the training of off-highway vehicle operators[~~.~~]; and

(iii) education concerning the importance of gates and fences used in agriculture and how to properly close a gate.

(d) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.

(2) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(3) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

Section 4. Section 41-22-32 is amended to read:

41-22-32. Approval of safety courses.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after consultation with the commission, that establish standards for an off-highway vehicle safety course for instruction on the safe operation of an off-highway vehicle.

(b) The division shall require that the information described in Subsection 41-22-31(1)(c)(iii) be part of an off-highway vehicle safety course for instruction on the safe operation of an off-highway vehicle.

(2) If a private organization meets the standards set by the division under Subsection (1), the division shall approve the off-highway vehicle safety course as compliant with the standards and purposes of this chapter.

CHAPTER 58
H. B. 231

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

FISHING AND HUNTING RESTRICTIONS FOR NONPAYMENT OF CHILD SUPPORT

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends the fishing and hunting restrictions for nonpayment of child support.

Highlighted Provisions:

This bill:

- amends the restrictions for a license, permit, or tag related to fishing or hunting when an individual is delinquent in child support;
- addresses a failure to comply with a payment schedule due to transition to new employment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-19-5.5, as enacted by Laws of Utah 2020, Chapter 183

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

Section 1. Section 23-19-5.5 is amended to read:

23-19-5.5. Issuance of license, permit, or tag prohibited for failure to pay child support.

(1) As used in this section:

(a) "Child support" means the same as that term is defined in Section 62A-11-401.

(b) "Delinquent on a child support obligation" means that:

(i) an individual owes at least $2,500 on an arrearage obligation of child support based on an administrative or judicial order;

(ii) the individual has not obtained a judicial order staying enforcement of the individual's obligation on the amount in arrears; and

(iii) the office has obtained a statutory judgment lien pursuant to Section 62A-11-312.5.

(c) "Office" means the Office of Recovery Services created in Section 62A-11-102.

(d) "Wildlife license agent" means a person authorized under Section 23-19-15 to sell a license, permit, or tag in accordance with this chapter.

(2) (a) An individual who is delinquent on a child support obligation may not apply for, obtain, or attempt to obtain a license, permit, or tag required under this title, by rule made by the Wildlife Board under this title, or by an order or proclamation issued in accordance with a rule made by the Wildlife Board under this title.

(b) (i) An individual who applies for, obtains, or attempts to obtain a license, permit, or tag in violation of Subsection (2)(a) violates Section 23-19-5.

(ii) A license, permit, or tag obtained in violation of Subsection (2)(a) is invalid.

(iii) An individual who takes protected wildlife with an invalid license, permit, or tag violates Section 23-20-3.

(3) (a) The license, permit, and tag restrictions in Subsection (2)(a) remain effective until the office notifies the division that the individual who is delinquent on a child support obligation has:

(i) paid the delinquency in full; or

(ii) except as provided in Subsection (3)(d), complied for at least 12 consecutive months with a payment schedule entered into with the office.

(b) A payment schedule under Subsection (3)(a) shall provide that the individual:

(i) pay the current child support obligation in full each month; and

(ii) pays an additional amount as assessed by the office pursuant to Section 62A-11-320 towards the child support arrears.

(c) [~~If~~] Except as provided in Subsection (3)(d), if an individual fails to comply with the payment schedule described in Subsection (3)(b), the office may notify the division and the individual is considered to be an individual who is delinquent on a child support obligation and cannot obtain a new license, permit, or tag without complying with this Subsection (3).

(d) If an individual fails to comply with the payment schedule described in Subsection (3)(b) for one month of the 12-month period because of a transition to new employment, the individual may obtain a license, permit, or tag and is considered in compliance with this Subsection (3) if the individual:

(i) provides the office with information regarding the individual's new employer within 30 days from the day on which the missed payment was due;

(ii) pays the missed payment within 30 days from the day on which the missed payment was due; and

(iii) complies with the payment schedule for all other payments owed for child support within the 12-month period.

(4) (a) The division or a wildlife license agent may not knowingly issue a license, permit, or tag under this title to an individual identified by the office as delinquent on a child support obligation until notified by the office that the individual has complied with Subsection (3).

(b) The division is not required to hold or reserve a license, permit, or tag opportunity withheld from an individual pursuant to Subsection (4)(a) for purposes of reissuance to that individual upon compliance with Subsection (3).

(c) The division may immediately reissue to another qualified person a license, permit, or tag opportunity withheld from an individual identified by the office as delinquent on a child support obligation pursuant to Subsection (4)(a).

(5) The office and division shall automate the process for the division or a wildlife license agent to be notified whether an individual is delinquent on a child support obligation or has complied with Subsection (3).

(6) The office is responsible to provide any administrative or judicial review required incident to the division issuing or denying a license, permit, or tag to an individual under Subsection (4).

(7) The denial or withholding of a license, permit, or tag under this section is not a suspension or revocation of license and permit privileges for purposes of:

(a) Section 23-19-9;

(b) Subsection 23-20-4(1); and

(c) Section 23-25-6.

(8) This section does not modify a court action to withhold, suspend, or revoke a recreational license under Sections 62A-11-107 and 78B-6-315.

CHAPTER 59
H. B. 232

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

UTAH LAKE AUTHORITY

Chief Sponsor: Brady Brammer
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts provisions relating to the Utah Lake Authority.

Highlighted Provisions:

This bill:

- creates the Utah Lake Authority;
- defines the status of the Utah Lake Authority and provides for the Authority's purposes, powers, duties, policies, and objectives;
- establishes a board to govern the Utah Lake Authority and provides for board membership, appointment, terms, duties, and responsibilities;
- authorizes the board to appoint nonvoting members, board officers, and advisory committees;
- prohibits certain individuals from serving as a member of the board or executive director and prohibits board members and the executive director from receiving certain benefits;
- requires the authority board to adopt and implement a management plan for Utah Lake;
- authorizes the authority to enter into an agreement for the improvement of Utah Lake;
- provides for the hiring of an executive director, defines the executive director's role, and provides for the qualifications and duties of the executive director;
- requires the attorney general to provide legal services to the lake authority;
- provides a process for the adoption and amendment of a project area plan and a project area budget;
- provides for the Utah Lake Authority to be paid certain sales tax revenue and other sources of revenue, and provides for the allowable uses of revenue;
- authorizes the Utah Lake Authority to issue bonds and includes provisions related to bonds;
- requires the Utah Lake Authority board to adopt an annual budget and provides a process for preparing and adopting or amending a budget;
- requires the Utah Lake Authority to provide reports and requires the Authority to comply with audit requirements; and
- provides limits on the dissolution of the Utah Lake Authority and requirements if a dissolution occurs.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-205, as last amended by Laws of Utah 2021, Chapter 281

63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

ENACTS:

11-65-101, Utah Code Annotated 1953
11-65-102, Utah Code Annotated 1953
11-65-103, Utah Code Annotated 1953
11-65-201, Utah Code Annotated 1953
11-65-202, Utah Code Annotated 1953
11-65-203, Utah Code Annotated 1953
11-65-204, Utah Code Annotated 1953
11-65-205, Utah Code Annotated 1953
11-65-206, Utah Code Annotated 1953
11-65-301, Utah Code Annotated 1953
11-65-302, Utah Code Annotated 1953
11-65-303, Utah Code Annotated 1953
11-65-304, Utah Code Annotated 1953
11-65-305, Utah Code Annotated 1953
11-65-306, Utah Code Annotated 1953
11-65-401, Utah Code Annotated 1953
11-65-402, Utah Code Annotated 1953
11-65-403, Utah Code Annotated 1953
11-65-404, Utah Code Annotated 1953
11-65-405, Utah Code Annotated 1953
11-65-501, Utah Code Annotated 1953
11-65-502, Utah Code Annotated 1953
11-65-503, Utah Code Annotated 1953
11-65-504, Utah Code Annotated 1953
11-65-505, Utah Code Annotated 1953
11-65-506, Utah Code Annotated 1953
11-65-601, Utah Code Annotated 1953
11-65-602, Utah Code Annotated 1953
11-65-603, Utah Code Annotated 1953
11-65-604, Utah Code Annotated 1953
11-65-605, Utah Code Annotated 1953
11-65-606, Utah Code Annotated 1953
11-65-701, Utah Code Annotated 1953

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

Section 1. Section 11-65-101 is enacted to read:

CHAPTER 65. UTAH LAKE AUTHORITY ACT

Part 1. General Provisions

11-65-101. Definitions.

As used in this chapter:

(1) "Adjacent political subdivision" means a political subdivision of the state with a boundary that abuts the lake authority boundary or includes lake authority land.

(2) "Board" means the lake authority's governing body, created in Section 11-65-301.

(3) "Lake authority" means the Utah Lake Authority, created in Section 11-65-201.

(4) "Lake authority boundary" means the boundary:

(a) defined by recorded boundary settlement agreements between private landowners and the Division of Forestry, Fire, and State Lands; and

(b) that separates privately owned land from Utah Lake sovereign land.

(5) "Lake authority land" means land on the lake side of the lake authority boundary.

(6) "Management" means work to coordinate and facilitate the improvement of Utah Lake, including work to enhance the long-term viability and health of Utah Lake and to produce economic, aesthetic, recreational, environmental, and other benefits for the state, consistent with the strategies, policies, and objectives described in this chapter.

(7) "Management plan" means a plan to conceptualize, design, facilitate, coordinate, encourage, and bring about the management of the lake authority land to achieve the policies and objectives described in Section 11-65-203.

(8) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-65-302(6) who does not have the power to vote on matters of lake authority business.

(9) "Project area" means an area that is identified in a project area plan as the area where the management described in the project area plan will occur.

(10) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area.

(11) "Project area plan" means a written plan that, after the plan's effective date, manages activity within a project area within the scope of a management plan.

(12) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state.

(13) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; and

(ii) streets, roads, curbs, gutters, sidewalks, walkways, solid waste facilities, parking facilities, and public transportation facilities.

(14) "Sovereign land" means land:

(a) lying below the ordinary high water mark of a navigable body of water at the date of statehood; and

(b) owned by the state by virtue of the state's sovereignty.

(15) "Utah Lake" includes all waters of Utah Lake and all land, whether or not submerged under water, within the lake authority boundary.

(16) "Voting member" means an individual appointed as a member of the board under Subsection 11-65-302(2).

Section 2. Section 11-65-102 is enacted to read:

11-65-102. Severability.

If a court determines that any provision of this chapter, or the application of any provision of this chapter, is invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

Section 3. Section 11-65-103 is enacted to read:

11-65-103. Nonlapsing funds.

Money the lake authority receives from legislative appropriations is nonlapsing.

Section 4. Section 11-65-201 is enacted to read:

Part 2. Utah Lake Authority

11-65-201. Creation of Utah Lake Authority -- Status and purposes.

(1) Under the authority of Utah Constitution, Article XI, Section 8, there is created the Utah Lake Authority.

(2) The lake authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) (a) The statewide public purpose of the lake authority is to work in concert with applicable federal, state, and local government entities, property owners, owners of water rights, private parties, and stakeholders to encourage, facilitate, and implement the management of Utah Lake.

(b) The duties and responsibilities of the lake authority under this chapter are beyond the scope and capacity of any local government entity, which has many other responsibilities and functions that appropriately command the attention and resources of the local government entity, and are not functions of purely local concern but are matters of regional and statewide concern, importance, interest, and impact, due to multiple factors, including:

(i) the importance and benefit to the region and state of a healthy, vibrant, and ecologically sound Utah Lake; and

(ii) the enormous potential for regional and statewide economic, aesthetic, environmental, recreational, and other benefit that can come from the management of Utah Lake.

(c) The lake authority is the mechanism the state chooses to focus resources and efforts on behalf of the state to ensure that the regional and statewide interests, concerns, and purposes described in this Subsection (3) are properly addressed from more of a statewide perspective than any local government entity can provide.

(4) (a) The lake authority supplants and replaces the Utah Lake Commission, established by interlocal agreement.

(b) The Utah Lake Commission shall:

(i) cooperate with the lake authority to transition, as soon as practicable, Utah Lake Commission functions to the lake authority, to the extent consistent with this chapter; and

(ii) take all necessary actions to dissolve the Utah Lake Commission no later than May 1, 2023.

(c) The lake authority may, by majority vote of the board, succeed to the position of the Utah Lake Commission in any contract in which the Utah Lake Commission is a party.

(d) (i) As part of the transition from the Utah Lake Commission to the lake authority, the lake authority shall offer an employee of the Utah Lake Commission employment with the lake authority in the same or a comparable position and with the same or comparable compensation as the employee had as an employee of the Utah Lake Commission.

(ii) Subsection (4)(d)(i) may not be construed to affect the at-will status of an individual who becomes an employee of the lake authority.

(e) After the authority board is constituted, an advisory or technical committee established by the Utah Lake Commission shall continue to function under the direction of the board as a subcommittee of the lake authority until the board modifies or discontinues the subcommittee.

Section 5. Section 11-65-202 is enacted to read:

11-65-202. Lake authority powers and duties.

(1) (a) The lake authority has land use authority over publicly owned land within the lake authority boundary.

(b) The lake authority shall work with other government entities with jurisdiction over sovereign land and the watershed affecting Utah Lake water to improve the quality of water flowing into and out of Utah Lake, subject to and consistent with Title 19, Environmental Quality Code, and Title 73, Water and Irrigation.

(c) The lake authority may make recommendations and provide advice to an adjacent political subdivision relating to issues affecting both the lake authority and the adjacent political subdivision.

(d) The lake authority has no jurisdictional control or power over:

(i) another political subdivision, except as provided in an agreement between the lake authority and the other political subdivision;

(ii) the regulation of water quality;

(iii) water rights;

(iv) water collection, storage, or delivery;

(v) a project for water collection, storage, or delivery; and

(vi) water facilities that the lake authority does not own.

(2) The lake authority may coordinate the efforts of all applicable state and local government entities, property owners, owners of water rights, and other private parties, and other stakeholders to:

(a) develop and implement a management plan for Utah Lake, including:

(i) an environmental sustainability component, developed in conjunction with the Department of Environmental Quality and the Division of Wildlife Resources incorporating strategies and best management practices to meet applicable federal and state standards, including:

(A) water quality monitoring and reporting; and

(B) strategies that use the best available technology and practices to mitigate environmental impacts from management and uses on Utah Lake;

(ii) strategies that enhance the aesthetic qualities and recreational use and enjoyment of Utah Lake; and

(iii) strategies that enhance economic development in communities adjacent to Utah Lake;

(b) plan and facilitate the management of Utah Lake uses; and

(c) manage any land owned or leased by the lake authority that is not sovereign land.

(3) The lake authority has primary responsibility and authority for the management of Utah Lake, subject to and in accordance with this chapter.

(4) The lake authority may:

(a) engage in education efforts to encourage and facilitate:

(i) the improvement of water and environmental quality;

(ii) the use of Utah Lake for recreation;

(iii) the improvement of economic development on Utah Lake; and

(iv) other management of Utah Lake consistent with the policies and objectives described in Subsection (2);

(b) facilitate and provide funding for the management of Utah Lake, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to Utah Lake;

(c) engage in marketing activities and efforts to encourage and facilitate management of Utah Lake;

(d) as determined by the board appropriate to accomplish or further the policies and objectives described in Subsection (2):

(i) take all necessary actions to acquire any grants or other available funds from federal or other governmental or private entities, including providing matching funds;

(ii) award grants of lake authority funds; or

(iii) provide waivers of financial obligations to the lake authority;

(e) as the lake authority considers necessary or advisable to carry out any of the lake authority's duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real property that is not sovereign land or any interest in personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to Utah Lake;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) accept financial or other assistance from any public or private source for the lake authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(l) issue bonds to finance the undertaking of any management objectives of the lake authority, including bonds under this chapter, bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(m) hire employees, including contract employees;

(n) transact other business and exercise all other powers provided for in this chapter;

(o) engage one or more consultants to advise or assist the lake authority in the performance of the lake authority's duties and responsibilities;

(p) work with adjacent political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the management of Utah Lake;

(q) help to facilitate development in a municipality or community reinvestment agency whose boundary abuts the lake authority boundary if the development also benefits the lake authority or the management of Utah Lake;

(r) subject to Subsection (5)(a), manage one or more marina facilities if the lake authority considers the lake authority managing the marina facility to be necessary or desirable;

(s) subject to Subsection (5)(b), own and operate publicly owned infrastructure and improvements in a project area outside the lake authority land; and

(t) exercise powers and perform functions that the lake authority is authorized by statute to exercise or perform.

(5) (a) Notwithstanding Subsection (4)(r), the lake authority may not interfere with or replace the management of a privately operated marina.

(b) Notwithstanding Subsection (4)(s), the lake authority may not provide service through publicly owned infrastructure and improvements to an area outside the lake authority boundary.

(c) The lake authority may not impair or affect:

(i) a right to store, use, exchange, release, or deliver water under a water right and associated contract; or

(ii) a project or facility to store, release, and deliver water.

(6) The lake authority may consult, coordinate, enter into agreements, or engage in mutually beneficial projects or other activities with a municipality, community reinvestment agency, or adjacent political subdivision, as the board considers appropriate.

(7) The lake authority shall:

(a) no later than December 31, 2022, prepare an accurate digital map of the lake authority boundary, subject to any later changes to the boundary enacted by the Legislature; and

(b) maintain the digital map of the lake authority boundary that is easily accessible by the public.

(8) (a) The lake authority may establish a community enhancement program designed to address the impacts that management or uses

within the lake authority boundary have on adjacent communities.

(b) (i) The lake authority may use lake authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (8)(a).

(ii) Lake authority money designated for use under Subsection (8)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the lake authority arising out of the lake authority's activities with respect to the community enhancement program.

(c) On or before October 31, 2023, the lake authority shall report on the lake authority's actions under this Subsection (8) to the Natural Resources, Agriculture, and Environment Interim Committee of the Legislature.

Section 6. Section 11-65-203 is enacted to read:

11-65-203. Policies and objectives of the lake authority -- Additional duties of the lake authority.

(1) The policies and objectives of the lake authority are to:

(a) protect and improve:

(i) the quality of Utah Lake's water, consistent with the Clean Water Act, 33 U.S.C. Sec. 1251 et seq., and Title 19, Chapter 5, Water Quality Act;

(ii) the beneficial and public trust uses of Utah Lake;

(iii) Utah Lake's environmental quality; and

(iv) the quality of Utah Lake's lakebed and sediments;

(b) enhance the recreational opportunities afforded by Utah Lake;

(c) enhance long-term economic benefits to the area, the region, and the state;

(d) respect and maintain sensitivity to the unique natural environment of areas in and around the lake authority boundary;

(e) improve air quality and minimize resource use;

(f) comply with existing land use and other agreements and arrangements between property owners and applicable governmental authorities;

(g) promote and encourage management and uses that are compatible with or complement the public trust and uses in areas in proximity to Utah Lake;

(h) take advantage of Utah Lake's strategic location and other features that make Utah Lake attractive:

(i) to residents for recreational purposes;

(ii) for tourism and leisure; and

(iii) for business opportunities;

(i) encourage the development and use of cost-efficient renewable energy in project areas;

(j) as consistent with applicable public trust, support and promote land uses on land within the lake authority boundary and land in adjacent political subdivisions that generate economic development, including rural economic development;

(k) respect and not interfere with water rights or the operation of water facilities or water projects associated with Utah Lake;

(l) respect and maintain sensitivity to the unique Native American history, historical sites, and artifacts within and around the lake authority boundary; and

(m) protect the ability of the Provo airport to operate and grow, consistent with applicable environmental regulations, recognizing the significant state investment in the airport and the benefits that a thriving airport provides to the quality of life and the economy.

(2) In fulfilling the lake authority's duties and responsibilities relating to the management of Utah Lake and to achieve and implement the management policies and objectives under Subsection (1), the lake authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around Utah Lake;

(b) review and identify land use and zoning policies and practices to recommend to land use policymakers and administrators of adjoining municipalities that are consistent with and will help to achieve the policies and objectives stated in Subsection (1);

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of Utah Lake to attract, retain, and service users who will help enhance the long-term economic benefit to the state; and

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of management.

(3) The lake authority shall respect:

(a) a permit issued by a governmental entity applicable to Utah Lake;

(b) a governmental entity's easement or other interest affecting Utah Lake;

(c) an agreement between governmental entities, including between a state agency and the federal government, relating to Utah Lake; and

(d) the public trust doctrine as applicable to land within the lake authority boundary.

(4) (a) The lake authority may use lake authority money to encourage, incentivize, fund, or require development that:

(i) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(ii) includes building or project designs that minimize negative impacts to the June Sucker, avian species, and other wildlife;

(iii) mitigates traffic congestion; or

(iv) uses high efficiency building construction and operation.

(b) In consultation with the municipality in which management is expected to occur and applicable state agencies, the lake authority shall establish minimum mitigation and environmental standards for management occurring on land within the lake authority boundary.

Section 7. Section 11-65-204 is enacted to read:

11-65-204. Management plan.

(1) (a) The board shall prepare, adopt, and, subject to Subsection (1)(b), implement a management plan.

(b) The lake authority may not begin to implement a management plan until April 1, 2023.

(2) In preparing a management plan, the board shall:

(a) consult with and seek and consider input from the legislative or governing body of each adjacent political subdivision;

(b) work cooperatively with and receive input from the Division of Forestry, Fire, and State Lands; and

(c) consider how the interests of adjacent political subdivisions would be affected by implementation of the management plan.

(3) A management plan shall:

(a) describe in general terms the lake authority's:

(i) vision and plan for achieving and implementing the policies and objectives stated in Section 11-65-203; and

(ii) overall plan for the management of Utah Lake, including an anticipated timetable and any anticipated phases of management;

(b) accommodate and advance, without sacrificing the policies and objectives stated in Section 11-65-203, the compatible interests of adjacent political subdivisions;

(c) describe in general terms how the lake authority anticipates cooperating with adjacent political subdivisions to pursue mutually beneficial goals in connection with the management of Utah Lake;

(d) identify the anticipated sources of revenue for implementing the management plan; and

(e) be consistent with management planning conducted by the Division of Forestry, Fire, and State Lands, to pursue the objectives of:

(i) improving the clarity and quality of the water in Utah Lake;

(ii) not interfering with water rights or with water storage or water supply functions of Utah Lake;

(iii) removing invasive plant and animal species, including phragmites and carp, from Utah Lake;

(iv) improving littoral zone and other plant communities in and around Utah Lake;

(v) improving and conserving native fish and other aquatic species in Utah Lake;

(vi) cooperating in the June Sucker Recovery Implementation Program;

(vii) increasing the suitability of Utah Lake and Utah Lake's surrounding areas for shore birds, waterfowl, and other avian species;

(viii) improving navigability of Utah Lake;

(ix) enhancing and ensuring recreational access to and opportunities on Utah Lake; and

(x) otherwise improving the use of Utah Lake for residents and visitors.

(4) A management plan may not interfere with or impair:

(a) a water right;

(b) a water project; or

(c) the management of Utah Lake necessary for the use or operation of a water facility associated with Utah Lake.

(5) (a) Before adopting a management plan, the board shall:

(i) provide a copy of the proposed management plan to:

(A) the executive director of the Department of Natural Resources;

(B) the executive director of the Department of Environmental Quality;

(C) the state engineer; and

(D) each adjacent political subdivision; and

(ii) post a copy of the proposed management plan on the Utah Public Notice Website created in Section 63A-16-601.

(b) Comments or suggestions relating to the proposed management plan may be submitted to the board within the deadline established under Subsection (5)(c).

(c) The board shall establish a deadline for submitting comments or suggestions to the proposed management plan that is at least 30 days after the board provides a copy of the proposed management plan under Subsection (5)(a)(i).

(d) Before adopting a management plan, the board shall consider comments and suggestions that are submitted by the deadline established under Subsection (5)(c).

Section 8. Section 11-65-205 is enacted to read:

11-65-205. Project for the improvement of Utah Lake -- Role of the Division of Forestry, Fire, and State Lands -- Allowing the use of Utah Lake in exchange for the implementation of an improvement project.

(1) As used in this section:

(a) "Division" means the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

(b) "Improvement project" means a project for the improvement of Utah Lake as determined by the board.

(c) "Improvement project agreement" means an agreement under which an improvement project contractor agrees to undertake an improvement project.

(d) "Improvement project contractor" means a person who executes a legally binding improvement project agreement with the lake authority.

(2) (a) Subject to Subsection (2)(b), the lake authority is substituted in the place of the division with respect to the management of Utah Lake.

(b) Subsection (2)(a) does not affect the division's role and responsibility relating to:

(i) the administration and issuance of permits, leases, rights of entry, or easements; or

(ii) the disposal of lake authority land.

(3) The lake authority may enter into an improvement project agreement if:

(a) the lake authority finds that the improvement project will fulfill the purposes listed in Section 11-65-203;

(b) the proposed improvement project is consistent with the public trust doctrine and the provisions of this chapter;

(c) the improvement project contractor obtains necessary permitting authorization from the division to construct or implement the improvement project on lake authority land; and

(d) at least 30 days before entering into the improvement project agreement, the lake authority provides notice of the lake authority's intention to enter into the improvement project agreement to each person that has requested notice under Subsection 11-65-402(2)(c) of the lake authority's intention to enter into the improvement project agreement.

(4) (a) An improvement project agreement may include a provision allowing the division to permit a use of Utah Lake, consistent with the public trust doctrine, in exchange for the implementation of the improvement project agreement, as provided in this Subsection (4).

(b) (i) If provided for in an improvement project agreement, the lake authority may recommend that the division allow the use of Utah Lake in exchange for the implementation of the improvement project agreement.

(ii) In making a recommendation under Subsection (4)(b)(i), the lake authority shall consider:

(A) the potential benefit to the citizens of the state from execution of an improvement project, the desirability of the proposed use of Utah Lake and the surrounding areas as a result of the improvement project, and the enhancement of the usability and enjoyment of Utah Lake and lake authority land that will accrue to the public because of the improvement project;

(B) the potential detriment to appropriated water rights in Utah Lake, in upstream tributaries, and downstream of Utah Lake;

(C) the potential that the improvement project presents for additional revenue to state and local government entities;

(D) the enhancement to state property resulting from the proposed use of Utah Lake allowed to be used in exchange for the execution of the improvement project;

(E) the proposed timetable for completion of the improvement project;

(F) the ability of the improvement project contractor to execute and complete the improvement project satisfactorily; and

(G) the effects of the improvement project on lake ecology, including the ability to avoid or mitigate negative impacts to wetlands and to migratory birds, fish species, and other wildlife.

(c) The division shall issue a permit for the use of Utah Lake in accordance with a recommendation under Subsection (4)(b)(i) if:

(i) the authority makes a recommendation under Subsection (4)(b)(i); and

(ii) the division finds the proposed use to be consistent with:

(A) management plans applicable to Utah Lake; and

(B) the public trust doctrine.

(d) Nothing in this Subsection (4) may be construed to allow the disposition of title to any land within the lake authority boundary in exchange for the implementation of an improvement project.

Section 9. Section 11-65-206 is enacted to read:

11-65-206. Applicability of other law -- Cooperation of state and local governments -- Authority of other agencies not affected -- Attorney general to provide legal services.

(1) The lake authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(2) A department, division, or other agency of the state and a political subdivision of the state is encouraged, upon the board's request, to cooperate with the lake authority to provide the support, information, or other assistance reasonably necessary to help the lake authority fulfill the lake authority's duties and responsibilities under this chapter.

(3) Nothing in this chapter may be construed to affect or impair:

(a) the authority of the Department of Environmental Quality, created in Section 19-1-104, to regulate under Title 19, Environmental Quality Code, consistent with the purposes of this chapter; or

(b) the authority of the Division of Wildlife Resources, created in Section 23-14-1, to regulate under Title 23, Wildlife Resources Code of Utah, consistent with the purposes of this chapter.

(4) In accordance with Utah Constitution, Article XVII, Section 1, nothing in this chapter may be construed to override, supersede, interfere with, or modify:

(a) any water right in the state;

(b) the operation of a water facility or project; or

(c) the role or authority of the state engineer.

(5) (a) Except as otherwise explicitly provided, nothing in this chapter may be construed to authorize the lake authority to interfere with or take the place of another governmental entity in that entity's process of considering an application or request for a license, permit, or other regulatory or governmental permission for an action relating to water of Utah Lake or land within the lake authority boundary.

(b) The lake authority shall respect and, if applicable and within the lake authority's powers, implement a license, permit, or other regulatory or governmental permission described in Subsection (5)(a).

(6) Nothing in this chapter may be construed to allow the authority to:

(a) consider an application for the disposal of land within the lake authority boundary under Title 65A, Chapter 15, Utah Lake Restoration Act; or

(b) issue bonding or other financing for a project under Title 65A, Chapter 15, Utah Lake Restoration Act.

(7) The attorney general shall provide legal services to the board.

Section 10. Section 11-65-301 is enacted to read:

Part 3. Lake Authority Board

11-65-301. Utah Lake Authority board -- Delegation of power.

(1) The lake authority shall be governed by a board which shall manage and conduct the business and affairs of the lake authority and shall determine all questions of lake authority policy.

(2) All powers of the lake authority are exercised through the board or, as provided in Section 11-65-305, the executive director.

(3) The board may by resolution delegate powers to lake authority staff.

(4) To consult with and advise the board in the performance of the board's duties in fulfilling the purposes of the lake authority, the board shall appoint:

(a) one or more advisory committees;

(b) one or more technical committees;

(c) one or more local government groups; and

(d) one or more stakeholder groups.

Section 11. Section 11-65-302 is enacted to read:

11-65-302. Number of board members -- Appointment -- Vacancies.

(1) The lake authority's board shall consist of 15 members, as provided in Subsection (2).

(2) (a) The governor shall appoint two board members, at least one of whom shall be from the Governor's Office of Economic Opportunity.

(b) The president of the Senate shall appoint as one board member an individual who holds office as a member of the Senate and whose Senate district includes an area within Utah County.

(c) The speaker of the House of Representatives shall appoint as one board member an individual who holds office as a member of the House of Representatives and whose House of Representatives district includes an area within Utah County.

(d) The legislative body of Utah County shall appoint a member of the legislative body of Utah County as a board member.

(e) (i) The Utah County Council of Governments shall appoint eight board members, at least one of whom shall be an individual selected from among individuals designated by chambers of commerce in Utah County, each of which may recommend an individual for appointment to the board.

(ii) A member appointed by the Utah County Council of Governments, except a member appointed as designated by a chamber of commerce in Utah County, shall hold an elective office in Utah County or a municipality within Utah County.

(iii) At least four of the members appointed by the Utah County Council of Governments shall be elected officials from municipalities immediately adjacent to the lake authority boundary.

(iv) The initial members appointed by the Utah County Council of Governments shall include:

(A) an individual designated by the legislative body of the city of Lehi;

(B) an individual designated by the legislative body of the city of Lindon;

(C) an individual designated by the legislative body of the city of Spanish Fork;

(D) an individual who is an elected officer of the city of Provo, designated by the mayor of the city of Provo;

(E) an individual who is an elected officer of the city of Orem, designated by the legislative body of the city of Orem;

(F) an individual who is an elected officer of the city of Vineyard, designated by the legislative body of the city of Vineyard; and

(G) an individual who is an elected officer of the city of Saratoga Springs, designated by the legislative body of the city of Saratoga Springs.

(f) The executive director of the Department of Natural Resources shall appoint one board member.

(g) The executive director of the Department of Environmental Quality shall appoint one board member.

(3) Appointments required under Subsection (2) shall be made no later than June 1, 2022.

(4) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) An individual appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the individual is filling.

(5) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(6) The lake authority may appoint nonvoting members of the board and set terms for those nonvoting members.

(7) Upon a vote of a majority of all board members, the board may appoint a board chair and any other officer of the board.

(8) The board:

(a) may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations; and

(b) shall appoint an advisory committee to advise on:

(i) water rights, water projects, and water facilities associated with Utah Lake; and

(ii) recreation and avian and other wildlife activities on Utah Lake.

Section 12. Section 11-65-303 is enacted to read:

11-65-303. Term of board members -- Quorum -- Compensation.

(1) The term of a board member appointed under Subsection 11-65-302(2) is four years, except that the initial term is two years for:

(a) one of the two members appointed under Subsection 11-65-302(2)(a), as designated by the governor;

(b) four of the eight members appointed under Subsection 11-65-302(2)(e), as designated by the Utah County Council of Governments; and

(c) the members appointed under Subsections 11-65-302(2)(f) and (g).

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11-65-302(2).

(4) A majority of board members constitutes a quorum, and the action of a majority of a quorum constitutes action of the board.

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

(i) Sections 63A-3-106 and 63A-3-107; and

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

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 13. Section 11-65-304 is enacted to read:

11-65-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to participate in or receive a direct financial benefit from the management of Utah Lake.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the lake authority a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2).

(4) (a) A voting member or nonvoting member of the board or an employee of the lake authority may not receive a direct financial benefit from the management of Utah Lake.

(b) For purposes of Subsection (4)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the lake authority.

(5) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 14. Section 11-65-305 is enacted to read:

11-65-305. Executive director.

(1) (a) The director of the Utah Lake Commission shall be the initial full-time executive director of the authority.

(b) Subsection (1)(a) does not affect the status of the executive director as an at-will employee.

(2) (a) The executive director is the chief executive officer of the lake authority.

(b) The role of the executive director is to:

(i) manage and oversee the day-to-day operations of the lake authority;

(ii) fulfill the executive and administrative duties and responsibilities of the lake authority; and

(iii) perform other functions, as directed by the board.

(3) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Section 11-65-203.

(4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

(5) The board shall establish the duties, compensation, and benefits of an executive director.

Section 15. Section 11-65-306 is enacted to read:

11-65-306. Development of standards and criteria to measure progress toward achieving lake authority policies and objectives -- Annual report.

(1) The board shall develop standards and criteria by which to measure:

(a) the condition of Utah Lake as of 2022; and

(b) the extent to which efforts of the lake authority improve the condition of Utah Lake and achieve the policies and objectives of Section 11-65-203.

(2) In developing the standards and criteria, the board shall consult with and consider recommendations by:

(a) the Department of Environmental Quality;

(b) the Division of Water Quality;

(c) the Division of Forestry, Fire, and State Lands;

(d) the Division of Wildlife Resources;

(e) the Division of State Parks;

(f) the Division of Recreation;

(g) the Division of Water Resources;

(h) the Division of Water Rights; and

(i) the Department of Agriculture and Food.

(3) Beginning in 2023, the board shall produce an annual report that explains the degree to which efforts of the lake authority are improving the condition of Utah Lake and achieving the policies and objectives of Section 11-65-203, in accordance with the standards and criteria developed under this section.

Section 16. Section 11-65-401 is enacted to read:

Part 4. Project Area Plan and Budget

11-65-401. Preparation of project area plan -- Required contents of project area plan.

(1) (a) The lake authority board's adoption of a project area plan is governed by this part.

(b) In order to adopt a project area plan, the lake authority board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 11-65-402(2);

(iii) hold the public meetings required under Subsection 11-65-402(1) at least 30 days apart; and

(iv) after holding the required public meetings and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.

(c) (i) The lake authority board may not adopt the project area plan until at least 30 days after the last public meeting under Section 11-65-402.

(ii) Before adopting a draft project area plan as the project area plan, the lake authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.

(d) (i) A lease or development agreement that the lake authority enters before the creation of a project area shall provide that the board is not required to create a project area.

(ii) The lake authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.

(2) Each project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area that is the subject of the project area plan;

(b) the lake authority's purposes and intent with respect to the project area;

(c) a description of any management proposed to occur within the project area; and

(d) the board's findings and determination that:

(i) there is a need to effectuate a public purpose;

(ii) there is a public benefit to the proposed management project;

(iii) it is economically sound and feasible to adopt and carry out the project area plan; and

(iv) carrying out the project area plan will promote the purposes of the lake authority, as stated in Section 11-65-203.

Section 17. Section 11-65-402 is enacted to read:

11-65-402. Public meetings to consider and discuss draft project area plan -- Notice -- Adoption of plan.

(1) The lake authority board shall hold at least two public meetings to:

(a) receive public comment on the draft project area plan; and

(b) consider and discuss the draft project area plan.

(2) At least 10 days before holding a public meeting under Subsection (1), the lake authority board shall:

(a) (i) post notice of the public meeting on the Utah Public Notice Website created in Section 63F-1-701; and

(ii) maintain the posting on the Utah Public Notice Website until the day of the public meeting;

(b) provide notice of the public meeting to a public entity that has entered into an agreement with the lake authority for sharing property tax revenue; and

(c) provide email notice of the public meeting to each person who has submitted a written request to the board to receive email notice of a public meeting under this section.

(3) Following consideration and discussion of the project area plan, the board may adopt the draft project area plan as the project area plan.

Section 18. Section 11-65-403 is enacted to read:

11-65-403. Notice of project area plan adoption -- Effective date of plan -- Time limit on challenge to plan or project area.

(1) Upon the board's adoption of a project area plan, the board shall provide notice as provided in Subsection (2) by publishing or causing to be published legal notice as required by Section 45-1-101.

(2) (a) A notice under Subsection (1) shall include:

(i) the board resolution adopting the project area plan or a summary of the resolution; and

(ii) a statement that the project area plan is available for general public inspection and the hours for inspection.

(b) The statement required under Subsection (2)(a)(ii) may be included in the board resolution or summary described in Subsection (2)(a)(i).

(3) The project area plan becomes effective on the date designated in the board resolution adopting the project area plan.

(4) The lake authority shall make the adopted project area plan available to the general public at the lake authority's office during normal business hours.

(5) Within 10 days after the day on which a project area plan is adopted that establishes a project area, or after an amendment to a project area plan is adopted under which the boundary of a project area is modified, the lake authority shall send notice of the establishment or modification of the project area and an accurate map or plat of the project area to:

(a) the State Tax Commission;

(b) the Utah Geospatial Resource Center created in Section 63A-16-505; and

(c) the assessor and recorder of each county where the project area is located.

(6) A legal action or other challenge to a project area plan or a project area described in a project area plan is barred unless brought within 90 days after the effective date of the project area plan.

Section 19. Section 11-65-404 is enacted to read:

11-65-404. Amendment to a project area plan.

(1) The lake authority may amend a project area plan by following the same procedure under this part as applies to the adoption of a project area plan.

(2) The provisions of this part apply to the lake authority's adoption of an amendment to a project area plan to the same extent as they apply to the adoption of a project area plan.

(3) An amendment to a project area plan does not affect the base taxable value determination for property already within the project area before the amendment.

Section 20. Section 11-65-405 is enacted to read:

11-65-405. Project area budget.

(1) Before the lake authority may use authority funds to implement the management plan, the authority board shall prepare and adopt a project area budget.

(2) The lake authority board may amend an adopted project area budget as and when the lake authority board considers an amendment appropriate.

(3) If the lake authority adopts a budget under Part 6, Lake Authority Budget, Reporting, and Audits, that also meets the requirements of this part, the lake authority need not separately adopt a budget under this part.

Section 21. Section 11-65-501 is enacted to read:

Part 5. Lake Authority Bonds

11-65-501. Resolution authorizing issuance of lake authority bonds -- Characteristics of bonds -- Time limit for contesting bonds.

(1) The lake authority may not issue bonds under this part unless the board first adopts a resolution authorizing issuance of the bonds.

(2) (a) As provided in the lake authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the lake authority resolution authorizing the issuance of the bonds or the trust indenture under which the bonds are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days after the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

Section 22. Section 11-65-502 is enacted to read:

11-65-502. Sources from which bonds may be made payable -- Lake authority powers regarding bonds.

(1) The principal and interest on bonds issued by the lake authority may be made payable from:

(a) the income and revenues of the projects financed with the proceeds of the bonds;

(b) the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of the bonds;

(c) the income, proceeds, revenues, property, and funds the lake authority derives from or holds in connection with the lake authority's undertaking and carrying out management of lake authority land;

(d) lake authority revenues generally;

(e) a contribution, loan, grant, or other financial assistance from the federal government or a public entity in aid of the lake authority; or

(f) funds derived from any combination of the methods listed in Subsections (1)(a) through (e).

(2) In connection with the issuance of lake authority bonds, the lake authority may:

(a) pledge all or any part of the lake authority's gross or net rents, fees, or revenues to which the lake authority then has the right or to which the lake authority may thereafter acquire a right; and

(b) make the covenants and take the action that may be necessary, convenient, or desirable to secure the lake authority's bonds, or, except as otherwise provided in this chapter, that will tend to make the bonds more marketable, even though such covenants or actions are not specifically enumerated in this chapter.

Section 23. Section 11-65-503 is enacted to read:

11-65-503. Purchase of lake authority bonds.

(1) Any person, firm, corporation, association, political subdivision of the state, or other entity or public or private officer may purchase bonds issued by the lake authority under this part with funds owned or controlled by the purchaser.

(2) Nothing in this section may be construed to relieve a purchaser of lake authority bonds of any duty to exercise reasonable care in selecting securities.

Section 24. Section 11-65-504 is enacted to read:

11-65-504. Those executing bonds not personally liable -- Limitation of obligations under bonds -- Negotiability.

(1) A member of the board or other person executing a lake authority bond is not liable personally on the bond.

(2) (a) A bond issued by the lake authority is not a general obligation or liability of the state or any of the state's political subdivisions and does not constitute a charge against the general credit or taxing powers of the state or any of the state's political subdivisions.

(b) A bond issued by the lake authority is not payable out of any funds or properties other than those of the lake authority.

(c) The state and the state's political subdivisions are not and may not be held liable on a bond issued by the lake authority.

(d) A bond issued by the lake authority does not constitute indebtedness within the meaning of any constitutional or statutory debt limitation.

(3) A bond issued by the lake authority under this part is fully negotiable.

Section 25. Section 11-65-505 is enacted to read:

11-65-505. Obligee rights -- Board may confer other rights.

(1) In addition to all other rights that are conferred on an obligee of a bond issued by the lake authority under this part, and subject to contractual restrictions binding on the obligee, an obligee may:

(a) by mandamus, suit, action, or other proceeding, compel the lake authority and the lake authority's board, officers, agents, or employees to perform every term, provision, and covenant contained in any contract of the lake authority with or for the benefit of the obligee, and require the lake authority to carry out the covenants and agreements of the lake authority and to fulfill all duties imposed on the lake authority by this part; and

(b) by suit, action, or proceeding in equity, enjoin any acts or things that may be unlawful or violate the rights of the obligee.

(2) (a) In a board resolution authorizing the issuance of bonds or in a trust indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or representing a specified amount in bonds, the rights described in Subsection (2)(b), to accrue upon the happening of an event or default prescribed in the resolution, indenture, mortgage, lease, or other contract, and to be exercised by suit, action, or proceeding in any court of competent jurisdiction.

(b) (i) The rights that the board may confer under Subsection (2)(a) are the rights to:

(A) cause possession of all or part of a development project to be surrendered to an obligee;

(B) obtain the appointment of a receiver of all or part of a lake authority's development project and of the rents and profits from it; and

(C) require the lake authority and the lake authority's board and employees to account as if the lake authority and the board and employees were the trustees of an express trust.

(ii) If a receiver is appointed through the exercise of a right granted under Subsection (2)(b)(i)(B), the receiver:

(A) may enter and take possession of the development project or any part of the development project, operate and maintain the development project, and collect and receive all fees, rents, revenues, or other charges arising from the development project after the receiver's appointment; and

(B) shall keep money collected as receiver for the lake authority in separate accounts and apply the money pursuant to the lake authority obligations as the court directs.

Section 26. Section 11-65-506 is enacted to read:

11-65-506. Bonds exempt from taxes -- Lake authority may purchase its own bonds.

(1) A bond issued by the lake authority under this part is issued for an essential public and governmental purpose and is, together with interest on and income from the bond, exempt from all state taxes except the corporate franchise tax.

(2) The lake authority may purchase the lake authority's own bonds at a price that the board determines.

(3) Nothing in this section may be construed to limit the right of an obligee to pursue a remedy for the enforcement of a pledge or lien given under this part by the lake authority on the lake authority's rents, fees, grants, properties, or revenues.

Section 27. Section 11-65-601 is enacted to read:

Part 6. Lake Authority Budget, Reporting, and Audits

11-65-601. Annual lake authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The board shall prepare and adopt for the lake authority an annual budget of revenues and expenditures for each fiscal year.

(2) An annual lake authority budget shall be adopted before June 22, except that the lake authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of lake authority operations.

(3) The lake authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The lake authority shall provide notice of the public hearing on the annual budget by publishing notice on the Utah Public Notice Website created in Section 63F-1-701, for at least one week immediately before the public hearing.

(c) The lake authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each lake authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of lake authority personnel.

(6) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which lake authority land is located, the State Tax Commission, and the state auditor.

Section 28. Section 11-65-602 is enacted to read:

11-65-602. Amending the lake authority annual budget.

(1) The board may by resolution amend an annual lake authority budget.

(2) An amendment of the annual lake authority budget that would increase the total expenditures may be made only after a public hearing following notice published as required for initial adoption of the annual budget.

(3) The lake authority may not make expenditures in excess of the total expenditures established in the annual budget as the budget is adopted or amended.

Section 29. Section 11-65-603 is enacted to read:

11-65-603. Lake authority report.

Before November 30 of each year, the board shall present a report to the Executive Appropriations Committee of the Legislature, as the Executive Appropriations Committee directs, that includes:

(1) an accounting of how lake authority funds have been spent, including funds spent on the environmental sustainability component of the lake authority management plan under Subsection 11-65-202(2)(a);

(2) an update about the progress of the management and implementation of the lake authority management plan under Subsection 11-65-202(2)(a), including the development and implementation of the environmental sustainability component of the plan; and

(3) an explanation of the lake authority's progress in achieving the policies and objectives described in Section 11-65-203.

Section 30. Section 11-65-604 is enacted to read:

11-65-604. Audit requirements.

The lake authority shall comply with the audit requirements of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

Section 31. Section 11-65-605 is enacted to read:

11-65-605. Audit report.

(1) The lake authority shall, within 180 days after the end of the lake authority's fiscal year, file a copy of the audit report with the county auditor and the state auditor.

(2) Each audit report under Subsection (1) shall include:

(a) the outstanding principal amount of bonds issued or other loans incurred to finance the costs associated with the lake authority's projects; and

(b) the actual amount expended for:

(i) acquisition of property;

(ii) site improvements or site preparation costs;

(iii) installation of public utilities or other public improvements; and

(iv) administrative costs of the lake authority.

Section 32. Section 11-65-606 is enacted to read:

11-65-606. Lake authority chief financial officer is a public treasurer -- Certain lake authority funds are public funds.

(1) The lake authority's chief financial officer:

(a) is a public treasurer, as defined in Section 51-7-3; and

(b) shall invest the lake authority funds specified in Subsection (2) as provided in that subsection.

(2) Notwithstanding Subsection 63E-2-110(2)(a), appropriations that the lake authority receives from the state:

(a) are public funds; and

(b) shall be invested as provided in Title 51, Chapter 7, State Money Management Act.

Section 33. Section 11-65-701 is enacted to read:

Part 7. Lake Authority Dissolution

11-65-701. Dissolution of lake authority -- Restrictions -- Notice of dissolution -- Disposition of lake authority property -- Lake authority records -- Dissolution expenses.

(1) The lake authority may not be dissolved unless the lake authority has no outstanding bonded indebtedness, other unpaid loans, indebtedness, or advances, and no legally binding contractual obligations with persons or entities other than the state.

(2) Upon the dissolution of the lake authority:

(a) the Governor's Office of Economic Opportunity shall publish a notice of dissolution as required in Section 45-1-101; and

(b) all title to property owned by the lake authority vests in the state.

(3) The books, documents, records, papers, and seal of the dissolved lake authority shall be deposited for safekeeping and reference with the state auditor.

(4) The lake authority shall pay all expenses of the deactivation and dissolution.

Section 34. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsections (2)(b)(ii) [~~and~~], (iii), and (iv), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201; [~~and~~]

(iii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201[~~.~~]; and

(iv) 50% of each dollar collected from the sales and use tax authorized by this part within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter following the creation of the Utah Lake Authority.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

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

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal

Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is $333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A-16-307.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-304.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall apply the provisions of this Subsection (5) after the commission applies the provisions of Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 35. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board

of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) The Utah Lake Authority created in Section 11-65-201.

[~~(5)~~] (6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

[~~(6)~~] (7) The Trip Reduction Program created in Section 19-2a-104.

[~~(7)~~] (8) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

[~~(8)~~] (9) The emergency medical services grant program in Section 26-8a-207.

[~~(9)~~] (10) The primary care grant program created in Section 26-10b-102.

[~~(10)~~] (11) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

[~~(11)~~] (12) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

[~~(12)~~] (13) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

[~~(13)~~] (14) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

[~~(14)~~] (15) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(9)(a) or (b).

[~~(15)~~] (16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(16)~~] (17) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(17)~~] (18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(18)~~] (19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(19)~~] (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(20)~~] (21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(21)~~] (22) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

[~~(22)~~] (23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(23)~~] (24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(24)~~] (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(25)~~] (26) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(26)~~] (27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(27)~~] (28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(28)~~] (29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(29)~~] (30) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(30)~~] (31) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(31)~~] (32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(32)~~] (33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(33)~~] (34) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(34)~~] (35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(35)~~] (36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(36)~~] (37) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(37)~~] (38) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(38)~~] (39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(39)~~] (40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(40)~~] (41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(41)~~] (42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

CHAPTER 60
H. B. 240

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

UTAH LAKE AMENDMENTS

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Curtis S. Bramble
Cosponsors: Nelson T. Abbott
Gay Lynn Bennion
Joel K. Briscoe
Jefferson S. Burton
Kay J. Christofferson
Marsha Judkins
Rosemary T. Lesser
Jefferson Moss
Doug Owens
Val L. Peterson
Norman K. Thurston
Stephen L. Whyte

LONG TITLE

General Description:

This bill modifies provisions of the Utah Lake Restoration Act.

Highlighted Provisions:

This bill:

- modifies the authority given to the Division of Forestry, Fire, and State Lands, with respect to the disposal of Utah Lake land in exchange for the comprehensive restoration of Utah Lake under a restoration proposal, from authority to dispose of land to authority to make a recommendation for the disposal of the land;
- requires the approval of the Legislature and governor for the disposal of Utah Lake land in exchange for the comprehensive restoration of Utah Lake under a restoration proposal; and
- requires the division to prepare recommendations on objectives of the Utah Lake restoration and report those recommendations to the Natural Resources, Agriculture, and Environment Interim Committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

65A-15-201, as enacted by Laws of Utah 2018, Chapter 381

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

Section 1. Section 65A-15-201 is amended to read:

65A-15-201. Division recommendation on disposal of state land in exchange for Utah Lake restoration project -- Approval of Legislature and governor required -- Criteria -- Division recommendations for defining and meeting objectives.

(1) (a) [~~Subject to the approval of the Legislative Management Committee, the~~] The division may [~~dispose~~] recommend the disposal of appropriately available state land in and around Utah Lake as compensation for the comprehensive restoration of Utah Lake under a restoration proposal if the division finds that the restoration project will enhance the following public benefits:

[~~(a)~~] (i) [~~restore~~] restoring the clarity and quality of the water in Utah Lake;

[~~(b)~~] (ii) [~~conserve~~] conserving water resources in and around Utah Lake;

[~~(c)~~] (iii) [~~preserve~~] preserving the water storage and water supply functions of Utah Lake;

[~~(d)~~] (iv) [~~remove~~] removing invasive plant and animal species, including phragmites and carp, from Utah Lake;

[~~(e)~~] (v) [~~restore~~] restoring littoral zone and other plant communities in and around Utah Lake;

[~~(f)~~] (vi) [~~restore~~] restoring and [~~conserve~~] conserving native fish and other aquatic species in Utah Lake, including Bonneville cutthroat trout and June Sucker;

[~~(g)~~] (vii) [~~increase~~] increasing the suitability of Utah Lake and its surrounding areas for shore birds, waterfowl, and other avian species;

[~~(h)~~] (viii) [~~improve~~] improving navigability of Utah Lake;

[~~(i)~~] (ix) [~~maximize, enhance, and ensure~~] maximizing, enhancing, and ensuring recreational access and opportunities on Utah Lake;

[~~(j)~~] (x) [~~preserve~~] preserving current water rights related to water associated with Utah Lake; [~~and~~]

[~~(k)~~] (xi) otherwise [~~improve~~] improving the use of Utah Lake for residents and visitors[~~.~~];

(xii) substantially accommodating an existing use on land in or around Utah Lake; and

(xiii) providing any other benefits identified by the division.

(b) If the division chooses to make a recommendation under Subsection (1)(a), the division shall make the recommendation in writing to the Legislature and governor.

(2) In determining whether to [~~dispose~~] recommend the disposal of state land in exchange for the execution of a restoration project, as provided in Subsection (1)(a) and pursuant to a restoration proposal, the division shall consider:

(a) the potential that the restoration project presents for additional revenue to state and local government entities;

(b) the ability of the proposed use of the state land given in exchange for the restoration project to enhance state property adjacent to Utah Lake;

(c) the proposed timetable for completion of the restoration project;

(d) the ability of the person who submits a restoration project to execute and complete the restoration project satisfactorily; and

(e) the desirability of the proposed use of Utah Lake and the surrounding areas as a result of the restoration project.

(3) The Legislature and governor may, through the adoption of a concurrent resolution, authorize the disposal of state land in and around Utah Lake as compensation for the comprehensive restoration of Utah Lake under a restoration proposal if:

(a) the division recommends the disposal as provided in Subsection (1); and

(b) the Legislature and governor make a determination, in a concurrent resolution adopted under this Subsection (3), that:

(i) the restoration project will accomplish the objectives listed in Subsection (1)(a); and

(ii) the disposal is:

(A) a fiscally sound and fair method of providing for the comprehensive restoration of Utah Lake; and

(B) constitutionally sound and legal.

(4) In support of the required permitting application for a restoration project, the division shall:

(a) prepare recommendations for standards, criteria, and thresholds to define more specifically the objectives listed in Subsections (1)(a) and (3)(b)(ii) and how and when those objectives are to be met;

(b) report on the division's efforts under Subsection (4)(a) to the Natural Resources, Agriculture, and Environment Interim Committee, as requested by the committee chairs; and

(c) upon completion of recommendations under Subsection (4)(a), present the recommendations to the Natural Resources, Agriculture, and Environment Interim Committee.

CHAPTER 61
H. B. 242

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

SECONDARY WATER METERING AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:
This bill addresses secondary water metering.

Highlighted Provisions:
This bill:
- addresses definitions;
- imposes requirements related to metering pressurized secondary water;
- provides for penalties for failure to comply with metering requirements;
- provides for exemptions;
- provides for grants to fund metering of certain pressurized secondary water services;
- allows for water conservation grants under certain circumstances;
- addresses rulemaking authority; and
- makes technical changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
73-10-34, as last amended by Laws of Utah 2021, Chapter 354

ENACTS:
73-10-34.5, Utah Code Annotated 1953

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

Section 1. Section 73-10-34 is amended to read:

73-10-34. Secondary water metering -- Loans and grants.

(1) As used in this section:

(a) (i) "Commercial user" means a secondary water user that is a place of business.

(ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer that falls within the industrial or institutional classification.

(b) "Full metering" means that use of secondary water is accurately metered by a meter that is installed and maintained on every secondary water connection of a secondary water supplier.

[~~(b)~~] (c) (i) "Industrial user" means a secondary water user that manufactures or produces materials.

(ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

[~~(c)~~] (d) (i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of ownership.

(ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

[~~(d)~~] (e) (i) "Residential user" means a secondary water user in a residence.

(ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home, condominium, or planned community.

[~~(e)~~] (f) "Secondary water" means water that is:

(i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and

(ii) delivered to and used by an end user for the irrigation of landscaping or a garden.

(g) "Secondary water connection" means the location at which the water leaves the secondary water supplier's pipeline and enters into the remainder of the pipes that are owned by another person to supply water to an end user.

[~~(f)~~] (h) "Secondary water supplier" means an entity that supplies pressurized secondary water.

[~~(g)~~] (i) "Small secondary water retail supplier" means an entity that:

(i) supplies pressurized secondary water only to the end user of the secondary water; and

(ii) (A) is a city, town, or metro township; or

(B) supplies 5,000 or fewer secondary water connections.

(2) (a) (i) A secondary water supplier that supplies secondary water within a county of the first or second class and begins design work for new service on or after April 1, 2020, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(ii) A secondary water supplier that supplies secondary water within a county of the third, fourth, fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a commercial, industrial, institutional, or residential user shall meter the use of pressurized secondary water by the users receiving that new service.

(b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.

[~~(b)~~] (c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.

[~~(c)~~] (d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:

(i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or

(ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.

[~~(d)~~] (e) (i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.

(ii) The plan required by this Subsection [~~(2)(d)~~] (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:

(A) the costs of full metering by the secondary water supplier;

(B) how long it would take the secondary water supplier to complete full metering [~~by no later than December 31, 2040~~], including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and

(C) how the secondary water supplier will finance metering.

(3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:

(a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;

(b) the number of secondary water meters within the secondary water supplier's service boundary;

(c) a description of the secondary water supplier's service boundary;

(d) the number of secondary water connections in each of the following categories through which the secondary water supplier supplies pressurized secondary water:

(i) commercial;

(ii) industrial;

(iii) institutional; and

(iv) residential;

(e) the total volume of water that the secondary water supplier receives from the secondary water supplier's sources; and

(f) the dates of service during the preceding 12-month period in which the secondary water supplier supplied pressurized secondary water.

(4) (a) Beginning July 1, 2019, the Board of Water Resources may make up to $10,000,000 in low-interest loans available each year:

(i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24; and

(ii) for financing the cost of secondary water metering.

(b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and process for receiving a loan described in this Subsection (4), except the rules may not include prepayment penalties.

(5) (a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make matching grants each year for financing the cost of secondary water metering for a commercial, industrial, institutional, or residential user by a small secondary water retail supplier that:

(i) is not for new service described in Subsection (2)(a); and

(ii) matches the amount of the grant.

(b) For purposes of issuing grants under this section, the division shall prioritize the small secondary water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire cost of installing secondary water meters.

(c) The amount of a grant under this Subsection (5) may not:

(i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters; or

(ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail supplier's cost of installing secondary water meters.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water Resources shall make rules establishing:

(i) the procedure for applying for a grant under this Subsection (5); and

(ii) how a small secondary water retail supplier can establish that the small secondary water retail supplier meets the eligibility requirements of this Subsection (5).

[~~(6) This section does not apply to a secondary water supplier to the extent that:~~]

[~~(a) the secondary water supplier supplies secondary water within a county of the third, fourth, fifth, or sixth class; or~~]

[~~(b) there is no meter that a meter manufacturer will warranty because of the water quality within a specific location.~~]

[~~7~~] (6) Nothing in this section affects a water right holder's obligation to measure and report water usage as described in Sections 73-5-4 and 73-5-8.

(7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:

(a) beginning January 1, 2030, may not receive state money for water related purposes until the secondary water supplier completes full metering; and

(b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).

(8) (a) (i) The state engineer shall commence an enforcement action under this Subsection (8) if the state engineer receives a referral from the director of the Division of Water Resources.

(ii) The director of the Division of Water Resources shall submit a referral to the state engineer if the director:

(A) finds that a secondary water supplier fails to fully meter secondary water as required by this section; and

(B) determines an enforcement action is necessary to conserve or protect a water resource in the state.

(b) To commence an enforcement action under this Subsection (8), the state engineer shall issue a notice of violation that includes notice of the administrative fine to which a secondary water supplier is subject.

(c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer shall make rules necessary to enforce a notice of violation, that includes:

(i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (8)(d)(ii).

(e) A person may not intervene in an enforcement action commenced under this section.

(f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(i) personal service under Utah Rules of Civil Procedure, Rule 5; or

(ii) certified mail.

(g) (i) The state engineer's final order may be reviewed by trial de novo by the district court in Salt Lake County or the county where the violation occurred.

(ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this section within 20 days from the day on which the final order was served on the secondary water supplier.

(h) The state engineer may bring suit in a court of competent jurisdiction to enforce a final order issued under this Subsection (8).

(i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may recover court costs and a reasonable attorney fee.

(j) As part of a final order issued under this Subsection (8), the state engineer shall order that a secondary water supplier to whom an order is issued pay an administrative fine equal to:

(i) $10 for each secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2030;

(ii) $20 for each secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2031;

(iii) $30 for each secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2032;

(iv) $40 for each secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2033; and

(v) $50 for each secondary water connection of the secondary water supplier for failure to comply with full metering by January 1, 2034, and for each subsequent year the secondary water supplier fails to comply with full metering.

(k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

(9) A secondary water supplier located within a county of the fifth or sixth class is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:

(a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection (9) by establishing with the Division of Water Resources that the cost of purchasing, installing, and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or operator of the secondary water supplier;

(b) the secondary water supplier agrees to not add a new secondary water connection to the secondary water supplier's system on or after May 4, 2022;

(c) within six months of when the secondary water supplier seeks an exemption under

Subsection (9)(a), the secondary water supplier provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) the secondary water supplier annually reports to the Division of Water Resources on the results of the plan described in Subsection (9)(c); and

(e) the secondary water supplier submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (9)(c).

(10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to the extent that the secondary water supplier:

(a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality within a specific location served by the secondary water supplier;

(b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is unable to obtain a meter as described in Subsection (10)(a);

(c) within six months of when the secondary water supplier submits reasonable proof under Subsection (10)(b), provides to the Division of Water Resources a plan for conservation within the secondary water supplier's service area that does not require metering;

(d) annually reports to the Division of Water Resources on the results of the plan described in Subsection (10)(c); and

(e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described in Subsection (10)(c).

(11) A secondary water supplier that is located within a critical management area that is subject to a groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006, is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).

(12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32, that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).

Section 2. Section 73-10-34.5 is enacted to read:

73-10-34.5. Grant money for existing secondary water metering to facilitate full metering -- Other grants.

(1) As used in this section:

(a) "Applicant" means a secondary water supplier or group of secondary water suppliers that applies for a grant under this section.

(b) "Board" means the Board of Water Resources.

(c) "Division" means the Division of Water Resources.

(d) "Project" means the purchase or installation of a meter for a secondary water system that as of May 4, 2022, provides secondary water service that is not metered.

(e) "Secondary water" means the same as that term is defined in Section 73-10-34.

(f) "Secondary water connection" means the same as that term is defined in Section 73-10-34.

(g) "Secondary water supplier" means the same as that term is defined in Section 73-10-34.

(2) (a) The board may issue grants in an amount appropriated by the Legislature in accordance with this section to an applicant to fund projects for meters on secondary water systems that before May 4, 2022, provide secondary water service that is not metered.

(b) The board may not issue a grant under this section to fund:

(i) metering of secondary water for service that begins on or after May 4, 2022; or

(ii) the replacement or repair of an existing secondary water meter.

(c) Notwithstanding the other provisions of this section, the board may issue a grant under this section to a secondary water supplier to reimburse the secondary water supplier for the costs incurred by the secondary water supplier that are associated with installing meters on a secondary water system on or after March 3, 2021, but before May 4, 2022, except that the grant issued under this Subsection (2)(c):

(i) shall be included in calculating the total grant amount under Subsections (3)(a) through (c);

(ii) may not exceed 70% of the costs associated with a project described in this Subsection (2)(c), including installation and purchase of meters; and

(iii) shall comply with Subsection (6).

(3) (a) A secondary water supplier with 7,000 secondary water connections or less is eligible for a total grant amount under this section of up to $5,000,000.

(b) A secondary water supplier with more than 7,000 secondary water connections is eligible for a total grant amount under this section of up to $10,000,000.

(c) If a secondary water supplier applies for a grant as part of a group of secondary water suppliers, the total grant amount described in Subsection (3)(a) or (b) applies to each member of the group and is not based on the number of secondary water connections of the entire group.

(d) (i) Subject to the other provisions of this section, a grant may not exceed the following amounts for the costs associated with a project, including installation and purchase of meters:

(A) for calendar year 2022, 70% of the costs of a project;

(B) for calendar year 2023, 70% of the costs of a project;

(C) for calendar year 2024, 65% of the costs of a project;

(D) for calendar year 2025, 60% of the costs of a project; and

(E) for calendar year 2026, 50% of the costs of a project.

(ii) Beginning with calendar year 2027, a grant under this section shall consist of providing a meter or funding to obtain a meter, which may not exceed the following for costs associated with the project:

(A) for calendar year 2027, 40% of the costs of a project;

(B) for calendar year 2028, 30% of the costs of a project;

(C) for calendar year 2029, 20% of the costs of a project; and

(D) for calendar year 2030, 10% of the costs of a project.

(e) A secondary water supplier may pay the secondary water supplier's portion of the costs of a project through a loan from the board under Section 73-10-34 by filing a separate application with the board.

(f) A meter purchased with grant money received under this section shall allow for data communication between the meter and other devices designed to manage use of secondary water that is:

(i) open and available to an end user; and

(ii) open so that it can integrate with third-party providers.

(4) (a) (i) To obtain a grant under this section, an applicant shall submit an application with the division during a period of time designated by the board.

(ii) If there remains money described in Subsection (2) after the grants for applications submitted during the time period described in Subsection (4)(a) are awarded, the board may designate one or more additional time periods so that the entire amount described in Subsection (2) is awarded by December 31, 2024.

(b) An application submitted to the division shall include:

(i) a detailed project cost estimate including meter costs and installation costs;

(ii) a total number of pressurized secondary water connections in the applicable secondary water supplier's system;

(iii) the number of meters to be installed under the grant;

(iv) a detailed estimated secondary water use reduction including:

(A) average lot size calculations;

(B) average irrigated acreage; and

(C) estimated water applied before the project versus after completion of the project;

(v) the timeline for purchase and installation of meters under the project;

(vi) an agreement to:

(A) provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Utah Administrative Rulemaking Act, either on a monthly statement or by a customer specific Internet portal that provides information on the customer's usage more frequently than monthly; or

(B) bill according to usage using a tiered conservation rate and provide an educational component described in Subsection (4)(b)(vi)(A); and

(vii) additional information the board considers helpful.

(5) (a) The division shall:

(i) review and prioritize an application submitted under Subsection (4); and

(ii) recommend to the board which applicants should be awarded a grant under this section.

(b) In prioritizing applications under this Subsection (5), the division shall rank the applicants on the basis of the following weighted factors:

(i) 60% weight based on the ratio of estimated water use reduction divided by total state investment;

(ii) 20% weight based on an applicant facing current or potential water shortages when installation of meters and subsequent water use reductions will result in delaying or eliminating the need for new water development; and

(iii) 20% weight based on a project's accelerated construction schedule, prompt start, and prompt finish.

(6) As a condition of receiving a grant under this section, the recipient shall enter into an agreement with the board to use the grant money. The agreement shall:

(a) be executed by no later than December 31, 2024; and

(b) require that the grant money be spent by December 31, 2026, and the project completed under the terms of the grant.

(7) Notwithstanding the other provisions of this section, the board may issue a grant to a secondary water supplier:

(a) that installed meters on secondary water connections before May 4, 2022;

(b) that has not otherwise received a grant under this section;

(c) for the purpose of water conservation; and

(d) in an amount not to exceed $2,000,000.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the board may make rules establishing the procedure for applying for a grant under this section.

CHAPTER 62
H. B. 244

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

GEOLOGICAL CARBON SEQUESTRATION AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: David P. Hinkins
Cosponsors: Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Kay J. Christofferson
Douglas V. Sagers
V. Lowry Snow

LONG TITLE

General Description:

This bill authorizes the Division of Oil, Gas, and Mining and the Board of Oil, Gas, and Mining to establish regulations for the geologic storage of carbon.

Highlighted Provisions:

This bill:

- defines terms;
- establishes who has title to pore space with respect to the surface estate;
- describes the circumstances under which the board and the division will gain jurisdiction over class VI injection wells;
- authorizes the board to make rules regarding the oversight of class VI injection wells;
- authorizes the board to establish and collect fees to reimburse the board and division for the costs associated with the regulation of class VI injection wells;
- describes the permitting process with which an operator must comply in order to operate a class VI injection well;
- describes the factors a permit must demonstrate for the board to approve the division to issue a permit;
- requires the board to hold a public hearing before issuing a permit;
- authorizes the board to order amalgamation of a tract of land for a storage facility if:
  - nonconsenting owners are fairly compensated for the use of the nonconsenting owners' pore space;
  - 70% of owners of included tracts have consented to the process; and
  - the board finds it is in the best interest of all owners;
- requires operators to record the permit;
- provides for:
  - rights of property owners whose pore space becomes part of a storage facility; and
  - the persons who hold title to carbon dioxide injected into and stored within a storage facility;
- requires an operator to follow certain procedures in order to receive a certificate of project completion;
- describes the relation of this chapter to enhanced oil and gas recovery projects;
- authorizes the board to enter into cooperative agreements with other agencies to carry out the objectives of this chapter;
- authorizes controlling state interests and political subdivisions to participate in geologic carbon storage;
- authorizes the board to adopt a procedure to determine the amount of injected carbon dioxide;
- establishes funds in which the board and division shall deposit fees collected under this chapter; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-2, as last amended by Laws of Utah 2020, Chapter 375

40-6-5, as last amended by Laws of Utah 2020, Chapter 375

ENACTS:

40-6-20.5, Utah Code Annotated 1953
40-11-1, Utah Code Annotated 1953
40-11-2, Utah Code Annotated 1953
40-11-3, Utah Code Annotated 1953
40-11-4, Utah Code Annotated 1953
40-11-5, Utah Code Annotated 1953
40-11-6, Utah Code Annotated 1953
40-11-7, Utah Code Annotated 1953
40-11-8, Utah Code Annotated 1953
40-11-9, Utah Code Annotated 1953
40-11-10, Utah Code Annotated 1953
40-11-11, Utah Code Annotated 1953
40-11-12, Utah Code Annotated 1953
40-11-13, Utah Code Annotated 1953
40-11-14, Utah Code Annotated 1953
40-11-15, Utah Code Annotated 1953
40-11-16, Utah Code Annotated 1953
40-11-17, Utah Code Annotated 1953
40-11-18, Utah Code Annotated 1953
40-11-19, Utah Code Annotated 1953
40-11-20, Utah Code Annotated 1953
40-11-21, Utah Code Annotated 1953
40-11-22, Utah Code Annotated 1953

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

Section 1. Section 40-6-2 is amended to read:

40-6-2. Definitions.

For the purpose of this chapter:

(1) "Board" means the Board of Oil, Gas, and Mining.

(2) "Correlative rights" means the opportunity of each owner in a pool to produce the owner's just and equitable share of the oil and gas in the pool without waste.

(3) "Condensate" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the gaseous phase in the reservoir; and

(b) are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Consenting owner" means an owner who, in the manner and within the time frame established by the board in rule, consents to the drilling and operation of a well and agrees to bear the owner's proportionate share of the costs of the drilling and operation of the well.

(5) "Crude oil" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the liquid phase in the reservoir; and

(b) are produced and recovered at the wellhead in liquid form.

(6) "Division" means the Division of Oil, Gas, and Mining.

(7) (a) "Gas" means natural gas, as defined in Subsection (10), natural gas liquids, as defined in Subsection (11), other gas, as defined in Subsection (17), or any mixture of them.

(b) "Gas" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

(8) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well within the state in violation of this chapter or any rule or order of the board.

(9) "Illegal product" means any product derived in whole or in part from illegal oil or illegal gas.

(10) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form, except natural gas liquids as defined in Subsection (11) and condensate as defined in Subsection (3).

(b) "Natural gas" includes coalbed methane gas.

(11) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated from natural gas as liquids in gas processing plants through the process of condensation, absorption, adsorption, or other methods.

(12) "Nonconsenting owner" means an owner who does not, after written notice and in the manner and within the time frame established by the board in rule, consent to the drilling and operation of a well or agree to bear the owner's proportionate share of the costs.

(13) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in Subsection (3), or any mixture of them.

(b) "Oil" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

(14) "Oil and gas operations" means to explore for, develop, or produce oil and gas.

(15) (a) "Oil and gas proceeds" means any payment that:

(i) derives from oil and gas production from any well located in the state;

(ii) is expressed as a right to a specified interest in the:

(A) cash proceeds received from the sale of the oil and gas; or

(B) the cash value of the oil and gas; and

(iii) is subject to any tax withheld from the payment pursuant to law.

(b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest, production payment interest, or working interest.

(c) "Oil and gas proceeds" does not include a net profits interest or other interest the extent of which cannot be determined with reference to a specified share of:

(i) the cash proceeds received from the sale of the oil and gas; or

(ii) the cash value of the oil and gas.

(16) "Operator" means a person who has been designated by the owners or the board to operate a well or unit.

(17) (a) "Other gas" means nonhydrocarbon gases that:

(i) occur naturally in the gaseous phase in the reservoir; or

(ii) are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

(b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

(18) "Owner" means a person who has the right:

(a) to drill into and produce from a reservoir; and

(b) to appropriate the oil and gas produced for that person or for that person and others.

(19) "Payor" means the person who undertakes to distribute oil and gas proceeds to the persons entitled to them, whether as the first purchaser of that production, as operator of the well from which the production was obtained, or as lessee under the lease on which royalty is due.

(20) "Person" means the same as that term is defined in Section 68-3-12.5 and includes an operator or owner as used in this chapter.

(21) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

(22) "Pooling" means the bringing together of separately owned interests for the common development and operation of a drilling unit.

(23) (a) "Pore space" means subsurface porous material possessing free space, naturally or artificially created, between the mineral grains.

(b) "Pore space":

(i) is expressed as a percentage; and

(ii) depends on the size and sorting of the subsurface material's particles as a cubic or hexagonic package.

(c) "Pore space" does not include void or cavern space created by the removal of minerals in the course of solution mining or other mining operations.

[~~(23)~~] (24) "Producer" means the owner or operator of a well capable of producing oil and gas.

[~~(24)~~] (25) "Product" means any commodity made from oil and gas.

[~~(25)~~] (26) "Surface land" means privately owned land:

(a) overlying privately owned oil and gas resources;

(b) upon which oil and gas operations are conducted; and

(c) owned by a surface land owner.

[~~(26)~~] (27) (a) "Surface land owner" means a person who owns, in fee simple absolute, all or part of the surface land as shown by the records of the county where the surface land is located.

(b) "Surface land owner" does not include the surface land owner's lessee, renter, tenant, or other contractually related person.

[~~(27)~~] (28) "Surface land owner's property" means a surface land owner's:

(a) surface land;

(b) crops on the surface land; and

(c) existing improvements on the surface land.

[~~(28)~~] (29) "Surface use agreement" means an agreement between an owner or operator and a surface land owner addressing:

(a) the use and reclamation of surface land owned by the surface land owner; and

(b) compensation for damage to the surface land caused by oil and gas operations that result in:

(i) loss of the surface land owner's crops on the surface land;

(ii) loss of value of existing improvements owned by the surface land owner on the surface land; and

(iii) permanent damage to the surface land.

[~~(29)~~] (30) "Waste" means:

(a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or gas or reservoir energy;

(b) the inefficient storing of oil or gas;

(c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes:

(i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations;

(ii) unnecessary wells to be drilled; or

(iii) the loss or destruction of oil or gas either at the surface or subsurface; or

(d) the production of oil or gas in excess of:

(i) transportation or storage facilities; or

(ii) the amount reasonably required to be produced as a result of the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

Section 2. Section 40-6-5 is amended to read:

40-6-5. Jurisdiction of board -- Rules.

(1) The board has jurisdiction over all persons and property necessary to enforce this chapter. The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) The board shall make rules and orders as necessary to administer the following provisions:

(a) Ownership of all facilities for the production, storage, treatment, transportation, refining, or processing of oil and gas shall be identified.

(b) Well logs, directional surveys, and reports on well location, drilling, and production shall be made and filed with the division. Logs of wells marked "confidential" shall be kept confidential for one year after the date on which the log is required to be filed, unless the operator gives written permission to release the log at an earlier date. Production reports shall be:

(i) filed monthly;

(ii) accurate; and

(iii) in a form that reasonably serves the needs of state agencies and private fee owners.

(c) Monthly reports from gas processing plants shall be filed with the division.

(d) Wells shall be drilled, cased, cemented, operated, and plugged in such manner as to prevent:

(i) the escape of oil, gas, or water out of the reservoir in which they are found into another formation;

(ii) the detrimental intrusion of water into an oil or gas reservoir;

(iii) the pollution of fresh water supplies by oil, gas, or salt water;

(iv) blowouts;

(v) cavings;

(vi) seepages;

(vii) fires; and

(viii) unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(e) The drilling of wells may not commence without an adequate and approved supply of water as required by Title 73, Chapter 3, Appropriation. This Subsection (2)(e) is not intended to impose additional legal requirements, but to assure that existing legal requirements concerning the use of water have been met before the commencement of drilling.

(f) Subject to Subsection (9), an operator shall furnish a reasonable performance bond or other good and sufficient surety, conditioned for the performance of the duty to:

(i) plug each dry or abandoned well;

(ii) repair each well causing waste or pollution;

(iii) maintain and restore the well site; and

(iv) except as provided in Subsection (8), protect a surface land owner against unreasonable:

(A) loss of a surface land owner's crops on surface land;

(B) loss of value of existing improvements owned by a surface land owner on surface land; and

(C) permanent damage to surface land.

(g) Production from wells shall be separated into oil and gas and measured by means and upon standards that are prescribed by the board and reflect current industry standards.

(h) Crude oil obtained from any reserve pit, disposal pond or pit, or similar facility, and any accumulation of nonmerchantable waste crude oil shall be treated and processed, as prescribed by the board.

(i) Any person who produces, sells, purchases, acquires, stores, transports, refines, or processes oil or gas or injects fluids for cycling, pressure maintenance, secondary or enhanced recovery, or salt water disposal in this state shall maintain complete and accurate records of the quantities produced, sold, purchased, acquired, stored, transported, refined, processed, or injected for a period of at least six years. The records shall be available for examination by the board or the board's agents at any reasonable time. Rules enacted to administer this Subsection (2)(i) shall be consistent with applicable federal requirements.

(j) Any person with an interest in a lease shall be notified when all or part of that interest in the lease is sold or transferred.

(k) The assessment and collection of administrative penalties is consistent with Section 40-6-11.

(3) The board has the authority to regulate:

(a) all operations for and related to the production of oil or gas including:

(i) drilling, testing, equipping, completing, operating, producing, and plugging of wells; and

(ii) reclamation of sites;

(b) the spacing and location of wells;

(c) operations to increase ultimate recovery, such as:

(i) cycling of gas;

(ii) the maintenance of pressure; and

(iii) the introduction of gas, water, or other substances into a reservoir;

(d) the disposal of salt water and oil-field wastes;

(e) the underground and surface storage of oil, gas, or products; and

(f) the flaring of gas from an oil well.

(4) For the purposes of administering this chapter, the board may designate:

(a) wells as:

(i) oil wells; or

(ii) gas wells; and

(b) pools as:

(i) oil pools; or

(ii) gas pools.

(5) The board has exclusive jurisdiction over:

(a) class II injection wells, as defined by the federal Environmental Protection Agency or a successor agency; [~~and~~]

(b) pits and ponds in relation to these injection wells[~~.~~];

(c) when granted primacy by the Environmental Protection Agency, class VI injection wells, as defined by the Environmental Protection Agency or a successor agency; and

(d) storage facilities, as that term is defined in Section 40-11-1.

(6) The board has jurisdiction:

(a) to hear questions regarding multiple mineral development conflicts with oil and gas operations if there:

(i) is potential injury to other mineral deposits on the same lands; or

(ii) are simultaneous or concurrent operations conducted by other mineral owners or lessees affecting the same lands; and

(b) to enter the board's order or rule with respect to those questions.

(7) The board has enforcement powers with respect to operators of minerals other than oil and gas as are set forth in Section 40-6-11, for the sole purpose of enforcing multiple mineral development issues.

(8) Subsection (2)(f)(iv) does not apply if the surface land owner is a party to, or a successor of a party to:

(a) a lease of the underlying privately owned oil and gas;

(b) a surface use agreement applicable to the surface land owner's surface land; or

(c) a contract, waiver, or release addressing an owner's or operator's use of the surface land owner's surface land.

(9) (a) The board shall review rules made under Subsection (2)(f) to determine whether the rules provide adequate fiscal security for the fiscal risks to the state related to oil and gas operations.

(b) During the board's review under this Subsection (9), the board may consider the bonding schemes of other states.

Section 3. Section 40-6-20.5 is enacted to read:

40-6-20.5. Title to pore space.

(1) Title to pore space underlying the surface estate is vested in the owner of the surface estate.

(2) Nothing in this section shall be interpreted to increase or diminish any property right established under the laws of the state.

Section 4. Section 40-11-1 is enacted to read:

CHAPTER 11. GEOLOGIC CARBON STORAGE

40-11-1. Definitions.

As used in this chapter:

(1) "Board" means the Board of Oil, Gas, and Mining.

(2) (a) "Carbon dioxide" means carbon dioxide (CO2) that has been captured from an emission source or direct air capture, plus incidental associated substances derived from the source materials and the capture process, and any substances added to the carbon dioxide to enable or improve the injection process.

(b) "Carbon dioxide" does not include hazardous waste as that term is defined in Section 19-6-102.

(3) "Class VI injection well" means the same as that term is defined in 40 C.F.R. 146.5(f).

(4) "Division" means the Division of Oil, Gas, and Mining.

(5) "Geologic carbon storage" means the permanent or short-term underground storage of carbon dioxide in a storage reservoir.

(6) "Geologic carbon storage activity" means activity associated with the development, production, processing, and storage of carbon dioxide as set forth in Title 40, Chapter 11, Utah Geologic Carbon Sequestration Act, and includes:

(a) drilling;

(b) development of storage facilities;

(c) completion, maintenance, reworking, recompletion, disposal, plugging, and abandonment of storage facilities;

(d) construction activities;

(e) recovery techniques;

(f) remediation activities; and

(g) any other activity related to geologic carbon storage that the board identifies.

(7) "Permit" means a permit issued by the division and approved by the board allowing a person to operate a storage facility.

(8) "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or void, whether natural or artificially created, including oil and gas reservoirs, saline formations, and coal seams suitable for or capable of being made suitable for geologic carbon storage.

(9) (a) "Storage facility" means the reservoir, underground equipment, and surface facilities and equipment used or proposed to be used in a geologic carbon storage operation.

(b) "Storage facility" does not include pipelines used to transport carbon dioxide to a storage facility.

(10) "Storage operator" means a person holding or applying for a permit.

Section 5. Section 40-11-2 is enacted to read:

40-11-2. Preemption.

(1) Regulation of geologic carbon storage is of statewide concern and the state regulation of geologic carbon storage activity occupies the whole field of geologic carbon storage subject to:

(a) the granting of primacy over Class VI geologic sequestration wells; and

(b) relevant federal law.

(2) The legislative body of a political subdivision may enact, amend, or enforce a local ordinance, resolution, or rule consistent with the political subdivision's general land use authority that:

(a) regulates only surface activity that is incidental to geologic carbon storage activity;

(b) does not effectively or unduly limit, ban, or prohibit geologic carbon storage activity; and

(c) is not otherwise preempted by state or federal law.

Section 6. Section 40-11-3 is enacted to read:

40-11-3. Board authority -- Rulemaking authority.

(1) The board and the division have jurisdiction over all persons and property necessary to enforce this chapter.

(2) To enforce this chapter, the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Subject to the granting of primacy by the Environmental Protection Agency under the process required in 40 C.F.R. Section 145 and successful application for primacy approval under Section 1425 of the Safe Drinking Water Act, the board and the division have:

(a) exclusive jurisdiction in the state over Class VI injection wells located in the state on nonfederal lands; and

(b) cooperative jurisdiction in the state over Class VI injection wells located in the state on federal lands.

(4) The board shall establish fees in accordance with Section 63J-1-504, in an amount to pay the costs to the board and division of:

(a) the permitting process;

(b) the regulation of the construction, operation, and pre-closure activities of the storage facility; and

(c) the monitoring of closed storage facilities.

Section 7. Section 40-11-4 is enacted to read:

40-11-4. Board and division permit authority.

To the extent required to authorize and issue permits and to regulate geologic carbon sequestration, the board and the division shall have authority:

(1) over all persons and property necessary to administer and enforce this chapter and this chapter's objectives;

(2) to regulate activities relating to a storage facility, including construction, operation, and closure;

(3) to enter, at a reasonable time and manner, a storage facility to:

(a) inspect equipment and surface storage facilities;

(b) observe, monitor, and investigate operations; or

(c) inspect records the board requires the operators maintain at the storage facility;

(4) to require that storage operators provide assurance, including bonds, that money is available to fulfill the storage operator's duties;

(5) to exercise continuing jurisdiction over storage operators and storage facilities, including the authority, after notice and hearing, to amend provisions in a permit and to revoke a permit; and

(6) to dissolve or change the boundaries of any unit that is within or near a storage reservoir's boundaries.

Section 8. Section 40-11-5 is enacted to read:

40-11-5. Permits.

(1) Subject to the granting of primacy as described in Section 40-11-3, the board may authorize the division to issue a permit.

(2) A person may only transfer a permit to another person with permission of the board.

(3) A person may not engage in geologic carbon storage in the state without a permit.

Section 9. Section 40-11-6 is enacted to read:

40-11-6. Permit application requirements.

(1) A person applying for a permit shall:

(a) comply with:

(i) the application requirements the board establishes through rule; and

(ii) the application requirements described in this section; and

(b) pay a fee, as established by the board, to cover the administrative costs of considering an application for a permit.

(2) The board shall give priority to storage operators who apply for a permit to store carbon dioxide produced in Utah.

(3) A permit application shall demonstrate:

(a) that the storage operator has complied with all requirements established by the board in rule and in this chapter;

(b) that the storage facility is suitable for carbon dioxide injection and storage;

(c) that the carbon dioxide the storage operator will store is of a quality that allows the carbon dioxide to be safely and efficiently stored in the reservoir;

(d) that the storage operator has made a good-faith effort to get the consent of all persons who own the storage reservoir's pore space;

(e) that owners who own no less than 70% of the reservoir's pore space have provided written consent to the use of the owners' pore space for a storage facility;

(f) whether the storage facility contains commercially valuable minerals;

(g) if the storage facility contains commercially valuable minerals:

(i) a plan for addressing the ownership interests of the mineral owners or mineral lessees; and

(ii) a demonstration that the storage facility will not negatively impact the commercially valuable minerals;

(h) that the storage reservoir meets the integrity requirements described in Section 40-11-13;

(i) that the operator has taken reasonable steps to ensure that:

(i) the storage facility will not endanger human health;

(ii) the storage facility will not endanger the environment;

(iii) the storage facility is in the public interest;

(iv) the storage facility will not adversely affect surface water or formation containing fresh water;

(v) carbon dioxide will not escape from the storage reservoir at a rate exceeding the lower of 1% or the standard recommended by the Environmental Protection Agency; and

(vi) that substances that compromise the objectives of this chapter or the integrity of a reservoir will not enter the reservoir;

(j) that the storage reservoir has defined horizontal and vertical boundaries;

(k) that the boundaries of the storage reservoir include buffer areas to ensure the safe operation of the storage facility;

(l) plans for monitoring the storage facility and procedures to assess the location and migration of carbon dioxide injected for storage;

(m) plans to ensure compliance with geologic carbon storage statutes and rules; and

(n) assurance that all nonconsenting pore space owners are or will be equitably compensated for the use of the pore space of the nonconsenting pore space owners in the storage facility.

Section 10. Section 40-11-7 is enacted to read:

40-11-7. Permit hearing.

(1) The board shall hold a public hearing before authorizing the division to issue a permit.

(2) The board shall conduct the hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) The board shall give notice no fewer than 30 days prior to the hearing by:

(a) one publication in a daily newspaper of general circulation in Salt Lake City, Utah;

(b) in all newspapers of general circulation published in the county or counties in which the land affected is situated; and

(c) by publication in accordance with Section 45-1-101.

(4) In addition to the notice required in Subsection (3), an applicant shall provide notice of the hearing and a copy of the permit application, no fewer than 30 days before the hearing to:

(a) each mineral lessee within one-half mile of the storage reservoir's boundaries;

(b) each mineral owner within one-half mile of the storage reservoir's boundaries;

(c) each pore space owner within one-half mile of the storage reservoir's boundaries;

(d) each surface owner of land within one-half mile of the storage reservoir's boundaries; and

(e) any additional person the board identifies.

(5) An applicant shall serve the notice described in Subsection (4) through personal service.

(6) The board may, in accordance with the requirements of Section 63G-6a-116, procure the services of an administrative law judge to conduct the hearing described in Subsection (1).

(7) If the board procures the services of an administrative law judge, the board may rely on the decision of the administrative law judge when deciding whether to issue a permit.

Section 11. Section 40-11-8 is enacted to read:

40-11-8. Findings to issue a permit.

Before issuing a permit, the board shall find that:

(1) the application meets all of the requirements described in Section 40-11-6; and

(2) the interested parties described in Subsection 40-11-7(4) all received proper notice.

Section 12. Section 40-11-9 is enacted to read:

40-11-9. Permit provisions.

(1) A permit shall require that:

(a) an operator remain in compliance with all of the permit requirements described in Subsection 40-11-6(3); and

(b) an operator comply with any additional provisions the board imposes.

(2) The board may make a permit contingent upon:

(a) the payment of fair compensation to pore space owners who do not consent to the use of the owners' pore space for geologic carbon storage;

(b) the recording of the permit as described in Section 40-11-12; and

(c) additional provisions to protect the environment and the property interests of the parties described in Subsection 40-11-7(4).

Section 13. Section 40-11-10 is enacted to read:

40-11-10. Amalgamation of interests -- Board may order amalgamation -- Payment of costs and interests -- Accounting.

(1) Two or more owners of contiguous pore space may bring together the owners' interests for the development of a storage facility.

(2) (a) In the absence of a written agreement for amalgamation, including a joint operating agreement, the board may enter an order combining all interests in the contiguous pore space for the development of a storage facility.

(b) The order shall be made upon terms and conditions that are just and reasonable.

(c) The board may adopt terms appearing in a joint operating agreement:

(i) for the storage facility that is in effect between the consenting owners;

(ii) submitted by any party to the proceeding; or

(iii) submitted by the board on the board's own motion.

(3) Operations incident to the construction or operation of a storage facility upon any portion of an area included in an amalgamation order shall be deemed for all purposes to be the conduct of the operations upon each separately owned tract in the area by the several orders.

(4) (a) (i) Each amalgamation order shall provide for the payment of just and reasonable costs incurred in the construction and operation of the storage facility, including:

(A) the costs of constructing, marketing, completing, and operating the storage facility;

(B) reasonable charges for the administration and supervision of operations; and

(C) other costs customarily incurred in the industry.

(ii) An owner is not liable under an amalgamation order for costs or losses resulting from the gross negligence or willful misconduct of the operator.

(b) Each amalgamation order shall provide for reimbursement to the consenting owners for any nonconsenting owner's share of the costs of operation of the storage facility attributable to the nonconsenting owner's tract.

(c) Each amalgamation order shall provide that each consenting owner shall own and be entitled to receive, subject to taxes, fees, fines, and other obligations:

(i) the share of the profits of the storage facility applicable to the consenting owner's interest in the storage facility; and

(ii) unless the consenting owner has agreed otherwise, the consenting owner's proportionate part of the nonconsenting owner's share of the profits until the recovery of costs provided for in Subsection (4)(d).

(d) (i) Each amalgamation order shall provide that each nonconsenting owner shall be entitled to receive, subject to obligations, the share of the profits from the storage facility applicable to the nonconsenting owner's interest in the storage facility after the consenting owners have recovered from the nonconsenting owner's share of the profits the following amounts less any cash contributions the nonconsenting owner has made:

(A) 100% of the nonconsenting owner's share of the cost of storage facility construction and maintenance;

(B) 100% of the nonconsenting owner's share of the estimated cost to close the storage facility as the board determines;

(C) 100% of the nonconsenting owner's share of the cost of operation of the storage facility commencing with the first injection of carbon dioxide and continuing until the consenting owners have recovered all costs; and

(D) 100% of the nonconsenting owner's share of the costs of preparing the storage facility, rights-of-way, and equipment.

(ii) The nonconsenting owner's share of the costs specified in Subsection (4)(d)(i) is that interest which would have been chargeable to the nonconsenting owner had the nonconsenting owner initially agreed to pay the nonconsenting owner's share of the costs of the storage facility from commencement of the operation.

(iii) The board may include a reasonable interest charge if the board finds it appropriate.

(e) The board shall determine the proper costs to resolve any dispute about costs.

(5) The operator of a storage facility under an amalgamation order in which there is a nonconsenting owner shall furnish the nonconsenting owner with monthly statements specifying:

(a) costs incurred; and

(b) profit realized.

(6) Each amalgamation order shall provide that when the consenting owners recover from a nonconsenting owner's relinquished interest the amounts provided for in Subsection (4)(d):

(a) the relinquished interest of the nonconsenting owner shall automatically revert to the nonconsenting owner;

(b) the nonconsenting owner shall from that time:

(i) own the same interest in the storage facility; and

(ii) be liable for the further costs of the operation as if the nonconsenting owner had participated in the initial drilling and operations; and

(iii) costs are payable out of profits unless otherwise agreed between the nonconsenting owner and the operator.

(7) Each amalgamation order shall provide that in any circumstance where the nonconsenting owner has relinquished the nonconsenting owner's share of profits to consenting owners or at any time fails to take the nonconsenting owner's share of benefits when the nonconsenting owner is entitled to do so, the nonconsenting owner is entitled to:

(a) an accounting of the profits applicable to the nonconsenting owner's relinquished share of the storage facility; and

(b) payment of the profits applicable to that share of the profits not taken in-kind, net of costs.

(8) A nonconsenting owner who does not take the nonconsenting owner's share of the profits is not liable for the costs described in Subsection (4)(d) and is not liable for any actions the operator takes with respect to the storage facility.

Section 14. Section 40-11-11 is enacted to read:

40-11-11. Geologic carbon storage amalgamation unit -- Procedure for establishment -- Operation.

(1) The board may hold a hearing to consider the need for the amalgamation of a tract for geologic carbon storage.

(2) The board shall make an order providing for the amalgamation of a tract for geologic carbon storage, if the board finds that:

(a) amalgamation is reasonably necessary for the purposes of this chapter; and

(b) the value of amalgamation justifies proceeding against the nonconsenting owner's wishes.

(3) The amalgamation order shall include:

(a) a description of the lands and of the reservoir to become a storage facility;

(b) a statement of the nature of the operations contemplated;

(c) an allocation to the separately owned tracts in the amalgamation unit of the profits the storage facility receives, considering:

(i) agreements among interested parties; and

(ii) the relative value of the separately owned tracts within the amalgamation area;

(d) a provision for adjustment among the owners of the amalgamation area for investments made prior to the amalgamation order;

(e) a provision determining the allocation of costs among owners, and how the owners shall pay those costs;

(f) any necessary provision for:

(i) financing an owner; or

(ii) carrying an owner;

(g) a provision for the supervision and conduct of the storage facility operations, including a percentage vote for each owner;

(h) additional provisions that are necessary and appropriate for carrying on the operation of the amalgamation unit; and

(i) the designation of an operator of the amalgamation unit.

(4) An amalgamation order described in Subsection (3) shall only be effective after the plan for operating the storage facility is approved in writing by:

(a) owners whose obligations under the amalgamation order require them to pay not less than 70% of the costs for operating and constructing the facility; and

(b) owners whose combined interest under the amalgamation order is not less than 70% of the profits from the operation of the storage facility.

Section 15. Section 40-11-12 is enacted to read:

40-11-12. Requirement to record.

An operator shall file a record of the permit and a description of the impacted land with the recorder's office in each county where the storage facility is located.

Section 16. Section 40-11-13 is enacted to read:

40-11-13. Reservoir integrity.

(1) Carbon dioxide injected into and stored in a reservoir in compliance with the requirements of this section is not:

(a) pollution, as that term is defined in Section 4-18-103; or

(b) a nuisance, as that term is defined in Section 4-44-102.

(2) A reservoir is only appropriate for geologic carbon storage if the board determines and the operator demonstrates that:

(a) carbon dioxide cannot escape the reservoir at a rate exceeding the lower of 1% or the standard recommended by the Environmental Protection Agency;

(b) no additional substances will be introduced into the storage facility that could compromise the integrity of the storage reservoir; and

(c) the operator has a plan to maintain the integrity of the reservoir.

(3) When making a determination described in Subsection (2), the board may rely upon:

(a) a finding from the Utah Geological Survey, created in Section 79-3-201 that the reservoir is appropriate for the storage of carbon dioxide; and

(b) reports and findings from the Department of Environmental Quality, created in Section 19-1-104.

(4) The board shall take action to enforce the provisions of this section.

Section 17. Section 40-11-14 is enacted to read:

40-11-14. Preservation of rights.

Nothing in this chapter or in a permit may be interpreted to:

(1) prejudice the rights of property owners who own property that hosts a storage facility to the

extent that those property rights are not committed to the storage facility;

(2) prevent a mineral owner or mineral lessee from drilling through or near a storage reservoir to explore or develop mineral resources to the extent that the exploration and development:

(a) preserves the integrity of the storage facility; and

(b) complies with requirements described in this chapter.

Section 18. Section 40-11-15 is enacted to read:

40-11-15. Title to injected carbon dioxide.

(1) The storage operator has title to the carbon dioxide injected into and stored in a storage reservoir and holds title until the board issues a certificate of project completion.

(2) The storage operator is liable for any damage the stored carbon dioxide may cause, including damage caused by escaping stored carbon dioxide until the board issues a certificate of completion.

(3) An owner of pore space does not incur liability for geologic carbon storage activity by virtue of ownership of or of leasing out the pore space.

Section 19. Section 40-11-16 is enacted to read:

40-11-16. Certificate of project completion.

(1) To request a certificate of project completion, a storage operator shall submit:

(a) a demonstration that the last carbon dioxide injection was no fewer than 10 years preceding the filing;

(b) a statement of compliance with all statutes and rules regulating the storage facility;

(c) a demonstration of the resolution of all pending claims regarding the storage facility;

(d) a demonstration of the present and future physical integrity of the storage reservoir;

(e) a demonstration that any carbon dioxide in the storage reservoir:

(i) is essentially stationary; or

(ii) if the carbon dioxide migrates or will migrate, is highly unlikely to cross the storage reservoir boundary;

(f) a demonstration that all wells, equipment, and facilities necessary for maintaining the continued integrity of the storage reservoir are currently in good condition and will maintain that good condition;

(g) a demonstration that the operator has:

(i) plugged wells;

(ii) removed equipment and facilities not necessary to maintaining the integrity of the reservoir; and

(iii) completed any other reclamation work the board requires.

(2) Immediately after the board issues a certificate of completion:

(a) title to the storage facility and the stored carbon dioxide transfers to the state;

(b) liability with respect to the storage facility and the stored carbon dioxide transfers to the state;

(c) the storage operator and any person who is not the state who has property rights in the storage facility is released from any obligation to comply with regulatory requirements associated with the storage facility;

(d) the board shall release any bonds the storage operator has posted; and

(e) the division shall oversee the monitoring and managing of the storage facility.

Section 20. Section 40-11-17 is enacted to read:

40-11-17. Application of this chapter to enhanced recovery projects.

(1) This chapter does not apply to the injection of carbon dioxide for an enhanced oil or gas recovery project.

(2) (a) This chapter does apply to the conversion of an enhanced oil or gas recovery project to a storage facility.

(b) To accommodate the conversion described in Subsection (2)(a), the board may make additional rules to allow for circumstances unique to the conversion of an enhanced oil and gas recovery project to a storage facility and not otherwise anticipated under this chapter.

Section 21. Section 40-11-18 is enacted to read:

40-11-18. Cooperative agreements and contracts.

(1) The board may enter into an agreement with another government, government entity, or state agency for the purpose of carrying out the objectives described in this chapter.

(2) The board may enter into a contract with a private person in order for the board to carry out the board's objectives.

(3) The board shall follow Title 63G, Chapter 6a, Utah Procurement Code, when entering into an agreement or contract described in Subsection (1) or (2).

Section 22. Section 40-11-19 is enacted to read:

40-11-19. Participation of public interests.

The governing body of a controlling state interest or interest of a political subdivision is authorized to consent to and participate in a geologic carbon storage project.

Section 23. Section 40-11-20 is enacted to read:

40-11-20. Adoption of procedure.

(1) The board may adopt procedures and criteria to determine the amount of injected carbon dioxide:

(a) stored in a reservoir that has been or is being used for an enhanced oil or gas recovery project; or

(b) stored in a reservoir that is a part of a storage facility.

(2) The board may charge a fee to cover the costs of making a determination described in Subsection (1).

(3) The division shall deposit a fee collected in accordance with Subsection (2) into the Geologic Carbon Storage Facility Administrative Fund created in Section 40-11-21.

Section 24. Section 40-11-21 is enacted to read:

40-11-21. Fees -- Geologic Carbon Storage Facility Administrative Fund.

(1) There is levied a fee per ton of carbon dioxide injected into a reservoir.

(2) The board shall establish the fee described in Subsection (1) in accordance with Section 63J-1-504, in an amount to pay the costs to the division of the regulation of storage facility:

(a) construction;

(b) operation; and

(c) pre-closure activities.

(3) Money the board collects in accordance with this section shall be deposited into the Geologic Carbon Storage Facility Administrative Fund created in Subsection (4).

(4) There is created an expendable special revenue fund known as the "Geologic Carbon Storage Facility Administrative Fund."

(5) The fund shall consist of the money specified in Subsections (1) through (3), Section 40-11-20, and interest earned on the fund.

(6) The division shall only use the money deposited into the Geologic Carbon Storage Facility Administrative Fund to:

(a) defray the division's regulatory expenses incurred during the regulation of storage facility:

(i) construction;

(ii) operation; and

(iii) pre-closure activities;

(b) make determinations in accordance with Section 40-11-20; and

(c) reimburse a regulatory agency with whom the board has entered into a cooperative agreement described in Section 40-11-18 for expenses the cooperating agency incurs in conducting the activities described in Subsections (6)(a) and (b).

Section 25. Section 40-11-22 is enacted to read:

40-11-22. Fees -- Geologic Carbon Storage Facility Trust Fund.

(1) There is levied a fee per ton of carbon dioxide injected into a storage facility.

(2) The board shall establish the fee described in Subsection (1) in accordance with Section 63J-1-504, in an amount to pay the costs to the division of the long-term monitoring and management of a closed storage facility.

(3) Money the division collects as a result of the fee described in Subsection (1) shall be deposited in the Geologic Carbon Storage Facility Trust Fund created in Subsection (4).

(4) There is created an expendable special revenue fund known as the "Geologic Carbon Storage Facility Trust Fund."

(5) The fund shall consist of the money specified in Subsections (1) through (3) and interest earned on the fund.

(6) The division shall only use the money deposited into the Geologic Carbon Storage Facility Trust Fund to:

(a) defray the expenses the division incurs in the long-term monitoring and management of a closed storage facility; or

(b) to reimburse a regulatory agency with whom the board has entered into a cooperative agreement described in Section 40-11-18 for expenses the cooperating agency incurs in the long-term monitoring and management of a closed storage facility.

CHAPTER 63
H. B. 254

Passed February 25, 2022
Approved March 21, 2022
Effective May 4, 2022
(Exception clause in Section 5)

UTAH STATE RAILROAD MUSEUM AUTHORITY AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill makes changes related to the Utah State Railroad Museum Authority.

Highlighted Provisions:

This bill:

- requires the Utah State Railroad Museum Authority to return unused appropriations to the Division of Finance for deposit in the General Fund;
- provides for the repeal of the Utah State Railroad Museum Authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Cultural and Community Engagement -- Pass Through, as a one-time appropriation:
  - from the General Fund, One-time, $97,800.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63E-1-102, as last amended by Laws of Utah 2018, Chapter 393

63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4

ENACTS:

63H-5-111, Utah Code Annotated 1953

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

Section 1. Section 63E-1-102 is amended to read:

63E-1-102. Definitions -- List of independent entities.

As used in this title:

(1) "Authorizing statute" means the statute creating an entity as an independent entity.

(2) "Committee" means the Retirement and Independent Entities Committee created by Section 63E-1-201.

(3) "Independent corporation" means a corporation incorporated in accordance with Chapter 2, Independent Corporations Act.

(4) (a) "Independent entity" means an entity having a public purpose relating to the state or its citizens that is individually created by the state or is given by the state the right to exist and conduct its affairs as an:

(i) independent state agency; or

(ii) independent corporation.

(b) "Independent entity" includes the:

(i) Utah Beef Council, created by Section 4-21-103;

(ii) Utah Dairy Commission created by Section 4-22-103;

(iii) Heber Valley Historic Railroad Authority created by Section 63H-4-102;

[~~(iv) Utah State Railroad Museum Authority created by Section 63H-5-102;~~]

[~~(v)~~] (iv) Utah Housing Corporation created by Section 63H-8-201;

[~~(vi)~~] (v) Utah State Fair Corporation created by Section 63H-6-103;

[~~(vii)~~] (vi) Utah State Retirement Office created by Section 49-11-201;

[~~(viii)~~] (vii) School and Institutional Trust Lands Administration created by Section 53C-1-201;

[~~(ix)~~] (viii) School and Institutional Trust Fund Office created by Section 53D-1-201;

[~~(x)~~] (ix) Utah Communications Authority created by Section 63H-7a-201;

[~~(xi)~~] (x) Utah Energy Infrastructure Authority created by Section 63H-2-201;

[~~(xii)~~] (xi) Utah Capital Investment Corporation created by Section 63N-6-301; and

[~~(xiii)~~] (xii) Military Installation Development Authority created by Section 63H-1-201.

(c) Notwithstanding this Subsection (4), "independent entity" does not include:

(i) the Public Service Commission of Utah created by Section 54-1-1;

(ii) an institution within the state system of higher education;

(iii) a city, county, or town;

(iv) a local school district;

(v) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts; or

(vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

(5) "Independent state agency" means an entity that is created by the state, but is independent of the governor's direct supervisory control.

(6) "Money held in trust" means money maintained for the benefit of:

(a) one or more private individuals, including public employees;

(b) one or more public or private entities; or

(c) the owners of a quasi-public corporation.

(7) "Public corporation" means an artificial person, public in ownership, individually created by the state as a body politic and corporate for the administration of a public purpose relating to the state or its citizens.

(8) "Quasi-public corporation" means an artificial person, private in ownership, individually created as a corporation by the state, which has accepted from the state the grant of a franchise or contract involving the performance of a public purpose relating to the state or its citizens.

Section 2. Section 63H-5-111 is enacted to read:

63H-5-111. Return of appropriations.

(1) On or before June 30, 2022, the authority shall return to the Division of Finance the unused portion of appropriations made to the authority by the Legislature.

(2) The Division of Finance shall deposit funds received from the authority in the General Fund.

Section 3. Section 63I-2-263 is amended to read:

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

(1) Section 63A-3-111 is repealed June 30, 2021.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(4) Section 63G-1-502 is repealed July 1, 2022.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Title 63H, Chapter 5, Utah State Railroad Museum Authority, is repealed on July 1, 2022.

[~~(6)~~] (7) Section 63H-7a-303 is repealed July 1, 2024.

[~~(7)~~] (8) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

[~~(8)~~] (9) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(9)~~] (10) Section 63M-7-217 is repealed on July 1, 2022.

[~~(10)~~] (11) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(11)~~] (12) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Cultural and Community Engagement -- Pass Through

From General Fund, One-time	$97,800
Schedule of Programs:	
Pass Through	$97,800

The Legislature intends that the Department of Cultural and Community Engagement pass through:

(1) one-half of the appropriation described in this item to the Heber Valley Historic Railroad Authority, to be used in accordance with the requirements described in Subsection 63H-4-106(3); and

(2) one-half of the appropriation described in this item to the Ogden Union Station, to be used for operations and maintenance costs.

Section 5. Effective date.

This bill takes effect on May 4, 2022, except that the amendments to Section 63E-1-102 take effect on July 1, 2022.

CHAPTER 64
H. B. 259

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

LAW ENFORCEMENT USE OF UNMANNED AIRCRAFT

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to the use of an unmanned aircraft system in conjunction with an imaging surveillance device.

Highlighted Provisions:

This bill:

- amends provisions related to allowable law enforcement use of an unmanned aircraft system to apply to the use of an imaging surveillance device in conjunction with an unmanned aircraft system.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-14-203, as renumbered and amended by Laws of Utah 2017, Chapter 364

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

Section 1. Section 72-14-203 is amended to read:

72-14-203. Unmanned aircraft system use requirements -- Exceptions.

(1) A law enforcement agency or officer may not obtain, receive, or use data acquired through an unmanned aircraft system unless the data is obtained:

(a) pursuant to a search warrant;

(b) in accordance with judicially recognized exceptions to warrant requirements;

(c) subject to Subsection (2), from a person who is a nongovernment actor;

(d) to locate a lost or missing person in an area in which a person has no reasonable expectation of privacy; or

(e) for purposes unrelated to a criminal investigation.

(2) A law enforcement officer or agency may only use for law enforcement purposes data obtained from a nongovernment actor if:

(a) the data appears to pertain to the commission of a crime; or

(b) the law enforcement agency or officer believes, in good faith, that:

(i) the data pertains to an imminent or ongoing emergency involving danger of death or serious bodily injury to an individual; and

(ii) disclosing the data would assist in remedying the emergency.

(3) A law enforcement agency or officer that obtains, receives, or uses data acquired through the use of an unmanned aircraft system or through Subsection (2) shall destroy the data as soon as reasonably possible after the law enforcement agency or officer obtains, receives, or uses the data subject to an applicable retention schedule under Title 63G, Chapter 2, Government Records Access and Management Act, or a federal, state, or local law.

(4) This section applies to any imaging surveillance device, as defined in Section 77-23d-102, when used in conjunction with an unmanned aircraft system.

CHAPTER 65
H. B. 263

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

UTAH WATERSHEDS COUNCIL AMENDMENTS

Chief Sponsor: Scott H. Chew
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill addresses the Utah Watersheds Council.

Highlighted Provisions:

This bill:

- modifies the membership of the Utah Watersheds Council;
- removes outdated language; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10g-304, as enacted by Laws of Utah 2020, Chapter 309

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

Section 1. Section 73-10g-304 is amended to read:

73-10g-304. Utah Watersheds Council -- Creation and governance.

(1) Within the Department of Natural Resources, there is created the "Utah Watersheds Council" consisting of the following members who are residents of the state:

(a) the executive director of the Department of Natural Resources;

(b) the executive director of the Department of Environmental Quality;

(c) the commissioner of the Department of Agriculture and Food;

(d) the director of the Utah Division of Indian Affairs;

(e) the Utah State University Extension vice president;

(f) the director of the Division of Emergency Management within the Department of Public Safety;

(g) a representative designated by the Utah Association of Counties;

(h) a representative designated by the Utah League of Cities and Towns;

(i) a representative designated by the Utah Association of Special Districts;

(j) a representative of reclamation projects located in the state selected by the governor from a list of three persons nominated jointly by the local sponsors of reclamation projects located in the state and the executive director of the Department of Natural Resources;

(k) a representative of agricultural interests selected by the governor from a list of three persons nominated jointly by the commissioner of the Department of Agriculture and Food, the president of the Utah Farm Bureau, and the Utah State University Extension vice president;

(l) a representative of environmental conservation interests selected by the governor from a list of three persons nominated jointly by the executive directors of the Department of Environmental Quality and Department of Natural Resources;

(m) a representative of business and industry water interests selected by the governor from a list of three individuals nominated jointly by the Utah Manufacturers Association, Utah Mining Association, and Utah Petroleum Association; [~~and~~]

(n) an attorney who is authorized to practice law in the state, who has recognized expertise in water law, and is selected by the governor from a list of three individuals nominated jointly by the executive director of the Department of Natural Resources, the executive director of the Department of Environmental Quality, and the commissioner of the Department of Agriculture and Food; and

[~~(n)~~] (o) the designated individual selected by a local watershed council certified under Section 73-10g-306.

[~~(2) (a) The division is directed, by no later than July 1, 2020, to organize a meeting of the individuals identified in Subsections (1)(a) through (m), in which those individuals shall:~~]

(2) (a) The state council shall:

(i) organize the state council as provided in this part;

(ii) select a chair and at least one vice-chair from among the members of the state council to have powers and duties provided in the organizing documents adopted by the state council; and

(iii) adopt policies to govern the state council's activities, including policies for the creation of subcommittees that may be less than a quorum of the state council and may include persons of suitable expertise who are not state council members.

(b) The state council shall make the organizing documents and policies created under Subsection (2)(a) available:

(i) to the public;

(ii) at each meeting of the state council; and

(iii) on a public website maintained by the division for council business.

(3) The state council may invite federal agencies to name representatives as liaisons to the state council.

(4) The state council shall stagger the initial terms of the state council members listed in Subsections (1)(g) through [~~(m)~~] (n), after which members will be replaced according to policies adopted by the state council.

(5) After the state council's initial organization, the state council may hold regular and special meetings at such locations within the state and on a schedule as the state council determines, provided that the state council shall meet at least semi-annually.

(6) A majority of the members of the state council constitutes a quorum.

(7) The action of the majority of the council constitutes the action of the state council.

(8) (a) The state council policies may allow that a properly authorized representative of a voting member of the state council may act in the place of that voting member if the voting member is absent or unable to act.

(b) The state council shall enter in the record of a meeting proper documentation of a representative's authority to act on behalf of the voting member under this Subsection (8).

(c) Authorization to act on behalf of a voting member may be given for more than one meeting.

(d) Authorization to act on behalf of a voting member shall comply with the policies adopted by the state council.

(9) (a) The division shall staff the state council.

(b) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to facilitate the creation and operation of the state council.

CHAPTER 66
H. B. 269

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

CAPITAL ASSETS RELATED TO WATER

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill addresses management of capital assets related to water.

Highlighted Provisions:

This bill:

- defines terms;
- requires wastewater service providers or water providers to commit to adopt capital asset management plans under certain circumstances;
- requires rulemaking related to capital asset management plans;
- addresses the scope of certain provisions;
- requires participation in surveys or evaluations;
- establishes a review and report related to capital asset management; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10c-3, as last amended by Laws of Utah 2012, Chapter 212

ENACTS:

19-5-201, Utah Code Annotated 1953
19-5-202, Utah Code Annotated 1953
19-5-203, Utah Code Annotated 1953
73-10g-401, Utah Code Annotated 1953
73-10g-402, Utah Code Annotated 1953
73-10g-403, Utah Code Annotated 1953
73-10g-404, Utah Code Annotated 1953

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

Section 1. Section 19-5-201 is enacted to read:

Part 2. Capital Assets for Wastewater

19-5-201. Definitions.

As used in this part:

(1) "Capital asset" means an asset that:

(a) is a significant investment or an essential component necessary to provide a wastewater service, including:

(i) a facility;

(ii) infrastructure, whether above or below ground level;

(iii) equipment; or

(iv) a communications network; and

(b) is owned by a wastewater service provider.

(2) "Governing body" means a political subdivision governing body defined in Section 63A-15-102.

(3) "Large underground wastewater disposal system" is as defined by rule made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Wastewater service provider" means a political subdivision of the state that owns, operates, or otherwise sponsors through agreement a sewerage system, a treatment works, or large underground wastewater disposal system for the collection, storage, treatment, or disposal of domestic waste.

Section 2. Section 19-5-202 is enacted to read:

19-5-202. Capital asset management.

(1) As a condition of receiving state or federal financing or grants to be used for an improvement to a capital asset related to wastewater or sewer infrastructure, the governing body of a wastewater service provider shall commit to adopt a capital asset management plan.

(2) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the elements of a capital asset management plan required by Subsection (1).

Section 3. Section 19-5-203 is enacted to read:

19-5-203. Participation in survey.

A wastewater service provider shall participate in the United States Environmental Protection Agency's 2022 Clean Water Needs Survey and deliver the required data to the survey data portal by no later than December 31, 2022.

Section 4. Section 73-10c-3 is amended to read:

73-10c-3. Water Development Coordinating Council created -- Purpose -- Members.

(1) (a) There is created within the Department of Natural Resources a Water Development Coordinating Council. The council [~~comprises~~] is comprised of:

(i) the director of the Division of Water Resources;

(ii) the executive secretary of the Water Quality Board;

(iii) the executive secretary of the Drinking Water Board;

(iv) the director of the Housing and Community Development Division or the director's designee; and

(v) the state treasurer or the state treasurer's designee.

(b) The council shall choose a chair and vice chair from among its own members.

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

(i) Section 63A-3-106;

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

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

(2) The purposes of the council are to:

(a) coordinate the use and application of the funds available to the state to give financial assistance to political subdivisions of this state so as to promote the conservation, development, treatment, restoration, and protection of the waters of this state;

(b) promote the coordination of the financial assistance programs administered by the state and the use of the financing alternative most economically advantageous to the state and its political subdivisions;

(c) promote the consideration by the Board of Water Resources, Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater needs of individual political subdivisions of this state; [~~and~~]

(d) assess the adequacy and needs of the state and its political subdivisions with respect to water-related infrastructures and advise the governor and the Legislature on those funding needs[~~.~~]; and

(e) conduct reviews and reports on water-related infrastructure issues as directed by statute.

Section 5. Section 73-10g-401 is enacted to read:

Part 4. (Codified as Part 5) Capital Assets for Water

73-10g-401. (Codified as 73-10g-501) Definitions.

As used in this part:

(1) "Capital asset" means an asset that:

(a) is a significant investment or an essential component necessary to provide water service, including:

(i) a facility;

(ii) infrastructure, whether above or below ground level;

(iii) equipment; or

(iv) a communications network; and

(b) is owned by a water provider.

(2) "Governing body" means:

(a) for a political subdivision, the political subdivision governing body defined in Section 63A-15-102; or

(b) for a private entity, the private entity's board of directors, managing members, partners, or equivalent body.

(3) "Retail water supplier" means the same as that term is defined in Section 19-4-102.

(4) "Water conservancy district" means the same as that term is defined in Section 73-10-32.

(5) "Water provider" means:

(a) a retail water supplier; or

(b) a water conservancy district.

Section 6. Section 73-10g-402 is enacted to read:

73-10g-402. (Codified as 73-10g-502) Capital asset management.

(1) As a condition of receiving state or federal financing or grants to be used for an improvement to a capital asset related to water infrastructure, the governing body of a water provider shall commit to adopt a capital asset management plan.

(2) (a) The Drinking Water Board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the elements of a capital asset management plan required under Subsection (1) for a water provider that is a retail water supplier.

(b) The Board of Water Resources shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the elements of a capital asset management plan required under Subsection (1) for a water provider that is a water conservancy district.

(3) A qualified water conservancy district, as defined in Section 17B-2a-1010, is not subject to this section but shall comply with Section 17B-2a-1010.

Section 7. Section 73-10g-403 is enacted to read:

73-10g-403. (Codified as 73-10g-503) Participation in survey or evaluation.

A water provider shall participate in regular infrastructure needs surveys or evaluations and shall complete the asset-related sections of a survey or evaluation within the deadline established by the Division of Drinking Water or the Division of Water Resources.

Section 8. Section 73-10g-404 is enacted to read:

73-10g-404. (Codified as 73-10g-504) Review and reporting by the Water Development Coordinating Council.

(1) As used in this section:

(a) "Council" means the Water Development Coordinating Council created by Sections 73-10c-3 and 79-2-201.

(b) "Wastewater service provider" means the same as that term is defined in Section 19-5-201.

(2) The council shall review:

(a) best practices related to the assessment, evaluation, maintenance, and replacement of capital assets of wastewater service providers or water providers; and

(b) costs associated with:

(i) the best practices described in Subsection (2)(a); and

(ii) adoption of a capital asset management plan.

(3) The council shall finalize the council's review and report to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2022 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

CHAPTER 67
H. B. 297

Passed February 24, 2022
Approved March 21, 2022
Effective May 4, 2022

LOCAL FOOD ADVISORY COUNCIL AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Gene Davis

LONG TITLE

General Description:

This bill modifies provisions related to the Local Food Advisory Council.

Highlighted Provisions:

This bill:

- modifies the makeup of the Local Food Advisory Council;
- extends the repeal date for the Local Food Advisory Council; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-602, as last amended by Laws of Utah 2020, Chapter 311
63I-2-204, as last amended by Laws of Utah 2018, Chapter 51

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

Section 1. Section 4-2-602 is amended to read:

4-2-602. Local Food Advisory Council created.

(1) There is created the Local Food Advisory Council consisting of up to the following [~~13~~] 15 members:

(a) one member of the Senate appointed by the president of the Senate;

(b) two members of the House of Representatives appointed by the speaker of the House of Representatives, each from a different political party;

(c) the commissioner [~~of the Department of Agriculture and Food~~], or the commissioner's designee;

(d) the executive director of the Department of Health, or the executive director's designee;

(e) two crop direct-to-consumer food producers, appointed by the governor;

(f) two animal direct-to-consumer food producers, appointed by the governor; and

(g) the following potential members, appointed by the governor as needed:

(i) a direct-to-consumer food producer;

(ii) a member of a local agriculture organization;

(iii) a food retailer;

(iv) a licensed dietician;

(v) a county health department representative;

(vi) an urban farming representative;

(vii) a representative of a business engaged in the processing, packaging, or distribution of food;

(viii) an anti-hunger advocate; [~~and~~]

(ix) an academic with expertise in agriculture[~~.~~]; and

(x) a food distributor.

(2) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a) as a cochair of the [~~commission~~] council.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(b) as a cochair of the [~~commission~~] council.

(c) The cochairs may, with the consent of a majority of the council, appoint additional nonvoting members to the council who shall serve in a voluntary capacity.

(3) In appointing members to the council under Subsections (1)(e) through (g), the governor shall strive to take into account the geographical makeup of the council.

(4) A vacancy on the council shall be filled in the same manner in which the original appointment is made.

(5) Compensation for a member of the council who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(6) Council members who are employees of the state shall receive no additional compensation.

(7) The [~~Department of Agriculture and Food~~] department shall provide staff support for the council.

Section 2. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates -- Title 4.

Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, [~~2022~~] 2027.

CHAPTER 68
H. B. 305

Passed March 4, 2022
Approved March 21, 2022
Effective July 1, 2022

NATURAL RESOURCES REVISIONS

Chief Sponsor: Joel Ferry
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to the management, regulation, conservation, and use of natural resources.

Highlighted Provisions:

This bill:

- changes the name of the Division of Recreation to the Division of Outdoor Recreation;
- merges the Office of Outdoor Recreation into the Division of Outdoor Recreation, including addressing:
  - powers and duties;
  - administration of grants; and
  - a transition;
- addresses reporting requirements, including reporting by the Office of Energy Development and reporting by the Division of Outdoor Recreation;
- modifies provisions related to off-highway vehicles, including use of certain money;
- amends authority to appoint off-highway vehicle and boating advisory councils;
- addresses the Zion National Park Support Programs Restricted Account;
- modifies the Division of Outdoor Recreation's authority to create recreational trails and outdoor recreation advisory bodies;
- creates the Utah Outdoor Recreation Infrastructure Advisory Committee to replace other advisory committees and requires consultation with the Division of Outdoor Recreation;
- addresses criteria related to certain recreational grants;
- addresses the Bonneville Shoreline Trail Program;
- modifies the makeup of the Outdoor Adventure Commission and changes consultation requirements;
- modifies the makeup of the Resource Development Coordinating Committee;
- addresses the relationship with the Division of Wildlife Resources and the Wildlife Board;
- repeals the Utah Outdoor Recreation Grant Advisory Committee;
- establishes policy related to conservation;
- addresses coordination of state conservation efforts, including authorizing agreements;
- repeals the Quality Growth Commission and replaces the commission with the Land Conservation Board, including moving the board within the Department of Agriculture and Food, addressing the board's powers and duties, and moving definitions related to housing;
- modifies the LeRay McAllister Critical Land Conservation Program, including addressing local action in some circumstances;
- creates the Division of Conservation within the Department of Agriculture and Food;
- provides for coordination of conservation efforts;
- addresses rulemaking authority, including requiring rulemaking related to off-highway vehicles, clarifying rulemaking by the Division of Outdoor Recreation, and rulemaking related to grants;
- modifies sunset and repeal dates;
- modifies definition provisions;
- provides for transition; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Natural Resources -- Pass Through, as an ongoing appropriation:
  - from General Fund, $130,000;
- to the Department of Natural Resources -- Recreation Management, as an ongoing appropriation:
  - from General Fund, $150,000;
- to the Department of Agriculture and Food -- Conservation, as an ongoing appropriation:
  - from General Fund, $120,000;
- to the Governor's Office of Economic Opportunity, as an ongoing appropriation:
  - from General Fund, ($338,700); and
- to the Department of Natural Resources -- Recreation Management, as an ongoing appropriation:
  - from General Fund, $338,700.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-2-103, as last amended by Laws of Utah 2018, Chapter 200

4-18-102, as last amended by Laws of Utah 2021, Chapter 178

4-18-105, as last amended by Laws of Utah 2019, Chapter 178

9-9-112, as enacted by Laws of Utah 2021, Chapter 380 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 280

23-14-14.2, as enacted by Laws of Utah 2007, Chapter 189

35A-8-2105, as renumbered and amended by Laws of Utah 2018, Chapter 182

41-1a-418, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378

41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378

41-6a-1509, as last amended by Laws of Utah 2021, Chapter 280

41-22-2, as last amended by Laws of Utah 2021, Chapter 280

41-22-5.1, as last amended by Laws of Utah 2021, Chapter 280

41-22-5.5, as last amended by Laws of Utah 2021, Chapter 280

41-22-8, as last amended by Laws of Utah 2021, Chapter 280

41-22-10, as last amended by Laws of Utah 2021, Chapter 280
41-22-10.7, as last amended by Laws of Utah 2021, Chapter 280
41-22-19, as last amended by Laws of Utah 2012, Chapter 71
41-22-31, as last amended by Laws of Utah 2021, Chapter 280
41-22-33, as last amended by Laws of Utah 2021, Chapter 280
41-22-35, as last amended by Laws of Utah 2021, Chapter 280
53-2a-1102, as last amended by Laws of Utah 2021, Chapter 395
57-14-204, as last amended by Laws of Utah 2021, Chapter 280
59-13-201, as last amended by Laws of Utah 2021, Chapter 280
59-21-2, as last amended by Laws of Utah 2021, Chapter 280
59-28-103, as last amended by Laws of Utah 2021, Chapter 280
63C-21-201, as last amended by Laws of Utah 2021, Chapter 280
63C-21-202, as last amended by Laws of Utah 2021, Chapter 280
63I-1-241, as last amended by Laws of Utah 2020, Chapters 84 and 154
63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382
63I-1-273, as last amended by Laws of Utah 2021, Chapter 229
63I-1-279, as last amended by Laws of Utah 2021, Chapter 280
63I-2-204, as last amended by Laws of Utah 2018, Chapter 51
63I-2-279, as enacted by Laws of Utah 2021, Chapter 280
63J-1-601, as last amended by Laws of Utah 2021, Chapter 280
63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424
63L-7-104, as last amended by Laws of Utah 2021, Chapter 280
63L-11-402, as last amended by Laws of Utah 2021, Chapters 184, 280 and renumbered and amended by Laws of Utah 2021, Chapter 382 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382
63N-3-602, as enacted by Laws of Utah 2021, Chapter 411
65A-3-1, as last amended by Laws of Utah 2021, Chapter 280
65A-10-2, as last amended by Laws of Utah 2021, Chapter 280
72-11-204, as last amended by Laws of Utah 2021, Chapter 280
73-3-31, as last amended by Laws of Utah 2021, Chapter 280
73-18-2, as last amended by Laws of Utah 2021, Chapter 280
73-18-3.5, as last amended by Laws of Utah 2021, Chapter 280
73-18-4, as last amended by Laws of Utah 2021, Chapter 280
73-18-7, as last amended by Laws of Utah 2021, Chapters 135 and 280
73-18-8, as last amended by Laws of Utah 2021, Chapter 280
73-18-11, as last amended by Laws of Utah 2021, Chapter 280
73-18-13, as last amended by Laws of Utah 2021, Chapter 280
73-18-13.5, as last amended by Laws of Utah 2021, Chapter 280
73-18-15, as last amended by Laws of Utah 2021, Chapter 280
73-18-16, as last amended by Laws of Utah 2021, Chapter 280
73-18a-1, as last amended by Laws of Utah 2021, Chapter 280
73-18a-4, as last amended by Laws of Utah 2021, Chapter 280
73-18a-5, as last amended by Laws of Utah 2021, Chapter 280
73-18a-12, as last amended by Laws of Utah 2021, Chapter 280
73-18b-1, as last amended by Laws of Utah 2021, Chapter 280
73-18c-102, as last amended by Laws of Utah 2021, Chapter 280
73-18c-201, as last amended by Laws of Utah 2021, Chapter 280
77-2-4.3, as last amended by Laws of Utah 2021, Chapter 280
78A-5-110, as last amended by Laws of Utah 2021, Chapter 280
78A-7-120, as last amended by Laws of Utah 2021, Chapter 280
79-2-201, as last amended by Laws of Utah 2021, Chapters 280 and 382
79-2-202, as last amended by Laws of Utah 2020, Chapter 352
79-2-206, as enacted by Laws of Utah 2021, Chapter 280 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 280
79-4-203, as last amended by Laws of Utah 2021, Chapter 280
79-4-1103, as last amended by Laws of Utah 2021, Chapter 282
79-5-102, as last amended by Laws of Utah 2021, Chapter 280
79-5-501, as last amended by Laws of Utah 2021, Chapter 280
79-5-503, as last amended by Laws of Utah 2011, Chapter 342
79-6-302, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-505, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-6-605, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-7-102, as enacted by Laws of Utah 2021, Chapter 280
79-7-201, as enacted by Laws of Utah 2021, Chapter 280

79-7-203, as enacted by Laws of Utah 2021, Chapter 280
79-8-102, as enacted by Laws of Utah 2021, Chapter 280
79-8-103, as enacted by Laws of Utah 2021, Chapter 280
79-8-106, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-8-201, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-8-202, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-8-302, as renumbered and amended by Laws of Utah 2021, Chapter 280
79-8-303, as last amended by Laws of Utah 2021, Chapter 282 and renumbered and amended by Laws of Utah 2021, Chapter 280 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 280
79-8-304, as renumbered and amended by Laws of Utah 2021, Chapter 280

ENACTS:
4-46-101, Utah Code Annotated 1953
4-46-103, Utah Code Annotated 1953
4-46-104, Utah Code Annotated 1953
4-46-201, Utah Code Annotated 1953
4-46-401, Utah Code Annotated 1953
4-46-402, Utah Code Annotated 1953
4-46-403, Utah Code Annotated 1953
79-1-104, Utah Code Annotated 1953
79-7-206, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
4-46-102, (Renumbered from 11-38-102, as last amended by Laws of Utah 2021, Chapters 181 and 344)
4-46-202, (Renumbered from 11-38-202, as last amended by Laws of Utah 2021, Chapter 181)
4-46-301, (Renumbered from 11-38-301, as last amended by Laws of Utah 2009, Chapter 368)
4-46-302, (Renumbered from 11-38-302, as last amended by Laws of Utah 2021, Chapter 181)
4-46-303, (Renumbered from 11-38-304, as last amended by Laws of Utah 2017, Chapter 51)
79-7-103, (Renumbered from 63N-9-103, as renumbered and amended by Laws of Utah 2015, Chapter 283)
79-7-303, (Renumbered from 79-4-404, as renumbered and amended by Laws of Utah 2009, Chapter 344)
79-8-401, (Renumbered from 63N-9-202, as last amended by Laws of Utah 2021, Chapter 280)
79-8-402, (Renumbered from 63N-9-203, as last amended by Laws of Utah 2021, Chapter 282)

REPEALS:
11-38-101, as enacted by Laws of Utah 1999, Chapter 24
11-38-201, as last amended by Laws of Utah 2021, Chapter 382
11-38-203, as last amended by Laws of Utah 2021, Chapter 382
63N-9-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-9-102, as last amended by Laws of Utah 2021, Chapter 280
63N-9-104, as last amended by Laws of Utah 2021, Chapters 282 and 382
63N-9-105, as last amended by Laws of Utah 2016, Chapter 88
63N-9-106, as last amended by Laws of Utah 2021, Chapters 280 and 282
63N-9-201, as enacted by Laws of Utah 2016, Chapter 88
79-5-201, as last amended by Laws of Utah 2021, Chapter 280
79-5-202, as last amended by Laws of Utah 2010, Chapters 256 and 286
79-7-101, as enacted by Laws of Utah 2021, Chapter 280
79-8-104, as enacted by Laws of Utah 2021, Chapter 280
79-8-105, as renumbered and amended by Laws of Utah 2021, Chapter 280Utah Code Sections Affected by Revisor Instructions:
4-46-104, Utah Code Annotated 1953
79-2-206, as enacted by Laws of Utah 2021, Chapter 280 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 280

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

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning [~~all~~] matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) [~~assist~~] provide for the coordination of state conservation efforts, including by:

(i) assisting the Conservation Commission in the administration of [~~Title 4,~~] Chapter 18, Conservation Commission Act[~~, and administer and disburse any funds~~];

(ii) implementing Chapter 46, Conservation Coordination Act, including entering into agreements with other state agencies; and

(iii) administering and disbursing money available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an [~~agency or division~~] entity within the department; and

(r) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) [~~No~~] A marketing order issued under Subsection (1)(e) [~~shall~~] may not take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that [~~all~~] proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) [~~Funds~~] Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling [~~its~~] the department's duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies; and

(d) accept and administer grants from the federal government and from other sources, public or private.

Section 2. Section 4-18-102 is amended to read:

4-18-102. Findings and declarations -- Duties.

(1) [~~The~~] In addition to the policy provided in Section 4-46-101, the Legislature finds and declares that:

(a) the soil and water resources of this state constitute one of the state's basic assets; and

(b) the preservation of soil and water resources requires planning and programs to ensure:

(i) the development and [~~utilization~~] use of soil and water resources; and

(ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

(2) The Legislature finds that local production of food is essential for:

(a) the security of the state's food supply; and

(b) the self-sufficiency of the state's citizens.

(3) The Legislature finds that sustainable agriculture is critical to:

(a) the success of rural communities;

(b) the historical culture of the state;

(c) maintaining healthy farmland;

(d) maintaining high water quality;

(e) maintaining abundant wildlife;

(f) high-quality recreation for citizens of the state; and

(g) helping to stabilize the state economy.

(4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.

(5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of soil, water, and air.

(6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.

(7) The Legislature finds that soil health is essential to protecting the state's soil and water resources, bolstering the state's food supply, and sustaining the state's agricultural industry.

Section 3. Section 4-18-105 is amended to read:

4-18-105. Conservation Commission -- Functions and duties.

(1) The commission shall:

(a) facilitate the development and implementation of the strategies and programs necessary to:

(i) protect, conserve, use, and develop the soil, water, and air resources of the state; and

(ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;

(b) disseminate information regarding districts' activities and programs;

(c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;

(d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually the information required in Section 17D-3-103;

(e) approve and make loans for agricultural purposes, through the loan advisory [~~subcommittee~~] board described in Section 4-18-106, from the Agriculture Resource Development Fund;

(f) seek to obtain and administer federal or state money in accordance with applicable federal or state guidelines and make loans or grants from that money to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the preservation of soil, water, and air resources, or for a reason set forth in Section 4-18-108;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies; [~~and~~]

(h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in

Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm[~~.~~]; and

(i) coordinate with the Division of Conservation created in Section 4-46-401.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise the commission's powers;

(c) take necessary action to promote and enforce the purpose and findings of Section 4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 4. Section 4-46-101 is enacted to read:

CHAPTER 46. CONSERVATION COORDINATION ACT

Part 1. General Provisions

4-46-101. Policy.

It is the policy of this state that land conservation should be promoted to protect the state's agricultural industry and natural resources.

Section 5. Section 4-46-102, which is renumbered from Section 11-38-102 is renumbered and amended to read:

[~~11-38-102~~]. 4-46-102. Definitions.

As used in this chapter:

[~~(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.~~]

[~~(2)~~] (1) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

[~~(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.~~]

[~~(4)~~] (2) [~~"Commission" means the Quality Growth Commission~~] "Board" means the Land Conservation Board established in Section [~~11-38-201~~] 4-46-201.

[~~(5) "Infill development" means residential, commercial, or industrial development on unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas.~~]

(3) "Conservation commission" means the Conservation Commission created in Section 4-18-104.

(4) "Conservation district" means a limited purpose local government entity created under Title 17D, Chapter 3, Conservation District Act.

(5) "Director" means the director of the Division of Conservation.

(6) "Division" means the Division of Conservation created in Section 4-46-401.

(7) "Land use authority" means:

(a) a land use authority, as defined in Section 10-9a-103, of a municipality; or

(b) a land use authority, as defined in Section 17-27a-103, of a county.

[~~(6)~~] (8) "Local entity" means a county, city, or town.

[~~(7)~~] (9) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of [~~its~~] the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.

[~~(8)~~] (10) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section [~~11-38-301~~] 4-46-301.

[~~(9) "Surplus land" means real property owned by the Department of Government Operations, the Department of Agriculture and Food, the Department of Natural Resources, or the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.~~]

(11) (a) "State conservation efforts" includes:

(i) efforts to optimize and preserve the uses of land for the benefit of the state's agricultural industry and natural resources; and

(ii) conservation of working landscapes that if conserved, preserves the state's agricultural industry and natural resources, such as working agricultural land.

(b) "State conservation efforts" does not include the purpose of opening private property to public access without the consent of the owner of the private property.

[~~(10)~~] (12) (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

(b) "Working agricultural land" includes an agricultural protection area established under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas.

Section 6. Section 4-46-103 is enacted to read:

4-46-103. Application of chapter to wildlife issues.

This chapter may not be construed or applied to supersede or interfere with the powers and duties of the Division of Wildlife Resources or the Wildlife Board under Title 23, Wildlife Resources Code of Utah, over:

(1) conservation and management of protected wildlife within the state;

(2) a program or initiative to restore and conserve habitat for fish and wildlife; or

(3) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Section 7. Section 4-46-104 is enacted to read:

4-46-104. Transition.

(1) A grant that is entered into or issued by the Quality Growth Commission on or before July 1, 2022, remains in effect, except that:

(a) the agency administrating the grant shall be transferred to the board in the same manner as the statutory responsibility is transferred under this bill; and

(b) the grant is subject to the terms of the grant and may be terminated under the terms of the grant.

(2) In accordance with this bill, the department assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Quality Growth Commission existing on June 30, 2022.

Section 8. Section 4-46-201 is enacted to read:

Part 2. Land Conservation Board

4-46-201. Land Conservation Board.

(1) There is created a Land Conservation Board consisting of:

(a) the director of the Division of Conservation or the director's designee;

(b) the commissioner of the Department of Agriculture and Food or the commissioner's designee;

(c) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;

(d) four elected officials at the local government level, two of whom may not be residents of a county of the first or second class; and

(e) seven persons from the profit and nonprofit private sector:

(i) two of whom may not be residents of a county of the first or second class;

(ii) one of whom shall be from the residential construction industry, nominated by an association representing Utah home builders;

(iii) one of whom shall be from the real estate industry, nominated by an association representing Utah realtors;

(iv) one representative of an association representing farmers, selected from a list of nominees submitted by at least one association representing farmers;

(v) one representative of an association representing cattlemen, selected from a list of nominees submitted by at least one association representing cattlemen;

(vi) one representative of an association representing wool growers, selected from a list of nominees submitted by at least one association representing wool growers;

(vii) one representative of land trusts; and

(viii) one representative of an association representing conservation districts created under Title 17D, Chapter 3, Conservation District Act, selected from a list of nominees submitted by at least one association representing conservation districts.

(2) (a) The governor shall appoint a board member under Subsection (1)(d) or (e) with the advice and consent of the Senate.

(b) The governor shall select:

(i) two of the four members under Subsection (1)(d) from a list of names provided by the Utah League of Cities and Towns; and

(ii) two of the four members under Subsection (1)(d) from a list of names provided by the Utah Association of Counties.

(3) (a) The term of office of a member appointed under Subsection (1)(d) or (e) is four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member of the board appointed under Subsection (1)(d) or (e) may not serve more than two consecutive four-year terms.

(4) A mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(5) (a) Subject to Subsection (5)(b), board members shall elect a chair from their number and establish rules for the organization and operation of the board.

(b) The board member who is chair may not vote during the board member's tenure as chair, except the chair may vote if there is a tie vote of board members.

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

(a) Section 63A-3-106;

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

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

(7) A member is not required to give bond for the performance of official duties.

(8) Staff services to the board shall be provided by the Division of Conservation.

Section 9. Section 4-46-202, which is renumbered from Section 11-38-202 is renumbered and amended to read:

[~~11-38-202~~]. 4-46-202. Board duties and powers -- No regulatory authority -- Criteria.

(1) The [~~commission~~] board shall:

[~~(a) make recommendations to the Legislature on how to define more specifically quality growth areas within the general guidelines provided to the commission by the Legislature;~~]

[~~(b) advise the Legislature on growth management issues;~~]

[~~(c) make recommendations to the Legislature on refinements to this chapter;~~]

[~~(d) conduct a review in 2002 and each year thereafter to determine progress statewide on accomplishing the purposes of this chapter, and give a report of each review to the Political Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;~~]

[~~(e)~~] (a) administer the program as provided in this chapter; and

[~~(f) assist as many local entities as possible, at their request, to identify principles of growth that the local entity may consider implementing to help achieve the highest possible quality of growth for that entity;~~]

[~~(g)~~] (b) fulfill other responsibilities imposed on the [~~commission~~] board by the Legislature[~~; and~~].

[~~(h) fulfill all other duties imposed on the commission by this chapter.~~]

[~~(2) The commission may sell, lease, or otherwise dispose of equipment or personal property belonging to the program, the proceeds from which shall return to the fund.~~]

[~~(3)~~] (2) The [~~commission~~] board may not exercise any regulatory authority.

[~~(4)~~] (3) In carrying out the [~~commission's~~] board's powers and duties under this chapter, the [~~commission~~] board shall adopt ranking criteria that is substantially similar to the ranking criteria used by the Agriculture Conservation Easement Program and Agriculture Land Easement as determined by the Natural Resources Conservation Service under the United States Department of Agriculture.

Section 10. Section 4-46-301, which is renumbered from Section 11-38-301 is renumbered and amended to read:

Part 3. LeRay McAllister Critical Land Conservation Program

[~~11-38-301~~]. 4-46-301. LeRay McAllister Critical Land Conservation Program.

(1) There is created a program entitled the "LeRay McAllister Critical Land Conservation Program."

(2) Funding for the program shall be a line item in the budget of the[~~ Quality Growth Commission~~] board. The line item shall be nonlapsing.

Section 11. Section 4-46-302, which is renumbered from Section 11-38-302 is renumbered and amended to read:

[~~11-38-302~~]. 4-46-302. Use of money in program -- Criteria -- Administration.

(1) Subject to Subsection (2), the [~~commission~~] board may authorize the use of money in the program, by grant, to:

(a) a local entity;

(b) the Department of Natural Resources created under Section 79-2-201;

(c) [~~the Department of Agriculture and Food created under Section 4-2-102~~] an entity within the department; or

(d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2) (a) The money in the program shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be used to purchase a fee interest in real property [~~in order~~] to preserve open land or agricultural land, but may be used to establish a conservation easement under

Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the [~~fund~~] program may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

(A) the parcel to be purchased is no more than 20 acres in size; and

(B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the program.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

(c) A local entity, department, or organization under Subsection (1) may not receive money from the program unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the program.

(d) In granting money from the program, the [~~commission~~] board may impose conditions on the recipient as to how the money is to be spent.

(e) The [~~commission~~] board shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection (2)(e)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

(f) (i) The [~~commission~~] board may not make a grant from the program that exceeds $1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the [~~commission~~] board concerning the intended grant, but the recommendation is not binding on the [~~commission~~] board.

(3) In determining the amount and type of financial assistance to provide [~~an~~] a local entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the [~~commission~~] board shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the program for a project whose purpose is to protect critical watershed, the [~~commission~~] board shall require that the needs and quality of that project be verified by the state engineer.

(5) An interest in real property purchased with money from the program shall be held and administered by the state or a local entity.

(6) (a) The board may not authorize the use of money under this section for a project unless the land use authority for the land in which the project is located consents to the project.

(b) To obtain consent to a project, the person who is seeking money from the program shall submit a request for consent to a project with the applicable land use authority. The land use authority may grant or deny consent. If the land use authority does not take action within 60 days from the day on which the request for consent is filed with the land use authority under this Subsection (6), the board shall treat the project as having the consent of the land use authority.

(c) An action of a land use authority under this Subsection (6) is not a land use decision subject to:

(i) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or

(ii) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Section 12. Section 4-46-303, which is renumbered from Section 11-38-304 is renumbered and amended to read:

[~~11-38-304~~]. 4-46-303. Board to report annually.

The [~~commission~~] board shall submit an annual report to the Infrastructure and General Government and Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittees:

(1) specifying the amount of each disbursement from the program;

(2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and

(3) detailing the conditions, if any, placed by the [~~commission~~] board on disbursements from the program.

Section 13. Section 4-46-401 is enacted to read:

Part 4. Division of Conservation

4-46-401. Division of Conservation created -- Director.

(1) Within the department there is created the Division of Conservation.

(2) (a) The director is the executive and administrative head of the division.

(b) The director shall administer this part subject to the administration and general supervision of the commissioner.

(3) The division shall coordinate state conservation efforts by:

(a) staffing the board created in Section 4-46-201;

(b) coordinating with a conservation district in accordance with Section 4-46-402;

(c) coordinating with an agency or division within the department, the Department of Natural Resources, other state agencies, counties, cities, towns, local land trust entities, and federal agencies;

(d) facilitating obtaining federal funds in addition to state funds used for state conservation efforts;

(e) monitoring and providing for the management of conservation easements on state lands, including coordination with the Division of Wildlife Resources in the Division of Wildlife Resources' administration of Section 23-14-14.2; and

(f) implementing rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 4-46-403.

(4) The division may cooperate with, or enter into agreements with, other agencies of this state and federal agencies in the administration and enforcement of this chapter.

Section 14. Section 4-46-402 is enacted to read:

4-46-402. Training -- Coordination with conservation districts.

(1) The division shall provide training to the conservation commission concerning:

(a) funding state conservation efforts; and

(b) coordinating state conservation efforts.

(2) The division shall work with the conservation commission in coordinating with a conservation district.

Section 15. Section 4-46-403 is enacted to read:

4-46-403. Conservation rules.

The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish requirements for the training described in Section 4-46-402; and

(2) establish the procedures the division shall follow in coordinating state conservation efforts.

Section 16. Section 9-9-112 is amended to read:

9-9-112. Bears Ears Visitor Center Advisory Committee.

(1) Utah extends an invitation to the Navajo Nation, the Ute Mountain Ute Tribe, the Hopi Nation, the Zuni Tribe, and the Ute Indian Tribe of the Uintah Ouray to form an advisory committee for the purpose of exploring the feasibility, location, functions, and other important matters surrounding the creation of a visitor center at Bears Ears.

(2) As used in this section:

(a) "Advisory committee" means the Bears Ears Visitor Center Advisory Committee created by this section.

(b) "Bears Ears" means the Bears Ears National Monument.

(3) (a) Subject to Subsection (3)(b), there is created the Bears Ears Visitor Center Advisory Committee consisting of the following eight members:

(i) five voting members as follows:

(A) a representative of the Navajo Nation, appointed by the Navajo Nation;

(B) a representative of the Ute Mountain Ute Tribe, appointed by the Ute Mountain Ute Tribe;

(C) a representative of the Hopi Nation, appointed by the Hopi Nation;

(D) a representative of the Zuni Tribe, appointed by the Zuni Tribe; and

(E) a representative of the Ute Indian Tribe of the Uintah Ouray, appointed by the Ute Indian Tribe of the Uintah Ouray; and

(ii) subject to Subsection (4), three nonvoting members as follows:

(A) one member of the Senate, appointed by the president of the Senate; and

(B) two members of the House of Representatives, appointed by the speaker of the House of Representatives.

(b) The advisory committee is formed when all of the tribes described in Subsection (1) have communicated to the other tribes and to the Division of Indian Affairs that the tribe has appointed a member to the advisory committee.

(4) At least one of the three legislative members appointed under Subsection (3)(a)(ii) shall be from a minority party.

(5) The advisory committee may select from the advisory committee members the chair or other officers of the advisory committee.

(6) (a) If a vacancy occurs in the membership of the advisory committee appointed under Subsection (3), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsection (3) serves until the member's successor is appointed and qualified.

(7) (a) A majority of the voting members of the advisory committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory committee.

(8) (a) The salary and expenses of an advisory committee member who is a legislator shall be paid in accordance with Section 36–2–2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) An advisory committee member who is not a legislator may not receive compensation or benefits for the member's service on the advisory committee, but may receive per diem and reimbursement for travel expenses incurred as an advisory committee member at the rates established by the Division of Finance under:

(i) Sections 63A–3–106 and 63A–3–107; and

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

(9) The advisory committee may invite the United States Forest Service, the Bureau of Land Management, the Division of State Parks, the Division of Outdoor Recreation, and the Utah Office of Tourism within the Governor's Office of Economic Opportunity, to serve as technical advisors to the advisory committee.

(10) The Division of Indian Affairs shall staff the advisory committee.

(11) The advisory committee shall study and make recommendations concerning:

(a) the need for a visitor center associated with Bears Ears;

(b) the feasibility of a visitor center associated with Bears Ears, including investigating:

(i) potential locations for the visitor center;

(ii) purposes for the visitor center; and

(iii) sources of funding to build and maintain the visitor center;

(c) whether a visitor center will increase visitorship to Bears Ears; and

(d) whether a visitor center at Bears Ears could function as a repository of traditional knowledge and practices.

(12) The advisory committee may contract with one or more consultants to conduct work related to the issues raised in Subsection (11) if the Legislature appropriates money expressly for the purpose of the advisory committee contracting with a consultant.

(13) The advisory committee shall hold at least one public hearing to obtain public comment on the creation of a Bears Ears visitor center.

(14) The advisory committee shall report the advisory committee's recommendations to one or more of the following:

(a) the Economic Development and Workforce Services Interim Committee;

(b) the House Economic Development and Workforce Services Committee; or

(c) the Senate Economic Development and Workforce Services Committee.

Section 17. Section 23-14-14.2 is amended to read:

23-14-14.2. Wildlife Resources Conservation Easement Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Wildlife Resources Conservation Easement Account."

(2) The Wildlife Resources Conservation Easement Account consists of:

(a) grants from private foundations;

(b) grants from local governments, the state, or the federal government;

(c) grants from the [~~Quality Growth Commission~~] Land Conservation Board created under Section [~~11–38–201~~] 4–46–201;

(d) donations from landowners for monitoring and managing conservation easements;

(e) donations from any other person; and

(f) interest on account money.

(3) Upon appropriation by the Legislature, the Division of Wildlife Resources shall use money from the account to monitor and manage conservation easements held by the division.

(4) The division may not receive or expend donations from the account to acquire conservation easements.

Section 18. Section 35A-8-2105 is amended to read:

35A-8-2105. Allocation of volume cap.

(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the allotment accounts as described in Section 35A–8–2106.

(b) The board of review may distribute up to 50% of each increase in the volume cap for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section 35A-8-2106.

(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes of the board of review.

(3) (a) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part.

(b) In making an allocation of volume cap the board of review shall consider the following:

(i) the principal amount of the bonds proposed to be issued;

(ii) the nature and the location of the project or the type of program;

(iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

(iv) whether the project or program could obtain adequate financing without an allocation of volume cap;

(v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;

(vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;

(vii) the anticipated economic development created or retained within the local community and the state as a whole;

(viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole; and

(ix) if the project is a residential rental project, the degree to which the residential rental project:

(A) targets lower income populations; and

(B) is accessible housing[~~; and~~].

[~~(x) whether the project meets the principles of quality growth recommended by the Quality Growth Commission created in Section 11-38-201.~~]

(4) The board of review shall provide evidence of an allocation of volume cap by issuing a certificate in accordance with Section 35A-8-2107.

(5) (a) From January 1 to June 30 of each year, the board of review shall set aside at least 50% of the Small Issue Bond Account that may only be allocated to manufacturing projects.

(b) From July 1 to August 15 of each year, the board of review shall set aside at least 50% of the Pool Account that may only be allocated to manufacturing projects.

Section 19. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) [~~the Division of State Parks or~~] the Division of Outdoor Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness;

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

(xxxii) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families; or

(xxxiii) public education on behalf of the Kiwanis International clubs.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 20. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of [~~State Parks~~] Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v) [~~or 41-1a-422(4)~~], "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months [~~prior to~~] before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 21. Section 41-6a-1509 is amended to read:

41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways -- Registration and licensing requirements -- Equipment requirements.

(1) (a) Except as provided in Subsection (1)(b), an individual may operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that meets the requirements of this section as a street-legal ATV on a street or highway.

(b) An individual may not operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle as a street-legal ATV on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

(ii) the highway is in a county of the first class and both of the following criterion is met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under [~~Title 41, Chapter 6a, Traffic Code~~] this chapter;

(ii) titling, odometer statement, vehicle identification, license plates, and registration, excluding registration fees, under [~~Title 41,~~] Chapter 1a, Motor Vehicle Act; and

(iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under [~~Title 41,~~] Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under [~~Title 41, Chapter 22, Off-Highway Vehicles, and Title 41,~~] Chapter 22, Off-highway Vehicles, and Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) (a) The owner of an all-terrain type I vehicle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least 2/32 inches or greater tire tread.

(b) The owner of an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers;

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant;

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

(xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirements of Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Division of Outdoor Recreation, after [~~consulting~~] notifying the Outdoor Adventure Commission, if the other state offers reciprocal operating privileges to Utah residents.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Outdoor Recreation, after [~~consultation with~~] notifying the Outdoor Adventure Commission, shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

Section 22. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means [~~the Off-highway Vehicle Advisory Council~~] an advisory council appointed by the Division of Outdoor Recreation that has within the advisory council's duties advising on policies related to the use of off-highway vehicles.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 2,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(4) (a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Outdoor Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

(19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(20) "Register" means the act of assigning a registration number to an off-highway vehicle.

(21) "Roadway" is used as defined in Section 41-6a-102.

(22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 23. Section 41-22-5.1 is amended to read:

41-22-5.1. Rules of division relating to display of registration stickers.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after [~~consultation with~~] notifying the commission, shall make rules for the display of a registration sticker on an off-highway vehicle in accordance with Section 41-22-3.

Section 24. Section 41-22-5.5 is amended to read:

41-22-5.5. Off-highway husbandry vehicles.

(1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

(A) evidence of ownership;

(B) a title or a manufacturer's certificate of origin; and

(C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the division, after [~~consultation with~~] notifying the commission, not to exceed $10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the division and shall identify the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile that is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile is only being used to travel from one parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner of the vehicle to another parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

(6) A violation of this section is an infraction.

Section 25. Section 41-22-8 is amended to read:

41-22-8. Registration fees.

(1) The division, after [~~consultation with~~] notifying the commission, shall establish the fees [~~which~~] that shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed $35.

(ii) The fee for each snowmobile registration may not exceed $26.

(iii) The fee for each street-legal all-terrain vehicle may not exceed $72.

(b) The fee for each duplicate registration card may not exceed $3.

(c) The fee for each duplicate registration sticker may not exceed $5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund described in Section 26-54-102.

Section 26. Section 41-22-10 is amended to read:

41-22-10. Powers of division relating to off-highway vehicles.

[~~(1)~~] The division may:

[~~(a)~~] (1) appoint and seek recommendations from the [~~Off-highway Vehicle Advisory Council~~] advisory council representing the various off-highway vehicle, conservation, and other appropriate interests; and

[~~(b)~~] (2) adopt a uniform marker and sign system for use by agents of appropriate federal, state, county, and city agencies in areas of off-highway vehicle use.

[~~(2) The division shall receive and distribute voluntary contributions collected under Section 41-1a-230.6 in accordance with Section 41-22-19.5.~~]

Section 27. Section 41-22-10.7 is amended to read:

41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

(a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;

(b) headlights and taillights when operated between sunset and sunrise;

(c) a noise control device and except for a snowmobile, a spark arrestor device; and

(d) when operated on sand dunes designated by the division, a safety flag that is:

(i) red or orange in color;

(ii) a minimum of six by 12 inches; and

(iii) attached to:

(A) the off-highway vehicle so that the safety flag is at least eight feet above the surface of level ground; or

(B) the protective headgear of a person operating a motorcycle so that the safety flag is at least 18 inches above the top of the person's head.

(2) A violation of Subsection (1) is an infraction.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after [~~consultation with~~] notifying the commission, which set standards for the equipment and which designate sand dunes where safety flags are required under Subsection (1).

(4) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

Section 28. Section 41-22-19 is amended to read:

41-22-19. Deposit of fees and related money in Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.

(1) Except as provided under Subsections (3) and (4) and Sections 41-22-34 and 41-22-36, [~~all~~] registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue in the Off-highway Vehicle Account in the General Fund less the costs of collecting off-highway vehicle registration fees by the Motor Vehicle Division. The balance of the money may be used by the division [~~as follows~~]:

(a) for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities, including public access facilities;

(b) for the mitigation of impacts associated with off-highway vehicle use;

[~~(c) as grants or as matching funds with any federal agency, state agency, political subdivision of the state, or organized user group for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities including public access facilities;~~]

[~~(d) for the administration and enforcement of the provisions of this chapter; and~~]

[~~(e)~~] (c) for the education of off-highway vehicle users[~~.~~];

(d) for off-highway vehicle access protection;

(e) to support off-highway vehicle search and rescue activities and programs;

(f) to promote and encourage off-highway vehicle tourism;

(g) for other uses that further the policy set forth in Section 41-22-1;

(h) as grants or matching funds with a federal agency, state agency, political subdivision of the state, or organized user group for any of the uses described in Subsections (1)(a) through (g); and

(i) for the administration and enforcement of this chapter.

(2) [~~All agencies or political subdivisions~~] An agency or political subdivision requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited in the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the money deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) [~~Any~~] An unused balance of the money deposited under Subsection (3)(a) exceeding $350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited in the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules as necessary to implement this section.

Section 29. Section 41-22-31 is amended to read:

41-22-31. Division to set standards for safety program -- Safety certificates

issued -- Cooperation with public and private entities -- State immunity from suit.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after [~~consultation with~~] notifying the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

(b) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.

(c) Components of the program shall include the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators.

(d) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.

(2) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(3) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

Section 30. Section 41-22-33 is amended to read:

41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.

(1) A fee set by the division, after [~~consultation with~~] notifying the commission, in accordance with Section 63J-1-504 shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program.

(2) If the division modifies the fee under Subsection (1), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the division provides the State Tax Commission:

(a) notice from the division stating that the division will modify the fee; and

(b) a copy of the fee modification.

Section 31. Section 41-22-35 is amended to read:

41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.

(1) (a) Except as provided in Subsection (1)(b), any person owning or operating a nonresident off-highway vehicle who operates or gives another person permission to operate the nonresident off-highway vehicle on any public land, trail, street, or highway in this state shall:

(i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;

(ii) pay an annual off-highway vehicle user fee; and

(iii) provide evidence that the owner is a nonresident.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

(i) used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the division, after [~~consultation with~~] notifying the commission;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency; or

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the division.

(2) The off-highway vehicle user fee is $30.

(3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

(b) display the decal on the off-highway vehicle in accordance with rules made by the division.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after [~~consultation with~~] notifying the commission, shall make rules establishing:

(a) procedures for:

(i) the payment of off-highway vehicle user fees; and

(ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

(b) acceptable evidence indicating compliance with Subsection (1);

(c) eligibility for scheduled competitive events or other events under Subsection (1)(b)(ii); and

(d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection (1)(b)(iv).

(5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.

(b) An agent shall retain 10% of all off-highway vehicle user fees collected.

(c) The division may require agents to obtain a bond in a reasonable amount.

(d) On or before the tenth day of each month, each agent shall:

(i) report all sales to the division; and

(ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).

(e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.

(ii) Delinquent payments shall bear interest at the rate of 1% per month.

(iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:

(i) be kept separate and apart from the private funds of the agent; and

(ii) belong to the state.

(g) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited in the Off-highway Vehicle Account created in Section 41-22-19.

Section 32. Section 53-2a-1102 is amended to read:

53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23-19-42, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection 59-12-103(14);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) [~~All money~~] Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) [~~10%~~] Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) [~~All funding~~] Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the [~~Outdoor Recreation Office~~] Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(6).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be [~~utilized~~] used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the [~~Outdoor Recreation Office~~] Division of Outdoor Recreation regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 33. Section 57-14-204 is amended to read:

57-14-204. Liability not limited where willful or malicious conduct involved or admission fee charged.

(1) Nothing in this part limits any liability that otherwise exists for:

(a) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity;

(b) deliberate, willful, or malicious injury to persons or property; or

(c) an injury suffered where the owner of land charges a person to enter or go on the land or use the land for any recreational purpose.

(2) For purposes of Subsection (1)(c), if the land is leased to the state or a subdivision of the state, any consideration received by the owner for the lease is not a charge within the meaning of this section.

(3) Any person who hunts upon a cooperative wildlife management unit, as authorized by Title 23, Chapter 23, Cooperative Wildlife Management Units, is not considered to have paid a fee within the meaning of this section.

(4) Owners of a dam or reservoir who allow recreational use of the dam or reservoir and its surrounding area and do not themselves charge a fee for that use, are considered not to have charged for that use within the meaning of Subsection (1)(c), even if the user pays a fee to the Division of State Parks or the Division of Outdoor Recreation for the use of the services and facilities at that dam or reservoir.

(5) The state or a subdivision of the state that owns property purchased for a railway corridor is considered not to have charged for use of the railway corridor within the meaning of Subsection (1)(c), even if the user pays a fee for travel on a privately owned rail car that crosses or travels over the railway corridor of the state or a subdivision of the state:

(a) allows recreational use of the railway corridor and its surrounding area; and

(b) does not charge a fee for that use.

Section 34. Section 59-13-201 is amended to read:

59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.

(1) (a) Subject to the provisions of this section and except as provided in Subsection (1)(e), a tax is imposed at the rate of 16.5% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) (i) Until December 31, 2018, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(ii) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(c) (i) Subject to the requirement in Subsection (1)(c)(ii), the statewide average rack price of a gallon of motor fuel determined under Subsection (1)(b) may not be less than $1.78 per gallon.

(ii) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(c)(i) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b) may not exceed $2.43 per gallon.

(iv) The minimum statewide average rack price of a gallon of motor fuel described and adjusted under Subsections (1)(c)(i) and (ii) may not exceed the maximum statewide average rack price of a gallon of motor fuel under Subsection (1)(c)(iii).

(d) (i) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsections (1)(b) and (c);

(B) adjust the fuel tax rate imposed under Subsection (1)(a), rounded to the nearest one-tenth of a cent, based on the determination under Subsection (1)(b);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(d)(i)(B) no later than 60 days [~~prior to~~] before the annual effective date under Subsection (1)(d)(ii).

(ii) The tax rate imposed under this Subsection (1) and adjusted as required under Subsection (1)(d)(i) shall take effect on January 1 of each year.

(e) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under [~~the provisions of the~~] Title 73, Chapter 18, State Boating Act, and this amount shall be deposited [~~in~~] into a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Outdoor Recreation in administering and enforcing [~~the~~] Title 73, Chapter 18, State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the [~~Off-Highway~~] Off-highway Vehicle Account in the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this section.

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than $0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to $0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (9)(f)(ii).

(ii) The notice described in Subsection (9)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;

(B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A); and

(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.

Section 35. Section 59-21-2 is amended to read:

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

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

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

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

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

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

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to $2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

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

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

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

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate $26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(iii) For fiscal year 2017-18 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate $27,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

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

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease

Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

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

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

(A) counties;

(B) special service districts established:

(I) by counties;

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

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

(C) special service districts established:

(I) by counties;

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

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

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

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

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

(A) special service districts established:

(I) by counties;

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

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

(B) special service districts established:

(I) by counties;

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

(III) for other purposes authorized by statute.

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

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

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

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

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

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

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

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

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

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

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

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

(v) The executive director of the Department of Workforce Services:

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

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

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

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

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

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

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

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

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

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

(I) $1,000; and

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

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

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

(B) school districts; or

(C) public institutions of higher education.

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

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

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

(A) owned by:

(I) the Division of State Parks [~~or~~];

(II) the Division of Outdoor Recreation; or

[~~(II)~~] (III) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks [~~or~~];

(II) the Division of Outdoor Recreation; or

[~~(II)~~] (III) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

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

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

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

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

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

Section 36. Section 59-28-103 is amended to read:

59-28-103. Imposition -- Rate -- Revenue distribution.

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at a rate of .32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the

state collects from the tax under this chapter into the Hospitality and Tourism Management Education Account created in Section 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(ii) The commission may not deposit more than $300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section 79-8-106 to fund the Outdoor Recreational Infrastructure Grant Program created in Section [~~63N-9-202~~] 79-8-401 and the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

Section 37. Section 63C-21-201 is amended to read:

63C-21-201. Outdoor Adventure Commission created.

(1) There is created the Outdoor Adventure Commission consisting of the following [~~15~~] 14 members:

(a) one member of the Senate, appointed by the president of the Senate;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

[~~(c) the director of the Utah Office of Outdoor Recreation, or the director's designee;~~]

[~~(d)~~] (c) the managing director of the Utah Office of Tourism, or the managing director's designee;

[~~(e)~~] (d) the director of the Division of Outdoor Recreation, or the director's designee;

[~~(f)~~] (e) the director of the School and Institutional Trust Lands Administration, or the director's designee;

[~~(g)~~] (f) the coordinator of the [~~Off-Highway Vehicle and Recreational Trails~~] Off-highway Vehicle Program within the Division of Outdoor Recreation;

[~~(h)~~] (g) a representative of the agriculture industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

[~~(i)~~] (h) a representative of the natural resources development industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

[~~(j)~~] (i) one representative of the Utah League of Cities and Towns appointed by the Utah League of Cities and Towns;

[~~(k)~~] (j) one representative of the Utah Association of Counties appointed by the Utah Association of Counties;

[~~(l)~~] (k) one individual appointed jointly by the Utah League of Cities and Towns and the Utah Association of Counties;

[~~(m)~~] (l) a representative of conservation interests appointed jointly by the president of the Senate and the speaker of the House of Representatives;

[~~(n)~~] (m) a representative of the outdoor recreation industry appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

[~~(o)~~] (n) the coordinator of the boating program within the Division of Outdoor Recreation.

(2) The commission shall annually select one of [~~its~~] the commission's members to be the chair of the commission.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(a) or (b), or Subsections [~~(1)(h) through (n)~~] (1)(g) through (m), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsections [~~(1)(h) through (n)~~] (1)(g) through (m) shall serve a term of four years and until the member's successor is appointed and qualified.

(c) Notwithstanding the requirements of Subsection (3)(b), for members appointed under Subsections[~~ (1)(h) through (n)~~] (1)(g) through (m), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission members appointed under Subsections [~~(1)(h) through (n)~~] (1)(g) through (m) are appointed every two years.

(d) An individual may be appointed to more than one term.

(4) (a) Eight commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(6) The Department of Transportation shall serve as a technical advisor to the commission.

(7) The Division of Outdoor Recreation, created in Section 79-7-201, shall provide staff support to the commission.

Section 38. Section 63C-21-202 is amended to read:

63C-21-202. Strategic plan -- Commission powers and duties -- Consultant -- Reports.

(1) (a) The commission shall gather information on recreation assets from state and local agencies and other sources and develop a strategic plan aimed at meeting the future needs of outdoor recreation within the state to enhance the quality of life of Utah residents. Asset lists received from state and local agencies shall include:

(i) common data points, to be established by the [~~Office of Outdoor Recreation~~] Division of Outdoor Recreation that can be uniformly compared with other recreation assets within the state, such as asset type, size, unique characteristics, vegetation, land ownership, and similar items;

(ii) any specific needs, challenges, or limitations on recreation use of the assets; and

(iii) a ranking of potential enhancements to the assets related to recreation use.

(b) The strategic plan shall address:

(i) outdoor recreation as a major contributor to residents' quality of life;

(ii) the needs and impacts of residents who engage in outdoor recreation;

(iii) the impact on local communities related to outdoor recreation, including the costs associated with emergency services and infrastructure;

(iv) outdoor recreation as a means to retain and attract an exceptional workforce to provide for a sustainable economy;

(v) impacts to the environment, wildlife, and natural resources and measures to preserve the natural beauty of the state as more people engage in outdoor recreation;

(vi) identify opportunities for sustainable revenue sources to provide for maintenance and future needs;

(vii) the interface with public lands that are federally managed and private lands; and

(viii) other items determined by the commission.

(2) The commission shall:

(a) engage one or more consultants to:

(i) manage the strategic planning process in accordance with Subsection (3); and

(ii) conduct analytical work in accordance with Subsection (3);

(b) guide the analytical work of a consultant described in Subsection (2)(a) and review the results of the work;

(c) coordinate with a consultant described in Subsection (2)(a) to engage in a process and create a strategic plan;

(d) conduct regional meetings to gather stakeholder input during the strategic planning process;

(e) seek input from federal entities including the United States Department of the Interior, the United States Department of Agriculture, and Utah's congressional delegation; and

(f) produce a final report including a strategic plan and any recommendations.

(3) The commission, by contract with a consultant engaged under Subsection (2)(a), shall direct the consultant to:

(a) conduct an inventory of existing outdoor recreation resources, programs, and information;

(b) conduct an analysis of what is needed to develop and implement an effective outdoor recreation strategy aimed at enhancing the quality of life of Utah residents;

(c) collect and analyze data related to the future projected conditions of the outdoor recreation resources, programs, and information, including the affordability and financing of outdoor recreation;

(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential changes to the outdoor recreation industry and economic growth;

(e) in coordination with the commission, engage in extensive local stakeholder involvement to better understand the needs of, concerns of, and opportunities for different communities and outdoor recreation user types;

(f) recommend accountability or performance measures to assess the effectiveness of the outdoor recreation system;

(g) based on the data described in this Subsection (3), make comparisons between outdoor recreation in Utah and outdoor recreation in other states or countries;

(h) in coordination with the commission, conduct the regional meetings described in Subsection (2)(d) to share information and seek input from a range of stakeholders;

(i) recommend changes to the governance system for outdoor recreation that would facilitate implementation of the strategic plan;

(j) engage in any other data collection or analysis requested by the commission; and

(k) produce for the commission:

(i) a draft report of findings, observations, and strategic priorities, including:

(A) a statewide vision and strategy for outdoor recreation;

(B) a strategy for how to meaningfully engage stakeholders throughout the state;

(C) funding needs related to outdoor recreation; and

(D) recommendations for the steps the state should take to implement a statewide vision and strategy for outdoor recreation; and

(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(k)(i), regarding the future of the outdoor recreation in the state.

[~~(4) The commission shall consult with the Division of Recreation as provided by statute.~~]

Section 39. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates, Title 41.

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102(30) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which [~~create the Off-highway Vehicle Advisory Council~~] authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section 40. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2[~~(5)~~](4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2[~~(6)~~](5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2[~~(24)~~](23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) [~~Title 63J, Chapter 4, Part 5~~] Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.~~]

Section 41. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates, Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2025.

(3) Section 73-18-3.5, which [~~creates the Boating Advisory Council~~] authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

(5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

Section 42. Section 63I-1-279 is amended to read:

63I-1-279. Repeal dates, Title 79.

(1) Subsection 79-2-201(2)[~~(r)~~](p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Subsection 79-2-201(2)[~~(s)~~](q), related to the [~~Recreational Trails Advisory Council~~] Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(3) Subsection 79-2-201(2)[~~(t)~~](r)(i), related to [~~the Boating Advisory Council~~] an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2024.

(4) Subsection 79-2-201(2)[~~(u)~~](s), related to the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(5) Subsection 79-2-201(2)[~~(v)~~](t), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

[~~(6) Title 79, Chapter 5, Part 2, Advisory Council, which creates the Recreational Trails Advisory Council, is repealed July 1, 2027.~~]

(6) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(7) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 43. Section 63I-2-204 is amended to read:

63I-2-204. Repeal dates -- Title 4.

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2022.

(2) Section 4-46-104, Transition, is repealed July 1, 2024.

Section 44. Section 63I-2-279 is amended to read:

63I-2-279. Repeal dates, Title 79.

(1) Section 79-2-206, Transition, is repealed July 1, [~~2022~~] 2024.

(2) Title 79, Chapter 6, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

Section 45. Section 63J-1-601 is amended to read:

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

(1) As used in this section:

(a) "Education grant subrecipient" means a nonfederal entity that:

(i) receives a subaward from the State Board of Education to carry out at least part of a federal or state grant program; and

(ii) does not include an individual who is a beneficiary of the federal or state grant program.

(b) "Transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

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

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

(i) enterprise funds;

(ii) internal service funds;

(iii) trust and agency funds;

(iv) capital projects funds;

(v) discrete component unit funds;

(vi) debt service funds; and

(vii) permanent funds;

(b) those appropriations from a fund or account or appropriations to a program that are designated as nonlapsing under Section 63J-1-602.1 or 63J-1-602.2;

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

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

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

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

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

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

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

(d) [~~No amounts may~~] Amounts may not be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

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

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

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

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

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

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

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

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

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

(6) (a) For purposes of this chapter, a reimbursement request received from an education grant subrecipient:

(i) is not a liability or expense to the state for budgetary purposes, unless the State Board of Education receives the claim within the time periods described in Subsection (3)(b); and

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

(b) The transaction control number that the State Board of Education records on a claim invoice is the date of receipt.

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

Section 46. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section [~~11-38-301~~] 4-46-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301 (9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

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

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 47. Section 63L-7-104 is amended to read:

63L-7-104. Identification of a potential wilderness area.

(1) (a) Subject to Subsection (1)(b), the director of PLPCO, within one year of the acquisition date, shall identify within a parcel of acquired land any conservation areas.

(b) Before identifying a parcel of land as a conservation area, the director of PLPCO shall:

(i) inform the School and Institutional Trust Lands Administration that a parcel is being considered for designation as a conservation area; and

(ii) provide the School and Institutional Trust Lands Administration with the opportunity to trade out land owned by the School and Institutional Trust Lands Administration for the parcel in question subject to reaching an exchange agreement with the agency that manages the parcel.

(2) The director of PLPCO shall:

(a) file a map and legal description of each identified conservation area with the governor, the Senate, and the House of Representatives;

(b) maintain, and make available to the public, records pertaining to identified conservation areas, including:

(i) maps;

(ii) legal descriptions;

(iii) copies of proposed regulations governing the conservation area; and

(iv) copies of public notices of, and reports submitted to the Legislature, regarding pending additions, eliminations, or modifications to a conservation area; and

(c) within five years of the date of acquisition:

(i) review each identified conservation area for its suitability to be classified as a protected wilderness area; and

(ii) report the findings under Subsection (2)(c)(i) to the governor.

(3) The records described in Subsection (2)(b) shall be available for inspection at:

(a) the PLPCO office;

(b) the main office of DNR;

(c) a regional office of the Division of Forestry, Fire, and State Lands for any record that deals with an identified conservation area in that region; and

(d) the Division of State Parks or the Division of Outdoor Recreation.

(4) A conservation area may be designated as a protected wilderness area as described in Section 63L-7-105.

(5) A conservation area identified under Subsection (1) shall be managed by DNR, in coordination with the county government having jurisdiction over the area, without the conservation area being designated as a protected wilderness area unless otherwise provided by the Legislature.

Section 48. Section 63L-11-402 is amended to read:

63L-11-402. Membership -- Terms -- Chair -- Expenses.

(1) The Resource Development Coordinating Committee consists of the following [~~25~~] 26 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the [~~executive director~~] commissioner of the Department of Agriculture and Food;

(c) a representative from the Department of Cultural and Community Engagement appointed by the executive director of the Department of Cultural and Community Engagement;

(d) a representative from the Department of Environmental Quality appointed by the executive director of the Department of Environmental Quality;

(e) a representative from the Department of Natural Resources appointed by the executive director of the Department of Natural Resources;

(f) a representative from the Department of Transportation appointed by the executive director of the Department of Transportation;

(g) a representative from the Governor's Office of Economic Opportunity appointed by the director of the Governor's Office of Economic Opportunity;

(h) a representative from the Housing and Community Development Division appointed by the director of the Housing and Community Development Division;

(i) a representative from the Division of State History appointed by the director of the Division of State History;

(j) a representative from the Division of Air Quality appointed by the director of the Division of Air Quality;

(k) a representative from the Division of Drinking Water appointed by the director of the Division of Drinking Water;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director of the Division of Environmental Response and Remediation;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director of the Division of Waste Management and Radiation Control;

(n) a representative from the Division of Water Quality appointed by the director of the Division of Water Quality;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director of the Division of Oil, Gas, and Mining;

(p) a representative from the Division of Parks appointed by the director of the Division of Parks;

(q) a representative from the Division of Outdoor Recreation appointed by the director of the Division of Outdoor Recreation;

(r) a representative from the Division of Forestry, Fire, and State Lands appointed by the director of the Division of Forestry, Fire, and State Lands;

(s) a representative from the Utah Geological Survey appointed by the director of the Utah Geological Survey;

(t) a representative from the Division of Water Resources appointed by the director of the Division of Water Resources;

(u) a representative from the Division of Water Rights appointed by the director of the Division of Water Rights;

(v) a representative from the Division of Wildlife Resources appointed by the director of the Division of Wildlife Resources;

(w) a representative from the School and Institutional Trust Lands Administration appointed by the director of the School and Institutional Trust Lands Administration;

(x) a representative from the Division of Facilities Construction and Management appointed by the director of the Division of Facilities Construction and Management; [~~and~~]

(y) a representative from the Division of Emergency Management appointed by the director of the Division of Emergency Management[~~.~~]; and

(z) a representative from the Division of Conservation, created under Section 4-46-401, appointed by the director of the Division of Conservation.

(2) (a) As particular issues require, the coordinating committee may, by majority vote of the members present, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a [~~majority~~] vote of 14 committee members with the concurrence of the executive director.

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

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 49. Section 63N-3-602 is amended to read:

63N-3-602. Definitions.

As used in this part:

(1) "Affordable housing" means [~~the same as that term is defined in Section 11-38-102~~] housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.

(5) (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

(6) "Commuter rail station" means a station, stop, or terminal along an existing commuter rail line, or along an extension to an existing commuter rail line or new commuter rail line that is included in a metropolitan planning organization's adopted long-range transportation plan.

(7) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(8) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities, at an average density of 50 dwelling units or more per acre on the developable acres.

(9) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

(10) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

(11) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

(12) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

(13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(15) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.

(16) "Municipality" means the same as that term is defined in Section 10-1-104.

(17) "Participant" means the same as that term is defined in Section 17C-1-102.

(18) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

(19) "Public transit county" means a county that has created a small public transit district.

(20) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

(21) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

(22) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

(23) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

(24) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

(25) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

(26) "Tax commission" means the State Tax Commission created in Section 59-1-201.

(27) "Tax increment" means the difference between:

(a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

(28) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

(29) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 50. Section 65A-3-1 is amended to read:

65A-3-1. Trespassing on state lands -- Penalties.

(1) As used in this section:

(a) "Anchored" means the same as that term is defined in Section 73-18-2.

(b) "Beached" means the same as that term is defined in Section 73-18-2.

(c) "Motorboat" means the same as that term is defined in Section 73-18-2.

(d) "Vessel" means the same as that term is defined in Section 73-18-2.

(2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;

(b) grazes livestock on state lands;

(c) uses, occupies, or constructs improvements or structures on state lands;

(d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) starts or maintains a fire on state lands except in a posted and designated area;

(h) camps on state lands, except in posted or designated areas;

(i) camps on state lands for longer than 15 consecutive days at the same location or within one mile of the same location;

(j) camps on state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

(k) leaves an anchored or beached vessel unattended for longer than 48 hours on state lands;

(l) anchors or beaches a vessel on state lands at the same location for longer than 72 hours or within two miles of the same location for longer than 72 hours;

(m) anchors or beaches a vessel on state lands at the same location for 72 hours, and then returns to anchor or beach the vessel at the same location or within two miles of the same location before 72 hours have elapsed after the day on which the person left that location;

(n) posts a sign claiming state land as private property;

(o) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division; or

(p) parks or operates a motor vehicle on the bed of a navigable lake or river except in those areas:

(i) supervised by the Division of State Parks, the Division of Outdoor Recreation, or another state or local enforcement entity; and

(ii) which are posted as open to vehicle use.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is specifically posted by the division as closed for usage;

(b) camps, except in an area that is posted and designated as open to camping;

(c) exceeds a speed limit of 10 miles per hour while operating a motor vehicle;

(d) drives recklessly while operating a motor vehicle;

(e) parks or operates a motor vehicle within an area between the water's edge and 100 feet of the water's edge except as necessary to:

(i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;

(ii) transport an individual with limited mobility; or

(iii) deposit or retrieve equipment to a beach site;

(f) travels in a motor vehicle parallel to the water's edge:

(i) in areas designated by the division as closed;

(ii) a distance greater than 500 yards; or

(iii) for purposes other than travel to or from a beach site;

(g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or

(h) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Section 51. Section 65A-10-2 is amended to read:

65A-10-2. Recreational use of sovereign lands.

(1) The division, with the approval of the executive director of the Department of Natural Resources and the governor, may set aside for public or recreational use any part of the lands claimed by the state as the beds of lakes or streams.

(2) Management of those lands may be delegated to the Division of State Parks, the Division of Outdoor Recreation, the Division of Wildlife Resources, or any other state agency.

Section 52. Section 72-11-204 is amended to read:

72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

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

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

(a) Section 63A-3-106;

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

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

(3) Reimbursement shall be made from fees collected by the committee for services rendered by [~~it~~] the committee.

(4) The Department of Transportation shall supply the committee with office accommodation, space, equipment, and secretarial assistance the executive director considers adequate for the committee.

(5) In addition to the functions, powers, duties, rights, and responsibilities granted to [~~it~~] the committee under this chapter, the committee shall assume and have all of the functions, powers, duties, rights, and responsibilities of the Division of Outdoor Recreation in relation to passenger ropeway systems pursuant to that chapter.

Section 53. Section 73-3-31 is amended to read:

73-3-31. Water right for watering livestock on public land.

(1) As used in this section:

(a) "Acquire" means to gain the right to use water through obtaining:

(i) an approved application to appropriate water; or

(ii) a perfected water right.

(b) "Allotment" means a designated area of public land available for livestock grazing.

(c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.

(d) (i) "Beneficial user" means the person that has the right to use the grazing permit.

(ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.

(e) "Grazing permit" means a document authorizing livestock to graze on an allotment.

(f) "Livestock" means a domestic animal raised or kept for profit or personal use.

(g) "Livestock watering right" means a right for:

(i) livestock to consume water:

(A) directly from the water source located on public land; or

(B) from an impoundment located on public land into which the water is diverted; and

(ii) associated uses of water related to the raising and care of livestock on public land.

(h) (i) "Public land" means land owned or managed by the United States or the state.

(ii) "Public land" does not mean land owned by:

(A) the Division of Wildlife Resources;

(B) the School and Institutional Trust Lands Administration; [~~or~~]

(C) the Division of State Parks; or

(D) the Division of Outdoor Recreation.

(i) "Public land agency" means the agency that owns or manages the public land.

(2) A public land agency may not:

(a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;

(b) require any water user to apply for, or acquire a water right in the name of, the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or

(c) acquire a livestock watering right if the public land agency is not a beneficial user.

(3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right without the consent of the beneficial user.

(4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.

(5) A livestock watering right is appurtenant to the allotment on which the livestock is watered.

(6) (a) (i) A beneficial user or a public land agency may file a request with the state engineer for a livestock water use certificate.

(ii) The state engineer shall:

(A) provide the livestock water use certificate application form on the Internet; and

(B) allow electronic submission of the livestock water use certificate application.

(b) The state engineer shall grant a livestock water use certificate to a beneficial user if the beneficial user:

(i) demonstrates that the beneficial user has a right to use a grazing permit for the allotment to which the livestock watering right is appurtenant; and

(ii) pays the fee set in accordance with Section 73-2-14.

(c) A livestock water use certificate is valid as long as the livestock watering right is:

(i) held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;

(ii) put to beneficial use within a seven-year time period; or

(iii) subject to a nonuse application approved under Section 73-1-4.

(7) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the beneficial user's water right appurtenant to the allotment.

(8) If a federal land management agency reduces livestock grazing AUMs on federal grazing allotments, and the reduction results in the partial forfeiture of an appropriated water right, the amount of water in question for nonuse as a livestock water right shall be held in trust by the state engineer until such water may be appropriated for livestock watering, consistent with this act and state law.

(9) Nothing in this section affects a livestock watering right or a livestock water use certificate held by a public land agency on May 13, 2014.

Section 54. Section 73-18-2 is amended to read:

73-18-2. Definitions.

As used in this chapter:

(1) "Anchored" means a vessel that is temporarily attached to the bed or shoreline of a waterbody by any method and the hull of the vessel is not touching the bed or shoreline.

(2) "Beached" means that a vessel's hull is resting on the bed or shoreline of a waterbody.

(3) "Boat livery" means a person that holds a vessel for renting or leasing.

(4) "Carrying passengers for hire" means to transport persons on vessels or to lead persons on vessels for consideration.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Consideration" means something of value given or done in exchange for something given or done by another.

(7) "Dealer" means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.

(8) "Derelict vessel":

(a) means a vessel that is left, stored, or abandoned upon the waters of this state in a wrecked, junked, or substantially dismantled condition; and

(b) includes:

(i) a vessel left at a Utah port or marina without consent of the agency or other entity administering the port or marine area; and

(ii) a vessel left docked or grounded upon a property without the property owner's consent.

(9) "Division" means the Division of Outdoor Recreation.

(10) "Moored" means long term, on the water vessel storage in an area designated and properly marked by the division or other applicable managing agency.

(11) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(12) "Operate" means to navigate, control, or otherwise use a vessel.

(13) "Operator" means the person who is in control of a vessel while it is in use.

(14) "Outfitting company" means any person who, for consideration:

(a) provides equipment to transport persons on all waters of this state; and

(b) supervises a person who:

(i) operates a vessel to transport passengers; or

(ii) leads a person on a vessel.

(15) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel.

(b) "Owner" includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(16) "Personal watercraft" means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing inside the vessel.

(17) "Racing shell" means a long, narrow watercraft:

(a) outfitted with long oars and sliding seats; and

(b) specifically designed for racing or exercise.

(18) "Sailboat" means any vessel having one or more sails and propelled by wind.

(19) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(20) "Wakeless speed" means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.

(21) "Waters of this state" means any waters within the territorial limits of this state.

Section 55. Section 73-18-3.5 is amended to read:

73-18-3.5. Advisory council.

The division, after [~~consultation with~~] notifying the commission, may appoint an advisory council [~~representing various~~] that includes:

(1) representation of boating interests [~~to seek~~]; and

(2) among the advisory council's duties, making recommendations on state boating policies.

Section 56. Section 73-18-4 is amended to read:

73-18-4. Division may make rules and set fees.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after [~~consultation with~~] notifying the commission, shall [~~promulgate~~] make rules:

(a) creating a uniform waterway marking system which shall be obeyed by all vessel operators;

(b) regulating the placement of waterway markers and other permanent or anchored objects on the waters of this state;

(c) zoning certain waters of this state for the purpose of prohibiting the operation of vessels or motors for safety and health purposes only;

(d) regulating vessel operators who carry passengers for hire, boat liveries, and outfitting companies; and

(e) regulating anchored, beached, moored, or abandoned vessels to minimize health, safety, and environmental concerns.

(2) (a) The division, after [~~consultation with~~] notifying the commission, may set fees in accordance with Section 63J-1-504 for:

(i) licensing vessel operators who carry passengers for hire; and

(ii) registering:

(A) outfitting companies; and

(B) boat liveries.

(b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be deposited into the Boating Account created in Section 73-18-22.

Section 57. Section 73-18-7 is amended to read:

73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of division.

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application and pay the fee set by the division, after [~~consultation with~~] notifying the commission, in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

(i) the property tax on the motorboat or sailboat for the current year has been paid;

(ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or

(iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the division modifies the fee under Subsection (2)(b), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the division provides the State Tax Commission:

(i) notice from the division stating that the division will modify the fee; and

(ii) a copy of the fee modification.

(e) (i) The division may enter into an agreement with the Motor Vehicle Division created in Section 41-1a-106 to administer the registration requirements described in this chapter.

(ii) An individual may request automatic registration renewal as described in Section 41-1a-216.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the division shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the division are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The division may provide in the division's rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of $4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of $3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by knowingly falsifying an application for registration.

(17) The division may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(a) the display of registration decals;

(b) the issuance and display of dealer numbers and registrations; and

(c) the issuance and display of temporary registrations.

(18) A violation of this section is an infraction.

Section 58. Section 73-18-8 is amended to read:

73-18-8. Safety equipment required to be on board vessels -- Penalties.

(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one wearable personal flotation device that is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

(i) in serviceable condition;

(ii) legally marked with the United States Coast Guard approval number; and

(iii) of an appropriate size for the person for whom it is intended.

(c) (i) Sailboards and racing shells are exempt from the provisions of Subsections (1)(a) and (e).

(ii) The division, after [~~consultation with~~] notifying the commission, may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

(d) The division may require by rule, after [~~consultation with~~] notifying the commission, for personal flotation devices to be worn:

(i) while a person is on board a certain type of vessel;

(ii) by a person under a certain age; or

(iii) on certain waters of the state.

(e) For vessels 16 feet or more in length, there shall also be on board one throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) The operator of a vessel operated between sunset and sunrise shall display lighted navigation lights approved by the division.

(3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel shall be equipped with an efficient natural or mechanical ventilation system that is capable of removing resulting gases before and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

(5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

(6) The division may, after notifying the commission:

(a) require additional safety equipment by rule [~~made in consultation with the commission~~]; and

(b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

(7) A person may not operate or give permission for the operation of a vessel that is not equipped as required by this section or rules promulgated under this section.

(8) A violation of this section is an infraction.

Section 59. Section 73-18-11 is amended to read:

73-18-11. Regulation of muffling devices.

The division, after [~~consultation with~~] notifying the commission, shall adopt rules for the regulating of muffling devices on all vessels.

Section 60. Section 73-18-13 is amended to read:

73-18-13. Duties of operator involved in accident -- Notification and reporting

procedures -- Use of accident reports -- Giving false information as misdemeanor.

(1) As used in this section, "agent" has the same meaning as provided in Section 41-6a-404.

(2) (a) It is the duty of the operator of a vessel involved in an accident, if the operator can do so without seriously endangering the operator's own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable.

(b) The operator shall also give the operator's name, address, and identification of the operator's vessel in writing to:

(i) any person injured; or

(ii) the owner of any property damaged in the accident.

(c) A violation of this Subsection (2) is a class B misdemeanor.

(3) (a) The division, after [~~consultation with~~] notifying the commission, shall adopt rules governing the notification and reporting procedure for vessels involved in accidents.

(b) The rules shall be consistent with federal requirements.

(4) (a) Except as provided in Subsection (4)(b), all accident reports:

(i) are protected and shall be for the confidential use of the division or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(ii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) The division shall disclose a written accident report and its accompanying data to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (4)(b)(i) and (ii);

(iv) a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(c) Information provided to a member of the press or broadcast news media under Subsection (4)(b)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (4)(c)(i).

(5) (a) Except as provided in Subsection (5)(c), an accident report may not be used as evidence in any civil or criminal trial, arising out of an accident.

(b) Upon demand of any person who has, or claims to have, made the report, or upon demand of any court, the division shall furnish a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division.

(c) Accident reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (6).

(6) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class B misdemeanor.

Section 61. Section 73-18-13.5 is amended to read:

73-18-13.5. Motorboat accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of registration materials.

(1) Upon request of a peace officer investigating an accident involving a motorboat as defined in Section 73-18c-102, the operator of the motorboat shall provide evidence of the owner's or operator's security required under Section 73-18c-301.

(2) The peace officer shall record on a form approved by the division:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information; and

(c) whether the peace officer finds reasonable cause to believe that any information given is not correct.

(3) The peace officer shall deposit all completed forms with the peace officer's agency, which shall forward the forms to the division no later than 10 days after receipt.

(4) (a) The division shall revoke the registration of a motorboat as defined in Section 73-18c-102 involved in an accident unless the owner or operator can demonstrate to the division compliance with the owner's or operator's security requirement of Section 73-18c-301 at the time of the accident.

(b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

(5) A person may appeal a revocation issued under Subsection (4) in accordance with procedures

established by the division, after [~~consultation with~~] notifying the commission, by rule that are consistent with Title 63G, Chapter 4, Administrative Procedures Act.

(6) (a) Any person whose registration is revoked under Subsection (4) shall return the registration card and decals for the motorboat to the division.

(b) If the person fails to return the registration materials as required, they shall be confiscated under Section 73-18-13.6.

(7) The division may, after [~~consultation with~~] notifying the commission, make rules for the enforcement of this section.

(8) In this section, "evidence of owner's or operator's security" includes any one of the following:

(a) the operator's:

(i) insurance policy;

(ii) binder notice;

(iii) renewal notice; or

(iv) card issued by an insurance company as evidence of insurance;

(b) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;

(c) a certificate of the state treasurer issued under Section 73-18c-305; or

(d) a certificate of self-funded coverage issued under Section 73-18c-306.

Section 62. Section 73-18-15 is amended to read:

73-18-15. Division to adopt rules concerning water skiing and aquaplane riding and use of other devices towed behind a vessel.

The division, after [~~consultation with~~] notifying the commission, shall adopt rules for the regulation and safety of water skiing and aquaplane riding, and the use of other devices that are towed behind a vessel pursuant to this section and in accordance with Section 73-18-16.

Section 63. Section 73-18-16 is amended to read:

73-18-16. Regattas, races, exhibitions -- Rules.

(1) The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state.

(2) The division, after [~~consultation with~~] notifying the commission, may adopt rules concerning the safety of vessels and persons, either as observers or participants, that do not conflict with the provisions of Subsections (3) and (4).

(3) A person may elect, at the person's own risk, to wear a non-Coast Guard approved personal floatation device if the person is on an American Water Ski Association regulation tournament slalom course and is:

(a) engaged in barefoot water skiing;

(b) water skiing in an American Water Ski Association regulation competition;

(c) a performer participating in a professional exhibition or other tournament; or

(d) practicing for an event described in Subsection (3)(b) or (c).

(4) If a person is water skiing in an American Water Ski Association regulation tournament slalom course, an observer and flag are not required if the vessel is:

(a) equipped with a wide angle mirror with a viewing surface of at least 48 square inches; and

(b) operated by a person who is at least 18 years of age.

(5) A violation of this section is an infraction.

Section 64. Section 73-18a-1 is amended to read:

73-18a-1. Definitions.

As used in this chapter:

(1) "Commission" means the Outdoor Adventure Commission.

(2) "Division" means the Division of Outdoor Recreation.

(3) "Human body waste" means excrement, feces, or other waste material discharged from the human body.

(4) "Litter" means any bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, or similar refuse discarded as no longer useful.

(5) "Marine toilet" means any toilet or other receptacle permanently installed on or within any vessel for the purpose of receiving human body waste. This term does not include portable toilets which may be removed from a vessel in order to empty its contents.

(6) "Operate" means to navigate, control, or otherwise use a vessel.

(7) "Operator" means the person who is in control of a vessel while it is in use.

(8) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term does not include a lessee under a lease not intended as security.

(9) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(10) "Waters of this state" means all waters within the territorial limits of this state except those used exclusively for private purposes.

Section 65. Section 73-18a-4 is amended to read:

73-18a-4. Marine toilets -- Pollution control devices required -- Rules established by division.

(1) Every marine toilet on a vessel used or operated upon the waters of this state shall be equipped with an approved pollution control device in operative condition.

(2) The division, after [~~consultation with~~] notifying the commission, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as provided in this chapter, establishing criteria or standards for definition and approval of acceptable pollution control devices for vessels.

Section 66. Section 73-18a-5 is amended to read:

73-18a-5. Chemical treatment of marine toilet contents -- Rules established by division and Department of Environmental Quality.

The division, after [~~consultation with~~] notifying the commission, shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with approval by the Department of Environmental Quality, as provided in this chapter, standards relating to chemical treatment of marine toilet contents.

Section 67. Section 73-18a-12 is amended to read:

73-18a-12. Rules made -- Subject to approval by Department of Environmental Quality.

The division, after [~~consultation with~~] notifying the commission, may [~~promulgate~~] make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which are necessary for the carrying out of duties, obligations, and powers conferred on the division by this chapter. These rules shall be subject to review and approval by the Department of Environmental Quality. This approval shall be recorded as part of the rules.

Section 68. Section 73-18b-1 is amended to read:

73-18b-1. Water safety rules and regulations -- Adoption.

(1) The Division of Outdoor Recreation, after [~~consulting with~~] notifying the Outdoor Adventure Commission, may make rules necessary to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted.

(2) The Division of Outdoor Recreation may consider recommendations of and cooperate with other state agencies and the owners or operators of those waters.

Section 69. Section 73-18c-102 is amended to read:

73-18c-102. Definitions.

As used in this chapter:

(1) "Airboat" means a vessel propelled by air pressure caused by an airplane type propeller mounted above the stern and driven by an internal combustion engine.

(2) "Commission" means the Outdoor Adventure Commission.

(3) "Division" means the Division of Outdoor Recreation.

(4) "Judgment" means any judgment that is final by:

(a) expiration without appeal of the time within which an appeal might have been perfected; or

(b) final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action for damages:

(i) arising out of the ownership, maintenance, or use of any personal watercraft, including damages for care and loss of services because of bodily injury to or death of any person, or because of injury to or destruction of property including the loss of use of the property; or

(ii) on a settlement agreement.

(5) (a) "Motorboat" has the same meaning as defined in Section 73-18-2.

(b) "Motorboat" includes personal watercraft regardless of the manufacturer listed horsepower.

(c) "Motorboat" does not include:

(i) a boat with a manufacturer listed horsepower of 50 horsepower or less; or

(ii) an airboat.

(6) "Nonresident" means any person who is not a resident of Utah.

(7) "Operator" means the person who is in control of a motorboat while it is in use.

(8) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a motorboat.

(b) "Owner" includes a person entitled to the use or possession of a motorboat subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(9) "Owner's or operator's security," "owner's security," or "operator's security" means any of the following:

(a) an insurance policy or combination of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which is issued by an insurer authorized to do business in Utah;

(b) a surety bond issued by an insurer authorized to do a surety business in Utah in which the surety is subject to the minimum coverage limits and other requirements of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which names the division as a creditor under the bond for the use of persons entitled to the proceeds of the bond;

(c) a deposit with the state treasurer of cash or securities complying with Section 73-18c-305;

(d) a certificate of self-funded coverage issued under Section 73-18c-306; or

(e) a policy conforming to Sections 31A-22-1502 and 31A-22-1503 issued by the Risk Management Fund created in Section 63A-4-201.

(10) "Personal watercraft" has the same meaning as provided in Section 73-18-2.

(11) "Registration" means the issuance of the registration cards and decals issued under the laws of Utah pertaining to the registration of motorboats.

(12) "Registration materials" means the evidences of motorboat registration, including all registration cards and decals.

(13) "Self-insurance" has the same meaning as provided in Section 31A-1-301.

(14) "Waters of the state" means any waters within the territorial limits of this state.

Section 70. Section 73-18c-201 is amended to read:

73-18c-201. Division to administer and enforce chapter -- Division may adopt rules.

(1) (a) The division shall administer this chapter.

(b) A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce this chapter in the rules made under this chapter.

(2) The division, after [~~consultation with~~] notifying the commission, may adopt rules as necessary for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 71. Section 77-2-4.3 is amended to read:

77-2-4.3. Compromise of boating violations -- Limitations.

(1) As used in this section:

(a) "Compromise" means referral of a person charged with a boating violation to a boating safety course approved by the Division of Outdoor Recreation.

(b) "Boating violation" means any charge for which bail may be forfeited in lieu of appearance, by citation or information, of a violation of Title 73, Chapter 18, State Boating Act, amounting to:

(i) a class B misdemeanor;

(ii) a class C misdemeanor; or

(iii) an infraction.

(2) Any compromise of a boating violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:

(a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; or

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge.

(3) In [~~all cases which are~~] a case that is compromised pursuant to [~~the provisions of~~] Subsection (2):

(a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than $25 greater than the bail designated in the Uniform Bail Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the boating safety course shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the boating safety course fee and surcharge had been imposed as a criminal fine and surcharge; and

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

(a) the Uniform Bail Schedule amount;

(b) the amount of any surcharges being assessed; and

(c) the amount of the plea in abeyance fee.

Section 72. Section 78A-5-110 is amended to read:

78A-5-110. Allocation of district court fees and forfeitures.

(1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.

(2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.

(3) (a) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, Title 41, Chapter 22, [~~Off-Highway~~] Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.

(b) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

(c) For violations of Title 41, Chapter 22, [~~Off-Highway~~] Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Outdoor Recreation and 15% to the General Fund.

(4) (a) The state treasurer shall allocate fines and forfeitures collected for a violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, to the Department of Transportation for use on class B and class C roads.

(b) Fees established by the Judicial Council shall be deposited in the state General Fund.

(c) Money allocated for class B and class C roads is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(5) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and

(ii) 40% in accordance with Subsection (2).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and

(ii) 50% in accordance with Subsection (2).

(6) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 40% to the treasurer of the state or local governmental entity that prosecutes or that would prosecute the violation, and 40% to the General Fund.

(7) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.

(8) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

(9) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section 73. Section 78A-7-120 is amended to read:

78A-7-120. Disposition of fines.

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, [~~Off-Highway~~] Off-highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Outdoor Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:

(i) 20% to the school district or private school that owns or contracts for the use of the school bus; and

(ii) 80% in accordance with Subsection (1).

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

Section 74. Section 79-1-104 is enacted to read:

79-1-104. Application of title to wildlife issues.

(1) The following may not be construed or applied to supersede or interfere with the powers and duties of the Division of Wildlife Resources or the Wildlife Board under Title 23, Wildlife Resources Code of Utah, over the activities described in Subsection (2):

(a) Chapter 4, State Parks;

(b) Chapter 5, Recreational Trails;

(c) Chapter 7, Outdoor Recreation Act; and

(d) Chapter 8, Outdoor Recreation Grants.

(2) Subsection (1) applies to the powers and duties of the Division of Wildlife Resources or the Wildlife Board over:

(a) conservation and management of protected wildlife within the state;

(b) a program or initiative to restore and conserve habitat for fish and wildlife; or

(c) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Section 75. Section 79-2-201 is amended to read:

79-2-201. Department of Natural Resources created.

(1) There is created the Department of Natural Resources.

(2) The department comprises the following:

(a) Board of Water Resources, created in Section 73-10-1.5;

(b) Board of Oil, Gas, and Mining, created in Section 40-6-4;

(c) Board of State Parks, created in Section 79-4-301;

(d) Office of Energy Development, created in Section 79-6-401[~~.~~];

(e) Wildlife Board, created in Section 23-14-2;

(f) Board of the Utah Geological Survey, created in Section 79-3-301;

(g) Water Development Coordinating Council, created in Section 73-10c-3;

[~~(h) Utah Outdoor Recreation Grant Advisory Committee, created in Section 79-8-105;~~]

[~~(i) Home Energy Information Advisory Committee, created in Section 79-6-805;~~]

[~~(j)~~] (h) Division of Water Rights, created in Section 73-2-1.1;

[~~(k)~~] (i) Division of Water Resources, created in Section 73-10-18;

[~~(l)~~] (j) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;

[~~(m)~~] (k) Division of Oil, Gas, and Mining, created in Section 40-6-15;

[~~(n)~~] (l) Division of State Parks, created in Section 79-4-201;

[~~(o)~~] (m) Division of Outdoor Recreation, created in Section 79-7-201;

[~~(p)~~] (n) Division of Wildlife Resources, created in Section 23-14-1;

[~~(q)~~] (o) Utah Geological Survey, created in Section 79-3-201;

[~~(r)~~] (p) Heritage Trees Advisory Committee, created in Section 65A-8-306;

[~~(s) Recreational Trails Advisory Council, authorized by Section 79-5-201;~~]

(q) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

[~~(t)~~] (r) (i) [~~Boating Advisory Council~~] an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or

(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;

[~~(u)~~] (s) Wildlife Board Nominating Committee, created in Section 23-14-2.5;

[~~(v)~~] (t) Wildlife Regional Advisory Councils, created in Section 23-14-2.6;

[~~(w)~~] (u) Utah Watersheds Council, created in Section 73-10g-304;

[~~(x)~~] (v) Utah Natural Resources Legacy Fund Board, created in Section 23-31-202; and

[~~(y)~~] (w) Public Lands Policy Coordinating Office created in Section 63L-11-201.

Section 76. Section 79-2-202 is amended to read:

79-2-202. Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.

(1) (a) The chief administrative officer of the department is an executive director appointed by the governor with the advice and consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the department and provide for coordination and cooperation among the boards, divisions, councils, and committees of the department;

(b) approve the budget of each board and division;

(c) participate in regulatory proceedings as appropriate for the functions and duties of the department;

(d) report at the end of each fiscal year to the governor on department, board, and division activities;

(e) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(f) perform other duties as provided by statute.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director, may accept an executive or legislative provision that is enacted by the federal government, whereby the state may participate in the distribution, disbursement, or administration of a fund or service from the federal government for purposes consistent with the powers and duties of the department.

(4) (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

(b) The executive director shall submit any plan to the governor for review and approval.

(5) The executive director may coordinate and enter agreements with other state agencies regarding state conservation efforts as defined in Section 4-46-102.

Section 77. Section 79-2-206 is amended to read:

79-2-206. Transition.

(1) In accordance with Laws of Utah 2021 Chapter 280, the Department of Natural Resources assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Office of Energy Development existing on June 30, 2021.

(2) (a) Rules issued by the Office of Energy Development that are in effect on June 30, 2021, are not modified by Laws of Utah 2021 Chapter 280, and remain in effect until modified by the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280.

(b) Rules issued by the Board of Parks and Recreation that are in effect on June 30, 2021, are not modified by Laws of Utah 2021 Chapter 280, and remain in effect until modified by the appropriate entity within the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the appropriate entity within the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280.

(c) Rules issued by the Office of Outdoor Recreation that are in effect on June 30, 2022, are not modified by this bill, and remain in effect until modified by the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under this bill.

(3) A grant, contract, or agreement in effect on June 30, 2021, that is entered into by or issued by the Office of Energy Development remains in effect, except that:

(a) the agency administrating the grant, contract, or agreement shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280; and

(b) the grant, contract, or agreement is subject to its terms and may be terminated under the terms of the grant, contract, or agreement.

(4) (a) A grant that is entered into or issued by the Utah Office of Outdoor Recreation remains in effect, except that:

[~~(a)~~] (i) [~~except for an outdoor recreational infrastructure grant,~~] the agency administrating the grant shall be transferred to the Division of Outdoor Recreation in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280 and this bill; and

[~~(b)~~] (ii) the grant is subject to the terms of the grant and may be terminated under the terms of the grant.

(b) In accordance with this bill, the Department of Natural Resources assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Office of Outdoor Recreation existing on June 30, 2022.

[~~(5) (a) The Governor's Office of Planning and Budget shall submit recommendations to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2021 interim meeting of the committee regarding possible restructuring to improve coordination between the Department of Natural Resources and the following:~~]

[~~(i) the Department of Environmental Quality;~~]

[~~(ii) the Division of Public Utilities;~~]

[~~(iii) the Office of Consumer Services; and~~]

[~~(iv) the Office of Rural Development.~~]

[~~(b) In conducting the study under this Subsection (5), the Governor's Office of Planning and Budget shall incorporate public feedback into forming the recommendations, including:~~]

[~~(i) holding at least two public meetings and listening sessions; and~~]

[~~(ii) publishing draft recommendations a minimum of 30 days before the November 2021 interim meeting to provide a comment period on the draft recommendations with adequate time for considering feedback and revisions to the recommendations.~~]

Section 78. Section 79-4-203 is amended to read:

79-4-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law within state parks and on property controlled by the Division of State Parks with reference to fish and game.

(3) The division shall permit multiple use of state parks and property controlled by the division for purposes such as grazing, fishing, hunting, camping, mining, and the development and utilization of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring any real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of [~~its~~] the division's intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for park purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

[~~(11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-4-404.~~]

Section 79. Section 79-4-1103 is amended to read:

79-4-1103. Governor's duties -- Priority of federal property.

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the [~~Outdoor Recreation Office, created in Section 63N-9-104,~~] Division of Outdoor Recreation, in consultation with the executive director of the Governor's Office of Economic Opportunity, shall determine, by rule, the priority of national parks, national monuments, national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the [~~Outdoor Recreation Office~~] Division of Outdoor Recreation shall consider the:

(a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest, or national recreation area.

(4) The director of the [~~Outdoor Recreation Office shall:(a) report the priority determined under Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2014; and (b)~~] Division of Outdoor Recreation shall annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Section 80. Section 79-5-102 is amended to read:

79-5-102. Definitions.

As used in this chapter:

[~~(1) "Commission" means the Outdoor Adventure Commission.~~]

[~~(2) "Council" means the Recreational Trails Advisory Council.~~]

(1) "Committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in Section 79-7-206.

[~~(3)~~] (2) "Division" means the Division of Outdoor Recreation.

[~~(4)~~] (3) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling;

(ii) cross-country skiing;

(iii) walking;

(iv) jogging; and

(v) horseback riding; and

(b) uses compatible with the uses described in Subsection [~~(4)~~] (3)(a), including the use of an electric assisted bicycle or motor assisted scooter, as defined in Section 41-6a-102.

Section 81. Section 79-5-501 is amended to read:

79-5-501. Grants -- Matching funds requirements -- Rules.

(1) (a) The division, after consultation with the [~~commission~~] committee, may give grants to federal government agencies, state agencies, or local governments for the planning, acquisition, and development of trails within the state's recreational trail system with funds appropriated by the Legislature for that purpose.

(b) (i) Each grant recipient must provide matching funds [~~having a value that is equal to or greater than the grant funds received~~] as established by the division by rule.

(ii) The division may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.

(2) The division, after consultation with the [~~commission~~] committee, shall:

(a) make rules setting forth procedures and criteria for the awarding of grants for recreational trails; and

(b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the [~~council~~] committee and the division.

(3) Rules for the awarding of grants for recreational trails shall provide that:

(a) each grant applicant must solicit public comment on the proposed recreational trail and submit a summary of that comment to the division;

(b) each trail project for which grant funds are awarded must conform to the criteria and guidelines specified in Sections 79-5-103, 79-5-301, and 79-5-302; and

(c) trail proposals that include a plan to provide employment opportunities for youth, including at-risk youth, in the development of the trail is encouraged.

(4) As used in this section, "at-risk youth" means youth who:

(a) are subject to environmental forces, such as poverty or family dysfunction, that may make them vulnerable to family, school, or community problems;

(b) perform poorly in school or have failed to complete high school;

(c) exhibit behaviors that have the potential to harm themselves or others in the community, such as truancy, use of alcohol or drugs, and associating with delinquent peers; or

(d) have already engaged in behaviors harmful to themselves or others in the community.

Section 82. Section 79-5-503 is amended to read:

79-5-503. Bonneville Shoreline Trail Program.

(1) There is created within the division the Bonneville Shoreline Trail Program.

(2) The program shall be funded from the following sources:

(a) appropriations made to the program by the Legislature; and

(b) contributions from other public and private sources.

(3) [~~All money~~] Money appropriated to the Bonneville Shoreline Trail Program is nonlapsing.

(4) The Bonneville Shoreline Trail is intended to:

(a) follow on or near the old Lake Bonneville shoreline terrace near the foot of the Wasatch Mountains from Juab County through Cache County; and

(b) provide continuous and safe trails.

(5) (a) The program money shall be used to provide grants to local governments for the planning, development, [~~and~~] construction, and the acquisition of key parcels of land of the Bonneville Shoreline Trail.

(b) Grant recipients shall provide matching funds in accordance with Section 79-5-501.

Section 83. Section 79-6-302 is amended to read:

79-6-302. Legislative committee review.

[~~The Natural Resources, Agriculture, and Environment Interim Committee and the~~] The Public Utilities, Energy, and Technology Interim Committee shall review the state energy policy annually and propose any changes to the Legislature.

Section 84. Section 79-6-505 is amended to read:

79-6-505. Report to the Legislature.

The office shall annually provide an electronic report to the Public Utilities, Energy, and Technology Interim Committee[~~, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee~~] describing:

(1) [~~its~~] the office's success in attracting alternative energy projects to the state and the resulting increase in new state revenues under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section 85. Section 79-6-605 is amended to read:

79-6-605. Report to the Legislature.

The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee[~~, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee~~] describing:

(1) the office's success in attracting high cost infrastructure projects to the state and the resulting increase in infrastructure-related revenue under this part;

(2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and

(3) the economic impact on the state by comparing infrastructure-related revenue to tax credits that have been or will be granted under this part.

Section 86. Section 79-7-102 is amended to read:

CHAPTER 7. OUTDOOR RECREATION ACT

Part 1. General Provisions

79-7-102. Definitions.

As used in this chapter:

(1) "Commission" means the Outdoor Adventure Commission created in Section 63C-21-201.

(2) "Division" means the Division of Outdoor Recreation.

Section 87. Section 79-7-103, which is renumbered from Section 63N-9-103 is renumbered and amended to read:

[~~63N-9-103~~]. 79-7-103. Policy.

It is the declared policy of the state that outdoor recreation is vital to a diverse economy and a healthy community.

Section 88. Section 79-7-201 is amended to read:

79-7-201. Division of Outdoor Recreation -- Creation -- Purposes -- Rulemaking authority.

(1) (a) There is created within the department the Division of Outdoor Recreation.

(b) The division has the purpose of providing, maintaining, and coordinating motorized and nonmotorized recreation within the state as the recreation authority of the state.

(2) (a) The division is under the administration and general supervision of the executive director.

(b) The division shall [~~consult with~~] notify the commission as provided in statute on issues related to outdoor recreation.

[~~(3) The division is the recreation authority for the state.~~]

[~~(4)~~] (3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, [~~after consulting with the commission,~~] when expressly authorized by this chapter[~~.~~]:

(i) regarding issues related to outdoor recreation; and

(ii) after notifying the commission, except for rules made under:

(A) Chapter 5, Recreational Trails; and

(B) Chapter 8, Outdoor Recreation Grants.

(b) [~~The~~] In accordance with Subsection (3)(a), the division shall make rules governing the collection of charges under Subsection 79-7-203(8).

Section 89. Section 79-7-203 is amended to read:

79-7-203. Powers and duties of division.

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law on property controlled by the division with reference to fish and game.

(3) [~~The~~] For purposes of property controlled by the division, the division shall permit multiple [~~use~~]

uses of the property [~~controlled by the division~~] for purposes such as grazing, fishing, hunting, camping, mining, and the development and use of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of the division's intention to acquire the property.

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of lawful kinds and nature on property to persons, partnerships, and corporations for a valuable consideration after [~~consulting with~~] notifying the commission.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) (a) The division shall coordinate with and annually report to the following regarding land acquisition and development and grants administered under this chapter or Chapter 8, Outdoor Recreation Grants:

[~~(a) the Utah Office of Outdoor Recreation;~~]

[~~(b)~~] (i) the Division of State Parks; and

[~~(c)~~] (ii) the Office of Rural Development.

(b) The report required under Subsection (11)(a) shall be in writing, made public, and include a description and the amount of any grant awarded under this chapter or Chapter 8, Outdoor Recreation Grants.

(12) The division shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state;

(ii) with the Public Lands Policy Coordinating Office created in Section 63L-11-201, if public land is involved; and

(iii) on at least a quarterly basis, with the executive director and the executive director of the Governor's Office of Economic Opportunity;

(b) in cooperation with the Governor's Office of Economic Opportunity, promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) promote all forms of outdoor recreation, including motorized and nonmotorized outdoor recreation;

(d) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(e) in performing the division's duties, seek to ensure safe and adequate access to outdoor recreation for all user groups and for all forms of recreation;

(f) develop data regarding the impacts of outdoor recreation in the state; and

(g) promote the health and social benefits of outdoor recreation, especially to young people.

(13) By following Title 63J, Chapter 5, Federal Funds Procedures Act, the division may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(14) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-7-303.

Section 90. Section 79-7-206 is enacted to read:

79-7-206. Utah Outdoor Recreation Infrastructure Advisory Committee.

(1) As used in this section, "committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in this section.

(2) (a) There is created within the division the "Utah Outdoor Recreation Infrastructure Advisory Committee" consisting of the following 17 members:

(i) the director of the division, who shall act as chair of the committee;

(ii) the director of the Division of State Parks, or the director of the Division of State Park's designee; and

(iii) the following appointed by the executive director:

(A) one nonvoting representative of a federal land agency;

(B) one nonvoting representative of National Park Service's River, Trails, and Conservation Assistance Program;

(C) one representative of municipal government, recommended by the Utah League of Cities and Towns;

(D) one representative of county government, recommended by the Utah Association of Counties;

(E) two representatives of the outdoor industry;

(F) two representatives of tourism, with one focused in the hotel or lodging sector;

(G) one representative of the healthcare industry;

(H) one representative of multi-ability groups or programs;

(I) one representative of outdoor recreation education programming;

(J) one representative of nonmotorized recreation interests;

(K) one representative of youth conservation or service corps organization; and

(L) two representatives of motorized recreation interests.

(b) At least two of the members of the committee appointed under Subsection (2)(a)(iii) shall represent rural interests.

(3) (a) Except as required by Subsection (3)(b), as terms of committee members appointed under Subsection (2)(a)(iii) expire, the division shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members appointed under Subsection (2)(a)(iii) are staggered so that approximately half of the committee is appointed every two years.

(c) The executive director may remove an appointed member of the advisory committee at any time, with or without cause.

(d) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term in the same manner as the original appointment.

(4) The majority of voting members of the committee constitutes a quorum and an action of the majority of voting members present when a quorum is present is action by the committee.

(5) The division shall provide administrative staff support for the committee.

(6) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a)(iii) may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(7) The committee shall advise and make recommendations to the division regarding:

(a) nonmotorized recreational trails under Chapter 5, Recreational Trails;

(b) grants issued under Chapter 8, Part 2, Recreation Restoration Infrastructure Grant Program;

(c) the administration of the fund created in Section 79-8-304;

(d) grants issued under Chapter 8, Part 3, Utah Children's Outdoor Recreation and Education Grant Program; and

(e) grants issued under Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program.

Section 91. Section 79-7-303, which is renumbered from Section 79-4-404 is renumbered and amended to read:

[~~79-4-404~~]. 79-7-303. Zion National Park Support Programs Restricted Account.

(1) There is created within the General Fund the "Zion National Park Support Programs Restricted Account."

(2) The [~~account~~] Zion National Park Support Programs Restricted Account shall be funded by:

(a) contributions deposited into the [~~account~~] Zion National Park Support Programs Restricted Account in accordance with Section 41-1a-422;

(b) private contributions; or

(c) donations or grants from public or private entities.

(3) The Legislature shall appropriate [~~funds~~] money in the [~~account~~] Zion National Park Support Programs Restricted Account to the division.

(4) The [~~board~~] division may expend up to 10% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).

(5) The division shall distribute contributions to one or more organizations that:

(a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(b) operate under a written agreement with the National Park Service to provide interpretive, educational, and research activities for the benefit of Zion National Park;

(c) produce and distribute educational and promotional materials on Zion National Park;

(d) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(e) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(6) (a) An organization described in Subsection (5) may apply to the division to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the division in accordance with Subsection (5) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on Zion National Park;

(ii) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(iii) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after notifying the commission, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (5).

Section 92. Section 79-8-102 is amended to read:

79-8-102. Definitions.

As used in this chapter:

(1) "Accessible to the general public" in relation to the awarding of an infrastructure grant, means:

(a) the public may use the infrastructure in accordance with federal and state regulations; and

(b) no community or group retains exclusive rights to access the infrastructure.

(2) "Advisory committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in Section 79-7-206.

[~~(1)~~] (3) "Children," in relation to the awarding of a UCORE grant, means individuals who are six years old or older and 18 years old or younger.

[~~(2)~~] (4) "Director" means the director of the Division of Outdoor Recreation.

[~~(3)~~] (5) "Division" means the Division of Outdoor Recreation.

[~~(4)~~] (6) "Executive director" means the executive director of the Department of Natural Resources.

(7) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 79-8-401.

(8) (a) "Recreational infrastructure project" means an undertaking to build or improve an approved facility or installation needed for the public to access and enjoy the state's outdoors.

(b) "Recreational infrastructure project" may include the:

(i) establishment, construction, or renovation of a trail, trail infrastructure, or a trail facility;

(ii) construction of a project for a water-related outdoor recreational activity;

(iii) development of a project for a wildlife watching opportunity, including bird watching;

(iv) development of a project that provides a winter recreation amenity;

(v) construction or improvement of a community park that has an amenity for outdoor recreation; and

(vi) construction or improvement of a naturalistic and accessible playground.

[~~(5)~~] (9) "UCORE grant" means a children's outdoor recreation and education grant described in Section [~~79-8-402~~] 79-8-302.

[~~(6)~~] (10) (a) "Underserved [~~or underprivileged~~] community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(b) "Underserved [~~or underprivileged~~] community" includes an economically disadvantaged community where in relation to awarding a UCORE grant, the children of the community, including children with disabilities, have limited access to outdoor recreation or education programs.

Section 93. Section 79-8-103 is amended to read:

79-8-103. Outdoor recreation grants.

To the extent money is available, the division shall administer outdoor recreation grants for the state, including grants that address:

(1) outdoor recreation in general;

(2) recreational trails;

(3) off-highway vehicle incentives;

(4) boat access and clean vessels; [~~and~~]

(5) land, water, and conservation[~~.~~]; and

(6) outdoor recreation programming.

Section 94. Section 79-8-106 is amended to read:

79-8-106. Outdoor Recreation Infrastructure Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Infrastructure Account," which[~~; (a) the outdoor recreation office~~] the division shall use to fund:

(a) the Outdoor Recreational Infrastructure Grant Program created in Section [~~63N-9-202~~] 79-8-401; and

(b) [~~the division shall use to fund~~] the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature;

(d) money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior; and

(e) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The division shall, with the advice of the [~~Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105~~] advisory committee, administer the account.

(4) [~~(a)~~] The cost of administering the account shall be paid from money in the account.

[~~(b) The cost of two full-time positions in the Utah Office of Outdoor Recreation in an amount agreed to by the division and the Utah Office of Outdoor Recreation shall be paid from money in the account.~~]

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 95. Section 79-8-201 is amended to read:

79-8-201. Definitions.

As used in this part:

[~~(1) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105.~~]

[~~(2)~~] (1) "Grant program" means the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

[~~(3)~~] (2) "High demand outdoor recreation amenity" means infrastructure necessary for a campground, picnic area, or water recreation structure such as a dock, pier, or boat ramp that receives or has received heavy use by the public.

[~~(4)~~] (3) "High priority trail" means a motorized or nonmotorized recreation summer-use trail and related infrastructure that is prioritized by the advisory committee for restoration or rehabilitation to maintain usability and sustainability of trails that receive or have received high use by the public.

[~~(5)~~] (4) "Public lands" includes local, state, and federal lands.

[~~(6)~~] (5) "Rehabilitation or restoration" means returning an outdoor recreation structure or trail that has been degraded, damaged, or destroyed to its previously useful state by means of repair, modification, or alteration.

Section 96. Section 79-8-202 is amended to read:

79-8-202. Creation of grant program.

(1) (a) There is created the "Recreation Restoration Infrastructure Grant Program" administered by the division.

(b) Subject to Subsection (1)(c), 5% percent of the unencumbered amount in the [~~Utah~~] Outdoor Recreation Infrastructure Account, created in Section 79-8-106, at the beginning of each fiscal year may be used for the grant program.

(c) The percentage outlined in Subsection (1)(b) may be increased or decreased at the beginning of a fiscal year if approved by the executive director after consultation with the director and the advisory committee.

(2) The division may seek to accomplish the following objectives in administering the grant program:

(a) rehabilitate or restore high priority trails for both motorized and nonmotorized uses;

(b) rehabilitate or restore high demand recreation areas on public lands; and

(c) encourage the public land entities to engage with volunteer groups to aid with portions of needed trail work.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after consulting with [~~the Outdoor Adventure Commission~~] the advisory committee, establishing the eligibility and reporting criteria for an entity to receive a recreation restoration infrastructure grant, including:

(a) the form and process of submitting annual project proposals to the division for a recreation restoration infrastructure grant;

(b) which entities are eligible to apply for a recreation restoration infrastructure grant;

(c) specific categories of recreation restoration projects that are eligible for a recreation restoration infrastructure grant;

(d) the method and formula for determining recreation restoration infrastructure grant amounts; and

(e) the reporting requirements of a recipient of a recreation restoration infrastructure grant.

Section 97. Section 79-8-302 is amended to read:

79-8-302. Creation and purpose of the UCORE grant program.

(1) There is created the Utah Children's Outdoor Recreation and Education Grant Program administered by the division.

(2) The division may seek to accomplish the following objectives in administering the UCORE grant program:

(a) promote the health and social benefits of outdoor recreation to the state's children;

(b) encourage children to develop the skills and confidence to be physically active for life;

(c) provide outdoor recreational opportunities to underserved [~~or underprivileged~~] communities in the state; and

(d) encourage hands-on outdoor or nature-based learning and play to prepare children for achievement in science, technology, engineering, and math.

Section 98. Section 79-8-303 is amended to read:

79-8-303. Rulemaking and requirements for awarding a UCORE grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after consulting with the [~~Outdoor Adventure Commission~~] advisory committee, shall make rules establishing the eligibility and reporting criteria for an entity to receive a UCORE grant, including:

(a) the form and process of submitting an application to the division for a UCORE grant;

(b) which entities are eligible to apply for a UCORE grant;

(c) specific categories of children's programs that are eligible for a UCORE grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of a UCORE grant, the division may prioritize a children's program that will serve an [~~underprivileged or~~] underserved community in the state.

(3) A UCORE grant may only be awarded by the executive director after consultation with the director and the [~~Outdoor Adventure Commission~~] advisory committee.

(4) The following entities may not receive a UCORE grant under this part:

(a) a federal government entity;

(b) a state agency, except for public schools and institutions of higher education; and

(c) a for-profit entity.

(5) In awarding UCORE grants, consideration shall be given to entities that implement programs that:

(a) contribute to healthy and active lifestyles through outdoor recreation; and

(b) include one or more of the following attributes in their programs or initiatives:

(i) serve children with the greatest needs in rural, suburban, and urban areas of the state;

(ii) provide students with opportunities to directly experience nature;

(iii) maximize the number of children who can participate;

(iv) commit matching and in-kind resources;

(v) create partnerships with public and private entities;

(vi) include ongoing program evaluation and assessment;

(vii) [~~utilize~~] use veterans in program implementation;

(viii) include outdoor or nature-based programming that incorporates concept learning in science, technology, engineering, or math; or

(ix) [~~utilize~~] use educated volunteers in program implementation.

Section 99. Section 79-8-304 is amended to read:

79-8-304. Utah Children's Outdoor Recreation and Education Fund -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Utah Children's Outdoor Recreation and Education Fund," which the division shall use to fund the Utah Children's Outdoor Recreation and Education Grant Program created in Section 79-8-302.

(2) The fund consists of:

(a) appropriations made by the Legislature;

(b) interest earned on the account; and

(c) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The division shall, with the advice of [~~the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105~~] the advisory committee, administer the fund.

(4) The cost of administering the fund shall be paid from money in the fund.

(5) Interest accrued from investment of money in the fund shall remain in the fund.

Section 100. Section 79-8-401, which is renumbered from Section 63N-9-202 is renumbered and amended to read:

Part 4. Outdoor Recreational Infrastructure Grant Program

[~~63N-9-202~~]. 79-8-401. Creation and purpose of infrastructure grant program.

(1) There is created the Outdoor Recreational Infrastructure Grant Program administered by the [~~outdoor recreation office~~] division.

(2) The [~~outdoor recreation office~~] division may seek to accomplish the following objectives in administering the infrastructure grant program:

(a) build, maintain, and promote recreational infrastructure to provide greater access to low-cost outdoor recreation for the state's citizens;

(b) encourage residents and nonresidents of the state to take advantage of the beauty of Utah's outdoors;

(c) encourage individuals and businesses to relocate to the state;

(d) promote outdoor exercise; and

(e) provide outdoor recreational opportunities to an underserved [~~or underprivileged~~] community in the state.

(3) The advisory committee shall advise and make recommendations to the [~~outdoor recreation office~~] division regarding infrastructure grants.

Section 101. Section 79-8-402, which is renumbered from Section 63N-9-203 is renumbered and amended to read:

[~~63N-9-203~~]. 79-8-402. Rulemaking and requirements for awarding an infrastructure grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with the advisory committee, the [~~outdoor recreation office~~] division shall make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant, including:

(a) the form and process of submitting an application to the [~~outdoor recreation office~~] division for an infrastructure grant;

(b) which entities are eligible to apply for an infrastructure grant;

(c) specific categories of recreational infrastructure projects that are eligible for an infrastructure grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of an infrastructure grant, the [~~outdoor recreation office~~] division may prioritize a recreational infrastructure project that will serve an [~~underprivileged or~~] underserved community.

(3) An infrastructure grant may only be awarded by the executive director after consultation with the director and the [~~GO Utah board~~] advisory committee.

(4) The following entities may not receive an infrastructure grant under this part:

(a) a federal government entity;

(b) a state agency; and

(c) a for-profit entity.

(5) An infrastructure grant may only be awarded under this part:

(a) for a recreational infrastructure project that is accessible to the general public; and

(b) subject to Subsections (6) and (7), if the grant recipient agrees to provide matching funds having a value:

(i) equal to or greater than the amount of the infrastructure grant[~~.~~]; or

(ii) established in accordance with rules made by the division, after consultation with the advisory committee, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) Up to 50% of the grant recipient match described in Subsection (5)(b) may be provided through an in-kind contribution by the grant recipient, if:

(a) approved by the executive director after consultation with the director and the [~~GO Utah board~~] advisory committee; and

(b) the in-kind donation does not include real property.

(7) An infrastructure grant may not be awarded under this part if the grant, or the grant recipient match described in Subsection (5)(b), will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

Section 102. Repealer.

This bill repeals:

Section 11-38-101, Title.

Section 11-38-201, Quality Growth Commission -- Term of office -- Vacancy -- Organization -- Expenses -- Staff.

Section 11-38-203, Commission may provide assistance to local entities.

Section 63N-9-101, Title.

Section 63N-9-102, Definitions.

Section 63N-9-104, Creation of outdoor recreation office and appointment of director -- Responsibilities of outdoor recreation office.

Section 63N-9-105, Duties of director.

Section 63N-9-106, Annual report.

Section 63N-9-201, Title.

Section 79-5-201, Recreational Trails Advisory Council.

Section 79-5-202, Council membership -- Expenses.

Section 79-7-101, Title.

Section 79-8-104, Annual report.

Section 79-8-105, Utah Outdoor Recreation Grant Advisory Committee -- Membership -- Duties -- Expenses.

Section 103. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Pass Through

From General Fund	$130,000
Schedule of Programs:	
Pass Through	$130,000

The Legislature intends that the money appropriated under this item be used only for the purpose of conservation efforts in accordance with Subsection 79-2-202(5) enacted in this bill.ITEM 2

To Department of Natural Resources -- Recreation Management

From General Fund	$150,000
Schedule of Programs:	
Recreation Management	$150,000

The Legislature intends that the money appropriated under this item be used for the administration of the Division of Outdoor Recreation in accordance with this bill.

ITEM 3

To Department of Agriculture and Food -- Conservation

From General Fund	$120,000
Schedule of Programs:	
Conservation Administration	$120,000

The Legislature intends that the money appropriated under this item be used for conservation efforts in accordance with this bill.

ITEM 4

To Governor's Office of Economic Opportunity

From General Fund	($338,700)
Schedule of Programs:	
Business Outreach & International Trade	($338,700)

ITEM 5

To Department of Natural Resources -- Recreation Management

From General Fund	$338,700
Schedule of Programs:	
Recreation Management	$338,700

The Legislature intends that, at the close of fiscal year 2022, the Division of Finance transfer any fiscal year 2022 closing nonlapsing balances or carry forward funding in support of the Office of Outdoor Recreation to the Department of Natural Resources - Recreation Management, as fiscal year 2023 beginning nonlapsing balances.

Section 104. Effective date.

This bill takes effect on July 1, 2022.

Section 105. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication on July 1, 2022:

(1) replace the references in Subsections 4-46-104(1)(a) and (2) from "this bill" to the bill's designated chapter number in the Laws of Utah;

(2) replace the references in Subsections 79-2-206(2)(c), (4)(a)(i) and (4)(b) from "this bill" to the bill's designated chapter number in the Laws of Utah;

(3) replace cross references to sections renumbered by this bill that are added to the Utah Code by legislation passed during the 2022 General Session that become law;

(4) replace references to the "Division of Recreation" to the "Division of Outdoor Recreation" in any new language added to the Utah Code by legislation, other than Section 79-2-206, passed during the 2022 General Session that becomes law; and

(5) replace references to the "Quality Growth Commission" to the "Land Conservation Board" in any new language added to the Utah Code by legislation, other than Section 4-46-104, passed during the 2022 General Session that becomes law.

CHAPTER 69
H. B. 322

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

PUBLIC TRANSIT CAPITAL DEVELOPMENT MODIFICATIONS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Brady Brammer
Joel K. Briscoe
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Joel Ferry
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Timothy D. Hawkes
Jon Hawkins
Sandra Hollins
Ken Ivory
Dan N. Johnson
Marsha Judkins
Brian S. King
Michael L. Kohler
Karen Kwan
Bradley G. Last
Rosemary T. Lesser
Karianne Lisonbee
Steven J. Lund
Phil Lyman
A. Cory Maloy
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Calvin R. Musselman
Merrill F. Nelson
Doug Owens
Michael J. Petersen
Karen M. Peterson
Val L. Peterson
Candice B. Pierucci
Stephanie Pitcher
Susan Pulsipher
Adam Robertson
Judy Weeks Rohner
Angela Romero
Douglas V. Sagers
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
Casey Snider
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Norman K. Thurston
Steve Waldrip
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill requires the Department of Transportation to manage and oversee all fixed guideway capital development projects that include state funding.

Highlighted Provisions:

This bill:

- defines terms;
- requires a large public transit district to coordinate with the Department of Transportation regarding certain public transit facilities associated with a transit oriented development;
- requires the Department of Transportation to manage and oversee fixed guideway capital development projects for which state money is expended;
- requires the Department of Transportation to report to the Transportation Interim Committee regarding a plan to assume responsibility for public transit capital development;
- amends the allowed uses of funds in the Transit Transportation Investment Fund;
- requires an agreement between a large public transit district and the Department of Transportation pertaining to repayment of certain funds; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-802, as last amended by Laws of Utah 2020, Chapter 377

17B-2a-804, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

17B-2a-806, as last amended by Laws of Utah 2017, Chapter 121

17B-2a-808.2, as last amended by Laws of Utah 2019, Chapter 479

72-1-102, as last amended by Laws of Utah 2021, Chapter 411

72-1-202, as last amended by Laws of Utah 2021, Chapter 344

72-1-208, as last amended by Laws of Utah 2018, Chapter 424

72-2-124, as last amended by Laws of Utah 2021, Chapters 239, 387, and 411

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

Section 1. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Council of governments" means a decision-making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(5) "Department" means the Department of Transportation created in Section 72-1-201.

(6) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(7) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(8) "Fixed guideway capital development" means the same as that term is defined in Section 72-1-102.

[~~(7)~~] (9) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

[~~(8)~~] (10) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

[~~(9)~~] (11) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

[~~(10)~~] (12) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(11)~~] (13) "Multicounty district" means a public transit district located in more than one county.

[~~(12)~~] (14) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

[~~(13)~~] (15) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

[~~(14)~~] (16) "Public transit district" means a local district that provides public transit services.

[~~(15)~~] (17) "Small public transit district" means any public transit district that is not a large public transit district.

[~~(16)~~] (18) "Station area plan" means a plan adopted by the relevant municipality or county that establishes and preserves a vision for areas within one-half mile of a fixed guideway station of a large public transit district, the development of which includes:

(a) involvement of all relevant stakeholders who have an interest in the station area, including relevant metropolitan planning organizations and the Department of Transportation;

(b) identification of major infrastructural and policy constraints and a course of action to address those constraints; and

(c) other criteria as determined by the board of trustees of the relevant public transit district.

[~~(17)~~] (19) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(18)~~] (20) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

[~~(19)~~] (21) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

[~~(20)~~] (22) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 2. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) subject to Section 72-1-202 pertaining to fixed guideway capital development within a large public transit district, acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) subject to Subsections (2) and (3), establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

(i) service and ridership;

(ii) regional plans made by the metropolitan planning agency;

(iii) the local economy;

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation; [~~and~~]

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service[~~.~~]; and

(c) coordinate with the Department of Transportation in accordance with Section 72-1-202 pertaining to fixed guideway capital development and associated parking facilities within a station area plan for a transit oriented development within a large public transit district.

(4) For any fixed guideway capital development project with oversight by the Department of Transportation as described in Section 72-1-202, a large public transit district shall coordinate with the Department of Transportation in all aspects of the project, including planning, project development, outreach, programming, environmental studies and impact statements, impacts on public transit operations, and construction.

[~~(4)~~] (5) A public transit district may not participate in a transit-oriented development if:

(a) the relevant municipality or county has not developed and adopted a station area plan; and

(b) (i) for a transit-oriented development involving a municipality, the municipality is not in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

(ii) for a transit-oriented development involving property in an unincorporated area of a county, the county is not in compliance with Sections 17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

[~~(5)~~] (6) A public transit district may be funded from any combination of federal, state, local, or private funds.

[~~(6)~~] (7) A public transit district may not acquire property by eminent domain.

Section 3. Section 17B-2a-806 is amended to read:

17B-2a-806. Authority of the state or an agency of the state with respect to a public transit district -- Counties and municipalities authorized to provide funds to public transit district -- Equitable allocation of resources within the public transit district.

(1) The state or an agency of the state may:

(a) make public contributions to a public transit district as in the judgment of the Legislature or governing board of the agency are necessary or proper; or

(b) authorize a public transit district to perform, or aid and assist a public transit district in performing, an activity that the state or agency is authorized by law to perform.

(2) (a) A county or municipality involved in the establishment and operation of a public transit district may provide funds necessary for the operation and maintenance of the district.

(b) A county's use of property tax funds to establish and operate a public transit district within any part of the county is a county purpose under Section 17-53-220.

(3) (a) To allocate resources and funds for development and operation of a public transit district, whether received under this section or from other sources, and subject to Section 72-1-202 pertaining to fixed guideway capital development within a large public transit district, a public transit district may:

(i) give priority to public transit services that feed rail fixed guideway services; and

(ii) allocate funds according to population distribution within the public transit district.

(b) The comptroller of a public transit district shall report the criteria and data supporting the allocation of resources and funds in the statement required in Section 17B-2a-812.

Section 4. Section 17B-2a-808.2 is amended to read:

17B-2a-808.2. Large public transit district local advisory council -- Powers and duties.

(1) A large public transit district shall create and consult with a local advisory council.

(2) (a) (i) For a large public transit district in existence as of January 1, 2019, the local advisory council shall have membership selected as described in Subsection (2)(b).

(ii) (A) For a large public transit district created after January 1, 2019, the political subdivision or subdivisions forming the large public transit district shall submit to the Legislature for approval a proposal for the appointments to the local advisory council of the large public transit district similar to the appointment process described in Subsection (2)(b).

(B) Upon approval of the Legislature, each nominating individual or body shall appoint individuals to the local advisory council.

(b) (i) The council of governments of Salt Lake County shall appoint three members to the local advisory council.

(ii) The mayor of Salt Lake City shall appoint one member to the local advisory council.

(iii) The council of governments of Utah County shall appoint two members to the local advisory council.

(iv) The council of governments of Davis County and Weber County shall each appoint one member to the local advisory council.

(v) The councils of governments of Box Elder County and Tooele County shall jointly appoint one member to the local advisory council.

(3) The local advisory council shall meet at least quarterly in a meeting open to the public for comment to discuss the service, operations, and any concerns with the public transit district operations and functionality.

(4) The duties of the local advisory council shall include:

(a) setting the compensation packages of the board of trustees, which salary may not exceed $150,000, plus additional retirement and other standard benefits;

(b) reviewing, approving, and recommending final adoption by the board of trustees of the large public transit district service plans at least every two and one-half years;

(c) except for a fixed guideway capital development project under the authority of the Department of Transportation as described in Section 72-1-202, reviewing, approving, and recommending final adoption by the board of trustees of project development plans, including funding, of all new capital development projects;

(d) reviewing, approving, and recommending final adoption by the board of trustees of any plan for a transit-oriented development where a large public transit district is involved;

(e) at least annually, engaging with the safety and security team of the large public transit district to ensure coordination with local municipalities and counties;

(f) assisting with coordinated mobility and constituent services provided by the public transit district;

(g) representing and advocating the concerns of citizens within the public transit district to the board of trustees; and

(h) other duties described in Section 17B-2a-808.1.

(5) The local advisory council shall meet at least quarterly with and consult with the board of trustees and advise regarding the operation and management of the public transit district.

Section 5. Section 72-1-102 is amended to read:

72-1-102. Definitions.

As used in this title:

(1) "Circulator alley" means a publicly owned passageway:

(a) with a right-of-way width of 20 feet or greater;

(b) located within a master planned community;

(c) established by the city having jurisdictional authority as part of the street network for traffic circulation that may also be used for:

(i) garbage collection;

(ii) access to residential garages; or

(iii) access rear entrances to a commercial establishment; and

(d) constructed with a bituminous or concrete pavement surface.

(2) "Commission" means the Transportation Commission created under Section 72-1-301.

(3) "Construction" means the construction, reconstruction, replacement, and improvement of the highways, including the acquisition of rights-of-way and material sites.

(4) "Department" means the Department of Transportation created in Section 72-1-201.

(5) "Executive director" means the executive director of the department appointed under Section 72-1-202.

(6) "Farm tractor" has the meaning set forth in Section 41-1a-102.

(7) "Federal aid primary highway" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

(8) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(9) (a) "Fixed guideway capital development" means a project to construct or reconstruct a public transit fixed guideway facility that will add capacity to a fixed guideway public transit facility.

(b) "Fixed guideway capital development" includes:

(i) a project to strategically double track commuter rail lines; and

(ii) a project to develop and construct public transit facilities and related infrastructure pertaining to the Point of the Mountain State Land Authority created in Section 11-59-201.

[~~(8)~~] (10) "Highway" means any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

[~~(9)~~] (11) "Highway authority" means the department or the legislative, executive, or governing body of a county or municipality.

[~~(10)~~] (12) "Housing and transit reinvestment zone" means the same as that term is defined in Section 63N-3-602.

[~~(11)~~] (13) "Implement of husbandry" has the meaning set forth in Section 41-1a-102.

[~~(12)~~] (14) "Interstate system" means any highway officially designated by the department and included as part of the national interstate and defense highways, as provided in the Federal Aid Highway Act of 1956 and any supplemental acts or amendments.

(15) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(13)~~] (16) "Limited-access facility" means a highway especially designated for through traffic, and over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(14)~~] (17) "Master planned community" means a land use development:

(a) designated by the city as a master planned community; and

(b) comprised of a single development agreement for a development larger than 500 acres.

[~~(15)~~] (18) "Motor vehicle" has the same meaning set forth in Section 41-1a-102.

[~~(16)~~] (19) "Municipality" has the same meaning set forth in Section 10-1-104.

[~~(17)~~] (20) "National highway systems highways" means that portion of connected main highways located within this state officially designated by the department and approved by the United States Secretary of Transportation under Title 23, Highways, U.S.C.

[~~(18)~~] (21) (a) "Port-of-entry" means a fixed or temporary facility constructed, operated, and maintained by the department where drivers, vehicles, and vehicle loads are checked or inspected for compliance with state and federal laws as specified in Section 72-9-501.

(b) "Port-of-entry" includes inspection and checking stations and weigh stations.

[~~(19)~~] (22) "Port-of-entry agent" means a person employed at a port-of-entry to perform the duties specified in Section 72-9-501.

[~~(20)~~] (23) "Public transit" means the same as that term is defined in Section 17B-2a-802.

[~~(21)~~] (24) "Public transit facility" means a fixed guideway, transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

[~~(22)~~] (25) "Right-of-way" means real property or an interest in real property, usually in a strip, acquired for or devoted to a highway.

[~~(23)~~] (26) "Sealed" does not preclude acceptance of electronically sealed and submitted bids or proposals in addition to bids or proposals manually sealed and submitted.

[~~(24)~~] (27) "Semitrailer" has the meaning set forth in Section 41-1a-102.

[~~(25)~~] (28) "SR" means state route and has the same meaning as state highway as defined in this section.

[~~(26)~~] (29) "State highway" means those highways designated as state highways in Title 72, Chapter 4, Designation of State Highways Act.

[~~(27)~~] (30) "State transportation purposes" has the meaning set forth in Section 72-5-102.

[~~(28)~~] (31) "State transportation systems" means all streets, alleys, roads, highways, pathways, and thoroughfares of any kind, including connected structures, airports, aerial corridor infrastructure, spaceports, public transit facilities, and all other modes and forms of conveyance used by the public.

[~~(29)~~] (32) "Trailer" has the meaning set forth in Section 41-1a-102.

[~~(30)~~] (33) "Transportation reinvestment zone" means a transportation reinvestment zone created pursuant to Section 11-13-227.

[~~(31)~~] (34) "Truck tractor" has the meaning set forth in Section 41-1a-102.

[~~(32)~~] (35) "UDOT" means the Utah Department of Transportation.

[~~(33)~~] (36) "Vehicle" has the same meaning set forth in Section 41-1a-102.

Section 6. Section 72-1-202 is amended to read:

72-1-202. Executive director of department -- Appointment -- Qualifications -- Term -- Responsibility -- Power to bring suits -- Salary.

(1) (a) The governor, with the advice and consent of the Senate, shall appoint an executive director to be the chief executive officer of the department.

(b) The executive director shall be a registered professional engineer and qualified executive with technical and administrative experience and training appropriate for the position.

(c) The executive director shall remain in office until a successor is appointed.

(d) The executive director may be removed by the governor.

(2) In addition to the other functions, powers, duties, rights, and responsibilities prescribed in this chapter, the executive director shall:

(a) have responsibility for the administrative supervision of the state transportation systems and the various operations of the department;

(b) have the responsibility for the implementation of rules, priorities, and policies established by the department and the commission;

(c) have the responsibility for the oversight and supervision of:

(i) any transportation project for which state funds are expended; and

(ii) any fixed guideway capital development project within the boundaries of a large public transit district for which any state funds are expended;

(d) have full power to bring suit in courts of competent jurisdiction in the name of the department as the executive director considers reasonable and necessary for the proper attainment of the goals of this chapter;

(e) receive a salary, to be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation, together with actual traveling expenses while away from the executive director's office on official business;

(f) purchase all equipment, services, and supplies necessary to achieve the department's functions, powers, duties, rights, and responsibilities delegated under Section 72-1-201;

(g) have the responsibility to determine whether a purchase from, contribution to, or other participation with a public entity or association of public entities in a pooled fund program to acquire, develop, or share information, data, reports, or other services related to the department's mission are procurement items under Title 63G, Chapter 6a, Utah Procurement Code;

(h) have responsibility for administrative supervision of the Comptroller Division, the Internal Audit Division, and the Communications Division; and

(i) appoint assistants, to serve at the discretion of the executive director, to administer the divisions of the department.

(3) The executive director may employ other assistants and advisers as the executive director finds necessary and fix salaries in accordance with the salary standards adopted by the Division of Human Resource Management.

(4) (a) For a fixed guideway capital development project within the boundaries of a large public transit district for which state funds are expended, responsibilities of the executive director include:

(i) project development for a fixed guideway capital development project in a large public transit district;

(ii) oversight and coordination of planning, including:

(A) development of statewide strategic initiatives for planning across all modes of transportation;

(B) coordination with metropolitan planning organizations;

(C) coordination with a large public transit district, including planning, project development, outreach, programming, environmental studies and impact statements, construction, and impacts on public transit operations; and

(D) corridor and area planning;

(iii) programming and prioritization of fixed guideway capital development projects;

(iv) fulfilling requirements for environmental studies and impact statements; and

(v) resource investment, including identification, development, and oversight of public-private partnership opportunities.

(5) (a) Before October 31, 2022, the department shall submit to the Transportation Interim Committee a written plan for the department to assume management of all fixed guideway capital development projects within a large public transit district for which state funds are expended.

(b) The department shall consult with a large public transit district and relevant metropolitan planning organizations in developing the plan described in Subsection (5)(a).

(c) The Transportation Interim Committee shall consider the plan submitted by the department as described in Subsection (5)(a) and make recommendations to the Legislature before December 1, 2022.

Section 7. Section 72-1-208 is amended to read:

72-1-208. Cooperation with counties, cities, towns, the federal government, and all state departments -- Inspection of work done by a public transit district.

(1) The department shall cooperate with the counties, cities, towns, and community reinvestment agencies in the construction, maintenance, and use of the highways and in all related matters, and may provide services to the counties, cities, towns, and community reinvestment agencies on terms mutually agreed upon.

(2) The department, with the approval of the governor, shall cooperate with the federal government in all federal-aid projects and with all state departments in all matters in connection with the use of the highways.

(3) The department:

(a) shall inspect all work done by a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act, relating to safety appliances and procedures; and

(b) may make further additions or changes necessary for the purpose of safety to employees and the general public.

[~~(4) (a) The department may assume responsibility for any public transit project that traverses any portion of the state highway systems.~~]

[~~(b) To determine whether the department will assume responsibility for a public transit project, the executive director and the public transit agency proposing the development shall jointly determine whether the department will assume responsibility.~~]

Section 8. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within

the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund:

(i) for public transit capital development of new capacity projects and fixed guideway capital development projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304[~~.~~];

(ii) for development of the oversight plan described in Section 72-1-202(5); or

(iii) to the department for oversight of a fixed guideway capital development project for which the department has responsibility.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(f) Before July 1, 2022, the department and a large public transit district shall enter into an agreement for a large public transit district to pay the department $5,000,000 per year for 15 years to be used to facilitate the purchase of zero emissions or low emissions rail engines and trainsets for regional public transit rail systems.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

CHAPTER 70
H. B. 334

Passed March 2, 2022
Approved March 21, 2022
Effective May 4, 2022

STATE ENGINEER MODIFICATIONS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Scott D. Sandall
Cosponsors: Kera Birkeland
Joel Ferry
Suzanne Harrison
Michael L. Kohler
Steven J. Lund
Ashlee Matthews
Casey Snider
Steve Waldrip
Elizabeth Weight

LONG TITLE

General Description:

This bill modifies provisions related to staffing the office of the state engineer.

Highlighted Provisions:

This bill:

- clarifies that the state engineer may employ more than one deputy;
- clarifies the application of Title 63A, Chapter 17, Utah State Personnel Management Act; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Natural Resources – Water Rights as an ongoing appropriation:
  - from the General Fund, $530,000; and
- to the Department of Natural Resources – Water Rights, as a one–time appropriation:
  - from the General Fund, $300,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73–2–4, as last amended by Laws of Utah 2007, Chapter 136

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

Section 1. Section 73-2-4 is amended to read:

73-2-4. Deputies and assistants -- Employment and salaries -- Purchase of equipment and supplies.

For the purpose of performing the duties of [~~his~~] the state engineer's office the state engineer may:

(1) employ [~~a deputy and all~~] one or more deputies and necessary assistants;

(2) fix division employees' salaries in accordance with salary standards [~~adopted by the Division of Finance~~] under Title 63A, Chapter 17, Utah State Personnel Management Act; and

(3) purchase [~~all~~] necessary equipment and supplies.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources – Water Rights

From General Fund	$530,000
Schedule of Programs:	
Administration	$530,000

ITEM 2

To Department of Natural Resources – Water Rights

From General Fund, One–time	$300,000
Schedule of Programs:	
Administration	$300,000

The Legislature intends that the ongoing appropriations provided to the Division of Water Rights line item for fiscal year 2023 be used to hire employees and that one–time appropriations for fiscal year 2023 be used to purchase equipment.

CHAPTER 71
H. B. 377

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

WATER RIGHTS ADJUDICATION AMENDMENTS

Chief Sponsor: Michael L. Kohler
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions related to the process for adjudicating water rights.

Highlighted Provisions:

This bill:

- in an action for an adjudication of water rights, allows the state engineer to serve a claimant with a request for additional information;
- if a claimant who is served with a request for additional information fails to respond, allows the state engineer to make a recommendation to the court based on the engineer's existing knowledge, which may include recommending a disallowance of the claimant's claim;
- allows the state engineer to seek an interlocutory judgment on water rights for which no contest is filed; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-4-5, as last amended by Laws of Utah 2018, Chapter 298

73-4-12, as last amended by Laws of Utah 2016, Chapter 72

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

Section 1. Section 73-4-5 is amended to read:

73-4-5. Requirements for statement of claim in general adjudication of water rights.

(1) Except as provided in Subsection (2), each person claiming a right to use water of a river system or water source shall, within 90 days after the day on which notice of the time to file statements of claim as described in Section 73-4-3 is served, file with the state engineer or the district court a written or electronic statement of claim, signed, and verified under oath, by the claimant, or by unsworn declaration as described in Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, that includes:

(a) the name and address of the claimant;

(b) the nature and measure of beneficial use on which the claim is based;

(c) the maximum flow of water used in cubic feet per second, the maximum volume of water used in acre-feet, or the quantity of water stored in acre-feet, as applicable;

(d) the period of time during which the water is used each year;

(e) the period of time during which the water is stored each year, if applicable;

(f) the name of the stream or other source from which the water is diverted, the point on the stream or source where the water is diverted, and a description of the nature of the diverting works;

(g) the water right number associated with the claimed right or, if not of record in the state engineer's office, evidence sufficient to enable the state engineer to evaluate the basis of the claimed right, including the information listed in Subsections 73-5-13(2)(a) and (c);

(h) the claimed priority date;

(i) the place and manner of current use; and

(j) other facts that clearly define the extent, limits, and nature of the claim, or that are required by the written or electronic form provided by the state engineer with the notice of the time to file statements of claim.

(2) (a) The state engineer may serve on a claimant, by mail, a request for additional information supporting the elements of the claimant's claim.

(b) A claimant shall serve the state engineer with a written response within 30 days after the day on which the state engineer serves the request for additional information, unless the state engineer and the claimant agree in writing to extend the time to respond.

(c) A request for additional information described in Subsection (2)(a) shall contain a notice advising the claimant that:

(i) the claimant has 30 days to respond to the request for additional information; and

(ii) failure to timely provide the information requested by the state engineer may result in the state engineer making a recommendation to the court, based on the state engineer's knowledge of the claim at the time the state engineer makes the recommendation, which may be a recommendation that the court disallow the claimant's claim.

(d) If a claimant does not timely respond to a notice of request for additional information, the state engineer may make, in the proposed determination, a recommendation on the claimant's claim that is based on the information available to the state engineer at the time of the proposed determination, which may be a recommendation that the court disallow the claimant's claim.

[~~(2)~~] (3) A person claiming a right to the use of water, as described in Subsection (1):

(a) may request an extension of time as described in Section 73-4-10; and

(b) shall file the statement described in Subsection (1) on or before the granted extension date, if an extension is granted pursuant to Section 73-4-10.

Section 2. Section 73-4-12 is amended to read:

73-4-12. Judgment -- In absence of contest.

(1) If no contest on the part of any claimant shall have been filed, the court shall render a judgment in accordance with such proposed determination, which shall:

[~~(1)~~] (a) determine and establish the rights to the use of the water of said river system or water source; and

[~~(2)~~] (b) set forth:

[~~(a)~~] (i) the name of the person entitled to the use of the water;

[~~(b)~~] (ii) the quantity of water in acre-feet or the flow of water in second-feet;

[~~(c)~~] (iii) the time during which the water is to be used each year;

[~~(d)~~] (iv) the name of the stream or other source from which the water is diverted;

[~~(e)~~] (v) the point on the stream or other source where the water is diverted;

[~~(f)~~] (vi) the priority date of the right; and

[~~(g)~~] (vii) any other matters as will fully and completely define the rights of said claimants to the use of the water.

(2) (a) The state engineer may seek an interlocutory judgment from the court on the rights to the use of water described in the proposed determination to which no contest or objection is filed.

(b) An interlocutory judgment entered by the court is binding on the state engineer and each claimant until a final judgment is entered under Section 73-4-15.

CHAPTER 72
H. B. 378

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

MINING OPERATIONS AMENDMENTS

Chief Sponsor: Steven J. Lund
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill excludes boulders from certain mining definitions.

Highlighted Provisions:

This bill:

- modifies definitions to exclude boulders or the extraction of boulders; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-41-101, as last amended by Laws of Utah 2021, Chapter 39

40-8-4, as last amended by Laws of Utah 2021, Chapter 39

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

Section 1. Section 17-41-101 is amended to read:

17-41-101. Definitions.

As used in this chapter:

(1) "Advisory board" means:

(a) for an agriculture protection area, the agriculture protection area advisory board created as provided in Section 17-41-201;

(b) for an industrial protection area, the industrial protection area advisory board created as provided in Section 17-41-201; and

(c) for a critical infrastructure materials protection area, the critical infrastructure materials protection area advisory board created as provided in Section 17-41-201.

(2) (a) "Agriculture production" means production for commercial purposes of crops, livestock, and livestock products.

(b) "Agriculture production" includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.

(3) "Agriculture protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(4) "Applicable legislative body" means:

(a) with respect to a proposed agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the land proposed to be included in the relevant protection area is located, if the land is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the land proposed to be included in the relevant protection area is located; and

(b) with respect to an existing agriculture protection area, industrial protection area, or critical infrastructure materials protection area:

(i) the legislative body of the county in which the relevant protection area is located, if the relevant protection area is within the unincorporated part of the county; or

(ii) the legislative body of the city or town in which the relevant protection area is located.

(5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

(6) "Critical infrastructure materials" means sand, gravel, or rock aggregate.

(7) "Critical infrastructure materials operations" means the extraction, excavation, processing, or reprocessing of critical infrastructure materials.

(8) "Critical infrastructure materials operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that:

(a) owns, controls, or manages a critical infrastructure materials operation; and

(b) has produced commercial quantities of critical infrastructure materials from the critical infrastructure materials operations.

(9) "Critical infrastructure materials protection area" means a geographic area created under the authority of this chapter on or after May 14, 2019, that is granted the specific legal protections contained in this chapter.

(10) "Crops, livestock, and livestock products" includes:

(a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:

(i) forages and sod crops;

(ii) grains and feed crops;

(iii) livestock as defined in Section 59-2-102;

(iv) trees and fruits; or

(v) vegetables, nursery, floral, and ornamental stock; or

(b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

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

(12) "Industrial protection area" means a geographic area created under the authority of this chapter that is granted the specific legal protections contained in this chapter.

(13) "Mine operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, including a successor, assign, affiliate, subsidiary, and related parent company, that, as of January 1, 2019:

(a) owns, controls, or manages a mining use under a large mine permit issued by the division or the board; and

(b) has produced commercial quantities of a mineral deposit from the mining use.

(14) "Mineral deposit" means the same as that term is defined in Section 40-8-4.

(15) "Mining protection area" means land where a vested mining use occurs, including each surface or subsurface land or mineral estate that a mine operator with a vested mining use owns or controls.

(16) "Mining use":

(a) means:

(i) the full range of activities, from prospecting and exploration to reclamation and closure, associated with the exploitation of a mineral deposit; and

(ii) the use of the surface and subsurface and groundwater and surface water of an area in connection with the activities described in Subsection (16)(a)(i) that have been, are being, or will be conducted; and

(b) includes, whether conducted on-site or off-site:

(i) any sampling, staking, surveying, exploration, or development activity;

(ii) any drilling, blasting, excavating, or tunneling;

(iii) the removal, transport, treatment, deposition, and reclamation of overburden, development rock, tailings, and other waste material;

(iv) any removal, transportation, extraction, beneficiation, or processing of ore;

(v) any smelting, refining, autoclaving, or other primary or secondary processing operation;

(vi) the recovery of any mineral left in residue from a previous extraction or processing operation;

(vii) a mining activity that is identified in a work plan or permitting document;

(viii) the use, operation, maintenance, repair, replacement, or alteration of a building, structure, facility, equipment, machine, tool, or other material or property that results from or is used in a surface or subsurface mining operation or activity;

(ix) any accessory, incidental, or ancillary activity or use, both active and passive, including a utility, private way or road, pipeline, land excavation, working, embankment, pond, gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use area, buffer zone, and power production facility;

(x) the construction of a storage, factory, processing, or maintenance facility; and

(xi) [~~any~~] an activity described in Subsection 40-8-4[~~(16)~~](17)(a).

(17) (a) "Municipal" means of or relating to a city or town.

(b) "Municipality" means a city or town.

(18) "New land" means surface or subsurface land or mineral estate that a mine operator gains ownership or control of, whether that land or mineral estate is included in the mine operator's large mine permit.

(19) "Off-site" means the same as that term is defined in Section 40-8-4.

(20) "On-site" means the same as that term is defined in Section 40-8-4.

(21) "Planning commission" means:

(a) a countywide planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within the unincorporated part of the county and not within a planning advisory area;

(b) a planning advisory area planning commission if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a planning advisory area; or

(c) a planning commission of a city or town if the land proposed to be included in the agriculture protection area, industrial protection area, or critical infrastructure materials protection area is within a city or town.

(22) "Political subdivision" means a county, city, town, school district, local district, or special service district.

(23) "Proposal sponsors" means the owners of land in agricultural production, industrial use, or critical infrastructure materials operations who are sponsoring the proposal for creating an agriculture protection area, industrial protection area, or critical infrastructure materials protection area.

(24) "State agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit,

bureau, panel, or other administrative unit of the state.

(25) "Unincorporated" means not within a city or town.

(26) "Vested mining use" means a mining use:

(a) by a mine operator; and

(b) that existed or was conducted or otherwise engaged in before a political subdivision prohibits, restricts, or otherwise limits a mining use.

Section 2. Section 40-8-4 is amended to read:

40-8-4. Definitions.

As used in this chapter:

(1) "Adjudicative proceeding" means:

(a) a division or board action or proceeding determining the legal rights, duties, privileges, immunities, or other legal interests of one or more identifiable persons, including actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, permit, or license; or

(b) judicial review of a division or board action or proceeding specified in Subsection (1)(a).

(2) "Applicant" means a person who has filed a notice of intent to commence mining operations, or who has applied to the board for a review of a notice or order.

(3) (a) "Approved notice of intention" means a formally filed notice of intention to commence mining operations, including revisions to the notice of intention that is approved under Section 40-8-13.

(b) An approved notice of intention is not required for small mining operations.

(4) (a) "Basalt" means fine-grained mafic igneous rock formed in the tertiary or quaternary periods.

(b) A Utah Geological Survey published map or a United States Geological Survey published map that classifies material as "basalt" is prima facie evidence that the material meets the requirements of Subsection (4)(a). An unmapped area may be classified by a Utah Geological Survey geologist or a professional geologist licensed in the state.

(5) "Board" means the Board of Oil, Gas, and Mining.

(6) "Boulder" means a naturally occurring consolidated rock fragment greater than 75 millimeters in size that is associated with unconsolidated material and detached from bedrock.

[~~(6)~~] (7) "Conference" means an informal adjudicative proceeding conducted by the division or board.

[~~(7)~~] (8) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the form of consolidated rock, unconsolidated material, solutions, or occurring on the surface, beneath the surface, or in the waters of the land from which any product useful to man may be produced, extracted, or obtained or which is extracted by underground mining methods for underground storage.

(b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, basalt, boulders, water, geothermal steam, and oil and gas as defined in Chapter 6, Board and Division of Oil, Gas, and Mining, but includes oil shale and bituminous sands extracted by mining operations.

[~~(8)~~] (9) "Development" means the work performed in relation to a deposit following the deposit's discovery but before and in contemplation of production mining operations, aimed at preparing the site for mining operations, defining further the ore deposit by drilling or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and other related activities.

[~~(9)~~] (10) "Division" means the Division of Oil, Gas, and Mining.

[~~(10)~~] (11) "Emergency order" means an order issued by the board in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

[~~(11)~~] (12) (a) "Exploration" means surface-disturbing activities conducted for the purpose of:

(i) discovering a deposit or mineral deposit;

(ii) delineating the boundaries of a deposit or mineral deposit; and

(iii) identifying regions or specific areas in which deposits or mineral deposits are most likely to exist.

(b) "Exploration" includes:

(i) sinking shafts;

(ii) tunneling;

(iii) drilling holes and digging pits or cuts;

(iv) building of roads, and other access ways; and

(v) constructing and operating other facilities related to the activities described in this Subsection [~~(11)~~] (12)(b).

[~~(12)~~] (13) "Gravel" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between 4 millimeters and 75 millimeters, that has been deposited by sedimentary processes.

[~~(13)~~] (14) "Hearing" means a formal adjudicative proceeding conducted by the board under the board's procedural rules.

[~~(14)~~] (15) (a) "Imminent danger to the health and safety of the public" means the existence of a condition or practice, or a violation of a permit requirement or other requirement of this chapter in a mining operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before the condition, practice, or violation can be abated.

(b) A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose the rational person to the danger during the time necessary for abatement.

[~~(15)~~] (16) (a) "Land affected" means the surface and subsurface of an area within the state where mining operations are being or will be conducted, including:

(i) on-site private ways, roads, and railroads;

(ii) land excavations;

(iii) exploration sites;

(iv) drill sites or workings;

(v) refuse banks or spoil piles;

(vi) evaporation or settling ponds;

(vii) stockpiles;

(viii) leaching dumps;

(ix) placer areas;

(x) tailings ponds or dumps; and

(xi) work, parking, storage, or waste discharge areas, structures, and facilities.

(b) Lands are excluded from Subsection [~~(15)~~] (16)(a) that would:

(i) be includable as land affected, but which have been reclaimed in accordance with an approved plan, as may be approved by the board; and

(ii) include lands in which mining operations have ceased before July 1, 1977.

[~~(16)~~] (17) (a) "Mining operation" means activities conducted on the surface of the land for the exploration for, development of, or extraction of a mineral deposit, including surface mining and the surface effects of underground and in situ mining, on-site transportation, concentrating, milling, evaporation, and other primary processing.

(b) "Mining operation" does not include:

(i) the extraction of sand, gravel, [~~and~~] rock aggregate, and boulders;

(ii) the extraction of basalt for an area not to exceed 50 acres under active surface mining;

(iii) the extraction of oil and gas as defined in Chapter 6, Board and Division of Oil, Gas, and Mining;

(iv) the extraction of geothermal steam;

(v) smelting or refining operations;

(vi) off-site operations and transportation;

(vii) reconnaissance activities; or

(viii) activities that will not cause significant surface resource disturbance or involve the use of mechanized earth-moving equipment, such as bulldozers or backhoes.

[~~(17)~~] (18) "Notice" means:

(a) notice of intention, as defined in this chapter; or

(b) written information given to an operator by the division describing compliance conditions at a mining operation.

[~~(18)~~] (19) "Notice of intention" means a notice to commence mining operations, including revisions to the notice.

[~~(19)~~] (20) "Off-site" means the land areas that are outside of or beyond the on-site land.

[~~(20)~~] (21) (a) "On-site" means the surface lands on or under which surface or underground mining operations are conducted.

(b) A series of related properties under the control of a single operator, but separated by small parcels of land controlled by others, are considered to be a single site unless an exception is made by the division.

[~~(21)~~] (22) "Operator" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mining operation or proposed mining operation.

[~~(22)~~] (23) "Order" means written information provided by the division or board to an operator or other parties, describing the compliance status of a permit or mining operation.

[~~(23)~~] (24) "Owner" means a natural person, corporation, association, partnership, receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or representative, either public or private, owning, controlling, or managing a mineral deposit or the surface of lands employed in mining operations.

[~~(24)~~] (25) "Permit area" means the area of land indicated on the approved map submitted by the operator with the application or notice to conduct mining operations.

[~~(25)~~] (26) "Permit" means a permit or notice to conduct mining operations issued by the division.

[~~(26)~~] (27) "Permittee" means a person holding, or who is required by Utah law to hold, a valid permit or notice to conduct mining operations.

[~~(27)~~] (28) "Person" means an individual, partnership, association, society, joint stock company, firm, company, corporation, or other governmental or business organization.

[~~(28)~~] (29) "Reclamation" means actions performed during or after mining operations to shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable ecological condition and use that is consistent with local environmental conditions.

[~~(29)~~] (30) (a) "Rock aggregate" means those consolidated rock materials associated with a sand deposit, a gravel deposit, or a sand and gravel deposit that were created by alluvial sedimentary processes.

(b) "Rock aggregate" excludes any solid rock in the form of bedrock, other than basalt, that is exposed at the surface of the earth or overlain by unconsolidated material.

[~~(30)~~] (31) "Sand" means a naturally occurring unconsolidated to moderately consolidated accumulation of rock and mineral particles, the dominant size range being between .004 millimeters to 4 millimeters, that has been deposited by sedimentary processes.

[~~(31)~~] (32) "Small mining operations" means mining operations that disturb or will disturb 20 or less surface acres at any given time in an unincorporated area of a county or 10 or less surface acres at any given time in an incorporated area of a county.

[~~(32)~~] (33) "Unwarranted failure to comply" means the failure of a permittee to prevent the occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this chapter due to indifference, lack of diligence, or lack of reasonable care.

CHAPTER 73
H. B. 383

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

AGENCY FEE ASSESSMENT AMENDMENTS

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

LONG TITLE

General Description:

This bill modifies provisions relating to the assessment of fees by state agencies.

Highlighted Provisions:

This bill:

- modifies provisions relating to a fee agency's charging of a new service fee or regulatory fee;
- modifies definitions applicable to provisions related to fees of state agencies;
- requires the Governor's Office of Planning and Budget and the Division of Finance to submit a report summarizing agency fee information; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2a-1102, as last amended by Laws of Utah 2021, Chapter 395
63J-1-504, as last amended by Laws of Utah 2021, Chapter 382

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

Section 1. Section 53-2a-1102 is amended to read:

53-2a-1102. Search and Rescue Financial Assistance Program -- Uses -- Rulemaking -- Distribution.

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23-19-42, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection 59-12-103(14);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) All money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) 10% of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) All funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

(b) defining the procedures of counties to submit expenses and be reimbursed;

(c) defining a participant in the assistance card program, including:

(i) individuals; and

(ii) families and organized groups who qualify as participants;

(d) defining the procedure for issuing a card to a participant;

(e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;

(f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;

(g) establishing the frequency of review of the fee schedule;

(h) providing for the administration of the program; and

(i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:

(i) the total qualifying expenses submitted;

(ii) the number of search and rescue incidents per county population;

(iii) the number of victims that reside outside the county; and

(iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.

(8) (a) The division shall, in consultation with the Outdoor Recreation Office, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection [~~63J-1-504(6)~~] 63J-1-504(7).

(b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.

(9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:

(a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or

(b) the rescuing county finds that the participant intentionally created a situation resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be utilized to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the Outdoor Recreation Office regarding:

(a) administration of the assistance card program; and

(b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 2. Section 63J-1-504 is amended to read:

63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and assessing fees without legislative approval -- Report summarizing fees.

(1) As used in this section:

(a) (i) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(ii) "Agency" does not [~~mean~~] include the Legislature or [~~its committees.~~] a committee or staff office of the Legislature.

(b) "Agency's cost" means all of a fee agency's direct and indirect costs and expenses for providing the goods or service for which the fee agency charges a fee or for regulating the industry in which the persons paying the fee operate, including:

(i) salaries, benefits, contracted labor costs, travel expenses, training expenses, equipment and material costs, depreciation expense, utility costs, and other overhead costs; and

(ii) costs and expenses for administering the fee.

[~~(b)~~] (c) "Fee agency" means [~~any~~] an agency that is authorized to establish [~~fees~~] and charge a service fee or a regulatory fee.

[~~(c)~~] (d) "Fee schedule" means the complete list of service fees and regulatory fees charged by a fee agency and the amount of those fees.

(e) "Regulatory fee" means a fee that a fee agency charges to cover the agency's cost of regulating the industry in which the persons paying the fee operate.

(f) "Service fee" means a fee that a fee agency charges to cover the agency's cost of providing the goods or service for which the fee is charged.

(2) [~~Each~~] (a) A fee agency that charges or intends to charge a service fee or regulatory fee shall adopt a fee schedule [~~of fees assessed for services provided by the fee agency that are:~~].

(b) A service fee or regulatory fee that a fee agency charges shall:

[~~(a)~~] (i) be reasonable[~~, fair, and reflect the cost of services provided;~~] and fair;

(ii) reflect and be based on the agency's cost for the fee; and

[~~(b)~~] (iii) be established according to a cost formula determined by the executive director of the Governor's Office of Planning and Budget and the director of the Division of Finance in conjunction with the fee agency seeking to establish the fee.

(3) Except as provided in Subsection [~~(6)~~] (7), a fee agency may not:

(a) set fees by rule; or

(b) create, change, or collect any fee unless the fee has been established according to the procedures and requirements of this section.

(4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

(a) present each proposed fee at a public hearing, subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act;

(b) increase, decrease, or affirm each proposed fee based on the results of the public hearing;

(c) except as provided in Subsection [~~(6)~~] (8), submit the fee schedule to the Legislature as part of the agency's annual appropriations request; and

(d) [~~where necessary,~~] modify the fee schedule as necessary to implement the Legislature's actions.

(5) (a) No later than November 30, 2022, the Governor's Office of Planning and Budget and the Division of Finance shall submit a report to the Infrastructure and General Government Appropriations Subcommittee of the Legislature.

(b) A report under Subsection (5)(a) shall:

(i) provide a summary of:

(A) the types of service fees and regulatory fees included in the fee schedules of all fee agencies;

(B) the methods used by fee agencies to determine the amount of fees;

(C) each estimated agency's cost related to each fee;

(D) whether a fee is intended to cover the agency's cost related to the fee;

(E) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(F) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee; and

(ii) include any recommendations for improving the process described in this section.

[~~(5) (a) Each~~] (6) (a) A fee agency shall submit the fee agency's fee schedule [~~or special assessment amount~~] to the Legislature for the Legislature's approval on an annual basis.

(b) The Legislature may approve, increase or decrease and approve, or reject any fee submitted to it by a fee agency.

[~~(6)~~] (7) After conducting the public hearing required by this section, a fee agency may establish and assess fees without first obtaining legislative approval if:

(a) (i) the Legislature creates a new program that is to be funded by fees to be set by the Legislature;

(ii) the new program's effective date is before the Legislature's next annual general session; and

(iii) the fee agency submits the fee schedule for the new program to the Legislature for its approval at a special session, if allowed in the governor's call, or at the next annual general session of the Legislature, whichever is sooner; or

(b) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of adding or removing a transactional fee that is charged or assessed by a non-governmental third party but is included as part of the fee charged by the fee agency;

(ii) the amount of the increase or decrease in the fee is equal to the amount of the transactional fee charged or assessed by the non-governmental third party; and

(iii) the increased or decreased fee is submitted to the Legislature for the Legislature's approval at a special session, if allowed in the governor's call, or at the next annual session of the Legislature, whichever is sooner.

[~~(7)~~] (8) (a) [~~Each~~] A fee agency that [~~wishes~~] intends to change any fee shall submit to the governor, as part of the agency's annual appropriation request a list that identifies:

(i) the title or purpose of the fee;

(ii) the present amount of the fee;

(iii) the proposed new amount of the fee;

(iv) the percent that the fee will have increased if the Legislature approves the higher fee;

(v) the estimated total annual revenue [~~change~~] and total estimated annual revenue change that will result from the [~~change in the~~] changed fee;

(vi) the account or fund into which the fee will be deposited; [~~and~~]

(vii) the reason for the change in the fee[~~.~~];

(viii) the estimated number of persons to be charged the fee;

(ix) the estimated agency's cost related to the fee;

(x) whether the fee is a service fee or a regulatory fee;

(xi) whether the fee is intended to cover the agency's cost related to the fee;

(xii) whether the fee agency intends to subsidize the fee to cover the agency's cost related to the fee and, if so, the fee agency's justification for the subsidy; and

(xiii) whether the fee agency set the fee at an amount that exceeds the agency's cost related to the fee and, if so, the fee agency's justification for the excess fee.

(b) (i) The governor may review and approve, modify and approve, or reject the fee increases.

(ii) The governor shall transmit the list required by Subsection [~~(7)~~] (8)(a), with any modifications, to the legislative fiscal analyst with the governor's budget recommendations.

(c) Bills approving any fee change shall be filed before the beginning of the Legislature's annual general session, if possible.

[~~(8)~~] (9) (a) Except as provided in Subsection [~~(8)~~] (9)(b), the School and Institutional Trust Lands Administration, established in Section 53C-1-201, is exempt from the requirements of this section.

(b) The following fees of the School and Institutional Trust Lands Administration are subject to the requirements of this section: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

CHAPTER 74
H. B. 385

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

HEMP AND CBD AMENDMENTS

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the production and sale of industrial hemp and cannabinoid products.

Highlighted Provisions:

This bill:

- defines terms;
- allows industrial hemp producers to procure background checks through a federal system;
- identifies an unlawful act for a person to:
  - distribute, sell, or market a product that exceeds a concentration of THC;
  - transport material outside the state that exceeds a concentration of THC; and
  - produce, sell, or use a cannabinoid product that is added to a conventional food or beverage, enticing to children, or smokable flower;
- allows for increased flexibility in dosage forms;
- provides for registration of a product class rather than individual products;
- repeals a provision related to an industrial hemp research certificate;
- repeals the involvement of the Utah Department of Agriculture and Food in the regulation of hemp cultivation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41-102, as last amended by Laws of Utah 2020, Chapters 12 and 14
4-41-103.1, as enacted by Laws of Utah 2020, Chapter 14
4-41-103.2, as enacted by Laws of Utah 2020, Chapter 14
4-41-104, as enacted by Laws of Utah 2018, Chapter 227
4-41-105, as last amended by Laws of Utah 2020, Chapter 14
4-41-106, as enacted by Laws of Utah 2020, Chapter 14
4-41-403, as last amended by Laws of Utah 2019, Chapter 23

REPEALS:

4-41-103, as last amended by Laws of Utah 2020, Chapter 14
4-41-204, as enacted by Laws of Utah 2018, Chapter 446

Utah Code Sections Affected by Coordination Clause:

4-41-105, as last amended by Laws of Utah 2020, Chapter 14

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

Section 1. Section 4-41-102 is amended to read:

4-41-102. Definitions.

As used in this chapter:

(1) "Cannabidiol" or "CBD" means the cannabinoid identified as CAS# 13956-29-1.

(2) "Cannabidiolic acid" or "CBDA" means the cannabinoid identified as CAS# 1244-58-2.

[~~(1)~~] (3) "Cannabinoid product" means a [~~chemical compound extracted from a hemp~~] product that:

[~~(a) is processed into a medicinal dosage form; and~~]

(a) contains or is represented to contain one or more naturally occurring cannabinoids; and

(b) contains less than 0.3% tetrahydrocannabinol by dry weight.

(4) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

(5) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert one cannabinoid into another.

(6) "Dosage form" means the form in which a product is produced for individual dosage and that is not specified as unlawful in this chapter.

[~~(2)~~] (7) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

[~~(3) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).~~]

[~~(4) "Industrial hemp certificate holder" means a person possessing an industrial hemp certificate that the department issues under this chapter.~~]

[~~(5)~~] (8) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

[~~(6)~~] (9) "Industrial hemp producer license" means a license that the department issues to a person for the purpose of [~~cultivating or~~] processing industrial hemp or an industrial hemp product.

[~~(7)~~] (10) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any industrial hemp product.

[~~(8)~~] (11) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

(12) "Industrial hemp product class" means a group of cannabinoid products:

(a) that have all ingredients in common; and

(b) are produced by or for the same company.

(13) (a) "Key participant" means any person who has a financial interest in the business entity, including members of a limited liability company, a sole proprietor, partners in a partnership, and incorporators or directors of a corporation.

(b) "Key participant" includes an:

(i) individual at an executive level, including a chief executive officer, chief operating officer, or chief financial officer; and

(ii) operation manager, site manager, or any employee who may present a risk of diversion.

[~~(9)~~] (14) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.

[~~(10)~~] (15) "Licensee" means a person possessing an industrial hemp producer license that the department issues under this chapter.

[~~(11) "Medicinal dosage form" means:~~]

[~~(a) a tablet;~~]

[~~(b) a capsule;~~]

[~~(c) a concentrated oil;~~]

[~~(d) a liquid suspension;~~]

[~~(e) a sublingual preparation;~~]

[~~(f) a topical preparation;~~]

[~~(g) a transdermal preparation;~~]

[~~(h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or~~]

[~~(i) other preparations that the department approves.~~]

[~~(12)~~] (16) "Non-compliant material" means a hemp plant or hemp product that does not comply with this chapter, including a cannabis plant or product that contains a concentration of 0.3% tetrahydrocannabinol or greater by dry weight.

[~~(13)~~] (17) "Permittee" means a person possessing a permit that the department issues under this chapter.

[~~(14)~~] (18) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

[~~(15) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.~~]

[~~(16)~~] (19) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

[~~(17) "State hemp production plan" means a plan submitted by the state to, and approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter 990.~~]

(20) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

(21) "Total cannabidiol" or "total CBD" means the combined amounts of cannabidiol and cannabidiolic acid, calculated as "total CBD = CBD + (CBDA x 0.877)".

(22) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tertrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

Section 2. Section 4-41-103.1 is amended to read:

4-41-103.1. Authority to regulate production, sale, and testing of industrial hemp.

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

[~~(a) create a state hemp production plan that meets the standards of the Domestic Hemp Production Program, 7 C.F.R. Chapter 990;~~]

[~~(b)~~] (a) establish requirements for an industrial hemp producer license to [~~cultivate or~~] process industrial hemp;

[~~(c)~~] (b) establish requirements for an industrial hemp retailer permit to market or sell industrial hemp products; and

[~~(d)~~] (c) establish the standards, methods, practices, and procedures a laboratory must use to qualify for a permit to test industrial hemp and industrial hemp products and to dispose of non-compliant material.

(2) The department shall maintain a list of each licensee and permittee.

Section 3. Section 4-41-103.2 is amended to read:

4-41-103.2. Industrial hemp producer license.

(1) The department or a licensee of the department may [~~cultivate or~~] process industrial hemp.

(2) A person seeking an industrial hemp producer license shall provide to the department:

(a) the legal description and global positioning coordinates sufficient for locating the [~~fields or greenhouses~~] facility the person uses to [~~grow~~] process industrial hemp; and

(b) written consent allowing a representative of the department and local law enforcement to enter all premises where the person [~~cultivates,~~] processes[~~,~~] or stores industrial hemp for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain an industrial hemp producer license.

(4) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp producer license.

(5) A licensee may only market industrial hemp that the licensee cultivates or processes.

(6) (a) Each applicant for a license to process industrial hemp shall submit to the department, at the time of application, from each key participant:

(i) a fingerprint card in a form acceptable to the Department of Public Safety;

(ii) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(iii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(b) The Bureau of Criminal Identification shall:

(i) check the fingerprints the applicant submits under Subsection (6)(a) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that applicants submit under Subsection (6)(a) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(c) The department shall:

(i) assess an individual who submits fingerprints under Subsection (6)(a) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (6)(c)(i) to the Bureau of Criminal Identification.

Section 4. Section 4-41-104 is amended to read:

4-41-104. Product registration required for distribution -- Application -- Fees -- Renewal.

(1) An industrial hemp product class or cannabinoid product that is not registered with the department may not be distributed in this state.

(2) A person seeking registration for an industrial hemp product class or cannabinoid product shall:

(a) apply to the department on forms provided by the department; and

(b) submit an annual registration fee, determined by the department pursuant to Subsection 4-2-103(2), for each industrial hemp product class or cannabinoid product the person intends to distribute in this state.

(3) The department may conduct tests, or require test results, to ensure that any claim made by an applicant about an industrial hemp product class or cannabinoid product is accurate.

(4) Upon receipt by the department of a proper application and payment of the appropriate fee, as described in Subsection (2), the department shall issue a registration to the applicant allowing the applicant to distribute the registered industrial hemp product class or cannabinoid product in the state [~~through June 30 of each year~~] for one year from the date of the payment of the fee, subject to suspension or revocation for cause.

(5) The department shall mail, either through the postal service or electronically, forms for the renewal of a registration to a registrant at least 30 days before the day on which the registrant's registration expires.

Section 5. Section 4-41-105 is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to [~~cultivate,~~] handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2) It is unlawful for any person to:

(a) distribute, sell, or market an industrial hemp product or cannabinoid product that is:

(i) not registered with the department [~~pursuant to~~] under Section 4-41-104[~~.~~]; or

(ii) noncompliant material;

(b) transport into or out of the state extracted material or final product that contains 0.3% or more of total THC;

(c) produce, sell, or use a cannabinoid product that is:

(i) added to a conventional food or beverage, as the department further defines in rules described in Section 4-41-403; or

(ii) marketed or manufactured to be enticing to children, as further defined in rules described in Section 4-41-403; or

(iii) smokable flower.

(3) The department may seize and destroy non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 6. Section 4-41-106 is amended to read:

4-41-106. Enforcement -- Fine -- Citation.

(1) If a person violates this part, the department may:

(a) revoke the person's license or permit;

(b) decline to renew the person's license or permit; or

(c) assess the person a civil penalty that the department establishes in accordance with Section 4-2-304.

(2) [~~The~~] Except for a fine that the department assesses for an unlicensed processor or unregistered product, the department shall deposit a penalty imposed under this section into the General Fund.

(3) The department may take an action described in Subsection (4) if the department concludes, upon investigation, that a person has violated this chapter, a rule made under this chapter, or an order issued under this chapter.

(4) If the department makes the conclusion described in Subsection (3), the department shall:

(a) issue the person a written administrative citation;

(b) attempt to negotiate a stipulated settlement;

(c) seize, embargo, or destroy the industrial hemp batch or unregistered product;

(d) order the person to cease the violation; and

(e) if a stipulated settlement cannot be reached, conduct an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department may, for a person, other than an individual, that is subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department may not revoke an industrial hemp producer's license, an industrial hemp retailer's permit, or an industrial hemp laboratory permit without first giving the person the opportunity to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(7) If, within 30 calendar days after the day on which a department serves a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(8) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's producer license, retailer permit, or laboratory permit; or

(b) suspend, revoke, or place on probation the person's producer license, retailer permit, or laboratory permit.

Section 7. Section 4-41-403 is amended to read:

4-41-403. Standards for registration.

(1) (a) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~,~~]:

(i) to determine standards for a registered cannabinoid product, including standards for:

[~~(a)~~] (A) testing to ensure the product is safe for human consumption; and

[~~(b)~~] (B) accurate labeling; [~~and~~]

(ii) governing an entity that manufactures cannabinoid products, including standards for health and safety;

(iii) regarding what constitutes:

(A) a conventional food or beverage; and

(B) a product that is marketed or manufactured to be enticing to children; and

[~~(c)~~] (iv) regarding any other issue the department considers necessary for the safe production and sale of cannabinoid products.

(b) Notwithstanding Subsection (1)(a), the department may not prohibit a sugar coating on a cannabinoid product to mask the product's taste, subject to the limitations described in Subsection (1)(a)(iii) or (iv).

(2) The department shall set a fee for a registered cannabinoid product, in accordance with Section 4-2-103.

(3) (a) A producer, manufacturer, or distributor of a cannabinoid product may pay the fee described in Subsection (2).

(b) A cannabinoid product may not be registered with the department until the fee described in Subsection (2) is paid.

(4) The department shall set an administrative fine, larger than the fee described in Subsection (2), for a person who sells a cannabinoid product that is not registered by the department.

Section 8. Repealer.

This bill repeals:

Section 4-41-103, Industrial hemp -- Agricultural and academic research.

Section 4-41-204, Department to make rules regarding cultivation and processing.

Section 9. Coordinating H.B. 385 with S.B. 190 -- Substantive and technical amendments.

If this H.B. 385 and S.B. 190, Medical Cannabis Act Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Subsection 4-41-105(2) to read:

"(2) It is unlawful for any person to:

(a) distribute, sell, or market an industrial hemp product or cannabinoid product that is:

(i) not registered with the department [~~pursuant to~~] under Section 4-41-104[~~.~~]; or

(ii) noncompliant material;

(b) transport into or out of the state extracted material or final product that contains 0.3% or more of total THC; or

(c) produce, sell, or use a cannabinoid product that is:

(i) added to a conventional food or beverage, as the department further defines in rules described in Section 4-41-403;

(ii) marketed or manufactured to be enticing to children, as further defined in rules described in Section 4-41-403; or

(iii) smokable flower.".

CHAPTER 75
H. B. 393

Passed March 2, 2022
Approved March 21, 2022
Effective May 4, 2022

WATER REPORTING AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill requires a study and makes changes regarding the use of electrolysis to create hydrogen from water.

Highlighted Provisions:

This bill:

- adds to the powers of the state engineer the power to conduct studies regarding use of water;
- requires the state engineer to conduct a study regarding:
  - the current effect on the water cycle of the use of water to cool power plants;
  - the potential effect on the water cycle of the use of water to create hydrogen through coal gasification or steam methane reforming; and
  - the potential effect on the water cycle of the use of electrolysis with water to create hydrogen to power a power plant;
- establishes a reporting requirement for the results of the study; and
- requires the state engineer to administer the river distribution accounting report.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Division of Water Rights -- Water Rights Administration, as a one-time appropriation:
  - from the General Fund, One-time, $230,000.
- to the Division of Water Rights -- Water Rights Administration, as an ongoing appropriation:
  - from the General Fund -- $150,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-1, as last amended by Laws of Utah 2020, Chapters 60 and 352

ENACTS:

73-2-1.7, Utah Code Annotated 1953
73-5-17, Utah Code Annotated 1953

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

Section 1. Section 73-2-1 is amended to read:

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

(h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited Purpose Local Government Entities – Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40–acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) The state engineer may conduct studies of current and novel uses of water in the state.

Section 2. Section 73-2-1.7 is enacted to read:

73-2-1.7. Water for power study.

(1) As used in this section:

(a) "Coal gasification" means the process of using a gasifier to convert coal into synthesis gas which can then be converted to hydrogen.

(b) "Electrolysis" means the process of using electricity to split water into hydrogen and oxygen.

(c) "Steam methane reforming" means the process of chemical synthesis to use a catalyst to produce hydrogen from methane derived from natural gas.

(d) "Water cycle" means the biogeochemical cycle that describes the continuous movement of water on, above, and below the surface of the earth.

(2) The state engineer shall commission a study to determine the quantitative impacts to the state's water cycle from:

(a) electrolysis;

(b) the generation of electricity by burning as fuel hydrogen resulting from electrolysis; and

(c) the generation of electricity by burning as fuel a blend of natural gas and hydrogen.

(3) The study shall compare the quantitative impacts to the water cycle to generating electricity by:

(a) burning coal;

(b) burning natural gas;

(c) solar energy;

(d) wind energy;

(e) burning a combination of hydrogen and natural gas; and

(f) burning hydrogen produced from:

(i) electrolysis;

(ii) coal gasification; and

(iii) steam methane reforming.

(4) The impacts quantified in Subsections (3)(e) and (f) shall include the quantitative impacts to the water cycle of:

(a) burning the hydrogen; and

(b) producing the hydrogen from fuel through:

(i) electrolysis;

(ii) coal gasification; and

(iii) steam methane reforming.

(5) The study described in Subsection (3) shall describe factors that influence the findings described in Subsection (3), including efficiency of the power.

(6) The state engineer shall report the findings of the study described in Subsection (3) to the Public Utilities, Energy, and Technology Interim Committee and to the Legislative Water Development Commission on or before November 1, 2022.

Section 3. Section 73-5-17 is enacted to read:

73-5-17. River distribution accounting report.

(1) As used in this section:

(a) "Natural flow" means the computed amount of water available within a defined portion of a river system.

(b) "River system" means a portion of a natural stream and its tributaries where regulation and accounting are required.

(2) The state engineer may conduct a review of distribution and accounting procedures on a river system in the state.

(3) After conducting the review described in Subsection (2), the state engineer shall provide a report identifying:

(a) actively administered:

(i) water rights;

(ii) diversions; and

(iii) reservoirs;

(b) accounting practices, including:

(i) computation of natural flow;

(ii) apportionment of natural flow to individual water rights;

(iii) storage delivery and loss of storage;

(iv) accounting for imports and exports; and

(v) system losses including:

(A) conveyance losses; and

(B) reservoir losses;

(c) recommendations for:

(i) additional measurement and automation; and

(ii) refinement of distribution or accounting practices in accordance with:

(A) existing water rights;

(B) the prior appropriation doctrine; and

(C) relevant court decrees; and

(d) the data and computations relied upon to provide the information described in Subsections (3)(a) through (c).

(4) The state engineer shall make the report described in Subsection (3) available to the public on the Division of Water Rights website annually at least one week prior to the annual distribution system meeting.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Division of Water Rights - Water Rights Administration

From General Fund, One-time	$230,000
Schedule of Programs:	
Water for Power Study	$150,000
River Distribution Accounting Report	$80,000
From General Fund	$150,000
Schedule of Programs:	
River Distribution Accounting Report	$150,000

CHAPTER 76
H. B. 404

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

LARGE PUBLIC TRANSIT DISTRICT AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions related to large public transit district procurement.

Highlighted Provisions:

This bill:

- requires a large public transit district to compare costs of different types of available zero emissions propulsion systems for certain public transit projects.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-2a-818, as last amended by Laws of Utah 2012, Chapter 347

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

Section 1. Section 17B-2a-818 is amended to read:

17B-2a-818. Requirements applicable to public transit district contracts.

(1) A public transit district shall comply with the applicable provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(2) If construction of a district facility or work exceeds $750,000, the construction shall be let as provided in:

(a) Title 63G, Chapter 6a, Utah Procurement Code; and

(b) Section 17B-2a-818.5.

(3) (a) In addition to the requirements of Title 63G, Chapter 6a, Utah Procurement Code, before beginning a procurement process for a passenger railcar or 10 or more passenger buses for a zero emissions project, a large public transit district shall complete a request for information in accordance with Section 63G-6a-409 to compare the costs for different types of available zero emissions propulsion systems for the passenger railcar or passenger buses.

(b) In performing the cost comparison described in Subsection (3)(a), the large public transit district shall consider:

(i) the purchase price;

(ii) the fuel cost per mile per gallon equivalent;

(iii) the service and maintenance costs over a 15-year period;

(iv) the estimated lifespan;

(v) passenger capacity; and

(vi) supply chain risks and costs.

CHAPTER 77
H. B. 409

Passed March 2, 2022
Approved March 21, 2022
Effective May 4, 2022

RECREATION INFRASTRUCTURE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill provides for the creation of a restricted account to fund outdoor recreation infrastructure.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Outdoor Adventure Infrastructure Restricted Account;
- diverts certain sales and use tax revenue into the account; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2023:

- To Department of Natural Resources - Division of State Parks - Capital, as a one-time appropriation:
  - From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, $15,000,000;
- To Department of Natural Resources - Division of Recreation - Capital, as a one-time appropriation:
  - From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, $5,000,000; and
- To Department of Transportation - Transportation Investment Fund Capacity Program, as a one-time appropriation:
  - From General Fund Restricted - Outdoor Adventure Infrastructure Restricted Account, $16,200,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2021, Chapters 367, 387, and 411

ENACTS:

51-9-901, Utah Code Annotated 1953
51-9-902, Utah Code Annotated 1953

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

Section 1. Section 51-9-901 is enacted to read:

Part 9. Outdoor Adventure Infrastructure Restricted Account

51-9-901. Definitions.

As used in this part:

(1) "Account" means the Outdoor Adventure Infrastructure Restricted Account created in Section 51-9-902.

(2) "Facility" means a site, location, building, structure, or other improvement to property.

(3) (a) "Outdoor recreation infrastructure" means a public facility or public land used by the public to access outdoor recreational opportunities.

(b) "Outdoor recreation infrastructure" includes:

(i) a facility used for water sports, snow sports, backpacking, canoeing, canyoning, caving, camping, climbing, hiking, hill walking, hunting, kayaking, rafting, biking, operating a snowmobile or all-terrain vehicle, or any similar motorized or nonmotorized activity; and

(ii) a state park, golf course, sports field, playground, toboggan run, sledding hill, trail, paved pedestrian or paved nonmotorized transportation facility, park, pool, waterway, road, bridge, or similar facility.

Section 2. Section 51-9-902 is enacted to read:

51-9-902. Outdoor Adventure Infrastructure Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Outdoor Adventure Infrastructure Restricted Account."

(2) The account shall consist of:

(a) money deposited into the account under Subsection 59-12-103(16); and

(b) interest and earnings on money in the account.

(3) Subject to appropriation from the Legislature, money from the account shall be used for:

(a) new construction of outdoor recreation infrastructure;

(b) upgrades of outdoor recreation infrastructure;

(c) the replacement of or structural improvements to outdoor recreation infrastructure;

(d) the acquisition of land, a right-of-way, or easement used in relationship to outdoor recreation infrastructure; or

(e) providing access from state highways, as defined in Section 72-1-102, to outdoor recreation infrastructure.

(4) If the Legislature appropriates money to the Department of Transportation from the account, the Transportation Commission, created in Section 72-1-301, shall prioritize projects and determine funding levels in accordance with Subsection 72-1-303(1)(a) based on recommendations of the Department of Transportation.

Section 3. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and [~~(8)(c)(iv)(F)~~] (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)[~~(c)~~](b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood

Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

(16) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2022, transfer into the Outdoor Adventure Infrastructure Restricted Account, created in Section 51-9-902, a portion of the taxes listed under Subsection (3)(a) equal to 1% of the revenues collected from the following sales and use taxes:

(a) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(b) the tax imposed by Subsection (2)(b)(i);

(c) the tax imposed by Subsection (2)(c)(i); and

(d) the tax imposed by Subsection (2)(e)(i)(A)(I).

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources – Division of State Parks – Capital

From General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account, One-time	$15,000,000

Schedule of Programs:

Renovation and Development	$15,000,000

The Legislature intends that the Division of State Parks use the money appropriated under this item for the purposes permitted under Title 51, Chapter 9, Part 9, Outdoor Adventure Infrastructure Restricted Account, enacted by this bill. The appropriation is nonlapsing.

ITEM 2

To Department of Natural Resources – Division of Recreation – Capital

From General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account, One-time	$5,000,000

Schedule of Programs:

Recreation Capital	$5,000,000

The Legislature intends that the appropriation be nonlapsing and that the Division of Recreation use the money appropriated under this item:

(1) for the purposes permitted under Title 51, Chapter 9, Part 9, Outdoor Adventure Infrastructure Restricted Account, enacted by this bill; and

(2) in accordance with existing grant programs that require a match by recipients of the grant.

ITEM 3

To Department of Transportation – Transportation Investment Fund Capacity Program

From General Fund Restricted – Outdoor Adventure Infrastructure Restricted Account, One-time	$16,200,000

Schedule of Programs:

Transportation Investment Fund Capacity Program	$16,200,000

The Legislature intends that the Department of Transportation use the money appropriated under this item for paved pedestrian or paved nonmotorized transportation facilities and access to state parks from state highways consistent with the purposes permitted under Title 51, Chapter 9, Part 9, Outdoor Adventure Infrastructure Restricted Account, enacted by this bill. The appropriation is nonlapsing.

CHAPTER 78
H. B. 410

Passed March 2, 2022
Approved March 21, 2022
Effective March 21, 2022

GREAT SALT LAKE WATERSHED ENHANCEMENT

Chief Sponsor: Brad R. Wilson
Senate Sponsor: Evan J. Vickers
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Brady Brammer
Joel K. Briscoe
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Kay J. Christofferson
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Joel Ferry
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Timothy D. Hawkes
Jon Hawkins
Sandra Hollins
Ken Ivory
Dan N. Johnson
Marsha Judkins
Brian S. King
Michael L. Kohler
Karen Kwan
Bradley G. Last
Rosemary T. Lesser
Karianne Lisonbee
Steven J. Lund
A. Cory Maloy
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Calvin R. Musselman
Merrill F. Nelson
Doug Owens
Michael J. Petersen
Karen M. Peterson
Val L. Peterson
Candice B. Pierucci
Stephanie Pitcher
Susan Pulsipher
Adam Robertson
Judy Weeks Rohner
Angela Romero
Douglas V. Sagers
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
Casey Snider
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Norman K. Thurston
Steve Waldrip
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox
Mike Winder

LONG TITLE

General Description:

This bill enacts the Great Salt Lake Watershed Enhancement Program.

Highlighted Provisions:

This bill:

- addresses the duties of the Division of Forestry, Fire, and State Lands related to the Great Salt Lake;
- defines terms;
- authorizes rulemaking;
- establishes the program;
- provides for oversight by the Division of Forestry, Fire, and State Lands;
- imposes requirements on the grantee;
- provides for the creation, powers, and duties of the water trust; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Department of Natural Resources -- Forestry, Fire, and State Lands, as a one-time appropriation:
  - from General Fund, $40,000,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

65A-10-8, as enacted by Laws of Utah 1988, Chapter 121

ENACTS:

65A-16-101, Utah Code Annotated 1953
65A-16-102, Utah Code Annotated 1953
65A-16-201, Utah Code Annotated 1953
65A-16-202, Utah Code Annotated 1953
65A-16-203, Utah Code Annotated 1953
65A-16-301, Utah Code Annotated 1953Utah Code Sections Affected by Revisor Instructions:
65A-16-201, Utah Code Annotated 1953

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

Section 1. Section 65A-10-8 is amended to read:

65A-10-8. Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

(1) [~~Prepare~~] The division shall prepare and maintain a comprehensive plan for the [~~lake which~~] Great Salt Lake that recognizes the following policies:

(a) develop strategies to deal with a fluctuating lake level;

(b) encourage development of the [~~lake~~] Great Salt Lake in a manner [~~which~~] that will preserve the [~~lake~~] Great Salt Lake, encourage availability of brines to lake extraction industries, protect wildlife, and protect recreational facilities;

(c) maintain the [~~lake's~~] Great Salt Lake's flood plain as a hazard zone;

(d) promote water quality management for the [~~lake~~] Great Salt Lake and [~~its~~] the Great Salt Lake's tributary streams;

(e) promote the development of lake brines, minerals, chemicals, and petro-chemicals to aid the state's economy;

(f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals, and petro-chemicals;

(g) maintain the [~~lake~~] Great Salt Lake and the marshes as important to [~~the~~] shorebirds, waterfowl, and other waterbird flyway system;

(h) encourage the development of an integrated industrial complex;

(i) promote and maintain recreation areas on and surrounding the [~~lake~~] Great Salt Lake;

(j) encourage safe boating use of the [~~lake~~] Great Salt Lake;

(k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges; and

(l) provide public access to the [~~lake~~] Great Salt Lake for recreation, hunting, and fishing.

(2) [~~Employ~~] The division may employ personnel and purchase equipment and supplies [~~which~~] that the Legislature authorizes through appropriations for the purposes of this chapter.

(3) [~~Initiate~~] The division may initiate studies of the [~~lake~~] Great Salt Lake and [~~its~~] the Great Salt Lake's related resources.

(4) [~~Publish~~] The division may publish scientific and technical information concerning the [~~lake~~] Great Salt Lake.

(5) [~~Define~~] The division shall define the [~~lake's~~] Great Salt Lake's flood plain.

(6) [~~Qualify~~] The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter.

(7) [~~Determine~~] The division shall determine the need for public works and utilities for the lake area.

(8) [~~Implement~~] The division may implement the comprehensive plan described in Subsection (1) through state and local entities or agencies.

(9) [~~Coordinate~~] The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the [~~lake~~] Great Salt Lake.

(10) [~~Perform~~] The division may perform all other acts reasonably necessary to carry out the purposes and provisions of this chapter.

(11) [~~Retain~~] The division shall retain and encourage the continued activity of the Great Salt Lake technical team.

(12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.

Section 2. Section 65A-16-101 is enacted to read:

CHAPTER 16. GREAT SALT LAKE WATERSHED ENHANCEMENT PROGRAM

Part 1. General Provisions

65A-16-101. Definitions.

As used in this chapter:

(1) "Conservation organization" means an institution, corporation, foundation, or association that is:

(a) private;

(b) nonprofit; and

(c) founded for the purpose of promoting conservation of natural resources.

(2) "Council" means the Great Salt Lake Advisory Council created in Section 73-30-201.

(3) "Division" means the Division of Forestry, Fire, and State Lands.

(4) "Eligible applicant" means two or more conservation organizations that submit a joint grant application to the division under Section 65A-16-201 and meet the criteria listed in Subsection 65A-16-201(3)(a).

(5) "Grant money" means money the division awards to an eligible applicant pursuant to this chapter.

(6) "Grantee" means an eligible applicant that receives a grant authorized under this chapter.

(7) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.

(8) "Program" means the Great Salt Lake Watershed Enhancement Program created under Section 65A-16-201.

Section 3. Section 65A-16-102 is enacted to read:

65A-16-102. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Subsection 65A-16-201(5)(c), the division may make rules to administer the program in accordance with this chapter.

Section 4. Section 65A-16-201 is enacted to read:

Part 2. Program Established

65A-16-201. Great Salt Lake Watershed Enhancement Program established.

(1) There is created the "Great Salt Lake Watershed Enhancement Program" to issue grant money to establish a water trust to implement projects, programs, or voluntary arrangements that:

(a) retain or enhance water flows to:

(i) sustain the Great Salt Lake and the Great Salt Lake's wetlands; and

(ii) improve water quality and quantity for the Great Salt Lake within the Great Salt Lake watershed;

(b) conserve and restore upstream habitats that are key to protecting the hydrology and health of the Great Salt Lake and the Great Salt Lake's surrounding ecosystem;

(c) attract or leverage other public or private funding to enhance and preserve the Great Salt Lake watershed;

(d) engage agricultural producers, local landowners, local planning authorities, and others to support the Great Salt Lake;

(e) support or benefit the Great Salt Lake's natural infrastructure;

(f) protect and restore uplands, wetlands, and habitats in the Great Salt Lake watershed that benefit hydrologic or ecosystem functions of the Great Salt Lake;

(g) support efforts to integrate water planning and management efforts that benefit the Great Salt Lake watershed;

(h) undertake assessments or studies as necessary, consistent with the goals of this Subsection (1);

(i) support projects or programs to respond to low water levels and rising salinity in the Great Salt Lake;

(j) require the creation and operation of one or more endowments to sustain the water trust and fulfill the purposes of this chapter; or

(k) otherwise fulfill the purposes of this Subsection (1) to enhance, preserve, or protect the Great Salt Lake.

(2) (a) Subject to legislative appropriations, the division shall award a one-time grant to one eligible applicant to establish a water trust authorized under this section.

(b) The amount of the one-time grant under this Subsection (2) shall be equal to the entire appropriation made to the division to implement this chapter.

(c) Notwithstanding the requirements for the division issuing a one-time grant under this section, after the grant is issued, the division may receive additional appropriations to be used for the purposes of this chapter, including providing money to the water trust created under this chapter.

(3) To be considered for the one-time grant under Subsection (2), an eligible applicant shall submit a written application to the division within 60 days of the effective date of this bill that:

(a) demonstrates that the eligible applicant meets the following criteria that are necessary to submit a written application, that the eligible applicant:

(i) has offices and staff located in Utah; and

(ii) individually or collectively possesses:

(A) a history and ability to attract private funding to implement water and land conservation projects;

(B) knowledge and experience with the Great Salt Lake and the Great Salt Lake watershed;

(C) knowledge and experience managing wetlands in the vicinity of the Great Salt Lake;

(D) knowledge and experience in the creation of three or more water trusts or water funds;

(E) knowledge and experience in securing approval from the Division of Water Rights for water right applications that support the beneficial use of water in the Great Salt Lake;

(F) knowledge and experience with Utah water laws; and

(G) participation in the development of studies and reports on the Great Salt Lake and Utah water policy;

(b) how the applicant will accomplish the objectives of Subsection (1);

(c) how the applicant will satisfy Part 3, Water Trust; and

(d) a description of the types of money, in-kind contributions, and other resources the applicant could contribute or attract to support the creation, operation, and administration of a water trust.

(4) The division, in consultation with the council and the director of the Division of Water Quality, shall evaluate and rank the applications received under Subsection (3) according to each eligible applicant's experience and demonstrated ability to:

(a) attract and secure public and private funding to implement water and land conservation projects;

(b) address water quality and hydrology issues of the Great Salt Lake and within the Great Salt Lake watershed;

(c) create and operate water trusts;

(d) secure approval from the Division of Water Rights for water right applications that support beneficial use of water in the Great Salt Lake;

(e) understand, use, and work to improve Utah water laws in a manner that benefits the Great Salt Lake watershed while protecting other beneficial uses of water; and

(f) participate in collaborative efforts to develop strategies and recommendations to ensure adequate water for the Great Salt Lake and the Great Salt Lake watershed.

(5) (a) Within 90 days of the effective date of this bill, the division shall select the highest ranking eligible applicant as the grantee.

(b) The division shall distribute the appropriated money to the grantee as soon as reasonably practicable following the execution of an agreement or agreements that satisfy the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2).

(c) The division shall issue the grant within the time period required under this Subsection (5) notwithstanding whether the division has adopted rules to administer the program under Section 65A-16-102.

(6) If the division does not receive an application from an eligible applicant that satisfies each of the evaluation criteria of Subsection (4), the division shall issue a request for proposals under a competitive award process and shall select the most qualified applicant to receive the grant.

Section 5. Section 65A-16-202 is enacted to read:

65A-16-202. Oversight.

(1) The division shall oversee whether a grantee and the water trust that the grantee establishes comply with this chapter.

(2) (a) The division, in consultation with the council and the Division of Water Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for a grantee or water trust that fails to comply with this chapter.

(b) The rules establishing interventions under Subsection (2)(a) shall include, among other actions, requiring the grantee or water trust to return unexpended grant money to the division for failure to comply with this chapter.

(3) This section may not be construed as limiting the state auditor's enforcement authority under Section 51-2a-201.5.

Section 6. Section 65A-16-203 is enacted to read:

65A-16-203. Grantee requirements.

A grantee that receives grant money under this chapter shall:

(1) comply with Section 51-2a-201.5, Subsection 63J-1-220(2), and other applicable laws, regulations, ordinances, or rules; and

(2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to operate the water trust in a manner required by Section 65A-16-301, provided that this chapter may not be construed as limiting the grantee's ability to obtain funding from other public and private sources to assist in the establishment, operation, and administration of the water trust.

Section 7. Section 65A-16-301 is enacted to read:

Part 3. Water Trust

65A-16-301. Water trust -- Powers and duties -- Advisory councils.

(1) The grantee under this chapter shall establish a water trust that:

(a) is organized:

(i) as a private nonprofit organization; or

(ii) as an agreement between two or more conservation organizations; and

(b) complies with this section.

(2) A water trust created under this section shall:

(a) use a fiduciary to hold and administer grant money appropriated under this chapter;

(b) subject to Subsection (6):

(i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;

(ii) file with the state auditor on or before June 30 of each year the accounting report that:

(A) satisfies Subsection 51-2a-201.5(2);

(B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and

(C) includes an itemized accounting of the costs incurred under Subsection (3)(a);

(iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:

(A) the division;

(B) the Division of Water Quality;

(C) the council; and

(D) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;

(iv) file with the division on or before January 31 of each year a report that satisfies the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2); and

(v) provide a copy of the report described in Subsection (2)(b)(iv) to:

(A) the Division of Water Quality;

(B) the council; and

(C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and

(c) comply with applicable laws, regulations, ordinances, and rules.

(3) A water trust established by a grantee under this section:

(a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;

(b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and

(c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:

(i) invest and account for grant money and private money separately; and

(ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).

(4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in Subsection 65A-16-201(1).

(5) (a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.

(b) At least one of the advisory councils shall consist of nine members with a representative from the following:

(i) agriculture;

(ii) a private land owner adjacent to the Great Salt Lake;

(iii) a conservation organization dedicated to the preservation of migratory waterfowl;

(iv) a conservation organization dedicated to the protection of non-game avian species;

(v) another conservation organization working on Great Salt Lake issues;

(vi) aquaculture;

(vii) mineral extraction;

(viii) a water conservancy district; and

(ix) wastewater treatment facilities.

(6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Forestry, Fire, and State Lands

From General Fund, One-time	$40,000,000
Schedule of Programs:	
Project Management	$40,000,000

The Legislature intends that:

(1) the Division of Forestry, Fire, and State Lands uses this one-time appropriation to issue a grant under Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program, enacted by this bill;

(2) the appropriation be nonlapsing; and

(3) the appropriation only be used for the purposes of Title 65A, Chapter 16, Great Salt Lake Watershed Enhancement Program.

Section 9. Effective date.

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

Section 10. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Subsections 65A-16-201(3) and (5) from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 79
H. B. 423

Passed March 4, 2022
Approved March 21, 2022
Effective March 21, 2022

DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill makes changes related to the authority and administration of the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- clarifies the Department of Agriculture and Food's authority to award grants;
- allows the department to email certain registration renewal forms to a registrant unless the registrant requests to receive the forms by mail;
- authorizes the department to use the Agriculture Resource Development Fund to make loans through a disaster relief program;
- amends provisions related to the administration of the Utah Rural Rehabilitation Fund;
- clarifies where the department will send a notice of brand renewal;
- provides for an annual yearly brand inspection for rodeo stock;
- clarifies the acceptable use of the Plant Pest Fund for certain administrative expenses;
- changes the term "certificate of registration" to the term "license" throughout the Aquaculture Act;
- amends provisions related to the use of the Agricultural Water Optimization Account; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-2-103, as last amended by Laws of Utah 2018, Chapter 200
4-14-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-18-106, as last amended by Laws of Utah 2019, Chapter 178
4-18-108, as last amended by Laws of Utah 2019, Chapter 178
4-19-105, as renumbered and amended by Laws of Utah 2017, Chapter 345
4-24-202, as last amended by Laws of Utah 2021, Chapter 295
4-24-306, as last amended by Laws of Utah 2021, Chapter 295
4-24-308, as last amended by Laws of Utah 2020, Chapter 311
4-35-106, as last amended by Laws of Utah 2020, Chapter 326
4-37-109, as last amended by Laws of Utah 2020, Chapter 154
4-37-110, as last amended by Laws of Utah 2010, Chapter 378
4-37-201, as last amended by Laws of Utah 2017, Chapter 412
4-37-202, as last amended by Laws of Utah 2014, Chapter 189
4-37-203, as last amended by Laws of Utah 2017, Chapter 412
4-37-204, as last amended by Laws of Utah 2021, Chapter 295
4-37-301, as last amended by Laws of Utah 2017, Chapter 412
4-37-302, as last amended by Laws of Utah 2014, Chapter 189
4-37-303, as last amended by Laws of Utah 2010, Chapter 378
4-37-305, as last amended by Laws of Utah 2010, Chapter 378
4-37-401, as enacted by Laws of Utah 1994, Chapter 153
4-37-601, as enacted by Laws of Utah 1994, Chapter 153
4-37-602, as last amended by Laws of Utah 2010, Chapter 286
63I-1-273, as last amended by Laws of Utah 2021, Chapter 229
73-10g-204, as enacted by Laws of Utah 2018, Chapter 143

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

Section 1. Section 4-2-103 is amended to read:

4-2-103. Functions, powers, and duties of department -- Fees for services -- Marketing orders -- Procedure -- Purchasing and auditing.

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning all matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) assist the Conservation Commission in the administration of Title 4, Chapter 18, Conservation Commission Act, and administer and disburse any funds available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(r) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that all proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the commissioner.

(4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling its duties in this chapter, the department may:

(a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;

(c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies; [~~and~~]

(d) accept and administer grants from the federal government and from other sources, public or private[~~.~~]; and

(e) fund grants using money appropriated by the Legislature or money received from any other source.

Section 2. Section 4-14-103 is amended to read:

4-14-103. Registration required for distribution -- Application -- Fees -- Renewal -- Local needs registration -- Distributor or applicator license -- Fees -- Renewal.

(1) (a) A person that is not registered with the department may not distribute a pesticide in this state.

(b) Application for registration shall be made to the department upon forms prescribed and furnished by the department accompanied with an annual registration fee determined by the department pursuant to Subsection 4-2-103(2) for each pesticide registered.

(c) Upon receipt by the department of a proper application and payment of the appropriate fee, the commissioner shall issue a registration to the applicant allowing distribution of the registered pesticide in this state through June 30 of each year, subject to suspension or revocation for cause.

(d) (i) Each registration is renewable for a period of one year upon the payment of an annual registration renewal fee in an amount equal to the current applicable original registration fee.

(ii) Each renewal fee shall be paid on or before June 30 of each year.

(2) The application shall include the following information:

(a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's name;

(b) the name of the pesticide;

(c) a complete copy of the label that will appear on the pesticide; and

(d) any information prescribed by rule of the department considered necessary for the safe and effective use of the pesticide.

(3) (a) [~~Forms~~] Except as provided in Subsection (3)(b), forms for the renewal of registration shall be [~~mailed~~] emailed to registrants at least 30 days before [~~their~~] the day on which the registrant's registration expires.

(b) If a registrant requests to receive forms for the renewal of registration by mail, the department shall mail the forms to the registrant at least 30 days before the day on which the registrant's registration expires.

[~~(b)~~] (c) A registration in effect on June 30 for which a renewal application has been filed and the registration fee tendered shall continue in effect until the applicant is notified either that the registration is renewed or that the registration is suspended or revoked pursuant to Section 4-14-108.

(4) The department may, before approval of any registration, require the applicant to submit the complete formula of any pesticide, including active and inert ingredients, and may also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on which restrictions are being considered, require a complete description of all tests and test results that support the claims made by the applicant or the manufacturer of the pesticide.

(5) A registrant who desires to register a pesticide to meet special local needs according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and (2), satisfy the department that:

(a) a special local need exists;

(b) the pesticide warrants the claims made for the pesticide;

(c) the pesticide, if used in accordance with commonly accepted practices, will not cause unreasonable adverse effects on the environment; and

(d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

(6) A registration is not required for a pesticide distributed in this state pursuant to an experimental use permit issued by the EPA or under Section 4-14-105.

(7) A pesticide dealer may not distribute a restricted use pesticide in this state without a license.

(8) A person shall receive a license before applying:

(a) a restricted use pesticide; or

(b) a general use pesticide for hire or in exchange for compensation.

(9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained by:

(i) submitting an application on a form provided by the department;

(ii) showing evidence of competence in the pesticide profession, as established by rule, and complying with the rules adopted by the department under this chapter;

(iii) demonstrating good character;

(iv) having no outstanding infractions and owing no money to the department; and

(v) paying the license fee determined by the department according to Subsection 4-2-103(2).

(b) A person may apply for a triennial license that expires on December 31 of the second calendar year after the calendar year in which the license is issued.

(c) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits and may only use the fees to administer and enforce this title.

Section 3. Section 4-18-106 is amended to read:

4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund money -- Advisory board.

(1) As used in this section:

(a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire, that results in:

(i) the president of the United States declaring an emergency or major disaster in the state;

(ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; or

(iii) the chief executive officer of a local government declaring a local emergency under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

(b) "Local government" means the same as that term is defined in Section 53-2a-602.

[~~(1)~~] (2) There is created a revolving loan fund known as the Agriculture Resource Development Fund.

[~~(2)~~] (3) The Agriculture Resource Development Fund shall consist of:

(a) money appropriated to [~~it~~] the fund by the Legislature;

(b) sales and use tax receipts transferred to the fund in accordance with Section 59-12-103;

(c) money received for the repayment of loans made from the fund;

(d) money made available to the state for agriculture resource development from any source; and

(e) interest earned on the fund.

[~~(3)~~] (4) The commission [~~shall~~] may make loans from the Agriculture Resource Development Fund for [~~a~~]:

(a) a rangeland improvement and management project;

(b) a watershed protection or flood prevention project;

(c) a soil and water conservation project;

(d) a program designed to promote energy efficient farming practices;

(e) an improvement program for agriculture product storage or program designed to protect a crop or animal resource;

(f) a hydroponic or aquaponic system; [~~or~~]

(g) a project or program to improve water quality [~~or~~];

(h) a project to address other environmental issues[~~.~~]; or

(i) subject to Subsection (5), a disaster relief program designed to aid the sustainability of agriculture during and immediately following a disaster.

(5) (a) Loans made through a disaster relief program described in Subsection (4)(i) may not comprise more than 10% of the funds appropriated by the Legislature to the Agriculture Resource Development Fund.

(b) Notwithstanding Subsection (5)(a), the department may use all money appropriated to the Agriculture Resource Development Fund by the Legislature or another source, without limitation, if the money is appropriated specifically for use in a disaster relief program.

(c) (i) Until December 31, 2024, the department is authorized to borrow up to $3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account created in Section 73-10g-204 to be used in making loans through a disaster relief program described in Subsection (4)(i).

(ii) If the department borrows from the Agricultural Water Optimization Account under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest on loans made through a disaster relief program, regardless of the source of the funds used to make those loans, into the Agricultural Water Optimization Account, with preference over the repayment of any other source of funds, until the Agricultural Water Optimization Account is repaid in full.

[~~(4)~~] (6) The commission may appoint an advisory board [~~that shall~~] to:

(a) oversee the award process for loans, as described in this section;

(b) approve loans; and

(c) recommend policies and procedures for the Agriculture Resource Development Fund that are consistent with statute.

Section 4. Section 4-18-108 is amended to read:

4-18-108. Grants for environmental improvement projects -- Criteria for award -- Duties of commission.

(1) The commission may make a grant from the Agriculture Resource Development Fund, or from funds appropriated by the federal government, Legislature, or another entity, to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

[~~(a) a purpose set forth under Subsection 4-18-106(3);~~]

[~~(b) the development or implementation of a coordinated resource management plan with a conservation district, as defined in Section 17D-3-102;~~]

[~~(c)~~] (a) control or eradication of noxious weeds and invasive plant species in cooperation and coordination with a local weed board;

[~~(d)~~] (b) the costs of plans or projects to improve manure management, control surface water runoff, or address other environmental issues on [~~the~~] a farm or ranch operation, including the costs of preparing or implementing a nutrient management plan; [~~or~~]

[~~(e)~~] (c) the improvement of water quality [~~or~~];

(d) the development of watershed plans; or

(e) a program to address other environmental issues.

[~~(2) The commission may make a grant for a purpose described in Subsection (1) from money appropriated by the Legislature for the purpose of awarding a grant under this section.~~]

[~~(3)~~] (2) (a) In awarding a grant, the commission shall consider the following criteria:

(i) the ability of the grantee to pay for the costs of proposed plans or projects;

(ii) the availability of:

(A) matching funds provided by the grantee or another source; or

(B) material, labor, or other items of value provided in lieu of money by the grantee or another source; and

(iii) the benefits that accrue to the general public by the awarding of a grant.

(b) The commission may establish by rule additional criteria for the awarding of a grant.

[~~(4)~~] (3) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section.

[~~(5)~~] (4) The commission may appoint an advisory board to:

(a) assist with the grant process;

(b) make recommendations to the commission regarding grants; and

(c) establish policies and procedures for awarding loans or grants [~~from the Agricultural Resource Development Fund~~].

Section 5. Section 4-19-105 is amended to read:

4-19-105. Utah Rural Rehabilitation Fund.

(1) The department shall deposit all income generated from the administration of the rural rehabilitation program in a separate fund known as the "Utah Rural Rehabilitation Fund."

(2) The [~~state treasurer~~] Division of Finance shall maintain the Utah Rural Rehabilitation Fund and record all debits and credits made to the fund by the department.

(3) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the Utah Rural Rehabilitation Fund into the fund.

Section 6. Section 4-24-202 is amended to read:

4-24-202. Recordation of brand.

(1) (a) Application for a recorded brand shall be made to the department upon forms prescribed and furnished by the department.

(b) The application shall contain the [~~information the commissioner prescribes.~~] following information:

(i) the name of each applicant;

(ii) a single designated address where the department will send a notice of brand renewal; and

(iii) a description of the brand that is the subject of the application.

(c) An application may not be approved without payment of the appropriate recording fee.

(d) Upon receipt of a proper application, payment of the recording fee, and recordation of the brand in the central Brand Registry of the department, the commissioner shall issue the applicant a certified copy of recording that entitles the applicant to the exclusive use of the brand recorded.

(2) (a) A recorded brand filed with the central Brand Registry expires during the calendar year 1980, and during each fifth year thereafter.

(b) (i) The department shall [~~give~~] send notice in writing to [~~all persons who are owners of recorded brands~~] the address designated under Subsection (1)(b)(ii) within a reasonable time before the date of expiration of recordation.

(ii) The notice required by this Subsection (2)(b) may be provided by email or regular mail at the department's discretion.

(iii) The holder of a registered brand has an affirmative duty to inform the department of a change to the contact information provided on the initial application for a recorded brand.

(c) Brand renewal is affected by filing an appropriate application with the department together with payment of the renewal fee.

(d) A recorded brand, not timely renewed, shall lapse and be removed from the central Brand Registry.

Section 7. Section 4-24-306 is amended to read:

4-24-306. Movement across state line -- Brand inspection required -- Exception -- Request for brand inspection -- Time and place of inspection.

(1) Except as provided in Subsection (2), a person may not drive or transport any cattle, calves, horses, domesticated elk, or mules from any place within this state to a place outside this state until the animal has been brand inspected.

(2) Subsection (1) does not apply:

(a) if the animals specified in Subsection (1) customarily forage on an open range which transgresses the Utah state line and that of an adjoining state[~~.~~]; or

(b) to rodeo stock that have received a current yearly brand inspection.

(3) The owner or person responsible for driving or transporting the animals shall request the department to inspect the brands of the animals to be moved.

(4) The department shall conduct the inspection at the time and place determined by the department.

Section 8. Section 4-24-308 is amended to read:

4-24-308. Brand inspection fees.

(1) The department with the approval of the Livestock Brand Board may set and collect a fee for the:

(a) issuance of any certificate of brand inspection, including a yearly brand inspection of rodeo stock;

(b) verification of ownership at a custom exempt slaughter facility before slaughter for the owner's use;

(c) verification of ownership by a farm custom slaughter licensee before slaughter for the owner's use; or

(d) verification of ownership by a state or department employee at a meat establishment where there is no transfer of ownership.

(2) Brand inspection fees incurred for the inspection of such animals at a livestock market may be withheld by the market and paid from the proceeds derived from their sale.

(3) The fee shall be determined by the department pursuant to Subsection 4-2-103(2).

Section 9. Section 4-35-106 is amended to read:

4-35-106. Plant Pest Fund.

(1) There is created an expendable special revenue fund known as the "Plant Pest Fund."

(2) The fund is funded from:

(a) money the plant industry division within the department receives under this title;

(b) the landowner's and lessee's share of costs, if required by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) appropriations from the Legislature;

(d) federal money deposited into the fund; and

(e) the interest and earnings on the fund.

(3) The department may only use money in the fund to fund survey, detection, eradication, or suppression efforts for plant pests with the exception designated in Subsection (4).

(4) The department may annually use an amount not to exceed the lesser of the following [~~to carry out the department's duties under this chapter~~] for staff or administrative costs to carry out the department's duties under this chapter:

(a) 10% of the fund annually; or

(b) $300,000.

(5) (a) The fund may not exceed $10,000,000 of money deposited under Subsections (2)(a), (c), and (e).

(b) The Division of Finance shall transfer the money described in Subsection (5)(a) in excess of $10,000,000 at the end of a fiscal year into the General Fund.

(6) Federal money deposited into the fund shall be accounted for separately.

(7) Fund money may be used as matching funds for participation in programs of the United States Department of Agriculture for survey, detection, eradication, or suppression efforts of plant pests.

Section 10. Section 4-37-109 is amended to read:

4-37-109. Department to make rules.

(1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) specifying procedures for the application and renewal of [~~certificates of registration~~] licenses for operating an aquaculture or fee fishing facility; and

(b) governing the disposal or removal of aquatic animals from an aquaculture or fee fishing facility for which the [~~certificate of registration~~] license has lapsed or been revoked.

(2) (a) The department may make other rules consistent with its responsibilities set forth in Section 4-37-104.

(b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall be consistent with the suggested procedures for the detection and identification of pathogens published by the American Fisheries Society's Fish Health Section.

Section 11. Section 4-37-110 is amended to read:

4-37-110. Inspection of records and facilities.

(1) The following records and information shall be maintained by an aquaculture or fee fishing facility for a period of two years and shall be available for inspection by a department representative during reasonable hours:

(a) records of purchase, acquisition, distribution, and production histories of aquatic animals;

(b) [~~certificate of registration~~] a license; and

(c) valid identification of stocks, including origin of stocks.

(2) Department representatives may conduct pathological, fish culture, or physical investigations at any aquaculture, public aquaculture, or fee fishing facility during reasonable hours.

Section 12. Section 4-37-201 is amended to read:

4-37-201. License required to operate an aquaculture facility.

(1) A person may not operate an aquaculture facility without first obtaining a [~~certificate of registration~~] license from the department.

(2) (a) Each application for a [~~certificate of registration~~] license to operate an aquaculture facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section 63J-1-504.

(3) The department shall coordinate with the Division of Wildlife Resources:

(a) on the suitability of the proposed site relative to potential impacts on adjacent wild aquatic animal populations; and

(b) in determining which species the holder of the [~~certificate of registration~~] license may propagate, possess, transport, or sell.

(4) The department shall list on the [~~certificate of registration~~] license the species which the holder may propagate, possess, transport, or sell.

Section 13. Section 4-37-202 is amended to read:

4-37-202. Acquisition of aquatic animals for use in aquaculture facilities.

(1) Live aquatic animals intended for use in aquaculture facilities may be purchased or acquired only from:

(a) aquaculture facilities within the state that have a [~~certificate of registration~~] license and health approval number;

(b) public aquaculture facilities within the state that have a health approval number; or

(c) sources outside the state that are health approved as provided in Part 5, Health Approval.

(2) A person holding a [~~certificate of registration~~] license for an aquaculture facility shall submit annually to the department a record of each purchase of live aquatic animals and transfer of live aquatic animals into the facility. This record shall include the following information:

(a) name, address, and health approval number of the source;

(b) date of transaction; and

(c) number and weight by species.

(3) The records required by Subsection (2) shall be submitted to the department before a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~] license is issued.

Section 14. Section 4-37-203 is amended to read:

4-37-203. Transportation of aquatic animals to or from aquaculture facilities.

(1) Any person holding a [~~certificate of registration~~] license for an aquaculture facility may transport the live aquatic animals specified on the [~~certificate of registration~~] license to the facility or to any person who has been issued a [~~certificate of registration~~] license or who is otherwise authorized by law to possess those aquatic animals.

(2) Each transfer or shipment of live aquatic animals from or to an aquaculture facility within the state shall be accompanied by documentation of the source and destination of the fish, including:

(a) name, address, [~~certificate of registration~~] license number, and health approval number of the source;

(b) number and weight being shipped, by species;

(c) name of the recipient;

(d) address of the destination; and

(e) (i) [~~certificate of registration~~] license number of the receiving facility; or

(ii) location of the private fish pond or short-term fishing event when authorized to receive the aquatic animal without a certificate of registration under Division of Wildlife Resources rules.

Section 15. Section 4-37-204 is amended to read:

4-37-204. Sale of aquatic animals from aquaculture facilities.

(1) (a) Except as provided by Subsection (1)(c) and subject to Subsection (1)(b), a person holding a [~~certificate of registration~~] license for an aquaculture facility may take an aquatic animal as approved on the [~~certificate of registration~~] license from the facility at any time and offer the aquatic animal for sale.

(b) A live aquatic animal may be sold within Utah only to a person who:

(i) has been issued a [~~certificate of registration~~] license to possess the aquatic animal; or

(ii) is eligible to receive the aquatic animal without a certificate of registration under Wildlife Board rules.

(c) A person who owns or operates an aquaculture facility may sell live aquatic animals if the person:

(i) obtains a health approval number for the aquaculture facility;

(ii) inspects the pond or holding facility to verify that the pond or facility is in compliance with Subsections 23-15-10(2) and (3)(c); and

(iii) stocks the species and reproductive capability of aquatic animals authorized by the Wildlife Board in accordance with Section 23-15-10 for stocking in the area where the pond or holding facility is located.

(2) An aquatic animal sold or transferred by the owner or operator of an aquaculture facility shall be accompanied by the seller's receipt that contains the following information:

(a) date of transaction;

(b) name, address, [~~certificate of registration~~] license number, and health approval number;

(c) number and weight of aquatic animal by:

(i) species; and

(ii) reproductive capability; and

(d) name and address of the receiver.

(3) (a) A person holding a [~~certificate of registration~~] license for an aquaculture facility shall submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals in Utah. The department shall forward the report to the Division of Wildlife Resources. The department or Division of Wildlife Resources may request copies of receipts from an aquaculture facility.

(b) The report shall contain the following information:

(i) name, address, and [~~certificate of registration~~] license number of the seller or supplier;

(ii) number and weight of aquatic animals by species and reproductive capacity;

(iii) date of sale or transfer; and

(iv) name, address, phone number, and [~~certificate of registration~~] license number of the receiver.

(4) Geographic coordinates of the stocking location shall be provided if the receiver is eligible to stock the aquatic animal without a certificate of registration under Wildlife Board rules.

(5) A report required by Subsection (3) shall be submitted before:

(a) a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~] license is issued; or

(b) a health approval number is issued.

Section 16. Section 4-37-301 is amended to read:

4-37-301. License required to operate a fee fishing facility.

(1) A person may not operate a fee fishing facility without first obtaining a [~~certificate of registration~~] license from the department.

(2) (a) Each application for a [~~certificate of registration~~] license to operate a fee fishing facility shall be accompanied by a fee.

(b) The fee shall be established by the department in accordance with Section 63J-1-504.

(3) The department shall coordinate with the Division of Wildlife Resources:

(a) on the suitability of the proposed site relative to potential impacts on adjacent wild aquatic animal populations; and

(b) in determining which species the holder of the [~~certificate of registration~~] license may possess or transport to or stock into the facility.

(4) The department shall list on the [~~certificate of registration~~] license the species which the holder may possess or transport to or stock into the facility.

(5) A person holding a [~~certificate of registration~~] license for an aquaculture facility may also operate a fee fishing facility without obtaining an additional [~~certificate of registration~~] license, if the fee fishing facility:

(a) is in a body of water meeting the criteria of Section 4-37-111 which is connected with the aquaculture facility;

(b) contains only those aquatic animals specified on the [~~certificate of registration~~] license for the aquaculture facility; and

(c) is designated on the [~~certificate of registration~~] license for the aquaculture facility.

Section 17. Section 4-37-302 is amended to read:

4-37-302. Acquisition of aquatic animals for use in fee fishing facilities.

(1) Live aquatic animals intended for use in fee fishing facilities may be purchased or acquired only from:

(a) aquaculture facilities within the state that have a [~~certificate of registration~~] license and health approval number;

(b) public aquaculture facilities within the state that have a health approval number; or

(c) sources outside the state that are health approved pursuant to Part 5, Health Approval.

(2) (a) A person holding a [~~certificate of registration~~] license for a fee fishing facility shall submit to the department an annual report of all live fish purchased or acquired.

(b) The report shall contain the following information:

(i) name, address, and [~~certificate of registration~~] license number of the seller or supplier;

(ii) number and weight by species;

(iii) date of purchase or transfer; and

(iv) name, address, and [~~certificate of registration~~] license number of the receiver.

(c) The report shall be submitted to the department before a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~] license is issued.

Section 18. Section 4-37-303 is amended to read:

4-37-303. Transportation of live aquatic animals to fee fishing facilities.

(1) Any person holding a [~~certificate of registration~~] license for a fee fishing facility may transport the live aquatic animals specified on the [~~certificate of registration~~] license to the facility.

(2) Each transfer or shipment of live aquatic animals to a fee fishing facility within the state shall be accompanied by documentation of the source and destination of the fish, including:

(a) name, address, [~~certificate of registration~~] license number, and health approval number of the source;

(b) number and weight being shipped by species; and

(c) name, address, and [~~certificate of registration~~] license number of the destination.

Section 19. Section 4-37-305 is amended to read:

4-37-305. Fishing license not required to fish at fee fishing facilities -- Transportation of dead fish.

(1) A fishing license is not required to take fish from fee fishing facilities.

(2) To transport dead fish from fee fishing facilities the fish shall be accompanied by the seller's receipt containing the following information:

(a) species and number of fish;

(b) date caught;

(c) [~~certificate of registration~~] license number of the fee fishing facility; and

(d) name, address, and telephone number of the seller.

Section 20. Section 4-37-401 is amended to read:

4-37-401. License required to import aquatic animals for aquaculture or fee fishing facilities.

(1) A person may not import aquatic animals classified as controlled species by rules of the Wildlife Board into the state for use in aquaculture or fee fishing facilities without first obtaining a [~~certificate of registration~~] license from the department.

(2) The department shall:

(a) coordinate with the Division of Wildlife Resources in determining which species the holder may import into the state; and

(b) specify those species on the [~~certificate of registration~~] license.

(3) A person may not import species into the state that are not listed on the [~~certificate of registration~~] license.

Section 21. Section 4-37-601 is amended to read:

4-37-601. Enforcement and penalties.

(1) Any violation of this chapter is a class B misdemeanor and may be grounds for revocation of the [~~certificate of registration~~] license or denial of any future [~~certificate of registration~~] license as determined by the department.

(2) A violation of any rule made under this chapter may be grounds for revocation of the [~~certificate of registration~~] license or denial for future [~~certificate of registration~~] license as determined by the department.

Section 22. Section 4-37-602 is amended to read:

4-37-602. Adjudicative proceedings -- Presiding officer.

(1) Adjudicative proceedings under this chapter shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) The revocation of an aquaculture facility's [~~certificate of registration~~] license, the denial of an aquaculture facility's future [~~certificate of registration~~] license, and a denial or cancellation of an aquaculture facility's health approval number is a state agency action governed by Title 63G, Chapter 4, Administrative Procedures Act.

(3) (a) An owner or operator of an aquaculture facility may ask for an agency review, as provided by Section 63G-4-301, of an agency action specified in Subsection (2).

(b) The presiding officer, as defined in Section 63G-4-103, conducting the agency review shall consist of three members as follows:

(i) the person representing sport fishermen, appointed under Subsection 4-37-503(4)(a)(i)(C);

(ii) one person representing the aquaculture industry, appointed by the governor from names submitted by a nonprofit corporation, as defined in Section 16-6a-102, that promotes the efficient production, distribution, and marketing of aquaculture products and the welfare of all persons engaged in aquaculture; and

(iii) one person, appointed by the governor, who is knowledgeable about aquatic diseases and is employed by an institution of higher education.

(c) If the governor rejects all the names submitted under Subsection (3)(b)(ii), the recommending nonprofit corporation shall submit additional names.

(d) The final decision of the presiding officer shall be adopted upon approval of at least two of the members.

(e) The term for the member listed in Subsection (3)(b)(i) shall be the same as provided in Section 4-37-503.

(f) The term for the members appointed under Subsections (3)(b)(ii) and (iii) shall be four years.

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

(a) Section 63A-3-106;

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

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

Section 23. Section 63I-1-273 is amended to read:

63I-1-273. Repeal dates, Title 73.

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, [~~is repealed July 1, 2025.~~] on July 1, 2025:

(a) Section 73-10g-202 is repealed; and

(b) Section 73-10g-203 is repealed.

(3) Section 73-18-3.5, which creates the Boating Advisory Council, is repealed July 1, 2024.

(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

(5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

Section 24. Section 73-10g-204 is amended to read:

73-10g-204. Agricultural Water Optimization Account.

(1) As used in this section:

(a) "Account" means the Agricultural Water Optimization Account created in Subsection (2).

(b) "Agricultural water optimization" means the implementation of agricultural and water management practices that maintain or increase viable agriculture while minimizing negative impacts on water supply, water quality, and the environment.

(c) "Department" means the Department of Agriculture and Food.

(2) There is created a restricted account within the General Fund called the Agricultural Water Optimization Account.

[~~(2)~~] (3) The [~~Agricultural Water Optimization Account~~] account consists of:

(a) appropriations from the Legislature [~~and~~];

(b) federal funds; and

(c) grants or donations from other public or private sources.

[~~(3) The task force created in Section 73-10g-202 may, subject to appropriation, expend money in the Agricultural Water Optimization Account to fulfill the duties of Section 73-10g-203.~~]

(4) Subject to appropriation, the department may use money in the account to issue grants to improve agricultural water optimization.

(5) Until December 31, 2024, the department may loan up to $3,000,000 of General Fund money in the account to the Agriculture Resource Development Fund, subject to the conditions described in Section 4-18-106.

(6) (a) The department shall maintain the Agriculture Water Optimization Account and record all debits and credits made to the account by the department.

(b) The Office of the Treasurer shall deposit interest and other earnings derived from investment of money in the Agriculture Water Optimization Account into the account.

Section 25. Effective date.

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

CHAPTER 80
H. B. 427

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

WILDLIFE ACCIDENT PROTECTIONS

Chief Sponsor: Doug Owens
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends a required annual report from the Department of Transportation to include analysis of wildlife mitigation.

Highlighted Provisions:

This bill:

- amends a required annual report from the Department of Transportation to include analysis of wildlife mitigation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-201, as last amended by Laws of Utah 2019, Chapter 431

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

Section 1. Section 72-1-201 is amended to read:

72-1-201. Creation of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.

(1) There is created the Department of Transportation which shall:

(a) have the general responsibility for planning, research, design, construction, maintenance, security, and safety of state transportation systems;

(b) provide administration for state transportation systems and programs;

(c) implement the transportation policies of the state;

(d) plan, develop, construct, and maintain state transportation systems that are safe, reliable, environmentally sensitive, and serve the needs of the traveling public, commerce, and industry;

(e) establish standards and procedures regarding the technical details of administration of the state transportation systems as established by statute and administrative rule;

(f) advise the governor and the Legislature about state transportation systems needs;

(g) coordinate with utility companies for the reasonable, efficient, and cost-effective installation, maintenance, operation, relocation, and upgrade of utilities within state highway rights-of-way;

(h) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of the department, state transportation systems, and programs;

(i) jointly with the commission annually report to the Transportation Interim Committee, by November 30 of each year, as to the operation, maintenance, condition, mobility, [~~and~~] safety needs, and wildlife and livestock mitigation for state transportation systems;

(j) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department; and

(k) study and make recommendations to the Legislature on potential managed lane use and implementation on selected transportation systems within the state.

(2) (a) The department shall exercise reasonable care in designing, constructing, and maintaining a state highway in a reasonably safe condition for travel.

(b) Nothing in this section shall be construed as:

(i) creating a private right of action; or

(ii) expanding or changing the department's common law duty as described in Subsection (2)(a) for liability purposes.

CHAPTER 81
H. B. 429

Passed March 2, 2022
Approved March 21, 2022
Effective May 4, 2022

GREAT SALT LAKE AMENDMENTS

Chief Sponsor: Kelly B. Miles
Senate Sponsor: Scott D. Sandall
Cosponsors: Melissa G. Ballard
Brady Brammer
Clare Collard
Steve Eliason
Joel Ferry
Matthew H. Gwynn
Stephen G. Handy
Timothy D. Hawkes
Rosemary T. Lesser
Steven J. Lund
Carol Spackman Moss
Calvin R. Musselman
Doug Owens
Susan Pulsipher
Mike Schultz
Jeffrey D. Stenquist
Stephen L. Whyte
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill addresses state actions related to the Great Salt Lake.

Highlighted Provisions:

This bill:

- enacts provisions requiring the Division of Water Resources to develop the Great Salt Lake Watershed Integrated Water Assessment, including:
  - defining terms;
  - providing for what the integrated water assessment may include;
  - addressing how the integrated water assessment is to be developed and implemented, including the creation of a work plan;
  - requiring reporting; and
  - requiring a study of the impact of certain best management practices associated with post-construction retention storm water permit requirements on the water budget of the Great Salt Lake.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Natural Resources -- Water Resources, as a one-time appropriation:
  - from General Fund, $5,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

73-10g-401, Utah Code Annotated 1953
73-10g-402, Utah Code Annotated 1953
73-10g-403, Utah Code Annotated 1953
73-10g-404, Utah Code Annotated 1953
73-10g-405, Utah Code Annotated 1953

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

Section 1. Section 73-10g-401 is enacted to read:

Part 4. Great Salt Lake Watershed Integrated Water Assessment

73-10g-401. Definitions.

As used in this part:

(1) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.

(2) "Integrated water assessment" means an integrated surface and ground water assessment for the Great Salt Lake watershed developed under Section 73-10g-402.

(3) "Work plan" means the plan developed under Section 73-10g-403 to develop and implement an integrated water assessment.

Section 2. Section 73-10g-402 is enacted to read:

73-10g-402. Development of an integrated water assessment.

(1) The division shall develop and implement an integrated surface and ground water assessment for the Great Salt Lake watershed.

(2) The integrated water assessment may in relationship with the Great Salt Lake watershed:

(a) provide an assessment of the amounts and quality of available water resources;

(b) assess and forecast the quantity of water available for human, agricultural, economic development, and environmental or instream uses, and ecological needs, including:

(i) current and future water supply and demand and the factors that influence availability;

(ii) long-term trends in water availability and the causes of those trends; and

(iii) seasonal and decadal forecasts of availability;

(c) investigate the potential benefits of forest management and watershed restoration in:

(i) improving snowpack retention;

(ii) increasing soil moisture;

(iii) sustaining river flows in low flow seasons;

(iv) mitigating wildfire risk; and

(v) improving water quality;

(d) coordinate an effort to:

(i) quantify the amount of water and water quality needed to sustain high priority ecological sites in rivers, riparian, wetland, and lake systems; and

(ii) incorporate the water demand into the water supply and demand model;

(e) identify and evaluate best management practices that may be used to provide a reliable water supply that:

(i) meet water quality objectives;

(ii) meet agriculture water objectives;

(iii) accommodate anticipated growth and economic development; and

(iv) provide adequate flow to sustain the Great Salt Lake, the Great Salt Lake's wetlands, and other ecological functions in the Great Salt Lake's watershed; and

(f) address other matters identified in the work plan.

(3) The integrated water assessment shall include a water budget for the Great Salt Lake and the Great Salt Lake's associated wetlands, including water flows needed to maintain different lake levels under different scenarios, taking into consideration water quality, ecological needs, economic benefits, and public health benefits of the Great Salt Lake.

(4) In developing and implementing the integrated water assessment, the division shall:

(a) consult and coordinate with other state, local, regional, and federal governmental entities, water users, and other stakeholders; and

(b) coordinate with, and where appropriate, consider or incorporate other planning efforts, assessments, studies, or reports relevant to the Great Salt Lake watershed.

Section 3. Section 73-10g-403 is enacted to read:

73-10g-403. Work plan.

(1) (a) By no later than November 30, 2023, and before developing the integrated water assessment under Section 73-10g-402, the division shall create a plan for developing and implementing the integrated water assessment.

(b) In creating the work plan, the division shall consult with the entities described in Subsection 73-10g-402(4)(a).

(2) The work plan shall include in relationship to the Great Salt Lake watershed:

(a) a synthesis of available information, literature, and data, and an assessment of scientific, technical, measurement, and other informational needs, relating to:

(i) water quantity, water quality, water use, and water demand;

(ii) improving quantification and quality of data for:

(A) surface and groundwater water diversions;

(B) depletions; and

(C) return flow;

(iii) developing, downscaling, or otherwise updating models and assessment tools to improve understanding of water supply, water use, and water availability;

(iv) understanding changing watershed conditions, including changes in climate, evapotranspiration, and other water supply vulnerabilities; and

(v) other matters as the division determines to be appropriate; and

(b) a description of how the work plan shall be implemented to address the needs described in Subsection (2)(a), including:

(i) prioritize proposed activities, such as monitoring data infrastructure needs, studies, analyses, and development of tools necessary to implement the integrated water assessment;

(ii) an implementation schedule, with completion of an integrated water assessment by no later than November 30, 2026;

(iii) recommendations and a cost assessment for the implementation of the work plan;

(iv) public engagement process;

(v) an agreed approach to facilitate integrated watershed management and coordination across local, state, and federal agencies; and

(vi) other matters as the division determines to be appropriate.

Section 4. Section 73-10g-404 is enacted to read:

73-10g-404. Completion of integrated water assessment -- Reporting and publishing.

(1) The division shall complete the integrated water assessment by no later than November 30, 2026.

(2) (a) The division shall report at least annually on the progress and findings from the integrated water assessment to:

(i) the Natural Resources, Agriculture, and Environment Interim Committee;

(ii) the Legislative Water Development Commission; and

(iii) the Great Salt Lake Advisory Council.

(b) The division shall publish a report provided under Subsection (2)(a) on the division's website.

(3) The division shall publish a final report on an integrated water assessment by no later than December 31, 2027.

Section 5. Section 73-10g-405 is enacted to read:

73-10g-405. Great Salt Lake related post-construction storm water management.

(1) As used in this section:

(a) "Storm water" means the same as that term is defined in Section 19-5-108.5.

(b) "Storm water permit" means the same as that term is defined in Section 19-5-108.5.

(2) (a) As part of the integrated water assessment, the division shall study the impact of low impact development best management practices associated with post-construction retention storm water permit requirements on the water budget of the Great Salt Lake.

(b) As part of the study under this section, the division shall:

(i) coordinate with the Division of Water Quality; and

(ii) when appropriate, seek information from the United States Environmental Protection Agency.

(3) Notwithstanding Section 73-10g-404, the division shall complete the study required by this section and issue a final report to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2023 interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Water Resources

From General Fund, One-time	$5,000,000
Schedule of Programs:	
Planning	$5,000,000

The Legislature intends that the Division of Water Resources use this one-time appropriation to develop and implement an integrated surface and ground water assessment for the Great Salt Lake watershed required by Title 73, Chapter 10g, Part 4, Great Salt Lake Watershed Integrated Water Assessment, enacted in this bill. The appropriation is nonlapsing.

CHAPTER 82
H. B. 443

Passed March 3, 2022
Approved March 21, 2022
Effective March 21, 2022

UTAH INLAND PORT AUTHORITY AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions relating to the Utah Inland Port Authority.

Highlighted Provisions:

This bill:

- modifies definitions applicable to code provisions governing the Utah Inland Port Authority, including modifying and expanding the definition of publicly owned infrastructure and improvements to include certain privately owned facilities;
- modifies provisions relating to the Authority policies and objectives;
- eliminates language making an intermodal facility owned by the Authority subject to a privilege tax;
- modifies provisions relating to the Authority board;
- removes a primary municipality's property tax revenue from property tax differential, upon certain conditions;
- requires the primary municipality, the primary municipality's community development and renewal agency, and the Authority to enter into an agreement relating to the distribution of certain property tax revenue for specified purposes;
- modifies a provision relating to the Authority executive director;
- modifies allowable uses of property tax differential;
- authorizes the Authority to use property tax differential for business recruitment incentives and establishes provisions governing business recruitment incentives;
- modifies provisions relating to the Authority budget;
- authorizes the Authority to use an automatic license plate reader system under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

11-58-102, as last amended by Laws of Utah 2021, Chapter 415
11-58-106, as enacted by Laws of Utah 2021, Chapter 415
11-58-202, as last amended by Laws of Utah 2020, Chapters 126 and 263
11-58-203, as last amended by Laws of Utah 2020, Chapter 126
11-58-205, as last amended by Laws of Utah 2020, Chapter 126
11-58-302, as last amended by Laws of Utah 2020, Chapter 126
11-58-303, as last amended by Laws of Utah 2020, Chapter 126
11-58-304, as last amended by Laws of Utah 2021, Chapter 415
11-58-305, as last amended by Laws of Utah 2020, Chapter 126
11-58-601, as last amended by Laws of Utah 2020, Chapter 126
11-58-602, as last amended by Laws of Utah 2020, Chapter 126
11-58-801, as last amended by Laws of Utah 2021, Chapters 84 and 345
17D-4-102, as last amended by Laws of Utah 2021, Chapter 415 and renumbered and amended by Laws of Utah 2021, Chapter 314
17D-4-203, as last amended by Laws of Utah 2021, Chapters 414, 415 and renumbered and amended by Laws of Utah 2021, Chapter 314
35A-16-304, as renumbered and amended by Laws of Utah 2021, Chapter 281
41-6a-2003, as last amended by Laws of Utah 2020, Chapter 68
59-12-205, as last amended by Laws of Utah 2021, Chapter 281
63A-3-401.5, as enacted by Laws of Utah 2021, Chapter 415
63H-1-102, as last amended by Laws of Utah 2021, Chapters 314, 414, and 415
63H-1-502, as last amended by Laws of Utah 2021, Chapter 414

ENACTS:

11-58-603, Utah Code Annotated 1953
11-58-604, Utah Code Annotated 1953

REPEALS:

11-58-101, as enacted by Laws of Utah 2018, Chapter 179

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

Section 1. Section 11-58-102 is amended to read:

11-58-102. Definitions.

As used in this chapter:

(1) "Authority" means the Utah Inland Port Authority, created in Section 11-58-201.

(2) "Authority jurisdictional land" means land within the authority boundary delineated:

(a) in the electronic shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session; and

(b) beginning April 1, 2020, as provided in Subsection 11-58-202(3).

(3) "Base taxable value" means:

(a) (i) except as provided in Subsection (3)(a)(ii), for a project area that consists of the authority jurisdictional land, the taxable value of authority jurisdictional land in calendar year 2018; and

(ii) for an area described in Subsection 11-58-601(5), the taxable value of that area in calendar year 2017; or

(b) for a project area that consists of land outside the authority jurisdictional land, the taxable value of property within any portion of a project area, as designated by board resolution, from which the property tax differential will be collected, as shown upon the assessment roll last equalized before the year in which the authority adopts a project area plan for that area.

(4) "Board" means the authority's governing body, created in Section 11-58-301.

(5) "Business plan" means a plan designed to facilitate, encourage, and bring about development of the authority jurisdictional land to achieve the goals and objectives described in Subsection 11-58-203(1), including the development and establishment of an inland port.

(6) "Development" means:

(a) the demolition, construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including [~~publicly owned~~] public infrastructure and improvements; and

(b) the planning of, arranging for, or participation in any of the activities listed in Subsection (6)(a).

(7) "Development project" means a project for the development of land within a project area.

(8) "Inland port" means one or more sites that:

(a) contain multimodal [~~transportation assets and~~] facilities, intermodal facilities, or other facilities that:

(i) are related but may be separately owned and managed; and

(ii) together are intended to:

(A) allow global trade to be processed and altered by value-added services as goods move through the supply chain;

(B) provide a regional merging point for transportation modes for the distribution of goods to and from ports and other locations in other regions;

(C) provide cargo-handling services to allow freight consolidation and distribution, temporary storage, customs clearance, and connection between transport modes; and

(D) provide international logistics and distribution services, including freight forwarding, customs brokerage, integrated logistics, and information systems; and

(b) may include a satellite customs clearance terminal, an intermodal facility, a customs pre-clearance for international trade, or other facilities that facilitate, encourage, and enhance regional, national, and international trade.

(9) "Inland port use" means a use of land:

(a) for an inland port;

(b) that directly implements or furthers the purposes of an inland port, as stated in Subsection (8);

(c) that complements or supports the purposes of an inland port, as stated in Subsection (8); or

(d) that depends upon the presence of the inland port for the viability of the use.

(10) "Intermodal facility" means a facility for transferring containerized cargo between rail, truck, air, or other transportation modes.

[~~(10) "Intermodal facility"~~] (11) "Multimodal facility" means a hub or other facility for trade combining any combination of rail, trucking, air cargo, and other transportation services.

[~~(11)~~] (12) "Nonvoting member" means an individual appointed as a member of the board under Subsection 11-58-302[~~(6)~~](3) who does not have the power to vote on matters of authority business.

[~~(12)~~] (13) "Project area" means:

(a) the authority jurisdictional land; or

(b) land outside the authority jurisdictional land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

[~~(13)~~] (14) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to the project area.

[~~(14)~~] (15) "Project area plan" means a written plan that, after its effective date, guides and controls the development within a project area.

[~~(15)~~] (16) "Property tax" includes a privilege tax and each levy on an ad valorem basis on tangible or intangible personal or real property.

[~~(16)~~] (17) "Property tax differential":

(a) means the difference between:

(i) the amount of property tax revenues generated each tax year by all taxing entities from a project area, using the current assessed value of the property; and

(ii) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property; and

(b) does not include property tax revenue from:

(i) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(ii) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(iii) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

[~~(17)~~] (18) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

[~~(18) "Publicly owned~~] (19) "Public infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity;

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service; [~~and~~]

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, [~~and~~] rail lines, intermodal facilities, multimodal facilities, and public transportation facilities[~~.~~];

(iii) an inland port; and

(iv) infrastructure, improvements, facilities, or buildings that:

(A) are privately owned;

(B) benefit the public;

(C) as determined by the board, provide a substantial benefit to the development and operation of a project area; and

(D) are built according to the applicable county or municipal design and safety standards for public infrastructure.

[~~(19)~~] (20) "Shapefile" means the digital vector storage format for storing geometric location and associated attribute information.

[~~(20)~~] (21) "Taxable value" means the value of property as shown on the last equalized assessment roll.

[~~(21)~~] (22) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

[~~(22)~~] (23) "Voting member" means an individual appointed or designated as a member of the board under Subsection 11-58-302(2).

Section 2. Section 11-58-106 is amended to read:

11-58-106. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

[~~(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.~~]

[~~(e)~~] (d) "Loan approval committee" means a committee consisting of[~~:~~] the individuals who are the voting members of the board.

[~~(i) the two board members appointed by the governor;~~]

[~~(ii) the board member appointed by the president of the Senate;~~]

[~~(iii) the board member appointed by the speaker of the House of Representatives; and~~]

[~~(iv) the board member appointed by the chair of the Permanent Community Impact Fund Board.~~]

(2) The loan approval committee may approve an infrastructure loan from the inland port fund, as defined in Section 63A-3-401.5, to a borrower for an infrastructure project undertaken by the borrower.

(3) (a) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(b) The loan approval committee shall require the terms of an infrastructure loan secured by property tax differential to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the property tax differential.

(c) The terms of an infrastructure loan that the loan approval committee approves may include provisions allowing for the infrastructure loan to be forgiven if:

(i) the infrastructure loan is to a public university in the state;

(ii) the infrastructure loan is to fund a vehicle electrification pilot project;

(iii) the amount of the infrastructure loan does not exceed $15,000,000; and

(iv) the public university receives matching funds for the vehicle electrification pilot project from another source.

(4) (a) The loan approval committee shall establish policies and guidelines with respect to

prioritizing requests for infrastructure loans and approving infrastructure loans.

(b) With respect to infrastructure loan requests for an infrastructure project on authority jurisdictional land, the policies and guidelines established under Subsection (4)(a) shall give priority to an infrastructure loan request that furthers the policies and best practices incorporated into the environmental sustainability component of the authority's business plan under Subsection 11-58-202(1)(a).

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

Section 3. Section 11-58-202 is amended to read:

11-58-202. Authority powers and duties.

(1) The authority has exclusive jurisdiction, responsibility, and power to coordinate the efforts of all applicable state and local government entities, property owners and other private parties, and other stakeholders to:

(a) develop and implement a business plan for the authority jurisdictional land, to include an environmental sustainability component, developed in conjunction with the Utah Department of Environmental Quality, incorporating policies and best practices to meet or exceed applicable federal and state standards, including:

(i) emissions monitoring and reporting; and

(ii) strategies that use the best available technology to mitigate environmental impacts from development and uses on the authority jurisdictional land;

(b) plan and facilitate the development of inland port uses on authority jurisdictional land and on land in other authority project areas;

(c) manage any inland port located on land owned or leased by the authority; and

(d) establish a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land or land in other authority project areas.

(2) The authority may:

(a) facilitate and bring about the development of inland port uses on land that is part of the authority jurisdictional land or that is in other authority project areas, including engaging in marketing and business recruitment activities and efforts to encourage and facilitate:

(i) the development of an inland port on the authority jurisdictional land; and

(ii) other development of the authority jurisdictional land consistent with the policies and objectives described in Subsection 11-58-203(1);

(b) facilitate and provide funding for the development of [~~the authority jurisdictional land and land in other authority project areas~~] land in a project area, including the development of [~~publicly owned~~] public infrastructure and improvements and other infrastructure and improvements on or related to [~~the authority jurisdictional land~~] land in a project area;

(c) engage in marketing and business recruitment activities and efforts to encourage and facilitate development of the authority jurisdictional land;

(d) apply for and take all other necessary actions for the establishment of a foreign trade zone, as provided under federal law, covering some or all of the authority jurisdictional land;

(e) as the authority considers necessary or advisable to carry out any of its duties or responsibilities under this chapter:

(i) buy, obtain an option upon, or otherwise acquire any interest in real or personal property;

(ii) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property; or

(iii) enter into a lease agreement on real or personal property, either as lessee or lessor;

(f) sue and be sued;

(g) enter into contracts generally;

(h) provide funding for the development of [~~publicly owned~~] public infrastructure and improvements or other infrastructure and improvements on or related to the authority jurisdictional land or other authority project areas;

(i) exercise powers and perform functions under a contract, as authorized in the contract;

(j) receive the property tax differential, as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Chapter 17, Utah Industrial Facilities and Development Act, bonds under Chapter 42, Assessment Area Act, and bonds under Chapter 42a, Commercial Property Assessed Clean Energy Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) engage one or more consultants to advise or assist the authority in the performance of the authority's duties and responsibilities;

(q) work with other political subdivisions and neighboring property owners and communities to mitigate potential negative impacts from the development of authority jurisdictional land;

[~~(r) own and operate an intermodal facility if the authority considers the authority's ownership and operation of an intermodal facility to be necessary or desirable;~~]

[~~(s) own and operate publicly owned~~] (r) own, lease, operate, or otherwise control public infrastructure and improvements in a project area [~~outside the authority jurisdictional land~~]; [~~and~~]

[~~(t)~~] (s) exercise powers and perform functions that the authority is authorized by statute to exercise or perform[~~.~~];

(t) develop and implement world-class, state-of-the-art, zero-emissions logistics to:

(i) support continued growth of the state's economy;

(ii) promote the state as the global center of efficient and sustainable supply chain logistics;

(iii) facilitate the efficient movement of goods on roads and rails and through the air; and

(iv) benefit the commercial viability of tenants and users; and

(u) attract capital and expertise in pursuit of the next generation of logistics solutions.

(3) (a) Beginning April 1, 2020, the authority shall:

(i) be the repository of the official delineation of the boundary of the authority jurisdictional land, identical to the boundary as delineated in the shapefile that is the electronic component of H.B. 2001, Utah Inland Port Authority Amendments, 2018 Second Special Session, subject to Subsection (3)(b) and any later changes to the boundary enacted by the Legislature; and

(ii) maintain an accurate digital file of the boundary that is easily accessible by the public.

(b) (i) As used in this Subsection (3)(b), "split property" means a piece of land:

(A) with a single tax identification number; and

(B) that is partly included within and partly excluded from the authority jurisdictional land by the boundary delineated in the shapefile described in Subsection 11-58-102(2).

(ii) With the consent of the mayor of the municipality in which the split property is located, the executive director may adjust the boundary of the authority jurisdictional land to include an excluded portion of a split property or exclude an included portion of a split property.

(iii) In adjusting the boundary under Subsection (3)(b)(ii), the executive director shall consult with the county assessor, the county surveyor, the owner of the split property, and the municipality in which the split property is located.

(iv) A boundary adjustment under this Subsection (3)(b) affecting the northwest boundary of the authority jurisdictional land shall maintain the buffer area between authority jurisdictional land intended for development and land outside the boundary of the authority jurisdictional land to be preserved from development.

(v) Upon completing boundary adjustments under this Subsection (3)(b), the executive director shall cause to be recorded in the county recorder's office a map or other description, sufficient for purposes of the county recorder, of the adjusted boundary of the authority jurisdictional land.

(vi) The authority shall modify the official delineation of the boundary of the authority jurisdictional land under Subsection (3)(a) to reflect a boundary adjustment under this Subsection (3)(b).

(4) (a) The authority may establish a community enhancement program designed to address the impacts that development or inland port uses within project areas have on adjacent communities.

(b) (i) The authority may use authority money to support the community enhancement program and to pay for efforts to address the impacts described in Subsection (4)(a).

(ii) Authority money designated for use under Subsection (4)(b)(i) is exempt from execution or any other process in the collection of a judgment against or debt or other obligation of the authority arising out of the authority's activities with respect to the community enhancement program.

(c) On or before October 31, 2020, the authority shall report on the authority's actions under this Subsection (4) to:

(i) the Business, Economic Development, and Labor Appropriations Subcommittee of the Legislature;

(ii) the Economic Development and Workforce Services Interim Committee of the Legislature; and

(iii) the Business and Labor Interim Committee of the Legislature.

[~~(5) An intermodal facility owned by the authority is subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.~~]

Section 4. Section 11-58-203 is amended to read:

11-58-203. Policies and objectives of the authority -- Additional duties of the authority.

(1) The policies and objectives of the authority are to:

(a) maximize long-term economic benefits to the area, the region, and the state;

(b) maximize the creation of high-quality jobs;

(c) respect and maintain sensitivity to the unique natural environment of areas in proximity to the authority jurisdictional land and land in other authority project areas;

(d) improve air quality and minimize resource use;

(e) respect existing land use and other agreements and arrangements between property owners within the authority jurisdictional land and within other authority project areas and applicable governmental authorities;

(f) promote and encourage development and uses that are compatible with or complement uses in areas in proximity to the authority jurisdictional land or land in other authority project areas;

(g) take advantage of the authority jurisdictional land's strategic location and other features, including the proximity to transportation and other infrastructure and facilities, that make the authority jurisdictional land attractive to:

(i) businesses that engage in regional, national, or international trade; and

(ii) businesses that complement businesses engaged in regional, national, or international trade;

(h) facilitate the transportation of goods;

(i) coordinate trade-related opportunities to export Utah products nationally and internationally;

(j) support and promote land uses on the authority jurisdictional land and land in other authority project areas that generate economic development, including rural economic development;

(k) establish a project of regional significance;

(l) facilitate an intermodal facility;

(m) support uses of the authority jurisdictional land for inland port uses, including warehousing, light manufacturing, and distribution facilities;

(n) facilitate an increase in trade in the region and in global commerce;

(o) promote the development of facilities that help connect local businesses to potential foreign markets for exporting or that increase foreign direct investment;

(p) encourage all class 5 though 8 designated truck traffic entering the authority jurisdictional land to meet the heavy-duty highway compression-ignition diesel engine and urban bus exhaust emission standards for year 2007 and later; [~~and~~]

(q) encourage the development and use of cost-efficient renewable energy in project areas[~~.~~];

(r) aggressively pursue world-class businesses that employ cutting-edge technologies to locate within a project area; and

(s) pursue land remediation and development opportunities for publicly owned land to add value to a project area.

(2) In fulfilling its duties and responsibilities relating to the development of the authority jurisdictional land and land in other authority project areas and to achieve and implement the development policies and objectives under Subsection (1), the authority shall:

(a) work to identify funding sources, including federal, state, and local government funding and private funding, for capital improvement projects in and around the authority jurisdictional land and land in other authority project areas and for an inland port;

(b) review and identify land use and zoning policies and practices to recommend to municipal land use policymakers and administrators that are consistent with and will help to achieve:

(i) the policies and objectives stated in Subsection (1); and

(ii) the mutual goals of the state and local governments that have authority jurisdictional land with their boundaries with respect to the authority jurisdictional land;

(c) consult and coordinate with other applicable governmental entities to improve and enhance transportation and other infrastructure and facilities in order to maximize the potential of the authority jurisdictional land to attract, retain, and service users who will help maximize the long-term economic benefit to the state; and

(d) pursue policies that the board determines are designed to avoid or minimize negative environmental impacts of development.

[~~(3) (a) The authority may use property tax differential and other authority money to encourage, incentivize, or require development that:~~]

[~~(i) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;~~]

[~~(ii) mitigates traffic congestion; or~~]

[~~(iii) uses high efficiency building construction and operation.~~]

[~~(b) (i) In consultation with the municipality in which development is expected to occur, the authority shall establish minimum mitigation and~~

~~environmental standards that a landowner is required to meet to qualify for the use of property tax differential in the landowner's development.~~]

[~~(ii) The authority may not use property tax differential for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.~~]

[~~(c) The authority may develop and implement world-class, state-of-the-art, zero-emissions logistics that support continued growth of the state's economy in order to:~~]

[~~(i) promote the state as the global center of efficient and sustainable supply chain logistics;~~]

[~~(ii) facilitate the efficient movement of goods on roads and rails and through the air;~~]

[~~(iii) benefit the commercial viability of developers, landowners, and tenants and users; and~~]

[~~(iv) attract capital and expertise in pursuit of the next generation of logistics solutions.~~]

(3) The board may consider the emissions profile of road, yard, or rail vehicles:

(a) in determining access by those vehicles to facilities that the authority owns or finances; or

(b) in setting fees applicable to those vehicles for the use of facilities that the authority owns or finances.

Section 5. Section 11-58-205 is amended to read:

11-58-205. Applicability of other law -- Cooperation of state and local governments -- Municipality to consider board input -- Prohibition relating to natural resources -- Inland port as permitted or conditional use -- Municipal services -- Disclosure by nonauthority governing body member.

(1) Except as otherwise provided in this chapter, the authority does not have and may not exercise any powers relating to the regulation of land uses on the authority jurisdictional land.

(2) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(3) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the board requests that is reasonably necessary to help the authority fulfill its duties and responsibilities under this chapter.

(4) In making decisions affecting the authority jurisdictional land, the legislative body of a municipality in which the authority jurisdictional land is located shall consider input from the authority board.

(5) (a) No later than December 31, 2018, the ordinances of a municipality with authority jurisdictional land within its boundary shall allow an inland port as a permitted or conditional use, subject to standards that are:

(i) determined by the municipality; and

(ii) consistent with the policies and objectives stated in Subsection 11-58-203(1).

(b) A municipality whose ordinances do not comply with Subsection (5)(a) within the time prescribed in that subsection shall allow an inland port as a permitted use without regard to any contrary provision in the municipality's land use ordinances.

(6) The transporting, unloading, loading, transfer, or temporary storage of natural resources may not be prohibited on the authority jurisdictional land.

(7) (a) A municipality whose boundary includes authority jurisdictional land shall provide the same municipal services to the area of the municipality that is within the authority jurisdictional land as the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(b) The level and quality of municipal services that a municipality provides within authority jurisdictional land shall be fairly and reasonably consistent with the level and quality of municipal services that the municipality provides to other areas of the municipality with similar zoning and a similar development level.

(8) (a) As used in this Subsection (8):

(i) "Direct financial benefit" means the same as that term is defined in Section 11-58-304.

(ii) "Nonauthority governing body member" means a member of the board or other body that has authority to make decisions for a nonauthority government owner.

(iii) "Nonauthority government owner" mean a state agency or nonauthority local government entity that owns land that is part of the authority jurisdictional land.

(iv) "Nonauthority local government entity":

(A) means a county, city, town, metro township, local district, special service district, community reinvestment agency, or other political subdivision of the state; and

(B) excludes the authority.

(v) "State agency" means a department, division, or other agency or instrumentality of the state, including an independent state agency.

(b) A nonauthority governing body member who owns or has a financial interest in land that is part of the authority jurisdictional land or who reasonably expects to receive a direct financial benefit from development of authority jurisdictional land shall submit a written disclosure to the authority board and the nonauthority government owner.

(c) A written disclosure under Subsection (8)(b) shall describe, as applicable:

(i) the nonauthority governing body member's ownership or financial interest in property that is part of the authority jurisdictional land; and

(ii) the direct financial benefit the nonauthority governing body member expects to receive from development of authority jurisdictional land.

(d) A nonauthority governing body member required under Subsection (8)(b) to submit a written disclosure shall submit the disclosure no later than 30 days after:

(i) the nonauthority governing body member:

(A) acquires an ownership or financial interest in property that is part of the authority jurisdictional land; or

(B) first knows that the nonauthority governing body member expects to receive a direct financial benefit from the development of authority jurisdictional land; or

(ii) the effective date of this Subsection (8), if that date is later than the period described in Subsection (8)(d)(i).

(e) A written disclosure submitted under this Subsection (8) is a public record.

(9) No later than December 31, 2022, a primary municipality, as defined in Section 11-58-601, shall enter into an agreement with the authority under which the primary municipality agrees to facilitate the efficient processing of land use applications, as defined in Section 10-9a-103, relating to authority jurisdictional land within the primary municipality, including providing for at least one full-time employee as a single point of contact for the processing of those land use applications.

Section 6. Section 11-58-302 is amended to read:

11-58-302. Number of board members -- Appointment -- Vacancies.

(1) The authority's board shall consist of [~~11~~] five voting members, as provided in Subsection (2).

(2) (a) The governor shall appoint [~~two~~] as board members two individuals who are not elected government officials:

(i) one of whom shall be an individual engaged in statewide economic development or corporate recruitment and retention; and

(ii) one of whom shall be an individual engaged in statewide trade, import and export activities, [~~or~~] foreign direct investment, or public-private partnerships.

(b) The president of the Senate shall appoint [~~one~~] as a board member one individual with relevant business expertise.

(c) The speaker of the House of Representatives shall appoint [~~one~~] as a board member one individual with relevant business expertise.

[~~(d) The mayor of Salt Lake County, or the mayor's designee, shall serve as a board member.~~]

[~~(e) The chair of the Permanent Community Impact Fund Board, created in Section 35A-8-304, shall appoint one board member from among the members of the Permanent Community Impact Fund Board.~~]

[~~(f) The mayor of Salt Lake City, or the mayor's designee, shall serve as a board member.~~]

[~~(g) A member of the Salt Lake City council, selected by the Salt Lake City council, shall serve as a board member.~~]

[~~(h) The city manager of West Valley City, with the consent of the city council of West Valley City, shall appoint one board member.~~]

[~~(i) The director of the Salt Lake County office of Regional Economic Development shall serve as a board member.~~]

[~~(j) The mayor of the Magna metro township, or the mayor's designee, shall serve as a board member.~~]

(d) The president of the Senate and speaker of the House of Representatives shall jointly appoint as a board member one individual with relevant business expertise.

(3) (a) The board shall include three nonvoting board members.

(b) The board shall appoint as nonvoting board members two individuals with expertise in transportation and logistics.

(c) One of the nonvoting board members shall be a member of the Salt Lake City Council, designated by the Salt Lake City Council, who represents a council district whose boundary includes authority jurisdictional land.

(d) The board may set the term of office for nonvoting board members appointed under Subsection (3)(b).

[~~(3)~~] (4) An individual required under Subsection (2) to appoint a board member shall appoint each initial board member the individual is required to appoint no later than June 1, [~~2018~~] 2022.

[~~(4)~~] (5) (a) A vacancy in the board shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

(b) A person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

[~~(5)~~] (6) A member of the board appointed [~~by the governor, president of the Senate, or speaker of the House of Representatives~~] under Subsection (2) serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the [~~governor, president of the Senate, or speaker of the House of Representatives, respectively~~] individual or individuals who appointed the member.

[~~(6) The authority may appoint nonvoting members of the board and set terms for those nonvoting members.~~]

(7) Upon a vote of a majority of all board members, the board may appoint a board chair and any other officer of the board.

[~~(8) (a) An individual designated as a board member under Subsection (2)(g), (i), or (j) who would be precluded from serving as a board member because of Subsection 11–58–304(2):~~]

[~~(i) may serve as a board member notwithstanding Subsection 11–58–304(2); and~~]

[~~(ii) shall disclose in writing to the board the circumstances that would otherwise have precluded the individual from serving as a board member under Subsection 11–58–304(2).~~]

[~~(b) A written disclosure under Subsection (8)(a)(ii) is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.~~]

[~~(9)~~] (8) The board may appoint one or more advisory committees that may include individuals from impacted public entities, community organizations, environmental organizations, business organizations, or other organizations or associations.

Section 7. Section 11-58-303 is amended to read:

11-58-303. Term of board members -- Quorum -- Compensation.

(1) The term of a board member appointed under Subsection 11–58–302(2)[~~(a), (b), (c), (e), (g), or (h)~~] is four years, except that the initial term of one of the two members appointed under Subsection 11–58–302(2)(a) and of the [~~members~~] member appointed under [~~Subsections 11–58–302(2)(e) and (g)~~] Subsection 11–58–302(2)(d) is two years.

(2) Each board member shall serve until a successor is duly appointed and qualified.

(3) A board member may serve multiple terms if duly appointed to serve each term under Subsection 11–58–302(2).

(4) A majority of board members constitutes a quorum, and the action of a majority of a quorum constitutes action of the board.

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

(i) Sections 63A–3–106 and 63A–3–107; and

(ii) rules made by the Division of Finance according to Sections 63A–3–106 and 63A–3–107.

(b) Compensation and expenses of a board member who is a legislator are governed by Section 36–2–2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 8. Section 11-58-304 is amended to read:

11-58-304. Limitations on board members and executive director.

(1) As used in this section:

(a) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally.

(b) "Family member" means a parent, spouse, sibling, child, or grandchild.

(2) An individual may not serve as a voting member of the board or as executive director if:

(a) the individual owns real property, other than a personal residence in which the individual resides, within a project area, whether or not the ownership interest is a recorded interest;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located within a project area; or

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a private firm, private company, or other private entity that the individual reasonably believes is likely to:

(i) participate in or receive a direct financial benefit from the development of the authority jurisdictional land; or

(ii) acquire an interest in or locate a facility within a project area.

(3) Before taking office as a voting member of the board or accepting employment as executive director, an individual shall submit to the authority[~~: (a)~~] a statement verifying that the individual's service as a board member or employment as executive director does not violate Subsection (2)[~~; or~~].

[~~(b) for an individual to whom Subsection 11–58–302(8) applies, the disclosure required under that subsection.~~]

(4) (a) An individual may not, at any time during the individual's service as a voting member or employment with the authority, acquire, or take any action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property located within a project area, if:

(i) the acquisition is in the individual's personal capacity or in the individual's capacity as an employee or officer of a private firm, private company, or other private entity; and

(ii) the acquisition will enable the individual to receive a direct financial benefit as a result of the development of the project area.

(b) Subsection (4)(a) does not apply to an individual's acquisition of, or action to initiate, negotiate, or otherwise arrange for the acquisition of, an interest in real property that is a personal residence in which the individual will reside upon acquisition of the real property.

(5) (a) A voting member or nonvoting member of the board or an employee of the authority may not receive a direct financial benefit from the development of a project area.

(b) For purposes of Subsection (5)(a), a direct financial benefit does not include:

(i) expense reimbursements;

(ii) per diem pay for board member service, if applicable; or

(iii) an employee's compensation or benefits from employment with the authority.

(6) Nothing in this section may be construed to affect the application or effect of any other code provision applicable to a board member or employee relating to ethics or conflicts of interest.

Section 9. Section 11-58-305 is amended to read:

11-58-305. Executive director.

(1) [~~On or before July 1, 2019, the~~] The board shall hire and oversee a full-time executive director.

(2) (a) The executive director is the chief executive officer of the authority.

(b) The role of the executive director is to:

(i) manage and oversee the day-to-day operations of the authority;

(ii) fulfill the executive and administrative duties and responsibilities of the authority; and

(iii) perform other functions, as directed by the board.

(3) The executive director shall have the education, experience, and training necessary to perform the executive director's duties in a way that maximizes the potential for successfully achieving and implementing the strategies, policies, and objectives stated in Subsection 11-58-203(1).

(4) An executive director is an at-will employee who serves at the pleasure of the board and may be removed by the board at any time.

(5) The board shall establish the duties, compensation, and benefits of an executive director.

Section 10. Section 11-58-601 is amended to read:

11-58-601. Port authority receipt and use of property tax differential -- Distribution of property tax differential.

(1) As used in this section:

(a) "Designation resolution" means a resolution adopted by the board that designates a transition date for the parcel specified in the resolution.

(b) "Exempt area" means the authority jurisdictional land that is within a primary municipality, excluding areas described in Subsection (5)(a) and parcels of land described in Subsection (5)(b).

(c) "Exempt area property tax" means the same as that term is defined in Section 11-58-604.

[~~(b)~~] (d) "Post-designation differential" means 75% of property tax differential generated from a post-designation parcel.

[~~(c)~~] (e) "Post-designation parcel" means a parcel within a project area after the transition date for that parcel.

[~~(d)~~] (f) "Pre-designation differential" means 75% of property tax differential generated from all pre-designation parcels within a project area.

[~~(e)~~] (g) "Pre-designation parcel" means a parcel within a project area before the transition date for that parcel.

(h) "Primary municipality" means the municipality that has more authority jurisdictional land within the municipality's boundary than is included within the boundary of any other municipality.

[~~(f)~~] (i) "Transition date" means the date after which the authority is to be paid post-designation differential for the parcel that is the subject of a designation resolution.

(2) (a) The authority shall be paid pre-designation differential generated within the authority jurisdictional land:

(i) for the period beginning November 2019 and ending November 2044; and

(ii) for a period of 15 years following the period described in Subsection (2)(a)(i) if, before the end of the period described in Subsection (2)(a)(i), the board adopts a resolution extending the period described in Subsection (2)(a)(i) for 15 years.

(b) The authority shall be paid pre-designation differential generated within a project area, other than the authority jurisdictional land:

(i) for a period of 25 years beginning the date the board adopts a project area plan under Section 11-58-502 establishing the project area; and

(ii) for a period of 15 years following the period described in Subsection (2)(b)(i) if, before the end of the period described in Subsection (2)(b)(i), the board adopts a resolution extending the period described in Subsection (2)(b)(i) for 15 years.

(3) The authority shall be paid post-designation differential generated from a post-designation parcel:

(a) for a period of 25 years beginning on the transition date for that parcel; and

(b) for a period of an additional 15 years beyond the period stated in Subsection (3)(a) if the board determines by resolution that the additional years of post-designation differential from that parcel will produce a significant benefit.

(4) (a) For purposes of this section, the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (4)(a) does not constitute a subdivision, as defined in Section 10-9a-103 or Section 17-27a-103.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (4)(a).

(5) The authority may not receive:

(a) a taxing entity's portion of property tax differential generated from an area included within a community reinvestment project area under a community reinvestment project area plan, as defined in Section 17C-1-102, adopted before October 1, 2018, if the taxing entity has, before October 1, 2018, entered into a fully executed, legally binding agreement under which the taxing entity agrees to the use of its tax increment, as defined in Section 17C-1-102, under the community reinvestment project area plan; or

(b) property tax differential from a parcel of land:

(i) that was substantially developed before December 1, 2018;

(ii) for which a certificate of occupancy was issued before December 1, 2018; and

(iii) that is identified in a list that the municipality in which the land is located provides to the authority and the county assessor by April 1, 2020.

(6) (a) Subsection (6)(b) applies if:

(i) the primary municipality, the primary municipality's agency, as defined in Section 11-58-604, and the authority have entered into the agreement described in Section 11-58-604; and

(ii) the primary municipality and the authority have entered into the agreement described in Subsection 11-58-205(9).

(b) If the conditions under Subsection (6)(a) have been met, beginning with the first tax year that begins on or after January 1, 2023:

(i) the distribution of exempt area property tax to the authority:

(A) is not governed by Subsections (2) and (3); and

(B) is governed by Section 11-58-604; and

(ii) the primary municipality shall be paid, for the primary municipality's use for municipal operations, all exempt area property tax remaining after the payment of exempt area property tax as required under Section 11-58-604.

[~~(6)~~] (7) (a) As used in this Subsection [~~(6)~~] (7):

(i) "Agency land" means authority jurisdictional land that is within the boundary of an eligible community reinvestment agency and from which the authority is paid property tax differential.

(ii) "Applicable differential" means the amount of property tax differential paid to the authority that is generated from agency land.

(iii) "Eligible community reinvestment agency" means the community reinvestment agency in which agency land is located.

(b) The authority shall pay 10% of applicable differential to the eligible community reinvestment agency, to be used for affordable housing as provided in Section 17C-1-412.

[~~(7)~~] (8) (a) Subject to Subsection [~~(7)~~] (8)(b), a county that collects property tax on property within a project area shall [~~pay and distribute to the authority the property tax differential that the authority is entitled to collect under this chapter~~], in the manner and at the time provided in Section 59-2-1365[~~.~~]:

(i) pay and distribute to the authority the property tax differential that the authority is entitled to collect under this chapter, including exempt area property tax the authority is entitled to collect under Section 11-58-604;

(ii) pay and distribute to a primary municipality's agency, as defined in Section 11-58-604, the exempt area property tax that the primary municipality's agency is required to use for affordable housing, as provided in Subsection 11-58-604(4)(c); and

(iii) pay and distribute to a primary municipality the exempt area property tax described in Subsection (6)(b)(ii).

(b) For property tax differential that a county collects for tax year 2019, a county shall pay and distribute to the authority, on or before June 30, 2020, the property tax differential that the authority is entitled to collect:

(i) according to the provisions of this section; and

(ii) based on the boundary of the authority jurisdictional land as of May 31, 2020.

(9) Notwithstanding any other provision of this chapter, beginning with the first tax year that begins on or after January 1, 2023, the authority may not use the portion of property tax differential generated by a property tax levied by a primary municipality on the exempt area unless the primary municipality, the primary municipality's agency, as defined in Section 11-58-604, and the authority have entered into an agreement as provided in Section 11-58-604.

Section 11. Section 11-58-602 is amended to read:

11-58-602. Allowable uses of property tax differential and other funds.

(1) (a) The authority may use [~~the~~] money from property tax differential, money the authority receives from the state, money the authority receives under Subsection 59-12-205(2)[~~(b)(iii)~~]

(a)(ii)(C), and other [~~funds~~] money available to the authority:

[~~(a)~~] (i) for any purpose authorized under this chapter;

[~~(b)~~] (ii) for administrative, overhead, legal, consulting, and other operating expenses of the authority;

[~~(c)~~] (iii) to pay for, including financing or refinancing, all or part of the development of land within a project area, including assisting the ongoing operation of a development or facility within the project area;

[~~(d)~~] (iv) to pay the cost of the installation and construction of [~~publicly owned~~] public infrastructure and improvements within the project area from which the property tax differential funds were collected;

[~~(e)~~] (v) to pay the cost of the installation of [~~publicly owned~~] public infrastructure and improvements outside a project area if the board determines by resolution that the infrastructure and improvements are of benefit to the project area;

[~~(f)~~] (vi) to pay to a community reinvestment agency for affordable housing, as provided in Subsection 11-58-601[~~(6)~~](7); [~~and~~]

[~~(g)~~] (vii) to pay the principal and interest on bonds issued by the authority[~~.~~]; and

(viii) subject to Subsection (1)(b), to encourage, incentivize, or require development that:

(A) mitigates noise, air pollution, light pollution, surface and groundwater pollution, and other negative environmental impacts;

(B) mitigates traffic congestion; or

(C) uses high efficiency building construction and operation.

(b) (i) The authority shall establish minimum mitigation and environmental standards that a landowner is required to meet to qualify for the use of property tax differential under Subsection (1)(a)(viii) in the landowner's development.

(ii) In establishing minimum mitigation and environmental standards, the authority shall consult with:

(A) the municipality in which the development is expected to occur, for development expected to occur within a municipality; or

(B) the county in whose unincorporated area the development is expected to occur, for development expected to occur within the unincorporated area of a county.

(iii) The authority may not use property tax differential under Subsection (1)(a)(viii) for a landowner's development in a project area unless the minimum mitigation and environmental standards are followed with respect to that landowner's development.

(2) The authority may use revenue generated from the operation of [~~publicly owned~~] public infrastructure operated by the authority or improvements, including an intermodal facility, operated by the authority to:

(a) operate and maintain the infrastructure or improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) The determination of the board under Subsection [~~(1)(e)~~] (1)(a)(v) regarding benefit to the project area is final.

(4) The authority may not use property tax differential revenue collected from one project area for a development project within another project area.

(5) Until the authority adopts a business plan under Subsection 11-58-202(1)(a), the authority may not spend property tax differential revenue collected from authority jurisdictional land.

(6) (a) As used in this Subsection (6):

(i) "Authority sales and use tax revenue" means money distributed to the authority under Subsection 59-12-205(2)[~~(b)(iii)~~](a)(ii)(C).

(ii) "Eligible county" means a county that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)[~~(b)(i)~~](a)(ii)(A) in the absence of Subsection 59-12-205(2)[~~(b)(iii)~~](a)(ii)(C).

(iii) "Eligible municipality" means a municipality that would be entitled to receive sales and use tax revenue under Subsection 59-12-205(2)[~~(b)(i)~~](a)(ii)(A) in the absence of Subsection 59-12-205(2)[~~(b)(iii)~~](a)(ii)(C).

(iv) "Point of sale portion" means:

(A) for an eligible county, the amount of sales and use tax revenue the eligible county would have received under Subsection 59-12-205(2)[~~(b)(i)~~](a)(ii)(A) in the absence of Subsection 59-12-205(2)[~~(b)(iii)~~](a)(ii)(C), excluding the retail sales portion; and

(B) for an eligible municipality, the amount of sales and use tax revenue the eligible municipality would have received under Subsection 59-12-205(2)[~~(b)(i)~~](a)(ii)(A) in the absence of Subsection 59-12-205(2)[~~(b)(iii)~~](a)(ii)(C), excluding the retail sales portion.

(v) "Retail sales portion" means the amount of sales and use tax revenue collected under Subsection 59-12-205(2)[~~(b)(i)~~](a)(ii)(A) from retail sales transactions that occur on authority jurisdictional land.

(b) Within 45 days after receiving authority sales and use tax revenue, the authority shall:

(i) distribute half of the point of sale portion to each eligible county and eligible municipality; and

(ii) distribute all of the retail sales portion to each eligible county and eligible municipality.

Section 12. Section 11-58-603 is enacted to read:

11-58-603. Use of authority money for business recruitment incentive.

(1) As used in this section:

(a) "Business recruitment incentive" means the post-performance payment of property tax differential as an incentive for a capital expenditure or for the creation of high-paying jobs within a project area, as provided in this section.

(b) "Capital expenditure" means an expenditure of money, other than property tax differential:

(i) by an applicant under an incentive application; and

(ii) for the development of capital facilities that are:

(A) constructed within a project area; and

(B) focused on value-added manufacturing that optimizes the use of rail facilities.

(c) "High-paying job" means a job:

(i) created because of development activity within a project area; and

(ii) that pays at least 130% of the average for all wages within the county in which the project area is located for the year during which an incentive application is submitted.

(d) "Incentive application" means an application for a business recruitment incentive.

(e) "Tax differential parcel" means a parcel of land:

(i) on which capital facilities are constructed from a capital expenditure; or

(ii) where development activity occurs that results in the creation of high-paying jobs.

(2) The authority may use property tax differential as a business recruitment incentive as provided in this section.

(3) The board shall establish the application timeline, documentation requirements, and approval criteria applicable to an incentive application and approval of an incentive application, consistent with this section.

(4) (a) Subject to Subsection (4)(b), a person may qualify for a business recruitment incentive if:

(i) the person submits an incentive application according to requirements established by the board;

(ii) the person meets the requirements under Subsection (5) or (6) for a business recruitment incentive; and

(iii) the board approves the incentive application.

(b) A person may not qualify for a business recruitment incentive if the person's development project relates primarily to retail operations or the distribution of goods.

(5) The authority may pay a person, on a post-performance basis:

(a) up to 20% of the property tax differential generated from a tax differential parcel for a period of 20 years, if the person demonstrates that at least $1,000,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project;

(b) up to 15% of the property tax differential generated from a tax differential parcel for a period of 15 years, if the person demonstrates that at least $500,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project; or

(c) up to 10% of the property tax differential generated from a tax differential parcel for a period of 10 years, if the person demonstrates that at least $100,000,000 of capital expenditure will occur on the tax differential parcel due to the person's development project.

(6) The authority may pay a person, on a post-performance basis:

(a) up to 10% of the property tax differential generated from a tax differential parcel for a period of 20 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 1,000 high-paying jobs;

(b) up to 8% of the property tax differential generated from a tax differential parcel for a period of 15 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 500 high-paying jobs; or

(c) up to 5% of the property tax differential generated from a tax differential parcel for a period of 10 years, if the person demonstrates that the person's development activity on the tax differential parcel will result in the creation of at least 250 high-paying jobs.

(7) Subject to the limits stated in Subsections (5) and (6), the amount of property tax differential to be paid under this section and the timing of any payment are at the discretion of the board.

(8) A person may not receive a business recruitment incentive under both Subsection (5) and Subsection (6).

Section 13. Section 11-58-604 is enacted to read:

11-58-604. Agreement relating to expenditure of mitigation money -- Distribution and use of exempt area property tax.

(1) As used in this section:

(a) "Exempt area" means the same as that term is defined in Section 11-58-601.

(b) "Exempt area property tax" means the portion of property tax differential generated by a property tax levied by a primary municipality on property in the exempt area.

(c) "Mitigation money" means the exempt area property tax required to be used as provided in Subsections (6)(a) and (b).

(d) "Participating entities" means a primary municipality, the primary municipality's agency, and the authority.

(e) "Primary municipality" means the same as that term is defined in Section 11-58-601.

(f) "Primary municipality's agency" means the community development and renewal agency created by a primary municipality.

(2) (a) No later than December 31, 2022, participating entities shall enter into an agreement as provided in this section.

(b) An agreement under Subsection (2)(a) shall:

(i) provide:

(A) how the authority is to spend mitigation money; or

(B) a process for determining how the authority is to spend mitigation money;

(ii) include a requirement that the authority consult with the primary municipality in determining how to spend mitigation money; and

(iii) require the primary municipality's agency to spend money the primary municipality's agency receives under Subsection (4)(c) for affordable housing, as provided in Section 17C-1-412.

(3) If participating entities enter into an agreement under this section, beginning January 1, 2023:

(a) Subsections 11-58-601(2) and (3) do not apply to exempt area property tax; and

(b) exempt area property tax shall be paid and distributed as provided in Subsection 11-58-601(8) and in accordance with Subsections (4) and (5).

(4) If participating entities enter into an agreement under this section, beginning the first tax year that begins on or after January 1, 2023:

(a) the authority shall be paid 25% of the exempt area property tax:

(i) for the authority's use as provided in Subsection (6); and

(ii) (A) for a period of 25 years beginning January 1, 2023; and

(B) for a period of time not exceeding an additional 15 years beyond the period stated in Subsection (4)(a)(ii)(A) if the board determines by resolution, adopted before the expiration of the 25-year period under Subsection (4)(a)(ii)(A), that the additional years will produce a significant benefit to the uses described in Subsection (6) and if the primary municipality and the authority agree to the additional period of time;

(b) the authority shall be paid, in addition to the amounts under Subsection (4)(a), a percentage, as defined in Subsection (5), of the exempt area property tax for the authority's use as provided in Subsection (6); and

(c) the primary municipality's agency shall be paid, for the same period of time that the authority is paid exempt area property tax under Subsection (4)(a), 10% of exempt area property tax, to be used for affordable housing as provided in Section 17C-1-412.

(5) The percentage of the exempt area property tax paid to the authority as provided in Subsection (4)(b):

(a) shall be 40% for the first tax year that begins on or after January 1, 2023, decreasing 2% each year after the 2023 tax year, so that in 2029 the percentage is 28;

(b) beginning January 1, 2030, and for a period of seven years, shall be 10%;

(c) beginning January 1, 2037, and for a period of 11 years, shall be 8%; and

(d) after 2047, shall be 0%.

(6) Of the exempt area property tax the authority receives, the authority shall use:

(a) 40% for environmental mitigation projects within the authority jurisdictional land;

(b) 40% for mitigation projects, which may include a regional traffic study and an environmental impact mitigation analysis, for communities that are:

(i) within the primary municipality;

(ii) adjacent to the authority jurisdictional land; and

(iii) west of the east boundary of the right of way of a fixed guideway used, as of January 1, 2022, for commuter rail within the primary municipality; and

(c) 20% for economic development activities on the authority jurisdictional land.

Section 14. Section 11-58-801 is amended to read:

11-58-801. Annual port authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file annual budget.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June [~~22~~] 30, except that the authority's initial budget shall be adopted as soon as reasonably practicable after the organization of the board and the beginning of authority operations.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, at least one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section 63A-16-601, [~~for~~] at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the board shall file a copy of the annual budget with the auditor of each county in which the authority jurisdictional land is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax differential.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 15. Section 17D-4-102 is amended to read:

17D-4-102. Definitions.

As used in this chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; or

(b) the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of a public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and this chapter.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

(a) [~~publicly owned infrastructure and improvements, as~~] the same as that term is defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; and

(b) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Section 16. Section 17D-4-203 is amended to read:

17D-4-203. Public infrastructure district powers.

A public infrastructure district shall have all of the authority conferred upon a local district under Section 17B-1-103, and in addition a public infrastructure district may:

(1) issue negotiable bonds to pay:

(a) all or part of the costs of acquiring, acquiring an interest in, improving, or extending any of the improvements, facilities, or property allowed under Section 11-14-103;

(b) capital costs of improvements in an energy assessment area, as defined in Section 11-42a-102, and other related costs, against the funds that the public infrastructure district will receive because of an assessment in an energy assessment area, as defined in Section 11-42a-102;

(c) public improvements related to the provision of housing;

(d) capital costs related to public transportation; and

(e) for a public infrastructure district created by a development authority, the cost of acquiring or financing public infrastructure and improvements[~~, as defined in Section 63H-1-102~~];

(2) enter into an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, provided that the interlocal agreement may not expand the powers of the public infrastructure district, within the limitations of Title 11, Chapter 13, Interlocal Cooperation Act, without the consent of the creating entity;

(3) acquire completed or partially completed improvements for fair market value as reasonably determined by:

(a) the board;

(b) the creating entity, if required in the governing document; or

(c) a surveyor or engineer that a public infrastructure district employs or engages to perform the necessary engineering services for and to supervise the construction or installation of the improvements;

(4) contract with the creating entity for the creating entity to provide administrative services on behalf of the public infrastructure district, when agreed to by both parties, in order to achieve cost savings and economic efficiencies, at the discretion of the creating entity; and

(5) for a public infrastructure district created by a development authority:

(a) (i) operate and maintain public infrastructure and improvements the district acquires or finances; and

(ii) use fees, assessments, or taxes to pay for the operation and maintenance of those public infrastructure and improvements; and

(b) issue bonds under Title 11, Chapter 42, Assessment Area Act.

Section 17. Section 35A-16-304 is amended to read:

35A-16-304. Homeless Shelter Cities Mitigation Restricted Account.

(1) As used in this section:

(a) "Annual local contribution" means:

(i) for a participating local government, the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection 59-12-205(2)(a)(i) for the previous fiscal year; or

(ii) for an eligible municipality or a grant eligible entity that is certified in accordance with Section 35A-8-609, $0.

(b) "Eligible municipality" means the same as that term is defined in Section 35A-16-305.

(c) "Grant eligible entity" means the same as that term is defined in Section 35A-16-306.

(d) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity as certified by the department in accordance with Section 35A-16-307.

(2) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

(3) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205; and

(b) interest earned on the account.

(4) (a) The office shall administer the account.

(b) Subject to appropriation, the office shall disburse funds from the account to:

(i) eligible municipalities in accordance with Sections 35A-16-305 and 63J-1-802; and

(ii) grant eligible entities in accordance with Sections 35A-16-306 and 63J-1-802.

Section 18. Section 41-6a-2003 is amended to read:

41-6a-2003. Automatic license plate reader systems -- Restrictions.

(1) Except as provided in Subsection (2), a governmental entity may not use an automatic license plate reader system.

(2) An automatic license plate reader system may be used:

(a) by a law enforcement agency for the purpose of protecting public safety, conducting criminal investigations, or ensuring compliance with local, state, and federal laws;

(b) by a governmental parking enforcement entity for the purpose of enforcing state and local parking laws;

(c) by a parking enforcement entity for regulating the use of a parking facility;

(d) for the purpose of controlling access to a secured area;

(e) for the purpose of collecting an electronic toll;

(f) for the purpose of enforcing motor carrier laws;

(g) by a public transit district for the purpose of assessing parking needs and conducting a travel pattern analysis; [~~or~~]

(h) by an institution of higher education within the state system of higher education as described in Section 53B-1-102:

(i) for a purpose described in Subsections (2)(a) through (d); or

(ii) if the data collected is anonymized, for research and educational purposes[~~.~~]; or

(i) by the Utah Inland Port Authority, created in Section 11-58-201, or by a contractor of the Utah Inland Port Authority with the approval of the board of the Utah Inland Port Authority, if:

(i) the automatic license plate reader system is used only within a project area, as defined in Section 11-58-102, of the Utah Inland Port Authority;

(ii) the purpose of using the automatic license plate reader system is to improve supply chain efficiency or the efficiency of the movement of goods by analyzing and researching data related to commercial vehicle traffic; and

(iii) specific license plate information is anonymized.

Section 19. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) (a) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

[~~(a)~~] (i) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

[~~(b) (i)~~] (ii) (A) except as provided in Subsections [~~(2)(b)(ii) and (iii)~~] (2)(a)(ii)(B) and (C), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

[~~(ii)~~] (B) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201; and

[~~(iii)~~] (C) beginning July 1, 2022, 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201.

(b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before July 1, 2022.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

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

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is $333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in accordance with Section 35A-16-307.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-304.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall apply the provisions of this Subsection (5) after the commission applies the provisions of Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 20. Section 63A-3-401.5 is amended to read:

63A-3-401.5. Definitions.

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the Military Installation Development Authority created in Section 63H-1-201.

(3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

(b) outside a project area, if the respective loan approval committee determines by resolution that the public infrastructure and improvements are of benefit to the project area.

(6) "Inland port" means the same as that term is defined in Section 11-58-102.

(7) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

(8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).

(9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).

(10) "Project area" means:

(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(11) "Property tax revenue" means:

(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or

(b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(12) "Public infrastructure and improvements":

(a) means the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund[~~:~~]; and

[~~(i) means publicly owned infrastructure and improvements, as defined in Section 11-58-102; and~~]

[~~(ii) includes an inland port facility; and~~]

(b) means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(13) "Respective loan approval committee" means:

(a) the committee created in Section 11-58-106, for purposes of an infrastructure loan from the inland port fund;

(b) the committee created in Section 11-59-104, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Section 21. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

(6) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(7) "Development project" means a project to develop land within a project area.

(8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(9) "Included municipality" means a municipality, some or all of which is included within a project area.

(10) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(13) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2) [~~(b)(ii)~~](a)(ii)(B); and

(c) receives as dedicated tax collections.

(16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity, including the authority.

(23) (a) " Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and

(ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(B) are owned by a utility; or

(C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

(c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(29) "Transient room tax" means a tax under Section 59-12-352.

Section 22. Section 63H-1-502 is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation and construction of public infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area;

(f) to pay the principal and interest on bonds issued by the authority;

(g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected; or

(h) to pay for the promotion of:

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the authority's operation of public infrastructure and improvements to:

(a) operate and maintain the public infrastructure and improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenue received under Subsection 59-12-205(2)[~~(b)(ii)~~](a)(ii)(B);

(b) resort communities tax revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

(g) payments received under Subsection 63H-1-501(4).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Section 23. Repealer.

This bill repeals:

Section 11-58-101, Title.

Section 24. Effective date.

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

CHAPTER 83
S. B. 13

Passed February 10, 2022
Approved March 21, 2022
Effective May 4, 2022

STATE ROAD JURISDICTION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends descriptions of certain highways under state jurisdiction.

Highlighted Provisions:

This bill:

- amends the descriptions of the following roads under state jurisdiction:
  - SR-7;
  - SR-85;
  - SR-138; and
  - SR-194;
- designates the Midvalley Highway as SR-179; and
- requires the Department of Transportation to recommend to the Legislature the transfer of certain highways upon completion of construction of those highways.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-272, as last amended by Laws of Utah 2021, Chapter 358
72-4-106, as last amended by Laws of Utah 2020, Chapter 341
72-4-114, as last amended by Laws of Utah 2020, Chapter 341
72-4-119, as last amended by Laws of Utah 2017, Chapter 99
72-4-123, as last amended by Laws of Utah 2017, Chapter 99
72-4-125, as last amended by Laws of Utah 2019, Chapter 52

ENACTS:

72-4-105.1, Utah Code Annotated 1953

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

Section 1. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates -- Title 72.

(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.

(2) Section 72-1-216.1 is repealed January 1, 2023.

(3) Section 72-4-105.1 is repealed on January 1, 2024.

Section 2. Section 72-4-105.1 is enacted to read:

72-4-105.1. Future designations of state highways.

(1) Upon completion of construction to extend the western terminus of SR-71, the department shall recommend to the Legislature an amendment to the description of SR-71 in Section 72-4-113 to reflect the new western terminus.

(2) (a) The department shall perform an environmental analysis related to the proposed extension of the western terminus of SR-92 with funds appropriated to the department for that purpose.

(b) Upon completion of construction of the proposed extension of the western terminus of SR-92, the department shall recommend to the Legislature an amendment to the description of SR-92 in Section 72-4-115 to reflect the new western terminus.

Section 3. Section 72-4-106 is amended to read:

72-4-106. State highways -- SR-6 to SR-10.

State highways include:

(1) SR-6. From the Utah-Nevada state line easterly through Delta and Tintic Junction through the North Santaquin Interchange of Route 15 continuing northerly through the Spanish Fork Interchange of Route 15 including the bridge eastbound intersecting Route 15 from southbound exit 257 of Route 15 at the Spanish Fork Interchange, continuing easterly through the Moark Junction, through Spanish Fork Canyon and Price to Route 70 west of Green River, returning along the same route including the bridge intersecting Route 15 at the Spanish Fork Interchange returning to the Utah-Nevada state line.

(2) SR-7. From Route 15 in St. George easterly and northerly via Southern Parkway to [~~Sand Hollow Road~~] Route 9 in Hurricane.

(3) SR-8. From Dixie Downs Road to Route 18 in St. George on Sunset Boulevard.

(4) SR-9. From Route 15 at Harrisburg Junction easterly to Zion National Park south boundary, and from Zion National Park east boundary to Route 89 at Mt. Carmel Junction.

(5) SR-10. From a junction with Route 70 east of Fremont Junction northeasterly to Route 55 in Price.

Section 4. Section 72-4-114 is amended to read:

72-4-114. State highways -- SR-81 to SR-90.

State highways include:

(1) SR-81. From Route 30 north to Fielding.

(2) SR-82. From Route 102 north on 300 East Street in Tremonton to Garland; then east approximately 0.8 mile; then north to Route 13.

(3) SR-83. From Route 13 in Corinne westerly to Lampo Junction; then northerly to Route 84 at Howell Interchange.

(4) SR-84. From the Utah-Idaho state line near Snowville to a point on Route 15 at the Tremonton Interchange; then from another point on Route 15 near Roy to Route 80 near Echo, traversing the alignment of interstate Route 84.

(5) SR-85. From Route 73 in Saratoga Springs northerly on 800 West to Route 68 in Lehi; then beginning again at Route 68 in [~~Bluffdale~~] Herriman westerly on Porter Rockwell Boulevard; then northerly on Mountain View Corridor Highway to [~~4100 South in West Valley City~~] California Avenue in Salt Lake City.

(6) SR-86. From Route 65 at Henefer westerly to Route 84.

(7) SR-87. From Route 40 in Duchesne northerly; then easterly through Altamont; thence southeasterly through Upalco; then east to Route 40 southwest of Roosevelt.

(8) SR-88. From the south end of the Green River Bridge south of Ouray northerly to Route 40 east of Ft. Duchesne.

(9) SR-89. From the Utah-Arizona state line northwest of Page, Arizona, westerly to Kanab; then northerly to a junction with Route 70 near Sevier Junction; then beginning again at the junction with Route 70 south of Salina, northerly through Salina, Gunnison and Mt. Pleasant to a junction with Route 6 at Thistle Junction; beginning again at junction with Route 6 at Moark Junction northerly through Springville, Provo, Orem, and American Fork to Route 15 north of Lehi; then beginning again at a junction with Route 71 in Draper northerly through Sandy, Midvale, Murray, Salt Lake City, and Bountiful to a junction with Route 15 at the 500 west interchange; then beginning again at a junction with Route 15 at Lagoon northerly through Uintah Junction and Ogden to Route 91 near south city limits of Brigham City; then beginning again at a junction with Route 91 in Logan northeasterly to Route 30 in Garden City; then northerly to the Utah-Idaho state line.

(10) SR-89A. From the Utah-Arizona state line south of Kanab northerly to Route 89 in Kanab.

(11) SR-90. From Route 13 in Brigham easterly on 2nd South Street to Route 91.

Section 5. Section 72-4-119 is amended to read:

72-4-119. State highways -- SR-131 to SR-140.

State highways include:

(1) SR-131. From Freedom Point Way in Bluffdale northeasterly on Porter Rockwell Boulevard to Route 140.

(2) SR-132. From Route 6 in Lynndyl northeasterly through Leamington to Nephi; then southeasterly through Fountain Green and Moroni to Route 89 at Pigeon Hollow Junction.

(3) SR-133. From Kanosh south city limits north through Meadow to Route 15 north of Meadow.

(4) SR-134. From Route 37 at Kanesville northerly to Plain City; then easterly to Route 235 in North Ogden.

(5) SR-135. From 2800 West in Lindon easterly via Pleasant Grove Boulevard to Route 129 in Pleasant Grove.

(6) SR-136. From a junction with Route 50 and 125 east of Delta north to Route 6.

(7) SR-137. From Route 89 in Gunnison easterly to Mayfield; then northerly to Route 89.

(8) SR-138. From Route 80 at Stansbury Interchange southeasterly through Grantsville to Route [~~36 at Mills Junction~~] 179 in Tooele County.

(9) SR-139. From Route 6 northerly to Route 157 near Spring Glen.

(10) SR-140. From 800 West in Bluffdale easterly on 14600 South to the on and off access ramps on the east side of Route 15.

Section 6. Section 72-4-123 is amended to read:

72-4-123. State highways -- SR-171 to SR-176, SR-178, SR-180.

State highways include:

(1) SR-171. From Route 111 at Eighty-fourth West Street and Thirty-fifth South Street easterly on Thirty-fifth South Street and Thirty-third South Street to Route 215 at the east-side belt route.

(2) SR-172. From 6200 South north on 5600 West to Route 80.

(3) SR-173. From Route 111 southeast of Magna easterly through Kearns and Murray to Route 89 at 5300 South Street in Murray.

(4) SR-174. From Intermountain Power Plant [~~maingate~~] main gate southeasterly to Route 6 south of Lynndyl.

(5) SR-175. From Route 89 westerly on 11400 South to Route 154.

(6) SR-176. From Route 114 westerly on Vineyard Connector to Main Street in Vineyard.

(7) SR-178. From the southbound on and off ramps of Route 15 east on 800 South in Payson to Route 198.

(8) SR-179. From Route 138 near Grantsville northerly via Midvalley Highway to Route 80 in Tooele County.

[~~(8)~~] (9) SR-180. From Route 15 southeast of American Fork northerly on Fifth East Street to Route 89 in American Fork.

Section 7. Section 72-4-125 is amended to read:

72-4-125. State highways -- SR-191, SR-193, SR-194, SR-196, SR-198 to SR-200.

State highways include:

(1) SR-191. From the Utah-Arizona state line south of Bluff northerly through Blanding, Monticello, and Moab to Route 70 at Crescent Junction; then beginning again from Route 6 north of Helper northerly through Indian Canyon to Route 40 at Duchesne; then beginning again from Route 40 at Vernal northerly through Greendale Junction and Dutch John to the Utah-Wyoming state line.

(2) SR-193. From 3000 West easterly through Syracuse, Clearfield, and Layton, past the south entrance to Hill Air Force Base to Route 89.

(3) SR-194. [~~From Route 15 westerly on 2100 North Street in Lehi to Route 68~~] From Route 68 in Lehi easterly via 2100 North; then northerly via 1200 West to 2250 North and Powell Way.

(4) SR-196. From Route 199 near the control gate at Dugway Proving Grounds northerly via the Skull Valley Road to the west bound on and off ramps of Route 80 at the Rowley Junction Interchange.

(5) SR-198. From Route 15 northbound ramps of the North Santaquin Interchange northeasterly through Spring Lake, to 100 North in Payson; then easterly and northeasterly through Salem to 300 South in Spanish Fork; then easterly and southeasterly to Route 6 at Moark Junction.

(6) SR-199. From Route 196 north of the Dugway Proving Grounds main gate northeasterly through Clover to Route 36.

(7) SR-200. From Route 61 in Lewiston, approximately three miles west of Route 91, north to the Utah-Idaho state line.

CHAPTER 84
S. B. 17

Passed January 27, 2022
Approved March 21, 2022
Effective May 4, 2022

GRAZING ADVISORY BOARD AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This bill addresses the sunset date and changes the name of the State Grazing Advisory Board.

Highlighted Provisions:

This bill:

- changes the name of the state grazing advisory board;
- extends the sunset date of the state grazing advisory board; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-20-102, as enacted by Laws of Utah 2017, Chapter 345
4-20-103, as last amended by Laws of Utah 2021, Chapter 382
63I-1-204, as last amended by Laws of Utah 2021, Chapters 74, 178, and 375
63L-8-403, as last amended by Laws of Utah 2017, Chapter 345

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

Section 1. Section 4-20-102 is amended to read:

4-20-102. Definitions.

As used in this chapter:

(1) "Cooperative weed management association" means a multigovernmental association cooperating to control noxious weeds in a geographic area that includes some portion of Utah.

(2) "Fees" means the revenue collected by the United States secretary of interior from assessments on livestock using public lands.

(3) "Grazing district" means an administrative unit of land:

(a) designated by the commissioner as valuable for grazing and for raising forage crops; and

(b) that consists of any combination of the following:

(i) public lands;

(ii) private land;

(iii) state land; and

(iv) school and institutional trust land as defined in Section 53C-1-103.

(4) "Public lands" mean vacant, unappropriated, reserved, and unreserved federal lands.

(5) "Regional board" means a regional grazing advisory board with members appointed under Section 4-20-104.

(6) "Restricted account" means the Rangeland Improvement Account created in Section 4-20-105.

(7) "Sales" or "leases" means the sale or lease, respectively, of isolated or disconnected tracts of public lands by the United States secretary of interior.

(8) "State board" means the [~~State Grazing~~] Utah Grazing Improvement Program Advisory Board created under Section 4-20-103.

Section 2. Section 4-20-103 is amended to read:

4-20-103. Utah Grazing Improvement Program Advisory Board -- Duties.

(1) (a) There is created within the department the [~~State Grazing~~] Utah Grazing Improvement Program Advisory Board.

(b) The commissioner shall appoint the following members:

(i) one member from each regional board;

(ii) one member from the Conservation Commission, created in Section 4-18-104;

(iii) one representative of the Department of Natural Resources;

(iv) two livestock producers at-large; and

(v) one representative of the oil, gas, or mining industry.

(2) The term of office for a state board member is four years.

(3) Members of the state board shall elect a chair, who shall serve for two years.

(4) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

(5) The state board shall:

(a) receive:

(i) advice and recommendations from a regional board concerning:

(A) management plans for public lands, state lands, and school and institutional trust lands as defined in Section 53C-1-103, within the regional board's region; and

(B) any issue that impacts grazing on private lands, public lands, state lands, or school and institutional trust lands as defined in Section 53C-1-103, in its region; and

(ii) requests for restricted account money from the entities described in Subsections (5)(c)(i) through (iv);

(b) recommend state policy positions and cooperative agency participation in federal and state land management plans to the department and to the Public Lands Policy Coordinating Office, created under Section 63L-11-201; and

(c) advise the department on the requests and recommendations of:

(i) regional boards;

(ii) county weed control boards, created in Section 4-17-105;

(iii) cooperative weed management associations; and

(iv) conservation districts created under the authority of Title 17D, Chapter 3, Conservation District Act.

Section 3. Section 63I-1-204 is amended to read:

63I-1-204. Repeal dates, Title 4.

(1) Section 4-2-108, which creates the Agricultural Advisory Board, is repealed July 1, 2023.

(2) Title 4, Chapter 2, Part 7, Pollinator Pilot Program, is repealed July 1, 2024.

(3) Section 4-17-104, which creates the State Weed Committee, is repealed July 1, 2026.

(4) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

(5) Section 4-20-103, which creates the [~~State Grazing~~] Utah Grazing Improvement Program Advisory Board, is repealed July 1, [~~2022~~] 2032.

(6) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife Damage Prevention Board, are repealed July 1, 2024.

(7) Section 4-24-104, which creates the Livestock Brand Board, is repealed July 1, 2025.

(8) Section 4-35-103, which creates the Decision and Action Committee, is repealed July 1, 2026.

(9) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council, is repealed July 1, 2027.

Section 4. Section 63L-8-403 is amended to read:

63L-8-403. Grazing permits and leases.

(1) (a) Except as provided in Subsection (2), permits and leases for domestic livestock grazing on public land issued by the director may not exceed a term of five years, subject to terms and conditions the director determines to be appropriate and consistent with this chapter.

(b) The director shall have authority to cancel, suspend, or modify a grazing permit or lease, in whole or in part:

(i) pursuant to the terms and conditions of the permit or lease;

(ii) for any violation of:

(A) this chapter or a grazing rule implemented under this chapter; or

(B) any term or condition of the grazing permit or lease; or

(iii) to protect rangeland health from overutilization pursuant to Subsection (7).

(2) The holder of an expiring permit or lease shall be given first priority for receipt of the new permit or lease, provided:

(a) the land for which the permit or lease is issued remains available for domestic livestock grazing in accordance with a land use plan prepared pursuant to Section 63L-8-202;

(b) the permittee or lessee is in compliance with:

(i) the provisions of this chapter and the grazing rules issued by the DLM, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(ii) the terms and conditions in the permit or lease specified by the director;

(c) the permittee or lessee accepts the terms and conditions included by the director in the new permit or lease; and

(d) range conditions on the tract of public land are sufficient to support continued livestock grazing, as determined by the director pursuant to Subsection (7).

(3) [~~All permits~~] Permits and leases for domestic livestock grazing issued under this part may be incorporated in an allotment management plan developed by the director.

(4) (a) If the director elects to develop an allotment management plan for a given area, the director shall do so in consultation, cooperation, and coordination with:

(i) the lessees, permittees, and landowners involved;

(ii) the commissioner;

(iii) the [~~State Grazing~~] Utah Grazing Improvement Program Advisory Board established under Section 4-20-103; and

(iv) the political subdivision having land within the area covered by the proposed allotment management plan.

(b) An allotment management plan shall be:

(i) tailored to the specific range condition of the area covered by the plan; and

(ii) reviewed on a periodic basis to determine:

(A) the efficacy of the plan in improving range conditions on the involved land; and

(B) whether the land can be better managed.

(5) The director may revise or terminate plans, or develop new plans, after review and consideration, consultation, cooperation, and coordination with the parties listed in Subsection (4)(a).

(6) (a) In all cases where the director has not completed an allotment management plan or determines that an allotment management plan is not necessary for management of livestock operations, the director shall incorporate in grazing permits and leases [~~all~~] the necessary terms and conditions for the appropriate management of the permitted or leased land.

(b) The director, in consultation with the commissioner:

(i) shall specify the number of animals to be grazed and the seasons of use; and

(ii) may reexamine the condition of the range and forage utilization at any time.

(7) If the director finds that the condition of the range requires adjustment in the amount or other aspect of grazing use, the permittee or lessee shall adjust the permittee or lessee's use to the extent required by the director.

(8) An allotment management plan may not refer to livestock operations or range improvements on non-public land, except where the non-public land is intermingled with public land and the consent of the owner of the non-public land and the permittee or lessee involved with the plan is obtained.

(9) (a) Whenever a permit or lease for grazing domestic livestock on public land is canceled, in whole or in part, in order to devote the land covered by the permit or lease to another public purpose, the permittee or lessee shall receive from the state reasonable compensation for the adjusted value, to be determined by the director, of the permittee's or lessee's interest in authorized permanent improvements placed or constructed by the permittee or lessee on lands covered by such permit or lease.

(b) The compensation described in Subsection (9)(a) may not exceed the fair market value of the terminated portion of the permittee's or lessee's interest.

(10) Except in cases of emergency, [~~no~~] a permit or lease [~~shall~~] may not be canceled under this [~~subsection~~] section without one year's notification.

CHAPTER 85
S. B. 31

Passed January 27, 2022
Approved March 21, 2022
Effective May 4, 2022

WATER RIGHTS PROOFS ON SMALL AMOUNTS OF WATER

Chief Sponsor: Scott D. Sandall
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies the requirements for a proof submitted to the state engineer regarding a small amount of water.

Highlighted Provisions:

This bill:

- permits the state engineer to act under certain circumstances when the proof does not conform to the underlying approved application; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-3-5.6, as last amended by Laws of Utah 2021, Chapter 81

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

Section 1. Section 73-3-5.6 is amended to read:

73-3-5.6. Applications to appropriate or permanently change a small amount of water -- Proof of appropriation or change.

(1) As used in this section:

(a) "Application" means an application to:

(i) appropriate a small amount of water; or

(ii) permanently change a small amount of water.

(b) "Livestock water right" means a right for:

(i) livestock to consume water:

(A) directly from the water source; or

(B) from an impoundment into which the water is diverted; and

(ii) associated uses of water related to the raising and care of livestock.

(c) "Proof" means proof of:

(i) appropriation; or

(ii) permanent change.

(d) "Small amount of water" means the amount of water necessary to meet the requirements of:

(i) one residence;

(ii) 1/4 acre of irrigable land; and

(iii) a livestock watering right for:

(A) 10 cattle; or

(B) the equivalent amount of water of Subsection (1)(d)(iii)(A) for livestock other than cattle.

(2) The state engineer may approve an application if:

(a) the state engineer undertakes a thorough investigation of the application;

(b) notice is provided in accordance with Subsection (3);

(c) the application complies with the state engineer's regional policies and restrictions and Section 73-3-3 or 73-3-8, as applicable; and

(d) the application does not conflict with a political subdivision's ordinance:

(i) for planning, zoning, or subdivision regulation; or

(ii) under Section 10-8-15.

(3) (a) Advertising of an application specified in Subsection (2) is at the discretion of the state engineer.

(b) If the state engineer finds that the uses proposed by the application may impair other rights, before approving the application, the state engineer shall give notice of the application according to Section 73-3-6.

(4) An applicant receiving approval under this section is responsible for the time limit for construction and submitting proof as required by Subsection (6).

(5) Sixty days before the end of the time limit for construction, the state engineer shall notify the applicant by mail, or send notice electronically if receipt is verifiable, when proof is due.

(6) (a) Notwithstanding Section 73-3-16, the state engineer shall issue a certificate under Section 73-3-17 if, as proof, the applicant files an affidavit:

(i) on a form provided by the state engineer;

(ii) that specifies the amount of:

(A) irrigated land; and

(B) livestock watered; and

(iii) that declares the residence is constructed and occupied.

(b) The form provided by the state engineer under Subsection (6)(a) may require the information the state engineer determines is necessary to maintain accurate records regarding the point of diversion and place of use.

(7) For a proof filed under Subsection (6) that does not conform to the underlying approved application, the state engineer may issue a certificate under Section 73-3-17 if the discrepancy between the proof and the underlying approved application does not impair existing rights and:

(a) the point of diversion represented in the proof is:

(i) located within 660 feet of the corresponding point of diversion described in the underlying approved application; and

(ii) located on the same parcel as described in the underlying approved application;

(b) the place of use represented in the proof is located in a quarter-quarter section or lot that is adjacent to the place of use in the underlying approved application; or

(c) the purpose of use represented in the proof is adjusted without exceeding the amount of water defined under Subsection (1)(d).

[~~(7)~~] (8) If an applicant does not file the proof required by Subsection (6) by the day on which the time limit for construction ends, the application lapses under Section 73-3-18.

[~~(8)~~] (9) (a) Except as provided in Subsections [~~(9)~~] (10) and [~~(10)~~] (11), an applicant whose application lapses may file a request with the state engineer to reinstate the application, if the applicant demonstrates that the applicant or the applicant's predecessor in interest:

(i) constructed and occupied a residence within the time limit for construction; and

(ii) beneficially uses the water.

(b) Except as provided in Subsection [~~(10)~~] (11), if an applicant meets the requirements of Subsection [~~(8)~~] (9)(a) and submits an affidavit as provided by Subsection (6), the state engineer shall issue a certificate for the beneficial uses the applicant attests to in an affidavit described in Subsection (6).

[~~(9)~~] (10) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending or concluded, an applicant whose application lapses may not file a request for reinstatement with the state engineer if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3; and

(b) the applicant failed to timely submit a statement of claim as described in Subsection [~~(10)~~] (11)(c)(ii).

[~~(10)~~] (11) For an application related to the use of water located within an area where general determination proceedings under Title 73, Chapter 4, Determination of Water Rights, are pending, the state engineer shall allow a reinstatement request under Subsection [~~(8)~~] (9)(a) and, instead of issuing a certificate, evaluate the reinstatement request and statement of claim as part of the general adjudication for the area, if:

(a) the application lapsed before the state engineer issued notice of the time to file a statement of water users claim under Section 73-4-3;

(b) the applicant files the request for reinstatement no more than 90 days after the day on which the state engineer issues the notice of the time to file statements of claim in accordance with Section 73-4-3; and

(c) the applicant files:

(i) an affidavit described in Subsection (6); and

(ii) a timely statement of claim under Section 73-4-5.

[~~(11)~~] (12) If an applicant fulfills the requirements in Subsection [~~(10)~~] (11), the state engineer may issue a certificate before evaluating the claim in the general adjudication.

[~~(12)~~] (13) The priority date for an application reinstated under this section is the day on which the applicant files the request for reinstatement of the application.

CHAPTER 86
S. B. 66

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

ELECTRIC ASSISTED BICYCLE USE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Jeffrey D. Stenquist

LONG TITLE

General Description:

This bill defines terms and requires state agencies and local authorities to consider persons with mobility disabilities during planning and construction of bicycle trails.

Highlighted Provisions:

This bill:

- defines "mobility disability" and "soft-surface trail";
- requires a state agency or local authority to consider accommodations for persons with mobility disabilities while planning and constructing trails; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-102, as last amended by Laws of Utah 2020, Chapters 84 and 354

41-6a-1115.5, as last amended by Laws of Utah 2018, Chapter 175

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

Section 1. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a [~~tagliabue~~] Tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(24) "Gore area" means the area delineated by two solid white lines that is between a continuing

lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(25) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(26) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(27) "Highway authority" means the same as that term is defined in Section 72-1-102.

(28) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(29) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(30) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(31) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(32) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(33) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(34) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(35) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(36) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(37) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (37)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(38) "Mobility disability" means the inability of a person to use one or more of the person's extremities or difficulty with motor skills, that may include limitations with walking, grasping, or lifting an object, caused by a neuro-muscular, orthopedic, or other condition.

[~~(38)~~] (39) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(39)~~] (40) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(40)~~] (41) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(41)~~] (42) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(42)~~] (43) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(43)~~] (44) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(44)~~] (45) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

[~~(45)~~] (46) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(46)~~] (47) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(47)~~] (48) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(48)~~] (49) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(49)~~] (50) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(50)~~] (51) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(51)~~] (52) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(52)~~] (53) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(53)~~] (54) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(54)~~] (55) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(55)~~] (56) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(56)~~] (57) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(57)~~] (58) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(58)~~] (59) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(59)~~] (60) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(60)~~] (61) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(61)~~] (62) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(62)~~] (63) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(63)~~] (64) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(65) (a) "Soft-surface trail" means a marked trail surfaced with sand, rock, or dirt that is designated for the use of a bicycle.

(b) "Soft-surface trail" does not mean a trail:

(i) where the use of a motor vehicle or an electric assisted bicycle is prohibited by a federal law, regulation, or rule; or

(ii) located in whole or in part on land granted to the state or a political subdivision subject to a conservation easement that prohibits the use of a motorized vehicle.

[~~(64)~~] (66) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(65)~~] (67) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(66)~~] (68) "Stop" when required means complete cessation from movement.

[~~(67)~~] (69) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(68)~~] (70) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(69)~~] (71) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(70)~~] (72) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(71)~~] (73) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(72)~~] (74) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(73)~~] (75) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(74)~~] (76) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(75)~~] (77) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(76)~~] (78) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(77)~~] (79) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(78)~~] (80) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1115.5 is amended to read:

41-6a-1115.5. Electric assisted bicycles -- Restrictions -- Penalties.

(1) Except as otherwise provided in this section, an electric assisted bicycle is subject to the provisions under this chapter for a bicycle.

(2) An individual may operate an electric assisted bicycle on a path or trail designated for the use of a bicycle.

(3) (a) A local authority or state agency may adopt an ordinance or rule to regulate or restrict the use of an electric assisted bicycle, or a specific classification of an electric assisted bicycle, on a sidewalk, path, or trail within the jurisdiction of the local authority or state agency.

(b) When enacting ordinances or making rules related to the use of a pathway or soft-surface trail, and during the planning or construction of a pathway or soft-surface trail, a local authority or state agency shall consider accommodations and increased trail access by a person with a mobility disability.

(4) An individual under 16 years [~~of age~~] old may not operate a class 3 electric assisted bicycle.

(5) An individual under 14 years [~~of age~~] old may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk unless the individual is under the direct supervision of the individual's parent or guardian.

(6) An individual under eight years [~~of age~~] old may not operate an electric assisted bicycle with the electric motor engaged on any public property, highway, path, or sidewalk.

(7) The owner of an electric assisted bicycle may not authorize or knowingly permit an individual to operate an electric assisted bicycle in violation of this section.

(8) (a) Beginning January 1, 2017, each Utah-based manufacturer of an electric assisted bicycle and each distributor of an electric assisted bicycle in Utah shall permanently affix a label in a prominent location on the electric assisted bicycle.

(b) Each manufacturer and each distributer shall ensure that the label is printed in Arial font, in 9-point type or larger, and includes the:

(i) appropriate electric assisted bicycle classification number described in Section 41-6a-102;

(ii) top assisted speed; and

(iii) wattage of the motor.

(9) An individual who violates this section is guilty of an infraction.

(10) A class 2 electric assisted bicycle is subject to the restrictions of Section 41-6a-526.

CHAPTER 87
S. B. 68

Passed February 3, 2022
Approved March 21, 2022
Effective May 4, 2022

TRESPASS PENALTY AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill makes changes related to civil penalties for trespassing on private property.

Highlighted Provisions:

This bill:

- imposes liability for civil damages against a person who is convicted of criminal trespass or of entering on private land, without permission, while hunting or fishing;
- adjusts the amount of civil damages that a person may be liable for when the person commits criminal trespass on agricultural land or range land; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-20-14, as last amended by Laws of Utah 2012, Chapter 268

76-6-206, as last amended by Laws of Utah 2017, Chapter 364

76-6-206.3, as last amended by Laws of Utah 2021, Chapter 260

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

Section 1. Section 23-20-14 is amended to read:

23-20-14. Definitions -- Posted property -- Hunting by permission -- Entry on private land while hunting or fishing -- Violations -- Penalty -- Prohibitions inapplicable to officers.

(1) As used in this section:

(a) "Cultivated land" means land that is readily identifiable as:

(i) land whose soil is loosened or broken up for the raising of crops;

(ii) land used for the raising of crops; or

(iii) pasturage which is artificially irrigated.

(b) "Division" means the Division of Wildlife Resources.

(c) "Permission" means written authorization from the owner or person in charge to enter upon private land that is either cultivated or properly posted, and shall include:

(i) the signature of the owner or person in charge;

(ii) the name of the person being given permission;

(iii) the appropriate dates; and

(iv) a general description of the property.

(d) "Properly posted" means that signs prohibiting trespass or bright yellow, bright orange, or fluorescent paint are clearly displayed:

(i) at all corners, fishing streams crossing property lines, roads, gates, and rights-of-way entering the land; or

(ii) in a manner that would reasonably be expected to be seen by a person in the area.

(2) (a) While taking wildlife or engaging in wildlife related activities, a person may not:

(i) without permission, enter upon privately owned land that is cultivated or properly posted;

(ii) enter or remain on privately owned land if the person has notice to not enter or remain on the privately owned land; or

(iii) obstruct any entrance or exit to private property.

(b) A person has notice to not enter or remain on privately owned land if:

(i) the person is directed to not enter or remain on the land by:

(A) the owner of the land;

(B) the owner's employee; or

(C) a person with apparent authority to act for the owner; or

(ii) the land is fenced or otherwise enclosed in a manner that a reasonable person would recognize as intended to exclude intruders.

(c) The division shall provide "hunting by permission cards" to a landowner upon the landowner's request.

(d) A person may not post:

(i) private property the person does not own or legally control; or

(ii) land that is open to the public as provided by Section 23-21-4.

(3) (a) A person convicted of violating Subsection (2)(a) may have the person's license, tag, certificate of registration, or permit, relating to the activity engaged in at the time of the violation, revoked by a hearing officer.

(b) A hearing officer may construe any subsequent conviction which occurs within a five-year period as a flagrant violation and may prohibit the person from obtaining a new license, tag, certificate of registration, or permit for a period of up to five years.

(4) Subsection (2)(a) does not apply to peace or conservation officers in the performance of their duties.

(5) (a) The division shall provide information regarding owners' rights and sportsmen's duties:

(i) to anyone holding licenses, certificates of registration, tags, or permits to take wildlife; and

(ii) by using the public media and other sources.

(b) The restrictions in this section relating to trespassing shall be stated in all hunting and fishing proclamations issued by the Wildlife Board.

(6) A person who violates Subsection (2)(a) or (d) is guilty of a class B misdemeanor[~~.~~] and liable for the civil damages described in Subsection (7).

(7) In addition to an order for restitution under Section 77-38b-205, a person who commits a violation of Subsection (2)(a) or (d) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2)(a) or (d) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(8) Civil damages under Subsection (7) may be collected in a separate action by the property owner or the owner's assignee.

Section 2. Section 76-6-206 is amended to read:

76-6-206. Criminal trespass.

(1) As used in this section:

(a) "Enter" means intrusion of the entire body or the entire unmanned aircraft.

(b) "Remain unlawfully," as that term relates to an unmanned aircraft, means remaining on or over private property when:

(i) the private property or any portion of the private property is not open to the public; and

(ii) the person operating the unmanned aircraft is not otherwise authorized to fly the unmanned aircraft over the private property or any portion of the private property.

(2) A person is guilty of criminal trespass if, under circumstances not amounting to burglary as defined in Section 76-6-202, 76-6-203, or 76-6-204 or a violation of Section 76-10-2402 regarding commercial obstruction:

(a) the person enters or remains unlawfully on or causes an unmanned aircraft to enter and remain unlawfully over property and:

(i) intends to cause annoyance or injury to any person or damage to any property, including the use of graffiti as defined in Section 76-6-107;

(ii) intends to commit any crime, other than theft or a felony; or

(iii) is reckless as to whether the person's or unmanned aircraft's presence will cause fear for the safety of another;

(b) knowing the person's or unmanned aircraft's entry or presence is unlawful, the person enters or remains on or causes an unmanned aircraft to enter or remain unlawfully over property to which notice against entering is given by:

(i) personal communication to the person by the owner or someone with apparent authority to act for the owner;

(ii) fencing or other enclosure obviously designed to exclude intruders; or

(iii) posting of signs reasonably likely to come to the attention of intruders; or

(c) the person enters a condominium unit in violation of Subsection 57-8-7(8).

(3) (a) A violation of Subsection (2)(a) or (b) is a class B misdemeanor unless the violation is committed in a dwelling, in which event the violation is a class A misdemeanor.

(b) A violation of Subsection (2)(c) is an infraction.

(4) It is a defense to prosecution under this section that:

(a) the property was at the time open to the public; and

(b) the actor complied with all lawful conditions imposed on access to or remaining on the property.

(5) In addition to an order for restitution under Section 77-38b-205, a person who commits a violation of Subsection (2) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(6) Civil damages under Subsection (5) may be collected in a separate action by the property owner or the owner's assignee.

Section 3. Section 76-6-206.3 is amended to read:

76-6-206.3. Criminal trespass on agricultural land or range land.

(1) As used in this section:

(a) "Agricultural or range land" and "land" mean land as defined under Subsections (1)(d) and (e).

(b) "Authorization" means specific written permission by, or contractual agreement with, the owner or manager of the property.

(c) "Criminal trespass" means the elements of the crime of criminal trespass under Section 76-6-206.

(d) "Land in agricultural use" has the same meaning as in Section 59-2-502.

(e) "Range land" means privately owned land that is not fenced or divided into lots and that is generally unimproved. This land includes land used for livestock.

(2) A person is guilty of the class B misdemeanor criminal offense of criminal trespass on

agricultural or range land and is liable for the civil damages under Subsection (5) if, under circumstances not amounting to a greater offense, and without authorization or a right under state law, the person enters or remains on agricultural or range land regarding which notice prohibiting entry is given by:

(a) personal communication to the person by the owner of the land, an employee of the owner, or a person with apparent authority to act for the owner;

(b) fencing or other form of enclosure a reasonable person would recognize as intended to exclude intruders; or

(c) posted signs or markers that would reasonably be expected to be seen by persons in the area of the borders of the land.

(3) A person is guilty of the class B misdemeanor criminal offense of cutting, destroying, or rendering ineffective the fencing of agricultural or range land if the person willfully cuts, destroys, or renders ineffective any fencing as described under Subsection (2)(b).

(4) In addition to an order for restitution under Section 77-38b-205, a person who commits any violation of Subsection (2) or (3) may also be liable for:

(a) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2) or $500, whichever is greater; and

(b) reasonable attorney fees not to exceed $250, and court costs.

(5) Civil damages under Subsection (4) may be collected in a separate action by the owner of the agricultural or range land or the owner's assignee.

CHAPTER 88
S. B. 72

Passed February 10, 2022
Approved March 21, 2022
Effective May 4, 2022

ATV WEIGHT LIMIT AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill amends the definition of an all-terrain type II vehicle to change the weight limit to 3,500 pounds.

Highlighted Provisions:

This bill:

- amends the definition of an all-terrain type II vehicle to change the weight limit from 2,500 pounds to 3,500 pounds.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-22-2, as last amended by Laws of Utah 2021, Chapter 280

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

Section 1. Section 41-22-2 is amended to read:

41-22-2. Definitions.

As used in this chapter:

(1) "Advisory council" means the Off-highway Vehicle Advisory Council appointed by the Division of Recreation.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of [~~2,500~~] 3,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(4) (a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

(19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(20) "Register" means the act of assigning a registration number to an off-highway vehicle.

(21) "Roadway" is used as defined in Section 41-6a-102.

(22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

CHAPTER 89
S. B. 75

Passed February 17, 2022
Approved March 21, 2022
Effective May 4, 2022

FINE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies the division of fine revenue collected by justice courts.

Highlighted Provisions:

This bill:

- requires the state auditor to monitor the amount of traffic fines a local government collects;
- clarifies when an interlocal agreement may alter the division of fine revenue;
- limits the amount of traffic fine revenue a local government may use for the local government's general fund revenue; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

51-2a-301, as last amended by Laws of Utah 2015, Chapter 138
78A-7-120, as last amended by Laws of Utah 2021, Chapter 280

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

Section 1. Section 51-2a-301 is amended to read:

51-2a-301. State auditor responsibilities.

(1) Except for political subdivisions that do not receive or expend public funds, the state auditor shall adopt guidelines, qualifications criteria, and procurement procedures for use in the procurement of audit services for all entities that are required by Section 51-2a-201 to cause an accounting report to be made.

(2) The state auditor shall follow the notice, hearing, and publication requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) The state auditor shall:

(a) review the accounting report submitted to the state auditor under Section 51-2a-201; and

(b) if necessary, conduct additional inquiries or examinations of financial statements of the entity submitting that information.

(4) The governing board of each entity required by Section 51-2a-201 to submit an accounting report to the state auditor's office shall comply with the guidelines, criteria, and procedures established by the state auditor.

(5) Each fifth year, the state auditor shall:

(a) review the dollar criteria established in Section 51-2a-201 to determine if they need to be increased or decreased; and

(b) if the state auditor determines that they need to be increased or decreased, notify the Legislature of that need.

(6) (a) The state auditor may require a higher level of accounting report than is required under Section 51-2a-201.

(b) The state auditor shall:

(i) develop criteria under which a higher level of accounting report may be required; and

(ii) provide copies of those criteria to entities required to analyze and report under Section 51-2a-201.

(7) This section does not apply to a nonprofit corporation that submits an accounting report under Section 51-2a-201.5.

(8) The state auditor shall adopt a policy to monitor compliance with Subsection 78A-7-120(7).

Section 2. Section 78A-7-120 is amended to read:

78A-7-120. Disposition of fines.

(1) (a) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted[~~, 1/2~~] as follows:

(i) 50% to the treasurer of the local government responsible for the court; and [~~1/2~~]

(ii) 50% to the treasurer of the local government which prosecutes or which would prosecute the violation.

(b) An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and related to justice courts may alter the ratio [~~provided in this section~~] described in Subsection (1)(a) if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the [~~city or county~~] local government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Recreation and 15% to the general fund of the [~~city or county~~] local government responsible for the justice court.

(c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:

(i) 20% to the school district or private school that owns or contracts for the use of the school bus; and

(ii) 80% in accordance with Subsection (1).

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) or Subsection (7) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited in the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

(7) (a) Revenue from traffic fines may not exceed 25% of a local government's total general fund revenue for a fiscal year.

(b) No later than 30 days after the day on which a local government's fiscal year ends, a local government that receives traffic fine revenue shall:

(i) for the immediately preceding fiscal year, determine the amount of traffic fine revenue that exceeds the amount described in Subsection (7)(a); and

(ii) transfer the amount calculated under Subsection (7)(b)(i) to the state treasurer to be allocated to the Department of Transportation for class B and class C roads.

CHAPTER 90
S. B. 89

Passed February 23, 2022
Approved March 21, 2022
Effective May 4, 2022

WATER AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill addresses information related to water including water conservation.

Highlighted Provisions:

This bill:

- modifies provisions related to a water conservation plan, including provisions:
  - defining terms;
  - requiring goals for water conservation to be set;
  - addressing adopting, amending, submitting, or posting a water conservation plan;
  - requiring rate structures to be submitted under certain circumstances; and
  - addressing division powers, including rulemaking;
- modifies provision related to culinary water pricing structure; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-10-32, as last amended by Laws of Utah 2007, Chapter 329

73-10-32.5, as enacted by Laws of Utah 2016, Chapter 282

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

Section 1. Section 73-10-32 is amended to read:

73-10-32. Definitions -- Water conservation plan required.

(1) As used in this section:

[~~(a) "Board" means the Board of Water Resources created under Section 73-10-1.5.~~]

[~~(b)~~] (a) "Division" means the Division of Water Resources created under Section 73-10-18.

[~~(c) "Retail" means the level of distribution of culinary water that supplies culinary water directly to the end user.~~]

[~~(d) "Retail water provider" means an entity which:~~]

[~~(i) supplies culinary water to end users; and~~]

[~~(ii) has more than 500 service connections.~~]

[~~(e)~~] (b) "Water conservancy district" means an entity formed under Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

[~~(f)~~] (c) "Water conservation plan" means a written document that contains existing and proposed water conservation measures describing what will be done by [~~retail water providers, water conservancy districts~~] a water provider, and the end user of culinary water to help conserve water [~~and limit or reduce its use~~] in the state in terms of per capita [~~consumption~~] use of water provided through culinary water infrastructure owned or operated by the water provider so that adequate supplies of water are available for future needs.

(d) "Water provider" means:

(i) a retail water supplier, as defined in Section 19-4-102; or

(ii) a water conservancy district.

(2) (a) [~~Each~~] A water conservation plan shall contain:

(i) (A) a clearly stated overall water use reduction goal that is consistent with Subsection (2)(d); and

(B) an implementation plan for each [~~of the~~] water conservation [~~measures it~~] measure a water provider chooses to use, including a timeline for action and an evaluation process to measure progress;

[~~(ii) a requirement that each water conservancy district and retail water provider devote part of at least one regular meeting every five years of its governing body to a discussion and formal adoption of the water conservation plan, and allow public comment on it;~~]

[~~(iii)~~] (ii) a requirement that a notification procedure be implemented that includes the delivery of the water conservation plan to the media and to the governing body of each municipality and county served by the [~~water conservancy district or retail~~] water provider; [~~and~~]

[~~(iv)~~] (iii) a copy of the minutes of the meeting regarding a water conservation plan and the notification procedure required in [~~Subsections (2)(a)(ii) and (iii) which~~] Subsection (2)(a)(ii) that shall be added as an appendix to the water conservation plan[~~.~~]; and

(iv) for a retail water supplier, as defined in Section 19-4-102, the retail water supplier's rate structure that is:

(A) adopted by the retail water supplier's governing body in accordance with Section 73-10-32.5; and

(B) current as of the day the retail water supplier files a water conservation plan.

(b) A water conservation plan may include information regarding:

(i) the installation and use of water efficient fixtures and appliances, including toilets, shower fixtures, and faucets;

(ii) residential and commercial landscapes and irrigation that require less water to maintain;

(iii) more water efficient industrial and commercial processes involving the use of water;

(iv) water reuse systems, both potable and not potable;

(v) distribution system leak repair;

(vi) dissemination of public information regarding more efficient use of water, including public education programs, customer water use audits, and water saving demonstrations;

(vii) water rate structures designed to encourage more efficient use of water;

(viii) statutes, ordinances, codes, or regulations designed to encourage more efficient use of water by means such as water efficient fixtures and landscapes;

(ix) incentives to implement water efficient techniques, including rebates to water users to encourage the implementation of more water efficient measures; and

(x) other measures designed to conserve water.

(c) The [~~Division of Water Resources~~] division may be contacted for information and technical resources regarding measures listed in [~~Subsections (2)(b)(i) through (2)(b)(x)~~] Subsection (2)(b).

(d) (i) The division shall adopt by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regional water conservation goals that:

(A) are developed by the division;

(B) are reevaluated by December 31, 2030, and every 10 years after December 31, 2030; and

(C) define what constitutes "water being conserved" under a water conservation goal after considering factors such as depletion, diversion, use, consumption, or return flows.

(ii) As part of a water conservation plan, a water provider shall adopt one of the following:

(A) the regional water conservation goal applicable to the water provider;

(B) a water conservation goal that would result in more water being conserved than would be conserved under the regional water conservation goal; or

(C) a water conservation goal that would result in less water being conserved than would be conserved under the regional water conservation goal with a reasonable justification as to why the different water conservation goal is adopted and an explanation of the factors supporting the reasonable justification, such as demographics, geography, lot sizes, make up of water service classes, or availability of secondary water.

(3) (a) [~~Before April 1, 1999, each water conservancy district and each retail~~] A water provider shall:

(i) [~~(A)~~] prepare and adopt a water conservation plan [~~if one has not already been adopted; or~~]; and

[~~(B) if the district or provider has already adopted a water conservation plan, review the existing water conservation plan to determine if it should be amended and, if so, amend the water conservation plan; and~~]

(ii) file a copy of the water conservation plan [~~or amended water conservation plan~~] with the division.

(b) (i) Before adopting or amending a water conservation plan, [~~each water conservancy district or retail~~] a water provider shall hold a public hearing with reasonable, advance public notice in accordance with this Subsection (3)(b).

(ii) The water provider shall provide public notice at least 14 days before the date of the public hearing.

(iii) A water provider meets the requirements of reasonable notice required by this Subsection (3)(b) if the water provider posts notice of the public hearing in at least three public places within the service area of the water provider and:

(A) if the water provider is a public entity, posts notice on the Utah Public Notice Website, created in Section 63A-16-601; or

(B) if the water provider is a private entity and has a public website, posts notice on the water provider's public website.

(iv) Proof that notice described in Subsection (3)(b)(iii) was given is prima facie evidence that notice was properly given.

(v) If notice given under authority of this Subsection (3)(b) is not challenged within 30 days from the date of the public hearing for which the notice was given, the notice is considered adequate and proper.

(c) A water provider shall:

(i) post the water provider's water conservation plan on a public website; or

(ii) if the water provider does not have a public website, make the water provider's water conservation plan publically available for inspection upon request.

(4) (a) The [~~board~~] division shall:

(i) provide guidelines and technical resources to [~~retail water providers and water conservancy districts to~~] help water providers prepare and implement water conservation plans;

(ii) [~~investigate alternative measures designed to conserve water~~] assist water providers by identifying water conservation methods upon request; and

[~~(iii) report regarding its compliance with the act and impressions of the overall quality of the plans submitted to the Natural Resources, Agriculture, and Environment Interim Committee of the Legislature at its meeting in November 2004.~~]

(iii) provide an online submission form that allows for an electronic copy of the water conservation plan to be filed with the division under Subsection (3)(a)(ii).

(b) The [~~board~~] division shall [~~publish~~] post an annual report [~~in a paper of state-wide distribution specifying the retail water providers and water conservancy districts that do not have a current water conservation plan on file with the board~~] at the end of [~~the~~] a calendar year listing water providers in compliance with this section.

(5) A [~~water conservancy district or retail~~] water provider may only receive state funds for water development if [~~they comply~~] the water provider complies with the requirements of this [~~act~~] section.

(6) [~~Each water conservancy district and retail~~] A water provider specified under Subsection (3)(a) shall:

(a) update [~~its~~] the water provider's water conservation plan no less frequently than every five years; and

(b) follow the procedures required under Subsection (3) when updating the water conservation plan.

(7) It is the intent of the Legislature that the water conservation plans, amendments to existing water conservation plans, and the studies and report by the [~~board~~] division be handled within the existing budgets of the respective entities or agencies.

Section 2. Section 73-10-32.5 is amended to read:

73-10-32.5. Culinary water pricing structure.

(1) As used in this section, "retail water supplier" means the same as that term is defined in Section 19-4-102.

(2) A retail water [~~provider, as defined in Section 73-10-32,~~] supplier shall:

[~~(1)~~] (a) establish a culinary water rate structure that:

[~~(a)~~] (i) incorporates increasing block units of water used; and

[~~(b)~~] (ii) provides for an increase in the rate charged for additional block units of water used as usage increases from one block unit to the next;

[~~(2)~~] (b) provide in customer billing notices, or in a notice that is distributed to customers at least annually, block unit rates and the customer's billing cycle; and

[~~(3)~~] (c) include individual customer water usage in customer billing notices.

CHAPTER 91
S. B. 99

Passed February 16, 2022
Approved March 21, 2022
Effective May 4, 2022

ELECTRONIC VEHICLE REGISTRATION AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill allows an individual to provide proof of vehicle registration by displaying a photograph of the registration card on a mobile electronic device.

Highlighted Provisions:

This bill:

- allows an individual to provide proof of vehicle registration by displaying a photograph of the registration card on a mobile electronic device.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-214, as last amended by Laws of Utah 2018, Chapter 375

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

Section 1. Section 41-1a-214 is amended to read:

41-1a-214. Registration card to be exhibited.

(1) For the convenience of a peace officer or any officer or employee of the division, the owner or operator of a vehicle is encouraged to carry the registration card in the vehicle for which the registration card was issued and display the registration card upon request.

(2) An individual may display a registration card by displaying a photograph of the registration card on a mobile electronic device.

[~~(2)~~] (3) For a vehicle owned by a rental company, as defined in Section 31A-22-311, a person driving or in control of the vehicle may display the vehicle's rental agreement, as defined in Section 31A-22-311, in place of a registration card.

CHAPTER 92
S. B. 109

Passed March 4, 2022
Approved March 21, 2022
Effective October 15, 2022

TOWING AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions related to the towing and impounding of vehicles.

Highlighted Provisions:

This bill:

- defines terms;
- requires submission of a certain form to the Division of Motor Vehicles and notification of the owner of a vehicle if the vehicle is removed;
- amends provisions related to the sale or transfer of a vehicle, vessel, or outboard motor that has been impounded that has not been claimed or recovered by the owner or lienholder;
- grants rulemaking authority to prescribe the format and contents of the form to be submitted to the Division of Motor Vehicles;
- allows a tow truck motor carrier to charge an after-hour fee if an owner requests release of a vehicle after normal business hours;
- prohibits a tow truck motor carrier or tow truck operator from sharing personal information of or referring other services to a person for whom the tow truck motor carrier or tow truck operator has performed a tow service; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-102, as last amended by Laws of Utah 2019, Chapters 373, 428, 459, and 479
41-1a-1103, as last amended by Laws of Utah 2014, Chapter 382
41-1a-1104, as last amended by Laws of Utah 2005, Chapter 56
41-6a-102, as last amended by Laws of Utah 2020, Chapters 84 and 354
41-6a-1406, as last amended by Laws of Utah 2019, Chapter 373
53-3-106, as last amended by Laws of Utah 2018, Chapter 417
63I-1-241, as last amended by Laws of Utah 2020, Chapters 84 and 154
72-9-603, as last amended by Laws of Utah 2020, Chapter 45

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

Section 1. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

(39) "Motor fuel" means the same as that term is defined in Section 59-13-102.

(40) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

(41) "Motorboat" means the same as that term is defined in Section 73-18-2.

(42) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(43) "Natural gas" means a fuel of which the primary constituent is methane.

(44) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

(45) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

(46) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

(47) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

(48) (a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

(49) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

(50) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

(51) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

(52) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

(53) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

(54) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

(55) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

(56) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

(57) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

(58) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

(59) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

(60) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

(61) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

(62) (a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

(63) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

(64) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

(65) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

(66) "Sailboat" means the same as that term is defined in Section 73-18-2.

(67) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

(68) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

(69) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

(70) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection (70)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

(71) (a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

(72) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

(73) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

(74) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

(75) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

(76) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

(77) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

[~~(76)~~] (78) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~(77)~~] (79) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(78)~~] (80) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(79)~~] (81) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(80)~~] (82) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(81)~~] (83) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(82)~~] (84) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(83)~~] (85) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(84)~~] (86) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(85)~~] (87) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-1103 is amended to read:

41-1a-1103. Sale.

(1) (a) To determine the model year of a vehicle, vessel, or outboard motor as described in this section, the division shall use the model year assigned to a vehicle, vessel, or outboard motor based on:

(i) the vehicle identification number assigned by the division; or

(ii) if the division has not assigned a vehicle identification number, the vehicle identification number assigned by the manufacturer.

(b) To determine the age of a vehicle, vessel, or outboard motor as described in this section, the division shall use the date of the impoundment of the vehicle, vessel, or outboard motor.

(2) (a) [~~If~~] For a vehicle, vessel, or outboard motor with a model year of eight years old or older, if the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 30 days from the date of [~~seizure,~~] the original notice described in Section 41-6a-1406, or if the division is unable to determine the owner or lienholder through reasonable efforts, the division shall [~~sell~~] issue a certificate of sale for the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier.

(i) For a vehicle, vessel, or outboard motor with a model year of eight years old or older, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall, 30 days from the date of the original notice described in Section 41-6a-1406, issue a certificate of sale for the vehicle, vessel, or outboard motor to the tow truck motor carrier in possession of the vehicle, vessel, or outboard motor upon request by the tow truck motor carrier, in accordance with this section.

(ii) For a vehicle, vessel, or outboard motor with a model year of eight years old or older, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 20 days from the original notice described in Section 41-6a-1406, the tow truck motor carrier shall notify the division, and the division shall renotify the owner or lienholder.

(3) For a vehicle, vessel, or outboard motor with a model year seven years old or newer, if the owner or lienholder of a seized vehicle, vessel, or outboard motor does not recover the vehicle, vessel, or outboard motor within 60 days from the date of the original notice described in Section 41-6a-1406, or if the division is unable to determine the owner or

lienholder through reasonable efforts, the division shall sell the vehicle, vessel, or outboard motor as described in Subsection (4).

[~~(2)~~] (4) The sale of a vehicle, vessel, or outboard motor described in Subsection (3) shall:

(a) be held in the form of a public auction at the place of storage; and

(b) at the discretion of the division, be conducted by:

(i) an authorized representative of the division; or

(ii) a public garage, impound lot, or impound yard that:

(A) is authorized by the division;

(B) meets the standards under Subsection 41-1a-1101(5); and

(C) complies with the requirements of Section 72-9-603.

[~~(3)~~] (5) At least five days prior to the date set for sale described in Subsection (4), the division shall publish a notice of sale setting forth the date, time, and place of sale and a description of the vehicle, vessel, or outboard motor to be sold:

(a) on the division's website; and

(b) as required in Section 45-1-101.

[~~(4)~~] (6) At the time of sale described in Subsection (4) the division or other person authorized to conduct the sale shall tender to the highest bidder a certificate of sale conveying all rights, title, and interest in the vehicle, vessel, or outboard motor.

[~~(5)~~] (7) The proceeds from the sale of a vehicle, vessel, or outboard motor under [~~this section~~] Subsection (4) shall be distributed as provided under Section 41-1a-1104.

[~~(6) If the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 30 days from the date of release, the division shall renotify the owner or lienholder and sell the vehicle, vessel, or outboard motor, in accordance with this section, 30 days from the date of the notice.~~]

(8) For a vehicle, vessel, or outboard motor with a model year seven years old or newer, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor and satisfy the amount due to the place of storage within 60 days from the date of release, the division shall, 60 days from the date of the original notice described in Section 41-6a-1406, sell the vehicle, vessel, or outboard motor as described in Subsection (4).

(9) For a vehicle, vessel, or outboard motor with a model year of seven years old or newer, if the owner or lienholder of a vehicle, vessel, or outboard motor seized under Section 41-1a-1101 and subsequently released by the division fails to take possession of the vehicle, vessel, or outboard motor within 45 days of the original notice described in Section 41-6a-1406, the tow truck motor carrier shall notify the division, and the division shall renotify the owner or lienholder.

Section 3. Section 41-1a-1104 is amended to read:

41-1a-1104. Disposition of proceeds from sale.

(1) If, for purposes of this part and Section 41-1a-1301, the ownership of a vehicle, vessel, or outboard motor seized cannot be determined, the excess of the proceeds of any sale described in Subsection 41-1a-1103(4), over the fees for registration or transfer and penalties and costs, shall be deposited with the state treasurer in a suspense account.

(2) (a) If the owner or the owner's heirs or assigns file a claim for the excess of the proceeds within one year of date of sale of the vehicle, vessel, or outboard motor, the excess of the proceeds shall be refunded to the claimant.

(b) If a claim is not filed in accordance with Subsection (2)(a), then the money shall be deposited in the General Fund.

Section 4. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a [~~tagliabue~~] Tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(24) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(25) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(26) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

(27) "Highway authority" means the same as that term is defined in Section 72-1-102.

(28) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

(29) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

(30) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

(31) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

(32) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

(33) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

(34) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

(35) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

(36) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

(37) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection (37)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

(38) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

(39) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

(40) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(41) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

(42) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

(43) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

(44) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(45) "Operate" means the same as that term is defined in Section 41-1a-102.

(46) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

(47) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

(48) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

(49) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

(50) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

(51) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

(52) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

(53) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

(54) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

(55) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(56) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

(57) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

(58) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

(59) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(60) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

(61) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

(62) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

(63) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

(64) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

(65) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

(66) "Stop" when required means complete cessation from movement.

(67) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

(68) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

(69) "Tow truck operator" means the same as that term is defined in Section 72-9-102.

(70) "Tow truck motor carrier" means the same as that term is defined in Section 72-9-102.

[~~(69)~~] (71) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(70)~~] (72) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(71)~~] (73) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(72)~~] (74) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(73)~~] (75) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(74)~~] (76) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(75)~~] (77) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(76)~~] (78) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(77)~~] (79) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(78)~~] (80) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 5. Section 41-6a-1406 is amended to read:

41-6a-1406. Removal and impoundment of vehicles -- Reporting and notification requirements -- Administrative impound fee -- Refunds -- Possessory lien -- Rulemaking.

(1) If a vehicle, vessel, or outboard motor is removed or impounded as provided under Section 41-1a-1101, 41-6a-527, 41-6a-1405, 41-6a-1408, or 73-18-20.1 by an order of a peace officer or by an order of a person acting on behalf of a law enforcement agency or highway authority, the removal or impoundment of the vehicle, vessel, or outboard motor shall be at the expense of the owner.

(2) The vehicle, vessel, or outboard motor under Subsection (1) shall be removed or impounded to a state impound yard.

(3) The peace officer may move a vehicle, vessel, or outboard motor or cause it to be removed by a tow truck motor carrier that meets standards established:

(a) under Title 72, Chapter 9, Motor Carrier Safety Act; and

(b) by the department under Subsection (10).

(4) (a) A report described in this Subsection (4) is required for a vehicle, vessel, or outboard motor that is:

(i) removed or impounded as described in Subsection (1); or

(ii) removed or impounded by any law enforcement or government entity.

[~~(4) (a)~~] (b) [~~Immediately~~] Before noon on the next business day after the date of the removal of the vehicle, vessel, or outboard motor, a report of the removal shall be sent to the Motor Vehicle Division by:

(i) the peace officer or agency by whom the peace officer is employed; and

(ii) the tow truck operator or the tow truck motor carrier by whom the tow truck operator is employed.

[~~(b)~~] (c) The report shall be in a form specified by the Motor Vehicle Division and shall include:

(i) the operator's name, if known;

(ii) a description of the vehicle, vessel, or outboard motor;

(iii) the vehicle identification number or vessel or outboard motor identification number;

(iv) the license number, temporary permit number, or other identification number issued by a state agency;

(v) the date, time, and place of impoundment;

(vi) the reason for removal or impoundment;

(vii) the name of the tow truck motor carrier who removed the vehicle, vessel, or outboard motor; and

(viii) the place where the vehicle, vessel, or outboard motor is stored.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the State Tax Commission shall make rules to establish proper format and information required on the form described in this subsection (4).

[~~(c)~~] (e) Until the tow truck operator or tow truck motor carrier reports the removal as required under this Subsection (4), a tow truck motor carrier or impound yard may not:

(i) collect any fee associated with the removal; and

(ii) begin charging storage fees.

(5) (a) Except as provided in Subsection (5)(e) and upon receipt of the report, the Motor Vehicle Division shall give notice, in the manner described in Section 41-1a-114, to the following parties with an interest in the vehicle, vessel, or outboard motor, as applicable:

(i) the registered owner;

(ii) any lien holder; or

(iii) a dealer, as defined in Section 41-1a-102, if the vehicle, vessel, or outboard motor is currently operating under a temporary permit issued by the dealer, as described in Section 41-3-302.

(b) The notice shall:

(i) state the date, time, and place of removal, the name, if applicable, of the person operating the vehicle, vessel, or outboard motor at the time of removal, the reason for removal, and the place where the vehicle, vessel, or outboard motor is stored;

(ii) state that the registered owner is responsible for payment of towing, impound, and storage fees charged against the vehicle, vessel, or outboard motor;

(iii) state the conditions that must be satisfied before the vehicle, vessel, or outboard motor is released; and

(iv) inform the parties described in Subsection (5)(a) of the division's intent to sell the vehicle, vessel, or outboard motor, if, within 30 days after the day of the removal or impoundment under this section, one of the parties fails to make a claim for release of the vehicle, vessel, or outboard motor.

(c) Except as provided in Subsection (5)(e) and if the vehicle, vessel, or outboard motor is not registered in this state, the Motor Vehicle Division shall make a reasonable effort to notify the parties described in Subsection (5)(a) of the removal and the place where the vehicle, vessel, or outboard motor is stored.

(d) The Motor Vehicle Division shall forward a copy of the notice to the place where the vehicle, vessel, or outboard motor is stored.

(e) The Motor Vehicle Division is not required to give notice under this Subsection (5) if a report was received by a tow truck operator or tow truck motor carrier reporting a tow truck service in accordance with Subsection 72-9-603(1)(a)(i).

(6) (a) The vehicle, vessel, or outboard motor shall be released after a party described in Subsection (5)(a):

(i) makes a claim for release of the vehicle, vessel, or outboard motor at any office of the State Tax Commission;

(ii) presents identification sufficient to prove ownership of the impounded vehicle, vessel, or outboard motor;

(iii) completes the registration, if needed, and pays the appropriate fees;

(iv) if the impoundment was made under Section 41-6a-527, pays an administrative impound fee of $400; and

(v) pays all towing and storage fees to the place where the vehicle, vessel, or outboard motor is stored.

(b) (i) Twenty-nine dollars of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be dedicated credits to the Motor Vehicle Division;

(ii) $147 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited [~~in~~] into the Department of Public Safety Restricted Account created in Section 53-3-106;

(iii) $20 of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited in the Spinal Cord and Brain Injury Rehabilitation Fund; and

(iv) the remainder of the administrative impound fee assessed under Subsection (6)(a)(iv) shall be deposited [~~in~~] into the General Fund.

(c) The administrative impound fee assessed under Subsection (6)(a)(iv) shall be waived or refunded by the State Tax Commission if the registered owner, lien holder, or owner's agent presents written evidence to the State Tax Commission that:

(i) the Driver License Division determined that the arrested person's driver license should not be suspended or revoked under Section 53-3-223 or 41-6a-521 as shown by a letter or other report from the Driver License Division presented within 180 days after the day on which the Driver License Division mailed the final notification; or

(ii) the vehicle was stolen at the time of the impoundment as shown by a copy of the stolen vehicle report presented within 180 days after the day of the impoundment.

(d) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a removal or impoundment under Subsection (1) or any service rendered, performed, or supplied in connection with a removal or impoundment under Subsection (1).

(e) The owner of an impounded vehicle may not be charged a fee for the storage of the impounded vehicle, vessel, or outboard motor if:

(i) the vehicle, vessel, or outboard motor is being held as evidence; and

(ii) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 5(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under this Subsection (6).

(7) (a) [~~An~~] For an impounded vehicle, vessel, or outboard motor not claimed by a party described in Subsection (5)(a) within the time prescribed by Section 41-1a-1103 [~~shall be sold in accordance with that section and the proceeds, if any, shall be disposed of as provided under Section 41-1a-1104~~], the Motor Vehicle Division shall issue a certificate of sale for the impounded vehicle, vessel, or outboard motor as described in Section 41-1a-1103.

(b) The date of impoundment is considered the date of seizure for computing the time period provided under Section 41-1a-1103.

(8) A party described in Subsection (5)(a) that pays all fees and charges incurred in the impoundment of the owner's vehicle, vessel, or outboard motor has a cause of action for all the fees and charges, together with damages, court costs, and attorney fees, against the operator of the vehicle, vessel, or outboard motor whose actions caused the removal or impoundment.

(9) Towing, impound fees, and storage fees are a possessory lien on the vehicle, vessel, or outboard motor.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules setting the performance standards for towing companies to be used by the department.

(11) (a) The Motor Vehicle Division may specify that a report required under Subsection (4) be submitted in electronic form utilizing a database for submission, storage, and retrieval of the information.

(b) (i) Unless otherwise provided by statute, the Motor Vehicle Division or the administrator of the database may adopt a schedule of fees assessed for utilizing the database.

(ii) The fees under this Subsection (11)(b) shall:

(A) be reasonable and fair; and

(B) reflect the cost of administering the database.

Section 6. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of $45 of the fees collected under Subsection 53-3-105(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of $45, $100 shall be deposited [~~in~~] into the State Laboratory Drug Testing Account created in Section 26-1-34.

(6) All money received under Subsection 41-6a-1406(6)[~~(b)~~](c)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate $100,000 annually from the account to the state medical examiner appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in

the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(25) in the next fiscal year.

Section 7. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates, Title 41.

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102(30) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)[~~(b)~~](c)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which create the Off-highway Vehicle Advisory Council, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section 8. Section 72-9-603 is amended to read:

72-9-603. Towing notice requirements -- Cost responsibilities -- Abandoned vehicle title restrictions -- Rules for maximum rates and certification.

(1) Except for a tow truck service that was ordered by a peace officer, a person acting on behalf of a law enforcement agency, or a highway authority, after performing a tow truck service that is being done without the vehicle, vessel, or outboard motor owner's knowledge, the tow truck operator or the tow truck motor carrier shall:

(a) immediately upon arriving at the place of storage or impound of the vehicle, vessel, or outboard motor:

(i) send a report of the removal to the Motor Vehicle Division that complies with the requirements of Subsection [~~41-6a-1406(4)(b)~~] 41-6a-1406(4); and

(ii) contact the law enforcement agency having jurisdiction over the area where the vehicle, vessel, or outboard motor was picked up and notify the agency of the:

(A) location of the vehicle, vessel, or outboard motor;

(B) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(C) reasons for the removal of the vehicle, vessel, or outboard motor;

(D) person who requested the removal of the vehicle, vessel, or outboard motor; and

(E) description, including the identification number, license number, or other identification number issued by a state agency, of the vehicle, vessel, or outboard motor;

(b) within two business days of performing the tow truck service under Subsection (1)(a), send a certified letter to the last-known address of each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor obtained from the Motor Vehicle Division or, if the person has actual knowledge of the party's address, to the current address, notifying the party of the:

(i) location of the vehicle, vessel, or outboard motor;

(ii) date, time, and location from which the vehicle, vessel, or outboard motor was removed;

(iii) reasons for the removal of the vehicle, vessel, or outboard motor;

(iv) person who requested the removal of the vehicle, vessel, or outboard motor;

(v) a description, including its identification number and license number or other identification number issued by a state agency; and

(vi) costs and procedures to retrieve the vehicle, vessel, or outboard motor; and

(c) upon initial contact with the owner whose vehicle, vessel, or outboard motor was removed, provide the owner with a copy of the Utah Consumer Bill of Rights Regarding Towing established by the department in Subsection (16)(e).

(2) Until the tow truck operator or tow truck motor carrier reports the removal as required under Subsection (1)(a), a tow truck operator, tow truck motor carrier, or impound yard may not:

(a) collect any fee associated with the removal; or

(b) begin charging storage fees.

(3) (a) Except as provided in Subsection (3)(b) or (9), a tow truck operator or tow truck motor carrier may not perform a tow truck service at the request or direction of a private property owner or the property owner's agent unless:

(i) the owner or a lien holder of the vehicle, vessel, or outboard motor consents to the tow truck service; or

(ii) the property owner erects signage that meets the requirements of:

(A) Subsection (4)(b)(ii); and

(B) Subsection (7) or (8).

(b) Subsections (7) through (9) do not apply to the removal of a vehicle, vessel, or outboard motor:

(i) from a location where parking is prohibited by law, including:

(A) a designated fire lane;

(B) within 15 feet of a fire hydrant, unless the vehicle is parked in a marked parking stall or space; or

(C) a marked parking stall or space legally designated for disabled persons;

(ii) from a location where it is reasonably apparent that the location is not open to parking;

(iii) from a location where all public access points are controlled by:

(A) a permanent gate, door, or similar feature allowing the vehicle to access the facility; or

(B) a parking attendant;

(iv) from a location that materially interferes with access to private property;

(v) from the property of a detached single-family dwelling or duplex; or

(vi) pursuant to a legal repossession.

(4) (a) A private property owner may, subject to the requirements of a local ordinance, enforce parking restrictions by:

(i) authorizing a tow truck motor carrier to patrol and monitor the property and enforce parking restrictions on behalf of the property owner in accordance with Subsection (7);

(ii) enforcing parking restrictions as needed by requesting a tow from a tow truck motor carrier on a case-by-case basis in accordance with Subsection (8); or

(iii) requesting a tow from a tow truck motor carrier after providing 24-hour written notice in accordance with Subsection (9).

(b) (i) Any agreement between a private property owner and tow truck motor carrier authorizing the tow truck motor carrier to patrol and monitor the property under Subsection (4)(a)(i) shall include specific terms and conditions for the tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the property.

(ii) In addition to the signage described in Subsection (7) or (8), a private property owner who allows public parking shall erect appropriate signage on the property indicating clear instructions for parking at the property.

(iii) Where a single parking area includes abutting parcels of property owned by two or more private property owners who enforce different parking restrictions under Subsection (7) or (8), each property owner shall, in addition to the requirements under Subsection (7) or (8), erect signage as required by this section:

(A) at each entrance to the property owner's parcel from another property owner's parcel; and

(B) if there is no clearly defined entrance between one property owner's parcel and another property owner's parcel, at intervals of 40 feet or less along the line dividing the property owner's parcel from the other property owner's parcel.

(iv) Where there is no clearly defined entrance to a parking area from a highway, the property owner shall erect signage as required by this section at intervals of 40 feet or less along any portion of a property line where a vehicle, vessel, or outboard motor may enter the parking area.

(5) Nothing in Subsection (3) or (4) restricts the ability of a private property owner from, subject to the provisions of this section, instituting and enforcing regulations for parking at the property.

(6) In addition to any other powers provided by law, a political subdivision or state agency may:

(a) enforce parking restrictions in accordance with Subsections (7) through (9) on property that is:

(i) owned by the political subdivision or state agency;

(ii) located outside of the public right-of-way; and

(iii) open to public parking; and

(b) request or direct a tow truck service in order to abate a public nuisance on private property over which the political subdivision or state agency has jurisdiction.

(7) For private property where parking is enforced under Subsection (4)(a)(i), the property owner shall ensure that each entrance to the property has the following signs located on the property and clearly visible to the driver of a vehicle entering the property:

(a) a top sign that is 24 inches tall by 18 inches wide and has:

(i) a blue, reflective background with a 1/2 inch white border;

(ii) two-inch, white letters at the top of the sign with the capitalized words "Lot is Patrolled";

(iii) a white towing logo that is six inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed; and

(iv) two-inch, white letters at the bottom of the sign with the capitalized words "Towing Enforced"; and

(b) a bottom sign that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) a top half that is red background with white, reflective letters indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(ii) a bottom half that has a white, reflective background with red letters indicating:

(A) the name and telephone number of the tow truck motor carrier that the property owner has authorized to patrol the property; and

(B) the Internet web address "tow.utah.gov".

(8) For private property where parking is enforced under Subsection (4)(a)(ii):

(a) a tow truck motor carrier may not:

(i) patrol and monitor the property;

(ii) perform a tow truck service without the written or verbal request of the property owner or the property owner's agent; or

(iii) act as the property owner's agent to request a tow truck service; and

(b) the property owner shall ensure that each entrance to the property has a clearly visible sign located on the property that is 24 inches tall by 18 inches wide with a 1/2 inch white, reflective border, and has:

(i) at the top of the sign, a blue background with a white, reflective towing logo that is at least four inches tall and 16 inches wide that depicts an entire tow truck, a tow hook, and an entire vehicle being towed;

(ii) immediately below the towing logo described in Subsection (8)(b)(i), a blue background with white, reflective letters at least two inches tall with the capitalized words "Towing Enforced";

(iii) in the middle of the sign, a red background with white, reflective letters at least one inch tall indicating:

(A) who is authorized to park or restricted from parking at the property; and

(B) any type of vehicle prohibited from parking at the property; and

(iv) at the bottom of the sign, a white, reflective background with red letters at least one inch tall indicating:

(A) either:

(I) the name and telephone number of the property owner or the property owner's agent who is authorized to request a tow truck service; or

(II) the name and telephone number of the tow truck motor carrier that provides tow truck services for the property; and

(B) the Internet web address "tow.utah.gov".

(9) (a) For private property without signage meeting the requirements of Subsection (7) or (8), the property owner may request a tow truck motor carrier to remove a vehicle, vessel, or outboard motor from the private property 24 hours after the property owner or the property owner's agent affixes a written notice to the vehicle, vessel, or outboard motor in accordance with this Subsection (9).

(b) The written notice described in Subsection (9)(a) shall:

(i) indicate the exact time when the written notice is affixed to the vehicle, vessel, or outboard motor;

(ii) warn the owner of the vehicle, vessel, or outboard motor that the vehicle, vessel, or outboard motor will be towed from the property if it is not removed within 24 hours after the time indicated in Subsection (9)(b)(i);

(iii) be at least four inches tall and four inches wide; and

(iv) be affixed to the vehicle, vessel, or outboard motor at a conspicuous location on the driver's side window of the vehicle, vessel, or outboard motor.

(c) A property owner may authorize a tow truck motor carrier to act as the property owner's agent for purposes of affixing the written notice described in Subsection (9)(a) to a vehicle, vessel, or outboard motor.

(10) The department shall publish on the department Internet website the signage requirements and written notice requirements and illustrated or photographed examples of the signage and written notice requirements described in Subsections (7) through (9).

(11) It is an affirmative defense to any claim, based on the lack of notice, that arises from the towing of a vehicle, vessel, or outboard motor from private property that the property had signage meeting the requirements of:

(a) Subsection (4)(b)(ii); and

(b) Subsection (7) or (8).

(12) The party described in Subsection 41-6a-1406(5)(a) with an interest in a vehicle, vessel, or outboard motor lawfully removed is only responsible for paying:

(a) the tow truck service and storage fees set in accordance with Subsection (16); and

(b) the administrative impound fee set in Section 41-6a-1406, if applicable.

(13) (a) The fees under Subsection (12) are a possessory lien on the vehicle, vessel, or outboard motor and any nonlife essential items contained in the vehicle, vessel, or outboard motor that are owned by the owner of the vehicle, vessel, or outboard motor until paid.

(b) The tow truck operator or tow truck motor carrier shall securely store the vehicle, vessel, or outboard motor and items described in Subsection (13)(a) in an approved state impound yard until a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor:

(i) pays the fees described in Subsection (12); and

(ii) removes the vehicle, vessel, or outboard motor from the state impound yard.

(14) (a) A vehicle, vessel, or outboard motor shall be considered abandoned if a party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor does not, within 30 days after notice has been sent under Subsection (1)(b):

(i) pay the fees described in Subsection (12); and

(ii) remove the vehicle, vessel, or outboard motor from the secure storage facility.

(b) A person may not request a transfer of title to an abandoned vehicle, vessel, or outboard motor until at least 30 days after notice has been sent under Subsection (1)(b).

(15) (a) A tow truck motor carrier or impound yard shall clearly and conspicuously post and disclose all its current fees, rates, and acceptable forms of payment for tow truck service and storage of a vehicle in accordance with rules established under Subsection (16).

(b) A tow truck operator, a tow truck motor carrier, and an impound yard shall accept payment by cash and debit or credit card for a tow truck service under Subsection (1) or any service rendered, performed, or supplied in connection with a tow truck service under Subsection (1).

(16) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall:

(a) subject to the restriction in Subsection (17), set maximum rates that:

(i) a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that are transported in response to:

(A) a peace officer dispatch call;

(B) a motor vehicle division call; and

(C) any other call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; [~~and~~]

(ii) an impound yard may charge for the storage of a vehicle, vessel, or outboard motor stored as a result of one of the conditions listed under Subsection (16)(a)(i); and

(iii) an impound yard may charge for the after-hours release of a vehicle, vessel, or outboard motor stored as a result of one of the conditions described in Subsection (16)(a)(i);

(b) establish authorized towing certification requirements, not in conflict with federal law, related to incident safety, clean-up, and hazardous material handling;

(c) specify the form and content of the posting and disclosure of fees and rates charged and acceptable forms of payment by a tow truck motor carrier or impound yard;

(d) set a maximum rate for an administrative fee that a tow truck motor carrier may charge for reporting the removal as required under Subsection (1)(a)(i) and providing notice of the removal to each party described in Subsection 41-6a-1406(5)(a) with an interest in the vehicle, vessel, or outboard motor as required in Subsection (1)(b); [~~and~~]

(e) establish a Utah Consumer Bill of Rights Regarding Towing form that contains specific information regarding:

(i) a vehicle owner's rights and responsibilities if the owner's vehicle is towed;

(ii) identifies the maximum rates that a tow truck motor carrier may charge for the tow truck service of a vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal; and

(iii) identifies the maximum rates that an impound yard may charge for the storage of vehicle, vessel, or outboard motor that is transported in response to a call or request where the owner of the vehicle, vessel, or outboard motor has not consented to the removal[~~.~~]; and

(f) set a maximum rate for an after-hours fee allowed under Subsection (19)(b).

(17) An impound yard may not charge a fee for the storage of an impounded vehicle, vessel, or outboard motor if:

(a) the vehicle, vessel, or outboard motor is being held as evidence; and

(b) the vehicle, vessel, or outboard motor is not being released to a party described in Subsection 41-6a-1406(5)(a), even if the party satisfies the requirements to release the vehicle, vessel, or outboard motor under Section 41-6a-1406.

(18) (a) (i) A tow truck motor carrier may charge a rate up to the maximum rate set by the department in rules made under Subsection (16).

(ii) In addition to the maximum rates established under Subsection (16) and when receiving payment by credit card, a tow truck operator, a tow truck motor carrier, or an impound yard may charge a credit card processing fee of 3% of the transaction total.

(b) A tow truck motor carrier may not be required to maintain insurance coverage at a higher level than required in rules made pursuant to Subsection (16).

(19) When a tow truck motor carrier or impound lot is in possession of a vehicle, vessel, or outboard motor as a result of a tow service that was performed without the consent of the owner, and that was not ordered by a peace officer or a person acting on behalf of a law enforcement agency, the tow truck motor carrier or impound yard shall make personnel available:

(a) by phone 24 hours a day, seven days a week; and

(b) to release the impounded vehicle, vessel, or outboard motor to the owner within one hour of when the owner calls the tow truck motor carrier or impound yard.

(20) A tow truck motor carrier or a tow truck operator may not:

(a) share contact or other personal information of an owner of a vehicle, vessel, or outboard motor for which the tow truck motor carrier or tow truck operator has performed a tow service; and

(b) receive payment for referring a person for whom the tow truck motor carrier or tow truck operator has performed a tow service to another service, including:

(i) a lawyer referral service;

(ii) a medical provider;

(iii) a funding agency;

(iv) a marketer for any service described in Subsections (20)(b)(i) through (iii);

(v) a marketer for any other service; or

(vi) a third party vendor.

Section 9. Effective date.

This bill takes effect on October 15, 2022.

CHAPTER 93
S. B. 122

Passed February 24, 2022
Approved March 21, 2022
Effective May 4, 2022

UNMANNED AIRCRAFT AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Adam Robertson

LONG TITLE

General Description:

This bill concerns use and study of an unmanned aircraft system.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Transportation to convene a working group to study advanced air mobility;
- provides when an actor may be found guilty of a criminal offense that is committed with the aid of an unmanned aircraft system; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-216.1, as enacted by Laws of Utah 2021, Chapter 358

ENACTS:

76-2-106, Utah Code Annotated 1953

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

Section 1. Section 72-1-216.1 is amended to read:

72-1-216.1. State plane operations and advanced air mobility study.

(1) The department shall study:

(a) options to improve the operations of the state airplane fleet, including addressing how to make the state airplane fleet operations more self-reliant through:

(i) funding the state's plane operations through plane user fees; and

(ii) fleet replacement options; and

(b) the development and implementation of advanced air mobility in the state, including:

(i) identifying current state assets and assets in development that support advanced air mobility;

(ii) identifying assets required for full implementation of advanced air mobility;

(iii) identifying potential benefits and limitations of implementing advanced air mobility;

(iv) the feasibility of options to progress toward implementing a statewide advanced air mobility system, including phasing critical elements; and

(v) reviewing infrastructure funding mechanisms employed or under consideration by other states.

[~~(2) The department shall provide a report of the department's findings before September 30, 2022, to the Transportation Interim Committee.~~]

(2) (a) The department shall convene a working group to study current laws in the state and identify potential changes to state law necessary to facilitate the development of advanced air mobility operations in the state.

(b) A working group under Subsection (2)(a) may include:

(i) one or more interested members of the Legislature;

(ii) one or more representatives of the advanced air mobility industry;

(iii) the executive director of the department or the executive director's designee;

(iv) the commissioner of the Department of Public Safety or the commissioner's designee;

(v) a representative of the Utah League of Cities and Towns;

(vi) a representative of the Utah Association of Counties;

(vii) a representative of the business community; and

(viii) a representative of a state institution of higher education.

(3) On or before September 30, 2022, the department shall provide a report to the Transportation Interim Committee of the department's findings from the study described in Subsection (1) and the working group described in Subsection (2).

Section 2. Section 76-2-106 is enacted to read:

76-2-106. Commission of offense with aid of unmanned aircraft system.

(1) As used in this section:

(a) "Unmanned aircraft" means the same as that term is defined in Section 72-14-102.

(b) "Unmanned aircraft system" means the same as that term is defined in Section 72-14-102.

(2) An actor may be found guilty of an offense if:

(a) the actor commits the offense with the aid of an unmanned aircraft; and

(b) the unmanned aircraft system for the unmanned aircraft is under the actor's control at the time of the offense.

CHAPTER 94
S. B. 133

Passed March 2, 2022
Approved March 21, 2022
Effective May 4, 2022

FOOD SECURITY AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses food security in the state.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Food Security Council at Utah State University to coordinate state efforts in addressing food security; and
- describes the membership, duties, and reporting requirements of the Food Security Council.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Utah State University -- Cooperative Extension, as an ongoing appropriation:
  - from the General Fund, $75,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-18-1701, Utah Code Annotated 1953
53B-18-1702, Utah Code Annotated 1953
53B-18-1703, Utah Code Annotated 1953

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

Section 1. Section 53B-18-1701 is enacted to read:

Part 17. Food Security Council

53B-18-1701. Definitions.

As used in this part:

(1) "Council" means the Food Security Council created in Section 53B-18-1702.

(2) "Food security" means access to sufficient, affordable, safe, and nutritious food that meets an individual's food preferences and dietary needs.

(3) "SNAP-Ed program" means the nutrition education component of the federal "Supplemental Nutrition Assistance Program" under Title 7, U.S.C. Chapter 51, Supplemental Nutrition Assistance Program.

(4) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

(5) "Utah food product" means a food product that is produced in the state.

Section 2. Section 53B-18-1702 is enacted to read:

53B-18-1702. Creation of Food Security Council -- Members.

(1) There is created at Utah State University the Food Security Council.

(2) The council is composed of the following 15 members:

(a) the executive director of the Department of Health and Human Services or the executive director's designee;

(b) the executive director of the Department of Workforce Services or the executive director's designee;

(c) the state superintendent or the state superintendent's designee;

(d) the commissioner or the commissioner's designee;

(e) the commissioner of the Department of Agriculture and Food or the commissioner's designee; and

(f) the following members appointed by the chair of the council:

(i) one member who represents the Utah State University Extension Service;

(ii) one member who represents the Utah State University Expanded Food and Nutrition Education Program;

(iii) one member who represents the Utah Women, Infants, and Children Program administered under 42 U.S.C. Sec. 1786;

(iv) one member who represents the Utah SNAP-Ed program;

(v) one member who represents a food assistance organization;

(vi) one member who represents an advocacy group that addresses federal nutrition programs;

(vii) one member who represents an organization that promotes healthy eating and active lifestyles in the state;

(viii) one member who represents an organization that provides refugee resettlement services in the state;

(ix) one member who represents the Utah Farm Bureau Federation; and

(x) one member who represents a tribal government in the state.

(3) (a) A member described in Subsection (2)(d) shall serve a term of two years.

(b) If a vacancy occurs for a member described in Subsection (2)(d), the chair of the council shall appoint a replacement to serve the remainder of the member's term.

(c) A member may serve more than one term.

(4) A member may not receive compensation or benefits for the member's service.

(5) The council shall elect a chair from the council's members, who shall serve a two-year term.

(6) (a) A majority of the members of the council constitutes a quorum of the council.

(b) The action by a majority of the members of a quorum constitutes the action of the council.

(7) The Utah State University Hunger Solutions Institute shall provide staff support to the council.

Section 3. Section 53B-18-1703 is enacted to read:

53B-18-1703. Duties of Food Security Council -- Reporting.

(1) The council shall:

(a) develop statewide goals and messaging related to food security and nutrition education;

(b) coordinate statewide efforts to address food security;

(c) ensure that any state programs receiving federal funds from the United States Department of Agriculture Food and Nutrition Service provide consistent and coordinated nutrition education messaging;

(d) promote programs and activities that contribute to healthy eating and active lifestyles;

(e) promote programs and activities that advance Utah food products; and

(f) disseminate the statewide goals and messaging developed under Subsection (2) to state agencies.

(2) On or before October 1 of each year, the council shall prepare and submit an annual written report to the Economic Development and Workforce Services Interim Committee, the Education Interim Committee, and the Natural Resources, Agriculture, and Environment Interim Committee that contains:

(a) a description of the council's operations, activities, programs, and services; and

(b) any recommendations on how the state should act to address issues relating to food security.

(3) The council may accept gifts, grants, or donations from public or private sources for purposes of carrying out the council's duties.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah State University — Cooperative Extension

From General Fund	$75,000
Schedule of Programs:	
Cooperative Extension	$75,000

The Legislature intends that the appropriation under this item be used for expenses relating to the Food Security Council created in Section 53B-18-1702.

CHAPTER 95
S. B. 136

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

AIR QUALITY POLICY AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Stephen G. Handy
Cosponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill requires a study by the Department of Environmental Quality.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Environmental Quality to study and make recommendations on a diesel emissions reduction plan framework;
- provides for reporting;
- includes a repeal date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-219, as last amended by Laws of Utah 2021, Chapters 64 and 71

ENACTS:

19-2a-102.5, Utah Code Annotated 1953

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

Section 1. Section 19-2a-102.5 is enacted to read:

19-2a-102.5. Emissions reduction plan study and recommendations.

(1) As used in this section:

(a) "Disproportionate air quality affected area" means a non-attainment area, as defined in Clean Air Act, Section 107(d)(1)(A)(i), 42 U.S.C. Sec. 7407(d)(1)(A)(i), or a geographic area that, when compared with other areas in the state, is more likely to be found to not meet air quality standards.

(b) "Inland port" means a project area as that term is defined in Section 11-58-102.

(c) "Inland port area" means an area in and around an inland port that bears the environmental impacts of destruction, construction, development, and operational activities within the inland port.

(d) "Legislative interim committees" means:

(i) the Economic Development and Workforce Services Interim Committee;

(ii) the Natural Resources, Agriculture, and Environment Interim Committee; and

(iii) the Transportation Interim Committee.

(e) (i) "Underserved or underrepresented community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(ii) "Underserved or underrepresented community" may include an economically disadvantaged community where the people of the community have limited access to or have demonstrated a low level of use of emission reduction programs.

(2) The department shall conduct a study in accordance with Subsection (3) and recommend to the legislative interim committees a Utah diesel emission reduction program in accordance with Subsection (4).

(3) The department shall study:

(a) the Texas Emission Reduction Plan, Tex. Health & Safety Code Ann., C 386, and other examples of diesel emission reduction programs;

(b) potential diesel emission reduction goals from targeted diesel emission sources that apply to specific:

(i) on- and off-road diesel vehicles and equipment; and

(ii) geographic airsheds;

(c) potential diesel emission reduction financial incentive programs;

(d) potential revenue sources to fund incentive programs described in Subsection (3)(c);

(e) administrative, evaluation, and reporting responsibilities; and

(f) potential environmental mitigation projects that could reduce emissions within and around the inland port area and be implemented by the Utah Inland Port Authority.

(4) (a) The department shall recommend to the legislative interim committees a framework of the Utah diesel emission reduction program that includes:

(i) diesel emission reduction goals;

(ii) financial incentive programs to encourage the reduction of diesel emissions;

(iii) revenue sources to fund the financial incentive programs described in Subsection (4)(a)(ii); and

(iv) implementation of the Utah diesel emission reduction program, including:

(A) which one or more state agencies should administer the Utah diesel emission reduction program;

(B) evaluation processes; and

(C) reporting requirements.

(b) The framework described in this Subsection (4) shall specifically include recommendations for:

(i) registration surcharges:

(A) related to on- or off-road diesel equipment or vehicles sold, rented, or leased; and

(B) that are deposited into and allowed to accumulate in an expendable special revenue fund for purposes related to the Utah diesel emission reduction program;

(ii) potential environmental mitigation projects for the inland port area identified under Subsection (3)(f);

(iii) programs to foster new technology implementation, including:

(A) a grant program;

(B) the expansion of Utah's clean diesel program; or

(C) tax credits for cleaner equipment purchases;

(iv) financial incentives for the early retirement of heavy-duty diesel equipment and the potential expansion of Title 19, Chapter 2, Part 2, Clean Air Retrofit, Replacement, and Off-road Technology Program; and

(v) state construction contract incentives that are awarded to persons who predominately use equipment that has the most current generation federal emissions standard engines, clean alternative fuel engines, or electric motors.

(c) The framework described in this Subsection (4) shall provide for programs that directly benefit:

(i) rural communities;

(ii) inland port areas;

(iii) underserved or underrepresented communities; and

(iv) disproportionate air quality affected areas.

(5) (a) The department shall make an interim report to the legislative interim committees on the status of the study under this section during or before the November interim meetings in 2022.

(b) The department shall provide a final report to the legislative interim committees of the department's study and recommendations under this section, including any recommended legislation, during or before the November interim meetings in 2023.

Section 2. Section 63I-2-219 is amended to read:

63I-2-219. Repeal dates -- Title 19.

(1) Subsections 19-2-109.2(2) through (10), related to the Compliance Advisory Panel, are repealed July 1, 2023.

(2) Section 19-2a-102.5, addressing a study and recommendations for a diesel emission reduction program, is repealed July 1, 2024.

CHAPTER 96
S. B. 146

Passed February 24, 2022
Approved March 21, 2022
Effective May 4, 2022

DIVISION OF OIL, GAS, AND MINING AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill amends definitions related to oil production.

Highlighted Provisions:

This bill:

- amends the definitions of "crude oil" and "oil" to clarify regulatory authority over tar sands production; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

40-6-2, as last amended by Laws of Utah 2020, Chapter 375

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

Section 1. Section 40-6-2 is amended to read:

40-6-2. Definitions.

For the purpose of this chapter:

(1) "Board" means the Board of Oil, Gas, and Mining.

(2) "Correlative rights" means the opportunity of each owner in a pool to produce the owner's just and equitable share of the oil and gas in the pool without waste.

(3) "Condensate" means hydrocarbons, regardless of gravity, that:

(a) occur naturally in the gaseous phase in the reservoir; and

(b) are separated from the natural gas as liquids through the process of condensation either in the reservoir, in the wellbore, or at the surface in field separators.

(4) "Consenting owner" means an owner who, in the manner and within the time frame established by the board in rule, consents to the drilling and operation of a well and agrees to bear the owner's proportionate share of the costs of the drilling and operation of the well.

(5) "Crude oil" means hydrocarbons, regardless of gravity, that:

[~~(a) occur naturally in the liquid phase in the reservoir; and~~]

[~~(b) are produced and recovered at the wellhead in liquid form.~~]

(a) are produced at the wellhead in liquid form; and

(b) (i) occur naturally in the liquid phase in the reservoir; or

(ii) are produced through enhanced recovery operations authorized by the board in accordance with Subsection 40-6-5(3)(c).

(6) "Division" means the Division of Oil, Gas, and Mining.

(7) (a) "Gas" means natural gas, as defined in Subsection (10), natural gas liquids, as defined in Subsection (11), other gas, as defined in Subsection (17), or any mixture of them.

(b) "Gas" does not include any gaseous or liquid substance processed from coal, oil shale, or tar sands.

(8) "Illegal oil" or "illegal gas" means oil or gas that has been produced from any well within the state in violation of this chapter or any rule or order of the board.

(9) "Illegal product" means any product derived in whole or in part from illegal oil or illegal gas.

(10) (a) "Natural gas" means hydrocarbons that occur naturally in the gaseous phase in the reservoir and are produced and recovered at the wellhead in gaseous form, except natural gas liquids as defined in Subsection (11) and condensate as defined in Subsection (3).

(b) "Natural gas" includes coalbed methane gas.

(11) "Natural gas liquids" means hydrocarbons, regardless of gravity, that are separated from natural gas as liquids in gas processing plants through the process of condensation, absorption, adsorption, or other methods.

(12) "Nonconsenting owner" means an owner who does not, after written notice and in the manner and within the time frame established by the board in rule, consent to the drilling and operation of a well or agree to bear the owner's proportionate share of the costs.

(13) (a) "Oil" means crude oil, as defined in Subsection (5), condensate, as defined in Subsection (3), or any mixture of them.

(b) "Oil" does not include, except as provided in Subsection (13)(c), any gaseous or liquid substance processed from coal, oil shale, or tar sands.

(c) "Oil" includes tar sands produced at the wellhead in liquid form through enhanced recovery operations authorized by the board in accordance with Subsection 40-6-5(3)(c).

(14) "Oil and gas operations" means to explore for, develop, or produce oil and gas.

(15) (a) "Oil and gas proceeds" means any payment that:

(i) derives from oil and gas production from any well located in the state;

(ii) is expressed as a right to a specified interest in the:

(A) cash proceeds received from the sale of the oil and gas; or

(B) the cash value of the oil and gas; and

(iii) is subject to any tax withheld from the payment pursuant to law.

(b) "Oil and gas proceeds" includes a royalty interest, overriding royalty interest, production payment interest, or working interest.

(c) "Oil and gas proceeds" does not include a net profits interest or other interest the extent of which cannot be determined with reference to a specified share of:

(i) the cash proceeds received from the sale of the oil and gas; or

(ii) the cash value of the oil and gas.

(16) "Operator" means a person who has been designated by the owners or the board to operate a well or unit.

(17) (a) "Other gas" means nonhydrocarbon gases that:

(i) occur naturally in the gaseous phase in the reservoir; or

(ii) are injected into the reservoir in connection with pressure maintenance, gas cycling, or other secondary or enhanced recovery projects.

(b) "Other gas" includes hydrogen sulfide, carbon dioxide, helium, and nitrogen.

(18) "Owner" means a person who has the right:

(a) to drill into and produce from a reservoir; and

(b) to appropriate the oil and gas produced for that person or for that person and others.

(19) "Payor" means the person who undertakes to distribute oil and gas proceeds to the persons entitled to them, whether as the first purchaser of that production, as operator of the well from which the production was obtained, or as lessee under the lease on which royalty is due.

(20) "Person" means the same as that term is defined in Section 68-3-12.5 and includes an operator or owner as used in this chapter.

(21) "Pool" means an underground reservoir containing a common accumulation of oil or gas or both. Each zone of a general structure that is completely separated from any other zone in the structure is a separate pool. "Common source of supply" and "reservoir" are synonymous with "pool."

(22) "Pooling" means the bringing together of separately owned interests for the common development and operation of a drilling unit.

(23) "Producer" means the owner or operator of a well capable of producing oil and gas.

(24) "Product" means any commodity made from oil and gas.

(25) "Surface land" means privately owned land:

(a) overlying privately owned oil and gas resources;

(b) upon which oil and gas operations are conducted; and

(c) owned by a surface land owner.

(26) (a) "Surface land owner" means a person who owns, in fee simple absolute, all or part of the surface land as shown by the records of the county where the surface land is located.

(b) "Surface land owner" does not include the surface land owner's lessee, renter, tenant, or other contractually related person.

(27) "Surface land owner's property" means a surface land owner's:

(a) surface land;

(b) crops on the surface land; and

(c) existing improvements on the surface land.

(28) "Surface use agreement" means an agreement between an owner or operator and a surface land owner addressing:

(a) the use and reclamation of surface land owned by the surface land owner; and

(b) compensation for damage to the surface land caused by oil and gas operations that result in:

(i) loss of the surface land owner's crops on the surface land;

(ii) loss of value of existing improvements owned by the surface land owner on the surface land; and

(iii) permanent damage to the surface land.

(29) "Waste" means:

(a) the inefficient, excessive, or improper use or the unnecessary dissipation of oil or gas or reservoir energy;

(b) the inefficient storing of oil or gas;

(c) the locating, drilling, equipping, operating, or producing of any oil or gas well in a manner that causes:

(i) a reduction in the quantity of oil or gas ultimately recoverable from a reservoir under prudent and economical operations;

(ii) unnecessary wells to be drilled; or

(iii) the loss or destruction of oil or gas either at the surface or subsurface; or

(d) the production of oil or gas in excess of:

(i) transportation or storage facilities; or

(ii) the amount reasonably required to be produced as a result of the proper drilling, completing, testing, or operating of a well or otherwise utilized on the lease from which it is produced.

CHAPTER 97
S. B. 153

Passed March 3, 2022
Approved March 21, 2022
Effective March 21, 2022

MEDICAL CANNABIS GOVERNANCE STUDY

Chief Sponsor: Gene Davis
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill requires the Legislative Management Committee to create a working group to study and to make recommendations regarding a single state entity to oversee all medical cannabis regulation.

Highlighted Provisions:

This bill:

- requires the Legislative Management Committee to create a working group composed of members of two interim committees to study and make recommendations regarding a single state entity to oversee all medical cannabis regulation;
- requires the Department of Agriculture and Food and the Department of Health to report to the working group as requested;
- provides a repeal date; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41a-802, as last amended by Laws of Utah 2020, Chapter 148
26-61a-703, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
63I-2-236, as last amended by Laws of Utah 2021, Second Special Session, Chapter 8

ENACTS:

36-12-8.2, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

4-41a-802, as last amended by Laws of Utah 2020, Chapter 148
26-61a-703, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
36-12-8.2, Utah Code Annotated 1953
63I-2-236, as last amended by Laws of Utah 2021, Second Special Session, Chapter 8

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

Section 1. Section 4-41a-802 is amended to read:

4-41a-802. Report.

(1) At or before the November interim meeting each year, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications that the department receives under this chapter;

(b) the number of each type of cannabis production facility that the department licenses in each county;

(c) the amount of cannabis that licensees grow;

(d) the amount of cannabis that licensees manufacture into cannabis products;

(e) the number of licenses the department revokes under this chapter;

(f) the department's operation of an independent cannabis testing laboratory under Section 4-41a-201, including:

(i) the cannabis and cannabis products the department tested; and

(ii) the results of the tests the department performed; and

(g) the expenses incurred and revenues generated under this chapter.

(2) The department may not include personally identifying information in the report described in this section.

(3) During the 2022 legislative interim, the department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 2. Section 26-61a-703 is amended to read:

26-61a-703. Report.

(1) By the November interim meeting each year beginning in 2020, the department shall report to the Health and Human Services Interim Committee on:

(a) the number of applications and renewal applications filed for medical cannabis cards;

(b) the number of qualifying patients and designated caregivers;

(c) the nature of the debilitating medical conditions of the qualifying patients;

(d) the age and county of residence of cardholders;

(e) the number of medical cannabis cards revoked;

(f) the number of practitioners providing recommendations for qualifying patients;

(g) the number of license applications and renewal license applications received;

(h) the number of licenses the department has issued in each county;

(i) the number of licenses the department has revoked;

(j) the quantity of medical cannabis shipments that the state central patient portal facilitates;

(k) the number of overall purchases of medical cannabis and medical cannabis products from each medical cannabis pharmacy;

(l) the expenses incurred and revenues generated from the medical cannabis program; and

(m) an analysis of product availability in medical cannabis pharmacies.

(2) The department may not include personally identifying information in the report described in this section.

(3) During the 2022 legislative interim, the department shall report to the working group described in Section 36-12-8.2 as requested by the working group.

Section 3. Section 36-12-8.2 is enacted to read:

36-12-8.2. Medical cannabis governance structure working group.

During the 2022 legislative interim, the Legislative Management Committee shall establish a working group composed of three members of the Health and Human Services Interim Committee and three members of the Natural Resources, Agriculture, and Environment Interim Committee to:

(1) work with industry, patients, medical providers, and others to conduct a review of the state's governance structure over medical cannabis;

(2) study various regulatory structures throughout the nation regarding state agency regulation of medical cannabis; and

(3) at or before the October 2022 interim meeting, make recommendations to the Health and Human Services Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee on whether a committee should recommend committee legislation to vertically integrate licenses, streamline regulations, and reduce costs for patients by unifying the efforts of the Department of Health and the Department of Agriculture and Food under a single state authority over medical cannabis.

Section 4. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-12-8.2 is repealed July 1, 2023.

[~~(1)~~] (2) Section 36-29-107.5 is repealed on November 30, 2023.

[~~(2)~~] (3) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

Section 5. Effective date.

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

Section 6. Coordinating S.B. 153 with H.B. 397 -- Technical amendments.

If this S.B. 153 and H.B. 397, Title 36 Recodification and Revisions, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) renumber Section 36-12-8.2 enacted in this bill to Section 36-7a-701; and

(2) change the references in Sections 4-41a-802, 26-61a-703, and 63I-2-236 in this bill from Section 36-12-8.2 to Section 36-7a-701.

CHAPTER 98
S. B. 160

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

COLORADO RIVER AUTHORITY OF UTAH AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill modifies provisions related to the Colorado River Authority of Utah.

Highlighted Provisions:

This bill:

- amends the membership on the Colorado River Authority of Utah;
- amends the Colorado River authority areas;
- requires the authority to consult with tribes;
- addresses rulemaking and resolution procedure requirements; and
- makes technical changes, including omitting outdated language.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-14-202, as enacted by Laws of Utah 2021, Chapter 179

63M-14-203, as enacted by Laws of Utah 2021, Chapter 179 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 179

63M-14-209, as enacted by Laws of Utah 2021, Chapter 179

63M-14-210, as enacted by Laws of Utah 2021, Chapter 179

REPEALS:

63M-14-206, as enacted by Laws of Utah 2021, Chapter 179

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

Section 1. Section 63M-14-202 is amended to read:

63M-14-202. Organization of the authority.

(1) The authority is composed of [~~six~~] seven authority members:

(a) five authority members who represent Colorado River authority areas; [~~and~~]

(b) one authority member who represents the governor[~~.~~]; and

(c) one authority member who represents tribal interests.

(2) The five Colorado River authority areas, defined by existing county boundaries that reflect the historic and current use of the Colorado River system, include:

(a) the Central Utah Area composed of Salt Lake, Utah, Juab, Sanpete, Summit, Wasatch, Duchesne, and Uintah counties, located within the service area of the Central Utah Water Conservancy District;

(b) the Uintah Basin Area composed of Duchesne and Uintah counties, notwithstanding that these counties fall within the Central Utah Area, and Daggett county;

(c) the Price and San Rafael Area composed of Carbon and Emery counties;

(d) the Virgin River Area composed of Kane and Washington counties; and

(e) the State of Utah Area that represents:

(i) the remaining counties using the Colorado River system;

(ii) the Department of Natural Resources and the Department of Natural Resources' divisions; and

(iii) the users of the Colorado River system that are not specifically included in the other four Colorado River authority areas and include [~~Daggett,~~] Garfield, Grand, San Juan, and Wayne counties.

(3) The members of the authority are:

(a) four members appointed as follows:

(i) a representative of the Central Utah Area appointed by the board of trustees of the Central Utah Water Conservancy District;

(ii) a representative of the Uintah Basin Area appointed jointly by the boards of trustees of the Duchesne County and Uintah Water Conservancy Districts;

(iii) a representative of the Price and San Rafael Area appointed jointly by the county commission of Carbon County and the board of trustees of the Emery Water Conservancy District; and

(iv) a representative of the Virgin River Area appointed by the board of trustees of the Washington County Water Conservancy District;

(b) the director of the Division of Water Resources as the representative of the State of Utah Area created in Subsection (2)(e); [~~and~~]

(c) the executive director of the Department of Natural Resources as the representative of the governor[~~.~~]; and

(d) a representative of tribal interests who is:

(i) appointed by the governor; and

(ii) a member of a federally recognized Indian tribe if the tribe is, in whole or in part, located within the state and within the Colorado River system.

(4) A joint appointment required under Subsection (3) requires the agreement of both appointing authorities before the authority member seat is filled.

(5) An authority member who is appointed under Subsection (3) shall:

(a) be a resident of the state; and

(b) have experience and a general knowledge of:

(i) Colorado River issues and the use of the Colorado River system in the member's respective Colorado River authority area;

(ii) the development of the use of the waters of the Colorado River system; and

(iii) the rights of this state concerning the resources and benefits of the Colorado River system.

(6) (a) An appointing authority shall notify the chair of:

(i) the appointing authority's initial appointment to the authority [~~on or before July 1, 2021~~]; and

(ii) the appointment of a new member or when a vacancy is being filled.

(b) An appointment of an authority member is effective when received by the chair.

(c) The initial term of an appointed authority member expires June 30, 2027. Before June 30, 2027, the authority shall adopt a system to stagger the terms of appointed authority members beginning July 1, 2027, and notify each appointing authority of the duration of the term of the appointing authority's authority member. The staggering of terms after July 1, 2027, shall result in approximately one-third of the appointed authority members' terms expiring every two years. After the respective terms of adjustment are complete, subsequent authority members shall be appointed by an appointing authority for six-year terms.

(d) An authority member term shall end on June 30. New terms commence on July 1.

(e) An authority member whose term has expired shall serve until replaced or reappointed by the applicable appointing authority.

(f) An appointing authority may at any time remove the appointing authority's authority member for neglect of duty or malfeasance in office. If the authority member is jointly appointed, the authority member may only be removed by joint agreement of both appointing authorities.

(7) In the event of a vacancy in the authority, the chair shall notify the appointing authority of the vacancy and ask that an authority member be promptly appointed.

(8) (a) An authority member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

(b) If an authority member is a full-time employee with either the state or a water conservancy district, the authority member is not eligible for the per diem compensation.

(9) The executive director appointed under Section 63M-14-401 shall provide staff services to the authority.

Section 2. Section 63M-14-203 is amended to read:

63M-14-203. Authority operation -- Participation of the Department of Natural Resources -- Consultation with tribes.

(1) An authority member has one vote on authority matters.

(2) (a) Four members of the authority constitute a quorum to conduct authority business.

(b) A vote of four members is needed to pass authority business.

(3) (a) (i) The river commissioner appointed by the governor before March 16, 2021, shall serve as the chair of the authority until June 30, 2027, if the river commissioner is a member of the authority.

(ii) Beginning on July 1, 2027, the river commissioner shall be appointed under Section 63M-14-301 and shall serve as chair of the authority for a term of six years in accordance with Section 63M-14-302.

(b) The authority may elect other officers such as vice chair, secretary, and treasurer.

(c) The chair, vice chair, secretary, and treasurer are required to be authority members.

(d) Other officers of the authority are not required to be authority members. The authority shall adopt [~~rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for~~], by resolution, job responsibilities and terms of offices for the officers appointed under this Subsection (3)(d).

(e) If an authority officer no longer serves as an officer of the authority, the authority shall fill the vacancy for the unexpired term of the officer who is no longer serving.

(4) (a) The Department of Natural Resources shall cooperate with the authority.

(b) At the request of the authority, the executive director of the Department of Natural Resources shall:

(i) provide to the authority data or information collected by the Department of Natural Resources; and

(ii) ensure that the Department of Natural Resources present information to the authority.

(5) The authority shall seek an appropriate government-to-government relationship on matters directly related to the authority's general powers and mission as set forth in Section 63M-14-204 with all federally recognized Indian

tribes located, in whole or in part, within the state and within the Colorado River system.

Section 3. Section 63M-14-209 is amended to read:

63M-14-209. Advisory councils authorized -- Consultations.

(1) (a) The authority may create authorized advisory councils of interested persons for consultations with the authority.

(b) The authority shall[~~, by no later than December 31, 2021, make rules~~] by resolution adopt policies governing:

(i) authorized advisory councils;

(ii) authorized advisory council members;

(iii) authorized advisory council leadership; and

(iv) authorized topic areas of interest for each authorized advisory council that directly relate to the mission and objectives of the authority.

(c) The authority may consult with authorized advisory councils and consider data, information, and input from these authorized advisory councils relevant to the mission and objectives of the authority.

(2) The authority may consult with relevant watershed councils created under Title 73, Chapter 10g, Part 3, Watershed Councils Act.

Section 4. Section 63M-14-210 is amended to read:

63M-14-210. Application of state laws.

(1) (a) The authority is not an executive branch procurement unit under Title 63G, Chapter 6a, Utah Procurement Code, and is not subject to that chapter.

(b) The authority shall [~~make by rule~~] by resolution adopt a procurement procedure substantially similar to Title 63G, Chapter 6a, Utah Procurement Code, or a procurement code adopted by an appointing authority.

(c) The authority may contract with an appointing authority that has a local procurement procedure to deal with procurement in manner consistent with the [~~rules made~~] resolution adopted under Subsection (1)(b).

(2) (a) The authority shall comply with Title 63A, Chapter 17, Utah State Personnel Management Act, except as provided in this Subsection (2).

(b) (i) The authority may approve, upon recommendation of the chair, that exemption for specific positions under Subsections 63A-17-301(1) and 63A-17-307(2) is required to enable the authority to efficiently fulfill the authority's responsibilities under the law.

(ii) The chair shall consult with the executive director of the Division of Human Resource Management before making a recommendation under Subsection (2)(b)(i).

(iii) The position of executive director is exempt under Subsections 63A-17-301(1) and 63A-17-307(2).

(c) (i) The executive director shall set salaries for exempted positions, except for the executive director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the authority. The chair shall set the salary of the executive director.

(ii) The authority and executive director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.

(3) In adopting a policy under this chapter, the authority:

(a) is not required to comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) shall adopt the policy by resolution of the authority.

Section 5. Repealer.

This bill repeals:

Section 63M-14-206, Adoption of rules.

CHAPTER 99
S. B. 166

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

AVIATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill modifies provisions related to aeronautics.

Highlighted Provisions:

This bill:

- addresses fees for use of state owned aircraft;
- allows one or more associations representing airport owners or pilots to provide an annual report to the Transportation Commission;
- modifies the permissible uses of funds in the Aeronautics Restricted Account;
- creates the State Aircraft Restricted Account to fund the operations of state owned aircraft;
- defines "advanced air mobility system";
- addresses preemption of local regulations related to advanced air mobility systems; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

72-1-216.1, as enacted by Laws of Utah 2021, Chapter 358
72-1-303, as last amended by Laws of Utah 2020, Chapter 377
72-2-126, as last amended by Laws of Utah 2016, Chapter 38
72-14-102, as last amended by Laws of Utah 2018, Chapter 40
72-14-103, as enacted by Laws of Utah 2017, Chapter 364
76-9-308, as enacted by Laws of Utah 2017, Chapter 184

ENACTS:

72-2-132, Utah Code Annotated 1953

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

Section 1. Section 72-1-216.1 is amended to read:

72-1-216.1. State plane operations and advanced air mobility study.

(1) The department shall study:

(a) options to improve the operations of the state airplane fleet, including addressing how to make the state airplane fleet operations more self-reliant through:

(i) funding the state's plane operations through plane user fees; and

(ii) fleet replacement options; and

(b) the development and implementation of advanced air mobility in the state, including:

(i) identifying current state assets and assets in development that support advanced air mobility;

(ii) identifying assets required for full implementation of advanced air mobility;

(iii) identifying potential benefits and limitations of implementing advanced air mobility;

(iv) the feasibility of options to progress toward implementing a statewide advanced air mobility system, including phasing critical elements; and

(v) reviewing infrastructure funding mechanisms employed or under consideration by other states.

(2) As part of the department's study under Subsection (1)(a), the department shall review alternative methods for charging for use of the state airplane fleet, taking into account:

(a) the per passenger cost;

(b) downtime and pilot layover and wait time;

(c) the advantages and disadvantages of an hourly rate;

(d) the advantages and disadvantages of a destination rate; and

(e) any other information relevant to identifying the most effective method for charging for use of the state airplane fleet.

[~~(2)~~] (3) The department shall provide a report of the department's findings before September 30, 2022, to the Transportation Interim Committee.

Section 2. Section 72-1-303 is amended to read:

72-1-303. Duties of commission.

(1) The commission has the following duties:

(a) determining priorities and funding levels of projects in the state transportation systems and capital development of new public transit facilities for each fiscal year based on project lists compiled by the department and taking into consideration the strategic initiatives described in Section 72-1-211;

(b) determining additions and deletions to state highways under Chapter 4, Designation of State Highways Act;

(c) holding public hearings and otherwise providing for public input in transportation matters;

(d) making policies and rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to perform the commission's duties described under this section;

(e) in accordance with Section 63G-4-301, reviewing orders issued by the executive director in adjudicative proceedings held in accordance with Title 63G, Chapter 4, Administrative Procedures Act;

(f) advising the department in state transportation systems policy;

(g) approving settlement agreements of condemnation cases subject to Section 63G-10-401;

(h) in accordance with Section 17B-2a-807, appointing a commissioner to serve as a nonvoting, ex officio member or a voting member on the board of trustees of a public transit district;

(i) in accordance with Section 17B-2a-808, reviewing, at least annually, the short-term and long-range public transit plans; and

(j) reviewing administrative rules made, substantively amended, or repealed by the department.

(2) (a) For projects prioritized with funding provided under Sections 72-2-124 and 72-2-125, the commission shall annually report to a committee designated by the Legislative Management Committee:

(i) a prioritized list of the new transportation capacity projects in the state transportation system and the funding levels available for those projects; and

(ii) the unfunded highway construction and maintenance needs within the state.

(b) The committee designated by the Legislative Management Committee under Subsection (2)(a) shall:

(i) review the list reported by the Transportation Commission; and

(ii) make a recommendation to the Legislature on:

(A) the amount of additional funding to allocate to transportation; and

(B) the source of revenue for the additional funding allocation under Subsection (2)(b)(ii)(A).

(3) The commission shall review and may approve plans for the construction of a highway facility over sovereign lakebed lands in accordance with Chapter 6, Part 3, Approval of Highway Facilities on Sovereign Lands Act.

(4) One or more associations representing airport operators or pilots in the state shall annually report to the commission recommended airport improvement projects and any other information related to the associations' expertise and relevant to the commission's duties.

Section 3. Section 72-2-126 is amended to read:

72-2-126. Aeronautics Restricted Account.

(1) There is created a restricted account entitled the Aeronautics Restricted Account within the Transportation Fund.

(2) The account consists of money generated from the following revenue sources:

(a) aviation fuel tax allocated for aeronautical operations deposited into the account in accordance with Section 59-13-402;

(b) aircraft registration fees deposited into the account in accordance with Section 72-10-110;

(c) appropriations made to the account by the Legislature;

(d) contributions from other public and private sources for deposit into the account; and

(e) interest earned on account money.

(3) The department shall allocate funds in the account to the separate accounts of individual airports as required under Section 59-13-402.

(4) (a) Except as provided in Subsection (4)(b), the department shall use funds in the account for:

(i) the construction, improvement, operation, and maintenance of publicly used airports in this state;

(ii) the payment of principal and interest on indebtedness incurred for the purposes described in Subsection (4)(a);

(iii) operation of the division of aeronautics;

(iv) the promotion of aeronautics in this state; and

(v) the payment of the costs and expenses of the Department of Transportation in administering Title 59, Chapter 13, Part 4, Aviation Fuel, or another law conferring upon it the duty of regulating and supervising aeronautics in this state.

(b) The department may use funds in the account for the support of aerial search and rescue operations, provided that no money deposited into the account under Subsection (2)(a) is used for that purpose.

(5) (a) Money in the account may not be used by the department for the purchase of aircraft for purposes other than those described in Subsection (4).

(b) Money in the account may not be used to provide or subsidize direct operating costs of travel for purposes other than those described in Subsection (4).

(6) The Department may not use money in the account to fund:

(a) more than 77% of the operations costs related to state owned aircraft in fiscal year 2023-24;

(b) more than 52% of the operations costs related to state owned aircraft in fiscal year 2024-25;

(c) more than 26% of the operations costs related to state owned aircraft in fiscal year 2025-26;

(d) more than 10% of the operations costs related to state owned aircraft in fiscal year 2026-27; or

(e) any operations costs related to state owned aircraft in a fiscal year beginning on or after July 1, 2027.

Section 4. Section 72-2-132 is enacted to read:

72-2-132. State Aircraft Restricted Account.

(1) There is created a restricted account known as the State Aircraft Restricted Account.

(2) The account consists of money generated from the following revenue sources:

(a) fees the department receives for use of state owned aircraft;

(b) appropriations to the account by the Legislature;

(c) contributions from other public or private sources for deposit into the account; and

(d) interest earned on money in the account.

(3) Upon appropriation by the Legislature, the department may use money in the account for the operation and maintenance of state owned aircraft.

Section 5. Section 72-14-102 is amended to read:

72-14-102. Definitions.

As used in this chapter:

(1) (a) "Advanced air mobility system" means a system that transports individuals and property using piloted and unpiloted aircraft, including electric aircraft and electric vertical takeoff and landing aircraft, in controlled or uncontrolled airspace.

(b) "Advanced air mobility system" includes each component of a system described in Subsection (1)(a), including:

(i) the aircraft, including payload;

(ii) communications equipment;

(iii) navigation equipment;

(iv) controllers;

(v) support equipment; and

(vi) remote and autonomous functions.

[~~(1)~~] (2) "Airport" means the same as that term is defined in Section 72–10–102.

[~~(2)~~] (3) "Airport operator" means the same as that term is defined in Section 72–10–102.

[~~(3)~~] (4) "Correctional facility" means the same as that term is defined in Section 77–16b–102.

[~~(4)~~] (5) "Unmanned aircraft" means an aircraft that is:

(a) capable of sustaining flight; and

(b) operated with no possible direct human intervention from on or within the aircraft.

[~~(5)~~] (6) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:

(a) the unmanned aircraft, including payload;

(b) communications equipment;

(c) navigation equipment;

(d) controllers;

(e) support equipment; and

(f) autopilot functionality.

Section 6. Section 72-14-103 is amended to read:

72-14-103. Preemption of local ordinance.

(1) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft or the private use of an advanced air mobility system, unless:

(a) authorized by this chapter; or

(b) the political subdivision or entity is an airport operator that enacts the law, rule, or ordinance to govern:

(i) the operation of an unmanned aircraft or an advanced air mobility system within the geographic boundaries of the airport over which the airport operator has authority; or

(ii) the takeoff or landing of an unmanned aircraft or an aircraft operated as part of an advanced air mobility system at the airport over which the airport operator has authority.

(2) This chapter supersedes any law, ordinance, or rule enacted by a political subdivision of the state before July 1, 2017.

Section 7. Section 76-9-308 is amended to read:

76-9-308. Harassment of livestock.

(1) As used in this section:

(a) "Livestock" has the same meaning as that term is defined in Subsection 76–9–301(1).

(b) "Unmanned aircraft system" [~~has the same meaning as that term is defined in Subsection 72–14–102(4)~~] means the same as that term is defined in Section 72–14–102.

(2) Except as provided in Subsection (3), a person is guilty of harassment of livestock if the person intentionally, knowingly, or recklessly chases, with the intent of causing distress, or harms livestock through the use of:

(a) a motorized vehicle or all–terrain vehicle;

(b) a dog; or

(c) an unmanned aircraft system.

(3) A person is not guilty of harassment of livestock if:

(a) the person is:

(i) the owner of the livestock;

(ii) an employee or agent of the owner, or otherwise acting under the owner's general direction or with the owner's permission;

(iii) acting in an emergency situation to prevent damage to the livestock or property; or

(iv) an employee or agent of the state or a political subdivision and acting in the employee or agent's official capacity; or

(b) the action is in line with generally accepted animal husbandry practices.

(4) A person who violates this section is guilty of:

(a) a class B misdemeanor if the violation is a first offense and:

(i) no livestock is seriously injured or killed as a result of the person's actions; or

(ii) the person's actions cause the livestock to be displaced onto property where the livestock is not legally entitled to be; and

(b) a class A misdemeanor if:

(i) the person has previously been convicted of harassment of livestock under this section;

(ii) livestock is seriously injured or killed as a result of the person's actions; or

(iii) livestock or property suffered damage in excess of $1,000, including money spent in recovering the livestock, as a result of the person's actions.

CHAPTER 100
S. B. 188

Passed March 4, 2022
Approved March 21, 2022
Effective July 1, 2022

ENERGY EFFICIENCY AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to encouraging energy efficiency and related air quality effects.

Highlighted Provisions:

This bill:

- expands the Clean Fuels and Vehicle Technology Program to be the Clean Fuels and Emission Reduction Technology Program;
- expands low-income assistance programs related to customers of an electrical corporation or gas corporation; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

19-1-402, as last amended by Laws of Utah 2014, Chapter 295
19-1-403, as last amended by Laws of Utah 2016, Chapter 369
19-1-404, as last amended by Laws of Utah 2020, Chapter 354
54-7-13.6, as last amended by Laws of Utah 2012, Chapter 212
63A-3-205, as last amended by Laws of Utah 2017, Chapters 56 and 345
63B-1b-102, as last amended by Laws of Utah 2019, Chapter 479

REPEALS:

19-1-401, as last amended by Laws of Utah 2006, Chapter 136

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

Section 1. Section 19-1-402 is amended to read:

Part 4. Clean Fuels and Emission Reduction Technology Program Act

19-1-402. Definitions.

As used in this part:

(1) "Air barrier system" means air barrier material, a system, or an assembly that is specifically and primarily designed to minimize the passage of air through the building thermal envelope and the assemblies when installed in or on a dwelling.

[~~(1)~~] (2) "Clean fuel" means:

(a) propane, natural gas, renewable natural gas, hydrogen, or electricity; or

(b) other fuel that meets the clean fuel vehicle standards in the federal Clean Air Act Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.

[~~(2)~~] (3) (a) "Clean vehicle" means a vehicle that:

[~~(a)~~] (i) uses a clean fuel; [~~or~~]

[~~(b)~~] (ii) is an electric-hybrid vehicle[~~.~~]; or

(iii) is an electric vehicle.

(b) "Clean vehicle" may include heavy duty equipment, such as:

(i) a tractor;

(ii) earth-moving equipment;

(iii) an off-highway vehicle; or

(iv) other equipment approved by the director of the Division of Air Quality.

(4) "Dwelling" means a house, multi-family dwelling, apartment complex, or other residential type building.

[~~(3)~~] (5) "Electric-hybrid vehicle" means a vehicle:

(a) primarily powered by an electric motor that draws current from:

(i) rechargeable storage batteries;

(ii) fuel cells; or

(iii) other sources of electric current; and

(b) that also operates on or is capable of operating on a nonelectrical source of power.

(6) "Electric vehicle" means a vehicle powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current and does not need carbon based fuel for operation.

(7) "Energy-efficient building envelope improvements" means an insulation and air barrier system that meets the prescriptive criteria for insulation and air barrier systems established by the 2021 International Energy Conservation Code.

[~~(4)~~] (8) "Fund" means the Clean Fuels and [~~Vehicle~~] Emission Reduction Technology Fund created in Section 19-1-403.

[~~(5)~~] (9) (a) "Government vehicle" means a motor vehicle:

(i) registered in Utah; and

(ii) owned and operated by:

(A) the state;

(B) a public trust authority;

(C) a school district;

(D) a county; or

(E) a municipality.

(b) "Government vehicle" includes a metropolitan rapid transit motor vehicle, bus, truck, law enforcement vehicle, or emergency vehicle.

[~~(6)~~] (10) "Incremental cost" means the difference between the cost of [~~the~~] an OEM vehicle and the same vehicle model manufactured without the clean fuel fueling system.

(11) "Insulation" means a material or system that is specifically and primarily designed to reduce the heat loss or gain of a dwelling unit when installed in or on the dwelling unit.

[~~(7)~~] (12) "OEM vehicle" means a vehicle manufactured by the original vehicle manufacturer or [~~its~~] the manufacturer's contractor as a clean vehicle.

[~~(8)~~] (13) "Private sector business vehicle" means a motor vehicle registered in Utah that is owned and operated solely in the conduct of a private business enterprise.

(14) "Qualified energy-efficient residential dwelling" means a dwelling with an energy efficiency rating determined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(9)~~] (15) "Refueling equipment" means:

(a) compressors when used separately[~~,~~];

(b) compressors used in combination with cascade tanks[~~, and~~];

(c) other equipment that constitute a central refueling system capable of dispensing vehicle fuel[~~.~~]; and

(d) electric charging stations and equipment.

Section 2. Section 19-1-403 is amended to read:

19-1-403. Clean Fuels and Emission Reduction Technology Program -- Contents -- Loans or grants made with fund money.

(1) (a) There is created a revolving fund known as the Clean Fuels and [~~Vehicle~~] Emission Reduction Technology Fund.

(b) The fund consists of:

(i) appropriations to the fund;

(ii) other public and private contributions made under Subsection (1)(c);

(iii) interest earnings on cash balances; and

(iv) [~~all~~] money collected for loan repayments and interest on loans.

(c) The department may accept contributions from other public and private sources for deposit into the fund.

(2) The department may accept federal money, including from the Infrastructure Investment and Jobs Act, P.L. 117-58, toward making:

(a) a loan or grant for the cost of a new clean vehicle or refueling equipment; or

(b) a grant for:

(i) the installation of energy-efficient building envelope improvements at a dwelling; or

(ii) construction of a qualified energy-efficient residential dwelling.

[~~(2)~~] (3) (a) The department may make a loan or a grant:

(i) with money available in the fund for:

[~~(i)~~] (A) the conversion of a private sector business vehicle [~~or~~], a government vehicle, or a fleet of private sector business vehicles or government vehicles to use a clean fuel, if certified by the Air Quality Board under Subsection 19-1-405(1)(a); or

[~~(ii)~~] (B) the purchase of [~~an OEM vehicle~~] a clean vehicle for use as a private sector business vehicle [~~or~~], a government vehicle[~~.~~], or a fleet of private sector business vehicles or government vehicles; and

(ii) with federal money available under Subsection (2) for the cost of a new clean vehicle or clean vehicle refueling equipment.

(b) The amount of a loan for any vehicle under Subsection [~~(2)~~] (3)(a) may not exceed:

(i) the actual cost of the vehicle conversion;

(ii) the incremental cost of purchasing the [~~OEM~~] clean vehicle; or

(iii) the cost of purchasing the [~~OEM~~] clean vehicle if there is no documented incremental cost.

(c) The amount of a grant for any vehicle under Subsection [~~(2)~~] (3)(a) may not exceed:

(i) 50% of the actual cost of the vehicle conversion for the vehicle for which a grant is requested; or

(ii) [~~50%~~] 100% of the [~~incremental~~] cost of purchasing [~~an OEM~~] the vehicle for the vehicle for which a grant is requested.

(d) (i) Subject to the availability of money in the fund or the federal money described in Subsection (2), the department may make a loan or grant for the purchase of [~~vehicle~~] refueling equipment for a private sector business vehicle [~~or~~], a government vehicle, or a fleet of private sector business vehicles or government vehicles.

(ii) The maximum amount loaned or granted per installation of refueling equipment may not exceed the actual cost of the refueling equipment.

[~~(3)~~] (4) The department may:

(a) establish an application fee for a loan or grant [~~from the fund~~] under this section by following [~~the procedures and requirements of~~] Section 63J-1-504; and

(b) reimburse itself for the costs incurred in administering the fund and federal money described in Subsection (2) from:

(i) the fund; or

(ii) application fees established under Subsection [~~(3)~~] (4)(a).

[~~(4) (a) The fund balance may not exceed $10,000,000.~~]

[~~(b) Interest on cash balances and repayment of loans in excess of the amount necessary to maintain the fund balance at $10,000,000 shall be deposited in the General Fund.~~]

(5) (a) [~~Loans~~] A loan made from money in the fund or federal money described in Subsection (2) shall be supported by loan documents evidencing the intent of the borrower to repay the loan.

(b) The original loan documents described in this Subsection (5) shall be filed with the Division of Finance and a copy shall be filed with the department.

(6) (a) The department may make grants to a person or government agency from the fund for the following:

(i) installation of energy-efficient building envelope improvements at a dwelling; and

(ii) construction of a qualified energy-efficient residential dwelling.

(b) The size of a grant under this Subsection (6) shall be commensurate with the square footage of a dwelling, but may not exceed $5,000 per dwelling.

(c) The department shall determine grant allocation under this Subsection (6).

(d) The department may not issue a loan from the fund for the purposes outlined in Subsection (6)(a).

Section 3. Section 19-1-404 is amended to read:

19-1-404. Department duties -- Rulemaking -- Loan repayment.

(1) The department shall:

(a) administer the fund created in Section 19-1-403 and the federal money described in Subsection 19-1-403(2) to encourage [~~government officials and private sector business vehicle owners and operators to obtain and use clean fuel vehicles~~] emission reductions through energy efficient building practices and the use and acquisition of clean vehicles; and

(b) [~~by following the procedures and requirements of~~] make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~, make rules~~]:

(i) specifying the amount of money in the fund and federal money to be dedicated annually for grants;

(ii) limiting the number of motor vehicles per fleet operator that may be eligible for a grant in a year;

(iii) specifying criteria the department shall consider in prioritizing and awarding loans and grants;

(iv) specifying repayment periods;

(v) specifying procedures for:

(A) awarding loans and grants; and

(B) collecting loans; and

(vi) requiring [~~all~~] loan and grant applicants to:

(A) apply on forms provided by the department;

(B) if the loan or grant is for a clean vehicle, agree in writing to use the clean fuel for which each clean vehicle is converted or purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled beginning from the time of conversion or purchase of the clean vehicle;

(C) if the loan or grant is for a clean vehicle, agree in writing to notify the department if a clean vehicle converted or purchased using loan or grant proceeds becomes inoperable through mechanical failure or accident and to pursue a remedy outlined in department rules;

(D) if the loan or grant is for a clean vehicle, provide reasonable data to the department on a clean vehicle converted or purchased with loan or grant proceeds; and

(E) if the loan or grant is for a clean vehicle, submit a clean vehicle converted or purchased with loan or grant proceeds to inspections by the department as required in department rules and as necessary for administration of the loan and grant program.

(2) (a) When developing repayment schedules for the loans, the department shall consider the projected savings from use of the clean vehicle.

(b) A repayment schedule may not exceed 10 years.

(c) The department shall make a loan from the fund or federal money described in Subsection 19-1-403(2) for a private sector business vehicle at an interest rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as determined the month immediately preceding the closing date of the loan.

(d) The department shall make a loan from the fund or federal money described in Subsection 19-1-403(2) for a government vehicle with no interest rate.

(3) The Division of Finance shall:

(a) collect and account for the loans; and

(b) have custody of [~~all~~] the loan documents, including [~~all~~] notes and contracts, evidencing the indebtedness of the fund or federal money described in Subsection 19-1-403(2).

Section 4. Section 54-7-13.6 is amended to read:

54-7-13.6. Low-income assistance program.

(1) As used in this section[~~, "eligible~~]:

(a) "Eligible customer" means an electrical corporation or a gas corporation customer:

[~~(a)~~] (i) that earns no more than:

[~~(i)~~] (A) 125% of the federal poverty level for bill payment assistance or 200% of the federal poverty level for any other low-income assistance; or

[~~(ii)~~] (B) another percentage of the federal poverty level as determined by the commission by order; and

[~~(b)~~] (ii) whose eligibility is certified by the Utah Department of Workforce Services.

(b) "Low-income assistance" means:

(i) bill payment assistance;

(ii) replacement of an appliance with a more efficient appliance;

(iii) replacement of a wood burning appliance or wood burning fireplace with an efficient appliance; or

(iv) other energy efficient improvement to an eligible customer's residence.

(2) A customer's income eligibility for the program described in this section shall be renewed annually.

(3) An eligible customer may not receive low-income assistance at more than one residential location at any one time.

(4) Notwithstanding Section 54-3-8, the commission may approve a low-income assistance program to provide [~~bill payment~~] low-income assistance to [~~low-income~~] an eligible customer who is a residential [~~customers~~] customer of:

(a) an electrical corporation with more than 50,000 customers; or

(b) a gas corporation with more than 50,000 customers.

(5) (a) (i) Subject to Subsection (5)(a)(ii), low-income assistance program funding from each rate class may be in an amount determined by the commission.

(ii) Low-income assistance program funding described in Subsection (5)(a)(i) may not exceed 0.5% of the rate class's retail revenues.

(iii) An electrical corporation or gas corporation may use low-income assistance program funding to pay:

(A) administrative costs associated with the electrical corporation's or gas corporation's program; or

(B) contractor or employee costs incurred in implementing or installing a measure described in Subsections (1)(b)(ii) through (iv).

(b) (i) Low-income assistance program funding [~~for bill payment assistance~~] shall be provided through a surcharge on the monthly bill of each Utah retail customer of the electrical corporation or gas corporation providing the low-income assistance program.

(ii) The surcharge described in Subsection (5)(b)(i) may not be collected from [~~customers currently participating in the low-income assistance program~~] a customer who is receiving bill payment assistance.

(c) (i) Subject to Subsection (5)(c)(ii), the monthly surcharge described in Subsection (5)(b)(i) shall be calculated as an equal percentage of revenues from all rate schedules.

(ii) The monthly surcharge described in Subsection (5)(b)(i) may not exceed $50 per month for any customer, adjusted periodically as the commission determines appropriate for inflation.

(6) (a) An eligible customer shall receive low-income assistance in the form of one or more of the following:

(i) a billing credit on the monthly electric or gas bill for the customer's residence[~~.~~];

(ii) replacement of an appliance with a more efficient appliance;

(iii) replacement of a wood burning appliance or wood burning fireplace with an efficient appliance; or

(iv) other energy efficiency improvement to the eligible customer's residence.

(b) The [~~amount of the billing credit~~] allocation of low-income assistance to an eligible customer, as described in Subsection (6)(a), shall be determined by the commission based on:

(i) the projected funding of the low-income assistance program;

(ii) the projected customer participation in the low-income assistance program; and

(iii) other factors that the commission determines relevant.

(c) The [~~monthly billing credit and the monthly surcharge~~] low-income assistance funding level shall be adjusted concurrently with the final order in a general rate increase or decrease case under Section 54-7-12 for the electrical corporation or gas corporation providing the program or as determined by the commission.

Section 5. Section 63A-3-205 is amended to read:

63A-3-205. Revolving loan funds -- Standards and procedures.

(1) As used in this section, "revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and [~~Vehicle~~] Emission Reduction Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;

(j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and

(l) the Energy Efficiency Fund, created in Section 11-45-201.

(2) The division shall for each revolving loan fund make rules establishing standards and procedures governing:

(a) payment schedules and due dates;

(b) interest rate effective dates;

(c) loan documentation requirements; and

(d) interest rate calculation requirements.

Section 6. Section 63B-1b-102 is amended to read:

63B-1b-102. Definitions.

As used in this chapter:

(1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness representing loans or grants made by an authorizing agency.

(2) "Authorized official" means the state treasurer or other person authorized by a bond document to perform the required action.

(3) "Authorizing agency" means the board, person, or unit with legal responsibility for administering and managing revolving loan funds.

(4) "Bond document" means:

(a) a resolution of the commission; or

(b) an indenture or other similar document authorized by the commission that authorizes and secures outstanding revenue bonds from time to time.

(5) "Commission" means the State Bonding Commission, created in Section 63B-1-201.

(6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

(7) "Revolving Loan Funds" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and [~~Vehicle~~] Emission Reduction Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409; and

(j) the State Infrastructure Bank Fund, created in Section 72-2-202.

Section 7. Repealer.

This bill repeals:

Section 19-1-401, Title.

Section 8. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 101
S. B. 202

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

RIGHT-OF-WAY DISPOSAL AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions related to the sale of real property acquired for a state transportation purpose or by eminent domain.

Highlighted Provisions:

This bill:

- modifies provisions related to the Division of Facilities Construction and Management's disposal of vacant real property acquired by eminent domain under certain circumstances;
- for the sale of surplus property or an easement, requires the Department of Transportation to provide the right of first refusal to the original owner or subsequent bona fide purchaser of the surplus real property or easement under certain circumstances;
- for the sale of surplus property acquired by eminent domain, requires the state or state subdivision to provide the right of first refusal to the original owner or subsequent bona fide purchaser of the surplus real property or easement under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-5b-909, as renumbered and amended by Laws of Utah 2020, Chapter 152

72-5-111, as last amended by Laws of Utah 2019, Chapter 479

78B-6-521, as last amended by Laws of Utah 2017, Chapter 273

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

Section 1. Section 63A-5b-909 is amended to read:

63A-5b-909. State real property subject to right of first refusal.

(1) (a) If Section 78B-6-520.3 applies to vacant division-owned property, the division shall comply with Subsection 78B-6-520.3(3).

(b) If a condemnee accepts the division's offer to sell the vacant division-owned property as provided in Section 78B-6-520.3, the division shall:

(i) comply with the requirements of Section 78B-6-520.3; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) A condemnee may waive rights and benefits afforded under Section 78B-6-520.3 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person not entitled to the rights and benefits of Section 78B-6-520.3.

(2) (a) If Section 78B-6-521 applies to the anticipated disposal of the vacant division-owned property, the division shall comply with the limitations and requirements of [~~Subsection~~] Subsections 78B-6-521(2) and (3).

(b) If the original grantor or a subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, accepts an offer for sale as provided in Subsection 78B-6-521(2)(a)[~~(i)~~], the division shall:

(i) sell the vacant division-owned property to the original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, [~~as provided~~] in accordance with Section 78B-6-521; and

(ii) terminate any process under this chapter to convey the vacant division-owned property.

(c) An original grantor or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, may waive rights afforded under Section 78B-6-521 and instead seek a transfer of ownership or lease of vacant division-owned property under the provisions of this chapter in the same manner as any other person seeking a transfer of ownership or lease of vacant division-owned property to which Section 78B-6-521 does not apply.

Section 2. Section 72-5-111 is amended to read:

72-5-111. Disposal of real property.

(1) (a) If the department determines that any real property or interest in real property, acquired for a [~~highway~~] state transportation purpose, is no longer necessary for the purpose, the department may lease, sell, exchange, or otherwise dispose of the real property or interest in the real property.

(b) (i) Real property or an interest in real property may be sold at private or public sale.

(ii) Except as provided in Subsection (1)(c) related to exchanges and Subsection (1)(d) related to the proceeds of any sale of real property from a maintenance facility, proceeds of any sale shall be deposited with the state treasurer and credited to the Transportation Fund.

(c) (i) Except as provided in Subsection (1)(c)(ii), if approved by the commission, real property or an interest in real property may be exchanged by the department for other real property or interest in real property, including improvements, for [~~highway purposes~~] a state transportation purpose.

(ii) The department may exchange an interest in real property for another interest in real property for a project that is part of a statewide transportation improvement program approved by the commission.

(d) Proceeds from the sale of real property or an interest in real property from a maintenance facility may be used by the department for the purchase or improvement of another maintenance facility, including real property.

[~~(2) (a) In the disposition of real property at any private sale, first consideration shall be given to the original grantor.~~]

[~~(b) Notwithstanding the provisions of Section 78B-6-521, if no portion of a parcel of real property acquired by the department is used for transportation purposes, then the original grantor shall be given the opportunity to repurchase the parcel of real property at the department's original purchase price from the grantor.~~]

(2) (a) In disposing of real property or an interest in real property described in Subsection (1), the department shall give the right of first refusal for the highest offer, as defined in Section 78B-6-521, to:

(i) for real property, the original grantor if, since the date of the original transfer to the department, the original grantor has owned real property adjacent to the transferred real property; or

(ii) for an interest in real property that is an easement:

(A) if the original grantor owns the servient estate subject to the easement, the original grantor; or

(B) if a subsequent bona fide purchaser owns the servient estate subject to the easement, the subsequent bona fide purchaser.

(b) Notwithstanding Subsection (2)(a) and Section 78B-6-521, if the department acquires real property or an easement and does not use any portion of the real property or easement for a state transportation purpose, the department shall give the original grantor the opportunity to purchase the real property or easement at the original purchase price if, since the date of the original transfer to the department, the original grantor has owned real property adjacent to the transferred real property or the servient estate subject to the easement.

(c) In accordance with Section 72-5-404, this Subsection (2) does not apply to property rights acquired in proposed transportation corridors using funds from the Marda Dillree Corridor Preservation Fund created in Section 72-2-117.

(d) (i) The right of first [~~consideration~~] refusal described in this Subsection (2)[~~(a)~~] is subject to the same terms and may be assigned by the original grantor or subsequent bona fide purchaser in the manner described in Subsection 78B-6-521[~~(2)~~](3).

(ii) The original grantor [~~or the assignee~~] or subsequent bona fide purchaser, or the original grantor's or subsequent bona fide purchaser's assignee, shall notify the department of an assignment by certified mail to the current office address of the executive director of the department.

(iii) An exchange of real property as provided in Subsection (1)(c) or Section 72-5-113 does not entitle the original grantor or subsequent bona fide purchaser to exercise the right of first [~~consideration~~] refusal described in this Subsection (2)[~~(a)~~].

(iv) The right of first [~~consideration~~] refusal described in this Subsection (2)[~~(a)~~] terminates upon an exchange of the acquired real property as provided in Subsection (1)(c) or Section 72-5-113.

(3) (a) Any sale, exchange, or disposal of real property or interest in real property made by the department under this section, is exempt from the mineral reservation provisions of Title 65A, Chapter 6, Mineral Leases.

(b) Any deed made and delivered by the department under this section without specific reservations in the deed is a conveyance of all the state's right, title, and interest in the real property or interest in the real property.

Section 3. Section 78B-6-521 is amended to read:

78B-6-521. Sale of property acquired by eminent domain.

(1) As used in this section:

(a) "Condemnation" or "threat of condemnation" means:

(i) acquisition through an eminent domain proceeding; or

(ii) an official body of the state or a subdivision of the state, having the power of eminent domain, has specifically authorized the use of eminent domain to acquire the real property.

(b) (i) "Highest offer" means all material terms of the best bona fide offer received by the state or one of the state's subdivisions, including:

(A) purchase price;

(B) conditions; and

(C) terms of performance.

(ii) "Highest offer" does not mean the terms and conditions of an agreement to exchange real property or an interest in real property for other real property or an interest in real property.

(2) [~~(a)~~] If the state or one of the state's subdivisions, at the state's or the [~~state's~~] state subdivision's sole discretion, declares real property [~~that is acquired~~] or an easement the state or state subdivision acquires through condemnation or threat of condemnation to be surplus real property, [~~it~~] the state or state subdivision may not sell the real property [~~on the open market~~] or easement at a private or public sale unless:

[~~(i) the real property has been offered for sale to the original grantor, at the highest offer made to the state or one of its subdivisions with first right of refusal being given to the original grantor;~~]

(a) (i) for real property, the state or state subdivision gives the right of first refusal to the original grantor for the highest offer if, since the date of the original transfer to the state or state subdivision, the original grantor has owned real property adjacent to the transferred real property; or

(ii) for an easement, the state or state subdivision gives the right of first refusal to:

(A) if the original grantor owns the servient estate subject to the easement, the original grantor for the highest offer; or

(B) if a subsequent bona fide purchaser owns the servient estate subject to the easement, the subsequent bona fide purchaser for the highest offer;

[~~(ii)~~] (b) the original grantor or subsequent bona fide purchaser described in Subsection (2)(a):

(i) expressly [~~waived~~] waives in writing the [~~first~~] right of first refusal on the offer; or

(ii) [~~failed~~] fails to accept the offer within 90 days after the day on which the original grantor or subsequent bona fide purchaser receives notification by registered mail to the original grantor's or subsequent bona fide purchaser's last-known address; and

[~~(iii)~~] (c) neither the state nor the state subdivision [~~of the state~~] selling the property is involved in the rezoning of the property or the acquisition of additional property to enhance the value of the real property to be sold.

[~~(b) An original grantor may assign the first right of refusal within 90 days after an offer has been made under Subsection (2)(a)(i) if the right has not been waived pursuant to Subsection (2)(a)(ii).~~]

(3) (a) If the original grantor or subsequent bona fide purchaser has not waived the right of first refusal as described in Subsection (2)(b), an original grantor or subsequent bona fide purchaser may assign the right of first refusal.

[~~(c)~~] (b) The assignment of a right of first refusal [~~pursuant to~~] in accordance with Subsection [~~(2)(b)~~] (3)(a) does not extend the time for acceptance of an offer as described in Subsection [~~(2)(a)(ii)~~] (2)(b).

[~~(3)~~] (4) (a) Real property acquired through condemnation or the threat of condemnation is not considered surplus if the real property is approved for use in an exchange for other real property.

(b) An exchange of real property for other real property is not a private or public sale [~~on the open market~~].

(c) The [~~first~~] right of first refusal described in Subsection (2)(a)[~~(i)~~] shall terminate upon an exchange of the acquired real property.

[~~(4)~~] (5) This section shall only apply to property acquired after July 1, 1983.

CHAPTER 102
S. B. 205

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

AIR RIFLE HUNTING AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill allows for air rifle hunting under certain circumstances.

Highlighted Provisions:

This bill:

- defines terms;
- requires an individual to obtain a permit to hunt with a pre-charged pneumatic air rifle;
- directs the Wildlife Board to designate the species that may be hunted; and
- requires a review and report regarding funding of the regulation of the use of pre-charged pneumatic air rifles.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

23-19-49, Utah Code Annotated 1953

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

Section 1. Section 23-19-49 is enacted to read:

23-19-49. Air rifle hunting.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources.

(b) "Pre-charged pneumatic air rifle" means a rifle that fires a single projectile with compressed air released from a chamber:

(i) built into the rifle; and

(ii) pressurized at a minimum of 2,000 pounds per square inch from an external high compression device or source, such as a hand pump, compressor, or scuba tank.

(2) (a) An individual shall obtain a permit issued under this section before using a pre-charged pneumatic air rifle to hunt a species of wildlife designated by the Wildlife Board.

(b) The Wildlife Board shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, designate which species of wildlife may be hunted with the use of a pre-charged pneumatic air rifle.

(3) The division shall review the funding available for the regulation of hunting with pre-charged pneumatic air rifles and report the division's findings to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the November 2024 interim committee meeting.

CHAPTER 103
S. B. 209

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

VETERINARIAN REGULATIONS AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill clarifies that a licensed veterinarian is not prohibited from discussing the effect of cannabis on an animal with the animal's owner.

Highlighted Provisions:

This bill:

- clarifies that a licensed veterinarian is not prohibited from discussing the effect of cannabis on an animal with the animal's owner; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-28-502, as last amended by Laws of Utah 2020, Chapter 435

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

Section 1. Section 58-28-502 is amended to read:

58-28-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes, in addition to the definitions in Section 58-1-501:

(a) applying unsanitary methods or procedures in the treatment of any animal, contrary to rules adopted by the board and approved by the division;

(b) procuring any fee or recompense on the assurance that a manifestly incurable diseased condition of the body of an animal can be permanently cured;

(c) selling any biologics containing living or dead organisms or products or such organisms, except in a manner which will prevent indiscriminate use of such biologics;

(d) swearing falsely in any testimony or affidavit, relating to, or in the course of, the practice of veterinary medicine, surgery, or dentistry;

(e) willful failure to report any dangerous, infectious, or contagious disease, as required by law;

(f) willful failure to report the results of any medical tests, as required by law, or rule adopted pursuant to law;

(g) violating Chapter 37, Utah Controlled Substances Act;

(h) delegating tasks to unlicensed assistive personnel in violation of standards of the profession and in violation of Subsection (2); and

(i) making any unsubstantiated claim of superiority in training or skill as a veterinarian in the performance of professional services.

(2) (a) "Unprofessional conduct" does not include the following:

(i) delegating to a veterinary technologist, while under the indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technologist by the veterinarian;

(ii) delegating to a state certified veterinary technician, while under the direct or indirect supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if the veterinarian provides written or oral instructions to the state certified veterinary technician;

(iii) delegating to a veterinary technician, while under the direct supervision of a veterinarian licensed under this chapter, patient care and treatment that requires a technical understanding of veterinary medicine if written or oral instructions are provided to the technician by the veterinarian;

(iv) delegating to a veterinary assistant, under the immediate supervision of a licensed veterinarian, tasks that are consistent with the standards and ethics of the profession; [~~and~~]

(v) delegating to an individual described in Subsection 58-28-307(16), under the direct supervision of a licensed veterinarian, the administration of a sedative drug for teeth floating[~~.~~]; or

(vi) discussing the effects of the following on an animal with the owner of an animal:

(A) a cannabinoid or industrial hemp product, as those terms are defined in Section 4-41-102; or

(B) THC or medical cannabis, as those terms are defined in Section 26-61a-102.

(b) The delegation of tasks permitted under [~~Subsection (2)(a)~~] Subsections (2)(a)(i) through (v) does not include:

(i) diagnosing;

(ii) prognosing;

(iii) surgery; or

(iv) prescribing drugs, medicines, or appliances.

(3) Notwithstanding any provision of this section, a veterinarian licensed under this chapter is not prohibited from engaging in a discussion described in Subsection (2)(a)(vi).

CHAPTER 104
S. B. 215

Passed March 3, 2022
Approved March 21, 2022
Effective May 4, 2022

RAILROAD CROSSING MODIFICATIONS

Chief Sponsor: Karen Mayne
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends traffic code provisions related to railroad grade crossings.

Highlighted Provisions:

This bill:

- defines terms;
- at a railroad grade crossing, requires a vehicle operator or an operator of certain equipment to stop for on-track equipment in the same manner as for a train; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-102, as last amended by Laws of Utah 2020, Chapters 84 and 354

41-6a-1203, as last amended by Laws of Utah 2015, Chapter 412

41-6a-1205, as last amended by Laws of Utah 2015, Chapter 412

41-6a-1206, as last amended by Laws of Utah 2015, Chapter 412

63I-1-241, as last amended by Laws of Utah 2020, Chapters 84 and 154

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

Section 1. Section 41-6a-102 is amended to read:

41-6a-102. Definitions.

As used in this chapter:

(1) "Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for through vehicular traffic.

(2) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(3) "Authorized emergency vehicle" includes:

(a) fire department vehicles;

(b) police vehicles;

(c) ambulances; and

(d) other publicly or privately owned vehicles as designated by the commissioner of the Department of Public Safety.

(4) "Autocycle" means the same as that term is defined in Section 53-3-102.

(5) (a) "Bicycle" means a wheeled vehicle:

(i) propelled by human power by feet or hands acting upon pedals or cranks;

(ii) with a seat or saddle designed for the use of the operator;

(iii) designed to be operated on the ground; and

(iv) whose wheels are not less than 14 inches in diameter.

(b) "Bicycle" includes an electric assisted bicycle.

(c) "Bicycle" does not include scooters and similar devices.

(6) (a) "Bus" means a motor vehicle:

(i) designed for carrying more than 15 passengers and used for the transportation of persons; or

(ii) designed and used for the transportation of persons for compensation.

(b) "Bus" does not include a taxicab.

(7) (a) "Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

(b) "Circular intersection" includes:

(i) roundabouts;

(ii) rotaries; and

(iii) traffic circles.

(8) "Class 1 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(i).

(9) "Class 2 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(ii).

(10) "Class 3 electric assisted bicycle" means an electric assisted bicycle described in Subsection (17)(d)(iii).

(11) "Commissioner" means the commissioner of the Department of Public Safety.

(12) "Controlled-access highway" means a highway, street, or roadway:

(a) designed primarily for through traffic; and

(b) to or from which owners or occupants of abutting lands and other persons have no legal right of access, except at points as determined by the highway authority having jurisdiction over the highway, street, or roadway.

(13) "Crosswalk" means:

(a) that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from:

(i) (A) the curbs; or

(B) in the absence of curbs, from the edges of the traversable roadway; and

(ii) in the absence of a sidewalk on one side of the roadway, that part of a roadway included within the extension of the lateral lines of the existing sidewalk at right angles to the centerline; or

(b) any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(14) "Department" means the Department of Public Safety.

(15) "Direct supervision" means oversight at a distance within which:

(a) visual contact is maintained; and

(b) advice and assistance can be given and received.

(16) "Divided highway" means a highway divided into two or more roadways by:

(a) an unpaved intervening space;

(b) a physical barrier; or

(c) a clearly indicated dividing section constructed to impede vehicular traffic.

(17) "Electric assisted bicycle" means a bicycle with an electric motor that:

(a) has a power output of not more than 750 watts;

(b) has fully operable pedals on permanently affixed cranks;

(c) is fully operable as a bicycle without the use of the electric motor; and

(d) is one of the following:

(i) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling; and

(B) ceases to provide assistance when the bicycle reaches the speed of 20 miles per hour;

(ii) an electric assisted bicycle equipped with a motor or electronics that:

(A) may be used exclusively to propel the bicycle; and

(B) is not capable of providing assistance when the bicycle reaches the speed of 20 miles per hour; or

(iii) an electric assisted bicycle equipped with a motor or electronics that:

(A) provides assistance only when the rider is pedaling;

(B) ceases to provide assistance when the bicycle reaches the speed of 28 miles per hour; and

(C) is equipped with a speedometer.

(18) (a) "Electric personal assistive mobility device" means a self-balancing device with:

(i) two nontandem wheels in contact with the ground;

(ii) a system capable of steering and stopping the unit under typical operating conditions;

(iii) an electric propulsion system with average power of one horsepower or 750 watts;

(iv) a maximum speed capacity on a paved, level surface of 12.5 miles per hour; and

(v) a deck design for a person to stand while operating the device.

(b) "Electric personal assistive mobility device" does not include a wheelchair.

(19) "Explosives" means a chemical compound or mechanical mixture commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in proportions, quantities, or packing so that an ignition by fire, friction, concussion, percussion, or detonator of any part of the compound or mixture may cause a sudden generation of highly heated gases, and the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of causing death or serious bodily injury.

(20) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement, for drawing plows, mowing machines, and other implements of husbandry.

(21) "Flammable liquid" means a liquid that has a flashpoint of 100 degrees F. or less, as determined by a tagliabue or equivalent closed-cup test device.

(22) "Freeway" means a controlled-access highway that is part of the interstate system as defined in Section 72-1-102.

(23) (a) "Golf cart" means a device that:

(i) is designed for transportation by players on a golf course;

(ii) has not less than three wheels in contact with the ground;

(iii) has an unladen weight of less than 1,800 pounds;

(iv) is designed to operate at low speeds; and

(v) is designed to carry not more than six persons including the driver.

(b) "Golf cart" does not include:

(i) a low-speed vehicle or an off-highway vehicle;

(ii) a motorized wheelchair;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

(24) "Gore area" means the area delineated by two solid white lines that is between a continuing lane of a through roadway and a lane used to enter or exit the continuing lane including similar areas between merging or splitting highways.

(25) "Gross weight" means the weight of a vehicle without a load plus the weight of any load on the vehicle.

(26) "Hi-rail vehicle" means a roadway maintenance vehicle that is:

(a) manufactured to meet Federal Motor Vehicle Safety Standards; and

(b) equipped with retractable flanged wheels that allow the vehicle to travel on a highway or railroad tracks.

[~~(26)~~] (27) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public as a matter of right for vehicular travel.

[~~(27)~~] (28) "Highway authority" means the same as that term is defined in Section 72-1-102.

[~~(28)~~] (29) (a) "Intersection" means the area embraced within the prolongation or connection of the lateral curblines, or, if none, then the lateral boundary lines of the roadways of two or more highways that join one another.

(b) Where a highway includes two roadways 30 feet or more apart:

(i) every crossing of each roadway of the divided highway by an intersecting highway is a separate intersection; and

(ii) if the intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of the highways is a separate intersection.

(c) "Intersection" does not include the junction of an alley with a street or highway.

[~~(29)~~] (30) "Island" means an area between traffic lanes or at an intersection for control of vehicle movements or for pedestrian refuge designated by:

(a) pavement markings, which may include an area designated by two solid yellow lines surrounding the perimeter of the area;

(b) channelizing devices;

(c) curbs;

(d) pavement edges; or

(e) other devices.

[~~(30)~~] (31) "Lane filtering" means, when operating a motorcycle other than an autocycle, the act of overtaking and passing another vehicle that is stopped in the same direction of travel in the same lane.

[~~(31)~~] (32) "Law enforcement agency" means the same as that term is as defined in Section 53-1-102.

[~~(32)~~] (33) "Limited access highway" means a highway:

(a) that is designated specifically for through traffic; and

(b) over, from, or to which neither owners nor occupants of abutting lands nor other persons have any right or easement, or have only a limited right or easement of access, light, air, or view.

[~~(33)~~] (34) "Local highway authority" means the legislative, executive, or governing body of a county, municipal, or other local board or body having authority to enact laws relating to traffic under the constitution and laws of the state.

[~~(34)~~] (35) (a) "Low-speed vehicle" means a four wheeled electric motor vehicle that:

(i) is designed to be operated at speeds of not more than 25 miles per hour; and

(ii) has a capacity of not more than six passengers, including a conventional driver or fallback-ready user if on board the vehicle, as those terms are defined in Section 41-26-102.1.

(b) "Low-speed vehicle" does not include a golfcart or an off-highway vehicle.

[~~(35)~~] (36) "Metal tire" means a tire, the surface of which in contact with the highway is wholly or partly of metal or other hard nonresilient material.

[~~(36)~~] (37) (a) "Mini-motorcycle" means a motorcycle or motor-driven cycle that has a seat or saddle that is less than 24 inches from the ground as measured on a level surface with properly inflated tires.

(b) "Mini-motorcycle" does not include a moped or a motor assisted scooter.

(c) "Mini-motorcycle" does not include a motorcycle that is:

(i) designed for off-highway use; and

(ii) registered as an off-highway vehicle under Section 41-22-3.

[~~(37)~~] (38) "Mobile home" means:

(a) a trailer or semitrailer that is:

(i) designed, constructed, and equipped as a dwelling place, living abode, or sleeping place either permanently or temporarily; and

(ii) equipped for use as a conveyance on streets and highways; or

(b) a trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a mobile home, as defined in Subsection [~~(37)~~] (38)(a), but that is instead used permanently or temporarily for:

(i) the advertising, sale, display, or promotion of merchandise or services; or

(ii) any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

[~~(38)~~] (39) (a) "Moped" means a motor-driven cycle having:

(i) pedals to permit propulsion by human power; and

(ii) a motor that:

(A) produces not more than two brake horsepower; and

(B) is not capable of propelling the cycle at a speed in excess of 30 miles per hour on level ground.

(b) If an internal combustion engine is used, the displacement may not exceed 50 cubic centimeters and the moped shall have a power drive system that functions directly or automatically without clutching or shifting by the operator after the drive system is engaged.

(c) "Moped" does not include:

(i) an electric assisted bicycle; or

(ii) a motor assisted scooter.

[~~(39)~~] (40) (a) "Motor assisted scooter" means a self-propelled device with:

(i) at least two wheels in contact with the ground;

(ii) a braking system capable of stopping the unit under typical operating conditions;

(iii) an electric motor not exceeding 2,000 watts;

(iv) either:

(A) handlebars and a deck design for a person to stand while operating the device; or

(B) handlebars and a seat designed for a person to sit, straddle, or stand while operating the device;

(v) a design for the ability to be propelled by human power alone; and

(vi) a maximum speed of 20 miles per hour on a paved level surface.

(b) "Motor assisted scooter" does not include:

(i) an electric assisted bicycle; or

(ii) a motor-driven cycle.

[~~(40)~~] (41) (a) "Motor vehicle" means a vehicle that is self-propelled and a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(b) "Motor vehicle" does not include:

(i) vehicles moved solely by human power;

(ii) motorized wheelchairs;

(iii) an electric personal assistive mobility device;

(iv) an electric assisted bicycle;

(v) a motor assisted scooter;

(vi) a personal delivery device, as defined in Section 41-6a-1119; or

(vii) a mobile carrier, as defined in Section 41-6a-1120.

[~~(41)~~] (42) "Motorcycle" means:

(a) a motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(42)~~] (43) (a) "Motor-driven cycle" means a motorcycle, moped, and a motorized bicycle having:

(i) an engine with less than 150 cubic centimeters displacement; or

(ii) a motor that produces not more than five horsepower.

(b) "Motor-driven cycle" does not include:

(i) an electric personal assistive mobility device;

(ii) a motor assisted scooter; or

(iii) an electric assisted bicycle.

[~~(43)~~] (44) "Off-highway implement of husbandry" means the same as that term is defined under Section 41-22-2.

[~~(44)~~] (45) "Off-highway vehicle" means the same as that term is defined under Section 41-22-2.

(46) "Other on-track equipment" means a railroad car, hi-rail vehicle, rolling stock, or other device operated, alone or coupled with another device, on stationary rails.

[~~(45)~~] (47) "Operate" means the same as that term is defined in Section 41-1a-102.

[~~(46)~~] (48) "Operator" means:

(a) a human driver, as defined in Section 41-26-102.1, that operates a vehicle; or

(b) an automated driving system, as defined in Section 41-26-102.1, that operates a vehicle.

[~~(47)~~] (49) (a) "Park" or "parking" means the standing of a vehicle, whether the vehicle is occupied or not.

(b) "Park" or "parking" does not include:

(i) the standing of a vehicle temporarily for the purpose of and while actually engaged in loading or unloading property or passengers; or

(ii) a motor vehicle with an engaged automated driving system that has achieved a minimal risk condition, as those terms are defined in Section 41-26-102.1.

[~~(48)~~] (50) "Peace officer" means a peace officer authorized under Title 53, Chapter 13, Peace Officer Classifications, to direct or regulate traffic or to make arrests for violations of traffic laws.

[~~(49)~~] (51) "Pedestrian" means a person traveling:

(a) on foot; or

(b) in a wheelchair.

[~~(50)~~] (52) "Pedestrian traffic-control signal" means a traffic-control signal used to regulate pedestrians.

[~~(51)~~] (53) "Person" means a natural person, firm, copartnership, association, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

[~~(52)~~] (54) "Pole trailer" means a vehicle without motive power:

(a) designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle; and

(b) that is ordinarily used for transporting long or irregular shaped loads including poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

[~~(53)~~] (55) "Private road or driveway" means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

[~~(54)~~] (56) "Railroad" means a carrier of persons or property upon cars operated on stationary rails.

[~~(55)~~] (57) "Railroad sign or signal" means a sign, signal, or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

[~~(56)~~] (58) "Railroad train" means a locomotive propelled by any form of energy, coupled with or operated without cars, and operated upon rails.

[~~(57)~~] (59) "Right-of-way" means the right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under circumstances of direction, speed, and proximity that give rise to danger of collision unless one grants precedence to the other.

[~~(58)~~] (60) (a) "Roadway" means that portion of highway improved, designed, or ordinarily used for vehicular travel.

(b) "Roadway" does not include the sidewalk, berm, or shoulder, even though any of them are used by persons riding bicycles or other human-powered vehicles.

(c) "Roadway" refers to any roadway separately but not to all roadways collectively, if a highway includes two or more separate roadways.

[~~(59)~~] (61) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and that is protected, marked, or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

[~~(60)~~] (62) (a) "School bus" means a motor vehicle that:

(i) complies with the color and identification requirements of the most recent edition of "Minimum Standards for School Buses"; and

(ii) is used to transport school children to or from school or school activities.

(b) "School bus" does not include a vehicle operated by a common carrier in transportation of school children to or from school or school activities.

[~~(61)~~] (63) (a) "Semitrailer" means a vehicle with or without motive power:

(i) designed for carrying persons or property and for being drawn by a motor vehicle; and

(ii) constructed so that some part of its weight and that of its load rests on or is carried by another vehicle.

(b) "Semitrailer" does not include a pole trailer.

[~~(62)~~] (64) "Shoulder area" means:

(a) that area of the hard-surfaced highway separated from the roadway by a pavement edge line as established in the current approved "Manual on Uniform Traffic Control Devices"; or

(b) that portion of the road contiguous to the roadway for accommodation of stopped vehicles, for emergency use, and for lateral support.

[~~(63)~~] (65) "Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

[~~(64)~~] (66) "Solid rubber tire" means a tire of rubber or other resilient material that does not depend on compressed air for the support of the load.

[~~(65)~~] (67) "Stand" or "standing" means the temporary halting of a vehicle, whether occupied or not, for the purpose of and while actually engaged in receiving or discharging passengers.

[~~(66)~~] (68) "Stop" when required means complete cessation from movement.

[~~(67)~~] (69) "Stop" or "stopping" when prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when:

(a) necessary to avoid conflict with other traffic; or

(b) in compliance with the directions of a peace officer or traffic-control device.

[~~(68)~~] (70) "Street-legal all-terrain vehicle" or "street-legal ATV" means an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that is modified to meet the requirements of Section 41-6a-1509 to operate on highways in the state in accordance with Section 41-6a-1509.

[~~(69)~~] (71) "Traffic" means pedestrians, ridden or herded animals, vehicles, and other conveyances either singly or together while using any highway for the purpose of travel.

[~~(70)~~] (72) "Traffic signal preemption device" means an instrument or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

[~~(71)~~] (73) "Traffic-control device" means a sign, signal, marking, or device not inconsistent with this chapter placed or erected by a highway authority for the purpose of regulating, warning, or guiding traffic.

[~~(72)~~] (74) "Traffic-control signal" means a device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

[~~(73)~~] (75) (a) "Trailer" means a vehicle with or without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

(b) "Trailer" does not include a pole trailer.

[~~(74)~~] (76) "Truck" means a motor vehicle designed, used, or maintained primarily for the transportation of property.

[~~(75)~~] (77) "Truck tractor" means a motor vehicle:

(a) designed and used primarily for drawing other vehicles; and

(b) constructed to carry a part of the weight of the vehicle and load drawn by the truck tractor.

[~~(76)~~] (78) "Two-way left turn lane" means a lane:

(a) provided for vehicle operators making left turns in either direction;

(b) that is not used for passing, overtaking, or through travel; and

(c) that has been indicated by a lane traffic-control device that may include lane markings.

[~~(77)~~] (79) "Urban district" means the territory contiguous to and including any street, in which structures devoted to business, industry, or dwelling houses are situated at intervals of less than 100 feet, for a distance of a quarter of a mile or more.

[~~(78)~~] (80) "Vehicle" means a device in, on, or by which a person or property is or may be transported or drawn on a highway, except a mobile carrier, as defined in Section 41-6a-1120, or a device used exclusively on stationary rails or tracks.

Section 2. Section 41-6a-1203 is amended to read:

41-6a-1203. Railroad grade crossing -- Duty to stop -- Malfunctions and school buses -- Driving through, around, or under gate or barrier prohibited.

(1) As used in this section, "active railroad grade crossing" [~~has the same meaning as~~] means the same as that term is defined in Section 41-6a-1005.

(2) Whenever a person operating a vehicle approaches a railroad grade crossing, the operator of the vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of the railroad track and may not proceed if:

(a) a clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;

(b) a crossing gate is lowered, or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;

(c) a railroad train or other on-track equipment approaching within approximately 1,500 feet of the highway crossing:

(i) emits [~~a signal audible~~] an audible signal; and

(ii) the railroad train [~~by reason of its speed or nearness to the crossing is an immediate hazard~~] or other on-track equipment is an immediate hazard because of the railroad train's or other on-track equipment's speed or proximity to the crossing;

(d) an approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to the crossing; or

(e) there is any other condition that makes it unsafe to proceed through the crossing.

(3) (a) An operator of a vehicle who suspects a false activation or malfunction of a railroad grade crossing signal device where there is no gate or barrier may drive a vehicle through the railroad grade crossing after stopping if:

(i) the operator of a vehicle has a clear line of sight of at least one mile of the railroad tracks in all directions;

(ii) there is no evidence of an approaching railroad train or other on-track equipment;

(iii) the vehicle can cross over the tracks safely; and

(iv) the operator of a school bus is compliant with written district policy.

(b) As soon as is reasonably possible, the operator of a school bus shall notify the driver's dispatcher and the dispatcher shall notify the owner of the railroad track where the grade crossing signal device is located of the false activation or malfunction.

(4) (a) A person may not drive a vehicle through, around, or under a crossing gate or barrier at [~~a railroad grade crossing if the railroad grade crossing is active~~] an active railroad grade crossing.

(b) A person may not cause a non-rail vehicle, whether or not occupied, to pass through, around, over, or under or remain on a gate or barrier at [~~a railroad grade crossing if the railroad grade crossing is active~~] an active railroad grade crossing.

(c) A person may not cause a non-rail vehicle, whether or not occupied, to pass around, through, over, or under or remain in a rail or fixed guideway right-of-way in a manner that would cause a railroad train or other rail vehicle to make contact with the non-rail vehicle.

(5) A violation of this section is an infraction.

Section 3. Section 41-6a-1205 is amended to read:

41-6a-1205. Railroad grade crossings -- Certain vehicles must stop -- Exceptions -- Rules.

(1) An operator of a commercial motor vehicle, as defined under Section 53-3-102, shall upon approaching a railroad grade crossing:

(a) [~~unless Subsection (2) applies~~] except as provided in Subsection (2), slow down and check that the tracks are clear of an approaching railroad train or other on-track equipment;

(b) stop within 50 feet, but not closer than 15 feet, from the nearest rail of the railroad track before reaching the crossing if the tracks are not clear;

(c) obey all traffic control devices or the directions of a peace officer, or other crossing official at the crossing; and

(d) before proceeding over a railroad grade crossing:

(i) ensure that the vehicle has sufficient space to drive completely through a railroad grade crossing without stopping; and

(ii) ensure that the vehicle has sufficient undercarriage clearance to safely and completely pass through the crossing.

(2) [~~(a)~~] Except as provided in Subsection (3), the operator of a vehicle described in 49 CFR 392.10:

(a) shall stop within 50 feet, but not closer than 15 feet, from the nearest rail of the railroad track before crossing, at grade, any track of a railroad[~~.~~];

[~~(b) While stopped, the operator shall look in both directions along the track for any sign of an approaching train and look and listen for signals indicating the approach of any train.~~]

(b) while stopped, shall:

(i) look in both directions along the railroad track for:

(A) a sign of an approaching railroad train or other on-track equipment; or

(B) a signal indicating the approach of a railroad train or other on-track equipment; and

(ii) listen for a signal indicating the approach of a railroad train or other on-track equipment;

(c) [~~The operator~~] may proceed across the railroad track only when [~~the movement may be made with reasonable safety.~~] reasonably safe to cross; and

[~~(d) After stopping as required and upon safely proceeding, the operator shall only cross the railroad track in a gear that ensures no necessity for manually changing gears while traversing the crossing. (e) The operator~~]

(d) after stopping and safely proceeding, may not manually shift gears while crossing the railroad track.

(3) This section does not apply at a:

(a) railroad grade crossing where traffic is controlled by a peace officer or other crossing official;

(b) railroad grade crossing where traffic is regulated by a traffic-control signal;

(c) railroad grade crossing where a traffic-control device gives notice that the stopping requirements of this section are not applicable; or

(d) other railroad grade crossings excluded under 49 CFR 392.10.

(4) A violation of this section is an infraction.

Section 4. Section 41-6a-1206 is amended to read:

41-6a-1206. Railroad crossing duties respecting crawler type tractor, power shovel, derrick, or other equipment or structure.

(1) A person may not operate or move the following on or across any tracks at a railroad grade crossing without first complying with this section:

(a) a crawler type tractor;

(b) a power shovel;

(c) a derrick;

(d) a roller; or

(e) any equipment or structure having:

(i) normal operating speed of 10 or less miles per hour; or

(ii) a vertical body or load clearance of less than:

(A) 1/2 inch per foot of the distance between any two adjacent axles; or

(B) in any event, nine inches measured above the level surface of a roadway.

[~~(2) Notice of an intended crossing under this section shall be given to the railroad and a reasonable time shall be given to the railroad to provide proper protection at the crossing.~~]

(2) A person intending to operate or move a vehicle or equipment described in Subsection (1) on or across railroad tracks at a railroad grade crossing shall give to the railroad:

(a) notice of the person's intended crossing; and

(b) reasonable time to provide proper protection at the railroad grade crossing.

(3) [~~(a)~~] Before making a crossing under this section [~~the~~], a person operating or moving [~~the~~] a vehicle or equipment described in Subsection (1):

(a) shall first stop within 50 feet but not closer than 15 feet from the nearest rail of the railway[~~.~~];

[~~(b) While stopped, the operator of the vehicle shall listen and look in both directions along the~~

~~track for any approaching train and for signals indicating the approach of a railroad train.~~]

(b) while stopped, shall:

(i) look in both directions along the railroad track for:

(A) a sign of an approaching railroad train or other on-track equipment; or

(B) a signal indicating the approach of a railroad train or other on-track equipment; and

(ii) listen for a signal indicating the approach of a railroad train or other on-track equipment; and

(c) [~~The operator~~] may proceed across the track only when the crossing can be made safely.

(4) [~~The operator of a vehicle~~] A person operating or moving a vehicle or equipment described in Subsection (1) shall obey all traffic control devices or the directions of a peace officer or other crossing official at the crossing.

(5) A violation of this section is an infraction.

Section 5. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates, Title 41.

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102[~~(30)~~](31) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which create the Off-highway Vehicle Advisory Council, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

CHAPTER 105
S. B. 216

Passed March 4, 2022
Approved March 21, 2022
Effective January 1, 2023

MODIFICATIONS TO DRIVER LICENSE EXAMINATION

Chief Sponsor: Luz Escamilla
House Sponsor: Robert M. Spendlove
Cosponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill allows certain applicants for a driver license with limited English proficiency to take the written driver license examination in certain other languages.

Highlighted Provisions:

This bill:

- requires the Driver License Division to provide the examinations of a person's knowledge of the state traffic laws in the top five languages spoken in the state, other than English;
- allows an applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, to request to take the examination of the person's knowledge of the state traffic laws in certain languages other than English;
- requires the Driver License Division to consult with the Division of Multicultural Affairs to determine the five most commonly spoken languages in the state, other than English; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-3-206, as last amended by Laws of Utah 2018, Chapter 128

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

Section 1. Section 53-3-206 is amended to read:

53-3-206. Examination of applicant's physical and mental fitness to drive a motor vehicle.

(1) The division shall examine every applicant for a license, including a test of the applicant's:

(a) eyesight either:

(i) by the division; or

(ii) by allowing the applicant to furnish to the division a statement from a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(b) ability to read and understand highway signs regulating, warning, and directing traffic;

(c) ability to read and understand simple English used in highway traffic and directional signs;

(d) knowledge of the state traffic laws;

(e) other physical and mental abilities the division finds necessary to determine the applicant's fitness to drive a motor vehicle safely on the highways; and

(f) ability to exercise ordinary and responsible control driving a motor vehicle, as determined by actual demonstration or other indicator.

(2) (a) Notwithstanding the provisions of Subsection (1) or any other provision of law, the division shall allow a refugee or an approved asylee to take an examination of the person's knowledge of the state traffic laws in the person's native language:

(i) the first time the person applies for a limited-term license certificate; and

(ii) the first time the person applies for a renewal of a limited-term license certificate.

(b) Upon the second renewal of a refugee's or approved asylee's limited-term license certificate for a refugee or approved asylee that has taken the knowledge exam in the person's native language under Subsection (2)(a), the division shall re-examine the person's knowledge of the state traffic laws in English.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing the procedures and requirements for a refugee or an approved asylee to take an examination of the person's knowledge of the state traffic laws in the person's native language.

(3) (a) For an applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, the division shall provide the examination of a person's knowledge of the state traffic laws in five commonly spoken languages in the state, other than English, as determined under Subsection (3)(c).

(b) An applicant for an original or a renewal of a class D license, other than a driving privilege card or a limited term license certificate, may request to take the examination of the person's knowledge of the state traffic laws in a language other than English, if the requested language is one of five commonly spoken languages in the state as determined under Subsection (3)(c).

(c) (i) The Division of Multicultural Affairs created in Section 9-21-201 shall recommend five commonly spoken languages in the state, other than English, for examination of a person's knowledge of the state traffic laws.

(ii) The division shall offer the examination of a person's knowledge of the state traffic laws in the five commonly spoken languages, other than English, recommended by the Division of Multicultural Affairs created in Section 9-21-201.

[~~(3)~~] (4) The division shall determine whether any facts exist that would bar granting a license under Section 53-3-204.

[~~(4)~~] (5) The division shall examine each applicant according to the class of license applied for.

[~~(5)~~] (6) An applicant for a CDL shall meet all additional requirements of Part 4, Uniform Commercial Driver License Act, of this chapter.

Section 2. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 106
S. B. 221

Passed March 4, 2022
Approved March 21, 2022
Effective July 1, 2022

WATER RELATED SALES AND USE TAX AMENDMENTS

Chief Sponsor: David P. Hinkins
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill modifies provisions related to funding certain agencies through sales and use tax revenue.

Highlighted Provisions:

This bill:

- changes certain references from dedicated credits to designated sales and use tax revenue;
- creates the Water Rights Restricted Account;
- provides that certain revenue be deposited into the restricted account; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates for fiscal year 2023:

- To Department of Natural Resources - Division of Water Rights, as an ongoing appropriation:
  - From General Fund Restricted - Water Rights Restricted Account, $4,300,000; and
- To Department of Natural Resources - Division of Water Rights, as an ongoing appropriation:
  - From Designated Sales and Use Tax, ($4,300,000).

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2021, Chapters 367, 387, and 411

ENACTS:

73-2-1.6, Utah Code Annotated 1953

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

Section 1. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as [~~dedicated credits~~] designated sales and use tax revenue to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as [~~dedicated credits~~] designated sales and use tax revenue to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as [~~dedicated credits~~] designated sales and use tax revenue; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as [~~dedicated credits~~] designated sales and use tax revenue; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended [~~dedicated credits~~] designated sales and use tax revenue described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) [~~and subject to Subsection (5)(f)~~], 15% of the remaining difference described in Subsection (5)(a) shall be [~~transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.~~] deposited each year into the Water Rights Restricted Account created by Section 73-2-1.6.

[~~(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.~~]

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)[~~(c)(iv)(F)~~](d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (7)(c)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

Section 2. Section 73-2-1.6 is enacted to read:

73-2-1.6. Water Rights Restricted Account.

(1) As used in this section:

(a) "Account" means the Water Rights Restricted Account created by this section.

(b) "Division" means the Division of Water Rights.

(2) There is created in the General Fund a restricted account known as the "Water Rights Restricted Account."

(3) The account shall consist of the money deposited into the account under Subsection 59-12-103(5)(e).

(4) Upon appropriation, the division may use money in the account for costs incurred by the division that benefit water rights adjudications, including:

(a) employing technical staff;

(b) acquiring equipment;

(c) legal support; and

(d) conducting studies.

(5) (a) The account may not exceed $8,000,000 at the end of a fiscal year.

(b) If the account exceeds $8,000,000 at the end of a fiscal year, the Division of Finance shall deposit into the Water Resources Conservation and Development Fund, created in Section 73-10-24, the money in excess of the amount necessary to maintain the account balance at $8,000,000.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources - Division of Water Rights

From General Fund Restricted - Water Rights Restricted Account	$4,300,000
Schedule of Programs:	
Adjudication	$4,300,000

ITEM 2

To Department of Natural Resources - Division of Water Rights

From Designated Sales and Use Tax	($4,300,000)
Schedule of Programs:	
Adjudication	($4,300,000)

Section 4. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 107
S. B. 235

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

DEPARTMENT OF TRANSPORTATION ADJUDICATION PROCESS REVISIONS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to Department of Transportation adjudication processes and relocation or acquisition of pole barns as part of right-of-way acquisition.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Transportation to appoint and cover the costs of an administrative law judge to preside over administrative proceedings in certain circumstances;
- requires the Department of Transportation to classify certain structures affected by right-of-way acquisition in the manner that benefits the owner;
- grants rulemaking authority to the Department of Transportation to establish administrative procedures in accordance with relocation assistance; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-12-3, as last amended by Laws of Utah 2004, Chapter 223
57-12-9, as last amended by Laws of Utah 2008, Chapter 382
57-12-13, as last amended by Laws of Utah 2020, Chapter 290

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

Section 1. Section 57-12-3 is amended to read:

57-12-3. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) a department, division, agency, commission, board, council, committee, authority, political subdivision, or other instrumentality of the state or of a political subdivision of the state whether one or more; and

(b) any other person whose use of the power of eminent domain results in a person becoming a displaced person.

(2) "Business" means any lawful activity, excepting a farm operation, conducted primarily:

(a) for the purchase, sale, lease, or rental of personal or real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(b) for the sale of services to the public;

(c) by a nonprofit organization; or

(d) for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(3) "Department of Transportation" means the Department of Transportation created in Section 72-1-201.

[~~(3)~~] (4) "Displaced person" means any person who, after the effective date of this chapter, moves from real property, or who moves the person's personal property from real property, or moves or discontinues the person's business or moves the person's dwelling as a result of the acquisition of the real property, in whole or in part, or as a result of a written order of the acquiring agency to vacate real property for a program of purchase undertaken by an agency or as a direct result of code enforcement activities or a program of rehabilitation of buildings conducted pursuant to a federal or state assisted program.

[~~(4)~~] (5) "Family farm" means a farm operation which is conducted:

(a) on two sections (1280 acres) or less; or

(b) as a sole proprietorship or through an entity which is wholly owned by members of the same immediate family.

[~~(5)~~] (6) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

[~~(6)~~] (7) "Nonprofit organization" means all corporations, societies, and associations whose object is not pecuniary profit, but is to promote the general interest and welfare of the members, whether temporal, social, or spiritual.

[~~(7)~~] (8) "Person" means any individual, partnership, corporation, or association.

(9) (a) "Pole barn" means a building or structure used in conjunction with a farm operation that:

(i) uses poles as the primary load-bearing structure; and

(ii) does not have a foundation.

(b) "Pole barn" includes any building or structure that met the definition of a pole barn in Subsection (9)(a) at any time in the five years preceding the proposed acquisition.

[~~(8)~~] (10) "Small business" means a business which has a gross annual income of less than $1,500,000.

Section 2. Section 57-12-9 is amended to read:

57-12-9. Rules of displacing agency.

(1) (a) A displacing agency may enact rules to assure that:

(i) the payments and assistance authorized by this chapter are administered in a manner that is fair, reasonable, and as uniform as practicable;

(ii) a displaced person who makes proper application for a payment authorized by this chapter is paid promptly after a move or, in hardship cases, is paid in advance; and

(iii) any person aggrieved by a determination as to eligibility for a payment authorized by this chapter, or the amount of a payment, may have the person's application reviewed by the head of the displacing agency.

(b) Each displacing agency that has not adopted rules under Subsection (1)(a) shall comply with the rules promulgated by the Utah Department of Transportation relating to displaced persons in right-of-way acquisitions.

(2) Each displacing agency shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

(3) (a) For a financial assistance claim made by a displaced person under this chapter or 42 U.S.C. Secs. 4601-4655, for which the Department of Transportation is the displacing agency in a circumstance described in Subsection (3)(b), the Department of Transportation shall, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procure, appoint, and cover the costs of:

(i) an administrative law judge to preside over the proceedings; and

(ii) a stenographer to record and transcribe any relevant hearing or proceeding.

(b) The requirements of Subsection (3)(a) shall apply to any financial assistance claim by a displaced person where:

(i) the financial assistance claim is valued at more than $50,000; or

(ii) there is a question of law affecting the denial of a financial assistance claim.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Department of Transportation may make rules to establish administrative procedures in accordance with this part.

Section 3. Section 57-12-13 is amended to read:

57-12-13. Procedure for acquisition of property.

(1) (a) As used in this section, "fee simple owner" means the owner of a fee simple interest in real property.

(b) "Fee simple owner" does not include a tenant, lienholder, or other claimant of an interest in real property.

(2) Any agency acquiring real property as to which it has the power to acquire under the eminent domain or condemnation laws of this state shall comply with the following policies:

(a) Every reasonable effort shall be made to acquire expeditiously real property by negotiation with the fee simple owner.

(b) Real property shall be appraised before the initiation of negotiations, and the fee simple owner or his designated representative shall be given an opportunity to accompany the appraiser during his inspection of the property.

(c) (i) Before the initiation of negotiations for real property, an amount shall be established which is reasonably believed to be just compensation therefor, measured by an undivided interest in the real property being acquired, and such amount shall be offered to the fee simple owner for the property.

(ii) In no event shall [~~such amount~~] the amount established as described in Subsection (2)(c)(i) be less than the lowest approved appraisal of the fair market value of the property.

(iii) Any decrease or increase of the fair market value of real property prior to the date of valuation caused by the public improvement for which such property is acquired or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of the fee simple owner, will be disregarded in determining the compensation for the property.

(iv) The fee simple owner of the real property to be acquired shall be provided with a written statement of, and summary of the basis for, the amount established as just compensation.

(v) Where appropriate the just compensation for real property acquired and for damages to remaining real property shall be separately stated.

(vi) If a pole barn is impacted as a result of a real property acquisition under this chapter, the acquiring agency shall:

(A) determine whether the fee simple owner would receive greater net proceeds by classifying the pole barn as real property or as personal property; and

(B) classify the pole barn in the manner that results in the highest net proceeds to the fee simple owner.

(d) No owner shall be required to surrender possession of real property acquired through federal or federally assisted programs before the agreed purchase price is paid or there is deposited with a court having jurisdiction of condemnation of such property, in accordance with applicable law, for the benefit of the owner an amount not less than the lowest approved appraisal of the fair market value of such property or the amount of the award of compensation in the condemnation proceeding of such property.

(e) The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling will be available) or to move his business or farm operation without at least 90 days' written notice from the date by which such move is required.

(f) If an owner or tenant is permitted to occupy the real property acquired on a rental basis for a short term or for a period subject to termination on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

(g) In no event shall the time of condemnation be advanced, on negotiations or condemnation and the deposit of funds in court for the use of the owner be deferred, or any other coercive action be taken to compel an agreement on the price to be paid for the property.

(h) If an interest in real property is to be acquired by exercise of the power of eminent domain, formal condemnation proceedings shall be instituted. The acquiring agency shall not intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(i) If the acquisition of only part of the property would leave the fee simple owner with an uneconomic remnant, an offer to acquire the entire property shall be made.

CHAPTER 108
S. B. 250

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022
(Retrospective operation to January 1, 2022)

MINERAL EXPLORATION TAX CREDIT

Chief Sponsor: David P. Hinkins
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill enacts a tax credit related to mineral exploration activities.

Highlighted Provisions:

This bill:

- allows a person engaged in the business of mining to claim a tax credit against the person's severance tax liability for the cost of certain mineral exploration activities;
- provides a process by which a person may apply for and claim the tax credit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

40-6-16, as last amended by Laws of Utah 2019, Chapters 246 and 247

ENACTS:

40-6-24, Utah Code Annotated 1953
59-5-216, Utah Code Annotated 1953

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

Section 1. Section 40-6-16 is amended to read:

40-6-16. Duties of division.

In addition to the duties assigned by the board, the division shall:

(1) develop and implement an inspection program that will include but not be limited to production data, pre-drilling checks, and site security reviews;

(2) publish a monthly production report;

(3) publish a monthly gas processing plant report;

(4) review and evaluate, prior to a hearing, evidence submitted with the petition to be presented to the board;

(5) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5;

(6) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit; [~~and~~]

(7) complete the verification of natural gas to hydrogen conversion plants required by Section 59-5-102[~~.~~]; and

(8) issue tax credit certificates in accordance with Section 40-6-24.

Section 2. Section 40-6-24 is enacted to read:

40-6-24. Tax credit for mining exploration -- Division to issue certificates.

(1) As used in this section:

(a) (i) "Certified expenditure" means a cost incurred for an activity in direct support of an exploration activity conducted at a specific site.

(ii) "Certified expenditure" includes:

(A) the cost of obtaining an approval, a permit, a license, or a certificate for an exploration activity;

(B) a direct labor cost and the cost of benefits for employees directly associated with work described in Subsection (1)(a)(i);

(C) the cost of leasing equipment from a third party;

(D) the cost of owning, maintaining, or operating equipment;

(E) insurance and bond premiums associated with the activities described in Subsections (1)(a)(ii)(A) through (D);

(F) the cost of a consultant or an independent contractor; and

(G) any general expense related to operating the business engaged in the exploration activity to the extent the expense is directly attributable to the work described in Subsection (1)(a)(i).

(iii) "Certified expenditure" does not include:

(A) return on investment; or

(B) insurance or bond premiums not described in Subsection (1)(a)(ii)(E).

(b) "Closed mine" means a mine that:

(i) previously operated;

(ii) does not currently operate; and

(iii) for which each mining approval, permit, license, or certificate that allowed the mine to operate is no longer in effect.

(c) "Construction commencement date of a new mine" means the earliest date on which each of the following is true:

(i) the owner or owner's agent obtains for the mine each of the following that a reasonable and prudent person would consider adequate to commence construction of a mine:

(A) each federal, state, or local government approval, permit, license, and certificate; and

(B) each right in land, including each permit, lease, and title;

(ii) each approval, permit, license, and certificate described in Subsection (1)(c)(i)(A) is in effect without any modification that might jeopardize the completion or continued construction of the mine; and

(iii) the construction, including the continuation of construction, is not temporarily or permanently enjoined by an order or other decision of a court or administrative body.

(d) "Eligible claimant" means a person who:

(i) is engaged in the business of mining or extracting minerals;

(ii) is subject to a severance tax under Title 59, Chapter 5, Part 2, Mining Severance Tax; and

(iii) makes a certified expenditure during the taxable year.

(e) (i) "Exploration activity" means an activity performed in the state for the purpose of determining the existence, location, extent, or quality of a mineral deposit.

(ii) "Exploration activity" includes:

(A) surveying by a geophysical method or by a geochemical method;

(B) drilling one or more exploration holes;

(C) conducting underground exploration;

(D) surface trenching or bulk sampling;

(E) taking aerial photographs;

(F) geological and geophysical logging;

(G) sample analysis; and

(H) metallurgical testing.

(iii) "Exploration activity" does not include an activity that occurs:

(A) after the construction commencement date of a new mine; or

(B) if the mine is or was a closed mine, after the mine reopening date.

(f) "Geochemical method" means a method of gathering geochemical data, including collecting soil, rock, water, air, vegetation, or any other similar item and performing a chemical analysis on the item.

(g) "Geophysical method" means a method of gathering geophysical data that is used in mineral exploration, including seismic, gravity, magnetic, radiometric, radar, electromagnetic, and other remote sensing measurements.

(h) "Mine" means the same as that term is defined in Section 59-5-201.

(i) "Mine reopening date" means with respect to a closed mine, the earliest date on which each of the following is true:

(i) the owner or owner's agent obtains for the closed mine each of the following that a reasonable and prudent person would consider adequate to begin operation of a closed mine:

(A) each federal, state, or local government approval, permit, license, and certificate; and

(B) each right in land, including each permit, lease, and title;

(ii) each approval, permit, license, and certificate described in Subsection (1)(i)(i)(A) is in effect without any modification that might jeopardize resuming operation of the closed mine; and

(iii) resuming operation of the closed mine is not temporarily or permanently enjoined by an order or other decision of a court or administrative body.

(j) "Mineral" means a metalliferous mineral as defined in Section 59-5-201.

(k) "Tax credit certificate" means a certificate issued by the division that:

(i) lists the eligible claimant's name and taxpayer identification number;

(ii) lists the amount of the eligible claimant's tax credit authorized under this section for a taxable year; and

(iii) includes other information as determined by the division.

(2) An eligible claimant that seeks to claim a tax credit under Section 59-5-216 for a taxable year shall apply to the division for a tax credit certificate.

(3) The eligible claimant shall apply for a tax credit certificate on a form provided by the division and approved by the State Tax Commission.

(4) The eligible claimant shall include in the application for a tax credit certificate the following information for the taxable year in which the person seeks a tax credit certificate:

(a) proof that the eligible claimant satisfies the requirements of Subsection (1)(d);

(b) a description of the mine where the exploration activity occurred;

(c) proof of each certified expenditure, including the amount; and

(d) any other information the division requests.

(5) (a) After the division receives an application for a tax credit certificate, for each expenditure in the application, the division shall approve the expenditure as a certified expenditure or deny the expenditure as an expenditure that is not a certified expenditure.

(b) If the division denies an expenditure, the division shall provide the person a written explanation that states each reason the division denied the expenditure and give the person an opportunity to correct any deficiency or provide additional information.

(6) (a) The tax credit certificate shall state the amount of the tax credit, which is equal to the amount of the eligible claimant's certified

expenditures as approved by the division in accordance with Subsection (5).

(b) The division may not issue a tax credit certificate for certified expenditures related to exploration activities at a mine if the aggregate value of tax credit certificates issued for certified expenditures related to exploration activities at the same mine exceeds $20,000,000.

(7) (a) An eligible claimant may assign a tax credit certificate to another person if the eligible claimant provides written notice to the division in a form prescribed by the division, that includes:

(i) the eligible claimant's written certification or other proof that the eligible claimant irrevocably elects not to claim the tax credit authorized by the tax credit certificate; and

(ii) contact information for the person to whom the eligible claimant is assigning the tax credit certificate.

(b) If the eligible claimant meets the requirements of Subsection (7)(a), the division shall issue an assigned tax credit certificate to the person identified by the eligible claimant in an amount equal to the eligible claimant's tax credit certificate.

(c) A person to whom an eligible claimant assigns a tax credit certificate may claim the tax credit under Section 59-5-216 as if the person met the requirements of Section 59-5-216, if the person files a return under Title 59, Chapter 5, Part 2, Mining Severance Tax.

(8) An eligible claimant that receives a tax credit certificate in accordance with this section shall retain the tax credit certificate for the same time period that a person is required to keep books and records under Section 59-1-1406.

(9) The division shall annually submit to the State Tax Commission an electronic list that includes:

(a) the name and identifying information for:

(i) each eligible claimant to whom the division issues a tax credit certificate; and

(ii) each person to whom an eligible claimant assigns a tax credit certificate in accordance with Subsection (7);

(b) for each person described in Subsection (9)(a), the amount of the tax credit stated on the tax credit certificate; and

(c) for each person described in Subsection (9)(a)(ii), information necessary to identify the tax credit certificate that the eligible claimant assigned to the person.

(10) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules governing the administration of the tax credit certificate process described in this section.

Section 3. Section 59-5-216 is enacted to read:

59-5-216. Tax credit for mining exploration.

(1) As used in this section:

(a) "Eligible claimant" means a person:

(i) who is an eligible claimant as defined in Section 40-6-24 and obtains a tax credit certificate; or

(ii) to whom a person described in Subsection (1)(a)(i) assigns a tax credit certificate and obtains an assigned tax credit certificate in accordance with Section 40-6-24.

(b) "Tax credit certificate" means the same as that term is defined in Section 40-6-24.

(2) Subject to Subsection (3), an eligible claimant may claim a nonrefundable tax credit against severance tax otherwise due under this part in an amount equal to the amount stated on the tax credit certificate for the taxable year.

(3) An eligible claimant may not claim in any taxable year a credit under this section that exceeds 30% of the eligible claimant's severance tax liability for the taxable year.

(4) An eligible claimant may carry forward to the next 15 taxable years the amount of the eligible claimant's tax credit that exceeds the amount described in Subsection (3).

Section 4. Retrospective operation.

This bill has retrospective operation for a taxable year beginning on or after January 1, 2022.

CHAPTER 109
S. B. 254

Passed March 4, 2022
Approved March 21, 2022
Effective May 4, 2022

GOVERNMENT RECORDS ACCESS REVISIONS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill addresses access to certain government records.

Highlighted Provisions:

This bill:

- exempts certain records related to a governmental entity's security measures from the Government Records Access and Management Act (GRAMA);
- classifies certain drinking water and wastewater data as a protected record under GRAMA; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-106, as renumbered and amended by Laws of Utah 2008, Chapter 382

63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382

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

Section 1. Section 63G-2-106 is amended to read:

63G-2-106. Records of security measures.

(1) The records of a governmental entity or political subdivision regarding security measures designed for the protection of persons or property, public or private, are not subject to this chapter. [~~These records include:~~]

(2) The records described in Subsection (1) include:

[~~(1)~~] (a) security plans[~~;~~], including a plan:

(i) to prepare for or mitigate terrorist activity; or

(ii) for emergency and disaster response and recovery;

[~~(2)~~] (b) security codes and combinations, and passwords;

[~~(3)~~] (c) passes and keys;

[~~(4)~~] (d) security procedures; [~~and~~]

(e) except as provided in Subsection (3), results of, or data collected from, a public entity's risk assessment or security audit; and

[~~(5)~~] (f) building and public works designs, to the extent that the records or information relate to the ongoing security measures of a public entity.

(3) The records described in Subsection (1) do not include a certification that a community water system has conducted a risk and resilience assessment under 42 U.S.C. Sec. 300i-2.

Section 2. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program

established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and

Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702 (2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; [~~and~~]

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision[~~.~~]; and

(84) the following records of a drinking water or wastewater facility:

(a) an engineering or architectural drawing of the drinking water or wastewater facility; and

(b) except as provided in Section 63G-2-106, a record detailing tools or processes the drinking water or wastewater facility uses to secure, or prohibit access to, the records described in Subsection (84)(a).

CHAPTER 110
H. B. 10

Passed February 3, 2022
Approved March 22, 2022
Effective May 4, 2022

LANE FILTERING AMENDMENTS

Chief Sponsor: Walt Brooks
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill extends the sunset date of provisions related to lane filtering.

Highlighted Provisions:

This bill:

- ▸ extends the sunset of provisions related to lane filtering.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-241, as last amended by Laws of Utah 2020, Chapters 84 and 154

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

Section 1. Section 63I-1-241 is amended to read:

63I-1-241. Repeal dates, Title 41.

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, [~~2022~~] 2027:

(a) Subsection 41-6a-102(30) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which create the Off-highway Vehicle Advisory Council, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

CHAPTER 111
H. B. 16

Passed February 4, 2022
Approved March 22, 2022
Effective May 4, 2022

EMERGENCY RESPONSE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions of the Emergency Management Act.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions related to the State Disaster Recovery Restricted Account;
- provides that the Division of Emergency Management may enter into an agreement with an entity to operate an emergency response team;
- describes the purposes for which an emergency response team member is considered an employee of the division; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-2a-603, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

ENACTS:

53-2a-1501, Utah Code Annotated 1953
53-2a-1502, Utah Code Annotated 1953
53-2a-1503, Utah Code Annotated 1953

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

Section 1. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $500,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $3,000,000, but does not exceed $5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed [~~$150,000~~] $500,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section 39-1-5, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund the Local Government Emergency Response Loan Fund created in Section 53-2a-607;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of [~~$10,000,000;~~] $5,000,000; and

[~~(e) the division may expend up to $3,200,000 during fiscal year 2019 to fund operational costs incurred by the division during fiscal year 2019; and~~]

[~~(f)~~] (e) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4).

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 2. Section 53-2a-1501 is enacted to read:

Part 15. (Codified as Part 16) Emergency Response Team

53-2a-1501. (Codified as 53-2a-1601) Definitions.

As used in this part:

(1) "Emergency responder" includes a:

(a) firefighter;

(b) structural engineer;

(c) physician;

(d) paramedic; or

(e) technical rescue specialist.

(2) "Emergency response team" means a group of emergency responders placed at the direction, control, and funding of the Division of Emergency Management, in accordance with an agreement between the Division of Emergency Management and a sponsoring agency and the provisions of this part, to assist in urban search and rescue:

(a) in response to a disaster, emergency, or important event; or

(b) in anticipation of a forecasted severe weather event, a flood, or a planned important event.

(3) "Emergency response team member" means an individual who is:

(a) an emergency responder;

(b) a member of an emergency response team; and

(c) acting within the scope of the individual's duties for an emergency response team.

(4) "Important event" includes an event attended by one or more officials of the United States or one or more foreign dignitaries and where a large crowd has or is anticipated to gather.

(5) "Sponsoring agency" means an entity in the state that executes a written agreement to organize a National Urban Search and Rescue Response System task force as described in 44 C.F.R. Part 208 to assist the Federal Emergency Management Agency during a disaster or emergency.

Section 3. Section 53-2a-1502 is enacted to read:

53-2a-1502. (Codified as 53-2a-1602) Emergency response team agreement -- Creation.

(1) The division may enter into an agreement with a sponsoring agency to establish terms and conditions that apply to an emergency response team.

(2) If the division enters into an agreement described in Subsection (1), the agreement shall allow the division to reimburse the sponsoring agency for costs related to the operation of an emergency response team at rates equivalent to those described in 44 C.F.R. Part 208.

Section 4. Section 53-2a-1503 is enacted to read:

53-2a-1503. (Codified as 53-2a-1603) Purposes for which an emergency response team member is considered an employee of the division.

An emergency response team member is considered a division employee only for the following purposes:

(1) receiving workers' compensation benefits, which shall be the exclusive remedy for any injuries or occupational diseases, as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act;

(2) operating a motor vehicle or equipment if the emergency response team member is properly licensed and authorized to do so; and

(3) receiving the protection and indemnification normally afforded a division employee.

CHAPTER 112
H. B. 18

Passed February 3, 2022
Approved March 22, 2022
Effective May 4, 2022

INTIMATE IMAGE DISTRIBUTION AMENDMENTS

Chief Sponsor: Clare Collard
Senate Sponsor: Keith Grover
Cosponsor: Karen Kwan

LONG TITLE

General Description:

This bill amends the offense of aggravated unlawful distribution of a counterfeit intimate image.

Highlighted Provisions:

This bill:

- restricts the offense of aggravated unlawful distribution of a counterfeit intimate image to individuals 18 years old and older; and
- makes technical revisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5b-205, as enacted by Laws of Utah 2021, Chapter 134

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

Section 1. Section 76-5b-205 is amended to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

(1) As used in this section:

(a) "Child" means an individual under [~~the age of~~] 18 years old.

(b) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

(c) "Distribute" means the same as that term is defined in Section 76-5b-203.

(d) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(e) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(2) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(a) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(b) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(3) An [~~individual~~] actor who is 18 years old or older commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2), the individual depicted in the counterfeit intimate image is a child.

(4) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual [~~portrayed~~] depicted in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(6) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor.

(7) (a) Except as provided in Subsection (7)(b), knowing or intentional unlawful distribution of a counterfeit intimate image is a class A misdemeanor.

(b) Knowing or intentional unlawful distribution of a counterfeit intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

(c) Except as provided in Subsection (7)(d), knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a third degree felony.

(d) Knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a second degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

CHAPTER 113
H. B. 19

Passed February 17, 2022
Approved March 22, 2022
Effective May 4, 2022

DNA SPECIMEN ANALYSIS AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends provisions related to DNA specimen analysis and destruction.

Highlighted Provisions:

This bill:

- requires a sheriff to provide a person notice related to the destruction of a DNA specimen and removal of the person's DNA sample and records from a database;
- requires certain DNA specimens to be processed and entered into a database;
- permits a person to request the destruction of the person's DNA specimen and related records under certain conditions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-404.5, as last amended by Laws of Utah 2014, Chapter 331
53-10-406, as last amended by Laws of Utah 2010, Chapter 405

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

Section 1. Section 53-10-404.5 is amended to read:

53-10-404.5. Obtaining DNA specimen at time of booking -- Payment of fee upon conviction.

(1) (a) When a sheriff books a person for any offense under Subsections 53-10-403(1)(c) and (d), the sheriff shall:

(i) except as provided in Subsection (1)(b), obtain a DNA specimen from the person upon booking of the person at the county jail[~~, except under Subsection (1)(b).~~]; and

(ii) provide the person, in a manner the bureau specifies, notice of the process described in Subsection 53-10-406(6)(b) to request destruction of the DNA specimen and removal of the person's DNA record from the database described in Subsection 53-10-406(1)(d).

(b) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has [~~on file a DNA specimen for the person~~] received a DNA specimen for the person and the sample analysis is either in process or complete, the sheriff is not required to obtain an additional DNA specimen.

(c) If at the time of booking the sheriff is able to obtain information from the bureau stating that the bureau has received a DNA specimen for the person and the sample analysis is pending, the sheriff may obtain an additional DNA specimen.

(2) The person booked under Subsection (1) shall pay a fee of $150 for the cost of obtaining the DNA specimen if:

(a) the charge upon which the booking is based is resolved by a conviction or the person is convicted of any charge arising out of the same criminal episode regarding which the DNA specimen was obtained; and

(b) the person's DNA sample is not on file under Subsection (1)(b).

(3) (a) All fees collected under Subsection (2) shall be deposited [~~in~~] into the DNA Specimen Restricted Account created in Section 53-10-407, except that the agency collecting the fee may retain not more than $25 per individual specimen for the costs of obtaining the DNA specimen.

(b) The agency collecting the $150 fee may not retain from each separate fee more than $25, and no amount of the $150 fee may be credited to any other fee or agency obligation.

(4) Any DNA specimen obtained under this section shall be held and may not be processed until:

(a) the court has bound the person over for trial following a preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked;

(b) the person has waived the preliminary hearing for any charge arising out of the same criminal episode regarding which the person was booked; [~~or~~]

(c) a grand jury has returned an indictment for any charge arising out of the same criminal episode regarding which the person was booked[~~.~~]; or

(d) sixty days after the issuance of an arrest warrant for failure to appear, provided the warrant is still outstanding or has not been recalled.

Section 2. Section 53-10-406 is amended to read:

53-10-406. DNA specimen analysis -- Bureau responsibilities.

(1) The bureau shall:

(a) administer and oversee the DNA specimen collection process;

[~~(b) store all DNA specimens received and other physical evidence obtained from analysis of those specimens;~~]

(b) store each DNA specimen and associated records received;

(c) analyze each specimen, or contract with a qualified public or private laboratory to analyze the [~~specimens~~] specimen, to establish the genetic profile of the donor or to otherwise determine the identity of [~~persons or contract with other qualified public or private laboratories to conduct the analysis~~] the person;

(d) maintain a criminal identification [~~data base~~] database containing information derived from DNA analysis;

[~~(e) utilize the specimens to create statistical population frequency data bases, provided that genetic profiles or other information in a population frequency data base may not be identified with specific individuals;~~]

[~~(f)~~] (e) ensure that the DNA identification system does not provide information allowing prediction of genetic disease or predisposition to illness;

[~~(g)~~] (f) ensure that only DNA markers routinely used or accepted in the field of forensic science are used to establish the gender and unique individual identification of the donor;

[~~(h)~~] (g) utilize only those DNA analysis procedures that are consistent with, and do not exceed, procedures established and used by the Federal Bureau of Investigation for the forensic analysis of DNA;

[~~(i)~~] (h) destroy a DNA specimen obtained under this part if criminal charges have not been filed within 90 days after booking for an alleged offense under Subsection 53-10-403(2)(c); and

[~~(j)~~] (i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing procedures for obtaining, transmitting, and analyzing DNA specimens and for storing and destroying DNA specimens and [~~other physical evidence~~] associated records, and criminal identification information obtained from the analysis.

(2) Procedures for DNA analysis may include all techniques which the [~~Department of Public Safety~~] department determines are accurate and reliable in establishing identity[~~, including but not limited to, analysis of DNA, antigen antibodies, polymorphic enzymes, or polymorphic proteins~~].

(3) (a) In accordance with Section 63G-2-305, [~~all DNA specimens received shall be~~] each DNA specimen and associated record is classified as protected.

(b) The [~~Department of Public Safety~~] department may not transfer or disclose any DNA specimen, [~~physical evidence~~] associated record, or criminal identification information obtained, stored, or maintained under this section, except under [~~its~~] the provisions of this section.

(4) Notwithstanding Subsection 63G-2-202(1), the department may deny inspection if [~~it~~] the department determines that there is a reasonable likelihood that the inspection would prejudice a pending criminal investigation.

(5) The department shall adopt procedures governing the inspection of records, DNA specimens, and challenges to the accuracy of records. The procedures shall accommodate the need to preserve the materials from contamination and destruction.

(6) A person whose DNA specimen [~~has been~~] is obtained under this part may, personally or through a legal representative, submit:

(a) to the court a motion for a court order requiring the destruction of the person's DNA specimen, associated record, and any criminal identification record created in connection with that specimen, and removal of the person's DNA record from the database described in Subsection (1)(d) if:

[~~(a)~~] (i) a final judgment reverses the conviction, judgment, or order that created an obligation to provide a DNA specimen; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal; or

(b) to the department a request for the destruction of the person's DNA specimen, and associated record, and removal of the person's DNA record from the database described in Subsection (1)(d) if:

(i) no charge arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) is filed against the person within one year after the day on which the person is booked; or

(ii) all charges arising from the same criminal episode for which the DNA specimen was obtained under Subsection 53-10-404.5(1)(a) have been resolved by a final judgment of dismissal with prejudice or acquittal[~~; and~~].

[~~(b) the department determines that the person has not otherwise become obligated to submit a DNA specimen as a result of any separate conviction or juvenile adjudication for any offense listed in Subsection 53-10-403(2).~~]

(7) A court order issued under Subsection (6)(a) may be accompanied by a written notice to the person advising that state law provides for expungement of criminal charges if the charge is resolved by a final judgment of dismissal or acquittal.

[~~(8) Upon receipt of~~]

(8) The department shall destroy the person's DNA specimen, and associated record, and remove the person's DNA record from the database described in Subsection (1)(d), if:

(a) the person provides the department with:

(i) a court order for destruction [~~pursuant to~~] described in Subsection (6)(a), and [~~receipt of~~] a certified copy of:

(A) the court order reversing the conviction, judgment, or order[~~, a certified copy of~~];

(B) a court order to set aside the conviction[~~, or a certified copy of~~]; or

(C) the dismissal or acquittal of the charge regarding which the person was arrested[~~, the Department of Public Safety shall destroy any specimen received from the person, any physical evidence obtained from that specimen, and any criminal identification records pertaining to the person, unless prohibited under Subsection (6)(b).~~]; or

(ii) a written request for destruction of the DNA specimen, and associated record, and removal of the DNA record from the database described in Subsection (6)(b), and a certified copy of:

(A) a declination to prosecute from the prosecutor; or

(B) a court document that indicates all charges have been resolved by a final judgment of dismissal with prejudice or acquittal; and

(b) the department determines that the person is not obligated to submit a DNA specimen as a result of a separate conviction or juvenile adjudication for an offense listed in Subsection 53-10-403(2).

(9) The department [~~is not required to destroy any item of physical evidence obtained from a DNA specimen if evidence relating to another person subject to the provisions of Sections 53-10-404 and 53-10-405 would as a result be destroyed.~~] may not destroy a person's DNA specimen or remove a person's DNA record from the database described in Subsection (1)(d) if the person has a prior conviction or a pending charge for which collection of a sample is authorized in accordance with Section 53-10-404.

(10) A DNA specimen, [~~physical evidence~~] associated record, or criminal identification record created in connection with that specimen may not be affected by an order to set aside a conviction, except under the provisions of this section.

(11) If funding is not available for analysis of any of the DNA specimens collected under this part, the bureau shall store the collected specimens until funding is made available for analysis through state or federal funds.

(12) (a) (i) A person who, due to the person's employment or authority, has possession of or access to individually identifiable DNA information contained in the state criminal identification database or the state DNA specimen repository may not willfully disclose the information in any manner to any individual, agency, or entity that is not entitled under this part to receive the information.

(ii) A person may not willfully obtain individually identifiable DNA information from the state criminal identification database or the state DNA repository other than as authorized by this part.

(iii) A person may not willfully analyze a DNA specimen for any purpose, or to obtain any information other than as required under this part.

(iv) A person may not willfully fail to destroy or fail to ensure the destruction of a DNA specimen when destruction is required by this part or by court order.

(b) (i) A person who violates Subsection (12)(a)(i), (ii), or (iii) is guilty of a third degree felony.

(ii) A person who violates Subsection (12)(a)(iv) is guilty of a class B misdemeanor.

CHAPTER 114
H. B. 23

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

FIRST RESPONDER MENTAL HEALTH SERVICES AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Don L. Ipson
Cosponsors: Cheryl K. Acton
Kera Birkeland
Jefferson S. Burton
James A. Dunnigan
Steve Eliason
Joel Ferry
Matthew H. Gwynn
Suzanne Harrison
Jon Hawkins
Sandra Hollins
Karen Kwan
Rosemary T. Lesser
Kelly B. Miles
Carol Spackman Moss
Stephanie Pitcher
Judy Weeks Rohner
Angela Romero
Mike Schultz
Casey Snider
Andrew Stoddard
Elizabeth Weight
Stephen L. Whyte
Brad R. Wilson

LONG TITLE

General Description:

This bill creates a grant program for mental health resources for first responders.

Highlighted Provisions:

This bill:

- defines terms;
- requires all first responder agencies to provide mental health resources for employees, spouses, children, and retirees;
- provides for the Department of Public Safety to administer a grant program to provide mental health resources; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Public Safety -- Programs and Operations, as a one-time appropriation:
  - from the General Fund, One-time, $5,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-262, as last amended by Laws of Utah 2021, Chapters 156, 204, and 278

ENACTS:

53-20-101, Utah Code Annotated 1953
53-20-102, Utah Code Annotated 1953
53-20-103, Utah Code Annotated 1953

REPEALS:

62A-15-120, as enacted by Laws of Utah 2021, Chapter 156

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

Section 1. Section 53-20-101 is enacted to read:

CHAPTER 20. (CODIFIED AS CHAPTER 21) MENTAL HEALTH RESOURCES FOR FIRST RESPONDERS

53-20-101. (Codified as 53-21-101) Definitions.

As used in this chapter:

(1) "Crime scene investigator technician" means an individual employed by a law enforcement agency to collect and analyze evidence from crime scenes and crime-related incidents.

(2) "Department" means the Department of Public Safety.

(3) "First responder" means:

(a) a law enforcement officer, as defined in Section 53-13-103;

(b) an emergency medical technician, as defined in Section 26-8c-102;

(c) an advanced emergency medical technician, as defined in Section 26-8c-102;

(d) a paramedic, as defined in Section 26-8c-102;

(e) a firefighter, as defined in Section 34A-3-113;

(f) a dispatcher, as defined in Section 53-6-102;

(g) a correctional officer, as defined in Section 53-13-104;

(h) a special function officer, as defined in Section 53-13-105, employed by a local sheriff;

(i) a search and rescue worker under the supervision of a local sheriff;

(j) a credentialed criminal justice system victim advocate as defined in Section 77-38-403 who responds to incidents with a law enforcement officer;

(k) a crime scene investigator technician; or

(l) a wildland firefighter.

(4) "First responder agency" means a local district, municipality, interlocal entity, or other political subdivision that employs a first responder to provide fire protection, paramedic, law enforcement, or emergency services.

(5) "Mental health resources" means:

(a) an assessment to determine appropriate mental health treatment that is performed by a mental health therapist;

(b) outpatient mental health treatment provided by a mental health therapist; or

(c) peer support services provided by a peer support specialist who is qualified to provide peer support services under Subsection 62A-15-103(2)(h).

(6) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(7) "Plan" means a plan to implement or expand a program that provides mental health resources to first responders for which the division awards a grant under this chapter.

Section 2. Section 53-20-102 is enacted to read:

53-20-102. (Codified as 53-21-102) Mental health services -- Requirement to provide --- Confidentiality.

(1) Every first responder agency within the state shall provide or make available mental health resources to:

(a) all first responders;

(b) the spouse and children of first responders;

(c) surviving spouses of first responders whose death is classified as a line-of-duty death under Title 49, Utah State Retirement and Insurance Benefit Act; and

(d) first responders who have retired from the agency.

(2) All access by first responders and their families to mental health resources shall be kept confidential.

Section 3. Section 53-20-103 is enacted to read:

53-20-103. (Codified as 53-21-103) Grants to first responder agencies -- Rulemaking.

(1) The department may award grants to first responder agencies to provide mental health resources in response to a:

(a) request for proposal;

(b) request for qualifications; or

(c) program description that meets the criteria in Subsection (2).

(2) The request for proposal, request for qualifications, or program description received by the department shall require mental health providers contracted or employed by the first responder agency to have training and experience in working with first responders and provide, at a minimum, the following services:

(a) regular periodic screenings for all employees within the first responder agency;

(b) assessments and availability to mental health services for personnel directly involved in a critical incident within 12 hours of the incident; and

(c) access to the mental health program for:

(i) spouses and children of first responders; and

(ii) first responders who have retired from the agency.

(3) An application from a first responder agency for a grant under this chapter shall provide the following details:

(a) a proposed plan to provide mental health resources to first responders in the first responder agency;

(b) the number of first responders to be served by the proposed plan;

(c) how the proposed plan will ensure timely and effective provision of mental health resources to first responders in the first responder agency;

(d) the cost of the proposed plan; and

(e) the sustainability of the proposed plan.

(4) In evaluating a project proposal for a grant under this section, the department shall consider:

(a) the extent to which the first responders that will be served by the proposed plan are likely to benefit from the proposed plan;

(b) the cost of the proposed plan; and

(c) the viability of the proposed plan.

(5) A first responder agency may not apply for a grant to fund a program already in place. However, a request for proposal to fund an expansion of an already existing program shall, in addition to the requirements of Subsection (4), provide:

(a) the scope and cost of the agency's current program;

(b) the number of additional first responders the expansion will serve; and

(c) whether the expansion will provide services under Subsection (2) that the current program does not provide.

(6) The department shall prioritize grant funding for:

(a) counties of the 3rd, 4th, 5th, and 6th class;

(b) cities of the 3rd, 4th, and 5th class; and

(c) towns.

(7) The department may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) set parameters for services for retirees; and

(b) administer this chapter.

Section 4. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

(1) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

[~~(2) Section 62A-15-120 is repealed January 1, 2025.~~]

[~~(3)~~] (2) Section 62A-15-122 is repealed January 2, 2025.

[~~(4)~~] (3) Title 62A, Chapter 15, Part 19, Mental Health Crisis Intervention Council, is repealed January 1, 2023.

Section 5. Repealer.

This bill repeals:

Section 62A-15-120, Mental health resources for first responders grant program.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Public Safety — Programs and Operations

From General Fund, One-time	$5,000,000
Schedule of Programs:	
Highway Patrol - Special Services	$5,000,000

The Legislature intends that:

(1) the appropriation under this item be used to award grants under Title 53, Chapter 20, Mental Health Resources for First Responders; and

(2) under Section 63J-1-603, the one-time appropriation provided under this item not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to the purposes described in Subsection (1) of this item.

CHAPTER 115
H. B. 28

Passed February 10, 2022
Approved March 22, 2022
Effective May 4, 2022

OFFENDER SUPERVISION AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions regarding individuals subject to probation and parole.

Highlighted Provisions:

This bill:

- allows a jail to hold a parolee or probationer under certain circumstances;
- clarifies the information a court and the Board of Pardons and Parole shall consider under the sentencing guidelines when an individual violates a provision of probation or parole;
- requires the department of corrections to detain an individual who violates a condition of probation or parole if the violation was a particular type of offense;
- requires a court to review costs that a defendant will be charged for supervisory services;
- clarifies which offenders, the Department of Corrections, a local government agency, or a private probation provider may supervise;
- modifies the duties of private probation providers;
- requires law enforcement agencies to perform certain tasks regarding supervision and presentence investigation reports;
- requires the Department of Corrections to provide a victim notice regarding:
  - the expiration of an offender's probation or parole term; and
  - the victim's ability to obtain a continuous protective order;
- allows a court and the Board of Pardons and Parole to impose a period of incarceration that differs from the sentencing guidelines; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-5.5, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
58-50-9, as last amended by Laws of Utah 2021, Chapter 260
63M-7-404, as last amended by Laws of Utah 2021, Chapter 173
64-13-14.7, as last amended by Laws of Utah 2008, Chapter 382
64-13-29, as last amended by Laws of Utah 2021, Chapter 173
77-18-103, as enacted by Laws of Utah 2021, Chapter 260
77-18-105, as enacted by Laws of Utah 2021, Chapter 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 246
77-18-108, as enacted by Laws of Utah 2021, Chapter 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 260
77-27-11, as last amended by Laws of Utah 2021, Chapter 260

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

Section 1. Section 17-22-5.5 is amended to read:

17-22-5.5. Sheriff's classification of jail facilities -- Maximum operating capacity of jail facilities -- Transfer or release of prisoners -- Limitation -- Records regarding release.

(1) (a) Except as provided in Subsection (4), a county sheriff shall determine:

(i) subject to Subsection (1)(b), the classification of each jail facility or section of a jail facility under the sheriff's control;

(ii) the nature of each program conducted at a jail facility under the sheriff's control; and

(iii) the internal operation of a jail facility under the sheriff's control.

(b) A classification under Subsection (1)(a)(i) of a jail facility may not violate any applicable zoning ordinance or conditional use permit of the county or municipality.

(2) Except as provided in Subsection (4), each county sheriff shall:

(a) with the approval of the county legislative body, establish a maximum operating capacity for each jail facility under the sheriff's control, based on facility design and staffing; and

(b) upon a jail facility reaching the jail facility's maximum operating capacity:

(i) transfer prisoners to another appropriate facility:

(A) under the sheriff's control; or

(B) available to the sheriff by contract;

(ii) release prisoners:

(A) to a supervised release program, according to release criteria established by the sheriff; or

(B) to another alternative incarceration program developed by the sheriff; or

(iii) admit prisoners in accordance with law and a uniform admissions policy imposed equally upon all entities using the county jail.

(3) (a) The sheriff shall keep records of the release status and the type of release program or alternative incarceration program for any prisoner released under Subsection (2)(b)(ii).

(b) The sheriff shall make these records available upon request to the Department of Corrections, the Judiciary, and the Commission on Criminal and Juvenile Justice.

(4) This section may not be construed to authorize a sheriff to modify provisions of a contract with the Department of Corrections to house in a county jail an individual sentenced to the Department of Corrections.

(5) Regardless of whether a jail facility has reached the jail facility's maximum operating capacity under Subsection (2), a sheriff may release an individual from a jail facility in accordance with Section 77-20-203 or 77-20-204.

(6) (a) Subject to Subsection (6)(c), a jail facility shall detain an individual for up to 24 hours from booking if:

(i) the individual is on supervised probation or parole and that information is reasonably available; and

(ii) the individual was arrested for:

(A) a violent felony as defined in Section 76-3-203.5; or

(B) a qualifying domestic violence offense as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.

(b) The jail facility shall notify the entity supervising the individual's probation or parole that the individual is being detained.

(c) (i) The jail facility shall release the individual:

(A) to the Department of Corrections if the Department of Corrections supervises the individual and requests the individual's release; or

(B) if a court or magistrate orders release.

(ii) Nothing in this Subsection (6) prohibits a jail facility from holding the individual in accordance with Title 77, Chapter 20, Bail, for new criminal conduct.

Section 2. Section 58-50-9 is amended to read:

58-50-9. Standards of conduct for private probation providers -- Contracts -- Reports.

(1) The private probation provider:

[~~(1)~~] (a) shall maintain impartiality toward all parties;

[~~(2)~~] (b) shall ensure that all parties understand the nature of the process, the procedure, the particular role of the private probation provider, and the parties' relationship to the private probation provider;

[~~(3)~~] (c) shall maintain confidentiality or, in cases where confidentiality is not protected, the private probation provider shall so advise the parties;

[~~(4)~~] (d) shall disclose any circumstance that may create or give the appearance of a conflict of interest and any circumstance that may reasonably raise a question as to the private probation provider's impartiality; if the contract probation supervisor perceives or believes a conflict of interest to exist, the contract probation supervisor shall refrain from entering into those probation services;

[~~(5)~~] (e) shall adhere to the standards regarding private probation services adopted by the licensing board;

[~~(6)~~] (f) shall comply with orders of court and perform services as directed by judges in individual cases; [~~and~~]

[~~(7)~~] (g) shall perform duties established under Section 77-18-105, as ordered by the court[~~.~~];

(h) beginning July 1, 2022, may not provide private probation in a county where an agency of local government provides probation services unless the private probation provider has entered into a contract with the agency of local government; and

(i) shall provide a report each month to each county sheriff where the private probation provider provides private probation identifying:

(i) each individual currently supervised in the county by the private probation provider;

(ii) the crimes each individual supervised committed;

(iii) the level of supervision that is being provided for each individual; and

(iv) any other information related to the provision of private probation that the county sheriff determines is relevant.

(2) A contract described in Subsection (1)(h) shall include a description of the fees the private probation provider will charge a defendant who is supervised by the private probation provider.

Section 3. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole;

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) [~~The guidelines shall consider~~] For a situation described in Subsection (4)(a), the guidelines shall recommend that a court consider:

(i) the seriousness of [~~the~~] any violation of the [~~conditions~~] condition of probation[~~,~~];

(ii) the probationer's conduct while on probation[~~,~~]; and

(iii) the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) [~~The guidelines shall consider~~] For a situation described in Subsection (5)(a), the guidelines shall recommend that the Board of Pardons and Parole consider:

(i) the seriousness of [~~the~~] any violation of the [~~conditions~~] condition of parole[~~,~~];

(ii) the individual's conduct while on parole[~~,~~]; and

(iii) the individual's criminal history.

(6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, [~~in order~~] to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to

appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish and maintain supervision length guidelines in accordance with this section [~~before October 1, 2018~~].

Section 4. Section 64-13-14.7 is amended to read:

64-13-14.7. Victim notification of offender's release.

(1) As used in this section:

(a) "Offender" means a person who committed an act of criminally injurious conduct against the victim and has been sentenced to incarceration in the custody of the department.

(b) "Victim" means a person against whom an offender committed criminally injurious conduct as defined in Section 63M-7-502, and who is entitled to notice of hearings regarding the offender's parole under Section 77-27-9.5. "Victim" includes the legal guardian of a victim, or the representative of the family of a victim who is deceased.

(2) (a) (i) [~~A~~] Upon submitting a signed written request of notification to the Department of Corrections, a victim shall be notified of an offender's release under Sections 64-13-14.5 and 64-13-14.7, or any other release to or from a half-way house, to a program outside of the prison such as a rehabilitation program, state hospital, community center other than a release on parole, commutation or termination for which notice is provided under Sections 77-27-9.5 and 77-27-9.7, transfer of the offender to an out-of-state facility, [~~or~~] an offender's escape, [~~upon submitting a signed written request of notification to the Department of Corrections~~] or an offender's termination from probation or parole.

(ii) The request shall include a current mailing address and may include current telephone numbers if the victim chooses.

(iii) The notice for an offender's termination from probation or parole shall notify the victim that the victim may petition the court for the appropriate continuous protective order under Subsection 78B-7-804(5) or 78B-7-805(5).

(b) (i) [~~The~~] Subject to Subsection (3)(b)(ii), the department shall advise the victim of an offender's release or escape under Subsection (2)(a), in writing.

(ii) [~~However, if~~] If written notice is not feasible because the release is immediate or the offender escapes, the department shall make a reasonable attempt to notify the victim by telephone if the victim has provided a telephone number under Subsection (2)(a) and shall follow up with a written notice.

(3) (a) Notice of victim rights under this section shall be provided to the victim in the notice of hearings regarding parole under Section 77-27-9.5.

(b) The department shall coordinate with the Board of Pardons and Parole to ensure the notice is implemented.

(4) A victim's request for notification under this section and any notification to a victim under this section is private information that the department may not release:

(a) to the offender under any circumstances; or

(b) to any other party without the written consent of the victim.

(5) The department may make rules as necessary to implement this section.

(6) The department or its employees acting within the scope of their employment are not civilly or criminally liable for failure to provide notice or improper notice under this section unless the failure or impropriety is willful or grossly negligent.

Section 5. Section 64-13-29 is amended to read:

64-13-29. Violation of parole or probation -- Detention -- Hearing.

(1) (a) The department or local law enforcement agency shall ensure that the court is notified of violations of the terms and conditions of probation in the case of probationers under the supervision of the department, the local law enforcement agency, or the Board of Pardons and Parole in the case of parolees under the department's supervision when:

(i) a sanction of incarceration is recommended; [~~or~~]

(ii) the department or local law enforcement agency determines that a graduated and evidence-based response is not an appropriate response to the offender's violation and recommends revocation of probation or parole[~~.~~]; or

(iii) there is probable cause that the conduct that led to a violation of parole or probation is:

(A) a violent felony as defined in Section 76-3-203.5; or

(B) a qualifying domestic violence offense as defined in Subsection 77-36-1.1(4) that is not a criminal mischief offense.

(b) In cases where the department desires to detain an offender alleged to have violated his parole or probation and where it is unlikely that the Board of Pardons and Parole or court will conduct a hearing within a reasonable time to determine if the offender has violated his conditions of parole or probation, the department shall hold an administrative hearing within a reasonable time, unless the hearing is waived by the parolee or probationer, to determine if there is probable cause to believe that a violation has occurred.

(c) If there is a conviction for a crime based on the same charges as the probation or parole violation, or a finding by a federal or state court that there is probable cause to believe that an offender has committed a crime based on the same charges as the probation or parole violation, the department need not hold an administrative hearing.

(2) The appropriate officer or officers of the department shall, as soon as practical following the department's administrative hearing, report to the court or the Board of Pardons and Parole, furnishing a summary of the hearing, and may make recommendations regarding the disposition to be made of the parolee or probationer.

(3) (a) Pending any proceeding under this section for a violation of probation or parole, the department:

(i) except as provided in Subsection (3)(b), may take custody of and detain the parolee or probationer [~~involved~~] who committed the violation for a period not to exceed 72 hours excluding weekends and holidays[~~.~~]; and

(ii) if the department or the department's agent has probable cause that the conduct that led to the violation is an offense described in Subsection (1)(a)(iii), shall take custody of and detain the parolee or probationer who committed the violation for a period not to exceed 72 hours excluding weekends and holidays.

(b) The 72-hour period described in this Subsection (3) is reduced by the amount of time a probationer or parolee is detained under Subsection 17-22-5.5(6).

(4) In cases where probationers are supervised by a local law enforcement agency, the agency may take custody of and detain the probationer involved for a period not to exceed 72 hours excluding weekends and holidays if:

(a) the probationer commits a major violation or repeated violations of probation;

(b) it is unlikely that the court will conduct a hearing within a reasonable time to determine if the offender has violated the conditions of probation; and

(c) the law enforcement agency conducts an administrative hearing within a reasonable time to determine if there is probable cause to believe the offender has violated the conditions of probation, unless the hearing is waived by the probationer.

(5) If the requirements for Subsection (4) are met, the local law enforcement agency shall ensure the proper court is notified.

(6) If the hearing officer determines that there is probable cause to believe that the offender has violated the conditions of the offender's parole or probation, the department may detain the offender for a reasonable period of time after the hearing or waiver, as necessary to arrange for the incarceration of the offender. A written order of the department is sufficient authorization for any peace officer to incarcerate the offender. The department may promulgate rules for the implementation of this section.

(7) A written order from the local law enforcement agency is sufficient authorization for any peace officer to incarcerate the offender if:

(a) the probationers are supervised by a local law enforcement agency; and

(b) the appropriate officer or officers determine that there is probable cause to believe that the offender has violated the conditions of probation.

(8) If a probationer supervised by a local law enforcement agency commits a violation outside of the jurisdiction of the supervising agency, the arresting agency is not required to hold or transport the probationer for the supervising agency.

Section 6. Section 77-18-103 is amended to read:

77-18-103. Presentence investigation report -- Classification of presentence investigation report -- Evidence or other information at sentencing.

(1) Before the imposition of a sentence, the court may:

(a) upon agreement of the defendant, continue the date for the imposition of the sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department [~~or information from other sources~~] or a law enforcement agency, or information from any other source about the defendant; and

(b) if the defendant is convicted of a felony or a class A misdemeanor, request that the department or a law enforcement agency prepare a presentence investigation report for the defendant.

(2) If a presentence investigation report is required under the standards established by the department described in Section 77-18-109, the presentence investigation report under Subsection (1) shall include:

(a) any impact statement provided by a victim as described in Subsection 77-38b-203(3)(c);

(b) information on restitution as described in [~~Subsection~~] Subsections 77-38b-203(3)(a) and (b);

(c) findings from any screening and any assessment of the defendant conducted under Section 77-18-104;

(d) recommendations for treatment for the defendant; and

(e) the number of days since the commission of the offense that the defendant has spent in the custody of the jail and the number of days, if any, the defendant was released to a supervised release program or an alternative incarceration program under Section 17-22-5.5.

(3) The department or law enforcement agency shall provide the presentence investigation report to the defendant's attorney, or the defendant if the defendant is not represented by counsel, the prosecuting attorney, and the court for review within three working days before the day on which the defendant is sentenced.

(4) (a) (i) If there is an alleged inaccuracy in the presentence investigation report that is not resolved by the parties and the department or law enforcement agency before sentencing:

(A) the alleged inaccuracy shall be brought to the attention of the court at sentencing; and

(B) the court may grant an additional 10 working days after the day on which the alleged inaccuracy is brought to the court's attention to allow the parties and the department to resolve the alleged inaccuracy in the presentence investigation report.

(ii) If the court does not grant additional time under Subsection (4)(a)(i)(B), or the alleged inaccuracy cannot be resolved after 10 working days, and if the court finds that there is an inaccuracy in the presentence investigation report, the court shall:

(A) enter a written finding as to the relevance and accuracy of the challenged portion of the presentence investigation report; and

(B) provide the written finding to the Division of Adult Probation and Parole or the law enforcement agency.

(b) The Division of Adult Probation and Parole shall attach the written finding to the presentence investigation report as an addendum.

(c) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, the matter shall be considered waived.

(5) The contents of the presentence investigation report are protected and not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department or law enforcement agency.

(6) (a) A presentence investigation report is classified as protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report.

(7) Except for disclosure at the time of sentencing in accordance with this section, the department or law enforcement agency may disclose a presentence investigation only when:

(a) ordered by the court in accordance with Subsection 63G-2-202(7);

(b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of a defendant;

(c) requested by the board;

(d) requested by the subject of the presentence investigation report or the subject's authorized representative;

(e) requested by the victim of the offense discussed in the presentence investigation report, or the victim's authorized representative, if the disclosure is only information relating to:

(i) statements or materials provided by the victim;

(ii) the circumstances of the offense, including statements by the defendant; or

(iii) the impact of the offense on the victim or the victim's household; or

(f) requested by a sex offender treatment provider:

(i) who is certified to provide treatment under the certification program established in Subsection 64-13-25(3);

(ii) who is providing, at the time of the request, sex offender treatment to the offender who is the subject of the presentence investigation report; and

(iii) who provides written assurance to the department that the report:

(A) is necessary for the treatment of the defendant;

(B) will be used solely for the treatment of the defendant; and

(C) will not be disclosed to an individual or entity other than the defendant.

(8) (a) At the time of sentence, the court shall receive any testimony, evidence, or information that the defendant or the prosecuting attorney desires to present concerning the appropriate sentence.

(b) Testimony, evidence, or information under Subsection (8)(a) shall be presented in open court on record and in the presence of the defendant.

Section 7. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation --

Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) subject to Subsection (5), may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department[~~, except as provided in Subsection (5)~~];

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

[~~(5) A court may not order the department to supervise the probation of an individual who is convicted of a class B or C misdemeanor or an infraction.~~]

(5) (a) Before ordering supervised probation, the court shall consider the supervision costs to the defendant for each entity that can supervise the defendant.

(b) (i) A court may order an agency of a local government to supervise the probation for an individual convicted of any crime if:

(A) the agency has the capacity to supervise the individual; and

(B) the individual's supervision needs will be met by the agency.

(ii) A court may only order:

(A) the department to supervise the probation for an individual convicted of a class A misdemeanor or any felony; or

(B) a private organization to supervise the probation for an individual convicted of a class A, B, or C misdemeanor or an infraction.

(c) A court may not order a specific private organization to supervise an individual unless there is only one private organization that can provide the specific supervision services required to meet the individual's supervision needs.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-6-107.1;

(vii) to pay for the costs of investigation, probation, or treatment services;

(viii) to pay a criminal accounts receivable established for the defendant under Section 77-32b-103; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Section 8. Section 77-18-108 is amended to read:

77-18-108. Termination, revocation, modification, or extension of probation -- Violation of probation -- Hearing on violation.

(1) (a) The department shall notify the court and the prosecuting attorney, in writing:

(i) when the department is requesting termination of supervision for a defendant; or

(ii) before a defendant's supervision will be terminated by law.

(b) The notification under this Subsection (1) shall include a probation progress report.

(c) If a defendant's probation is being terminated, and the defendant's criminal accounts receivable has an unpaid balance or there is any outstanding debt with the department, the department shall notify the Office of State Debt Collection that the defendant's criminal accounts receivable has an unpaid balance or there is an outstanding debt with the department.

(2) (a) The court may modify the defendant's probation in accordance with the supervision length guidelines and the graduated and evidence-based responses and graduated incentives developed by the Utah Sentencing Commission under Section 63M-7-404.

(b) The court may not:

(i) extend the length of a defendant's probation, except upon:

(A) waiver of a hearing by the defendant; or

(B) a hearing and a finding by the court that the defendant has violated the terms of probation;

(ii) revoke a defendant's probation, except upon a hearing and a finding by the court that the terms of probation have been violated; or

(iii) terminate a defendant's probation before expiration of the probation period until the court enters a finding of whether the defendant owes restitution under Section 77-38b-205.

(3) (a) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Title 78B, Chapter 18a, Uniform Unsworn Declarations Act, alleging with particularity facts asserted to constitute violation of the terms of a defendant's probation, the court shall determine if the affidavit or unsworn written declaration establishes

probable cause to believe that revocation, modification, or extension of the defendant's probation is justified.

(b) (i) If the court determines there is probable cause, the court shall order that the defendant be served with:

(A) a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration; and

(B) an order to show cause as to why the defendant's probation should not be revoked, modified, or extended.

(ii) The order under Subsection (3)(b)(i)(B) shall:

(A) be served upon the defendant at least five days before the day on which the hearing is held;

(B) specify the time and place of the hearing; and

(C) inform the defendant of the right to be represented by counsel at the hearing, the right to have counsel appointed if the defendant is indigent, and the right to present evidence at the hearing.

(iii) The defendant shall show good cause for a continuance of the hearing.

(c) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.

(d) (i) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.

(ii) If the affidavit, or unsworn written declaration, alleges that a defendant is delinquent, or in default, on a criminal accounts receivable, the prosecuting attorney shall present evidence to establish, by a preponderance of the evidence, that the defendant:

(A) was aware of the defendant's obligation to pay the balance of the criminal accounts receivable;

(B) failed to pay on the balance of the criminal accounts receivable as ordered by the court; and

(C) had the ability to make a payment on the balance of the criminal accounts receivable if the defendant opposes an order to show cause, in writing, and presents evidence that the defendant was unable to make a payment on the balance of the criminal accounts receivable.

(e) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant, unless the court for good cause otherwise orders.

(f) At the hearing, the defendant may:

(i) call witnesses;

(ii) appear and speak in the defendant's own behalf; and

(iii) present evidence.

(g) (i) After the hearing, the court shall make findings of fact.

(ii) Upon a finding that the defendant violated the terms of the defendant's probation, the court may order the defendant's probation terminated, revoked, modified, continued, or reinstated for all or a portion of the original term of probation.

(4) (a) (i) Except as provided in Subsection 77-18-105(7), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.

(ii) Except as provided in Subsection 77-18-105(7), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation that the defendant serves, in relation to the same sentence, may not exceed the defendant's maximum sentence.

[~~(b) If a period of incarceration is imposed for a violation of the defendant's probation, the defendant shall be sentenced within~~]

(b) If the court orders a sanction for a defendant who violated terms of probation, the court may:

(i) order a period of incarceration that is consistent with the guidelines established by the Utah Sentencing Commission in accordance with Subsection 63M-7-404(4)[~~, unless the court determines that:~~];

[~~(i) the defendant needs substance abuse or mental health treatment, as determined by a screening and an assessment, that warrants treatment services that are immediately available in the community; or~~]

(ii) order a period of incarceration that deviates from the guidelines with an explanation for the deviation on the record;

(iii) order treatment services that are immediately available in the community for a defendant that needs substance abuse or mental health treatment, as determined by a screening and assessment;

[~~(ii)~~] (iv) execute the sentence previously imposed [~~shall be executed.~~]; or

(v) order any other appropriate sanction.

(c) If the defendant had, before the imposition of a term of incarceration or the execution of the previously imposed sentence under this section, served time in jail as a term of probation or due to a violation of probation, the time that the defendant served in jail constitutes service of time toward the sentence previously imposed.

(5) (a) Any time served by a defendant:

(i) outside of confinement after having been charged with a probation violation, and before a hearing to revoke probation, does not constitute service of time toward the total probation term, unless the defendant is exonerated at a hearing to revoke the defendant's probation;

(ii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation does not constitute service of time toward the total probation term, unless the defendant is exonerated at the hearing to revoke probation; or

(iii) in confinement awaiting a hearing or a decision concerning revocation of the defendant's probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated and evidence-based response imposed under the guidelines established by the Utah Sentencing Commission in accordance with Section 63M-7-404.

(b) The running of the probation period is tolled upon:

(i) the filing of a report with the court alleging a violation of the terms of the defendant's probation; or

(ii) the issuance of an order or a warrant under Subsection (3).

Section 9. Section 77-27-11 is amended to read:

77-27-11. Revocation of parole.

(1) The board may revoke the parole of any individual who is found to have violated any condition of the individual's parole.

(2) (a) If a parolee is confined by the department or any law enforcement official for a suspected violation of parole, the department:

(i) shall immediately report the alleged violation to the board, by means of an incident report; and

(ii) make any recommendation regarding the incident.

(b) A parolee may not be held for a period longer than 72 hours, excluding weekends and holidays, without first obtaining a warrant.

(3) Any member of the board may:

(a) issue a warrant based upon a certified warrant request to a peace officer or other persons authorized to arrest, detain, and return to actual custody a parolee; and

(b) upon arrest of the parolee, determine, or direct the department to determine, if there is probable cause to believe that the parolee has violated the conditions of the parolee's parole.

(4) Upon a finding of probable cause, a parolee may be further detained or imprisoned again pending a hearing by the board or the board's appointed examiner.

(5) (a) The board or the board's appointed examiner shall conduct a hearing on the alleged violation, and the parolee shall have written notice of the time and location of the hearing, the alleged violation of parole, and a statement of the evidence against the parolee.

(b) The board or the board's appointed examiner shall provide the parolee the opportunity:

(i) to be present;

(ii) to be heard;

(iii) to present witnesses and documentary evidence;

(iv) to confront and cross-examine adverse witnesses, absent a showing of good cause for not allowing the confrontation; and

(v) to be represented by counsel when the parolee is mentally incompetent or pleading not guilty.

(c) (i) If heard by an appointed examiner, the examiner shall make a written decision which shall include a statement of the facts relied upon by the examiner in determining the guilt or innocence of the parolee on the alleged violation and a conclusion as to whether the alleged violation occurred.

(ii) The appointed examiner shall then refer the case to the board for disposition.

(d) (i) A final decision shall be reached by a majority vote of the sitting members of the board.

(ii) A parolee shall be promptly notified in writing of the board's findings and decision.

(6) (a) If a parolee is found to have violated the terms of parole, the board, at the board's discretion, may:

(i) return the parolee to parole;

(ii) modify the payment schedule for the parolee's criminal accounts receivable in accordance with Section 77-32b-105;

(iii) order the parolee to pay pecuniary damages that are proximately caused by a defendant's violation of the terms of the defendant's parole;

(iv) order the parolee to be imprisoned, but not to exceed the maximum term of imprisonment for the parolee's sentence; or

(v) order any other conditions for the parolee.

(b) If the board returns the parolee to parole, the length of parole may not be for a period of time that exceeds the length of the parolee's maximum sentence.

(c) If the board revokes parole for a violation and orders incarceration, the board [~~shall impose a period of incarceration~~] may impose a period of incarceration:

(i) consistent with the guidelines under Subsection 63M-7-404(5)[~~.~~]; or

(ii) subject to Subsection (6)(a)(iv), impose a period of incarceration that differs from the guidelines.

(d) The following periods of time constitute service of time toward the period of incarceration imposed under Subsection (6)(c):

(i) time served in jail by a parolee awaiting a hearing or decision concerning revocation of parole; and

(ii) time served in jail by a parolee due to a violation of parole under Subsection 64-13-6(2).

CHAPTER 116
H. B. 29

Passed February 18, 2022
Approved March 22, 2022
Effective May 4, 2022

DRIVING OFFENSES AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill concerns offenses relating to the operation of a motor vehicle.

Highlighted Provisions:

This bill:

- modifies definitions;
- modifies offenses and penalties concerning the operation of a motor vehicle while under the influence of drugs or alcohol or while having any measurable amount of a controlled substance in the operator's body;
- amends negligent driving offenses subject to enhancement under certain circumstances;
- adjusts offenses subject to driver license suspension and revocation;
- modifies eligibility and requirements for a plea of guilty or no contest in certain negligent driving offense situations;
- amends offenses subject to ignition interlock system requirements;
- modifies offenses relating to alcohol restricted drivers;
- amends the automobile homicide offenses exempted from probate disqualification;
- amends offenses subject to chemical testing and related procedures; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

24-4-102, as last amended by Laws of Utah 2021, Chapter 230
41-6a-501, as last amended by Laws of Utah 2021, Chapter 79
41-6a-503, as last amended by Laws of Utah 2021, Chapter 79
41-6a-505, as last amended by Laws of Utah 2021, Chapters 79 and 83
41-6a-509, as last amended by Laws of Utah 2021, Chapters 83, 120 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 83
41-6a-513, as last amended by Laws of Utah 2020, Chapter 70
41-6a-517, as last amended by Laws of Utah 2021, Chapters 83, 120 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 83
41-6a-518.2, as last amended by Laws of Utah 2020, Chapter 177
41-6a-520, as last amended by Laws of Utah 2020, Chapter 177
41-6a-529, as last amended by Laws of Utah 2020, Chapter 177
41-6a-1901, as enacted by Laws of Utah 2005, Chapter 127
53-3-220, as last amended by Laws of Utah 2021, Chapters 83, 262, and 343
53-3-223, as last amended by Laws of Utah 2021, Chapter 83
53-3-414, as last amended by Laws of Utah 2020, Chapter 218
53-10-403, as last amended by Laws of Utah 2021, Chapter 213
58-37-8, as last amended by Laws of Utah 2021, Chapter 236
58-37f-201, as last amended by Laws of Utah 2020, Chapter 372
58-37f-704, as enacted by Laws of Utah 2016, Chapter 99
75-2-803, as last amended by Laws of Utah 2006, Chapter 270
76-5-201, as last amended by Laws of Utah 2010, Chapter 13
76-5-207, as last amended by Laws of Utah 2017, Chapter 283
77-2a-3, as last amended by Laws of Utah 2021, Chapters 79 and 260
77-40-102, as last amended by Laws of Utah 2021, Chapters 206 and 260
77-40-105, as last amended by Laws of Utah 2021, Chapters 206, 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261
78B-9-402, as last amended by Laws of Utah 2021, Chapters 36 and 46
80-6-707, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-712, as enacted by Laws of Utah 2021, Chapter 261
80-6-804, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

ENACTS:

76-5-102.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

76-5-207, as last amended by Laws of Utah 2017, Chapter 283

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

Section 1. Section 24-4-102 is amended to read:

24-4-102. Property subject to forfeiture.

(1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

(a) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; and

(b) seized proceeds.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First

Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41–6a–502, 41–6a–517, a local ordinance that complies with the requirements of Subsection 41–6a–510(1), Subsection [~~58–37–8(2)(g)~~] 76–5–102.1(2)(b), or Section 76–5–207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41–6a–502 or Subsection 76–5–102.1(2)(a);

(ii) a felony violation under Subsection [~~58–37–8(2)(g); or~~] 76–5–102.1(2)(b);

(iii) [~~automobile homicide~~] a violation under Section 76–5–207; or

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58–37–8(2)(g); or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41–6a–502;

(B) Section 41–6a–517;

(C) a local ordinance that complies with the requirements of Subsection 41–6a–510(1);

(D) Section 41–6a–520;

[~~(E) Subsection 58–37–8(2)(g);~~]

(E) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58–37–8(2)(g);

(F) Section 76–5–102.1;

[~~(F)~~] (G) Section 76–5–207; or

[~~(G)~~] (H) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through [~~(F)~~] (G); or

(ii) the denial, suspension, revocation, or disqualification described in Subsections (3)(b)(i)(A) through [~~(G)~~] (H):

(A) is an extension imposed under Subsection 53–3–220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsections (3)(b)(i)(A) through [~~(G)~~] (H).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58–37–8(2)(a)(i) but not Subsection 53–37–8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

Section 2. Section 41-6a-501 is amended to read:

41-6a-501. Definitions.

(1) As used in this part:

(a) "Actual physical control" is determined by a consideration of the totality of the circumstances, but does not include a circumstance in which:

(i) the person is asleep inside the vehicle;

(ii) the person is not in the driver's seat of the vehicle;

(iii) the engine of the vehicle is not running;

(iv) the vehicle is lawfully parked; and

(v) under the facts presented, it is evident that the person did not drive the vehicle to the location while under the influence of alcohol, a drug, or the combined influence of alcohol and any drug.

(b) "Assessment" means an in–depth clinical interview with a licensed mental health therapist:

(i) used to determine if a person is in need of:

(A) substance abuse treatment that is obtained at a substance abuse program;

(B) an educational series; or

(C) a combination of Subsections (1)(b)(i)(A) and (B); and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A–15–105.

(c) "Driving under the influence court" means a court that is approved as a driving under the influence court by the Utah Judicial Council according to standards established by the Judicial Council.

(d) "Drug" or "drugs" means:

(i) a controlled substance as defined in Section 58–37–2;

(ii) a drug as defined in Section 58–17b–102; or

(iii) [~~any~~] a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a motor vehicle.

(e) "Educational series" means an educational series obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(f) "Negligence" means simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.

(g) "Novice learner driver" means an individual who:

(i) has applied for a Utah driver license;

(ii) has not previously held a driver license in this state or another state; and

(iii) has not completed the requirements for issuance of a Utah driver license.

(h) "Screening" means a preliminary appraisal of a person:

(i) used to determine if the person is in need of:

(A) an assessment; or

(B) an educational series; and

(ii) that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(i) "Serious bodily injury" means bodily injury that creates or causes:

(i) serious permanent disfigurement;

(ii) protracted loss or impairment of the function of any bodily member or organ; or

(iii) a substantial risk of death.

(j) "Substance abuse treatment" means treatment obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105.

(k) "Substance abuse treatment program" means a state licensed substance abuse program.

(l) (i) "Vehicle" or "motor vehicle" means a vehicle or motor vehicle as defined in Section 41-6a-102; and

(ii) "Vehicle" or "motor vehicle" includes:

(A) an off-highway vehicle as defined under Section 41-22-2; and

(B) a motorboat as defined in Section 73-18-2.

(2) As used in Section 41-6a-503:

(a) "Conviction" means any conviction arising from a separate episode of driving for a violation of:

(i) driving under the influence under Section 41-6a-502;

(ii) (A) for an offense committed before July 1, 2008, alcohol, any drug, or a combination of both-related reckless driving under:

(I) Section 41-6a-512; and

(II) Section 41-6a-528; or

(B) for an offense committed on or after July 1, 2008, impaired driving under Section 41-6a-502.5;

(iii) driving with any measurable controlled substance that is taken illegally in the body under Section 41-6a-517;

(iv) local ordinances similar to Section 41-6a-502, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving under Section 41-6a-502.5 adopted in compliance with Section 41-6a-510;

(v) [~~automobile homicide under~~] Section 76-5-207;

[~~(vi) Subsection 58-37-8(2)(g);~~]

(vi) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(vii) negligently operating a vehicle resulting in injury under Section 76-5-102.1;

[~~(vii)~~] (viii) a violation described in Subsections (2)(a)(i) through [~~(vi)~~] (vii), which judgment of conviction is reduced under Section 76-3-402;

[~~(viii)~~] (ix) refusal of a chemical test under Subsection 41-6a-520(7); or

[~~(ix)~~] (x) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or alcohol, any drug, or a combination of both-related reckless driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815.

(b) A plea of guilty or no contest to a violation described in Subsections (2)(a)(i) through [~~(ix)~~] (x) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement, for purposes of:

(i) enhancement of penalties under[~~: (A)~~] this Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

[~~(B) automobile homicide under Section 76-5-207; and~~]

(ii) expungement under Title 77, Chapter 40, Utah Expungement Act.

(c) An admission to a violation of Section 41-6a-502 in juvenile court is the equivalent of a conviction even if the charge has been subsequently dismissed in accordance with the Utah Rules of Juvenile Procedure for the purposes of enhancement of penalties under:

(i) this part; [~~and~~]

[~~(ii) automobile homicide under Section 76-5-207.~~]

(ii) negligently operating a vehicle resulting in injury under Section 76-5-102.1; and

(iii) negligently operating a vehicle resulting in death under Section 76-5-207.

(3) As used in Section 41-6a-505, "controlled substance" does not include an inactive metabolite of a controlled substance.

Section 3. Section 41-6a-503 is amended to read:

41-6a-503. Penalties for driving under the influence violations.

(1) A person who violates for the first or second time Section 41-6a-502 is guilty of a:

(a) class B misdemeanor; or

(b) class A misdemeanor if the person:

[~~(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;~~]

[~~(ii)~~] (i) had a passenger under 16 years [~~of age~~] old in the vehicle at the time of the offense;

[~~(iii)~~] (ii) was 21 years [~~of age~~] old or older and had a passenger under 18 years [~~of age~~] old in the vehicle at the time of the offense; or

[~~(iv)~~] (iii) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-712 or 41-6a-714.

(2) A person who violates Section 41-6a-502 is guilty of a third degree felony if:

[~~(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;~~]

[~~(b)~~] (a) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction under Section 41-6a-502; or

(ii) the commission of the offense upon which the current conviction is based; or

[~~(c)~~] (b) the conviction under Section 41-6a-502 is at any time after a conviction of:

(i) [~~automobile homicide under~~] a violation of Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502, 76-5-102.1, or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502 or 76-5-102.1 that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)[~~(c)~~](b)(i) or (ii) which judgment of conviction is reduced under Section 76-3-402.

[~~(3) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.~~]

[~~(4)~~] (3) A person is guilty of a separate offense under Subsection (1)(b)[~~(ii)~~](i) for each passenger in the vehicle at the time of the offense that is under 16 years old.

Section 4. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than [~~2~~] two days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that

were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10) (a) For Subsection (9) or Subsection 41-6a-503(2)[~~(b)~~](a), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), (8), (10)(b), or (11).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 5. Section 41-6a-509 is amended to read:

41-6a-509. Driver license suspension or revocation for a driving under the influence violation.

(1) The Driver License Division shall, if the person is 21 years [~~of age~~] old or older at the time of arrest:

(a) suspend for a period of 120 days the operator's license of a person convicted for the first time under Section 41-6a-502 or 76-5-102.1; or

(b) revoke for a period of two years the license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation.

(2) The Driver License Division shall, if the person is 19 years [~~of age~~] old or older but under 21 years [~~of age~~] old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years [~~of age~~] old or for a period of one year, whichever is longer, if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense that was committed on or after July 1, 2011;

(b) deny the person's application for a license or learner's permit until the person is 21 years [~~of age~~] old or for a period of one year, whichever is longer, if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 of an offense committed on or after July 1, 2011; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer, if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(3) The Driver License Division shall, if the person is under 19 years [~~of age~~] old at the time of arrest:

(a) suspend the person's driver license until the person is 21 years [~~of age~~] old if the person is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207;

(b) deny the person's application for a license or learner's permit until the person is 21 years [~~of age~~] old if the person:

(i) is convicted for the first time of a violation under Section 41-6a-502, 76-5-102.1, or 76-5-207; and

(ii) has not been issued an operator license;

(c) revoke the person's driver license until the person is 21 years [~~of age~~] old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; or

(d) deny the person's application for a license or learner's permit until the person is 21 years [~~of age~~] old if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2);

(ii) the current violation under Section 41-6a-502, 76-5-102.1, or 76-5-207 is committed within a period of 10 years from the date of the prior violation; and

(iii) the person has not been issued an operator license.

(4) The Driver License Division shall suspend or revoke the license of a person as ordered by the court under Subsection (9).

(5) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(6) If a conviction recorded as impaired driving is amended to a driving under the influence conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 in accordance with Subsection 41-6a-502.5(3)(a)(ii), the Driver License Division:

(a) may not subtract from any suspension or revocation any time for which a license was previously suspended or revoked under Section 53-3-223 or 53-3-231; and

(b) shall start the suspension or revocation time under Subsection (1) on the date of the amended conviction.

(7) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (7)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (7)(c);

(e) completes an educational series if substance abuse treatment is not required by an assessment under Subsection (7)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b); or

(ii) is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide an affidavit or sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not unlawfully consumed alcohol during the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(8) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (7), the court shall

forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (2)(a) or (b) or Subsection (3)(a) or (b).

(9) (a) (i) In addition to any other penalties provided in this section, a court may order the operator's license of a person who is convicted of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to be suspended or revoked for an additional period of 90 days, 120 days, 180 days, one year, or two years to remove from the highways those persons who have shown they are safety hazards.

(ii) The additional suspension or revocation period provided in this Subsection (9) shall begin the date on which the individual would be eligible to reinstate the individual's driving privilege for a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207.

(b) If the court suspends or revokes the person's license under this Subsection (9), the court shall prepare and send to the Driver License Division an order to suspend or revoke that person's driving privileges for a specified period of time.

(10) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered:

(i) screenings;

(ii) assessments;

(iii) educational series;

(iv) substance abuse treatment; and

(v) hours of work in a compensatory-service work program.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification described in Subsection (10)(a), the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(11) (a) A court that reported a conviction of a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207 to the Driver License Division may shorten the suspension period imposed under Subsection (1) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (11), the court shall forward the order shortening the person's suspension period to the Driver License Division in a manner specified by the division.

(c) The court shall notify the Driver License Division, in a manner specified by the Driver License Division, if a person fails to complete all requirements of a 24-7 sobriety program.

(d) (i) (A) Upon receiving the notification described in Subsection (11)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described under Subsection (11)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was previously suspended under this section or Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 is based.

(ii) (A) Upon receiving the notification described in Subsection (11)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a license revocation described in Subsection (11)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under Section 41-6a-502, 76-5-102.1, or 76-5-207 is based.

Section 6. Section 41-6a-513 is amended to read:

41-6a-513. Acceptance of plea of guilty to DUI -- Restrictions -- Verification of prior violations -- Prosecutor to examine defendant's record.

(1) An entry of a plea of guilty or no contest to a criminal charge under Section 41-6a-502 is invalid unless the prosecutor agrees to the plea:

(a) in open court;

(b) in writing; or

(c) by another means of communication which the court finds adequate to record the prosecutor's agreement.

(2) (a) Prior to agreeing to a plea of guilty or no contest under Subsection (1), the prosecutor shall examine the criminal history or driver license record of the defendant to determine if the defendant's record contains a conviction, arrest, or charge for:

(i) more than one prior violation within the previous 10 years of any offense that, if the defendant were convicted, would qualify as a conviction as defined in Subsection 41-6a-501(2);

(ii) a felony violation of:

(A) Section 41-6a-502; or

(B) Section 76-5-102.1; or

(iii) [~~automobile homicide under~~] a violation of Section 76-5-207.

(b) If the defendant's record contains a conviction or unresolved arrest or charge for an offense listed in Subsection (2)(a), a plea may only be accepted if:

(i) approved by:

(A) a district attorney;

(B) a deputy district attorney;

(C) a county attorney;

(D) a deputy county attorney;

(E) the attorney general; or

(F) an assistant attorney general; and

(ii) the attorney giving approval under Subsection (2)(b)(i) has felony jurisdiction over the case.

Section 7. Section 41-6a-517 is amended to read:

41-6a-517. Definitions -- Driving with any measurable controlled substance in the body -- Penalties -- Arrest without warrant.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Practitioner" means the same as that term is defined in Section 58-37-2.

(c) "Prescribe" means the same as that term is defined in Section 58-37-2.

(d) "Prescription" means the same as that term is defined in Section 58-37-2.

(2) (a) Except as provided in Subsection (2)(b), in cases not amounting to a violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a person may not operate or be in actual physical control of a motor vehicle within this state if the person has any measurable controlled substance or metabolite of a controlled substance in the person's body.

(b) Subsection (2)(a) does not apply to a person that has 11-nor-9-carboxy-tetrahydrocannabinol as the only controlled substance present in the person's body.

(3) It is an affirmative defense to prosecution under this section that the controlled substance was:

(a) involuntarily ingested by the accused;

(b) prescribed by a practitioner for use by the accused;

(c) cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form that the accused ingested in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(d) otherwise legally ingested.

(4) (a) A person convicted of a violation of Subsection (2) is guilty of a class B misdemeanor.

(b) A person who violates this section is subject to conviction and sentencing under both this section and any applicable offense under Section 58-37-8.

(5) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe the violation has occurred, although not in the officer's presence, and if the officer has probable cause to believe that the violation was committed by the person.

(6) The Driver License Division shall, if the person is 21 years [~~of age~~] old or older on the date of arrest:

(a) suspend, for a period of 120 days, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, for a period of two years, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(7) The Driver License Division shall, if the person is 19 years [~~of age~~] old or older but under 21 years [~~of age~~] old on the date of arrest:

(a) suspend, until the person is 21 years [~~of age~~] old or for a period of one year, whichever is longer, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2011; or

(b) revoke, until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(8) The Driver License Division shall, if the person is under 19 years [~~of age~~] old on the date of arrest:

(a) suspend, until the person is 21 years [~~of age~~] old, the driver license of a person convicted under Subsection (2) of an offense committed on or after July 1, 2009; or

(b) revoke, until the person is 21 years [~~of age~~] old, the driver license of a person if:

(i) the person has a prior conviction as defined under Subsection 41-6a-501(2); and

(ii) the current violation under Subsection (2) is committed on or after July 1, 2009, and within a period of 10 years after the date of the prior violation.

(9) The Driver License Division shall subtract from any suspension or revocation period the number of days for which a license was previously suspended under Section 53-3-223 or 53-3-231, if the previous suspension was based on the same occurrence upon which the record of conviction is based.

(10) The Driver License Division shall:

(a) deny, suspend, or revoke a person's license for the denial and suspension periods in effect prior to July 1, 2009, for a conviction of a violation under Subsection (2) that was committed prior to July 1, 2009; or

(b) deny, suspend, or revoke the operator's license of a person for the denial, suspension, or revocation periods in effect from July 1, 2009, through June 30, 2011, if:

(i) the person was 20 years [~~of age~~] old or older but under 21 years [~~of age~~] old at the time of arrest; and

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

(11) A court that reported a conviction of a violation of this section for a violation that occurred on or after July 1, 2009, to the Driver License Division may shorten the suspension period imposed under Subsection (7)(a) or (8)(a) prior to completion of the suspension period if the person:

(a) completes at least six months of the license suspension;

(b) completes a screening;

(c) completes an assessment, if it is found appropriate by a screening under Subsection (11)(b);

(d) completes substance abuse treatment if it is found appropriate by the assessment under Subsection (11)(c);

(e) completes an educational series if substance abuse treatment is not required by the assessment under Subsection (11)(c) or the court does not order substance abuse treatment;

(f) has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle during the suspension period imposed under Subsection (7)(a) or (8)(a);

(g) has complied with all the terms of the person's probation or all orders of the court if not ordered to probation; and

(h) (i) is 18 years [~~of age~~] old or older and provides a sworn statement to the court that the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a); or

(ii) is under 18 years [~~of age~~] old and has the person's parent or legal guardian provide an affidavit or other sworn statement to the court certifying that to the parent or legal guardian's knowledge the person has not consumed a controlled substance not prescribed by a practitioner for use by the person or unlawfully consumed alcohol during the suspension period imposed under Subsection (7)(a) or (8)(a).

(12) If the court shortens a person's license suspension period in accordance with the requirements of Subsection (11), the court shall forward the order shortening the person's license suspension period to the Driver License Division in a manner specified by the division prior to the completion of the suspension period imposed under Subsection (7)(a) or (8)(a).

(13) (a) The court shall notify the Driver License Division if a person fails to complete all court ordered screening and assessment, educational series, and substance abuse treatment.

(b) Subject to Subsection 53-3-218(3), upon receiving the notification, the division shall suspend the person's driving privilege in accordance with Subsection 53-3-221(2).

(14) The court:

(a) shall order supervised probation in accordance with Section 41-6a-507 for a person convicted under Subsection (2); and

(b) may order a person convicted under Subsection (2) to participate in a 24-7 sobriety program as defined in Section 41-6a-515.5 if the person is 21 years [~~of age~~] old or older.

(15) (a) A court that reported a conviction of a violation of this section to the Driver License Division may shorten the suspension period imposed under Subsection (6) before completion of the suspension period if the person is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If the court shortens a person's license suspension period in accordance with the requirements of this Subsection (15), the court shall forward to the Driver License Division, in a manner specified by the division, the order shortening the person's suspension period.

(c) The court shall notify the Driver License Division, in a manner specified by the division, if a person fails to complete all requirements of a 24-7 sobriety program.

(d) (i) (A) Upon receiving the notification described in Subsection (15)(c), for a first offense, the division shall suspend the person's driving privilege for a period of 120 days from the date of notice.

(B) For a suspension described in Subsection (15)(d)(i)(A), no days shall be subtracted from the 120-day suspension period for which a driving privilege was suspended under this section or under Section 53-3-223, if the previous suspension was based on the same occurrence upon which the conviction under this section is based.

(ii) (A) Upon receiving the notification described in Subsection (15)(c), for a second or subsequent offense, the division shall revoke the person's driving privilege for a period of two years from the date of notice.

(B) For a revocation described in Subsection (15)(d)(ii)(A), no days shall be subtracted from the two-year revocation period for which a driving privilege was previously revoked under this section or under Section 53-3-223, if the previous revocation was based on the same occurrence upon which the conviction under this section is based.

Section 8. Section 41-6a-518.2 is amended to read:

41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.

(1) As used in this section:

(a) "Ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8).

(b) (i) "Interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a violation under Section 41-6a-502 [~~or~~], Subsection 41-6a-520(7), or Section 76-5-102.1;

(C) (I) within the last three years has been convicted of an offense which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 [~~or~~], Subsection 41-6a-520(7), or Section 76-5-102.1 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 [~~or~~], Subsection 41-6a-520(7), or Section 76-5-102.1 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted [~~of automobile homicide under~~] of a violation of Section 76-5-207 for an offense that occurred after May 1, 2006.

(ii) "Interlock restricted driver" does not include a person:

(A) whose conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-502 that does not involve alcohol or a conviction under Section 41-6a-517 and whose prior convictions described in Subsection (1)(b)(i)(C)(II) are all convictions under Section 41-6a-502 that did not involve alcohol or convictions under Section 41-6a-517;

(B) whose conviction described in Subsection (1)(b)(i)(B) or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the convicting court notifies the Driver License Division at the time of sentencing that the conviction does not involve alcohol; or

(C) whose conviction described in Subsection (1)(b)(i)(B), (C), or (F) is a conviction under Section 41-6a-502 that does not involve alcohol and the ignition interlock restriction is removed as described in Subsection (7).

(2) The division shall post the ignition interlock restriction on a person's electronic record that is available to law enforcement.

(3) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(4) An interlock restricted driver who operates or is in actual physical control of a vehicle in the state without an ignition interlock system is guilty of a class B misdemeanor.

(5) It is an affirmative defense to a charge of a violation of Subsection (4) if:

(a) the interlock restricted driver operated or was in actual physical control of a vehicle owned by the interlock restricted driver's employer;

(b) the interlock restricted driver had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (5)(a);

(c) the interlock restricted driver had on the interlock restricted driver's person, or in the vehicle, at the time of operation or physical control employer verification, as defined in Subsection 41-6a-518(1); and

(d) the operation or actual physical control described in Subsection (5)(a) was in the scope of the interlock restricted driver's employment.

(6) The affirmative defense described in Subsection (5) does not apply to:

(a) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(b) a motor vehicle owned by a business entity that is entirely or partly owned or controlled by the interlock restricted driver.

(7) (a) An individual with an ignition interlock restriction may petition the division for removal of the restriction if the individual's offense did not involve alcohol.

(b) If the division is able to establish that an individual's offense did not involve alcohol, the division may remove the ignition interlock restriction.

Section 9. Section 41-6a-520 is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

(7) A person is guilty of refusing a chemical test if a peace officer has issued the warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's blood under Subsection (1) after a court has issued a warrant to draw and test the blood.

(8) A person who violates Subsection (7) is guilty of:

(a) a third degree felony if:

(i) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(A) the current conviction; or

(B) the commission of the offense upon which the current conviction is based; or

(ii) the conviction is at any time after a conviction of:

(A) [~~automobile homicide under~~] a violation of Section 76-5-207;

(B) a felony violation of this section or Section 41-6a-502 or 76-5-102.1; or

(C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is reduced under Section 76-3-402; or

(b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies.

(9) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by Subsection 41-6a-501(2), with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than would be required under Section 41-6a-505;

(b) any fine imposed shall be $100 more than would be required under Section 41-6a-505; and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

(10) (a) The offense of refusal to submit to a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

(b) [~~A~~] In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

Section 10. Section 41-6a-529 is amended to read:

41-6a-529. Definitions -- Alcohol restricted drivers.

(1) As used in this section and Section 41-6a-530, "alcohol restricted driver" means a person who:

(a) within the last two years:

(i) has been convicted of:

(A) a misdemeanor violation of Section 41-6a-502 or 76-5-102.1;

(B) alcohol, any drug, or a combination of both-related reckless driving under Section 41-6a-512;

(C) impaired driving under Section 41-6a-502.5;

(D) local ordinances similar to Section 41-6a-502 or 76-5-102.1, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving adopted in compliance with Section 41-6a-510;

(E) a violation described in Subsections (1)(a)(i)(A) through (D), which judgment of conviction is reduced under Section 76-3-402; or

(F) statutes or ordinances previously in effect in this state or in effect in any other state, the United States, or any district, possession, or territory of the United States which would constitute a violation of Section 41-6a-502 or 76-5-102.1, alcohol, any drug, or a combination of both-related reckless driving, or impaired driving if committed in this state, including punishments administered under 10 U.S.C. Sec. 815; or

(ii) has had the person's driving privilege suspended under Section 53-3-223 for an alcohol-related offense based on an arrest which occurred on or after July 1, 2005;

(b) within the last three years has been convicted of a violation of this section or Section 41-6a-518.2;

(c) within the last five years:

(i) has had the person's driving privilege revoked through an administrative action for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred on or after July 1, 2005;

(ii) has been convicted of a misdemeanor conviction for refusal to submit to a chemical test under Subsection 41-6a-520(7); or

(iii) has been convicted of a class A misdemeanor violation of Section 41-6a-502 or 76-5-102.1 committed on or after July 1, 2008;

(d) within the last 10 years:

(i) has been convicted of an offense described in Subsection (1)(a)(i) which offense was committed within 10 years of the commission of a prior offense described in Subsection (1)(a)(i) for which the person was convicted;

(ii) has been convicted of a felony violation of refusal to submit to a chemical test under Subsection 41-6a-520(7); or

(iii) has had the person's driving privilege revoked for refusal to submit to a chemical test and the refusal is within 10 years after:

(A) a prior refusal to submit to a chemical test under Section 41-6a-520; or

(B) a prior conviction for an offense described in Subsection (1)(a)(i) which is not based on the same arrest as the refusal;

(e) at any time has been convicted of:

(i) [~~automobile homicide under~~] a violation of Section 76-5-207 for an offense that occurred on or after July 1, 2005; or

(ii) a felony violation of Section 41-6a-502 or 76-5-102.1 for an offense that occurred on or after July 1, 2005;

(f) at the time of operation of a vehicle is under 21 years [~~of age~~] old; or

(g) is a novice learner driver.

(2) For purposes of this section and Section 41-6a-530, a plea of guilty or no contest to a violation described in Subsection (1)(a)(i) which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 11. Section 41-6a-1901 is amended to read:

41-6a-1901. Applicability -- Law enforcement officer duties -- Documents and records -- Notice to Department of State.

(1) As used in this section, "diplomat" means an individual who:

(a) has a driver license issued by the United States Department of State; or

(b) claims immunities or privileges under 22 U.S.C. Sections 254a through 258a with respect to:

(i) a moving traffic violation under this title or a moving traffic violation of an ordinance of a local authority; or

(ii) operating a motor vehicle while committing any of the following offenses:

(A) [~~automobile homicide~~] negligently operating a vehicle resulting in death under Section 76-5-207;

(B) manslaughter under Section 76-5-205;

(C) negligent homicide under Section 76-5-206;

(D) aggravated assault under Section 76-5-103; or

(E) reckless endangerment under Section 76-5-112.

(2) A law enforcement officer who stops a motor vehicle and has probable cause to believe that the driver is a diplomat that has committed a violation described under Subsection (1)(b)(i) or (ii) shall:

(a) as soon as practicable, contact the United States Department of State in order to verify the driver's status and immunity, if any;

(b) record all relevant information from any driver license or identification card, including a driver license or identification card issued by the United States Department of State; and

(c) within five working days after the date the officer stops the driver, forward all of the following to the Department of Public Safety:

(i) if the driver is involved in a vehicle accident, the vehicle accident report;

(ii) if a citation or other charging document was issued to the driver, a copy of the citation or other charging document; and

(iii) if a citation or other charging document was not issued to the driver, a written report of the incident.

(3) The Department of Public Safety shall:

(a) file each vehicle accident report, citation or other charging document, and incident report that the Department of Public Safety receives under this section;

(b) keep convenient records or make suitable notations showing each:

(i) conviction;

(ii) finding of responsibility; and

(iii) vehicle accident; and

(c) within five working days after receipt, send a copy of each document and record described in Subsection (3) to the Bureau of Diplomatic Security, Office of Foreign Missions, of the United States Department of State.

(4) This section does not prohibit or limit the application of any law to a criminal or motor vehicle violation committed by a diplomat.

Section 12. Section 53-3-220 is amended to read:

53-3-220. Offenses requiring mandatory revocation, denial, suspension, or disqualification of license -- Offense requiring an extension of period -- Hearing -- Limited driving privileges.

(1) (a) The division shall immediately revoke or, when this chapter, Title 41, Chapter 6a, Traffic Code, or Section 76-5-303, specifically provides for denial, suspension, or disqualification, the division shall deny, suspend, or disqualify the license of a person upon receiving a record of the person's conviction for:

(i) manslaughter or negligent homicide resulting from driving a motor vehicle, [~~or automobile homicide under Section 76-5-207 or 76-5-207.5~~] negligently operating a vehicle resulting in death under Section 76-5-207, or automobile homicide involving using a handheld wireless communication device while driving under Section 76-5-207.5;

(ii) driving or being in actual physical control of a motor vehicle while under the influence of alcohol, any drug, or combination of them to a degree that renders the person incapable of safely driving a motor vehicle as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iii) driving or being in actual physical control of a motor vehicle while having a blood or breath alcohol content as prohibited in Section 41-6a-502 or as prohibited in an ordinance that complies with the requirements of Subsection 41-6a-510(1);

(iv) perjury or the making of a false affidavit to the division under this chapter, Title 41, Motor Vehicles, or any other law of this state requiring the registration of motor vehicles or regulating driving on highways;

(v) any felony under the motor vehicle laws of this state;

(vi) any other felony in which a motor vehicle is used to facilitate the offense;

(vii) failure to stop and render aid as required under the laws of this state if a motor vehicle accident results in the death or personal injury of another;

(viii) two charges of reckless driving, impaired driving, or any combination of reckless driving and impaired driving committed within a period of 12 months; but if upon a first conviction of reckless driving or impaired driving the judge or justice recommends suspension of the convicted person's license, the division may after a hearing suspend the license for a period of three months;

(ix) failure to bring a motor vehicle to a stop at the command of a law enforcement officer as required in Section 41-6a-210;

(x) any offense specified in Part 4, Uniform Commercial Driver License Act, that requires disqualification;

(xi) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle;

(xii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b);

(xiii) operating or being in actual physical control of a motor vehicle while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517;

(xiv) operating or being in actual physical control of a motor vehicle while having any measurable or detectable amount of alcohol in the person's body in violation of Section 41-6a-530;

(xv) engaging in a motor vehicle speed contest or exhibition of speed on a highway in violation of Section 41-6a-606;

(xvi) operating or being in actual physical control of a motor vehicle in this state without an ignition interlock system in violation of Section 41-6a-518.2; or

(xvii) refusal of a chemical test under Subsection 41-6a-520(7).

(b) The division shall immediately revoke the license of a person upon receiving a record of an adjudication under Section 80-6-701 for:

(i) a felony violation of Section 76-10-508 or 76-10-508.1 involving discharging or allowing the discharge of a firearm from a vehicle; or

(ii) using, allowing the use of, or causing to be used any explosive, chemical, or incendiary device from a vehicle in violation of Subsection 76-10-306(4)(b).

(c) Except when action is taken under Section 53-3-219 for the same offense, upon receiving a record of conviction, the division shall immediately suspend for six months the license of the convicted person if the person was convicted of one of the following offenses while the person was an operator of a motor vehicle, and the court finds that a driver license suspension is likely to reduce recidivism and is in the interest of public safety:

(i) any violation of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(C) Title 58, Chapter 37b, Imitation Controlled Substances Act;

(D) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Title 58, Chapter 37d, Clandestine Drug Lab Act; or

(ii) any criminal offense that prohibits:

(A) possession, distribution, manufacture, cultivation, sale, or transfer of any substance that is prohibited under the acts described in Subsection (1)(c)(i); or

(B) the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any substance that is prohibited under the acts described in Subsection (1)(c)(i).

(iii) Notwithstanding the provisions in this Subsection (1)(c), the division shall reinstate a person's driving privilege before completion of the suspension period imposed under this Subsection (1)(c) if the reporting court notifies the Driver License Division, in a manner specified by the division, that the defendant is participating in or has successfully completed a drug court program as defined in Section 78A-5-201.

(iv) If a person's driving privilege is reinstated under Subsection (1)(c)(iii), the person is required to pay the license reinstatement fees under Subsection 53-3-105(26).

(v) The court shall notify the division, in a manner specified by the division, if a person fails to complete all requirements of the drug court program.

(vi) Upon receiving the notification described in Subsection (1)(c)(v), the division shall suspend the person's driving privilege for a period of six months from the date of the notice, and no days shall be subtracted from the six-month suspension period for which a driving privilege was previously suspended under this Subsection (1)(c).

(d) (i) The division shall immediately suspend a person's driver license for conviction of the offense of theft of motor vehicle fuel under Section 76-6-404.7 if the division receives:

(A) an order from the sentencing court requiring that the person's driver license be suspended; and

(B) a record of the conviction.

(ii) An order of suspension under this section is at the discretion of the sentencing court, and may not be for more than 90 days for each offense.

(e) (i) The division shall immediately suspend for one year the license of a person upon receiving a record of:

(A) conviction for the first time for a violation under Section 32B-4-411; or

(B) an adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(ii) The division shall immediately suspend for a period of two years the license of a person upon receiving a record of:

(A) (I) conviction for a second or subsequent violation under Section 32B-4-411; and

(II) the violation described in Subsection (1)(e)(ii)(A)(I) is within 10 years of a prior conviction for a violation under Section 32B-4-411; or

(B) (I) a second or subsequent adjudication under Section 80-6-701 for a violation under Section 32B-4-411; and

(II) the adjudication described in Subsection (1)(e)(ii)(B)(I) is within 10 years of a prior adjudication under Section 80-6-701 for a violation under Section 32B-4-411.

(iii) Upon receipt of a record under Subsection (1)(e)(i) or (ii), the division shall:

(A) for a conviction or adjudication described in Subsection (1)(e)(i):

(I) impose a suspension for one year beginning on the date of conviction; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for one year beginning on the date of eligibility for a driver license; or

(B) for a conviction or adjudication described in Subsection (1)(e)(ii):

(I) impose a suspension for a period of two years; or

(II) if the person is under the age of eligibility for a driver license, impose a suspension that begins on the date of conviction and continues for two years beginning on the date of eligibility for a driver license.

(iv) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(i) if ordered by the court in accordance with Subsection 32B-4-411(3)(a).

(v) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-411, the division shall reduce the suspension period under Subsection (1)(e)(ii) if ordered by the court in accordance with Subsection 32B-4-411(3)(b).

(2) The division shall extend the period of the first denial, suspension, revocation, or disqualification for an additional like period, to a maximum of one year for each subsequent occurrence, upon receiving:

(a) a record of the conviction of any person on a charge of driving a motor vehicle while the person's license is denied, suspended, revoked, or disqualified;

(b) a record of a conviction of the person for any violation of the motor vehicle law in which the person was involved as a driver;

(c) a report of an arrest of the person for any violation of the motor vehicle law in which the person was involved as a driver; or

(d) a report of an accident in which the person was involved as a driver.

(3) When the division receives a report under Subsection (2)(c) or (d) that a person is driving while the person's license is denied, suspended, disqualified, or revoked, the person is entitled to a hearing regarding the extension of the time of denial, suspension, disqualification, or revocation originally imposed under Section 53-3-221.

(4) (a) The division may extend to a person the limited privilege of driving a motor vehicle to and from the person's place of employment or within other specified limits on recommendation of the judge in any case where a person is convicted of any of the offenses referred to in Subsections (1) and (2) except:

[~~(i) automobile homicide under Subsection (1)(a)(i);~~]

[~~(ii)~~] (i) those offenses referred to in Subsections (1)(a)(i), (ii), (iii), (xi), (xii), (xiii), (1)(b), and (1)(c); and

[~~(iii)~~] (ii) those offenses referred to in Subsection (2) when the original denial, suspension, revocation, or disqualification was imposed because of a violation of Section 41-6a-502, 41-6a-517, a local ordinance [~~which~~] that complies with the requirements of Subsection 41-6a-510(1), Section 41-6a-520, 76-5-102.1, or [~~Section~~] 76-5-207, or a criminal prohibition that the person was charged with violating as a result of a plea bargain after having been originally charged with violating one or more of these sections or ordinances, unless:

(A) the person has had the period of the first denial, suspension, revocation, or disqualification extended for a period of at least three years;

(B) the division receives written verification from the person's primary care physician that:

(I) to the physician's knowledge the person has not used any narcotic drug or other controlled substance except as prescribed by a licensed medical practitioner within the last three years; and

(II) the physician is not aware of any physical, emotional, or mental impairment that would affect the person's ability to operate a motor vehicle safely; and

(C) for a period of one year prior to the date of the request for a limited driving privilege:

(I) the person has not been convicted of a violation of any motor vehicle law in which the person was involved as the operator of the vehicle;

(II) the division has not received a report of an arrest for a violation of any motor vehicle law in which the person was involved as the operator of the vehicle; and

(III) the division has not received a report of an accident in which the person was involved as an operator of a vehicle.

(b) (i) Except as provided in Subsection (4)(b)(ii), the discretionary privilege authorized in this Subsection (4):

(A) is limited to when undue hardship would result from a failure to grant the privilege; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(ii) The discretionary privilege authorized in Subsection (4)(a)[~~(iii)~~](ii):

(A) is limited to when the limited privilege is necessary for the person to commute to school or work; and

(B) may be granted only once to any person during any single period of denial, suspension, revocation, or disqualification, or extension of that denial, suspension, revocation, or disqualification.

(c) A limited CDL may not be granted to a person disqualified under Part 4, Uniform Commercial Driver License Act, or whose license has been revoked, suspended, cancelled, or denied under this chapter.

Section 13. Section 53-3-223 is amended to read:

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

(1) (a) If a peace officer has reasonable grounds to believe that a person may be violating or has violated Section 41-6a-502, [~~prohibiting the operation of a vehicle with a certain blood or breath alcohol concentration and driving under the influence of any drug, alcohol, or combination of a drug and alcohol or while having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section~~] 41-6a-517, 76-5-102.1, or 76-5-207, the peace officer may, in connection with arresting the person, request that the person submit to a chemical test or tests to be administered in compliance with the standards under Section 41-6a-520.

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

(2) The peace officer shall advise a person prior to the person's submission to a chemical test that a test result indicating a violation of Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207 shall, and the existence of a blood alcohol content sufficient to render the person incapable of safely driving a motor vehicle may, result in suspension or revocation of the person's license to drive a motor vehicle.

(3) If the person submits to a chemical test and the test results indicate a blood or breath alcohol content in violation of Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207, or if a peace officer makes a determination, based on reasonable grounds, that the person is otherwise in violation of Section 41-6a-502, 76-5-102.1, or 76-5-207, a peace officer shall, on behalf of the division and within 24 hours of arrest, give notice of the division's intention to suspend the person's license to drive a motor vehicle.

(4) When a peace officer gives notice on behalf of the division, the peace officer shall supply to the driver, in a manner specified by the division, basic information regarding how to obtain a prompt hearing before the division.

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

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

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

(c) any other basis for the peace officer's determination that the person has violated Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207.

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

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

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

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

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

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

(i) whether a peace officer had reasonable grounds to believe the person was driving a motor vehicle in violation of Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207;

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

(iii) the test results, if any.

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

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

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

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

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

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

(7) (a) If, after a hearing, the division determines that a peace officer had reasonable grounds to believe that the person was driving a motor vehicle in violation of Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207, if the person failed to appear before the division as required in the notice, or if a hearing is not requested under this section, the division shall:

(i) if the person is 21 years [~~of age~~] old or older at the time of arrest, suspend the person's license or permit to operate a motor vehicle for a period of:

(A) 120 days beginning on the 45th day after the date of arrest for a first suspension; or

(B) two years beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

(ii) if the person is under 21 years [~~of age~~] old at the time of arrest:

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

(I) for a period of six months, beginning on the 45th day after the date of arrest for a first suspension; or

(II) until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years; or

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

(I) for a period of six months beginning on the 45th day after the date of the arrest for a first suspension, if the person has not been issued an operator license; or

(II) until the person is 21 years [~~of age~~] old or for a period of two years, whichever is longer, beginning on the 45th day after the date of arrest for a second or subsequent suspension for an offense that occurred within the previous 10 years.

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

(A) immediately upon receiving written verification of the person's dismissal of a charge for a violation of Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period; or

(B) no sooner than 60 days beginning on the 45th day after the date of arrest upon receiving written verification of the person's reduction of a charge for a violation of Section 41-6a-502 [~~or~~], 41-6a-517, 76-5-102.1, or 76-5-207, if the written verification is received prior to completion of the suspension period.

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

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

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

(iii) If a person's license is reinstated under this Subsection (7)(b), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

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

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

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

(9) (a) Notwithstanding the provisions in Subsection (7)(a)(i) or (ii), the division shall reinstate a person's license before completion of the suspension period imposed under Subsection (7)(a)(i) or (ii) if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed a 24-7 sobriety program as defined in Section 41-6a-515.5.

(b) If a person's license is reinstated under Subsection (9)(a), the person is required to pay the license reinstatement application fees under Subsections 53-3-105(26) and (27).

(10) (a) If the division suspends a person's license for an alcohol related offense under Subsection (7)(a)(i)(A), the person may petition the division and elect to become an ignition interlock restricted driver if the person:

(i) has a valid driving privilege, with the exception of the suspension under Subsection (7)(a)(i)(A);

(ii) completes a risk assessment approved by the division that:

(A) is completed after the date of the arrest for which the person is suspended under Subsection (7)(a)(i)(A); and

(B) identifies the person as a low risk offender;

(iii) installs an ignition interlock device in any vehicle owned or driven by the person in accordance with Section 53-3-1007; and

(iv) pays the license reinstatement application fees described in Subsections 53-3-105(26) and (27).

(b) The person shall remain an ignition interlock restricted driver for a period of 120 days from the original effective date of the suspension under Subsection (7)(a)(i)(A). If the person removes an ignition interlock device from a vehicle owned or driven by the person prior to the expiration of the 120 day ignition interlock restriction period:

(i) the person's driver license shall be suspended under Subsection (7)(a)(i)(A) for the remainder of the 120 day ignition interlock restriction period;

(ii) the person is required to pay the license reinstatement application fee under Subsection 53-3-105(26); and

(iii) the person may not elect to become an ignition interlock restricted driver under this section.

(c) If a person elects to become an ignition interlock restricted driver under Subsection (10)(a), the provisions under Subsection (7)(b) do not apply.

Section 14. Section 53-3-414 is amended to read:

53-3-414. CDL disqualification or suspension -- Grounds and duration -- Procedure.

(1) (a) An individual who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle for a period of not less than one year effective seven days from the date of notice to the driver if convicted of a first offense of:

(i) driving a motor vehicle while under the influence of alcohol, drugs, a controlled substance, or more than one of these;

(ii) driving a commercial motor vehicle while the concentration of alcohol in the person's blood, breath, or urine is .04 grams or more;

(iii) leaving the scene of an accident involving a motor vehicle the person was driving;

(iv) failing to provide reasonable assistance or identification when involved in an accident resulting in:

(A) death in accordance with Section 41-6a-401.5; or

(B) personal injury in accordance with Section 41-6a-401.3;

(v) using a motor vehicle in the commission of a felony;

(vi) refusal to submit to a test to determine the concentration of alcohol in the person's blood, breath, or urine;

(vii) driving a commercial motor vehicle while the person's commercial driver license is disqualified in accordance with the provisions of this section for violating an offense described in this section; or

(viii) operating a commercial motor vehicle in a negligent manner causing the death of another including the offenses of [~~automobile homicide under Section 76-5-207,~~] manslaughter under Section 76-5-205, [~~or~~] negligent homicide under Section 76-5-206, or negligently operating a vehicle resulting in death under Section 76-5-207.

(b) The division shall subtract from any disqualification period under Subsection (1)(a)(i) the number of days for which a license was previously disqualified under Subsection (1)(a)(ii) or (14) if the previous disqualification was based on the same occurrence upon which the record of conviction is based.

(2) If any of the violations under Subsection (1) occur while the driver is transporting a hazardous material required to be placarded, the driver is disqualified for not less than three years.

(3) (a) Except as provided under Subsection (4), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if convicted of or administrative action is taken for two or more of any of the offenses under Subsection (1), (5), or (14) arising from two or more separate incidents.

(b) Subsection (3)(a) applies only to those offenses committed after July 1, 1989.

(4) (a) Any driver disqualified for life from driving a commercial motor vehicle under this section may apply to the division for reinstatement of the driver's CDL if the driver:

(i) has both voluntarily enrolled in and successfully completed an appropriate rehabilitation program that:

(A) meets the standards of the division; and

(B) complies with 49 C.F.R. Sec. 383.51;

(ii) has served a minimum disqualification period of 10 years; and

(iii) has fully met the standards for reinstatement of commercial motor vehicle driving privileges established by rule of the division.

(b) If a reinstated driver is subsequently convicted of another disqualifying offense under this section, the driver is permanently disqualified for life and is ineligible to again apply for a reduction of the lifetime disqualification.

(5) A driver of a motor vehicle who holds or is required to hold a CDL is disqualified for life from driving a commercial motor vehicle if the driver uses a motor vehicle in the commission of any felony involving the manufacturing, distributing, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance and is ineligible to apply for a reduction of the lifetime disqualification under Subsection (4).

(6) (a) Subject to Subsection (6)(b), a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (6)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) involve the use or operation of a commercial motor vehicle.

(c) If a driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (6), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(7) (a) A driver of a commercial motor vehicle who is convicted of violating an out-of-service order while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(i) 180 days if the driver is convicted of a first violation;

(ii) two years if, during any 10 year period, the driver is convicted of two violations of out-of-service orders in separate incidents;

(iii) three years but not more than five years if, during any 10 year period, the driver is convicted of three or more violations of out-of-service orders in separate incidents;

(iv) 180 days but not more than two years if the driver is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver; or

(v) three years but not more than five years if, during any 10 year period, the driver is convicted of two or more violations, in separate incidents, of an out-of-service order while transporting hazardous materials required to be placarded or while operating a motor vehicle designed to transport 16 or more passengers, including the driver.

(b) A driver of a commercial motor vehicle who is convicted of a first violation of an out-of-service order is subject to a civil penalty of not less than $2,500.

(c) A driver of a commercial motor vehicle who is convicted of a second or subsequent violation of an out-of-service order is subject to a civil penalty of not less than $5,000.

(8) A driver of a commercial motor vehicle who holds or is required to hold a CDL is disqualified for not less than 60 days if the division determines, in its check of the driver's driver license status, application, and record prior to issuing a CDL or at any time after the CDL is issued, that the driver has falsified information required to apply for a CDL in this state.

(9) A driver of a commercial motor vehicle who is convicted of violating a railroad-highway grade crossing provision under Section 41-6a-1205, while driving a commercial motor vehicle is disqualified from driving a commercial motor vehicle for a period not less than:

(a) 60 days if the driver is convicted of a first violation;

(b) 120 days if, during any three-year period, the driver is convicted of a second violation in separate incidents; or

(c) one year if, during any three-year period, the driver is convicted of three or more violations in separate incidents.

(10) (a) The division shall update its records and notify the CDLIS within 10 days of suspending, revoking, disqualifying, denying, or cancelling a CDL to reflect the action taken.

(b) When the division suspends, revokes, cancels, or disqualifies a nonresident CDL, the division shall notify the licensing authority of the issuing state or other jurisdiction and the CDLIS within 10 days after the action is taken.

(c) When the division suspends, revokes, cancels, or disqualifies a CDL issued by this state, the division shall notify the CDLIS within 10 days after the action is taken.

(11) (a) The division may immediately suspend or disqualify the CDL of a driver without a hearing or receiving a record of the driver's conviction when the division has reason to believe that the:

(i) CDL was issued by the division through error or fraud;

(ii) applicant provided incorrect or incomplete information to the division;

(iii) applicant cheated on any part of a CDL examination;

(iv) driver no longer meets the fitness standards required to obtain a CDL; or

(v) driver poses an imminent hazard.

(b) Suspension of a CDL under this Subsection (11) shall be in accordance with Section 53-3-221.

(c) If a hearing is held under Section 53-3-221, the division shall then rescind the suspension order or cancel the CDL.

(12) (a) Subject to Subsection (12)(b), a driver of a motor vehicle who holds or is required to hold a CDL is disqualified for not less than:

(i) 60 days from driving a commercial motor vehicle if the driver is convicted of two serious traffic violations; and

(ii) 120 days if the driver is convicted of three or more serious traffic violations.

(b) The disqualifications under Subsection (12)(a) are effective only if the serious traffic violations:

(i) occur within three years of each other;

(ii) arise from separate incidents; and

(iii) result in a denial, suspension, cancellation, or revocation of the non-CDL driving privilege from at least one of the violations.

(c) If a driver of a motor vehicle who holds or is required to hold a CDL is disqualified from driving a commercial motor vehicle and the division receives notice of a subsequent conviction for a serious traffic violation that results in an additional disqualification period under this Subsection (12), the subsequent disqualification period is effective beginning on the ending date of the current serious traffic violation disqualification period.

(13) (a) Upon receiving a notice that a person has entered into a plea of guilty or no contest to a violation of a disqualifying offense described in this section which plea is held in abeyance pursuant to a plea in abeyance agreement, the division shall disqualify, suspend, cancel, or revoke the person's CDL for the period required under this section for a conviction of that disqualifying offense, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) The division shall report the plea in abeyance to the CDLIS within 10 days of taking the action under Subsection (13)(a).

(c) A plea which is held in abeyance may not be removed from a person's driving record for 10 years from the date of the plea in abeyance agreement, even if the charge is:

(i) reduced or dismissed in accordance with the plea in abeyance agreement; or

(ii) expunged under Title 77, Chapter 40, Utah Expungement Act.

(14) The division shall disqualify the CDL of a driver for an arrest of a violation of Section 41-6a-502 when administrative action is taken against the operator's driving privilege pursuant to Section 53-3-223 for a period of:

(a) one year; or

(b) three years if the violation occurred while transporting hazardous materials.

(15) The division may concurrently impose any disqualification periods that arise under this section while a driver is disqualified by the Secretary of the United States Department of Transportation under 49 C.F.R. Sec. 383.52 for posing an imminent hazard.

Section 15. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

[~~(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);~~]

(iv) operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) negligently operating a vehicle resulting in injury, Subsection 76-5-102.1(2)(b);

[~~(vi)~~] (vii) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(viii) negligently operating a vehicle resulting in death, Subsection 76-5-207(2)(b);

[~~(vii)~~] (ix) aggravated human trafficking and aggravated human smuggling, Section 76-5-310;

[~~(viii)~~] (x) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

[~~(ix)~~] (xi) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

[~~(x)~~] (xii) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

[~~(xi)~~] (xiii) sale of a child, Section 76-7-203;

[~~(xii)~~] (xiv) aggravated escape, Subsection 76-8-309(2);

[~~(xiii)~~] (xv) a felony violation of assault on an elected official, Section 76-8-315;

[~~(xiv)~~] (xvi) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

[~~(xv)~~] (xvii) advocating criminal syndicalism or sabotage, Section 76-8-902;

[~~(xvi)~~] (xviii) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

[~~(xvii)~~] (xix) a felony violation of sexual battery, Section 76-9-702.1;

[~~(xviii)~~] (xx) a felony violation of lewdness involving a child, Section 76-9-702.5;

[~~(xix)~~] (xxi) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

[~~(xx)~~] (xxii) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

[~~(xxi)~~] (xxiii) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

[~~(xxii)~~] (xxiv) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

[~~(xxiii)~~] (xxv) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

[~~(xxiv)~~] (xxvi) commercial obstruction, Subsection 76-10-2402(2);

[~~(xxv)~~] (xxvii) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

[~~(xxvi)~~] (xxviii) repeat violation of a protective order, Subsection 77-36-1.1(4); or

[~~(xxvii)~~] (xxix) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002 for an offense under Subsection (2).

Section 16. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

[~~(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:~~]

[~~(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance, except for 11-nor-9-carboxy-tetrahydro cannabinol; and~~]

[~~(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another; or~~]

[~~(B) if the controlled substance is marijuana, operates a motor vehicle as defined in Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.~~]

[~~(h) A person who violates Subsection (2)(g) by having in the person's body:~~]

[~~(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;~~]

[~~(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or~~]

[~~(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.~~]

[~~(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.~~]

[~~(j)~~] (g) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years [~~of age~~] old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. [~~This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).~~]

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or

orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section[~~,~~] or Subsection 76-5-102.1(2)(b) or 76-5-207(2)(b), the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 17. Section 58-37f-201 is amended to read:

58-37f-201. Controlled substance database -- Creation -- Purpose.

(1) There is created within the division a controlled substance database.

(2) The division shall administer and direct the functioning of the database in accordance with this chapter.

(3) The division may, under state procurement laws, contract with another state agency or a private entity to establish, operate, or maintain the database.

(4) The division shall, in collaboration with the board, determine whether to operate the database within the division or contract with another entity to operate the database, based on an analysis of costs and benefits.

(5) The purpose of the database is to contain:

(a) the data described in Section 58-37f-203 regarding prescriptions for dispensed controlled substances;

(b) data reported to the division under Section 26-21-26 regarding poisoning or overdose;

(c) data reported to the division under Subsection 41-6a-502(4) or 41-6a-502.5(5)(b) regarding convictions for driving under the influence of a prescribed controlled substance or impaired driving; and

(d) data reported to the division under Subsection 58-37-8(1)(e) or 58-37-8(2)[~~(j)~~](g) regarding certain violations of the Utah Controlled Substances Act.

(6) The division shall maintain the database in an electronic file or by other means established by the division to facilitate use of the database for identification of:

(a) prescribing practices and patterns of prescribing and dispensing controlled substances;

(b) practitioners prescribing controlled substances in an unprofessional or unlawful manner;

(c) individuals receiving prescriptions for controlled substances from licensed practitioners, and who subsequently obtain dispensed controlled substances from a drug outlet in quantities or with a frequency inconsistent with generally recognized standards of dosage for that controlled substance;

(d) individuals presenting forged or otherwise false or altered prescriptions for controlled substances to a pharmacy;

(e) individuals admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance; and

(f) individuals convicted for:

(i) driving under the influence of a prescribed controlled substance that renders the individual incapable of safely operating a vehicle;

(ii) driving while impaired, in whole or in part, by a prescribed controlled substance; or

(iii) certain violations of the Utah Controlled Substances Act.

Section 18. Section 58-37f-704 is amended to read:

58-37f-704. Entering certain convictions into the database.

Beginning October 1, 2016, if the division receives a report from a court under Subsection 58-37-8(1)(e) or 58-37-8(2)[~~(j)~~](g), the division shall daily enter into the database the information supplied in the report.

Section 19. Section 75-2-803 is amended to read:

75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Disqualifying homicide" means a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Person, except [~~automobile homicide~~] under Sections 76-5-207 and 76-5-207.5, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including but not limited to Chapter 2, Principles of Criminal Responsibility.

(c) "Governing instrument" means a governing instrument executed by the decedent.

(d) "Killer" means a person who commits a disqualifying homicide.

(e) "Revocable," with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation, in favor of the killer, whether or not the decedent was then empowered to designate himself in place of his killer and whether or not the decedent then had capacity to exercise the power.

(2) An individual who commits a disqualifying homicide of the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed his intestate share.

(3) The killing of the decedent by means of a disqualifying homicide:

(a) revokes any revocable:

(i) disposition or appointment of property made by the decedent to the killer in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and

(b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(4) A severance under Subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by one who kills another under circumstances not covered by this section shall be treated in accordance with the principle that one who kills cannot profit from his wrong.

(7) The court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual has committed a disqualifying homicide of the decedent. If the court determines that, under that standard, the individual has committed a disqualifying homicide of the decedent, the determination conclusively establishes that individual as having committed a disqualifying homicide for purposes of this section, unless the court finds that the act of disinheritance would create a manifest injustice. A judgment of criminal conviction for a disqualifying homicide of the decedent, after all direct appeals have been exhausted, conclusively establishes that the convicted individual has committed the disqualifying homicide for purposes of this section.

(8) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a disqualifying homicide, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of a claimed forfeiture or revocation under Subsection (8)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(9) (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or

the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

Section 20. Section 76-5-102.1 is enacted to read:

76-5-102.1. Negligently operating a vehicle resulting in injury.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(b) "Drug" means the same as that term is defined in Section 76-5-207.

(c) "Negligent" or "negligence" means the same as that term is defined in Section 76-5-207.

(d) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(2) An actor commits negligently operating a vehicle resulting in injury if the actor:

(a) (i) operates a vehicle in a negligent manner causing bodily injury to another; and

(ii) (A) has sufficient alcohol in the actor's body such that a subsequent chemical test shows that the actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(B) is under the influence of alcohol, a drug, or the combined influence of alcohol and a drug to a degree that renders the actor incapable of safely operating a vehicle; or

(C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation; or

(b) (i) operates a vehicle in a criminally negligent manner causing bodily injury to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

(3) Except as provided in Subsection (4), a violation of Subsection (2) is:

(a) (i) a class A misdemeanor; or

(ii) a third degree felony if the bodily injury is serious bodily injury; and

(b) a separate offense for each victim suffering bodily injury as a result of the actor's violation of this section, regardless of whether the injuries arise from the same episode of driving.

(4) An actor is not guilty of negligently operating a vehicle resulting in injury under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

(c) The standards for chemical breath analysis under Section 41-6a-515 and the provisions for the admissibility of chemical test results under Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

(d) A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(2).

(e) Except as provided in Subsection (4), the fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

(f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except if prohibited by the Utah Rules of Evidence, the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 21. Section 76-5-201 is amended to read:

76-5-201. Criminal homicide -- Elements -- Designations of offenses -- Exceptions.

(1) (a) Except as provided in Subsections (3) and (4), a person commits criminal homicide if the person intentionally, knowingly, recklessly, with

criminal negligence, or acting with a mental state otherwise specified in the statute defining the offense, causes the death of another human being, including an unborn child at any stage of its development.

(b) There shall be no cause of action for criminal homicide for the death of an unborn child caused by an abortion, as defined in Section 76-7-301.

(2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse homicide, homicide by assault, negligent homicide, or [~~automobile homicide~~] negligently operating a vehicle resulting in death.

(3) A person is not guilty of criminal homicide of an unborn child if the sole reason for the death of the unborn child is that the person:

(a) refused to consent to:

(i) medical treatment; or

(ii) a cesarean section; or

(b) failed to follow medical advice.

(4) A woman is not guilty of criminal homicide of her own unborn child if the death of her unborn child:

(a) is caused by a criminally negligent act or reckless act of the woman; and

(b) is not caused by an intentional or knowing act of the woman.

Section 22. Section 76-5-207 is amended to read:

76-5-207. Negligently operating a vehicle resulting in death.

(1) As used in this section:

(a) "Controlled substance" means the same as that term is defined in Section 58-37-2.

[~~(a)~~] (b) "Drug" [~~or "drugs"~~] means:

(i) a controlled substance [~~as defined in Section 58-37-2~~];

(ii) a drug as defined in Section [~~58-17b-102~~] 58-37-2; or

(iii) [~~any~~] a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of a person to safely operate a [~~motor~~] vehicle.

[~~(b) "Motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.~~]

[~~(2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person~~]

(c) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(d) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(2) An actor commits negligently operating a vehicle resulting in death if the actor:

(a) (i) operates a [~~motor~~] vehicle in a negligent manner causing the death of another [~~and:~~];

[~~(i)~~] (ii) (A) has sufficient alcohol in [~~his~~] the actor's body such that a subsequent chemical test shows that the [~~person~~] actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

[~~(ii)~~] (B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the [~~person~~] actor incapable of safely operating a vehicle; or

[~~(iii)~~] (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation[~~.~~]; or

(b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

[~~(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is subsequent to a conviction as defined in Subsection 41-6a-501(2).~~]

[~~(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.~~]

[~~(3) (a) Criminal homicide is automobile homicide, a second degree felony, if the person operates a motor vehicle in a criminally negligent manner causing the death of another and:~~]

[~~(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;~~]

[~~(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or~~]

[~~(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation.~~]

[~~(b) As used in this Subsection (3), "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).~~]

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of negligently operating a vehicle resulting in death under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2 if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

[~~(4)~~] (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

[~~(5)~~] (d) [~~Calculations~~] A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502[~~(1)~~](2).

[~~(6)~~] (e) [~~The~~] Except as provided in Subsection (4), the fact that [~~a person~~] an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

[~~(7)~~] (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence [~~or the constitution~~], the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

[~~(8) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of this section whether or not the injuries arise from the same episode of driving.~~]

Section 23. Section 77-2a-3 is amended to read:

77-2a-3. Manner of entry of plea -- Powers of court.

(1) (a) Acceptance of any plea in anticipation of a plea in abeyance agreement shall be done in full compliance with the Utah Rules of Criminal Procedure, Rule 11.

(b) In cases charging offenses for which bail may be forfeited, a plea in abeyance agreement may be entered into without a personal appearance before a magistrate.

(2) A plea in abeyance agreement may provide that the court may, upon finding that the defendant has successfully completed the terms of the agreement:

(a) reduce the degree of the offense and enter judgment of conviction and impose sentence for a lower degree of offense; or

(b) allow withdrawal of defendant's plea and order the dismissal of the case.

(3) (a) Upon finding that a defendant has successfully completed the terms of a plea in abeyance agreement, the court may reduce the degree of the offense or dismiss the case only as provided in the plea in abeyance agreement or as agreed to by all parties.

(b) Upon sentencing a defendant for any lesser offense in accordance with a plea in abeyance agreement, the court may not invoke Section 76-3-402 to further reduce the degree of the offense.

(4) The court may require the Department of Corrections to assist in the administration of the plea in abeyance agreement as if the defendant were on probation to the court under Section 77-18-105.

(5) The terms of a plea in abeyance agreement may include:

(a) an order that the defendant pay a nonrefundable plea in abeyance fee, with a surcharge based on the amount of the plea in abeyance fee, both of which shall be allocated in the same manner as if paid as a fine for a criminal conviction under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation, and which may not exceed in amount the maximum fine and surcharge which could have been imposed upon conviction and sentencing for the same offense;

(b) an order that the defendant pay the costs of any remedial or rehabilitative program required by the terms of the agreement; and

(c) an order that the defendant comply with any other conditions that could have been imposed as conditions of probation upon conviction and sentencing for the same offense.

(6) (a) The terms of a plea in abeyance shall include an order for a specific amount of restitution

that the defendant will pay, as agreed to by the defendant and the prosecuting attorney, unless the prosecuting attorney certifies that:

(i) the prosecuting attorney has consulted with all victims, including the Utah Office for Victims of Crime; and

(ii) the defendant does not owe any restitution.

(b) The court shall collect, receive, process, and distribute payments for restitution to the victim, unless otherwise provided by law or by the plea in abeyance agreement.

(c) If the defendant does not successfully complete the terms of the plea in abeyance, the court shall enter an order for restitution, in accordance with Title 77, Chapter 38b, Crime Victims Restitution Act, upon entering a sentence for the defendant.

(7) (a) A court may not hold a plea in abeyance without the consent of both the prosecuting attorney and the defendant.

(b) A decision by a prosecuting attorney not to agree to a plea in abeyance is final.

(8) No plea may be held in abeyance in any case involving:

(a) a sexual offense against a victim who is under 14 years old[~~.~~]; or

[~~(9)~~] (b) [~~No plea may be held in abeyance in any case involving~~] a driving under the influence violation under Section 41-6a-502, 41-6a-502.5, 41-6a-517, [~~or~~] 41-6a-520, 76-5-102.1, or 76-5-207.

Section 24. Section 77-40-102 is amended to read:

77-40-102. Definitions.

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) (a) "Clean slate eligible case" means a case:

(i) where, except as provided in Subsection (5)(c), each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40-105(6) and (7) without taking into consideration the exception in Subsection 77-40-105(9); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(i) except as provided in Subsection (5)(c), each charge within the case is:

(A) a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor; or

(C) an infraction;

(ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

(iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed.

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal accounts receivable, as defined in Section 77-32b-102, that:

(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40-105(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Person;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(7) "Department" means the Department of Public Safety established in Section 53-1-103.

(8) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except:

(i) any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana[~~,~~];

(ii) any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility; or [~~Subsection 58-37-8(2)(g),~~]

(iii) driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (8).

(9) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

(10) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any local ordinance, except:

(a) any drug possession offense;

(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(c) Sections 73-18-13 through 73-18-13.6;

(d) those offenses defined in Title 76, Utah Criminal Code; or

(e) any local ordinance that is substantially similar to those offenses listed in Subsections (11)(a) through (d).

(12) "Petitioner" means an individual applying for expungement under this chapter.

(13) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to those offenses.

(b) "Traffic offense" does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections (13)(b)(i) and (ii).

Section 25. Section 77-40-105 is amended to read:

77-40-105. Requirements to apply for a certificate of eligibility to expunge conviction.

(1) An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.

(2) Except as provided in Subsection (3), an individual is not eligible to receive a certificate of eligibility from the bureau if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

[~~(iv) felony automobile homicide;~~]

[~~(v)~~] (iv) a felony conviction described in Subsection 41-6a-501(2);

[~~(vi)~~] (v) a registerable sex offense as defined in Subsection 77-41-102(17); or

[~~(vii)~~] (vi) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding is pending against the petitioner; or

(c) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility.

(3) The eligibility limitation described in Subsection (2) does not apply in relation to a conviction for a qualifying sexual offense, as defined in Subsection 76-3-209(1), if, at the time of the offense, the individual who committed the offense was at least 14 years old, but under 18 years old, unless the conviction occurred in district court after the individual was:

(a) charged by criminal information under Section 80-6-502 or 80-6-503; and

(b) bound over to district court under Section 80-6-504.

(4) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of operating a motor vehicle with any amount of a controlled substance in an individual's body and causing serious bodily injury or death, as codified before May 4, 2022, Laws of Utah 2021, Chapter 236, Section 1, Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

(5) When determining whether to issue a certificate of eligibility, the bureau may not consider:

(a) a petitioner's pending or previous:

(i) infraction;

(ii) traffic offense;

(iii) minor regulatory offense; or

(iv) clean slate eligible case that was automatically expunged in accordance with Section 77-40-114; or

(b) a fine or fee related to an offense described in Subsection (5)(a).

(6) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following, except as provided in Subsection (9):

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

(7) The bureau may not issue a certificate of eligibility if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

(8) If the petitioner's criminal history contains convictions for both a drug possession offense and a non drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection (6) if any non drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection (4) than any drug possession offense in that episode.

(9) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions, then each eligibility limit defined in Subsection (6) shall be increased by one.

(10) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes pursuant to Section 77-27-5.1.

Section 26. Section 78B-9-402 is amended to read:

78B-9-402. Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim -- Payment to surviving spouse.

(1) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.

(2) (a) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:

(i) newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent;

(ii) the specific evidence identified by the petitioner in the petition establishes innocence;

(iii) the material evidence is not merely cumulative of evidence that was known;

(iv) the material evidence is not merely impeachment evidence; and

(v) viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.

(b) (i) The court shall review the petition in accordance with the procedures in Subsection (9)(b), and make a finding that the petition has satisfied the requirements of Subsection (2)(a).

(ii) If the court finds the petition does not meet all the requirements of Subsection (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner and the attorney general.

(3) (a) The petition shall also contain an averment that:

(i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction motion, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

(ii) a court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.

(b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

(ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied, the court may dismiss the petition without prejudice and give notice to the petitioner and the attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a) if the court finds the petition should proceed to hearing based upon the strength of the petition, and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

(A) was not discovered by the petitioner or the petitioner's counsel;

(B) is material upon the issue of factual innocence; and

(C) has never been presented to a court.

(4) (a) If the conviction for which the petitioner asserts factual innocence was based upon a plea of guilty, the petition shall contain the specific nature and content of the evidence that establishes factual innocence.

(b) The court shall review the evidence and may dismiss the petition at any time in the course of the proceedings, if the court finds that the evidence of factual innocence relies solely upon the recantation of testimony or prior statements made by a witness against the petitioner, and the recantation appears to the court to be equivocal or self serving.

(5) A person who has already obtained postconviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this part in the same manner and form as described above, if no retrial or appeal regarding this offense is pending.

(6) If some or all of the evidence alleged to be exonerating is biological evidence subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section 78B-9-301.

(7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and shall include the underlying criminal case number.

(8) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel shall cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which is the subject of the petition.

(9) (a) A person who files a petition under this section shall serve notice of the petition and a copy of the petition upon the office of the prosecutor who obtained the conviction and upon the Utah attorney general.

(b) (i) The assigned judge shall conduct an initial review of the petition.

(ii) If it is apparent to the court that the petitioner is either merely relitigating facts, issues, or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal, and serve notice of dismissal upon the petitioner and the attorney general.

(iii) If, upon completion of the initial review, the court does not dismiss the petition, the court shall order the attorney general to file a response to the petition.

(iv) The attorney general shall, within 30 days after the day on which the attorney general receives the court's order, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(c) (i) After the time for response by the attorney general under Subsection (9)(b) has passed, the court shall order a hearing if the court finds the petition meets the requirements of Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted.

(ii) No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues, or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing.

(ii) If the state will not stipulate that the evidence establishes that the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing under this part.

(10) The court may not grant a petition for a hearing under this part during the period in which criminal proceedings in the matter are pending before any trial or appellate court, unless stipulated to by the parties.

(11) Any victim of a crime that is the subject of a petition under this part, and who has elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any hearing regarding the petition.

(12) (a) A petition to determine factual innocence under this part, or Part 3, Postconviction Testing of DNA, shall be filed separately from any petition for postconviction relief under Part 1, General Provisions.

(b) Separate petitions may be filed simultaneously in the same court.

(13) The procedures governing the filing and adjudication of a petition to determine factual innocence apply to all petitions currently filed or pending in the district court and any new petitions filed on or after June 1, 2012.

(14) (a) As used in this Subsection (14) and in Subsection (15):

(i) "Married" means the legal marital relationship established between two individuals and as recognized by the law; and

(ii) "Spouse" means an individual married to the petitioner at the time the petitioner was found guilty of the offense regarding which a petition is filed and who has since then been continuously married to the petitioner until the petitioner's death.

(b) A claim for determination of factual innocence under this part is not extinguished upon the death of the petitioner.

(c) (i) If any payments are already being made to the petitioner under this part at the time of the death of the petitioner, or if the finding of factual innocence occurs after the death of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with Section 78B-9-405 to the petitioner's surviving spouse.

(ii) Payments cease upon the death of the spouse.

(15) The spouse under Subsection (14) forfeits all rights to receive any payment under this part if the spouse is charged with a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Person, except [~~automobile homicide~~] negligently operating a vehicle resulting in death under Section 76-5-207, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of Criminal Responsibility.

Section 27. Section 80-6-707 is amended to read:

80-6-707. Suspension of driving privileges.

(1) This section applies to a minor who:

(a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and

(b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

(i) suspend the minor's driving privileges; and

(ii) take possession of the minor's driver license.

(b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.

(c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

(i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and

(ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a) (i) the violation is the minor's first violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; [~~or~~]

(F) Subsection 76-5-102.1(2)(b);

(G) Subsection 76-5-207(2)(b); or

[~~(F)~~] (H) Subsection 76-9-701(1); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment; or

(b) (i) the violation is the minor's second or subsequent violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; [~~or~~]

(F) Subsection 76-5-102.1(2)(b);

(G) Subsection 76-5-207(2)(b); or

[~~(F)~~] (H) Subsection 76-9-701(1);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or

(B) the minor is under 18 years old and the minor's parent or legal guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4) (a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

(i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

(B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).

(5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section 28. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of a qualifying relative or guardian, or at an independent living program contracted or operated by the division.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) In accordance with Section 80-6-711 and Subsections (1) and (2), the juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation, or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) community or compensatory service hours have not been completed;

(iv) there is an outstanding fine; or

(v) there is a failure to pay restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court may extend supervision for no more than three months.

(7) If the juvenile court extends supervision under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(8) For a minor who is under the continuing jurisdiction of the juvenile court and whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only be extended as intake probation.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, [~~automobile homicide~~] negligently operating a vehicle resulting in death;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 29. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, [~~automobile homicide~~] negligently operating a vehicle resulting in death;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-601; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously committed to the division for secure care.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

Section 30. Coordinating H.B. 29 with S.B. 123 -- Substantive and technical amendments.

If this H.B. 29 and S.B. 123, Criminal Code Recodification, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by making the following changes:

(1) enact a new Subsection 76-5-201(2)(h) to read:

"(h) negligently operating a vehicle resulting in death."; and

(2) modify Section 76-5-207 to read:

"76-5-207. Negligently operating a vehicle resulting in death -- Penalties -- Evidence.

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

(i) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(ii) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

[~~(a)~~] (iii) "Drug" [~~or "drugs"~~] means:

[~~(i)~~] (A) a controlled substance [~~as defined in Section 58-37-2~~];

[~~(ii)~~] (B) a drug as defined in Section [~~58-17b-102~~] 58-37-2; or

[~~(iii)~~] (C) [~~any~~] a substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of [~~a person~~] an individual to safely operate a [~~motor~~] vehicle.

[~~(b) "Motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.~~]

[~~(2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person~~]

(iv) "Negligent" or "negligence" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(v) "Vehicle" means the same as that term is defined in Section 41-6a-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits negligently operating a vehicle resulting in death if the actor:

(a) (i) operates a [~~motor~~] vehicle in a negligent or criminally negligent manner causing the death of another [~~and:~~] individual;

[~~(i)~~] (ii) (A) has sufficient alcohol in [~~his~~] the actor's body such that a subsequent chemical test shows that the [~~person~~] actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

[~~(ii)~~] (B) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the [~~person~~] actor incapable of safely operating a vehicle; or

[~~(iii)~~] (C) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation[~~.~~]; or

(b) (i) operates a vehicle in a criminally negligent manner causing death to another; and

(ii) has in the actor's body any measurable amount of a controlled substance.

[~~(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is subsequent to a conviction as defined in Subsection 41-6a-501(2).~~]

[~~(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.~~]

[~~(3) (a) Criminal homicide is automobile homicide, a second degree felony, if the person operates a motor vehicle in a criminally negligent manner causing the death of another and:~~]

[~~(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;~~]

[~~(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or~~]

[~~(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation.~~]

[~~(b) As used in this Subsection (3), "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).~~]

(3) Except as provided in Subsection (4), an actor who violates Subsection (2) is guilty of:

(a) a second degree felony; and

(b) a separate offense for each victim suffering death as a result of the actor's violation of this section, regardless of whether the deaths arise from the same episode of driving.

(4) An actor is not guilty of a violation of negligently operating a vehicle resulting in death under Subsection (2)(b) if:

(a) the controlled substance was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the practitioner's professional practice, or as otherwise authorized by Title 58, Occupations and Professions;

(b) the controlled substance is 11-nor-9-carboxy-tetrahydrocannabinol; or

(c) the actor possessed, in the actor's body, a controlled substance listed in Section 58-37-4.2, if:

(i) the actor is the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(ii) the substance was administered to the actor by the medical researcher.

(5) (a) A judge imposing a sentence under this section may consider:

(i) the sentencing guidelines developed in accordance with Section 63M-7-404;

(ii) the defendant's history;

(iii) the facts of the case;

(iv) aggravating and mitigating factors; or

(v) any other relevant fact.

(b) The judge may not impose a lesser sentence than would be required for a conviction based on the defendant's history under Section 41-6a-505.

[~~(4)~~] (c) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

[~~(5)~~] (d) [~~Calculations~~] A calculation of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502[~~(1)~~](2).

[~~(6)~~] (e) [~~The~~] Except as provided in Subsection (4), the fact that [~~a person~~] an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

[~~(7)~~] (f) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by the Utah Rules of Evidence [~~or the constitution~~], the United States Constitution, or the Utah Constitution.

(g) In accordance with Subsection 77-2a-3(8), a guilty or no contest plea to an offense described in this section may not be held in abeyance.

[~~(8) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of this section whether or not the injuries arise from the same episode of driving.~~]".

CHAPTER 117
H. B. 32

Passed February 15, 2022
Approved March 22, 2022
Effective May 4, 2022

HEALTH CARE WORKER PROTECTION AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Joel K. Briscoe
Jefferson S. Burton
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Jon Hawkins
Sandra Hollins
Karen Kwan
Ashlee Matthews
Carol Spackman Moss
Judy Weeks Rohner
Jeffrey D. Stenquist
Andrew Stoddard
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox
Mike Winder

LONG TITLE

General Description:

This bill enacts provisions relating to the assault of an owner, employee, or contractor of a health facility.

Highlighted Provisions:

This bill:

- enacts enhanced penalties for assault or threat of violence against an owner, employee, or contractor of a health facility;
- creates an automatic sunset date for the provisions in this bill; and
- makes technical corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-276, as last amended by Laws of Utah 2019, Chapter 124

76-5-102.7, as last amended by Laws of Utah 2017, Chapters 123 and 326

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

Section 1. Section 63I-2-276 is amended to read:

63I-2-276. Repeal dates -- Title 76.

(1) Subsection 76-5-102.7(2)(b), regarding assault or threat of violence against an owner, employee, or contractor of a health facility, is repealed January 1, 2027.

[~~(1)~~] (2) If Section 76-7-302.4 is not in effect before January 1, 2029, Section 76-7-302.4 is repealed January 1, 2029.

[~~(2)~~] (3) Section 76-7-305.7 is repealed January 1, 2023.

Section 2. Section 76-5-102.7 is amended to read:

76-5-102.7. Assault or threat of violence against health care provider, emergency medical service worker, or health facility employee, owner, or contractor -- Penalty.

(1) As used in this section:

(a) "Assault" means an offense under Section 76-5-102.

(b) "Emergency medical service worker" means an individual licensed under Section 26-8a-302.

(c) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(d) "Health facility" means:

(i) a health care facility as defined in Section 26-21-2; and

(ii) the office of a private health care provider, whether for individual or group practice.

(e) "Health facility employee" means an employee, owner, or contractor of a health facility.

(f) "Threat of violence" means an offense under Section 76-5-107.

[~~(1) A person who~~]

(2) (a) An actor commits [~~an~~] assault or threat of violence against a health care provider or emergency medical service worker [~~is guilty of a class A misdemeanor~~] if:

[~~(a) the person~~] (i) the actor is not a prisoner or a [~~person detained under Section 77-7-15~~] detained detail;

(ii) the actor commits an assault or threat of violence;

[~~(b) the person~~] (iii) the actor knew that the victim was a health care provider or emergency medical service worker; and

[~~(c)~~] (iv) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault or threat of violence.

(b) An actor commits assault or threat of violence against a health facility employee if:

(i) the actor is not a prisoner or a detained individual;

(ii) the actor commits an assault or threat of violence;

(iii) the actor knew that the victim was a health facility employee; and

(iv) the health facility employee was acting within the scope of the health facility employee's duties for the health facility.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

[~~(2) A person who violates Subsection (1) is guilty of~~]

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the [~~person~~] actor:

[~~(a)~~] (i) causes substantial bodily injury[~~, as defined in Section 76-1-601~~]; and

[~~(b)~~] (ii) acts intentionally or knowingly.

[~~(3) As used in this section:~~]

[~~(a) "Assault" means the same as that term is defined in Section 76-5-102.~~]

[~~(b) "Emergency medical service worker" means a person licensed under Section 26-8a-302.~~]

[~~(c) "Health care provider" means the same as that term is defined in Section 78B-3-403.~~]

[~~(d) "Threat of violence" means the same as that term is defined in Section 76-5-107.~~]

CHAPTER 118
H. B. 36

Passed March 3, 2022
Approved March 22, 2022
Effective May 4, 2022

COMMISSION ON HOUSING AFFORDABILITY AMENDMENTS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill addresses the Commission on Housing Affordability within the Department of Workforce Services.

Highlighted Provisions:

This bill:

- repeals the sunset date for the Commission on Housing Affordability (commission);
- modifies the membership and duties of the commission; and
- provides that the commission serves as a subcommittee of the Unified Economic Opportunity Commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-8-2202, as enacted by Laws of Utah 2018, Chapter 392
35A-8-2203, as enacted by Laws of Utah 2018, Chapter 392
63I-1-235, as last amended by Laws of Utah 2021, Chapters 28 and 282
63N-1b-102, as enacted by Laws of Utah 2021, Chapter 282

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

Section 1. Section 35A-8-2202 is amended to read:

35A-8-2202. Commission on Housing Affordability.

(1) There is created within the department the Commission on Housing Affordability.

(2) The commission shall consist of [~~20~~] 21 members as follows:

(a) one senator appointed by the president of the Senate;

(b) two representatives appointed by the speaker of the House of Representatives;

(c) the executive director of the department or the executive director's designee;

(d) the director of the division;

(e) the executive director of the Governor's Office of Economic Opportunity or the executive director's designee;

(f) the president of the Utah Transit Authority or the president's designee;

(g) the [~~president~~] chair of the board of trustees of the Utah Housing Corporation or the [~~president's~~] chair's designee; [~~and~~]

(h) the state homelessness coordinator appointed under Section 63J-4-202 or the state homelessness coordinator's designee; and

[~~(h)~~] (i) 12 members appointed by the governor as follows:

(i) one individual representing the land development community with experience and expertise in affordable, subsidized multi-family development, recommended by the Utah Homebuilders Association;

(ii) one individual representing the real estate industry, recommended by the Utah Association of Realtors;

(iii) one individual representing the banking industry, recommended by the Utah Bankers Association;

(iv) one individual representing public housing authorities, recommended by the director of the division;

(v) two individuals representing municipal government, recommended by the Utah League of Cities and Towns;

(vi) one individual representing redevelopment agencies and community reinvestment agencies, recommended by the Utah Redevelopment Association;

(vii) two individuals representing county government, recommended by the Utah Association of Counties, where:

(A) one of the individuals is from a county of the first class; and

(B) one of the individuals is from a county of the third, fourth, fifth, or sixth class;

(viii) one individual representing a nonprofit organization that addresses issues related to housing affordability;

(ix) one individual with expertise on housing affordability issues in rural communities; and

(x) one individual representing the Salt Lake Chamber, recommended by the Salt Lake Chamber.

(3) (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)[~~(h)~~](i), the governor shall appoint a person to fill the vacancy.

(b) Members appointed under Subsection (2)[~~(h)~~](i) may be removed by the governor for cause.

(c) A member appointed under Subsection (2)[~~(h)~~](i) shall be removed from the commission and replaced by an appointee of the governor if the member is absent for three consecutive meetings of the commission without being excused by a cochair of the commission.

(d) A member serves until the member's successor is appointed.

(4) (a) The commission shall select two members to serve as cochairs, one of whom shall be a legislator.

(b) Subject to the other provisions of this Subsection (4), the cochairs are responsible for the call and conduct of meetings.

(c) The cochairs shall call and hold meetings of the commission at least four times each year.

(d) One or more additional meetings may be called upon request by a majority of the commission's members.

(5) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the commission.

(6) (a) A member of the commission described in Subsections (2)(c) through [~~(h)~~] (i) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

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

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

(7) The division shall provide staff support to the commission.

Section 2. Section 35A-8-2203 is amended to read:

35A-8-2203. Duties of the commission.

(1) The [~~commission's duties include~~] commission shall:

(a) serve as a subcommittee of the Unified Economic Opportunity Commission and assist the Unified Economic Opportunity Commission in performing the Unified Economic Opportunity Commission's duties under Section 63N-1a-202;

[~~(a)~~] (b) [~~increasing~~] increase public and government awareness and understanding of the housing affordability needs of the state and how those needs may be most effectively and efficiently met, through empirical study and investigation;

[~~(b)~~] (c) [~~identifying~~] identify and [~~recommending~~] recommend implementation of specific strategies, policies, procedures, and programs to address the housing affordability needs of the state;

[~~(c)~~] (d) [~~facilitating~~] facilitate the communication and coordination of public and private entities that are involved in developing, financing, providing, advocating for, and administering affordable housing in the state;

[~~(d)~~] (e) [~~studying, evaluating, and reporting~~] study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that address housing affordability in the state;

[~~(e)~~] (f) [~~studying and evaluating~~] study and evaluate the policies, procedures, and programs implemented by other states that address housing affordability;

[~~(f)~~] (g) [~~providing~~] provide a forum for public comment on issues related to housing affordability; and

[~~(g)~~] (h) [~~providing~~] provide recommendations to the [~~governor~~] Unified Economic Opportunity Commission and the Legislature on strategies, policies, procedures, and programs to address the housing affordability needs of the state.

(2) To accomplish its duties, the commission may:

(a) request and receive from a state or local government agency or institution summary information relating to housing affordability, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics; and

(b) appoint one or more advisory groups to advise and assist the commission.

(3) (a) A member of an advisory group described in Subsection (2)(b):

(i) shall be appointed by the commission;

(ii) may be:

(A) a member of the commission; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 35A-8-2202, may not receive reimbursement or pay for any work done in relation to the advisory group.

(b) An advisory group described in Subsection (2)(b) shall report to the commission on the progress of the advisory group.

Section 3. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(4) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.

[~~(5) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.~~]

[~~(6)~~] (5) Section 35A-9-501 is repealed January 1, 2023.

[~~(7)~~] (6) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.

[~~(8)~~] (7) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.

[~~(9)~~] (8) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(10)~~] (9) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(11)~~] (10) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 4. Section 63N-1b-102 is amended to read:

63N-1b-102. Subcommittees generally.

(1) Each subcommittee created under this part or by the commission in accordance with this section serves under the direction of the commission and shall assist the commission in performing the commission's duties.

(2) In addition to the subcommittees created under this part, the commission may establish one or more subcommittees to assist and advise the commission on specified topics or issues relevant to the commission's duties, including:

(a) rural economic growth;

(b) sustainable community growth;

(c) small business and entrepreneurism;

(d) multicultural economic empowerment; and

(e) international relations, trade, and immigration.

(3) When establishing a subcommittee under Subsection (2), the commission shall:

(a) appoint members to the subcommittee that represent a range of views and expertise; and

(b) adopt subcommittee procedures and directives.

(4) (a) A member of a subcommittee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

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

(5) In addition to the subcommittees created under this part, the Commission on Housing Affordability created in Section 35A-8-2202 shall serve as a subcommittee of the commission and shall assist the commission in performing the commission's duties.

CHAPTER 119
H. B. 63

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

COVID-19 VACCINE EXEMPTIONS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to COVID-19 in the workplace.

Highlighted Provisions:

This bill:

- defines terms;
- requires an employer to exempt an employee or a prospective employee from a COVID-19 vaccine requirement if the employee or prospective employee submits a primary care provider's note stating that the employee or prospective employee was previously infected by COVID-19;
- amends provisions related to recordkeeping;
- amends scope of provisions;
- prohibits an employer from keeping or maintaining a record or copy of an employee's COVID-19 test results, except as otherwise required by law; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

34-56-102, Utah Code Annotated 1953
34-56-201 , Utah Code Annotated 1953

RENUMBERS AND AMENDS:

34-56-101, (Renumbered from 26-68-201, as enacted by Laws of Utah 2021, Second Special Session, Chapter 9)

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

Section 1. Section 34-56-101, which is renumbered from Section 26-68-201 is renumbered and amended to read:

CHAPTER 56. WORKPLACE COVID-19 PROVISIONS

Part 1. General Provisions

[~~26-68-201~~]. 34-56-101. Definitions.

[~~(1)~~] As used in this [~~section~~] chapter:

[~~(a) (i)~~] (1) (a) "Adverse action" means:

(i) an action that results in:

(A) the refusal to hire a potential employee; or

(B) the termination of employment, demotion, or reduction of wages of an employee[~~.~~]; or

(ii) a governmental entity separating an employee from another employee solely because of the COVID-19 vaccination status of the employee.

[~~(ii)~~] (b) "Adverse action" does not include[~~: (A)~~] an employer's reassignment of an employee[~~; or~~], if the employee's COVID-19 vaccination status is not the only reason for the reassignment.

[~~(B) the termination of an employee, if reassignment of the employee is not practical.~~]

[~~(b)~~] (2) "COVID-19 vaccine" means a substance that is:

[~~(i) (A)~~] (a) (i) approved for use by the United States Food and Drug Administration; or

[~~(B)~~] (ii) authorized for use by the United States Food and Drug Administration under an emergency use authorization under 21 U.S.C. Sec. 360bbb-3;

[~~(ii)~~] (b) injected into or otherwise administered to an individual; and

[~~(iii)~~] (c) intended to immunize an individual against COVID-19 as defined in Section 78B-4-517.

(3) "COVID-19 vaccination status" means the state of whether an individual has received a COVID-19 vaccine.

[~~(c)~~] (4) "Employee" means an individual suffered or permitted to work by an employer.

[~~(d) (i)~~] (5) (a) Except as provided in Subsection [~~(1)(d)(ii)~~] (5)(c), "employer" means the same as that term is defined in Section 34A-6-103.

(b) Except as provided in Subsection (5)(c), "employer" includes a federal contractor.

[~~(ii)~~] (c) "Employer" does not include:

[~~(A)~~] (i) a person that is subject to a regulation by the Centers for Medicare and Medicaid Services regarding a COVID-19 vaccine, [~~unless the person is the state or a political subdivision of the state that is not an academic medical center~~] during the period that the regulation is in effect; or

[~~(B) a federal contractor.~~]

(ii) a health care provider, as defined in Section 78B-3-403, that is a participating provider for the Centers for Medicare and Medicaid Services.

(6) "Governmental entity" means:

(a) an executive branch agency as defined in Section 63A-16-102;

(b) the legislative branch;

(c) the judicial branch;

(d) the State Board of Education;

(e) the Utah Board of Higher Education;

(f) an institution of higher education; and

(g) a political subdivision of the state:

(i) as defined in Section 17B-1-102; and

(ii) including a school district.

(7) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act.

(8) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(9) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(10) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

[~~(c)~~] (11) "Workplace" means the same as that term is defined in Section 34A-6-103.

[~~(2) Except as provided in Subsection (6), an employer who requires an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccine shall relieve the employee or prospective employee of the requirement if the employee or prospective employee submits to the employer~~]

[~~a statement that receiving a COVID-19 vaccine would:~~]

[~~(a) be injurious to the health and well-being of the employee or prospective employee;~~]

[~~(b) conflict with a sincerely held religious belief, practice, or observance of the employee or prospective employee; or~~]

[~~(c) conflict with a sincerely held personal belief of the employee or prospective employee.~~]

[~~(3) Except as provided in Subsection (6), an employer shall pay for all COVID-19 testing an employee receives in relation to or as a condition of the employee's presence at the workplace.~~]

[~~(4) Except as provided in Subsection (6), an employer may not take an adverse action against an employee because of an act the employee makes in accordance with this section.~~]

[~~(5) (a) An employer may not keep or maintain a record or copy of an employee's proof of vaccination, unless:~~]

[~~(i) otherwise required by law;~~]

[~~(ii) an established business practice or industry standard requires otherwise; or~~]

[~~(iii) the provisions of this section do not apply as described in Subsection (6)(a).~~]

[~~(b) Subsection (5)(a) does not prohibit an employer from recording whether an employee is vaccinated.~~]

[~~(6) (a) The provisions of this section do not apply to a contract for goods or services entered into before November 5, 2021, unless the contract is between an employer and the employer's employee.~~]

[~~(b) An employer may require an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccination without providing the relief described in Subsection (2), if the employer:~~]

[~~(i) employs fewer than 15 employees; and~~]

[~~(ii) establishes a nexus between the requirement and the employee's assigned duties and responsibilities.~~]

Section 2. Section 34-56-102 is enacted to read:

34-56-102. Scope.

If a requirement imposed on an employer under this chapter substantially impairs the fulfillment of a contract entered into before May 4, 2022, to which the employer is a party, the requirement does not apply to the employer.

Section 3. Section 34-56-201 is enacted to read:

Part 2. Vaccinations, Recordkeeping, and Testing

34-56-201. Employee COVID-19 vaccination, recordkeeping, and testing provisions.

(1) (a) Except as provided in Subsection (1)(b), an employer who requires an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccine shall exempt the employee or prospective employee from the requirement if the employee or prospective employee submits to the employer:

(i) a statement that receiving a COVID-19 vaccine would:

(A) be injurious to the health and well-being of the employee or prospective employee;

(B) conflict with a sincerely held religious belief, practice, or observance of the employee or prospective employee; or

(C) conflict with a sincerely held personal belief of the employee or prospective employee; or

(ii) a letter from the employee or prospective employee's primary care provider stating that the employee or prospective employee was previously infected by COVID-19.

(b) An employer may require an employee or prospective employee to receive or show proof that the employee or prospective employee has received a COVID-19 vaccination without providing an exemption described in Subsection (1)(a), if:

(i) (A) the employer establishes a nexus between the requirement and the employee's assigned duties and responsibilities; or

(B) the employer identifies an external requirement for vaccination that is not imposed by the employer and is related to the employee's duties and responsibilities; and

(ii) reassignment of the employee is not practical.

(c) (i) An employer may not keep or maintain a record or copy of an employee's proof of vaccination, unless:

(A) otherwise required by law; or

(B) an established business practice or industry standard requires otherwise.

(ii) Subsection (1)(c)(i) does not prohibit an employer from verbally asking an employee to voluntarily disclose whether the employee is vaccinated.

(2) (a) An employer shall pay for all COVID-19 testing an employee receives in relation to or as a condition of the employee's presence at the workplace.

(b) An employer may not keep or maintain a record or copy of an employee's COVID-19 test results, unless otherwise required by law.

(3) An employer may not take an adverse action against an employee because of an act the employee makes in accordance with this chapter.

CHAPTER 120
H. B. 65
Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

FORENSIC BIOLOGICAL EVIDENCE PRESERVATION

Chief Sponsor: Brian S. King
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill concerns the preservation of biological evidence obtained in connection with the investigation or prosecution of a violent felony offense.

Highlighted Provisions:

This bill:

- creates definitions;
- amends asset forfeiture provisions to integrate biological evidence retention requirements;
- requires the preservation of biological evidence obtained in connection with the investigation or prosecution of a violent felony offense for specific time periods;
- provides procedures for the destruction of certain types of biological evidence;
- establishes procedures and remedies for preservation noncompliance; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

24-2-104, as enacted by Laws of Utah 2021, Chapter 230
24-2-106, as renumbered and amended by Laws of Utah 2021, Chapter 230
24-2-107, as enacted by Laws of Utah 2021, Chapter 230
24-2-108, as enacted by Laws of Utah 2021, Chapter 230
24-3-101.5, as enacted by Laws of Utah 2021, Chapter 230
24-4-103.3, as enacted by Laws of Utah 2021, Chapter 230
24-4-103.5, as enacted by Laws of Utah 2021, Chapter 230
78B-9-104, as last amended by Laws of Utah 2021, Chapter 46
78B-9-105, as last amended by Laws of Utah 2017, Chapter 447
78B-9-107, as last amended by Laws of Utah 2021, Chapter 46
78B-9-108, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4
78B-9-202, as last amended by Laws of Utah 2011, Chapter 165

ENACTS:

53-20-101, Utah Code Annotated 1953
53-20-102, Utah Code Annotated 1953
53-20-103, Utah Code Annotated 1953
53-20-104, Utah Code Annotated 1953

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

Section 1. Section 24-2-104 is amended to read:

24-2-104. Custody of seized property and contraband.

(1) If a peace officer seizes property or contraband under Section 24-2-102, the property and contraband:

(a) is not recoverable by replevin; and

(b) is considered in the custody of the agency that employed the peace officer.

(2) An agency with custody of seized property shall:

(a) hold the property in safe custody until the property is released or disposed of in accordance with:

(i) this title; and

(ii) Title 53, Chapter 20, Forensic Biological Evidence Preservation; and

(b) maintain a record of the property, including:

(i) a detailed inventory of all property seized;

(ii) the name of the person from whom the property was seized; and

(iii) the agency's case number.

(3) [~~An~~] In accordance with Title 53, Chapter 20, Forensic Biological Evidence Preservation, an agency may process property or contraband that is seized by a peace officer for evidentiary or investigative purposes, including sampling or other preservation procedure, before disposal or destruction.

(4) (a) Except as provided in Subsection (4)(b), no later than 30 days after the day on which a peace officer seizes property in the form of cash or other readily negotiable instruments under Section 24-2-102, an agency shall deposit the property into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.

(b) A prosecuting attorney may authorize one or more written extensions of the 30-day period under Subsection (4)(a) if the property needs to maintain the form in which the property was seized for evidentiary purposes or other good cause.

(c) An agency shall:

(i) have written policies for the identification, tracking, management, and safekeeping of seized property; and

(ii) shall have a written policy that prohibits the transfer, sale, or auction of seized property to an employee of the agency.

Section 2. Section 24-2-106 is amended to read:

24-2-106. Retention of property.

(1) If seized property is admitted into evidence during a court proceeding, the clerk of the court shall:

(a) retain the property; or

(b) return the property to the custody of the agency.

(2) [~~The~~] Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, the agency shall retain seized or forfeited property:

(a) at the discretion of the prosecuting attorney; or

(b) until all direct appeals and retrials are final.

(3) If the prosecuting attorney decides to retain control over the seized or forfeited property under Subsection (2)(a) in anticipation of possible collateral attacks upon the judgment or for use in a potential prosecution, the prosecuting attorney may decline to authorize the disposal of the property.

Section 3. Section 24-2-107 is amended to read:

24-2-107. Release of seized property to a claimant -- Release by surety bond or cash - Release for hardship.

(1) (a) [~~An~~] Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an agency with custody of seized property or the prosecuting attorney may release the property to a claimant if the agency or the prosecuting attorney:

(i) determines that retention of the property is unnecessary; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner.

(b) An agency with custody of the seized property, or the prosecuting attorney, shall release the property to a claimant if:

(i) the claimant posts a surety bond or cash with the court in accordance with Subsection (2);

(ii) the court orders the release of property for hardship purposes under Subsection (3);

(iii) a claimant establishes that the claimant is an innocent owner under Section 24-2-107; or

(iv) the court orders property retained as evidence to be released to a rightful owner under Section 24-3-104.

(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of seized property by posting a surety bond or cash with the court that is in an amount equal to the current fair market value of the property as determined by the court or a stipulation by the parties.

(b) A court may refuse to order the release under Subsection (2)(a) of:

(i) the property if:

(A) the bond tendered is inadequate;

(B) the property is retained as evidence or is subject to retention under Title 53, Chapter 20, Forensic Biological Evidence Preservation; or

(C) the property is particularly altered or designed for use in the commission of the offense subjecting the property to forfeiture; or

(ii) contraband.

(c) If a surety bond or cash is posted and the court later determines that the property is forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

(3) A claimant is entitled to the immediate release of seized property for which the agency has filed a notice of intent to forfeit under Section 24-4-103 if:

(a) the claimant had a possessory interest in the property at the time of seizure;

(b) continued possession by the agency pending a forfeiture proceeding will cause substantial hardship to the claimant, including:

(i) preventing the functioning of a legitimate business;

(ii) preventing any individual from working;

(iii) preventing any child from attending elementary or secondary school;

(iv) preventing or hindering an individual from receiving necessary medical care;

(v) preventing the care of a dependent child or adult who is elderly or disabled;

(vi) leaving an individual homeless; or

(vii) any other condition that the court determines causes a substantial hardship;

(c) the hardship from the continued possession of the property by the agency outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the property is returned to the claimant during the pendency of the proceeding; and

(d) the determination of substantial hardship under this Subsection (3) is based upon the property's use before the seizure.

(4) A claimant may file a motion or petition for hardship release under Subsection (3):

(a) in the court in which forfeiture proceedings have commenced; or

(b) in a district court where there is venue if a forfeiture proceeding has not yet commenced.

(5) The motion or petition for hardship release shall be served upon the agency with custody of the property within five days after the day on which the motion or petition is filed.

(6) The court shall:

(a) schedule a hearing on the motion or petition within 14 days after the day on which the motion or petition is filed; and

(b) render a decision on a motion or petition for hardship filed under this section no later than 20 days after the day of the hearing, unless this period is extended by the agreement of both parties or by the court for good cause shown.

(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the court shall order the property immediately released to the claimant pending completion of any forfeiture proceeding.

(b) The court may place conditions on release of the property as the court finds necessary and appropriate to preserve the availability of the property or the property's equivalent for forfeiture.

(8) The hardship release under this section does not apply to:

(a) contraband; or

(b) property that is:

(i) subject to retention under Title 53, Chapter 20, Forensic Biological Evidence Preservation; or

(ii) likely to be used to commit additional offenses if returned to the claimant.

Section 4. Section 24-2-108 is amended to read:

24-2-108. Innocent owners.

(1) (a) [~~A~~] Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, a claimant alleged to be an innocent owner may recover possession of seized property by:

(i) submitting a written request with the seizing agency before the later of:

(A) the commencement of a civil asset forfeiture proceeding; or

(B) 30 days after the day on which the property was seized; and

(ii) providing the seizing agency with:

(A) evidence that establishes proof of ownership; and

(B) a brief description of the date, time, and place that the claimant mislaid or relinquished possession of the seized property, or any evidence that the claimant is an innocent owner.

(b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency shall issue a written response to the claimant within 30 days after the day on which the seizing agency receives the claim.

(c) A response under Subsection (1)(b) from the seizing agency shall indicate whether the claim has been granted, denied on the merits, or denied for failure to provide the information required by Subsection (1)(a)(ii).

(d) (i) If a seizing agency denies a claim for failure to provide the information required by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to submit additional information.

(ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property and a seizing agency has denied a claim for failure to provide the information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a civil action until:

(A) the claimant has submitted information under Subsection (1)(d)(i); or

(B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has passed.

(e) If a seizing agency fails to issue a written response within 30 days after the day on which the seizing agency receives the response, the seizing agency shall return the property.

(2) If a claim under Subsection (1)(a) is granted, or the property is returned because the seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs, or attorney fees for the returned property.

(3) A claimant may collect reasonable attorney fees and court costs if:

(a) a claimant filed a claim under Subsection (1)(a);

(b) the seizing agency denies the claim on the merits; and

(c) a court determines that the claimant is an innocent owner in a civil asset forfeiture proceeding.

(4) If a court grants reasonable attorney fees and court costs, the amount of the attorney fees begins to accrue from the day on which the seizing agency denied the claim.

(5) If the court grants reasonable attorney fees and court costs under Subsection (3), the attorney fees and court costs are not subject to the 50% cap under Subsection 24-4-110(2).

(6) A communication between parties regarding a claim submitted under Subsection (3) and any evidence provided to the parties in connection with a claim is subject to the Utah Rules of Evidence, Rules 408 and 410.

(7) An agency and the prosecuting attorney may not forfeit the seized property of an innocent owner.

Section 5. Section 24-3-101.5 is amended to read:

24-3-101.5. Application of this chapter.

The provisions of this chapter do not apply to property:

(1) that is subject to the retention requirements under Title 53, Chapter 20, Forensic Biological Evidence Preservation; or

(2) for which an agency has filed a notice of intent to seek forfeiture under Section 23-4-103.

Section 6. Section 24-4-103.3 is amended to read:

24-4-103.3. Sale of seized property.

(1) (a) Subject to Subsection (2) and Title 53, Chapter 20, Forensic Biological Evidence

Preservation, the court may order seized property, for which a forfeiture proceeding is pending, to:

(i) be sold, leased, rented, or operated to satisfy a specified interest of any claimant; or

(ii) preserve the interests of any party on motion of that party.

(b) The court may enter an order under Subsection (1)(a) after:

(i) written notice to any person known to have an interest in the property has been given; and

(ii) an opportunity for a hearing for any person known to have an interest in the property has occurred.

(2) (a) A court may order a sale of property under Subsection (1) when:

(i) the property is liable to perish, waste, or be significantly reduced in value; or

(ii) the expenses of maintaining the property are disproportionate to the property's value.

(b) A third party designated by the court shall:

(i) dispose of the property by a commercially reasonable public sale; and

(ii) distribute the proceeds in the following order of priority:

(A) first, for the payment of reasonable expenses incurred in connection with the sale;

(B) second, for the satisfaction of an interest, including an interest of an interest holder, in the order of an interest holder's priority as determined by Title 70A, Uniform Commercial Code; and

(C) third, any balance of the proceeds shall be preserved in the actual or constructive custody of the court, in an interest-bearing account, subject to further proceedings under this chapter.

Section 7. Section 24-4-103.5 is amended to read:

24-4-103.5. Mandatory return of seized property.

(1) [~~An~~] Subject to Title 53, Chapter 20, Forensic Biological Evidence Preservation, an agency shall promptly return property seized under this title, and the prosecuting attorney may take no further action to forfeit the property, unless within 75 days after the day on which the property is seized:

(a) the prosecuting attorney:

(i) files a criminal indictment or information under Subsection 24-4-105(3);

(ii) files a petition to transfer the property to another agency in accordance with Section 24-2-105; or

(iii) files a civil forfeiture complaint under Section 24-4-104; or

(b) the prosecuting attorney or a federal prosecutor obtains a restraining order under Subsection 24-4-105(4).

(2) (a) The prosecuting attorney may file a petition to extend the deadline under Subsection (1) by 21 days.

(b) If a prosecuting attorney files a petition under Subsection (2)(a), and the prosecuting attorney provides good cause for extending the deadline, a court shall grant the petition.

(c) The prosecuting attorney may not file more than one petition under this Subsection (2).

(3) If a prosecuting attorney is unable to file a civil forfeiture complaint under Subsection (1)(a)(iii) because a claimant has filed a claim under Section 24-2-108 and the claimant has an extension to provide additional information on the claim under Subsection 24-2-108(1)(d), the deadline under Subsection (1) may be extended by 15 days.

Section 8. Section 53-20-101 is enacted to read:

CHAPTER 20. FORENSIC BIOLOGICAL EVIDENCE PRESERVATION

53-20-101. Definitions.

As used in this chapter:

(1) (a) "Biological evidence" means an item that contains blood, semen, hair, saliva, epithelial cells, latent fingerprint evidence that may contain biological material suitable for DNA testing, or other identifiable human biological material that:

(i) is collected as part of an investigation or prosecution of a violent felony offense; and

(ii) may reasonably be used to incriminate or exculpate a person for the violent felony offense.

(b) "Biological evidence" includes:

(i) material that is catalogued separately, including:

(A) on a slide or swab; or

(B) inside a test tube, if the evidentiary sample that previously was inside the test tube has been consumed by testing;

(ii) material that is present on other evidence, including clothing, a ligature, bedding, a drinking cup, a cigarette, or a weapon, from which a DNA profile may be obtained;

(iii) the contents of a sexual assault examination kit; and

(iv) material described in this Subsection (1) that is in the custody of an evidence collecting or retaining entity on May 4, 2022.

(2) "Continuous chain of custody" means:

(a) for a law enforcement agency or a court, that legal standards regarding a continuous chain of custody are maintained; and

(b) for an entity that is not a law enforcement agency or a court, that the entity maintains a record in accordance with legal standards required of the entity.

(3) "Court" means a municipal, county, or state court.

(4) "DNA" means deoxyribonucleic acid.

(5) "DNA profile" means a unique identifier of an individual derived from DNA.

(6) (a) "Evidence collecting or retaining entity" means an entity within the state that collects, stores, or retrieves biological evidence.

(b) "Evidence collecting or retaining entity" includes:

(i) a medical or forensic entity;

(ii) a law enforcement agency;

(iii) a court; and

(iv) an official, employee, or agent of an entity or agency described in this Subsection (6).

(7) "In custody" means an individual who:

(a) is incarcerated, civilly committed, on parole, or on probation; or

(b) is required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry.

(8) "Law enforcement agency" means:

(a) a municipal, county, state institution of higher education, or state police force or department;

(b) a sheriff's office; or

(c) a municipal, county, or state prosecuting authority.

(9) "Medical or forensic entity" means a private or public hospital, medical facility, or other entity that secures biological evidence or conducts forensic examinations related to criminal investigations.

(10) "Physical evidence" includes evidence that:

(a) is related to:

(i) an investigation;

(ii) an arrest; or

(iii) a prosecution that resulted in a judgment of conviction; and

(b) is in the actual or constructive possession of a law enforcement agency or a court or an agent of a law enforcement agency or a court.

(11) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

Section 9. Section 53-20-102 is enacted to read:

53-20-102. Preservation of evidence -- Procedures -- Inventory request.

(1) Except as provided in Section 53-20-103, an evidence collecting or retaining entity shall preserve biological evidence:

(a) for the longer of:

(i) the length of the statute of limitations for the violent felony offense if:

(A) no charges are filed for the violent felony offense; or

(B) the violent felony offense remains unsolved;

(ii) the length of time that the individual convicted of the violent felony offense or any lesser included violent offense remains in custody; or

(iii) the length of time that a co-defendant remains in custody;

(b) in an amount and manner sufficient to:

(i) develop a DNA profile; and

(ii) if practicable, allow for independent testing of the biological evidence by a defendant; and

(c) subject to a continuous chain of custody.

(2) (a) Upon request by a defendant under Title 63G, Chapter 2, Government Records Access and Management Act, the evidence collecting or retaining entity shall prepare an inventory of the biological evidence preserved in connection with the defendant's criminal case.

(b) If the evidence collecting or retaining entity cannot locate biological evidence requested under Subsection (2)(a), the custodian for the entity shall provide a sworn affidavit to the defendant that:

(i) describes the efforts taken to locate the biological evidence; and

(ii) affirms that the biological evidence could not be located.

(3) The evidence collecting or retaining entity may dispose of biological evidence before the day on which the period described in Subsection (1)(a) expires if:

(a) no other provision of federal or state law requires the evidence collecting or retaining entity to preserve the biological evidence;

(b) the evidence collecting or retaining entity sends notice in accordance with Subsection (4); and

(c) an individual notified under Subsection (4)(a) does not within 180 days after the day on which the evidence collecting or retaining entity receives proof of delivery under Subsection (4):

(i) file a motion for testing of the biological evidence under Section 78B-9-301; or

(ii) submit a written request under Subsection (4)(b)(ii).

(4) If the evidence collecting or retaining entity intends to dispose of the biological evidence before the day on which the period described in Subsection (1)(a) expires, the evidence collecting or retaining entity shall send a notice of intent to dispose of the biological evidence that:

(a) is sent by certified mail, return receipt requested, or a delivery service that provides proof of delivery, to:

(i) an individual who remains in custody based on a criminal conviction related to the biological evidence;

(ii) the private attorney or public defender of record for each individual described in Subsection (4)(a)(i);

(iii) if applicable, the prosecuting agency responsible for the prosecution of each individual described in Subsection (4)(a)(i); and

(iv) the Utah attorney general; and

(b) explains that the party receiving the notice may:

(i) file a motion for testing of biological evidence under Section 78B-9-301; or

(ii) submit a written request that the evidence collecting or retaining entity retain the biological evidence.

(5) (a) Subject to Subsections (5)(b) and (c), if the evidence collecting or retaining entity receives a written request to retain the biological evidence under Subsection (4)(b)(ii), the evidence collecting or retaining entity shall retain the biological evidence while the defendant remains in custody.

(b) Subject to Subsection (5)(c), the evidence collecting or retaining entity is not required to preserve physical evidence that may contain biological evidence if the physical evidence's size, bulk, or physical character renders retention impracticable.

(c) If the evidence collecting or retaining entity determines that retention is impracticable, before returning or disposing of the physical evidence, the evidence collecting or retaining entity shall:

(i) remove the portions of the physical evidence likely to contain biological evidence related to the violent felony offense; and

(ii) preserve the removed biological evidence in a quantity sufficient to permit future DNA testing.

(6) To comply with the preservation requirements described in this section, a law enforcement agency or a court may:

(a) retain the biological evidence; or

(b) if a continuous chain of custody can be maintained, return the biological evidence to the custody of the other law enforcement agency that originally provided the biological evidence to the law enforcement agency.

Section 10. Section 53-20-103 is enacted to read:

53-20-103. Exceptions.

(1) As used in this section, "offense concerning driving under the influence" means:

(a) Section 41-6a-502;

(b) Section 41-6a-502.5;

(c) Section 41-6a-517;

(d) Section 41-6a-530;

(e) Section 76-5-102.1;

(f) Section 76-5-207; and

(g) a local ordinance similar to the offenses described in this Subsection (1).

(2) Section 53-20-102 does not apply to biological evidence obtained during an investigation or prosecution for an offense concerning driving under the influence solely for toxicology purposes.

Section 11. Section 53-20-104 is enacted to read:

53-20-104. Remedies for failure to preserve evidence.

(1) (a) Except as provided in Subsections (1)(b) and (2), if a court finds that biological evidence that reasonably could have been found to be exculpatory in a defendant's criminal case was not preserved in accordance with this chapter, the court may impose sanctions and remedies at the court's discretion, including:

(i) the grant of a new trial;

(ii) an instruction to the jury that evidence was not preserved as required by law;

(iii) the reduction of the sentence;

(iv) the dismissal of the criminal charge;

(v) the vacation of the conviction; or

(vi) the entry of a finding that because the evidence was not preserved in accordance with this chapter, a presumption exists that the evidence would have been exculpatory to the defendant.

(b) The provisions in Subsection (1)(a) apply only if:

(i) a defendant's appeal has not concluded;

(ii) a defendant's time for appeal has not expired; or

(iii) a defendant has received a new trial in accordance with Subsection (2)(b).

(2) (a) A defendant shall seek relief under Title 78B, Chapter 9, Postconviction Remedies Act, if:

(i) the defendant alleges that the biological evidence that is the basis for the defendant's claim was not preserved in accordance with this chapter; and

(ii) (A) the defendant's appeal has concluded; or

(B) the time for the defendant's appeal has expired.

(b) If a defendant obtains relief under Title 78B, Chapter 9, Postconviction Remedies Act, the provisions in Subsection (1) apply to the defendant's new trial.

Section 12. Section 78B-9-104 is amended to read:

78B-9-104. Grounds for relief -- Retroactivity of rule.

(1) Unless precluded by Section 78B-9-106 or 78B-9-107, an individual who has been convicted and sentenced for a criminal offense may file an

action in the district court of original jurisdiction for postconviction relief to vacate or modify the conviction or sentence upon the following grounds:

(a) the conviction was obtained or the sentence was imposed in violation of the United States Constitution or Utah Constitution;

(b) the conviction was obtained or the sentence was imposed under a statute that is in violation of the United States Constitution or Utah Constitution, or the conduct for which the petitioner was prosecuted is constitutionally protected;

(c) the sentence was imposed or probation was revoked in violation of the controlling statutory provisions;

(d) the petitioner had ineffective assistance of counsel in violation of the United States Constitution or Utah Constitution;

(e) newly discovered material evidence exists that requires the court to vacate the conviction or sentence, because:

(i) neither the petitioner nor petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction proceeding, and the evidence could not have been discovered through the exercise of reasonable diligence;

(ii) the material evidence is not merely cumulative of evidence that was known;

(iii) the material evidence is not merely impeachment evidence; and

(iv) viewed with all the other evidence, the newly discovered material evidence demonstrates that no reasonable trier of fact could have found the petitioner guilty of the offense or subject to the sentence received;

(f) the petitioner can prove that:

(i) biological evidence, as that term is defined in Section 53-20-101, relevant to the petitioner's conviction was not preserved in accordance with Title 53, Chapter 20, Forensic Biological Evidence Preservation;

(ii) (A) the biological evidence described in Subsection (1)(f)(i) was not tested previously; or

(B) if the biological evidence described in Subsection (1)(f)(i) was tested previously, there is a material change in circumstance, including a scientific or technological advance, that would make it plausible that a test of the biological evidence described in Subsection (1)(f)(i) would produce a favorable test result for the petitioner; and

(iii) a favorable result described in Subsection (1)(f)(ii), which is presumed for purposes of the petitioner's action under this section, when viewed with all the other evidence, demonstrates a reasonable probability of a more favorable outcome at trial for the petitioner;

[~~(f)~~] (g) the petitioner can prove entitlement to relief under a rule announced by the United States Supreme Court, the Utah Supreme Court, or the Utah Court of Appeals after conviction and sentence became final on direct appeal, and that:

(i) the rule was dictated by precedent existing at the time the petitioner's conviction or sentence became final; or

(ii) the rule decriminalizes the conduct that comprises the elements of the crime for which the petitioner was convicted; or

[~~(g)~~] (h) the petitioner committed any of the following offenses while subject to force, fraud, or coercion, as defined in Section 76-5-308:

(i) Section 58-37-8, possession of a controlled substance;

(ii) Section 76-10-1304, aiding prostitution;

(iii) Section 76-6-206, criminal trespass;

(iv) Section 76-6-413, theft;

(v) Section 76-6-502, possession of forged writing or device for writing;

(vi) Sections 76-6-602 through 76-6-608, retail theft;

(vii) Subsection 76-6-1105(2)(a)(i)(A), unlawful possession of another's identification document;

(viii) Section 76-9-702, lewdness;

(ix) Section 76-10-1302, prostitution; or

(x) Section 76-10-1313, sexual solicitation.

(2) The court may not grant relief from a conviction or sentence unless in light of the facts proved in the postconviction proceeding, viewed with the evidence and facts introduced at trial or during sentencing:

(a) the petitioner establishes that there would be a reasonable likelihood of a more favorable outcome; or

(b) if the petitioner challenges the conviction or the sentence on grounds that the prosecutor knowingly failed to correct false testimony at trial or at sentencing, the petitioner establishes that the false testimony, in any reasonable likelihood, could have affected the judgment of the fact finder.

(3) (a) The court may not grant relief from a conviction based on a claim that the petitioner is innocent of the crime for which convicted except as provided in Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

(b) Claims under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence, of this chapter may not be filed as part of a petition under this part, but shall be filed separately and in conformity with the provisions of Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 13. Section 78B-9-105 is amended to read:

78B-9-105. Burden of proof.

(1) (a) Except for claims raised under Subsection 78B-9-104(1)[~~(g)~~](h), the petitioner has the burden of pleading and proving by a preponderance of the evidence the facts necessary to entitle the petitioner to relief.

(b) For claims raised under Subsection 78B-9-104(1)[~~(g)~~](h), the petitioner has the burden of pleading and proving by clear and convincing evidence the facts necessary to entitle the petitioner to relief.

(c) The court may not grant relief without determining that the petitioner is entitled to relief under the provisions of this chapter and in light of the entire record, including the record from the criminal case under review.

(2) The respondent has the burden of pleading any ground of preclusion under Section 78B-9-106, but once a ground has been pled, the petitioner has the burden to disprove its existence by a preponderance of the evidence.

Section 14. Section 78B-9-107 is amended to read:

78B-9-107. Statute of limitations for postconviction relief.

(1) A petitioner is entitled to relief only if the petition is filed within one year after the day on which the cause of action has accrued.

(2) For purposes of this section, the cause of action accrues on the later of the following dates:

(a) the last day for filing an appeal from the entry of the final judgment of conviction, if no appeal is taken;

(b) the entry of the decision of the appellate court that has jurisdiction over the case, if an appeal is taken;

(c) the last day for filing a petition for writ of certiorari in the Utah Supreme Court or the United States Supreme Court, if no petition for writ of certiorari is filed;

(d) the entry of the denial of the petition for writ of certiorari or the entry of the decision on the petition for certiorari review, if a petition for writ of certiorari is filed;

(e) the date on which petitioner knew or should have known, in the exercise of reasonable diligence, of evidentiary facts on which the petition is based; or

(f) the date on which the new rule described in Subsection 78B-9-104(1)[~~(f)~~](g) is established.

(3) (a) The limitations period is tolled for any period during which the petitioner was prevented from filing a petition due to state action in violation of the United States Constitution, due to physical or mental incapacity, or for claims arising under Subsection 78B-9-104(1)[~~(g)~~](h), due to force, fraud, or coercion as defined in Section 76-5-308.

(b) The petitioner has the burden of proving by a preponderance of the evidence that the petitioner is entitled to relief under this Subsection (3).

(4) The statute of limitations is tolled during the pendency of the outcome of a petition asserting:

(a) exoneration through DNA testing under Section 78B-9-303; or

(b) factual innocence under Section 78B-9-402.

(5) Sections 77-19-8, 78B-2-104, and 78B-2-111 do not extend the limitations period established in this section.

(6) This section does not apply to a petition filed under Part 3, Postconviction Testing of DNA, or Part 4, Postconviction Determination of Factual Innocence.

Section 15. Section 78B-9-108 is amended to read:

78B-9-108. Effect of granting relief -- Notice.

(1) If the court grants the petitioner's request for relief, except requests for relief under Subsection 78B-9-104(1)[~~(g)~~](h), the court shall either:

(a) modify the original conviction or sentence; or

(b) vacate the original conviction or sentence and order a new trial or sentencing proceeding as appropriate.

(2) If the court grants the petitioner's request for relief under Subsection 78B-9-104(1)[~~(g)~~](h), the court shall:

(a) vacate the original conviction and sentence; and

(b) order the petitioner's records expunged pursuant to Section 77-40-108.5.

(3) (a) If the petitioner is serving a felony sentence, the order shall be stayed for five days. Within the stay period, the respondent shall give written notice to the court and the petitioner that the respondent will pursue a new trial or sentencing proceedings, appeal the order, or take no action.

(b) If the respondent fails to provide notice or gives notice at any time during the stay period that it intends to take no action, the court shall lift the stay and deliver the order to the custodian of the petitioner.

(c) If the respondent gives notice of intent to appeal the court's decision, the stay provided for by Subsection (3)(a) shall remain in effect until the appeal concludes, including any petitions for rehearing or for discretionary review by a higher court. The court may lift the stay if the petitioner can make the showing required for a certificate of probable cause under Section 77-20-302 and Utah Rules of Criminal Procedure, Rule 27.

(d) If the respondent gives notice that it intends to retry or resentence the petitioner, the trial court may order any supplementary orders as to arraignment, trial, sentencing, custody, bail, discharge, or other matters that may be necessary.

Section 16. Section 78B-9-202 is amended to read:

78B-9-202. Appointment and payment of counsel in death penalty cases.

(1) A person who has been sentenced to death and whose conviction and sentence has been affirmed on appeal shall be advised in open court, on the record, in a hearing scheduled no less than 30 days prior to the signing of the death warrant, of the provisions of this chapter allowing challenges to the conviction and death sentence and the appointment of counsel for indigent petitioners.

(2) (a) If a petitioner requests the court to appoint counsel, the court shall determine whether the petitioner is indigent and make findings on the record regarding the petitioner's indigency. If the court finds that the petitioner is indigent, it shall, subject to the provisions of Subsection (5), promptly appoint counsel who is qualified to represent petitioners in postconviction death penalty cases as required by Rule 8 of the Utah Rules of Criminal Procedure. Counsel who represented the petitioner at trial or on the direct appeal may not be appointed to represent the petitioner under this section.

(b) A petitioner who wishes to reject the offer of counsel shall be advised on the record by the court of the consequences of the rejection before the court may accept the rejection.

(3) Attorney fees and litigation expenses incurred in providing the representation provided for in this section and that the court has determined are reasonable shall be paid from state funds by the Division of Finance according to rules established pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(a) In determining whether the requested funds are reasonable, the court should consider:

(i) the extent to which the petitioner requests funds to investigate and develop evidence and legal arguments that duplicate the evidence presented and arguments raised in the criminal proceeding; and

(ii) whether the petitioner has established that the requested funds are necessary to develop evidence and legal arguments that are reasonably likely to support postconviction relief.

(b) The court may authorize payment of attorney fees at a rate of $125 per hour up to a maximum of $60,000. The court may exceed the maximum only upon a showing of good cause as established in Subsections (3)(e) and (f).

(c) The court may authorize litigation expenses up to a maximum of $20,000. The court may exceed the maximum only upon a showing of good cause as established in Subsections (3)(e) and (f).

(d) The court may authorize the petitioner to apply ex parte for the funds permitted in Subsections (3)(b) and (c) upon a motion to proceed ex parte and if the petitioner establishes the need for confidentiality. The motion to proceed ex parte must be served on counsel representing the state, and the court may not grant the motion without giving the state an opportunity to respond.

(e) In determining whether good cause exists to exceed the maximum sums established in Subsections (3)(b) and (c), the court shall consider:

(i) the extent to which the work done to date and the further work identified by the petitioner duplicates work and investigation performed during the criminal case under review; and

(ii) whether the petitioner has established that the work done to date and the further work identified is reasonably likely to develop evidence or legal arguments that will support postconviction relief.

(f) The court may permit payment in excess of the maximum amounts established in Subsections (3)(b) and (c) only on the petitioner's motion, provided that:

(i) if the court has granted a motion to file ex parte applications under Subsection (3)(d), the petitioner shall serve the motion to exceed the maximum amounts on an assistant attorney general employed in a division other than the one in which the attorney is employed who represents the state in the postconviction case; if the court has not granted a motion to file ex parte applications, then the petitioner must serve the attorney representing the state in the postconviction matter with the motion to exceed the maximum funds;

(ii) if the motion proceeds under Subsection (3)(f)(i), the designated assistant attorney general may not disclose to the attorney representing the state in the postconviction matter any material the petitioner provides in support of the motion except upon a determination by the court that the material is not protected by or that the petitioner has waived the attorney client privilege or work product doctrine; and

(iii) the court gives the state an opportunity to respond to the request for funds in excess of the maximum amounts provided in Subsections (3)(b) and (c).

(4) Nothing in this chapter shall be construed as creating the right to the effective assistance of postconviction counsel, and relief may not be granted on any claim that postconviction counsel was ineffective.

(5) If within 60 days of the request for counsel the court cannot find counsel willing to accept the appointment, the court shall notify the petitioner and the state's counsel in writing. In that event, the petitioner may elect to proceed pro se by serving written notice of that election on the court and state's counsel within 30 days of the court's notice that no counsel could be found. If within 30 days of its notice to the petitioner the court receives no notice that the petitioner elects to proceed pro se, the court shall dismiss any pending postconviction actions and vacate any execution stays, and the state may initiate proceedings under Section 77-19-9 to issue an execution warrant.

(6) Subject to Subsection (2)(a) the court shall appoint counsel to represent the petitioner for the first petition filed after the direct appeal. For all other petitions, counsel may not be appointed at public expense for a petitioner, except to raise claims:

(a) based on newly discovered evidence as defined in Subsection 78B-9-104(1)(e)(i); or

(b) based on Subsection 78B-9-104(1)[~~(f)~~](g) that could not have been raised in any previously filed post trial motion or postconviction proceeding.

CHAPTER 121
H. B. 67

Passed February 24, 2022
Approved March 22, 2022
Effective May 4, 2022
(Exception clause in Section 4)

VOTER ROLL MAINTENANCE AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions relating to maintaining the official register of voters.

Highlighted Provisions:

This bill:

- requires the lieutenant governor and county clerks to take action to regularly update the official register of voters; and
- provides instructions on the outside of an envelope for returning a ballot mailed to the wrong address.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-2-305, as last amended by Laws of Utah 2017, Chapters 52 and 327
20A-2-306, as last amended by Laws of Utah 2021, Chapters 11 and 100
20A-3a-202, as last amended by Laws of Utah 2021, Chapter 100

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

Section 1. Section 20A-2-305 is amended to read:

20A-2-305. Removing names from the official register -- General requirements.

(1) The county clerk may not remove a voter's name from the official register because the voter has failed to vote in an election.

(2) The county clerk shall remove a voter's name from the official register if:

(a) the voter dies and the requirements of Subsection (3) are met;

(b) the county clerk, after complying with the requirements of Section 20A-2-306, receives written confirmation from the voter that the voter no longer resides within the county clerk's county;

(c) the county clerk has:

(i) obtained evidence that the voter's residence has changed;

(ii) mailed notice to the voter as required by Section 20A-2-306;

(iii) (A) received no response from the voter; or

(B) not received information that confirms the voter's residence; and

(iv) the voter has failed to vote or appear to vote in an election during the period beginning on the date of the notice described in Section 20A-2-306 and ending on the day after the date of the second regular general election occurring after the date of the notice;

(d) the voter requests, in writing, that the voter's name be removed from the official register;

(e) the county clerk receives notice that a voter has been convicted of any felony or a misdemeanor for an offense under this title and the voter's right to vote has not been restored as provided in Section 20A-2-101.3 or 20A-2-101.5; or

(f) the county clerk receives notice that a voter has registered to vote in another state after the day on which the voter registered to vote in this state.

(3) The county clerk shall remove a voter's name from the official register within five business days after the day on which the county clerk receives confirmation from the Department of Health's Bureau of Vital Records that the voter is deceased.

(4) No later than 90 days before each primary and general election, the county clerk shall update the official register by reviewing the official register and taking the actions permitted or required by law under this section, Section 20A-2-304.5, and Section 20A-2-306.

Section 2. Section 20A-2-306 is amended to read:

20A-2-306. Removing names from the official register -- Determining and confirming change of residence.

(1) A county clerk may not remove a voter's name from the official register on the grounds that the voter has changed residence unless the voter:

(a) confirms in writing that the voter has changed residence to a place outside the county; or

(b) (i) has not voted in an election during the period beginning on the date of the notice required by Subsection (3), and ending on the day after the date of the second regular general election occurring after the date of the notice; and

(ii) has failed to respond to the notice required by Subsection (3).

(2) (a) When a county clerk obtains information that a voter's address has changed and it appears that the voter still resides within the same county, the county clerk shall:

(i) change the official register to show the voter's new address; and

(ii) send to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(b) When a county clerk obtains information that a voter's address has changed and it appears that the voter now resides in a different county, the county clerk shall verify the changed residence by sending to the voter, by forwardable mail, the notice required by Subsection (3) printed on a postage prepaid, preaddressed return form.

(3) (a) Each county clerk shall use substantially the following form to notify voters whose addresses have changed:

"VOTER REGISTRATION NOTICE

We have been notified that your residence has changed. Please read, complete, and return this form so that we can update our voter registration records. What is your current street address?

____

Street City County State Zip

What is your current phone number (optional)?____________________________

What is your current email address (optional)?____________________________

If you have not changed your residence or have moved but stayed within the same county, you must complete and return this form to the county clerk so that it is received by the county clerk before 5 p.m. no later than 30 days before the date of the election. If you fail to return this form within that time:

– you may be required to show evidence of your address to the poll worker before being allowed to vote in either of the next two regular general elections; or

– if you fail to vote at least once from the date this notice was mailed until the passing of two regular general elections, you will no longer be registered to vote. If you have changed your residence and have moved to a different county in Utah, you may register to vote by contacting the county clerk in your county.

____

Signature of Voter

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that all information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that all information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order."

(b) Beginning May 1, 2022, the form described in Subsection (3)(a) shall also include a section in substantially the following form:

--

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

______ Yes, I would like to receive electronic notifications regarding the status of my ballot.

--

(4) (a) Except as provided in Subsection (4)(b), the county clerk may not remove the names of any voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election.

(b) The county clerk may remove the names of voters from the official register during the 90 days before a regular primary election and the 90 days before a regular general election if:

(i) the voter requests, in writing, that the voter's name be removed; or

(ii) the voter has died.

(c) (i) After a county clerk mails a notice as required in this section, the county clerk may list that voter as inactive.

(ii) If a county clerk receives a returned voter identification card, determines that there was no clerical error causing the card to be returned, and has no further information to contact the voter, the county clerk may list that voter as inactive.

(iii) An inactive voter shall be allowed to vote, sign petitions, and have all other privileges of a registered voter.

(iv) A county is not required to send routine mailings to an inactive voter and is not required to count inactive voters when dividing precincts and preparing supplies.

(5) Beginning on or before January 1, 2022, the lieutenant governor shall make available to a county clerk United States Social Security Administration data received by the lieutenant governor regarding deceased individuals.

(6) A county clerk shall, within ten business days after the day on which the county clerk receives the information described in Subsection (5) or Subsections 26-2-13(11) and (12) relating to a decedent whose name appears on the official register, remove the decedent's name from the official register.

(7) Ninety days before [~~a regular primary election and 90 days before a regular~~] each primary and general election the lieutenant governor shall compare the information the lieutenant governor has received under Subsection 26-2-13(11) with the official register of voters to ensure that all deceased voters have been removed from the official register.

Section 3. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) after May 1, 2022, instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5; [~~and~~]

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (10)(c)(ii)[~~.~~]; and

(c) shall, on the outside of the envelope in which the election officer mails the ballot, include instructions for returning the ballot if the individual to whom the election officer mails the ballot does not live at the address to which the ballot is sent.

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter; and

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with Chapter 3a, Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604;

(d) is not required to pay return postage for a ballot; and

(e) is subject to an audit conducted under Subsection (9).

(9) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.

(10) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (10)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (10)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (10)(a) before the deadline described in Subsection (10)(b); or

(B) an election after the election described in Subsection (10)(c)(ii)(A).

(d) An individual who submits a request under Subsection (10)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 4. Effective date.

This bill takes effect on May 4, 2022, except that the amendments to Section 20A-3a-202 take effect on January 1, 2023.

CHAPTER 122
H. B. 70

Passed March 3, 2022
Approved March 22, 2022
Effective July 1, 2022

PUBLIC SAFETY DISABILITY BENEFITS AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill modifies disability coverage provisions of the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- requires a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee if the employee is injured or becomes ill as the result of external force or violence while performing employment duties;
- authorizes a participating employer to provide a benefit protection contract for a public safety service employee or a firefighter service employee for other injuries or illness; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-404, as last amended by Laws of Utah 2011, Chapter 366

ENACTS:

49-14-602, Utah Code Annotated 1953
49-15-602, Utah Code Annotated 1953
49-23-602, Utah Code Annotated 1953

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

Section 1. Section 49-11-404 is amended to read:

49-11-404. Benefit protection contract authorized -- Annual report required.

(1) (a) A participating employer may establish a salary protection program under which [~~its~~] the participating employer's employees are paid during periods of disability.

(b) If a salary protection program is established, a participating employer may enter into benefit protection contracts with the office.

(c) A salary protection program shall:

(i) pay benefits based on the rate of compensation of the member with a disability at the time of disability;

(ii) pay benefits over the period of the disability;

(iii) not include settlement or lump sum payments of any type;

(iv) be based upon the member being awarded and receiving ongoing monthly disability benefits that are:

(A) substantially equivalent to the long-term disability programs offered under Chapter 21, Public Employees' Long-Term Disability Act; [~~and~~] or

(B) workers' compensation indemnity benefits provided in accordance with Title 31A, Insurance Code; and

(v) comply with requirements adopted by the board.

(2) A benefit protection contract shall allow:

(a) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;

(b) the office to require participating employer contributions to be paid before granting service credit and salary credit to the member;

(c) the member with a disability to remain eligible during the contract period for any benefits provided by the system that covers the member; and

(d) the benefit for the member with a disability to be improved by the annual cost-of-living increase factor applied to retired members of the system that covered the member on the date the member is eligible to receive benefits under a benefit protection contract.

(3) (a) The office shall establish the manner and times when employer contributions are paid.

(b) A failure to make the required payments is cause for the office to cancel a contract.

(c) Service credit and salary credit granted and accrued up to the time of cancellation may not be forfeited.

(4) For an employee covered under Chapter 22, New Public Employees' Tier II Contributory Retirement Act, or Chapter 23, New Public Safety and Firefighter Tier II Contributory Retirement Act, a benefit protection contract shall allow:

(a) for the defined benefit portion for a member covered under Chapter 22, Part 3, Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System:

(i) the member with a disability to be considered an active member in a system and continue to accrue service credit and salary credit based on the member's rate of pay in effect at the time disability commences;

(ii) the office to require participating employer contributions to be paid before granting service credit and salary credit to the member;

(iii) the member with a disability to remain eligible during the contract period for any benefits provided by the system that covers the member; and

(iv) the benefit for the member with a disability to be improved by the annual cost-of-living increase factor applied to retired members of the system that covered the member on the date the member is eligible to receive benefits under a benefit protection contract; and

(b) for the defined contribution portion for a member covered under Chapter 22, Part 3, Tier II Hybrid Retirement System, or Chapter 23, Part 3, Tier II Hybrid Retirement System, or for a participant covered under Chapter 22, Part 4, Tier II Defined Contribution Plan, or Chapter 23, Part 4, Tier II Defined Contribution Plan, the office to require participating employers to continue making the nonelective contributions on behalf of the member with a disability or participant in the amounts specified in Subsection 49-22-303(1)(a), 49-22-401(1), 49-23-302(1)(a), or 49-23-401(1).

(5) A participating employer that has entered into a benefit protection contract under this section shall submit an annual report to the office, which identifies:

(a) the employees receiving long-term disability benefits under policies initiated by the participating employer and approved under the benefit protection contract;

(b) the employees that have applied for long-term disability benefits and who are waiting approval; and

(c) the insurance carriers that are actively providing long-term disability benefits.

(6) If an employer fails to provide the annual report required under Subsection (5), the benefits that would have accrued under the benefit protection contract shall be forfeited.

(7) The board may adopt rules to implement and administer this section.

Section 2. Section 49-14-602 is enacted to read:

49-14-602. Benefit protection contract.

(1) As used in this section:

(a) "Objective medical impairment" means the same as that term is defined in Section 49-21-102.

(b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.

(2) (a) A participating employer shall provide a benefit protection contract described in Section 49-11-404 for any public safety service employee who suffers a qualifying injury or illness as determined in accordance with this section.

(b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section 49-11-404.

(3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.

(b) In addition to the annual report requirements under Section 49-11-404:

(i) if there is final determination that a public safety service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and

(ii) if the public safety service employee's monthly disability benefit is terminated for any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

Section 3. Section 49-15-602 is enacted to read:

49-15-602. Benefit protection contract.

(1) As used in this section:

(a) "Objective medical impairment" means the same as that term is defined in Section 49-21-102.

(b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.

(2) (a) A participating employer shall provide a benefit protection contract described in Section 49-11-404 for any public safety service employee who suffers a qualifying injury or illness as determined in accordance with this section.

(b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section 49-11-404.

(3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.

(b) In addition to the annual report requirements under Section 49-11-404:

(i) if there is final determination that a public safety service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and

(ii) if the public safety service employee's monthly disability benefit is terminated for any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

Section 4. Section 49-23-602 is enacted to read:

49-23-602. Benefit protection contract.

(1) As used in this section:

(a) "Objective medical impairment" means the same as that term is defined in Section 49-21-102.

(b) "Qualifying injury or illness" means a physical or mental objective medical impairment resulting from external force or violence as a result of the performance of an employment duty.

(2) (a) A participating employer shall provide a benefit protection contract described in Section 49-11-404 for any public safety service employee or firefighter service employee who suffers a qualifying injury or illness as determined in accordance with this section.

(b) A participating employer may elect to provide a benefit protection contract for any other injury or illness of a public safety service employee or firefighter service employee in accordance with the requirements for providing a benefit protection contract, including the provisions of Section 49-11-404.

(3) (a) For purposes of Subsection (2)(a), the provider of long-term disability or workers' compensation indemnity benefits shall determine if a public safety service employee or firefighter service employee has suffered a qualifying injury or illness, including completing any appeals relating to that determination in accordance with the applicable appeals procedures.

(b) In addition to the annual report requirements under Section 49-11-404:

(i) if there is final determination that a public safety service employee or firefighter service employee has suffered a qualifying injury or illness and is awarded an ongoing monthly disability benefit based on that qualifying injury or illness, the participating employer shall immediately notify the office of the employee's award of that ongoing monthly disability benefit; and

(ii) if the public safety service employee's or firefighter service employee's monthly disability benefit is terminated for any reason, the participating employer shall immediately notify the office of the termination of the monthly disability benefit.

Section 5. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 123
H. B. 77

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

MEDICATION FOR INMATES

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill removes the repeal date for provisions regarding providing inmates with contraceptives and expands the types of contraceptives that may be provided.

Highlighted Provisions:

This bill:

- adds to the list of types of contraceptives that may be provided to inmates; and
- removes the repeal date from the statutory provisions requiring county jails to provide inmates with prescribed contraceptives.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-8, as last amended by Laws of Utah 2021, Chapter 108
63I-2-217, as last amended by Laws of Utah 2021, Chapters 64, 108, 363, and 385

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

Section 1. Section 17-22-8 is amended to read:

17-22-8. Care of prisoners -- Funding of services -- Private contractor.

(1) Except as provided in Subsection (5), a sheriff shall:

(a) receive each individual committed to jail by competent authority;

(b) provide each prisoner with necessary food, clothing, and bedding in the manner prescribed by the county legislative body;

(c) provide each prisoner medical care when:

(i) the prisoner's symptoms evidence a serious disease or injury;

(ii) the prisoner's disease or injury is curable or may be substantially alleviated; and

(iii) the potential for harm to the person by reason of delay or the denial of medical care would be substantial; and

(d) provide each prisoner, as part of the intake process, with the option of continuing any of the following medically prescribed methods of contraception:

(i) an oral contraceptive;

(ii) an injectable contraceptive; [~~or~~]

(iii) a patch;

(iv) a vaginal ring; or

[~~(iii)~~] (v) an intrauterine device, if the prisoner was prescribed the intrauterine device because the prisoner experiences serious and persistent adverse effects when using the methods of contraception described in Subsections (1)(d)(i) and (ii).

(2) A sheriff may provide the generic form of a contraceptive described in Subsection (1)(d)(i) or (ii).

(3) A sheriff shall follow the provisions of Section 64-13-46 if a prisoner is pregnant and gives birth, including the reporting requirements in Subsection 64-13-45(2)(c).

(4) (a) Except as provided in Subsection (4)(b), the expense incurred in providing the services required by this section to prisoners shall be paid from the county treasury, except as provided in Section 17-22-10.

(b) The expense incurred in providing the services described in Subsection (1)(d) to prisoners shall be paid by the Department of Health.

(5) If the county executive contracts with a private contractor to provide the services required by this section, the sheriff shall provide only those services required of the sheriff by the contract between the county and the private contractor.

Section 2. Section 63I-2-217 is amended to read:

63I-2-217. Repeal dates -- Title 17.

[~~(1) (a) Subsections 17-22-8(1)(d) and (2) regarding contraceptives for inmates, is repealed June 30, 2022.~~]

[~~(b) Subsection 17-22-8(4)(a), the language "Except as provided in Subsection (4)(b)" is repealed June 30, 2022.~~]

[~~(c) Subsection 17-22-8(4)(b) regarding the Department of Health is repealed June 30, 2022.~~]

[~~(d) On July 1, 2022, when making the changes in this section, the Office of Legislative Research and General Counsel shall in addition to its authority under Subsection 36-12-12(3):~~]

[~~(i) make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's understanding of the Legislature's intent; and~~]

[~~(ii) make necessary changes to subsection numbering and cross references.~~]

[~~(2)~~] (1) Title 17, Chapter 35b, Consolidation of Local Government Units, is repealed January 1, 2022.

[~~(3)~~] (2) On January 1, 2028, Subsection 17-52a-103(3), requiring certain counties to initiate a change of form of government process by July 1, 2018, is repealed.

[~~(4)~~] (3) On June 1, 2022:

(a) Section 17-52a-104 is repealed;

(b) in Subsection 17-52a-301(3)(a), the language that states "or under a provision described in Subsection 17-52a-104(1)(b) or (2)(b)," is repealed; and

(c) Subsection 17-52a-301(3)(a)(iv), regarding the first initiated process, is repealed.

CHAPTER 124
H. B. 81

Passed February 17, 2022
Approved March 22, 2022
Effective May 4, 2022

SEXUAL SOLICITATION AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the elements and penalties for sexual solicitation and related offenses.

Highlighted Provisions:

This bill:

- deletes and modifies definitions;
- modifies the elements of the offense of prostitution;
- adjusts the elements and penalties for the offense of patronizing a prostitute;
- adjusts the elements and penalties for the offense of sexual solicitation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-10-1301, as last amended by Laws of Utah 2018, Chapter 308

76-10-1302, as last amended by Laws of Utah 2020, Chapters 108, 214 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214

76-10-1303, as last amended by Laws of Utah 2018, Chapter 308

76-10-1313, as last amended by Laws of Utah 2020, Chapter 108

76-10-1315, as last amended by Laws of Utah 2021, Chapter 262

Utah Code Sections Affected by Coordination Clause:

76-10-1313, as last amended by Laws of Utah 2020, Chapter 108

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

Section 1. Section 76-10-1301 is amended to read:

76-10-1301. Definitions.

As used in this part:

(1) "Child" is an individual younger than 18 years [~~of age~~] old.

[~~(2) "Inmate" means an individual who engages in prostitution in or through the agency of a place of prostitution.~~]

[~~(3)~~] (2) "Place of prostitution" means a place or business where prostitution or promotion of prostitution is arranged, regularly carried on, or attempted by one or more individuals under the control, management, or supervision of another.

[~~(4)~~] (3) "Prostitute" or "prostituted individual" means an individual engaged in [~~the activities~~] an activity described in Subsection 76-10-1302(1) or 76-10-1313(1)(a), (c), (d), or (f).

[~~(5)~~] (4) "Public place" means [~~any~~] a place to which the public or any substantial group of the public has access.

[~~(6)~~] (5) "Sexual activity" means, regardless of the gender of either participant:

(a) [~~acts~~] an act of masturbation, sexual intercourse, or any sexual act involving the genitals of one individual and the mouth or anus of another individual; or

(b) [~~touching~~] the touching of the genitals, female breast, or anus of one individual with any other body part of another individual with the intent to sexually arouse or gratify either individual.

Section 2. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An [~~individual~~] actor, except for a child under Section 76-10-1315, is guilty of prostitution [~~when the individual:~~] if the actor engages in sexual activity with another individual for a fee, or the functional equivalent of a fee.

[~~(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;~~]

[~~(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or~~]

[~~(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.~~]

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, [~~prostitution~~] a violation of Subsection (1) is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an [~~individual~~] actor who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted [~~in compliance with~~] under Section 76-10-1307, is guilty of a class A misdemeanor.

(3) A prosecutor may not prosecute an [~~individual~~] actor for a violation of Subsection (1) if the [~~individual~~] actor engages in a violation of Subsection (1) at or near the time the [~~individual~~] actor witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the [~~individual~~] actor reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under Title 76, Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

(i) object rape of a child, Section 76-5-402.3;

(j) forcible sodomy, Section 76-5-403;

(k) sodomy on a child, Section 76-5-403.1;

(l) forcible sexual abuse, Section 76-5-404;

(m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(q) aggravated burglary or burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(r) aggravated robbery or robbery under Title 76, Chapter 6, Part 3, Robbery; or

(s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

Section 3. Section 76-10-1303 is amended to read:

76-10-1303. Patronizing a prostitute.

(1) An [~~individual~~] actor is guilty of patronizing a prostitute [~~when the individual~~] if the actor:

(a) pays or offers or agrees to pay a [~~prostitute~~] prostituted individual, or an individual the actor believes to be a [~~prostitute~~] prostituted individual, a fee, or the functional equivalent of a fee, for the purpose of engaging in an act of sexual activity; or

(b) enters or remains in a place of prostitution for the purpose of engaging in sexual activity.

(2) Patronizing a prostitute is a class A misdemeanor, except as provided in Subsection (3), (4), or (5) [~~and~~] or Section 76-10-1309.

(3) A violation of this section that is preceded by a conviction under this section or a conviction under a local ordinance adopted under Section 76-10-1307 is a class A misdemeanor.

(4) A third violation of this section or a local ordinance adopted under Section 76-10-1307 is a third degree felony.

(5) [~~If~~] (a) Except as provided in Subsection (5)(d), if the patronizing of a prostitute under Subsection (1)(a) involves a child as the other individual, a violation of Subsection (1)(a) is a [~~third~~] second degree felony.

(b) In accordance with Subsection 76-2-304.5(5)(a), it is not a defense to a prosecution under Subsection (5)(a) that the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age.

(c) An actor's belief that the individual was under 18 years old at the time of the offense, even if the individual was 18 years old or older, is a violation of Subsection (5)(a).

(d) If the act committed under Subsection (5)(a) amounts to an offense that is subject to a greater penalty under another provision of state law than is provided under Subsection (5)(a), this Subsection (5) does not prohibit prosecution and sentencing for the more serious offense.

(6) Upon a conviction for a violation of this section, the court shall order:

(a) the maximum fine amount and may not waive or suspend the fine[~~.~~]; and

(b) the defendant to pay for and complete a court-approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 4. Section 76-10-1313 is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) An individual except for a child under Section 76-10-1315 is guilty of sexual solicitation [~~when~~] if the individual:

(a) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity; [~~or~~]

(c) takes steps to arrange a meeting through any form of advertising or agreement to meet, and meets at an arranged place for the purpose of being hired to engage in sexual activity in exchange for a fee or the functional equivalent of a fee;

(d) loiters in or within view of a public place for the purpose of being hired to engage in sexual activity in exchange for a fee, or the functional equivalent of a fee;

[~~(c)~~] (e) with intent to [~~engage in sexual activity for a fee or the functional equivalent of a fee or to~~] pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee [~~engages in, offers or agrees to engage in, or~~], requests or directs [~~another~~] the other individual to engage in any of the following acts:

(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness[~~.~~]; or

(f) with intent to engage in sexual activity for a fee, or the functional equivalent of a fee, engages in or offers or agrees to engage in an act described in Subsection (1)(e)(i) through (iv).

(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)[~~(e)~~] (e) or (f) under the totality of the existing circumstances.

(3) Except as provided in Section 76–10–1309 and Subsections (4) and (5), [~~an individual who is convicted of sexual solicitation under this section~~] a violation of Subsection (1)(a), (c), (d), or (f) or under a local ordinance adopted in compliance with Section 76–10–1307 is [~~guilty of a class A misdemeanor.~~]:

[~~(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76–10–1307 is guilty of a third degree felony.~~]

(a) a class B misdemeanor on a first or second violation; and

(b) a class A misdemeanor on a third or subsequent violation.

(4) Except as provided in Section 76–10–1309 and Subsections (5) and (8), a violation of Subsection (1)(b) or (e) or a local ordinance adopted under Section 76–10–1307 is:

(a) a class A misdemeanor on the first or second violation; and

(b) a third degree felony on a third or subsequent violation.

(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and the individual solicited is a child, the offense is a [~~third~~] second degree felony if the solicitation does not amount to a violation of:

(a) [~~a violation of~~] Section 76–5–308, human trafficking or human smuggling; [~~or~~]

(b) Section 76–5–308.5, human trafficking of a child; or

[~~(b)~~] (c) [~~a violation of~~] Section 76–5–310, aggravated human trafficking or aggravated human smuggling.

(6) (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76–10–1315(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

(7) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the offenses or an attempt to commit any of the offenses described in Subsection 76–10–1302(3), and the individual reports the offense or attempt to law enforcement in good faith.

(8) (a) As part of a sentence imposed under Subsection (3), the court may lower, waive, or suspend a fine if the defendant completes a court–approved program that provides information or services intended to help an individual no longer engage in prostitution.

(b) As part of a sentence imposed under Subsection (4), the court shall order the defendant to pay for and complete a court–approved educational program about the negative effects on an individual involved with prostitution or human trafficking.

Section 5. Section 76-10-1315 is amended to read:

76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee, or the functional equivalent of a fee, under Subsection 76–10–1313(1)(a) [~~or~~], (c), (d), or (f).

(c) "Division" means the Division of Child and Family Services created in Section 62A–4a–103.

(d) "Juvenile receiving center" means the same as that term is defined in Section 80–1–102.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76–5–308 and 76–5–308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or [~~sex~~] sexual solicitation under Section 76-10-1313.

Section 6. Coordinating H.B. 81 with S.B. 123 -- Technical amendment.

If this H.B. 81 and S.B. 123, Criminal Code Recodification, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 76-10-1313(5) to read:

"(5) If an individual commits an act of sexual solicitation in violation of Subsection (1) and the individual solicited is a child, the offense is a [~~third~~] second degree felony if the solicitation does not amount to a violation of:

(a) [~~a violation of~~] Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3, human smuggling; or

(b) [~~a violation of~~] Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated human smuggling.".

CHAPTER 125
H. B. 90

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

TRANSPARENCY IN LOBBYING AND DISCLOSURES AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Michael K. McKell
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Brady Brammer
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Timothy D. Hawkes
Jon Hawkins
Sandra Hollins
Ken Ivory
Dan N. Johnson
Marsha Judkins
Brian S. King
Karen Kwan
Bradley G. Last
Rosemary T. Lesser
Karianne Lisonbee
Phil Lyman
A. Cory Maloy
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Doug Owens
Michael J. Petersen
Karen M. Peterson
Stephanie Pitcher
Susan Pulsipher
Adam Robertson
Judy Weeks Rohner
Angela Romero
Douglas V. Sagers
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
Casey Snider
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Jordan D. Teuscher
Norman K. Thurston
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox
Brad R. Wilson

LONG TITLE

General Description:

This bill amends provisions of the Lobbyist Disclosure and Regulation Act.

Highlighted Provisions:

This bill:

- defines terms;
- defines "foreign agent" and requires a foreign agent to register with the lieutenant governor as a foreign agent;
- makes provisions of the Lobbyist Disclosure and Regulation Act applicable to a person who lobbies a local official or an education official;
- amends rulemaking authority within the Office of the Lieutenant Governor;
- makes changes to the lobbyist license application form;
- establishes requirements for a foreign agent registration form;
- requires the name tag of a lobbyist who is a foreign agent to indicate that the lobbyist is a foreign lobbyist;
- establishes penalties for failure to register as a foreign agent;
- repeals existing provisions in the Local Government and Board of Education Lobbyist Disclosure and Regulation Act, and incorporates those provisions into the Lobbyist Disclosure and Regulation Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-11-102, as last amended by Laws of Utah 2021, Chapter 20
36-11-103, as last amended by Laws of Utah 2020, Chapters 22 and 394
36-11-106, as last amended by Laws of Utah 2019, Chapter 339
36-11-201, as last amended by Laws of Utah 2015, Chapter 296
36-11-304, as last amended by Laws of Utah 2015, Chapters 32 and 188
36-11-305.5, as enacted by Laws of Utah 2014, Chapter 335
36-11-401, as last amended by Laws of Utah 2020, Chapter 394
36-11-404, as last amended by Laws of Utah 2019, Chapter 339
36-11-405, as enacted by Laws of Utah 1991, Chapter 280
63A-14-202, as last amended by Laws of Utah 2019, Chapter 363
63A-15-201, as last amended by Laws of Utah 2019, Chapter 363
63E-1-401, as last amended by Laws of Utah 2019, Chapter 363
63E-1-404, as last amended by Laws of Utah 2019, Chapter 363

63G-23-102, as enacted by Laws of Utah 2018, Chapter 67

ENACTS:

36-11-103.5, Utah Code Annotated 1953

REPEALS:

36-11a-101, as enacted by Laws of Utah 2019, Chapter 363

36-11a-102, as enacted by Laws of Utah 2019, Chapter 363

36-11a-201, as enacted by Laws of Utah 2019, Chapter 363

36-11a-202, as enacted by Laws of Utah 2019, Chapter 363

36-11a-203, as enacted by Laws of Utah 2019, Chapter 363

36-11a-301, as enacted by Laws of Utah 2019, Chapter 363

36-11a-302, as enacted by Laws of Utah 2019, Chapter 363

36-11a-303, as enacted by Laws of Utah 2019, Chapter 363

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

Section 1. Section 36-11-102 is amended to read:

36-11-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(2) "Approved activity" means an event, a tour, or a meeting:

(a) (i) to which a legislator or another nonexecutive branch public official is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives or another nonexecutive branch public official; or

(B) the president of the Senate, if the public official is a member of the Senate or another nonexecutive branch public official; or

(b) (i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

(3) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

[~~(3)~~] (4) "Capitol hill complex" means the same as that term is defined in Section 63C-9-102.

[~~(4)~~] (5) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to [~~Social Security~~] social security deductions, including a payment in excess of the maximum amount subject to deduction under [~~Social Security~~] social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

[~~(5)~~] (6) "Compensation payor" means a person who pays compensation to a public official in the ordinary course of business:

(a) because of the public official's ownership interest in the compensation payor; or

(b) for services rendered by the public official on behalf of the compensation payor.

(7) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) a vote on an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(8) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education, if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees;

(iv) makes decisions relating to an education budget or the expenditure of public money; or

(v) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (8)(a) or (b).

[~~(6)~~] (9) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

[~~(7)~~] (10) "Executive action" means:

(a) a nomination or appointment by the governor;

(b) the proposal, drafting, amendment, enactment, or defeat by a state agency of a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) agency ratemaking proceedings; or

(d) an adjudicative proceeding of a state agency.

[~~(8)~~] (11) (a) "Expenditure" means any of the items listed in this Subsection [~~(8)~~] (11)(a) when given to or for the benefit of a public official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections [~~(8)~~] (11)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements[~~;~~], Section 10-3-208, Section 17-16-6.5, or any applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (11)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection [~~(8)~~] (11)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the public official's position as a public official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to which the following are invited:

(A) all members of the Legislature;

(B) all members of a standing or interim committee;

(C) all members of an official legislative task force;

(D) all members of a party caucus; or

(E) all members of a group described in Subsections [~~(8)~~] (11)(b)(vi)(A) through (D) who are attending a meeting of a national organization whose primary purpose is addressing general legislative policy;

(vii) food or beverage that is provided at an event, a tour, or a meeting to a public official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(viii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(ix) a gift that:

(A) is an item that is not consumable and not perishable;

(B) a public official, other than a local official or an education official, accepts on behalf of the state;

(C) the public official promptly remits to the state;

(D) a property administrator does not reject under Section 63G-23-103;

(E) does not constitute a direct benefit to the public official before or after the public official remits the gift to the state; and

(F) after being remitted to the state, is not transferred, divided, distributed, or used to distribute a gift or benefit to one or more public officials in a manner that would otherwise qualify the gift as an expenditure if the gift were given directly to a public official;

(x) any of the following with a cash value not exceeding $30:

(A) a publication; or

(B) a commemorative item;

(xi) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit [~~contributions~~] a contribution that is reportable under[~~: (I)~~] Title 20A, Chapter 11, Campaign and Financial Reporting Requirements[~~; or (II)~~], 2 U.S.C. Sec. 434[~~; or (B)~~], Section 10-3-208, Section 17-16-6.5, or an applicable ordinance adopted under Subsection 10-3-208(6) or 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (11)(b)(xi)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(xii) travel to, lodging at, food or beverage served at, and admission to an approved activity;

(xiii) sponsorship of an approved activity;

(xiv) notwithstanding Subsection [~~(8)~~] (11)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting:

(A) that is sponsored by a governmental entity; [~~or~~]

(B) that is widely attended and related to a governmental duty of a public official; [~~or~~]

(C) for a local official, that is sponsored by an organization that represents only local governments, including the Utah Association of Counties, the Utah League of Cities and Towns, or the Utah Association of Special Districts; or

(D) for an education official, that is sponsored by a public school, a charter school, or an organization that represents only public schools or charter schools, including the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(xv) travel to a widely attended tour or meeting related to a governmental duty of a public official if that travel results in a financial savings to [~~the state.~~]:

(A) for a public official who is not a local official or an education official, the state; or

(B) for a public official who is a local official or an education official, the local government or board of education to which the public official belongs.

[~~(9)~~] (12) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(13) (a) "Foreign agent" means an individual who engages in lobbying under contract with a foreign government.

(b) "Foreign agent" does not include an individual who is recognized by the United States Department of State as a duly accredited diplomatic or consular officer of a foreign government, including a duly accredited honorary consul.

(14) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

[~~(10)~~] (15) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting [~~within the government officer's official capacity; or~~] in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (15)(a)(i) or (ii), when acting in the capacity of the position; or

[~~(ii)~~] (iv) an individual appointed to or employed in a full-time position by state [~~or~~] government, local government, or a board of education, when acting [~~within the scope~~] in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

[~~(11)~~] (16) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

[~~(12)~~] (17) "Legislative action" means:

(a) a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator; and

(b) the action of the governor in approving or vetoing legislation.

[~~(13)~~] (18) "Lobbying" means communicating with a public official for the purpose of influencing [~~the passage, defeat, amendment, or postponement of legislative or~~] a legislative action, executive action, local action, or education action.

[~~(14)~~] (19) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person, including a principal, while appearing at, or providing written comments to, a hearing conducted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act or Title 63G, Chapter 4, Administrative Procedures Act;

(iv) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees;

(v) a representative of a political party;

(vi) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a public official;

(vii) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge legislative [~~or~~] action, executive action, local action, or education action;

(viii) an individual who appears on the individual's own behalf before a committee of the Legislature [~~or~~], an agency of the executive branch of state government, a board of education, the governing body of a local government, a committee of a local government, or a committee of a board of education, solely for the purpose of testifying in support of or in opposition to legislative [~~or~~] action, executive action, local action, or education action; or

(ix) an individual representing a business, entity, or industry, who:

(A) interacts with a public official, in the public official's capacity as a public official, while accompanied by a registered lobbyist who is lobbying in relation to the subject of the interaction or while presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; and

(B) does not make an expenditure for, or on behalf of, a public official in relation to the interaction or during the period of interaction.

[~~(15)~~] (20) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(21) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) a vote on an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(22) "Local government" means:

(a) a county, city, town, or metro township;

(b) a local district governed by Title 17B, Limited Purpose Local Government Entities - Local Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(23) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (23)(a) or (b).

[~~(16)~~] (24) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

[~~(17)~~] (25) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

[~~(18)~~] (26) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

[~~(19)~~] (27) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; [~~or~~]

(b) an immediate family member of a person described in Subsection [~~(19)~~] (27)(a)[~~.~~];

(c) a local official; or

(d) an education official.

[~~(20)~~] (28) "Public official type" means a notation to identify whether a public official is:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government;

(iii) an individual appointed to or employed in a position in the legislative branch of state government who meets the definition of public official under Subsection [~~(19)~~] (27)(a)(iii); [~~or~~]

(iv) an individual appointed to or employed in a position in the executive branch of state government who meets the definition of public official under Subsection [~~(19)~~] (27)(a)(iii); [~~or~~]

(v) a local official, including a description of the type of local government for which the individual is a local official; or

(vi) an education official, including a description of the type of board of education for which the individual is an education official; or

(b) an immediate family member of [~~a person~~] an individual described in Subsection [~~(19)~~] (27)(a), (c), or (d).

[~~(21)~~] (29) "Quarterly reporting period" means the three-month period covered by each financial report required under Subsection 36-11-201(2)(a).

[~~(22)~~] (30) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

[~~(23)~~] (31) "Relative" means:

(a) a spouse[~~,~~];

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin[~~, or spouse of any of these individuals.~~]; or

(c) a spouse of an individual described in Subsection (31)(b).

[~~(24)~~] (32) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

Section 2. Section 36-11-103 is amended to read:

36-11-103. Licensing requirements.

(1) (a) Before engaging in any lobbying, a lobbyist shall obtain a license from the lieutenant governor by completing the form required by this section.

(b) The lieutenant governor shall issue licenses to qualified lobbyists.

(c) The lieutenant governor shall prepare a [~~Lobbyist License Application Form~~] lobbyist license application form that includes:

(i) a place for the lobbyist's name and business address;

(ii) a place for the following information for each principal for whom the lobbyist works or is hired as an independent contractor:

(A) the principal's name;

(B) the principal's business address;

(C) the name of each public official that the principal employs and the nature of the employment with the public official; and

(D) the general purposes, interests, and nature of the principal;

(iii) a place for the name and address of the person who paid or will pay the lobbyist's licensing fee, if the fee is not paid by the lobbyist;

(iv) a place for the lobbyist to disclose:

(A) any elected or appointed position that the lobbyist holds in state or local government, if any; and

(B) the name of each public official that the lobbyist employs and the nature of the employment with the public official, if any;

(v) a place for the lobbyist to disclose the types of expenditures for which the lobbyist will be reimbursed; [~~and~~]

(vi) a statement that an individual is required to register as a foreign agent under Section 36-11-103.5 before engaging in lobbying on behalf of a foreign government;

(vii) a place for the lobbyist to indicate whether the lobbyist would like to register as a foreign agent; and

[~~(vi)~~] (viii) a certification to be signed by the lobbyist that certifies that the information provided in the form is true, accurate, and complete to the best of the lobbyist's knowledge and belief.

(2) Each lobbyist who obtains a license under this section shall update the licensure information when the lobbyist accepts employment for lobbying by a new client.

(3) (a) Except as provided in Subsection (4), the lieutenant governor shall grant a lobbying license to an applicant who:

(i) files an application with the lieutenant governor that contains the information required by this section and, if applicable, Section 36-11-103.5;

(ii) completes the training required by Section 36-11-307; and

(iii) pays a $60 licensing fee.

(b) A license entitles a person to serve as a lobbyist on behalf of one or more principals and expires on December 31 each year.

(4) (a) The lieutenant governor may disapprove an application for a lobbying license:

(i) if the applicant has been convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303 within five years before the date of the lobbying license application;

(ii) if, within one year before the date of the lobbying license application, the applicant is convicted of a violation of:

(A) Section 76-8-104; or

(B) Section 76-9-102, if the violation is a misdemeanor that occurs at an official meeting;

(iii) during the term of any suspension imposed under Section 36-11-401;

(iv) if the applicant has not complied with Subsection 36-11-307(6);

(v) during the term of a suspension imposed under Subsection 36-11-501(3);

(vi) if the lobbyist fails to pay a fine imposed under Subsection 36-11-501(3);

(vii) if, within one year before the date of the lobbying license application, the applicant has been found to have willingly and knowingly:

(A) violated this section or Section 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403; or

(B) filed a document required by this chapter that the lobbyist knew contained materially false information or omitted material information; or

(viii) if the applicant is prohibited from becoming a lobbyist under Title 67, Chapter 24, Lobbying Restrictions Act.

(b) An applicant may appeal the disapproval in accordance with the procedures established by the lieutenant governor under this chapter and Title 63G, Chapter 4, Administrative Procedures Act.

(5) The lieutenant governor shall deposit each licensing fee into the General Fund as a dedicated credit to be used by the lieutenant governor to pay the cost of administering the license program described in this section.

(6) A principal need not obtain a license under this section, but if the principal makes expenditures to benefit a public official without using a lobbyist as an agent to confer those benefits, the principal shall disclose those expenditures as required by Section 36-11-201.

(7) Government officers need not obtain a license under this section, but shall disclose any expenditures made to benefit public officials as required by Section 36-11-201.

(8) Surrender, cancellation, or expiration of a lobbyist license does not absolve the lobbyist of the duty to file the financial reports if the lobbyist is otherwise required to file the reports by Section 36-11-201.

Section 3. Section 36-11-103.5 is enacted to read:

36-11-103.5. Registering as foreign agent.

(1) Before engaging in lobbying as a foreign agent, a foreign agent shall register with the lieutenant governor under this section.

(2) If a lobbyist indicates on the lobbyist license application form described in Section 36-11-103, or otherwise indicates to the lieutenant governor that the lobbyist would like to register as a foreign agent, the lieutenant governor shall provide the lobbyist a foreign agent registration form that includes:

(a) a place for the lobbyist's name, address, business telephone number, and principal place of business;

(b) a place for the lobbyist to list each foreign government for which the lobbyist is registering as a foreign agent;

(c) a place for the lobbyist to describe the issues on which the lobbyist expects to engage in lobbying as a foreign agent; and

(d) a certification for the lobbyist to sign, certifying that the information the lobbyist provides in the form is true, accurate, and complete.

(3) (a) A lobbyist who registers as a foreign agent under this section shall update the information in

the lobbyist's foreign agent registration form when the lobbyist agrees to lobby on behalf of a foreign government that is not listed in the lobbyist's foreign agent registration form.

(b) A lobbyist may not lobby on behalf of a foreign government that is not listed in the lobbyist's foreign agent registration form.

Section 4. Section 36-11-106 is amended to read:

36-11-106. Financial reports are public documents.

(1) Any person may:

(a) without charge, inspect a lobbyist license application, foreign agent registration form, or financial report filed with the lieutenant governor in accordance with this chapter; and

(b) make a copy of [~~a~~] an application, form, or financial report described in Subsection (1)(a) after paying for the actual costs of the copy.

(2) The lieutenant governor shall make financial reports filed in accordance with this chapter available for viewing on the Internet at the lieutenant governor's website within seven calendar days after the day on which the report is received by the lieutenant governor.

Section 5. Section 36-11-201 is amended to read:

36-11-201. Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

(1) (a) (i) Except as provided in Subsection (1)(a)(ii), a lobbyist shall file financial reports with the lieutenant governor on or before the due dates specified in Subsection (2).

(ii) A lobbyist who has not made an expenditure during a quarterly reporting period is not required to file a quarterly financial report for that quarterly reporting period.

(iii) A lobbyist who is not required to file any quarterly reports under this section for a calendar year shall, on or before January 10 of the following year, file a financial report listing the amount of the expenditures for the entire preceding year as "none."

(b) [~~A~~] Except as provided in Subsection (1)(c), a government officer or principal that makes an expenditure during any of the quarterly reporting periods under Subsection (2)(a) shall file a financial report with the lieutenant governor on or before the date that a report for that quarter is due.

(c) (i) As used in this Subsection (1)(c), "same local government type" means:

(A) for a county government, the same county government or another county government;

(B) for a municipal government, the same municipal government or another municipal government;

(C) for a board of education, the same board of education;

(D) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(E) for a local district, the same local district or another local district or a special service district;

(F) for a special service district, the same special service district or another special service district or a local district; or

(G) for a participant in an interlocal agreement, another participant in the same interlocal agreement.

(ii) A local official or an education official is not required, under this section, to report an expenditure made by the local official or education official to another local official or education official of the same local government type as the local official or education official making the expenditure.

(2) (a) A financial report is due quarterly on the following dates:

(i) April 10, for the period of January 1 through March 31;

(ii) July 10, for the period of April 1 through June 30;

(iii) October 10, for the period of July 1 through September 30; and

(iv) January 10, for the period of October 1 through December 31 of the previous year.

(b) If the due date for a financial report falls on a Saturday, Sunday, or legal holiday, the report is due on the next succeeding business day.

(c) A financial report is timely filed if it is filed electronically before the close of regular office hours on or before the due date.

(3) A financial report shall contain:

(a) the total amount of expenditures made to benefit any public official during the quarterly reporting period;

(b) the total amount of expenditures made, by the type of public official, during the quarterly reporting period;

(c) for the financial report due on January 10:

(i) the total amount of expenditures made to benefit any public official during the last calendar year; and

(ii) the total amount of expenditures made, by the type of public official, during the last calendar year;

(d) a disclosure of each expenditure made during the quarterly reporting period to reimburse or pay for travel or lodging for a public official, including:

(i) each travel destination and each lodging location;

(ii) the name of each public official who benefitted from the expenditure on travel or lodging;

(iii) the public official type of each public official named;

(iv) for each public official named, a listing of the amount and purpose of each expenditure made for travel or lodging; and

(v) the total amount of expenditures listed under Subsection (3)(d)(iv);

(e) a disclosure of aggregate daily expenditures greater than $10 made during the quarterly reporting period including:

(i) the date and purpose of the expenditure;

(ii) the location of the expenditure;

(iii) the name of any public official benefitted by the expenditure;

(iv) the type of the public official benefitted by the expenditure; and

(v) the total monetary worth of the benefit that the expenditure conferred on any public official;

(f) for each public official who was employed by the lobbyist, principal, or government officer, a list that provides:

(i) the name of the public official; and

(ii) the nature of the employment with the public official;

(g) each bill or resolution, by number and short title, on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(h) a description of each executive action on behalf of which the lobbyist, principal, or government officer made an expenditure to a public official;

(i) a description of each local action or education action regarding which the lobbyist, principal, or government officer made an expenditure to a local official or education official;

[~~(i)~~] (j) the general purposes, interests, and nature of the entities that the lobbyist, principal, or government officer filing the report represents; and

[~~(j)~~] (k) for a lobbyist, a certification that the information provided in the report is true, accurate, and complete to the lobbyist's best knowledge and belief.

(4) A related person may not, while assisting a lobbyist, principal, or government officer in lobbying, make an expenditure that benefits a public official under circumstances that would otherwise fall within the disclosure requirements of this chapter if the expenditure was made by the lobbyist, principal, or government officer.

(5) The lieutenant governor shall:

(a) (i) develop a preprinted form for a financial report required by this section; and

(ii) make copies of the form available to a lobbyist, principal, or government officer who requests a form; and

(b) provide a reporting system that allows a lobbyist, principal, or government officer to submit a financial report required by this chapter via the Internet.

(6) (a) A lobbyist and a principal shall continue to file a financial report required by this section until the lobbyist or principal files a statement with the lieutenant governor that:

[~~(i) states:~~]

(i) (A) for a lobbyist, states that the lobbyist has ceased lobbying activities; or

(B) for a principal, states that the principal no longer employs an individual as a lobbyist;

(ii) in the case of a lobbyist, states that the lobbyist is surrendering the lobbyist's license;

(iii) contains a listing, as required by this section, of all previously unreported expenditures that have been made through the date of the statement; and

(iv) states that the lobbyist or principal will not make any additional expenditure that is not disclosed on the statement unless the lobbyist or principal complies with the disclosure and licensing requirements of this chapter.

(b) Except as provided in Subsection (1)(a)(ii), a [~~person that fails to renew the lobbyist's license or otherwise ceases to be licensed~~] lobbyist or principal that is required to file a financial report under this section is required to file the report quarterly until the [~~person~~] lobbyist or principal files the statement required by Subsection (6)(a).

Section 6. Section 36-11-304 is amended to read:

36-11-304. Expenditures over certain amounts prohibited -- Exceptions.

(1) Except as provided in Subsection (2) or (3), a lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed:

(a) for food or beverage, the food reimbursement rate; or

(b) $10 for expenditures other than food or beverage.

(2) A lobbyist, principal, or government officer may make aggregate daily expenditures that exceed the limits described in Subsection (1):

(a) for the following items, if the expenditure is reported in accordance with Section 36-11-201:

(i) food;

(ii) beverage;

(iii) travel;

(iv) lodging; or

(v) admission to or attendance at a tour or meeting that is not an approved activity; or

(b) if the expenditure is made for a purpose solely unrelated to the public official's position as a public official.

(3) (a) As used in this Subsection (3), "same local government type" means:

(i) for a county government, the same county government or another county government;

(ii) for a municipal government, the same municipal government or another municipal government;

(iii) for a board of education, the same board of education;

(iv) for a local school board described in Title 53G, Chapter 4, School Districts, the same local school board or another local school board;

(v) for a local district, the same local district or another local district or a special service district;

(vi) for a special service district, the same special service district or another special service district or a local district; or

(vii) for a participant in an interlocal agreement, another participant in the same interlocal agreement.

(b) This section does not apply to an expenditure made by a local official or an education official to another local official or education official of the same local government type as the local official or education official making the expenditure.

Section 7. Section 36-11-305.5 is amended to read:

36-11-305.5. Lobbyist requirements.

(1) The lieutenant governor shall issue to each lobbyist a name tag that includes:

(a) the word "Lobbyist" in at least 18-point type; [~~and~~]

(b) the first and last name of the lobbyist, in at least 18-point type[~~.~~]; and

(c) if the lobbyist is registered as a foreign agent under Section 36-11-103.5, the words "Registered Foreign Lobbyist" in at least 14-point type.

(2) [~~Beginning on August 1, 2014, a~~] A lobbyist may not lobby a public official while the lobbyist is at the capitol hill complex unless the lobbyist is wearing the name tag described in Subsection (1), with the information described in Subsection (1), in plain view.

(3) A lobbyist shall, at the beginning of making a communication to a public official that constitutes lobbying, inform the public official of the identity of the principal on whose behalf the lobbyist is lobbying.

Section 8. Section 36-11-401 is amended to read:

36-11-401. Penalties.

(1) Any person who intentionally violates Section 36-11-103, 36-11-103.5, 36-11-201, 36-11-301, 36-11-302, 36-11-303, 36-11-304, 36-11-305, or 36-11-403, is subject to the following penalties:

(a) an administrative penalty of up to $1,000 for each violation; and

(b) for each subsequent violation of that same section within 24 months, either:

(i) an administrative penalty of up to $5,000; or

(ii) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(2) Any person who intentionally fails to file a financial report required by this chapter, omits material information from a license application form or financial report, or files false information on a license application form or financial report, is subject to the following penalties:

(a) an administrative penalty of up to $1,000 for each violation; or

(b) suspension of the violator's lobbying license for up to one year, if the person is a lobbyist.

(3) Any person who intentionally fails to file a financial report required by this chapter on the date that it is due shall, in addition to the penalties, if any, imposed under Subsection (1) or (2), pay a penalty of up to $50 per day for each day that the report is late.

(4) (a) When a lobbyist is convicted of violating Section 76-8-103, 76-8-107, 76-8-108, or 76-8-303, the lieutenant governor shall suspend the lobbyist's license for up to five years from the date of the conviction.

(b) When a lobbyist is convicted of violating Section 76-8-104, or Section 76-9-102 if the violation is a misdemeanor that occurs at an official meeting, the lieutenant governor shall suspend a lobbyist's license for up to one year from the date of conviction.

(5) (a) [~~Any~~] A person who intentionally violates Section 36-11-301, 36-11-302, or 36-11-303 is guilty of a class B misdemeanor.

(b) The lieutenant governor shall suspend the lobbyist license of any person convicted under any of these sections for up to one year.

(c) The suspension shall be in addition to any administrative penalties imposed by the lieutenant governor under this section.

(d) Any person with evidence of a possible violation of this chapter may submit that evidence to the lieutenant governor for investigation and resolution.

(6) Nothing in this chapter creates a third-party cause of action or appeal rights.

Section 9. Section 36-11-404 is amended to read:

36-11-404. Lieutenant governor's procedures.

(1) Except as otherwise provided under Section 36-11-501, the director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that provide:

(a) for the appointment of an administrative law judge to adjudicate alleged violations of this chapter and to impose penalties under this chapter; and

(b) procedures for license applications, disapprovals, suspensions, revocations, and reinstatements that comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(2) The lieutenant governor shall develop forms needed for the registration and disclosure provisions described in this chapter.

Section 10. Section 36-11-405 is amended to read:

36-11-405. Construction and interpretation -- Freedom of expression, participation, and press.

(1) No provision of this chapter may be construed[~~, interpreted, or enforced so as to limit, impair, abridge, or destroy any~~] in a manner that limits:

(a) a person's right of freedom of expression and participation in government [~~processes~~]; or

(b) freedom of the press.

(2) This chapter does not prevent a local government or public education entity from enacting an ordinance or adopting a policy, that the local government or public education entity otherwise has the lawful authority to enact or adopt, that is stricter than the requirements of this chapter.

Section 11. Section 63A-14-202 is amended to read:

63A-14-202. Independent Executive Branch Ethics Commission -- Membership.

(1) (a) There is created the Independent Executive Branch Ethics Commission, consisting of the following five members appointed by the governor, each of whom shall be registered to vote in the state at the time of appointment:

(i) two members who served:

(A) as elected officials in state government no more recently than four years before the day on which the member is appointed; or

(B) in a management position in the state executive branch no more recently than four years before the day on which the member is appointed;

(ii) one member who:

(A) has served, but no longer actively serves, as a judge of a court in the state; or

(B) is a licensed attorney in the state and is not, and has not been, a judge; and

(iii) two citizen members.

(b) The governor shall make appointments to the commission as follows:

(i) each executive branch elected official, other than the governor, shall select, and provide to the governor, at least two names for potential appointment to one of the membership positions described in Subsection (1)(a);

(ii) the governor shall determine which of the executive branch elected officials described in Subsection (1)(b)(i) shall select names for which membership position;

(iii) the governor shall appoint to the commission one of the names provided by each executive branch elected official described in Subsection (1)(b)(i);

(iv) the governor shall directly appoint the remaining member of the commission; and

(v) if an executive branch elected official fails to submit names to the governor within 15 days after the day on which the governor makes the determination described in Subsection (1)(b)(ii), the governor shall directly appoint a person to fill the applicable membership position.

(2) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(a) an officeholder as defined in Section 20A-11-101;

(b) an agency head as defined in Section 67-16-3;

(c) a lobbyist as defined in Section 36-11-102 [~~or 36-11a-102~~];

(d) a principal as defined in Section 36-11-102 [~~or 36-11a-102~~]; or

(e) an employee of the state.

(3) (a) Except as provided in Subsection (3)(b), each member of the commission shall serve a four-year term.

(b) The governor shall set the first term of two of the members of the commission at two years, so that approximately half of the commission is appointed, or reappointed, every two years.

(c) When a vacancy occurs in the commission's membership for any reason, the governor shall appoint a replacement member for the unexpired term of the vacating member, in accordance with Subsection (1).

(d) The governor may not appoint a member to serve more than two full terms, whether those terms are two or four years.

(e) (i) The governor, or a majority of the commission, may remove a member from the commission only for cause.

(ii) The governor may not remove a member from the commission during any period of time when the commission is investigating or considering a complaint alleging an ethics violation against the governor or lieutenant governor.

(f) If a commission member determines that the commission member has a conflict of interest in relation to a complaint, the remaining members of the commission shall appoint an individual to serve in that member's place for the purpose of reviewing that complaint.

(4) (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(b) A member may decline to receive per diem and expenses for the member's service.

(5) (a) The commission members shall convene a meeting annually each January and elect, by majority vote, a chair from among the commission members.

(b) An individual may not serve as chair for more than two consecutive years.

(6) The commission:

(a) is an independent entity established within the department for budgetary and general administrative purposes only; and

(b) is not under the direction or control of the department, the executive director, or any other officer or employee of the department.

Section 12. Section 63A-15-201 is amended to read:

63A-15-201. Commission established -- Membership.

(1) There is established a Political Subdivisions Ethics Review Commission.

(2) The commission is composed of seven individuals, each of whom is registered to vote in this state and appointed by the governor with the advice and consent of the Senate, as follows:

(a) one member who has served, but no longer serves, as a judge of a court of record in this state;

(b) one member who has served as a mayor or municipal council member no more recently than four years before the date of appointment;

(c) one member who has served as a member of a local board of education no more recently than four years before the date of appointment;

(d) two members who are lay persons; and

(e) two members, each of whom is one of the following:

(i) a municipal mayor no more recently than four years before the date of appointment;

(ii) a municipal council member no more recently than four years before the date of appointment;

(iii) a county mayor no more recently than four years before the date of appointment;

(iv) a county commissioner no more recently than four years before the date of appointment;

(v) a special service district administrative control board member no more recently than four years before the date of appointment;

(vi) a local district board of trustees member no more recently than four years before the date of appointment; or

(vii) a judge who has served, but no longer serves, as a judge of a court of record in this state.

(3) (a) A member of the commission may not, during the member's term of office on the commission, act or serve as:

(i) a political subdivision officer;

(ii) a political subdivision employee;

(iii) an agency head as defined in Section 67-16-3;

(iv) a lobbyist as defined in Section 36-11-102 [~~or 36-11a-102~~]; or

(v) a principal as defined in Section 36-11-102 [~~or 36-11a-102~~].

(b) In addition to the seven members described in Subsection (2), the governor shall, with the advice and consent of the Senate, appoint one individual as an alternate member of the commission who:

(i) may be a lay person;

(ii) shall be registered to vote in the state; and

(iii) complies with the requirements described in Subsection (3)(a).

(c) The alternate member described in Subsection (3)(b):

(i) shall serve as a member of the commission in the place of one of the seven members described in Subsection (2) if that member is temporarily unable or unavailable to participate in a commission function or is disqualified under Section 63A-15-303; and

(ii) may not cast a vote on the commission unless the alternate member is serving in the capacity described in Subsection (3)(c)(i).

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.

(ii) When appointing the initial members upon formation of the commission, a member described in Subsections (2)(b) through (d) shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.

(b) (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).

(ii) For the purposes of this section, an appointment for an unexpired term of a vacating member is not considered a full term.

(c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.

(d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the governor.

(e) The governor shall remove a member from the commission if the member:

(i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;

(ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or

(iii) fails to meet the qualifications of office as provided in this section.

(f) (i) If a commission member is accused of wrongdoing in a complaint, or if a commission member has a conflict of interest in relation to a matter before the commission:

(A) the alternate member described in Subsection (3)(b) shall serve in the member's place for the purposes of reviewing the complaint; or

(B) if the alternate member has already taken the place of another commission member or is otherwise not available, the commission shall appoint another individual to temporarily serve in the member's place for the purposes of reviewing the complaint.

(ii) An individual appointed by the commission under Subsection (4)(f)(i)(B):

(A) is not required to be confirmed by the Senate;

(B) may be a lay person;

(C) shall be registered to vote in the state; and

(D) shall comply with Subsection (3)(a).

(5) (a) Except as provided in Subsection (5)(b)(i), a member of the commission may not receive compensation or benefits for the member's service.

(b) (i) A member may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(ii) A member may decline to receive per diem and expenses for the member's service.

(6) The commission members shall, by a majority vote, elect a commission chair from among the commission members.

Section 13. Section 63E-1-401 is amended to read:

63E-1-401. Definitions.

As used in this part:

(1) "Asset" means property of all kinds, real and personal, tangible and intangible, and includes:

(a) cash, except reasonable compensation or salary for services rendered;

(b) stock or other investments;

(c) goodwill;

(d) real property;

(e) an ownership interest;

(f) a license;

(g) a cause of action; and

(h) any similar property.

(2) "Business interest" means:

(a) holding the position of trustee, director, officer, or other similar position with a business entity; or

(b) the ownership, either legally or equitably, of at least 10% of the outstanding shares of a corporation or 10% interest in any other business entity, being held by:

(i) an individual;

(ii) the individual's spouse;

(iii) a minor child of the individual; or

(iv) any combination of Subsections (2)(b)(i) through (iii).

(3) "Interested party" means a person that held or holds the position of trustee, director, officer, or other similar position with an independent entity within:

(a) five years prior to the date of an action described in Subsection (5); or

(b) during the privatization of an independent entity.

(4) "Lobbyist" is a person that provided or provides services as a lobbyist, as defined in Section 36-11-102 [~~or 36-11a-102~~], within:

(a) five years prior to the date of an action described in Subsection (5); or

(b) during the privatization of an independent entity.

(5) (a) "Privatized" means an action described in Subsection (5)(b) taken under circumstances in which the operations of the independent entity are continued by a successor entity that:

(i) is privately owned;

(ii) is unaffiliated to the state; and

(iii) receives any asset of the independent entity.

(b) An action referred to in Subsection (5)(a) includes:

(i) the repeal of the authorizing statute of an independent entity and the revision to state laws to terminate the relationship between the state and the independent entity;

(ii) the dissolution of the independent entity;

(iii) the merger or consolidation of the independent entity with another entity; or

(iv) the sale of all or substantially all of the assets of the independent entity.

Section 14. Section 63E-1-404 is amended to read:

63E-1-404. Penalties for violation.

(1) A person who knowingly violates this part:

(a) is guilty of a third degree felony if the combined value of any compensation or assets received by the person as a result of the violation is equal to or greater than $10,000; or

(b) is guilty of a class A misdemeanor if the combined value of any compensation or assets received by the person as a result of the violation is less than $10,000.

(2) (a) In addition to any penalty imposed under Subsection (1), a person that violates this part shall return to the successor of the independent entity any compensation or assets received in violation of this part.

(b) If the assets received by the person in violation of this part are no longer in the possession of the person, the person shall pay the successor of the independent entity an amount equal to the fair market value of the asset at the time the person received the asset.

(3) Notwithstanding [~~Subsections~~] Subsection 36-11-401(3) [~~and 36-11a-301(3)~~], if a lobbyist violates Subsection 63E-1-402(2)(b)(i), the lobbyist is guilty of the crime outlined in Subsection (1), which crime shall be determined by the value of compensation or assets received by the lobbyist.

Section 15. Section 63G-23-102 is amended to read:

63G-23-102. Definitions.

As used in this chapter:

(1) "Public official" means, except as provided in Subsection (3), the same as that term is defined in Section 36-11-102.

(2) "Public official" includes a judge or justice of:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals; or

(c) a district court.

(3) "Public official" does not include a local official or an education official as defined in Section 36-11-102.

Section 16. Repealer.

This bill repeals:

Section 36-11a-101, Title.

Section 36-11a-102, Definitions.

Section 36-11a-201, Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.

Section 36-11a-202, Expenditures over certain amounts prohibited -- Exceptions.

Section 36-11a-203, Disposal of publications.

Section 36-11a-301, Penalties.

Section 36-11a-302, Lieutenant governor's procedures.

Section 36-11a-303, Construction and interpretation -- Freedom of expression, participation, and press -- Non-preemption.

CHAPTER 126
H. B. 91

Passed February 18, 2022
Approved March 22, 2022
Effective May 4, 2022

FINANCIAL DISCLOSURES AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies definitions relating to campaign contributions.

Highlighted Provisions:

This bill:

- provides that in-kind contributions and other contributions do not include the provision of certain data and other information to a candidate or an officeholder.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-101, as last amended by Laws of Utah 2021, Chapter 20

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

Section 1. Section 20A-11-101 is amended to read:

20A-11-101. Definitions.

As used in this chapter:

(1) (a) "Address" means the number and street where an individual resides or where a reporting entity has its principal office.

(b) "Address" does not include a post office box.

(2) "Agent of a reporting entity" means:

(a) a person acting on behalf of a reporting entity at the direction of the reporting entity;

(b) a person employed by a reporting entity in the reporting entity's capacity as a reporting entity;

(c) the personal campaign committee of a candidate or officeholder;

(d) a member of the personal campaign committee of a candidate or officeholder in the member's capacity as a member of the personal campaign committee of the candidate or officeholder; or

(e) a political consultant of a reporting entity.

(3) "Ballot proposition" includes initiatives, referenda, proposed constitutional amendments, and any other ballot propositions submitted to the voters that are authorized by the Utah Code Annotated 1953.

(4) "Candidate" means any person who:

(a) files a declaration of candidacy for a public office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a public office.

(5) "Chief election officer" means:

(a) the lieutenant governor for state office candidates, legislative office candidates, officeholders, political parties, political action committees, corporations, political issues committees, state school board candidates, judges, and labor organizations, as defined in Section 20A-11-1501; and

(b) the county clerk for local school board candidates.

(6) (a) "Contribution" means any of the following when done for political purposes:

(i) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to the filing entity;

(ii) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the filing entity;

(iii) any transfer of funds from another reporting entity to the filing entity;

(iv) compensation paid by any person or reporting entity other than the filing entity for personal services provided without charge to the filing entity;

(v) remuneration from:

(A) any organization or its directly affiliated organization that has a registered lobbyist; or

(B) any agency or subdivision of the state, including school districts;

(vi) a loan made by a candidate deposited to the candidate's own campaign; and

(vii) in-kind contributions.

(b) "Contribution" does not include:

(i) services provided by individuals volunteering a portion or all of their time on behalf of the filing entity if the services are provided without compensation by the filing entity or any other person;

(ii) money lent to the filing entity by a financial institution in the ordinary course of business; [~~or~~]

(iii) goods or services provided for the benefit of a political entity at less than fair market value that are not authorized by or coordinated with the political entity[~~.~~]; or

(iv) data or information described in Subsection (24)(b).

(7) "Coordinated with" means that goods or services provided for the benefit of a political entity are provided:

(a) with the political entity's prior knowledge, if the political entity does not object;

(b) by agreement with the political entity;

(c) in coordination with the political entity; or

(d) using official logos, slogans, and similar elements belonging to a political entity.

(8) (a) "Corporation" means a domestic or foreign, profit or nonprofit, business organization that is registered as a corporation or is authorized to do business in a state and makes any expenditure from corporate funds for:

(i) the purpose of expressly advocating for political purposes; or

(ii) the purpose of expressly advocating the approval or the defeat of any ballot proposition.

(b) "Corporation" does not mean:

(i) a business organization's political action committee or political issues committee; or

(ii) a business entity organized as a partnership or a sole proprietorship.

(9) "County political party" means, for each registered political party, all of the persons within a single county who, under definitions established by the political party, are members of the registered political party.

(10) "County political party officer" means a person whose name is required to be submitted by a county political party to the lieutenant governor in accordance with Section 20A-8-402.

(11) "Detailed listing" means:

(a) for each contribution or public service assistance:

(i) the name and address of the individual or source making the contribution or public service assistance, except to the extent that the name or address of the individual or source is unknown;

(ii) the amount or value of the contribution or public service assistance; and

(iii) the date the contribution or public service assistance was made; and

(b) for each expenditure:

(i) the amount of the expenditure;

(ii) the goods or services acquired by the expenditure; and

(iii) the date the expenditure was made.

(12) (a) "Donor" means a person that gives money, including a fee, due, or assessment for membership in the corporation, to a corporation without receiving full and adequate consideration for the money.

(b) "Donor" does not include a person that signs a statement that the corporation may not use the money for an expenditure or political issues expenditure.

(13) "Election" means each:

(a) regular general election;

(b) regular primary election; and

(c) special election at which candidates are eliminated and selected.

(14) "Electioneering communication" means a communication that:

(a) has at least a value of $10,000;

(b) clearly identifies a candidate or judge; and

(c) is disseminated through the Internet, newspaper, magazine, outdoor advertising facility, direct mailing, broadcast, cable, or satellite provider within 45 days of the clearly identified candidate's or judge's election date.

(15) (a) "Expenditure" means any of the following made by a reporting entity or an agent of a reporting entity on behalf of the reporting entity:

(i) any disbursement from contributions, receipts, or from the separate bank account required by this chapter;

(ii) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(iii) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for political purposes;

(iv) compensation paid by a filing entity for personal services rendered by a person without charge to a reporting entity;

(v) a transfer of funds between the filing entity and a candidate's personal campaign committee;

(vi) goods or services provided by the filing entity to or for the benefit of another reporting entity for political purposes at less than fair market value; or

(vii) an independent expenditure, as defined in Section 20A-11-1702.

(b) "Expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a reporting entity;

(ii) money lent to a reporting entity by a financial institution in the ordinary course of business; or

(iii) anything listed in Subsection (15)(a) that is given by a reporting entity to candidates for office or officeholders in states other than Utah.

(16) "Federal office" means the office of president of the United States, United States Senator, or United States Representative.

(17) "Filing entity" means the reporting entity that is required to file a financial statement required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(18) "Financial statement" includes any summary report, interim report, verified financial

statement, or other statement disclosing contributions, expenditures, receipts, donations, or disbursements that is required by this chapter or Chapter 12, Part 2, Judicial Retention Elections.

(19) "Governing board" means the individual or group of individuals that determine the candidates and committees that will receive expenditures from a political action committee, political party, or corporation.

(20) "Incorporation" means the process established by Title 10, Chapter 2a, Municipal Incorporation, by which a geographical area becomes legally recognized as a city, town, or metro township.

(21) "Incorporation election" means the election conducted under Section 10-2a-210 or 10-2a-404.

(22) "Incorporation petition" means a petition described in Section 10-2a-208.

(23) "Individual" means a natural person.

(24) (a) "In-kind contribution" means anything of value, other than money, that is accepted by or coordinated with a filing entity.

(b) "In-kind contribution" does not include survey results, voter lists, voter contact information, demographic data, voting trend data, or other information that:

(i) is not commissioned for the benefit of a particular candidate or officeholder; and

(ii) is offered at no cost to a candidate or officeholder.

(25) "Interim report" means a report identifying the contributions received and expenditures made since the last report.

(26) "Legislative office" means the office of state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(27) "Legislative office candidate" means a person who:

(a) files a declaration of candidacy for the office of state senator or state representative;

(b) declares oneself to be a candidate for, or actively campaigns for, the position of speaker of the House of Representatives, president of the Senate, or the leader, whip, and assistant whip of any party caucus in either house of the Legislature; or

(c) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a legislative office.

(28) "Loan" means any of the following provided by a person that benefits a filing entity if the person expects repayment or reimbursement:

(a) an expenditure made using any form of payment;

(b) money or funds received by the filing entity;

(c) the provision of a good or service with an agreement or understanding that payment or reimbursement will be delayed; or

(d) use of any line of credit.

(29) "Major political party" means either of the two registered political parties that have the greatest number of members elected to the two houses of the Legislature.

(30) "Officeholder" means a person who holds a public office.

(31) "Party committee" means any committee organized by or authorized by the governing board of a registered political party.

(32) "Person" means both natural and legal persons, including individuals, business organizations, personal campaign committees, party committees, political action committees, political issues committees, and labor organizations, as defined in Section 20A-11-1501.

(33) "Personal campaign committee" means the committee appointed by a candidate to act for the candidate as provided in this chapter.

(34) "Personal use expenditure" has the same meaning as provided under Section 20A-11-104.

(35) (a) "Political action committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive contributions from any other person, group, or entity for political purposes; or

(ii) make expenditures to expressly advocate for any person to refrain from voting or to vote for or against any candidate or person seeking election to a municipal or county office.

(b) "Political action committee" includes groups affiliated with a registered political party but not authorized or organized by the governing board of the registered political party that receive contributions or makes expenditures for political purposes.

(c) "Political action committee" does not mean:

(i) a party committee;

(ii) any entity that provides goods or services to a candidate or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political action committee; or

(vi) a personal campaign committee.

(36) (a) "Political consultant" means a person who is paid by a reporting entity, or paid by another

person on behalf of and with the knowledge of the reporting entity, to provide political advice to the reporting entity.

(b) "Political consultant" includes a circumstance described in Subsection (36)(a), where the person:

(i) has already been paid, with money or other consideration;

(ii) expects to be paid in the future, with money or other consideration; or

(iii) understands that the person may, in the discretion of the reporting entity or another person on behalf of and with the knowledge of the reporting entity, be paid in the future, with money or other consideration.

(37) "Political convention" means a county or state political convention held by a registered political party to select candidates.

(38) "Political entity" means a candidate, a political party, a political action committee, or a political issues committee.

(39) (a) "Political issues committee" means an entity, or any group of individuals or entities within or outside this state, a major purpose of which is to:

(i) solicit or receive donations from any other person, group, or entity to assist in placing a ballot proposition on the ballot, assist in keeping a ballot proposition off the ballot, or to advocate that a voter refrain from voting or vote for or vote against any ballot proposition;

(ii) make expenditures to expressly advocate for any person to sign or refuse to sign a ballot proposition or incorporation petition or refrain from voting, vote for, or vote against any proposed ballot proposition or an incorporation in an incorporation election; or

(iii) make expenditures to assist in qualifying or placing a ballot proposition on the ballot or to assist in keeping a ballot proposition off the ballot.

(b) "Political issues committee" does not mean:

(i) a registered political party or a party committee;

(ii) any entity that provides goods or services to an individual or committee in the regular course of its business at the same price that would be provided to the general public;

(iii) an individual;

(iv) individuals who are related and who make contributions from a joint checking account;

(v) a corporation, except a corporation a major purpose of which is to act as a political issues committee; or

(vi) a group of individuals who:

(A) associate together for the purpose of challenging or supporting a single ballot proposition, ordinance, or other governmental action by a county, city, town, local district, special service district, or other local political subdivision of the state;

(B) have a common liberty, property, or financial interest that is directly impacted by the ballot proposition, ordinance, or other governmental action;

(C) do not associate together, for the purpose described in Subsection (39)(b)(vi)(A), via a legal entity;

(D) do not receive funds for challenging or supporting the ballot proposition, ordinance, or other governmental action from a person other than an individual in the group; and

(E) do not expend a total of more than $5,000 for the purpose described in Subsection (39)(b)(vi)(A).

(40) (a) "Political issues contribution" means any of the following:

(i) a gift, subscription, unpaid or partially unpaid loan, advance, or deposit of money or anything of value given to a political issues committee;

(ii) an express, legally enforceable contract, promise, or agreement to make a political issues donation to influence the approval or defeat of any ballot proposition;

(iii) any transfer of funds received by a political issues committee from a reporting entity;

(iv) compensation paid by another reporting entity for personal services rendered without charge to a political issues committee; and

(v) goods or services provided to or for the benefit of a political issues committee at less than fair market value.

(b) "Political issues contribution" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(41) (a) "Political issues expenditure" means any of the following when made by a political issues committee or on behalf of a political issues committee by an agent of the reporting entity:

(i) any payment from political issues contributions made for the purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(ii) a purchase, payment, distribution, loan, advance, deposit, or gift of money made for the express purpose of influencing the approval or the defeat of:

(A) a ballot proposition; or

(B) an incorporation petition or incorporation election;

(iii) an express, legally enforceable contract, promise, or agreement to make any political issues expenditure;

(iv) compensation paid by a reporting entity for personal services rendered by a person without charge to a political issues committee; or

(v) goods or services provided to or for the benefit of another reporting entity at less than fair market value.

(b) "Political issues expenditure" does not include:

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political issues committee; or

(ii) money lent to a political issues committee by a financial institution in the ordinary course of business.

(42) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:

(a) candidate or a person seeking a municipal or county office at any caucus, political convention, or election; or

(b) judge standing for retention at any election.

(43) (a) "Poll" means the survey of a person regarding the person's opinion or knowledge of an individual who has filed a declaration of candidacy for public office, or of a ballot proposition that has legally qualified for placement on the ballot, which is conducted in person or by telephone, facsimile, Internet, postal mail, or email.

(b) "Poll" does not include:

(i) a ballot; or

(ii) an interview of a focus group that is conducted, in person, by one individual, if:

(A) the focus group consists of more than three, and less than thirteen, individuals; and

(B) all individuals in the focus group are present during the interview.

(44) "Primary election" means any regular primary election held under the election laws.

(45) "Publicly identified class of individuals" means a group of 50 or more individuals sharing a common occupation, interest, or association that contribute to a political action committee or political issues committee and whose names can be obtained by contacting the political action committee or political issues committee upon whose financial statement the individuals are listed.

(46) "Public office" means the office of governor, lieutenant governor, state auditor, state treasurer, attorney general, state school board member, state senator, state representative, speaker of the House of Representatives, president of the Senate, and the leader, whip, and assistant whip of any party caucus in either house of the Legislature.

(47) (a) "Public service assistance" means the following when given or provided to an officeholder to defray the costs of functioning in a public office or aid the officeholder to communicate with the officeholder's constituents:

(i) a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to an officeholder; or

(ii) goods or services provided at less than fair market value to or for the benefit of the officeholder.

(b) "Public service assistance" does not include:

(i) anything provided by the state;

(ii) services provided without compensation by individuals volunteering a portion or all of their time on behalf of an officeholder;

(iii) money lent to an officeholder by a financial institution in the ordinary course of business;

(iv) news coverage or any publication by the news media; or

(v) any article, story, or other coverage as part of any regular publication of any organization unless substantially all the publication is devoted to information about the officeholder.

(48) "Receipts" means contributions and public service assistance.

(49) "Registered lobbyist" means a person licensed under Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act.

(50) "Registered political action committee" means any political action committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(51) "Registered political issues committee" means any political issues committee that is required by this chapter to file a statement of organization with the Office of the Lieutenant Governor.

(52) "Registered political party" means an organization of voters that:

(a) participated in the last regular general election and polled a total vote equal to 2% or more of the total votes cast for all candidates for the United States House of Representatives for any of its candidates for any office; or

(b) has complied with the petition and organizing procedures of Chapter 8, Political Party Formation and Procedures.

(53) (a) "Remuneration" means a payment:

(i) made to a legislator for the period the Legislature is in session; and

(ii) that is approximately equivalent to an amount a legislator would have earned during the period the Legislature is in session in the legislator's ordinary course of business.

(b) "Remuneration" does not mean anything of economic value given to a legislator by:

(i) the legislator's primary employer in the ordinary course of business; or

(ii) a person or entity in the ordinary course of business:

(A) because of the legislator's ownership interest in the entity; or

(B) for services rendered by the legislator on behalf of the person or entity.

(54) "Reporting entity" means a candidate, a candidate's personal campaign committee, a judge, a judge's personal campaign committee, an officeholder, a party committee, a political action committee, a political issues committee, a corporation, or a labor organization, as defined in Section 20A-11-1501.

(55) "School board office" means the office of state school board.

(56) (a) "Source" means the person or entity that is the legal owner of the tangible or intangible asset that comprises the contribution.

(b) "Source" means, for political action committees and corporations, the political action committee and the corporation as entities, not the contributors to the political action committee or the owners or shareholders of the corporation.

(57) "State office" means the offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(58) "State office candidate" means a person who:

(a) files a declaration of candidacy for a state office; or

(b) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination, election, or appointment to a state office.

(59) "Summary report" means the year end report containing the summary of a reporting entity's contributions and expenditures.

(60) "Supervisory board" means the individual or group of individuals that allocate expenditures from a political issues committee.

CHAPTER 127
H. B. 94

Passed February 22, 2022
Approved March 22, 2022
Effective May 4, 2022

POST COUNCIL MEMBERSHIP AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Daniel W. Thatcher
Cosponsors:
Matthew H. Gwynn
Sandra Hollins
Karen Kwan
Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies the representatives on the Peace Officer Standards and Training (POST) Council.

Highlighted Provisions:

This bill:

- adds a certified law enforcement officer to the POST Council;
- reduces the number of at-large members on the POST Council; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-106, as last amended by Laws of Utah 2012, Chapters 108 and 296

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

Section 1. Section 53-6-106 is amended to read:

53-6-106. Creation of Peace Officer Standards and Training Council -- Purpose -- Membership -- Quorum -- Meetings -- Compensation.

(1) There is created the Peace Officer Standards and Training Council.

(2) The council shall serve as an advisory board to the director of the division on matters relating to peace officer and dispatcher standards and training.

(3) The council includes:

(a) the attorney general or a designated representative;

(b) the superintendent of the highway patrol or a designated representative;

(c) the executive director of the Department of Corrections or a designated representative; and

(d) 14 additional members appointed by the governor having qualifications, experience, or education in the field of law enforcement as follows:

(i) one incumbent mayor;

(ii) one incumbent county commissioner;

(iii) three incumbent sheriffs, one of whom is a representative of the Utah Sheriffs Association, one of whom is from a county having a population of 100,000 or more, and one of whom is from a county having a population of less than 100,000;

(iv) three incumbent police chiefs, one of whom is a representative of the Utah Chiefs of Police Association, one of whom is from a city of the first or second class, and one of whom is from a city of the third, fourth, or fifth class or town;

(v) [~~a~~] one representative of the Utah Peace Officers Association;

(vi) [~~an~~] one educator in the field of public administration, criminal justice, or a related area; [~~and~~]

(vii) one current Utah certified law enforcement officer, employed in a non-supervisory role, rotated every term; and

[~~(vii) four~~] (viii) three persons selected at large by the governor.

(4) (a) Except as required by Subsection (4)(b), the 14 members of the council shall be appointed by the governor for four-year terms.

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

(c) A member may be reappointed for additional terms.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor from the same category in which the vacancy occurs.

(5) A member of the council ceases to be a member:

(a) immediately upon the termination of the member's holding the office or employment that was the basis for eligibility to membership on the council; or

(b) upon two unexcused absences in one year from regularly scheduled council meetings.

(6) The council shall select a chair and vice chair from among its members.

(7) Ten members of the advisory council constitute a quorum.

(8) (a) Meetings may be called by the chair, the commissioner, or the director and shall be called by the chair upon the written request of nine members.

(b) Meetings shall be held at the times and places determined by the director.

(9) The council shall meet at least two times per year.

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

(a) Section 63A-3-106;

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

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

(11) Membership on the council does not disqualify any member from holding any other public office or employment.

CHAPTER 128
H. B. 96

Passed February 17, 2022
Approved March 22, 2022
Effective May 4, 2022

GOVERNMENT RECORDS FEE AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act related to fees.

Highlighted Provisions:

This bill:

- modifies a provision relating to a prohibition against a governmental entity charging a fee for the first quarter hour of staff time;
- prohibits a governmental entity from charging a fee for the first quarter hour of staff time spent responding to a record request, unless the person who submitted the request submitted a separate request within the preceding 10 days and is not a Utah media representative; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-203, as last amended by Laws of Utah 2016, Chapter 90

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

Section 1. Section 63G-2-203 is amended to read:

63G-2-203. Fees.

(1) (a) [~~A~~] Subject to Subsection (5), a governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record. [~~This fee~~]

(b) A fee under Subsection (1)(a) shall be approved by the governmental entity's executive officer.

(2) (a) When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the actual costs under this section may include the following:

(i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

(ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and

(iii) in the case of fees for a record that is the result of computer output other than word processing, the actual incremental cost of providing the electronic services and products together with a reasonable portion of the costs associated with formatting or interfacing the information for particular users, and the administrative costs as set forth in Subsections (2)(a)(i) and (ii).

(b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.

[~~(c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first quarter hour of staff time.~~]

(3) (a) Fees shall be established as provided in this Subsection (3).

(b) A governmental entity with fees established by the Legislature:

(i) shall establish the fees defined in Subsection (2), or other actual costs associated with this section through the budget process; and

(ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature establishes fees through the budget process.

(c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.

(d) The judiciary shall establish fees by rules of the judicial council.

(4) A governmental entity may fulfill a record request without charge and is encouraged to do so if it determines that:

(a) releasing the record primarily benefits the public rather than a person;

(b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or

(c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

(5) (a) As used in this Subsection (5), "media representative":

(i) means a person who requests a record to obtain information for a story or report for publication or broadcast to the general public; and

(ii) does not include a person who requests a record to obtain information for a blog, podcast, social media account, or other means of mass communication generally available to a member of the public.

(b) A governmental entity may not charge a fee for:

[~~(a)~~] (i) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii); [~~or~~]

[~~(b)~~] (ii) inspecting a record[~~.~~]; or

(iii) the first quarter hour of staff time spent in responding to a request under Section 63G-2-204.

(c) Notwithstanding Subsection (5)(b)(iii), a governmental entity is not prevented from charging a fee for the first quarter hour of staff time spent in responding to a request under Section 63G-2-204 if the person who submits the request:

(i) is not a Utah media representative; and

(ii) previously submitted a separate request within the 10-day period immediately before the date of the request to which the governmental entity is responding.

(6) (a) A person who believes that there has been an unreasonable denial of a fee waiver under Subsection (4) may appeal the denial in the same manner as a person appeals when inspection of a public record is denied under Section 63G-2-205.

(b) The adjudicative body hearing the appeal:

(i) shall review the fee waiver de novo, but shall review and consider the governmental entity's denial of the fee waiver and any determination under Subsection (4); and

(ii) has the same authority when a fee waiver or reduction is denied as it has when the inspection of a public record is denied.

(7) (a) All fees received under this section by a governmental entity subject to Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

(b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental entity in providing the requested record or record series.

(8) (a) A governmental entity may require payment of past fees and future estimated fees before beginning to process a request if:

(i) fees are expected to exceed $50; or

(ii) the requester has not paid fees from previous requests.

(b) Any prepaid amount in excess of fees due shall be returned to the requester.

(9) This section does not alter, repeal, or reduce fees established by other statutes or legislative acts.

(10) (a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be set as provided in this Subsection (10).

(b) The lieutenant governor shall:

(i) after consultation with county clerks, establish uniform fees for voter registration and voter history records that meet the requirements of this section; and

(ii) obtain legislative approval of those fees by following the procedures and requirements of Section 63J-1-504.

CHAPTER 129
H. B. 101

Passed February 14, 2022
Approved March 22, 2022
Effective May 4, 2022

RURAL COWORKING AND INNOVATION CENTER GRANT PROGRAM AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies provisions related to the Rural Coworking and Innovation Center Grant Program within the Governor's Office of Economic Opportunity.

Highlighted Provisions:

This bill:

- allows nonprofit organizations to receive grants under the Rural Coworking and Innovation Center Grant Program; and
- removes private companies from the list of entities that may receive a grant under the Rural Coworking and Innovation Center Grant Program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63N-4-502, as enacted by Laws of Utah 2019, Chapter 467

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

Section 1. Section 63N-4-502 is amended to read:

63N-4-502. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Online Working Hubs Grant Advisory Committee created in Section 63N-4-505.

(2) "Coworking and innovation center" means a facility designed to provide individuals with the infrastructure and equipment to participate in the online workforce.

(3) "Entity" means a county, city, nonprofit organization, or institution of higher education[~~, or private company~~].

(4) "Grant" means a grant awarded as part of the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.

(5) "Grant program" means the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503.

(6) "Rural area" means any area in any county in the state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties.

CHAPTER 130
H. B. 123

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

USE OF FORCE REVISIONS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the use of force by peace officers.

Highlighted Provisions:

This bill:

- sets a timeline for completion of investigations into an officer's use of force;
- requires that certain information be posted online; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-2-408, as last amended by Laws of Utah 2021, Chapter 150

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

Section 1. Section 76-2-408 is amended to read:

76-2-408. Officer use of force -- Investigations.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to [~~a person~~] an individual.

(b) "Deadly force" means a force that creates or is likely to create, or that the [~~person~~] individual using the force intends to create, a substantial likelihood of death or serious bodily injury to [~~a person~~] an individual.

(c) "In custody" means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:

(i) a detention to secure attendance as a witness in a criminal case;

(ii) an arrest for or charging with a crime and committing for trial;

(iii) committing for contempt, upon civil process, or by other authority of law; or

(iv) sentencing to imprisonment on conviction of a crime.

(d) "Investigating agency" means a law enforcement agency, the county or district attorney's office, or an interagency task force composed of officers from multiple law enforcement agencies.

(e) "Officer" means an officer described in Section 53-13-102.

(f) "Officer-involved critical incident" means any of the following:

(i) an officer's use of deadly force;

(ii) an officer's use of a dangerous weapon against [~~a person~~] an individual who causes injury to any [~~person~~] individual;

(iii) death or serious bodily injury to any [~~person~~] individual, other than the officer, resulting from an officer's:

(A) use of a motor vehicle while the officer is on duty; or

(B) use of a government vehicle while the officer is off duty;

(iv) the death of [~~a person~~] an individual who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the [~~person's~~] individual's death; or

(v) the death of or serious bodily injury to [~~a person~~] an individual not in custody, other than an officer, resulting from an officer's attempt to prevent [~~a person's~~] an individual's escape from custody, to make an arrest, or otherwise to gain physical control of [~~a person~~] an individual.

(g) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(2) When an officer-involved critical incident occurs:

(a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and

(b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:

(i) jointly designate an investigating agency for the officer-involved critical incident; and

(ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.

(3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.

(4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.

(5) Each law enforcement agency that is part of or administered by the state or any of the state's

political subdivisions shall adopt and post on the agency's publicly accessible website:

(a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in the agency's jurisdiction and one of the agency's officers is alleged to have caused or contributed to the officer-involved incident; and

(b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in the agency's jurisdiction are conducted professionally, thoroughly, and impartially.

(6) Once a criminal investigation is turned over from law enforcement, the county or district attorney's findings or analyses into an officer's use of force shall be completed within 180 days of the turnover. If the findings or analyses is not published within 180 days of the turnover, the county or district attorney shall post a public statement on the county or district attorney's website stating a reasonable estimate when the findings or analyses will be complete and the reason for the delay.

(7) Subject to the requirements of Title 63G, Chapter 2, Government Records Access and Management Act, the county or district attorney's resulting findings or analyses shall be published on the county or district attorney's website within five business days of completion.

CHAPTER 131
H. B. 124

Passed February 11, 2022
Approved March 22, 2022
Effective May 4, 2022

FORCIBLE ENTRY WARRANT MODIFICATIONS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Walt Brooks
Jefferson S. Burton
Joel Ferry
Sandra Hollins
Marsha Judkins
Karianne Lisonbee
Jefferson Moss
Stephanie Pitcher
Angela Romero
Mike Schultz
Andrew Stoddard
Stephen L. Whyte
Ryan D. Wilcox

LONG TITLE

General Description:

This bill provides parameters for knock and announce, and no-knock warrants and specifies the conditions under which they may be acquired and used.

Highlighted Provisions:

This bill:

- defines terms;
- requires officers serving knock and announce and no-knock warrants to wear readily identifiable markings or clothing that identify them as law enforcement officers;
- requires that officers knock and announce themselves more than once before forcibly entering a building;
- sets a preference for warrants to be served during daytime hours;
- allows for exigent circumstances when serving knock and announce warrants;
- prohibits the use of no-knock warrants for misdemeanor charges; and
- makes technical corrections.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-7-5, as last amended by Laws of Utah 2021, Chapter 260

77-7-8, as last amended by Laws of Utah 2015, Chapter 317

ENACTS:

77-7-8.1, Utah Code Annotated 1953

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

Section 1. Section 77-7-5 is amended to read:

77-7-5. Issuance of summons or warrant -- Time and place arrests may be made -- Contents of warrant or summons -- Responsibility for transporting prisoners -- Court clerk to dispense costs for transportation.

(1) As used in this section:

(a) "Daytime hours" means the hours after 6 a.m. and before 10 p.m.

(b) "Nighttime hours" means the hours after 10 p.m. and before 6 a.m.

[~~(1)~~] (2) A magistrate may issue a warrant for arrest in lieu of a summons for the appearance of the accused only upon finding:

(a) probable cause to believe that the person to be arrested has committed a public offense; and

(b) under the Utah Rules of Criminal Procedure, and this section that a warrant is necessary to:

(i) prevent risk of injury to a person or property;

(ii) secure the appearance of the accused; or

(iii) protect the public safety and welfare of the community or an individual.

[~~(2)~~] (3) If the offense charged is:

(a) a felony, the arrest upon a warrant may be made at any time of the day or night; or

(b) a misdemeanor, the arrest upon a warrant [~~can~~] may be made [~~at night~~] during nighttime hours only if:

(i) the magistrate has endorsed authorization to do so on the warrant;

(ii) the person to be arrested is upon a public highway, in a public place, or in a place open to or accessible to the public; or

(iii) the person to be arrested is encountered by a peace officer in the regular course of that peace officer's investigation of a criminal offense unrelated to the misdemeanor warrant for arrest.

[~~(3) For the purpose of Subsection (1):~~]

[~~(a) daytime hours are the hours of 6 a.m. to 10 p.m.; and~~]

[~~(b) nighttime hours are the hours after 10 p.m. and before 6 a.m.~~]

(4) (a) If the magistrate determines that the accused must appear in court, the magistrate shall include in the arrest warrant the name of the law enforcement agency in the county or municipality with jurisdiction over the offense charged.

(b) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) is responsible for providing inter-county transportation of the defendant, if necessary, from the arresting law enforcement agency to the court site.

(ii) The law enforcement agency named on the warrant may contract with another law enforcement agency to have a defendant transported.

(c) (i) The law enforcement agency identified by the magistrate under Subsection (4)(a) as responsible for transporting the defendant shall provide to the court clerk of the court in which the defendant is tried, an affidavit stating that the defendant was transported, indicating the law enforcement agency responsible for the transportation, and stating the number of miles the defendant was transported.

(ii) The court clerk shall:

(A) account for a cost paid under Subsection 76-3-201(4)(b) for government transportation; and

(B) dispense money collected by the court under Subsection (4)(c)(ii)(A) to the law enforcement agency responsible for the transportation of a convicted defendant.

(5) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall indicate to the court within 48 hours of the issuance, excluding Saturdays, Sundays, and legal holidays if a warrant issued in accordance with this section is an extradition warrant.

(6) The law enforcement agency identified by the magistrate under Subsection (4)(a) shall report any changes to the status of a warrant issued in accordance with this section to the Bureau of Criminal Identification.

Section 2. Section 77-7-8 is amended to read:

77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a warrant.

(1) As used in this section:

(a) "Daytime hours" means the same as that term is defined in Section 77-7-5.

(b) "Forcible entry" means entering any building, room, conveyance, compartment, or other enclosure by force.

(c) "Knock" means to knock with reasonably strong force in a quick succession of three or more contacts with a door or other point of entry into a building that would allow the occupant to reasonably hear the officer's demand for entry.

(d) "Knock and announce warrant" means a lawful search warrant that authorizes entry into a building after knocking and demanding entry onto property or building as outlined in Subsection (2).

(e) "Nighttime hours" means the same as that term is defined in Section 77-7-5.

(f) "Supervisory official" means a command-level officer and includes all sheriffs, heads of law enforcement agencies, and all supervisory enforcement officers equivalent to a sergeant rank or higher.

[~~(1)~~] (2) (a) Subject to [~~Subsection (2), a peace~~] the provisions of this subsection, an officer when making [~~an arrest may forcibly enter the building in which~~] a lawful arrest or serving a lawful knock and announce warrant, may make forcible entry where the person to be arrested is located, or [~~in which~~] where there is probable cause for believing the person to be.

(b) Before making the forcible entry, the officer shall:

(i) wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing which identifies the person as a law enforcement officer;

[~~(i)~~] (ii) audibly identify himself or herself as a law enforcement officer;

[~~(ii)~~] (iii) knock and demand admission more than once;

[~~(iii)~~] (iv) wait a reasonable period of time for an occupant to admit access after knocking and demanding admission; and

[~~(iv)~~] (v) explain the purpose for which admission is desired.

(c) (i) The officer need not knock, give a demand and explanation, or identify himself or herself, before making a forcible entry:

(A) under the exceptions in Section 77-7-6 [~~or~~];

(B) where there is probable cause to believe [~~evidence will be easily or quickly destroyed.~~] exigent circumstances exist due to the destruction of evidence; or

(C) there is reasonable suspicion to believe exigent circumstances exist due to the physical safety of an officer or individual inside or in near proximity to the building.

(ii) The officer shall identify himself or herself and state the purpose for entering the premises as soon as practicable after entering the premises.

(d) The officer may use only that force which is reasonable and necessary to effectuate forcible entry under this section.

[~~(2)~~] (3) [~~If~~] Subject to Subsection (4), if the building to be entered under Subsection [~~(1)~~] (2) appears to be a private residence or the officer knows the building is a private residence, and if there is no consent to enter or there are no exigent circumstances, the officer shall, before entering the building:

(a) obtain an arrest or search warrant if the building is the residence of the person to be arrested; or

(b) obtain a search warrant if the building is a residence, but not the residence of the person whose arrest is sought.

(4) Before seeking a warrant from a judge or magistrate under Subsection (2), a supervisory official shall, using the officer's affidavit:

(a) independently perform an assessment to evaluate the totality of the circumstances;

(b) ensure reasonable intelligence gathering efforts have been made;

(c) ensure a threat assessment was completed on the person or building to be searched; and

(d) determine either that there is a sufficient basis to support seeking a warrant or require that the officer continue evidence gathering efforts.

[~~(3)~~] (5) Notwithstanding any other provision of this chapter, forcible entry under this section may not be made solely for the alleged:

(a) possession or use of a controlled substance under Section 58-37-8; or

(b) the possession of drug paraphernalia as defined in Section 58-37a-3.

(6) All arrest warrants are subject to the conditions set forth in Subsection 77-7-5(2).

(7) Unless specifically requested by the affiant and approved by a judge or magistrate, all knock and announce warrants shall be served during daytime hours.

Section 3. Section 77-7-8.1 is enacted to read:

77-7-8.1. Forcible entry to conduct a search -- Conditions requiring a warrant -- No-knock warrants.

(1) As used in this section:

(a) "Daytime hours" means the same as that term is defined in Section 77-7-5.

(b) "Forcible entry" means the same as that term is defined in Section 77-7-8.

(c) "Nighttime hours" means the same as that term is defined in Section 77-7-5.

(d) "No-knock warrant" means a lawful search warrant that authorizes entry into a building without notice to any occupant in the property or building at the time of service.

(e) "Supervisory official" means the same as that term is defined in Section 77-7-8.

(2) Subject to the provisions of this section, an officer serving a lawful no-knock warrant may make a forcible entry onto the property or building to be searched without notice.

(3) Before seeking a no-knock warrant from a judge or magistrate under Subsection (2), a supervisory official shall, using the officer's affidavit:

(a) independently perform an assessment to evaluate the totality of the circumstances;

(b) ensure reasonable intelligence gathering efforts have been made;

(c) ensure a threat assessment was completed on the person or building to be searched; and

(d) determine either that there is a sufficient basis to support seeking a warrant or require that the officer continue evidence gathering efforts.

(4) (a) The affidavit for a no-knock warrant shall describe:

(i) why the officer believes the suspect is unable to be detained or the residence searched using less invasive or less confrontational methods;

(ii) investigative activities that have been undertaken to ensure that the correct building is identified and that potential harm to innocent third parties, the building, and officers may be minimized; or

(iii) the present or imminent threat of serious bodily injury or death to a person inside, outside, or in near proximity to the building.

(b) A no-knock warrant shall be served during daytime hours unless the affidavit states sufficient grounds to believe a search is necessary during nighttime hours.

(5) Upon serving a no-knock warrant, an officer shall wear readily identifiable markings, including a badge and vest or clothing with a distinguishing label or other writing which shows that the person is a law enforcement officer.

(6) Notwithstanding any other provision of this chapter, an officer may not request a no-knock warrant if the warrant is solely for a misdemeanor investigation.

CHAPTER 132
H. B. 126

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

DIVISION OF JUVENILE JUSTICE SERVICES RULEMAKING AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses rulemaking authority by the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- requires the Division of Juvenile Justice Services to create rules regarding policies and procedures to prevent, detect, and respond to sexual assaults of minors in detention and secure care facilities;
- requires the Division of Juvenile Justice Services to create rules regarding the collection and reporting of data regarding sexual assaults of minors in detention and secure care facilities; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-5-202, as enacted by Laws of Utah 2021, Chapter 261

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

Section 1. Section 80-5-202 is amended to read:

80-5-202. Division rulemaking authority -- Reports on sexual assault.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to:

(a) [~~establishing~~] establish standards for the admission of a minor to detention;

(b) [~~that~~] describe good behavior for which credit may be earned under Subsection 80-6-704(4); [~~and~~]

(c) [~~that~~] establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders with the division[~~.~~]; and

(d) establish policies and procedures regarding sexual assaults that occur in detention and secure care facilities.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(a) that govern the operation of prevention and early intervention programs, youth service programs, juvenile receiving centers, and other programs described in Section 80-5-401; and

(b) that govern the operation of detention and secure care facilities.

(3) A rule made by the division under Subsection (1)(a):

(a) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions arising out of a single criminal episode; and

(b) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.

(4) The rules described in Subsection (1)(d) shall:

(a) require education and training, including:

(i) providing to minors detained in secure care and detention facilities, at intake and periodically, easy-to-understand information, which is developed and approved by the division, on sexual assault prevention, treatment, reporting, and counseling in consultation with community groups with expertise in sexual assault prevention, treatment, reporting, and counseling; and

(ii) providing training specific to sexual assault to division mental health professionals and all division employees who have direct contact with minors regarding treatment and methods of prevention and investigation;

(b) require reporting of any incident of sexual assault, including:

(i) ensuring the confidentiality of sexual assault reports from minors and the protection of minors who report sexual assault; and

(ii) prohibiting retaliation and disincentives for reporting sexual assault;

(c) require safety and care for minors who report sexual assault, including:

(i) providing, in situations in which there is reason to believe that a sexual assault has occurred, reasonable and appropriate measures to ensure the minor's safety by separating the minor from the minor's assailant, if known;

(ii) providing acute trauma care for minors who report sexual assault, including treatment of injuries, HIV prophylaxis measures, and testing for sexually transmitted infections;

(iii) providing confidential mental health counseling for minors who report sexual assault, including:

(A) access to outside community groups or victim advocates that have expertise in sexual assault counseling; and

(B) enabling confidential communication between minors and community groups and victim advocates; and

(iv) monitoring minors who report sexual assault for suicidal impulses, post-traumatic stress disorder, depression, and other mental health consequences resulting from the sexual assault;

(d) require staff reporting of sexual assault and staff discipline for failure to report or for violating sexual assault policies, including:

(i) requiring all division employees to report any knowledge, suspicion, or information regarding an incident of sexual assault to the director or the director's designee;

(ii) requiring disciplinary action for a division employee who fails to report as required; and

(iii) requiring division employees to be subject to disciplinary sanctions up to and including termination for violating agency sexual assault policies, with termination the presumptive disciplinary sanction for division employees who have engaged in sexual assault, consistent with constitutional due process protections and state personnel laws and rules;

(e) require that any report of an incident of sexual assault be referred to the Division of Child and Family Services or a law enforcement agency with jurisdiction over the detention or secure facility in which the alleged sexual assault occurred; and

(f) require data collection and reporting of all incidents of sexual assault from each detention and secure care facility.

(5) The division shall annually report the data described in Section (4)(f) to the Law Enforcement and Criminal Justice Interim Committee.

CHAPTER 133
H. B. 134

Passed February 11, 2022
Approved March 22, 2022
Effective May 4, 2022

VICTIMS' RIGHTS REVISIONS

Chief Sponsor: Judy Weeks Rohner
Senate Sponsor: John D. Johnson
Cosponsors: Sandra Hollins
Dan N. Johnson
Karianne Lisonbee
Michael J. Petersen
Andrew Stoddard

LONG TITLE

General Description:

This bill amends victims' rights requirements.

Highlighted Provisions:

This bill:

- requires a prosecuting entity to provide notice of a plea deal to a victim.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-38-3, as last amended by Laws of Utah 2021, Chapter 260

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

Section 1. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (f) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, listed in Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(g).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (f) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G-2-305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77-37-5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77-38-5 and to important juvenile justice hearings as provided in Section 77-38-2.

(14) (a) When a defendant is charged with a felony crime under Sections 76-5-301 through 76-5-310 regarding kidnapping, human trafficking, and human smuggling; Sections 76-5-401 through 76-5-413 regarding sexual offenses; or Section 76-10-1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B-7-113.

(15) (a) When a case involving a victim may resolve before trial with a plea deal, the prosecutor shall notify the victim of that possibility as soon as practicable.

(b) Upon the request of a victim described in Subsection (15)(a), the prosecutor shall explain the available details of an anticipated plea deal.

CHAPTER 134
H. B. 137

Passed February 23, 2022
Approved March 22, 2022
Effective May 4, 2022

DUI AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to driving under the influence and related penalties.

Highlighted Provisions:

This bill:

- amends provisions related to driving under the influence to clarify that both blood and breath alcohol levels are relevant for certain offenses and penalty purposes;
- amends provisions regarding refusal of a chemical test and associated penalties based on the circumstances;
- amends provisions regarding penalties and the requirement for a court to order probation in certain circumstances;
- amends the definition of "human driver" to clarify that a person without a valid license is subject to traffic laws, including driving under the influence; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-502.5, as last amended by Laws of Utah 2021, Chapter 79
41-6a-503, as last amended by Laws of Utah 2021, Chapter 79
41-6a-505, as last amended by Laws of Utah 2021, Chapters 79 and 83
41-6a-520, as last amended by Laws of Utah 2020, Chapter 177
41-26-102.1, as enacted by Laws of Utah 2019, Chapter 459
41-26-103, as enacted by Laws of Utah 2019, Chapter 459

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

Section 1. Section 41-6a-502.5 is amended to read:

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

(a) the defendant completes court ordered probation requirements; or

(b) (i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3) (a) (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5) (a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of Occupational and Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

(7) (a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:

(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2); or

(b) where there is admissible evidence that the individual:

(i) had a blood or breath alcohol level of .16 or higher;

(ii) had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the person's body that were not:

(A) prescribed by a licensed physician; or

(B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 2. Section 41-6a-503 is amended to read:

41-6a-503. Penalties for driving under the influence violations.

(1) A person who violates for the first or second time Section 41-6a-502 or 41-6a-520 is guilty of an offense classified as a:

(a) class B misdemeanor; or

(b) class A misdemeanor if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years [~~of age~~] old in the vehicle at the time of the offense;

(iii) was 21 years [~~of age~~] old or older and had a passenger under 18 years [~~of age~~] old in the vehicle at the time of the offense; or

(iv) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-712 or 41-6a-714.

(2) A person who violates Section 41-6a-502 or 41-6a-520 is guilty of an offense classified as a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction [~~under Section 41-6a-502~~]; or

(ii) the commission of the offense upon which the current conviction is based; or

(c) the current conviction [~~under Section 41-6a-502~~] is at any time after a conviction of:

(i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

(iii) any conviction described in Subsection (2)(c)(i) or (ii) which judgment of conviction is reduced under Section 76-3-402.

(3) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.

(4) A person is guilty of a separate offense under Subsection (1)(b)(ii) for each passenger in the vehicle at the time of the offense that is under 16 years old.

Section 3. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

[~~(ii) order probation for the individual in accordance with Section 41-6a-507;~~]

[~~(iii)~~] (ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

[~~(iv)~~] (iii) order a combination of Subsections (1)(b)(i) [~~through (iii)~~] and (ii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 2 days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, had a blood or breath alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10) (a) For Subsection (9) or Subsection 41-6a-503(2)(b), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-503(2), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), or (8)[~~, (10)(b), or (11)~~].

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood or breath alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

Section 4. Section 41-6a-520 is amended to read:

41-6a-520. Implied consent to chemical tests for alcohol or drug -- Number of tests -- Refusal -- Warning, report.

(1) (a) A person operating a motor vehicle in this state is considered to have given the person's consent to a chemical test or tests of the person's breath, blood, urine, or oral fluids for the purpose of determining whether the person was operating or in actual physical control of a motor vehicle while:

(i) having a blood or breath alcohol content statutorily prohibited under Section 41-6a-502, 41-6a-530, or 53-3-231;

(ii) under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 41-6a-502; or

(iii) having any measurable controlled substance or metabolite of a controlled substance in the person's body in violation of Section 41-6a-517.

(b) A test or tests authorized under this Subsection (1) must be administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of a motor vehicle while in violation of any provision under Subsections (1)(a)(i) through (iii).

(c) (i) The peace officer determines which of the tests are administered and how many of them are administered.

(ii) If a peace officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.

(d) (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, or urine, or oral fluids may not select the test or tests to be administered.

(ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.

(2) (a) A peace officer requesting a test or tests shall warn a person that refusal to submit to the test or tests may result in criminal prosecution, revocation of the person's license to operate a motor vehicle, a five or 10 year prohibition of driving with any measurable or detectable amount of alcohol in the person's body depending on the person's prior driving history, and a three-year prohibition of driving without an ignition interlock device if the person:

(i) has been placed under arrest;

(ii) has then been requested by a peace officer to submit to any one or more of the chemical tests under Subsection (1); and

(iii) refuses to submit to any chemical test requested.

(b) (i) Following the warning under Subsection (2)(a), if the person does not immediately request that the chemical test or tests as offered by a peace officer be administered, a peace officer shall, on behalf of the Driver License Division and within 24 hours of the arrest, give notice of the Driver License Division's intention to revoke the person's privilege or license to operate a motor vehicle.

(ii) When a peace officer gives the notice on behalf of the Driver License Division, the peace officer shall supply to the operator, in a manner specified by the Driver License Division, basic information regarding how to obtain a hearing before the Driver License Division.

(c) As a matter of procedure, the peace officer shall submit a signed report, within 10 calendar days after the day on which notice is provided under Subsection (2)(b), that:

(i) the peace officer had grounds to believe the arrested person was in violation of any provision under Subsections (1)(a)(i) through (iii); and

(ii) the person had refused to submit to a chemical test or tests under Subsection (1).

(3) Upon the request of the person who was tested, the results of the test or tests shall be made available to the person.

(4) (a) The person to be tested may, at the person's own expense, have a physician or a physician assistant of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(5) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(6) Notwithstanding the provisions in this section, a blood test taken under this section is subject to Section 77-23-213.

(7) A person is guilty of refusing a chemical test if a peace officer has issued the warning required in Subsection (2)(a) and the person refuses to submit to a test of the person's blood under Subsection (1) after a court has issued a warrant to draw and test the blood.

[~~(8) A person who violates Subsection (7) is guilty of:~~]

[~~(a) a third degree felony if:~~]

[~~(i) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:~~]

[~~(A) the current conviction; or~~]

[~~(B) the commission of the offense upon which the current conviction is based; or~~]

[~~(ii) the conviction is at any time after a conviction of:~~]

[~~(A) automobile homicide under Section 76-5-207;~~]

[~~(B) a felony violation of this section or Section 41-6a-502; or~~]

[~~(C) any conviction described in Subsection (8)(a)(ii) which judgment of conviction is reduced under Section 76-3-402; or~~]

[~~(b) a class B misdemeanor if none of the circumstances in Subsection (8)(a) applies.~~]

(8) A person who violates Subsection (7) commits an offense classified as a misdemeanor or felony in accordance with Subsections 41-6a-503(1) and (2).

(9) As part of any sentence for a conviction of violating this section, the court shall impose the same sentencing as outlined for driving under the influence violations in Section 41-6a-505, based on whether this is a first, second, or subsequent conviction as defined by Subsection 41-6a-501(2), with the following modifications:

(a) any jail sentence shall be 24 consecutive hours more than would be required under Section 41-6a-505;

(b) any fine imposed shall be $100 more than would be required under Section 41-6a-505; and

(c) the court shall order one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

(10) (a) The offense of refusal to submit to a chemical test under this section does not merge with any violation of Section 32B-4-409, 41-6a-502, 41-6a-517, or 41-6a-530.

(b) A guilty or no contest plea to an offense of refusal to submit to a chemical test under this section may not be held in abeyance.

Section 5. Section 41-26-102.1 is amended to read:

41-26-102.1. Definitions.

(1) "ADS-dedicated vehicle" means a vehicle designed to be operated exclusively by a level four or five ADS for all trips within the given operational design domain limitations of the ADS, if any.

(2) (a) "Automated driving system" or "ADS" means the hardware and software that are collectively capable of performing the entire dynamic driving task on a sustained basis, regardless of whether the ADS is limited to a specific operational design domain, if any.

(b) "Automated driving system" or "ADS" is used specifically to describe a level three, four, or five driving automation system.

(3) "Commission" means the State Tax Commission as defined in Section 59-1-101.

(4) "Conventional driver" means a human driver who is onboard the motor vehicle and manually performs some or all of the following actions in order to operate a vehicle:

(a) braking;

(b) accelerating;

(c) steering; and

(d) transmission gear selection input devices.

(5) (a) "Dispatch" means to place an ADS-equipped vehicle into service in driverless operation by engaging the ADS.

(b) "Dispatch" includes software-enabled dispatch of multiple ADS-equipped motor vehicles in driverless operation that may complete multiple trips involving pick-up and drop-off of passengers or goods throughout a day or other pre-defined periods of service, and which may involve multiple agents performing various tasks related to the dispatch function.

(6) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(7) "Driverless operation" means the operation of an ADS-equipped vehicle in which:

(a) no on-board user is present; or

(b) no on-board user is a human driver with a valid driver license or fallback-ready user.

(8) "Driverless operation dispatcher" means a user who dispatches an ADS-equipped vehicle in driverless operation.

(9) "Driving automation system" means the hardware and software collectively capable of performing part or all of the dynamic driving task on a sustained basis.

(10) "Driving automation system feature" means a specific function of a driving automation system.

(11) (a) "Dynamic driving task" means all of the real-time operational and tactical functions required to operate a motor vehicle in on-road traffic, including:

(i) lateral vehicle motion control through steering;

(ii) longitudinal motion control through acceleration and deceleration;

(iii) monitoring the driving environment through object and event detection, recognition, classification, and response preparation;

(iv) object and event response execution;

(v) maneuver planning; and

(vi) enhancing conspicuity with lighting, signaling, and gesturing.

(b) "Dynamic driving task" does not include strategic functions such as trip scheduling and selection of destinations and waypoints.

(12) "Engage" as it pertains to the operation of a vehicle by a driving automation system means to cause a driving automation system feature to perform part or all of the dynamic driving task on a sustained basis.

(13) "External event" is a situation in the driving environment that necessitates a response by a

human driver with a valid driver license or driving automation system.

(14) "Fallback-ready user" means the user of a vehicle equipped with an engaged level three ADS who is:

(a) a human driver with a valid driver license; and

(b) ready to operate the vehicle if:

(i) a system failure occurs; or

(ii) the ADS issues a request to intervene.

(15) (a) "Human driver" means a natural person[~~:(i) with a valid license to operate a motor vehicle of the proper class for the motor vehicle being operated; and (ii)~~] who performs in real-time all or part of the dynamic driving task.

(b) "Human driver" includes a:

(i) conventional driver; and

(ii) remote driver.

(16) "Level five automated driving system" or "level five ADS" means an ADS feature that has the capability to perform on a sustained basis the entire dynamic driving task under all conditions that can reasonably be managed by a human driver, as well as any maneuvers necessary to respond to a system failure, without any expectation that a human user will respond to a request to intervene.

(17) "Level four automated driving system" or "level four ADS" means an ADS feature that, without any expectation that a human user will respond to a request to intervene, has:

(a) the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) the capability to perform any maneuvers necessary to achieve a minimal risk condition in response to:

(i) an exit from the operational design domain of the ADS; or

(ii) a system failure.

(18) "Level three automated driving system" or "level three ADS" means an ADS feature that:

(a) has the capability to perform on a sustained basis the entire dynamic driving task within its operational design domain; and

(b) requires a fallback-ready user to operate the vehicle after receiving a request to intervene or in response to a system failure.

(19) "Minimal risk condition" means a condition to which a user or an ADS may bring a motor vehicle in order to reduce the risk of a crash when a given trip cannot or should not be completed.

(20) "Object and event detection and response" means the subtasks of the dynamic driving task that include:

(a) monitoring the driving environment; and

(b) executing an appropriate response in order to perform the dynamic driving task.

(21) "On-demand autonomous vehicle network" means a transportation service network that uses a software application or other digital means to dispatch or otherwise enable the prearrangement of transportation with motor vehicles that have a level four or five ADS in driverless operation for purposes of transporting persons, including for-hire transportation and transportation for compensation.

(22) "Operate" means the same as that term is defined in Section 41-1a-102.

(23) "Operational design domain" means the operating conditions under which a given ADS or feature thereof is specifically designed to function, including:

(a) speed range, environmental, geographical, and time-of-day restrictions; or

(b) the requisite presence or absence of certain traffic or roadway characteristics.

(24) "Operator" means the same as that term is defined in Section 41-6a-102.

(25) "Passenger" means a user on board a vehicle who has no role in the operation of that vehicle.

(26) "Person" means the same as that term is defined in Section 41-6a-102.

(27) "Remote driver" means a human driver with a valid driver license who is not located in a position to manually exercise in-vehicle braking, accelerating, steering, or transmission gear selection input devices, but operates the vehicle.

(28) "Request to intervene" means the notification by an ADS to a fallback-ready user indicating that the fallback-ready user should promptly begin or resume operation of the vehicle.

(29) "Sustained operation of a motor vehicle" means the performance of part or all of the dynamic driving task both between and across external events, including response to external events and continued performance of part or all of the dynamic driving task in the absence of external events.

(30) "System failure" means a malfunction in a driving automation system or other vehicle system that prevents the ADS from reliably performing the portion of the dynamic driving task on a sustained basis, including the complete dynamic driving task, that the ADS would otherwise perform.

(31) "User" means a:

(a) human driver;

(b) passenger;

(c) fallback-ready user; or

(d) driverless operation dispatcher.

Section 6. Section 41-26-103 is amended to read:

41-26-103. Operation of motor vehicles equipped with an automated driving system.

(1) A motor vehicle equipped with a level three ADS may operate on a highway in this state if:

(a) the motor vehicle is operated, whether by the ADS or human driver with a valid driver license, in compliance with the applicable traffic and motor vehicle safety laws and regulations of this state, unless an exemption has been granted;

(b) when required by federal law, the motor vehicle:

(i) has been certified as being in compliance with all applicable motor vehicle safety standards; and

(ii) bears the required certification label, including reference to any exemption granted under federal law;

(c) when operated by an ADS, if a system failure occurs that renders the ADS unable to perform the entire dynamic driving task relevant to the intended operational design domain of the ADS, the ADS will achieve a minimal risk condition or make a request to intervene; and

(d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

(2) A motor vehicle equipped with a level four or level five ADS may operate in driverless operation on a highway in this state if:

(a) the ADS is capable of operating in compliance with applicable traffic and motor vehicle laws and regulations of this state, unless an exemption has been granted;

(b) when required by federal law, the motor vehicle:

(i) has been certified as being in compliance with all applicable Federal Motor Vehicle Safety Standards and regulations; and

(ii) bears the required certification label including reference to any exemption granted under federal law;

(c) a system failure occurs that renders the ADS unable to perform the entire dynamic driving task relevant to the intended operational design domain of the ADS, a minimal risk condition will be achieved; and

(d) the motor vehicle is titled and registered in compliance with Section 41-26-107.

(3) A vehicle being operated by an ADS or a remote driver is not considered unattended.

(4) The division may revoke the registration and privilege for a vehicle equipped with an ADS to operate on a highway of the state if the Department of Transportation or the Department of Public Safety determines and notifies the division that:

(a) the ADS is operating in an unsafe manner; or

(b) the vehicle's ADS is being engaged in an unsafe manner.

(5) Special mobile equipment, as defined in Section 41-1a-102, equipped with a level three, four, or five ADS, may be moved or operated incidentally over a highway.

(6) Nothing in this chapter prohibits or restricts a human driver with a valid driver license from operating a vehicle equipped with an ADS and equipped with controls that allow for the human driver to perform all or part of the dynamic driving task.

CHAPTER 135
H. B. 138

Passed February 24, 2022
Approved March 22, 2022
Effective May 4, 2022

JUVENILE JUSTICE MODIFICATIONS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- modifies the age that a minor housed in a detention facility awaiting trial is transferred to an adult jail;
- requires a minor who is committed to prison by a district court be provisionally housed with the Division of Juvenile Justice Services until the minor is 25 years old;
- addresses retroactive application of provisions regarding minors held in detention facilities while awaiting trial in the district court or while serving a prison commitment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-502, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-6-504, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-6-507, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

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

Section 1. Section 80-6-502 is amended to read:

80-6-502. Criminal information for a minor in district court.

(1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was the principal actor in an offense and the criminal information alleges:

(a) the minor was 16 or 17 years old at the time of the offense; and

(b) the offense for which the minor is being charged is:

(i) [~~Section 76-5-202,~~] aggravated murder, as described in Section 76-5-202; or

(ii) [~~Section 76-5-203,~~] murder, as described in Section 76-5-203.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(3) (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor charged with aggravated murder or murder under Subsection (1) shall be held in a detention facility.

(b) A minor held in a detention facility under Subsection (3)(a) shall remain in the facility:

(i) until released by the district court; or

(ii) if convicted, until sentencing.

(4) If a minor is held in a detention facility under Subsection (3)(a), the district court shall:

(a) advise the minor of the right to bail; and

(b) set initial bail in accordance with Title 77, Chapter 20, Bail.

(5) (a) If a minor held in a detention facility under Subsection (3)(a) attains the age of [~~21~~] 25 years old, the minor shall:

(i) be transferred within 30 days to an adult jail; and

(ii) remain in the adult jail until:

[~~(a)~~] (A) released by the district court; or

[~~(b)~~] (B) if convicted, sentencing.

(b) Subsection (5)(a) applies to any minor who is being held in a detention facility as described in Subsection (3)(a) on or after May 4, 2022.

(6) If a minor is held in a detention facility under Subsection (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

(7) If a minor is charged for aggravated murder or murder in the district court under this section, and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and

(b) the division gains jurisdiction over the minor.

Section 2. Section 80-6-504 is amended to read:

80-6-504. Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.

(1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503, the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

(3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1), or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605;

(b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history;

(d) the criminal record or history of the minor; and

(e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.

(4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.

(5) (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.

(6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).

(7) (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

(b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.

(8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.

(9) (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:

(i) proceed upon the criminal information as if the information were a petition under Section 80-6-305;

(ii) release or detain the minor in accordance with Section 80-6-207; and

(iii) proceed with an adjudication for the minor in accordance with this chapter.

(b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.

(10) (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

(b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):

(i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and

(ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.

(11) If a grand jury indicts a minor for a qualifying offense:

(a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and

(b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).

(12) If a minor is bound over to the district court, the juvenile court shall:

(a) issue a criminal warrant of arrest for the minor to be held in a detention facility;

(b) advise the minor of the right to bail; and

(c) set initial bail in accordance with Title 77, Chapter 20, Bail.

(13) If the juvenile court orders the minor to be detained until the time of trial:

(a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and

(b) the minor shall remain in the detention facility:

(i) until released by a district court; or

(ii) if convicted, until sentencing.

(14) (a) If a minor is held in a detention facility under Subsection (13) and the minor attains the age of [~~21~~] 25 years old while detained at the detention facility, the minor shall:

(i) be transferred within 30 days to an adult jail [~~to remain:~~]; and

(ii) remain in the adult jail until:

[~~(a)~~] (A) [~~until~~] released by the district court; or

[~~(b)~~] (B) if convicted, [~~until~~] sentencing.

(b) Subsection (14)(a) applies to any minor being held in a detention facility as described in Subsection (13) on or after May 4, 2022.

(15) Except as provided in Subsection (16) and Section 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.

(16) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:

(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and

(b) the division regains jurisdiction over the minor.

Section 3. Section 80-6-507 is amended to read:

80-6-507. Commitment of a minor by a district court.

(1) (a) [~~When sentencing a minor, if~~] If the district court determines that probation is not appropriate and commitment to prison is an appropriate sentence when sentencing a minor:

[~~(a)~~] (i) the district court shall order the minor committed to prison; and

[~~(b)~~] (ii) the minor shall be provisionally housed in a secure care facility until the minor reaches [~~21~~] 25 years old, unless released earlier from incarceration by the Board of Pardons and Parole.

(b) Subsection (1) applies to any minor being provisionally housed in a secure care facility as described in Subsection (1)(a) on or after May 4, 2022.

(2) (a) The division shall adopt procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the transfer of a minor provisionally housed in a secure care facility under Subsection (1) to the physical custody of the Department of Corrections.

(b) If, in accordance with the rules adopted under Subsection (2)(a), the division determines that housing the minor in a secure care facility presents an unreasonable risk to others or that it is not in the best interest of the minor, the division shall transfer the physical custody of the minor to the Department of Corrections.

(3) (a) When a minor is committed to prison but provisionally housed in a secure care facility under this section, the district court and the division shall immediately notify the Board of Pardons and Parole so that the minor may be scheduled for a hearing according to board procedures.

(b) If a minor who is provisionally housed in a secure care facility under this section has not been paroled or otherwise released from incarceration by the time the minor reaches [~~21~~] 25 years old, the division shall as soon as reasonably possible, but not later than when the minor reaches [~~21~~] 25 years and 6 months old, transfer the minor to the physical custody of the Department of Corrections.

(4) Upon the commitment of a minor to the custody of the division or the Department of Corrections under this section, the Board of Pardons and Parole has authority over the minor for purposes of parole, pardon, commutation, termination of sentence, remission of fines or forfeitures, orders of restitution, and all other purposes authorized by law.

(5) The authority shall:

(a) hold hearings, receive reports, or otherwise keep informed of the progress of a minor in the custody of the division under this section; and

(b) forward to the Board of Pardons and Parole any information or recommendations concerning the minor.

(6) Commitment of a minor under this section is a prison commitment for all sentencing purposes.

CHAPTER 136
H. B. 139

Passed February 11, 2022
Approved March 22, 2022
Effective October 1, 2022

TRAFFIC VIOLATION AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill creates a deferred prosecution program for an individual charged with a traffic infraction.

Highlighted Provisions:

This bill:

- defines terms;
- creates a deferred prosecution program to allow an individual to apply for deferred prosecution of a traffic infraction;
- describes the application requirements for deferred prosecution;
- allows an individual who applies for deferred prosecution to not have judgment of conviction entered against the individual if the individual is not convicted of another traffic violation in the 12 months following the application for deferred prosecution;
- requires the court to enter a judgment of conviction if the individual fails to comply with the terms of the deferred prosecution; and
- provides for an administrative fee to cover the costs of the deferred prosecution program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

77-2-4.2, as last amended by Laws of Utah 2008, Chapters 3, 339, and 382
78A-7-301, as last amended by Laws of Utah 2014, Chapter 189

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

Section 1. Section 77-2-4.2 is amended to read:

77-2-4.2. Compromise of traffic charges -- Deferred prosecution of traffic infractions -- Limitations.

(1) As used in this section:

(a) "Compromise" means referral of [~~a person~~] an individual charged with a traffic violation to traffic school or other school, class, or remedial or rehabilitative program.

(b) "Deferral period" means the 12-month period following the date on which an individual submits an application for deferred prosecution.

(c) "Deferred prosecution" means the deferral of prosecution of an individual charged with a traffic infraction if the individual complies with the requirements described in Subsection (5).

(d) "Felony traffic violation" means a violation of Title 41, Chapter 6a, Traffic Code, amounting to a felony.

(e) "Moving traffic infraction" means a traffic infraction that occurs when a vehicle is in motion on a highway.

(f) (i) "Traffic infraction" means a violation of Title 41, Chapter 6a, Traffic Code, or a local traffic ordinance that is an infraction.

(ii) "Traffic infraction" does not include an offense that is a misdemeanor or a felony.

[~~(b)~~] (g) "Traffic violation" means any charge for which [~~bail may be forfeited~~] a fine may be voluntarily remitted in lieu of appearance, by citation or information, of a violation of:

(i) Title 41, Chapter 6a, Traffic Code, amounting to:

(A) a class B misdemeanor;

(B) a class C misdemeanor; or

(C) an infraction; or

(ii) any local traffic ordinance.

(2) Any compromise of a traffic violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, and Subsection (3), except:

(a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; [~~or~~]

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge[~~.~~]; or

(c) when there is a deferred plea of no contest as provided in Subsection (5).

(3) In all cases which are compromised pursuant to [~~the provisions of Subsection (2)~~] a plea in abeyance:

(a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than $25 greater than the [~~bail~~] fine designated in the Uniform [~~Bail~~] Fine Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the traffic school or other school, class, or rehabilitative program shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the traffic school fee and surcharge had been imposed as a criminal fine and surcharge; and

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

(a) the Uniform [~~Bail~~] Fine Schedule amount;

(b) the amount of any surcharges being assessed; and

(c) the amount of the plea in abeyance fee.

(5) (a) (i) Except as provided in Subsection (5)(b), an individual who receives a citation for a moving traffic infraction may apply for deferred prosecution.

(ii) A court may not require an individual to appear in-person to apply for a deferred prosecution in accordance with this Subsection (5).

(b) The following may not apply for or be granted a deferred prosecution as described in this section:

(i) an individual under 21 years old;

(ii) an individual with a commercial driver license;

(iii) an individual who has not been issued a current Utah driver license;

(iv) an individual who has been convicted of a felony traffic violation, traffic violation, or traffic infraction within the 24 months immediately preceding the date of the application for deferred prosecution;

(v) an individual charged with two or more moving traffic infractions related to the same episode or occurrence;

(vi) an individual charged with multiple traffic infractions related to the same episode or occurrence if any of the offenses is a misdemeanor or felony traffic violation;

(vii) an individual charged with one or more traffic infractions if none of the traffic infractions are moving traffic violations;

(viii) any traffic infraction or traffic violation that is part of an episode or occurrence involving a traffic accident;

(ix) a moving traffic violation that is for speeding 20 miles per hour or more above the posted speed limit;

(x) a moving violation that is for speeding at a speed of 100 miles per hour or more; or

(xi) an individual who is currently within a deferral period related to a separate episode or occurrence.

(c) An individual who applies for deferred prosecution shall:

(i) apply through an online application process developed by the Administrative Office of the Courts;

(ii) pay the relevant fine, as provided by the uniform fine schedule described in Section 76-3-301.5, associated with each traffic infraction for which the individual was charged;

(iii) pay an administrative fee as established by the judicial council; and

(iv) enter a deferred plea of no contest as described in Subsection (5)(e).

(d) An individual who receives a traffic citation shall:

(i) comply with Section 77-7-19; or

(ii) apply for deferred prosecution as described in Subsection (5)(c) no sooner than five and no later than 21 days after receiving the citation.

(e) If an eligible individual applies for deferred prosecution, the court shall:

(i) record the deferred plea of no contest;

(ii) not enter the deferred plea of no contest unless the individual fails to comply with the terms of the deferred prosecution; and

(iii) if the individual fails to comply with the terms of the deferred prosecution, enter a judgment of conviction as described in Subsection (5)(f)(ii).

(f) (i) Except as provided in Subsection (5)(f)(ii), if an individual enters a deferred plea of no contest as described in Subsection (5)(c)(iv) and is not convicted of another traffic violation, felony traffic violation, or traffic infraction during the deferral period:

(A) the prosecutor may not prosecute the individual for the traffic infraction subject to the deferred prosecution;

(B) the court may not enter judgment of conviction against the individual or impose a sentence for the traffic infraction; and

(C) the court shall dismiss each traffic infraction to which the individual entered a deferred plea of no contest.

(ii) If an individual enters a deferred plea of no contest as described in Subsection (5)(c)(iv) and is convicted of another a traffic violation within the deferral period, the court shall enter judgment of conviction against the individual for each traffic infraction to which the individual entered a deferred plea of no contest.

(g) (i) A prosecutor may not amend a charge from an infraction to a misdemeanor:

(A) if the infraction offense has the same elements as the misdemeanor offense; or

(B) for the sole purpose of prohibiting an individual from applying for deferred prosecution.

(ii) A deferred prosecution is not a prosecution for purposes of Section 76-1-403.

(h) (i) The judicial council shall set and periodically adjust the fee described in Subsection

(5)(c)(iii) in an amount that the judicial council determines to be necessary to cover the cost to implement, operate, and maintain the deferred prosecution program described in this Subsection (5).

(ii) The state treasurer shall deposit the revenue generated from the administrative fee described in Subsection (5)(c)(iii) into the Justice Court Technology, Security, and Training Account created in Section 78A-7-301.

Section 2. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

(1) The state treasurer shall deposit in the account:

(a) money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii)[~~.~~]; and

(b) the administrative fee from a deferred prosecution under Subsection 77-2-4.2(5).

(2) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state[~~.~~]; or

(b) costs to implement, operate, and maintain deferred prosecution pursuant to Subsection 77-2-4.2(5).

Section 3. Effective date.

This bill takes effect on October 1, 2022.

CHAPTER 137
H. B. 143

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

DUI PENALTY AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies the penalty for driving under the influence.

Highlighted Provisions:

This bill:

- increases the penalty for a second driving under the influence conviction to a class A misdemeanor under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-503, as last amended by Laws of Utah 2021, Chapter 79

41-6a-505, as last amended by Laws of Utah 2021, Chapters 79 and 83

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

Section 1. Section 41-6a-503 is amended to read:

41-6a-503. Penalties for driving under the influence violations.

(1) [~~A~~] Except as otherwise provided in this section, a person who violates [~~for the first or second time~~] Section 41-6a-502 is guilty of a[~~: (a)~~] class B misdemeanor[~~; or~~].

[~~(b) class A misdemeanor if the person:~~]

(2) A person who violates Section 41-6a-502 is guilty of a class A misdemeanor if the person:

[~~(i)~~] (a) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

[~~(ii)~~] (b) had a passenger [~~under 16 years of age~~] younger than 16 years old in the vehicle at the time of the offense;

[~~(iii)~~] (c) was 21 years [~~of age~~] old or older and had a passenger [~~under 18 years of age~~] younger than 18 years old in the vehicle at the time of the offense; [~~or~~]

[~~(iv)~~] (d) at the time of the violation of Section 41-6a-502, also violated Section 41-6a-712 or 41-6a-714[~~.~~]; or

(e) has one prior conviction as defined in Subsection 41-6a-501(2) within 10 years of:

(i) the current conviction under Section 41-6a-502; or

(ii) the commission of the offense upon which the current conviction is based.

[~~(2)~~] (3) A person who violates Section 41-6a-502 is guilty of a third degree felony if:

(a) the person has also inflicted serious bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(b) the person has two or more prior convictions as defined in Subsection 41-6a-501(2), each of which is within 10 years of:

(i) the current conviction under Section 41-6a-502; or

(ii) the commission of the offense upon which the current conviction is based; or

(c) the conviction under Section 41-6a-502 is at any time after a conviction of:

(i) automobile homicide under Section 76-5-207 that is committed after July 1, 2001;

(ii) a felony violation of Section 41-6a-502 or a statute previously in effect in this state that would constitute a violation of Section 41-6a-502 that is committed after July 1, 2001; or

(iii) any conviction described in Subsection [~~(2)~~] (3)(c)(i) or (ii) which judgment of conviction is reduced under Section 76-3-402.

[~~(3)~~] (4) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of Section 76-5-207 whether or not the injuries arise from the same episode of driving.

[~~(4)~~] (5) A person is guilty of a separate offense under Subsection [~~(1)(b)(ii)~~] (2)(b) for each passenger in the vehicle at the time of the offense that is [~~under~~] younger than 16 years old.

Section 2. Section 41-6a-505 is amended to read:

41-6a-505. Sentencing requirements for driving under the influence of alcohol, drugs, or a combination of both violations.

(1) As part of any sentence for a first conviction of Section 41-6a-502 where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than five days; or

(B) impose a jail sentence of not less than two days in addition to home confinement of not fewer than

30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (1)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (1)(b);

(v) impose a fine of not less than $700;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party;

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, order the installation of an ignition interlock system as described in Section 41-6a-518; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (1)(b)(i) through (iii).

(2) (a) If an individual described in Subsection (1) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (1)(a).

(b) If an individual described in Subsection (1) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (2)(a).

(3) As part of any sentence for any first conviction of Section 41-6a-502 not described in Subsection (1):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 2 days; or

(B) require the individual to work in a compensatory-service work program for not less than 48 hours;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (3)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (3)(b);

(v) impose a fine of not less than $700;

(vi) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(vii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order probation for the individual in accordance with Section 41-6a-507;

(iii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iv) order a combination of Subsections (3)(b)(i) through (iii).

(4) (a) If an individual described in Subsection (3) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (3)(a).

(b) If an individual described in Subsection (4)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (4)(a).

(5) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under

Section 41-6a-502 or the commission of the offense upon which the current conviction is based and where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 or higher in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the individual's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed:

(a) the court shall:

(i) (A) impose a jail sentence of not less than 20 days;

(B) impose a jail sentence of not less than 10 days in addition to home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; or

(C) impose a jail sentence of not less than 10 days in addition to ordering the individual to obtain substance abuse treatment, if the court finds that substance abuse treatment is more likely to reduce recidivism and is in the interests of public safety;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (5)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (5)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) order the installation of an ignition interlock system as described in Section 41-6a-518;

(viii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(ix) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (5)(b)(i) and (ii).

(6) (a) If an individual described in Subsection (5) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (5)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (6)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (6)(a).

(7) If an individual has a prior conviction as defined in Subsection 41-6a-501(2) that is within 10 years of the current conviction under Section 41-6a-502 or the commission of the offense upon which the current conviction is based and that does not qualify under Subsection (5):

(a) the court shall:

(i) (A) impose a jail sentence of not less than 10 days; or

(B) impose a jail sentence of not less than 5 days in addition to home confinement of not fewer than 30 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506;

(ii) order the individual to participate in a screening;

(iii) order the individual to participate in an assessment, if it is found appropriate by a screening under Subsection (7)(a)(ii);

(iv) order the individual to participate in an educational series if the court does not order substance abuse treatment as described under Subsection (7)(b);

(v) impose a fine of not less than $800;

(vi) order probation for the individual in accordance with Section 41-6a-507;

(vii) (A) order the individual to pay the administrative impound fee described in Section 41-6a-1406; or

(B) if the administrative impound fee was paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; or

(viii) (A) order the individual to pay the towing and storage fees described in Section 72-9-603; or

(B) if the towing and storage fees were paid by a party described in Subsection 41-6a-1406(5)(a), other than the individual sentenced, order the individual sentenced to reimburse the party; and

(b) the court may:

(i) order the individual to obtain substance abuse treatment if the substance abuse treatment program determines that substance abuse treatment is appropriate;

(ii) order the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older; or

(iii) order a combination of Subsections (7)(b)(i) and (ii).

(8) (a) If an individual described in Subsection (7) is participating in a 24/7 sobriety program as defined in Section 41-6a-515.5, the court may suspend the jail sentence imposed under Subsection (7)(a) after the individual has served a minimum of:

(i) five days of the jail sentence for a second offense; or

(ii) 10 days of the jail sentence for a third or subsequent offense.

(b) If an individual described in Subsection (8)(a) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended jail sentence described in Subsection (8)(a).

(9) Under Subsection 41-6a-503[~~(2)~~](3), if the court suspends the execution of a prison sentence and places the defendant on probation where there is admissible evidence that the individual had a blood alcohol level of .16 or higher, had a blood alcohol level of .05 in addition to any measurable controlled substance, or had a combination of two or more controlled substances in the person's body that were not recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act or prescribed, the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 120 days;

(c) home confinement of not fewer than 120 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(10) (a) For Subsection (9) or Subsection 41-6a-503[~~(2)~~](3)(b), the court:

(i) shall impose an order requiring the individual to obtain a screening and assessment for alcohol and substance abuse, and treatment as appropriate; and

(ii) may impose an order requiring the individual to participate in a 24/7 sobriety program as defined in Section 41-6a-515.5 if the individual is 21 years old or older.

(b) If an individual described in Subsection (10)(a)(ii) fails to successfully complete all of the requirements of the 24/7 sobriety program, the court shall impose the suspended prison sentence described in Subsection (9).

(11) Under Subsection 41-6a-503[~~(2)~~](3), if the court suspends the execution of a prison sentence and places the defendant on probation with a sentence not described in Subsection (9), the court shall impose:

(a) a fine of not less than $1,500;

(b) a jail sentence of not less than 60 days;

(c) home confinement of not fewer than 60 consecutive days through the use of electronic monitoring that includes a substance abuse testing instrument in accordance with Section 41-6a-506; and

(d) supervised probation.

(12) (a) (i) Except as described in Subsection (12)(a)(ii), a court may not suspend the requirements of this section.

(ii) A court may suspend requirements as described in Subsection (2), (4), (6), (8), (10)(b), or (11).

(b) A court, with stipulation of both parties and approval from the judge, may convert a jail sentence required in this section to electronic home confinement.

(c) A court may order a jail sentence imposed as a condition of misdemeanor probation under this section to be served in multiple two-day increments at weekly intervals if the court determines that separate jail increments are necessary to ensure the defendant can serve the statutorily required jail term and maintain employment.

(13) If an individual is convicted of a violation of Section 41-6a-502 and there is admissible evidence that the individual had a blood alcohol level of .16 or higher, the court shall order the following, or describe on record why the order or orders are not appropriate:

(a) treatment as described under Subsection (1)(b), (3)(b), (5)(b), or (7)(b); and

(b) one or more of the following:

(i) the installation of an ignition interlock system as a condition of probation for the individual in accordance with Section 41-6a-518;

(ii) the imposition of an ankle attached continuous transdermal alcohol monitoring device or remote alcohol monitor as a condition of probation for the individual; or

(iii) the imposition of home confinement through the use of electronic monitoring in accordance with Section 41-6a-506.

CHAPTER 138
H. B. 149

Passed February 17, 2022
Approved March 22, 2022
Effective May 4, 2022

POWER OF ATTORNEY AMENDMENTS

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to a power of attorney.

Highlighted Provisions:

This bill:

- amends provisions related to the nomination of a conservator or a guardian in a power of attorney; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

75-9-108, as enacted by Laws of Utah 2016, Chapter 256

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

Section 1. Section 75-9-108 is amended to read:

75-9-108. Nomination of conservator or guardian -- Adequacy of power of attorney -- Relation of agent to conservator or other fiduciary.

(1) In a power of attorney, a principal may nominate a conservator of the principal's estate or a guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. [~~Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.~~]

[~~(2) If, after a principal executes a power of attorney, a court appoints a conservator of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal.~~]

(2) If a principal executes a power of attorney and a petition is filed to appoint a conservator of the principal's estate, the court shall consider whether:

(a) the provisions in the power of attorney are adequate to manage and protect the principal's estate without appointing a conservator; or

(b) the appointment of a conservator is necessary to manage and protect the principal's estate.

(3) If the court appoints a conservator of the principal's estate or a guardian of the principal's person, the court shall appoint a conservator or a guardian in accordance with the principal's most recent nomination unless there is good cause shown or disqualification.

(4) If, after a principal executes a power of attorney, the court determines that an appointment of a conservator or other fiduciary is necessary to manage and protect some or all of the principal's estate:

(a) the agent named in the principal's power of attorney is accountable to the conservator or other fiduciary as well as the principal; and

(b) [~~The~~] the power of attorney is not terminated and the agent's authority continues unless limited, suspended, or terminated by the court.

CHAPTER 139
H. B. 152

Passed February 11, 2022
Approved March 22, 2022
Effective May 4, 2022

COMMUNITY CORRECTIONAL CENTER REVISIONS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill concerns community correctional centers.

Highlighted Provisions:

This bill:

- amends county zone definitions for community correctional centers;
- establishes procedures and criteria for:
  - transferring offenders between community correctional centers; and
  - establishing a new community correctional center; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

64–13f–102, as last amended by Laws of Utah 2021, Chapter 85

64–13f–103, as last amended by Laws of Utah 2021, Chapter 85

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

Section 1. Section 64-13f-102 is amended to read:

64-13f-102. Definitions.

As used in this chapter:

(1) "Cap" means no more than 20% above the community supervision percentage multiplied by the community correctional center projection.

(2) "Community correctional center" means the same as that term is defined in [~~Subsection 64–13–1(3)~~] Section 64–13–1.

(3) "Community correctional center projection" means the daily average number of offenders projected to be supervised in the community by the department in the next [~~fiscal~~] calendar year multiplied by the daily average percentage of offenders supervised in the community that are also housed in a community correctional center [~~on June 30 of~~] for the previous [~~fiscal~~] calendar year.

(4) "Community supervision percentage" means the percentage calculated by dividing the total number of offenders supervised in the community by the department in each county or county zone by the total number of offenders supervised in the community by the department [~~on June 30, 2024, and on June 30 of every fifth subsequent year~~].

(5) "County zone" means the eastern zone, northern zone, or western zone.

(6) "Department" means the Department of Corrections.

(7) (a) "Eastern zone" means, except as provided in Subsection (7)(b), Carbon, Daggett, Duchesne, Emery, Grand, San Juan, and Uintah counties.

(b) A county with a population of [~~150,000~~] 250,000 or more on the date the community supervision percentage is determined is not part of the eastern zone.

(8) (a) "Northern zone" means, except as provided in Subsection (8)(b), Box Elder, Cache, Morgan, Rich, Summit, and Wasatch counties.

(b) A county with a population of [~~150,000~~] 250,000 or more on the date the community supervision percentage is determined is not part of the northern zone.

(9) "Offender" means the same as that term is defined in [~~Subsection 64–13–1(10)~~] Section 64–13–1.

(10) (a) "Western zone" means, except as provided in Subsection (10)(b), Beaver, Garfield, Tooele, Iron, Juab, Kane, Millard, Piute, Sanpete, Sevier, Washington, and Wayne counties.

(b) A county with a population of [~~150,000~~] 250,000 or more on the date the community supervision percentage is determined is not part of the western zone.

Section 2. Section 64-13f-103 is amended to read:

64-13f-103. Establishment of community correctional centers -- Cap -- Rulemaking -- Procedures.

(1) Subject to appropriation by the Legislature, the department may:

(a) establish community correctional centers throughout the state in accordance with this section;

(b) project the number of offenders that may be released to community correctional centers throughout the state [~~by September 1, 2023, and September 1 of every fifth subsequent year~~]; and

(c) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a procedure to allocate offenders to community correctional centers consistent with Subsections (2) [~~and~~], (3), and (4) and based on the number of offenders projected by the department to be released to community correctional centers under Subsection (1)(b).

[~~(2) Except as provided in Subsection (3), after June 30, 2023, the total number of offenders housed in one or more community correctional centers within a county or county zone may not exceed the county or county zone's cap by more than 20%.~~]

[~~(3) (a) A county or county zone that exceeds the cap described in Subsection (2) on July 1, 2023, may~~

~~continue to exceed the cap until the day on which the county or county zone first comes into compliance with the cap.~~]

[~~(b) A county or county zone described in Subsection (3)(a) may not exceed the cap after the day on which the county or county zone first comes into compliance with the cap.~~]

[~~(c)~~] (2) (a) [~~The~~] Except as provided in Subsection (2)(b) or (3), the department shall transfer offenders from a community correctional center in a county or county zone [~~described in Subsection (3)(a)~~] that is exceeding the county's or county zone's cap to a community correctional center in another county or county zone that [~~does not meet or exceed the cap until the county or county zone described in Subsection (3)(a) comes into compliance with the cap~~] is not meeting or exceeding the county's or county zone's cap.

(b) A transfer under Subsection (2)(a) may occur only between community correctional centers that are currently existing and fully operational.

(c) After a county or county zone transfers offenders under Subsection (2)(a), the department shall permanently reduce the total number of available beds within the county or county zone according to the number of offenders transferred to a different community correctional center under Subsection (2)(a), unless the reduction places the county or county zone below the county's or county zone's cap.

(3) The department may not transfer an offender under Subsection (2)(a) unless the department determines that the transfer is in the best interest of the offender's successful re-entry into the community.

(4) When opening a new community correctional center, the department shall:

(a) determine which counties or county zones are operating in excess of the counties' or county zones' respective caps;

(b) compare the percentages at which the counties or county zones identified in Subsection (4)(a) are operating above the counties' or county zones' respective caps;

(c) use the comparison described in Subsection (4)(b) to determine the number of offenders who may be transferred from each county or county zone to the new community correctional center, giving priority to offender transfers from counties or county zones that have the highest percentages; and

(d) limit the offenders who will be placed in the new community correctional center to:

(i) offenders who are residents of the county or county zone within which the new community correctional center is located; or

(ii) offenders for whom the placement would be in the best interest of successful re-entry into the community, as determined by the department.

(5) The department shall consider the proximity of the following services to the new community correctional center when determining the placement of a new community correctional center within a county or county zone:

(a) treatment services;

(b) healthcare services;

(c) employment services;

(d) housing services;

(e) transportation services; and

(f) other services that contribute to an offender's successful community reintegration.

CHAPTER 140
H. B. 155

Passed March 1, 2022
Approved March 22, 2022
Effective May 4, 2022

VETERAN ACCESS TO STATE PARKS

Chief Sponsor: Mike Schultz
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to veteran access to state parks.

Highlighted Provisions:

This bill:

- expands the State Parks Honor Pass Program to all veterans with any percentage of disability rating from the Veterans Administration.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Veterans and Military Affairs DVMA Pass Through as an ongoing appropriation:
  - from the General Fund, Ongoing, $315,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-4-304, as last amended by Laws of Utah 2016, Chapter 142

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

Section 1. Section 79-4-304 is amended to read:

79-4-304. Board rulemaking authority.

(1) Rules made by the board shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The board may make rules:

(i) governing the use of the state park system;

(ii) to protect state parks and their natural and cultural resources from misuse or damage, including watersheds, plants, wildlife, and park amenities; and

(iii) to provide for public safety and preserve the peace within state parks.

(b) To accomplish the purposes stated in Subsection (2)(a), the board may enact rules that:

(i) close or partially close state parks; or

(ii) establish use or access restrictions within state parks.

(c) Rules made under Subsection (2) may not have the effect of preventing the transfer of livestock along a livestock highway established in accordance with Section 72-3-112.

(3) The board shall adopt rules:

(a) governing the collection of charges under Subsection 79-4-203(8); and

(b) granting free admission to state parks to an honorably discharged veteran who [~~is~~]:

(i) is a resident of the state; and

(ii) has a current service-connected disability rating issued by the United States Veterans Benefits Administration.

[~~(ii) at least 50% disabled, as evidenced by documentation from:~~]

[~~(A) the United States Department of Veterans Affairs;~~]

[~~(B) an active component of the United States armed forces; or~~]

[~~(C) a reserve component of the United States armed forces.~~]

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Veterans and Military Affairs - DVMA Pass Through

From General Fund	$315,000
Schedule of Programs:	
DVMA Pass Through	$315,000

The Legislature intends that the Department of Veterans and Military Affairs pass through the appropriation under this section to the Division of State Parks to pay for disabled veterans' free annual park passes.

CHAPTER 141
H. B. 167

Passed February 25, 2022
Approved March 22, 2022
Effective May 4, 2022

MENTAL ILLNESS PSYCHOTHERAPY DRUG TASK FORCE

Chief Sponsor: Brady Brammer
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill creates the Mental Illness Psychotherapy Drug Task Force.

Highlighted Provisions:

This bill:

- creates the Mental Illness Psychotherapy Drug Task Force;
- requires the task force to study and make recommendations on drugs that may assist in treating mental illness;
- sets a repeal date for the task force; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-236, as last amended by Laws of Utah 2021, Second Special Session, Chapter 8

ENACTS:

36-29-301, Utah Code Annotated 1953
36-29-302, Utah Code Annotated 1953
36-29-303, Utah Code Annotated 1953

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

Section 1. Section 36-29-301 is enacted to read:

Part 3. Mental Illness Psychotherapy Drug Task Force.

36-29-301. Definitions.

As used in this part:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

(2) "Executive director" means the executive director of the department.

(3) "Psychotherapy drug" means a controlled substance that:

(a) is not currently available for legal use; and

(b) may be able to treat, manage, or alleviate symptoms from mental illness.

(4) "Task force" means the Mental Illness Psychotherapy Drug Task Force created in this part.

Section 2. Section 36-29-302 is enacted to read:

36-29-302. Creation and membership.

(1) There is created the Mental Illness Psychotherapy Drug Task Force.

(2) The task force shall be chaired by:

(a) the executive director or the executive director's designee; and

(b) the chief executive officer of the Huntsman Mental Health Institute at the University of Utah.

(3) In addition to the individuals described in Subsection (2), the task force shall consist of the following members jointly appointed by the individuals described in Subsection (2):

(a) a licensed psychiatrist;

(b) a licensed psychologist;

(c) a licensed pharmacist;

(d) a representative from the Utah Medical Association;

(e) an individual who researches and studies neuroscience and mental health;

(f) a representative from a Utah hospital or a major healthcare system;

(g) a patient who is knowledgeable about the use of a psychotherapy drug, nominated by a patient advocacy group;

(h) a trauma focused therapist;

(i) a licensed attorney with knowledge of the law regarding controlled substances and other drugs;

(j) a medical or psychiatric ethicist with knowledge of the ethical and legal issues pertaining to psychotherapy drugs; and

(k) a clinician who is board certified in addiction medicine.

(4) (a) If a vacancy occurs in the membership of the task force the member shall be replaced in the same manner as the original appointment was made.

(b) A member of the task force serves until the member's successor is appointed.

(5) (a) A majority of the task force members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) A task force member may not receive compensation or benefits for the member's service on the task force but may receive per diem and reimbursement for travel expenses incurred as a task force member in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

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

(7) The department shall provide staff support for the task force and assist the task force in conducting task force meetings.

Section 3. Section 36-29-303 is enacted to read:

36-29-303. Duties.

(1) (a) The task force shall provide evidence-based recommendations on any psychotherapy drug that the task force determines may enhance psychotherapy when treating a mental illness.

(b) For a psychotherapy drug described in Subsection (1)(a), the task force shall provide recommendations on:

(i) types or symptoms of mental illness for which the psychotherapy drug could be used as a treatment option;

(ii) the appropriate administration and dosage;

(iii) any license or credential required for an individual recommending or administering the psychotherapy drug;

(iv) training that may be helpful or should be required for an individual to recommend or administer the psychotherapy drug;

(v) if an additional license or credential is recommended for prescribing or administering the psychotherapy drug, the administration of the license or credential;

(vi) the frequency at which the psychotherapy drug may be used;

(vii) any procedures to appropriately obtain, store, and monitor the use of the psychotherapy drug;

(viii) potential psychotherapeutic modalities with which a psychotherapy drug may be used;

(ix) any organizations that may be able to provide a perspective on ethical considerations regarding the psychotherapy drug;

(x) any safety requirements regarding the psychotherapy drug;

(xi) any necessary follow up procedures that should be followed after an individual takes the psychotherapy drug;

(xii) any procedures for data tracking;

(xiii) any additional investigation or research needed for the psychotherapy drug;

(xiv) any long term societal impacts on the administration of the psychotherapy drug; and

(xv) proposed regulations the Legislature should consider if the psychotherapy drug is made legal for treating mental illness.

(2) The task force shall provide a written report to the Health and Human Services Interim Committee before October 31, 2022.

Section 4. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-29-107.5 is repealed on November 30, 2023.

(2) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(3) Title 36, Chapter 29, Part 3, Mental Illness Psychotherapy Drug Task Force, is repealed December 31, 2023.

CHAPTER 142
H. B. 175

Passed February 18, 2022
Approved March 22, 2022
Effective May 4, 2022

PROTECTION OF ANIMALS AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill concerns protections for an animal under circumstances of domestic violence and stalking.

Highlighted Provisions:

This bill:

- defines "household animal";
- modifies the definition of "emotional distress" related to the offense of stalking to include suffering resulting from harm to an animal;
- requires the Administrative Office of the Courts to include a space to indicate a request for protection of an animal on certain protective order forms;
- allows the court to, when issuing certain protective orders, enjoin the respondent from injuring, threatening to injure, or taking possession of certain animals; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-5-106.5, as last amended by Laws of Utah 2020, Chapter 142
78B-7-102, as last amended by Laws of Utah 2021, Chapter 262
78B-7-105, as last amended by Laws of Utah 2021, Chapter 159
78B-7-404, as last amended by Laws of Utah 2020, Chapter 142
78B-7-603, as last amended by Laws of Utah 2021, Chapters 159 and 262

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

Section 1. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1) As used in this section:

(a) "Course of conduct" means two or more acts directed at or toward a specific person, including:

(i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about a person, or interferes with a person's property:

(A) directly, indirectly, or through any third party; and

(B) by any action, method, device, or means; or

(ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(A) approaches or confronts a person;

(B) appears at the person's workplace or contacts the person's employer or coworkers;

(C) appears at a person's residence or contacts a person's neighbors, or enters property owned, leased, or occupied by a person;

(D) sends material by any means to the person or for the purpose of obtaining or disseminating information about or communicating with the person to a member of the person's family or household, employer, coworker, friend, or associate of the person;

(E) places an object on or delivers an object to property owned, leased, or occupied by a person, or to the person's place of employment with the intent that the object be delivered to the person; or

(F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

(b) (i) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

(ii) "Emotional distress" includes significant mental or psychological suffering resulting from harm to an animal.

(c) "Immediate family" means a spouse, parent, child, sibling, or any other person who regularly resides in the household or who regularly resided in the household within the prior six months.

(d) "Reasonable person" means a reasonable person in the victim's circumstances.

(e) "Stalking" means an offense as described in Subsection (2) or (3).

(f) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another person's telephone or computer by addressing the communication to the recipient's telephone number.

(2) A person is guilty of stalking who intentionally or knowingly engages in a course of conduct directed at a specific person and knows or should know that the course of conduct would cause a reasonable person:

(a) to fear for the person's own safety or the safety of a third person; or

(b) to suffer other emotional distress.

(3) A person is guilty of stalking who intentionally or knowingly violates:

(a) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

(b) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(4) In any prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

(6) Stalking is a class A misdemeanor:

(a) upon the offender's first violation of Subsection (2); or

(b) if the offender violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(7) Stalking is a third degree felony if the offender:

(a) has been previously convicted of an offense of stalking;

(b) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

(c) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

(d) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

(e) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

(8) Stalking is a second degree felony if the offender:

(a) used a dangerous weapon as defined in Section 76-1-601 or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

(b) has been previously convicted two or more times of the offense of stalking;

(c) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

(d) has been convicted two or more times, in any combination, of offenses under Subsection (7)(a), (b), or (c);

(e) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

(f) has been previously convicted of an offense under Subsection (7)(d) or (e).

(9) (a) A permanent criminal stalking injunction limiting the contact between the defendant and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

(10) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection (10)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection (10), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 2. Section 78B-7-102 is amended to read:

78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section 76-1-601.

(3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

(6) "Consanguinity" means the same as that term is defined in Section 76-1-601.

(7) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

(9) "Court clerk" means a district court clerk.

(10) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or

(B) is 18 years old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

(11) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.

(12) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(13) "Ex parte civil protective order" means an order issued without notice to the respondent under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.

(15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

(16) "Household animal" means an animal that is tamed and kept as a pet.

[~~(16)~~] (17) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

[~~(17)~~] (18) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

[~~(18)~~] (19) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

[~~(19)~~] (20) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

[~~(20)~~] (21) "Respondent" means the individual against whom enforcement of a protective order is sought.

[~~(21)~~] (22) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 3. Section 78B-7-105 is amended to read:

78B-7-105. Forms for petitions, civil protective orders, and civil stalking injunctions -- Assistance -- Fees.

(1) (a) The offices of the court clerk shall provide forms to an individual seeking any of the following under this chapter:

(i) an ex parte civil protective order;

(ii) a civil protective order;

(iii) an ex parte stalking injunction; or

(iv) a civil stalking injunction.

(b) The Administrative Office of the Courts shall:

(i) develop and adopt uniform forms for petitions and the protective orders and stalking injunctions described in Subsection (1)(a) in accordance with the provisions of this chapter; and

(ii) provide the forms to the clerk of each court authorized to issue the protective orders and stalking injunctions described in Subsection (1)(a).

(2) The forms described in Subsection (1)(b) shall include:

(a) for a petition for an ex parte civil protective order or a civil protective order:

(i) a statement notifying the petitioner for an ex parte civil protective order that knowing falsification of any statement or information provided for the purpose of obtaining a civil protective order may subject the petitioner to felony prosecution;

(ii) language indicating the criminal penalty for a violation of an ex parte civil protective order or a civil protective order under this chapter and language stating a violation of or failure to comply with a civil provision is subject to contempt proceedings;

(iii) a space for information the petitioner is able to provide to facilitate identification of the respondent, including the respondent's social security number, driver license number, date of birth, address, telephone number, and physical description;

(iv) a space for information the petitioner is able to provide related to a proceeding for a civil protective order or a criminal protective order, civil litigation, a proceeding in juvenile court, or a criminal case involving either party, including the case name, file number, the county and state of the proceeding, and the judge's name;

(v) a space to indicate whether the party to be protected is an intimate partner to the respondent or a child of an intimate partner to the respondent; and

(vi) a space for the date on which the provisions of the protective order expire; [~~and~~]

(b) for a petition under Part 4, Dating Violence Protective Orders, a space to indicate whether an order under Subsection 78B-7-404(2)(e) or (f) regarding a household animal is requested; and

[~~(b)~~] (c) for a petition under Part 6, Cohabitant Abuse Protective Orders:

(i) a separate portion of the form for those provisions, the violation of which is a criminal offense, and a separate portion for those provisions, the violation of which is a civil violation;

(ii) a statement advising the petitioner that when a child is included in an ex parte protective order or a protective order, as part of either the criminal or the civil portion of the order, the petitioner may provide a copy of the order to the principal of the school that the child attends; [~~and~~]

(iii) a statement advising the petitioner that if the respondent fails to return custody of a minor child to the petitioner as ordered in a protective order, the petitioner may obtain from the court a writ of assistance[~~.~~]; and

(iv) a space to indicate whether an order under Subsection 78B-7-603(2)(k) or (l) regarding a household animal is requested.

(3) If the individual seeking to proceed as a petitioner under this chapter is not represented by an attorney, the court clerk's office shall provide nonlegal assistance, including:

(a) the forms adopted under Subsection (1)(b);

(b) all other forms required to petition for a protective order or stalking injunction described in Subsection (1)(a), including forms for service;

(c) clerical assistance in filling out the forms and filing the petition, or if the court clerk's office designates another entity, agency, or person to provide that service, oversight over the entity, agency, or person to see that the service is provided;

(d) information regarding the means available for the service of process;

(e) a list of legal service organizations that may represent the petitioner in an action brought under this chapter, together with the telephone numbers of those organizations; and

(f) written information regarding the procedure for transporting a jailed or imprisoned respondent to the protective order hearing, including an explanation of the use of transportation order forms when necessary.

(4) A court clerk, constable, or law enforcement agency may not impose a charge for:

(a) filing a petition under this chapter;

(b) obtaining an ex parte civil protective order or ex parte civil stalking injunction;

(c) obtaining copies, either certified or uncertified, necessary for service or delivery to law enforcement officials; or

(d) fees for service of:

(i) a petition under this chapter;

(ii) an ex parte civil protective order;

(iii) a civil protective order;

(iv) an ex parte civil stalking injunction; or

(v) a civil stalking injunction.

(5) A petition for an ex parte civil protective order and a civil protective order shall be in writing and verified.

(6) (a) The protective orders and stalking injunctions described in Subsection (1)(a) shall be issued in the form adopted by the Administrative Office of the Courts under Subsection (1)(b).

(b) A civil protective order that is issued shall, if applicable, include the following language:

"Respondent was afforded both notice and opportunity to be heard in the hearing that gave rise to this order. Pursuant to the Violence Against Women Act of 1994, P.L. 103-322, 108 Stat. 1796, 18 U.S.C. Sec. 2265, this order is valid in all the United States, the District of Columbia, tribal lands, and United States territories. This order complies with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.".

(c) An ex parte civil protective order and a civil protective order issued under Part 6, Cohabitant Abuse Protective Orders, shall include the following language:

"NOTICE TO PETITIONER: The court may amend or dismiss a protective order after one year if it finds that the basis for the issuance of the protective order no longer exists and the petitioner has repeatedly acted in contravention of the protective order provisions to intentionally or knowingly induce the respondent to violate the protective order, demonstrating to the court that the petitioner no longer has a reasonable fear of the respondent.".

(d) A child protective order issued under Part 2, Child Protective Orders, shall include:

(i) the date the order expires; and

(ii) a statement that the address provided by the petitioner will not be made available to the respondent.

(7) (a) (i) The court clerk shall provide, without charge, to the petitioner, one certified copy of a civil stalking injunction issued by the court and one certified copy of the proof of service of the civil stalking injunction on the respondent.

(ii) A charge may be imposed by the court clerk's office for any copies in addition to the copy described in Subsection (7)(a)(i), certified or uncertified.

(b) An ex parte civil stalking injunction and civil stalking injunction shall include the following statement:

"Attention: This is an official court order. If you disobey this order, the court may find you in contempt. You may also be arrested and prosecuted for the crime of stalking and any other crime you may have committed in disobeying this order.".

Section 4. Section 78B-7-404 is amended to read:

78B-7-404. Dating violence protective orders -- Ex parte dating violence protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify an existing protective order that a dating partner of the petitioner has abused or committed dating violence against the petitioner, the court may:

(a) without notice, immediately issue an ex parte dating violence protective order against the dating partner or modify an existing dating protective order ex parte if necessary to protect the petitioner and all parties named in the petition; or

(b) upon notice to the respondent, issue a dating violence protective order or modify a dating violence protective order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in a dating violence protective order or a modification issued ex parte:

(a) prohibit the respondent from threatening to commit or committing dating violence or abuse against the petitioner and any designated family or household member described in the protective order;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly;

(c) order that the respondent:

(i) is excluded and shall stay away from the petitioner's residence and its premises;

(ii) except as provided in Subsection (4), stay away from the petitioner's:

(A) school and the school's premises; and

(B) place of employment and its premises; and

(iii) stay away from any specified place frequented by the petitioner or any designated family or household member;

(d) prohibit the respondent from being within a specified distance of the petitioner; [~~and~~]

(e) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;

(f) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent; and

[~~(e)~~] (g) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member.

(3) A court may grant the following relief in a dating violence protective order or a modification of a dating violence protective order, after notice and a hearing, regardless of whether the respondent appears:

(a) the relief described in Subsection (2); and

(b) except as provided in Subsection (5), upon finding that the respondent's use or possession of a weapon poses a serious threat of harm to the petitioner or any designated family or household member, prohibit the respondent from purchasing, using, or possessing a weapon specified by the court.

(4) If the petitioner or a family or household member designated in the protective order attends the same school as the respondent, or is employed at the same place of employment as the respondent, the district court:

(a) may not enter an order under Subsection (2)(c)(ii) that excludes the respondent from the respondent's school or place of employment; and

(b) may enter an order governing the respondent's conduct at the respondent's school or place of employment.

(5) The court may not prohibit the respondent from possessing a firearm:

(a) if the respondent has not been given notice of the petition for a protective order and an opportunity to be heard; and

(b) unless the petition establishes:

(i) by a preponderance of the evidence that the respondent has committed abuse or dating violence against the petitioner; and

(ii) by clear and convincing evidence that the respondent's use or possession of a firearm poses a serious threat of harm to petitioner or the designated family or household member.

(6) After the court issues a dating violence protective order, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts at the hearing to ensure that the dating violence protective order is understood by the petitioner and the respondent, if present;

(c) transmit electronically, by the end of the business day after the day on which the order is issued, a copy of the dating violence protective order to the local law enforcement agency designated by the petitioner; and

(d) transmit a copy of the protective order issued under this part in the same manner as described in Section 78B-7-113.

(7) (a) The county sheriff that receives the order from the court, under Subsection (6)(a), shall:

(i) provide expedited service for protective orders issued in accordance with this part; and

(ii) after the order has been served, transmit verification of service of process to the statewide network described in Section 78B-7-113.

(b) This section does not prohibit another law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that, under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(8) When a protective order is served on a respondent in jail, or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(9) A court may modify or vacate a protective order under this part after notice and hearing, if the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and appears before the court to give specific consent to the modification or vacation of the provisions of the protective order; or

(b) submits an affidavit agreeing to the modification or vacation of the provisions of the protective order.

Section 5. Section 78B-7-603 is amended to read:

78B-7-603. Cohabitant abuse protective orders -- Ex parte cohabitant abuse protective orders -- Modification of orders -- Service of process -- Duties of the court.

(1) If it appears from a petition for a protective order or a petition to modify a protective order that domestic violence or abuse has occurred, that there is a substantial likelihood domestic violence or abuse will occur, or that a modification of a protective order is required, a court may:

(a) without notice, immediately issue an ex parte cohabitant abuse protective order or modify a protective order ex parte as the court considers necessary to protect the petitioner and all parties named to be protected in the petition; or

(b) upon notice, issue a protective order or modify an order after a hearing, regardless of whether the respondent appears.

(2) A court may grant the following relief without notice in a protective order or a modification issued ex parte:

(a) enjoin the respondent from threatening to commit domestic violence or abuse, committing domestic violence or abuse, or harassing the petitioner or any designated family or household member;

(b) prohibit the respondent from telephoning, contacting, or otherwise communicating with the petitioner or any designated family or household member, directly or indirectly, with the exception of any parent-time provisions in the ex parte order;

(c) subject to Subsection (2)(e), prohibit the respondent from being within a specified distance of the petitioner;

(d) subject to Subsection (2)(e), order that the respondent is excluded from and is to stay away from the following places and their premises:

(i) the petitioner's residence or any designated family or household member's residence;

(ii) the petitioner's school or any designated family or household member's school;

(iii) the petitioner's or any designated family or household member's place of employment;

(iv) the petitioner's place of worship or any designated family or household member's place of worship; or

(v) any specified place frequented by the petitioner or any designated family or household member;

(e) if the petitioner or designated family or household member attends the same school as the respondent, is employed at the same place of employment as the respondent, or attends the same place of worship, the court:

(i) may not enter an order under Subsection (2)(c) or (d) that excludes the respondent from the respondent's school, place of employment, or place of worship; and

(ii) may enter an order governing the respondent's conduct at the respondent's school, place of employment, or place of worship;

(f) upon finding that the respondent's use or possession of a weapon may pose a serious threat of harm to the petitioner, prohibit the respondent from purchasing, using, or possessing a firearm or other weapon specified by the court;

(g) order possession and use of an automobile and other essential personal effects, and direct the appropriate law enforcement officer to accompany the petitioner to the residence of the parties to ensure that the petitioner is safely restored to possession of the residence, automobile, and other essential personal effects, or to supervise the petitioner's or respondent's removal of personal belongings;

(h) order the respondent to maintain an existing wireless telephone contract or account;

(i) grant to the petitioner or someone other than the respondent temporary custody of a minor child of the parties;

(j) order the appointment of an attorney guardian ad litem under Sections 78A-2-703 and 78A-2-803;

(k) prohibit the respondent from physically injuring, threatening to injure, or taking possession of a household animal that is owned or kept by the petitioner;

(l) prohibit the respondent from physically injuring or threatening to injure a household animal that is owned or kept by the respondent;

[~~(k)~~] (m) order any further relief that the court considers necessary to provide for the safety and welfare of the petitioner and any designated family or household member; and

[~~(l)~~] (n) if the petition requests child support or spousal support, at the hearing on the petition order both parties to provide verification of current income, including year-to-date pay stubs or employer statements of year-to-date or other period of earnings, as specified by the court, and complete copies of tax returns from at least the most recent year.

(3) A court may grant the following relief in a cohabitant abuse protective order or a modification of an order after notice and hearing, regardless of whether the respondent appears:

(a) grant the relief described in Subsection (2); and

(b) specify arrangements for parent-time of any minor child by the respondent and require supervision of that parent-time by a third party or deny parent-time if necessary to protect the safety of the petitioner or child.

(4) In addition to the relief granted under Subsection (3), the court may order the transfer of a wireless telephone number in accordance with Section 78B-7-117.

(5) Following the cohabitant abuse protective order hearing, the court shall:

(a) as soon as possible, deliver the order to the county sheriff for service of process;

(b) make reasonable efforts to ensure that the cohabitant abuse protective order is understood by the petitioner, and the respondent, if present;

(c) transmit electronically, by the end of the next business day after the order is issued, a copy of the cohabitant abuse protective order to the local law enforcement agency or agencies designated by the petitioner;

(d) transmit a copy of the order to the statewide domestic violence network described in Section 78B-7-113; and

(e) if the individual is a respondent or defendant subject to a court order that meets the qualifications outlined in 18 U.S.C. Sec. 922(g)(8), transmit within 48 hours, excluding Saturdays, Sundays, and legal holidays, a record of the order to the Bureau of Criminal Identification that includes:

(i) an agency record identifier;

(ii) the individual's name, sex, race, and date of birth;

(iii) the issue date, conditions, and expiration date for the protective order; and

(iv) if available, the individual's social security number, government issued driver license or identification number, alien registration number, government passport number, state identification number, or FBI number.

(6) Each protective order shall include two separate portions, one for provisions, the violation of which are criminal offenses, and one for provisions, the violation of which are civil offenses, as follows:

(a) criminal offenses are those under Subsections (2)(a) through (g), and under Subsection (3)(a) as it refers to Subsections (2)(a) through (g); and

(b) civil offenses are those under Subsections (2)(h) through (l), Subsection (3)(a) as it refers to Subsections (2)(h) through (l), and Subsection (3)(b).

(7) Child support and spouse support orders issued as part of a protective order are subject to mandatory income withholding under Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases, and Title 62A, Chapter 11, Part 5, Income Withholding in Non IV-D Cases, except when the protective order is issued ex parte.

(8) (a) The county sheriff that receives the order from the court, under Subsection (5), shall provide expedited service for protective orders issued in accordance with this part, and shall transmit verification of service of process, when the order has been served, to the statewide domestic violence network described in Section 78B-7-113.

(b) This section does not prohibit any law enforcement agency from providing service of process if that law enforcement agency:

(i) has contact with the respondent and service by that law enforcement agency is possible; or

(ii) determines that under the circumstances, providing service of process on the respondent is in the best interests of the petitioner.

(9) (a) When an order is served on a respondent in a jail or other holding facility, the law enforcement agency managing the facility shall make a reasonable effort to provide notice to the petitioner at the time the respondent is released from incarceration.

(b) Notification of the petitioner shall consist of a good faith reasonable effort to provide notification, including mailing a copy of the notification to the last-known address of the victim.

(10) A court may modify or vacate a protective order or any provisions in the protective order after notice and hearing, except that the criminal provisions of a cohabitant abuse protective order may not be vacated within two years of issuance unless the petitioner:

(a) is personally served with notice of the hearing, as provided in the Utah Rules of Civil Procedure, and the petitioner personally appears, in person or through court video conferencing, before the court and gives specific consent to the vacation of the criminal provisions of the cohabitant abuse protective order; or

(b) submits a verified affidavit, stating agreement to the vacation of the criminal provisions of the cohabitant abuse protective order.

(11) A protective order may be modified without a showing of substantial and material change in circumstances.

(12) A civil provision of a protective order described in Subsection (6) may be dismissed or modified at any time in a divorce, parentage, custody, or guardianship proceeding that is pending between the parties to the protective order action if:

(a) the parties stipulate in writing or on the record to dismiss or modify a civil provision of the protective order; or

(b) the court in the divorce, parentage, custody, or guardianship proceeding finds good cause to dismiss or modify the civil provision.

CHAPTER 143
H. B. 180

Passed March 3, 2022
Approved March 22, 2022
Effective January 1, 2023

OFF-ROAD VEHICLE SAFETY EDUCATION

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to off-highway vehicle safety education and registration.

Highlighted Provisions:

This bill:

- requires any individual operating an off-highway vehicle to complete an online education course;
- requires an individual under 18 years old without a driver license to complete an operational safety course before operating an off-highway vehicle;
- requires an individual convicted of certain off-highway vehicle laws to perform community services to repair damages caused by the violation;
- amends provisions related to off-highway vehicle registration and requires issuance and display of a license plate on each off-highway vehicle; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-22-3, as last amended by Laws of Utah 2021, Chapters 135 and 280
41-22-5.1, as last amended by Laws of Utah 2021, Chapter 280
41-22-12.2, as last amended by Laws of Utah 2015, Chapter 412
41-22-12.5, as last amended by Laws of Utah 2015, Chapter 412
41-22-19, as last amended by Laws of Utah 2012, Chapter 71
41-22-30, as last amended by Laws of Utah 2021, Chapters 110 and 280
41-22-31, as last amended by Laws of Utah 2021, Chapter 280
41-22-35, as last amended by Laws of Utah 2021, Chapter 280

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

Section 1. Section 41-22-3 is amended to read:

41-22-3. Registration of vehicles -- Application -- Issuance of sticker and card -- Proof of property tax payment -- Records.

(1) (a) Unless exempted under Section 41-22-9, a person may not operate or transport and an owner may not give another person permission to operate or transport any off-highway vehicle on any public land, trail, street, or highway in this state unless the off-highway vehicle is registered under this chapter for the current year.

(b) Unless exempted under Section 41-22-9, a dealer may not sell an off-highway vehicle which can be used or transported on any public land, trail, street, or highway in this state, unless the off-highway vehicle is registered or is in the process of being registered under this chapter for the current year.

(c) Unless specifically provided in this chapter, the division shall administer license plates, decals, and registration of off-highway vehicles in accordance with Chapter 1a, Motor Vehicle Act.

(2) (a) The owner of an off-highway vehicle subject to registration under this chapter shall apply to the Motor Vehicle Division for registration on forms approved by the Motor Vehicle Division.

(b) An owner of an off-highway vehicle may apply for automatic registration renewal as described in Section 41-1a-216.

(3) Each application for registration of an off-highway vehicle shall be accompanied by:

(a) evidence of ownership, a title, or a manufacturer's certificate of origin, and a bill of sale showing ownership, make, model, horsepower or displacement, and serial number;

(b) the past registration card; or

(c) the fee for a duplicate.

(4) (a) (i) Beginning on January 1, 2023, except as provided in Subsection (4)(e), the first time an off-highway vehicle is registered, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

(ii) If an off-highway vehicle has been registered previously in this state but has not been issued an off-highway vehicle license plate, beginning on January 1, 2023, upon application for registration renewal, the Motor Vehicle Division shall issue one off-highway vehicle license plate, a registration decal, and a registration card.

[~~(4) (a)~~] (b) Upon each annual registration, the Motor Vehicle Division shall issue a registration [~~sticker~~] decal and a registration card for each off-highway vehicle registered.

[~~(b)~~] (c) The [~~registration sticker shall~~] off-highway vehicle license plate:

(i) shall contain a unique five-digit number [~~using numbers, letters, or combination of numbers and letters~~] to identify the off-highway vehicle for which it is issued;

(ii) shall be affixed to the rear of the off-highway vehicle for which it is issued in a plainly visible and upright position as prescribed by rule of the division under Section 41-22-5.1; [~~and~~]

(iii) shall be maintained free of foreign materials and in a condition to be clearly legible[~~.~~];

(iv) shall be a distinct tan color with black lettering to identify the license plate as an off-highway vehicle license plate;

(v) shall have a location to attach the registration decal; and

(vi) may not be a personalized license plate or a special group license plate.

[~~(c)~~] (d) At all times, a registration card shall be kept with the off-highway vehicle and shall be available for inspection by a law enforcement officer.

(e) An off-highway vehicle that is a motorcycle is:

(i) not required to obtain or display an off-highway vehicle license plate; and

(ii) required to obtain and display an off-highway vehicle registration sticker.

(5) (a) Except as provided by Subsection (5)(c), an applicant for a registration card and registration [~~sticker~~] decal shall provide the Motor Vehicle Division a certificate, described under Subsection (5)(b), from the county assessor of the county in which the off-highway vehicle has situs for taxation.

(b) The certificate required under Subsection (5)(a) shall state one of the following:

(i) the property tax on the off-highway vehicle for the current year has been paid;

(ii) in the county assessor's opinion, the tax is a lien on real property sufficient to secure the payment of the tax; or

(iii) the off-highway vehicle is exempt by law from payment of property tax for the current year.

(c) An off-highway vehicle for which an off-highway implement of husbandry sticker has been issued in accordance with Section 41-22-5.5 is:

(i) exempt from the requirement under this Subsection (5)[~~.~~];

(ii) not required to obtain or purchase an off-highway vehicle license plate; and

(iii) required to obtain and display an off-highway vehicle registration sticker.

(6) (a) All records of the division made or kept under this section shall be classified by the Motor Vehicle Division in the same manner as motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records under Section 41-1a-116.

(7) A violation of this section is an infraction.

Section 2. Section 41-22-5.1 is amended to read:

41-22-5.1. Rules of division relating to display of registration stickers.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after consultation with the commission, shall make rules for the display of [~~a registration sticker~~] an off-highway license plate and registration decal on an off-highway vehicle in accordance with Section 41-22-3.

Section 3. Section 41-22-12.2 is amended to read:

41-22-12.2. Unlawful cross-country motor vehicle travel on public land.

(1) A person may not operate and an owner of a motor vehicle may not give another person permission to operate a motor vehicle cross-country on any public land not designated for that use by the controlling agency.

(2) A person who violates this section is guilty of an infraction.

(3) (a) (i) As part of any sentence for a conviction of a violation of this section, the court[~~:~~] shall order the person to perform community service in the form of repairing any damage to the public land caused by the unlawful cross-country motor vehicle travel, with a minimum sentence calculated as described in Subsection (3)(b).

(ii) The court shall order the community service described in Subsection (3)(a)(i) to occur at the location or locations where the person caused damage to the public land.

(b) For the community service required in Subsection (3)(a), the court shall:

(i) determine the approximate value of the damage caused by the unlawful cross-country motor vehicle travel; and

(ii) calculate the number of hours of community service required to cover the cost of the damage caused by dividing the approximate value determined pursuant to Subsection (3)(b)(i) by a rate of $25 per hour.

[~~(a) may impose a fine not to exceed $150; and~~]

[~~(b) may require the person to perform community service in the form of repairing any damage to the public land caused by the unlawful cross-country motor vehicle travel.~~]

Section 4. Section 41-22-12.5 is amended to read:

41-22-12.5. Restrictions on use of privately-owned lands without permission -- Unlawful for person to tamper with signs or fencing on privately-owned land.

(1) (a) A person may not operate or accompany a person operating a motor vehicle on privately-owned land of any other person, firm, or corporation without permission from the owner or person in charge.

(b) A person operating or accompanying a person operating a motor vehicle may not refuse to immediately leave private land upon request of the owner or person in charge of the land.

(c) Subsections (1)(a) and (b) do not apply to prescriptive easements on privately owned land.

(d) A person who violates Subsection (1)(a) is guilty of an infraction.

(e) A person who violates Subsection (1)(b) is guilty of a class C misdemeanor.

[~~(f) As part of any sentence for a conviction of a violation of Subsection (1)(a) or (b), the court may:~~]

[~~(i) impose a fine of not more than $150;~~]

[~~(ii) require the person to pay restitution not to exceed $500 for any damage caused by the unlawful motor vehicle travel; and~~]

[~~(iii) require the person to perform community service in the form of repairing any damage caused by the unlawful motor vehicle travel.~~]

(f) (i) As part of any sentence for a conviction of a violation of this Subsection (1), the court shall order the person to perform community service in the form of repairing any damage to the land or infrastructure caused by the unlawful motor vehicle travel, with a minimum sentence calculated as described in Subsection (1)(f)(iii).

(ii) The court shall order the community service described in Subsection (1)(f)(i) to occur at the location or locations where the person caused damage to the private land or infrastructure.

(iii) For the community service required in Subsection (1)(f)(i), the court shall:

(A) determine the approximate value of the damage caused by the unlawful cross-country motor vehicle travel; and

(B) calculate the number of hours of community service required to cover the cost of the damage caused by dividing the approximate value determined pursuant to Subsection (1)(f)(iii)(A) by a rate of $25 per hour.

(2) A person operating or accompanying a person operating a motor vehicle may not obstruct an entrance or exit to private property without the owner's permission.

(3) A person may not:

(a) tear down, mutilate, or destroy any sign, signboards, or other notice which regulates trespassing for purposes of operating a motor vehicle on land; or

(b) tear down, deface, or destroy any fence or other enclosure or any gate or bars belonging to the fence or enclosure.

(4) (a) A violation of Subsection (2) is an infraction.

(b) A violation of Subsection (3) is a class C misdemeanor.

(5) (a) (i) As part of any sentence for a conviction of a violation of Subsection (2) or (3), the court shall order the person to perform community service in the form of repairing any damage to the land or infrastructure caused by the unlawful motor vehicle travel, with a minimum sentence calculated as described in Subsection (5)(b).

(ii) The court shall order the community service described in Subsection (5)(a)(i) to occur at the location or locations where the person caused damage to the land or infrastructure.

(b) For the community service required in Subsection (5)(a), the court shall:

(i) determine the approximate value of the damage caused by the unlawful cross-country motor vehicle travel; and

(ii) calculate the number of hours of community service required to cover the cost of the damage caused by dividing the approximate value determined pursuant to Subsection (5)(b)(i) by a rate of $25 per hour.

Section 5. Section 41-22-19 is amended to read:

41-22-19. Deposit of fees and related money into Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.

(1) (a) Except as provided under Subsections (3) and (4) and Sections 41-22-34 and 41-22-36, all registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue [~~in~~] into the Off-highway Vehicle Account in the General Fund less the costs [~~of~~] incurred by the Motor Vehicle Division for collecting off-highway vehicle registration fees [~~by the Motor Vehicle Division~~] or issuing an off-highway vehicle license plate.

(b) The balance of the money may be used by the division as follows:

[~~(a)~~] (i) for the construction, improvement, operation, or maintenance of publicly owned or administered off-highway vehicle facilities;

[~~(b)~~] (ii) for the mitigation of impacts associated with off-highway vehicle use;

[~~(c)~~] (iii) as grants or as matching funds with any federal agency, state agency, political subdivision of the state, or organized user group for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities including public access facilities;

[~~(d)~~] (iv) for the administration and enforcement of the provisions of this chapter; and

[~~(e)~~] (v) for the education of off-highway vehicle users.

(2) All agencies or political subdivisions requesting matching funds shall submit plans for

proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited [~~in~~] into the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the money deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) Any unused balance of the money deposited under Subsection (3)(a) exceeding $350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited [~~in~~] into the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

Section 6. Section 41-22-30 is amended to read:

41-22-30. Supervision, safety certificate, or driver license required -- Penalty.

(1) As used in this section, "direct supervision" means oversight at a distance:

(a) of no more than 300 feet; and

(b) within which:

(i) visual contact is maintained; and

(ii) advice and assistance can be given and received.

(2) A person may not operate and an owner may not give that person permission to operate an off-highway vehicle on any public land, trail, street, or highway of this state unless the person:

(a) is able to reach and operate each control necessary to safely operate the off-highway vehicle;

(b) (i) is under the direct supervision of an off-highway vehicle safety instructor during a scheduled safety training course approved by the division in accordance with Section 41-22-32; or

(ii) possesses a safety certificate issued or approved by the division in accordance with Section 41-22-31; [~~or~~] and

[~~(iii) possesses a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and~~]

(c) is under the direct supervision of a person who is at least 18 years old if the person operating the off-highway vehicle:

(i) is under 18 years old;

(ii) does not possess a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and

(iii) is operating the off-highway vehicle on a public highway that is:

(A) open to motor vehicles; and

(B) not exclusively reserved for off-highway vehicle use.

(3) (a) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than $100 per offense.

(b) It is a defense to a charge under this section, if the person charged:

(i) produces in court a license or safety certificate described in Subsection (2)(b) that was:

(A) valid at the time of the citation or arrest; and

(B) issued to the person operating the off-highway vehicle; and

(ii) can show that the direct supervision requirement under Subsection (2)(b) was not violated at the time of citation or arrest.

(4) The requirements of this section do not apply to an operator of an off-highway implement of husbandry.

(5) Nothing in this section allows an individual without a valid driver license issued in accordance with Title 53, Chapter 3, Uniform Driver License Act, to operate a street-legal all-terrain vehicle on a roadway.

Section 7. Section 41-22-31 is amended to read:

41-22-31. Division to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after consultation with the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

(b) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.

(c) (i) The program shall include:

(A) an operational skills instruction and examination component required for every operator under 18 years old that does not possess a valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act; and

(B) a written knowledge instruction and examination component required for every operator.

(ii) An individual with valid license to operate a motor vehicle issued in accordance with Title 53, Chapter 3, Uniform Driver License Act, is not required to complete the operational skills instruction and examination component of the course.

[~~(c)~~] (d) Components of the program shall include:

(i) the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators[~~.~~];

(ii) education concerning the importance of gates and fences used in agriculture and how to properly close a gate; and

(iii) education concerning respectful, sustainable, and on-trail off-highway vehicle operation, and respect for communities affected by off-highway vehicle operation.

[~~(d)~~] (e) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.

(f) The division shall ensure that an individual may complete the written component of the program online.

(2) (a) Subject to Subsection 41-22-35(1), an individual may not operate an off-highway vehicle on public lands in this state unless the individual has completed the off-highway vehicle safety education and training program described in Subsection (1).

(b) (i) Except as provided in Subsection (2)(d), an individual under 18 years old may not operate an off-highway vehicle in the state unless the individual has completed both the skills component and the written component of the off-highway vehicle safety education and training program described in Subsection (1).

(ii) Except as provided in Subsection (2)(d), an individual 18 years old or older may not operate an off-highway vehicle in the state unless the individual has completed the written component of the off-highway vehicle safety education and training program described in Subsection (1).

(c) Except as provided in Subsection (2)(d), a person may not rent an off-highway vehicle to an individual until the individual that will operate the off-highway vehicle has completed the off-highway vehicle safety education and training program described in Subsection (1).

(d) (i) Subsections (2)(a) through (c) do not apply to:

(A) a snowmobile or an off-highway implement of husbandry; or

(B) an individual operating an off-highway vehicle as part of a guided tour or a sanctioned off-highway vehicle event.

(ii) (A) The division shall ensure that the online written knowledge component of the program is available beginning on January 1, 2023.

(B) The requirement to complete the online written knowledge component of the program as described in this section and relevant enforcement begins on February 1, 2023.

[~~(2)~~] (3) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

[~~(3)~~] (4) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

(5) A person convicted of a violation of this section is guilty of an infraction and shall be fined not more than $150 per offense.

Section 8. Section 41-22-35 is amended to read:

41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.

(1) (a) Except as provided in Subsection (1)(b), any person owning or operating a nonresident off-highway vehicle who operates or gives another person permission to operate the nonresident off-highway vehicle on any public land, trail, street, or highway in this state shall:

(i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;

(ii) pay an annual off-highway vehicle user fee; [~~and~~]

(iii) provide evidence that the owner is a nonresident[~~.~~]; and

(iv) provide evidence of completion of the safety course and program described in Section 41-22-35.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

(i) used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the division, after consultation with the commission;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency; [~~or~~]

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the division[~~.~~]; or

(v) operated as part of a sanctioned off-highway vehicle event or part of an official tour by a person licensed as a off-highway vehicle tour guide in this state.

(2) The off-highway vehicle user fee is $30.

(3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

(b) display the decal on the off-highway vehicle in accordance with rules made by the division.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after consultation with the commission, shall make rules establishing:

(a) procedures for:

(i) the payment of off-highway vehicle user fees; and

(ii) the display of a decal on an off-highway vehicle as required under Subsection (3)(b);

(b) acceptable evidence indicating compliance with Subsection (1);

(c) eligibility for scheduled competitive events or other events under Subsection (1)(b)(ii); and

(d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection (1)(b)(iv).

(5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.

(b) An agent shall retain 10% of all off-highway vehicle user fees collected.

(c) The division may require agents to obtain a bond in a reasonable amount.

(d) On or before the tenth day of each month, each agent shall:

(i) report all sales to the division; and

(ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).

(e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.

(ii) Delinquent payments shall bear interest at the rate of 1% per month.

(iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:

(i) be kept separate and apart from the private funds of the agent; and

(ii) belong to the state.

(g) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited [~~in~~] into the Off-highway Vehicle Account created in Section 41-22-19.

Section 9. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 144
H. B. 194

Passed February 25, 2022
Approved March 22, 2022
Effective May 4, 2022

DEPARTMENT OF CORRECTIONS EDUCATION SERVICES

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: Luz Escamilla
Cosponsors: Cheryl K. Acton
Jefferson S. Burton
Matthew H. Gwynn
Sandra Hollins
Marsha Judkins
Kelly B. Miles
Karen M. Peterson
Susan Pulsipher
Angela Romero
Andrew Stoddard
Mike Winder

LONG TITLE

General Description:

This bill concerns educational and career-readiness programs for incarcerated individuals.

Highlighted Provisions:

This bill:

- requires the Department of Corrections to:
  - ensure appropriate educational or career-readiness programs are made available to an inmate as soon as certain conditions are met;
  - provide incarcerated women with substantially equivalent educational and career-readiness opportunities as incarcerated men;
  - provide reasonable access to resources necessary for an inmate to apply for grants or other available financial aid for an educational or career-readiness program;
  - consider an inmate's current participation in an educational or career-readiness program when making a decision regarding an inmate's transfer or disciplinary sanction;
  - when possible, allow an inmate to continue an inmate's participation in an educational or career-readiness program while a facility is under lockdown, quarantine, or similar status;
  - maintain and release educational records for an inmate under certain conditions; and
  - provide an annual report to the Higher Education Appropriations Subcommittee regarding the department's educational and career-readiness programs for inmates; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

64-13-48, Utah Code Annotated 1953

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

Section 1. Section 64-13-48 is enacted to read:

64-13-48. Educational and career-readiness programs.

(1) The department shall, in accordance with Subsection 64-13-6(1)(c), ensure that appropriate evidence-based and evidence-informed educational or career-readiness programs are made available to an inmate as soon as practicable after the creation of the inmate's case action plan.

(2) The department shall provide incarcerated women with substantially equivalent educational and career-readiness opportunities as incarcerated men.

(3) Before an inmate begins an educational or career-readiness program, the department shall provide reasonable access to resources necessary for an inmate to apply for grants or other available financial aid that may be available to pay for the inmate's program.

(4) (a) The department shall consider an inmate's current participation in an educational or career-readiness program when the department makes a decision with regard to an inmate's:

(i) transfer to another area or facility; or

(ii) appropriate disciplinary sanction.

(b) When possible, the department shall use best efforts to allow an inmate to continue the inmate's participation in an educational or career-readiness program while the facility is under lockdown, quarantine, or a similar status.

(5) (a) The department shall maintain records on an inmate's educational progress, including completed life skills, certifications, and credit- and non-credit-bearing courses, made while the inmate is incarcerated.

(b) The department shall facilitate the transfer of information related to the inmate's educational process upon the inmate's release, including the inmate's post-release contact information and the records described in Subsection (5)(a), to:

(i) the inmate; or

(ii) an entity that the inmate has authorized to receive the inmate's records or post-release contact information, including an institution:

(A) from which the inmate received educational instruction while the inmate was incarcerated; or

(B) at which the inmate plans to continue the inmate's post-incarceration education.

(6) Beginning May 1, 2023, the department shall provide an annual report to the Higher Education Appropriations Subcommittee regarding educational and career-readiness programs for inmates, which shall include:

(a) the number of inmates who are participating in an educational or career-readiness program, including an accredited postsecondary education program;

(b) the percentage of inmates who are participating in an educational or career-readiness program as compared to the total inmate population;

(c) inmate program completion and graduation data, including the number of completions and graduations in each educational or career-readiness program;

(d) the potential effect of educational or career-readiness programs on recidivism, as determined by a comparison of:

(i) the total number of inmates who return to incarceration after a previous incarceration; and

(ii) the number of inmates who return to incarceration after a previous incarceration who participated in or completed an educational or career-readiness program;

(e) the number of inmates who were transferred to a different facility while currently participating in an educational or career-readiness program, including the number of inmates who were unable to continue a program after a transfer to a different facility; and

(f) the department's:

(i) recommendation for resources that may increase inmates' access to and participation in an educational or career-readiness program; and

(ii) estimate of how many additional inmates would participate in an educational or career-readiness program if the resources were provided.

(7) The department may make rules in accordance with Section 64-13-10 and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

CHAPTER 145
H. B. 208

Passed February 25, 2022
Approved March 22, 2022
Effective May 4, 2022

DOMESTIC VIOLENCE OFFENDER TREATMENT BOARD

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill creates the Domestic Violence Offender Treatment Board (board).

Highlighted Provisions:

This bill:

- defines terms;
- creates the Domestic Violence Offender Treatment Board within the State Commission on Criminal and Juvenile Justice;
- establishes the duties of the board; and
- requires the board to provide a list to the Administrative Office of the Courts of providers certified by the board to provide domestic violence treatment.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

63M-7-701, Utah Code Annotated 1953
63M-7-702, Utah Code Annotated 1953
63M-7-703, Utah Code Annotated 1953

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

Section 1. Section 63M-7-701 is enacted to read:

Part 7. Domestic Violence Offender Treatment Board

63M-7-701. Definitions.

As used in this part:

(1) "Board" means the Domestic Violence Offender Treatment Board created in Section 63M-7-702.

(2) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

Section 2. Section 63M-7-702 is enacted to read:

63M-7-702. Domestic Violence Offender Treatment Board -- Creation -- Membership -- Quorum -- Per diem -- Staff support -- Meetings.

(1) There is created within the commission the Domestic Violence Offender Treatment Board consisting of the following members:

(a) the executive director of the Department of Corrections, or the executive director's designee;

(b) the executive director of the Department of Health and Human Services, or the executive director's designee;

(c) one individual who represents a state program that focuses on prevention of injury and domestic violence appointed by the executive director of the Department of Health and Human Services;

(d) the commissioner of public safety for the Department of Public Safety, or the commissioner's designee;

(e) the director of the Utah Office for Victims of Crime, or the director's designee;

(f) the chair of the Board of Pardons and Parole, or the chair's designee;

(g) the director of the Division of Juvenile Justice Services, or the director's designee;

(h) one individual who represents the Administrative Office of the Courts appointed by the state court administrator; and

(i) ten individuals appointed by the executive director of the commission, including:

(i) the following four individuals licensed under Title 58, Chapter 60, Mental Health Professional Practice Act:

(A) a clinical social worker;

(B) a marriage and family therapist;

(C) a professional counselor; and

(D) a psychologist;

(ii) one individual who represents an association of criminal defense attorneys;

(iii) one criminal defense attorney who primarily represents indigent criminal defendants;

(iv) one individual who represents an association of prosecuting attorneys;

(v) one individual who represents law enforcement;

(vi) one individual who represents an association of criminal justice victim advocates; and

(vii) one individual who represents a nonprofit organization that provides domestic violence victim advocate services.

(2) (a) A member may not serve on the board for more than eight consecutive years.

(b) If a vacancy occurs in the membership of the board appointed under Subsection (1), the member shall be replaced in the same manner in which the original appointment was made.

(c) A member of the board serves until the member's successor is appointed.

(3) The members of the board shall vote on a chair and co-chair of the board to serve for two years.

(4) (a) A majority of the board members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the board.

(5) A board member may not receive compensation or benefits for the member's service on the board, but may receive per diem and reimbursement for travel expenses incurred as a board member at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall provide staff support to the board.

(7) The board shall meet at least quarterly on a date the board sets.

Section 3. Section 63M-7-703 is enacted to read:

63M-7-703. Board duties.

(1) The board shall advise and make recommendations to other councils, boards, and offices within the commission that address domestic violence.

(2) As part of the board's duties under Subsection (1), the board shall:

(a) research standardized procedures and methods for intimate partner and domestic violence offender evaluation, intervention, treatment, and monitoring that prioritize physical and psychological safety of the victim;

(b) identify and establish best practice standards for intimate partner and domestic violence evaluation, intervention, treatment, and monitoring that:

(i) are applicable to the state's needs;

(ii) are based on scientific research to address an individual's intimate partner and domestic violence risk factors; and

(iii) incorporate evidence-based trauma informed care to enhance the quality and continuity of intervention and treatment;

(c) disseminate the best practice standards described in Subsection (2)(b) to the entities described in Subsection (1) to be used in the evaluation, intervention, treatment, and monitoring of intimate partner and domestic violence offenders; and

(d) establish a training and certification program for public and private providers of intervention and treatment for intimate partner and domestic violence offenders that requires the public and private providers to:

(i) comply with the best practice standards described in Subsection (2)(b) to obtain and maintain certification; and

(ii) participate in annual education or training to maintain certification.

(3) The board shall:

(a) monitor the public and private providers who participate in the training and certification program described in Subsection (2)(d) to ensure compliance with the best practice standards and annual education or training described in Subsection (2)(d); and

(b) annually provide a list of the public and private providers who participated in the training and certification program described in Subsection (2)(d) and are in compliance with the requirements described in Subsection (2)(d) to the Administrative Office of the Courts as a resource for judges and commissioners in domestic violence cases.

CHAPTER 146
H. B. 222

Passed February 24, 2022
Approved March 22, 2022
Effective May 4, 2022

DRIVING PRIVILEGE CARD AMENDMENTS

Chief Sponsor: Adam Robertson
Senate Sponsor: Luz Escamilla
Cosponsor: Karen Kwan

LONG TITLE

General Description:

This bill defines the fees for an original application and renewal of a driving privilege card.

Highlighted Provisions:

This bill:

- creates a new line item to define fees for an original application and renewal of a driving privilege card.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-105, as last amended by Laws of Utah 2021, Chapter 284

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

Section 1. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is $52.

(2) An original provisional license application for a class D license under Section 53-3-205 is $39.

(3) An original limited term license application under Section 53-3-205 is $32.

(4) An original application for a motorcycle endorsement under Section 53-3-205 is $18.

(5) An original application for a taxicab endorsement under Section 53-3-205 is $14.

(6) A learner permit application under Section 53-3-210.5 is $19.

(7) A renewal of a class D license under Section 53-3-214 is $52 unless Subsection (12) applies.

(8) A renewal of a provisional license application for a class D license under Section 53-3-214 is $52.

(9) A renewal of a limited term license application under Section 53-3-214 is $32.

(10) A renewal of a motorcycle endorsement under Section 53-3-214 is $18.

(11) A renewal of a taxicab endorsement under Section 53-3-214 is $14.

(12) A renewal of a class D license for an individual 65 and older under Section 53-3-214 is $27.

(13) An extension of a class D license under Section 53-3-214 is $42 unless Subsection (17) applies.

(14) An extension of a provisional license application for a class D license under Section 53-3-214 is $42.

(15) An extension of a motorcycle endorsement under Section 53-3-214 is $18.

(16) An extension of a taxicab endorsement under Section 53-3-214 is $14.

(17) An extension of a class D license for an individual 65 and older under Section 53-3-214 is $22.

(18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is $52.

(19) A commercial class A, B, or C license skills test is $78.

(20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is $9.

(21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $9.

(22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $9.

(23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $52.

(24) A retake of a CDL endorsement test provided for in Section 53-3-205 is $9.

(25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $23.

(26) (a) A license reinstatement application under Section 53-3-205 is $40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $45 in addition to the fee under Subsection (26)(a).

(27) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of

alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $255.

(b) This administrative fee is in addition to the fees under Subsection (26).

(28) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(29) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(30) (a) Except as provided under Subsections (30)(b) and (c), an identification card application under Section 53-3-808 is $23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i) (A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years [~~of age~~] old; or

(ii) submits written verification that the individual is homeless, as defined in Section 26-18-411, a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section 10-9a-526;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(C) the Department of Workforce Services; or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(31) (a) An extension of a regular identification card under Subsection 53-3-807(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(b) The fee described in Subsection (31)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services;

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26-2-12.6; or

(v) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(32) (a) An extension of a regular identification card under Subsection 53-3-807(5) is $23.

(b) The fee described in Subsection (32)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined in Section 10-9a-526;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services; or

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26-2-12.6.

(33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(34) An original mobility vehicle permit application under Section 41-6a-1118 is $30.

(35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $30.

(36) A duplicate mobility vehicle permit under Section 41-6a-1118 is $12.

(37) An original driving privilege card application under Section 53-3-207 is $32.

(38) A renewal of a driving privilege card application under Section 53-3-207 is $23.

CHAPTER 147
H. B. 226

Passed March 1, 2022
Approved March 22, 2022
Effective May 4, 2022

HIGHER EDUCATION AND CORRECTIONS COUNCIL

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill establishes the Higher Education and Corrections Council to advise the Utah Board of Higher Education.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the Higher Education and Corrections Council (council) to advise the Utah Board of Higher Education (board), the Education Interim Committee, and the Higher Education Appropriations Subcommittee;
- provides for the membership and duties of the council;
- requires the council to:
  - make recommendations regarding the delivery of education in the state's correctional facilities;
  - collect certain critical data; and
  - report annually to the board, the Education Interim Committee, and the Higher Education Appropriations Subcommittee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2021, Chapters 282, 351, 402, and 425

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351

ENACTS:

53B-33-101, Utah Code Annotated 1953

53B-33-201, Utah Code Annotated 1953

53B-33-202, Utah Code Annotated 1953

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

Section 1. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

(f) the report described in Section 53B-8-303 by the board regarding Access Utah promise scholarships;

(g) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B-13a-104 by the board on the Success Stipend Program;

(j) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Opportunity on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; [~~and~~]

(m) the report described in Section 53B-33-202 regarding the Higher Education and Corrections Council; and

[~~(m)~~] (n) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals;

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202; and

(d) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

(b) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(c) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

(d) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 2. Section 53B-33-101 is enacted to read:

CHAPTER 33. (CODIFIED AS CHAPTER 35) HIGHER EDUCATION AND CORRECTIONS COUNCIL

Part 1. General Provisions

53B-33-101. (Codified as 53B-35-101) Definitions.

As used in this chapter, "council" means the Higher Education and Corrections Council created in Section 53B-33-201.

Section 3. Section 53B-33-201 is enacted to read:

Part 2. Council Duties

53B-33-201. (Codified as 53B-35-201) Higher Education and Corrections Council.

(1) There is created the Higher Education and Corrections Council to advise the board, the Education Interim Committee, and the Higher Education Appropriations Subcommittee regarding the development and delivery of accredited higher education curriculum to incarcerated individuals in the state correctional system.

(2) The council consists of the following 13 members:

(a) a member of the House of Representatives whom the speaker of the House of Representatives appoints;

(b) a member of the Senate whom the president of the Senate appoints;

(c) two members of the board whom the chair of the board appoints:

(i) one member having expertise in technical colleges; and

(ii) one member having expertise in general education;

(d) the commissioner or the commissioner's designee;

(e) the following two members whom the commissioner appoints and who are engaged in prison education and have expertise in transfer articulation:

(i) one employee of a technical college; and

(ii) one employee of a degree-granting institution;

(f) the following two members whom the governor appoints:

(i) an individual who actively researches higher education delivered in a corrections setting using evidence-based practices; and

(ii) a formerly incarcerated individual who participated in postsecondary educational programs while incarcerated;

(g) one member of the Board of Pardons and Parole whom the chair of the Board of Pardons and Parole appoints;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) one employee of the Department of Corrections with expertise in education whom the executive director of the Department of Corrections appoints; and

(j) the executive director of the Department of Workforce Services or the executive director's designee.

(3) (a) The members described in Subsections (2)(a) and (2)(b) shall serve as co-chairs of the council.

(b) (i) Except as provided under Subsection (3)(b)(ii), an appointed member of the council shall serve a term of two years.

(ii) A council member's term ends on the day on which the member's status that allows the member to serve on the council under Subsection (2) ends.

(c) The individuals authorized to make appointments under Subsection (2) shall make the respective appointments:

(i) for the initial appointments, before July 1, 2022;

(ii) for subsequent terms, before July 1 of each odd-numbered year, by:

(A) reappointing the council member whose term expires under Subsection (3)(b)(i); or

(B) appointing a new council member; and

(iii) in the case of a vacancy created under Subsection (3)(b)(ii), for the remainder of the vacated term.

(d) The individual authorized to make appointments under Subsection (2) may change the relevant appointment described in Subsection (2) at any time for the remainder of the existing term.

(4) (a) The salary and expenses of a council member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A council member who is not a legislator:

(i) may not receive compensation or benefits for the member's service on the council; and

(ii) may receive per diem and reimbursement for travel expenses that the council member incurs as a council member at the rates that the Division of Finance establishes under:

(A) Sections 63A-3-106 and 63A-3-107; and

(B) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5) (a) A majority of the council members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the council.

(6) The commissioner shall provide staff support to the council.

Section 4. Section 53B-33-202 is enacted to read:

53B-33-202. (Codified as 53B-35-202) Council duties -- Reporting.

(1) The council shall:

(a) coordinate, facilitate, and support the delivery of higher education in the state's correctional facilities to prepare incarcerated individuals for integration and productive employment upon release;

(b) explore and provide recommendations to the board and the Utah Department of Corrections for the efficient and effective delivery of higher education programs to incarcerated individuals, including:

(i) evidence-based practices and technologies;

(ii) methods of maximizing and facilitating incarcerated individuals' access to educational programs;

(iii) methods of supporting and facilitating timely completion of courses, certificates, and degrees;

(iv) methods of emphasizing educational programs that:

(A) align with current and future workforce demands of the state;

(B) lead to occupations that are accessible to released incarcerated individuals;

(C) provide sustainable wages following release; and

(D) maximize accessibility and timely completion during incarceration;

(v) use of cross-institutional application of coursework toward certificates and degrees;

(vi) use of coursework that encourages personal and civic development; and

(vii) methods of leveraging innovative course delivery, including technology resources;

(c) explore methods and make recommendations for the collection and analysis of critical data regarding:

(i) enrollment and completion of postsecondary education courses, certificate programs, credentials, and degree programs;

(ii) federal and state student aid awarded to incarcerated individuals;

(iii) costs of postsecondary education in prison, including any recommendations for continued improvement; and

(iv) outcomes of formerly incarcerated individuals who participated in postsecondary programming during incarceration if the individual is under the supervision of the Department of Corrections, including recidivism, employment, and post-release postsecondary education engagement; and

(d) recommend requests for legislative appropriations to the board to support the purposes and objectives of the council.

(2) The council shall annually report regarding the council's plans and programs, the number of enrollees served, and the number of enrollees receiving degrees and certificates to:

(a) the board;

(b) before the committee's November interim committee meeting, the Education Interim Committee; and

(c) at least 30 days before the beginning of the annual legislative session, the Higher Education Appropriations Subcommittee.

Section 5. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; [~~and~~]

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income[~~.~~]; and

(o) the report described in Section 53B-33-202 regarding the Higher Education and Corrections Council.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

CHAPTER 148
H. B. 228

Passed February 25, 2022
Approved March 22, 2022
Effective May 4, 2022

CRIME VICTIM REPARATIONS AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill amends provisions related to reparations for crime victims.

Highlighted Provisions:

This bill:

- amends and enacts definitions;
- amends the requirements for a victim to be eligible for reparations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-502, as last amended by Laws of Utah 2021, Chapter 260
63M-7-509, as last amended by Laws of Utah 2020, Chapter 149

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

Section 1. Section 63M-7-502 is amended to read:

63M-7-502. Definitions. As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Advocacy services provider" means the same as that term is defined in Section 77-38-403.

[~~(2)~~] (3) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

[~~(3)~~] (4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

[~~(4)~~] (5) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

[~~(5)~~] (6) "Child" means an unemancipated individual who is under 18 years old.

[~~(6)~~] (7) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(8) "Criminal justice system victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(7)~~] (9) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is:

(A) intended to cause bodily injury or death[~~, or is conduct which is or would be~~];

(B) punishable under Title 76, Chapter 5, Offenses Against the Person[~~, or as any offense~~]; or

(C) chargeable as an offense for driving under the influence of alcohol or drugs.

[~~(b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.~~]

[~~(c)~~] (b) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

[~~(8)~~] (10) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

[~~(9)~~] (11) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

[~~(10)~~] (12) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

[~~(11)~~] (13) "Director" means the director of the office.

[~~(12)~~] (14) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

[~~(13)~~] (15) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

[~~(14)~~] (16) "Elderly victim" means an individual who is 60 years old or older and who is a victim.

[~~(15)~~] (17) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

[~~(16)~~] (18) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(19) (a) "Interpersonal violence" means an act involving violence, physical harm, or a threat of violence or physical harm, that is committed by an individual who is or has been in a domestic, dating, sexual, or intimate relationship with the victim.

(b) "Interpersonal violence" includes any attempt, conspiracy, or solicitation of an act described in Subsection (19)(a).

[~~(17)~~] (20) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

[~~(18)~~] (21) (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

[~~(19)~~] (22) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(20)~~] (23) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(21)~~] (24) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(25) "Nongovernment organization victim advocate" means the same as that term is defined in Section 77-38-403.

[~~(22)~~] (26) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

[~~(23)~~] (27) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

[~~(24)~~] (28) "Offense" means a violation of Title 76, Utah Criminal Code.

[~~(25)~~] (29) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

[~~(26)~~] (30) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

[~~(27)~~] (31) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

[~~(28)~~] (32) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

[~~(29)~~] (33) (a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

[~~(30)~~] (34) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

[~~(31)~~] (35) (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

[~~(32)~~] (36) "Restitution" means the same as that term is defined in Section 77-38b-102.

[~~(33)~~] (37) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(34)~~] (38) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

[~~(35)~~] (39) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(40) "Sexual assault" means any criminal conduct described in Title 76, Chapter 5, Part 4, Sexual Offenses.

(41) "Strangulation" means any act involving the use of unlawful force or violence that:

(a) impedes breathing or the circulation of blood; and

(b) is likely to produce a loss of consciousness by:

(i) applying pressure to the neck or throat of an individual; or

(ii) obstructing the nose, mouth, or airway of an individual.

[~~(36)~~] (42) "Substantial bodily injury" means the same as that term is defined in Section 76-1-601.

[~~(37)~~] (43) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.~~]

[~~(38)~~] (44) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 2. Section 63M-7-509 is amended to read:

63M-7-509. Grounds for eligibility.

(1) A victim is eligible for a reparations award under this part if:

(a) the claimant is:

(i) a victim of criminally injurious conduct;

(ii) a dependent of a deceased victim of criminally injurious conduct; or

(iii) a representative acting on behalf of one of the above;

(b) (i) the criminally injurious conduct occurred in Utah; or

(ii) the victim is a Utah resident who suffers injury or death as a result of criminally injurious conduct inflicted in a state, territory, or country that does not provide a crime victims' compensation program;

(c) the application is made in writing in a form that conforms substantially to that prescribed by the board;

(d) the criminally injurious conduct is reported to a law enforcement officer, in the law enforcement officer's capacity as a law enforcement officer, or another federal or state investigative agency;

(e) the claimant or victim cooperates with the appropriate law enforcement agencies and prosecuting attorneys in efforts to apprehend or convict the perpetrator of the alleged offense; and

(f) the criminally injurious conduct occurred after December 31, 1986.

(2) A reparations award may be made to a victim regardless of whether any individual is arrested, prosecuted, or convicted of the criminally injurious conduct giving rise to a reparations claim.

(3) (a) Notwithstanding the requirements of Subsections (1)(d) and (e), a victim of sexual assault is not required to report the sexual assault to a law enforcement officer or another federal or state investigative agency or cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if:

(i) the victim seeks assistance from an advocacy services provider, a criminal justice system victim advocate, or a nongovernment organization victim advocate; and

(ii) the advocacy services provider, the criminal justice system victim advocate, or the nongovernment organization victim advocate completes a questionnaire, provided by the office, regarding the sexual assault.

(b) Notwithstanding the requirement of Subsection (1)(e), a victim who has suffered strangulation in the course of interpersonal violence is not required to cooperate with the appropriate law enforcement agencies and prosecuting attorneys to be eligible for a reparations award under this section if the victim:

(i) reports the strangulation to a law enforcement officer or another federal or state investigative agency after the strangulation occurs; or

(ii) seeks medical care for the strangulation immediately after the strangulation occurs.

CHAPTER 149
H. B. 236

Passed March 1, 2022
Approved March 22, 2022
Effective May 4, 2022
(Exception clause in Section 7)

BEHAVIORAL HEALTH AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses behavioral health services.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- requires the base budget to include certain appropriations to the Department of Health for behavioral health services;
- requires the Office of the Legislative Fiscal Analyst to include an estimate of the cost of behavioral health services in certain Medicaid funding forecasts;
- creates the collaborative care grant program;
- requires the Division of Substance Abuse and Mental Health to administer the collaborative care grant program;
- allows the state suicide prevention program to include a public education campaign;
- clarifies that the Governor's Suicide Prevention Fund may be used for components of the state suicide prevention program;
- provides a sunset date;
- includes reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Health and Human Services -- Health Care Administration -- Integrated Health Care Administration, as a one-time appropriation:
  - from General Fund, One-time, $1,000,000;
- to Department of Health and Human Services -- Integrated Health Care Services -- Non-Medicaid Behavioral Health Treatment and Crisis Response, as an ongoing appropriation:
  - from General Fund, $350,000; and
- to Department of Health and Human Services -- Integrated Health Care Services -- Non-Medicaid Behavioral Health Treatment and Crisis Response, as a one-time appropriation:
  - from General Fund, One-time, $2,430,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-18-405.5 (Effective 07/01/22), as last amended by Laws of Utah 2021, Chapter 404

62A-15-1101, as last amended by Laws of Utah 2019, Chapters 136, 440 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 440

62A-15-1103, as enacted by Laws of Utah 2018, Chapter 414

63I-1-262, as last amended by Laws of Utah 2021, Chapters 29 and 91

ENACTS:

62A-15-124, Utah Code Annotated 1953

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

Section 1. Section 26-18-405.5 (Effective 07/01/22) is amended to read:

26-18-405.5 (Effective 07/01/22). Base budget appropriations for Medicaid accountable care organizations and behavioral health plans -- Forecast of behavioral health services cost.

(1) As used in this section:

(a) "ACO" means an accountable care organization that contracts with the state's Medicaid program for:

(i) physical health services; or

(ii) integrated physical and behavioral health services.

(b) "Base budget" means the same as that term is defined in legislative rule.

(c) "Behavioral health plan" means a managed care or fee for service delivery system that contracts with or is operated by the department to provide behavioral health services to Medicaid eligible individuals.

(d) "Behavioral health services" means mental health or substance use treatment or services.

[~~(c)~~] (e) "General Fund growth factor" means the amount determined by dividing the next fiscal year ongoing General Fund revenue estimate by current fiscal year ongoing appropriations from the General Fund.

[~~(d) "Mental health plan" means a prepaid mental health plan or a health plan that uses a fee-for-service payment model that contracts with the state's Medicaid program for behavioral health services.~~]

[~~(e)~~] (f) "Next fiscal year ongoing General Fund revenue estimate" means the next fiscal year ongoing General Fund revenue estimate identified by the Executive Appropriations [~~Subcommittee~~] Committee, in accordance with legislative rule, for use by the Office of the Legislative Fiscal Analyst in preparing budget recommendations.

[~~(f)~~] (g) "PMPM" means per-member-per-month funding.

(2) If the General Fund growth factor is less than 100%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation[~~: (a)~~] to the department [~~for ACOs under the department~~] in an amount necessary to ensure that the next fiscal year PMPM for [~~the~~] ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 100%[~~; and~~].

[~~(b) subject to Subsection (5), to the Department of Human Services for mental health plans under the Department of Human Services in an amount necessary to ensure that the funding for the mental health plans in the next fiscal year equals the funding for the mental health plans in the current fiscal year multiplied by 100%.~~]

(3) If the General Fund growth factor is greater than or equal to 100%, but less than 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation[~~: (a)~~] to the department [~~for ACOs under the department~~] in an amount necessary to ensure that the next fiscal year PMPM for [~~the~~] ACOs and behavioral health plans equals the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor[~~; and~~].

[~~(b) subject to Subsection (5), to the Department of Human Services for mental health plans under the Department of Human Services in an amount necessary to ensure that the funding for the mental health plans in the next fiscal year equals the funding for the mental health plans in the current fiscal year multiplied by the General Fund growth factor.~~]

(4) If the General Fund growth factor is greater than or equal to 102%, the next fiscal year base budget shall, subject to Subsection (5), include an appropriation[~~: (a)~~] to the department [~~for ACOs under the department~~] in an amount necessary to ensure that the next fiscal year PMPM for [~~the~~] ACOs and behavioral health plans is greater than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by 102% and less than or equal to the current fiscal year PMPM for the ACOs and behavioral health plans multiplied by the General Fund growth factor[~~; and~~].

[~~(b) subject to Subsection (5), to the Department of Human Services for mental health plans under the Department of Human Services in an amount necessary to ensure that the funding for the mental health plans in the next fiscal year is greater than or equal to the funding for the mental health plans in the current fiscal year multiplied by 102% and less than or equal to the funding for the mental health plans in the current fiscal year multiplied by the General Fund growth factor.~~]

(5) The appropriations provided to the [~~Department of Human Services~~] department for behavioral health plans under this section shall be reduced by the amount contributed by counties in the current fiscal year for [~~mental~~] behavioral health plans [~~under the Department of Human Services~~] in accordance with Subsections 17-43-201(5)(k) and 17-43-301(6)(a)(x).

(6) In order for the department [~~and the Department of Human Services~~] to estimate the impact of Subsections (2) through (4) before identification of the next fiscal year ongoing General Fund revenue estimate, the Governor's Office of Planning and Budget shall, in cooperation with the Office of the Legislative Fiscal Analyst, develop an estimate of ongoing General Fund revenue for the next fiscal year and provide the estimate to the department [~~and the Department of Human Services~~] no later than November 1 of each year.

(7) The Office of the Legislative Fiscal Analyst shall include an estimate of the cost of behavioral health services in any state Medicaid funding or savings forecast that is completed in coordination with the department and the Governor's Office of Planning and Budget.

Section 2. Section 62A-15-124 is enacted to read:

62A-15-124. Collaborative care grant program.

(1) As used in this section:

(a) "Applicant" means a small primary health care practice that applies for a grant under this section.

(b) "Care manager" means an individual who plans, directs, and coordinates health care services for a patient.

(c) "Collaborative care model" means a formal collaborative arrangement between a primary care physician, a mental health professional, and a care manager, to provide integrated physical and behavioral health services.

(d) "Mental health professional" means an individual licensed under Title 58, Chapter 60, Mental Health Professional Practice Act, or Title 58, Chapter 61, Psychologist Licensing Act, or a psychiatrist.

(e) "Physician" means an individual licensed to practice as a physician or osteopath under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(f) "Primary care physician" means a physician that provides health services related to family medicine, internal medicine, pediatrics, obstetrics, gynecology, or geriatrics.

(g) "Program" means a program described in Subsection (2)(a).

(h) "Psychiatrist" means a physician who is board eligible for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(i) "Small primary health care practice" means a medical practice of primary health care physicians that:

(i) includes 10 or fewer primary care physicians; or

(ii) is primarily based in a county of the third through sixth class, as classified in Section 17-50-501.

(2) (a) Before July 1, 2022, the division shall solicit applications from small primary health care practices for a grant to support or implement a program to provide integrated physical and behavioral health services under a collaborative care model.

(b) A grant under this section may be used to:

(i) hire and train staff to administer a program;

(ii) identify and formalize contractual relationships with mental health professionals and case managers to implement a program; or

(iii) purchase or upgrade software and other resources necessary to support or implement a program.

(c) The division shall approve at least one but not more than six applications each year.

(d) The division shall determine which applicants receive a grant under this section before December 31, 2022.

(3) An application for a grant under this section shall:

(a) identify the population to whom the applicant will provide services under a program;

(b) identify the small primary health care practice's current resources that are used to provide integrated physical and behavioral health services;

(c) explain how the population described in Subsection (3)(a) will benefit from the program;

(d) provide details regarding:

(i) how the applicant will provide timely and effective services under the program;

(ii) any existing or planned contracts or partnerships between the applicant and other persons that are related to a collaborative care model;

(iii) the methods the applicant will use to:

(A) protect the privacy of each individual to whom the applicant provides services under the program; and

(B) collect non-identifying data; and

(e) provide other information requested by the division for the division to evaluate the application.

(4) In evaluating an application for a grant under this section, the division shall consider:

(a) the extent to which providing the grant to the applicant will fulfill the purpose of providing increased integrated physical and behavioral health services; and

(b) the extent to which the population described in Subsection (3)(a) is likely to benefit from the applicant receiving the grant.

(5) Before July 1, 2023, the division shall submit a written report to the Health and Human Services Interim Committee regarding each applicant the division provided a grant to in the preceding year under this section.

(6) Before July 1, 2024, the division shall submit a written report to the Health and Human Services Interim Committee regarding:

(a) data gathered and knowledge gained in relation to providing grants to an applicant; and

(b) recommendations for how the state can better implement integrated physical and behavioral health services.

Section 3. Section 62A-15-1101 is amended to read:

62A-15-1101. Suicide prevention -- Reporting requirements.

(1) The division shall appoint a state suicide prevention coordinator to administer a state suicide prevention program composed of suicide prevention, intervention, and postvention programs, services, and efforts.

(2) The coordinator shall:

(a) establish a Statewide Suicide Prevention Coalition with membership from public and private organizations and Utah citizens; and

(b) appoint a chair and co-chair from among the membership of the coalition to lead the coalition.

(3) The state suicide prevention program may include the following components:

(a) delivery of resources, tools, and training to community-based coalitions;

(b) evidence-based suicide risk assessment tools and training;

(c) town hall meetings for building community-based suicide prevention strategies;

(d) suicide prevention gatekeeper training;

(e) training to identify warning signs and to manage an at-risk individual's crisis;

(f) evidence-based intervention training;

(g) intervention skills training; [~~and~~]

(h) postvention training[~~.~~]; or

(i) a public education campaign to improve public awareness about warning signs of suicide and suicide prevention resources.

(4) The coordinator shall coordinate with the following to gather statistics, among other duties:

(a) local mental health and substance abuse authorities;

(b) the State Board of Education, including the public education suicide prevention coordinator described in Section 53G-9-702;

(c) the Department of Health;

(d) health care providers, including emergency rooms;

(e) federal agencies, including the Federal Bureau of Investigation;

(f) other unbiased sources; and

(g) other public health suicide prevention efforts.

(5) The coordinator shall provide a written report to the Health and Human Services Interim

Committee, at or before the October meeting every year, on:

(a) implementation of the state suicide prevention program, as described in Subsections (1) and (3);

(b) data measuring the effectiveness of each component of the state suicide prevention program;

(c) funds appropriated for each component of the state suicide prevention program; and

(d) five-year trends of suicides in Utah, including subgroups of youths and adults and other subgroups identified by the state suicide prevention coordinator.

(6) The coordinator shall, in consultation with the bureau, implement and manage the operation of the firearm safety program described in Subsection 62A-15-103(3).

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) governing the implementation of the state suicide prevention program, consistent with this section; and

(b) in conjunction with the bureau, defining the criteria for employers to apply for grants under the Suicide Prevention Education Program described in Section 62A-15-103.1, which shall include:

(i) attendance at the suicide prevention education course described in Subsection 62A-15-103(3); and

(ii) distribution of the firearm safety brochures or packets created in Subsection 62A-15-103(3), but does not require the distribution of a cable-style gun lock with a firearm if the firearm already has a trigger lock or comparable safety mechanism.

(8) As funding by the Legislature allows, the coordinator shall award grants, not to exceed a total of $100,000 per fiscal year, to suicide prevention programs that focus on the needs of children who have been served by the Division of Juvenile Justice Services.

(9) The coordinator and the coalition shall submit to the advisory council, no later than October 1 each year, a written report detailing the previous fiscal year's activities to fund, implement, and evaluate suicide prevention activities described in this section.

Section 4. Section 62A-15-1103 is amended to read:

62A-15-1103. Governor's Suicide Prevention Fund.

(1) There is created an expendable special revenue fund known as the Governor's Suicide Prevention Fund.

(2) The fund shall consist of gifts, grants, and bequests of real property or personal property made to the fund.

(3) A donor to the fund may designate a specific purpose for the use of the donor's donation, if the designated purpose is described in Subsection (4) [~~or 62A-15-1101(3)~~].

(4) (a) Subject to Subsection (3), money in the fund shall be used for the following activities:

[~~(a)~~] (i) efforts to directly improve mental health crisis response;

[~~(b)~~] (ii) efforts that directly reduce risk factors associated with suicide; and

[~~(c)~~] (iii) efforts that directly enhance known protective factors associated with suicide reduction.

(b) Efforts described in Subsections (4)(a)(ii) and (iii) include the components of the state suicide prevention program described in Subsection 62A-15-1101(3).

(5) The division shall establish a grant application and review process for the expenditure of money from the fund.

(6) The grant application and review process shall describe:

(a) requirements to complete a grant application;

(b) requirements to receive funding;

(c) criteria for the approval of a grant application;

(d) standards for evaluating the effectiveness of a project proposed in a grant application; and

(e) support offered by the division to complete a grant application.

(7) The division shall:

(a) review a grant application for completeness;

(b) make a recommendation to the governor or the governor's designee regarding a grant application;

(c) send a grant application to the governor or the governor's designee for evaluation and approval or rejection;

(d) inform a grant applicant of the governor or the governor's designee's determination regarding the grant application; and

(e) direct the fund administrator to release funding for grant applications approved by the governor or the governor's designee.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from money in the fund shall be deposited into the fund.

(9) Money in the fund may not be used for the Office of the Governor's administrative expenses that are normally provided for by legislative appropriation.

(10) The governor or the governor's designee may authorize the expenditure of fund money in accordance with this section.

(11) The governor shall make an annual report to the Legislature regarding the status of the fund,

including a report on the contributions received, expenditures made, and programs and services funded.

Section 5. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

(2) Section 62A-4a-213 is repealed July 1, 2024.

(3) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

[~~(4) Section 62A-15-114 is repealed December 31, 2021.~~]

[~~(5)~~] (4) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(6)~~] (5) Section 62A-15-118 is repealed December 31, 2023.

(6) Section 62A-15-124 is repealed December 31, 2024.

(7) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

(8) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

(9) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

(10) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services -- Health Care Administration

From General Fund, One-time	$1,000,000
Schedule of Programs:	
Integrated Health Care Administration	$1,000,000

The Legislature intends that:

(1) the appropriations under this item be used for the collaborative care grant program under Section 62A-15-124; and

(2) under Section 63J-1-603, the appropriations under this item not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1) of this item.ITEM 2

To Department of Health and Human Services -- Integrated Health Care Services

From General Fund	$350,000
From General Fund, One-time	$2,430,000
Schedule of Programs:	
Non-Medicaid Behavioral Health Treatment and Crisis Response	$2,780,000

The Legislature intends that:

(1) the appropriations under this item be used for the state suicide prevention program described in Section 62A-15-1101; and

(2) under Section 63J-1-603, the appropriations under this item not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1) of this item.

Section 7. Effective date.

This bill takes effect on May 4, 2022, except that Section 26-18-405.5 (Effective 07/01/22) takes effect on July 1, 2022.

CHAPTER 150
H. B. 260

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

LAW ENFORCEMENT RECORDING RELEASE AMENDMENTS

Chief Sponsor: Mark A. Wheatley
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill mandates the release of law enforcement video recordings in certain situations.

Highlighted Provisions:

This bill:

- requires in certain situations the release of the recording of a law enforcement incident that resulted in death or bodily injury, or when an officer fired a weapon; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-7a-107, as last amended by Laws of Utah 2018, Chapter 71

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

Section 1. Section 77-7a-107 is amended to read:

77-7a-107. Retention and release of recordings.

(1) (a) Any recording made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer shall be retained in accordance with applicable federal, state, and local laws.

(b) Any recording made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer may not be retained, electronically or otherwise, by a private entity if the private entity has any authority to:

(i) withhold the recording; or

(ii) prevent the political subdivision from accessing or disclosing the recording.

(c) (i) Notwithstanding Subsection (1)(b), a political subdivision may continue to retain a recording in a manner prohibited under Subsection (1)(b) if the political subdivision is under contract with a private entity on May 7, 2018, and the contract includes terms prohibited by Subsection (1)(b).

(ii) A political subdivision may not renew a contract described in Subsection (1)(c)(i).

(d) This Subsection (1) does not prohibit a political subdivision from using a private entity's retention or redaction service if the private entity does not have authority to:

(i) withhold the recording; or

(ii) prevent the political subdivision from accessing or disclosing the recording.

(2) (a) [~~Any~~] Except as provided in Subsection (3)(e), a release of [~~recordings~~] a recording made by an officer while on duty or acting in the officer's official capacity as a law enforcement officer [~~shall be~~] is subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(b) Notwithstanding any other provision in state or local law, a person who requests access to [~~the recordings~~] a recording may immediately appeal to a district court, as provided in Section 63G-2-404, any denial of access to a recording based solely on Subsection 63G-2-305(10)(b) or (c) due to a pending criminal action that has been filed in a court of competent jurisdiction.

(3) (a) A person may request from a law enforcement agency the release of a recording of an incident between an officer and an individual that results in death or serious bodily injury, or during which an officer fires a weapon.

(b) A person shall make a request under Subsection (3)(a) to the law enforcement agency responsible for creating the recording described in Subsection (3)(a).

(c) The law enforcement agency described in Subsection (3)(b) shall direct a records custodian in possession of a recording described in Subsection (3)(a) to release the recording to the requesting party under Subsection (3)(a) within 10 days after the day on which one of the following occurs:

(i) the prosecuting agency declines to file a criminal action related to the incident;

(ii) (A) the prosecuting agency files a criminal action related to the incident;

(B) the judge adjudicating the criminal action is notified by the prosecutor or the defendant of the request to release the recording; and

(C) the judge determines that the release of the recording would not have a substantial likelihood of prejudicing a finder of fact in the criminal action; or

(iii) if more than 10 days have passed since the day on which the events described in Subsection (3)(c)(i) or (3)(c)(ii) occurred, the day on which the law enforcement agency described in Subsection (3)(b) receives the request under Subsection (3)(a).

(d) Notwithstanding Subsection (3)(a) or (c), a law enforcement agency may not, in response to a request under Subsection (3)(a), direct a records custodian in possession of a recording to release the recording if the law enforcement agency is notified that one of the following individuals has requested that the recording not be publicly distributed:

(i) an individual injured in the incident described in Subsection (3)(a); or

(ii) an immediate family member of an individual injured or killed in the incident described in Subsection (3)(a).

(e) The provisions of Title 63G, Chapter 2, Government Records Access and Management Act, do not apply to this Subsection (3).

CHAPTER 151
H. B. 267

Passed February 24, 2022
Approved March 22, 2022
Effective May 4, 2022

CAMPAIGN FINANCE AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill amends provisions regarding campaign finance disclosures for candidates in municipal elections.

Highlighted Provisions:

This bill:

- amends the deadlines for municipal candidates to file campaign finance statements;
- adds a 24-hour grace period for municipal candidates to file campaign finance statements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-208, as last amended by Laws of Utah 2019, Chapter 74
36-11a-102, as enacted by Laws of Utah 2019, Chapter 363

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

Section 1. Section 10-3-208 is amended to read:

10-3-208. Campaign finance disclosure in municipal election.

(1) Unless a municipality adopts by ordinance more stringent definitions, the following are defined terms for purposes of this section:

(a) "Agent of a candidate" means:

(i) a person acting on behalf of a candidate at the direction of the reporting entity;

(ii) a person employed by a candidate in the candidate's capacity as a candidate;

(iii) the personal campaign committee of a candidate;

(iv) a member of the personal campaign committee of a candidate in the member's capacity as a member of the personal campaign committee of the candidate; or

(v) a political consultant of a candidate.

(b) "Anonymous contribution limit" means for each calendar year:

(i) $50; or

(ii) an amount less than $50 that is specified in an ordinance of the municipality.

(c) (i) "Candidate" means a person who:

(A) files a declaration of candidacy for municipal office; or

(B) receives contributions, makes expenditures, or gives consent for any other person to receive contributions or make expenditures to bring about the person's nomination or election to a municipal office.

(ii) "Candidate" does not mean a person who files for the office of judge.

(d) (i) "Contribution" means any of the following when done for political purposes:

(A) a gift, subscription, donation, loan, advance, or deposit of money or anything of value given to a candidate;

(B) an express, legally enforceable contract, promise, or agreement to make a gift, subscription, donation, unpaid or partially unpaid loan, advance, or deposit of money or anything of value to the candidate;

(C) any transfer of funds from another reporting entity to the candidate;

(D) compensation paid by any person or reporting entity other than the candidate for personal services provided without charge to the candidate;

(E) a loan made by a candidate deposited to the candidate's own campaign; and

(F) an in-kind contribution.

(ii) "Contribution" does not include:

(A) services provided by an individual volunteering a portion or all of the individual's time on behalf of the candidate if the services are provided without compensation by the candidate or any other person;

(B) money lent to the candidate by a financial institution in the ordinary course of business; or

(C) goods or services provided for the benefit of a candidate at less than fair market value that are not authorized by or coordinated with the candidate.

(e) "Coordinated with" means that goods or services provided for the benefit of a candidate are provided:

(i) with the candidate's prior knowledge, if the candidate does not object;

(ii) by agreement with the candidate;

(iii) in coordination with the candidate; or

(iv) using official logos, slogans, and similar elements belonging to a candidate.

(f) (i) "Expenditure" means any of the following made by a candidate or an agent of the candidate on behalf of the candidate:

(A) any disbursement from contributions, receipts, or from an account described in Subsection (3)(a)[~~(i)~~];

(B) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value made for political purposes;

(C) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value for a political purpose;

(D) compensation paid by a candidate for personal services rendered by a person without charge to a reporting entity;

(E) a transfer of funds between the candidate and a candidate's personal campaign committee as defined in Section 20A-11-101; or

(F) goods or services provided by a reporting entity to or for the benefit of the candidate for political purposes at less than fair market value.

(ii) "Expenditure" does not include:

(A) services provided without compensation by an individual volunteering a portion or all of the individual's time on behalf of a candidate; or

(B) money lent to a candidate by a financial institution in the ordinary course of business.

(g) "In-kind contribution" means anything of value other than money, that is accepted by or coordinated with a candidate.

(h) (i) "Political consultant" means a person who is paid by a candidate, or paid by another person on behalf of and with the knowledge of the candidate, to provide political advice to the candidate.

(ii) "Political consultant" includes a circumstance described in Subsection (1)(h)(i), where the person:

(A) has already been paid, with money or other consideration;

(B) expects to be paid in the future, with money or other consideration; or

(C) understands that the person may, in the discretion of the candidate or another person on behalf of and with the knowledge of the candidate, be paid in the future, with money or other consideration.

(i) "Political purposes" means an act done with the intent or in a way to influence or tend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any candidate or a person seeking a municipal office at any caucus, political convention, or election.

(j) "Reporting entity" means:

(i) a candidate;

(ii) a committee appointed by a candidate to act for the candidate;

(iii) a person who holds an elected municipal office;

(iv) a party committee as defined in Section 20A-11-101;

(v) a political action committee as defined in Section 20A-11-101;

(vi) a political issues committee as defined in Section 20A-11-101;

(vii) a corporation as defined in Section 20A-11-101; or

(viii) a labor organization as defined in Section 20A-11-1501.

(2) (a) A municipality may adopt an ordinance establishing campaign finance disclosure requirements for a candidate that are more stringent than the requirements provided in Subsections (3)[~~, (4), and (5)~~] through (7).

(b) The municipality may adopt definitions that are more stringent than those provided in Subsection (1).

(c) If a municipality fails to adopt a campaign finance disclosure ordinance described in Subsection (2)(a), a candidate shall comply with financial reporting requirements contained in Subsections (3)[~~, (4), and (5)~~] through (7).

(3) [~~(a)~~] Each candidate:

[~~(i)~~] (a) shall deposit a contribution in a separate campaign account in a financial institution; and

[~~(ii)~~] (b) may not deposit or mingle any campaign contributions received into a personal or business account.

[~~(b)~~] (4) (a) In a year in which a municipal primary is held, each candidate who will participate in the municipal primary shall file a campaign finance statement with the municipal clerk or recorder no later than seven days before the day described in Subsection 20A-1-201.5(2).

[~~(c)~~] (b) Each candidate who is not eliminated at a municipal primary election shall file [~~with the municipal clerk or recorder~~] a campaign finance statement with the municipal clerk or recorder no later than:

(i) 28 days before the day on which the municipal general election is held;

[~~(i)~~] (ii) [~~no later than~~] seven days before the day on which the municipal general election is held; and

[~~(ii)~~] (iii) [~~no later than~~] 30 days after the day on which the municipal general election is held.

[~~(d)~~] (c) Each candidate for municipal office who is eliminated at a municipal primary election shall file with the municipal clerk or recorder a campaign finance statement within 30 days after the day on which the municipal primary election is held.

(5) If a municipality does not conduct a primary election for a race, each candidate who will participate in that race shall file a campaign finance statement with the municipal clerk or recorder no later than:

(a) 28 days before the day on which the municipal general election is held;

(b) seven days before the day on which the municipal general election is held; and

(c) 30 days after the day on which the municipal general election is held.

[~~(4)~~] (6) Each campaign finance statement described in Subsection [~~(3)~~] (4) or (5) shall:

(a) except as provided in Subsection [~~(4)~~] (6)(b):

(i) report all of the candidate's itemized and total:

(A) contributions, including in-kind and other nonmonetary contributions, received up to and including five days before the campaign finance statement is due, excluding a contribution previously reported; and

(B) expenditures made up to and including five days before the campaign finance statement is due, excluding an expenditure previously reported; and

(ii) identify:

(A) for each contribution, the amount of the contribution and the name of the donor, if known; and

(B) for each expenditure, the amount of the expenditure and the name of the recipient of the expenditure; or

(b) report the total amount of all contributions and expenditures if the candidate receives $500 or less in contributions and spends $500 or less on the candidate's campaign.

[~~(5)~~] (7) Within 30 days after receiving a contribution that is cash or a negotiable instrument, exceeds the anonymous contribution limit, and is from a donor whose name is unknown, a candidate shall disburse the amount of the contribution to:

(a) the treasurer of the state or a political subdivision for deposit into the state's or political subdivision's general fund; or

(b) an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code.

[~~(6)~~] (8) (a) A municipality may, by ordinance:

(i) provide an anonymous contribution limit less than $50;

(ii) require greater disclosure of contributions or expenditures than is required in this section; and

(iii) impose additional penalties on candidates who fail to comply with the applicable requirements beyond those imposed by this section.

(b) A candidate is subject to the provisions of this section and not the provisions of an ordinance adopted by the municipality under Subsection [~~(6)~~] (8)(a) if:

(i) the municipal ordinance establishes requirements or penalties that differ from those established in this section; and

(ii) the municipal clerk or recorder fails to notify the candidate of the provisions of the ordinance as required in Subsection [~~(7)~~] (9).

[~~(7)~~] (9) Each municipal clerk or recorder shall, at the time the candidate for municipal office files a declaration of candidacy, and again [~~14~~] 35 days before each municipal general election, notify the candidate in writing of:

(a) the provisions of statute or municipal ordinance governing the disclosure of contributions and expenditures;

(b) the dates when the candidate's campaign finance statement is required to be filed; and

(c) the penalties that apply for failure to file a timely campaign finance statement, including the statutory provision that requires removal of the candidate's name from the ballot for failure to file the required campaign finance statement when required.

[~~(8)~~] (10) Notwithstanding any provision of Title 63G, Chapter 2, Government Records Access and Management Act, the municipal clerk or recorder shall:

(a) make each campaign finance statement filed by a candidate available for public inspection and copying no later than one business day after the statement is filed; and

(b) make the campaign finance statement filed by a candidate available for public inspection by:

(i) (A) posting an electronic copy or the contents of the statement on the municipality's website no later than seven business days after the statement is filed; and

(B) verifying that the address of the municipality's website has been provided to the lieutenant governor in order to meet the requirements of Subsection 20A-11-103(5); or

(ii) submitting a copy of the statement to the lieutenant governor for posting on the website established by the lieutenant governor under Section 20A-11-103 no later than two business days after the statement is filed.

[~~(9)~~] (11) (a) If a candidate fails to timely file a campaign finance statement required under Subsection [~~(3)~~] (4) or (5), the municipal clerk or recorder [~~shall inform the appropriate election official who~~]:

[~~(i) shall:~~]

(i) may send an electronic notice to the candidate that states:

(A) that the candidate failed to timely file the campaign finance statement; and

(B) that, if the candidate fails to file the report within 24 hours after the deadline for filing the report, the candidate will be disqualified; and

(ii) may impose a fine of $50 on the candidate.

(b) The municipal clerk or recorder shall disqualify a candidate and inform the appropriate election official that the candidate is disqualified if the candidate fails to file a campaign finance statement described in Subsection (4) or (5) within 24 hours after the deadline for filing the report.

(c) If a candidate is disqualified under Subsection (11)(b), the election official:

(i) (A) shall, if practicable, remove the candidate's name from the ballot by blacking out the candidate's name before the ballots are delivered to voters; or

(B) shall, if removing the candidate's name from the ballot is not practicable, inform the voters by any practicable method that the candidate has been disqualified and that votes cast for the candidate will not be counted; and

(ii) may not count any votes for that candidate.

[~~(b)~~] (d) Notwithstanding Subsection [~~(9)(a)~~] (11)(b), a candidate who timely files each campaign finance statement required under Subsection [~~(3)~~] (4) or (5) is not disqualified if:

(i) the statement details accurately and completely the information required under Subsection [~~(4)~~] (6), except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the omissions, errors, or inaccuracies are corrected in an amended report or in the next scheduled report.

[~~(c)~~] (e) A candidate for municipal office who is disqualified under Subsection [~~(9)(a)~~] (11)(b) shall file with the municipal clerk or recorder a complete and accurate campaign finance statement within 30 days after the day on which the candidate is disqualified.

[~~(10)~~] (12) A campaign finance statement required under this section is considered filed if it is received in the municipal clerk or recorder's office by 5 p.m. on the date that it is due.

[~~(11)~~] (13) (a) A private party in interest may bring a civil action in district court to enforce the provisions of this section or an ordinance adopted under this section.

(b) In a civil action under Subsection [~~(11)~~] (13)(a), the court may award costs and attorney fees to the prevailing party.

Section 2. Section 36-11a-102 is amended to read:

36-11a-102. Definitions.

As used in this chapter:

(1) "Aggregate daily expenditures" means:

(a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual local official or education official;

(b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual local official or education official; or

(c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual local official or education official, regardless of whether the expenditures were attributed to different clients.

(2) "Board of education" means:

(a) a local school board described in Title 53G, Chapter 4, School Districts;

(b) the State Board of Education;

(c) the State Charter School Board created under Section 53G-5-201; or

(d) a charter school governing board described in Title 53G, Chapter 5, Charter Schools.

(3) (a) "Compensation" means anything of economic value, however designated, that is paid, loaned, granted, given, donated, or transferred to an individual for the provision of services or ownership before any withholding required by federal or state law.

(b) "Compensation" includes:

(i) a salary or commission;

(ii) a bonus;

(iii) a benefit;

(iv) a contribution to a retirement program or account;

(v) a payment includable in gross income, as defined in Section 62, Internal Revenue Code, and subject to social security deductions, including a payment in excess of the maximum amount subject to deduction under social security law;

(vi) an amount that the individual authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; or

(vii) income based on an individual's ownership interest.

(4) "Compensation payor" means a person who pays compensation to a local official or education official in the ordinary course of business:

(a) because of the local official's or education official's ownership interest in the compensation payor; or

(b) for services rendered by the local official or education official on behalf of the compensation payor.

(5) "Education action" means:

(a) a resolution, policy, or other official action for consideration by a board of education;

(b) a nomination or appointment by an education official or a board of education;

(c) an administrative action taken by a vote of a board of education;

(d) an adjudicative proceeding over which an education official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(6) "Education official" means:

(a) a member of a board of education;

(b) an individual appointed to or employed in a position under a board of education if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts resolutions or policies or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (6)(a) or (b).

(7) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(8) (a) "Expenditure" means any of the items listed in this Subsection (8)(a) when given to or for the benefit of a local official or education official unless consideration of equal or greater value is received:

(i) a purchase, payment, or distribution;

(ii) a loan, gift, or advance;

(iii) a deposit, subscription, or forbearance;

(iv) services or goods;

(v) money;

(vi) real property;

(vii) a ticket or admission to an event; or

(viii) a contract, promise, or agreement, whether or not legally enforceable, to provide any item listed in Subsections (8)(a)(i) through (vii).

(b) "Expenditure" does not mean:

(i) a commercially reasonable loan made in the ordinary course of business;

(ii) a campaign contribution:

(A) reported in accordance with Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208 or Section 17-16-6.5, or an applicable ordinance described in Subsection 10-3-208[~~(5)~~](8) or Subsection 17-16-6.5(1); or

(B) lawfully given to a person that is not required to report the contribution under a law or ordinance described in Subsection (8)(b)(ii)(A);

(iii) printed informational material that is related to the performance of the recipient's official duties;

(iv) a devise or inheritance;

(v) any item listed in Subsection (8)(a) if:

(A) given by a relative;

(B) given by a compensation payor for a purpose solely unrelated to the local official's or education official's position as a local official or education official;

(C) the item is food or beverage with a value that does not exceed the food reimbursement rate, and the aggregate daily expenditures for food and beverage do not exceed the food reimbursement rate; or

(D) the item is not food or beverage, has a value of less than $10, and the aggregate daily expenditures do not exceed $10;

(vi) food or beverage that is provided at an event, a tour, or a meeting to a local official or education official who is:

(A) giving a speech at the event, tour, or meeting;

(B) participating in a panel discussion at the event, tour, or meeting; or

(C) presenting or receiving an award at the event, tour, or meeting;

(vii) a plaque, commendation, or award that:

(A) is presented in public; and

(B) has the name of the individual receiving the plaque, commendation, or award inscribed, etched, printed, or otherwise permanently marked on the plaque, commendation, or award;

(viii) a publication having a cash value not exceeding $30;

(ix) admission to or attendance at an event, a tour, or a meeting, the primary purpose of which is:

(A) to solicit a contribution that is reportable under 2 U.S.C. Sec. 434, Title 20A, Chapter 11, Campaign and Financial Reporting Requirements, Section 10-3-208 or Section 17-16-6.5, or an applicable ordinance described in Subsection 10-3-208[~~(5)~~](8) or Subsection 17-16-6.5(1);

(B) to solicit a campaign contribution that a person is not required to report under a law or ordinance described in Subsection (8)(b)(ix)(A); or

(C) charitable solicitation, as defined in Section 13-22-2;

(x) notwithstanding Subsection (8)(a)(vii), admission to, attendance at, or travel to or from an event, a tour, or a meeting for a local official or education official:

(A) that is sponsored by a governmental entity, a public school, a charter school, or an organization that represents only local governmental entities, public schools, or charter schools, including the Utah Association of Counties, the Utah League of Cities and Towns, the Utah Association of Special Districts, the Utah Association of Public Charter Schools, the Utah School Boards Association, or the Utah School Superintendents Association; or

(B) that is widely attended and related to a governmental duty of the local official or education official; or

(xi) travel to a widely attended tour or meeting related to a governmental duty of a local official or education official if that travel results in a financial savings to the local government or board of education to which the local official or education official belongs.

(9) "Food reimbursement rate" means the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.

(10) (a) "Government officer" means:

(i) an individual elected to a position in state or local government, when acting in the capacity of the state or local government position;

(ii) an individual elected to a board of education, when acting in the capacity of a member of a board of education;

(iii) an individual appointed to fill a vacancy in a position described in Subsection (10)(a)(i) or (ii), when acting in the capacity of the position; or

(iv) an individual appointed to or employed in a full-time position by state government, local government, or board of education, when acting in the capacity of the individual's appointment or employment.

(b) "Government officer" does not mean a member of the legislative branch of state government.

(11) "Immediate family" means:

(a) a spouse;

(b) a child residing in the household; or

(c) an individual claimed as a dependent for tax purposes.

(12) "Lobbying" means communicating with a local official or education official for the purpose of influencing a local action or education action.

(13) (a) "Lobbyist" means:

(i) an individual who is employed by a principal; or

(ii) an individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a local official or education official.

(b) "Lobbyist" does not include:

(i) a government officer;

(ii) a member or employee of the legislative branch of state government;

(iii) a person participating on or appearing before an advisory or study task force, commission, board, or committee, constituted by a local government or board of education;

(iv) a representative of a political party;

(v) an individual representing a bona fide church solely for the purpose of protecting the right to practice the religious doctrines of the church, unless the individual or church makes an expenditure that confers a benefit on a local official or education official;

(vi) a newspaper, television station or network, radio station or network, periodical of general circulation, or book publisher for the purpose of publishing news items, editorials, other comments, or paid advertisements that directly or indirectly urge local action or education action;

(vii) an individual who appears on the individual's own behalf before a board of education, the governing body of a local government, or a committee of a local government or board of education, solely for the purpose of testifying in support of or in opposition to local action or education action; or

(viii) an individual representing a business, entity, or industry, who:

(A) interacts with a local official or education official, in the local official's or education official's capacity as a local official or education official, while accompanied by a lobbyist who is lobbying in relation to the subject of the interaction; and

(B) does not make an expenditure for, or on behalf of, a local official or education official in relation to the interaction or during the period of interaction.

(14) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and government officers, who each contribute a portion of an expenditure made to benefit a local official or education official or member of the local official's or education official's immediate family.

(15) "Local action" means:

(a) an ordinance or resolution for consideration by a local government;

(b) a nomination or appointment by a local official or a local government;

(c) an administrative action taken by a vote of a local government's legislative body;

(d) an adjudicative proceeding over which a local official has direct or indirect control;

(e) a purchasing or contracting decision;

(f) drafting or making a policy, resolution, or rule;

(g) determining a rate or fee; or

(h) making an adjudicative decision.

(16) "Local government" means:

(a) a county, city, town, or metro township;

(b) a local district governed by Title 17B, Limited Purpose Local Government Entities - Local Districts;

(c) a special service district governed by Title 17D, Chapter 1, Special Service District Act;

(d) a community reinvestment agency governed by Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act;

(e) a conservation district governed by Title 17D, Chapter 3, Conservation District Act;

(f) a redevelopment agency; or

(g) an interlocal entity or a joint or cooperative undertaking governed by Title 11, Chapter 13, Interlocal Cooperation Act.

(17) "Local official" means:

(a) an elected member of a local government;

(b) an individual appointed to or employed in a position in a local government if that individual:

(i) occupies a policymaking position or makes purchasing or contracting decisions;

(ii) drafts ordinances or resolutions or drafts or makes rules;

(iii) determines rates or fees; or

(iv) makes adjudicative decisions; or

(c) an immediate family member of an individual described in Subsection (17)(a) or (b).

(18) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(19) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a local official or education official or member of the local official's or education official's immediate family between two or more of those clients.

(20) "Principal" means a person that employs an individual to perform lobbying, either as an employee or as an independent contractor.

(21) "Quarterly reporting period" means the three-month period covered by each financial report required under Section 36-11a-201.

(22) "Related person" means a person, agent, or employee who knowingly and intentionally assists a lobbyist, principal, or government officer in lobbying.

(23) "Relative" means:

(a) a spouse;

(b) a child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin; or

(c) a spouse of an individual described in Subsection (23)(b).

(24) "Tour" means the visit of a location by a local official or education official, for a purpose relating to the duties of the local official or education official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a local official or education official may need to take action within the scope of the local official's or education official's duties.

(25) "Type of public official" means a notation to identify whether an individual is:

(a) a local official, including a notation of the type of local government for which the individual is a local official;

(b) an education official, including a notation of the type of board of education for which the individual is an education official; or

(c) an immediate family member of an individual described in Subsection (6)(a), (6)(b), (17)(a), or (17)(b).

CHAPTER 152
H. B. 277

Passed February 25, 2022
Approved March 22, 2022
Effective May 4, 2022

JUVENILE COMPETENCY AMENDMENTS

Chief Sponsor: Brian S. King
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends provisions related to juvenile competency.

Highlighted Provisions:

This bill:

- defines terms in relation to juvenile competency;
- amends provisions regarding the admissibility of statements by a minor made in a competency evaluation or in the course of attainment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-401, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-402, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-403, as renumbered and amended by Laws of Utah 2021, Chapter 261

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

Section 1. Section 80-6-401 is amended to read:

80-6-401. Definitions -- Competency to proceed.

(1) As used in this part:

(a) "Competency" or "competent to proceed" means that a minor has:

(i) a present ability to consult with counsel with a reasonable degree of rational understanding; and

(ii) a rational as well as factual understanding of the proceedings.

(b) "Competency evaluation" means an evaluation conducted by a forensic evaluator to determine if a minor is competent to stand for trial or adjudication for pending charges.

(c) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(d) "Not competent to proceed" means an individual is not competent to stand for trial or adjudication for pending charges.

[~~(1)~~] (2) If a petition is filed under Section 80-6-305, or a criminal information is filed under Section 80-6-503, in the juvenile court, a written motion may be filed alleging reasonable grounds to believe the minor is not competent to proceed.

[~~(2)~~] (3) The written motion shall contain:

(a) a certificate that it is filed in good faith and on reasonable grounds to believe the minor is not competent to proceed due to:

(i) a mental illness;

(ii) an intellectual disability or a related condition; or

(iii) developmental immaturity;

(b) a recital of the facts, observations, and conversations with the minor that have formed the basis for the motion; and

(c) if filed by defense counsel, the motion shall contain information that can be revealed without invading the lawyer-client privilege.

[~~(3)~~] (4) The motion may be:

(a) based upon knowledge or information and belief; and

(b) filed by:

(i) the minor alleged not competent to proceed;

(ii) any person acting on the minor's behalf;

(iii) the prosecuting attorney;

(iv) the attorney guardian ad litem; or

(v) any person having custody or supervision over the minor.

[~~(4)~~] (5) (a) The juvenile court may raise the issue of a minor's competency at any time.

(b) If raised by the juvenile court, counsel for each party shall be permitted to address the issue of competency.

(c) The juvenile court shall state the basis for the finding that there are reasonable grounds to believe the minor is not competent to proceed.

Section 2. Section 80-6-402 is amended to read:

80-6-402. Procedure -- Standard.

(1) When a written motion is filed in accordance with Section 80-6-401 raising the issue of a minor's competency to proceed, or when the juvenile court raises the issue of a minor's competency to proceed, the juvenile court shall stay all proceedings under this chapter.

(2) (a) If a motion for inquiry is opposed by either party, the juvenile court shall, before granting or denying the motion, hold a limited hearing solely for the purpose of determining the sufficiency of the motion.

(b) If the juvenile court finds that the allegations of incompetency raise a bona fide doubt as to the minor's competency to proceed, the juvenile court shall:

(i) enter an order for an evaluation of the minor's competency to proceed; and

(ii) set a date for a hearing on the issue of the minor's competency.

(3) After the granting of a motion, and before a full competency hearing, the juvenile court may order the department to evaluate the minor and to report to the juvenile court concerning the minor's mental condition.

(4) The minor shall be evaluated by a forensic evaluator who:

(a) has experience in juvenile forensic evaluations and juvenile brain development;

(b) if it becomes apparent that the minor is not competent due to an intellectual disability or related condition, has experience in intellectual disability or related conditions; and

(c) is not involved in the current treatment of the minor.

(5) The petitioner or other party, as directed by the juvenile court, shall provide all information and materials relevant to a determination of the minor's competency to the department within seven days of the juvenile court's order, including:

(a) the motion;

(b) the arrest or incident reports pertaining to the charged offense;

(c) the minor's known delinquency history information;

(d) the minor's probation record relevant to competency;

(e) known prior mental health evaluations and treatments; and

(f) consistent with 20 U.S.C. Sec. 1232g (b)(1)(E)(ii)(I), records pertaining to the minor's education.

(6) (a) The minor's parent or guardian, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem, shall cooperate, by executing releases of information when necessary, in providing the relevant information and materials to the forensic evaluator, including:

(i) medical records;

(ii) prior mental evaluations; or

(iii) records of diagnosis or treatment of substance abuse disorders.

(b) The minor shall cooperate, by executing a release of information when necessary, in providing the relevant information and materials to the forensic evaluator regarding records of diagnosis or treatment of a substance abuse disorder.

(7) (a) In conducting the evaluation and in the report determining if a minor is competent to proceed, the forensic evaluator shall inform the juvenile court of the forensic evaluator's opinion whether:

(i) the minor has a present ability to consult with counsel with a reasonable degree of rational understanding; and

(ii) the minor has a rational as well as factual understanding of the proceedings.

(b) In evaluating the minor, the forensic evaluator shall consider the minor's present ability to:

(i) understand the charges or allegations against the minor;

(ii) communicate facts, events, and states of mind;

(iii) understand the range of possible penalties associated with the allegations against the minor;

(iv) engage in reasoned choice of legal strategies and options;

(v) understand the adversarial nature of the proceedings against the minor;

(vi) manifest behavior sufficient to allow the juvenile court to proceed;

(vii) testify relevantly; and

(viii) any other factor determined to be relevant to the forensic evaluator.

(8) (a) The forensic evaluator shall provide an initial report to the juvenile court, the prosecuting and defense attorneys, and the attorney guardian ad litem, if applicable, within 30 days of the receipt of the juvenile court's order.

(b) If the forensic evaluator informs the juvenile court that additional time is needed, the juvenile court may grant, taking into consideration the custody status of the minor, up to an additional 15 days to provide the report to the juvenile court and counsel.

(c) The forensic evaluator must provide the report within 45 days from the receipt of the juvenile court's order unless, for good cause shown, the juvenile court authorizes an additional period of time to complete the evaluation and provide the report.

(d) The report shall inform the juvenile court of the forensic evaluator's opinion concerning the minor's competency.

(9) If the forensic evaluator's opinion is that the minor is not competent to proceed, the report shall indicate:

(a) the nature of the minor's:

(i) mental illness;

(ii) intellectual disability or related condition; or

(iii) developmental immaturity;

(b) the relationship of the minor's mental illness, intellectual disability, related condition, or developmental immaturity to the minor's incompetence;

(c) whether there is a substantial likelihood that the minor may attain competency in the foreseeable future;

(d) the amount of time estimated for the minor to achieve competency if the minor undergoes competency attainment treatment, including medication;

(e) the sources of information used by the forensic evaluator; and

(f) the basis for clinical findings and opinions.

(10) [~~Any~~] Regardless of whether a minor consents to a competency evaluation, any statement made by the minor in the course of [~~any~~] the competency evaluation, [~~whether the evaluation is with or without the consent of the minor,~~] any testimony by the forensic evaluator based upon any statement made by the minor in the competency evaluation, and any other fruits of the statement made by the minor in the competency evaluation:

(a) may not be admitted in evidence against the minor in a proceeding under this chapter [~~except on an issue respecting the mental condition on which the minor has introduced evidence~~], except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and

(b) may be admitted where relevant to a determination of the minor's competency.

(11) Before evaluating the minor for a competency evaluation, a forensic evaluator shall specifically advise the minor, [~~and, if reasonably available, the parents or guardian,~~] and the minor's parent or guardian if reasonably available, of the limits of confidentiality as provided under Subsection (10).

(12) When the report is received, the juvenile court shall set a date for a competency hearing that shall be held in not less than five and not more than 15 days, unless the juvenile court enlarges the time for good cause.

(13) (a) A minor shall be presumed competent unless the juvenile court, by a preponderance of the evidence, finds the minor not competent to proceed.

(b) The burden of proof is upon the proponent of incompetency to proceed.

(14) (a) Following the hearing, the juvenile court shall determine by a preponderance of evidence whether the minor is:

(i) competent to proceed;

(ii) not competent to proceed with a substantial probability that the minor may attain competency in the foreseeable future; or

(iii) not competent to proceed without a substantial probability that the minor may attain competency in the foreseeable future.

(b) If the juvenile court enters a finding described in Subsection (14)(a)(i), the juvenile court shall proceed with the proceedings in the minor's case.

(c) If the juvenile court enters a finding described in Subsection (14)(a)(ii), the juvenile court shall proceed in accordance with Section 80-6-403.

(d) (i) If the juvenile court enters a finding described in Subsection (14)(a)(iii), the juvenile court shall terminate the competency proceeding, dismiss the charges against the minor without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecutor informs the court that commitment proceedings will be initiated in accordance with:

(A) Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(B) if the minor is 18 years old or older, Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities; or

(C) if the minor is a child, Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(ii) The commitment proceedings described in Subsection (14)(d)(i) shall be initiated within seven days after the day on which the juvenile court enters the order under Subsection (14)(a), unless the court enlarges the time for good cause shown.

(iii) The juvenile court may order the minor to remain in custody until the commitment proceedings have been concluded.

(15) If the juvenile court finds the minor not competent to proceed, the juvenile court's order shall contain findings addressing each of the factors in Subsection (7)(b).

Section 3. Section 80-6-403 is amended to read:

80-6-403. Disposition on finding of not competent to proceed -- Subsequent hearings -- Notice to prosecuting attorneys.

(1) If the juvenile court determines that the minor is not competent to proceed, and there is a substantial likelihood that the minor may attain competency in the foreseeable future, the juvenile court shall notify the department of the finding and allow the department 30 days to develop an attainment plan for the minor.

(2) The attainment plan shall include:

(a) any services or treatment the minor has been or is currently receiving that are necessary to attain competency;

(b) any additional services or treatment the minor may require to attain competency;

(c) an assessment of the parent, custodian, or guardian's ability to access or provide any recommended treatment or services;

(d) any special conditions or supervision that may be necessary for the safety of the minor or others during the attainment period; and

(e) the likelihood that the minor will attain competency and the amount of time likely required for the minor to attain competency.

(3) The department shall provide the attainment plan to the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem at least three days before the competency disposition hearing.

(4) (a) During the attainment period, the minor shall remain in the least restrictive appropriate setting.

(b) A finding of not competent to proceed does not grant authority for a juvenile court to place a minor in the custody of a division of the department, or create eligibility for services from the Division of Services for People With Disabilities.

(c) If the juvenile court orders the minor to be held in detention during the attainment period, the juvenile court shall make the following findings on the record:

(i) the placement is the least restrictive appropriate setting;

(ii) the placement is in the best interest of the minor;

(iii) the minor will have access to the services and treatment required by the attainment plan in the placement; and

(iv) the placement is necessary for the safety of the minor or others.

(d) A juvenile court shall terminate an order of detention related to the pending proceeding for a minor who is not competent to proceed in that matter if:

(i) the most severe allegation against the minor if committed by an adult is a class B misdemeanor;

(ii) more than 60 days have passed after the day on which the juvenile court adjudicated the minor not competent to proceed; and

(iii) the minor has not attained competency.

(5) (a) At any time that the minor becomes competent to proceed during the attainment period, the department shall notify the juvenile court, the prosecuting attorney, the defense attorney, and the attorney guardian ad litem.

(b) The juvenile court shall hold a hearing with 15 business days of notice from the department described in Subsection (5)(a).

(6) (a) If at any time during the attainment period the juvenile court finds that there is not a substantial probability that the minor will attain competency in the foreseeable future, the juvenile court shall terminate the competency proceeding, dismiss the petition or information without prejudice, and release the minor from any custody order related to the pending proceeding, unless the prosecuting attorney or any other individual informs the juvenile court that commitment proceedings will be initiated in accordance with:

(i) Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability;

(ii) if the minor is 18 years old or older, Title 62A, Chapter 15, Part 6, Utah State Hospital and Other Mental Health Facilities; or

(iii) if the minor is a child, Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(b) The prosecuting attorney shall initiate the proceedings described in Subsection (6)(a) within seven days after the juvenile court's order, unless the juvenile court enlarges the time for good cause shown.

(7) During the attainment period, the juvenile court may order a hearing or rehearing at anytime on the juvenile court's own motion or upon recommendation of any interested party or the department.

(8) (a) Within three months of the juvenile court's approval of the attainment plan, the department shall provide a report on the minor's progress towards competence.

(b) The report described in Subsection (8)(a) shall address the minor's:

(i) compliance with the attainment plan;

(ii) progress towards competency based on the issues identified in the original competency evaluation; and

(iii) current mental illness, intellectual disability or related condition, or developmental immaturity, and need for treatment, if any, and whether there is substantial likelihood of the minor attaining competency within six months.

(9) (a) Within 30 days of receipt of the report, the juvenile court shall hold a hearing to determine the minor's current status.

(b) At the hearing, the burden of proving the minor is competent is on the proponent of competency.

(c) The juvenile court shall determine by a preponderance of the evidence whether the minor is competent to proceed.

(10) If the minor has not attained competency after the initial three month attainment period but is showing reasonable progress towards attainment of competency, the juvenile court may extend the attainment period up to an additional three months.

(11) The department shall provide an updated juvenile competency evaluation at the conclusion of the six month attainment period to advise the juvenile court on the minor's current competency status.

(12) If the minor does not attain competency within six months after the juvenile court initially finds the minor not competent to proceed, the court shall terminate the competency proceedings and dismiss the petition or information filed without

prejudice, unless good cause is shown that there is a substantial likelihood the minor will attain competency within one year from the initial finding of not competent to proceed.

(13) In the event a minor has an unauthorized leave lasting more than 24 hours, the attainment period shall toll until the minor returns.

(14) (a) Regardless of whether a minor consents to attainment, any statement made by the minor in the course of attainment, any testimony by the forensic evaluator based upon any statement made by the minor in the course of attainment, and any other fruits of a statement made by the minor in the course of attainment:

(i) may not be admitted in evidence against the minor in a proceeding under this chapter, except the statement may be admitted on an issue respecting the mental condition on which the minor has introduced evidence; and

(ii) may be admitted where relevant to a determination of the minor's competency.

(b) Before evaluating the minor during the attainment period, a forensic evaluator shall specifically advise the minor, and the minor's parent or guardian if reasonably available, of the limits of confidentiality provided in Subsection (14)(a).

CHAPTER 153
H. B. 280

Passed March 3, 2022
Approved March 22, 2022
Effective May 4, 2022

CYBERSECURITY COMMISSION

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill creates the Cybersecurity Commission to gather information and share best practices on cybersecurity.

Highlighted Provisions:

This bill:

- repeals the Data Security Management Council;
- creates the Cybersecurity Commission (the commission);
- directs the appointment of members to the commission;
- directs the commission to gather information about cybersecurity:
  - vulnerabilities; and
  - best practices;
- authorizes the commission to share information it gathers with the governor;
- directs the commission to establish guidelines and best practices with respect to cybersecurity protections;
- directs the commission to analyze cybersecurity practices in the private and the public sectors;
- requires the commission to report annually to the Public Utilities, Energy, and Technology Interim Committee;
- describes the circumstances under which the commission may close a meeting to the public;
- provides a sunset date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

ENACTS:

63C-25-101, Utah Code Annotated 1953
63C-25-201, Utah Code Annotated 1953
63C-25-202, Utah Code Annotated 1953
63C-25-203, Utah Code Annotated 1953
63C-25-204, Utah Code Annotated 1953
63C-25-205, Utah Code Annotated 1953
63C-25-206, Utah Code Annotated 1953

REPEALS:

63A-16-701, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-702, as renumbered and amended by Laws of Utah 2021, Chapter 344

Utah Code Sections Affected by Coordination Clause:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

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

Section 1. Section 63C-25-101 is enacted to read:

CHAPTER 25. (CODIFIED AS CHAPTER 27) CYBERSECURITY COMMISSION

Part 1. General Provisions

63C-25-101. (Codified as 63C-27-101) Definitions.

As used in this chapter:

(1) "Commission" means the Cybersecurity Commission created in this chapter.

(2) "Critical infrastructure" includes the following sectors the United States Department of Homeland Security identifies as critical:

(a) chemical;

(b) commercial facilities;

(c) communications;

(d) critical manufacturing;

(e) dams;

(f) defense industrial base;

(g) emergency services;

(h) energy;

(i) financial services;

(j) food and agriculture;

(k) government facilities;

(l) healthcare and public health;

(m) information technology;

(n) nuclear reactors, nuclear materials, and nuclear waste;

(o) transportation systems; and

(p) water and wastewater systems.

Section 2. Section 63C-25-201 is enacted to read:

Part 2. Cybersecurity Commission

63C-25-201. (Codified as 63C-27-201) Cybersecurity Commission created.

(1) There is created the Cybersecurity Commission.

(2) The commission shall be composed of 24 members:

(a) one member the governor designates to serve as the governor's designee;

(b) the commissioner of the Department of Public Safety;

(c) the lieutenant governor, or an election officer, as that term is defined in Section 20A-1-102, the lieutenant governor designates to serve as the lieutenant governor's designee;

(d) the chief information officer of the Division of Technology Services;

(e) the chief information security officer, as described in Section 63A-16-210;

(f) the chairman of the Public Service Commission shall designate a representative with professional experience in information technology or cybersecurity;

(g) the executive director of the Utah Department of Transportation shall designate a representative with professional experience in information technology or cybersecurity;

(h) the director of the Division of Finance shall designate a representative with professional experience in information technology or cybersecurity;

(i) the executive director of the Department of Health and Human Services shall designate a representative with professional experience in information technology or cybersecurity;

(j) the director of the Division of Indian Affairs shall designate a representative with professional experience in information technology or cybersecurity;

(k) the Utah League of Cities and Towns shall designate a representative with professional experience in information technology or cybersecurity;

(l) the Utah Association of Counties shall designate a representative with professional experience in information technology or cybersecurity;

(m) the attorney general, or the attorney general's designee;

(n) the commissioner of financial institutions, or the commissioner's designee;

(o) the executive director of the Department of Environmental Quality shall designate a representative with professional experience in information technology or cybersecurity;

(p) the executive director of the Department of Natural Resources shall designate a representative with professional experience in information technology or cybersecurity;

(q) the highest ranking information technology official, or the official's designee, from each of:

(i) the Judicial Council;

(ii) the Utah Board of Higher Education;

(iii) the State Board of Education; and

(iv) the State Tax Commission;

(r) the governor shall appoint:

(i) one representative from the Utah National Guard; and

(ii) one representative from the Governor's Office of Economic Opportunity;

(s) the president of the Senate shall appoint one member of the Senate; and

(t) the speaker of the House of Representatives shall appoint one member of the House of Representatives.

(3) (a) The governor's designee shall serve as cochair of the commission.

(b) The commissioner of the Department of Public Safety shall serve as cochair of the commission.

(4) (a) The members described in Subsection (2) shall represent urban, rural, and suburban population areas.

(b) No fewer than half of the members described in Subsection (2) shall have professional experience in cybersecurity or in information technology.

(5) In addition to the membership described in Subsection (2), the commission shall seek information and advice from state and private entities with expertise in critical infrastructure.

(6) As necessary to improve information and protect potential vulnerabilities, the commission shall seek information and advice from federal entities including:

(a) the Cybersecurity and Infrastructure Security Agency;

(b) the Federal Energy Regulatory Commission;

(c) the Federal Bureau of Investigation; and

(d) the United States Department of Transportation.

(7) (a) Except as provided in Subsections (7)(b) and (c), a member is appointed for a term of four years.

(b) A member shall serve until the member's successor is appointed and qualified.

(c) Notwithstanding the requirements of Subsection (7)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission members appointed under Subsection (2)(r) are appointed every two years.

(8) (a) If a vacancy occurs in the membership of the commission, the member shall be replaced in the same manner in which the original appointment was made.

(b) An individual may be appointed to more than one term.

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

(9) (a) A majority of the members of the commission is a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(10) The commission shall meet at least two times a year.

Section 3. Section 63C-25-202 is enacted to read:

63C-25-202. (Codified as 63C-27-202) Commission duties.

The commission shall:

(1) identify and inform the governor of:

(a) cyber threats and vulnerabilities towards Utah's critical infrastructure;

(b) cybersecurity assets and resources;

(c) an analysis of:

(i) current cyber incident response capabilities;

(ii) potential cyber threats; and

(iii) areas of significant concern with respect to:

(A) vulnerability to cyber attack; or

(B) seriousness of consequences in the event of a cyber attack;

(2) provide resources with respect to cyber attacks in both the public and private sector, including:

(a) best practices;

(b) education; and

(c) mitigation;

(3) promote cyber security awareness;

(4) share information;

(5) promote best practices to prevent and mitigate cyber attacks;

(6) enhance cyber capabilities and response for all Utahns;

(7) provide consistent outreach and collaboration with private and public sector organizations; and

(8) share cyber threat intelligence to operators and overseers of Utah's critical infrastructure.

Section 4. Section 63C-25-203 is enacted to read:

63C-25-203. (Codified as 63C-27-203) Compensation of members.

(1) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses incurred as a member of the commission at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

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

Section 5. Section 63C-25-204 is enacted to read:

63C-25-204. (Codified as 63C-27-204) Staffing.

The Department of Public Safety shall provide staff and support to the commission.

Section 6. Section 63C-25-205 is enacted to read:

63C-25-205. (Codified as 63C-27-205) Reporting requirement.

On or before November 30, the commission shall report to the Public Utilities, Energy, and Technology Interim Committee:

(1) an assessment of cyber threats to Utah;

(2) recommendations for legislation that would reduce the state's vulnerability to attack; and

(3) recommendations for best practices for state government with respect to cybersecurity.

Section 7. Section 63C-25-206 is enacted to read:

63C-25-206. (Codified as 63C-27-206) Closure of meetings.

The commission may, in accordance with Section 52-4-204, close to the public a meeting to discuss an item described in Subsections 63C-25-202(1) and (8).

Section 8. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63C, Chapter 25, Cybersecurity Commission, is repealed July 1, 2032.

[~~(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.~~]

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account, is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 9. Repealer.

This bill repeals:

Section 63A-16-701, Data Security Management Council -- Membership -- Duties.

Section 63A-16-702, Data Security Management Council -- Report to Legislature -- Recommendations.

Section 10. Coordinating H.B. 280 with S.B. 34 and H.B. 48 -- Technical amendment.

If this H.B. 280 and S.B. 34, Utah Statewide Radio Systems Restricted Account Sunset Amendments, or H.B. 48, Utah Substance Use and Mental Health Advisory Council Sunset Extension, pass and become law, it is the intent of the Legislature that the language in Section 63I-1-263 that reads "Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025." not take effect when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 154
H. B. 295

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

PHYSICIAN WORKFORCE AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Evan J. Vickers
Cosponsor: Steve Eliason

LONG TITLE

General Description:

This bill creates grant programs related to the physician workforce.

Highlighted Provisions:

This bill:

- defines terms;
- creates a grant program to create new medical residency programs or expand current residency programs;
- creates a grant program to establish a new forensic psychiatrist fellowship program;
- creates a reporting requirement; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- To the Utah Board of Higher Education -- Medical Education Council, as a one-time appropriation:
  - from the Education Fund, $3,000,000;
- To the Utah Board of Higher Education -- Medical Education Council, as an ongoing appropriation:
  - from the Education Fund, $1,500,000; and
- To the Utah Board of Higher Education -- Medical Education Council, as an ongoing appropriation:
  - from the Education Fund, $550,000.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

ENACTS:

53B-24-501, Utah Code Annotated 1953
53B-24-502, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

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

Section 1. Section 53B-24-501 is enacted to read:

Part 5. Medical Education Grant Programs

53B-24-501. (Codified as 26-69-407) Residency grant program.

(1) As used in this section:

(a) "D.O. program" means an osteopathic medical program that prepares a graduate to obtain licensure as a doctor of osteopathic medicine upon completing a state's licensing requirements.

(b) "M.D. program" means a medical education program that prepares a graduate to obtain licensure as a doctor of medicine upon completing a state's licensing requirements.

(c) "Residency program" means a program that provides training for graduates of a D.O. program or an M.D. program.

(2) The council shall develop a grant program where a sponsoring institution in Utah may apply for a grant to establish a new residency program or expand a current residency program.

(3) An applicant for a grant shall:

(a) provide the proposed specialty area for each grant funded residency position;

(b) identify where the grant funded residency position will provide care;

(c) (i) provide proof that the residency program is accredited by the Accreditation Council for Graduate Medical Education; or

(ii) identify what actions need to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(d) identify how a grant funded residency position will be funded once the residency program exhausts the grant money;

(e) agree to implement selection processes for a residency position that treat applicants from D.O. programs and applicants from M.D. programs equally;

(f) agree to provide information identified by the council that relates to post-residency employment outcomes for individuals who work in grant funded residency positions; and

(g) provide any other information related to the grant application the council deems necessary.

(4) The council shall prioritize awarding grants to new or existing residency programs that will:

(a) address a workforce shortage, occurring in Utah, for a specialty; or

(b) serve an underserved population, including a rural population.

(5) Before November 1, 2023, and each November 1 thereafter, the council shall provide a written report to the Higher Education Appropriations Subcommittee describing:

(a) which sponsoring institutions received a grant;

(b) the number of residency positions created; and

(c) for each residency position created:

(i) the type of specialty;

(ii) where the residency position provides care; and

(iii) an estimated date of when a grant funded residency position will no longer need grant funding.

Section 2. Section 53B-24-502 is enacted to read:

53B-24-502. (Codified as 26-69-408) Forensic psychiatrist fellowship grant.

(1) As used in this section, "forensic psychiatry" means the provision of services by an individual who:

(a) is a licensed physician;

(b) is board certified for a psychiatry specialization recognized by the American Board of Medical Specialists or the American Osteopathic Association's Bureau of Osteopathic Specialists; and

(c) uses scientific and clinical expertise in legal contexts involving the mental health of individuals.

(2) The council shall establish a grant program that will facilitate the creation of a single forensic psychiatrist fellowship program.

(3) An applicant for the grant shall:

(a) demonstrate how the applicant is best suited for developing a forensic psychiatry fellowship program, including:

(i) a description of resources that would be available to the program; and

(ii) any resources or staff that need to be acquired for the program;

(b) identify what needs to occur for the proposed residency program to become accredited by the Accreditation Council for Graduate Medical Education;

(c) provide an estimate of how many individuals would be trained in the program at any one time;

(d) provide any information related to the grant application the council deems necessary for awarding the grant; and

(e) if awarded the grant, agree to:

(i) enter into a contract with the Department of Corrections that the applicant will provide for the provision of forensic psychiatry services to an individual:

(A) who needs psychiatric services; and

(B) is under the Department of Corrections' jurisdiction;

(ii) ensure that any individual hired to provide forensic psychiatry services will comply with all relevant:

(A) national licensing requirements; and

(B) state licensing requirements under Title 58, Division of Occupational and Professional Licensing.

Section 3. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301 (9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.~~]

(21) The Medical Education Council for the:

(a) administration of the Medical Education Program created in Section 53B-24-202;

(b) provision of medical residency grants described in Section 53B-24-501; and

(c) provision of the forensic psychiatric fellowship grant described in Section 53B-24-502.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Board of Higher Education -- Medical Education Council

From Education Fund, One-time	$3,000,000
From Education Fund	$1,500,000
Schedule of Programs:	
Medical Residency Grant Program	$4,500,000

The Legislature intends that the Medical Education Council expend appropriations provided under this item for providing grants for new residency positions under Section 53B-24-501.

ITEM 2

To Utah Board of Higher Education -- Medical Education Council

From Education Fund	$550,000
Schedule of Programs:	
Forensic Psychiatry Grant Program	$550,000

The Legislature intends that the Medical Education Council expend appropriations provided under this item to award the grant for a forensic psychiatrist fellowship program under Section 53B-24-502.

Section 5. Coordinating H.B. 295 with H.B. 176 -- Technical amendments.

If this H.B. 295 and H.B. 176, Utah Health Workforce Act, both pass and become law, it is the intent of the Legislature that on July 1, 2022, the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication:

(1) renumber Section 53B-24-501 enacted in H.B. 295 to Section 26-69-407;

(2) renumber Section 53B-24-502 enacted in H.B. 295 to Section 26-69-408;

(3) replace each use of the words "the council" in Section 53B-24-501 and 53B-24-502 enacted in H.B. 295 with "UMEC"; and

(4) modify Section 63J-1-602.2 to read:

"63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

[~~(14)~~] (15) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301 (9)(a) or (b).

[~~(15)~~] (16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(16)~~] (17) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(17)~~] (18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(18)~~] (19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(19)~~] (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(20)~~] (21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.~~]

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.".

CHAPTER 155
H. B. 299

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

JUVENILE JUSTICE CHANGES

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to juvenile justice.

Highlighted Provisions:

This bill:

- amends provisions related to teen substance abuse programs;
- amends and clarifies the jurisdiction of the district court, juvenile court, and justice court over certain offenses;
- amends definitions related to juvenile justice;
- amends the responsibilities of the Division of Juvenile Justice Services to address an initial medical screening or assessment of a child in detention;
- requires a minor to be advised of the minor's rights in detention;
- clarifies bail in relation to minors;
- requires a minor to be advised of the minor's rights in a delinquency proceeding;
- addresses the placement of a child or the appointment of a guardian for a child if a delinquency petition is filed;
- amends provisions related to restitution ordered by the juvenile court for minors;
- clarifies the suspension of a disposition for a minor committed to the Division of Juvenile Justice Services;
- amends provisions relating to the juvenile court's continuing jurisdiction over an adjudicated minor;
- clarifies the extension of supervision over a minor who has not completed compensatory or community service hours;
- addresses the continuing jurisdiction of the juvenile court over a minor's case when a minor has not paid restitution in full;
- requires an individual in a secure care facility to be advised of certain rights; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

62A-15-202, as last amended by Laws of Utah 2008, Chapter 3
62A-15-204, as last amended by Laws of Utah 2021, Chapter 262
78A-5-101, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-5-102, as last amended by Laws of Utah 2021, Chapter 262
78A-6-103, as last amended by Laws of Utah 2021, Chapter 261
78A-6-103.5, as enacted by Laws of Utah 2021, Chapter 261
78A-6-120, as last amended by Laws of Utah 2021, Chapter 261
78A-7-106, as last amended by Laws of Utah 2021, Chapter 262
80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-5-201, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-302, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-102, as enacted by Laws of Utah 2021, Chapter 261
80-6-205, as enacted by Laws of Utah 2021, Chapter 261
80-6-206, as enacted by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261
80-6-207, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-302, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-303, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-501, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-6-502, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-6-504, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-6-505, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-6-603, as enacted by Laws of Utah 2021, Chapter 261
80-6-606, as enacted by Laws of Utah 2021, Chapter 261
80-6-709, as enacted by Laws of Utah 2021, Chapter 261
80-6-710, as enacted by Laws of Utah 2021, Chapter 261
80-6-711, as enacted by Laws of Utah 2021, Chapter 261
80-6-712, as enacted by Laws of Utah 2021, Chapter 261
80-6-802, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-804, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

ENACTS:

78A-5-102.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

80-6-206, as enacted by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

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

Section 1. Section 62A-15-202 is amended to read:

62A-15-202. Definitions.

As used in this part:

(1) "Juvenile substance abuse offender" means any [~~juvenile found to come within the provisions of Section 78A-6-103 for a drug or alcohol related offense, as designated by the Board of Juvenile Court Judges~~] minor who has committed a drug or alcohol related offense under the jurisdiction of the juvenile court in accordance with Section 78A-6-103.

(2) "Local substance abuse authority" means a county legislative body designated to provide substance abuse services in accordance with Section 17-43-201.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

[~~(3)~~] (4) "Teen substance abuse school" means any school established by the local substance abuse authority, in cooperation with the Board of Juvenile Court Judges, that provides an educational, interpersonal, skill-building experience for juvenile substance abuse offenders and their parents or legal guardians.

Section 2. Section 62A-15-204 is amended to read:

62A-15-204. Court order to attend substance abuse school -- Assessments.

(1) In addition to any other disposition ordered by the juvenile court under Section [~~80-3-405 or~~] 80-6-701, the court may order [~~a juvenile and his parents or legal guardians~~]:

(a) a minor and the minor's parent or legal guardian to attend a teen substance abuse school[~~, and order~~]; and

(b) payment of an assessment in addition to any other fine imposed.

(2) All assessments collected shall be forwarded to the county treasurer of the county where the [~~juvenile~~] minor resides, to be used exclusively for the operation of a teen substance abuse program.

Section 3. Section 78A-5-101 is amended to read:

78A-5-101. State District Court Administrative System -- Definitions.

(1) As used in this chapter:

(a) "Court system" means the State District Court Administrative System.

(b) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~(1)~~] (2) (a) The district court is a trial court of general jurisdiction.

(b) A district court shall be located in the county seat of each county.

[~~(2)~~] (3) (a) There is established a State District Court Administrative System.

(b) The Judicial Council shall administer the operation of the court system.

[~~(3) In this chapter, "court system" means the State District Court Administrative System.~~]

[~~(4) A district court shall be located in the county seat of each county.~~]

Section 4. Section 78A-5-102 is amended to read:

78A-5-102. Jurisdiction of the district court -- Appeals.

[~~(1) As used in this section:~~]

[~~(a) "Qualifying offense" means an offense described in Subsection 80-6-502(1)(b).~~]

[~~(b) "Separate offense" means any offense that is not a qualifying offense.~~]

[~~(c) "Single criminal episode" means the same as that term is defined in Section 76-1-401.~~]

[~~(2)~~] (1) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

[~~(3)~~] (2) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.

[~~(4)~~] (3) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

[~~(5)~~] (4) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

[~~(6)~~] (5) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

[~~(7)~~] (6) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.

[~~(8)~~] (7) The district court has jurisdiction to review:

(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in [~~its~~] the district court's review of agency adjudicative proceedings; and

(b) municipal administrative proceedings in accordance with Section 10-3-703.7.

[~~(9)~~] (8) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over[~~: (a)~~] a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

[~~(i)~~] (a) there is no justice court with territorial jurisdiction;

[~~(ii)~~] (b) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or

[~~(iii)~~] (c) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older[~~; or~~].

[~~(b) a qualifying offense committed by an individual who is 16 or 17 years old.~~]

[~~(10) (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive jurisdiction over any separate offense:~~]

[~~(i) committed by an individual who is 16 or 17 years old; and~~]

[~~(ii) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction under Subsection (9)(b).~~]

[~~(b) If an individual who is charged with a qualifying offense enters a plea to, or is found guilty of, a separate offense other than the qualifying offense, the district court shall have jurisdiction over the separate offense.~~]

[~~(c) If an individual who is 16 or 17 years old is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the exclusive jurisdiction of the district court over any separate offense is terminated.~~]

[~~(11)~~] (9) If a district court has jurisdiction in accordance with Subsection [~~(6), (9)(a)(i), or (9)(a)(ii)~~] (5), (8)(a), or (8)(b), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

[~~(12) The district court has subject matter jurisdiction over an offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.~~]

[~~(13)~~] (10) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

Section 5. Section 78A-5-102.5 is enacted to read:

78A-5-102.5. Jurisdiction of the district court over an offense committed by a minor -- Exclusive jurisdiction of the district court -- Transfer to juvenile court.

(1) As used in this section:

(a) "Minor" means:

(i) an individual who is under 18 years old;

(ii) an individual who was under 18 years old at the time of the offense and is under 21 years old at the time of all court proceedings; or

(iii) an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense;

(B) who is under 21 years old at the time of all court proceedings; and

(C) who committed the felony offense and any separate offense on school property where the individual was enrolled when school was in session or during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(b) "Qualifying offense" means:

(i) an offense described in Section 80-6-502 or 80-6-503; or

(ii) a felony offense if the felony offense is committed:

(A) by an individual who was 18 years old at the time of the offense and enrolled in high school; and

(B) on school property where the individual was enrolled when school was in session or during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(c) "Separate offense" means any offense that is not a qualifying offense.

(2) The district court has original jurisdiction over an offense of aggravated murder, as described in Section 76-5-202, or murder, as described in Section 76-5-203, that is committed by an individual who is 16 or 17 years old at the time of the offense.

(3) The district court has subject matter jurisdiction over any offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.

(4) Notwithstanding Sections 78A-6-103, 78A-6-103.5, and 78A-7-106, the district court has exclusive jurisdiction over any separate offense:

(a) committed by a minor; and

(b) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction.

(5) Except as provided in Subsections (6) and (7), if the district court has jurisdiction over a qualifying offense or a separate offense committed by a minor, the district court is not divested of jurisdiction over the offense when the minor is allowed to enter a plea to, or is found guilty of, a separate offense that is not the qualifying offense or separate offense listed in the criminal information.

(6) If a minor is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal after a trial:

(a) the jurisdiction of the district court over any separate offense is terminated; and

(b) the district court shall transfer the separate offense to the juvenile court for disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

(7) If a minor is charged with a qualifying offense and the qualifying offense results in a dismissal before a trial:

(a) the jurisdiction of the district court over any separate offense is terminated; and

(b) the district court shall transfer the separate offense to the juvenile court for adjudication and disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

Section 6. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by [~~Subsections 78A-5-102(9), 78A-5-102(10), and 78A-7-106(2)~~] Sections 78A-5-102.5 and 78A-7-106, the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child; [~~and~~]

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed[~~.~~]; and

(c) a misdemeanor, infraction, or violation of an ordinance, under municipal or state law, that was committed:

(i) by an individual:

(A) who was 18 years old and enrolled in high school at the time of the offense; and

(B) who is under 21 years old at the time of all court proceedings; and

(ii) on school property where the individual was enrolled:

(A) when school was in session; or

(B) during a school-sponsored activity, as defined in Subsection 53G-8-211(1)(k).

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under Title 55, Chapter 12, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or

without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 7. Section 78A-6-103.5 is amended to read:

78A-6-103.5. Exclusive jurisdiction of the juvenile court -- Transfer from district court.

(1) Except as provided in Subsection (3), the juvenile court has exclusive jurisdiction over a felony, misdemeanor, infraction, or violation of an ordinance:

(a) committed by a child and that arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction; and

(b) committed by an individual who is under 21 years old at the time of all court proceedings, but committed before the individual was 18 years old, and that arises from a single criminal episode containing an offense for which:

(i) a citation, petition, indictment, or criminal information is filed; and

(ii) the court has original jurisdiction.

(2) For purposes of this section, the juvenile court has jurisdiction over the following offenses committed by an individual who is under 21 years old at the time of all court proceedings, but was under 18 years old at the time the offense was committed:

(a) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving; and

(b) an offense for operation in willful or wanton disregard for safety, as described in Section 73-18-12.

(3) If a juvenile court transfers jurisdiction of an offense to the district court under Section 80-6-504, the exclusive jurisdiction of the juvenile court over that offense is terminated.

[~~(4) (a) As used in this Subsection (4):~~]

[~~(i) "Qualifying offense" means an offense described in Sections 80-6-502 and 80-6-503.~~]

[~~(ii) "Separate offense" means any offense that is not a qualifying offense.~~]

[~~(b) The juvenile court:~~]

[~~(i) regains exclusive jurisdiction over any separate offense described in Subsection (1) if:~~]

[~~(A) the individual who is alleged to have committed the separate offense is bound over to the district court for a qualifying offense under Section 80-6-504; and~~]

[~~(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal; and~~]

[~~(ii) gains exclusive jurisdiction over any separate offense described in Subsection (1) if:~~]

[~~(A) the individual who is alleged to have committed the separate offense is charged for a qualifying offense under Section 80-6-502 in the district court; and~~]

[~~(B) the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal in the district court.~~]

(4) Upon entry of an order transferring an offense to the juvenile court in accordance with Subsection 78A-5-102.5(6) or (7), the juvenile court gains or regains jurisdiction over any offense for which the juvenile court has original or exclusive jurisdiction.

(5) After a district court transfers an offense to the juvenile court under Subsection 78A-5-102.5(6) or (7), the juvenile court shall:

(a) proceed upon the criminal information as if the criminal information were a petition under Section 80-6-305; and

(b) if the minor was convicted of the transferred offense, enter the conviction as an adjudication and proceed with disposition in accordance with Title 80, Chapter 6, Part 7, Adjudication and Disposition.

(6) For purposes of this section and Section 78A-5-102.5, an offense transferred to the juvenile court from the district court under Subsection 78A-5-102.5(6) or (7) is an adjudication and not a conviction.

Section 8. Section 78A-6-120 is amended to read:

78A-6-120. Continuing jurisdiction of juvenile court -- Period of and termination of jurisdiction.

(1) Except as provided in Subsection (2), if the juvenile court obtains jurisdiction [~~of~~] over a minor's case, the juvenile court's jurisdiction over the minor's case continues until:

(a) the minor is 21 years old; or

(b) if the juvenile court extends jurisdiction over the minor's case under Section 80-6-605, the minor is 25 years old.

(2) (a) [~~The~~] Except as provided in Subsection (2)(c), the juvenile court's continuing jurisdiction under Subsection (1) terminates:

(i) upon order of the court;

(ii) upon an order for secure care under Section 80-6-705; or

(iii) in accordance with Section 80-6-712.

(b) The continuing jurisdiction of the juvenile court over a minor's case is not terminated:

(i) by marriage; or

(ii) when a minor commits an offense under municipal, state, or federal law that is under the jurisdiction of another court.

(c) [~~Notwithstanding Subsection (2)(a)(ii),~~] If a minor is ordered to secure care under Section 80-6-705, the juvenile court retains jurisdiction to make and enforce orders related to restitution until the Youth Parole Authority discharges the minor under Section 80-6-807.

Section 9. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction.

(1) (a) [~~Except as otherwise provided by Subsection 78A-5-102(8)~~] Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) Title 23, Wildlife Resources Code of Utah;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-Highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which [~~the juvenile court or~~] the district court has exclusive jurisdiction under [~~Subsection 78A-5-102(10) or~~] Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

[~~(3)~~] (b) An offense is committed within the territorial jurisdiction of a justice court if:

[~~(a)~~] (i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

[~~(b)~~] (ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

[~~(c)~~] (iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

[~~(d)~~] (iv) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

[~~(e)~~] (v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

[~~(f)~~] (vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

[~~(i)~~] (A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

[~~(ii) (A)~~] (B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; [~~and~~]

[~~(B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;~~]

[~~(iii)~~] (C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

[~~(iv)~~] (D) the offense is committed on or near the boundary of the court's jurisdiction;

[~~(g)~~] (vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

[~~(h)~~] (viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

Section 10. Section 80-1-102 is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; [~~or~~]

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the [~~continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.~~] jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(b); or

(iii) (A) who is at least 18 years old and younger than 21 years old; and

(B) whose case is under the jurisdiction of the juvenile court in accordance with Subsection 78A-6-103(1)(c).

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both,

have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 11. Section 80-5-201 is amended to read:

80-5-201. Division responsibilities.

(1) The division is responsible for all minors committed to the division by juvenile courts under Sections 80-6-703 and 80-6-705.

(2) The division shall:

(a) establish and administer a continuum of community, secure, and nonsecure programs for all minors committed to the division;

(b) establish and maintain all detention and secure care facilities and set minimum standards for all detention and secure care facilities;

(c) establish and operate prevention and early intervention youth services programs for nonadjudicated minors placed with the division;

(d) establish observation and assessment programs necessary to serve minors in a nonresidential setting under Subsection 80-6-706(1);

(e) place minors committed to the division under Section 80-6-703 in the most appropriate program for supervision and treatment;

(f) employ staff necessary to:

(i) supervise and control minors committed to the division for secure care or placement in the community;

(ii) supervise and coordinate treatment of minors committed to the division for placement in community-based programs; and

(iii) control and supervise adjudicated and nonadjudicated minors placed with the division for temporary services in juvenile receiving centers, youth services, and other programs established by the division;

(g) control or detain a minor committed to the division, or in the temporary custody of the division, in a manner that is consistent with public safety and rules made by the division;

(h) establish and operate work programs for minors committed to the division by the juvenile court that:

(i) are not residential;

(ii) provide labor to help in the operation, repair, and maintenance of public facilities, parks, highways, and other programs designated by the division;

(iii) provide educational and prevocational programs in cooperation with the State Board of Education for minors placed in the program; and

(iv) provide counseling to minors;

(i) establish minimum standards for the operation of all private residential and nonresidential rehabilitation facilities that provide services to minors who have committed an offense in this state or in any other state;

(j) provide regular training for secure care staff, detention staff, case management staff, and staff of the community-based programs;

(k) designate employees to obtain the saliva DNA specimens required under Section 53-10-403;

(l) ensure that the designated employees receive appropriate training and that the specimens are obtained in accordance with accepted protocol;

(m) register an individual with the Department of Corrections who:

(i) is adjudicated for an offense listed in Subsection 77-41-102(17)(a) or 77-43-102(2);

(ii) is committed to the division for secure care; and

(iii) (A) if the individual is a youth offender, remains in the division's custody 30 days before the individual's 21st birthday; or

(B) if the individual is a serious youth offender, remains in the division's custody 30 days before the individual's 25th birthday; and

(n) ensure that a program delivered to a minor under this section is an evidence-based program in accordance with Section 63M-7-208.

(3) (a) The division is authorized to employ special function officers, as defined in Section 53-13-105, to:

(i) locate and apprehend minors who have absconded from division custody;

(ii) transport minors taken into custody in accordance with division policy;

(iii) investigate cases; and

(iv) carry out other duties as assigned by the division.

(b) A special function officer may be:

(i) employed through a contract with the Department of Public Safety, or any law enforcement agency certified by the Peace Officer Standards and Training Division; or

(ii) directly hired by the division.

(4) In the event of an unauthorized leave from secure care, detention, a community-based program, a juvenile receiving center, a home, or any other designated placement of a minor, a division employee has the authority and duty to locate and apprehend the minor, or to initiate action with a local law enforcement agency for assistance.

(5) The division may proceed with an initial medical screening or assessment of a child admitted to a detention facility to ensure the safety of the child and others in the detention facility if the division makes a good faith effort to obtain consent for the screening or assessment from the child's parent or guardian.

Section 12. Section 80-5-302 is amended to read:

80-5-302. Juvenile Justice Reinvestment Restricted Account.

(1) There is created in the General Fund a restricted account known as the "Juvenile Justice Reinvestment Restricted Account."

(2) The account shall be funded by savings calculated from General Fund appropriations by the Division of Finance as described in Subsection (3).

(3) At the end of the fiscal year, the Division of Finance shall:

(a) use the formula established in Subsection 80-5-202(1)(c) to calculate the savings from General Fund appropriations; and

(b) lapse the calculated savings into the account.

(4) Upon appropriation by the Legislature, the department may expend funds from the account:

(a) for the statewide expansion of nonresidential community-based programs, including:

(i) receiving centers;

(ii) mobile crisis outreach teams;

(iii) youth courts under Title 80, Chapter 6, Part 9, Youth Court; and

(iv) victim-offender mediation under Section 80-6-304 and Subsection 80-6-710[~~(7)~~](6);

(b) for nonresidential evidence-based programs and practices in cognitive, behavioral, and family therapy;

(c) to implement:

(i) nonresidential diagnostic assessment; and

(ii) nonresidential early intervention programs, including family strengthening programs, family wraparound services, and truancy interventions; or

(d) for infrastructure in nonresidential evidence-based juvenile justice programs, including staffing and transportation.

Section 13. Section 80-6-102 is amended to read:

80-6-102. Definitions.

As used in this chapter:

(1) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(2) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(3) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(4) "Compensatory service" means service or unpaid work performed by a minor in lieu of the payment of a fine, fee, or restitution.

(5) "Control" means the same as that term is defined in Section 80-5-102.

(6) "Detention hearing" means a proceeding under Section 80-6-207 to determine whether a minor should remain in detention.

(7) "Detention guidelines" means standards, established by the division in accordance with Subsection 80-5-202(1)(a), for the admission of a minor to detention.

(8) "Discharge" means a written order of the authority that removes a juvenile offender from the authority's jurisdiction.

(9) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(10) "Family-based setting" means a home that is licensed to allow a minor to reside at the home, including a foster home, proctor care, or residential care by a professional parent.

[~~(10)~~] (11) "Formal referral" means a written report from a peace officer, or other person, informing the juvenile court that:

(a) an offense committed by a minor is, or appears to be, within the juvenile court's jurisdiction; and

(b) the minor's case must be reviewed by a juvenile probation officer or a prosecuting attorney.

[~~(11)~~] (12) "Material loss" means an uninsured:

(a) property loss;

(b) out-of-pocket monetary loss for property that is stolen, damaged, or destroyed;

(c) lost wages because of an injury, time spent as a witness, or time spent assisting the police or prosecution; or

(d) medical expense.

[~~(12)~~] (13) "Referral" means a formal referral, a referral to the juvenile court under Section 53G-8-211, or a citation issued to a minor for which the juvenile court receives notice under Section 80-6-302.

[~~(13)~~] (14) "Rescission" means a written order of the authority that rescinds a date for parole.

[~~(14)~~] (15) "Restitution" means money or services that the juvenile court, or a juvenile probation officer if the minor agrees to a nonjudicial adjustment, orders a minor to pay or render to a victim for the minor's wrongful act or conduct.

[~~(15)~~] (16) "Revocation" means a written order of the authority that, after a hearing and determination under Section 80-6-806:

(a) terminates supervision of a juvenile offender's parole; and

(b) directs a juvenile offender to return to secure care.

[~~(16)~~] (17) "Temporary custody" means the control and responsibility of a minor, before an adjudication under Section 80-6-701, until the minor is released to a parent, guardian, responsible adult, or to an appropriate agency.

[~~(17)~~] (18) "Termination" means a written order of the authority that terminates a juvenile offender from parole.

[~~(18)~~] (19) (a) "Victim" means a person that the juvenile court determines suffered a material loss as a result of a minor's wrongful act or conduct.

(b) "Victim" includes:

(i) any person directly harmed by the minor's wrongful act or conduct in the course of the scheme, conspiracy, or pattern if the minor's wrongful act or conduct is an offense that involves an element of a scheme, a conspiracy, or a pattern of criminal activity; and

(ii) the Utah Office for Victims of Crime.

[~~(19)~~] (20) "Violent felony" means the same as that term is defined in Section 76-3-203.5.

[~~(20)~~] (21) "Work program" means the same as that term is defined in Section 80-5-102.

[~~(21)~~] (22) "Youth services" means the same as that term is defined in Section 80-5-102.

Section 14. Section 80-6-205 is amended to read:

80-6-205. Admission to detention -- Alternative to detention -- Rights of a minor in detention.

(1) If a minor is taken to a detention facility under Section 80-6-203, a designated staff member of the detention facility shall immediately review the form and determine, based on the results of the detention risk assessment tool and Subsection (2), whether to:

(a) admit the minor to secure detention;

(b) admit the minor to home detention;

(c) place the minor in another alternative to detention; or

(d) if the minor is a child, return the minor home upon a written promise by the minor's parent, guardian, or custodian to bring the minor to the juvenile court at a time set or without restriction.

(2) A minor may not be admitted to detention unless:

(a) the minor is detainable based on the detention guidelines; or

(b) the minor has been brought to detention in accordance with:

(i) a court order;

(ii) a warrant in accordance with Section 80-6-202; or

(iii) a division warrant in accordance with Section 80-6-806.

(3) If the designated staff member determines to admit a minor to home detention, the staff member shall notify the juvenile court of that determination.

(4) Even if a minor is eligible for secure detention, a peace officer or other person who takes a minor to a detention facility, or the designated staff member of the detention facility, may release a minor to a less restrictive alternative than secure detention.

(5) (a) If a minor taken to a detention facility does not qualify for admission under detention guidelines or this section, a designated staff member of the detention facility shall arrange an appropriate alternative, including admitting a minor to a juvenile receiving center or a shelter facility.

(b) (i) Except as otherwise provided by this section, a minor may not be placed or kept in secure detention while court proceedings are pending.

(ii) A child may not be placed or kept in a shelter facility while court proceedings are pending, unless the child is in protective custody in accordance with Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(6) If a minor is taken into temporary custody and admitted to a secure detention, or another alternative to detention, a designated staff member of the detention facility shall:

(a) immediately notify the minor's parent, guardian, or custodian; and

(b) promptly notify the juvenile court of the placement.

(7) If a minor is admitted to secure detention, or another alternative to detention, outside the county of the minor's residence and a juvenile court determines, in a detention hearing, that secure detention, or an alternative to detention, of the minor shall continue, the juvenile court shall direct the sheriff of the county of the minor's residence to transport the minor to secure detention or another alternative to detention in that county.

(8) (a) Subject to Subsection (8)(b), a minor admitted to detention has a right to:

(i) phone the minor's parent, guardian, or attorney immediately after the minor is admitted to detention; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a minor in detention may visit or phone a person described in Subsection (8)(a);

(ii) allow a minor in detention to visit or call persons described in Subsection (8)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a minor in detention to persons described in Subsection (8)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the minor's rights under Subsection (8)(a) if a compelling reason exists to limit the minor's rights.

(c) A minor admitted to detention shall be immediately advised of the minor's rights described in this Subsection (8).

Section 15. Section 80-6-206 is amended to read:

80-6-206. Interview of a child -- Presence of a parent, legal guardian, or other adult -- Interview of individual in detention or secure care facility.

(1) As used in this section:

(a) (i) "Friendly adult" means an adult:

(A) that has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

(b) (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is in custody and subject to interrogation for an offense, the child has the right:

(a) to have the child's parent or guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

(ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is in custody and subject to interrogation of an offense, the child may not be interrogated unless:

(a) the child has been advised of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection (4), the child's parent or guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 62A-4a-415.

(4) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer has relied on that misrepresentation in good faith; or

(c) a peace officer or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time in which the child is in custody.

[~~(5) (a) If a minor is admitted to a detention facility under Section 80-6-205, or the minor is committed to secure care or a correctional facility, and is subject to interrogation for an offense, the minor may not be interrogated unless:~~]

(5) (a) If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual is subject to interrogation for an offense, the individual may not be interrogated unless:

(i) the [~~minor~~] individual has had a meaningful opportunity to consult with the [~~minor's~~] individual's appointed or retained attorney;

(ii) the [~~minor~~] individual waives the [~~minor's~~] individual's constitutional rights after consultation with the [~~minor's~~] individual's appointed or retained attorney; and

(iii) the [~~minor's~~] individual's appointed or retained attorney is present for the interrogation.

(b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the [~~minor~~] individual on behalf of a peace officer or a law enforcement agency.

(6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Section 16. Section 80-6-207 is amended to read:

80-6-207. Detention hearings -- Period of detention -- Bail.

(1) (a) After admission of a child to a detention facility under Section 80-6-205 and immediate investigation by a juvenile probation officer, the juvenile court or the juvenile probation officer shall order the release of the child to the child's parent, guardian, or custodian if the juvenile court or the juvenile probation officer finds that the child can be safely returned to the parent's, the guardian's, or the custodian's care, upon written promise to bring the child to the juvenile court at a time set or without restriction.

(b) If a child's parent, guardian, or custodian fails to retrieve the child from a detention facility within 24 hours after notification of release, the parent, guardian, or custodian is responsible for the cost of care for the time the child remains in the detention facility in accordance with Section 78A-6-356.

(c) The detention facility shall determine the cost of care.

(d) Any money collected under this Subsection (1) shall be retained by the division to recover the cost of care for the time the child remains in the facility.

(2) (a) When a child is admitted to a detention facility, the child's parent, guardian, or custodian shall be informed by the individual in charge of the detention facility that the parent's, the guardian's, or the custodian's child has the right to a prompt hearing in a juvenile court to determine whether the child is to be further detained or released.

(b) If a minor is admitted to a detention facility, the minor shall be informed by the person in charge of the facility that the minor has the right to a prompt hearing in a juvenile court to determine whether the minor is to be further detained or released.

(3) (a) The juvenile court may, at any time, order the release of the minor, from detention, regardless of whether a detention hearing is held or not.

(b) If a child is released, and the child remains in the detention facility, because the child's parents, guardian, or custodian fails to retrieve the child, the parent, guardian, or custodian shall be responsible for the cost of care as provided in Subsections (1)(b), (c), and (d) in accordance with Section 78A-6-356.

(4) (a) As used in this Subsection (4), "arrest" means being apprehended, detained, taken into

temporary custody under Section 80-6-201 or 80-6-202, held for investigation, or restrained by a peace officer or other person due to an accusation or suspicion that the minor committed an offense.

(b) A minor may not be held in a detention facility longer than 24 hours, unless a juvenile court determines that there is probable cause for the minor's arrest.

(5) (a) A detention hearing under this section shall be held by a juvenile court judge or commissioner.

(b) A juvenile court shall hold a detention hearing within 48 hours of the minor's admission to a detention facility, excluding weekends and holidays, to determine whether the minor should:

(i) remain in detention in accordance with Subsection (8);

(ii) be released to a parent or guardian; or

(iii) be placed in any other party's custody as authorized by statute.

(6) The probable cause determination under Subsection (4) and the detention hearing under Subsection (5) may occur at the same time if the probable cause determination and the detention hearing occur within the time frame under Subsection (4).

(7) (a) A detention hearing may not be waived.

(b) Staff at the detention facility shall provide the juvenile court with all information received from the individual who brought the minor to the detention facility.

(8) (a) The juvenile court may only order a minor to be held in the detention facility or be placed in another appropriate facility, subject to further order of the court, if the court finds at a detention hearing that:

(i) releasing the minor to the minor's parent, guardian, or custodian presents an unreasonable risk to public safety;

(ii) less restrictive nonresidential alternatives to detention have been considered and, where appropriate, attempted; and

(iii) the minor is eligible for detention under the detention guidelines and Section 80-6-205.

(b) The juvenile court may not vest custody of a minor admitted to detention in the Division of Child and Family Services, except as provided in Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(9) (a) After a detention hearing has been held, only the juvenile court may release a minor from detention.

(b) If a minor remains in a detention facility, periodic reviews shall be held in accordance with the Utah Rules of Juvenile Procedure to ensure that continued detention of the minor is necessary.

(10) This section does not apply to a minor who is brought to a correctional facility in accordance with Section 80-6-502, 80-6-504, or 80-6-505.

[~~(11) Notwithstanding Title 77, Chapter 20, Bail, a minor in a detention facility does not have a right to bail, except that bail is allowed if:~~]

[~~(a) a minor is cited under Section 80-6-302;~~]

(11) Title 77, Chapter 20, Bail, does not apply to a minor, except for:

[~~(b)~~] (a) a minor [~~is~~] charged in accordance with Section 80-6-502;

[~~(c)~~] (b) a minor [~~is~~] bound over to the district court in accordance with Section 80-6-504; or

[~~(d)~~] (c) a minor[~~,~~] who need not be detained[~~,~~] and lives outside this state[~~; and~~].

[~~(e) a minor, who need not be detained, is held in contempt under Section 78A-6-353.~~]

Section 17. Section 80-6-302 is amended to read:

80-6-302. Citation -- Procedure -- Time limits -- Failure to appear.

(1) A petition is not required to commence a proceeding against a minor for an adjudication of an alleged offense if a citation is issued for an offense for which the juvenile court has jurisdiction over and the offense listed in the citation is for:

(a) a violation of a wildlife law;

(b) a violation of a boating law;

(c) a class B or C misdemeanor or an infraction other than a misdemeanor or infraction:

(i) for a traffic violation; or

(ii) designated as a citable offense by general order of the Board of Juvenile Court Judges;

(d) a class B misdemeanor or infraction for a traffic violation where the individual is 15 years old or younger at the time the offense was alleged to have occurred;

(e) an infraction or misdemeanor designated as a citable offense by a general order of the Board of Juvenile Court Judges; or

(f) a violation of Subsection 76-10-105(2).

(2) Except as provided in Subsection (6) and Section 80-6-301, a citation for an offense listed in Subsection (1) shall be submitted to the juvenile court within five days of issuance to a minor.

(3) A copy of the citation shall contain:

(a) the name and address of the juvenile court before which the minor may be required to appear;

(b) the name of the minor cited;

(c) the statute or local ordinance that the minor is alleged to have violated;

(d) a brief description of the offense charged;

(e) the date, time, and location at which the offense is alleged to have occurred;

(f) the date the citation was issued;

(g) the name and badge or identification number of the peace officer or public official who issued the citation;

(h) the name of the arresting person if an arrest was made by a private party and the citation was issued in lieu of taking the minor into temporary custody as provided in Section 80-6-201;

(i) a statement that the minor and the minor's parent or guardian are to appear when notified by the juvenile court; and

(j) the signature of the minor and the minor's parent or guardian, if present, agreeing to appear at the juvenile court when notified by the court.

(4) A copy of the citation shall contain space for the following information to be entered if known:

(a) the minor's address;

(b) the minor's date of birth;

(c) the name and address of the child's custodial parent or guardian, if different from the child; and

(d) if there is a victim, the victim's name, address, and an estimate of loss, except that this information shall be removed from the documents the minor receives.

(5) A citation received by the juvenile court beyond the time designated in Subsection (2) shall include a written explanation for the delay.

(6) A minor offense, as defined in Section 80-6-901, alleged to have been committed by an enrolled child on school property or related to school attendance, may only be referred to the prosecuting attorney or the juvenile court in accordance with Section 53G-8-211.

(7) If a juvenile court receives a citation described in Subsection (1), a juvenile probation officer shall make a preliminary inquiry as to whether the minor is eligible for a nonjudicial adjustment in accordance with Subsection 80-6-304(5).

(8) (a) Except as provided in Subsection (8)(b), if a citation is issued to a minor, a prosecuting attorney may commence a proceeding against a minor, without filing a petition, for an adjudication of the offense in the citation only if:

(i) the minor is not eligible for, or does not complete, a nonjudicial adjustment in accordance with Section 80-6-304; and

(ii) the prosecuting attorney conducts an inquiry under Subsection (9).

(b) Except as provided in Subsection 80-6-305(2), a prosecuting attorney may not commence a proceeding against an individual for any offense listed in a citation alleged to have occurred before the individual was 12 years old.

(9) The prosecuting attorney shall conduct an inquiry to determine, upon reasonable belief, that:

(a) the charge listed in the citation is supported by probable cause;

(b) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(c) the decision to charge is in the interests of justice.

(10) If a proceeding is commenced against a minor under Subsection (8)(a), the minor shall appear at the juvenile court at a date and time established by the juvenile court.

(11) If a minor willfully fails to appear before the juvenile court for a proceeding under Subsection (8)(a), the juvenile court may:

(a) find the minor in contempt of court; and

(b) proceed against the minor as provided in Section 78A-6-353.

(12) If a proceeding is commenced under this section, [~~bail may be posted and forfeited under Section 80-6-207~~] the minor may remit a fine without a personal appearance before the juvenile court with the consent of:

(a) the juvenile court; and

(b) if the minor is a child, the parent or guardian of the child cited.

Section 18. Section 80-6-303 is amended to read:

80-6-303. Criminal proceedings involving minors -- Transfer to juvenile court -- Exception.

(1) (a) If while a criminal or quasi-criminal proceeding is pending, a district court or justice court determines that an individual being charged is under 21 years old and was younger than 18 years old at the time of committing the alleged offense, the district court or justice court shall transfer the case to the juvenile court with all the papers, documents, and transcripts of any testimony.

(b) (i) Notwithstanding Subsection (1)(a), a district court may not transfer an offense that is:

(A) filed in the district court in accordance with Section 80-6-502; or

(B) transferred to the district court in accordance with Section 80-6-504.

(ii) Notwithstanding Subsection (1)(a), a justice court may decline to transfer an offense for which the justice court has original jurisdiction under Subsection 78A-7-106(2).

(2) (a) Except as provided in Subsection (2)(b), the district court or justice court making the transfer shall:

(i) order the individual to be taken immediately to the juvenile court or to a place of detention designated by the juvenile court; or

(ii) release the individual to the custody of the individual's parent or guardian or other person legally responsible for the individual, to be brought before the juvenile court at a time designated by the juvenile court.

(b) If the alleged offense under Subsection (1) occurred before the individual was 12 years old:

(i) the district court or justice court making the transfer shall release the individual to the custody of the individual's parent or guardian, or other person legally responsible for the individual;

(ii) the juvenile court shall treat the transfer as a referral under Section 80-6-301; and

(iii) a juvenile probation officer shall make a preliminary inquiry to determine whether the individual is eligible for a nonjudicial adjustment in accordance with Section 80-6-304.

(c) If the case is transferred to the juvenile court under this section, the juvenile court shall then proceed in accordance with this chapter.

(3) A district court or justice court does not have to transfer a case under Subsection (1) if the district court or justice court would have had jurisdiction over the case at the time the individual committed the offense in accordance with [~~Subsections 78A-5-102(9) and 78A-7-106(2)~~] Sections 78A-5-102 and 78A-7-106.

Section 19. Section 80-6-501 is amended to read:

80-6-501. Definitions.

As used in this part:

(1) "Minor" means:

(a) an individual:

(i) who is at least 18 years old and younger than 25 years old; and

(ii) whose case is under the [~~continuing~~] jurisdiction of the juvenile court; or

(b) an individual:

(i) who is younger than 21 years old;

(ii) who is charged with, or convicted of, an offense under Section 80-6-502 or 80-6-503; and

(iii) whose case is under the jurisdiction of the district court.

(2) "Qualifying offense" means an offense described in [~~Subsection 80-6-503(1) or (2)(b)~~] Section 80-6-503.

(3) "Separate offense" means any offense that is not a qualifying offense.

Section 20. Section 80-6-502 is amended to read:

80-6-502. Criminal information for a minor in district court.

(1) If a prosecuting attorney charges a minor with aggravated murder under Section 76-5-202 or murder under Section 76-5-203, the prosecuting attorney shall file a criminal information in the district court if the minor was [~~the~~] a principal actor in an offense and the criminal information alleges:

(a) the minor was 16 or 17 years old at the time of the offense; and

(b) the offense for which the minor is being charged is:

(i) [~~Section 76-5-202,~~] aggravated murder, as described in Section 76-5-202; or

(ii) [~~Section 76-5-203,~~] murder, as described in Section 76-5-203.

(2) If the prosecuting attorney files a criminal information in the district court in accordance with Subsection (1), the district court shall try the minor as an adult, except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(3) (a) Except for a minor who is subject to the authority of the Board of Pardons and Parole, a minor shall be held in a detention facility.

(b) A minor held in a detention facility under Subsection (3)(a) shall remain in the facility:

(i) until released by the district court; or

(ii) if convicted, until sentencing.

(4) (a) If a minor is held in a detention facility under Subsection (3)(a), the district court shall:

[~~(a)~~] (i) advise the minor of the right to bail; and

[~~(b) set initial bail in accordance with Title 77, Chapter 20, Bail.~~]

(ii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.

(b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor being tried as an adult under this section.

(5) If a minor held in a detention facility under Subsection (3)(a) attains the age of 21 years old, the minor shall be transferred within 30 days to an adult jail until:

(a) released by the district court; or

(b) if convicted, sentencing.

(6) If a minor is held in a detention facility under Subsection (3)(a) and the minor's conduct or condition endangers the safety or welfare of others in the detention facility, the district court may find that the minor shall be detained in another place of confinement considered appropriate by the district court, including a jail or an adult facility for pretrial confinement.

[~~(7) If a minor is charged for aggravated murder or murder in the district court under this section,~~]

~~and all charges for aggravated murder or murder result in an acquittal, a finding of not guilty, or a dismissal.~~]

[~~(a) the juvenile court gains jurisdiction over all other offenses committed by the minor; and~~]

[~~(b) the division gains jurisdiction over the minor.~~]

Section 21. Section 80-6-504 is amended to read:

80-6-504. Preliminary hearing -- Grounds for transfer -- Detention of a minor bound over to the district court.

(1) If a prosecuting attorney files a criminal information in accordance with Section 80-6-503, the juvenile court shall conduct a preliminary hearing to determine whether a minor should be bound over to the district court for a qualifying offense.

(2) At the preliminary hearing under Subsection (1), the prosecuting attorney shall have the burden of establishing:

(a) probable cause to believe that a qualifying offense was committed and the minor committed that offense; and

(b) by a preponderance of the evidence, that it is contrary to the best interests of the minor and the public for the juvenile court to retain jurisdiction over the offense.

(3) In making a determination under Subsection (2)(b), the juvenile court shall consider and make findings on:

(a) the seriousness of the qualifying offense and whether the protection of the community requires that the minor is detained beyond the amount of time allowed under Subsection 80-6-802(1), or beyond the age of continuing jurisdiction that the juvenile court may exercise under Section 80-6-605;

(b) the extent to which the minor's actions in the qualifying offense were committed in an aggressive, violent, premeditated, or willful manner;

(c) the minor's mental, physical, educational, trauma, and social history;

(d) the criminal record or history of the minor; and

(e) the likelihood of the minor's rehabilitation by the use of services and facilities that are available to the juvenile court.

(4) The amount of weight that each factor in Subsection (3) is given is in the juvenile court's discretion.

(5) (a) The juvenile court may consider any written report or other material that relates to the minor's mental, physical, educational, trauma, and social history.

(b) Upon request by the minor, the minor's parent, guardian, or other interested party, the juvenile court shall require the person preparing the report, or other material, under Subsection (5)(a) to appear and be subject to direct and cross-examination.

(6) At the preliminary hearing under Subsection (1), a minor may testify under oath, call witnesses, cross-examine witnesses, and present evidence on the factors described in Subsection (3).

(7) (a) A proceeding before the juvenile court related to a charge filed under this part shall be conducted in conformity with the Utah Rules of Juvenile Procedure.

(b) Sections 80-6-602, 80-6-603, and 80-6-604 are applicable to the preliminary hearing under this section.

(8) If the juvenile court finds that the prosecuting attorney has met the burden of proof under Subsection (2), the juvenile court shall bind the minor over to the district court to be held for trial.

(9) (a) If the juvenile court finds that a qualifying offense has been committed by a minor, but the prosecuting attorney has not met the burden of proof under Subsection (2)(b), the juvenile court shall:

(i) proceed upon the criminal information as if the information were a petition under Section 80-6-305;

(ii) release or detain the minor in accordance with Section 80-6-207; and

(iii) proceed with an adjudication for the minor in accordance with this chapter.

(b) If the juvenile court finds that the prosecuting attorney has not met the burden under Subsection (2) to bind a minor over to the district court, the prosecuting attorney may file a motion to extend the juvenile court's continuing jurisdiction over the minor's case until the minor is 25 years old in accordance with Section 80-6-605.

(10) (a) A prosecuting attorney may charge a minor with a separate offense in the same criminal information as the qualifying offense if the qualifying offense and separate offense arise from a single criminal episode.

(b) If the prosecuting attorney charges a minor with a separate offense as described in Subsection (10)(a):

(i) the prosecuting attorney shall have the burden of establishing probable cause to believe that the separate offense was committed and the minor committed the separate offense; and

(ii) if the prosecuting attorney establishes probable cause for the separate offense under Subsection (10)(b)(i) and the juvenile court binds the minor over to the district court for the qualifying offense, the juvenile court shall also bind the minor over for the separate offense to the district court.

(11) If a grand jury indicts a minor for a qualifying offense:

(a) the prosecuting attorney does not need to establish probable cause under Subsection (2)(a) for the qualifying offense and any separate offense included in the indictment; and

(b) the juvenile court shall proceed with determining whether the minor should be bound over to the district court for the qualifying offense and any separate offense included in the indictment in accordance with Subsections (2)(b) and (3).

(12) (a) If a minor is bound over to the district court, the juvenile court shall:

[~~(a)~~] (i) issue a criminal warrant of arrest for the minor to be held in a detention facility;

[~~(b)~~] (ii) advise the minor of the right to bail; and

[~~(c) set initial bail in accordance with Title 77, Chapter 20, Bail.~~]

(iii) issue a pretrial status order, as defined in Section 77-20-102, for the minor in accordance with Section 77-20-205.

(b) Except for Sections 77-20-202, 77-20-203, and 77-20-204, the provisions of Title 77, Chapter 20, Bail, shall apply to the release or detention of a minor bound over to the district court by the juvenile court.

(13) If the juvenile court orders the minor to be detained until the time of trial:

(a) the minor shall be held in a detention facility, except that a minor who is subject to the authority of the Board of Pardons and Parole may not be held in a detention facility; and

(b) the minor shall remain in the detention facility:

(i) until released by a district court; or

(ii) if convicted, until sentencing.

(14) If a minor is held in a detention facility under Subsection (13) and the minor attains the age of 21 years old while detained at the detention facility, the minor shall be transferred within 30 days to an adult jail to remain:

(a) until released by the district court; or

(b) if convicted, until sentencing.

[~~(15) Except as provided in Subsection (16) and Section 80-6-507, if a minor is bound over to the district court under this section, the jurisdiction of the division and the juvenile court over the minor is terminated for the qualifying offense and any other separate offense for which the minor is bound over.~~]

[~~(16) If a minor is bound over to the district court for a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal:~~]

[~~(a) the juvenile court regains jurisdiction over any separate offense committed by the minor; and~~]

[~~(b) the division regains jurisdiction over the minor.~~]

Section 22. Section 80-6-505 is amended to read:

80-6-505. Criminal proceedings for a minor bound over to district court.

(1) If the juvenile court binds a minor over to the district court in accordance with Section 80-6-504, the prosecuting attorney shall try the minor as if the minor is an adult in the district court except:

(a) the minor is not subject to a sentence of death in accordance with Subsection 76-3-206(2)(b); and

(b) the minor is not subject to a sentence of life without parole in accordance with Subsection 76-3-206(2)(b) or 76-3-207.5(3) or Section 76-3-209.

(2) A minor who is bound over to the district court to answer as an adult is not entitled to a preliminary hearing in the district court.

(3) If a minor is bound over to the district court and detained in a detention facility, the district court may order the minor be detained in another place of confinement that is considered appropriate by the district court, including a jail or other place of pretrial confinement for adults if the minor's conduct or condition endangers the safety and welfare of others in the detention facility.

[~~(4) If the district court obtains jurisdiction over a minor under Section 80-6-504, the district court is not divested of jurisdiction for a qualifying offense or a separate offense listed in the criminal information when the minor is allowed to enter a plea to, or is found guilty of, another offense in the same criminal information.~~]

Section 23. Section 80-6-603 is amended to read:

80-6-603. Rights of minors facing delinquency proceedings.

(1) If a minor is facing a delinquency proceeding under this chapter, the minor has the right to:

[~~(1)~~] (a) appear in person in the proceeding for the petition or the criminal information;

[~~(2)~~] (b) defend, in person or by counsel, against the allegations in the petition or the criminal information;

[~~(3)~~] (c) receive a copy of the petition or the criminal information;

[~~(4)~~] (d) testify on the minor's own behalf;

[~~(5)~~] (e) confront the witnesses against the minor;

[~~(6)~~] (f) secure the attendance of witnesses on the minor's behalf under Section 78A-6-351;

[~~(7)~~] (g) be represented by counsel at all stages of the proceedings;

[~~(8)~~] (h) be appointed an indigent defense service provider and be provided indigent defense services in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel;

[~~(9)~~] (i) remain silent and be advised that anything the minor says can and will be used against the minor in any court proceedings; and

[~~(10)~~] (j) appeal any adjudication under this chapter.

(2) A minor facing a delinquency proceeding shall be advised of the minor's rights described in Subsection (1).

Section 24. Section 80-6-606 is amended to read:

80-6-606. Validated risk and needs assessment -- Examination of minor or minor's parent or guardian -- Temporary custody or appointment of guardian.

(1) (a) If a minor is adjudicated for an offense under this chapter, the minor shall undergo a risk screening or, if indicated, a validated risk and needs assessment.

(b) If a minor undergoes a risk screening or a validated risk and needs assessment, the results of the screening or assessment shall be used to inform the juvenile court's disposition and any case planning for the minor.

(c) If a minor undergoes a validated risk and needs assessment, the results of the assessment may not be shared with the juvenile court before the adjudication of the minor.

(2) If the juvenile court's continuing jurisdiction over a minor's case is terminated, the minor shall undergo a validated risk and needs assessment within seven days of the day on which an order terminating the juvenile court's continuing jurisdiction is issued if:

(a) the minor is adjudicated under this chapter; and

(b) the minor underwent a validated risk and needs assessment under Subsection (1).

(3) (a) If a petition under this chapter has been filed for a minor, a juvenile court may:

(i) order that the minor be examined by a physician, surgeon, psychiatrist, or psychologist; and

(ii) place the minor in a hospital or other facility for examination.

(b) After notice and a hearing set for the specific purpose, the juvenile court may order an examination of a minor's parent or guardian whose ability to care for a minor is at issue if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical, mental, or emotional condition may be a factor in causing the delinquency of the minor.

(c) An examination conducted in accordance with this Subsection (3) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

(4) (a) Subject to Subsection (4)(b), if a petition under this chapter has been filed for a child, a juvenile court may:

(i) place the child in the temporary custody of a relative or other suitable individual if the child's parent or guardian consents to the placement;

(ii) appoint a guardian for the child if it appears a guardian is in the necessary interests of the child and the child's parent or guardian consents to the appointment; or

(iii) place the child in the temporary custody of a relative or other suitable individual under Subsection (4)(a)(i) or appoint a guardian for the child under Subsection (4)(a)(ii) without the consent of the child's parent or guardian if the child's parent or guardian cannot be located with reasonable diligence.

(b) The juvenile court may not grant temporary custody or a guardianship of a child to the Division of Child and Family Services under Subsection (4)(a) to address the minor's ungovernable or other behavior, mental health, or other disability, unless the Division of Child and Family Services:

(i) engages other relevant divisions of the department in conducting an assessment of the child and the child's family's needs;

(ii) based on an assessment under Subsection (4)(b)(i), determines that granting temporary custody or a guardianship of the child to the Division of Child and Family Services is the least restrictive intervention for the child that meets the child's needs; and

(iii) consents to the child being committed to the temporary custody of, or placed in a guardianship, with the Division of Child and Family Services.

Section 25. Section 80-6-709 is amended to read:

80-6-709. Payment of fines, fees, restitution, or other costs -- Community or compensatory service -- Property damage -- Unpaid balances.

(1) (a) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order a minor to:

(i) pay a fine, fee, or other cost;

(ii) pay restitution in accordance with Section 80-6-710; or

(iii) complete community or compensatory service hours.

(b) (i) If the juvenile court orders the minor to pay restitution under Subsection (1)(a), a juvenile probation officer may permit the minor to complete a work program in lieu of paying part or all of the restitution by the juvenile court.

(ii) If the juvenile court orders the minor to complete community or compensatory service hours, a juvenile probation officer may permit the minor to complete a work program to help the minor complete the community or compensatory service hours.

(c) The juvenile court may, through a juvenile probation officer, encourage the development of nonresidential employment or a work program to enable a minor to fulfill the minor's obligations under Subsection (1)(a).

(d) Notwithstanding this section, a juvenile court may not place a minor on a ranch, forestry camp, or other residential work program for care or work.

(2) If the juvenile court orders a minor to pay a fine, fee, restitution, or other cost, or to complete community or compensatory service hours, the juvenile court shall consider the dispositions collectively to ensure that an order:

(a) is reasonable;

(b) prioritizes restitution; and

[~~(c) takes into account the minor's ability to satisfy the order within the presumptive period of supervision under Section 80-6-712, or Section 80-6-802 if the minor is ordered to secure care.~~]

(c) except for restitution as provided in Subsection 80-6-710(5)(c), takes into account the minor's ability to pay the fine, fee, or other cost within the presumptive period under Section 80-6-712 or Section 80-6-802 if the minor is ordered to secure care.

(3) (a) If the juvenile court orders a minor to pay a fine, fee, or other cost, or complete community or compensatory service hours, the cumulative order shall be limited per criminal episode as follows:

(i) for a minor under 16 years old at the time of adjudication, the juvenile court may impose up to $190 or up to 24 hours of community or compensatory service; and

(ii) for a minor 16 years old or older at the time of adjudication, the juvenile court may impose up to $280 or up to 36 hours of community or compensatory service.

(b) The cumulative order under Subsection (3)(a) does not include restitution.

(4) (a) If the juvenile court converts a fine, fee, or restitution amount to compensatory service hours, the rate of conversion shall be no less than the minimum wage.

(b) If the juvenile court orders a minor to complete community service, the presumptive service order shall include between five and 10 hours of service.

(c) If a minor completes an approved substance use disorder prevention or treatment program or other court-ordered condition, the minor may be credited with compensatory service hours for the completion of the program or condition by the juvenile court.

(5) (a) If a minor commits an offense involving the use of graffiti under Section 76-6-106 or 76-6-206, the juvenile court may order the minor to clean up graffiti created by the minor or any other individual at a time and place within the jurisdiction of the juvenile court.

(b) The minor may complete the order of the juvenile court under Subsection (5)(a) in the presence and under the direct supervision of the minor's parent, guardian, or custodian.

(c) The minor's parent, guardian, or custodian shall report completion of the order to the juvenile court.

(d) The juvenile court may also require the minor to perform other alternative forms of restitution or repair to the damaged property in accordance with Section 80-6-710.

(6) (a) Except as provided in Subsection (6)(b), the juvenile court may issue orders necessary for the collection of restitution and fines ordered under this section, including garnishments, wage withholdings, and executions.

(b) The juvenile court may not issue an order under Subsection (6)(a) if the juvenile court orders a disposition that changes custody of a minor, including detention, secure care, or any other secure or nonsecure residential placement.

(7) Any information necessary to collect unpaid fines, fees, assessments, [~~bail,~~] or restitution may be forwarded to employers, financial institutions, law enforcement, constables, the Office of Recovery Services, or other agencies for purposes of enforcing an order under this section.

(8) (a) If, before the entry of any order terminating the juvenile court's continuing jurisdiction over a minor's case, there remains an unpaid balance for any fine, fee, or restitution ordered by the juvenile court, the juvenile court shall:

(i) record all pertinent information for the unpaid balance in the minor's file[~~.~~]; and

(ii) if there is an unpaid amount of restitution, record the amount of unpaid restitution as a civil judgment and list the victim, or the estate of the victim, as the judgment creditor in the civil judgment.

(b) The juvenile court may not transfer responsibility to collect unpaid fines, fees, surcharges, and restitution for a minor's case to the Office of State Debt Collection created in Section 63A-3-502.

[~~(c) The juvenile court shall reduce a restitution order to a judgment and list the victim, or the estate of the victim, as the judgment creditor in the judgment.~~]

Section 26. Section 80-6-710 is amended to read:

80-6-710. Determination of restitution -- Requirements.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:

(a) material loss caused by an offense listed in the petition; or

(b) conduct for which the minor agrees to make restitution.

(2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(3) A victim that receives notice under Subsection (2) is responsible for providing the [~~prosecutor~~] prosecuting attorney with:

(a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(d) the victim's contact information, including the victim's current home and work address and telephone number.

(4) A prosecuting attorney or victim shall submit a request for restitution to the juvenile court:

(a) if feasible, at the time of disposition; or

(b) within 90 days after disposition.

[~~(5) The juvenile court shall order a financial disposition that prioritizes the payment of restitution.~~]

[~~(6) To determine whether restitution, or the amount of restitution, is appropriate under Subsection (1),~~]

(5) In an order for restitution under Subsection (1), the juvenile court:

(a) shall only order restitution for the victim's material loss;

(b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;

(c) shall take into account:

(i) the minor's ability to satisfy the restitution order within six months from the day on which restitution is ordered; or

(ii) if the minor participates in a restorative justice program under Subsection (6), the amount or conditions of restitution agreed upon by the minor and the victim of the adjudicated offense;

[~~(c)~~] (d) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor; and

[~~(d) shall take into account the presumptive period of supervision for the minor's case under Section 80-6-712, or the presumptive period of commitment for secure care under Section 80-6-804 if the minor is ordered to secure care, in determining the minor's ability to satisfy the restitution order within that presumptive term; and~~]

(e) shall credit any amount paid to the victim in restitution against liability in a civil suit.

[~~(7)~~] (6) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.

[~~(8)~~] (7) (a) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.

[~~(9)~~] (b) If a minor is returned to this state in accordance with Title 55, Chapter 12, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Section 27. Section 80-6-711 is amended to read:

80-6-711. Suspending a disposition.

(1) Except as otherwise provided in Subsection (2), a juvenile court may not suspend a disposition ordered under this part.

(2) (a) If a minor qualifies for [~~secure care under Section 80-6-705~~] commitment to the division under Section 80-6-703, the juvenile court may suspend a disposition for commitment to the division [~~under Section 80-6-703~~] in lieu of immediate commitment, upon the condition that the minor commit no new misdemeanor or felony offense within 90 days after the day on which the juvenile court suspends the disposition for commitment.

(b) The duration of a suspended disposition under Subsection (2)(a) may not:

(i) exceed 90 days after the day on which the juvenile court suspends the disposition for commitment; and

(ii) be extended under any circumstance.

(3) The juvenile court may only lift a suspension of a disposition under Subsection (2)(a):

(a) following adjudication of a new misdemeanor or felony offense committed by the minor during the period of suspension set out under Subsection (2)(a);

(b) if a new assessment or evaluation has been completed and the assessment or evaluation recommends that a higher level of care is needed and nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; or

(c) if, after a notice and a hearing, the juvenile court finds:

(i) a new or previous evaluation recommends a higher level of treatment; and

(ii) the minor willfully failed to comply with a lower level of treatment and has been unsuccessfully discharged from treatment.

(4) A suspended disposition under Subsection (1) may not be imposed without:

(a) notice to the minor and the minor's counsel; and

(b) a hearing.

Section 28. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare services under Subsection (2)(a)(ii):

(i) in the home of a qualifying relative or guardian[~~, or~~];

(ii) at an independent living program contracted or operated by the division[~~.~~]; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) [~~In accordance with Section 80-6-711 and Subsections (1) and (2), the~~] The juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation[~~,~~] or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) the minor has not completed community or compensatory service hours [~~have not been completed~~];

(iv) there is an outstanding fine; or

[~~(v) there is a failure to pay restitution in full.~~]

(v) the minor has not paid restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to [~~Subsection (8)~~] Subsections (6) and (7), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

[~~(6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court may extend supervision for no more than three months.~~]

(6) If the juvenile court extends supervision solely on the ground that the minor has not yet completed community or compensatory service hours under Subsection (4)(a)(iii), the juvenile court may only extend supervision:

(a) one time for no more than three months; and

(b) as intake probation.

(7) (a) If the juvenile court extends jurisdiction solely on the ground that the minor has not paid restitution in full as described in Subsection (4)(a)(v):

(i) the juvenile court may only:

(A) extend jurisdiction up to four times for no more than three months at a time;

(B) consider the efforts of the minor to pay restitution in full when determining whether to extend jurisdiction under Subsection (7)(a)(i); and

(C) make orders concerning the payment of restitution during the period for which jurisdiction is extended;

(ii) the juvenile court shall terminate any intake probation or formal probation of the minor; and

(iii) a designated staff member of the juvenile court shall submit a report to the juvenile court every three months regarding the minor's efforts to pay restitution.

(b) If the juvenile court finds that a minor is not making an effort to pay restitution, the juvenile court shall:

(i) terminate jurisdiction over the minor's case; and

(ii) record the amount of unpaid restitution as a civil judgment in accordance with Subsection 80-6-709(8).

[~~(7)~~] (8) If the juvenile court extends supervision or jurisdiction under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

[~~(8) For a minor who is under the continuing jurisdiction of the juvenile court and whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only be extended as intake probation.~~]

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 29. Section 80-6-802 is amended to read:

80-6-802. Commitment to secure care -- Rights of individuals in secure care.

(1) If a youth offender is ordered to secure care under Section 80-6-705, the youth offender shall remain in secure care until the youth offender is:

(a) 21 years old;

(b) paroled; or

(c) discharged.

(2) If a serious youth offender is ordered to secure care under Section 80-6-705, the serious youth offender shall remain in secure care until the serious youth offender is:

(a) 25 years old;

(b) paroled; or

(c) discharged.

(3) (a) Subject to Subsection (3)(b), a juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, has the right to:

(i) phone the juvenile offender's or individual's parent, guardian, or an attorney [~~while the juvenile offender is in secure care~~]; and

(ii) confer in private, at any time, with an attorney, cleric, parent, guardian, or custodian.

(b) The division may:

(i) establish a schedule for which a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, may visit or phone a person described in Subsection (3)(a);

(ii) allow a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to visit or call persons described in Subsection (3)(a) in special circumstances;

(iii) limit the number and length of calls and visits for a juvenile offender, or an individual housed in a secure care facility under Section 80-6-507, to persons described in Subsection (3)(a) on account of scheduling, facility, or personnel constraints; or

(iv) limit the [~~juvenile's~~] juvenile offender's or individual's rights under Subsection (3)(a) if a compelling reason exists to limit the [~~juvenile's~~] juvenile offender's or individual's rights.

(c) A juvenile offender in secure care, or an individual housed in a secure care facility under Section 80-6-507, shall be advised of the rights described in Subsection (3)(a).

Section 30. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the

day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole:

(i) in the home of a qualifying relative or guardian [~~or~~];

(ii) at an independent living program contracted or operated by the division[~~.~~]; or

(iii) in a family-based setting with approval by the director or the director's designee if the minor does not qualify for an independent living program due to age, disability, or another reason or the minor cannot be placed with a qualifying relative or guardian.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-601; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously committed to the division for secure care.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

Section 31. Coordinating H.B. 299 with H.B. 171 -- Substantive amendments.

If this H.B. 299 and H.B. 171, Custodial Interrogation Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the database for publication by:

(1) amending Subsection 80-6-206(1)(a) in H.B. 171 to read:

”(a) “Custodial interrogation” means any interrogation of an individual while the individual is in custody.”; and

(2) amending Subsection 80-6-206(5)(a) in this bill to read:

“(5)(a) If an individual is admitted to a detention facility under Section 80-6-205, committed to a secure care facility under Section 80-6-705, or housed in a secure care facility under Section 80-6-507, and the individual is subject to a custodial interrogation for an offense, the individual may not be interrogated unless:”.

CHAPTER 156
H. B. 313

Passed March 3, 2022
Approved March 22, 2022
Effective May 4, 2022

ELECTION SECURITY AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses election security and voter confidence.

Highlighted Provisions:

This bill:

- clarifies that it is unlawful to vote in the same election in Utah and outside of Utah;
- requires an individual who did not provide valid voter identification when registering to vote to provide valid voter identification when voting;
- prohibits an election officer from soliciting, accepting, or using funds donated for an election by a person other than a government entity;
- requires video surveillance of unattended ballot drop boxes and institutes other requirements and security measures for ballot drop boxes;
- requires the director of elections to make rules establishing:
  - requirements for election officials regarding ballot security, including ballot custody, processing, and tabulation;
  - minimum standards for preserving the security of election equipment, including use, storage, and maintenance;
  - software validation procedures to verify that voting system files have not been tampered with; and
  - minimum requirements that a vendor must meet to be eligible to print ballots to be used in an election;
- requires the lieutenant governor to conduct an annual voter registration audit;
- restricts access to election equipment and prohibits connecting certain election equipment to the Internet;
- modifies a county clerk's responsibilities;
- provides for the security of election equipment and information;
- requires increased record keeping for security purposes;
- requires an election official to check available resources to determine whether an individual registers to vote, or votes, in more than one state or precinct;
- addresses printing and mailing of ballots; and
- addresses legal requirements relating to copies of ballots and election returns made as part of a legislative audit.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Governor's Office Governor's Office Lt. Governor's Office as a one-time appropriation:
  - from the General Fund, One-time, $500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-603, as last amended by Laws of Utah 2020, Chapter 31
20A-2-304, as last amended by Laws of Utah 2021, Chapter 100
20A-2-308, as last amended by Laws of Utah 2014, Chapter 373
20A-3a-202, as last amended by Laws of Utah 2021, Chapter 100
20A-3a-204, as enacted by Laws of Utah 2020, Chapter 31
20A-4-202, as last amended by Laws of Utah 2020, Chapter 31
20A-5-403.5, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

ENACTS:

20A-3a-404, Utah Code Annotated 1953
20A-5-207, Utah Code Annotated 1953
20A-5-901, Utah Code Annotated 1953
20A-5-902, Utah Code Annotated 1953
20A-5-903, Utah Code Annotated 1953
20A-5-904, Utah Code Annotated 1953
20A-5-905, Utah Code Annotated 1953
20A-6-108, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-603 is amended to read:

20A-1-603. Fraud, interference, disturbance -- Tampering with ballots or records -- Penalties.

(1) (a) An individual may not fraudulently vote on the individual's behalf or on behalf of another, by:

(i) voting more than once at any one election, regardless of whether one of the elections is in a state or territory of the United States outside of Utah;

(ii) knowingly handing in two or more ballots folded together;

(iii) changing any ballot after the ballot is cast or deposited in the ballot box, or ballot drop box, or mailed;

(iv) adding or attempting to add any ballot or vote to those legally polled at any election by fraudulently introducing the ballot or vote into the ballot box or vote tally, either before or after the ballots have been counted;

(v) adding to or mixing or attempting to add or mix, other ballots with the ballots lawfully polled while those ballots are being counted or canvassed, or at any other time; or

(vi) voting in a voting district or precinct when the individual knew or should have known that the individual was not eligible for voter registration in that district or precinct, unless the individual is legally entitled to vote the ballot under Section 20A-4-107 or another provision of this title.

(b) A person may not fraudulently interfere with an election by:

(i) willfully tampering with, detaining, mutilating, or destroying any election returns;

(ii) in any manner, interfering with the officers holding an election or conducting a canvass, or with the voters lawfully exercising their rights of voting at an election, so as to prevent the election or canvass from being fairly held or lawfully conducted;

(iii) engaging in riotous conduct at any election, or interfering in any manner with any election official in the discharge of the election official's duties;

(iv) inducing any election officer, or officer whose duty it is to ascertain, announce, or declare the result of any election or to give or make any certificate, document, or evidence in relation to any election, to violate or refuse to comply with the election officer's duty or any law regulating the election officer's duty;

(v) taking, carrying away, concealing, removing, or destroying any ballot, pollbook, or other thing from a polling place, or from the possession of the person authorized by law to have the custody of that thing;

(vi) taking, carrying away, concealing, removing, or destroying a ballot drop box or the contents of a ballot drop box; or

(vii) aiding, counseling, providing, procuring, advising, or assisting any person to do any of the acts described in this section.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of a class A misdemeanor.

(3) The lieutenant governor shall take, and store for at least 22 months, a static copy of the official register made at the following times:

(a) the voter registration deadline described in Subsection 20A-2-102.5(2)(a);

(b) the day of the election; and

(c) the last day of the canvass.

Section 2. Section 20A-2-304 is amended to read:

20A-2-304. County clerk's responsibilities -- Notice of disposition.

Each county clerk shall:

(1) register to vote each individual who meets the requirements for registration and who:

(a) submits a completed voter registration form to the county clerk;

(b) submits a completed voter registration form, as defined in Section 20A-2-204, to the Driver License Division;

(c) submits a completed voter registration form to a public assistance agency or a discretionary voter registration agency; or

(d) mails a completed voter registration form to the county clerk; and

(2) within 30 days after the day on which the county clerk processes a voter registration form, send a notice to the individual who submits the form that:

(a) (i) informs the individual that the individual's voter registration form has been accepted and that the individual is registered to vote;

(ii) informs the individual of the procedure for designating or changing the individual's political affiliation;

(iii) informs the individual of the procedure to cancel a voter registration; [~~and~~]

[~~(iv) after May 1, 2022:~~]

(iv) provides instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5; and

[~~(A)~~] (v) confirms that the individual has chosen to receive electronic ballot status notifications if the individual opted to receive electronic ballot status notifications on the voter registration form; [~~or~~]

[~~(B) notifies the individual how to receive electronic ballot status notifications if the individual did not opt to receive electronic ballot status notifications on the voter registration form;~~]

(b) informs the individual that the individual's voter registration form has been rejected and the reason for the rejection; or

(c) (i) informs the individual that the individual's voter registration form is being returned to the individual for further action because the form is incomplete; and

(ii) gives instructions to the individual on how to properly complete the form.

Section 3. Section 20A-2-308 is amended to read:

20A-2-308. Lieutenant governor and county clerks to preserve records.

(1) As used in this section:

(a) "Voter registration record" means a record concerning the implementation of programs and activities conducted for the purpose of ensuring that the official register is accurate and current.

(b) "Voter registration record" does not include a record that:

(i) relates to a person's decision to decline to register to vote; or

(ii) identifies the particular public assistance agency, discretionary voter registration agency, or Driver License Division through which a particular voter registered to vote.

(2) The lieutenant governor and each county clerk shall:

(a) preserve for at least two years all records relating to voter registration, including:

(i) the official register; and

(ii) the names and addresses of all persons to whom the notice required by Section 20A-2-306 was sent and a notation as to whether or not the person responded to the notice;

(b) make a voter registration record available for public inspection, except for a voter registration record, or part of a voter registration record that is classified as private under Section 63G-2-302; and

(c) allow a record or part of a record described in Subsection (2)(b) that is not classified as a private record to be photocopied for a reasonable cost.

(3) The lieutenant governor shall take, and store for at least 22 months, a static copy of the official register made at the following times:

(a) the voter registration deadline described in Subsection 20A-2-102.5(2)(a);

(b) the day of the election; and

(c) the last day of the canvass.

Section 4. Section 20A-3a-202 is amended to read:

20A-3a-202. Conducting election by mail.

(1) (a) Except as otherwise provided for an election conducted entirely by mail under Section 20A-7-609.5, an election officer shall administer an election primarily by mail, in accordance with this section.

(b) An individual who did not provide valid voter identification at the time the voter registered to vote shall provide valid voter identification before voting.

(2) An election officer who administers an election:

(a) shall in accordance with Subsection (3), no sooner than 21 days before election day and no later than seven days before election day, mail to each active voter within a voting precinct:

(i) a manual ballot;

(ii) a return envelope;

(iii) instructions for returning the ballot that include an express notice about any relevant deadlines that the voter must meet in order for the voter's vote to be counted;

(iv) for an election administered by a county clerk, information regarding the location and hours of operation of any election day voting center at which the voter may vote or a website address where the voter may view this information;

(v) for an election administered by an election officer other than a county clerk, if the election officer does not operate a polling location or an election day voting center, a warning, on a separate page of colored paper in bold face print, indicating that if the voter fails to follow the instructions included with the ballot, the voter will be unable to vote in that election because there will be no polling place for the voting precinct on the day of the election; and

(vi) after May 1, 2022, instructions on how a voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5; and

(b) may not mail a ballot under this section to:

(i) an inactive voter, unless the inactive voter requests a manual ballot; or

(ii) a voter whom the election officer is prohibited from sending a ballot under Subsection (10)(c)(ii).

(3) (a) An election officer who mails a manual ballot under Subsection (2) shall mail the manual ballot to the address:

(i) provided at the time of registration; or

(ii) if, at or after the time of registration, the voter files an alternate address request form described in Subsection (3)(b), the alternate address indicated on the form.

(b) The lieutenant governor shall make available to voters an alternate address request form that permits a voter to request that the election officer mail the voter's ballot to a location other than the voter's residence.

(c) A voter shall provide the completed alternate address request form to the election officer no later than 11 days before the day of the election.

(4) The return envelope shall include:

(a) the name, official title, and post office address of the election officer on the front of the envelope;

(b) a space where a voter may write an email address and phone number by which the election officer may contact the voter if the voter's ballot is rejected;

(c) a printed affidavit in substantially the following form:

"County of ____State of ____

I, ____, solemnly swear that: I am a qualified resident voter of the ____ voting precinct in ____ County, Utah and that I am entitled to vote in this election. I am not a convicted felon currently incarcerated for commission of a felony.

____

Signature of Voter"; and

(d) a warning that the affidavit must be signed by the individual to whom the ballot was sent and that the ballot will not be counted if the signature on the affidavit does not match the signature on file with the election officer of the individual to whom the ballot was sent.

(5) If the election officer determines that the voter is required to show valid voter identification, the election officer may:

(a) mail a ballot to the voter; [~~and~~]

(b) instruct the voter to include a copy of the voter's valid voter identification with the return ballot[~~.~~]; and

(c) provide instructions to the voter on how the voter may sign up to receive electronic ballot status notifications via the ballot tracking system described in Section 20A-3a-401.5.

(6) An election officer who administers an election shall:

(a) (i) before the election, obtain the signatures of each voter qualified to vote in the election; or

(ii) obtain the signature of each voter within the voting precinct from the county clerk; and

(b) maintain the signatures on file in the election officer's office.

(7) Upon receipt of a returned ballot, the election officer shall review and process the ballot under Section 20A-3a-401.

(8) A county that administers an election:

(a) shall provide at least one election day voting center in accordance with Chapter 3a, Part 7, Election Day Voting Center, and at least one additional election day voting center for every 5,000 active voters in the county who have requested to not receive a ballot by mail;

(b) shall ensure that each election day voting center operated by the county has at least one voting device that is accessible, in accordance with the Help America Vote Act of 2002, Pub. L. No. 107-252, for individuals with disabilities;

(c) may reduce the early voting period described in Section 20A-3a-601, if:

(i) the county clerk conducts early voting on at least four days;

(ii) the early voting days are within the period beginning on the date that is 14 days before the date of the election and ending on the day before the election; and

(iii) the county clerk provides notice of the reduced early voting period in accordance with Section 20A-3a-604;

(d) is not required to pay return postage for a ballot; and

(e) is subject to an audit conducted under Subsection (9).

(9) (a) The lieutenant governor shall:

(i) develop procedures for conducting an audit of affidavit signatures on ballots cast in an election conducted under this section; and

(ii) after each primary, general, or special election conducted under this section, select a number of ballots, in varying jurisdictions, to audit in accordance with the procedures developed under Subsection (9)(a)(i).

(b) The lieutenant governor shall post the results of an audit conducted under this Subsection (9) on the lieutenant governor's website.

(10) (a) An individual may request that the election officer not send the individual a ballot by mail in the next and subsequent elections by submitting a written request to the election officer.

(b) An individual shall submit the request described in Subsection (10)(a) to the election officer before 5 p.m. no later than 60 days before an election if the individual does not wish to receive a ballot by mail in that election.

(c) An election officer who receives a request from an individual under Subsection (10)(a):

(i) shall remove the individual's name from the list of voters who will receive a ballot by mail; and

(ii) may not send the individual a ballot by mail for:

(A) the next election, if the individual submits the request described in Subsection (10)(a) before the deadline described in Subsection (10)(b); or

(B) an election after the election described in Subsection (10)(c)(ii)(A).

(d) An individual who submits a request under Subsection (10)(a) may resume the individual's receipt of a ballot by mail by submitting a written request to the election officer.

Section 5. Section 20A-3a-204 is amended to read:

20A-3a-204. Marking and depositing ballots.

(1) To vote by mail:

(a) except as provided in Subsection (6), the voter shall prepare the voter's manual ballot by marking the appropriate space with a mark opposite the name of each candidate of the voter's choice for each office to be filled;

(b) if a ballot proposition is submitted to a vote of the people, the voter shall mark the appropriate space with a mark opposite the answer the voter intends to make;

(c) except as provided in Subsection (6), the voter shall record a write-in vote in accordance with Subsection 20A-3a-206(1);

(d) except as provided in Subsection (6), a mark is not required opposite the name of a write-in candidate; and

(e) the voter shall:

(i) complete and sign the affidavit on the return envelope;

(ii) place the voted ballot in the return envelope;

(iii) if required, place a copy of the voter's valid voter identification in the return envelope;

[~~(iii)~~] (iv) securely seal the return envelope; and

[~~(iv)~~] (v) (A) attach postage, if necessary, and deposit the return envelope in the mail; or

(B) place the return envelope in a ballot drop box, designated by the election officer, for the precinct where the voter resides.

(2) (a) Except as otherwise provided in Section 20A-16-404, to be valid, a ballot that is mailed must be:

(i) clearly postmarked before election day, or otherwise clearly marked by the post office as received by the post office before election day; and

(ii) received in the office of the election officer before noon on the day of the official canvass following the election.

(b) Except as provided in Subsection (2)(c), to be valid, a ballot shall, before the polls close on election day, be deposited in:

(i) a ballot box at a polling place; or

(ii) a ballot drop box designated by an election officer for the jurisdiction to which the ballot relates.

(c) An election officer may, but is not required to, forward a ballot deposited in a ballot drop box in the wrong jurisdiction to the correct jurisdiction.

(d) An election officer shall ensure that a voter who is, at or before 8 p.m., in line at a ballot drop box, with a sealed return envelope containing a ballot in the voter's possession, to deposit the ballot in the ballot drop box.

(3) Except as provided in Subsection (4), to vote at a polling place the voter shall, after complying with Subsections (1)(a) through (d):

(a) sign the official register or pollbook; and

(b) (i) place the ballot in the ballot box; or

(ii) if the ballot is a provisional ballot, place the ballot in the provisional ballot envelope, complete the information printed on the provisional ballot envelope, and deposit the provisional ballot envelope in the provisional ballot box.

(4) (a) An individual with a disability may vote a mechanical ballot at a polling place.

(b) An individual other than an individual with a disability may vote a mechanical ballot at a polling place if permitted by the election officer.

(5) To vote a mechanical ballot, the voter shall:

(a) make the selections according to the instructions provided for the voting device; and

(b) subject to Subsection (6), record a write-in vote by:

(i) selecting the appropriate position for entering a write-in candidate; and

(ii) using the voting device to enter the name of the valid write-in candidate for whom the voter wishes to vote.

(6) To vote in an instant runoff voting race under Title 20A, Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project, a voter:

(a) shall indicate, as directed on the ballot, the name of the candidate who is the voter's first preference for the office; and

(b) may indicate, as directed on the ballot, the names of the remaining candidates in order of the voter's preference.

(7) A voter who votes at a polling place:

(a) shall mark and cast or deposit the ballot without delay and shall leave the voting area after voting; and

(b) may not:

(i) occupy a voting booth occupied by another, except as provided in Section 20A-3a-208;

(ii) remain within the voting area more than 10 minutes; or

(iii) occupy a voting booth for more than five minutes if all booths are in use and other voters are waiting to occupy a voting booth.

(8) If the official register shows any voter as having voted, that voter may not reenter the voting area during that election unless that voter is an election official or watcher.

(9) A poll worker may not, at a polling place, allow more than four voters more than the number of voting booths into the voting area at one time unless those excess voters are:

(a) election officials;

(b) watchers; or

(c) assisting voters with a disability.

Section 6. Section 20A-3a-404 is enacted to read:

20A-3a-404. Rules regarding ballot security -- Affidavit of compliance.

(1) The director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for election officials regarding ballot security, including the custody, documentation of custody, handling, processing, disposition, and tabulation of ballots.

(2) Beginning in November 2022, an election officer shall include, with all election returns provided to a board of canvassers, an affidavit, signed by the election officer, certifying:

(a) compliance with the rules described in Subsection (1); and

(b) that the county clerk maintains the voter registration database in accordance with federal and state laws and rules.

Section 7. Section 20A-4-202 is amended to read:

20A-4-202. Election officers -- Disposition of ballots -- Release of number of provisional ballots cast.

(1) Upon receipt of the election returns from the poll workers, the election officer shall:

(a) ensure that the poll workers have provided all of the ballots and election returns;

(b) inspect the ballots and election returns to ensure that they are sealed;

(c) for manual ballots, deposit and lock the ballots and election returns in a safe and secure place;

(d) for mechanical ballots:

(i) count the ballots; and

(ii) deposit and lock the ballots and election returns in a safe and secure place; and

(e) for bond elections, provide a copy of the election results to the board of canvassers of the local political subdivision that called the bond election.

(2) Each election officer shall:

(a) before 5 p.m. on the day after the date of the election, determine the number of provisional ballots cast within the election officer's jurisdiction and make that number available to the public;

(b) preserve ballots for 22 months after the election or until the time has expired during which the ballots could be used in an election contest;

(c) preserve all other official election returns for at least 22 months after an election; and

(d) after that time, destroy them without opening or examining them.

(3) (a) The election officer shall package and retain all tabulating cards and other materials used in the programming of the automatic tabulating equipment.

(b) The election officer:

(i) may access these tabulating cards and other materials;

(ii) may make copies of these materials and make changes to the copies;

(iii) may not alter or make changes to the materials themselves; and

(iv) within 22 months after the election in which they were used, may dispose of those materials or retain them.

(4) (a) If an election contest is begun within 12 months, the election officer shall:

(i) keep the ballots and election returns unopened and unaltered until the contest is complete; or

(ii) surrender the ballots and election returns to the custody of the court having jurisdiction of the contest when ordered or subpoenaed to do so by that court.

(b) When all election contests arising from an election are complete, the election officer shall either:

(i) retain the ballots and election returns until the time for preserving them under this section has run; or

(ii) destroy the ballots and election returns remaining in the election officer's custody without opening or examining them if the time for preserving them under this section has run.

(5) (a) Notwithstanding the provisions of this section, the legislative auditor general:

(i) may make and keep copies of ballots or election returns as part of a legislative audit; and

(ii) may not examine, make copies, or keep copies, of a ballot in a manner that identifies a ballot with the voter who casts the ballot.

(b) A copy described in Subsection (5)(a) is not a record, and not subject to disclosure, under Title 63G, Chapter 2, Government Records Access and Management Act.

Section 8. Section 20A-5-207 is enacted to read:

20A-5-207. Donated funding prohibited.

An election officer may not solicit, accept, or use any funds for an election if those funds are donated by any person other than a government entity.

Section 9. Section 20A-5-403.5 is amended to read:

20A-5-403.5. Ballot drop boxes.

(1) An election officer:

(a) shall designate at least one ballot drop box in each municipality and reservation located in the jurisdiction to which the election relates;

[~~(a)~~] (b) may designate additional ballot drop boxes for the election officer's jurisdiction; [~~and~~]

[~~(b)~~] (c) shall clearly mark each ballot drop box as an official ballot drop box for the election officer's jurisdiction[~~.~~];

(d) shall provide 24-hour video surveillance of each unattended ballot drop box; and

(e) shall post a sign on or near each unattended ballot drop box indicating that the ballot drop box is under 24-hour video surveillance.

(2) Except as provided in Section 20A-1-308 or Subsection (5), the election officer shall, at least 19 days before the date of the election, provide notice of the location of each ballot drop box designated under Subsection (1):

(a) (i) by publishing notice in at least one issue of a newspaper of general circulation in the jurisdiction holding the election;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction holding the election, in places within the jurisdiction that are most likely to give notice to the residents in the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each registered voter in the jurisdiction holding the election;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for 19 days before the day of the election; and

(c) by posting notice on the jurisdiction's website for 19 days before the day of the election.

(3) Instead of including the location of ballot drop boxes, a notice required under Subsection (2) may specify the following sources where a voter may view or obtain a copy of all ballot drop box locations:

(a) the jurisdiction's website;

(b) the physical address of the jurisdiction's offices; and

(c) a mailing address and telephone number.

(4) The election officer shall include in the notice described in Subsection (2):

(a) the address of the Statewide Electronic Voter Information Website and, if available, the address of the election officer's website, with a statement indicating that the election officer will post on the website the location of each ballot drop box, including any changes to the location of a ballot drop box and the location of additional ballot drop boxes; and

(b) a phone number that a voter may call to obtain information regarding the location of a ballot drop box.

(5) (a) Except as provided in Section 20A-1-308, the election officer may, after the deadline described in Subsection (2):

(i) if necessary, change the location of a ballot drop box; or

(ii) if the election officer determines that the number of ballot drop boxes is insufficient due to the number of registered voters who are voting, designate additional ballot drop boxes.

(b) Except as provided in Section 20A-1-308, if an election officer changes the location of a ballot box or designates an additional ballot drop box location, the election officer shall, as soon as is reasonably possible, give notice of the changed ballot drop box location or the additional ballot drop box location:

(i) to the lieutenant governor, for posting on the Statewide Voter Information Website;

(ii) by posting the information on the website of the election officer, if available; and

(iii) by posting notice:

(A) for a change in the location of a ballot drop box, at the new location and, if possible, the old location; and

(B) for an additional ballot drop box location, at the additional ballot drop box location.

(6) An election officer may, at any time, authorize two or more poll workers to remove a ballot drop box from a location, or to remove ballots from a ballot drop box for processing.

(7) (a) At least two poll workers must be present when a poll worker collects ballots from a ballot drop box and delivers the ballots to the location where the ballots will be opened and counted.

(b) An election officer shall ensure that the chain of custody of ballots placed in a ballot box are recorded and tracked from the time the ballots are removed from the ballot box until the ballots are delivered to the location where the ballots will be opened and counted.

Section 10. Section 20A-5-901 is enacted to read:

Part 9. Election Security

20A-5-901. Voter registration audit.

(1) The lieutenant governor shall, on at least an annual basis, conduct an audit of the voter registration database.

(2) The audit shall include:

(a) a random selection of at least .02% of the active registered voters statewide; and

(b) at least one active registered voter from each county.

(3) For each voter selected for the audit, the auditor shall:

(a) verify that the voter is eligible for registration;

(b) verify that the voter's registration information is accurate and supported by the documentation on file;

(c) verify that there is a signature on file for the voter;

(d) check for duplicate voter registrations; and

(e) search available resources to determine whether the voter is deceased.

(4) The audit report shall identify areas of concern or training needed in response to the audit findings.

(5) The lieutenant governor shall:

(a) share the audit results with the county clerks and verify that the county clerks address the concerns and fulfill the training identified under Subsection (4); and

(b) beginning in 2023, report biannually to the Government Operations Interim Committee on the results of the audits conducted under this section.

Section 11. Section 20A-5-902 is enacted to read:

20A-5-902. Security of election equipment.

(1) Except when divesting election equipment as surplus property or providing for maintenance, an election officer may not permit an individual, other than an election official, access to election equipment.

(2) An election officer shall keep a record of service work done on voting equipment, including:

(a) a designation of the specific equipment serviced;

(b) the date of service;

(c) the names of all individuals who perform or supervise the service;

(d) the name of each vendor that performs the service; and

(e) a description of the service performed.

Section 12. Section 20A-5-903 is enacted to read:

20A-5-903. Cyber security.

(1) An election officer shall ensure that the following election equipment is never connected to the Internet:

(a) tabulation servers;

(b) tabulation equipment;

(c) ballot scanners, including central, precinct, and mobile scanners; and

(d) ballot marking devices.

(2) This section does not prohibit Internet connection of equipment used for voting if the equipment's use of voting is solely for the purpose of:

(a) complying with Title 20A, Chapter 16, Uniform Military and Overseas Voting Act; or

(b) administering the Internet Voting Pilot Project, described in Section 20A-6-103.

Section 13. Section 20A-5-904 is enacted to read:

20A-5-904. Voter fraud.

An election officer shall:

(1) check available resources to determine whether an individual registers to vote, or votes, in more than one state or precinct; and

(2) report the information to law enforcement or a prosecutor if the election officer has reason to believe that an individual has intentionally committed election fraud.

Section 14. Section 20A-5-905 is enacted to read:

20A-5-905. Software validation -- Database security.

(1) Before November 2022, the director of elections within the Office of the Lieutenant Governor shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing software validation procedures that an election officer is required to comply with to verify that voting system files have not been tampered with.

(2) The lieutenant governor and each county clerk shall ensure that a record is made, and stored for at least 22 months, of each time a voter database is accessed by a person, including:

(a) the name of the person accessing the voter database;

(b) the date and time of the access; and

(c) any changes made to the voter database.

Section 15. Section 20A-6-108 is enacted to read:

20A-6-108. Requirements for printing and mailing ballots.

(1) Before January 2023, the director of elections within the Office of the Lieutenant Governor shall, in consultation with county clerks, make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing minimum requirements that a vendor must meet to be eligible to print ballots to be used in an election.

(2) Beginning on the effective date of the rules described in Subsection (1), an election officer shall ensure that, when the bulk of ballots are initially mailed to voters, the ballots are mailed from a location in Utah.

Section 16. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office -- Governor's Office

From General Fund, One-time	$500,000
Schedule of Programs:	
Lt. Governor's Office	$500,000

The Legislature intends that:

(1) appropriations provided under this section be distributed, in a manner determined by the lieutenant governor, to assist counties and municipalities to obtain video surveillance equipment to comply with Subsection 20A-5-403.5(1); and

(2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1).

CHAPTER 157
H. B. 314

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

INHERITANCE DISQUALIFICATION AMENDMENTS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to the disinheritance of an individual who commits a homicide.

Highlighted Provisions:

This bill:

- defines and amends terms;
- clarifies provisions related to the disinheritance of an individual who committed the homicide of a decedent;
- allows a decedent's estate to petition a court to preserve the assets and property of an individual who committed the homicide of the decedent; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

75-2-803, as last amended by Laws of Utah 2006, Chapter 270

Utah Code Sections Affected by Coordination Clause:

75-2-803, as last amended by Laws of Utah 2006, Chapter 270

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-2-803 is amended to read:

75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations -- Petition -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Conviction" means the same as that term is defined in Section 77-38b-102.

(b) "Decedent" means a deceased individual.

[~~(a)~~] (c) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

[~~(b) "Disqualifying homicide" means a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the Person, except automobile homicide, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including but not limited to Chapter 2, Principles of Criminal Responsibility.~~]

(d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any felony homicide offense described in Title 76, Chapter 5, Offenses Against the Person, for which the elements are established by a preponderance of the evidence and by applying the same principles of culpability and defenses described in Title 76, Utah Criminal Code.

(ii) "Disqualifying homicide" does not include an automobile homicide offense described in Title 76, Chapter 5, Offenses Against the Person.

[~~(c)~~] (e) "Governing instrument" means a governing instrument executed by the decedent.

[~~(d)~~] (f) "Killer" means [~~a person~~] an individual who commits a disqualifying homicide.

[~~(e) "Revocable," with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation, in favor of the killer, whether or not the decedent was then empowered to designate himself in place of his killer and whether or not the decedent then had capacity to exercise the power.~~]

(g) "Revocable" means a disposition, appointment, provision, or nomination under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the killer regardless of whether at the time or immediately before death:

(i) the decedent was empowered to designate the decedent in place of the decedent's killer; or

(ii) the decedent had the capacity to exercise the power.

(2) (a) An individual who commits a disqualifying homicide of the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance.

(b) If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed [~~his~~] the killer's intestate share.

(3) The killing of the decedent by means of a disqualifying homicide:

(a) revokes any revocable:

(i) disposition or appointment of property made by the decedent to the killer in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and

(b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(4) A severance under Subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by one who kills another under circumstances not covered by this section shall be treated in accordance with the principle that [~~one who kills~~] a killer cannot profit from [~~his~~] the killer's wrong.

[~~(7) The court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual has committed a disqualifying homicide of the decedent. If the court determines that, under that standard, the individual has committed a disqualifying homicide of the decedent, the determination conclusively establishes that individual as having committed a disqualifying homicide for purposes of this section, unless the court finds that the act of disinheritance would create a manifest injustice. A judgment of criminal conviction for a disqualifying homicide of the decedent, after all direct appeals have been exhausted, conclusively establishes that the convicted individual has committed the disqualifying homicide for purposes of this section.~~]

(7) (a) An interested person may petition the court to determine whether an individual has committed a disqualifying homicide of the decedent.

(b) An individual has committed a disqualifying homicide of the decedent for purposes of this section if:

(i) unless the court finds that disinheritance would create a manifest injustice, the court finds that, by a preponderance of the evidence, the individual has committed a disqualifying homicide of the decedent; or

(ii) the court finds that a judgment of conviction has been entered against the individual for a disqualifying homicide of the decedent and all direct appeals for the judgment have been exhausted.

(8) (a) Before a court determines whether an individual committed a disqualifying homicide of the decedent under Subsection (7), the decedent's estate may petition the court to:

(i) enter a temporary restraining order, an injunction, or a temporary restraining order and an injunction, to preserve the property or assets of the killer or the killer's estate;

(ii) require the execution of a trustee's bond under Section 75-7-702 for the killer's estate;

(iii) establish a constructive trust on any property or assets of the killer or the killer's estate that is effective from the time the killer's act caused the death of the decedent; or

(iv) take any other action necessary to preserve the property or assets of the killer or the killer's estate:

(A) until a court makes a determination under Subsection (7); or

(B) for the payment of all damages and judgments for conduct resulting in the disqualifying homicide of the decedent.

(b) Upon a petition for a temporary restraining order or an injunction under Subsection (8)(a)(i), a court may enter a temporary restraining order against an owner's property in accordance with Rule 65A of the Utah Rules of Civil Procedure, without notice or opportunity of a hearing, if the court determines that:

(i) there is a substantial likelihood that the property is, or will be, necessary to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent; and

(ii) notice of the hearing would likely result in the property being:

(A) sold, distributed, destroyed, or removed; and

(B) unavailable to satisfy a judgment or damages owed by the killer for conduct resulting in the disqualifying homicide of the decedent.

[~~(8)~~] (9) (a) (i) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a disqualifying homicide, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(ii) A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) (i) Written notice of a claimed forfeiture or revocation under Subsection [~~(8)~~] (9)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action.

(ii) Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by [~~it~~] the payor or third party to or with:

(A) the court having jurisdiction of the probate proceedings relating to the decedent's estate[~~, or~~]; or

(B) if no proceedings have been commenced, [~~to or with~~] the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence.

(iii) The court shall hold the funds or item of property and, upon [~~its~~] the court's determination under this section, shall order disbursement in accordance with the determination.

(iv) Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

[~~(9)~~] (10) (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is [~~neither~~]:

(i) not obligated under this section to return the payment, item of property, or benefit [~~nor is~~]; and

(ii) not liable under this section for the amount of the payment or the value of the item of property or benefit. [~~But~~]

(b) Notwithstanding Subsection (10)(a), a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is:

(i) obligated to return the payment, item of property, or benefit[~~, or is~~] to the person who is entitled to the payment, property, or benefit under this section; and

(ii) personally liable for the amount of the payment or the value of the item of property or benefit[~~,~~] to the person who is entitled to [~~it~~] the payment, property, or benefit under this section.

[~~(b)~~] (c) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is:

(i) obligated to return the payment, item of property, or benefit[~~, or is~~] to the person who would have been entitled to the payment, property, or benefit if this section or part were not preempted; and

(ii) personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to [~~it were this section or part of this section not preempted~~] the payment, property, or benefit if this section or part were not preempted.

Section 2. Coordinating H.B. 314 with S.B. 124 and H.B. 29 -- Substantive amendment.

If this H.B. 314, S.B. 124, Criminal Code Recodification Cross References, and H.B. 29, Driving Offenses Amendments, all pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the database for publication by amending Subsection 75-2-803(1)(d) to read:

"(d) (i) Except as provided in Subsection (1)(d)(ii), "disqualifying homicide" means any felony homicide offense described in Title 76, Chapter 5, Offenses Against the Individual, for which the elements are established by a preponderance of the evidence and by applying the same principles of culpability and defenses described in Title 76, Utah Criminal Code.

(ii) "Disqualifying homicide" does not include an offense for:

(A) negligently operating a vehicle resulting in death, as described in Section 76-5-207; and

(B) automobile homicide involving using a handheld wireless communication device while driving, as described in Section 76-5-207.5.".

CHAPTER 158
H. B. 328

Passed March 3, 2022
Approved March 22, 2022
Effective October 15, 2022

DRIVER LICENSE AND LICENSE PLATE AMENDMENTS

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Todd D. Weiler
Cosponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill modifies provisions of the Uniform Driver License Act and the Motor Vehicle Act.

Highlighted Provisions:

This bill:

- defines terms;
- at a vehicle owner's request and subject to written verification, requires the Motor Vehicle Division to include an invisible condition identification symbol in the vehicle owner's vehicle registration database record that indicates that an individual who is a regular driver or passenger of the vehicle is an individual with an invisible condition;
- allows a vehicle owner to request that the Motor Vehicle Division remove an invisible condition identification symbol from the vehicle owner's vehicle registration database record;
- at an individual's request and subject to written verification, requires the Driver License Division to include an invisible condition identification symbol on the individual's driver license or identification card to indicate that the individual is an individual with an invisible condition;
- allows an individual to request that the Driver License Division remove an invisible condition identification symbol from the individual's driver license or identification card;
- allows a law enforcement officer to obtain certain information about an individual's invisible condition; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-213, as last amended by Laws of Utah 2017, Chapter 119
46-1-2, as last amended by Laws of Utah 2019, Chapter 192
53-3-207, as last amended by Laws of Utah 2019, Chapter 232
53-3-805, as last amended by Laws of Utah 2018, Chapter 39

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-213 is amended to read:

41-1a-213. Contents of registration cards.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

[~~(1)~~] (2) The registration card shall be delivered to the owner and shall contain:

(a) the date issued;

(b) the name of the owner;

(c) a description of the vehicle registered including the year, the make, the identification number, and the license plate assigned to the vehicle;

(d) the expiration date; and

(e) other information as determined by the commission.

[~~(2)~~] (3) If a vehicle is leased for a period in excess of 45 days, the registration shall contain:

(a) the owner's name; and

(b) the name of the lessee.

[~~(3)~~] (4) On all vehicles registered under Subsections 41-1a-1206(1)(d) and (1)(e), the registration card shall also contain the gross laden weight as given in the application for registration.

[~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)~~] (5)(b), a new registration card issued by the commission on or after November 1, 2013, may not display the address of the owner or the lessee on the registration card.

(b) A new registration card issued by the commission under one of the following provisions shall display the address of the owner or the lessee on the registration card:

(i) Section 41-1a-301 for a vehicle; or

(ii) Section 73-18-7 for a vessel.

(6) (a) The division shall include on a vehicle owner's vehicle registration database record in the division's vehicle registration database an invisible condition identification symbol if:

(i) the vehicle owner or an individual who is a regular driver of or passenger in the vehicle owner's vehicle has an invisible condition; and

(ii) the vehicle owner submits to the commission a request on a form prescribed by the commission.

(b) A vehicle owner shall include in a request described in Subsection (6)(a):

(i) if the request is for an individual other than the vehicle owner, a declaration that the individual is a regular driver of or passenger in the vehicle;

(ii) written verification from a health care professional that the vehicle owner or other individual described in Subsection (6)(a)(i) has an invisible condition; and

(iii) a waiver of liability signed by the individual with the invisible condition or the individual's legal representative for the release of any medical information to:

(A) the commission;

(B) any person who has access to the individual's medical information as recorded on the vehicle owner's vehicle registration database record or the Utah Criminal Justice Information System; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the vehicle owner's vehicle registration database record or the individual's information in the Utah Criminal Justice Information System.

(c) As part of the form described in Subsection (6)(b), the commission shall advise the individual signing the waiver of liability that by submitting the signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (6)(b)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(d) The division may not charge a fee to include an invisible condition identification symbol on a vehicle owner's vehicle registration database record.

(e) The inclusion of an invisible condition identification symbol on a vehicle owner's vehicle registration database record in accordance with this section does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(7) (a) For each individual who qualifies under this section to include an invisible condition identification symbol in a vehicle owner's vehicle registration database record, the division shall include in the division's vehicle registration database a brief description of the nature of the individual's invisible condition linked to the vehicle owner's vehicle registration database record.

(b) The division shall provide the brief description described in Subsection (7)(a) to the Utah Criminal Justice Information System.

(c) Except as provided in Subsection (7)(b), the division may not release the information described in Subsection (7)(a).

(8) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(a) remove the invisible condition identification symbol and brief description described in Subsection (7) from a vehicle owner's vehicle registration database record in the division's vehicle registration database; and

(b) provide the updated vehicle registration database record to the Utah Criminal Justice Information System.

(9) As provided in Section 63G-2-302, the information described in Subsection (6)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

Section 2. Section 46-1-2 is amended to read:

46-1-2. Definitions.

As used in this chapter:

(1) "Acknowledgment" means a notarial act in which a notary certifies that a signer, whose identity is personally known to the notary or proven on the basis of satisfactory evidence, has admitted, in the presence of the notary, to voluntarily signing a document for the document's stated purpose.

(2) "Before me" means that an individual appears in the presence of the notary.

(3) "Commission" means:

(a) to empower to perform notarial acts; or

(b) the written document that gives authority to perform notarial acts, including the Certificate of Authority of Notary Public that the lieutenant governor issues to a notary.

(4) "Copy certification" means a notarial act in which a notary certifies that a photocopy is an accurate copy of a document that is neither a public record nor publicly recorded.

(5) "Electronic recording" means the audio and video recording, described in Subsection 46-1-3.6(3), of a remote notarization.

(6) "Electronic seal" means an electronic version of the seal described in Section 46-1-16, that conforms with rules made under Subsection 46-1-3.7(1)(d), that a remote notary may attach to a notarial certificate to complete a remote notarization.

(7) "Electronic signature" means the same as that term is defined in Section 46-4-102.

(8) "In the presence of the notary" means that an individual:

(a) is physically present with the notary in close enough proximity to see and hear the notary; or

(b) communicates with a remote notary by means of an electronic device or process that:

(i) allows the individual and remote notary to communicate with one another simultaneously by sight and sound; and

(ii) complies with rules made under Section 46-1-3.7.

(9) "Jurat" means a notarial act in which a notary certifies:

(a) the identity of a signer who:

(i) is personally known to the notary; or

(ii) provides the notary satisfactory evidence of the signer's identity;

(b) that the signer affirms or swears an oath attesting to the truthfulness of a document; and

(c) that the signer voluntarily signs the document in the presence of the notary.

(10) "Notarial act" or "notarization" means an act that a notary is authorized to perform under Section 46-1-6.

(11) "Notarial certificate" means the affidavit described in Section 46-1-6.5 that is:

(a) a part of or attached to a notarized document; and

(b) completed by the notary and bears the notary's signature and official seal.

(12) (a) "Notary" means an individual commissioned to perform notarial acts under this chapter.

(b) "Notary" includes a remote notary.

(13) "Oath" or "affirmation" means a notarial act in which a notary certifies that a person made a vow or affirmation in the presence of the notary on penalty of perjury.

(14) "Official misconduct" means a notary's performance of any act prohibited or failure to perform any act mandated by this chapter or by any other law in connection with a notarial act.

(15) (a) "Official seal" means the seal described in Section 46-1-16 that a notary may attach to a notarial certificate to complete a notarization.

(b) "Official seal" includes an electronic seal.

(16) "Personally known" means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed.

(17) "Remote notarization" means a notarial act performed by a remote notary in accordance with this chapter for an individual who is not in the physical presence of the remote notary at the time the remote notary performs the notarial act.

(18) "Remote notary" means a notary that holds an active remote notary certification under Section 46-1-3.5.

(19) (a) "Satisfactory evidence of identity" means:

(i) for both an in-person and remote notarization, identification of an individual based on:

(A) subject to Subsection (19)(b), valid personal identification with the individual's photograph, signature, and physical description that the United States government, any state within the United States, or a foreign government issues;

(B) subject to Subsection (19)(b), a valid passport that any nation issues; or

(C) the oath or affirmation of a credible person who is personally known to the notary and who personally knows the individual; and

(ii) for a remote notarization only, a third party's affirmation of an individual's identity in accordance with rules made under Section 46-1-3.7 by means of:

(A) dynamic knowledge-based authentication, which may include requiring the individual to answer questions about the individual's personal information obtained from public or proprietary data sources; or

(B) analysis of the individual's biometric data, which may include facial recognition, voiceprint analysis, or fingerprint analysis.

(b) "Satisfactory evidence of identity," for a remote notarization, requires the identification described in Subsection (19)(a)(i)(A) or passport described in Subsection (19)(a)(i)(B) to be verified through public or proprietary data sources in accordance with rules made under Section 46-1-3.7.

(c) "Satisfactory evidence of identity" does not include:

(i) a driving privilege card under Subsection 53-3-207[~~(10)~~](12); or

(ii) another document that is not considered valid for identification.

(20) "Signature witnessing" means a notarial act in which an individual:

(a) appears in the presence of the notary and presents a document;

(b) provides the notary satisfactory evidence of the individual's identity, or is personally known to the notary; and

(c) signs the document in the presence of the notary.

Section 3. Section 53-3-207 is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "Driving privilege" means the privilege granted under this chapter to drive a motor vehicle.

(b) "Governmental entity" means the state or a political subdivision of the state.

(c) "Health care professional" means:

(i) a licensed physician, physician assistant, nurse practitioner, or mental health therapist; or

(ii) any other licensed health care professional the division designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(c)~~] (d) "Political subdivision" means any county, city, town, school district, public transit district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(e) "Invisible condition" means a physical or mental condition that may interfere with an individual's ability to communicate with a law enforcement officer, including:

(i) a communication impediment;

(ii) hearing loss;

(iii) blindness or a visual impairment;

(iv) autism spectrum disorder;

(v) a drug allergy;

(vi) Alzheimer's disease or dementia;

(vii) post-traumatic stress disorder;

(viii) traumatic brain injury;

(ix) schizophrenia;

(x) epilepsy;

(xi) a developmental disability;

(xii) Down syndrome;

(xiii) diabetes;

(xiv) a heart condition; or

(xv) any other condition approved by the department.

(f) "Invisible condition identification symbol" means a symbol or alphanumeric code that indicates that an individual is an individual with an invisible condition.

[~~(d)~~] (g) "State" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every individual privileged to drive a motor vehicle, a regular license certificate, a limited-term license certificate, or a driving privilege card indicating the type or class of motor vehicle the individual may drive.

(b) An individual may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every regular license certificate, limited-term license certificate, or driving privilege card shall bear:

(i) the distinguishing number assigned to the individual by the division;

(ii) the name, birth date, and Utah residence address of the individual;

(iii) a brief description of the individual for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the individual;

(vi) a photograph or other facsimile of the [~~person's~~] individual's signature;

(vii) an indication whether the individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3); and

(viii) except as provided in Subsection (3)(b), if the individual states that the individual is a veteran of the United States military on the application for a driver license in accordance with Section 53-3-205 and provides verification that the individual was granted an honorable or general discharge from the United States Armed Forces, an indication that the individual is a United States military veteran for a regular license certificate or limited-term license certificate issued on or after July 1, 2011.

(b) A regular license certificate or limited-term license certificate issued to an individual younger than 21 years old on a portrait-style format as required in Subsection [~~(5)~~] (7)(b) is not required to include an indication that the individual is a United States military veteran under Subsection (3)(a)(viii).

(c) A new license certificate issued by the division may not bear the individual's social security number.

(d) (i) The regular license certificate, limited-term license certificate, or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) [~~Except as provided under Subsection (4)(b), the~~] The size, form, and color of the regular license certificate, limited-term license certificate, or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited regular license certificate, limited-term license certificate, or driving privilege card under Subsection 53-3-220(4).

(4) (a) The division shall include or affix an invisible condition identification symbol on an individual's regular license certificate, limited-term license certificate, or driving privilege card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) signs a waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (4)(a), the department shall advise the individual that by submitting the signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (4)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's regular license certificate, limited-term license certificate, or driving privilege card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued regular license certificate, limited-term license certificate, or driving privilege card, require the individual to provide subsequent written verification described in Subsection (4)(a)(ii) to include the invisible condition identification symbol on the individual's renewed or extended regular license certificate, limited-term license certificate, or driving privilege card.

(d) The inclusion of an invisible condition identification symbol on an individual's license certificate, limited-term license certificate, or driving privilege card in accordance with Subsection (4)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued a regular license certificate, limited-term license certificate, or driving privilege card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information described in Subsection (4)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (4)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(5) As provided in Section 63G-2-302, the information described in Subsection (4)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

[~~(4)~~] (6) (a) (i) The division, upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege, may issue to an applicant a receipt for the fee if the applicant is eligible for a regular license certificate or limited-term license certificate.

(ii) (A) The division shall issue a temporary regular license certificate or temporary limited-term license certificate allowing the individual to drive a motor vehicle while the division is completing [~~its~~] the division's investigation to determine whether the individual is entitled to be granted a driving privilege.

(B) A temporary regular license certificate or a temporary limited-term license certificate issued under this Subsection [~~(4)~~] (6) shall be recognized and have the same rights and privileges as a regular license certificate or a limited-term license certificate.

(b) The temporary regular license certificate or temporary limited-term license certificate shall be in the individual's immediate possession while driving a motor vehicle, and [~~it~~] the temporary regular license certificate or temporary limited-term license certificate is invalid when the individual's regular license certificate or limited-term license certificate has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the temporary regular license certificate or temporary limited-term license certificate a date after which [~~it~~] the temporary regular license certificate or temporary limited-term license certificate is not valid as a temporary license.

(d) (i) Except as provided in Subsection [~~(4)~~] (6)(d)(ii), the division may not issue a temporary driving privilege card or other temporary permit to an applicant for a driving privilege card.

(ii) The division may issue a learner permit issued in accordance with Section 53-3-210.5 to an applicant for a driving privilege card.

[~~(5)~~] (7) (a) The division shall distinguish learner permits, temporary permits, regular license certificates, limited-term license certificates, and driving privilege cards issued to any individual younger than 21 years [~~of age~~] old by use of plainly printed information or the use of a color or other means not used for other regular license certificates, limited-term license certificates, or driving privilege cards.

(b) The division shall distinguish a regular license certificate, limited-term license certificate, or driving privilege card issued to an individual younger than 21 years [~~of age~~] old by use of a portrait-style format not used for other regular license certificates, limited-term license certificates, or driving privilege cards and by plainly printing the date the regular license certificate, limited-term license certificate, or driving privilege card holder is 21 years [~~of age~~] old.

[~~(6)~~] (8) The division shall distinguish a limited-term license certificate by clearly indicating on the document:

(a) that [~~it~~] the limited-term license certificate is temporary; and

(b) [~~its~~] the limited-term license certificate's expiration date.

[~~(7)~~] (9) (a) The division shall only issue a driving privilege card to an individual whose privilege was obtained without providing evidence of lawful presence in the United States as required under Subsection 53-3-205(8).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

[~~(8)~~] (10) The provisions of Subsection [~~(5)~~] (7)(b) do not apply to a learner permit, temporary permit, temporary regular license certificate, temporary limited-term license certificate, or any other temporary permit.

[~~(9)~~] (11) The division shall issue temporary license certificates of the same nature, except as to duration, as the license certificates that they temporarily replace, as are necessary to implement applicable provisions of this section and Section 53-3-223.

[~~(10)~~] (12) (a) A governmental entity may not accept a driving privilege card as proof of personal identification.

(b) A driving privilege card may not be used as a document providing proof of an individual's age for any government required purpose.

[~~(11) A person~~] (13) An individual who violates Subsection (2)(b) is guilty of an infraction.

[~~(12)~~] (14) Unless otherwise provided, the provisions, requirements, classes, endorsements, fees, restrictions, and sanctions under this code apply to a:

(a) driving privilege in the same way as a license or limited-term license issued under this chapter; and

(b) limited-term license certificate or driving privilege card in the same way as a regular license certificate issued under this chapter.

Section 4. Section 53-3-805 is amended to read:

53-3-805. Identification card -- Contents -- Specifications.

(1) As used in this section:

(a) "Health care professional" means the same as that term is defined in Section 53-3-207.

(b) "Invisible condition" means the same as that term is defined in Section 53-3-207.

(c) "Invisible condition identification symbol" means the same as that term is defined in Section 53-3-207.

[~~(1)~~] (2) (a) The division shall issue an identification card that bears:

(i) the distinguishing number assigned to the [~~person~~] individual by the division;

(ii) the name, birth date, and Utah residence address of the [~~person~~] individual;

(iii) a brief description of the [~~person~~] individual for the purpose of identification;

(iv) a photograph of the [~~person~~] individual;

(v) a photograph or other facsimile of the [~~person's~~] individual's signature;

(vi) an indication whether the [~~person~~] individual intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act; and

(vii) if the [~~person~~] individual states that the [~~person~~] individual is a veteran of the United States military on the application for an identification card in accordance with Section 53-3-804 and provides verification that the [~~person~~] individual received an honorable or general discharge from the United States Armed Forces, an indication that the [~~person~~] individual is a United States military veteran for a regular identification card or a limited-term identification card issued on or after July 1, 2011.

(b) An identification card issued by the division may not bear the [~~person's~~] individual's Social Security number or place of birth.

[~~(2)~~] (3) (a) The card shall be of an impervious material, resistant to wear, damage, and alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

[~~(3)~~] (4) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(5) (a) The division shall include or affix an invisible condition identification symbol on an individual's identification card if the individual, on a form prescribed by the department:

(i) requests the division to include the invisible condition identification symbol;

(ii) provides written verification from a health care professional that the individual is an individual with an invisible condition; and

(iii) submits a signed waiver of liability for the release of any medical information to:

(A) the department;

(B) any person who has access to the individual's medical information as recorded on the individual's driving record or the Utah Criminal Justice Information System under this chapter; and

(C) any other person who may view or receive notice of the individual's medical information by seeing the individual's regular license certificate, limited-term license certificate, or driving privilege card or the individual's information in the Utah Criminal Justice Information System.

(b) As part of the form described in Subsection (5)(a), the department shall advise the individual that by submitting the request and signed waiver, the individual consents to the release of the individual's medical information to any person described in Subsections (5)(a)(iii)(A) through (C), even if the person is otherwise ineligible to access the individual's medical information under state or federal law.

(c) The division may not:

(i) charge a fee to include the invisible condition identification symbol on the individual's identification card; or

(ii) after including the invisible condition identification symbol on the individual's previously issued identification card, require the individual to provide subsequent written verification described in Subsection (5)(a)(ii) to include the invisible condition identification symbol on the individual's extended identification card.

(d) The inclusion of an invisible condition identification symbol on an individual's identification card in accordance with Subsection (5)(a) does not confer any legal rights or privileges on the individual, including parking privileges for individuals with disabilities under Section 41-1a-414.

(e) For each individual issued an identification card under this section that includes an invisible condition identification symbol, the division shall include in the division's database a brief description of the nature of the individual's invisible condition in the individual's record and provide the brief description to the Utah Criminal Justice Information System.

(f) Except as provided in this section, the division may not release the information described in Subsection (5)(e).

(g) Within 30 days after the day on which the division receives an individual's written request, the division shall:

(i) remove from the individual's record in the division's database the invisible condition identification symbol and the brief description described in Subsection (5)(e); and

(ii) provide the individual's updated record to the Utah Criminal Justice Information System.

(6) As provided in Section 63G-2-302, the information described in Subsection (5)(a) is a private record for purposes of Title 63G, Chapter 2, Government Records Access and Management Act.

[~~(4)~~] (7) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section 26-28-102, the names and addresses of all [~~persons~~] individuals who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

[~~(5)~~] (8) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, the division may release to the Department of Veterans and Military Affairs the names and addresses of all [~~persons~~] individuals who indicate their status as a veteran under Subsection 53-3-804(2)(l).

[~~(6)~~] (9) The division and [~~its~~] the division's employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

[~~(7)~~] (10) (a) The division may issue a temporary regular identification card to [~~a person~~] an individual while the [~~person~~] individual obtains the required documentation to establish verification of the information described in Subsections 53-3-804(2)(a), (b), (c), (d), and (i)(i).

(b) A temporary regular identification card issued under this Subsection [~~(7)~~] (10) shall be recognized and grant the [~~person~~] individual the same privileges as a regular identification card.

(c) A temporary regular identification card issued under this Subsection [~~(7)~~] (10) is invalid:

(i) when the [~~person's~~] individual's regular identification card has been issued;

(ii) when, for good cause, an applicant's application for a regular identification card has been refused; or

(iii) upon expiration of the temporary regular identification card.

Section 5. Effective date.

This bill takes effect on October 15, 2022.

CHAPTER 159
H. B. 329

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

WEAPON POSSESSION PENALTY AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill concerns the offense of carrying a weapon while under the influence of drugs or alcohol.

Highlighted Provisions:

This bill:

- exempts an individual who is taking a medication prescribed for a certain medical condition from the offense of carrying a weapon while under the influence of drugs or alcohol; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-10-528, as last amended by Laws of Utah 2020, Chapter 12

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-10-528 is amended to read:

76-10-528. Carrying a dangerous weapon while under influence of alcohol or drugs unlawful.

(1) It is a class B misdemeanor for [~~any person~~] an actor to carry a dangerous weapon while under the influence of:

(a) alcohol as determined by the [~~person's~~] actor's blood or breath alcohol concentration in accordance with Subsections 41-6a-502(1)(a) through (c); or

(b) a controlled substance as defined in Section 58-37-2.

(2) This section does not apply to:

(a) [~~a person~~] an actor carrying a dangerous weapon that is either securely encased, as defined in this part, or not within such close proximity and in such a manner that it can be retrieved and used as readily as if carried on the person;

(b) [~~any person~~] an actor who uses or threatens to use force in compliance with Section 76-2-402;

(c) [~~any person~~] an actor carrying a dangerous weapon in the [~~person's~~] actor's residence or the residence of another with the consent of the individual who is lawfully in possession; [~~or~~]

(d) [~~a person~~] an actor under the influence of cannabis or a cannabis product, as those terms are defined in Section 26-61a-102, if the [~~person's~~] actor's use of the cannabis or cannabis product complies with Title 26, Chapter 61a, Utah Medical Cannabis Act[~~.~~]; or

(e) an actor who:

(i) has a valid prescription for a medication approved by the federal Food and Drug Administration for the treatment of attention deficit disorder or attention deficit hyperactivity disorder; and

(ii) takes the medication described in Subsection (2)(e)(i) as prescribed.

(3) It is not a defense to prosecution under this section that the [~~person~~] actor:

(a) is licensed in the pursuit of wildlife of any kind; or

(b) has a valid permit to carry a concealed firearm.

CHAPTER 160
H. B. 336

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

VEHICLE REGISTRATION MODIFICATIONS

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill allows a county to investigate to determine if a vehicle owner has provided a false or an improper address to avoid an emissions inspection.

Highlighted Provisions:

This bill:

- allows a county to investigate to determine if a vehicle owner has provided a false or an improper address to register a vehicle to avoid an emissions inspection;
- allows a county to impose a civil penalty; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1642, as last amended by Laws of Utah 2021, Chapter 322

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air

Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in rules made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

(14) (a) If a county has reason to believe that a vehicle owner has provided an address as required in Section 41-1a-209 to register or attempt to register a motor vehicle in a county other than the county of the bona fide residence of the owner in order to avoid an emissions inspection required under this section, the county may investigate and gather evidence to determine whether the vehicle owner has used a false address or an address other than the vehicle owner's bona fide residence or place of business.

(b) If a county conducts an investigation as described in Subsection (14)(a) and determines that the vehicle owner has used a false or improper address in an effort to avoid an emissions inspection as required in this section, the county may impose a civil penalty of $1,000.

CHAPTER 161
H. B. 353

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

FALSE EMERGENCY REPORTING AMENDMENTS

Chief Sponsor: Ashlee Matthews
Senate Sponsor: Wayne A. Harper
Cosponsors: Gay Lynn Bennion
Joel K. Briscoe
Jennifer Dailey-Provost
Carol Spackman Moss
Travis M. Seegmiller
Andrew Stoddard
Jordan D. Teuscher
Elizabeth Weight
Mike Winder

LONG TITLE

General Description:

This bill concerns the offense of emergency reporting abuse.

Highlighted Provisions:

This bill:

- amends provisions and penalties relating to the offense of emergency reporting abuse; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-9-202, as last amended by Laws of Utah 2017, Chapter 462

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-9-202 is amended to read:

76-9-202. Emergency reporting -- Interference -- False report.

(1) As used in this section:

(a) "Emergency" means a situation in which property or human life is in jeopardy and the prompt summoning of aid is essential to the preservation of human life or property.

(b) "Party line" means a subscriber's line or telephone circuit:

(i) that consists of two or more connected main telephone stations; and

(ii) where each telephone station has a distinctive ring or telephone number.

(2) [~~A person~~] An actor is guilty of emergency reporting abuse if the [~~person~~] actor:

(a) intentionally refuses to yield or surrender the use of a party line or a public pay telephone to another [~~person~~] individual upon being informed that the telephone is needed to report a fire or summon police, medical, or other aid in case of emergency, unless the telephone is likewise being used for an emergency call;

(b) asks for or requests the use of a party line or a public pay telephone on the pretext that an emergency exists, knowing that no emergency exists;

(c) reports an emergency or causes an emergency to be reported to any public, private, or volunteer entity whose purpose is to respond to fire, police, or medical emergencies, when the [~~person~~] actor knows the reported emergency does not exist; or

(d) makes a false report, or intentionally aids, abets, or causes a third party to make a false report, to an emergency response service, including a law enforcement dispatcher or a 911 emergency response service, if the false report claims that:

(i) an ongoing emergency exists;

(ii) the emergency described in Subsection (2)(d)(i) currently involves, or involves an imminent threat of, serious bodily injury, serious physical injury, or death; and

(iii) the emergency described in Subsection (2)(d)(i) is occurring at a specified location.

(3) (a) A violation of Subsection (2)(a) or (b) is a class C misdemeanor.

(b) A violation of Subsection (2)(c) is a class B misdemeanor, except as provided under Subsection (3)(c).

(c) A violation of Subsection (2)(c) is a second degree felony if the report is regarding a weapon of mass destruction, as defined in Section 76-10-401.

(d) A violation of Subsection (2)(d):

(i) except as provided in Subsection (3)(d)(ii), is a third degree felony; or

(ii) is a second degree felony if[~~,~~]:

(A) while acting in response to the report, the emergency [~~responders cause~~] responder causes physical injury to [~~a person~~] an individual at the location described in Subsection (2)(d)(iii)[~~.~~]; or

(B) the actor makes the false report or aids, abets, or causes a third party to make the false report with intent to ambush, attack, or otherwise harm a responding law enforcement officer or emergency responder.

(4) (a) In addition to any other penalty authorized by law, a court shall order [~~any person~~] an actor convicted of a violation of this section to reimburse:

(i) any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation; and

(ii) [~~any person~~] an individual described in Subsection (3)(d)(ii) for the costs for the treatment of the physical injury and any psychological injury caused by the offense.

(b) The court may order that the defendant pay less than the full amount of the costs described in

Subsection (4)(a) only if the court states on the record the reasons why the reimbursement would be inappropriate.

CHAPTER 162
H. B. 391

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

AUTOCYCLE AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the definition of an autocycle.

Highlighted Provisions:

This bill:

- amends the definition of an autocycle to include a motor vehicle that is equipped with a steering mechanism and seat belts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-3-102, as last amended by Laws of Utah 2021, Chapter 120

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-3-102 is amended to read:

53-3-102. Definitions.

As used in this chapter:

(1) "Autocycle" means a motor vehicle that:

(a) is designed to travel with three or fewer wheels in contact with the ground; and

[~~(b) is equipped with a steering wheel; and~~]

[~~(c) is equipped with seating that does not require the operator to straddle or sit astride the vehicle.~~]

(b) is equipped with:

(i) a steering mechanism;

(ii) seat belts; and

(iii) seating that does not require the operator to straddle or sit astride the motor vehicle.

(2) "Cancellation" means the termination by the division of a license issued through error or fraud or for which consent under Section 53-3-211 has been withdrawn.

(3) "Class D license" means the class of license issued to drive motor vehicles not defined as commercial motor vehicles or motorcycles under this chapter.

(4) "Commercial driver instruction permit" or "CDIP" means a commercial learner permit:

(a) issued under Section 53-3-408; or

(b) issued by a state or other jurisdiction of domicile in compliance with the standards contained in 49 C.F.R. Part 383.

(5) "Commercial driver license" or "CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(i).

(6) (a) "Commercial driver license motor vehicle record" or "CDL MVR" means a driving record that:

(i) applies to a person who holds or is required to hold a commercial driver instruction permit or a CDL license; and

(ii) contains the following:

(A) information contained in the driver history, including convictions, pleas held in abeyance, disqualifications, and other licensing actions for violations of any state or local law relating to motor vehicle traffic control, committed in any type of vehicle;

(B) driver self-certification status information under Section 53-3-410.1; and

(C) information from medical certification record keeping in accordance with 49 C.F.R. Sec. 383.73(o).

(b) "Commercial driver license motor vehicle record" or "CDL MVR" does not mean a motor vehicle record described in Subsection (30).

(7) (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles designed or used to transport passengers or property if the motor vehicle:

(i) has a gross vehicle weight rating of 26,001 or more pounds or a lesser rating as determined by federal regulation;

(ii) is designed to transport 16 or more passengers, including the driver; or

(iii) is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. Part 172, Subpart F.

(b) The following vehicles are not considered a commercial motor vehicle for purposes of Part 4, Uniform Commercial Driver License Act:

(i) equipment owned and operated by the United States Department of Defense when driven by any active duty military personnel and members of the reserves and national guard on active duty including personnel on full-time national guard duty, personnel on part-time training, and national guard military technicians and civilians who are required to wear military uniforms and are subject to the code of military justice;

(ii) vehicles controlled and driven by a farmer to transport agricultural products, farm machinery, or farm supplies to or from a farm within 150 miles of his farm but not in operation as a motor carrier for hire;

(iii) firefighting and emergency vehicles;

(iv) recreational vehicles that are not used in commerce and are driven solely as family or personal conveyances for recreational purposes; and

(v) vehicles used to provide transportation network services, as defined in Section 13-51-102.

(8) "Conviction" means any of the following:

(a) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an administrative proceeding;

(b) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(c) a plea of guilty or nolo contendere accepted by the court;

(d) the payment of a fine or court costs; or

(e) violation of a condition of release without bail, regardless of whether the penalty is rebated, suspended, or probated.

(9) "Denial" or "denied" means the withdrawal of a driving privilege by the division to which the provisions of Title 41, Chapter 12a, Part 4, Proof of Owner's or Operator's Security, do not apply.

(10) "Director" means the division director appointed under Section 53-3-103.

(11) "Disqualification" means either:

(a) the suspension, revocation, cancellation, denial, or any other withdrawal by a state of a person's privileges to drive a commercial motor vehicle;

(b) a determination by the Federal Highway Administration, under 49 C.F.R. Part 386, that a person is no longer qualified to drive a commercial motor vehicle under 49 C.F.R. Part 391; or

(c) the loss of qualification that automatically follows conviction of an offense listed in 49 C.F.R. Part 383.51.

(12) "Division" means the Driver License Division of the department created in Section 53-3-103.

(13) "Downgrade" means to obtain a lower license class than what was originally issued during an existing license cycle.

(14) "Drive" means:

(a) to operate or be in physical control of a motor vehicle upon a highway; and

(b) in Subsections 53-3-414(1) through (3), Subsection 53-3-414(5), and Sections 53-3-417 and 53-3-418, the operation or physical control of a motor vehicle at any place within the state.

(15) (a) "Driver" means an individual who drives, or is in actual physical control of a motor vehicle in any location open to the general public for purposes of vehicular traffic.

(b) In Part 4, Uniform Commercial Driver License Act, "driver" includes any person who is required to hold a CDL under Part 4, Uniform Commercial Driver License Act, or federal law.

(16) "Driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained without providing evidence of lawful presence in the United States.

(17) "Electronic license certificate" means the evidence, in an electronic format as described in Section 53-3-235, of a privilege granted under this chapter to drive a motor vehicle.

(18) "Extension" means a renewal completed in a manner specified by the division.

(19) "Farm tractor" means every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(20) "Highway" means the entire width between property lines of every way or place of any nature when any part of it is open to the use of the public, as a matter of right, for traffic.

(21) "Human driver" means the same as that term is defined in Section 41-26-102.1.

(22) "Identification card" means a card issued under Part 8, Identification Card Act, to a person for identification purposes.

(23) "Indigent" means that a person's income falls below the federal poverty guideline issued annually by the U.S. Department of Health and Human Services in the Federal Register.

(24) "License" means the privilege to drive a motor vehicle.

(25) (a) "License certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle.

(b) "License certificate" evidence includes:

(i) a regular license certificate;

(ii) a limited-term license certificate;

(iii) a driving privilege card;

(iv) a CDL license certificate;

(v) a limited-term CDL license certificate;

(vi) a temporary regular license certificate;

(vii) a temporary limited-term license certificate; and

(viii) an electronic license certificate created in Section 53-3-235.

(26) "Limited-term commercial driver license" or "limited-term CDL" means a license:

(a) issued substantially in accordance with the requirements of Title XII, Pub. L. No. 99-570, the

Commercial Motor Vehicle Safety Act of 1986, and in accordance with Part 4, Uniform Commercial Driver License Act, which authorizes the holder to drive a class of commercial motor vehicle; and

(b) that was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-410(1)(i)(ii).

(27) "Limited-term identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(ii).

(28) "Limited-term license certificate" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle to a person whose privilege was obtained providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(B).

(29) "Motor vehicle" means the same as that term is defined in Section 41-1a-102.

(30) "Motor vehicle record" or "MVR" means a driving record under Subsection 53-3-109(6)(a).

(31) "Motorboat" means the same as that term is defined in Section 73-18-2.

(32) "Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the rider and designed to travel with not more than three wheels in contact with the ground.

(33) "Office of Recovery Services" means the Office of Recovery Services, created in Section 62A-11-102.

(34) "Operate" means the same as that term is defined in Section 41-1a-102.

(35) (a) "Owner" means a person other than a lien holder having an interest in the property or title to a vehicle.

(b) "Owner" includes a person entitled to the use and possession of a vehicle subject to a security interest in another person but excludes a lessee under a lease not intended as security.

(36) "Penalty accounts receivable" means a fine, restitution, forfeiture, fee, surcharge, or other financial penalty imposed on an individual by a court or other government entity.

(37) (a) "Private passenger carrier" means any motor vehicle for hire that is:

(i) designed to transport 15 or fewer passengers, including the driver; and

(ii) operated to transport an employee of the person that hires the motor vehicle.

(b) "Private passenger carrier" does not include:

(i) a taxicab;

(ii) a motor vehicle driven by a transportation network driver as defined in Section 13-51-102;

(iii) a motor vehicle driven for transportation network services as defined in Section 13-51-102; and

(iv) a motor vehicle driven for a transportation network company as defined in Section 13-51-102 and registered with the Division of Consumer Protection as described in Section 13-51-104.

(38) "Regular identification card" means an identification card issued under this chapter to a person whose card was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-804(2)(i)(i).

(39) "Regular license certificate" means the evidence of the privilege issued under this chapter to drive a motor vehicle whose privilege was obtained by providing evidence of lawful presence in the United States with one of the document requirements described in Subsection 53-3-205(8)(a)(ii)(A).

(40) "Renewal" means to validate a license certificate so that it expires at a later date.

(41) "Reportable violation" means an offense required to be reported to the division as determined by the division and includes those offenses against which points are assessed under Section 53-3-221.

(42) (a) "Resident" means an individual who:

(i) has established a domicile in this state, as defined in Section 41-1a-202, or regardless of domicile, remains in this state for an aggregate period of six months or more during any calendar year;

(ii) engages in a trade, profession, or occupation in this state, or who accepts employment in other than seasonal work in this state, and who does not commute into the state;

(iii) declares himself to be a resident of this state by obtaining a valid Utah driver license certificate or motor vehicle registration; or

(iv) declares himself a resident of this state to obtain privileges not ordinarily extended to nonresidents, including going to school, or placing children in school without paying nonresident tuition or fees.

(b) "Resident" does not include any of the following:

(i) a member of the military, temporarily stationed in this state;

(ii) an out-of-state student, as classified by an institution of higher education, regardless of whether the student engages in any type of employment in this state;

(iii) a person domiciled in another state or country, who is temporarily assigned in this state, assigned by or representing an employer, religious or private organization, or a governmental entity; or

(iv) an immediate family member who resides with or a household member of a person listed in Subsections (42)(b)(i) through (iii).

(43) "Revocation" means the termination by action of the division of a licensee's privilege to drive a motor vehicle.

(44) (a) "School bus" means a commercial motor vehicle used to transport pre-primary, primary, or secondary school students to and from home and school, or to and from school sponsored events.

(b) "School bus" does not include a bus used as a common carrier as defined in Section 59-12-102.

(45) "Suspension" means the temporary withdrawal by action of the division of a licensee's privilege to drive a motor vehicle.

(46) "Taxicab" means any class D motor vehicle transporting any number of passengers for hire and that is subject to state or federal regulation as a taxi.

CHAPTER 163
H. B. 402

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

UNINSURED MOTORIST AMENDMENTS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to uninsured and underinsured motorist coverage subrogation and reduction.

Highlighted Provisions:

This bill:

- amends provisions related to uninsured and underinsured motorist coverage, prohibiting the subrogation or reduction of the uninsured or underinsured motorist coverage by workers' compensation insurance, uninsured employer insurance, the Uninsured Employers Fund, or Employers' Reinsurance Fund; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-305, as last amended by Laws of Utah 2020, Chapter 145

31A-22-305.3, as last amended by Laws of Utah 2020, Chapter 145

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-305 is amended to read:

31A-22-305. Uninsured motorist coverage.

(1) As used in this section, "covered persons" includes:

(a) the named insured;

(b) for a claim arising on or after May 13, 2014, the named insured's dependent minor children;

(c) persons related to the named insured by blood, marriage, adoption, or guardianship, who are residents of the named insured's household, including those who usually make their home in the same household but temporarily live elsewhere;

(d) any person occupying or using a motor vehicle:

(i) referred to in the policy; or

(ii) owned by a self-insured; and

(e) any person who is entitled to recover damages against the owner or operator of the uninsured or underinsured motor vehicle because of bodily injury to or death of persons under Subsection (1)(a), (b), (c), or (d).

(2) As used in this section, "uninsured motor vehicle" includes:

(a) (i) a motor vehicle, the operation, maintenance, or use of which is not covered under a liability policy at the time of an injury-causing occurrence; or

(ii) (A) a motor vehicle covered with lower liability limits than required by Section 31A-22-304; and

(B) the motor vehicle described in Subsection (2)(a)(ii)(A) is uninsured to the extent of the deficiency;

(b) an unidentified motor vehicle that left the scene of an accident proximately caused by the motor vehicle operator;

(c) a motor vehicle covered by a liability policy, but coverage for an accident is disputed by the liability insurer for more than 60 days or continues to be disputed for more than 60 days; or

(d) (i) an insured motor vehicle if, before or after the accident, the liability insurer of the motor vehicle is declared insolvent by a court of competent jurisdiction; and

(ii) the motor vehicle described in Subsection (2)(d)(i) is uninsured only to the extent that the claim against the insolvent insurer is not paid by a guaranty association or fund.

(3) Uninsured motorist coverage under Subsection 31A-22-302(1)(b) provides coverage for covered persons who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, disease, or death.

(4) (a) For new policies written on or after January 1, 2001, the limits of uninsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that uninsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has no liability insurance; and

(v) discloses the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(b) Any selection or rejection under this Subsection (4) continues for that issuer of the liability coverage until the insured requests, in writing, a change of uninsured motorist coverage from that liability insurer.

(c) (i) Subsections (4)(a) and (b) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (4)(a) and (b) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(d) For purposes of this Subsection (4), "new policy" means:

(i) any policy that is issued which does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(e) (i) As used in this Subsection (4)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (4)(d).

(iii) If an additional motor vehicle is added to a personal lines policy where uninsured motorist coverage has been rejected, or where uninsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner as described in Subsection (4)(a)(iv), explains the purpose of uninsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (4)(d)(ii) does not constitute a new policy.

(g) (i) Subsection (4)(d) applies retroactively to any claim arising on or after January 1, 2001, for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (4):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide uninsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (4)(a) and (5)(a) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an uninsured motorist claim.

(i) Uninsured motorist coverage may not be sold with limits that are less than the minimum bodily injury limits for motor vehicle liability policies under Section 31A-22-304.

(j) The acknowledgment under Subsection (4)(a) continues for that issuer of the uninsured motorist coverage until the named insured requests, in writing, different uninsured motorist coverage from the insurer.

(k) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of uninsured motorist coverage in the same manner as described in Subsection (4)(a)(iv); and

(B) a disclosure of the additional premiums required to purchase uninsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under Subsection (4)(k)(i) shall be sent to all named insureds that carry uninsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum uninsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(l) For purposes of this Subsection (4), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(5) (a) (i) Except as provided in Subsection (5)(b), the named insured may reject uninsured motorist coverage by an express writing to the insurer that provides liability coverage under Subsection 31A-22-302(1)(a).

(ii) This rejection shall be on a form provided by the insurer that includes a reasonable explanation of the purpose of uninsured motorist coverage.

(iii) This rejection continues for that issuer of the liability coverage until the insured in writing requests uninsured motorist coverage from that liability insurer.

(b) (i) All persons, including governmental entities, that are engaged in the business of, or that accept payment for, transporting natural persons by motor vehicle, and all school districts that provide transportation services for their students, shall provide coverage for all motor vehicles used for that purpose, by purchase of a policy of insurance or by self-insurance, uninsured motorist coverage of at least $25,000 per person and $500,000 per accident.

(ii) This coverage is secondary to any other insurance covering an injured covered person.

(c) Uninsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by the workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by any benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person has been made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (5)(c)(v), may be recovered:

(A) for a person under 18 years [~~of age~~] old who is injured within the scope of Subsection (5)(c)(v) but limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(d) As used in this Subsection (5), "motor vehicle" has the same meaning as under Section 41-1a-102.

(6) When a covered person alleges that an uninsured motor vehicle under Subsection (2)(b) proximately caused an accident without touching the covered person or the motor vehicle occupied by the covered person, the covered person shall show the existence of the uninsured motor vehicle by clear and convincing evidence consisting of more than the covered person's testimony.

(7) (a) The limit of liability for uninsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(b) (i) Subsection (7)(a) applies to all persons except a covered person as defined under Subsection (8)(b).

(ii) A covered person as defined under Subsection (8)(b)(ii) is entitled to the highest limits of uninsured motorist coverage afforded for any one motor vehicle that the covered person is the named insured or an insured family member.

(iii) This coverage shall be in addition to the coverage on the motor vehicle the covered person is occupying.

(iv) Neither the primary nor the secondary coverage may be set off against the other.

(c) Coverage on a motor vehicle occupied at the time of an accident shall be primary coverage, and the coverage elected by a person described under Subsections (1)(a), (b), and (c) shall be secondary coverage.

(8) (a) Uninsured motorist coverage under this section applies to bodily injury, sickness, disease, or death of covered persons while occupying or using a motor vehicle only if the motor vehicle is described in the policy under which a claim is made, or if the motor vehicle is a newly acquired or replacement motor vehicle covered under the terms of the policy. Except as provided in Subsection (7) or this Subsection (8), a covered person injured in a motor vehicle described in a policy that includes uninsured motorist benefits may not elect to collect uninsured motorist coverage benefits from any other motor vehicle insurance policy under which the person is a covered person.

(b) Each of the following persons may also recover uninsured motorist benefits under any one other policy in which they are described as a "covered person" as defined in Subsection (1):

(i) a covered person injured as a pedestrian by an uninsured motor vehicle; and

(ii) except as provided in Subsection (8)(c), a covered person injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(A) to the covered person;

(B) to the covered person's spouse; or

(C) to the covered person's resident parent or resident sibling.

(c) (i) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(A) a dependent minor of parents who reside in separate households; and

(B) injured while occupying or using a motor vehicle that is not owned, leased, or furnished:

(I) to the covered person;

(II) to the covered person's resident parent; or

(III) to the covered person's resident sibling.

(ii) Each parent's policy under this Subsection (8)(c) is liable only for the percentage of the damages that the limit of liability of each parent's policy of uninsured motorist coverage bears to the total of both parents' uninsured coverage applicable to the accident.

(d) A covered person's recovery under any available policies may not exceed the full amount of damages.

(e) A covered person in Subsection (8)(b) is not barred against making subsequent elections if recovery is unavailable under previous elections.

(f) (i) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(ii) Except to the extent permitted by Subsection (7) and this Subsection (8), interpolicy stacking is prohibited for uninsured motorist coverage.

(9) (a) When a claim is brought by a named insured or a person described in Subsection (1) and is asserted against the covered person's uninsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which uninsured benefits are claimed, the election provided in Subsection (9)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (9)(a)(ii).

(c) Once the claimant has elected to commence litigation under Subsection (9)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the uninsured motorist carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (9)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (9).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (9)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (9)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (9)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (9)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (9)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (9)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (9)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section shall be governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (10)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (10)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) All issues of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel shall constitute a final decision.

(l) (i) Except as provided in Subsection (10), the amount of an arbitration award may not exceed the uninsured motorist policy limits of all applicable uninsured motorist policies, including applicable uninsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the uninsured motorist policy limits of all applicable uninsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined uninsured motorist policy limits of all applicable uninsured motorist policies.

(m) The arbitrator or arbitration panel may not decide the issues of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) any allegations or claims asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the action was not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the claim in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (9)(m) between the parties unless:

(i) the award was procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (9)(p), the claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (9)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the uninsured motorist carrier, as the moving party in a trial de novo requested under Subsection (9)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the uninsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (9)(r)(iv), the costs under this Subsection (9)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (9)(r) may not exceed $2,500 unless Subsection (10)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (9)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that the moving party's use of the trial de novo process was filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit any claim under any other portion of an applicable insurance policy.

(v) If there are multiple uninsured motorist policies, as set forth in Subsection (8), the claimant may elect to arbitrate in one hearing the claims against all the uninsured motorist carriers.

(10) (a) Within 30 days after a covered person elects to submit a claim for uninsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the uninsured motorist carrier:

(i) a written demand for payment of uninsured motorist coverage benefits, setting forth:

(A) subject to Subsection [~~(10)(l)~~] (10)(m), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and the other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which uninsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (10)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which uninsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for uninsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (10)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the uninsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (10)(a)(ii) is reasonably necessary, the uninsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the uninsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the uninsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (10)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An uninsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of uninsured motorist benefits under Subsection (10)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (10)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (10)(a)(i);

(B) except as provided in Subsection (10)(c)(i)(C), tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the uninsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the uninsured motorist carrier under Subsection (10)(c)(i) is the total amount of the uninsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an uninsured motorist carrier as provided for in Subsection (10)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (10)(c)(i) as payment in full of all uninsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (10)(c)(i) as partial payment of all uninsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (9)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (10)(c)(i) as partial payment of all uninsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the uninsured motorist carrier under Subsection (10)(c)(i).

(f) In an arbitration proceeding on the remaining uninsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (10)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of uninsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (10)(a)(i) and the uninsured motorist carrier's initial written response provided for in Subsection (10)(c)(i), the uninsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject uninsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the uninsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (10)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for uninsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (10)(a).

(ii) If the information under Subsection (10)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (10)(g).

(j) This Subsection (10) does not limit any other cause of action that arose or may arise against the uninsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (10) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (10)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to this Subsection (10)(l) and Subsection (10)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 10, and Chapter 300, Section 10, to Subsections (10)(a)(ii)(A)(II) and (B)(II) apply to any claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(11) (a) Notwithstanding Section 31A-21-313, an action on a written policy or contract for uninsured motorist coverage shall be commenced within four years after the inception of loss.

(b) Subsection (11)(a) shall apply to all claims that have not been time barred by Subsection 31A-21-313(1)(a) as of May 14, 2019.

Section 2. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2); or

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for

a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers'

Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier, workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iii) may not be reduced by benefits provided by workers' compensation insurance, uninsured employer, the Uninsured Employers Fund created in Section 34A-2-704, or the Employers' Reinsurance Fund created in Section 34A-2-702;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person under 18 years [~~of age~~] old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means;

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist

benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

CHAPTER 164
H. B. 434

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

THEFT BY EXTORTION AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill creates a civil cause of action for the offense of theft by extortion.

Highlighted Provisions:

This bill:

- creates a civil cause of action for the offense of theft by extortion; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-406, as enacted by Laws of Utah 1973, Chapter 196

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-6-406 is amended to read:

76-6-406. Theft by extortion.

(1) [~~A person~~] An actor is guilty of theft if [~~he~~] the actor obtains or exercises control over the property of another person by extortion and with a purpose to deprive [~~him thereof~~] the person of the person's property.

(2) As used in this section, extortion occurs when [~~a person~~] an actor threatens to:

(a) [~~Cause~~] cause physical harm in the future to the person threatened or to any other person or to property at any time; [~~or~~]

(b) [~~Subject~~] subject the person threatened or any other person to physical confinement or restraint; [~~or~~]

(c) [~~Engage~~] engage in other conduct constituting a crime; [~~or~~]

(d) [~~Accuse~~] accuse any person of a crime or expose [~~him~~] any person to hatred, contempt, or ridicule; [~~or~~]

(e) [~~Reveal~~] reveal any information sought to be concealed by the person threatened; [~~or~~]

(f) [~~Testify~~] testify or provide information or withhold testimony or information with respect to [~~another's~~] a person's legal claim or defense; [~~or~~]

(g) [~~Take~~] take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; [~~or~~]

(h) [~~Bring~~] bring about or continue a strike, boycott, or other similar collective action to obtain property [~~which~~] that is not demanded or received for the benefit of the group [~~which~~] that the actor purports to represent; or

(i) [~~Do~~] do any other act which would not in itself substantially benefit [~~him~~] the actor but which would harm substantially any other person with respect to that person's health, safety, business, calling, career, financial condition, reputation, or personal relationships.

(3) (a) A person who is adversely impacted by the conduct prohibited in Subsection (1) may bring a civil action for equitable relief and damages.

(b) In accordance with Section 78B-2-305, a person who brings an action under Subsection (3)(a) shall commence the action within three years after the day on which the cause of action arises.

CHAPTER 165
H. B. 442

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

MARIJUANA DEFINITIONS AMENDMENTS

Chief Sponsor: Matthew H. Gwynn
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill concerns marijuana and tetrahydrocannabinols.

Highlighted Provisions:

This bill:

- modifies the definition of "marijuana";
- modifies the description of "tetrahydrocannabinols"; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-37-2, as last amended by Laws of Utah 2020, Chapter 12

58-37-4, as last amended by Laws of Utah 2020, Chapter 12

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-37-2 is amended to read:

58-37-2. Definitions.

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by [~~Title 58,~~] Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and

Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(r) (i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:

(A) seeds;

(B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin; [~~and~~]

(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active[~~.~~]; and

(E) any component part or cannabinoid extracted or isolated from the plant, including extracted or isolated tetrahydrocannabinols.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant;

(B) fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

(E) the sterilized seed of the plant which is incapable of germination; or

(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species papaver somniferum L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section 2. Section 58-37-4 is amended to read:

58-37-4. Schedules of controlled substances -- Schedules I through V -- Findings

required -- Specific substances included in schedules.

(1) There are established five schedules of controlled substances known as Schedules I, II, III, IV, and V which consist of substances listed in this section.

(2) Schedules I, II, III, IV, and V consist of the following drugs or other substances by the official name, common or usual name, chemical name, or brand name designated:

(a) Schedule I:

(i) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation:

(A) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide);

(B) Acetyl fentanyl: (N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide);

(C) Acetylmethadol;

(D) Acryl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylacrylamide);

(E) Allylprodine;

(F) Alphacetylmethadol, except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(G) Alphameprodine;

(H) Alphamethadol;

(I) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);

(J) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(K) Benzylpiperazine;

(L) Benzethidine;

(M) Betacetylmethadol;

(N) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide);

(O) Beta-hydroxy-3-methylfentanyl, other name: N-[1-(2-hydroxy-2- phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide;

(P) Betameprodine;

(Q) Betamethadol;

(R) Betaprodine;

(S) Butyryl fentanyl (N-(1-(2-phenylethyl)-4-piperidinyl)-N-phenylbutyramide);

(T) Clonitazene;

(U) Cyclopropyl fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenylcyclopropane carboxamide);

(V) Dextromoramide;

(W) Diampromide;

(X) Diethylthiambutene;

(Y) Difenoxin;

(Z) Dimenoxadol;

(AA) Dimepheptanol;

(BB) Dimethylthiambutene;

(CC) Dioxaphetyl butyrate;

(DD) Dipipanone;

(EE) Ethylmethylthiambutene;

(FF) Etizolam (1-Methyl-6-o-chlorophenyl-8-ethyl-4H-s-triazolo[3,4-c]thieno [2,3-e]1,4-diazepine);

(GG) Etonitazene;

(HH) Etoxeridine;

(II) Furanyl fentanyl (N-phenyl-N-

[1-(2-phenylethyl)piperidin-4-yl] furan-2-carboxamide);

(JJ) Furethidine;

(KK) Hydroxypethidine;

(LL) Ketobemidone;

(MM) Levomoramide;

(NN) Levophenacylmorphan;

(OO) Methoxyacetyl fentanyl (2-Methoxy-N-(1-phenylethylpiperidinyl-4-yl)-N-acetamide);

(PP) Morpheridine;

(QQ) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine);

(RR) Noracymethadol;

(SS) Norlevorphanol;

(TT) Normethadone;

(UU) Norpipanone;

(VV) Para-fluorofentanyl (N-(4-fluorophenyl)-

N-[1-(2-phenethyl)-4-piperidinyl] propanamide);

(WW) Para-fluoroisobutyryl fentanyl (N-(4-Fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide);

(XX) PEPAP (1-(-2-phenethyl)-4-phenyl-

4-acetoxypiperidine);

(YY) Phenadoxone;

(ZZ) Phenampromide;

(AAA) Phenomorphan;

(BBB) Phenoperidine;

(CCC) Piritramide;

(DDD) Proheptazine;

(EEE) Properidine;

(FFF) Propiram;

(GGG) Racemoramide;

(HHH) Tetrahydrofuran fentanyl (N-(1-Phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide);

(III) Thiofentanyl (N-phenyl-N-[1-(2-thienyl) ethyl-4-piperidinyl]- propanamide;

(JJJ) Tilidine;

(KKK) Trimeperidine;

(LLL) 3-methylfentanyl, including the optical and geometric isomers (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);

(MMM) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide);

(NNN) 3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methylbenzamide also known as U-47700; and

(OOO) 4-cyano CUMYL-BUTINACA.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Acetorphine;

(B) Acetyldihydrocodeine;

(C) Benzylmorphine;

(D) Codeine methylbromide;

(E) Codeine-N-Oxide;

(F) Cyprenorphine;

(G) Desomorphine;

(H) Dihydromorphine;

(I) Drotebanol;

(J) Etorphine (except hydrochloride salt);

(K) Heroin;

(L) Hydromorphinol;

(M) Methyldesorphine;

(N) Methylhydromorphine;

(O) Morphine methylbromide;

(P) Morphine methylsulfonate;

(Q) Morphine-N-Oxide;

(R) Myrophine;

(S) Nicocodeine;

(T) Nicomorphine;

(U) Normorphine;

(V) Pholcodine; and

(W) Thebacon.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation; as used in this Subsection (2)(a)(iii) only, "isomer" includes the optical, position, and geometric isomers:

(A) Alpha-ethyltryptamine, some trade or other names: etryptamine; Monase; à-ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; à-ET; and AET;

(B) 4-bromo-2,5-dimethoxy-amphetamine, some trade or other names: 4-bromo-2,5-dimethoxy-à-methylphenethylamine; 4-bromo-2,5-DMA;

(C) 4-bromo-2,5-dimethoxyphenethylamine, some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus;

(D) 2,5-dimethoxyamphetamine, some trade or other names: 2,5-dimethoxy-à-methylphenethylamine; 2,5-DMA;

(E) 2,5-dimethoxy-4-ethylamphetamine, some trade or other names: DOET;

(F) 4-methoxyamphetamine, some trade or other names: 4-methoxy-à-methylphenethylamine; paramethoxyamphetamine, PMA;

(G) 5-methoxy-3,4-methylenedioxyamphetamine;

(H) 4-methyl-2,5-dimethoxy-amphetamine, some trade and other names: 4-methyl-2,5-dimethoxy-à-methylphenethylamine; "DOM"; and "STP";

(I) 3,4-methylenedioxy amphetamine;

(J) 3,4-methylenedioxymethamphetamine (MDMA);

(K) 3,4-methylenedioxy-N-ethylamphetamine, also known as N-ethyl- alpha-methyl-3, 4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA;

(L) N-hydroxy-3,4-methylenedioxyamphetamine, also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA;

(M) 3,4,5-trimethoxy amphetamine;

(N) Bufotenine, some trade and other names: 3-(-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; , N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;

(O) Diethyltryptamine, some trade and other names: N,N-Diethyltryptamine; DET;

(P) Dimethyltryptamine, some trade or other names: DMT;

(Q) Ibogaine, some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga;

(R) Lysergic acid diethylamide;

(S) Marijuana;

(T) Mescaline;

(U) Parahexyl, some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl;

(V) Peyote, meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12));

(W) N-ethyl-3-piperidyl benzilate;

(X) N-methyl-3-piperidyl benzilate;

(Y) Psilocybin;

(Z) Psilocyn;

(AA) Tetrahydrocannabinols, naturally contained in a plant of the genus Cannabis (cannabis plant), except for marijuana as defined in Subsection 58-37-2(1)(aa)(i)(E), as well as synthetic equivalents of the substances contained in the cannabis plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity to those substances contained in the plant, such as the following: 1 cis or trans tetrahydrocannabinol, and their optical isomers 6 cis or trans tetrahydrocannabinol, and their optical isomers 3,4 cis or trans tetrahydrocannabinol, and its optical isomers, and since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered;

(BB) Ethylamine analog of phencyclidine, some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

(CC) Pyrrolidine analog of phencyclidine, some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP;

(DD) Thiophene analog of phencyclidine, some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP; and

(EE) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine, some other names: TCPy.

(iv) Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Mecloqualone; and

(B) Methaqualone.

(v) Any material, compound, mixture, or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers, and salts of isomers:

(A) Aminorex, some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine;

(B) Cathinone, some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone;

(C) Fenethylline;

(D) Methcathinone, some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432, its salts, optical isomers, and salts of optical isomers;

(E) (ñ)cis-4-methylaminorex ((ñ)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);

(F) N-ethylamphetamine; and

(G) N,N-dimethylamphetamine, also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine.

(vi) Any material, compound, mixture, or preparation which contains any quantity of the following substances, including their optical isomers, salts, and salts of isomers, subject to temporary emergency scheduling:

(A) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl); and

(B) N-[1- (2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl).

(vii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of gamma hydroxy butyrate (gamma hydrobutyric acid), including its salts, isomers, and salts of isomers.

(b) Schedule II:

(i) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(A) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, nalmefene, naloxone, and naltrexone, and their respective salts, but including:

(I) Raw opium;

(II) Opium extracts;

(III) Opium fluid;

(IV) Powdered opium;

(V) Granulated opium;

(VI) Tincture of opium;

(VII) Codeine;

(VIII) Ethylmorphine;

(IX) Etorphine hydrochloride;

(X) Hydrocodone;

(XI) Hydromorphone;

(XII) Metopon;

(XIII) Morphine;

(XIV) Oxycodone;

(XV) Oxymorphone; and

(XVI) Thebaine;

(B) Any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of the substances referred to in Subsection (2)(b)(i)(A), except that these substances may not include the isoquinoline alkaloids of opium;

(C) Opium poppy and poppy straw;

(D) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation which is chemically equivalent or identical with any of these substances, and includes cocaine and ecgonine, their salts, isomers, derivatives, and salts of isomers and derivatives, whether derived from the coca plant or synthetically produced, except the substances may not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine; and

(E) Concentrate of poppy straw, which means the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy.

(ii) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, when the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation, except dextrorphan and levopropoxyphene:

(A) Alfentanil;

(B) Alphaprodine;

(C) Anileridine;

(D) Bezitramide;

(E) Bulk dextropropoxyphene (nondosage forms);

(F) Carfentanil;

(G) Dihydrocodeine;

(H) Diphenoxylate;

(I) Fentanyl;

(J) Isomethadone;

(K) Levo-alphacetylmethadol, some other names: levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM;

(L) Levomethorphan;

(M) Levorphanol;

(N) Metazocine;

(O) Methadone;

(P) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;

(Q) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid;

(R) Pethidine (meperidine);

(S) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;

(T) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;

(U) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;

(V) Phenazocine;

(W) Piminodine;

(X) Racemethorphan;

(Y) Racemorphan;

(Z) Remifentanil; and

(AA) Sufentanil.

(iii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(A) Amphetamine, its salts, optical isomers, and salts of its optical isomers;

(B) Methamphetamine, its salts, isomers, and salts of its isomers;

(C) Phenmetrazine and its salts; and

(D) Methylphenidate.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Amobarbital;

(B) Glutethimide;

(C) Pentobarbital;

(D) Phencyclidine;

(E) Phencyclidine immediate precursors: 1-phenylcyclohexylamine and 1-piperidinocyclohexanecarbonitrile (PCC); and

(F) Secobarbital.

(v) (A) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of Phenylacetone.

(B) Some of these substances may be known by trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone; and methyl benzyl ketone.

(vi) Nabilone, another name for nabilone: (ñ)-trans-3-(1,1-dimethylheptyl)-6,6a,7,8,10,10a -hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d]pyran-9-one.

(vii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(c) Schedule III:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II, which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under Section 1308.32 of Title 21 of the Code of Federal Regulations, and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances;

(B) Benzphetamine;

(C) Chlorphentermine;

(D) Clortermine; and

(E) Phendimetrazine.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(A) Any compound, mixture, or preparation containing amobarbital, secobarbital, pentobarbital, or any salt of any of them, and one or more other active medicinal ingredients which are not listed in any schedule;

(B) Any suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any salt of any of these drugs which is approved by the Food and Drug Administration for marketing only as a suppository;

(C) Any substance which contains any quantity of a derivative of barbituric acid or any salt of any of them;

(D) Chlorhexadol;

(E) Buprenorphine;

(F) Any drug product containing gamma hydroxybutyric acid, including its salts, isomers, and salts of isomers, for which an application is approved under the federal Food, Drug, and Cosmetic Act, Section 505;

(G) Ketamine, its salts, isomers, and salts of isomers, some other names for ketamine: ñ -2-(2-chlorophenyl)-2-(methylamino)-cyclohexa none;

(H) Lysergic acid;

(I) Lysergic acid amide;

(J) Methyprylon;

(K) Sulfondiethylmethane;

(L) Sulfonethylmethane;

(M) Sulfonmethane; and

(N) Tiletamine and zolazepam or any of their salts, some trade or other names for a tiletamine-zolazepam combination product: Telazol, some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone, some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylp yrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyrazapon.

(iii) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product, some other names for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimeth yl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol.

(iv) Nalorphine.

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid:

(A) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(B) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(C) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(D) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(E) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active non-narcotic ingredients in recognized therapeutic amounts;

(F) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts;

(G) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, non-narcotic ingredients in recognized therapeutic amounts; and

(H) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, non-narcotic ingredients in recognized therapeutic amounts.

(vi) Unless specifically excepted or unless listed in another schedule, anabolic steroids including any of the following or any isomer, ester, salt, or derivative of the following that promotes muscle growth:

(A) Boldenone;

(B) Chlorotestosterone (4-chlortestosterone);

(C) Clostebol;

(D) Dehydrochlormethyltestosterone;

(E) Dihydrotestosterone (4-dihydrotestosterone);

(F) Drostanolone;

(G) Ethylestrenol;

(H) Fluoxymesterone;

(I) Formebulone (formebolone);

(J) Mesterolone;

(K) Methandienone;

(L) Methandranone;

(M) Methandriol;

(N) Methandrostenolone;

(O) Methenolone;

(P) Methyltestosterone;

(Q) Mibolerone;

(R) Nandrolone;

(S) Norethandrolone;

(T) Oxandrolone;

(U) Oxymesterone;

(V) Oxymetholone;

(W) Stanolone;

(X) Stanozolol;

(Y) Testolactone;

(Z) Testosterone; and

(AA) Trenbolone.

(vii) Anabolic steroids expressly intended for administration through implants to cattle or other nonhuman species, and approved by the Secretary of Health and Human Services for use, may not be classified as a controlled substance.

(viii) A drug product or preparation that contains any component of marijuana, including tetrahydrocannabinol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule III of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ix) Nabiximols.

(d) Schedule IV:

(i) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing not more than 1 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit, or any salts of any of them.

(ii) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Alprazolam;

(B) Barbital;

(C) Bromazepam;

(D) Butorphanol;

(E) Camazepam;

(F) Carisoprodol;

(G) Chloral betaine;

(H) Chloral hydrate;

(I) Chlordiazepoxide;

(J) Clobazam;

(K) Clonazepam;

(L) Clorazepate;

(M) Clotiazepam;

(N) Cloxazolam;

(O) Delorazepam;

(P) Diazepam;

(Q) Dichloralphenazone;

(R) Estazolam;

(S) Ethchlorvynol;

(T) Ethinamate;

(U) Ethyl loflazepate;

(V) Fludiazepam;

(W) Flunitrazepam;

(X) Flurazepam;

(Y) Halazepam;

(Z) Haloxazolam;

(AA) Ketazolam;

(BB) Loprazolam;

(CC) Lorazepam;

(DD) Lormetazepam;

(EE) Mebutamate;

(FF) Medazepam;

(GG) Meprobamate;

(HH) Methohexital;

(II) Methylphenobarbital (mephobarbital);

(JJ) Midazolam;

(KK) Nimetazepam;

(LL) Nitrazepam;

(MM) Nordiazepam;

(NN) Oxazepam;

(OO) Oxazolam;

(PP) Paraldehyde;

(QQ) Pentazocine;

(RR) Petrichloral;

(SS) Phenobarbital;

(TT) Pinazepam;

(UU) Prazepam;

(VV) Quazepam;

(WW) Temazepam;

(XX) Tetrazepam;

(YY) Tramadol;

(ZZ) Triazolam;

(AAA) Zaleplon; and

(BBB) Zolpidem.

(iii) Any material, compound, mixture, or preparation of fenfluramine which contains any quantity of the following substances, including its salts, isomers whether optical, position, or geometric, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible.

(iv) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers whether optical, position, or geometric isomers, and salts of the isomers when the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

(A) Cathine ((+)-norpseudoephedrine);

(B) Diethylpropion;

(C) Fencamfamine;

(D) Fenproprex;

(E) Mazindol;

(F) Mefenorex;

(G) Modafinil;

(H) Pemoline, including organometallic complexes and chelates thereof;

(I) Phentermine;

(J) Pipradrol;

(K) Sibutramine; and

(L) SPA ((-)-1-dimethylamino-1,2-diphenylethane).

(v) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane), including its salts.

(vi) A drug product or preparation that contains any component of marijuana and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule IV of the federal Controlled Substances Act, Title II, P.L. 91-513.

(e) Schedule V:

(i) Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, which includes one or more non–narcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(A) not more than 200 milligrams of codeine per 100 milliliters or per 100 grams;

(B) not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams;

(C) not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams;

(D) not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

(E) not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

(F) not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit; and

(G) unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture, or preparation which contains Pyrovalerone having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers.

(ii) A drug product or preparation that contains any component of marijuana, including cannabidiol, and is approved by the United States Food and Drug Administration and scheduled by the Drug Enforcement Administration in Schedule V of the federal Controlled Substances Act, Title II, P.L. 91–513.

CHAPTER 166
H. B. 449

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

BEREAVEMENT LEAVE MODIFICATIONS

Chief Sponsor: Rex P. Shipp
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill requires certain entities to provide bereavement leave for employees who are affected by a miscarriage or stillbirth.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Board of Higher Education and the human resource bodies of state, county, and municipal governments to implement rules that provide bereavement leave for employees who are affected by the miscarriage or stillbirth of a child; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-1103, as enacted by Laws of Utah 1977, Chapter 48

17-33-5, as last amended by Laws of Utah 2009, Chapter 128

20A-1-508, as last amended by Laws of Utah 2019, Chapters 212, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 212

53B-1-401, as enacted by Laws of Utah 2020, Chapter 365

53B-1-402, as last amended by Laws of Utah 2021, Chapter 187

63A-17-106, as renumbered and amended by Laws of Utah 2021, Chapter 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-1103 is amended to read:

10-3-1103. Sickness, disability, and death benefits.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of the gestational age or the duration of the pregnancy.

[~~(1)~~] (2) The governing body of each municipality may maintain as to all elective or appointive officers and employees, including heads of departments, a system for the payment of health, dental, hospital, medical, disability and death benefits to be financed and administered in a manner and payable upon the terms and conditions as the governing body of the municipality may by ordinance or resolution prescribe.

[~~(2)~~] (3) The governing bodies of the municipalities may create and administer personnel benefit programs separately or jointly with other municipalities or other political subdivisions of the State of Utah or associations thereof.

(4) The governing body of each municipality shall, by ordinance or resolution, provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 2. Section 17-33-5 is amended to read:

17-33-5. Office of personnel management -- Director -- Appointment and responsibilities -- Personnel rules.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(1)~~] (2) (a) (i) Each county executive shall:

(A) create an office of personnel management, administered by a director of personnel management; and

(B) ensure that the director is a person with proven experience in personnel management.

(ii) Except as provided in Subsection [~~(1)~~] (2)(b), the position of director of personnel management shall be:

(A) a merit position; and

(B) filled as provided in Subsection [~~(1)~~] (2)(a)(iii).

(iii) Except as provided in Subsection [~~(1)~~] (2)(b), the career service council shall:

(A) advertise and recruit for the director position in the same manner as for merit positions;

(B) select three names from a register; and

(C) submit those names as recommendations to the county legislative body.

(iv) Except as provided in Subsection [~~(1)~~] (2)(b), the county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.

(b) (i) Effective for appointments made after May 1, 2006, and as an alternative to the procedure under Subsections [~~(1)~~] (2)(a)(ii), (iii), and (iv) and at the county executive's discretion, the county executive may appoint a director of personnel management with the advice and consent of the county legislative body.

(ii) The position of each director of personnel management appointed under this Subsection [~~(1)~~] (2)(b) shall be a merit exempt position.

(iii) A director of personnel management appointed under this Subsection [~~(1)~~] (2)(b) may be terminated by the county executive with the consent of the county legislative body.

[~~(2)~~] (3) The director of personnel management shall:

(a) encourage and exercise leadership in the development of expertise in personnel administration within the several departments, offices, and agencies in the county service and make available the facilities of the office of personnel management to this end;

(b) advise the county legislative and executive bodies on the use of human resources;

(c) develop and implement programs for the improvement of employee effectiveness, such as training, safety, health, counseling, and welfare;

(d) investigate periodically the operation and effect of this law and of the policies made under it and report findings and recommendations to the county legislative body;

(e) establish and maintain records of all employees in the county service, setting forth as to each employee class, title, pay or status, and other relevant data;

(f) make an annual report to the county legislative body and county executive regarding the work of the department; and

(g) apply and carry out this law and the policies under it and perform any other lawful acts that are necessary to carry out the provisions of this law.

[~~(3)~~] (4) (a) (i) The director shall recommend personnel rules for the county.

(ii) The county legislative body may:

(A) recommend personnel rules for the county; and

(B) approve, amend, or reject personnel rules before they are adopted.

(b) The rules shall provide for:

(i) recruiting efforts to be planned and carried out in a manner that assures open competition, with special emphasis to be placed on recruiting efforts to attract minorities, women, persons with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially underrepresented in the county work force to help assure they will be among the candidates from whom appointments are made;

(ii) the establishment of job related minimum requirements wherever practical, that all successful candidates shall be required to meet in order to be eligible for consideration for appointment or promotion;

(iii) selection procedures that include consideration of the relative merit of each applicant for employment, a job related method of determining the eligibility or ineligibility of each applicant, and a valid, reliable, and objective system of ranking eligible applicants according to their qualifications and merit;

(iv) certification procedures that insure equitable consideration of an appropriate number of the most qualified eligible applicants based on the ranking system;

(v) appointments to positions in the career service by selection from the most qualified eligible applicants certified on eligible lists established in accordance with Subsections [~~(3)~~] (4)(b)(iii) and (iv);

(vi) noncompetitive appointments in the occasional instance where there is evidence that open or limited competition is not practical, such as for unskilled positions that have no minimum job requirements;

(vii) limitation of competitions at the discretion of the director for appropriate positions to facilitate employment of qualified applicants with a substantial physical or mental impairment, or other groups protected by Title VII of the Civil Rights Act;

(viii) permanent appointment for entry to the career service that shall be contingent upon satisfactory performance by the employee during a period of six months, with the probationary period extendable for a period not to exceed six months for good cause, but with the condition that the probationary employee may appeal directly to the council any undue prolongation of the period designed to thwart merit principles;

(ix) temporary, provisional, or other noncareer service appointments, which may not be used as a way of defeating the purpose of the career service and may not exceed 270 days;

(x) lists of eligible applicants normally to be used, if available, for filling temporary positions, and short term emergency appointments to be made without regard to the other provisions of law to provide for maintenance of essential services in an emergency situation where normal procedures are not practical, these emergency appointments not to exceed 270 days;

(xi) promotion and career ladder advancement of employees to higher level positions and assurance that all persons promoted are qualified for the position;

(xii) recognition of the equivalency of other merit processes by waiving, at the discretion of the director, the open competitive examination for placement in the career service positions of those who were originally selected through a competitive examination process in another governmental entity, the individual in those cases, to serve a probationary period;

(xiii) preparation, maintenance, and revision of a position classification plan for all positions in the career service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class, the compensation plan, in order to maintain a high quality public work force, to take into account the responsibility and difficulty of the work, the comparative pay and benefits needed to compete in the labor market and to stay in proper alignment with other similar governmental units, and other factors;

(xiv) keeping records of performance on all employees in the career service and requiring consideration of performance records in determining salary increases, any benefits for meritorious service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

(xv) establishment of a plan governing layoffs resulting from lack of funds or work, abolition of positions, or material changes in duties or organization, and governing reemployment of persons so laid off, taking into account with regard to layoffs and reemployment the relative ability, seniority, and merit of each employee;

(xvi) establishment of a plan for resolving employee grievances and complaints with final and binding decisions;

(xvii) establishment of disciplinary measures such as suspension, demotion in rank or grade, or discharge, measures to provide for presentation of charges, hearing rights, and appeals for all permanent employees in the career service to the career service council;

(xviii) establishment of a procedure for employee development and improvement of poor performance;

(xix) establishment of hours of work, holidays, and attendance requirements in various classes of positions in the career service;

(xx) establishment and publicizing of fringe benefits such as insurance, retirement, and leave programs; and

(xxi) any other requirements not inconsistent with this law that are proper for its enforcement.

(5) Rules adopted pursuant to Subsection (4)(b)(xx) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 3. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5[~~(3)~~](4) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than five days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (3)(c)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(d) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected but before the second Friday in March of the next even-numbered year.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the second Friday in March of the next even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, within five days after the day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 4. Section 53B-1-401 is amended to read:

53B-1-401. Definitions.

As used in this part:

(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.

(3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(3)~~] (4) "Nominating committee" means the committee described in Section 53B-1-406.

Section 5. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) There is established a State Board of Regents, which:

(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;

(b) is the governing board for the institutions of higher education;

(c) controls, manages, and supervises the Utah system of higher education; and

(d) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) coordinate data collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Section 53B-2-102;

(ii) providing support and guidance to an institution of higher education president;

(iii) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities; and

(iv) setting the compensation for an institution of higher education president;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; and

(vii) coordinating work-based learning;

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives; and

(s) provide ongoing quality review of institutions.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:

(a) how the career and technical education needs of secondary students are being met by institutions of higher education;

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

Section 6. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(1)~~] (2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

[~~(2)~~] (3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

[~~(3)~~] (4) Statewide human resource management rules adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

[~~(4)~~] (5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

[~~(5)~~] (6) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) [~~adopt~~] make rules for human resource management [~~according to the procedures of~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the executive director, the governor, and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

[~~(6)~~] (7) (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection [~~(6)~~] (7) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection [~~(6)~~] (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

[~~(7)~~] (8) (a) (i) The division may collect fees for training as authorized by this Subsection [~~(7)~~] (8).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

(9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner;

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy;

(iii) the employee provides documentation to show that the individual intended for the employee to be an adoptive parent, as that term is defined in Section 78B-6-103, of a child born as a result of the pregnancy; or

(iv) under a valid gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement, the employee would have been a parent of a child born as a result of the pregnancy.

CHAPTER 167
S. B. 11

Passed February 10, 2022
Approved March 22, 2022
Effective May 4, 2022

LOCAL ELECTION AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill amends provisions relating to cancelling a local election or a race in a local election.

Highlighted Provisions:

This bill:

- defines terms; and
- describes the circumstances under which, and the method by which:
  - a municipal legislative body may cancel a local election or a race in a local election; and
  - a local district board may cancel a local election or a race in a local election.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-1-206, as last amended by Laws of Utah 2021, First Special Session, Chapter 15

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-1-206 is amended to read:

20A-1-206. Cancellation of local election or local race -- Municipalities -- Local districts -- Notice.

[~~(1) A municipal legislative body may cancel a local election if:~~]

[~~(a) (i) (A) all municipal officers are elected in an at-large election under Subsection 10-3-205.5(1); and~~]

[~~(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices does not exceed the number of open at-large municipal offices for which the candidates have filed; or~~]

[~~(ii) (A) the municipality has adopted an ordinance under Subsection 10-3-205.5(2);~~]

[~~(B) the number of municipal officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large municipal offices, if any, does not exceed the number of open at-large municipal offices for which the candidates have filed; and~~]

[~~(C) each municipal officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each district is unopposed;~~]

[~~(b) there are no other municipal ballot propositions; and~~]

[~~(c) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:~~]

[~~(i) each municipal officer candidate is:~~]

[~~(A) unopposed; or~~]

[~~(B) a candidate for an at-large municipal office for which the number of candidates does not exceed the number of open at-large municipal offices; and~~]

[~~(ii) a candidate described in Subsection (1)(c)(i) is considered to be elected to office.~~]

(1) As used in this section:

(a) "Contested race" means a race in a general election where the number of candidates, including any eligible write-in candidates, exceeds the number of offices to be filled in the race.

(b) "Election" means an event, run by an election officer, that includes one or more races for public office or one or more ballot propositions.

(c) (i) "Race" means a contest between candidates to obtain the number of votes necessary to take a particular public office.

(ii) "Race," as the term relates to a contest for an at-large position, includes all open positions for the same at-large office.

(iii) "Race," as the term relates to a contest for a municipal council position that is not an at-large position, includes only the contest to represent a particular district on the council.

(2) A municipal legislative body may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(3) A municipal legislative body may cancel a race in a local election if:

(a) the ballot for the race will not include any contested races or ballot propositions; and

(b) the municipal legislative body passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the race and certifies that:

(i) the ballot for the race would not include any contested races or ballot propositions; and

(ii) the candidate for the race is considered elected.

[~~(2)~~] (4) A municipal legislative body that cancels a local election in accordance with Subsection [~~(1)~~] (2) shall give notice that the election is cancelled by:

(a) subject to Subsection [~~(5), posting notice~~] (8), providing notice to the lieutenant governor's office to be posted on the Statewide Electronic Voter Information Website [~~as~~] described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the municipality has a public website, posting notice on the municipality's public website for 15 days before the day of the scheduled election;

(c) if the elected officials or departments of the municipality regularly publish a printed or electronic newsletter or other periodical, publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

(d) (i) publishing notice at least twice in a newspaper of general circulation in the municipality before the day of the scheduled election;

(ii) at least 10 days before the day of the scheduled election, posting one notice, and at least one additional notice per 2,000 population within the municipality, in places within the municipality that are most likely to give notice to the voters in the municipality, subject to a maximum of 10 notices; or

(iii) at least 10 days before the day of the scheduled election, mailing notice to each registered voter in the municipality; and

(e) posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 10 days before the day of the scheduled election.

[~~(3) A local district board may cancel an election as described in Section 17B-1-306 if:~~]

[~~(a) (i) (A) any local district officers are elected in an at-large election; and~~]

[~~(B) the number of local district officer candidates for the at-large local district offices, including any eligible write-in candidates under Section 20A-9-601, does not exceed the number of open at-large local district offices for which the candidates have filed; or~~]

[~~(ii) (A) the local district has divided the local district into divisions under Section 17B-1-306.5;~~]

[~~(B) the number of local district officer candidates, including any eligible write-in candidates under Section 20A-9-601, for the at-large local district offices within the local district, if any, does not exceed the number of open at-large local district offices for which the candidates have filed; and~~]

[~~(C) each local district officer candidate, including any eligible write-in candidates under Section 20A-9-601, in each division of the local district is unopposed;~~]

[~~(b) there are no other local district ballot propositions; and~~]

[~~(c) the local district governing body, no later than 20 days before the day of the scheduled election, adopts a resolution that cancels the election and certifies that:~~]

[~~(i) each local district officer candidate is:~~]

[~~(A) unopposed; or~~]

[~~(B) a candidate for an at-large local district office for which the number of candidates does not exceed the number of open at-large local district offices; and~~]

[~~(ii) a candidate described in Subsection (3)(c)(i) is considered to be elected to office.~~]

(5) A local district board may cancel a local election if:

(a) the ballot for the local election will not include any contested races or ballot propositions; and

(b) the local district board passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the election and certifies that:

(i) the ballot for the election would not include any contested races or ballot propositions; and

(ii) the candidates who qualified for the ballot are considered elected.

(6) A local district board may cancel a local district race if:

(a) the race is uncontested; and

(b) the local district board passes, no later than 20 days before the day of the scheduled election, a resolution that cancels the race and certifies that the candidate who qualified for the ballot for that race is considered elected.

[~~(4)~~] (7) A local district that cancels a local election in accordance with Subsection [~~(3)~~] (5) shall provide notice that the election is cancelled:

(a) subject to Subsection [~~(5)~~] (8), by posting notice on the Statewide Electronic Voter Information Website [~~as~~] described in Section 20A-7-801, for 15 consecutive days before the day of the scheduled election;

(b) if the local district has a public website, by posting notice on the local district's public website for 15 days before the day of the scheduled election;

(c) if the local district publishes a newsletter or other periodical, by publishing notice in the next scheduled newsletter or other periodical published before the day of the scheduled election;

(d) (i) by publishing notice at least twice in a newspaper of general circulation in the local district before the scheduled election;

(ii) at least 10 days before the day of the scheduled election, by posting one notice, and at least one additional notice per 2,000 population of the local district, in places within the local district that are most likely to give notice to the voters in the local district, subject to a maximum of 10 notices; or

(iii) at least 10 days before the day of the scheduled election, by mailing notice to each registered voter in the local district; and

(e) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for at least 10 days before the day of the scheduled election.

[~~(5)~~] (8) A municipal legislative body that posts a notice in accordance with Subsection [~~(2)~~] (4)(a) or a local district that posts a notice in accordance with Subsection [~~(4)~~] (7)(a) is not liable for a notice that fails to post due to technical or other error by the publisher of the Statewide Electronic Voter Information Website.

CHAPTER 168
S. B. 12

Passed February 2, 2022
Approved March 22, 2022
Effective May 4, 2022

PROPERTY TAX APPEALS PROCESS AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill modifies provisions related to appeals to a county board of equalization.

Highlighted Provisions:

This bill:

- in an appeal to a county board of equalization, requires the parties to disclose certain evidence before the public hearing on the appeal;
- allows a party to provide a written response to any previously undisclosed evidence that another party presents at the public hearing;
- authorizes a county board of equalization to create rules related to the disclosures described in this bill, provided the rules are no less stringent than the provisions of this bill; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1004, as last amended by Laws of Utah 2021, Chapter 377

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1004 is amended to read:

59-2-1004. Appeal to county board of equalization -- Real property -- Time period for appeal -- Public hearing requirements -- Decision of board -- Extensions approved by commission -- Appeal to commission.

(1) As used in this section:

(a) "Final assessed value" means:

(i) for real property for which the taxpayer appealed the valuation or equalization to the county board of equalization in accordance with this section, the value given to the real property by the county board of equalization, including a value based on a stipulation of the parties;

(ii) for real property for which the taxpayer or a county assessor appealed the valuation or equalization to the commission in accordance with Section 59-2-1006, the value given to the real property by:

(A) the commission, if the commission has issued a decision in the appeal or the parties have entered a stipulation; or

(B) a county board of equalization, if the commission has not yet issued a decision in the appeal and the parties have not entered a stipulation; or

(iii) for real property for which the taxpayer or a county assessor sought judicial review of the valuation or equalization in accordance with Section 59-1-602 or Title 63G, Chapter 4, Part 4, Judicial Review, the value given the real property by the commission.

(b) "Inflation adjusted value" means the value of the real property that is the subject of the appeal as calculated by changing the final assessed value for the previous taxable year for the real property by the median property value change.

(c) "Median property value change" means the midpoint of the property value changes for all real property that is:

(i) of the same class of real property as the qualified real property; and

(ii) located within the same county and within the same market area as the qualified real property.

(d) "Property value change" means the percentage change in the fair market value of real property on or after January 1 of the previous year and before January 1 of the current year.

(e) "Qualified real property" means real property:

(i) for which:

(A) the taxpayer or a county assessor appealed the valuation or equalization for the previous taxable year to the county board of equalization in accordance with this section or the commission in accordance with Section 59-2-1006;

(B) the appeal described in Subsection (1)(e)(i)(A), resulted in a final assessed value that was lower than the assessed value; and

(C) the assessed value for the current taxable year is higher than the inflation adjusted value; and

(ii) that, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, has not had a qualifying change.

(f) "Qualifying change" means one of the following changes to real property that occurs on or after January 1 of the previous taxable year and before January 1 of the current taxable year:

(i) a physical improvement if, solely as a result of the physical improvement, the fair market value of the physical improvement equals or exceeds the greater of 10% of fair market value of the real property or $20,000;

(ii) a zoning change, if the fair market value of the real property increases solely as a result of the zoning change; or

(iii) a change in the legal description of the real property, if the fair market value of the real property increases solely as a result of the change in the legal description of the real property.

(2) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's real property may make an application to appeal by:

(i) filing the application with the county board of equalization within the time period described in Subsection (3); or

(ii) making an application by telephone or other electronic means within the time period described in Subsection (3) if the county legislative body passes a resolution under Subsection [~~(8)~~] (9) authorizing a taxpayer to make an application by telephone or other electronic means.

(b) (i) The county board of equalization shall make a rule describing the contents of the application.

(ii) In addition to any information the county board of equalization requires, the application shall include information about:

(A) the burden of proof in an appeal involving qualified real property; and

(B) the process for the taxpayer to learn the inflation adjusted value of the qualified real property.

(c) (i) (A) The county assessor shall notify the county board of equalization of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a taxpayer filed an appeal with the county board of equalization.

(B) The county assessor shall notify the commission of a qualified real property's inflation adjusted value within 15 business days after the date on which the county assessor receives notice that a person dissatisfied with the decision of a county board of equalization files an appeal with the commission.

(ii) (A) A person may not appeal a county assessor's calculation of inflation adjusted value but may appeal the fair market value of a qualified real property.

(B) A person may appeal a determination of whether, on or after January 1 of the previous taxable year and before January 1 of the current taxable year, real property had a qualifying change.

(3) (a) Except as provided in Subsection (3)(b) and for purposes of Subsection (2), a taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's real property on or before the later of:

(i) September 15 of the current calendar year; or

(ii) the last day of a 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing for circumstances under which the county board of equalization is required to accept an application to appeal that is filed after the time period prescribed in Subsection (3)(a).

(4) (a) Except as provided in Subsection (4)(b), the taxpayer shall include in the application under Subsection (2)(a):

(i) the taxpayer's estimate of the fair market value of the property and any evidence that may indicate that the assessed valuation of the taxpayer's property is improperly equalized with the assessed valuation of comparable properties; and

(ii) a signed statement of the personal property located in a multi-tenant residential property, as that term is defined in Section 59-2-301.8 if the taxpayer:

(A) appeals the value of multi-tenant residential property assessed in accordance with Section 59-2-301.8; and

(B) intends to contest the value of the personal property located within the multi-tenant residential property.

(b) (i) For an appeal involving qualified real property:

(A) the county board of equalization shall presume that the fair market value of the qualified real property is equal to the inflation adjusted value; and

(B) except as provided in Subsection (4)(b)(ii), the taxpayer may provide the information described in Subsection (4)(a).

(ii) If the taxpayer seeks to prove that the fair market value of the qualified real property is below the inflation adjusted value, the taxpayer shall provide the information described in Subsection (4)(a).

(5) In reviewing evidence submitted to a county board of equalization by or on behalf of an owner or a county assessor, the county board of equalization shall consider and weigh:

(a) the accuracy, reliability, and comparability of the evidence presented by the owner or the county assessor;

(b) if submitted, the sales price of relevant property that was under contract for sale as of the lien date but sold after the lien date;

(c) if submitted, the sales offering price of property that was offered for sale as of the lien date but did not sell, including considering and weighing the amount of time for which, and manner in which, the property was offered for sale; and

(d) if submitted, other evidence that is relevant to determining the fair market value of the property.

(6) (a) Except as provided in Subsection (6)(c), at least five days before the day on which the county board of equalization holds a public hearing on an appeal:

(i) the county assessor shall provide the taxpayer any evidence the county assessor relies upon in support of the county assessor's valuation; and

(ii) the taxpayer shall provide the county assessor any evidence not previously provided to the county assessor that the taxpayer relies upon in support of the taxpayer's appeal.

(b) (i) The deadline described in Subsection (6)(a) does not apply to evidence that is commercial information as defined in Section 59-1-404, if:

(A) for the purpose of complying with Section 59-1-404, the county assessor requires that the taxpayer execute a nondisclosure agreement before the county assessor discloses the evidence; and

(B) the taxpayer fails to execute the nondisclosure agreement before the deadline described in Subsection (6)(a).

(ii) The county assessor shall disclose evidence described in Subsection (6)(b)(i) as soon as practicable after the county assessor receives the executed nondisclosure agreement.

(iii) The county assessor shall provide the taxpayer a copy of the nondisclosure agreement with reasonable time for the taxpayer to review and execute the agreement before the deadline described in Subsection (6)(a) expires.

(c) If at the public hearing, a party presents evidence not previously provided to the other party, the county board of equalization shall allow the other party to respond to the evidence in writing within 10 days after the day on which the public hearing occurs.

(d) (i) A county board of equalization may adopt rules governing the deadlines described in this Subsection (6), if the rules are no less stringent than the provisions of this Subsection (6).

(ii) A county board of equalization's rule that complies with Subsection (6)(d)(i) controls over the provisions of this subsection.

[~~(6)~~] (7) (a) The county board of equalization shall meet and hold public hearings as described in Section 59-2-1001.

(b) (i) For purposes of this Subsection [~~(6)~~] (7)(b), "significant adjustment" means a proposed adjustment to the valuation of real property that:

(A) is to be made by a county board of equalization; and

(B) would result in a valuation that differs from the original assessed value by at least 20% and $1,000,000.

(ii) When a county board of equalization is going to consider a significant adjustment, the county board of equalization shall:

(A) list the significant adjustment as a separate item on the agenda of the public hearing at which the county board of equalization is going to consider the significant adjustment; and

(B) for purposes of the agenda described in Subsection [~~(6)~~] (7)(b)(ii)(A), provide a description of the property for which the county board of equalization is considering a significant adjustment.

(c) The county board of equalization shall make a decision on each appeal filed in accordance with this section within 60 days after the day on which the taxpayer makes an application.

(d) The commission may approve the extension of a time period provided for in Subsection [~~(6)~~] (7)(c) for a county board of equalization to make a decision on an appeal.

(e) Unless the commission approves the extension of a time period under Subsection [~~(6)~~] (7)(d), if a county board of equalization fails to make a decision on an appeal within the time period described in Subsection [~~(6)~~] (7)(c), the county legislative body shall:

(i) list the appeal, by property owner and parcel number, on the agenda for the next meeting the county legislative body holds after the expiration of the time period described in Subsection [~~(6)~~] (7)(c); and

(ii) hear the appeal at the meeting described in Subsection [~~(6)~~] (7)(e)(i).

(f) The decision of the county board of equalization shall contain:

(i) a determination of the valuation of the property based on fair market value; and

(ii) a conclusion that the fair market value is properly equalized with the assessed value of comparable properties.

(g) If no evidence is presented before the county board of equalization, the county board of equalization shall presume that the equalization issue has been met.

(h) (i) If the fair market value of the property that is the subject of the appeal deviates plus or minus 5% from the assessed value of comparable properties, the county board of equalization shall adjust the valuation of the appealed property to reflect a value equalized with the assessed value of comparable properties.

(ii) Subject to Sections 59-2-301.1, 59-2-301.2, 59-2-301.3, and 59-2-301.4, equalized value established under Subsection [~~(6)~~] (7)(h)(i) shall be the assessed value for property tax purposes until the county assessor is able to evaluate and equalize the assessed value of all comparable properties to bring all comparable properties into conformity with full fair market value.

[~~(7)~~] (8) If any taxpayer is dissatisfied with the decision of the county board of equalization, the taxpayer may file an appeal with the commission as described in Section 59-2-1006.

[~~(8)~~] (9) A county legislative body may pass a resolution authorizing taxpayers owing taxes on property assessed by that county to file property tax appeals applications under this section by telephone or other electronic means.

CHAPTER 169
S. B. 15

Passed February 11, 2022
Approved March 22, 2022
Effective May 4, 2022
(Exception clause in Section 60)

DEPARTMENT OF GOVERNMENT OPERATIONS

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions relating to the Department of Government Operations.

Highlighted Provisions:

This bill:

- permits the Data Security Management Council to hold a closed meeting to conduct business relating to information technology security;
- modifies provisions relating to rulemaking authority;
- clarifies provisions relating to the setting of rates and fees;
- clarifies provisions relating to risk management;
- modifies provisions relating to the duties of the Division of Archives and Records Services;
- modifies provisions relating to the duties of the Division of Technology Services;
- provides that the Department of Government Operations and the divisions within the department present reports to the Legislature through the Government Operations Interim Committee;
- clarifies a provision relating to career service employment status;
- classifies as private a record relating to drug or alcohol testing of a state employee; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-6-27, as last amended by Laws of Utah 2021, Chapter 345

26-6-32, as last amended by Laws of Utah 2021, Chapter 345

52-4-204, as last amended by Laws of Utah 2021, Chapter 217

63A-1-105.5, as last amended by Laws of Utah 2020, Chapter 408

63A-1-109, as last amended by Laws of Utah 2021, Chapter 344

63A-1-114, as last amended by Laws of Utah 2021, Chapters 344 and 382

63A-2-103, as last amended by Laws of Utah 2019, Chapter 488

63A-2-401, as repealed and reenacted by Laws of Utah 2019, Chapter 488

63A-3-201, as last amended by Laws of Utah 2018, Chapter 427

63A-3-203, as last amended by Laws of Utah 2017, Chapter 56

63A-3-310, as last amended by Laws of Utah 2020, Chapter 297

63A-4-101.5, as last amended by Laws of Utah 2021, Chapter 344 and renumbered and amended by Laws of Utah 2021, Chapter 33

63A-4-102, as last amended by Laws of Utah 2021, Chapter 33

63A-4-201, as last amended by Laws of Utah 2021, Chapter 33

63A-5b-203, as enacted by Laws of Utah 2020, Chapter 152

63A-5b-303, as enacted by Laws of Utah 2020, Chapter 152

63A-5b-606, as enacted by Laws of Utah 2020, Chapter 152

63A-5b-607, as last amended by Laws of Utah 2020, Chapter 32 and renumbered and amended by Laws of Utah 2020, Chapter 152 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 152

63A-5b-903, as renumbered and amended by Laws of Utah 2020, Chapter 152

63A-9-401, as last amended by Laws of Utah 2021, Chapter 344

63A-9-501, as last amended by Laws of Utah 2021, Chapter 344

63A-12-101, as last amended by Laws of Utah 2021, Chapters 84 and 344

63A-12-104, as last amended by Laws of Utah 2021, Chapter 344

63A-16-102, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-104, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-105, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-201, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-202, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-203, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-205, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-208, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-211, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-301, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-501, as last amended by Laws of Utah 2021, Chapter 162 and renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-504, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-505, as last amended by Laws of Utah 2021, Chapter 162 and renumbered and amended by Laws of Utah 2021, Chapter 344

63A-16-701, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-702, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-804, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-903, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-106, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-107, as enacted by Laws of Utah 2021, Chapter 344
63A-17-110, as enacted by Laws of Utah 2021, Chapter 158
63A-17-202, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-304, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-306, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-307, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-806, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-1004, as renumbered and amended by Laws of Utah 2021, Chapter 344
63G-2-302, as last amended by Laws of Utah 2021, Chapters 100, 100, 143, 143, 367, and 367
63I-5-201 (Superseded 07/01/22), as last amended by Laws of Utah 2021, Chapter 184
63I-5-201 (Effective 07/01/22), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
67-3-12, as last amended by Laws of Utah 2021, Chapter 398 and renumbered and amended by Laws of Utah 2021, Chapter 84 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 398
67-19a-101, as last amended by Laws of Utah 2021, Chapter 344

ENACTS:

67-27-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

67-27-102, (Renumbered from 63A-17-901, as renumbered and amended by Laws of Utah 2021, Chapter 344)
67-27-103, (Renumbered from 63A-17-902, as last amended by Laws of Utah 2021, Chapter 262 and renumbered and amended by Laws of Utah 2021, Chapter 344)
67-27-104, (Renumbered from 63A-17-903, as renumbered and amended by Laws of Utah 2021, Chapter 344)

REPEALS:

63A-16-106, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-212, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-213, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-401, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-402, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-403, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-502, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-16-503, as renumbered and amended by Laws of Utah 2021, Chapter 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-6-27 is amended to read:

26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Person, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section [~~63A-17-901~~] 67-27-102, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 2. Section 26-6-32 is amended to read:

26-6-32. Testing for COVID-19 for high-risk individuals at care facilities -- Collection and release of information regarding risk factors and comorbidities for COVID-19.

(1) As used in this section:

(a) "Care facility" means a facility described in Subsections 26-6-6(2) through (6).

(b) "COVID-19" means the same as that term is defined in Section 78B-4-517.

(2) (a) At the request of the department or a local health department, an individual who meets the criteria established by the department under Subsection (2)(b) shall submit to testing for COVID-19.

(b) The department:

(i) shall establish protocols to identify and test individuals who are present at a care facility and are at high risk for contracting COVID-19;

(ii) may establish criteria to identify care facilities where individuals are at high risk for COVID-19; and

(iii) may establish who is responsible for the costs of the testing.

(c) (i) The protocols described in Subsection (2)(b)(i) shall:

(A) notwithstanding Subsection (2)(a), permit an individual who is a resident of a care facility to refuse testing; and

(B) specify criteria for when an individual's refusal to submit to testing under Subsection (2)(c)(i)(A) endangers the health or safety of other individuals at the care facility.

(ii) Notwithstanding any other provision of state law, a care facility may discharge a resident who declines testing requested by the department under Subsection (2)(a) if:

(A) under the criteria specified by the department under Subsection (2)(c)(i)(B), the resident's refusal to submit to testing endangers the health or safety of other individuals at the care facility; and

(B) discharging the resident does not violate federal law.

(3) The department may establish protocols to collect information regarding the individual's age and relevant comorbidities from an individual who receives a positive test result for COVID-19.

(4) (a) The department shall publish deidentified information regarding comorbidities and other risk factors for COVID-19 in a manner that is accessible to the public.

(b) The department may work with a state agency as defined in Section [~~63A-17-901~~] 67-27-102, to perform the analysis or publish the information described in Subsection (4)(a).

Section 3. Section 52-4-204 is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; or

(b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, [~~provided that~~] if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, [~~provided that~~] if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; [~~or~~]

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, [~~provided that~~] if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint[~~.~~]"; or

(iv) for the Data Security Management Council created in Section 63A-16-701, the closed meeting is convened in accordance with Subsection 63A-16-701(7), if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to information technology security."

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3) (a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(b) (i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.

(ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Section 4. Section 63A-1-105.5 is amended to read:

63A-1-105.5. Rulemaking authority of executive director.

The executive director [~~shall~~] may, upon the recommendation of the appropriate division directors or the director of the Office of Administrative Rules, make rules consistent with state and federal law, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:

(1) [~~administrative~~] services of the department; and

(2) the provision and use of [~~administrative~~] services furnished to state agencies and institutions.

Section 5. Section 63A-1-109 is amended to read:

63A-1-109. Divisions of department -- Administration.

(1) The department is composed of:

(a) the following divisions:

(i) the Division of Purchasing and General Services, created in Section 63A-2-101;

(ii) the Division of Finance, created in Section 63A-3-101;

(iii) the Division of Facilities Construction and Management, created in Section 63A-5b-301;

(iv) the Division of Fleet Operations, created in Section 63A-9-201;

(v) the Division of Archives and Records Service, created in Section 63A-12-101;

(vi) the Division of Technology Services, created in Section 63A-16-103;

(vii) the Division of Human Resource Management, created in Section 63A-17-105; and

(viii) the Division of Risk Management, created in Section 63A-16-201; and

(b) the [~~Utah~~] Office of Administrative Rules, created in Section 63G-3-401.

(2) Each division described in Subsection (1)(a) shall be administered and managed by a division director.

Section 6. Section 63A-1-114 is amended to read:

63A-1-114. Rate committee -- Membership -- Duties.

(1) (a) There is created a rate committee consisting of the executive directors, commissioners, or superintendents of seven state agencies, which may include the State Board of Education, that use services and pay rates to one of the department internal service funds, or their designee, that the governor appoints for a two-year term.

(b) The department may not have a representative on the rate committee.

(c) (i) The committee shall elect a chair from the committee's members.

(ii) Members of the committee who are state government employees and who do not receive salary, per diem, or expenses from their agency for their service on the committee shall receive no compensation, benefits, per diem, or expenses for the members' service on the committee.

(d) The department shall provide staff services to the committee.

(2) (a) A division described in Section 63A-1-109 that manages an internal service fund shall submit to the committee a proposed rate [~~and fee~~] schedule for services rendered by the division to an executive branch entity or an entity that subscribes to services rendered by the division.

(b) The committee shall:

(i) conduct meetings in accordance with Title 52, Chapter 4, Open and Public Meetings Act;

(ii) meet at least once each calendar year to:

(A) discuss the service performance of each internal service fund;

(B) review the proposed rate [~~and fee~~] schedules;

(C) at the rate committee's discretion, approve, increase, or decrease the rate [~~and fee~~] schedules described in Subsection (2)(b)(ii)(B); and

(D) discuss any prior or potential adjustments to the service level received by state agencies that pay rates to an internal service fund;

(iii) recommend a proposed rate [~~and fee~~] schedule for each internal service fund to:

(A) the Governor's Office of Planning and Budget; and

(B) each legislative appropriations subcommittee that, in accordance with Section 63J-1-410, approves the internal service fund agency's rates[~~, fees,~~] and budget; and

(iv) review and approve, increase, or decrease an interim rate[~~, fee, or amount~~] when an internal service fund agency begins a new service or introduces a new product between annual general sessions of the Legislature.

(c) The committee may in accordance with Subsection 63J-1-410(4), decrease a rate[~~, fee, or amount~~] that has been approved by the Legislature.

Section 7. Section 63A-2-103 is amended to read:

63A-2-103. Duties and authority of purchasing director -- Subscribing to mailing system and electronic central store -- Rate schedule.

(1) The purchasing director:

(a) shall operate, manage, and maintain:

(i) a central mailing service; and

(ii) an electronic central store system for procuring goods and services;

(b) shall, except when a state surplus property contractor administers the surplus property program, operate, manage, and maintain the surplus property program;

(c) shall, when a state surplus property contractor administers the surplus property program, oversee the state surplus property contractor's administration of the surplus property program in accordance with Part 4, Surplus Property Services; and

(d) may establish microfilming, duplicating, printing, addressograph, and other central services.

(2) (a) Each state agency shall subscribe to all of the services described in Subsection (1)(a), unless the director delegates the director's authority to a state agency under Section 63A-2-104.

(b) An institution of higher education, the State Board of Education, a school district, or a political subdivision of the state may subscribe to one or more of the services described in Subsection (1)(a).

(3) (a) The purchasing director shall:

(i) prescribe a schedule of [~~fees~~] rates to be charged for all services provided by the division after the purchasing director:

(A) submits the proposed [~~rate, fees, or other amounts~~] rates for services provided by the division's internal service fund to the Rate Committee established in Section 63A-1-114; and

(B) obtains the approval of the Legislature, as required by Section [~~63J-1-504~~] 63J-1-410;

(ii) ensure that the [~~fees~~] rates are approximately equal to the cost of providing the services; and

(iii) annually conduct a market analysis of [~~fees~~] rates.

(b) A market analysis under Subsection (3)(a)(iii) shall include a comparison of the division's rates with the [~~fees~~] rates of other public or private sector providers if comparable services and rates are reasonably available.

Section 8. Section 63A-2-401 is amended to read:

63A-2-401. State agencies required to participate in surplus property program -- Declaring property to be state surplus property -- Division authority.

(1) Except as otherwise provided in this part, a state agency shall dispose of and acquire state surplus property by participating in the surplus property program.

(2) A state agency may declare property that the state agency owns to be state surplus property by making a written determination that the property is state surplus property.

(3) The division shall determine the appropriate method for disposing of state surplus property.

(4) The division may:

(a) establish facilities to store state surplus property at locations throughout the state; and

(b) after consultation with the state agency requesting the sale of state surplus property, establish the selling price for the state surplus property.

(5) As provided in Title 63J, Chapter 1, Budgetary Procedures Act, the division may transfer proceeds generated by the sale of state surplus property to the state agency requesting the sale, reduced by a [~~fee~~] rate approved in accordance with Subsection 63A-2-103(3) to pay the division's costs of administering the surplus property program.

(6) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing a surplus property program that meets the requirements of this chapter.

Section 9. Section 63A-3-201 is amended to read:

63A-3-201. Appointment of accounting and other officers and employees by director of the Division of Finance -- Delegation of powers and duties by director -- Background checks.

(1) With the approval of the executive director, the director of the Division of Finance shall appoint an accounting officer and other administrative officers that are necessary to efficiently and economically perform the functions of the Division of Finance.

(2) The director of the Division of Finance may:

(a) organize the division and employ other assistants to discharge the functions of the division;

(b) delegate to assistants, officers, and employees any of the powers and duties of the office subject to his or her control and subject to any conditions he may prescribe; and

(c) delegate the powers and duties of the office only by written order filed with the lieutenant governor.

(3) (a) As used in this Subsection (3):

(i) "Public employee" means a person employed by a state agency.

(ii) "Public funds" means money, funds, and accounts, regardless of the source from which the money, funds, and accounts are derived, that are owned, held, or administered by a state agency.

(iii) "Public funds position" means employment with a state agency that requires:

(A) physical or electronic access to public funds;

(B) performing internal control functions or accounting;

(C) creating reports on public funds; or

(D) using, operating, or accessing state systems that account for or help account for public funds.

(iv) "State agency" means:

(A) an executive branch agency; or

(B) a state educational institution with the exception of an institution defined in Subsection 53B-1-102(1).

(b) The Division of Finance may require that a public employee who applies for or holds a public funds position:

(i) submit a fingerprint card in a form acceptable to the division;

(ii) consent to a criminal background check by:

(A) the Federal Bureau of Investigation;

(B) the Utah Bureau of Criminal Identification; or

(C) another agency of any state that performs criminal background checks; or

(iii) consent to a credit history report, subject to the requirements of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.

(c) The Bureau of Criminal Identification shall provide all the results from the state, regional, and nationwide criminal history background checks to the division.

(d) The Division of Finance may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~adopt~~] make rules to implement this section.

Section 10. Section 63A-3-203 is amended to read:

63A-3-203. Accounting control over state departments and agencies -- Prescription

and approval of financial forms and accounting systems.

(1) The director of the Division of Finance shall:

(a) exercise accounting control over all state departments and agencies except institutions of higher education; and

(b) prescribe the manner and method of certifying that funds are available and adequate to meet all contracts and obligations.

(2) The director shall audit all claims against the state for which an appropriation [~~has been~~] is made.

(3) (a) The director shall prescribe:

(i) all forms of requisitions, receipts, vouchers, bills, or claims to be used by all state departments and agencies; and

(ii) all forms to be used by the division.

(b) Before approving the forms in Subsection (3)(a), the director shall obtain approval from the state auditor that the forms will adequately facilitate the post-audit of public accounts.

(4) Before implementation by any state agency, the director of the Division of Finance shall review and approve any accounting system developed by a state agency.

Section 11. Section 63A-3-310 is amended to read:

63A-3-310. Rules for implementing part.

The division may [~~adopt~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the implementation of this part, including rules for the conduct of hearings, injured spouse claims, and appointment of hearing examiners.

Section 12. Section 63A-4-101.5 is amended to read:

63A-4-101.5. Risk manager -- Appointment -- Duties.

(1) (a) There is created within the department the Division of Risk Management.

(b) The executive director shall, with the approval of the governor, appoint a risk manager as the division director, who shall be qualified by education and experience in the management of general property and casualty insurance.

(2) The risk manager shall:

(a) except as provided in Subsection (4), acquire and administer the following purchased by the state or any captive insurance company created by the risk manager:

(i) all property and casualty insurance;

(ii) reinsurance of property and casualty insurance; and

(iii) subject to Section 34A-2-203, workers' compensation insurance;

[~~(b) recommend that the executive director make rules:~~]

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) prescribing reasonable and objective underwriting and risk control standards for:

(A) all covered entities of the Risk Management Fund; and

(B) any captive insurance company created by the risk manager;

(ii) prescribing the risks to be covered by the Risk Management Fund and the extent to which these risks will be covered;

(iii) prescribing the properties, risks, deductibles, and amount limits eligible for payment out of the Risk Management Fund;

(iv) prescribing procedures for making claims and proof of loss; and

(v) establishing procedures for the resolution of disputes relating to coverage or claims, which may include binding arbitration;

(c) implement a risk management and loss prevention program for covered entities for the purpose of reducing risks, accidents, and losses to assist covered entities in fulfilling their responsibilities for risk control and safety;

(d) coordinate and cooperate with any covered entity having responsibility to manage and protect state properties, including:

(i) the state fire marshal;

(ii) the director of the Division of Facilities Construction and Management;

(iii) the Department of Public Safety;

(iv) institutions of higher education;

(v) school districts; and

(vi) charter schools;

(e) maintain records necessary to fulfill the requirements of this section;

(f) manage the Risk Management Fund and any captive insurance company created by the risk manager in accordance with economically and actuarially sound principles to produce adequate reserves for the payment of contingencies, including unpaid and unreported claims, and may purchase any insurance or reinsurance considered necessary to accomplish this objective; and

(g) inform the covered entity's governing body and the governor when any covered entity fails or refuses to comply with reasonable risk control recommendations made by the risk manager.

(3) Before the effective date of any rule, the risk manager shall provide a copy of the rule to each covered entity affected by it.

(4) The risk manager may not use a captive insurance company created by the risk manager to purchase:

(a) workers' compensation insurance;

(b) health insurance; or

(c) life insurance.

Section 13. Section 63A-4-102 is amended to read:

63A-4-102. Risk manager -- Powers.

(1) The risk manager may:

(a) enter into contracts;

(b) form one or more captive insurance companies authorized under Title 31A, Chapter 37, Captive Insurance Companies Act;

(c) purchase insurance or reinsurance;

(d) adjust, settle, and pay claims;

(e) pay expenses and costs;

(f) study the risks of all covered entities and properties;

(g) issue certificates of coverage or insurance for covered entities with respect to any risks covered by the Risk Management Fund or any captive insurance company created by the risk manager;

(h) make recommendations about risk management and risk reduction strategies to covered entities;

(i) in consultation with the attorney general, prescribe insurance, indemnification, and liability provisions to be included in all state contracts;

(j) review covered entity building construction, major remodeling plans, [~~agency~~] program plans, and make recommendations to the [~~agency~~] covered entity about needed changes to address risk considerations;

(k) attend [~~agency~~] covered entity planning and management meetings when necessary;

(l) review any proposed legislation and communicate with legislators and legislative committees about the liability or risk management issues connected with any legislation; and

(m) solicit any needed information about [~~agency plans, agency programs, or agency~~] covered entity plans, programs, or risks necessary to perform the risk manager's responsibilities under this part.

(2) (a) The risk manager may expend money from the Risk Management Fund to procure and provide coverage to all covered entities and their indemnified employees, except those entities or employees specifically exempted by statute.

(b) The risk manager shall apportion the costs of that coverage according to the requirements of this part.

(3) Before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency, the director shall:

(a) submit the proposed rates, fees, or other amount and cost analysis to the Rate Committee established in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410.

(4) The director shall conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed rates and [~~fees~~] premiums, which analysis shall include a comparison of the division's rates and [~~fees with the fees~~] premiums with the rates and premiums of other public or private sector providers where comparable services and rates are reasonably available.

Section 14. Section 63A-4-201 is amended to read:

63A-4-201. Risk Management Fund created -- Administration -- Use.

(1) (a) There is created the Risk Management Fund, which shall be administered by the risk manager.

(b) The fund shall cover property, liability, fidelity, and other risks as determined by the risk manager in consultation with the executive director.

(2) The risk manager may only use the Risk Management Fund to pay:

(a) insurance or reinsurance premiums;

(b) costs of administering the Risk Management Fund and any captive insurance companies created by the risk manager;

(c) loss adjustment expenses;

(d) risk control and related educational and training expenses; and

(e) loss costs which at the time of loss were eligible for payment under rules [~~previously issued by the executive director under the authority of Section 63A-4-101.5~~] made by the risk manager in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In addition to any money appropriated to the Risk Management Fund by the Legislature, the risk manager shall deposit with the state treasurer for credit to the Risk Management Fund:

(a) any insured loss or loss expenses paid by insurance or reinsurance companies;

(b) the gross amount of all premiums and surcharges received under Section 63A-4-202;

(c) the net refunds from cancelled insurance policies necessary to self-insure previously insured risks, with the balance of the proceeds to be refunded to the previously insured entities;

(d) all refunds, returns, or dividends from insurance carriers not specifically covered in Subsections (3)(a), (b), and (c);

(e) savings from amounts otherwise appropriated for participation in the fund; and

(f) all net proceeds from sale of salvage and subrogation recoveries from adverse parties related to losses paid out of the fund.

(4) The state treasurer shall invest the Risk Management Fund in accordance with Section 63A-4-208 and deposit all interest or other income earned from investments into the Risk Management Fund.

Section 15. Section 63A-5b-203 is amended to read:

63A-5b-203. Meetings of state building board -- Rules of procedure -- Quorum.

(1) The board shall meet quarterly and at other times at the call of the executive director or at the request of the board chair.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall [~~adopt~~] make rules of procedure for the conduct of the board's meetings.

(3) Four members of the board constitute a quorum for the transaction of business.

(4) The board shall conduct all meetings of the board in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 16. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or of the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) implement the state building energy efficiency program under Section 63A-5b-1002;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed $250,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for an institution of higher education or an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

(c) The supervision and control of the trial courts area is reserved to the judiciary.

(d) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504.

Section 17. Section 63A-5b-606 is amended to read:

63A-5b-606. Dispute resolution process -- Penalties for fraud or bad faith claim.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall [~~adopt~~] make rules for the division establishing a process for resolving disputes involved with

contracts under the division's procurement authority.

(2) The director shall consider, and the rules may include:

(a) requirements regarding preliminary resolution efforts between the parties directly involved with the dispute;

(b) requirements for the filing of a claim, including notification, time frames, and documentation;

(c) identification of the types of costs eligible for allocation and a method for allocating costs among the parties to the dispute;

(d) a required time period, not to exceed 60 days, for the resolution of the claim;

(e) a provision for an independent hearing officer, panel, or arbitrator to extend the time period for resolution of the claim by not to exceed 60 additional days for good cause;

(f) a provision for the extension of required time periods if the claimant agrees;

(g) requirements that decisions be issued in writing;

(h) provisions for an administrative appeal of a decision;

(i) provisions for the timely payment of claims after resolution of the dispute, including any appeals;

(j) a requirement that the final determination resulting from the dispute resolution process provided for in the rules is a final agency action subject to judicial review as provided in Sections 63G-4-401 and 63G-4-402;

(k) a requirement that a claim or dispute that does not include a monetary claim against the division or an agent of the division is not limited to the dispute resolution process provided for in this section;

(l) requirements for claims and disputes to be eligible for the dispute resolution process under this section;

(m) the use of an independent hearing officer or panel or the use of arbitration or mediation; and

(n) the circumstances under which a subcontractor may file a claim directly with the division.

(3) A person pursuing a claim under the process established as provided in this section:

(a) is bound by the decision reached under this process, subject to any modification of the decision on appeal; and

(b) may not pursue a claim, protest, or dispute under the dispute resolution process established in Title 63G, Chapter 6a, Utah Procurement Code.

(4) A fraudulent misrepresentation made by or bad faith claim pursued by a contractor, subcontractor, or supplier, may be grounds for:

(a) the director to suspend or debar the contractor, subcontractor, or supplier; or

(b) the contractor, subcontractor, or supplier to be disciplined by the Division of Professional and Occupational Licensing.

Section 18. Section 63A-5b-607 is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.

(c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6) (a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules [~~adopted~~] made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules [~~adopted~~] made by the division under this section, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall [~~adopt administrative~~] make rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health in accordance with Subsection 26-40-115(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10) (a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 19. Section 63A-5b-903 is amended to read:

63A-5b-903. Rules made by the division.

The division may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules [~~to~~] that:

(1) establish criteria that a written proposal is required to satisfy in order to be a qualified proposal, including, if applicable, a minimum acceptable purchase price; and

(2) define criteria that the director will consider in making a determination whether a proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property provides a material benefit to the state.

Section 20. Section 63A-9-401 is amended to read:

63A-9-401. Division -- Duties.

(1) The division shall:

(a) perform all administrative duties and functions related to management of state vehicles;

(b) coordinate all purchases of state vehicles;

(c) establish one or more fleet automation and information systems for state vehicles;

(d) make rules establishing requirements for:

(i) maintenance operations for state vehicles;

(ii) use requirements for state vehicles;

(iii) fleet safety and loss prevention programs;

(iv) preventative maintenance programs;

(v) procurement of state vehicles, including:

(A) vehicle standards;

(B) alternative fuel vehicle requirements;

(C) short-term lease programs;

(D) equipment installation; and

(E) warranty recovery programs;

(vi) fuel management programs;

(vii) cost management programs;

(viii) business and personal use practices, including commute standards;

(ix) cost recovery and billing procedures;

(x) disposal of state vehicles;

(xi) reassignment of state vehicles and reallocation of vehicles throughout the fleet;

(xii) standard use and rate structures for state vehicles; and

(xiii) insurance and risk management requirements;

(e) establish a parts inventory;

(f) create and administer a fuel dispensing services program that meets the requirements of Subsection (2);

(g) emphasize customer service when dealing with agencies and agency employees;

(h) conduct an annual audit of all state vehicles for compliance with division requirements;

(i) before charging a rate, fee, or other amount to an executive branch agency, or to a subscriber of services other than an executive branch agency:

(i) submit the proposed rates, fees, and cost analysis to the Rate Committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63J-1-410 or 63J-1-504; and

(j) conduct an annual market analysis of proposed rates and fees, which analysis shall include a comparison of the division's rates and fees with the fees of other public or private sector providers where comparable services and rates are reasonably available.

(2) The division shall operate a fuel dispensing services program in a manner that:

(a) reduces the risk of environmental damage and subsequent liability for leaks involving state-owned underground storage tanks;

(b) eliminates fuel site duplication and reduces overall costs associated with fuel dispensing;

(c) provides efficient fuel management and efficient and accurate accounting of fuel-related expenses;

(d) where practicable, privatizes portions of the state's fuel dispensing system;

(e) provides central planning for fuel contingencies;

(f) establishes fuel dispensing sites that meet geographical distribution needs and that reflect usage patterns;

(g) where practicable, uses alternative sources of energy; and

(h) provides safe, accessible fuel supplies in an emergency.

(3) The division shall:

(a) ensure that the state and each of its agencies comply with state and federal law and state and federal rules and regulations governing underground storage tanks;

(b) coordinate the installation of new state-owned underground storage tanks and the upgrading or retrofitting of existing underground storage tanks;

(c) by no later than June 30, 2025, ensure that an underground storage tank qualifies for a rebate, provided under Subsection 19-6-410.5(5)(d), of a portion of the environmental assurance fee described in Subsection 19-6-410.5(4), if the underground storage tank is owned by:

(i) the state;

(ii) a state agency; or

(iii) a county, municipality, school district, local district, special service district, or federal agency that has subscribed to the fuel dispensing service provided by the division under Subsection (6)(b);

(d) report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee by no later than:

(i) November 30, 2020, on the status of the requirements of Subsection (3)(c); and

(ii) November 30, 2024, on whether:

(A) the requirements of Subsection (3)(c) have been met; and

(B) additional funding is needed to accomplish the requirements of Subsection (3)(c); and

(e) ensure that counties, municipalities, school districts, local districts, and special service districts subscribing to services provided by the division sign a contract that:

(i) establishes the duties and responsibilities of the parties;

(ii) establishes the cost for the services; and

(iii) defines the liability of the parties.

(4) In fulfilling the requirements of Subsection (3)(c), the division may give priority to underground storage tanks owned by the state or a state agency under Subsections (3)(c)(i) and (ii).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of the Division of Fleet Operations:

(i) may make rules governing fuel dispensing; and

(ii) shall make rules establishing standards and procedures for purchasing the most economically appropriate size and type of vehicle for the purposes and driving conditions for which the vehicle will be used, including procedures for granting exceptions to the standards by the executive director of the Department of Government Operations.

(b) Rules made under Subsection (5)(a)(ii):

(i) shall designate a standard vehicle size and type that shall be designated as the statewide standard vehicle for fleet expansion and vehicle replacement;

(ii) may designate different standard vehicle size and types based on defined categories of vehicle use;

(iii) may, when determining a standard vehicle size and type for a specific category of vehicle use, consider the following factors affecting the vehicle class:

(A) size requirements;

(B) economic savings;

(C) fuel efficiency;

(D) driving and use requirements;

(E) safety;

(F) maintenance requirements;

(G) resale value; and

(H) the requirements of Section 63A-9-403; and

(iv) shall require agencies that request a vehicle size and type that is different from the standard vehicle size and type to:

(A) submit a written request for a nonstandard vehicle to the division that contains the following:

(I) the make and model of the vehicle requested, including acceptable alternate vehicle makes and models as applicable;

(II) the reasons justifying the need for a nonstandard vehicle size or type;

(III) the date of the request; and

(IV) the name and signature of the person making the request; and

(B) obtain the division's written approval for the nonstandard vehicle.

(6) (a) (i) Each state agency and each higher education institution shall subscribe to the fuel dispensing services provided by the division.

(ii) A state agency may not provide or subscribe to any other fuel dispensing services, systems, or products other than those provided by the division.

(b) Counties, municipalities, school districts, local districts, special service districts, and federal agencies may subscribe to the fuel dispensing services provided by the division if:

(i) the county or municipal legislative body, the school district, or the local district or special service district board recommends that the county, municipality, school district, local district, or special service district subscribe to the fuel dispensing services of the division; and

(ii) the division approves participation in the program by that government unit.

(7) The director, with the approval of the executive director, may delegate functions to institutions of higher education, by contract or other means authorized by law, if:

(a) the agency or institution of higher education has requested the authority;

(b) in the judgment of the director, the state agency or institution has the necessary resources and skills to perform the delegated responsibilities; and

(c) the delegation of authority is in the best interest of the state and the function delegated is accomplished according to provisions contained in law or rule.

Section 21. Section 63A-9-501 is amended to read:

63A-9-501. Complaints about misuse or illegal operation of state vehicles -- Disposition.

(1) The division shall refer complaints from the public about misuse or illegal operation of state vehicles to the agency that is the owner or lessor of the vehicle.

(2) Each agency head or [~~his~~] the agency head's designee shall investigate all complaints about misuse or illegal operation of state vehicles and shall discipline each employee that is found to have misused or illegally operated a vehicle by following the procedures [~~set forth~~] described in the rules [~~adopted~~] made by the Division of Human Resource Management, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as authorized by Section 63A-17-306.

(3) (a) Each agency shall report the findings of each investigation conducted as well as any action taken as a result of the investigation to the directors of the Divisions of Fleet Operations and Risk Management.

(b) Misuse or illegal operation of state vehicles may result in suspension or revocation of state vehicle driving privileges as governed in rule.

Section 22. Section 63A-12-101 is amended to read:

63A-12-101. Division of Archives and Records Service created -- Duties.

(1) There is created the Division of Archives and Records Service within the department.

(2) The state archives shall:

(a) administer the state's archives and records management programs, including storage of records, central [~~microphotography~~] reformatting programs, and quality control;

(b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;

(c) establish standards, procedures, and techniques for the effective management and physical care of records;

(d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;

(e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

(f) establish, maintain, and operate centralized [~~microphotography~~] reformatting lab facilities and quality control for the state;

(g) provide staff and support services to the Records Management Committee created in Section 63A-12-112 and the State Records Committee created in Section 63G-2-501;

(h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(i) provide access to public records deposited in the archives;

(j) administer and maintain the Utah Public Notice Website established under Section 63A-16-601;

(k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;

(l) prepare forms for use by all governmental entities for a person requesting access to a record; and

(m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate [~~and fee~~] schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee.

(3) The state archives may:

(a) establish a report and directives management program; and

(b) establish a forms management program.

(4) The executive director may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Section 23. Section 63A-12-104 is amended to read:

63A-12-104. Rulemaking authority.

(1) The [~~executive director of the department, with the recommendation of the~~] state archivist, may make rules [~~as provided by~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, dealing with procedures for the collection, storage, designation, classification, access, mediation for records access, and management of records.

(2) A governmental entity that includes divisions, boards, departments, committees, commissions, or other subparts that fall within the definition of a governmental entity under this chapter, may, by rule, specify at which level the requirements specified in this chapter shall be undertaken.

Section 24. Section 63A-16-102 is amended to read:

63A-16-102. Definitions.

As used in this chapter:

(1) "Chief information officer" means the chief information officer appointed under Section 63A-16-201.

(2) "Data center" means a centralized repository for the storage, management, and dissemination of data.

(3) "Division" means the Division of Technology Services.

(4) "Enterprise architecture" means:

(a) information technology assets and functions that can be applied across state government[~~; and~~], including:

(i) mainframes, servers, desktop devices, peripherals, and other computing devices;

(ii) networks;

(iii) enterprise-wide applications;

(iv) maintenance and help desk functions for common hardware and applications;

(v) standards for other computing devices, operating systems, common applications, and software; and

(vi) master contracts that are available for use by agencies for various systems, including operating systems, databases, enterprise resource planning and customer relationship management software, application development services, and enterprise integration; and

(b) support for information technology that can be applied across state government, including:

(i) technical support;

(ii) master software licenses; and

(iii) hardware and software standards.

(5) (a) "Executive branch agency" means an agency or administrative subunit of state government.

(b) "Executive branch agency" does not include:

(i) the legislative branch;

(ii) the judicial branch;

(iii) the State Board of Education;

(iv) the Utah Board of Higher Education;

(v) institutions of higher education;

(vi) independent entities as defined in Section 63E-1-102; or

(vii) the following elective constitutional offices of the executive department:

(A) the state auditor;

(B) the state treasurer; and

(C) the attorney general.

(6) "Executive branch strategic plan" means the executive branch strategic plan created under Section 63A-16-202.

(7) "Individual with a disability" means an individual with a condition that meets the definition of "disability" in 42 U.S.C. Sec. 12102.

(8) "Information technology" means all computerized and auxiliary automated information handling, including:

(a) systems design and analysis;

(b) acquisition, storage, and conversion of data;

(c) computer programming;

(d) information storage and retrieval;

(e) voice, video, and data communications;

(f) requisite systems controls;

(g) simulation; and

(h) all related interactions between people and machines.

(9) "State information architecture" means a logically consistent set of principles, policies, and standards that guide the engineering of state government's information technology and infrastructure in a way that ensures alignment with state government's business and service needs.

Section 25. Section 63A-16-104 is amended to read:

63A-16-104. Duties of division.

The division shall:

(1) lead state executive branch agency efforts to establish and reengineer the state's information technology architecture with the goal of coordinating central and individual agency information technology in a manner that:

(a) ensures compliance with the executive branch agency strategic plan; and

(b) ensures that cost-effective, efficient information and communication systems and resources are being used by agencies to:

(i) reduce data, hardware, and software redundancy;

(ii) improve system interoperability and data accessibility between agencies; and

(iii) meet the agency's and user's business and service needs;

(2) coordinate an executive branch strategic plan for all agencies;

(3) develop and implement processes to replicate information technology best practices and standards throughout the executive branch;

(4) at least once every odd-numbered year:

(a) evaluate the adequacy of the division's and the executive branch agencies' data and information technology system security standards through an independent third party assessment; and

(b) communicate the results of the independent third party assessment to the appropriate executive branch agencies and to the president of the Senate and the speaker of the House of Representatives;

(5) oversee the expanded use and implementation of project and contract management principles as they relate to information technology projects within the executive branch;

(6) serve as general contractor between the state's information technology users and private sector providers of information technology products and services;

(7) work toward building stronger partnering relationships with providers;

(8) develop service level agreements with executive branch departments and agencies to ensure quality products and services are delivered on schedule and within budget;

(9) develop standards for application development including a standard methodology and cost-benefit analysis that all agencies shall utilize for application development activities;

(10) determine and implement statewide efforts to standardize data elements;

(11) coordinate with executive branch agencies to provide basic website standards for agencies that address common design standards and navigation standards, including:

(a) accessibility for individuals with disabilities in accordance with:

(i) the standards of 29 U.S.C. Sec. 794d; and

(ii) Section 63A-16-209;

(b) consistency with standardized government security standards;

(c) designing around user needs with data-driven analysis influencing management and development decisions, using qualitative and quantitative data to determine user goals, needs, and behaviors, and continual testing of the website, web-based form, web-based application, or digital service to ensure that user needs are addressed;

(d) providing users of the website, web-based form, web-based application, or digital service with the option for a more customized digital experience that allows users to complete digital transactions in an efficient and accurate manner; and

(e) full functionality and usability on common mobile devices;

(12) consider, when making a purchase for an information system, cloud computing options, including any security benefits, privacy, data retention risks, and cost savings associated with cloud computing options;

(13) develop systems and methodologies to review, evaluate, and prioritize existing information technology projects within the executive branch and report to the governor and the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee in accordance with Section 63A-16-201 on a semiannual basis regarding the status of information technology projects;

(14) assist the Governor's Office of Planning and Budget with the development of information technology budgets for agencies; [~~and~~]

(15) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this chapter;

(b) by the department; or

(c) by the division[~~.~~];

(16) provide support to executive branch agencies for the information technology assets and functions that are unique to the agency and are mission critical functions of the agency;

(17) provide in-house information technology staff support to executive branch agencies;

(18) establish a committee composed of agency user groups to coordinate division services with agency needs;

(19) assist executive branch agencies in complying with the requirements of any rule made by the chief information officer;

(20) develop and implement an effective enterprise architecture governance model for the executive branch;

(21) provide oversight of information technology projects that impact statewide information technology services, assets, or functions of state government to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources;

(22) develop a method of accountability to agencies for services provided by the department through service agreements with the agencies;

(23) serve as a project manager for enterprise architecture, including management of applications, standards, and procurement of enterprise architecture;

(24) coordinate the development and implementation of advanced state telecommunication systems;

(25) provide services, including technical assistance:

(a) to executive branch agencies and subscribers to the services; and

(b) related to information technology or telecommunications;

(26) establish telecommunication system specifications and standards for use by:

(a) one or more executive branch agencies; or

(b) one or more entities that subscribe to the telecommunication systems in accordance with Section 63A-16-303;

(27) coordinate state telecommunication planning, in cooperation with:

(a) state telecommunication users;

(b) executive branch agencies; and

(c) other subscribers to the state's telecommunication systems;

(28) cooperate with the federal government, other state entities, counties, and municipalities in the development, implementation, and maintenance of:

(a) (i) governmental information technology; or

(ii) governmental telecommunication systems; and

(b) (i) as part of a cooperative organization; or

(ii) through means other than a cooperative organization;

(29) establish, operate, manage, and maintain:

(a) one or more state data centers; and

(b) one or more regional computer centers;

(30) design, implement, and manage all state-owned, leased, or rented land, mobile, or radio telecommunication systems that are used in the delivery of services for state government or the state's political subdivisions;

(31) in accordance with the executive branch strategic plan, implement minimum standards to be used by the division for purposes of compatibility of procedures, programming languages, codes, and media that facilitate the exchange of information within and among telecommunication systems;

(32) establish standards for the information technology needs of a collection of executive branch agencies or programs that share common characteristics relative to the types of stakeholders the agencies or programs serve, including:

(a) project management;

(b) application development; and

(c) procurement;

(33) provide oversight of information technology standards that impact multiple executive branch agency information technology services, assets, or functions to:

(a) control costs;

(b) ensure business value to a project;

(c) maximize resources;

(d) ensure the uniform application of best practices; and

(e) avoid duplication of resources; and

(34) establish a system of accountability to user agencies through the use of service agreements.

Section 26. Section 63A-16-105 is amended to read:

63A-16-105. Director -- Authority.

(1) The executive director shall, with the approval of the governor, appoint the director.

(2) The director:

(a) shall exercise all powers given to, and perform all duties imposed on, the division;

(b) has administrative jurisdiction over the division and each office within the division;

(c) may make changes in division personnel and service functions under the director's administrative jurisdiction; and

(d) may authorize a designee to perform appropriate responsibilities.

(3) The director may, to facilitate division management, establish offices and bureaus to perform division functions.

(4) (a) The director may hire employees in the division and offices of the division as permitted by division resources.

(b) Except as provided in Subsection (5), each employee of the division is exempt from career service or classified service status as provided in Section 63A-17-301.

(5) (a) [~~An~~] Unless the employee voluntarily converted to an exempt position described in Section 63A-17-301, an employee of an executive branch agency who was a career service employee as of July 1, 2005, who was transferred to the division at the time it was newly created as the Department of Technology Services continues in the employee's career service status during the employee's service to the division if the duties of the position in the division are substantially similar to those in the employee's previous position.

(b) A career service employee transferred under the provisions of Subsection (5)(a), whose duties or responsibilities subsequently change, may not be converted to exempt status without the review process required by Subsection 63A-17-301(3).

Section 27. Section 63A-16-201 is amended to read:

63A-16-201. Chief information officer -- Appointment -- Powers -- Reporting.

(1) The director of the division shall serve as the state's chief information officer.

(2) The chief information officer shall:

(a) advise the governor on information technology policy; and

(b) perform those duties given the chief information officer by statute.

(3) (a) The chief information officer shall report annually to:

(i) the governor; and

(ii) the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee.

(b) The report required under Subsection (3)(a) shall:

(i) summarize the state's current and projected use of information technology;

(ii) summarize the executive branch strategic plan including a description of major changes in the executive branch strategic plan;

(iii) provide a brief description of each state agency's information technology plan;

(iv) include the status of information technology projects described in Subsection 63A-16-104(11);

(v) include the performance report described in Section 63A-16-211; and

(vi) include the expenditure of the funds provided for electronic technology, equipment, and hardware.

Section 28. Section 63A-16-202 is amended to read:

63A-16-202. Executive branch information technology strategic plan.

(1) In accordance with this section, the chief information officer shall prepare an executive branch information technology strategic plan:

(a) that complies with this chapter; and

(b) that includes:

(i) a strategic plan for the:

(A) interchange of information related to information technology between executive branch agencies;

(B) coordination between executive branch agencies in the development and maintenance of information technology and information systems, including the coordination of agency information technology plans described in Section 63A-16-203; and

(C) protection of the privacy of individuals who use state information technology or information systems, including the implementation of industry best practices for data and system security;

(ii) priorities for the development and implementation of information technology or information systems including priorities determined on the basis of:

(A) the importance of the information technology or information system; and

(B) the time sequencing of the information technology or information system; and

(iii) maximizing the use of existing state information technology resources.

(2) In the development of the executive branch strategic plan, the chief information officer shall consult with all cabinet level officials.

(3) (a) Unless withdrawn by the chief information officer or the governor in accordance with Subsection (3)(b), the executive branch strategic plan takes effect 30 days after the day on which the executive branch strategic plan is submitted to:

(i) the governor; and

(ii) the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee.

(b) The chief information officer or the governor may withdraw the executive branch strategic plan submitted under Subsection (3)(a) if the governor or chief information officer determines that the executive branch strategic plan:

(i) should be modified; or

(ii) for any other reason should not take effect.

(c) The [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee may make recommendations to the governor and to the chief information officer if the commission determines that the executive branch strategic plan should be modified or for any other reason should not take effect.

(d) Modifications adopted by the chief information officer shall be resubmitted to the governor and the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee for their review or approval as provided in Subsections (3)(a) and (b).

(4) (a) The chief information officer shall annually, on or before January 1, modify the executive branch information technology strategic plan to incorporate security standards that:

(i) are identified as industry best practices in accordance with Subsections 63A-16-104(3) and (4); and

(ii) can be implemented within the budget of the department or the executive branch agencies.

(b) The chief information officer shall inform the speaker of the House of Representatives and the president of the Senate on or before January 1 of each year if best practices identified in Subsection (4)(a)(i) are not adopted due to budget issues considered under Subsection (4)(a)(ii).

(5) Each executive branch agency shall implement the executive branch strategic plan by adopting an agency information technology plan in accordance with Section 63A-16-203.

Section 29. Section 63A-16-203 is amended to read:

63A-16-203. Agency information technology plans.

(1) (a) On or before July 1 each year, each executive branch agency shall submit an agency

information technology plan to the chief information officer at the department level, unless the governor or the chief information officer request an information technology plan be submitted by a subunit of a department, or by an executive branch agency other than a department.

(b) The information technology plans required by this section shall be in the form and level of detail required by the chief information officer, by administrative rule [~~adopted in accordance with~~] under Section 63A-16-205, and shall include, at least:

(i) the information technology objectives of the agency;

(ii) any performance measures used by the agency for implementing the agency's information technology objectives;

(iii) any planned expenditures related to information technology;

(iv) the agency's need for appropriations for information technology;

(v) how the agency's development of information technology coordinates with other state and local governmental entities;

(vi) any efforts the agency has taken to develop public and private partnerships to accomplish the information technology objectives of the agency;

(vii) the efforts the executive branch agency has taken to conduct transactions electronically in compliance with Section 46-4-503; and

(viii) the executive branch agency's plan for the timing and method of verifying the department's security standards, if an agency intends to verify the department's security standards for the data that the agency maintains or transmits through the department's servers.

(2) (a) Except as provided in Subsection (2)(b), an agency information technology plan described in Subsection (1) shall comply with the executive branch strategic plan established in accordance with Section 63A-16-202.

(b) If the executive branch agency submitting the agency information technology plan justifies the need to depart from the executive branch strategic plan, an agency information technology plan may depart from the executive branch strategic plan to the extent approved by the chief information officer.

(3) The chief information officer shall review each agency plan to determine:

(a) (i) whether the agency plan complies with the executive branch strategic plan and state information architecture; or

(ii) to the extent that the agency plan does not comply with the executive branch strategic plan or state information architecture, whether the executive branch entity is justified in departing from the executive branch strategic plan, or state information architecture; and

(b) whether the agency plan meets the information technology and other needs of:

(i) the executive branch agency submitting the plan; and

(ii) the state.

(4) After the chief information officer conducts the review described in Subsection (3) of an agency information technology plan, the chief information officer may:

(a) approve the agency information technology plan;

(b) disapprove the agency information technology plan; or

(c) recommend modifications to the agency information technology plan.

(5) An executive branch agency or the department may not submit a request for appropriation related to information technology or an information technology system to the governor in accordance with Section 63J-1-201 until after the executive branch agency's information technology plan is approved by the chief information officer.

Section 30. Section 63A-16-205 is amended to read:

63A-16-205. Rulemaking -- Policies.

(1) (a) Except as provided in Subsection (2), the chief information officer shall, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) provide standards that impose requirements on executive branch agencies that:

(A) are related to the security of the statewide area network; and

(B) establish standards for when an agency must obtain approval before obtaining items listed in Subsection 63A-16-204(1);

(ii) specify the detail and format required in an agency information technology plan submitted in accordance with Section 63A-16-203;

(iii) provide for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency;

(iv) provide for the acquisition, licensing, and sale of computer software;

(v) specify the requirements for the project plan and business case analysis required by Section 63A-16-204;

(vi) provide for project oversight of agency technology projects when required by Section 63A-16-204;

(vii) establish, in accordance with Subsection 63A-16-204(2), the implementation of the needs assessment for information technology purchases;

(viii) establish telecommunications standards and specifications in accordance with

[~~Section 63A-16-403~~] Subsection 63A-16-104(26); and

(ix) establish standards for accessibility of information technology by individuals with disabilities in accordance with Section 63A-16-209.

(b) The rulemaking authority granted by this Subsection (1) is in addition to any other rulemaking authority granted under this chapter.

(2) (a) Notwithstanding Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to Subsection (2)(b), the chief information officer may adopt a policy that outlines procedures to be followed by the chief information officer in facilitating the implementation of this title by executive branch agencies if the policy:

(i) is consistent with the executive branch strategic plan; and

(ii) is not required to be made by rule under Subsection (1) or Section 63G-3-201.

(b) (i) A policy adopted by the chief information officer under Subsection (2)(a) may not take effect until 30 days after the day on which the chief information officer submits the policy to:

(A) the governor; and

(B) all cabinet level officials.

(ii) During the 30-day period described in Subsection (2)(b)(i), cabinet level officials may review and comment on a policy submitted under Subsection (2)(b)(i).

(3) (a) Notwithstanding Subsection (1) or (2) or Title 63G, Chapter 3, Utah Administrative Rulemaking Act, without following the procedures of Subsection (1) or (2), the chief information officer may adopt a security procedure to be followed by executive branch agencies to protect the statewide area network if:

(i) broad communication of the security procedure would create a significant potential for increasing the vulnerability of the statewide area network to breach or attack; and

(ii) after consultation with the chief information officer, the governor agrees that broad communication of the security procedure would create a significant potential increase in the vulnerability of the statewide area network to breach or attack.

(b) A security procedure described in Subsection (3)(a) is classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) The chief information officer shall provide a copy of the security procedure as a protected record to:

(i) the chief justice of the Utah Supreme Court for the judicial branch;

(ii) the speaker of the House of Representatives and the president of the Senate for the legislative branch;

(iii) the chair of the Utah Board of Higher Education; and

(iv) the chair of the State Board of Education.

Section 31. Section 63A-16-208 is amended to read:

63A-16-208. Delegation of division staff to executive branch agencies -- Prohibition against executive branch agency information technology staff.

(1) (a) The chief information officer shall assign division staff to serve an agency in-house if the chief information officer and the executive branch agency director jointly determine it is appropriate to provide information technology services to:

(i) the agency's unique mission-critical functions and applications;

(ii) the agency's participation in and use of statewide enterprise architecture; and

(iii) the agency's use of coordinated technology services with other agencies that share similar characteristics with the agency.

(b) (i) An agency may request the chief information officer to assign in-house staff support from the division.

(ii) The chief information officer shall respond to the agency's request for in-house staff support in accordance with Subsection (1)(a).

(c) The division shall enter into service agreements with an agency when division staff is assigned in-house to the agency under the provisions of this section.

(d) An agency that receives in-house staff support assigned from the division under the provision of this section is responsible for paying the rates charged by the division for that staff as established under Section 63A-16-301.

(2) (a) An executive branch agency may not create a full-time equivalent position or part-time position, or request an appropriation to fund a full-time equivalent position or part-time position under the provisions of Section 63J-1-201 for the purpose of providing information technology services to the agency unless:

(i) the chief information officer has approved a delegation under Section 63A-16-207; and

(ii) the division conducts an audit [~~under~~] in relation to Section [~~63A-16-213~~] 63A-16-102 and finds that the delegation of information technology services to the agency meets the requirements of Section 63A-16-207.

(b) The prohibition against a request for appropriation under Subsection (2)(a) does not apply to a request for appropriation needed to pay rates imposed under Subsection (1)(d).

Section 32. Section 63A-16-211 is amended to read:

63A-16-211. Report to the Legislature.

The division shall, in accordance with Section 63F-16-201, before November 1 each year, report to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee on:

(1) performance measures that the division uses to assess the division's effectiveness in performing the division's duties under this part; and

(2) the division's performance, evaluated in accordance with the performance measures described in Subsection (1).

Section 33. Section 63A-16-301 is amended to read:

63A-16-301. Cost based services -- Rates -- Submission to rate committee.

(1) The chief information officer shall:

(a) at the lowest practical cost, manage the delivery of efficient and cost-effective information technology and telecommunication services for:

(i) all executive branch agencies; and

(ii) entities that subscribe to the services in accordance with Section 63A-16-303; and

(b) provide priority service to public safety agencies.

(2) (a) In accordance with this Subsection (2), the chief information officer shall prescribe a schedule of [~~fees~~] rates for all services rendered by the division to:

(i) an executive branch entity; or

(ii) an entity that subscribes to services rendered by the division in accordance with Section 63A-16-303.

(b) Each [~~fee~~] rate included in the schedule of [~~fees~~] rates required by Subsection (2)(a):

(i) shall be equitable;

(ii) should be based upon a zero based, full cost accounting of activities necessary to provide each service for which a [~~fee~~] rate is established; and

(iii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of each service.

(c) Before charging a [~~fee~~] rate for its services to an executive branch agency or to a subscriber of services other than an executive branch agency, the chief information officer shall:

(i) submit the proposed rates[~~, fees,~~] and cost analysis to the Rate Committee established in Section 63A-1-114; and

(ii) obtain the approval of the Legislature as required by Section 63J-1-410.

(d) The chief information officer shall periodically conduct a market analysis of proposed rates [~~and fees~~], which analysis shall include a comparison of the division's rates with the [~~fees~~] rates of other public or private sector providers where comparable services and rates are reasonably available.

Section 34. Section 63A-16-501 is amended to read:

63A-16-501. Definitions.

As used in this part:

(1) "Center" means the Utah Geospatial Resource Center created in Section 63A-16-505.

(2) "Database" means the State Geographic Information Database created in Section 63A-16-506.

(3) "Geographic Information System" or "GIS" means a computer driven data integration and map production system that interrelates disparate layers of data to specific geographic locations.

[~~(4) "Office" means the Office of Integrated Technology, created in Section 63A-16-502.~~]

[~~(5)~~] (4) "State Geographic Information Database" means the database created in Section 63A-16-506.

[~~(6)~~] (5) "Statewide Global Positioning Reference Network" or "network" means the network created in Section 63A-16-508.

Section 35. Section 63A-16-504 is amended to read:

63A-16-504. Information technology plan.

(1) In accordance with this section, the [~~office~~] division shall submit an information technology plan to the chief information officer.

(2) The information technology plan submitted by the [~~office~~] division under this section shall include:

(a) the information required by Section 63A-16-202;

(b) a list of the services the [~~office~~] division offers or plans to offer; and

(c) a description of the performance measures used by the [~~office~~] division to measure the quality of the services described in Subsection (2)(b).

(3) (a) In submitting the information technology plan under this section, the [~~office~~] division shall comply with Section 63A-16-203.

(b) The information technology plan submitted by the [~~office~~] division under this section is subject to the approval of the chief information officer as provided in Section 63A-16-203.

Section 36. Section 63A-16-505 is amended to read:

63A-16-505. Utah Geospatial Resource Center.

(1) There is created the Utah Geospatial Resource Center as part of the [~~office~~] division.

(2) The center shall:

(a) provide geographic information system services to state agencies under rules [~~adopted in accordance with Section 63A-16-503~~] made under Section 63A-16-104 and policies established by the office;

(b) provide geographic information system services to federal government, local political subdivisions, and private persons under rules and policies established by the office;

(c) manage the State Geographic Information Database; and

(d) establish standard format, lineage, and other requirements for the database.

(3) (a) There is created a position of surveyor within the center.

(b) The surveyor under this Subsection (3) shall:

(i) be licensed as a professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) provide technical support to the office of lieutenant governor in the lieutenant governor's evaluation under Section 67-1a-6.5 of a proposed boundary action, as defined in Section 17-23-20;

(iii) as requested by a county surveyor, provide technical assistance to the county surveyor with respect to the county surveyor's responsibilities under Section 17-23-20;

(iv) fulfill the duties described in Section 17-50-105, if engaged to do so as provided in that section;

(v) assist the State Tax Commission in processing and quality assurance of boundary descriptions or maps into digital format for inclusion in the State Geographic Information Database;

(vi) coordinate with county recorders and surveyors to create a statewide parcel layer in the State Geographic Information Database containing parcel boundary, parcel identifier, parcel address, owner type, and county recorder contact information; and

(vii) facilitate and integrate the collection efforts of local government and federal agencies for data collection to densify and enhance the statewide Public Land Survey System reference network in the State Geographic Information Database.

(4) The office may:

(a) make rules and establish policies to govern the center and the center's operations; and

(b) set fees for the services provided by the center.

(5) The state may not sell information obtained from counties under Subsection (3)(b)(v).

Section 37. Section 63A-16-701 is amended to read:

63A-16-701. Data Security Management Council -- Membership -- Duties.

(1) There is created the Data Security Management Council comprising eight members as follows:

(a) the chief information officer appointed under Section 63A-16-201, or the chief information officer's designee;

(b) one individual appointed by the governor;

(c) one individual appointed by the speaker of the House of Representatives and the president of the Senate; and

(d) the highest ranking information technology official, or the highest ranking information technology official's designee, from each of:

(i) the Judicial Council;

(ii) the Utah Board of Higher Education;

(iii) the State Board of Education;

(iv) the State Tax Commission; and

(v) the Office of the Attorney General.

(2) The council shall elect a chair of the council by majority vote.

(3) (a) A majority of the members of the council constitutes a quorum.

(b) Action by a majority of a quorum of the council constitutes an action of the council.

(4) The Division of Technology Services shall provide staff to the council.

(5) The council shall meet quarterly, or as often as necessary, to:

(a) review existing state government data security policies;

(b) assess ongoing risks to state government information technology;

(c) create a method to notify state and local government entities of new risks;

(d) coordinate data breach simulation exercises with state and local government entities; and

(e) develop data security best practice recommendations for state government that include recommendations regarding:

(i) hiring and training a chief information security officer for each government entity;

(ii) continuous risk monitoring;

(iii) password management;

(iv) using the latest technology to identify and respond to vulnerabilities;

(v) protecting data in new and old systems; and

(vi) best procurement practices.

(6) A member who is not a member of the Legislature may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as provided in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(7) The Data Security Management Council may, in accordance with Section 52-4-204, close to the public a meeting to discuss an item described in Subsection (5) if public discussion of the item would result in disclosure of information that would reasonably be expected to jeopardize the data security of a state or local government entity.

Section 38. Section 63A-16-702 is amended to read:

63A-16-702. Data Security Management Council -- Report to Legislature -- Recommendations.

(1) The council chair or the council chair's designee shall report annually no later than October 1 of each year to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee.

(2) The council's annual report shall contain:

(a) a summary of topics the council studied during the year;

(b) best practice recommendations for state government; and

(c) recommendations for implementing the council's best practice recommendations.

Section 39. Section 63A-16-804 is amended to read:

63A-16-804. Report.

(1) The division shall report to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee before November 30 of each year regarding:

(a) the progress the division has made in developing the single sign-on business portal and the single sign-on citizen portal and, once that development is complete, regarding the operation of the single sign-on business portal and the single sign-on citizen portal;

(b) the division's goals and plan for each of the next five years to fulfill the division's responsibilities described in this part; and

(c) whether the division recommends any change to the single sign-on fee being charged under Section 13-1-2.

(2) The [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee shall annually:

(a) review the single sign-on fee being charged under Section 13-1-2;

(b) determine whether the revenue from the single sign-on fee is adequate for designing and developing and then, once developed, operating and maintaining the single sign-on web portal; and

(c) make any recommendation to the Legislature that the committee considers appropriate concerning:

(i) the single sign-on fee; and

(ii) the development or operation of the single sign-on business portal and the single sign-on citizen portal.

Section 40. Section 63A-16-903 is amended to read:

63A-16-903. Chief information officer review and approval of technology proposals.

(1) The chief information officer shall review and evaluate each technology proposal that the review board transmits to the chief information officer.

(2) The chief information officer may approve and recommend that the division provide funding from legislative appropriations for a technology proposal if, after the chief information officer's review and evaluation of the technology proposal:

(a) the chief information officer determines that there is a reasonably good likelihood that the technology proposal:

(i) is capable of being implemented effectively; and

(ii) will result in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(b) the chief information officer receives approval from the governor's budget office for the technology proposal.

(3) The chief information officer may:

(a) prioritize multiple approved technology proposals based on their relative likelihood of achieving the goals described in Subsection (2); and

(b) recommend funding based on the chief information officer's prioritization under Subsection (3)(a).

(4) The division shall:

(a) track the implementation and success of a technology proposal approved by the chief information officer;

(b) evaluate the level of the technology proposal's implementation effectiveness and whether the implementation results in greater efficiency in a government process or a cost saving in the delivery of a government service, or both; and

(c) report the results of the division's tracking and evaluation:

(i) to the chief information officer, as frequently as the chief information officer requests; and

(ii) at least annually to the [~~Public Utilities, Energy, and Technology~~] Government Operations Interim Committee.

(5) The division may expend money appropriated by the Legislature to pay for expenses incurred by

executive branch agencies in implementing a technology proposal that the chief information officer has approved.

Section 41. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(2) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(3) Statewide human resource management rules [~~adopted~~] made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(4) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

(5) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the executive director, the governor, and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(6) (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection (6) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection (6) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(7) (a) (i) The division may collect fees for training as authorized by this Subsection (7).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 42. Section 63A-17-107 is amended to read:

63A-17-107. Services and fees -- Submission to rate committee.

The director shall, before charging a [~~fee~~] rate for services provided by the division's internal service fund to an executive branch agency:

(1) submit the proposed rates[~~, fees,~~] and cost analysis to the rate committee established in Section 63A-1-114; and

(2) obtain the approval of the Legislature as required under Section 63J-1-410.

Section 43. Section 63A-17-110 is amended to read:

63A-17-110. State pay plans for DNR peace officers and wildland firefighters.

(1) As used in this section:

(a) "DNR peace officer" means an employee of the Department of Natural Resources who is designated as a peace officer by law.

(b) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:

(i) trained in firefighter techniques; and

(ii) assigned to a position of hazardous duty.

(2) The director shall:

(a) establish a specialized state pay plan for DNR peace officers and wildland firefighters that:

(i) meets the requirements of Section 63A-17-307;

(ii) distinguishes the salary range for each DNR peace officer and wildland firefighter classification;

(iii) includes for each DNR peace officer and wildland firefighter classification:

(A) the minimum qualifications; and

(B) any training requirements; and

(iv) provides standards for:

(A) performance evaluation; and

(B) promotion; and

(b) include, in the plan described in Subsection [~~67-19-12(5)~~] 63A-17-307(5), recommendations on funding and salary increases for DNR peace officers and wildland firefighters.

Section 44. Section 63A-17-202 is amended to read:

63A-17-202. Use of facilities -- Field office facilities cost allocation.

(1) An agency or a political subdivision of the state shall allow the division to use public buildings under the agency's [~~of~~] or the political subdivision's control, and furnish heat, light, and furniture, for any examination, training, hearing, or investigation authorized by this chapter.

(2) An agency or political subdivision that allows the division to use a public building under Subsection (1) shall pay the cost of the division's use of the public building.

Section 45. Section 63A-17-304 is amended to read:

63A-17-304. Promotion -- Reclassification -- Market adjustment.

(1) (a) If an employee is promoted or the employee's position is reclassified to a higher salary range maximum, the agency shall place the employee within the new range of the position.

(b) An agency may not set an employee's salary:

(i) higher than the maximum in the new salary range; [~~and~~] or

(ii) lower than the minimum in the new salary range of the position.

(c) Except for an employee described in Subsection 63A-17-301(1)(q), the agency shall grant a salary increase of at least 5% to an employee who is promoted.

(2) An agency shall adjust the salary range for an employee whose salary range is approved by the Legislature for a market comparability adjustment consistent with Subsection 63A-17-307(5)(b)(i):

(a) at the beginning of the next fiscal year; and

(b) consistent with appropriations made by the Legislature.

(3) Division-initiated revisions in the state classification system that result in consolidation or reduction of class titles or broadening of pay ranges:

(a) may not be regarded as a reclassification of the position or promotion of the employee; and

(b) are exempt from the provisions of Subsection (1).

Section 46. Section 63A-17-306 is amended to read:

63A-17-306. Dismissals and demotions -- Grounds -- Disciplinary action -- Procedure -- Reductions in force.

(1) A career service employee may be dismissed or demoted:

(a) to advance the good of the public service; or

(b) for just causes, including inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, disloyalty to the orders of a superior, misfeasance, malfeasance, or nonfeasance in office.

(2) An employee may not be dismissed because of race, sex, age, disability, national origin, religion, political affiliation, or other nonmerit factor including the exercise of rights under this chapter.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director shall [~~establish~~] make rules governing the procedural and documentary requirements of disciplinary dismissals and demotions.

(4) If an agency head finds that a career service employee is charged with aggravated misconduct or that retention of a career service employee would endanger the peace and safety of others or pose a grave threat to the public interest, the employee may be suspended pending the administrative appeal to the department head as provided in Subsection (5).

(5) (a) A career service employee may not be demoted or dismissed unless the department head or designated representative has complied with this subsection.

(b) The department head or designated representative notifies the employee in writing of the reasons for the dismissal or demotion.

(c) The employee has no less than five working days to reply and have the reply considered by the department head.

(d) The employee has an opportunity to be heard by the department head or designated representative.

(e) Following the hearing, the employee may be dismissed or demoted if the department head finds adequate cause or reason.

(6) (a) Reductions in force required by inadequate funds, change of workload, or lack of work are governed by retention points established by the director.

(b) Under those circumstances:

(i) The agency head shall designate the category of work to be eliminated, subject to review by the director.

(ii) Temporary and probationary employees shall be separated before any career service employee.

(iii) (A) When more than one career service employee is affected, the employees shall be separated in the order of their retention points, the employee with the lowest points to be discharged first.

(B) Retention points for each career service employee shall be computed according to rules established by the director, allowing appropriate consideration for proficiency and seniority in state government, including any active duty military service fulfilled subsequent to original state appointment.

(c) (i) A career service employee who is separated in a reduction in force under this section shall be given preferential consideration when applying for a career service position.

(ii) Preferential consideration under Subsection (6)(c)(i) applies only until the former career service employee accepts a career service position.

(iii) The director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, concerning the manner of granting preferential consideration under Subsection (6)(c)(i).

(d) (i) An employee separated due to a reduction in force may appeal to the department head for an administrative review.

(ii) The notice of appeal must be submitted within 20 working days after the employee's receipt of written notification of separation.

(iii) The employee may appeal the decision of the department head according to the grievance and appeals procedure of this chapter and Title 67, Chapter 19a, Grievance Procedures.

Section 47. Section 63A-17-307 is amended to read:

63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules [~~adopted~~] made by the division [~~to implement~~] under this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);

(m) temporary employees described in Subsection 63A-17-301(1)(q);

(n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall [~~issue~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment;

(ii) legislatively approved salary adjustments within approved salary ranges, including a merit increase, subject to Subsection (4)(f), or general increase; and

(iii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

(f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The director shall obtain information for the purpose of constructing the survey from the

Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The director shall [~~issue~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the division.

(c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Section 48. Section 63A-17-806 is amended to read:

63A-17-806. Definitions -- Infant at Work Pilot Program -- Administration -- Report.

(1) As used in this section:

(a) "Eligible employee" means an employee who has been employed by the Department of Health for a minimum of:

(i) 12 consecutive months; and

(ii) 1,250 hours, excluding paid time off during the 12-month period immediately preceding the day on which the employee applies for participation in the program.

(b) "Infant" means a baby that is at least six weeks of age and no more than six months of age.

(c) "Parent" means:

(i) a biological or adoptive parent of an infant; or

(ii) an individual who has an infant placed in the individual's foster care by the Division of Child and Family Services.

(d) "Program" means the Infant at Work Pilot Program established in this section.

(2) There is created the Infant at Work Pilot Program for eligible employees.

(3) The program shall:

(a) allow an eligible employee to bring the eligible employee's infant to work subject to the provisions of this section;

(b) be administered by the division; and

(c) be implemented for a minimum of one year.

(4) The division shall establish an application process for eligible employees of the Department of Health to apply to the program that includes:

(a) a process for evaluating whether an eligible employee's work environment is appropriate for an infant;

(b) guidelines for infant health and safety; and

(c) guidelines regarding an eligible employee's initial and ongoing participation in the program.

(5) If the division approves the eligible employee for participation in the program, the eligible employee shall have the sole responsibility for the care and safety of the infant at the workplace.

(6) The division may not require the Department of Health to designate or set aside space for an eligible employee's infant other than the eligible employee's existing work space.

(7) The division, in consultation with the Department of Health, shall [~~adopt~~] make rules that the department determines necessary to establish the program in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) On or before June 30, 2022, the division, in consultation with the Department of Health, shall submit a written report to the Business and Labor Interim Committee that describes the efficacy of the program, including any recommendations for additional legislative action.

Section 49. Section 63A-17-1004 is amended to read:

63A-17-1004. Drug testing of state employees.

(1) Except as provided in Subsection (2), when there is reasonable suspicion that an employee is using a controlled substance or alcohol unlawfully during work hours, an employee may be required to submit to medically accepted testing procedures for a determination of whether the employee is using a controlled substance or alcohol in violation of this part.

(2) In highly sensitive positions, as identified in department class specifications, random drug testing of employees may be conducted by an agency in accordance with the rules of the director.

(3) All drug or alcohol testing shall be:

(a) conducted by a federally certified and licensed physician, a federally certified and licensed medical clinic, or testing facility federally certified and licensed to conduct medically accepted drug testing; and

(b) conducted in accordance with the rules of the director made under Section 63A-17-1002[~~; and~~].

[~~(c) kept confidential in accordance with the rules of the director made in accordance with Section 63A-17-1002.~~]

(4) A record relating to drug or alcohol testing of a state employee is classified as a private record under Section 63G-2-302.

[~~(4)~~] (5) A physician, medical clinic, or testing facility may not be held liable in any civil action brought by a party for:

(a) performing or failing to perform a test under this section;

(b) issuing or failing to issue a test result under this section; or

(c) acting or omitting to act in any other way in good faith under this section.

Section 50. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; [~~and~~]

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii)[~~.~~]; and

(cc) a record relating to drug or alcohol testing of a state employee under Section 63A-17-1004.

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 51. Section 63I-5-201 (Superseded 07/01/22) is amended to read:

63I-5-201 (Superseded 07/01/22). Internal auditing programs -- State agencies.

(1) (a) The departments of [~~Administrative Services~~] Government Operations, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 52. Section 63I-5-201 (Effective 07/01/22) is amended to read:

63I-5-201 (Effective 07/01/22). Internal auditing programs -- State agencies.

(1) (a) The departments of [~~Administrative Services~~] Government Operations, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Utah Tech University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage Control shall establish an internal audit program under the direction of the Alcoholic Beverage Control Commission.

Section 53. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

(v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(vii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (vii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (8) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section [~~58B-8a-103~~] 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating entity, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201; or

(B) a withdrawing entity.

(i) (i) "Withdrawing entity" means an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection [~~(8)~~] (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 54. Section 67-19a-101 is amended to read:

67-19a-101. Definitions.

As used in this chapter:

(1) "Abusive conduct" means the same as that term is defined in Section 67-26-102.

(2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.

(3) "Career service employee" means a person employed in career service as defined in Section [~~67-19-3~~] 63A-17-102.

(4) "Division" means the Division of Human Resource Management.

(5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.

(6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.

(7) "Grievance" means:

(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;

(b) any dispute between a career service employee and the employer;

(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and

(d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.

(8) "Office" means the Career Service Review Office created under Section 67-19a-201.

(9) "Public entity" means the same as that term is defined in Section 67-21-2.

(10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.

(11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:

(a) dismiss the employee;

(b) reduce the employee's compensation;

(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(d) fail to promote the employee if the employee would have otherwise been promoted; or

(e) threaten to take an action described in Subsections (11)(a) through (d).

(12) "Supervisor" means the person:

(a) to whom an employee reports; or

(b) who assigns and oversees an employee's work.

Section 55. Section 67-27-101 is enacted to read:

CHAPTER 27. GENERAL REQUIREMENTS FOR STATE OFFICERS AND EMPLOYEES

67-27-101. Title

This chapter is known as "General Requirements for State Officers and Employees."

Section 56. Section 67-27-102, which is renumbered from Section 63A-17-901 is renumbered and amended to read:

[~~63A-17-901~~]. 67-27-102. Definitions.

As used in this [~~part~~] chapter:

(1) "Career service employee" means the same as that term is defined in Section 63A-17-102.

(2) "Executive branch elected official" means:

(a) the governor;

(b) the lieutenant governor;

(c) the attorney general;

(d) the state treasurer; or

(e) the state auditor.

(3) "Executive branch official" means an individual who:

(a) is a management level employee of an executive branch elected official; and

(b) is not a career service employee.

(4) "State agency" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

Section 57. Section 67-27-103, which is renumbered from Section 63A-17-902 is renumbered and amended to read:

[~~63A-17-902~~]. 67-27-103. State agency work week.

(1) Except as provided in Subsection (2), and subject to Subsection (3):

(a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone; and

(b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone.

(2) (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.

(b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) the Division of Technology Services, created in Section 63A-16-103;

(ii) the Division of Child and Family Services, created in Section 62A-4a-103; and

(iii) the Office of Guardian Ad Litem, created in Section 78A-2-802.

(3) A state agency shall make staff available, as necessary, to provide:

(a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:

(i) testifying;

(ii) the production of records or evidence; and

(iii) other services normally available to a court or administrative body;

(b) security services; and

(c) emergency services.

(4) This section does not limit the days or hours a state agency may operate.

(5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:

(a) the number of physical locations, if any are required by this section, operating each day;

(b) the daily hours of operation of a physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:

(a) the number of physical locations operating each day;

(b) the daily hours of operation, as required by Subsection (2)(b), of each physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(7) A state agency shall:

(a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and

(b) except as provided in Subsection (8), as soon as reasonably possible:

(i) contact a person who makes a request for an in-person meeting; and

(ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.

(8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:

(a) would constitute a conflict of interest;

(b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a, Utah Procurement Code;

(c) would violate an ethical requirement of the state agency or an employee of the state agency; or

(d) would constitute a violation of law.

Section 58. Section 67-27-104, which is renumbered from Section 63A-17-903 is renumbered and amended to read:

[~~63A-17-903~~]. 67-27-104. Restrictions on outside employment by executive branch employees.

(1) An employee who is under the direction or control of an executive branch elected official may not engage in outside employment that:

(a) constitutes a conflict of interest;

(b) interferes with the ability of the employee to fulfill the employee's job responsibilities;

(c) constitutes the provision of political services, political consultation, or lobbying;

(d) involves the provision of consulting services, legal services, or other services to a person that the employee could, within the course and scope of the employee's primary employment, provide to the person; or

(e) interferes with the hours that the employee is expected to perform work under the direction or control of an executive branch elected official, unless the employee takes authorized personal leave during the time that the person engages in the outside employment.

(2) An executive branch official shall be subject to the same restrictions on outside employment as a career service employee.

(3) This section does not prohibit an employee from advocating the position of the state office that employs the employee regarding legislative action or other government action.

Section 59. Repealer.

This bill repeals:

Section 63A-16-106, Offices within the division -- Administration.

Section 63A-16-212, Agency services -- Chief information officer manages.

Section 63A-16-213, Duties of the division -- Agency services.

Section 63A-16-401, Definitions.

Section 63A-16-402, Enterprise technology -- Chief information officer manages.

Section 63A-16-403, Duties of the division -- Enterprise technology.

Section 63A-16-502, Office of Integrated Technology.

Section 63A-16-503, Duties of the division -- Integrated technology.

Section 60. Effective date.

This bill takes effect on May 4, 2022, except that Section 63I-5-201 (Effective 07/01/22) takes effect on July 1, 2022.

CHAPTER 170
S. B. 19

Passed February 3, 2022
Approved March 22, 2022
Effective May 4, 2022

ELECTION REVISIONS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions of the Election Code.

Highlighted Provisions:

This bill:

- changes the dates of a special election in an odd-numbered year to coincide with the dates of municipal elections;
- modifies requirements relating to the publishing and posting of sample ballots;
- modifies the crime of destroying election documents or supplies to include altering documents;
- provides for a voter's party affiliation to be changed to unaffiliated if the voter is affiliated with a party that is no longer a registered political party;
- modifies the deadline for determining whether a municipality will conduct an election by ranked choice voting to coincide with the deadline for publishing a notice of election;
- modifies a conflict of interest reporting requirement; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-14-203, as last amended by Laws of Utah 2020, Chapter 31
20A-1-102, as last amended by Laws of Utah 2020, Chapters 31, 49, 255, and 354
20A-1-204, as last amended by Laws of Utah 2019, First Special Session, Chapter 4
20A-1-403, as last amended by Laws of Utah 2020, Chapter 31
20A-1-604, as last amended by Laws of Utah 2020, Chapter 31
20A-2-107, as last amended by Laws of Utah 2021, Chapter 430
20A-4-602, as last amended by Laws of Utah 2021, Chapter 101
20A-5-102, as last amended by Laws of Utah 2020, Chapter 31
20A-5-405, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-5-605, as last amended by Laws of Utah 2020, Chapter 31
20A-7-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-11-1604, as last amended by Laws of Utah 2021, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-14-203 is amended to read:

11-14-203. Time for election -- Equipment -- Election officials -- Combining precincts.

(1) (a) The local political subdivision shall ensure that bond elections are conducted and administered according to the procedures set forth in this chapter and the sections of the Election Code specifically referenced by this chapter.

(b) When a local political subdivision complies with those procedures, there is a presumption that the bond election was properly administered.

(2) (a) A bond election may be held, and the proposition for the issuance of bonds may be submitted, on the same date as the regular general election, the municipal general election held in the local political subdivision calling the bond election, or at a special election called for the purpose on a date authorized by Section 20A-1-204.

(b) A bond election may not be held, nor a proposition for issuance of bonds be submitted, at the presidential primary election held under Title 20A, Chapter 9, Part 8, Presidential Primary Election.

(3) (a) The bond election shall be conducted and administered by the election officer designated in Sections 20A-1-102 and 20A-5-400.5.

(b) (i) The duties of the election officer shall be governed by Title 20A, Chapter 5, Part 4, Election Officer's Duties.

(ii) The publishing requirement under Subsection 20A-5-405(1)[~~(h)~~](f)(iii) does not apply when notice of a bond election has been provided according to the requirements of Section 11-14-202.

(c) The hours during which the polls are to be open shall be consistent with Section 20A-1-302.

(d) The appointment and duties of election judges shall be governed by Title 20A, Chapter 5, Part 6, Poll Workers.

(e) General voting procedures shall be conducted according to the requirements of Title 20A, Chapter 3a, Voting.

(f) The designation of election crimes and offenses, and the requirements for the prosecution and adjudication of those crimes and offenses are set forth in Title 20A, Election Code.

(4) When a bond election is being held on a day when no other election is being held in the local political subdivision calling the bond election, voting precincts may be combined for purposes of bond elections so long as no voter is required to vote outside the county in which the voter resides.

(5) When a bond election is being held on the same day as any other election held in a local political subdivision calling the bond election, or in some part of that local political subdivision, the polling places and election officials serving for the other

election may also serve as the polling places and election officials for the bond election, so long as no voter is required to vote outside the county in which the voter resides.

Section 2. Section 20A-1-102 is amended to read:

20A-1-102. Definitions.

As used in this title:

(1) "Active voter" means a registered voter who has not been classified as an inactive voter by the county clerk.

(2) "Automatic tabulating equipment" means apparatus that automatically examines and counts votes recorded on ballots and tabulates the results.

(3) (a) "Ballot" means the storage medium, including a paper, mechanical, or electronic storage medium, that records an individual voter's vote.

(b) "Ballot" does not include a record to tally multiple votes.

(4) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

(a) an opinion question specifically authorized by the Legislature;

(b) a constitutional amendment;

(c) an initiative;

(d) a referendum;

(e) a bond proposition;

(f) a judicial retention question;

(g) an incorporation of a city or town; or

(h) any other ballot question specifically authorized by the Legislature.

(5) "Bind," "binding," or "bound" means securing more than one piece of paper together using staples or another means in at least three places across the top of the paper in the blank space reserved for securing the paper.

(6) "Board of canvassers" means the entities established by Sections 20A-4-301 and 20A-4-306 to canvass election returns.

(7) "Bond election" means an election held for the purpose of approving or rejecting the proposed issuance of bonds by a government entity.

(8) "Business reply mail envelope" means an envelope that may be mailed free of charge by the sender.

(9) "Canvass" means the review of election returns and the official declaration of election results by the board of canvassers.

(10) "Canvassing judge" means a poll worker designated to assist in counting ballots at the canvass.

(11) "Contracting election officer" means an election officer who enters into a contract or interlocal agreement with a provider election officer.

(12) "Convention" means the political party convention at which party officers and delegates are selected.

(13) "Counting center" means one or more locations selected by the election officer in charge of the election for the automatic counting of ballots.

(14) "Counting judge" means a poll worker designated to count the ballots during election day.

(15) "Counting room" means a suitable and convenient private place or room for use by the poll workers and counting judges to count ballots.

(16) "County officers" means those county officers that are required by law to be elected.

(17) "Date of the election" or "election day" or "day of the election":

(a) means the day that is specified in the calendar year as the day that the election occurs; and

(b) does not include:

(i) deadlines established for voting by mail, military-overseas voting, or emergency voting; or

(ii) any early voting or early voting period as provided under Chapter 3a, Part 6, Early Voting.

(18) "Elected official" means:

(a) a person elected to an office under Section 20A-1-303 or Chapter 4, Part 6, Municipal Alternate Voting Methods Pilot Project;

(b) a person who is considered to be elected to a municipal office in accordance with Subsection 20A-1-206(1)(c)(ii); or

(c) a person who is considered to be elected to a local district office in accordance with Subsection 20A-1-206(3)(c)(ii).

(19) "Election" means a regular general election, a municipal general election, a statewide special election, a local special election, a regular primary election, a municipal primary election, and a local district election.

(20) "Election Assistance Commission" means the commission established by the Help America Vote Act of 2002, Pub. L. No. 107-252.

(21) "Election cycle" means the period beginning on the first day persons are eligible to file declarations of candidacy and ending when the canvass is completed.

(22) "Election judge" means a poll worker that is assigned to:

(a) preside over other poll workers at a polling place;

(b) act as the presiding election judge; or

(c) serve as a canvassing judge, counting judge, or receiving judge.

(23) "Election officer" means:

(a) the lieutenant governor, for all statewide ballots and elections;

(b) the county clerk for:

(i) a county ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(c) the municipal clerk for:

(i) a municipal ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5;

(d) the local district clerk or chief executive officer for:

(i) a local district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5; or

(e) the business administrator or superintendent of a school district for:

(i) a school district ballot and election; and

(ii) a ballot and election as a provider election officer as provided in Section 20A-5-400.1 or 20A-5-400.5.

(24) "Election official" means any election officer, election judge, or poll worker.

(25) "Election results" means:

(a) for an election other than a bond election, the count of votes cast in the election and the election returns requested by the board of canvassers; or

(b) for bond elections, the count of those votes cast for and against the bond proposition plus any or all of the election returns that the board of canvassers may request.

(26) "Election returns" includes the pollbook, the military and overseas absentee voter registration and voting certificates, one of the tally sheets, any unprocessed ballots, all counted ballots, all excess ballots, all unused ballots, all spoiled ballots, the ballot disposition form, and the total votes cast form.

(27) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(28) "Inactive voter" means a registered voter who is listed as inactive by a county clerk under Subsection 20A-2-306(4)(c)(i) or (ii).

(29) "Judicial office" means the office filled by any judicial officer.

(30) "Judicial officer" means any justice or judge of a court of record or any county court judge.

(31) "Local district" means a local government entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and includes a special service district under Title 17D, Chapter 1, Special Service District Act.

(32) "Local district officers" means those local district board members that are required by law to be elected.

(33) "Local election" means a regular county election, a regular municipal election, a municipal primary election, a local special election, a local district election, and a bond election.

(34) "Local political subdivision" means a county, a municipality, a local district, or a local school district.

(35) "Local special election" means a special election called by the governing body of a local political subdivision in which all registered voters of the local political subdivision may vote.

(36) "Manual ballot" means a paper document produced by an election officer on which an individual records an individual's vote by directly placing a mark on the paper document using a pen or other marking instrument.

(37) "Mechanical ballot" means a record, including a paper record, electronic record, or mechanical record, that:

(a) is created via electronic or mechanical means; and

(b) records an individual voter's vote cast via a method other than an individual directly placing a mark, using a pen or other marking instrument, to record an individual voter's vote.

(38) "Municipal executive" means:

(a) the mayor in the council-mayor form of government defined in Section 10-3b-102;

(b) the mayor in the council-manager form of government defined in Subsection 10-3b-103(7); or

(c) the chair of a metro township form of government defined in Section 10-3b-102.

(39) "Municipal general election" means the election held in municipalities and, as applicable, local districts on the first Tuesday after the first Monday in November of each odd-numbered year for the purposes established in Section 20A-1-202.

(40) "Municipal legislative body" means:

(a) the council of the city or town in any form of municipal government; or

(b) the council of a metro township.

(41) "Municipal office" means an elective office in a municipality.

(42) "Municipal officers" means those municipal officers that are required by law to be elected.

(43) "Municipal primary election" means an election held to nominate candidates for municipal office.

(44) "Municipality" means a city, town, or metro township.

(45) "Official ballot" means the ballots distributed by the election officer for voters to record their votes.

(46) "Official endorsement" means the information on the ballot that identifies:

(a) the ballot as an official ballot;

(b) the date of the election; and

(c) (i) for a ballot prepared by an election officer other than a county clerk, the facsimile signature required by Subsection 20A-6-401(1)(a)(iii); or

(ii) for a ballot prepared by a county clerk, the words required by Subsection 20A-6-301(1)(b)(iii).

(47) "Official register" means the official record furnished to election officials by the election officer that contains the information required by Section 20A-5-401.

(48) "Political party" means an organization of registered voters that has qualified to participate in an election by meeting the requirements of Chapter 8, Political Party Formation and Procedures.

(49) (a) "Poll worker" means a person assigned by an election official to assist with an election, voting, or counting votes.

(b) "Poll worker" includes election judges.

(c) "Poll worker" does not include a watcher.

(50) "Pollbook" means a record of the names of voters in the order that they appear to cast votes.

(51) "Polling place" means a building where voting is conducted.

(52) "Position" means a square, circle, rectangle, or other geometric shape on a ballot in which the voter marks the voter's choice.

(53) "Presidential Primary Election" means the election established in Chapter 9, Part 8, Presidential Primary Election.

(54) "Primary convention" means the political party conventions held during the year of the regular general election.

(55) "Protective counter" means a separate counter, which cannot be reset, that:

(a) is built into a voting machine; and

(b) records the total number of movements of the operating lever.

(56) "Provider election officer" means an election officer who enters into a contract or interlocal agreement with a contracting election officer to conduct an election for the contracting election officer's local political subdivision in accordance with Section 20A-5-400.1.

(57) "Provisional ballot" means a ballot voted provisionally by a person:

(a) whose name is not listed on the official register at the polling place;

(b) whose legal right to vote is challenged as provided in this title; or

(c) whose identity was not sufficiently established by a poll worker.

(58) "Provisional ballot envelope" means an envelope printed in the form required by Section 20A-6-105 that is used to identify provisional ballots and to provide information to verify a person's legal right to vote.

(59) (a) "Public figure" means an individual who, due to the individual being considered for, holding, or having held a position of prominence in a public or private capacity, or due to the individual's celebrity status, has an increased risk to the individual's safety.

(b) "Public figure" does not include an individual:

(i) elected to public office; or

(ii) appointed to fill a vacancy in an elected public office.

(60) "Qualify" or "qualified" means to take the oath of office and begin performing the duties of the position for which the individual was elected.

(61) "Receiving judge" means the poll worker that checks the voter's name in the official register at a polling location and provides the voter with a ballot.

(62) "Registration form" means a form by which an individual may register to vote under this title.

(63) "Regular ballot" means a ballot that is not a provisional ballot.

(64) "Regular general election" means the election held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year for the purposes established in Section 20A-1-201.

(65) "Regular primary election" means the election, held on the date specified in Section 20A-1-201.5, to nominate candidates of political parties and candidates for nonpartisan local school board positions to advance to the regular general election.

(66) "Resident" means a person who resides within a specific voting precinct in Utah.

(67) "Return envelope" means the envelope, described in Subsection 20A-3a-202(4), provided to a voter with a manual ballot:

(a) into which the voter places the manual ballot after the voter has voted the manual ballot in order to preserve the secrecy of the voter's vote; and

(b) that includes the voter affidavit and a place for the voter's signature.

(68) "Sample ballot" means a mock ballot similar in form to the official ballot [~~printed and distributed~~], published as provided in Section 20A-5-405.

(69) "Special election" means an election held as authorized by Section 20A-1-203.

(70) "Spoiled ballot" means each ballot that:

(a) is spoiled by the voter;

(b) is unable to be voted because it was spoiled by the printer or a poll worker; or

(c) lacks the official endorsement.

(71) "Statewide special election" means a special election called by the governor or the Legislature in which all registered voters in Utah may vote.

(72) "Tabulation system" means a device or system designed for the sole purpose of tabulating votes cast by voters at an election.

(73) "Ticket" means a list of:

(a) political parties;

(b) candidates for an office; or

(c) ballot propositions.

(74) "Transfer case" means the sealed box used to transport voted ballots to the counting center.

(75) "Vacancy" means the absence of a person to serve in any position created by statute, whether that absence occurs because of death, disability, disqualification, resignation, or other cause.

(76) "Valid voter identification" means:

(a) a form of identification that bears the name and photograph of the voter which may include:

(i) a currently valid Utah driver license;

(ii) a currently valid identification card that is issued by:

(A) the state; or

(B) a branch, department, or agency of the United States;

(iii) a currently valid Utah permit to carry a concealed weapon;

(iv) a currently valid United States passport; or

(v) a currently valid United States military identification card;

(b) one of the following identification cards, whether or not the card includes a photograph of the voter:

(i) a valid tribal identification card;

(ii) a Bureau of Indian Affairs card; or

(iii) a tribal treaty card; or

(c) two forms of identification not listed under Subsection (76)(a) or (b) but that bear the name of the voter and provide evidence that the voter resides in the voting precinct, which may include:

(i) a current utility bill or a legible copy thereof, dated within the 90 days before the election;

(ii) a bank or other financial account statement, or a legible copy thereof;

(iii) a certified birth certificate;

(iv) a valid social security card;

(v) a check issued by the state or the federal government or a legible copy thereof;

(vi) a paycheck from the voter's employer, or a legible copy thereof;

(vii) a currently valid Utah hunting or fishing license;

(viii) certified naturalization documentation;

(ix) a currently valid license issued by an authorized agency of the United States;

(x) a certified copy of court records showing the voter's adoption or name change;

(xi) a valid Medicaid card, Medicare card, or Electronic Benefits Transfer Card;

(xii) a currently valid identification card issued by:

(A) a local government within the state;

(B) an employer for an employee; or

(C) a college, university, technical school, or professional school located within the state; or

(xiii) a current Utah vehicle registration.

(77) "Valid write-in candidate" means a candidate who has qualified as a write-in candidate by following the procedures and requirements of this title.

(78) "Vote by mail" means to vote, using a manual ballot that is mailed to the voter, by:

(a) mailing the ballot to the location designated in the mailing; or

(b) depositing the ballot in a ballot drop box designated by the election officer.

(79) "Voter" means an individual who:

(a) meets the requirements for voting in an election;

(b) meets the requirements of election registration;

(c) is registered to vote; and

(d) is listed in the official register book.

(80) "Voter registration deadline" means the registration deadline provided in Section 20A-2-102.5.

(81) "Voting area" means the area within six feet of the voting booths, voting machines, and ballot box.

(82) "Voting booth" means:

(a) the space or compartment within a polling place that is provided for the preparation of ballots, including the voting enclosure or curtain; or

(b) a voting device that is free standing.

(83) "Voting device" means any device provided by an election officer for a voter to vote a mechanical ballot.

(84) "Voting precinct" means the smallest geographical voting unit, established under Chapter 5, Part 3, Duties of the County and Municipal Legislative Bodies.

(85) "Watcher" means an individual who complies with the requirements described in Section 20A-3a-801 to become a watcher for an election.

(86) "Write-in ballot" means a ballot containing any write-in votes.

(87) "Write-in vote" means a vote cast for an individual, whose name is not printed on the ballot, in accordance with the procedures established in this title.

Section 3. Section 20A-1-204 is amended to read:

20A-1-204. Date of special election -- Legal effect.

(1) (a) Except as provided by Subsection (1)(d), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 shall schedule the special election to be held on:

(i) in an even-numbered year:

(A) the fourth Tuesday in June; or

[~~(ii)~~] (B) the first Tuesday after the first Monday in November[~~.~~]; or

(ii) in an odd-numbered year:

(A) the second Tuesday after the first Monday in August; or

(B) the first Tuesday after the first Monday in November.

(b) Except as provided in Subsection (1)(c), the governor, Legislature, or the legislative body of a local political subdivision calling a statewide special election or local special election under Section 20A-1-203 may not schedule a special election to be held on any other date.

(c) (i) Notwithstanding the requirements of Subsection (1)(b) or (1)(d), the legislative body of a local political subdivision may call a local special election on a date other than those specified in this section if the legislative body:

(A) determines and declares that there is a disaster, as defined in Section 53-2a-102, requiring that a special election be held on a date other than the ones authorized in statute;

(B) identifies specifically the nature of the disaster, as defined in Section 53-2a-102, and the reasons for holding the special election on that other date; and

(C) votes unanimously to hold the special election on that other date.

(ii) The legislative body of a local political subdivision may not hold a local special election on the same date as the presidential primary election conducted under Chapter 9, Part 8, Presidential Primary Election.

(d) The legislative body of a local political subdivision may only call a special election for a ballot proposition related to a bond, debt, leeway, levy, or tax on the first Tuesday after the first Monday in November.

(e) Nothing in this section prohibits:

(i) the governor or Legislature from submitting a matter to the voters at the regular general election if authorized by law; or

(ii) a local government from submitting a matter to the voters at the regular municipal election if authorized by law.

(2) (a) Two or more entities shall comply with Subsection (2)(b) if those entities hold a special election within a county on the same day as:

(i) another special election;

(ii) a regular general election; or

(iii) a municipal general election.

(b) Entities described in Subsection (2)(a) shall, to the extent practicable, coordinate:

(i) polling places;

(ii) ballots;

(iii) election officials; and

(iv) other administrative and procedural matters connected with the election.

Section 4. Section 20A-1-403 is amended to read:

20A-1-403. Errors or omissions in ballots.

(1) The election officer shall, without delay, correct any errors in ballots that the election officer discovers, or that are brought to the election officer's attention, if those errors can be corrected without interfering with the timely distribution of the ballots.

(2) (a) (i) If an error or omission has occurred in the publication of the names or description of the candidates nominated for office, in the publication of sample ballots, or in the printing of [~~sample or~~] official ballots, a candidate or the candidate's agent may file, without paying any fee, a petition for ballot correction with the district court.

(ii) If a petition is filed, the petitioner shall serve a copy of the petition on the respondents on the same day that the petition is filed with the court.

(b) The petition shall contain:

(i) an affidavit signed by the candidate or the candidate's agent identifying the error or omission; and

(ii) a request that the court issue an order to the election officer responsible for the ballot error or omission to correct the ballot error or omission.

(3) (a) After reviewing the petition, the court shall:

(i) issue an order commanding the respondent named in the petition to appear before the court to answer, under oath, under penalty of perjury, to the petition;

(ii) summarily hear and dispose of any issues raised by the petition to obtain substantial compliance with the provisions of this title by the parties to the controversy; and

(iii) enter appropriate orders.

(b) The court may assess costs, including reasonable attorney fees, against either party.

Section 5. Section 20A-1-604 is amended to read:

20A-1-604. Destroying or altering voter instructions, sample ballots, or election paraphernalia -- Penalties.

(1) A person may not, without lawful authority granted by an election officer:

(a) willfully alter, deface, or destroy any list of candidates posted in accordance with the provisions of this title;

(b) willfully alter, deface, tear down, remove or destroy any voter instructions or sample ballot, printed or posted for the instruction of voters during an election;

(c) willfully alter, remove, or destroy any of the supplies or conveniences furnished to enable a voter to prepare the voter's ballot during an election; or

(d) willfully hinder the voting of others.

(2) In addition to the penalties established in Subsections 20A-1-609(2) and (3), a person who commits an offense under Subsection (1) is guilty of an infraction.

Section 6. Section 20A-2-107 is amended to read:

20A-2-107. Designating or changing party affiliation -- Times permitted.

(1) The county clerk shall:

(a) except as provided in Subsection (3) or 20A-2-107.5(1)(c), record the party affiliation designated by the voter on the voter registration form as the voter's party affiliation; or

(b) if no political party affiliation is designated by the voter on the voter registration form:

(i) except as provided in Subsection (1)(b)(ii), record the voter's party affiliation as the party that the voter designated the last time that the voter designated a party on a voter registration form, unless the voter more recently registered as "unaffiliated"; or

(ii) record the voter's party affiliation as "unaffiliated" if the voter:

(A) did not previously designate a party;

(B) most recently designated the voter's party affiliation as "unaffiliated"; or

(C) did not previously register.

(2) (a) Any registered voter may designate or change the voter's political party affiliation by complying with the procedures and requirements of this Subsection (2).

(b) A registered voter may designate or change the voter's political party affiliation by filing a signed form with the county clerk that identifies the registered political party with which the voter chooses to affiliate.

(c) Except as provided in Subsection (2)(d), a signed form designating or changing a voter's political party affiliation takes effect when the county clerk receives the signed form.

(d) In an even-numbered year, a form described in Subsection (2)(c) received by the county clerk after March 31 takes effect on the day after that year's regular primary election if the form changes a registered voter's affiliation with one political party to affiliate with another political party.

(e) Any part of a form described in Subsection (2)(d), other than the voter's designation or change of political party affiliation, takes effect when the county clerk receives the signed form.

(f) For purposes of Subsection (2)(d), a signed form described in Subsection (2)(c) is received by the county clerk on or before March 31 if:

(i) the individual submits the form in person at the county clerk's office no later than 5 p.m. on the last business day before April 1;

(ii) the individual submits the form electronically through the system described in Section 20A-2-206, at or before 11:59 p.m. on March 31; or

(iii) the individual's form is clearly postmarked on or before March 31.

(g) Subsection (2)(d) does not apply to the party affiliation designated by a voter on the voter registration form if:

(i) the voter has not previously been registered to vote in the state[~~.~~]; or

(ii) the voter's most recent party affiliation was changed to "unaffiliated" by a county clerk under Subsection (3).

(3) If the most recent party affiliation designated by a voter is for a political party that is no longer a registered political party, the county clerk shall:

(a) change the voter's party affiliation to "unaffiliated"; and

(b) notify the voter electronically or by mail:

(i) that the voter's affiliation has been changed to "unaffiliated" because the most recent party affiliation designated by the voter is for a political party that is no longer a registered political party; and

(ii) of the methods and deadlines for changing the voter's party affiliation.

Section 7. Section 20A-4-602 is amended to read:

20A-4-602. Municipal Alternate Voting Methods Pilot Project -- Creation -- Participation.

(1) There is created the Municipal Alternate Voting Methods Pilot Project.

(2) The pilot project begins on January 1, 2019, and ends on January 1, 2026.

(3) (a) A municipality may participate in the pilot project, in accordance with the requirements of this section and all other applicable provisions of law, during any odd-numbered year that the pilot project is in effect, if, before [~~the second Monday in~~] May 1 of the odd-numbered year, the legislative body of the municipality:

(i) votes to participate; and

(ii) provides written notice to the lieutenant governor and the county clerk stating that the municipality intends to participate in the pilot project for the year specified in the notice.

(b) The legislative body of a municipality that provides the notice of intent described in Subsection (3)(a) may withdraw the notice of intent, and not participate in the pilot project, if the legislative body of the municipality provides written notice of withdrawal to the lieutenant governor and the county clerk before [~~the second Monday in~~] May 1.

(4) The lieutenant governor shall maintain, in a prominent place on the lieutenant governor's website, a current list of the municipalities that are participating in the pilot project.

(5) (a) An election officer of a participating municipality shall, in accordance with the provisions of this part, conduct a multi-candidate race during the municipal general election using instant runoff voting.

(b) Except as provided in Subsection 20A-4-603(9), an election officer of a participating municipality that will conduct a multi-candidate race under Subsection (5)(a) may not conduct a municipal primary election relating to that race.

(c) A municipality that has in effect an ordinance described in Subsection 20A-9-404(3) or (4) may not participate in the pilot project.

(6) Except for an election described in Subsection 20A-4-603(9), an individual who files a declaration of candidacy or a nomination petition, for a candidate who will run in an election described in this part, shall file the declaration of candidacy or nomination petition during the office hours described in Section 10-3-301 and not later than the close of those office hours, no sooner than the second Tuesday in August and no later than the third Tuesday in August of an odd-numbered year.

Section 8. Section 20A-5-102 is amended to read:

20A-5-102. Voting instructions.

(1) Each election officer shall:

(a) print instructions for voters;

(b) ensure that the instructions are printed in English, and any other language required under the Voting Rights Act of 1965, as amended, in large clear type; and

(c) ensure that the instructions inform voters:

(i) about how to obtain ballots for voting;

(ii) about special political party affiliation requirements for voting in a regular primary election or presidential primary election;

(iii) about how to prepare ballots for deposit in the ballot box;

(iv) about how to record write-in votes;

(v) about how to obtain a new ballot in the place of one spoiled by accident or mistake;

(vi) about how to obtain assistance in marking ballots;

(vii) about obtaining a new ballot if the voter's ballot is defaced;

(viii) that identification marks or the spoiling or defacing of a ballot will make it invalid;

(ix) about how to obtain and vote a provisional ballot;

(x) about whom to contact to report election fraud;

(xi) about applicable federal and state laws regarding:

(A) voting rights and the appropriate official to contact if the voter alleges [~~his~~] that the voter's rights have been violated; and

(B) prohibitions on acts of fraud and misrepresentation;

(xii) about procedures governing mail-in registrants and first-time voters; and

(xiii) about the date of the election and the hours that the polls are open on election day.

(2) Each election officer shall:

(a) provide the election judges of each voting precinct with sufficient instruction cards to instruct voters in the preparation of [~~their~~] the voters' ballots; and

(b) direct the election judges to post:

(i) general voting instructions in each voting booth; [~~and~~]

(ii) at least three instruction cards at other locations in the polling place; and

(iii) at least one sample ballot [~~elsewhere in and about~~] at the polling place.

Section 9. Section 20A-5-405 is amended to read:

20A-5-405. Election officer to provide ballots.

(1) An election officer shall:

(a) provide ballots for every election of public officers in which the voters, or any of the voters, within the election officer's jurisdiction participate;

(b) cause the name of every candidate whose nomination has been certified to or filed with the election officer in the manner provided by law to be included on each ballot;

(c) cause any ballot proposition that has qualified for the ballot as provided by law to be included on each ballot;

(d) ensure that the ballots are prepared and in the possession of the election officer before commencement of voting;

(e) allow candidates and their agents and the sponsors of ballot propositions that have qualified for the official ballot to inspect the ballots;

(f) [~~cause~~] no later than 45 days before the day of the election, make sample ballots [~~to be printed that are~~] available for inspection, in the same form as official ballots and that contain the same information as official ballots [~~but that are printed on different colored paper than official ballots or are identified by a watermark;~~], by:

[~~(g) ensure that the sample ballots are printed and in the possession of the election officer at least seven days before commencement of voting;~~]

[~~(h) make the sample ballots available for public inspection by:~~]

(i) posting a copy of the sample ballot in the election officer's office [~~at least seven days before commencement of voting~~];

(ii) [~~mailing~~] sending a copy of the sample ballot to:

(A) each candidate listed on the ballot; and

(B) the lieutenant governor;

[~~(iii) publicizing a copy of the sample ballot:~~]

(iii) (A) [~~at least seven days before the day of the election, by~~] posting one copy of the sample ballot, and at least one additional copy of the sample ballot per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the voters in the jurisdiction, subject to a maximum of 10 notices; or

(B) [~~at least 10 days before the day of the election, by~~] mailing a copy of the sample ballot to each registered voter who resides in the jurisdiction holding the election;

(iv) posting a copy of the sample ballot on the Utah Public Notice Website, created in Section 63A-16-601[~~, for seven days before the day of the election~~]; and

(v) if the jurisdiction has a website, posting a copy of the sample ballot on the jurisdiction's website [~~for at least seven days before the day of the election~~];

[~~(i)~~] (g) deliver [~~at least five copies~~] a copy of the sample ballot to poll workers for each polling place and direct [~~them~~] the poll workers to post the sample [~~ballots~~] ballot as required by Section 20A-5-102; and

[~~(j)~~] (h) print and deliver, at the expense of the jurisdiction conducting the election, enough ballots, sample ballots, and instructions to meet the voting demands of the qualified voters in each voting precinct.

(2) Instead of posting the entire sample ballot under Subsection [~~(1)(h)(iii)(A)~~] (1)(f)(iii)(A), the election officer may post a statement that:

(a) is entitled, "sample ballot";

(b) includes the following: "A sample ballot for [indicate name of jurisdiction] for the upcoming [indicate type and date of election] may be obtained from the following sources:"; and

(c) specifies the following sources where an individual may view or obtain a copy of the sample ballot:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address of the jurisdiction's offices; and

(iii) a mailing address and telephone number.

(3) (a) Each election officer shall, without delay, correct any error discovered in any ballot, if the correction can be made without interfering with the timely distribution of the ballots.

(b) (i) If the election officer discovers an error or omission in a manual ballot, and it is not possible to correct the error or omission, the election officer shall direct the poll workers to make the necessary corrections on the manual ballots before the ballots are distributed.

(ii) If the election officer discovers an error or omission in an electronic ballot and it is not possible to correct the error or omission by revising the electronic ballot, the election officer shall direct the poll workers to post notice of each error or omission with instructions on how to correct each error or omission in a prominent position at each polling booth.

[~~(c) (i)~~] (4) (a) If the election officer refuses or fails to correct an error or omission in a ballot, a candidate or a candidate's agent may file a verified petition with the district court asserting that:

[~~(A)~~] (i) an error or omission has occurred in:

[~~(I)~~] (A) the publication of the name or description of a candidate;

[~~(II)~~] (B) the preparation or display of an electronic ballot; or

[~~(III)~~] (C) [~~in~~] the [~~printing~~] posting of sample ballots or the printing of official manual ballots; and

[~~(B)~~] (ii) the election officer has failed to correct or provide for the correction of the error or omission.

[~~(ii)~~] (b) The district court shall issue an order requiring correction of any error in a ballot or an order to show cause why the error should not be corrected if it appears to the court that the error or omission has occurred and the election officer has failed to correct or provide for the correction of the error or omission.

[~~(iii)~~] (c) A party aggrieved by the district court's decision may appeal the matter to the Utah Supreme Court within five days after the day on which the district court enters the decision.

Section 10. Section 20A-5-605 is amended to read:

20A-5-605. Duties of poll workers.

(1) Poll workers shall:

(a) arrive at the polling place at a time determined by the election officer; and

(b) remain until the official election returns are prepared for delivery.

(2) The election officer may designate the title and duties of each poll worker.

(3) Upon arriving to open the polls, the poll workers shall:

(a) display the United States flag;

(b) examine the voting devices to see that they are in proper working order and that security devices have not been tampered with;

(c) place the voting devices, voting booths, and the ballot box in plain view of those poll workers and watchers that are present;

(d) check the ballots, supplies, records, and forms;

(e) if directed by the election officer:

(i) make any necessary corrections to the official ballots before the ballots are distributed at the polls; [~~and~~]

(ii) post any necessary notice of errors in ballots before voting commences; and

(iii) post [~~the sample ballots~~] a sample ballot, instructions to voters, and constitutional amendments, if any;

(f) open the ballot box in the presence of those assembled, turn the ballot box upside down to empty the ballot box of anything; and

(g) immediately before the polls open, lock the ballot box or, if locks and keys are not available, tape the ballot box securely.

(4) (a) If any poll worker fails to appear on the morning of the election, or fails or refuses to act:

(i) at least six qualified electors who are present at the polling place at the hour designated by law for the opening of the polls shall fill the vacancy by appointing another qualified individual from the voting precinct who is a member of the same political party as the poll worker who is being replaced to act as a poll worker; or

(ii) the election officer shall appoint a qualified individual to act as a poll worker.

(b) If a majority of the poll workers are present, the poll workers shall open the polls, even though a poll worker has not arrived.

(5) (a) If it is impossible or inconvenient to hold an election at the polling place designated, the poll workers, after having assembled at or as near as practicable to the designated place, and before receiving any vote, may move to the nearest convenient place for holding the election.

(b) If the poll workers move to a new polling place, the poll workers shall display a proclamation of the change and station a peace officer or some other proper individual at the original polling place to notify voters of the location of the new polling place.

(6) If, for any reason, the official ballots are not ready for distribution at a polling place or, if the supply of ballots is exhausted before the polls are closed, the poll workers may use unofficial ballots, made as nearly as possible in the form of the official ballot, until the election officer provides additional ballots.

(7) When it is time to open the polls, one of the poll workers shall announce that the polls are open as required by Section 20A-1-302, or in the case of early voting, Section 20A-3a-602.

(8) (a) The poll workers shall comply with the voting procedures and requirements of Chapter 3a, Voting, in allowing people to vote.

(b) The poll workers may not allow an individual, other than election officials and those admitted to vote, within six feet of voting devices, voting booths, or the ballot box.

(c) Besides the poll workers and watchers, the poll workers may not allow more than four voters in excess of the number of voting booths provided within six feet of voting devices, voting booths, or the ballot box.

(d) If necessary, the poll workers shall instruct each voter permitted to use a voting device how to operate the voting device before the voter enters the voting booth.

(e) (i) If the voter requests additional instructions after entering the voting booth, two poll workers may, if necessary, enter the booth and give the voter additional instructions.

(ii) In regular general elections and regular primary elections, the two poll workers who enter the voting booth to assist the voter shall be of different political parties.

Section 11. Section 20A-7-103 is amended to read:

20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when the Legislature submits a proposed

constitutional amendment or other question to the voters.

(2) The lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment, question, or statute in at least one newspaper in every county of the state where a newspaper is published.

(3) The legislative general counsel shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment __" and assign it a letter according to the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number __" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that summarizes the subject matter of the amendment or question; and

(d) deliver each number and title to the lieutenant governor.

(4) The lieutenant governor shall certify the number and ballot title of each amendment or question to the county clerk of each county no later than 65 days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that both the number and title of each amendment and question is [~~printed on~~] included in the sample ballots and official ballots; and

(b) publish [~~them~~] the sample ballots and official ballots as provided by law.

Section 12. Section 20A-11-1604 is amended to read:

20A-11-1604. Failure to disclose conflict of interest -- Failure to comply with reporting requirements.

(1) (a) Before or during the execution of any order, settlement, declaration, contract, or any other official act of office in which a state constitutional officer has actual knowledge that the state constitutional officer has a conflict of interest that is not stated in the conflict of interest disclosure, the state constitutional officer shall publicly declare that the state constitutional officer may have a conflict of interest and what that conflict of interest is.

(b) Before or during any vote on legislation or any legislative matter in which a legislator has actual knowledge that the legislator has a conflict of interest that is not stated in the conflict of interest disclosure, the legislator shall orally declare to the committee or body before which the matter is pending that the legislator may have a conflict of interest and what that conflict is.

(c) Before or during any vote on any rule, resolution, order, or any other board matter in which a member of the State Board of Education has actual knowledge that the member has a conflict of interest that is not stated in the conflict of interest disclosure, the member shall orally declare to the board that the member may have a conflict of interest and what that conflict of interest is.

(2) Any public declaration of a conflict of interest that is made under Subsection (1) shall be noted:

(a) on the official record of the action taken, for a state constitutional officer;

(b) in the minutes of the committee meeting or in the Senate or House Journal, as applicable, for a legislator; or

(c) in the minutes of the meeting or on the official record of the action taken, for a member of the State Board of Education.

(3) A state constitutional officer shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the state constitutional officer takes office after January 10, within 10 days after the day on which the state constitutional officer takes office; and

(b) each time the state constitutional officer changes employment.

(4) A legislator shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the legislator takes office after January 10, within 10 days after the day on which the legislator takes office; and

(b) each time the legislator changes employment.

(5) A member of the State Board of Education shall make a complete conflict of interest disclosure on the website:

(a) (i) no sooner than January 1 each year, and before January 11 each year; or

(ii) if the member takes office after January 10, within 10 days after the day on which the member takes office; and

(b) each time the member changes employment.

(6) A conflict of interest disclosure described in Subsection (3), (4), or (5) shall include:

(a) the regulated officeholder's name;

(b) the name and address of each of the regulated officeholder's current employers and each of the regulated officeholder's employers during the preceding year;

(c) for each employer described in Subsection (6)(b), a brief description of the employment, including the regulated officeholder's occupation and, as applicable, job title;

(d) for each entity in which the regulated officeholder is an owner or officer, or was an owner or officer during the preceding year:

(i) the name of the entity;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the regulated officeholder's position in the entity;

(e) in accordance with Subsection (7), for each individual from whom, or entity from which, the regulated officeholder has received $5,000 or more in income during the preceding year:

(i) the name of the individual or entity; and

(ii) a brief description of the type of business or activity conducted by the individual or entity;

(f) for each entity in which the regulated officeholder holds any stocks or bonds having a fair market value of $5,000 or more as of the date of the disclosure form or during the preceding year, but excluding funds that are managed by a third party, including blind trusts, managed investment accounts, and mutual funds:

(i) the name of the entity; and

(ii) a brief description of the type of business or activity conducted by the entity;

(g) for each entity not listed in Subsections (6)(d) through (f) in which the regulated officeholder currently serves, or served in the preceding year, [~~on the board of directors or in any other type of~~] in a paid leadership capacity or in a paid or unpaid position on a board of directors:

(i) the name of the entity or organization;

(ii) a brief description of the type of business or activity conducted by the entity; and

(iii) the type of [~~advisory~~] position held by the regulated officeholder;

(h) at the option of the regulated officeholder, a description of any real property in which the regulated officeholder holds an ownership or other financial interest that the regulated officeholder believes may constitute a conflict of interest, including a description of the type of interest held by the regulated officeholder in the property;

(i) the name of the regulated officeholder's spouse and any other adult residing in the regulated officeholder's household who is not related by blood or marriage, as applicable;

(j) for the regulated officeholder's spouse, the information that a regulated officeholder is required to provide under Subsection (6)(b);

(k) a brief description of the employment and occupation of each adult who:

(i) resides in the regulated officeholder's household; and

(ii) is not related to the regulated officeholder by blood or marriage;

(l) at the option of the regulated officeholder, a description of any other matter or interest that the regulated officeholder believes may constitute a conflict of interest;

(m) the date the form was completed;

(n) a statement that the regulated officeholder believes that the form is true and accurate to the best of the regulated officeholder's knowledge; and

(o) the signature of the regulated officeholder.

(7) In making the disclosure described in Subsection (6)(e), a regulated officeholder who provides goods or services to multiple customers or clients as part of a business or a licensed profession is only required to provide the information described in Subsection (6)(e) in relation to the entity or practice through which the regulated officeholder provides the goods or services and is not required to provide the information described in Subsection (6)(e) in relation to the regulated officeholder's individual customers or clients.

(8) The disclosure requirements described in this section do not prohibit a regulated officeholder from voting or acting on any matter.

(9) A regulated officeholder may amend a conflict of interest disclosure described in this part at any time.

(10) A regulated officeholder who violates the requirements of Subsection (1) is guilty of a class B misdemeanor.

(11) (a) A regulated officeholder who intentionally or knowingly violates a provision of this section, other than Subsection (1), is guilty of a class B misdemeanor.

(b) In addition to the criminal penalty described in Subsection (11)(a), the lieutenant governor shall impose a civil penalty of $100 against a regulated officeholder who violates a provision of this section, other than Subsection (1).

CHAPTER 171
S. B. 24

Passed February 4, 2022
Approved March 22, 2022
Effective July 1, 2022

UTAH RETIREMENT SYSTEMS REVISIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill modifies the Utah State Retirement and Insurance Benefit Act.

Highlighted Provisions:

This bill:

- requires a participating employer to certify each employee's status for retirement benefits;
- provides the time period for which a retiree's retirement allowance is cancelled due to a violation of the earnings limitation for a part-time appointed or elected board member;
- aligns the time period for determining final average salary with the time period for calculating years of service credit;
- adds the commissioner of the Department of Public Safety and the executive director of the Department of Corrections to the definitions of public safety service employee;
- clarifies when an elected official who is initially elected to office on or after July 1, 2011, may continue to participate in a retirement plan in which the elected official had previously accrued service credit;
- provides that a full-time Tier II employee who begins employment with an institution of higher education and has previously accrued service credit has a one-time irrevocable election to continue participation in the Utah Retirement Systems;
- provides that a member who exempts from participation in the Utah Retirement Systems is exempt from earning years of service credit during the period of exemption;
- permits a public safety service employee who is promoted to certain administrative positions to continue participation in a public safety retirement system while the employee remains employed with the same department;
- permits a fire department chief to exempt from participation in the New Public Safety and Firefighters Tier II Contributory Retirement Act;
- repeals the New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

49-11-603, as last amended by Laws of Utah 2017, Chapter 141
49-11-1207, as last amended by Laws of Utah 2017, Chapter 141
49-12-102, as last amended by Laws of Utah 2018, Chapter 415
49-13-102, as last amended by Laws of Utah 2018, Chapter 415
49-14-102, as last amended by Laws of Utah 2016, Chapter 227
49-14-201, as last amended by Laws of Utah 2021, Chapter 344
49-15-102, as last amended by Laws of Utah 2016, Chapter 227
49-15-201, as last amended by Laws of Utah 2021, Chapter 344
49-16-102, as last amended by Laws of Utah 2019, Chapter 349
49-22-102, as last amended by Laws of Utah 2018, Chapter 415
49-22-201, as last amended by Laws of Utah 2020, Chapter 24
49-22-204, as last amended by Laws of Utah 2020, Chapters 24 and 365
49-22-205, as last amended by Laws of Utah 2021, Chapters 64 and 382
49-22-401, as last amended by Laws of Utah 2016, Chapter 227
49-23-102, as last amended by Laws of Utah 2020, Chapter 180
49-23-201, as last amended by Laws of Utah 2015, Chapters 315 and 463
49-23-203, as last amended by Laws of Utah 2020, Chapter 24
49-23-401, as last amended by Laws of Utah 2020, Chapter 437

REPEALS:

49-11-904, as enacted by Laws of Utah 2020, Chapter 437

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-603 is amended to read:

49-11-603. Participating employer to report and certify -- Time limit -- Penalties for failure to comply.

(1) As soon as administratively possible, but in no event later than 30 days after the end of each pay period, a participating employer shall report and certify to the office:

(a) the eligibility for service credit accrual of:

(i) each current employee;

(ii) each new employee as the new employee begins employment; and

(iii) any changes to eligibility for service credit accrual of each employee;

(b) the compensation of each current employee eligible for service credit; and

(c) other factors relating to the proper administration of this title as required by the executive director.

(2) (a) Each participating employer shall submit the reports required under Subsection (1) in a format approved by the office.

(b) Each participating employer shall include in the reports a certification, for each employee, whether the employee is:

(i) an eligible employee who is accruing service credit;

(ii) an ineligible employee who may not accrue service credit;

(iii) a reemployed retiree; or

(iv) an employee who is eligible for employer contributions to a defined contribution plan administered under this title.

(3) A participating employer shall be liable to the office for:

(a) any liabilities and expenses, including administrative expenses and the cost of increased benefits to employees, resulting from the participating employer's failure to correctly report and certify records under this section;

(b) a penalty equal to the greater of:

(i) $250; or

(ii) 50% of the total contributions for the employees for the period of the reporting error; and

(c) attorney fees.

(4) The executive director may waive all or any part of the interest, penalties, expenses, and fees if the executive director finds there were extenuating circumstances surrounding the participating employer's failure to comply with this section.

(5) The office may estimate the length of service, compensation, or age of any employee, if that information is not contained in the records.

Section 2. Section 49-11-1207 is amended to read:

49-11-1207. Postretirement reemployment -- Violations -- Penalties.

(1) (a) If the office receives notice or learns of the reemployment of a retiree in violation of Section 49-11-1204 or 49-11-1205, the office shall:

(i) immediately cancel the retiree's retirement allowance;

(ii) keep the retiree's retirement allowance cancelled for the remainder of the calendar year if the reemployment with a participating employer exceeded the limitation under Subsection 49-11-1205(1)(a)(iii)(A) [~~or~~], (3)(b), or (4)(b); and

(iii) recover any overpayment resulting from the violation in accordance with the provisions of Section 49-11-607 before the allowance may be reinstated.

(b) Reinstatement of an allowance following cancellation for a violation under this section is subject to the procedures and provisions under Section 49-11-1204.

(2) If a retiree or participating employer failed to report reemployment in violation of Section 49-11-1206, the retiree, participating employer, or both, who are found to be responsible for the failure to report, are liable to the office for the amount of any overpayment resulting from the violation.

(3) A participating employer is liable to the office for a payment or failure to make a payment in violation of this part.

(4) If a participating employer fails to notify the office in accordance with Section 49-11-1206, the participating employer is immediately subject to a compliance audit by the office.

Section 3. Section 49-12-102 is amended to read:

49-12-102. Definitions.

As used in this chapter:

(1) (a) "Benefits normally provided"[~~: (a)~~] means a benefit offered by an employer, including:

(i) a leave benefit of any kind;

(ii) insurance coverage of any kind if the employer pays some or all of the premium for the coverage;

(iii) employer contributions to a health savings account, health reimbursement account, health reimbursement arrangement, or medical expense reimbursement plan; and

(iv) a retirement benefit of any kind if the employer pays some or all of the cost of the benefit[~~; and~~].

(b) "Benefits normally provided" does not include:

(i) a payment for social security;

(ii) workers' compensation insurance;

(iii) unemployment insurance;

(iv) a payment for Medicare;

(v) a payment or insurance required by federal or state law that is similar to a payment or insurance listed in Subsection (1)(b)(i), (ii), (iii), or (iv);

(vi) any other benefit that state or federal law requires an employer to provide an employee who would not otherwise be eligible to receive the benefit; or

(vii) any benefit that an employer provides an employee in order to avoid a penalty or tax under the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations, including a penalty imposed by Internal Revenue Code, Section 4980H.

(2) (a) "Compensation" means[~~, except as provided in Subsection (2)(c),~~] the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections [~~(3)(a), (b), (c), (d), and (e)~~] (3)(b), (c), (d), (e), and (f).

[~~(a)~~] (b) Except as provided in Subsection [~~(3)(b)~~] (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

[~~(c)~~] (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

[~~(d)~~] (e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

[~~(e)~~] (f) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (7).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(4) "Participating employer" means an employer [~~which~~] that meets the participation requirements of Sections 49-12-201 and 49-12-202.

(5) (a) "Regular full-time employee" means an employee:

(i) whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year [~~and~~];

(ii) whose employment normally requires an average of 20 hours or more per week, except as modified by the board[~~,~~]; and

(iii) who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half-time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-12-407;

(iv) a faculty member or employee of an institution of higher education who is considered full-time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Contributory Retirement System created under this chapter.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 4. Section 49-13-102 is amended to read:

49-13-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" [~~has the same meaning as~~] means the same as that term is defined in Section 49-12-102.

(2) (a) [~~Except as provided in Subsection (2)(c), "compensation"~~] "Compensation" means the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law; and

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee, an exempt employee, or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections [~~(3)(a), (b), (c), and (d)~~] (3)(b), (c), (d), and (e).

[~~(a)~~] (b) Except as provided in Subsection [~~(3)(b)~~] (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

[~~(c)~~] (d) If the member retires more than six months from the date of termination of employment and for purposes of computing the member's final average salary only, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement.

[~~(d)~~] (e) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (7).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(4) "Participating employer" means an employer [~~which~~] that meets the participation requirements of Sections 49-13-201 and 49-13-202.

(5) (a) "Regular full-time employee" means an employee:

(i) whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year [~~and~~];

(ii) whose employment normally requires an average of 20 hours or more per week, except as modified by the board[~~,~~]; and

(iii) who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an officer, elective or appointive, who earns $500 or more per month, indexed as of January 1, 1990, as provided in Section 49-13-407;

(iv) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(v) an individual who otherwise meets the definition of this Subsection (5) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include a classified school employee:

(i) (A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(ii) (A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(iii) who is a person working on a contract:

(A) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(B) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(6) "System" means the Public Employees' Noncontributory Retirement System.

(7) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 5. Section 49-14-102 is amended to read:

49-14-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income [~~which are~~] received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, including a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections [~~(3)(a), (b), and (c)~~] (3)(b), (c), and (d).

[~~(a)~~] (b) Except as provided in Subsection [~~(3)(b)~~] (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

(i) the public safety service employee has transferred from another agency; or

(ii) the public safety service employee has been promoted to a new position.

[~~(c)~~] (d) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (10).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(4) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (4)(a).

(5) "Participating employer" means an employer [~~which~~] that meets the participation requirements of Section 49-14-201.

(6) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is [~~a~~]:

(i) a law enforcement officer in accordance with Section 53-13-103;

(ii) a correctional officer in accordance with Section 53-13-104;

(iii) a special function officer approved in accordance with Sections 49-14-201 and 53-13-105;

(iv) a dispatcher who is certified in accordance with Section 53-6-303; [~~or~~]

(v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2[~~.~~];

(vi) the commissioner of the Department of Public Safety; or

(vii) the executive director of the Department of Corrections.

(b) Except [~~as provided under Subsections (6)(a)(iv) and (v)~~] for a position described in Subsection (6)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.

(c) Except for the minimum hour requirement, Subsections (6)(a) and (b) do not apply to any person who was eligible for service credit in this system before January 1, 1984.

(7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

(8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(9) "System" means the Public Safety Contributory Retirement System created under this chapter.

(10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Section 6. Section 49-14-201 is amended to read:

49-14-201. System membership -- Eligibility.

(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at the earliest of:

(a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;

(b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or

(c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) [~~Prior to~~] Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system [~~prior to~~] before July 1, 1989.

(iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(7) A public safety employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system [~~as long as~~] during the period in which the employee remains employed in the same department.

(8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system [~~prior to~~] before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(9) An employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system.

(10) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (10)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(11) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (10) in making [~~its~~] the subcommittee's recommendation.

(12) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(13) Except as provided under Subsection (14), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(14) (a) A public safety service employee employed by an airport police department, which elects to cover [~~its~~] the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (13), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (14)(a):

(i) shall be made at the time the employer elects to move [~~its~~] the employer's public safety service employees to a public safety retirement system;

(ii) documented by written notice to the participating employer; and

(iii) is irrevocable.

(15) (a) Subject to Subsection (16), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover [~~its~~] the participating employer's dispatchers under this system.

(b) A participating employer's election to cover [~~its~~] the participating employer's dispatchers under this system under Subsection (15)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (15)(b), is not eligible for service credit in this system.

(16) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

Section 7. Section 49-15-102 is amended to read:

49-15-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code Section 401(a)(17).

(2) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections [~~(3)(a), (b), and (c)~~] (3)(b), (c), and (d).

[~~(a)~~] (b) Except as provided in Subsection [~~(3)(b)~~] (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(3)(a)~~] (3)(b) may be exceeded if:

(i) the public safety service employee has transferred from another agency; or

(ii) the public safety service employee has been promoted to a new position.

[~~(c)~~] (d) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (10).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(4) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (4)(a).

(5) "Participating employer" means an employer [~~which~~] that meets the participation requirements of Section 49-15-201.

(6) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is [~~a~~]:

(i) a law enforcement officer in accordance with Section 53-13-103;

(ii) a correctional officer in accordance with Section 53-13-104;

(iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;

(iv) a dispatcher who is certified in accordance with Section 53-6-303; [~~or~~]

(v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2[~~.~~];

(vi) the commissioner of the Department of Public Safety; or

(vii) the executive director of the Department of Corrections.

(b) Except [~~as provided under Subsections (6)(a)(iv) and (v)~~] for a position described in Subsection (6)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.

(7) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

(8) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(9) "System" means the Public Safety Noncontributory Retirement System created under this chapter.

(10) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a public safety service employee was employed by a participating employer, including time the public safety service employee was absent in the service of the United States government on military duty.

Section 8. Section 49-15-201 is amended to read:

49-15-201. System membership -- Eligibility.

(1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.

(b) A public safety service employee employed by the state [~~prior to~~] before July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.

(2) (a) Public safety service employees of a participating employer other than the state that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system.

(b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, [~~prior to~~] before July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System.

(ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed.

(c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system.

(d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system.

(e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.

(3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.

(ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.

(b) (i) [~~Prior to~~] Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.

(ii) The office may request documentation to verify the appropriateness of the transfer.

(4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.

(5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.

(ii) The office may require documentation to justify the inclusion of any position under this system.

(b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.

(c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.

(ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system [~~prior to~~] before July 1, 1989.

(iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.

(iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:

(A) the participating employer covered other similarly situated positions under this system during the time period in question; and

(B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.

(6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.

(7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.

(8) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system [~~as long as~~] during the period in which the employee remains employed in the same department.

(9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:

(a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and

(b) the employee:

(i) remains employed by the Department of Corrections;

(ii) meets the eligibility requirements of this system;

(iii) was hired into a position covered by this system [~~prior to~~] before July 1, 2015; and

(iv) has not had a break in service on or after July 1, 2015.

(10) Any employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.

(11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:

(i) except for a dispatcher, place the employee's life or personal safety at risk; and

(ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.

(b) If a position satisfies the requirements of Subsection (11)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:

(i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;

(ii) perform duties that consist primarily of providing community protection; and

(iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.

(12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (11) in making [~~its~~] the subcommittee's recommendation.

(13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.

(14) Except as provided under Subsection (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.

(15) (a) A public safety service employee employed by an airport police department, which elects to cover [~~its~~] the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system.

(b) The public safety service employee's election to remain in the current retirement system under Subsection (15)(a):

(i) shall be made at the time the employer elects to move [~~its~~] the employer's public safety service employees to a public safety retirement system;

(ii) shall be documented by written notice to the participating employer; and

(iii) is irrevocable.

(16) (a) Subject to Subsection (17), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover [~~its~~] the participating employer's dispatchers under this system.

(b) A participating employer's election to cover [~~its~~] the participating employer's dispatchers under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (16)(b), is not eligible for service credit in this system.

(17) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or

plan administered by the board, may not participate in this system.

Section 9. Section 49-16-102 is amended to read:

49-16-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable as gross income [~~which are~~] received by a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of member contributions or any amounts the firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) remuneration paid in kind such as a residence, use of equipment, uniforms, travel, or similar payments;

(v) a lump-sum payment or special payments covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) (a) "Disability" means the complete inability, due to objective medical impairment, whether physical or mental, to perform firefighter service.

(b) "Disability" does not include the inability to meet an employer's required standards or tests relating to fitness, physical ability, or agility that is not a result of a disability as defined under Subsection (2)(a).

(3) (a) "Final average salary" means the amount calculated by averaging the highest three years of annual compensation preceding retirement subject to Subsections [~~(3)(a), (b), and (c)~~] (3)(b), (c), and (d).

[~~(a)~~] (b) Except as provided in Subsection [~~(3)(b)~~] (3)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office the limitation in Subsection (3)(a) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

[~~(c)~~] (d) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (13).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(4) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department; or

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(5) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter. [~~An~~]

(b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service [~~is not a firefighter service employee~~].

(6) (a) "Line-of-duty death or disability" means a death or disability resulting from:

(i) external force, violence, or disease directly resulting from firefighter service; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a firefighter service employee.

(b) "Line-of-duty death or disability" does not include a death or disability that:

(i) occurs during an activity that is required as an act of duty as a firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) occurs when the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death or disability; or

(iv) occurs in a manner other than as described in Subsection (6)(a).

(c) "Line-of-duty death or disability" includes the death or disability of a paid firefighter resulting from heart disease, lung disease, or a respiratory tract condition if the paid firefighter has five years of firefighter service credit.

(7) "Objective medical impairment" means an impairment resulting from an injury or illness [~~which~~] that is diagnosed by a physician or physician assistant and [~~which~~] that is based on accepted objective medical tests or findings rather than subjective complaints.

(8) "Participating employer" means an employer [~~which~~] that meets the participation requirements of Section 49-16-201.

(9) "Regularly constituted fire department" means a fire department that employs a fire chief who performs firefighter service for at least 2,080 hours of regularly scheduled paid employment per year.

(10) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(11) "System" means the Firefighters' Retirement System created under this chapter.

(12) (a) "Volunteer firefighter" means any individual [~~that~~] who is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department [~~which~~] that provides ongoing training and serves a political subdivision of the state.

(b) [~~An individual that~~] "Volunteer firefighter" does not include an individual who volunteers assistance but does not meet the requirements of Subsection (12)(a) [~~is not a volunteer firefighter for purposes of this chapter~~].

(13) "Years of service credit" means the number of periods, each to consist of 12 full months as determined by the board, whether consecutive or not, during which a firefighter service employee was employed by a participating employer or received full-time pay while on sick leave, including any time the firefighter service employee was absent in the service of the United States on military duty.

Section 10. Section 49-22-102 is amended to read:

49-22-102. Definitions.

As used in this chapter:

(1) "Benefits normally provided" [~~has the same meaning as~~] means the same as that term is defined in Section 49-12-102.

(2) (a) "Compensation" means[~~, except as provided in Subsection (2)(c),~~] the total amount of payments made by a participating employer to a member of this system for services rendered to the participating employer, including:

(i) bonuses;

(ii) cost-of-living adjustments;

(iii) other payments currently includable in gross income and that are subject to social security deductions, including any payments in excess of the maximum amount subject to deduction under social security law;

(iv) amounts that the member authorizes to be deducted or reduced for salary deferral or other benefits authorized by federal law; and

(v) member contributions.

(b) "Compensation" for purposes of this chapter may not exceed the amount allowed under Internal Revenue Code, Section 401(a)(17).

(c) "Compensation" does not include:

(i) the monetary value of remuneration paid in kind, including a residence or use of equipment;

(ii) the cost of any employment benefits paid for by the participating employer;

(iii) compensation paid to a temporary employee or an employee otherwise ineligible for service credit;

(iv) any payments upon termination, including accumulated vacation, sick leave payments, severance payments, compensatory time payments, or any other special payments;

(v) any allowances or payments to a member for costs or expenses paid by the participating employer, including automobile costs, uniform costs, travel costs, tuition costs, housing costs, insurance costs, equipment costs, and dependent care costs; or

(vi) a teacher salary bonus described in Section 53F-2-513.

(d) The executive director may determine if a payment not listed under this Subsection (2) falls within the definition of compensation.

(3) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(4) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject

to Subsections [~~(4)(a), (b), (c), (d), and (e)~~] (4)(b), (c), (d), (e), and (f).

[~~(a)~~] (b) Except as provided in Subsection [~~(4)(b)~~] (4)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(4)(a)~~] (4)(b) may be exceeded if:

[~~(i)~~] (i) the member has transferred from another agency; or

[~~(ii)~~] (ii) the member has been promoted to a new position.

[~~(c)~~] (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

[~~(d)~~] (e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

[~~(e)~~] (f) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (8).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(5) "Participating employer" means an employer [~~which~~] that meets the participation requirements of:

(a) Sections 49-12-201 and 49-12-202;

(b) Sections 49-13-201 and 49-13-202;

(c) Section 49-19-201; or

(d) Section 49-22-201 or 49-22-202.

(6) (a) "Regular full-time employee" means an employee:

(i) whose term of employment for a participating employer contemplates continued employment during a fiscal or calendar year [~~and~~];

(ii) whose employment normally requires an average of 20 hours or more per week, except as modified by the board[~~,~~]; and

(iii) who receives benefits normally provided by the participating employer.

(b) "Regular full-time employee" includes:

(i) a teacher whose term of employment for a participating employer contemplates continued employment during a school year and who teaches half time or more;

(ii) a classified school employee:

(A) who is hired before July 1, 2013; and

(B) whose employment normally requires an average of 20 hours per week or more for a participating employer, regardless of benefits provided;

(iii) an appointive officer whose appointed position is full time as certified by the participating employer;

(iv) the governor, the lieutenant governor, the state auditor, the state treasurer, the attorney general, and a state legislator;

(v) an elected official not included under Subsection (6)(b)(iv) whose elected position is full time as certified by the participating employer;

(vi) a faculty member or employee of an institution of higher education who is considered full time by that institution of higher education; and

(vii) an individual who otherwise meets the definition of this Subsection (6) who performs services for a participating employer through a professional employer organization or similar arrangement.

(c) "Regular full-time employee" does not include:

(i) a firefighter service employee as defined in Section 49-23-102;

(ii) a public safety service employee as defined in Section 49-23-102;

(iii) a classified school employee:

(A) who is hired on or after July 1, 2013; and

(B) who does not receive benefits normally provided by the participating employer even if the employment normally requires an average of 20 hours per week or more for a participating employer;

(iv) a classified school employee:

(A) who is hired before July 1, 2013;

(B) who did not qualify as a regular full-time employee before July 1, 2013;

(C) who does not receive benefits normally provided by the participating employer; and

(D) whose employment hours are increased on or after July 1, 2013, to require an average of 20 hours per week or more for a participating employer; or

(E) who is a person working on a contract:

(I) for the purposes of vocational rehabilitation and the employment and training of people with significant disabilities; and

(II) that has been set aside from procurement requirements by the state pursuant to Section 63G-6a-805 or the federal government pursuant to 41 U.S.C. Sec. 8501 et seq.

(7) "System" means the New Public Employees' Tier II Contributory Retirement System created under this chapter.

(8) "Years of service credit" means:

(a) a period consisting of 12 full months as determined by the board;

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter; or

(c) the regular school year consisting of not less than eight months of full-time service for a regular full-time employee of an educational institution.

Section 11. Section 49-22-201 is amended to read:

49-22-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer shall participate in this system.

(2) (a) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan.

(b) A person initially entering regular full-time employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a person initially entering regular full-time employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the person shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) Notwithstanding the provisions of this section and except as provided in Subsection (4), an elected official initially entering office on or after July 1, 2011:

(a) is only eligible to participate in the Tier II defined contribution plan established under Part 4, Tier II Defined Contribution Plan;

(b) is not eligible to participate in the Tier II hybrid retirement system established under Part 3, Tier II Hybrid Retirement System; and

(c) is vested immediately in the elected official's benefit and the benefit is nonforfeitable, including the total amount contributed by the participating employer and the total amount contributed by the member in the Tier II defined contribution plan.

(4) [~~Notwithstanding the provisions of Subsection (3), a~~] A legislator or full-time elected official initially entering office on or after July 1, 2011, who has previously accrued service credit:

(a) in a Tier I retirement system or plan administered by the board shall continue in the Tier I system or plan for which the legislator or full-time elected official is eligible; or

(b) in a Tier II hybrid retirement system shall continue in the Tier II system for which the [~~legislator or~~] full-time elected official is eligible.

Section 12. Section 49-22-204 is amended to read:

49-22-204. Higher education employees' eligibility requirements -- Election between different retirement plans -- Classification requirements -- Transfer between systems.

(1) (a) A regular full-time employee of an institution of higher education who is eligible to participate in either this system or in a retirement annuity contract with a public or private system, organization, or company, designated as described in Subsection (1)(c) or (d), shall, not later than January 1, 1979, elect to participate exclusively in this system or in an annuity contract allowed under this Subsection (1).

(b) The election is final, and no right exists to make any further election.

(c) Except as provided in Subsection (1)(d), the Utah Board of Higher Education shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of an institution of higher education is eligible to participate in under Subsection (1)(a).

(d) The technical college board of trustees of each technical college shall designate the public or private retirement systems, organizations, or companies that a regular full-time employee of each technical college is eligible to participate in under Subsection (1)(a).

(2) (a) A regular full-time employee hired by an institution of higher education after January 1, 1979, may participate only in the retirement plan [~~which attaches to~~] designated for the person's employment classification.

(b) Each institution of higher education shall prepare or amend existing employment classifications, under the direction of the Utah Board of Higher Education, or the technical college board of trustees of each technical college for each technical college, so that each classification is assigned with either:

(i) this system; or

(ii) a public or private system, organization, or company designated by:

(A) except as provided under Subsection (2)(b)(ii)(B), the Utah Board of Higher Education; or

(B) the technical college board of trustees of each technical college for regular full-time employees of each technical college.

(c) Notwithstanding a person's employment classification assignment under Subsection (2)(b), a regular full-time employee who begins employment with an institution of higher education has a one-time irrevocable election to continue participation in this system if the employee:

(i) has service credit in this system before the date of employment with the institution of higher education; and

(ii) makes the election before participating in the system described in Subsection (2)(b)(ii).

(3) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system may elect to continue participation in this system upon change to an employment classification [~~which~~] that requires participation in a public or private system, organization, or company designated by:

(a) except as provided in Subsection (3)(b), the Utah Board of Higher Education; or

(b) the technical college board of trustees of each technical college for regular full-time employees of each technical college.

(4) A regular full-time employee hired by an institution of higher education on or after July 1, 2011, whose employment classification requires participation in this system shall participate in this system.

(5) An employee's participation or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 13. Section 49-22-205 is amended to read:

49-22-205. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section:

(a) an executive department head of the state;

(b) a member of the State Tax Commission;

(c) a member of the Public Service Commission;

(d) a member of a full-time or part-time board or commission;

(e) an employee of the Governor's Office of Planning and Budget;

(f) an employee of the Governor's Office of Economic Opportunity;

(g) an employee of the Commission on Criminal and Juvenile Justice;

(h) an employee of the Governor's Office;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or appointed as a city administrator or another at-will employee of a municipality, county, or other political subdivision;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(2) (a) A participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) (a) In accordance with this section, Section 49-12-203, and Section 49-13-203, a municipality, county, or political subdivision may not exempt a

total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(4) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update an employee exemption in the event of any change.

(5) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the nonelective contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a); [~~and~~]

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the plan for the period of exempt employment; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-22-401, except that the contribution is exempt from the vesting requirements of Subsection 49-22-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-22-401; and

(iii) the member is not eligible for additional service credit in the system for the period of exempt employment.

(6) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (5)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(7) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-22-303(3)(a) or 49-22-401(4)(a) until the one-year election period under Subsection 49-22-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-22-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-22-201(2)(c).

(8) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (8) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(9) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 14. Section 49-22-401 is amended to read:

49-22-401. Contributions -- Rates.

(1) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 10% of the participant's compensation to a defined contribution plan.

(2) (a) The participating employer shall contribute the 10% nonelective contribution described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code [~~which~~] that:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan [~~which~~] that receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the percent specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of employment as a regular full-time employee under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-22-205.

(ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of exempt employment.

(d) (i) Years of employment under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of employment required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions including associated investment gains and losses made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member including associated investment gains and losses under Subsection (2)(a) are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member including associated investment gains and losses shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs or employer contributions made under this section.

(8) The office may request from any other [~~qualified 401(k)~~] plan under Subsection (2)(b)(ii) any relevant information pertaining to the maintenance of [~~its~~] the plan's tax qualification under the Internal Revenue Code.

(9) The office may take any action [~~which in its~~] that in the office's judgment is necessary to maintain the tax-qualified status of [~~its~~] the office's 401(k) defined contribution plan under federal law.

Section 15. Section 49-23-102 is amended to read:

49-23-102. Definitions.

As used in this chapter:

(1) (a) "Compensation" means the total amount of payments that are includable in gross income received by a public safety service employee or a firefighter service employee as base income for the regularly scheduled work period. The participating employer shall establish the regularly scheduled work period. Base income shall be determined prior to the deduction of any amounts the public safety service employee or firefighter service employee authorizes to be deducted for salary deferral or other benefits authorized by federal law.

(b) "Compensation" includes performance-based bonuses and cost-of-living adjustments.

(c) "Compensation" does not include:

(i) overtime;

(ii) sick pay incentives;

(iii) retirement pay incentives;

(iv) the monetary value of remuneration paid in kind, as in a residence, use of equipment or uniform, travel, or similar payments;

(v) a lump-sum payment or special payment covering accumulated leave; and

(vi) all contributions made by a participating employer under this system or under any other employee benefit system or plan maintained by a participating employer for the benefit of a member or participant.

(d) "Compensation" for purposes of this chapter may not exceed the amount allowed under Section 401(a)(17), Internal Revenue Code.

(2) "Corresponding Tier I system" means the system or plan that would have covered the member if the member had initially entered employment before July 1, 2011.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

(4) (a) "Final average salary" means the amount calculated by averaging the highest five years of annual compensation preceding retirement subject to Subsections [~~(4)(a), (b), (c), (d), and (e)~~] (4)(b), (c), (d), (e), and (f).

[~~(a)~~] (b) Except as provided in Subsection [~~(4)(b)~~] (4)(c), the percentage increase in annual compensation in any one of the years used may not exceed the previous year's compensation by more than 10% plus a cost-of-living adjustment equal to the decrease in the purchasing power of the dollar during the previous year, as measured by a United States Bureau of Labor Statistics Consumer Price Index average as determined by the board.

[~~(b)~~] (c) In cases where the participating employer provides acceptable documentation to the office, the limitation in Subsection [~~(4)(a)~~] (4)(b) may be exceeded if:

(i) the member has transferred from another agency; or

(ii) the member has been promoted to a new position.

[~~(c)~~] (d) If the member retires more than six months from the date of termination of employment, the member is considered to have been in service at the member's last rate of pay from the date of the termination of employment to the effective date of retirement for purposes of computing the member's final average salary only.

[~~(d)~~] (e) If the member has less than five years of service credit in this system, final average salary means the average annual compensation paid to the member during the full period of service credit.

[~~(e)~~] (f) The annual compensation used to calculate final average salary shall be based on[~~:~~] a period, as determined by the board, consistent with the period used to determine years of service credit in accordance with Subsection (14).

[~~(i) a calendar year for a member employed by a participating employer that is not an educational institution; or~~]

[~~(ii) a contract year for a member employed by an educational institution.~~]

(5) (a) "Firefighter service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is:

(i) a firefighter service employee trained in firefighter techniques and assigned to a position of hazardous duty with a regularly constituted fire department;

(ii) the state fire marshal appointed under Section 53-7-103 or a deputy state fire marshal; or

(iii) a firefighter service employee who is:

(A) hired on or after July 1, 2021;

(B) trained in firefighter techniques;

(C) assigned to a position of hazardous duty; and

(D) employed by the state as a participating employer.

(b) "Firefighter service" does not include secretarial staff or other similar employees.

(6) (a) "Firefighter service employee" means an employee of a participating employer who provides firefighter service under this chapter.

(b) "Firefighter service employee" does not include an employee of a regularly constituted fire department who does not perform firefighter service.

(7) (a) "Line-of-duty death" means a death resulting from:

(i) external force, violence, or disease occasioned by an act of duty as a public safety service or firefighter service employee; or

(ii) strenuous activity, including a heart attack or stroke, that occurs during strenuous training or another strenuous activity required as an act of duty as a public safety service or firefighter service employee.

(b) "Line-of-duty death" does not include a death that:

(i) occurs during an activity that is required as an act of duty as a public safety service or firefighter service employee if the activity is not a strenuous activity, including an activity that is clerical, administrative, or of a nonmanual nature;

(ii) occurs during the commission of a crime committed by the employee;

(iii) the employee's intoxication or use of alcohol or drugs, whether prescribed or nonprescribed, contributes to the employee's death; or

(iv) occurs in a manner other than as described in Subsection (7)(a).

(8) "Participating employer" means an employer [~~which~~] that meets the participation requirements of:

(a) Sections 49-14-201 and 49-14-202;

(b) Sections 49-15-201 and 49-15-202;

(c) Sections 49-16-201 and 49-16-202; or

(d) Sections 49-23-201 and 49-23-202.

(9) (a) "Public safety service" means employment normally requiring an average of 2,080 hours of regularly scheduled employment per year rendered by a member who is [~~a~~]:

(i) a law enforcement officer in accordance with Section 53-13-103;

(ii) a correctional officer in accordance with Section 53-13-104;

(iii) a special function officer approved in accordance with Sections 49-15-201 and 53-13-105;

(iv) a dispatcher who is certified in accordance with Section 53-6-303; [~~and~~]

(v) a full-time member of the Board of Pardons and Parole created under Section 77-27-2[~~.~~];

(vi) the commissioner of the Department of Public Safety; or

(vii) the executive director of the Department of Corrections.

(b) Except [~~as provided under Subsections (9)(a)(iv) and (v)~~] for a position described in Subsection (9)(a)(iv), (v), (vi), or (vii), "public safety service" also requires that, in the course of employment, the employee's life or personal safety is at risk.

(10) "Public safety service employee" means an employee of a participating employer who performs public safety service under this chapter.

(11) (a) "Strenuous activity" means engagement involving a difficult, stressful, or vigorous fire suppression, rescue, hazardous material response, emergency medical service, physical law enforcement, prison security, disaster relief, or other emergency response activity.

(b) "Strenuous activity" includes participating in a participating employer sanctioned and funded training exercise that involves difficult, stressful, or vigorous physical activity.

(12) "System" means the New Public Safety and Firefighter Tier II Contributory Retirement System created under this chapter.

(13) (a) "Volunteer firefighter" means any individual [~~that~~] who is not regularly employed as a firefighter service employee, but who:

(i) has been trained in firefighter techniques and skills;

(ii) continues to receive regular firefighter training; and

(iii) is on the rolls of a legally organized volunteer fire department [~~which~~] that provides ongoing training and serves a political subdivision of the state.

(b) An individual that volunteers assistance but does not meet the requirements of Subsection (13)(a) is not a volunteer firefighter for purposes of this chapter.

(14) "Years of service credit" means:

(a) a period, consisting of 12 full months as determined by the board; or

(b) a period determined by the board, whether consecutive or not, during which a regular full-time employee performed services for a participating employer, including any time the regular full-time employee was absent on a paid leave of absence granted by a participating employer or was absent in the service of the United States government on military duty as provided by this chapter.

Section 16. Section 49-23-201 is amended to read:

49-23-201. System membership -- Eligibility.

(1) Beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service employees shall participate in this system.

(2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:

(i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.

(b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:

(i) make an election to participate in the system created under this chapter:

(A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or

(B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and

(ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.

(c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.

(d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.

(3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:

(i) the state shall be eligible for service credit in this system; and

(ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover [~~its~~] the participating employer's dispatchers under this system.

(b) A participating employer's election to cover [~~its~~] the participating employer's dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.

(c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.

(4) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.

Section 17. Section 49-23-203 is amended to read:

49-23-203. Exemptions from participation in system.

(1) Upon filing a written request for exemption with the office, the following employees are exempt from participation in the system as provided in this section if the employee is a public safety service employee or firefighter service employee and is:

(a) an executive department head of the state;

(b) an elected or appointed sheriff of a county; [~~or~~]

(c) an elected or appointed chief of police of a municipality[~~.~~]; or

(d) the chief of any fire department or district.

(2) (a) A participating employer shall prepare a list designating those positions eligible for exemption under Subsection (1).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer under Subsection (1).

(3) Each participating employer shall:

(a) file each employee exemption annually with the office; and

(b) update an employee exemption in the event of any change.

(4) Beginning on the effective date of the exemption for an employee who elects to be exempt in accordance with Subsection (1):

(a) for a member of the Tier II defined contribution plan:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a); [~~and~~]

(ii) the member may make voluntary deferrals as provided in Section 49-23-401; and

(iii) the member is not eligible for additional service credit in the plan for the period of exempt employment; and

(b) for a member of the Tier II hybrid retirement system:

(i) the participating employer shall contribute the nonelective contribution and the amortization rate described in Section 49-23-401, except that the contribution is exempt from the vesting requirements of Subsection 49-23-401(3)(a);

(ii) the member may make voluntary deferrals as provided in Section 49-23-401; and

(iii) the member is not eligible for additional service credit in the system for the period of exempt employment.

(5) If an employee who is a member of the Tier II hybrid retirement system subsequently revokes the election of exemption made under Subsection (1), the provisions described in Subsection (4)(b) shall no longer be applicable and the coverage for the employee shall be effective prospectively as provided in Part 3, Tier II Hybrid Retirement System.

(6) (a) All employer contributions made on behalf of an employee shall be invested in accordance with Subsection 49-23-302(3)(a) or 49-23-401(4)(a) until the one-year election period under Subsection 49-23-201(2)(c) is expired if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) continues employment with the participating employer through the one-year election period under Subsection 49-23-201(2)(c).

(b) An employee is entitled to receive a distribution of the employer contributions made on behalf of the employee and all associated investment gains and losses if the employee:

(i) elects to be exempt in accordance with Subsection (1); and

(ii) terminates employment prior to the one-year election period under Subsection 49-23-201(2)(c).

(7) (a) The office shall make rules to implement this section.

(b) The rules made under this Subsection (7) shall include provisions to allow the exemption provided under Subsection (1) to apply to all contributions made beginning on or after July 1, 2011, on behalf of an exempted employee who began the employment before May 8, 2012.

(8) An employee's exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 18. Section 49-23-401 is amended to read:

49-23-401. Contributions -- Rates.

(1) (a) Up to the amount allowed by federal law, the participating employer shall make a nonelective contribution of 14% of the participant's compensation to a defined contribution plan.

(b) In addition to the nonelective contribution described in Subsection (1)(a), if a participating employer elects under Subsection 49-23-301(2)(c) to pay all or part of the required member contribution on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System, the participating employer shall make an additional nonelective contribution to an employee that is a member covered under this part at the same percentage rate of the participant's compensation as the participating employer's election to pay required member contributions on behalf of the participating employer's employees that are members covered under Part 3, Tier II Hybrid Retirement System.

(2) (a) The participating employer shall contribute the contributions described in Subsection (1) to a defined contribution plan qualified under Section 401(k) of the Internal Revenue Code [~~which~~] that:

(i) is sponsored by the board; and

(ii) has been grandfathered under Section 1116 of the Federal Tax Reform Act of 1986.

(b) The member may make voluntary deferrals to:

(i) the qualified 401(k) plan [~~which~~] that receives the employer contribution described in this Subsection (2); or

(ii) at the member's option, another defined contribution plan established by the participating employer.

(c) In addition to the contributions specified under Subsection (2)(a), the participating employer shall pay the corresponding Tier I system amortization rate of the employee's compensation to the office to be applied to the employer's corresponding Tier I system liability.

(3) (a) Except as provided under Subsection (3)(c), the total amount contributed by the participating employer under Subsection (2)(a) vests to the member upon accruing four years of service credit under this title.

(b) The total amount contributed by the member under Subsection (2)(b) vests to the member's benefit immediately and is nonforfeitable.

(c) (i) Upon filing a written request for exemption with the office, an eligible employee is exempt from the vesting requirements of Subsection (3)(a) in accordance with Section 49-23-203.

(ii) An employee who is exempt under this Subsection (3)(c) is not eligible for additional service credit in the plan for the period of exempt employment.

(d) (i) Years of service credit under Subsection (3)(a) includes any fraction of a year to which the member may be entitled.

(ii) At the time of vesting, if a member's years of service credit is within one-tenth of one year of the total years required for vesting, the member shall be considered to have the total years of service credit required for vesting.

(4) (a) Contributions made by a participating employer under Subsection (2)(a) shall be invested in a default option selected by the board until the member is vested in accordance with Subsection (3)(a).

(b) A member may direct the investment of contributions, including associated investment gains and losses, made by a participating employer under Subsection (2)(a) only after the contributions have vested in accordance with Subsection (3)(a).

(c) A member may direct the investment of contributions made by the member under Subsection (3)(b).

(5) No loans shall be available from contributions made by a participating employer under Subsection (2)(a).

(6) No hardship distributions shall be available from contributions made by a participating employer under Subsection (2)(a).

(7) (a) Except as provided in Subsection (7)(b), if a member terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a), all contributions made by a participating employer on behalf of the member under Subsection (2)(a), including associated investment gains and losses are subject to forfeiture.

(b) If a member who terminates employment with a participating employer prior to the vesting period described in Subsection (3)(a) subsequently enters employment with the same or another participating employer within 10 years of the termination date of the previous employment:

(i) all contributions made by the previous participating employer on behalf of the member, including associated investment gains and losses, shall be reinstated upon the member's employment as a regular full-time employee; and

(ii) the length of time that the member worked with the previous employer shall be included in determining whether the member has completed the vesting period under Subsection (3)(a).

(c) The office shall establish a forfeiture account and shall specify the uses of the forfeiture account, which may include an offset against administrative costs of employer contributions made under this section.

(8) The office may request from any other [~~qualified 401(k)~~] plan under Subsection (2)(b)(ii) any relevant information pertaining to the maintenance of [~~its~~] the plan's tax qualification under the Internal Revenue Code.

(9) The office may take any action [~~which in its~~] that in the office's judgment is necessary to maintain the tax-qualified status of [~~its~~] the office's 401(k) defined contribution plan under federal law.

Section 19. Repealer.

This bill repeals:

Section 49-11-904, New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account -- Insurance premium tax revenues -- Distribution.

Section 20. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 172
S. B. 36

Passed February 2, 2022
Approved March 22, 2022
Effective May 4, 2022

EMERGENCY MANAGEMENT ADMINISTRATION COUNCIL SUNSET EXTENSION

Chief Sponsor: Keith Grover
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill extends the sunset date for the Emergency Management Administration Council.

Highlighted Provisions:

This bill:

- extends the sunset date for the Emergency Management Administration Council to July 1, 2027.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, [~~2022~~] 2027.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

(20) Section 53F-5-212 is repealed July 1, 2024.

(21) Section 53F-5-213 is repealed July 1, 2023.

(22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(25) Section 53F-9-501 is repealed January 1, 2023.

(26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 173
S. B. 37

Passed January 27, 2022
Approved March 22, 2022
Effective May 4, 2022

SEARCH AND RESCUE ADVISORY BOARD SUNSET EXTENSION

Chief Sponsor: Keith Grover
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill extends the sunset date for the Search and Rescue Advisory Board.

Highlighted Provisions:

This bill:

- extends the sunset date for the Search and Rescue Advisory Board to July 1, 2027.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, [~~2022~~] 2027.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

(20) Section 53F-5-212 is repealed July 1, 2024.

(21) Section 53F-5-213 is repealed July 1, 2023.

(22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(25) Section 53F-9-501 is repealed January 1, 2023.

(26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 174
S. B. 40

Passed February 2, 2022
Approved March 22, 2022
Effective May 4, 2022

UTAH PROTECTION OF PUBLIC EMPLOYEES ACT AMENDMENTS

Chief Sponsor: Daniel W. ThatcherHouse
Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This bill amends the Utah Protection of Public Employees Act.

Highlighted Provisions:

This bill:

- defines terms;
- specifies the parties' burdens of proof in a civil action where a violation of the Utah Protection of Public Employees Act is alleged; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-61a-111, as last amended by Laws of Utah 2021, Chapter 344
67-21-2, as last amended by Laws of Utah 2013, Chapter 427
67-21-3, as last amended by Laws of Utah 2020, Chapter 365
67-21-3.5, as last amended by Laws of Utah 2018, Chapter 390
67-21-3.6, as enacted by Laws of Utah 2013, Chapter 427
67-21-3.7, as last amended by Laws of Utah 2018, Chapter 178
67-21-4, as last amended by Laws of Utah 2018, Chapter 178
67-21-6, as last amended by Laws of Utah 2013, Chapter 427

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-61a-111 is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to [~~adverse~~] retaliatory action, as that term is defined in Section [~~67-21-2~~] 67-19a-101, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

(c) Subsections (2)(a) and (b) do not apply where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position, or if the employee's position is dependent on a license that is subject to federal regulations.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United

States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 2. Section 67-21-2 is amended to read:

67-21-2. Definitions.

As used in this chapter:

(1) "Abuse of authority" means an arbitrary or capricious exercise of power that:

(a) adversely affects the employment rights of another; or

(b) results in personal gain to the person exercising the authority or to another person.

[~~(2) "Adverse action" means to discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.~~]

[~~(3)~~] (2) "Communicate" means a verbal, written, broadcast, or other communicated report.

[~~(4)~~] (3) "Damages" means general and special damages for injury or loss caused by each violation of this chapter.

[~~(5)~~] (4) "Employee" means a person who performs a service for wages or other remuneration under a contract of hire, written or oral, express or implied.

[~~(6)~~] (5) (a) "Employer" means the public body or public entity that employs the employee.

(b) "Employer" includes an agent of an employer.

(6) "Good faith" means that an employee acts with:

(a) subjective good faith; and

(b) the objective good faith of a reasonable employee.

(7) "Gross mismanagement" means action or failure to act by a person, with respect to a person's responsibility, that causes significant harm or risk of harm to the mission of the public entity or public body that employs, or is managed or controlled by, the person.

(8) "Judicial employee" means an employee of the judicial branch of state government.

(9) "Legislative employee" means an employee of the legislative branch of state government.

(10) "Political subdivision employee" means an employee of a political subdivision of the state.

(11) "Public body" means any of the following:

(a) a state officer, employee, agency, department, division, bureau, board, commission, council, authority, educational institution, or any other body in the executive branch of state government;

(b) an agency, board, commission, council, institution member, or employee of the legislative branch of state government;

(c) a county, city, town, regional governing body, council, school district, local district, special service district, or municipal corporation, board, department, commission, council, agency, or any member or employee of them;

(d) any other body that is created by state or local authority, or that is primarily funded by or through state or local authority, or any member or employee of that body;

(e) a law enforcement agency or any member or employee of a law enforcement agency; and

(f) the judiciary and any member or employee of the judiciary.

(12) "Public entity" means a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of the executive branch of state government.

(13) "Public entity employee" means an employee of a public entity.

(14) "Retaliatory action" [~~is as~~] means the same as that term is defined in Section 67-19a-101.

(15) "State institution of higher education" [~~is as~~] means the same as that term is defined in Section 53B-3-102.

(16) "Unethical conduct" means conduct that violates a provision of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Section 3. Section 67-21-3 is amended to read:

67-21-3. Reporting of governmental waste or violations of law -- Employer action -- Exceptions.

(1) (a) An employer may not take [~~adverse~~] retaliatory action against an employee because the employee, or a person authorized to act on behalf of the employee, communicates in good faith:

(i) the waste or misuse of public funds, property, or manpower;

(ii) a violation or suspected violation of a law, rule, or regulation adopted under the law of this state, a political subdivision of this state, or any recognized entity of the United States; or

(iii) as it relates to a state government employer:

(A) gross mismanagement;

(B) abuse of authority; or

(C) unethical conduct.

(b) For purposes of Subsection (1)(a), an employee is presumed to have communicated in good faith if the employee gives written notice or otherwise formally communicates the conduct described in Subsection (1)(a) to:

(i) a person in authority over the person alleged to have engaged in the conduct described in Subsection (1)(a);

(ii) the attorney general's office;

(iii) law enforcement, if the conduct is criminal in nature;

(iv) if the employee is a public entity employee, public body employee, legislative employee, or a judicial employee:

(A) the state auditor's office;

(B) the president of the Senate;

(C) the speaker of the House of Representatives;

(D) the Office of Legislative Auditor General;

(E) the governor's office;

(F) the state court administrator; or

(G) the Division of Finance;

(v) if the employee is a public entity employee, but not an employee of a state institution of higher education, the director of the Division of Purchasing and General Services;

(vi) if the employee is a political subdivision employee:

(A) the legislative body, or a member of the legislative body, of the political subdivision;

(B) the governing body, or a member of the governing body, of the political subdivision;

(C) the top executive of the political subdivision; or

(D) any government official with authority to audit the political subdivision or the applicable part of the political subdivision; or

(vii) if the employee is an employee of a state institution of higher education:

(A) the Utah Board of Higher Education or a member of the Utah Board of Higher Education;

(B) the commissioner of higher education;

(C) the president of the state institution of higher education where the employee is employed; or

(D) the entity that conducts audits of the state institution of higher education where the employee is employed.

(c) The presumption described in Subsection (1)(b) may be rebutted by showing that the employee knew or reasonably ought to have known that the report is malicious, false, or frivolous.

(2) An employer may not take [~~adverse~~] retaliatory action against an employee because an employee participates or gives information in an investigation, hearing, court proceeding, legislative or other inquiry, or other form of administrative review held by the public body.

(3) An employer may not take [~~adverse~~] retaliatory action against an employee because the employee has objected to or refused to carry out a directive that the employee reasonably believes violates a law of this state, a political subdivision of this state, or the United States, or a rule or regulation adopted under the authority of the laws of this state, a political subdivision of this state, or the United States.

(4) An employer may not implement rules or policies that unreasonably restrict an employee's ability to document:

(a) the waste or misuse of public funds, property, or manpower;

(b) a violation or suspected violation of any law, rule, or regulation; or

(c) as it relates to a state government employer:

(i) gross mismanagement;

(ii) abuse of authority; or

(iii) unethical conduct.

Section 4. Section 67-21-3.5 is amended to read:

67-21-3.5. Administrative review of retaliatory action against a public entity employee.

(1) A public entity employee who believes that the employee's employer has taken retaliatory action against the employee in violation of this chapter may file a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5 and subject to Section 67-21-4.

(2) If the Career Service Review Office determines that retaliatory action is taken in violation of this chapter against the public entity employee, the Career Service Review Office may order:

(a) reinstatement of the public entity employee at the same level held by the public entity employee before the retaliatory action;

(b) the payment of back wages, in accordance with Subsection 67-19a-406(5)(b);

(c) full reinstatement of benefits;

(d) full reinstatement of other employment rights; or

(e) if the retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the [~~person~~] employee had been promoted.

(3) A public entity employer has the burden to prove by substantial evidence that the public entity employer's action was justified.

(4) A public entity employee or public entity employer may appeal a determination of the Career Service Review Office as provided in Section 67-19a-402.5.

Section 5. Section 67-21-3.6 is amended to read:

67-21-3.6. Administrative review for political subdivision employees.

(1) (a) A political subdivision may adopt an ordinance to establish an independent personnel board to hear and take action on a complaint alleging [~~adverse~~] retaliatory action.

(b) The ordinance described in Subsection (1)(a) shall include:

(i) procedures for filing a complaint and conducting a hearing; and

(ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.

(2) If a political subdivision adopts an ordinance described in Subsection (1), a political subdivision employee may file a complaint with the independent personnel board alleging [~~adverse~~] retaliatory action.

(3) If an independent personnel board finds that [~~adverse~~] retaliatory action is taken in violation of the ordinance described in Subsection (1)(a), the independent personnel board may order:

(a) reinstatement of the employee at the same level as before the [~~adverse~~] retaliatory action;

(b) the payment of back wages;

(c) full reinstatement of fringe benefits;

(d) full reinstatement of seniority rights; or

(e) if the [~~adverse~~] retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

Section 6. Section 67-21-3.7 is amended to read:

67-21-3.7. Administrative review for state institution of higher education employees.

(1) (a) As used in this section, "independent personnel board" means a board where no member of the board:

(i) is in the same department as the complainant;

(ii) is a supervisor of the complainant; or

(iii) has a conflict of interest in relation to the complainant or an allegation made in the complaint.

(b) A state institution of higher education shall adopt a policy to establish an independent personnel board to hear and take action on a complaint alleging [~~adverse~~] retaliatory action.

(c) The policy described in Subsection (1)(b) shall include:

(i) procedures for filing a complaint and conducting a hearing; and

(ii) a burden of proof on the employer to establish by substantial evidence that the employer's action was justified by reasons unrelated to the employee's good faith actions under Section 67-21-3.

(2) (a) An employee of a state institution of higher education may file a complaint with the independent personnel board described in Subsection (1)(b) alleging [~~adverse~~] retaliatory action.

(b) An independent personnel board that receives a complaint under Subsection (2)(a) shall hear the matter, resolve the complaint, and take action under Subsection (3) within the later of:

(i) 30 days after the day on which the employee files the complaint; or

(ii) a longer period of time, not to exceed 30 additional days, if the employee and the independent personnel board mutually agree on the longer time period.

(3) If an independent personnel board finds that [~~adverse~~] retaliatory action is taken in violation of the policy described in Subsection (1)(b), the independent personnel board may order, or recommend to a final decision maker:

(a) reinstatement of the employee at the same level as before the [~~adverse~~] retaliatory action;

(b) the payment of back wages;

(c) full reinstatement of fringe benefits;

(d) full reinstatement of seniority rights; or

(e) if the [~~adverse~~] retaliatory action includes failure to promote, as described in Subsection 67-19a-101(11)(d), a pay raise that results in the employee receiving the pay that the employee would have received if the person had been promoted.

(4) A final decision maker who receives a recommendation under Subsection (3) shall render a decision and enter an order within seven days after the day on which the final decision maker receives the recommendation.

Section 7. Section 67-21-4 is amended to read:

67-21-4. Choice of forum -- Remedies for employee bringing action -- Proof required.

(1) (a) Except as provided in Subsection (1)(b) or (d), and subject to Subsections (1)(d) through (e), an employee who alleges a violation of this chapter may bring a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(b) Except as provided in Subsection (1)(d):

(i) an employee of a political subdivision that has adopted an ordinance described in Section 67-21-3.6:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies; and

(ii) an employee of a state institution of higher education:

(A) may bring a civil action described in Subsection (1)(a) within 180 days after the day on which the employee has exhausted administrative remedies; and

(B) may not bring a civil action described in Subsection (1)(a) until the employee has exhausted administrative remedies.

(c) Except as provided in Subsection (1)(d), a public entity employee who is not a legislative employee or a judicial employee may bring a claim of retaliatory action by selecting one of the following methods:

(i) filing a grievance with the Career Service Review Office in accordance with Section 67-19a-402.5; or

(ii) bringing a civil action for appropriate injunctive relief, damages, or both, within 180 days after the occurrence of the alleged violation of this chapter.

(d) (i) A claimant may bring an action after the 180-day limit described in this Subsection (1) if:

(A) the claimant originally brought the action within the 180-day time limit;

(B) the action described in Subsection (1)(d)(i)(A) failed or was dismissed for a reason other than on the merits; and

(C) the claimant brings the new action within 180 days after the day on which the claimant originally brought the action under Subsection (1)(d)(i)(A).

(ii) A claimant may commence a new action under this Subsection (1)(d) only once.

(e) A public entity employee who files a grievance under Subsection (1)(d)(i):

(i) may not, at any time, bring a civil action in relation to the subject matter of the grievance;

(ii) may seek a remedy described in Subsection 67-21-3.5(2); and

(iii) waives the right to seek a remedy or a type of damages not included in Subsection 67-21-3.5(2).

(f) A public entity employee who files a civil action under Subsection (1)(d)(ii) may not, at any time, file a grievance with the Career Service Review Office in relation to the subject matter of the civil action.

(2) An employee who brings a civil action under this section shall bring the action in the district court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides or has the person's principal place of business.

[~~(3) To prevail in an action brought under this section, the employer shall prove by substantial evidence that the employer's action was justified.~~]

(3) (a) An employee who brings an action under this section has the burden of proving by a preponderance of the evidence that the employee, in good faith, engaged in protected reporting and suffered a retaliatory action.

(b) If the employee satisfies the burden described in Subsection (3)(a), the employer has the burden of proving by substantial evidence that the employer's action was justified.

(c) If the employer satisfies the burden described in Subsection (3)(b), the employee has the burden of proving by a preponderance of the evidence that the employer's justification is pretextual.

Section 8. Section 67-21-6 is amended to read:

67-21-6. Civil fine.

(1) (a) A person who violates this chapter is liable for a civil fine of not more than $500.

(b) The person who takes [~~an adverse~~] a retaliatory action against an employee in violation of this chapter, and not the public body that employs the employee, shall, after receiving notice and an opportunity to be heard, pay the civil fine under this Subsection (1).

(c) If a person is ordered to pay a civil fine under this Subsection (1), the employer may dismiss the person who took the [~~adverse~~] retaliatory action in violation of this chapter.

(2) A civil fine ordered under this chapter shall be submitted to the state treasurer for deposit in the General Fund.

(3) The civil fine described in this section may be imposed if a violation of this chapter is found by:

(a) an independent personnel board described in Subsection 67-21-3.6(1)(a) or 67-21-3.7(1)(a);

(b) the Career Service Review Office; or

(c) a court.

CHAPTER 175
S. B. 50

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

CRIMINAL CODE EVALUATION TASK FORCE SUNSET EXTENSION

Chief Sponsor: Jani Iwamoto
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill extends the Criminal Code Evaluation Task Force by several months.

Highlighted Provisions:

This bill:

- extends the Criminal Code Evaluation Task Force by several months; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-29-108, as enacted by Laws of Utah 2021, Chapter 194
63I-1-236, as last amended by Laws of Utah 2021, Chapter 194

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-108 is amended to read:

36-29-108. Criminal Code Evaluation Task Force.

(1) As used in this section, "task force" means the Criminal Code Evaluation Task Force created in this section.

(2) There is created the Criminal Code Evaluation Task Force consisting of the following 15 members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party;

(c) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(d) the director of the Utah Sentencing Commission or the director's designee;

(e) one member appointed by the presiding officer of the Utah Judicial Council;

(f) one member of the Utah Prosecution Council appointed by the chair of the Utah Prosecution Council;

(g) the executive director of the Utah Department of Corrections or the executive director's designee;

(h) the commissioner of the Utah Department of Public Safety or the commissioner's designee;

(i) the director of the Utah Office for Victims of Crime or the director's designee;

(j) an individual who represents an association of criminal defense attorneys, appointed by the president of the Senate; and

(k) an individual who represents an association of victim advocates, appointed by the speaker of the House of Representatives.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Office of Legislative Research and General Counsel shall provide staff support to the task force.

(7) The task force shall review the state's criminal code and related statutes and make recommendations regarding:

(a) the proper classification of crimes by degrees of felony and misdemeanor;

(b) standardizing the format of criminal statutes; and

(c) other modifications related to the criminal code and related statutes.

(8) On or before November 30 of each year that the task force is in effect, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed [~~April 15, 2023~~] July 1, 2023.

Section 2. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates, Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2023.

(2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

[~~(4) Section 36-29-106 is repealed June 1, 2021.~~]

[~~(5)~~] (4) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed [~~April 15, 2023~~] July 1, 2023.

[~~(6)~~] (5) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.

CHAPTER 176
S. B. 53
Passed February 24, 2022
Approved March 22, 2022
Effective May 4, 2022

DRIVER SPEEDING AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill amends the offense of reckless driving to include certain speeding violations.

Highlighted Provisions:

This bill:

- amends penalties for a violation related to speed races on a highway;
- allows the seizure of a vehicle that is not street legal that is engaged in a speed race or exhibition of speed on a highway;
- provides a minimum fine for a speeding violation where the individual was traveling at a speed of 100 miles per hour or more;
- amends the offense of reckless driving to include traveling on a highway at a speed of 105 miles per hour or greater; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-528, as last amended by Laws of Utah 2009, Chapter 292
41-6a-601, as last amended by Laws of Utah 2019, Chapter 149
41-6a-606, as last amended by Laws of Utah 2017, Chapter 181

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-528 is amended to read:

41-6a-528. Reckless driving -- Penalty.

(1) A person is guilty of reckless driving who operates a vehicle[~~: (a)~~] in willful or wanton disregard for the safety of persons or property[~~; or~~].

[~~(b) while committing three or more moving traffic violations under Title 41, Chapter 6a, Traffic Code, in a series of acts occurring within a single continuous period of driving covering three miles or less in total distance.~~]

(2) For purposes of this section, "willful or wanton disregard for the safety of persons or property" includes:

(a) traveling on a highway at a speed of 105 miles per hour or greater; or

(b) committing three or more traffic violations under Title 41, Chapter 6a, Traffic Code, in a series of acts occurring within a single continuous period of driving covering three miles or less in total distance.

[~~(2)~~] (3) A person who violates Subsection (1) is guilty of a class B misdemeanor.

Section 2. Section 41-6a-601 is amended to read:

41-6a-601. Speed regulations -- Safe and appropriate speeds at certain locations -- Prima facie speed limits -- Emergency power of the governor.

(1) A person may not operate a vehicle at a speed greater than is reasonable and prudent under the existing conditions, giving regard to the actual and potential hazards then existing, including when:

(a) approaching and crossing an intersection or railroad grade crossing;

(b) approaching and going around a curve;

(c) approaching a hill crest;

(d) traveling upon any narrow or winding roadway;

(e) traveling in, through, or approaching other hazards that exist due to pedestrians, other traffic, weather, or highway conditions; and

(f) the speed causes the person to fail to maintain control of the vehicle or stay within a single lane of travel.

(2) Subject to Subsections (1) and (4) and Sections 41-6a-602 and 41-6a-603, the following speeds are lawful:

(a) 20 miles per hour in a reduced speed school zone as defined in Section 41-6a-303;

(b) 25 miles per hour in any urban district; and

(c) 55 miles per hour in other locations.

(3) Except as provided in Section 41-6a-604, any speed in excess of the limits provided in this section or established under Sections 41-6a-602 and 41-6a-603 is prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

(4) (a) A violation of Subsection (1) is an infraction.

(b) For an individual convicted of a speed violation where the individual was operating at a speed of 100 miles per hour or more, the court shall impose a fine not less than 150% of the suggested fine in the uniform fine schedule authorized in Section 76-3-301.5 and in effect at the time of the citation.

(5) The governor by proclamation in time of war or emergency may change the speed limits on the highways of the state.

Section 3. Section 41-6a-606 is amended to read:

41-6a-606. Speed contest or exhibition on highway -- Barricade or obstruction -- -- Spectators of a speed contest -- Seizure of non-street legal vehicles.

(1) A person may not engage in any motor vehicle speed contest or exhibition of speed on a highway.

(2) A person may not, in any manner, obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway for any purpose prohibited under Subsection (1).

(3) (a) A person who violates Subsection (1) is guilty of a class [~~B~~] A misdemeanor.

(b) A person who violates Subsection (2) is guilty of a class B misdemeanor.

(4) (a) In addition to the penalty provided under this section or any other section, a person who violates Subsection (1) shall have the person's driver license suspended under Subsection 53-3-220(1)(a)(xv) for a period of:

(i) 60 days for a first offense; and

(ii) 90 days for a second offense within three years of a prior offense.

(b) The court shall forward the report of the conviction to the Driver License Division in accordance with Section 53-3-218.

(5) A motor vehicle that is not street legal that is operated or used in a manner that violates this section is subject to seizure in accordance with Title 24, Chapter 2, Seizure of Property.

CHAPTER 177
S. B. 63

Passed February 16, 2022
Approved March 22, 2022
Effective May 4, 2022

BEREAVEMENT LEAVE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill requires certain entities to provide bereavement leave for employees who experience a miscarriage or stillbirth.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Board of Higher Education and the human resources bodies of state, county, and municipal governments to implement rules that will provide bereavement leave for employees who suffer the loss of a child as a result of a miscarriage or stillbirth; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-3-1103, as enacted by Laws of Utah 1977, Chapter 48

17-33-5, as last amended by Laws of Utah 2009, Chapter 128

20A-1-508, as last amended by Laws of Utah 2019, Chapters 212, 255 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 212

53B-1-401, as enacted by Laws of Utah 2020, Chapter 365

53B-1-402, as last amended by Laws of Utah 2021, Chapter 187

63A-17-106, as renumbered and amended by Laws of Utah 2021, Chapter 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-1103 is amended to read:

10-3-1103. Sickness, disability, and death benefits -- Bereavement leave.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(1)~~] (2) The governing body of each municipality may maintain as to all elective or appointive officers and employees, including heads of departments, a system for the payment of health, dental, hospital, medical, disability and death benefits to be financed and administered in a manner and payable upon the terms and conditions as the governing body of the municipality may by ordinance or resolution prescribe.

[~~(2)~~] (3) The governing bodies of the municipalities may create and administer personnel benefit programs separately or jointly with other municipalities or other political subdivisions of the State of Utah or associations thereof.

(4) The governing body of each municipality shall, by ordinance or resolution, provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner; or

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy.

Section 2. Section 17-33-5 is amended to read:

17-33-5. Office of personnel management -- Director -- Appointment and responsibilities -- Personnel rules.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(1)~~] (2) (a) (i) Each county executive shall:

(A) create an office of personnel management, administered by a director of personnel management; and

(B) ensure that the director is a person with proven experience in personnel management.

(ii) Except as provided in Subsection [~~(1)~~] (2)(b), the position of director of personnel management shall be:

(A) a merit position; and

(B) filled as provided in Subsection [~~(1)~~] (2)(a)(iii).

(iii) Except as provided in Subsection [~~(1)~~] (2)(b), the career service council shall:

(A) advertise and recruit for the director position in the same manner as for merit positions;

(B) select three names from a register; and

(C) submit those names as recommendations to the county legislative body.

(iv) Except as provided in Subsection [~~(1)~~] (2)(b), the county legislative body shall select a person to serve as director of the office of personnel management from the names submitted to it by the career service council.

(b) (i) Effective for appointments made after May 1, 2006, and as an alternative to the procedure under Subsections [~~(1)~~] (2)(a)(ii), (iii), and (iv) and at the county executive's discretion, the county executive may appoint a director of personnel management with the advice and consent of the county legislative body.

(ii) The position of each director of personnel management appointed under this Subsection [~~(1)~~] (2)(b) shall be a merit exempt position.

(iii) A director of personnel management appointed under this Subsection [~~(1)~~] (2)(b) may be terminated by the county executive with the consent of the county legislative body.

[~~(2)~~] (3) The director of personnel management shall:

(a) encourage and exercise leadership in the development of expertise in personnel administration within the several departments, offices, and agencies in the county service and make available the facilities of the office of personnel management to this end;

(b) advise the county legislative and executive bodies on the use of human resources;

(c) develop and implement programs for the improvement of employee effectiveness, such as training, safety, health, counseling, and welfare;

(d) investigate periodically the operation and effect of this law and of the policies made under it and report findings and recommendations to the county legislative body;

(e) establish and maintain records of all employees in the county service, setting forth as to each employee class, title, pay or status, and other relevant data;

(f) make an annual report to the county legislative body and county executive regarding the work of the department; and

(g) apply and carry out this law and the policies under it and perform any other lawful acts that are necessary to carry out the provisions of this law.

[~~(3)~~] (4) (a) (i) The director shall recommend personnel rules for the county.

(ii) The county legislative body may:

(A) recommend personnel rules for the county; and

(B) approve, amend, or reject personnel rules before they are adopted.

(b) The rules shall provide for:

(i) recruiting efforts to be planned and carried out in a manner that assures open competition, with special emphasis to be placed on recruiting efforts to attract minorities, women, persons with a disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102, or other groups that are substantially underrepresented in the county work force to help assure they will be among the candidates from whom appointments are made;

(ii) the establishment of job related minimum requirements wherever practical, that all successful candidates shall be required to meet in order to be eligible for consideration for appointment or promotion;

(iii) selection procedures that include consideration of the relative merit of each applicant for employment, a job related method of determining the eligibility or ineligibility of each applicant, and a valid, reliable, and objective system of ranking eligible applicants according to their qualifications and merit;

(iv) certification procedures that insure equitable consideration of an appropriate number of the most qualified eligible applicants based on the ranking system;

(v) appointments to positions in the career service by selection from the most qualified eligible applicants certified on eligible lists established in accordance with Subsections [~~(3)~~] (4)(b)(iii) and (iv);

(vi) noncompetitive appointments in the occasional instance where there is evidence that open or limited competition is not practical, such as for unskilled positions that have no minimum job requirements;

(vii) limitation of competitions at the discretion of the director for appropriate positions to facilitate employment of qualified applicants with a substantial physical or mental impairment, or other groups protected by Title VII of the Civil Rights Act;

(viii) permanent appointment for entry to the career service that shall be contingent upon satisfactory performance by the employee during a period of six months, with the probationary period extendable for a period not to exceed six months for good cause, but with the condition that the probationary employee may appeal directly to the council any undue prolongation of the period designed to thwart merit principles;

(ix) temporary, provisional, or other noncareer service appointments, which may not be used as a way of defeating the purpose of the career service and may not exceed 270 days;

(x) lists of eligible applicants normally to be used, if available, for filling temporary positions, and short term emergency appointments to be made without regard to the other provisions of law to provide for maintenance of essential services in an emergency situation where normal procedures are not practical, these emergency appointments not to exceed 270 days;

(xi) promotion and career ladder advancement of employees to higher level positions and assurance that all persons promoted are qualified for the position;

(xii) recognition of the equivalency of other merit processes by waiving, at the discretion of the director, the open competitive examination for placement in the career service positions of those who were originally selected through a competitive examination process in another governmental entity, the individual in those cases, to serve a probationary period;

(xiii) preparation, maintenance, and revision of a position classification plan for all positions in the career service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class, the compensation plan, in order to maintain a high quality public work force, to take into account the responsibility and difficulty of the work, the comparative pay and benefits needed to compete in the labor market and to stay in proper alignment with other similar governmental units, and other factors;

(xiv) keeping records of performance on all employees in the career service and requiring consideration of performance records in determining salary increases, any benefits for meritorious service, promotions, the order of layoffs and reinstatements, demotions, discharges, and transfers;

(xv) establishment of a plan governing layoffs resulting from lack of funds or work, abolition of positions, or material changes in duties or organization, and governing reemployment of persons so laid off, taking into account with regard to layoffs and reemployment the relative ability, seniority, and merit of each employee;

(xvi) establishment of a plan for resolving employee grievances and complaints with final and binding decisions;

(xvii) establishment of disciplinary measures such as suspension, demotion in rank or grade, or discharge, measures to provide for presentation of charges, hearing rights, and appeals for all permanent employees in the career service to the career service council;

(xviii) establishment of a procedure for employee development and improvement of poor performance;

(xix) establishment of hours of work, holidays, and attendance requirements in various classes of positions in the career service;

(xx) establishment and publicizing of fringe benefits such as insurance, retirement, and leave programs; and

(xxi) any other requirements not inconsistent with this law that are proper for its enforcement.

(5) Rules adopted pursuant to Subsection (4)(b)(xx) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner; or

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy.

Section 3. Section 20A-1-508 is amended to read:

20A-1-508. Midterm vacancies in county elected offices -- Temporary manager -- Interim replacement.

(1) As used in this section:

(a) (i) "County offices" includes the county executive, members of the county legislative body, the county treasurer, the county sheriff, the county clerk, the county auditor, the county recorder, the county surveyor, and the county assessor.

(ii) "County offices" does not include the office of county attorney, district attorney, or judge.

(b) "Party liaison" means the political party officer designated to serve as a liaison with each county legislative body on all matters relating to the political party's relationship with a county as required by Section 20A-8-401.

(2) (a) Except as provided in Subsection (2)(d), until a county legislative body appoints an interim replacement to fill a vacant county office under Subsection (3), the following shall temporarily discharge the duties of the county office as a temporary manager:

(i) for a county office with one chief deputy, the chief deputy;

(ii) for a county office with more than one chief deputy:

(A) the chief deputy with the most cumulative time served as a chief deputy for the county office; or

(B) notwithstanding Subsection (2)(a)(ii)(A), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's chief deputies to discharge the duties of the county office in the event the county officer vacates the office, the designated chief deputy; or

(iii) for a county office without a chief deputy:

(A) if one management-level employee serving under the county office has a higher-seniority management level than any other employee serving under the county office, that management-level employee;

(B) if two or more management-level employees serving under the county office have the same and highest-seniority management level, the highest-seniority management-level employee with the most cumulative time served in the employee's current position; or

(C) notwithstanding Subsection (2)(a)(iii)(A) or (B), if, before the vacating county officer vacates the office, the county officer files with the county clerk a written statement designating one of the county officer's employees to discharge the county officer's duties in the event the county officer vacates the office, the designated employee.

(b) Except as provided in Subsection (2)(c), a temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office holds the powers and duties of the county office until the county legislative body appoints an interim replacement under Subsection (3).

(c) The temporary manager described in Subsection (2)(a) who temporarily discharges the duties of a county office:

(i) may not take an oath of office for the county office as a temporary manager;

(ii) shall comply with Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, and the county's budget ordinances and policies;

(iii) unless approved by the county legislative body, may not change the compensation of an employee;

(iv) unless approved by the county legislative body, may not promote or demote an employee or change an employee's job title;

(v) may terminate an employee only if the termination is conducted in accordance with:

(A) personnel rules described in Subsection 17-33-5[~~(3)~~](4) that are approved by the county legislative body; and

(B) applicable law;

(vi) unless approved by the county legislative body, may not exceed by more than 5% an expenditure that was planned before the county office for which the temporary manager discharges duties was vacated;

(vii) except as provided in Subsection (2)(c)(viii), may not receive a change in title or compensation; and

(viii) if approved by the county legislative body, may receive a performance award after:

(A) the county legislative body appoints an interim replacement under Subsection (3); and

(B) the interim replacement is sworn into office.

(d) This Subsection (2) does not apply to a vacancy in the office of county legislative body member.

(3) (a) Until a replacement is selected as provided in this section and has qualified, the county legislative body shall appoint an interim replacement to fill the vacant office by following the procedures and requirements of this Subsection (3).

(b) (i) To appoint an interim replacement, the county legislative body shall, within 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party of the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the liaison receives the notice described in Subsection (3)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. within 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual the party selects in accordance with the party's constitution or bylaws to serve as the interim replacement.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to serve as the interim replacement, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an interim replacement to fill the vacancy in accordance with Subsection (3)(b)(iii), the county clerk shall, no later than five days after the day of the deadline described in Subsection (3)(b)(iii), send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint a replacement within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (3)(c)(i), appoint the individual named by the party liaison as an interim replacement to fill the vacancy.

(d) An individual appointed as interim replacement under this Subsection (3) shall hold office until a successor is elected and has qualified.

(4) (a) The requirements of this Subsection (4) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs after the election at which the officeholder was elected but before the second Friday in March of the next even-numbered year.

(b) (i) When the conditions described in Subsection (4)(a) are met, the county clerk shall as soon as practicable, but no later than 180 days before the next regular general election, notify the public and each registered political party that the vacancy exists.

(ii) An individual intending to become a party candidate for the vacant office shall file a declaration of candidacy in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(iii) An individual who is nominated as a party candidate, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(5) (a) The requirements of this Subsection (5) apply to all county offices that become vacant if:

(i) the vacant office has an unexpired term of two years or more; and

(ii) the vacancy occurs on or after the second Friday in March of the next even-numbered year but more than 75 days before the regular primary election.

(b) When the conditions described in Subsection (5)(a) are met, the county clerk shall as soon as practicable, but no later than 70 days before the next regular primary election, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines described in Subsection (5)(c)(i) and the deadlines established under Subsection (5)(d)(ii).

(c) (i) An individual intending to become a party candidate for a vacant office shall, within five days after the day on which the notice is given, ending at the close of normal office hours on the fifth day, file a declaration of candidacy for the vacant office in accordance with:

(A) Chapter 9, Part 2, Candidate Qualifications and Declarations of Candidacy; and

(B) for a county commission office, Subsection 17-52a-201(6) or 17-52a-202(6), if applicable.

(ii) The county central committee of each party shall:

(A) select a candidate or candidates from among those qualified candidates who have filed declarations of candidacy; and

(B) certify the name of the candidate or candidates to the county clerk as soon as practicable, but before 5 p.m. no later than 60 days before the day of the regular primary election.

(d) (i) Except as provided in Subsection (5)(d)(ii), an individual intending to become a candidate for a vacant office who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(ii) (A) The county clerk shall establish, in the clerk's reasonable discretion, a deadline that is before 5 p.m. no later than 65 days before the day of the next regular general election by which an individual who is not affiliated with a registered political party is required to submit a certificate of nomination under Subsection (5)(d)(i).

(B) The county clerk shall establish the deadline described in Subsection (5)(d)(ii)(A) in a manner that gives an unaffiliated candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is nominated as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(6) (a) The requirements of this Subsection (6) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of two years or more; and

(ii) when 75 days or less remain before the day of the regular primary election but more than 65 days remain before the day of the regular general election.

(b) When the conditions described in Subsection (6)(a) are met, the county clerk shall, as soon as practicable, notify the public and each registered political party:

(i) that the vacancy exists; and

(ii) of the deadlines established under Subsection (6)(d).

(c) (i) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(A), the county central committee of each registered political party that wishes to submit a candidate for the office shall certify the name of one candidate to the county clerk for placement on the regular general election ballot.

(ii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(B), a candidate who does not wish to affiliate with a registered political party shall file a verified certificate of nomination described in Section 20A-9-502 with the county clerk in accordance with Chapter 9, Part 5, Candidates not Affiliated with a Party.

(iii) Before the deadline that the county clerk establishes under Subsection (6)(d)(i)(C), a write-in candidate shall submit to the county clerk a declaration of candidacy described in Section 20A-9-601.

(d) (i) The county clerk shall establish, in the clerk's reasonable discretion, deadlines that are before 5 p.m. no later than 65 days before the day of the next regular general election by which:

(A) a registered political party is required to certify a name under Subsection (6)(c)(i);

(B) an individual who does not wish to affiliate with a registered political party is required to submit a certificate of nomination under Subsection (6)(c)(ii); and

(C) a write-in candidate is required to submit a declaration of candidacy under Subsection (6)(c)(iii).

(ii) The county clerk shall establish deadlines under Subsection (6)(d)(i) in a manner that gives an unaffiliated candidate or a write-in candidate an equal opportunity to access the regular general election ballot.

(e) An individual who is certified as a party candidate for the vacant office, who qualifies as an unaffiliated candidate for the vacant office under

Chapter 9, Part 5, Candidates not Affiliated with a Party, or who qualifies as a write-in candidate for the vacant office under Chapter 9, Part 6, Write-in Candidates, shall run in the regular general election.

(7) (a) The requirements of this Subsection (7) apply to all county offices that become vacant:

(i) if the vacant office has an unexpired term of less than two years; or

(ii) if the vacant office has an unexpired term of two years or more but 65 days or less remain before the day of the next regular general election.

(b) (i) When the conditions described in Subsection (7)(a) are met, the county legislative body shall as soon as practicable, but no later than 10 days after the day on which the vacancy occurs, give notice of the vacancy to the party liaison of the same political party as the prior office holder and invite that party liaison to submit the name of an individual to fill the vacancy.

(ii) That party liaison shall, before 5 p.m. within 30 days after the day on which the party liaison receives the notice described in Subsection (7)(b)(i), or if the party liaison does not receive the notice, before 5 p.m. no later than 40 days after the day on which the vacancy occurs, submit to the county legislative body the name of an individual to fill the vacancy.

(iii) The county legislative body shall, no later than five days after the day on which a party liaison submits the name of the individual to fill the vacancy, appoint the individual to serve out the unexpired term.

(c) (i) If the county legislative body fails to appoint an individual to fill the vacancy in accordance with Subsection (7)(b)(iii), the county clerk shall send to the governor a letter that:

(A) informs the governor that the county legislative body has failed to appoint an individual to fill the vacancy within the statutory time period; and

(B) contains the name of the individual submitted by the party liaison to fill the vacancy.

(ii) The governor shall, within 10 days after the day on which the governor receives the letter described in Subsection (7)(c)(i), appoint the individual named by the party liaison to fill the vacancy.

(d) An individual appointed to fill the vacancy under this Subsection (7) shall hold office until a successor is elected and has qualified.

(8) Except as otherwise provided by law, the county legislative body may appoint replacements to fill all vacancies that occur in those offices filled by appointment of the county legislative body.

(9) Nothing in this section prohibits a candidate that does not wish to affiliate with a political party from filing a certificate of nomination for a vacant office within the same time limits as a candidate that is affiliated with a political party.

(10) (a) Each individual elected under Subsection (4), (5), or (6) to fill a vacancy in a county office shall serve for the remainder of the unexpired term of the individual who created the vacancy and until a successor is elected and qualified.

(b) Nothing in this section may be construed to contradict or alter the provisions of Section 17-16-6.

Section 4. Section 53B-1-401 is amended to read:

53B-1-401. Definitions.

As used in this part:

(1) "Board" means the Utah Board of Higher Education described in Section 53B-1-402.

(2) "Institution of higher education" or "institution" means an institution of higher education described in Section 53B-1-102.

(3) "Miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(3)~~] (4) "Nominating committee" means the committee described in Section 53B-1-406.

Section 5. Section 53B-1-402 is amended to read:

53B-1-402. Establishment of board -- Powers, duties, and authority -- Reports.

(1) There is established a State Board of Regents, which:

(a) beginning July 1, 2020, is renamed the Utah Board of Higher Education;

(b) is the governing board for the institutions of higher education;

(c) controls, manages, and supervises the Utah system of higher education; and

(d) is a body politic and corporate with perpetual succession and with all rights, immunities, and franchises necessary to function as a body politic and corporate.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

(ii) performance on measures of operational efficiency;

(d) collect and analyze data including economic data, demographic data, and data related to the metrics;

(e) coordinate data collection across institutions;

(f) establish, approve, and oversee each institution's mission and role in accordance with Section 53B-16-101;

(g) assess an institution's performance in accomplishing the institution's mission and role;

(h) participate in the establishment and review of programs of instruction in accordance with Section 53B-16-102;

(i) perform duties related to an institution of higher education president, including:

(i) appointing an institution of higher education president in accordance with Section 53B-2-102;

(ii) providing support and guidance to an institution of higher education president;

(iii) evaluating an institution of higher education president based on institution performance and progress toward systemwide priorities; and

(iv) setting the compensation for an institution of higher education president;

(j) create and implement a strategic finance plan for higher education, including by:

(i) establishing comprehensive budget and finance priorities for academic education and technical education;

(ii) allocating statewide resources to institutions;

(iii) setting tuition for each institution;

(iv) administering state financial aid programs;

(v) administering performance funding in accordance with Chapter 7, Part 7, Performance Funding; and

(vi) developing a strategic capital facility plan and prioritization process in accordance with Chapter 22, Part 2, Capital Developments, and Sections 53B-2a-117 and 53B-2a-118;

(k) create a seamless articulated education system for Utah students that responds to changing demographics and workforce, including by:

(i) providing for statewide prior learning assessment, in accordance with Section 53B-16-110;

(ii) establishing and maintaining clear pathways for articulation and transfer, in accordance with Section 53B-16-105;

(iii) establishing degree program requirement guidelines, including credit hour limits;

(iv) aligning general education requirements across degree-granting institutions;

(v) coordinating and incentivizing collaboration and partnerships between institutions in delivering programs;

(vi) coordinating distance delivery of programs; and

(vii) coordinating work-based learning;

(l) coordinate with the public education system:

(i) regarding public education programs that provide postsecondary credit or certificates; and

(ii) to ensure that an institution of higher education providing technical education serves secondary students in the public education system;

(m) delegate to an institution board of trustees certain duties related to institution governance including:

(i) guidance and support for the institution president;

(ii) effective administration;

(iii) the institution's responsibility for contributing to progress toward achieving systemwide goals; and

(iv) other responsibilities determined by the board;

(n) delegate to an institution of higher education president management of the institution of higher education;

(o) consult with an institution of higher education board of trustees or institution of higher education president before acting on matters pertaining to the institution of higher education;

(p) maximize efficiency throughout the Utah system of higher education by identifying and establishing shared administrative services;

(q) develop strategies for providing higher education, including career and technical education, in rural areas;

(r) manage and facilitate a process for initiating, prioritizing, and implementing education reform initiatives; and

(s) provide ongoing quality review of institutions.

(3) The board shall submit an annual report of the board's activities and performance against the board's goals and metrics to:

(a) the Education Interim Committee;

(b) the Higher Education Appropriations Subcommittee;

(c) the governor; and

(d) each institution of higher education.

(4) The board shall prepare and submit an annual report detailing the board's progress and recommendations on workforce related issues, including career and technical education, to the governor and to the Legislature's Education Interim Committee by October 31 of each year, including information detailing:

(a) how the career and technical education needs of secondary students are being met by institutions of higher education;

(b) how the emphasis on high demand, high wage, and high skill jobs in business and industry is being provided;

(c) performance outcomes, including:

(i) entered employment;

(ii) job retention; and

(iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall adopt a policy requiring institutions to provide at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner; or

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy.

Section 6. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) As used in this section, "miscarriage" means the spontaneous or accidental loss of a fetus, regardless of gestational age or the duration of the pregnancy.

[~~(1)~~] (2) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

[~~(2)~~] (3) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

[~~(3)~~] (4) Statewide human resource management rules adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

[~~(4)~~] (5) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

[~~(5)~~] (6) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) [~~adopt~~] make rules for human resource management [~~according to the procedures of~~], in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the executive director, the governor, and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

[~~(6)~~] (7) (a) After consultation with the executive director, the governor, and the heads of other agencies, the director shall establish and coordinate statewide training programs, including and subject to available funding, the development of manager and supervisor training.

(b) The programs developed under this Subsection [~~(6)~~] (7) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection [~~(6)~~] (7) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

[~~(7)~~] (8) (a) (i) The division may collect fees for training as authorized by this Subsection [~~(7)~~] (8).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

(9) Rules described in Subsection (6)(j) shall provide for at least three work days of paid bereavement leave for an employee:

(a) following the end of the employee's pregnancy by way of a miscarriage or stillbirth; or

(b) following the end of another individual's pregnancy by way of a miscarriage or stillbirth, if:

(i) the employee is the individual's spouse or partner; or

(ii) (A) the employee is the individual's former spouse or partner; and

(B) the employee would have been a biological parent of a child born as a result of the pregnancy.

CHAPTER 178
S. B. 64

Passed February 10, 2022
Approved March 22, 2022
Effective May 4, 2022

IDENTIFICATION FOR VEHICLE REGISTRATION AMENDMENTS

Chief Sponsor: Gene Davis
House Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill amends the vehicle registration process.

Highlighted Provisions:

This bill:

- amends identification requirements to register a vehicle.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-210.5, as enacted by Laws of Utah 2001, Chapter 242

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-210.5 is amended to read:

41-1a-210.5. Government-issued identification required on new registrations.

[~~The division, before issuing any new registration on the sale of a vehicle not sold by a vehicle dealer, shall require the applicant or person making the application to show proof that the applicant or person making the application has a valid driver license.~~] Subject to Section 63G-15-201, the division, before issuing any new registration on a vehicle, shall require that the applicant provide valid government-issued identification.

CHAPTER 179
S. B. 65

Passed February 3, 2022
Approved March 22, 2022
Effective May 4, 2022

ASSET FORFEITURE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions regarding the forfeiture and disposition of property.

Highlighted Provisions:

This bill:

- amends the definition of "interest holder";
- addresses the recovery of property by an interest holder from the seizing agency;
- provides that property of an interest holder cannot be forfeited;
- requires an agency to conduct a search of public records to obtain the name and address of each interest holder of property that the agency seeks to forfeit;
- clarifies that property is forfeited to the state not the agency; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

24-1-102, as last amended by Laws of Utah 2021, Chapter 230
24-2-105, as renumbered and amended by Laws of Utah 2021, Chapter 230
24-2-107, as enacted by Laws of Utah 2021, Chapter 230
24-2-108, as enacted by Laws of Utah 2021, Chapter 230
24-4-103, as last amended by Laws of Utah 2021, Chapter 230
24-4-105, as last amended by Laws of Utah 2021, Chapter 230
24-4-115, as last amended by Laws of Utah 2021, Chapter 230

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 24-1-102 is amended to read:

24-1-102. Definitions.

As used in this title:

(1) "Account" means the Criminal Forfeiture Restricted Account created in Section 24-4-116.

(2) (a) "Acquitted" means a finding by a jury or a judge at trial that a claimant is not guilty.

(b) "Acquitted" does not include:

(i) a verdict of guilty on a lesser or reduced charge;

(ii) a plea of guilty to a lesser or reduced charge; or

(iii) dismissal of a charge as a result of a negotiated plea agreement.

(3) (a) "Agency" means an agency of this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

(4) "Claimant" means:

(a) an owner of property as defined in this section;

(b) an interest holder as defined in this section; or

(c) an individual or entity who asserts a claim to any property seized for forfeiture under this title.

(5) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(6) "Complaint" means a civil or criminal complaint seeking the forfeiture of any real or personal property under this title.

(7) (a) "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

(c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.

(8) "Constructive seizure" means a seizure of property where the property is left in the control of the owner and an agency posts the property with a notice of intent to seek forfeiture.

(9) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(ii) a computer that:

(A) contains or houses child pornography, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child pornography; or

(B) contains the personal identifying information of another individual, as defined in Subsection 76-6-1102(1), whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(10) "Forfeit" means to divest a claimant of an ownership interest in property seized under this title.

(11) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time of the commission of an offense subjecting the property to forfeiture under this title, and:

(i) did not have actual knowledge of the offense subjecting the property to forfeiture; or

(ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to forfeiture under this title had occurred or that the property had been seized for forfeiture, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

(12) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person; or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be:

(A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

(B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

(13) "Known address" means any address provided by a claimant to the peace officer or agency at the time the property is seized, or the claimant's most recent address on record with a governmental entity if no address was provided at the time of the seizure.

(14) "Legal costs" means the costs and expenses incurred by a party in a forfeiture action.

(15) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

(16) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

(17) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in real or personal property.

(18) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property under this title.

(19) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection (19)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection (19)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to forfeiture.

(20) "Program" means the State Asset Forfeiture Grant Program created in Section 24-4-117.

(21) (a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

(22) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state under this title.

(23) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

(24) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

Section 2. Section 24-2-105 is amended to read:

24-2-105. Transfer and sharing procedures.

(1) Except as provided in Subsections (3)(a), (b), and (c), upon the seizure of property by a peace officer under this title, the property is subject to the exclusive jurisdiction of a district court of this state.

(2) Except as provided in Subsection (3), a peace officer, agency, or prosecuting attorney may not directly or indirectly transfer or release property seized under this title to a federal agency or to a governmental entity not created or subject to the laws of this state.

(3) An agency or prosecuting attorney may transfer or release seized property to a federal agency or to a governmental entity not created or subject to the laws of this state if:

(a) (i) the property is cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the property is seized;

(b) (i) the property is not cash or another readily negotiable instrument; and

(ii) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint that is filed before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section 24-4-103.5;

(c) (i) the property was used in the commission of an offense in another state; and

(ii) an agency of that state requests the transfer of the property before the day on which the agency with custody of the property is required to return the property if no criminal or civil action is filed by the prosecuting attorney or a federal prosecutor in accordance with Section 24-4-103.5; or

(d) a district court authorizes, in accordance with Subsection (5), the transfer or release of the property to an agency of another state or a federal agency upon a petition by a prosecuting attorney or a federal prosecutor.

(4) (a) A prosecuting attorney, or a federal prosecutor, may file a petition in the district court for the transfer or release of seized property.

(b) If a prosecuting attorney, or a federal prosecutor, files a petition under Subsection (4)(a), the petition shall include:

(i) a detailed description of the property seized;

(ii) the location where the property was seized;

(iii) the date the property was seized;

(iv) the case number assigned by the agency; and

(v) a declaration that:

(A) states the basis for relinquishing jurisdiction to a federal agency or an agency of another state;

(B) contains the names and addresses of any known claimant; and

(C) is signed by the prosecuting attorney or federal prosecutor.

(5) A district court may not authorize the transfer or release of seized property under Subsection (3)(d), unless the district court finds, by a preponderance of the evidence:

(a) the property is evidence in, or subject to, a federal criminal indictment, a federal criminal information, or a federal criminal complaint after the property is seized;

(b) the property may only be forfeited under federal law;

(c) forfeiting the property under state law would unreasonably burden the prosecuting attorney or agency; or

(d) the property was subject to a federal criminal investigation before the property was seized.

(6) (a) Before a district court may order the transfer of seized property in accordance with this section, the court, the prosecuting attorney, or the federal prosecutor shall mail a notice to:

(i) each address contained in the declaration under Subsection (4)(b)(v) to give a claimant the right to be heard with regard to the transfer; and

(ii) (A) if a federal prosecutor files the petition under Subsection (4), the prosecuting attorney that is representing the agency with custody of the property; or

(B) if a prosecuting attorney files the petition under Subsection (4), the federal prosecutor who will receive the property upon the transfer or release of the property.

(b) If a claimant, or the party under Subsection (6)(a)(i), does not object to the petition to transfer the property within 10 days after the day on which the notice is mailed, the court shall issue the court's order in accordance with this section.

(c) If the declaration does not include an address for a claimant, the court shall delay the court's order under this section for 20 days to allow time for the claimant to appear and make an objection.

(d) (i) If a claimant, or a party under Subsection (6)(a)(i), contests a petition to transfer the property to a federal agency or to another governmental entity not created or subject to the laws of this state, the district court shall promptly set the matter for hearing.

(ii) In making a determination under Subsection (5), the district court shall consider evidence regarding hardship, complexity, judicial and law enforcement resources, protections afforded under state and federal law, pending state or federal investigations, and any other relevant matter.

(7) If an agency receives property, money, or other things of value under a federal law that authorizes the sharing or transfer of all or a portion of forfeited property, or the proceeds from the sale of forfeited property, the agency:

(a) shall use the property, money, or other things of value in compliance with federal laws and regulations relating to equitable sharing;

(b) may use the property, money, or other things of value for a law enforcement purpose described in Subsection 24-4-117(10); and

(c) may not use the property, money, or other thing of value for a law enforcement purpose prohibited in Subsection 24-4-117(11).

(8) An agency awarded an equitable share of property forfeited by the federal government may use the award money only after approval of the use by the agency's legislative body.

(9) If a district court exercises exclusive [~~control~~] jurisdiction over seized property, the district court's exclusive [~~control~~] jurisdiction is terminated if the property is released by the agency with custody of the property to:

(a) a claimant under Subsection 24-2-107(1)(a), Section 24-3-104, or Section 24-4-103.5;

(b) a rightful owner under Section 24-3-103; or

(c) an innocent owner or an interest holder under Section 24-2-108.

Section 3. Section 24-2-107 is amended to read:

24-2-107. Release of seized property to a claimant -- Release by surety bond or cash -- Release for hardship.

(1) (a) An agency with custody of seized property or the prosecuting attorney may release the property to a claimant if the agency or the prosecuting attorney:

(i) determines that retention of the property is unnecessary; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner or an interest holder.

(b) An agency with custody of the seized property, or the prosecuting attorney, shall release the property to a claimant if:

(i) the claimant posts a surety bond or cash with the court in accordance with Subsection (2);

(ii) the court orders the release of property for hardship purposes under Subsection (3);

(iii) a claimant establishes that the claimant is an innocent owner or an interest holder under Section [~~24-2-107~~] 24-2-108; or

(iv) the court orders property retained as evidence to be released to a rightful owner under Section 24-3-104.

(2) (a) Except as provided in Subsection (2)(b), a claimant may obtain release of seized property by posting a surety bond or cash with the court that is in an amount equal to the current fair market value of the property as determined by the court or a stipulation by the parties.

(b) A court may refuse to order the release under Subsection (2)(a) of:

(i) the property if:

(A) the bond tendered is inadequate;

(B) the property is retained as evidence; or

(C) the property is particularly altered or designed for use in the commission of the offense subjecting the property to forfeiture; or

(ii) contraband.

(c) If a surety bond or cash is posted and the court later determines that the property is forfeited, the court shall order the forfeiture of the surety bond or cash in lieu of the property.

(3) A claimant is entitled to the immediate release of seized property for which the agency has filed a notice of intent to forfeit under Section 24-4-103 if:

(a) the claimant had a possessory interest in the property at the time of seizure;

(b) continued possession by the agency pending a forfeiture proceeding will cause substantial hardship to the claimant, including:

(i) preventing the functioning of a legitimate business;

(ii) preventing any individual from working;

(iii) preventing any child from attending elementary or secondary school;

(iv) preventing or hindering an individual from receiving necessary medical care;

(v) preventing the care of a dependent child or adult who is elderly or disabled;

(vi) leaving an individual homeless; or

(vii) any other condition that the court determines causes a substantial hardship;

(c) the hardship from the continued possession of the property by the agency outweighs the risk that the property will be destroyed, damaged, lost, concealed, or transferred if the property is returned to the claimant during the pendency of the proceeding; and

(d) the determination of substantial hardship under this Subsection (3) is based upon the property's use before the seizure.

(4) A claimant may file a motion or petition for hardship release under Subsection (3):

(a) in the court in which forfeiture proceedings have commenced; or

(b) in a district court where there is venue if a forfeiture proceeding has not yet commenced.

(5) The motion or petition for hardship release shall be served upon the agency with custody of the property within five days after the day on which the motion or petition is filed.

(6) The court shall:

(a) schedule a hearing on the motion or petition within 14 days after the day on which the motion or petition is filed; and

(b) render a decision on a motion or petition for hardship filed under this section no later than 20 days after the day of the hearing, unless this period is extended by the agreement of both parties or by the court for good cause shown.

(7) (a) If the claimant demonstrates substantial hardship under Subsection (3), the court shall order the property immediately released to the claimant pending completion of any forfeiture proceeding.

(b) The court may place conditions on release of the property as the court finds necessary and appropriate to preserve the availability of the property or the property's equivalent for forfeiture.

(8) The hardship release under this section does not apply to:

(a) contraband; or

(b) property that is likely to be used to commit additional offenses if returned to the claimant.

Section 4. Section 24-2-108 is amended to read:

24-2-108. Recovery of seized property by innocent owner or interest holder.

(1) (a) A claimant alleged to be an innocent owner or an interest holder may recover possession of seized property by:

(i) submitting a written request with the seizing agency before the later of:

(A) the commencement of a civil asset forfeiture proceeding; or

(B) 30 days after the day on which the property was seized; and

(ii) providing the seizing agency with:

(A) evidence that establishes proof of ownership; and

(B) a brief description of the date, time, and place that the claimant mislaid or relinquished possession of the seized property, or any evidence that the claimant is an innocent owner or an interest holder.

(b) If a seizing agency receives a claim under Subsection (1)(a), the seizing agency shall issue a written response to the claimant within 30 days after the day on which the seizing agency receives the claim.

(c) A response under Subsection (1)(b) from the seizing agency shall indicate whether the claim has been granted, denied on the merits, or denied for failure to provide the information required by Subsection (1)(a)(ii).

(d) (i) If a seizing agency denies a claim for failure to provide the information required by Subsection (1)(a)(ii), the claimant has 15 days after the day on which the claim is denied to submit additional information.

(ii) If a prosecuting attorney has not filed a civil action seeking to forfeit the property and a seizing agency has denied a claim for failure to provide the information required by Subsection (1)(a)(ii), the prosecuting attorney may not commence a civil action until:

(A) the claimant has submitted information under Subsection (1)(d)(i); or

(B) the deadline for the claimant to submit information under Subsection (1)(d)(i) has passed.

(e) If a seizing agency fails to issue a written response within 30 days after the day on which the seizing agency receives the response, the seizing agency shall return the property.

(2) If a claim under Subsection (1)(a) is granted, or the property is returned because the seizing agency fails to respond within 30 days, a claimant may not receive any expenses, costs, or attorney fees for the returned property.

(3) A claimant may collect reasonable attorney fees and court costs if:

(a) a claimant filed a claim under Subsection (1)(a);

(b) the seizing agency denies the claim on the merits; and

(c) a court determines that the claimant is an innocent owner or an interest holder in a civil asset forfeiture proceeding.

(4) If a court grants reasonable attorney fees and court costs, the amount of the attorney fees begins to accrue from the day on which the seizing agency denied the claim.

(5) If the court grants reasonable attorney fees and court costs under Subsection (3), the attorney fees and court costs are not subject to the 50% cap under Subsection 24-4-110(2).

(6) A communication between parties regarding a claim submitted under Subsection (3) and any evidence provided to the parties in connection with a claim is subject to the Utah Rules of Evidence, Rules 408 and 410.

(7) An agency and the prosecuting attorney may not forfeit the seized property of an innocent owner or an interest holder.

Section 5. Section 24-4-103 is amended to read:

24-4-103. Initiating forfeiture proceedings -- Notice of intent to seek forfeiture.

(1) (a) If an agency seeks to forfeit property seized under this title, the agency shall serve a notice of intent to seek forfeiture to any known claimant within 30 days after the day on which the property is seized.

(b) The notice of intent to seek forfeiture shall describe:

(i) the date of the seizure;

(ii) the property seized;

(iii) the claimant's rights and obligations under this chapter, including the availability of hardship relief in appropriate circumstances; and

(iv) the statutory basis for the forfeiture, including the judicial proceedings by which the property may be forfeited under this chapter.

(c) The agency shall serve the notice of intent to seek forfeiture by:

(i) certified mail, with a return receipt requested, to the claimant's known address; or

(ii) personal service.

(d) A court may void a forfeiture made without notice under Subsection (1)(a), unless the agency demonstrates:

(i) good cause for the failure to give notice to the claimant; or

(ii) that the claimant had actual notice of the seizure.

(2) Before an agency serves a notice of intent to forfeit seized property under Subsection (1)(a), the agency shall conduct a search of public records applicable to the seized property, including county records or records of the Division of Corporations and Commercial Code, the Division of Motor Vehicles, or other state or federal licensing agencies, in order to obtain the name and address of each interest holder of the property.

[~~(2)~~] (3) If an agency [~~sends~~] serves a notice of intent to forfeit seized property under Subsection [~~24-4-103(1)~~] (1)(a), an individual or entity may not alienate, convey, sequester, or attach the property until a court:

(a) issues a final order to dismiss an action under this title; or

(b) orders the forfeiture of the property.

[~~(3)~~] (4) (a) (i) If an agency has served each claimant with a notice of intent to seek forfeiture, the agency shall present a written request for forfeiture to the prosecuting attorney of the municipality or county where the property is seized.

(ii) The agency shall provide the request under Subsection [~~(3)~~] (4)(a)(i) no later than 45 days after the day on which the property is seized.

(b) The written request described in Subsection [~~(3)~~] (4)(a) shall:

(i) describe the property that the agency is seeking to forfeit; and

(ii) include a copy of all reports, supporting documents, and other evidence that is necessary for the prosecuting attorney to determine the legal sufficiency for filing a forfeiture action.

(c) The prosecuting attorney shall:

(i) review the written request described in Subsection [~~(3)~~] (4)(a)(i); and

(ii) within 75 days after the day on which the property is seized, decline or accept, in writing, the agency's written request for the prosecuting attorney to initiate a proceeding to forfeit the property.

Section 6. Section 24-4-105 is amended to read:

24-4-105. Criminal forfeiture procedure.

(1) As used in this section, "defendant" means a claimant who is criminally prosecuted for the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

(2) A prosecuting attorney may seek forfeiture of the defendant's interest in seized property through the criminal case.

(3) If the prosecuting attorney seeks forfeiture of a defendant's interest in seized property through the criminal case, the prosecuting attorney shall state in the information or indictment the grounds for which the agency seeks to forfeit the property.

(4) (a) (i) A court may enter a restraining order or injunction or take any other reasonable action to preserve property being forfeited under this section.

(ii) Before a court's decision under Subsection (4)(a)(i), a known claimant, who can be identified after due diligence, shall be:

(A) provided notice; and

(B) given an opportunity for a hearing.

(iii) A court shall grant an order under Subsection (4)(a)(i) if:

(A) there is a substantial probability that the state will prevail on the issue of forfeiture and that failure to enter the order will result in the property being sold, transferred, destroyed, or removed from the jurisdiction of the court or otherwise made unavailable for forfeiture; and

(B) the need to preserve the availability of the property or prevent the property's sale, transfer, destruction, or removal through the entry of the requested order outweighs the hardship against a claimant against which the order is to be entered.

(b) A court may enter a temporary restraining order ex parte upon application of the prosecuting attorney or a federal prosecutor before or after an information or indictment has been filed, with respect to the property, if the prosecuting attorney or federal prosecutor demonstrates that:

(i) there is probable cause to believe that the property with respect to which the order is sought would, in the event of a conviction, be forfeited under this section; and

(ii) providing notice to a claimant would jeopardize the availability of the property for forfeiture or would jeopardize an ongoing criminal investigation.

(c) The temporary order expires no more than 10 days after the day on which the order is entered unless extended for good cause shown or unless the claimant against whom the temporary order is entered consents to an extension.

(d) After service of the temporary order upon a claimant known to the prosecuting attorney or federal prosecutor, the court shall hold a hearing on the order as soon as practicable and before the expiration of the temporary order.

(e) The court is not bound by the Utah Rules of Evidence regarding evidence the court may receive and consider at a hearing under this section.

(5) Upon conviction of a defendant for the offense subjecting the property to forfeiture, a court or jury shall find property forfeited to the [~~agency~~] state if the prosecuting attorney establishes, beyond a reasonable doubt, that:

(a) the defendant:

(i) committed the offense subjecting the property to forfeiture under Subsection 24-4-102(1);

(ii) knew of the offense subjecting the property to forfeiture under Subsection 24-4-102(1) and allowed the property to be used in furtherance of the offense; or

(iii) acquired the property at the time of the offense subjecting the property to forfeiture under Subsection 24-4-102(1), or within a reasonable time after the offense occurred; or

(b) there is no likely source for the purchase or acquisition of the property other than the commission of the offense subjecting the property to forfeiture under Subsection 24-4-102(1).

(6) (a) Upon conviction of a defendant for the offense subjecting the property to forfeiture and a finding by a court or jury that the property is forfeited, the court shall enter a judgment and order the property forfeited to the [~~agency~~] state upon the terms stated by the court in the court's order.

(b) Following the entry of an order declaring the property forfeited under Subsection (6)(a), and upon application by the prosecuting attorney, the court may:

(i) enter a restraining order or injunction;

(ii) require the execution of satisfactory performance bonds;

(iii) appoint a receiver, conservator, appraiser, accountant, or trustee; or

(iv) take any other action to protect the [~~the agency's~~] state's interest in property ordered forfeited.

(7) (a) (i) After property is ordered forfeited under this section, the agency shall direct the disposition of the property under Section 24-4-115.

(ii) If property under Subsection (7)(a)(i) is not transferrable for value to the agency, or the agency is not able to exercise an ownership interest in the property, the property may not revert to the defendant.

(iii) A defendant, or a person acting in concert with or on behalf of the defendant, is not eligible to purchase forfeited property at any sale held by the agency unless approved by the judge.

(b) A court may stay the sale or disposition of the property pending the conclusion of any appeal of the offense subjecting the property to forfeiture if the claimant demonstrates that proceeding with the sale or disposition of the property may result in irreparable injury, harm, or loss.

(8) If a defendant is acquitted of the offense subjecting the property to forfeiture under this section on the merits:

(a) (i) the property for which forfeiture is sought shall be returned to the claimant; or

(ii) the open market value of the property for the property for which forfeiture is sought shall be awarded to the claimant if the property has been disposed of under Section 24-4-103.3; and

(b) any payment requirement under this chapter related to the holding of property shall be paid to the claimant.

(9) Except as provided under Subsection (4) or (12), a claimant claiming an interest in property that is being forfeited under this section:

(a) may not intervene in a trial or appeal of a criminal case involving the forfeiture of the property; and

(b) may not commence an action at law or equity concerning the validity of the claimant's alleged interests in the property subsequent to the filing of an indictment or an information alleging that the property is being forfeited under this section.

(10) A court that has jurisdiction of a case under this part may enter orders under this section without regard to the location of any property that is or has been ordered forfeited under this section.

(11) To facilitate the identification or location of property forfeited under this section, and to facilitate the disposition of a petition for remission or mitigation of forfeiture after the entry of an order declaring property forfeited to the agency, the court may, upon application of the prosecuting attorney, order:

(a) the testimony of any witness relating to the forfeited property be taken by deposition; and

(b) any book, paper, document, record, recording, or other material is produced in accordance with the Utah Rules of Civil Procedure.

(12) (a) If a court orders property forfeited under this section, the prosecuting attorney shall publish notice of the intent to dispose of the property.

(b) Service by publication shall be by publication of two notices, in two successive weeks, of the forfeiture proceeding:

(i) in a newspaper of general circulation in the county in which the seizure of the property occurred; and

(ii) on Utah's Public Legal Notice Website established in Subsection 45-1-101(2)(b).

(c) The prosecuting attorney shall also send written notice to any claimants, other than the defendant, known to the prosecuting attorney to have an interest in the property, at the claimant's known address.

(13) (a) A claimant, other than the defendant, may petition the court for a hearing to adjudicate the validity of the claimant's alleged interest in property forfeited under this section.

(b) A claimant shall file a petition within 30 days after the earlier of the day on which a notice is published or the day on which the claimant receives written notice under Subsection (12)(a).

(14) The petition under Subsection (13) shall:

(a) be in writing and signed by the claimant under penalty of perjury;

(b) set forth the nature and extent of the claimant's right, title, or interest in the property, the time and circumstances of the claimant's acquisition of the right, title, or interest in the property; and

(c) set forth any additional facts supporting the claimant's claim and the relief sought.

(15) (a) The court shall expedite the trial or hearing under this Subsection (15) to the extent practicable.

(b) Any party may request a jury to decide any genuine issue of material fact.

(c) The court may consolidate a trial or hearing on the petition under Subsection (11)(b) and any other petition filed by a claimant, other than the defendant, under this section.

(d) For a petition under this section, the court shall permit the parties to conduct pretrial discovery in accordance with the Utah Rules of Civil Procedure.

(e) (i) At the trial or hearing, the claimant may testify and present evidence and witnesses on the claimant's own behalf and cross-examine witnesses who appear at the hearing.

(ii) The prosecuting attorney may present evidence and witnesses in rebuttal and in defense of the claim to the property and cross-examine witnesses who appear.

(f) In addition to testimony and evidence presented at the trial or hearing, the court may consider the relevant portion of the record of the criminal case that resulted in the order of forfeiture.

(g) A trial or hearing shall be conducted in accordance with the Utah Rules of Evidence.

(16) The court shall amend the order of forfeiture in accordance with the court's determination, if after the trial or hearing under Subsection (15), the court or jury determines that the claimant has established, by a preponderance of the evidence, that:

(a) (i) the claimant has a legal right, title, or interest in the property; and

(ii) the claimant's right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the claimant rather than the defendant, or was superior to any right, title, or interest of the defendant at the time of the commission of the offense subjecting the property to forfeiture under Subsection 24-4-102(1); or

(b) the claimant acquired the right, title, or interest in the property in a bona fide transaction for value, and, at the time of acquisition, the claimant did not know that the property could be forfeited under this chapter.

(17) An agency has clear title to the property and may transfer title to a purchaser or transferee if:

(a) the court issued a disposition on all petitions under Subsection (13) denying any claimant's right, title, or interest to the property; or

(b) a petition was not filed under the timelines provided in Subsection (13)(b).

(18) If the prosecuting attorney seeks to discontinue a forfeiture proceeding under this section and transfer the action to another state or federal agency that has initiated a civil or criminal proceeding involving the same property, the prosecuting attorney shall file a petition to transfer the property in accordance with Section 24-2-105.

Section 7. Section 24-4-115 is amended to read:

24-4-115. Disposition and allocation of forfeited property.

(1) If a court finds that property is forfeited under this chapter, the court shall order the property forfeited to the [~~agency~~] state.

(2) (a) If the property is not currency, the agency shall authorize a public or otherwise commercially reasonable sale of that property if the property is not required by law to be destroyed and is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, the property shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and the alcoholic product's package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, the property shall be destroyed, except that the lawful holder of the trademark rights in the cigarette or tobacco product brand is permitted to inspect the cigarette before the destruction of the cigarette or tobacco product.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the agency until transferred in accordance with this chapter.

(3) Before transferring currency and the proceeds or revenue from the sale of the property in accordance with this chapter, the agency shall:

(a) deduct the agency's direct costs, expense of reporting under Section 24-4-118, and expense of obtaining and maintaining the property pending a forfeiture proceeding; and

(b) if the prosecuting agency that employed the prosecuting attorney has met the requirements of Subsection 24-4-119(3), pay the prosecuting attorney the legal costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from a violation relating to wildlife resources, the agency shall deposit any remaining currency and the proceeds or revenue from the sale of the property into the Wildlife Resources Account created in Section 23-14-13.

(5) The agency shall transfer any remaining currency, the proceeds, or revenue from the sale of the property to the commission and deposited into the account.

CHAPTER 180
S. B. 77

Passed February 10, 2022
Approved March 22, 2022
Effective May 4, 2022

MILITARY VEHICLE LICENSE PLATE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This bill allows an exemption from the requirement to display a license plate on a military vehicle.

Highlighted Provisions:

This bill:

- allows an exemption from the requirement to display a license plate on a military vehicle if the license plate is in the vehicle and available for inspection by law enforcement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-1a-102, as last amended by Laws of Utah 2019, Chapters 373, 428, 459, and 479

41-1a-404, as last amended by Laws of Utah 2015, Chapters 81 and 412

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-102 is amended to read:

41-1a-102. Definitions.

As used in this chapter:

(1) "Actual miles" means the actual distance a vehicle has traveled while in operation.

(2) "Actual weight" means the actual unladen weight of a vehicle or combination of vehicles as operated and certified to by a weighmaster.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Alternative fuel vehicle" means:

(a) an electric motor vehicle;

(b) a hybrid electric motor vehicle;

(c) a plug-in hybrid electric motor vehicle; or

(d) a motor vehicle powered exclusively by a fuel other than:

(i) motor fuel;

(ii) diesel fuel;

(iii) natural gas; or

(iv) propane.

(7) "Amateur radio operator" means a person licensed by the Federal Communications Commission to engage in private and experimental two-way radio operation on the amateur band radio frequencies.

(8) "Autocycle" means the same as that term is defined in Section 53-3-102.

(9) "Automated driving system" means the same as that term is defined in Section 41-26-102.1.

(10) "Branded title" means a title certificate that is labeled:

(a) rebuilt and restored to operation;

(b) flooded and restored to operation; or

(c) not restored to operation.

(11) "Camper" means a structure designed, used, and maintained primarily to be mounted on or affixed to a motor vehicle that contains a floor and is designed to provide a mobile dwelling, sleeping place, commercial space, or facilities for human habitation or for camping.

(12) "Certificate of title" means a document issued by a jurisdiction to establish a record of ownership between an identified owner and the described vehicle, vessel, or outboard motor.

(13) "Certified scale weigh ticket" means a weigh ticket that has been issued by a weighmaster.

(14) "Commercial vehicle" means a motor vehicle, trailer, or semitrailer used or maintained for the transportation of persons or property that operates:

(a) as a carrier for hire, compensation, or profit; or

(b) as a carrier to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(15) "Commission" means the State Tax Commission.

(16) "Consumer price index" means the same as that term is defined in Section 59-13-102.

(17) "Dealer" means a person engaged or licensed to engage in the business of buying, selling, or exchanging new or used vehicles, vessels, or outboard motors either outright or on conditional sale, bailment, lease, chattel mortgage, or otherwise or who has an established place of business for the sale, lease, trade, or display of vehicles, vessels, or outboard motors.

(18) "Diesel fuel" means the same as that term is defined in Section 59-13-102.

(19) "Division" means the Motor Vehicle Division of the commission, created in Section 41-1a-106.

(20) "Dynamic driving task" means the same as that term is defined in Section 41-26-102.1.

(21) "Electric motor vehicle" means a motor vehicle that is powered solely by an electric motor drawing current from a rechargeable energy storage system.

(22) "Essential parts" means the integral and body parts of a vehicle of a type required to be registered in this state, the removal, alteration, or substitution of which would tend to conceal the identity of the vehicle or substantially alter the vehicle's appearance, model, type, or mode of operation.

(23) "Farm tractor" means a motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other implements of husbandry.

(24) (a) "Farm truck" means a truck used by the owner or operator of a farm solely for the owner's or operator's own use in the transportation of:

(i) farm products, including livestock and its products, poultry and its products, floricultural and horticultural products;

(ii) farm supplies, including tile, fence, and any other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production; and

(iii) livestock, poultry, and other animals and things used for breeding, feeding, or other purposes connected with the operation of a farm.

(b) "Farm truck" does not include the operation of trucks by commercial processors of agricultural products.

(25) "Fleet" means one or more commercial vehicles.

(26) "Foreign vehicle" means a vehicle of a type required to be registered, brought into this state from another state, territory, or country other than in the ordinary course of business by or through a manufacturer or dealer, and not registered in this state.

(27) "Gross laden weight" means the actual weight of a vehicle or combination of vehicles, equipped for operation, to which shall be added the maximum load to be carried.

(28) "Highway" or "street" means the entire width between property lines of every way or place of whatever nature when any part of it is open to the public, as a matter of right, for purposes of vehicular traffic.

(29) "Hybrid electric motor vehicle" means a motor vehicle that draws propulsion energy from onboard sources of stored energy that are both:

(a) an internal combustion engine or heat engine using consumable fuel; and

(b) a rechargeable energy storage system where energy for the storage system comes solely from sources onboard the vehicle.

(30) (a) "Identification number" means the identifying number assigned by the manufacturer or by the division for the purpose of identifying the vehicle, vessel, or outboard motor.

(b) "Identification number" includes a vehicle identification number, state assigned identification number, hull identification number, and motor serial number.

(31) "Implement of husbandry" means a vehicle designed or adapted and used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

(32) (a) "In-state miles" means the total number of miles operated in this state during the preceding year by fleet power units.

(b) If a fleet is composed entirely of trailers or semitrailers, "in-state miles" means the total number of miles that those vehicles were towed on Utah highways during the preceding year.

(33) "Interstate vehicle" means a commercial vehicle operated in more than one state, province, territory, or possession of the United States or foreign country.

(34) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(35) "Lienholder" means a person with a security interest in particular property.

(36) "Manufactured home" means a transportable factory built housing unit constructed on or after June 15, 1976, according to the Federal Home Construction and Safety Standards Act of 1974 (HUD Code), in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 400 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

(37) "Manufacturer" means a person engaged in the business of constructing, manufacturing, assembling, producing, or importing new or unused vehicles, vessels, or outboard motors for the purpose of sale or trade.

(38) "Military vehicle" means a vehicle of any size or weight that was manufactured for use by armed forces and that is maintained in a condition that represents the vehicle's military design and markings regardless of current ownership or use.

[~~(38)~~] (39) "Mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code which existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code).

[~~(39)~~] (40) "Motor fuel" means the same as that term is defined in Section 59-13-102.

[~~(40)~~] (41) (a) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the highways.

(b) "Motor vehicle" does not include:

(i) an off-highway vehicle; or

(ii) a motor assisted scooter as defined in Section 41-6a-102.

[~~(41)~~] (42) "Motorboat" means the same as that term is defined in Section 73-18-2.

[~~(42)~~] (43) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

[~~(43)~~] (44) "Natural gas" means a fuel of which the primary constituent is methane.

[~~(44)~~] (45) (a) "Nonresident" means a person who is not a resident of this state as defined by Section 41-1a-202, and who does not engage in intrastate business within this state and does not operate in that business any motor vehicle, trailer, or semitrailer within this state.

(b) A person who engages in intrastate business within this state and operates in that business any motor vehicle, trailer, or semitrailer in this state or who, even though engaging in interstate commerce, maintains a vehicle in this state as the home station of that vehicle is considered a resident of this state, insofar as that vehicle is concerned in administering this chapter.

[~~(45)~~] (46) "Odometer" means a device for measuring and recording the actual distance a vehicle travels while in operation, but does not include any auxiliary odometer designed to be periodically reset.

[~~(46)~~] (47) "Off-highway implement of husbandry" means the same as that term is defined in Section 41-22-2.

[~~(47)~~] (48) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

[~~(48)~~] (49) (a) "Operate" means:

(i) to navigate a vessel; or

(ii) collectively, the activities performed in order to perform the entire dynamic driving task for a given motor vehicle by:

(A) a human driver as defined in Section 41-26-102.1; or

(B) an engaged automated driving system.

(b) "Operate" includes testing of an automated driving system.

[~~(49)~~] (50) "Outboard motor" means a detachable self-contained propulsion unit, excluding fuel supply, used to propel a vessel.

[~~(50)~~] (51) (a) "Owner" means a person, other than a lienholder, holding title to a vehicle, vessel, or outboard motor whether or not the vehicle, vessel, or outboard motor is subject to a security interest.

(b) If a vehicle is the subject of an agreement for the conditional sale or installment sale or mortgage of the vehicle with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or mortgagor, or if the vehicle is the subject of a security agreement, then the conditional vendee, mortgagor, or debtor is considered the owner for the purposes of this chapter.

(c) If a vehicle is the subject of an agreement to lease, the lessor is considered the owner until the lessee exercises the lessee's option to purchase the vehicle.

[~~(51)~~] (52) "Park model recreational vehicle" means a unit that:

(a) is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use;

(b) is not permanently affixed to real property for use as a permanent dwelling;

(c) requires a special highway movement permit for transit; and

(d) is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.

[~~(52)~~] (53) "Personalized license plate" means a license plate that has displayed on it a combination of letters, numbers, or both as requested by the owner of the vehicle and assigned to the vehicle by the division.

[~~(53)~~] (54) (a) "Pickup truck" means a two-axle motor vehicle with motive power manufactured, remanufactured, or materially altered to provide an open cargo area.

(b) "Pickup truck" includes a motor vehicle with the open cargo area covered with a camper, camper shell, tarp, removable top, or similar structure.

[~~(54)~~] (55) "Plug-in hybrid electric motor vehicle" means a hybrid electric motor vehicle that has the capability to charge the battery or batteries used for vehicle propulsion from an off-vehicle electric source, such that the off-vehicle source cannot be connected to the vehicle while the vehicle is in motion.

[~~(55)~~] (56) "Pneumatic tire" means a tire in which compressed air is designed to support the load.

[~~(56)~~] (57) "Preceding year" means a period of 12 consecutive months fixed by the division that is within 16 months immediately preceding the commencement of the registration or license year in which proportional registration is sought. The division in fixing the period shall conform it to the terms, conditions, and requirements of any applicable agreement or arrangement for the proportional registration of vehicles.

[~~(57)~~] (58) "Public garage" means a building or other place where vehicles or vessels are kept and stored and where a charge is made for the storage and keeping of vehicles and vessels.

[~~(58)~~] (59) "Receipt of surrender of ownership documents" means the receipt of surrender of ownership documents described in Section 41-1a-503.

[~~(59)~~] (60) "Reconstructed vehicle" means a vehicle of a type required to be registered in this state that is materially altered from its original construction by the removal, addition, or substitution of essential parts, new or used.

[~~(60)~~] (61) "Recreational vehicle" means the same as that term is defined in Section 13-14-102.

[~~(61)~~] (62) "Registration" means a document issued by a jurisdiction that allows operation of a vehicle or vessel on the highways or waters of this state for the time period for which the registration is valid and that is evidence of compliance with the registration requirements of the jurisdiction.

[~~(62)~~] (63) (a) "Registration year" means a 12 consecutive month period commencing with the completion of the applicable registration criteria.

(b) For administration of a multistate agreement for proportional registration the division may prescribe a different 12-month period.

[~~(63)~~] (64) "Repair or replacement" means the restoration of vehicles, vessels, or outboard motors to a sound working condition by substituting any inoperative part of the vehicle, vessel, or outboard motor, or by correcting the inoperative part.

[~~(64)~~] (65) "Replica vehicle" means:

(a) a street rod that meets the requirements under Subsection 41-21-1(3)(a)(i)(B); or

(b) a custom vehicle that meets the requirements under Subsection 41-6a-1507(1)(a)(i)(B).

[~~(65)~~] (66) "Road tractor" means a motor vehicle designed and used for drawing other vehicles and constructed so it does not carry any load either independently or any part of the weight of a vehicle or load that is drawn.

[~~(66)~~] (67) "Sailboat" means the same as that term is defined in Section 73-18-2.

[~~(67)~~] (68) "Security interest" means an interest that is reserved or created by a security agreement to secure the payment or performance of an obligation and that is valid against third parties.

[~~(68)~~] (69) "Semitrailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests or is carried by another vehicle.

[~~(69)~~] (70) "Special group license plate" means a type of license plate designed for a particular group of people or a license plate authorized and issued by the division in accordance with Section 41-1a-418.

[~~(70)~~] (71) (a) "Special interest vehicle" means a vehicle used for general transportation purposes and that is:

(i) 20 years or older from the current year; or

(ii) a make or model of motor vehicle recognized by the division director as having unique interest or historic value.

(b) In making a determination under Subsection [~~(70)~~] (71)(a), the division director shall give special consideration to:

(i) a make of motor vehicle that is no longer manufactured;

(ii) a make or model of motor vehicle produced in limited or token quantities;

(iii) a make or model of motor vehicle produced as an experimental vehicle or one designed exclusively for educational purposes or museum display; or

(iv) a motor vehicle of any age or make that has not been substantially altered or modified from original specifications of the manufacturer and because of its significance is being collected, preserved, restored, maintained, or operated by a collector or hobbyist as a leisure pursuit.

[~~(71)~~] (72) (a) "Special mobile equipment" means a vehicle:

(i) not designed or used primarily for the transportation of persons or property;

(ii) not designed to operate in traffic; and

(iii) only incidentally operated or moved over the highways.

(b) "Special mobile equipment" includes:

(i) farm tractors;

(ii) off-road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, and trenchers; and

(iii) ditch-digging apparatus.

(c) "Special mobile equipment" does not include a commercial vehicle as defined under Section 72-9-102.

[~~(72)~~] (73) "Specially constructed vehicle" means a vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles, and not materially altered from its original construction.

[~~(73)~~] (74) "State impound yard" means a yard for the storage of a vehicle, vessel, or outboard motor that meets the requirements of rules made by the commission pursuant to Subsection 41-1a-1101(5).

[~~(74)~~] (75) "Title" means the right to or ownership of a vehicle, vessel, or outboard motor.

[~~(75)~~] (76) (a) "Total fleet miles" means the total number of miles operated in all jurisdictions during the preceding year by power units.

(b) If fleets are composed entirely of trailers or semitrailers, "total fleet miles" means the number of miles that those vehicles were towed on the highways of all jurisdictions during the preceding year.

[~~(76)~~] (77) "Trailer" means a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

[~~(77)~~] (78) "Transferee" means a person to whom the ownership of property is conveyed by sale, gift, or any other means except by the creation of a security interest.

[~~(78)~~] (79) "Transferor" means a person who transfers the person's ownership in property by sale, gift, or any other means except by creation of a security interest.

[~~(79)~~] (80) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

[~~(80)~~] (81) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

[~~(81)~~] (82) "Vehicle" includes a motor vehicle, trailer, semitrailer, off-highway vehicle, camper, park model recreational vehicle, manufactured home, and mobile home.

[~~(82)~~] (83) "Vessel" means the same as that term is defined in Section 73-18-2.

[~~(83)~~] (84) "Vintage vehicle" means the same as that term is defined in Section 41-21-1.

[~~(84)~~] (85) "Waters of this state" means the same as that term is defined in Section 73-18-2.

[~~(85)~~] (86) "Weighmaster" means a person, association of persons, or corporation permitted to weigh vehicles under this chapter.

Section 2. Section 41-1a-404 is amended to read:

41-1a-404. Location and position of plates -- Visibility of plates -- Exceptions.

(1) License plates issued for a vehicle other than a motorcycle, trailer, or semitrailer shall be attached to the vehicle, one in the front and the other in the rear.

(2) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.

(3) Except as provided in Subsection (5), a license plate shall at all times be:

(a) securely fastened:

(i) in a horizontal position to the vehicle for which it is issued to prevent the plate from swinging;

(ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and

(iii) in a place and position to be clearly visible; and

(b) maintained:

(i) free from foreign materials; and

(ii) in a condition to be clearly legible.

(4) Enforcement by a state or local law enforcement officer of the requirement under Subsection (1) to attach a license plate to the front of a vehicle shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than the requirement under Subsection (1) to attach a license plate to the front of the vehicle, or for another offense.

(5) The provisions of Subsections (3)(a)(iii) and (3)(b) do not apply:

(a) to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the device is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

[~~(a)~~] (i) a trailer hitch;

[~~(b)~~] (ii) a wheelchair lift or wheelchair carrier;

[~~(c)~~] (iii) a trailer being towed by the vehicle;

[~~(d)~~] (iv) a bicycle rack, ski rack, or luggage rack; or

[~~(e)~~] (v) a similar cargo carrying device[~~.~~]; or

(b) to a military vehicle if the license plate is in the military vehicle and ready for inspection by law enforcement upon request.

(6) A violation of this section is an infraction.

CHAPTER 181
S. B. 123

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

CRIMINAL CODE RECODIFICATION

Chief Sponsor: Karen Mayne
House Sponsor: Karianne Lisonbee
Cosponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies Title 76, Chapters 5 and 5b by redrafting offense statutes into a new structure and clarifies existing law.

Highlighted Provisions:

This bill:

- reorders language in offense statutes into a standardized format;
- adds "semen" to list of bodily fluids to offenses concerning propelling an object or substance;
- clarifies language that certain employees and volunteers are included in the offense concerning the propelling of an object or substance at a correctional or peace officer;
- reorganizes the offenses of child abuse, aggravated child abuse, and child abandonment into three separate statutes;
- removes the defense concerning reasonable discipline or management of a child from the offense of aggravated child abuse;
- removes the defense concerning treatment options for a child's medical condition from the offense of child abandonment;
- removes the defense concerning use of physical restraint or force on a child from the offense of child abandonment;
- reorganizes the offenses of abuse of a vulnerable adult, aggravated abuse of a vulnerable adult, personal dignity exploitation of a vulnerable adult, and financial exploitation of a vulnerable adult into four separate statutes;
- removes the exemption concerning reliance on nonmedical healing from the offenses of personal dignity exploitation of a vulnerable adult and financial exploitation of a vulnerable adult;
- modifies provisions of the criminal homicide statute to clarify that criminal homicide is not a stand-alone offense but a general term for the collective enumerated homicide offenses;
- defines "criminal homicide";
- for clarity, reenacts special mitigation provisions within respective offense statutes and directs a court to enter the respective judgment of conviction if special mitigation is established;
- for clarity, reenacts imperfect self-defense provisions and directs a court to enter the respective judgment of conviction if the defense is established;
- amends special mitigation provisions to clarify that the jury must, consistent with Utah Constitution, Article I, Section 10, unanimously find that the elements of the offense are proven beyond a reasonable doubt;
- repeals statute defining "targeting a law enforcement officer" and reenacts within relevant provision;
- for the offenses of unlawful sexual activity with a minor and unlawful adolescent sexual activity, amends limiting offenses to include an attempt of a limiting offense;
- for the offense of forcible sexual assault, amends limiting offenses to include an attempted object rape;
- reorganizes the offenses of sexual abuse of a child and aggravated sexual abuse of a child by enacting aggravated sexual abuse as a stand-alone statute;
- repeals and reenacts within relevant offense statutes provisions qualifying commission of sexual penetration and touch;
- reorganizes the offenses of custodial sexual relations and custodial sexual misconduct by enacting custodial sexual misconduct as a stand-alone statute;
- reorganizes the offenses of custodial sexual relations or misconduct with youth receiving state services and custodial sexual misconduct with a youth receiving state services by enacting custodial sexual misconduct with a youth receiving state services as a stand-alone statute;
- repeals statute defining "indecent liberties" and reenacts within relevant provision;
- creates three new sections from the human trafficking and smuggling sections;
- repeals section regarding lesser included offenses of kidnapping and unlawful detention;
- removes mentally incompetent language from kidnapping statute and replaces it with dependent adult;
- adds caretaker to the list of persons without whose consent a dependent adult may not be held against their will;
- narrows the definition of conviction for custodial interference; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

76-1-301, as last amended by Laws of Utah 2019, Chapter 26
76-2-304.5, as last amended by Laws of Utah 2016, Chapter 194
76-2-401, as last amended by Laws of Utah 2000, Chapter 126
76-2-402, as last amended by Laws of Utah 2019, Chapter 201
76-2-404, as last amended by Laws of Utah 2021, Chapters 150 and 260
76-2-408, as last amended by Laws of Utah 2021, Chapter 150
76-3-202, as last amended by Laws of Utah 2018, Chapter 334
76-3-203.2, as last amended by Laws of Utah 2011, Chapter 91
76-3-203.5, as last amended by Laws of Utah 2013, Chapter 278
76-3-203.6, as last amended by Laws of Utah 2020, Chapter 346
76-3-203.7, as last amended by Laws of Utah 2007, Chapter 339

76-3-203.8, as last amended by Laws of Utah 2004, Chapter 276
76-3-203.10, as enacted by Laws of Utah 2010, Chapter 359
76-3-203.13, as enacted by Laws of Utah 2018, Chapter 394
76-3-406, as last amended by Laws of Utah 2021, Chapters 260 and 262
76-4-401, as last amended by Laws of Utah 2019, Chapter 200
76-5-101, as last amended by Laws of Utah 2003, Chapter 171
76-5-102, as last amended by Laws of Utah 2015, Chapter 430
76-5-102.3, as last amended by Laws of Utah 2017, Chapter 123
76-5-102.4, as last amended by Laws of Utah 2017, Chapters 62 and 123
76-5-102.5, as enacted by Laws of Utah 1974, Chapter 32
76-5-102.6, as last amended by Laws of Utah 2019, Chapter 36
76-5-102.7, as last amended by Laws of Utah 2017, Chapters 123 and 326
76-5-102.8, as last amended by Laws of Utah 2010, Chapter 222
76-5-102.9, as enacted by Laws of Utah 2013, Chapter 153
76-5-103, as last amended by Laws of Utah 2017, Chapters 388 and 454
76-5-103.5, as last amended by Laws of Utah 2020, Chapter 346
76-5-104, as last amended by Laws of Utah 1997, Chapter 83
76-5-105, as enacted by Laws of Utah 1973, Chapter 196
76-5-106, as last amended by Laws of Utah 1995, Chapter 300
76-5-106.5, as last amended by Laws of Utah 2020, Chapter 142
76-5-107, as last amended by Laws of Utah 2015, Chapter 430
76-5-107.1, as last amended by Laws of Utah 2021, Chapter 262
76-5-107.3, as last amended by Laws of Utah 2013, Chapter 39
76-5-107.5, as last amended by Laws of Utah 2011, Chapter 340
76-5-108, as last amended by Laws of Utah 2021, Chapter 262
76-5-109, as last amended by Laws of Utah 2017, Chapter 388
76-5-110, as last amended by Laws of Utah 2021, Chapter 262
76-5-111, as last amended by Laws of Utah 2019, Chapter 281
76-5-112, as enacted by Laws of Utah 1999, Chapter 66
76-5-112.5, as last amended by Laws of Utah 2020, Chapter 132
76-5-113, as last amended by Laws of Utah 2010, Chapter 276
76-5-201, as last amended by Laws of Utah 2010, Chapter 13
76-5-202, as last amended by Laws of Utah 2018, Chapter 343
76-5-203, as last amended by Laws of Utah 2009, Chapters 125 and 206
76-5-205, as last amended by Laws of Utah 2018, Chapter 372
76-5-205.5, as last amended by Laws of Utah 2019, Chapter 312
76-5-206, as last amended by Laws of Utah 2010, Chapter 157
76-5-207, as last amended by Laws of Utah 2017, Chapter 283
76-5-207.5, as last amended by Laws of Utah 2012, Chapter 193
76-5-208, as last amended by Laws of Utah 2008, Chapter 152
76-5-209, as enacted by Laws of Utah 1995, Chapter 291
76-5-301, as last amended by Laws of Utah 2001, Chapter 301
76-5-301.1, as last amended by Laws of Utah 2013, Chapter 81
76-5-302, as last amended by Laws of Utah 2020, Chapter 298
76-5-303, as last amended by Laws of Utah 2021, Chapter 343
76-5-303.5, as enacted by Laws of Utah 2010, Chapter 374
76-5-304, as last amended by Laws of Utah 2019, Chapter 106
76-5-305, as last amended by Laws of Utah 2019, Chapter 26
76-5-307, as last amended by Laws of Utah 2013, Chapters 196 and 278
76-5-308, as last amended by Laws of Utah 2020, Chapter 108
76-5-308.5, as last amended by Laws of Utah 2020, Chapter 108
76-5-309, as last amended by Laws of Utah 2021, Chapter 241
76-5-310, as last amended by Laws of Utah 2021, Chapter 241
76-5-311, as last amended by Laws of Utah 2020, Chapter 108
76-5-401, as last amended by Laws of Utah 2020, Chapter 108
76-5-401.1, as last amended by Laws of Utah 2020, Chapter 108
76-5-401.2, as last amended by Laws of Utah 2018, Chapters 192 and 394
76-5-401.3, as last amended by Laws of Utah 2021, Chapter 262
76-5-402, as last amended by Laws of Utah 2013, Chapter 81
76-5-402.1, as last amended by Laws of Utah 2017, Chapter 290
76-5-402.2, as last amended by Laws of Utah 2013, Chapter 81
76-5-402.3, as last amended by Laws of Utah 2017, Chapter 290
76-5-403, as last amended by Laws of Utah 2019, Chapter 189
76-5-403.1, as last amended by Laws of Utah 2017, Chapter 290
76-5-404, as last amended by Laws of Utah 2019, Chapter 189
76-5-404.1, as last amended by Laws of Utah 2019, Chapter 146

76-5-405, as last amended by Laws of Utah 2013, Chapter 81
76-5-406.3, as enacted by Laws of Utah 1996, Chapter 40
76-5-406.5, as last amended by Laws of Utah 2004, Chapter 213
76-5-407, as last amended by Laws of Utah 2019, Chapters 189 and 378
76-5-412, as last amended by Laws of Utah 2018, Chapter 192
76-5-413, as last amended by Laws of Utah 2021, Chapter 262
76-5-701, as enacted by Laws of Utah 2019, Chapter 398
76-5-702, as last amended by Laws of Utah 2020, Chapter 354
76-5-704, as enacted by Laws of Utah 2019, Chapter 398
76-5b-103, as last amended by Laws of Utah 2013, Chapter 290
76-5b-201, as last amended by Laws of Utah 2021, Chapter 262
76-5b-202, as enacted by Laws of Utah 2011, Chapter 320
76-5b-203, as last amended by Laws of Utah 2021, Chapters 55 and 95
76-5b-203.5, as enacted by Laws of Utah 2021, Chapter 95
76-5b-204, as enacted by Laws of Utah 2017, Chapter 434
76-5b-205, as enacted by Laws of Utah 2021, Chapter 134
76-6-102, as last amended by Laws of Utah 2013, Chapter 272
76-6-203, as last amended by Laws of Utah 1989, Chapter 170
76-6-302, as last amended by Laws of Utah 2003, Chapter 62
76-7-101, as last amended by Laws of Utah 2021, Chapter 159
76-7-305, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
76-8-309, as last amended by Laws of Utah 2018, Chapter 25
76-8-316, as last amended by Laws of Utah 2013, Chapter 432
76-8-318, as enacted by Laws of Utah 2019, Chapter 478
76-9-101, as last amended by Laws of Utah 2021, Chapter 94 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 260
76-9-702, as last amended by Laws of Utah 2018, Chapter 192
76-9-702.1, as last amended by Laws of Utah 2015, Chapter 210
76-9-804, as enacted by Laws of Utah 2009, Chapter 313
76-9-1003, as last amended by Laws of Utah 2020, Chapter 108
76-10-1302, as last amended by Laws of Utah 2020, Chapters 108, 214 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214
76-10-1306, as last amended by Laws of Utah 2017, Chapter 433
76-10-1313, as last amended by Laws of Utah 2020, Chapter 108
76-10-1315, as last amended by Laws of Utah 2021, Chapter 262
76-10-1504, as last amended by Laws of Utah 2016, Chapter 399
76-10-1602, as last amended by Laws of Utah 2019, Chapters 200 and 363

ENACTS:

76-1-101.6, Utah Code Annotated 1953
76-5-109.2, Utah Code Annotated 1953
76-5-109.3, Utah Code Annotated 1953
76-5-111.2, Utah Code Annotated 1953
76-5-111.3, Utah Code Annotated 1953
76-5-111.4, Utah Code Annotated 1953
76-5-308.1, Utah Code Annotated 1953
76-5-308.3, Utah Code Annotated 1953
76-5-310.1, Utah Code Annotated 1953
76-5-404.3, Utah Code Annotated 1953
76-5-412.2, Utah Code Annotated 1953
76-5-413.2, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

76-1-101.5, (Renumbered from 76-1-601, as last amended by Laws of Utah 2020, Chapter 287)
76-5-114, (Renumbered from 76-5-109.1, as last amended by Laws of Utah 2009, Chapter 70)

REPEALS:

76-5-210, as enacted by Laws of Utah 2017, Chapter 454
76-5-306, as last amended by Laws of Utah 2012, Chapter 39
76-5-416, as last amended by Laws of Utah 2019, Chapter 378

Utah Code Sections Affected by Coordination Clause:

76-5-201, as last amended by Laws of Utah 2010, Chapter 13

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-1-101.5, which is renumbered from Section 76-1-601 is renumbered and amended to read:

[~~76-1-601~~]. 76-1-101.5. Definitions.

Unless otherwise provided, as used in this title:

(1) "Act" means a voluntary bodily movement and includes speech.

(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action.

(3) "Affinity" means a relationship by marriage.

(4) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(5) "Conduct" means an act or omission.

(6) "Consanguinity" means a relationship by blood to the first or second degree, including an individual's parent, grandparent, sibling, child, aunt, uncle, niece, or nephew.

(7) "Dangerous weapon" means:

(a) any item capable of causing death or serious bodily injury; or

(b) a facsimile or representation of the item, if:

(i) the actor's use or apparent intended use of the item leads the victim to reasonably believe the item is likely to cause death or serious bodily injury; or

(ii) the actor represents to the victim verbally or in any other manner that [~~he~~] the actor is in control of such an item.

(8) "Grievous sexual offense" means:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) aggravated sexual abuse of a child, [~~Subsection 76-5-404.1(4)~~] Section 76-5-404.3;

(h) aggravated sexual assault, Section 76-5-405;

(i) any felony attempt to commit an offense described in Subsections (8)(a) through (h); or

(j) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (8)(a) through (i).

(9) "Offense" means a violation of any penal statute of this state.

(10) "Omission" means a failure to act when there is a legal duty to act and the actor is capable of acting.

(11) "Person" means an individual, public or private corporation, government, partnership, or unincorporated association.

(12) "Possess" means to have physical possession of or to exercise dominion or control over tangible property.

(13) "Public entity" means:

(a) the state, or an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of the state;

(b) a political subdivision of the state, including a county, municipality, interlocal entity, local district, special service district, school district, or school board;

(c) an agency, bureau, office, department, division, board, commission, institution, laboratory, or other instrumentality of a political subdivision of the state; or

(d) another entity that:

(i) performs a public function; and

(ii) is authorized to hold, spend, transfer, disburse, use, or receive public money.

(14) (a) "Public money" or "public funds" means money, funds, or accounts, regardless of the source from which they are derived, that:

(i) are owned, held, or administered by an entity described in Subsections (13)(a) through (c); or

(ii) are in the possession of an entity described in Subsection (13)(d)(i) for the purpose of performing a public function.

(b) "Public money" or "public funds" includes money, funds, or accounts described in Subsection (14)(a) after the money, funds, or accounts are transferred by a public entity to an independent contractor of the public entity.

(c) "Public money" or "public funds" remains public money or public funds while in the possession of an independent contractor of a public entity for the purpose of providing a program or service for, or on behalf of, the public entity.

(15) "Public officer" means:

(a) an elected official of a public entity;

(b) an individual appointed to, or serving an unexpired term of, an elected official of a public entity;

(c) a judge of a court of record or not of record, including justice court judges; or

(d) a member of the Board of Pardons and Parole.

(16) (a) "Public servant" means:

(i) a public officer;

(ii) an appointed official, employee, consultant, or independent contractor of a public entity; or

(iii) a person hired or paid by a public entity to perform a government function.

(b) Public servant includes a person described in Subsection (16)(a) upon the person's election, appointment, contracting, or other selection, regardless of whether the person has begun to officially occupy the position of a public servant.

(17) "Serious bodily injury" means bodily injury that creates or causes serious permanent disfigurement, protracted loss or impairment of the function of any bodily member or organ, or creates a substantial risk of death.

(18) "Substantial bodily injury" means bodily injury, not amounting to serious bodily injury, that creates or causes protracted physical pain, temporary disfigurement, or temporary loss or impairment of the function of any bodily member or organ.

(19) "Writing" or "written" includes any handwriting, typewriting, printing, electronic storage or transmission, or any other method of recording information or fixing information in a form capable of being preserved.

Section 2. Section 76-1-101.6 is enacted to read:

76-1-101.6. Application of definitions to title.

(1) For formatting purposes, sections in this title that contain a criminal offense include an express provision that states that the title definitions in Section 76-1-101.5 apply to that section.

(2) Although a provision described in Subsection (1) is not included in non-offense sections in Title 76 or in other titles, title definitions apply to all statutes within a title unless otherwise expressly provided.

Section 3. Section 76-1-301 is amended to read:

76-1-301. Offenses for which prosecution may be commenced at any time.

(1) As used in this section:

(a) "Aggravating offense" means any offense incident to which a homicide was committed as described in Subsection 76-5-202[~~(1)(d) or (e)~~](2)(a)(iv) or (v) or Subsection 76-5-202(2)(b).

(b) "Predicate offense" means an offense described in [~~Section~~] Subsection 76-5-203(1)(a) if a person other than a party as defined in Section 76-2-202 was killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of the offense.

(2) Notwithstanding any other provisions of this code, prosecution for the following offenses may be commenced at any time:

(a) capital felony;

(b) aggravated murder;

(c) murder;

(d) manslaughter;

(e) child abuse homicide;

(f) aggravated kidnapping;

(g) child kidnapping;

(h) rape;

(i) rape of a child;

(j) object rape;

(k) object rape of a child;

(l) forcible sodomy;

(m) sodomy on a child;

(n) sexual abuse of a child;

(o) aggravated sexual abuse of a child;

(p) aggravated sexual assault;

(q) any predicate offense to a murder or aggravating offense to an aggravated murder;

(r) aggravated human trafficking or aggravated human smuggling in violation of Section 76-5-310;

(s) aggravated exploitation of prostitution involving a child, under Section 76-10-1306; or

(t) human trafficking of a child, under Section 76-5-308.5.

Section 4. Section 76-2-304.5 is amended to read:

76-2-304.5. Mistake as to victim's age not a defense.

(1) It is not a defense to the crime of child kidnapping, a violation of Section 76-5-301.1; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy on a child, a violation of Section 76-5-403.1; sexual abuse of a child, a violation of Section [~~76-5-404.1~~] 76-5-404.1; aggravated sexual abuse of a child, a violation of [~~Subsection 76-5-404.1(4)~~] Section 76-5-404.3; or an attempt to commit any of these offenses, that the actor mistakenly believed the victim to be 14 years [~~of age~~] old or older at the time of the alleged offense or was unaware of the victim's true age.

(2) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Section 76-5-401; sexual abuse of a minor, a violation of Section 76-5-401.1; or an attempt to commit either of these offenses, that the actor mistakenly believed the victim to be 16 years [~~of age~~] old or older at the time of the alleged offense or was unaware of the victim's true age.

(3) It is not a defense to the crime of aggravated human trafficking [~~or~~], a violation of Section 76-5-310, aggravated human smuggling, a violation of Section [~~76-5-310~~] 76-5-310.1, or human trafficking of a child, a violation of Section 76-5-308.5, that the actor mistakenly believed the victim to be 18 years [~~of age~~] old or older at the time of the alleged offense or was unaware of the victim's true age.

(4) It is not a defense to the crime of unlawful sexual activity with a minor, a violation of Subsection 76-5-401.2(2)(a)(ii), that the actor mistakenly believed the victim to be 18 years [~~of age~~] old or older at the time of the alleged offense or was unaware of the victim's true age.

(5) It is not a defense to any of the following crimes that the actor mistakenly believed the victim to be 18 years [~~of age~~] old or older at the time of the alleged offense or was unaware of the victim's true age:

(a) patronizing a prostitute, a violation of Section 76-10-1303;

(b) aggravated exploitation of a prostitute, a violation of Section 76-10-1306; or

(c) sexual solicitation, a violation of Section 76-10-1313.

Section 5. Section 76-2-401 is amended to read:

76-2-401. Justification as defense -- When allowed.

(1) Conduct which is justified is a defense to prosecution for any offense based on the conduct. The defense of justification may be claimed:

(a) when the actor's conduct is in defense of persons or property under the circumstances described in Sections 76-2-402 through 76-2-406 of this part;

(b) when the actor's conduct is reasonable and in fulfillment of his duties as a governmental officer or employee;

(c) when the actor's conduct is reasonable discipline of minors by parents, guardians, teachers, or other persons in loco parentis, as limited by Subsection (2);

(d) when the actor's conduct is reasonable discipline of persons in custody under the laws of the state; or

(e) when the actor's conduct is justified for any other reason under the laws of this state.

(2) The defense of justification under Subsection (1)(c) is not available if the offense charged involves causing serious bodily injury, as defined in Section [~~76-1-601~~] 76-1-101.5, serious physical injury, as defined in Section 76-5-109, or the death of the minor.

Section 6. Section 76-2-402 is amended to read:

76-2-402. Force in defense of person -- Forcible felony defined.

(1) As used in this section:

(a) "Forcible felony" means aggravated assault, mayhem, aggravated murder, murder, manslaughter, kidnapping and aggravated kidnapping, rape, forcible sodomy, rape of a child, object rape, object rape of a child, sexual abuse of a child, aggravated sexual abuse of a child, and aggravated sexual assault as defined in [~~Title 76,~~] Chapter 5, Offenses Against the [~~Person~~] Individual, and arson, robbery, and burglary as defined in [~~Title 76,~~] Chapter 6, Offenses Against Property.

(b) "Forcible felony" includes any other felony offense that involves the use of force or violence against an individual that poses a substantial danger of death or serious bodily injury.

(c) "Forcible felony" does not include burglary of a vehicle, as defined in Section 76-6-204, unless the vehicle is occupied at the time unlawful entry is made or attempted.

(2) (a) An individual is justified in threatening or using force against another individual when and to the extent that the individual reasonably believes that force or a threat of force is necessary to defend the individual or another individual against the imminent use of unlawful force.

(b) An individual is justified in using force intended or likely to cause death or serious bodily injury only if the individual reasonably believes that force is necessary to prevent death or serious bodily injury to the individual or another individual as a result of imminent use of unlawful force, or to prevent the commission of a forcible felony.

(3) (a) An individual is not justified in using force under the circumstances specified in Subsection (2) if the individual:

(i) initially provokes the use of force against another individual with the intent to use force as an excuse to inflict bodily harm upon the other individual;

(ii) is attempting to commit, committing, or fleeing after the commission or attempted commission of a felony, unless the use of force is a reasonable response to factors unrelated to the commission, attempted commission, or fleeing after the commission of that felony; or

(iii) was the aggressor or was engaged in a combat by agreement, unless the individual withdraws from the encounter and effectively communicates to the other individual the intent to withdraw from the encounter and, notwithstanding, the other individual continues or threatens to continue the use of unlawful force.

(b) For purposes of Subsection (3)(a)(iii) the following do not, alone, constitute "combat by agreement":

(i) voluntarily entering into or remaining in an ongoing relationship; or

(ii) entering or remaining in a place where one has a legal right to be.

(4) Except as provided in Subsection (3)(a)(iii):

(a) an individual does not have a duty to retreat from the force or threatened force described in Subsection (2) in a place where that individual has lawfully entered or remained; and

(b) the failure of an individual to retreat under the provisions of Subsection (4)(a) is not a relevant factor in determining whether the individual who used or threatened force acted reasonably.

(5) In determining imminence or reasonableness under Subsection (2), the trier of fact may consider:

(a) the nature of the danger;

(b) the immediacy of the danger;

(c) the probability that the unlawful force would result in death or serious bodily injury;

(d) the other individual's prior violent acts or violent propensities;

(e) any patterns of abuse or violence in the parties' relationship; and

(f) any other relevant factors.

Section 7. Section 76-2-404 is amended to read:

76-2-404. Law enforcement officer use of deadly force.

(1) As used in this section:

(a) "Deadly force" means force that creates or is likely to create, or that the individual using the force intends to create, a substantial likelihood of death or serious bodily injury to an individual.

(b) "Officer" means an officer described in Section 53-13-102.

(c) "Serious bodily injury" means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(2) The defense of justification applies to the use of deadly force by an officer, or an individual acting by the officer's command in providing aid and assistance, when:

(a) the officer is acting in obedience to and in accordance with the judgment of a competent court in executing a penalty of death under Subsection 77-18-113(2), (3), or (4);

(b) effecting an arrest or preventing an escape from custody following an arrest, if:

(i) the officer reasonably believes that deadly force is necessary to prevent the arrest from being defeated by escape; and

(ii) (A) the officer has probable cause to believe that the suspect has committed a felony offense involving the infliction or threatened infliction of death or serious bodily injury; or

(B) the officer has probable cause to believe the suspect poses a threat of death or serious bodily injury to the officer or to an individual other than the suspect if apprehension is delayed; or

(c) the officer reasonably believes that the use of deadly force is necessary to prevent death or serious bodily injury to the officer or an individual other than the suspect.

(3) If feasible, a verbal warning should be given by the officer prior to any use of deadly force under Subsection (2)(b) or (2)(c).

Section 8. Section 76-2-408 is amended to read:

76-2-408. Officer use of force -- Investigations.

(1) As used in this section:

(a) "Dangerous weapon" means a firearm or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury to a person.

(b) "Deadly force" means a force that creates or is likely to create, or that the person using the force intends to create, a substantial likelihood of death or serious bodily injury to a person.

(c) "In custody" means in the legal custody of a state prison, county jail, or other correctional facility, including custody that results from:

(i) a detention to secure attendance as a witness in a criminal case;

(ii) an arrest for or charging with a crime and committing for trial;

(iii) committing for contempt, upon civil process, or by other authority of law; or

(iv) sentencing to imprisonment on conviction of a crime.

(d) "Investigating agency" means a law enforcement agency, the county or district attorney's office, or an interagency task force composed of officers from multiple law enforcement agencies.

(e) "Officer" means an officer described in Section 53-13-102.

(f) "Officer-involved critical incident" means any of the following:

(i) an officer's use of deadly force;

(ii) an officer's use of a dangerous weapon against a person who causes injury to any person;

(iii) death or serious bodily injury to any person, other than the officer, resulting from an officer's:

(A) use of a motor vehicle while the officer is on duty; or

(B) use of a government vehicle while the officer is off duty;

(iv) the death of a person who is in custody, but excluding a death that is the result of disease, natural causes, or conditions that have been medically diagnosed prior to the person's death; or

(v) the death of or serious bodily injury to a person not in custody, other than an officer, resulting from an officer's attempt to prevent a person's escape from custody, to make an arrest, or otherwise to gain physical control of a person.

(g) "Serious bodily injury" means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(2) When an officer-involved critical incident occurs:

(a) upon receiving notice of the officer-involved critical incident, the law enforcement agency having jurisdiction where the incident occurred shall, as soon as practical, notify the county or district attorney having jurisdiction where the incident occurred; and

(b) the chief executive of the law enforcement agency and the county or district attorney having jurisdiction where the incident occurred shall:

(i) jointly designate an investigating agency for the officer-involved critical incident; and

(ii) designate which agency is the lead investigative agency if the officer-involved critical incident involves multiple investigations.

(3) The investigating agency under Subsection (2) may not be the law enforcement agency employing the officer who is alleged to have caused or contributed to the officer-involved critical incident.

(4) This section does not preclude the law enforcement agency employing an officer alleged to have caused or contributed to the officer-involved critical incident from conducting an internal administrative investigation.

(5) Each law enforcement agency that is part of or administered by the state or any of the state's political subdivisions shall adopt and post on the agency's publicly accessible website:

(a) the policies and procedures the agency has adopted to select the investigating agency if an officer-involved critical incident occurs in the agency's jurisdiction and one of the agency's officers is alleged to have caused or contributed to the officer-involved incident; and

(b) the protocols the agency has adopted to ensure that any investigation of officer-involved incidents occurring in the agency's jurisdiction are conducted professionally, thoroughly, and impartially.

Section 9. Section 76-3-202 is amended to read:

76-3-202. Paroled individuals -- Termination or discharge from sentence -- Time served on parole -- Discretion of Board of Pardons and Parole.

(1) Every individual committed to the state prison to serve an indeterminate term and, after December 31, 2018, released on parole shall complete a term of parole that extends through the expiration of the individual's maximum sentence unless the parole is earlier terminated by the Board of Pardons and Parole in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, as described in Subsection 77-27-5(7), to the extent the guidelines are consistent with the requirements of the law.

(2) (a) Except as provided in Subsection (2)(b), every individual committed to the state prison to serve an indeterminate term and released on parole on or after October 1, 2015, but before January 1, 2019, shall, upon completion of three years on parole outside of confinement and without violation, be terminated from the individual's sentence unless the parole is earlier terminated by the Board of Pardons and Parole or is terminated pursuant to Section 64-13-21.

(b) Every individual committed to the state prison to serve an indeterminate term and later released on parole on or after July 1, 2008, but before January 1, 2019, and who was convicted of any felony offense under [~~Title 76,~~] Chapter 5, Offenses Against the [~~Person~~] Individual, or any attempt, conspiracy, or solicitation to commit any of these felony offenses, shall complete a term of parole that extends through the expiration of the individual's maximum sentence, unless the parole is earlier terminated by the Board of Pardons and Parole.

(3) Every individual convicted of a second degree felony for violating Section 76-5-404, forcible sexual abuse[~~, or~~]; Section 76-5-404.1, sexual abuse of a child [~~and~~]; or Section 76-5-404.3, aggravated sexual abuse of a child[~~,~~]; or attempting, conspiring, or soliciting the commission of a violation of any of those sections, and who is paroled before July 1, 2008, shall, upon completion of 10 years parole outside of confinement and without violation, be terminated from the sentence unless the individual is earlier terminated by the Board of Pardons and Parole.

(4) An individual who violates the terms of parole, while serving parole, for any offense under Subsection (1), (2), or (3), shall at the discretion of the Board of Pardons and Parole be recommitted to prison to serve the portion of the balance of the term as determined by the Board of Pardons and Parole, but not to exceed the maximum term.

(5) An individual paroled following a former parole revocation may not be discharged from the individual's sentence until:

(a) the individual has served the applicable period of parole under this section outside of confinement;

(b) the individual's maximum sentence has expired; or

(c) the Board of Pardons and Parole orders the individual to be discharged from the sentence.

(6) (a) All time served on parole, outside of confinement and without violation, constitutes service toward the total sentence.

(b) Any time an individual spends outside of confinement after commission of a parole violation does not constitute service toward the total sentence unless the individual is exonerated at a parole revocation hearing.

(c) (i) Any time an individual spends in confinement awaiting a hearing before the Board of Pardons and Parole or a decision by the board concerning revocation of parole constitutes service toward the total sentence.

(ii) In the case of exoneration by the board, the time spent is included in computing the total parole term.

(7) When a parolee causes the parolee's absence from the state without authority from the Board of Pardons and Parole or avoids or evades parole supervision, the period of absence, avoidance, or evasion tolls the parole period.

(8) (a) While on parole, time spent in confinement outside the state may not be credited toward the service of any Utah sentence.

(b) Time in confinement outside the state or in the custody of any tribal authority or the United States government for a conviction obtained in another jurisdiction tolls the expiration of the Utah sentence.

(9) This section does not preclude the Board of Pardons and Parole from paroling or discharging an inmate at any time within the discretion of the Board of Pardons and Parole unless otherwise specifically provided by law.

(10) A parolee sentenced to lifetime parole may petition the Board of Pardons and Parole for termination of lifetime parole.

Section 10. Section 76-3-203.2 is amended to read:

76-3-203.2. Definitions -- Use of dangerous weapon in offenses committed on or about school premises -- Enhanced penalties.

(1) (a) As used in this section "on or about school premises" means:

(i) (A) in a public or private elementary or secondary school; or

(B) on the grounds of any of those schools;

(ii) (A) in a public or private institution of higher education; or

(B) on the grounds of a public or private institution of higher education;

(iii) within 1,000 feet of any school, institution, or grounds included in Subsections (1)(a)(i) and (ii); and

(iv) in or on the grounds of a preschool or child care facility.

(b) As used in this section:

(i) "Dangerous weapon" has the same definition as in Section [~~76-1-601~~] 76-1-101.5.

(ii) "Educator" means a person who is:

(A) employed by a public school district; and

(B) required to hold a certificate issued by the State Board of Education in order to perform duties of employment.

(iii) "Within the course of employment" means that an educator is providing services or engaging in conduct required by the educator's employer to perform the duties of employment.

(2) A person who, on or about school premises, commits an offense and uses or threatens to use a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5, in the commission of the offense is subject to an enhanced degree of offense as provided in Subsection (4).

(3) (a) A person who commits an offense against an educator when the educator is acting within the course of employment is subject to an enhanced degree of offense as provided in Subsection (4).

(b) As used in Subsection (3)(a), "offense" means:

(i) an offense under [~~Title 76,~~] Chapter 5, Offenses Against the [~~Person~~] Individual; and

(ii) an offense under [~~Title 76,~~] Chapter 6, Part 3, Robbery.

(4) If the trier of fact finds beyond a reasonable doubt that the defendant, while on or about school premises, commits an offense and in the commission of the offense uses or threatens to use a dangerous weapon, or that the defendant committed an offense against an educator when the educator was acting within the course of the educator's employment, the enhanced penalty for a:

(a) class B misdemeanor is a class A misdemeanor;

(b) class A misdemeanor is a third degree felony;

(c) third degree felony is a second degree felony; or

(d) second degree felony is a first degree felony.

(5) The enhanced penalty for a first degree felony offense of a convicted person:

(a) is imprisonment for a term of not less than five years and which may be for life, and imposition or execution of the sentence may not be suspended unless the court finds that the interests of justice would be best served and states the specific circumstances justifying the disposition on the record; and

(b) is subject also to the dangerous weapon enhancement provided in Section 76-3-203.8, except for an offense committed under Subsection (3) that does not involve a firearm.

(6) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice upon the information or indictment that the defendant is subject to the enhanced degree of offense or penalty under Subsection (4) or (5).

(7) In cases where an offense is enhanced under Subsection (4), or under Subsection (5)(a) for an offense committed under Subsection (2) that does not involve a firearm, the convicted person is not subject to the dangerous weapon enhancement in Section 76-3-203.8.

(8) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping under Section 76-5-301.1;

(iii) aggravated kidnapping under Section 76-5-302; or

(iv) forcible sexual abuse under Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 11. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, [~~Title 76,~~] Chapter 6, Part 1, Property Destruction;

(B) assault by prisoner, Section 76–5–102.5;

(C) disarming a police officer, Section 76–5–102.8;

(D) aggravated assault, Section 76–5–103;

(E) aggravated assault by prisoner, Section 76–5–103.5;

(F) mayhem, Section 76–5–105;

(G) stalking, Subsection 76–5–106.5(2) [~~or (3)~~];

(H) threat of terrorism, Section 76–5–107.3;

(I) aggravated child abuse, Subsection [~~76–5–109(2)(a) or (b)~~] 76–5–109.2(3)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section [~~76–5–109.1~~] 76–5–114;

(K) abuse or neglect of a child with a disability, Section 76–5–110;

(L) abuse[~~, neglect,~~] or exploitation of a vulnerable adult, Section 76–5–111, 76–5–111.2, 76–5–111.3, or 76–5–111.4;

(M) endangerment of a child or vulnerable adult, Section 76–5–112.5;

(N) criminal homicide offenses under [~~Title 76,~~] Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under [~~Title 76,~~] Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76–5–402;

(Q) rape of a child, Section 76–5–402.1;

(R) object rape, Section 76–5–402.2;

(S) object rape of a child, Section 76–5–402.3;

(T) forcible sodomy, Section 76–5–403;

(U) sodomy on a child, Section 76–5–403.1;

(V) forcible sexual abuse, Section 76–5–404;

(W) [~~aggravated sexual abuse of a child or~~] sexual abuse of a child, Section 76–5–404.1, or aggravated sexual abuse of a child, Section 76–5–404.3;

(X) aggravated sexual assault, Section 76–5–405;

(Y) sexual exploitation of a minor, Section 76–5b–201;

(Z) sexual exploitation of a vulnerable adult, Section 76–5b–202;

(AA) aggravated burglary and burglary of a dwelling under [~~Title 76,~~] Chapter 6, Part 2, Burglary and Criminal Trespass;

(BB) aggravated robbery and robbery under [~~Title 76,~~] Chapter 6, Part 3, Robbery;

(CC) theft by extortion under Subsection 76–6–406(2)(a) or (b);

(DD) tampering with a witness under Subsection 76–8–508(1);

(EE) retaliation against a witness, victim, or informant under Section 76–8–508.3;

(FF) tampering with a juror under Subsection 76–8–508.5(2)(c);

(GG) extortion to dismiss a criminal proceeding under Section 76–8–509 if by any threat or by use of force theft by extortion has been committed pursuant to Subsections 76–6–406(2)(a), (b), and (i);

(HH) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76–10–306(3) through (6);

(II) unlawful delivery of explosive, chemical, or incendiary devices under Section 76–10–307;

(JJ) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76–10–503;

(KK) unlawful discharge of a firearm under Section 76–10–508;

(LL) aggravated exploitation of prostitution under Subsection 76–10–1306(1)(a);

(MM) bus hijacking under Section 76–10–1504; and

(NN) discharging firearms and hurling missiles under Section 76–10–1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of [~~Title 76,~~] Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 12. Section 76-3-203.6 is amended to read:

76-3-203.6. Enhanced penalty for certain offenses committed by prisoner.

(1) As used in this section, "serving a sentence" means a prisoner is sentenced and committed to the custody of the Department of Corrections, the sentence has not been terminated or voided, and the prisoner:

(a) has not been paroled; or

(b) is in custody after arrest for a parole violation.

(2) If the trier of fact finds beyond a reasonable doubt that a prisoner serving a sentence for a capital felony or a first degree felony commits any offense listed in Subsection (5), the offense is a first degree felony and the court shall sentence the defendant to life in prison without parole.

(3) Notwithstanding Subsection (2), the court may sentence the defendant to an indeterminate prison term of not less than 20 years and that may be for life if the court finds that the interests of justice would best be served and states the specific circumstances justifying the disposition on the record.

(4) Subsection (2) does not apply if the prisoner is younger than 18 years [~~of age~~] old at the time the offense listed in Subsection (5) is committed and is sentenced on or after May 10, 2016.

(5) Offenses referred to in Subsection (2) are:

(a) aggravated assault by a prisoner, Section 76-5-103.5;

(b) mayhem, Section 76-5-105;

(c) attempted murder, Section 76-5-203;

(d) kidnapping, Section 76-5-301;

(e) child kidnapping, Section 76-5-301.1;

(f) aggravated kidnapping, Section 76-5-302;

(g) rape, Section 76-5-402;

(h) rape of a child, Section 76-5-402.1;

(i) object rape, Section 76-5-402.2;

(j) object rape of a child, Section 76-5-402.3;

(k) forcible sodomy, Section 76-5-403;

(l) sodomy on a child, Section 76-5-403.1;

(m) aggravated sexual abuse of a child, Section [~~76-5-404.1~~] 76-5-404.3;

(n) aggravated sexual assault, Section 76-5-405;

(o) aggravated arson, Section 76-6-103;

(p) aggravated burglary, Section 76-6-203; and

(q) aggravated robbery, Section 76-6-302.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1; or

(iii) aggravated kidnapping, Section 76-5-302; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 13. Section 76-3-203.7 is amended to read:

76-3-203.7. Increase of sentence for violent felony if body armor used.

(1) As used in this section:

(a) "Body armor" means any material designed or intended to provide bullet penetration resistance or protection from bodily injury caused by a dangerous weapon.

(b) "Dangerous weapon" [~~has the same definition as~~] means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(c) "Violent felony" [~~has the same definition as~~] means the same as that term is defined in Section 76-3-203.5.

(2) A person convicted of a violent felony may be sentenced to imprisonment for an indeterminate term, as provided in Section 76-3-203, but if the trier of fact finds beyond a reasonable doubt that the defendant used, carried, or possessed a dangerous weapon and also used or wore body armor, with the intent to facilitate the commission of the violent felony, and the violent felony is:

(a) a first degree felony, the court shall sentence the person convicted for a term of not less than six years, and which may be for life;

(b) a second degree felony, the court shall sentence the person convicted for a term of not less than two years nor more than 15 years, and the court may sentence the person convicted for a term of not less than two years nor more than 20 years; and

(c) a third degree felony, the court shall sentence the person convicted for a term of not less than one year nor more than five years, and the court may sentence the person convicted for a term of not less than one year nor more than 10 years.

(3) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 14. Section 76-3-203.8 is amended to read:

76-3-203.8. Increase of sentence if dangerous weapon used.

(1) As used in this section, "dangerous weapon" [~~has the same definition as~~] means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(2) If the trier of fact finds beyond a reasonable doubt that a dangerous weapon was used in the commission or furtherance of a felony, the court:

(a) (i) shall increase by one year the minimum term of the sentence applicable by law; and

(ii) if the minimum term applicable by law is zero, shall set the minimum term as one year; and

(b) may increase by five years the maximum sentence applicable by law in the case of a felony of the second or third degree.

(3) A defendant who is a party to a felony offense shall be sentenced to the increases in punishment provided in Subsection (2) if the trier of fact finds beyond a reasonable doubt that:

(a) a dangerous weapon was used in the commission or furtherance of the felony; and

(b) the defendant knew that the dangerous weapon was present.

(4) If the trier of fact finds beyond a reasonable doubt that a person has been sentenced to a term of imprisonment for a felony in which a dangerous weapon was used in the commission of or furtherance of the felony and that person is subsequently convicted of another felony in which a dangerous weapon was used in the commission of or furtherance of the felony, the court shall, in addition to any other sentence imposed including those in Subsection (2), impose an indeterminate prison term to be not less than five nor more than 10 years to run consecutively and not concurrently.

Section 15. Section 76-3-203.10 is amended to read:

76-3-203.10. Violent offense committed in presence of a child -- Penalties.

(1) As used in this section:

(a) "In the presence of a child" means:

(i) in the physical presence of a child younger than 14 years [~~of age~~] old; and

(ii) having knowledge that the child is present and may see or hear the commission of a violent criminal offense.

(b) "Violent criminal offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt to commit a criminal offense involving violence or physical harm that is not a domestic violence offense as defined in Section 77-36-1.

(2) A person commits a violent criminal offense in the presence of a child if the person:

(a) commits or attempts to commit criminal homicide, as defined in Section 76-5-201, against a third party in the presence of a child;

(b) intentionally causes or attempts to cause serious bodily injury to a third party or uses a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5, or other means or force likely to produce death or serious bodily injury, against a third party in the presence of a child; or

(c) under circumstances not amounting to a violation of Subsection (2)(a) or (b), commits a violent criminal offense in the presence of a child.

(3) A person who violates Subsection (2) is guilty of a class B misdemeanor.

Section 16. Section 76-3-203.13 is amended to read:

76-3-203.13. Enhanced penalty for unlawful sexual contact with a student.

(1) A person convicted of a sexual offense described in Section 76-5-401.1 or 76-5-401.2 may be subject to an enhanced penalty if, at the time of the commission of the sexual offense, the actor:

(a) was 18 years [~~of age~~] old or older;

(b) held a position of special trust as a teacher, employee, or volunteer at a school, as that position is defined in Subsection 76-5-404.1(1)[~~(c) (xix)~~](a)(iv)(S); and

(c) committed the offense against an individual who at the time of the offense was enrolled as a student at the school where the actor was employed or was acting as a volunteer.

(2) The enhancement of a penalty described in Subsection (1) shall be an enhancement of one classification higher than the offense of which the person was convicted.

Section 17. Section 76-3-406 is amended to read:

76-3-406. Crimes for which probation, suspension of sentence, lower category of offense, or hospitalization may not be granted.

(1) Notwithstanding Sections 76-3-201 and 77-18-105 and Title 77, Chapter 16a, Commitment and Treatment of Persons with a Mental Illness, except as provided in Section 76-5-406.5, probation may not be granted, the execution or imposition of sentence may not be suspended, the court may not enter a judgment for a lower category of offense, and hospitalization may not be ordered, the effect of which would in any way shorten the prison sentence for an individual who commits a capital felony or a first degree felony involving:

(a) Section 76-5-202, aggravated murder;

(b) Section 76-5-203, murder;

(c) Section 76-5-301.1, child kidnaping;

(d) Section 76-5-302, aggravated kidnaping;

(e) Section 76-5-402, rape, if the individual is sentenced under Subsection 76-5-402(3)(b), (3)(c), or (4);

(f) Section 76-5-402.1, rape of a child;

(g) Section 76-5-402.2, object rape, if the individual is sentenced under Subsection 76-5-402.2[~~(1)(b), (1)(c), or (2)~~](3)(b), (3)(c), or (4);

(h) Section 76-5-402.3, object rape of a child;

(i) Section 76-5-403, forcible sodomy, if the individual is sentenced under Subsection 76-5-403(3)(b), (3)(c), or (4);

(j) Section 76-5-403.1, sodomy on a child;

(k) Section 76-5-404, forcible sexual abuse, if the individual is sentenced under Subsection 76-5-404[~~(2)(b) or (3)~~](3)(b)(i) or (ii);

(l) [~~Subsections 76-5-404.1(4) and (5)~~] Section 76-5-404.3, aggravated sexual abuse of a child;

(m) Section 76-5-405, aggravated sexual assault; or

(n) any attempt to commit a felony listed in Subsection (1)(f), (h), or (j).

(2) Except for an offense before the district court in accordance with Section 80-6-502 or 80-6-504,

the provisions of this section do not apply if the sentencing court finds that the defendant:

(a) was under 18 years old at the time of the offense; and

(b) could have been adjudicated in the juvenile court but for the delayed reporting or delayed filing of the information.

Section 18. Section 76-4-401 is amended to read:

76-4-401. Enticing a minor -- Elements -- Penalties.

(1) As used in this section:

(a) "Minor" means a person who is under the age of 18.

(b) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone, computer, or other electronic communication device to another person's telephone, computer, or other electronic communication device by addressing the communication to the person's telephone number or other electronic communication access code or number.

(2) (a) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to solicit, seduce, lure, or entice a minor, or to attempt to solicit, seduce, lure, or entice a minor, or another person that the actor believes to be a minor, to engage in any sexual activity which is a violation of state criminal law.

(b) A person commits enticement of a minor when the person knowingly uses the Internet or text messaging to:

(i) initiate contact with a minor or a person the actor believes to be a minor; and

(ii) subsequently to the action under Subsection (2)(b)(i), by any electronic or written means, solicits, seduces, lures, or entices, or attempts to solicit, seduce, lure, or entice the minor or a person the actor believes to be the minor to engage in any sexual activity which is a violation of state criminal law.

(3) It is not a defense to the crime of enticing a minor under Subsection (2), or an attempt to commit this offense, that a law enforcement officer or an undercover operative who is employed by a law enforcement agency was involved in the detection or investigation of the offense.

(4) Enticement of a minor under Subsection (2)(a) or (b) is punishable as follows:

(a) enticement to engage in sexual activity which would be a first degree felony for the actor is a:

(i) second degree felony upon the first conviction for violation of this Subsection (4)(a); and

(ii) first degree felony punishable by imprisonment for an indeterminate term of not fewer than three years and which may be for life, upon a second or any subsequent conviction for a violation of this Subsection (4)(a);

(b) enticement to engage in sexual activity which would be a second degree felony for the actor is a third degree felony;

(c) enticement to engage in sexual activity which would be a third degree felony for the actor is a class A misdemeanor;

(d) enticement to engage in sexual activity which would be a class A misdemeanor for the actor is a class B misdemeanor; and

(e) enticement to engage in sexual activity which would be a class B misdemeanor for the actor is a class C misdemeanor.

(5) (a) When a person who commits a felony violation of this section has been previously convicted of an offense under Subsection (5)(b), the court may not in any way shorten the prison sentence, and the court may not:

(i) grant probation;

(ii) suspend the execution or imposition of the sentence;

(iii) enter a judgment for a lower category of offense; or

(iv) order hospitalization.

(b) The sections referred to in Subsection (5)(a) are:

(i) Section 76-4-401, enticing a minor;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-402, rape;

(iv) Section 76-5-402.1, rape of a child;

(v) Section 76-5-402.2, object rape;

(vi) Section 76-5-402.3, object rape of a child;

(vii) Subsection 76-5-403(2), forcible sodomy;

(viii) Section 76-5-403.1, sodomy on a child;

(ix) Section 76-5-404, forcible sexual abuse;

(x) Section 76-5-404.1, sexual abuse of a child and Section 76-5-404.3, aggravated sexual abuse of a child;

(xi) Section 76-5-405, aggravated sexual assault;

(xii) Section 76-5-308.5, human trafficking of a child;

(xiii) any offense in any other state or federal jurisdiction which constitutes or would constitute a crime in Subsections (5)(b)(i) through (xii); or

(xiv) the attempt, solicitation, or conspiracy to commit any of the offenses in Subsections (5)(b)(i) through (xiii).

Section 19. Section 76-5-101 is amended to read:

CHAPTER 5. OFFENSES AGAINST THE INDIVIDUAL

76-5-101. Definitions.

[~~For purposes of this part "prisoner" means any person~~]

Unless otherwise provided, as used in this part:

(1) "Detained individual" means an individual detained under Section 77–7–15.

(2) "Prisoner" means an individual who is in custody of a peace officer pursuant to a lawful arrest or who is confined in a jail or other penal institution or a facility used for confinement of delinquent juveniles operated by the Division of Juvenile Justice Services regardless of whether the confinement is legal.

Section 20. Section 76-5-102 is amended to read:

76-5-102. Assault -- Penalties.

[~~(1) Assault is:~~]

(1) Terms defined in Section 76–1–101.5 apply to this section.

(2) An actor commits assault if the actor:

(a) [~~an attempt~~] attempts, with unlawful force or violence, to [~~do~~] inflict bodily injury [~~to another~~] on an individual; or

(b) commits an act, [~~committed~~] with unlawful force or violence, that:

(i) causes bodily injury to [~~another~~] an individual; or

(ii) creates a substantial risk of bodily injury to [~~another~~] an individual.

[~~(2) Assault~~] (3) (a) A violation of Subsection (2) is a class B misdemeanor.

[~~(3) Assault~~] (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if:

[~~(a)~~] (i) the [~~person~~] actor causes substantial bodily injury to [~~another~~] an individual; or

[~~(b)~~] (ii) the [~~victim~~] individual is pregnant and the [~~person~~] actor has knowledge of the pregnancy.

(4) [~~It is not a defense against assault, that the accused~~] The fact that the actor caused serious bodily injury to [~~another~~] an individual is not a defense to a violation of this section.

Section 21. Section 76-5-102.3 is amended to read:

76-5-102.3. Assault or threat of violence against a school employee.

(1) (a) As used in this section:

(i) "Assault" means an offense under Section 76–5–102.

(ii) "Employee" includes a volunteer.

(iii) "Threat of violence" means an offense under Section 76–5–107.

(b) Terms defined in Section 76–1–101.5 apply to this section.

[~~(1) Any person who commits an assault as defined in Section 76–5–102, or commits~~]

(2) An actor commits assault or threat of violence against a school employee if:

(a) the actor commits assault or a threat of violence [~~as defined in Section 76–5–107,~~] against an employee of a public or private school[~~, with~~];

(b) the actor has knowledge that the individual is an employee[~~,~~]; and [~~when~~]

(c) the employee is acting within the scope of [~~his~~] the employee's authority as an employee[~~, is guilty of a class A misdemeanor.~~].

[~~(2) As used in this section, "employee" includes a volunteer.~~]

(3) A violation of Subsection (2) is a class A misdemeanor.

Section 22. Section 76-5-102.4 is amended to read:

76-5-102.4. Assault against peace officer or a military servicemember in uniform -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Assault" means [~~the same as that term is defined in~~] an offense under Section 76–5–102.

[~~(b)~~] (ii) "Military servicemember in uniform" means:

[~~(i)~~] (A) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or

[~~(ii)~~] (B) a member of the National Guard serving as provided in Section 39–1–5 or 39–1–9.

[~~(c)~~] (iii) "Peace officer" means:

[~~(i)~~] (A) a law enforcement officer certified under Section 53–13–103;

[~~(ii)~~] (B) a correctional officer under Section 53–13–104;

[~~(iii)~~] (C) a special function officer under Section 53–13–105; or

[~~(iv)~~] (D) a federal officer under Section 53–13–106.

[~~(d)~~] (iv) "Threat of violence" means [~~the same as that term is defined in~~] an offense under Section 76–5–107.

(b) Terms defined in Section 76–1–101.5 apply to this section.

[~~(2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3) and (4), who:~~]

(2) (a) An actor commits assault against a peace officer if:

[~~(a)~~] (i) the actor commits an assault or threat of violence against a peace officer, with knowledge that the [~~person~~] peace officer is a peace officer[~~, and when~~]; and

(ii) at the time of the assault or threat of violence, the peace officer [~~is~~] was acting within the scope of authority as a peace officer[~~; or~~].

(b) An actor commits an assault or threat of violence against a military servicemember in uniform [~~when that~~] if:

(i) the actor commits an assault or threat of violence against a military servicemember in uniform; and

(ii) at the time of the assault or threat of violence, the servicemember [~~is~~] was on orders and acting within the scope of authority granted to the military servicemember in uniform.

(3) (a) A [~~person who violates~~] violation of Subsection (2) is [~~guilty of a third degree felony if the person:~~] a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the actor:

[~~(a)~~] (i) has been previously convicted of a class A misdemeanor or a felony violation of this section; or

[~~(b) the person~~] (ii) causes substantial bodily injury.

[~~(4) A person who violates~~] (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is [~~guilty of~~] a second degree felony if the [~~person~~] actor uses:

[~~(a)~~] (i) a dangerous weapon [~~as defined in Section 76-1-601~~]; or

[~~(b)~~] (ii) other means or force likely to produce death or serious bodily injury.

(4) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

(5) [~~A person~~] An actor who violates this section shall serve, in jail or another correctional facility, a minimum of:

(a) 90 consecutive days for a second offense; and

(b) 180 consecutive days for each subsequent offense.

(6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

[~~(7) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.~~]

Section 23. Section 76-5-102.5 is amended to read:

76-5-102.5. Assault by prisoner.

[~~Any prisoner who commits assault,~~]

(1) (a) As used in this section, "assault" means an offense under Section 76-5-102.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits assault by prisoner if the actor:

(a) is a prisoner; and

(b) intending to cause bodily injury, commits an assault.

(3) A violation of Subsection (2) is [~~guilty of a felony of the~~] a third degree felony.

Section 24. Section 76-5-102.6 is amended to read:

76-5-102.6. Propelling object or substance at a correctional or peace officer -- Penalties.

[~~(1) It is unlawful for~~] (1) (a) As used in this section, "infectious agent" means the same as that term is defined in Section 26-6-2.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits the offense of propelling an object or substance at a correctional or peace officer if the actor:

(a) is a prisoner or a detained individual [~~detained pursuant to Section 77-7-15 to throw~~]; and

(b) throws or otherwise [~~propel any~~] propels an object or substance at a peace officer, a correctional officer, or an employee or volunteer, including a health care provider.

[~~(2) Except as provided in Subsection (3), a~~]

(3) (a) A violation of Subsection [~~(1)~~] (2) is a class A misdemeanor.

[~~(3) A~~] (b) Notwithstanding Subsection (3)(a), a violation of Subsection [~~(1)~~] (2) is a third degree felony if:

[~~(a)~~] (i) the object or substance causes substantial bodily injury to the peace officer, the correctional officer, or the employee or volunteer, including a health care provider; or

[~~(b) (i)~~] (ii) (A) the object or substance is:

[~~(A)~~] (I) blood, urine, semen, or fecal material;

[~~(B)~~] (II) an infectious agent [~~as defined in Section 26-6-2~~] or a material that carries an infectious agent;

[~~(C)~~] (III) vomit or a material that carries vomit; or

[~~(D)~~] (IV) the [~~prisoner's or detained individual's~~] actor's saliva, and the [~~prisoner or detained individual~~] actor knows [~~he or she~~] the actor is infected with HIV, hepatitis B, or hepatitis C; and

[~~(ii)~~] (B) the object or substance comes into contact with any portion of the officer's, employee's, volunteer's, or health care provider's face, including the eyes or mouth, or comes into contact with any open wound on the officer's, employee's, volunteer's, or health care provider's body.

(4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 25. Section 76-5-102.7 is amended to read:

76-5-102.7. Assault or threat of violence against health care provider or emergency medical service worker -- Penalty.

(1) (a) As used in this section:

(i) "Assault" means an offense under Section 76-5-102.

(ii) "Emergency medical service worker" means an individual licensed under Section 26-8a-302.

(iii) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(iv) "Threat of violence" means an offense under Section 76-5-107.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person who~~] (2) An actor commits [~~an~~] assault or threat of violence against a health care provider or emergency medical service worker [~~is guilty of a class A misdemeanor~~] if:

(a) the [~~person~~] actor is not a prisoner or a [~~person detained under Section 77-7-15~~] detained individual;

(b) the actor commits an assault or threat of violence;

[~~(b)~~] (c) the [~~person~~] actor knew that the victim was a health care provider or emergency medical service worker; and

[~~(c)~~] (d) the health care provider or emergency medical service worker was performing emergency or life saving duties within the scope of his or her authority at the time of the assault or threat of violence.

[~~(2) A person who violates~~] (3) (a) A violation of Subsection [~~(1)~~] (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is [~~guilty of~~] a third degree felony if the [~~person~~] actor:

[~~(a)~~] (i) causes substantial bodily injury[~~, as defined in Section 76-1-601~~]; and

[~~(b)~~] (ii) acts intentionally or knowingly.

[~~(3) As used in this section:~~]

[~~(a) "Assault" means the same as that term is defined in Section 76-5-102.~~]

[~~(b) "Emergency medical service worker" means a person licensed under Section 26-8a-302.~~]

[~~(c) "Health care provider" means the same as that term is defined in Section 78B-3-403.~~]

[~~(d) "Threat of violence" means the same as that term is defined in Section 76-5-107.~~]

Section 26. Section 76-5-102.8 is amended to read:

76-5-102.8. Disarming a peace officer -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.

[~~(b)~~] (ii) "Firearm" [~~has the same meaning as~~] means the same as that term is defined in Section 76-10-501.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor [~~is guilty of an offense under Subsection (3) who~~] commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from [~~the person~~] an individual or immediate presence of [~~a person~~] an individual who the actor knows is a peace officer:

(a) without the consent of the peace officer; and

(b) while the peace officer is acting within the scope of [~~his~~] the peace officer's authority as a peace officer.

(3) (a) [~~Conduct under~~] A violation of Subsection (2) regarding a firearm is a first degree felony.

(b) [~~Conduct under~~] A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

Section 27. Section 76-5-102.9 is amended to read:

76-5-102.9. Propelling a bodily substance or material -- Penalties.

(1) (a) As used in this section[~~, a listed substance or material is~~]:

(i) "Bodily substance or material" means:

[~~(a)~~] (A) saliva, blood, urine, semen, or fecal material;

[~~(b)~~] (B) an infectious agent [~~as defined in Section 26-6-2 of~~] or a material that carries an infectious agent; or

[~~(c)~~] (C) vomit or a material that carries vomit.

(ii) "Infectious agent" means the same as that term is defined in Section 26-6-2.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Any person who~~] An actor commits propelling a bodily substance or material if the actor knowingly or intentionally throws or otherwise propels [~~any~~] a bodily substance or material [~~listed under Subsection (1)~~] at another [~~person is guilty of a class B misdemeanor, except as provided in Subsection (3)~~] individual.

(3) (a) A violation of [~~this section~~] Subsection (2) is a class B misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if [~~the substance or material propelled is listed in Subsection (1), and~~]:

[~~(a)~~] (i) [~~if~~] the bodily substance or material is the [~~person's~~] actor's saliva[~~,~~] and the [~~person~~] actor knows [~~he or she~~] the actor is infected with HIV, hepatitis B, or hepatitis C; or

[~~(b)~~] (ii) the bodily substance or material comes into contact with any portion of the other [~~person's~~] individual's face, including the eyes or mouth, or comes into contact with any open wound on the other [~~person's~~] individual's body.

(4) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law than under this section, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 28. Section 76-5-103 is amended to read:

76-5-103. Aggravated assault -- Penalties.

[~~(1) Aggravated assault is an actor's conduct:~~]

[~~(a) that is:~~]

(1) (a) As used in this section, "targeting a law enforcement officer" means the same as that term is defined in Section 76-5-202.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated assault if the actor:

(a) (i) [~~an attempt~~] attempts, with unlawful force or violence, to do bodily injury to another;

(ii) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to another; or

(iii) commits an act, committed with unlawful force or violence, that causes bodily injury to another or creates a substantial risk of bodily injury to another; and

(b) [~~that~~] includes in the actor's conduct under Subsection (2)(a) the use of:

(i) a dangerous weapon [~~as defined in Section 76-1-601~~];

(ii) any act that impedes the breathing or the circulation of blood of another [~~person~~] individual by the actor's use of unlawful force or violence that is likely to produce a loss of consciousness by:

(A) applying pressure to the neck or throat of [~~a person~~] an individual; or

(B) obstructing the nose, mouth, or airway of [~~a person~~] an individual; or

(iii) other means or force likely to produce death or serious bodily injury.

[~~(2)~~] (3) (a) [~~Any act under this section is punishable as~~] A violation of Subsection (2) is a third degree felony[~~, except that an act under this section is punishable as a second degree felony if:~~].

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:

(i) the act results in serious bodily injury; or

(ii) an act under Subsection [~~(1)~~] (2)(b)(ii) produces a loss of consciousness.

[~~(b) Aggravated assault that is a violation of Section 76-5-210, Targeting a law enforcement officer, and results in serious bodily injury is a first degree felony.~~]

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if the conduct constitutes targeting a law enforcement officer and results in serious bodily injury.

Section 29. Section 76-5-103.5 is amended to read:

76-5-103.5. Aggravated assault by prisoner.

[~~Any prisoner who commits aggravated assault is guilty of:~~]

[~~(1) a~~] (1) (a) As used in this section, "aggravated assault" means an offense under Section 76-5-103.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated assault by prisoner if the actor:

(a) is a prisoner; and

(b) commits aggravated assault.

(3) (a) A violation of Subsection (2) is a second degree felony[~~ if no serious bodily injury was intentionally caused; or~~].

[~~(2)~~] (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a first degree felony if serious bodily injury was intentionally caused.

Section 30. Section 76-5-104 is amended to read:

76-5-104. Consensual altercation.

(1) As used in this section, "ultimate fighting match" means the same as that term is defined in Section 76-9-705.

(2) In any prosecution for criminal homicide under Part 2, Criminal Homicide, or assault as that

offense is described in Section 76-5-102, it is no defense to the prosecution that the defendant was a party to any duel, mutual combat, or other consensual altercation if during the course of the duel, combat, or altercation:

(a) any dangerous weapon [~~as defined in Section 76-1-601~~] was used; or [~~if~~]

(b) the defendant was engaged in an ultimate fighting match [~~as defined in Section 76-9-705~~].

Section 31. Section 76-5-105 is amended to read:

76-5-105. Mayhem.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) Every person who~~] (2) An actor commits mayhem if the actor unlawfully and intentionally:

(a) deprives [~~a human being~~] an individual of a member of [~~his~~] the individual's body[~~, or~~];

(b) disables or renders [~~it~~] useless[~~, or who~~] a member of an individual's body;

(c) cuts out or disables [~~the~~] an individual's tongue[~~,~~];

(d) puts out an individual's eye[~~,~~]; or

(e) slits [~~the~~] an individual's nose, ear, or lip[~~, is guilty of mayhem~~].

[~~(2) Mayhem is a felony of the second degree.~~]

(3) A violation of Subsection (2) is a second degree felony.

Section 32. Section 76-5-106 is amended to read:

76-5-106. Harassment.

[~~(1) A person is guilty of~~]

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits harassment if, with intent to frighten or harass another, [~~he~~] the actor communicates a written or recorded threat to commit [~~any~~] a violent felony.

[~~(2) Harassment~~] (3) A violation of Subsection (2) is a class B misdemeanor.

Section 33. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Duties of law enforcement officer.

(1) (a) As used in this section:

[~~(a)~~] (i) "Course of conduct" means two or more acts directed at or toward a specific [~~person~~] individual, including:

[~~(i)~~] (A) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about [~~a person~~] an individual, or interferes with [~~a person's~~] an individual's property:

[~~(A)~~] (I) directly, indirectly, or through any third party; and

[~~(B)~~] (II) by any action, method, device, or means; or

[~~(ii)~~] (B) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

[~~(A)~~] (I) approaches or confronts [~~a person~~] an individual;

[~~(B)~~] (II) appears at the [~~person's~~] individual's workplace or contacts the [~~person's~~] individual's employer or coworkers;

[~~(C)~~] (III) appears at [~~a person's~~] an individual's residence or contacts [~~a person's~~] an individual's neighbors, or enters property owned, leased, or occupied by [~~a person~~] an individual;

[~~(D)~~] (IV) sends material by any means to the [~~person~~] individual or for the purpose of obtaining or disseminating information about or communicating with the [~~person~~] individual to a member of the [~~person's~~] individual's family or household, employer, coworker, friend, or associate of the [~~person~~] individual;

[~~(E)~~] (V) places an object on or delivers an object to property owned, leased, or occupied by [~~a person~~] an individual, or to the [~~person's~~] individual's place of employment with the intent that the object be delivered to the [~~person~~] individual; or

[~~(F)~~] (VI) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

[~~(b)~~] (ii) "Emotional distress" means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

[~~(c)~~] (iii) "Immediate family" means a spouse, parent, child, sibling, or any other [~~person~~] individual who regularly resides in the household or who regularly resided in the household within the prior six months.

[~~(d)~~] (iv) "Reasonable person" means a reasonable person in the victim's circumstances.

[~~(e)~~] (v) "Stalking" means an offense as described in Subsection (2)[~~ or (3)~~].

[~~(f)~~] (vi) "Text messaging" means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another [~~person's~~] individual's telephone or computer by addressing the communication to the recipient's telephone number.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~A person is guilty of stalking who~~] An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific [~~person~~] individual and knows or should know that the course of conduct would cause a reasonable person:

[~~(a)~~] (i) to fear for the [~~person's~~] individual's own safety or the safety of a third [~~person~~] individual; or

[~~(b)~~] (ii) to suffer other emotional distress[~~.~~]; or

[~~(3) A person is guilty of stalking who intentionally or knowingly~~]

(b) violates:

[~~(a)~~] (i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

[~~(b)~~] (ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

[~~(4) In any prosecution under this section, it is not a defense that the actor:~~]

[~~(a) was not given actual notice that the course of conduct was unwanted; or~~]

[~~(b) did not intend to cause the victim fear or other emotional distress.~~]

[~~(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.~~]

[~~(6) Stalking is a class A misdemeanor:~~]

(3) (a) A violation of Subsection (2) is a class A misdemeanor:

[~~(a)~~] (i) upon the [~~offender's~~] actor's first violation of Subsection (2); or

[~~(b)~~] (ii) if the [~~offender~~] actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

[~~(7) Stalking~~] (b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony if the [~~offender~~] actor:

[~~(a)~~] (i) has been previously convicted of an offense of stalking;

[~~(b)~~] (ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

[~~(c)~~] (iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

[~~(d)~~] (iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

[~~(e)~~] (v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

[~~(8) Stalking~~] (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a second degree felony if the [~~offender~~] actor:

[~~(a)~~] (i) used a dangerous weapon [~~as defined in Section 76-1-601~~] or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

[~~(b)~~] (ii) has been previously convicted two or more times of the offense of stalking;

[~~(c)~~] (iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

[~~(d)~~] (iv) has been convicted two or more times, in any combination, of offenses under Subsection [~~(7)(a), (b), or (c)~~] (3)(b)(i), (ii), or (iii);

[~~(e)~~] (v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

[~~(f)~~] (vi) has been previously convicted of an offense under Subsection [~~(7)(d) or (e)~~] (3)(b)(iv) or (v).

(4) In a prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

(5) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

[~~(9)~~] (6) (a) A permanent criminal stalking injunction limiting the contact between the [~~defendant~~] actor and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

[~~(10)~~] (7) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection [~~(10)~~] (7)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection [~~(10)~~] (7), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 34. Section 76-5-107 is amended to read:

76-5-107. Threat of violence -- Penalty.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) (a) An actor commits a threat of violence if the actor:

[~~(a) the person~~] (i) (A) threatens to commit [~~any~~] an offense involving bodily injury, death, or substantial property damage[~~,~~]; and

(B) acts with intent to place [~~a person~~] an individual in fear of imminent serious bodily injury, substantial bodily injury, or death; or

[~~(b) the person~~] (ii) makes a threat, accompanied by a show of immediate force or violence, to do bodily injury to [~~another~~] an individual.

(b) A threat under this section may be express or implied.

[~~(2)~~] (3) (a) A violation of [~~this section~~] Subsection (2) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

[~~(3)~~] (4) It is not a defense under this section that the [~~person~~] actor did not attempt to or was incapable of carrying out the threat.

[~~(4) A threat under this section may be express or implied.~~]

[~~(5) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.~~]

[~~(6) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.~~]

Section 35. Section 76-5-107.1 is amended to read:

76-5-107.1. Threats against schools.

(1) (a) As used in this section[~~, "school"~~]:

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section 76-10-401.

(ii) "School" means a preschool or a public or private elementary or secondary school.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An [~~individual~~] actor is guilty of making a threat against a school if the [~~individual~~] actor threatens in person or via electronic means, either with real intent or as an intentional hoax, to commit any offense involving bodily injury, death, or substantial property damage[~~,~~] and the actor:

(a) threatens the use of a firearm or weapon or hoax weapon of mass destruction[~~, as defined in Section 76-10-401~~];

(b) acts with intent to:

(i) disrupt the regular schedule of the school or influence or affect the conduct of students, employees, or the general public at the school;

(ii) prevent or interrupt the occupancy of the school or a portion of the school, or a facility or vehicle used by the school; or

(iii) intimidate or coerce students or employees of the school; or

(c) causes an official or volunteer agency organized to deal with emergencies to take action due to the risk to the school or general public.

(3) (a) (i) A violation of Subsection (2)(a), (b)(i), or (b)(iii) is a class A misdemeanor.

[~~(b)~~] (ii) A violation of Subsection (2)(b)(ii) is a class B misdemeanor.

[~~(c)~~] (iii) A violation of Subsection (2)(c) is a class C misdemeanor.

[~~(4) Counseling for the minor and the minor's family may be made available through state and local health department programs.~~]

[~~(5) It is not a defense to this section that the individual did not attempt to carry out or was incapable of carrying out the threat.~~]

[~~(6) In addition to any other penalty authorized by law, a court shall order an individual convicted of a violation of this section to pay restitution to any federal, state, or local unit of government, or any private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate. Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Section 80–6–710.~~]

(b) (i) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to pay restitution to any federal, state, or local unit of government, or any private business, organization, individual, or entity for expenses and losses incurred in responding to the threat, unless the court states on the record the reasons why the reimbursement would be inappropriate.

(ii) Restitution ordered in the case of a minor adjudicated for a violation of this section shall be determined in accordance with Section 80–6–710.

(4) It is not a defense to this section that the actor did not attempt to carry out or was incapable of carrying out the threat.

[~~(7)~~] (5) (a) A violation of this section shall be reported to the local law enforcement agency.

(b) If the [~~individual~~] actor alleged to have violated this section is a minor, the minor may be referred to the juvenile court.

(6) Counseling for the minor and the minor's family may be made available through state and local health department programs.

Section 36. Section 76-5-107.3 is amended to read:

76-5-107.3. Threat of terrorism -- Penalty.

(1) (a) As used in this section:

(i) "Hoax weapon of mass destruction" means the same as that term is defined in Section 76–10–401.

(ii) "Weapon of mass destruction" means the same as that term is defined in Section 76–10–401.

(b) Terms defined in Section 76–1–101.5 apply to this section.

[~~(1) A person~~] (2) (a) An actor commits a threat of terrorism if the [~~person~~] actor threatens to commit [~~any~~] an offense involving bodily injury, death, or substantial property damage[~~,~~] and the actor:

[~~(a) (i)~~] (i) (A) threatens the use of a weapon of mass destruction[~~, as defined in Section 76–10–401~~]; or

[~~(ii)~~] (B) threatens the use of a hoax weapon of mass destruction[~~, as defined in Section 76–10–401~~]; or

[~~(b)~~] (ii) acts with intent to:

[~~(i)~~] (A) intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government;

[~~(ii)~~] (B) prevent or interrupt the occupation of a building or a portion of the building, a place to which the public has access, or a facility or vehicle of public transportation operated by a common carrier; or

[~~(iii)~~] (C) cause an official or volunteer agency organized to deal with emergencies to take action due to the [~~person's~~] actor's conduct posing a serious and substantial risk to the general public.

(b) A threat under this section may be express or implied.

[~~(2)~~] (3) (a) (i) A violation of Subsection [~~(1)(a) or (1)(b)(i)~~] (2)(a)(i) or (2)(a)(ii)(A) is a second degree felony.

[~~(b)~~] (ii) A violation of Subsection [~~(1)(b)(ii)~~] (2)(a)(ii)(B) is a third degree felony.

[~~(c)~~] (iii) A violation of Subsection [~~(1)(b)(iii)~~] (2)(a)(ii)(C) is a class B misdemeanor.

(b) An actor who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.

(c) In addition to any other penalty authorized by law, a court shall order an actor convicted of a violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.

[~~(3)~~] (4) It is not a defense under this section that the [~~person~~] actor did not attempt to carry out or was incapable of carrying out the threat.

[~~(4) A threat under this section may be express or implied.~~]

[~~(5) A person who commits an offense under this section is subject to punishment for that offense, in addition to any other offense committed, including the carrying out of the threatened act.~~]

[~~(6) In addition to any other penalty authorized by law, a court shall order any person convicted of any violation of this section to reimburse any federal, state, or local unit of government, or any private business, organization, individual, or entity for all expenses and losses incurred in responding to the violation, unless the court states on the record the reasons why the reimbursement would be inappropriate.~~]

Section 37. Section 76-5-107.5 is amended to read:

76-5-107.5. Prohibition of "hazing" -- Definitions -- Penalties.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person is guilty of~~] (2) An actor commits hazing if [~~that person~~] the actor intentionally, knowingly, or recklessly commits an act or causes another to commit an act that:

(a) (i) endangers the mental or physical health or safety of [~~another~~] an individual;

(ii) involves any brutality of a physical nature such as whipping, beating, branding, calisthenics, bruising, electric shocking, placing of a harmful substance on the body, or exposure to the elements;

(iii) involves consumption of any food, alcoholic product, drug, or other substance or any other physical activity that endangers the mental or physical health and safety of an individual; or

(iv) involves any activity that would subject the individual to extreme mental stress, such as sleep deprivation, extended isolation from social contact, or conduct that subjects another to extreme embarrassment, shame, or humiliation; and

(b) (i) is for the purpose of initiation, admission into, affiliation with, holding office in, or as a condition for continued membership in any organization; or

(ii) if the actor knew that the [~~victim~~] individual is a member of or candidate for membership with a school team or school organization to which the actor belongs or did belong within the preceding two years.

[~~(2) It is not a defense to prosecution of hazing that a person under 21, against whom the hazing was directed, consented to or acquiesced in the hazing activity.~~]

[~~(3) An actor who hazes another is guilty of a:~~]

(3) (a) A violation of Subsection (2) is a class B misdemeanor [~~except as provided in Subsection (3)(b), (c), (d), or (e);~~].

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if the act involves:

(i) the operation or other use of a motor vehicle;

(ii) the consumption of an alcoholic product as defined in Section 32B-1-102; or

(iii) the consumption of a drug or a substance as defined in Section 76-5-113[~~;~~].

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a third degree felony if the act involves the use of a dangerous weapon [~~as defined in Section 76-1-601;~~].

(d) Notwithstanding Subsection (3)(a), (b), or (c), a violation of Subsection (2) is a third degree felony if the hazing results in serious bodily injury to [~~a person; or~~] an individual.

(e) Notwithstanding Subsection (3)(a), (b), (c), or (d), a violation of Subsection (2) is a second degree felony if hazing under Subsection (3)(d) involves the use of a dangerous weapon [~~as defined in Section 76-1-601~~].

(4) (a) A person who in good faith reports or participates in reporting of an alleged hazing is not subject to any civil or criminal liability regarding the reporting.

(b) It is not a defense to prosecution of hazing that an individual under 21 years old, against whom the hazing was directed, consented to or acquiesced in the hazing activity.

(5) (a) This section does not apply to military training or other official military activities.

(b) Military conduct is governed by Title 39, Chapter 6, Utah Code of Military Justice.

(6) (a) A prosecution under this section does not bar a prosecution of the actor for:

(i) any other offense for which the actor may be liable as a party for conduct committed by the [~~person~~] individual hazed; or

(ii) any offense, caused in the course of the hazing, that the actor commits against the [~~person who is~~] individual hazed.

(b) Under Subsection (6)(a)(i) [~~a person~~] an actor may be separately punished, both for the hazing offense and the conduct committed by the [~~person~~] individual hazed.

(c) Under Subsection (6)(a)(ii) [~~a person~~] an actor may not be punished both for hazing and for the other offense, but shall be punished for the offense carrying the greater maximum penalty.

Section 38. Section 76-5-108 is amended to read:

76-5-108. Violation of protective order.

[~~(1) Any person who~~] (1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits violation of protective order if the actor:

(a) is the respondent or defendant subject to a protective order, child protective order, ex parte protective order, [~~or~~] ex parte child protective order, or foreign protection order issued under [~~the following who~~], or for the purposes of Subsection (2)(a)(i), enforceable under:

(i) Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;

(ii) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;

(iii) Title 78B, Chapter 7, Part 8, Criminal Protective Orders; or

(iv) Title 80, Utah Juvenile Code; and

(b) intentionally or knowingly violates that order after having been properly served or having been present, in person or through court video conferencing, when the order was issued[~~,~~].

(3) A violation of Subsection (2) is [~~guilty of~~] a class A misdemeanor, except as a greater penalty may be provided in Title 77, Chapter 36, Cohabitant Abuse Procedures Act[~~:~~].

[~~(a) Title 80, Utah Juvenile Code;~~]

[~~(b) Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders;~~]

[~~(c) Title 78B, Chapter 7, Part 8, Criminal Protective Orders; or~~]

[~~(d) a foreign protection order enforceable under Title 78B, Chapter 7, Part 3, Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.~~]

[~~(2)~~] (4) Violation of an order [~~as~~] described in Subsection [~~(1)~~] (2) is a domestic violence offense under Section 77-36-1 and subject to increased penalties in accordance with Section 77-36-1.1.

Section 39. Section 76-5-109 is amended to read:

76-5-109. Child abuse.

(1) (a) As used in this section:

[~~(a)~~] (i) "Child" means [~~a human being who is under~~] an individual who is younger than 18 years [~~of age~~] old.

[~~(b) (i) "Child abandonment" means that a parent or legal guardian of a child:~~]

[~~(A) intentionally ceases to maintain physical custody of the child;~~]

[~~(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and~~]

[~~(C) (I) intentionally fails to provide the child with food, shelter, or clothing;~~]

[~~(II) manifests an intent to permanently not resume physical custody of the child; or~~]

[~~(III) for a period of at least 30 days:~~]

[~~(Aa) intentionally fails to resume physical custody of the child; and~~]

[~~(Bb) fails to manifest a genuine intent to resume physical custody of the child.~~]

[~~(ii) "Child abandonment" does not include:~~]

[~~(A) safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802; or~~]

[~~(B) giving legal consent to a court order for termination of parental rights:~~]

[~~(I) in a legal adoption proceeding; or~~]

[~~(II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.~~]

[~~(c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.~~]

[~~(d) "Enterprise" is as defined in Section 76-10-1602.~~]

[~~(e)~~] (ii) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:

[~~(i)~~] (A) a bruise or other contusion of the skin;

[~~(ii)~~] (B) a minor laceration or abrasion;

[~~(iii)~~] (C) failure to thrive or malnutrition; or

[~~(iv)~~] (D) any other condition which imperils the child's health or welfare and [~~which~~] that is not a serious physical injury [~~as defined in Subsection (1)(f)~~].

[~~(f) (i)~~] (iii) (A) "Serious physical injury" means any physical injury or set of injuries that:

[~~(A)~~] (I) seriously impairs the child's health;

[~~(B)~~] (II) involves physical torture;

[~~(C)~~] (III) causes serious emotional harm to the child; or

[~~(D)~~] (IV) involves a substantial risk of death to the child.

[~~(ii)~~] (B) "Serious physical injury" includes:

[~~(A)~~] (I) fracture of any bone or bones;

[~~(B)~~] (II) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;

[~~(C)~~] (III) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;

[~~(D)~~] (IV) any injury caused by use of a dangerous weapon [~~as defined in Section 76-1-601~~];

[~~(E)~~] (V) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;

[~~(F)~~] (VI) any damage to internal organs of the body;

[~~(G)~~] (VII) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;

[~~(H)~~] (VIII) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

[~~(I)~~] (IX) any impediment of the breathing or the circulation of blood by application of pressure to the neck, throat, or chest, or by the obstruction of the nose or mouth, that is likely to produce a loss of consciousness;

[~~(J)~~] (X) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life; or

[~~(K)~~] (XI) unconsciousness caused by the unlawful infliction of a brain injury or unlawfully causing any deprivation of oxygen to the brain.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:~~]

[~~(a) if done intentionally or knowingly, the offense is a felony of the second degree;~~]

[~~(b) if done recklessly, the offense is a felony of the third degree; or~~]

[~~(c) if done with criminal negligence, the offense is a class A misdemeanor.~~]

[~~(3) Any person who~~] (2) An actor commits child abuse if the actor:

(a) inflicts upon a child physical injury [~~or,~~]; or

(b) having the care or custody of such child, causes or permits another to inflict physical injury upon a child [~~is guilty of an offense as follows:~~].

(3) (a) A violation of Subsection (2) is a class A misdemeanor if done intentionally or knowingly[~~, the offense is a class A misdemeanor;~~].

(b) A violation of Subsection (2) is a class B misdemeanor if done recklessly[~~, the offense is a class B misdemeanor; or~~].

(c) A violation of Subsection (2) is a class C misdemeanor if done with criminal negligence[~~, the offense is a class C misdemeanor~~].

[~~(4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:~~]

[~~(a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or~~]

[~~(b) guilty of a felony of the second degree, if, as a result of the child abandonment:~~]

[~~(i) the child suffers a serious physical injury; or~~]

[~~(ii) the person or enterprise receives, directly or indirectly, any benefit.~~]

[~~(5) (a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).~~]

[~~(b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, Forfeiture and Disposition of Property Act.~~]

[~~(6)~~] (4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent [~~shall~~] may not, for that reason alone, be considered to have committed an offense under this section.

[~~(7)~~] (b) A parent or guardian of a child does not violate this section by selecting a treatment option for [~~the~~] a medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

[~~(8) A person~~] (c) An actor is not guilty of an offense under this section for conduct that constitutes:

[~~(a)~~] (i) reasonable discipline or management of a child, including withholding privileges;

[~~(b)~~] (ii) conduct described in Section 76-2-401; or

[~~(c)~~] (iii) the use of reasonable and necessary physical restraint or force on a child:

[~~(i)~~] (A) in self-defense;

[~~(ii)~~] (B) in defense of others;

[~~(iii)~~] (C) to protect the child; or

[~~(iv)~~] (D) to remove a weapon in the possession of a child for any of the reasons described in Subsections [~~(8)(c)(i) through (iii)~~] (4)(c)(iii)(A) through (C).

Section 40. Section 76-5-109.2 is enacted to read:

76-5-109.2. Aggravated child abuse.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits aggravated child abuse if the actor:

(a) inflicts upon a child serious physical injury; or

(b) having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child.

(3) (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly.

(b) A violation of Subsection (2) is a third degree felony if done recklessly.

(c) A violation of Subsection (2) is a class A misdemeanor if done with criminal negligence.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(c) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) conduct described in Section 76-2-401; or

(ii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (4)(c)(ii)(A) through (C).

Section 41. Section 76-5-109.3 is enacted to read:

76-5-109.3. Child abandonment.

(1) (a) As used in this section:

(i) "Child" means the same as that term is defined in Section 76-5-109.

(ii) "Enterprise" means the same as that term is defined in Section 76-10-1602.

(iii) "Serious physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Except as provided in Subsection (4), an actor commits child abandonment if the actor:

(i) is a parent or legal guardian of a child, and:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days, intentionally fails to resume physical custody of the child and fails to manifest a genuine intent to resume physical custody of the child; or

(ii) encourages or causes the parent or legal guardian of a child to violate Subsection (2)(a)(i).

(b) Except as provided in Subsection (4), an enterprise commits child abandonment if the enterprise encourages, commands, or causes another to violate Subsection (2)(a).

(3) (a) (i) A violation of Subsection (2) is a third degree felony.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if, as a result of the child abandonment:

(A) the child suffers a serious physical injury; or

(B) the actor or enterprise receives, directly or indirectly, any benefit.

(b) (i) In addition to the penalty described in Subsection (3)(a)(ii), the court may order the actor or enterprise described in Subsection (3)(a)(ii)(B) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (3)(b)(ii).

(ii) Any tangible or pecuniary benefit received under Subsection (3)(a)(ii)(B) is subject to criminal or civil forfeiture pursuant to Title 24, Forfeiture and Disposition of Property Act.

(4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent may not, for that reason alone, be considered to have committed an offense under this section.

(b) An actor is not guilty of an offense under this section for conduct that constitutes:

(i) the safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802;

(ii) giving legal consent to a court order for termination of parental rights:

(A) in a legal adoption proceeding; or

(B) in a case in which a petition for the termination of parental rights, or the termination of a guardianship, has been filed;

(iii) reasonable discipline or management of a child, including withholding privileges; or

(iv) conduct described in Section 76-2-401.

Section 42. Section 76-5-110 is amended to read:

76-5-110. Abuse or neglect of a child with a disability.

(1) (a) As used in this section:

[~~(a)~~] (i) "Abuse" means:

[~~(i)~~] (A) inflicting physical injury[~~, as that term is defined in Section 76-5-109~~];

[~~(ii)~~] (B) having the care or custody of a child with a disability, causing or permitting another to inflict physical injury[~~, as that term is defined in Section 76-5-109~~]; or

[~~(iii)~~] (C) unreasonable confinement.

[~~(b)~~] (ii) "Caretaker" means:

[~~(i)~~] (A) any parent, legal guardian, or other person having under that person's care and custody a child with a disability; or

[~~(ii)~~] (B) any person, corporation, or public institution that has assumed by contract or court order the responsibility to provide food, shelter, clothing, medical, and other necessities to a child with a disability.

[~~(c)~~] (iii) "Child with a disability" means [~~any person~~] an individual under 18 years old who is impaired because of mental illness, mental deficiency, physical illness or disability, or other cause, to the extent that the [~~person~~] individual is unable to care for the [~~person's~~] individual's own personal safety or to provide necessities such as food, shelter, clothing, and medical care.

[~~(d)~~] (iv) "Neglect" means failure by a caretaker to provide care, nutrition, clothing, shelter, supervision, or medical care.

(v) "Physical injury" means the same as that term is defined in Section 76-5-109.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Any caretaker who~~] An actor commits abuse or neglect of a child with a disability if the actor is a caretaker and intentionally, knowingly, or recklessly abuses or neglects a child with a disability [~~is guilty of a third degree felony~~].

(3) A violation of Subsection (2) is a third degree felony.

[~~(3)~~] (4) (a) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent [~~shall~~] may not, for that reason alone, be considered to be in violation under this section.

(b) Subject to Section 80-3-109, the exception under Subsection [~~(3)~~] (4)(a) does not preclude a court from ordering medical services from a physician licensed to engage in the practice of medicine to be provided to the child where there is substantial risk of harm to the child's health or welfare if the treatment is not provided.

(c) A caretaker of a child with a disability does not violate this section by selecting a treatment option for a medical condition of a child with a disability, if the treatment option is one that a reasonable caretaker would believe to be in the best interest of the child with a disability.

Section 43. Section 76-5-111 is amended to read:

76-5-111. Abuse of a vulnerable adult -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Abandonment" means a knowing or intentional action or inaction, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

[~~(b)~~] (ii) "Abuse" means:

[~~(i)~~] (A) attempting to cause harm, intentionally or knowingly causing harm, or intentionally or knowingly placing another in fear of imminent harm;

[~~(ii)~~] (B) causing physical injury by knowing or intentional acts or omissions;

[~~(iii)~~] (C) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult that is in conflict with a physician's orders or used as an unauthorized substitute for treatment, unless that conduct furthers the health and safety of the vulnerable adult; or

[~~(iv)~~] (D) deprivation of life-sustaining treatment, except:

[~~(A)~~] (I) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

[~~(B)~~] (II) when informed consent, as defined in this section, has been obtained.

[~~(c) "Business relationship" means a relationship between two or more individuals or entities where there exists an oral or written agreement for the exchange of goods or services.~~]

[~~(d)~~] (iii) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, or other necessities for pecuniary gain, by contract, or as a result of friendship, or in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

[~~(e) "Deception" means:~~]

[~~(i) a misrepresentation or concealment:~~]

[~~(A) of a material fact relating to services rendered, disposition of property, or use of property intended to benefit a vulnerable adult;~~]

[~~(B) of the terms of a contract or agreement entered into with a vulnerable adult; or~~]

[~~(C) relating to the existing or preexisting condition of any property involved in a contract or agreement entered into with a vulnerable adult; or~~]

[~~(ii) the use or employment of any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.~~]

[~~(f) (i)~~] (iv) (A) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

[~~(ii)~~] (B) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

[~~(g)~~] (v) "Elder adult" means an individual 65 years old or older.

[~~(h) "Endeavor" means to attempt or try.~~]

[~~(i)~~] (vi) "Exploitation" means an offense described in [~~Subsection (4) or (9) or Section~~] Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

[~~(j)~~] (vii) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, suffering, or distress inflicted knowingly or intentionally.

[~~(k)~~] (viii) "Informed consent" means:

[~~(i)~~] (A) a written expression by the individual or authorized by the individual, stating that the individual fully understands the potential risks and benefits of the withdrawal of food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, and that the individual desires that the services be withdrawn, except that a written expression is valid only if the individual is of sound mind when the consent is given, and the consent is witnessed by at least two individuals who do not benefit from the withdrawal of services; or

[~~(ii)~~] (B) consent to withdraw food, water, medication, medical services, shelter, cooling, heating, or other services necessary to maintain minimum physical or mental health, as permitted by court order.

[~~(l) "Intimidation" means communication conveyed through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or harm.~~]

[~~(m) (i)~~] (ix) (A) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

[~~(A)~~] (I) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the express wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

[~~(B)~~] (II) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

[~~(C)~~] (III) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

[~~(ii)~~] (B) "Isolation" does not include an act:

[~~(A)~~] (I) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

[~~(B)~~] (II) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

[~~(n) "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the adult's person or property.~~]

[~~(o)~~] (x) "Neglect" means:

[~~(i)~~] (A) failure of a caretaker to provide nutrition, clothing, shelter, supervision, personal care, or dental or other health care, or failure to provide protection from health and safety hazards or maltreatment;

[~~(ii)~~] (B) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

[~~(iii)~~] (C) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

[~~(iv)~~] (D) intentional failure by a caretaker to carry out a prescribed treatment plan that results or could result in physical injury or physical harm; or

[~~(v)~~] (E) abandonment by a caretaker.

[~~(p) (i)~~] (xi) (A) "Physical injury" includes damage to any bodily tissue caused by nontherapeutic conduct, to the extent that the tissue must undergo a healing process in order to be restored to a sound and healthy condition, or damage to any bodily tissue to the extent that the tissue cannot be restored to a sound and healthy condition.

[~~(ii)~~] (B) "Physical injury" includes skin bruising, a dislocation, physical pain, illness, impairment of physical function, a pressure sore, bleeding, malnutrition, dehydration, a burn, a bone fracture, a subdural hematoma, soft tissue swelling, injury to any internal organ, or any other physical condition that imperils the health or welfare of the vulnerable adult and is not a serious physical injury as defined in this section.

[~~(q)~~] (xii) "Position of trust and confidence" means the position of a person who:

[~~(i)~~] (A) is a parent, spouse, adult child, or other relative of a vulnerable adult;

[~~(ii)~~] (B) is a joint tenant or tenant in common with a vulnerable adult;

[~~(iii)~~] (C) has a legal or fiduciary relationship with a vulnerable adult, including a court-appointed or voluntary guardian, trustee, attorney, attorney-in-fact, or conservator; or

[~~(iv)~~] (D) is a caretaker of a vulnerable adult.

[~~(r)~~] (xiii) "Serious physical injury" means any physical injury or set of physical injuries that:

[~~(i)~~] (A) seriously impairs a vulnerable adult's health;

[~~(ii)~~] (B) was caused by use of a dangerous weapon [~~as defined in Section 76-1-601~~];

[~~(iii)~~] (C) involves physical torture or causes serious emotional harm to a vulnerable adult; or

[~~(iv)~~] (D) creates a reasonable risk of death.

[~~(s) "Undue influence" occurs when a person:~~]

[~~(i) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or~~]

[~~(ii) uses the person's role, relationship, or power:~~]

[~~(A) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or~~]

[~~(B) to gain control deceptively over the decision making of the vulnerable adult.~~]

[~~(t)~~] (xiv) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that individual's ability to:

[~~(i)~~] (A) provide personal protection;

[~~(ii)~~] (B) provide necessities such as food, shelter, clothing, or medical or other health care;

[~~(iii)~~] (C) obtain services necessary for health, safety, or welfare;

[~~(iv)~~] (D) carry out the activities of daily living;

[~~(v)~~] (E) manage the adult's own resources; or

[~~(vi)~~] (F) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(2) Under any circumstances likely to produce death or serious physical injury, a person, including a caretaker, who causes a vulnerable adult to suffer serious physical injury or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of the offense of aggravated abuse of a vulnerable adult as follows:~~]

[~~(a) if done intentionally or knowingly, the offense is a second degree felony;~~]

[~~(b) if done recklessly, the offense is third degree felony; and~~]

[~~(c) if done with criminal negligence, the offense is a class A misdemeanor.~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(3) (a) Under~~] (2) An actor, including a caretaker, commits abuse of a vulnerable adult if the actor, under circumstances other than those likely to produce death or serious physical injury[~~, except as provided in Subsection (3)(b), any person, including a caretaker, who~~]:

(a) causes a vulnerable adult to suffer harm, abuse, or neglect[~~, or,~~];

(b) having the care or custody of a vulnerable adult, causes or permits that vulnerable adult's person or health to be injured, abused, or neglected[~~,~~]; or

(c) causes or permits a vulnerable adult to be placed in a situation [~~where the~~] in which the vulnerable adult's person or health is endangered [~~, is guilty of the offense of abuse of a vulnerable adult as follows:~~].

(3) (a) A violation of Subsection (2):

(i) is a class A misdemeanor if done intentionally or knowingly[~~, the offense is a class A misdemeanor~~];

(ii) is a class B misdemeanor if done recklessly [~~, the offense is a class B misdemeanor; and~~]; or

(iii) is a class C misdemeanor if done with criminal negligence[~~, the offense is a class C misdemeanor~~].

(b) [~~A~~] Notwithstanding Subsection (3)(a), a violation of [~~this Subsection (3)~~] Subsection (2) that is based on isolation of a vulnerable adult is a third degree felony.

[~~(4) Except as provided in Subsection (5), a caretaker of a vulnerable adult commits the offense of personal dignity exploitation of the vulnerable adult if the caretaker intentionally, knowingly, or recklessly:~~]

[~~(a) creates, transmits, or displays a photographic or electronic image or recording of the vulnerable adult:~~]

[~~(i) to which creation, transmission, or display a reasonable person would not consent; and~~]

[~~(ii) (A) that shows the vulnerable adult's unclothed breasts, buttocks, anus, genitals, or pubic area;~~]

[~~(B) that displays the clothed area of only the vulnerable adult's breasts, buttocks, anus, genitals, or pubic area; or~~]

[~~(C) that shows the vulnerable adult engaged in conduct that is harmful to the mental or physical health or safety of the vulnerable adult; or~~]

[~~(b) causes the vulnerable adult to participate in an act that is highly offensive or demeaning to the vulnerable adult:~~]

[~~(i) in which a reasonable person would not participate; or~~]

[~~(ii) that is harmful to the mental or physical health or safety of the vulnerable adult.~~]

[~~(5) (a) A caretaker does not violate Subsection (4)(a) if the caretaker creates, transmits, or displays the photographic or electronic image or recording:~~]

[~~(i) with the consent of the vulnerable adult, if the vulnerable adult:~~]

[~~(A) is mentally and physically able to give voluntary consent to the creation, transmission, or display; and~~]

[~~(B) gives voluntary consent for the creation, transmission, or display;~~]

[~~(ii) for a legitimate purpose relating to monitoring or providing care, treatment, or diagnosis; or~~]

[~~(iii) for a legitimate purpose relating to investigating abuse, neglect, or exploitation.~~]

[~~(b) A caretaker does not violate Subsection (4)(b) if:~~]

[~~(i) the vulnerable adult:~~]

[~~(A) is mentally and physically able to give voluntary consent to participate in the act; and~~]

[~~(B) gives voluntary consent to participate in the act; or~~]

[~~(ii) the caretaker causes the vulnerable adult to participate in the act for a legitimate purpose relating to:~~]

[~~(A) monitoring or providing care, treatment, or diagnosis; or~~]

[~~(B) investigating abuse, neglect, or exploitation.~~]

[~~(6) (a) It is a separate offense under Subsection (4)(a) for each vulnerable adult included in a photographic or electronic image or recording created, transmitted, or displayed in violation of Subsection (4)(a).~~]

[~~(b) It is a separate offense under Subsection (4)(b) for each vulnerable adult caused to participate in an act in violation of Subsection (4)(b).~~]

[~~(7) It is not a defense that the vulnerable adult was unaware of:~~]

[~~(a) the creation, transmission, or display prohibited under Subsection (4)(a); or~~]

[~~(b) participation in the act, or the nature of participation in the act, under Subsection (4)(b).~~]

[~~(8) The offense of personal dignity exploitation of a vulnerable adult is:~~]

[~~(a) if done intentionally or knowingly, a class A misdemeanor; and~~]

[~~(b) if done recklessly, a class B misdemeanor.~~]

[~~(9) (a) A person commits the offense of financial exploitation of a vulnerable adult when the person:~~]

[~~(i) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult;~~]

[~~(ii) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the vulnerable adult's property for the benefit of someone other than the vulnerable adult;~~]

[~~(iii) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;~~]

[~~(iv) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult; or~~]

[~~(v) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity.~~]

[~~(b) A person is guilty of the offense of financial exploitation of a vulnerable adult as follows:~~]

[~~(i) if done intentionally or knowingly and the aggregate value of the resources used or the profit made is or exceeds $5,000, the offense is a second degree felony;~~]

[~~(ii) if done intentionally or knowingly and the aggregate value of the resources used or the profit made is less than $5,000 or cannot be determined, the offense is a third degree felony;~~]

[~~(iii) if done recklessly, the offense is a class A misdemeanor; or~~]

[~~(iv) if done with criminal negligence, the offense is a class B misdemeanor.~~]

[~~(10)~~] (4) (a) It does not constitute a defense to a prosecution for [~~any~~] a violation of this section that the [~~accused~~] actor did not know the age of the [~~victim~~] vulnerable adult.

[~~(11)~~] (b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

[~~(12)~~] (5) If an [~~individual~~] actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection [~~(2) or~~] (3), the court may require that the [~~individual~~] actor:

(a) undergo appropriate counseling as a condition of the sentence; and

(b) pay for the costs of the ordered counseling.

Section 44. Section 76-5-111.2 is enacted to read:

76-5-111.2. Aggravated abuse of a vulnerable adult -- Penalties.

(1) (a) As used in this section, "abuse," "caretaker," "isolation," "neglect," "serious physical injury," and "vulnerable adult" all mean the same as those terms are defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor, including a caretaker, commits aggravated abuse of a vulnerable adult if the actor, under a circumstance likely to produce death or serious physical injury:

(a) causes a vulnerable adult to suffer serious physical injury;

(b) having the care or custody of a vulnerable adult, causes or permits the vulnerable adult's person or health to be injured; or

(c) causes or permits a vulnerable adult to be placed in a situation in which the vulnerable adult's person or health is endangered.

(3) (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly.

(b) A violation of Subsection (2) is a third degree felony if done recklessly.

(c) A violation of Subsection (2) is a class A misdemeanor if done with criminal negligence.

(4) (a) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

(b) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

(5) If an actor, including a caretaker, violates this section by willfully isolating a vulnerable adult, in addition to the penalties under Subsection (3), the court may require that the actor:

(a) undergo appropriate counseling as a condition of the sentence; and

(b) pay for the costs of the ordered counseling.

Section 45. Section 76-5-111.3 is enacted to read:

76-5-111.3. Personal dignity exploitation of a vulnerable adult -- Penalties.

(1) (a) As used in this section, "abuse," "caretaker," "exploitation," "neglect," and "vulnerable adult" all mean the same as those terms are defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Except as provided in Subsection (4), an actor commits personal dignity exploitation of a vulnerable adult if the actor is a caretaker of a vulnerable adult and intentionally, knowingly, or recklessly:

(a) creates, transmits, or displays a photographic or electronic image or recording of the vulnerable adult:

(i) to which creation, transmission, or display a reasonable person would not consent; and

(ii) (A) that shows the vulnerable adult's unclothed breasts, buttocks, anus, genitals, or pubic area;

(B) that displays the clothed area of only the vulnerable adult's breasts, buttocks, anus, genitals, or pubic area; or

(C) that shows the vulnerable adult engaged in conduct that is harmful to the mental or physical health or safety of the vulnerable adult; or

(b) causes the vulnerable adult to participate in an act that is highly offensive or demeaning to the vulnerable adult:

(i) in which a reasonable person would not participate; or

(ii) that is harmful to the mental or physical health or safety of the vulnerable adult.

(3) (a) (i) A violation of Subsection (2) is a class A misdemeanor if done intentionally or knowingly.

(ii) A violation of Subsection (2) is a class B misdemeanor if done recklessly.

(b) (i) It is a separate offense under Subsection (2)(a) for each vulnerable adult included in a photographic or electronic image or recording created, transmitted, or displayed in violation of Subsection (2)(a).

(ii) It is a separate offense under Subsection (2)(b) for each vulnerable adult caused to participate in an act in violation of Subsection (2)(b).

(4) (a) A caretaker does not violate Subsection (2)(a) if the caretaker creates, transmits, or displays the photographic or electronic image or recording:

(i) with the consent of the vulnerable adult, if the vulnerable adult:

(A) is mentally and physically able to give voluntary consent to the creation, transmission, or display; and

(B) gives voluntary consent for the creation, transmission, or display;

(ii) for a legitimate purpose relating to monitoring or providing care, treatment, or diagnosis; or

(iii) for a legitimate purpose relating to investigating abuse, neglect, or exploitation.

(b) A caretaker does not violate Subsection (2)(b) if:

(i) the vulnerable adult:

(A) is mentally and physically able to give voluntary consent to participate in the act; and

(B) gives voluntary consent to participate in the act; or

(ii) the caretaker causes the vulnerable adult to participate in the act for a legitimate purpose relating to:

(A) monitoring or providing care, treatment, or diagnosis; or

(B) investigating abuse, neglect, or exploitation.

(5) (a) It is not a defense that the vulnerable adult was unaware of:

(i) the creation, transmission, or display prohibited under Subsection (2)(a); or

(ii) participation in the act, or the nature of participation in the act, under Subsection (2)(b).

(b) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

Section 46. Section 76-5-111.4 is enacted to read:

76-5-111.4. Financial exploitation of a vulnerable adult -- Penalties.

(1) (a) As used in this section:

(i) "Abuse" means the same as that term is defined in Section 76-5-111.

(ii) "Business relationship" means a relationship between two or more individuals or entities where there exists an oral or written agreement for the exchange of goods or services.

(iii) "Deception" means:

(A) a misrepresentation or concealment:

(I) of a material fact relating to services rendered, disposition of property, or use of property intended to benefit a vulnerable adult;

(II) of the terms of a contract or agreement entered into with a vulnerable adult; or

(III) relating to the existing or preexisting condition of any property involved in a contract or agreement entered into with a vulnerable adult; or

(B) the use or employment of any misrepresentation, false pretense, or false promise in order to induce, encourage, or solicit a vulnerable adult to enter into a contract or agreement.

(iv) "Endeavor" means to attempt or try.

(v) "Intimidation" means communication conveyed through verbal or nonverbal conduct that threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or that threatens isolation or harm.

(vi) "Isolation" means the same as that term is defined in Section 76-5-111.

(vii) "Lacks capacity to consent" means an impairment by reason of mental illness, developmental disability, organic brain disorder, physical illness or disability, chronic use of drugs, chronic intoxication, short-term memory loss, or other cause to the extent that a vulnerable adult lacks sufficient understanding of the nature or consequences of decisions concerning the vulnerable adult's person or property.

(viii) "Neglect" means the same as that term is defined in Section 76-5-111.

(ix) "Undue influence" occurs when a person:

(A) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(B) uses the person's role, relationship, or power:

(I) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(II) to gain control deceptively over the decision making of the vulnerable adult.

(x) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits the offense of financial exploitation of a vulnerable adult if the actor:

(a) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the vulnerable adult's property, for the benefit of someone other than the vulnerable adult;

(b) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the vulnerable adult's property for the benefit of someone other than the vulnerable adult;

(c) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;

(d) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult; or

(e) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity.

(3) (a) A violation of Subsection (2) is a second degree felony if done intentionally or knowingly and the aggregate value of the resources used or the profit made is or exceeds $5,000.

(b) A violation of Subsection (2) is a third degree felony if done intentionally or knowingly and the aggregate value of the resources used or the profit made is less than $5,000 or cannot be determined.

(c) A violation of Subsection (2) is a class A misdemeanor if done recklessly.

(d) A violation of Subsection (2) is a class B misdemeanor if done with criminal negligence.

(4) It does not constitute a defense to a prosecution for a violation of this section that the actor did not know the age of the vulnerable adult.

Section 47. Section 76-5-112 is amended to read:

76-5-112. Reckless endangerment -- Penalty.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) An actor commits reckless endangerment if, under circumstances not amounting to a felony offense, the [~~person~~] actor recklessly engages in conduct that creates a substantial risk of death or serious bodily injury to another [~~person~~] individual.

[~~(2) Reckless endangerment~~] (3) A violation of Subsection (2) is a class A misdemeanor.

Section 48. Section 76-5-112.5 is amended to read:

76-5-112.5. Endangerment of a child or vulnerable adult.

(1) (a) As used in this section:

[~~(a) (i)~~] (i) (A) “Chemical substance” means:

[~~(A)~~] (I) a substance intended to be used as a precursor in the manufacture of a controlled substance;

[~~(B)~~] (II) a substance intended to be used in the manufacture of a controlled substance; or

[~~(C)~~] (III) any fumes or by-product resulting from the manufacture of a controlled substance.

[~~(ii)~~] (B) Intent under this Subsection (1)(a)(i) may be demonstrated by:

[~~(A)~~] (I) the use, quantity, or manner of storage of the substance; or

[~~(B)~~] (II) the proximity of the substance to other precursors or to manufacturing equipment.

[~~(b)~~] (ii) “Child” means an individual who is under 18 years [~~of age~~] old.

[~~(c)~~] (iii) “Controlled substance” means the same as that term is defined in Section 58-37-2.

[~~(d)~~] (iv) “Drug paraphernalia” means the same as that term is defined in Section 58-37a-3.

[~~(e)~~] (v) “Exposed to” means that the child or vulnerable adult:

[~~(i)~~] (A) is able to access an unlawfully possessed:

[~~(A)~~] (I) controlled substance; or

[~~(B)~~] (II) chemical substance;

[~~(ii)~~] (B) has the reasonable capacity to access drug paraphernalia; or

[~~(iii)~~] (C) is able to smell an odor produced during, or as a result of, the manufacture or production of a controlled substance.

[~~(f)~~] (vi) “Prescription” means the same as that term is defined in Section 58-37-2.

[~~(g)~~] (vii) “Vulnerable adult” means the same as that term is defined in [~~Subsection 76-5-111(1)~~] Section 76-5-111.

[~~(2) Unless a greater penalty is otherwise provided by law:~~]

[~~(a) except as provided in Subsections (2)(b), (c),, and (3), an individual is guilty of a felony of the third degree if the individual~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits endangerment of a child or vulnerable adult if the actor knowingly or intentionally causes or permits a child or a vulnerable adult to be exposed to, inhale, ingest, or have contact with a controlled substance, chemical substance, or drug paraphernalia[~~;~~].

[~~(b) except as provided in Subsection (2)(c) and (3), an individual is guilty of a felony of the second degree, if:~~]

(3) (a) A violation of Subsection (2) is a third degree felony.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a second degree felony if:

(i) the [~~individual~~] actor engages in the conduct described in Subsection (2)[~~(a)~~]; and

(ii) as a result of the conduct described in Subsection (2)[~~(a)~~], the child or the vulnerable adult suffers bodily injury, substantial bodily injury, or serious bodily injury[~~; or~~].

[~~(c) an individual is guilty of a felony of the first degree, if:~~]

(c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a first degree felony if:

(i) the [~~individual~~] actor engages in the conduct described in Subsection (2)[~~(a)~~]; and

(ii) as a result of the conduct described in Subsection (2)[~~(a)~~], the child or the vulnerable adult dies.

[~~(3)~~] (4) (a) Notwithstanding Subsection [~~(2)~~] (3), a child may not be subjected to delinquency proceedings for a violation of Subsection (2) unless:

[~~(a)~~] (i) the child is 15 years old or older; and

[~~(b)~~] (ii) the other child who is exposed to or inhales, ingests, or has contact with the controlled substance, chemical substance, or drug paraphernalia, is under 12 years old.

[~~(4)~~] (b) It is an affirmative defense to a violation of this section that the controlled substance:

[~~(a)~~] (i) was obtained by lawful prescription or in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

[~~(b)~~] (ii) is used or possessed by the individual to whom the controlled substance was lawfully prescribed or recommended to under Title 26, Chapter 61a, Utah Medical Cannabis Act.

(5) The penalties described in this section are separate from, and in addition to, the penalties and enhancements described in Title 58, Occupations and Professions.

(6) If an offense committed under this section amounts to an offense subject to a greater penalty under another provision of state law, this section does not prohibit prosecution and sentencing for the more serious offense.

Section 49. Section 76-5-113 is amended to read:

76-5-113. Surreptitious administration of certain substances -- Definitions -- Penalties -- Defenses.

(1) (a) As used in this section:

[~~(a)~~] (i) "Administer" means the introduction of a substance into the body by injection, inhalation, ingestion, or by any other means.

[~~(b)~~] (ii) "Alcoholic beverage" [~~has the same meaning as "alcoholic beverage"~~] means the same as that term is defined in Section 32B-1-102.

[~~(c) "Bodily injury" has the same definition as in Section 76-1-601.~~]

[~~(d)~~] (iii) "Controlled substance" [~~has the same definition as~~] means the same as that term is defined in Section 58-37-2.

[~~(e)~~] (iv) "Deleterious substance" means a substance which, if administered, would likely cause bodily injury.

(v) "Health care provider" means the same as that term is defined in Section 26-23a-1.

[~~(f)~~] (vi) "Poisonous" means a substance which, if administered, would likely cause serious bodily injury or death.

[~~(g)~~] (vii) "Prescription drug" [~~has the same definition as~~] means the same as that term is defined in Section 58-17b-102.

[~~(h)~~] (viii) "Serious bodily injury" [~~has the same definition as~~] means the same as that term is defined in Section 19-2-115.

[~~(i)~~] (ix) "Substance" means a controlled substance, poisonous substance, or deleterious substance [~~as defined in this Subsection (1)~~].

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~In addition to any other offense the actor's conduct may constitute, it is a criminal offense for a person~~] An actor commits surreptitious administration of a certain substance if the actor, surreptitiously or by means of fraud, deception, or misrepresentation, [~~to cause another person~~] causes an individual to unknowingly consume or receive the administration of:

(a) any poisonous, deleterious, or controlled substance; or

(b) any alcoholic beverage.

(3) A violation of Subsection (2) is:

(a) a second degree felony if the substance is a poisonous substance, regardless of whether the substance is a controlled substance or a prescription drug;

(b) a third degree felony if the substance is not within the scope of Subsection (3)(a), and is a controlled substance or a prescription drug; [~~and~~] or

(c) a class A misdemeanor if the substance is a deleterious substance or an alcoholic beverage.

(4) (a) It is an affirmative defense to a prosecution under Subsection (2) that the actor:

(i) provided the appropriate administration of a prescription drug; and

(ii) acted on the reasonable belief that the actor's conduct was in the best interest of the well-being of the [~~person~~] individual to whom the prescription drug was administered.

(b) (i) The defendant shall file and serve on the prosecuting attorney a notice in writing of the defendant's intention to claim a defense under Subsection (4)(a) not fewer than 20 days before the trial.

(ii) The notice shall specifically identify the factual basis for the defense and the names and addresses of the witnesses the defendant proposes to examine to establish the defense.

(c) (i) The prosecuting attorney shall file and serve the defendant with a notice containing the names and addresses of the witnesses the prosecutor proposes to examine in order to contradict or rebut the defendant's claim of an affirmative defense under Subsection (4)(a).

(ii) This notice shall be filed or served not more than 10 days after receipt of the defendant's notice under Subsection (4)(b), or at another time as the court may direct.

(d) (i) Failure of a party to comply with the requirements of Subsection (4)(b) or (4)(c) entitles the opposing party to a continuance to allow for preparation.

(ii) If the court finds that a party's failure to comply is the result of bad faith, it may impose appropriate sanctions.

(5) (a) This section does not diminish the scope of authorized health care by a health care provider [~~as defined in Section 26-23a-1~~].

(b) Conduct in violation of Subsection (2) may also constitute a separate offense.

Section 50. Section 76-5-114, which is renumbered from Section 76-5-109.1 is renumbered and amended to read:

[~~76-5-109.1~~]. 76-5-114. Commission of domestic violence in the presence of a child.

(1) (a) As used in this section:

[~~(a)~~] (i) "Cohabitant" [~~has the same meaning as~~] means the same as that term is defined in Section 78B–7–102.

(ii) "Criminal homicide offense" means an offense listed in Subsection 76–5–201(2).

[~~(b)~~] (iii) "Domestic violence" [~~has the same meaning as~~] means the same as that term is defined in Section 77–36–1.

[~~(c)~~] (iv) "In the presence of a child" means:

[~~(i)~~] (A) in the physical presence of a child; or

[~~(ii)~~] (B) having knowledge that a child is present and may see or hear an act of domestic violence.

(b) Terms defined in Section 76–1–101.5 apply to this section.

(2) [~~A person~~] An actor commits domestic violence in the presence of a child if the [~~person~~] actor:

(a) commits or attempts to commit a criminal homicide[~~, as defined in Section 76–5–201,~~] offense against a cohabitant in the presence of a child; [~~or~~]

(b) intentionally causes serious bodily injury to a cohabitant or uses a dangerous weapon[~~, as defined in Section 76–1–601,~~] or other means or force likely to produce death or serious bodily injury against a cohabitant, in the presence of a child; or

(c) under circumstances not amounting to a violation of Subsection (2)(a) or (b), commits an act of domestic violence in the presence of a child.

(3) (a) [~~A person who violates~~] A violation of Subsection (2)(a) or (b) is [~~guilty of~~] a third degree felony.

(b) [~~A person who violates~~] A violation of Subsection (2)(c) is [~~guilty of~~] a class B misdemeanor.

(4) (a) A charge under this section is separate and distinct from, and is in addition to, a charge of domestic violence [~~where~~] in which the victim is the cohabitant.

(b) Either or both charges may be filed by the prosecutor.

(5) [~~A person~~] An actor who commits a violation of this section when more than one child is present is guilty of one offense of domestic violence in the presence of a child regarding each child present when the violation occurred.

Section 51. Section 76-5-201 is amended to read:

76-5-201. Criminal homicide -- Designations of offenses -- Exceptions -- Application of consensual altercation defense.

[~~(1) (a) Except as provided in Subsections (3) and (4), a person commits criminal homicide if the person intentionally, knowingly, recklessly, with criminal negligence, or acting with a mental state otherwise specified in the statute defining the offense, causes the death of another human being, including an unborn child at any stage of its development.~~]

[~~(b) There shall be no cause of action for criminal homicide for the death of an unborn child caused by an abortion, as defined in Section 76–7–301.~~]

[~~(2) Criminal homicide is aggravated murder, murder, manslaughter, child abuse homicide, homicide by assault, negligent homicide, or automobile homicide.~~]

(1) (a) As used in this section:

(i) "Abortion" means the same as that term is defined in Section 76–7–301.

(ii) "Criminal homicide" means an act causing the death of another human being, including an unborn child at any stage of the unborn child's development.

(b) The terms defined in Section 76–1–101.5 apply to this section.

(2) The following are criminal homicide:

(a) aggravated murder;

(b) murder;

(c) manslaughter;

(d) child abuse homicide;

(e) homicide by assault;

(f) negligent homicide; and

(g) automobile homicide.

[~~(3) A person~~] (3) Notwithstanding Subsection (2), an actor is not guilty of criminal homicide [~~of an unborn child if~~] if:

(a) the death of an unborn child is caused by an abortion;

(b) the sole reason for the death of [~~the~~] an unborn child is that the [~~person~~] actor:

[~~(a)~~] (i) refused to consent to:

[~~(i)~~] (A) medical treatment; or

[~~(ii)~~] (B) a cesarean section; or

[~~(b)~~] (ii) failed to follow medical advice[~~.~~]; or

[~~(4) A woman is not guilty of criminal homicide of her own unborn child if the death of her unborn child:~~]

(c) a woman causes the death of her own unborn child, and the death:

[~~(a)~~] (i) is caused by a criminally negligent act or reckless act of the woman; and

[~~(b)~~] (ii) is not caused by an intentional or knowing act of the woman.

(4) The provisions governing a defense of a consensual altercation as described in Section 76-5-104 apply to this part.

Section 52. Section 76-5-202 is amended to read:

76-5-202. Aggravated murder -- Penalties -- Affirmative defense and special mitigation -- Separate offense.

[~~(1) Criminal homicide constitutes aggravated murder if the actor intentionally or knowingly causes the death of another under any of the following circumstances:~~]

[~~(a) the homicide was committed by a person who is~~]

(1) (a) As used in this section:

(i) "Correctional officer" means the same as that term is defined in Section 53-13-104.

(ii) "Emergency responder" means the same as that term is defined in Section 53-2b-102.

(iii) "Federal officer" means the same as that term is defined in Section 53-13-106.

(iv) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(v) "Peace officer" means:

(A) a correctional officer, federal officer, law enforcement officer, or special function officer; or

(B) any other person who may exercise peace officer authority in accordance with Title 53, Chapter 13, Peace Officer Classifications.

(vi) "Special function officer" means the same as that term is defined in Section 53-13-105.

(vii) "Target a law enforcement officer" means an act:

(A) involving the unlawful use of force and violence against a law enforcement officer;

(B) that causes serious bodily injury or death; and

(C) that is in furtherance of political or social objectives in order to intimidate or coerce a civilian population or to influence or affect the conduct of a government or a unit of government.

(viii) "Weapon of mass destruction" means the same as that term is defined in Section 76-10-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits aggravated murder if the actor intentionally or knowingly causes the death of another individual under any of the following circumstances:

(i) the actor committed homicide while confined in a jail or other correctional institution;

[~~(b) the homicide was committed~~] (ii) (A) the actor committed homicide incident to one act, scheme, course of conduct, or criminal episode during which two or more [~~persons~~] individuals other than the actor were killed[~~, or during which the actor attempted to kill one or more persons in addition to the victim who was killed~~]; or

(B) the actor, during commission of the homicide, attempted to kill one or more other individuals in addition to the deceased individual;

[~~(c)~~] (iii) the actor knowingly created a great risk of death to [~~a person~~] another individual other than the [~~victim~~] deceased individual and the actor;

[~~(d)~~] (iv) the actor committed homicide [~~was committed~~] incident to an act, scheme, course of conduct, or criminal episode during which the actor committed or attempted to commit aggravated robbery, robbery, rape, rape of a child, object rape, object rape of a child, forcible sodomy, sodomy upon a child, forcible sexual abuse, sexual abuse of a child, aggravated sexual abuse of a child, aggravated child abuse as [~~defined~~] described in Subsection [~~76-5-109(2)(a)~~] 76-5-109.2(3)(a), or aggravated sexual assault, aggravated arson, arson, aggravated burglary, burglary, aggravated kidnapping, or kidnapping, or child kidnapping;

[~~(e)~~] (v) the actor committed homicide [~~was committed~~] incident to one act, scheme, course of conduct, or criminal episode during which the actor committed the crime of abuse or desecration of a dead human body as [~~defined~~] described in Subsection 76-9-704(2)(e);

[~~(f)~~] (vi) the actor committed homicide [~~was committed~~] for the purpose of avoiding or preventing an arrest of the [~~defendant~~] actor or another individual by a peace officer acting under color of legal authority or for the purpose of effecting the [~~defendant's or another's~~] actor's or another individual's escape from lawful custody;

[~~(g)~~] (vii) the actor committed homicide [~~was committed~~] for pecuniary gain;

[~~(h)~~] (viii) the [~~defendant~~] actor committed, [~~or~~] engaged, or employed another person to commit the homicide [~~pursuant~~] subject to an agreement or contract for remuneration or the promise of remuneration for commission of the homicide;

[~~(i)~~] (ix) the actor previously committed or was convicted of:

[~~(i)~~] (A) aggravated murder under this section;

[~~(ii)~~] (B) attempted aggravated murder under this section;

[~~(iii)~~] (C) murder, under Section 76-5-203;

[~~(iv)~~] (D) attempted murder, under Section 76-5-203; or

[~~(v)~~] (E) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection [~~(1)(i)~~] (2)(a)(ix);

[~~(j)~~] (x) the actor was previously convicted of:

[~~(i)~~] (A) aggravated assault, [~~Subsection 76-5-103(2)~~] under Section 76-5-103;

[~~(ii)~~] (B) mayhem, under Section 76-5-105;

[~~(iii)~~] (C) kidnapping, under Section 76-5-301;

[~~(iv)~~] (D) child kidnapping, under Section 76-5-301.1;

[~~(v)~~] (E) aggravated kidnapping, under Section 76-5-302;

[~~(vi)~~] (F) rape, under Section 76-5-402;

[~~(vii)~~] (G) rape of a child, under Section 76-5-402.1;

[~~(viii)~~] (H) object rape, under Section 76-5-402.2;

[~~(ix)~~] (I) object rape of a child, under Section 76-5-402.3;

[~~(x)~~] (J) forcible sodomy, under Section 76-5-403;

[~~(xi)~~] (K) sodomy on a child, under Section 76-5-403.1;

[~~(xii)~~] (L) aggravated sexual abuse of a child, under Section [~~76-5-404.1~~] 76-5-404.3;

[~~(xiii)~~] (M) aggravated sexual assault, under Section 76-5-405;

[~~(xiv)~~] (N) aggravated arson, under Section 76-6-103;

[~~(xv)~~] (O) aggravated burglary, under Section 76-6-203;

[~~(xvi)~~] (P) aggravated robbery, under Section 76-6-302;

[~~(xvii)~~] (Q) felony discharge of a firearm, under Section 76-10-508.1; or

[~~(xviii)~~] (R) an offense committed in another jurisdiction which if committed in this state would be a violation of a crime listed in this Subsection [~~(1)(j)~~] (2)(a)(x);

[~~(k)~~] (xi) the actor committed homicide [~~was committed~~] for the purpose of:

[~~(i)~~] (A) preventing a witness from testifying;

[~~(ii)~~] (B) preventing a person from providing evidence or participating in any legal proceedings or official investigation;

[~~(iii)~~] (C) retaliating against a person for testifying, providing evidence, or participating in any legal proceedings or official investigation; or

[~~(iv)~~] (D) disrupting or hindering any lawful governmental function or enforcement of laws;

[~~(l)~~] (xii) the [~~victim is or has been~~] deceased individual was a local, state, or federal public official, or a candidate for public office, and the homicide is based on, is caused by, or is related to that official position, act, capacity, or candidacy;

[~~(m)~~] (xiii) the [~~victim is~~] deceased individual was on duty in a verified position or the homicide is based on, is caused by, or is related to the [~~victim's~~] deceased individual's position, and the actor knew, or reasonably should have known, that the [~~victim~~] deceased individual holds or has held the position of:

[~~(i) a law enforcement officer, correctional officer, special function officer, or any other peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications;~~]

(A) a peace officer;

[~~(ii)~~] (B) an executive officer, prosecuting officer, jailer, or prison official;

[~~(iii)~~] (C) a firefighter, search and rescue personnel, emergency medical personnel, ambulance personnel, or any other emergency responder [~~as defined in Section 53-2b-102~~];

[~~(iv)~~] (D) a judge or other court official, juror, probation officer, or parole officer; or

[~~(v)~~] (E) a security officer contracted to secure, guard, or otherwise protect tangible personal property, real property, or the life and well-being of human or animal life in the area of the offense;

[~~(n)~~] (xiv) the actor committed homicide [~~was committed~~]:

[~~(i)~~] (A) by means of a destructive device, bomb, explosive, incendiary device, or similar device which was planted, hidden, or concealed in any place, area, dwelling, building, or structure, or was mailed or delivered;

[~~(ii)~~] (B) by means of any weapon of mass destruction [~~as defined in Section 76-10-401~~]; or

[~~(iii)~~] (C) to target a law enforcement officer [~~as defined in Section 76-5-210~~];

[~~(o)~~] (xv) the actor committed homicide [~~was committed~~] during the act of unlawfully assuming control of [~~any~~] an aircraft, train, or other public conveyance by use of threats or force with intent to:

(A) obtain any valuable consideration for the release of the public conveyance or any passenger, crew member, or any other person aboard[~~, or to~~];

(B) direct the route or movement of the public conveyance; or

(C) otherwise exert control over the public conveyance;

[~~(p)~~] (xvi) the actor committed homicide [~~was committed~~] by means of the administration of a poison or of any lethal substance or of any substance administered in a lethal amount, dosage, or quantity;

[~~(q)~~] (xvii) the [~~victim~~] deceased individual was [~~a person~~] held or otherwise detained as a shield, hostage, or for ransom;

[~~(r)~~] (xviii) the actor committed homicide [~~was committed~~] in an especially heinous, atrocious, cruel, or exceptionally depraved manner, any of which must be demonstrated by physical torture, serious physical abuse, or serious bodily injury of the [~~victim~~] deceased individual before death;

[~~(s)~~] (xix) the actor dismembers, mutilates, or disfigures the [~~victim's~~] deceased individual's body, whether before or after death, in a manner demonstrating the actor's depravity of mind; or

[~~(t)~~] (xx) the [~~victim~~] deceased individual, at the time of the death of the [~~victim~~] deceased individual:

[~~(i)~~] (A) was younger than 14 years [~~of age~~] old; and

[~~(ii)~~] (B) was not an unborn child.

[~~(2) Criminal homicide constitutes aggravated murder if the~~]

(b) An actor commits aggravated murder if the actor, with reckless indifference to human life, causes the death of another individual incident to an act, scheme, course of conduct, or criminal episode during which the actor is a major participant in the commission or attempted commission of:

[~~(a)~~] (i) aggravated child abuse, punishable as a felony of the second degree under Subsection [~~76-5-109(2)(a)~~] 76-5-109.2(3)(a);

[~~(b)~~] (ii) child kidnapping, under Section 76-5-301.1;

[~~(c)~~] (iii) rape of a child, under Section 76-5-402.1;

[~~(d)~~] (iv) object rape of a child, under Section 76-5-402.3;

[~~(e)~~] (v) sodomy on a child, under Section 76-5-403.1; or

[~~(f)~~] (vi) sexual abuse or aggravated sexual abuse of a child, under Section 76-5-404.1.

(3) (a) If a notice of intent to seek the death penalty has been filed, [~~aggravated murder~~] a violation of Subsection (2) is a capital felony.

(b) If a notice of intent to seek the death penalty has not been filed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(c) (i) Within 60 days after arraignment of the defendant, the prosecutor may file notice of intent to seek the death penalty.

(ii) The notice shall be served on the defendant or defense counsel and filed with the court.

[~~(ii)~~] (iii) Notice of intent to seek the death penalty may be served and filed more than 60 days after the arraignment upon written stipulation of the parties or upon a finding by the court of good cause.

(d) Without the consent of the prosecutor, the court may not accept a plea of guilty to noncapital first degree felony aggravated murder during the period in which the prosecutor may file a notice of intent to seek the death penalty under Subsection (3)(c)(i).

(e) If the defendant was younger than 18 years [~~of age~~] old at the time the offense was committed, aggravated murder is a noncapital first degree felony punishable as provided in Section 76-3-207.7.

(f) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(4) (a) It is an affirmative defense to a charge of aggravated murder or attempted aggravated murder that the [~~defendant~~] actor caused the death of another or attempted to cause the death of another under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

[~~(c) This affirmative defense reduces charges only as follows:~~]

[~~(i) aggravated murder to murder; and~~]

[~~(ii) attempted aggravated murder to attempted murder.~~]

(c) Notwithstanding Subsection (3)(a) or (3)(b), if the trier of fact finds the elements of aggravated murder, or alternatively, attempted aggravated murder, as described in this section, are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of aggravated murder, the court shall enter a judgment of conviction for murder; or

(ii) if the trier of fact finds the defendant guilty of attempted aggravated murder, the court shall enter a judgment of conviction for attempted murder.

(5) (a) Any aggravating circumstance described in Subsection [~~(1) or~~] (2) that constitutes a separate offense does not merge with the crime of aggravated murder.

(b) [~~A person~~] An actor who is convicted of aggravated murder, based on an aggravating circumstance described in Subsection [~~(1) or~~] (2) that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 53. Section 76-5-203 is amended to read:

76-5-203. Murder -- Penalties-- Affirmative defense and special mitigation -- Separate offenses.

(1) (a) As used in this section, "predicate offense" means:

[~~(a)~~] (i) a clandestine drug lab violation under Section 58-37d-4 or 58-37d-5;

[~~(b)~~] (ii) aggravated child abuse, under Subsection [~~76-5-109(2)(a)~~] 76-5-109.2(3)(a), when the [~~victim~~] abused individual is younger than 18 years [~~of age~~] old;

[~~(c)~~] (iii) kidnapping under Section 76-5-301;

[~~(d)~~] (iv) child kidnapping under Section 76-5-301.1;

[~~(e)~~] (v) aggravated kidnapping under Section 76-5-302;

(vi) rape under Section 76-5-402;

[~~(f)~~] (vii) rape of a child under Section 76-5-402.1;

(viii) object rape under Section 76-5-402.2;

[~~(g)~~] (ix) object rape of a child under Section 76-5-402.3;

(x) forcible sodomy under Section 76-5-403;

[~~(h)~~] (xi) sodomy upon a child under Section 76-5-403.1;

[~~(i)~~] (xii) forcible sexual abuse under Section 76-5-404;

[~~(j)~~] (xiii) sexual abuse of a child [~~or aggravated sexual abuse of a child~~] under Section 76-5-404.1;

[~~(k) rape under Section 76-5-402;~~]

[~~(l) object rape under Section 76-5-402.2;~~]

[~~(m) forcible sodomy under Section 76-5-403;~~]

(xiv) aggravated sexual abuse of a child under Section 76-5-404.3;

[~~(n)~~] (xv) aggravated sexual assault under Section 76-5-405;

[~~(o)~~] (xvi) arson under Section 76-6-102;

[~~(p)~~] (xvii) aggravated arson under Section 76-6-103;

[~~(q)~~] (xviii) burglary under Section 76-6-202;

[~~(r)~~] (xix) aggravated burglary under Section 76-6-203;

[~~(s)~~] (xx) robbery under Section 76-6-301;

[~~(t)~~] (xxi) aggravated robbery under Section 76-6-302;

[~~(u)~~] (xxii) escape or aggravated escape under Section 76-8-309; or

[~~(v)~~] (xxiii) a felony violation of Section 76-10-508 or 76-10-508.1 regarding discharge of a firearm or dangerous weapon.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) [~~Criminal homicide constitutes~~] An actor commits murder if:

(a) the actor intentionally or knowingly causes the death of another individual;

(b) intending to cause serious bodily injury to another individual, the actor commits an act clearly dangerous to human life that causes the death of [~~another~~] the other individual;

(c) acting under circumstances evidencing a depraved indifference to human life, the actor knowingly engages in conduct [~~which~~] that creates a grave risk of death to another individual and thereby causes the death of [~~another~~] the other individual;

(d) (i) the actor is engaged in the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense, or is a party to the predicate offense;

(ii) [~~a person~~] an individual other than a party [~~as defined~~] described in Section 76-2-202 is killed in the course of the commission, attempted commission, or immediate flight from the commission or attempted commission of any predicate offense; and

(iii) the actor acted with the intent required as an element of the predicate offense;

(e) the actor recklessly causes the death of a peace officer or military service member in uniform while in the commission or attempted commission of:

(i) an assault against a peace officer under Section 76-5-102.4;

(ii) interference with a peace officer while making a lawful arrest under Section 76-8-305 if the actor uses force against [~~a~~] the peace officer; or

(iii) an assault against a military service member in uniform under Section 76-5-102.4; or

(f) the actor commits a homicide [~~which~~] that would be aggravated murder, but the offense is reduced [~~pursuant to~~] in accordance with Subsection 76-5-202(4)[~~; or~~].

[~~(g) the actor commits aggravated murder, but special mitigation is established under Section 76-5-205.5.~~]

(3) (a) (i) [~~Murder~~] A violation of Subsection (2) is a first degree felony.

[~~(b)~~] (ii) [~~A person~~] A defendant who is convicted of murder shall be sentenced to imprisonment for an indeterminate term of not less than 15 years and which may be for life.

(b) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds that the existence of special mitigation is established by a preponderance of the evidence and in accordance with

Section 76-5-205.5, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall, notwithstanding Subsection 76-4-102(1)(b) or 76-4-102(1)(c)(i), enter a judgment of conviction for attempted manslaughter.

(4) (a) It is an affirmative defense to a charge of murder or attempted murder that the defendant caused the death of another individual or attempted to cause the death of another individual under a reasonable belief that the circumstances provided a legal justification or excuse for the conduct although the conduct was not legally justifiable or excusable under the existing circumstances.

(b) The reasonable belief of the actor under Subsection (4)(a) shall be determined from the viewpoint of a reasonable person under the then existing circumstances.

[~~(c) This affirmative defense reduces charges only from:~~]

[~~(i) murder to manslaughter; and~~]

[~~(ii) attempted murder to attempted manslaughter.~~]

(c) Notwithstanding Subsection (3)(a), if the trier of fact finds the elements of murder, or alternatively, attempted murder, as described in this section are proved beyond a reasonable doubt, and also finds the affirmative defense described in this Subsection (4) is not disproven beyond a reasonable doubt, the court shall enter a judgment of conviction as follows:

(i) if the trier of fact finds the defendant guilty of murder, the court shall enter a judgment of conviction for manslaughter; or

(ii) if the trier of fact finds the defendant guilty of attempted murder, the court shall enter a judgment of conviction for attempted manslaughter.

(5) (a) Any predicate offense [~~described in Subsection (1)~~] that constitutes a separate offense does not merge with the crime of murder.

(b) [~~A person~~] An actor who is convicted of murder, based on a predicate offense [~~described in Subsection (1)~~] that constitutes a separate offense, may also be convicted of, and punished for, the separate offense.

Section 54. Section 76-5-205 is amended to read:

76-5-205. Manslaughter -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) (A) "Aid" means the act of providing the physical means.

[~~(ii)~~] (B) "Aid" does not include the withholding or withdrawal of life sustaining treatment procedures to the extent allowed under Title 75, Chapter 2a, Advance Health Care Directive Act, or any other laws of this state.

[~~(b)~~] (ii) "Practitioner" means an individual currently licensed, registered, or otherwise authorized by law to administer, dispense, distribute, or prescribe medications or procedures in the course of professional practice.

[~~(c)~~] (iii) "Provides" means to administer, prescribe, distribute, or dispense.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Except as provided in Subsection (5), [~~criminal homicide constitutes manslaughter if the actor~~] an actor commits manslaughter if the actor:

(a) recklessly causes the death of another individual;

(b) intentionally, and with knowledge that another individual intends to commit suicide or attempt to commit suicide, aids the [~~other~~] individual to commit suicide; or

(c) commits a homicide which would be murder, but the offense is reduced [~~pursuant to~~] in accordance with Subsection 76-5-203(4)[~~; or~~].

[~~(d) commits murder, but special mitigation is established under Section 76-5-205.5.~~]

(3) [~~Manslaughter~~] A violation of Subsection (2) is a felony of the second degree.

(4) (a) In addition to the penalty described under this section or any other section,[~~ an individual~~] a defendant who is convicted of violating this section shall have the [~~individual's~~] defendant's driver license revoked under Section 53-3-220 if the death of another individual results from driving a motor vehicle.

(b) The court shall forward the report of the conviction resulting from driving a motor vehicle to the Driver License Division in accordance with Section 53-3-218.

(5) (a) A practitioner does not violate Subsection (2)(b) if the practitioner provides medication or a procedure to treat an individual's illness or relieve an individual's pain or discomfort, regardless of whether the medication or procedure may hasten or increase the risk of death to the individual to whom the practitioner provides the medication or procedure[~~, unless~~].

(b) Notwithstanding Subsection (5)(a), a practitioner violates Subsection (2)(b) if the practitioner intentionally and knowingly provides the medication or procedure to aid the individual to commit suicide or attempt to commit suicide.

Section 55. Section 76-5-205.5 is amended to read:

76-5-205.5. Special mitigation for mental illness or provocation -- Burden of proof -- Charge reduction.

(1) (a) As used in this section:

[~~(a)~~] (i) (A) "Extreme emotional distress" means an overwhelming reaction of anger, shock, or grief that:

[~~(A)~~] (I) causes the defendant to be incapable of reflection and restraint; and

[~~(B)~~] (II) would cause an objectively reasonable person to be incapable of reflection and restraint.

[~~(ii)~~] (B) "Extreme emotional distress" does not include:

[~~(A)~~] (I) a condition resulting from mental illness; or

[~~(B)~~] (II) distress that is substantially caused by the defendant's own conduct.

[~~(b)~~] (ii) "Mental illness" means the same as that term is defined in Section 76-2-305.

(b) The terms defined in Section 76-1-101.5 apply to this section.

(2) Special mitigation exists when a defendant causes the death of another individual or attempts to cause the death of another individual:

(a) (i) under circumstances that are not legally justified, but the defendant acts under a delusion attributable to a mental illness;

(ii) the nature of the delusion is such that, if the facts existed as the defendant believed them to be in the delusional state, those facts would provide a legal justification for the defendant's conduct; and

(iii) the defendant's actions, in light of the delusion, are reasonable from the objective viewpoint of a reasonable person; or

(b) except as provided in Subsection (4), under the influence of extreme emotional distress that is predominantly caused by the victim's highly provoking act immediately preceding the defendant's actions.

(3) A defendant who is under the influence of voluntarily consumed, injected, or ingested alcohol, controlled substances, or volatile substances at the time of the alleged offense may not claim mitigation of the offense under Subsection (2)(a) on the basis of mental illness if the alcohol or substance causes, triggers, or substantially contributes to the defendant's mental illness.

(4) A defendant may not claim special mitigation under Subsection (2)(b) if:

(a) the time period after the victim's highly provoking act and before the defendant's actions was long enough for an objectively reasonable person to have recovered from the extreme emotional distress;

(b) the defendant responded to the victim's highly provoking act by inflicting serious or substantial bodily injury on the victim over a prolonged period, or by inflicting torture on the victim, regardless of whether the victim was conscious during the infliction of serious or substantial bodily injury or torture; or

(c) the victim's highly provoking act, described in Subsection (2)(b), is comprised of words alone.

[~~(5) (a) If the trier of fact finds that the elements of an offense described in Subsection (5)(b) are proven beyond a reasonable doubt, and also finds that the existence of special mitigation under this section is established by a preponderance of the evidence, the trier of fact shall return a verdict on the reduced charge as provided in Subsection (5)(b).~~]

[~~(b) If under Subsection (5)(a) the offense is:~~]

[~~(i) aggravated murder, the defendant shall instead be found guilty of murder;~~]

[~~(ii) attempted aggravated murder, the defendant shall instead be found guilty of attempted murder;~~]

[~~(iii) murder, the defendant shall instead be found guilty of manslaughter; or~~]

[~~(iv) attempted murder, the defendant shall instead be found guilty of attempted manslaughter.~~]

[~~(c) If the trier of fact finds that special mitigation is not established under this section, the trier of fact shall convict the defendant of the offense for which the prosecution proves all the elements beyond a reasonable doubt.~~]

[~~(6) (a) If a jury is the trier of fact, a unanimous vote of the jury is required to establish the existence of the special mitigation under this section.~~]

[~~(b) If the jury finds special mitigation by a unanimous vote, the jury shall return a verdict on the reduced charge as provided in Subsection (5).~~]

(5) If the trier of fact finds that the elements of aggravated murder, attempted aggravated murder, murder, or attempted murder are proven beyond a reasonable doubt, and also finds that the existence of special mitigation under this section is established by a preponderance of the evidence, the court shall enter a judgment of conviction in accordance with Subsection 76-5-202(3)(f)(i), 76-5-202(3)(f)(ii), 76-5-203(3)(b)(i), or 76-5-203(3)(b)(ii), respectively.

(6) If the issue of special mitigation is submitted to the trier of fact, the trier of fact shall return a special verdict at the same time as the general verdict, indicating whether it finds special mitigation.

(7) (a) If a jury is the trier of fact, a unanimous vote of the jury is required to find special mitigation under this section.

(b) If the jury unanimously finds that the elements of an offense described in Subsection (5) are proven beyond a reasonable doubt, and finds special mitigation by a unanimous vote, the jury shall return a general verdict finding the defendant guilty of the charged crime and a special verdict indicating special mitigation.

(c) If the jury unanimously finds that the elements of an offense described in Subsection (5) are proven beyond a reasonable doubt but finds by a unanimous vote that special mitigation is not established, or if the jury is unable to unanimously agree that special mitigation is established, the jury shall convict the defendant of the greater offense for which the prosecution proves all the elements beyond a reasonable doubt.

[~~(7) (a) If the issue of special mitigation is submitted to the trier of fact, the trier of fact shall return a special verdict indicating whether the existence of special mitigation is found.~~]

[~~(b) The trier of fact shall return the special verdict at the same time as the general verdict, to indicate the basis for the general verdict.~~]

[~~(8) Special mitigation under this section does not, in any case, reduce the level of an offense by more than one degree from that offense, the elements of which the evidence proves beyond a reasonable doubt.~~]

Section 56. Section 76-5-206 is amended to read:

76-5-206. Negligent homicide -- Penalties.

(1) Definitions of terms in Section 76-1-101.5 apply to this section.

[~~(1) Criminal homicide constitutes negligent homicide~~] (2) An actor commits negligent homicide if the actor, acting with criminal negligence, causes the death of another individual.

[~~(2) Negligent homicide~~] (3) A violation of Subsection (2) is a class A misdemeanor.

[~~(3)~~] (4) (a) In addition to the penalty provided under this section or any other section, [~~a person~~] a defendant who is convicted of violating this section shall have the [~~person's~~] defendant's driver license revoked under Section 53-3-220 if the death of another [~~person~~] individual results from driving a motor vehicle.

(b) The court shall forward the report of the conviction to the Driver License Division in accordance with Section 53-3-218.

Section 57. Section 76-5-207 is amended to read:

76-5-207. Automobile homicide -- Penalties -- Evidence.

(1) (a) As used in this section:

(i) "Criminally negligent" means the same as that term is described in Subsection 76-2-103(4).

[~~(a)~~] (ii) "Drug" or "drugs" means:

[~~(i)~~] (A) a controlled substance as defined in Section 58-37-2;

[~~(ii)~~] (B) a drug as defined in Section 58-17b-102; or

[~~(iii)~~] (C) any substance that, when knowingly, intentionally, or recklessly taken into the human body, can impair the ability of [~~a person~~] an individual to safely operate a motor vehicle.

[~~(b)~~] (iii) "Motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

[~~(2) (a) Criminal homicide is automobile homicide, a third degree felony, if the person~~]

(iv) "Negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits automobile homicide if the actor:

(a) operates a motor vehicle in a negligent or criminally negligent manner causing the death of another individual; and[~~:~~]

(b) (i) has sufficient alcohol in [~~his~~] the actor's body that a subsequent chemical test shows that the [~~person~~] actor has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the [~~person~~] actor incapable of safely operating a vehicle; or

(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation.

[~~(b) A conviction for a violation of this Subsection (2) is a second degree felony if it is subsequent to a conviction as defined in Subsection 41-6a-501(2).~~]

[~~(c) As used in this Subsection (2), "negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.~~]

[~~(3) (a) Criminal homicide is automobile homicide, a second degree felony, if the person operates a motor vehicle in a criminally negligent manner causing the death of another and:~~]

[~~(i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;~~]

[~~(ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or~~]

[~~(iii) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation.~~]

[~~(b) As used in this Subsection (3), "criminally negligent" means criminal negligence as defined by Subsection 76-2-103(4).~~]

(3) (a) (i) A violation of Subsection (2) is a third degree felony if the actor operated a motor vehicle in a negligent manner.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) is a second degree felony if the actor operated the motor vehicle in a criminally negligent manner.

(iii) Notwithstanding Subsection (3)(a)(i) or (ii), a violation of Subsection (2) is a second degree felony if:

(A) the actor operated a motor vehicle in a negligent manner; and

(B) conviction for the violation is subsequent to a conviction as defined in Subsection 41-6a-501(2)(a).

(b) An actor is guilty of a separate offense for each individual other than the actor suffering bodily injury or serious bodily injury, whether or not the injuries arise from the same episode of driving, as a result of the actor's violation of Section 41-6a-502 or death as a result of the actor's violation of this section.

(4) The fact that an actor charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.

[~~(4)~~] (5) (a) The standards for chemical breath analysis as provided by Section 41-6a-515 and the provisions for the admissibility of chemical test results as provided by Section 41-6a-516 apply to determination and proof of blood alcohol content under this section.

[~~(5)~~] (b) Calculations of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(1).

[~~(6) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense.~~]

[~~(7)~~] (6) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

[~~(8) A person is guilty of a separate offense for each victim suffering bodily injury or serious bodily injury as a result of the person's violation of Section 41-6a-502 or death as a result of the person's violation of this section whether or not the injuries arise from the same episode of driving.~~]

Section 58. Section 76-5-207.5 is amended to read:

76-5-207.5. Automobile homicide involving a handheld wireless communication device while driving.

(1) (a) As used in this section:

[~~(a)~~] (i) "Criminally negligent" means [~~criminal negligence as defined by~~] the same as that term is described in Subsection 76-2-103(4).

[~~(b)~~] (ii) "Handheld wireless communication device" [~~has the same meaning as~~] means the same as that term is defined in Section 41-6a-1716.

[~~(c)~~] (iii) "Motor vehicle" means any self-propelled vehicle and includes any automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

[~~(d)~~] (iv) "Negligent" means simple negligence, the failure to exercise that degree of care that reasonable and prudent persons exercise under like or similar circumstances.

[~~(2) Criminal homicide is automobile homicide, a third degree felony, if the person~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits automobile homicide if the actor:

(a) operates a moving motor vehicle:

(i) (A) in a negligent manner[~~:~~]; or

(B) in a criminally negligent manner; and

[~~(a)~~] (ii) while using a handheld wireless communication device in violation of Section 41-6a-1716; and

(b) [~~causing~~] causes the death of another [~~person~~] individual.

[~~(3) Criminal homicide is automobile homicide, a second degree felony, if the person operates a moving motor vehicle in a criminally negligent manner:~~]

[~~(a) while using a handheld wireless communication device in violation of Section 41-6a-1716; and~~]

[~~(b) causing the death of another person.~~]

(3) (a) A violation of Subsection (2)(a)(i)(A) is a third degree felony.

(b) A violation of Subsection (2)(a)(i)(B) is a second degree felony.

Section 59. Section 76-5-208 is amended to read:

76-5-208. Child abuse homicide -- Penalties.

[~~(1) Criminal homicide constitutes child abuse homicide if, under circumstances not amounting to aggravated murder, as described in Section 76-5-202,~~]

(1) (a) As used in this section, "child abuse" means an offense described in Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Unless a violation amounts to aggravated murder as described in Section 76-5-202, an actor commits child abuse homicide if:

(a) (i) the actor causes the death of [~~a person under~~] another individual who is younger than 18 years [~~of age~~] old; and

(ii) the individual's death results from child abuse[~~, as defined in Subsection 76-5-109(1):~~]; and

[~~(a) if~~] (b) (i) the child abuse is done recklessly under Subsection [~~76-5-109(2)(b)~~] 76-5-109.2(3)(b);

[~~(b) if~~] (ii) the child abuse is done with criminal negligence under Subsection [~~76-5-109(2)(c)~~] 76-5-109.2(3)(c); or

[~~(c) if,~~] (iii) under circumstances not amounting to the type of child abuse homicide described in

Subsection [~~(1)(a)~~] (2)(b)(i), the child abuse is done intentionally, knowingly, recklessly, or with criminal negligence, under Subsection 76-5-109(3)(a), (b), or (c).

[~~(2) Child abuse homicide as described in~~] (3) (a) A violation of Subsection [~~(1)(a)~~] (2)(b)(i) is a first degree felony.

[~~(3) Child abuse homicide as described in Subsections (1)(b) and (c)~~]

(b) A violation of Subsection (2)(b)(ii) or (iii) is a second degree felony.

Section 60. Section 76-5-209 is amended to read:

76-5-209. Homicide by assault -- Penalty.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) An actor commits homicide by assault if, under circumstances not amounting to aggravated murder, murder, or manslaughter[~~, a person~~]:

(a) the actor causes the death of another individual; and

(b) the actor causes the other individual's death while intentionally or knowingly attempting, with unlawful force or violence, to do bodily injury to [~~another~~] the other individual.

[~~(2)~~] (3) Homicide by assault is a third degree felony.

Section 61. Section 76-5-301 is amended to read:

76-5-301. Kidnapping.

(1) (a) As used in this section:

(i) "Against the will of an individual" includes without the consent of the legal guardian, caretaker, or custodian of an individual who is a dependent adult.

(ii) "Dependent adult" means the same as that term is defined in Section 76-5-111.

(iii) "Minor" means an individual who is 14 years old or older but younger than 18 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1)~~] (2) An actor commits kidnapping if the actor intentionally or knowingly, without authority of law, and against the will of [~~the victim~~] an individual:

(a) detains or restrains the [~~victim~~] individual for any substantial period of time;

(b) detains or restrains the [~~victim~~] individual in circumstances exposing the [~~victim~~] individual to risk of bodily injury;

(c) holds the [~~victim~~] individual in involuntary servitude;

(d) detains or restrains a minor without the consent of the minor's parent or legal guardian or the consent of a person acting in loco parentis[~~, if the minor is 14 years of age or older but younger than 18 years of age~~]; or

(e) moves the [~~victim~~] individual any substantial distance or across a state line.

[~~(2) As used in this section, acting "against the will of the victim" includes acting without the consent of the legal guardian or custodian of a victim who is a mentally incompetent person.~~]

(3) [~~Kidnapping~~] A violation of Subsection (2) is a second degree felony.

Section 62. Section 76-5-301.1 is amended to read:

76-5-301.1. Child kidnapping.

(1) (a) As used in this section, "child" means an individual under 14 years old.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1)~~] (2) An actor commits child kidnapping if the actor intentionally or knowingly, without authority of law, and by any means and in any manner, seizes, confines, detains, or transports a child [~~under the age of 14~~] without the consent of the [~~victim's~~] child's parent or guardian, or the consent of a person acting in loco parentis.

[~~(2) Violation of Section 76-5-303 is not a violation of this section.~~]

(3) [~~Child kidnapping~~] A violation of Subsection (2) is a first degree felony [~~punishable by a term of imprisonment of:~~].

(4) An actor convicted of a violation of this section shall be sentenced to imprisonment of:

(a) except as provided in Subsection [~~(3)~~] (4)(b), [~~(3)~~] (4)(c), or [~~(4)~~] (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection [~~(3)~~] (4)(c) or [~~(4)~~] (5), life without parole, if the trier of fact finds that during the course of the commission of the child kidnapping the [~~defendant~~] actor caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the child kidnapping the [~~defendant~~] actor was previously convicted of a grievous sexual offense.

[~~(4)~~] (5) If, when imposing a sentence under Subsection [~~(3)~~] (4)(a) or (b), a court finds that a lesser term than the term described in Subsection [~~(3)~~] (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection [~~(3)~~] (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection [~~(3)~~] (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

[~~(5)~~] (6) The provisions of Subsection [~~(4)~~] (5) do not apply when a person is sentenced under Subsection [~~(3)~~] (4)(c).

[~~(6)~~] (7) Subsections [~~(3)~~] (4)(b) and [~~(3)~~] (4)(c) do not apply if the defendant was younger than 18 years [~~of age~~] old at the time of the offense.

[~~(7)~~] (8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

(9) A violation of Section 76-5-303 is not a violation of this section.

Section 63. Section 76-5-302 is amended to read:

76-5-302. Aggravated kidnapping.

(1) (a) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:

(i) Section 76-5-301, kidnapping; or

(ii) Section 76-5-304, unlawful detention.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1)~~] (2) An actor commits aggravated kidnapping if the actor, in the course of committing unlawful detention or kidnapping:

(a) uses or threatens to use a dangerous weapon [~~as defined in Section 76-1-601~~]; or

(b) acts with the intent to:

(i) [~~to~~] hold the victim for ransom or reward, [~~or~~] as a shield or hostage, or to compel a third person to engage in particular conduct or to forbear from engaging in particular conduct;

(ii) [~~to~~] facilitate the commission, attempted commission, or flight after commission or attempted commission of a felony;

(iii) [~~to~~] hinder or delay the discovery of or reporting of a felony;

(iv) [~~to~~] inflict bodily injury on or to terrorize the victim or another individual;

(v) [~~to~~] interfere with the performance of any governmental or political function; or

(vi) [~~to~~] commit a sexual offense as described in Title 76, Chapter 5, Part 4, Sexual Offenses.

[~~(2) As used in this section, "in the course of committing unlawful detention or kidnapping" means in the course of committing, attempting to commit, or in the immediate flight after the attempt or commission of a violation of:~~]

[~~(a) Section 76-5-301, kidnapping; or~~]

[~~(b) Section 76-5-304, unlawful detention.~~]

[~~(3) Aggravated kidnapping~~] (3) (a) A violation of Subsection (2) in the course of committing unlawful detention is a third degree felony.

[~~(4) Aggravated kidnapping~~] (b) A violation of Subsection (2) in the course of committing kidnapping is a first degree felony [~~punishable by a term of imprisonment of:~~].

(4) An actor convicted of a violation of Subsection (3)(b) shall be sentenced to imprisonment of:

(a) except as provided in Subsection (4)(b), (4)(c), or (5), not less than 15 years and which may be for life;

(b) except as provided in Subsection (4)(c) or (5), life without parole, if the trier of fact finds that during the course of the commission of the aggravated kidnapping the defendant caused serious bodily injury to the victim or another individual; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated kidnapping, the defendant was previously convicted of a grievous sexual offense.

(5) If, when imposing a sentence under Subsection (4)(a) or (b), a court finds that a lesser term than the term described in Subsection (4)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (4)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (4)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(6) The provisions of Subsection (5) do not apply when a [~~person~~] defendant is sentenced under Subsection (4)(c).

(7) Subsections (4)(b) and (c) do not apply if the [~~defendant~~] actor was younger than 18 years [~~of age~~] old at the time of the offense.

(8) Imprisonment under Subsection (4) is mandatory in accordance with Section 76-3-406.

Section 64. Section 76-5-303 is amended to read:

76-5-303. Custodial interference.

(1) (a) As used in this section:

[~~(a)~~] (i) "Child" means [~~a person~~] an individual under [~~the age of~~] 18 years old.

[~~(b)~~] (ii) "Custody" means court-ordered physical custody entered by a court of competent jurisdiction.

[~~(c)~~] (iii) "Visitation" means court-ordered parent-time or visitation entered by a court of competent jurisdiction.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) [~~A person~~] An actor who is entitled to custody of a child [~~is guilty of~~] commits custodial interference if, during a period of time when another [~~person~~] individual is entitled to visitation of the child, the [~~person~~] actor takes, entices, conceals, detains, or withholds the child from the [~~person~~] individual entitled to visitation of the child, with the intent to interfere with the visitation of the child.

(b) [~~A person~~] An actor who is entitled to visitation of a child [~~is guilty of~~] commits custodial interference if, during a period of time when the [~~person~~] individual is not entitled to visitation of the child, the [~~person~~] actor takes, entices, conceals, detains, or withholds the child from [~~a person~~] an individual who is entitled to custody of the child, with the intent to interfere with the custody of the child.

(3) (a) [~~Except as provided in Subsection (4) or (5), custodial interference~~] A violation of Subsection (2) is a class B misdemeanor.

[~~(4) Except as provided in Subsection (5), the actor described in Subsection (2) is guilty of~~]

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a class A misdemeanor if the actor:

[~~(a)~~] (i) commits custodial interference; and

[~~(b)~~] (ii) has been convicted of custodial interference at least twice in the two-year period immediately preceding the day on which the commission of custodial interference described in Subsection [~~(4)(a)~~] (3)(b)(i) occurs.

[~~(5) Custodial interference~~] (c) Notwithstanding Subsection (3)(a) or (b), a violation of Subsection (2) is a felony of the third degree if, during the course of the custodial interference, the actor [~~described in Subsection (2)~~] removes, causes the removal, or directs the removal of the child from the state.

[~~(6)~~] (4) In addition to the affirmative defenses described in Section 76-5-305, it is an affirmative defense to the crime of custodial interference that:

(a) the action is consented to by the [~~person~~] individual whose custody or visitation of the child was interfered with; or

(b) (i) the action is based on a reasonable belief that the action is necessary to protect a child from abuse, including sexual abuse; and

(ii) before engaging in the action, the [~~person~~] actor reports the [~~person's~~] actor's intention to engage in the action, and the basis for the belief described in Subsection [~~(6)~~] (4)(b)(i), to the Division of Child and Family Services or law enforcement.

Section 65. Section 76-5-303.5 is amended to read:

76-5-303.5. Notification of conviction of custodial interference.

(1) As used in this section:

(a) (i) "Convicted" means [~~that a person has received a conviction.~~] a conviction by plea or verdict or adjudication in juvenile court of a crime or offense.

(ii) "Convicted" includes:

(A) a plea of guilty or guilty and mentally ill;

(B) a plea of no contest; and

(C) the acceptance by the court of a plea in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, regardless of whether the charge is subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

[~~(b) "Conviction" is as defined in Section 53-3-102.~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) If [~~a person~~] an individual is convicted of custodial interference under Section 76-5-303, the court shall notify the Driver License Division, created in Section 53-3-103, of the conviction, and whether the conviction is for:

(a) a class B misdemeanor, under Subsection 76-5-303(3)(a);

(b) a class A misdemeanor, under Subsection 76-5-303[~~(4)~~](3)(b); or

(c) a felony, under Subsection 76-5-303[~~(5)~~](3)(c).

Section 66. Section 76-5-304 is amended to read:

76-5-304. Unlawful detention and unlawful detention of a minor.

(1) (a) As used in this section:

(i) Acting "against the will of an individual" includes acting without the consent of the legal guardian, caretaker, or custodian of an individual who is:

(A) a dependent adult; or

(B) a minor who is 14 or 15 years old.

(ii) "Dependent adult" means the same as that term is defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1)~~] (2) (a) An actor commits unlawful detention if the actor intentionally or knowingly, without authority of law, and against the will of [~~the victim~~] an individual, detains or restrains the [~~victim under circumstances not constituting a violation of:~~] individual.

[~~(a) kidnapping, Section 76-5-301; or~~]

[~~(b) child kidnapping, Section 76-5-301.1.~~]

[~~(2)~~] (b) An actor commits unlawful detention of a minor if the actor is at least four or more years older than the minor, and intentionally or knowingly, without authority of law, and against the will of the [~~victim~~] minor, coerces or exerts influence over the [~~victim~~] minor with the intent to cause the [~~victim~~] minor to remain with the actor for an unreasonable period of time under the circumstances[~~, and:~~].

[~~(a) the act is under circumstances not constituting a violation of:~~]

[~~(i) kidnapping, Section 76-5-301; or~~]

[~~(ii) child kidnapping, Section 76-5-301.1; and~~]

[~~(b) the actor is at least four or more years older than the victim.~~]

[~~(3) As used in this section, acting "against the will of the victim" includes acting without the~~]

~~consent of the legal guardian or custodian of a victim who is:~~]

[~~(a) a mentally incompetent person; or~~]

[~~(b) a minor who is 14 or 15 years of age.~~]

[~~(4) Unlawful detention~~] (3) A violation of Subsection (2) is a class B misdemeanor.

(4) If the conduct of the actor amounts to a violation under one of the following, the actor shall be charged with the violation and not under Subsection (2)(a) or (2)(b):

(a) kidnapping, as described in Section 76-5-301; or

(b) child kidnapping, as described in Section 76-5-301.1.

Section 67. Section 76-5-305 is amended to read:

76-5-305. Defenses.

(1) It is a defense under this part that:

(a) the actor was acting under a reasonable belief that:

(i) the conduct was necessary to protect any [~~person~~] individual from imminent bodily injury or death; or

(ii) the detention or restraint was authorized by law; or

(b) the alleged victim is younger than 18 years [~~of age~~] old or is [~~mentally incompetent~~] a dependent adult, as defined in Section 76-5-111, and the actor was acting under a reasonable belief that the custodian, guardian, caretaker, legal guardian, custodial parent, or person acting in loco parentis to the victim would, if present, have consented to the actor's conduct.

(2) Subsection (1)(b) may not be used as a defense to conduct described in Section 76-5-308.5.

Section 68. Section 76-5-307 is amended to read:

76-5-307. Definitions.

As used in Sections 76-5-308 through [~~76-5-310~~] 76-5-310.1 of this part:

(1) "Child" means [~~a person~~] an individual younger than 18 years [~~of age~~] old.

(2) "Commercial purpose" includes direct or indirect participation in or facilitation of the transportation of one or more [~~persons~~] individuals for the purpose of:

(a) charging or obtaining a fee for the transportation; or

(b) obtaining, exchanging, or receiving any thing or item of value or an attempt to conduct any of these activities.

(3) "Facilitation" regarding transportation under Subsection (2) includes providing:

(a) travel arrangement services;

(b) payment for the costs of travel; or

(c) property that would advance an act of transportation, including a vehicle or other means of transportation, a weapon, false identification, and making lodging available, including by rent, lease, or sale.

(4) "Family member" means [~~a person's~~] an individual's parent, grandparent, sibling, or any other [~~person~~] individual related to the [~~person~~] individual by consanguinity or affinity to the second degree.

Section 69. Section 76-5-308 is amended to read:

76-5-308. Human trafficking for labor.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

[~~(1)~~] (2) An actor commits human trafficking for labor [~~or sexual exploitation~~] if the actor recruits, harbors, transports, obtains, patronizes, or solicits [~~a person~~] an individual for labor through the use of force, fraud, or coercion, which may include:

(a) threatening serious harm to, or physical restraint against, that [~~person~~] individual or [~~a third person~~] another individual;

(b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;

(c) abusing or threatening abuse of the law or legal process against the [~~person or a third person~~] individual or another individual;

(d) using a condition of [~~a person~~] an individual being a debtor due to a pledge of the [~~debtor's~~] individual's personal services or the personal services of [~~a person~~] an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause [~~a person~~] an individual to believe that if the [~~person~~] individual did not enter into or continue in a condition of servitude, [~~that person or a third person~~] the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or

(f) creating or exploiting a relationship where the [~~person~~] individual is dependent [~~on~~] upon the actor.

(3) A violation of Subsection (2) is a second degree felony.

[~~(2) (a)~~] (4) Human trafficking for labor includes any labor obtained through force, fraud, or coercion as described in Subsection [~~(1)~~] (2).

(5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

[~~(b) Human trafficking for sexual exploitation includes all forms of commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):~~]

[~~(i) sexually explicit performance;~~]

[~~(ii) prostitution;~~]

[~~(iii) participation in the production of pornography;~~]

[~~(iv) performance in strip clubs; and~~]

[~~(v) exotic dancing or display.~~]

[~~(3) A person commits human smuggling by transporting or procuring the transportation for one or more persons for a commercial purpose, knowing or having reason to know that the person or persons transported or to be transported are not:~~]

[~~(a) citizens of the United States;~~]

[~~(b) permanent resident aliens; or~~]

[~~(c) otherwise lawfully in this state or entitled to be in this state.~~]

Section 70. Section 76-5-308.1 is enacted to read:

76-5-308.1. Human trafficking for sexual exploitation.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits human trafficking for sexual exploitation if the actor recruits, harbors, transports, obtains, patronizes, or solicits an individual for sexual exploitation through the use of force, fraud, or coercion, which may include:

(a) threatening serious harm to, or physical restraint against, that individual or another individual;

(b) destroying, concealing, removing, confiscating, or possessing any passport, immigration document, or other government-issued identification document;

(c) abusing or threatening abuse of the law or legal process against the individual or another individual;

(d) using a condition of an individual being a debtor due to a pledge of the individual's personal services or the personal services of an individual under the control of the debtor as a security for debt where the reasonable value of the services is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined;

(e) using a condition of servitude by means of any scheme, plan, or pattern intended to cause an individual to believe that if the individual did not enter into or continue in a condition of servitude, the individual or another individual would suffer serious harm or physical restraint, or would be threatened with abuse of legal process; or

(f) creating or exploiting a relationship where the individual is dependent upon the actor.

(3) A violation of Subsection (2) is a second degree felony.

(4) Human trafficking for sexual exploitation includes all forms of commercial sexual activity, which may include the following conduct when the person acts under force, fraud, or coercion as described in Subsection (1):

(a) sexually explicit performance;

(b) prostitution;

(c) participation in the production of pornography;

(d) performance in strip clubs; and

(e) exotic dancing or display.

(5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Section 71. Section 76-5-308.3 is enacted to read:

76-5-308.3. Human smuggling -- Penalty.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits human smuggling if the actor transports or procures the transportation for one or more individuals for a commercial purpose, knowing or having reason to know that the individual or individuals transported or to be transported are not:

(a) citizens of the United States;

(b) permanent resident aliens; or

(c) otherwise lawfully in this state or entitled to be in this state.

(3) A violation of Subsection (2) is a second degree felony.

(4) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Section 72. Section 76-5-308.5 is amended to read:

76-5-308.5. Human trafficking of a child -- Penalties.

[~~(1) "Commercial~~] (1) (a) As used in this section, "commercial sexual activity with a child" means any sexual act with a child, [~~on account of~~] for which anything of value is given to or received by any person.

(b) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits human trafficking of a child if the actor recruits, harbors, transports, obtains, patronizes, or solicits a child for sexual exploitation or forced labor.

(3) A violation of Subsection (2) is a first degree felony.

[~~(3)~~] (4) (a) Human trafficking of a child for labor includes any labor obtained through force, fraud, [~~and~~] or coercion as described in Section 76-5-308.

(b) Human trafficking of a child for sexual exploitation includes all forms of commercial sexual activity with a child, including sexually explicit performance, prostitution, participation in the production of pornography, performance in a strip club, and exotic dancing or display as described in Section 76-5-308.1.

[~~(4) Human trafficking of a child in violation of this section is a first degree felony.~~]

(5) This offense is a separate offense from any other crime committed in relationship to the commission of this offense.

Section 73. Section 76-5-309 is amended to read:

76-5-309. Benefitting from trafficking and human smuggling -- Penalties.

[~~(1) Human trafficking for labor and human trafficking for sexual exploitation are each a second degree felony, except under Section 76-5-310.~~]

[~~(2) Human smuggling under Section 76-5-308 of one or more persons is a second degree felony, except under Section 76-5-310.~~]

[~~(3) Human trafficking for labor or for sexual exploitation, human trafficking of a child, and human smuggling are each a separate offense from any other crime committed in relationship to the commission of either of these offenses.~~]

[~~(4) Under circumstances not amounting to aggravated sexual abuse of a child, a violation of Subsection 76-5-404.1(4)(h), a person who~~]

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor is a party to the offense if the actor benefits, receives, or exchanges anything of value from knowing participation in:

(a) human trafficking for labor [~~or for sexual exploitation~~] in violation of Section 76-5-308 [~~is guilty of a second degree felony~~];

(b) human smuggling [~~is guilty of a third degree felony; and~~] in violation of Section 76-5-308.3;

(c) human trafficking of a child [~~is guilty of a first degree felony.~~] in violation of Section 76-5-308.5; and

(d) human trafficking for sexual exploitation in violation of Section 76-5-308.1.

(3) (a) A violation of Subsection (2)(a) or (2)(d) is a second degree felony.

(b) A violation of Subsection (2)(b) is a third degree felony.

(c) A violation of Subsection (2)(c) is a first degree felony.

[~~(5)~~] (4) [~~A person~~] An actor commits a separate offense of human trafficking, human trafficking of a child, or human smuggling for each [~~person~~] individual who is smuggled or trafficked under Section 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, [~~or~~] 76-5-310, or 76-5-310.1.

Section 74. Section 76-5-310 is amended to read:

76-5-310. Aggravated human trafficking -- Penalties.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

[~~(1)~~] (2) An actor commits aggravated human trafficking for labor or sexual exploitation [~~or aggravated human smuggling~~] if, in the course of committing an offense under Section 76-5-308 or 76-5-308.1, the offense:

(a) results in the death of [~~the~~] a trafficked [~~or smuggled person~~] individual;

(b) results in serious bodily injury of [~~the~~] a trafficked [~~or smuggled person~~] individual;

(c) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section [~~76-5-404.1~~] 76-5-404.3; or

(viii) aggravated sexual assault under Section 76-5-405;

(d) involves the trafficking of 10 or more [~~victims~~] individuals; or

(e) involves [~~a victim~~] an individual trafficked for longer than 30 consecutive days.

[~~(2) An actor commits aggravated human smuggling if the actor commits human smuggling under Section 76-5-308 and any human being whom the person engages in smuggling is:~~]

[~~(a) a child; and~~]

[~~(b) not accompanied by a family member who is 18 years of age or older.~~]

(3) [~~(a) Aggravated human trafficking~~] A violation of Subsection (2) is a first degree felony.

[~~(b) Aggravated human smuggling is a first degree felony.~~]

[~~(c)~~] (4) Aggravated human trafficking [~~and aggravated human smuggling are each~~] is a separate offense from any other crime committed in relationship to the commission of [~~either of these offenses~~] the offense.

Section 75. Section 76-5-310.1 is enacted to read:

76-5-310.1. Aggravated human smuggling -- Penalties.

(1) Terms defined in Sections 76-1-101.5 and 76-5-307 apply to this section.

(2) An actor commits aggravated human smuggling if, in the course of committing an offense under Section 76-5-308.3, the offense:

(a) results in the death of a smuggled individual;

(b) results in serious bodily injury to a smuggled individual;

(c) involves the smuggling of a child and the child is not accompanied by a family member who is 18 years old or older;

(d) involves:

(i) rape under Section 76-5-402;

(ii) rape of a child under Section 76-5-402.1;

(iii) object rape under Section 76-5-402.2;

(iv) object rape of a child under Section 76-5-402.3;

(v) forcible sodomy under Section 76-5-403;

(vi) sodomy on a child under Section 76-5-403.1;

(vii) aggravated sexual abuse of a child under Section 76-5-404.1; or

(viii) aggravated sexual assault under Section 76-5-405; or

(e) involves the smuggling of 10 or more individuals.

(3) A violation of Subsection (2) is a first degree felony.

(4) Aggravated human smuggling is a separate offense from any other crime committed in relationship to the offense.

Section 76. Section 76-5-311 is amended to read:

76-5-311. Human trafficking of a vulnerable adult -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Commercial sexual activity with a vulnerable adult" means any sexual act with a vulnerable adult for which anything of value is given to or received by any individual.

[~~(b)~~] (ii) "Vulnerable adult" means the same as that term is defined in Subsection 76-5-111(1).

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits human trafficking of a vulnerable adult if the actor:

(a) recruits, harbors, transports, or obtains a vulnerable adult for sexual exploitation or forced labor; or

(b) patronizes or solicits a vulnerable adult for sexual exploitation or forced labor when the actor knew or should have known of the victim's vulnerability.

(3) A violation of Subsection (2) is a first degree felony.

[~~(3)~~] (4) (a) Human trafficking of a vulnerable adult for labor includes any labor obtained through force, fraud, or coercion as described in Section 76-5-308.

(b) Human trafficking of a vulnerable adult for sexual exploitation includes all forms of commercial sexual activity with a vulnerable adult involving:

(i) sexually explicit performances;

(ii) prostitution;

(iii) participation in the production of pornography;

(iv) performance in a strip club; or

(v) exotic dancing or display.

[~~(4) Human trafficking of a vulnerable adult in violation of this section is a first degree felony.~~]

Section 77. Section 76-5-401 is amended to read:

76-5-401. Unlawful sexual activity with a minor -- Penalties -- Evidence of age raised by defendant -- Limitations.

(1) (a) [~~For purposes of~~] As used in this section[~~ "minor" is a person~~], "minor" means an individual who is 14 years [~~of age~~] old or older, but younger than 16 years [~~of age~~] old, at the time the sexual activity described in [~~this section~~] Subsection (2) occurred.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) [~~A person~~] Under circumstances not amounting to an offense listed in Subsection (4), an actor 18 years old or older commits unlawful sexual activity with a minor if[~~, under circumstances not amounting to rape, in violation of Section 76-5-402, object rape, in violation of Section 76-5-402.2, forcible sodomy, in violation of Section 76-5-403, or aggravated sexual assault, in violation of Section 76-5-405,~~] the actor:

[~~(a)~~] (i) has sexual intercourse with the minor;

[~~(b)~~] (ii) engages in any sexual act with the minor involving the genitals of [~~one person~~] an individual and the mouth or anus of another [~~person, regardless of the sex of either participant~~] individual; or

[~~(c)~~] (iii) causes the penetration, however slight, of the genital or anal opening of the minor by [~~any~~] a foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any [~~person~~] individual or with the intent to arouse or gratify the sexual desire of any [~~person, regardless of the sex of any participant~~] individual.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a)(ii).

(3) (a) [~~Except under Subsection (3)(b) or (c), a~~] A violation of Subsection (2) is a third degree felony.

(b) (i) [~~If~~] Notwithstanding Subsection (3)(a) or (c), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant is less than four years older than the minor at the time the sexual activity occurred, the offense is a class B misdemeanor.

(ii) An offense under [~~this~~] Subsection (3)(b)(i) is not subject to registration under Subsection 77–41–102(17)(a)(vii).

(c) (i) [~~If~~] Notwithstanding Subsection (3)(a), if the defendant establishes by a preponderance of the evidence the mitigating factor that the defendant was younger than 21 years old at the time the sexual activity occurred, the offense is a class A misdemeanor.

(ii) An offense under [~~this~~] Subsection (3)(c)(i) is not subject to registration under Subsection 77–41–102(17)(a)(vii).

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76–5–402;

(b) object rape, in violation of Section 76–5–402.2;

(c) forcible sodomy, in violation of Section 76–5–403;

(d) aggravated sexual assault, in violation of Section 76–5–405; or

(e) an attempt to commit an offense listed in Subsections (4)(a) through (4)(d).

Section 78. Section 76-5-401.1 is amended to read:

76-5-401.1. Sexual abuse of a minor -- Penalties -- Limitations.

[~~(1) For purposes of this section “minor” is~~]

(1) (a) As used in this section:

(i) “Indecent liberties” means:

(A) the actor touching another individual’s genitals, anus, buttocks, pubic area, or female breast;

(B) causing any part of an individual’s body to touch the actor’s or another’s genitals, pubic area, anus, buttocks, or female breast;

(C) simulating or pretending to engage in sexual intercourse with another individual, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse; or

(D) causing an individual to simulate or pretend to engage in sexual intercourse with the actor or another, including genital-genital, oral-genital, anal-genital, or oral-anal intercourse.

(ii) “Minor” means an individual who is 14 years [~~of age~~] old or older, but younger than 16 years [~~of age~~] old, at the time the sexual activity described in [~~this section~~] Subsection (2) occurred.

(b) Terms defined in Section 76–1–101.5 apply to this section.

(2) (a) [~~An individual~~] Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a minor if the [~~individual~~] actor:

(i) is four years or more older than the minor; and[~~, under circumstances not amounting to rape, in violation of Section 76–5–402, object rape, in violation of Section 76–5–402.2, forcible sodomy, in violation of Section 76–5–403, aggravated sexual assault, in violation of Section 76–5–405, unlawful sexual activity with a minor, in violation of Section 76–5–401, or an attempt to commit any of those offenses, the individual~~]

(ii) with the intent to cause substantial emotional or bodily pain to any individual, or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor[~~, or~~];

(B) touches the breast of a female minor[~~,~~]; or

(C) otherwise takes indecent liberties with the minor[~~, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual regardless of the sex of any participant.~~].

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of [~~this section is~~] Subsection (2)(a) is:

(a) a class A misdemeanor; and

(b) [~~is~~] not subject to registration under Subsection 77–41–102(17)(a)(viii) on a first offense if the offender was younger than 21 years [~~of age~~] old at the time of the offense.

(4) The offenses referred to in Subsection (2)(a) are:

(a) unlawful sexual activity with a minor, in violation of Section 76–5–401;

(b) rape, in violation of Section 76–5–402;

(c) object rape, in violation of Section 76–5–402.2;

(d) forcible sodomy, in violation of Section 76–5–403;

(e) aggravated sexual assault, in violation of Section 76–5–405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 79. Section 76-5-401.2 is amended to read:

76-5-401.2. Unlawful sexual conduct with a 16- or 17-year-old -- Penalties -- Limitations.

(1) (a) As used in this section[~~, “minor”~~]:

(i) “Indecent liberties” means the same as that term is defined in Section 76–5–401.1.

(ii) "Minor" means an individual who is 16 years [~~of age~~] old or older, but younger than 18 years [~~of age~~] old, at the time the sexual conduct described in Subsection (2) occurred.

(b) Terms defined in Section 76–1–101.5 apply to this section.

(2) (a) [~~An individual~~] Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual conduct with a minor if[~~, under circumstances not amounting to an offense listed under Subsection (3), an individual who is~~] the actor:

(i) (A) is seven or more years older but less than 10 years older than the minor at the time of the sexual conduct;

(B) engages in any conduct listed in Subsection (2)(b)[~~, and the individual~~]; and

(C) knew or reasonably should have known the age of the minor; or

(ii) (A) is 10 or more years older than the minor at the time of the sexual conduct; and

(B) engages in any conduct listed in Subsection (2)(b).

(b) As used in Subsection (2)(a), "sexual conduct" refers to when the [~~individual~~] actor:

(i) has sexual intercourse with the minor;

(ii) engages in any sexual act with the minor involving the genitals of one individual and the mouth or anus of another individual[~~, regardless of the sex of either participant~~];

(iii) (A) causes the penetration, however slight, of the genital or anal opening of the minor by any foreign object, substance, instrument, or device, including a part of the human body[~~,~~]; and

(B) causes the penetration with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual[~~, regardless of the sex of any participant~~]; or

(iv) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of the minor[~~, or~~];

(B) touches the breast of a female minor[~~,~~]; or

(C) otherwise takes indecent liberties with the minor[~~, with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual regardless of the sex of any participant~~].

[~~(3) The offenses referred to in Subsection (2) are:~~]

[~~(a) (i) rape, in violation of Section 76–5–402;~~]

[~~(ii) object rape, in violation of Section 76–5–402.2;~~]

[~~(iii) forcible sodomy, in violation of Section 76–5–403;~~]

[~~(iv) forcible sexual abuse, in violation of Section 76–5–404; or~~]

[~~(v) aggravated sexual assault, in violation of Section 76–5–405; or~~]

[~~(b) an attempt to commit any offense under Subsection (3)(a).~~]

(c) (i) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(ii) Any penetration, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(i).

(iii) Any touching, however slight, is sufficient to constitute the relevant element under Subsection (2)(b)(ii).

[~~(4)~~] (3) (a) A violation of Subsection (2)(b)(i), (ii), or (iii) is a third degree felony.

[~~(5)~~] (b) A violation of Subsection (2)(b)(iv) is a class A misdemeanor.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76–5–402;

(b) object rape, in violation of Section 76–5–402.2;

(c) forcible sodomy, in violation of Section 76–5–403;

(d) forcible sexual abuse, in violation of Section 76–5–404;

(e) aggravated sexual assault, in violation of Section 76–5–405; or

(f) an attempt to commit an offense listed in Subsections (4)(a) through (e).

Section 80. Section 76-5-401.3 is amended to read:

76-5-401.3. Unlawful adolescent sexual activity -- Penalties -- Limitations.

(1) (a) As used in this section[~~: (a) "Adolescent"~~], "adolescent" means an individual in the transitional phase of human physical and psychological growth and development between childhood and adulthood who is 12 years old or older, but [~~under~~] younger than 18 years old.

[~~(b) "Unlawful adolescent sexual activity" means sexual activity between adolescents under circumstances not amounting to:~~]

[~~(i) rape, in violation of Section 76–5–402;~~]

[~~(ii) rape of a child, in violation of Section 76–5–402.1;~~]

[~~(iii) object rape, in violation of Section 76–5–402.2;~~]

[~~(iv) object rape of a child, in violation of Section 76–5–402.3;~~]

[~~(v) forcible sodomy, in violation of Section 76–5–403;~~]

[~~(vi) sodomy on a child, in violation of Section 76-5-403.1;~~]

[~~(vii) sexual abuse of a child, in violation of Section 76-5-404;~~]

[~~(viii) aggravated sexual assault, in violation of Section 76-5-405; or~~]

[~~(ix) incest, in violation of Section 76-7-102.~~]

[~~(2) Unlawful adolescent sexual activity is punishable as a:~~]

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits unlawful sexual activity if the actor:

(a) is an adolescent; and

(b) has sexual activity with another adolescent.

(3) A violation of Subsection (2) is a:

(a) third degree felony if an [~~adolescent~~] actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old;

(b) third degree felony if an [~~adolescent~~] actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(c) class A misdemeanor if an [~~adolescent~~] actor who is 16 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(d) class A misdemeanor if an [~~adolescent~~] actor who is 14 or 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 years old;

(e) class B misdemeanor if an [~~adolescent~~] actor who is 17 years old engages in unlawful adolescent sexual activity with an adolescent who is 14 years old;

(f) class B misdemeanor if an [~~adolescent~~] actor who is 15 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old;

(g) class C misdemeanor if an [~~adolescent~~] actor who is 12 or 13 years old engages in unlawful adolescent sexual activity with an adolescent who is 12 or 13 years old; and

(h) class C misdemeanor if an [~~adolescent~~] actor who is 14 years old engages in unlawful adolescent sexual activity with an adolescent who is 13 years old.

(4) The offenses referred to in Subsection (2) are:

(a) rape, in violation of Section 76-5-402;

(b) rape of a child, in violation of Section 76-5-402.1;

(c) object rape, in violation of Section 76-5-402.2;

(d) object rape of a child, in violation of Section 76-5-402.3;

(e) forcible sodomy, in violation of Section 76-5-403;

(f) sodomy on a child, in violation of Section 76-5-403.1;

(g) sexual abuse of a child, in violation of Section 76-5-404;

(h) aggravated sexual assault, in violation of Section 76-5-405;

(i) incest, in violation of Section 76-7-102; or

(j) an attempt to commit any offense listed in Subsections (4)(a) through (4)(i).

[~~(3)~~] (5) An offense under this section is not eligible for a nonjudicial adjustment under Section 80-6-304 or a referral to a youth court under Section 80-6-902.

[~~(4)~~] (6) Except for an offense that is transferred to a district court by the juvenile court in accordance with Section 80-6-504, the district court may enter any sentence or combination of sentences that would have been available in juvenile court but for the delayed reporting or delayed filing of the information in the district court.

[~~(5)~~] (7) An offense under this section is not subject to registration under Subsection 77-41-102(17).

Section 81. Section 76-5-402 is amended to read:

76-5-402. Rape -- Penalties.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) (a) An actor commits rape [~~when~~] if the actor has sexual intercourse with another [~~person~~] individual without [~~the victim's~~] the individual's consent.

(b) Any sexual penetration, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

[~~(2)~~] (c) This section applies whether or not the actor is married to the [~~victim~~] individual.

(3) [~~Rape~~] A violation of Subsection (2) is a felony of the first degree, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the rape the defendant caused serious bodily injury to [~~another~~] the victim; or

(ii) at the time of the commission of the rape, the defendant was younger than 18 years [~~of age~~] old and was previously convicted of a grievous sexual offense; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the rape the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when a [~~person~~] defendant is sentenced under Subsection (3)(a) or (c).

(6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with Section 76-3-406.

Section 82. Section 76-5-402.1 is amended to read:

76-5-402.1. Rape of a child -- Penalties.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) (a) An actor commits rape of a child [~~when the person~~] if the actor has sexual intercourse with [~~a child~~] an individual who is [~~under the age of 14.~~] younger than 14 years old.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

[~~(2) Rape of a child~~] (3) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsections [~~(2)~~] (3)(b) and [~~(4)~~] (5), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the rape of a child, the defendant caused serious bodily injury to [~~another~~] the victim; or

(ii) at the time of the commission of the rape of a child the defendant was previously convicted of a grievous sexual offense.

[~~(3)~~] (4) Subsection [~~(2)~~] (3)(b) does not apply if the defendant was younger than 18 years [~~of age~~] old at the time of the offense.

[~~(4)~~] (5) (a) When imposing a sentence under [~~Subsection (2)~~] Subsections (3)(a) and [~~(4)~~] (5)(b), a court may impose a term of imprisonment under Subsection [~~(4)~~] (5)(b) if:

(i) it is a first time offense for the defendant under this section;

(ii) the defendant was younger than 21 years [~~of age~~] old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection [~~(2)~~] (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection [~~(4)~~] (5)(a) are met, the court may impose a term of imprisonment of not less than:

(i) 15 years and which may be for life;

(ii) 10 years and which may be for life; or

(iii) six years and which may be for life.

[~~(5)~~] (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 83. Section 76-5-402.2 is amended to read:

76-5-402.2. Object rape -- Penalties.

[~~(1) A person who, without the victim's consent, causes the penetration, however slight, of the genital or anal opening of another person who is 14 years of age or older, by any foreign object, substance, instrument, or device, including a part of the human body other than the mouth or genitals, with intent to cause substantial emotional or bodily pain to the victim or with the intent to arouse or gratify the sexual desire of any person, commits an offense which~~]

(1) Terms defined in Section 76-1-101.5 apply to this section.

(2) An actor commits object rape if:

(a) the actor:

(i) acts without an individual's consent;

(ii) causes the penetration, however slight, of the genital or anal opening of the individual by:

(A) a foreign object;

(B) a substance;

(C) an instrument;

(D) a device; or

(E) a part of the human body other than the mouth or genitals; and

(iii) (A) intends to cause substantial emotional or bodily pain to the individual; or

(B) intends to arouse or gratify the sexual desire of any individual; and

(b) the individual described in Subsection (2)(a)(i) is 14 years old or older.

(3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:

(a) except as provided in Subsection [~~(1)~~] (3)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection [~~(1)~~] (3)(c) or [~~(2)~~] (4), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the object rape the defendant caused serious bodily injury to [~~another~~] the victim; or

(ii) at the time of the commission of the object rape, the defendant was younger than 18 years [~~of age~~] old and was previously convicted of a grievous sexual offense; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the object rape, the defendant was previously convicted of a grievous sexual offense.

[~~(2)~~] (4) If, when imposing a sentence under Subsection [~~(1)~~] (3)(b), a court finds that a lesser term than the term described in Subsection [~~(1)~~] (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

[~~(3)~~] (5) The provisions of Subsection [~~(2)~~] (4) do not apply [~~when a person~~] if a defendant is sentenced under Subsection [~~(1)~~] (3)(a) or (c).

[~~(4)~~] (6) Imprisonment under Subsection [~~(1)(b), (1)(c), or (2)~~] (3)(b), (3)(c), or (4) is mandatory in accordance with Section 76-3-406.

Section 84. Section 76-5-402.3 is amended to read:

76-5-402.3. Object rape of a child -- Penalty.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) (a) An actor commits object rape of a child [~~when the person~~] if:

(i) the actor causes the penetration or touching, however slight, of the genital or anal opening [~~of a child who is under the age of 14 by any~~] of the individual by, except as provided in Subsection (2)(b):

(A) a foreign object[~~,~~];

(B) a substance[~~,~~];

(C) an instrument[~~,~~]; or

(D) a device[~~, not including a part of the human body, with intent~~];

(ii) the actor:

(A) intends to cause substantial emotional or bodily pain to the [~~child~~] individual; or [~~with the intent~~]

(B) intends to arouse or gratify the sexual desire of any [~~person.~~] individual; and

(iii) the individual described in Subsection (2)(a)(i) is younger than 14 years old.

(b) Subsection (2)(a) does not include penetration or touching by a part of the human body.

[~~(2) Object rape of a child~~] (3) (a) A violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

[~~(a)~~] (i) except as provided in Subsections [~~(2)(b)~~] (3)(a)(ii) and (4), not less than 25 years and which may be for life; or

[~~(b)~~] (ii) life without parole, if the trier of fact finds that:

[~~(i)~~] (A) during the course of the commission of the object rape of a child the defendant caused serious bodily injury to [~~another~~] the victim; or

[~~(ii)~~] (B) at the time of the commission of the object rape of a child the defendant was previously convicted of a grievous sexual offense.

[~~(3)~~] (b) Subsection [~~(2)(b)~~] (3)(a)(ii) does not apply if the defendant was younger than 18 years [~~of age~~] old at the time of the offense.

(4) (a) When imposing a sentence under [~~Subsection (2)(a)~~] Subsections (3)(a)(i) and (4)(b), a court may impose a term of imprisonment under Subsection (4)(b) if:

(i) it is a first time offense for the defendant under this section;

(ii) the defendant was younger than 21 years [~~of age~~] old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection [~~(2)(a)~~] (3)(a)(i) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection (4)(a) are met, the court may impose a term of imprisonment of not less than:

(i) 15 years and which may be for life;

(ii) 10 years and which may be for life; or

(iii) six years and which may be for life.

(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 85. Section 76-5-403 is amended to read:

76-5-403. Forcible sodomy -- Penalties.

(1) (a) As used in this section, "sodomy" means engaging in any sexual act with an individual who is 14 years [~~of age~~] old or older involving the genitals of one individual and the mouth or anus of another individual[~~, regardless of the sex of either participant~~].

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An [~~individual~~] actor commits forcible sodomy when the actor commits sodomy upon another individual without the [~~other's~~] other individual's consent.

(b) Any touching, however slight, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) [~~Forcible sodomy~~] A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b) or (c), not less than five years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), 15 years and which may be for life, if the trier of fact finds that:

(i) during the course of the commission of the forcible sodomy the defendant caused serious bodily injury to [~~another~~] the victim; or

(ii) at the time of the commission of the rape, the defendant was younger than 18 years [~~of age~~] old and was previously convicted of a grievous sexual offense; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the forcible sodomy the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(b), a court finds that a lesser term than the term described in Subsection (3)(b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) 10 years and which may be for life; or

(b) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply when [~~an individual~~] a defendant is sentenced under Subsection (3)(a) or (c).

(6) Imprisonment under Subsection (3)(b), (3)(c), or (4) is mandatory in accordance with Section 76-3-406.

Section 86. Section 76-5-403.1 is amended to read:

76-5-403.1. Sodomy on a child -- Penalties.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) (a) An actor commits sodomy [~~upon~~] on a child if:

(i) the actor engages in any sexual act upon or with [~~a child who is under the age of 14, involving~~] another individual;

(ii) the individual is younger than 14 years old; and

(iii) the sexual act involves the genitals or anus of the actor or the [~~child~~] individual and the mouth or anus of either [~~person, regardless of the sex of either participant.~~] the actor or individual.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

[~~(2) Sodomy upon a child~~] (3) A violation of Subsection (2)(a) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsections [~~(2)~~] (3)(b) and [~~(4)~~] (5), not less than 25 years and which may be for life; or

(b) life without parole, if the trier of fact finds that:

(i) during the course of the commission of the sodomy [~~upon~~] on a child the defendant caused serious bodily injury to [~~another~~] the victim; or

(ii) at the time of the commission of the sodomy [~~upon~~] on a child, the defendant was previously convicted of a grievous sexual offense.

[~~(3)~~] (4) Subsection [~~(2)~~] (3)(b) does not apply if the defendant was younger than 18 years [~~of age~~] old at the time of the offense.

[~~(4)~~] (5) (a) When imposing a sentence under [~~Subsection (2)~~] Subsections (3)(a) and [~~(4)~~] (5)(b), a court may impose a term of imprisonment under Subsection [~~(4)~~] (5)(b) if:

(i) it is a first time offense for the defendant under this section;

(ii) the defendant was younger than 21 years [~~of age~~] old at the time of the offense; and

(iii) the court finds that a lesser term than the term described in Subsection [~~(2)~~] (3)(a) is in the interests of justice under the facts and circumstances of the case, including the age of the victim, and states the reasons for this finding on the record.

(b) If the conditions of Subsection [~~(4)~~] (5)(a) are met, the court may impose a term of imprisonment of not less than:

(i) 15 years and which may be for life;

(ii) 10 years and which may be for life; or

(iii) six years and which may be for life.

[~~(5)~~] (6) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 87. Section 76-5-404 is amended to read:

76-5-404. Forcible sexual abuse -- Penalties -- Limitations.

(1) (a) As used in this section, "indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) An individual~~] (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits forcible sexual abuse if [~~the victim is 14 years of age or older and, under circumstances not amounting to rape, object rape, forcible sodomy, or attempted rape or forcible sodomy,~~]:

(i) without the consent of the individual, the actor:

(A) touches the anus, buttocks, pubic area, or any part of the genitals of [~~another, or~~] another individual;

(B) touches the breast of [~~a~~] another individual who is female[~~,~~]; or

(C) otherwise takes indecent liberties with [~~another, with intent to~~] another individual;

(ii) the actor intends to:

(A) cause substantial emotional or bodily pain to any individual [~~or with the intent to~~]; or

(B) arouse or gratify the sexual desire of any individual[~~, without the consent of the other, regardless of the sex of any participant.~~]; and

[~~(2) Forcible sexual abuse is:~~]

[~~(a) except as provided in Subsection (2)(b),~~]

(iii) the individual described in Subsection (2)(a)(i)(A), (B), or (C) is 14 years old or older.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a felony of the second degree, punishable by a term of imprisonment of not less than one year nor more than 15 years[~~; or (b) except as provided in Subsection (3),~~].

(b) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (3)(b)(ii), a violation of Subsection (2) is a felony of the first degree, punishable by a term of imprisonment for 15 years and which may be for life, if the trier of fact finds that during the course of the commission of the forcible sexual abuse the defendant caused serious bodily injury to [~~another~~] the victim.

[~~(3)~~] (ii) If, when imposing a sentence under Subsection [~~(2)(b)~~] (3)(b)(i), a court finds that a lesser term than the term described in Subsection [~~(2)(b)~~] (3)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

[~~(a)~~] (A) 10 years and which may be for life; or

[~~(b)~~] (B) six years and which may be for life.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape, in violation of Section 76-5-402;

(b) object rape, in violation of Section 76-5-402.2;

(c) forcible sodomy, in violation of Section 76-5-403; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

[~~(4)~~] (5) Imprisonment under Subsection [~~(2)~~] (3)(b) or [~~(3)~~] (4) is mandatory in accordance with Section 76-3-406.

Section 88. Section 76-5-404.1 is amended to read:

76-5-404.1. Sexual abuse of a child -- Penalties -- Limitations.

(1) (a) As used in this section:

[~~(a)~~] (i) "Adult" means an individual 18 years [~~of age~~] old or older.

[~~(b)~~] (ii) "Child" means an individual [~~under the age of 14.~~] younger than 14 years old.

(iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(c)~~] (iv) "Position of special trust" means:

[~~(i)~~] (A) an adoptive parent;

[~~(ii)~~] (B) an athletic manager who is an adult;

[~~(iii)~~] (C) an aunt;

[~~(iv)~~] (D) a babysitter;

[~~(v)~~] (E) a coach;

[~~(vi)~~] (F) a cohabitant of a parent if the cohabitant is an adult;

[~~(vii)~~] (G) a counselor;

[~~(viii)~~] (H) a doctor or physician;

[~~(ix)~~] (I) an employer;

[~~(x)~~] (J) a foster parent;

[~~(xi)~~] (K) a grandparent;

[~~(xii)~~] (L) a legal guardian;

[~~(xiii)~~] (M) a natural parent;

[~~(xiv)~~] (N) a recreational leader who is an adult;

[~~(xv)~~] (O) a religious leader;

[~~(xvi)~~] (P) a sibling or a stepsibling who is an adult;

[~~(xvii)~~] (Q) a scout leader who is an adult;

[~~(xviii)~~] (R) a stepparent;

[~~(xix)~~] (S) a teacher or any other individual employed by or volunteering at a public or private elementary school or secondary school, and who is 18 years [~~of age~~] old or older;

[~~(xx)~~] (T) an instructor, professor, or teaching assistant at a public or private institution of higher education;

[~~(xxi)~~] (U) an uncle;

[~~(xxii)~~] (V) a youth leader who is an adult; or

[~~(xxiii)~~] (W) any individual in a position of authority, other than those individuals listed in Subsections [~~(1)(c)(i) through (xxiii)~~] (1)(a)(iv)(A) through (V), which enables the individual to exercise undue influence over the child.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(2) An individual~~] (2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits sexual abuse of a child if[~~, under circumstances not amounting to rape of a child, object rape of a child, sodomy on a child, or an attempt to commit any of these offenses,~~] the actor:

(i) (A) touches the anus, buttocks, pubic area, or genitalia of any child[~~,~~];

(B) touches the breast of a female child[~~,~~]; or

(C) otherwise takes indecent liberties with a child[~~, with intent to~~]; and

(ii) the actor's conduct is with intent to:

(A) cause substantial emotional or bodily pain to any individual; or [~~with the intent~~]

(B) to arouse or gratify the sexual desire of any individual [~~regardless of the sex of any participant~~].

[~~(3) Sexual abuse of a child is a second degree felony.~~]

[~~(4) An individual commits aggravated sexual abuse of a child when in conjunction with the offense described in Subsection (2) any of the following circumstances have been charged and admitted or found true in the action for the offense:~~]

[~~(a) the offense was committed by the use of a dangerous weapon as defined in Section 76-1-601, or by force, duress, violence, intimidation, coercion, menace, or threat of harm, or was committed during the course of a kidnapping;~~]

[~~(b) the accused caused bodily injury or severe psychological injury to the victim during or as a result of the offense;~~]

[~~(c) the accused was a stranger to the victim or made friends with the victim for the purpose of committing the offense;~~]

[~~(d) the accused used, showed, or displayed pornography or caused the victim to be photographed in a lewd condition during the course of the offense;~~]

[~~(e) the accused, prior to sentencing for this offense, was previously convicted of any sexual offense;~~]

[~~(f) the accused committed the same or similar sexual act upon two or more victims at the same time or during the same course of conduct;~~]

[~~(g) the accused committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;~~]

[~~(h) the offense was committed by an individual who occupied a position of special trust in relation to the victim;~~]

[~~(i) the accused encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or~~]

[~~(j) the accused caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.~~]

[~~(5) Aggravated sexual abuse of a child is a first degree felony punishable by a term of imprisonment of:~~]

[~~(a) except as provided in Subsection (5)(b), (5)(c), or (6), not less than 15 years and which may be for life;~~]

[~~(b) except as provided in Subsection (5)(c) or (6), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or~~]

[~~(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.~~]

[~~(6) If, when imposing a sentence under Subsection (5)(a) or (b), a court finds that a lesser term than the term described in Subsection (5)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:~~]

[~~(a) for purposes of Subsection (5)(b), 15 years and which may be for life; or~~]

[~~(b) for purposes of Subsection (5)(a) or (b):~~]

[~~(i) 10 years and which may be for life; or~~]

[~~(ii) six years and which may be for life.~~]

[~~(7) The provisions of Subsection (6) do not apply when an individual is sentenced under Subsection (5)(c).~~]

[~~(8) Subsections (5)(b) and (5)(c) do not apply if the defendant was younger than 18 years of age at the time of the offense.~~]

[~~(9) Imprisonment under this section is mandatory in accordance with Section 76-3-406.~~]

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) A violation of Subsection (2) is a second degree felony.

(4) The offenses referred to in Subsection (2)(a) are:

(a) rape of a child, in violation of Section 76-5-402.1;

(b) object rape of a child, in violation of Section 76-5-402.3;

(c) sodomy on a child, in violation of Section 76-5-403.1; or

(d) an attempt to commit an offense listed in Subsections (4)(a) through (4)(c).

(5) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 89. Section 76-5-404.3 is enacted to read:

76-5-404.3. Aggravated sexual abuse of a child -- Penalties.

(1) (a) As used in this section:

(i) "Adult" means the same as that term is defined in Section 76-4-404.1.

(ii) "Child" means the same as that term is defined in Section 76-4-404.1.

(iii) "Position of special trust" means the same as that term is defined in Section 76-4-404.1.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits aggravated sexual abuse of a child if, in conjunction with the offense described in Subsection 76-4-404.1(2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(i) the actor committed the offense:

(A) by the use of a dangerous weapon;

(B) by force, duress, violence, intimidation, coercion, menace, or threat of harm; or

(C) during the course of a kidnaping;

(ii) the actor caused bodily injury or severe psychological injury to the child during or as a result of the offense;

(iii) the actor was a stranger to the child or made friends with the child for the purpose of committing the offense;

(iv) the actor used, showed, or displayed pornography or caused the child to be photographed in a lewd condition during the course of the offense;

(v) the actor, prior to sentencing for this offense, was previously convicted of any sexual offense;

(vi) the actor committed the same or similar sexual act upon two or more individuals at the same time or during the same course of conduct;

(vii) the actor committed, in Utah or elsewhere, more than five separate acts, which if committed in Utah would constitute an offense described in this chapter, and were committed at the same time, or during the same course of conduct, or before or after the instant offense;

(viii) the actor occupied a position of special trust in relation to the child;

(ix) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the child with any other individual, sexual performance by the child before any other individual, human trafficking, or human smuggling; or

(x) the actor caused the penetration, however slight, of the genital or anal opening of the child by any part or parts of the human body other than the genitals or mouth.

(b) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) Except as provided in Subsection (6), a violation of Subsection (2) is a first degree felony punishable by a term of imprisonment of:

(a) except as provided in Subsection (3)(b), (3)(c), or (4), not less than 15 years and which may be for life;

(b) except as provided in Subsection (3)(c) or (4), life without parole, if the trier of fact finds that during the course of the commission of the aggravated sexual abuse of a child the defendant caused serious bodily injury to another; or

(c) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual abuse of a child, the defendant was previously convicted of a grievous sexual offense.

(4) If, when imposing a sentence under Subsection (3)(a) or (b), a court finds that a lesser term than the term described in Subsection (3)(a) or (b) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(a) for purposes of Subsection (3)(b), 15 years and which may be for life; or

(b) for purposes of Subsection (3)(a) or (b):

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(5) The provisions of Subsection (4) do not apply if a defendant is sentenced under Subsection (3)(c).

(6) Subsection (3)(b) or (3)(c) does not apply if the defendant was younger than 18 years old at the time of the offense.

(7) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 90. Section 76-5-405 is amended to read:

76-5-405. Aggravated sexual assault -- Penalty.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person~~] (2) An actor commits aggravated sexual assault if:

(a) in the course of a rape, object rape, forcible sodomy, or forcible sexual abuse, the actor:

(i) uses, or threatens [~~the victim~~] another individual with the use of, a dangerous weapon [~~as defined in Section 76-1-601~~];

(ii) compels, or attempts to compel, [~~the victim~~] another individual to submit to rape, object rape, forcible sodomy, or forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any [~~person~~] individual; or

(iii) is aided or abetted by one or more persons;

(b) in the course of an attempted rape, attempted object rape, or attempted forcible sodomy, the actor:

(i) causes serious bodily injury to any [~~person~~] individual;

(ii) uses, or threatens [~~the victim~~] the individual with the use of[~~,~~] a dangerous weapon [~~as defined in Section 76-1-601~~];

(iii) attempts to compel [~~the victim~~] the individual to submit to rape, object rape, or forcible sodomy, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any [~~person~~] individual; or

(iv) is aided or abetted by one or more persons; or

(c) in the course of an attempted forcible sexual abuse, the actor:

(i) causes serious bodily injury to any [~~person~~] individual;

(ii) uses, or threatens the [~~victim~~] individual with the use of[~~,~~] a dangerous weapon [~~as defined in Section 76-1-601~~];

(iii) attempts to compel the [~~victim~~] individual to submit to forcible sexual abuse, by threat of kidnaping, death, or serious bodily injury to be inflicted imminently on any [~~person~~] individual; or

(iv) is aided or abetted by one or more persons.

[~~(2) Aggravated sexual assault~~] (3) A violation of Subsection (2) is a first degree felony, punishable by a term of imprisonment of:

(a) for an aggravated sexual assault described in Subsection [~~(1)~~] (2)(a):

(i) except as provided in Subsection [~~(2)~~] (3)(a)(ii) or [~~(3)~~] (4)(a), not less than 15 years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense;

(b) for an aggravated sexual assault described in Subsection [~~(1)~~] (2)(b):

(i) except as provided in Subsection [~~(2)~~] (3)(b)(ii) or [~~(4)~~] (5)(a), not less than 10 years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense; or

(c) for an aggravated sexual assault described in Subsection [~~(1)~~] (2)(c):

(i) except as provided in Subsection [~~(2)~~] (3)(c)(ii) or [~~(5)~~] (6)(a), not less than six years and which may be for life; or

(ii) life without parole, if the trier of fact finds that at the time of the commission of the aggravated sexual assault, the defendant was previously convicted of a grievous sexual offense.

[~~(3)~~] (4) (a) If, when imposing a sentence under Subsection [~~(2)~~] (3)(a)(i), a court finds that a lesser term than the term described in Subsection [~~(2)~~] (3)(a)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than:

(i) 10 years and which may be for life; or

(ii) six years and which may be for life.

(b) The provisions of Subsection [~~(3)~~] (4)(a) do not apply when a [~~person~~] defendant is sentenced under Subsection [~~(2)~~] (3)(a)(ii).

[~~(4)~~] (5) (a) If, when imposing a sentence under Subsection [~~(2)~~] (3)(b)(i), a court finds that a lesser term than the term described in Subsection [~~(2)~~] (3)(b)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than six years and which may be for life.

(b) The provisions of Subsection [~~(4)~~] (5)(a) do not apply when a [~~person~~] defendant is sentenced under Subsection [~~(2)~~] (3)(b)(ii).

[~~(5)~~] (6) (a) If, when imposing a sentence under Subsection [~~(2)~~] (3)(c)(i), a court finds that a lesser term than the term described in Subsection [~~(2)~~] (3)(c)(i) is in the interests of justice and states the reasons for this finding on the record, the court may impose a term of imprisonment of not less than three years and which may be for life.

(b) The provisions of Subsection [~~(5)~~] (6)(a) do not apply when a [~~person~~] defendant is sentenced under Subsection [~~(2)~~] (3)(c)(ii).

[~~(6)~~] (7) Subsections [~~(2)~~] (3)(a)(ii), [~~(2)~~] (3)(b)(ii), and [~~(2)~~] (3)(c)(ii) do not apply if the defendant was younger than 18 years [~~of age~~] old at the time of the offense.

[~~(7)~~] (8) Imprisonment under this section is mandatory in accordance with Section 76-3-406.

Section 91. Section 76-5-406.3 is amended to read:

76-5-406.3. Applicability of sentencing provisions.

A person convicted of a violation of Section 76-5-301.1, child kidnaping; Section 76-5-302, aggravated kidnaping; Section 76-5-402.1, rape of a child; Section 76-5-402.3, object rape of a child; Section 76-5-403.1, sodomy on a child; Section [~~76-5-404.1~~] 76-5-404.3, aggravated sexual abuse of a child; or Section 76-5-405, aggravated sexual assault shall be sentenced as follows:

(1) If the person is sentenced prior to April 29, 1996, he shall be sentenced in accordance with the statutory provisions in effect prior to that date.

(2) If the person commits the crime and is sentenced on or after April 29, 1996, he shall be punished in accordance with the statutory provisions in effect after April 29, 1996.

(3) If the person commits the crime prior to April 29, 1996, but is sentenced on or after April 29, 1996, he shall be given the option prior to sentencing to proceed either under the law which was in effect at the time the offense was committed or the law which was in effect at the time of sentencing. If the person refuses to select, the court shall sentence the person in accordance with the

law in effect at the time of sentencing. The provisions of Subsections 77-27-9(2)(a) and (b) apply to the sentence of any person who selects under this section to be sentenced in accordance with the law in effect prior to April 29, 1996.

Section 92. Section 76-5-406.5 is amended to read:

76-5-406.5. Circumstances required for probation or suspension of sentence for certain sex offenses against a child.

(1) In a case involving a conviction for a violation of Section 76-5-402.1, rape of a child; Section 76-5-402.3, object rape of a child; Section 76-5-403.1, sodomy on a child; or any attempt to commit a felony under those sections or a conviction for a violation of [~~Subsections 76-5-404.1(4) and (5)~~] Section 76-5-404.3, aggravated sexual abuse of a child, the court may suspend execution of sentence and consider probation to a residential sexual abuse treatment center only if all of the following circumstances are found by the court to be present and the court in its discretion, considering the circumstances of the offense, including the nature, frequency, and duration of the conduct, and considering the best interests of the public and the child victim, finds probation to a residential sexual abuse treatment center to be proper:

(a) the defendant did not use a weapon, force, violence, substantial duress or menace, or threat of harm, in committing the offense or before or after committing the offense, in an attempt to frighten the child victim or keep the child victim from reporting the offense;

(b) the defendant did not cause bodily injury to the child victim during or as a result of the offense and did not cause the child victim severe psychological harm;

(c) the defendant, prior to the offense, had not been convicted of any public offense in Utah or elsewhere involving sexual misconduct in the commission of the offense;

(d) the defendant did not commit an offense described in this Part 4, Sexual Offenses, against more than one child victim or victim, at the same time, or during the same course of conduct, or previous to or subsequent to the instant offense;

(e) the defendant did not use, show, or display pornography or create sexually-related photographs or tape recordings in the course of the offense;

(f) the defendant did not act in concert with another offender during the offense or knowingly commit the offense in the presence of a person other than the victim or with lewd intent to reveal the offense to another;

(g) the defendant did not encourage, aid, allow, or benefit from any act of prostitution or sexual act by the child victim with any other person or sexual performance by the child victim before any other person;

(h) the defendant admits the offense of which he has been convicted and has been accepted for mental health treatment in a residential sexual abuse treatment center that has been approved by the Department of Corrections under Subsection (3);

(i) rehabilitation of the defendant through treatment is probable, based upon evidence provided by a treatment professional who has been approved by the Department of Corrections under Subsection (3) and who has accepted the defendant for treatment;

(j) prior to being sentenced, the defendant has undergone a complete psychological evaluation conducted by a professional approved by the Department of Corrections and:

(i) the professional's opinion is that the defendant is not an exclusive pedophile and does not present an immediate and present danger to the community if released on probation and placed in a residential sexual abuse treatment center; and

(ii) the court accepts the opinion of the professional;

(k) if the offense is committed by a parent, stepparent, adoptive parent, or legal guardian of the child victim, the defendant shall, in addition to establishing all other conditions of this section, establish it is in the child victim's best interest that the defendant not be imprisoned, by presenting evidence provided by a treatment professional who:

(i) is treating the child victim and understands he will be treating the family as a whole; or

(ii) has assessed the child victim for purposes of treatment as ordered by the court based on a showing of good cause; and

(l) if probation is imposed, the defendant, as a condition of probation, may not reside in a home where children younger than 18 years [~~of age~~] old reside for at least one year beginning with the commencement of treatment, and may not again take up residency in a home where children younger than 18 years [~~of age~~] old reside during the period of probation until allowed to do so by order of the court.

(2) A term of incarceration of at least 90 days is to be served prior to treatment and continue until the time when bed space is available at a residential sexual abuse treatment center as provided under Subsection (3) and probation is to be imposed for up to a maximum of 10 years.

(3) (a) The Department of Corrections shall develop qualification criteria for the approval of the sexual abuse treatment programs and professionals under this section. The criteria shall include the screening criteria employed by the department for sexual offenders.

(b) The sexual abuse treatment program shall be at least one year in duration, shall be residential, and shall specifically address the sexual conduct for which the defendant was convicted.

(4) Establishment by the defendant of all the criteria of this section does not mandate the

granting under this section of probation or modification of the sentence that would otherwise be imposed by Section 76-3-406 regarding sexual offenses against children. The court has discretion to deny the request based upon its consideration of the circumstances of the offense, including:

(a) the nature, frequency, and duration of the conduct;

(b) the effects of the conduct on any child victim involved;

(c) the best interest of the public and any child victim; and

(d) the characteristics of the defendant, including any risk the defendant presents to the public and specifically to children.

(5) The defendant has the burden to establish by a preponderance of evidence eligibility under all of the criteria of this section.

(6) If the court finds a defendant granted probation under this section fails to cooperate or succeed in treatment or violates probation to any substantial degree, the sentence previously imposed for the offense shall be immediately executed.

(7) The court shall enter written findings of fact regarding the conditions established by the defendant that justify the granting of probation under this section.

(8) In cases involving conviction of any sexual offense against a child other than those offenses provided in Subsection (1), the court shall consider the circumstances described in Subsection (1) as advisory in determining whether or not execution of sentence should be suspended and probation granted. The defendant is not required to satisfy all of those circumstances for eligibility pursuant to this Subsection (8).

Section 93. Section 76-5-407 is amended to read:

76-5-407. Consensual conduct in marriage.

[~~(1)~~] The provisions of this part do not apply to consensual conduct between individuals married to each other.

[~~(2) In any prosecution for:~~]

[~~(a) the following offenses, any sexual penetration, however slight, is sufficient to constitute the relevant element of the offense:~~]

[~~(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving sexual intercourse;~~]

[~~(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving sexual intercourse; or~~]

[~~(iii) rape, a violation of Section 76-5-402; or~~]

[~~(b) the following offenses, any touching, however slight, is sufficient to constitute the relevant element of the offense:~~]

[~~(i) unlawful sexual activity with a minor, a violation of Section 76-5-401, involving acts of sodomy;~~]

[~~(ii) unlawful sexual conduct with a 16 or 17 year old, a violation of Section 76-5-401.2, involving acts of sodomy;~~]

[~~(iii) forcible sodomy, a violation of Subsection 76-5-403(2);~~]

[~~(iv) rape of a child, a violation of Section 76-5-402.1; or~~]

[~~(v) object rape of a child, a violation of Section 76-5-402.3.~~]

[~~(3) In any prosecution for the following offenses, any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of the offense:~~]

[~~(a) sodomy on a child, a violation of Section 76-5-403.1;~~]

[~~(b) sexual abuse of a child or aggravated sexual abuse of a child, a violation of Section 76-5-404.1;~~]

[~~(c) sexual abuse of a minor, a violation of Section 76-5-401.1;~~]

[~~(d) unlawful sexual conduct with a 16- or 17-year-old, a violation of Section 76-5-401.2;~~]

[~~(e) forcible sexual abuse, a violation of Section 76-5-404;~~]

[~~(f) custodial sexual relations, a violation of Section 76-5-412; or~~]

[~~(g) custodial sexual relations or misconduct with youth receiving state services, a violation of Section 76-5-413.~~]

Section 94. Section 76-5-412 is amended to read:

76-5-412. Custodial sexual relations -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

[~~(a)~~] (i) "Actor" means:

(A) a law enforcement officer, as defined in Section 53-13-103;

[~~(i)~~] (B) a correctional officer, as defined in Section 53-13-104;

[~~(ii)~~] (C) a special function officer, as defined in Section 53-13-105; or

[~~(iii) a law enforcement officer, as defined in Section 53-13-103; or~~]

[~~(iv)~~] (D) an employee of, or private provider or contractor for, the Department of Corrections or a county jail.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

[~~(b)~~] (iii) "Person in custody" means an individual, either an adult 18 years [~~of age~~] old or older, or a minor younger than 18 years [~~of age~~] old, who is:

[~~(i)~~] (A) a prisoner, as defined in Section 76-5-101, and includes a prisoner who is in the custody of the Department of Corrections created under Section 64-13-2, but who is being housed at the Utah State Hospital established under Section 62A-15-601 or other medical facility;

[~~(ii)~~] (B) under correctional supervision, such as at a work release facility or as a parolee or probationer; or

[~~(iii)~~] (C) under lawful or unlawful arrest, either with or without a warrant.

[~~(c)~~] (iv) "Private provider or contractor" means [~~any person or entity~~] a person that contracts with the Department of Corrections or with a county jail to provide services or functions that are part of the operation of the Department of Corrections or a county jail under state or local law.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits custodial sexual relations if the actor commits any of the acts under Subsection [~~(3)~~] (2)(b):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection [~~(6)~~] (4); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) Acts referred to in Subsection (2)(a) are:

(i) having sexual intercourse with a person in custody;

(ii) engaging in a sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual; or

(iii) (A) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) intending to cause substantial emotional or bodily pain to any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

[~~(b)~~] (3) (a) A violation of Subsection (2)[~~(a)~~] is a third degree felony[~~, but if~~].

(b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years [~~of age~~] old, a violation of Subsection (2)[~~(a)~~] is a second degree felony.

(c) If the act committed under [~~this~~] Subsection [~~(2)~~] (3) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection [~~(2)~~] (3), this Subsection [~~(2)~~] (3) does not prohibit prosecution and sentencing for the more serious offense.

[~~(3) Acts referred to in Subsection (2)(a) are:~~]

[~~(a) having sexual intercourse with a person in custody;~~]

[~~(b) engaging in any sexual act with a person in custody involving the genitals of one individual and the mouth or anus of another individual, regardless of the sex of either participant; or~~]

[~~(c) causing the penetration, however slight, of the genital or anal opening of a person in custody by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual, regardless of the sex of any participant.~~]

[~~(4) (a) An actor commits custodial sexual misconduct if the actor commits any of the acts under Subsection (5):~~]

[~~(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and~~]

[~~(ii) (A) the actor knows that the individual is a person in custody; or~~]

[~~(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.~~]

[~~(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the person in custody is younger than 18 years of age, a violation of Subsection (4)(a) is a third degree felony.~~]

[~~(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.~~]

[~~(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:~~]

[~~(a) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;~~]

[~~(b) touching the breast of a female person in custody; or~~]

[~~(c) otherwise taking indecent liberties with a person in custody.~~]

[~~(6)~~] (4) The offenses referred to in [~~Subsections~~] Subsection (2)(a)(i) and [~~(4)(a)(i)~~] Subsection 76-5-412.2(2)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

[~~(7)~~] (5) (a) It is not a defense to the commission of, or the attempt to commit, the offense of custodial sexual relations under Subsection (2) [~~or custodial sexual misconduct under Subsection (4), or an attempt to commit either of these offenses,~~] if the person in custody is younger than 18 years [~~of age~~] old, that the actor:

(i) mistakenly believed the person in custody to be 18 years [~~of age~~] old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2) [~~or (4)~~].

[~~(8)~~] (6) It is a defense that the commission by the actor of an act under Subsection (2) [~~or (4)~~]is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 95. Section 76-5-412.2 is enacted to read:

76-5-412.2. Custodial sexual misconduct -- Penalties -- Defenses.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-412.

(ii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iii) "Person in custody" means the same as that term is defined in Section 76-5-412.

(iv) "Private provider or contractor" means the same as that term is defined in Section 76-5-412.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits custodial sexual misconduct if:

(i) the actor commits any of the acts under Subsection (2)(b) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection 76-5-412(4); and

(ii) (A) the actor knows that the individual is a person in custody; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a person in custody.

(b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to another individual or with the intent to arouse or gratify the sexual desire of any individual:

(i) touching the anus, buttocks, pubic area, or any part of the genitals of a person in custody;

(ii) touching the breast of a female person in custody; or

(iii) otherwise taking indecent liberties with a person in custody.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), if the person in custody is younger than 18 years old, a violation of Subsection (2) is a third degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) (a) It is not a defense to the commission of, or attempt to commit, the offense described in Subsection (2) if the person in custody is younger than 18 years old, that the actor:

(i) mistakenly believed the person in custody to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the person in custody.

(b) Consent of the person in custody is not a defense to any violation or attempted violation of Subsection (2).

(5) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 96. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations with youth receiving state services -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

[~~(a)~~] (i) "Actor" means:

[~~(i)~~] (A) an individual employed by the Department of Human Services, as created in Section 62A-1-102, or an employee of a private provider or contractor; or

[~~(ii)~~] (B) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

[~~(b)~~] (ii) "Department" means the Department of Human Services created in Section 62A-1-102.

[~~(c)~~] (iii) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

[~~(d)~~] (iv) "Private provider or contractor" means [~~any individual or entity~~] a person that contracts with the:

[~~(i)~~] (A) department to provide services or functions that are part of the operation of the department; or

[~~(ii)~~] (B) juvenile court to provide services or functions that are part of the operation of the juvenile court.

[~~(c)~~] (v) "Youth receiving state services" means an individual:

[~~(i)~~] (A) younger than 18 years old, except as provided under Subsection [~~(1)(c)(ii)~~] (1)(a)(v)(B), who is:

[~~(A)~~] (I) in the custody of the department under Section 80-6-703; or

[~~(B)~~] (II) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

[~~(ii)~~] (B) younger than 21 years old:

[~~(A)~~] (I) who is in the custody of the Division of Juvenile Justice Services, or the Division of Child and Family Services; or

[~~(B)~~] (II) whose case is under the jurisdiction of the juvenile court.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) [~~An~~] Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual relations with a youth receiving state services if:

(i) the actor commits any of the acts [~~under Subsection (3):~~] described in Subsection (2)(b); and

[~~(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and~~]

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a)(i) are:

(i) having sexual intercourse with a youth receiving state services;

(ii) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual; or

(iii) (A) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body; and

(B) with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

[~~(b)~~] (3) (a) A violation of Subsection (2)[~~(a)~~] is a third degree felony[~~, but if~~].

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2)[~~(a)~~] is a second degree felony.

(c) If the act committed under [~~this~~] Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection [~~(2)~~] (3), this Subsection [~~(2)~~] (3) does not prohibit prosecution and sentencing for the more serious offense.

[~~(3) Acts referred to in Subsection (2)(a) are:~~]

[~~(a) having sexual intercourse with a youth receiving state services;~~]

[~~(b) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual, regardless of the sex of either participant; or~~]

[~~(c) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual, regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant.~~]

[~~(4) (a) An actor commits custodial sexual misconduct with a youth receiving state services if the actor commits any of the acts under Subsection (5):~~]

[~~(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and~~]

[~~(ii) (A) the actor knows that the individual is a youth receiving state services; or~~]

[~~(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.~~]

[~~(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth receiving state services is younger than 18 years old, a violation of Subsection (4)(a) is a third degree felony.~~]

[~~(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.~~]

[~~(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:~~]

[~~(a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;~~]

[~~(b) touching the breast of a female youth receiving state services; or~~]

[~~(c) otherwise taking indecent liberties with a youth receiving state services.~~]

[~~(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:~~]

[~~(a) Section 76-5-401, unlawful sexual activity with a minor;~~]

[~~(b) Section 76-5-402, rape;~~]

[~~(c) Section 76-5-402.1, rape of a child;~~]

[~~(d) Section 76-5-402.2, object rape;~~]

[~~(e) Section 76-5-402.3, object rape of a child;~~]

[~~(f) Section 76-5-403, forcible sodomy;~~]

[~~(g) Section 76-5-403.1, sodomy on a child;~~]

[~~(h) Section 76-5-404, forcible sexual abuse;~~]

[~~(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or~~]

[~~(j) Section 76-5-405, aggravated sexual assault.~~]

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

[~~(7)~~] (5) (a) It is not a defense to the commission of, or an attempt to commit, the offense [~~of custodial sexual relations with a youth receiving state services under~~] described in Subsection (2) [~~or custodial sexual misconduct with a youth receiving state services under Subsection (4), or an attempt to commit either of these offenses,~~] if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2) [~~or (4)~~].

[~~(8)~~] (6) It is a defense that the commission by the actor of an act under Subsection (2) [~~or (4)~~] is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 97. Section 76-5-413.2 is enacted to read:

76-5-413.2. Custodial sexual misconduct with a youth receiving state services -- Penalties -- Defenses and limitations.

(1) (a) As used in this section:

(i) "Actor" means the same as that term is defined in Section 76-5-413.

(ii) "Department" means the same as that term is defined in Section 76-5-413.

(iii) "Indecent liberties" means the same as that term is defined in Section 76-5-401.1.

(iv) "Juvenile court" means the same as that term is defined in Section 76-5-413.

(v) "Private provider or contractor" means the same as that term is defined in Section 76-5-413.

(vi) "Youth receiving state services" means the same as that term is defined in Section 76-5-413.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) Under circumstances not amounting to an offense listed in Subsection (4), an actor commits custodial sexual misconduct with a youth receiving state services if:

(i) the actor commits any of the acts described in Subsection (2)(b); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) Acts referred to in Subsection (2)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual:

(i) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(ii) touching the breast of a female youth receiving state services; or

(iii) otherwise taking indecent liberties with a youth receiving state services.

(c) Any touching, even if accomplished through clothing, is sufficient to constitute the relevant element of a violation of Subsection (2)(a).

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), if the youth receiving state services is younger than 18 years old, a violation of Subsection (2) is a third degree felony.

(c) If the act committed under Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (3), this Subsection (3) does not prohibit prosecution and sentencing for the more serious offense.

(4) The offenses referred to in Subsection (2) are:

(a) unlawful sexual activity with a minor, in violation of Section 76-5-401;

(b) rape, in violation of Section 76-5-402;

(c) rape of a child, in violation of Section 76-5-402.1;

(d) object rape, in violation of Section 76-5-402.2;

(e) object rape of a child, in violation of Section 76-5-402.3;

(f) forcible sodomy, in violation of Section 76-5-403;

(g) sodomy on a child, in violation of Section 76-5-403.1;

(h) forcible sexual abuse, in violation of Section 76-5-404;

(i) sexual abuse of a child, in violation of Section 76-5-404.1;

(j) aggravated sexual abuse of a child, in violation of Section 76-5-404.3;

(k) aggravated sexual assault, in violation of Section 76-5-405; or

(l) an attempt to commit an offense listed in Subsections (4)(a) through (4)(k).

(5) (a) It is not a defense to the commission of, or an attempt to commit, the offense described in Subsection (2) if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2).

(6) It is a defense that the commission by the actor of an act under Subsection (2) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 98. Section 76-5-701 is amended to read:

76-5-701. Female genital mutilation definition.

(1) As used in this part, [~~female genital mutilation~~] "female genital mutilation" means any procedure that involves partial or total removal of the external female genitalia, or any harmful procedure to the female genitalia, including:

(a) clitoridectomy;

(b) the partial or total removal of the clitoris or the prepuce;

(c) excision or the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora;

(d) infibulation or the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris;

(e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or

(f) any other actions intended to alter the structure or function of the female genitalia for non-medical reasons.

(2) Female genital mutilation is considered a form of child abuse for mandatory reporting under Section 62A-4a-403.

Section 99. Section 76-5-702 is amended to read:

76-5-702. Prohibition on female genital mutilation -- Exceptions.

[~~(1) It is a second degree felony for any person to:~~]

(1) Terms defined in Sections 76-1-101.5 and 76-5-701 apply to this section.

(2) An actor commits female genital mutilation if the actor:

(a) [~~perform~~] performs a procedure described in Section 76-5-701 on a female under 18 years [~~of age~~] old;

(b) [~~give~~] gives permission for or [~~permit~~] permits a procedure described in Section 76-5-701 to be performed on a female under 18 years [~~of age~~] old; or

(c) [~~remove or cause, permit, or facilitate~~] removes or causes, permits, or facilitates the removal of a female under 18 years [~~of age~~] old from this state for the purpose of facilitating the performance of a procedure described in Section 76-5-701 on the female.

(3) A violation of Subsection (2) is a second degree felony.

[~~(2)~~] (4) It is not a defense to [~~female genital mutilation~~] this section that the conduct described in Section 76-5-701 is required as a matter of religion, custom, ritual, or standard practice, or that the individual on whom it is performed or the individual's parent or guardian consented to the procedure.

[~~(3)~~] (5) A surgical procedure is not a violation of [~~Section 76-5-701~~] this section if the procedure is performed by a physician licensed as a medical professional in the place it is performed and the procedure is:

(a) medically advisable;

(b) necessary to preserve or protect the physical health of the [~~person~~] individual on whom it is performed; or

(c) requested for sex reassignment surgery by the [~~person~~] individual on whom it is performed.

[~~(4) A~~] (6) The license of any medical professional licensed in accordance with Title 58, Chapter 31b, Nurse Practice Act, Title 58, Chapter 67, Utah Medical Practice Act, Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or Title 58, Chapter 70a, Utah Physician Assistant Act, who is convicted of a violation of this section shall[~~ have their license~~] be permanently revoked by the appropriate licensing board.

Section 100. Section 76-5-704 is amended to read:

76-5-704. Civil cause of action.

(1) [~~A victim of~~] An individual upon whom female genital mutilation was performed may bring a civil action in any court of competent jurisdiction for female genital mutilation any time within 10 years of:

(a) the procedure being performed; or

(b) the victim's 18th birthday.

(2) The court may award actual, compensatory, and punitive damages, and any other appropriate relief.

(3) A prevailing plaintiff shall be awarded attorney fees and costs.

(4) Treble damages may be awarded if the plaintiff proves the defendant's acts were willful and malicious.

(5) If a health care provider is charged and prosecuted for a violation of Section 76-5-702, Section 78B-3-416 may not apply to an action against the health care provider under this section.

Section 101. Section 76-5b-103 is amended to read:

76-5b-103. Definitions.

As used in this chapter:

(1) "Child pornography" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a minor engaging in sexually explicit conduct;

(b) the visual depiction is of a minor engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable minor is engaging in sexually explicit conduct.

(2) "Distribute" means the selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, or otherwise transferring or presenting child pornography or vulnerable adult pornography with or without consideration.

(3) "Identifiable minor" means a person:

(a) (i) who was a minor at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a minor was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(4) "Identifiable vulnerable adult" means a person:

(a) (i) who was a vulnerable adult at the time the visual depiction was created, adapted, or modified; or

(ii) whose image as a vulnerable adult was used in creating, adapting, or modifying the visual depiction; and

(b) who is recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a birthmark, or other recognizable feature.

(5) "Lacks capacity to consent" is as defined in [~~Subsection 76-5-111(1)~~] Section 76-5-111.4.

(6) "Live performance" means any act, play, dance, pantomime, song, or other activity performed by live actors in person.

(7) "Minor" means a person younger than 18 years [~~of age~~] old.

(8) "Nudity or partial nudity" means any state of dress or undress in which the human genitals, pubic region, buttocks, or the female breast, at a point below the top of the areola, is less than completely and opaquely covered.

(9) "Produce" means:

(a) the photographing, filming, taping, directing, producing, creating, designing, or composing of child pornography or vulnerable adult pornography; or

(b) the securing or hiring of persons to engage in the photographing, filming, taping, directing, producing, creating, designing, or composing of child pornography or vulnerable adult pornography.

(10) "Sexually explicit conduct" means actual or simulated:

(a) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(b) masturbation;

(c) bestiality;

(d) sadistic or masochistic activities;

(e) lascivious exhibition of the genitals, pubic region, buttocks, or female breast of any person;

(f) the visual depiction of nudity or partial nudity for the purpose of causing sexual arousal of any person;

(g) the fondling or touching of the genitals, pubic region, buttocks, or female breast; or

(h) the explicit representation of the defecation or urination functions.

(11) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct which duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(12) "Vulnerable adult" is as defined in Subsection 76-5-111(1).

(13) "Vulnerable adult pornography" means any visual depiction, including any live performance, photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

(a) the production of the visual depiction involves the use of a vulnerable adult engaging in sexually explicit conduct;

(b) the visual depiction is of a vulnerable adult engaging in sexually explicit conduct; or

(c) the visual depiction has been created, adapted, or modified to appear that an identifiable vulnerable adult is engaging in sexually explicit conduct.

Section 102. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person is guilty of~~] (2) An actor commits sexual exploitation of a minor:

(a) when the [~~person~~] actor:

(i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or

(ii) intentionally distributes or views child pornography; or

(b) if the [~~person~~] actor is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection [~~(1)~~] (2)(a).

[~~(2) (a) Except as provided in Subsection (2)(b), sexual exploitation of a minor~~]

(3) (a) (i) A violation of Subsection (2) is a second degree felony.

[~~(b) A violation of Subsection (1)~~] (ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2) for knowingly producing child pornography is a first degree felony if the [~~person~~] actor produces original child pornography depicting a first degree felony that involves:

[~~(i)~~] (A) the [~~person~~] actor or another person engaging in conduct with the minor that is a violation of:

[~~(A)~~] (I) Section 76-5-402.1, rape of a child;

[~~(B)~~] (II) Section 76-5-402.3, object rape of a child;

[~~(C)~~] (III) Section 76-5-403.1, sodomy on a child; or

[~~(D)~~] (IV) Section [~~76-5-404.1~~] 76-5-404.3, aggravated sexual abuse of a child; or

[~~(ii)~~] (B) the minor being physically abused, as defined in Section 80-1-102.

[~~(3)~~] (b) It is a separate offense under this section:

[~~(a)~~] (i) for each minor depicted in the child pornography; and

[~~(b)~~] (ii) for each time the same minor is depicted in different child pornography.

(4) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) For a charge of violating this section for knowingly possessing or intentionally viewing child pornography, it is an affirmative defense that:

(i) the defendant:

(A) did not solicit the child pornography from the minor depicted in the child pornography;

(B) is not more than two years older than the minor depicted in the child pornography; and

(C) upon request of a law enforcement agent or the minor depicted in the child pornography, removes from an electronic device or destroys the child pornography and all copies of the child pornography in the defendant's possession; and

(ii) the child pornography does not depict an offense under [~~Title 76,~~] Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 103. Section 76-5b-202 is amended to read:

76-5b-202. Sexual exploitation of a vulnerable adult -- Offenses.

(1) Terms defined in Section 76-1-101.5 apply to this section.

[~~(1) A person is guilty of~~] (2) An actor commits sexual exploitation of a vulnerable adult if the [~~person~~] actor:

(a) (i) (A) knowingly produces, possesses, or possesses with intent to distribute material that the [~~person~~] actor knows is vulnerable adult pornography; or

(B) intentionally distributes or views material that the [~~person~~] actor knows is vulnerable adult pornography; and

(ii) the vulnerable adult who appears in, or is depicted in, the vulnerable adult pornography lacks capacity to consent to the conduct described in Subsection [~~(1)~~] (2)(a); or

(b) is a vulnerable adult's legal guardian and knowingly consents to, or permits the vulnerable adult to be, sexually exploited as described in Subsection [~~(1)~~] (2)(a).

[~~(2) Sexual exploitation of a vulnerable adult~~] (3) (a) A violation of Subsection (2) is a third degree felony.

[~~(3)~~] (b) It is a separate offense under this section:

[~~(a)~~] (i) for each vulnerable adult depicted in the vulnerable adult pornography; and

[~~(b)~~] (ii) for each time the same vulnerable adult is depicted in different vulnerable adult pornography.

(4) It is an affirmative defense to a charge of violating this section that no vulnerable adult was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(5) In proving a violation of this section in relation to an identifiable vulnerable adult, proof of the actual identity of the identifiable vulnerable adult is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) any entity or an employee, director, officer, or agent of an entity, when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under any federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of vulnerable adult pornography on any tangible or intangible property, or of detecting and reporting the presence of vulnerable adult pornography on the property; or

(b) any law enforcement officer acting within the scope of a criminal investigation.

Section 104. Section 76-5b-203 is amended to read:

76-5b-203. Distribution of an intimate image -- Penalty.

(1) (a) As used in this section:

[~~(a)~~] (i) "Distribute" means selling, exhibiting, displaying, wholesaling, retailing, providing, giving, granting admission to, providing access to, or otherwise transferring or presenting an image to another individual, with or without consideration.

[~~(b)~~] (ii) "Intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that depicts:

[~~(i)~~] (A) exposed human male or female genitals or pubic area, with less than an opaque covering;

[~~(ii)~~] (B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

[~~(iii)~~] (C) the individual engaged in any sexually explicit conduct.

[~~(c)~~] (iii) "Sexually explicit conduct" means actual or simulated:

[~~(i)~~] (A) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

[~~(ii)~~] (B) masturbation;

[~~(iii)~~] (C) bestiality;

[~~(iv)~~] (D) sadistic or masochistic activities;

[~~(v)~~] (E) exhibition of the genitals, pubic region, buttocks, or female breast of any individual;

[~~(vi)~~] (F) visual depiction of nudity or partial nudity;

[~~(vii)~~] (G) fondling or touching of the genitals, pubic region, buttocks, or female breast; or

[~~(viii)~~] (H) explicit representation of the defecation or urination functions.

[~~(d)~~] (iv) "Simulated sexually explicit conduct" means a feigned or pretended act of sexually explicit conduct that duplicates, within the perception of an average person, the appearance of an actual act of sexually explicit conduct.

(v) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of distribution of an intimate image if:

(i) the actor knowingly or intentionally distributes to a third party, or knowingly duplicates or copies an intimate image of an individual who is 18 years old or older and knows or should know that the distribution, duplication or copying would cause a reasonable person to suffer emotional distress or harm;

(ii) the actor has not received consent from the individual depicted in the image to distribute the intimate image;

(iii) the intimate image was created by or provided to the actor under circumstances in which the individual depicted in the image has a reasonable expectation of privacy; and

(iv) except as provided in Subsection (2)(b), actual emotional distress or harm is caused to the individual depicted in the image as a result of the distribution.

(b) Subsection (2)(a)(iv) is not an element of the offense described in Subsection (2)(a) if:

(i) the individual depicted in the intimate image was the victim of a crime;

(ii) the intimate image was provided to law enforcement as part of an investigation or prosecution of a crime committed against the victim;

(iii) the intimate image was distributed without a legitimate law enforcement or investigative purpose by an individual who had access to the intimate image due to the individual's association with the investigation or prosecution described in Subsection (2)(b)(ii); and

(iv) the victim is incapacitated or deceased.

(3) (a) A violation of Subsection (2) is a class A misdemeanor.

(b) Notwithstanding Subsection (3)(a), a violation of Subsection (2) is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

[~~(3)~~] (4) This section does not apply to:

(a) except as provided in Section 76-5b-203.5:

(i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) an intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) an intimate image that is portrayed in a lawful commercial setting; or

(d) an intimate image that is related to a matter of public concern or interest.

[~~(4)~~] (5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of an intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of an intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the intimate image; and

(iii) the hosting company does not knowingly receive from or through a person who distributes the intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

[~~(5) (a) Distribution of an intimate image is a class A misdemeanor except under Subsection (5)(b).~~]

[~~(b) Distribution of an intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.~~]

Section 105. Section 76-5b-203.5 is amended to read:

76-5b-203.5. Misuse of intimate image during a criminal action.

(1) (a) As used in this section[~~, "intimate image" has the same meaning as~~]:

(i) "Criminal action" means the same as that term is defined in Section 77-1-3.

(ii) "Intimate image" means the same as that term is defined in Section 76-5b-203.

(b) Terms defined in Section 76-1-101.5 apply to this section.

[~~(2) Any actor who~~] (2) An actor commits misuse of an intimate image during a criminal action if the actor:

(a) obtains access to an intimate image in the course of a criminal action [~~as defined in Subsection 77-1-3(1) may not~~]; and

(b) intentionally [~~display, duplicate, copy, or share~~] displays, duplicates, copies, or shares the intimate image, unless:

[~~(a)~~] (i) displaying, duplicating, copying, or sharing the intimate image is done solely for the purpose of the adjudication, defense, prosecution or investigation of a criminal matter involving the intimate image;

[~~(b)~~] (ii) each individual who is the subject of the intimate image gives written permission to display, duplicate, copy, or share the intimate image; or

[~~(c)~~] (iii) the intimate image was not created by or provided to the actor under circumstances in which the depicted individual has a reasonable expectation of privacy.

(3) [~~An actor who violates~~] A violation of Subsection (2) is [~~guilty of~~]:

(a) a class A misdemeanor for a first offense; or

(b) a third degree felony for each subsequent offense.

(4) Nothing in this section precludes an agency that employs an individual who is involved in a criminal action from establishing internal policies for an individual's violation of this section.

Section 106. Section 76-5b-204 is amended to read:

76-5b-204. Sexual extortion -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Adult" means an individual 18 years [~~of age~~] old or older.

[~~(b)~~] (ii) "Child" means any individual under [~~the age of~~] 18 years old.

[~~(c)~~] (iii) "Distribute" means the same as that term is defined in Section 76-5b-203.

[~~(d)~~] (iv) "Intimate image" means the same as that term is defined in Section 76-5b-203.

[~~(e)~~] (v) "Position of special trust" means the same as that term is defined in Section [~~76-5-401.1~~] 76-5-404.1.

[~~(f)~~] (vi) "Sexually explicit conduct" means the same as that term is defined in [~~Subsection~~] Section 76-5b-203[~~(1)(e)~~].

[~~(g)~~] (vii) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(h)~~] (viii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An [~~individual~~] actor who is 18 years old or older commits the offense of sexual extortion if the [~~individual~~] actor:

[~~(a)~~] (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct, communicates in person or by electronic means a threat:

[~~(i)~~] (A) to the victim's person, property, or reputation; or

[~~(ii)~~] (B) to distribute an intimate image or video of the victim; or

[~~(b)~~] (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

[~~(i)~~] (A) to the victim's person, property, or reputation; or

[~~(ii)~~] (B) to distribute an intimate image or video of the victim.

(b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(i) the victim is a child or vulnerable adult;

(ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(iii) the actor caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(iv) the actor was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;

(v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;

(vi) the actor occupied a position of special trust in relation to the victim;

(vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.

(3) (a) (i) [~~Sexual extortion~~] A violation of Subsection (2)(a) is a third degree felony.

[~~(b) Aggravated sexual extortion of~~] (ii) A violation of Subsection (2)(b) in which the victim is an adult is a second degree felony.

[~~(c) Aggravated sexual extortion of~~] (iii) A violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is a first degree felony.

[~~(4) An individual commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2), any of the following circumstances have been charged and admitted or found true in the action for the offense:~~]

[~~(a) the victim is a child or vulnerable adult;~~]

[~~(b) the offense was committed by the use of a dangerous weapon, as defined in Section 76-1-601, or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;~~]

[~~(c) the individual caused bodily injury or severe psychological injury to the victim during or as a result of the offense;~~]

[~~(d) the individual was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;~~]

[~~(e) the individual, before sentencing for the offense, was previously convicted of any sexual offense;~~]

[~~(f) the individual occupied a position of special trust in relation to the victim;~~]

[~~(g) the individual encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or~~]

[~~(h) the individual caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.~~]

[~~(5)~~] (b) An [~~individual~~] actor commits a separate offense under this section:

[~~(a)~~] (i) for each victim the [~~individual~~] actor subjects to the offense outlined in Subsection (2)(a); and

[~~(b)~~] (ii) for each separate time the [~~individual~~] actor subjects a victim to the offense outlined in Subsection (2)(a).

[~~(6)~~] (c) This section does not preclude an [~~individual~~] actor from being charged and convicted of a separate criminal act if the [~~individual~~] actor commits the separate criminal act while the [~~individual~~] actor violates or attempts to violate this section.

[~~(7)~~] (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.

Section 107. Section 76-5b-205 is amended to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

(1) (a) As used in this section:

[~~(a)~~] (i) "Child" means an individual under [~~the age of~~] 18 years old.

[~~(b)~~] (ii) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

[~~(i)~~] (A) exposed human male or female genitals or pubic area, with less than an opaque covering;

[~~(ii)~~] (B) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

[~~(iii)~~] (C) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

[~~(c)~~] (iii) "Distribute" means the same as that term is defined in Section 76-5b-203.

[~~(d)~~] (iv) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(e)~~] (v) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(vi) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

[~~(a)~~] (i) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

[~~(b)~~] (ii) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

[~~(3)~~] (b) An [~~individual~~] actor commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2)(a), the individual depicted in the counterfeit intimate image is a child.

(3) (a) (i) A violation of Subsection (2)(a) that is knowing or intentional is a class A misdemeanor.

(ii) Notwithstanding Subsection (3)(a)(i), a violation of Subsection (2)(a) that is knowing or intentional is a third degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(b) (i) A violation of Subsection (2)(b) that is knowing or intentional is a third degree felony.

(ii) Notwithstanding Subsection (3)(b)(i), a violation of Subsection (2)(b) that is knowing or intentional is a second degree felony on a second or subsequent conviction for an offense under this section that does not arise from a single criminal episode.

(c) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor.

(4) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

[~~(6) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor.~~]

[~~(7) (a) Except as provided in Subsection (7)(b), knowing or intentional unlawful distribution of a counterfeit intimate image is a class A misdemeanor.~~]

[~~(b) Knowing or intentional unlawful distribution of a counterfeit intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.~~]

[~~(c) Except as provided in Subsection (7)(d), knowing or intentional aggravated unlawful~~

~~distribution of a counterfeit intimate image is a third degree felony.~~]

[~~(d) Knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a second degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76–1–401.~~]

Section 108. Section 76-6-102 is amended to read:

76-6-102. Arson.

(1) A person is guilty of arson if, under circumstances not amounting to aggravated arson, the person by means of fire or explosives unlawfully and intentionally damages:

(a) any property with intention of defrauding an insurer; or

(b) the property of another.

(2) A violation of Subsection (1)(a) is a second degree felony.

(3) A violation of Subsection (1)(b) is a second degree felony if:

(a) the damage caused is or exceeds $5,000 in value;

(b) as a proximate result of the fire or explosion, any person not a participant in the offense suffers serious bodily injury as defined in Section [~~76–1–601~~] 76–1–101.5;

(c) (i) the damage caused is or exceeds $1,500 but is less than $5,000 in value; and

(ii) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76–6–103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (1)(b).

(4) A violation of Subsection (1)(b) is a third degree felony if:

(a) the damage caused is or exceeds $1,500 but is less than $5,000 in value;

(b) as a proximate result of the fire or explosion, any person not a participant in the offense suffers substantial bodily injury as defined in Section [~~76–1–601~~] 76–1–101.5;

(c) the fire or explosion endangers human life; or

(d) (i) the damage caused is or exceeds $500 but is less than $1,500 in value; and

(ii) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76–6–103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (1)(b).

(5) A violation of Subsection (1)(b) is a class A misdemeanor if the damage caused:

(a) is or exceeds $500 but is less than $1,500 in value; or

(b) (i) is less than $500; and

(ii) at the time of the offense the actor has been previously convicted of a violation of this section or Section 76–6–103 regarding aggravated arson within 10 years prior to the commission of the violation of Subsection (1)(b).

(6) A violation of Subsection (1)(b) is a class B misdemeanor if the damage caused is less than $500.

Section 109. Section 76-6-203 is amended to read:

76-6-203. Aggravated burglary.

(1) A person is guilty of aggravated burglary if in attempting, committing, or fleeing from a burglary the actor or another participant in the crime:

(a) causes bodily injury to any person who is not a participant in the crime;

(b) uses or threatens the immediate use of a dangerous weapon against any person who is not a participant in the crime; or

(c) possesses or attempts to use any explosive or dangerous weapon.

(2) Aggravated burglary is a first degree felony.

(3) As used in this section, "dangerous weapon" has the same definition as under Section [~~76–1–601~~] 76–1–101.5.

Section 110. Section 76-6-302 is amended to read:

76-6-302. Aggravated robbery.

(1) A person commits aggravated robbery if in the course of committing robbery, he:

(a) uses or threatens to use a dangerous weapon as defined in Section [~~76–1–601~~] 76–1–101.5;

(b) causes serious bodily injury upon another; or

(c) takes or attempts to take an operable motor vehicle.

(2) Aggravated robbery is a first degree felony.

(3) For the purposes of this part, an act shall be considered to be "in the course of committing a robbery" if it occurs in an attempt to commit, during the commission of, or in the immediate flight after the attempt or commission of a robbery.

Section 111. Section 76-7-101 is amended to read:

76-7-101. Bigamy -- Penalty -- Defense.

(1) An individual is guilty of bigamy if:

(a) the individual purports to marry another individual; and

(b) knows or reasonably should know that one or both of the individuals described in Subsection (1)(a) are legally married to another individual.

(2) An individual who violates Subsection (1) is guilty of an infraction.

(3) An individual is guilty of a third degree felony if the individual induces bigamy:

(a) under fraudulent or false pretenses; or

(b) by threat or coercion.

(4) An individual is guilty of a second degree felony if the individual:

(a) cohabitates with another individual with whom the individual is engaged in bigamy as described in Subsection (1); and

(b) in furtherance of the conduct described in Subsection (4)(a), commits a felony offense, or for Subsection (4)(b)[~~(vii)~~](xiii), a misdemeanor offense, in violation of one or more of the following:

(i) Section 76-5-109, child abuse;

(ii) Section 76-5-109.2, aggravated child abuse;

(iii) Section 76-5-109.3, child abandonment;

(iv) Section 76-5-111, abuse of a vulnerable adult;

(v) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(vi) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(vii) Section 76-5-111.4, financial exploitation of a vulnerable adult;

[~~(i)~~] (viii) Chapter 5, Part 2, Criminal Homicide;

(ix) Section 76-5-208, child abuse homicide;

[~~(ii)~~] (x) Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

[~~(iii)~~] (xi) Chapter 5, Part 4, Sexual Offenses;

[~~(iv) Section 76-5-109, child abuse -- child abandonment;~~]

[~~(v) Section 76-5-111, abuse, neglect, or exploitation of a vulnerable adult;~~]

[~~(vi) Section 76-5-209, child abuse homicide;~~]

[~~(vii) Section 76-9-702.1, sexual battery;~~]

[~~(viii)~~] (xii) Section 76-7-201, criminal nonsupport;

(xiii) Section 76-9-702.1, sexual battery;

[~~(ix)~~] (xiv) Title 77, Chapter 36, Cohabitant Abuse Procedures Act; or

[~~(x)~~] (xv) Title 78B, Chapter 7, Part 8, Criminal Protective Orders.

(5) It is a defense to prosecution under Subsection (2) that:

(a) the individual ceased the practice of bigamy as described in Subsection (1) under reasonable fear of coercion or bodily harm;

(b) the individual entered the practice of bigamy, as described in Subsection (1), as a minor and ceased the practice of bigamy at any time after the individual entered the practice of bigamy; or

(c) law enforcement discovers that the individual practices bigamy, as described in Subsection (1), as a result of the individual's efforts to protect the safety and welfare of another individual.

Section 112. Section 76-7-305 is amended to read:

76-7-305. Informed consent requirements for abortion -- 72-hour wait mandatory -- Exceptions.

(1) A person may not perform an abortion, unless, before performing the abortion, the physician who will perform the abortion obtains from the woman on whom the abortion is to be performed a voluntary and informed written consent that is consistent with:

(a) Section 8.08 of the American Medical Association's Code of Medical Ethics, Current Opinions; and

(b) the provisions of this section.

(2) Except as provided in Subsection (8), consent to an abortion is voluntary and informed only if, at least 72 hours before the abortion:

(a) a staff member of an abortion clinic or hospital, physician, registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant presents the information module to the pregnant woman;

(b) the pregnant woman views the entire information module and presents evidence to the individual described in Subsection (2)(a) that the pregnant woman viewed the entire information module;

(c) after receiving the evidence described in Subsection (2)(b), the individual described in Subsection (2)(a):

(i) documents that the pregnant woman viewed the entire information module;

(ii) gives the pregnant woman, upon her request, a copy of the documentation described in Subsection (2)(c)(i); and

(iii) provides a copy of the statement described in Subsection (2)(c)(i) to the physician who is to perform the abortion, upon request of that physician or the pregnant woman;

(d) after the pregnant woman views the entire information module, the physician who is to perform the abortion, the referring physician, a physician, a registered nurse, nurse practitioner, advanced practice registered nurse, certified nurse midwife, genetic counselor, or physician's assistant, in a face-to-face consultation in any location in the state, orally informs the woman of:

(i) the nature of the proposed abortion procedure;

(ii) specifically how the procedure described in Subsection (2)(d)(i) will affect the fetus;

(iii) the risks and alternatives to the abortion procedure or treatment;

(iv) the options and consequences of aborting a medication-induced abortion, if the proposed abortion procedure is a medication-induced abortion;

(v) the probable gestational age and a description of the development of the unborn child at the time the abortion would be performed;

(vi) the medical risks associated with carrying her child to term;

(vii) the right to view an ultrasound of the unborn child, at no expense to the pregnant woman, upon her request; and

(viii) when the result of a prenatal screening or diagnostic test indicates that the unborn child has or may have Down syndrome, the Department of Health website containing the information described in Section 26-10-14, including the information on the informational support sheet; and

(e) after the pregnant woman views the entire information module, a staff member of the abortion clinic or hospital provides to the pregnant woman:

(i) on a document that the pregnant woman may take home:

(A) the address for the department's website described in Section 76-7-305.5; and

(B) a statement that the woman may request, from a staff member of the abortion clinic or hospital where the woman viewed the information module, a printed copy of the material on the department's website;

(ii) a printed copy of the material on the department's website described in Section 76-7-305.5, if requested by the pregnant woman; and

(iii) a copy of the form described in Subsection 26-21-33(3)(a)(i) regarding the disposition of the aborted fetus.

(3) Before performing an abortion, the physician who is to perform the abortion shall:

(a) in a face-to-face consultation, provide the information described in Subsection (2)(d), unless the attending physician or referring physician is the individual who provided the information required under Subsection (2)(d); and

(b) (i) obtain from the pregnant woman a written certification that the information required to be provided under Subsection (2) and this Subsection (3) was provided in accordance with the requirements of Subsection (2) and this Subsection (3);

(ii) obtain a copy of the statement described in Subsection (2)(c)(i); and

(iii) ensure that:

(A) the woman has received the information described in Subsections 26-21-33(3) and (4); and

(B) if the woman has a preference for the disposition of the aborted fetus, the woman has informed the health care facility of the woman's decision regarding the disposition of the aborted fetus.

(4) When a serious medical emergency compels the performance of an abortion, the physician shall inform the woman prior to the abortion, if possible, of the medical indications supporting the physician's judgment that an abortion is necessary.

(5) If an ultrasound is performed on a woman before an abortion is performed, the individual who performs the ultrasound, or another qualified individual, shall:

(a) inform the woman that the ultrasound images will be simultaneously displayed in a manner to permit her to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(b) simultaneously display the ultrasound images in order to permit the woman to:

(i) view the images, if she chooses to view the images; or

(ii) not view the images, if she chooses not to view the images;

(c) inform the woman that, if she desires, the person performing the ultrasound, or another qualified person shall provide a detailed description of the ultrasound images, including:

(i) the dimensions of the unborn child;

(ii) the presence of cardiac activity in the unborn child, if present and viewable; and

(iii) the presence of external body parts or internal organs, if present and viewable; and

(d) provide the detailed description described in Subsection (5)(c), if the woman requests it.

(6) The information described in Subsections (2), (3), and (5) is not required to be provided to a pregnant woman under this section if the abortion is performed for a reason described in:

(a) Subsection 76-7-302(3)(b)(i), if the treating physician and one other physician concur, in writing, that the abortion is necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed; or

(b) Subsection 76-7-302(3)(b)(ii).

(7) In addition to the criminal penalties described in this part, a physician who violates the provisions of this section:

(a) is guilty of unprofessional conduct as defined in Section 58-67-102 or 58-68-102; and

(b) shall be subject to:

(i) suspension or revocation of the physician's license for the practice of medicine and surgery in accordance with Section 58-67-401 or 58-68-401; and

(ii) administrative penalties in accordance with Section 58-67-402 or 58-68-402.

(8) A physician is not guilty of violating this section for failure to furnish any of the information described in Subsection (2) or (3), or for failing to comply with Subsection (5), if:

(a) the physician can demonstrate by a preponderance of the evidence that the physician reasonably believed that furnishing the information would have resulted in a severely adverse effect on the physical or mental health of the pregnant woman;

(b) in the physician's professional judgment, the abortion was necessary to avert:

(i) the death of the woman on whom the abortion is performed; or

(ii) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(c) the pregnancy was the result of rape or rape of a child, as [~~defined~~] described in Sections 76-5-402 and 76-5-402.1;

(d) the pregnancy was the result of incest, as defined in Subsection 76-5-406(2)(j) and Section 76-7-102; or

(e) at the time of the abortion, the pregnant woman was 14 years [~~of age~~] old or younger.

(9) A physician who complies with the provisions of this section and Section 76-7-304.5 may not be held civilly liable to the physician's patient for failure to obtain informed consent under Section 78B-3-406.

(10) (a) The department shall provide an ultrasound, in accordance with the provisions of Subsection (5)(b), at no expense to the pregnant woman.

(b) A local health department shall refer a pregnant woman who requests an ultrasound described in Subsection (10)(a) to the department.

(11) A physician is not guilty of violating this section if:

(a) the information described in Subsection (2) is provided less than 72 hours before the physician performs the abortion; and

(b) in the physician's professional judgment, the abortion was necessary in a case where:

(i) a ruptured membrane, documented by the attending or referring physician, will cause a serious infection; or

(ii) a serious infection, documented by the attending or referring physician, will cause a ruptured membrane.

Section 113. Section 76-8-309 is amended to read:

76-8-309. Escape and aggravated escape -- Consecutive sentences -- Definitions.

(1) (a) (i) A prisoner is guilty of escape if the prisoner leaves official custody without lawful authorization.

(ii) If a prisoner obtains authorization to leave official custody by means of deceit, fraud, or other artifice, the prisoner has not received lawful authorization.

(b) Escape under this Subsection (1) is a third degree felony except as provided under Subsection (1)(c).

(c) Escape under this Subsection (1) is a second degree felony if:

(i) the actor escapes from a state prison; or

(ii) (A) the actor is convicted as a party to the offense, as defined in Section 76-2-202; and

(B) the actor is an employee at or a volunteer of a law enforcement agency, the Department of Corrections, a county or district attorney's office, the office of the state attorney general, the Board of Pardons and Parole, or the courts, the Judicial Council, the Administrative Office of the Courts, or similar administrative units in the judicial branch of government.

(2) (a) A prisoner is guilty of aggravated escape if in the commission of an escape the prisoner uses a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5, or causes serious bodily injury to another.

(b) Aggravated escape is a first degree felony.

(3) Any prison term imposed upon a prisoner for escape under this section shall run consecutively with any other sentence.

(4) For the purposes of this section:

(a) "Confinement" means the prisoner is:

(i) housed in a state prison or any other facility pursuant to a contract with the Utah Department of Corrections after being sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole;

(ii) lawfully detained in a county jail prior to trial or sentencing or housed in a county jail after sentencing and commitment and the sentence has not been terminated or voided or the prisoner is not on parole; or

(iii) lawfully detained following arrest.

(b) "Escape" is considered to be a continuing activity commencing with the conception of the design to escape and continuing until the escaping prisoner is returned to official custody or the prisoner's attempt to escape is thwarted or abandoned.

(c) "Official custody" means arrest, whether with or without warrant, or confinement in a state prison, jail, institution for secure confinement of juvenile offenders, or any confinement pursuant to an order of the court or sentenced and committed and the sentence has not been terminated or voided or the prisoner is not on parole. A person is considered confined in the state prison if the person:

(i) without authority fails to return to the person's place of confinement from work release or home visit by the time designated for return;

(ii) is in prehearing custody after arrest for parole violation;

(iii) is being housed in a county jail, after felony commitment, pursuant to a contract with the Department of Corrections; or

(iv) is being transported as a prisoner in the state prison by correctional officers.

(d) "Prisoner" means any person who is in official custody and includes persons under trusty status.

(e) "Volunteer" means any person who donates service without pay or other compensation except expenses actually and reasonably incurred as approved by the supervising agency.

Section 114. Section 76-8-316 is amended to read:

76-8-316. Influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole or acting against a family member of a judge or a member of the Board of Pardons and Parole.

(1) As used in this section:

(a) "Board member" means an appointed member of the Board of Pardons and Parole.

(b) "Family member" means parents, spouse, surviving spouse, children, and siblings of a judge or board member.

(c) "Judge" means judges of all courts of record and courts not of record and court commissioners.

(2) A person is guilty of a third degree felony if the person threatens to assault, kidnap, or murder a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(3) A person is guilty of a second degree felony if the person commits an assault on a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties, or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(4) A person is guilty of a first degree felony if the person commits aggravated assault on a judge, a family member of a judge, a board member, or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(5) A person is guilty of a first degree felony if the person commits attempted murder on a family member of a judge or a family member of a board member with the intent to impede, intimidate, or interfere with the judge or board member while engaged in the performance of the judge's or board member's official duties or with the intent to retaliate against the judge or board member on account of the performance of those official duties.

(6) A member of the Board of Pardons and Parole is an executive officer for purposes of Subsection 76-5-202[~~(1)(m)~~](2)(a)(xiii).

Section 115. Section 76-8-318 is amended to read:

76-8-318. Assault or threat of violence against child welfare worker -- Penalty.

(1) As used in this section:

(a) "Assault" means the same as that term is defined in Section 76-5-102.

(b) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section 62A-4a-103.

(c) "Threat of violence" means the same as that term is defined in Section 76-5-107.

(2) An individual who commits an assault or threat of violence against a child welfare worker is guilty of a class A misdemeanor if:

(a) the individual is not:

(i) a prisoner or an individual detained under Section 77-7-15; or

(ii) a minor in the custody of or receiving services from a division within the Department of Human Services;

(b) the individual knew that the victim was a child welfare worker; and

(c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence.

(3) An individual who violates this section is guilty of a third degree felony if the individual:

(a) causes substantial bodily injury, as defined in Section [~~76-1-601~~] 76-1-101.5; and

(b) acts intentionally or knowingly.

Section 116. Section 76-9-101 is amended to read:

76-9-101. Riot -- Penalties.

(1) An individual is guilty of riot if the individual:

(a) simultaneously with two or more other individuals engages in violent conduct, knowingly or recklessly creating a substantial risk of causing public alarm;

(b) assembles with two or more other individuals with the purpose of engaging, soon thereafter, in violent conduct, knowing, that two or more other individuals in the assembly have the same purpose; or

(c) assembles with two or more other individuals with the purpose of committing an offense against a person, or the property of another person who the individual supposes to be guilty of a violation of law, believing that two or more other individuals in the assembly have the same purpose.

(2) Any individual who refuses to comply with a lawful order to withdraw prior to, during, or immediately following a violation of Subsection (1) is guilty of riot. It is no defense to a prosecution under this Subsection (2) that withdrawal must take place over private property; provided, however, that an individual who withdraws in compliance with an order to withdraw may not incur criminal or civil liability by virtue of acts reasonably necessary to accomplish the withdrawal.

(3) Except as provided in Subsection (4), riot is a class B misdemeanor.

(4) Riot is a third degree felony if, in the course of the conduct:

(a) the individual causes substantial or serious bodily injury;

(b) the individual causes substantial property damage or commits arson; or

(c) the individual was in possession of a dangerous weapon as defined in Section [~~76-1-601~~] 76-1-101.5.

(5) An individual arrested for a violation of Subsection (4) may not be released from custody before the individual appears before a magistrate or a judge.

(6) The court shall order a defendant convicted under Subsection (4) to pay restitution in accordance with Section 77-38b-205.

Section 117. Section 76-9-702 is amended to read:

76-9-702. Lewdness.

(1) A person is guilty of lewdness if the person under circumstances not amounting to rape, object rape, forcible sodomy, forcible sexual abuse, aggravated sexual assault, sexual abuse of a minor, unlawful sexual conduct with a 16- or 17-year-old, custodial sexual relations [~~or misconduct~~] under Section 76-5-412 [~~or~~], custodial sexual misconduct under Section 76-5-412.2, custodial sexual relations with youth receiving state services under Section 76-5-413, custodial sexual misconduct with youth receiving state services under Section 76-5-413.2, or an attempt to commit any of these offenses, performs any of the following acts in a public place or under circumstances which the person should know will likely cause affront or alarm to, on, or in the presence of another who is 14 years [~~of age~~] old or older:

(a) an act of sexual intercourse or sodomy;

(b) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area;

(c) masturbates; or

(d) any other act of lewdness.

(2) (a) A person convicted the first or second time of a violation of Subsection (1) is guilty of a class B misdemeanor, except under Subsection (2)(b).

(b) A person convicted of a violation of Subsection (1) is guilty of a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7;

(ii) the person has been previously convicted two or more times of violating Subsection (1); or

(iii) the person has previously been convicted of a violation of Subsection (1) and has also previously been convicted of a violation of Section 76-9-702.5.

(c) (i) For purposes of this Subsection (2) and Subsection 77-41-102(17), a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction.

(ii) This Subsection (2)(c) also applies if the charge under this Subsection (2) has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) A woman's breast feeding, including breast feeding in any location where the woman otherwise may rightfully be, does not under any circumstance constitute a lewd act, irrespective of whether or not the breast is covered during or incidental to feeding.

Section 118. Section 76-9-702.1 is amended to read:

76-9-702.1. Sexual battery.

(1) A person is guilty of sexual battery if the person, under circumstances not amounting to an offense under Subsection (2), intentionally touches, whether or not through clothing, the anus, buttocks, or any part of the genitals of another person, or the breast of a female person, and the actor's conduct is under circumstances the actor knows or should know will likely cause affront or alarm to the person touched.

(2) Offenses referred to in Subsection (1) are:

(a) rape, Section 76-5-402;

(b) rape of a child, Section 76-5-402.1;

(c) object rape, Section 76-5-402.2;

(d) object rape of a child, Section 76-5-402.3;

(e) forcible sodomy, Subsection 76-5-403(2);

(f) sodomy on a child, Section 76-5-403.1;

(g) forcible sexual abuse, Section 76-5-404;

(h) sexual abuse of a child, [~~Subsection 76–5–404.1(2)~~] Section 76–5–404.1;

(i) aggravated sexual abuse of a child, [~~Subsection 76–5–404.1(4)~~] Section 76–5–404.3;

(j) aggravated sexual assault, Section 76–5–405; and

(k) an attempt to commit any offense under this Subsection (2).

(3) Sexual battery is a class A misdemeanor.

(4) For purposes of Subsection 77–41–102(17) only, a plea of guilty or nolo contendere to a charge under this section that is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction. This Subsection (4) also applies if the charge under this section has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

Section 119. Section 76-9-804 is amended to read:

76-9-804. Convicted criminal gang offender -- Prohibition.

(1) A person who has been convicted of a crime for which the penalty was enhanced under Section 76–3–203.1 may not, except where a greater penalty is applicable under this title, possess a dangerous weapon as defined in either Section [~~76–1–601~~] 76–1–101.5 or 76–10–501, ammunition, or a facsimile of a firearm within five years after the conviction.

(2) A violation of Subsection (1) is a class A misdemeanor.

Section 120. Section 76-9-1003 is amended to read:

76-9-1003. Detention or arrest -- Determination of immigration status.

(1) (a) Except as provided in Subsection (1)(b), (c), or (d), any law enforcement officer who, acting in the enforcement of any state law or local ordinance, conducts any lawful stop, detention, or arrest of a person as specified in Subsection (1)(a)(i) or (ii), and the person is unable to provide to the law enforcement officer a document listed in Subsection 76–9–1004(1) and the officer is otherwise unable to verify the identity of the person, the officer:

(i) shall request verification of the citizenship or the immigration status of the person under 8 U.S.C. Sec. 1373(c), except as allowed under Subsection (1)(b), (c), or (d), if the person is arrested for an alleged offense that is a class A misdemeanor or a felony; and

(ii) may attempt to verify the immigration status of the person, except as exempted under Subsection (1)(b), (c), or (d), if the alleged offense is a class B or C misdemeanor, except that if the person is arrested and booked for a class B or C misdemeanor, the arresting law enforcement officer or the law enforcement agency booking the person shall attempt to verify the immigration status of the person.

(b) In individual cases, the law enforcement officer may forego the verification of immigration status under Subsection (1)(a) if the determination could hinder or obstruct a criminal investigation.

(c) Subsection (1)(a) does not apply to a law enforcement officer who is acting as a school resource officer for any elementary or secondary school.

(d) Subsection (1)(a) does not apply to a county or municipality when it has only one law enforcement officer on duty and response support from another law enforcement agency is not available.

(2) When a law enforcement officer makes a lawful stop, detention, or arrest under Subsection (1) of the operator of a vehicle, and while investigating or processing the primary offense, the officer makes observations that give the officer reasonable suspicion that the operator or any of the passengers in the vehicle are violating Section 76–5–308, 76–5–308.1, 76–5–308.3, 76–5–308.5, 76–5–310, 76–5–310.1, or 76–10–2901, which concern smuggling, human trafficking, and transporting illegal aliens, the officer shall, to the extent possible within a reasonable period of time:

(a) detain the occupants of the vehicle to investigate the suspected violations; and

(b) inquire regarding the immigration status of the occupants of the vehicle.

(3) When a person under Subsection (1) is arrested or booked into a jail, juvenile detention facility, or correctional facility, the arresting officer or the booking officer shall ensure that a request for verification of immigration status of the arrested or booked person is submitted as promptly as is reasonably possible.

(4) The law enforcement agency that has custody of a person verified to be an illegal alien shall request that the United States Department of Homeland Security issue a detainer requesting transfer of the illegal alien into federal custody.

(5) A law enforcement officer may not consider race, color, or national origin in implementing this section, except to the extent permitted by the constitutions of the United States and this state.

Section 121. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An individual except for a child under Section 76–10–1315 is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under [~~Title 76,~~] Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under [~~Title 76,~~] Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

(i) object rape of a child, Section 76-5-402.3;

(j) forcible sodomy, Section 76-5-403;

(k) sodomy on a child, Section 76-5-403.1;

(l) forcible sexual abuse, Section 76-5-404;

(m) [~~aggravated sexual abuse of a child or~~] sexual abuse of a child, Section 76-5-404.1, or aggravated sexual abuse of a child, Section 76-5-404.3;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(q) aggravated burglary or burglary of a dwelling under [~~Title 76,~~] Chapter 6, Part 2, Burglary and Criminal Trespass;

(r) aggravated robbery or robbery under [~~Title 76,~~] Chapter 6, Part 3, Robbery; or

(s) theft by extortion under Subsection 76-6-406(2)(a) or (b).

Section 122. Section 76-10-1306 is amended to read:

76-10-1306. Aggravated exploitation of prostitution.

(1) A person is guilty of aggravated exploitation if:

(a) in committing an act of exploiting prostitution, as defined in Section 76-10-1305, the person uses any force, threat, or fear against any person;

(b) the person procured, transported, or persuaded or with whom the person shares the proceeds of prostitution is a child or is the spouse of the actor; or

(c) in the course of committing exploitation of prostitution, a violation of Section 76-10-1305, the person commits human trafficking or human smuggling, a violation of Section 76-5-308, 76-5-308.1, 76-5-308.3, or 76-5-308.5.

(2) Aggravated exploitation of prostitution is a second degree felony, except under Subsection (3).

(3) Aggravated exploitation of prostitution involving a child is a first degree felony.

(4) Upon a conviction for a violation of this section, the court shall order the maximum fine amount and may not waive or suspend the fine.

Section 123. Section 76-10-1313 is amended to read:

76-10-1313. Sexual solicitation -- Penalty.

(1) An individual except for a child under Section 76-10-1315 is guilty of sexual solicitation when the individual:

(a) offers or agrees to commit any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) pays or offers or agrees to pay a fee or the functional equivalent of a fee to another individual to commit any sexual activity; or

(c) with intent to engage in sexual activity for a fee or the functional equivalent of a fee or to pay another individual to commit any sexual activity for a fee or the functional equivalent of a fee engages in, offers or agrees to engage in, or requests or directs another to engage in any of the following acts:

(i) exposure of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast below the top of the areola;

(ii) masturbation;

(iii) touching of an individual's genitals, the buttocks, the anus, the pubic area, or the female breast; or

(iv) any act of lewdness.

(2) An intent to engage in sexual activity for a fee may be inferred from an individual's engaging in, offering or agreeing to engage in, or requesting or directing another to engage in any of the acts described in Subsection (1)(c) under the totality of the existing circumstances.

(3) Except as provided in Section 76-10-1309 and Subsections (4) and (5), an individual who is convicted of sexual solicitation under this section or under a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a class A misdemeanor.

(4) An individual who is convicted a third time under this section or a local ordinance adopted in compliance with Section 76-10-1307 is guilty of a third degree felony.

(5) If an individual commits an act of sexual solicitation and the individual solicited is a child, the offense is a third degree felony if the solicitation does not amount to:

(a) a violation of Section 76-5-308, 76-5-308.1, or 76-5-308.5, human trafficking or Section 76-5-308.3, human smuggling; or

(b) a violation of Section 76-5-310, aggravated human trafficking or Section 76-5-310.1, aggravated human smuggling.

(6) (a) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall follow the procedure described in Subsection 76-10-1315(2).

(b) A child engaged in commercial sex or sexual solicitation shall be referred to the Division of Child and Family Services for services and may not be subjected to delinquency proceedings.

(7) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the offenses or an attempt to commit any of the offenses described in Subsection 76-10-1302(3), and the individual reports the offense or attempt to law enforcement in good faith.

Section 124. Section 76-10-1315 is amended to read:

76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(c) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(d) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308, 76-5-308.1, and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under Title 62A, Chapter 4a, Child and Family Services.

(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sex solicitation under Section 76-10-1313.

Section 125. Section 76-10-1504 is amended to read:

76-10-1504. Bus hijacking -- Assault with intent to commit hijacking -- Use of a dangerous weapon -- Penalties.

(1) (a) A person is guilty of bus hijacking if the person seizes or exercises control, by force or violence or threat of force or violence, of a bus within the state.

(b) Bus hijacking is a first degree felony.

(2) (a) A person is guilty of assault with the intent to commit bus hijacking if the person intimidates, threatens, or commits assault or battery toward a driver, attendant, guard, or any other person in control of a bus so as to interfere with the performance of duties by the person.

(b) Assault with the intent to commit bus hijacking is a second degree felony.

(3) A person who, in the commission of assault with intent to commit bus hijacking, uses a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5, is guilty of a first degree felony.

Section 126. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19–1–101 through 19–7–109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23–20–4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26–20–1 through 26–20–12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76–5–102 and 76–5–103;

(k) a threat of terrorism, Section 76–5–107.3;

(l) a criminal homicide[~~, Sections 76–5–201, 76–5–202, and 76–5–203~~] offense, as described in Section 76–5–201;

(m) kidnapping or aggravated kidnapping, Sections 76–5–301 and 76–5–302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76–5–308, 76–5–308.1, 76–5–308.3, 76–5–308.5, 76–5–309, and 76–5–310;

(o) sexual exploitation of a minor, Section 76–5b–201;

(p) arson or aggravated arson, Sections 76–6–102 and 76–6–103;

(q) causing a catastrophe, Section 76–6–105;

(r) burglary or aggravated burglary, Sections 76–6–202 and 76–6–203;

(s) burglary of a vehicle, Section 76–6–204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76–6–205;

(u) robbery or aggravated robbery, Sections 76–6–301 and 76–6–302;

(v) theft, Section 76–6–404;

(w) theft by deception, Section 76–6–405;

(x) theft by extortion, Section 76–6–406;

(y) receiving stolen property, Section 76–6–408;

(z) theft of services, Section 76–6–409;

(aa) forgery, Section 76–6–501;

(bb) fraudulent use of a credit card, Sections 76–6–506.2, 76–6–506.3, 76–6–506.5, and 76–6–506.6;

(cc) deceptive business practices, Section 76–6–507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76–6–508;

(ee) bribery of a labor official, Section 76–6–509;

(ff) defrauding creditors, Section 76–6–511;

(gg) acceptance of deposit by insolvent financial institution, Section 76–6–512;

(hh) unlawful dealing with property by fiduciary, Section 76–6–513;

(ii) bribery or threat to influence contest, Section 76–6–514;

(jj) making a false credit report, Section 76–6–517;

(kk) criminal simulation, Section 76–6–518;

(ll) criminal usury, Section 76–6–520;

(mm) fraudulent insurance act, Section 76–6–521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 127. Repealer.

This bill repeals:

Section 76-5-210, Targeting a law enforcement officer defined.

Section 76-5-306, Lesser included offenses.

Section 76-5-416, Indecent liberties -- Definition.

Section 128. Coordinating S.B. 123 with H.B. 29 -- Technical amendment.

If this S.B. 123 and H.B. 29, Driving Offenses Amendments, both pass and become law, it is the intent of the Legislature that this coordination clause supersede the coordination clause in H.B. 29 for Subsection 76-5-201(2) and that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 76-5-201(2) to read:

"(2) The following are criminal homicide:

(a) aggravated murder;

(b) murder;

(c) manslaughter;

(d) child abuse homicide;

(e) homicide by assault;

(f) negligent homicide; and

(g) negligently operating a vehicle resulting in death."..

Section 129. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if S.B. 124, Criminal Code Recodification Cross References, does not pass.

CHAPTER 182
S. B. 126

Passed February 16, 2022
Approved March 22, 2022
Effective May 4, 2022

OFFICER INTERVENTION AND REPORTING AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill sets minimum standards for officer intervention and reporting of police misconduct.

Highlighted Provisions:

This bill:

- defines terms;
- creates minimum standards for police misconduct;
- sets standards for intervention and reporting requirements in law enforcement agencies;
- requires the Peace Officer Standards and Training Council to establish and review minimum standards for reporting police misconduct;
- prohibits retaliatory action against a law enforcement agency employee who reports police misconduct; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-6-107, as last amended by Laws of Utah 2021, Chapter 316

ENACTS:

53-6-210.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-6-107 is amended to read:

53-6-107. General duties of council.

(1) The council shall:

(a) advise the director regarding:

(i) the approval, certification, or revocation of certification of any certified academy established in the state;

(ii) minimum courses of study, attendance requirements, and the equipment and facilities to be required at a certified academy;

(iii) minimum qualifications for instructors at a certified academy;

(iv) the minimum basic training requirements that peace officers shall complete before receiving certification;

(v) the minimum basic training requirements that dispatchers shall complete before receiving certification; and

(vi) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements for the categories or classifications;

(b) recommend that studies, surveys, or reports, or all of them be made by the director concerning the implementation of the objectives and purposes of this chapter;

(c) make recommendations and reports to the commissioner and governor from time to time;

(d) choose from the sanctions to be imposed against certified peace officers as provided in Section 53-6-211, and dispatchers as provided in Section 53-6-309;

(e) establish and annually review minimum use of force standards for all peace officers in the state [~~and annually review and update the standards based on the most current information and best practices~~];

(f) establish and annually review minimum standards for officer intervention and the reporting of police misconduct based on Section 53-6-210.5; and

[~~(f)~~] (g) perform other acts as necessary to carry out the duties of the council in this chapter.

(2) The council may approve special function officers for membership in the Public Safety Retirement System in accordance with Sections 49-14-201 and 49-15-201.

Section 2. Section 53-6-210.5 is enacted to read:

53-6-210.5. Duty to intervene or report officer misconduct.

(1) As used in this section:

(a) "Adverse action" means to discharge, threaten, or discriminate against an employee in a manner that affects the employee's employment, including compensation, terms, conditions, location, rights, immunities, promotions, or privileges.

(b) "Law enforcement agency" means an agency that is part of or administered by the state or any of the state's political subdivisions and whose primary and principal role is the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of the state's political subdivisions.

(c) "Officer" means the same as peace officer as defined in Section 53-13-102.

(d) "Police misconduct" means conduct by an officer in the course of the officer's official duties that constitutes:

(i) force that is clearly excessive in type or duration, clearly beyond what is objectively reasonable under the circumstances, or clearly not subject to legal justification under Title 76, Chapter 2, Part 4, Justification Excluding Criminal Responsibility;

(ii) a search or seizure without a warrant where it is clear, under the circumstances, that the search or seizure would not fit within an exception to the warrant requirement; or

(iii) conduct that an objectively reasonable person would consider biased or discriminatory conduct against one or more individuals based on race, color, sex, pregnancy, age, religion, national origin, disability, sexual orientation, or gender identity.

(e) (i) "Retaliatory action" means any adverse action, formal or informal, taken by a law enforcement agency or any of the law enforcement agency's employees, or by any individual with authority to oversee or direct a law enforcement agency, solely as a result of a law enforcement officer's or law enforcement agency employee's good faith actions in conformance with this section.

(ii) "Retaliatory action" does not mean education, training, or administrative discussion requested or required by a law enforcement agency or any of the law enforcement agency's employees, or by any individual with authority to oversee or direct a law enforcement agency, following or in connection with a law enforcement officer's or law enforcement agency employee's good faith actions taken in conformance with this section.

(2) (a) Notwithstanding any provisions of law to the contrary, an officer who is present and knowingly observes another officer engage in police misconduct as described in Subsection (1)(d)(i) or (ii) shall, if in a position to do so safely and without unreasonable risk to the safety of the officer or another individual, intervene to prevent the misconduct from continuing to occur.

(b) An officer who in good faith intervenes to prevent police misconduct from continuing to occur under Subsection (2)(a) is not liable in any civil or criminal action that might otherwise result due solely to the intervening officer's actions.

(c) Notwithstanding Subsection (2)(b), an officer is not immune from otherwise lawful disciplinary action undertaken by the officer's employing agency in connection with the incident so long as the disciplinary action is not undertaken due solely to the officer's good faith decision to intervene.

(3) (a) (i) When a law enforcement agency employee is present and knowingly observes an officer engage in police misconduct as described in Subsection (1), the observing employee shall promptly report the misconduct and, if the observing employee is an officer, the observing officer's intervention, if any, to the employee's direct supervisor, the chief executive of the employee's employing law enforcement agency, or the chief executive's designee for internal affairs.

(ii) Notwithstanding Subsection (3)(a)(i), if the police misconduct to be reported by the observing employee directly involves the chief executive of the employee's employing law enforcement agency, or the chief executive's designee for internal affairs, the observing employee may report the misconduct to:

(A) the city attorney's office, if the observing employee works for a municipal law enforcement agency;

(B) the county attorney's office, if the observing employee works for a county law enforcement agency; or

(C) the attorney general, if the observing employee works for a state law enforcement agency.

(b) If the police misconduct reported under Subsection (3)(a) involves an officer from a law enforcement agency other than the reporting employee's employing agency, the chief executive of the reporting employee's employing agency shall promptly notify and communicate the report to the chief executive of the law enforcement agency whose officer's conduct is the subject of the report.

(c) A law enforcement agency employee who in good faith reports police misconduct under Subsection (3)(a) is not liable in any civil or criminal action that might otherwise result due solely to the reporting employee's actions.

(d) Notwithstanding Subsection (3)(c), a law enforcement agency employee is not immune from otherwise lawful disciplinary action undertaken by the employee's employing agency in connection with the incident so long as the disciplinary action is not undertaken due solely to the employee's good faith report of police misconduct.

(e) A law enforcement agency employee's failure to comply with Subsection (3)(a) may be cause for discipline in accordance with the policies and procedures of the employee's employing agency.

(4) (a) A law enforcement agency may not take retaliatory action against a law enforcement agency employee due solely to an employee's good faith action under Subsection (2)(a) or (3)(a) to prevent or report police misconduct.

(b) Any retaliatory action by a law enforcement employee against another employee because that employee acted under Subsection (2)(a) or (3)(a) to prevent or report police misconduct shall be cause for discipline in accordance with the policies and procedures of the retaliating employee's employing agency.

(c) An employee who complains that retaliatory action has occurred has the burden to prove that retaliatory action or conduct in violation of this section has occurred.

(5) (a) Not later than July 1, 2022, each law enforcement agency in the state shall adopt written policies that conform with the minimum standards set forth in this section.

(b) The threshold standards in this section do not preclude a law enforcement agency from adopting policies or establishing standards higher than the standards contained in this section.

CHAPTER 183
S. B. 149

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

TINTED VEHICLE WINDOWS AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill amends the allowable window tint on motor vehicle windows.

Highlighted Provisions:

This bill:

- amends the allowable window tint on motor vehicle windows.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1635, as last amended by Laws of Utah 2021, Chapter 99

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1635 is amended to read:

41-6a-1635. Windshields and windows -- Tinting -- Obstructions reducing visibility -- Wipers -- Prohibitions.

(1) Except as provided in Subsections (2), (3), and (4) a person may not operate a motor vehicle with:

(a) a windshield that allows less than 70% light transmittance;

(b) a front side window that allows less than [~~43%~~] 35% light transmittance, with no more than a 5% variance observed by a peace officer metering the light transmittance;

(c) any windshield or window that is composed of, covered by, or treated with any material or component that presents a metallic or mirrored appearance;

(d) any sign, poster, or other nontransparent material on the windshield or side windows of the motor vehicle except:

(i) a certificate or other paper required to be so displayed by law; or

(ii) the vehicle's identification number displayed or etched in accordance with rules made by the department under Section 41-6a-1601; or

(e) any debris, frost, or other substance that materially obstructs the operator's view.

(2) (a) A person may not operate a motor vehicle with an object or device hanging or mounted in a manner that materially obstructs the operator's view.

(b) A person shall ensure that an object or device hanging or mounted in compliance with Subsection (2)(a) is used in accordance with this chapter.

(3) Nontransparent materials may be used:

(a) along the top edge of the windshield if the materials do not extend downward more than four inches from the top edge of the windshield or beyond the AS-1 line whichever is lowest;

(b) in the lower left-hand corner of the windshield provided they do not extend more than three inches to the right of the left edge or more than four inches above the bottom edge of the windshield; or

(c) on the rear windows including rear side windows located behind the vehicle operator.

(4) A windshield or other window is considered to comply with the requirements of Subsection (1) if the windshield or other window meets the federal statutes and regulations for motor vehicle window composition, covering, light transmittance, and treatment.

(5) Except for material used on the windshield in compliance with Subsections (3)(a) and (b), a motor vehicle with tinting or nontransparent material on any window shall be equipped with rear-view mirrors mounted on the left side and on the right side of the motor vehicle to reflect to the driver a view of the highway to the rear of the motor vehicle.

(6) (a) (i) The windshield on a motor vehicle shall be equipped with a device for cleaning rain, snow, or other moisture from the windshield.

(ii) The device shall be constructed to be operated by the operator of the motor vehicle.

(b) A windshield wiper on a motor vehicle shall be maintained in good working order.

(7) A person may not have for sale, sell, offer for sale, install, cover, or treat a windshield or window in violation of this section.

(8) Notwithstanding this section, any person subject to the federal Motor Vehicle Safety Standards, including motor vehicle manufacturers, distributors, dealers, importers, and repair businesses, shall comply with the federal standards on motor vehicle window tinting.

(9) A violation of this section is an infraction.

CHAPTER 184
S. B. 156

Passed February 24, 2022
Approved March 22, 2022
Effective May 4, 2022

PROTECTION AGAINST EXTORTION AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Stephen L. Whyte

LONG TITLE

General Description:

This bill expands sexual extortion to include the extortion of items of value.

Highlighted Provisions:

This bill:

- expands sexual extortion to include extortion for money or other valuables.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

76-5b-204, as enacted by Laws of Utah 2017, Chapter 434

Utah Code Sections Affected by Coordination Clause:

76-5b-204, as enacted by Laws of Utah 2017, Chapter 434

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-5b-204 is amended to read:

76-5b-204. Sexual extortion -- Penalties.

(1) As used in this section:

(a) "Adult" means an individual 18 years of age or older.

(b) "Child" means any individual under the age of 18.

(c) "Distribute" means the same as that term is defined in Section 76-5b-203.

(d) "Intimate image" means the same as that term is defined in Section 76-5b-203.

(e) "Position of special trust" means the same as that term is defined in Section 76-5-401.1.

(f) "Sexually explicit conduct" means the same as that term is defined in Subsection 76-5b-203(1)(c).

(g) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(h) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(2) An [~~individual who is 18 years old or older~~] actor commits the offense of sexual extortion if the [~~individual~~] actor:

(a) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct, communicates [~~in person or by electronic~~] by any means, a threat:

(i) to the victim's person, property, or reputation; or

(ii) to distribute an intimate image or video of the victim; [~~or~~]

(b) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

(i) to the victim's person, property, or reputation; or

(ii) to distribute an intimate image or video of the victim; or

(c) with the intent to obtain a thing of value from a victim communicates, by any means, a threat to distribute an intimate image or video of the victim.

(3) (a) If the actor is an adult:

[~~(3) (a)~~] (i) [~~Sexual~~] sexual extortion is a third degree felony.

[~~(b)~~] (ii) [~~Aggravated~~] aggravated sexual extortion of an adult is a second degree felony.

[~~(c)~~] (iii) [~~Aggravated~~] aggravated sexual extortion of a child or a vulnerable adult is a first degree felony.

(b) If the actor is a child:

(i) sexual extortion is a class A misdemeanor.

(ii) aggravated sexual extortion is a third degree felony.

(iii) aggravated sexual extortion of a victim under 14 years old is a second degree felony.

(4) An [~~individual~~] actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(a) the victim is a child or vulnerable adult;

(b) the offense was committed by the use of a dangerous weapon, as defined in Section 76-1-601, or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(c) the [~~individual~~] actor caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(d) the [~~individual~~] actor was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;

(e) the [~~individual~~] actor, before sentencing for the offense, was previously convicted of any sexual offense;

(f) the [~~individual~~] actor occupied a position of special trust in relation to the victim;

(g) the [~~individual~~] actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(h) the [~~individual~~] actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.

(5) An [~~individual~~] actor commits a separate offense under this section:

(a) for each victim the individual subjects to the offense outlined in Subsection (2); and

(b) for each separate time the individual subjects a victim to the offense outlined Subsection (2).

(6) This section does not preclude an [~~individual~~] actor from being charged and convicted of a separate criminal act if the [~~individual~~] actor commits the separate criminal act while the [~~individual~~] actor violates or attempts to violate this section.

(7) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.

Section 2. Coordinating S.B. 156 with S.B. 123 -- Technical amendment.

If this S.B. 156 and S.B. 123, Criminal Code Recodification, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, when preparing the database for publication, merge Section 76-5b-204 to read as follows:

"76-5b-204. Sexual extortion -- Penalties.

(1) (a) As used in this section:

[~~(a)~~] (i) "Adult" means an individual 18 years of age or older.

[~~(b)~~] (ii) "Child" means any individual under the age of 18.

[~~(c)~~] (iii) "Distribute" means the same as that term is defined in Section 76-5b-203.

[~~(d)~~] (iv) "Intimate image" means the same as that term is defined in Section 76-5b-203.

[~~(e)~~] (v) "Position of special trust" means the same as that term is defined in Section [~~76-5-401.1~~] 76-5-404.1.

[~~(f)~~] (vi) "Sexually explicit conduct" means the same as that term is defined in [~~Subsection 76-5b-203(1)(e)~~] Section 76-5b-203.

[~~(g)~~] (vii) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

[~~(h)~~] (viii) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(b) Terms defined in Section 76-1-101.5 apply to this section.

(2) (a) An [~~individual who is 18 years old or older~~] actor commits the offense of sexual extortion if the [~~individual~~] actor:

[~~(a)~~] (i) with an intent to coerce a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute an image, video, or other recording of any individual naked or engaged in sexually explicit conduct, communicates [~~in person or by electronic~~] by any means a threat:

[~~(i)~~] (A) to the victim's person, property, or reputation; or

[~~(ii)~~] (B) to distribute an intimate image or video of the victim; [~~or~~]

[~~(b)~~] (ii) knowingly causes a victim to engage in sexual contact, in sexually explicit conduct, or in simulated sexually explicit conduct, or to produce, provide, or distribute any image, video, or other recording of any individual naked or engaged in sexually explicit conduct by means of a threat:

[~~(i)~~] (A) to the victim's person, property, or reputation; or

[~~(ii)~~] (B) to distribute an intimate image or video of the victim[~~.~~]; or

(iii) with intent to obtain a thing of value from a victim communicates, by any means, a threat to distribute an intimate image or video of the victim.

(b) An actor commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2)(a), any of the following circumstances have been charged and admitted or found true in the action for the offense:

(i) the victim is a child or vulnerable adult;

(ii) the offense was committed by the use of a dangerous weapon or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;

(iii) the actor caused bodily injury or severe psychological injury to the victim during or as a result of the offense;

(iv) the actor was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;

(v) the actor, before sentencing for the offense, was previously convicted of any sexual offense;

(vi) the actor occupied a position of special trust in relation to the victim;

(vii) the actor encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or

(viii) the actor caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.

(3) (a) [~~Sexual extortion~~] If the actor is an adult:

(i) A violation of Subsection (2)(a) is a third degree felony.

[~~(b)~~] (ii) [~~Aggravated sexual extortion of~~] A violation of Subsection (2)(b) in which the victim is an adult is a second degree felony.

[~~(c)~~] (iii) [~~Aggravated sexual extortion of~~] A violation of Subsection (2)(b) in which the victim is a child or a vulnerable adult is a first degree felony.

(b) If the actor is a child:

(i) A violation of Subsection (2)(a) is a class A misdemeanor.

(ii) A violation of Subsection (2)(b) is a third degree felony if there is more than a two-year age gap between the actor and the victim.

[~~(4) An individual commits aggravated sexual extortion when, in conjunction with the offense described in Subsection (2), any of the following circumstances have been charged and admitted or found true in the action for the offense:~~]

[~~(a) the victim is a child or vulnerable adult;~~]

[~~(b) the offense was committed by the use of a dangerous weapon, as defined in Section 76-1-601, or by violence, intimidation, menace, fraud, or threat of physical harm, or was committed during the course of a kidnapping;~~]

[~~(c) the individual caused bodily injury or severe psychological injury to the victim during or as a result of the offense;~~]

[~~(d) the individual was a stranger to the victim or became a friend of the victim for the purpose of committing the offense;~~]

[~~(e) the individual, before sentencing for the offense, was previously convicted of any sexual offense;~~]

[~~(f) the individual occupied a position of special trust in relation to the victim;~~]

[~~(g) the individual encouraged, aided, allowed, or benefitted from acts of prostitution or sexual acts by the victim with any other individual, or sexual performance by the victim before any other individual, human trafficking, or human smuggling; or~~]

[~~(h) the individual caused the penetration, however slight, of the genital or anal opening of the victim by any part or parts of the human body, or by any other object.~~]

[~~(5)~~] (c) An [~~individual~~] actor commits a separate offense under this section:

[~~(a)~~] (i) for each victim the [~~individual~~] actor subjects to the offense outlined in Subsection (2)(a); and

[~~(b)~~] (ii) for each separate time the [~~individual~~] actor subjects a victim to the offense outlined Subsection (2)(a).

[~~(6)~~] (d) This section does not preclude an [~~individual~~] actor from being charged and convicted of a separate criminal act if the [~~individual~~] actor commits the separate criminal act while the individual violates or attempts to violate this section.

[~~(7)~~] (4) An interactive computer service, as defined in 47 U.S.C. Sec. 230, is not subject to liability under this section related to content provided by a user of the interactive computer service.".

CHAPTER 185
S. B. 167

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

SEXUAL EXPLOITATION AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill concerns the sexual exploitation of a minor.

Highlighted Provisions:

This bill:

- modifies definitions;
- modifies the offense of sexual exploitation of a minor;
- creates the offense of aggravated sexual exploitation of a minor;
- requires the Sentencing Commission to study and update sentencing and release guidelines concerning the offense of sexual exploitation of a minor;
- adds the offense of aggravated sexual exploitation of a minor to statutes that reference sexual exploitation of a minor, including statutes related to:
  - custody and visitation for an individual other than a parent;
  - enhancements for offenses committed in concert with three or more persons or in relation to a criminal street gang;
  - unlawful distribution of a counterfeit intimate image;
  - lewdness involving a child;
  - prostitution;
  - penalties for repeat and habitual sex offenders;
  - the Sex and Kidnap Offender Registry; and
  - adoption; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

30-5a-103, as last amended by Laws of Utah 2021, Chapter 262
31A-21-501, as last amended by Laws of Utah 2012, Chapters 39 and 303
62A-2-120, as last amended by Laws of Utah 2021, Chapters 117, 262, and 400
63M-7-404, as last amended by Laws of Utah 2021, Chapter 173
63M-7-502, as last amended by Laws of Utah 2021, Chapter 260
76-1-302, as last amended by Laws of Utah 2019, Chapter 216
76-3-203.1, as last amended by Laws of Utah 2021, First Special Session, Chapter 11
76-3-203.5, as last amended by Laws of Utah 2013, Chapter 278
76-3-407, as last amended by Laws of Utah 2011, Chapter 320
76-5b-201, as last amended by Laws of Utah 2021, Chapter 262
76-5b-205, as enacted by Laws of Utah 2021, Chapter 134
76-9-702.5, as last amended by Laws of Utah 2019, Chapter 394
76-10-1302, as last amended by Laws of Utah 2020, Chapters 108, 214 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 214
76-10-1602, as last amended by Laws of Utah 2019, Chapters 200 and 363
77-22-2.5, as last amended by Laws of Utah 2019, Chapters 382 and 420
77-36-1, as last amended by Laws of Utah 2021, Chapters 134 and 159
77-41-102, as last amended by Laws of Utah 2021, Chapter 2 and further amended by Revisor Instructions, Laws of Utah 2021, First Special Session, Chapter 2
77-41-106, as last amended by Laws of Utah 2020, Chapter 108
78B-6-117, as last amended by Laws of Utah 2021, Chapter 262
80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

ENACTS:

76-5b-201.1, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

76-5b-201.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-5a-103 is amended to read:

30-5a-103. Custody and visitation for individuals other than a parent.

(1) (a) In accordance with Section 62A-4a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.

(b) There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the child is in the child's best interest;

(f) the loss or cessation of the relationship between the individual and the child would substantially harm the child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the child.

(3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county where the child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.

(6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:

(a) the child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the child.

(8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

(9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a child under this section to an individual who is not the parent of the child and who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; [~~or~~]

(k) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

[~~(k)~~] (l) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 2. Section 31A-21-501 is amended to read:

31A-21-501. Definitions.

For purposes of this part:

(1) "Applicant" means:

(a) in the case of an individual life or accident and health policy, the person who seeks to contract for insurance benefits; or

(b) in the case of a group life or accident and health policy, the proposed certificate holder.

(2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is 16 years [~~of age~~] old or older who:

(a) is or was a spouse of the other party;

(b) is or was living as if a spouse of the other party;

(c) is related by blood or marriage to the other party;

(d) has one or more children in common with the other party; or

(e) resides or has resided in the same residence as the other party.

(3) "Child abuse" means the commission or attempt to commit against a child a criminal offense described in:

(a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(b) Title 76, Chapter 5, Part 4, Sexual Offenses;

(c) Section 76-9-702, Lewdness;

(d) Section 76-9-702.1, Sexual battery; or

(e) Section 76-9-702.5, Lewdness involving a child.

(4) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) kidnaping, child kidnaping, or aggravated kidnaping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and [~~Section 76-5b-201~~] Sections 76-5b-201 and 76-5b-201.1;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

(m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507; or

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508.

(5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

Section 3. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor or aggravated sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; [~~or~~]

(C) Section 76-5b-201.1, Aggravated Sexual Exploitation of a Minor; or

[~~(C)~~] (D) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years old; or

(B) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated exploitation of a minor, as described in Section 76-5b-201.1;

[~~(P)~~] (Q) aggravated arson, as described in Section 76-6-103;

[~~(Q)~~] (R) aggravated burglary, as described in Section 76-6-203;

[~~(R)~~] (S) aggravated robbery, as described in Section 76-6-302; or

[~~(S)~~] (T) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 4. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole;

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

(10) (a) Before January 1, 2023, the commission shall study the offenses of sexual exploitation of a minor and aggravated sexual exploitation of a minor under Sections 76-5b-201 and 76-5b-201.1.

(b) The commission shall update sentencing and release guidelines and juvenile disposition guidelines to reflect appropriate sanctions for an offense listed in Subsection (10)(a), including the application of aggravating and mitigating factors specific to the offense.

Section 5. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(7) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the Person, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

(c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(8) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(9) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(10) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(11) "Director" means the director of the office.

(12) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(13) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(14) "Elderly victim" means an individual 60 years old or older who is a victim.

(15) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(16) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(17) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(18) (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(19) "Mental health counseling" means outpatient and inpatient counseling necessitated as a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(20) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(21) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(22) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(23) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(24) "Offense" means a violation of Title 76, Utah Criminal Code.

(25) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(26) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(27) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(28) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(29) (a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(30) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(31) (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

(32) "Restitution" means the same as that term is defined in Section 77-38b-102.

(33) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(34) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

(35) "Serious bodily injury" means the same as that term is defined in Section 76-1-601.

(36) "Substantial bodily injury" means the same as that term is defined in Section 76-1-601.

(37) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 or 76-5b-201.1 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

(38) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 6. Section 76-1-302 is amended to read:

76-1-302. Time limitations for prosecution of offenses -- Provisions if DNA evidence would identify the defendant -- Commencement of prosecution.

(1) Except as otherwise provided, a prosecution for:

(a) a felony or negligent homicide shall be commenced within four years after it is committed, except that prosecution for:

(i) forcible sexual abuse shall be commenced within eight years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency; and

(ii) incest shall be commenced within eight years after the offense is committed, if within four years after its commission the offense is reported to a law enforcement agency;

(b) a misdemeanor other than negligent homicide shall be commenced within two years after it is committed; and

(c) any infraction shall be commenced within one year after it is committed.

(2) (a) Notwithstanding Subsection (1), prosecution for the offenses listed in Subsections 76-3-203.5(1)(c)(i)(A) through [~~(BB)~~] (CC) may be commenced at any time if the identity of the person who committed the crime is unknown but DNA evidence is collected that would identify the person at a later date.

(b) Subsection (2)(a) does not apply if the statute of limitations on a crime has run as of May 5, 2003, and no charges have been filed.

(3) If the statute of limitations would have run but for the provisions of Subsection (2) and identification of a perpetrator is made through DNA, a prosecution shall be commenced within four years of confirmation of the identity of the perpetrator.

(4) A prosecution is commenced upon:

(a) the finding and filing of an indictment by a grand jury;

(b) the filing of a complaint or information; or

(c) the issuance of a citation.

Section 7. Section 76-3-203.1 is amended to read:

76-3-203.1. Offenses committed in concert with three or more persons or in relation to a criminal street gang -- Notice -- Enhanced penalties.

(1) As used in this section:

(a) "Criminal street gang" means the same as that term is defined in Section 76-9-802.

(b) "In concert with three or more persons" means:

(i) the defendant was aided or encouraged by at least three other persons in committing the offense and was aware of this aid or encouragement; and

(ii) each of the other persons:

(A) was physically present; and

(B) participated as a party to any offense listed in Subsection (4), (5), or (6).

(c) "In concert with three or more persons" means, regarding intent:

(i) other persons participating as parties need not have the intent to engage in the same offense or degree of offense as the defendant; and

(ii) a minor is a party if the minor's actions would cause the minor to be a party if the minor were an adult.

(2) A person who commits any offense in accordance with this section is subject to an enhanced penalty as provided in Subsection (4), (5), or (6) if the trier of fact finds beyond a reasonable doubt that the person acted:

(a) in concert with three or more persons;

(b) for the benefit of, at the direction of, or in association with any criminal street gang as defined in Section 76-9-802; or

(c) to gain recognition, acceptance, membership, or increased status with a criminal street gang as defined in Section 76-9-802.

(3) The prosecuting attorney, or grand jury if an indictment is returned, shall cause to be subscribed upon the information or indictment notice that the defendant is subject to the enhanced penalties provided under this section.

(4) (a) For an offense listed in Subsection (4)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor; and

(ii) for a class A misdemeanor, as a third degree felony.

(b) The following offenses are subject to Subsection (4)(a):

(i) criminal mischief as defined in Section 76-6-106; and

(ii) graffiti as defined in Section 76-6-107.

(5) (a) For an offense listed in Subsection (5)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony; and

(iii) for a third degree felony, as a second degree felony.

(b) The following offenses are subject to Subsection (5)(a):

(i) burglary, if committed in a dwelling as defined in Subsection 76-6-202(2);

(ii) any offense of obstructing government operations under [~~Title 76,~~] Chapter 8, Part 3, Obstructing Governmental Operations, except Sections 76-8-302, 76-8-303, 76-8-307, 76-8-308, and 76-8-312;

(iii) tampering with a witness or other violation of Section 76-8-508;

(iv) retaliation against a witness, victim, informant, or other violation of Section 76-8-508.3;

(v) extortion or bribery to dismiss a criminal proceeding as defined in Section 76-8-509;

(vi) any weapons offense under[~~ Title 76,~~] Chapter 10, Part 5, Weapons; and

(vii) any violation of [~~Title 76,~~] Chapter 10, Part 16, Pattern of Unlawful Activity Act.

(6) (a) For an offense listed in Subsection (6)(b), a person may be charged as follows:

(i) for a class B misdemeanor, as a class A misdemeanor;

(ii) for a class A misdemeanor, as a third degree felony;

(iii) for a third degree felony, as a second degree felony; and

(iv) for a second degree felony, as a first degree felony.

(b) The following offenses are subject to Subsection (6)(a):

(i) assault and related offenses under [~~Title 76,~~] Chapter 5, Part 1, Assault and Related Offenses;

(ii) any criminal homicide offense under [~~Title 76,~~] Chapter 5, Part 2, Criminal Homicide;

(iii) kidnapping and related offenses under [~~Title 76,~~] Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(iv) any felony sexual offense under [~~Title 76,~~] Chapter 5, Part 4, Sexual Offenses;

(v) sexual exploitation of a minor as defined in Section 76-5b-201;

(vi) aggravated sexual exploitation of a minor as defined in Section 76-5b-201.1;

[~~(vi)~~] (vii) robbery and aggravated robbery under [~~Title 76,~~] Chapter 6, Part 3, Robbery; and

[~~(vii)~~] (viii) aggravated exploitation of prostitution under Section 76-10-1306.

(7) The sentence imposed under Subsection (4), (5), or (6) may be suspended and the individual placed on probation for the higher level of offense.

(8) It is not a bar to imposing the enhanced penalties under this section that the persons with whom the actor is alleged to have acted in concert are not identified, apprehended, charged, or convicted, or that any of those persons are charged with or convicted of a different or lesser offense.

Section 8. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, [~~Title 76,~~] Chapter 6, Part 1, Property Destruction;

(B) assault by prisoner, Section 76-5-102.5;

(C) disarming a police officer, Section 76-5-102.8;

(D) aggravated assault, Section 76-5-103;

(E) aggravated assault by prisoner, Section 76-5-103.5;

(F) mayhem, Section 76-5-105;

(G) stalking, Subsection 76-5-106.5(2) or (3);

(H) threat of terrorism, Section 76-5-107.3;

(I) child abuse, Subsection 76-5-109(2)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section 76-5-109.1;

(K) abuse or neglect of a child with a disability, Section 76-5-110;

(L) abuse, neglect, or exploitation of a vulnerable adult, Section 76-5-111;

(M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

(N) criminal homicide offenses under [~~Title 76,~~] Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under [~~Title 76,~~] Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76-5-402;

(Q) rape of a child, Section 76-5-402.1;

(R) object rape, Section 76-5-402.2;

(S) object rape of a child, Section 76-5-402.3;

(T) forcible sodomy, Section 76-5-403;

(U) sodomy on a child, Section 76-5-403.1;

(V) forcible sexual abuse, Section 76-5-404;

(W) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(X) aggravated sexual assault, Section 76-5-405;

(Y) sexual exploitation of a minor, Section 76-5b-201;

(Z) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(Z)~~] (AA) sexual exploitation of a vulnerable adult, Section 76-5b-202;

[~~(AA)~~] (BB) aggravated burglary and burglary of a dwelling under [~~Title 76,~~] Chapter 6, Part 2, Burglary and Criminal Trespass;

[~~(BB)~~] (CC) aggravated robbery and robbery under [~~Title 76,~~] Chapter 6, Part 3, Robbery;

[~~(CC)~~] (DD) theft by extortion under Subsection 76-6-406(2)(a) or (b);

[~~(DD)~~] (EE) tampering with a witness under Subsection 76-8-508(1);

[~~(EE)~~] (FF) retaliation against a witness, victim, or informant under Section 76-8-508.3;

[~~(FF)~~] (GG) tampering with a juror under Subsection 76-8-508.5(2)(c);

[~~(GG)~~] (HH) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed pursuant to Subsections 76-6-406(2)(a), (b), and (i);

[~~(HH)~~] (II) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306(3) through (6);

[~~(II)~~] (JJ) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

[~~(JJ)~~] (KK) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503;

[~~(KK)~~] (LL) unlawful discharge of a firearm under Section 76-10-508;

[~~(LL)~~] (MM) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);

[~~(MM)~~] (NN) bus hijacking under Section 76-10-1504; and

[~~(NN)~~] (OO) discharging firearms and hurling missiles under Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of [~~Title 76,~~] Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 9. Section 76-3-407 is amended to read:

76-3-407. Repeat and habitual sex offenders -- Additional prison term for prior felony convictions.

(1) As used in this section:

(a) "Prior sexual offense" means:

(i) a felony offense described in [~~Title 76,~~] hapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5b-201;

(iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(iii)~~] (iv) a felony offense of enticing a minor over the Internet, Section 76-4-401;

[~~(iv)~~] (v) a felony attempt to commit an offense described in Subsections (1)(a)(i) through [~~(iii)~~] (iv); or

[~~(v)~~] (vi) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(a)(i) through [~~(iv)~~] (v).

(b) "Sexual offense" means:

(i) an offense that is a felony of the second or third degree, or an attempted offense, which attempt is a felony of the second or third degree, described in [~~Title 76,~~] Chapter 5, Part 4, Sexual Offenses;

(ii) sexual exploitation of a minor, Section 76-5b-201;

(iii) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(iii)~~] (iv) a felony offense of enticing a minor over the Internet, Section 76-4-401;

[~~(iv)~~] (v) a felony attempt to commit an offense described in [~~Subsection (1)(b)(ii) or (iii)~~] Subsections (1)(b)(ii) through (iv); or

[~~(v)~~] (vi) an offense in another state, territory, or district of the United States that, if committed in Utah, would constitute an offense described in Subsections (1)(b)(i) through [~~(iv)~~] (v).

(2) Notwithstanding any other provision of law, the maximum penalty for a sexual offense is increased by five years for each conviction of the defendant for a prior sexual offense that arose from a separate criminal episode, if the trier of fact finds that:

(a) the defendant was convicted of a prior sexual offense; and

(b) the defendant was convicted of the prior sexual offense described in Subsection (2)(a) before the defendant was convicted of the sexual offense for which the defendant is being sentenced.

(3) The increased maximum term described in Subsection (2) shall be in addition to, and consecutive to, any other prison term served by the defendant.

Section 10. Section 76-5b-201 is amended to read:

76-5b-201. Sexual exploitation of a minor -- Offenses.

[~~(1) A person is guilty of sexual exploitation of a minor:~~]

[~~(a) when the person:~~]

[~~(i) knowingly produces, possesses, or possesses with intent to distribute child pornography; or~~]

[~~(ii) intentionally distributes or views child pornography; or~~]

[~~(b) if the person is a minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (1)(a).~~]

[~~(2) (a) Except as provided in Subsection (2)(b), sexual exploitation of a minor is a second degree felony.~~]

[~~(b) A violation of Subsection (1) for knowingly producing child pornography is a first degree felony if the person produces original child pornography depicting a first degree felony that involves:~~]

[~~(i) the person or another person engaging in conduct with the minor that is a violation of:~~]

[~~(A) Section 76-5-402.1, rape of a child;~~]

[~~(B) Section 76-5-402.3, object rape of a child;~~]

[~~(C) Section 76-5-403.1, sodomy on a child; or~~]

[~~(D) Section 76-5-404.1, aggravated sexual abuse of a child; or~~]

[~~(ii) the minor being physically abused, as defined in Section 80-1-102.~~]

(1) An actor commits sexual exploitation of a minor when the actor knowingly possesses or intentionally views child pornography.

(2) A violation of Subsection (1) is a second degree felony.

(3) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(4) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) For a charge of violating this section [~~for knowingly possessing or intentionally viewing child pornography~~], it is an affirmative defense that:

(i) the defendant:

(A) did not solicit the child pornography from the minor depicted in the child pornography;

(B) is not more than two years older than the minor depicted in the child pornography; and

(C) upon request of a law enforcement agent or the minor depicted in the child pornography, removes from an electronic device or destroys the child pornography and all copies of the child pornography in the defendant's possession; and

(ii) the child pornography does not depict an offense under [~~Title 76,~~] Chapter 5, Part 4, Sexual Offenses.

(5) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 11. Section 76-5b-201.1 is enacted to read:

76-5b-201.1. Aggravated sexual exploitation of a minor.

(1) As used in this section, "physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.

(2) An actor commits aggravated sexual exploitation of a minor if the actor:

(a) intentionally distributes child pornography;

(b) knowingly produces child pornography; or

(c) is the minor's parent or legal guardian and knowingly consents to or permits the minor to be sexually exploited as described in Subsection (2)(a) or (b) or Section 76-5b-201.

(3) (a) Except as provided in Subsection (3)(b) or (c), a violation of Subsection (2) is a first degree felony.

(b) If an actor is under 18 years old at the time of the offense, a violation of Subsection (2) is a second degree felony.

(c) A violation of Subsection (2)(a) is a second degree felony if the child pornography depicts an individual who is:

(i) 14 years old or older; or

(ii) pubescent.

(4) It is a separate offense under this section:

(a) for each minor depicted in the child pornography; and

(b) for each time the same minor is depicted in different child pornography.

(5) (a) It is an affirmative defense to a charge of violating this section that no minor was actually depicted in the visual depiction or used in producing or advertising the visual depiction.

(b) In proving a violation of this section in relation to an identifiable minor, proof of the actual identity of the identifiable minor is not required.

(6) This section may not be construed to impose criminal or civil liability on:

(a) an entity or an employee, director, officer, or agent of an entity when acting within the scope of employment, for the good faith performance of:

(i) reporting or data preservation duties required under federal or state law; or

(ii) implementing a policy of attempting to prevent the presence of child pornography on tangible or intangible property, or of detecting and reporting the presence of child pornography on the property;

(b) a law enforcement officer acting within the scope of a criminal investigation;

(c) an employee of a court who may be required to view child pornography during the course of and within the scope of the employee's employment;

(d) a juror who may be required to view child pornography during the course of the individual's service as a juror;

(e) an attorney or employee of an attorney who is required to view child pornography during the course of a judicial process and while acting within the scope of employment;

(f) an employee of the Department of Human Services who is required to view child pornography within the scope of the employee's employment; or

(g) an attorney who is required to view child pornography within the scope of the attorney's responsibility to represent the Department of Human Services, including the divisions and offices within the Department of Human Services.

Section 12. Section 76-5b-205 is amended to read:

76-5b-205. Unlawful distribution of a counterfeit intimate image -- Penalty.

(1) As used in this section:

(a) "Child" means an individual under the age of 18.

(b) "Counterfeit intimate image" means any visual depiction, photograph, film, video, recording, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, that has been edited, manipulated, or altered to depict the likeness of an identifiable individual and purports to, or is made to appear to, depict that individual's:

(i) exposed human male or female genitals or pubic area, with less than an opaque covering;

(ii) a female breast with less than an opaque covering, or any portion of the female breast below the top of the areola; or

(iii) the individual engaged in any sexually explicit conduct or simulated sexually explicit conduct.

(c) "Distribute" means the same as that term is defined in Section 76-5b-203.

(d) "Sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(e) "Simulated sexually explicit conduct" means the same as that term is defined in Section 76-5b-203.

(2) An actor commits the offense of unlawful distribution of a counterfeit intimate image if the actor knowingly or intentionally distributes a counterfeit intimate image that the actor knows or should reasonably know would cause a reasonable person to suffer emotional or physical distress or harm, if:

(a) the actor has not received consent from the depicted individual to distribute the counterfeit intimate image; and

(b) the counterfeit intimate image was created or provided by the actor without the knowledge and consent of the depicted individual.

(3) An individual commits aggravated unlawful distribution of a counterfeit intimate image if, in committing the offense described in Subsection (2), the individual depicted in the counterfeit intimate image is a child.

(4) This section does not apply to:

(a) (i) lawful practices of law enforcement agencies;

(ii) prosecutorial agency functions;

(iii) the reporting of a criminal offense;

(iv) court proceedings or any other judicial proceeding; or

(v) lawful and generally accepted medical practices and procedures;

(b) a counterfeit intimate image if the individual portrayed in the image voluntarily allows public exposure of the image;

(c) a counterfeit intimate image that is portrayed in a lawful commercial setting; or

(d) a counterfeit intimate image that is related to a matter of public concern or interest or protected by the First Amendment to the United States Constitution or Article I, Sections 1 and 15 of the Utah Constitution.

(5) (a) This section does not apply to an Internet service provider or interactive computer service, as defined in 47 U.S.C. Sec. 230(f)(2), a provider of an electronic communications service as defined in 18 U.S.C. Sec. 2510, a telecommunications service, information service, or mobile service as defined in 47 U.S.C. Sec. 153, including a commercial mobile service as defined in 47 U.S.C. Sec. 332(d), or a cable operator as defined in 47 U.S.C. Sec. 522, if:

(i) the distribution of a counterfeit intimate image by the Internet service provider occurs only incidentally through the provider's function of:

(A) transmitting or routing data from one person to another person; or

(B) providing a connection between one person and another person;

(ii) the provider does not intentionally aid or abet in the distribution of the counterfeit intimate image; and

(iii) the provider does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute the counterfeit intimate image.

(b) This section does not apply to a hosting company, as defined in Section 76-10-1230, if:

(i) the distribution of a counterfeit intimate image by the hosting company occurs only incidentally through the hosting company's function of providing data storage space or data caching to a person;

(ii) the hosting company does not intentionally engage, aid, or abet in the distribution of the counterfeit intimate image;

(iii) the hosting company does not knowingly receive from or through a person who distributes the counterfeit intimate image a fee greater than the fee generally charged by the provider, as a specific condition for permitting the person to distribute, store, or cache the counterfeit intimate image; and

(iv) the hosting company immediately removes the counterfeit intimate image upon notice from a law enforcement agency, prosecutorial agency, or the individual purportedly depicted in the counterfeit intimate image.

(c) A service provider, as defined in Section 76-10-1230, is not negligent under this section if it complies with Section 76-10-1231.

(6) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor.

(7) (a) Except as provided in Subsection (7)(b), knowing or intentional unlawful distribution of a counterfeit intimate image is a class A misdemeanor.

(b) Knowing or intentional unlawful distribution of a counterfeit intimate image is a third degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

(c) Except as provided in Subsection (7)(d), knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a third degree felony.

(d) Knowing or intentional aggravated unlawful distribution of a counterfeit intimate image is a second degree felony on a second or subsequent conviction for an offense under this section that arises from a separate criminal episode as defined in Section 76-1-401.

Section 13. Section 76-9-702.5 is amended to read:

76-9-702.5. Lewdness involving a child.

(1) As used in this section, "in the presence of" includes within visual contact through an electronic device.

(2) A person is guilty of lewdness involving a child if the person under circumstances not amounting to rape of a child, object rape of a child, sodomy upon a child, sexual abuse of a child, aggravated sexual abuse of a child, or an attempt to commit any of those offenses, intentionally or knowingly:

(a) does any of the following in the presence of a child who is under 14 years of age:

(i) performs an act of sexual intercourse or sodomy;

(ii) exposes his or her genitals, the female breast below the top of the areola, the buttocks, the anus, or the pubic area:

(A) in a public place; or

(B) in a private place under circumstances the person should know will likely cause affront or alarm or with the intent to arouse or gratify the sexual desire of the actor or the child;

(iii) masturbates; or

(iv) performs any other act of lewdness; or

(b) under circumstances not amounting to sexual exploitation of a child under Section 76-5b-201 or aggravated sexual exploitation of a child under Section 76-5b-201.1, causes a child under the age of 14 years to expose his or her genitals, anus, or breast, if female, to the actor, with the intent to arouse or gratify the sexual desire of the actor or the child.

(3) (a) Lewdness involving a child is a class A misdemeanor, except under Subsection (3)(b).

(b) Lewdness involving a child is a third degree felony if at the time of the violation:

(i) the person is a sex offender as defined in Section 77-27-21.7; or

(ii) the person has previously been convicted of a violation of this section.

Section 14. Section 76-10-1302 is amended to read:

76-10-1302. Prostitution.

(1) An individual except for a child under Section 76-10-1315 is guilty of prostitution when the individual:

(a) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(b) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(c) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(2) (a) Except as provided in Subsection (2)(b) and Section 76-10-1309, prostitution is a class B misdemeanor.

(b) Except as provided in Section 76-10-1309, an individual who is convicted a second time, and on all subsequent convictions, of a subsequent offense of prostitution under this section or under a local ordinance adopted in compliance with Section 76-10-1307, is guilty of a class A misdemeanor.

(3) A prosecutor may not prosecute an individual for a violation of Subsection (1) if the individual engages in a violation of Subsection (1) at or near the time the individual witnesses or is a victim of any of the following offenses, or an attempt to commit any of the following offenses, and the individual reports the offense or attempt to law enforcement in good faith:

(a) assault, Section 76-5-102;

(b) aggravated assault, Section 76-5-103;

(c) mayhem, Section 76-5-105;

(d) aggravated murder, murder, manslaughter, negligent homicide, child abuse homicide, or homicide by assault under [~~Title 76,~~] Chapter 5, Part 2, Criminal Homicide;

(e) kidnapping, child kidnapping, aggravated kidnapping, human trafficking or aggravated human trafficking, human smuggling or aggravated human smuggling, or human trafficking of a child under [~~Title 76,~~] Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(f) rape, Section 76-5-402;

(g) rape of a child, Section 76-5-402.1;

(h) object rape, Section 76-5-402.2;

(i) object rape of a child, Section 76-5-402.3;

(j) forcible sodomy, Section 76-5-403;

(k) sodomy on a child, Section 76-5-403.1;

(l) forcible sexual abuse, Section 76-5-404;

(m) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(n) aggravated sexual assault, Section 76-5-405;

(o) sexual exploitation of a minor, Section 76-5b-201;

(p) aggravated sexual exploitation of a minor, Section 76-5b-201.1;

[~~(p)~~] (q) sexual exploitation of a vulnerable adult, Section 76-5b-202;

[~~(q)~~] (r) aggravated burglary or burglary of a dwelling under [~~Title 76,~~] Chapter 6, Part 2, Burglary and Criminal Trespass;

[~~(r)~~] (s) aggravated robbery or robbery under [~~Title 76,~~] Chapter 6, Part 3, Robbery; or

[~~(s)~~] (t) theft by extortion under Subsection 76-6-406(2)(a) or (b).

Section 15. Section 76-10-1602 is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) criminal homicide, Sections 76-5-201, 76-5-202, and 76-5-203;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, [~~Section~~] Sections 76-5b-201 and 76-5b-201.1;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

(u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;

(v) theft, Section 76-6-404;

(w) theft by deception, Section 76-6-405;

(x) theft by extortion, Section 76-6-406;

(y) receiving stolen property, Section 76-6-408;

(z) theft of services, Section 76-6-409;

(aa) forgery, Section 76-6-501;

(bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;

(cc) deceptive business practices, Section 76-6-507;

(dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;

(ee) bribery of a labor official, Section 76-6-509;

(ff) defrauding creditors, Section 76-6-511;

(gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;

(hh) unlawful dealing with property by fiduciary, Section 76-6-513;

(ii) bribery or threat to influence contest, Section 76-6-514;

(jj) making a false credit report, Section 76-6-517;

(kk) criminal simulation, Section 76-6-518;

(ll) criminal usury, Section 76-6-520;

(mm) fraudulent insurance act, Section 76-6-521;

(nn) retail theft, Section 76-6-602;

(oo) computer crimes, Section 76-6-703;

(pp) identity fraud, Section 76-6-1102;

(qq) mortgage fraud, Section 76-6-1203;

(rr) sale of a child, Section 76-7-203;

(ss) bribery to influence official or political actions, Section 76-8-103;

(tt) threats to influence official or political action, Section 76-8-104;

(uu) receiving bribe or bribery by public servant, Section 76-8-105;

(vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

(ww) official misconduct, Sections 76-8-201 and 76-8-202;

(xx) obstruction of justice, Section 76-8-306;

(yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;

(zz) false or inconsistent material statements, Section 76-8-502;

(aaa) false or inconsistent statements, Section 76-8-503;

(bbb) written false statements, Section 76-8-504;

(ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;

(ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;

(eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;

(fff) tampering with evidence, Section 76-8-510.5;

(ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act;

(hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;

(iii) unemployment insurance fraud, Section 76-8-1301;

(jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;

(kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;

(lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;

(mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;

(nnn) unlawful marking of pistol or revolver, Section 76-10-521;

(ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;

(ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;

(qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;

(rrr) sales in containers bearing registered trademark of substituted articles, Section 76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iiii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 16. Section 77-22-2.5 is amended to read:

77-22-2.5. Court orders for criminal investigations for records concerning an electronic communications system or service or remote computing service -- Content -- Fee for providing information.

(1) As used in this section:

(a) (i) "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photooptical system.

(ii) "Electronic communication" does not include:

(A) a wire or oral communication;

(B) a communication made through a tone-only paging device;

(C) a communication from a tracking device; or

(D) electronic funds transfer information stored by a financial institution in a communications system used for the electronic storage and transfer of funds.

(b) "Electronic communications service" means a service which provides for users the ability to send or receive wire or electronic communications.

(c) "Electronic communications system" means a wire, radio, electromagnetic, photooptical, or photoelectronic facilities for the transmission of wire or electronic communications, and a computer facilities or related electronic equipment for the electronic storage of the communication.

(d) "Internet service provider" means the same as that term is defined in Section 76-10-1230.

(e) "Prosecutor" means the same as that term is defined in Section 77-22-4.5.

(f) "Remote computing service" means the provision to the public of computer storage or processing services by means of an electronic communications system.

(g) "Sexual offense against a minor" means:

(i) sexual exploitation of a minor or attempted sexual exploitation of a minor in violation of Section 76-5b-201;

(ii) aggravated sexual exploitation of a minor or attempted aggravated sexual exploitation of a minor in violation of Section 76-5b-201.1;

[~~(ii)~~] (iii) a sexual offense or attempted sexual offense committed against a minor in violation of Title 76, Chapter 5, Part 4, Sexual Offenses;

[~~(iii)~~] (iv) dealing in or attempting to deal in material harmful to a minor in violation of Section 76-10-1206;

[~~(iv)~~] (v) enticement of a minor or attempted enticement of a minor in violation of Section 76-4-401;

[~~(v)~~] (vi) human trafficking of a child in violation of Section 76-5-308.5; or

[~~(vi)~~] (vii) aggravated sexual extortion of a child in violation of Section 76-5b-204.

(2) When a law enforcement agency is investigating a sexual offense against a minor, an offense of stalking under Section 76-5-106.5, or an offense of child kidnapping under Section 76-5-301.1, and has reasonable suspicion that an electronic communications system or service or remote computing service has been used in the commission of a criminal offense, a law enforcement agent shall:

(a) articulate specific facts showing reasonable grounds to believe that the records or other information sought, as designated in Subsections (2)(c)(i) through (v), are relevant and material to an ongoing investigation;

(b) present the request to a prosecutor for review and authorization to proceed; and

(c) submit the request to a magistrate for a court order, consistent with 18 U.S.C. Sec. 2703 and 18 U.S.C. Sec. 2702, to the electronic communications system or service or remote computing service provider that owns or controls the Internet protocol address, websites, email address, or service to a specific telephone number, requiring the production of the following information, if available, upon providing in the court order the Internet protocol address, email address, telephone number, or other identifier, and the dates and times the address, telephone number, or other identifier is suspected of being used in the commission of the offense:

(i) names of subscribers, service customers, and users;

(ii) addresses of subscribers, service customers, and users;

(iii) records of session times and durations;

(iv) length of service, including the start date and types of service utilized; and

(v) telephone or other instrument subscriber numbers or other subscriber identifiers, including a temporarily assigned network address.

(3) A court order issued under this section shall state that the electronic communications system or service or remote computing service provider shall produce a record under Subsections (2)(c)(i) through (v) that is reasonably relevant to the investigation of the suspected criminal activity or offense as described in the court order.

(4) (a) An electronic communications system or service or remote computing service provider that provides information in response to a court order issued under this section may charge a fee, not to exceed the actual cost, for providing the information.

(b) The law enforcement agency conducting the investigation shall pay the fee.

(5) The electronic communications system or service or remote computing service provider served with or responding to the court order may not disclose the court order to the account holder identified pursuant to the court order for a period of 90 days.

(6) If the electronic communications system or service or remote computing service provider served with the court order does not own or control the Internet protocol address, websites, or email address, or provide service for the telephone number that is the subject of the court order, the provider shall notify the investigating law enforcement agency that the provider does not have the information.

(7) There is no cause of action against a provider or wire or electronic communication service, or the

provider or service's officers, employees, agents, or other specified persons, for providing information, facilities, or assistance in accordance with the terms of the court order issued under this section or statutory authorization.

(8) (a) A court order issued under this section is subject to the provisions of Title 77, Chapter 23b, Access to Electronic Communications.

(b) Rights and remedies for providers and subscribers under Title 77, Chapter 23b, Access to Electronic Communications, apply to providers and subscribers subject to a court order issued under this section.

(9) A prosecutorial agency shall annually on or before February 15 report to the Commission on Criminal and Juvenile Justice:

(a) the number of requests for court orders authorized by the prosecutorial agency;

(b) the number of orders issued by the court and the criminal offense, pursuant to Subsection (2), each order was used to investigate; and

(c) if the court order led to criminal charges being filed, the type and number of offenses charged.

Section 17. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and [~~Section 76-5b-201, Sexual exploitation of a minor -- Offenses;~~] sexual exploitation of a minor and aggravated sexual exploitation of a minor, as described in Sections 76-5b-201 and 76-5b-201.1;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section 76-5-109.1;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203, or unlawful distribution of a counterfeit intimate image, as described in Section 76-5b-205;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

(y) damage to or interruption of a communication device, as described in Section 76-6-108; or

(z) an offense described in Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under [~~Sections~~] Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 18. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301(1)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor and human smuggling;

(v) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

(vi) Section 76-5-308.5, human trafficking of a child for labor;

(vii) Section 76-5-310, aggravated human trafficking and aggravated human smuggling, on or after May 10, 2011;

(viii) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

(ix) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iii);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (9)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense and:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(17) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult, on or after May 10, 2011;

(iii) Section 76-5-308, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

(xvi) Section 76-5-404, forcible sexual abuse;

(xvii) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

[~~(xxi)~~] (xxii) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

[~~(xxii)~~] (xxiii) Section 76-7-102, incest;

[~~(xxiii)~~] (xxiv) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

[~~(xxiv)~~] (xxv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

[~~(xxv)~~] (xxvi) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

[~~(xxvi)~~] (xxvii) Section 76-9-702.5, lewdness involving a child;

[~~(xxvii)~~] (xxviii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

[~~(xxviii)~~] (xxix) Section 76-10-1306, aggravated exploitation of prostitution; or

[~~(xxix)~~] (xxx) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (17)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense and:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 19. Section 77-41-106 is amended to read:

77-41-106. Registerable offenses.

Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

(1) any offense listed in Subsection 77-41-102(9) or (17) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection 77-41-102(9) or (17) or has previously been required to register as a sex offender for an offense committed as a juvenile;

(2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403.1, sodomy on a child;

(g) Subsection 76-5-404.1(4), aggravated sexual abuse of a child; or

(h) Section 76-5-405, aggravated sexual assault;

(3) Section 76-5-308, human trafficking for sexual exploitation;

(4) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(5) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(7) Section 76-4-401, a felony violation of enticing a minor over the Internet;

(8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

(9) Section 76-5-403, forcible sodomy;

(10) Section 76-5-404.1, sexual abuse of a child;

(11) Section 76-5b-201, sexual exploitation of a minor;

(12) Section 76-5b-201.1, aggravated sexual exploitation of a minor;

[~~(12)~~] (13) Subsection 76-5b-204(4), aggravated sexual extortion; or

[~~(13)~~] (14) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

Section 20. Section 78B-6-117 is amended to read:

78B-6-117. Who may adopt -- Adoption of minor.

(1) A minor child may be adopted by an adult individual, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to Subsections (3) and (4), a single adult.

(3) A child may not be adopted by an individual who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state unless the individual is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a child;

(ii) are willing to adopt the child; and

(iii) are an appropriate placement for the child;

(b) the child is placed with a relative of the child;

(c) the child is placed with an individual who has already developed a substantial relationship with the child;

(d) the child is placed with an individual who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the individual with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single adult.

(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; [~~or~~]

(k) aggravated sexual exploitation of a minor, as described in Section 76-5b-201.1; or

[~~(k)~~] (l) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).

(6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from considering an individual for adoption of a child except as provided in this Subsection (6).

(b) An individual described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the individual files a petition with the court seeking adoption, the individual has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iii) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the individual can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or

(B) subject to Subsection (6)(d), a relative of the child as defined in Section 80-3-102 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The individual with the disqualifying offense bears the burden of proof regarding why adoption with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 21. Section 80-1-102 is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more

individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 22. Coordinating S.B. 167 with S.B. 123 -- Substantive and technical amendments.

If this S.B. 167 and S.B. 123, Criminal Code Recodification, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending:

(1) Subsection 76-5b-201.1(1) to read:

"(1) As used in this section:

(a) "Physical abuse" or "physically abused" means the same as the term "physical abuse" is defined in Section 80-1-102.

(b) The terms defined in Section 76-1-101.5 apply to this section."; and

(2) Subsection 76-5b-205(3)(c) to read:

"(c) This section does not apply to an actor who engages in conduct that constitutes a violation of this section to the extent that the actor is chargeable, for the same conduct, under Section 76-5b-201, sexual exploitation of a minor, or Section 76-5b-201.1, aggravated sexual exploitation of a minor.".

CHAPTER 186
S. B. 172

Passed March 3, 2022
Approved March 22, 2022
Effective March 22, 2022

HIGHER EDUCATION STUDENT ASSISTANCE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends and enacts provisions related to the Utah Higher Education Assistance Authority.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Higher Education Student Success Endowment (endowment) consisting of funds from the proceeds from the divestment of the Utah Higher Education Assistance Authority's (authority) loan portfolio, among other revenue sources;
- directs the state treasurer to manage the endowment;
- authorizes the Utah Board of Higher Education (board) to expend money from the endowment to advance higher education system priorities;
- enacts board duties in relation to the endowment;
- directs the board to prepare recommendations for discontinuing the authority; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2021, Chapter 33

53B-12-101, as last amended by Laws of Utah 2016, Chapter 296

ENACTS:

53B-7-801, Utah Code Annotated 1953
53B-7-802, Utah Code Annotated 1953
53B-7-803, Utah Code Annotated 1953
53B-12-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions, including funds of the Higher Education Student Success Endowment, created in Section 53B-7-801;

(5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund;

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(11) the funds in the Employers' Reinsurance Fund;

(12) the funds in the Uninsured Employers' Fund;

(13) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7; and

(14) the funds in the Risk Management Fund created in Section 63A-4-201.

Section 2. Section 53B-7-801 is enacted to read:

Part 8. Higher Education Student Success Endowment

53B-7-801. Definitions.

As used in this part:

(1) "Authority" means the Utah Higher Education Assistance Authority.

(2) "Endowment" means the Higher Education Student Success Endowment created in Section 53B-7-802.

Section 3. Section 53B-7-802 is enacted to read:

53B-7-802. Higher Education Student Success Endowment.

(1) There is created the Higher Education Student Success Endowment.

(2) The endowment consists of:

(a) the proceeds from divestment of the authority's loan portfolio in accordance with Section 53B-12-109;

(b) appropriations made to the endowment by the Legislature, if any;

(c) income from the investment of the endowment; and

(d) other revenues received from other sources.

(3) The board shall account for the receipt and expenditures of endowment money in accordance

with the policies and guidance of the Division of Finance.

(4) (a) (i) The state treasurer shall invest the endowment money with the primary goal of providing for stability, income, and growth of the principal.

(ii) The state treasurer may deduct any administrative costs incurred in managing endowment assets from earnings before distributing the earnings.

(b) Nothing in this section requires a specific outcome in investing.

(c) The state treasurer may employ professional asset managers to assist in the investment of assets of the endowment.

(d) The state treasurer may only provide compensation to asset managers from earnings generated by the endowment's investments.

(e) The state treasurer shall invest and manage the endowment assets as a prudent investor would, by:

(i) considering the purposes, terms, distribution requirements, and other circumstances of the endowment; and

(ii) exercising reasonable care, skill, and caution in order to meet the standard of care of a prudent investor.

(f) In determining whether or not the state treasurer has met the standard of care of a prudent investor, the judge or finder of fact shall:

(i) consider the state treasurer's actions in light of the facts and circumstances existing at the time of the investment decision or action, and not by hindsight; and

(ii) evaluate the state treasurer's investment and management decisions respecting individual assets not in isolation, but in context of an endowment portfolio as a whole as a part of an overall investment strategy that has risk and return objectives reasonably suited to the endowment.

(5) (a) The endowment shall earn interest.

(b) The state treasurer shall deposit the interest or other revenue earned from investment of the endowment into the endowment.

(6) The board:

(a) may expend money from the endowment for programs that:

(i) advance the system priorities as established in Subsection 53B-1-402(2)(a); and

(ii) support prospective students or current students enrolled at an institution, as described in Section 53B-2-101; and

(b) may not expend money from the endowment for a capital expenditure, including the construction or lease of a capital facility or operation and maintenance of a capital facility.

(7) The board shall ensure that:

(a) money deposited into the endowment is irrevocable and is expended only for programs that advance the system priorities as established in Subsection 53B-1-402(2)(a); and

(b) creditors of the board of directors may not seize, attach, or otherwise obtain assets of the endowment.

Section 4. Section 53B-7-803 is enacted to read:

53B-7-803. Board duties.

(1) The board shall:

(a) act as trustee of the endowment and exercise the state's fiduciary responsibilities;

(b) meet at least twice a year to conduct business on behalf of the endowment;

(c) review and approve all endowment policies, projections, rules, criteria, procedures, forms, standards, and performance goals;

(d) review and approve the budget and expenditures for the endowment in accordance with Section 53B-7-802;

(e) review financial records for the endowment, including endowment receipts, expenditures, and investments; and

(f) take any other action necessary to perform the board's fiduciary obligations.

(2) The board shall annually submit a budget and expenditures to the Higher Education Appropriations Subcommittee no later than November 1.

Section 5. Section 53B-12-101 is amended to read:

53B-12-101. Utah Higher Education Assistance Authority designated -- Powers.

The board is the Utah Higher Education Assistance Authority and, in this capacity, may, subject to Section 53B-12-109, do the following:

(1) guarantee 100% of the principal of and interest on a loan to or for the benefit of a person attending or accepted to attend an eligible postsecondary educational institution to assist that person in meeting any educational expenses incurred in an academic year;

(2) take, hold, and administer real or personal property and money, including interest and income, either absolutely or in trust, for any purpose under this chapter;

(3) acquire property for the purposes indicated in Subsection (2) by purchase or lease and by the acceptance of gifts, grants, bequests, devises, or loans;

(4) enter into or contract with an eligible lending institution, or with a public or private postsecondary educational institution to provide for the administration by the institution of any loan or

loan guarantee made by it, including application and repayment provisions;

(5) participate in federal programs guaranteeing, reinsuring, or otherwise supporting loans to eligible borrowers for postsecondary educational purposes and agree to, and comply with, the conditions and regulations applicable to those programs;

(6) adopt, amend, or repeal rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the activities authorized by this chapter;

(7) receive state appropriations for the fund established under Section 53B-12-104 to match deposits and to accept contributions received by it for this purpose;

(8) receive funds from the federal government to assist in implementing federally supported programs administered under this chapter;

(9) engage, appoint, or contract for the services of officers, agents, employees, and private consultants to render and perform professional and technical duties and provide assistance and advice in carrying out the purposes of this chapter, to describe their duties, and to fix the amount and source of their compensation; and

(10) receive employment information from the Workforce Research and Analysis Division in accordance with Section 35A-4-312 for the purpose of collecting defaulted student loans made under this chapter. The information obtained under this Subsection (10) shall be limited to the employer's name, address, and telephone number for borrowers who have defaulted on a student loan held by the Utah Higher Education Assistance Authority.

Section 6. Section 53B-12-109 is enacted to read:

53B-12-109. Dissolution of authority -- Higher Education Student Success Endowment.

(1) As used in this section:

(a) "Authority" means the Utah Higher Education Assistance Authority.

(b) "Board" means the board of directors appointed in accordance with Section 53B-12-102.

(2) The board of directors shall, no later than November 1, 2022, prepare a written analysis and recommendations describing:

(a) the most efficient way to discontinue any authority loan servicing and administration;

(b) a complete accounting of remaining authority assets, real property, outstanding bonds, and other obligations;

(c) recommendations for reorganizing the board of directors for purposes of administering the Utah Educational Savings Plan created in Section 53B-8a-103;

(d) actions the authority will take to discontinue participation in federal programs guaranteeing, reinsuring, or otherwise supporting loans for postsecondary educational purposes; and

(e) efforts the board of directors is taking and will take toward the dissolution of the authority.

(3) The board shall divest the authority's loan portfolio and deposit the proceeds into the Higher Education Student Success Endowment, created in Section 53B-7-802.

Section 7. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 187
S. B. 179

Passed March 3, 2022
Approved March 22, 2022
Effective May 4, 2022

CRIMINAL JUSTICE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill addresses provisions related to the criminal justice system.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- modifies provisions requiring a county jail to report certain information to the State Commission on Criminal and Juvenile Justice (CCJJ);
- prohibits CCJJ from providing a state grant to an agency or program who is not in compliance with certain statutory reporting requirements;
- requires certain residential, vocational, and life skills programs to provide data to CCJJ;
- requires CCJJ to evaluate, report, and publish certain data;
- requires a county to create a criminal justice coordinating council subject to certain requirements;
- removes and modifies provisions related to certification by the Division of Substance Abuse and Mental Health (DSAMH) of treatment providers who work with individuals involved in the criminal justice system;
- requires DSAMH to:
  - establish outcome measurements for treatment programs, including measurements related to recidivism reduction;
  - coordinate with the Administrative Office of the Courts, the Department of Corrections (DOC), the Department of Workforce Services, and the Board of Pardons and Parole to collect certain recidivism data;
  - meet certain reporting requirements for the measurements and data; and
  - publish certain treatment information online;
- modifies the Statewide Behavioral Health Crisis Response Account;
- requires DOC to:
  - track an offender's compliance with certain treatment while on probation or parole; and
  - create a case action plan for an offender within a certain time frame;
- prohibits DOC from contracting with a county to house state inmates if the county is not in compliance with certain statutory reporting requirements;
- provides that a felony offense is not required for participation in a drug court program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to General Fund Restricted -- Behavioral Health Crisis Response Account, as an ongoing appropriation:
  - from General Fund, $1,000,000; and
- to Department of Health and Human Services -- Integrated Health Care Services -- Non-Medicaid Behavioral Health Treatment and Crisis Response, as an ongoing appropriation:
  - from the General Fund Restricted -- Behavioral Health Crisis Response Account, $1,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-22-32, as last amended by Laws of Utah 2020, Chapters 283 and 413
62A-4a-412, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419
62A-15-103, as last amended by Laws of Utah 2021, Chapters 231 and 277
62A-15-123, as enacted by Laws of Utah 2021, Chapter 76
62A-15-602, as last amended by Laws of Utah 2021, Chapter 122
63M-7-204, as last amended by Laws of Utah 2021, Chapters 64 and 426
64-13-6, as last amended by Laws of Utah 2021, Chapters 173, 246, and 260
64-13-21, as last amended by Laws of Utah 2021, Chapters 173 and 260
64-13-26, as last amended by Laws of Utah 2015, Chapter 412
64-13e-103, as last amended by Laws of Utah 2020, Chapter 410
78A-5-201, as last amended by Laws of Utah 2015, Chapter 412

ENACTS:

13-53-111, Utah Code Annotated 1953
17-55-101, Utah Code Annotated 1953
17-55-201, Utah Code Annotated 1953
63M-7-218, Utah Code Annotated 1953

REPEALS:

62A-15-103.5, as last amended by Laws of Utah 2021, Chapter 64

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-53-111 is enacted to read:

13-53-111. Recidivism reporting requirements.

(1) A residential, vocational and life skills program shall collect data on recidivism of participants, including data on:

(a) participants who participate in the residential, vocational and life skills program while under the supervision of a criminal court or the Board of Pardons and Parole and are convicted of another offense while participating in the program or within two years after the day on which the program ends; and

(b) the type of services provided to, and employment of, the participants described in Subsection (1)(a).

(2) A residential, vocational and life skills program shall annually, on or before August 31, provide the data described in Subsection (1) to the State Commission on Criminal and Juvenile Justice, to be included in the report described in Subsection 63M-7-204(1)(x).

Section 2. Section 17-22-32 is amended to read:

17-22-32. County jail reporting requirements.

(1) As used in this section:

(a) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) (i) "In-custody death" means an inmate death that occurs while the inmate is in the custody of a county jail.

(ii) "In-custody death" includes an inmate death that occurs while the inmate is:

(A) being transported for medical care; or

(B) receiving medical care outside of a county jail.

(c) "Inmate" means an individual who is processed or booked into custody or housed in a county jail in the state.

(d) "Opiate" means the same as that term is defined in Section 58-37-2.

(2) Each county jail shall submit a report to the commission before June 15 of each year that includes, for the preceding calendar year [~~if reasonably available~~]:

(a) the average daily inmate population each month;

(b) the number of inmates in the county jail on the last day of each month who identify as each race or ethnicity included in the Standards for Transmitting Race and Ethnicity published by the Untied States Federal Bureau of Investigation;

(c) the number of inmates booked into the county jail;

(d) the number of inmates held in the county jail each month on behalf of each of the following entities:

(i) the Bureau of Indian Affairs;

(ii) a state prison;

(iii) a federal prison;

(iv) the United States Immigration and Customs Enforcement;

(v) any other entity with which a county jail has entered a contract to house inmates on the entity's behalf;

(e) the number of inmates that are denied pretrial release and held in the custody of the county jail while the inmate awaited final disposition of the inmate's criminal charges;

(f) for each inmate booked into the county jail:

(i) the name of the agency that arrested the inmate;

(ii) the date and time the inmate was booked into and released from the custody of the county jail;

(iii) if the inmate was released from the custody of the county jail, the reason the inmate was released from the custody of the county jail;

(iv) if the inmate was released from the custody of the county jail on a financial condition, whether the financial condition was set by a bail commissioner or a court;

(v) the number of days the inmate was held in the custody of the county jail before disposition of the inmate's criminal charges;

(vi) whether the inmate was released from the custody of the county jail before final disposition of the inmate's criminal charges; and

(vii) the state identification number of the inmate;

(g) the number of in-custody deaths that occurred at the county jail;

(h) for each in-custody death;

(i) the name, gender, race, ethnicity, age, and known or suspected medical diagnosis or disability, if any, of the deceased;

(ii) the date, time, and location of death;

(iii) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

(iv) a brief description of the circumstances surrounding the death;

(i) the known, or discoverable on reasonable inquiry, causes and contributing factors of each of the in-custody deaths described in Subsection (2)(g);

(j) the county jail's policy for notifying an inmate's next of kin after the inmate's in-custody death;

(k) the county jail policies, procedures, and protocols:

(i) for treatment of an inmate experiencing withdrawal from alcohol or substance use, including use of opiates;

(ii) that relate to the county jail's provision, or lack of provision, of medications used to treat, mitigate, or address an inmate's symptoms of withdrawal, including methadone and all forms of buprenorphine and naltrexone; and

(iii) that relate to screening, assessment, and treatment of an inmate for a substance use or mental health disorder; and

(l) any report the county jail provides or is required to provide under federal law or regulation relating to inmate deaths.

(3) (a) Subsection (2) does not apply to a county jail if the county jail:

(i) collects and stores the data described in Subsection (2); and

(ii) enters into a memorandum of understanding with the commission that allows the commission to access the data described in Subsection (2).

(b) The memorandum of understanding described in Subsection (3)(a)(ii) shall include a provision to protect any information related to an ongoing investigation and comply with all applicable federal and state laws.

(c) If the commission accesses data from a county jail in accordance with Subsection (3)(a), the commission may not release a report prepared from that data, unless:

(i) the commission provides the report for review to:

(A) the county jail; and

(B) any arresting agency that is named in the report; and

(ii) (A) the county jail approves the report for release;

(B) the county jail reviews the report and prepares a response to the report to be published with the report; or

(C) the county jail fails to provide a response to the report within four weeks after the day on which the commission provides the report to the county jail.

(4) The commission shall:

(a) compile the information from the reports described in Subsection (2);

(b) omit or redact any identifying information of an inmate in the compilation to the extent omission or redaction is necessary to comply with state and federal law;

(c) submit the compilation to the Law Enforcement and Criminal Justice Interim Committee and the Utah Substance Use and Mental Health Advisory Council before November 1 of each year; and

(d) submit the compilation to the protection and advocacy agency designated by the governor before November 1 of each year.

(5) The [~~Commission on Criminal and Juvenile Justice~~] commission may not provide access to or use a county jail's policies, procedures, or protocols submitted under this section in a manner or for a purpose not described in this section.

(6) A report including only the names and causes of death of deceased inmates and the facility in which they were being held in custody [~~will~~] shall be made available to the public.

Section 3. Section 17-55-101 is enacted to read:

CHAPTER 55. CRIMINAL JUSTICE COORDINATING COUNCILS

Part 1. General Provisions

17-55-101. Definitions.

As used in this part:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, or incarceration of a person involved in criminal activity.

(3) "Criminal justice coordinating council" or "council" means a council created by a county or counties in accordance with Section 17-55-201.

(4) "Criminal justice system" means the continuum of criminal justice agencies and post-incarceration services that an individual may encounter as a result of the individual's criminal activity.

(5) (a) "Post-incarceration services" means services that may assist an individual who is leaving incarceration to reintegrate into the community.

(b) "Post-incarceration services" includes:

(i) educational services;

(ii) housing services;

(iii) health care services;

(iv) workforce services; and

(v) human services programs.

Section 4. Section 17-55-201 is enacted to read:

Part 2. Criminal Justice Coordinating Councils

17-55-201. Criminal justice coordinating councils -- Creation -- Strategic plan -- Reporting requirements.

(1) (a) Beginning January 1, 2023, a county shall:

(i) create a criminal justice coordinating council; or

(ii) jointly with another county or counties, create a criminal justice coordinating council.

(b) The purpose of a council is to coordinate and improve components of the criminal justice system in the county or counties.

(2) (a) A council shall include:

(i) one county commissioner or county council member;

(ii) the county sheriff or the sheriff's designee;

(iii) one chief of police of a municipality within the county or the chief's designee;

(iv) the county attorney or the attorney's designee;

(v) one public defender or attorney who provides public defense within the county;

(vi) one district court judge;

(vii) one justice court judge;

(viii) one representative from the Division of Adult Probation and Parole within the Department of Corrections;

(ix) one representative from the local mental health authority within the county; and

(x) one individual who is:

(A) a crime victim; or

(B) a victim advocate, as defined in Section 77-38-403.

(b) A council may include:

(i) an individual representing:

(A) local government;

(B) human services programs;

(C) higher education;

(D) peer support services;

(E) workforce services;

(F) local housing services;

(G) mental health or substance use disorder providers;

(H) a health care organization within the county;

(I) a local homeless council;

(J) family counseling and support groups; or

(K) organizations that work with families of incarcerated individuals; or

(ii) an individual with lived experiences in the criminal justice system.

(3) The member described in Subsection (2)(a)(i) shall serve as chair of the council.

(4) (a) A council shall develop and implement a strategic plan for the county's or counties' criminal justice system that includes:

(i) mapping of all systems, resources, assets, and services within the county's or counties' criminal justice system;

(ii) a plan for data sharing across the county's or counties' criminal justice system;

(iii) recidivism reduction objectives; and

(iv) community reintegration goals.

(b) The commission may assist a council in the development of a strategic plan.

(5) Before November 30 of each year, a council shall provide a written report to the commission regarding:

(a) the implementation of a strategic plan described in Subsection (4); and

(b) any data on the impact of the council on the criminal justice system in the county or counties.

Section 5. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)[~~(o)~~](p).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007, the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in the division's or law enforcement officials' subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger an individual's safety.

(4) Any person who willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and

(ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(8) (a) Except as provided in Subsection (8)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (8)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (8)(b)(i), the court may receive the report into evidence upon a finding on the record of good cause.

Section 6. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

[~~(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;~~]

[~~(vi)~~] (v) promote integrated programs that address an individual's substance abuse, mental health, and physical health[~~, and criminal risk factors~~];

[~~(vii)~~] (vi) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with a substance use disorder [~~and~~] or mental illness [~~that addresses criminal risk factors~~];

[~~(viii)~~] (vii) evaluate the effectiveness of programs described in this Subsection (2);

[~~(ix)~~] (viii) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

[~~(x)~~] (ix) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

[~~(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:~~]

[~~(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;~~]

[~~(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and~~]

[~~(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;~~]

[~~(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:~~]

[~~(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;~~]

[~~(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and~~]

[~~(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;~~]

[~~(k)~~] (i) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an [~~offender~~] individual convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

[~~(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and~~]

[~~(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;~~]

(j) establish performance goals and outcome measurements for a mental health or substance use treatment program that is licensed under Chapter 2, Licensure of Programs and Facilities, and contracts with the department, including goals and measurements related to employment and reducing recidivism of individuals receiving mental health or substance use treatment who are involved with the criminal justice system;

(k) annually, on or before November 30, submit a written report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, and the Law Enforcement and Criminal Justice Interim Committee, that includes:

(i) a description of the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) information on the effectiveness of the goals and measurements in ensuring appropriate and adequate mental health or substance use treatment is provided in a treatment program described in Subsection (2)(j);

(l) collaborate with the Administrative Office of the Courts, the Department of Corrections, the Department of Workforce Services, and the Board of Pardons and Parole to collect data on recidivism, including data on:

(i) individuals who participate in a mental health or substance use treatment program while incarcerated and are convicted of another offense within two years after release from incarceration;

(ii) individuals who are ordered by a criminal court or the Board of Pardons and Parole to participate in a mental health or substance use treatment program and are convicted of another offense while participating in the treatment program or within two years after the day on which the treatment program ends;

(iii) the type of treatment provided to, and employment of, the individuals described in Subsections (2)(l)(i) and (ii); and

(iv) cost savings associated with recidivism reduction and the reduction in the number of inmates in the state;

(m) [~~in~~] at the division's discretion, use the data described in Subsection (2)(l) to make decisions regarding the use of funds allocated to the division[~~, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i)~~] to provide treatment;

(n) annually, on or before August 31, submit the data collected under Subsection [~~(2)(k)~~] (2)(l) and any recommendations to improve the data collection to the State Commission on Criminal and Juvenile Justice[~~, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and~~] to be included in the report described in Subsection 63M-7-204(1)(x);

(o) publish the following on the division's website:

(i) the performance goals and outcome measurements described in Subsection (2)(j); and

(ii) a description of the services provided and the contact information for the mental health and substance use treatment programs described in Subsection (2)(j) and residential, vocational and life skills programs, as defined in Section 13-53-102; and

[~~(o)~~] (p) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 7. Section 62A-15-123 is amended to read:

62A-15-123. Statewide Behavioral Health Crisis Response Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Statewide Behavioral Health Crisis Response Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, or other persons.

(2) (a) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division shall disburse funds in the account only for the purpose of support or implementation of services or enhancements of those services in order to rapidly, efficiently, and effectively deliver 988 services in the state.

(b) Funds distributed from the account to county local mental health and substance abuse authorities for the provision of crisis services are not subject to the 20% county match described in Sections 17-43-201 and 17-43-301.

(c) [~~The~~] Except as provided in Subsection (2)(d), the division shall prioritize expending funds from the account as follows:

(i) the Statewide Mental Health Crisis Line, as defined in Section 62A-15-1301, including coordination with 911 emergency service, as defined in Section 69-2-102, and coordination with local substance abuse authorities as described in Section 17-43-201, and local mental health authorities, described in Section 17-43-301;

(ii) mitigation of any negative impacts on 911 emergency service from 988 services;

(iii) mobile crisis outreach teams as defined in Section 62A-15-1401, distributed in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iv) behavioral health receiving centers as defined in Section 62A-15-118;

(v) stabilization services as described in Section 62A-1-104; and

(vi) mental health crisis services provided by local substance abuse authorities as described in Section 17-43-201 and local mental health authorities described in Section 17-43-301 to provide prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis.

(d) If the Legislature appropriates money to the account for a purpose described in Subsection (2)(c), the division shall use the appropriation for that purpose.

(3) Subject to appropriations by the Legislature and any contributions to the account described in Subsection (1)(b), the division may expend funds in the account for administrative costs that the division incurs related to administering the account.

(4) The division director shall submit and make available to the public a report before December of each year to the Behavioral Health Crisis Response Commission, as defined in Section 63C-18-202, the Social Services Appropriations Subcommittee, and the Legislative Management Committee that includes:

(a) the amount of each disbursement from the [~~restricted account described in Section 62A-15-123~~] account;

(b) the recipient of each disbursement, the goods and services received, and a description of the project funded by the disbursement;

(c) any conditions placed by the division on the disbursements from the [~~restricted~~] account;

(d) the anticipated expenditures from the [~~restricted account described in this chapter~~] account for the next fiscal year;

(e) the amount of any unexpended funds carried forward;

(f) the number of Statewide Mental Health Crisis Line calls received;

(g) the progress towards accomplishing the goals of providing statewide mental health crisis service; and

(h) other relevant justification for ongoing support from the [~~restricted~~] account.

Section 8. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years of age or older.

(2) "Approved treatment facility or program" means a mental health or substance use treatment provider that meets the [~~standards~~] goals and measurements described in Subsection [~~62A-15-103(2)(a)(v)~~] 62A-15-103(2)(j).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

(4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(10) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

(12) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

(13) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(14) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

(15) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(16) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(17) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(18) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(19) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; or

(e) engaging in harmful sexual conduct.

(20) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 9. Section 63M-7-204 is amended to read:

63M-7-204. Duties of commission.

(1) The State Commission on Criminal and Juvenile Justice administration shall:

(a) promote the commission's purposes as enumerated in Section 63M-7-201;

(b) promote the communication and coordination of all criminal and juvenile justice agencies;

(c) study, evaluate, and report on the status of crime in the state and on the effectiveness of criminal justice policies, procedures, and programs that are directed toward the reduction of crime in the state;

(d) study, evaluate, and report on programs initiated by state and local agencies to address reducing recidivism, including changes in penalties and sentencing guidelines intended to reduce recidivism, costs savings associated with the reduction in the number of inmates, and evaluation of expenses and resources needed to meet goals regarding the use of treatment as an alternative to incarceration, as resources allow;

(e) study, evaluate, and report on policies, procedures, and programs of other jurisdictions which have effectively reduced crime;

(f) identify and promote the implementation of specific policies and programs the commission determines will significantly reduce crime in Utah;

(g) provide analysis and recommendations on all criminal and juvenile justice legislation, state budget, and facility requests, including program and fiscal impact on all components of the criminal and juvenile justice system;

(h) provide analysis, accountability, recommendations, and supervision for state and federal criminal justice grant money;

(i) provide public information on the criminal and juvenile justice system and give technical assistance to agencies or local units of government on methods to promote public awareness;

(j) promote research and program evaluation as an integral part of the criminal and juvenile justice system;

(k) provide a comprehensive criminal justice plan annually;

(l) review agency forecasts regarding future demands on the criminal and juvenile justice systems, including specific projections for secure bed space;

(m) promote the development of criminal and juvenile justice information systems that are consistent with common standards for data storage and are capable of appropriately sharing information with other criminal justice information systems by:

(i) developing and maintaining common data standards for use by all state criminal justice agencies;

(ii) annually performing audits of criminal history record information maintained by state criminal justice agencies to assess their accuracy, completeness, and adherence to standards;

(iii) defining and developing state and local programs and projects associated with the improvement of information management for law enforcement and the administration of justice; and

(iv) establishing general policies concerning criminal and juvenile justice information systems and making rules as necessary to carry out the duties under Subsection (1)(k) and this Subsection (1)(m);

(n) allocate and administer grants, from money made available, for approved education programs to help prevent the sexual exploitation of children;

(o) allocate and administer grants for law enforcement operations and programs related to reducing illegal drug activity and related criminal activity;

(p) request, receive, and evaluate data and recommendations collected and reported by agencies and contractors related to policies recommended by the commission regarding recidivism reduction, including the data described in Section 13-53-111 and Subsection 62A-15-103(2)(l);

(q) establish and administer a performance incentive grant program that allocates funds appropriated by the Legislature to programs and practices implemented by counties that reduce recidivism and reduce the number of offenders per capita who are incarcerated;

(r) oversee or designate an entity to oversee the implementation of juvenile justice reforms;

(s) make rules and administer the juvenile holding room standards and juvenile jail standards to align with the Juvenile Justice and Delinquency Prevention Act requirements pursuant to 42 U.S.C. Sec. 5633;

(t) allocate and administer grants, from money made available, for pilot qualifying education programs;

(u) oversee the trauma-informed justice program described in Section 63M-7-209;

(v) request, receive, and evaluate the aggregate data collected from prosecutorial agencies and the Administrative Office of the Courts, in accordance with Sections 63M-7-216 and 78A-2-109.5; [~~and~~]

(w) report annually to the Law Enforcement and Criminal Justice Interim Committee on the progress made on each of the following goals of the Justice Reinvestment Initiative:

(i) ensuring oversight and accountability;

(ii) supporting local corrections systems;

(iii) improving and expanding reentry and treatment services; and

(iv) strengthening probation and parole supervision[~~.~~];

(x) compile a report of findings based on the data and recommendations provided under Section 13-53-111 and Subsection 62A-15-103(2)(n) that:

(i) separates the data provided under Section 13-53-111 by each residential, vocational and life skills program; and

(ii) separates the data provided under Subsection 62A-15-103(2)(n) by each mental health or substance use treatment program; and

(y) publish the report described in Subsection (1)(x) on the commission's website and annually provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees.

(2) If the commission designates an entity under Subsection (1)(r), the commission shall ensure that the membership of the entity includes representation from the three branches of government and, as determined by the commission, representation from relevant stakeholder groups across all parts of the juvenile justice system, including county representation.

Section 10. Section 63M-7-218 is enacted to read:

63M-7-218. State grant requirements.

(1) As used in this section, "commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) Beginning July 1, 2023, the commission may not award any grant of state funds to:

(a) a county that is subject to, and not in compliance with, Subsection 64-13e-104(6);

(b) a county jail that is subject to, and not in compliance with, Subsection 17-22-32(2) or 77-20-103(2);

(c) a criminal justice coordinating council that is subject to, and not in compliance with, Subsection 17-55-201(5);

(d) a state or local government agency or nonprofit organization that is subject to, and not in compliance with, Subsection 63M-7-214(7);

(e) a law enforcement agency that is subject to, and not in compliance with, Subsection 63M-7-214(7) or 77-7-8.5(2);

(f) a prosecutorial agency that is subject to, and not in compliance with, Subsection 63M-7-216(2) or 77-22-2.5(9); or

(g) a residential, vocational and life skills program that is subject to, and not in compliance with, Section 13-53-111.

Section 11. Section 64-13-6 is amended to read:

64-13-6. Department duties.

(1) The department shall:

(a) protect the public through institutional care and confinement, and supervision in the community of offenders where appropriate;

(b) implement court-ordered punishment of offenders;

(c) provide evidence-based and evidence-informed program opportunities for offenders designed to reduce offenders' criminogenic and recidivism risks, including behavioral, cognitive, educational, and career-readiness program opportunities;

(d) ensure that offender participation in all program opportunities described in Subsection (1)(c) is voluntary;

(e) where appropriate, utilize offender volunteers as mentors in the program opportunities described in Subsection (1)(c);

(f) provide treatment for sex offenders who are found to be treatable based upon criteria developed by the department;

(g) provide the results of ongoing clinical assessment of sex offenders and objective diagnostic testing to sentencing and release authorities;

(h) manage programs that take into account the needs and interests of victims, where reasonable;

(i) supervise probationers and parolees as directed by statute and implemented by the courts and the Board of Pardons and Parole;

(j) subject to Subsection (2), investigate criminal conduct involving offenders incarcerated in a state correctional facility;

(k) cooperate and exchange information with other state, local, and federal law enforcement agencies to achieve greater success in prevention and detection of crime and apprehension of criminals;

(l) implement the provisions of Title 77, Chapter 28c, Interstate Compact for Adult Offender Supervision;

(m) establish a case action plan based on appropriate validated risk, needs, and responsivity assessments for each offender as follows:

(i) (A) if an offender is to be supervised in the community, the department shall establish a case action plan [~~shall be established~~] for the offender [~~not more~~] no later than [~~90~~] 60 days after [~~supervision by the department~~] the day on which the department's community supervision of the offender begins; and

(B) if the offender is committed to the custody of the department, the department shall establish a case action plan [~~shall be established~~] for the offender [~~not more~~] no later than [~~120~~] 90 days after the [~~commitment~~] day on which the offender is committed to the custody of the department;

(ii) each case action plan shall integrate an individualized, evidence-based, and evidence-informed treatment and program plan with clearly defined completion requirements;

(iii) the department shall share each newly established case action plan with the sentencing and release authority within 30 days after the day on which the case action plan is established; and

(iv) the department shall share any changes to a case action plan, including any change in an offender's risk assessment, with the sentencing and release authority within 30 days after the day of the change; and

(n) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(i) under this title;

(ii) by the department; or

(iii) by an agency or division within the department.

(2) The department may in the course of supervising probationers and parolees:

(a) respond in accordance with the graduated and evidence-based processes established by the Utah

Sentencing Commission under Subsection 63M-7-404(6), to an individual's violation of one or more terms of the probation or parole; and

(b) upon approval by the court or the Board of Pardons and Parole, impose as a sanction for an individual's violation of the terms of probation or parole a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) (a) By following the procedures in Subsection (3)(b), the department may investigate the following occurrences at state correctional facilities:

(i) criminal conduct of departmental employees;

(ii) felony crimes resulting in serious bodily injury;

(iii) death of any person; or

(iv) aggravated kidnaping.

(b) Before investigating any occurrence specified in Subsection (3)(a), the department shall:

(i) notify the sheriff or other appropriate law enforcement agency promptly after ascertaining facts sufficient to believe an occurrence specified in Subsection (3)(a) has occurred; and

(ii) obtain consent of the sheriff or other appropriate law enforcement agency to conduct an investigation involving an occurrence specified in Subsection (3)(a).

(4) Upon request, the department shall provide copies of investigative reports of criminal conduct to the sheriff or other appropriate law enforcement agencies.

(5) (a) The executive director of the department, or the executive director's designee if the designee possesses expertise in correctional programming, shall consult at least annually with cognitive and career-readiness staff experts from the Utah system of higher education and the State Board of Education to review the department's evidence-based and evidence-informed treatment and program opportunities.

(b) Beginning in the 2022 interim, the department shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee regarding the department's implementation of and offender participation in evidence-based and evidence-informed treatment and program opportunities designed to reduce the criminogenic and recidivism risks of offenders over time.

(6) (a) As used in this Subsection (6):

(i) "Accounts receivable" means any amount owed by an offender arising from a criminal judgment that has not been paid.

(ii) "Accounts receivable" includes unpaid fees, overpayments, fines, forfeitures, surcharges, costs, interest, penalties, restitution to victims, third-party claims, claims, reimbursement of a reward, and damages that an offender is ordered to pay.

(b) The department shall collect and disburse, with any interest and any other costs assessed under Section 64-13-21, an accounts receivable for an offender during:

(i) the parole period and any extension of that period in accordance with Subsection (6)(c); and

(ii) the probation period for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection 77-18-105(7).

(c) (i) If an offender has an unpaid balance of the offender's accounts receivable at the time that the offender's sentence expires or terminates, the department shall be referred to the sentencing court for the sentencing court to enter a civil judgment of restitution and a civil accounts receivable as described in Section 77-18-114.

(ii) If the board makes an order for restitution within 60 days from the day on which the offender's sentence expires or terminates, the board shall refer the order for restitution to the sentencing court to be entered as a civil judgment of restitution as described in Section 77-18-114.

(d) This Subsection (6) only applies to offenders sentenced before July 1, 2021.

Section 12. Section 64-13-21 is amended to read:

64-13-21. Supervision of sentenced offenders placed in community -- Rulemaking -- POST certified parole or probation officers and peace officers -- Duties -- Supervision fee.

(1) (a) The department, except as otherwise provided by law, shall supervise sentenced offenders placed in the community on probation by the courts, on parole by the Board of Pardons and Parole, or upon acceptance for supervision under the terms of the Interstate Compact for the Supervision of Parolees and Probationers.

(b) If a sentenced offender participates in substance use treatment or a residential, vocational and life skills program, as defined in Section 13-53-102, while under supervision on probation or parole, the department shall monitor the offender's compliance with and completion of the treatment or program.

[~~(b)~~] (c) The department shall establish standards for:

(i) the supervision of offenders in accordance with sentencing guidelines and supervision length guidelines, including the graduated and evidence-based responses, established by the Utah Sentencing Commission, giving priority, based on available resources, to felony offenders and offenders sentenced [~~pursuant to~~] under Subsection 58-37-8 (2)(b)(ii)[~~.~~]; and

(ii) the monitoring described in Subsection (1)(b).

(2) The department shall apply the graduated and evidence-based responses established by the

Utah Sentencing Commission to facilitate a prompt and appropriate response to an individual's violation of the terms of probation or parole, including:

(a) sanctions to be used in response to a violation of the terms of probation or parole; and

(b) requesting approval from the court or Board of Pardons and Parole to impose a sanction for an individual's violation of the terms of probation or parole, for a period of incarceration of not more than three consecutive days and not more than a total of five days within a period of 30 days.

(3) The department shall implement a program of graduated incentives as established by the Utah Sentencing Commission to facilitate the department's prompt and appropriate response to an offender's:

(a) compliance with the terms of probation or parole; or

(b) positive conduct that exceeds those terms.

(4) (a) The department shall, in collaboration with the State Commission on Criminal and Juvenile Justice and the Division of Substance Abuse and Mental Health, create standards and procedures for the collection of information, including cost savings related to recidivism reduction and the reduction in the number of inmates, related to the use of the graduated and evidence-based responses and graduated incentives, and offenders' outcomes.

(b) The collected information shall be provided to the State Commission on Criminal and Juvenile Justice not less frequently than annually on or before August 31.

(5) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as parole and probation officers by the executive director have the following duties:

(a) monitoring, investigating, and supervising a parolee's or probationer's compliance with the conditions of the parole or probation agreement;

(b) investigating or apprehending any offender who has escaped from the custody of the department or absconded from supervision;

(c) supervising any offender during transportation; or

(d) collecting DNA specimens when the specimens are required under Section 53-10-404.

(6) (a) (i) A monthly supervision fee of $30 shall be collected from each offender on probation or parole.

(ii) The fee described in Subsection (6)(a)(i) may be suspended or waived by the department upon a showing by the offender that imposition would create a substantial hardship or if the offender owes restitution to a victim.

(b) (i) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying the criteria for suspension or waiver of the supervision fee and the circumstances under which an offender may request a hearing.

(ii) In determining whether the imposition of the supervision fee would constitute a substantial hardship, the department shall consider the financial resources of the offender and the burden that the fee would impose, with regard to the offender's other obligations.

(7) (a) For offenders placed on probation under Section 77-18-105 or parole under Subsection 76-3-202(2)(a) on or after October 1, 2015, but before January 1, 2019, the department shall establish a program allowing an offender to earn credits for the offender's compliance with the terms of the offender's probation or parole, which shall be applied to reducing the period of probation or parole as provided in this Subsection (7).

(b) The program shall provide that an offender earns a reduction credit of 30 days from the offender's period of probation or parole for each month the offender completes without any violation of the terms of the offender's probation or parole agreement, including the case action plan.

(c) The department shall maintain a record of credits earned by an offender under this Subsection (7) and shall request from the court or the Board of Pardons and Parole the termination of probation or parole not fewer than 30 days prior to the termination date that reflects the credits earned under this Subsection (7).

(d) This Subsection (7) does not prohibit the department from requesting a termination date earlier than the termination date established by earned credits under Subsection (7)(c).

(e) The court or the Board of Pardons and Parole shall terminate an offender's probation or parole upon completion of the period of probation or parole accrued by time served and credits earned under this Subsection (7) unless the court or the Board of Pardons and Parole finds that termination would interrupt the completion of a necessary treatment program, in which case the termination of probation or parole shall occur when the treatment program is completed.

(f) The department shall report annually to the State Commission on Criminal and Juvenile Justice on or before August 31:

(i) the number of offenders who have earned probation or parole credits under this Subsection (7) in one or more months of the preceding fiscal year and the percentage of the offenders on probation or parole during that time that this number represents;

(ii) the average number of credits earned by those offenders who earned credits;

(iii) the number of offenders who earned credits by county of residence while on probation or parole;

(iv) the cost savings associated with sentencing reform programs and practices; and

(v) a description of how the savings will be invested in treatment and early-intervention programs and practices at the county and state levels.

Section 13. Section 64-13-26 is amended to read:

64-13-26. Private providers of services.

(1) [~~The~~] Subject to Subsection 64-13-21(1)(b), the department may contract with [~~private providers or other agencies~~] a private provider or another agency for the provision of care, treatment, and supervision of [~~offenders~~] an offender committed to the care and custody of the department.

(2) (a) The department shall:

(i) establish standards for the operation of the programs;

(ii) establish standards [~~pursuant to~~] under Section 64-13-25 regarding program standards; and

(iii) annually review the programs for compliance.

(b) The reviews described in Subsection (2)(a) shall be classified as confidential internal working papers.

(c) Access to records regarding the reviews is available upon the discretion of the executive director or the governor, or upon court order.

Section 14. Section 64-13e-103 is amended to read:

64-13e-103. Contracts for housing state inmates.

(1) Subject to Subsection (6), the department may contract with a county to house state inmates in a county or other correctional facility.

(2) The department shall give preference for placement of state inmates, over private entities, to county correctional facility bed spaces for which the department has contracted under Subsection (1).

(3) (a) The compensation rate for housing state inmates pursuant to a contract described in Subsection (1) shall be:

(i) except as provided in Subsection (3)(a)(ii), 83.19% of the actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to a treatment program for state inmates, if the treatment program is approved by the department under Subsection (3)(c);

(ii) 74.18% of the actual state daily incarceration rate for beds in a county that, pursuant to the contract, are dedicated to an alternative treatment program for state inmates, if the alternative treatment program is approved by the department under Subsection (3)(c); and

(iii) 66.23% of the actual state daily incarceration rate for beds in a county other than the beds described in Subsections (3)(a)(i) and (ii).

(b) The department shall:

(i) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish standards that a treatment program is required to meet before the treatment program is considered for approval for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii); and

(ii) determine on an annual basis, based on appropriations made by the Legislature for the contracts described in this section, whether to approve a treatment program that meets the standards established under Subsection (3)(b)(i), for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii).

(c) The department may not approve a treatment program for the purpose of a county receiving payment based on the rate described in Subsection (3)(a)(i) or (ii), unless:

(i) the program meets the standards established under Subsection (3)(b)(i);

(ii) the department determines that the Legislature has appropriated sufficient funds to:

(A) pay the county that provides the treatment program at the rate described in Subsection (3)(a)(i) or (ii); and

(B) pay each county that does not provide a treatment program an amount per state inmate that is not less than the amount per state inmate received for the preceding fiscal year by a county that did not provide a treatment program; and

(iii) the department determines that the treatment program is needed by the department at the location where the treatment program will be provided.

(4) Compensation to a county for state inmates incarcerated under this section shall be made by the department.

(5) Counties that contract with the department under Subsection (1) shall, on or before June 30 of each year, submit a report to the department that includes:

(a) the number of state inmates the county housed under this section; and

(b) the total number of state inmate days of incarceration that were provided by the county.

(6) Except as provided under Subsection (7), the department may not enter into a contract described under Subsection (1), unless:

(a) beginning July 1, 2023, the county jail within the county is in compliance with the reporting requirements described in Subsection 17-22-32(2); and

(b) the Legislature has previously passed a joint resolution that includes the following information regarding the proposed contract:

[~~(a)~~] (i) the approximate number of beds to be contracted;

[~~(b)~~] (ii) the daily rate at which the county is paid to house a state inmate;

[~~(c)~~] (iii) the approximate amount of the county's long-term debt; and

[~~(d)~~] (iv) the repayment time of the debt for the facility where the inmates are to be housed.

(7) The department may enter into a contract with a county government to house inmates without complying with the approval process described in Subsection (6) only if the county facility was under construction, or already in existence, on March 16, 2001.

(8) Any resolution passed by the Legislature under Subsection (6) does not bind or obligate the Legislature or the department regarding the proposed contract.

Section 15. Section 78A-5-201 is amended to read:

78A-5-201. Creation and expansion of existing drug court programs -- Definition of drug court program -- Criteria for participation in drug court programs -- Reporting requirements.

(1) There may be created a drug court program in any judicial district that demonstrates:

(a) the need for a drug court program; and

(b) the existence of a collaborative strategy between the court, prosecutors, defense counsel, corrections, and substance abuse treatment services to reduce substance abuse by offenders.

(2) The collaborative strategy in each drug court program shall:

(a) include monitoring and evaluation components to measure program effectiveness; and

(b) be submitted to, for the purpose of coordinating the disbursement of funding, the:

(i) executive director of the Department of Human Services;

(ii) executive director of the Department of Corrections; and

(iii) state court administrator.

(3) (a) Funds disbursed to a drug court program shall be allocated as follows:

(i) 87% to the Department of Human Services for testing, treatment, and case management; and

(ii) 13% to the Administrative Office of the Courts for increased judicial and court support costs.

(b) This provision does not apply to federal block grant funds.

(4) A drug court program shall include continuous judicial supervision using a cooperative approach with prosecutors, defense counsel, corrections, substance abuse treatment services, juvenile court probation, and the Division of Child and Family Services as appropriate to promote public safety, protect participants' due process rights, and integrate substance abuse treatment with justice system case processing.

(5) Screening criteria for participation in a drug court program shall include:

(a) a plea to, conviction of, or adjudication for a nonviolent drug offense or drug-related offense;

(b) an agreement to frequent alcohol and other drug testing;

(c) participation in one or more substance abuse treatment programs; and

(d) an agreement to submit to sanctions for noncompliance with drug court program requirements.

(6) (a) The Judicial Council shall develop rules prescribing eligibility requirements for participation in adult criminal drug courts.

(b) Acceptance of an offender into a drug court shall be based on a risk and needs assessment, without regard to the nature of the offense.

(c) A plea to, conviction of, or adjudication for a felony offense is not required for participation in a drug court program.

Section 16. Repealer.

This bill repeals:

Section 62A-15-103.5, Provider certification.

Section 17. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023.

Subsection 17(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services -- Integrated Health Care Services

From General Fund Restricted — Behavioral Health

Crisis Response Account	$1,000,000
Schedule of Programs:	
Non-Medicaid Behavioral Health Treatment and Crisis Response	$1,000,000

The Legislature intends that the appropriations under this item be used to build and operate one or more behavioral health receiving centers in a rural area of the state.

Subsection 17(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 2

To General Fund Restricted -- Behavioral Health Crisis Response Account

From General Fund	$1,000,000

Schedule of Programs:

General Fund Restricted — Behavioral Health Crisis Response Account	$1,000,000

CHAPTER 188
S. B. 181

Passed March 2, 2022
Approved March 22, 2022
Effective May 4, 2022

PARENTAL REPRESENTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This bill creates the Interdisciplinary Parental Representation Pilot Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Interdisciplinary Parental Representation Pilot Program within the Utah Indigent Defense Commission;
- creates reporting requirements;
- includes a sunset date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Governor's Office -- Indigent Defense Commission -- Child Welfare Parental Defense Program, as an ongoing appropriation:
  - from General Fund, $170,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2020, Chapter 154

ENACTS:

78B-22-805, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(2) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

(3) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

(4) Section 78B-22-805, regarding the Interdisciplinary Parental Representation Pilot Program, is repealed December 31, 2024.

Section 2. Section 78B-22-805 is enacted to read:

78B-22-805. Interdisciplinary Parental Representation Pilot Program.

(1) As used in this section:

(a) "Program" means the Interdisciplinary Parental Representation Pilot Program created in this section.

(b) "Social worker" means an individual who is licensed as:

(i) a clinical social worker;

(ii) a certified social worker;

(iii) a marriage and family therapist; or

(iv) a clinical mental health counselor.

(2) (a) There is created within the commission the Interdisciplinary Parental Representation Pilot Program.

(b) The purpose of the program is to enhance the legal representation of a parent in a child welfare case by including a social worker as a member of the parent's interdisciplinary legal team.

(3) (a) A county may submit a proposal to the commission for a grant to develop a social worker position to provide services to parents involved in a child welfare case in the county.

(b) A proposal described in Subsection (3)(a) shall include details regarding:

(i) how the county plans to use the grant award to fulfill the purpose described in Subsection (2);

(ii) any plan to use funding sources in addition to a grant awarded under this section for the proposal; and

(iii) other information the commission determines necessary to evaluate the proposal for a grant award under this section.

(c) In evaluating a proposal for a grant award under this section, the commission shall consider:

(i) the extent to which the proposal will fulfill the purpose described in Subsection (2);

(ii) the cost of the proposal;

(iii) the extent to which other funding sources identified in the proposal are likely to benefit the proposal;

(iv) the sustainability of the proposal;

(v) the need for social worker engagement in child welfare cases in the county that submitted the proposal; and

(vi) whether the proposal will support improvements in indigent defense services in accordance with the commission core principles described in Section 78B-22-404.

(4) Before October 1, 2023, the commission shall provide a written report to the Health and Human Services Interim Committee regarding the program that includes information on:

(a) the number of grants awarded under the program; and

(b) whether the program had any impact on child welfare case outcomes.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office -- Indigent Defense Commission

From General Fund	$170,000
Schedule of Programs:	
Child Welfare Parental Defense Program	$170,000

The Legislature intends that:

(1) the appropriations under this item be used for the Interdisciplinary Parental Representation Pilot Program; and

(2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1) of this item.

CHAPTER 189
S. B. 194

Passed March 4, 2022
Approved March 22, 2022
Effective March 22, 2022

MEDICAL RATIONING AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill enacts provisions relating to the allocation of certain health care resources.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the department to make rules regarding the procedure that the department must follow when adopting, modifying, requiring, facilitating, or recommending criteria related to the rationing of scarce health care resources.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

ENACTS:

26-1-43, Utah Code Annotated 1953 Utah Code Sections Affected by Revisor Instructions:

26-1-43, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-43 is enacted to read:

26-1-43. (Codified as 26-1-45) Requirements for issuing, recommending, or facilitating rationing criteria.

(1) As used in this section:

(a) "Health care resource" means:

(i) health care as defined in Section 78B-3-403;

(ii) a prescription drug as defined in Section 58-17b-102;

(iii) a prescription device as defined in Section 58-17b-102;

(iv) a nonprescription drug as defined in Section 58-17b-102; or

(v) any supply or treatment that is intended for use in the course of providing health care as defined in Section 78B-3-403.

(b) (i) "Rationing criteria" means any requirement, guideline, process, or recommendation regarding:

(A) the distribution of a scarce health care resource; or

(B) qualifications or criteria for a person to receive a scarce health care resource.

(ii) "Rationing criteria" includes crisis standards of care with respect to any health care resource.

(c) "Scarce health care resource" means a health care resource:

(i) for which the need for the health care resource in the state or region significantly exceeds the available supply of that health care resource in that state or region;

(ii) that, based on the circumstances described in Subsection (1)(c)(i), is distributed or provided using written requirements, guidelines, processes, or recommendations as a factor in the decision to distribute or provide the health care resource; and

(iii) that the federal government has allocated to the state to distribute.

(2) (a) On or before July 1, 2022, the department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure that the department will follow to adopt, modify, require, facilitate, or recommend rationing criteria.

(b) Beginning July 1, 2022, the department may not adopt, modify, require, facilitate, or recommend rationing criteria unless the department follows the procedure established by the department under Subsection (2)(a).

(3) The procedures developed by the department under Subsection (2) shall include, at a minimum:

(a) a requirement that the department notify the following individuals in writing before rationing criteria are issued, are recommended, or take effect:

(i) the Administrative Rules Review Committee created in Section 63G-3-501;

(ii) the governor or the governor's designee;

(iii) the president of the Senate or the president's designee;

(iv) the speaker of the House of Representatives or the speaker's designee;

(v) the executive director or the executive director's designee; and

(vi) if rationing criteria affect hospitals in the state, a representative of an association representing hospitals throughout the state, as designated by the executive director; and

(b) procedures for an emergency circumstance which shall include, at a minimum:

(i) a description of the circumstances under which emergency procedures described in this Subsection (3)(b) may be used; and

(ii) a requirement that the department notify the individuals described in Subsections (3)(a)(i) through (vi) as soon as practicable, but no later than 48 hours after the rationing criteria take effect.

(4) (a) Within 30 days after the effective date of the bill, the department shall send to the Administrative Rules Review Committee all rationing criteria that:

(i) were adopted, modified, required, facilitated, or recommended by the department prior to the effective date of the bill; and

(ii) on the effective date of the bill, were in effect and in use to distribute or qualify a person to receive scarce health care resources.

(b) During the 2022 interim, the Administrative Rules Review Committee shall, under Subsection 63G-3-501(3)(d)(i), review each of the rationing criteria submitted by the department under Subsection (4)(a).

(5) The requirements described in this section and rules made under this section shall apply regardless of whether rationing criteria:

(a) have the force and effect of law, or is solely advisory, informative, or descriptive;

(b) are carried out or implemented directly or indirectly by the department or by other individuals or entities; or

(c) are developed solely by the department or in collaboration with other individuals or entities.

(6) This section:

(a) may not be suspended under Section 53-2a-209 or any other provision of state law relating to a state of emergency;

(b) does not limit a private entity from developing or implementing rationing criteria; and

(c) does not require the department to adopt, modify, require, facilitate, or recommend rationing criteria that the department does not determine to be necessary or appropriate.

(7) Subsection (2) does not apply to rationing criteria that are adopted, modified, required, facilitated, or recommended by the department:

(a) through the regular, non-emergency rulemaking procedure described in Section 63G-3-301;

(b) if the modification is solely to correct a technical error in rationing criteria such as correcting obvious errors and inconsistencies including those involving punctuation, capitalization, cross references, numbering, and wording;

(c) to the extent that compliance with this section would result in a direct violation of federal law;

(d) that are necessary for administration of the Medicaid program;

(e) if state law explicitly authorizes the department to engage in rulemaking to establish rationing criteria; or

(f) if rationing criteria are authorized directly through a general appropriation bill that is validly enacted.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 3. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the references in Subsection 26-1-43(4)(a) from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 190
S. B. 207

Passed February 28, 2022
Approved March 22, 2022
Effective May 4, 2022

WRONGFUL DEATH ACTION AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions related to a wrongful death action.

Highlighted Provisions:

This bill:

- amends the definition of "heirs" for a wrongful death action; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-105, as renumbered and amended by Laws of Utah 2008, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-105 is amended to read:

78B-3-105. Definition of heirs.

As used in Sections 78B-3-106 and 78B-3-107, "heirs" means[~~: (1)~~] the following surviving persons:

[~~(a)~~] (1) the decedent's spouse;

[~~(b)~~] (2) the decedent's children as provided in Section 75-2-114;

[~~(c)~~] (3) (a) the decedent's natural parents[~~,~~]; or

(b) if the decedent was adopted, [~~then his~~] the decedent's adoptive parents;

[~~(d)~~] (4) the decedent's stepchildren who:

[~~(i)~~] (a) are [~~in their minority~~] younger than 18 years old at the time of decedent's death; and

[~~(ii) are primarily financially dependent on the decedent.~~]

(b) (i) received financial support from the decedent at the time of decedent's death; or

(ii) resided with the decedent on at least a part-time basis at the time of the decedent's death; or

[~~(2)~~] (5) [~~"Heirs" means~~] any blood relative as provided by the law of intestate succession if the decedent is not survived by a person under Subsection [~~Subsections (1)(a), (b), or (c)~~] (1), (2), or (3).

CHAPTER 191
S. B. 229

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

POST DISASTER RECOVERY AND MITIGATION RESTRICTED ACCOUNT AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill adds the Post Disaster Recovery and Mitigation Restricted Account to the list of nonlapsing accounts.

Highlighted Provisions:

This bill:

- adds the Post Disaster Recovery and Mitigation Restricted Account to the list of nonlapsing accounts.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(18) The Technology Development Restricted Account created in Section 31A-3-104.

(19) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(36) The DNA Specimen Restricted Account created in Section 53-10-407.

(37) The Canine Body Armor Restricted Account created in Section 53-16-201.

(38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(43) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(47) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(48) The Relative Value Study Restricted Account created in Section 59-9-105.

(49) The Cigarette Tax Restricted Account created in Section 59-14-204.

(50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(52) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(55) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(57) The Immigration Act Restricted Account created in Section 63G-12-103.

(58) Money received by the military installation development authority, as provided in Section 63H-1-504.

(59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(63) The Motion Picture Incentive Account created in Section 63N-8-103.

(64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(78) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(79) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

CHAPTER 192
S. B. 248

Passed March 4, 2022
Approved March 22, 2022
Effective May 4, 2022

BCI BACKGROUND CHECK AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill concerns background check procedures and information.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- modifies procedures and requirements concerning background check requests and information; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-10-102, as last amended by Laws of Utah 2019, Chapter 33

53-10-108, as last amended by Laws of Utah 2021, Chapters 344 and 357

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-102 is amended to read:

53-10-102. Definitions.

As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverage" [~~is as~~] means the same as that term is defined in Section 32B-1-102.

(3) "Alcoholic product" [~~is as~~] means the same as that term is defined in Section 32B-1-102.

(4) "Bureau" means the Bureau of Criminal Identification within the department, created in Section 53-10-201.

[~~(4)~~] (5) "Commission" means the Alcoholic Beverage Control Commission.

[~~(5)~~] (6) "Communications services" means the technology of reception, relay, and transmission of information required by a public safety [~~agencies~~] agency in the performance of [~~their~~] the public safety agency's duty.

[~~(6)~~] (7) "Conviction record" means criminal history information indicating a record of a criminal charge [~~which~~] that has led to a declaration of guilt of an offense.

[~~(7)~~] (8) "Criminal history record information" means information on [~~individuals~~] an individual consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

[~~(8)~~] (9) "Criminal justice agency" means [~~courts~~] a court or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.

[~~(9)~~] (10) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.

[~~(10)~~] (11) "Department" means the Department of Public Safety.

[~~(11)~~] (12) "Director" means the division director appointed under Section 53-10-103.

[~~(12)~~] (13) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

[~~(13)~~] (14) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to [~~it~~] the order.

[~~(14)~~] (15) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

[~~(15)~~] (16) "Mental defective" means an individual who, by a district court, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is found:

(a) to be a danger to himself or herself or others;

(b) to lack the mental capacity to contract or manage the individual's own affairs;

(c) to be incompetent by a court in a criminal case; or

(d) to be incompetent to stand trial or found not guilty by reason or lack of mental responsibility.

[~~(16)~~] (17) "Missing child" means [~~any person~~] an individual under [~~the age of~~] 18 years old who is missing from the [~~person's~~] individual's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the [~~child's~~] individual's care.

[~~(17)~~] (18) "Missing person" [~~is as~~] means the same as that term is defined in Section 26-2-27.

[~~(18)~~] (19) "Pathogens" means disease-causing agents.

[~~(19)~~] (20) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

[~~(20)~~] (21) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

(a) national security interests;

[~~(b) care, custody, or control of children;~~]

[~~(c)~~] (b) fiduciary trust over money; or

[~~(d) health care to children or vulnerable adults; or~~]

[~~(e) the provision of any of the following to a vulnerable adult:~~]

[~~(i) care;~~]

[~~(ii) protection;~~]

[~~(iii) food, shelter, or clothing;~~]

[~~(iv) assistance with the activities of daily living; or~~]

[~~(v) assistance with financial resource management.~~]

(c) the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.

Section 2. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "Clone" means to copy a subscription or subscription data from a rap back system, including associated criminal history record information, from a qualified entity to another qualified entity.

[~~(a)~~] (b) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

[~~(b) "Qualifying child care entity" means:~~]

[~~(i) the Office of Licensing within the Department of Human Services, created in Section 62A-2-103;~~]

[~~(ii) the State Board of Education described in Section 53E-3-201; or~~]

[~~(iii) the Department of Health created in Section 26-1-4.~~]

(c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(d) "Volunteer Employee Criminal History System" or "VECHS" means a system that allows the bureau and the Federal Bureau of Investigation to provide criminal history record information to a qualifying entity, including a non-governmental qualifying entity.

[~~(d)~~] (e) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice; and

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for [~~their~~] the qualifying entity's own employees or volunteers and [~~persons~~] individuals who have applied for employment with or to serve as a volunteer for the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3;

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, [~~or~~] notary applicant, or as authorized under federal or state law;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) (i) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

[~~(i) review~~] (A) request a copy of the information received [~~as provided under Subsection (9)~~]; and

[~~(ii)~~] (B) respond to and challenge the accuracy of any information received.

(ii) An individual who is the subject of a background check and who receives a copy of the information described in Subsection (4)(g)(i) may use the information only for the purpose of reviewing, responding to, or challenging the accuracy of the information.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or [~~its~~] the division's employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) [~~Any~~] Except as provided in Subsection (5)(b), (c), (d), or (e), or as otherwise authorized under state law, criminal history record information obtained from division files may be used only for the purposes for which [~~it~~] the information was provided [~~and may not be further disseminated, except under Subsection (5)(b), (c), or (d)~~].

(b) A criminal history provided to an agency [~~pursuant to~~] under Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(e) Criminal history record information obtained from a national source may be disseminated if the dissemination is authorized by a policy issued by the Criminal Justice Information Services Division or other federal law.

[~~(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:~~]

[~~(a) that have been declined for prosecution;~~]

[~~(b) that have been dismissed; or~~]

[~~(c) regarding which a person has been acquitted.~~]

(6) (a) A qualifying entity under Subsection (2)(c) may submit fingerprints to the bureau and the Federal Bureau of Investigation for a local and national background check under the provisions of the National Child Protection Act of 1993, 42 U.S.C. Sec. 5119 et seq.

(b) A qualifying entity under Subsection (2)(c) that submits fingerprints under Subsection (6)(a):

(i) shall meet all VECHS requirements for using VECHS; and

(ii) may only submit fingerprints for an employee, volunteer, or applicant who has resided in Utah for the seven years before the day on which the qualifying entity submits the employee's, volunteer's, or applicant's fingerprints.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so [~~it~~] the information cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to a criminal justice [~~agencies~~] agency's needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the [~~Utah Bureau of Criminal Identification~~] bureau of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be

retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under [~~Title 53,~~] Chapter 10, Part 2, Bureau of Criminal Identification.

(17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying [~~child care~~] entity, the division may, upon request from another qualifying [~~child care~~] entity, [~~transfer~~] clone the subscription to the requesting qualifying [~~child care~~] entity if:

(i) the requesting qualifying [~~child care~~] entity requests the [~~transfer~~] clone:

(A) for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position [~~where~~] in which the individual is responsible for, [~~the care, custody, or control of children;~~] the care, treatment, training, instruction, supervision, or recreation of children, the elderly, or individuals with disabilities; or

(B) for the same purpose as the purpose for which the original qualifying entity requested the criminal history record information;

(ii) the requesting qualifying [~~child care~~] entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the [~~transfer~~] clone, the requesting qualifying [~~child care~~] entity obtains a signed waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying [~~child care~~] entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying [~~child care~~] entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19) (a) Information received by a qualifying [~~child care~~] entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying [~~child care~~] entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

CHAPTER 193
H.B. 2

Passed March 2, 2022
Approved March 23, 2022
Effective July 1, 2022

NEW FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS ACT

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides budget increases and decreases for other purposes as described;
- authorizes capital outlay amounts for certain internal service funds;
- authorizes full time employment levels for certain internal service funds; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $2,324,459,900 in operating and capital budgets for fiscal year 2023, including:

- ($180,578,800) from the General Fund;
- $915,493,000 from the Education Fund; and
- $1,589,545,700 from various sources as detailed in this bill.

This bill appropriates $19,200,000 in expendable funds and accounts for fiscal year 2023, including:

- $19,000,000 from the General Fund; and
- $200,000 from various sources as detailed in this bill.

This bill appropriates $80,678,100 in business-like activities for fiscal year 2023, including:

- $1,755,800 from the General Fund; and
- $78,922,300 from various sources as detailed in this bill.

This bill appropriates $38,066,100 in restricted fund and account transfers for fiscal year 2023, including:

- $31,749,000 from the General Fund; and
- $6,317,100 from various sources as detailed in this bill.

This bill appropriates $6,320,100 in transfers to unrestricted funds for fiscal year 2023.

This bill appropriates $327,013,700 in capital project funds for fiscal year 2023, including:

- $64,677,500 from the General Fund; and
- $262,336,200 from the Education Fund.

Other Special Clauses:

This bill takes effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 1

To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services

From General Fund	760,300
From General Fund, One–Time	(89,929,900)
From Education Fund, One–Time	89,929,900
From Federal Funds	29,000
Schedule of Programs:	
Juvenile Justice & Youth Services	789,300

ATTORNEY GENERAL

Item 2

To Attorney General

From General Fund	642,500
From Federal Funds	172,000
From Attorney General Crime & Violence Prevention Fund	(17,300)
From General Fund Restricted – Tobacco Settlement Account	134,000
From Revenue Transfers	31,200
Schedule of Programs:	
Administration	111,800
Child Protection	(325,000)
Civil	219,200
Criminal Prosecution	956,400

The Legislature intends that the Attorney General's Office, Medicaid Fraud Unit, may purchase one additional vehicle with department funds in Fiscal Year 2022 or Fiscal Year 2023.

The Legislature intends that the Attorney General's Office, Investigations Division, may purchase one additional vehicle with department funds in Fiscal Year 2022 or Fiscal Year 2023.

Item 3

To Attorney General – Children's Justice Centers

From General Fund	132,000
From General Fund, One–Time	(4,684,300)

From Education Fund, One-Time	4,684,300
From Dedicated Credits Revenue	55,000
Schedule of Programs:	
Children's Justice Centers	187,000

Item 4

To Attorney General - Prosecution Council

From Federal Funds	1,900
From Revenue Transfers	1,209,700
Schedule of Programs:	
Prosecution Council	1,211,600

The Legislature intends that the Utah Prosecution Council report back to the Executive Offices and Criminal Justice Subcommittee during the 2022 interim on fees charged for the state level training of Utah's prosecutors, specifically, to what degree the state or locals should cover the costs of the training.

BOARD OF PARDONS AND PAROLE

Item 5

To Board of Pardons and Parole

From General Fund	131,000
Schedule of Programs:	
Board of Pardons and Parole	131,000

UTAH DEPARTMENT OF CORRECTIONS

Item 6

To Utah Department of Corrections - Programs and Operations

From General Fund	20,796,000
From General Fund, One-Time	(13,434,800)
From Dedicated Credits Revenue	(7,700)
From Revenue Transfers, One-Time	58,800
Schedule of Programs:	
Adult Probation and Parole Programs	1,203,000
Programming Treatment	58,800
Prison Operations Utah State Correctional Facility	6,150,500

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to find additional Adult Probation & Parole Agents and AP&P Supervisors, for every two agents and for every one supervisor hired or reassigned to field supervision duties, the Legislature grants the authority to purchase one vehicle with Department funds.

The Legislature intends that the Department of Corrections may transfer up to $6 million of operational funding in the Programs & Operations - Adult Probation and Parole Programs appropriation unit for the Behavioral Health Transition Facility to the Division of Facilities Construction and Management in FY2023 to complete construction of the facility. The Legislature further intends that the Department of Corrections submit an electronic written report to the Executive Offices and Criminal Justices Appropriations Subcommittee no later than one week prior to the transfer on the amount that will be transferred.

The Legislature intends that the Department of Corrections cooperate with Department of Human Resource Management and deploy funds to maximize recruitment and retention.

Item 7

To Utah Department of Corrections - Department Medical Services

From General Fund	386,800
Schedule of Programs:	
Medical Services	386,800

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 8

To Judicial Council/State Court Administrator - Administration

From General Fund	895,500
From General Fund, One-Time	(42,574,500)
From Education Fund, One-Time	43,053,500
From Federal Funds - American Rescue Plan, One-Time	3,000,000
Schedule of Programs:	
Administrative Office	250,000
Data Processing	3,750,000
District Courts	124,500
Grants Program	250,000

The Legislature intends that justice courts track and report the following recommended metrics to the Administrative Office of the Courts (AOC): (1) collection rates for fines and fees; and (2) fines and fees waived, including (a) total amount waived, and (b) reason fines and fees waived. The Legislature intends that as soon as is practicable, that justice courts report these metrics monthly to AOC and include them in their official monthly report. Additionally, the Legislature intends that no later than the 2023 Legislative General Session, the AOC provide a report to the Executive Offices and Criminal Justice Appropriations Subcommittee (EOCJ) on: 1) its implementation of recommendations included in the report, 2021-16 "A Limited Review of Warrants and Uncollected Fines and Fees"; 2) On the status of justice courts' monthly reporting of the metrics outlined above; and 3) Reported FY 2022 collections rates and waived fines and fees.

The Legislature intends that the appropriations provided to the Judicial Council/State Court Administrator-Juror, Witness, Interpreter line item for the 2023 Fiscal Year may be used for the payment of temporary employees supporting jury trials.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 9

To Judicial Council/State Court Administrator – Contracts and Leases

From General Fund	74,600
From General Fund, One–Time	(74,600)

Item 10

To Judicial Council/State Court Administrator – Guardian ad Litem

From General Fund, One–Time	(8,337,600)
From Education Fund, One–Time	8,337,600

GOVERNORS OFFICE

Item 11

To Governors Office – Commission on Criminal and Juvenile Justice

From General Fund	(222,200)
From General Fund, One–Time	405,000
Schedule of Programs:	
CCJJ Commission	660,400
Law Enforcement Services Grants	(477,600)

The Legislature intends that the Commission on Criminal and Juvenile Justice work with relevant state agencies, offices, committee staff, and service providers to provide a written report to the Executive Offices and Criminal Justice Appropriations Subcommittee by May 27, 2022 outlining a statewide approach to coordinating funding for victim services, including domestic violence, in a statewide, targeted fashion, including a description of: all agencies and offices involved with domestic violence and the activities they undertake; all ongoing funding by source, allowable uses, and any applicable funding formulas; how the state currently assesses needs and demand for services; and identify strategies and recommended next steps to improve statewide coordination.

Item 12

To Governors Office – Governor's Office

From General Fund	173,400
From General Fund, One–Time	301,900
Schedule of Programs:	
Administration	387,400
Lt. Governor's Office	87,900

Item 13

To Governors Office – Governors Office of Planning and Budget

From General Fund	1,650,100
From General Fund, One–Time	1,100,000
From Dedicated Credits Revenue	(100)
Schedule of Programs:	
Administration	100,000
Planning Coordination	2,650,000

Item 14

To Governors Office – Indigent Defense Commission

From General Fund Restricted – Indigent Defense Resources	809,000
From General Fund Restricted – Indigent Defense Resources, One–Time	1,300,000
Schedule of Programs:	
Office of Indigent Defense Services	2,109,000

Notwithstanding intent language found in Item 70 of H.B. 6, "Executive Offices and Criminal Justice Base Budget" and in accordance with UCA 63J-1-903, the Legislature intends that the Commission on Criminal and Juvenile Justice report performance measures for the Indigent Defense Commission line item, whose mission is to "assist the state in meeting the states obligations for the provision of indigent criminal defense services, consistent with the United States Constitution, the Utah Constitution, and state law." The Commission on Criminal and Juvenile Justice shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1. Percentage of survey questions answered for each Core Principle Category statewide, which meets outlined standards for the Principle (Target = 10 Percentage points increase in each survey question category). 2. Percentage change of criminal appeals filed by 3rd–6th Class Counties (Target = 20% Increase).

The Legislature intends that the Indigent Defense Commission use $200,000 of funds appropriated to the Indigent Defense Commission for indigent defense for inmates in the Central Utah Correctional Facility.

Item 15

To Governors Office – Colorado River Authority of Utah

From Expendable Receipts	150,000
From General Fund Restricted – Colorado River Authority of Utah Restricted Account	900,000
From General Fund Restricted – Colorado River Authority of Utah Restricted Account, One–Time	8,000,000
Schedule of Programs:	
Colorado River Authority of Utah	9,050,000

OFFICE OF THE STATE AUDITOR

Item 16

To Office of the State Auditor – State Auditor

From General Fund	130,000
From General Fund, One–Time	50,000
Schedule of Programs:	
State Auditor	(230,700)
State Privacy Officer	410,700

DEPARTMENT OF PUBLIC SAFETY

Item 17

To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management

From Expendable Receipts	4,000,000
Schedule of Programs:	
Emergency and Disaster Management	4,000,000

Item 18

To Department of Public Safety – Driver License

From General Fund	(2,300)
From Federal Funds, One–Time	(199,800)
Schedule of Programs:	
DL Federal Grants	(199,800)
Driver Services	(2,300)

Item 19

To Department of Public Safety – Emergency Management

From General Fund	250,000
From General Fund, One–Time	250,000
From Federal Funds, One–Time	72,822,300
From Expendable Receipts	15,000
Schedule of Programs:	
Emergency Management	73,337,300

Item 20

To Department of Public Safety – Highway Safety

From General Fund	(100)
From Federal Funds	(31,100)
From Dedicated Credits Revenue	25,000
From Revenue Transfers	800,000
Schedule of Programs:	
Highway Safety	793,800

Item 21

To Department of Public Safety – Peace Officers' Standards and Training

From Dedicated Credits Revenue	(40,000)
Schedule of Programs:	
Basic Training	(40,000)

Item 22

To Department of Public Safety – Programs & Operations

From General Fund	3,285,000
From General Fund, One–Time	5,449,100
From Federal Funds	257,900
From Dedicated Credits Revenue	(100,000)
From Expendable Receipts	300,000
Schedule of Programs:	
Aero Bureau	1,230,000
CITS Communications	1,225,000
CITS State Bureau of Investigation	360,000
Department Commissioner's Office	3,237,100
Department Grants	557,900
Highway Patrol – Field Operations	2,000,000
Highway Patrol – Technology Services	582,000

The Legislature intends that the Department of Public Safety is authorized to increase its fleet by the same number of new officers or vehicles authorized and funded by the Legislature for Fiscal Year 2022 and Fiscal Year 2023.

The Legislature intends that the Department of Public Safety establish a base for helicopter operations within Southern Utah.

The Legislature intends that the Department of Public Safety consider and pursue all avenues of reimbursement, including federal and local sources, when conducting helicopter operations.

The Legislature intends that any proceeds from the sale of the salvaged helicopter parts and any insurance reimbursements for helicopter repair are to be used by the department for its Aero Bureau operations.

Item 23

To Department of Public Safety – Bureau of Criminal Identification

From Dedicated Credits Revenue	1,000,000
From Revenue Transfers	(1,000,000)

STATE TREASURER

Item 24

To State Treasurer

From Dedicated Credits Revenue	211,000
From Land Trusts Protection and Advocacy Account	89,500
From Qualified Patient Enterprise Fund	(2,000)
Schedule of Programs:	
Advocacy Office	89,500
Treasury and Investment	209,000

UTAH COMMUNICATIONS AUTHORITY

Item 25

To Utah Communications Authority – Administrative Services Division

From General Fund, One–Time	5,000,000
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct.	(1,413,600)
From General Fund Restricted – Utah Statewide Radio System Acct.	1,999,500
Schedule of Programs:	
911 Division	(1,413,600)
Administrative Services Division	6,999,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 26

To Career Service Review Office

In accordance with UCA 63J–1–903, the Legislature intends that the Career Service Review Office, whose mission is to administer the Utah State Employees Grievance and Appeals Procedures for executive branch employees, to report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the office shall report the following performance measures: 1) the length of time to issue a jurisdictional decision on a new grievance (target: 15 days); 2) the length of time to conduct an evidentiary hearing once a grievance has been established (target: 150 days); 3) the length of time to issue a written decision after an evidentiary hearing has adjourned (target: 20 working days); and 4) hire and retain hearing officers who meet the performance standards set by DHRM (target: 100%).

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 27

To Utah Education and Telehealth Network

From Education Fund	2,000,000
From Federal Funds, One-Time	2,857,000
From Dedicated Credits Revenue, One-Time	2,500,300
Schedule of Programs:	
Administration	2,000,000
Instructional Support	2,857,000
Technical Services	2,500,300

In accordance with UCA 63J-1-903, the Legislature intends that the Utah Education and Telehealth Network, whose mission is to "connect people and technologies to improve education and telehealth in Utah," shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) the number of circuits (target: 1,447); 2) the percentage of potential customers using UETNs Learning Management System services (target: 74%); and 3) the number of Interactive Video Conferencing (IVC) courses (target: 56,733).

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 28

To Department of Government Operations - Administrative Rules

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Office of Administrative Rules line item, whose mission is "to enable citizens participation in their own government by supporting agency rulemaking and ensuring agency compliance with the Utah Administrative Rulemaking Act." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) average number of business days to review rule filings (target: 4 days or less); 2) average number of days from the effective date to publish the final version of an administrative rule after the rule becomes effective (target: 14 days or less.); and 3) number of agency administrative rules coordinators trained during the fiscal year (target: 80%).

Item 29

To Department of Government Operations - DFCM Administration

From Dedicated Credits Revenue	731,100
Schedule of Programs:	
DFCM Administration	731,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the DFCM Administration line item, whose mission is "to provide professional services to assist State entities in meeting their facility needs for the benefit of the public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills: 1) capital improvement projects completed in the fiscal year they are funded (target: at least 86%); and 2) accuracy of Capital Budget Estimates (CBE) (baseline +/- 10%; target: +/- 5%).

Item 30

To Department of Government Operations - Executive Director

From General Fund	34,000
From Dedicated Credits Revenue	337,000
From General Services - Cooperative Contract Mgmt, One-Time	500,000
Schedule of Programs:	
Executive Director	871,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Executive Director line item, whose mission is "to create innovative solutions to transform government services." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) independent evaluation/audit of divisions/key programs (target: at least 4 annually); 2) air quality improvement activities across state agencies (targets: 25 activities each year).

Item 31

To Department of Government Operations - Finance Administration

From General Fund, One-Time	1,764,300
From State Debt Collection Fund, One-Time	360,000
Schedule of Programs:	
Financial Information Systems	1,764,300
Financial Reporting	360,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Finance Administration line item, whose mission is "to serve Utah citizens and state agencies with fiscal leadership and quality financial systems, processes, and information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) close the fiscal year within 60 days of the end of the fiscal year (baseline: 101 days after June 30; target: 60 days after June 30).

Item 32

To Department of Government Operations – Inspector General of Medicaid Services

From General Fund	175,000
Schedule of Programs:	
Inspector General of Medicaid Services	175,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Office of Inspector General of Medicaid Services, whose mission is to "eliminate fraud, waste, and abuse within the Medicaid program." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) cost avoidance projected over one year and three years (target: $15 million); 2) Medicaid dollars recovered through cash collections, directed re-bills, and credit adjustments (target: $3 to 5 million); 3) the number of credible allegations of provider and/or recipient fraud received, initial investigations conducted, and referred to an outside entity, e.g. Medicaid Fraud Control Unit (MFCU), Department of Workforce Services (DWS), local law enforcement, etc. (target: 10 cases referred to MFCU; 30 cases referred to DWS/others); 4) the number of fraud, waste, and abuse cases identified and evaluated (target: 350 leads/ideas turn into 750 cases, that encompass around 3,500 individual transactions reviewed); and 5) the number of recommendations for improvement made to the Department of Health and Human Services (target: 350).

Item 33

To Department of Government Operations – Judicial Conduct Commission

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Judicial Conduct Commission line item, whose mission is to investigate and conduct confidential hearings regarding complaints against state, county, and municipal judges throughout the state. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Timely publication of an annual report with all public dispositions in the last year (Target = 60 days from the end of the fiscal year); and 2) Annualized average number of business days to conduct a preliminary investigation (Target = 90 days).

Item 34

To Department of Government Operations – Purchasing

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Purchasing and General Services line item, whose mission is to ensure that the state agencies adhere to the requirement of the Utah Procurement Code when conducting procurements. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) increase the average discount on State of Utah Best Value cooperative contracts (baseline: 32%, target: 40%); 2) increase the number of State of Utah Best Value Cooperative Contracts for public entities to use (baseline: 950, target: 1,400); and 3) increase the amount of total spend on State of Utah Best Value Cooperative contracts (baseline: $550 million, target: $900 million).

Item 35

To Department of Government Operations – State Archives

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the State Archives and Records Service line item, whose mission is "to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) percentage of reformatted records that meet or exceed estimated completion date (target: 80%); 2) percentage of reformatted records projects completed that were error-free in quality control checks (target: 90%); and 3) percentage of government entity or political subdivision designated records officers are certified (Target: 95%).

Item 36

To Department of Government Operations – Chief Information Officer

From General Fund	5,000,000
From General Fund, One-Time	20,000,000
Schedule of Programs:	
Chief Information Officer	25,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Chief Information Officer line item, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) data security - ongoing systematic prioritization of high-risk areas across the state (target: score below 5,000); 2) application development - satisfaction scores on application development projects from agencies (target: average at least 83%); and 3) procurement and deployment - ensure state employees receive computers in a timely manner (target: at least 75%).

The Legislature intends that the $5 million ongoing appropriation for Information Technology Innovation Fund may be used in FY 2023, FY 2024, and FY 2025, along with an increase in Internal Service Fund (ISF) capital outlay authorization, for development of the Human Capital Management System. After FY 2025, this ongoing appropriation may be used to fund any rate impacts associated with ISF capital investment.

Item 37

To Department of Government Operations - Integrated Technology

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Integrated Technology Services line item, whose mission is "to provide innovative, secure, and cost-effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) uptime for the Utah Geospatial Resource Center (UGRC) portfolio of streaming geographic data web services and State Geographic Information Database connection services (target: at least 99.5%); 2) road centerline and addressing map data layer required for Next Generation 911 services is published monthly to the State Geographic Information Database (target: at least 120 county-sourced updates including 50 updates from Utah's class I and II counties); and 3) uptime for UGRC's TURN GPS real-time, high precision geopositioning service that provides differential correction services to paying and partner subscribers in the surveying, mapping, construction, and agricultural industries (target: at least 99.5%).

CAPITAL BUDGET

Item 38

To Capital Budget - Capital Development - Higher Education

From Higher Education Capital Projects Fund, One-Time	191,917,200
From Technical Colleges Capital Projects Fund, One-Time	93,037,000
Schedule of Programs:	
Mountainland Tech Payson Campus Building	47,922,000
WSU David O McKay Education Building Renovation	27,132,200
Davis Tech Campus Renovations	20,366,000
Tooele Tech Campus Building Expansion	24,749,000
UVU Engineering Building	80,000,000
UTU General Classroom Building	56,085,000
SUU Music Center Renovation	19,500,000
SUU Stadium Flood Repair and Prevention	9,200,000

The Legislature intends that before commencing construction of a capital development project funded for an institution of higher education during the 2022 General Session, the Division of Facilities Construction and Management (DFCM) and the institution shall report to the Infrastructure and General Government Appropriations Subcommittee and the Higher Education Appropriations Subcommittee on the status and cost of the project, and that DFCM and the institution shall seek feedback from the committees before committing funds for demolition or construction. The Legislature further intends that prior to committing funds for construction that DFCM, the institution, and the Board of Higher Education shall certify to the committees that the institution (1) has developed a plan that will utilize each classroom space in the building an average of 33.75 hours of instruction per week for spring and fall semesters with 66.7 percent seat occupancy, and will work to increase utilization of classroom space during the summer; and (2) has presented a plan to implement space utilization of non-classroom areas as per industry standards.

Item 39

To Capital Budget - Capital Development - Other State Government

From Capital Projects Fund, One-Time	78,267,300

Schedule of Programs:

Sanpete County Courthouse	14,161,000
DNR Lone Peak Facility	16,602,600
DGO Fleet Surplus and DFCM Relocation	8,913,900
Utah State Dev Center Comp Therapy Building	38,589,800

Item 40

To Capital Budget – Pass–Through

The Legislature intends that appropriations for Olympic Park Improvement may be used for improvements at the Utah Olympic Park, Utah Olympic Oval, or Soldier Hollow Nordic Center.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 41

To State Board of Bonding Commissioners – Debt Service – Debt Service

From General Fund	(40,000,000)
From General Fund, One–Time	355,620,200
From Revenue Transfers, One–Time	(5,618,700)

Schedule of Programs:

G.O. Bonds – State Govt	310,001,500

The Legislature intends that, if amounts appropriated from the Transportation Investment Fund of 2005 and the County of the First Class Highway Projects Fund to debt service exceed the amounts needed to cover payments on the debt, the Division of Finance transfer from these funds only the amounts needed for debt service.

TRANSPORTATION

Item 42

To Transportation – Highway System Construction

From Transportation Fund	63,615,300
From Transportation Fund, One–Time	13,655,000
From Federal Funds, One–Time	30,000

Schedule of Programs:

Rehabilitation/Preservation	62,270,300
State Construction	15,030,000

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, proceeds from the sale of the surplus property may be used to help mitigate traffic impact associated with the Taylorsville State Office Building.

Item 43

To Transportation – Engineering Services

From Transportation Fund	850,000

Schedule of Programs:

Preconstruction Admin	850,000

Item 44

To Transportation – Operations/ Maintenance Management

From Transportation Fund	8,380,000
From Transportation Fund, One–Time	1,345,000

Schedule of Programs:

Lands and Buildings	2,000,000
Maintenance Administration	6,859,000
Region 4	136,000
Traffic Operations Center	730,000

The Legislature intends that the Department of Transportation use maintenance funds previously used on state highways that now qualify for Transportation Investment Fund of 2005 to address maintenance and preservation issues on other state highways.

Item 45

To Transportation – Region Management

From Transportation Fund	490,000

Schedule of Programs:

Region 1	94,000
Region 2	192,000
Region 3	102,000
Region 4	102,000

Item 46

To Transportation – Support Services

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the Support Services line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills for the goal of reducing crashes, injuries, and fatalities: (1) traffic fatalities (target: at least a 2% reduction from the 3–year rolling average); (2) traffic serious injuries (target: at least a 2% reduction from the 3–year rolling average); (3) traffic crashes (target: at least a 2% reduction from the 3–year rolling average); (4) internal fatalities (target: zero); (5) internal injuries (target: injury rate below 6.5%); and (6) internal equipment damage (target: equipment damage rate below 7.5%).

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the Support Services line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills for the goal of preserving infrastructure: (1) pavement performance (target: at least 50% of pavements in good condition and less than 10% of pavements in poor condition); (2) maintain the health of structures (target: at least 80% in fair or good condition); (3) maintain the health of Automated Transportation Management Systems (ATMS) (target: at least 90% in good condition); and (4) maintain the health of signals (target: at least 90% in good condition).

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Transportation, whose mission is to "Keep Utah Moving," report performance measures for the Support Services line item. The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills for the goal of optimizing mobility: (1) delay along I-15 (target: overall composite annual score above 90); (2) maintain a reliable fast condition on I-15 along the Wasatch Front (target: at least 85% of segments); (3) achieve optimal use of snow and ice equipment and materials (target: at least 92% effectiveness); and (4) support increase of trips by public transit (target: at least 10%).

Item 47

To Transportation - Transportation Investment Fund Capacity Program

The Legislature intends that as funding is available from the Transportation Investment Fund, the Department of Transportation may use funds along with matching and other funding to help mitigate traffic impact associated with the Taylorsville State Office Building.

Item 48

To Transportation - Amusement Ride Safety

From General Fund	190,000
Schedule of Programs:	
Amusement Ride Safety	190,000

Item 49

To Transportation - Transit Transportation Investment

From Transit Transportation Investment Fund	1,262,700
Schedule of Programs:	
Transit Transportation Investment	1,262,700

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 50

To Department of Alcoholic Beverage Control - DABC Operations

From Liquor Control Fund	3,170,400
From Liquor Control Fund, One-Time	2,079,200
Schedule of Programs:	
Executive Director	1,727,900
Stores and Agencies	3,521,700

DEPARTMENT OF COMMERCE

Item 51

To Department of Commerce - Commerce General Regulation

From Federal Funds	(60,000)
From General Fund Restricted - Commerce Service Account	1,447,000
From General Fund Restricted - Commerce Service Account, One-Time	700,000
Schedule of Programs:	
Administration	1,037,600
Consumer Protection	93,000
Occupational and Professional Licensing	1,016,400
Real Estate	(60,000)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 52

To Governor's Office of Economic Opportunity - Administration

From General Fund	25,300
From General Fund, One-Time	500,000
From Federal Funds - American Rescue Plan, One-Time	25,000,000
Schedule of Programs:	
Administration	25,525,300

The Legislature intends that American Rescue Plan Act (ARPA) funds provided by this item be used for a local grant matching program through the Governors Office of Economic Opportunity. Funds may only be used for Housing and Water projects, as defined in Treasury guidance, in counties of the 3rd, 4th and 5th class, in municipalities within any class of county, and in accordance with federal law. Applicants shall not be eligible if: a local government has significant unprogrammed local ARPA dollars or an applicant uses revenue replacement after February 1, 2022.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 53

To Governor's Office of Economic Opportunity - Business Development

From General Fund, One-Time	2,000,000
From Federal Funds, One-Time	69,000,000
From Dedicated Credits Revenue	516,000
Schedule of Programs:	
Corporate Recruitment and Business Services	69,000,000
Outreach and International Trade	2,516,000

Item 54

To Governor's Office of Economic Opportunity - Office of Tourism

From General Fund 116,000
Schedule of Programs:
Administration 116,000

Item 55
To Governor's Office of Economic Opportunity – Pass–Through
From General Fund .... (11,377,900)
From General Fund, One–Time 42,200,000
Schedule of Programs:
Pass–Through 30,822,100

Item 56
To Governor's Office of Economic Opportunity – Talent Ready Utah Center
From General Fund, One–Time 2,250,000
Schedule of Programs:
Talent Ready Utah Center 2,250,000

Item 57
To Governor's Office of Economic Opportunity – Point of the Mountain Authority
From General Fund, One–Time 57,000,000
Schedule of Programs:
Point of the Mountain Authority ... 57,000,000

Item 58
To Governor's Office of Economic Opportunity – Rural County Grants Program
From General Fund, One–Time 1,450,000
Schedule of Programs:
Rural County Grants Program 1,450,000

Item 59
To Governor's Office of Economic Opportunity – GOUTAH Economic Assistance Grants
From General Fund 15,090,200
From General Fund, One–Time 575,000
Schedule of Programs:
Pass–Through Grants 11,165,200
Competitive Grants 4,500,000

The Legislature intends that the Governor's Office of Economic Opportunity consider the following projects and programs for pass–through grants: Northern Economic Alliance $300,000; Pete Suazo Center for Business Development and Entrepreneurship $67,500; Sundance Institute $900,000; Utah Industry Resource Alliance $2,800,000; Utah Small Business Development Center $798,200; World Trade Center Utah $912,500; Get Healthy Utah $250,000; Neighborhood House $180,000; Taste Utah Marketing Campaign $475,000; Utah Council for Citizen Diplomacy $45,000; Women Tech Council/She Tech $250,000; Woman's Excellence for Life $27,000; Youth Impact $45,000; Downtown Alliance $30,000; Utah Sports Commission $3,060,000; Encircle Family and Youth Resource Center $700,000; Youth Bicycle Education Program $300,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Economic Assistance Competitive Grants program for FY 2024.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 60
To Department of Cultural and Community Engagement – Administration
From General Fund, One–Time 300,000
Schedule of Programs:
Administrative Services 300,000

Item 61
To Department of Cultural and Community Engagement – Division of Arts and Museums
From General Fund .... (6,000,000)
Schedule of Programs:
Grants to Non–profits .... (6,000,000)

The Legislature intends that the Division of Arts and Museums be allowed to purchase one new vehicle in FY 2022 or FY 2023.

Item 62
To Department of Cultural and Community Engagement – Indian Affairs
From General Fund 115,000
From General Fund, One–Time .... (30,000)
Schedule of Programs:
Indian Affairs 85,000

Item 63
To Department of Cultural and Community Engagement – Pass–Through
From General Fund .... (1,520,900)
Schedule of Programs:
Pass–Through .... (1,520,900)

Item 64
To Department of Cultural and Community Engagement – State History
From General Fund 380,000
From General Fund, One–Time 69,000
Schedule of Programs:
Historic Preservation and Antiquities 299,000
Library and Collections 40,000
Public History, Communication and Information 110,000

The Legislature intends that the Division of State History be allowed to purchase one new vehicle in FY 2022 or FY 2023.

Item 65
To Department of Cultural and Community Engagement – Arts & Museums Grants
From General Fund 7,445,000
From General Fund, One–Time 535,000
Schedule of Programs:
Pass Through Grants 1,980,000
Competitive Grants 6,000,000

The Legislature intends that the Department of Cultural and Community Engagement consider the following projects and programs for pass–through grants: El Systema @ Salty Crickets $50,000; Hale Center Theater Orem $300,000; Hill Aerospace Museum $175,000; Ogden Union Station Foundation $100,000; Utah Shakespeare Festival $350,000; Utah Sports Hall of Fame $252,500, Center Point Legacy Theater $100,000; Utah Humanities $170,000; Tuacahn Center for the Arts $535,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Arts and Museums Competitive Grants program for FY 2024.

Item 66

To Department of Cultural and Community Engagement – Capital Facilities Grants

From General Fund	52,500
From General Fund, One–Time	8,630,000
Schedule of Programs:	
Pass Through Grants	2,682,500
Competitive Grants	6,000,000

The Legislature intends that the Department of Cultural and Community Engagement consider the following projects and programs for pass–through grants: Utah Shakespeare Festival – Theatrical Equipment $540,000; Improvements to Mount Pleasant's ConToy Arena $340,000; Golden Spike Monument $750,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Capital Facilities Competitive Grants program for FY 2024.

Item 67

To Department of Cultural and Community Engagement – Heritage & Events Grants

From General Fund	2,905,700
From General Fund, One–Time	225,000
From Education Fund	50,000
From Education Fund, One–Time	1,600,000
Schedule of Programs:	
Pass Through Grants	2,780,700
Competitive Grants	2,000,000

The Legislature intends that the appropriation for Targeted Youth Support Program be distributed as follows: 1. $830,000 to address academic challenges and social–emotional needs of the states at–risk youth; and 2. $270,000 for a facility in Carbon County for at–risk youth programs.

The Legislature intends that the Department of Cultural and Commuity Engagement consider the following projects and programs for pass–through grants: Big Outdoor Expo $135,000; Kearns Accomplishment Pageant $4,500; Larry H. Miller Summer Games $45,000; Utah Valley Tip Off Classic $22,500; Warriors Over the Wasatch/Hill AFB Show $180,000; American West Heritage Center $7,300; Days of 47 Rodeo $45,000; Davis County Support for Utah Championship $45,000; America's Freedom Festival at Provo $100,000; Run Elite Program $166,400; Targeted Youth Support Program $1,100,000; Refugee Soccer $50,000; Utah County Junior Achievement City $500,000; Ute Stampede Economic Development $225,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Heritage and Events Competitive Grants program for FY 2024.

INSURANCE DEPARTMENT

Item 68

To Insurance Department – Insurance Department Administration

From General Fund Restricted – Insurance Department Acct.	381,000
Schedule of Programs:	
Administration	381,000

LABOR COMMISSION

Item 69

To Labor Commission

From General Fund	272,800
From General Fund, One–Time	194,000
Schedule of Programs:	
Administration	310,000
Boiler, Elevator and Coal Mine Safety Division	156,800

UTAH STATE TAX COMMISSION

Item 70

To Utah State Tax Commission – License Plates Production

From Dedicated Credits Revenue	825,000
Schedule of Programs:	
License Plates Production	825,000

Item 71

To Utah State Tax Commission – Liquor Profit Distribution

From General Fund Restricted – Alcoholic Beverage Enforcement and Treatment Account	760,800
Schedule of Programs:	
Liquor Profit Distribution	760,800

Item 72

To Utah State Tax Commission – Tax Administration

From General Fund	734,200
From General Fund, One–Time	(500,000)
From Education Fund	640,300
From Dedicated Credits Revenue	521,300
From General Fund Restricted – Electronic Payment Fee Rest. Acct	1,300,000
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account	173,800
From General Fund Rest. – Sales and Use Tax Admin Fees	308,500
From General Fund Rest. – Sales and Use Tax Admin Fees, One–Time	450,500
From Revenue Transfers	500
Schedule of Programs:	
Motor Vehicle Enforcement Division	229,300
Motor Vehicles	1,250,000
Property Tax Division	15,000
Tax Payer Services	506,400
Tax Processing Division	500,000
Technology Management	1,128,400

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 73

To Department of Workforce Services – Administration

From General Fund	252,300
From Federal Funds	487,000
From Federal Funds, One-Time	1,616,000
From Dedicated Credits Revenue	(31,000)
From Expendable Receipts	31,000
From General Fund Restricted – Special Admin. Expense Account, One-Time	67,500
From Revenue Transfers	269,000
From Unemployment Compensation Fund, One-Time	70,100
From Beginning Nonlapsing Balances	200,000
Schedule of Programs:	
Administrative Support	1,548,300
Communications	91,200
Executive Director's Office	390,700
Human Resources	331,800
Internal Audit	599,900

The Legislature intends that $70,100 of the Unemployment Compensation Fund appropriation provided for the Administration line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2022. For FY 2023 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2023. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Departments of Workforce Services and Health and Human Services collaborate with Legislative Fiscal Analyst and the Governor's Office of Planning and Budget to incorporate the recommendations from the document "A Performance Audit of Social Service Agencies' Performance Measures" in the performance measure review process and report back to the Social Services Appropriations Subcommittee on the status of any changes by the 2023 General Session.

Item 74

To Department of Workforce Services – General Assistance

From General Fund	(500,000)
From General Fund, One-Time	(4,268,700)
From Education Fund, One-Time	4,268,700
Schedule of Programs:	
General Assistance	(500,000)

Item 75

To Department of Workforce Services – Housing and Community Development

From Federal Funds	1,450,000
From Federal Funds, One-Time	78,223,200
From Expendable Receipts	250,000
From Expendable Receipts, One-Time	117,739,900
From Beginning Nonlapsing Balances	1,558,500
Schedule of Programs:	
Community Development Administration	92,200
Community Services	1,985,900
HEAT	4,974,600
Housing Development	191,918,900
Weatherization Assistance	250,000

Item 76

To Department of Workforce Services – Operations and Policy

From General Fund	(549,100)
From General Fund, One-Time	(4,475,000)
From Education Fund, One-Time	4,475,000
From Federal Funds	(237,300)
From Federal Funds, One-Time	156,825,700
From Dedicated Credits Revenue	(975,000)
From Expendable Receipts	975,000
From General Fund Restricted – Special Admin. Expense Account, One-Time	2,843,500
From Revenue Transfers	(496,600)
From Unemployment Compensation Fund, One-Time	2,535,900
From Beginning Nonlapsing Balances	4,700,000
Schedule of Programs:	
Eligibility Services	12,654,700
Facilities and Pass-Through	1,789,900
Information Technology	10,329,300
Other Assistance	75,000
Temporary Assistance for Needy Families	7,300,000
Workforce Development	133,108,100
Workforce Research and Analysis	365,100

The Legislature intends that $2,535,900 of the Unemployment Compensation Fund appropriation provided for the Operations and Policy line item is limited to one-time projects associated with Unemployment Insurance modernization.

The Legislature intends that the $250,000 provided in FY2023 in the Department of Workforce Services – Operations and Policy line item for the Breaking Poverty Cycles through Professional Mentoring program from Temporary Assistance for Needy Families (TANF) federal funds is dependent upon the availability of TANF federal funds and the qualification of the Breaking Poverty Cycles through Professional Mentoring program to receive TANF federal funds.

The Legislature intends that the $3.0 Million provided in the Department of Workforce Services – Operations and Policy line item for the County Intergenerational Poverty program from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the County Intergenerational Poverty Program to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2023 – $1.0 Million; FY2024 – $1.0 Million; FY2025 – $1.0 Million.

The Legislature intends that the $6.0 Million provided in the Department of Workforce Services – Operations and Policy line item for Housing and Wraparound Services for Formerly Incarcerated Individuals With Families from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the program to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2023 – $2.0 Million; FY2024 – $2.0 Million; FY2025 – $2.0 Million.

The Legislature intends that the $3.3 Million provided in FY2023 in the Department of Workforce Services – Operations and Policy line item for Statewide Sexual Assault and Interpersonal Violence Prevention Program from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the program to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2023 – $1,100,000; FY2024 – $1,100,000; FY2025 – $1,100,000.

The Legislature intends that the $225,000 provided in FY2023 in the Department of Workforce Services – Operations and Policy line item for Tackling Intergenerational Poverty through Employment Mentoring from Temporary Assistance for Needy Families (TANF) federal funds: (1) is dependent upon the availability of TANF federal funds and the qualification of the program to receive TANF federal funds; and (2) be spent over the following years in the following amounts: FY2023 – $75,000; FY2024 – $75,000; FY2025 – $75,000.

The Legislature intends that the Department of Workforce Services will report to the Social Services Appropriations Subcommittee each year that funding is received for Housing and Wraparound Services for Formerly Incarcerated Individuals. The FY 2023 report shall be provided by January 1, 2023 and include results achieved with funding as well as how much funding was used.

Item 77

To Department of Workforce Services – State Office of Rehabilitation

From General Fund, One-Time	(22,205,600)
From Education Fund, One-Time	22,205,600
From Federal Funds	300
From Federal Funds, One-Time	52,400
From Dedicated Credits Revenue	(600)
From Expendable Receipts	600
From General Fund Restricted – Special Admin. Expense Account, One-Time	1,500
From Unemployment Compensation Fund, One-Time	1,400
From Beginning Nonlapsing Balances	2,510,000
Schedule of Programs:	
Blind and Visually Impaired	500
Deaf and Hard of Hearing	36,600
Executive Director	2,512,300
Rehabilitation Services	16,200

The Legislature intends that $1,400 of the Unemployment Compensation Fund appropriation provided for the State Office of Rehabilitation line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 78

To Department of Workforce Services – Unemployment Insurance

From Federal Funds	600
From Federal Funds, One-Time	8,713,900
From Dedicated Credits Revenue	48,500
From Expendable Receipts	1,500
From General Fund Restricted – Special Admin. Expense Account, One-Time	1,837,500
From Unemployment Compensation Fund, One-Time	592,600
From Beginning Nonlapsing Balances	500,000
Schedule of Programs:	
Adjudication	2,119,700
Unemployment Insurance Administration	9,574,900

The Legislature intends that $592,600 of the Unemployment Compensation Fund appropriation provided for the Unemployment Insurance line item is limited to one-time projects associated with Unemployment Insurance modernization.

Item 79

To Department of Workforce Services – Office of Homeless Services

From General Fund	322,200
From Federal Funds	429,600
From Gen. Fund Rest. – Pamela Atkinson Homeless Account, One-Time	550,000
From Revenue Transfers	25,000
From Revenue Transfers, One-Time	1,000,000
From Beginning Nonlapsing Balances	2,000,000
Schedule of Programs:	
Homeless Services	4,326,800

The Legislature intends that the prioritized list of Homeless Shelter Cities Mitigation Program grant requests, including the recommended grant amount for each grant-eligible entity, be approved as submitted to the Social Services Appropriations Subcommittee by the State

Homeless Coordinating Committee in accordance with Utah Code 63J-1-802.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 80

To Department of Health and Human Services – Operations

From General Fund	(31,800)
From Federal Funds	8,209,700
From Dedicated Credits Revenue, One-Time	13,500
From Expendable Receipts, One-Time	350,000
From Beginning Nonlapsing Balances	(1,717,200)
Schedule of Programs:	
Executive Director Office	(1,750,000)
Finance & Administration	8,209,700
Data, Systems, & Evaluations	14,500
Public Affairs, Education & Outreach	350,000

The Legislature intends that the Departments of Workforce Services and Health and Human Services collaborate with Legislative Fiscal Analyst and the Governor's Office of Planning and Budget to incorporate the recommendations from the document "A Performance Audit of Social Service Agencies' Performance Measures" in the performance measure review process that will occur under HB 326 (2021 General Session) and report back to the Social Services Appropriations Subcommittee on the status of any changes by the 2023 General Session.

The Legislature intends that the Department of Health and Human Services report by October 1, 2022 on all the recommendations that it had anticipated implementing from A Performance Audit of the Culture and Grant Management Process of the Department of Health to the Social Services Appropriations Subcommittee.

The Legislature intends that the Department of Health and Human Services present to the Social Services Appropriations Subcommittee by November 30, 2022 on identified efficiencies and savings. The Department shall identify 0.5% of its administrative budget as efficiencies and savings and report, as well as where the Department would recommend reinvesting the identified savings to achieve the Department's intended outcomes.

The Legislature intends that the Department of Human Services report back to the Social Services Appropriation Subcommittee no later than August 10, 2022 on how much it would cost to implement a statewide support program, that would qualify for expenditures from the Opioid Litigation Settlement Restricted Account, for pregnant women with substance use disorder to receive the following services: (1) a licensed social worker to help connect women with state services they are determined to need and are eligible to receive; (2) a peer support program; and (3) home visitation services through the childs first birthday. The Legislature further intends that the performance measures by which the program would be measured would include the following: (1) the rate of a diagnosis of neonatal abstinence syndrome at the time of delivery in the areas where the program has been implemented; and (2) the number of NICU days related to any substance use disorder in the areas where the program has been implemented.

The Legislature intends that the Department of Health and Human Services present to the Social Services Appropriations Subcommittee by November 30, 2022 on efficiencies and savings identified, as well as where the Department would recommend reinvesting the identified savings to achieve their intended outcomes.

Item 81

To Department of Health and Human Services – Clinical Services

From General Fund	430,000
From General Fund, One-Time	(197,700)
From Education Fund, One-Time	1,072,700
From Federal Funds	(3,032,600)
From Dedicated Credits Revenue	1,184,800
From Department of Public Safety Restricted Account	100,000
From Revenue Transfers	200,000
From Beginning Nonlapsing Balances	112,500
Schedule of Programs:	
Medical Examiner	1,100,000
State Laboratory	(1,585,300)
Primary Care & Rural Health	355,000

The Legislature intends that the Department of Health and Human Services report by January 1, 2023 to the Social Services Appropriations Subcommittee on options to transition the operation of the state-run Salt Lake Medical Clinic to another provider by July 1, 2023.

Item 82

To Department of Health and Human Services – Department Oversight

From General Fund	180,000
From General Fund, One-Time	(1,060,200)
From Education Fund, One-Time	1,060,200
From Federal Funds	5,694,200
From Beginning Nonlapsing Balances	1,065,900
From Closing Nonlapsing Balances	(1,065,900)
Schedule of Programs:	
Licensing & Background Checks	180,000
Internal Audit	5,694,200

Item 83

To Department of Health and Human Services – Health Care Administration

From General Fund	2,451,800
From General Fund, One-Time	1,433,300
From Federal Funds	13,188,700
From Federal Funds, One-Time	5,875,000
From Expendable Receipts	3,508,400

From Ambulance Service Provider Assess Exp Rev Fund	20,000
From Medicaid Expansion Fund	266,800
From Medicaid Expansion Fund, One-Time	191,700
From Revenue Transfers	108,100
From Beginning Nonlapsing Balances	600,000
Schedule of Programs:	
Integrated Health Care Administration	9,641,800
LTSS Administration	427,000
PRISM	15,000,000
Seeded Services	2,575,000

The Legislature intends that the $500,000 in beginning nonlapsing balances provided to the Department of Health and Human Services' Health Care Administration line item for state match to improve existing application level security and provide redundancy for core Medicaid applications is dependent upon up to $500,000 funds not otherwise designated as nonlapsing to the Department of Health's Medicaid Services line item or Medicaid and Health Financing line item or a combination from both line items not to exceed $500,000 being retained as nonlapsing in Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Health Care Administration line item as a beginning balance in Fiscal Year 2023.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2023 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2023 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2023 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid Expansion Fund 2252 for FY 2023 regardless of the amount appropriated.

The Legislature intends that the Department of Health and Human Services report by August 1, 2022 to the Social Services Appropriations Subcommittee its response and suggested recommendation to address the findings regarding concurrent prescribing of two or more antipsychotic medications in the report "Identifying Potential Overuse of Non-Evidence-Based Health Care in Utah." The report shall also include a review of drugs prescribed compared to diagnosis codes.

The Legislature intends that the Department of Health and Human Services report by August 1, 2022 to the Social Services Appropriations Subcommittee on options to reduce the current 21% concurrent prescription rate in Medicaid for opioids and benzodiazepines. The report shall include a review of current efforts to reduce the rate of concurrent prescription of these two classes of drugs and efforts to improve awareness of and compliance with the recent law that when different providers each are prescribing a long-term benzodiazepine and a long-term opioid for the same patient that they must communicate with each other at the time of the initiation of the co-prescribing.

The Legislature intends that the Department of Health and Human Services report by August 1, 2022 to the Social Services Appropriations Subcommittee on justifications for the use of a 60 annual drug test maximum for determining drug use among Medicaid clients. The report shall include a comparison to other states annual maximums as well as pros and cons and costs of fewer annual drug test limit options.

The Legislature intends that the Department of Health and Human Services report by September 30, 2022 to the Social Services Appropriations Subcommittee on the status of replacing the Medicaid Management Information System replacement.

The Legislature intends that the Department of Health and Human Services report by October 1, 2022 to the Social Services Appropriations Subcommittee on options to expand Medicaid Graduate Medical Education funding by reviewing what other states have done on: (1) How many settings in Utah other than hospital settings that could be eligible?, (2) What new providers of third party match not currently participating could qualify?, (3) Estimates of costs for new match money where General Fund match would be required and options for related programs where match might be transferred, and (4) interest of new third party match providers in participating.

The Legislature intends that the income eligibility ceiling shall be the following percent of federal poverty level for UCA 26-18-411 Health Coverage Improvement Program: (1) 5% for individuals who meet the additional criteria in 26-18-411 Subsection 3 and (2) the income level in place prior to July 1, 2017 for an individual with a dependent child.

Item 84

To Department of Health and Human Services - Integrated Health Care Services

From General Fund	1,368,600

From General Fund, One–Time	(328,248,400)
From Education Fund, One–Time	328,320,400
From Federal Funds	180,629,200
From Federal Funds, One–Time	(10,747,800)
From Expendable Receipts	8,259,800
From Expendable Receipts, One–Time	176,400
From Expendable Receipts – Rebates	4,060,000
From Medicaid Expansion Fund	7,396,700
From General Fund Restricted – Opioid Litigation Settlement Restricted Account, One–Time	2,800,000
From Revenue Transfers	46,768,800
From Revenue Transfers, One–Time	(187,900)
From Beginning Nonlapsing Balances	12,282,300

Schedule of Programs:

Children's Health Insurance Program Services	(150,600)
Medicaid Accountable Care Organizations	46,840,000
Medicaid Behavioral Health Services	9,829,000
Medicaid Home & Community Based Services	76,135,800
Medicaid Hospital Services	1,380,200
Medicaid Pharmacy Services	60,000
Medicaid Long Term Care Services	2,369,600
Medicaid Other Services	840,200
Expansion Accountable Care Organizations	63,052,200
Non–Medicaid Behavioral Health Treatment & Crisis Response	52,521,700

The Legislature intends that funding provided for the item Cherish Families be spent over three fiscal years, FY 2023–25, and that the Department of Human Services request nonlapsing authority as needed to retain the funding for that period of time.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Medicaid Expansion Fund 2252 for FY 2023 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Nursing Care Facilities Provider Assessment Fund 2243 for FY 2023 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Ambulance Service Provider Assessment Expendable Revenue Fund 2242 for FY 2023 regardless of the amount appropriated.

The Legislature authorizes the Department of Health and Human Services, as allowed by the fund's authorizing statute, to spend all available money in the Hospital Provider Assessment Expendable Special Revenue Fund 2241 for FY 2023 regardless of the amount appropriated.

The Legislature intends that the $8,730,800 total fund appropriated for Alignment of Behavioral Health Service Codes for Medicaid Reimbursement be used exclusively to raise the rate for residential treatment.

The Legislature intends that the Department of Health and Human Services report on the amount of ongoing funding needed from the program based on savings realized from the new services being provided by June 1, 2024 to the Social Services Appropriations Subcommittee.

Item 85

To Department of Health and Human Services – Long–Term Services & Support

From General Fund	30,999,200
From General Fund, One–Time	(160,004,800)
From Education Fund	185,300
From Education Fund, One–Time	160,053,100
From Federal Funds	8,096,800
From Revenue Transfers	64,088,700
From Revenue Transfers, One–Time	(12,972,000)
From Beginning Nonlapsing Balances	(275,000)

Schedule of Programs:

Aging & Adult Services	3,886,400
Adult Protective Services	25,000
Aging Waiver Services	648,000
Services for People with Disabilities	1,027,100
Community Supports Waiver Services	84,433,600
Disabilities – Other Waiver Services	151,200

The Legislature intends that up to at least 90% of this funding be prioritized for individuals on the waiting list who have been classified as Crisis and Most Critical by the Division of Services for People with Disabilities.

The Legislature intends that for all funding provided in FY 2022 and FY 2023 for Home and Community–based and Intermediate Care Facility Direct Care Staff Salary Increases, none of the appropriated funds shall be spent on administration–related costs or provider profits. The Legislature further intends that the Departments of Health and Human Services (DHHS) shall: 1) Require providers to report on how they utilize appropriated funds to increase direct care worker wages and attest that 0% of funding goes to administrative functions or provider profits; and 2) In conjunction with DHHS providers, report to the Social Services Appropriations Subcommittee no later than September 1, 2022 regarding the implementation and status of increasing salaries for direct care workers and the outcomes thereof.

Item 86

To Department of Health and Human Services – Public Health, Prevention, & Epidemiology

From General Fund	3,748,000
From General Fund, One-Time	(258,000)
From Education Fund, One-Time	251,500
From Federal Funds	57,124,000
From Federal Funds, One-Time	(6,500)
From Expendable Receipts	164,900
From Expendable Receipts - Rebates	591,600
From Revenue Transfers	2,019,200
From Beginning Nonlapsing Balances	85,400
Schedule of Programs:	
Communicable Disease & Emerging Infections	58,166,700
Integrated Health Promotion & Prevention	1,378,400
Preparedness & Emergency Health	175,000
Local Health Departments	4,000,000

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $4,000,000 provided for the Department of Health and Human Services Public Health, Prevention, and Epidemiology line item shall not lapse at the close of FY 2023 and the use of funding is limited to: payments to local health departments for compliance with state standards.

Item 87

To Department of Health and Human Services - Children, Youth, & Families

From General Fund	9,315,300
From General Fund, One-Time	(153,592,100)
From Education Fund, One-Time	154,089,300
From Federal Funds	5,792,200
From Expendable Receipts	13,300
From General Fund Restricted - Adult Autism Treatment Account	1,000,000
From Revenue Transfers	1,545,700
From Beginning Nonlapsing Balances	(4,087,500)
Schedule of Programs:	
Child & Family Services	(621,100)
Domestic Violence	5,565,000
In-Home Services	29,900
Out-of-Home Services	4,586,400
Adoption Assistance	667,000
Child Abuse & Neglect Prevention	160,000
Children with Special Healthcare Needs	2,645,700
Maternal & Child Health	1,043,300

The Legislature intends that subcommittee staff from the Office of the Legislative Fiscal Analyst review the Children, Youth, and Families line item as a part of the accountable base budget process for 2022 and review the Office of Recovery Services in 2024.

The Legislature intends for ongoing funds appropriated in Item 191 of Senate Bill 2, passed during the 2019 General Session for Domestic Violence Shelter Funding - Home Safe to be utilized by the states federally-designated domestic violence coalition, Utah Domestic Violence Coalition, to administer the Domestic Violence HomeSafe program rooted in the Domestic Violence Housing First approach to provide time-limited financial support to domestic violence victims who are at high-risk of intimate partner homicide and present high-barrier needs related to homelessness and other basic needs, as indicated by the Lethality Assessment Protocol or Danger Assessment.

The Legislature intends the Department of Health and Human Services - Children, Youth, & Families use nonlapsing state funds originally appropriated for Adoption Assistance non-Title-IV-E monthly subsidies for any children that were not initially Title IV-E eligible in foster care, but that now qualify for Title IV-E adoption assistance monthly subsidies under eligibility exception criteria specified in P.L. 112-34 [Social Security Act Section 473(e)]. These funds shall only be used for child welfare services allowable under Title IV-B or Title IV-E of the Social Security Act consistent with the requirements found at UCA 63J-1-603(3)(b).

Item 88

To Department of Health and Human Services - Office of Recovery Services

From Federal Funds	2,489,200
From Expendable Receipts	900,800
Schedule of Programs:	
Recovery Services	2,489,200
Children in Care Collections	900,800

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 89

To University of Utah - Education and General

From General Fund	31,341,700
From General Fund, One-Time	(5,410,600)
From Education Fund	(21,522,600)
From Education Fund, One-Time	3,965,600
From Closing Nonlapsing Balances	798,500
Schedule of Programs:	
Education and General	9,657,000
Operations and Maintenance	(484,400)

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.16%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - maintain the percent of high-yield awards granted.

Item 90

To University of Utah - Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that the University of

Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) students with disabilities registered and receiving services (target: 2%-5% of total university enrollment); 2) provision of alternative format services, including Braille and video captioning (target: provide accessible materials in a timely manner prior to materials being needed/utilized in coursework); and 3) provide interpreting services for deaf and hard of hearing students (target: maintain a highly qualified and 100% certified interpreting staff and achieve 100% delivery of properly requested interpreting needs).

Item 91
To University of Utah - School of Medicine

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of medical school applications (target: exceed the number of applications as an average of the prior three years); 2) the number of student enrolled in medical school (target: maintain a full cohort based on enrollment levels); 3) the number of applicants to matriculates (target: maintain a healthy ratio to insure a class of strong academic quality); 4) the number of miners served (target: maintain or exceed historical numbers served); and 5) the number of miners enrolled (target: maintain or exceed historical numbers enrolled).

Item 92
To University of Utah - Cancer Research and Treatment

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) extramural cancer research funding help by Huntsman Cancer Institute (HCI) investigators (target: increase funding by 5%); 2) support development of cancer training programs through promotion of student professional development and experiential learning opportunities designed for cancer research trainees and securing extramural funding for cancer training at HCI; and 3) increase outreach and research support of rural, frontier, and underserved populations.

Item 93
To University of Utah - University Hospital

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of annual residents in training (target: 578); 2) the number of annual resident training hours (target: 2,080,800); and 3) the percent of total resident training costs appropriated by the Legislature (target: 20.7%).

Item 94
To University of Utah - School of Dentistry

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of applications to the School of Dentistry; and 2) the number of students accepted.

Item 95
To University of Utah - Public Service

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) timeliness of responses to earthquakes in the Utah region (target: transmit an alarm to the Utah Department of Emergency Management within 5 minutes and post event information to the web within 10 minutes for every earthquake of magnitude 3.5 or greater that occur in the Utah region); 2) publications and presentations related to earthquakes (target: publish at least five papers in peer-reviewed journals, make at least ten presentations at professional meetings, and make at least ten oral presentations to local stakeholders); and 3) raise external funds to support Seismograph Stations mission (target: generate external funds that equal or exceed the amount provided by the State of Utah.)

Item 96
To University of Utah - Poison Control Center

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) Poison Center utilization (target: exceed nationwide average); 2) healthcare costs averted per dollar invested (target: $10 savings for every dollar invested in the center); and 3) service level - speed to answer (target: answer 85% of cases within 20 seconds).

Item 97

To University of Utah - Center on Aging

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) increased penetration of the Center on Agings influence measured by the number of stakeholders including members and community guests who engaged in meetings and events or consulted directly as a result of the centers efforts and facilitation (target: annual increase of 25% of qualified engagements with aging stakeholders); 2) access to the Aging and Disability Resource Center (ADRC) - Cover to Cover Program (target: provide services to 100% of the people of Utah over age 65); and 3) increased penetration of iPods placed through facilities and service organizations throughout the state (target: annual increase of 15% of aggregated placements of iPods through the music and memory program).

Item 98

To University of Utah - Rocky Mountain Center for Occupational and Environmental Health

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of students in the degree programs (target: greater than or equal to 45 students); 2) the number of students trained (target: greater than or equal to 600); and 3) the number of businesses represented in continuing education courses (target: greater than or equal to 1,000).

Item 99

To University of Utah - SafeUT Crisis Text and Tip

From General Fund	(250,000)
From Education Fund	1,457,100
Schedule of Programs:	
SafeUT Operations	1,207,100

In accordance with UCA 63J-1-903, the Legislature intends that the University of Utah report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) sources of funding and categories of expenditures (target: increase non-state funding sources); and 2) increase availability of the app (target: increase downloads of app during FY 2023).

UTAH STATE UNIVERSITY

Item 100

To Utah State University - Education and General

From General Fund	25,175,000
From General Fund, One-Time	(2,819,600)
From Education Fund	1,462,600
From Education Fund, One-Time	20,456,500
From Dedicated Credits Revenue	9,633,000
From Closing Nonlapsing Balances	31,000
Schedule of Programs:	
Education and General	36,258,800
USU - School of Veterinary Medicine	17,995,100
Operations and Maintenance	(315,400)

The Legislature authorizes Utah State University to add one vehicle to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.73%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 3%.

Item 101

To Utah State University - USU - Eastern Education and General

From Education Fund	(604,700)
Schedule of Programs:	
USU - Eastern Education and General	(604,700)

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) degrees and certificates awarded (target: 365); 2) FTE student enrollment (fall day-15 budget-related) (target: 950); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (target: 49% with a 0.5% increase per annum).

Item 102

To Utah State University - Educationally Disadvantaged

From Education Fund	(300)
Schedule of Programs:	
Educationally Disadvantaged	(300)

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) students served (target: 20); 2) average aid per student (target: $4,000); and 3) transfer and retention rate (target: 80%) by October 1, 2022.

Item 103

To Utah State University - USU - Eastern Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) students served (target: 275); 2) average aid per student (target: $500); and 3) transfer and retention rate (target: 50%).

Item 104

To Utah State University - USU - Eastern Career and Technical Education

From Education Fund	(238,400)
From Education Fund, One-Time	202,800
From Dedicated Credits Revenue	182,000
Schedule of Programs:	
USU - Eastern Career and Technical Education	146,400

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) career and technical education (CTE) licenses and certifications (target: 100); 2) CTE graduate placements (target: 45); and 3) CTE completions (target: 50).

Item 105

To Utah State University - Regional Campuses

From Education Fund	(833,400)
Schedule of Programs:	
Administration	34,600
Uintah Basin Regional Campus	163,100
Brigham City Regional Campus	(514,800)
Tooele Regional Campus	(516,300)

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) degrees and certificates awarded (targets for all campuses: 850); 2) FTE student enrollment (fall day-15 budget-related) (targets for each campus: Brigham City - 650, Tooele - 1,200, and Uintah Basin - 375); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (targets for campuses: 49% with a 0.5% increase per annum).

Item 106

To Utah State University - Water Research Laboratory

From Education Fund	(21,500)
Schedule of Programs:	
Water Research Laboratory	(21,500)

Item 107

To Utah State University - Agriculture Experiment Station

From Education Fund	16,600
Schedule of Programs:	
Agriculture Experiment Station	16,600

Item 108

To Utah State University - Cooperative Extension

From Education Fund	189,500
From Education Fund, One-Time	(51,400)
From Closing Nonlapsing Balances	51,400
Schedule of Programs:	
Cooperative Extension	189,500

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) direct contacts (target: 722,000 on a three-year rolling average); 2) faculty-delivered activities and events (target: 2,000 on a three-year rolling average); and 3) faculty publications (target: 300 on a three-year rolling average).

Item 109

To Utah State University – Prehistoric Museum

From Education Fund	(2,300)
Schedule of Programs:	
Prehistoric Museum	(2,300)

Item 110

To Utah State University – Blanding Campus

From Education Fund	(266,100)
From Dedicated Credits Revenue	786,900
Schedule of Programs:	
Blanding Campus	520,800

In accordance with UCA 63J-1-903, the Legislature intends that Utah State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: degrees and certificates awarded (target: 365); 2) FTE student enrollment (fall day-15 budget-related) (target: 375); and 3) Integrated Postsecondary Education Data System (IPEDS) overall graduation rate for all first-time, full-time, degree-seeking students within six years for bachelors and three years for associates (target: 49% with a 0.5% increase per annum).

WEBER STATE UNIVERSITY

Item 111

To Weber State University – Education and General

From General Fund	(267,700)
From Education Fund	4,128,400
From Education Fund, One-Time	(40,700)
From Dedicated Credits Revenue	3,214,900
Schedule of Programs:	
Education and General	7,067,400
Operations and Maintenance	(32,500)

The Legislature authorizes Weber State University to add six vehicles to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.42%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 3%.

Item 112

To Weber State University – Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Weber State University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) awarding degrees to underrepresented students (target: increase to average of 15% of all degrees awarded); 2) Bachelors degrees within six years (target: average five-year graduation rate of 25%); 3) first year to second year enrollment (target: 55%).

SOUTHERN UTAH UNIVERSITY

Item 113

To Southern Utah University – Education and General

From General Fund	(20,100)
From Education Fund	5,277,500
From Education Fund, One-Time	(499,800)
Schedule of Programs:	
Education and General	5,093,400
Operations and Maintenance	(335,800)

The Legislature authorizes Southern Utah University to add four vehicles to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.34%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 3%.

Item 114

To Southern Utah University – Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) students served (target: 100); 2) average aid per student (target: $500); and 3) educationally disadvantage scholarships offered to minority students (target: 33% or more).

Item 115

To Southern Utah University – Shakespeare Festival

From Education Fund, One-Time	400,000
Schedule of Programs:	
Shakespeare Festival	400,000

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) professional outreach program in the schools instructional hours (target: 25% increase in five years); 2) education seminars and orientation attendees (target: 25% increase in five years); and 3) Shakespeare Festival annual fundraising (target: 50% increase in five years).

Item 116

To Southern Utah University – Rural Development

In accordance with UCA 63J-1-903, the Legislature intends that Southern Utah University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of rural healthcare programs developed (target: 47); 2) rural healthcare scholar participation (target: 1,000); and 3) graduate rural clinical rotations (target: 230).

UTAH VALLEY UNIVERSITY

Item 117

To Utah Valley University – Education and General

From General Fund, One-Time	(30,005,700)
From Education Fund	7,849,800
From Education Fund, One-Time	28,250,500
Schedule of Programs:	
Education and General	6,094,600

The Legislature authorizes Utah Valley University to add four vehicles to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 1.01%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 3%.

Item 118

To Utah Valley University – Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Utah Valley University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) portion of degree-seeking undergraduate students receiving need-based financial aid (target: 45%); 2) the number of students served in mental health counseling (target: 4,000); and 3) the number of tutoring hours provided to students (target: 22,000).

Item 119

To Utah Valley University – Fire and Rescue Training

From General Fund	(300,000)
From Education Fund	300,000

SNOW COLLEGE

Item 120

To Snow College – Education and General

From General Fund	(90,200)
From Education Fund	4,606,600
Schedule of Programs:	
Education and General	4,516,400

The Legislature authorizes Snow College to add two vehicles to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.33%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 12.77%; and 3) high-yield awards – increase the percent of high-yield awards granted by 7%.

Item 121

To Snow College – Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY

2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) aggregate completion rate of first generation, non-tradition (aged 25 or older), minority (not including non-resident, alien/international students), and Pell awarded students (target: 35%); 2) percent of remedial math students who successfully complete Math 1030, Math 1040, or Math 1050 (college-level math) within five semesters of first-time enrollment (target: 35%); and 3) percent of remedial English students who successfully complete English 1010 or higher (college level English) within three semesters of first-time enrollment (target: 65%).

Item 122

To Snow College – Career and Technical Education

From Education Fund	465,200
From Education Fund, One-Time	273,700
Schedule of Programs:	
Career and Technical Education	738,900

In accordance with UCA 63J-1-903, the Legislature intends that Snow College report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) percent of students per program capacity with the goal of a 2% increase in respective program capacity each year (target: 60%); 2) the number of career and technical education (CTE) degrees and certificates awarded (target: 200); and 3) percent of students who successfully pass their respective Utah licensing exams (programs include Automotive, Cosmetology, and Nursing) (target: 80% pass rate).

Item 123

To Snow College – Snow College – Custom Fit

From Education Fund	116,000
Schedule of Programs:	
Snow College – Custom Fit	116,000

UTAH TECH UNIVERSITY

Item 124

To Utah Tech University – Education and General

From General Fund	(100,500)
From Education Fund	4,067,500
From Education Fund, One-Time	2,131,400
Schedule of Programs:	
Education and General	6,098,400

The Legislature authorizes Utah Tech University to add one vehicle to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.40%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 6%.

Item 125

To Utah Tech University –
Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Utah Tech University report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of students served (target: 20); 2) the number of minority students served (target: 15); and 3) expenditures per student (target: $1,000).

SALT LAKE COMMUNITY COLLEGE

Item 126

To Salt Lake Community College –
Education and General

From General Fund	(30,900)
From Education Fund	5,810,100
From Education Fund, One-Time	(399,000)
Schedule of Programs:	
Education and General	5,695,300
Operations and Maintenance	(315,100)

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.94%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 1%.

Item 127

To Salt Lake Community College –
Educationally Disadvantaged

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) the number of needs-based scholarships awarded (target: 200); 2) percent of needs- based recipients returning (target: 50%); and 3) graduation rate of needs based scholarship recipients (target: 50%).

Item 128

To Salt Lake Community College – School of Applied Technology

From Education Fund	(281,300)
From Education Fund, One-Time	162,700
Schedule of Programs:	
School of Applied Technology	(118,600)

In accordance with UCA 63J-1-903, the Legislature intends that Salt Lake Community College report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) membership hours (target: 350,000); 2) certificates awarded (target: 200); and 3) pass rate for certificate or licensure exams (target: 85%).

Item 129

To Salt Lake Community College – SLCC – Custom Fit

From Education Fund	150,000
Schedule of Programs:	
SLCC – Custom Fit	150,000

UTAH BOARD OF HIGHER EDUCATION

Item 130

To Utah Board of Higher Education – Administration

From General Fund	(5,107,300)
From Education Fund	8,005,700
From Education Fund, One-Time	(1,750,000)
From Federal Funds – American Rescue Plan, One-Time	18,300,000
Schedule of Programs:	
Administration	19,448,400

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled in the system by 3%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 3%.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 131

To Utah Board of Higher Education – Student Assistance

From Education Fund	5,101,600
Schedule of Programs:	
Student Financial Aid	5,101,600

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: for Regents, New Century, and Western Interstate Commission for Higher Education scholarships allocate all appropriations less overhead to qualified students.

Item 132

To Utah Board of Higher Education – Student Support

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) hearing impaired (target: allocate all appropriations to institutions); 2) engineering initiative degrees (target: 6% annual increase); 3) HETI group purchases (target: $3.4 million savings); 4) Utah Academic Library Council (UALC) additive impact on institutional library collections budgets as reported to IPEDS; 5) resource downloads from UALC purchased databases. (target: three-year rolling average of 3,724,474).

In accordance with UCA 63J-1-201, the Legislature intends that the Board of Higher Education report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: increase the number of students taking math credit through concurrent enrollment by 5%.

Item 133
To Utah Board of Higher Education –
Education Excellence

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) increase college participation rates with Utah College Advising Corp (target: 5% increase); 2) completions (target: increase five-year rolling average by 1%); and 3) 150% graduation rate (target: increase five-year rolling average by 1%).

Item 134
To Utah Board of Higher Education –
Medical Education Council

In accordance with UCA 63J-1-903, the Legislature intends that the Board of Higher Education report to the Office of the Legislative Fiscal Analyst and to the Governors Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following performance measures for FY 2023: 1) graduate medical education growth (target: 2.1% growth); 2) retention for residency and fellowship programs (target: 45% and 32%, respectively); and 3) Utah health provider to 100,000 population ratio (target: 271).

BRIDGERLAND TECHNICAL COLLEGE

Item 135
To Bridgerland Technical College

From Education Fund	962,900
From Education Fund, One-Time	(275,200)
Schedule of Programs:	
Bridgerland Tech Equipment	348,800
Bridgerland Technical College	338,900

In accordance with UCA 63J-1-903, the Legislature intends that Bridgerland Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.02%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 7%.

Item 136
To Bridgerland Technical College –
USTC Bridgerland – Custom Fit

From Education Fund	100,000
Schedule of Programs:	
USTC Bridgerland – Custom Fit	100,000

DAVIS TECHNICAL COLLEGE

Item 137
To Davis Technical College

From Education Fund	1,175,000
From Education Fund, One-Time	288,300
Schedule of Programs:	
Davis Tech Equipment	405,800
Davis Technical College	1,057,500

The Legislature authorizes Davis Technical College to add one vehicle to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Davis Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.09%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 8%.

DIXIE TECHNICAL COLLEGE

Item 138
To Dixie Technical College

From Education Fund	603,000
From Education Fund, One-Time	214,000
Schedule of Programs:	
Dixie Tech Equipment	214,000
Dixie Technical College	603,000

The Legislature authorizes Dixie Technical College to add one vehicle to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Dixie Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access – increase the percent of Utah high school graduates enrolled by 0.03%; 2) timely completion – increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards – increase the percent of high-yield awards granted by 7%.

MOUNTAINLAND TECHNICAL COLLEGE

Item 139

To Mountainland Technical College

From Education Fund	3,460,700
From Education Fund, One-Time	(391,100)
Schedule of Programs:	
Mountainland Tech Equipment	407,600
Mountainland Technical College	2,662,000

The Legislature authorizes Mountainland Technical College to add eight vehicles to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Mountainland Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.11%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 8%.

Item 140

To Mountainland Technical College - USTC Mountainland - Custom Fit

From Education Fund	116,000
Schedule of Programs:	
USTC Mountainland - Custom Fit	116,000

OGDEN-WEBER TECHNICAL COLLEGE

Item 141

To Ogden-Weber Technical College

From Education Fund	1,277,100
From Education Fund, One-Time	373,700
From Beginning Nonlapsing Balances	638,800
From Closing Nonlapsing Balances	(638,800)
Schedule of Programs:	
Ogden-Weber Tech Equipment	373,700
Ogden-Weber Technical College	1,277,100

In accordance with UCA 63J-1-903, the Legislature intends that Ogden-Weber Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.07%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

SOUTHWEST TECHNICAL COLLEGE

Item 142

To Southwest Technical College

From Education Fund	582,600
From Education Fund, One-Time	198,500
From Beginning Nonlapsing Balances	(27,000)
From Closing Nonlapsing Balances	27,000
Schedule of Programs:	
Southwest Tech Equipment	198,500
Southwest Technical College	582,600

The Legislature authorizes Southwest Technical College to add one vehicle to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Southwest Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 3%; and 3) high-yield awards - increase the percent of high-yield awards granted by 7%.

TOOELE TECHNICAL COLLEGE

Item 143

To Tooele Technical College

From Education Fund	1,214,800
From Education Fund, One-Time	(406,200)
Schedule of Programs:	
Tooele Tech Equipment	191,200
Tooele Technical College	617,400

The Legislature authorizes Tooele Technical College to add one vehicle to its motor pool.

In accordance with UCA 63J-1-903, the Legislature intends that Tooele Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.02%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

UINTAH BASIN TECHNICAL COLLEGE

Item 144

To Uintah Basin Technical College

From Education Fund	424,400
From Education Fund, One-Time	221,200
Schedule of Programs:	
Uintah Basin Tech Equipment	221,200
Uintah Basin Technical College	424,400

In accordance with UCA 63J-1-903, the Legislature intends that Uintah Basin Technical College report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022 the final status of performance measures established in FY 2022 appropriations bills and the current status of the following five-year performance metrics for FY 2023: 1) access - increase the percent of Utah high school graduates enrolled by 0.01%; 2) timely completion - increase the percent of a cohort enrolled that completes an award in up to and including 1.5 times the standard completion time or sooner by 4%; and 3) high-yield awards - increase the percent of high-yield awards granted by 6%.

Item 145

To Uintah Basin Technical College - USTC Uintah Basin - Custom Fit

From Education Fund	40,000
Schedule of Programs:	
USTC Uintah Basin - Custom Fit	40,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 146

To Department of Agriculture and Food - Administration

From General Fund, One-Time	1,000,000
Schedule of Programs:	
General Administration	1,000,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Administration line item, whose mission is "Promote the healthy growth of Utah agriculture, conserve our natural resources and protect our food supply." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: (1) Percent of programs within the Department involved in a continuous improvement project in the last year (Target = 100%), (2) Increase accuracy of reporting fee information in the annual fee reporting exercise (Target = 90% of all fees with accurate revenues and costs), and (3) Perform proper and competent financial support according to State guidelines and policies by reducing the number of adverse audit findings in quarterly division of finance reviews (Target = 0 moderate or significant audit findings).

Item 147

To Department of Agriculture and Food - Animal Industry

From General Fund	360,000
From Dedicated Credits Revenue	5,000
From General Fund Restricted - Horse Racing	40,000
Schedule of Programs:	
Animal Health	5,000
Meat Inspection	360,000
Horse Racing Commission	40,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Animal Health line item, whose mission is "Deny a market to potential thieves & to detect the true owners of livestock. It is the mission of the Livestock Inspection Bureau to provide quality, timely, and courteous service to the livestock men and women of the state, in an effort to protect the cattle and horse industry." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Increase education to industry and public on correct practices to verify and record changes of ownership when selling or buying livestock in the State of Utah (Target = 40 hours of training); 2) Meat Inspection - Ensure 70% of all sanitation tasks are performed (Target = 70%); 3) Increase number of animal traces completed in under one hour (Target = Increase by 5%); 4) Decrease the amount of hours taken to rid nuisance predator animals (Target = 1% decrease); 5) Increase total attendance at animal health outreach events (Target = 10% increase).

Item 148

To Department of Agriculture and Food - Invasive Species Mitigation

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Invasive Species Mitigation line item, whose mission is "Help government and private entities control noxious weeds in the state through providing project funding and help those entities meet the requirements of the Noxious Weed Act." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY

2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) SUCCESS QT (Target = 25%); (2) EDRR Points treated (Target = 40% increase); and (3) Monitoring results for 1 and 5 years after treatment (Target = 100%).

Item 149

To Department of Agriculture and Food – Marketing and Development

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Marketing and Development line item, whose mission is "Promoting the healthy growth of Utah agriculture." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) UDAF website bounce rate (Target = 70% rate); 2) UDAF social media follower increase (Target = 5%); 3) Utah's Own business profile page views (Target = 145,000 page views); 4) Utah's Own retention rate (Target = 60% renewal rate).

Item 150

To Department of Agriculture and Food – Plant Industry

From General Fund	250,000
From Federal Funds	(203,700)
From Dedicated Credits Revenue	128,500
Schedule of Programs:	
Environmental Quality	(203,700)
Grazing Improvement Program	250,000
Plant Industry	128,500

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Plant Industry line item, whose mission is "Ensuring consumers of disease free and pest free plants, grains, seeds, as well as properly labeled agricultural commodities, and the safe application of pesticides and farm chemicals." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Pesticide Compound Enforcement Action Rate (Target = 20%); 2) Fertilizer Compliance Violation Rate (Target = 5%); and 3) Seed Compliance Violation Rate (Target = 10%).

Item 151

To Department of Agriculture and Food – Predatory Animal Control

From General Fund	150,000
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention	7,800
Schedule of Programs:	
Predatory Animal Control	157,800

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Predatory Animal Control line item, whose mission is "Protecting Utah's agriculture including protecting livestock, with the majority of the programs efforts directed at protecting adult sheep, lambs and calves from predation." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Decrease the amount of predation from bears, by increasing count of animals and decreasing staff hours (Target = 68 hours per bear); 2) Decrease the amount of predation from lions, by increasing count of animals and decreasing staff hours (Target = 92 hours per lion); 3) Decrease the amount of predation from coyotes, by increasing count of animals and decreasing staff hours (Target = 24 hours per 10 coyotes).

Item 152

To Department of Agriculture and Food – Rangeland Improvement

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Rangeland Improvement line item, whose mission is "Improve the productivity, health and sustainability of our rangelands and watersheds." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of Animal Unit Months Affected by GIP Projects per Year (Target = 160,000; 2) Number of Projects with Water Systems Installed Per Year (Target =50/year); and 3) Number of GIP Projects that Time, Timing, and Intensity Grazing Management to Improve Grazing Operations (Target = 15/year).

Item 153

To Department of Agriculture and Food – Regulatory Services

From Dedicated Credits Revenue	706,800
Schedule of Programs:	
Regulatory Services Administration	128,500
Bedding & Upholstered	255,200
Food Inspection	269,200
Dairy Inspection	53,900

In accordance with UCA 63J-1-903, the Legislature intends that the Department of

Agriculture and Food report performance measures for the Regulatory Services line item, whose mission is "Through continuous improvement, become a world class leader in regulatory excellence through our commitment to food safety, public health and fair and equitable trade of agricultural and industrial commodities." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Reduce the number of "Critical" violations observed on dairy farms and thereby reduce the number of follow up inspections required (Target =25% of current); 2) Reduce the number of retail fuel station follow up inspections by our weights and measures program (Target = increase to 85% compliance); and 3) Reduce the percentage of identified instances of the five risk factors attributed to foodborne illness (Target = less than 50% incidents identified).

Item 154

To Department of Agriculture and Food – Resource Conservation

From General Fund	38,000
Schedule of Programs:	
Resource Conservation	38,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Resource Conservation line item, whose mission is "Assist Utah's agricultural producers in caring for and enhancing our state's vast natural resources." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of Utah conservation commission projects completed (Target = 5); 2) Reduction in water usage after Water Optimization project completion (Target = 10%); and 3) Real time measurement of water for each of Water Optimization project (Target = 100%).

Item 155

To Department of Agriculture and Food – Utah State Fair Corporation

From General Fund, One-Time	3,000,000
From Dedicated Credits Revenue	2,546,000
Schedule of Programs:	
State Fair Corporation	5,546,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Utah State Fair Corporation line item, whose mission is "Maximize revenue opportunities by establishing strategic partnerships to develop the Fairpark." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Develop new projects on the fair grounds and adjacent properties, create new revenue stream for the Fair Corporation (Target = $150,000 dollars in new incremental revenue); 2) Annual Fair attendance (Target = 5% increase in annual attendance); 3) Increase Fairpark net revenue (Target = 5% increase in net revenue over FY 2020).

Item 156

To Department of Agriculture and Food – Industrial Hemp

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Industrial Hemp line item, whose mission is "Support Utah's industrial hemp cultivators, processors and retail establishments by ensuring compliance with state law and providing for the safety of consumers through regulatory oversight within the supply chain." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Conduct product potency inspections throughout the calendar year to measure accuracy in marketing (Target = 6% of all registered products); and 2) Ensure that registered hemp products introduced into the Utah marketplace are in compliance, as measured by retail inspections resulting in a noncompliance rate of less than 15 percent, annually (Target = <15% products noncompliant).

Item 157

To Department of Agriculture and Food – Analytical Laboratory

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Analytical Lab line item, whose mission is "to provide chemical, physical, and microbiological analyses to other divisions within the Department of Agriculture and Food and other state agencies to ensure the safety of Utah's food supply, natural resources, and consumer goods." For FY 2023, the department shall report the following performance measures: 1) Laboratory Equipment Replacement Rate (Target = 0% of equipment needing replacement at end of fiscal year); 2) Medical Cannabis Laboratory Certification (Target =

Obtain ISO 17025:2017 certification); 3) Medical Cannabis Sample Collection Timeliness (Target = 100% of samples collected within 7 days); 4) Total Number of Tests (Target = 10,000 tests per fiscal year); 5) Timeliness of Laboratory Test Results (Target = 100% of test results complete within 10 days); and 6) Total number of samples (Target = 3,700 samples per fiscal year).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 158

To Department of Environmental Quality – Drinking Water

From Dedicated Credits Revenue	(325,000)
Schedule of Programs:	
Safe Drinking Water Act	(300,000)
System Assistance	(25,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Drinking Water line item, whose mission is "Cooperatively work with drinking water professionals and the public to ensure a safe and reliable supply of drinking water." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of population served by Approved public water systems (Target = 95%); 2) Percent of water systems with an Approved rating (Target = 95%); and 3) Percentage of identified significant deficiencies resolved by water systems within the deadline established by the Division of Drinking Water (Target = 25% improvement over FY 2021 baseline by FY 2025).

Item 159

To Department of Environmental Quality – Environmental Response and Remediation

From Federal Funds, One-Time	10,770,000
From Petroleum Storage Tank Cleanup Fund	(179,500)
Schedule of Programs:	
CERCLA	10,770,000
Leaking Underground Storage Tanks	(179,500)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Environmental Response and Remediation line item, whose mission is "Protect public health and Utah's environment by cleaning up contaminated sites, helping to return contaminated properties to a state of beneficial reuse, ensuring underground storage tanks are managed and used properly, and providing chemical usage and emission data to the public and local response agencies." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of UST facilities in Significant Operational Compliance at time of inspection, and in compliance within 60 days of inspection (Target = 70%), (2) Leaking Underground Storage Tank (LUST) site release closures, (Target = 80), (3) Issued brownfields tools facilitating cleanup and redevelopment of impaired properties, (Target = 18).

Item 160

To Department of Environmental Quality – Executive Director's Office

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Executive Directors Office line item, whose mission is "Safeguarding and improving Utah's air, land and water through balanced regulation." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of systems within the Department involved in a continuous improvement project in the last year (Target = 100%); 2) Percent of customers surveyed that reported good or exceptional customer service (Target = 90%); and 3) Number of state audit findings/Percent of state audit findings resolved within 30 days (Target = 0 and 100%).

Item 161

To Department of Environmental Quality – Waste Management and Radiation Control

From Federal Funds, One-Time	71,000
Schedule of Programs:	
Solid Waste	71,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Waste Management and Radiation Control line item, whose mission is "Protect human health and the environment by ensuring proper management of solid wastes, hazardous wastes and used oil, and to protect the general public and occupationally exposed employees from sources of radiation that constitute a health hazard." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills.

For FY 2023, the department shall report the following performance measures: 1) Percent of x-ray machines in compliance (Target = 90%); 2) Percent of permits and licenses issued/modified within set timeframes (Target = 90%) and 3) Compliance Assistance for Small Businesses (Target = 65 businesses).

Item 162

To Department of Environmental Quality - Water Quality

From General Fund, One-Time	750,000
From Federal Funds	(1,385,900)
From Federal Funds, One-Time	1,766,000
From Federal Funds - American Rescue Plan, One-Time	15,000,000
From Revenue Transfers	(646,800)
Schedule of Programs:	
Water Quality Support	15,103,200
Water Quality Protection	380,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Water Quality line item, whose mission is "Protect, maintain and enhance the quality of Utah's surface and underground waters for appropriate beneficial uses; and protect the public health through eliminating and preventing water related health hazards which can occur as a result of improper disposal of human, animal or industrial wastes while giving reasonable consideration to the economic impact." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of permits renewed "On-time" (Target = 95%); and 2) Percent of permit holders in compliance (Target = 90%); and 3) Municipal wastewater effluent quality measured as mg/L oxygen consumption potential (Target = state average attainment of 331 mg/L oxygen consumption potential by 2025).

The Legislature intends that ongoing funds appropriated to the Division of Water Quality for independent scientific review during the 2016 General Session be used on activities to support the Water Quality Act as outlined in R317-1-10.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 163

To Department of Environmental Quality - Air Quality

From Federal Funds, One-Time	8,588,100
Schedule of Programs:	
Planning	8,588,100

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Air Quality line item, whose mission is "Protect public health and the environment from the harmful effects of air pollution." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of facilities inspected that are in compliance with permit requirements (Target = 100%); 2) Percent of approval orders that are issued within 180-days after the receipt of a complete application (Target = 95%); 3) Percent of data availability from the established network of air monitoring samplers for criteria air pollutants (Target = 100%); and 4) Per Capita Rate of State-Wide Air Emissions (Target = 0.63).

DEPARTMENT OF NATURAL RESOURCES

Item 164

To Department of Natural Resources - Administration

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Executive Director line item, whose mission is "to facilitate economic development and wise use of natural resources to enhance the quality of life in Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) To keep the ratio of total employees in DNR in proportion to the employees in DNR administration at greater than or equal to 55:1 (Target = 55:1), 2) To continue to grow non-general fund revenue sources in order to maintain a total DNR non-general fund ratio to total funds at 80% or higher (Target = 80%), 3) To perform proper and competent financial support according to State guidelines and policies for DNR Administration by reducing the number of adverse audit findings in our quarterly State Finance audit reviews (Target = zero with a trend showing an annual year-over-year reduction in findings).

Item 165

To Department of Natural Resources – Building Operations

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Building Operations line item, whose mission is "to properly pay for all building costs of the DNR headquarters located in Salt Lake City." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Despite two aging facilities, we have a goal to request DFCM keep our O&M rates at the current cost of $4.25 (Target = $4.25), 2) To have the DFCM O&M rate remain at least 32% more cost competitive than the private sector rate (Target = 32%), 3) To improve building services customer satisfaction with DFCM facility operations by 10% (Target = 10%).

Item 166

To Department of Natural Resources – Contributed Research

From Expendable Receipts	700,000
Schedule of Programs:	
Contributed Research	700,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Contributed Research line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percentage of mule deer units at or exceeding 90% of their population objective (Target = 50%), 2) Percentage of elk units at or exceeding 90% of their population objective (Target = 75%), and 3) Maintain positive hunter satisfaction index for general season deer hunt (Target = 3.3).

Item 167

To Department of Natural Resources – Cooperative Agreements

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Cooperative Agreements line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Aquatic Invasive Species containment – number of public contacts and boat decontaminations (Targets = 400,000 contacts and 10,000 decontaminations), 2) Number of new wildlife species listed under the Endangered Species Act (Target = 0), and 3) Number of habitat acres restored annually (Target = 180,000).

Item 168

To Department of Natural Resources – DNR Pass Through

From General Fund, One–Time	1,500,000
Schedule of Programs:	
DNR Pass Through	1,500,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the DNR Pass Through line item, whose mission is "to carry out pass through requests as directed by the Legislature." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) To pass funding from legislative appropriations to other entities, such as zoos, counties, and other public and non–public entities. The goal is to complete these transactions in accordance with legislative direction (Target = 100%), 2) To provide structure and framework to ensure funds are properly spent and keep the costs of auditing and administering these funds at 8% or less of the funding appropriated for pass through (Target = 8%), 3) To complete the project(s) within the established timeframe(s) and budget (Target = 100%).

Item 169

To Department of Natural Resources – Forestry, Fire and State Lands

From General Fund	391,300
From General Fund, One–Time	2,500,000
From Federal Funds	1,500,000
From Dedicated Credits Revenue	2,000,000
From General Fund Restricted – Sovereign Lands Management	150,000
From General Fund Restricted – Sovereign Lands Management, One–Time	600,000
Schedule of Programs:	
Forest Management	1,500,000
Lands Management	141,300
Lone Peak Center	2,000,000
Project Management	3,500,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Forestry, Fire and State Lands line item, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Fuel Reduction Treatment Acres (Target = 4,034), 2) Fire Fighters Trained to Meet Standards (Target = 2,256), and 3) Communities with Tree City USA Status (Target = 88).

Item 170

To Department of Natural Resources – Oil, Gas and Mining	
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining	241,700
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining, One–Time	343,300
From Gen. Fund Rest. – Oil & Gas Conservation Account	115,600
Schedule of Programs:	
Administration	115,600
Oil and Gas Program	585,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Oil, Gas, and Mining line item, whose mission is “the Division of Oil, Gas and Mining regulates and ensures industry compliance and site restoration while facilitating oil, gas and mining activities.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Timing of Issuing Coal Permits (Target = 100%), 2) Average number of days between well inspections (Target = 365 days or less), and 3) Average number of days to conduct inspections for Priority 1 sites (Target = 90 days or less).

Item 171

To Department of Natural Resources – Species Protection

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Species Protection line item, whose mission is “to create innovative solutions to transform government services.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Delisting or Downlisting (Target = one delisting or downlisting proposed or final rule published in the Federal Register per year), 2) Red Shiner Eradication (Target = Eliminate 100% of Red Shiner from 37 miles of the Virgin River in Utah), and 3) June Sucker Population Enhancement (Target = 5,000 adult spawning June Sucker).

Item 172

To Department of Natural Resources – Utah Geological Survey	
From General Fund	140,300
From Dedicated Credits Revenue	143,900
From General Fund Restricted – Mineral Lease	680,200
From Revenue Transfers	272,700
Schedule of Programs:	
Administration	680,200
Energy and Minerals	416,600
Ground Water	140,300

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Utah Geological Survey line item, whose mission is “to provide timely, scientific information about Utah’s geologic environment, resources, and hazards.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Total number of individual item views in the UGS GeoData Archive (Target = 1,700,000), 2) Total number of website user requests/queries to UGS interactive map layers (Target = 9,000,000), and 3) Public engagement of UGS reports and publications (Target = 68,000 downloads).

Item 173

To Department of Natural Resources – Water Resources	
From Water Resources Conservation and Development Fund	205,000
Schedule of Programs:	
Interstate Streams	205,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Water Resources line item, whose mission is “plan, conserve, develop and protect Utah’s water resources.” The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor’s Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Water conservation and development projects funded (Target = 15), 2) Reduction of per capita M&I water use (Target = 25%), and

3) Percentage of precipitation increase due to cloud seeding efforts (Target = 7%).

Item 174

To Department of Natural Resources – Water Rights

From General Fund, One–Time	500,000
From Dedicated Credits Revenue	500,000

Schedule of Programs:

Applications and Records	500,000
Dam Safety	500,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Water Rights line item, whose mission is "to promote order and certainty in the beneficial use of public water." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Timely Application processing (Target = 80 days for uncontested applications), 2) Use of technology to provide information (Target = 1,500 unique web users per month), and 3) Parties that have been noticed in comprehensive adjudication (Target = 20,000).

The Legislature intends that the Division of Water Rights purchase a vehicle for the Field Services Section through Fleet Operations.

Item 175

To Department of Natural Resources – Watershed

From Dedicated Credits Revenue	50,000

Schedule of Programs:

Watershed	50,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Watershed Restoration Initiative line item, whose mission is "rehabilitation or restoration of priority watershed areas in order to address the needs of water quality and yield, wildlife, agriculture and human needs." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of acres treated (Target = 120,000 acres per year), 2) State of Utah funding leverage with partners for projects completed through WRI (Target = 3), and 3) Miles of stream and riparian areas restored (Target = 175 miles).

Item 176

To Department of Natural Resources – Wildlife Resources

From General Fund, One–Time	5,775,000
From Expendable Receipts	100,000
From General Fund Restricted – Aquatic Invasive Species Interdiction Account	405,000
From General Fund Restricted – Wildlife Habitat, One–Time	700,000
From General Fund Restricted – Wildlife Resources	850,000
From General Fund Restricted – Wildlife Resources, One–Time	3,000,000

Schedule of Programs:

Administrative Services	850,000
Aquatic Section	3,000,000
Director's Office	100,000
Habitat Section	700,000
Law Enforcement	5,305,000
Wildlife Section	875,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Wildlife Resources Operations line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of people participating in hunting and fishing in Utah (Target = 800,000 anglers and 380,000 hunters), 2) Percentage of law enforcement contacts without a violation (Target = 90%), and 3) Number of participants at DWR shooting ranges (Target = 90,000).

The Legislature intends that the $1 million appropriation from the General Fund to the Division of Wildlife Resources line item shall be used for the payment to the School and Institutional Trust Lands Administration (SITLA) to preserve access to public land for hunters and wildlife dependent recreation.

The Legislature intends that up to $6,750,000 of the General Fund appropriation for the Division of Wildlife Resources line item shall be used for efforts to contain aquatic invasive species at Lake Powell and prevent them from spreading to other waters in Utah. Upon request, the division shall provide detailed documentation as to how its appropriation from the General Fund was spent.

The Legislature intends that the Division of Wildlife Resources spends up to $400,000 on livestock damage.

Item 177

To Department of Natural Resources – Wildlife Resources Capital Budget

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Natural Resources report performance measures for the Wildlife Resources Capital line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Average score from annual DFCM facility audits (Target = 90%), (2) New Motor Boat Access projects (Target = 10), and (3) Number of hatcheries in operation (Target = 12).

Item 178

To Department of Natural Resources – Division of Parks

From Federal Funds	64,400
From Expendable Receipts	125,000
From General Fund Restricted – State Park Fees	1,275,000
From General Fund Restricted – Zion National Park Support Programs	(4,000)
Schedule of Programs:	
Park Management Contracts	(4,000)
State Park Operation Management	1,464,400

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Division of State Parks line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Total Revenue Collections (Target = $48,000,000), 2) Gate Revenue (Target = $30,500,000), and 3) Expenditures (Target = $43,000,000).

The Legislature intends that the General Fund appropriation for the Division of State Parks line item shall be used primarily for the operations and maintenance of the division's heritage parks, museums, and This Is the Place Heritage Park. Upon request, the division shall provide detailed documentation as to how the Division's general fund appropriation was spent.

Item 179

To Department of Natural Resources – Division of Parks – Capital

From General Fund, One-Time	60,000,000
From Federal Funds, One-Time	4,000,000
From General Fund Restricted – State Park Fees	500,000
From General Fund Restricted – State Park Fees, One-Time	12,450,000
Schedule of Programs:	
Major Renovation	72,500,000
Renovation and Development	4,450,000

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Division of State Parks Capital line item, whose mission is "to enhance the quality of life by preserving and providing natural, cultural, and recreational resources for the enjoyment, education, and inspiration of this and future generations." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Donations Revenue (Target = $140,000), 2) Capital renovation projects completed (Target = 15), and 3) Boating projects completed (Target = 5).

Item 180

To Department of Natural Resources – Division of Recreation

From General Fund Restricted – Zion National Park Support Programs	4,000
Schedule of Programs:	
Recreation Agreements	4,000

Item 181

To Department of Natural Resources – Division of Recreation– Capital

From Federal Funds	2,500,000
Schedule of Programs:	
Land and Water Conservation	2,500,000

Item 182

To Department of Natural Resources – Office of Energy Development

From General Fund, One-Time	2,000,000
From Federal Funds, One-Time	10,000,000
From Dedicated Credits Revenue	50,000
From Expendable Receipts	50,000
Schedule of Programs:	
Office of Energy Development	12,100,000

In accordance with UCA 63J-1-903, the Legislature intends that the Office of Energy Development report performance measures for the Office of Energy Development line item, whose mission is "Advance Utah's energy and minerals economy through energy policy, energy infrastructure and business development, energy efficiency and renewable energy programs, and energy research, education and workforce development." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percent of RESTC tax incentive applications processed within 30 days (Target = 95%); 2) Number of energy education and workforce development training opportunities provided (Target = 50); and 3) Percent of annual milestones achieved in U.S. D.O.E. funded programs. (Target = 90%).

Item 183

To Department of Natural Resources – Public Lands Policy Coordination

In accordance with UCA 63J-1-903, the Legislature intends that the Public Lands Policy Coordinating Office report performance measures for the Public Lands Policy Coordinating Office line item, whose mission is "Preserve and defend rights to access, use and benefit from public lands within the State." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Percentage of Utah Counties which reported PLPCOs work as "very good" (Target = 70%); 2) Percentage of State Natural Resource Agencies working with PLPCOs which reported PLPCOs work as "good" (Target = 70%); and 3) Percentage of Administrative comments and legal filings prepared and submitted in a timely manner (Target = 70%).

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 184

To School and Institutional Trust Lands Administration

From Land Grant Management Fund	1,000,000
From Land Grant Management Fund, One-Time	1,500,000
Schedule of Programs:	
Administration	1,000,000
Director	(177,100)
Information Technology Group	1,500,000
Renewables	177,100

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Operations line item, whose mission is "Generate revenue in the following areas by leasing and administering trust parcels." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Oil and Gas gross revenue (Target =$22,000,000); 2) Mining gross revenue (Target = $7,700,000); and 3) Surface gross revenue (Target = $14,200,000).

Item 185

To School and Institutional Trust Lands Administration – Land Stewardship and Restoration

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Land Stewardship and Restoration line item, whose mission is "Mitigate damages to trust parcels or preserve the value of the asset by preventing degradation." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) 1) Clean up of former lease site (Target = $200,000); 2) Fire rehabilitation on trust parcels (Target = up to $600,000); and 3) Rehabilitation on Lake Mountain Block (Target = $50,000).

Item 186

To School and Institutional Trust Lands Administration – School and Institutional Trust Lands Administration Capital

In accordance with UCA 63J-1-903, the Legislature intends that the School and Institutional Trust Lands Administration report performance measures for the Land Stewardship and Restoration line item, whose mission is "Mitigate damages to trust parcels or preserve the value of the asset by preventing degradation." The School and Institutional Trust Lands Administration shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Planning and infrastructure expenditures for Northwest Quadrant (Target = $1,000,000); 2) Begin economic development planning and infrastructure expenditures for the St George Airport (Target = $1,500,000); 3) Infrastructure spending for Saratoga Springs area (Target = $500,000).

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 187

To Capitol Preservation Board

From General Fund, One-Time	(85,100)
Schedule of Programs:	
Capitol Preservation Board	(85,100)

LEGISLATURE

Item 188

To Legislature – Senate

From General Fund	806,000

From General Fund, One-Time	(4,000)
Schedule of Programs:	
Administration	802,000

Item 189

To Legislature - House of Representatives

From General Fund	1,331,800
From General Fund, One-Time	(9,900)
Schedule of Programs:	
Administration	1,321,900

Item 190

To Legislature - Office of Legislative Research and General Counsel

From General Fund	333,000
Schedule of Programs:	
Administration	333,000

Item 191

To Legislature - Legislative Services

From General Fund	385,000
From General Fund, One-Time	855,000
Schedule of Programs:	
Administration	100,000
Information Technology	1,140,000

UTAH NATIONAL GUARD

Item 192

To Utah National Guard

From General Fund	171,600
From General Fund, One-Time	100,000
From General Fund Restricted - West Traverse Sentinel Landscape Fund, One-Time	18,650,000
Schedule of Programs:	
Administration	71,600
Operations and Maintenance	200,000
West Traverse Sentinel Landscape	1,650,000
Fort Douglas Relocation	17,000,000

The Legislature intends that the one-time restricted fund appropriation of $17,000,000 in this item be used by the Utah National Guard in cooperation with the University of Utah to acquire land near Camp Williams for purposes of: (1) preserving the acquired land consistent with Title 39, Chapter 10, West Traverse Sentinel Landscape Act; and (2) relocating the Army Reserve campus from the Stephen A. Douglas Reserve Center to the acquired land.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 193

To Department of Veterans and Military Affairs - Veterans and Military Affairs

From General Fund	175,000
From General Fund, One-Time	450,000
From Dedicated Credits Revenue	39,400
Schedule of Programs:	
Administration	100,000
Cemetery	460,700
Outreach Services	103,700

Item 194

To Department of Veterans and Military Affairs - DVMA Pass Through

From General Fund	(187,500)
From General Fund, One-Time	500,000
From Education Fund	200,000
From Education Fund, One-Time	500,000
Schedule of Programs:	
DVMA Pass Through	1,012,500

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 195

To Department of Workforce Services - Olene Walker Low Income Housing

From General Fund, One-Time	20,000,000
From Federal Funds	200,000
Schedule of Programs:	
Olene Walker Low Income Housing	20,200,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 196

To Department of Environmental Quality - Waste Tire Recycling Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Environmental Quality report performance measures for the Waste Tire Recycling Fund, funding shall be used "For partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires and payment of administrative costs of local health departments or costs of the Department of Environmental Quality in administering and enforcing this fund." The Department of Environmental Quality shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Number of Waste Tires Cleaned-Up (Target = 50,000).

DEPARTMENT OF NATURAL RESOURCES

Item 197

To Department of Natural Resources - Wildland Fire Suppression Fund

From General Fund, One-Time	(1,000,000)
Schedule of Programs:	
Wildland Fire Suppression Fund	(1,000,000)

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Wildland Fire Suppression Fund line item, managed by the Division of Forestry, Fire, and State Lands, whose mission is "to manage, sustain, and strengthen Utah's forests, range lands, sovereign lands and watersheds for its citizens and visitors." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Non-federal wildland fire acres burned (Target = 59,770), 2) Human-caused wildfire rate (Target = 50%), and 3) Number of counties and municipalities participating with the Utah Cooperative Wildfire system (Target = all 29 counties, and an annual year-over increase in the number of participating municipalities).

Subsection 1(c). Business-like Activities.
The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 198
To Attorney General - ISF - Attorney General

From General Fund	(227,200)
From Dedicated Credits Revenue	156,000
Schedule of Programs:	
Civil Division	(71,200)
Budgeted FTE	1.0

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 199
To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the ISF-Facilities Management line item, whose mission is "to provide professional building maintenance services to state facilities, agency customers, and the general public." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: average maintenance cost per square foot compared to the private sector (target: at least 18% less than the private market).

Item 200
To Department of Government Operations - Division of Finance

The Legislature intends that the ISF - Finance - Purchasing Card program be authorized to increase its Capital Outlay for the new Travel and Expense Reporting System by $125,000 in FY 2022 and by $1,325,000 in FY 2023.

Item 201
To Department of Government Operations - Division of Fleet Operations

The Legislature intends that the Division of Fleet Operations will be authorized to add 5 additional vehicles for use in shared motor pools in FY 2023 within its existing capital outlay authority. The Legislature also intends that Fleet Operations transfer vehicles as appropriate from other agencies to supply shared motor pools and to reduce the overall count of the state fleet. In authorizing capital outlay for Fleet Operations, the Legislature intends that Fleet Operations purchase electric and plug-in hybrid vehicles whenever prudent.

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Government Operations report performance measures for the Fleet Operations line item, whose mission is "emphasizing customer service, provide safe, efficient, dependable, and responsible transportation options." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) improve EPA emission standard certification level for the State's light duty fleet in non-attainment areas (target: reduce average fleet emission by 1 mg/mile annually); 2) maintain the financial solvency of the Division of Fleet Operations (target: 30% or less of the allowable debt); and 3) audit agency customers' mobility options and develop improvement plans for audited agencies (target: at least 4 annually).

Item 202

To Department of Government Operations – Division of Purchasing and General Services

From General Services – Cooperative Contract Mgmt, One–Time	(500,000)
Schedule of Programs:	
ISF – Cooperative Contracting	(500,000)

Item 203

To Department of Government Operations – Risk Management

From Closing Fund Balance	3,000,000
Schedule of Programs:	
Risk Management – Property	3,000,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Government Operations report performance measures for the Risk Management line item, whose mission is "to insure, restore and protect State resources through innovation and collaboration." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) follow up on life safety findings on onsite inspections (target: 100%); 2) annual independent claims management audit (target: 97%); and 3) ensure liability fund reserves are actuarially and economically sound (baseline: 90.57%; target: 100% of the actuary's recommendation).

Item 204

To Department of Government Operations – Enterprise Technology Division

From General Fund	261,000
From General Fund, One–Time	500,000
Schedule of Programs:	
ISF – Integrated Technology Division	761,000

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Government Operations report performance measures for the DTS Enterprise Technology – ISF line item, whose mission is "to provide innovative, secure, and cost–effective technology solutions that are convenient and empower our partner agencies to better serve the residents of Utah." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) customer satisfaction – measure customers' experiences and satisfaction with IT services (target: an average of at least 4.5 out of 5); 2) application availability – monitor DTS performance and availability of key agency business applications/systems (target: at least 99%); and 3) competitive rates – ensure all DTS rates are market competitive or better (target: 100%).

Item 205

To Department of Government Operations – Human Resources Internal Service Fund

From General Fund	684,000
Schedule of Programs:	
Administration	684,000
Budgeted FTE	6.0

In accordance with UCA 63J–1–903, the Legislature intends that the Department of Government Operations report performance measures for the Human Resources line item, whose mission is "to create excellent human capital strategies, and attract and utilize human resources to effectively meet mission requirements with ever–increasing efficiency and the highest degree of integrity." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) the ratio of DHRM staff to agency staff (target: 60 %); 2) the amount of operating expenses held in reserve (target: 25 days); and 3) the latest satisfaction survey results (target: above 91%).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 206

To Department of Workforce Services – State Small Business Credit Initiative Program Fund

The Legislature intends that, with the passage of H.B. 17, "State Small Business Credit Initiative" and the transfer of the State Small Business Credit Initiative Program Fund from the Department of Workforce Services to the Governor's Office of Economic Opportunity, the fees associated with the Fund as listed in H.B. 8, "State Agency Fees and Internal Service Fund Rate Authorization and Appropriations," under the Department of Workforce Services, State Small Business Credit Initiative Program Fund, and the related revenue collection authority also be transferred to the Governor's Office of Economic Opportunity.

Item 207

To Department of Workforce Services – Unemployment Compensation Fund

From Federal Funds	306,300
Schedule of Programs:	
Unemployment Compensation Fund	306,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 208

To Department of Health and Human Services – Qualified Patient Enterprise Fund

From General Fund, One-Time	538,000
From Beginning Fund Balance	(1,000,000)
From Closing Fund Balance	1,700,000
Schedule of Programs:	
Qualified Patient Enterprise Fund	1,238,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 209

To Department of Agriculture and Food - Agriculture Loan Programs

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Agricultural Loan Programs line item, whose mission is "Serve and deliver financial services to our agricultural clients and partners through delivery of effective customer service and efficiency with good ethics and fiscal responsibility." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Keep UDAF Agriculture Loan default rate lower than average bank default rates of 3% per fiscal year (Target = 2% or less); 2) Receive unanimous commission approval for every approved loan (Target = 100%); and 3) Receive commission approval within 3 weeks of application completion (Target = 100%).

Item 210

To Department of Agriculture and Food - Qualified Production Enterprise Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Agriculture and Food report performance measures for the Medical Cannabis line item, whose mission is "Ensure and facilitate an efficient, responsible, and legal medical marijuana industry to give patients a safe and affordable product." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Inspect Medical Cannabis Production Establishments to validate compliance with state statute and rules (Target = 100% of licensees inspected twice a year), 2) Use sampling procedures to ensure medical cannabis products are safe for consumption (Target = <5% of inspected products violate safety standards), and 3) Support the Medical Cannabis industry in distributing products to pharmacies by responding to Licensed Cannabis Facility and Agent requests within 5 business days (Target = 90% of responses within 5 business days).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 211

To Department of Environmental Quality - Water Development Security Fund - Drinking Water

From Federal Funds, One-Time	59,060,000
Schedule of Programs:	
Drinking Water	59,060,000

Item 212

To Department of Environmental Quality - Water Development Security Fund - Water Quality

From Federal Funds, One-Time	16,200,000
Schedule of Programs:	
Water Quality	16,200,000

DEPARTMENT OF NATURAL RESOURCES

Item 213

To Department of Natural Resources - Internal Service Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Cooperative Agreements line item, whose mission is "to serve the people of Utah as trustee and guardian of states wildlife." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Aquatic Invasive Species containment - number of public contacts and boat decontaminations (Targets = 400,000 contacts and 10,000 decontaminations), 2) Number of new wildlife species listed under the Endangered Species Act (Target = 0), and 3) Number of habitat acres restored annually (Target = 180,000).

Item 214

To Department of Natural Resources - Water Resources Revolving Construction Fund

In accordance with UCA 63J-1-903, the Legislature intends that the Department of Natural Resources report performance measures for the Water Resources Revolving Construction Fund line item, whose mission is "to plan, conserve, develop and protect Utah's water resources." The department shall report to the Office of the Legislative Fiscal Analyst and to the Governor's Office of Planning and Budget before October 1, 2022, the final status of performance measures established in FY 2022 appropriations bills. For FY 2023, the department shall report the following performance measures: 1) Dam Safety minimum standards upgrade projects funded per fiscal year (Target = 2), 2) Percent of appropriated funding to be spent on Dam Safety projects (Target = 100%), and 3) Timeframe by which all state monitored high hazard dams will be brought up to minimum safety standards (Target = year 2084).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 215

To General Fund Restricted – Indigent Defense Resources Account	
From General Fund	809,000
From General Fund, One-Time	1,300,000
Schedule of Programs:	
General Fund Restricted – Indigent Defense Resources Account	2,109,000

Item 216

To Colorado River Authority of Utah Restricted Account	
From General Fund	900,000
From General Fund, One-Time	8,000,000
Schedule of Programs:	
Colorado River Authority Restricted Account	8,900,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 217

To General Fund Restricted – Native American Repatriation Restricted Account	
From General Fund	(10,000)
Schedule of Programs:	
General Fund Restricted – Native American Repatriation Restricted Account	(10,000)

SOCIAL SERVICES

Item 218

To Medicaid Expansion Fund	
From Dedicated Credits Revenue	8,349,100
From Beginning Fund Balance	7,221,100
From Closing Fund Balance	(9,253,100)
Schedule of Programs:	
Medicaid Expansion Fund	6,317,100

Item 219

To Adult Autism Treatment Account	
From General Fund	1,000,000
Schedule of Programs:	
Adult Autism Treatment Account	1,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 220

To General Fund Restricted – Agriculture and Wildlife Damage Prevention Account	
From General Fund	100,000
Schedule of Programs:	
General Fund Restricted – Agriculture and Wildlife Damage Prevention Account	100,000

Item 221

To General Fund Restricted – Rangeland Improvement Account	
From General Fund, One-Time	1,000,000
Schedule of Programs:	
General Fund Restricted – Rangeland Improvement Account	1,000,000

EXECUTIVE APPROPRIATIONS

Item 222

To West Traverse Sentinel Landscape Fund	
From General Fund, One-Time	18,650,000
Schedule of Programs:	
West Traverse Sentinel Landscape Fund	18,650,000

The Legislature intends that the one-time General Fund appropriation of $17,000,000 in this item be used by the Utah National Guard in cooperation with the University of Utah to acquire land near Camp Williams for purposes of: (1) preserving the acquired land consistent with Title 39, Chapter 10, West Traverse Sentinel Landscape Act; and (2) relocating the Army Reserve campus from the Stephen A. Douglas Reserve Center to the acquired land.

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 223

To General Fund	
From General Fund Restricted – Law Enforcement Services, One-Time	1,400
Schedule of Programs:	
General Fund, One-time	1,400

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 224

To General Fund	
From Nonlapsing Balances – Build America Bonds Subsidy	5,618,700

Schedule of Programs:
General Fund, One-time 5,618,700

SOCIAL SERVICES

Item 225
To General Fund
From Qualified Patient Enterprise
Fund, One-Time 700,000
Schedule of Programs:
General Fund, One-time 700,000

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 226
To Capital Budget – DFCM Capital Projects Fund
From General Fund, One-Time 64,677,500
From Education Fund, One-Time 38,589,800
Schedule of Programs:
DFCM Capital Projects Fund 103,267,300

Notwithstanding intent language in Senate Bill 2, Item 243, 2021 General Session, the Legislature intends that the Division of Facilities Construction and Management (DFCM) may use the money appropriated in Senate Bill 2, Item 243, and this item to pay for costs of a capital development project approved by the Legislature in the 2022 General Session that exceed the amount appropriated for the project, but not to exceed four percent more than the amount appropriated for the project. The Legislature further intends that if the estimated completion cost of an approved project exceeds 104 percent of the amount appropriated for the project, that the DFCM director report the estimated cost to the Executive Appropriations Committee and receive the committee's recommendation before proceeding with the project.

The Legislature intends that the Division of Facilities Construction and Management (DFCM) shall not use appropriated funds to commence construction of the Utah State Developmental Center Comprehensive Therapy Building, and the Sanpete County Courthouse approved during the 2022 General Session until March 1, 2023. DFCM shall submit to the Executive Appropriations Committee by June 1, 2022 a detailed plan for the implementation timing of capital development projects approved during the 2022 General Session.

The Legislature intends that DFCM use up to $5.0 million from the Statewide Contingency Reserve Fund to rebuild the Salt Lake Community College Applied Technology Center at the Taylorsville Campus, which was destroyed by fire in June of 2020. The funding is to augment the insurance payments to construct an efficient replacement building that meets current ADA, Energy, Structural, and Building Codes.

Item 227
To Capital Budget – Higher Education
Capital Projects Fund
From Education Fund, One-Time ... 142,709,400
Schedule of Programs:
Higher Education Capital
Projects Fund 142,709,400

The Legislature intends that the Division of Facilities Construction and Management (DFCM) shall not use appropriated funds to commence construction of the Utah Valley University Engineering Building, the Utah Tech University General Classroom Building, and the Southern Utah University Music Center Renovation approved during the 2022 General Session until March 1, 2023. DFCM shall submit to the Executive Appropriations Committee by June 1, 2022 a detailed plan for the implementation timing of capital development projects approved during the 2022 General Session.

The Legislature intends that $142,709,400 one-time appropriations provided by this item be used for the Weber State University David O. McKay Education Building Renovation ($16,854,400), the Utah Valley University Engineering Building ($64,921,000), the Southern Utah University Flood Repair and Prevention ($9,200,000), the Utah Tech University General Classroom Building ($44,744,000), and the Southern Utah University Music Center Renovation ($6,990,000).

Item 228
To Capital Budget – Technical Colleges
Capital Projects Fund
From Education Fund, One-Time 81,037,000
Schedule of Programs:
Technical Colleges Capital
Projects Fund 81,037,000

The Legislature intends that the Division of Facilities Construction and Management (DFCM) shall not use appropriated funds to commence construction of the Mountainland Technical College Payson Campus Building, and the Tooele Technical College Campus Building Expansion approved during the 2022 General Session until March 1, 2023. DFCM shall submit to the Executive Appropriations Committee by June 1, 2022 a detailed plan for the implementation timing of capital development projects approved during the 2022 General Session.

Section 2. Effective Date.
This bill takes effect on July 1, 2022.

CHAPTER 194
H. B. 21

Passed February 22, 2022
Approved March 23, 2022
Effective May 4, 2022

SCHOOL AND CHILD CARE CENTER WATER TESTING REQUIREMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill addresses water quality for schools and child care centers.

Highlighted Provisions:

This bill:

- defines terms;
- addresses certain testing of water for lead at schools and child care centers;
- addresses funding for testing and certain actions;
- requires action if lead test results equals or exceeds a certain level;
- addresses rulemaking authority;
- addresses records that the division shall post;
- imposes sunset dates; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-219, as last amended by Laws of Utah 2021, Chapter 69

63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

ENACTS:

19-4-115, Utah Code Annotated 1953

26-39-405, Utah Code Annotated 1953

53G-9-212, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-4-115 is enacted to read:

19-4-115. Drinking water quality in schools and child care centers.

(1) As used in this section:

(a) "Action level" means a lead concentration equal to five parts per billion.

(b) "Certified laboratory" means a laboratory certified by the Department of Health that analyzes drinking water for lead.

(c) "Child care center" means:

(i) a center based child care, as defined in Section 26-39-102; or

(ii) an exempt provider, as defined in Section 26-39-102.

(d) "Consumable tap" means a sink or fountain used for consumption of water or food preparation.

(e) "School" means a public or private:

(i) elementary school or secondary school;

(ii) preschool; or

(iii) kindergarten.

(2) (a) A school shall, and a child care center may test the school's or child care center's consumable taps for lead by no later than December 31, 2023.

(b) In conducting a test under this Subsection (2), a school or child care center shall:

(i) comply with current state testing guidelines for reducing lead in drinking water in schools and child care centers; and

(ii) submit a sample to a certified laboratory that has entered into a memorandum of understanding with the division as described in Subsection (3).

(c) Notwithstanding Subsection (2)(a), if a school or child care center has conducted a test for lead in drinking water in a consumable tap of the school or child care center on or after January 1, 2016, but before May 4, 2022, the school or child care center:

(i) is not required to conduct a test under Subsection (2)(a) on the previously sampled consumable tap;

(ii) if the test described in this Subsection (2)(c) finds a lead level for a consumable tap equals or exceeds the action level, shall take steps to stop the use of the consumable tap or to reduce the lead level below the action level as described in Subsection (5); and

(iii) by no later than the end of the time period established under Subsection (4)(c), shall report to the division:

(A) the findings of the test described in this Subsection (2)(c); and

(B) any steps taken under Subsection (2)(c)(ii).

(3) (a) The division shall enter into a memorandum of understanding with one or more certified laboratories under which the division pays the costs of testing a sample submitted by a school or child care center in accordance with Subsection (2).

(b) Subject to appropriations, the division shall pay the costs of testing in the order that a sample is submitted to the certified laboratory.

(c) A certified laboratory shall report test results for a sample submitted in accordance with Subsection (2) to:

(i) the school or child care center that submitted the sample; and

(ii) the division.

(4) (a) If after paying the costs of testing under Subsection (3) there remains money appropriated

under this section, the division may issue grants to schools and child care centers for costs associated with taking action under Subsection (5).

(b) The board may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) to establish a procedure for a school or child care center applying for a grant under Subsection (4)(a); and

(ii) for what constitutes steps to reduce the lead level below the action level as described in Subsection (5).

(c) The board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish the time period to take steps to reduce the lead level below the action level as described in Subsection (5).

(5) If a test result of a consumable tap under Subsection (2) results in a lead level that equals or exceeds the action level, the school or child care center shall:

(a) within the time period established under Subsection (4)(c) take steps to stop the use of the consumable tap or to reduce the lead level below the action level; and

(b) report the steps taken under Subsection (5)(a) to the division within 30 days after taking the steps.

(6) After the time period established under Subsection (4)(c) has ended, the division shall post on a public website for at least five years from the day on which the division receives the information:

(a) the test results for a test taken under Subsection (2); and

(b) the steps taken as required under Subsection (5).

Section 2. Section 26-39-405 is enacted to read:

26-39-405. Drinking water quality in child care centers.

A child care center, as defined in Section 19-4-115, may comply with Section 19-4-115.

Section 3. Section 53G-9-212 is enacted to read:

53G-9-212. Drinking water quality in schools.

A school, as defined in Section 19-4-115, shall comply with Section 19-4-115.

Section 4. Section 63I-1-219 is amended to read:

63I-1-219. Repeal dates, Title 19.

(1) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2029.

(2) Section 19-2a-102 is repealed July 1, 2026.

(3) Section 19-2a-104 is repealed July 1, 2022.

(4) (a) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2024.

(b) Notwithstanding Subsection (4)(a), Section 19-4-115, Drinking water quality in schools and child care centers, is repealed July 1, 2027.

(5) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2029.

(6) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1, 2029.

(7) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed July 1, 2030.

(8) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1, 2028.

(9) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1, 2026.

(10) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1, 2029.

(11) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1, 2030.

(12) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July 1, 2027.

Section 5. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(16) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-39-405, Drinking water quality in child care centers, is repealed July 1, 2027.

[~~(23)~~] (24) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (25) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (26) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (27) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(28)~~] (29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

Section 6. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

(20) Section 53F-5-212 is repealed July 1, 2024.

(21) Section 53F-5-213 is repealed July 1, 2023.

(22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(25) Section 53F-9-501 is repealed January 1, 2023.

(26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

(28) Section 53G-9-212, Drinking water quality in schools, is repealed July 1, 2027.

CHAPTER 195
H. B. 25

Passed February 11, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause in Section 8)

UTAH RURAL JOBS ACT AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies the Utah Rural Jobs Act.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes additional nonrefundable tax credits related to investments in eligible small businesses located in specified counties;
- requires each eligible small business that receives a growth investment to submit a document that directs and authorizes the State Tax Commission to disclose to the GO Utah office the eligible small business's returns;
- addresses the method for allocating new annual jobs at an eligible small business that receives a growth investment from more than one rural investment company;
- establishes a deadline for each rural investment company to exit the program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-621, as last amended by Laws of Utah 2021, Chapter 282
59-10-1038, as last amended by Laws of Utah 2021, Chapter 282
63N-4-302, as last amended by Laws of Utah 2020, Chapter 354
63N-4-303, as enacted by Laws of Utah 2017, Chapter 274
63N-4-305, as enacted by Laws of Utah 2017, Chapter 274
63N-4-307, as enacted by Laws of Utah 2017, Chapter 274
63N-4-309, as enacted by Laws of Utah 2017, Chapter 274

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-621 is amended to read:

59-7-621. Nonrefundable rural job creation tax credit.

(1) As used in this section, "office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(2) Subject to the other provisions of this section, a taxpayer may claim a nonrefundable tax credit for rural job creation as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs Act, to the taxpayer for the taxable year.

[~~(4) A taxpayer may carry forward a tax credit under this section for the next seven taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit.~~]

(4) If the amount of a tax credit under this section exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit, the taxpayer may carry forward the tax credit for:

(a) the next seven taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made before November 1, 2022; or

(b) the next four taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made on or after November 1, 2022.

Section 2. Section 59-10-1038 is amended to read:

59-10-1038. Nonrefundable rural job creation tax credit.

(1) As used in this section, "office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(2) Subject to the other provisions of this section, a taxpayer may claim a nonrefundable tax credit for rural job creation as provided in this section.

(3) The tax credit under this section is the amount listed as the tax credit amount on a tax credit certificate that the office issues under Title 63N, Chapter 4, Part 3, Utah Rural Jobs Act, to the taxpayer for the taxable year.

[~~(4) A taxpayer may carry forward a tax credit under this section for the next seven taxable years if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit.~~]

(4) If the amount of a tax credit under this section exceeds the taxpayer's tax liability under this chapter for the taxable year in which the taxpayer claims the tax credit, the taxpayer may carry forward the tax credit for:

(a) the next seven taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made before November 1, 2022; or

(b) the next four taxable years, if the credit-eligible contribution as defined in Section 63N-4-302 is made on or after November 1, 2022.

Section 3. Section 63N-4-302 is amended to read:

63N-4-302. Definitions.

As used in this part:

(1) (a) "Affiliate" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with another person.

(b) For the purposes of this part, a person controls another person if the person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(2) "Claimant" means a resident or nonresident person that has state taxable income.

(3) "Closing date" means the date on which a rural investment company [~~has collected~~] collects:

(a) all of the investments described in Subsection 63N-4-303(7) related to phase one investment authority; or

(b) all of the investments described in Subsection 63N-4-303(7) related to phase two investment authority.

(4) (a) "Credit-eligible contribution" means an investment of cash by a claimant in a rural investment company that is or will be eligible for a tax credit as evidenced by notification issued by the office under Subsection 63N-4-303(5)(c).

(b) The investment shall purchase an equity interest in the rural investment company or purchase, at par value or premium, a debt instrument issued by the rural investment company that has a maturity date at least five years after the closing date.

(5) "Eligible small business" means a business that at the time of an initial growth investment in the business by a rural investment company:

(a) has fewer than 150 employees;

(b) has less than $10,000,000 in net income for the preceding taxable year;

(c) maintains the business's principal business operations in the state; and

(d) is engaged in an industry related to:

(i) aerospace;

(ii) defense;

(iii) energy and natural resources;

(iv) financial services;

(v) life sciences;

(vi) outdoor products;

(vii) software development;

(viii) information technology;

(ix) manufacturing; or

(x) agribusiness.

(6) (a) "Excess return" means the difference between:

(i) the present value of all growth investments made by a rural investment company on the day the rural investment company applies to exit the program under Section 63N-4-309, including the present value of all distributions and gains from the growth investments; and

(ii) the sum of the amount of the original growth investment and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management, or operation of the rural investment company.

(b) If the amount calculated in Subsection (6)(a) is less than zero, the excess return is equal to zero.

(7) "Federally licensed rural business investment company" means a person licensed as a rural business investment company under 7 U.S.C. Sec. 2009cc.

(8) "Federally licensed small business investment company" means a person licensed as a small business investment company under 15 U.S.C. Sec. 681.

(9) (a) "Full-time employee" means an employee that throughout the year works at least 30 hours per week or meets the customary practices accepted by that industry as full time.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional hour or other criteria to determine what constitutes a full-time employee.

(10) (a) "Growth investment" means any capital or equity investment in an eligible small business or any loan made from the investment authority to an eligible small business with a stated maturity at least one year after the date of issuance.

(b) "Growth investment" does not include, with respect to phase two investment authority:

(i) a secured loan or a revolving line of credit to an eligible small business, unless the eligible small business sought and was denied similar financing from a commercial bank, as established by an affidavit from the president or chief executive officer of the eligible small business; or

(ii) any portion of an investment, including any amount reinvested, in an eligible small business that, when added to existing investments in the eligible small business from all rural investment companies under phase two investment authority, exceeds $15,000,000.

(11) (a) "High wage" means a wage that is at least 100% of the county average wage.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish additional criteria to determine what constitutes a high wage.

(12) "Investment authority" means the minimum amount of investment a rural investment company

must make in eligible small businesses in order for credit-eligible contributions to the rural investment company to qualify for a rural job creation tax credit under Section 59-7-621 or 59-10-1038.

(13) (a) "New annual jobs" means the difference between:

(i) (A) the monthly average of full-time employees that are paid a high wage at an eligible small business for the preceding calendar year; or

(B) if the preceding calendar year contains the initial growth investment, the monthly average of full-time employees that are paid a high wage at an eligible small business for the months including and after the initial growth investment and before the end of the preceding calendar year; and

(ii) the number of full-time employees that are paid a high wage at the eligible small business on the date of the initial growth investment.

(b) If the amount calculated in Subsection (13)(a) is less than zero, the new annual jobs amount is equal to zero.

(14) "Phase one investment authority" means investment authority the office grants a rural investment company based on an application submitted under Subsection 63N-4-303(1)(b)(i).

(15) "Phase two investment authority" means investment authority the office grants a rural investment company based on an application submitted under Subsection 63N-4-303(1)(b)(ii).

[~~(14)~~] (16) (a) "Principal business operations" means the location where at least 60% of a business's employees work or where employees that are paid at least 60% of a business's payroll work.

(b) For the purposes of this part, an out-of-state business that agrees to relocate employees to this state to establish the business's principal business operations in this state using the proceeds of a growth investment is considered to have the business's principal business operations in this state if the business satisfies the requirements of Subsection [~~(14)~~] (16)(a) within 180 days after receiving the growth investment, unless the office agrees to a later date.

[~~(15)~~] (17) "Program" means the provisions of this part applicable to a rural investment company.

[~~(16)~~] (18) "Rural county" means:

(a) with respect to phase one investment authority, any county in this state except Salt Lake, Utah, Davis, Weber, Washington, Cache, Tooele, and Summit counties[~~.~~]; or

(b) with respect to phase two investment authority, any county in this state except Salt Lake, Utah, Davis, and Weber counties.

[~~(17)~~] (19) "Rural investment company" means a person approved by the office under Section 63N-4-303.

[~~(18)~~] (20) (a) "State reimbursement amount" means the difference between:

(i) 50% of the rural investment company's credit-eligible capital contributions; and

(ii) the product of:

(A) the total sum of new annual jobs reported to the [~~state in the rural investment company's exit report described in Section 63N-4-309~~] office; and

(B) $20,000 with respect to phase one investment authority, or $15,000 with respect to phase two investment authority.

(b) If the amount calculated in Subsection [~~(18)~~] (20)(a) is less than zero, the state reimbursement amount is equal to zero.

[~~(19)~~] (21) "Tax credit" means a rural job creation tax credit created by Section 59-7-621 or 59-10-1038.

[~~(20)~~] (22) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the person to which the office authorizes a tax credit;

(b) lists the person's taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the person to claim for the taxable year; and

(d) may include other information as determined by the office.

Section 4. Section 63N-4-303 is amended to read:

63N-4-303. Application, approval, and allocations.

(1) (a) A person seeking approval as a rural investment company shall submit an application to the office.

(b) (i) [~~The~~] For the investment authority described in Subsection (6)(a)(i), the office shall begin accepting applications on November 1, 2017.

(ii) For the investment authority described in Subsection (6)(a)(ii), the office shall begin accepting applications on November 1, 2022.

(2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office, and shall include the following:

(a) the total investment authority sought by the applicant, which may not exceed $42,000,000;

(b) a copy of the applicant's or an affiliate of the applicant's license as a federally licensed rural business investment company or as a federally licensed small business investment company;

(c) evidence that before the date the application is submitted, the applicant or affiliates of the applicant have invested at least $50,000,000 in nonpublic companies located in counties in the United States with fewer than 50,000 inhabitants;

(d) a signed affidavit from each claimant that commits to make a credit-eligible capital contribution to the applicant, stating the amount of that commitment; and

(e) the sum of all credit-eligible capital contribution commitments described in Subsection (2)(d), which must equal 58% of the total investment authority sought by the applicant.

(3) The office shall:

(a) review and evaluate the applications submitted under this section within 30 days of receipt in the order in which the applications are received; and

(b) consider applications received on the same day to have been received simultaneously.

(4) (a) If, after review and evaluation of an application, the office determines that the application does not meet the requirements of Subsection (2), the office shall:

(i) deny the application; or

(ii) (A) notify the applicant that the application was inadequate and allow the applicant to provide additional information to the office to complete, clarify, or cure defects identified by the office in the application; and

(B) inform the applicant that the additional information described in Subsection (4)(a)(ii)(A) must be received by the office within five days of the notice in order to be considered.

(b) If an applicant submits additional information to the office in accordance with Subsection (4)(a)(ii), the office shall:

(i) consider the application to have been received on the date it was originally received by the office; and

(ii) review and evaluate the additional information within 10 days of receiving the additional information.

(5) If, after review and evaluation of an application submitted under this section and any additional information submitted in accordance with Subsection (4)(a)(ii), the office determines that the application meets the requirements of Subsection (2), the office shall:

(a) determine the amount of investment authority to award the applicant in accordance with Subsection (6);

(b) provide to the applicant a written notice of approval as a rural investment company specifying the amount of the applicant's investment authority; and

(c) notify each claimant whose affidavit was included in the application under Subsection (2) that the claimant qualifies for a tax credit that will be issued in accordance with Section 63N-4-304.

(6) (a) (i) [~~The~~] For the first application period described in Subsection (1)(b)(i), the office may not approve more than $42,000,000 in total investment authority and not more than $24,360,000 in total credit-eligible contributions under this part.

(ii) For the second application period described in Subsection (1)(b)(ii), the office may not approve more than $42,000,000 in total investment authority and not more than $24,360,000 in total credit-eligible contributions under this part.

(b) Subject to Subsection (6)(d), if an application is approved under Subsection (5), the office shall approve the amount of investment authority requested on the application.

(c) (i) [~~The~~] During the first application period described in Subsection (1)(b)(i), the office may continue to accept applications under this section until the amount of approved investment authority reaches $42,000,000.

(ii) During the second application period described in Subsection (1)(b)(ii), the office may continue to accept applications under this section until the amount of approved investment authority reaches $42,000,000.

(d) If the office approves multiple applications received simultaneously under Subsection (3) and the total amount of investment authority requested on those applications exceeds the amount of investment authority remaining, the office shall proportionally reduce the investment authority and credit-eligible capital contributions for each of these applications as necessary to avoid exceeding the amount of investment authority and credit-eligible capital contributions remaining.

(7) Within 65 days after the day on which a rural investment company receives approval under Subsection (5)(b), the rural investment company shall:

(a) collect the total amount of committed credit-eligible capital contributions from each claimant whose affidavit was included in the application under Subsection (2);

(b) collect one or more cash equity investments contributed by affiliates of the rural investment company, including employees, officers, and directors of such affiliates, that equal at least 10% of the rural investment company's investment authority;

(c) collect one or more cash investments that, when added to the amounts collected under Subsections (7)(a) and (b), equal the rural investment company's investment authority; and

(d) send sufficient documentation to the office to prove that the amounts described in this Subsection (7) have been collected.

(8) If the rural investment company fails to fully comply with Subsection (7):

(a) the rural investment company's approval shall lapse and the corresponding investment authority and credit-eligible capital contributions shall not count toward the limits on the program size described in Subsection (6);

(b) if the office awards lapsed investment authority to a rural investment company, the office shall first award lapsed investment authority pro rata to each rural investment company that was awarded less than the requested investment authority under Subsection (6)(d), which a rural investment company may allocate to the rural investment company's investors at the company's discretion; and

(c) the office may award any remaining investment authority to new applicants.

Section 5. Section 63N-4-305 is amended to read:

63N-4-305. Revocation of tax credit certificates and exit.

(1) Except as provided in Subsection (2), the office shall revoke a tax credit certificate issued under Section 63N-4-304 if the rural investment company in which the credit-eligible capital contribution was made does any of the following before the rural investment company exits the program in accordance with Section 63N-4-309:

(a) fails to invest 100% of the rural investment company's investment authority in growth investments in this state within three years of the closing date;

(b) fails to maintain growth investments in this state equal to 100% of the rural investment company's investment authority until the seventh anniversary of the closing date in accordance with this section;

(c) makes a distribution or payment that results in the rural investment company having less than 100% of the rural investment company's investment authority invested in growth investments in this state or available for investment in growth investments and held in cash and other marketable securities;

(d) (i) with respect to phase one investment authority, fails to maintain growth investments equal to 70% of the rural investment company's investment authority in eligible small businesses that maintain their principal business operations in a rural county; or

(ii) with respect to phase two investment authority, fails to maintain growth investments equal to 100% of the rural investment company's investment authority in eligible small businesses that maintain their principal business operations in a rural county;

(e) invests more than $5,000,000 from the investment authority in the same eligible small business, including amounts invested in affiliates of the eligible small business, exclusive of growth investments made with repaid or redeemed growth investments or interest or profits realized on the repaid or redeemed growth investments; [~~or~~]

(f) makes a growth investment in an eligible small business that directly, or indirectly through an affiliate:

(i) owns or has the right to acquire an ownership interest in the rural investment company, an affiliate of the rural investment company, or an investor in the rural investment company; or

(ii) makes a loan to or an investment in the rural investment company, an affiliate of the rural investment company, or an investor in the rural investment company[~~.~~]; or

(g) fails to timely provide a document described in Subsection 63N-4-307(1)(d).

(2) (a) (i) For the purposes of Subsection (1), an investment is maintained even if the investment is sold or repaid if the rural investment company reinvests an amount equal to the capital returned or recovered by the fund from the original investment, exclusive of any profits realized, in other growth investments in this state within 12 months of the receipt of such capital.

(ii) Amounts received periodically by a rural investment company are treated as continually invested in growth investments if the amounts are reinvested in one or more growth investments by the end of the following calendar year.

(iii) A rural investment company is not required to reinvest capital returned from growth investments after the sixth anniversary of the closing date and such growth investments are considered as being held continuously by the rural investment company through the seventh anniversary of the closing date.

(b) (i) Subsection [~~(1)(f)~~] (1)(g) does not apply to investments in publicly traded securities by an eligible small business or an owner or affiliate of an eligible small business.

(ii) Under Subsection [~~(1)(f)~~] (1)(g), a rural investment company is not considered an affiliate of a business concern solely as a result of the rural investment company's growth investment.

(c) A growth investment in an eligible small business that is not located in a rural county may count toward the requirements of Subsection (1)(d) if the office determines that the eligible small business is located in an economically disadvantaged rural area as defined by rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) (a) Before revoking one or more tax credit certificates under this section, the office shall notify the rural investment company of the reasons for the pending revocation.

(b) If the rural investment company corrects any violation outlined in the notice to the satisfaction of the office within 90 days after the day on which the notice was sent, the office may not revoke the tax credit certificate.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules that establish criteria to determine what constitutes a correction under Subsection (3)(b).

(4) If tax credit certificates are revoked under this section:

(a) (i) the rural investment company shall make a cash distribution to the office in an amount equal to the sum of all tax credits awarded to persons that have made credit-eligible contributions to the rural investment company; and

(ii) if the rural investment company is able to provide documentation to the office that proves that a tax credit described in Subsection (4)(a)(i) has not been claimed, the amount owed under Subsection (4)(a)(i) shall be reduced by the amount of the unclaimed tax credit;

(b) the rural investment company's investment authority and credit-eligible capital contributions will not count toward the limits on the program size described in Subsection 63N-4-303(6);

(c) if the office awards lapsed investment authority to a rural investment company, the office shall first award lapsed investment authority pro rata to each rural investment company that was awarded less than the requested investment authority under Subsection 63N-4-303(6)(d), which a rural investment company may allocate to the rural investment company's investors at the rural investment company's discretion; and

(d) the office may award any remaining investment authority to new applicants.

(5) The office may not revoke a tax credit certificate after a rural investment company has exited the program in accordance with Section 63N-4-309.

Section 6. Section 63N-4-307 is amended to read:

63N-4-307. Reporting obligations -- Authorization to disclose tax information -- Credit for new annual jobs.

(1) A rural investment company shall submit an annual report to the office on or before the last day of February for each [~~previous~~] preceding calendar year until the rural investment company [~~has exited~~] exits the program in accordance with Section 63N-4-309. The annual report shall provide documentation as to the rural investment company's growth investments and include:

(a) a bank statement evidencing each growth investment;

(b) the name, location, and industry of each business concern receiving a growth investment, including either the determination letter set forth in Section 63N-4-306 or evidence that the business qualified as an eligible small business at the time the investment was made;

(c) the number of new annual jobs at each eligible small business for the preceding calendar year, accompanied by a report from a third-party accounting firm attesting that the number of new annual jobs was calculated in accordance with procedures approved by the office; [~~and~~]

(d) unless provided in a previously submitted annual report, for each eligible small business to which the rural investment company provided a growth investment during the preceding calendar year, a document that expressly directs and authorizes the State Tax Commission to disclose to the office the eligible small business's returns and other information that would otherwise be subject to confidentiality under Section 59-1-403; and

[~~(d)~~] (e) any other information required by the office.

(2) For the annual report due in 2022, each rural investment company shall submit the documents described in Subsection (1)(d) on or before July 1, 2022.

[~~(2)~~] (3) (a) Within 60 days of receipt of an annual report, the office shall provide written confirmation to the rural investment company of the number of new annual jobs the rural investment company has been credited with for the [~~previous~~] preceding calendar year.

(b) When granting credit for one or more new annual jobs at an eligible small business that received or held a growth investment from more than one rural investment company during the preceding calendar year, the office shall allocate credit for each new annual job between the rural investment companies:

(i) in proportion to each rural investment company's share of the total growth investments the eligible small business received during the calendar year; or

(ii) in accordance with any written agreement between the rural investment companies.

[~~(3)~~] (4) By the fifth business day after the third anniversary of the closing date, a rural investment company shall submit a report to the office providing evidence that the rural investment company is in compliance with the investment requirements of Section 63N-4-305.

(5) In accordance with rules made by the office, a rural investment company that receives phase one investment authority and phase two investment authority shall submit an annual report under this section that provides separate information related to the phase one investment authority and the phase two investment authority.

(6) (a) The office shall submit the document described in Subsection (1)(d) to the State Tax Commission.

(b) Upon receipt of a document described in Subsection (1)(d), the State Tax Commission shall provide the office with the returns and other information the office requests and that the State Tax Commission is directed and authorized to provide.

Section 7. Section 63N-4-309 is amended to read:

63N-4-309. Exit.

(1) (a) On or after the seventh anniversary of the closing date, [~~a~~] and on or before the twelfth anniversary of the closing date, each rural investment company [~~may~~] shall apply to the office to exit the program and no longer be subject to this part.

(b) A rural investment company that receives phase one investment authority and phase two investment authority shall separately apply to exit the program in relation to the phase one investment authority and the phase two investment authority.

(2) An application submitted under Subsection (1) shall be in a form and in accordance with procedures prescribed by the office and shall include a calculation of the state reimbursement amount.

(3) In evaluating the exit application, if no tax credit certificates have been revoked and the rural investment company has not received a notice of revocation that has remained uncorrected under Subsection 63N-4-305(3)(b), the rural investment company is eligible for exit.

(4) (a) The office shall respond to the application within 30 days of receipt and include confirmation of the state reimbursement amount.

(b) The office shall not unreasonably deny an application submitted under this section.

(c) If the office denies the application, the office shall provide the reasons for the determination to the rural investment company.

(5) If a rural investment company fails to submit an exit application in accordance with Subsection (1), the office shall:

(a) calculate the state reimbursement amount using the best available information; and

(b) provide the confirmation described in Subsection (4)(a) within 30 days of the twelfth anniversary of the closing date.

[~~(5)~~] (6) Within 60 days after the day on which the confirmation of the state reimbursement amount is received by the rural investment company, the rural investment company shall make a cash distribution to the state in an amount equal to the lesser of:

(a) the state reimbursement amount; and

(b) the excess return.

[~~(6)~~] (7) The office shall notify the rural investment company once payments equal to the amount described in Subsection (4) have been received.

[~~(7)~~] (8) Any amounts collected under this section shall be deposited into the General Fund.

Section 8. Retrospective operation.

The changes to Sections 59-7-621 and 59-10-1038 have retrospective operation for a taxable year beginning on or after January 1, 2022.

CHAPTER 196
H. B. 26
Passed February 11, 2022
Approved March 23, 2022
Effective May 4, 2022
(Retrospective operation to January 1, 2022)

RENTER'S CREDIT AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Gene Davis

LONG TITLE

General Description:

This bill addresses the subtraction of certain utilities from rent for purposes of calculating the renter's credit in the Property Tax Act.

Highlighted Provisions:

This bill:

- provides the percentage that the commission shall deduct from rent when calculating a renter's credit if the rent includes electricity, natural gas, or both.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1209, as last amended by Laws of Utah 2021, Chapter 391

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1209 is amended to read:

59-2-1209. Amount of renter's credit -- Cost-of-living adjustment -- Renter's credit may be claimed only for gross rent that does not constitute a rental assistance payment -- Calculation of credit when rent includes utilities -- Limitation -- General Fund as source of credit -- Maximum credit.

(1) (a) Subject to Subsections (2) and (3), for a calendar year beginning on or after January 1, 2021, a claimant may claim a renter's credit for the previous calendar year that does not exceed the following amounts:

If household income is	Percentage of gross rent allowed as a credit
$0 -- $11,785	9.5%
$11,786 -- $15,716	8.5%
$15,717 -- $19,643	7.0%
$19,644 -- $23,572	5.5%
$23,573 -- $27,503	4.0%
$27,504 -- $31,198	3.0%
$31,199 -- $34,666	2.5%

(b) For a calendar year beginning on or after January 1, 2022, the commission shall increase or decrease the household income eligibility amounts under Subsection (1)(a) by a percentage equal to the percentage difference between the consumer price index housing for the preceding calendar year and the consumer price index housing for calendar year 2020.

(2) A claimant may claim a renter's credit under this part only for gross rent that does not constitute a rental assistance payment.

(3) For purposes of calculating gross rent when a claimant's rent includes electricity or natural gas and the utility amount is not itemized in the statement provided in accordance with Section 59-2-1213, the commission shall deduct from rent:

(a) 7% of rent if the rent includes electricity or natural gas but not both; or

(b) 13% of rent if the rent includes both electricity and natural gas.

[~~(3)~~] (4) An individual may not receive the renter's credit under this section if the individual is:

(a) claimed as a personal exemption on another individual's federal income tax return during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section; or

(b) a dependent with respect to whom another individual claims a tax credit under Section 24(h)(4), Internal Revenue Code, during any portion of a calendar year for which the individual seeks to claim the renter's credit under this section.

[~~(4)~~] (5) A payment for a renter's credit allowed by this section, and provided for in Section 59-2-1204, shall be paid from the General Fund.

[~~(5)~~] (6) A credit under this section may not exceed the maximum amount allowed as a homeowner's credit for each income bracket under Subsection 59-2-1208(1)(a).

Section 2. Retrospective operation.

This bill has retrospective operation to January 1, 2022.

CHAPTER 197
H. B. 30

Passed February 3, 2022
Approved March 23, 2022
Effective May 4, 2022

STUDENT TRIBAL REGALIA USE AMENDMENTS

Chief Sponsor: Angela Romero
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill permits qualifying students to wear tribal regalia during a high school graduation ceremony.

Highlighted Provisions:

This bill:

- provides that:
  - a student who is enrolled, or is eligible to be enrolled, as a member of a tribe (qualifying student) may wear tribal regalia during a high school graduation ceremony; and
  - a local education agency may not prohibit a qualifying student from wearing tribal regalia during a high school graduation ceremony; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-4-412, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-412 is enacted to read:

53G-4-412. Tribal regalia at high school graduation ceremonies.

(1) As used in this section:

(a) "Graduation attire" means attire that an LEA requires a student to wear as part of the dress code for a graduation ceremony.

(b) "Graduation ceremony" means a high school graduation ceremony.

(c) "Qualifying student" means a student who is:

(i) enrolled as a member of a tribe; or

(ii) eligible to be enrolled as a member of a tribe.

(d) (i) "Tribal regalia" means a tribe's:

(A) traditional dress; or

(B) recognized objects of religious or cultural significance.

(ii) "Tribal regalia" includes the following items of cultural significance:

(A) tribal symbols;

(B) beads; and

(C) feathers.

(e) "Tribe" means a tribe, band, nation, or Alaskan Native village that:

(i) federal law recognizes; or

(ii) a state formally acknowledges.

(2) (a) A qualifying student may wear tribal regalia during a graduation ceremony.

(b) Wearing tribal regalia includes decorating graduation attire with tribal regalia.

(3) An LEA may not prohibit a qualifying student from wearing tribal regalia as described in Subsection (2).

(4) Nothing in this section shall be construed to limit an LEA's authority related to student expression under applicable federal and state law.

CHAPTER 198
H. B. 31

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

INSURANCE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Insurance Code.

Highlighted Provisions:

This bill:

- amends definitions;
- defines terms;
- amends provisions related to the Insurance Department's participation in certain national organizations;
- modifies provisions regarding Title and Escrow Commission meetings;
- modifies provisions regarding an insurer's withdrawal from writing certain lines of insurance;
- amends required disclosures for a service contract and vehicle protection product warranty;
- enacts provisions related to mutual insurance holding companies;
- amends provisions related to the registration of insurers;
- requires a large insurance holding company to submit to the Insurance Department a group capital calculation and liquidity stress test results;
- amends provisions regarding the standards and management of an insurer within a holding company system;
- amends provisions related to the confidentiality of certain information obtained by the Utah Insurance Commissioner (commissioner);
- allows an unearned premium reserve fund to be released in accordance with the standards of the National Association of Insurance Commissioners;
- amends insurance form requirements;
- amends provisions regarding insurance policy renewal notification requirements;
- amends provisions related to an arbitration decision's resolution of a claim under an underinsured motorist policy;
- amends provisions related to accident and health insurance;
- clarifies provisions related to the discontinuance, nonrenewal, or modification of health benefit plans;
- clarifies provisions related to standardized health insurance identification cards;
- enacts provisions related to health insurance mandates;
- enacts provisions related to the renewal, cancellation, and modification of a group accident and health insurance plan;
- allows the commissioner to take action against a license of an insurance producer who fails to pay a final judgment rendered against the insurance producer by a court outside of this state;
- makes an affiliate of an insolvent insurer subject to Title 31A, Chapter 27a, Insurer Receivership Act;
- amends provisions related to a defense to a claim by a receiver;
- amends provisions related to a bail bond agency's required financial statements;
- amends provisions related to a drug manufacturer's required reports;
- modifies the Prescription Drug Price Transparency Act;
- amends the criminal offense of fraudulent insurance act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-61a-201, as last amended by Laws of Utah 2021, Chapters 17 and further amended by Revisor Instructions, Laws of Utah 2021, Chapters 337, 337, and 350

26-61a-204, as last amended by Laws of Utah 2021, Chapter 350

31A-1-301, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

31A-2-210, as enacted by Laws of Utah 1985, Chapter 242

31A-2-403, as last amended by Laws of Utah 2020, Chapters 32, 352, and 373

31A-4-115, as last amended by Laws of Utah 2017, Chapter 292

31A-5-506, as last amended by Laws of Utah 2007, Chapter 309

31A-6a-104, as last amended by Laws of Utah 2020, Chapter 32

31A-16-105, as last amended by Laws of Utah 2017, Chapter 168

31A-16-106, as last amended by Laws of Utah 2015, Chapter 244

31A-16-109, as last amended by Laws of Utah 2019, Chapter 193

31A-17-408, as last amended by Laws of Utah 2001, Chapter 116

31A-17-601, as last amended by Laws of Utah 2020, Chapter 32

31A-21-201, as last amended by Laws of Utah 2021, Chapter 252

31A-21-303, as last amended by Laws of Utah 2020, Chapter 292

31A-22-305.3, as last amended by Laws of Utah 2020, Chapter 145

31A-22-602, as last amended by Laws of Utah 2021, Chapter 252

31A-22-618.6, as last amended by Laws of Utah 2021, Chapter 252

31A-22-618.7, as last amended by Laws of Utah 2021, Chapter 252

31A-22-618.8, as last amended by Laws of Utah 2021, Chapter 252

31A-22-627, as last amended by Laws of Utah 2021, Chapter 252

31A-22-636, as last amended by Laws of Utah 2011, Chapter 297
31A-23a-111, as last amended by Laws of Utah 2020, Chapter 32
31A-27a-104, as last amended by Laws of Utah 2013, Chapter 319
31A-27a-111, as last amended by Laws of Utah 2018, Chapter 319
31A-30-103, as last amended by Laws of Utah 2019, Chapter 193
31A-35-404, as last amended by Laws of Utah 2021, Chapter 252
31A-48-102, as enacted by Laws of Utah 2020, Chapter 198
31A-48-103, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 8
58-13-2.5, as enacted by Laws of Utah 2009, Chapter 14
63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
76-6-521, as last amended by Laws of Utah 2019, Chapter 193

ENACTS:

31A-16-102.6, Utah Code Annotated 1953
31A-22-657, Utah Code Annotated 1953
31A-22-727, Utah Code Annotated 1953

REPEALS:

31A-17-519, as last amended by Laws of Utah 2019, Chapter 193

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) The department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501(11)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section [~~31A-22-627~~] 31A-1-301, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) (A) six months for the first issuance, and, except as provided in Subsection (5)(a)(ii)(B), for a renewal; or

(B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the recommending medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:

(i) may possess:

(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

(C) marijuana drug paraphernalia; and

(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

(8) The department may revoke a medical cannabis card that the department issues under this section if the cardholder:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after March 17, 2021, a misdemeanor for drug distribution.

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 2. Section 26-61a-204 is amended to read:

26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this chapter:

(i) shall carry:

(A) at all times the cardholder's medical cannabis card; and

(B) after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy, with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system; [~~and~~]

(ii) may possess up to the legal dosage limit of:

(A) unprocessed cannabis in medicinal dosage form; and

(B) a cannabis product in medicinal dosage form;

(iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);

(iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and

(v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).

(b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section [~~31A-22-627~~] 31A-1-301.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Section 3. Section 31A-1-301 is amended to read:

31A-1-301. Definitions.

As used in this title, unless otherwise specified:

(1) (a) "Accident and health insurance" means insurance to provide protection against economic losses resulting from:

(i) a medical condition including:

(A) a medical care expense; or

(B) the risk of disability;

(ii) accident; or

(iii) sickness.

(b) "Accident and health insurance":

(i) includes a contract with disability contingencies including:

(A) an income replacement contract;

(B) a health care contract;

(C) [~~an expense reimbursement~~] a fixed indemnity contract;

(D) a credit accident and health contract;

(E) a continuing care contract; and

(F) a long-term care contract; and

(ii) may provide:

(A) hospital coverage;

(B) surgical coverage;

(C) medical coverage;

(D) loss of income coverage;

(E) prescription drug coverage;

(F) dental coverage; or

(G) vision coverage.

(c) "Accident and health insurance" does not include workers' compensation insurance.

(d) For purposes of a national licensing registry, "accident and health insurance" is the same as "accident and health or sickness insurance."

(2) "Actuary" is as defined by the commissioner by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Administrator" means the same as that term is defined in Subsection [~~(178)~~] (182).

(4) "Adult" means an individual who [~~has attained the age of at least 18 years~~] is 18 years old or older.

(5) "Affiliate" means a person who controls, is controlled by, or is under common control with, another person. A corporation is an affiliate of another corporation, regardless of ownership, if substantially the same group of individuals manage the corporations.

(6) "Agency" means:

(a) a person other than an individual, including a sole proprietorship by which an individual does business under an assumed name; and

(b) an insurance organization licensed or required to be licensed under Section 31A-23a-301, 31A-25-207, or 31A-26-209.

(7) "Alien insurer" means an insurer domiciled outside the United States.

(8) "Amendment" means an endorsement to an insurance policy or certificate.

(9) "Annuity" means an agreement to make periodical payments for a period certain or over the lifetime of one or more individuals if the making or continuance of all or some of the series of the payments, or the amount of the payment, is dependent upon the continuance of human life.

(10) "Application" means a document:

(a) (i) completed by an applicant to provide information about the risk to be insured; and

(ii) that contains information that is used by the insurer to evaluate risk and decide whether to:

(A) insure the risk under:

(I) the coverage as originally offered; or

(II) a modification of the coverage as originally offered; or

(B) decline to insure the risk; or

(b) used by the insurer to gather information from the applicant before issuance of an annuity contract.

(11) "Articles" or "articles of incorporation" means:

(a) the original articles;

(b) a special law;

(c) a charter;

(d) an amendment;

(e) restated articles;

(f) articles of merger or consolidation;

(g) a trust instrument;

(h) another constitutive document for a trust or other entity that is not a corporation; and

(i) an amendment to an item listed in Subsections (11)(a) through (h).

(12) "Bail bond insurance" means a guarantee that a person will attend court when required, up to and including surrender of the person in execution of a sentence imposed under Subsection 77-20-501(1), as a condition to the release of that person from confinement.

(13) "Binder" means the same as that term is defined in Section 31A-21-102.

(14) "Blanket insurance policy" or "blanket contract" means a group insurance policy covering a defined class of persons:

(a) without individual underwriting or application; and

(b) that is determined by definition without designating each person covered.

(15) "Board," "board of trustees," or "board of directors" means the group of persons with responsibility over, or management of, a corporation, however designated.

(16) "Bona fide office" means a physical office in this state:

(a) that is open to the public;

(b) that is staffed during regular business hours on regular business days; and

(c) at which the public may appear in person to obtain services.

(17) "Business entity" means:

(a) a corporation;

(b) an association;

(c) a partnership;

(d) a limited liability company;

(e) a limited liability partnership; or

(f) another legal entity.

(18) "Business of insurance" means the same as that term is defined in Subsection [~~(94)~~] (95).

(19) "Business plan" means the information required to be supplied to the commissioner under Subsections 31A-5-204(2)(i) and (j), including the information required when these subsections apply by reference under:

(a) Section 31A-8-205; or

(b) Subsection 31A-9-205(2).

(20) (a) "Bylaws" means the rules adopted for the regulation or management of a corporation's affairs, however designated.

(b) "Bylaws" includes comparable rules for a trust or other entity that is not a corporation.

(21) "Captive insurance company" means:

(a) an insurer:

(i) owned by a parent organization; and

(ii) whose purpose is to insure risks of the parent organization and other risks as authorized under:

(A) Chapter 37, Captive Insurance Companies Act; and

(B) Chapter 37a, Special Purpose Financial Captive Insurance Company Act; or

(b) in the case of a group or association, an insurer:

(i) owned by the insureds; and

(ii) whose purpose is to insure risks of:

(A) a member organization;

(B) a group member; or

(C) an affiliate of:

(I) a member organization; or

(II) a group member.

(22) "Casualty insurance" means liability insurance.

(23) "Certificate" means evidence of insurance given to:

(a) an insured under a group insurance policy; or

(b) a third party.

(24) "Certificate of authority" is included within the term "license."

(25) "Claim," unless the context otherwise requires, means a request or demand on an insurer for payment of a benefit according to the terms of an insurance policy.

(26) "Claims-made coverage" means an insurance contract or provision limiting coverage under a policy insuring against legal liability to claims that are first made against the insured while the policy is in force.

(27) (a) "Commissioner" or "commissioner of insurance" means Utah's insurance commissioner.

(b) When appropriate, the terms listed in Subsection (27)(a) apply to the equivalent supervisory official of another jurisdiction.

(28) (a) "Continuing care insurance" means insurance that:

(i) provides board and lodging;

(ii) provides one or more of the following:

(A) a personal service;

(B) a nursing service;

(C) a medical service; or

(D) any other health-related service; and

(iii) provides the coverage described in this Subsection (28)(a) under an agreement effective:

(A) for the life of the insured; or

(B) for a period in excess of one year.

(b) Insurance is continuing care insurance regardless of whether or not the board and lodging are provided at the same location as a service described in Subsection (28)(a)(ii).

(29) (a) "Control," "controlling," "controlled," or "under common control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person. This control may be:

(i) by contract;

(ii) by common management;

(iii) through the ownership of voting securities; or

(iv) by a means other than those described in Subsections (29)(a)(i) through (iii).

(b) There is no presumption that an individual holding an official position with another person controls that person solely by reason of the position.

(c) A person having a contract or arrangement giving control is considered to have control despite the illegality or invalidity of the contract or arrangement.

(d) There is a rebuttable presumption of control in a person who directly or indirectly owns, controls, holds with the power to vote, or holds proxies to vote 10% or more of the voting securities of another person.

(30) "Controlled insurer" means a licensed insurer that is either directly or indirectly controlled by a producer.

(31) "Controlling person" means a person that directly or indirectly has the power to direct or cause to be directed, the management, control, or activities of a reinsurance intermediary.

(32) "Controlling producer" means a producer who directly or indirectly controls an insurer.

(33) "Corporate governance annual disclosure" means a report an insurer or insurance group files in accordance with the requirements of Chapter 16b, Corporate Governance Annual Disclosure Act.

(34) (a) "Corporation" means an insurance corporation, except when referring to:

(i) a corporation doing business:

(A) as:

(I) an insurance producer;

(II) a surplus lines producer;

(III) a limited line producer;

(IV) a consultant;

(V) a managing general agent;

(VI) a reinsurance intermediary;

(VII) a third party administrator; or

(VIII) an adjuster; and

(B) under:

(I) Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;

(II) Chapter 25, Third Party Administrators; or

(III) Chapter 26, Insurance Adjusters; or

(ii) a noninsurer that is part of a holding company system under Chapter 16, Insurance Holding Companies.

(b) "Mutual" or "mutual corporation" means a mutual insurance corporation.

(c) "Stock corporation" means a stock insurance corporation.

(35) (a) "Creditable coverage" has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

(b) "Creditable coverage" includes coverage that is offered through a public health plan such as:

(i) the Primary Care Network Program under a Medicaid primary care network demonstration waiver obtained subject to Section 26-18-3;

(ii) the Children's Health Insurance Program under Section 26-40-106; or

(iii) the Ryan White Program Comprehensive AIDS Resources Emergency Act, Pub. L. No. 101-381, and Ryan White HIV/AIDS Treatment Modernization Act of 2006, Pub. L. No. 109-415.

(36) "Credit accident and health insurance" means insurance on a debtor to provide indemnity for payments coming due on a specific loan or other credit transaction while the debtor has a disability.

(37) (a) "Credit insurance" means insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation.

(b) "Credit insurance" includes:

(i) credit accident and health insurance;

(ii) credit life insurance;

(iii) credit property insurance;

(iv) credit unemployment insurance;

(v) guaranteed automobile protection insurance;

(vi) involuntary unemployment insurance;

(vii) mortgage accident and health insurance;

(viii) mortgage guaranty insurance; and

(ix) mortgage life insurance.

(38) "Credit life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays a person if the debtor dies.

(39) "Creditor" means a person, including an insured, having a claim, whether:

(a) matured;

(b) unmatured;

(c) liquidated;

(d) unliquidated;

(e) secured;

(f) unsecured;

(g) absolute;

(h) fixed; or

(i) contingent.

(40) "Credit property insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that protects the property until the debt is paid.

(41) "Credit unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

(42) (a) "Crop insurance" means insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils that is:

(i) provided by the private insurance market; or

(ii) subsidized by the Federal Crop Insurance Corporation.

(b) "Crop insurance" includes multiperil crop insurance.

(43) (a) "Customer service representative" means a person that provides an insurance service and insurance product information:

(i) for the customer service representative's:

(A) producer;

(B) surplus lines producer; or

(C) consultant employer; and

(ii) to the customer service representative's employer's:

(A) customer;

(B) client; or

(C) organization.

(b) A customer service representative may only operate within the scope of authority of the customer service representative's producer, surplus lines producer, or consultant employer.

(44) "Deadline" means a final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order; and

(b) by which a required filing or payment must be received by the department.

(45) "Deemer clause" means a provision under this title under which upon the occurrence of a condition precedent, the commissioner is considered to have taken a specific action. If the statute so provides, a condition precedent may be the commissioner's failure to take a specific action.

(46) "Degree of relationship" means the number of steps between two persons determined by counting the generations separating one person from a common ancestor and then counting the generations to the other person.

(47) "Department" means the Insurance Department.

(48) "Director" means a member of the board of directors of a corporation.

(49) "Disability" means a physiological or psychological condition that partially or totally limits an individual's ability to:

(a) perform the duties of:

(i) that individual's occupation; or

(ii) an occupation for which the individual is reasonably suited by education, training, or experience; or

(b) perform two or more of the following basic activities of daily living:

(i) eating;

(ii) toileting;

(iii) transferring;

(iv) bathing; or

(v) dressing.

(50) "Disability income insurance" means the same as that term is defined in Subsection [~~(85)~~] (86).

(51) "Domestic insurer" means an insurer organized under the laws of this state.

(52) "Domiciliary state" means the state in which an insurer:

(a) is incorporated;

(b) is organized; or

(c) in the case of an alien insurer, enters into the United States.

(53) (a) "Eligible employee" means:

(i) an employee who:

(A) works on a full-time basis; and

(B) has a normal work week of 30 or more hours; or

(ii) a person described in Subsection (53)(b).

(b) "Eligible employee" includes:

[~~(i) an owner who:~~]

[~~(A) works on a full-time basis;~~]

[~~(B) has a normal work week of 30 or more hours; and~~]

[~~(C) employs at least one common employee; and~~]

[~~(ii) if the individual is included under a health benefit plan of a small employer:~~]

[~~(A) a sole proprietor;~~]

[~~(B) a partner in a partnership; or~~]

[~~(C) an independent contractor.~~]

(i) an owner, sole proprietor, or partner who:

(A) works on a full-time basis;

(B) has a normal work week of 30 or more hours; and

(C) employs at least one common employee; and

(ii) an independent contractor if the individual is included under a health benefit plan of a small employer.

(c) "Eligible employee" does not include, unless eligible under Subsection (53)(b):

(i) an individual who works on a temporary or substitute basis for a small employer;

(ii) an employer's spouse who does not meet the requirements of Subsection (53)(a)(i); or

(iii) a dependent of an employer who does not meet the requirements of Subsection (53)(a)(i).

(54) "Emergency medical condition" means a medical condition that:

(a) manifests itself by acute symptoms, including severe pain; and

(b) would cause a prudent layperson possessing an average knowledge of medicine and health to reasonably expect the absence of immediate medical attention through a hospital emergency department to result in:

(i) placing the layperson's health or the layperson's unborn child's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part.

[~~(54)~~] (55) "Employee" means:

(a) an individual employed by an employer; [~~and~~] or

(b) an [~~owner~~] individual who meets the requirements of Subsection (53)(b)[~~(i)~~].

[~~(55)~~] (56) "Employee benefits" means one or more benefits or services provided to:

(a) an employee; or

(b) a dependent of an employee.

[~~(56)~~] (57) (a) "Employee welfare fund" means a fund:

(i) established or maintained, whether directly or through a trustee, by:

(A) one or more employers;

(B) one or more labor organizations; or

(C) a combination of employers and labor organizations; and

(ii) that provides employee benefits paid or contracted to be paid, other than income from investments of the fund:

(A) by or on behalf of an employer doing business in this state; or

(B) for the benefit of a person employed in this state.

(b) "Employee welfare fund" includes a plan funded or subsidized by a user fee or tax revenues.

[~~(57)~~] (58) "Endorsement" means a written agreement attached to a policy or certificate to modify the policy or certificate coverage.

[~~(58)~~] (59) (a) "Enrollee" means:

(i) a policyholder;

(ii) a certificate holder;

(iii) a subscriber; or

(iv) a covered individual:

(A) who has entered into a contract with an organization for health care; or

(B) on whose behalf an arrangement for health care has been made.

(b) "Enrollee" includes an insured.

[~~(59)~~] (60) "Enrollment date," with respect to a health benefit plan, means:

(a) the first day of coverage; or

(b) if there is a waiting period, the first day of the waiting period.

[~~(60)~~] (61) "Enterprise risk" means an activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause:

(a) the insurer's risk-based capital to fall into an action or control level as set forth in Sections 31A-17-601 through 31A-17-613; or

(b) the insurer to be in hazardous financial condition set forth in Section 31A-27a-101.

[~~(61)~~] (62) (a) "Escrow" means:

(i) a transaction that effects the sale, transfer, encumbering, or leasing of real property, when a person not a party to the transaction, and neither having nor acquiring an interest in the title, performs, in accordance with the written instructions or terms of the written agreement between the parties to the transaction, any of the following actions:

(A) the explanation, holding, or creation of a document; or

(B) the receipt, deposit, and disbursement of money;

(ii) a settlement or closing involving:

(A) a mobile home;

(B) a grazing right;

(C) a water right; or

(D) other personal property authorized by the commissioner.

(b) "Escrow" does not include:

(i) the following notarial acts performed by a notary within the state:

(A) an acknowledgment;

(B) a copy certification;

(C) jurat; and

(D) an oath or affirmation;

(ii) the receipt or delivery of a document; or

(iii) the receipt of money for delivery to the escrow agent.

[~~(62)~~] (63) "Escrow agent" means an agency title insurance producer meeting the requirements of Sections 31A-4-107, 31A-14-211, and 31A-23a-204, who is acting through an individual title insurance producer licensed with an escrow subline of authority.

[~~(63)~~] (64) (a) "Excludes" is not exhaustive and does not mean that another thing is not also excluded.

(b) The items listed in a list using the term "excludes" are representative examples for use in interpretation of this title.

[~~(64)~~] (65) "Exclusion" means for the purposes of accident and health insurance that an insurer does not provide insurance coverage, for whatever reason, for one of the following:

(a) a specific physical condition;

(b) a specific medical procedure;

(c) a specific disease or disorder; or

(d) a specific prescription drug or class of prescription drugs.

[~~(65) "Expense reimbursement insurance" means insurance:~~]

[~~(a) written to provide a payment for an expense relating to hospital confinement resulting from illness or injury; and~~]

[~~(b) written:~~]

[~~(i) as a daily limit for a specific number of days in a hospital; and~~]

[~~(ii) to have a one or two day waiting period following a hospitalization.~~]

(66) "Fidelity insurance" means insurance guaranteeing the fidelity of a person holding a position of public or private trust.

(67) (a) "Filed" means that a filing is:

(i) submitted to the department as required by and in accordance with applicable statute, rule, or filing order;

(ii) received by the department within the time period provided in applicable statute, rule, or filing order; and

(iii) accompanied by the appropriate fee in accordance with:

(A) Section 31A-3-103; or

(B) rule.

(b) "Filed" does not include a filing that is rejected by the department because it is not submitted in accordance with Subsection (67)(a).

(68) "Filing," when used as a noun, means an item required to be filed with the department including:

(a) a policy;

(b) a rate;

(c) a form;

(d) a document;

(e) a plan;

(f) a manual;

(g) an application;

(h) a report;

(i) a certificate;

(j) an endorsement;

(k) an actuarial certification;

(l) a licensee annual statement;

(m) a licensee renewal application;

(n) an advertisement;

(o) a binder; or

(p) an outline of coverage.

(69) "First party insurance" means an insurance policy or contract in which the insurer agrees to pay a claim submitted to it by the insured for the insured's losses.

(70) (a) "Fixed indemnity insurance" means accident and health insurance written to provide a fixed amount for a specified event relating to or resulting from an illness or injury.

(b) "Fixed indemnity insurance" includes hospital confinement indemnity insurance.

[~~(70)~~] (71) "Foreign insurer" means an insurer domiciled outside of this state, including an alien insurer.

[~~(71)~~] (72) (a) "Form" means one of the following prepared for general use:

(i) a policy;

(ii) a certificate;

(iii) an application;

(iv) an outline of coverage; or

(v) an endorsement.

(b) "Form" does not include a document specially prepared for use in an individual case.

[~~(72)~~] (73) "Franchise insurance" means an individual insurance policy provided through a mass marketing arrangement involving a defined class of persons related in some way other than through the purchase of insurance.

[~~(73)~~] (74) "General lines of authority" include:

(a) the general lines of insurance in Subsection [~~(74)~~] (75);

(b) title insurance under one of the following sublines of authority:

(i) title examination, including authority to act as a title marketing representative;

(ii) escrow, including authority to act as a title marketing representative; and

(iii) title marketing representative only;

(c) surplus lines;

(d) workers' compensation; and

(e) another line of insurance that the commissioner considers necessary to recognize in the public interest.

[~~(74)~~] (75) "General lines of insurance" include:

(a) accident and health;

(b) casualty;

(c) life;

(d) personal lines;

(e) property; and

(f) variable contracts, including variable life and annuity.

[~~(75)~~] (76) "Group health plan" means an employee welfare benefit plan to the extent that the plan provides medical care:

(a) (i) to an employee; or

(ii) to a dependent of an employee; and

(b) (i) directly;

(ii) through insurance reimbursement; or

(iii) through another method.

[~~(76)~~] (77) (a) "Group insurance policy" means a policy covering a group of persons that is issued:

(i) to a policyholder on behalf of the group; and

(ii) for the benefit of a member of the group who is selected under a procedure defined in:

(A) the policy; or

(B) an agreement that is collateral to the policy.

(b) A group insurance policy may include a member of the policyholder's family or a dependent.

[~~(77)~~] (78) "Group-wide supervisor" means the commissioner or other regulatory official designated as the group-wide supervisor for an internationally active insurance group under Section 31A-16-108.6.

[~~(78)~~] (79) "Guaranteed automobile protection insurance" means insurance offered in connection with an extension of credit that pays the difference in amount between the insurance settlement and the balance of the loan if the insured automobile is a total loss.

[~~(79)~~] (80) (a) "Health benefit plan" mean [~~, except as provided in Subsection (79)(b),~~] a policy, contract, certificate, or agreement offered or issued by [~~a health carrier~~] an insurer to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care, including major medical expense coverage.

(b) "Health benefit plan" does not include:

(i) coverage only for accident or disability income insurance, or any combination thereof;

(ii) coverage issued as a supplement to liability insurance;

(iii) liability insurance, including general liability insurance and automobile liability insurance;

(iv) workers' compensation or similar insurance;

(v) automobile medical payment insurance;

(vi) credit-only insurance;

(vii) coverage for on-site medical clinics;

(viii) other similar insurance coverage, specified in federal regulations issued pursuant to Pub. L. No. 104-191, under which benefits for health care services are secondary or incidental to other insurance benefits;

(ix) the following benefits if they are provided under a separate policy, certificate, or contract of insurance or are otherwise not an integral part of the plan:

(A) limited scope dental or vision benefits;

(B) benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; or

(C) other similar limited benefits, specified in federal regulations issued pursuant to Pub. L. No. 104-191;

(x) the following benefits if the benefits are provided under a separate policy, certificate, or contract of insurance, there is no coordination between the provision of benefits and any exclusion of benefits under any health plan, and the benefits are paid with respect to an event without regard to whether benefits are provided under any health plan:

(A) coverage only for specified disease or illness; or

(B) [~~hospital indemnity or other~~] fixed indemnity insurance;

(xi) the following if offered as a separate policy, certificate, or contract of insurance:

(A) Medicare supplemental health insurance as defined under the Social Security Act, 42 U.S.C. Sec. 1395ss(g)(1);

(B) coverage supplemental to the coverage provided under United States Code, Title 10, Chapter 55, Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); or

(C) similar supplemental coverage provided to coverage under a group health insurance plan;

(xii) short-term limited duration health insurance; and

(xiii) student health insurance, except as required under 45 C.F.R. Sec. 147.145.

[~~(80)~~] (81) "Health care" means any of the following intended for use in the diagnosis, treatment, mitigation, or prevention of a human ailment or impairment:

(a) a professional service;

(b) a personal service;

(c) a facility;

(d) equipment;

(e) a device;

(f) supplies; or

(g) medicine.

[~~(81)~~] (82) (a) "Health care insurance" or "health insurance" means insurance providing:

(i) a health care benefit; or

(ii) payment of an incurred health care expense.

(b) "Health care insurance" or "health insurance" does not include accident and health insurance providing a benefit for:

(i) replacement of income;

(ii) short-term accident;

(iii) fixed indemnity;

(iv) credit accident and health;

(v) supplements to liability;

(vi) workers' compensation;

(vii) automobile medical payment;

(viii) no-fault automobile;

(ix) equivalent self-insurance; or

(x) a type of accident and health insurance coverage that is a part of or attached to another type of policy.

[~~(82)~~] (83) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(83)~~] (84) "Health insurance exchange" means an exchange as defined in 45 C.F.R. Sec. 155.20.

[~~(84)~~] (85) "Health Insurance Portability and Accountability Act" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

[~~(85)~~] (86) "Income replacement insurance" or "disability income insurance" means insurance written to provide payments to replace income lost from accident or sickness.

[~~(86)~~] (87) "Indemnity" means the payment of an amount to offset all or part of an insured loss.

[~~(87)~~] (88) "Independent adjuster" means an insurance adjuster required to be licensed under Section 31A-26-201 who engages in insurance adjusting as a representative of an insurer.

[~~(88)~~] (89) "Independently procured insurance" means insurance procured under Section 31A-15-104.

[~~(89)~~] (90) "Individual" means a natural person.

[~~(90)~~] (91) "Inland marine insurance" includes insurance covering:

(a) property in transit on or over land;

(b) property in transit over water by means other than boat or ship;

(c) bailee liability;

(d) fixed transportation property such as bridges, electric transmission systems, radio and television transmission towers and tunnels; and

(e) personal and commercial property floaters.

[~~(91)~~] (92) "Insolvency" or "insolvent" means that:

(a) an insurer is unable to pay the insurer's obligations as the obligations are due;

(b) an insurer's total adjusted capital is less than the insurer's mandatory control level RBC under Subsection 31A-17-601(8)(c); or

(c) an insurer's admitted assets are less than the insurer's liabilities.

[~~(92)~~] (93) (a) "Insurance" means:

(i) an arrangement, contract, or plan for the transfer of a risk or risks from one or more persons to one or more other persons; or

(ii) an arrangement, contract, or plan for the distribution of a risk or risks among a group of persons that includes the person seeking to distribute that person's risk.

(b) "Insurance" includes:

(i) a risk distributing arrangement providing for compensation or replacement for damages or loss through the provision of a service or a benefit in kind;

(ii) a contract of guaranty or suretyship entered into by the guarantor or surety as a business and not as merely incidental to a business transaction; and

(iii) a plan in which the risk does not rest upon the person who makes an arrangement, but with a class of persons who have agreed to share the risk.

[~~(93)~~] (94) "Insurance adjuster" means a person who directs or conducts the investigation, negotiation, or settlement of a claim under an insurance policy other than life insurance or an annuity, on behalf of an insurer, policyholder, or a claimant under an insurance policy.

[~~(94)~~] (95) "Insurance business" or "business of insurance" includes:

(a) providing health care insurance by an organization that is or is required to be licensed under this title;

(b) providing a benefit to an employee in the event of a contingency not within the control of the employee, in which the employee is entitled to the benefit as a right, which benefit may be provided either:

(i) by a single employer or by multiple employer groups; or

(ii) through one or more trusts, associations, or other entities;

(c) providing an annuity:

(i) including an annuity issued in return for a gift; and

(ii) except an annuity provided by a person specified in Subsections 31A-22-1305(2) and (3);

(d) providing the characteristic services of a motor club [~~as outlined in Subsection (125)~~];

(e) providing another person with insurance;

(f) making as insurer, guarantor, or surety, or proposing to make as insurer, guarantor, or surety, a contract or policy offering title insurance;

(g) transacting or proposing to transact any phase of title insurance, including:

(i) solicitation;

(ii) negotiation preliminary to execution;

(iii) execution of a contract of title insurance;

(iv) insuring; and

(v) transacting matters subsequent to the execution of the contract and arising out of the contract, including reinsurance;

(h) transacting or proposing a life settlement; and

(i) doing, or proposing to do, any business in substance equivalent to Subsections [~~(94)~~] (95)(a) through (h) in a manner designed to evade this title.

[~~(95)~~] (96) "Insurance consultant" or "consultant" means a person who:

(a) advises another person about insurance needs and coverages;

(b) is compensated by the person advised on a basis not directly related to the insurance placed; and

(c) except as provided in Section 31A-23a-501, is not compensated directly or indirectly by an insurer or producer for advice given.

[~~(96)~~] (97) "Insurance group" means the persons that comprise an insurance holding company system.

[~~(97)~~] (98) "Insurance holding company system" means a group of two or more affiliated persons, at least one of whom is an insurer.

[~~(98)~~] (99) (a) "Insurance producer" or "producer" means a person licensed or required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

(b) (i) "Producer for the insurer" means a producer who is compensated directly or indirectly by an insurer for selling, soliciting, or negotiating an insurance product of that insurer.

(ii) "Producer for the insurer" may be referred to as an "agent."

(c) (i) "Producer for the insured" means a producer who:

(A) is compensated directly and only by an insurance customer or an insured; and

(B) receives no compensation directly or indirectly from an insurer for selling, soliciting, or negotiating an insurance product of that insurer to an insurance customer or insured.

(ii) "Producer for the insured" may be referred to as a "broker."

[~~(99)~~] (100) (a) "Insured" means a person to whom or for whose benefit an insurer makes a promise in an insurance policy and includes:

(i) a policyholder;

(ii) a subscriber;

(iii) a member; and

(iv) a beneficiary.

(b) The definition in Subsection [~~(99)~~] (100)(a):

(i) applies only to this title;

(ii) does not define the meaning of "insured" as used in an insurance policy or certificate; and

(iii) includes an enrollee.

[~~(100)~~] (101) (a) "Insurer," "carrier," "insurance carrier," or "insurance company" means a person doing an insurance business as a principal including:

(i) a fraternal benefit society;

(ii) an issuer of a gift annuity other than an annuity specified in Subsections 31A-22-1305(2) and (3);

(iii) a motor club;

(iv) an employee welfare plan;

(v) a person purporting or intending to do an insurance business as a principal on that person's own account; and

(vi) a health maintenance organization.

(b) "Insurer," "carrier," "insurance carrier," or "insurance company" does not include a governmental entity.

[~~(101)~~] (102) "Interinsurance exchange" means the same as that term is defined in Subsection [~~(160)~~] (163).

[~~(102)~~] (103) "Internationally active insurance group" means an insurance holding company system:

(a) that includes an insurer registered under Section 31A-16-105;

(b) that has premiums written in at least three countries;

(c) whose percentage of gross premiums written outside the United States is at least 10% of its total gross written premiums; and

(d) that, based on a three-year rolling average, has:

(i) total assets of at least $50,000,000,000; or

(ii) total gross written premiums of at least $10,000,000,000.

[~~(103)~~] (104) "Involuntary unemployment insurance" means insurance:

(a) offered in connection with an extension of credit; and

(b) that provides indemnity if the debtor is involuntarily unemployed for payments coming due on a:

(i) specific loan; or

(ii) credit transaction.

[~~(104)~~] (105) "Large employer," in connection with a health benefit plan, means an employer who, with respect to a calendar year and to a plan year:

(a) employed an average of at least 51 employees on business days during the preceding calendar year; and

(b) employs at least one employee on the first day of the plan year.

[~~(105)~~] (106) "Late enrollee," with respect to an employer health benefit plan, means an individual whose enrollment is a late enrollment.

[~~(106)~~] (107) "Late enrollment," with respect to an employer health benefit plan, means enrollment of an individual other than:

(a) on the earliest date on which coverage can become effective for the individual under the terms of the plan; or

(b) through special enrollment.

[~~(107)~~] (108) (a) Except for a retainer contract or legal assistance described in Section 31A-1-103, "legal expense insurance" means insurance written to indemnify or pay for a specified legal expense.

(b) "Legal expense insurance" includes an arrangement that creates a reasonable expectation of an enforceable right.

(c) "Legal expense insurance" does not include the provision of, or reimbursement for, legal services incidental to other insurance coverage.

[~~(108)~~] (109) (a) "Liability insurance" means insurance against liability:

(i) for death, injury, or disability of a human being, or for damage to property, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(ii) for a medical, hospital, surgical, and funeral benefit to a person other than the insured who is injured, irrespective of legal liability of the insured, when issued with or supplemental to insurance against legal liability for the death, injury, or disability of a human being, exclusive of the coverages under:

(A) medical malpractice insurance;

(B) professional liability insurance; and

(C) workers' compensation insurance;

(iii) for loss or damage to property resulting from an accident to or explosion of a boiler, pipe, pressure container, machinery, or apparatus;

(iv) for loss or damage to property caused by:

(A) the breakage or leakage of a sprinkler, water pipe, or water container; or

(B) water entering through a leak or opening in a building; or

(v) for other loss or damage properly the subject of insurance not within another kind of insurance as defined in this chapter, if the insurance is not contrary to law or public policy.

(b) "Liability insurance" includes:

(i) vehicle liability insurance;

(ii) residential dwelling liability insurance; and

(iii) making inspection of, and issuing a certificate of inspection upon, an elevator, boiler, machinery, or apparatus of any kind when done in connection with insurance on the elevator, boiler, machinery, or apparatus.

[~~(109)~~] (110) (a) "License" means authorization issued by the commissioner to engage in an activity that is part of or related to the insurance business.

(b) "License" includes a certificate of authority issued to an insurer.

[~~(110)~~] (111) (a) "Life insurance" means:

(i) insurance on a human life; and

(ii) insurance pertaining to or connected with human life.

(b) The business of life insurance includes:

(i) granting a death benefit;

(ii) granting an annuity benefit;

(iii) granting an endowment benefit;

(iv) granting an additional benefit in the event of death by accident;

(v) granting an additional benefit to safeguard the policy against lapse; and

(vi) providing an optional method of settlement of proceeds.

[~~(111)~~] (112) "Limited license" means a license that:

(a) is issued for a specific product of insurance; and

(b) limits an individual or agency to transact only for that product or insurance.

[~~(112)~~] (113) "Limited line credit insurance" includes the following forms of insurance:

(a) credit life;

(b) credit accident and health;

(c) credit property;

(d) credit unemployment;

(e) involuntary unemployment;

(f) mortgage life;

(g) mortgage guaranty;

(h) mortgage accident and health;

(i) guaranteed automobile protection; and

(j) another form of insurance offered in connection with an extension of credit that:

(i) is limited to partially or wholly extinguishing the credit obligation; and

(ii) the commissioner determines by rule should be designated as a form of limited line credit insurance.

[~~(113)~~] (114) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to an individual through a master, corporate, group, or individual policy.

[~~(114)~~] (115) "Limited line insurance" includes:

(a) bail bond;

(b) limited line credit insurance;

(c) legal expense insurance;

(d) motor club insurance;

(e) car rental related insurance;

(f) travel insurance;

(g) crop insurance;

(h) self-service storage insurance;

(i) guaranteed asset protection waiver;

(j) portable electronics insurance; and

(k) another form of limited insurance that the commissioner determines by rule should be designated a form of limited line insurance.

[~~(115)~~] (116) "Limited lines authority" includes the lines of insurance listed in Subsection [~~(114)~~] (115).

[~~(116)~~] (117) "Limited lines producer" means a person who sells, solicits, or negotiates limited lines insurance.

[~~(117)~~] (118) (a) "Long-term care insurance" means an insurance policy or rider advertised, marketed, offered, or designated to provide coverage:

(i) in a setting other than an acute care unit of a hospital;

(ii) for not less than 12 consecutive months for a covered person on the basis of:

(A) expenses incurred;

(B) indemnity;

(C) prepayment; or

(D) another method;

(iii) for one or more necessary or medically necessary services that are:

(A) diagnostic;

(B) preventative;

(C) therapeutic;

(D) rehabilitative;

(E) maintenance; or

(F) personal care; and

(iv) that may be issued by:

(A) an insurer;

(B) a fraternal benefit society;

(C) (I) a nonprofit health hospital; and

(II) a medical service corporation;

(D) a prepaid health plan;

(E) a health maintenance organization; or

(F) an entity similar to the entities described in Subsections [~~(117)~~] (118)(a)(iv)(A) through (E) to the extent that the entity is otherwise authorized to issue life or health care insurance.

(b) "Long-term care insurance" includes:

(i) any of the following that provide directly or supplement long-term care insurance:

(A) a group or individual annuity or rider; or

(B) a life insurance policy or rider;

(ii) a policy or rider that provides for payment of benefits on the basis of:

(A) cognitive impairment; or

(B) functional capacity; or

(iii) a qualified long-term care insurance contract.

(c) "Long-term care insurance" does not include:

(i) a policy that is offered primarily to provide basic Medicare supplement coverage;

(ii) basic hospital expense coverage;

(iii) basic medical/surgical expense coverage;

(iv) hospital confinement indemnity coverage;

(v) major medical expense coverage;

(vi) income replacement or related asset-protection coverage;

(vii) accident only coverage;

(viii) coverage for a specified:

(A) disease; or

(B) accident;

(ix) limited benefit health coverage; [~~or~~]

(x) a life insurance policy that accelerates the death benefit to provide the option of a lump sum payment:

(A) if the following are not conditioned on the receipt of long-term care:

(I) benefits; or

(II) eligibility; and

(B) the coverage is for one or more the following qualifying events:

(I) terminal illness;

(II) medical conditions requiring extraordinary medical intervention; or

(III) permanent institutional confinement[~~.~~]; or

(xi) limited long-term care as defined in Section 31A-22-2002.

[~~(118)~~] (119) "Managed care organization" means a person:

(a) licensed as a health maintenance organization under Chapter 8, Health Maintenance Organizations and Limited Health Plans; or

(b) (i) licensed under:

(A) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(B) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(C) Chapter 14, Foreign Insurers; and

(ii) that requires an enrollee to use, or offers incentives, including financial incentives, for an enrollee to use, network providers.

[~~(119)~~] (120) "Medical malpractice insurance" means insurance against legal liability incident to the practice and provision of a medical service other than the practice and provision of a dental service.

[~~(120)~~] (121) "Member" means a person having membership rights in an insurance corporation.

[~~(121)~~] (122) "Minimum capital" or "minimum required capital" means the capital that must be constantly maintained by a stock insurance corporation as required by statute.

[~~(122)~~] (123) "Mortgage accident and health insurance" means insurance offered in connection with an extension of credit that provides indemnity for payments coming due on a mortgage while the debtor has a disability.

[~~(123)~~] (124) "Mortgage guaranty insurance" means surety insurance under which a mortgagee or other creditor is indemnified against losses caused by the default of a debtor.

[~~(124)~~] (125) "Mortgage life insurance" means insurance on the life of a debtor in connection with an extension of credit that pays if the debtor dies.

[~~(125)~~] (126) "Motor club" means a person:

(a) licensed under:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 11, Motor Clubs; or

(iii) Chapter 14, Foreign Insurers; and

(b) that promises for an advance consideration to provide for a stated period of time one or more:

(i) legal services under Subsection 31A-11-102(1)(b);

(ii) bail services under Subsection 31A-11-102(1)(c); or

(iii) (A) trip reimbursement;

(B) towing services;

(C) emergency road services;

(D) stolen automobile services;

(E) a combination of the services listed in Subsections [~~(125)~~] (126)(b)(iii)(A) through (D); or

(F) other services given in Subsections 31A-11-102(1)(b) through (f).

[~~(126)~~] (127) "Mutual" means a mutual insurance corporation.

(128) "NAIC" means the National Association of Insurance Commissioners.

(129) "NAIC liquidity stress test framework" means a NAIC publication that includes:

(a) a history of the NAIC's development of regulatory liquidity stress testing;

(b) the scope criteria applicable for a specific data year; and

(c) the liquidity stress test instructions and reporting templates for a specific data year, as adopted by the NAIC and as amended by the NAIC in accordance with NAIC procedures.

[~~(127)~~] (130) "Network plan" means health care insurance:

(a) that is issued by an insurer; and

(b) under which the financing and delivery of medical care is provided, in whole or in part, through a defined set of providers under contract with the insurer, including the financing and delivery of an item paid for as medical care.

[~~(128)~~] (131) "Network provider" means a health care provider who has an agreement with a managed care organization to provide health care services to an enrollee with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, directly from the managed care organization.

[~~(129)~~] (132) "Nonparticipating" means a plan of insurance under which the insured is not entitled to receive a dividend representing a share of the surplus of the insurer.

[~~(130)~~] (133) "Ocean marine insurance" means insurance against loss of or damage to:

(a) ships or hulls of ships;

(b) goods, freight, cargoes, merchandise, effects, disbursements, profits, money, securities, choses in action, evidences of debt, valuable papers, bottomry, respondentia interests, or other cargoes in or awaiting transit over the oceans or inland waterways;

(c) earnings such as freight, passage money, commissions, or profits derived from transporting goods or people upon or across the oceans or inland waterways; or

(d) a vessel owner or operator as a result of liability to employees, passengers, bailors, owners of other vessels, owners of fixed objects, customs or other authorities, or other persons in connection with maritime activity.

[~~(131)~~] (134) "Order" means an order of the commissioner.

[~~(132)~~] (135) "ORSA guidance manual" means the current version of the Own Risk and Solvency Assessment Guidance Manual developed and adopted by the National Association of Insurance Commissioners and as amended from time to time.

[~~(133)~~] (136) "ORSA summary report" means a confidential high-level summary of an insurer or insurance group's own risk and solvency assessment.

[~~(134)~~] (137) "Outline of coverage" means a summary that explains an accident and health insurance policy.

[~~(135)~~] (138) "Own risk and solvency assessment" means an insurer or insurance group's confidential internal assessment:

(a) (i) of each material and relevant risk associated with the insurer or insurance group;

(ii) of the insurer or insurance group's current business plan to support each risk described in Subsection [~~(135)~~] (138)(a)(i); and

(iii) of the sufficiency of capital resources to support each risk described in Subsection [~~(135)~~] (138)(a)(i); and

(b) that is appropriate to the nature, scale, and complexity of an insurer or insurance group.

[~~(136)~~] (139) "Participating" means a plan of insurance under which the insured is entitled to receive a dividend representing a share of the surplus of the insurer.

[~~(137)~~] (140) "Participation," as used in a health benefit plan, means a requirement relating to the minimum percentage of eligible employees that must be enrolled in relation to the total number of eligible employees of an employer reduced by each eligible employee who voluntarily declines coverage under the plan because the employee:

(a) has other group health care insurance coverage; or

(b) receives:

(i) Medicare, under the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965; or

(ii) another government health benefit.

[~~(138)~~] (141) "Person" includes:

(a) an individual;

(b) a partnership;

(c) a corporation;

(d) an incorporated or unincorporated association;

(e) a joint stock company;

(f) a trust;

(g) a limited liability company;

(h) a reciprocal;

(i) a syndicate; or

(j) another similar entity or combination of entities acting in concert.

[~~(139)~~] (142) "Personal lines insurance" means property and casualty insurance coverage sold for primarily noncommercial purposes to:

(a) an individual; or

(b) a family.

[~~(140)~~] (143) "Plan sponsor" means the same as that term is defined in 29 U.S.C. Sec. 1002(16)(B).

[~~(141)~~] (144) "Plan year" means:

(a) the year that is designated as the plan year in:

(i) the plan document of a group health plan; or

(ii) a summary plan description of a group health plan;

(b) if the plan document or summary plan description does not designate a plan year or there is no plan document or summary plan description:

(i) the year used to determine deductibles or limits;

(ii) the policy year, if the plan does not impose deductibles or limits on a yearly basis; or

(iii) the employer's taxable year if:

(A) the plan does not impose deductibles or limits on a yearly basis; and

(B) (I) the plan is not insured; or

(II) the insurance policy is not renewed on an annual basis; or

(c) in a case not described in Subsection [~~(141)~~] (144)(a) or (b), the calendar year.

[~~(142)~~] (145) (a) "Policy" means a document, including an attached endorsement or application that:

(i) purports to be an enforceable contract; and

(ii) memorializes in writing some or all of the terms of an insurance contract.

(b) "Policy" includes a service contract issued by:

(i) a motor club under Chapter 11, Motor Clubs;

(ii) a service contract provided under Chapter 6a, Service Contracts; and

(iii) a corporation licensed under:

(A) Chapter 7, Nonprofit Health Service Insurance Corporations; or

(B) Chapter 8, Health Maintenance Organizations and Limited Health Plans.

(c) "Policy" does not include:

(i) a certificate under a group insurance contract; or

(ii) a document that does not purport to have legal effect.

[~~(143)~~] (146) "Policyholder" means a person who controls a policy, binder, or oral contract by ownership, premium payment, or otherwise.

[~~(144)~~] (147) "Policy illustration" means a presentation or depiction that includes nonguaranteed elements of a policy offering life insurance over a period of years.

[~~(145)~~] (148) "Policy summary" means a synopsis describing the elements of a life insurance policy.

[~~(146)~~] (149) "PPACA" means the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 and the Health Care Education Reconciliation Act of 2010, Pub. L. No. 111-152, and related federal regulations and guidance.

[~~(147)~~] (150) "Preexisting condition," with respect to health care insurance:

(a) means a condition that was present before the effective date of coverage, whether or not medical advice, diagnosis, care, or treatment was recommended or received before that day; and

(b) does not include a condition indicated by genetic information unless an actual diagnosis of the condition by a physician has been made.

[~~(148)~~] (151) (a) "Premium" means the monetary consideration for an insurance policy.

(b) "Premium" includes, however designated:

(i) an assessment;

(ii) a membership fee;

(iii) a required contribution; or

(iv) monetary consideration.

(c) (i) "Premium" does not include consideration paid to a third party administrator for the third party administrator's services.

(ii) "Premium" includes an amount paid by a third party administrator to an insurer for insurance on the risks administered by the third party administrator.

[~~(149)~~] (152) "Principal officers" for a corporation means the officers designated under Subsection 31A-5-203(3).

[~~(150)~~] (153) "Proceeding" includes an action or special statutory proceeding.

[~~(151)~~] (154) "Professional liability insurance" means insurance against legal liability incident to the practice of a profession and provision of a professional service.

[~~(152)~~] (155) (a) [~~Except as provided in Subsection (152)(b), "property~~] "Property insurance" means insurance against loss or damage to real or personal property of every kind and any interest in that property:

(i) from all hazards or causes; and

(ii) against loss consequential upon the loss or damage including vehicle comprehensive and vehicle physical damage coverages.

(b) "Property insurance" does not include:

(i) inland marine insurance; and

(ii) ocean marine insurance.

[~~(153)~~] (156) "Qualified long-term care insurance contract" or "federally tax qualified long-term care insurance contract" means:

(a) an individual or group insurance contract that meets the requirements of Section 7702B(b), Internal Revenue Code; or

(b) the portion of a life insurance contract that provides long-term care insurance:

(i) (A) by rider; or

(B) as a part of the contract; and

(ii) that satisfies the requirements of Sections 7702B(b) and (e), Internal Revenue Code.

[~~(154)~~] (157) "Qualified United States financial institution" means an institution that:

(a) is:

(i) organized under the laws of the United States or any state; or

(ii) in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(b) is regulated, supervised, and examined by a United States federal or state authority having regulatory authority over a bank or trust company; and

(c) meets the standards of financial condition and standing that are considered necessary and appropriate to regulate the quality of a financial institution whose letters of credit will be acceptable to the commissioner as determined by:

(i) the commissioner by rule; or

(ii) the Securities Valuation Office of the National Association of Insurance Commissioners.

[~~(155)~~] (158) (a) "Rate" means:

(i) the cost of a given unit of insurance; or

(ii) for property or casualty insurance, that cost of insurance per exposure unit either expressed as:

(A) a single number; or

(B) a pure premium rate, adjusted before the application of individual risk variations based on loss or expense considerations to account for the treatment of:

(I) expenses;

(II) profit; and

(III) individual insurer variation in loss experience.

(b) "Rate" does not include a minimum premium.

[~~(156)~~] (159) (a) [~~Except as provided in Subsection (156)(b), "rate~~] "Rate service organization" means a person who assists an insurer in rate making or filing by:

(i) collecting, compiling, and furnishing loss or expense statistics;

(ii) recommending, making, or filing rates or supplementary rate information; or

(iii) advising about rate questions, except as an attorney giving legal advice.

(b) "Rate service organization" does not [~~mean~~] include:

(i) an employee of an insurer;

(ii) a single insurer or group of insurers under common control;

(iii) a joint underwriting group; or

(iv) an individual serving as an actuarial or legal consultant.

[~~(157)~~] (160) "Rating manual" means any of the following used to determine initial and renewal policy premiums:

(a) a manual of rates;

(b) a classification;

(c) a rate-related underwriting rule; and

(d) a rating formula that describes steps, policies, and procedures for determining initial and renewal policy premiums.

[~~(158)~~] (161) (a) "Rebate" means a licensee paying, allowing, giving, or offering to pay, allow, or give, directly or indirectly:

(i) a refund of premium or portion of premium;

(ii) a refund of commission or portion of commission;

(iii) a refund of all or a portion of a consultant fee; or

(iv) providing services or other benefits not specified in an insurance or annuity contract.

(b) "Rebate" does not include:

(i) a refund due to termination or changes in coverage;

(ii) a refund due to overcharges made in error by the licensee; or

(iii) savings or wellness benefits as provided in the contract by the licensee.

[~~(159)~~] (162) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the post mark date, if delivered by mail;

(c) the delivery service's post mark or pickup date, if delivered by a delivery service;

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

[~~(160)~~] (163) "Reciprocal" or "interinsurance exchange" means an unincorporated association of persons:

(a) operating through an attorney-in-fact common to all of the persons; and

(b) exchanging insurance contracts with one another that provide insurance coverage on each other.

[~~(161)~~] (164) "Reinsurance" means an insurance transaction where an insurer, for consideration, transfers any portion of the risk it has assumed to another insurer. In referring to reinsurance transactions, this title sometimes refers to:

(a) the insurer transferring the risk as the "ceding insurer"; and

(b) the insurer assuming the risk as the:

(i) "assuming insurer"; or

(ii) "assuming reinsurer."

[~~(162)~~] (165) "Reinsurer" means a person licensed in this state as an insurer with the authority to assume reinsurance.

[~~(163)~~] (166) "Residential dwelling liability insurance" means insurance against liability resulting from or incident to the ownership, maintenance, or use of a residential dwelling that is a detached single family residence or multifamily residence up to four units.

[~~(164)~~] (167) (a) "Retrocession" means reinsurance with another insurer of a liability assumed under a reinsurance contract.

(b) A reinsurer "retrocedes" when the reinsurer reinsures with another insurer part of a liability assumed under a reinsurance contract.

[~~(165)~~] (168) "Rider" means an endorsement to:

(a) an insurance policy; or

(b) an insurance certificate.

(169) "Scope criteria" means the designated exposure bases and minimum magnitudes for a specified data year that are used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress test framework for that data year.

[~~(166)~~] (170) "Secondary medical condition" means a complication related to an exclusion from coverage in accident and health insurance.

[~~(167)~~] (171) (a) "Security" means a:

(i) note;

(ii) stock;

(iii) bond;

(iv) debenture;

(v) evidence of indebtedness;

(vi) certificate of interest or participation in a profit-sharing agreement;

(vii) collateral-trust certificate;

(viii) preorganization certificate or subscription;

(ix) transferable share;

(x) investment contract;

(xi) voting trust certificate;

(xii) certificate of deposit for a security;

(xiii) certificate of interest of participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease;

(xiv) commodity contract or commodity option;

(xv) certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any of the items listed in Subsections [~~(167)~~] (171)(a)(i) through (xiv); or

(xvi) another interest or instrument commonly known as a security.

(b) "Security" does not include:

(i) any of the following under which an insurance company promises to pay money in a specific lump sum or periodically for life or some other specified period:

(A) insurance;

(B) an endowment policy; or

(C) an annuity contract; or

(ii) a burial certificate or burial contract.

[~~(168)~~] (172) "Securityholder" means a specified person who owns a security of a person, including:

(a) common stock;

(b) preferred stock;

(c) debt obligations; and

(d) any other security convertible into or evidencing the right of any of the items listed in this Subsection [~~(168)~~] (172).

[~~(169)~~] (173) (a) "Self-insurance" means an arrangement under which a person provides for spreading [~~its own~~] the person's own risks by a systematic plan.

(b) "Self-insurance" includes:

(i) an arrangement under which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and

(ii) an arrangement under which a person with a managed program of self-insurance and risk management undertakes to indemnify the person's affiliate, subsidiary, director, officer, or employee for liability or risk that arises out of the person's relationship with the affiliate, subsidiary, director, officer, or employee.

[~~(b) Except as provided in this Subsection (169), "self-insurance"~~] (c) "Self-insurance" does not include:

(i) an arrangement under which a number of persons spread their risks among themselves[~~.~~]; or

(ii) an arrangement with an independent contractor.

[~~(c) "Self-insurance" includes:~~]

[~~(i) an arrangement by which a governmental entity undertakes to indemnify an employee for liability arising out of the employee's employment; and~~]

[~~(ii) an arrangement by which a person with a managed program of self-insurance and risk management undertakes to indemnify its affiliates,~~

~~subsidiaries, directors, officers, or employees for liability or risk that is related to the relationship or employment.~~]

[~~(d) "Self-insurance" does not include an arrangement with an independent contractor.~~]

[~~(170)~~] (174) "Sell" means to exchange a contract of insurance:

(a) by any means;

(b) for money or its equivalent; and

(c) on behalf of an insurance company.

[~~(171)~~] (175) "Short-term limited duration health insurance" means a health benefit product that:

(a) after taking into account any renewals or extensions, has a total duration of no more than 36 months; and

(b) has an expiration date specified in the contract that is less than 12 months after the original effective date of coverage under the health benefit product.

[~~(172)~~] (176) "Significant break in coverage" means a period of 63 consecutive days during each of which an individual does not have creditable coverage.

[~~(173)~~] (177) (a) "Small employer" means, in connection with a health benefit plan and with respect to a calendar year and to a plan year, an employer who:

(i) (A) employed at least one but not more than 50 eligible employees on business days during the preceding calendar year; or

(B) if the employer did not exist for the entirety of the preceding calendar year, reasonably expects to employ an average of at least one but not more than 50 eligible employees on business days during the current calendar year;

(ii) employs at least one employee on the first day of the plan year; and

(iii) for an employer who has common ownership with one or more other employers, is treated as a single employer under 26 U.S.C. Sec. 414(b), (c), (m), or (o).

(b) "Small employer" does not include an owner or a sole proprietor that does not employ at least one employee.

[~~(174)~~] (178) "Special enrollment period," in connection with a health benefit plan, has the same meaning as provided in federal regulations adopted pursuant to the Health Insurance Portability and Accountability Act.

[~~(175)~~] (179) (a) "Subsidiary" of a person means an affiliate controlled by that person either directly or indirectly through one or more affiliates or intermediaries.

(b) "Wholly owned subsidiary" of a person is a subsidiary of which all of the voting shares are owned by that person either alone or with its affiliates, except for the minimum number of shares the law of the subsidiary's domicile requires to be owned by directors or others.

[~~(176)~~] (180) Subject to Subsection [~~(91)~~] (92)(b), "surety insurance" includes:

(a) a guarantee against loss or damage resulting from the failure of a principal to pay or perform the principal's obligations to a creditor or other obligee;

(b) bail bond insurance; and

(c) fidelity insurance.

[~~(177)~~] (181) (a) "Surplus" means the excess of assets over the sum of paid-in capital and liabilities.

(b) (i) "Permanent surplus" means the surplus of an insurer or organization that is designated by the insurer or organization as permanent.

(ii) Sections 31A-5-211, 31A-7-201, 31A-8-209, 31A-9-209, and 31A-14-205 require that insurers or organizations doing business in this state maintain specified minimum levels of permanent surplus.

(iii) Except for assessable mutuals, the minimum permanent surplus requirement is the same as the minimum required capital requirement that applies to stock insurers.

(c) "Excess surplus" means:

(i) for a life insurer, accident and health insurer, health organization, or property and casualty insurer as defined in Section 31A-17-601, the lesser of:

(A) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 2.5; and

(II) the sum of the insurer's or health organization's minimum capital or permanent surplus required under Section 31A-5-211, 31A-9-209, or 31A-14-205; or

(B) that amount of an insurer's or health organization's total adjusted capital that exceeds the product of:

(I) 3.0; and

(II) the authorized control level RBC as defined in Subsection 31A-17-601(8)(a); and

(ii) for a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer that amount of an insurer's paid-in-capital and surplus that exceeds the product of:

(A) 1.5; and

(B) the insurer's total adjusted capital required by Subsection 31A-17-609(1).

[~~(178)~~] (182) "Third party administrator" or "administrator" means a person who collects charges or premiums from, or who, for consideration, adjusts or settles claims of residents of the state in connection with insurance coverage, annuities, or service insurance coverage, except:

(a) a union on behalf of its members;

(b) a person administering a:

(i) pension plan subject to the federal Employee Retirement Income Security Act of 1974;

(ii) governmental plan as defined in Section 414(d), Internal Revenue Code; or

(iii) nonelecting church plan as described in Section 410(d), Internal Revenue Code;

(c) an employer on behalf of the employer's employees or the employees of one or more of the subsidiary or affiliated corporations of the employer;

(d) an insurer licensed under the following, but only for a line of insurance for which the insurer holds a license in this state:

(i) Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(ii) Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(iv) Chapter 9, Insurance Fraternals; or

(v) Chapter 14, Foreign Insurers;

(e) a person:

(i) licensed or exempt from licensing under:

(A) Chapter 23a, Insurance Marketing – Licensing Producers, Consultants, and Reinsurance Intermediaries; or

(B) Chapter 26, Insurance Adjusters; and

(ii) whose activities are limited to those authorized under the license the person holds or for which the person is exempt; or

(f) an institution, bank, or financial institution:

(i) that is:

(A) an institution whose deposits and accounts are to any extent insured by a federal deposit insurance agency, including the Federal Deposit Insurance Corporation or National Credit Union Administration; or

(B) a bank or other financial institution that is subject to supervision or examination by a federal or state banking authority; and

(ii) that does not adjust claims without a third party administrator license.

[~~(179)~~] (183) "Title insurance" means the insuring, guaranteeing, or indemnifying of an owner of real or personal property or the holder of liens or encumbrances on that property, or others interested in the property against loss or damage suffered by reason of liens or encumbrances upon, defects in, or the unmarketability of the title to the property, or invalidity or unenforceability of any liens or encumbrances on the property.

[~~(180)~~] (184) "Total adjusted capital" means the sum of an insurer's or health organization's statutory capital and surplus as determined in accordance with:

(a) the statutory accounting applicable to the annual financial statements required to be filed under Section 31A-4-113; and

(b) another item provided by the RBC instructions, as RBC instructions is defined in Section 31A-17-601.

[~~(181)~~] (185) (a) "Trustee" means "director" when referring to the board of directors of a corporation.

(b) "Trustee," when used in reference to an employee welfare fund, means an individual, firm, association, organization, joint stock company, or corporation, whether acting individually or jointly and whether designated by that name or any other, that is charged with or has the overall management of an employee welfare fund.

[~~(182)~~] (186) (a) "Unauthorized insurer," "unadmitted insurer," or "nonadmitted insurer" means an insurer:

(i) not holding a valid certificate of authority to do an insurance business in this state; or

(ii) transacting business not authorized by a valid certificate.

(b) "Admitted insurer" or "authorized insurer" means an insurer:

(i) holding a valid certificate of authority to do an insurance business in this state; and

(ii) transacting business as authorized by a valid certificate.

[~~(183)~~] (187) "Underwrite" means the authority to accept or reject risk on behalf of the insurer.

[~~(184)~~] (188) "Vehicle liability insurance" means insurance against liability resulting from or incident to ownership, maintenance, or use of a land vehicle or aircraft, exclusive of a vehicle comprehensive or vehicle physical damage coverage [~~under~~] described in Subsection [~~(152)~~] (155).

[~~(185)~~] (189) "Voting security" means a security with voting rights, and includes a security convertible into a security with a voting right associated with the security.

[~~(186)~~] (190) "Waiting period" for a health benefit plan means the period that must pass before coverage for an individual, who is otherwise eligible to enroll under the terms of the health benefit plan, can become effective.

[~~(187)~~] (191) "Workers' compensation insurance" means:

(a) insurance for indemnification of an employer against liability for compensation based on:

(i) a compensable accidental injury; and

(ii) occupational disease disability;

(b) employer's liability insurance incidental to workers' compensation insurance and written in connection with workers' compensation insurance; and

(c) insurance assuring to a person entitled to workers' compensation benefits the compensation provided by law.

Section 4. Section 31A-2-210 is amended to read:

31A-2-210. Participation in organizations.

(1) The commissioner and the Insurance Department shall maintain close relations with the commissioners of other states and shall participate in the activities and affairs of the [~~National Association of Insurance Commissioners~~] NAIC and other organizations to the extent, in the commissioner's judgment, these activities will promote the purposes of the Insurance Code. The actual and necessary expenses incurred by this participation shall be paid out of the Insurance Department appropriation. The commissioner may not make any commitments that are not terminable on reasonable notice by the commissioner.

(2) The commissioner shall participate in or provide support for participation in a professional organization that represents states or legislatures for the purpose of preserving state jurisdiction over the business of insurance.

Section 5. Section 31A-2-403 is amended to read:

31A-2-403. Title and Escrow Commission created.

(1) (a) Subject to Subsection (1)(b), there is created within the department the Title and Escrow Commission that is comprised of five members who shall be, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, appointed by the governor with the advice and consent of the Senate as follows:

(i) except as provided in Subsection (1)(d), two members shall be employees of a title insurer;

(ii) two members shall:

(A) be employees of a Utah agency title insurance producer;

(B) be or have been licensed under the title insurance line of authority;

(C) as of the day on which the member is appointed, be or have been licensed with the title examination or escrow subline of authority for at least five years; and

(D) as of the day on which the member is appointed, not be from the same county as another member appointed under this Subsection (1)(a)(ii); and

(iii) one member shall be a member of the general public from any county in the state.

(b) No more than one commission member may be appointed from a single company or an affiliate or subsidiary of the company.

(c) No more than two commission members may be employees of an entity operating under an affiliated business arrangement, as defined in Section 31A-23a-1001.

(d) If the governor is unable to identify more than one individual who is an employee of a title insurer and willing to serve as a member of the commission, the commission shall include the following members in lieu of the members described in Subsection (1)(a)(i):

(i) one member who is an employee of a title insurer; and

(ii) one member who is an employee of a Utah agency title insurance producer.

(2) (a) Subject to Subsection (2)(c), a commission member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest, and file with the commissioner a disclosure of any position of employment or ownership interest that the commission member has with respect to a person that is subject to the jurisdiction of the commissioner.

(b) The disclosure statement required by this Subsection (2) shall be:

(i) filed by no later than the day on which the person begins that person's appointment; and

(ii) amended when a significant change occurs in any matter required to be disclosed under this Subsection (2).

(c) A commission member is not required to disclose an ownership interest that the commission member has if the ownership interest is in a publicly traded company or held as part of a mutual fund, trust, or similar investment.

(3) (a) Except as required by Subsection (3)(b), as terms of current commission members expire, the governor shall appoint each new commission member to a four-year term ending on June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment, adjust the length of terms to ensure that the terms of the commission members are staggered so that approximately half of the members appointed under Subsection (1)(a)(i) and half of the members appointed under Subsection (1)(a)(ii) are appointed every two years.

(c) A commission member may not serve more than one consecutive term.

(d) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(e) Notwithstanding the other provisions of this Subsection (3), a commission member serves until a successor is appointed by the governor with the advice and consent of the Senate.

(4) A commission member may not receive compensation or benefits for the commission member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Members of the commission shall annually select one commission member to serve as chair.

(6) (a) (i) Except as provided in Subsection (6)(b), the commission shall meet at least monthly.

(ii) (A) The commissioner shall, with the concurrence of the chair of the commission, designate [~~at least~~] one monthly meeting per [~~quarter~~] calendar year as an in-person meeting.

[~~(B) Notwithstanding Section 52-4-207, a commission member shall physically attend a meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A) and may not attend through electronic means. A commission member may attend any other commission meeting, subcommittee meeting, or emergency meeting by electronic means in accordance with Section 52-4-207.~~]

(B) A commission member may, after providing advance notice to the commissioner, attend an in-person meeting through electronic means.

(b) (i) Except as provided in Subsection (6)(b)(ii), the commissioner may, with the concurrence of the chair of the commission, cancel a monthly meeting of the commission if, due to the number or nature of pending title insurance matters, the monthly meeting is not necessary.

(ii) The commissioner may not cancel a monthly meeting designated as an in-person meeting under Subsection (6)(a)(ii)(A).

(c) The commissioner may call additional meetings:

(i) at the commissioner's discretion;

(ii) upon the request of the chair of the commission; or

(iii) upon the written request of three or more commission members.

(d) (i) Three commission members constitute a quorum for the transaction of business.

(ii) The action of a majority of the commission members when a quorum is present is the action of the commission.

(7) The commissioner shall staff the commission.

Section 6. Section 31A-4-115 is amended to read:

31A-4-115. Plan of orderly withdrawal.

(1) As used in this section, a "line of insurance" means:

(a) a general line of authority;

(b) a general line of insurance;

(c) a limited line insurance;

(d) the small employer group health benefit plan market when there is a discontinuance of all small employer health benefit plans under Subsection 31A-22-618.6(5)(e);

(e) the large employer group health benefit market when there is a discontinuance of all large employer health benefit plans under Subsection 31A-22-618.6(5)(e); or

(f) the individual health benefit plan market when there is a discontinuance of all individual health benefit plans under Subsection 31A-22-618.7(3)(e).

[~~(1) (a)~~] (2) When an insurer intends to withdraw from writing a line of insurance in this state or to reduce its total annual premium volume by 75% or more, the insurer shall file with the commissioner a plan of orderly withdrawal.

[~~(b) For purposes of this section, a discontinuance of a health benefit plan is a withdrawal from a line of insurance under Subsections 31A-22-618.6(5) or 31A-22-618.7(3).~~]

[~~(2)~~] (3) An insurer's plan of orderly withdrawal shall:

(a) indicate the date the insurer intends to:

(i) begin the withdrawal plan; and

(ii) complete [~~its~~] the withdrawal plan; and

(b) include provisions for:

(i) meeting the insurer's contractual obligations;

(ii) providing services to [~~its~~] the insurer's Utah policyholders and claimants;

(iii) meeting applicable statutory obligations; and

(iv) the payment of a withdrawal fee of $50,000 to the department if the insurer's line of [~~business~~] insurance is not assumed or placed with another insurer approved by the commissioner.

[~~(3)~~] (4) The commissioner shall approve a plan of orderly withdrawal if the plan of orderly withdrawal adequately demonstrates that the insurer will:

(a) protect the interests of the people of the state;

(b) meet the insurer's contractual obligations;

(c) provide service to the insurer's Utah policyholders and claimants; and

(d) meet applicable statutory obligations.

[~~(4)~~] (5) Section 31A-2-302 governs the commissioner's approval or disapproval of a plan for orderly withdrawal.

[~~(5)~~] (6) The commissioner may require an insurer to increase the deposit maintained in accordance with Section 31A-4-105 or Section 31A-4-105.5 and place the deposit in trust in the name of the commissioner upon finding, after an adjudicative proceeding that:

(a) there is reasonable cause to conclude that the interests of the people of the state are best served by such action; and

(b) the insurer:

(i) has filed a plan of orderly withdrawal; or

(ii) intends to:

(A) withdraw from writing a line of insurance in this state; or

(B) reduce the insurer's total annual premium volume by 75% or more.

[~~(6)~~] (7) An insurer is subject to the civil penalties under Section 31A-2-308, if the insurer:

(a) withdraws from writing a line of insurance in this state without receiving the commissioner's approval of a plan of orderly withdrawal; or

(b) reduces [~~its~~] the insurer's total annual premium volume by 75% or more in any year without receiving the commissioner's approval of a plan of orderly withdrawal.

[~~(7)~~] (8) An insurer that withdraws from writing [~~all lines~~] a line of insurance in this state may not resume writing the line of insurance in this state for five years unless the commissioner finds that the prohibition should be waived because the waiver is:

(a) in the public interest to promote competition; or

(b) to resolve inequity in the marketplace.

[~~(8)~~] (9) The commissioner shall adopt rules necessary to implement this section.

(10) This section does not apply to an insurer that places coverage with an affiliate of the insurer with the same or similar coverage.

Section 7. Section 31A-5-506 is amended to read:

31A-5-506. Conversion of a domestic mutual into a stock corporation.

(1) (a) Except as provided in Subsection (1)(b), a domestic mutual may be converted into a domestic stock corporation under Subsections (2) through (11).

(b) A domestic mutual that is affiliated with other mutuals may not be converted into a stock corporation, unless all the affiliated mutuals are converted at the same time, or the commissioner finds that the interests of the policyholders of the remaining mutuals can be permanently protected by limitations on the corporate powers of the new stock corporation or on its authority to do business, or otherwise.

(2) The board shall pass a resolution stating that the conversion is in the best interests of the policyholders. The resolution shall specify the reasons for and the purposes of the proposed conversion, and how the conversion is expected to benefit policyholders.

(3) (a) Chapter 16, Insurance Holding Companies, applies to the conversion of a domestic mutual into a stock corporation. In addition, the commissioner shall order the examination and appraisal of the corporation, unless the commissioner finds that:

(i) the resolution is defective upon its face; or

(ii) the basis or the purposes of the proposed conversion are contrary to law, to the interests of the policyholders, or to the public.

(b) The commissioner shall examine the company and all of its controlled affiliates under Section 31A-2-203 to determine their financial condition and whether they are operating in accordance with law.

(c) The commissioner shall appoint an appraisal committee, consisting of at least three qualified and disinterested persons with differing expertise, to determine the value of the corporation on the date of the resolution required by Subsection (2). Members of the appraisal committee shall receive reasonable compensation and shall be reimbursed for reasonable expenses in discharging their duties. They may employ consultants to advise them on technical problems of the appraisal, if necessary. The appraisal committee shall consider the assets and liabilities of the corporation, adjusting liabilities to take account of:

(i) the amounts of any reserves in excess of or below realistic estimates;

(ii) the value of the marketing organization;

(iii) the value of goodwill;

(iv) the going-concern value; and

(v) any other factor having an influence on the value of the corporation.

(4) When the examination and appraisal reports have been made to the commissioner, the commissioner shall make copies available to the board. The board shall then prepare and adopt by resolution a plan of conversion. The plan shall be consistent with Subsections (4)(a) through (e) and shall state how the requirements of those subsections are satisfied.

(a) The plan of conversion shall state the number of shares proposed to be authorized for the new stock corporation, their par value, if any, and the price per share at which they will be offered to policyholders. The price per share may not exceed 1/2 of the median equitable share of all policyholders under Subsection (4)(b).

(b) (i) When an insurer has the type of policies with no investment value to the policyholders, each person who has been a policyholder and has paid premiums within five years prior to the resolution under Subsection (2) is entitled, without additional payment, to as much common stock of the new stock corporation as that person's equitable share of the value of the converting corporation will purchase.

The equitable share is determined by the ratio which the net premium that person has paid to the corporation during the five years immediately preceding the resolution required by Subsection (2) bears to the total net premiums received by the corporation during the same period. The net premium is the gross premium less the return premium and dividends paid. If the equitable share would only purchase a fraction of a share of stock, the policyholder has the option of either receiving the value of the fractional share in cash or purchasing a full share by paying the balance in cash.

(ii) When an insurer has the type of policies with specifically attributable investment value to the policyholders, each policyholder is entitled, without additional payment, to as much common stock of the new stock corporation as the policyholder's investment value in the converting corporation will purchase, determined by the proportion of the policyholder's investment value to the aggregate investment values of all policyholders. If the policyholder's share would only purchase a fraction of a share of stock, the policyholder has the option of either receiving the value of the fractional share in cash or purchasing a full share by paying the balance in cash.

(c) A written offer shall be sent to each policyholder indicating the policyholder's individual equitable share and the terms upon which the policyholder may subscribe for stock.

(d) Common shares may not be subscribed by or issued to persons other than policyholders, until all subscriptions by the policyholders have been filled. After those subscriptions have been filled, any new issue of stock for five years after the conversion shall first be offered to the persons who have become shareholders under Subsection (4)(b) in proportion to their interests under Subsection (4)(b).

(e) A policyholder in a nonlife mutual may not receive a distribution of shares valued under Subsection (4)(b)(i), which distribution is greater than the amount the policyholder is entitled to under Section 31A-27a-701. Any excess over the policyholder's entitlement under Section 31A-27a-701 shall be distributed in accordance with Section 31A-27a-705.

(5) The plan of conversion shall be submitted to the commissioner for approval, together with:

(a) the proposed articles and bylaws of the new stock corporation which comply with Section 31A-5-203;

(b) any information specified under Subsection 31A-5-204(2), which the commissioner reasonably requires; and

(c) a projection of the planned or anticipated financial situation of the new corporation for five years after the conversion.

(6) The commissioner shall then hold a hearing. The notice of the hearing shall be mailed to each person who was a policyholder of the corporation on the date of the resolution required by Subsection (2). This notice shall include a copy of the plan of conversion and any comments the commissioner considers necessary to adequately inform the policyholders.

(7) The commissioner shall approve the plan of conversion unless the commissioner finds that the plan violates the law or is contrary to the interests of policyholders or the public.

(8) After approval under Subsection (7), the conversion plan shall be submitted to a vote of:

(a) for mutuals subject to Subsection (4)(b)(i), those persons who were policyholders of the mutual on the date of the resolution required by Subsection (2); or

(b) for mutuals subject to Subsection (4)(b)(ii), those persons who had investment values in their policies as of the date of the resolution required by Subsection (2).

(9) If the policyholders approve the conversion under Subsection (8), the commissioner shall issue a new certificate of authority. The issuance of the certificate is the conversion of the mutual to a stock corporation. This stock corporation is considered as being organized at the time the converted mutual was organized. Subject to the plan of conversion, the directors, officers, agents, and employees of the mutual shall continue in their same positions with the stock corporation.

(10) In the proposed conversion, the corporation may not pay any person compensation other than regular salaries to existing personnel and compensation for clerical and mailing expenses. With the commissioner's approval, the corporation may pay, at reasonable rates, for printing costs and for legal and other professional fees for services actually rendered. All expenses of the conversion, including the expenses incurred by the commissioner and the prorated salaries of any department staff members involved, shall be paid by the corporation being converted.

(11) The commissioner's approval of the plan of conversion satisfies the registration requirement of Section 31A-5-302.

(12) This section does not apply to a mutual reorganization or merger under Section 31A-16-102.6.

Section 8. Section 31A-6a-104 is amended to read:

31A-6a-104. Required disclosures.

(1) A reimbursement insurance policy insuring a service contract or a vehicle protection product warranty that is issued, sold, or offered for sale in this state shall conspicuously state that, upon failure of the service contract provider or warrantor to perform under the contract, the issuer of the policy shall:

(a) pay on behalf of the service contract provider or warrantor any sums the service contract provider or warrantor is legally obligated to pay according to the service contract provider's or warrantor's contractual obligations under the service contract or a vehicle protection product warranty issued or sold by the service contract provider or warrantor; or

(b) provide the service which the service contract provider is legally obligated to perform, according to the service contract provider's contractual obligations under the service contract issued or sold by the service contract provider.

(2) (a) A service contract may not be issued, sold, or offered for sale in this state unless the service contract contains the following statements in substantially the following form:

(i) "Obligations of the provider under this service contract are guaranteed under a service contract reimbursement insurance policy. Should the provider fail to pay or provide service on any claim within 60 days after proof of loss has been filed, the contract holder is entitled to make a claim directly against the Insurance Company.";

(ii) "This service contract or warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."; and

(iii) A service contract or reimbursement insurance policy may not be issued, sold, or offered for sale in this state unless the contract contains a statement in substantially the following form, "Coverage afforded under this contract is not guaranteed by the Property and Casualty Guaranty Association."

(b) A vehicle protection product warranty may not be issued, sold, or offered for sale in this state unless the vehicle protection product warranty contains the following statements in substantially the following form:

(i) "Obligations of the warrantor under this vehicle protection product warranty are guaranteed under a reimbursement insurance policy. Should the warrantor fail to pay on any claim within 60 days after proof of loss has been filed, the warranty holder is entitled to make a claim directly against the Insurance Company.";

(ii) "This vehicle protection product warranty is subject to limited regulation by the Utah Insurance Department. To file a complaint, contact the Utah Insurance Department."; and

(iii) as applicable:

(A) "The warrantor under this vehicle protection product warranty will reimburse the warranty holder as specified in the warranty upon the theft of the vehicle."; or

(B) "The warrantor under this vehicle protection product warranty will reimburse the warranty holder as specified in the warranty and at the end of the time period specified in the warranty if, following the theft of the vehicle, the stolen vehicle is not recovered within a time period specified in the warranty, not to exceed 30 days after the day on which the vehicle is reported stolen."

(c) A vehicle protection product warranty, or reimbursement insurance policy, may not be issued, sold, or offered for sale in this state unless the warranty contains a statement in substantially the following form, "Coverage afforded under this warranty is not guaranteed by the Property and Casualty Guaranty Association."

(3) (a) A service contract and a vehicle protection product warranty shall:

(i) conspicuously state the name, address, and a toll free claims service telephone number of the reimbursement insurer;

(ii) (A) identify the service contract provider, the seller, and the service contract holder; or

(B) identify the warrantor, the seller, and the warranty holder;

(iii) conspicuously state the total purchase price and the terms under which the service contract or warranty is to be paid;

(iv) conspicuously state the existence of any deductible amount or service fee;

(v) specify the merchandise, service to be provided, and any limitation, exception, or exclusion;

(vi) state a term, restriction, or condition governing the transferability of the service contract or warranty; and

(vii) state a term, restriction, or condition that governs cancellation of the service contract as provided in Sections 31A-21-303 through 31A-21-305 by either the contract holder or service contract provider.

(b) Beginning January 1, 2021, a service contract shall contain a conspicuous statement in substantially the following form: "Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle."

(4) If prior approval of repair work is required under a home protection service contract or a vehicle service contract, the contract shall conspicuously state the procedure for obtaining prior approval and for making a claim, including:

(a) a toll free telephone number for claim service; and

(b) a procedure for obtaining reimbursement for emergency repairs performed outside of normal business hours.

(5) A preexisting condition clause in a service contract shall specifically state which preexisting condition is excluded from coverage.

(6) (a) Except as provided in Subsection (6)(c), a service contract shall state the conditions upon which the use of a nonmanufacturers' part is allowed.

(b) A condition described in Subsection (6)(a) shall comply with applicable state and federal laws.

(c) This Subsection (6) does not apply to:

(i) a home warranty service contract; or

(ii) a service contract that does not impose an obligation to provide parts.

(7) This section applies to a vehicle protection product warranty, except for the requirements of Subsections (3)(a)(iv) and (vii), (4), (5), and (6). The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application of this section to a vehicle protection product warranty.

(8) (a) As used in this Subsection (8), "conspicuous statement" means a disclosure that:

(i) appears in all-caps, bold, and 14-point font; and

(ii) provides a space to be initialed by the consumer:

(A) immediately below the printed disclosure; and

(B) at or before the time the consumer purchases the vehicle protection product.

(b) A vehicle protection product warranty shall contain a conspicuous statement in substantially the following form: "Purchase of this product is optional and is not required in order to finance, lease, or purchase a motor vehicle."

(9) If a vehicle protection product warranty states that the warrantor will reimburse the warranty holder for incidental costs, the vehicle protection product warranty shall state how incidental costs paid under the warranty are calculated.

(10) If a vehicle protection product warranty states that the warrantor will reimburse the warranty holder in a fixed amount, the vehicle protection product warranty shall state the fixed amount.

Section 9. Section 31A-16-102.6 is enacted to read:

31A-16-102.6. Mutual insurance holding companies.

(1) As used in this section:

(a) "Intermediate holding company" means a holding company that:

(i) is a subsidiary of a mutual insurance holding company;

(ii) directly or through a subsidiary of the holding company, holds one or more subsidiary insurers, including a reorganized mutual insurer; and

(iii) if the subsidiary insurers were not held by the holding company, a majority of the voting shares of the subsidy insurers' capital stock would be required under this section to be owned by the mutual insurance holding company.

(b) "Majority of the voting shares" means the shares of a reorganized mutual insurer's capital stock that carry the right to cast a majority of the votes entitled to be cast by all of the outstanding shares of the reorganized mutual insurer's capital stock for the election of directors and other matters submitted to a vote of the reorganized mutual insurer's shareholders.

(2) (a) With the commissioner's approval, a domestic mutual insurer may reorganize by forming a mutual insurance holding company in which:

(i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the domestic mutual insurer's policyholders become membership interests in the mutual insurance holding company; and

(ii) the domestic mutual insurer is reorganized as a domestic stock insurance company.

(b) The commissioner may approve a domestic mutual insurer's reorganization if:

(i) the domestic mutual insurer's reorganization plan:

(A) properly protects the interests of the domestic mutual insurer's policyholders;

(B) is fair and equitable to the domestic mutual insurer's policyholders; and

(C) satisfies the requirements of Subsections 31A-16-103(8) through (10);

(ii) the initial shares of the reorganized domestic mutual insurer's capital stock are issued to the mutual insurance holding company or intermediate holding company; and

(iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized domestic mutual insurer's capital stock.

(3) (a) With the commissioner's approval, a foreign mutual insurer that would qualify to become a domestic insurer organized under the laws of this state may reorganize by forming a mutual insurance holding company system in which:

(i) in accordance with the mutual insurance holding company's articles of incorporation and bylaws, the membership interests of the foreign mutual insurer's policyholders become membership interests in the mutual insurance holding company; and

(ii) the foreign mutual insurer is reorganized as a foreign stock insurance company.

(b) The commissioner may approve a foreign mutual insurer's reorganization if:

(i) the foreign mutual insurer's reorganization plan:

(A) complies with any other law or rule applicable to the foreign mutual insurer;

(B) properly protects the interests of the foreign mutual insurer's policyholders;

(C) is fair and equitable to the foreign mutual insurer's policyholders; and

(D) satisfies the requirements of Subsections 31A-16-103(8) through (10);

(ii) the initial shares of the reorganized foreign mutual insurer's capital stock are issued to the mutual insurance holding company or intermediate holding company; and

(iii) at all times, the mutual insurance holding company or intermediate holding company owns a majority of the voting shares of the reorganized foreign mutual insurer's capital stock.

(c) After a merger, the reorganized foreign mutual insurer may:

(i) remain a foreign corporation; and

(ii) with the commissioner's approval, be admitted to conduct business in this state.

(d) A foreign mutual insurer that is a party to a reorganization plan may redomesticate in this state by complying with the applicable requirements of this state and the foreign mutual insurer's state of domicile.

(4) (a) As a condition of approval, the commissioner may require a mutual insurer to modify the mutual insurer's reorganization plan to protect the interests of the mutual insurer's policyholders.

(b) If the commissioner determines reasonably necessary, at the reorganizing mutual insurer's expense, the commissioner may retain a third-party consultant to assist the commissioner in reviewing the mutual insurer's reorganization plan.

(c) The commissioner has jurisdiction over a mutual insurance holding company or intermediate holding company organized in accordance with this section.

(d) Subject to the commissioner's approval, a reorganized mutual insurer or a stock insurance subsidiary within a mutual insurance company may issue a dividend or distribution to the mutual insurance holding company or intermediate holding company.

(5) (a) Subject to the provisions of this section, a mutual insurance holding company resulting from the reorganization of a domestic mutual insurer shall be incorporated in accordance with Chapter 5, Domestic Stock and Mutual Insurance Corporations.

(b) A mutual insurance holding company's articles of incorporation and bylaws are subject to commissioner's approval in the same manner as an insurance company's articles of incorporation and bylaws.

(6) (a) A mutual insurance holding company is:

(i) subject to Chapter 27a, Insurer Receivership Act; and

(ii) a party to any proceeding under Chapter 27a, Insurer Receivership Act, involving an insurer that is a subsidiary of the mutual insurance holding company as a result of a reorganization in accordance with this section.

(b) In a proceeding under Chapter 27a, Insurer Receivership Act, involving a reorganized mutual insurer, the assets of the mutual insurance holding company are assets of the estate of the reorganized mutual insurer for the purpose of satisfying the claims of the reorganized mutual insurer's policyholders.

(c) A mutual insurance holding company may be dissolved or liquidated only by:

(i) prior approval of the commissioner; or

(ii) court order in accordance with Chapter 27a, Insurer Receivership Act.

(7) (a) Section 31A-5-506 does not apply to a mutual insurer's reorganization or merger under this section.

(b) Section 31A-5-506 applies to demutualization of a mutual insurance holding company.

(8) A membership interest in a domestic mutual insurance holding company is not a security under Utah law.

(9) (a) The ownership of a majority of the voting shares of a reorganized mutual insurer's capital stock includes indirect ownership through one or more intermediate holding companies in a corporate structure approved by the commissioner.

(b) The indirect ownership described in Subsection (9)(a) may not result in the mutual insurance holding company owning less than the equivalent of the majority of the voting shares of the reorganized mutual insurer's capital stock.

(10) (a) A mutual insurance holding company or intermediate holding company may not sell, transfer, assign, pledge, encumber, hypothecate, alienate, or subject to a security interest or lien the majority of the voting shares of the reorganized mutual insurer's capital stock.

(b) An act that violates Subsection (10)(a) is void in reverse chronological order of the date the act occurred.

(c) The majority of the voting shares of the reorganized mutual insurer's capital stock are not subject to execution and levy under Utah law.

(d) The shares of the capital stock of the surviving or new company resulting from a merger or consolidation of two or more reorganized mutual insurers, or two or more intermediate holding companies that were subsidiaries of the same mutual insurance holding company, are subject to the same requirements, restrictions, and limitations described in this section that applied to the shares of the merging or consolidating reorganized mutual insurers or intermediate holding companies before the merger or consolidation.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

commissioner may make rules to implement the provisions of this section.

Section 10. Section 31A-16-105 is amended to read:

31A-16-105. Registration of insurers.

(1) (a) An insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile, if the requirements and standards are substantially similar to those contained in this section, Subsections 31A-16-106(1)(a) and (2) and either Subsection 31A-16-106(1)(b) or a statutory provision similar to the following: "Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each change or addition."

(b) An insurer that is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by June 30 of each year for the previous calendar year, unless the commissioner for good cause extends the time for registration and then at the end of the extended time period. The commissioner may require any insurer authorized to do business in the state, which is a member of a holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in Subsection (3), or any other information filed by the insurer with the insurance regulatory authority of domiciliary jurisdiction.

(2) An insurer subject to registration shall file the registration statement with the commissioner on a form and in a format prescribed by the [~~National Association of Insurance Commissioners~~] NAIC, which shall contain the following current information:

(a) the capital structure, general financial condition, and ownership and management of the insurer and any person controlling the insurer;

(b) the identity and relationship of every member of the insurance holding company system;

(c) any of the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(i) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of securities of the insurer by its affiliates;

(ii) purchases, sales, or exchanges of assets;

(iii) transactions not in the ordinary course of business;

(iv) guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(v) all management agreements, service contracts, and all cost-sharing arrangements;

(vi) reinsurance agreements;

(vii) dividends and other distributions to shareholders; and

(viii) consolidated tax allocation agreements;

(d) any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system;

(e) if requested by the commissioner, financial statements of or within an insurance holding company system, including all affiliates:

(i) which may include annual audited financial statements filed with the United States Securities and Exchange Commission pursuant to the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended; and

(ii) which request is satisfied by providing the commissioner with the most recently filed parent corporation financial statements that have been filed with the United States Securities and Exchange Commission;

(f) any other matters concerning transactions between registered insurers and any affiliates as may be included in any subsequent registration forms adopted or approved by the commissioner;

(g) statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures; and

(h) any other information required by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) All registration statements shall contain a summary outlining all items in the current registration statement representing changes from the prior registration statement.

(4) (a) No information need be disclosed on the registration statement filed pursuant to Subsection (2) if the information is not material for the purposes of this section.

(b) Unless the commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of 1%, or less, of an insurer's admitted assets as of the next preceding December 31 may not be considered material for purposes of [~~this section~~] Subsection (2).

(5) Subject to Section 31A-16-106, each registered insurer shall report to the commissioner a dividend or other distribution to shareholders within 15 business days following the declaration of the dividend or distribution.

(6) Any person within an insurance holding company system subject to registration shall provide complete and accurate information to an insurer if the information is reasonably necessary to enable the insurer to comply with the provisions of this chapter.

(7) The commissioner shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(8) The commissioner may require or allow two or more affiliated insurers subject to registration under this section to file a consolidated registration statement.

(9) The commissioner may allow an insurer which is authorized to do business in this state, and which is part of an insurance holding company system, to register on behalf of any affiliated insurer which is required to register under Subsection (1) and to file all information and material required to be filed under this section.

(10) This section does not apply to any insurer, information, or transaction if, and to the extent that, the commissioner by rule or order exempts the insurer from this section.

(11) Any person may file with the commissioner a disclaimer of affiliation with any authorized insurer, or a disclaimer of affiliation may be filed by any insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. A disclaimer of affiliation is considered to have been granted unless the commissioner, within 30 days following receipt of a complete disclaimer, notifies the filing party the disclaimer is disallowed. If disallowed, the disclaiming party may request an administrative hearing, which shall be granted. The disclaiming party shall be relieved of its duty to register under this section if approval of the disclaimer is granted by the commissioner, or if the disclaimer is considered to have been approved.

(12) The ultimate controlling person of an insurer subject to registration shall also file an annual enterprise risk report. The annual enterprise risk report shall, to the best of the ultimate controlling person's knowledge and belief, identify the material risks within the insurance holding company that could pose enterprise risk to the insurer. The annual enterprise risk report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the [~~National Association of Insurance Commissioners~~] NAIC.

(13) (a) The ultimate controlling person of an insurer subject to registration shall concurrently file with the registration an annual group capital calculation report as directed by the lead state commissioner.

(b) The annual group capital calculation report described in Subsection (13)(a) shall be filed with the lead state commissioner of the insurance holding company system as determined by the commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC.

(c) Subject to Subsections (13)(d) and (e), the following insurance holding company systems are exempt from filing the annual group capital calculation report described in Subsection (13)(a):

(i) an insurance holding company system that:

(A) has only one insurer within the insurance holding company's structure;

(B) writes business and is licensed only in the insurance holding company system's domestic state; and

(C) assumes no business from any other insurer;

(ii) an insurance holding company system that is required to perform a group capital calculation specified by the United States Federal Reserve Board unless:

(A) the lead state commissioner requests the calculation from the Federal Reserve Board under the terms of information sharing agreements in effect; and

(B) the Federal Reserve Board cannot share the calculation with the lead state commissioner;

(iii) an insurance holding company system whose non-United States group-wide supervisor is located within a reciprocal jurisdiction as described in Subsection 31A-17-404(8) that recognizes the United States' state regulatory approach to group supervision and group capital; and

(iv) an insurance holding company system:

(A) that provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the group-wide supervisor, who has determined the information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook; and

(B) whose non-United States group-wide supervisor that is not located in a reciprocal jurisdiction recognizes and accepts, as specified by the lead state commissioner in regulation, the group capital calculation as the world-wide group capital assessment for United States insurance groups that operate in that jurisdiction.

(d) If, after consultation with other supervisors or officials, the lead state commissioner determines appropriate for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace, the lead state commissioner shall require the group capital calculation for United States operations of any non-United States based insurance holding company system.

(e) The lead state commissioner may:

(i) exempt the ultimate controlling person from filing the annual group capital calculation; or

(ii) accept a limited group capital filing or report in accordance with criteria as specified by the lead state commissioner in regulation.

(f) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this section, the insurance holding company system shall file the group capital calculation at the next annual filing date unless the lead state commissioner gives an extension based on reasonable grounds.

(14) (a) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test.

(b) The filing described in Subsection (14)(a) shall be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(c) Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year in which the change is adopted.

(d) Insurers meeting at least one threshold of the NAIC liquidity stress test framework's scope criteria are scoped into the NAIC liquidity stress test framework for the specified data year unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or the NAIC Financial Stability Task Force's successor, determines the insurer should not be scoped into the NAIC liquidity stress test framework for that data year.

(e) Insurers that do not meet at least one threshold of the NAIC liquidity stress test framework's scope criteria are scoped out of the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or the NAIC Financial Stability Task Force's successor, determines the insurer should be scoped into the NAIC liquidity stress test framework for that data year.

(f) To avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis, the lead state insurance commissioner, in consultation with the Financial Stability Task Force or the NAIC Financial Stability Task Force's successor, shall assess this concern as part of the lead state insurance commissioner's determination of whether an insurer is scoped into the NAIC liquidity stress test framework for a specified data year.

(g) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with:

(i) the NAIC liquidity stress test framework instructions and reporting templates for that year; and

(ii) lead state insurance commissioner determinations made in conjunction with the NAIC Financial Stability Task Force or the NAIC Financial Stability Task Force's successor, provided within the NAIC liquidity stress test framework.

[~~(13)~~] (15) The failure to file a registration statement or any summary of the registration statement or enterprise risk filing required by this section within the time specified for the filing is a violation of this section.

Section 11. Section 31A-16-106 is amended to read:

31A-16-106. Standards and management of an insurer within a holding company system.

(1) (a) Transactions within an insurance holding company system to which an insurer subject to registration is a party are subject to the following standards:

(i) the terms shall be fair and reasonable;

(ii) agreements for cost sharing services and management shall include the provisions required by rule made by the commissioner in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(iii) charges or fees for services performed shall be reasonable;

(iv) expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(v) the books, accounts, and records of each party to all transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including the accounting information necessary to support the reasonableness of the charges or fees to the respective parties; [~~and~~]

(vi) the insurer's surplus held for policyholders, following any dividends or distributions to shareholder affiliates, shall be reasonable in relation to the insurer's outstanding liabilities and shall be adequate to its financial needs[~~.~~];

(vii) the commissioner may require the insurer to secure and maintain a deposit held by the commissioner or a bond, as determined by the insurer at the insurer's discretion, in an amount determined by the commissioner not to exceed the value of the agreement in any one year, if the commissioner:

(A) determines that the insurer is in a hazardous financial condition under Title 31A, Chapter 27a, Insurer Receivership Act, or a condition that would warrant a delinquency proceeding under Title 31A, Chapter 27a, Insurer Receivership Act; and

(B) believes that the insurers' affiliate may be unable to fulfill an agreement with the insurer if the insurer were put into liquidation;

(viii) all insurer records and data held by an affiliate:

(A) are the insurer's property;

(B) are subject to the insurer's control;

(C) are identifiable;

(D) are segregated or readily capable of segregation, at no additional cost to the insurer, from all other records and data;

(E) shall be provided to a receiver, at the insurer's request, including any information, software, licensing agreement, release, waiver, or any other thing required to access the records and data; and

(F) may be restricted in use by the affiliate if the affiliate is not operating the insurer's business; and

(ix) (A) all funds belonging to the insurer that an affiliate collects or holds are the exclusive property of the insurer and subject to the control of the insurer; and

(B) if the insurer is placed into receivership, any right of offset against the funds is subject to Title 31A, Chapter 27a, Insurance Receivership Act.

(b) The following transactions involving a domestic insurer and any person in its insurance holding company system, including amendments or modifications of affiliate agreements previously filed pursuant to this section, which are subject to any materiality standards contained in Subsections (1)(a)(i) through (vi), may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into the transaction at least 30 days before entering into the transaction, or within any shorter period the commissioner may permit, if the commissioner has not disapproved the transaction within the period. The notice for an amendment or modification shall include the reasons for the change and financial impact on the domestic insurer. Informal notice shall be reported, within 30 days after a termination of a previously filed agreement, to the commissioner for determination of the type of filing required, if any:

(i) sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments if the transactions are equal to, or exceed as of the next preceding December 31:

(A) for nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus held for policyholders;

(B) for life insurers, 3% of the insurer's admitted assets;

(ii) loans or extensions of credit made to any person who is not an affiliate, if the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit if the transactions are equal to, or exceed as of the next preceding December 31:

(A) for nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus held for policyholders;

(B) for life insurers, 3% of the insurer's admitted assets;

(iii) reinsurance agreements or modifications to reinsurance agreements, including an agreement in which the reinsurance premium, a change in the insurer's liabilities, or the projected reinsurance premium or a change in the insurer's liabilities in any of the current and succeeding three years, equals or exceeds 5% of the insurer's surplus held for policyholders, as of the next preceding December 31, including those agreements that may require as consideration the transfer of assets from an insurer to a non-affiliate, if an agreement or understanding exists between the insurer and the non-affiliate that any portion of the assets will be transferred to one or more affiliates of the reinsurer;

(iv) all management agreements, service contracts, tax allocation agreements, and all cost-sharing arrangements;

(v) guarantees when made by a domestic insurer, except that:

(A) a guarantee that is quantifiable as to amount is not subject to the notice requirements of this Subsection (1) unless it exceeds the lesser of .5% of the insurer's admitted assets or 10% of surplus held for policyholders, as of the next preceding December 31; and

(B) a guarantee that is not quantifiable as to amount is subject to the notice requirements of this Subsection (1);

(vi) direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that, together with its present holdings in the investments, exceeds 2.5% of the insurer's surplus to policyholders, except that a direct or indirect acquisition or investment in a subsidiary acquired pursuant to Section 31A-16-102.5, or in a non-subsidiary insurance affiliate that is subject to this chapter, is exempt from this Subsection (1)(b)(vi);

(vii) any material transactions, specified by rule, which the commissioner determines may adversely affect the interests of the insurer's policyholders; and

(viii) this Subsection (1) may not be interpreted to authorize or permit any transactions which would be otherwise contrary to law in the case of an insurer not a member of the same holding company system.

(c) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of the separate transactions is to avoid the statutory threshold amount and thus to avoid the review by the commissioner that would occur otherwise. If the commissioner determines that the separate transactions were entered into over any 12 month period for such a purpose, the commissioner may exercise the commissioner's authority under Section 31A-16-110.

(d) The commissioner, in reviewing transactions pursuant to Subsection (1)(b), shall consider whether the transactions comply with the standards set forth in Subsection (1)(a) and whether they may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation, if the total investment in the corporation by the insurance holding company system exceeds 10% of the corporation's voting securities.

(2) (a) A domestic insurer may not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(i) 30 days after the commissioner has received notice of the declaration of the dividend and has not within the 30-day period disapproved the payment; or

(ii) the commissioner has approved the payment within the 30-day period.

(b) For purposes of this Subsection (2), an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, fair market value of which, together with that of other dividends or distributions made within the preceding 12 months, exceeds the lesser of:

(i) 10% of the insurer's surplus held for policyholders as of the next preceding December 31;

(ii) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the next preceding December 31; or

(iii) an extraordinary dividend does not include pro rata distributions of any class of the insurer's own securities.

(c) In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

(d) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution, which is conditioned upon the commissioner's approval of the dividend or distribution, and the declaration shall confer no rights upon shareholders until:

(i) the commissioner has approved the payment of the dividend or distribution; or

(ii) the commissioner has not disapproved the payment within the 30-day period referred to in Subsection (2)(a).

(3) (a) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer may not be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this chapter.

(b) Nothing in this section precludes a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of Subsection (1)(a).

(c) (i) Not less than one-third of the directors of a domestic insurer, and not less than one-third of the members of each committee of the board of directors of a domestic insurer, shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity.

(ii) At least one person described in Subsection (3)(c)(i) shall be included in a quorum for the transaction of business at a meeting of the board of directors or a committee of the board of directors.

(d) Subsection (3)(c) does not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees of the board of directors that meet the requirements of Subsection (3)(c) with respect to the controlling entity.

(e) An insurer may make application to the commissioner for a waiver from the requirements of this Subsection (3) if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than $300,000,000. An insurer may also make application to the commissioner for a waiver from the requirements of this Subsection (3) based upon unique circumstances. The commissioner may consider various factors, including:

(i) the type of business entity;

(ii) the volume of business written;

(iii) the availability of qualified board members; or

(iv) the ownership or organizational structure of the entity.

(4) (a) For purposes of this chapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs, the following factors, among others, shall be considered:

(i) the size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;

(ii) the extent to which the insurer's business is diversified among several lines of insurance;

(iii) the number and size of risks insured in each line of business;

(iv) the extent of the geographical dispersion of the insurer's insured risks;

(v) the nature and extent of the insurer's reinsurance program;

(vi) the quality, diversification, and liquidity of the insurer's investment portfolio;

(vii) the recent past and projected future trend in the size of the insurer's investment portfolio;

(viii) the surplus as regards policyholders maintained by other comparable insurers;

(ix) the adequacy of the insurer's reserves; and

(x) the quality and liquidity of investments in affiliates.

(b) The commissioner may treat an investment described in Subsection (4)(a)(x) as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in the judgment of the commissioner the investment so warrants.

Section 12. Section 31A-16-109 is amended to read:

31A-16-109. Confidentiality of information obtained by commissioner.

(1) (a) Documents, materials, or information obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made under Section 31A-16-107.5, and all information reported or provided to the department under Section 31A-16-105 or 31A-16-108.6, is proprietary, contains trade secrets, and is confidential.

(b) Any confidential document, material, or information described in Subsection (1)(a) is not subject to subpoena and may not be made public by the commissioner or any other person without the permission of the insurer, except the confidential document, material, or information may be provided to the insurance departments of other states, without the prior written consent of the insurer to which the confidential document, material, or information pertains.

(c) The commissioner shall maintain the confidentiality of the following received in accordance with Section 31A-16-105 from an insurance holding company supervised by the Federal Reserve Board or any United States group-wide supervisor:

(i) a group capital calculation;

(ii) a group capital ratio produced within the group capital calculation; or

(iii) group capital information.

(d) The commissioner shall maintain the confidentiality of the liquidity stress test results, supporting disclosures, and any liquidity stress test information received in accordance with Section 31A-16-105 from an insurance holding company supervised by the Federal Reserve Board and non-United States group-wide supervisors.

(2) The commissioner and any person who receives documents, materials, or other information while acting under the authority of the commissioner or with whom the documents, materials, or other information are shared pursuant to this chapter shall keep confidential any confidential documents, materials, or information subject to Subsection (1).

(3) [~~(a)~~] To assist in the performance of the commissioner's duties, the commissioner:

[~~(i)~~] (a) may share documents, materials, proprietary and trade secret documents, or other information, including the confidential documents, materials, or information subject to Subsection (1), with the following if the recipient agrees in writing to maintain the confidentiality status of the document, material, or other information, and has verified in writing the legal authority to maintain confidentiality:

[~~(A)~~] (i) a state, federal, or international regulatory agency;

[~~(B)~~] (ii) the [~~National Association of Insurance Commissioners or an NAIC affiliate or subsidiary; or~~] NAIC;

(iii) a third-party consultant designated by the commissioner; or

[~~(C)~~] (iv) a state, federal, or international law enforcement authority, including a member of a supervisory college described in Section 31A-16-108.5;

[~~(ii)~~] (b) notwithstanding Subsection (1), may only share confidential documents, material, or information reported pursuant to Section 31A-16-105 or 31A-16-108.6 with a commissioner of a state having statutes or regulations substantially similar to Subsection (1) and who has agreed in writing not to disclose the documents, material, or information;

[~~(iii)~~] (c) may receive documents, materials, proprietary and trade secret information, or other information, including otherwise confidential documents, materials, or information from:

[~~(A)~~] (i) the [~~National Association of Insurance Commissioners~~] NAIC or an NAIC affiliate or subsidiary; or

[~~(B)~~] (ii) a regulatory or law enforcement official of a foreign or domestic jurisdiction;

[~~(iv)~~] (d) shall maintain as confidential any document, material, or information received under this section with notice or the understanding that it is confidential under the laws of the jurisdiction that is the source of the document, material, or information; and

[~~(v)~~] (e) shall enter into written agreements with the [~~National Association of Insurance~~

~~Commissioners~~] NAIC or a third-party consultant designated by the commissioner governing sharing and use of information provided pursuant to this chapter consistent with this Subsection (3) that shall:

[~~(A)~~] (i) specify procedures and protocols regarding the confidentiality and security of information shared with the [~~National Association of Insurance Commissioners~~] NAIC and NAIC affiliates and subsidiaries pursuant to this chapter, including procedures and protocols for sharing by the [~~National Association of Insurance Commissioners~~] NAIC with other state, federal, or international regulators;

[~~(B)~~] (ii) specify that ownership of information shared with the [~~National Association of Insurance Commissioners~~] NAIC and NAIC affiliates and subsidiaries pursuant to this chapter remains with the commissioner and the [~~National Association of Insurance Commissioner's~~] NAIC's use of the information is subject to the direction of the commissioner;

[~~(C)~~] (iii) require prompt notice to be given to an insurer whose confidential information in the possession of the [~~National Association of Insurance Commissioners~~] NAIC pursuant to this chapter is subject to a request or subpoena to the [~~National Association of Insurance Commissioners~~] NAIC for disclosure or production; and

[~~(D)~~] (iv) require the [~~National Association of Insurance Commissioners~~] NAIC and NAIC affiliates and subsidiaries to consent to intervention by an insurer in any judicial or administrative action in which the [~~National Association of Insurance Commissioners~~] NAIC and NAIC affiliates and subsidiaries may be required to disclose confidential information about the insurer shared with the [~~National Association of Insurance Commissioners~~] NAIC and NAIC affiliates and subsidiaries pursuant to this chapter.

(4) The sharing of information by the commissioner pursuant to this chapter does not constitute a delegation of regulatory authority or rulemaking, and the commissioner is solely responsible for the administration, execution, and enforcement of this chapter.

(5) A waiver of any applicable claim of confidentiality in the documents, materials, or information does not occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in Subsection (3).

(6) Documents, materials, or other information in the possession or control of the [~~National Association of Insurance Commissioners~~] NAIC pursuant to this chapter are:

(a) confidential, not public records, and not open to public inspection; and

(b) not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

(7) (a) The group capital calculation, including the resulting group capital ratio, and the liquidity stress test, including the liquidity stress test results and supporting disclosures, are:

(i) regulatory tools for assessing risk and capital adequacy; and

(ii) not a method to rank insurers or insurance holding company systems generally.

(b) Except as provided in Subsection (7)(c), an insurer, broker, or other person engaged in the business of insurance may not make, disseminate, or circulate to the public a materially false or misleading statement relating to an insurer's or insurer group's, or a component of an insurer's or insurer group's:

(i) group capital calculation;

(ii) group capital ratio;

(iii) liquidity stress test results; or

(iv) liquidity stress test supporting disclosures.

(c) If an insurer provides to the commissioner substantial proof that a statement described in Subsection (7)(b) is materially false or misleading, the insurer may publish an announcement in a written publication for the sole purpose of rebutting the materially false or misleading statement.

Section 13. Section 31A-17-408 is amended to read:

31A-17-408. Title insurance reserves.

(1) In addition to an adequate reserve for outstanding losses, a title insurance company shall either:

(a) maintain and segregate an unearned premium reserve fund of not less than 10 cents for each $1,000 face amount of retained liability under each title insurance contract or policy on a single insurance risk issued; or

(b) have the commissioner review and approve a contract of reinsurance applicable to the title insurance company's policies, which contract adequately covers the exposure or risk which the unearned premium reserve would serve.

(2) The fund shall be maintained for the protection of policyholders and is not subject to the claims of stockholders or creditors other than policyholders.

(3) The title insurance company may release the fund in accordance with the standards of the NAIC Accounting Practices and Procedures Manual.

Section 14. Section 31A-17-601 is amended to read:

31A-17-601. Definitions.

As used in this part:

(1) "Adjusted RBC report" means an RBC report that has been adjusted by the commissioner in accordance with Subsection 31A-17-602(5).

(2) "Corrective order" means an order issued by the commissioner specifying corrective action that the commissioner determines is required.

(3) "Health organization" means:

(a) an entity that is authorized under Chapter 7, Nonprofit Health Service Insurance Corporations, or Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(b) that is:

(i) a health maintenance organization;

(ii) a limited health service organization;

(iii) a dental or vision plan;

(iv) a hospital, medical, and dental indemnity or service corporation; or

(v) other managed care organization.

(4) "Life or accident and health insurer" means:

(a) an insurance company licensed to write life insurance, [~~disability~~] accident and health insurance, or both; or

(b) a licensed property casualty insurer writing only disability insurance.

(5) "Property and casualty insurer" means any insurance company licensed to write lines of insurance other than life but does not include a monoline mortgage guaranty insurer, financial guaranty insurer, or title insurer.

(6) "RBC" means risk-based capital.

(7) "RBC instructions" means the RBC report including the National Association of Insurance Commissioner's risk-based capital instructions that govern the year for which an RBC report is prepared.

(8) "RBC level" means an insurer's or health organization's authorized control level RBC, company action level RBC, mandatory control level RBC, or regulatory action level RBC.

(a) "Authorized control level RBC" means the number determined under the risk-based capital formula in accordance with the RBC instructions;

(b) "Company action level RBC" means the product of 2.0 and its authorized control level RBC;

(c) "Mandatory control level RBC" means the product of .70 and the authorized control level RBC; and

(d) "Regulatory action level RBC" means the product of 1.5 and its authorized control level RBC.

(9) (a) "RBC plan" means a comprehensive financial plan containing the elements specified in Subsection 31A-17-603(2).

(b) Notwithstanding Subsection (9)(a), the plan is a "revised RBC plan" if:

(i) the commissioner rejects the RBC plan; and

(ii) the plan is revised by the insurer or health organization, with or without the commissioner's recommendation.

(10) "RBC report" means the report required in Section 31A-17-602.

Section 15. Section 31A-21-201 is amended to read:

31A-21-201. Filing of forms.

(1) (a) Except as exempted under Subsections 31A-21-101(2) through (6), a form may not be used, sold, or offered for sale until the form is filed with the commissioner.

(b) A form is considered filed with the commissioner when the commissioner receives:

(i) the form;

(ii) the applicable filing fee as prescribed under Section 31A-3-103; and

(iii) the applicable transmittal forms as required by the commissioner.

(2) In filing a form for use in this state the insurer is responsible for assuring that the form is in compliance with this title and rules adopted by the commissioner.

(3) (a) The commissioner may prohibit the use of a form at any time upon a finding that:

(i) the form:

(A) is inequitable;

(B) is unfairly discriminatory;

(C) is misleading;

(D) is deceptive;

(E) is obscure;

(F) is unfair;

(G) encourages misrepresentation; or

(H) is not in the public interest;

(ii) the form provides benefits or contains another provision that endangers the solidity of the insurer;

(iii) except for a life or accident and health insurance policy form, the form is an insurance policy or application for an insurance policy, that fails to conspicuously provide:

(A) the exact name of the insurer; and

(B) the state of domicile of the insurer filing the insurance policy or application for the insurance policy;

(iv) except an application required by Section 31A-22-635, the form is a life or accident and health insurance [~~policy~~] form that fails to conspicuously provide:

(A) the exact name of the insurer;

(B) the state of domicile of the insurer [~~filing the insurance policy or application for the insurance policy~~]; and

(C) for a life insurance policy only, the address of the administrative office of the insurer filing the form;

(v) the form violates a statute or a rule adopted by the commissioner; or

(vi) the form is otherwise contrary to law.

(b) (i) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may order that, on or before a date not less than 15 days after the day on which the commissioner issues the order, the use of the form be discontinued.

(ii) Once use of a form is prohibited, the form may not be used until appropriate changes are filed with and reviewed by the commissioner.

(iii) When the commissioner prohibits the use of a form under Subsection (3)(a), the commissioner may require the insurer to disclose contract deficiencies to the existing policyholders.

(c) If the commissioner prohibits use of a form under this Subsection (3), the prohibition shall:

(i) be in writing;

(ii) constitute an order; and

(iii) state the reasons for the prohibition.

(4) (a) If, after a hearing, the commissioner determines that it is in the public interest, the commissioner may require by rule or order that a form be subject to the commissioner's approval before an insurer uses the form.

(b) The rule or order described in Subsection (4)(a) shall prescribe the filing procedures for a form if the procedures are different from the procedures stated in this section.

(c) The type of form that under Subsection (4)(a) the commissioner may require approval of before use includes:

(i) a form for a particular class of insurance;

(ii) a form for a specific line of insurance;

(iii) a specific type of form; or

(iv) a form for a specific market segment.

(5) (a) An insurer shall maintain a complete and accurate record of the following for the time period described in Subsection (5)(b):

(i) a form:

(A) filed under this section for use; or

(B) that is in use; and

(ii) a document filed under this section with a form described in Subsection (5)(a)(i).

(b) The insurer shall maintain a record required under Subsection (5)(a) for the balance of the current year, plus five years from:

(i) the last day on which the form is used; or

(ii) the last day an insurance policy that is issued using the form is in effect.

Section 16. Section 31A-21-303 is amended to read:

31A-21-303. Cancellation, issuance, and renewal.

(1) (a) Except as otherwise provided in this section, other statutes, or by rule under Subsection (1)(c), this section applies to all policies of insurance:

(i) except for:

(A) life insurance;

(B) accident and health insurance; and

(C) annuities; and

(ii) if the policies of insurance are issued on forms that are subject to filing under Subsection 31A-21-201(1).

(b) A policy may provide terms more favorable to insureds than this section requires.

(c) The commissioner may by rule totally or partially exempt from this section classes of insurance policies in which the insureds do not need protection against arbitrary or unannounced termination.

(d) The rights provided by this section are in addition to and do not prejudice any other rights the insureds may have at common law or under other statutes.

(2) (a) As used in this Subsection (2), "grounds" means:

(i) material misrepresentation;

(ii) substantial change in the risk assumed, unless the insurer should reasonably have foreseen the change or contemplated the risk when entering into the contract;

(iii) substantial breaches of contractual duties, conditions, or warranties;

(iv) attainment of the age specified as the terminal age for coverage, in which case the insurer may cancel by notice under Subsection (2)(c), accompanied by a tender of proportional return of premium; or

(v) in the case of motor vehicle insurance, revocation or suspension of the driver's license of:

(A) the named insured; or

(B) any other person who customarily drives the motor vehicle.

(b) (i) Except as provided in Subsection (2)(e) or unless the conditions of Subsection (2)(b)(ii) are met, an insurance policy may not be canceled by the insurer before the earlier of:

(A) the expiration of the agreed term; or

(B) one year from the effective date of the policy or renewal.

(ii) Notwithstanding Subsection (2)(b)(i), an insurance policy may be canceled by the insurer for:

(A) nonpayment of a premium when due; or

(B) on grounds defined in Subsection (2)(a).

(c) (i) The cancellation provided by Subsection (2)(b), except cancellation for nonpayment of premium, is effective no sooner than 30 days after the delivery or first-class mailing of a written notice to the policyholder.

(ii) Cancellation for nonpayment of premium of a personal lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to the policyholder.

(iii) Cancellation for nonpayment of premium of a commercial lines policy is effective no sooner than 10 days after delivery or first-class mailing of a written notice to:

(A) the policyholder;

(B) each assignee of the policyholder, if the assignee is named in the policy; and

(C) each loss payee or mortgagee or lienholder under property insurance of the policyholder, if the loss payee, mortgagee, or lienholder is named in the policy.

(iv) An insurer shall deliver or send by first-class mail a copy of the notice of cancellation for nonpayment of premium described in Subsection (2)(c)(iii) to an agent of record of the policyholder on or before the day on which the insurer provides the notice to the policyholder.

(d) (i) Notice of cancellation for nonpayment of premium shall include a statement of the reason for cancellation.

(ii) Subsection (7) applies to the notice required for grounds of cancellation other than nonpayment of premium.

(e) (i) Subsections (2)(a) through (d) do not apply to any insurance contract that has not been previously renewed if the contract has been in effect less than 60 days on the day on which the written notice of cancellation is mailed or delivered.

(ii) A cancellation under this Subsection (2)(e) may not be effective until at least 10 days after the day on which a written notice of cancellation is delivered to the insured.

(iii) If the notice required by this Subsection (2)(e) is sent by first-class mail, postage prepaid, to the insured at the insured's last-known address, delivery is considered accomplished after the passing, since the mailing date, of the mailing time specified in the Utah Rules of Civil Procedure.

(iv) A policy cancellation subject to this Subsection (2)(e) is not subject to the procedures described in Subsection (7).

(3) A policy may be issued for a term longer than one year or for an indefinite term if the policy includes a clause providing for cancellation by the insurer by giving notice as provided in Subsection (4)(b)(i) 30 days before an anniversary date.

(4) (a) Subject to Subsections (2), (3), and (4)(b), a policyholder has a right to have the policy renewed:

(i) on the terms then being applied by the insurer to similar risks; and

(ii) (A) for an additional period of time equivalent to the expiring term if the agreed term is one year or less; or

(B) for one year if the agreed term is longer than one year.

(b) Except as provided in Subsections (4)(c) and (5), the right to renewal under Subsection (4)(a) is extinguished if:

(i) at least 30 days before the day on which the policy expires or completes an anniversary, the insurer delivers or sends by first-class mail a notice of intention not to renew the policy beyond the agreed expiration or anniversary date to the policyholder at the policyholder's last-known address;

(ii) not more than 45 nor less than 14 days before the day on which the renewal premium is due, the insurer delivers or sends by first-class mail a notice to the policyholder at the policyholder's last-known address, clearly stating:

(A) the renewal premium;

(B) how the renewal premium may be paid, including the due date for payment of the renewal premium;

(C) that failure to pay the renewal premium extinguishes the policyholder's right to renewal; and

(D) subject to Subsection (4)(e), that the extinguishment of the right to renew for nonpayment of premium is effective no sooner than at least 10 days after delivery or first-class mailing of a written notice to the policyholder that the policyholder has failed to pay the premium when due;

(iii) the policyholder has:

(A) accepted replacement coverage; or

(B) requested or agreed to nonrenewal; or

(iv) the policy is expressly designated as nonrenewable.

(c) Unless the conditions of Subsection (4)(b)(iii) or (iv) apply, an insurer may not fail to renew an insurance policy as a result of a telephone call or other inquiry that:

(i) references a policy coverage; and

(ii) does not result in the insured requesting payment of a claim.

(d) Failure to renew under this Subsection (4) is subject to Subsection (5).

(e) (i) (A) If the policy is a personal lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (4)(b)(ii)(D) and ends when the premium is paid, coverage exists and premiums are due.

(B) If the policy is a commercial lines policy, during the period that begins when an insurer delivers or sends by first-class mail the notice described in Subsection (2)(c)(iii) and ends when the premium is paid, coverage exists and premiums are due.

(ii) (A) If after receiving the notice required by Subsection (4)(b)(ii)(D) a personal lines policyholder fails to pay the renewal premium, the coverage is extinguished as of the date the renewal premium is originally due.

(B) If after receiving the notice required under Subsection (2)(c)(iii), a commercial lines policyholder fails to pay the renewal premium within the 10 days before the day on which cancellation for nonpayment is effective, the coverage is extinguished as of the day on which the renewal premium is originally due.

(iii) Delivery of the notice required by Subsection (2)(c)(iii), (2)(c)(iv), or (4)(b)(ii)(D) includes electronic delivery in accordance with Section 31A-21-316.

(iv) An insurer is not subject to Subsection (4)(b)(ii)(D) if:

(A) the insurer provides notice of the extinguishment of the right to renew for failure to pay premium at least 15 days, but no longer than 45 days, before the day on which the renewal payment is due; and

(B) the policy is a personal lines policy.

(v) Subsection (4)(b)(ii)(D) does not apply to a policy that provides coverage for 30 days or less.

(5) Notwithstanding Subsection (4), an insurer may not fail to renew the following personal lines insurance policies solely on the basis of:

(a) in the case of a motor vehicle insurance policy:

(i) a claim from the insured that:

(A) results from an accident in which:

(I) the insured is not at fault; and

(II) the driver of the motor vehicle that is covered by the motor vehicle insurance policy is 21 years of age or older; and

(B) is the only claim meeting the condition of Subsection (5)(a)(i)(A) within a 36-month period;

(ii) a single traffic violation by an insured that:

(A) is a violation of a speed limit under Title 41, Chapter 6a, Traffic Code;

(B) is not in excess of 10 miles per hour over the speed limit;

(C) is not a traffic violation under:

(I) Section 41-6a-601;

(II) Section 41-6a-604; or

(III) Section 41-6a-605;

(D) is not a violation by an insured driver who is younger than 21 years of age; and

(E) is the only violation meeting the conditions of Subsections (5)(a)(ii)(A) through (D) within a 36-month period; or

(iii) a claim for damage that:

(A) results solely from:

(I) wind;

(II) hail;

(III) lightning; or

(IV) an earthquake;

(B) is not preventable by the exercise of reasonable care; and

(C) is the only claim meeting the conditions of Subsections (5)(a)(iii)(A) and (B) within a 36-month period; and

(b) in the case of a homeowner's insurance policy, a claim by the insured that is for damage that:

(i) results solely from:

(A) wind;

(B) hail; or

(C) lightning;

(ii) is not preventable by the exercise of reasonable care; and

(iii) is the only claim meeting the conditions of Subsections (5)(b)(i) and (ii) within a 36-month period.

(6) (a) (i) Subject to Subsection (6)(b), if the insurer offers or purports to renew the policy, but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer delivered or sent by first-class mail to the policyholder notice of the new terms or rates at least 30 days before the day on which the previous policy expires.

(ii) If the insurer did not give the prior notification described in Subsection (6)(a)(i) to the policyholder, the new terms or rates do not take effect until 30 days after the day on which the insurer delivers or sends by first-class mail the notice, in which case the policyholder may elect to cancel the renewal policy at any time during the 30-day period.

(iii) Return premiums or additional premium charges shall be calculated proportionately on the basis that the old rates apply.

(b) Except as provided in Subsection (6)(c), Subsection (6)(a) does not apply if the only change in terms that is adverse to the policyholder is:

(i) a rate increase generally applicable to the class of business to which the policy belongs;

(ii) a rate increase resulting from a classification change based on the altered nature or extent of the risk insured against; or

(iii) a policy form change made to make the form consistent with Utah law.

(c) Subsections (6)(b)(i) and (ii) do not apply to a rate increase of 25% or more on a commercial policy.

(7) (a) If a notice of cancellation or nonrenewal under Subsection (2)(c) does not state with reasonable precision the facts on which the insurer's decision is based, the insurer shall send by first-class mail or deliver that information within 10 working days after receipt of a written request by the policyholder.

(b) A notice under Subsection (2)(c) is not effective unless it contains information about the policyholder's right to make the request.

(8) (a) An insurer that gives a notice of nonrenewal or cancellation of insurance on a motor vehicle insurance policy issued in accordance with the requirements of Chapter 22, Part 3, Motor Vehicle Insurance, for nonpayment of a premium shall provide notice of nonrenewal or cancellation to a lienholder if the insurer has been provided the name and mailing address of the lienholder.

(b) An insurer shall provide the notice described in Subsection (8)(a) to the lienholder by first-class mail or, if agreed by the parties, any electronic means of communication.

(c) A lienholder shall provide a current physical address of notification or an electronic address of notification to an insurer that is required to make a notification under Subsection (8)(a).

(9) If a risk-sharing plan under Section 31A-2-214 exists for the kind of coverage provided by the insurance being cancelled or nonrenewed, a notice of cancellation or nonrenewal required under Subsection (2)(c) or (4)(b)(i) may not be effective unless the notice contains instructions to the policyholder for applying for insurance through the available risk-sharing plan.

(10) There is no liability on the part of, and no cause of action against, any insurer, its authorized representatives, agents, employees, or any other person furnishing to the insurer information relating to the reasons for cancellation or nonrenewal or for any statement made or information given by them in complying or enabling the insurer to comply with this section unless actual malice is proved by clear and convincing evidence.

(11) This section does not alter any common law right of contract rescission for material misrepresentation.

(12) If a person is required to pay a premium in accordance with this section:

(a) the person may make the payment using:

(i) the United States Postal Service;

(ii) a delivery service the commissioner describes or designates by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(iii) electronic means; and

(b) the payment is considered to be made:

(i) for a payment that is mailed using the method described in Subsection (12)(a)(i), on the date on which the payment is postmarked;

(ii) for a payment that is delivered using the method described in Subsection (12)(a)(ii), on the date on which the delivery service records or marks the payment as having been received by the delivery service; or

(iii) for a payment that is made using the method described in Subsection (12)(a)(iii), on the date on which the payment is made electronically.

Section 17. Section 31A-22-305.3 is amended to read:

31A-22-305.3. Underinsured motorist coverage.

(1) As used in this section:

(a) "Covered person" has the same meaning as defined in Section 31A-22-305.

(b) (i) "Underinsured motor vehicle" includes a motor vehicle, the operation, maintenance, or use of which is covered under a liability policy at the time of an injury-causing occurrence, but which has insufficient liability coverage to compensate fully the injured party for all special and general damages.

(ii) The term "underinsured motor vehicle" does not include:

(A) a motor vehicle that is covered under the liability coverage of the same policy that also contains the underinsured motorist coverage;

(B) an uninsured motor vehicle as defined in Subsection 31A-22-305(2);

(C) a motor vehicle owned or leased by:

(I) a named insured;

(II) a named insured's spouse; or

(III) a dependent of a named insured.

(2) (a) Underinsured motorist coverage under Subsection 31A-22-302(1)(c) provides coverage for a covered person who is legally entitled to recover damages from an owner or operator of an underinsured motor vehicle because of bodily injury, sickness, disease, or death.

(b) A covered person occupying or using a motor vehicle owned, leased, or furnished to the covered person, the covered person's spouse, or covered person's resident relative may recover underinsured benefits only if the motor vehicle is:

(i) described in the policy under which a claim is made; or

(ii) a newly acquired or replacement motor vehicle covered under the terms of the policy.

(3) (a) For purposes of this Subsection (3), "new policy" means:

(i) any policy that is issued that does not include a renewal or reinstatement of an existing policy; or

(ii) a change to an existing policy that results in:

(A) a named insured being added to or deleted from the policy; or

(B) a change in the limits of the named insured's motor vehicle liability coverage.

(b) For new policies written on or after January 1, 2001, the limits of underinsured motorist coverage shall be equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy, unless a named insured rejects or purchases coverage in a lesser amount by signing an acknowledgment form that:

(i) is filed with the department;

(ii) is provided by the insurer;

(iii) waives the higher coverage;

(iv) need only state in this or similar language that "underinsured motorist coverage provides benefits or protection to you and other covered persons for bodily injury resulting from an accident caused by the fault of another party where the other party has insufficient liability insurance"; and

(v) discloses the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(c) Any selection or rejection under Subsection (3)(b) continues for that issuer of the liability coverage until the insured requests, in writing, a change of underinsured motorist coverage from that liability insurer.

(d) (i) Subsections (3)(b) and (c) apply retroactively to any claim arising on or after January 1, 2001, for which, as of May 14, 2013, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsections (3)(b) and (c) clarifies legislative intent and does not enlarge, eliminate, or destroy vested rights.

(e) (i) As used in this Subsection (3)(e), "additional motor vehicle" means a change that increases the total number of vehicles insured by the policy, and does not include replacement, substitute, or temporary vehicles.

(ii) The adding of an additional motor vehicle to an existing personal lines or commercial lines policy does not constitute a new policy for purposes of Subsection (3)(a).

(iii) If an additional motor vehicle is added to a personal lines policy where underinsured motorist coverage has been rejected, or where underinsured motorist limits are lower than the named insured's motor vehicle liability limits, the insurer shall provide a notice to a named insured within 30 days that:

(A) in the same manner described in Subsection (3)(b)(iv), explains the purpose of underinsured motorist coverage; and

(B) encourages the named insured to contact the insurance company or insurance producer for quotes as to the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(f) A change in policy number resulting from any policy change not identified under Subsection (3)(a)(ii) does not constitute a new policy.

(g) (i) Subsection (3)(a) applies retroactively to any claim arising on or after January 1, 2001 for which, as of May 1, 2012, an insured has not made a written demand for arbitration or filed a complaint in a court of competent jurisdiction.

(ii) The Legislature finds that the retroactive application of Subsection (3)(a):

(A) does not enlarge, eliminate, or destroy vested rights; and

(B) clarifies legislative intent.

(h) A self-insured, including a governmental entity, may elect to provide underinsured motorist coverage in an amount that is less than its maximum self-insured retention under Subsections (3)(b) and (l) by issuing a declaratory memorandum or policy statement from the chief financial officer or chief risk officer that declares the:

(i) self-insured entity's coverage level; and

(ii) process for filing an underinsured motorist claim.

(i) Underinsured motorist coverage may not be sold with limits that are less than:

(i) $10,000 for one person in any one accident; and

(ii) at least $20,000 for two or more persons in any one accident.

(j) An acknowledgment under Subsection (3)(b) continues for that issuer of the underinsured motorist coverage until the named insured, in writing, requests different underinsured motorist coverage from the insurer.

(k) (i) The named insured's underinsured motorist coverage, as described in Subsection (2), is secondary to the liability coverage of an owner or operator of an underinsured motor vehicle, as described in Subsection (1).

(ii) Underinsured motorist coverage may not be set off against the liability coverage of the owner or operator of an underinsured motor vehicle, but shall be added to, combined with, or stacked upon the liability coverage of the owner or operator of the underinsured motor vehicle to determine the limit of coverage available to the injured person.

(l) (i) In conjunction with the first two renewal notices sent after January 1, 2001, for policies existing on that date, the insurer shall disclose in the same medium as the premium renewal notice, an explanation of:

(A) the purpose of underinsured motorist coverage in the same manner as described in Subsection (3)(b)(iv); and

(B) a disclosure of the additional premiums required to purchase underinsured motorist coverage with limits equal to the lesser of the limits of the named insured's motor vehicle liability coverage or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(ii) The disclosure required under this Subsection (3)(l) shall be sent to all named insureds that carry underinsured motorist coverage limits in an amount less than the named insured's motor vehicle liability policy limits or the maximum underinsured motorist coverage limits available by the insurer under the named insured's motor vehicle policy.

(m) For purposes of this Subsection (3), a notice or disclosure sent to a named insured in a household constitutes notice or disclosure to all insureds within the household.

(4) (a) (i) Except as provided in this Subsection (4), a covered person injured in a motor vehicle described in a policy that includes underinsured motorist benefits may not elect to collect underinsured motorist coverage benefits from another motor vehicle insurance policy.

(ii) The limit of liability for underinsured motorist coverage for two or more motor vehicles may not be added together, combined, or stacked to determine the limit of insurance coverage available to an injured person for any one accident.

(iii) Subsection (4)(a)(ii) applies to all persons except a covered person described under Subsections (4)(b)(i) and (ii).

(b) (i) A covered person injured as a pedestrian by an underinsured motor vehicle may recover underinsured motorist benefits under any one other policy in which they are described as a covered person.

(ii) Except as provided in Subsection (4)(b)(iii), a covered person injured while occupying, using, or maintaining a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's spouse, or the covered person's resident parent or resident sibling, may also recover benefits under any one other policy under which the covered person is also a covered person.

(iii) (A) A covered person may recover benefits from no more than two additional policies, one additional policy from each parent's household if the covered person is:

(I) a dependent minor of parents who reside in separate households; and

(II) injured while occupying or using a motor vehicle that is not owned, leased, or furnished to the covered person, the covered person's resident parent, or the covered person's resident sibling.

(B) Each parent's policy under this Subsection (4)(b)(iii) is liable only for the percentage of the damages that the limit of liability of each parent's policy of underinsured motorist coverage bears to the total of both parents' underinsured coverage applicable to the accident.

(iv) A covered person's recovery under any available policies may not exceed the full amount of damages.

(v) Underinsured coverage on a motor vehicle occupied at the time of an accident is primary coverage, and the coverage elected by a person described under Subsections 31A-22-305(1)(a), (b), and (c) is secondary coverage.

(vi) The primary and the secondary coverage may not be set off against the other.

(vii) A covered person as described under Subsection (4)(b)(i) or is entitled to the highest limits of underinsured motorist coverage under only one additional policy per household applicable to that covered person as a named insured, spouse, or relative.

(viii) A covered injured person is not barred against making subsequent elections if recovery is unavailable under previous elections.

(ix) (A) As used in this section, "interpolicy stacking" means recovering benefits for a single incident of loss under more than one insurance policy.

(B) Except to the extent permitted by this Subsection (4), interpolicy stacking is prohibited for underinsured motorist coverage.

(c) Underinsured motorist coverage:

(i) does not cover any benefit paid or payable under Title 34A, Chapter 2, Workers' Compensation Act, except that the covered person is credited an amount described in Subsection 34A-2-106(5);

(ii) may not be subrogated by a workers' compensation insurance carrier;

(iii) may not be reduced by benefits provided by workers' compensation insurance;

(iv) may be reduced by health insurance subrogation only after the covered person is made whole;

(v) may not be collected for bodily injury or death sustained by a person:

(A) while committing a violation of Section 41-1a-1314;

(B) who, as a passenger in a vehicle, has knowledge that the vehicle is being operated in violation of Section 41-1a-1314; or

(C) while committing a felony; and

(vi) notwithstanding Subsection (4)(c)(v), may be recovered:

(A) for a person [~~under 18 years of age~~] younger than 18 years old who is injured within the scope of Subsection (4)(c)(v), but is limited to medical and funeral expenses; or

(B) by a law enforcement officer as defined in Section 53-13-103, who is injured within the course and scope of the law enforcement officer's duties.

(5) The inception of the loss under Subsection 31A-21-313(1) for underinsured motorist claims occurs upon the date of the last liability policy payment.

(6) An underinsured motorist insurer does not have a right of reimbursement against a person liable for the damages resulting from an injury-causing occurrence if the person's liability insurer has tendered the policy limit and the limits have been accepted by the claimant.

(7) Except as otherwise provided in this section, a covered person may seek, subject to the terms and conditions of the policy, additional coverage under any policy:

(a) that provides coverage for damages resulting from motor vehicle accidents; and

(b) that is not required to conform to Section 31A-22-302.

(8) (a) When a claim is brought by a named insured or a person described in Subsection 31A-22-305(1) and is asserted against the covered person's underinsured motorist carrier, the claimant may elect to resolve the claim:

(i) by submitting the claim to binding arbitration; or

(ii) through litigation.

(b) Unless otherwise provided in the policy under which underinsured benefits are claimed, the election provided in Subsection (8)(a) is available to the claimant only, except that if the policy under which insured benefits are claimed provides that either an insured or the insurer may elect arbitration, the insured or the insurer may elect arbitration and that election to arbitrate shall stay the litigation of the claim under Subsection (8)(a)(ii).

(c) Once a claimant elects to commence litigation under Subsection (8)(a)(ii), the claimant may not elect to resolve the claim through binding arbitration under this section without the written consent of the underinsured motorist coverage carrier.

(d) For purposes of the statute of limitations applicable to a claim described in Subsection (8)(a), if the claimant does not elect to resolve the claim through litigation, the claim is considered filed when the claimant submits the claim to binding arbitration in accordance with this Subsection (8).

(e) (i) Unless otherwise agreed to in writing by the parties, a claim that is submitted to binding arbitration under Subsection (8)(a)(i) shall be resolved by a single arbitrator.

(ii) All parties shall agree on the single arbitrator selected under Subsection (8)(e)(i).

(iii) If the parties are unable to agree on a single arbitrator as required under Subsection (8)(e)(ii), the parties shall select a panel of three arbitrators.

(f) If the parties select a panel of three arbitrators under Subsection (8)(e)(iii):

(i) each side shall select one arbitrator; and

(ii) the arbitrators appointed under Subsection (8)(f)(i) shall select one additional arbitrator to be included in the panel.

(g) Unless otherwise agreed to in writing:

(i) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(e)(i); or

(ii) if an arbitration panel is selected under Subsection (8)(e)(iii):

(A) each party shall pay the fees and costs of the arbitrator selected by that party; and

(B) each party shall pay an equal share of the fees and costs of the arbitrator selected under Subsection (8)(f)(ii).

(h) Except as otherwise provided in this section or unless otherwise agreed to in writing by the parties, an arbitration proceeding conducted under this section is governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

(i) (i) The arbitration shall be conducted in accordance with Rules 26(a)(4) through (f), 27 through 37, 54, and 68 of the Utah Rules of Civil Procedure, once the requirements of Subsections (9)(a) through (c) are satisfied.

(ii) The specified tier as defined by Rule 26(c)(3) of the Utah Rules of Civil Procedure shall be determined based on the claimant's specific monetary amount in the written demand for payment of uninsured motorist coverage benefits as required in Subsection (9)(a)(i)(A).

(iii) Rules 26.1 and 26.2 of the Utah Rules of Civil Procedure do not apply to arbitration claims under this part.

(j) An issue of discovery shall be resolved by the arbitrator or the arbitration panel.

(k) A written decision by a single arbitrator or by a majority of the arbitration panel constitutes a final decision.

(l) (i) Except as provided in Subsection (9), the amount of an arbitration award may not exceed the underinsured motorist policy limits of all applicable underinsured motorist policies, including applicable underinsured motorist umbrella policies.

(ii) If the initial arbitration award exceeds the underinsured motorist policy limits of all applicable underinsured motorist policies, the arbitration award shall be reduced to an amount equal to the combined underinsured motorist policy limits of all applicable underinsured motorist policies.

(m) The arbitrator or arbitration panel may not decide an issue of coverage or extra-contractual damages, including:

(i) whether the claimant is a covered person;

(ii) whether the policy extends coverage to the loss; or

(iii) an allegation or claim asserting consequential damages or bad faith liability.

(n) The arbitrator or arbitration panel may not conduct arbitration on a class-wide or class-representative basis.

(o) If the arbitrator or arbitration panel finds that the arbitration is not brought, pursued, or defended in good faith, the arbitrator or arbitration panel may award reasonable attorney fees and costs against the party that failed to bring, pursue, or defend the arbitration in good faith.

(p) An arbitration award issued under this section shall be the final resolution of all claims not excluded by Subsection (8)(m) between the parties unless:

(i) the award is procured by corruption, fraud, or other undue means; or

(ii) either party, within 20 days after service of the arbitration award:

(A) files a complaint requesting a trial de novo in the district court; and

(B) serves the nonmoving party with a copy of the complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(q) (i) Upon filing a complaint for a trial de novo under Subsection (8)(p), a claim shall proceed through litigation pursuant to the Utah Rules of Civil Procedure and Utah Rules of Evidence in the district court.

(ii) In accordance with Rule 38, Utah Rules of Civil Procedure, either party may request a jury trial with a complaint requesting a trial de novo under Subsection (8)(p)(ii)(A).

(r) (i) If the claimant, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least $5,000 and is at least 20% greater than the arbitration award, the claimant is responsible for all of the nonmoving party's costs.

(ii) If the underinsured motorist carrier, as the moving party in a trial de novo requested under Subsection (8)(p), does not obtain a verdict that is at least 20% less than the arbitration award, the underinsured motorist carrier is responsible for all of the nonmoving party's costs.

(iii) Except as provided in Subsection (8)(r)(iv), the costs under this Subsection (8)(r) shall include:

(A) any costs set forth in Rule 54(d), Utah Rules of Civil Procedure; and

(B) the costs of expert witnesses and depositions.

(iv) An award of costs under this Subsection (8)(r) may not exceed $2,500 unless Subsection (9)(h)(iii) applies.

(s) For purposes of determining whether a party's verdict is greater or less than the arbitration award under Subsection (8)(r), a court may not consider any recovery or other relief granted on a claim for damages if the claim for damages:

(i) was not fully disclosed in writing prior to the arbitration proceeding; or

(ii) was not disclosed in response to discovery contrary to the Utah Rules of Civil Procedure.

(t) If a district court determines, upon a motion of the nonmoving party, that a moving party's use of the trial de novo process is filed in bad faith in accordance with Section 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

(u) Nothing in this section is intended to limit a claim under another portion of an applicable insurance policy.

(v) If there are multiple underinsured motorist policies, as set forth in Subsection (4), the claimant may elect to arbitrate in one hearing the claims against all the underinsured motorist carriers.

(9) (a) Within 30 days after a covered person elects to submit a claim for underinsured motorist benefits to binding arbitration or files litigation, the covered person shall provide to the underinsured motorist carrier:

(i) a written demand for payment of underinsured motorist coverage benefits, setting forth:

(A) subject to Subsection (9)(l), the specific monetary amount of the demand, including a computation of the covered person's claimed past medical expenses, claimed past lost wages, and all other claimed past economic damages; and

(B) the factual and legal basis and any supporting documentation for the demand;

(ii) a written statement under oath disclosing:

(A) (I) the names and last known addresses of all health care providers who have rendered health care services to the covered person that are material to the claims for which the underinsured motorist benefits are sought for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health care providers who have rendered health care services to the covered person, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised that have not been disclosed under Subsection (9)(a)(ii)(A)(I);

(B) (I) the names and last known addresses of all health insurers or other entities to whom the covered person has submitted claims for health care services or benefits material to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised; and

(II) the names and last known addresses of the health insurers or other entities to whom the covered person has submitted claims for health care services or benefits, which the covered person claims are immaterial to the claims for which underinsured motorist benefits are sought, for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation have not been disclosed;

(C) if lost wages, diminished earning capacity, or similar damages are claimed, all employers of the covered person for a period of five years preceding the date of the event giving rise to the claim for underinsured motorist benefits up to the time the election for arbitration or litigation has been exercised;

(D) other documents to reasonably support the claims being asserted; and

(E) all state and federal statutory lienholders including a statement as to whether the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens; and

(iii) signed authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities disclosed under Subsections (9)(a)(ii)(A)(I), (B)(I), and (C).

(b) (i) If the underinsured motorist carrier determines that the disclosure of undisclosed health care providers or health care insurers under Subsection (9)(a)(ii) is reasonably necessary, the underinsured motorist carrier may:

(A) make a request for the disclosure of the identity of the health care providers or health care insurers; and

(B) make a request for authorizations to allow the underinsured motorist carrier to only obtain records and billings from the individuals or entities not disclosed.

(ii) If the covered person does not provide the requested information within 10 days:

(A) the covered person shall disclose, in writing, the legal or factual basis for the failure to disclose the health care providers or health care insurers; and

(B) either the covered person or the underinsured motorist carrier may request the arbitrator or arbitration panel to resolve the issue of whether the identities or records are to be provided if the covered person has elected arbitration.

(iii) The time periods imposed by Subsection (9)(c)(i) are tolled pending resolution of the dispute concerning the disclosure and production of records of the health care providers or health care insurers.

(c) (i) An underinsured motorist carrier that receives an election for arbitration or a notice of filing litigation and the demand for payment of underinsured motorist benefits under Subsection (9)(a)(i) shall have a reasonable time, not to exceed 60 days from the date of the demand and receipt of the items specified in Subsections (9)(a)(i) through (iii), to:

(A) provide a written response to the written demand for payment provided for in Subsection (9)(a)(i);

(B) except as provided in Subsection (9)(c)(i)(C), tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person; and

(C) if the covered person is a recipient of Medicare or Medicaid benefits or Utah Children's Health Insurance Program benefits under Title 26, Chapter 40, Utah Children's Health Insurance Act, or if the claim is subject to any other state or federal statutory liens, tender the amount, if any, of the underinsured motorist carrier's determination of the amount owed to the covered person less:

(I) if the amount of the state or federal statutory lien is established, the amount of the lien; or

(II) if the amount of the state or federal statutory lien is not established, two times the amount of the medical expenses subject to the state or federal statutory lien until such time as the amount of the state or federal statutory lien is established.

(ii) If the amount tendered by the underinsured motorist carrier under Subsection (9)(c)(i) is the total amount of the underinsured motorist policy limits, the tendered amount shall be accepted by the covered person.

(d) A covered person who receives a written response from an underinsured motorist carrier as provided for in Subsection (9)(c)(i), may:

(i) elect to accept the amount tendered in Subsection (9)(c)(i) as payment in full of all underinsured motorist claims; or

(ii) elect to:

(A) accept the amount tendered in Subsection (9)(c)(i) as partial payment of all underinsured motorist claims; and

(B) continue to litigate or arbitrate the remaining claim in accordance with the election made under Subsections (8)(a), (b), and (c).

(e) If a covered person elects to accept the amount tendered under Subsection (9)(c)(i) as partial payment of all underinsured motorist claims, the final award obtained through arbitration, litigation, or later settlement shall be reduced by any payment made by the underinsured motorist carrier under Subsection (9)(c)(i).

(f) In an arbitration proceeding on the remaining underinsured claims:

(i) the parties may not disclose to the arbitrator or arbitration panel the amount paid under Subsection (9)(c)(i) until after the arbitration award has been rendered; and

(ii) the parties may not disclose the amount of the limits of underinsured motorist benefits provided by the policy.

(g) If the final award obtained through arbitration or litigation is greater than the average of the covered person's initial written demand for payment provided for in Subsection (9)(a)(i) and the underinsured motorist carrier's initial written response provided for in Subsection (9)(c)(i), the underinsured motorist carrier shall pay:

(i) the final award obtained through arbitration or litigation, except that if the award exceeds the policy limits of the subject underinsured motorist policy by more than $15,000, the amount shall be reduced to an amount equal to the policy limits plus $15,000; and

(ii) any of the following applicable costs:

(A) any costs as set forth in Rule 54(d), Utah Rules of Civil Procedure;

(B) the arbitrator or arbitration panel's fee; and

(C) the reasonable costs of expert witnesses and depositions used in the presentation of evidence during arbitration or litigation.

(h) (i) The covered person shall provide an affidavit of costs within five days of an arbitration award.

(ii) (A) Objection to the affidavit of costs shall specify with particularity the costs to which the underinsured motorist carrier objects.

(B) The objection shall be resolved by the arbitrator or arbitration panel.

(iii) The award of costs by the arbitrator or arbitration panel under Subsection (9)(g)(ii) may not exceed $5,000.

(i) (i) A covered person shall disclose all material information, other than rebuttal evidence, within 30 days after a covered person elects to submit a claim for underinsured motorist coverage benefits to binding arbitration or files litigation as specified in Subsection (9)(a).

(ii) If the information under Subsection (9)(i)(i) is not disclosed, the covered person may not recover costs or any amounts in excess of the policy under Subsection (9)(g).

(j) This Subsection (9) does not limit any other cause of action that arose or may arise against the underinsured motorist carrier from the same dispute.

(k) The provisions of this Subsection (9) only apply to motor vehicle accidents that occur on or after March 30, 2010.

(l) (i) The written demand requirement in Subsection (9)(a)(i)(A) does not affect the covered person's requirement to provide a computation of any other economic damages claimed, and the one or more respondents shall have a reasonable time after the receipt of the computation of any other economic damages claimed to conduct fact and expert discovery as to any additional damages claimed. The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, to this Subsection (9)(l) and Subsection (9)(a)(i)(A) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

(ii) The changes made by Laws of Utah 2014, Chapter 290, Section 11, and Chapter 300, Section 11, under Subsections (9)(a)(ii)(A)(II) and (B)(II) apply to a claim submitted to binding arbitration or through litigation on or after May 13, 2014.

Section 18. Section 31A-22-602 is amended to read:

31A-22-602. Premium rates.

(1) Except as provided in Subsection 31A-22-701(4), this section does not apply to group accident and health insurance.

(2) The benefits in an accident and health insurance policy shall be reasonable in relation to the premiums charged.

(3) The commissioner shall prohibit the use of [~~a policy offering~~] an accident and health insurance form or rates if the form or rates do not satisfy Subsection (2).

Section 19. Section 31A-22-618.6 is amended to read:

31A-22-618.6. Discontinuance, nonrenewal, or changes to group health benefit plans.

(1) Except as otherwise provided in this section, a group health benefit plan for a plan sponsor is renewable and continues in force:

(a) with respect to all eligible employees and dependents; and

(b) at the option of the plan sponsor.

(2) A group health benefit plan for a plan sponsor may be discontinued or nonrenewed:

(a) for noncompliance with the insurer's employer contribution requirements;

(b) if there is no longer any enrollee under the group health benefit plan who lives, resides, or works in:

(i) the service area of the insurer; or

(ii) the area for which the insurer is authorized to do business;

(c) for coverage made available in the small or large employer market only through an association, if:

(i) the employer's membership in the association ceases; and

(ii) the coverage is [~~terminated~~] discontinued or nonrenewed uniformly without regard to any health status-related factor relating to any covered individual; or

(d) for noncompliance with the insurer's minimum employee participation requirements, except as provided in Subsection (3).

(3) If a small employer no longer employs at least one eligible employee, a carrier may not discontinue or not renew the group health benefit plan until the first renewal date following the beginning of a new plan year, even if the carrier knows at the beginning of the plan year that the employer no longer has at least one eligible employee.

(4) (a) A small employer that, after purchasing a group health benefit plan in the small group market, employs on average more than 50 eligible employees on each business day in a calendar year may continue to renew the group health benefit plan purchased in the small group market.

(b) A large employer that, after purchasing a group health benefit plan in the large group market, employs on average fewer than 51 eligible employees on each business day in a calendar year may continue to renew the group health benefit plan purchased in the large group market.

(5) A health benefit plan for a plan sponsor may be discontinued or nonrenewed if:

(a) a condition described in Subsection (2) exists;

(b) the plan sponsor fails to pay premiums or contributions in accordance with the terms of the contract;

(c) the plan sponsor:

(i) performs an act or practice that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular group health benefit plan delivered or issued for delivery in this state;

(ii) provides notice of the discontinuation in writing to each plan sponsor, employee, and dependent of an employee, at least 90 days before the day on which the coverage discontinues;

(iii) provides notice of the discontinuation in writing to the commissioner, and at least three working days before the day on which the notice is sent to each affected plan sponsor, employee, and dependent of an employee;

(iv) offers to each plan sponsor, on a guaranteed issue basis, the option to purchase all other group health benefit plans currently being offered by the insurer in the market or, in the case of a large employer, any other group health benefit plans currently being offered in that market; and

(v) in exercising the option to discontinue [~~that~~] the group health benefit plan and in offering the option of coverage in this section, acts uniformly without regard to the claims experience of a plan sponsor, any health status-related factor relating to any covered participant or beneficiary, or any health status-related factor relating to any new participant or beneficiary who may become eligible for the coverage; or

(e) the insurer:

(i) elects to discontinue offering all of the insurer's group health benefit plans in:

(A) the small employer market;

(B) the large employer market; or

(C) both the small employer and large employer markets;

(ii) provides notice of the discontinuation in writing to each plan sponsor, employee, and dependent of an employee at least 180 days before the day on which the coverage discontinues;

(iii) provides notice of the discontinuation in writing to the commissioner in each state in which an affected insured individual is known to reside and, at least 30 working days before the day on which the notice is sent to each affected plan sponsor, employee, and dependent of an employee;

(iv) discontinues and nonrenews all plans issued or delivered for issuance in the market described in Subsection (5)(e)(i); and

(v) (A) provides a plan of orderly withdrawal as required by Section 31A-4-115[~~.~~]; or

(B) places the plan with an affiliate of the insurer with a plan of the same or similar coverage.

(6) (a) Except as provided in Subsection (6)(d), an eligible employee may be discontinued if after issuance of coverage the eligible employee:

(i) engages in an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact in connection with the coverage.

(b) An eligible employee whose coverage is discontinued under Subsection (6)(a) may reenroll:

(i) 12 months after the day on which the employee's coverage discontinues; and

(ii) if the plan sponsor's coverage is in effect at the time the eligible employee applies to reenroll.

(c) At the time the eligible employee's coverage discontinues under Subsection (6)(a), the insurer shall notify the eligible employee of the right to reenroll as described in Subsection (6)(b).

(d) An eligible employee's coverage may not be discontinued under this Subsection (6) because of a fraud or misrepresentation that relates to health status.

(7) For purposes of this section, a reference to "plan sponsor" includes a reference to the employer:

(a) with respect to coverage provided to an employer member of the association; and

(b) if the group health benefit plan is made available by an insurer in the employer market only through:

(i) an association;

(ii) a trust; or

(iii) a discretionary group.

(8) An insurer may modify a group health benefit plan for a plan sponsor only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all plans [~~with that product~~].

Section 20. Section 31A-22-618.7 is amended to read:

31A-22-618.7. Discontinuance, nonrenewal, and modification for individual health benefit plans.

(1) (a) Except as otherwise provided in this section, a health benefit plan offered on an individual basis is renewable and continues in force:

(i) with respect to all enrollees or dependents; and

(ii) at the option of the enrollee.

(b) Subsection (1)(a) applies regardless of:

(i) whether the contract is issued through:

(A) a trust;

(B) an association;

(C) a discretionary group; or

(D) other similar grouping; or

(ii) the situs of delivery of the policy or contract.

(2) An individual health benefit plan may be discontinued or nonrenewed:

(a) if:

(i) there is no longer an enrollee under the individual health benefit plan who lives, resides, or works in:

(A) the service area of the insurer; or

(B) the area for which the insurer is authorized to do business; and

(ii) coverage is [~~terminated~~] discontinued or nonrenewed uniformly without regard to any health status-related factor relating to any covered enrollee; or

(b) for coverage made available through an association, if:

(i) the enrollee's membership in the association ceases; and

(ii) the coverage is [~~terminated~~] discontinued or nonrenewed uniformly without regard to any health status-related factor relating to any covered enrollee.

(3) An individual health benefit plan may be discontinued or nonrenewed if:

(a) a condition described in Subsection (2) exists;

(b) the enrollee fails to pay premiums or contributions in accordance with the terms of the health benefit plan, including any timeliness requirements;

(c) the enrollee:

(i) performs an act or practice in connection with the coverage that constitutes fraud; or

(ii) makes an intentional misrepresentation of material fact under the terms of the coverage;

(d) the insurer:

(i) elects to discontinue offering a particular individual health benefit plan [~~product~~] delivered or issued for delivery in this state; and

(ii) (A) provides notice of the discontinuation in writing to each enrollee provided coverage at least 90 days before the day on which the coverage discontinues;

(B) provides notice of the discontinuation in writing to the commissioner and, at least three working days before the day on which the notice is sent, to each affected enrollee;

(C) offers to each covered enrollee on a guaranteed issue basis the option to purchase all other individual health benefit plans currently being offered by the insurer for individuals in that market; and

(D) acts uniformly without regard to any health status-related factor of covered enrollees or dependents of covered enrollees who may become eligible for coverage; or

(e) the insurer:

(i) elects to discontinue offering all of the insurer's individual health benefit plans in the individual market; [~~and~~]

(ii) [~~(A)~~] provides notice of the discontinuation in writing to each enrollee provided coverage at least 180 days before the day on which the coverage discontinues;

[~~(B)~~] (iii) provides notice of the discontinuation in writing to the commissioner in each state in which an affected enrollee is known to reside and, at least 30 working days before the day on which the insurer sends the notice, to each affected enrollee;

[~~(C)~~] (iv) discontinues and nonrenews all individual health benefit plans the insurer issues or delivers for issuance in the individual market; [~~and~~]

[~~(D)~~] (v) acts uniformly without regard to any health status-related factor of covered enrollees or dependents of covered enrollees who may become eligible for coverage[~~.~~]; and

(vi) (A) provides a plan of orderly withdrawal in accordance with Section 31A-4-115; or

(B) places the plan with an affiliate of the insurer with a plan of the same or similar coverage.

(4) An insurer may modify an individual health benefit plan only:

(a) at the time of coverage renewal; and

(b) if the modification is effective uniformly among all individual health benefit plans.

Section 21. Section 31A-22-618.8 is amended to read:

31A-22-618.8. Discontinuance and nonrenewal limitations for health benefit plans.

(1) Subject to Section 31A-4-115, an insurer that elects to discontinue offering a health benefit plan under [~~Subsections~~] Subsection 31A-22-618.6(5)(e) [~~and~~] or 31A-22-618.7(3)(e) is prohibited from writing new business:

(a) in the market in this state for which the insurer discontinues or does not renew; and

(b) for a period of five years beginning on the day on which the last coverage that is discontinued.

(2) If an insurer is doing business in one established geographic service area of the state, [~~Sections~~] Subsections 31A-22-618.6(5)(e) and 31A-22-618.7(3)(e) apply only to the insurer's operations in that service area.

(3) The commissioner may, by rule or order, define the scope of service area.

Section 22. Section 31A-22-627 is amended to read:

31A-22-627. Coverage of emergency medical services.

(1) A health insurance policy or managed care organization contract:

(a) shall provide coverage of emergency services; and

(b) may not:

(i) require any form of preauthorization for treatment of an emergency medical condition until after the insured's condition has been stabilized;

(ii) deny a claim for any covered evaluation, covered diagnostic test, or other covered treatment considered medically necessary to stabilize the emergency medical condition of an insured; or

(iii) impose any cost-sharing requirement for out-of-network that exceeds the cost-sharing requirement imposed for in-network.

(2) (a) A health insurance policy or managed care organization contract may require authorization for the continued treatment of an emergency medical condition after the insured's condition has been stabilized.

(b) If authorization described in Subsection (2)(a) is required, an insurer who does not accept or reject a request for authorization may not deny a claim for any evaluation, diagnostic testing, or other treatment considered medically necessary that occurred between the time the request was received and the time the insurer rejected the request for authorization.

(3) For purposes of this section:

[~~(a) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that a prudent layperson, who possesses an average knowledge of medicine and health, would reasonably expect the absence of immediate medical attention through a hospital emergency department to result in:~~]

[~~(i) placing the insured's health, or with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;~~]

[~~(ii) serious impairment to bodily functions; or~~]

[~~(iii) serious dysfunction of any bodily organ or part.~~]

[~~(b)~~] (a) "Hospital emergency department" means that area of a hospital in which emergency services are provided on a 24-hour-a-day basis.

[~~(c)~~] (b) "Stabilize" means the same as that term is defined in 42 U.S.C. Sec. 1395dd(e)(3).

(4) Nothing in this section may be construed as:

(a) altering the level or type of benefits that are provided under the terms of a contract or policy; or

(b) restricting a policy or contract from providing enhanced benefits for certain emergency medical conditions that are identified in the policy or contract.

(5) Notwithstanding Section 31A-2-308, if the commissioner finds an insurer has violated this section, the commissioner may:

(a) work with the insurer to improve the insurer's compliance with this section; or

(b) impose the following fines:

(i) not more than $5,000; or

(ii) twice the amount of any profit gained from violations of this section.

Section 23. Section 31A-22-636 is amended to read:

31A-22-636. Standardized health insurance information cards.

(1) As used in this section, "insurer" means:

(a) an insurer governed by this part as described in Section 31A-22-600;

(b) a health maintenance organization governed by Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(c) a third party administrator; and

(d) notwithstanding Subsection 31A-1-103(3)(f) and Section 31A-22-600, a health, medical, or conversion policy offered under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

(2) In accordance with Subsection (3), an insurer shall use and issue a health benefit plan information card for the insurer's enrollees upon the purchase or renewal of, or enrollment in, a health benefit plan [~~on or after July 1, 2010~~].

(3) The health benefit plan information card shall include:

(a) the covered person's name;

(b) the name of the carrier and the carrier network name;

(c) the contact information for the carrier or health benefit plan administrator;

(d) general information regarding copayments and deductibles; and

(e) an indication of whether the health benefit plan is regulated by the state.

(4) (a) The commissioner shall work with the Department of Health, the Health Data Authority, health care providers groups, and with state and national organizations that [~~are developing~~] develop uniform standards for the electronic exchange of health insurance claims or uniform standards for the electronic exchange of clinical health records.

(b) [~~When the commissioner determines that the groups described in Subsection (4)(a) have reached a consensus regarding the electronic technology and standards necessary to electronically exchange insurance enrollment and coverage information, the commissioner shall begin the rulemaking process under~~] The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adopt standardized electronic interchange technology.

(c) After rules are adopted under Subsection (4)(a), health care providers and their licensing boards under Title 58, Occupations and Professions, and health facilities licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, shall work together to implement the adoption of card swipe technology.

Section 24. Section 31A-22-657 is enacted to read:

31A-22-657. Application of health insurance mandates.

(1) As used in this section:

(a) "Cost-sharing requirement" means a copayment, coinsurance, or deductible required by or on behalf of an enrollee in order to receive a benefit under a qualified high-deductible health plan.

(b) "Health savings account" means the same as that term is defined in 26 U.S.C. Sec. 223(d)(1).

(c) "Qualified high-deductible health plan" means a high-deductible health plan as defined in 26 U.S.C. Sec. 223(c)(2)(A) that is used in conjunction with a health savings account.

(d) "Cost-sharing mandate" means a statutory requirement limiting a cost-sharing requirement.

(2) (a) Except as provided in Subsection (2)(b), if under federal law, a cost-sharing mandate would result in an enrollee becoming ineligible for a health savings account, the cost-sharing mandate applies only to the enrollee's qualified high-deductible health plan after the enrollee satisfies the enrollee's health plan deductible.

(b) Subsection (2)(a) does not apply to an item or service that is preventive care under 26 U.S.C. Sec. 223(c)(2)(C).

Section 25. Section 31A-22-727 is enacted to read:

31A-22-727. Renewal, cancellation, and modification.

(1) Except as provided in Section 31A-22-618.6, for a group insurance policy offering accident and health insurance or a blanket insurance policy offering accident and health insurance, an insurer may:

(a) decline to renew the policy on the date the policy term expires for a reason stated in the policy; or

(b) cancel the policy at any time for:

(i) nonpayment of a premium when due;

(ii) intentional misrepresentation of a material fact in connection with the coverage;

(iii) performance of an act or practice that constitutes fraud in connection with the coverage; or

(iv) noncompliance with an employer eligibility provision.

(2) Except for a modification required by law, an insurer may only modify a policy at renewal.

(3) Subsection (2) does not apply to an endorsement by which the insurer:

(a) effectuates a request the policyholder made in writing; or

(b) exercises a specifically reserved right under the policy.

Section 26. Section 31A-23a-111 is amended to read:

31A-23a-111. Revoking, suspending, surrendering, lapsing, limiting, or otherwise terminating a license -- Forfeiture -- Rulemaking for renewal or reinstatement.

(1) A license type issued under this chapter remains in force until:

(a) revoked or suspended under Subsection (5);

(b) surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors;

(d) lapsed under Section 31A-23a-113; or

(e) voluntarily surrendered.

(2) The following may be reinstated within one year after the day on which the license is no longer in force:

(a) a lapsed license; or

(b) a voluntarily surrendered license, except that a voluntarily surrendered license may not be reinstated after the license period in which the license is voluntarily surrendered.

(3) Unless otherwise stated in a written agreement for the voluntary surrender of a license, submission and acceptance of a voluntary surrender of a license does not prevent the department from pursuing additional disciplinary or other action authorized under:

(a) this title; or

(b) rules made under this title in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) A line of authority issued under this chapter remains in force until:

(a) the qualifications pertaining to a line of authority are no longer met by the licensee; or

(b) the supporting license type:

(i) is revoked or suspended under Subsection (5);

(ii) is surrendered to the commissioner and accepted by the commissioner in lieu of administrative action;

(iii) lapses under Section 31A-23a-113; or

(iv) is voluntarily surrendered; or

(c) the licensee dies or is adjudicated incompetent as defined under:

(i) Title 75, Chapter 5, Part 3, Guardians of Incapacitated Persons; or

(ii) Title 75, Chapter 5, Part 4, Protection of Property of Persons Under Disability and Minors.

(5) (a) If the commissioner makes a finding under Subsection (5)(b), as part of an adjudicative proceeding under Title 63G, Chapter 4, Administrative Procedures Act, the commissioner may:

(i) revoke:

(A) a license; or

(B) a line of authority;

(ii) suspend for a specified period of 12 months or less:

(A) a license; or

(B) a line of authority;

(iii) limit in whole or in part:

(A) a license; or

(B) a line of authority;

(iv) deny a license application;

(v) assess a forfeiture under Subsection 31A-2-308(1)(b)(i) or (1)(c)(i); or

(vi) take a combination of actions under Subsections (5)(a)(i) through (iv) and Subsection (5)(a)(v).

(b) The commissioner may take an action described in Subsection (5)(a) if the commissioner finds that the licensee or license applicant:

(i) is unqualified for a license or line of authority under Section 31A-23a-104, 31A-23a-105, or 31A-23a-107;

(ii) violates:

(A) an insurance statute;

(B) a rule that is valid under Subsection 31A-2-201(3); or

(C) an order that is valid under Subsection 31A-2-201(4);

(iii) is insolvent or the subject of receivership, conservatorship, rehabilitation, or other delinquency proceedings in any state;

(iv) fails to pay a final judgment rendered against the person [~~in this state~~] within 60 days after the day on which the judgment became final;

(v) fails to meet the same good faith obligations in claims settlement that is required of admitted insurers;

(vi) is affiliated with and under the same general management or interlocking directorate or ownership as another insurance producer that transacts business in this state without a license;

(vii) refuses:

(A) to be examined; or

(B) to produce its accounts, records, and files for examination;

(viii) has an officer who refuses to:

(A) give information with respect to the insurance producer's affairs; or

(B) perform any other legal obligation as to an examination;

(ix) provides information in the license application that is:

(A) incorrect;

(B) misleading;

(C) incomplete; or

(D) materially untrue;

(x) violates an insurance law, valid rule, or valid order of another regulatory agency in any jurisdiction;

(xi) obtains or attempts to obtain a license through misrepresentation or fraud;

(xii) improperly withholds, misappropriates, or converts money or properties received in the course of doing insurance business;

(xiii) intentionally misrepresents the terms of an actual or proposed:

(A) insurance contract;

(B) application for insurance; or

(C) life settlement;

(xiv) has been convicted of:

(A) a felony; or

(B) a misdemeanor involving fraud, misrepresentation, theft, or dishonesty;

(xv) admits or is found to have committed an insurance unfair trade practice or fraud;

(xvi) in the conduct of business in this state or elsewhere:

(A) uses fraudulent, coercive, or dishonest practices; or

(B) demonstrates incompetence, untrustworthiness, or financial irresponsibility;

(xvii) has had an insurance license or other professional or occupational license, or an equivalent to an insurance license or registration, or other professional or occupational license or registration:

(A) denied;

(B) suspended;

(C) revoked; or

(D) surrendered to resolve an administrative action;

(xviii) forges another's name to:

(A) an application for insurance; or

(B) a document related to an insurance transaction;

(xix) improperly uses notes or another reference material to complete an examination for an insurance license;

(xx) knowingly accepts insurance business from an individual who is not licensed;

(xxi) fails to comply with an administrative or court order imposing a child support obligation;

(xxii) fails to:

(A) pay state income tax; or

(B) comply with an administrative or court order directing payment of state income tax;

(xxiii) has been convicted of violating the federal Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. Sec. 1033 and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033;

(xxiv) engages in a method or practice in the conduct of business that endangers the legitimate interests of customers and the public; or

(xxv) has been convicted of any criminal felony involving dishonesty or breach of trust and has not obtained written consent to engage in the business of insurance or participate in such business as required by 18 U.S.C. Sec. 1033.

(c) For purposes of this section, if a license is held by an agency, both the agency itself and any individual designated under the license are considered to be the holders of the license.

(d) If an individual designated under the agency license commits an act or fails to perform a duty that is a ground for suspending, revoking, or limiting the individual's license, the commissioner may suspend, revoke, or limit the license of:

(i) the individual;

(ii) the agency, if the agency:

(A) is reckless or negligent in its supervision of the individual; or

(B) knowingly participates in the act or failure to act that is the ground for suspending, revoking, or limiting the license; or

(iii) (A) the individual; and

(B) the agency if the agency meets the requirements of Subsection (5)(d)(ii).

(6) A licensee under this chapter is subject to the penalties for acting as a licensee without a license if:

(a) the licensee's license is:

(i) revoked;

(ii) suspended;

(iii) limited;

(iv) surrendered in lieu of administrative action;

(v) lapsed; or

(vi) voluntarily surrendered; and

(b) the licensee:

(i) continues to act as a licensee; or

(ii) violates the terms of the license limitation.

(7) A licensee under this chapter shall immediately report to the commissioner:

(a) a revocation, suspension, or limitation of the person's license in another state, the District of Columbia, or a territory of the United States;

(b) the imposition of a disciplinary sanction imposed on that person by another state, the District of Columbia, or a territory of the United States; or

(c) a judgment or injunction entered against that person on the basis of conduct involving:

(i) fraud;

(ii) deceit;

(iii) misrepresentation; or

(iv) a violation of an insurance law or rule.

(8) (a) An order revoking a license under Subsection (5) or an agreement to surrender a license in lieu of administrative action may specify a time, not to exceed five years, within which the former licensee may not apply for a new license.

(b) If no time is specified in an order or agreement described in Subsection (8)(a), the former licensee may not apply for a new license for five years from the day on which the order or agreement is made without the express approval by the commissioner.

(9) The commissioner shall promptly withhold, suspend, restrict, or reinstate the use of a license issued under this part if so ordered by a court.

(10) The commissioner shall by rule prescribe the license renewal and reinstatement procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section 31A-27a-104 is amended to read:

31A-27a-104. Persons covered.

(1) This chapter applies to:

(a) an insurer who:

(i) is doing, or has done, an insurance business in this state; and

(ii) against whom a claim arising from that business may exist;

(b) a person subject to examination by the commissioner;

(c) an insurer who purports to do an insurance business in this state;

(d) an insurer who has an insured who is resident in this state; and

(e) in addition to Subsections (1)(a) through (d), a person doing business as follows:

(i) under Chapter 6a, Service Contracts;

(ii) under Chapter 7, Nonprofit Health Service Insurance Corporations;

(iii) under Chapter 8a, Health Discount Program Consumer Protection Act;

(iv) under Chapter 9, Insurance Fraternals;

(v) under Chapter 11, Motor Clubs;

(vi) under Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;

(vii) as a bail bond surety company under Chapter 35, Bail Bond Act;

(viii) under Chapter 37, Captive Insurance Companies Act;

(ix) a title insurance company;

(x) a prepaid health care delivery plan; and

(xi) a person not described in Subsections (1)(e)(i) through (x) that is organized or doing insurance business, or in the process of organizing with the intent to do insurance business in this state.

(2) Notwithstanding Sections 31A-1-301 and 31A-27a-102, this chapter does not apply to a person licensed by the insurance commissioner as one or more of the following in this state unless the person engages in the business of insurance as an insurer, is an affiliate as defined in Subsection 31A-1-301(5), or is a person under the control of an affiliate:

(a) an insurance agency;

(b) an insurance producer;

(c) a limited line producer;

(d) an insurance consultant;

(e) a managing general agent;

(f) reinsurance intermediary;

(g) an individual title insurance producer or agency title insurance producer;

(h) a third party administrator;

(i) an insurance adjustor;

(j) a life settlement provider; or

(k) a life settlement producer.

Section 28. Section 31A-27a-111 is amended to read:

31A-27a-111. Actions by and against the receiver.

(1) (a) An allegation by the receiver of improper or fraudulent conduct against a person may not be the basis of a defense to the enforcement of a contractual obligation owed to the insurer by a third party.

(b) Notwithstanding Subsection (1)(a), a third party described in this Subsection (1) is not barred by this section from seeking to establish independently as a defense that the conduct is materially and substantially related to the contractual obligation for which enforcement is sought.

(2) (a) Subject to Subsection (2)(b), a prior wrongful or negligent action of any present or former receiver, receiver's assistant, receiver's contractor, officer, manager, director, trustee, owner, employee, or agent of the insurer may not be asserted as a defense to a claim by the receiver:

(i) under a theory of:

(A) estoppel;

(B) comparative fault;

(C) intervening cause;

(D) proximate cause;

(E) reliance; or

(F) mitigation of damages; or

(ii) otherwise.

(b) Notwithstanding Subsection (2)(a):

(i) the affirmative defense of fraud in the inducement may be asserted against the receiver in a claim based on a contract; and

(ii) a principal under a surety bond or a surety undertaking is entitled to credit against any reimbursement obligation to the receiver for the value of any property pledged to secure the reimbursement obligation to the extent that:

(A) the receiver has possession or control of the property; or

(B) the insurer or its agents misappropriated, including commingling, the property.

(c) Evidence of fraud in the inducement is admissible only if it is contained in the records of the insurer.

(3) Action or inaction by an insurance regulatory authority may not be asserted as a defense to a claim by the receiver.

(4) (a) Subject to Subsection (4)(b), a judgment or order entered against an insured or the insurer in contravention of a stay or injunction under this chapter, or at any time by default or collusion, may not be considered as evidence of liability or of the quantum of damages in adjudicating claims filed in the estate arising out of the subject matter of the judgment or order.

(b) Subsection (4)(a) does not apply to an affected guaranty association's claim for amounts paid on a settlement or judgment in pursuit of the affected guaranty association's statutory obligations.

(5) (a) Subject to Subsection (5)(b), the following do not affect the amount that a receiver may recover from a third party, regardless of any provision in an agreement to the contrary:

(i) the insurer's insolvency; or

(ii) the insurer's or receiver's failure to pay all or a portion of an amount or a claim to the third party.

(b) If an agreement between the insurer and a third party requires a payment by the insurer before the insurer may recover from the third party, the amount the receiver may recover from the third party under Subsection (5)(a) is limited to an amount equal to the greater of:

(i) the amount paid by the insurer or by another person on behalf of the insurer to the third party; or

(ii) the amount allowed as a claim for payment under:

(A) an approved report described in Section 31A-27a-608;

(B) an order of the receivership court; or

(C) a plan of rehabilitation.

(6) The receiver may not be considered a governmental entity for the purposes of any state law awarding fees to a litigant who prevails against a governmental entity.

Section 29. Section 31A-30-103 is amended to read:

31A-30-103. Definitions.

As used in this chapter:

(1) "Actuarial certification" means a written statement by a member of the American Academy of Actuaries or other individual approved by the commissioner that a covered carrier is in compliance with this chapter, based upon the examination of the covered carrier, including review of the appropriate records and of the actuarial assumptions and methods used by the covered carrier in establishing premium rates for applicable health benefit plans.

(2) "Affiliate" or "affiliated" means a person who directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person.

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under a rating system for that class of business by the covered carrier to covered insureds with similar case characteristics for health benefit plans with the same or similar coverage.

(4) (a) "Bona fide employer association" means an association of employers:

(i) that meets the requirements of [~~Subsection 31A-22-701(2)(b)~~] Section 31A-22-505;

(ii) in which the employers of the association, either directly or indirectly, exercise control over the plan;

(iii) that is organized:

(A) based on a commonality of interest between the employers and their employees that participate in the plan by some common economic or representation interest or genuine organizational relationship unrelated to the provision of benefits; and

(B) to act in the best interests of its employers to provide benefits for the employer's employees and their spouses and dependents, and other benefits relating to employment; and

(iv) whose association sponsored health plan complies with 45 C.F.R. 146.121.

(b) The commissioner shall consider the following with regard to determining whether an association of employers is a bona fide employer association under Subsection (4)(a):

(i) how association members are solicited;

(ii) who participates in the association;

(iii) the process by which the association was formed;

(iv) the purposes for which the association was formed, and what, if any, were the pre-existing relationships of its members;

(v) the powers, rights and privileges of employer members; and

(vi) who actually controls and directs the activities and operations of the benefit programs.

(5) "Carrier" means a person that provides health insurance in this state including:

(a) an insurance company;

(b) a prepaid hospital or medical care plan;

(c) a health maintenance organization;

(d) a multiple employer welfare arrangement; and

(e) another person providing a health insurance plan under this title.

(6) (a) Except as provided in Subsection (6)(b), "case characteristics" means demographic or other objective characteristics of a covered insured that are considered by the carrier in determining premium rates for the covered insured.

(b) "Case characteristics" do not include:

(i) duration of coverage since the policy was issued;

(ii) claim experience; and

(iii) health status.

(7) "Class of business" means all or a separate grouping of covered insureds that is permitted by the commissioner in accordance with Section 31A-30-105.

(8) "Covered carrier" means an individual carrier or small employer carrier subject to this chapter.

(9) "Covered individual" means an individual who is covered under a health benefit plan subject to this chapter.

(10) "Covered insureds" means small employers and individuals who are issued a health benefit plan that is subject to this chapter.

(11) "Dependent" means an individual to the extent that the individual is defined to be a dependent by:

(a) the health benefit plan covering the covered individual; and

(b) Chapter 22, Part 6, Accident and Health Insurance.

(12) "Established geographic service area" means a geographical area approved by the commissioner within which the carrier is authorized to provide coverage.

(13) "Index rate" means, for each class of business as to a rating period for covered insureds with similar case characteristics, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate.

(14) "Individual carrier" means a carrier that provides coverage on an individual basis through a health benefit plan regardless of whether:

(a) coverage is offered through:

(i) an association;

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar groups; or

(b) the policy or contract is situated out-of-state.

(15) "Individual conversion policy" means a conversion policy issued to:

(a) an individual; or

(b) an individual with a family.

(16) "New business premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or offered, or that could have been charged or offered, by the carrier to covered insureds with similar case characteristics for newly issued health benefit plans with the same or similar coverage.

(17) "Premium" means money paid by covered insureds and covered individuals as a condition of receiving coverage from a covered carrier, including fees or other contributions associated with the health benefit plan.

(18) (a) "Rating period" means the calendar period for which premium rates established by a covered carrier are assumed to be in effect, as determined by the carrier.

(b) A covered carrier may not have:

(i) more than one rating period in any calendar month; and

(ii) no more than 12 rating periods in any calendar year.

(19) "Small employer carrier" means a carrier that provides health benefit plans covering eligible employees of one or more small employers in this state, regardless of whether:

(a) coverage is offered through:

(i) an association;

(ii) a trust;

(iii) a discretionary group; or

(iv) other similar grouping; or

(b) the policy or contract is situated out-of-state.

Section 30. Section 31A-35-404 is amended to read:

31A-35-404. Minimum financial requirements for bail bond agency license.

(1) (a) A bail bond agency that pledges the assets of a letter of credit from a Utah depository institution in connection with a judicial proceeding shall maintain an irrevocable letter of credit with a minimum face value of $300,000 assigned to the state from a Utah depository institution.

(b) Notwithstanding Subsection (1)(a), a bail bond agency described in Subsection (1)(a) that is licensed under this chapter on or before December 31, 1999, shall maintain an irrevocable letter of credit with a minimum face value of $250,000 assigned to the state from a Utah depository institution.

(2) (a) A bail bond agency that pledges personal or real property, or both, as security for a bail bond in connection with a judicial proceeding shall maintain a verified financial statement for the [~~current~~] bail bond agency's immediately preceding fiscal year:

(i) reviewed by a certified public accountant; and

(ii) showing a minimum net worth of:

(A) $300,000, at least $100,000 of which is in liquid assets; or

(B) if the bail bond agency is licensed under this chapter on or before December 31, 1999, $250,000, at least $50,000 of which is in liquid assets.

(b) For purposes of this Subsection (2), only real or personal property located in Utah may be included in the net worth of the bail bond agency.

(3) A bail bond agency shall maintain a qualifying power of attorney issued by a surety insurer if:

(a) the bail bond agency is the agent of the surety insurer; and

(b) the surety insurer:

(i) sells bail bonds;

(ii) is in good standing in its state of domicile; and

(iii) is granted a certificate to write bail bonds in Utah.

(4) The commissioner may revoke the license of a bail bond agency that fails to maintain the minimum financial requirements required under this section.

(5) The commissioner may set by rule the limits on the aggregate amounts of bail bonds issued by a bail bond agency.

Section 31. Section 31A-48-102 is amended to read:

31A-48-102. Definitions.

As used in this chapter:

(1) (a) "Drug" means [~~a prescription drug, as defined in Section 58-17b-102.~~] a substance that is:

(i) (A) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans; and

(B) recognized in or in a supplement to the official United States Pharmacopoeia, the Homeopathic Pharmacopoeia of the United States, or the official National Formulary;

(ii) required by an applicable federal or state law or rule to be dispensed by prescription only;

(iii) restricted to administration by practitioners only;

(iv) a substance other than food intended to affect the structure or a function of the human body; or

(v) intended for use as a component of a substance described in Subsection (1)(a)(i), (ii), (iii), or (iv).

(b) "Drug" does not include a dietary supplement.

(2) "Insurer" means the same as that term is defined in Section 31A-22-634.

(3) "Manufacturer" means a person that is engaged in the manufacturing of a drug that is available for purchase by residents of the state.

(4) "Rebate" means the same as that term is defined in Section 31A-46-102.

(5) "Wholesale acquisition cost" means the same as that term is defined in 42 U.S.C. Sec. 1395w-3a.

Section 32. Section 31A-48-103 is amended to read:

31A-48-103. Manufacturer reports -- Insurer report -- Publication by department.

(1) (a) A manufacturer of a drug shall, beginning January 1, 2022, report to the department the information described in Subsection (1)(b) no more than 30 days after the day on which an increase to the wholesale acquisition cost of the drug results in an increase to the wholesale acquisition cost of the drug of:

(i) greater than 16% over the preceding two calendar years; or

(ii) greater than 10% over the preceding calendar year.

(b) The manufacturer shall report:

(i) (A) the name of the drug;

(B) the dosage form of the drug; and

(C) the strength of the drug;

(ii) whether the drug is a brand name drug or a generic drug;

(iii) the effective date of the increase in the wholesale acquisition cost of the drug;

(iv) a written description, suitable for public release, of the factors that led to the increase in the wholesale acquisition cost of the drug and the significance of each factor;

(v) the manufacturer's aggregate company-wide research and development costs for the most recent year for which final audit data is available;

(vi) the name of each of the manufacturer's drugs approved by the United States Food and Drug Administration during the preceding three calendar years; and

(vii) the names of drugs manufactured by the manufacturer that lost patent exclusivity in the United States during the preceding three calendar years.

(c) Subsection (1)(a) applies only to a drug with a wholesale acquisition cost of at least $100 for a 30-day supply before the effective date of the increase in the wholesale acquisition cost of the drug.

(d) [~~A manufacturer's obligations under this Subsection (1) are fully satisfied by submission~~] The quality and types of information and data that a manufacturer submits under this Subsection (1) shall be consistent with the quality and types of information and data that the manufacturer includes in the manufacturer's annual consolidated report on Securities and Exchange Commission Form 10-K or any other public disclosure.

(e) The department shall consult with representatives of manufacturers to establish a single, standardized format for reporting information under this section that minimizes the administrative burden of reporting for manufacturers and the state.

[~~(f) Information provided to the department under Subsection (1)(b) may not be released in a manner that:~~]

[~~(i) would allow for the identification of an individual drug, therapeutic class of drugs, or manufacturer; or~~]

[~~(ii) is likely to compromise the financial, competitive, or proprietary nature of the information.~~]

(2) On or before August 1, 2021, and on or before August 1 of each year thereafter, an insurer shall report to the department in aggregate the following information for the preceding calendar year for health benefit plans offered by the insurer:

(a) for the 25 drugs for which spending by the insurer was the greatest, after adjusting for rebates:

(i) the name of the drug;

(ii) the dosage form of the drug; and

(iii) the strength of the drug;

(b) the percentage increase over the previous year in net spending for all drugs, after adjusting for rebates; [~~and~~]

(c) the percentage of the increase in premiums over the previous year attributable to all drugs; and

(d) the percentage of the increase in premiums over the previous year attributable to specialty drugs.

(3) The department shall publish on the department's website:

(a) no later than 60 days after receiving the information, information reported to the department under Subsection (1); and

(b) no later than December 1 of each year, information reported to the department under Subsection (2).

(4) (a) The department may not publish information under [~~Subsection (3)(b)~~] this section in a manner that:

(i) allows the identity of an insurer to be determined[~~.~~];

(ii) allows for the identification of an individual drug, a therapeutic class of drugs, or a manufacturer; or

(iii) is likely to compromise the financial, competitive, or proprietary nature of the information.

(b) The commissioner shall classify each record submitted under this section as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(5) The department shall make rules, as necessary, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to promote comparability of information reported to the department under this chapter.

Section 33. Section 58-13-2.5 is amended to read:

58-13-2.5. Standard of proof for emergency care when immunity does not apply.

(1) A person who is a health care provider as defined in Section 78B-3-403 who provides emergency care in good faith, but is not immune from suit because of an expectation of payment, a legal duty to respond, or other reason under Section 58-13-2, may only be liable for civil damages if fault, as defined in Section 78B-5-817, is established by clear and convincing evidence.

(2) For purposes of Subsection (1), "emergency care" means the treatment of an emergency medical condition, as defined in Section [~~31A-22-627~~] 31A-1-301, from the time that the person presents at the emergency department of a hospital and including any subsequent transfer to another hospital, until the condition has been stabilized and the patient is either discharged from the emergency department or admitted to another department of the hospital.

(3) This section does not apply to emergency care provided by a physician if:

(a) the physician has a previously established physician/patient relationship with the patient outside of the emergency room;

(b) the patient has been seen in the last three months by the physician for the same condition for which emergency care is sought; and

(c) the physician can access and consult the patient's relevant medical care records while the physician is making decisions about and providing the emergency care.

(4) (a) Nothing in this section may be construed as:

(i) altering the applicable standard of care for determining fault; or

(ii) applying the standard of proof of clear and convincing evidence to care outside of emergency care and the mandatory legal duty to treat.

(b) This section applies to emergency care given after June 1, 2009.

(5) This section sunsets in accordance with Section 63I-1-258.

Section 34. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of

personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation

Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under [~~Subsection~~] Section 31A-48-103[~~(1)(b)~~];

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest[~~.~~];

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 35. Section 76-6-521 is amended to read:

76-6-521. Fraudulent insurance act.

(1) A person commits a fraudulent insurance act if that person with intent to deceive or defraud:

(a) presents or causes to be presented any oral or written statement or representation knowing that the statement or representation contains false or fraudulent information concerning any fact material to an application for the issuance or renewal of an insurance policy, certificate, or contract, as part of or in support of:

(i) obtaining an insurance policy the insurer would otherwise not issue on the basis of underwriting criteria applicable to the person;

(ii) a scheme or artifice to avoid paying the premium that an insurer charges on the basis of underwriting criteria applicable to the person; or

(iii) a scheme or artifice to file an insurance claim for a loss that has already occurred;

(b) presents, or causes to be presented, any oral or written statement or representation:

(i) (A) as part of or in support of a claim for payment or other benefit pursuant to an insurance policy, certificate, or contract; or

(B) in connection with any civil claim asserted for recovery of damages for personal or bodily injuries or property damage; and

(ii) knowing that the statement or representation contains false, incomplete, or fraudulent information concerning any fact or thing material to the claim;

(c) knowingly accepts a benefit from proceeds derived from a fraudulent insurance act;

(d) intentionally, knowingly, or recklessly devises a scheme or artifice to obtain fees for professional services, or anything of value by means of false or fraudulent pretenses, representations, promises, or material omissions;

(e) knowingly employs, uses, or acts as a runner, as defined in Section 31A-31-102, for the purpose of committing a fraudulent insurance act;

(f) knowingly assists, abets, solicits, or conspires with another to commit a fraudulent insurance act;

(g) knowingly supplies false or fraudulent material information in any document or statement required by the Department of Insurance; or

(h) knowingly fails to forward a premium to an insurer in violation of Section 31A-23a-411.1.

(2) (a) A violation of Subsection (1)(a) (i) is a class A misdemeanor.

(b) A violation of Subsections (1)(a)(ii) or (1)(b) through (1) (h) is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.

(c) A violation of Subsection (1)(a)(iii):

(i) is a class A misdemeanor if the value of the loss is less than $1,500 or unable to be determined; or

(ii) if the value of the loss is $1,500 or more, is punishable as in the manner prescribed by Section 76-10-1801 for communication fraud for property of like value.

(3) A corporation or association is guilty of the offense of insurance fraud under the same conditions as those set forth in Section 76-2-204.

(4) The determination of the degree of any offense under Subsections (1)(a)(ii) and (1)(b) through (1)(h) shall be measured by the total value of all property, money, or other things obtained or sought to be obtained by the fraudulent insurance act or acts described in Subsections (1)(a)(ii) and (1)(b) through (1)(h).

Section 36. Repealer.

This bill repeals:

Section 31A-17-519, Small company exemption.

CHAPTER 199
H. B. 34

Passed February 7, 2022
Approved March 23, 2022
Effective July 1, 2022

CIGARETTE AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies tax and criminal code provisions related to cigarettes.

Highlighted Provisions:

This bill:

- modifies the definitions of "cigarette" and "electronic cigarette."

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-14-102, as last amended by Laws of Utah 2020, Chapter 347
76-10-101, as last amended by Laws of Utah 2020, Chapters 12, 302, and 347

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-14-102 is amended to read:

59-14-102. Definitions.

As used in this chapter:

(1) "Alternative nicotine product" means the same as that term is defined in Section 76-10-101.

(2) "Cigarette" means a roll [~~for smoking~~] made wholly or in part of tobacco:

(a) regardless of:

(i) the size of the roll;

(ii) the shape of the roll; [~~or~~]

(iii) whether the tobacco is flavored, adulterated, or mixed with any other ingredient; [~~and~~] or

(iv) whether the tobacco is heated or burned; and

(b) if the roll has a wrapper or cover [~~of the roll~~] that is made of paper or any other substance or material except tobacco.

(3) "Cigarette rolling machine" means a device or machine that has the capability to produce at least 150 cigarettes in less than 30 minutes.

(4) "Cigarette rolling machine operator" means a person who:

(a) (i) controls, leases, owns, possesses, or otherwise has available for use a cigarette rolling machine; and

(ii) makes the cigarette rolling machine available for use by another person to produce a cigarette; or

(b) offers for sale, at retail, a cigarette produced from the cigarette rolling machine.

(5) "Consumer" means a person that is not required:

(a) under Section 59-14-201 to obtain a license under Section 59-14-202;

(b) under Section 59-14-301 to obtain a license under Section 59-14-202; or

(c) to obtain a license under Section 59-14-803.

(6) "Counterfeit cigarette" means:

(a) a cigarette that has a false manufacturing label; or

(b) a package of cigarettes bearing a counterfeit tax stamp.

(7) (a) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.

(b) "Electronic cigarette" does not include a cigarette or a tobacco product.

(8) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(9) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101.

(10) "Importer" means a person that imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution.

(11) "Indian tribal entity" means a federally recognized Indian tribe, tribal entity, or any other person doing business as a distributor or retailer of cigarettes on tribal lands located in the state.

(12) "Little cigar" means a roll for smoking that:

(a) is made wholly or in part of tobacco;

(b) uses an integrated cellulose acetate filter or other similar filter; and

(c) is wrapped in a substance:

(i) containing tobacco; and

(ii) that is not exclusively natural leaf tobacco.

(13) (a) Except as provided in Subsection (13)(b), "manufacturer" means a person that:

(i) manufactures, fabricates, assembles, processes, or labels a finished cigarette; or

(ii) makes, modifies, mixes, manufactures, fabricates, assembles, processes, labels, repackages, relabels, or imports an electronic cigarette product or a nicotine product.

(b) "Manufacturer" does not include a cigarette rolling machine operator.

(14) "Moist snuff" means tobacco that:

(a) is finely cut, ground, or powdered;

(b) has at least 45% moisture content, as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) is not intended to be:

(i) smoked; or

(ii) placed in the nasal cavity; and

(d) except for single-use pouches of loose tobacco, is not packaged, produced, sold, or distributed in single-use units, including:

(i) tablets;

(ii) lozenges;

(iii) strips;

(iv) sticks; or

(v) packages containing multiple single-use units.

(15) "Nicotine" means the same as that term is defined in Section 76-10-101.

(16) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(17) "Nontherapeutic nicotine device" means the same as that term is defined in Section 76-10-101.

(18) "Nontherapeutic nicotine device substance" means the same as that term is defined in Section 76-10-101.

(19) "Nontherapeutic nicotine product" means the same as that term is defined in Section 76-10-101.

(20) "Prefilled electronic cigarette" means the same as that term is defined in Section 76-10-101.

(21) "Prefilled nontherapeutic nicotine device" means the same as that term is defined in Section 76-10-101.

(22) "Retailer" means a person that:

(a) sells or distributes a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state; or

(b) intends to sell or distribute a cigarette, an electronic cigarette product, or a nicotine product to a consumer in the state.

(23) "Stamp" means the indicia required to be placed on a cigarette package that evidences payment of the tax on cigarettes required by Section 59-14-205.

(24) (a) "Tobacco product" means a product made of, or containing, tobacco.

(b) "Tobacco product" includes:

(i) a cigarette produced from a cigarette rolling machine;

(ii) a little cigar; or

(iii) moist snuff.

(c) "Tobacco product" does not include a cigarette.

(25) "Tribal lands" means land held by the United States in trust for a federally recognized Indian tribe.

Section 2. Section 76-10-101 is amended to read:

76-10-101. Definitions.

As used in this part:

(1) (a) "Alternative nicotine product" means a product, other than a cigarette, a counterfeit cigarette, an electronic cigarette product, a nontherapeutic nicotine product, or a tobacco product, that:

(i) contains nicotine;

(ii) is intended for human consumption;

(iii) is not purchased with a prescription from a licensed physician; and

(iv) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Alternative nicotine product" includes:

(i) pure nicotine;

(ii) snortable nicotine;

(iii) dissolvable salts, orbs, pellets, sticks, or strips; and

(iv) nicotine-laced food and beverage.

(c) "Alternative nicotine product" does not include a fruit, a vegetable, or a tea that contains naturally occurring nicotine.

(2) "Cigar" means a product that contains nicotine, is intended to be burned under ordinary conditions of use, and consists of any roll of tobacco wrapped in leaf tobacco, or in any substance containing tobacco, other than any roll of tobacco that is a cigarette.

(3) "Cigarette" means a product that contains nicotine, is intended to be heated or burned under ordinary conditions of use, and consists of:

(a) any roll of tobacco wrapped in paper or in any substance not containing tobacco; or

(b) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in Subsection (3)(a).

(4) (a) "Electronic cigarette" means:

(i) any electronic oral device:

(A) that provides an aerosol or a vapor of nicotine or other substance; and

(B) which simulates smoking through the use or inhalation of the device;

(ii) a component of the device described in Subsection (4)(a)(i); or

(iii) an accessory sold in the same package as the device described in Subsection (4)(a)(i).

(b) "Electronic cigarette" includes an oral device that is:

(i) composed of a heating element, battery, or electronic circuit; and

(ii) marketed, manufactured, distributed, or sold as:

(A) an e-cigarette;

(B) an e-cigar;

(C) an e-pipe; or

(D) any other product name or descriptor, if the function of the product meets the definition of Subsection (4)(a).

(c) "Electronic cigarette" does not mean a medical cannabis device, as that term is defined in Section 26-61a-102.

(5) "Electronic cigarette product" means an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette.

(6) "Electronic cigarette substance" means any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.

(7) (a) "Flavored electronic cigarette product" means an electronic cigarette product that has a taste or smell that is distinguishable by an ordinary consumer either before or during use or consumption of the electronic cigarette product.

(b) "Flavored electronic cigarette product" includes an electronic cigarette product that has a taste or smell of any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb, or spice.

(c) "Flavored electronic cigarette product" does not include an electronic cigarette product that:

(i) has a taste or smell of only tobacco, mint, or menthol; or

(ii) has been approved by an order granting a premarket tobacco product application of the electronic cigarette product by the United States Food and Drug Administration under 21 U.S.C. Sec. 387j(c)(1)(A)(i).

(8) "Nicotine" means a poisonous, nitrogen containing chemical that is made synthetically or derived from tobacco or other plants.

(9) "Nicotine product" means an alternative nicotine product or a nontherapeutic nicotine product.

(10) (a) "Nontherapeutic nicotine device" means a device that:

(i) has a pressurized canister that is used to administer nicotine to the user through inhalation or intranasally;

(ii) is not purchased with a prescription from a licensed physician; and

(iii) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(b) "Nontherapeutic nicotine device" includes a nontherapeutic nicotine inhaler or a nontherapeutic nicotine nasal spray.

(11) "Nontherapeutic nicotine device substance" means a substance that:

(a) contains nicotine;

(b) is sold in a cartridge for use in a nontherapeutic nicotine device;

(c) is not purchased with a prescription from a licensed physician; and

(d) is not approved by the United States Food and Drug Administration as nicotine replacement therapy.

(12) "Nontherapeutic nicotine product" means a nontherapeutic nicotine device, a nontherapeutic nicotine device substance, or a prefilled nontherapeutic nicotine device.

(13) "Place of business" includes:

(a) a shop;

(b) a store;

(c) a factory;

(d) a public garage;

(e) an office;

(f) a theater;

(g) a recreation hall;

(h) a dance hall;

(i) a poolroom;

(j) a café;

(k) a cafeteria;

(l) a cabaret;

(m) a restaurant;

(n) a hotel;

(o) a lodging house;

(p) a streetcar;

(q) a bus;

(r) an interurban or railway passenger coach;

(s) a waiting room; and

(t) any other place of business.

(14) "Prefilled electronic cigarette" means an electronic cigarette that is sold prefilled with an electronic cigarette substance.

(15) "Prefilled nontherapeutic nicotine device" means a nontherapeutic nicotine device that is sold prefilled with a nontherapeutic nicotine device substance.

(16) "Retail tobacco specialty business" means the same as that term is defined in Section 26-62-102.

(17) "Smoking" means the possession of any lighted cigar, cigarette, pipe, or other lighted smoking equipment.

(18) (a) "Tobacco paraphernalia" means equipment, product, or material of any kind that is used, intended for use, or designed for use to package, repackage, store, contain, conceal, ingest, inhale, or otherwise introduce a tobacco product, an electronic cigarette substance, or a nontherapeutic nicotine device substance into the human body.

(b) "Tobacco paraphernalia" includes:

(i) metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

(ii) water pipes;

(iii) carburetion tubes and devices;

(iv) smoking and carburetion masks;

(v) roach clips, meaning objects used to hold burning material, such as a cigarette, that has become too small or too short to be held in the hand;

(vi) chamber pipes;

(vii) carburetor pipes;

(viii) electric pipes;

(ix) air-driven pipes;

(x) chillums;

(xi) bongs; and

(xii) ice pipes or chillers.

(c) "Tobacco paraphernalia" does not include matches or lighters.

(19) "Tobacco product" means:

(a) a cigar;

(b) a cigarette; or

(c) tobacco in any form, including:

(i) chewing tobacco; and

(ii) any substitute for tobacco, including flavoring or additives to tobacco.

(20) "Tobacco retailer" means:

(a) a general tobacco retailer, as that term is defined in Section 26-62-102; or

(b) a retail tobacco specialty business.

Section 3. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 200
H. B. 35

Passed February 14, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause in Section 17)

ECONOMIC DEVELOPMENT MODIFICATIONS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Ronald M. Winterton

LONG TITLE

General Description:

This bill modifies provisions related to economic development.

Highlighted Provisions:

This bill:

- requires the Unified Economic Opportunity Commission, instead of the Business and Economic Development Subcommittee, to identify targeted industries for economic development in the state;
- modifies provisions related to the issuance of economic development tax credits by the Governor's Office of Economic Opportunity (GO Utah office), including by:
  - defining and modifying terms;
  - limiting tax credit eligibility to certain projects involving targeted industries, located within rural areas or approved by the Unified Economic Opportunity Commission;
  - repealing provisions allowing a local government entity or community reinvestment agency to receive a tax credit;
  - allowing a local government entity to create an economic development zone for the purpose of incentivizing projects within the local government entity's boundaries;
  - allowing the GO Utah office to issue tax credits for projects that establish remote work opportunities in the state;
  - requiring the GO Utah office to conduct an economic impact study to determine a business entity's eligibility for a tax credit;
  - establishing requirements for the GO Utah office to enter into a written agreement with a business entity, including factors for the GO Utah office to consider in determining the duration and amount of tax credit;
  - modifying provisions related to the process for a business entity to claim a tax credit; and
  - allowing the GO Utah office to make rules for purposes of administration; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-7-614.2, as last amended by Laws of Utah 2021, Chapter 282
63N-1a-102, as last amended by Laws of Utah 2021, Chapter 381 and renumbered and amended by Laws of Utah 2021, Chapter 282
63N-1a-202, as enacted by Laws of Utah 2021, Chapter 282
63N-1a-301, as renumbered and amended by Laws of Utah 2021, Chapter 282
63N-2-102, as last amended by Laws of Utah 2015, Chapter 344 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-103, as last amended by Laws of Utah 2021, Chapters 282 and 381
63N-2-104, as last amended by Laws of Utah 2021, Chapters 282, 381 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 282
63N-2-105, as last amended by Laws of Utah 2021, Chapters 282 and 381
63N-2-107, as last amended by Laws of Utah 2021, Chapters 282 and 382
63N-3-102, as last amended by Laws of Utah 2021, Chapter 282
63N-3-111, as last amended by Laws of Utah 2021, Chapters 282 and 382

ENACTS:

63N-2-104.1, Utah Code Annotated 1953
63N-2-104.2, Utah Code Annotated 1953
63N-2-104.3, Utah Code Annotated 1953
63N-2-110, Utah Code Annotated 1953

REPEALS:

63N-2-108, as last amended by Laws of Utah 2016, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-614.2 is amended to read:

59-7-614.2. Refundable economic development tax credit.

(1) As used in this section:

(a) "Business entity" means a taxpayer that meets the definition of "business entity" as defined in Section 63N-2-103.

[~~(b) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.~~]

[~~(c)~~] (b) "Incremental job" means the same as that term is defined in Section 63N-1a-102.

[~~(d) "Local government entity" means the same as that term is defined in Section 63N-2-103.~~]

[~~(e)~~] (c) "New state revenue" means the same as that term is defined in Section 63N-1a-102.

[~~(f)~~] (d) "Office" means the Governor's Office of Economic Opportunity.

(2) Subject to the other provisions of this section, a business entity[~~, local government entity, or community reinvestment agency~~] may claim a refundable tax credit for economic development.

(3) The tax credit under this section is the amount listed as the tax credit amount on the tax credit

certificate that the office issues to the business entity[~~, local government entity, or community reinvestment agency~~] for the taxable year.

[~~(4) A community reinvestment agency may claim a tax credit under this section only if a local government entity assigns the tax credit to the community reinvestment agency in accordance with Section 63N-2-104.~~]

[~~(5) (a) In accordance with any rules prescribed by the commission under Subsection (5)(b), the commission shall make a refund to the following that claim a tax credit under this section:~~]

[~~(i) a local government entity;~~]

[~~(ii) a community reinvestment agency; or~~]

[~~(iii) a business entity if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.~~]

[~~(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity, local government entity, or community reinvestment agency as required by Subsection (5)(a).~~]

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the commission shall make a refund to a business entity that claims a tax credit under this section if the amount of the tax credit exceeds the business entity's tax liability for a taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a business entity as required by Subsection (4)(a).

[~~(6)~~] (5) (a) In accordance with Section 59-7-159, the Revenue and Taxation Interim Committee shall study the tax credit allowed by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) Except as provided in Subsection [~~(6)~~] (5)(c), for purposes of the study required by this Subsection [~~(6)~~] (5), the office shall provide the following information, if available to the office, to the Revenue and Taxation Interim Committee by electronic means:

(i) the amount of tax credit that the office grants to each business entity[~~, local government entity, or community reinvestment agency~~] for each calendar year;

(ii) the criteria that the office uses in granting a tax credit;

[~~(iii) (A) for a business entity, the new state revenue generated by the business entity for the calendar year; or~~]

[~~(B) for a local government entity, regardless of whether the local government entity assigns the tax credit in accordance with Section 63N-2-104, the new state revenue generated as a result of a new commercial project within the local government entity for each calendar year;~~]

(iii) the new state revenue generated by the business entity for the calendar year;

(iv) estimates for each of the next three calendar years of the following:

(A) the amount of tax credits that the office will grant;

(B) the amount of new state revenue that will be generated; and

(C) the number of new incremental jobs within the state that will be generated;

(v) the information contained in the office's latest report under Section 63N-2-106; and

(vi) any other information that the Revenue and Taxation Interim Committee requests.

(c) (i) In providing the information described in Subsection [~~(6)~~] (5)(b), the office shall redact information that identifies a recipient of a tax credit under this section.

(ii) If, notwithstanding the redactions made under Subsection [~~(6)~~] (5)(c)(i), reporting the information described in Subsection [~~(6)~~] (5)(b) might disclose the identity of a recipient of a tax credit, the office may file a request with the Revenue and Taxation Interim Committee to provide the information described in Subsection [~~(6)~~] (5)(b) in the aggregate for all business entities [~~and agencies~~] that receive the tax credit under this section.

(d) The Revenue and Taxation Interim Committee shall ensure that the recommendations described in Subsection [~~(6)~~] (5)(a) include an evaluation of:

(i) the cost of the tax credit to the state;

(ii) the purpose and effectiveness of the tax credit; and

(iii) the extent to which the state benefits from the tax credit.

Section 2. Section 63N-1a-102 is amended to read:

63N-1a-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.

(4) "Economic opportunity agency" includes:

(a) the Department of Workforce Services;

(b) the Department of Cultural and Community Engagement;

(c) the Department of Commerce;

(d) the Department of Natural Resources;

(e) the Office of Energy Development;

(f) the State Board of Education;

(g) institutions of higher education;

(h) the Utah Multicultural Commission;

(i) the World Trade Center Utah;

(j) local government entities;

(k) associations of governments;

(l) the Utah League of Cities and Towns;

(m) the Utah Association of Counties;

(n) the Economic Development Corporation of Utah;

(o) the Small Business Administration;

(p) chambers of commerce;

(q) industry associations;

(r) small business development centers; and

(s) other entities identified by the commission or the executive director.

(5) "Executive director" means the executive director of the office.

(6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) "GO Utah board" means the Business and Economic Development Subcommittee created in Section 63N-1b-202.

(8) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:

(a) at least 110% of the average wage of the county in which the employment position exists; or

(b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:

(i) at least 100% of the average wage of the county in which the employment position exists; or

(ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.

(9) (a) "Incremental job" means a full-time employment position in the state that:

(i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

(ii) is created in addition to the number of baseline jobs that existed within a business entity.

(b) "Incremental job" includes a full-time employment position where the employee is hired:

(i) directly by a business entity; or

(ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.

(10) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.

(11) "Office" or "GO Utah office" means the Governor's Office of Economic Opportunity.

(12) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

(13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.

(14) "Statewide economic development strategy" means the economic development strategy developed by the commission in accordance with Section 63N-1a-202.

(15) "Targeted industry" means an industry or group of industries targeted by the commission under Section 63N-1a-202, for economic development in the state.

Section 3. Section 63N-1a-202 is amended to read:

63N-1a-202. Commission duties.

(1) The commission shall:

(a) develop, coordinate, and lead a comprehensive statewide economic development strategy that:

(i) unifies and coordinates economic development efforts in the state;

(ii) includes key performance indicators for long-term progress toward the state strategic goals;

(iii) establishes reporting and accountability processes for the key performance indicators; and

(iv) ensures the success of the statewide economic development strategy is shared among the urban and rural areas of the state;

(b) receive feedback, input, and reports from economic opportunity agencies regarding programs related to the statewide economic development strategy;

(c) develop the statewide economic strategy in view of the state water policy described in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and optimal use of water resources, infrastructure development and improvement, optimal agricultural use, water quality, reasonable access to recreational activities, effective wastewater treatment, and protecting and restoring healthy ecosystems;

(d) direct and facilitate changes to or recommend elimination of economic development programs to ensure alignment with the mission and vision described in Section 63N-1a-103;

(e) at least once every five years, identify [~~industry clusters on which the commission recommends the state focus recruiting and expansion efforts~~] which industries or groups of industries shall be targeted for economic development in the state;

(f) establish strategies for the recruitment and retention of targeted [~~industry clusters~~] industries while respecting the different needs of rural and urban areas throughout the state;

(g) establish strategies for supporting entrepreneurship and small business development in the state;

(h) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

(i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;

(j) support the development of a prepared workforce that can support [~~critical industries and industry clusters~~] targeted industries identified by the commission;

(k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;

(l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;

(m) study the unique needs of multicultural communities throughout the state and develop household-level plans to ensure residents of the state can participate in economic opportunities in the state;

(n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;

(o) support an integrated international trade strategy for the state;

(p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and

(q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees.

(2) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306, that includes:

(a) the statewide economic development strategy;

(b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;

(c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and

(d) any legislative recommendations.

Section 4. Section 63N-1a-301 is amended to read:

63N-1a-301. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic Opportunity.

(2) The office is:

(a) responsible for implementing the statewide economic development strategy developed by the commission; and

(b) the industrial and business promotion authority of the state.

(3) The office shall:

(a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;

(b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;

(c) administer and coordinate state and federal economic development grant programs;

(d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(e) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;

(f) act to create, develop, attract, and retain business, industry, and commerce in the state, in accordance with the statewide economic development plan and commission directives;

(g) act to enhance the state's economy;

(h) act to assist strategic industries that are likely to drive future economic growth;

(i) assist communities in the state in developing economic development capacity and coordination with other communities;

(j) identify areas of education and workforce development in the state that can be improved to support economic and business development;

(k) consistent with direction from the commission, develop core strategic priorities for the office, which may include:

(i) enhancing statewide access to entrepreneurship opportunities and small business support;

(ii) focusing industry recruitment and expansion [~~on strategically chosen clusters~~] of targeted industries;

(iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and

(iv) assisting communities with technical support to aid those communities in improving economic development opportunities;

(l) submit an annual written report as described in Section 63N-1a-306; and

(m) perform other duties as provided by the Legislature.

(4) In order to perform its duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

(c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.

(5) Money received under Subsection (4)(c) shall be deposited [~~in~~] into the General Fund as dedicated credits of the office.

(6) (a) The office shall:

(i) obtain the advice of the GO Utah board before implementing a change to a policy, priority, or objective under which the office operates; and

(ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).

(b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 5. Section 63N-2-102 is amended to read:

63N-2-102. Purpose.

This part is enacted to:

(1) foster and develop [~~industry~~] targeted industries in the state, to [~~provide additional employment opportunities for Utah's citizens~~] stimulate community-focused economic growth, and to [~~improve~~] diversify and catalyze the state's economy;

[~~(2) address the loss of prospective high paying jobs, the loss of new economic growth, and the corresponding loss of incremental new state and local revenues to competing states caused by economic incentives offered by those states;~~]

(2) create high paying employment opportunities in the state;

(3) provide tax credits to attract new commercial projects and new jobs in economic development zones in the state; and

(4) provide a cooperative and unified working relationship between state and local economic development efforts.

Section 6. Section 63N-2-103 is amended to read:

63N-2-103. Definitions.

As used in this part:

[~~(1) "Authority" means:~~]

[~~(a) the Utah Inland Port Authority, created in Section 11-58-201; or~~]

[~~(b) the Military Installation Development Authority, created in Section 63H-1-201.~~]

[~~(2) "Authority project area" means a project area of:~~]

[~~(a) the Utah Inland Port Authority, created in Section 11-58-201; or~~]

[~~(b) the Military Installation Development Authority, created in Section 63H-1-201.~~]

[~~(3)~~] (1) (a) "Business entity" means a person that enters into [~~an~~] a written agreement with the office to initiate a new commercial project in Utah that will qualify the person to receive a tax credit under Section 59–7–614.2 or 59–10–1107.

(b) With respect to a tax credit authorized by the office in accordance with Subsection [~~63N–2–104(3)(c)(ii)~~] 63N–2–104.3(2), "business entity" includes a nonprofit entity.

(2) "Commercial or industrial zone" means an area zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a general plan that contemplates future growth.

[~~(4) "Community reinvestment agency" has the same meaning as that term is defined in Section 17C–1–102.~~]

[~~(5)~~] (3) "Development zone" means an economic development zone created under Section 63N–2–104.

[~~(6) "Local government entity" means a county, city, town, or authority that enters into an agreement with the office to have a new commercial project that:~~]

[~~(a) is located within:~~]

[~~(i) the boundary of the county, city, or town; or~~]

[~~(ii) an authority project area; and~~]

[~~(b) qualifies the county, city, town, or authority to receive a tax credit under Section 59–7–614.2.~~]

[~~(7) (a) "New commercial project" means an economic development opportunity that:~~]

[~~(i) involves new or expanded industrial, manufacturing, distribution, or business services in the state; and~~]

[~~(ii) advances the statewide economic development strategy.~~]

[~~(b) "New commercial project" includes an economic development opportunity that involves new or expanded agricultural or mining business services in Utah if the new commercial project is located within a:~~]

[~~(i) county of the third, fourth, fifth, or sixth class; or~~]

[~~(ii) municipality that has a population of 10,000 or less and the municipality is in a county of the second class.~~]

[~~(c) "New commercial project" does not include retail business.~~]

(4) "Local government entity" means a county, city, town, or metro township.

(5) "New commercial project" means an economic development opportunity that:

(a) involves a targeted industry;

(b) is located within:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a municipality that has a population of 10,000 or less and the municipality is located within a county of the second class; or

(c) involves an economic development opportunity that the commission determines to be eligible for a tax credit under this part.

(6) "Remote work opportunity" means a new commercial project that:

(a) does not require a physical office in the state where employees associated with the new commercial project are required to work; and

(b) requires employees associated with the new commercial project to:

(i) work remotely from a location within the state; and

(ii) maintain residency in the state.

[~~(8)~~] (7) "Significant capital investment" means an investment in capital or fixed assets [~~in the following amounts~~], which may include real property, personal property, and other fixtures related to a new commercial project that represents an expansion of existing operations in the state or that increases the business entity's existing workforce in the state[~~:~~].

[~~(a) except as described in Subsection (8)(b), an amount of at least $10,000,000 for a new commercial project located within the boundary of a county of the first or second class;~~]

[~~(b) an amount of at least $500,000 for a new commercial project located within the boundary of a county of the third or fourth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less;~~]

[~~(c) an amount of at least $250,000 for a new commercial project located within the boundary of a county of the fifth or sixth class; or~~]

[~~(d) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(9)~~] (8) "Tax credit" means an economic development tax credit created by Section 59–7–614.2 or 59–10–1107.

[~~(10)~~] (9) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

[~~(11)~~] (10) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the business entity[~~, local government entity, or community development and renewal agency~~] to which the office authorizes a tax credit;

(b) lists the business entity's[~~, local government entity's, or community development and renewal agency's~~] taxpayer identification number;

(c) lists the amount of tax credit that the office authorizes the business entity[~~, local government entity, or community development and renewal agency~~] for the taxable year; and

(d) may include other information as determined by the office.

(11) "Written agreement" means a written agreement entered into between the office and a business entity under Section 63N-2-104.2.

Section 7. Section 63N-2-104 is amended to read:

63N-2-104. Creation of economic development zones.

(1) The office may create an economic development zone in the state if the following requirements are satisfied:

[~~(a) the area is zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan that contemplates future growth;~~]

[~~(b) the request to create a development zone has first been approved by an appropriate local government entity; and~~]

(a) the area is located within a commercial or industrial zone;

(b) the local government entity having jurisdiction over the area supports the creation of the development zone; and

(c) the local government entity described in Subsection (1)(b) provides or commits to provide local incentives [~~have been or will be committed to be provided~~] within the area in accordance with the [~~community's~~] local government entity's approved incentive policy [~~and application process~~].

(2) A local government entity may, for the purpose of incentivizing new commercial projects within the local government entity's boundaries, create an economic development zone if the following requirements are satisfied:

(a) the area is located:

(i) within a commercial or industrial zone; and

(ii) within the geographic boundaries of the local government entity;

(b) the local government entity adopts a long-term plan that addresses the following planning elements within the area:

(i) transportation and infrastructure;

(ii) workforce development; and

(iii) housing needs; and

(c) the office approves the local government entity's request to create the development zone.

[~~(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.~~]

[~~(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:~~]

[~~(i) the new commercial project is within the development zone;~~]

[~~(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;~~]

[~~(iii) the new commercial project brings new incremental jobs to Utah;~~]

[~~(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;~~]

[~~(v) the new commercial project generates new state revenues;~~]

[~~(vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105; and~~]

[~~(vii) unless otherwise advisable in light of economic circumstances, the new commercial project relates to the industry clusters identified by the commission under Section 63N-1a-202.~~]

[~~(3) (a) The office, after consultation with the GO Utah board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.~~]

[~~(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.~~]

[~~(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.~~]

[~~(c) (i) Except as provided in Subsection (3)(c)(ii)(A), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize or commit to authorize a tax credit that exceeds:~~]

[~~(A) 50% of the new state revenues from the new commercial project in any given year; or~~]

[~~(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.~~]

[~~(ii) If the office authorizes or commits to authorize a tax credit for a new commercial project located within the boundary of:~~]

[~~(A) a municipality with a population of 10,000 or less located within a county of the second class and~~

~~that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;~~]

[~~(B) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and~~]

[~~(C) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.~~]

[~~(iii) Notwithstanding any other provisions of this section, the office may not authorize a tax credit under this section for a new commercial project:~~]

[~~(A) to a business entity that has claimed a High Cost Infrastructure Development Tax Credit described in Section 79-6-603 related to the same new commercial project; or~~]

[~~(B) in an amount more than the amount of the capital investment in the new commercial project.~~]

[~~(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.~~]

[~~(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.~~]

[~~(iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:~~]

[~~(A) be between the office, the local government entity, and the community reinvestment agency;~~]

[~~(B) establish the obligations of the local government entity and the community reinvestment agency; and~~]

[~~(C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.~~]

[~~(iv) If a local government entity assigns a tax credit to a community reinvestment agency:~~]

[~~(A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and~~]

[~~(B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant.~~]

[~~(4) The office shall ensure that the written agreement described in Subsection (3):~~]

[~~(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;~~]

[~~(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;~~]

[~~(c) establishes the length of time the business entity or local government entity may claim a tax credit;~~]

[~~(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and~~]

[~~(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.~~]

[~~(5) The office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within the development zone or remotely from elsewhere in the state.~~]

Section 8. Section 63N-2-104.1 is enacted to read:

63N-2-104.1. Eligibility for tax credit -- Economic impact study.

(1) The office shall certify a business entity's eligibility for a tax credit as provided in this section.

(2) A business entity is eligible to receive a tax credit for a new commercial project if:

(a) the new commercial project:

(i) (A) is located and provides direct investment within the geographic boundaries of a development zone; or

(B) creates a remote work opportunity;

(ii) includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors; and

(iii) generates new state revenues; and

(b) the business entity has not claimed a High Cost Infrastructure Development Tax Credit under Section 79-6-603 for the same new commercial project.

(3) The office shall conduct a study of the economic impacts associated with a new commercial project to determine whether a business entity meets the requirements of Subsection (2).

(4) In determining whether a new commercial project meets the requirements of Subsection (2)(a)(ii), the office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within a development zone, or remotely from elsewhere in the state.

Section 9. Section 63N-2-104.2 is enacted to read:

63N-2-104.2. Written agreement -- Contents -- Grounds for amendment or termination.

(1) If the office determines that a business entity is eligible for a tax credit under Section 63N-2-104.1, the office may enter into a written agreement with the business entity that:

(a) establishes performance benchmarks for the business entity to claim a tax credit, including any minimum wage requirements;

(b) specifies the maximum amount of tax credit that the business entity may be authorized for a taxable year and over the life of the new commercial project, subject to the limitations in Section 63N-2-104.3;

(c) establishes the length of time the business entity may claim a tax credit;

(d) requires the business entity to retain records supporting a claim for a tax credit for at least four years after the business entity claims the tax credit;

(e) requires the business entity to submit to audits for verification of any tax credit claimed; and

(f) requires the business entity, in order to claim a tax credit, to meet the requirements of Section 63N-2-105.

(2) In establishing the terms of a written agreement, including the duration and amount of tax credit that the business entity may be authorized to receive, the office shall:

(a) authorize the tax credit in a manner that provides the most effective incentive for the new commercial project;

(b) consider the following factors:

(i) whether the new commercial project provides vital or specialized support to supply chains;

(ii) whether the new commercial project provides an innovative product, technology, or service;

(iii) the number and wages of new incremental jobs associated with the new commercial project;

(iv) the amount of financial support provided by local government entities for the new commercial project;

(v) the amount of capital expenditures associated with the new commercial project;

(vi) whether the new commercial project returns jobs transferred overseas;

(vii) the rate of unemployment in the county in which the new commercial project is located;

(viii) whether the new commercial project creates a remote work opportunity;

(ix) whether the new commercial project is located in a development zone created by a local government entity as described in Subsection 63N-2-104(2);

(x) whether the business entity commits to hiring Utah workers for the new commercial project;

(xi) whether the business entity adopts a corporate citizenry plan or supports initiatives in the state that advance education, gender equality, diversity and inclusion, work-life balance, environmental or social good, or other similar causes;

(xii) whether the business entity's headquarters are located within the state;

(xiii) the likelihood of other business entities relocating to another state as a result of the new commercial project;

(xiv) the necessity of the tax credit for the business entity's expansion in the state or relocation from another state; and

(xv) the location and impact of the new commercial project on existing and planned transportation facilities, existing and planned housing, including affordable housing, and public infrastructure; and

(c) consult with the GO Utah board.

(3) (a) In determining the amount of tax credit that a business entity may be authorized to receive under a written agreement, the office may:

(i) authorize a higher or optimized amount of tax credit for a new commercial project located within a development zone created by a local government entity as described in Subsection 63N-2-104(2); and

(ii) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.

(b) The office may apply a process described in Subsection (3)(a)(ii) to a business entity only with respect to a new or amended written agreement that takes effect on or after January 1, 2022.

(4) If the office identifies any of the following events after entering into a written agreement with a business entity, the office and the business entity shall amend, or the office may terminate, the written agreement:

(a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;

(b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or

(c) an increase in the business entity's operations that:

(i) is outside the scope of the written agreement or outside the boundaries of a development zone; and

(ii) results in new state revenue not subject to the incentive.

Section 10. Section 63N-2-104.3 is enacted to read:

63N-2-104.3. Limitations on tax credit amount.

(1) Except as provided in Subsection (2)(a), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize a tax credit that exceeds:

(a) 50% of the new state revenues from the new commercial project in any given year;

(b) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years; or

(c) 35% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years, if:

(i) the new commercial project brings 2,500 or more new incremental jobs to the state;

(ii) the amount of capital expenditures associated with the new commercial project is $1,000,000,000 or more; and

(iii) the commission approves the tax credit.

(2) If the office authorizes a tax credit for a new commercial project located within the boundary of:

(a) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;

(b) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and

(c) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.

Section 11. Section 63N-2-105 is amended to read:

63N-2-105. Requirements for claiming tax credit -- Application for tax credit certificate -- Procedure.

[~~(1) The office shall certify a business entity's or local government entity's eligibility for a tax credit as provided in this part.~~]

(1) A business entity may claim a tax credit under this part if the office:

(a) determines that the business entity is eligible for a tax credit under Section 63N–2–104.1;

(b) enters into a written agreement with the business entity in accordance with Section 63N–2–104.2; and

(c) issues a tax credit certificate to the business entity in accordance with this section.

(2) A business entity [~~or local government entity~~] seeking to receive a tax credit [~~as provided in this part~~] shall provide the office with:

(a) an application for a tax credit certificate, including a certification, by an officer of the business entity, of any signature on the application;

(b) [~~(i) for a business entity,~~] documentation of the new state revenues from the business entity's new commercial project that were paid during a calendar year; [~~or~~]

[~~(ii) for a local government entity, documentation of the new state revenues from the new commercial project within the area of the local government entity that were paid during a calendar year;~~]

(c) known or expected detriments to the state or existing businesses in the state;

[~~(d) if a local government entity seeks to assign the tax credit to a community reinvestment agency as described in Section 63N–2–104, a statement providing the name and taxpayer identification number of the community reinvestment agency to which the local government entity seeks to assign the tax credit;~~]

[~~(e) (i) with respect to a business entity that seeks to claim a tax credit:~~]

[~~(A)~~] (d) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's returns and other information that would otherwise be subject to confidentiality under Section 59–1–403 or Section 6103, Internal Revenue Code; [~~and~~]

[~~(B)~~] (e) a document that expressly directs and authorizes the Department of Workforce Services to disclose to the office the business entity's unemployment insurance contribution reports that would otherwise be subject to confidentiality under Section 35A–4–312; and

(f) documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement.

[~~(ii) with respect to a local government entity that seeks to claim the tax credit:~~]

[~~(A) a document that expressly directs and authorizes the State Tax Commission to disclose to the office the local government entity's returns and other information that would otherwise be subject to confidentiality under Section 59–1–403 or Section 6103, Internal Revenue Code; and~~]

[~~(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing mining, agricultural, distribution, or business service within a new commercial project within the area of the local government entity, a document signed by an authorized representative of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service that:~~]

[~~(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59–1–403 or Section 6103, Internal Revenue Code; and~~]

[~~(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service; or~~]

[~~(iii) with respect to a local government entity that seeks to assign the tax credit to a community reinvestment agency:~~]

[~~(A) a document signed by the members of the governing body of the community reinvestment agency that expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the community reinvestment agency and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and~~]

[~~(B) if the new state revenues collected as a result of a new commercial project are attributable in whole or in part to a new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service within a new commercial project within the community reinvestment agency, a document signed by an authorized representative of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service that:~~]

[~~(I) expressly directs and authorizes the State Tax Commission to disclose to the office the returns of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and~~]

[~~(II) lists the taxpayer identification number of the new or expanded industrial, manufacturing, mining, agricultural, distribution, or business service; and~~]

[~~(f) for a business entity only, documentation that the business entity has satisfied the performance benchmarks outlined in the written agreement described in Subsection 63N-2-104(3)(a), and as defined by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including the creation of new:~~]

[~~(i) incremental jobs;~~]

[~~(ii) high paying jobs; and~~]

[~~(iii) state revenue.~~]

(3) (a) (i) The office shall submit the [~~documents~~] document described in Subsection [~~(2)(e)~~] (2)(d) to the State Tax Commission.

[~~(b)~~] (ii) Upon receipt of [~~a~~] the document described in Subsection [~~(2)(e)~~] (2)(d), the State Tax Commission shall provide the office with the returns and other information requested by the office that the State Tax Commission is directed or authorized to provide to the office in accordance with Subsection [~~(2)(e)~~] (2)(d).

(b) (i) The office shall submit the document described in Subsection (2)(e) to the Department of Workforce Services.

(ii) Upon receipt of the document described in Subsection (2)(e), the Department of Workforce Services shall provide the office with the information that the Department of Workforce Services is directed or authorized to provide to the office in accordance with Subsection (2)(e).

(4) If the returns and other information provided under Subsections (2) and (3) provide the office with a reasonable justification for authorizing or continuing a tax credit, the office shall:

(a) determine the amount of the tax credit to be granted to the business entity, consistent with the terms of the written agreement;

(b) issue a tax credit certificate to the business entity; and

(c) provide a digital record of the tax credit certificate to the State Tax Commission.

[~~(4) If, with respect to an agreement described in Subsection 63N-2-104(3)(a) between the office and a business entity, the office identifies one of the following events, the office and the business entity shall amend or the office may terminate the agreement:~~]

[~~(a) a change in the business entity's organization resulting from a merger with or acquisition of another entity located in the state;~~]

[~~(b) a material increase in the business entity's retail operations that results in new state revenue not subject to the incentive; or~~]

[~~(c) an increase in the business entity's operations that:~~]

[~~(i) is outside the scope of the agreement or outside the boundaries of a development zone; and~~]

[~~(ii) results in new state revenue not subject to the incentive.~~]

[~~(5) If, after review of the returns and other information provided by the State Tax Commission, or after review of the ongoing performance of the business entity or local government entity, the office determines that the returns and other information are inadequate to provide a reasonable justification for authorizing or continuing a tax credit, the office shall:~~]

[~~(a) (i) deny the tax credit; or~~]

[~~(ii) terminate the agreement described in Subsection 63N-2-104(3)(a) for failure to meet the performance standards established in the agreement; or~~]

[~~(b) inform the business entity or local government entity that the returns or other information were inadequate and ask the business entity or local government entity to submit new documentation.~~]

[~~(6) If after review of the returns and other information provided by the State Tax Commission, the office determines that the returns and other information provided by the business entity or local government entity provide reasonable justification for authorizing a tax credit, the office shall, based upon the returns and other information:~~]

[~~(a) determine the amount of the tax credit to be granted to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N–2–104, to the community reinvestment agency to which the local government entity assigns the tax credit;~~]

[~~(b) issue a tax credit certificate to the business entity, local government entity, or if the local government entity assigns the tax credit as described in Section 63N–2–104, to the community reinvestment agency to which the local government entity assigns the tax credit; and~~]

[~~(c) provide a digital record of the tax credit certificate to the State Tax Commission.~~]

[~~(7) (a) For purposes of determining the amount of a business entity's tax credit in accordance with this section, the office may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process by which the office closely approximates the amount of taxes the business entity paid under Title 59, Chapter 12, Sales and Use Tax Act, for a capital project.~~]

[~~(b) The office may apply a process described in Subsection (7)(a) to a business entity only with respect to a new agreement described in Subsection 63N–2–104(3)(a) that takes effect on or after January 1, 2022.~~]

[~~(8) A business entity, local government entity, or community reinvestment agency may not claim a tax credit unless the business entity, local government entity, or community reinvestment agency has a tax credit certificate issued by the office.~~]

[~~(9)~~] (5) (a) A business entity[~~, local government entity, or community reinvestment agency~~] may claim a tax credit in the amount listed on the tax credit certificate on its tax return.

(b) A business entity[~~, local government entity, or community reinvestment agency~~] that claims a tax credit under this section shall retain the tax credit certificate in accordance with Section 59–7–614.2 or 59–10–1107.

Section 12. Section 63N-2-107 is amended to read:

63N-2-107. Reports of new state revenues, partial rebates, and tax credits.

(1) Before October 1 of each year, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) (i) the total estimated amount of new state revenues created from new commercial projects [~~in development zones~~];

(ii) the estimated amount of new state revenues from new commercial projects [~~in development zones~~] that will be generated from:

(A) sales tax;

(B) income tax; and

(C) corporate franchise and income tax; and

(iii) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded; and

(b) the total estimated amount of tax credits that the office projects that business entities[~~, local government entities, or community reinvestment agencies~~] will qualify to claim under this part.

(2) By the first business day of each month, the office shall submit a report to the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, and the Division of Finance identifying:

(a) each new written agreement that the office entered into [~~by the office~~] since the last report;

(b) the estimated amount of new state revenues that will be generated under each written agreement described in Subsection (2)(a);

(c) the estimated maximum amount of tax credits that a business entity[~~, local government entity, or community reinvestment agency~~] could qualify for under each written agreement described in Subsection (2)(a); and

(d) the minimum number of new incremental jobs and high paying jobs that will be created before any tax credit is awarded.

(3) At the reasonable request of the Governor's Office of Planning and Budget, the Office of the Legislative Fiscal Analyst, or the Division of Finance, the office shall provide additional information about the tax credit, new incremental jobs and high paying jobs, costs, and economic benefits related to this part, if the information is part of a public record as defined in Section 63G–2–103.

(4) By June 30, the office shall submit to the Economic Development and Workforce Services Interim Committee, the Business, Economic Development, and Labor Appropriations Subcommittee, and the governor, a written report that provides an overview of the implementation and efficacy of the statewide economic development strategy, including an analysis of the extent to which the office's programs are aligned with the prevailing economic conditions expected in the next fiscal year.

Section 13. Section 63N-2-110 is enacted to read:

63N-2-110. Rulemaking authority.

The office may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to administer this part.

Section 14. Section 63N-3-102 is amended to read:

63N-3-102. Definitions.

As used in this part:

(1) "Administrator" means the executive director or the executive director's designee.

(2) "Economic opportunities" means unique business situations or community circumstances,

including the development of recreation infrastructure and the promotion of the high tech sector in the state, which lend themselves to the furtherance of the economic interests of the state by providing a catalyst or stimulus to the growth or retention, or both, of commerce and industry in the state, including retention of companies whose relocation outside the state would have a significant detrimental economic impact on the state as a whole, regions of the state, or specific components of the state as determined by the GO Utah board.

(3) "Restricted Account" means the restricted account known as the Industrial Assistance Account created in Section 63N-3-103.

[~~(4) "Targeted industry" means an industry or group of industries targeted by the GO Utah board under Section 63N-3-111, for economic development in the state.~~]

[~~(5)~~] (4) "Talent development grant" means a grant awarded under Section 63N-3-112.

Section 15. Section 63N-3-111 is amended to read:

63N-3-111. Annual policy considerations.

[~~(1) (a) The GO Utah board shall determine annually which industries or groups of industries shall be targeted industries as defined in Section 63N-3-102.~~]

[~~(b)~~] (1) (a) The office shall make recommendations to state and federal agencies, local governments, the governor, and the Legislature regarding policies and initiatives that promote the economic development of targeted industries.

[~~(c)~~] (b) The office may create one or more voluntary advisory committees that may include public and private stakeholders to solicit input on policy guidance and best practices in encouraging the economic development of targeted industries.

(2) In evaluating the economic impact of applications for assistance, the GO Utah board shall use an econometric cost-benefit model.

(3) The GO Utah board may establish:

(a) minimum interest rates to be applied to loans granted that reflect a fair social rate of return to the state comparable to prevailing market-based rates such as the prime rate, U.S. Government T-bill rate, or bond coupon rate as paid by the state, adjusted by social indicators such as the rate of unemployment; and

(b) minimum applicant expense ratios, as long as they are at least equal to those required under Subsection 63N-3-105(1)(b).

Section 16. Repealer.

This bill repeals:

Section 63N-2-108, Expenditure of amounts received by a local government entity or community reinvestment agency as a tax credit -- Commingling of tax credit amounts with certain other amounts.

Section 17. Effective date.

This bill takes effect on May 4, 2022, except that the amendments to Section 59-7-614.2 in this bill take effect for a taxable year beginning on or after January 1, 2022.

CHAPTER 201
H. B. 38

Passed March 1, 2022
Approved March 23, 2022
Effective May 4, 2022

PROPERTY THEFT AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill concerns the purchase and theft of certain types of property.

Highlighted Provisions:

This bill:

- defines terms;
- adds certain catalytic converter purchasers to the Pawnshop and Secondhand Merchandise Transaction Information Act;
- requires certain catalytic converter purchasers to document and input information into the central database for pawnshops and secondhand businesses;
- sets penalties for a catalytic converter purchaser's failure to document and input required information into the central database;
- requires certain catalytic converter purchasers to meet specific requirements in the Pawnshop and Secondhand Merchandise Transaction Information Act, including:
  - holding period requirements;
  - an annual fee;
  - annual training requirements; and
  - certain penalties;
- provides certain reporting requirements regarding catalytic converter theft for the multi-agency joint strike force;
- limits the type of payment for certain purchases of a catalytic converter;
- modifies the membership of the Pawnshop and Secondhand Merchandise Advisory Board;
- modifies the presumptions for stolen property in certain situations;
- provides penalties for the theft of a catalytic converter; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2021, Chapter 266
13-32a-101, as last amended by Laws of Utah 2007, Chapter 352
13-32a-102, as last amended by Laws of Utah 2021, Chapter 66
13-32a-104, as last amended by Laws of Utah 2021, Chapter 66
13-32a-105, as last amended by Laws of Utah 2019, Chapter 309
13-32a-106, as last amended by Laws of Utah 2021, Chapter 66
13-32a-106.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-108, as last amended by Laws of Utah 2019, Chapter 309
13-32a-109, as last amended by Laws of Utah 2021, Chapter 66
13-32a-109.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-110, as last amended by Laws of Utah 2021, Chapter 66
13-32a-110.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-111, as last amended by Laws of Utah 2020, Chapter 354
13-32a-112, as last amended by Laws of Utah 2020, Chapter 354
13-32a-112.1, as enacted by Laws of Utah 2019, Chapter 309
13-32a-112.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-113, as last amended by Laws of Utah 2019, Chapter 309
13-32a-114, as last amended by Laws of Utah 2019, Chapter 309
13-32a-115, as last amended by Laws of Utah 2019, Chapter 309
13-32a-116, as last amended by Laws of Utah 2019, Chapter 309
13-32a-116.5, as last amended by Laws of Utah 2019, Chapter 309
63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
67-5-37, as enacted by Laws of Utah 2020, Chapter 229
76-6-408, as last amended by Laws of Utah 2019, Chapter 309
76-6-412, as last amended by Laws of Utah 2021, Chapter 57
76-6-1406, as renumbered and amended by Laws of Utah 2013, Chapter 187
78B-3-108, as last amended by Laws of Utah 2012, Chapter 257

ENACTS:

13-32a-104.7, Utah Code Annotated 1953
13-32a-118, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act; and

(w) Chapter 57, Maintenance Funding Practices Act.

Section 2. Section 13-32a-101 is amended to read:

CHAPTER 32a. PAWNSHOP, SECONDHAND MERCHANDISE, AND CATALYTIC CONVERTER TRANSACTION INFORMATION ACT

13-32a-101. Title.

This chapter is known as the "Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter Transaction Information Act."

Section 3. Section 13-32a-102 is amended to read:

13-32a-102. Definitions.

As used in this chapter:

(1) "Account" means the Pawnbroker [~~and~~], Secondhand Merchandise, and Catalytic Converter Operations Restricted Account created in Section 13-32a-113.

(2) "Antique item" means an item:

(a) that is generally older than 25 years;

(b) whose value is based on age, rarity, condition, craftsmanship, or collectability;

(c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and

(d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) "Antique shop" means a business operating at an established location that deals primarily in the purchase, exchange, or sale of antique items.

(4) "Automated recycling kiosk" means an interactive machine that:

(a) is installed inside a commercial site used for the selling of goods and services to consumers;

(b) is monitored remotely by a live representative during the hours of operation;

(c) only engages in secondhand merchandise transactions involving wireless communication devices; and

(d) has the following technological functions:

(i) verifies the seller's identity by a live representative using the individual's identification;

(ii) generates a ticket; and

(iii) electronically transmits the secondhand merchandise transaction information to the central database.

(5) "Automated recycling kiosk operator" means a person whose sole business activity is the operation of one or more automated recycling kiosks.

(6) "Board" means the Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter Advisory Board created by this chapter.

(7) "Catalytic converter" means the same as that term is defined in Section 76-6-1402.

(8) (a) "Catalytic converter purchase" means a purchase from an individual of a used catalytic converter that is no longer affixed to a vehicle.

(b) "Catalytic converter purchase" does not mean a purchase of a catalytic converter:

(i) from a business regularly engaged in automobile repair, crushing, dismantling, recycling, or salvage;

(ii) from a new or used vehicle dealer licensed under Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(iii) from another catalytic converter purchaser; or

(iv) that has never been affixed to a vehicle.

(9) "Catalytic converter purchaser" means a person who purchases a used catalytic converter in a catalytic converter purchase.

[~~(7)~~] (10) "Central database" or "database" means the electronic database created and operated under Section 13-32a-105.

[~~(8)~~] (11) "Children's product" means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

[~~(9)~~] (12) "Children's product resale business" means a business operating at a commercial location and primarily selling children's products.

[~~(10)~~] (13) "Coin" means a piece of currency, usually metallic and usually in the shape of a disc that is:

(a) stamped metal, and issued by a government as monetary currency; or

(b) (i) worth more than its current value as currency; and

(ii) worth more than its metal content value.

[~~(11)~~] (14) "Coin dealer" means a person whose sole business activity is the selling and purchasing of numismatic items and precious metals.

[~~(12)~~] (15) "Collectible paper money" means paper currency that is no longer in circulation and is sold and purchased for the paper currency's collectible value.

[~~(13)~~] (16) (a) "Commercial grade precious metals" or "precious metals" means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

(i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or

(ii) .925 fine sterling silver ingots, art bars, and medallions.

(b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

[~~(14)~~] (17) "Consignment shop" means a business, operating at an established location:

(a) that deals primarily in the offering for sale property owned by a third party; and

(b) where the owner of the property only receives consideration upon the sale of the property by the business.

[~~(15)~~] (18) "Division" means the Division of Consumer Protection created in Chapter 1, Department of Commerce.

[~~(16)~~] (19) "Exonumia" means a privately issued token for trade that is sold and purchased for the token's collectible value.

[~~(17)~~] (20) "Gift card" means a record that:

(a) is usable at:

(i) a single merchant; or

(ii) a specified group of merchants;

(b) is prefunded before the record is used; and

(c) can be used for the purchase of goods or services.

[~~(18)~~] (21) "Identification" means any of the following non-expired forms of identification issued by a state government, the United States government, or a federally recognized Indian tribe, if the identification includes a unique number, photograph of the bearer, and date of birth:

(a) a United States Passport or United States Passport Card;

(b) a state-issued driver license;

(c) a state-issued identification card;

(d) a state-issued concealed carry permit;

(e) a United States military identification;

(f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

[~~(19)~~] (22) "IMEI number" means an International Mobile Equipment Identity number.

[~~(20)~~] (23) "Indicia of being new" means property that:

(a) is represented by the individual pawning or selling the property as new;

(b) is unopened in the original packaging; or

(c) possesses other distinguishing characteristics that indicate the property is new.

[~~(21)~~] (24) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is located.

[~~(22)~~] (25) "Numismatic item" means a coin, collectible paper money, or exonumia.

[~~(23)~~] (26) "Original victim" means a victim who is not a party to the pawn or sale transaction or catalytic converter purchase and includes:

(a) an authorized representative designated in writing by the original victim; and

(b) an insurer who has indemnified the original victim for the loss of the described property.

[~~(24)~~] (27) "Pawn or secondhand business" means a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

[~~(25)~~] (28) "Pawn transaction" means:

(a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time;

(b) a loan of money on one or more deposits of personal property;

(c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or

(d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

[~~(26)~~] (29) "Pawnbroker" means a person whose business:

(a) engages in a pawn transaction; or

(b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of whether the person or business enters into pawn transactions or secondhand merchandise transactions.

[~~(27)~~] (30) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.

[~~(28)~~] (31) "Pledgor" means an individual who conducts a pawn transaction with a pawnshop.

[~~(29)~~] (32) "Property" means an article of tangible personal property, numismatic item, precious metal, gift card, transaction card, or other physical or digital card or certificate evidencing store credit, and includes a wireless communication device.

[~~(30)~~] (33) "Retail media item" means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.

[~~(31)~~] (34) "Scrap jewelry" means an item purchased solely:

(a) for its gold, silver, or platinum content; and

(b) for the purpose of reuse of the metal content.

[~~(32)~~] (35) (a) "Secondhand merchandise dealer" means a person whose business:

(i) engages in a secondhand merchandise transaction; and

(ii) does not engage in a pawn transaction.

(b) "Secondhand merchandise dealer" includes a coin dealer and an automated recycling kiosk operator.

(c) "Secondhand merchandise dealer" does not include:

(i) an antique shop when dealing in antique items;

(ii) a person who operates an auction house, flea market, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;

(iii) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," "estate sales," "storage unit sales," or "storage unit auctions";

(iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:

(A) card games;

(B) table-top games; or

(C) magic tricks;

(v) the sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association, and for which no compensation is paid;

(vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;

(vii) a person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;

(viii) a person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person does not have, and is not required to have, a local business or occupational license or other authorization for this activity;

(ix) an owner or operator of a retail business that:

(A) receives used merchandise as a trade-in for similar new merchandise; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

(x) an owner or operator of a business that contracts with other persons to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

(xi) any dealer as defined in Section 76-6-1402, that concerns scrap metal and secondary metals;

(xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale;

(xiii) the owner or operator of a children's product resale business; [~~or~~]

(xiv) a consignment shop when dealing in consigned property[~~.~~]; or

(xv) a catalytic converter purchaser.

[~~(33)~~] (36) "Secondhand merchandise transaction" means the purchase or exchange of used or secondhand property.

[~~(34)~~] (37) "Ticket" means a document upon which information is entered when a pawn transaction or secondhand merchandise transaction is made.

[~~(35)~~] (38) "Transaction card" means a card, code, or other means of access to a value with the retail business issued to a person that allows the person to obtain, purchase, or receive any of the following:

(a) goods;

(b) services;

(c) money; or

(d) anything else of value.

[~~(36)~~] (39) "Wireless communication device" means a cellular telephone or a portable electronic device designed to receive and transmit a text message, email, video, or voice communication.

Section 4. Section 13-32a-104 is amended to read:

13-32a-104. Tickets required to be maintained -- Contents -- Identification of items -- Exceptions -- Prohibition against pawning or selling certain property.

(1) A pawn or secondhand business shall keep a ticket for property a person pawns or sells to the pawn or secondhand business. A pawn or secondhand business shall document on the ticket the following information regarding the property:

(a) the date and time of the transaction;

(b) whether the transaction is a pawn or purchase;

(c) the ticket number;

(d) the date by which the property must be redeemed, if the property is pawned;

(e) the following information regarding the individual who pawns or sells the property:

(i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) the unique number and type of identification presented to the pawn or secondhand business;

(iii) the individual's signature; and

(iv) (A) subject to any rule made under Subsection [~~(7)~~] (8), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why the right index fingerprint was unavailable; and

(B) notwithstanding the other provisions of this Subsection (1), an electronic legible fingerprint is not required to be documented on the ticket;

(f) the amount loaned on, paid for, or value for trade-in of each article of property;

(g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and

(h) an accurate description of each article of property, with available identifying marks, including:

(i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers, color, manufacturers' names, and size;

(B) metallic composition, and any jewels, stones, or glass;

(C) any other marks of identification or indicia of ownership on the property;

(D) the weight of the property, if the payment is based on weight;

(E) any other unique identifying feature; and

(F) gold content, if indicated; or

(ii) if multiple articles of property of a similar nature are delivered together in one transaction and the articles of property do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) (a) A pawn or secondhand business may not accept property if, upon inspection, it is apparent that:

(i) a serial number or another form of indicia of ownership has been removed, altered, defaced, or obliterated;

(ii) the property is not a numismatic item and has indicia of being new, but is not accompanied by a written receipt or other satisfactory proof of ownership other than the seller's own statement; or

(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

(b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or secondhand business is the original seller of the property and is accepting a return of the property as provided by the pawn or secondhand business' established return policy.

(c) Property is presumed to have had indicia of being new at the time of a transaction if the property is subsequently advertised by the pawn or secondhand business as being new.

(3) (a) An individual may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

(5) An automated recyling kiosk operator is subject to Section 13-32a-104.6 and is not subject to this section.

(6) A catalytic converter purchaser is subject to Section 13-32a-104.7 and is not subject to this section.

[~~(6)~~] (7) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

[~~(7)~~] (8) The division shall establish standards and criteria for fingerprint legibility by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(8)~~] (9) (a) As used in this Subsection [~~(8)~~] (9), "jewelry" means:

(i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry and watches; or

(ii) any jewelry pawned to a pawnbroker and the contract period between the pawnbroker and the pledgor has expired, including scrap jewelry and watches.

(b) On and after January 1, 2020, a pawn or secondhand business shall obtain:

(i) a color digital photograph clearly and accurately depicting:

(A) each item of jewelry; and

(B) if an item of jewelry has one or more engravings, an additional color digital photograph specifically depicting any engraving; and

(ii) a color digital photograph of an item that bears an identifying mark, including:

(A) a serial number, engraving, owner label, or similar identifying mark; and

(B) an additional photograph that clearly depicts the identifying mark described in Subsection [~~(8)~~] (9)(b)(ii)(A).

Section 5. Section 13-32a-104.7 is enacted to read:

13-32a-104.7. Database information from catalytic converter purchasers -- Penalties.

(1) As soon as practicable, but no later than January 1, 2023, a catalytic converter purchaser shall document information for each catalytic converter purchase as required under this section and upload the information to the central database under Section 13-32a-106.

(2) A catalytic converter purchaser shall document the following information regarding a catalytic converter purchase:

(a) the date and time of the catalytic converter purchase;

(b) the following information regarding the individual selling the catalytic converter:

(i) the individual's:

(A) full name and date of birth as they appear on the individual's identification;

(B) residence address;

(C) telephone number; and

(D) signature on a certificate stating that the individual has the legal right to sell the catalytic converter;

(ii) the type of identification the individual presents under Subsection (2)(b)(i)(A) and the unique number on the identification;

(iii) a color digital photograph or still video of the individual taken at the time of the sale, or a clearly legible photocopy of the individual's identification; and

(iv) except as provided in Subsection (3), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the finger fingerprinted and the reason why the right index fingerprint is unavailable;

(c) the amount paid for the catalytic converter;

(d) the full name of the individual conducting the purchase on behalf of the catalytic converter purchaser or the initials or unique identifying employee number, if the catalytic converter purchaser maintains a record of the initials or unique identifying employee number of the individual;

(e) an accurate description of the catalytic converter, with available identifying marks, including:

(i) if available, the name, brand name, number, serial number, model number, manufacturer information, and size of the catalytic converter;

(ii) any marks of identification or indicia of ownership on the catalytic converter;

(iii) the weight of the catalytic converter, if the payment is based on weight; and

(iv) other unique identifying characteristics of the catalytic converter; and

(f) a color, digital photograph of the catalytic converter.

(3) If the individual selling a catalytic converter to the catalytic converter purchaser previously has sold one or more catalytic converters to the catalytic converter purchaser, the catalytic converter purchaser is not required to obtain the fingerprint under Subsection (2)(b)(iv).

(4) A catalytic converter purchaser may not accept a catalytic converter if, upon inspection, it is apparent that the serial number or identifying characteristics have been intentionally defaced on the catalytic converter.

(5) The division shall establish standards and criteria for fingerprint legibility under Subsection (2)(b)(iv) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(7) A dealer, as defined in Section 76-6-1402, that purchases a catalytic converter under this section shall comply with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

Section 6. Section 13-32a-105 is amended to read:

13-32a-105. Central database -- Implementation -- Notification.

(1) In accordance with this section, there is created [~~under this section~~] a central database as a statewide repository for:

(a) information that a pawn or secondhand [~~businesses are~~] business or a catalytic converter purchaser is required to submit in accordance with this chapter; and [~~for~~]

(b) the use of a participating law enforcement [~~agencies that meet~~] agency that meets the requirements of Section 13-32a-111.

(2) The division shall:

(a) establish and operate the central database; or

(b) contract with a third party to establish and operate the central database in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(3) Funding for the creation and operation of the central database shall be from the account.

(4) (a) An entity that operates the central database may not hold any financial or operating interest in a pawn or secondhand business or catalytic converter purchaser in any state.

(b) The division shall verify before a bid is awarded that the selected entity meets the requirements of Subsection (4)(a).

(c) If any entity is awarded a bid under this Subsection (4) and is later found to hold any interest in violation of Subsection (4)(a), the award is subject to being opened again for request for proposal.

(5) (a) Beginning January 1, 2020, upon a query by a pawnbroker, the central database shall provide notification of the volume of business an individual seeking to enter into a transaction with the pawnbroker has engaged in with any pawnbroker regulated by this chapter within the previous 30 days based on the records in the central database at the time of the query.

(b) Information entered in the central database shall be retained for five years and shall then be deleted.

(6) Upon request, the entity responsible for establishing and operating the central database under Subsection (2) shall provide technical information and advice for an information technology representative of a pawn or secondhand business or catalytic converter purchaser that is required to provide information to the central database.

Section 7. Section 13-32a-106 is amended to read:

13-32a-106. Transaction information provided to the central database -- Protected information.

(1) (a) Except as provided in Subsection 13-32a-104.6(4), a pawn or secondhand business or catalytic converter purchaser shall transmit electronically in a compatible format information required to be recorded under Sections [~~13-32a-103,~~] 13-32a-104, 13-32a-104.5, [~~and~~] 13-32a-104.6, and 13-32a-104.7 that is capable of being transmitted electronically to the central database within 24 hours after entering into the transaction.

(b) The division may specify by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the information capable of being transmitted electronically under Subsection (1)(a).

(2) (a) A pawn or secondhand business shall maintain tickets generated by the pawn or secondhand business and shall maintain the tickets in a manner so that the tickets are available to local law enforcement agencies as required by this chapter and as requested by any law enforcement agency as part of an investigation or reasonable random inspection conducted [~~pursuant to~~] under this chapter.

(b) (i) A catalytic converter purchaser is not required to generate or maintain a ticket for a catalytic converter purchase.

(ii) A catalytic converter purchaser shall make the information documented under Section 13-32a-104.7 available to a local law enforcement agency in accordance with this chapter and upon request by a law enforcement agency as part of an investigation or reasonable random inspection conducted under this chapter.

(3) (a) If a pawn or secondhand business or catalytic converter purchaser experiences a computer or electronic malfunction that affects [~~its~~] the business's or purchaser's ability to report transactions as required in Subsection (1), the pawn or secondhand business or catalytic converter purchaser shall immediately notify the division and the local law enforcement agency of the malfunction.

(b) The pawn or secondhand business or catalytic converter purchaser shall solve the malfunction within three business days after the day on which the business or purchaser experiences the malfunction or notify the division and the local law enforcement agency under Subsection (4).

(4) If the computer or electronic malfunction under Subsection (3) cannot be solved within three business days after the day on which the pawn or secondhand business or catalytic converter purchaser experiences the malfunction, the pawn or secondhand business or catalytic converter purchaser shall notify the division and the local law enforcement agency of the reasons for the delay and provide documentation from a reputable computer

maintenance company of the reasons why the computer or electronic malfunction cannot be solved within three business days.

(5) A computer or electronic malfunction does not suspend the[~~ pawn or secondhand business'~~] obligation of the pawn or secondhand business or catalytic converter purchaser to comply with all other provisions of this chapter.

(6) During the malfunction under Subsections (3) and (4), the pawn or secondhand business or catalytic converter purchaser shall:

(a) arrange with the local law enforcement agency a mutually acceptable alternative method by which the pawn or secondhand business or catalytic converter purchaser provides the required information to the local law enforcement agency; and

(b) a pawn or secondhand business or catalytic converter purchaser shall maintain the tickets, if applicable, and other related information required under this chapter in a written form.

(7) A pawn or secondhand business or catalytic converter purchaser that violates the electronic transaction reporting requirement [~~of~~] under this section is subject to an administrative fine of $50 per day if:

(a) the pawn or secondhand business or catalytic converter purchaser is unable to submit the information electronically due to a computer or electronic malfunction;

(b) the three business day period under Subsection (3) has expired; and

(c) the pawn or secondhand business or catalytic converter purchaser has not provided documentation regarding [~~its~~] the pawn or secondhand business's or catalytic converter purchaser's inability to solve the malfunction as required under Subsection (4).

(8) A pawn or secondhand business or catalytic converter purchaser is not responsible for a delay in transmission of information that results from a malfunction in the central database.

(9) A violation of this section is a [~~Class~~] class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 8. Section 13-32a-106.5 is amended to read:

13-32a-106.5. Confidentiality of pawn and purchase transactions.

(1) A ticket, copy of a ticket, [~~or~~] information from a ticket, or information required under Section 13-32a-104.7 delivered to a local law enforcement agency or transmitted to the central database [~~pursuant to~~] under Section 13-32a-106 is a protected record under Section 63G-2-305.

(2) In addition to use by the issuing pawn or secondhand business or catalytic converter purchaser, the ticket, copy of a ticket, [~~or~~] information from a ticket, or information required under Section 13-32a-104.7 may be used only by a law enforcement agency and the division and only for the law enforcement and administrative enforcement purposes of:

(a) investigating possible criminal conduct involving the property delivered:

(i) to the pawn or secondhand business in a pawn transaction or secondhand merchandise transaction; or

(ii) to a catalytic converter purchaser in a catalytic converter purchase;

(b) investigating a possible violation of the record keeping or reporting requirements of this chapter when the local law enforcement agency or the division, based on a review of the records and information received, has reason to believe that a violation has occurred;

(c) responding to an inquiry from an insurance company investigating a claim for physical loss of described property by searching the central database to determine if property matching the description has been delivered to a pawn or secondhand business or catalytic converter purchaser by another person in a pawn transaction [~~or~~], secondhand merchandise purchase transaction, or catalytic converter purchase and if so, obtaining from the central database:

(i) a description of the property;

(ii) the name and address of the pawn or secondhand business or catalytic converter purchaser that received the property; and

(iii) the name, address, and date of birth of the conveying individual; and

(d) taking enforcement action under Section 13-2-5 against a pawn or secondhand business or catalytic converter purchaser.

[~~(2)~~] (3) An insurance company making a request under Subsection [~~(1)~~] (2)(c) shall provide the police report case number concerning the described property.

[~~(3)~~] (4) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any person any information obtained from the central database for any purpose other than those specified in Subsection [~~(1)~~] (2).

(b) Each separate violation of Subsection [~~(3)~~] (4)(a) is a class B misdemeanor.

(c) Each separate violation of Subsection [~~(3)~~] (4)(a) is subject to a civil penalty not to exceed $250.

Section 9. Section 13-32a-108 is amended to read:

13-32a-108. Retention of records -- Reasonable inspection.

(1) A pawn or secondhand business or local law enforcement agency, whichever has custody of a ticket or copy of a ticket, shall retain the ticket or copy for no less than three years [~~from~~] after the date of the transaction.

(2) (a) A law enforcement agency or the division may conduct random reasonable inspections of

pawn or secondhand businesses or catalytic converter purchasers for the purpose of monitoring compliance with the requirements of this chapter.

(b) [~~Inspections~~] A law enforcement agency or the division shall conduct an inspection under Subsection (2)(a) [~~shall be performed~~] during the regular business hours of the pawn or secondhand business or catalytic converter purchaser.

(3) A violation of this section is a [~~Class~~] class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 10. Section 13-32a-109 is amended to read:

13-32a-109. Holding period for property -- Return of property -- Penalty.

(1) (a) A pawnbroker may sell property pawned to the pawnbroker if:

(i) 15 calendar days have passed after the day on which the pawnbroker submits the information and any required photograph to the central database;

(ii) the contract period between the pawnbroker and the pledgor expires; and

(iii) the pawnbroker has complied with Sections [~~13-32a-103,~~] 13-32a-104[~~,~~] and 13-32a-106.

(b) If property, including scrap jewelry, is purchased by a pawn or secondhand business or catalytic converter purchaser, the pawn or secondhand business or catalytic converter purchaser may sell the property if the pawn or secondhand business or catalytic converter purchaser has held the property for 15 calendar days after the day on which the pawn or secondhand business or catalytic converter purchaser submits the information to the central database, and complied with Sections [~~13-32a-103,~~] 13-32a-104, 13-32a-104.6, 13-32a-104.7, and 13-32a-106, except that the pawn or secondhand business is not required to hold precious metals or numismatic items under this Subsection (1)(b).

(c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring a pawn or secondhand business or catalytic converter purchaser to hold property if necessary in the course of an investigation.

(ii) If the property is pawned, the law enforcement agency may require the property be held beyond the terms of the contract between the pledgor and the pawnbroker.

(iii) If the property is sold to the pawn or secondhand business or catalytic converter purchaser, the law enforcement agency may require the property be held if the pawn or secondhand business or catalytic converter purchaser has not sold the article.

(d) If the law enforcement agency requesting a hold on property under this Subsection (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify the local law enforcement agency of the request and also the pawn or secondhand business or catalytic converter purchaser.

(2) If a law enforcement agency requires the pawn or secondhand business or catalytic converter purchaser to hold property as part of an investigation, the law enforcement agency shall provide to the pawn or secondhand business or catalytic converter purchaser a hold form issued by the law enforcement agency, that:

(a) states the active case number;

(b) confirms the date of the hold request and the property to be held; and

(c) facilitates the ability of the pawn or secondhand business or catalytic converter purchaser to track the property when the prosecution takes over the case.

(3) If property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business or catalytic converter purchaser until further disposition by the law enforcement agency, and [~~as consistent~~] in accordance with this chapter.

(4) (a) The initial hold by a law enforcement agency is for a period of 90 days.

(b) If the property is not seized by the law enforcement agency, the property shall remain in the custody of the pawn or secondhand business or catalytic converter purchaser and is subject to the hold unless exigent circumstances require the property to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 90 days if circumstances require the extension.

(b) If there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawn or secondhand business or catalytic converter purchaser that is subject to the hold [~~prior to~~] before the expiration of the initial 90 days.

(c) A law enforcement agency may not hold an item for more than the 180 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

(6) A hold on property under Subsection (2) takes precedence over any request to claim or purchase the property subject to the hold.

(7) If an original victim who has complied with Section 13-32a-115 has not been identified and the hold or seizure of the property is terminated, the law enforcement agency requiring the hold or seizure shall within 15 business days after the day on which the termination occurs:

(a) notify the pawn or secondhand business or catalytic converter purchaser in writing that the hold or seizure has been terminated;

(b) return the property subject to the seizure to the pawn or secondhand business or catalytic converter purchaser; or

(c) if the property is not returned to the pawn or secondhand business or catalytic converter purchaser, advise the pawn or secondhand business or catalytic converter purchaser either in writing or electronically of the specific alternative disposition of the property.

(8) (a) If the original victim who has complied with Section 13-32a-115 has been identified and the hold or seizure of property is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the property is necessary for purposes of prosecution, as provided in Section 24-3-103.

(b) If the prosecuting agency determines that continued possession of the property is not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting agency shall provide a written or electronic notification to the law enforcement agency that authorizes the return of the property to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business or catalytic converter purchaser of the authorized return of the property under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business or catalytic converter purchaser that the original victim has identified the property, and direct the pawn or secondhand business or catalytic converter purchaser to release the property to the original victim at no cost to the original victim.

(iii) If the property was seized, the notice shall advise that the property will be returned to the original victim within 15 days after the day on which the pawn or secondhand business or catalytic converter purchaser receives the notice, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business or catalytic converter purchaser shall release property under Subsection (8)(c) unless within 15 days [~~of receiving~~] after the day on which the notice is received the pawn or secondhand business or catalytic converter purchaser complies with Section 13-32a-116.5.

(9) (a) If the law enforcement agency does not notify the pawn or secondhand business or catalytic converter purchaser that a hold on the property has expired, the pawn or secondhand business or catalytic converter purchaser shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired.

(b) The law enforcement agency shall respond within 30 days by:

[~~(a)~~] (i) confirming that the hold period has expired and that the pawn or secondhand business or catalytic converter purchaser may manage the property as if acquired in the ordinary course of business; or

[~~(b)~~] (ii) providing written notice to the pawn or secondhand business or catalytic converter purchaser that a court order has continued the period of time for which the item shall be held.

(10) The written notice under Subsection (9)(b)(ii) is considered provided when:

(a) personally delivered to the pawn or secondhand business or catalytic converter purchaser with a signed receipt of delivery;

(b) delivered to the pawn or secondhand business or catalytic converter purchaser by registered or certified mail; or

(c) delivered by any other means with the mutual assent of the law enforcement agency and the pawn or secondhand business or catalytic converter purchaser.

(11) If the law enforcement agency does not respond within 30 days under Subsection (9), the pawn or secondhand business or catalytic converter purchaser may manage the property as if acquired in the ordinary course of business.

(12) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 11. Section 13-32a-109.5 is amended to read:

13-32a-109.5. Seizure of property -- Notification to pawn or secondhand business or catalytic converter purchaser.

If a law enforcement agency determines seizure of property pawned or sold to a pawn or secondhand business or catalytic converter purchaser is necessary under this chapter during the course of a criminal investigation, in addition to the hold provisions under Section 13-32a-109, the law enforcement agency shall:

(1) notify the pawn or secondhand business or catalytic converter purchaser of the specific property to be seized; and

(2) issue to the pawn or secondhand business or catalytic converter purchaser a seizure form approved by the division and that:

(a) provides the active case number related to the property to be seized;

(b) provides the date of the seizure request;

(c) provides the reason for the seizure;

(d) describes the property to be seized;

(e) states each reason the property is necessary during the course of a criminal investigation; and

(f) includes any information that facilitates the [~~pawn or secondhand business'~~] ability of the pawn or secondhand business or catalytic converter purchaser to track the property when the prosecution agency takes over the case.

Section 12. Section 13-32a-110 is amended to read:

13-32a-110. Administrative or civil penalties -- Criminal prosecution.

(1) A violation of any of the following sections is subject to an administrative or civil penalty of not more than $500:

(a) Section 13-32a-104, [~~ticket~~] tickets required to be maintained;

(b) Section 13-32a-104.5, [~~ticket by coin dealer to be maintained~~] database information from coin dealers;

(c) Section 13-32a-104.6, [~~ticket by~~] database information from automated recycling kiosk [~~operator to be maintained~~] operators;

(d) Section 13-32a-104.7, database information from catalytic converter purchasers;

[~~(d)~~] (e) Section 13-32a-106, transaction information provided to [~~law enforcement~~] the central database;

[~~(e)~~] (f) Section 13-32a-108, retention of records;

[~~(f)~~] (g) Section 13-32a-109, holding period for [~~pawned or purchased~~] property;

[~~(g)~~] (h) Section 13-32a-110.5, transactions with certain individuals prohibited;

[~~(h)~~] (i) Section 13-32a-111, [~~payment of fees as required~~] fees to fund account; or

[~~(i)~~] (j) Section 13-32a-112.1, annual training [~~requirements for pawn or secondhand business employees and officers of participating law enforcement agencies~~].

(2) This section does not prohibit civil action by a governmental entity regarding [~~the pawn or secondhand business'~~] the operation or [~~licenses~~] license of a pawn or secondhand business or catalytic converter purchaser.

(3) The imposition of civil penalties under this section does not prohibit criminal prosecution by a governmental entity for criminal violations of this chapter.

Section 13. Section 13-32a-110.5 is amended to read:

13-32a-110.5. Transactions with certain individuals prohibited.

A pawn or secondhand business or catalytic converter purchaser may not engage in a pawn transaction or secondhand merchandise transaction or catalytic converter purchase with an individual who:

(1) is younger than 18 years [~~of age~~] old; or

(2) appears to be under the influence of alcohol or a controlled substance.

Section 14. Section 13-32a-111 is amended to read:

13-32a-111. Fees to fund account.

(1) (a) A pawn or secondhand business or catalytic converter purchaser in operation shall pay an annual fee[~~,~~] of no more than $500, set in accordance with Section 63J-1-504.

(b) A law enforcement agency within Utah that participates in the use of the central database shall pay an annual fee set in accordance with Section 63J-1-504.

(c) A law enforcement agency outside Utah that requests access to the central database shall pay an annual fee set in accordance with Section 63J-1-504.

(2) A fee paid under Subsection (1) shall be paid annually to the division on or before January 31.

(3) A fee received by the division under this section shall be deposited into the account.

(4) The division may only increase fees for a pawn or secondhand business or catalytic converter purchaser under Section 63J-1-504.

Section 15. Section 13-32a-112 is amended to read:

13-32a-112. Pawnshop, Secondhand Merchandise, and Catalytic Converter Advisory Board.

(1) There is created within the division the "Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter Advisory Board."

(2) The board consists of seven voting members appointed by the executive director of the Department of Commerce:

(a) one law enforcement officer whose work regularly involves pawn or secondhand business or catalytic converter purchases, recommended by the Utah Chiefs of Police Association;

(b) one law enforcement officer whose work regularly involves pawn or secondhand business or catalytic converter purchases, recommended by the Utah Sheriffs Association;

(c) one state, county, or municipal prosecutor, recommended by a prosecutors' association or council;

(d) one pawnbroker, recommended by the pawn industry;

(e) one secondhand merchandise dealer, recommended by the secondhand merchandise industry;

(f) one coin dealer, recommended by the Utah Coin Dealers Association; and

[~~(g) one representative from the pawn or secondhand merchandise industry at large, recommended by the pawn or secondhand merchandise industry.~~]

(g) one representative from the catalytic converter purchaser industry, recommended by the catalytic converter purchaser industry.

(3) After receiving a recommendation for a member by a respective association, council, or industry for the board, the executive director may:

(a) decline the recommendation; and

(b) request another recommendation from the respective association, council, or industry.

(4) (a) A member of the board shall be appointed to a term of not more than four years, and may be reappointed upon expiration of the member's term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director of the Department of Commerce shall, at the time of appointments or reappointments, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the executive director of the Department of Commerce shall appoint a member for the unexpired term.

(d) The executive director of the Department of Commerce may remove a member and replace the member in accordance with this section for the following reasons:

(i) the member fails or refuses to fulfill the duties of a board member, including attendance at board meetings; or

(ii) the member, an entity owned by the member, an entity that the member is employed by, or an entity that the member is representing, engages in a violation of this chapter or Section 76-6-408.

(e) Notwithstanding Subsection (4)(d), members of the board as of May 13, 2019, are removed from the board and the executive director of the Department of Commerce shall appoint the board members in accordance with this section.

(5) (a) The board shall elect one voting member as the chair of the board by a majority of the members present at the board's first meeting each year.

(b) The chair shall preside over the board for a period of one year.

(c) The board shall meet quarterly upon the call of the chair.

(d) A quorum of five members is required for the board to take action. An action taken by majority of a quorum present at a meeting constitutes an action of the board.

(6) (a) The duties and powers of the board include the following:

(i) recommending to the division appropriate rules regarding the administration and enforcement of this chapter;

(ii) recommending to the division changes related to the central database; and

(iii) advising the division on matters related to the pawn and secondhand merchandise and catalytic converter purchase industries.

(b) This Subsection (6) does not require the board's approval to act on a rule or amend this chapter.

(7) (a) A pawn or secondhand business or catalytic converter purchaser may file with the board complaints regarding law enforcement agency practices perceived to be inconsistent with this chapter.

(b) The board may refer the complaints to the Peace Officers Standards and Training Division.

Section 16. Section 13-32a-112.1 is amended to read:

13-32a-112.1. Annual training.

(1) (a) The division shall provide training sessions, whether online or in-person, at least once each year regarding compliance with this chapter and other applicable state laws.

(b) A pawn or secondhand business or catalytic converter purchaser shall ensure that each individual employed by the pawn or secondhand business or catalytic converter purchaser with access to the central database annually completes the training described in Subsection (1)(a) in order for that individual to continue to have access to the central database.

(c) A law enforcement agency participating in the use of the central database shall ensure that each individual employed by the law enforcement agency with access to the central database annually completes the training described in Subsection (1)(a) in order for that individual to continue to have access to the central database.

(2) The division shall monitor and keep a record of training completion.

Section 17. Section 13-32a-112.5 is amended to read:

13-32a-112.5. Temporary businesses subject to chapter.

A pawn or secondhand business or catalytic converter purchaser that operates on a temporary basis or from a location that is not a permanent retail location:

(1) shall comply with this chapter; and

(2) is subject to enforcement of this chapter.

Section 18. Section 13-32a-113 is amended to read:

13-32a-113. Pawnbroker, Secondhand Merchandise, and Catalytic Converter Operations Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Pawnbroker [~~and~~], Secondhand Merchandise, and Catalytic Converter Operations Restricted Account."

(2) (a) The account shall be funded from fees and administrative and civil fines imposed and collected under Sections 13-32a-106, 13-32a-110, and 13-32a-111. [~~These~~]

(b) The fees and administrative and civil fines shall be paid to the division, which shall deposit them in the account.

[~~(b)~~] (c) The Legislature shall appropriate funds in [~~this~~] the account to the division for:

(i) the costs of providing training required under this chapter;

(ii) the costs of the central database created in Section 13-32a-105; and

(iii) the division's costs of administering [~~the~~] this chapter.

Section 19. Section 13-32a-114 is amended to read:

13-32a-114. Preemption of local ordinances -- Exceptions.

(1) This chapter preempts town, city, county, and other local ordinances governing pawn or secondhand businesses or catalytic converter purchasers, if the ordinances are more restrictive than the provisions of this chapter or are not consistent with this chapter.

(2) Subsection (1) does not preclude a city, county, or other local governmental unit from:

(a) enacting or enforcing local ordinances concerning public health, safety, or welfare, if the ordinances are uniform and equal in application to pawn and secondhand businesses or catalytic converter purchasers and other retail businesses or activities;

(b) requiring a pawn or secondhand business or catalytic converter purchaser to obtain and maintain a business license and providing for revocation of the business license based on multiple violations of Section 76-6-408; [~~and~~] or

(c) enacting zoning ordinances that restrict areas where pawn or secondhand businesses or catalytic converter purchasers and other retail businesses or activities can be located.

Section 20. Section 13-32a-115 is amended to read:

13-32a-115. Criminal investigation -- Prosecution -- Property disposition.

(1) If the property pawned or sold to a pawn or secondhand business or catalytic converter purchaser is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the property stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

(i) claims ownership of the property;

(ii) references the original theft or loss; and

(iii) identifies the perpetrator if known.

(2) The pawn or secondhand business or catalytic converter purchaser shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement of the property purchased or pawned is essential for the purpose of forensic testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business or catalytic converter purchaser to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any property subject to a hold for investigation under this chapter may be seized by the law enforcement agency that requested the hold.

(b) Subsequent disposition of the property shall be consistent with this chapter.

(4) At all times during the course of a criminal investigation and subsequent prosecution, the property subject to a law enforcement hold shall be kept secure by the pawn or secondhand business or catalytic converter purchaser subject to the hold unless the pawned or purchased property has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 21. Section 13-32a-116 is amended to read:

13-32a-116. Property disposition -- Property subject to prosecution -- Property not used as evidence.

When property that is pawned or sold to a pawn or secondhand business or catalytic converter purchaser is the subject of a criminal proceeding, and has been seized by law enforcement pursuant to this chapter, the prosecuting agency shall notify the seizing agency, the original victim, and the pawn or secondhand business or catalytic converter purchaser in compliance with Subsection 13-32a-109(8), if the prosecuting agency determines the article is no longer needed as evidence pending resolution of the criminal case.

Section 22. Section 13-32a-116.5 is amended to read:

13-32a-116.5. Contested disposition of property - Procedure.

(1) If a pawn or secondhand business or catalytic converter purchaser receives notice from a law enforcement agency under Section 13-32a-109 that property that is the subject of a hold or seizure shall be returned to an identified original victim, the pawn or secondhand business or catalytic converter purchaser may contest the determination and seek a specific alternative disposition if within 15 business days after the day on which the pawn or secondhand business or catalytic converter purchaser receives the notice:

(a) the pawn or secondhand business or catalytic converter purchaser gives notice to the identified original victim, by certified mail, that the pawn or secondhand business or catalytic converter purchaser contests the determination to return the property to the original victim; and

(b) the pawn or secondhand business or catalytic converter purchaser files a petition in a court having jurisdiction over the matter to determine rightful ownership of the property as provided in Section 24-3-104.

(2) A pawn or secondhand business or catalytic converter purchaser is guilty of a class B misdemeanor if the pawn or secondhand business or catalytic converter purchaser:

(a) holds or sells property in violation of a notification from a law enforcement agency that the property is to be returned to an original victim; and

(b) [~~the pawn or secondhand business~~] does not comply with the requirements of this section within the time periods specified.

Section 23. Section 13-32a-118 is enacted to read:

13-32a-118. Payment limitation for catalytic converter purchases.

(1) A catalytic converter purchaser, when making a catalytic converter purchase, may not pay the seller for the catalytic converter with cash or a gift card.

(2) Subsection (1) does not apply to a catalytic converter purchase in which the amount paid to the seller is under $100.

Section 24. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of

Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702 (2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 25. Section 67-5-37 is amended to read:

67-5-37. Multi-agency joint strike force -- Joint Organized Retail Crime Unit.

(1) The Office of the Attorney General and the Department of Public Safety shall create and coordinate the operation of a multi-agency joint strike force to combat criminal activity that may have a negative impact on the state's economy.

(2) The attorney general and the Department of Public Safety shall invite federal, state, and local law enforcement personnel to participate in the joint strike force to more effectively utilize their combined skills, expertise, and resources.

(3) The joint strike force shall focus the joint strike force's efforts on detecting, investigating, deterring, and eradicating criminal activity, described in Subsection (1), within the state, including organized retail crime, antitrust violations, intellectual property rights violations, gambling, and the purchase of stolen goods for the purpose of reselling the stolen goods for profit.

(4) In conjunction with the joint strike force, the Office of the Attorney General and the Department of Public Safety shall establish the Joint Organized Retail Crime Unit for the purpose of:

(a) investigating, apprehending, and prosecuting individuals or entities that participate in the purchase, sale, or distribution of stolen property; and

(b) targeting individuals or entities that commit theft and other property crimes for financial gain.

(5) (a) The joint strike force shall provide an annual report to the Law Enforcement and Criminal Justice Interim Committee before December 1 that describes the joint strike force's activities and any recommendations for modifications to this section.

(b) The report described in Subsection (5)(a) shall include the number of catalytic converter thefts and arrests in Utah for the preceding calendar year, if reasonably available.

Section 26. Section 76-6-408 is amended to read:

76-6-408. Receiving stolen property -- Duties of pawnbrokers, secondhand businesses, coin dealers, and catalytic converter purchasers.

(1) As used in this section:

(a) "Catalytic converter purchaser" means the same as that term is defined in Section 13-32a-102.

(b) "Coin dealer" means the same as that term is defined in Section 13-32a-102.

[~~(a)~~] (c) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

[~~(b)~~] (d) "Receives" means acquiring possession, control, title, or lending on the security of the property.

(e) "Scrap metal processor" means the same as that term is defined in Section 76-6-1402.

(f) "Secondhand actor" means:

(i) a pawnbroker;

(ii) a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property; or

(iii) an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property.

(2) A person commits theft if the person receives, retains, or disposes of the property of another knowing that the property is stolen, or believing that the property is probably stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of the property.

(3) [~~The~~] Except as provided in Subsection (4), the knowledge or belief required [~~for~~] under Subsection (2) is presumed in the case of an actor who:

(a) is found in possession or control of other property stolen on a separate occasion; or

(b) has received other stolen property within the year preceding the receiving offense charged[~~;~~].

[~~(c) is a pawnbroker or person who:~~]

[~~(i) has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property; and~~]

[~~(ii) (A) has not completely and accurately documented the information required under Section 13-32a-104; or~~]

[~~(B) is found in possession of merchandise or personal property that violates Subsection 13-32a-104(2); or~~]

[~~(d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102 who does not comply with the requirements of Section 13-32a-104.5.~~]

[~~(4) A pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee, or representative of a pawnbroker or person who fails to comply with Subsection (3) is presumed to have bought, received, or obtained the property knowing the property to have been stolen or unlawfully obtained. This presumption may be rebutted by proof.~~]

[~~(5) When, in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection (3)(c) or (d), then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.~~]

[~~(6) Subsections (3)(c), (4), and (5) do not apply to scrap metal processors as defined in Section 76-6-1402.~~]

(4) (a) The knowledge or belief required under Subsection (2) may only be presumed of a secondhand actor if the secondhand actor does not substantially comply with the material requirements of Section 13-32a-104.

(b) The knowledge or belief required under Subsection (2) may only be presumed of a coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer does not substantially comply with the requirements of Section 13-32a-104.5.

(c) The knowledge or belief required under Subsection (2) may only be presumed of a catalytic converter purchaser if the catalytic converter purchaser does not substantially comply with the material requirements of Section 13-32a-104.7.

(5) Unless acting as a catalytic converter purchaser, Subsection (4)(c) does not apply to a scrap metal processor.

(6) This section does not preclude the admission of evidence in accordance with the Utah Rules of Evidence.

Section 27. Section 76-6-412 is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds $5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

(iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds $1,500 but is less than $5,000;

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

[~~(ii)~~] (iii) the value of the property or services is or exceeds $500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)[~~(ii)~~](iii)(A) or (B);

[~~(iii)~~] (iv) (A) the value of property or services is or exceeds $500 but is less than $1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

[~~(iv)~~] (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)[~~(ii)~~](iii)(A) through (1)(b)[~~(ii)~~](iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds $500 but is less than $1,500;

(ii) (A) the value of property or services is less than $500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)[~~(ii)~~](iii)(A) through (1)(b)[~~(ii)~~](iii)(C), if each prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than $500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or commits theft of a

stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a livestock guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 28. Section 76-6-1406 is amended to read:

76-6-1406. Restrictions on the purchase of regulated metal -- Exemption.

(1) A dealer may conduct purchase transactions involving regulated metal only between the hours of 6 a.m. and 7 p.m.

(2) Except when the dealer pays a government entity by check for regulated metal, the dealer may not purchase any of the following regulated metal without obtaining and keeping on file reasonable documentation that the seller is an employee, agent, or contractor of a governmental entity who is authorized to sell the item of regulated metal property on behalf of the governmental entity:

(a) a manhole cover or sewer grate;

(b) an electric light pole; or

(c) a guard rail.

(3) (a) A dealer may not purchase suspect metal without obtaining the information under Subsection (3)(b) identifying the owner of the suspect metal.

(b) The owner of the suspect metal shall provide in writing:

(i) the owner's telephone number;

(ii) the owner's business or residential address, which may not be a post box;

(iii) a copy of the owner's driver license; and

(iv) a signed statement that the person is the lawful owner of the suspect metal and authorizes the seller, identified by name, to sell the suspect metal.

(c) The dealer shall keep the identifying information provided in Subsection (3)(b) on file for not less than one year.

(4) Transactions with businesses that have an established account with the dealer are exempt from the requirements of Subsections (2) and (3) if the business holds a valid business license, and:

(a) (i) the dealer has on file a statement from the business identifying those employees authorized to sell all metals to the dealer; and

(ii) the dealer conducts regulated metal transactions only with those identified employees of the business and records the name of the employee when recording the transaction;

(b) the dealer has on file reasonable documentation from the business that any person verified as representing the business as an employee, and whom the dealer has verified is an employee, may sell regulated metal; or

(c) the dealer makes payment for regulated metal purchased from a person by issuing a check to the business employing the seller.

(5) If a dealer is a catalytic converter purchaser as defined in Section 13-32a-102, the dealer shall comply with the requirements in Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act.

Section 29. Section 78B-3-108 is amended to read:

78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice required for penalty demand.

(1) As used in this section:

(a) "Merchandise" has the same meaning as provided in Section 76-6-601.

(b) "Merchant" has the same meaning as provided in Section 76-6-601.

(c) "Minor" has the same meaning as provided in Section 76-6-601.

(d) "Premises" has the same meaning as "retail mercantile establishment" found in Section 76-6-601.

(2) (a) A merchant may request an individual on the merchant's premises to place or keep in full view any merchandise the individual may have removed, or which the merchant has reason to believe the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose.

(b) The merchant may not be criminally or civilly liable for having made the request.

(3) (a) A merchant who has reason to believe that an individual has committed any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii)(A), (B), or (C) and that the merchant can recover the merchandise by taking the individual into custody and detaining the individual may, for the purpose of attempting to recover the merchandise or for the purpose of informing a peace officer of the circumstances of the detention, take the individual into custody and detain the individual in a reasonable manner and for a reasonable length of time.

(b) Neither the merchant nor the merchant's employee may be criminally or civilly liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type of claim or action unless the custody and detention are unreasonable under all the circumstances.

(4) (a) A merchant may prohibit an individual who has committed any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii) from reentering the premises on which the individual has committed the offense.

(b) The merchant shall give written notice of this prohibition to the individual under Subsection (4)(a). The notice may be served by:

(i) delivering a copy to the individual personally;

(ii) sending a copy through registered or certified mail addressed to the individual at the individual's residence or usual place of business;

(iii) leaving a copy with an individual of suitable age and discretion at either location under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or place of business if the individual is absent from the residence or usual place of business; or

(iv) affixing a copy in a conspicuous place at the individual's residence or place of business.

(c) The individual serving the notice may authenticate service with the individual's signature, the method of service, and legibly documenting the date and time of service.

(5) An adult who commits any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii)(A), (B), or (C) is also liable in a civil action for:

(a) actual damages;

(b) a penalty to the merchant in the amount of the retail price of the merchandise not to exceed $1,000; and

(c) an additional penalty as determined by the court of not less than $100 nor more than $500, plus court costs and reasonable attorney fees.

(6) A minor who commits any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii)(A), (B), or (C) and the minor's parents or legal guardian are jointly and severally liable in a civil action to the merchant for:

(a) actual damages;

(b) a penalty to be remitted to the merchant in the amount of the retail price of the merchandise not to exceed $500 plus an additional penalty as determined by the court of not less than $50 nor more than $500; and

(c) court costs and reasonable attorney fees.

(7) A parent or guardian is not liable for damages under this section if the parent or guardian made a reasonable effort to restrain the wrongful taking and reported it to the merchant involved or to the law enforcement agency having primary jurisdiction once the parent or guardian knew of the minor's unlawful act. A report is not required under this section if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the merchant involved.

(8) A conviction in a criminal action for any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii)(A), (B), or (C) is not a condition precedent to a civil action authorized under Subsection (5) or (6).

(9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall give written notice to the individual or individuals from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

(b) This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of the penalty described in Subsection (5) or (6).

(10) The provision of Section 78B-8-201 requiring that compensatory or general damages be awarded in order to award punitive damages does not prohibit an award of a penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant either prior to or as part of a civil action.

CHAPTER 202
H. B. 45

Passed February 4, 2022
Approved March 23, 2022
Effective May 4, 2022

JUSTICE COURT JUDGE ELECTIONS AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to retention elections for justice court judges.

Highlighted Provisions:

This bill:

- amends the ballot requirements for a retention election of a justice court judge; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A–12–201, as last amended by Laws of Utah 2020, Chapter 401

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-12-201 is amended to read:

20A-12-201. Judicial appointees -- Retention elections.

(1) (a) Each judicial appointee to a court is subject to an unopposed retention election at the first general election held more than three years after the judge or justice was appointed.

(b) After the first retention election:

(i) each Supreme Court justice shall be on the regular general election ballot for an unopposed retention election every tenth year; and

(ii) each judge of other courts shall be on the regular general election ballot for an unopposed retention election every sixth year.

(2) (a) Each justice or judge of a court of record who wishes to retain office shall, in the year the justice or judge is subject to a retention election:

(i) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(ii) pay a filing fee of $50.

(b) (i) Each justice court judge who wishes to retain office shall, in the year the justice court judge is subject to a retention election:

(A) file a declaration of candidacy with the lieutenant governor, or with the county clerk in the candidate's county of residence, within the period beginning on July 1 and ending at 5 p.m. on July 15 in the year of a regular general election; and

(B) pay a filing fee of $25 for each judicial office.

(ii) If a justice court judge is appointed or elected to more than one judicial office, the declaration of candidacy shall identify all of the courts included in the same general election.

(iii) If a justice court judge is appointed or elected to more than one judicial office, filing a declaration of candidacy in one county in which one of those courts is located is valid for the courts in any other county.

(3) (a) The lieutenant governor shall, no later than August 31 of each regular general election year:

(i) transmit a certified list containing the names of the justices of the Supreme Court and judges of the Court of Appeals declaring their candidacy to the county clerk of each county; and

(ii) transmit a certified list containing the names of judges of other courts declaring their candidacy to the county clerk of each county in the geographic division in which the judge filing the declaration holds office.

(b) Each county clerk shall place the names of justices and judges standing for retention election in the nonpartisan section of the ballot.

(4) (a) At the general election, the ballots shall contain:

(i) at the beginning of the judicial retention section of the ballot, the following statement:

"Visit judges.utah.gov to learn about the Judicial Performance Evaluation Commission's recommendations for each judge"; and

(ii) as to each justice or judge of any court to be voted on in the county, the following question:

"Shall ______________________________(name of justice or judge) be retained in the office of ________________________? (name of office, such as "Justice of the Supreme Court of Utah"; "Judge of the Court of Appeals of Utah"; "Judge of the District Court of the Third Judicial District"; "Judge of the Juvenile Court of the Fourth Juvenile Court District"; "Justice Court Judge of (name of county) County or (name of municipality)")

Yes ()

No ()."

(b) If a justice court exists by means of an interlocal agreement under Section 78A–7–102, the ballot question for the judge shall include the name of that court.

(5) (a) If the justice or judge receives more yes votes than no votes, the justice or judge is retained for the term of office provided by law.

(b) If the justice or judge does not receive more yes votes than no votes, the justice or judge is not retained, and a vacancy exists in the office on the first Monday in January after the regular general election.

(6) A justice or judge not retained is ineligible for appointment to the office for which the justice or judge was defeated until after the expiration of that term of office.

[~~(7) If a justice court judge is standing for retention for more than one office, the county clerk shall place the judge's name on the ballot separately for each office. If the justice court judge receives more no votes than yes votes in one office, but more yes votes than no votes in the other, the justice court judge shall be retained only in the office for which the judge received more yes votes than no votes.~~]

(7) (a) If a justice court judge is standing for retention for one or more judicial offices in a county in which the judge is a county justice court judge or a municipal justice court judge in a town or municipality of the fourth or fifth class, as described in Section 10-2-301, or any combination thereof, the election officer shall place the judge's name on the county ballot only once for all judicial offices for which the judge seeks to be retained.

(b) If a justice court judge is standing for retention for one or more judicial offices in a municipality of the first, second, or third class, as described in Section 10-2-301, the election officer shall place the judge's name only on the municipal ballot for the voters of the municipality that the judge serves.

CHAPTER 203
H. B. 55

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

JUVENILE JUSTICE SERVICES AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Daniel W. Thatcher
Cosponsors: Gay Lynn Bennion
Dan N. Johnson
Marsha Judkins

LONG TITLE

General Description:

This bill addresses services provided by the Division of Juvenile Justice Services.

Highlighted Provisions:

This bill:

- provides the Division of Juvenile Justice Services with rulemaking authority to establish the qualifications and conditions of services provided by the Division of Juvenile Justice Services to minors terminated from the custody of the Division of Juvenile Justice Services;
- amends the requirements for services provided by the Division of Juvenile Justice Services after minors are terminated from the custody of the Division of Juvenile Justice Services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-5-202, as enacted by Laws of Utah 2021, Chapter 261

80-6-804, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

ENACTS:

80-6-809, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-5-202 is amended to read:

80-5-202. Division rulemaking authority.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to:

(a) [~~establishing~~] establish standards for the admission of a minor to detention;

(b) [~~that~~] describe good behavior for which credit may be earned under Subsection 80-6-704(4); [~~and~~]

(c) [~~that~~] establish a formula, in consultation with the Office of the Legislative Fiscal Analyst, to calculate savings from General Fund appropriations under 2017 Laws of Utah, Chapter 330, resulting from the reduction in out-of-home placements for juvenile offenders with the division[~~.~~]; and

(d) establish the qualifications and conditions for services provided by the division under Section 80-6-809.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules:

(a) that govern the operation of prevention and early intervention programs, youth service programs, juvenile receiving centers, and other programs described in Section 80-5-401; and

(b) that govern the operation of detention and secure care facilities.

(3) A rule made by the division under Subsection (1)(a):

(a) may not permit secure detention based solely on the existence of multiple status offenses, misdemeanors, or infractions arising out of a single criminal episode; and

(b) shall prioritize use of home detention for a minor who might otherwise be held in secure detention.

Section 2. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care -- Parole release.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-601; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously committed to the division for secure care.

[~~(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:~~]

[~~(i) until the juvenile offender is:~~]

[~~(A) if the juvenile offender is a youth offender, 21 years old; or~~]

[~~(B) if the juvenile offender is a serious youth offender, 25 years old; and~~]

[~~(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.~~]

[~~(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.~~]

[~~(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.~~]

[~~(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.~~]

[~~(e) Notwithstanding Subsection (5)(c), the division:~~]

[~~(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and~~]

[~~(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:~~]

[~~(A) if the juvenile offender is a youth offender, 21 years old; or~~]

[~~(B) if the juvenile offender is a serious youth offender, 25 years old.~~]

[~~(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.~~]

Section 3. Section 80-6-809 is enacted to read:

80-6-809. Division services after termination of custody of a minor.

(1) If a minor is committed to the custody of the division under Section 80-6-703, the division may continue to provide services to the minor, upon the minor's termination from custody of the division, to allow the minor to participate in an educational, rehabilitative, or support program until the minor is 25 years old under an agreement by the division and the minor that the program has certain conditions.

(2) The division shall offer an educational, rehabilitative, or support program to a minor before the minor's termination date.

(3) Even if a minor has been previously declined services or services were terminated for noncompliance:

(a) a minor, who is terminated from custody, may request the services described in this section; and

(b) notwithstanding Subsection (2), the division shall consider a request by a minor under Subsection (3)(a).

(4) If a request is made under Subsection (3), the division may reach an agreement with the minor to provide the services described in this section until the minor is 25 years old.

(5) The division, or the minor, may terminate an agreement for services under this section at any time.

CHAPTER 204
H. B. 69
Passed February 4, 2022
Approved March 23, 2022
Effective May 4, 2022

DIVISION OF REAL ESTATE AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions of Title 61, Securities Division - Real Estate Division, regarding real estate.

Highlighted Provisions:

This bill:

- removes a provision regarding the payment of expenses incurred by the division in processing an application to transact the business of residential mortgage loans;
- amends the general qualifications of licensure to transact the business of residential mortgage loans;
- amends provisions related to disciplinary action under the Utah Residential Mortgage Practices and Licensing Act;
- removes a provision regarding the payment of costs incurred by the division after the finding of a violation under the Appraisal Management Company Registration and Regulation Act;
- amends provisions under the Real Estate Licensing and Practices Act related to:
  - licensing, fees, and disciplinary action; and
  - rulemaking of the Real Estate Commission; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

61-2c-202, as last amended by Laws of Utah 2020, Chapter 72
61-2c-203, as last amended by Laws of Utah 2012, Chapter 166
61-2c-402, as last amended by Laws of Utah 2016, Chapter 384
61-2e-401, as last amended by Laws of Utah 2018, Chapter 213
61-2f-103, as last amended by Laws of Utah 2021, Chapter 259
61-2f-202, as last amended by Laws of Utah 2018, Chapters 213 and 462
61-2f-203, as last amended by Laws of Utah 2021, Chapter 259
61-2f-204, as last amended by Laws of Utah 2019, Chapter 337
61-2f-206, as last amended by Laws of Utah 2021, Chapter 259
61-2f-207, as renumbered and amended by Laws of Utah 2010, Chapter 379
61-2f-401, as last amended by Laws of Utah 2020, Chapter 72
61-2f-402, as last amended by Laws of Utah 2020, Chapter 72

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 61-2c-202 is amended to read:

61-2c-202. Licensure procedures.

(1) To apply for licensure under this chapter an applicant shall in a manner provided by the division by rule:

(a) if the applicant is an entity, submit:

(i) through the nationwide database, a licensure statement that:

(A) lists any name under which the entity will transact business in this state;

(B) lists the address of the principal business location of the entity;

(C) identifies each control person for the entity;

(D) identifies each jurisdiction in which the entity is registered, licensed, or otherwise regulated in the business of residential mortgage loans;

(E) discloses any adverse administrative action taken by an administrative agency against the entity or a control person for the entity; and

(F) discloses any history of criminal proceedings that involves a control person of the entity; and

(ii) a notarized letter to the division that:

(A) is on the entity's letterhead;

(B) is signed by the entity's owner, director, or president;

(C) authorizes the principal lending manager to do business under the entity's name and under each of the entity's licensed trade names, if any; and

(D) includes any information required by the division by rule;

(b) if the applicant is an individual:

(i) submit a licensure statement that identifies the entity with which the applicant is sponsored;

(ii) authorize periodic criminal background checks through the nationwide database, at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, accessing the Federal Bureau of Investigation;

(iii) submit evidence using a method approved by the division by rule of having successfully completed approved prelicensing education in accordance with Section 61-2c-204.1;

(iv) submit evidence using a method approved by the division by rule of having successfully passed any required licensing examination in accordance with Section 61-2c-204.1;

(v) submit evidence using a method approved by the division by rule of having successfully registered in the nationwide database, including paying a fee required by the nationwide database; and

(vi) authorize the division to obtain independent credit reports:

(A) through a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act, 15 U.S.C. Sec. 1681a; and

(B) at times provided by rule that the division makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(c) pay to the division[~~: (i)~~] an application fee established by the division in accordance with Section 63J-1-504[~~; and~~].

[~~(ii) the reasonable expenses incurred by the division in processing the application for licensure.~~]

(2) (a) Upon receiving an application, the division, with the concurrence of the commission, shall determine whether the applicant:

(i) meets the qualifications for licensure; and

(ii) complies with this section.

(b) If the division, with the concurrence of the commission, determines that an applicant meets the qualifications for licensure and complies with this section, the division shall issue the applicant a license.

(c) If the division, with the concurrence of the commission, determines that the division requires more information to make a determination under Subsection (2)(a), the division may:

(i) hold the application pending further information about an applicant's criminal background or history related to adverse administrative action in any jurisdiction; or

(ii) issue a conditional license:

(A) pending the completion of a criminal background check; and

(B) subject to probation, suspension, or revocation if the criminal background check reveals that the applicant did not truthfully or accurately disclose on the licensing application a criminal history or other history related to adverse administrative action.

(3) (a) The commission may delegate to the division the authority to:

(i) review a class or category of application for an initial or renewed license;

(ii) determine whether an applicant meets the qualifications for licensure;

(iii) conduct a necessary hearing on an application; and

(iv) approve or deny a license application without concurrence by the commission.

(b) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for a de novo review of the application.

(c) An applicant who is denied licensure under Subsection (3)(b) may seek agency review by the executive director only after the commission reviews the division's denial of the applicant's application.

(d) Subject to Subsection (3)(c) and in accordance with Title 63G, Chapter 4, Administrative Procedures Act, an applicant who is denied licensure under this chapter may submit a request for agency review to the executive director within 30 days following the day on which the commission order denying the licensure is issued.

Section 2. Section 61-2c-203 is amended to read:

61-2c-203. General qualifications for licensure.

(1) To qualify for licensure under this chapter, a person shall demonstrate through procedures established by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) financial responsibility;

(b) [~~good moral character,~~] honesty, integrity, and truthfulness; and

(c) the competence to transact the business of residential mortgage loans, including general fitness such as to command the confidence of the community and to warrant a determination that the person will operate honestly, fairly, and efficiently within the purposes of this chapter.

(2) If an applicant is an entity, the applicant may not have a control person who fails to meet the requirements of Subsection (1) for an individual applicant.

(3) (a) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(b) If the division, acting under Subsection (3)(a), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

Section 3. Section 61-2c-402 is amended to read:

61-2c-402. Disciplinary action.

(1) Subject to the requirements of Section 61-2c-402.1, the commission, with the concurrence of the division, may impose a sanction described in Subsection (2) against a person if the person:

(a) (i) is a licensee[~~, a person previously licensed under this chapter for an act the person committed while licensed,~~] or a person required to be licensed under this chapter; and

(ii) violates this chapter; or

(b) (i) is not registered under this chapter; and

(ii) violated a provision of this chapter during a period in which:

(A) the provision of this chapter was in effect; and

(B) the person was registered or required to be registered under this chapter; or

[~~(b)~~] (c) (i) is a certified education provider or person required to be certified to provide prelicensing or continuing education under this chapter; and

(ii) violates this chapter.

(2) The commission, with the concurrence of the director, may against a person described in Subsection (1):

(a) impose an educational requirement;

(b) impose a civil penalty against the individual or entity in an amount not to exceed the greater of:

(i) $5,000 for each violation; or

(ii) the amount equal to any gain or economic benefit derived from each violation;

(c) deny an application for an original license;

(d) do any of the following to a license under this chapter:

(i) suspend;

(ii) revoke;

(iii) place on probation;

(iv) reduce a lending manager license to a loan originator license;

(v) deny renewal;

(vi) deny reinstatement; or

(vii) in the case of a denial of a license or a suspension that extends to the expiration date of a license, set a waiting period for a person to apply for a license under this chapter;

(e) issue a cease and desist order;

(f) require the reimbursement of the division of costs incurred by the division related to the recovery, storage, or destruction of a record that the person disposes of in a manner that violates this chapter or a rule made under this chapter;

(g) modify a sanction described in Subsections (2)(a) through (f) if the commission finds that the person complies with court ordered restitution; or

(h) impose any combination of sanctions described in this Subsection (2).

(3) (a) If the commission, with the concurrence of the division, issues an order that orders a fine or educational requirements as part of a disciplinary action against a person, including a stipulation and order, the commission shall state in the order the deadline by which the person shall comply with the fine or educational requirements.

(b) If a person fails to comply with a stated deadline:

(i) the person's license or certificate is automatically suspended:

(A) beginning the day specified in the order as the deadline for compliance; and

(B) ending the day on which the person complies in full with the order; and

(ii) if the person fails to pay a fine required by an order, the division may begin a collection process:

(A) established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) subject to Title 63A, Chapter 3, Part 5, Office of State Debt Collection.

(4) (a) A person whose license was revoked under this chapter before May 11, 2010, may request that the revocation be converted to a suspension under this Subsection (4):

(i) if the revocation was not as a result of a felony conviction involving fraud, misrepresentation, deceit, dishonesty, breach of trust, or money laundering; and

(ii) by filing a written request with the division.

(b) Upon receipt of a request to convert a revocation under this Subsection (4), the commission, with the concurrence of the director, shall determine whether to convert the revocation.

(c) The commission may delegate to the division the authority to make a decision on whether to convert a revocation.

(d) If the division, acting under Subsection (4)(c), denies a request to convert a revocation, the person who requests the conversion may appeal the decision in a hearing conducted by the commission:

(i) after the division denies the request to convert the revocation; and

(ii) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(e) The commission may delegate to the division or an administrative law judge the authority to conduct a hearing described in Subsection (4)(d).

(5) (a) A person whose license the commission revokes in accordance with this section may file a written request with the division for the vacation of the license revocation, if the person:

(i) has not held a license under this chapter for at least eight years before the day on which the person files the request; and

(ii) has not been convicted of a felony involving:

(A) fraud;

(B) misrepresentation;

(C) deceit;

(D) dishonesty;

(E) breach of trust; or

(F) money laundering.

(b) After receiving a written request a person makes in accordance with Subsection (5)(a), the commission may vacate the revocation of the person's license:

(i) after a hearing; and

(ii) with the concurrence of the division.

(c) A person whose license revocation is vacated in accordance with this Subsection (5) may apply for licensure in accordance with this chapter.

Section 4. Section 61-2e-401 is amended to read:

61-2e-401. Division authority -- Immunity -- Transmission of reports to Appraisal Subcommittee.

(1) (a) In addition to a power or duty expressly provided in this chapter, the division may:

(i) examine any book or record of an appraisal management company registered or required to be registered under this chapter and require the appraisal management company to submit any report, information, or document to the division;

(ii) receive and act on a complaint including:

(A) taking action designed to obtain voluntary compliance with this chapter, including the issuance of a cease and desist order if the person against whom the order is issued is given the right to petition the board for review of the order; or

(B) commencing an administrative or judicial proceeding on the division's own initiative;

(iii) conduct a public or private investigation of an entity required to be registered under this chapter, regardless of whether the entity is located in Utah;

(iv) employ one or more investigators, clerks, or other employees or agents if:

(A) approved by the executive director; and

(B) within the budget of the division; and

(v) issue a subpoena that requires:

(A) the attendance and testimony of a witness; or

(B) the production of evidence.

(b) (i) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(ii) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

(c) A failure to respond to a request by the division in an investigation under this chapter within 10 days after the day on which the request is served is considered to be a separate violation of this chapter, including:

(i) failing to respond to a subpoena;

(ii) withholding evidence; or

(iii) failing to produce a document or record.

[~~(2) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.~~]

[~~(b) If a person fails to pay the costs described in Subsection (2)(a) when due, the person's registration is automatically suspended:~~]

[~~(i) beginning the day on which the payment of costs is due; and~~]

[~~(ii) ending the day on which the costs are paid in full.~~]

[~~(3)~~] (2) The division is immune from a civil action or criminal prosecution for initiating or assisting in a lawful investigation of an act or participating in a disciplinary proceeding under this chapter if the division takes the action:

(a) without malicious intent; and

(b) in the reasonable belief that the action is taken pursuant to the powers and duties vested in the division under this chapter.

[~~(4)~~] (3) Upon the Appraisal Subcommittee's request, the division shall timely transmit a report to the Appraisal Subcommittee regarding the division's supervisory activities involving appraisal management companies or other third-party providers of appraisals and appraisal management services, including any investigation the division initiates or disciplinary action the division takes.

Section 5. Section 61-2f-103 is amended to read:

61-2f-103. Real Estate Commission.

(1) There is created within the division a Real Estate Commission.

(2) The commission shall:

(a) subject to concurrence by the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of this chapter that are not inconsistent with this chapter, including:

(i) licensing of:

(A) a principal broker;

(B) an associate broker; and

(C) a sales agent;

(ii) registration of:

(A) an entity;

(B) an assumed name under which a person conducts business;

(C) a branch office; and

(D) a property management company;

(iii) prelicensing and postlicensing education curricula;

(iv) examination procedures;

(v) the certification and conduct of:

(A) a real estate school;

(B) a course provider; or

(C) an instructor;

(vi) proper handling of money received by a licensee under this chapter;

(vii) brokerage office procedures and recordkeeping requirements;

(viii) property management;

(ix) standards of conduct for a licensee under this chapter; [~~and~~]

(x) if the commission, with the concurrence of the division, determines necessary, a rule as provided in Subsection 61-2f-306(3) regarding a legal form;

(xi) the qualification and designation of an acting principal broker in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, as described in Section 61-2f-202; and

(xii) giving or paying an inducement gift or a closing gift to a buyer or seller in a real property transaction;

(b) establish, with the concurrence of the division, a fee provided for in this chapter, except a fee imposed under Part 5, Real Estate Education, Research, and Recovery Fund Act;

(c) conduct an administrative hearing not delegated by the commission to an administrative law judge or the division relating to the:

(i) licensing of an applicant;

(ii) conduct of a licensee;

(iii) the certification or conduct of a real estate school, course provider, or instructor regulated under this chapter; or

(iv) violation of this chapter by any person;

(d) with the concurrence of the director, impose a sanction as provided in Section 61-2f-404;

(e) advise the director on the administration and enforcement of a matter affecting the division and the real estate sales and property management industries;

(f) advise the director on matters affecting the division budget;

(g) advise and assist the director in conducting real estate seminars; and

(h) perform other duties as provided by this chapter.

(3) (a) Except as provided in Subsection (3)(b), a state entity may not, without the concurrence of the commission, make a rule that changes the rights, duties, or obligations of buyers, sellers, or persons licensed under this chapter in relation to a real estate transaction between private parties.

(b) Subsection (3)(a) does not apply to a rule made:

(i) under Title 31A, Insurance Code, or Title 7, Financial Institutions Act; or

(ii) by the Department of Commerce or any division or other rulemaking body within the Department of Commerce.

(4) (a) The commission shall be comprised of five members appointed by the governor and approved by the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Four of the commission members shall:

(i) have at least five years' experience in the real estate business; and

(ii) hold an active principal broker, associate broker, or sales agent license.

(c) One commission member shall be a member of the general public.

(d) The governor may not appoint a commission member described in Subsection (4)(b) who, at the time of appointment, resides in the same county in the state as another commission member.

(e) At least one commission member described in Subsection (4)(b) shall at the time of an appointment reside in a county that is not a county of the first or second class.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(c) Upon the expiration of the term of a member of the commission, the member of the commission shall continue to hold office until a successor is appointed and qualified.

(d) A commission member may not serve more than two consecutive terms.

(e) Members of the commission shall annually select one member to serve as chair.

(6) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) The commission shall meet at least monthly.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more commission members.

(9) Three members of the commission constitute a quorum for the transaction of business.

(10) A member of the commission shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 6. Section 61-2f-202 is amended to read:

61-2f-202. Exempt persons and transactions.

(1) (a) Except as provided in Subsection (1)(b), a license under this chapter is not required for:

(i) a person who as owner or lessor performs an act described in Subsection 61-2f-102(20) with reference to real estate owned or leased by that person;

(ii) a regular salaried employee of the owner or lessor of real estate who, with reference to nonresidential real estate owned or leased by the employer, performs an act described in Subsection 61-2f-102(20)(b) or (c);

(iii) a regular salaried employee of the owner of real estate who performs property management services with reference to real estate owned by the employer, except that the employee may only manage real estate for one employer;

(iv) an individual who performs property management services for the apartments at which that individual resides in exchange for free or reduced rent on that individual's apartment;

(v) a regular salaried employee of a condominium homeowners' association who manages real estate subject to the declaration of condominium that established the condominium homeowners' association, except that the employee may only manage real estate for one condominium homeowners' association; [~~and~~]

(vi) a regular salaried employee of a licensed property management company or real estate brokerage who performs support services, as prescribed by rule, for the property management company or real estate brokerage[~~.~~]; or

(vii) in the event a principal broker dies, is incapacitated, or is unable to perform the duties of a principal broker, an individual qualified and designated as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division, as an acting principal broker:

(A) in relation to each transaction pending on the day on which the principal broker dies, becomes incapacitated, or becomes unable to perform the duties of a principal broker, including the distribution of compensation for each transaction; and

(B) until the day on which each transaction described in Subsection (1)(a)(vii)(A) is completed.

(b) Subsection (1)(a) does not exempt from licensing:

(i) an employee engaged in the sale of real estate regulated under:

(A) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act; or

(B) Title 57, Chapter 19, Timeshare and Camp Resort Act;

(ii) an employee engaged in the sale of cooperative interests regulated under Title 57, Chapter 23, Real Estate Cooperative Marketing Act; or

(iii) an individual whose interest as an owner or lessor is obtained by that individual or transferred to that individual for the purpose of evading the application of this chapter, and not for another legitimate business reason.

(2) A license under this chapter is not required for:

(a) an isolated transaction or service by an individual holding an unsolicited, duly executed power of attorney from a property owner;

(b) subject to Subsection 61-2f-401(5), services rendered by an attorney admitted to practice law in this state in performing the attorney's duties as an attorney;

(c) a receiver, trustee in bankruptcy, administrator, executor, or an individual acting under order of a court;

(d) a trustee or employee of a trustee under a deed of trust or a will;

(e) a public utility, officer of a public utility, or regular salaried employee of a public utility, unless performance of an act described in Subsection 61-2f-102(20) is in connection with the sale, purchase, lease, or other disposition of real estate or investment in real estate unrelated to the principal business activity of that public utility;

(f) a regular salaried employee or authorized agent working under the oversight of the Department of Transportation when performing an act on behalf of the Department of Transportation in connection with one or more of the following:

(i) the acquisition of real estate pursuant to Section 72-5-103;

(ii) the disposal of real estate pursuant to Section 72-5-111;

(iii) services that constitute property management; or

(iv) the leasing of real estate; and

(g) a regular salaried employee of a county, city, or town when performing an act on behalf of the county, city, or town:

(i) in accordance with:

(A) if a regular salaried employee of a city or town:

(I) Title 10, Utah Municipal Code; or

(II) Title 11, Cities, Counties, and Local Taxing Units; and

(B) if a regular salaried employee of a county:

(I) Title 11, Cities, Counties, and Local Taxing Units; and

(II) Title 17, Counties; and

(ii) in connection with one or more of the following:

(A) the acquisition of real estate, including by eminent domain;

(B) the disposal of real estate;

(C) services that constitute property management; or

(D) the leasing of real estate.

(3) A license under this chapter is not required for an individual registered to act as a broker-dealer, agent, or investment adviser under the Utah and federal securities laws in the sale or the offer for sale of real estate if:

(a) (i) the real estate is a necessary element of a "security" as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934; and

(ii) the security is registered for sale in accordance with:

(A) the Securities Act of 1933; or

(B) Title 61, Chapter 1, Utah Uniform Securities Act; or

(b) (i) it is a transaction in a security for which a Form D, described in 17 C.F.R. Sec. 239.500, has been filed with the Securities and Exchange Commission pursuant to Regulation D, Rule 506, 17 C.F.R. Sec. 230.506; and

(ii) the selling agent and the purchaser are not residents of this state.

(4) Except as otherwise provided by statute or rule, the following individuals may engage in the practice of an occupation or profession regulated by this chapter, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an individual licensed under the laws of this state, other than under this chapter, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(b) an individual serving in the armed forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or any other federal agency while engaged in activities regulated under this title as a part of employment with that federal agency if the individual holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(c) the spouse of an individual serving in the armed forces of the United States while the individual is stationed within this state, if:

(i) the spouse holds a valid license to practice the regulated occupation or profession issued by any other state or jurisdiction recognized by the department; and

(ii) the license is current and the spouse is in good standing in the state or jurisdiction of licensure.

(5) As used in this section, "owner" does not include:

(a) a person who holds an option to purchase real property;

(b) a mortgagee;

(c) a beneficiary under a deed of trust;

(d) a trustee under a deed of trust; or

(e) a person who owns or holds a claim that encumbers any real property or an improvement to the real property.

(6) The commission, with the concurrence of the division, may provide, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the circumstances under which a person or transaction qualifies for an exemption that is described in this section.

Section 7. Section 61-2f-203 is amended to read:

61-2f-203. Licensing requirements.

(1) (a) (i) The division shall determine whether an applicant with a criminal history qualifies for licensure.

(ii) If the division, acting under Subsection (1)(a)(i), denies or restricts a license or places a license on probation, the applicant may petition the commission for de novo review of the application.

(b) Except as provided in Subsection (6), the commission shall determine all other qualifications and requirements of an applicant for:

(i) a principal broker license;

(ii) an associate broker license; or

(iii) a sales agent license.

(c) The division, with the concurrence of the commission, shall require and pass upon proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of each applicant for an initial license or for renewal of an existing license.

(d) (i) (A) [~~The~~] Except as provided in Subsection (1)(d)(i)(B), the division, with the concurrence of the commission, shall require an applicant for[~~: (A)~~] a sales agent license to complete [~~an approved~~] a division-approved educational program consisting of [~~the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours; and~~] not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for a sales agent license applies for the license the applicant is licensed as a real estate sales agent in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

[~~(B)~~] (ii) (A) Except as provided in Subsection (1)(d)(ii)(B), the division, with the concurrence of the commission, shall require an applicant for an associate broker or a principal broker license to complete [~~an approved~~] a division-approved educational program consisting of [~~the number of hours designated by rule made by the commission with the concurrence of the division, except that the rule may not require less than 120 hours~~] not less than 120 hours, as designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

(B) If on the day on which an applicant for an associate broker or a principal broker license applies for the license the applicant is licensed as a real estate broker in another state, the division may require the applicant to complete a division-approved, state-specific educational program consisting of the number of hours designated by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with the concurrence of the division.

[~~(ii)~~] (iii) An hour required by this section means 50 minutes of instruction in each 60 minutes.

[~~(iii)~~] (iv) The maximum number of program hours available to an individual is eight hours per day.

(e) (i) [~~The~~] Except as provided in Subsection (1)(e)(ii), the division, with the concurrence of the commission, shall require [~~the~~] an applicant to pass an examination approved by the commission covering:

[~~(i)~~] (A) the fundamentals of[~~: (A)~~] the English language;

(B) the fundamentals of arithmetic;

(C) the fundamentals of bookkeeping; [~~and~~]

(D) the fundamentals of real estate principles and practices;

[~~(ii)~~] (E) this chapter;

[~~(iii)~~] (F) the rules established by the commission with the concurrence of the division; and

[~~(iv)~~] (G) any other aspect of Utah real estate license law considered appropriate.

(ii) If on the day on which an applicant applies for a license the applicant is licensed as a real estate broker or a sales agent in another state, the division may, with the concurrence of the commission, require the applicant to pass a division-approved, state-specific examination rather than the examination required under Subsection (1)(e)(i).

(f) (i) Three years' full-time experience as a sales agent or its equivalent is required before an applicant may apply for, and secure a principal broker or associate broker license in this state.

(ii) The commission shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the criteria by which the commission will accept experience or special education in similar fields of business in lieu of the three years' experience.

(2) (a) The division, with the concurrence of the commission, may require an applicant to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's reputation and competency as set forth by rule.

(b) The division shall require an applicant to provide the applicant's social security number, which is a private record under Subsection 63G-2-302(1)(i).

(3) (a) An individual who is not a resident of this state may be licensed in this state if the person complies with this chapter.

(b) An individual who is not a resident of this state may be licensed as an associate broker or sales agent in this state by:

(i) complying with this chapter; and

(ii) being employed or engaged as an independent contractor by or on behalf of a principal broker who is licensed in this state, regardless of whether the principal broker is a resident of this state.

(4) The division, with the concurrence of the commission, may enter into a reciprocal licensing agreement with another jurisdiction for the licensure of a principal broker, an associate broker, or a sales agent, if the jurisdiction's requirements and standards for the license are substantially similar to those of this state.

(5) (a) The division and commission shall treat an application to be relicensed of an applicant whose real estate license is revoked as an original application.

(b) In the case of an applicant for a new license as a principal broker or associate broker, the applicant is not entitled to credit for experience gained before the revocation of a real estate license.

(6) (a) Notwithstanding Subsection (1)(b), the commission may delegate to the division the authority to:

(i) review a class or category of applications for initial or renewed licenses;

(ii) determine whether an applicant meets the licensing criteria in Subsection (1); and

(iii) approve or deny a license application without concurrence by the commission.

(b) (i) If the commission delegates to the division the authority to approve or deny an application without concurrence by the commission and the division denies an application for licensure, the applicant who is denied licensure may petition the commission for de novo review of the application.

(ii) An applicant who is denied licensure pursuant to this Subsection (6) may seek agency review by the executive director only after the commission has reviewed the division's denial of the applicant's application.

Section 8. Section 61-2f-204 is amended to read:

61-2f-204. Licensing fees and procedures -- Renewal fees and procedures.

(1) (a) Upon filing an application for an examination for a license under this chapter, the applicant shall pay a nonrefundable fee established in accordance with Section 63J-1-504 for admission to the examination.

(b) An applicant for a principal broker, associate broker, or sales agent license shall pay a nonrefundable fee as determined by the commission with the concurrence of the division under Section 63J-1-504 for issuance of an initial license or license renewal.

(c) A license issued under this Subsection (1) shall be issued for a period of not less than two years as the division determines with the concurrence of the commission.

(d) (i) Each of the following applicants shall comply with this Subsection (1)(d):

(A) a new sales agent applicant;

(B) a principal broker applicant; and

(C) an associate broker applicant.

(ii) An applicant described in this Subsection (1)(d) shall at the time the licensee files an application:

(A) submit to the division fingerprint cards in a form acceptable to the Department of Public Safety;

(B) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service beginning January 1, 2020;

(C) consent to a criminal background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(D) pay the fee the division establishes in accordance with Subsection (1)(d)(vi).

(iii) The Bureau of Criminal Identification shall:

(A) check the fingerprints an applicant submits under Subsection (1)(d)(ii) against the applicable state, regional, and national criminal records databases, including, beginning January 1, 2020, the Federal Bureau of Investigation Next Generation Identification System;

(B) report the results of the background check to the division;

(C) maintain a separate file of fingerprints that applicants submit under Subsection (1)(d) for search by future submissions to the local and regional criminal records databases, including latent prints;

(D) request that beginning January 1, 2020, the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(E) ensure that the division only receives notifications for an individual with whom the division maintains permission to receive notifications.

(iv) (A) The division shall assess an applicant who submits fingerprints under Subsection (1)(d) or (2)(g) a fee in an amount that the division sets in accordance with Section 63J-1-504 for services that the division and the Bureau of Criminal Identification or another authorized agency provide under Subsection (1)(d) or (2)(g).

(B) The Bureau of Criminal Identification may collect from the division money for services provided under this section.

(v) Money paid to the division by an applicant for the cost of the criminal background check is nonlapsing.

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and with the concurrence of the division, the commission may make rules for the administration of this Subsection (1)(d) and Subsection (2)(g) regarding criminal background checks with ongoing monitoring.

(e) (i) A license issued under Subsection (1)(d) is conditional, pending completion of the criminal background check.

[~~(ii) A license is immediately and automatically revoked if the criminal background check discloses the applicant fails to accurately disclose a criminal history involving:~~]

[~~(A) the real estate industry; or~~]

[~~(B) a felony conviction on the basis of an allegation of fraud, misrepresentation, or deceit.~~]

[~~(iii)~~] (ii) If a criminal background check discloses that an applicant fails to accurately disclose a criminal history [~~other than one described in Subsection (1)(e)(ii)~~], the division:

(A) shall review the application; and

(B) in accordance with rules made by the division pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may:

(I) place a condition on a license;

(II) place a restriction on a license;

(III) revoke a license; or

(IV) refer the application to the commission for a decision.

[~~(iv)~~] (iii) (A) A person whose conditional license is [~~automatically revoked under Subsection (1)(e)(ii) or whose license is~~] conditioned, restricted, or revoked under Subsection [~~(1)(e)(iii)~~] (1)(e)(ii) may have a hearing after the action is taken to challenge the action.

(B) The division shall conduct a hearing described in Subsection [~~(1)(d)(iv)(A)~~] (1)(e)(iii)(A) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

[~~(v)~~] (iv) The director shall designate one of the following to act as the presiding officer in a hearing described in Subsection [~~(1)(e)(iv)(A)~~] (1)(e)(iii)(A):

(A) the division; or

(B) the division with the concurrence of the commission.

[~~(vi)~~] (v) The presiding officer shall decide whether relief from an action under this Subsection (1)(e) is granted.

[~~(vii) Relief from an automatic revocation under Subsection (1)(e)(ii) may be granted only if:~~]

[~~(A) the criminal history upon which the division based the revocation:~~]

[~~(I) did not occur; or~~]

[~~(II) is the criminal history of another person;~~]

[~~(B) (I) the revocation is based on a failure to accurately disclose a criminal history; and~~]

[~~(II) the applicant has a reasonable good faith belief at the time of application that there was no criminal history to be disclosed; or~~]

[~~(C) the division fails to follow the prescribed procedure for the revocation.~~]

[~~(viii)~~] (vi) If a license is revoked or a revocation under this Subsection (1)(e) is upheld after a hearing, the individual may not apply for a new license until at least 12 months after the day on which the license is revoked.

(2) (a) (i) A license expires if it is not renewed on or before the expiration date of the license.

(ii) As a condition of renewal, an active licensee shall demonstrate competence by completing 18 hours of continuing education within a two-year renewal period subject to rules made by the commission, with the concurrence of the division.

(iii) In making a rule described in Subsection (2)(c)(ii), the division and commission shall consider:

(A) evaluating continuing education on the basis of competency, rather than course time;

(B) allowing completion of courses in a significant variety of topic areas that the division and commission determine are valuable in assisting an individual licensed under this chapter to increase the individual's competency; and

(C) allowing completion of courses that will increase a licensee's professional competency in the area of practice of the licensee.

(iv) The division may award credit to a licensee for a continuing education requirement of this Subsection (2)(a) for a reasonable period of time upon a finding of reasonable cause, including:

(A) military service; or

(B) if an individual is elected or appointed to government service, the individual's government service during which the individual spends a substantial time addressing real estate issues subject to conditions established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) For a period of 30 days after the day on which a license expires, the license may be reinstated:

(i) if the applicant's license was inactive on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; or

(ii) if the applicant's license was active on the day on which the applicant's license expired, upon payment of a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504, and providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

(c) After the 30-day period described in Subsection (2)(b), and until [~~six months after the day on which an active or inactive license expires, the license may be reinstated by: (i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; (ii) providing to the division proof of satisfactory completion of six hours of continuing education: (A) in addition to the requirements for a timely renewal; and (B) on a subject determined by the commission by rule with the concurrence of the division and made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and (iii) providing~~

~~proof acceptable to the division and the commission of the licensee having: (A) completed the hours of education required under Subsection (2)(a); or (B) demonstrated competence as required under Subsection (2)(a). (d) After the six-month period described in Subsection (2)(c), and until~~] one year after the day on which an active or inactive license expires, the license may be reinstated by:

(i) paying a renewal fee and a late fee determined by the commission with the concurrence of the division under Section 63J-1-504; and

[~~(ii) providing to the division proof of satisfactory completion of 24 hours of continuing education:~~]

[~~(A) in addition to the requirements for a timely renewal; and~~]

[~~(B) on a subject determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division; and~~]

[~~(iii)~~] (ii) providing proof acceptable to the division and the commission of the licensee having:

(A) completed the hours of education required by Subsection (2)(a); or

(B) demonstrated competence as required under Subsection (2)(a).

[~~(e)~~] (d) The division shall relicense a person who does not renew that person's license within one year as prescribed for an original application.

[~~(f)~~] (e) Notwithstanding Subsection (2)(a), the division may extend the term of a license that would expire under Subsection (2)(a) except for the extension if:

(i) (A) the person complies with the requirements of this section to renew the license; and

(B) the renewal application remains pending at the time of the extension; or

(ii) at the time of the extension, there is pending a disciplinary action under this chapter.

[~~(g)~~] (f) Beginning January 1, 2020, each applicant for renewal or reinstatement of a license to practice as a sales agent, principal broker, or associate broker who is not already subject to ongoing monitoring of the individual's criminal history shall, at the time the application for renewal or reinstatement is filed:

(i) submit fingerprint cards in a form acceptable to the Department of Public Safety;

(ii) submit to the division a signed waiver in accordance with Subsection 53-10-108(4), acknowledging the registration of the applicant's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service;

(iii) consent to a fingerprint background check by the Utah Bureau of Criminal Identification and the Federal Bureau of Investigation; and

(iv) pay the fee the division establishes in accordance with Subsection [~~(1)(d)(vi)~~] (1)(d)(iv).

(3) (a) As a condition for the activation of an inactive license that was in an inactive status at the time of the licensee's most recent renewal, the licensee shall supply the division with proof of:

(i) successful completion of the respective sales agent or principal broker licensing examination within six months before the day on which the licensee applies to activate the license; or

(ii) the successful completion of the hours of continuing education that the licensee would have been required to complete under Subsection (2)(a) if the license had been on active status at the time of the licensee's most recent renewal.

(b) The commission may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, establish by rule:

(i) the nature or type of continuing education required for reactivation of a license; and

(ii) how long before reactivation the continuing education must be completed.

Section 9. Section 61-2f-206 is amended to read:

61-2f-206. Registration of person or branch office -- Certification of education providers and courses -- Specialized licenses.

(1) (a) A person may not engage in an activity described in Section 61-2f-201, unless the person is registered with the division.

(b) To register with the division under this Subsection (1), a person shall submit to the division:

(i) an application in a form required by the division;

(ii) evidence of an affiliation with a principal broker;

(iii) evidence that the person is registered and in good standing with the Division of Corporations and Commercial Code; and

(iv) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(c) The division may terminate a person's registration if:

(i) the person's registration with the Division of Corporations and Commercial Code has been expired for at least three years; and

(ii) the person's license with the division has been inactive for at least three years.

(2) (a) A principal broker shall register with the division each of the principal broker's branch offices.

(b) To register a branch office with the division under this Subsection (2), a principal broker shall submit to the division:

(i) an application in a form required by the division; and

(ii) a registration fee established by the commission with the concurrence of the division under Section 63J-1-504.

(3) (a) In accordance with rules made by the commission with the concurrence of the division and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall certify:

(i) a real estate school;

(ii) a course provider; or

(iii) an instructor.

(b) In accordance with rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, the division shall certify a continuing education course that is required under this chapter.

(4) Except as provided under this chapter or by rule the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a principal broker may not be responsible for more than one registered [~~person~~] entity at the same time.

(5) A principal broker:

(a) shall exercise active and reasonable supervision of the principal broker's main office in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) may supervise a branch office affiliated with the principal broker at the same time the principal broker exercises the supervision required under Subsection (5)(a).

(6) (a) A principal broker may designate a branch broker to supervise a branch office affiliated with the principal broker.

(b) A branch broker shall exercise active and reasonable supervision, in accordance with this chapter and rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of each branch office the principal broker designates the branch broker to supervise.

(7) (a) In addition to issuing a principal broker license, associate broker license, or sales agent license authorizing the performance of an act set forth in Section 61-2f-201, the division may issue a specialized sales license or specialized property management license with the scope of practice limited to the specialty.

(b) An individual may hold a specialized license in addition to a license as a principal broker, associate broker, or a sales agent.

(c) A sales agent who is affiliated with a dual broker may act as a property management sales agent if:

(i) the dual broker designates the sales agent as a property management sales agent; and

(ii) the sales agent pays to the division a property management sales agent designation fee in an amount determined by the division in accordance with Section 63J-1-504.

(d) A property management sales agent may simultaneously provide both property management services and real estate sales services under the supervision of a dual broker as provided by the commission with the concurrence of the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(8) The commission may determine, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, subject to concurrence by the division, licensing requirements related to this section for a principal broker, associate broker, sales agent, dual broker, property management sales agent, or for a specialized license described in Subsection (7), including:

(a) prelicensing and postlicensing education requirements;

(b) examination requirements;

(c) affiliation with real estate brokerages or property management companies;

(d) property management sales agent:

(i) designation procedures;

(ii) allowable scope of practice; and

(iii) division fees;

(e) what constitutes active and reasonable supervision for:

(i) a principal broker when supervising a branch broker or sales agent; and

(ii) a branch broker when supervising a sales agent; and

(f) other licensing procedures.

Section 10. Section 61-2f-207 is amended to read:

61-2f-207. Change of information -- Failure to notify.

(1) An applicant, licensee, registrant, or certificate holder shall send the division a signed statement in the form required by the division notifying the division within 10 business days of any change of:

(a) principal broker;

(b) principal business location;

(c) mailing address;

(d) home street address;

(e) an individual's name; or

(f) business name.

[~~(2) The division may charge a fee established by the commission with the concurrence of the division in accordance with Section 63J-1-504 for processing any notification of change submitted by an applicant, licensee, registrant, or certificate holder.~~]

[~~(3)~~] (2) (a) When providing the division a business location or home street address, a physical location or street address must be provided.

(b) When providing a mailing address, an applicant, licensee, registrant, or certificate holder may provide a post office box or other mail drop location.

[~~(4)~~] (3) Failure to notify the division of a change described in Subsection (1) is separate grounds for disciplinary action against an applicant, licensee, registrant, or certificate holder.

[~~(5)~~] (4) An applicant, licensee, registrant, or certificate holder is considered to have received any notification that has been sent to the last address furnished to the division by the applicant, licensee, registrant, or certificate holder.

Section 11. Section 61-2f-401 is amended to read:

61-2f-401. Grounds for disciplinary action.

The following acts are unlawful and grounds for disciplinary action for a person licensed or required to be licensed under this chapter:

(1) (a) making a substantial misrepresentation, including in a licensure statement;

(b) making an intentional misrepresentation;

(c) pursuing a continued and flagrant course of misrepresentation;

(d) making a false representation or promise through an agent, sales agent, advertising, or otherwise; or

(e) making a false representation or promise of a character likely to influence, persuade, or induce;

(2) acting for more than one party in a transaction without the informed written consent of the parties;

(3) (a) acting as an associate broker or sales agent while not affiliated with a principal broker;

(b) representing or attempting to represent a principal broker other than the principal broker with whom the person is affiliated; or

(c) representing as sales agent or having a contractual relationship similar to that of sales agent with a person other than a principal broker;

(4) (a) failing, within a reasonable time, to account for or to remit money that belongs to another and comes into the person's possession;

(b) commingling money described in Subsection (4)(a) with the person's own money; or

(c) diverting money described in Subsection (4)(a) from the purpose for which the money is received;

(5) paying or offering to pay valuable consideration to a person not licensed under this chapter, except that valuable consideration may be shared:

(a) with a principal broker of another jurisdiction; or

(b) as provided under:

(i) Title 16, Chapter 10a, Utah Revised Business Corporation Act;

(ii) Title 16, Chapter 11, Professional Corporation Act; or

(iii) Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405;

(6) for a principal broker, paying or offering to pay a sales agent or associate broker who is not affiliated with the principal broker at the time the sales agent or associate broker earned the compensation;

(7) being incompetent to act as a principal broker, associate broker, or sales agent in such manner as to safeguard the interests of the public;

(8) failing to voluntarily furnish a copy of a document to the parties before and after the execution of a document;

(9) failing to keep and make available for inspection by the division a record of each transaction, including:

(a) the names of buyers and sellers or lessees and lessors;

(b) the identification of real estate;

(c) the sale or rental price;

(d) money received in trust;

(e) agreements or instructions from buyers and sellers or lessees and lessors; and

(f) any other information required by rule;

(10) failing to disclose, in writing, in the purchase, sale, or rental of real estate, whether the purchase, sale, or rental is made for that person or for an undisclosed principal;

(11) regardless of whether the crime is related to the business of real estate:

(a) be convicted of:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(b) plead guilty or nolo contendere to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(c) enter into a plea in abeyance agreement in relation to:

(i) a felony; or

(ii) any of the following involving fraud, misrepresentation, theft, or dishonesty:

(A) a class A misdemeanor;

(B) a class B misdemeanor; or

(C) a criminal offense comparable to a class A or class B misdemeanor;

(12) advertising the availability of real estate or the services of a licensee in a false, misleading, or deceptive manner;

(13) in the case of a principal broker or a branch broker, failing to exercise active and reasonable supervision, as the commission may define by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, over the activities of the principal broker's or branch broker's licensed or unlicensed staff;

(14) violating or disregarding:

(a) this chapter;

(b) an order of the commission; or

(c) the rules adopted by the commission and the division;

(15) breaching a fiduciary duty owed by a licensee to the licensee's principal in a real estate transaction;

(16) any other conduct which constitutes dishonest dealing;

(17) having one of the following suspended, revoked, surrendered, or cancelled on the basis of misconduct in a professional capacity that relates to character, honesty, integrity, or truthfulness:

(a) a real estate license, registration, or certificate issued by another jurisdiction; or

(b) another license, registration, or certificate to engage in an occupation or profession issued by this state or another jurisdiction;

(18) failing to respond to a request by the division in an investigation authorized under this chapter within 10 days after the day on which the request is served, including:

(a) failing to respond to a subpoena;

(b) withholding evidence; or

(c) failing to produce documents or records;

(19) in the case of a dual licensed title licensee as defined in Section 31A-2-402:

(a) providing a title insurance product or service without the approval required by Section 31A-2-405; or

(b) knowingly providing false or misleading information in the statement required by Subsection 31A-2-405(2);

(20) violating an independent contractor agreement between a principal broker and a sales agent or associate broker as evidenced by a final judgment of a court;

(21) (a) engaging in an act of loan modification assistance that requires licensure as a mortgage officer under Chapter 2c, Utah Residential Mortgage Practices and Licensing Act, without being licensed under that chapter;

(b) engaging in an act of foreclosure rescue without entering into a written agreement specifying what one or more acts of foreclosure rescue will be completed;

(c) inducing a person who is at risk of foreclosure to hire the licensee to engage in an act of foreclosure rescue by:

(i) suggesting to the person that the licensee has a special relationship with the person's lender or loan servicer; or

(ii) falsely representing or advertising that the licensee is acting on behalf of:

(A) a government agency;

(B) the person's lender or loan servicer; or

(C) a nonprofit or charitable institution; or

(d) recommending or participating in a foreclosure rescue that requires a person to:

(i) transfer title to real estate to the licensee or to a third-party with whom the licensee has a business relationship or financial interest;

(ii) make a mortgage payment to a person other than the person's loan servicer; or

(iii) refrain from contacting the person's:

(A) lender;

(B) loan servicer;

(C) attorney;

(D) credit counselor; or

(E) housing counselor;

(22) taking or removing from the premises of a main office or a branch office, or otherwise limiting a real estate brokerage's access to or control over, a record that:

(a) (i) the real estate brokerage's licensed staff, unlicensed staff, or affiliated independent contractor prepared; and

(ii) is related to the business of:

(A) the real estate brokerage; or

(B) an associate broker, a branch broker, or a sales agent of the real estate brokerage; or

(b) is related to the business administration of the real estate brokerage;

(23) as a principal broker, placing a lien on real property, unless authorized by law;

(24) as a sales agent or associate broker, placing a lien on real property for an unpaid commission or other compensation related to real estate brokerage services; or

(25) failing to timely disclose to a buyer or seller an affiliated business arrangement, as defined in Section 31A-23a-1001, in accordance with the federal Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 et seq. and any rules made thereunder.

Section 12. Section 61-2f-402 is amended to read:

61-2f-402. Investigations -- Disciplinary actions.

(1) The division may conduct a public or private investigation within or outside of this state as the division considers necessary to determine whether a person has violated, is violating, or is about to violate this chapter or any rule or order under this chapter.

(2) To aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, the division may require or permit a person to file a statement in writing, under oath or otherwise as to the facts and circumstances concerning the matter to be investigated.

(3) For the purpose of the investigation described in Subsection (1), the division or an employee designated by the division may:

(a) administer an oath or affirmation;

(b) issue a subpoena that requires:

(i) the attendance and testimony of a witness; or

(ii) the production of evidence;

(c) take evidence;

(d) require the production of a book, paper, contract, record, other document, or information relevant to the investigation; and

(e) serve a subpoena by certified mail.

(4) (a) A court of competent jurisdiction shall enforce, according to the practice and procedure of the court, a subpoena issued by the division.

(b) The division shall pay any witness fee, travel expense, mileage, or any other fee required by the service statutes of the state where the witness or evidence is located.

[~~(5) (a) If a person is found to have violated this chapter or a rule made under this chapter, the person shall pay the costs incurred by the division to copy a book, paper, contract, document, or record required under this chapter, including the costs incurred to copy an electronic book, paper, contract, document, or record in a universally readable format.~~]

[~~(b) If a person fails to pay the costs described in Subsection (5)(a) when due, the person's license, certification, or registration is automatically suspended:~~]

[~~(i) beginning the day on which the payment of costs is due; and~~]

[~~(ii) ending the day on which the costs are paid.~~]

[~~(6)~~] (5) (a) Except as provided in Subsections [~~(6)~~] (5)(b) and (c), the division shall commence a disciplinary action under this chapter no later than the earlier of the following:

(i) four years after the day on which the violation is reported to the division; or

(ii) 10 years after the day on which the violation occurred.

(b) Except as provided in Subsection [~~(6)~~] (5)(c), the division shall commence a disciplinary action within four years after the day on which a violation occurred, if the violation was of:

(i) Section 61-2f-206;

(ii) Subsection 61-2f-401(8), which prohibits failure to voluntarily furnish a copy of a document to the parties before and after the execution of a document; or

(iii) Subsection 61-2f-401(18), which prohibits failure to respond to a division request in an investigation within 10 days after the day on which the request is served.

(c) The division may commence a disciplinary action under this chapter after the time period described in Subsection [~~(6)~~] (5)(a) or (b) expires if:

(i) (A) the disciplinary action is in response to a civil or criminal judgment or settlement; and

(B) the division initiates the disciplinary action no later than one year after the day on which the judgment is issued or the settlement is final; or

(ii) the division and the person subject to a disciplinary action enter into a written stipulation to extend the time period described in Subsection [~~(6)~~] (5)(a) or (b).

CHAPTER 205
H. B. 75

Passed February 7, 2022
Approved March 23, 2022
Effective May 4, 2022

RETIREMENT SYSTEM AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions relating to the Utah Retirement System.

Highlighted Provisions:

This bill:

- permits a public employees' association to withdraw from the Utah Retirement System;
- describes the options and procedures for withdrawing from the Utah Retirement System;
- exempts a withdrawing public employees' association from Public Finance Website disclosure requirements; and
- modifies the definition of a URS-participating employer in relation to the Utah Public Finance Website.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-12-203, as last amended by Laws of Utah 2021, Chapters 193 and 382

49-13-203, as last amended by Laws of Utah 2021, Chapters 64 and 193

49-22-203, as last amended by Laws of Utah 2021, Chapter 193

67-3-12, as last amended by Laws of Utah 2021, Chapter 398 and renumbered and amended by Laws of Utah 2021, Chapter 84 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 398

ENACTS:

49-11-626, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-11-626 is enacted to read:

49-11-626. Withdrawing entity -- Participation election date -- Withdrawal costs -- Rulemaking.

(1) As used in this section, "withdrawing entity" means an entity that:

(a) participates in a system or plan under this title before January 1, 2022; and

(b) (i) is a public employees' association; or

(ii) is an insurer that is subject to the disclosure requirements of Section 31A-4-113.

(2) Notwithstanding any other provision of this title, a withdrawing entity may provide for the participation of the withdrawing entity's employees with that system or plan as follows:

(a) the withdrawing entity shall determine a date that is no later than July 1, 2024, on which the withdrawing entity shall make an election and complete withdrawal under Subsection (3);

(b) the withdrawing entity shall provide to the office notice of the withdrawing entity's intent to enter into an agreement described in Subsection (2)(c);

(c) the withdrawing entity and the office may enter into an intent to withdraw agreement to document a good faith arrangement to complete a withdrawal under this section; and

(d) subject to Subsection (6), the withdrawing entity shall pay to the office any reasonable actuarial and administrative costs determined by the office to have arisen out of an election made under this section.

(3) The withdrawing entity may elect to:

(a) (i) continue the withdrawing entity's participation for all current employees of the withdrawing entity, who are covered by a system or plan on the date set under Subsection (2)(a); and

(ii) withdraw from participation in all systems and plans for all persons initially entering employment with the withdrawing entity, beginning on the date set under Subsection (2)(a); or

(b) withdraw from participation in all systems or plans for all current and future employees of the withdrawing entity, beginning on the date set under Subsection (2)(a).

(4) (a) An election made under Subsection (3):

(i) shall be made on or before the date specified under Subsection (2)(a);

(ii) shall be documented by a resolution adopted by the governing body of the withdrawing entity;

(iii) remains in effect unless and until the withdrawing entity again becomes a participating employer with the office in accordance with Subsection (5); and

(iv) applies to the withdrawing entity as the employer and to all employees of the withdrawing entity.

(b) Notwithstanding an election made under Subsection (3), any eligibility for service credit earned by an employee under this title before the date specified under Subsection (2)(a) is not affected by this section.

(c) Notwithstanding any other provision of this title, a withdrawing entity that makes an election under Subsection (3) may provide or participate in any type of public or private retirement for the withdrawing entity's employees after the withdrawal.

(5) After the withdrawal and subject to the laws and rules governing participating employer

admission, the withdrawing entity may elect, by resolution of the withdrawing entity's governing body, to resume participation with the office and apply for admission as a participating employer in a system or plan under this title.

(6) Before a withdrawing entity may withdraw under this section, the withdrawing entity and the office shall enter into an agreement on:

(a) the costs described under Subsection (2)(d); and

(b) arrangements for the payment of the costs described under Subsection (2)(d).

Section 2. Section 49-12-203 is amended to read:

49-12-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state, a member of the State Tax Commission, the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed on or after July 1, 2009, with an employer that has elected, prior to July 1, 2009, to be excluded from participation in this system under Subsection 49-12-202(2)(c);

(g) an employee who is employed on or after July 1, 2014, with an employer that has elected, prior to July 1, 2014, to be excluded from participation in this system under Subsection 49-12-202(2)(d);

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(i) an employee described in Subsection (1)(i)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b); [~~or~~]

(j) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system[~~.~~]; or

(k) an employee who is employed with a withdrawing entity that, before July 1, 2024, elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before July 1, 2009 is not affected under Subsection (1)(f).

(c) Notwithstanding the provisions of Subsection (1)(g), any eligibility for service credit earned by an employee under this chapter before July 1, 2014, is not affected under Subsection (1)(g).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Planning and Budget;

(e) an employee of the Governor's Office of Economic Opportunity;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the Public Lands Policy Coordinating Office, created in Section 63L-11-201;

(i) an employee of the State Auditor's Office;

(j) an employee of the State Treasurer's Office;

(k) any other member who is permitted to make an election under Section 49-11-406;

(l) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(m) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to the organization's members; and

(n) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in an exempted position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-13-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 3. Section 49-13-203 is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3)(a), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission who files a formal request for exemption;

(e) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(f) an employee who is employed with an employer that has elected to be excluded from participation in this system under Subsection 49-13-202(5), effective on or after the date of the employer's election under Subsection 49-13-202(5);

(g) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(h) an employee described in Subsection (1)(h)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b); [~~or~~]

(i) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system[~~.~~]; or

(j) an employee who is employed with a withdrawing entity that, before July 1, 2024, elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) (a) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(b) Notwithstanding the provisions of Subsection (1)(f), any eligibility for service credit earned by an employee under this chapter before the date of the election under Subsection 49-13-202(5) is not affected under Subsection (1)(f).

(4) Upon filing a written request for exemption with the office, the following employees shall be exempt from coverage under this system:

(a) a full-time student or the spouse of a full-time student and individuals employed in a trainee relationship;

(b) an elected official;

(c) an executive department head of the state, a member of the State Tax Commission, a member of the Public Service Commission, and a member of a full-time or part-time board or commission;

(d) an employee of the Governor's Office of Planning and Budget;

(e) an employee of the Governor's Office of Economic Opportunity;

(f) an employee of the Commission on Criminal and Juvenile Justice;

(g) an employee of the Governor's Office;

(h) an employee of the State Auditor's Office;

(i) an employee of the State Treasurer's Office;

(j) any other member who is permitted to make an election under Section 49-11-406;

(k) a person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is an at-will employee;

(l) an employee of an interlocal cooperative agency created under Title 11, Chapter 13, Interlocal Cooperation Act, who is engaged in a specialized trade customarily provided through membership in a labor organization that provides retirement benefits to its members; and

(m) an employee serving as an exchange employee from outside the state for an employer who has elected to make all of the employer's exchange employees eligible for service credit in this system.

(5) (a) Each participating employer shall prepare and maintain a list designating those positions eligible for exemption under Subsection (4).

(b) An employee may not be exempted unless the employee is employed in a position designated by the participating employer.

(6) (a) In accordance with this section, Section 49-12-203, and Section 49-22-205, a municipality, county, or political subdivision may not exempt a total of more than 50 positions or a number equal to 10% of the eligible employees of the municipality, county, or political subdivision, whichever is less.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(7) Each participating employer shall:

(a) maintain a list of employee exemptions; and

(b) update the employee exemptions in the event of any change.

(8) The office may make rules to implement this section.

(9) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 4. Section 49-22-203 is amended to read:

49-22-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) subject to the requirements of Subsection (2), an employee whose employment status is temporary in nature due to the nature or the type of work to be performed;

(b) except as provided under Subsection (3), an employee of an institution of higher education who participates in a retirement system with a public or private retirement system, organization, or company designated by the Utah Board of Higher Education, or the technical college board of trustees for an employee of each technical college, during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer;

(c) an employee serving as an exchange employee from outside the state for an employer who has not elected to make all of the employer's exchange employees eligible for service credit in this system;

(d) an employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act;

(e) an employee who is employed with a withdrawing entity that has elected under Section 49-11-623, prior to January 1, 2017, to exclude:

(i) new employees from participation in this system under Subsection 49-11-623(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-623(3)(b);

(f) a person who files a written request for exemption with the office under Section 49-22-205;

(g) an employee described in Subsection (1)(g)(i) or (ii) who is employed with a withdrawing entity that has elected under Section 49-11-624, before January 1, 2018, to exclude:

(i) new employees from participation in this system under Subsection 49-11-624(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-624(3)(b); [~~or~~]

(h) an employee who is employed with a withdrawing entity that has elected under Section 49-11-625, before July 1, 2022, to exclude all employees from participation in this system[~~.~~]; or

(i) an employee who is employed with a withdrawing entity that, before July 1, 2024, elects under Section 49-11-626 to exclude:

(i) new employees from participation in this system under Subsection 49-11-626(3)(a); or

(ii) all employees from participation in this system under Subsection 49-11-626(3)(b).

(2) If an employee whose status is temporary in nature due to the nature of type of work to be performed:

(a) is employed for a term that exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that the employee is a regular full-time employee effective the beginning of the seventh month of employment; or

(b) was previously terminated prior to being eligible for service credit in this system and is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credits in this system.

(3) Upon cessation of the participating employer contributions, an employee under Subsection (1)(b) is eligible for service credit in this system.

(4) An employee's exclusion, exemption, participation, or election described in this section:

(a) shall be made in accordance with this section; and

(b) is subject to requirements under federal law and rules made by the board.

Section 5. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

(v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(vii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (vii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection [~~(8)~~] (9) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section 58B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating [~~entity~~] employer, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201; [~~or~~]

(B) an insurer that is subject to the disclosure requirements of Section 31A-4-113; or

[~~(B)~~] (C) a withdrawing entity.

(i) (i) "Withdrawing entity" means:

(A) an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records[~~.~~];

(B) until the date determined under Subsection 49-11-626(2)(a), a public employees' association that provides the notice of intent described in Subsection 49-11-626(2)(b); and

(C) beginning on the date determined under Subsection 49-11-626(2)(a), a public employees' association that makes an election described in Subsection 49-11-626(3).

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection [~~(8)~~] (9);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

CHAPTER 206
H. B. 80

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

DIABETES PREVENTION PROGRAM

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Evan J. Vickers
Cosponsors: Cheryl K. Acton
Rosemary T. Lesser

LONG TITLE

General Description:

This bill allows for Medicaid reimbursement for diabetes prevention services.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the Medicaid program to reimburse a provider for certain diabetes prevention services;
- implements a reporting requirement;
- sets a termination date for the reimbursement but requires legislative review before the termination date; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Health and Human Services -- Integrated Health Care Services, as an ongoing appropriation:
  - from the General Fund, $87,500; and
  - from the Medicaid Expansion Fund, $6,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417

ENACTS:

26-18-28, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-28 is enacted to read:

26-18-28. Reimbursement for diabetes prevention program.

(1) As used in this section, "DPP" means the National Diabetes Prevention Program developed by the United States Centers for Disease Control and Prevention.

(2) Beginning July 1, 2022, the Medicaid program shall reimburse a provider for an enrollee's participation in the DPP if the enrollee:

(a) meets the DPP's eligibility requirements; and

(b) has not previously participated in the DPP after July 1, 2022, while enrolled in the Medicaid program.

(3) Subject to appropriation, the Medicaid program may set the rate for reimbursement.

(4) The department may apply for a state plan amendment if necessary to implement this section.

(5) (a) On or after July 1, 2025, but before October 1, 2025, the department shall provide a written report regarding the efficacy of the DPP and reimbursement under this section to the Health and Human Services Interim Committee.

(b) The report described in Subsection (5)(a) shall include:

(i) the total number of enrollees with a prediabetic condition as of July 1, 2022;

(ii) the total number of enrollees as of July 1, 2022, with a diagnosis of type 2 diabetes;

(iii) the total number of enrollees who participated in the DPP;

(iv) the total cost incurred by the state to implement this section; and

(v) any conclusions that can be drawn regarding the impact of the DPP on the rate of type 2 diabetes for enrollees.

Section 2. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed [~~on~~] July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-18-28 is repealed June 30, 2027.

[~~(15)~~] (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(16)~~] (17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(17)~~] (18) Section 26-33a-117 is repealed [~~on~~] December 31, 2023.

[~~(18)~~] (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(19)~~] (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(20)~~] (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(23)~~] (24) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (25) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (26) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (27) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(28)~~] (29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services -- Integrated Health Care Services

From General Fund	$87,500
From Medicaid Expansion Fund	$6,000
Schedule of Programs:	
Medicaid -- Other Services	$93,500

The Legislature intends that the Department of Health and Human Services expend appropriations provided under this item for reimbursing providers in accordance with Section 26-18-28.

CHAPTER 207
H. B. 82
Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

STATE FINANCE REVIEW COMMISSION

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Jerry W. Stevenson
Cosponsors: Carl R. Albrecht
Stephen G. Handy
Timothy D. Hawkes
Jon Hawkins
Bradley G. Last
Jefferson Moss
Merrill F. Nelson
Mike Schultz
Travis M. Seegmiller
Robert M. Spendlove

LONG TITLE

General Description:

This bill enacts and modifies provisions related to the State Finance Review Commission.

Highlighted Provisions:

This bill:

- for the Utah Inland Port Authority, the Point of the Mountain State Land Authority, and the Military Installation Development Authority, requires each authority, or a public infrastructure district created by the authority, to report issuance of bonds;
- creates the State Finance Review Commission;
- requires the State Building Ownership Authority and the State Bonding Commission to submit an annual report to the State Finance Review Commission on obligations and outstanding bonds;
- requires a loan entity to submit information on a revolving loan fund for review to the State Finance Review Commission;
- directs the State Finance Review Commission to review the lending activities of a loan entity;
- prohibits a large public transit district from issuing a bond unless the State Finance Review Commission has first approved the bond;
- requires a bonding political subdivision and certain public infrastructure districts to submit a bond parameters resolution for review by the State Finance Review Commission;
- enacts language clarifying that a bond approved or parameters resolution reviewed by the State Finance Review Commission does not create an obligation of the state or is an act that lends the state's credit;
- requires the State Finance Review Commission to provide training and information on debt management, lending and borrowing best practices, and compliance to certain entities;
- prohibits a bonding political subdivision from entering a public-private partnership unless the State Finance Review Commission has first approved the public-private partnership;
- requires the state treasurer, with assistance from the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, to submit an annual debt affordability report to the State Finance Review Commission and the Revenue and Taxation Interim Committee; and
- makes other conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

11-58-106, as enacted by Laws of Utah 2021, Chapter 415
11-58-701, as enacted by Laws of Utah 2018, Chapter 179
11-59-104, as enacted by Laws of Utah 2021, Chapter 415
11-59-202, as last amended by Laws of Utah 2020, Chapter 354
17D-4-301, as renumbered and amended by Laws of Utah 2021, Chapter 314
17B-2a-808.1, as last amended by Laws of Utah 2021, Chapter 239
63B-1-305, as renumbered and amended by Laws of Utah 2003, Chapter 86
63B-1a-102, as enacted by Laws of Utah 2003, Chapter 2
63H-1-104, as enacted by Laws of Utah 2021, Chapter 415
63H-1-601, as last amended by Laws of Utah 2011, Chapter 234
63N-13-306, as enacted by Laws of Utah 2020, Chapter 446

ENACTS:

63C-25-101, Utah Code Annotated 1953
63C-25-201, Utah Code Annotated 1953
63C-25-202, Utah Code Annotated 1953
63C-25-203, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

11-65-501, Utah Code Annotated 1953
63C-25-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-58-106 is amended to read:

11-58-106. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Inland port fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the two board members appointed by the governor;

(ii) the board member appointed by the president of the Senate;

(iii) the board member appointed by the speaker of the House of Representatives; and

(iv) the board member appointed by the chair of the Permanent Community Impact Fund Board.

(2) The loan approval committee may approve an infrastructure loan from the inland port fund to a borrower for an infrastructure project undertaken by the borrower.

(3) (a) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(b) The loan approval committee shall require the terms of an infrastructure loan secured by property tax differential to include a requirement that money from the infrastructure loan be used only for an infrastructure project within the project area that generates the property tax differential.

(c) The terms of an infrastructure loan that the loan approval committee approves may include provisions allowing for the infrastructure loan to be forgiven if:

(i) the infrastructure loan is to a public university in the state;

(ii) the infrastructure loan is to fund a vehicle electrification pilot project;

(iii) the amount of the infrastructure loan does not exceed $15,000,000; and

(iv) the public university receives matching funds for the vehicle electrification pilot project from another source.

(4) (a) The loan approval committee shall establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(b) With respect to infrastructure loan requests for an infrastructure project on authority jurisdictional land, the policies and guidelines established under Subsection (4)(a) shall give priority to an infrastructure loan request that furthers the policies and best practices incorporated into the environmental sustainability component of the authority's business plan under Subsection 11-58-202(1)(a).

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee[~~.~~]; and

(b) the State Finance Review Commission created in Section 63C-25-201.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 2. Section 11-58-701 is amended to read:

11-58-701. Resolution authorizing issuance of port authority bonds -- Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the board first [~~adopts a resolution authorizing their issuance.~~]:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 3. Section 11-59-104 is amended to read:

11-59-104. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Point of the mountain fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member:

(A) who is a member of the Senate appointed under Subsection 11-59-302(2)(a); and

(B) whose Senate district is closer to the boundary of the point of the mountain state land than is the Senate district of the other member of the Senate appointed under Subsection 11-59-302(2)(a);

(ii) the board member:

(A) who is a member of the House of Representatives appointed under Subsection 11-59-302(2)(b); and

(B) whose House district is closer to the boundary of the point of the mountain state land than is the House district of the other member of the House of Representatives appointed under Subsection 11-59-302(2)(b);

(iii) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(i);

(iv) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(ii); and

(v) the board member who is the mayor of Draper or a member of the Draper city council.

(2) The loan approval committee may approve an infrastructure loan from the point of the mountain fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee[~~.~~]; and

(b) the State Finance Review Commission created in Section 63C-25-201.

(6) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 4. Section 11-59-202 is amended to read:

11-59-202. Authority powers.

(1) The authority may:

[~~(1)~~] (a) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

[~~(2)~~] (b) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

[~~(3)~~] (c) sue and be sued;

[~~(4)~~] (d) enter into contracts generally;

[~~(5)~~] (e) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

[~~(6)~~] (f) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

[~~(7)~~] (g) enter into a lease agreement on real or personal property, either as lessee or lessor;

[~~(8)~~] (h) provide for the development of the point of the mountain state land under one or more contracts;

[~~(9)~~] (i) exercise powers and perform functions under a contract, as authorized in the contract;

[~~(10)~~] (j) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

[~~(11)~~] (k) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

[~~(12)~~] (l) subject to Subsection (2), issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

[~~(13)~~] (m) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

[~~(14)~~] (n) transact other business and exercise all other powers provided for in this chapter;

[~~(15)~~] (o) enter into a development agreement with a developer of some or all of the point of the mountain state land;

[~~(16)~~] (p) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

[~~(17)~~] (q) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

[~~(18)~~] (r) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land; and

[~~(19)~~] (s) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to exercise its powers or fulfill its duties and responsibilities under this chapter.

(2) The authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-101.

(3) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 5. Section 17B-2a-808.1 is amended to read:

17B-2a-808.1. Large public transit district board of trustees powers and duties -- Adoption of ordinances, resolutions, or orders -- Effective date of ordinances.

(1) The powers and duties of a board of trustees of a large public transit district stated in this section are in addition to the powers and duties stated in Section 17B-1-301.

(2) The board of trustees of each large public transit district shall:

(a) hold public meetings and receive public comment;

(b) ensure that the policies, procedures, and management practices established by the public transit district meet state and federal regulatory requirements and federal grantee eligibility;

(c) subject to Subsection (8), create and approve an annual budget, including the issuance of bonds and other financial instruments, after consultation with the local advisory council;

(d) approve any interlocal agreement with a local jurisdiction;

(e) in consultation with the local advisory council, approve contracts and overall property acquisitions and dispositions for transit-oriented development;

(f) in consultation with constituent counties, municipalities, metropolitan planning organizations, and the local advisory council:

(i) develop and approve a strategic plan for development and operations on at least a four-year basis; and

(ii) create and pursue funding opportunities for transit capital and service initiatives to meet anticipated growth within the public transit district;

(g) annually report the public transit district's long-term financial plan to the State Bonding Commission;

(h) annually report the public transit district's progress and expenditures related to state resources to the Executive Appropriations Committee and the Infrastructure and General Government Appropriations Subcommittee;

(i) annually report to the Transportation Interim Committee the public transit district's efforts to engage in public-private partnerships for public transit services;

(j) hire, set salaries, and develop performance targets and evaluations for:

(i) the executive director; and

(ii) all chief level officers;

(k) supervise and regulate each transit facility that the public transit district owns and operates, including:

(i) fix rates, fares, rentals, charges and any classifications of rates, fares, rentals, and charges; and

(ii) make and enforce rules, regulations, contracts, practices, and schedules for or in connection with a transit facility that the district owns or controls;

(l) subject to Subsection (4), control the investment of all funds assigned to the district for investment, including funds:

(i) held as part of a district's retirement system; and

(ii) invested in accordance with the participating employees' designation or direction pursuant to an employee deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code;

(m) in consultation with the local advisory council created under Section 17B-2a-808.2, invest all funds according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act;

(n) if a custodian is appointed under Subsection (3)(d), and subject to Subsection (4), pay the fees for the custodian's services from the interest earnings of the investment fund for which the custodian is appointed;

(o) (i) cause an annual audit of all public transit district books and accounts to be made by an independent certified public accountant;

(ii) as soon as practicable after the close of each fiscal year, submit to each of the councils of governments within the public transit district a financial report showing:

(A) the result of district operations during the preceding fiscal year;

(B) an accounting of the expenditures of all local sales and use tax revenues generated under Title 59, Chapter 12, Part 22, Local Option Sales and Use Taxes for Transportation Act;

(C) the district's financial status on the final day of the fiscal year; and

(D) the district's progress and efforts to improve efficiency relative to the previous fiscal year; and

(iii) supply copies of the report under Subsection (2)(o)(ii) to the general public upon request;

(p) report at least annually to the Transportation Commission created in Section 72-1-301, which report shall include:

(i) the district's short-term and long-range public transit plans, including the portions of applicable regional transportation plans adopted by a metropolitan planning organization established under 23 U.S.C. Sec. 134; and

(ii) any transit capital development projects that the board of trustees would like the Transportation Commission to consider;

(q) direct the internal auditor appointed under Section 17B-2a-810 to conduct audits that the board of trustees determines, in consultation with the local advisory council created in Section 17B-2a-808.2, to be the most critical to the success of the organization;

(r) together with the local advisory council created in Section 17B-2a-808.2, hear audit reports for audits conducted in accordance with Subsection (2)(o);

(s) review and approve all contracts pertaining to reduced fares, and evaluate existing contracts, including review of:

(i) how negotiations occurred;

(ii) the rationale for providing a reduced fare; and

(iii) identification and evaluation of cost shifts to offset operational costs incurred and impacted by each contract offering a reduced fare;

(t) in consultation with the local advisory council, develop and approve other board policies, ordinances, and bylaws; and

(u) review and approve any:

(i) contract or expense exceeding $200,000; or

(ii) proposed change order to an existing contract if the change order:

(A) increases the total contract value to $200,000 or more;

(B) increases a contract of or expense of $200,000 or more by 15% or more; or

(C) has a total change order value of $200,000 or more.

(3) A board of trustees of a large public transit district may:

(a) subject to Subsection (5), make and pass ordinances, resolutions, and orders that are:

(i) not repugnant to the United States Constitution, the Utah Constitution, or the provisions of this part; and

(ii) necessary for:

(A) the governance and management of the affairs of the district;

(B) the execution of district powers; and

(C) carrying into effect the provisions of this part;

(b) provide by resolution, under terms and conditions the board considers fit, for the payment of demands against the district without prior specific approval by the board, if the payment is:

(i) for a purpose for which the expenditure has been previously approved by the board;

(ii) in an amount no greater than the amount authorized; and

(iii) approved by the executive director or other officer or deputy as the board prescribes;

(c) in consultation with the local advisory council created in Section 17B-2a-808.2:

(i) hold public hearings and subpoena witnesses; and

(ii) appoint district officers to conduct a hearing and require the officers to make findings and conclusions and report them to the board; and

(d) appoint a custodian for the funds and securities under its control, subject to Subsection (2)(n).

(4) For a large public transit district in existence as of May 8, 2018, on or before September 30, 2019, the board of trustees of a large public transit district shall present a report to the Transportation Interim Committee regarding retirement benefits of the district, including:

(a) the feasibility of becoming a participating employer and having retirement benefits of eligible employees and officials covered in applicable systems and plans administered under Title 49, Utah State Retirement and Insurance Benefit Act;

(b) any legal or contractual restrictions on any employees that are party to a collectively bargained retirement plan; and

(c) a comparison of retirement plans offered by the large public transit district and similarly situated public employees, including the costs of each plan and the value of the benefit offered.

(5) The board of trustees may not issue a bond unless the board of trustees has consulted and received approval from the [~~State Bonding Commission created in Section 63B-1-201~~] State Finance Review Commission created in Section 63C-25-201.

(6) A member of the board of trustees of a large public transit district or a hearing officer designated by the board may administer oaths and affirmations in a district investigation or proceeding.

(7) (a) The vote of the board of trustees on each ordinance or resolution shall be by roll call vote with each affirmative and negative vote recorded.

(b) The board of trustees of a large public transit district may not adopt an ordinance unless it is introduced at least 24 hours before the board of trustees adopts it.

(c) Each ordinance adopted by a large public transit district's board of trustees shall take effect upon adoption, unless the ordinance provides otherwise.

(8) (a) For a large public transit district in existence on May 8, 2018, for the budget for calendar year 2019, the board in place on May 8, 2018, shall create the tentative annual budget.

(b) The budget described in Subsection (8)(a) shall include setting the salary of each of the members of the board of trustees that will assume control on or before November 1, 2018, which salary may not exceed $150,000, plus additional retirement and other standard benefits, as set by the local advisory council as described in Section 17B-2a-808.2.

(c) For a large public transit district in existence on May 8, 2018, the board of trustees that assumes control of the large public transit district on or before November 2, 2018, shall approve the calendar year 2019 budget on or before December 31, 2018.

Section 6. Section 17D-4-301 is amended to read:

17D-4-301. Public infrastructure district bonds.

(1) (a) [~~A~~] Subject to Subsection (1)(b), a public infrastructure district may issue negotiable bonds for the purposes described in Section 17D-4-203, as provided in, as applicable:

[~~(a)~~] (i) Title 11, Chapter 14, Local Government Bonding Act;

[~~(b)~~] (ii) Title 11, Chapter 27, Utah Refunding Bond Act;

[~~(c)~~] (iii) Title 11, Chapter 42, Assessment Area Act; and

[~~(d)~~] (iv) this section.

(b) A public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, may not issue bonds under this part unless the board first:

(i) adopts a parameters resolution for the bonds that sets forth:

(A) the maximum:

(I) amount of bonds;

(II) term; and

(III) interest rate; and

(B) the expected security for the bonds; and

(ii) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) A public infrastructure district bond:

(a) shall mature within 40 years of the date of issuance; and

(b) may not be secured by any improvement or facility paid for by the public infrastructure district.

(3) (a) A public infrastructure district may issue a limited tax bond, in the same manner as a general obligation bond:

(i) with the consent of 100% of surface property owners within the boundaries of the public infrastructure district and 100% of the registered voters, if any, within the boundaries of the proposed public infrastructure district; or

(ii) upon approval of a majority of the registered voters within the boundaries of the public infrastructure district voting in an election held for that purpose under Title 11, Chapter 14, Local Government Bonding Act.

(b) A limited tax bond described in Subsection (3)(a):

(i) is not subject to the limitation on a general obligation bond described in Subsection 17B-1-1102(4)(a)(xii); and

(ii) is subject to a limitation, if any, on the principal amount of indebtedness as described in the governing document.

(c) Unless limited tax bonds are initially purchased exclusively by one or more qualified institutional buyers as defined in Rule 144A, 17 C.F.R. Sec. 230.144A, the public infrastructure district may only issue limited tax bonds in denominations of not less than $500,000, and in integral multiples above $500,000 of not less than $1,000 each.

(d) (i) Without any further election or consent of property owners or registered voters, a public infrastructure district may convert a limited tax bond described in Subsection (3)(a) to a general obligation bond if the principal amount of the related limited tax bond together with the principal amount of other related outstanding general obligation bonds of the public infrastructure district does not exceed 15% of the fair market value of taxable property in the public infrastructure district securing the general obligation bonds, determined by:

(A) an appraisal from an appraiser who is a member of the Appraisal Institute that is addressed to the public infrastructure district or a financial institution; or

(B) the most recent market value of the property from the assessor of the county in which the property is located.

(ii) The consent to the issuance of a limited tax bond described in Subsection (3)(a) is sufficient to meet any statutory or constitutional election requirement necessary for the issuance of the limited tax bond and any general obligation bond to be issued in place of the limited tax bond upon meeting the requirements of this Subsection (3)(d).

(iii) A general obligation bond resulting from a conversion of a limited tax bond under this Subsection (3)(d) is not subject to the limitation on general obligation bonds described in Subsection 17B-1-1102(4)(a)(xii).

(e) A public infrastructure district that levies a property tax for payment of debt service on a limited tax bond issued under this section is not required to comply with the notice and hearing requirements of Section 59-2-919 unless the rate exceeds the rate established in:

(i) Section 17D-4-303, except as provided in Subsection (8);

(ii) the governing document; or

(iii) the documents relating to the issuance of the limited tax bond.

(4) There is no limitation on the duration of revenues that a public infrastructure district may receive to cover any shortfall in the payment of principal of and interest on a bond that the public infrastructure district issues.

(5) A public infrastructure district is not a municipal corporation for purposes of the debt limitation of Utah Constitution, Article XIV, Section 4.

(6) The board may, by resolution, delegate to one or more officers of the public infrastructure district the authority to:

(a) in accordance and within the parameters set forth in a resolution adopted in accordance with Section 11-14-302, approve the final interest rate, price, principal amount, maturity, redemption features, and other terms of the bond;

(b) approve and execute any document relating to the issuance of a bond; and

(c) approve any contract related to the acquisition and construction of the improvements, facilities, or property to be financed with a bond.

(7) (a) Any person may contest the legality of the issuance of a public infrastructure district bond or any provisions for the security and payment of the bond for a period of 30 days after:

(i) publication of the resolution authorizing the bond; or

(ii) publication of a notice of bond containing substantially the items required under Subsection 11-14-316(2).

(b) After the 30-day period described in Subsection (7)(a), no person may bring a lawsuit or other proceeding contesting the regularity, formality, or legality of the bond for any reason.

(8) (a) In the event of any statutory change in the methodology of assessment or collection of property

taxes in a manner that reduces the amounts which are devoted or pledged to the repayment of limited tax bonds, a public infrastructure district may charge a rate sufficient to receive the amount of property taxes or assessment the public infrastructure district would have received before the statutory change in order to pay the debt service on outstanding limited tax bonds.

(b) The rate increase described in Subsection (8)(a) may exceed the limit described in Section 17D-4-303.

(c) The public infrastructure district may charge the rate increase described in Subsection (8)(a) until the bonds, including any associated refunding bonds, or other securities, together with applicable interest, are fully met and discharged.

(9) No later than 60 days after the closing of any bonds by a public infrastructure district created by a bonding political subdivision, as defined in Section 63C-25-101, the public infrastructure district shall report the bond issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-101.

Section 7. Section 63B-1-305 is amended to read:

63B-1-305. Powers and duties of authority.

(1) The authority shall have perpetual succession as a body politic and corporate.

(2) The authority may:

(a) sue and to be sued in its own name;

(b) have, and alter at will, an official seal;

(c) contract with experts, advisers, consultants, and agents for needed services;

(d) with the prior approval of the Legislature, borrow money and issue obligations, including refunding obligations;

(e) receive and accept aid or contributions from any source, including the United States or this state, in the form of money, property, labor, or other things of value to be held, used and applied to carry out the purposes of this part, subject to the conditions upon which this aid and contributions are made, for any purpose consistent with this part;

(f) enter into agreements with any department, agency or instrumentality of the United States or this state, financial institutions, or contractors for the purpose of leasing, maintaining, and operating any facility;

(g) to the extent permitted under its contract with the holders of its obligations, consent to any modification relating to rate of interest, time and payment of any installment of principal or interest, security or any other term of any contract, mortgage, mortgage loan, mortgage loan commitment, contract or agreement of any kind to which it is a party;

(h) pledge revenues from any facility to secure the payment of obligations relating to that facility, including interest on obligations, and to redeem those obligations;

(i) cause to be executed mortgages, trust deeds, indentures, pledge agreements, assignments, security agreements, and financing statements encumbering property acquired, or constructed under this part;

(j) own, lease, operate, and encumber facilities acquired or constructed under this chapter by it or the division;

(k) exercise the power of eminent domain;

(l) rent or lease any facility in whole or in part to any state body; and

(m) have and exercise any other powers or duties that are necessary or appropriate to carry out and effectuate the purposes of this part.

(3) (a) The authority shall submit an annual written report of the authority's proceedings to the State Finance Review Commission created in Section 63C-25-201.

(b) The report shall include:

(i) a description of any outstanding money borrowed and obligations issued by the authority, including loan amounts, terms, and security;

(ii) facilities funded by the actions of the authority; and

(iii) an explanation of why the financing terms and obligations used for a facility are appropriate and in the best interest of the state.

Section 8. Section 63B-1a-102 is amended to read:

63B-1a-102. Commission responsibilities -- Manner of issuance -- Plan of financing -- Registration -- Signatures -- Replacement -- Reporting.

(1) The commission may determine by resolution:

(a) the manner in which bonds issued under this chapter may be authorized, sold, and issued;

(b) to issue bonds in one or more series;

(c) the amounts, dates, interest rates, including a variable rate or rates, and maturity dates of the bonds;

(d) the manner of sale, including public or private sale;

(e) the terms and conditions of sale, including price, whether at, below, or above face value;

(f) the denominations, registration, exchange, form, including book-entry only, manner of execution, manner of authentication, place and medium of purchase, redemption terms, and tender rights of the bonds; and

(g) other provisions and details that it considers appropriate.

(2) The commission may, by resolution, adopt a plan of financing, which may include terms and conditions of arrangements entered into by the commission on behalf of the state with financial and other institutions for bond insurance, letters of credit, standby bond purchase agreements, reimbursement agreements, and remarketing, indexing, and tender agent agreements relating to the bonds, including payment from any legally available source of fees, charges, or other amounts coming due under the agreements entered into by the commission.

(3) The commission may provide for the services and payment for the services of one or more financial institutions or other entities, persons, or nominees, within or outside the state, for the authentication, registration, transfer, including record, bookkeeping, or book-entry functions, exchange, and payment of the bonds.

(4) The commission may provide for the calculation and payment to the United States of whatever amounts are necessary to comply with the Internal Revenue Code.

(5) (a) The commission shall, by resolution, authorize a public official to sign the bonds.

(b) That signature may be a facsimile signature of that official that is imprinted, engraved, stamped, or otherwise placed on the bonds.

(c) If all signatures of public officials on the bonds are facsimile signatures, the commission shall provide for a manual authenticating signature on the bonds by or on behalf of a designated authentication agent.

(d) If a public official ceases to hold office before delivery of the bonds signed by that official, the signature or facsimile signature of the public official is nevertheless valid for all purposes.

(6) The commission may cause a facsimile of the state seal to be imprinted, engraved, stamped, or otherwise placed on the bonds.

(7) The commission shall provide an annual report of its proceedings to the governor to include in his budget for as long as any bonds issued under this chapter remain outstanding.

(8) (a) The commission shall submit an annual written report of the commission's proceedings to the State Finance Review Commission created in Section 63C-25-201.

(b) (i) The report shall include a description of any outstanding bonds issued by the authority, including loan amounts, terms, and security; and

(ii) an explanation of why the loan amounts and terms are appropriate for the project and in the best interest of the state.

Section 9. Section 63H-1-104 is amended to read:

63H-1-104. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Military development fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member who is appointed by the governor under Subsection 63H-1-302(2)(a);

(ii) the board member who is appointed by the governor under Subsection 63H-1-302(2)(c);

(iii) the board members who are appointed by the president of the Senate and the speaker of the House of Representatives under Subsection 63H-1-302(3); and

(iv) a voting or nonvoting board member designated by the board.

(2) The loan approval committee may approve an infrastructure loan from the military development fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Beginning May 5, 2021, the loan approval committee shall assume jurisdiction from the State Infrastructure Bank Fund relating to the terms of a loan under Subsection 63B-27-101(3)(a).

(6) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee[~~.~~];

(b) the State Finance Review Commission created in Section 63C-25-201.

(7) (a) A meeting of the loan approval committee does not constitute a meeting of the board, even if a quorum of the board is present at a loan approval committee meeting.

(b) A quorum of board members present at a meeting of the loan approval committee may not conduct board business at the loan approval committee meeting.

(8) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 10. Section 63H-1-601 is amended to read:

63H-1-601. Resolution authorizing issuance of authority bonds -- Characteristics of bonds.

(1) The authority may not issue bonds under this part unless the authority board first:

(a) adopts a parameters resolution [~~authorizing their issuance.~~] that sets forth:

(i) the maximum:

(A) amount of the bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.

(2) (a) As provided in the authority resolution authorizing the issuance of bonds under this part or the trust indenture under which the bonds are issued, bonds issued under this part may be issued in one or more series and may be sold at public or private sale and in the manner provided in the resolution or indenture.

(b) Bonds issued under this part shall bear the date, be payable at the time, bear interest at the rate, be in the denomination and in the form, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be subject to the terms of redemption or tender, with or without premium, be payable in the medium of payment and at the place, and have other characteristics as provided in the authority resolution authorizing their issuance or the trust indenture under which they are issued.

(3) Upon the board's adoption of a resolution providing for the issuance of bonds, the board may provide for the publication of the resolution:

(a) in a newspaper having general circulation in the authority's boundaries; and

(b) as required in Section 45-1-101.

(4) In lieu of publishing the entire resolution, the board may publish notice of bonds that contains the information described in Subsection 11-14-316(2).

(5) For a period of 30 days after the publication, any person in interest may contest:

(a) the legality of the resolution or proceeding;

(b) any bonds that may be authorized by the resolution or proceeding; or

(c) any provisions made for the security and payment of the bonds.

(6) (a) A person may contest the matters set forth in Subsection (5) by filing a verified written complaint, within 30 days of the publication under Subsection (5), in the district court of the county in which the person resides.

(b) A person may not contest the matters set forth in Subsection (5), or the regularity, formality, or legality of the resolution or proceeding, for any reason, after the 30-day period for contesting provided in Subsection (6)(a).

(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including the amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201.

Section 11. Section 63C-25-101 is enacted to read:

CHAPTER 25. STATE FINANCE REVIEW COMMISSION

Part 1. General Provisions

63C-25-101. Definitions.

As used in this chapter:

(1) "Authority" means the same as that term is defined in Section 63B-1-303.

(2) "Bond" means the same as that term is defined in Section 63B-1-101.

(3) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201; or

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201.

(4) "Commission" means the State Finance Review Commission created in Section 63C-25-201.

(5) "Concessionaire" means a person who:

(a) operates, finances, maintains, or constructs a government facility under a contract with a bonding political subdivision; and

(b) is not a bonding political subdivision.

(6) "Creating entity" means the same as that term is defined in Section 17D-4-102.

(7) "Government facility" means infrastructure, improvements, or a building that:

(a) costs more than $5,000,000 to construct; and

(b) has a useful life greater than five years.

(8) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(9) "Loan entity" means the board, person, unit, or agency with legal responsibility for making a loan from a revolving loan fund.

(10) "Obligation" means the same as that term is defined in Section 63B-1-303.

(11) "Parameters resolution" means a resolution of a bonding political subdivision, or public infrastructure district created by a bonding political subdivision, that sets forth for proposed bonds:

(a) the maximum:

(i) amount of bonds;

(ii) term; and

(iii) interest rate; and

(b) the expected security for the bonds.

(12) "Public infrastructure district" means a public infrastructure district created under Title 17D, Chapter 4, Public Infrastructure District Act.

(13) "Public-private partnership" means a contract:

(a) between a bonding political subdivision and a concessionaire for the operation, finance, maintenance, or construction of a government facility;

(b) that authorizes the concessionaire to operate the government facility for a term of five years or longer, including any extension of the contract; and

(c) in which all or some of the annual source of payment to the concessionaire comes from state funds provided to the bonding political subdivision.

(14) "Revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank Trust Fund, created in Section 19-6-409;

(j) the School Building Revolving Account, created in Section 53F-9-206;

(k) the State Infrastructure Bank Fund, created in Section 72-2-202;

(l) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(m) the Navajo Revitalization Fund, created in Section 35A-8-1704;

(n) the Energy Efficiency Fund, created in Section 11-45-201;

(o) the Brownfields Fund, created in Section 19-8-120;

(p) the following enterprise revolving loan funds created in Section 63A-3-402:

(i) the inland port infrastructure revolving loan fund;

(ii) the point of the mountain infrastructure revolving loan fund; or

(iii) the military development infrastructure revolving loan fund; and

(q) any other revolving loan fund created in statute where the borrower from the revolving loan fund is a public non-profit entity or political subdivision, including a fund listed in Section 63A-3-205, from which a loan entity is authorized to make a loan.

(15) (a) "State funds" means an appropriation by the Legislature identified as coming from the General Fund or Education Fund.

(b) "State funds" does not include:

(i) a revolving loan fund; or

(ii) revenues received by a bonding political subdivision from:

(A) a tax levied by the bonding political subdivision;

(B) a fee assessed by the bonding political subdivision; or

(C) operation of the bonding political subdivision's government facility.

Section 12. Section 63C-25-201 is enacted to read:

Part 2. State Finance Review Commission

63C-25-201. State Finance Review Commission.

(1) There is created the State Finance Review Commission.

(2) The commission shall:

(a) as described in this part, approve, review, make recommendations, and monitor borrowing and lending practices and activities; and

(b) exercise the powers and perform other duties prescribed for the commission by statute.

(3) The commission shall consist of:

(a) seven voting members as follows:

(i) the state treasurer;

(ii) the state auditor or the auditor's designee;

(iii) the attorney general or the attorney general's designee;

(iv) the director of the Division of Finance or the director's designee;

(v) the director of the Governor's Office of Planning and Budget or the director's designee; and

(vi) two individuals with a background in debt management, finance, or other similar expertise who are:

(A) after consultation with the state treasurer, appointed by the governor; and

(B) confirmed by the Senate; and

(b) the state's financial advisor described in Section 67-4-16, who is a nonvoting member.

(4) (a) Each position described in Subsection (3)(a)(vi) is for a term of four years.

(b) When a position described in Subsection (3)(a)(vi) is vacant for any reason, the governor shall appoint the replacement, with confirmation of the Senate, for the remainder of the unexpired term.

(5) The state treasurer shall serve as chair of the commission.

(6) A majority of the commission members constitute a quorum and may act on behalf of the commission.

(7) The commission shall meet as necessary to effectively conduct the commission's business and duties as prescribed by statute.

(8) (a) A commission member may not receive compensation or benefits for the commission member's service.

(b) A commission member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(9) The state treasurer's office shall provide staff support to facilitate the function of the commission and record commission action and recommendations.

(10) The commission shall comply with the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

Section 13. Section 63C-25-202 is enacted to read:

63C-25-202. Powers and duties.

(1) The commission shall annually review a report provided in accordance with Section 63B-1-305 or 63B-1a-102.

(2) (a) A loan entity other than a loan entity described in Subsection (2)(b) shall no later than January 1 of each year submit information on each revolving loan fund from which the loan entity made a loan in the previous fiscal year, including information identifying new and ongoing loan recipients, the terms of each loan, loan repayment, and any other information regarding a revolving loan fund requested by the commission.

(b) If a loan entity is:

(i) the Utah Inland Port Authority, the loan entity shall submit the information in accordance with Section 11-58-106 and any other information regarding a revolving loan fund requested by the commission;

(ii) the Point of the Mountain State Land Authority, the loan entity shall submit the information in accordance with Section 11-59-104 and any other information regarding a revolving loan fund requested by the commission; or

(iii) the Military Installation Development Authority, the loan entity shall submit the information in accordance with Section 63H-1-104 and any other information regarding a revolving loan fund requested by the commission.

(c) The commission may annually review and provide feedback for the following:

(i) each loan entity for compliance with state law authorizing and regulating the revolving loan fund, including, as applicable, Title 11, Chapter 14, Local Government Bonding Act;

(ii) each loan entity's revolving loan fund policies and practices, including policies and practices for approving and setting the terms of a loan; and

(iii) each borrower of funds from a revolving loan fund for accurate and timely reporting by the borrower to the appropriate debt repository.

(3) (a) The commission shall review and may approve a bond before a large public transit district may issue a bond.

(b) The commission may not approve issuance of a bond described in Subsection (3)(a) unless the execution and terms of the bond comply with state law.

(c) If, after review, the commission approves a bond described in Subsection (3)(a), the large public transit district:

(i) may not change before issuing the bond the terms of the bond that were reviewed by the commission if the change is outside the approved parameters and intended purposes; and

(ii) is under no obligation to issue the bond.

(d) A member of the commission who approves a bond under Subsection (3)(a) or reviews a parameters resolution under Subsection (4)(a) is not liable personally on the bond.

(e) The approval of a bond under Subsection (3)(a) or review under Subsection (4)(a) of a parameters resolution by the commission:

(i) is not an obligation of the state; and

(ii) is not an act that:

(A) lends the state's credit; or

(B) constitutes indebtedness within the meaning of any constitutional or statutory debt limitation.

(4) (a) The commission shall review and, at the commission's discretion, may make recommendations regarding a parameters resolution before:

(i) a bonding political subdivision may issue a bond; or

(ii) a public infrastructure district may issue a bond, if the creating entity of the public infrastructure district is a bonding political subdivision.

(b) The commission shall conduct the review under Subsection (4)(a) and forward any recommendations to the bonding political subdivision or public infrastructure district no later than 45 days after the day on which the commission receives the bonding political subdivision's or public infrastructure district's parameters resolution.

(c) Notwithstanding Subsection (4)(a), if the commission fails to review a parameters resolution or forward recommendations, if any, in the timeframe described in Subsection (4)(b), the bonding political subdivision or public infrastructure district, respectively, may proceed with the bond without review by the commission.

(d) After review by the commission under Subsection (4)(a), the bonding political subdivision or public infrastructure district:

(i) shall consider recommendations by the commission; and

(ii) may proceed with the bond but is under no obligation to issue the bond.

(5) The commission shall provide training and other information on debt management, lending and borrowing best practices, and compliance with state law to the authority, a bonding political subdivision, a large public transit district, and a loan entity.

(6) (a) If a public-private partnership contemplates payments from state funds, the commission shall review and may approve the public-private partnership before a bonding political subdivision may enter into the public-private partnership.

(b) If, after review, the commission approves the public-private partnership described in Subsection (6)(a), the bonding political subdivision:

(i) may not change the terms of the public-private partnership if the change is outside the approved parameters and intended purposes; and

(ii) is under no obligation to enter into the public-private partnership.

Section 14. Section 63C-25-203 is enacted to read:

63C-25-203. Debt affordability report.

(1) No later than November 1 each year, the state treasurer, with assistance from the Governor's Office of Planning and Budget and the Office of the Legislative Fiscal Analyst, shall prepare and submit a debt affordability report to the commission and the Revenue and Taxation Interim Committee.

(2) The debt affordability report shall include:

(a) as determined by the state treasurer, the amount of tax-supported debt that, during the next fiscal year and annually for the following nine fiscal years:

(i) will be outstanding; and

(ii) has been authorized but is not yet issued;

(b) a projected schedule of affordable, state tax-supported debt authorizations for the next fiscal year;

(c) projected debt-service requirements during the next fiscal year and annually for the following nine fiscal years based upon:

(i) existing outstanding debt;

(ii) previously authorized but unissued debt; and

(iii) projected bond authorizations;

(d) the criteria that recognized bond rating agencies use to judge the quality of issues of bonds issued by the state; and

(e) any other information that is relevant to:

(i) the state's ability to meet its projected debt service requirements;

(ii) the ability of the state to support additional debt service;

(iii) the interest rate to be borne by, the credit rating on, or any other factor affecting the marketability of state bonds; and

(iv) the effect of authorizing new tax-supported debt on each of the considerations described in this Subsection (2).

Section 15. Section 63N-13-306 is amended to read:

63N-13-306. Limits on application of this part.

(1) Nothing in this part:

[~~(1)~~] (a) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or

[~~(2)~~] (b) limits the ability of a government entity to directly:

[~~(a)~~] (i) solicit a public-private partnership; or

[~~(b)~~] (ii) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.

(2) (a) As used in this Subsection (2):

(i) "Bonding political subdivision" means the same as that term is defined in Section 63C-25-101.

(ii) "Public-private partnership" means the same as that term is defined in Section 63C-25-101.

(b) A facilitator shall inform a bonding political subdivision that is contemplating entering into a public-private partnership that the bonding political subdivision may not enter into the public-private partnership unless the bonding political subdivision first receives approval from the State Finance Review Commission in accordance with Section 63C-25-202.

Section 16. Coordinating H.B. 82 with H.B. 232 -- Substantive and technical amendments.

If this H.B. 82 and H.B. 232, Utah Lake Authority, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by making the following changes:

(1) modify Subsection 11-65-501(1) to read:

"(1) The lake authority may not issue bonds under this part unless the board first:

(a) adopts a parameters resolution for the bonds that sets forth:

(i) the maximum:

(A) amount of bonds;

(B) term; and

(C) interest rate; and

(ii) the expected security for the bonds; and

(b) submits the parameters resolution for review and recommendation to the State Finance Review Commission created in Section 63C-25-201.";

(2) enact a new Subsection 11-65-501(7) to read:

"(7) No later than 60 days after the closing day of any bonds, the authority shall report the bonds issuance, including amount of the bonds, terms, interest rate, and security, to:

(a) the Executive Appropriations Committee; and

(b) the State Finance Review Commission created in Section 63C-25-201."; and

(3) modify Subsection 63C-25-101(3) to read:

"(3) "Bonding political subdivision" means:

(a) the Utah Inland Port Authority, created in Section 11-58-201;

(b) the Military Installation Development Authority, created in Section 63H-1-201;

(c) the Point of the Mountain State Land Authority, created in Section 11-59-201; or

(d) the Utah Lake Authority, created in Section 11-65-201.".

CHAPTER 208
H. B. 103

Passed February 28, 2022
Approved March 23, 2022
Effective May 4, 2022

STUDENT INTERVENTION EARLY WARNING PROGRAM

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill converts the student intervention early warning pilot program into an ongoing program.

Highlighted Provisions:

This bill:

- removes a repeal date for the student intervention early warning program;
- removes a two-year pilot program limitation on a contract for the program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-4-207, as enacted by Laws of Utah 2020, Chapter 216

63I-2-253, as last amended by Laws of Utah 2021, First Special Session, Chapter 14

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-207 is amended to read:

53F-4-207. Student intervention early warning program.

(1) As used in this section:

(a) "Digital program" means a program that provides information for student early intervention as described in this section.

(b) "Online data reporting tool" means a system described in Section 53E-4-311.

(c) "Participating LEA" means an LEA that receives access to a digital program under Subsection (5).

(2) (a) The state board shall, subject to legislative appropriations:

(i) subject to Subsection (2)(c), enhance the online data reporting tool and provide additional formative actionable data on student outcomes; and

(ii) select through a competitive contract process a provider to provide to an LEA a digital program as described in this section.

[~~(b) The contract described in Subsection (2)(a)(ii) shall be for a two-year pilot program.~~]

[~~(c)~~] (b) Information collected or used by the state board for purposes of enhancing the online data reporting tool in accordance with this section may not identify a student individually.

[~~(d)~~] (c) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the primary exceptionalities described in Subsection (3)(e)(ii).

(3) The enhancement to the online data reporting tool and the digital program shall:

(a) be designed with a user-appropriate interface for use by teachers, school administrators, and parents;

(b) provide reports on a student's results at the student level on:

(i) a national assessment;

(ii) a local assessment; and

(iii) a standards assessment described in Section 53E-4-303;

(c) have the ability to provide data from aggregate student reports based on a student's:

(i) teacher;

(ii) school;

(iii) school district, if applicable; or

(iv) ethnicity;

(d) provide a viewer with the ability to view the data described in Subsection (2)(c) on a single computer screen;

(e) have the ability to compare the performance of students, for each teacher, based on a student's:

(i) gender;

(ii) special needs, including primary exceptionality as defined by state board rule;

(iii) English proficiency;

(iv) economic status;

(v) migrant status;

(vi) ethnicity;

(vii) response to tiered intervention;

(viii) response to tiered intervention enrollment date;

(ix) absence rate;

(x) feeder school;

(xi) type of school, including primary or secondary, public or private, Title I, or other general school-type category;

(xii) course failures; and

(xiii) other criteria, as determined by the state board; and

(f) have the ability to load data from a local, national, or other assessment in the data's original format within a reasonable time.

(4) Subject to legislative appropriations, the online data reporting tool and digital program shall:

(a) integrate criteria for early warning indicators, including the following criteria:

(i) discipline;

(ii) attendance;

(iii) behavior;

(iv) course failures; and

(v) other criteria as determined by a local school board or charter school governing board;

(b) provide a teacher or administrator the ability to view the early warning indicators described in Subsection (4)(a) with a student's assessment results described in Subsection (3)(b);

(c) provide data on response to intervention using existing assessments or measures that are manually added, including assessment and nonacademic measures;

(d) provide a user the ability to share interventions within a reporting environment and add comments to inform other teachers, administrators, and parents;

(e) save and share reports among different teachers and school administrators, subject to the student population information a teacher or administrator has the rights to access;

(f) automatically flag a student profile when early warning thresholds are met so that a teacher can easily identify a student who may be in need of intervention;

(g) incorporate a variety of algorithms to support student learning outcomes and provide student growth reporting by teacher;

(h) integrate response to intervention tiers and activities as filters for the reporting of individual student data and aggregated data, including by ethnicity, school, or teacher;

(i) have the ability to generate parent communication to alert the parent of academic plans or interventions; and

(j) configure alerts based upon student academic results, including a student's performance on the previous year's standards assessment described in Section 53E-4-303.

(5) (a) The state board shall, subject to legislative appropriations, select an LEA to receive access to a digital program through a provider described in Subsection (2)(a)(ii).

(b) An LEA that receives access to a digital program shall:

(i) pay for 50% of the cost of providing access to the digital program to the LEA; and

(ii) no later than one school year after accessing a digital program, report to the state board in a format required by the state board on:

(A) the effectiveness of the digital program;

(B) positive and negative attributes of the digital program;

(C) recommendations for improving the online data reporting tool; and

(D) any other information regarding a digital program requested by the state board.

(c) The state board shall consider recommendations from an LEA for changes to the online data reporting tool.

(6) Information described in this section shall be used in accordance with and provided subject to:

(a) Title 53E, Chapter 9, Student Privacy and Data Protection; [~~and~~]

(b) Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g[~~.~~]; and

(c) the parental consent requirements in Section 53E-9-203.

(7) (a) A parent or guardian may opt the parent's or guardian's student out of participating in a survey prepared by a participating LEA's online data reporting tool described in this section.

(b) An LEA shall provide notice to a parent of:

(i) the administration of a survey described in Subsection (7)(a);

(ii) if applicable, that the survey may request information from students that is non-academic in nature;

(iii) where the parent may access the survey described in Subsection (7)(a) to be administered; and

(iv) the opportunity to opt a student out of participating in a survey as described in Subsection (7)(a).

(c) A participating LEA shall annually provide notice to parents and guardians on how the participating LEA uses student data through the online data reporting tool to provide instruction and intervention to students.

Section 2. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.~~]

[~~(4)~~] (3) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(5)~~] (4) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.~~]

[~~(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.~~]

[~~(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.~~]

[~~(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.~~]

[~~(8)~~] (5) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(9)~~] (6) Section 53B-8-114 is repealed July 1, 2024.

[~~(10)~~] (7) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) Section 53B-8-202;

(b) Section 53B-8-203;

(c) Section 53B-8-204; and

(d) Section 53B-8-205.

[~~(11)~~] (8) Section 53B-10-101 is repealed on July 1, 2027.

[~~(12)~~] (9) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(13)~~] (10) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(14) Section 53E-3-520 is repealed July 1, 2021.~~]

[~~(15)~~] (11) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(16)~~] (12) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(17)~~] (13) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(18)~~] (14) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (15) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(20)~~] (16) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(21)~~] (17) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

[~~(22)~~] (18) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23) Section 53F-4-207 is repealed July 1, 2022.~~]

[~~(24)~~] (19) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(25)~~] (20) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(26)~~] (21) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(27)~~] (22) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(28)~~] (23) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(29)~~] (24) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(30)~~] (25) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(31)~~] (26) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(32)~~] (27) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

CHAPTER 209
H. B. 104

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause in Section 10)

STATE EMPLOYMENT AMENDMENTS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill enacts and amends provisions related to the employment and management of state personnel.

Highlighted Provisions:

This bill:

- requires the Division of Human Resource Management (division) to provide training for supervisors of state agency employees;
- requires a supervisor to attend the training;
- requires the division to establish a pay for performance management system;
- requires the division to make rules allowing an employee to receive a wage that exceeds the employee's salary range if necessary to recognize the employee's performance;
- requires a state agency, no later than July 1, 2023, to evaluate and pay employees based on performance;
- provides that a state employee hired in a supervisor position on or after July 1, 2022, is exempt from the career service system;
- allows a state employee in a supervisor position who holds career service status before July 1, 2022, to retain the employee's career service status or convert to career-service exempt status by July 1, 2023;
- prohibits the Career Service Review Office from taking jurisdiction of a matter that an employer has not had an opportunity to address;
- clarifies the process for filing a grievance;
- repeals longevity and promotion salary increases for certain state employees;
- except in certain circumstances, requires an employee to submit a grievance within 10 working days; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-17-102, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-17-106, as renumbered and amended by Laws of Utah 2021, Chapter 344

63A-17-301, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and amended by Laws of Utah 2021, Chapter 344

63A-17-307, as renumbered and amended by Laws of Utah 2021, Chapter 344

63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4

67-19a-202, as last amended by Laws of Utah 2021, Chapter 344

67-19a-302, as repealed and reenacted by Laws of Utah 2018, Chapter 390

67-19a-401, as last amended by Laws of Utah 2018, Chapter 390

ENACTS:

63A-17-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-102 is amended to read:

63A-17-102. Definitions.

As used in this chapter:

(1) "Agency" means any department or unit of Utah state government with authority to employ personnel.

(2) "Career service" means positions under schedule B as defined in Section 63A-17-301.

(3) "Career service employee" means an employee who has successfully completed a probationary period of service in a position covered by the career service.

(4) "Career service status" means status granted to employees who successfully complete probationary periods for competitive career service positions.

(5) "Classified service" means those positions subject to the classification and compensation provisions of Section 63A-17-307.

(6) "Controlled substance" means controlled substance as defined in Section 58-37-2.

(7) (a) "Demotion" means a disciplinary action resulting in a reduction of an employee's current actual wage.

(b) "Demotion" does not mean:

(i) a nondisciplinary movement of an employee to another position without a reduction in the current actual wage; or

(ii) a reclassification of an employee's position under the provisions of Subsection 63A-17-307(3) and rules made by the department.

(8) "Director" means the director of the division.

(9) "Disability" means a physical or mental disability as defined and protected under the Americans with Disabilities Act, 42 U.S.C. Section 12101 et seq.

(10) "Division" means the Division of Human Resource Management, created in Section 63A-17-105.

(11) "Employee" means any individual in a paid status covered by the career service or classified service provisions of this chapter.

(12) "Examining instruments" means written or other types of proficiency tests.

(13) "Human resource function" means those duties and responsibilities specified:

(a) under Section 63A-17-106;

(b) under rules of the division; and

(c) under other state or federal statute.

(14) "Market comparability adjustment" means a salary range adjustment determined necessary through a market survey of salary data and other relevant information.

(15) "Probationary employee" means an employee serving a probationary period in a career service position but who does not have career service status.

(16) "Probationary period" means that period of time determined by the division that an employee serves in a career service position as part of the hiring process before career service status is granted to the employee.

(17) "Probationary status" means the status of an employee between the employee's hiring and the granting of career service status.

(18) "Structure adjustment" means a division modification of salary ranges.

(19) "Temporary employee" means career service exempt employees described in Subsection 63A-17-301(1)[~~(q)~~](r).

(20) "Total compensation" means salaries and wages, bonuses, paid leave, group insurance plans, retirement, and all other benefits offered to state employees as inducements to work for the state.

Section 2. Section 63A-17-106 is amended to read:

63A-17-106. Responsibilities of the director.

(1) The director shall have full responsibility and accountability for the administration of the statewide human resource management system.

(2) Except as provided in Section 63A-17-201, an agency may not perform human resource functions without the consent of the director.

(3) Statewide human resource management rules adopted by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall take precedence if there is a conflict with agency rules, policies, or practices.

(4) The division may operate as an internal service fund agency in accordance with Section 63J-1-410 for the human resource functions the division provides.

(5) The director shall:

(a) develop, implement, and administer a statewide program of human resource management that will:

(i) aid in the efficient execution of public policy;

(ii) foster careers in public service for qualified employees; and

(iii) render assistance to state agencies in performing their missions;

(b) design and administer the state pay plan;

(c) design and administer the state classification system and procedures for determining schedule assignments;

(d) design and administer the state recruitment and selection system;

(e) administer agency human resource practices and ensure compliance with federal law, state law, and state human resource rules, including equal employment opportunity;

(f) consult with agencies on decisions concerning employee corrective action and discipline;

(g) maintain central personnel records;

(h) perform those functions necessary to implement this chapter unless otherwise assigned or prohibited;

(i) perform duties assigned by the governor, executive director, or statute;

(j) adopt rules for human resource management according to the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(k) establish and maintain a management information system that will furnish the governor, the Legislature, and agencies with current information on authorized positions, payroll, and related matters concerning state human resources;

(l) conduct research and planning activities to:

(i) determine and prepare for future state human resource needs;

(ii) develop methods for improving public human resource management; and

(iii) propose needed policy changes to the governor;

(m) study the character, causes, and extent of discrimination in state employment and develop plans for its elimination through programs consistent with federal and state laws governing equal employment opportunity in employment;

(n) when requested by charter schools or counties, municipalities, and other political subdivisions of the state, provide technical service, training recommendations, or advice on human resource management at a charge determined by the director;

(o) establish compensation policies and procedures for early voluntary retirement;

(p) confer with the heads of other agencies about human resource policies and procedures;

(q) submit an annual report to the executive director, the governor, and the Legislature; and

(r) assist with the development of a vacant position report required under Subsection 63J-1-201(2)(b)(vi).

(6) (a) After consultation with the executive director, the governor, and the heads of other

agencies, the director shall establish and coordinate statewide training programs, including [~~and subject to available funding, the development of manager and supervisor training~~] training described in Subsection (6)(e).

(b) The programs developed under this Subsection (6) shall have application to more than one agency.

(c) The division may not establish training programs that train employees to perform highly specialized or technical jobs and tasks.

(d) The division shall ensure that any training program described in this Subsection (6) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(e) (i) As used in this Subsection (6)(e):

(A) "Employee" means the same as that term is defined in Section 63A-17-112.

(B) "Supervisor" means an individual in a position at an agency, as defined in Section 63A-17-112, that requires the regular supervision and performance evaluation of an employee.

(ii) A supervisor shall attend the training:

(A) within six months of being promoted or hired to the position of supervisor; and

(B) at least annually.

(iii) Training attendance and the effective use of training information and principles shall be considered in an evaluation of a supervisor's job performance.

(iv) The training shall include:

(A) effective employee management and evaluation methods based on the pay for performance management system described in Section 63A-17-112;

(B) instruction to improve supervisor and employee communications;

(C) best practices for recognizing and retaining high-performing employees;

(D) best practices for addressing poor-performing employees; and

(E) any other information and principles identified by the division to improve management or organizational effectiveness.

(7) (a) (i) The division may collect fees for training as authorized by this Subsection (7).

(ii) Training funded from General Fund appropriations shall be treated as a separate program within the department budget.

(iii) All money received from fees under this section will be accounted for by the department as a separate user driven training program.

(iv) The user training program includes the costs of developing, procuring, and presenting training and development programs, and other associated costs for these programs.

(b) (i) Funds remaining at the end of the fiscal year in the user training program are nonlapsing.

(ii) Each year, as part of the appropriations process, the Legislature shall review the amount of nonlapsing funds remaining at the end of the fiscal year and may, by statute, require the department to lapse a portion of the funds.

Section 3. Section 63A-17-112 is enacted to read:

63A-17-112. Pay for performance management system -- Employees paid for performance.

(1) As used in this section:

(a) (i) "Agency" means, except as provided in Subsection (1)(a)(ii), the same as that term is defined in Section 63A-17-102.

(ii) "Agency" does not include the State Board of Education, the Office of the State Treasurer, Office of the State Auditor, Office of the State Attorney General, Utah System of Higher Education, the Legislature, the judiciary, or, as defined in Section 63E-1-102, an independent entity.

(b) (i) "Employee" means an employee of an agency.

(ii) "Employee" does not include an individual in a schedule AB, as described in Section 63A-17-301, position.

(c) "Pay for performance" means a plan for incentivizing an employee for meeting or exceeding production or performance goals, in which the plan is well-defined before work begins, eligible work groups are defined, specific goals and targets for the employee are determined, measurement procedures are in place, and specific incentives are provided when goals and targets are met.

(d) "Pay for performance management system" means the system described in Subsection (2).

(2) The division shall establish and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for the administration of a pay for performance management system.

(3) The pay for performance management system shall include:

(a) guidelines and criteria for an agency to adopt pay for performance policies and administer pay based on an employee's performance in furtherance of the agency's mission;

(b) employee performance ratings;

(c) requirements for written employee performance standards and expectations;

(d) supervisor verbal and written feedback based on the standards of performance and behavior outlined in an employee's performance plan; and

(e) quarterly written evaluation of an employee's performance.

(4) In consultation with the division, no later than July 1, 2023, each agency shall:

(a) adopt pay for performance policies based on the performance management system; and

(b) subject to available funds and as necessary, adjust an employee's wage to reflect:

(i) subject to Subsection (5), for a classified service employee, the salary range of the position classified plan for the employee's position; and

(ii) an increase, decrease, or no change in the employee's wage:

(A) commensurate to an employee's performance as reflected by the employee's evaluation conducted in accordance with the pay for performance management system; and

(B) in an amount that is in accordance with the guidelines and criteria established for a wage change in the pay for performance management system.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules authorizing a classified service employee to receive a wage that exceeds the salary range of the classified service employee's position classified plan if warranted based on the classified employee's performance rating.

Section 4. Section 63A-17-301 is amended to read:

63A-17-301. Career service -- Exempt positions -- Schedules for civil service positions -- Coverage of career service provisions.

(1) Except as [~~otherwise provided by law or by rules and regulations established for federally aided programs~~] provided in Subsection (3)(d), the following positions are exempt from the career service provisions of this chapter and are designated under the following schedules:

(a) schedule AA includes the governor, members of the Legislature, and all other elected state officers;

(b) schedule AB includes appointed executives and board or commission executives enumerated in Section 67-22-2;

(c) schedule AC includes all employees and officers in:

(i) the office and at the residence of the governor;

(ii) the Public Lands Policy Coordinating Office;

(iii) the Office of the State Auditor; and

(iv) the Office of the State Treasurer;

(d) schedule AD includes employees who:

(i) are in a confidential relationship to an agency head or commissioner; and

(ii) report directly to, and are supervised by, a department head, commissioner, or deputy director of an agency or its equivalent;

(e) schedule AE includes each employee of the State Board of Education that the State Board of Education designates as exempt from the career service provisions of this chapter;

(f) schedule AG includes employees in the Office of the Attorney General who are under their own career service pay plan under Sections 67-5-7 through 67-5-13;

(g) schedule AH includes:

(i) teaching staff of all state institutions; and

(ii) employees of the Utah Schools for the Deaf and the Blind who are:

(A) educational interpreters as classified by the division; or

(B) educators as defined by Section 53E-8-102;

(h) schedule AN includes employees of the Legislature;

(i) schedule AO includes employees of the judiciary;

(j) schedule AP includes all judges in the judiciary;

(k) schedule AQ includes:

(i) members of state and local boards and councils appointed by the governor and governing bodies of agencies;

(ii) a water commissioner appointed under Section 73-5-1;

(iii) other local officials serving in an ex officio capacity; and

(iv) officers, faculty, and other employees of state universities and other state institutions of higher education;

(l) schedule AR includes employees in positions that involve responsibility:

(i) for determining policy;

(ii) for determining the way in which a policy is carried out; or

(iii) of a type not appropriate for career service, as determined by the agency head with the concurrence of the director;

(m) schedule AS includes any other employee:

(i) whose appointment is required by statute to be career service exempt;

(ii) whose agency is not subject to this chapter; or

(iii) whose agency has authority to make rules regarding the performance, compensation, and bonuses for its employees;

(n) schedule AT includes employees of the Division of Technology Services, designated as executive/professional positions by the director of the Division of Technology Services with the concurrence of the director of the division;

(o) schedule AU includes patients and inmates employed in state institutions;

(p) employees of the Department of Workforce Services, designated as schedule AW:

(i) who are temporary employees that are federally funded and are required to work under federally qualified merit principles as certified by the director; or

(ii) for whom substantially all of their work is repetitive, measurable, or transaction based, and who voluntarily apply for and are accepted by the Department of Workforce Services to work in a pay for performance program designed by the Department of Workforce Services with the concurrence of the director of the division; [~~and~~]

(q) subject to Subsection (6), schedule AX includes employees in positions that:

(i) require the regular supervision and performance evaluation of one or more other employees; and

(ii) are not designated exempt from career service under any other schedule described in this Subsection (1); and

[~~(q)~~] (r) for employees in positions that are temporary, seasonal, time limited, funding limited, or variable hour in nature, under schedule codes and parameters established by the division by administrative rule.

(2) The civil service shall consist of two schedules as follows:

(a) (i) Schedule A is the schedule consisting of positions under Subsection (1).

(ii) Removal from any appointive position under schedule A, unless otherwise regulated by statute, is at the pleasure of the appointing officers without regard to tenure.

(b) Schedule B is the competitive career service schedule, consisting of:

(i) all positions filled through competitive selection procedures as defined by the director; or

(ii) positions filled through a division approved on-the-job examination intended to appoint a qualified person with a disability, or a veteran in accordance with Title 71, Chapter 10, Veterans Preference.

(3) (a) The director, after consultation with the heads of concerned executive branch departments and agencies and with the approval of the governor, shall allocate positions to the appropriate schedules under this section.

(b) Agency heads shall make requests and obtain approval from the director before changing the schedule assignment and tenure rights of any position.

(c) Unless the director's decision is reversed by the governor, when the director denies an agency's request, the director's decision is final.

(d) (i) An agency may file with the division a request to reschedule a position that would otherwise be scheduled as a schedule A position.

(ii) The division shall review a request filed under Subsection (3)(d)(i) and approve the request only if the exception is necessary to conform to a requirement imposed as a condition precedent to receipt of federal funds or grant of a tax benefit under federal law.

(4) (a) Compensation for employees of the Legislature shall be established by the directors of the legislative offices in accordance with Section 36-12-7.

(b) Compensation for employees of the judiciary shall be established by the state court administrator in accordance with Section 78A-2-107.

(c) Compensation for officers, faculty, and other employees of state universities and institutions of higher education shall be established as provided in Title 53B, Chapter 1, Governance, Powers, Rights, and Responsibilities, and Title 53B, Chapter 2, Institutions of Higher Education.

(d) Unless otherwise provided by law, compensation for all other schedule A employees shall be established by their appointing authorities, within ranges approved by, and after consultation with the director.

(5) An employee who is in a position designated schedule AC and who holds career service status on June 30, 2010, shall retain the career service status if the employee:

(a) remains in the position that the employee is in on June 30, 2010; and

(b) does not elect to convert to career service exempt status in accordance with a rule made by the division.

(6) (a) An employee who is hired for a schedule AX position on or after July 1, 2022, is exempt from career service status.

(b) An employee who before July 1, 2022, is a career service employee employed in a schedule B position that is rescheduled to a schedule AX position on July 1, 2022, shall maintain the employee's career service status for the duration of the employee's employment in the same position unless the employee voluntarily converts to career service exempt status before July 1, 2023.

(c) (i) Subject to Subsection (6)(c)(ii), an employee is exempt from career service status if:

(A) before July 1, 2022, the employee was a probationary employee in a schedule B position and had not completed the probationary period; and

(B) on July 1, 2022, the schedule B position in which the probationary employee is employed is rescheduled as a scheduled AX position.

(ii) An employee described in Subsection (6)(c)(i):

(A) is not a probationary employee on or after July 1, 2022; and

(B) is exempt from career service status on and after July 1, 2022, unless the employee changes employment to a schedule B position.

(d) The division shall disseminate to each employee described in Subsection (6)(b) information on financial and other incentives for voluntary conversion to career-service exempt status.

(e) An agency, as defined in Section 63A-17-112, may adopt a policy, created in consultation with the division, for agency review of recommendations that schedule AX employees be suspended, demoted, or dismissed from employment.

Section 5. Section 63A-17-307 is amended to read:

63A-17-307. State pay plans -- Applicability of section -- Exemptions -- Duties of director.

(1) (a) This section, and the rules adopted by the division to implement this section, apply to each career and noncareer employee not specifically exempted under Subsection (2).

(b) If not exempted under Subsection (2), an employee is considered to be in classified service.

(2) The following employees are exempt from this section:

(a) members of the Legislature and legislative employees;

(b) members of the judiciary and judicial employees;

(c) elected members of the executive branch and employees designated as schedule AC as provided under Subsection 63A-17-301(1)(c);

(d) employees of the State Board of Education;

(e) officers, faculty, and other employees of state institutions of higher education;

(f) employees in a position that is specified by statute to be exempt from this Subsection (2);

(g) employees in the Office of the Attorney General;

(h) department heads and other persons appointed by the governor under statute;

(i) schedule AS employees as provided under Subsection 63A-17-301(1)(m);

(j) department deputy directors, division directors, and other employees designated as schedule AD as provided under Subsection 63A-17-301(1)(d);

(k) employees that determine and execute policy designated as schedule AR as provided under Subsection 63A-17-301(1)(l);

(l) teaching staff, educational interpreters, and educators designated as schedule AH as provided under Subsection 63A-17-301(1)(g);

(m) temporary employees described in Subsection 63A-17-301(1)[~~(q)~~](r);

(n) patients and inmates designated as schedule AU as provided under Subsection 63A-17-301(1)(o) who are employed by state institutions; and

(o) members of state and local boards and councils and other employees designated as schedule AQ as provided under Subsection 63A-17-301(1)(k).

(3) (a) The director shall prepare, maintain, and revise a position classification plan for each employee position not exempted under Subsection (2) to provide equal pay for equal work.

(b) Classification of positions shall be based upon similarity of duties performed and responsibilities assumed, so that the same job requirements and the same salary range, subject to Section 63A-17-112, may be applied equitably to each position in the same class.

(c) The director shall allocate or reallocate the position of each employee in classified service to one of the classes in the classification plan.

(d) (i) The division shall conduct periodic studies and interviews to provide that the classification plan remains reasonably current and reflects the duties and responsibilities assigned to and performed by employees.

(ii) The director shall determine the need for studies and interviews after considering factors such as changes in duties and responsibilities of positions or agency reorganizations.

(4) (a) With the approval of the executive director and the governor, the director shall develop and adopt pay plans for each position in classified service.

(b) The director shall design each pay plan to achieve, to the degree that funds permit, comparability of state salary ranges to the market using data obtained from private enterprise and other public employment for similar work.

(c) The director shall adhere to the following in developing each pay plan:

(i) each pay plan shall consist of sufficient salary ranges to:

(A) permit adequate salary differential among the various classes of positions in the classification plan; and

(B) reflect the normal growth and productivity potential of employees in that class.

(ii) The director shall issue rules for the administration of pay plans.

(d) The establishing of a salary range is a nondelegable activity and is not appealable under the grievance procedures of Part 6, Grievance Provisions, Title 67, Chapter 19a, Grievance Procedures, or otherwise.

(e) The director shall issue rules providing for:

(i) agency approved salary adjustments within approved salary ranges, including an administrative salary adjustment; and

[~~(ii) legislatively approved salary adjustments within approved salary ranges, including a merit~~

~~increase, subject to Subsection (4)(f), or general increase; and~~]

[~~(iii)~~] (ii) structure adjustments that modify salary ranges, including a cost of living adjustment or market comparability adjustment.

[~~(f) A merit increase shall be granted on a uniform and consistent basis to each employee who receives a rating of "successful" or higher in an annual evaluation of the employee's productivity and performance.~~]

(5) (a) On or before October 31 of each year, the director shall submit an annual compensation plan to the executive director and the governor for consideration in the executive budget.

(b) The plan described in Subsection (5)(a) may include recommendations, including:

(i) salary increases that generally affect employees, including a general increase or merit increase;

(ii) salary increases that address compensation issues unique to an agency or occupation;

(iii) structure adjustments, including a cost of living adjustment or market comparability adjustment; or

(iv) changes to employee benefits.

(c) (i) (A) Subject to Subsection (5)(c)(i)(B) or (C), the director shall incorporate the results of a salary survey of a reasonable cross section of comparable positions in private and public employment in the state into the annual compensation plan.

(B) The salary survey for a law enforcement officer, as defined in Section 53-13-103, a correctional officer, as defined in Section 53-13-104, or a dispatcher, as defined in Section 53-6-102, shall at minimum include the three largest political subdivisions in the state that employ, respectively, comparable positions.

(C) The salary survey for an examiner or supervisor described in Title 7, Chapter 1, Part 2, Department of Financial Institutions, shall at minimum include the Federal Deposit Insurance Corporation, Federal Reserve, and National Credit Union Administration.

(ii) The director may cooperate with or participate in any survey conducted by other public and private employers.

(iii) The director shall obtain information for the purpose of constructing the survey from the Division of Workforce Information and Payment Services and shall include employer name, number of persons employed by the employer, employer contact information and job titles, county code, and salary if available.

(iv) The division shall acquire and protect the needed records in compliance with the provisions of Section 35A-4-312.

(d) The director may incorporate any other relevant information in the plan described in Subsection (5)(a), including information on staff turnover, recruitment data, or external market trends.

(e) The director shall:

(i) establish criteria to assure the adequacy and accuracy of data used to make recommendations described in this Subsection (5); and

(ii) when preparing recommendations use accepted methodologies and techniques similar to and consistent with those used in the private sector.

(f) (i) Upon request and subject to Subsection (5)(f)(ii), the division shall make available foundational information used by the division or director in the drafting of a plan described in Subsection (5)(a), including:

(A) demographic and labor market information;

(B) information on employee turnover;

(C) salary information;

(D) information on recruitment; and

(E) geographic data.

(ii) The division may not provide under Subsection (5)(f)(i) information or other data that is proprietary or otherwise protected under the terms of a contract or by law.

(g) The governor shall:

(i) consider salary and structure adjustments recommended under Subsection (5)(b) in preparing the executive budget and shall recommend the method of distributing the adjustments;

(ii) submit compensation recommendations to the Legislature; and

(iii) support the recommendation with schedules indicating the cost to individual departments and the source of funds.

(h) If funding is approved by the Legislature in a general appropriations act, the adjustments take effect on the July 1 following the enactment unless otherwise indicated.

(6) (a) The director shall issue rules for the granting of incentive awards, including awards for cost saving actions, awards for commendable actions by an employee, or a market-based award to attract or retain employees.

(b) An agency may not grant a market-based award unless the award is previously approved by the division.

(c) In accordance with Subsection (6)(b), an agency requesting the division's approval of a market-based award shall submit a request and documentation, subject to Subsection (6)(d), to the division.

(d) In the documentation required in Subsection (6)(c), the requesting agency shall identify for the division:

(i) any benefit the market-based award would provide for the agency, including:

(A) budgetary advantages; or

(B) recruitment advantages;

(ii) a mission critical need to attract or retain unique or hard to find skills in the market; or

(iii) any other advantage the agency would gain through the utilization of a market-based award.

(7) (a) The director shall regularly evaluate the total compensation program of state employees in the classified service.

(b) The division shall determine if employee benefits are comparable to those offered by other private and public employers using information from:

(i) a study conducted by a third-party consultant; or

(ii) the most recent edition of a nationally recognized benefits survey.

Section 6. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Section 63A-3-111 is repealed June 30, 2021.

(2) Section 63A-17-303 is repealed July 1, 2023.

(3) Subsection 63A-17-304(1)(c) is repealed July 1, 2022.

[~~(2)~~] (4) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

[~~(3)~~] (5) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(4)~~] (6) Section 63G-1-502 is repealed July 1, 2022.

[~~(5)~~] (7) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(6)~~] (8) Section 63H-7a-303 is repealed July 1, 2024.

[~~(7)~~] (9) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

[~~(8)~~] (10) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(9)~~] (11) Section 63M-7-217 is repealed on July 1, 2022.

[~~(10)~~] (12) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(11)~~] (13) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 7. Section 67-19a-202 is amended to read:

67-19a-202. Powers -- Scope of authority.

(1) The office shall serve as the final administrative body to review a grievance from a career service employee and an agency of a decision regarding:

(a) a dismissal;

(b) a demotion;

(c) a suspension;

(d) a reduction in force;

(e) a dispute concerning abandonment of position;

(f) a wage grievance if an employee is not placed within the salary range of the employee's current position;

(g) a violation of a rule adopted under Title 63A, Chapter 17, Utah State Personnel Management Act; or

(h) except as provided by Subsection [~~(4)~~] (5), equitable administration of the following benefits:

(i) long-term disability insurance;

(ii) medical insurance;

(iii) dental insurance;

(iv) post-retirement health insurance;

(v) post-retirement life insurance;

(vi) life insurance;

(vii) defined contribution retirement;

(viii) defined benefit retirement; and

(ix) a leave benefit.

(2) The office shall serve as the final administrative body to review a grievance by a reporting employee alleging retaliatory action.

(3) The office shall serve as the final administrative body to review, without an evidentiary hearing, the findings of an abusive conduct investigation described in Section 67-26-202 of a state executive branch agency employee.

(4) The office may not take jurisdiction of a matter that an employer has not had an opportunity to address.

[~~(4)~~] (5) The office may not review or take action on:

(a) a personnel matter not listed in Subsections (1) through (3);

(b) a personnel matter listed in Subsections (1) through (3) that alleges discrimination or retaliation related to a claim of discrimination that is a violation of a state or federal law for which review and action by the office is preempted by state or federal law; or

(c) a personnel matter related to a claim for which an administrative review process is provided by statute and administered by:

(i) the Utah State Retirement Systems under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) the Public Employees' Benefit and Insurance Program under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(iii) the Public Employees' Long-Term Disability Program under Title 49, Chapter 21, Public Employees' Long-Term Disability Act.

[~~(5)~~] (6) The time limits established in this chapter supersede the procedural time limits established in Title 63G, Chapter 4, Administrative Procedures Act.

Section 8. Section 67-19a-302 is amended to read:

67-19a-302. Levels of procedure.

(1) The administration of all grievances under Subsection 67-19a-202(1) occurs on the following four levels:

(a) Level 1 - the supervisor;

(b) Level 2 - the division director or the director's designee;

(c) Level 3 - the agency director or the director's designee; and

(d) Level 4 - the office.

(2) (a) Except as provided in Subsection (2)(b), Section 67-19a-402.5, and Section 67-19a-501, and subject to applicable time limits as provided in this chapter, an employee:

(i) shall file a grievance [~~or complaint at Level 1 and proceed through the levels of procedure within the applicable time limits provided in this chapter.~~] at the lowest level described in Subsection (1) that has not already issued a decision, taken action, or declined to address the subject of the grievance; and

(ii) may proceed for further review of a grievance in accordance with Section 67-19a-402.

(b) If a supervisor or division director is a subject of a grievance or complaint, the employee may proceed directly to Level 2 or Level 3, respectively.

(c) An employee may not file a grievance that asks the same manager or a lower-level manager to reconsider a previously made decision.

(3) A career service employee may advance all grievances to Level 3.

(4) In accordance with Section 67-19a-402.5 and subject to Section 67-21-4, a reporting employee may file a grievance alleging retaliatory action directly at Level 4.

Section 9. Section 67-19a-401 is amended to read:

67-19a-401. Time limits for submission and advancement of grievance by aggrieved employee -- Voluntary termination of employment -- Group grievances.

[~~(1) When a career service employee files a grievance at Level 1, as described in Section 67-19a-302, the employee shall advance the grievance through the proper levels of procedure specified in this chapter.~~]

[~~(2) The~~] (1) An aggrieved career service employee and the person to whom the grievance is directed may agree in writing to waive or extend grievance steps specified under Subsection 67-19a-402(1), (2), or (3) or the time limits specified for those grievance steps, as outlined in Section 67-19a-402.

[~~(3)~~] (2) Any writing made under Subsection [~~(2)~~] (1) shall be submitted to the administrator.

[~~(4)~~] (3) Except as provided under Subsections (5) and (6) [~~and (7)~~], if the employee fails to advance the grievance to the next procedural step within the time limits established in this part:

(a) the employee waives the right to advance the grievance or to obtain judicial review of the grievance; and

(b) the grievance is considered to be settled based on the decision made at the last procedural step.

[~~(5)~~] (4) An employee may file a grievance for review under this chapter, except as provided in Subsections (5) and (6) [~~and (7)~~], if the employee submits the grievance within [~~30~~] 10 working days after:

(a) the most recent event giving rise to the grievance; or

(b) the employee has knowledge of the most recent event giving rise to the grievance.

[~~(6)~~] (5) (a) An employee may file with the office a motion for an enlargement of a time limit described in Subsection [~~(5)~~] (4).

(b) In determining whether to grant a motion described in Subsection [~~(6)~~] (5)(a), the office shall consider, giving reasonable deference to the employee, whether:

(i) the employee filed the motion before the time limit the employee seeks to enlarge; or

(ii) the enlargement is necessary to remedy the employee's excusable neglect.

[~~(7)~~] (6) The provisions of Subsections (3) and (4) [~~and (5)~~] do not apply if the employee meets the requirements for excusable neglect as that term is defined in Section 67-19a-101.

[~~(8)~~] (7) (a) If several employees allege the same grievance, the employees may submit a group grievance by following the procedures and requirements of this chapter.

(b) In submitting a group grievance, each aggrieved employee shall sign the grievance.

(c) The administrator may not treat a group grievance as a class action, but may select one aggrieved employee's grievance and address that grievance as a test case.

Section 10. Effective date.

This bill takes effect on May 4, 2022, except that the amendments to:

(1) Sections 63A-17-102, 63A-17-301, 63A-17-307 take effect July 1, 2022; and

(2) Sections 63A-17-106 and 63A-17-112 take effect July 1, 2023.

CHAPTER 210
H. B. 107

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

SMALL CLAIMS AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions related to small claims actions.

Highlighted Provisions:

This bill:

- amends the amount required for a small claims action; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-8-102, as last amended by Laws of Utah 2017, Chapter 73

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-8-102 is amended to read:

78A-8-102. Small claims -- Defined -- Counsel not necessary -- Removal from district court -- Deferring multiple claims of one plaintiff -- Supreme Court to govern procedures.

(1) A small claims action is a civil action:

(a) for the recovery of money when:

(i) the amount claimed does not exceed [~~$11,000~~]:

(A) on or after May 4, 2022, through December 31, 2024, $15,000 including attorney fees[~~,~~] but exclusive of court costs and interest; [~~and~~]

(B) on or after January 1, 2025, through December 31, 2029, $20,000 including attorney fees but exclusive of court costs and interest; and

(C) on or after January 1, 2030, $25,000 including attorney fees but exclusive of court costs and interest; and

(ii) the defendant resides or the action of indebtedness was incurred within the jurisdiction of the court in which the action is to be maintained; or

(b) involving interpleader under Rule 22 of the Utah Rules of Civil Procedure, in which the amount claimed does not exceed [~~$11,000 including attorney fees, but exclusive of court costs and interest~~] the amount described in Subsection (1)(a)(i).

(2) (a) A defendant in an action filed in the district court that meets the requirement of Subsection (1)(a)(i) may remove, if agreed to by the plaintiff, the action to a small claims court within the same district by:

(i) giving notice, including the small claims filing number, to the district court of removal during the time afforded for a responsive pleading; and

(ii) paying the applicable small claims filing fee.

(b) A filing fee may not be charged to a plaintiff to appeal a judgment on an action removed under Subsection (2)(a) to the district court where the action was originally filed.

(3) The judgment in a small claims action may not exceed [~~$11,000 including attorney fees, but exclusive of court costs and interest~~] the amount described in Subsection (1)(a)(i).

(4) A counter claim may be maintained in a small claims action if the counter claim arises out of the transaction or occurrence which is the subject matter of the plaintiff's claim. A counter claim may not be raised for the first time in the trial de novo of the small claims action.

(5) (a) A claim involving property damage from a motor vehicle accident may be maintained in a small claims action, and any removal or appeal of the small claims action, without limiting the ability of a plaintiff to make a claim for bodily injury against the same defendant in a separate legal action.

(b) In the event that a property damage claim is brought as a small claims action:

[~~(a)~~] (i) a liability decision in an original small claims action or appeal of the original small claims action is not binding in a separate legal action for bodily injury; and

[~~(b)~~] (ii) an additional property damage claim may not be brought in a separate legal action for bodily injury.

(6) (a) With or without counsel, persons or corporations may litigate actions on behalf of themselves:

(i) in person; or

(ii) through authorized employees.

(b) A person or corporation may be represented in an action by an individual who is not an employee of the person or corporation and is not licensed to practice law only in accordance with the Utah Rules of Small Claims Procedure as made by the Supreme Court.

(7) (a) If a person or corporation other than a municipality or a political subdivision of the state files multiple small claims in any one court, the clerk or judge of the court may remove all but the initial claim from the court's calendar in order to dispose of all other small claims matters.

(b) A claim so removed shall be rescheduled as permitted by the court's calendar.

(8) A small claims matter shall be managed in accordance with simplified rules of procedure and evidence made by the Supreme Court.

CHAPTER 211
H. B. 110

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

ALCOHOL EDUCATION AMENDMENTS

Chief Sponsor: Jeffrey D. Stenquist
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill modifies provisions related to the use and oversight of the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account.

Highlighted Provisions:

This bill:

- moves responsibility for expending funds from the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account (restricted account) from the Department of Health to the Division of Substance Abuse and Mental Health (division);
- requires the Utah Substance Use and Mental Health Advisory Council (advisory council) to approve and oversee any drinking while pregnant prevention media and education campaign;
- requires the division to provide an annual report to the advisory council regarding the use of funds from the restricted account; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63M-7-303, as last amended by Laws of Utah 2021, Chapter 260

RENUMBERS AND AMENDS:

62A-15-403, (Renumbered from 26-7-12, as enacted by Laws of Utah 2020, Chapter 186)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-15-403, which is renumbered from Section 26-7-12 is renumbered and amended to read:

[~~26-7-12~~]. 62A-15-403. Drinking while pregnant prevention media and education campaign.

(1) As used in this section[~~, "restricted account"~~]:

(a) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(b) "Restricted account" means the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

[~~(2) The department shall:~~]

[~~(a) create guidelines for how money in the restricted account for a media and education campaign can be used;~~]

[~~(b) include in the guidelines established under this Subsection (2) that a media and education campaign is:~~]

[~~(i) carefully researched and developed; and~~]

[~~(ii) appropriate for target groups.~~]

(2) The advisory council shall:

(a) provide ongoing oversight of each media and education campaign funded through the restricted account;

(b) create a drinking while pregnant prevention workgroup consistent with guidelines the advisory council proposes related to the workgroup's membership and duties;

(c) create guidelines for how money appropriated for a media and education campaign can be used;

(d) include in the guidelines created under this Subsection (2) that a media and education campaign funded through the restricted account shall be:

(i) carefully researched;

(ii) developed for target groups; and

(iii) appropriate for target groups; and

(e) approve or deny each plan the division submits in accordance with Subsection (3).

(3) (a) Subject to appropriation from the Legislature[~~, the department~~] and in accordance with this section, the division shall expend money from the restricted account to direct and fund one or more media and education campaigns designed to reduce the consumption of alcohol while pregnant.

[~~(b) The department shall:~~]

(b) Before the division expends money from the restricted account for a media and education campaign, the division shall, in cooperation with the drinking while pregnant prevention workgroup created in accordance with Subsection (2), prepare and submit a plan to the advisory council that:

(i) describes the media and education campaign; and

(ii) details how the division intends to use money from the restricted account to fund the media and education campaign.

[~~(i)~~] (c) If the advisory council approves the plan described in Subsection (3)(b), the division shall conduct the media and education campaign in accordance with the guidelines [~~established under~~] described in Subsection (2)[~~; and~~].

[~~(ii)~~] (4) The division shall submit to the Health and Human Services Interim Committee and the advisory council annually by no later than October 1, a written report detailing:

[~~(A)~~] (a) the use of the money for the media and education campaigns conducted [~~under this~~] in accordance with Subsection (3); and

[~~(B)~~] (b) the impact and result of the use of the money during the previous fiscal year ending June 30.

Section 2. Section 63M-7-303 is amended to read:

63M-7-303. Duties of council.

(1) The Utah Substance Use and Mental Health Advisory Council shall:

(a) provide leadership and generate unity for Utah's ongoing efforts to reduce and eliminate the impact of substance use and mental health disorders in Utah through a comprehensive and evidence-based prevention, treatment, and justice strategy;

(b) recommend and coordinate the creation, dissemination, and implementation of statewide policies to address substance use and mental health disorders;

(c) facilitate planning for a balanced continuum of substance use and mental health disorder prevention, treatment, and justice services;

(d) promote collaboration and mutually beneficial public and private partnerships;

(e) coordinate recommendations made by any committee created under Section 63M-7-302;

(f) analyze and provide an objective assessment of all proposed legislation concerning substance use, mental health, and related issues;

(g) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d), as provided in Section 63M-7-305;

(h) comply with [~~Section~~] Sections 32B-2-306 and 62A-15-403; and

(i) oversee coordination for the funding, implementation, and evaluation of suicide prevention efforts described in Section 62A-15-1101.

(2) The council shall meet quarterly or more frequently as determined necessary by the chair.

(3) The council shall report the council's recommendations annually to the commission, governor, the Legislature, and the Judicial Council.

CHAPTER 212
H. B. 111

Passed February 10, 2022
Approved March 23, 2022
Effective May 4, 2022

COURT-APPOINTED THERAPISTS AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses court-appointed therapists.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the filing of complaints with the Division of Occupational and Professional Licensing about unlawful or unprofessional conduct by court-appointed therapists;
- addresses the filing of requests for prelitigation panel reviews for malpractice actions against court-appointed therapists; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-112, as enacted by Laws of Utah 1994, Chapter 32
78B-3-416, as last amended by Laws of Utah 2020, Chapter 339
78B-3-418, as last amended by Laws of Utah 2016, Chapter 257
78B-3-420, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-3-423, as last amended by Laws of Utah 2018, Chapter 440

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-60-112 is amended to read:

58-60-112. Reporting of unprofessional or unlawful conduct -- Immunity from liability -- Reporting conduct of court-appointed therapist.

(1) Upon learning of an act of unlawful or unprofessional conduct as defined in Section 58-60-102 by a person licensed under this chapter or an individual not licensed under this chapter and engaged in acts or practices regulated under this chapter, that results in disciplinary action by a licensed health care facility, professional practice group, or professional society, or that results in a significant adverse impact upon the public health, safety, or welfare, the following shall report the conduct in writing to the division within 10 days after learning of the disciplinary action or the conduct unless the individual or person knows it has been reported:

(a) a licensed health care facility or organization in which an individual licensed under this chapter engages in practice;

(b) an individual licensed under this chapter; and

(c) a professional society or organization whose membership is individuals licensed under this chapter and which has the authority to discipline or expel a member for acts of unprofessional or unlawful conduct.

(2) Any individual reporting acts of unprofessional or unlawful conduct by an individual licensed under this chapter is immune from liability arising out of the disclosure to the extent the individual furnishes the information in good faith and without malice.

(3) (a) As defined in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 30, Chapter 3, Divorce;

(B) Title 30, Chapter 4, Separate Maintenance;

(C) Title 30, Chapter 5, Grandparents;

(D) Title 30, Chapter 5a, Custody and Visitation for Individuals Other than Parents Act;

(E) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(F) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act; or

(G) Title 78B, Chapter 15, Utah Uniform Parentage Act.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a report against the court-appointed therapist for unlawful or unprofessional conduct during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from the appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

Section 2. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) As defined in this Subsection (3):

(i) "Court-appointed therapist" means a mental health therapist ordered by a court to provide psychotherapeutic treatment to an individual, a couple, or a family in a domestic case.

(ii) "Domestic case" means a proceeding under:

(A) Title 30, Chapter 3, Divorce;

(B) Title 30, Chapter 4, Separate Maintenance;

(C) Title 30, Chapter 5, Grandparents;

(D) Title 30, Chapter 5a, Custody and Visitation for Individuals Other than Parents Act;

(E) Title 78B, Chapter 7, Protective Orders and Stalking Injunctions;

(F) Title 78B, Chapter 13, Utah Uniform Child Custody Jurisdiction and Enforcement Act; or

(G) Title 78B, Chapter 15, Utah Uniform Parentage Act.

(iii) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(b) If a court appoints a court-appointed therapist in a domestic case, a party to the domestic case may not file a request for a prelitigation panel review for a malpractice action against the court-appointed therapist during the pendency of the domestic case, unless:

(i) the party has requested that the court release the court-appointed therapist from appointment; and

(ii) the court finds good cause to release the court-appointed therapist from the appointment.

(c) If a party is prohibited from filing a request for a prelitigation panel review under Subsection (3)(b), the applicable statute of limitations tolls until the earlier of:

(i) the court releasing the court-appointed therapist from appointment as described in Subsection (3)(b); or

(ii) the court entering a final order in the domestic case.

[~~(3)~~] (4) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection [~~(3)~~] (4)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection [~~(3)~~] (4)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection [~~(3)~~] (4)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection [~~(3)~~] (4)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection [~~(3)~~] (4)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection [~~(3)~~] (4)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection [~~(3)~~] (4).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

[~~(4)~~] (5) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed defendant, and who are appointed by the division in accordance with Subsection [~~(5)~~] (6); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

[~~(5)~~] (6) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections [~~(5)~~] (6)(c) and (d) shall be deposited [~~in~~] into the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

[~~(6)~~] (7) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

[~~(7)~~] (8) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

[~~(8)~~] (9) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

Section 3. Section 78B-3-418 is amended to read:

78B-3-418. Decision and recommendations of panel -- No judicial or other review.

(1) (a) The panel shall issue an opinion and the division shall issue a certificate of compliance with the pre-litigation hearing requirements of this part in accordance with this section.

(b) A certificate of compliance issued in accordance with this section is proof that the claimant has complied with all conditions precedent under this part prior to the commencement of litigation as required in Subsection 78B-3-412(1).

(2) (a) The panel shall render its opinion in writing not later than 30 days after the end of the proceedings, and determine on the basis of the evidence whether:

(i) each claim against each health care provider has merit or has no merit; and

(ii) if a claim is meritorious, whether the conduct complained of resulted in harm to the claimant.

(b) There is no judicial or other review or appeal of the panel's decision or recommendations.

(3) The division shall issue a certificate of compliance to the claimant, for each respondent named in the intent to file a claim under this part, if:

(a) for a named respondent, the panel issues an opinion of merit under Subsections (2)(a)(i) and (ii);

(b) for a named respondent, the claimant files an affidavit of merit in accordance with Section 78B-3-423 if the opinion under Subsection (1)(a) is non-meritorious under either Subsection (2)(a)(i) or (ii);

(c) the claimant has complied with the provisions of Subsections 78B-3-416[~~(3)~~](4)(c) and (d); or

(d) the parties submitted a stipulation under Subsection 78B-3-416[~~(3)~~](4)(e).

Section 4. Section 78B-3-420 is amended to read:

78B-3-420. Proceedings considered a binding arbitration hearing upon written agreement of parties -- Compensation to members of panel.

Upon written agreement by all parties, the proceeding may be considered a binding arbitration hearing and proceed under Title 78B, Chapter 11, Utah Uniform Arbitration Act, except for the selection of the panel, which is done as set forth in Subsection 78B-3-416[~~(4)~~](5). If the proceeding is considered an arbitration proceeding, the parties are equally responsible for compensation to the members of the panel for services rendered.

Section 5. Section 78B-3-423 is amended to read:

78B-3-423. Affidavit of merit.

(1) (a) For a cause of action that arises on or after July 1, 2010, before a claimant may receive a certificate of compliance under Sections 78B-3-416 and 78B-3-418, a claimant shall file an affidavit of merit under this section.

(b) The claimant shall file an affidavit of merit:

(i) within 60 days after the day on which the pre-litigation panel issues an opinion, if the claimant receives a finding from the pre-litigation panel in accordance with Section 78B-3-418 of non-meritorious for either:

(A) the claim of breach of applicable standard of care; or

(B) that the breach of care was the proximate cause of injury;

(ii) within 60 days after the day on which the time limit in Subsection 78B-3-416[~~(3)~~](4)(b)(ii) expires, if a pre-litigation hearing is not held within the time limits under Subsection 78B-3-416[~~(3)~~](4)(b)(ii); or

(iii) within 30 days after the day on which the division makes a determination under Subsection 78B-3-416[~~(3)~~](4)(d)(ii)(B), if the division makes a determination under Subsection 78B-3-416[~~(3)~~](4)(d)(ii)(B).

(c) A claimant who is required to file an affidavit of merit under Subsection (1)(a) shall:

(i) file the affidavit of merit with the division; and

(ii) serve each defendant with the affidavit of merit in accordance with Subsection 78B-3-412(3).

(2) The affidavit of merit shall:

(a) be executed by the claimant's attorney or the claimant if the claimant is proceeding pro se, stating that the affiant has consulted with and reviewed the facts of the case with a health care provider who has determined after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of a medical liability action; and

(b) include an affidavit signed by a health care provider who meets the requirements of Subsection (4):

(i) stating that in the health care provider's opinion, there are reasonable grounds to believe that the applicable standard of care was breached;

(ii) stating that in the health care provider's opinion, the breach was a proximate cause of the injury claimed in the notice of intent to commence action; and

(iii) stating the reasons for the health care provider's opinion.

(3) The statement required in Subsection (2)(b)(i) shall be waived if the claimant received an opinion that there was a breach of the applicable standard of care under Subsection 78B-3-418(2)(a)(i).

(4) A health care provider who signs an affidavit under Subsection (2)(b) shall:

(a) if none of the respondents is a physician or an osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state in the same specialty or of the same class of license as the respondents; or

(b) if at least one of the respondents is a physician or an osteopathic physician, hold a current unrestricted license issued by the appropriate licensing authority of Utah or another state to practice medicine in all its branches.

(5) A claimant's attorney or claimant may obtain up to a 60-day extension to file the affidavit of merit if:

(a) the claimant or the claimant's attorney submits a signed affidavit for extension with notice to the division attesting to the fact that the claimant is unable to submit an affidavit of merit as required by this section because:

(i) a statute of limitations would impair the action; and

(ii) the affidavit of merit could not be obtained before the expiration of the statute of limitations; and

(b) the claimant or claimant's attorney submits the affidavit for extension to each named respondent in accordance with Subsection 78B-3-412(3) no later than 60 days after the date specified in Subsection (1)(b)(i).

(6) (a) A claimant or claimant's attorney who submits allegations in an affidavit of merit that are found to be without reasonable cause and untrue, based on information available to the plaintiff at the time the affidavit was submitted to the division, is liable to the defendant for the payment of reasonable expenses and reasonable attorney fees actually incurred by the defendant or the defendant's insurer.

(b) An affidavit of merit is not admissible, and cannot be used for any purpose, in a subsequent lawsuit based on the claim that is the subject of the affidavit, except for the purpose of establishing the right to recovery under Subsection (6)(c).

(c) A court, or arbitrator under Section 78B-3-421, may award costs and attorney fees under Subsection (6)(a) if the defendant files a motion for costs and attorney fees within 60 days of the judgment or dismissal of the action in favor of the defendant. The person making a motion for attorney fees and costs may depose and examine the health care provider who prepared the affidavit of merit under Subsection (2)(b).

(7) If a claimant or the claimant's attorney does not file an affidavit of merit as required by this section, the division may not issue a certificate of compliance for the claimant and the malpractice action shall be dismissed by the court.

(8) For each request for prelitigation panel review under Subsection 78B-3-416(2)(b), the division shall compile the following information:

(a) whether the cause of action arose on or after July 1, 2010;

(b) the number of respondents named in the request; and

(c) for each respondent named in the request:

(i) the respondent's license class;

(ii) if the respondent has a professional specialty, the respondent's professional specialty;

(iii) if the division does not issue a certificate of compliance at the conclusion of the prelitigation process, the reason a certificate was not issued;

(iv) if the division issues a certificate of compliance, the reason the certificate of compliance was issued;

(v) if an affidavit of merit was filed by the claimant, for each health care provider who submitted an affidavit under Subsection (2)(b):

(A) the health care provider's license class and professional specialty; and

(B) whether the health care provider meets the requirements of Subsection 78B-3-416[~~(4)~~](5)(b); and

(vi) whether the claimant filed an action in court against the respondent.

(9) The division may require the following persons to submit the information to the division necessary for the division to comply with Subsection (8):

(a) a claimant;

(b) a respondent;

(c) a health care provider who submits an affidavit under Subsection (2)(b); and

(d) a medical liability pre-litigation panel.

CHAPTER 213
H. B. 113

Passed March 1, 2022
Approved March 23, 2022
Effective May 4, 2022

STUDENTS WITH DISABILITIES FUNDING REVISIONS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill makes changes to provisions related to funding for students with disabilities.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to:
  - annually review standards and guidelines related to establishing disability classifications; and
  - ensure the standards and guidelines provide school districts and charter schools flexibility to respond to the needs of students with disabilities;
- permits disability program money to be used for facilities construction and alteration under certain circumstances;
- amends a formula related to add-on weighted pupil units for students with disabilities;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-307, as last amended by Laws of Utah 2020, Chapter 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-307 is amended to read:

53F-2-307. Weighted pupil units for programs for students with disabilities -- Local school board allocation.

(1) As used in this section:

(a) "Necessary cost" means a cost that is needed to provide special education and related services to students with disabilities.

(b) "Reasonable cost" means a cost that, in nature and amount, does not exceed an amount that a prudent person would incur under the circumstances prevailing at the time the decision was made to incur the cost.

[~~(1)~~] (2) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2)~~] (3) Disability program money allocated to school districts or charter schools is restricted and shall be spent for the education of students with disabilities [~~but may include expenditures for~~].

(4) Notwithstanding Subsection (3), disability program money allocated to school districts or charter schools may be expended for:

(a) approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes[~~.~~]; or

(b) constructing facilities or altering existing facilities if:

(i) the costs are necessary costs and reasonable costs;

(ii) the costs are not for the general purpose of bringing facilities into compliance with:

(A) Section 504 of the Rehabilitation Act of 1973; or

(B) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.;

(iii) the construction or alteration meets the needs of one or more students with disabilities; and

(iv) the state board approves the expenditure in accordance with rules the state board makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~] (5) The state board shall establish [~~and strictly interpret~~] definitions and provide standards for determining which students have disabilities and shall assist school districts and charter schools in determining the services that should be provided to students with disabilities.

[~~(4) Each year the state board shall evaluate~~]

(6) The state board shall annually evaluate, and amend as needed, the standards and guidelines that establish the identifying criteria for disability classifications to [~~assure strict compliance with those standards by the school districts and charter schools.~~] ensure that school districts and charter schools:

(a) comply with the standards and guidelines; and

(b) have flexibility to respond to the needs of students with disabilities.

[~~(5)~~] (7) (a) Money appropriated to the state board for add-on WPUs for students with disabilities enrolled in regular programs shall be allocated to school districts and charter schools as provided in this Subsection [~~(5)~~] (7).

(b) The state board shall use a school district's or charter school's average number of special education add-on weighted pupil units determined by [~~the previous five year's~~] the prior year's average daily membership plus growth and the preceding four years' average daily membership data as a foundation for the special education add-on appropriation.

(c) The growth factor described in Subsection (7)(b) is the percentage change in total enrollment of kindergarten through grade 12 students on the first school day of October in the current school year as compared to the total enrollment of kindergarten through grade 12 students on the first school day of October in the previous school year.

[~~(c)~~] (d) A school district's or charter school's special education add-on WPUs for the current year may not be less than the foundation special education add-on WPUs described in Subsection (7)(b).

[~~(d)~~] (e) Growth WPUs shall be added to the prior year special education add-on WPUs, and growth WPUs shall be determined as follows:

(i) The special education student growth factor is calculated by comparing [~~S–3~~] total special education [~~ADM of two years~~] average daily membership of one year previous to the current year to the [~~S–3~~] total special education [~~ADM three~~] average daily membership two years previous to the current year[~~, not to exceed the official October total school district growth factor from the prior year~~].

(ii) When calculating and applying the growth factor, a school district's [~~S–3~~] total special education ADM for a given year is limited to [~~12.18%~~] the following percentage of the school district's [~~S–3~~] total student ADM for the same year[~~.~~]:

(A) for a school district in a county of the first, second, or third class, 14%; and

(B) for a school district in a county of the fourth, fifth, or sixth class, 20%.

(iii) Growth ADMs are calculated by applying the growth factor to the [~~S–3~~] total special education [~~ADM of two years~~] average daily membership of one year previous to the current year.

(iv) Growth ADMs for each school district or each charter school are multiplied by [~~1.53~~] the following weighted pupil units and added to the prior year special education add-on WPU to determine each school district's or each charter school's total allocation[~~.~~]:

(A) for fiscal year 2023, 1.35 weighted pupil units;

(B) for fiscal year 2024, 1.15 weighted pupil units; and

(C) beginning in fiscal year 2025, and every fiscal year thereafter, 1.00 weighted pupil units.

[~~(6)~~] (8) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of school districts and charter schools for those programs, each school district and each charter school shall first receive the amount generated for each student with a disability under the basic program.

CHAPTER 214
H. B. 114

Passed February 25, 2022
Approved March 23, 2022
Effective May 4, 2022

SCHOOL NURSING SERVICES AMENDMENTS

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to school nursing services.

Highlighted Provisions:

This bill:

- provides a definition of a school nurse;
- amends provisions of the public education code to unify meaning;
- requires local education agencies to provide a minimum level of nursing services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-102, as last amended by Laws of Utah 2020, Chapter 408

53G-7-219, as enacted by Laws of Utah 2020, Chapter 307

53G-9-204, as renumbered and amended by Laws of Utah 2018, Chapter 3

53G-9-403, as renumbered and amended by Laws of Utah 2018, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-102 is amended to read:

53E-1-102. Public education code definitions.

Unless otherwise indicated, as used in this title, Title 53F, Public Education System -- Funding, and Title 53G, Public Education System -- Local Administration:

(1) "Charter agreement" means an agreement made in accordance with Section 53G-5-303 that authorizes the operation of a charter school.

(2) "Charter school governing board" means the board that governs a charter school.

(3) "District school" means a public school under the control of a local school board.

(4) "Individualized education program" or "IEP" means a written statement for a student with a disability that is developed, reviewed, and revised in accordance with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(5) "LEA governing board" means:

(a) for a school district, the local school board;

(b) for a charter school, the charter school governing board; or

(c) for the Utah Schools for the Deaf and the Blind, the state board.

(6) "Local education agency" or "LEA" means:

(a) a school district;

(b) a charter school; or

(c) the Utah Schools for the Deaf and the Blind.

(7) "Local school board" means a board elected under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

(8) "Minimum School Program" means the same as that term is defined in Section 53F-2-102.

(9) "Parent" means a parent or legal guardian.

(10) "Public education code" means:

(a) this title;

(b) Title 53F, Public Education System -- Funding; and

(c) Title 53G, Public Education System -- Local Administration.

(11) "Section 504 accommodation plan" means a plan developed in accordance with Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq., for a student with a disability, to meet the student's educational needs and ensure equitable access to a free appropriate public education.

(12) "School nurse" means a registered nurse:

(a) who holds:

(i) a license under Title 58, Chapter 31b, Nurse Practice Act; or

(ii) a multistate license as that term is defined in Section 58-31e-102; and

(b) whose primary role is the care of a defined group of students enrolled in the public school system.

[~~(12)~~] (13) "State board" means the State Board of Education.

[~~(13)~~] (14) "State superintendent" means the state superintendent of public instruction appointed under Section 53E-3-301.

Section 2. Section 53G-7-219 is amended to read:

53G-7-219. Medical specialists in public schools.

(1) As used in this section:

(a) "Qualified individual" means an individual who:

(i) is employed by an LEA; and

(ii) provides related services in a school-based setting.

(b) "Qualified individual" includes:

(i) an audiologist;

(ii) a speech-language pathologist;

(iii) a mental health practitioner;

(iv) a school nurse;

(v) an occupational therapist; and

(vi) a physical therapist.

(c) "Related services" means the same as that term is defined in 34 C.F.R. 300.34.

(2) An LEA may adopt a salary schedule, or salary schedules, for qualified individuals, that:

(a) is separate from salary schedules adopted for other LEA employees; and

(b) takes into consideration the market rate for related services provided outside of a school-based setting.

Section 3. Section 53G-9-204 is amended to read:

53G-9-204. Nursing services in the public schools -- Collaborative efforts.

(1) (a) Students in the state's public schools [~~may be~~] are better protected against risks to health and safety [~~if~~] when schools [~~were to~~] have [~~registered~~] school nurses readily available to assist in providing educational and nursing services in the public schools.

(b) [~~Those~~] Educational and nursing services would be further enhanced if [~~they could be~~] offered with the active support and participation of local public health departments and private medical providers, most particularly in those areas of the state without currently functioning collaborative programs.

(c) (i) [~~School districts~~] LEAs, local health departments, private medical providers, and parents of students [~~are therefore encouraged to~~] shall work together in determining needs and risks to student health in the state's public schools and in developing and implementing plans to meet those needs and minimize risks to students.

(ii) School community councils or school directors of affected schools shall review the plans [~~prior to their~~] before the implementation of the plans.

(2) [~~School districts~~] LEAs are encouraged to provide nursing services equivalent to:

(a) the services of one [~~registered~~] school nurse for every [~~5,000~~] 2,000 students; or[~~,~~]

(b) in [~~districts~~] LEAs with fewer than [~~5,000~~] 2,000 students, the level of services recommended by the Department of Health.

Section 4. Section 53G-9-403 is amended to read:

53G-9-403. Personnel to perform health examination.

A local school board may use teachers or [~~licensed registered~~] school nurses to conduct examinations required under this part and licensed physicians as needed for medical consultation related to those examinations.

CHAPTER 215
H. B. 117

Passed March 3, 2022
Approved March 23, 2022
Effective January 1, 2023

VICTIM ADDRESS CONFIDENTIALITY PROGRAM

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Todd D. Weiler
Cosponsors: Clare Collard
Jennifer Dailey-Provost
Matthew H. Gwynn
Suzanne Harrison
Brian S. King
Karen Kwan
V. Lowry Snow

LONG TITLE

General Description:

This bill creates an address confidentiality program for crime victims.

Highlighted Provisions:

This bill:

- addresses voter registration for individuals participating in an address confidentiality program;
- defines terms;
- creates an address confidentiality program in the State Commission on Criminal and Juvenile Justice;
- describes eligibility and application requirements for program participants;
- addresses the administrative responsibilities of the State Commission on Criminal and Juvenile Justice in maintaining the address confidentiality program;
- describes the permitted uses for assigned addresses;
- addresses the use and disclosure of an address by state and local government entities;
- addresses service of process, disclosure in judicial and administrative proceedings, and orders relating to custody and parent-time;
- addresses immunity and the retention and destruction of records;
- creates the Address Confidentiality Program Restricted Account;
- provides rulemaking authority to the State Commission on Criminal and Juvenile Justice; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

20A-2-204, as last amended by Laws of Utah 2020, Chapters 31, 95, 255 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 95

59-2-407, as last amended by Laws of Utah 2018, Chapters 432 and 436

ENACTS:

77-38-601, Utah Code Annotated 1953
77-38-602, Utah Code Annotated 1953
77-38-603, Utah Code Annotated 1953
77-38-604, Utah Code Annotated 1953
77-38-605, Utah Code Annotated 1953
77-38-606, Utah Code Annotated 1953
77-38-607, Utah Code Annotated 1953
77-38-608, Utah Code Annotated 1953
77-38-609, Utah Code Annotated 1953
77-38-610, Utah Code Annotated 1953
77-38-611, Utah Code Annotated 1953
77-38-612, Utah Code Annotated 1953
77-38-613, Utah Code Annotated 1953
77-38-614, Utah Code Annotated 1953
77-38-615, Utah Code Annotated 1953
77-38-616, Utah Code Annotated 1953
77-38-617, Utah Code Annotated 1953
77-38-618, Utah Code Annotated 1953
77-38-619, Utah Code Annotated 1953
77-38-620, Utah Code Annotated 1953
77-38-621, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-2-204 is amended to read:

20A-2-204. Registering to vote when applying for or renewing a driver license.

(1) As used in this section, "voter registration form" means, when an individual named on a qualifying form, as defined in Section 20A-2-108, answers "yes" to the question described in Subsection 20A-2-108(2)(a), the information on the qualifying form that can be used for voter registration purposes.

(2) (a) [~~A~~] Except as provided in Subsection (2)(b), a citizen who is qualified to vote may register to vote, and a citizen who is qualified to preregister to vote may preregister to vote, by answering "yes" to the question described in Subsection 20A-2-108(2)(a) and completing the voter registration form.

(b) A citizen who is a program participant in the Address Confidentiality Program created in Section 77-38-602 is not eligible to register to vote as described in Subsection (2)(a), but is eligible to register to vote by any other means described in this part.

(3) The Driver License Division shall:

(a) assist an individual in completing the voter registration form unless the individual refuses assistance;

(b) electronically transmit each address change to the lieutenant governor within five days after the day on which the division receives the address change; and

(c) within five days after the day on which the division receives a voter registration form, electronically transmit the form to the Office of the Lieutenant Governor, including the following for the individual named on the form:

(i) the name, date of birth, driver license or state identification card number, last four digits of the social security number, Utah residential address, place of birth, and signature;

(ii) a mailing address, if different from the individual's Utah residential address;

(iii) an email address and phone number, if available;

(iv) the desired political affiliation, if indicated;

(v) an indication of whether the individual requested that the individual's voter registration record be classified as a private record under Subsection 20A-2-108(2)(b); and

(vi) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted with the form.

(4) Upon receipt of an individual's voter registration form from the Driver License Division under Subsection (3), the lieutenant governor shall:

(a) enter the information into the statewide voter registration database; and

(b) if the individual requests on the individual's voter registration form that the individual's voter registration record be classified as a private record or the individual submits a withholding request form described in Subsections 20A-2-104(7) and (8) and any required verification, classify the individual's voter registration record as a private record.

(5) The county clerk of an individual whose information is entered into the statewide voter registration database under Subsection (4) shall:

(a) ensure that the individual meets the qualifications to be registered or preregistered to vote; and

(b) (i) if the individual meets the qualifications to be registered to vote:

(A) ensure that the individual is assigned to the proper voting precinct; and

(B) send the individual the notice described in Section 20A-2-304; or

(ii) if the individual meets the qualifications to be preregistered to vote, process the form in accordance with the requirements of Section 20A-2-101.1.

(6) (a) When the county clerk receives a correctly completed voter registration form under this section, the clerk shall:

(i) comply with the applicable provisions of this Subsection (6); or

(ii) if the individual is preregistering to vote, comply with Section 20A-2-101.1.

(b) If the county clerk receives a correctly completed voter registration form under this section no later than 5 p.m. or, if submitting the form electronically, midnight, 11 calendar days before the date of an election, the county clerk shall:

(i) accept the voter registration form; and

(ii) unless the individual is preregistering to vote:

(A) enter the individual's name on the list of registered voters for the voting precinct in which the individual resides; and

(B) notify the individual that the individual is registered to vote in the upcoming election; and

(iii) if the individual named in the form is preregistering to vote, comply with Section 20A-2-101.1.

(c) If the county clerk receives a correctly completed voter registration form under this section after the deadline described in Subsection (6)(b), the county clerk shall, unless the individual named in the form is preregistering to vote:

(i) accept the application for registration of the individual;

(ii) process the voter registration form; and

(iii) unless the individual is preregistering to vote, and except as provided in Subsection 20A-2-207(6), inform the individual that the individual will not be registered to vote in the pending election, unless the individual registers to vote by provisional ballot during the early voting period, if applicable, or on election day, in accordance with Section 20A-2-207.

(7) (a) If the county clerk determines that an individual's voter registration form received from the Driver License Division is incorrect because of an error, because the form is incomplete, or because the individual does not meet the qualifications to be registered to vote, the county clerk shall mail notice to the individual stating that the individual has not been registered or preregistered because of an error, because the registration form is incomplete, or because the individual does not meet the qualifications to be registered to vote.

(b) If a county clerk believes, based upon a review of a voter registration form, that an individual, who knows that the individual is not legally entitled to register or preregister to vote, may be intentionally seeking to register or preregister to vote, the county clerk shall refer the form to the county attorney for investigation and possible prosecution.

Section 2. Section 59-2-407 is amended to read:

59-2-407. Administration of uniform fees.

(1) (a) Except as provided in Subsection 59-2-405(4) or 59-2-405.3(4), the uniform fee authorized in Sections 59-2-405, 59-2-405.3, and 72-10-110.5 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

(b) Except as provided in Subsections 59-2-405.1(4), 59-2-405.2(5), and 59-2-405.3(4), the uniform fee imposed by Section 59-2-405.1, 59-2-405.2, or 59-2-405.3 shall be assessed at the time of:

(i) registration as defined in Section 41-1a-102; and

(ii) renewal of registration.

(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, and 72-10-110.5 shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

(3) Any disclosure of information to a county for purposes of distributing a uniform fee under this part is not subject to Title 77, Chapter 38, Part 6, Address Confidentiality Program.

Section 3. Section 77-38-601 is enacted to read:

Part 6. Address Confidentiality Program

77-38-601. Definitions.

As used in this part:

(1) "Abuse" means any of the following:

(a) "abuse" as that term is defined in Section 76-5-111 or 80-1-102; or

(b) "child abuse" as that term is defined in Section 76-5-109.

(2) "Actual address" means the residential street address of the program participant that is stated in a program participant's application for enrollment or on a notice of a change of address under Section 77-38-610.

(3) "Assailant" means an individual who commits or threatens to commit abuse, human trafficking, domestic violence, stalking, or a sexual offense against an applicant for the program or a minor or incapacitated individual residing with an applicant for the program.

(4) "Assigned address" means an address designated by the commission and assigned to a program participant.

(5) "Authorization card" means a card issued by the commission that identifies a program participant as enrolled in the program with the program participant's assigned address and the date on which the program participant will no longer be enrolled in the program.

(6) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(7) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(8) "Human trafficking" means a human trafficking offense under Section 76-5-308.

(9) "Incapacitated individual" means an individual who is incapacitated, as defined in Section 75-1-201.

(10) (a) "Mail" means first class letters or flats delivered by the United States Postal Service, including priority, express, and certified mail.

(b) "Mail" does not include a package, parcel, periodical, or catalogue, unless the package, parcel, periodical, or catalogue is clearly identifiable as:

(i) being sent by a federal, state, or local agency or another government entity; or

(ii) a pharmaceutical or medical item.

(11) "Minor" means an individual who is younger than 18 years old.

(12) "Notification form" means a form issued by the commission that a program participant may send to a person demonstrating that the program participant is enrolled in the program.

(13) "Program" means the Address Confidentiality Program created in Section 77-38-602.

(14) "Program assistant" means an individual designated by the commission under Section 77-38-604 to assist an applicant or program participant.

(15) "Program participant" means an individual who is enrolled under Section 77-38-606 by the commission to participate in the program.

(16) "Record" means the same as that term is defined in Section 63G-2-103.

(17) "Sexual offense" means:

(a) a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses; or

(b) a sexual exploitation offense under Title 76, Chapter 5b, Part 2, Sexual Exploitation.

(18) "Stalking" means the same as that term is defined in Section 76-5-106.5.

(19) "State or local government entity" means a county, municipality, higher education institution, local district, special service district, or any other political subdivision of the state or an administrative subunit of the executive, legislative, or judicial branch of this state, including:

(a) a law enforcement entity or any other investigative entity, agency, department, division, bureau, board, or commission; or

(b) an individual acting or purporting to act for or on behalf of a state or local entity, including an elected or appointed public official.

(20) "Victim" means a victim of abuse, domestic violence, human trafficking, stalking, or sexual assault.

Section 4. Section 77-38-602 is enacted to read:

77-38-602. Creation -- Commission responsibilities.

(1) There is created the Address Confidentiality Program within the commission.

(2) Under the program, the commission shall:

(a) designate, train, and manage program assistants;

(b) develop, distribute, and process application forms and related materials for the program;

(c) designate an assigned address for a program participant to be used by the program participant and a state or local government entity; and

(d) receive mail sent to a program participant's assigned address, forward the mail to the program participant's actual address at the commission's expense, and track and maintain records for all mail received.

Section 5. Section 77-38-603 is enacted to read:

77-38-603. Eligibility.

(1) An applicant is eligible to participate in the program if the applicant attests that the applicant:

(a) is a resident of this state;

(b) (i) is a victim;

(ii) is a parent or a guardian of an individual who:

(A) is a victim; and

(B) resides at the same address as the parent or guardian;

(iii) resides at the same address where a victim resides; or

(iv) fears for the applicant's physical safety, or for the physical safety of a minor or incapacitated individual residing at the same address as the applicant, from a threat of abuse, domestic violence, human trafficking, stalking, or sexual assault;

(c) (i) resided at a residential address that was known by an assailant and relocated within the past 90 days to a different residential address that is not known by the assailant;

(ii) resides at a residential address known by the assailant and intends to relocate within 90 days to a different residential address in the state that is not known by the assailant; or

(iii) resides at a residential address that is not known by the assailant;

(d) will not disclose the different residential address to the assailant; and

(e) will benefit from participation in the program.

(2) An applicant may participate in the program regardless of whether:

(a) a criminal charge is filed against an assailant;

(b) the applicant has a restraining order or injunction against an assailant; or

(c) the applicant reported an act or threat by an assailant to a law enforcement agency or officer.

(3) An applicant may participate in the program only upon the recommendation of a program assistant.

(4) To participate in the program:

(a) an applicant shall sign, date, and verify the information on an application; and

(b) the commission shall verify the applicant's current residential address as provided on the application.

(5) A parent or guardian may act on behalf of a minor or an incapacitated individual in determining whether the minor or the incapacitated individual is eligible for the program.

Section 6. Section 77-38-604 is enacted to read:

77-38-604. Designation of program assistants.

(1) The commission may designate as a program assistant, an individual that:

(a) (i) is an employee of the commission or a state or local government entity; or

(ii) is a volunteer for an organization that provides counseling, assistance, or support services at no charge to victims; and

(b) (i) provides counseling, referrals, or other services to victims; and

(ii) completes any training or registration process required by the commission.

(2) A program assistant shall:

(a) assist an applicant in preparing an application for the program; and

(b) sign, date, and verify an application for the program.

(3) A signature of a program assistant is a recommendation by the program assistant that the applicant is eligible to participate in the program under Section 77-38-603.

Section 7. Section 77-38-605 is enacted to read:

77-38-605. Administration -- Application.

(1) The commission shall provide an application form to an applicant who seeks to participate in the program under this chapter.

(2) The commission may not charge an applicant or program participant for an application or participation fee to apply for, or participate in, the program.

(3) The application shall include:

(a) the applicant's name;

(b) a mailing address, a phone number, and an email address where the applicant may be contacted by the commission;

(c) an indication regarding whether the assailant is employed by a state or local government entity, and if applicable, the name of the state or local government entity;

(d) a statement that the applicant understands and consents to:

(i) remain enrolled in the program for four years, unless the applicant's participation in the program is cancelled under Section 77-38-617;

(ii) while the applicant is enrolled in the program, notify the commission when the applicant changes the applicant's actual address or legal name;

(iii) develop a safety plan with a program assistant;

(iv) authorize the commission to notify a state or local government entity that the applicant is a program participant;

(v) submit written notice to the commission if the applicant chooses to cancel the applicant's participation in the program;

(vi) register to vote in person at the office of the clerk in the county where the applicant's actual address is located; and

(vii) certify that the commission is the applicant's designated agent for service of process for personal service;

(e) evidence that the applicant, or a minor or an incapacitated individual residing with the applicant, is a victim, including:

(i) a law enforcement, court, or other state, local, or federal government agency record; or

(ii) a document from:

(A) a domestic violence program, facility, or shelter;

(B) a sexual assault program; or

(C) a religious, medical, or other professional from whom the applicant, or the minor or the incapacitated individual residing with the applicant, sought assistance in dealing with alleged abuse, domestic violence, stalking, or a sexual offense;

(f) a statement from the applicant that a disclosure of the applicant's actual address would endanger the applicant, or a minor or an incapacitated individual residing with the applicant;

(g) a statement by the applicant that the applicant:

(i) resides at a residential address that is not known by the assailant;

(ii) has relocated to a different residential address in the past 90 days that is not known by the assailant; or

(iii) will relocate to a different residential address in the state within 90 days that is not known by the assailant;

(h) the actual address that:

(i) the applicant requests that the commission not disclose; and

(ii) is at risk of discovery by the assailant or potential assailant;

(i) a statement by the applicant disclosing:

(i) the existence of a court order or action involving the applicant, or a minor or an incapacitated individual residing with the applicant, related to a divorce proceeding, a child support order or judgment, or the allocation of custody or parent-time; and

(ii) the court that issued the order or has jurisdiction over the action;

(j) the name of any other individual who resides with the applicant who needs to be a program participant to ensure the safety of the applicant, or a minor or an incapacitated individual residing with the applicant;

(k) a statement by the applicant that:

(i) the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will benefit from participation in the program;

(ii) if the applicant intends to vote, the applicant will register to vote at the office of the clerk in the county in which the applicant actually resides;

(iii) the applicant does not have a current obligation to register as a sex offender or a kidnap offender under Title 77, Chapter 41, Sex and Kidnap Offender Registry; and

(iv) the applicant does not have a current obligation to register as a child abuse offender under Title 77, Chapter 43, Child Abuse Offender Registry;

(l) a statement by the applicant, under penalty of perjury, that the information contained in the application is true;

(m) a statement that:

(i) if the applicant intends to use the assigned address for any correspondence with the State Tax Commission, the applicant must provide the State Tax Commission with the applicant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission; and

(ii) if the applicant intends to use the assigned address for correspondence to a state or local government entity for the purpose of titling or registering a motor vehicle or a watercraft that is owned or leased by the applicant, the applicant shall provide to the state or local government entity for each motor vehicle or watercraft:

(A) the motor vehicle or hull identification number;

(B) the license plate or registration number for the motor vehicle or the watercraft; and

(C) the physical address where each motor vehicle or watercraft is stored; and

(n) a statement that any assistance or counseling provided by a program assistant as part of the program does not constitute legal advice or legal services to the applicant.

Section 8. Section 77-38-606 is enacted to read:

77-38-606. Enrollment of a program participant.

(1) (a) Within five business days after the day on which the commission grants enrollment to a program participant, the commission shall issue the program participant:

(i) an assigned address;

(ii) an authorization card; and

(iii) a notification form.

(b) An authorization card is valid while the program participant is enrolled in the program.

(2) A program participant is enrolled in the program for four years beginning on the day on which the enrollment is granted, unless the enrollment is withdrawn, or is cancelled under Section 77-38-617, before the end of the four-year period.

(3) A program participant may withdraw from the program by filing a request for withdrawal with the commission that is acknowledged before a notary public.

(4) (a) A program participant may renew enrollment by filing a renewal application with the commission at least 30 days before the day on which enrollment in the program will expire.

(b) The applicant shall date, sign, and verify the renewal application.

(c) The renewal application shall contain:

(i) all statements or information required by Subsection 77-38-605(3) that have changed from the original application or a prior renewal application;

(ii) a statement by the applicant that the applicant, or a minor or an incapacitated individual residing at the same address as the applicant, will continue to benefit from participation in the program; and

(iii) a statement by the applicant, under penalty of perjury, that the information contained in the renewal application is true.

Section 9. Section 77-38-607 is enacted to read:

77-38-607. Use of assigned address -- Release of information.

(1) The commission shall forward all mail that the office receives at the assigned address for a program participant to the program participant's actual address.

(2) The commission shall provide, at the request of a program participant or a state or local government entity, confirmation of an individual's status as a program participant.

(3) Except as provided in Sections 77-38-611, 77-38-612, and 77-38-613, the office may not disclose a program participant's actual address to any person.

Section 10. Section 77-38-608 is enacted to read:

77-38-608. Use of assigned address -- Confidentiality.

(1) A program participant may use the assigned address provided to the program participant to receive mail as provided in Subsection 77-38-602(2).

(2) (a) A state or local government entity may not refuse to use a program participant's assigned address for any official business, unless:

(i) the state or local government entity is statutorily required to use the program participant's actual address; or

(ii) the state or local government entity is permitted or required to use the program participant's actual address under this part.

(b) A state or local government entity may confirm an individual's status as a program participant with the commission.

(3) A state or local government entity, after receiving a copy of the notification form from a program participant or a notification of the program participant's enrollment from the commission, may not:

(a) except as provided in Subsection (2)(a), refuse to use the assigned address for the program participant, or a minor or an incapacitated individual residing with the program participant;

(b) except as provided in Subsection (4), require a program participant to disclose the program participant's actual address; or

(c) except as provided in Section 77-38-611, intentionally disclose to another person or state or government entity the program participant's actual address.

(4) Notwithstanding Subsections (2) and (3), a county clerk may require a program participant to disclose the program participant's actual address:

(a) for voter registration; and

(b) to enroll a program participant in a program designed to protect the confidentiality of a voter's address.

(5) If a program participant is enrolled in a program designed to protect the confidentiality of a voter's address, a county clerk:

(a) shall classify the program participant's actual address as concealed; and

(b) may not disclose the program participant's actual address.

Section 11. Section 77-38-609 is enacted to read:

77-38-609. Disclosure of actual address prohibited.

(1) (a) The commission may not disclose a program participant's actual address, unless:

(i) required by a court order; or

(ii) the commission grants a request from a state or local government entity under Section 77-38-612.

(b) The commission shall provide a program participant immediate notification of a disclosure of the program participant's actual address if the disclosure is made under Subsection (1)(a)(i) or (ii).

(2) If, at the time of application, an applicant, or a parent or guardian of an applicant, is subject to a court order relating to a divorce proceeding, a child support order or judgment, or an allocation of custody or parent-time, the commission shall provide notice of whether the applicant is enrolled under the program and the assigned address of the applicant to the court that issued the order or has jurisdiction over the action.

(3) A person may not knowingly or intentionally obtain a program participant's actual address from the commission or any state or local government entity if the person is not authorized to obtain the program participant's actual address.

(4) Unless the disclosure is permitted under this chapter or is otherwise permitted by law, an employee of the commission or a state or local government entity may not knowingly or intentionally disclose a program participant's actual address if:

(a) the employee obtains a program participant's actual address during the course of the employee's official duties; and

(b) at the time of disclosure, the employee has specific knowledge that the address is the actual address of the program participant.

(5) A person who intentionally or knowingly obtains or discloses information in violation of this chapter is guilty of a class B misdemeanor.

Section 12. Section 77-38-610 is enacted to read:

77-38-610. Change of name, address, or telephone number.

(1) A program participant shall notify the commission no later than 30 days after the day on which the program participant obtains a legal name change, by providing the commission with a certified copy of a judgment or order establishing the name change, or any other documentation that is sufficient evidence of the name change.

(2) A program participant shall notify the commission no later than 10 business days after the day on which the program participant's actual address or telephone number changes from the actual address or telephone number listed for the program participant.

(3) If a program participant remains enrolled in the program after a change of address, the program participant may not change the program participant's assigned address with the Driver License Division created under Section 53-3-103.

Section 13. Section 77-38-611 is enacted to read:

77-38-611. Address use by state or local government entities.

(1) Except as otherwise provided in Subsection (7), a program participant is responsible for requesting that a state or local government entity use the program participant's assigned address as the program participant's residential address.

(2) Except as otherwise provided in this chapter, if a program participant submits a valid authorization card, or a notification form, to a state or local government entity, the state or local government entity shall accept the assigned address listed on the authorization card or notification form as the program participant's address to be used as the program participant's residential address when creating a record.

(3) The program participant's assigned address shall be listed as the last known address if any last known address requirement is needed by the state or local government entity.

(4) The state or local government entity may photocopy a program participant's authorization card for a record for the state or local government entity, but the state or local government entity shall immediately return the authorization card to the program participant.

(5) (a) An election official, as defined in Section 20A-1-102, shall:

(i) use a program participant's actual address for precinct designation and all official election-related purposes;

(ii) classify the program participant's actual address as concealed; and

(iii) keep the program participant's actual address confidential from the public.

(b) A program participant may not use the program participant's assigned address for voter registration.

(c) An election official shall use the assigned address for all correspondence and mail for the program participant placed in the United States mail.

(d) A state or local government entity's access to a program participant's voter registration is subject to the request for disclosure process under Section 77-38-612.

(e) This Subsection (5) applies only to a program participant who submits a valid authorization card or a notification form when registering to vote.

(6) (a) A state or local government entity may not use a program participant's assigned address for the purposes of listing, or appraising a property, or assessing property taxes.

(b) Except as provided by Subsection (6)(c), all property assessments and tax notices, property tax collection notices, and all property related correspondence placed in the United States mail for the program participant shall be addressed to the assigned address.

(c) The State Tax Commission shall use the actual address of a program participant, unless the commission provides the following information to the State Tax Commission:

(i) the full name of the program participant; and

(ii) the applicant's social security number, federal employee identification number, and any other identification number related to a tax, fee, charge, or license administered by the State Tax Commission.

(7) (a) A state or local government entity may not use a program participant's assigned address for purposes of assessing any taxes or fees on a motor vehicle or a watercraft for titling or registering a motor vehicle or a watercraft.

(b) Except as provided by Subsection (7)(c), all motor vehicle and watercraft assessments and tax notices, title registration notices, and all related correspondence placed in the United States mail for the program participant is required to be addressed to the assigned address.

(c) The Motor Vehicle Division shall use the actual address of a program participant, unless the commission provides the following information to the Motor Vehicle Division:

(i) the full name of the program participant;

(ii) the assigned address of the program participant;

(iii) the motor vehicle or hull identification number for each motor vehicle or watercraft that is owned or leased by the program participant;

(iv) the license plate or registration number for each motor vehicle or watercraft that is owned or leased by the program participant; and

(v) the physical address where each motor vehicle or watercraft that is owned or leased by the program participant.

(d) Notwithstanding any other provision of this part, the Motor Vehicle Division may disclose to another state or local government entity all information that is necessary for the state or local government entity to distribute any taxes or fees collected for titling or registering a motor vehicle or a watercraft.

(e) Notwithstanding Section 41-1a-116 or any other provision of this part, the Motor Vehicle Division may not disclose the actual address of a program participant described in Subsection 77-38-605(3)(m)(ii) to:

(i) the Utah Criminal Justice Information System; or

(ii) the title, lien, and registration system that is provided to the Motor Vehicle Division by a third party contractor and is accessed in accordance with Subsection 41-1a-116(4).

(8) (a) The Department of Corrections, or any other entity responsible for supervising a program participant who is on probation or parole as a result of a criminal conviction or an adjudication, may not use the program participant's assigned address if the program participant's actual address is necessary for supervising the program participant.

(b) All written communication delivered through the United States mail to the program participant by the Department of Corrections, or the other entity described in Subsection (8)(a), shall be addressed to the program participant's assigned address.

(9) If a program participant is required by law to swear or affirm to the program participant's address, the program participant may use the program participant's assigned address.

(10) (a) A school district shall:

(i) accept the assigned address as the address of record; and

(ii) verify student enrollment eligibility with the commission.

(b) The commission shall help facilitate the transfer of student records as needed.

(11) (a) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a record containing a program participant's address is confidential and, regardless of the record's classification under Title 63G, Chapter 2, Part 3, Classification, may not be disclosed by a state or government entity, unless otherwise provided under this chapter.

(b) A program participant's actual address may not be disclosed to a third party by a state or local government entity, except:

(i) in a record created more than 90 days before the date on which the program participant applied for enrollment in the program; or

(ii) if a program participant voluntarily requests, in writing, that the program participant's actual address be disclosed to the third party.

(c) For a record created within 90 days before the date that a program participant applied for enrollment in the program, a state or local government entity shall redact the actual address from the record or change the actual address to the assigned address in the public record if the program participant presents a valid authorization card or a notification form and requests that the state or local government entity use the assigned address instead of the actual address on the record.

Section 14. Section 77-38-612 is enacted to read:

77-38-612. Request for disclosure.

(1) A state or local government entity requesting disclosure of a program participant's actual address in accordance with this section shall make the request:

(a) in writing;

(b) on the state or local government entity's letterhead; and

(c) with the signature of the head or an executive-level official of the state or local government entity.

(2) In accordance with Subsection (1), a state or local government entity requesting disclosure of a program participant's actual address shall provide the commission with the name of the program participant and a statement:

(a) explaining why the state or local government entity is requesting the program participant's actual address;

(b) explaining why the state or local government entity cannot meet the state or local government entity's statutory or administrative obligations without the disclosure of the program participant's actual address;

(c) of facts showing that:

(i) other methods to locate the program participant's actual address have failed;

(ii) other methods will be unlikely to succeed; or

(iii) other means of contacting the program participant have failed or are unavailable; and

(d) that the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.

(3) In response to a request for disclosure under Subsection (2), the commission may request additional information from the state or local government entity to help identify the program participant in the records of the office or to assess whether disclosure to the state or local government entity is permitted under this chapter.

(4) (a) Except as provided in Subsection (4)(b), after receiving a request for disclosure from a state or local government entity under Subsection (1), the commission shall provide a program participant with written notification:

(i) informing the participant of the request, and to the extent possible, of an opportunity to be heard regarding the request; and

(ii) after a decision is made by the commission, whether the request has been granted or denied.

(b) The commission is not required to provide notice of a request for disclosure to a program participant under Subsection (4)(a) when:

(i) the request is made by a state or local law enforcement agency conducting a criminal investigation involving alleged criminal conduct by the program participant; or

(ii) providing notice to the program participant would jeopardize an ongoing criminal investigation or the safety of law enforcement personnel.

(5) The commission shall grant a state or local government entity's request for disclosure and disclose the program participant's actual address if:

(a) the state or local government entity has demonstrated a good faith statutory or administrative need for the actual address;

(b) the actual address will be used only for the purpose stated in the request;

(c) other methods to locate the program participant or the program participant's actual address have failed or are unlikely to succeed;

(d) other means of contacting the program participant have failed or are unavailable; and

(e) the state or local government entity has adopted a procedure to protect the confidentiality of the program participant's actual address.

(6) If the commission grants a request for disclosure under this section, the commission shall provide the state or local government entity with a disclosure that contains:

(a) the program participant's actual address;

(b) a statement of the permitted use of the program participant's actual address;

(c) the names or classes of persons permitted to have access to or use of the program participant's actual address;

(d) a statement that the state or local government entity is required to limit access to and use of the program participant's actual address to the permitted use and to the listed persons or classes of persons; and

(e) if expiration of the disclosure is appropriate, the date on which the permitted use of the program participant's actual address expires.

(7) If a request for disclosure is granted by the commission, a state or local government entity shall:

(a) limit use of the program participant's actual address to the purpose stated in the disclosure;

(b) limit access to the program participant's actual address to the persons or classes of persons stated in the disclosure;

(c) cease use of the program participant's actual address upon the expiration of the permitted use;

(d) dispose of the program participant's actual address upon the expiration of the permitted use; and

(e) except as permitted in the request for disclosure, maintain the confidentiality of the program participant's actual address.

(8) Upon denial of a state or local government entity's request for disclosure, the commission shall promptly provide a written notification to the state or local government entity explaining the specific reasons for denying the request for disclosure.

(9) (a) A state or local government entity may file a written appeal with the commission no later than

15 days after the day on which the state or local government entity receives the written notification under Subsection (8).

(b) A state or local government entity filing a written appeal under Subsection (9)(a) shall:

(i) restate the information contained in the request for disclosure; and

(ii) respond to the commission's reason for denying the request for disclosure.

(c) The commission shall make a final determination on the appeal within 30 days after the day on which the appeal is received by the commission, unless the state or local government entity and the office agree to a different deadline.

(d) Before the commission makes a final determination, the commission may conduct a hearing or request additional information from the state or local government entity or the program participant.

Section 15. Section 77-38-613 is enacted to read:

77-38-613. Request for disclosure by law enforcement.

(1) The commission shall establish a process to expedite a request submitted by a law enforcement officer or agency for the disclosure of information regarding a program participant who is involved in a criminal proceeding or investigation within 24 hours of the law enforcement officer or agency submitting the request.

(2) If a law enforcement officer or agency seeks the disclosure of a program participant's actual address from the commission under Subsection (1), the law enforcement officer or agency shall certify to the commission, or the commission's designee, that the official or agency has a system in place to protect the program participant's actual address from disclosure to:

(a) the public; and

(b) law enforcement personnel who are not involved in the criminal proceeding or investigation for which the disclosure is requested.

(3) Upon expiration of the use for the program participant's actual address in a criminal proceeding or investigation, a law enforcement officer or agency shall remove the program participant's actual address from any record system maintained by the law enforcement officer or agency.

Section 16. Section 77-38-614 is enacted to read:

77-38-614. Service of process at the assigned address.

(1) In accordance with the Utah Rules of Civil Procedure, Rule 4, the commission is the agent authorized to receive process for a program participant.

(2) In accordance with the Utah Rules of Civil Procedure, Rule 5, the last known address for a program participant is the program participant's assigned address, not the program participant's actual address.

Section 17. Section 77-38-615 is enacted to read:

77-38-615. Participation in the program -- Orders in relation to allocation of custody or parent-time.

(1) A court may not consider a parent's participation in the program for the purpose of making an order allocating custody under Section 30-3-10 or parent-time under Section 30-3-32.

(2) A court shall take practical measures to keep a program participant's actual address confidential when making an order allocating custody or parent-time.

(3) Nothing in this chapter affects an order relating to the allocation of custody or parent-time in effect prior to or during a program participant's participation in the program.

Section 18. Section 77-38-616 is enacted to read:

77-38-616. Disclosure of address or identifiable information in a judicial or administrative proceeding.

(1) A program participant may submit the program participant's actual address to the court as a safeguarded record in accordance with the Utah Code of Judicial Administration, Rule 4-202.02.

(2) A person may not compel disclosure of a program participant's actual address or identifying information related to the program participant's residence during a proceeding in a court or administrative proceeding, unless:

(a) the court orders the disclosure of the program participant's address; or

(b) an administrative tribunal finds, based on a preponderance of the evidence, that:

(i) the disclosure is required in the interest of justice;

(ii) public interest in the disclosure substantially outweighs the potential harm to the program participant; or

(iii) no other alternative would satisfy the necessity of the disclosure.

(3) If disclosure of a program participant's actual address is required in a proceeding before a court or administrative tribunal, the court or administrative tribunal may safeguard the portion of a record that contains the program participant's actual address.

(4) Nothing in this section prevents a state or local government entity from using a program participant's actual address in filing a document or record with a court or administrative tribunal if, at the time of the filing, the document or record is filed under safeguard or not a public record.

Section 19. Section 77-38-617 is enacted to read:

77-38-617. Cancellation of enrollment -- Records.

(1) The commission shall cancel a program participant's enrollment in the program if:

(a) the program participant submits to the commission a written request to withdraw from enrollment in accordance with Section 77-38-606;

(b) the program participant fails to notify the commission of a change in the program participant's name, actual address, or telephone number that is listed on the application;

(c) the program participant, or a parent or guardian of the program participant, knowingly submits false information in the program application; or

(d) mail forwarded to the program participant by the commission is returned as undeliverable.

(2) (a) If the commission determines that there are grounds for cancelling a program participant's enrollment in accordance with Subsection (1), the commission shall send notice of the cancellation with the reason for cancellation to the program participant at the program participant's actual address and email address.

(b) A program participant has 30 days to appeal the cancellation decision in accordance with procedures developed by the commission.

(3) A program participant who receives a notice of cancellation is responsible for notifying a person who uses the program participant's assigned address to communicate with the program participant that the assigned address is no longer valid.

(4) If the commission cancels a program participant's enrollment in the program, the program participant is not eligible to participate in the program for six months after the day on which the commission cancels the program participant's enrollment in the program.

Section 20. Section 77-38-618 is enacted to read:

77-38-618. Retention and destruction of records.

The commission shall establish policies and procedures regarding the maintenance and destruction of applications, records, and other documents received or generated under this chapter.

Section 21. Section 77-38-619 is enacted to read:

77-38-619. Immunity from suit.

(1) A program assistant, or a program assistant's employer, is immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under this chapter, unless:

(a) the performance or nonperformance of a program assistant was manifestly outside the scope of the program assistant's duties in the program; or

(b) the program assistant acted with malicious purpose, bad faith, or in a wanton or reckless manner.

(2) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, or any other governmental immunity provided by law, the commission, the state, and the political subdivisions of the state are immune from liability in a civil action or proceeding involving the performance or nonperformance of a duty under the program.

Section 22. Section 77-38-620 is enacted to read:

77-38-620. Address Confidentiality Program Restricted Account -- Report.

(1) There is created a restricted account in the General Fund known as the "Address Confidentiality Program Restricted Account."

(2) The account shall be funded by:

(a) private contributions;

(b) gifts, donations, or grants from public or private entities; and

(c) interest and earnings on account money.

(3) Upon appropriation by the Legislature, the commission may expend funds from the account to:

(a) designate, train, and manage program assistants;

(b) develop, distribute, and process application forms and related materials for the program;

(c) assist applicants and program participants in enrolling in the program; or

(d) ensure program participants receive mail forwarded from the program to the program participant's actual address.

(4) No later than December 31 of each year, the commission shall provide to the Executive Offices and Criminal Justice Appropriations Subcommittee a written report of the program's activities, including:

(a) the contributions received under Subsection (2);

(b) an accounting of the money expended or committed to be expended by the commission under Subsection (3); and

(c) the balance of the account.

Section 23. Section 77-38-621 is enacted to read:

77-38-621. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to:

(1) establish a process to expedite requests from law enforcement officers and agencies in accordance with Section 77-38-613;

(2) establish procedures for an appeal process regarding cancellation of enrollment under Section 77-38-617; and

(3) establish the procedures for the retention and destruction of records and other documents in accordance with Section 77-38-618.

Section 24. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 216
H. B. 118

Passed March 1, 2022
Approved March 23, 2022
Effective May 4, 2022

WETLAND AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill requires the collection and publication of wetland data and a study of the viability of an in-lieu fee program for wetland mitigation.

Highlighted Provisions:

This bill:

- defines terms;
- requires land use authorities to provide a copy of a land use permit that affects wetlands to the Utah Geological Survey;
- directs the Department of Natural Resources to:
  - publish land use permits that affect wetlands on the department's website; and
  - study and make recommendations to the Natural Resources, Agriculture, and Environment Interim Committee regarding the viability of an in-lieu fee program for wetland mitigation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-521, as enacted by Laws of Utah 2007, Chapter 388
17-27a-520, as enacted by Laws of Utah 2007, Chapter 388
79-3-202, as renumbered and amended by Laws of Utah 2009, Chapter 344

ENACTS:

79-2-406, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-521 is amended to read:

10-9a-521. Wetlands.

(1) A municipality may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

(2) A land use authority that issues a land use permit that affects land designated as wetlands by the United States Army Corps of Engineers or another agency of the federal government shall provide a copy of the land use permit to the Utah Geological Survey established in Section 79-3-201.

Section 2. Section 17-27a-520 is amended to read:

17-27a-520. Wetlands.

(1) A county may not designate or treat any land as wetlands unless the United States Army Corps of Engineers or other agency of the federal government has designated the land as wetlands.

(2) A land use authority that issues a land use permit that affects land designated as wetlands by the United States Army Corps of Engineers or another agency of the federal government shall provide a copy of the land use permit to the Utah Geological Survey established in Section 79-3-201.

Section 3. Section 79-2-406 is enacted to read:

79-2-406. Wetlands -- In-lieu fee program study.

(1) As used in this section, "committee" means the Natural Resources, Agriculture, and Environment Interim Committee.

(2) The department shall publish, on the department's website, the land use permits collected by the Utah Geological Survey pursuant to Subsection 79-3-202(1)(r).

(3) (a) The department shall study and make recommendations to the committee on the viability of an in-lieu fee program for wetland mitigation, including:

(i) the viability of the state establishing and administering an in-lieu fee program; and

(ii) the viability of the state partnering with a private organization to establish and administer an in-lieu fee program.

(b) As part of the study described in Subsection (3)(a), the department shall consult with public and private individuals and entities that may be necessary or helpful to the establishment or administration of an in-lieu fee program for wetland mitigation, which may include:

(i) the Utah Department of Environmental Quality;

(ii) the United States Army Corps of Engineers;

(iii) the United States Fish and Wildlife Service;

(iv) the United States Environmental Protection Agency; or

(v) a non-profit entity that has experience with the establishment and administration of in-lieu fee programs.

(c) The department shall provide a report on the status of the department's study during or before the committee's November interim meeting in 2022.

(d) The department shall provide a final report of the department's study and recommendations, including any recommended legislation, during or before the committee's first interim meeting in 2023.

Section 4. Section 79-3-202 is amended to read:

79-3-202. Powers and duties of survey.

(1) The survey shall:

(a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;

(b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;

(c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;

(d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;

(e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;

(f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;

(g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;

(h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;

(i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;

(j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;

(k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;

(l) stimulate research, study, and activities in the field of paleontology;

(m) mark, protect, and preserve critical paleontological sites;

(n) collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;

(o) administer critical paleontological site excavation records;

(p) edit and publish critical paleontological records and reports; [~~and~~]

(q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:

(i) renewable energy;

(ii) energy efficiency; and

(iii) energy conservation[~~.~~]; and

(r) collect the land use permits described in Sections 10-9a-521 and 17-27a-520.

(2) (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source.

(b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information.

(c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.

(3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1).

(4) (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those agreements.

(b) The survey may undertake joint projects with private entities if:

(i) the action is approved by the board;

(ii) the projects are not inconsistent with the state's objectives; and

(iii) the results of the projects are available to the public.

CHAPTER 217
H. B. 122

Passed February 24, 2022
Approved March 23, 2022
Effective May 4, 2022

FAMILY TERMINOLOGY AMENDMENTS

Chief Sponsor: Elizabeth Weight
Senate Sponsor: Wayne A. Harper
Cosponsors: Cheryl K. Acton
Gay Lynn Bennion
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Stephen G. Handy
Suzanne Harrison
Sandra Hollins
Brian S. King
Karen Kwan
Rosemary T. Lesser
Carol Spackman Moss
Doug Owens
Judy Weeks Rohner
Angela Romero
Steve Waldrip

LONG TITLE

General Description:

This bill amends provisions regarding legitimacy and familial relationships.

Highlighted Provisions:

This bill:

- amends phrases using the terms, "legitimate," "illegitimate," and "illegitimacy," in regards to familial relationships;
- clarifies a statute regarding the legitimacy of a child born or conceived in a marriage that is void because a party is not divorced or has a living spouse; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-1, as last amended by Laws of Utah 2019, Chapter 317

76-7-102, as last amended by Laws of Utah 2009, Chapter 84

80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

REPEALS AND REENACTS:

30-1-3, as last amended by Laws of Utah 2019, Chapter 317

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-1-1 is amended to read:

30-1-1. Incestuous marriages void.

(1) The following marriages are incestuous and void from the beginning, [~~whether the relationship is legitimate or illegitimate~~] regardless of whether the relationship is legally recognized:

(a) marriages between parents and children;

(b) marriages between ancestors and descendants of every degree;

(c) marriages between siblings of the half as well as the whole blood;

(d) marriages between:

(i) uncles and nieces or nephews; or

(ii) aunts and nieces or nephews;

(e) marriages between first cousins, except as provided in Subsection (2); or

(f) marriages between any individuals related to each other within and not including the fifth degree of consanguinity computed according to the rules of the civil law, except as provided in Subsection (2).

(2) First cousins may marry under the following circumstances:

(a) both parties are 65 years of age or older; or

(b) if both parties are 55 years of age or older, upon a finding by the district court, located in the district in which either party resides, that either party is unable to reproduce.

Section 2. Section 30-1-3 is repealed and reenacted to read:

30-1-3. Legal recognition of a child when marriage is void.

When a marriage is void under Subsection 30-1-2(1)(a) and the parties entered into the marriage in good faith, a child of the marriage, who is born or conceived before the parties had actual knowledge that the marriage was void, shall be legally recognized as the child of the parties.

Section 3. Section 76-7-102 is amended to read:

76-7-102. Incest -- Definitions -- Penalty.

(1) As used in this section:

(a) "Provider" means a person who provides or makes available his seminal fluid or her human egg.

(b) "Related person" means a person related to the provider or actor as an ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin, and includes:

(i) blood relationships of the whole or half blood [~~without regard to legitimacy~~], regardless of whether the relationship is legally recognized;

(ii) the relationship of parent and child by adoption; and

(iii) the relationship of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(2) (a) An actor is guilty of incest when, under circumstances not amounting to rape, rape of a child, or aggravated sexual assault, the actor knowingly and intentionally:

(i) engages in conduct under Subsection (2)(b)(i), (ii), (iii), or (iv); or

(ii) provides a human egg or seminal fluid under Subsection (2)(b)(v).

(b) Conduct referred to under Subsection (2)(a) is:

(i) sexual intercourse between the actor and a person the actor knows has kinship to the actor as a related person;

(ii) the insertion or placement of the provider's seminal fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iii) providing or making available his seminal fluid for the purpose of insertion or placement of the fluid into the vagina, cervix, or uterus of a related person by means other than sexual intercourse;

(iv) a woman 18 years of age or older who:

(A) knowingly allows the insertion of the seminal fluid of a provider into her vagina, cervix, or uterus by means other than sexual intercourse; and

(B) knows that the seminal fluid is that of a person with whom she has kinship as a related person; or

(v) providing the actor's sperm or human egg that is used to conduct in vitro fertilization, or any other means of fertilization, with the human egg or sperm of a person who is a related person.

(c) This Subsection (2) does not prohibit providing a fertilized human egg if the provider of the fertilizing sperm is not a related person regarding the person providing the egg.

(3) Incest is a third degree felony.

(4) A provider under this section is not a donor under Section 78B-15-702.

Section 4. Section 80-1-102 is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, [~~without regard to legitimacy~~] regardless of whether the relationship is legally recognized;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

CHAPTER 218
H. B. 125

Passed February 24, 2022
Approved March 23, 2022
Effective May 4, 2022

STATE TRANSIENT ROOM TAX MODIFICATIONS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill modifies provisions related to the state transient room tax.

Highlighted Provisions:

This bill:

- eliminates the scheduled repeal of the State Transient Room Tax Act;
- relating to the use of state transient room tax revenue:
  - eliminates the scheduled repeal of the Hospitality and Tourism Management Education Account;
  - eliminates the scheduled repeal of the Hospitality and Tourism Management Career and Technical Education Pilot Program;
  - eliminates the scheduled repeal of the Outdoor Recreational Infrastructure Grant Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-203, as last amended by Laws of Utah 2021, Chapters 129 and 251

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

63I-1-259, as last amended by Laws of Utah 2021, Chapters 64 and 371

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-203 is amended to read:

53E-1-203. State Superintendent's Annual Report.

(1) The state board shall prepare and submit to the governor, the Education Interim Committee, and the Public Education Appropriations Subcommittee, by January 15 of each year, an annual written report known as the State Superintendent's Annual Report that includes:

(a) the operations, activities, programs, and services of the state board;

(b) subject to Subsection (4)(b), all reports listed in Subsection (4)(a); and

(c) data on the general condition of the schools with recommendations considered desirable for specific programs, including:

(i) a complete statement of fund balances;

(ii) a complete statement of revenues by fund and source;

(iii) a complete statement of adjusted expenditures by fund, the status of bonded indebtedness, the cost of new school plants, and school levies;

(iv) a complete statement of state funds allocated to each school district and charter school by source, including supplemental appropriations, and a complete statement of expenditures by each school district and charter school, including supplemental appropriations, by function and object as outlined in the United States Department of Education publication "Financial Accounting for Local and State School Systems";

(v) a statement that includes data on:

(A) fall enrollments;

(B) average membership;

(C) high school graduates;

(D) licensed and classified employees, including data reported by school districts on educator ratings described in Section 53G-11-511;

(E) pupil-teacher ratios;

(F) average class sizes;

(G) average salaries;

(H) applicable private school data; and

(I) data from statewide assessments described in Section 53E-4-301 for each school and school district;

(vi) statistical information regarding incidents of delinquent activity in the schools or at school-related activities; and

(vii) other statistical and financial information about the school system that the state superintendent considers pertinent.

(2) (a) For the purposes of Subsection (1)(c)(v):

(i) the pupil-teacher ratio for a school shall be calculated by dividing the number of students enrolled in a school by the number of full-time equivalent teachers assigned to the school, including regular classroom teachers, school-based specialists, and special education teachers;

(ii) the pupil-teacher ratio for a school district shall be the median pupil-teacher ratio of the schools within a school district;

(iii) the pupil-teacher ratio for charter schools aggregated shall be the median pupil-teacher ratio of charter schools in the state; and

(iv) the pupil-teacher ratio for the state's public schools aggregated shall be the median pupil-teacher ratio of public schools in the state.

(b) The report shall:

(i) include the pupil-teacher ratio for:

(A) each school district;

(B) the charter schools aggregated; and

(C) the state's public schools aggregated; and

(ii) identify a website where pupil-teacher ratios for each school in the state may be accessed.

(3) For each operation, activity, program, or service provided by the state board, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the state board to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (3)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the state board that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(4) (a) Except as provided in Subsection (4)(b), the annual report shall also include:

(i) the report described in Section 53E-3-507 by the state board on career and technical education needs and program access;

(ii) [~~through October 1, 2022,~~] the report described in Section 53E-3-515 by the state board on the Hospitality and Tourism Management Career and Technical Education Pilot Program;

(iii) beginning on July 1, 2023, the report described in Section 53E-3-516 by the state board on certain incidents that occur on school grounds;

(iv) the report described in Section 53E-4-202 by the state board on the development and implementation of the core standards for Utah public schools;

(v) the report described in Section 53E-5-310 by the state board on school turnaround and leadership development;

(vi) the report described in Section 53E-10-308 by the state board and Utah Board of Higher Education on student participation in the concurrent enrollment program;

(vii) the report described in Section 53F-5-506 by the state board on information related to personalized, competency-based learning; and

(viii) the report described in Section 53G-9-802 by the state board on dropout prevention and recovery services.

(b) The Education Interim Committee or the Public Education Appropriations Subcommittee may request a report described in Subsection (4)(a) to be reported separately from the State Superintendent's Annual Report.

(5) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(6) The state board shall:

(a) submit the annual report in accordance with Section 68-3-14; and

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the state board's website.

(7) (a) Upon request of the Education Interim Committee or Public Education Appropriations Subcommittee, the state board shall present the State Superintendent's Annual Report to either committee.

(b) After submitting the State Superintendent's Annual Report in accordance with this section, the state board may supplement the report at a later time with updated data, information, or other materials as necessary or upon request by the governor, the Education Interim Committee, or the Public Education Appropriations Subcommittee.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(12) Section 53E-3-515 is repealed January 1, 2023.~~]

[~~(13)~~] (12) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14)~~] (13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(15)~~] (14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

[~~(16)~~] (15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.~~]

[~~(18)~~] (16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(19)~~] (17) Section 53F-5-203 is repealed July 1, 2024.

[~~(20)~~] (18) Section 53F-5-212 is repealed July 1, 2024.

[~~(21)~~] (19) Section 53F-5-213 is repealed July 1, 2023.

[~~(22)~~] (20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25) Section 53F-9-501 is repealed January 1, 2023.~~]

[~~(26)~~] (23) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (24) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 3. Section 63I-1-259 is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section 59-1-213.1 is repealed [~~on~~] May 9, 2024.

(2) Section 59-1-213.2 is repealed [~~on~~] May 9, 2024.

(3) Subsection 59-1-405(1)(g) is repealed [~~on~~] May 9, 2024.

(4) Subsection 59-1-405(2)(b) is repealed [~~on~~] May 9, 2024.

(5) Section 59-7-618.1 is repealed July 1, 2029.

(6) Section 59-9-102.5 is repealed December 31, 2030.

(7) Section 59-10-1033.1 is repealed July 1, 2029.

[~~(8) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1, 2023.~~]

Section 4. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection(30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.~~]

CHAPTER 219
H. B. 145

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

WILDFIRE AMENDMENTS

Chief Sponsor: Casey Snider
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill addresses the state's management of wildfires.

Highlighted Provisions:

This bill:

- addresses funding of county fire wardens;
- provides for rulemaking authority;
- defines terms;
- requires the Division of Forestry, Fire, and State Lands to study the implementation of a wildfire prevention and preparedness program;
- addresses reporting requirements and potential legislation;
- provides a repeal date for study; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-265, as last amended by Laws of Utah 2014, Chapter 313
65A-8-209.1, as last amended by Laws of Utah 2021, Chapter 97

ENACTS:

65A-8-214, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-265 is amended to read:

63I-2-265. Repeal dates -- Title 65A.

Section 65A-8-214, wildfire prevention and preparedness program and study, is repealed July 1, 2023.

Section 2. Section 65A-8-209.1 is amended to read:

65A-8-209.1. County fire warden.

(1) [~~(a) A~~] As used in this section, "participating county" means a county that participates in a cooperative agreement with the division, as described in Section 65A-8-203[~~, shall be represented by a~~].

(2) (a) A county fire warden who is employed by the division as a county fire warden full-time and year round shall represent a participating county, except as provided in Subsections [~~(1)~~] (2)(b) and (c).

(b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a county fire warden with an adjacent county may continue to do so with the approval of the state forester.

(c) A county of the sixth class may cost-share a county fire warden with an adjacent county, with the approval of the state forester.

[~~(2)~~] (3) (a) The salary and benefits paid to a county fire warden shall be:

[~~(a)~~] (i) divided by the division and the county; or

[~~(b)~~] (ii) paid partly by the division with the remainder shared by agreement between the counties the county fire warden represents.

(b) The division may annually increase the amount agreed to for the county portion if:

(i) the increase takes effect at the beginning of a calendar year;

(ii) the division provides the participating county six months notice before the increase takes effect; and

(iii) the increase is based on the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor, in accordance with a formula established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(3)~~] (4) (a) The division shall employ the county fire wardens.

(b) An individual who is employed by a county as a county fire warden on or before January 1, 2016, is not subject to the requirement to be employed by the division.

Section 3. Section 65A-8-214 is enacted to read:

65A-8-214. Wildfire prevention and preparedness program -- Study.

(1) As used in this section:

(a) "Defensible space" means the area adjacent to a structure where wildfire preparedness actions are implemented to provide defense from an approaching wildfire or to minimize the spread of a structure fire to wildlands or surrounding areas.

(b) "Qualifying property" means real property that the division determines, by using the mapping tool maintained under Subsection 65A-8-203(8), is at high risk for wildfire.

(c) "Wildfire preparedness action" means one or more acts engaged in by a person or contracted for by a person that reduce the risk of wildfire on the person's qualifying property.

(2) (a) The division shall study the creation of a wildfire prevention and preparedness program. As part of this study the division may evaluate different options to administer the wildfire prevention and preparedness program, including a prevention and preparedness fee imposed on qualifying property.

(b) The study required by this Subsection (2) shall include recommendations on:

(i) how the division may determine qualifying property, wildfire preparedness action, and defensible space;

(ii) how the amount of a prevention and preparedness fee is to be calculated;

(iii) how often a person would be required to pay a prevention and preparedness fee;

(iv) whether to provide for a follow up reassessment schedule for administration of the wildfire prevention and preparedness program;

(v) how to collect a prevention and preparedness fee; and

(vi) how the division shall administer the revenue from a prevention and preparedness fee.

(c) The division may work with other state agencies, including the State Tax Commission, to determine recommendations on the collection method to be used to collect a prevention and preparedness fee.

(3) (a) By no later than the 2022 November interim meeting, the division shall report the division's findings of the study required by Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee.

(b) After receiving the report required under Subsection (3)(a), the Natural Resources, Agriculture, and Environment Interim Committee may prepare legislation that the Legislature may consider to implement a wildfire prevention and preparedness program.

CHAPTER 220
H. B. 150

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

DISABILITY OMBUDSMAN PROGRAM

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Todd D. Weiler
Cosponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates a disability ombudsman program.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Division of Services for People with Disabilities (division) to appoint a disability ombudsman;
- describes the powers and duties of the disability ombudsman;
- requires the disability ombudsman to keep certain records confidential;
- provides that the disability ombudsman is only required to testify in court regarding confidential records under certain circumstances; and
- requires the division to make administrative rules regarding certain duties of the disability ombudsman.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Health and Human Services -- Long-Term Services and Supports -- Services for People with Disabilities, as an ongoing appropriation:
  - from General Fund, $143,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

62A-5-501, Utah Code Annotated 1953
62A-5-502, Utah Code Annotated 1953
62A-5-503, Utah Code Annotated 1953
62A-5-504, Utah Code Annotated 1953
62A-5-505, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-5-501 is enacted to read:

Part 5. Disability Ombudsman Program

62A-5-501. Definitions.

As used in this part:

(1) "Complainant" means a person who initiates a complaint.

(2) "Complaint" means a complaint initiated with the ombudsman identifying a person who has violated the rights and privileges of an individual with a disability.

(3) "Ombudsman" means the ombudsman appointed in Section 62A-5-502.

(4) "Rights and privileges of an individual with a disability" means the rights and privileges of an individual with a disability described in Subsections 62A-5b-103(1) through (3).

Section 2. Section 62A-5-502 is enacted to read:

62A-5-502. Disability ombudsman -- Purpose -- Appointment -- Qualifications -- Staff.

(1) There is created within the division the position of disability ombudsman for the purpose of promoting, advocating, and ensuring the rights and privileges of an individual with a disability are upheld.

(2) The director shall appoint an ombudsman who has:

(a) recognized executive and administrative capacity; and

(b) experience in laws and policies regarding individuals with a disability.

(3) The ombudsman may hire staff as necessary to carry out the duties of the ombudsman under this part.

Section 3. Section 62A-5-503 is enacted to read:

62A-5-503. Powers and duties of ombudsman.

The ombudsman shall:

(1) develop and maintain expertise in laws and policies governing the rights and privileges of an individual with a disability;

(2) provide training and information to private citizens, civic groups, governmental entities, and other interested parties across the state regarding:

(a) the role and duties of the ombudsman;

(b) the rights and privileges of an individual with a disability; and

(c) services available in the state to an individual with a disability;

(3) develop a website to provide the information described in Subsection (2) in a form that is easily accessible;

(4) receive, process, and investigate complaints in accordance with this part;

(5) review periodically the procedures of state entities that serve individuals with a disability;

(6) cooperate and coordinate with governmental entities and other organizations in the community in exercising the duties under this section, including the long-term care ombudsman program, created in Section 62A-3-203, and the child protection ombudsman, appointed under Section 62A-4a-208, when there is overlap between the responsibilities of the ombudsman and

the long-term care ombudsman program or the child protection ombudsman;

(7) as appropriate, make recommendations to the division regarding rules to be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that the ombudsman considers necessary to carry out the ombudsman's duties under this part;

(8) submit annually, by July 1, to the Health and Human Services Interim Committee, a report describing:

(a) the work of the ombudsman; and

(b) any recommendations for statutory changes to improve the effectiveness of the ombudsman in performing the duties under this section; and

(9) perform other duties required by law.

Section 4. Section 62A-5-504 is enacted to read:

62A-5-504. Investigation of complaints -- Procedures -- Rulemaking.

(1) Except as provided in Subsection (3), the ombudsman shall, upon receipt of a complaint, investigate the complaint.

(2) An ombudsman's investigation of a complaint may include:

(a) a referral to a governmental entity or other services;

(b) the collection of facts, information, or documentation;

(c) holding an investigatory hearing; or

(d) an inspection of the premises of the person named in the complaint.

(3) (a) The ombudsman may decline to investigate a complaint.

(b) If the ombudsman declines to investigate a complaint, the ombudsman shall notify the complainant and the division of the declination.

(4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the ombudsman's process for:

(a) receiving and processing complaints; and

(b) conducting an investigation in accordance with this section.

Section 5. Section 62A-5-505 is enacted to read:

62A-5-505. Confidentiality of materials relating to complaints or investigations -- Rulemaking.

(1) The division shall establish procedures by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure that a record maintained by the ombudsman is disclosed only at the discretion of and under the authority of the ombudsman.

(2) The identity of a complainant or a party named in the complaint may not be disclosed by the ombudsman unless:

(a) the complainant or a legal representative of the complainant consents to the disclosure;

(b) disclosure is ordered by a court of competent jurisdiction; or

(c) the disclosure is approved by the ombudsman and is made, as part of an investigation involving the complainant, to an agency or entity in the community that:

(i) has statutory responsibility for the complainant, over the action alleged in the complaint, or another party named in the complaint;

(ii) is able to assist the ombudsman to achieve resolution of the complaint; or

(iii) is able to provide expertise that would benefit the complainant.

(3) Neither the ombudsman nor the ombudsman's designee may be required to testify in court with respect to confidential matters, except as the court finds necessary to enforce this part.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.ITEM 1

To Department of Health and Human Services -- Long-Term Services and Supports

From General Fund	$143,000
Schedule of Programs:	
Services for People with Disabilities	$143,000

The Legislature intends that the appropriations under this item be used for the disability ombudsman program described in Title 62A, Chapter 5, Part 5, Disability Ombudsman Program.

CHAPTER 221
H. B. 154

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

OCCUPATIONAL THERAPY LICENSURE COMPACT

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts the Occupational Therapy Licensure Compact.

Highlighted Provisions:

This bill:

- enacts the Occupational Therapy Licensure Compact; and
- authorizes the Division of Occupational and Professional Licensing to make rules to implement the Occupational Therapy Licensure Compact.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2020, Chapter 339
58-42a-302, as last amended by Laws of Utah 2020, Chapter 339

ENACTS:

58-42a-302.1, Utah Code Annotated 1953
58-42b-101, Utah Code Annotated 1953
58-42b-102, Utah Code Annotated 1953
58-42b-103, Utah Code Annotated 1953
58-42b-104, Utah Code Annotated 1953
58-42b-105, Utah Code Annotated 1953
58-42b-106, Utah Code Annotated 1953
58-42b-107, Utah Code Annotated 1953
58-42b-108, Utah Code Annotated 1953
58-42b-109, Utah Code Annotated 1953
58-42b-110, Utah Code Annotated 1953
58-42b-111, Utah Code Annotated 1953
58-42b-112, Utah Code Annotated 1953
58-42b-113, Utah Code Annotated 1953
58-42b-114, Utah Code Annotated 1953
58-42b-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of persons who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307 of [~~Title 58,~~] Chapter 17b, Pharmacy Practice Act;

(b) Sections 58-24b-302 and 58-24b-302.1 of [~~Title 58,~~] Chapter 24b, Physical Therapy Practice Act;

(c) Section 58-31b-302 of [~~Title 58,~~] Chapter 31b, Nurse Practice Act;

(d) Section 58-47b-302 of [~~Title 58,~~] Chapter 47b, Massage Therapy Practice Act;

(e) Section 58-55-302 of [~~Title 58,~~] Chapter 55, Utah Construction Trades Licensing Act, as it applies to alarm companies and alarm company agents;

(f) Sections 58-42a-302 and 58-42a-302.1 of Chapter 42a, Occupational Therapy Practice Act;

[~~(f)~~] (g) Sections 58-61-304 and 58-61-304.1 of [~~Title 58,~~] Chapter 61, Psychologist Licensing Act;

[~~(g)~~] (h) Section 58-63-302 of [~~Title 58,~~] Chapter 63, Security Personnel Licensing Act;

[~~(h)~~] (i) Section 58-64-302 of [~~Title 58,~~] Chapter 64, Deception Detection Examiners Licensing Act;

[~~(i)~~] (j) Sections 58-67-302 and 58-67-302.1 of [~~Title 58,~~] Chapter 67, Utah Medical Practice Act; and

[~~(j)~~] (k) Sections 58-68-302 and 58-68-302.1 of [~~Title 58,~~] Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 2. Section 58-42a-302 is amended to read:

58-42a-302. Qualifications for licensure.

(1) An applicant for licensure as an occupational therapist shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) graduate with a bachelor's or graduate degree for the practice of occupational therapy from an education program accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

(d) if applying for licensure on or after July 1, 2015, complete a minimum of 24 weeks of supervised fieldwork experience; [~~and~~]

(e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy[~~.~~]; and

(f) if the applicant is applying to participate in the Occupational Therapy Licensure Compact under Chapter 42b, Occupational Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-42b-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) All applicants for licensure as an occupational therapy assistant shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) graduate from an educational program for the practice of occupational therapy as an occupational therapy assistant that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education, a predecessor organization, or an equivalent organization as determined by division rule;

(d) if applying for licensure on or after July 1, 2015, complete a minimum of 16 weeks of supervised fieldwork experience; [~~and~~]

(e) pass an examination approved by the division in consultation with the board and administered by the National Board for Certification in Occupational Therapy, or by another nationally recognized credentialing body as approved by division rule, to demonstrate knowledge of the practice, skills, theory, and professional ethics related to occupational therapy[~~.~~]; and

(f) if the applicant is applying to participate in the Occupational Therapy Licensure Compact under Chapter 42b, Occupational Therapy Licensure Compact, consent to a criminal background check in accordance with Section 58-42a-302.1 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Notwithstanding the other requirements of this section, the division may issue a license as an occupational therapist or as an occupational therapy assistant to an applicant who:

(a) consents to a criminal background check in accordance with Section 58-42a-302 and any requirements established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

[~~(a)~~] (b) (i) meets the requirements of receiving a license by endorsement under Section 58-1-302; or

[~~(b)~~] (ii) has been licensed in a state, district, or territory of the United States, or in a foreign country, where the education, experience, or examination requirements are not substantially equal to the requirements of this state, if the applicant passes the applicable examination described in Subsection (1)(e) or (2)(e).

Section 3. Section 58-42a-302.1 is enacted to read:

58-42a-302.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal

background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new occupational therapist assistant license issued under Subsection 58-42a-302(2) is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection 58-42a-302(2) demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) A person whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) The division may not issue a letter of qualification to participate in the Occupational Therapy Licensure Compact until the criminal background check described in this section is completed.

Section 4. Section 58-42b-101 is enacted to read:

CHAPTER 42b. OCCUPATIONAL THERAPY LICENSURE COMPACT

Part 1. Compact Text

58-42b-101. Section 1 -- Purpose.

The purpose of this Compact is to facilitate interstate practice of Occupational Therapy with the goal of improving public access to Occupational Therapy services. The Practice of Occupational Therapy occurs in the State where the patient/client is located at the time of the patient/client encounter. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

(A) Increase public access to Occupational Therapy services by providing for the mutual recognition of other Member State licenses;

(B) Enhance the States' ability to protect the public's health and safety;

(C) Encourage the cooperation of Member States in regulating multi-State Occupational Therapy Practice;

(D) Support spouses of relocating military members;

(E) Enhance the exchange of licensure, investigative, and disciplinary information between Member States;

(F) Allow a Remote State to hold a provider of services with a Compact Privilege in that State accountable to that State's practice standards; and

(G) Facilitate the use of Telehealth technology in order to increase access to Occupational Therapy services.

Section 5. Section 58-42b-102 is enacted to read:

58-42b-102. Section 2 -- Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

(A) "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and Section 1211.

(B) "Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a Licensing Board or other authority against an Occupational Therapist or Occupational Therapy Assistant, including actions against an individual's license or Compact Privilege such as censure, revocation, suspension, probation, monitoring of the Licensee, or restriction on the Licensee's practice.

(C) "Alternative Program" means a non-disciplinary monitoring process approved by an Occupational Therapy Licensing Board.

(D) "Compact Privilege" means the authorization, which is equivalent to a license, granted by a Remote State to allow a Licensee from another Member State to practice as an Occupational Therapist or practice as an Occupational Therapy Assistant in the Remote State under its laws and rules. The Practice of Occupational Therapy occurs in the Member State where the patient/client is located at the time of the patient/client encounter.

(E) "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

(F) "Current Significant Investigative Information" means Investigative Information that a Licensing Board, after an inquiry or investigation that includes notification and an opportunity for the Occupational Therapist or Occupational Therapy Assistant to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction.

(G) "Data System" means a repository of information about Licensees, including but not limited to license status, Investigative Information, Compact Privileges, and Adverse Actions.

(H) "Encumbered License" means a license in which an Adverse Action restricts the Practice of Occupational Therapy by the Licensee or said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

(I) "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

(J) "Home State" means the Member State that is the Licensee's Primary State of Residence.

(K) "Impaired Practitioner" means an individual whose professional practice is adversely affected by substance abuse, addiction, or other health-related conditions.

(L) "Investigative Information" means information, records, and/or documents received or generated by an Occupational Therapy Licensing Board pursuant to an investigation.

(M) "Jurisprudence Requirement" means the assessment of an individual's knowledge of the laws and rules governing the Practice of Occupational Therapy in a State.

(N) "Licensee" means an individual who currently holds an authorization from the State to practice as an Occupational Therapist or as an Occupational Therapy Assistant.

(O) "Member State" means a State that has enacted the Compact.

(P) "Occupational Therapist" means an individual who is licensed by a State to practice Occupational Therapy.

(Q) "Occupational Therapy Assistant" means an individual who is licensed by a State to assist in the Practice of Occupational Therapy.

(R) "Occupational Therapy," "Occupational Therapy Practice," and the "Practice of Occupational Therapy" mean the care and services provided by an Occupational Therapist or an Occupational Therapy Assistant as set forth in the Member State's statutes and regulations.

(S) "Occupational Therapy Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

(T) "Occupational Therapy Licensing Board" or "Licensing Board" means the agency of a State that is authorized to license and regulate Occupational Therapists and Occupational Therapy Assistants.

(U) "Primary State of Residence" means the state (also known as the Home State) in which an Occupational Therapist or Occupational Therapy Assistant who is not Active Duty Military declares a primary residence for legal purposes as verified by: driver's license, federal income tax return, lease, deed, mortgage or voter registration or other verifying documentation as further defined by Commission Rules.

(V) "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Compact Privilege.

(W) "Rule" means a regulation promulgated by the Commission that has the force of law.

(X) "State" means any state, commonwealth, district, or territory of the United States of America that regulates the Practice of Occupational Therapy.

(Y) "Single-State License" means an Occupational Therapist or Occupational Therapy Assistant license issued by a Member State that authorizes practice only within the issuing State and does not include a Compact Privilege in any other Member State.

(Z) "Telehealth" means the application of telecommunication technology to deliver Occupational Therapy services for assessment, intervention and/or consultation.

Section 6. Section 58-42b-103 is enacted to read:

58-42b-103. Section 3 -- State participation in the compact.

(A) To participate in the Compact, a Member State shall:

(1) License Occupational Therapists and Occupational Therapy Assistants;

(2) Participate fully in the Commission's Data System, including but not limited to using the Commission's unique identifier as defined in Rules of the Commission;

(3) Have a mechanism in place for receiving and investigating complaints about Licensees;

(4) Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

(5) Implement or utilize procedures for considering the criminal history records of applicants for an initial Compact Privilege. These procedures shall include the submission of fingerprints by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

(a) A Member State shall, within a time frame established by the Commission, require a criminal background check for a Licensee seeking/applying for a Compact Privilege whose Primary State of Residence is that Member State, by receiving the results of the Federal Bureau of Investigation criminal record search, and shall use the results in making licensure decisions;

(b) Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544;

(6) Comply with the Rules of the Commission;

(7) Utilize only a recognized national examination as a requirement for licensure pursuant to the Rules of the Commission; and

(8) Have Continuing Competence/Education requirements as a condition for license renewal.

(B) A Member State shall grant the Compact Privilege to a Licensee holding a valid unencumbered license in another Member State in accordance with the terms of the Compact and Rules.

(C) Member States may charge a fee for granting a Compact Privilege.

(D) A Member State may provide for the State's delegate to attend all Occupational Therapy Compact Commission meetings.

(E) Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single-State License as provided under the laws of each Member State. However, the Single-State License granted to these individuals shall not be recognized as granting the Compact Privilege in any other Member State.

(F) Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

Section 7. Section 58-42b-104 is enacted to read:

58-42b-104. Section 4 -- Compact privilege.

(A) To exercise the Compact Privilege under the terms and provisions of the Compact, the Licensee shall:

(1) Hold a license in the Home State;

(2) Have a valid United States Social Security Number or National Provider Identifier number;

(3) Have no encumbrance on any State license;

(4) Be eligible for a Compact Privilege in any Member State in accordance with Subsections (D), (F), (G), and (H);

(5) Have paid all fines and completed all requirements resulting from any Adverse Action against any license or Compact Privilege, and two years have elapsed from the date of such completion;

(6) Notify the Commission that the Licensee is seeking the Compact Privilege within a Remote State(s);

(7) Pay any applicable fees, including any State fee, for the Compact Privilege;

(8) Complete a criminal background check in accordance with Subsection 58-42b-103(A)(5). The Licensee shall be responsible for the payment of any fee associated with the completion of a criminal background check;

(9) Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Compact Privilege; and

(10) Report to the Commission Adverse Action taken by any non-Member State within 30 days from the date the Adverse Action is taken.

(B) The Compact Privilege is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Subsection 58-42b-104(A) to maintain the Compact Privilege in the Remote State.

(C) A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.

(D) Occupational Therapy Assistants practicing in a Remote State shall be supervised by an Occupational Therapist licensed or holding a Compact Privilege in that Remote State.

(E) A Licensee providing Occupational Therapy in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Compact Privilege in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Compact Privilege in any State until the specific time for removal has passed and all fines are paid.

(F) If a Home State license is encumbered, the Licensee shall lose the Compact Privilege in any Remote State until the following occur:

(1) The Home State license is no longer encumbered; and

(2) Two years have elapsed from the date on which the Home State license is no longer encumbered in accordance with Subsection 58-42b-104(F)(1).

(G) Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Subsection (A) to obtain a Compact Privilege in any Remote State.

(H) If a Licensee's Compact Privilege in any Remote State is removed, the individual may lose the Compact Privilege in any other Remote State until the following occur:

(1) The specific period of time for which the Compact Privilege was removed has ended;

(2) All fines have been paid and all conditions have been met;

(3) Two years have elapsed from the date of completing requirements for Subsections (H)(1) and (2); and

(4) The Compact Privileges are reinstated by the Commission, and the compact Data System is updated to reflect reinstatement.

(I) If a Licensee's Compact Privilege in any Remote State is removed due to an erroneous charge, privileges shall be restored through the compact Data System.

(J) Once the requirements of Subsection (H) have been met, the licensee must meet the requirements in Subsection (A) to obtain a Compact Privilege in a Remote State.

Section 8. Section 58-42b-105 is enacted to read:

58-42b-105. Section 5 -- Obtaining a new home state license by virtue of a compact privilege.

(A) An Occupational Therapist or Occupational Therapy Assistant may hold a Home State license, which allows for Compact Privileges in Member States, in only one Member State at a time.

(B) If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of Residence by moving between two Member States:

(1) The Occupational Therapist or Occupational Therapy Assistant shall file an application for obtaining a new Home State license by virtue of a Compact Privilege, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

(2) Upon receipt of an application for obtaining a new Home State license by virtue of Compact Privilege, the new Home State shall verify that the Occupational Therapist or Occupational Therapy Assistant meets the pertinent criteria outlined in Section 58-42b-104 via the Data System, without need for primary source verification except for:

(a) an FBI fingerprint based criminal background check if not previously performed or updated pursuant to applicable Rules adopted by the Commission in accordance with Public Law 92-544;

(b) other criminal background check as required by the new Home State; and

(c) submission of any requisite Jurisprudence Requirements of the new Home State.

(3) The former Home State shall convert the former Home State license into a Compact Privilege once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

(4) Notwithstanding any other provision of this Compact, if the Occupational Therapist or Occupational Therapy Assistant cannot meet the criteria in Section 58-42b-104, the new Home State shall apply its requirements for issuing a new Single-State License.

(5) The Occupational Therapist or the Occupational Therapy Assistant shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

(C) If an Occupational Therapist or Occupational Therapy Assistant changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single-State License in the new State.

(D) Nothing in this compact shall interfere with a Licensee's ability to hold a Single-State License in multiple States; however, for the purposes of this compact, a Licensee shall have only one Home State license.

(E) Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single-State License.

Section 9. Section 58-42b-106 is enacted to read:

58-42b-106. Section 6 -- Active duty military personnel or their spouses.

(A) Active Duty Military personnel, or their spouses, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State or through the process described in Section 58-42b-105.

Section 10. Section 58-42b-107 is enacted to read:

58-42b-107. Section 7 -- Adverse actions.

(A) A Home State shall have exclusive power to impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's license issued by the Home State.

(B) In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

(1) Take Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege within that Member State.

(2) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

(C) For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

(D) The Home State shall complete any pending investigations of an Occupational Therapist or

Occupational Therapy Assistant who changes Primary State of Residence during the course of the investigations. The Home State, where the investigations were initiated, shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the Occupational Therapy Compact Commission Data System. The Occupational Therapy Compact Commission Data System administrator shall promptly notify the new Home State of any Adverse Actions.

(E) A Member State, if otherwise permitted by State law, may recover from the affected Occupational Therapist or Occupational Therapy Assistant the costs of investigations and disposition of cases resulting from any Adverse Action taken against that Occupational Therapist or Occupational Therapy Assistant.

(F) A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

(G) Joint Investigations

(1) In addition to the authority granted to a Member State by its respective State Occupational Therapy laws and regulations or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

(2) Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(H) If an Adverse Action is taken by the Home State against an Occupational Therapist's or Occupational Therapy Assistant's license, the Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege in all other Member States shall be deactivated until all encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against an Occupational Therapist's or Occupational Therapy Assistant's license shall include a Statement that the Occupational Therapist's or Occupational Therapy Assistant's Compact Privilege is deactivated in all Member States during the pendency of the order.

(I) If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

(J) Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

Section 11. Section 58-42b-108 is enacted to read:

58-42b-108. Section 8 -- Establishment of the Occupational Therapy Compact Commission.

(A) The Compact Member States hereby create and establish a joint public agency known as the Occupational Therapy Compact Commission.

(1) The Commission is an instrumentality of the Compact States.

(2) Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(3) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(B) Membership, Voting, and Meetings

(1) Each Member State shall have and be limited to one delegate selected by that Member State's Licensing Board.

(2) The delegate shall be either:

(a) A current member of the Licensing Board, who is an Occupational Therapist, Occupational Therapy Assistant, or public member; or

(b) An administrator of the Licensing Board.

(3) Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

(4) The Member State board shall fill any vacancy occurring in the Commission within 90 days.

(5) Each delegate shall be entitled to one vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

(6) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

(7) The Commission shall establish by Rule a term of office for delegates.

(C) The Commission shall have the following powers and duties:

(1) Establish a Code of Ethics for the Commission;

(2) Establish the fiscal year of the Commission;

(3) Establish bylaws;

(4) Maintain its financial records in accordance with the bylaws;

(5) Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

(6) Promulgate uniform Rules to facilitate and coordinate implementation and administration of this Compact. The Rules shall have the force and effect of law and shall be binding in all Member States;

(7) Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Occupational Therapy Licensing Board to sue or be sued under applicable law shall not be affected;

(8) Purchase and maintain insurance and bonds;

(9) Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

(10) Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

(11) Accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and receive, utilize and dispose of the same, provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

(12) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve or use, any property, real, personal or mixed, provided that at all times the Commission shall avoid any appearance of impropriety;

(13) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

(14) Establish a budget and make expenditures;

(15) Borrow money;

(16) Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

(17) Provide and receive information from, and cooperate with, law enforcement agencies;

(18) Establish and elect an Executive Committee; and

(19) Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Occupational Therapy licensure and practice.

(D) The Executive Committee. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

(1) The Executive Committee shall be composed of nine members:

(a) Seven voting members who are elected by the Commission from the current membership of the Commission;

(b) One ex-officio, nonvoting member from a recognized national Occupational Therapy professional association; and

(c) One ex-officio, nonvoting member from a recognized national Occupational Therapy certification organization.

(2) The ex-officio members will be selected by their respective organizations.

(3) The Commission may remove any member of the Executive Committee as provided in bylaws.

(4) The Executive Committee shall meet at least annually.

(5) The Executive Committee shall have the following Duties and responsibilities:

(a) Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Compact Privilege;

(b) Ensure Compact administration services are appropriately provided, contractual or otherwise;

(c) Prepare and recommend the budget;

(d) Maintain financial records on behalf of the Commission;

(e) Monitor Compact compliance of Member States and provide compliance reports to the Commission;

(f) Establish additional committees as necessary; and

(g) Perform other duties as provided in Rules or bylaws.

(E) Meetings of the Commission

(1) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 58-42b-110.

(2) The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

(a) Non-compliance of a Member State with its obligations under the Compact;

(b) The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

(c) Current, threatened, or reasonably anticipated litigation;

(d) Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

(e) Accusing any person of a crime or formally censuring any person;

(f) Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(g) Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(h) Disclosure of investigative records compiled for law enforcement purposes;

(i) Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

(j) Matters specifically exempted from disclosure by federal or Member State statute.

(3) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

(4) The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(F) Financing of the Commission

(1) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

(3) The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved by the Commission each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

(4) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same, nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

(5) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(G) Qualified Immunity, Defense, and Indemnification

(1) The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

(2) The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel, and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

(3) The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 12. Section 58-42b-109 is enacted to read:

58-42b-109. Section 9 -- Data system.

(A) The Commission shall provide for the development, maintenance, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

(B) A Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable (utilizing a unique identifier) as required by the Rules of the Commission, including:

(1) Identifying information;

(2) Licensure data;

(3) Adverse Actions against a license or Compact Privilege;

(4) Non-confidential information related to Alternative Program participation;

(5) Any denial of application for licensure, and the reason(s) for such denial;

(6) Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission; and

(7) Current Significant Investigative Information.

(C) Current Significant Investigative Information and other Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

(D) The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

(E) Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

(F) Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

Section 13. Section 58-42b-110 is enacted to read:

58-42b-110. Section 10 -- Rulemaking.

(A) The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

(B) The Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

(C) If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

(D) Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

(E) Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

(1) On the website of the Commission or other publicly accessible platform; and

(2) On the website of each Member State Occupational Therapy Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

(F) The Notice of Proposed Rulemaking shall include:

(1) The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

(2) The text of the proposed Rule or amendment and the reason for the proposed Rule;

(3) A request for comments on the proposed Rule from any interested person; and

(4) The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(G) Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(H) The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

(1) At least 25 persons;

(2) A State or federal governmental subdivision or agency; or

(3) An association or organization having at least 25 members.

(I) If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

(1) All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five business days before the scheduled date of the hearing.

(2) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(3) All hearings will be recorded. A copy of the recording will be made available on request.

(4) Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(J) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(K) If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

(L) The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

(M) Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

(1) Meet an imminent threat to public health, safety, or welfare;

(2) Prevent a loss of Commission or Member State funds;

(3) Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

(4) Protect public health and safety.

(N) The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of 30 days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Section 14. Section 58-42b-111 is enacted to read:

58-42b-111. Section 11 -- Oversight, dispute resolution, and enforcement.

(A) Oversight

(1) The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

(2) All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

(3) The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

(B) Default, Technical Assistance, and Termination

(1) If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

(a) Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default, and/or any other action to be taken by the Commission; and

(b) Provide remedial training and specific technical assistance regarding the default.

(2) If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

(3) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

(4) A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(5) The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

(6) The defaulting State may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be

awarded all costs of such litigation, including reasonable attorney fees.

(C) Dispute Resolution

(1) Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

(2) The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

(D) Enforcement

(1) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

(2) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

(3) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

Section 15. Section 58-42b-112 is enacted to read:

58-42b-112. Section 12 -- Date of implementation of the Interstate Commission for Occupational Therapy Practice and associated rules, withdrawal, and amendment.

(A) The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

(B) Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

(C) Any Member State may withdraw from this Compact by enacting a statute repealing the same.

(1) A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(2) Withdrawal shall not affect the continuing requirement of the withdrawing State's Occupational Therapy Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

(D) Nothing contained in this Compact shall be construed to invalidate or prevent any Occupational Therapy licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

(E) This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Section 16. Section 58-42b-113 is enacted to read:

58-42b-113. Section 13 -- Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Section 17. Section 58-42b-114 is enacted to read:

58-42b-114. Section 14 -- Binding effect of compact and other laws.

(A) A Licensee providing Occupational Therapy in a Remote State under the Compact Privilege shall function within the laws and regulations of the Remote State.

(B) Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

(C) Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

(D) Any lawful actions of the Commission, including all Rules and bylaws promulgated by the Commission, are binding upon the Member States.

(E) All agreements between the Commission and the Member States are binding in accordance with their terms.

(F) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

Section 18. Section 58-42b-201 is enacted to read:

Part 2. Rulemaking

58-42b-201. Rulemaking authority.

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

CHAPTER 222
H. B. 159
Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

ATTORNEY GENERAL PROSECUTION REVIEW AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends provisions relating to the duties of the attorney general.

Highlighted Provisions:

This bill:

- describes requirements applicable to a district attorney, county attorney, and a law enforcement agency to provide information and evidence to the attorney general when the attorney general conducts a de novo review of a case;
- permits the attorney general to seek a court order to enforce timely compliance with the preceding paragraph; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

36-12-7, as last amended by Laws of Utah 2020, Chapter 343
67-5-1, as last amended by Laws of Utah 2021, Chapter 273
67-5-1.1, as enacted by Laws of Utah 2018, Chapter 473

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-12-7 is amended to read:

36-12-7. Legislative Management Committee -- Duties -- Litigation.

(1) The Senate or House Management Committee shall:

(a) receive legislative resolutions directing studies on legislative matters and may assign these studies to the appropriate interim committee of its house;

(b) assign to interim committees of the same house, matters of legislative study not specifically contained in a legislative resolution but considered significant to the welfare of the state;

(c) receive requests from interim committees of its house for matters to be included on the study agenda of the requesting committee. Appropriate bases for denying a study include inadequate funding to properly complete the study or duplication of the work;

(d) establish a budget account for interim committee day as designated by Legislative Management Committee and for all other legislative committees of its house and allocate to that account sufficient funds to adequately provide for the work of the committee; and

(e) designate the time and place for periodic meetings of the interim committees.

(2) To maximize the use of legislators' available time, the Senate and House Management Committees should attempt to schedule the committee meetings of their respective houses during the same one or two-day period each month. This does not preclude an interim committee from meeting at any time it determines necessary to complete its business.

(3) The Legislative Management Committee shall:

(a) employ, after recommendation of the appropriate subcommittee of the Legislative Management Committee, without regard to political affiliation, and subject to approval of a majority vote of both houses, persons qualified for the positions of director of the Office of Legislative Research and General Counsel, legislative fiscal analyst, legislative general counsel, and legislative auditor general. Appointments to these positions shall be for terms of six years subject to renewal under the same procedure as the original appointment. A person may be removed from any of these offices before the expiration of the person's term only by a majority vote of both houses of the Legislature or by a two-thirds vote of the management committee for such causes as inefficiency, incompetency, failure to maintain skills or adequate performance levels, insubordination, misfeasance, malfeasance, or nonfeasance in office. If a vacancy occurs in any of these offices after adjournment of the Legislature, the committee shall appoint an individual to fill the vacancy until such time as the person is approved or rejected by majority vote of the next session of the Legislature;

(b) develop policies for personnel management, compensation, and training of all professional legislative staff;

(c) develop a policy within the limits of legislative appropriation for the authorization and payment to legislators of compensation and travel expenses, including out-of-state travel;

(d) approve special study budget requests of the legislative directors; and

(e) assist the speaker-elect of the House of Representatives and the president-elect of the Senate, upon selection by their majority party caucus, to organize their respective houses of the Legislature and assume the direction of the operation of the Legislature in the forthcoming annual general session.

(4) (a) The Legislature delegates to the Legislative Management Committee the authority, by means of a majority vote of the committee, to direct the legislative general counsel in matters

involving the Legislature's participation in litigation.

(b) The Legislature has an unconditional right to intervene in a state court action and may provide evidence or argument, written or oral, if a party to that court action challenges:

(i) the constitutionality of a state statute;

(ii) the validity of legislation; or

(iii) any action of the Legislature.

(c) In a federal court action that challenges the constitutionality of a state statute, the validity of legislation, or any action of the Legislature, the Legislature may seek to intervene, to file an amicus brief, or to present argument in accordance with federal rules of procedure.

(d) Intervention by the Legislature pursuant to Subsection (4)(b) or (c) does not limit the duty of the attorney general to appear and prosecute legal actions or defend state agencies, officers or employees as otherwise provided by law.

(e) In any action in which the Legislature intervenes or participates, legislative counsel and the attorney general shall function independently from each other in the representation of their respective clients.

(f) The attorney general shall notify the legislative general counsel of a claim in accordance with Subsection [~~67-5-1(25)~~] 67-5-1(1)(y).

Section 2. Section 67-5-1 is amended to read:

67-5-1. General duties.

(1) The attorney general shall:

[~~(1)~~] (a) perform all duties in a manner consistent with the attorney-client relationship under Section 67-5-17;

[~~(2)~~] (b) except as provided in Sections 10-3-928 and 17-18a-403, attend the Supreme Court and the Court of Appeals of this state, and all courts of the United States, and prosecute or defend all causes to which the state or any officer, board, or commission of the state in an official capacity is a party, and take charge, as attorney, of all civil legal matters in which the state is interested;

[~~(3)~~] (c) after judgment on any cause referred to in Subsection [~~(2)~~] (1)(b), direct the issuance of process as necessary to execute the judgment;

[~~(4)~~] (d) account for, and pay over to the proper officer, all money that comes into the attorney general's possession that belongs to the state;

[~~(5)~~] (e) keep a file of all cases in which the attorney general is required to appear, including any documents and papers showing the court in which the cases have been instituted and tried, and whether they are civil or criminal, and:

[~~(a)~~] (i) if civil, the nature of the demand, the stage of proceedings, and, when prosecuted to judgment, a memorandum of the judgment and of any process issued if satisfied, and if not satisfied, documentation of the return of the sheriff;

[~~(b)~~] (ii) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and, when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, and, if not executed, the reason for the delay or prevention; and

[~~(c)~~] (iii) deliver this information to the attorney general's successor in office;

[~~(6)~~] (f) exercise supervisory powers over the district and county attorneys of the state in all matters pertaining to the duties of the district and county attorneys' offices, including the authority [~~to:~~] described in Subsection (2);

[~~(a) require a district or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge; or~~]

[~~(b) review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:~~]

[~~(i) a law enforcement agency submits investigation results to the county or district attorney of the jurisdiction where the incident occurred and the county or district attorney:~~]

[~~(A) declines to file criminal charges; or~~]

[~~(B) fails to screen the case for criminal charges within six months of the law enforcement agency's submission of the investigation results; and~~]

[~~(ii) after consultation with the county or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county or district attorney of the jurisdiction where the incident occurred;~~]

[~~(7)~~] (g) give the attorney general's opinion in writing and without fee, when required, upon any question of law relating to the office of the requester:

[~~(a)~~] (i) in accordance with Section 67-5-1.1, to the Legislature or either house;

[~~(b)~~] (ii) to any state officer, board, or commission; and

[~~(c)~~] (iii) to any county attorney or district attorney;

[~~(8)~~] (h) when required by the public service or directed by the governor, assist any county, district, or city attorney in the discharge of county, district, or city attorney's duties;

[~~(9)~~] (i) purchase in the name of the state, under the direction of the state Board of Examiners, any property offered for sale under execution issued upon judgments in favor of or for the use of the state, and enter satisfaction in whole or in part of the judgments as the consideration of the purchases;

[~~(10)~~] (j) when the property of a judgment debtor in any judgment mentioned in Subsection [~~(9)~~] (1)(i) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance taking precedence of the judgment in favor of the state, redeem the property, under the direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and pay all money necessary for the redemption, upon the order of the state Board of Examiners, out of any money appropriated for these purposes;

[~~(11)~~] (k) when in the attorney general's opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

[~~(12)~~] (l) discharge the duties of a member of all official boards of which the attorney general is or may be made a member by the Utah Constitution or by the laws of the state, and other duties prescribed by law;

[~~(13)~~] (m) institute and prosecute proper proceedings in any court of the state or of the United States to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

[~~(14)~~] (n) institute investigations for the recovery of all real or personal property that may have escheated or should escheat to the state, and for that purpose, subpoena any persons before any of the district courts to answer inquiries and render accounts concerning any property, examine all books and papers of any corporations, and when any real or personal property is discovered that should escheat to the state, institute suit in the district court of the county where the property is situated for its recovery, and escheat that property to the state;

[~~(15)~~] (o) administer the Children's Justice Center as a program to be implemented in various counties pursuant to Sections 67-5b-101 through 67-5b-107;

[~~(16)~~] (p) assist the Constitutional Defense Council as provided in Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

[~~(17)~~] (q) pursue any appropriate legal action to implement the state's public lands policy established in Section 63C-4a-103;

[~~(18)~~] (r) investigate and prosecute violations of all applicable state laws relating to fraud in connection with the state Medicaid program and any other medical assistance program administered by the state, including violations of Title 26, Chapter 20, Utah False Claims Act;

[~~(19)~~] (s) investigate and prosecute complaints of abuse, neglect, or exploitation of patients:

[~~(a)~~] (i) in health care facilities that receive payments under the state Medicaid program;

[~~(b)~~] (ii) in board and care facilities, as defined in the federal Social Security Act, 42 U.S.C. Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

[~~(c)~~] (iii) who are receiving medical assistance under the Medicaid program as defined in Section 26-18-2 in a noninstitutional or other setting;

[~~(20) (a)~~] (t) (i) report at least twice per year to the Legislative Management Committee on any pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

[~~(i)~~] (A) cost the state more than $500,000; or

[~~(ii)~~] (B) require the state to take legally binding action that would cost more than $500,000 to implement; and

[~~(b)~~] (ii) if the meeting is closed, include an estimate of the state's potential financial or other legal exposure in that report;

[~~(21) (a)~~] (u) (i) submit a written report to the committees described in Subsection [~~(21)(b)~~] (1)(u)(ii) that summarizes any lawsuit or decision in which a court or the Office of the Attorney General has determined that a state statute is unconstitutional or unenforceable since the attorney general's last report under this Subsection [~~(21)~~] (1)(u), including any:

[~~(i)~~] (A) settlements reached;

[~~(ii)~~] (B) consent decrees entered;

[~~(iii)~~] (C) judgments issued;

[~~(iv)~~] (D) preliminary injunctions issued;

[~~(v)~~] (E) temporary restraining orders issued; or

[~~(vi)~~] (F) formal or informal policies of the Office of the Attorney General to not enforce a law; and

[~~(b)~~] (ii) at least 30 days before the Legislature's May and November interim meetings, submit the report described in Subsection [~~(21)(a)~~] (1)(u)(i) to:

[~~(i)~~] (A) the Legislative Management Committee;

[~~(ii)~~] (B) the Judiciary Interim Committee; and

[~~(iii)~~] (C) the Law Enforcement and Criminal Justice Interim Committee;

[~~(22)~~] (v) if the attorney general operates the Office of the Attorney General or any portion of the Office of the Attorney General as an internal service fund agency in accordance with Section 67-5-4, submit to the rate committee established in Section 67-5-34:

[~~(a)~~] (i) a proposed rate and fee schedule in accordance with Subsection 67-5-34(4); and

[~~(b)~~] (ii) any other information or analysis requested by the rate committee;

[~~(23)~~] (w) before the end of each calendar year, create an annual performance report for the Office of the Attorney General and post the report on the attorney general's website;

[~~(24)~~] (x) ensure that any training required under this chapter complies with Title 63G, Chapter 22, State Training and Certification Requirements;

[~~(25)~~] (y) notify the legislative general counsel in writing within three business days after the day on which the attorney general is officially notified of a claim, regardless of whether the claim is filed in state or federal court, that challenges:

[~~(a)~~] (i) the constitutionality of a state statute;

[~~(b)~~] (ii) the validity of legislation; or

[~~(c)~~] (iii) any action of the Legislature; and

[~~(26) (a)~~] (z) (i) notwithstanding Title 63G, Chapter 6a, Utah Procurement Code, provide a special advisor to the Office of the Governor and the Office of the Attorney General in matters relating to Native American and tribal issues to:

[~~(i)~~] (A) establish outreach to the tribes and affected counties and communities; and

[~~(ii)~~] (B) foster better relations and a cooperative framework; and

[~~(b)~~] (ii) annually report to the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

[~~(i)~~] (A) the status of the work of the special advisor described in Subsection [~~(26)(a)~~] (1)(z)(i); and

[~~(ii)~~] (B) whether the need remains for the ongoing appropriation to fund the special advisor described in Subsection [~~(26)(a)~~] (1)(z)(i).

(2) (a) The attorney general may require a district attorney or county attorney of the state to, upon request, report on the status of public business entrusted to the district or county attorney's charge.

(b) The attorney general may review investigation results de novo and file criminal charges, if warranted, in any case involving a first degree felony, if:

(i) a law enforcement agency submits investigation results to the county attorney or district attorney of the jurisdiction where the incident occurred and the county attorney or district attorney:

(A) declines to file criminal charges; or

(B) fails to screen the case for criminal charges within six months after the law enforcement agency's submission of the investigation results; and

(ii) after consultation with the county attorney or district attorney of the jurisdiction where the incident occurred, the attorney general reasonably believes action by the attorney general would not interfere with an ongoing investigation or prosecution by the county attorney or district attorney of the jurisdiction where the incident occurred.

(c) If the attorney general decides to conduct a review under Subsection (2)(b), the district attorney, county attorney, and law enforcement agency shall, within 14 days after the day on which the attorney general makes a request, provide the attorney general with:

(i) all information relating to the investigation, including all reports, witness lists, witness statements, and other documents created or collected in relation to the investigation;

(ii) all recordings, photographs, and other physical or digital media created or collected in relation to the investigation;

(iii) access to all evidence gathered or collected in relation to the investigation; and

(iv) the identification of, and access to, all officers or other persons who have information relating to the investigation.

(d) If a district attorney, county attorney, or law enforcement agency fails to timely comply with Subsection (2)(c), the attorney general may seek a court order compelling compliance.

(e) If the attorney general seeks a court order under Subsection (2)(d), the court shall grant the order unless the district attorney, county attorney, or law enforcement agency shows good cause and a compelling interest for not complying with Subsection (2)(c).

Section 3. Section 67-5-1.1 is amended to read:

67-5-1.1. Written opinion to the Legislature -- Rebuttable presumption.

(1) When the Legislature or either house requests the attorney general's written legal opinion in accordance with Subsection [~~67-5-1(7)~~] 67-5-1(1)(g):

(a) the attorney general shall, applying concepts from the Rules of Professional Conduct contained in the Supreme Court Rules of Professional Practice, identify any potential conflicts of interest in providing the attorney general's legal opinion to the Legislature;

(b) if the attorney general identifies a potential conflict of interest under Subsection (1)(a), the attorney general shall, as soon as practicable after the identification:

(i) ensure that the attorney general's office provides each entity or individual involved in the potential conflict competent, privileged, and objective advice or representation by establishing:

(A) confidentiality procedures; and

(B) staffing divisions or other structural or administrative safeguards to screen attorneys participating in the preparation of the attorney general's opinion from participation on behalf of any other entity or individual involved in the potential conflict; and

(ii) provide written notice to each entity or individual involved in the potential conflict that describes the screening procedures that the attorney general establishes; and

(c) after complying with Subsections (1)(a) and (b), the attorney general shall provide the attorney general's opinion:

(i) within 30 days after the day on which the requester makes the request for the opinion; or

(ii) by a date upon which the attorney general and the requester agree.

(2) There is a presumption that:

(a) the attorney general's reasonable compliance with Subsections (1)(a) and (b) satisfies any ethical or professional obligation arising from the potential conflict of interest; and

(b) with adequate screening safeguards and procedures in place, the attorney general has an attorney-client relationship with each entity or individual involved in the potential conflict of interest.

(3) (a) The attorney general shall comply in good faith with the requirement to provide the opinion in accordance with Subsection [~~67-5-1(7)~~] 67-5-1(1)(g) and this section.

(b) The attorney general may not invoke the potential conflict of interest or attorney-client privilege as grounds to withhold or refuse to provide the legal opinion required in Subsection [~~67-5-1(7)~~] 67-5-1(1)(g) and this section.

(c) The Legislature or either house may petition the Utah Supreme Court for an extraordinary writ to obtain the legal opinion if the attorney general does not provide the opinion within the time period described in Subsection (1)(c).

CHAPTER 223
H. B. 173

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

JORDAN RIVER RECREATION AREA AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Scott D. Sandall
Cosponsors: Cheryl K. Acton
James A. Dunnigan
Ashlee Matthews
Carol Spackman Moss
Judy Weeks Rohner
Angela Romero
Elizabeth Weight

LONG TITLE

General Description:

This bill addresses Jordan River improvement projects.

Highlighted Provisions:

This bill:

- modifies the size of the Jordan River Recreation Area or zone;
- addresses grants; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Natural Resources -- Division of Forestry, Fire, and State Lands, as an ongoing appropriation:
  - from the General Fund, $190,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

65A-2-8, as last amended by Laws of Utah 2020, Chapter 157

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-2-8 is amended to read:

65A-2-8. Jordan River improvement projects.

(1) As used in this section:

(a) "Commission" means the Jordan River Commission created by interlocal agreement.

(b) "Zone" means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and [~~4800~~] 5400 South.

(2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) and (4), may:

(a) expend money for the following purposes:

(i) enhancing safety, recreation, and conservation in the zone;

(ii) capital improvements within the zone, including:

(A) lighting along the Jordan River and within the zone;

(B) completing construction of a paved pathway on both sides of the Jordan River within the zone;

(C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and

(D) supporting Tracy Aviary, a nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;

(iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;

(iv) hiring or contracting for personnel to perform tasks as directed by the commission;

(v) partnering or contracting with an urban ranger or conservation corp operated by a state institution of higher education or similar service-oriented organizations or programs:

(A) to provide trail, river, and parkway maintenance, invasive species removal and revegetation, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; and

(vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).

(3) (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:

(i) the commission;

(ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and

(iii) the relevant municipality within the zone.

(b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:

(i) receive the approval of the commission; and

(ii) consult with:

(A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and

(B) the relevant municipality within the zone.

(4) (a) The programs described in this section may only be implemented as appropriations from the Legislature allow.

(b) (i) Money appropriated to programs in this section [~~are~~] is managed by the division in accordance with this section[~~.~~] and may include the division dispersing money through issuing grants.

(ii) The division shall:

(A) before December 31, 2022, issue a five-year grant to a zoo, aviary, nature center, or other educational program located within the zone; and

(B) renew the grant described in Subsection (4)(b)(ii)(A) every five years.

(c) Money that the Legislature appropriates to programs described in this section [~~are~~] is nonlapsing in accordance with Section 63J-1-602.2.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Natural Resources -- Division of Forestry, Fire, and State Lands

From General Fund	$190,000
Schedule of Programs:	
Project management	$190,000

The Legislature intends that the appropriation under this item fund a grant described in Subsection 65A-2-8(4)(b)(ii). An appropriation under this item is nonlapsing.

CHAPTER 224
H. B. 176

Passed March 3, 2022
Approved March 23, 2022
Effective July 1, 2022

UTAH HEALTH WORKFORCE ACT

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill enacts provisions relating to Utah's health workforce.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Utah Health Workforce Advisory Council (council);
- requires the council to provide information and recommendations to government entities regarding policy decisions that affect Utah's health workforce;
- creates the Utah Health Workforce Information Center (information center);
- requires the information center to conduct research and analyze data regarding Utah's health workforce;
- moves oversight of the Utah Medical Education Council to the council;
- modifies the Utah Medical Education Council's duties, including removing data analysis duties;
- requires the Department of Commerce to work with the council and the information center to collect data regarding Utah's health workforce; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53B-26-202, as last amended by Laws of Utah 2020, Chapter 365
63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417
63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307
63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424
63J-7-102, as last amended by Laws of Utah 2018, Chapter 415

ENACTS:

26-69-101, Utah Code Annotated 1953
26-69-201, Utah Code Annotated 1953
26-69-202, Utah Code Annotated 1953
26-69-203, Utah Code Annotated 1953
26-69-301, Utah Code Annotated 1953
58-1-112, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26-69-401, (Renumbered from 53B-24-102, as last amended by Laws of Utah 2020, Chapter 335)
26-69-402, (Renumbered from 53B-24-302, as renumbered and amended by Laws of Utah 2013, Chapter 28)
26-69-403, (Renumbered from 53B-24-202, as last amended by Laws of Utah 2015, Chapter 258)
26-69-404, (Renumbered from 53B-24-303, as last amended by Laws of Utah 2018, Chapter 354)
26-69-405, (Renumbered from 53B-24-304, as renumbered and amended by Laws of Utah 2013, Chapter 28)
26-69-406, (Renumbered from 53B-24-402, as last amended by Laws of Utah 2020, Chapter 335)

REPEALS:

53B-24-101, as enacted by Laws of Utah 2013, Chapter 28
53B-24-201, as enacted by Laws of Utah 2013, Chapter 28
53B-24-301, as enacted by Laws of Utah 2013, Chapter 28
53B-24-401, as enacted by Laws of Utah 2013, Chapter 28

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-69-101 is enacted to read:

CHAPTER 69. UTAH HEALTH WORKFORCE ACT

Part 1. General Provisions

26-69-101. Definitions.

As used in this chapter:

(1) "Council" means the Utah Health Workforce Advisory Council created in Section 26-69-103.

(2) "Health sector" means any place of employment where the primary function is the delivery of health care services.

(3) (a) "Health workforce" means the individuals, collectively and by profession, who deliver health care services or assist in the delivery of health care services.

(b) "Health workforce" includes any health care professional who does not work in the health sector and any non-health care professional who works in the health sector.

Section 2. Section 26-69-201 is enacted to read:

Part 2. Utah Health Workforce Advisory Council

26-69-201. Utah Health Workforce Advisory Council creation and membership.

(1) There is created within the department the Utah Health Workforce Advisory Council.

(2) The council shall be comprised of at least 14 but not more than 19 members.

(3) The following are members of the council:

(a) the executive director or that individual's designee;

(b) the executive director of the Department of Workforce Services or that individual's designee;

(c) the commissioner of higher education of the Utah System of Higher Education or that individual's designee;

(d) the state superintendent of the State Board of Education or that individual's designee;

(e) the executive director of the Department of Commerce or that individual's designee;

(f) the director of the Division of Multicultural Affairs or that individual's designee;

(g) the director of the Utah Substance Use and Mental Advisory Council or that individual's designee;

(h) the chair of the Utah Indian Health Advisory Board; and

(i) the chair of the Utah Medical Education Council created in Section 26-69-402.

(4) The executive director shall appoint at least five but not more than ten additional members that represent diverse perspectives regarding Utah's health workforce.

(5) (a) A member appointed by the executive director under Subsection (4) shall serve a four-year term.

(b) Notwithstanding Subsection (5)(a) for the initial appointments of members described in Subsection (4) the executive director shall appoint at least three but not more than five members to a two-year appointment to ensure that approximately half of the members appointed by the executive director rotate every two years.

(6) The executive director or the executive director's designee shall chair the council.

Section 3. Section 26-69-202 is enacted to read:

26-69-202. Council and executive director duties.

(1) The council shall:

(a) meet at least once each quarter;

(b) study and provide recommendations to an entity described in Subsection (2) regarding:

(i) health workforce supply;

(ii) health workforce employment trends and demand;

(iii) options for training and educating the health workforce;

(iv) the implementation or improvement of strategies that entities in the state are using or may use to address health workforce needs including:

(A) shortages;

(B) recruitment; and

(C) retention; and

(v) other Utah health workforce priorities as determined by the council;

(c) provide guidance to an entity described in Subsection (2) regarding health workforce related matters;

(d) review and comment on legislation relevant to Utah's health workforce; and

(e) advise the Utah Board of Higher Education and the Legislature on the status and needs of the health workforce who are in training.

(2) The council shall provide information described in Subsections (1)(b) and (c) to:

(a) the Legislature;

(b) the department;

(c) the Department of Workforce Services;

(d) the Department of Commerce;

(e) the Utah Medical Education Council; and

(f) any other entity the council deems appropriate upon the entity's request.

(3) (a) The Utah Medical Education Council created in Section 26-69-402 is a subcommittee of the council.

(b) The council may establish subcommittees to support the work of the council.

(c) A member of the council shall chair a subcommittee created by the council.

(d) Except for the Utah Medical Education Council, the chair of the subcommittee may appoint any individual to the subcommittee.

(4) For any report created by the council that pertains to any duty described in Subsection (1), the council shall:

(a) provide the report to:

(i) the department; and

(ii) any appropriate legislative committee; and

(b) post the report on the council's website.

(5) The executive director shall:

(a) ensure the council has adequate staff to support the council and any subcommittee created by the council; and

(b) provide any available information upon the council's request if:

(i) that information is necessary for the council to fulfill a duty described in Subsection (1); and

(ii) the department has access to the information.

Section 4. Section 26-69-203 is enacted to read:

26-69-203. Members serve without pay -- Reimbursement for expenses.

A member of the council or a subcommittee created by the council may not receive compensation or benefits for the member's service but may receive per diem and travel expenses as allowed in:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

Section 5. Section 26-69-301 is enacted to read:

Part 3. Utah Health Workforce Information Center

26-69-301. Utah Health Workforce Information Center.

(1) There is created within the department the Utah Health Workforce Information Center.

(2) The information center shall:

(a) under the guidance of the council, work with the Department of Commerce to collect data described in Section 58-1-112;

(b) analyze data from any available source regarding Utah's health workforce including data collected by the Department of Commerce under Section 58-1-112;

(c) send a report to the council regarding any analysis of health workforce data;

(d) conduct research on Utah's health workforce as directed by the council;

(e) notwithstanding the provisions of Subsection 35A-4-312(3), receive information obtained by the Department of Workforce Services under the provisions of Section 35A-4-312 for purposes consistent with the information center's duties, including identifying changes in Utah's health workforce numbers, types, and geographic distribution;

(f) project the demand for individuals to enter health care professions, including the nursing profession in accordance with Section 53B-26-202;

(g) subject to Section 26-3-7, share data with any appropriate person as determined by the information center; and

(h) conduct research and provide analysis for any state agency as approved by the executive director or the executive director's designee.

(3) Notwithstanding any other provision of state law, the information center is authorized to obtain data from any state agency if:

(a) the council and the information center deem receiving the data necessary to perform a duty listed under Subsection (2) or 26-69-202(1); and

(b) the information center's access to the data will not:

(i) violate any federal statute or federal regulation; or

(ii) violate a condition a state agency must follow:

(A) to participate in a federal program; or

(B) to receive federal funds.

Section 6. Section 26-69-401, which is renumbered from Section 53B-24-102 is renumbered and amended to read:

Part 4. Utah Medical Education Council

[~~53B-24-102~~]. 26-69-401. Definitions.

As used in this chapter:

(1) "Accredited clinical education program" means a clinical education program for a health care profession that is accredited by the Accreditation Council on Graduate Medical Education.

(2) "Accredited clinical training program" means a clinical training program that is accredited by an entity recognized within medical education circles as an accrediting body for medical education, advanced practice nursing education, physician assistance education, doctor of pharmacy education, dental education, or registered nursing education.

(3) "Centers for Medicare and Medicaid Services" means the Centers for Medicare and Medicaid Services within the United States Department of Health and Human Services.

[~~(4) "Council" means the Medical Education Council created under Section 53B-24-302.~~]

[~~(5)~~] (4) "Health care professionals in training" means medical students and residents, advance practice nursing students, physician assistant students, doctor of pharmacy students, dental students, and registered nursing students.

[~~(6)~~] (5) "Program" means the Medical Education Program created under Section [~~53B-24-202~~] 26-69-403.

(6) "UMEC" means the Utah Medical Education Council created in Section 26-69-402.

Section 7. Section 26-69-402, which is renumbered from Section 53B-24-302 is renumbered and amended to read:

[~~53B-24-302~~]. 26-69-402. Utah Medical Education Council.

[~~(1) There is created the Medical Education Council consisting of the following members appointed by the governor:~~]

(1) (a) There is created the Utah Medical Education Council, which is a subcommittee of the Utah Health Workforce Advisory Council.

(b) The membership of UMEC shall consist of the following appointed by the governor:

[~~(a)~~] (i) the dean of the school of medicine at the University of Utah;

[~~(b) a person~~] (ii) an individual who represents graduate medical education at the University of Utah;

[~~(c) a person~~] (iii) an individual from each institution, other than the University of Utah, that sponsors an accredited clinical education program;

[~~(d) a person~~] (iv) an individual from the health care insurance industry; and

[~~(e)~~] (v) (A) three members of the general public who are not employed by or affiliated with any institution that offers, sponsors, or finances health care or medical education; [~~however,~~] and

(B) if the number of individuals appointed under Subsection (1)(b)(iii) is more than two, the governor may appoint an additional member of the public under this Subsection [~~(1)(e)~~] (1)(b)(v) for each [~~person~~] individual the governor appoints [~~that increases the total number of persons appointed~~] under Subsection [~~(1)(c)~~] (1)(b)(iii) beyond two.

(2) Except as provided in [~~Subsection (1)(a) and (b)~~] Subsections (1)(b)(i) and (ii), no two council members may be employed by or affiliated with the same:

(a) institution of higher education;

(b) state agency outside of higher education; or

(c) private entity.

(3) The dean of the school of medicine at the University of Utah:

(a) shall chair [~~the council~~] UMEC;

(b) may not be counted in determining the existence of a quorum; and

(c) may only cast a vote on a matter before the council if the vote of the other council members results in a tied vote.

(4) [~~The council~~] UMEC shall annually elect a vice chair from [~~among the members of the council~~] UMEC's members.

(5) (a) Consistent with Subsection (6)(b), a majority of the [~~council~~] members constitute a quorum.

(b) The action of a majority of a quorum is the action of [~~the council~~] UMEC.

(6) (a) Except as provided in Subsection (6)(b), members are appointed to four-year terms of office.

(b) Notwithstanding Subsection (6)(a), the governor shall, at the time of the initial appointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the [~~council is~~] members are appointed every two years.

(c) If a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term in the same manner as the original appointment was made.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) The council shall provide staff for UMEC.

Section 8. Section 26-69-403, which is renumbered from Section 53B-24-202 is renumbered and amended to read:

[~~53B-24-202~~]. 26-69-403. Medical Education Program.

(1) There is created a Medical Education Program to be administered by [~~the Medical Education Council~~] UMEC in cooperation with the Division of Finance.

(2) The program shall be funded from money received for graduate medical education from:

(a) the federal Centers for Medicare and Medicaid Services or other federal agency;

(b) state appropriations; and

(c) donation or private contributions.

(3) All funding for this program shall be nonlapsing.

(4) Program money may only be expended if:

(a) approved by [~~the council~~] UMEC; and

(b) used for graduate medical education in accordance with Subsection [~~53B-24-303(7)~~] 26-69-404(4).

Section 9. Section 26-69-404, which is renumbered from Section 53B-24-303 is renumbered and amended to read:

[~~53B-24-303~~]. 26-69-404. Duties of UMEC.

[~~The council~~] UMEC shall:

[~~(1) submit an application in accordance with federal law for a demonstration project to the Centers for Medicare and Medicaid Services before December 31, 1997, for the purpose of receiving and disbursing federal funds for direct and indirect graduate medical education expenses;~~]

[~~(2)~~] (1) seek private and public contributions for the program;

[~~(3) study and recommend options for financing graduate medical education to the board and the Legislature;~~]

[~~(4) advise the board and the Legislature on the status and needs of health care professionals in training;~~]

[~~(5)~~] (2) determine the method for reimbursing institutions that sponsor health care professionals in training;

[~~(6)~~] (3) determine the number and type of positions for health care professionals in training for which program money may be used;

[~~(7)~~] (4) distribute program money for graduate medical education in a manner that:

(a) prepares postgraduate medical residents, as defined by the accreditation council on graduate medical education, for inpatient, outpatient, hospital, community, and geographically diverse settings;

(b) encourages the coordination of interdisciplinary clinical training among health care professionals in training;

(c) promotes stable funding for the clinical training of health care professionals in training; and

(d) only funds accredited clinical training programs; and

[~~(8) project the demand for individuals to enter a nursing profession as described in Section 53B-26-202.~~]

(5) advise on the implementation of the program.

Section 10. Section 26-69-405, which is renumbered from Section 53B-24-304 is renumbered and amended to read:

[~~53B-24-304~~]. 26-69-405. Powers of UMEC.

[~~The council~~] UMEC may:

[~~(1) conduct surveys, with the assistance of the Division of Occupational and Professional Licensing within the Department of Commerce, to assess and meet changing market and education needs;~~]

[~~(2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information obtained by the Division of Workforce Information and Payment Services under the provisions of Section 35A-4-312 for purposes consistent with the council's duties as identified under Section 53B-24-303, including identifying changes in the medical and health care workforce numbers, types, and geographic distribution;~~]

[~~(3)~~] (1) appoint advisory committees of broad representation on interdisciplinary clinical education, workforce mix planning and projections, funding mechanisms, and other topics as is necessary;

[~~(4)~~] (2) use federal money for necessary administrative expenses to carry out its duties and powers as permitted by federal law;

[~~(5)~~] (3) distribute program money in accordance with Subsection [~~53B-24-303(7)~~] 26-69-404(4); and

[~~(6)~~] (4) as is necessary to carry out [~~its~~] UMEC's duties under Section [~~53B-24-303: (a) hire employees; and (b)~~] 26-69-404, adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 11. Section 26-69-406, which is renumbered from Section 53B-24-402 is renumbered and amended to read:

[~~53B-24-402~~]. 26-69-406. Rural residency training program.

(1) As used in this section:

(a) "Physician" means:

(i) [~~a person~~] an individual licensed to practice medicine under Title 58, Chapter 67, Utah Medical Practice Act or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) [~~a person~~] an individual licensed to practice dentistry under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act.

(b) "Rural residency training program" means an accredited clinical training program [~~which~~] that places a physician into a rural county for a part or all of the physician's clinical training.

(2) [~~(a)~~] Subject to appropriations from the Legislature, [~~the council~~] UMEC shall establish a pilot program to place physicians into rural residency training programs.

[~~(b) The program shall sunset in accordance with Section 63I-1-253.~~]

Section 12. Section 53B-26-202 is amended to read:

53B-26-202. Nursing initiative -- Reporting requirements -- Proposals -- Funding.

(1) Every even-numbered year, [~~the Medical Education Council created in Section 53B-24-302~~] the Utah Health Workforce Information Center created in Section 26-69-301 shall:

(a) project the demand, by license classification, for individuals to enter a nursing profession in each region;

(b) receive input from at least one medical association in developing the projections described in Subsection (1)(a); and

(c) report the projections described in Subsection (1)(a) to:

(i) the board; and

(ii) the Higher Education Appropriations Subcommittee.

(2) To receive funding under this section, on or before January 5, an eligible program shall submit to the Higher Education Appropriations Subcommittee, through the budget process for the board, as applicable, a proposal that describes:

(a) a program of instruction offered by the eligible program that is responsive to a projection described in Subsection (1)(a);

(b) the following information about the eligible program:

(i) expected student enrollment;

(ii) attainment rates;

(iii) job placement rates; and

(iv) passage rates for exams required for licensure for a nursing profession;

(c) the instructional cost per full-time equivalent student enrolled in the eligible program;

(d) financial or in-kind contributions to the eligible program from:

(i) the health care industry; or

(ii) an institution; and

(e) a funding request, including justification for the request.

(3) The Higher Education Appropriations Subcommittee shall:

(a) review a proposal submitted under this section using the following criteria:

(i) the proposal:

(A) contains the elements described in Subsection (2);

(B) expands the capacity to meet the projected demand described in Subsection (1)(a); and

(C) has health care industry or institution support; and

(ii) the program of instruction described in the proposal:

(A) is cost effective;

(B) has support from the health care industry or an institution; and

(C) has high passage rates on exams required for licensure for a nursing profession;

(b) determine the extent to which to fund the proposal; and

(c) make an appropriation recommendation to the Legislature on the amount of money determined under Subsection (3)(b) to the eligible program's institution.

(4) An institution that receives funding under this section shall use the funding to increase the number of students enrolled in the eligible program for which the institution receives funding.

(5) [~~On or before November 1, 2020, and annually thereafter,~~] On or before November 1 of each year, the board shall report to the Higher Education Appropriations Subcommittee on the elements described in Subsection (2) for each eligible program funded under this section.

Section 13. Section 58-1-112 is enacted to read:

58-1-112. Data collection.

(1) As used in this section:

(a) "Council" means the Utah Health Workforce Advisory Council created in Section 26-69-201.

(b) "Information center" means the Utah Health Workforce Information Center created in Section 26-69-301.

(2) (a) In accordance with Subsection 26-69-301(2)(a), the department shall work with the information center to identify relevant data pertaining to a profession described in Subsection (3).

(b) The data should focus on:

(i) identifying workforce shortages;

(ii) identifying labor market indicators;

(iii) determining the educational background of a licensee; and

(iv) determining whether Utah is retaining a stable health workforce.

(c) After the council approves data to be collected, the department shall request the data from a licensee when a licensee applies for a license or renews the licensee's license.

(d) The department shall send the obtained data to the information center.

(e) A licensee may not be denied a license for failing to provide the data described in Subsection (2)(c) to the department.

(3) (a) The department shall prioritize data collection for each profession licensed under:

(i) Chapter 31b, Nurse Practice Act;

(ii) Chapter 60, Mental Health Professional Practice Act;

(iii) Chapter 61, Psychologist Licensing Act;

(iv) Chapter 67, Utah Medical Practice Act;

(v) Chapter 68, Utah Osteopathic Medical Practice Act;

(vi) Chapter 69, Dentist and Dental Hygienist Practice Act; or

(vii) Chapter 70a, Utah Physician Assistant Act.

(b) After the department has collected data for each profession described in Subsection (3)(a), the department shall collect data for each profession licensed under:

(i) Chapter 5a, Podiatric Physician Licensing Act;

(ii) Chapter 17b, Pharmacy Practice Act;

(iii) Chapter 24b, Physical Therapy Practice Act;

(iv) Chapter 40, Recreational Therapy Practice Act;

(v) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(vi) Chapter 42a, Occupational Therapy Practice Act;

(vii) Chapter 44a, Nurse Midwife Practice Act;

(viii) Chapter 54, Radiologic Technologist, Radiologist Assistant, and Radiology Practical Technician Licensing Act; or

(ix) Chapter 57, Respiratory Care Practices Act.

(c) The department shall collect data in accordance with this section for any health-related occupation or profession that is regulated by the department and is not described in Subsection (3)(a) or (b) if:

(i) funding is available;

(ii) the council has identified a need for the data; and

(iii) data has been collected for each profession described in Subsections (3)(a) and (3)(b).

Section 14. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(16) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(28) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(29) Section 26-69-406 is repealed July 1, 2025.

Section 15. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.~~]

[~~(11)~~] (10) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

[~~(12)~~] (11) Section 53E-3-515 is repealed January 1, 2023.

[~~(13)~~] (12) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14)~~] (13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(15)~~] (14) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

[~~(16)~~] (15) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.~~]

[~~(18)~~] (16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(19)~~] (17) Section 53F-5-203 is repealed July 1, 2024.

[~~(20)~~] (18) Section 53F-5-212 is repealed July 1, 2024.

[~~(21)~~] (19) Section 53F-5-213 is repealed July 1, 2023.

[~~(22)~~] (20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (23) Section 53F-9-501 is repealed January 1, 2023.

[~~(26)~~] (24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (25) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 16. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) The Medical Education Program created in Section 26-69-403.

[~~(14)~~] (15) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301 (9)(a) or (b).

[~~(15)~~] (16) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

[~~(16)~~] (17) The Utah National Guard, created in Title 39, Militia and Armories.

[~~(17)~~] (18) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

[~~(18)~~] (19) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

[~~(19)~~] (20) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

[~~(20)~~] (21) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

[~~(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.~~]

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 17. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in Section 4-22-103;

(k) a grant to the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

(m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

(n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

(o) a grant to the Utah State Retirement Office created in Section 49-11-201;

(p) a grant to the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

(r) a grant to the Medical Education Program created in Section [~~53B-24-202~~] 26-69-403;

(s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

(t) a grant to the Utah Charter School Finance Authority created in Section 53G-5-602;

(u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or

(v) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 18. Repealer.

This bill repeals:

Section 53B-24-101, Title.

Section 53B-24-201, Title.

Section 53B-24-301, Title.

Section 53B-24-401, Title.

Section 19. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 225
H. B. 177
Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

WATER WELL AMENDMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses requirements related to water production wells.

Highlighted Provisions:

This bill:

- restricts the state engineer's rulemaking authority related to water production wells; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-2-1, as last amended by Laws of Utah 2020, Chapters 60 and 352

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-2-1 is amended to read:

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties -- Limitation on rulemaking.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; or

(h) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40-acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

(9) Notwithstanding Subsection (4)(b), the state engineer may not on the basis of the depth of a water production well exempt the water production well from regulation under this title or rules made under this title related to the:

(a) drilling, constructing, deepening, repairing, renovating, cleaning, developing, testing, disinfecting, or abandonment of a water production well; or

(b) installation or repair of a pump for a water production well.

CHAPTER 226
H. B. 200

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

MEDICAID WAIVER FOR MEDICALLY COMPLEX CHILDREN AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Medical Assistance Act.

Highlighted Provisions:

This bill:

- amends application, eligibility, treatment, and evaluation provisions for the Medicaid program for children with complex medical conditions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-410, as last amended by Laws of Utah 2019, Chapter 393

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-410 is amended to read:

26-18-410. Medicaid waiver for children with disabilities and complex medical needs.

(1) As used in this section:

(a) "Additional eligibility criteria" means the additional eligibility criteria set by the department under Subsection (4)(e).

(b) "Complex medical condition" means a physical condition of an individual that:

(i) results in severe functional limitations for the individual; and

(ii) is likely to:

(A) last at least 12 months; or

(B) result in death.

(c) "Program" means the program for children with complex medical conditions created in Subsection (3).

(d) "Qualified child" means a child who:

(i) is less than 19 years old;

(ii) is diagnosed with a complex medical condition;

(iii) has a condition that meets the definition of disability in 42 U.S.C. Sec. 12102; and

(iv) meets the additional eligibility criteria.

(2) The department shall apply for a Medicaid home and community-based waiver with CMS to implement, within the state Medicaid program, the program described in Subsection (3).

(3) If the waiver described in Subsection (2) is approved, the department shall offer a program that:

(a) as funding permits, provides treatment for qualified children;

(b) if approved by CMS and as funding permits, beginning in fiscal year 2023 provides on an ongoing basis treatment for 130 more qualified children than the program provided treatment for during fiscal year 2022; and

[~~(b)~~] (c) accepts applications for the program [~~during periods of open enrollment; and~~] on an ongoing basis.

[~~(c) if approved by CMS:~~]

(i) requires periodic reevaluations of an enrolled child's eligibility and other applicants or eligible children waiting for services in the program based on the additional eligibility criteria; and

(ii) at the time of reevaluation, allows the department to disenroll a child [~~who does not meet the~~] based on the prioritization described in Subsection (4)(a) and additional eligibility criteria.

(4) The department shall:

[~~(a) seek to prioritize, in the waiver described in Subsection (2), entrance into the program based on the:~~]

(a) establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, criteria to prioritize qualified children's participation in the program based on the following factors, in the following priority order:

(i) the complexity of a qualified child's medical condition; and

(ii) the financial needs of [~~a~~] the qualified child and the qualified child's family;

(b) convene a public process to determine[~~: (i)~~] the benefits and services to offer a qualified child under the program; [~~and~~]

[~~(ii) additional eligibility criteria for a qualified child;~~]

(c) evaluate, on an ongoing basis, the cost and effectiveness of the program;

(d) if funding for the program is reduced, develop an evaluation process to reduce the number of children served based on the participation criteria [~~in~~] established under Subsection (4)(a); and

(e) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, additional eligibility criteria based on the factors described in Subsections (4)(a)(i) and (ii).

CHAPTER 227
H. B. 241

Passed February 18, 2022
Approved March 23, 2022
Effective May 4, 2022

SCHOOL EPILEPSY TRAINING AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill requires a local education agency to provide training on seizures and seizure disorders.

Highlighted Provisions:

This bill:

- requires a local education agency to provide training on seizures to teachers and other individuals; and
- requires the State Board of Education to adopt training and program guidelines.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-9-212, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-212 is enacted to read:

53G-9-212. (Codified as 53G-9-213) Seizure awareness.

(1) (a) Beginning with the 2022-23 school year, an LEA shall provide, as described in Subsection (1)(b) and subject to Subsection (3), training to:

(i) a teacher who teaches a student who has informed the student's school or teacher that the student has epilepsy or a similar seizure disorder; and

(ii) an administrator at the school where the student described in Subsection (1)(a)(i) attends.

(b) The training shall:

(i) be offered every two years; and

(ii) include:

(A) recognizing signs and symptoms of seizures; and

(B) appropriate steps for seizure first aid.

(2) Beginning with the 2023-24 school year, an LEA shall provide, as described in Subsection (1)(b) and subject to Subsection (3), training to administrators, teachers, classroom aides, and other individuals who interact with or supervise students.

(3) (a) The state board shall adopt guidelines for the training described in Subsections (1)(a) and (2).

(b) The guidelines shall be consistent with programs and guidelines developed by the Epilepsy Foundation of America or another national nonprofit organization that supports individuals with epilepsy and seizure disorders.

(4) A training offered under this section may not require a person to provide first aid to a student experiencing or showing symptoms of a seizure.

CHAPTER 228
H. B. 268

Passed March 1, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause)

SALES AND INCOME TAX AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to corporate income tax and sales and use tax exemptions.

Highlighted Provisions:

This bill:

- modifies the definition of business income;
- allows a taxpayer to elect to treat all income from the sales of intangible property as business income;
- enacts a sales and use tax exemption for sales of certain items that:
  - contain a minimum amount of precious metal; and
  - are used as currency but do not constitute legal tender;
- enacts a sales and use tax exemption for amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, provided a trained instructor actively instructs the participant; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-7-302, as last amended by Laws of Utah 2020, Chapter 38

59-7-303, as repealed and reenacted by Laws of Utah 1993, Chapter 169

59-12-104, as last amended by Laws of Utah 2021, Chapters 280 and 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-302 is amended to read:

59-7-302. Definitions -- Determination of taxpayer status.

(1) As used in this part, unless the context otherwise requires:

(a) "Aircraft type" means a particular model of aircraft as designated by the manufacturer of the aircraft.

(b) "Airline" means the same as that term is defined in Section 59-2-102.

(c) "Airline revenue ton miles" means, for an airline, the total revenue ton miles during the airline's tax period.

[~~(d) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations.~~]

(d) "Business income" means income that:

(i) is apportionable under the United States Constitution and is not allocated under the laws of this state, including income arising from:

(A) a transaction or activity in the regular course of the taxpayer's trade or business; and

(B) tangible and intangible property, if the acquisition, management, employment, development, or disposition of the property is or was related to the operation of the taxpayer's trade or business; or

(ii) would be allocable to this state under the United States Constitution, but is apportioned rather than allocated in accordance with the laws of this state.

(e) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(f) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid to employees for personal services.

(g) "Excluded NAICS code" means a NAICS code of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, within:

(i) NAICS Code 211120, Crude Petroleum Extraction;

(ii) NAICS Industry Group 2121, Coal Mining;

(iii) NAICS Industry Group 2212, Natural Gas Distribution;

(iv) NAICS Subsector 311, Food Manufacturing;

(v) NAICS Industry Group 3121, Beverage Manufacturing;

(vi) NAICS Code 327310, Cement Manufacturing;

(vii) NAICS Subsector 482, Rail Transportation;

(viii) NAICS Code 512110, Motion Picture and Video Production;

(ix) NAICS Subsection 515, Broadcasting (except Internet); or

(x) NAICS Code 522110, Commercial Banking.

(h) (i) Except as provided in Subsection (1)(h)(ii), "mobile flight equipment" means the same as that term is defined in Section 59-2-102.

(ii) "Mobile flight equipment" does not include:

(A) a spare engine; or

(B) tangible personal property described in Subsection 59-2-102(25) owned by an air charter service or an air contract service.

(i) "Nonbusiness income" means all income other than business income.

(j) "Optional apportionment taxpayer" means a taxpayer described in Subsection (3).

(k) "Phased-in sales factor weighted taxpayer" means a taxpayer that:

(i) is not a sales factor weighted taxpayer;

(ii) does not meet the definition of an optional apportionment taxpayer; or

(iii) for a taxable year beginning on or after January 1, 2020:

(A) meets the definition of an optional apportionment taxpayer; and

(B) apportioned business income using the method described in Subsection 59-7-311(4) during the previous taxable year.

(l) "Revenue ton miles" is determined in accordance with 14 C.F.R. Part 241.

(m) "Sales" means all gross receipts of the taxpayer not allocated under Sections 59-7-306 through 59-7-310.

(n) "Sales factor weighted taxpayer" means a taxpayer described in Subsection (2).

(o) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(p) "Transportation revenue" means revenue an airline earns from:

(i) transporting a passenger or cargo; or

(ii) from miscellaneous sales of merchandise as part of providing transportation services.

(q) "Utah revenue ton miles" means, for an airline, the total revenue ton miles within the borders of this state:

(i) during the airline's tax period; and

(ii) from flight stages that originate or terminate in this state.

(2) (a) A taxpayer is a sales factor weighted taxpayer if the taxpayer apportioned business income using the method described in Subsection 59-7-311(2) during the previous taxable year or if, regardless of the number of economic activities the taxpayer performs, the taxpayer generates greater than 50% of the taxpayer's total sales everywhere from economic activities that are classified in a NAICS code of the 2002 or 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, other than:

(i) a NAICS code within NAICS Sector 21, Mining;

(ii) a NAICS code within NAICS Industry Group 2212, Natural Gas Distribution;

(iii) a NAICS code within NAICS Sector 31-33, Manufacturing, except:

(A) NAICS Industry Group 3254, Pharmaceutical and Medicine Manufacturing;

(B) NAICS Industry Group 3333, Commercial and Service Industry Machinery Manufacturing;

(C) NAICS Subsector 334, Computer and Electronic Product Manufacturing; and

(D) NAICS Code 336111, Automobile Manufacturing;

(iv) a NAICS code within NAICS Sector 48-49, Transportation and Warehousing;

(v) a NAICS code within NAICS Sector 51, Information, except NAICS Subsector 519, Other Information Services; or

(vi) a NAICS code within NAICS Sector 52, Finance and Insurance.

(b) A taxpayer shall determine if the taxpayer is a sales factor weighted taxpayer each year before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(c) For purposes of making the determination required by Subsection (2)(a), total sales everywhere include only the total sales everywhere:

(i) as determined in accordance with this part; and

(ii) made during the taxable year for which a taxpayer makes the determination required by Subsection (2)(a).

(3) (a) A taxpayer is an optional apportionment taxpayer if the average calculated in accordance with Subsection (3)(b) is greater than .50.

(b) To calculate the average described in Subsection (3)(a), a taxpayer shall:

(i) calculate the following two fractions:

(A) the property factor fraction as described in Subsection 59-7-312(3); and

(B) the payroll factor fraction as described in Subsection 59-7-315(3);

(ii) add together the fractions described in Subsection (3)(b)(i); and

(iii) divide the sum calculated in Subsection (3)(b)(ii):

(A) except as provided in Subsection (3)(b)(iii)(B), by two; or

(B) if either the property factor fraction or the payroll factor fraction has a denominator of zero or is excluded in accordance with Subsection 59-7-312(3)(b) or 59-7-315(3)(b), by one.

(c) A taxpayer shall determine if the taxpayer is an optional apportionment taxpayer before the due date for filing the taxpayer's return under this chapter for the taxable year, including extensions.

(4) A taxpayer that files a return as a unitary group for a taxable year is considered to be a unitary group for that taxable year.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may define the term "economic activity" consistent with the use of the term "activity" in the 2007 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

Section 2. Section 59-7-303 is amended to read:

59-7-303. Apportionable income.

(1) Any taxpayer having income from business activity which is taxable both within and without this state shall allocate and apportion [~~its~~] the taxpayer's adjusted income as provided in this part.

(2) Any taxpayer having income solely from business activity taxable within this state shall allocate or apportion [~~its~~] the taxpayer's entire adjusted income to this state.

(3) (a) Notwithstanding Subsections (1) and (2), for a taxable year beginning on or after January 1, 2022, a taxpayer may elect to treat all of the taxpayer's income from sales of intangible property as business income.

(b) A taxpayer shall make the election described in Subsection (3)(a) on or before the deadline for filing a return under an extension of time described in Section 59-7-505.

(c) An election under this Subsection (3) is irrevocable.

Section 3. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) “syringe”; or

(B) “stoma supply”;

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul

provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; [~~and~~]

(89) amounts paid or charged for an item exempt under Section 59-12-104.10[~~.~~];

(90) sales of a note, leaf, foil, or film, if the item:

(a) is used as currency;

(b) does not constitute legal tender of a state, the United States, or a foreign nation; and

(c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any transparent polymer holder, coating, or encasement; and

(91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or surfing facility, if a trained instructor:

(a) is present with the participant, in person or by video, for the duration of the activity; and

(b) actively instructs the participant, including providing observation or feedback.

Section 4. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.

(2) The changes to Section 59-12-104 take effect on July 1, 2022.

Section 5. Retrospective operation.

The changes to Sections 59-7-302 and 59-7-303 have retrospective operation to a taxable year beginning on or after January 1, 2022.

CHAPTER 229
H. B. 273
Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

CIVICS EDUCATION AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Chris H. Wilson
Cosponsors: Cheryl K. Acton
Gay Lynn Bennion
Joel K. Briscoe
Travis M. Seegmiller
V. Lowry Snow
Steve Waldrip
Elizabeth Weight

LONG TITLE

General Description:

This bill creates the Local Innovations Civics Education Pilot Program to support innovative approaches to civics education.

Highlighted Provisions:

This bill:

- creates a pilot grant program to support local education agencies in implementing innovative approaches to civics education;
- repeals the civics engagement pilot program;
- defines terms; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- to the State Board of Education -- Contracted Initiatives and Grants, as a one-time appropriation:
  - from the Education Fund, One-time, $1,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351
53G-10-204, as last amended by Laws of Utah 2021, Chapter 251
63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307
63I-2-253, as last amended by Laws of Utah 2021, First Special Session, Chapter 14

ENACTS:

53F-5-219, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) upon request, the report described in Section 53F-5-219 by the state board on the Local Innovations Civics Education Pilot Program;

[~~(k)~~] (l) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(l)~~] (m) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

[~~(m)~~] (n) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

[~~(n)~~] (o) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

Section 2. Section 53F-5-219 is enacted to read:

53F-5-219. Local Innovations Civics Education Pilot Program.

(1) As used in this section:

(a) "Core standards" means the core standards for Utah public schools adopted by the state board pursuant to Section 53E-4-202.

(b) "Digital citizenship" means the same as that term is defined in Section 53G-7-1202.

(c) "Evidence-informed" means that an approach:

(i) is developed using high-quality research outside of a controlled setting in the given field, as the state board further defines; and

(ii) includes strategies and activities with a strong scientific basis for use, as the state board further defines.

(d) "Innovative approach" means an evidence-informed approach to civics education.

(e) "Local Innovations Civics Education Pilot Program" or "pilot program" means the civics education pilot program created in Subsection (2).

(f) "LEA" means:

(i) a school district;

(ii) a district school; or

(iii) a charter school.

(g) "Participating LEA" means an LEA that the state board selects to receive a grant as described in this section.

(2) There is created a three-year pilot program known as the Local Innovations Civics Education Pilot Program to promote developmentally-appropriate innovative approaches that are:

(a) aligned with core standards; and

(b) based on proven practices, including:

(i) promoting responsibility for preserving and defending the blessings of liberty secured by the Constitution of the United States;

(ii) building confidence in the foundations of American democracy, including:

(A) American civic and political institutions; and

(B) foundational constitutional concepts;

(iii) developing the skills and character traits essential for informed, productive, and thoughtful engagement in civic life, consistent with Subsection 53G-10-204(3);

(iv) after providing sufficient instruction in American civics and history to instill the confidence described in Subsection (2)(b)(ii), and after developing the skills described in Subsection (2)(b)(iii), promoting academic service learning and informed participation in civic life, including the policymaking process at different levels of government; and

(v) teaching media literacy and digital citizenship.

(3) The state board shall:

(a) in accordance with this section and subject to legislative appropriations, award a grant to a participating LEA;

(b) in selecting participating LEAs, prioritize LEAs that, in the LEA's proposal described in Subsection (3)(d)(iii):

(i) emphasize the proven practices described in Subsection (2)(b); and

(ii) demonstrate how the LEA's innovative approach aligns with core standards;

(c) strive to select participating LEAs:

(i) from a variety of geographic areas within the state;

(ii) representing students with diverse socioeconomic backgrounds; and

(iii) with a range of student population sizes; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:

(i) eligibility requirements for a participating LEA;

(ii) criteria for selecting a participating LEA;

(iii) an application process for an LEA to apply to participate in the pilot program, including:

(A) a requirement that an LEA submit a proposal that describes the LEA's innovative approach and how the innovative approach aligns with core standards; and

(B) requirements for a participating LEA that includes a proposal to contract with a third party as described in Subsection (4)(b);

(iv) a process for assessing the outcomes and measuring results of a participating LEA's innovative approach that includes a requirement that:

(A) feedback is solicited from parents and students in a participating LEA; and

(B) LEAs participate in the process for assessing outcomes and measuring results; and

(v) requirements for a report that a participating LEA is required to submit to the state board at the end of the pilot program.

(4) A participating LEA:

(a) shall:

(i) use a grant the state board awards to implement a developmentally-appropriate innovative approach based on at least two proven practices;

(ii) integrate the innovative approach described in Subsection (4)(a), into the school curriculum; and

(iii) submit a report to the state board in accordance with the rules described in Subsection (3)(d); and

(b) may use a grant the state board awards to contract with a third party to help the participating LEA implement the participating LEA's innovative approach if:

(i) the participating LEA includes a proposal to contract with a third party in the LEA's proposal described in Subsection (3)(d)(iii); and

(ii) the state board approves the third party contract in accordance with rules the state board makes under Subsection (3).

(5) The state board may contract with a third party provider to:

(a) offer professional learning and mentoring for educators in a participating LEA;

(b) identify institutional barriers to achieving innovation in civic teaching and learning at the LEA level; or

(c) make recommendations for initiatives, public policy, or legislation to improve civics education.

(6) Upon request of the Education Interim Committee, the state board shall report to the Education Interim Committee on the pilot program's progress and outcomes.

Section 3. Section 53G-10-204 is amended to read:

53G-10-204. Civic and character education -- Definitions -- Legislative finding -- Elements -- Reporting requirements.

(1) As used in this section:

(a) "Character education" means reaffirming values and qualities of character which promote an upright and desirable citizenry.

(b) "Civic education" means the cultivation of informed, responsible participation in political life by competent citizens committed to the fundamental values and principles of representative democracy in Utah and the United States.

[~~(c) "Civics engagement pilot program" means the pilot program described in Subsection (6).~~]

[~~(d) "Civics engagement project" means the civics engagement project described in Subsection (6), which a student enrolled in a participating LEA may complete.~~]

[~~(e) "Participating LEA" means an LEA that meets the eligibility criteria, and is selected by the state board, to participate in the civics engagement pilot program.~~]

[~~(f)~~] (c) "Values" means time-established principles or standards of worth.

(2) The Legislature recognizes that:

(a) Civic and character education are fundamental elements of the public education system's core mission as originally intended and established under Article X of the Utah Constitution;

(b) Civic and character education are fundamental elements of the constitutional responsibility of public education and shall be a continuing emphasis and focus in public schools;

(c) the cultivation of a continuing understanding and appreciation of a constitutional republic and principles of representative democracy in Utah and the United States among succeeding generations of educated and responsible citizens is important to the nation and state;

(d) the primary responsibility for the education of children within the state resides with their parents and that the role of state and local governments is to support and assist parents in fulfilling that responsibility;

(e) public schools fulfill a vital purpose in the preparation of succeeding generations of informed and responsible citizens who are deeply attached to essential democratic values and institutions; and

(f) the happiness and security of American society relies upon the public virtue of its citizens which requires a united commitment to a moral social order where self-interests are willingly subordinated to the greater common good.

(3) Through an integrated curriculum, students shall be taught in connection with regular school work:

(a) honesty, integrity, morality, civility, duty, honor, service, and obedience to law;

(b) respect for and an understanding of the Declaration of Independence and the constitutions of the United States and of the state of Utah;

(c) Utah history, including territorial and preterritorial development to the present;

(d) the essentials and benefits of the free enterprise system;

(e) respect for parents, home, and family;

(f) the dignity and necessity of honest labor; and

(g) other skills, habits, and qualities of character which will promote an upright and desirable citizenry and better prepare students to recognize and accept responsibility for preserving and defending the blessings of liberty inherited from prior generations and secured by the constitution.

(4) Local school boards and school administrators may provide training, direction, and encouragement, as needed, to accomplish the intent and requirements of this section and to effectively emphasize civic and character education in the course of regular instruction in the public schools.

(5) Civic and character education in public schools are:

(a) not intended to be separate programs in need of special funding or added specialists to be accomplished; and

(b) core principles which reflect the shared values of the citizens of Utah and the founding principles upon which representative democracy in the United States and the state of Utah are based.

[~~(6) (a) In accordance with this section, subject to appropriations by the Legislature for this purpose, beginning with the 2020-21 school year, the state board shall administer a three-year civics engagement pilot program to assess the benefits of, and methods for, implementing a requirement to complete a civics engagement project as a condition for receiving a high school diploma.~~]

[~~(b) The state board shall:~~]

[~~(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:~~]

[~~(A) to create a civics engagement project that complies with core standards for Utah public education for social studies and prepares students for lifelong civic motivation and participation through applied learning of civics content;~~]

[~~(B) to establish eligibility requirements for participating LEAs;~~]

[~~(C) to create an application process for LEAs to apply to participate in the pilot program; and~~]

[~~(D) for a report that a participating LEA is required to submit to the state board at the end of the pilot program;~~]

[~~(ii) select participating LEAs:~~]

[~~(A) from diverse geographic areas within the state; and~~]

[~~(B) with a range of student population sizes; and~~]

[~~(iii) subject to appropriations by the Legislature for this purpose, in cooperation with school districts, charter schools, and interested private and nonprofit entities, provide training that prepares teachers in a participating LEA to assist students to successfully complete the civics engagement project.~~]

[~~(c) A participating LEA shall submit a report to the state board in accordance with the rules described in Subsection (6)(b)(i)(D).~~]

Section 4. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

(20) Section 53F-5-212 is repealed July 1, 2024.

(21) Section 53F-5-213 is repealed July 1, 2023.

(22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(24) Section 53F-5-219, which creates the Local Innovations Civics Education Pilot Program, is repealed on July 1, 2025.

[~~(24)~~] (25) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (26) Section 53F-9-501 is repealed January 1, 2023.

[~~(26)~~] (27) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (28) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 5. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(9) Section 53B-8-114 is repealed July 1, 2024.

(10) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) Section 53B-8-202;

(b) Section 53B-8-203;

(c) Section 53B-8-204; and

(d) Section 53B-8-205.

(11) Section 53B-10-101 is repealed on July 1, 2027.

(12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(13) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(14) Section 53E-3-520 is repealed July 1, 2021.

(15) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(17) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(19) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

(20) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(21) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

(22) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(23) Section 53F-4-207 is repealed July 1, 2022.

(24) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

(25) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

(26) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

(27) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(28) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(29) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(30) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(31) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.~~]

[~~(32)~~] (31) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Contracted Initiatives and Grants

From Education Fund, One-time	$1,500,000
Schedule of Programs:	
Innovative Civics Education Pilot Program	$1,500,000

The Legislature intends that the State Board of Education:

(1) use appropriations under this section to implement the Innovative Civics Education Pilot Program created in Section 53F-5-219, in fiscal years 2023, 2024, and 2025; and

(2) may use up to 25% of the appropriations under this section to:

(a) contract with a third party provider to offer professional learning and analyze pilot program outcomes as described in Subsection 53F-5-219(5); and

(b) provide stipends and pay for substitute teachers to facilitate educators attending the professional learning described in Subsection 53F-5-219(5).

CHAPTER 230
H. B. 282

Passed March 4, 2022
Approved March 23, 2022
Effective May 4, 2022

WATER WISE LANDSCAPING AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions regarding water wise landscaping.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits certain public or private entities from prohibiting water wise landscaping; and
- authorizes certain landscaping requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

10-9a-535, Utah Code Annotated 1953
17-27a-531, Utah Code Annotated 1953
57-8a-231, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-535 is enacted to read:

10-9a-535. (Codified as 10-9a-536) Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A municipality may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a municipality from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition;

(iii) follow specific water wise landscaping design requirements adopted by the municipality, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to municipal operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A municipality may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

Section 2. Section 17-27a-531 is enacted to read:

17-27a-531. (Codified as 17-27a-532) Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) A county may not enact or enforce an ordinance, resolution, or policy that prohibits, or has the effect of prohibiting, a property owner from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit a county from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition;

(iii) follow specific water wise landscaping design requirements adopted by the county, including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to county operations;

(B) imposes minimum or maximum vegetative coverage standards; or

(C) restricts or prohibits the use of specific plant materials.

(b) A county may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

Section 3. Section 57-8a-231 is enacted to read:

57-8a-231. Water wise landscaping.

(1) As used in this section:

(a) "Lawn or turf" means nonagricultural land planted in closely mowed, managed grasses.

(b) "Mulch" means material such as rock, bark, wood chips, or other materials left loose and applied to the soil.

(c) "Overhead spray irrigation" means above ground irrigation heads that spray water through a nozzle.

(d) (i) "Vegetative coverage" means the ground level surface area covered by the exposed leaf area of a plant or group of plants at full maturity.

(ii) "Vegetative coverage" does not mean the ground level surface area covered by the exposed leaf area of a tree or trees.

(e) "Water wise landscaping" means any or all of the following:

(i) installation of plant materials suited to the microclimate and soil conditions that can:

(A) remain healthy with minimal irrigation once established; or

(B) be maintained without the use of overhead spray irrigation;

(ii) use of water for outdoor irrigation through proper and efficient irrigation design and water application; or

(iii) the use of other landscape design features that:

(A) minimize the need of the landscape for supplemental water from irrigation; or

(B) reduce the landscape area dedicated to lawn or turf.

(2) An association may not enact or enforce a governing document that prohibits, or has the effect of prohibiting, a lot owner of a detached dwelling from incorporating water wise landscaping on the property owner's property.

(3) (a) Subject to Subsection (3)(b), Subsection (2) does not prohibit an association from requiring a property owner to:

(i) comply with a site plan review or other review process before installing water wise landscaping;

(ii) maintain plant material in a healthy condition;

(iii) follow specific water wise landscaping design requirements adopted by the association including a requirement that:

(A) restricts or clarifies the use of mulches considered detrimental to the association's operations;

(B) imposes minimum or maximum vegetative coverage; or

(C) restricts or prohibits the use of specific plant materials.

(b) An association may not require a property owner to install or keep in place lawn or turf in an area with a width less than eight feet.

CHAPTER 231
H. B. 310

Passed March 2, 2022
Approved March 23, 2022
Effective January 1, 2023

VITAL RECORDS SPECIAL CHARACTERS

Chief Sponsor: Andrew Stoddard
Senate Sponsor: Luz Escamilla

LONG TITLE

General Description:

This bill addresses the use of diacritical marks on a vital record.

Highlighted Provisions:

This bill:

- defines terms;
- requires the state registrar to accept diacritical marks for a vital record; and
- requires the state registrar to allow for the correction and reissuance of a vital record that was originally created without diacritical marks.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26-2-4, as last amended by Laws of Utah 2007, Chapter 32
26-2-7, as last amended by Laws of Utah 2020, Chapter 170
30-1-12, as last amended by Laws of Utah 2021, Chapter 48

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-4 is amended to read:

26-2-4. Content and form of certificates and reports.

(1) As used in this section:

(a) “Diacritical mark” means a mark on a letter from the ISO basic Latin alphabet used to indicate a special pronunciation.

(b) “Diacritical mark” includes accents, tildes, graves, umlauts, and cedillas.

[~~(1)~~] (2) Except as provided in Subsection [~~(5)~~] (8), to promote and maintain nationwide uniformity in the vital records system, the forms of certificates, certification, reports, and other documents and records required by this chapter or the rules implementing this chapter shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval, additions, and modifications by the department.

[~~(2)~~] (3) Certificates, certifications, forms, reports, other documents and records, and the form of communications between persons required by this chapter shall be prepared in the format prescribed by department rule.

[~~(3)~~] (4) All vital records shall include the date of filing.

[~~(4)~~] (5) Certificates, certifications, forms, reports, other documents and records, and communications between persons required by this chapter may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

(6) (a) An individual may use a diacritical mark in an application for a vital record.

(b) The office shall record a diacritical mark on a vital record as indicated on the application for the vital record.

(7) The absence of a diacritical mark on a vital record does not render the document invalid or affect any constructive notice imparted by proper recordation of the document.

[~~(5)~~] (8) The state:

(a) may collect the Social Security number of a deceased individual; and

(b) may not include the Social Security number of an individual on a certificate of death.

Section 2. Section 26-2-7 is amended to read:

26-2-7. Correction of errors or omissions in vital records -- Conflicting birth and foundling certificates -- Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules:

(1) governing applications to correct alleged errors or omissions on any vital record; [~~and~~]

(2) establishing procedures to resolve conflicting birth and foundling certificates[~~.~~]; and

(3) allowing for the correction and reissuance of a vital record that was originally created omitting a diacritical mark.

Section 3. Section 30-1-12 is amended to read:

30-1-12. Clerk to file license and certificate -- Designation as vital record.

(1) (a) The license, together with the certificate of the individual officiating at the marriage, shall be filed and preserved by the clerk, and shall be recorded by the clerk in a book kept for that purpose, or by electronic means.

(b) The record shall be properly indexed in the names of the parties so married.

(2) An individual may use a diacritical mark, as defined in Section 26-2-4, on a marriage license.

[~~(2)~~] (3) A transcript shall be promptly certified and transmitted by the clerk to the state registrar of vital statistics.

[~~(3)~~] (4) The license and the certificate of the individual officiating at the marriage are vital records as defined in Section 26-2-2 and are subject to the inspection requirements described in Section 26-2-22.

Section 4. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 232
H. B. 315

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

EFFECTIVE TEACHERS IN HIGH POVERTY SCHOOLS INCENTIVE PROGRAM AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill makes changes to the Effective Teachers in High Poverty Schools Incentive Program.

Highlighted Provisions:

This bill:

- clarifies that special education teachers are eligible for the Effective Teachers in High Poverty Schools Incentive Program (incentive program);
- makes kindergarten teachers eligible for the incentive program;
- adds a second method for teachers in grades 1 through 3 to be eligible for the incentive program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-513, as last amended by Laws of Utah 2021, Chapter 268

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-513 is amended to read:

53F-2-513. Effective Teachers in High Poverty Schools Incentive Program -- Salary bonus -- Evaluation.

(1) As used in this section:

(a) "Cohort" means a group of students, defined by the year in which the group enters [~~grade 1~~] kindergarten.

(b) "Eligible teacher" means a general education or special education teacher who is employed as a teacher in [~~grade 1 through~~] kindergarten through grade 8 in a high poverty school at the time the teacher is considered by the state board for a salary bonus, and:

(i) a full school year before the school year the eligible teacher is being considered by the state board for a salary bonus under this section, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

(A) achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or

(B) achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching kindergarten or grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered as described in Section 53F-2-503[~~;~~] or Section 53E-4-307.5;

(ii) for a salary bonus awarded in the [~~2020-2021~~] 2021-2022 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, either:

(A) in the 2018-2019 school year, achieves a median growth percentile of 70 or higher while teaching in grade 4 through 8 at any public school in the state a course for which a standards assessment is administered as described in Section 53E-4-303; or

(B) in the 2018-2019 school year, achieves at least 85% of students whose progress is assessed as typical or better at the end of the year assessment while teaching grade 1, 2, or 3 at any public school in the state at which a benchmark assessment is administered as described in Section 53F-2-503; or

(iii) for a salary bonus awarded to a grade 4 teacher in the [~~2021-2022~~] 2022-2023 school year, regardless of whether the teacher was employed the previous year by a high poverty school or a different public school, teaches grade 4 and achieves the criteria under the method that the state board creates as described in Subsection (2)(b)(iv).

(c) "High poverty school" means a public school:

(i) in which, during the previous school year, based on October 1 enrollment as of the year-end data submission:

(A) more than 20% of the enrolled students are classified as children affected by intergenerational poverty; or

(B) 70% or more of the enrolled students qualify for free or reduced lunch;

(ii) (A) that has previously met the criteria described in Subsection (1)(c)(i)(A) and for each school year since meeting that criteria at least 15% of the enrolled students at the public school have been classified as children affected by intergenerational poverty; or

(B) that has previously met the criteria described in Subsection (1)(c)(i)(B) and for each school year since meeting that criteria at least 60% of the enrolled students at the public school have qualified for free or reduced lunch;

(iii) for the 2020-2021 school year, that met the criteria described in Subsection (1)(c)(i) or (ii) in the 2018-2019 school year; or

(iv) for the 2021-2022 school year, that met the criteria described in Subsection (1)(c)(i) or (ii) in the 2019-2020 school year.

(d) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(e) "Median growth percentile" means a number that describes the comparative effectiveness of a teacher in helping the teacher's students achieve growth in a year by identifying the median student growth percentile of all the students a teacher instructs.

(f) "Program" means the Effective Teachers in High Poverty Schools Incentive Program created in Subsection (2).

(g) "Student growth percentile" is a number that describes where a student ranks in comparison to the student's cohort.

(2) (a) The Effective Teachers in High Poverty Schools Incentive Program is created to provide an annual salary bonus for an eligible teacher.

(b) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

(i) the administration of the program;

(ii) payment of a salary bonus;

(iii) application requirements; and

(iv) a method for:

(A) norm-referencing available reading assessment data for grade 4; and

(B) for using the data described in Subsection (2)(b)(iv)(A) to set criteria for the purpose of determining teacher eligibility for salary bonuses awarded in the [~~2021-2022~~] 2022-2023 school year for teachers in grade 4.

(c) The state board shall make an annual salary bonus payment in a fiscal year that begins on July 1, 2017, and each fiscal year thereafter in which money is appropriated for the program.

(d) The state board shall make a partial payment of the annual salary bonus described in Subsection (2)(c), to an eligible teacher who has a part-time assignment in a regular or special education classroom at an eligible school, based on the number of hours the eligible teacher works in the classroom assignment.

(3) (a) Subject to future budget constraints, the Legislature shall annually appropriate money to fund the program.

(b) Money appropriated for the program shall include money for the following employer-paid benefits:

(i) social security; and

(ii) Medicare.

(4) (a) (i) A charter school or school district school shall annually apply to the state board on behalf of an eligible teacher for an eligible teacher to receive an annual salary bonus each year that the teacher is an eligible teacher.

(ii) A teacher need not be an eligible teacher in consecutive years to receive the increased annual salary bonus described in Subsection (4)(b).

(b) The annual salary bonus for an eligible teacher is $7,000.

(c) A public school that applies on behalf of an eligible teacher under Subsection (4)(a)(i) shall pay half of the salary bonus described in Subsection (4)(b) each year the eligible teacher is awarded the salary bonus.

(d) The state board shall award a salary bonus to an eligible teacher based on the order that an application from a public school on behalf of the eligible teacher is received.

(5) The state board shall:

(a) determine if a teacher is an eligible teacher;

(b) verify, as needed, the determinations made under Subsection (5)(a) with the school district and school district administrators; and

(c) publish a list of high poverty schools.

(6) The state board shall:

(a) distribute money from the program to school districts and charter schools in accordance with this section and state board rule; and

(b) include the employer-paid benefits described in Subsection (3)(b) in addition to the salary bonus amount described in Subsection (4)(b).

(7) Money received from the program shall be used by a school district or charter school to provide an annual salary bonus equal to the amount specified in Subsection (4)(b) for each eligible teacher and to pay affiliated employer-paid benefits described in Subsection (3)(b).

(8) (a) After the third year salary bonus payments are made, and each succeeding year, the state board shall evaluate the extent to which a salary bonus described in this section improves recruitment and retention of effective teachers in high poverty schools by examining turnover rates of teachers who receive the salary bonus compared to teachers who do not receive the salary bonus.

(b) Each year that the state board conducts an evaluation described in Subsection (8)(a), the state board shall, in accordance with Section 68-3-14, submit a report on the results of the evaluation to the Education Interim Committee on or before November 30.

(9) A public school shall annually notify a teacher:

(a) of the teacher's median growth percentile; and

(b) how the teacher's median growth percentile is calculated.

(10) Notwithstanding this section, if the appropriation for the program is insufficient to cover the costs associated with salary bonuses, the state board may limit or reduce a salary bonus.

CHAPTER 233
H. B. 316

Passed February 25, 2022
Approved March 23, 2022
Effective May 4, 2022

MEDICAL ASSISTANT AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill allows a medical assistant to administer vaccines.

Highlighted Provisions:

This bill:

- allows a medical assistant to administer vaccines under the general supervision of a physician; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-102, as last amended by Laws of Utah 2017, Chapter 299
58-67-305, as last amended by Laws of Utah 2018, Chapter 35
58-68-102, as last amended by Laws of Utah 2017, Chapter 299
58-68-305, as last amended by Laws of Utah 2018, Chapter 35

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-67-102 is amended to read:

58-67-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers[~~, and excluding hair removal~~].

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "Associate physician" means an individual licensed under Section 58-67-302.8.

(5) "Board" means the Physicians Licensing Board created in Section 58-67-201.

(6) "Collaborating physician" means an individual licensed under Section 58-67-302 who enters into a collaborative practice arrangement with an associate physician.

(7) "Collaborative practice arrangement" means the arrangement described in Section 58-67-807.

(8) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (8)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (8)(a).

(9) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

(10) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (10)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (10)(a); or

(d) to make an examination or determination as described in Subsection (10)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(11) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.

(12) "Medical assistant" means an unlicensed individual [~~working under the indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned by the licensed physician and surgeon in accordance with the standards and ethics of the profession.~~] who may perform tasks as described in Subsection 58-67-305(6).

(13) "Medically underserved area" means a geographic area in which there is a shortage of

primary care health services for residents, as determined by the Department of Health.

(14) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health.

(15) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (15)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.

(16) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(17) (a) "Practice of medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (17)(a) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (17)(b)(ii), the conduct described in Subsection (17)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-67-501(2).

(18) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(19) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(20) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(21) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-501.

(22) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

Section 2. Section 58-67-305 is amended to read:

58-67-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) (a) (i) a person engaged in the sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) allow a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief, without the use of prescription drugs;

(5) an individual authorized by the Department of Health under Section 26-1-30, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

[~~(6) a medical assistant while working under the indirect supervision of a licensed physician and surgeon, to the extent the medical assistant:~~]

[~~(a) is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of medicine;~~]

[~~(b) does not perform surgical procedures;~~]

[~~(c) does not prescribe prescription medications;~~]

[~~(d) does not administer anesthesia, anesthesia does not mean a local anesthetic for minor procedural use; and~~]

[~~(e) does not engage in other medical practices or procedures as defined by division rule in collaboration with the board;~~]

(6) a medical assistant:

(a) administering a vaccine under the general supervision of a physician; or

(b) under the indirect supervision of a physician, engaging in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine, except for:

(i) performing surgical procedures;

(ii) prescribing prescription medications;

(iii) administering anesthesia other than for a local anesthetic for minor procedural use; or

(iv) engaging in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of medicine when:

(a) the individual is licensed in good standing as a physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

Section 3. Section 58-68-102 is amended to read:

58-68-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers[~~, and excluding hair removal~~].

(b) "Ablative procedure" does not include hair removal.

(2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.

(3) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(4) "AOA" means the American Osteopathic Association.

(5) "Associate physician" means an individual licensed under Section 58-68-302.5.

(6) "Board" means the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201.

(7) "Collaborating physician" means an individual licensed under Section 58-68-302 who enters into a collaborative practice arrangement with an associate physician.

(8) "Collaborative practice arrangement" means the arrangement described in Section 58-68-807.

(9) (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices and excludes ANSI designated Class IIIa and lower powered devices.

(b) Notwithstanding Subsection (9)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (9)(a).

(10) "Cosmetic medical procedure":

(a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and

(b) does not include a treatment of the ocular globe such as refractive surgery.

(11) "Diagnose" means:

(a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection (11)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (11)(a); or

(d) to make an examination or determination as described in Subsection (11)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.

(12) "Medical assistant" means an unlicensed individual [~~working under the indirect supervision of a licensed osteopathic physician and surgeon and engaged in specific tasks assigned by the licensed osteopathic physician and surgeon in accordance with the standards and ethics of the profession.~~] who may perform tasks as described in Subsection 58-68-305(6).

(13) "Medically underserved area" means a geographic area in which there is a shortage of primary care health services for residents, as determined by the Department of Health.

(14) "Medically underserved population" means a specified group of people living in a defined geographic area with a shortage of primary care health services, as determined by the Department of Health.

(15) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not expected or intended to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (15)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure as defined in Section 58-1-102;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy lasers for neuromusculoskeletal treatments that are preformed by an individual licensed under this title who is acting within the individual's scope of practice.

(16) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.

(17) (a) "Practice of osteopathic medicine" means:

(i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, or to attempt to do so, by any means or instrumentality, which in whole or in part is based upon emphasis of the importance of the musculoskeletal system and manipulative therapy in the maintenance and restoration of health, by an individual in Utah or outside of the state upon or for any human within the state;

(ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;

(iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (17)(a) whether or not for compensation; or

(iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of osteopathic medicine," "osteopathic physician," "osteopathic surgeon," "osteopathic physician and surgeon," "Dr.," "D.O.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed osteopathic physician, and if the party using the designation is not a licensed osteopathic physician, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of osteopathic medicine but is not a licensed osteopathic physician and surgeon in Utah may use the designation "D.O." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.

(b) The practice of osteopathic medicine does not include:

(i) except for an ablative medical procedure as provided in Subsection (17)(b)(ii), the conduct described in Subsection (17)(a)(i) that is performed in accordance with a license issued under another chapter of this title;

(ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or

(iii) conduct under Subsection 58-68-501(2).

(18) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.

(19) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

(20) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.

(21) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-501.

(22) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-68-502 and as may be further defined by division rule.

Section 4. Section 58-68-305 is amended to read:

58-68-305. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the described acts or practices without being licensed under this chapter:

(1) an individual rendering aid in an emergency, when no fee or other consideration of value for the service is charged, received, expected, or contemplated;

(2) an individual administering a domestic or family remedy;

(3) (a) (i) a person engaged in the lawful sale of vitamins, health foods, dietary supplements, herbs, or other products of nature, the sale of which is not otherwise prohibited by state or federal law; and

(ii) a person acting in good faith for religious reasons, as a matter of conscience, or based on a personal belief, when obtaining or providing any information regarding health care and the use of any product under Subsection (3)(a)(i); and

(b) Subsection (3)(a) does not:

(i) permit a person to diagnose any human disease, ailment, injury, infirmity, deformity, pain, or other condition; or

(ii) prohibit providing truthful and non-misleading information regarding any of the products under Subsection (3)(a)(i);

(4) a person engaged in good faith in the practice of the religious tenets of any church or religious belief without the use of prescription drugs;

(5) an individual authorized by the Department of Health under Section 26-1-30, to draw blood pursuant to Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi);

[~~(6) a medical assistant while working under the indirect supervision of a licensed osteopathic physician, to the extent the medical assistant:~~]

[~~(a) is engaged in tasks appropriately delegated by the supervisor in accordance with the standards and ethics of the practice of medicine;~~]

[~~(b) does not perform surgical procedures;~~]

[~~(c) does not prescribe prescription medications;~~]

[~~(d) does not administer anesthesia, anesthesia does not mean a local anesthetic for minor procedural use; and~~]

[~~(e) does not engage in other medical practices or procedures as defined by division rule in collaboration with the board;~~]

(6) a medical assistant:

(a) administering a vaccine under the general supervision of a physician; or

(b) under the indirect supervision of a physician, engaging in tasks appropriately delegated by the physician in accordance with the standards and ethics of the practice of medicine, except for:

(i) performing surgical procedures;

(ii) prescribing prescription medications;

(iii) administering anesthesia other than a local anesthetic for minor procedural use; or

(iv) engaging in other medical practices or procedures as defined by division rule in collaboration with the board;

(7) an individual engaging in the practice of osteopathic medicine when:

(a) the individual is licensed in good standing as an osteopathic physician in another state with no licensing action pending and no less than 10 years of professional experience;

(b) the services are rendered as a public service and for a noncommercial purpose;

(c) no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and

(d) the individual does not otherwise engage in unlawful or unprofessional conduct;

(8) an individual providing expert testimony in a legal proceeding; and

(9) an individual who is invited by a school, association, society, or other body approved by the division in collaboration with the board to conduct a clinic or demonstration of the practice of medicine in which patients are treated, if:

(a) the individual does not establish a place of business in this state;

(b) the individual does not regularly engage in the practice of medicine in this state;

(c) the individual holds a current license in good standing to practice medicine issued by another state, district or territory of the United States, or Canada;

(d) the primary purpose of the event is the training of others in the practice of medicine; and

(e) neither the patient nor an insurer is billed for the services performed.

CHAPTER 234
H. B. 317

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

SOVEREIGN LANDS TRESPASSING AMENDMENTS

Chief Sponsor: Doug Owens
Senate Sponsor: Scott D. Sandall
Cosponsor: Suzanne Harrison

LONG TITLE

General Description:

This bill adds a definition for "motor vehicle" to the statute prohibiting trespassing on the bed of a navigable lake or river.

Highlighted Provisions:

This bill:

- clarifies that "motor vehicle" includes an off-highway vehicle in the context of prohibiting operation of a motor vehicle on the bed of a navigable lake or river; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

65A-3-1, as last amended by Laws of Utah 2021, Chapter 280

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-3-1 is amended to read:

65A-3-1. Trespassing on state lands -- Penalties.

(1) As used in this section:

(a) "Anchored" means the same as that term is defined in Section 73-18-2.

(b) "Beached" means the same as that term is defined in Section 73-18-2.

(c) "Motorboat" means the same as that term is defined in Section 73-18-2.

(d) "Motor vehicle" means the same as that term is defined in Section 41-22-2.

[~~(d)~~] (e) "Vessel" means the same as that term is defined in Section 73-18-2.

(2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:

(a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;

(b) grazes livestock on state lands;

(c) uses, occupies, or constructs improvements or structures on state lands;

(d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;

(e) knowingly and willfully uses state lands for commercial gain;

(f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;

(g) starts or maintains a fire on state lands except in a posted and designated area;

(h) camps on state lands, except in posted or designated areas;

(i) camps on state lands for longer than 15 consecutive days at the same location or within one mile of the same location;

(j) camps on state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;

(k) leaves an anchored or beached vessel unattended for longer than 48 hours on state lands;

(l) anchors or beaches a vessel on state lands at the same location for longer than 72 hours or within two miles of the same location for longer than 72 hours;

(m) anchors or beaches a vessel on state lands at the same location for 72 hours, and then returns to anchor or beach the vessel at the same location or within two miles of the same location before 72 hours have elapsed after the day on which the person left that location;

(n) posts a sign claiming state land as private property;

(o) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division; or

(p) parks or operates a motor vehicle on the bed of a navigable lake or river except in those areas:

(i) supervised by the Division of State Parks, the Division of Recreation, or another state or local enforcement entity; and

(ii) which are posted as open to vehicle use.

(3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:

(a) parks or operates a motor vehicle in an area on the exposed lake bed that is specifically posted by the division as closed for usage;

(b) camps, except in an area that is posted and designated as open to camping;

(c) exceeds a speed limit of 10 miles per hour while operating a motor vehicle;

(d) drives recklessly while operating a motor vehicle;

(e) parks or operates a motor vehicle within an area between the water's edge and 100 feet of the water's edge except as necessary to:

(i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;

(ii) transport an individual with limited mobility; or

(iii) deposit or retrieve equipment to a beach site;

(f) travels in a motor vehicle parallel to the water's edge:

(i) in areas designated by the division as closed;

(ii) a distance greater than 500 yards; or

(iii) for purposes other than travel to or from a beach site;

(g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or

(h) starts a campfire or uses fireworks.

(4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:

(a) three times the value of the mineral or other resource removed, destroyed, or extracted;

(b) three times the value of damage committed; or

(c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.

(5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.

(6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

CHAPTER 235
H. B. 347

Passed March 4, 2022
Approved March 23, 2022
Effective January 1, 2023

PROPERTY TAX EXEMPTION AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies exemption provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- modifies the definition of nonprofit entity for purposes of the exclusive use exemption;
- provides that a county board of equalization may not waive the application or annual statement requirements for an owner of certain tax exempt property;
- provides that a county board of equalization may require a property owner making an application for exemption or reduction to appear before the board of equalization;
- provides conditions under which a property owner may submit a late annual statement for certain tax exempt property;
- modifies the deadline for submitting an application to receive a property tax exemption for certain property acquired after January 1; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1101, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
59-2-1102, as last amended by Laws of Utah 2019, Chapter 453

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1101 is amended to read:

59-2-1101. Definitions -- Exemption of certain property -- Proportional payments for certain property -- Exception -- County legislative body authority to adopt rules or ordinances.

(1) As used in this section:

(a) "Charitable purposes" means:

(i) for property used as a nonprofit hospital or a nursing home, the standards outlined in Howell v. County Board of Cache County ex rel. IHC Hospitals, Inc., 881 P.2d 880 (Utah 1994); and

(ii) for property other than property described in Subsection (1)(a)(i), providing a gift to the community.

(b) (i) "Educational purposes" means purposes carried on by an educational organization that normally:

(A) maintains a regular faculty and curriculum; and

(B) has a regularly enrolled body of pupils and students.

(ii) "Educational purposes" includes:

(A) the physical or mental teaching, training, or conditioning of competitive athletes by a national governing body of sport recognized by the United States Olympic Committee that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code; and

(B) an activity in support of or incidental to the teaching, training, or conditioning described in this Subsection (1)(b)(ii).

(c) "Exclusive use exemption" means a property tax exemption under Subsection (3)(a)(iv), for property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(i) religious purposes;

(ii) charitable purposes; or

(iii) educational purposes.

(d) (i) "Farm machinery and equipment" means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers, and any other machinery or equipment used primarily for agricultural purposes.

(ii) "Farm machinery and equipment" does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(e) "Gift to the community" means:

(i) the lessening of a government burden; or

(ii) (A) the provision of a significant service to others without immediate expectation of material reward;

(B) the use of the property is supported to a material degree by donations and gifts including volunteer service;

(C) the recipients of the charitable activities provided on the property are not required to pay for the assistance received, in whole or in part, except that if in part, to a material degree;

(D) the beneficiaries of the charitable activities provided on the property are unrestricted or, if restricted, the restriction bears a reasonable relationship to the charitable objectives of the nonprofit entity that owns the property; and

(E) any commercial activities provided on the property are subordinate or incidental to charitable activities provided on the property.

(f) "Government exemption" means a property tax exemption provided under Subsection (3)(a)(i), (ii), or (iii).

(g) (i) "Nonprofit entity" means an entity:

(A) that is organized on a nonprofit basis, that dedicates the entity's property to the entity's nonprofit purpose, and that makes no dividend or other form of financial benefit available to a private interest;

(B) for which, upon dissolution, the entity's assets are distributable only for exempt purposes under state law or to the government for a public purpose; and

[~~(C) that does not receive income from any source, including gifts, donations, or payments from recipients of products or services, that produces a profit to the entity in the sense that the income exceeds operating and long-term maintenance expenses; and~~]

[~~(D)~~] (C) for which none of the net earnings or donations made to the entity inure to the benefit of private shareholders or other individuals, as the private inurement standard has been interpreted under Section 501(c)(3), Internal Revenue Code.

(ii) "Nonprofit entity" includes an entity:

(A) if the entity is treated as a disregarded entity for federal income tax purposes and wholly owned by, and controlled under the direction of, a nonprofit entity; and

(B) for which none of the net earnings and profits of the entity inure to the benefit of any person other than a nonprofit entity.

(h) "Tax relief" means an exemption, deferral, or abatement that is authorized by this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

(b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional tax based upon the length of time that the property was not owned by the claimant if:

(i) the claimant is a federal, state, or political subdivision entity described in Subsection (3)(a)(i), (ii), or (iii); or

(ii) pursuant to Subsection (3)(a)(iv):

(A) the claimant is a nonprofit entity; and

(B) the property is used exclusively for religious, charitable, or educational purposes.

(c) Subsection (2)(a) does not apply to an exemption described in Part 19, Armed Forces Exemptions.

(3) (a) The following property is exempt from taxation:

(i) property exempt under the laws of the United States;

(ii) property of:

(A) the state;

(B) school districts; and

(C) public libraries;

(iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:

(A) counties;

(B) cities;

(C) towns;

(D) local districts;

(E) special service districts; and

(F) all other political subdivisions of the state;

(iv) except as provided in Subsection (6) or (7), property owned by a nonprofit entity used exclusively for one or more of the following purposes:

(A) religious purposes;

(B) charitable purposes; or

(C) educational purposes;

(v) places of burial not held or used for private or corporate benefit;

(vi) farm machinery and equipment;

(vii) a high tunnel, as defined in Section 10-9a-525;

(viii) intangible property; and

(ix) the ownership interest of an out-of-state public agency, as defined in Section 11-13-103:

(A) if that ownership interest is in property providing additional project capacity, as defined in Section 11-13-103; and

(B) on which a fee in lieu of ad valorem property tax is payable under Section 11-13-302.

(b) For purposes of a property tax exemption for property of school districts under Subsection (3)(a)(ii)(B), a charter school under Title 53G, Chapter 5, Charter Schools, is considered to be a school district.

(4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or a government exemption ceases to qualify for the exemption because of a change in the ownership of the property:

(a) the new owner of the property shall pay a proportional tax based upon the period of time:

(i) beginning on the day that the new owner acquired the property; and

(ii) ending on the last day of the calendar year during which the new owner acquired the property; and

(b) the new owner of the property and the person from whom the new owner acquires the property shall notify the county assessor, in writing, of the change in ownership of the property within 30 days from the day that the new owner acquires the property.

(5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection (4)(a):

(a) is subject to any exclusive use exemption or government exemption that the property is entitled to under the new ownership of the property; and

(b) applies only to property that is acquired after December 31, 2005.

(6) (a) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(i) the nonprofit entity that owns the property participates in or intervenes in any political campaign on behalf of or in opposition to any candidate for public office, including the publishing or distribution of statements; or

(ii) a substantial part of the activities of the nonprofit entity that owns the property consists of carrying on propaganda or otherwise attempting to influence legislation, except as provided under Subsection 501(h), Internal Revenue Code.

(b) Whether a nonprofit entity is engaged in an activity described in Subsection (6)(a) shall be determined using the standards described in Section 501, Internal Revenue Code.

(7) A property may not receive an exemption under Subsection (3)(a)(iv) if:

(a) the property is used for a purpose that is not religious, charitable, or educational; and

(b) the use for a purpose that is not religious, charitable, or educational is more than de minimis.

(8) A county legislative body may adopt rules or ordinances to:

(a) effectuate the exemptions, deferrals, abatements, or other relief from taxation provided in this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions; and

(b) designate one or more persons to perform the functions given the county under this part, Part 18, Tax Deferral and Tax Abatement, or Part 19, Armed Forces Exemptions.

(9) If a person is dissatisfied with a tax relief decision made under designated decision-making authority as described in Subsection (8)(b), that person may appeal the decision to the commission under Section 59-2-1006.

Section 2. Section 59-2-1102 is amended to read:

59-2-1102. Determination of exemptions by board of equalization -- Appeal -- Application for exemption -- Annual statement -- Exceptions.

(1) (a) For property assessed under Part 3, County Assessment, the county board of equalization may, after giving notice in a manner prescribed by rule, determine whether certain property within the county is exempt from taxation.

(b) The decision of the county board of equalization described in Subsection (1)(a) shall:

(i) be in writing; and

(ii) include:

(A) a statement of facts; and

(B) the statutory basis for its decision.

(c) Except as provided in Subsection [~~(11)~~] (10)(a), a copy of the decision described in Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

[~~(2) The county board of equalization shall notify an owner of exempt property that has previously received an exemption but failed to file an annual statement in accordance with Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or before April 1.~~]

[~~(3) (a)~~] (2) Except as provided in Subsection [~~(8)~~] (7) and subject to Subsection [~~(9)~~] (8), a reduction in the value of property may not be made under this part or Part 18, Tax Deferral and Tax Abatement, [~~in the value of property~~] and an exemption may not be granted under this part or Part 19, Armed Forces Exemptions, unless the [~~party~~] person affected or the [~~party's~~] person's agent:

[~~(i)~~] (a) [~~makes and files with the county board of equalization~~] submits a written application [~~for the reduction or exemption,~~] to the county board of equalization; and

(b) [~~verified~~] verifies the application by signed statement[~~; and~~].

[~~(ii) appears before the county board of equalization and shows facts upon which it is claimed the reduction should be made, or exemption granted.~~]

[~~(b) Notwithstanding Subsection (9), the county board of equalization may waive:~~]

[~~(i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or (9)(a); or~~]

[~~(ii) the annual statement requirements of Subsection (9)(c).~~]

[~~(4)~~] (3) (a) [~~Before the county board of equalization grants any application for exemption or reduction, the~~] The county board of equalization may [~~examine under oath the person or agent making the application~~] require a person making an application for exemption or reduction to appear before the county board of equalization and be examined under oath.

(b) [~~Except as provided in Subsection (3)(b)~~] If the county board of equalization requires a person making an application for exemption or reduction to appear before the county board of equalization, a reduction may not be made or exemption granted unless the person [~~or the agent making the application attends~~] appears and answers all questions pertinent to the inquiry.

[~~(5)~~] (4) For the hearing on the application, the county board of equalization may subpoena any witnesses, and hear and take any evidence in relation to the pending application.

[~~(6)~~] (5) Except as provided in Subsection [~~(11)~~] (10)(b), the county board of equalization shall hold hearings and render a written decision to determine any exemption on or before May 1 in each year.

[~~(7)~~] (6) Any property owner dissatisfied with the decision of the county board of equalization regarding any reduction or exemption may appeal to the commission under Section 59-2-1006.

[~~(8)~~] (7) Notwithstanding Subsection [~~(3)(a)~~] (2), a county board of equalization may not require an owner of property to file an application in accordance with this section in order to claim an exemption for the property under the following:

(a) Subsections 59-2-1101(3)(a)(i) through (iii);

(b) Subsection 59-2-1101(3)(a)(vi) or (viii);

(c) Section 59-2-1110;

(d) Section 59-2-1111;

(e) Section 59-2-1112;

(f) Section 59-2-1113; or

(g) Section 59-2-1114.

[~~(9)~~] (8) (a) Except as provided in [~~Subsections (3)(b) and (9)(b),~~] Subsection (8)(b), for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with Subsection [~~(10)~~] (9), require an owner of that property to file an application in accordance with this section in order to claim an exemption for that property.

(b) Notwithstanding Subsection [~~(9)~~] (8)(a), a county board of equalization may not require an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application under Subsection [~~(9)~~] (8)(a) if:

(i) [~~(A)~~] the owner filed an application under Subsection [~~(9)(a); or~~] (8)(a);

[~~(B) the county board of equalization waived the application requirements in accordance with Subsection (3)(b);~~]

(ii) the county board of equalization determines that the owner may claim an exemption for that property; and

(iii) the exemption described in Subsection [~~(9)~~] (8)(b)(ii) is in effect.

(c) (i) [~~Except as provided in Subsection (3)(b), for~~] For the time period that an owner is granted an exemption in accordance with this section for property described in Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an annual statement on or before March 1 on a form prescribed by the commission establishing that the property continues to be eligible for the exemption.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(A) the form for the annual statement required by Subsection [~~(9)~~] (8)(c)(i);

(B) the contents of the form for the annual statement required by Subsection [~~(9)~~] (8)(c)(i); and

(C) procedures and requirements for making the annual statement required by Subsection [~~(9)~~] (8)(c)(i).

(iii) The commission shall make the form described in Subsection [~~(9)~~] (8)(c)(ii)(A) available to counties.

(d) On or before April 1, a county board of equalization shall notify each property owner who fails to timely file an annual statement in accordance with Subsection (8)(c) of the county board of equalization's intent to revoke the exemption.

(e) An owner of exempt property described in Subsection 59-2-1101(3)(a)(iv) may file the annual statement described in Subsection (8)(c) after March 1 if the property owner:

(i) files the annual statement on or before March 31; and

(ii) includes a statement of facts establishing that the property owner was unable to file the annual statement on or before March 1 due to one of the following conditions and no other responsible party was capable of filing the annual statement:

(A) a medical emergency of the property owner, an immediate family member of the property owner, or the property owner's agent;

(B) the death of the property owner, an immediate family member of the property owner, or the property owner's agent; or

(C) other extraordinary and unanticipated circumstances.

[~~(10)~~] (9) (a) For purposes of this Subsection [~~(10)~~] (9), "exclusive use exemption" is as defined in Section 59-2-1101.

(b) [~~(i)~~] For purposes of Subsection (1)(a), [~~and except as provided in Subsections (10)(b)(ii) and (iii),~~] when a person acquires property on or after January 1 that qualifies for an exclusive use exemption, that person may apply for the exclusive use exemption on or before the later of:

[~~(A)~~] (i) the day set by rule as the deadline for filing a property tax exemption application; or

[~~(B)~~] (ii) [~~30~~] 120 days after the day on which the property is acquired.

[~~(ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2004 calendar year on or before September 30, 2005.~~]

[~~(iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may apply for the exclusive use exemption for the 2005 calendar year on or before the later of:~~]

[~~(A) September 30, 2005; or~~]

[~~(B) 30 days after the day on which the property is acquired.~~]

[~~(11)~~] (10) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed under Subsection [~~(10)~~] (9), a county board of equalization shall send a copy of the decision described in Subsection (1)(c) to the person applying for the exemption on or before the later of:

(i) May 15; or

(ii) 45 days after the day on which the application for the exemption is filed.

(b) Notwithstanding Subsection [~~(6)~~] (5), if an application for an exemption is filed under Subsection [~~(10)~~] (9), a county board of equalization shall hold the hearing and render the decision described in Subsection [~~(6)~~] (5) on or before the later of:

(i) May 1; or

(ii) 30 days after the day on which the application for the exemption is filed.

Section 3. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 236
H. B. 386
Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

EDUCATION INNOVATION PROGRAM

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Lincoln Fillmore
Cosponsors: Joel K. Briscoe
Jennifer Dailey-Provost
Stephen G. Handy
Dan N. Johnson
Marsha Judkins
Rosemary T. Lesser
Phil Lyman
Ashlee Matthews
Carol Spackman Moss
Jefferson Moss
Val L. Peterson
Susan Pulsipher
Mike Schultz
Jordan D. Teuscher
Elizabeth Weight

LONG TITLE

General Description:

This bill enacts provisions relating to an innovation program for public education.

Highlighted Provisions:

This bill:

- establishes a process for submitting an application and receiving LEA governing board approval for an innovation program;
- provides for the features of an innovation program, including alternative curriculum and alternative class schedule;
- specifies requirements for an innovation program application, including parental consent for student participation;
- provides a process for LEA governing board approval of an innovation program application;
- allows for a grant for additional costs related to an innovation program;
- provides for a review and assessment of the performance of an innovation program; and
- provides for the repeal of innovation program provisions.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the State Board of Education -- Contracted Initiatives and Grants, from the Education Fund, one-time, $2,500,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-10-703, as last amended by Laws of Utah 2020, Chapter 408

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

ENACTS:

53G-10-601, Utah Code Annotated 1953
53G-10-602, Utah Code Annotated 1953
53G-10-603, Utah Code Annotated 1953
53G-10-604, Utah Code Annotated 1953
53G-10-605, Utah Code Annotated 1953
53G-10-606, Utah Code Annotated 1953
53G-10-607, Utah Code Annotated 1953
53G-10-608, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-10-703 is amended to read:

53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

(1) The ULEAD director shall:

(a) (i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b) (i) be a full-time employee; and

(ii) report to the state superintendent.

(2) The state superintendent shall:

(a) evaluate the director's performance annually;

(b) report on the director's performance to the selection committee; and

(c) provide space for the director and the director's staff.

(3) The director may hire staff, using only money specifically appropriated to ULEAD.

(4) The director shall perform the following duties and functions:

(a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;

(b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:

(i) sharing innovative and effective practices shown to improve student learning;

(ii) identifying experts in specific areas of practice; and

(iii) maintaining a research clearinghouse and directory of researchers; and

(c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.

(5) The director shall:

(a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);

(b) identify Utah LEAs, or schools outside the public school system, that are:

(i) innovative in specific areas of practice; and

(ii) more effective or efficient than comparable LEAs in improving student learning;

(c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

(d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and

(e) (i) disseminate each innovative practice report to LEAs; and

(ii) publish innovative practice reports on the ULEAD website.

(6) In an innovative practice report, a participating institution shall:

(a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;

(b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;

(c) identify opportunities for LEAs to adopt or customize innovative or best practices;

(d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;

(e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;

(f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and

(g) include:

(i) an executive summary describing the innovative practice report; and

(ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.

(7) (a) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.

(b) The director shall:

(i) review the performance of an innovation program, as defined in Section 53G-10-601, to determine the extent to which the learning and performance of students in an opportunity class, as defined in Section 53G-10-601, met the criteria established in the innovation program; and

(ii) report on the director's findings under Subsection (7)(b)(i):

(A) to the LEA governing board that approved the innovation program; and

(B) within 120 days after the completion of the school year during which the opportunity class was functioning.

(8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.

(9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:

(a) the Legislature, amendments to state law; or

(b) the state board, revisions to state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or policy.

(10) The director shall:

(a) report on the activities of ULEAD annually to the state board; and

(b) provide reports or other information to the state board upon state board request.

(11) The director shall:

(a) prepare an annual report on ULEAD research and other activities;

(b) submit the report in accordance with Section 53E-1-201 and 53E-1-202;

(c) publish the annual report on the ULEAD website; and

(d) disseminate the report to LEAs through electronic channels.

(12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices, featuring:

(a) Utah education leaders; and

(b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Section 2. Section 53G-10-601 is enacted to read:

Part 6. Education Innovation Program

53G-10-601. Definitions.

As used in this part:

(1) "Alternative classroom schedule" means a classroom schedule that is different than the schedule followed by other classrooms in the applicable school or LEA.

(2) "Alternative curriculum" means curriculum in one or more subject areas that is based on standards that are different than the standards:

(a) adopted by the state board; and

(b) applicable to the regular curriculum offered in the subject area or areas in the applicable school or LEA.

(3) "Applicable school or LEA" means the school or LEA in which an innovation program is proposed or implemented.

(4) "Innovation grant" means a grant of money under Section 53G-10-608 to pay for some or all innovation program costs.

(5) "Innovation program" means a program establishing an alternative classroom schedule or an alternative curriculum, or both.

(6) "Innovation program application" means an application:

(a) proposing the implementation of an innovation program; and

(b) submitted under Section 53G-10-603 to the LEA governing board for the LEA in which the innovation program is proposed.

(7) "Innovation program costs" means costs occasioned by an innovation program that exceed costs of a class that is not subject to an innovation program.

(8) "K-12" means kindergarten through grade 12.

(9) "Opportunity class" means a school class within the public education system that implements an innovation program.

(10) "Participating student" means a K-12 student who participates in an opportunity class under an approved innovation program.

Section 3. Section 53G-10-602 is enacted to read:

53G-10-602. Establishment of innovation program -- LEA governing board approval -- Parental consent required -- Renewal of program.

(1) An innovation program may be established for a K-12 class as provided in this part if the innovation program is approved by the LEA governing board for the LEA in which the proposed innovation program is to be implemented.

(2) A public school teacher may submit an innovation program application to the LEA governing board for the LEA of the class or school in which the teacher proposes to implement an innovation program.

(3) Before submitting an innovation program application, the public school teacher intending to submit the innovation program application shall obtain the written consent described in Section 53G-10-603 signed by parents of at least 20 prospective participating students.

(4) An innovation program application shall be submitted no less than 90 days before the beginning of student registration for the school year for which the innovation program is proposed.

(5) (a) An LEA governing board shall approve or deny an innovation program application within 60 days after the application is submitted.

(b) An LEA governing board may approve an innovation program application subject to modifications or additional terms that the LEA governing board determines appropriate.

(6) An innovation program may be renewed for another school year if:

(a) the teacher in the opportunity class requests renewal;

(b) the teacher submits with the renewal request the written consent described in Section 53G-10-603 signed by parents of at least 20 prospective participating students; and

(c) the LEA governing board approves the renewal.

Section 4. Section 53G-10-603 is enacted to read:

53G-10-603. Parental consent for student participating in opportunity class.

(1) A parent of a K-12 student may give the parent's consent for the student to participate in an opportunity class by submitting the parent's written and signed consent, as described in Subsection (2), to the public school teacher who proposes to submit an innovation program application.

(2) (a) A public school teacher who intends to submit an innovation program application shall provide a consent form to a parent of a prospective participating student.

(b) A form by which a parent consents to the enrollment of the parent's child in an opportunity class shall contain:

(i) the name and a summary of the credentials of each teacher and other staff member who will be teaching or working in the opportunity class;

(ii) an explanation that the opportunity class is experimental in nature and may not receive approval to continue beyond the school year for which the innovation program is approved;

(iii) a description of the alternative curriculum and alternative classroom schedule, as applicable, that the innovation program application intends to seek approval for;

(iv) a description of how, when, and where the opportunity class instruction will take place and whether the instruction will include in-person, virtual, or hybrid components;

(v) if the innovation application intends to include a proposed alternative curriculum, a description of:

(A) the alternative curriculum and the instructional materials to be used in the opportunity class; and

(B) the outcomes the opportunity class using the alternative curriculum is designed to achieve; and

(vi) a statement accompanying the parent's signature indicating that the parent has read the explanation of the opportunity class contained in the consent form and understands the experimental nature of the opportunity class.

Section 5. Section 53G-10-604 is enacted to read:

53G-10-604. Innovation program application -- Requirements.

(1) An innovation program application shall include:

(a) the name and a summary of the credentials of each teacher and other staff member who will be teaching or working in the opportunity class;

(b) the name of each student whose parent has submitted a consent form consenting to the student becoming a participating student;

(c) a description of the alternative curriculum and alternative classroom schedule, as applicable, that the innovation program application seeks approval for;

(d) a description of how, when, and where the opportunity class instruction will take place and whether the instruction will include in-person, virtual, or hybrid components;

(e) any other innovative curriculum or classroom schedule adjustments intended to be incorporated into the opportunity class to enhance the learning, performance, and educational experience of participating students;

(f) criteria for measuring student learning and performance;

(g) an explanation of the assessment of the innovation program as provided in Section 53G-10-607;

(h) if the innovation application includes a proposed alternative curriculum, a description of:

(i) the alternative curriculum and the instructional materials to be used in the opportunity class; and

(ii) the outcomes the opportunity class using the alternative curriculum is designed to achieve;

(i) any additional funding needed to cover innovation program costs; and

(j) participating students' proposed access to or use of the transportation services, playground facilities, cafeteria facilities, after-school or extra-curricular activities, special education services, and other facilities, activities, or services normally provided by the applicable school or LEA.

(2) An innovation program application that proposes an alternative curriculum may include a proposal for a different curriculum or an innovative delivery of curriculum.

(3) An innovation program application that proposes an alternative classroom schedule may include a proposal for a different classroom schedule that includes options for:

(a) different requirements for in-person, virtual, or hybrid instruction; and

(b) different provisions for length of student attendance at in-person, virtual, or hybrid instruction.

(4) An innovation program application may include a request for an innovation grant.

Section 6. Section 53G-10-605 is enacted to read:

53G-10-605. Alternative curriculum and alternative classroom schedule provisions.

(1) An alternative curriculum in an elementary school shall include English, mathematics, science, or history and social science.

(2) If requested in an innovation program application that the LEA governing board approves, a school in which an opportunity class is proposed to be located shall provide the opportunity class with a classroom and other equipment and facilities normally provided to a class within the school.

(3) A teacher in an opportunity class may make adjustments to the curriculum or classroom schedule described in the approved innovation program as implementation of the innovation program reveals the need or advisability of making adjustments to better meet the needs of students or to better achieve the goals and objectives of the innovation program.

(4) A student may become a participating student in an opportunity class after the beginning of a school year during a standard class change period if:

(a) the innovation program allows the addition of a participating student during the school year;

(b) the student's parent consents as provided in Section 53G-10-603; and

(c) the teacher of the opportunity class consents.

Section 7. Section 53G-10-606 is enacted to read:

53G-10-606. Provisions applicable to participating students, staff in an opportunity class, innovation programs, and LEAs.

(1) A participating student may use a transportation service offered to students who are not participating students if:

(a) the participating student uses the transportation service on the same basis and at the same times as the transportation service is offered to students who are not participating students; or

(b) the innovation program provides for:

(i) the participating student's use of the transportation service; and

(ii) payment of the additional cost of the transportation service attributable to the participating student's use of the transportation service.

(2) A participating student:

(a) shall be enrolled in the LEA where the opportunity class is operating; and

(b) is counted as any other student who is not a participating student for purposes of calculating educational funding apportioned to the LEA.

(3) (a) A participating student is subject to a state assessment, as defined in Section 53E-4-301, to the same extent as a student who is not a participating student.

(b) The results of state assessment taken by participating students may not be included in assessment results for the school or LEA unless the test results are required to be included in the school or LEA assessment results by:

(i) the approved innovation program; or

(ii) applicable law.

(4) A teacher or other staff member who teaches or works in an opportunity class:

(a) is an employee of the LEA where the opportunity class is located; and

(b) shall receive compensation and other benefits available generally to an individual employed in a comparable position in the LEA.

(5) An opportunity class shall comply with:

(a) provisions of the approved innovation program; and

(b) all applicable federal, state, and local laws prohibiting discrimination or governing the safety of students and teachers.

(6) An LEA:

(a) shall apportion education funds for instructional use of participating students in an amount substantially similar to funds apportioned for instructional use of comparable students who are not participating students; and

(b) is responsible to provide to participating students only the services described in the approved innovation program.

Section 8. Section 53G-10-607 is enacted to read:

53G-10-607. Assessment of innovation program.

A teacher in an opportunity class shall:

(1) monitor the extent to which participating student learning and performance are consistent with the criteria established in the innovation program;

(2) report the results under Subsection (1) to the LEA governing board, as provided in the approved innovation program; and

(3) cooperate with and provide participating student learning and performance data to the director of ULEAD, as defined in Section 53E-10-701, as the director performs the director's duties under Subsection 53E-10-703(7)(b).

Section 9. Section 53G-10-608 is enacted to read:

53G-10-608. Innovation grants.

(1) An LEA governing board may approve a grant of up to $5,000 per opportunity class for the school year if:

(a) a request for an innovation grant is included in the innovation application; and

(b) the LEA governing board determines that the grant is needed to:

(i) cover innovation program costs; and

(ii) help fulfill the goals and purposes of the opportunity class.

(2) If an LEA governing board approves a request for an innovation grant, the LEA governing board shall send the state board written notice of the approval and the name of the teacher who submitted the request for the innovation grant.

(3) (a) (i) Upon receipt of the written notice and authorization under Subsection (2), the state board shall, subject to Subsection (3)(b), disburse the amount of the approved innovation grant to the LEA governing board.

(ii) The LEA governing board shall distribute the money to the teacher of the opportunity class to cover innovation program costs.

(b) (i) Except as provided in Subsection (3)(b)(iii), the maximum amount of money that the state board may distribute for approved innovation grants is $500,000 per school year.

(ii) If the state board receives a written notice and authorization under Subsection (2) after already distributing $500,000 for the school year, the state board shall notify the LEA governing board that the grant money has been expended for the school year and that the state board cannot distribute money for the approved innovation grant.

(iii) If the state board distributes less than $500,000 for approved innovation grants for a school year, the difference between $500,000 and the amount distributed shall be rolled over and included in the money available for distribution for approved innovation grants for the following school year.

(4) The state board shall keep and account for all money appropriated for innovation grants separate from other state board funds.

(5) A teacher receiving an innovation grant under this section may not use the money from the grant for any purpose other than for innovation program costs.

(6) Any innovation grant money appropriated to the state board by the Legislature that the state board has not distributed as provided in this section by June 30, 2027 shall lapse to the Education Fund.

Section 10. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

(20) Section 53F-5-212 is repealed July 1, 2024.

(21) Section 53F-5-213 is repealed July 1, 2023.

(22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(25) Section 53F-9-501 is repealed January 1, 2023.

(26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

(28) Title 53G, Chapter 10, Part 6, Education Innovation Program, is repealed July 1, 2027.

Section 11. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2[~~(24)~~](25), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection(30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 12. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301 (9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(22) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

[~~(22)~~] (23) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

[~~(23)~~] (24) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

[~~(24)~~] (25) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

[~~(25)~~] (26) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

[~~(26)~~] (27) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

[~~(27)~~] (28) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

[~~(28)~~] (29) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

[~~(29)~~] (30) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

[~~(30)~~] (31) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

[~~(31)~~] (32) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

[~~(32)~~] (33) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

[~~(33)~~] (34) The Traffic Noise Abatement Program created in Section 72-6-112.

[~~(34)~~] (35) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

[~~(35)~~] (36) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

[~~(36)~~] (37) A state rehabilitative employment program, as provided in Section 78A-6-210.

[~~(37)~~] (38) The Utah Geological Survey, as provided in Section 79-3-401.

[~~(38)~~] (39) The Bonneville Shoreline Trail Program created under Section 79-5-503.

[~~(39)~~] (40) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(40)~~] (41) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(41)~~] (42) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 13. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- Contracted Initiatives and Grants

From Education Fund, One-time$2,500,000

Schedule of Programs:

Education Innovation Program $2,500,000

The Legislature intends that the money appropriated to the State Board of Education be used and distributed as provided in Title 53G, Chapter 10, Part 6, Education Innovation Program.

CHAPTER 237
H. B. 438

Passed March 4, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause in Section 18)

POINT OF THE MOUNTAIN STATE LAND AUTHORITY AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill modifies provisions relating to the Point of the Mountain State Land Authority.

Highlighted Provisions:

This bill:

- authorizes the Point of the Mountain State Land Authority to impose an energy sales and use tax and to collect impact fees and other development fees;
- modifies the membership of a loan committee;
- moves the ability to approve a loan from the loan committee to the Authority board and requires Executive Appropriations Committee approval for a loan from the point of the mountain loan fund;
- modifies a provision relating to Authority powers;
- requires a lessee of point of the mountain state land to pay an annual fee and provides for the levy and collection of the fee;
- requires the Authority to be paid a portion of increased property tax revenue from parcels of land transferred to a private owner;
- modifies limitations on individuals serving as board members;
- modifies the purposes of a closed meeting to include certain discussions relating to the development of land owned by the state;
- modifies provisions relating to an Authority infrastructure fund; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-1-304, as last amended by Laws of Utah 2021, Chapter 414 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 367

11-36a-102, as last amended by Laws of Utah 2021, Chapter 35

11-59-102, as last amended by Laws of Utah 2021, Chapter 415

11-59-104, as enacted by Laws of Utah 2021, Chapter 415

11-59-202, as last amended by Laws of Utah 2020, Chapter 354

11-59-306, as enacted by Laws of Utah 2018, Chapter 388

17D-4-102, as last amended by Laws of Utah 2021, Chapter 415 and renumbered and amended by Laws of Utah 2021, Chapter 314

52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231

59-2-924, as last amended by Laws of Utah 2021, Chapters 214 and 388

63A-3-401.5, as enacted by Laws of Utah 2021, Chapter 415

63A-3-402, as enacted by Laws of Utah 2021, Chapter 415

63A-3-404, as enacted by Laws of Utah 2021, Chapter 415

ENACTS:

11-59-205, Utah Code Annotated 1953
11-59-206, Utah Code Annotated 1953
11-59-207, Utah Code Annotated 1953
11-59-208, Utah Code Annotated 1953

REPEALS:

11-59-101, as enacted by Laws of Utah 2018, Chapter 388

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-304 is amended to read:

10-1-304. Municipality, military installation development authority, and Point of the Mountain State Land Authority may levy tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice requirements -- Exemptions.

(1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

(i) by ordinance as provided in Section 10-1-305; and

(ii) of up to 6% of the delivered value of the taxable energy.

(b) Subject to Section 63H-1-203, the military installation development authority created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part within a project area described in a project area plan adopted by the authority under Title 63H, Chapter 1, Military Installation Development Authority Act, as though the authority were a municipality.

(c) (i) Beginning July 1, 2022, the Point of the Mountain State Land Authority, created in Section 11-59-201, may by resolution levy a municipal energy sales and use tax under this part within the area that constitutes the point of the mountain state land, as defined in Section 11-59-102, as though the Point of the Mountain State Land Authority were a municipality.

(ii) The Point of the Mountain State Land Authority's adoption of a resolution under Subsection (1)(c)(i) that otherwise complies with the requirements under this part applicable to an ordinance is considered the equivalent of adopting an ordinance under this part.

(2) A municipal energy sales and use tax imposed under this part may be in addition to any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use Tax Act.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4, Annexation.

(ii) "Annexing area" means an area that is annexed into a municipality.

(b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the municipality.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the city or town will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the new rate of the tax.

(c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

(ii) The notice described in Subsection (3)(c)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(c)(i) will result in a change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

(D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

(4) (a) Subject to Subsection (4)(b), a sale or use of electricity within a municipality is exempt from the tax authorized by this section if the sale or use is made under a tariff adopted by the Public Service Commission of Utah only for purchase of electricity produced from a new source of alternative energy, as defined in Section 59-12-102, as designated in the tariff by the Public Service Commission of Utah.

(b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.

(5) (a) A municipality may not levy a municipal energy sales and use tax:

(i) within any portion of the municipality that is within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act[~~.~~]; or

(ii) on or after July 1, 2022, within the point of the mountain state land, as defined in Section 11-59-102.

(b) Subsection (5)(a) does not apply to:

(i) the military installation development authority's levy of a municipal energy sales and use tax[~~.~~]; or

(ii) the Point of the Mountain State Land Authority's levy of a municipal energy sales and use tax.

Section 2. Section 11-36a-102 is amended to read:

11-36a-102. Definitions.

As used in this chapter:

(1) (a) "Affected entity" means each county, municipality, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Chapter 13, Interlocal Cooperation Act, and specified public utility:

(i) whose services or facilities are likely to require expansion or significant modification because of the facilities proposed in the proposed impact fee facilities plan; or

(ii) that has filed with the local political subdivision or private entity a copy of the general or long-range plan of the county, municipality, local district, special service district, school district, interlocal cooperation entity, or specified public utility.

(b) "Affected entity" does not include the local political subdivision or private entity that is required under Section 11-36a-501 to provide notice.

(2) "Charter school" includes:

(a) an operating charter school;

(b) an applicant for a charter school whose application has been approved by a charter school authorizer as provided in Title 53G, Chapter 5, Part 6, Charter School Credit Enhancement Program; and

(c) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(3) "Development activity" means any construction or expansion of a building, structure, or use, any change in use of a building or structure, or any changes in the use of land that creates additional demand and need for public facilities.

(4) "Development approval" means:

(a) except as provided in Subsection (4)(b), any written authorization from a local political subdivision that authorizes the commencement of development activity;

(b) development activity, for a public entity that may develop without written authorization from a local political subdivision;

(c) a written authorization from a public water supplier, as defined in Section 73-1-4, or a private water company:

(i) to reserve or provide:

(A) a water right;

(B) a system capacity; or

(C) a distribution facility; or

(ii) to deliver for a development activity:

(A) culinary water; or

(B) irrigation water; or

(d) a written authorization from a sanitary sewer authority, as defined in Section 10-9a-103:

(i) to reserve or provide:

(A) sewer collection capacity; or

(B) treatment capacity; or

(ii) to provide sewer service for a development activity.

(5) "Enactment" means:

(a) a municipal ordinance, for a municipality;

(b) a county ordinance, for a county; and

(c) a governing board resolution, for a local district, special service district, or private entity.

(6) "Encumber" means:

(a) a pledge to retire a debt; or

(b) an allocation to a current purchase order or contract.

(7) "Expense for overhead" means a cost that a local political subdivision or private entity:

(a) incurs in connection with:

(i) developing an impact fee facilities plan;

(ii) developing an impact fee analysis; or

(iii) imposing an impact fee, including any related overhead expenses; and

(b) calculates in accordance with a methodology that is consistent with generally accepted cost accounting practices.

(8) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a gas, water, sewer, storm water, power, or other utility system of a municipality, county, local district, special service district, or private entity.

(9) (a) "Impact fee" means a payment of money imposed upon new development activity as a condition of development approval to mitigate the impact of the new development on public infrastructure.

(b) "Impact fee" does not mean a tax, a special assessment, a building permit fee, a hookup fee, a fee for project improvements, or other reasonable permit or application fee.

(10) "Impact fee analysis" means the written analysis of each impact fee required by Section 11-36a-303.

(11) "Impact fee facilities plan" means the plan required by Section 11-36a-301.

(12) "Level of service" means the defined performance standard or unit of demand for each capital component of a public facility within a service area.

(13) (a) "Local political subdivision" means a county, a municipality, a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, [~~or~~] a special service district under Title 17D, Chapter 1, Special Service District Act, or the Point of the Mountain State Land Authority, created in Section 11-59-201.

(b) "Local political subdivision" does not mean a school district, whose impact fee activity is governed by Section 11-36a-206.

(14) "Private entity" means an entity in private ownership with at least 100 individual shareholders, customers, or connections, that is located in a first, second, third, or fourth class county and provides water to an applicant for development approval who is required to obtain water from the private entity either as a:

(a) specific condition of development approval by a local political subdivision acting pursuant to a prior agreement, whether written or unwritten, with the private entity; or

(b) functional condition of development approval because the private entity:

(i) has no reasonably equivalent competition in the immediate market; and

(ii) is the only realistic source of water for the applicant's development.

(15) (a) "Project improvements" means site improvements and facilities that are:

(i) planned and designed to provide service for development resulting from a development activity;

(ii) necessary for the use and convenience of the occupants or users of development resulting from a development activity; and

(iii) not identified or reimbursed as a system improvement.

(b) "Project improvements" does not mean system improvements.

(16) "Proportionate share" means the cost of public facility improvements that are roughly proportionate and reasonably related to the service demands and needs of any development activity.

(17) "Public facilities" means only the following impact fee facilities that have a life expectancy of 10 or more years and are owned or operated by or on behalf of a local political subdivision or private entity:

(a) water rights and water supply, treatment, storage, and distribution facilities;

(b) wastewater collection and treatment facilities;

(c) storm water, drainage, and flood control facilities;

(d) municipal power facilities;

(e) roadway facilities;

(f) parks, recreation facilities, open space, and trails;

(g) public safety facilities;

(h) environmental mitigation as provided in Section 11-36a-205; or

(i) municipal natural gas facilities.

(18) (a) "Public safety facility" means:

(i) a building constructed or leased to house police, fire, or other public safety entities; or

(ii) a fire suppression vehicle costing in excess of $500,000.

(b) "Public safety facility" does not mean a jail, prison, or other place of involuntary incarceration.

(19) (a) "Roadway facilities" means a street or road that has been designated on an officially adopted subdivision plat, roadway plan, or general plan of a political subdivision, together with all necessary appurtenances.

(b) "Roadway facilities" includes associated improvements to a federal or state roadway only when the associated improvements:

(i) are necessitated by the new development; and

(ii) are not funded by the state or federal government.

(c) "Roadway facilities" does not mean federal or state roadways.

(20) (a) "Service area" means a geographic area designated by an entity that imposes an impact fee on the basis of sound planning or engineering principles in which a public facility, or a defined set of public facilities, provides service within the area.

(b) "Service area" may include the entire local political subdivision or an entire area served by a private entity.

(21) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(22) (a) "System improvements" means:

(i) existing public facilities that are:

(A) identified in the impact fee analysis under Section 11-36a-304; and

(B) designed to provide services to service areas within the community at large; and

(ii) future public facilities identified in the impact fee analysis under Section 11-36a-304 that are intended to provide services to service areas within the community at large.

(b) "System improvements" does not mean project improvements.

Section 3. Section 11-59-102 is amended to read:

11-59-102. Definitions.

As used in this chapter:

(1) "Authority" means the Point of the Mountain State Land Authority, created in Section 11-59-201.

(2) "Board" means the authority's board, created in Section 11-59-301.

(3) "Development":

(a) means the construction, reconstruction, modification, expansion, or improvement of a building, utility, infrastructure, landscape, parking lot, park, trail, recreational amenity, or other facility, including:

(i) the demolition or preservation or repurposing of a building, infrastructure, or other facility;

(ii) surveying, testing, locating existing utilities and other infrastructure, and other preliminary site work; and

(iii) any associated planning, design, engineering, and related activities; and

(b) includes all activities associated with:

(i) marketing and business recruiting activities and efforts;

(ii) leasing, or selling or otherwise disposing of, all or any part of the point of the mountain state land; and

(iii) planning and funding for mass transit infrastructure to service the point of the mountain state land.

(4) "New correctional facility" means the state correctional facility being developed in Salt Lake City to replace the state correctional facility in Draper.

(5) "Point of the mountain state land" means the approximately 700 acres of state-owned land in Draper, including land used for the operation of a state correctional facility until completion of the new correctional facility and state-owned land in the vicinity of the current state correctional facility.

(6) "Public entity" means:

(a) the state, including each department, division, or other agency of the state; or

(b) a county, city, town, metro township, school district, local district, special service district, interlocal cooperation entity, community reinvestment agency, or other political subdivision of the state, including the authority.

(7) "Publicly owned infrastructure and improvements":

(a) means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public; and

(ii) (A) are owned by a public entity or a utility; or

(B) are publicly maintained or operated by a public entity; and

(b) includes:

(i) facilities, lines, or systems that provide:

(A) water, chilled water, or steam; or

(B) sewer, storm drainage, natural gas, electricity, energy storage, renewable energy, microgrids, or telecommunications service;

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities; and

(iii) greenspace, parks, trails, recreational amenities, or other similar facilities.

(8) "Taxing entity" means the same as that term is defined in Section 59-2-102.

Section 4. Section 11-59-104 is amended to read:

11-59-104. Loan committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Point of the mountain fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan [~~approval~~] committee" means a committee [~~consisting of:~~] established under Subsection (2).

[~~(i) the board member:~~]

[~~(A) who is a member of the Senate appointed under Subsection 11-59-302(2)(a); and~~]

[~~(B) whose Senate district is closer to the boundary of the point of the mountain state land than is the Senate district of the other member of the Senate appointed under Subsection 11-59-302(2)(a);~~]

[~~(ii) the board member:~~]

[~~(A) who is a member of the House of Representatives appointed under Subsection 11-59-302(2)(b); and~~]

[~~(B) whose House district is closer to the boundary of the point of the mountain state land than is the House district of the other member of the House of Representatives appointed under Subsection 11-59-302(2)(b);~~]

[~~(iii) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(i);~~]

[~~(iv) the board member who is appointed by the governor under Subsection 11-59-302(2)(c)(ii); and~~]

[~~(v) the board member who is the mayor of Draper or a member of the Draper city council.~~]

(2) The authority shall establish a five-member loan committee consisting of:

(a) the individual who is the board member appointed by the governor under Subsection 11-59-302(2)(c)(ii);

(b) the individual who is a board member under Subsection 11-59-302(2)(e) because the individual is the mayor of Draper or a member of the Draper city council;

(c) the executive director of the Department of Transportation, or the executive director's designee;

(d) an individual, appointed by the governor, who:

(i) is not an elected official; and

(ii) has expertise in public finance or infrastructure development; and

(e) an individual, appointed jointly by the president of the Senate and speaker of the House of Representatives, who:

(i) is not an elected official; and

(ii) has expertise in public finance or infrastructure development.

[~~(2)~~] (3) (a) The loan [~~approval~~] committee may [~~approve~~] recommend for board approval an infrastructure loan from the point of the mountain fund to a borrower for an infrastructure project undertaken by the borrower.

(b) An infrastructure loan from the point of the mountain fund may not be made unless:

(i) the infrastructure loan is recommended by the loan committee; and

(ii) the board approves the infrastructure loan.

[~~(3)~~] (4) [~~The loan approval committee shall establish~~] If the loan committee recommends an infrastructure loan, the loan committee shall recommend the terms of [~~an~~] the infrastructure loan in accordance with Section 63A-3-404.

[~~(4)~~] (5) The [~~loan approval committee~~] board may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

[~~(5)~~] (6) Within 60 days after the execution of an infrastructure loan, the [~~loan approval committee~~] board shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

[~~(6)~~] (7) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 5. Section 11-59-202 is amended to read:

11-59-202. Authority powers.

The authority may:

(1) as provided in this chapter, plan, manage, and implement the development of the point of the mountain state land, including the ongoing operation of facilities on the point of the mountain state land;

(2) undertake, or engage a consultant to undertake, any study, effort, or activity the board considers appropriate to assist or inform the board about any aspect of the proposed development of the point of the mountain state land, including the best development model and financial projections relevant to the authority's efforts to fulfill its duties and responsibilities under this section and Section 11-59-203;

(3) sue and be sued;

(4) enter into contracts generally, including a contract for the sharing of records under Section 63G-2-206;

(5) buy, obtain an option upon, or otherwise acquire any interest in real or personal property, as necessary to accomplish the duties and responsibilities of the authority, including an interest in real property, apart from point of the mountain state land, or personal property, outside point of the mountain state land, for publicly owned infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(6) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(7) enter into a lease agreement on real or personal property, either as lessee or lessor;

(8) provide for the development of the point of the mountain state land under one or more contracts, including the development of publicly owned infrastructure and improvements and other infrastructure and improvements on or related to the point of the mountain state land;

(9) exercise powers and perform functions under a contract, as authorized in the contract;

(10) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(11) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(12) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(13) hire employees, including contract employees, in addition to or in place of staff provided under Section 11-59-304;

(14) transact other business and exercise all other powers provided for in this chapter;

(15) enter into a development agreement with a developer of some or all of the point of the mountain state land;

(16) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(17) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(18) enter into one or more interlocal agreements under Title 11, Chapter 13, Interlocal Cooperation Act, with one or more local government entities for the delivery of services to the point of the mountain state land; [~~and~~]

(19) enter into an agreement with the federal government or an agency of the federal government, as the board considers necessary or advisable, to enable or assist the authority to

exercise its powers or fulfill its duties and responsibilities under this chapter[~~.~~];

(20) provide funding for the development of publicly owned infrastructure and improvements or other infrastructure and improvements on or related to the point of the mountain state land; and

(21) impose impact fees under Title 11, Chapter 36a, Impact Fees Act, and other fees related to development activities.

Section 6. Section 11-59-205 is enacted to read:

11-59-205. Authority funds.

(1) Authority funds consist of all money that the authority receives from any source, including:

(a) money appropriated by the Legislature;

(b) money from lease revenue;

(c) revenue from fees or other charges imposed by the authority; and

(d) other money paid to or acquired by the authority, as provided in this chapter or other applicable law.

(2) The authority may use authority funds to carry out any of the powers of the authority under this chapter or for any purpose authorized under this chapter, including:

(a) providing long-term benefits to the state from the development or use of point of the mountain state land;

(b) investment in authority projects;

(c) repayment of point of the mountain infrastructure loans;

(d) repayment of or collateral for authority bonds;

(e) the sharing of money with other governmental entities under an interlocal agreement; and

(f) paying any consulting fees, staff salaries, and other administrative, overhead, legal, and operating expenses of the authority.

(3) The authority may not spend or use any money the authority receives under Section 10-1-304, 11-59-206, 11-59-207, or 11-59-208 until after June 30, 2023.

Section 7. Section 11-59-206 is enacted to read:

11-59-206. Energy sales and use tax.

(1) As provided in Subsection 10-1-304(1)(c), the authority may by resolution levy an energy sales and use tax, under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act, on an energy supplier, as defined in Section 10-1-303, that supplies energy to a facility on the point of the mountain state land.

(2) An energy sales and use tax under this section is subject to the maximum rate under Subsection 10-3-304(1)(a)(ii), except that delivered value does not include the amount of a tax paid under this section.

(3) (a) An energy supplier may recover from the energy supplier's customers an amount equal to the energy sales and use tax, if the energy supplier includes the amount as a separate billing line item.

(b) An energy sales and use tax levied under this section is in addition to the rate approved by the Public Service Commission and charged to the customer.

(4) (a) An energy sales and use tax under this section is payable by the energy supplier to the authority on a monthly basis as described by the resolution levying the tax.

(b) A resolution levying an energy sales and use tax shall allow the energy supplier to retain 1% of the tax remittance each month to offset the energy supplier's costs of collecting and remitting the tax.

(5) Beginning July 1, 2022, a municipality may not levy an energy sales and use tax on an energy supplier for energy that the energy supplier supplies to a facility located on the point of the mountain state land.

Section 8. Section 11-59-207 is enacted to read:

11-59-207. Annual fee in lieu of property tax.

(1) As used in this section:

(a) "Annual fee" means a fee:

(i) that is levied and collected each year, as provided in this section; and

(ii) in an amount that is the equivalent of the cumulative real property tax that would be levied and collected on leased property by all taxing entities if the leased property were not exempt property.

(b) "Exempt property" means real property that is exempt from ad valorem property tax because the real property is owned by the state.

(c) "Lease agreement" means an agreement by which a private person leases from the state real property that is part of the point of the mountain state land.

(d) (i) "Leased property" means real property that:

(A) is part of the point of the mountain state land;

(B) is leased by a private person; and

(C) would be subject to ad valorem property tax if the real property were owned by the private person.

(ii) "Leased property" includes attachments and other improvements to the real property that would be included in an assessment of the value of the real property if the real property were not exempt property.

(e) "Leased property value" means the value that leased property would have if the leased property were subject to ad valorem property tax.

(f) "Lessee" means a private person that leases property that is part of the point of the mountain state land under a lease agreement.

(2) Beginning January 1 of the year immediately following the execution of a lease agreement, a lessee under the lease agreement shall pay an annual fee with respect to the leased property that is the subject of the lease agreement.

(3) In a county in which the point of the mountain state land is located:

(a) the county assessor shall determine the leased property value of leased property that is subject to an annual fee as though the leased property were subject to ad valorem property tax;

(b) the county treasurer shall collect an annual fee in the same way and at the same time that the treasurer would collect ad valorem property tax on the leased property if the leased property were subject to ad valorem property tax;

(c) the county may retain an administrative fee for collecting and distributing the annual fee in the same amount that would apply if the leased property were not exempt property; and

(d) the county treasurer shall distribute to the authority all revenue from an annual fee on leased property in the same way and at the same time as the treasurer distributes ad valorem property tax revenue to taxing entities in accordance with Section 59-2-1365.

(4) Leased property is not subject to a privilege tax under Title 59, Chapter 4, Privilege Tax.

Section 9. Section 11-59-208 is enacted to read:

11-59-208. Portion of property tax augmentation to be paid to authority.

(1) As used in this section:

(a) "Base taxable value" means the taxable value in the year before the transfer date.

(b) "Property tax augmentation":

(i) means the amount of property tax that is the difference between:

(A) the amount of property tax revenues generated each tax year by all taxing entities from a transferred parcel, using the current assessed value of the property; and

(B) the amount of property tax revenues that would be generated from that same transferred parcel using the base taxable value of the property; and

(ii) does not include property tax revenue from:

(A) a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602;

(B) a judgment levy imposed by a taxing entity under Section 59-2-1328 or 59-2-1330; or

(C) a levy imposed by a taxing entity under Section 11-14-310 to pay for a general obligation bond.

(c) "Transfer date" means the date that fee title to land that is part of the point of the mountain state land is transferred to a private person.

(d) "Transferred parcel" means a parcel of land:

(i) that is part of the point of the mountain state land; and

(ii) the fee title to which has been transferred to a private person.

(2) Beginning January 1, 2023, the authority shall be paid 75% of property tax augmentation from a transferred parcel:

(a) for a period of 25 years beginning January 1 of the year immediately following the transfer date for the transferred parcel; and

(b) for a period of an additional 15 years beyond the period stated in Subsection (2)(a) if:

(i) the board determines by resolution that the additional years will produce a significant benefit to the authority; and

(ii) the resolution is adopted before the end of the 25-year period under Subsection (2)(a).

(3) A county that collects property tax on property within the county in which the point of the mountain state land is located shall pay and distribute to the authority the amount of property tax augmentation that the authority is entitled to collect under Subsection (2), in the manner and at the time provided in Section 59-2-1365.

Section 10. Section 11-59-306 is amended to read:

11-59-306. Limitations on board members.

(1) As used in this section:

(a) "Designated individual" means an individual:

(i) (A) who is a member of the Senate or House of Representatives;

(B) who has been appointed as a member of the board under Subsection 11-59-302(2)(a) or (b); and

(C) whose legislative district includes some or all of the point of the mountain state land; or

(ii) who is designated to serve as a board member under Subsection 11-59-302(2)(e) or (f).

[~~(a)~~] (b) "Direct financial benefit":

(i) means any form of financial benefit that accrues to an individual directly as a result of the development of the point of the mountain state land, including:

(A) compensation, commission, or any other form of a payment or increase of money; and

(B) an increase in the value of a business or property; and

(ii) does not include a financial benefit that accrues to the public generally as a result of the development of the point of the mountain state land.

[~~(b)~~] (c) "Family member" means a parent, spouse, sibling, child, or grandchild.

[~~(c)~~] (d) "Interest in real property" means every type of real property interest, whether recorded or unrecorded, including:

(i) a legal or equitable interest;

(ii) an option on real property;

(iii) an interest under a contract;

(iv) fee simple ownership;

(v) ownership as a tenant in common or in joint tenancy or another joint ownership arrangement;

(vi) ownership through a partnership, limited liability company, or corporation that holds title to a real property interest in the name of the partnership, limited liability company, or corporation;

(vii) leasehold interest; and

(viii) any other real property interest that is capable of being owned.

(2) An individual may not serve as a member of the board if:

(a) subject to Subsection (5) for a designated individual, the individual owns an interest in real property, other than a personal residence in which the individual resides, on or within five miles of the point of the mountain state land;

(b) a family member of the individual owns an interest in real property, other than a personal residence in which the family member resides, located on or within one-half mile of the point of the mountain state land; [~~or~~]

(c) the individual or a family member of the individual owns an interest in, is directly affiliated with, or is an employee or officer of a firm, company, or other entity that the individual reasonably believes is likely to participate in or receive compensation or other direct financial benefit from the development of the point of the mountain state land[~~.~~]; or

(d) the individual or a family member of the individual receives or is expected to receive a direct financial benefit.

(3) (a) Before taking office as a board member, an individual shall submit to the authority a statement:

(i) verifying that the individual's service as a board member does not violate Subsection (2)[~~.~~]; and

(ii) for a designated individual, identifying any interest in real property, other than a personal residence in which the individual resides, located on or within five miles of the point of the mountain state land.

(b) If a designated individual takes action, during the individual's service as a board member, to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the individual intends to live, located on or within five miles of the point of the mountain state land, the designated individual shall submit a written statement to the board chair describing the action, the interest in real property that the designated individual intends to acquire, and the location of the real property.

(4) [~~A~~] Except for a board member who is a designated individual, a board member [~~may not,~~] is disqualified from further service as a board member if the board member, at any time during the board member's service on the board, [~~take~~] takes any action to initiate, negotiate, or otherwise arrange for the acquisition of an interest in real property, other than a personal residence in which the member intends to reside, located on or within five miles of the point of the mountain state land.

(5) A designated individual who submits a written statement under Subsection (3)(a)(ii) or (b) may not serve or continue to serve as a board member unless at least two-thirds of all other board members conclude that the designated individual's service as a board member does not and will not create a material conflict of interest impairing the ability of the designated individual to exercise fair and impartial judgment as a board member and to act in the best interests of the authority.

[~~(5)~~] (6) (a) The board may not allow a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land if a board member or a family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

(b) Before allowing a firm, company, or other entity to participate in planning, managing, or implementing the development of the point of the mountain state land, the board may require the firm, company, or other entity to certify that no board member or family member of a board member owns an interest in, is directly affiliated with, or is an employee or officer of the firm, company, or other entity.

Section 11. Section 17D-4-102 is amended to read:

17D-4-102. Definitions.

As used in this chapter:

(1) "Board" means the board of trustees of a public infrastructure district.

(2) "Creating entity" means the county, municipality, or development authority that approves the creation of a public infrastructure district.

(3) "Development authority" means:

(a) the Utah Inland Port Authority created in Section 11-58-201; [~~or~~]

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

[~~(b)~~] (c) the military installation development authority created in Section 63H-1-201.

(4) "District applicant" means the person proposing the creation of a public infrastructure district.

(5) "Division" means a division of a public infrastructure district:

(a) that is relatively equal in number of eligible voters or potential eligible voters to all other divisions within the public infrastructure district, taking into account existing or potential developments which, when completed, would increase or decrease the population within the public infrastructure district; and

(b) which a member of the board represents.

(6) "Governing document" means the document governing a public infrastructure district to which the creating entity agrees before the creation of the public infrastructure district, as amended from time to time, and subject to the limitations of Title 17B, Chapter 1, Provisions Applicable to All Local Districts, and this chapter.

(7) (a) "Limited tax bond" means a bond:

(i) that is directly payable from and secured by ad valorem property taxes that are levied:

(A) by a public infrastructure district that issues the bond; and

(B) on taxable property within the district;

(ii) that is a general obligation of the public infrastructure district; and

(iii) for which the ad valorem property tax levy for repayment of the bond does not exceed the property tax levy rate limit established under Section 17D-4-303 for any fiscal year, except as provided in Subsection 17D-4-301(8).

(b) "Limited tax bond" does not include:

(i) a short-term bond;

(ii) a tax and revenue anticipation bond; or

(iii) a special assessment bond.

(8) "Public infrastructure and improvements" means:

(a) publicly owned infrastructure and improvements, as defined in Section 11-58-102, for a public infrastructure district created by the Utah Inland Port Authority created in Section 11-58-201; and

(b) the same as that term is defined in Section 63H-1-102, for a public infrastructure district created by the military installation development authority created in Section 63H-1-201.

Section 12. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, or to discuss a proposed development agreement, project proposal, or financing proposal related to the development of land owned by the state, if public discussion [~~of the transaction~~] would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; and

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 13. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of

certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, the same as that term is defined in Section 11-59-207;

[~~(ii)~~] (iii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

[~~(iii)~~] (iv) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

[~~(iv)~~] (v) for a host local government, the same as that term is defined in Section 63N-2-502.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount calculated by multiplying:

(A) the difference between the current assessed value of the property and the base taxable value; and

(B) the number that represents the percentage of the property tax augmentation, as defined in Section 11-59-207, that is paid to the Point of the Mountain State Land Authority;

[~~(ii)~~] (iii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

[~~(iii)~~] (iv) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

[~~(iv)~~] (v) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for the Point of the Mountain State Land Authority created in Section 11-59-201, an amount equal to the incremental value that is no longer provided to the Point of the Mountain State Land Authority as property tax augmentation, as defined in Section 11-59-207;

[~~(ii)~~] (iii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

[~~(iii)~~] (iv) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 14. Section 63A-3-401.5 is amended to read:

63A-3-401.5. Definitions.

As used in this part:

(1) "Borrower" means a person who borrows money from an infrastructure fund for an infrastructure project.

(2) "Independent political subdivision" means:

(a) the Utah Inland Port Authority created in Section 11-58-201;

(b) the Point of the Mountain State Land Authority created in Section 11-59-201; or

(c) the Military Installation Development Authority created in Section 63H-1-201.

(3) "Infrastructure fund" means a fund created in Subsection 63A-3-402(1).

(4) "Infrastructure loan" means a loan of infrastructure fund money to finance an infrastructure project.

(5) "Infrastructure project" means a project to acquire, construct, reconstruct, rehabilitate, equip, or improve public infrastructure and improvements:

(a) within a project area; or

(b) outside a project area, if the respective loan approval [~~committee~~] body determines by resolution that the public infrastructure and improvements are of benefit to the project area.

(6) "Inland port" means the same as that term is defined in Section 11-58-102.

(7) "Inland port fund" means the infrastructure fund created in Subsection 63A-3-402(1)(a).

(8) "Military development fund" means the infrastructure fund created in Subsection 63A-3-402(1)(c).

(9) "Point of the mountain fund" means the infrastructure fund created in Subsection 63A-3-402(1)(b).

(10) "Project area" means:

(a) the same as that term is defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund;

(b) the point of the mountain state land, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(11) "Property tax revenue" means:

(a) property tax differential, as defined in Section 11-58-102, for purposes of an infrastructure loan from the inland port fund; or

(b) property tax allocation, as defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(12) "Public infrastructure and improvements":

(a) for purposes of an infrastructure loan from the inland port fund:

(i) means publicly owned infrastructure and improvements, as defined in Section 11-58-102; and

(ii) includes an inland port facility; [~~and~~]

(b) means publicly owned infrastructure and improvements, as defined in Section 11-59-102, for purposes of an infrastructure loan from the point of the mountain fund; and

[~~(b)~~] (c) means the same as that term is defined in Section 63H-1-102, for purposes of an infrastructure loan from the military development fund.

(13) "Respective loan approval [~~committee~~] body" means:

(a) the committee created in Section 11-58-106, for purposes of an infrastructure loan from the inland port fund;

(b) the [~~committee~~] board created in Section [~~11-59-104~~] 11-59-301, for purposes of an infrastructure loan from the point of the mountain fund; and

(c) the committee created in Section 63H-1-104, for purposes of an infrastructure loan from the military development fund.

Section 15. Section 63A-3-402 is amended to read:

63A-3-402. Infrastructure funds established -- Purpose of funds -- Use of money in funds.

(1) There are created, as enterprise revolving loan funds:

(a) the inland port infrastructure revolving loan fund;

(b) the point of the mountain infrastructure revolving loan fund; and

(c) the military development infrastructure revolving loan fund.

(2) The purpose of each infrastructure fund is to provide funding, through infrastructure loans, for infrastructure projects undertaken by a borrower.

(3) (a) Money in an infrastructure fund may be used only to provide loans for infrastructure projects.

(b) The division may not loan money in an infrastructure fund without the approval of:

(i) the respective loan approval [~~committee.~~] body; and

(ii) the Executive Appropriations Committee of the Legislature, for a loan from the point of the mountain fund.

Section 16. Section 63A-3-404 is amended to read:

63A-3-404. Loan agreement.

(1) (a) A borrower that borrows money from an infrastructure fund shall enter into a loan agreement with the division for repayment of the money.

(b) (i) A loan agreement under Subsection (1)(a) shall be secured by:

(A) bonds, notes, or another evidence of indebtedness validly issued under state law; or

(B) revenue generated from an infrastructure project.

(ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge of some or all of a revenue source that the borrower controls.

(c) The respective loan approval [~~committee~~] body may determine that property tax revenue or revenue from the infrastructure project for which the infrastructure loan is obtained is sufficient security for an infrastructure loan.

(2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.

(3) (a) Subject to Subsection (3)(b), the respective loan approval [~~committee~~] body shall determine the length of term of an infrastructure loan.

(b) If the security for an infrastructure loan is property tax revenue, the repayment terms of the infrastructure loan agreement shall allow sufficient time for the property tax revenue to generate sufficient money to cover payments under the infrastructure loan.

(4) An infrastructure loan agreement may provide for a portion of the loan proceeds to be applied to a reserve fund to secure repayment of the infrastructure loan.

(5) (a) If a borrower fails to comply with the terms of an infrastructure loan agreement, the division may:

(i) seek any legal or equitable remedy to obtain:

(A) compliance with the agreement; or

(B) the payment of damages; and

(ii) request a state agency with money due to the borrower to withhold payment of the money to the borrower and instead to pay the money to the division to pay any amount due under the infrastructure loan agreement.

(b) A state agency that receives a request from the division under Subsection (5)(a)(ii) shall pay to the division the money due to the borrower to the extent of the amount due under the infrastructure loan agreement.

(6) Upon approval from the respective loan approval [~~committee~~] body, the division shall loan money from an infrastructure fund according to the terms established by the respective loan approval [~~committee~~] body.

(7) (a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.

(b) (i) Beginning May 5, 2021, the division shall assume responsibility from the State Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a).

(ii) Payments due after May 5, 2021 under the loan under Subsection 63B-27-101(3)(a) shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited into the military development fund.

Section 17. Repealer.

This bill repeals:

Section 11-59-101, Title.

Section 18. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect May 4, 2022.

(2) If approved by two-thirds of all the members elected to each house, the amendments to Section 52-4-205 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 238
H. B. 444
Passed March 3, 2022
Approved March 23, 2022
Effective March 23, 2022
(Exception clause)

INCOME TAX REVISIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies the tax obligations of pass-through entities and pass-through entity taxpayers.

Highlighted Provisions:

This bill:

- authorizes a pass-through entity to pay a tax on behalf of pass-through entity taxpayers who are individuals for a taxable year that begins on or after January 1, 2022, but begins on or before December 31, 2025;
- requires an individual whose tax on income attributed to the pass-through entity taxpayer is paid by the pass-through entity to add the amount of tax paid to the pass-through entity taxpayer's individual tax return;
- creates a nonrefundable income tax credit equal to the amount of the tax paid by the pass-through entity;
- requires a pass-through entity to report information to a pass-through entity taxpayer regarding income attributed to the pass-through entity taxpayer and tax paid;
- creates penalties for failure to provide the report or to pay the tax; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-1-401, as last amended by Laws of Utah 2021, Chapter 367
59-10-114, as last amended by Laws of Utah 2021, Chapter 367
59-10-406, as last amended by Laws of Utah 2017, Chapter 226
59-10-1103, as last amended by Laws of Utah 2009, Chapter 312
59-10-1402, as last amended by Laws of Utah 2012, Chapter 95
59-10-1403, as last amended by Laws of Utah 2021, Chapter 367
59-10-1403.2, as last amended by Laws of Utah 2012, Chapter 95

ENACTS:

59-10-1044, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-401 is amended to read:

59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute of limitations -- Commission authority to waive, reduce, or compromise penalty or interest.

(1) As used in this section:

(a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the commission:

(i) has implemented the commission's GenTax system; and

(ii) at least 30 days before implementing the commission's GenTax system as described in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's website stating:

(A) the date the commission will implement the GenTax system with respect to the tax, fee, or charge; and

(B) that, at the time the commission implements the GenTax system with respect to the tax, fee, or charge:

(I) a person that files a return after the due date as described in Subsection (2)(a) is subject to the penalty described in Subsection (2)(c)(ii); and

(II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is subject to the penalty described in Subsection (3)(b)(ii).

(b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or charge, the later of:

(i) the date on which the commission implements the commission's GenTax system with respect to the tax, fee, or charge; or

(ii) 30 days after the date the commission provides the notice described in Subsection (1)(a)(ii) with respect to the tax, fee, or charge.

(c) (i) Except as provided in Subsection (1)(c)(ii), "tax, fee, or charge" means:

(A) a tax, fee, or charge the commission administers under:

(I) this title;

(II) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(III) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(IV) Section 19-6-410.5;

(V) Section 19-6-714;

(VI) Section 19-6-805;

(VII) Section 34A-2-202;

(VIII) Section 40-6-14; or

(IX) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(B) another amount that by statute is subject to a penalty imposed under this section.

(ii) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:

(A) Title 41, Chapter 1a, Motor Vehicle Act, except for Section 41-1a-301;

(B) Title 41, Chapter 3, Motor Vehicle Business Regulation Act;

(C) Chapter 2, Property Tax Act, except for Section 59-2-1309;

(D) Chapter 3, Tax Equivalent Property Act; or

(E) Chapter 4, Privilege Tax.

(d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated tax, fee, or charge.

(2) (a) The due date for filing a return is:

(i) if the person filing the return is not allowed by law an extension of time for filing the return, the day on which the return is due as provided by law; or

(ii) if the person filing the return is allowed by law an extension of time for filing the return, the earlier of:

(A) the date the person files the return; or

(B) the last day of that extension of time as allowed by law.

(b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a return after the due date described in Subsection (2)(a).

(c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:

(i) if the return described in Subsection (2)(b) is filed with respect to an unactivated tax, fee, or charge:

(A) $20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax, fee, or charge, beginning on the activation date for the tax, fee, or charge:

(A) $20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is filed no later than five days after the due date described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than five days after the due date but no later than 15 days after the due date described in Subsection (2)(a); or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is filed more than 15 days after the due date described in Subsection (2)(a).

(d) This Subsection (2) does not apply to:

(i) an amended return; or

(ii) a return with no tax due.

(3) (a) [~~A~~] Except as provided in Subsection (15), a person is subject to a penalty for failure to pay a tax, fee, or charge if:

(i) the person files a return on or before the due date for filing a return described in Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that due date;

(ii) the person:

(A) is subject to a penalty under Subsection (2)(b); and

(B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the due date for filing a return described in Subsection (2)(a);

(iii) (A) the person is subject to a penalty under Subsection (2)(b); and

(B) the commission estimates an amount of tax due for that person in accordance with Subsection 59-1-1406(2);

(iv) the person:

(A) is mailed a notice of deficiency; and

(B) within a 30-day period after the day on which the notice of deficiency described in Subsection (3)(a)(iv)(A) is mailed:

(I) does not file a petition for redetermination or a request for agency action; and

(II) fails to pay the tax, fee, or charge due on a return;

(v) (A) the commission:

(I) issues an order constituting final agency action resulting from a timely filed petition for redetermination or a timely filed request for agency action; or

(II) is considered to have denied a request for reconsideration under Subsection 63G-4-302(3)(b) resulting from a timely filed petition for redetermination or a timely filed request for agency action; and

(B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period after the date the commission:

(I) issues the order constituting final agency action described in Subsection (3)(a)(v)(A)(I); or

(II) is considered to have denied the request for reconsideration described in Subsection (3)(a)(v)(A)(II); or

(vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date of a final judicial decision resulting from a timely filed petition for judicial review.

(b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:

(i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an unactivated tax, fee, or charge:

(A) $20; or

(B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or

(ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with respect to an activated tax, fee, or charge, beginning on the activation date:

(A) $20; or

(B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid no later than five days after the due date for filing a return described in Subsection (2)(a);

(II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than five days after the due date for filing a return described in Subsection (2)(a) but no later than 15 days after that due date; or

(III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a return described in Subsection (2)(a).

(4) (a) [~~Beginning January 1, 1995, in~~] In the case of any underpayment of estimated tax or quarterly installments required by Sections 59-5-107, 59-5-207, 59-7-504, and 59-9-104, there shall be added a penalty in an amount determined by applying the interest rate provided under Section 59-1-402 plus four percentage points to the amount of the underpayment for the period of the underpayment.

(b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the excess of the required installment over the amount, if any, of the installment paid on or before the due date for the installment.

(ii) The period of the underpayment shall run from the due date for the installment to whichever of the following dates is the earlier:

(A) the original due date of the tax return, without extensions, for the taxable year; or

(B) with respect to any portion of the underpayment, the date on which that portion is paid.

(iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a person allowed by law an extension of time for filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described in Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not including the extension of time, the person fails to pay:

(i) for a person filing a corporate franchise or income tax return under Chapter 7, Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507(1)(b); or

(ii) for a person filing an individual income tax return under Chapter 10, Individual Income Tax Act, the payment required by Subsection 59-10-516(2).

(b) For purposes of Subsection (5)(a), the penalty per month during the period of the extension of time for filing the return is an amount equal to 2% of the tax due on the return, unpaid as of the day on which the return is due as provided by law.

(6) If a person does not file a return within an extension of time allowed by Section 59-7-505 or 59-10-516, the person:

(a) is not subject to a penalty in the amount described in Subsection (5)(b); and

(b) is subject to a penalty in an amount equal to the sum of:

(i) a late file penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time; and

(ii) a late pay penalty in an amount equal to the greater of:

(A) $20; or

(B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is due as provided by law, not including the extension of time.

(7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided in this Subsection (7)(a).

(i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax, fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that is due to negligence.

(ii) Except as provided in Subsection (7)(d), if any portion of an underpayment of a tax, fee, or charge is due to intentional disregard of law or rule, the penalty is 15% of the entire underpayment.

(iii) If any portion of an underpayment is due to an intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 50% of the entire underpayment.

(iv) If any portion of an underpayment is due to fraud with intent to evade a tax, fee, or charge, the penalty is the greater of $500 per period or 100% of the entire underpayment.

(b) If the commission determines that a person is liable for a penalty imposed under Subsection

(7)(a)(ii), (iii), or (iv), the commission shall notify the person of the proposed penalty.

(i) The notice of proposed penalty shall:

(A) set forth the basis of the assessment; and

(B) be mailed by certified mail, postage prepaid, to the person's last-known address.

(ii) Upon receipt of the notice of proposed penalty, the person against whom the penalty is proposed may:

(A) pay the amount of the proposed penalty at the place and time stated in the notice; or

(B) proceed in accordance with the review procedures of Subsection (7)(b)(iii).

(iii) A person against whom a penalty is proposed in accordance with this Subsection (7) may contest the proposed penalty by filing a petition for an adjudicative proceeding with the commission.

(iv) (A) If the commission determines that a person is liable for a penalty under this Subsection (7), the commission shall assess the penalty and give notice and demand for payment.

(B) The commission shall mail the notice and demand for payment described in Subsection (7)(b)(iv)(A):

(I) to the person's last-known address; and

(II) in accordance with Section 59-1-1404.

(c) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(i) if on or after July 1, 2001:

(i) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(ii) the commission issues a final unappealable administrative order determining that:

(A) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(B) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e).

(d) A seller that voluntarily collects a tax under Subsection 59-12-107(2)(d) is not subject to the penalty under Subsection (7)(a)(ii) if:

(i) (A) a court of competent jurisdiction issues a final unappealable judgment or order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); or

(B) the commission issues a final unappealable administrative order determining that:

(I) the seller meets one or more of the criteria described in Subsection 59-12-107(2)(a) or is a seller required to pay or collect and remit sales and use taxes under Subsection 59-12-107(2)(b) or (2)(c); and

(II) the commission or a county, city, or town may require the seller to collect a tax under Subsections 59-12-103(2)(a) through (e); and

(ii) the seller's intentional disregard of law or rule is warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.

(8) (a) Subject to Subsections (8)(b) and (c), the penalty for failure to file an information return, information report, or a complete supporting schedule is $50 for each information return, information report, or supporting schedule up to a maximum of $1,000.

(b) If an employer is subject to a penalty under Subsection (13), the employer may not be subject to a penalty under Subsection (8)(a).

(c) If an employer is subject to a penalty under this Subsection (8) for failure to file a return in accordance with Subsection 59-10-406(3) on or before the due date described in Subsection 59-10-406(3)(b)(ii), the commission may not impose a penalty under this Subsection (8) unless the return is filed more than 14 days after the due date described in Subsection 59-10-406(3)(b)(ii).

(9) If a person, in furtherance of a frivolous position, has a prima facie intent to delay or impede administration of a law relating to a tax, fee, or charge and files a purported return that fails to contain information from which the correctness of reported tax, fee, or charge liability can be determined or that clearly indicates that the tax, fee, or charge liability shown is substantially incorrect, the penalty is $500.

(10) (a) A seller that fails to remit a tax, fee, or charge monthly as required by Subsection 59-12-108(1)(a):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(b) A seller that fails to remit a tax, fee, or charge by electronic funds transfer as required by Subsection 59-12-108(1)(a)(ii)(B):

(i) is subject to a penalty described in Subsection (2); and

(ii) may not retain the percentage of sales and use taxes that would otherwise be allowable under Subsection 59-12-108(2).

(11) (a) A person is subject to the penalty provided in Subsection (11)(c) if that person:

(i) commits an act described in Subsection (11)(b) with respect to one or more of the following documents:

(A) a return;

(B) an affidavit;

(C) a claim; or

(D) a document similar to Subsections (11)(a)(i)(A) through (C);

(ii) knows or has reason to believe that the document described in Subsection (11)(a)(i) will be used in connection with any material matter administered by the commission; and

(iii) knows that the document described in Subsection (11)(a)(i), if used in connection with any material matter administered by the commission, would result in an understatement of another person's liability for a tax, fee, or charge.

(b) The following acts apply to Subsection (11)(a)(i):

(i) preparing any portion of a document described in Subsection (11)(a)(i);

(ii) presenting any portion of a document described in Subsection (11)(a)(i);

(iii) procuring any portion of a document described in Subsection (11)(a)(i);

(iv) advising in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(v) aiding in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i);

(vi) assisting in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i); or

(vii) counseling in the preparation or presentation of any portion of a document described in Subsection (11)(a)(i).

(c) For purposes of Subsection (11)(a), the penalty:

(i) shall be imposed by the commission;

(ii) is $500 for each document described in Subsection (11)(a)(i) with respect to which the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and

(iii) is in addition to any other penalty provided by law.

(d) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (11).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (11)(a)(i)(A) through (C).

(12) (a) As provided in Section 76-8-1101, criminal offenses and penalties are as provided in Subsections (12)(b) through (e).

(b) (i) A person who is required by this title or any laws the commission administers or regulates to register with or obtain a license or permit from the commission, who operates without having registered or secured a license or permit, or who operates when the registration, license, or permit is expired or not current, is guilty of a class B misdemeanor.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(b)(i), the penalty may not:

(A) be less than $500; or

(B) exceed $1,000.

(c) (i) With respect to a tax, fee, or charge, a person who knowingly and intentionally, and without a reasonable good faith basis, fails to make, render, sign, or verify a return within the time required by law or to supply information within the time required by law, or who makes, renders, signs, or verifies a false or fraudulent return or statement, or who supplies false or fraudulent information, is guilty of a third degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(c)(i), the penalty may not:

(A) be less than $1,000; or

(B) exceed $5,000.

(d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by law, guilty of a second degree felony.

(ii) Notwithstanding Section 76-3-301, for purposes of Subsection (12)(d)(i), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(e) (i) A person is guilty of a second degree felony if that person commits an act:

(A) described in Subsection (12)(e)(ii) with respect to one or more of the following documents:

(I) a return;

(II) an affidavit;

(III) a claim; or

(IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and

(B) subject to Subsection (12)(e)(iii), with knowledge that the document described in Subsection (12)(e)(i)(A):

(I) is false or fraudulent as to any material matter; and

(II) could be used in connection with any material matter administered by the commission.

(ii) The following acts apply to Subsection (12)(e)(i):

(A) preparing any portion of a document described in Subsection (12)(e)(i)(A);

(B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

(C) procuring any portion of a document described in Subsection (12)(e)(i)(A);

(D) advising in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(E) aiding in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A);

(F) assisting in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A); or

(G) counseling in the preparation or presentation of any portion of a document described in Subsection (12)(e)(i)(A).

(iii) This Subsection (12)(e) applies:

(A) regardless of whether the person for which the document described in Subsection (12)(e)(i)(A) is prepared or presented:

(I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or

(II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and

(B) in addition to any other penalty provided by law.

(iv) Notwithstanding Section 76-3-301, for purposes of this Subsection (12)(e), the penalty may not:

(A) be less than $1,500; or

(B) exceed $25,000.

(v) The commission may seek a court order to enjoin a person from engaging in conduct that is subject to a penalty under this Subsection (12)(e).

(vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the documents that are similar to Subsections (12)(e)(i)(A)(I) through (III).

(f) The statute of limitations for prosecution for a violation of this Subsection (12) is the later of six years:

(i) from the date the tax should have been remitted; or

(ii) after the day on which the person commits the criminal offense.

(13) (a) Subject to Subsection (13)(b), an employer that is required to file a form with the commission in accordance with Subsection 59-10-406(8) or (9) is subject to a penalty described in Subsection (13)(b) if the employer:

(i) fails to file the form with the commission in an electronic format approved by the commission as required by Subsection 59-10-406(8) or (9);

(ii) fails to file the form on or before the due date provided in Subsection 59-10-406(8) or (9);

(iii) fails to provide accurate information on the form; or

(iv) fails to provide all of the information required by the Internal Revenue Service to be contained on the form.

(b) For purposes of Subsection (13)(a), the penalty is:

(i) $30 per form, not to exceed $75,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 14 days after the due date provided in Subsection 59-10-406(8) or (9) but no later than 30 days after the due date provided in Subsection 59-10-406(8) or (9);

(ii) $60 per form, not to exceed $200,000 in a calendar year, if the employer files the form in accordance with Subsection 59-10-406(8) or (9), more than 30 days after the due date provided in Subsection 59-10-406(8) or (9) but on or before June 1; or

(iii) $100 per form, not to exceed $500,000 in a calendar year, if the employer:

(A) files the form in accordance with Subsection 59-10-406(8) or (9) after June 1; or

(B) fails to file the form.

(14) Upon making a record of [~~its~~] the commission's actions, and upon reasonable cause shown, the commission may waive, reduce, or compromise any of the penalties or interest imposed under this part.

(15) Failure to pay a tax described in Subsection 59-10-1403.2(2) shall be subject to a penalty as described in Subsection (3) except that the penalty shall be:

(a) assessed only if the pass-through entity reports tax paid on a Utah Schedule K-1 but does not pay some or all of the tax reported; and

(b) calculated based on the difference between the amount of tax reported and the amount of tax paid.

Section 2. Section 59-10-114 is amended to read:

59-10-114. Additions to and subtractions from adjusted gross income of an individual.

(1) There shall be added to adjusted gross income of a resident or nonresident individual:

(a) a lump sum distribution that the taxpayer does not include in adjusted gross income on the taxpayer's federal individual income tax return for the taxable year;

(b) the amount of a child's income calculated under Subsection (4) that:

(i) a parent elects to report on the parent's federal individual income tax return for the taxable year; and

(ii) the parent does not include in adjusted gross income on the parent's federal individual income tax return for the taxable year;

(c) (i) a withdrawal from a medical care savings account and any penalty imposed for the taxable year if:

(A) the resident or nonresident individual does not deduct the amounts on the resident or nonresident individual's federal individual income tax return under Section 220, Internal Revenue Code;

(B) the withdrawal is subject to Subsections 31A-32a-105(1) and (2); and

(C) the withdrawal is subtracted on, or used as the basis for claiming a tax credit on, a return the resident or nonresident individual files under this chapter;

(ii) a disbursement required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(3); or

(iii) an amount required to be added to adjusted gross income in accordance with Subsection 31A-32a-105(5)(c);

(d) the amount withdrawn under Title 53B, Chapter 8a, Utah Educational Savings Plan, from the account of a resident or nonresident individual who is an account owner as defined in Section 53B-8a-102, for the taxable year for which the amount is withdrawn, if that amount withdrawn from the account of the resident or nonresident individual who is the account owner:

(i) is not expended for:

(A) higher education costs as defined in Section 53B-8a-102.5; or

(B) a payment or distribution that qualifies as an exception to the additional tax for distributions not used for educational expenses provided in Sections 529(c) and 530(d), Internal Revenue Code; and

(ii) is:

(A) subtracted by the resident or nonresident individual:

(I) who is the account owner; and

(II) on the resident or nonresident individual's return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) used as the basis for the resident or nonresident individual who is the account owner to claim a tax credit under Section 59-10-1017;

(e) except as provided in Subsection (5), for bonds, notes, and other evidences of indebtedness acquired on or after January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness:

(i) issued by one or more of the following entities:

(A) a state other than this state;

(B) the District of Columbia;

(C) a political subdivision of a state other than this state; or

(D) an agency or instrumentality of an entity described in Subsections (1)(e)(i)(A) through (C); and

(ii) to the extent the interest is not included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(f) subject to Subsection (2)(c), any distribution received by a resident beneficiary of a resident trust of income that was taxed at the trust level for federal tax purposes, but was subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(b);

(g) any distribution received by a resident beneficiary of a nonresident trust of undistributed distributable net income realized by the trust on or after January 1, 2004, if that undistributed distributable net income was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by any state, with undistributed distributable net income considered to be distributed from the most recently accumulated undistributed distributable net income; [~~and~~]

(h) any adoption expense:

(i) for which a resident or nonresident individual receives reimbursement from another person; and

(ii) to the extent to which the resident or nonresident individual subtracts that adoption expense:

(A) on a return filed under this chapter for a taxable year beginning on or before December 31, 2007; or

(B) from federal taxable income on a federal individual income tax return[~~.~~];

(i) the amount of tax paid on income attributed to the individual in accordance with Subsection 59-10-1403.2(2); and

(j) the amount of tax paid:

(i) on income attributed to the individual and taxable in this state;

(ii) to another state; and

(iii) that the commission determines is substantially similar to the tax imposed under Subsection 59-10-1403.2(2).

(2) There shall be subtracted from adjusted gross income of a resident or nonresident individual:

(a) the difference between:

(i) the interest or a dividend on an obligation or security of the United States or an authority, commission, instrumentality, or possession of the United States, to the extent that interest or dividend is:

(A) included in adjusted gross income for federal income tax purposes for the taxable year; and

(B) exempt from state income taxes under the laws of the United States; and

(ii) any interest on indebtedness incurred or continued to purchase or carry the obligation or security described in Subsection (2)(a)(i);

(b) if the conditions of Subsection (3)(a) are met, the amount of income derived by a Ute tribal member:

(i) during a time period that the Ute tribal member resides on homesteaded land diminished from the Uintah and Ouray Reservation; and

(ii) from a source within the Uintah and Ouray Reservation;

(c) an amount received by a resident or nonresident individual or distribution received by a resident or nonresident beneficiary of a resident trust:

(i) if that amount or distribution constitutes a refund of taxes imposed by:

(A) a state; or

(B) the District of Columbia; and

(ii) to the extent that amount or distribution is included in adjusted gross income for that taxable year on the federal individual income tax return of the resident or nonresident individual or resident or nonresident beneficiary of a resident trust;

(d) the amount of a railroad retirement benefit:

(i) paid:

(A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et seq.;

(B) to a resident or nonresident individual; and

(C) for the taxable year; and

(ii) to the extent that railroad retirement benefit is included in adjusted gross income on that resident or nonresident individual's federal individual income tax return for that taxable year;

(e) an amount:

(i) received by an enrolled member of an American Indian tribe; and

(ii) to the extent that the state is not authorized or permitted to impose a tax under this part on that amount in accordance with:

(A) federal law;

(B) a treaty; or

(C) a final decision issued by a court of competent jurisdiction;

(f) an amount received:

(i) for the interest on a bond, note, or other obligation issued by an entity for which state statute provides an exemption of interest on its bonds from state individual income tax;

(ii) by a resident or nonresident individual;

(iii) for the taxable year; and

(iv) to the extent the amount is included in adjusted gross income on the taxpayer's federal income tax return for the taxable year;

(g) the amount of all income, including income apportioned to another state, of a nonmilitary spouse of an active duty military member if:

(i) both the nonmilitary spouse and the active duty military member are nonresident individuals;

(ii) the active duty military member is stationed in Utah;

(iii) the nonmilitary spouse is subject to the residency provisions of 50 U.S.C. Sec. 4001(a)(2); and

(iv) the income is included in adjusted gross income for federal income tax purposes for the taxable year;

(h) for a taxable year beginning on or after January 1, 2019, but beginning on or before December 31, 2019, only:

(i) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, on the taxpayer's 2018 federal income tax return; plus

(ii) the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year;

(i) for a taxable year beginning on or after January 1, 2020, the amount of any FDIC premium paid or incurred by the taxpayer that is disallowed as a deduction for federal income tax purposes under Section 162(r), Internal Revenue Code, for the taxable year; and

(j) an amount of a distribution from a qualified retirement plan under Section 401(a), Internal Revenue Code, if:

(i) the amount of the distribution is included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(ii) for the taxable year when the amount of the distribution was contributed to the qualified retirement plan, the amount of the distribution:

(A) was not included in adjusted gross income on the resident or nonresident individual's federal individual income tax return for the taxable year; and

(B) was taxed by another state of the United States, the District of Columbia, or a possession of the United States.

(3) (a) A subtraction for an amount described in Subsection (2)(b) is allowed only if:

(i) the taxpayer is a Ute tribal member; and

(ii) the governor and the Ute tribe execute and maintain an agreement meeting the requirements of this Subsection (3).

(b) The agreement described in Subsection (3)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a subtraction under this section greater than or different from the subtraction described in Subsection (2)(b); or

(C) affect the power of the state to establish rates of taxation; and

(ii) shall:

(A) provide for the implementation of the subtraction described in Subsection (2)(b);

(B) be in writing;

(C) be signed by:

(I) the governor; and

(II) the chair of the Business Committee of the Ute tribe;

(D) be conditioned on obtaining any approval required by federal law; and

(E) state the effective date of the agreement.

(c) (i) The governor shall report to the commission by no later than February 1 of each year regarding whether or not an agreement meeting the requirements of this Subsection (3) is in effect.

(ii) If an agreement meeting the requirements of this Subsection (3) is terminated, the subtraction permitted under Subsection (2)(b) is not allowed for taxable years beginning on or after the January 1 following the termination of the agreement.

(d) For purposes of Subsection (2)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) for determining whether income is derived from a source within the Uintah and Ouray Reservation; and

(ii) that are substantially similar to how adjusted gross income derived from Utah sources is determined under Section 59-10-117.

(4) (a) For purposes of this Subsection (4), "Form 8814" means:

(i) the federal individual income tax Form 8814, Parents' Election To Report Child's Interest and Dividends; or

(ii) (A) a form designated by the commission in accordance with Subsection (4)(a)(ii)(B) as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814; and

(B) for purposes of Subsection (4)(a)(ii)(A) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules designating a form as being substantially similar to 2000 Form 8814 if for purposes of federal individual income taxes the information contained on 2000 Form 8814 is reported on a form other than Form 8814.

(b) The amount of a child's income added to adjusted gross income under Subsection (1)(b) is equal to the difference between:

(i) the lesser of:

(A) the base amount specified on Form 8814; and

(B) the sum of the following reported on Form 8814:

(I) the child's taxable interest;

(II) the child's ordinary dividends; and

(III) the child's capital gain distributions; and

(ii) the amount not taxed that is specified on Form 8814.

(5) Notwithstanding Subsection (1)(e), interest from bonds, notes, and other evidences of indebtedness issued by an entity described in Subsections (1)(e)(i)(A) through (D) may not be added to adjusted gross income of a resident or nonresident individual if, as annually determined by the commission:

(a) for an entity described in Subsection (1)(e)(i)(A) or (B), the entity and all of the political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

(b) for an entity described in Subsection (1)(e)(i)(C) or (D), the following do not impose a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of this state:

(i) the entity; or

(ii) (A) the state in which the entity is located; or

(B) the District of Columbia, if the entity is located within the District of Columbia.

Section 3. Section 59-10-406 is amended to read:

59-10-406. Collection and payment of tax -- Forms filed electronically.

(1) (a) Each employer shall, on or before the last day of April, July, October, and January, pay to the commission the amount required to be deducted

and withheld from wages paid to any employee during the preceding calendar quarter under this part.

(b) The commission may change the time or period for making reports and payments if:

(i) in its opinion, the tax is in jeopardy; or

(ii) a different time or period will facilitate the collection and payment of the tax by the employer.

(2) (a) Each employer shall file a return, in a form the commission prescribes, with each payment of the amount deducted and withheld under this part showing:

(i) the total amount of wages paid to his employees;

(ii) the amount of federal income tax deducted and withheld;

(iii) the amount of tax under this part deducted and withheld; and

(iv) any other information the commission may require.

(b) The employer shall file the return described in Subsection (2)(a) in an electronic format approved by the commission.

(3) (a) Each employer shall file an annual return, in a form the commission prescribes, summarizing:

(i) the total compensation paid;

(ii) the federal income tax deducted and withheld; and

(iii) the state tax deducted and withheld for each employee during the calendar year.

(b) The return required by Subsection (3)(a) shall be filed with the commission:

(i) in an electronic format approved by the commission; and

(ii) on or before January 31 of the year following that for which the report is made.

(4) (a) Each employer shall also, in accordance with rules prescribed by the commission, provide each employee from whom state income tax has been withheld with a statement of the amounts of total compensation paid and the amounts deducted and withheld for that employee during the preceding calendar year in accordance with this part.

(b) The statement shall be made available to each employee described in Subsection (4)(a) on or before January 31 of the year following that for which the report is made.

(5) (a) The employer is liable to the commission for the payment of the tax required to be deducted and withheld under this part.

(b) If an employer pays the tax required to be deducted and withheld under this part:

(i) an employee of the employer is not liable for the amount of any payment described in Subsection (5)(a); and

(ii) the employer is not liable to any person or to any employee for the amount of any such payment described in Subsection (5)(a).

(c) For the purpose of making penal provisions of this title applicable, any amount deducted or required to be deducted and remitted to the commission under this part is considered to be the tax of the employer and with respect to such amounts the employer is considered to be the taxpayer.

(6) (a) Each employer that deducts and withholds any amount under this part shall hold the amount in trust for the state for the payment of the amount to the commission in the manner and at the time provided for in this part.

(b) So long as any delinquency continues, the state shall have a lien to secure the payment of any amounts withheld, and not remitted as provided under this section, upon all of the assets of the employer and all property owned or used by the employer in the conduct of the employer's business, including stock-in-trade, business fixtures, and equipment.

(c) The lien described in Subsection (6)(b) shall be prior to any lien of any kind, including existing liens for taxes.

(7) To the extent consistent with this section, the commission may use all the provisions of this chapter relating to records, penalties, interest, deficiencies, redetermination of deficiencies, overpayments, refunds, assessments, and venue to enforce this section.

(8) (a) Subject to Subsections (8)(b) and (c), the commission shall require an employer that issues the following forms for a taxable year to file the forms with the commission in an electronic format approved by the commission:

(i) a federal Form W-2;

(ii) a federal Form 1099 filed for purposes of withholding under Section 59-10-404; or

(iii) a federal form substantially similar to a form described in Subsection (8)(a)(i) or (ii) if designated by the commission in accordance with Subsection (8)(d).

(b) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall file the form on or before January 31.

(c) An employer that is required to file a form with the commission in accordance with Subsection (8)(a) shall provide:

(i) accurate information on the form; and

(ii) all of the information required by the Internal Revenue Service to be contained on the form.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of

Subsection (8)(a), the commission may designate a federal form as being substantially similar to a form described in Subsection (8)(a)(i) or (ii) if:

(i) for purposes of federal individual income taxes a different federal form contains substantially similar information to a form described in Subsection (8)(a)(i) or (ii); or

(ii) the Internal Revenue Service replaces a form described in Subsection (8)(a)(i) or (ii) with a different federal form.

(9) (a) Subject to Subsection (9)(b), a pass-through entity shall file with the commission in an electronic format approved by the commission a Utah Schedule K-1, or a substantially similar form designated by the commission, for each pass-through entity taxpayer of a pass-through entity that elected to pay a tax in accordance with Subsection 59-10-1403.2(2).

(b) The pass-through entity shall file a form described in Subsection (9)(a) with the pass-through entity's return.

Section 4. Section 59-10-1044 is enacted to read:

59-10-1044. (Codified as 59-10-1045) Nonrefundable tax credit for taxes paid by pass-through entity.

(1) As used in this section, "taxed pass-through entity taxpayer" means a resident or nonresident individual who:

(a) has income attributed to the individual by a pass-through entity;

(b) receives the income described in Subsection (1)(a) after the pass-through entity pays the tax described in Subsection 59-10-1403.2(2); and

(c) adds the amount of tax paid on the income described in Subsection (1)(a) to adjusted gross income in accordance with Subsection 59-10-114(1)(i).

(2) (a) A taxed pass-through entity taxpayer may claim a nonrefundable tax credit for the taxes imposed under Subsection 59-10-1403.2(2).

(b) The tax credit is equal to the amount of the tax paid under Subsection 59-10-1403.2(2) by the pass-through entity on the income attributed to the taxed pass-through entity taxpayer.

(3) (a) A taxed pass-through entity taxpayer may carry forward the amount of the tax credit that exceeds the taxed pass-through entity's tax liability for a period that does not exceed the next five taxable years.

(b) A taxed pass-through entity taxpayer may not carry back the amount of the tax credit that exceeds the taxed pass-through entity's tax liability for the taxable year.

Section 5. Section 59-10-1103 is amended to read:

59-10-1103. Tax credit for pass-through entity taxpayer.

(1) As used in this section:

(a) "Pass-through entity" [~~is as~~] means the same as that term is defined in Section 59-10-1402.

(b) "Pass-through entity taxpayer" [~~is as~~] means the same as that term is defined in Section 59-10-1402.

(2) A pass-through entity taxpayer may claim a refundable tax credit against the tax otherwise due under this chapter if that pass-through entity taxpayer is a:

(a) claimant;

(b) estate; or

(c) trust.

(3) The tax credit described in Subsection (2) is equal to the amount paid or withheld by the pass-through entity on behalf of the pass-through entity taxpayer described in Subsection (2) in accordance with Section 59-10-1403.2, other than a tax described in Subsection 59-10-1403.2(2).

(4) A pass-through entity taxpayer may not claim a tax credit under this section for an amount for which the pass-through entity taxpayer claims a tax credit under Section 59-7-614.4.

Section 6. Section 59-10-1402 is amended to read:

59-10-1402. Definitions.

As used in this part:

(1) "Addition, subtraction, or adjustment" means:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes:

(i) an addition to unadjusted income described in Section 59-7-105; or

(ii) a subtraction from unadjusted income described in Section 59-7-106;

(b) for a pass-through entity taxpayer that is classified as an individual, partnership, or S corporation for federal income tax purposes:

(i) an addition to or subtraction from adjusted gross income described in Section 59-10-114; or

(ii) an adjustment to adjusted gross income described in Section 59-10-115; or

(c) for a pass-through entity taxpayer that is classified as an estate or a trust for federal income tax purposes:

(i) an addition to or subtraction from unadjusted income described in Section 59-10-202; or

(ii) an adjustment to unadjusted income described in Section 59-10-209.1.

(2) "Business income" means income arising from transactions and activity in the regular course of a pass-through entity's trade or business and includes income from tangible and intangible property if the acquisition, management, and

disposition of the property constitutes integral parts of the pass-through entity's regular trade or business operations.

(3) "C corporation" [~~is as~~] means the same as that term is defined in Section 1361, Internal Revenue Code.

(4) "Commercial domicile" means the principal place from which the trade or business of a business entity is directed or managed.

(5) "Dependent beneficiary" means an individual who:

(a) is claimed as a dependent under Section 151, Internal Revenue Code, on another person's federal income tax return; and

(b) is a beneficiary of a trust that is a pass-through entity.

(6) "Derived from or connected with Utah sources" means:

(a) if a pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, derived from or connected with Utah sources in accordance with Chapter 7, Part 3, Allocation and Apportionment of Income - Utah UDITPA Provisions; or

(b) if a pass-through entity or pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, derived from or connected with Utah sources in accordance with Sections 59-10-117 and 59-10-118.

(7) "Final pass-through entity taxpayer" means a pass-through entity taxpayer who is a resident or nonresident individual.

[~~(7)~~] (8) "Nonbusiness income" means all income of a pass-through entity other than business income.

[~~(8)~~] (9) "Nonresident business entity" means a business entity that does not have its commercial domicile in this state.

[~~(9)~~] (10) "Nonresident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) nonresident individual; or

(b) nonresident business entity.

[~~(10)~~] (11) "Pass-through entity" means a business entity that is:

(a) the following if classified as a partnership for federal income tax purposes:

(i) a general partnership;

(ii) a limited liability company;

(iii) a limited liability partnership; or

(iv) a limited partnership;

(b) an S corporation;

(c) an estate or trust with respect to which the estate's or trust's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity taxpayers; or

(d) a business entity similar to Subsections [~~(10)~~] (11)(a) through (c):

(i) with respect to which the business entity's income, gain, loss, deduction, or credit is divided among and passed through to one or more pass-through entity taxpayers; and

(ii) as defined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(11)~~] (12) "Pass-through entity taxpayer" means a resident or nonresident individual, a resident or nonresident business entity, or a resident or nonresident estate or trust:

(a) that is:

(i) for a general partnership, a partner;

(ii) for a limited liability company, a member;

(iii) for a limited liability partnership, a partner;

(iv) for a limited partnership, a partner;

(v) for an S corporation, a shareholder;

(vi) for an estate or trust described in Subsection [~~(10)~~](11)(c), a beneficiary; or

(vii) for a business entity described in Subsection [~~(10)~~](11)(d), a member, partner, shareholder, or other title designated by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) to which the income, gain, loss, deduction, or credit of a pass-through entity is passed through.

[~~(12)~~] (13) "Resident business entity" means a business entity that is not a nonresident business entity.

[~~(13)~~] (14) "Resident pass-through entity taxpayer" means a pass-through entity taxpayer that is a:

(a) resident individual; or

(b) resident business entity.

[~~(14)~~] (15) "Return" means a return that a pass-through entity taxpayer files:

(a) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(b) for a pass-through entity taxpayer that is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter.

[~~(15)~~] (16) "S corporation" [~~is as~~] means the same as that term is defined in Section 1361, Internal Revenue Code.

[~~(16)~~] (17) "Share of income, gain, loss, deduction, or credit of a pass-through entity" means:

(a) for a pass-through entity except for a pass-through entity that is an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity as determined under Section 704 et seq., Internal Revenue Code; and

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's distributive share of income, gain, loss, deduction, or credit of the pass-through entity:

(A) as determined under Section 704 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources; or

(b) for an S corporation:

(i) for a resident pass-through entity taxpayer, the resident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation, as determined under Sec. 1366 et seq., Internal Revenue Code; or

(ii) for a nonresident pass-through entity taxpayer, the nonresident pass-through entity taxpayer's pro rata share of income, gain, loss, deduction, or credit of the S corporation:

(A) as determined under Section 1366 et seq., Internal Revenue Code; and

(B) derived from or connected with Utah sources.

[~~(17)~~] (18) "Statement of dependent beneficiary income" means a statement:

(a) signed by the person who claims a dependent beneficiary as a dependent under Section 151, Internal Revenue Code, on the person's federal income tax return for the taxable year;

(b) attesting that the dependent is a dependent beneficiary; and

(c) indicating that the person expects that the dependent beneficiary's adjusted gross income for the taxable year will not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year.

(19) "Voluntary taxable income" means the sum of a pass-through entity's income that is:

(a) attributed to a final pass-through entity taxpayer who is a resident individual; and

(b) (i) business income and nonbusiness income that is derived from or connected with Utah sources; and

(ii) attributed to a final pass-through entity taxpayer who is a nonresident individual.

Section 7. Section 59-10-1403 is amended to read:

59-10-1403. Income tax treatment of a pass-through entity -- Returns -- Classification same as under Internal Revenue Code.

(1) Subject to Subsection (3) and except as provided in Subsection 59-10-1403.2(2), a pass-through entity is not subject to a tax imposed by this chapter.

(2) Except as provided in Section 59-10-1403.3, the income, gain, loss, deduction, or credit of a pass-through entity shall be passed through to one or more pass-through entity taxpayers as provided in this part.

(3) A pass-through entity is subject to the return filing requirements of Sections 59-10-507, 59-10-514, and 59-10-516.

(4) For purposes of taxation under this title, a pass-through entity that transacts business in the state shall be classified in the same manner as the pass-through entity is classified for federal income tax purposes.

Section 8. Section 59-10-1403.2 is amended to read:

59-10-1403.2. Pass-through entity payment or withholding of tax on behalf of a pass-through entity taxpayer -- Exceptions to payment or withholding requirement -- Procedures and requirements -- Failure to pay or withhold a tax on behalf of a pass-through entity taxpayer.

(1) (a) Except as provided in [~~Subsection (1)(b)~~] Subsections (1)(b) and (2), for a taxable year, a pass-through entity shall pay or withhold a tax:

(i) on:

(A) the business income of the pass-through entity; and

(B) the nonbusiness income of the pass-through entity derived from or connected with Utah sources; and

(ii) on behalf of a pass-through entity taxpayer.

(b) A pass-through entity is not required to pay or withhold a tax under Subsection (1)(a):

(i) on behalf of a pass-through entity taxpayer who is a resident individual;

(ii) if the pass-through entity is an organization exempt from taxation under Subsection 59-7-102(1)(a);

(iii) if the pass-through entity:

(A) is a plan under Section 401, 408, or 457, Internal Revenue Code; and

(B) is not required to file a return under Chapter 7, Corporate Franchise and Income Taxes, or this chapter; [~~or~~]

(iv) if the pass-through entity is a publicly traded partnership:

(A) as defined in Section 7704(b), Internal Revenue Code;

(B) that is classified as a partnership for federal income tax purposes; and

(C) that files an annual information return reporting the following with respect to each partner of the publicly traded partnership with income derived from or connected with Utah sources that exceeds $500 in a taxable year:

(I) the partner's name;

(II) the partner's address;

(III) the partner's taxpayer identification number; and

(IV) other information required by the commission[~~.~~]; or

(v) on behalf of a pass-through entity taxpayer that is a nonresident individual if the pass-through entity pays the tax described in Subsection (2).

(2) (a) For each taxable year that begins on or after January 1, 2022, but begins on or before December 31, 2025, a pass-through entity that is not a disregarded pass-through entity may elect to pay a tax in an amount equal to:

(i) the percentage listed in Subsection 59-10-104(2); and

(ii) voluntary taxable income.

(b) A pass-through entity that elects to pay the tax in accordance with Subsection (2)(a) shall notify any final pass-through entity taxpayer of that election.

(c) A pass-through entity that pays a tax described in Subsection (2)(a) shall provide to each pass-through entity taxpayer a statement that states the amount of tax paid on the income attributed to the pass-through entity taxpayer.

(d) A payment of the tax described in Subsection (2)(a) on or before the last day of the taxable year is an irrevocable election to be subject to the tax for the taxable year.

[~~(2) (a)~~] (3) (a) Subject to Subsection [~~(2)~~] (3)(b), the tax a pass-through entity shall pay or withhold on behalf of a pass-through entity taxpayer for a taxable year is an amount:

(i) determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) that the commission estimates will be sufficient to pay the tax liability of the pass-through entity taxpayer under this chapter with respect to the income described in Subsection (1)(a)(i) or (2)(a)(ii) of that pass-through entity for the taxable year.

(b) The rules the commission makes in accordance with Subsection [~~(2)~~] (3)(a):

(i) except as provided in Subsection [~~(2)~~] (3)(c):

(A) shall:

(I) for a pass-through entity except for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as analyzed on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(II) for a pass-through entity that is an S corporation, take into account items of income, gain, loss, deduction, and credit as reconciled on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity; and

(B) notwithstanding Subsection [~~(2)~~] (3)(b)(ii)(D), take into account the refundable tax credit provided in Section 59-6-102; and

(ii) may not take into account the following items if taking those items into account does not result in an accurate estimate of a pass-through entity taxpayer's tax liability under this chapter for the taxable year:

(A) a capital loss;

(B) a passive loss;

(C) another item of deduction or loss if that item of deduction or loss is generally subject to significant reduction or limitation in calculating:

(I) for a pass-through entity taxpayer that is classified as a C corporation for federal income tax purposes, unadjusted income as defined in Section 59-7-101;

(II) for a pass-through entity that is classified as an individual, partnership, or S corporation for federal income tax purposes, adjusted gross income; or

(III) for a pass-through entity that is classified as an estate or a trust for federal income tax purposes, unadjusted income as defined in Section 59-10-103; or

(D) a tax credit allowed against a tax imposed under:

(I) Chapter 7, Corporate Franchise and Income Taxes; or

(II) this chapter.

(c) The rules the commission makes in accordance with Subsection [~~(2)~~] (3)(a) may establish a method for taking into account items of income, gain, loss, deduction, or credit of a pass-through entity if:

(i) for a pass-through entity except for a pass-through entity that is an S corporation, the pass-through entity does not analyze the items of income, gain, loss, deduction, or credit on the schedule for reporting partners' distributive share items as part of the federal income tax return for the pass-through entity; or

(ii) for a pass-through entity that is an S corporation, the pass-through entity does not reconcile the items of income, gain, loss, deduction, or credit on the schedule for reporting shareholders' pro rata share items as part of the federal income tax return for the pass-through entity.

[~~(3) A~~] (4) (a) Except as provided in Subsection (4)(b), a pass-through entity shall remit to the commission the tax the pass-through entity pays or withholds on behalf of a pass-through entity taxpayer under this section:

[~~(a)~~] (i) on or before the due date of the pass-through entity's return, not including extensions; and

[~~(b)~~] (ii) on a form provided by the commission.

(b) A pass-through entity shall remit the tax described in Subsection (2) on or before the last day of the pass-through entity's taxable year.

[~~(4)~~] (5) A pass-through entity shall provide a statement to a pass-through entity taxpayer on behalf of whom the pass-through entity pays or withholds a tax under this section showing the amount of tax the pass-through entity pays or withholds under this section for the taxable year on behalf of the pass-through entity taxpayer.

[~~(5)~~] (6) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity and shall waive any penalty and interest on that amount if:

(a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on behalf of the pass-through entity taxpayer;

(b) the pass-through entity taxpayer:

(i) files a return on or before the due date for filing the pass-through entity's return, including extensions; and

(ii) on or before the due date including extensions described in Subsection [~~(5)~~] (6)(b)(i), pays the tax on the amount for the taxable year:

(A) if the pass-through entity taxpayer is classified as a C corporation for federal income tax purposes, under Chapter 7, Corporate Franchise and Income Taxes; or

(B) if the pass-through entity taxpayer is classified as an estate, individual, partnership, S corporation, or a trust for federal income tax purposes, under this chapter; and

(c) the pass-through entity applies to the commission.

[~~(6)~~] (7) Notwithstanding Section 59-1-401 or 59-1-402, the commission may not collect an amount under this section for a taxable year from a pass-through entity that is a trust and shall waive any penalty and interest on that amount if:

(a) the pass-through entity fails to pay or withhold the tax on the amount as required by this section on behalf of a dependent beneficiary;

(b) the pass-through entity applies to the commission; and

(c) (i) the dependent beneficiary complies with the requirements of Subsection [~~(5)~~] (6)(b); or

(ii) (A) the dependent beneficiary's adjusted gross income for the taxable year does not exceed the basic standard deduction for the dependent beneficiary, as calculated under Section 63, Internal Revenue Code, for that taxable year; and

(B) the trustee of the trust retains a statement of dependent beneficiary income on behalf of the dependent beneficiary.

[~~(7)~~] (8) If a pass-through entity would have otherwise qualified for a waiver of a penalty and interest under Subsection [~~(6)~~] (7), except that the trustee of a trust has not applied to the commission as required by Subsection [~~(6)~~] (7)(b) or retained the statement of dependent beneficiary income required by Subsection [~~(6)~~] (7)(c)(ii)(B), it is a rebuttable presumption in an audit that the pass-through entity would have otherwise qualified for the waiver of the penalty and interest under Subsection [~~(6)~~] (7).

Section 9. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 10. Retrospective operation.

(1) Except as provided in Subsection (2), this bill has retrospective operation for a taxable year beginning on or after January 1, 2022.

(2) The changes to Section 59-10-114 have retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 239
S. B. 20

Passed March 2, 2022
Approved March 23, 2022
Effective March 23, 2022
(Exception clause)

PROPERTY TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Adam Robertson

LONG TITLE

General Description:

This bill modifies property tax and fee in lieu of property tax provisions.

Highlighted Provisions:

This bill:

- clarifies the formula for calculating an energy supplier's fee in lieu of property tax;
- requires an interlocal entity that owns an electric generation and transmission facility to report to the State Tax Commission information about sales of electricity to energy suppliers and public agencies;
- modifies the circumstances under which a county has to require a written declaration to qualify for the primary residential property tax exemption;
- modifies a property owner's right to appeal a determination about the owner's eligibility for the primary residential property tax exemption;
- defines "public utility" and "telecommunications service provider";
- provides that the State Tax Commission may not assess property owned by a telecommunications service provider;
- creates a process for the Multicounty Appraisal Trust to value personal property of a telecommunications service provider before forwarding the information to county assessors for assessment;
- modifies the calculation of the centrally assessed benchmark value for purposes of property tax new growth;
- modifies the rate of the multicounty assessing and collecting levy; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

11-13-302, as last amended by Laws of Utah 2018, Chapters 415 and 456
59-2-102, as last amended by Laws of Utah 2021, Chapter 314
59-2-103.5, as last amended by Laws of Utah 2021, Chapters 367 and 389
59-2-201, as last amended by Laws of Utah 2017, Chapter 425
59-2-306, as last amended by Laws of Utah 2010, Chapter 131
59-2-307, as last amended by Laws of Utah 2021, Chapter 389
59-2-308, as enacted by Laws of Utah 1987, Chapter 4
59-2-924, as last amended by Laws of Utah 2021, Chapters 214 and 388
59-2-1005, as last amended by Laws of Utah 2010, Chapter 131
59-2-1602, as last amended by Laws of Utah 2021, Chapter 367

ENACTS:

59-2-306.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-302 is amended to read:

11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1) (a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad

valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53F-2-301 or 53F-2-301.5, as applicable; and

(ii) local levies for capital outlay and other purposes under Sections 53F-8-303, 53F-8-301, and 53F-8-302.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53F-2-301 or 53F-2-301.5, as applicable; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and

(ii) reflect any credit to be given in that year.

(4) (a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:

(i) the annual fees were ad valorem property taxes; and

(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.

(b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:

(A) the project entity; and

(B) any county that:

(I) is due an annual fee from the project entity; and

(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).

(ii) The agreement described in Subsection (4)(b)(i):

(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and

(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.

(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.

(iv) (A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:

(I) for that year; and

(II) using the same measure of value as is used for taxable property in the state.

(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.

(c) Payments of the annual fees shall be made from:

(i) the proceeds of bonds issued for the project; and

(ii) revenues derived by the project entity from the project.

(d) (i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.

(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.

(5) (a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues, money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6) (a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold, including any subsequent sale, resale, or layoff, by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

(d) On or before March 1 of each year, a project entity that owns a project and that provides any capacity, service, or other benefit to an energy supplier or a public agency shall file an electronic report with the State Tax Commission that identifies:

(i) each energy supplier and public agency to which the project entity delivers capacity, service, or other benefit; and

(ii) the amount of capacity, service, or other benefit delivered to each energy supplier and public agency.

Section 2. Section 59-2-102 is amended to read:

59-2-102. Definitions.

As used in this chapter:

(1) (a) "Acquisition cost" means any cost required to put an item of tangible personal property into service.

(b) "Acquisition cost" includes:

(i) the purchase price of a new or used item;

(ii) the cost of freight, shipping, loading at origin, unloading at destination, crating, skidding, or any other applicable cost of shipping;

(iii) the cost of installation, engineering, rigging, erection, or assembly, including foundations, pilings, utility connections, or similar costs; and

(iv) sales and use taxes.

(2) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(3) "Air charter service" means an air carrier operation that requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

(4) "Air contract service" means an air carrier operation available only to customers that engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(5) "Aircraft" means the same as that term is defined in Section 72-10-102.

(6) (a) Except as provided in Subsection (6)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(7) "Assessment roll" or "assessment book" means a permanent record of the assessment of property as assessed by the county assessor and the commission

and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(8) "Base parcel" means a parcel of property that was legally:

(a) subdivided into two or more lots, parcels, or other divisions of land; or

(b) (i) combined with one or more other parcels of property; and

(ii) subdivided into two or more lots, parcels, or other divisions of land.

(9) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a multicounty assessing and collecting levy, as specified in Section 59-2-1602; and

(ii) the product of:

(A) eligible new growth, as defined in Section 59-2-924; and

(B) the multicounty assessing and collecting levy certified by the commission for the previous year.

(b) For purposes of this Subsection (9), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

(i) assessed by a county assessor in accordance with Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (9), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(10) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer that is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles that are:

(i) especially constructed for towing or wrecking, and that are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(11) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months before the day on which the notice described in Section 59-2-919.1 is required to be provided; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) $5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(12) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, that is subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) "Escaped property" does not include property that is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology.

(13)(a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records that a taxpayer maintains for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income that exceeds a normal rate of return on assets and that results from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

(iii) customer relationships;

(iv) patronage; or

(v) a factor similar to Subsections (16)(b)(i) through (iv).

(c) "Goodwill" does not include:

(i) the intangible property described in Subsection (19)(a) or (b);

(ii) locational attributes of real property, including:

(A) zoning;

(B) location;

(C) view;

(D) a geographic feature;

(E) an easement;

(F) a covenant;

(G) proximity to raw materials;

(H) the condition of surrounding property; or

(I) proximity to markets;

(iii) value attributable to the identification of an improvement to real property, including:

(A) reputation of the designer, builder, or architect of the improvement;

(B) a name given to, or associated with, the improvement; or

(C) the historic significance of an improvement; or

(iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

(a) for a county, city, or town, the legislative body of the county, city, or town;

(b) for a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, the local district's board of trustees;

(c) for a school district, the local board of education;

(d) for a special service district under Title 17D, Chapter 1, Special Service District Act:

(i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301; or

(e) for a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, the public infrastructure district's board of trustees.

(18) (a) Except as provided in Subsection (18)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (18)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (18)(a); and

(B) installed solely to serve the operation of the item described in Subsection (18)(a); and

(ii) an item described in Subsection (18)(a) that is temporarily detached from the land for repairs and remains located on the land.

(c) "Improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land for stability only or for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to the land or the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(19) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property, including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(5).

(20) "Livestock" means:

(a) a domestic animal;

(b) a fish;

(c) a fur-bearing animal;

(d) a honeybee; or

(e) poultry.

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code; or

(b) a low-income housing tax credit under Section 59-7-607 or Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is owned or operated by an air charter service, air contract service, or airline and:

(i) is capable of flight or is attached to an aircraft that is capable of flight; or

(ii) is contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(A) during multiple flights;

(B) during a takeoff, flight, or landing; and

(C) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated at regular intervals with an engine that is attached to the aircraft.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Part-year residential property" means property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

(28) "Personal property" includes:

(a) every class of property as defined in Subsection (29) that is the subject of ownership and is not real estate or an improvement;

(b) any pipe laid in or affixed to land whether or not the ownership of the pipe is separate from the ownership of the underlying land, even if the pipe meets the definition of an improvement;

(c) bridges and ferries;

(d) livestock; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(29) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(30) (a) "Public utility" means:

[~~(a) for purposes of this chapter,~~] (i) the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, [~~telephone corporation,~~] sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use; and

[~~(b)~~] (ii) the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(b) "Public utility" does not include the operating property of a telecommunications service provider.

(31) (a) Subject to Subsection (31)(b), "qualifying exempt primary residential rental personal property" means household furnishings, furniture, and equipment that:

(i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

(ii) are owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(iii) after applying the residential exemption described in Section 59-2-103, are exempt from taxation under this chapter in accordance with Subsection 59-2-1115(2).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of this Subsection (31) and Subsection (34).

(32) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(33) (a) "Relationship with an owner of the property's land surface rights" means a relationship described in Subsection 267(b), Internal Revenue Code, except that the term 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code.

(b) For purposes of determining if a relationship described in Subsection 267(b), Internal Revenue Code, exists, the ownership of stock shall be determined using the ownership rules in Subsection 267(c), Internal Revenue Code.

(34) (a) "Residential property," for purposes of the reductions and adjustments under this chapter, means any property used for residential purposes as a primary residence.

(b) "Residential property" includes:

(i) except as provided in Subsection (34)(b)(ii), includes household furnishings, furniture, and equipment if the household furnishings, furniture, and equipment are:

(A) used exclusively within a dwelling unit that is the primary residence of a tenant; and

(B) owned by the owner of the dwelling unit that is the primary residence of a tenant; and

(ii) if the county assessor determines that the property will be used for residential purposes as a primary residence:

(A) property under construction; or

(B) unoccupied property.

(c) "Residential property" does not include property used for transient residential use.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "dwelling unit" for purposes of Subsection (31) and this Subsection (34).

(35) "Split estate mineral rights owner" means a person that:

(a) has a legal right to extract a mineral from property;

(b) does not hold more than a 25% interest in:

(i) the land surface rights of the property where the wellhead is located; or

(ii) an entity with an ownership interest in the land surface rights of the property where the wellhead is located;

(c) is not an entity in which the owner of the land surface rights of the property where the wellhead is located holds more than a 25% interest; and

(d) does not have a relationship with an owner of the land surface rights of the property where the wellhead is located.

(36) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer that operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer that operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire that are specified in Subsection (10)(c) as county-assessed commercial vehicles.

(37) "Subdivided lot" means a lot, parcel, or other division of land, that is a division of a base parcel.

(38) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(39) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(40) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(41) (a) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll, and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll.

(b) "Tax roll" includes tax books, tax lists, and other similar materials.

(42) "Telecommunications service provider" means the same as that term is defined in Section 59-12-102.

Section 3. Section 59-2-103.5 is amended to read:

59-2-103.5. Procedures to obtain an exemption for residential property -- Procedure if property owner or property no longer qualifies to receive a residential exemption.

(1) Subject to Subsection (8), for residential property other than part-year residential property, a county legislative body may adopt an ordinance that requires an owner to file an application with the county board of equalization before a residential exemption under Section 59-2-103 may be applied to the value of the residential property if:

(a) the residential property was ineligible for the residential exemption during the calendar year immediately preceding the calendar year for which the owner is seeking to have the residential exemption applied to the value of the residential property;

(b) an ownership interest in the residential property changes; or

(c) the county board of equalization determines that there is reason to believe that the residential property no longer qualifies for the residential exemption.

(2) (a) The application described in Subsection (1):

(i) shall be on a form the commission prescribes by rule and makes available to the counties;

(ii) shall be signed by the owner of the residential property; and

(iii) may not request the sales price of the residential property.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules prescribing the contents of the form described in Subsection (2)(a).

(c) For purposes of the application described in Subsection (1), a county may not request information from an owner of a residential property beyond the information provided in the form prescribed by the commission under this Subsection (2).

(3) (a) Regardless of whether a county legislative body adopts an ordinance described in Subsection (1), before a residential exemption may be applied to the value of part-year residential property, an owner of the property shall:

(i) file the application described in Subsection (2)(a) with the county board of equalization; and

(ii) include as part of the application described in Subsection (2)(a) a statement that certifies:

(A) the date the part-year residential property became residential property;

(B) that the part-year residential property will be used as residential property for 183 or more consecutive calendar days during the calendar year for which the owner seeks to obtain the residential exemption; and

(C) that the owner, or a member of the owner's household, may not claim a residential exemption for any property for the calendar year for which the owner seeks to obtain the residential exemption, other than the part-year residential property, or as allowed under Section 59-2-103 with respect to the primary residence or household furnishings, furniture, and equipment of the owner's tenant.

(b) If an owner files an application under this Subsection (3) on or after May 1 of the calendar year for which the owner seeks to obtain the residential exemption, the county board of equalization may require the owner to pay an application fee not to exceed $50.

(4) Except as provided in Subsection (5), if a property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence, the property owner shall:

(a) file a written statement with the county board of equalization of the county in which the property is located:

(i) on a form provided by the county board of equalization; and

(ii) notifying the county board of equalization that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence; and

(b) declare on the property owner's individual income tax return under Chapter 10, Individual Income Tax Act, for the taxable year for which the property owner no longer qualifies to receive a residential exemption authorized under

Section 59-2-103 for the property owner's primary residence, that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for the property owner's primary residence.

(5) A property owner is not required to file a written statement or make the declaration described in Subsection (4) if the property owner:

(a) changes primary residences;

(b) qualified to receive a residential exemption authorized under Section 59-2-103 for the residence that was the property owner's former primary residence; and

(c) qualifies to receive a residential exemption authorized under Section 59-2-103 for the residence that is the property owner's current primary residence.

(6) Subsections (2) through (5) do not apply to qualifying exempt primary residential rental personal property.

(7) (a) Subject to Subsection (8), for the first calendar year in which a property owner qualifies to receive a residential exemption under Section 59-2-103, a county assessor may require the property owner to file a signed statement described in Section 59-2-306.

(b) Subject to Subsection (8) and notwithstanding Section 59-2-306, for a calendar year after the calendar year described in Subsection (7)(a) in which a property owner qualifies for an exemption described in Subsection 59-2-1115(2) for qualifying exempt primary residential rental personal property, a signed statement described in Section 59-2-306 with respect to the qualifying exempt primary residential rental personal property may only require the property owner to certify, under penalty of perjury, that the property owner qualifies for the exemption under Subsection 59-2-1115(2).

(8) (a) [~~Subject to the requirements of this Subsection (8) and except as provided in Subsection (8)(b), on or before May 1, 2020, a~~] After an ownership interest in residential property changes, the county assessor shall:

(i) notify [~~each owner of~~] the owner of the residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within [~~30~~] 90 days after the day on which the county assessor mails the notice under this Subsection (8)(a); and

(ii) provide [~~each owner with a~~] the owner of the residential property with the form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).

(b) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if the situs address of the residential property is the same as any one of the following:

(i) the mailing address of the residential property owner or the tenant of the residential property;

(ii) the address listed on the:

(A) residential property owner's driver license; or

(B) tenant of the residential property's driver license; or

(iii) the address listed on the:

(A) residential property owner's voter registration; or

(B) tenant of the residential property's voter registration.

[~~(c) After an ownership interest in residential property changes, the county assessor shall:~~]

[~~(i) notify the owner of the residential property that the owner is required to submit a written declaration described in Subsection (8)(d) within 90 days after the day on which the owner receives notice under this Subsection (8)(c); and~~]

[~~(ii) provide the owner of the residential property with the form described in Subsection (8)(e) to make the written declaration described in Subsection (8)(d).~~]

(c) A county assessor is not required to provide a notice to an owner of residential property under Subsection (8)(a) if:

(i) the owner is using a post office box or rural route box located in the county where the residential property is located; and

(ii) the residential property is located in a county of the fourth, fifth, or sixth class.

(d) An owner of residential property that receives a notice described in Subsection (8)(a) [~~or (c)~~] shall submit a written declaration to the county assessor under penalty of perjury certifying the information contained in the form provided in Subsection (8)(e).

(e) The written declaration required by Subsection (8)(d) shall be:

(i) signed by the owner of the residential property; and

(ii) in substantially the following form:

"Residential Property Declaration

This form must be submitted to the County Assessor's office where your new residential property is located within 90 days of receipt. Failure to do so will result in the county assessor taking action that could result in the withdrawal of the primary residential exemption from your residential property.

Residential Property Owner Information

Name(s): ____________________

Home Phone: ____________________

Work Phone: ____________________

Mailing Address: ____________________

Residential Property Information

Physical Address: ____________________

Certification

1. Is this property used as a primary residential property or part-year residential property for you or another person?

"Part-year residential property" means owned property that is not residential property on January 1 of a calendar year but becomes residential property after January 1 of the calendar year.

Yes No

2. Will this primary residential property or part-year residential property be occupied for 183 or more consecutive calendar days by the owner or another person?

A part-year residential property occupied for 183 or more consecutive calendar days in a calendar year by the owner(s) or a tenant is eligible for the exemption.

Yes No

If a property owner or a property owner's spouse claims a residential exemption under Utah Code Ann. 59-2-103 for property in this state that is the primary residence of the property owner or the property owner's spouse, that claim of a residential exemption creates a rebuttable presumption that the property owner and the property owner's spouse have domicile in Utah for income tax purposes. The rebuttable presumption of domicile does not apply if the residential property is the primary residence of a tenant of the property owner or the property owner's spouse.

Signature

Under penalties of perjury, I declare to the best of my knowledge and belief, this declaration and accompanying pages are true, correct, and complete.

__________________(Owner signature)

_____________________Date (mm/dd/yyyy)

__________________(Owner printed name)

(f) For purposes of a written declaration described in this Subsection (8), a county may not request information from a property owner beyond the information described in the form provided in Subsection (8)(e).

(g) (i) If, after receiving a written declaration filed under Subsection (8)(d), the county determines that the property has been incorrectly qualified or disqualified to receive a residential exemption, the county shall:

(A) redetermine the property's qualification to receive a residential exemption; and

(B) notify the claimant of the redetermination and [~~its~~] the county's reason for the redetermination.

(ii) The redetermination provided in Subsection (8)(g)(i)(A) is final unless [~~appealed within 30 days after the notice required by Subsection (8)(g)(i)(B).~~]:

(A) except as provided in Subsection (8)(g)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

(h) (i) If a residential property owner fails to file a written declaration required by Subsection (8)(d), the county assessor shall mail to the owner of the residential property a notice that:

(A) the property owner failed to file a written declaration as required by Subsection (8)(d); and

(B) the property owner will no longer qualify to receive the residential exemption authorized under Section 59-2-103 for the property that is the subject of the written declaration if the property owner does not file the written declaration required by Subsection (8)(d) within 30 days after the day on which the county assessor mails the notice under this Subsection (8)(h)(i).

(ii) If a property owner fails to file a written declaration required by Subsection (8)(d) after receiving the notice described in Subsection (8)(h)(i), the property owner no longer qualifies to receive the residential exemption authorized under Section 59-2-103 in the calendar year for the property that is the subject of the written declaration[~~.~~] unless:

(A) except as provided in Subsection (8)(h)(iii), the property owner appeals the redetermination to the board of equalization in accordance with Subsection 59-2-1004(2); or

(B) the county determines that the property is eligible to receive a primary residential exemption as part-year residential property.

(iii) The board of equalization may not accept an appeal that is filed after the later of:

(A) September 15 of the current calendar year; or

(B) the last day of the 45-day period beginning on the day on which the county auditor provides the notice under Section 59-2-919.1.

[~~(iii)~~] (iv) A property owner that is disqualified to receive the residential exemption under Subsection (8)(h)(ii) may file an application described in Subsection (1) to determine whether the owner is eligible to receive the residential exemption.

(i) The requirements of this Subsection (8) do not apply to a county assessor in a county that has, for the five calendar years prior to 2019, had in place and enforced an ordinance described in Subsection (1).

Section 4. Section 59-2-201 is amended to read:

59-2-201. Assessment by commission -- Determination of value of mining property

-- Determination of value of aircraft -- Notification of assessment -- Local assessment of property assessed by the unitary method -- Commission may consult with county.

(1) (a) By May 1 of each year, the following property, unless otherwise exempt under the Utah Constitution or under Part 11, Exemptions, Deferrals, and Abatements, shall be assessed by the commission at 100% of fair market value, as valued on January 1, in accordance with this chapter:

(i) except as provided in Subsection (2), all property that operates as a unit across county lines, if the values must be apportioned among more than one county or state;

(ii) all property of public utilities;

(iii) all operating property of an airline, air charter service, and air contract service;

(iv) all geothermal fluids and geothermal resources;

(v) all mines and mining claims except in cases, as determined by the commission, where the mining claims are used for other than mining purposes, in which case the value of mining claims used for other than mining purposes shall be assessed by the assessor of the county in which the mining claims are located; and

(vi) all machinery used in mining, all property or surface improvements upon or appurtenant to mines or mining claims. For the purposes of assessment and taxation, all processing plants, mills, reduction works, and smelters that are primarily used by the owner of a mine or mining claim for processing, reducing, or smelting minerals taken from a mine or mining claim shall be considered appurtenant to that mine or mining claim, regardless of actual location.

(b) (i) For purposes of Subsection (1)(a)(iii), operating property of an air charter service does not include an aircraft that is:

(A) used by the air charter service for air charter; and

(B) owned by a person other than the air charter service.

(ii) For purposes of this Subsection (1)(b):

(A) "person" means a natural person, individual, corporation, organization, or other legal entity; and

(B) a person does not qualify as a person other than the air charter service as described in Subsection (1)(b)(i)(B) if the person is:

(I) a principal, owner, or member of the air charter service; or

(II) a legal entity that has a principal, owner, or member of the air charter service as a principal, owner, or member of the legal entity.

(2) (a) The commission may not assess property owned by a telecommunications service provider.

(b) The commission shall assess and collect property tax on state-assessed commercial vehicles at the time of original registration or annual renewal.

[~~(a)~~] (i) The commission shall assess and collect property tax annually on state-assessed commercial vehicles that are registered pursuant to Section 41-1a-222 or 41-1a-228.

[~~(b)~~] (ii) State-assessed commercial vehicles brought into the state that are required to be registered in Utah shall, as a condition of registration, be subject to ad valorem tax unless all property taxes or fees imposed by the state of origin have been paid for the current calendar year.

[~~(c)~~] (iii) Real property, improvements, equipment, fixtures, or other personal property in this state owned by the company shall be assessed separately by the local county assessor.

[~~(d)~~] (iv) The commission shall adjust the value of state-assessed commercial vehicles as necessary to comply with 49 U.S.C. Sec. 14502, and the commission shall direct the county assessor to apply the same adjustment to any personal property, real property, or improvements owned by the company and used directly and exclusively in their commercial vehicle activities.

(3) (a) The method for determining the fair market value of productive mining property is the capitalized net revenue method or any other valuation method the commission believes, or the taxpayer demonstrates to the commission's satisfaction, to be reasonably determinative of the fair market value of the mining property.

(b) The commission shall determine the rate of capitalization applicable to mines, consistent with a fair rate of return expected by an investor in light of that industry's current market, financial, and economic conditions.

(c) In no event may the fair market value of the mining property be less than the fair market value of the land, improvements, and tangible personal property upon or appurtenant to the mining property.

(4) (a) As used in this Subsection (4), "aircraft pricing guide" means a nationally recognized publication that assigns value estimates for individual commercial aircraft that are:

(i) identified by year, make, and model; and

(ii) in average condition typical for the aircraft's type and vintage.

(b) (i) Except as provided in Subsection (4)(d), the commission shall use an aircraft pricing guide, adjusted as provided in Subsection (4)(c), to determine the fair market value of aircraft assessed under this part.

(ii) The commission shall use the Airliner Price Guide as the aircraft pricing guide, except that:

(A) if the Airliner Price Guide is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide;

(B) if an aircraft is not listed in the Airliner Price Guide, the commission shall use the Aircraft Bluebook Price Digest as the aircraft pricing guide; and

(C) if the Aircraft Bluebook Price Digest is no longer published or the commission determines that another aircraft pricing guide more reasonably reflects the fair market value of aircraft, the commission, after consulting with the airlines operating in the state, shall select an alternative aircraft pricing guide.

(c) (i) To reflect the value of an aircraft fleet that is used as part of the operating property of an airline, air charter service, or air contract service, the fair market value of the aircraft shall include a fleet adjustment as provided in this Subsection (4)(c).

(ii) If the aircraft pricing guide provides a method for making a fleet adjustment, the commission shall use the method described in the aircraft pricing guide.

(iii) If the aircraft pricing guide does not provide a method for making a fleet adjustment, the commission shall make a fleet adjustment by reducing the aircraft pricing guide value of each aircraft in the fleet by .5% for each aircraft over three aircraft up to a maximum 20% reduction.

(d) The commission may use an alternative method for valuing aircraft of an airline, air charter service, or air contract service if the commission:

(i) has clear and convincing evidence that the aircraft values reflected in the aircraft pricing guide do not reasonably reflect fair market value of the aircraft; and

(ii) cannot identify an alternative aircraft pricing guide from which the commission may determine aircraft value.

(5) Immediately following the assessment, the commission shall send, by certified mail, notice of the assessment to the owner or operator of the assessed property and the assessor of the county in which the property is located.

(6) The commission may consult with a county in valuing property in accordance with this part.

(7) The local county assessor shall separately assess property that is assessed by the unitary method if the commission determines that the property:

(a) is not necessary to the conduct of the business; and

(b) does not contribute to the income of the business.

Section 5. Section 59-2-306 is amended to read:

59-2-306. Statements by taxpayers -- Power of assessors respecting statements -- Reporting information to other counties, taxpayer.

(1) (a) [~~The~~] Except as provided in Subsection (1)(c), the county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor [~~which is owned, possessed, managed, or under the control of the person~~] that the person owns, possesses, manages, or has under the person's control at 12 noon on January 1.

(b) A request under Subsection (1)(a) shall include a notice of the procedure under Section 59-2-1005 for appealing the value of the personal property.

(c) A telecommunications service provider shall file a signed statement setting forth the telecommunications service provider's:

(i) real property in accordance with this section; and

(ii) personal property in accordance with Section 59-2-306.5.

(d) A telecommunications service provider shall claim an exemption for personal property in accordance with Section 59-2-1115.

(2) (a) Except as provided in Subsection (2)(b) or (c), a person shall file a signed statement described in Subsection (1) [~~shall be filed~~] on or before May 15 of the year the county assessor requests the statement described in Subsection (1) [~~is requested by the county assessor~~].

(b) For a county of the first class, a person shall file the signed statement described in Subsection (1) [~~shall be filed~~] on or before the later of:

(i) 60 days after [~~requested by the assessor~~] the day on which the county assessor requests the statement; or

(ii) [~~on or before~~] May 15 of the year the county assessor requests the statement described in Subsection (1) [~~is requested by the county assessor~~] if, by resolution, the county legislative body of that county adopts the deadline described in Subsection (2)(a).

(c) If a county assessor requests a signed statement described in Subsection (1) on or after March 16, the person shall file the signed statement within 60 days after [~~requested by the assessor~~] the day on which the county assessor requests the signed statement.

(3) The signed statement shall include the following:

(a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;

(b) the county in which the property is located or in which [~~it~~] the property is taxable; and, if taxable in the county in which the signed statement was made, also the city, town, school district, road district, or other taxing district in which [~~it~~] the property is located or taxable; and

(c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres [~~which~~] that have been sectionized by the United States Government, and the improvements on those lands.

(4) Every county assessor may subpoena and examine any person in any county in relation to any signed statement but may not require that person to appear in any county other than the county in which the subpoena is served.

(5) (a) Except as provided in Subsection (5)(b), if the signed statement discloses property in any other county, the county assessor shall file the signed statement and send a copy to the county assessor of each county in which the property is located.

(b) If the signed statement discloses personal property of a telecommunications service provider, the county assessor shall notify the telecommunications service provider of the requirement to file a signed statement in accordance with Section 59-2-306.5.

Section 6. Section 59-2-306.5 is enacted to read:

59-2-306.5. Valuation of personal property of telecommunications service provider -- Reporting information to counties.

(1) As used in this section, "Multicounty Appraisal Trust" means the same as that term is defined in Section 59-2-1601.

(2) A telecommunications service provider shall provide to the Multicounty Appraisal Trust a signed statement setting forth all of the personal property that the telecommunications service provider owns, possesses, manages, or has under the telecommunications service provider's control in the state.

(3) The signed statement shall:

(a) itemize each item of personal property that the telecommunications service provider owns, possesses, manages, or has under the telecommunications service provider's control:

(i) by county; and

(ii) for the tax year that began on January 1; and

(b) be submitted:

(i) annually on or before May 15; and

(ii) electronically in a form approved by the commission.

(4) (a) The Multicounty Appraisal Trust shall value each item of personal property of a telecommunications service provider according to the personal property valuation guides and schedules established by the commission.

(b) A telecommunications service provider may appeal the valuation of personal property in accordance with Section 59-2-1005.

(5) The Multicounty Appraisal Trust shall forward to each county information about the total value of personal property of each telecommunications service provider within the county.

(6) If a signed statement filed in accordance with this section discloses real property, the Multicounty Appraisal Trust shall send a copy of the signed statement to the county in which the property is located.

Section 7. Section 59-2-307 is amended to read:

59-2-307. Refusal by taxpayer to file signed statement -- Estimation of value -- Penalty.

(1) (a) Each person [~~who~~] that fails to file the signed statement required by Section 59-2-306 or Section 59-2-306.5, fails to file the signed statement with respect to name and place of residence, or fails to appear and testify when requested by the assessor, shall pay a penalty equal to 10% of the estimated tax due, but not less than $25 for each failure to file a signed and completed statement.

(b) The Multicounty Appraisal Trust shall notify the county assessor of a telecommunications service provider's failure to file the signed statement.

[~~(b)~~] (c) [~~Each~~] The assessor shall collect each penalty under Subsection (1)(a) [~~shall be collected~~] in the manner provided by Sections 59-2-1302 and 59-2-1303, except as otherwise provided for in this section, or by a judicial proceeding brought in the name of the assessor.

[~~(c) All money recovered by any assessor under this section shall be paid into the county treasury.~~]

(d) The assessor shall pay all money recovered under this section into the county treasury.

(2) (a) Upon a showing of reasonable cause, a county may waive or reduce a penalty imposed under Subsection (1)(a).

(b) (i) Except as provided in Subsection (2)(b)(ii), a county assessor may impose a penalty under Subsection (1)(a) [~~may be imposed~~] on or after May 16 of the year the county assessor requests the statement described in Section 59-2-306 [~~is requested by the county assessor~~] or is due under Section 59-2-306.5.

(ii) A county assessor may not impose a penalty under Subsection (1)(a) [~~may not be imposed~~] until 30 days after the postmark date of mailing of a subsequent notice if the signed statement described in Section 59-2-306 is requested:

(A) on or after March 16; or

(B) by a county assessor of a county of the first class.

(3) (a) If an owner neglects or refuses to file a signed statement requested by an assessor as required under Section 59-2-306:

(i) the assessor shall:

(A) make a record of the failure to file; and

(B) make an estimate of the value of the property of the owner based on known facts and circumstances; and

(ii) the assessor of a county of the first class:

(A) shall make a subsequent request by mail for the signed statement, informing the owner of the consequences of not filing a signed statement; and

(B) may impose a fee for the actual and necessary expenses of the mailing under Subsection (3)(a)(ii)(A).

(b) (i) If a telecommunications service provider neglects or refuses to file a signed statement in accordance with Section 59-2-306.5, the Multicounty Appraisal Trust shall make:

(A) a record of the failure to file;

(B) a request by mail for the signed statement, informing the telecommunications service provider of the consequences of not filing a signed statement; and

(C) an estimate of the value of the personal property of the telecommunications service provider based on known facts and circumstances.

(ii) The Multicounty Appraisal Trust may impose a fee for the actual and necessary expenses of the mailing under Subsection (3)(b)(i)(B).

(c) A county board of equalization or the commission may not reduce the value fixed by the assessor in accordance with Subsection (3)(a)(i) or the Multicounty Appraisal Trust in accordance with Subsection (3)(b)(i).

[~~(b) The value fixed by the assessor in accordance with Subsection (3)(a)(i) may not be reduced by the county board of equalization or by the commission.~~]

[~~(4) If the signed statement discloses property in any other county, the assessor shall file the signed statement and send a copy to the assessor of each county in which the property is located.~~]

Section 8. Section 59-2-308 is amended to read:

59-2-308. Assessment in name of representative -- Assessment of property of decedents -- Assessment of property in litigation -- Assessment of personal property valued by Multicounty Appraisal Trust.

(1) If a person is assessed as agent, trustee, bailee, guardian, executor, or administrator, [~~the~~] a county shall:

(a) add the representative designation [~~shall be added~~] to the name[~~,~~]; and [~~the assessment entered~~]

(b) enter the assessment separately from the individual assessment.

(2) [~~The~~] A county may assess the undistributed or unpartitioned property of a deceased [~~person may be assessed~~] individual to an heir, guardian, executor, or administrator, and the payment of taxes binds all the parties in interest.

(3) Property in litigation, which is in the possession of a court or receiver, shall be assessed to the court clerk or receiver, and the taxes shall be paid under the direction of the court.

(4) A county shall add the valuation the Multicounty Appraisal Trust gives to personal property of a telecommunications service provider to the valuation of any real property of the telecommunications service provider within the county before making an assessment in accordance with this part.

Section 9. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; or

(iv) for a host local government, the same as that term is defined in Section 63N-2-502.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; [~~or~~]

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property[~~.~~]; or

(iii) a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iii) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; or

(iv) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; or

(iii) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means the same as that term is defined in Section 17C-1-102.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 10. Section 59-2-1005 is amended to read:

59-2-1005. Procedures for appeal of personal property valuation -- Time for appeal -- Hearing -- Decision -- Appeal to commission.

(1)(a) A taxpayer owning personal property assessed by a county assessor under Section 59-2-301 may make an appeal relating to the value of the personal property by filing an application with the county legislative body no later than:

(i) the expiration of the time allowed under Section 59-2-306 for filing a signed statement, if the county assessor requests a signed statement under Section 59-2-306 or the expiration of the time allowed under Section 59-2-306.5 if the taxpayer is a telecommunications service provider; or

(ii) 60 days after the mailing of the tax notice, for each other taxpayer.

(b) A county legislative body shall:

(i) after giving reasonable notice, hear an appeal filed under Subsection (1)(a); and

(ii) render a written decision on the appeal within 60 days after receiving the appeal.

(c) If the taxpayer is dissatisfied with a county legislative body decision under Subsection (1)(b), the taxpayer may file an appeal with the commission in accordance with Section 59-2-1006.

(2) A taxpayer owning personal property subject to a fee in lieu of tax or a uniform tax under Article XIII, Section 2 of the Utah Constitution that is based on the value of the property may appeal the basis of the value by filing an appeal with the commission within 30 days after the mailing of the tax notice.

Section 11. Section 59-2-1602 is amended to read:

59-2-1602. Property Tax Valuation Agency Fund -- Creation -- Statewide levy -- Additional county levy.

(1) (a) There is created an agency fund known as the "Property Tax Valuation Agency Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is:

(i) for a calendar year beginning on or after January 1, [~~2020~~] 2022, and before January 1, 2025, [~~.000012~~] .000015; and

(ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

(c) The state treasurer shall allocate revenue collected from the multicounty assessing and collecting levy as follows:

(i) 18% of the revenue collected shall be deposited into the Property Tax Valuation Agency Fund, up to $500,000 annually; and

(ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected from the multicounty assessing and collecting levy shall be deposited into the Multicounty Appraisal Trust.

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(c).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 12. Effective date.

(1) Except as provided in Subsection (2), and if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The changes to the following sections take effect on January 1, 2023:

(a) Section 11-13-302;

(b) Section 59-2-102;

(c) Section 59-2-201;

(d) Section 59-2-306;

(e) Section 59-2-306.5;

(f) Section 59-2-307;

(g) Section 59-2-308;

(h) Section 59-2-924; and

(i) Section 59-2-1005.

Section 13. Retrospective operation.

The changes to Sections 59-2-103.5 and 59-2-1602 have retrospective operation to January 1, 2022.

CHAPTER 240
S. B. 22

Passed February 2, 2022
Approved March 23, 2022
Effective May 4, 2022

PUBLIC-PRIVATE PARTNERSHIP AMENDMENTS

Chief Sponsor: Ann Millner
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill modifies provisions relating to public-private partnerships.

Highlighted Provisions:

This bill:

- eliminates a repeal date for the Public-private Partnerships Act;
- eliminates a provision limiting the length of term of a contract with a public-private partnership facilitator;
- modifies provisions relating to the functions and responsibilities of the facilitator;
- allows the Governor's Office of Economic Opportunity to perform facilitator functions and responsibilities itself or to contract with another person to perform those functions and responsibilities;
- requires the Governor's Office of Economic Opportunity to provide an annual report to the Economic Development and Workforce Services Interim Committee on the facilitator's work;
- encourages government entities to use the services of the facilitator in considering public-private partnerships; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4
63N-13-302, as enacted by Laws of Utah 2020, Chapter 446
63N-13-303, as last amended by Laws of Utah 2021, Chapter 414
63N-13-304, as enacted by Laws of Utah 2020, Chapter 446
63N-13-305, as enacted by Laws of Utah 2020, Chapter 446
63N-13-306, as enacted by Laws of Utah 2020, Chapter 446

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

[~~(1) Section 63A-3-111 is repealed June 30, 2021.~~]

[~~(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.~~]

[~~(3)~~] (1) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(4)~~] (2) Section 63G-1-502 is repealed July 1, 2022.

[~~(5)~~] (3) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(6)~~] (4) Section 63H-7a-303 is repealed July 1, 2024.

[~~(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.~~]

[~~(8)~~] (5) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(9)~~] (6) Section 63M-7-217 is repealed on July 1, 2022.

[~~(10) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.~~]

[~~(11) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.~~]

Section 2. Section 63N-13-302 is amended to read:

63N-13-302. Definitions.

As used in this part:

(1) "Facilitator" means:

(a) the office, if the office chooses to perform itself the functions and responsibilities described in Section 63N-13-304; or

(b) a person engaged by the office to perform the functions and responsibilities described in Section 63N-13-304, if the office chooses to have those functions and responsibilities performed by a person other than the office.

(2) "Government entity" means:

(a) the state or any department, division, agency, or other instrumentality of the state; or

(b) a political subdivision of the state.

(3) "Public-private partnership" means an arrangement or agreement between a government entity and one or more private persons to fund and provide for a public need through the development or operation of a public project in which the private person or persons share with the government entity the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

Section 3. Section 63N-13-303 is amended to read:

63N-13-303. Contract with facilitator.

(1) [~~Within legislative appropriations,~~] If the office chooses to have the functions and responsibilities described in Section 63N-13-304 performed by a person other than the office, the office shall, within legislative appropriations, enter into a contract with a nonprofit entity or government entity [~~to act as a facilitator. (2) The office shall use~~], using a request for proposals process under Title 63G, Chapter 6a, Utah Procurement Code, [~~to select a qualified person~~] to act as facilitator.

[~~(3) The term of a contract under Subsection (1) may not exceed three years.~~]

[~~(4)~~] (2) Except as provided in Subsection 63H-1-202(9), the office shall ensure that [~~the~~] a contract with a person performing the functions and responsibilities of the facilitator includes a conflict-of-interest provision prohibiting the facilitator, or a principal, officer, or employee of the facilitator, from receiving a direct or indirect financial benefit from any public-private partnership that results from the facilitator's work under the contract.

Section 4. Section 63N-13-304 is amended to read:

63N-13-304. Functions and responsibilities of facilitator.

[~~In a contract under Section 63N-13-303, the office shall require a facilitator to:~~]

(1) A facilitator shall:

[~~(1)~~] (a) be a single point of contact and information on public-private partnerships in the state for:

[~~(a)~~] (i) government entities exploring the possibility of filling a public need through a public-private partnership; and

[~~(b)~~] (ii) private persons exploring investment opportunities in a public project in the state through a public-private partnership;

[~~(2)~~] (b) work throughout the state to identify government entities that may have an interest in seeking to fill a public need through a public-private partnership;

[~~(3)~~] (c) work to identify private persons who may have an interest in investment opportunities in public projects in the state through a public-private partnership;

[~~(4)~~] (d) facilitate the matching of government entities seeking to fill a public need through a public-private partnership with private persons seeking investment opportunities in public projects through a public-private partnership;

[~~(5)~~] (e) facilitate and assist with the establishment of public-private partnerships for government entities who request the facilitator's assistance in establishing a public-private partnership; [~~and~~]

(f) provide a website with information:

(i) about the process for pursuing, developing, and implementing a public-private partnership in the state; and

(ii) to help government entities and persons seeking investment opportunities through public-private partnerships in the state to understand available public-private partnership opportunities; and

(g) through promotional, informational, and other activities, work to help move the state to the forefront throughout the country in the area of private participation in public infrastructure development through public-private partnerships.

(2) If the office chooses to have the functions and responsibilities described in Subsection (1) performed by a person other than the office, the office shall include in a contract with that person provisions requiring the person to perform the functions and responsibilities described in Subsection (1).

[~~(6)~~] (3) The office may make recommendations for the Legislature to consider [~~at the 2021 legislative general session~~] relating to public-private partnerships:

(a) to enhance the statutory framework for the establishment of public-private partnerships for public infrastructure projects; and

(b) with the goal of moving the state to the forefront throughout the country in the area of private participation in public infrastructure development through public-private partnerships.

Section 5. Section 63N-13-305 is amended to read:

63N-13-305. Office oversight over contract performance of facilitator -- Office reports to Legislature.

(1) The office shall monitor and oversee a facilitator's performance under a contract under Section 63N-13-303 to ensure that the facilitator is fulfilling the requirements of Section 63N-13-304.

(2) Before November 15 of each year, the office shall provide an annual report to the Economic Development and Workforce Services Interim Committee of the facilitator's activities under this part.

Section 6. Section 63N-13-306 is amended to read:

63N-13-306. Limits on application of this part.

(1) Nothing in this part:

[~~(1)~~] (a) requires a government entity to use the facilitator to explore the possibility of filling a public need through a public-private partnership; or

[~~(2)~~] (b) limits the ability of a government entity to directly:

[~~(a)~~] (i) solicit a public-private partnership; or

[~~(b)~~] (ii) respond to a private person exploring an investment opportunity in a public project through a public-private partnership.

(2) A government entity anticipating the possibility of entering a public-private partnership is encouraged to consult with and take advantage of the expertise of the facilitator as the government entity determines:

(a) whether to enter the public-private partnership; and

(b) the best way to structure the public-private partnership.

CHAPTER 241
S. B. 23

Passed February 3, 2022
Approved March 23, 2022
Effective May 4, 2022

ACUPUNCTURIST LIABILITY AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill amends the Health Care Providers Immunity from Liability Act and the Retired Volunteer Health Care Practitioner Act.

Highlighted Provisions:

This bill:

- adds licensed acupuncturists to those health care professionals who have limited immunity under certain circumstances for providing volunteer services; and
- adds licensed acupuncturist to the definition of a health care practitioner under the Retired Volunteer Health Care Practitioner Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-13-2, as last amended by Laws of Utah 2013, Chapter 44
58-13-3, as last amended by Laws of Utah 2016, Chapters 108 and 238
58-81-102, as last amended by Laws of Utah 2016, Chapter 238

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-13-2 is amended to read:

58-13-2. Emergency care rendered by licensee.

(1) A person licensed under Title 58, Occupations and Professions, to practice as any of the following health care professionals, who is under no legal duty to respond, and who in good faith renders emergency care at the scene of an emergency gratuitously and in good faith, is not liable for any civil damages as a result of any acts or omissions by the person in rendering the emergency care:

(a) osteopathic physician;

(b) physician and surgeon;

(c) naturopathic physician;

(d) dentist or dental hygienist;

(e) chiropractic physician;

(f) physician assistant;

(g) optometrist;

(h) nurse licensed under Section 58-31b-301 or 58-31d-102;

(i) podiatrist;

(j) certified nurse midwife;

(k) respiratory care practitioner;

(l) pharmacist, pharmacy technician, and pharmacy intern;

(m) direct-entry midwife licensed under Section 58-77-301; [~~or~~]

(n) veterinarian[~~.~~]; or

(o) acupuncturist licensed under Chapter 72, Acupuncture Licensing Act.

(2) This Subsection (2) applies to a health care professional:

(a) (i) described in Subsection (1); and

(ii) who is under no legal duty to respond to the circumstances described in Subsection (3);

(b) who is:

(i) (A) activated as a member of a medical reserve corps as described in Section 26A-1-126 during the time of an emergency or declaration for public health related activities as provided in Subsection 26A-1-126(2); or

(B) participating in training to prepare the medical reserve corps to respond to a declaration of an emergency or request for public health related activities pursuant to Subsection 26A-1-126(2);

(ii) acting within the scope of:

(A) the health care professional's license; or

(B) practice as modified under Subsection 58-1-307(4) or Section 26A-1-126; and

(iii) acting in good faith without compensation or remuneration as defined in Subsection 58-13-3(2); or

(c) who is acting as a volunteer health practitioner under Title 26, Chapter 49, Uniform Emergency Volunteer Health Practitioners Act.

(3) A health care professional described in Subsection (2) is not liable for any civil damages as a result of any acts or omissions by the health care professional in rendering care as a result of:

(a) implementation of measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(b) investigating and controlling suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act; and

(c) responding to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(4) The immunity in Subsection (3) is in addition to any immunity or protection in state or federal law that may apply.

(5) For purposes of Subsection (2)(b)(iii) remuneration does not include:

(a) food supplied to the volunteer;

(b) clothing supplied to the volunteer to help identify the volunteer during the time of the emergency; or

(c) other similar support for the volunteer.

Section 2. Section 58-13-3 is amended to read:

58-13-3. Qualified immunity -- Health professionals -- Charity care.

(1) (a) (i) The Legislature finds many residents of this state do not receive medical care and preventive health care because they lack health insurance or because of financial difficulties or cost.

(ii) The Legislature also finds that many physicians, charity health care facilities, and other health care professionals in this state would be willing to volunteer medical and allied services without compensation if they were not subject to the high exposure of liability connected with providing these services.

(b) The Legislature therefore declares that its intention in enacting this section is to encourage the provision of uncompensated volunteer charity health care in exchange for a limitation on liability for the health care facilities and health care professionals who provide those volunteer services.

(2) As used in this section:

(a) "Continuing education requirement" means the requirement for hours of continuing education, established by the division, with which a health care professional must comply to renew the health care professional's license under the applicable chapter described in Subsection (2)(c).

(b) "Health care facility" means any clinic or hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services.

(c) "Health care professional" means a person licensed under:

(i) Chapter 5a, Podiatric Physician Licensing Act;

(ii) Chapter 16a, Utah Optometry Practice Act;

(iii) Chapter 17b, Pharmacy Practice Act;

(iv) Chapter 24b, Physical Therapy Practice Act;

(v) Chapter 31b, Nurse Practice Act;

(vi) Chapter 40, Recreational Therapy Practice Act;

(vii) Chapter 41, Speech-Language Pathology and Audiology Licensing Act;

(viii) Chapter 42a, Occupational Therapy Practice Act;

(ix) Chapter 44a, Nurse Midwife Practice Act;

(x) Chapter 49, Dietitian Certification Act;

(xi) Chapter 60, Mental Health Professional Practice Act;

(xii) Chapter 67, Utah Medical Practice Act;

(xiii) Chapter 68, Utah Osteopathic Medical Practice Act;

(xiv) Chapter 69, Dentist and Dental Hygienist Practice Act;

(xv) Chapter 70a, Utah Physician Assistant Act;

(xvi) Chapter 71, Naturopathic Physician Practice Act; [~~and~~]

(xvii) Chapter 72, Acupuncture Licensing Act; and

(xviii) Chapter 73, Chiropractic Physician Practice Act.

(d) "Remuneration or compensation":

(i) (A) means direct or indirect receipt of any payment by a health care professional or health care facility on behalf of the patient, including payment or reimbursement under Medicare or Medicaid, or under the state program for the medically indigent on behalf of the patient; and

(B) compensation, salary, or reimbursement to the health care professional from any source for the health care professional's services or time in volunteering to provide uncompensated health care; and

(ii) does not mean:

(A) any grant or donation to the health care facility used to offset direct costs associated with providing the uncompensated health care such as:

(I) medical supplies;

(II) drugs; or

(III) a charitable donation that is restricted for charitable services at the health care facility; or

(B) incidental reimbursements to the volunteer such as:

(I) food supplied to the volunteer;

(II) clothing supplied to the volunteer to help identify the volunteer during the time of volunteer services;

(III) mileage reimbursement to the volunteer; or

(IV) other similar support to the volunteer.

(3) A health care professional who provides health care treatment at or on behalf of a health care facility is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) neither the health care professional nor the health care facility received compensation or remuneration for the treatment;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions which are grossly negligent or are willful and wanton.

(4) A health care facility which sponsors, promotes, or organizes the uncompensated care is not liable in a medical malpractice action for acts and omissions if:

(a) the health care facility meets the requirements in Subsection (3)(b);

(b) the acts and omissions of the health care facility were not grossly negligent or willful and wanton; and

(c) the health care facility has posted, in a conspicuous place, a notice that in accordance with this section the health care facility is not liable for any civil damages for acts or omissions except for those acts or omissions that are grossly negligent or are willful and wanton.

(5) A health care professional who provides health care treatment at a federally qualified health center, as defined in Subsection 1905(1)(2)(b) of the Social Security Act, or an Indian health clinic or Urban Indian Health Center, as defined in Title V of the Indian Health Care Improvement Act, is not liable in a medical malpractice action if:

(a) the treatment was within the scope of the health care professional's license under this title;

(b) the health care professional:

(i) does not receive compensation or remuneration for treatment provided to any patient that the provider treats at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center; and

(ii) is not eligible to be included in coverage under the Federal Tort Claims Act for the treatment provided at the federally qualified health center, the Indian health clinic, or the Urban Indian Health Center;

(c) the acts or omissions of the health care professional were not grossly negligent or willful and wanton; and

(d) prior to rendering services:

(i) the health care professional disclosed in writing to the patient, or if a minor, to the patient's parent or legal guardian, that the health care professional is providing the services without receiving remuneration or compensation; and

(ii) the patient consented in writing to waive any right to sue for professional negligence except for acts or omissions that are grossly negligent or are willful and wanton.

(6) Immunity from liability under this section does not extend to the use of general anesthesia or care that requires an overnight stay in a general acute or specialty hospital licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(7) The provisions of Subsection (5) apply to treatment provided by a healthcare professional on or after May 13, 2014.

(8) A health care professional:

(a) may, in accordance with Subsection (8)(b), fulfill up to 15% of the health care professional's continuing education requirement with hours the health care professional spends providing health care treatment described in Subsection (3) or (5); and

(b) subject to Subsection (8)(a), earns one hour of the health care professional's continuing education requirement for every four documented hours of volunteer health care treatment.

Section 3. Section 58-81-102 is amended to read:

58-81-102. Definitions.

For purposes of this chapter:

(1) "Board" means the state licensing board created for each of the health care practitioners included in Subsection (2).

(2) "Health care practitioner" includes:

(a) a podiatrist licensed under Chapter 5a, Podiatric Physician Licensing Act;

(b) a physical therapist licensed under Chapter 24b, Physical Therapy Practice Act;

(c) a nurse or advanced practice registered nurse licensed under Chapter 31b, Nurse Practice Act;

(d) a recreational therapist licensed under Chapter 40, Recreational Therapy Practice Act;

(e) an occupational therapist licensed under Chapter 42a, Occupational Therapy Practice Act;

(f) a nurse midwife licensed under Chapter 44a, Nurse Midwife Practice Act;

(g) a mental health professional licensed under Chapter 60, Mental Health Professional Practice Act;

(h) a psychologist licensed under Chapter 61, Psychologist Licensing Act;

(i) a physician licensed under Chapter 67, Utah Medical Practice Act;

(j) an osteopath licensed under Chapter 68, Utah Osteopathic Medical Practice Act;

(k) a dentist or dental hygienist licensed under Chapter 69, Dentist and Dental Hygienist Practice Act;

(l) a physician assistant licensed under Chapter 70a, Utah Physician Assistant Act;

(m) a pharmacist licensed under Chapter 17b, Pharmacy Practice Act; [~~or~~]

(n) an optometrist licensed under Chapter 16a, Utah Optometry Practice Act[~~.~~]; or

(o) an acupuncturist licensed under Chapter 72, Acupuncture Licensing Act.

(3) "Qualified location" means:

(a) a clinic, hospital, church, or organization whose primary purpose is to sponsor, promote, or organize uncompensated health care services for people unable to pay for health care services; and

(b) is a location approved by the division.

(4) "Remuneration or compensation" means the same as that term is defined in Section 58-13-3.

(5) "Supervising professional" means a health care practitioner:

(a) who has an active license in the state in good standing;

(b) with a scope of practice that is appropriate for supervising the applicant as determined by the division and board; and

(c) who is practicing at the qualified location.

(6) "Supervision" means:

(a) the level of supervision required for:

(i) a social service worker in Chapter 60, Mental Health Professional Practice Act;

(ii) a dental hygienist in Chapter 69, Dentist and Dental Hygienist Practice Act;

(iii) a recreational therapist technician in Chapter 40, Recreational Therapy Practice Act; and

(iv) an occupational technician assistant in Chapter 42a, Occupational Therapy Practice Act; and

(b) for the health care practitioners listed in Subsections (2)(a) through (m) and not included in Subsection (5)(a):

(i) entering into a delegation of service agreement with a supervising professional in accordance with Subsection 58-81-103(2);

(ii) having the ability to contact the supervising professional during the time the volunteer is providing volunteer services; and

(iii) for every 40 hours of volunteer service hours, meeting with the supervising professional.

(7) "Volunteer" means the individual health care practitioner:

(a) will devote the health care practitioner's practice exclusively to providing care to the needy and indigent in the state:

(i) within:

(A) the practitioner's scope of practice; and

(B) the delegation of service agreement between the volunteer and the supervising professional; and

(ii) at a qualified location;

(b) will agree to donate professional services in a qualified location; and

(c) will not receive remuneration or compensation for the health care practitioner's services.

CHAPTER 242
S. B. 25

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022
(Retrospective operation to January 1, 2022)

PROPERTY TAX DEFERRAL AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies the deferral provisions of the Property Tax Act.

Highlighted Provisions:

This bill:

- defines terms;
- addresses property tax deferral for certain owners of a single-family residence;
- modifies the interest rate that applies to deferred property taxes;
- clarifies the required contents of an application for a deferral;
- directs the State Tax Commission to reimburse a requesting county for the amount of any property taxes that the county defers during a specified time period;
- addresses repayment of any money a county receives; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Utah State Tax Commission -- Tax Administration -- Property Tax Deferral, as a one-time appropriation:
  - from the General Fund $8,000,000.

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-1801, as enacted by Laws of Utah 2019, Chapter 453
59-2-1802, as enacted by Laws of Utah 2019, Chapter 453
59-2-1804, as enacted by Laws of Utah 2019, Chapter 453
63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4
63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1801 is amended to read:

59-2-1801. Definitions.

As used in this part:

(1) "Abatement" means a tax abatement described in Section 59-2-1803.

(2) "Deferral" means a tax deferral described in Section 59-2-1802.

(3) "Eligible owner" means an owner of an attached or a detached single-family residence:

(a) who is 75 years old or older on or before December 31 of the year in which the individual applies for a deferral under this part;

(b) whose household income does not exceed 200% of the maximum household income certified to a homeowner's credit described in Section 59-2-1208; and

(c) whose household liquid resources do not exceed 20 times the amount of property taxes levied on the owner's residence for the preceding calendar year.

(4) "Household" means the same as that term is defined in Section 59-2-1202.

(5) "Household income" means the same as that term is defined in Section 59-2-1202.

(6) "Household liquid resources" means the following resources that are not included in an individual's household income and held by one or more members of the individual's household:

(a) cash on hand;

(b) money in a checking or savings account;

(c) savings certificates;

(d) stocks or bonds; and

(e) lump sum payments.

[~~(3)~~] (7) "Indigent individual" is a poor individual as described in Utah Constitution, Article XIII, Section 3, Subsection (4), who:

(a) (i) is at least 65 years old; or

(ii) is less than 65 years old and:

(A) the county finds that extreme hardship would prevail on the individual if the county does not defer or abate the individual's taxes; or

(B) the individual has a disability;

(b) has a total household income, as defined in Section 59-2-1202, of less than the maximum household income certified to a homeowner's credit described in [~~Subsection 59-2-1208(1)~~] Section 59-2-1208;

(c) resides for at least 10 months of the year in the residence that would be subject to the requested abatement or deferral; and

(d) cannot pay the tax assessed on the individual's residence when the tax becomes due.

[~~(4)~~] (8) "Property taxes due" means the taxes due on an indigent individual's property:

(a) for which a county granted an abatement under Section 59-2-1803; and

(b) for the calendar year for which the county grants the abatement.

[~~(5)~~] (9) "Property taxes paid" means an amount equal to the sum of:

(a) the amount of property taxes the indigent individual paid for the taxable year for which the indigent individual applied for the abatement; and

(b) the amount of the abatement the county grants under Section 59-2-1803.

[~~(6)~~] (10) "Relative" means a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or a spouse of any of these individuals.

[~~(7)~~] (11) "Residence" means real property where an individual resides, including:

(a) a mobile home, as defined in Section 41-1a-102; or

(b) a manufactured home, as defined in Section 41-1a-102.

Section 2. Section 59-2-1802 is amended to read:

59-2-1802. Tax deferral.

(1) (a) In accordance with this part and after giving notice to the taxpayer, a county may defer a tax on residential property [~~after giving notice to the taxpayer~~], allowing the taxpayer to pay the tax at a later date.

(b) In determining a deferral, a county shall consider an asset transferred to a relative by an applicant for deferral, if the transfer took place during the three years prior to the day on which the applicant applied for deferral.

(2) A county may grant a deferral described in Subsection (1) at any time:

(a) after the holder of each mortgage or trust deed outstanding on the property gives written approval of the application; and

(b) if the applicant is not the owner of income-producing assets that could be liquidated to pay the tax.

(3) In accordance with this part, if the conditions described in Subsection (4) are satisfied, a county:

(a) on or after January 1, 2022, may defer a tax on an attached single-family residence or a detached single-family residence; or

(b) on or after January 1, 2025, shall defer a tax on an attached single-family residence or a detached single-family residence.

(4) The conditions described in Subsection (3) are as follows:

(a) the owner of the single-family residence is:

(i) an eligible owner; or

(ii) a trust described in Section 59-2-1805 for which the grantor is an eligible owner;

(b) the single-family residence was the eligible owner's primary residence as of January 1 of the year for which the eligible owner applies for a deferral;

(c) (i) subject to Subsection (5), the value of the single-family residence for the year for which the eligible owner applies for a deferral is no greater than 100% of the median property value of attached and detached single-family residences within the county; or

(ii) the eligible owner has owned the single-family residence for a continuous 20 year period as of January 1 of the year for which the eligible owner applies for a deferral; and

(d) the holder of each mortgage or trust deed outstanding on the single-family residence gives written approval of the deferral.

(5) The values described in Subsection (4)(c) are based on the county assessment roll for the county in which the single-family residence is located.

(6) For purposes of Subsection (4)(c)(ii), if a single-family residence is transferred between an eligible owner and a trust described in Section 59-2-1805, ownership is considered continuous if the eligible owner is the grantor of the trust.

[~~(3)~~] (7) Taxes deferred by the county accumulate with interest as a lien against the residential property, as described in Subsection [~~(4)~~] (8), until the owner sells or otherwise disposes of the residential property.

[~~(4)~~] (8) Deferred taxes under this section:

[~~(a) bear interest at an interest rate equal to the lesser of:~~]

[~~(i) 6%; or~~]

[~~(ii) the federal funds rate target:~~]

[~~(A) established by the Federal Open Markets Committee; and~~]

[~~(B) that exists on the January 1 immediately preceding the day on which the taxes are deferred; and~~]

(a) bear interest at an interest rate equal to 50% of the rate described in Subsections 59-2-1331(2)(c) and (d); and

(b) have the same status as a lien as described in Sections 59-2-1301 and 59-2-1325.

[~~(5)~~] (9) If the owner of residential property that is granted deferral under this section is an indigent individual, during the period of deferral the county may not subject the residential property to a tax sale.

(10) (a) Upon written application from a county in a form prescribed by the commission, the commission shall reimburse the county for the amount of any tax that the county defers in accordance with Subsections (3) through (6).

(b) The commission may not reimburse a county for:

(i) an amount of a tax before the county grants the eligible owner a deferral of the tax; or

(ii) a tax assessed after December 31, 2026.

(11) A county that receives money in accordance with this section for a deferred tax shall:

(a) distribute the money to the taxing entities in the same proportion the county would have distributed the revenue from the deferred tax; and

(b) repay the money:

(i) in an amount equal to the amount necessary to satisfy the lien described in Subsection (7) as of the earlier of:

(A) the day on which the county repays the money; or

(B) the day on which the lien described in Subsection (7) is satisfied; and

(ii) no later than June 30 of the calendar year immediately following the calendar year in which the lien described in Subsection (7) is satisfied.

(12) The commission shall deposit money received under this section into the General Fund.

Section 3. Section 59-2-1804 is amended to read:

59-2-1804. Application for tax deferral or tax abatement.

(1) (a) Except as provided in Subsection (1)(b), an applicant for deferral or abatement for the current tax year shall annually file an application on or before September 1 with the county in which the applicant's property is located.

(b) If a county finds good cause exists, the county may extend until December 31 the deadline described in Subsection (1)(a).

(c) An indigent individual may apply and potentially qualify for deferral, abatement, or both.

(2) (a) An applicant shall include in an application a signed statement that describes the eligibility of the applicant for deferral or abatement.

(b) For an application for a deferral under Subsection 59-2-1802(3), the requirements described in Subsection (2)(a) include:

(i) proof that the applicant resides at the single-family residence for which the applicant seeks the deferral;

(ii) proof of age; and

(iii) proof of household income.

(3) Both spouses shall sign an application if the application seeks a deferral or abatement on a residence:

(a) in which both spouses reside; and

(b) that the spouses own as joint tenants.

(4) If an applicant is dissatisfied with a county's decision on the applicant's application for deferral or abatement, the applicant may appeal the decision to the commission in accordance with Section 59-2-1006.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to implement this section.

Section 4. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Section 63A-3-111 is repealed June 30, 2021.

(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

(3) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

(4) Section 63G-1-502 is repealed July 1, 2022.

(5) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

(6) Section 63H-7a-303 is repealed July 1, 2024.

(7) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

(8) Subsection 63J-1-602.2(42), which lists appropriations to the State Tax Commission for property tax deferral reimbursements, is repealed July 1, 2027.

[~~(8)~~] (9) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(9)~~] (10) Section 63M-7-217 is repealed on July 1, 2022.

[~~(10)~~] (11) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(11)~~] (12) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

Section 5. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board

of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11-38-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.

(8) The [~~emergency medical services grant program~~] Emergency Medical Services Grant Program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid [~~provider~~] providers under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301(9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) [~~Appropriations to the~~] The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) [~~Appropriations to fund the~~] The Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) [~~Appropriations to fund programs~~] Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under

Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

(42) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 6. Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah State Tax Commission — Tax Administration

From General Fund One-time	$8,000,000
Schedule of Programs:	
Property Tax Deferral	$8,000,000

The Legislature intends that:

(1) appropriations provided under this section be used to reimburse counties for deferred property taxes in accordance with Section 59-2-1802; and

(2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 7. Retrospective operation.

This bill has retrospective operation to January 1, 2022.

CHAPTER 243
S. B. 26

Passed February 23, 2022
Approved March 23, 2022
Effective May 4, 2022

DIVISION OF CONSUMER PROTECTION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions of the Business Opportunity Disclosure Act.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions regarding filings;
- amends provisions regarding seller disclosure statements;
- amends provisions regarding furnishing a disclosure statement to a potential purchaser;
- amends provisions regarding enforcement of the Business Opportunity Disclosure Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-15-201, Utah Code Annotated 1953
13-15-401, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

13-15-101, (Renumbered from 13-15-1, as enacted by Laws of Utah 1981, Chapter 69)
13-15-102, (Renumbered from 13-15-2, as last amended by Laws of Utah 2012, Chapter 152)
13-15-202, (Renumbered from 13-15-4, as last amended by Laws of Utah 2017, Chapter 98)
13-15-203, (Renumbered from 13-15-5, as last amended by Laws of Utah 2010, Chapter 378)
13-15-301, (Renumbered from 13-15-3, as last amended by Laws of Utah 2015, Chapter 335)
13-15-302, (Renumbered from 13-15-6, as last amended by Laws of Utah 2006, Chapter 47)

REPEALS:

13-15-4.5, as last amended by Laws of Utah 2009, Chapter 183
13-15-7, as last amended by Laws of Utah 1995, Chapter 85

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-15-101, which is renumbered from Section 13-15-1 is renumbered and amended to read:

CHAPTER 15. BUSINESS OPPORTUNITY DISCLOSURE ACT

Part 1. General Provisions

[~~13-15-1~~]. 13-15-101. Title.

This [~~act shall be known and may be cited~~] chapter is known as the "Business Opportunity Disclosure Act."

Section 2. Section 13-15-102, which is renumbered from Section 13-15-2 is renumbered and amended to read:

[~~13-15-2~~]. 13-15-102. Definitions.

As used in this chapter:

[~~(1) (a) "Assisted marketing plan" means the sale or lease of any products, equipment, supplies, or services that are sold to the purchaser upon payment of an initial required consideration of $500 or more for the purpose of enabling the purchaser to start a business, and in which the seller represents:~~]

[~~(i) that the seller will provide locations or assist the purchaser in finding locations for the use or operation of vending machines, racks, display cases, or other similar devices, or currency operated amusement machines or devices, on premises neither owned nor leased by the purchaser or seller;~~]

[~~(ii) that the seller will purchase any or all products made, produced, fabricated, grown, or modified by the purchaser, using in whole or in part the supplies, services, or chattels sold to the purchaser;~~]

[~~(iii) that the seller will provide the purchaser with a guarantee that the purchaser will receive income from the assisted marketing plan that exceeds the price paid for the assisted marketing plan, or repurchase any of the products, equipment, supplies, or chattels supplied by the seller if the purchaser is dissatisfied with the assisted marketing plan; or~~]

[~~(iv) that upon payment by the purchaser of a fee or sum of money, which exceeds $500 to the seller, the seller will provide a sales program or marketing program that will enable the purchaser to derive income from the assisted marketing plan that exceeds the price paid for the marketing plan.~~]

(1) (a) "Business opportunity" means an arrangement under which a person:

(i) sells or leases a product, equipment, a supply, or a service:

(A) upon payment of initial required consideration of at least $500; and

(B) for the purpose of enabling the buyer or lessee to start a business; and

(ii) represents to the buyer or lessee that:

(A) the person will provide a location or assist the buyer or lessee find a location for the use or operation of a vending machine, rack, display case, or other similar device, or a currency-operated amusement machine or device, on premises neither owned nor leased by the person nor the buyer or lessee;

(B) the person will purchase a product the buyer or lessee makes, produces, fabricates, grows, or modifies, using in whole or in part the product, equipment, supply, or service the buyer or lessee buys or leases from the person;

(C) the person will provide the buyer or lessee with a guarantee that the buyer or lessee will receive income from the product, equipment, supply, or service the buyer or lessee buys or leases from the person that exceeds the amount the buyer or lessee pays to buy or lease the product, equipment, supply, or service, and if not the person will repurchase the product, equipment, supply, or service, if the buyer or lessee is dissatisfied; or

(D) the buyer or lessee will or may derive income from the business described in Subsection (1)(a)(i) that exceeds the amount the buyer or lessee pays to buy or lease the product, equipment, supply, or service.

(b) [~~"Assisted marketing plan"~~] "Business opportunity" does not include:

(i) the sale of an ongoing business when the owner of that business sells and intends to sell only that one [~~assisted marketing plan~~] business; or

(ii) not-for-profit sale of sales demonstration equipment, materials, or samples for a total price of $500 or less[~~; or~~].

[~~(iii) the sale of a package franchise or a product franchise defined by and in compliance with Federal Trade Commission rules governing franchise and business opportunity ventures.~~]

[~~(c) As used in Subsection (1)(a)(iii) "guarantee" means a written agreement, signed by the purchaser and seller, disclosing the complete details and any limitations or exceptions of the agreement.~~]

[~~(2) "Business opportunity" means an assisted marketing plan subject to this chapter.~~]

[~~(3)~~] (2) "Division" means the Division of Consumer Protection of the Department of Commerce.

(3) "Franchise" means the same as that term is defined by Federal Trade Commission rules governing franchise and business opportunity ventures.

(4) "Guarantee" means a written agreement that:

(a) a purchaser and seller sign; and

(b) discloses the complete details and each limitation or exception of the agreement.

[~~(4)~~] (5) (a) "Initial required consideration" means the total amount a purchaser is obligated to pay under the terms of [~~the assisted marketing plan, either prior to or at the time of delivery of the products, equipment, supplies, or services, or~~] a business opportunity:

(i) before the day on which the purchaser receives the product, equipment, supply, or service;

(ii) the day on which the purchaser receives the product, equipment, supply, or service; or

(iii) within six months [~~of the commencement of operation of the assisted marketing plan by~~] after the day on which the purchaser and seller enter into the business opportunity. [~~If payment is over a period of time, "initial required consideration" means~~]

(b) "Initial required consideration" includes the sum of [~~the~~] any down payment and the total [~~monthly~~] of all additional payments, if the purchaser's payment under the terms of the business opportunity is over a period of time.

[~~(b)~~] (c) "Initial required consideration" does not [~~mean~~] include the not-for-profit sale of sales demonstration equipment, materials, or supplies for a total [~~price~~] amount of less than $500.

[~~(5) "Person" means any natural person, corporation, partnership, organization, association, trust, or any other legal entity.~~]

(6) "Principal" means as the division determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(6)~~] (7) "Purchaser" means a person who [~~becomes obligated to pay for an assisted marketing plan~~] buys or leases from another person a business opportunity.

[~~(7)~~] (8) "Registered trademark" or "service mark" means a trademark, trade name, or service mark registered with the United States Patent and Trademark Office, or Utah, or the state of incorporation if a corporation.

[~~(8)~~] (9) (a) "Seller" means a person who offers to sell, offers to lease, sells, or [~~offers to sell an assisted marketing plan~~] leases to another person a business opportunity.

(b) "Seller" does not include an individual representative or salesperson, unless the individual is a principal of a sole proprietorship, partnership, association, joint venture, corporation, firm, or other organization or entity used in carrying on a business, that offers to sell, offers to lease, sells, or leases to another person a business opportunity.

Section 3. Section 13-15-201 is enacted to read:

Part 2. Seller Duties

13-15-201. Required filings -- Fees -- Rulemaking.

(1) (a) Except as provided in Subsection (2), before a person may act as a seller in the state, the person shall obtain a proof of disclosure receipt from the division.

(b) To obtain a proof of disclosure receipt from the division, a person shall:

(i) file with the division a disclosure statement that complies with Section 13-15-202; and

(ii) pay a filing fee as determined by the division in accordance with Section 63J-1-504.

(c) A proof of disclosure receipt is valid for one year after the day on which the division issues the receipt.

(d) To renew a proof of disclosure receipt, a seller shall comply with the provisions of Subsection (1)(b) at least 30 days before the day on which the seller's current proof of disclosure receipt expires.

(2) (a) Before a person offers for sale or sells a franchise to be located in the state or to a resident of the state, the person shall obtain a proof of notice receipt from the division.

(b) To obtain a proof of notice receipt from the division, a person shall:

(i) file with the division a notice that states:

(A) the franchisor is in substantial compliance with the requirements of the Federal Trade Commission rule found at Title 16, Chapter I, Subchapter d, Trade Regulation Rules, Part 436, Disclosure Requirements and Prohibitions Concerning Franchising;

(B) the name of the applicant;

(C) the name of the franchise;

(D) the name under which the applicant intends to transact or transacts business, if different than the name of the franchise;

(E) the address of the applicant's principal place of business; and

(F) the applicant's state-issued business entity number or other government-issued, publicly available identifying number; and

(ii) pay a filing fee determined by the division in accordance with Section 63J-1-504, not to exceed $100.

(c) A seller who does not qualify for a proof notice receipt under this Subsection (2) is subject to Subsection (1).

(d) A proof of notice receipt is valid for one year after the day on which the division issues the receipt.

(e) To renew a proof of notice receipt, a person offering for sale or selling a franchise to be located in the state or to a resident of the state, shall comply with the provisions of Subsection (2)(b) at least 30 days before the day on which the person's current proof of notice receipt expires.

(3) The division shall deposit all fees collected under this section into the Commerce Service Account created in Section 13-1-2.

(4) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this section.

Section 4. Section 13-15-202, which is renumbered from Section 13-15-4 is renumbered and amended to read:

[~~13-15-4~~]. 13-15-202. Disclosure statements.

[~~(1) A seller of an assisted marketing plan shall annually file the following information with the division:~~]

[~~(a) the name, address, and principal place of business of the seller, and the name, address, and principal place of business of the parent or holding company of the seller, if any, who is responsible for statements made by the seller;~~]

[~~(b) the trademarks, trade names, service marks, or advertising or other commercial symbols that identify the products, equipment, supplies, or services to be offered, sold, or distributed by the prospective purchaser;~~]

[~~(c) an individual detailed statement covering the past five years of the business experience of each of the seller's current directors and executive officers and an individual statement covering the same period for the seller and the seller's parent company, if any, including the length of time each:~~]

[~~(i) has conducted a business of the type advertised or solicited for operation by a prospective purchaser;~~]

[~~(ii) has offered or sold the assisted marketing plan; and~~]

[~~(iii) has offered for sale or sold assisted marketing plans in other lines of business, together with a description of the other lines of business;~~]

[~~(d) (i) a statement of the total amount that shall be paid by the purchaser to obtain or commence the business opportunity such as initial fees, deposits, down payments, prepaid rent, and equipment and inventory purchases; and~~]

[~~(ii) if all or part of the fees or deposits described in Subsection (1)(d)(i) are returnable, the conditions under which the fees or deposits are returnable;~~]

[~~(e) a complete statement of the actual services the seller will perform for the purchaser;~~]

[~~(f) a complete statement of the oral, written, or visual representations that will be made to prospective purchasers about specific levels of potential sales, income, gross and net profits, or any other representations that suggest a specific level;~~]

[~~(g) a complete description of the type and length of any training promised to prospective purchasers;~~]

[~~(h) (i) a complete description of any services promised to be performed by the seller in connection with the placement of the equipment, products, or supplies at any location from which they will be sold or used; and~~]

[~~(ii) a complete description of the services described in Subsection (1)(h)(i) together with any agreements that will be made by the seller with the owner or manager of the location where the purchaser's equipment, products, or supplies will be placed;~~]

[~~(i) a statement that discloses any person identified in Subsection (1)(a) who:~~]

[~~(i) has been convicted of a felony or misdemeanor or pleaded nolo contendere to a felony or misdemeanor charge if the felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;~~]

[~~(ii) has been held liable or consented to the entry of a stipulated judgment in a civil action based upon fraud, embezzlement, fraudulent conversion, misappropriation of property, or the use of untrue or misleading representations in the sale or attempted sale of any real or personal property, or upon the use of any unfair, unlawful or deceptive business practice; or~~]

[~~(iii) is subject to an injunction or restrictive order relating to business activity as the result of an action brought by a public agency;~~]

[~~(j) a financial statement that is less than 13 months old of the seller signed by one of the seller's officers, directors, trustees, or general or limited partners, under a declaration that certifies that to the signatory's knowledge and belief the information in the financial statement is true and accurate;~~]

[~~(k) a copy of the entire marketing plan contract;~~]

[~~(l) the number of marketing plans sold to date, and the number of plans under negotiation;~~]

[~~(m) geographical information, including the states in which the seller's assisted marketing plans have been sold, and the number of plans in each state;~~]

[~~(n) the total number of marketing plans that were cancelled by the seller in the past 12 months; and~~]

[~~(o) the number of marketing plans that were voluntarily terminated by purchasers within the past 12 months and the total number of such voluntary terminations to date.~~]

[~~(2) The seller of an assisted marketing plan filing information under Subsection (1) shall pay an annual fee as determined by the department in accordance with Section 63J-1-504 when the seller files the information required under Subsection (1).~~]

[~~(3) (a) Before commencing business in this state, a seller of an assisted marketing plan shall file the information required under Subsection (1) and receive from the division proof of receipt of the filing.~~]

[~~(b) A seller shall annually comply with Subsections (1) and (2) by no later than the anniversary of the day on which the seller receives from the division proof of receipt of the filing.~~]

[~~(4) A seller of an assisted marketing plan claiming an exemption from filing under this chapter shall file a notice of claim of exemption from filing with the division. A seller claiming an exemption from filing bears the burden of proving the exemption. The division shall collect a fee for filing a notice of claim of exemption, as determined by the department in accordance with Section 63J-1-504.~~]

[~~(5) A representation described in Subsection (1)(f) shall be relevant to the geographic market in which the business opportunity is to be located. When the statements or representations are made, a warning after the representation in not less than 12 point upper and lower case boldface type shall appear as follows:~~]

(1) An applicant for a proof of disclosure receipt under Subsection 13-15-201(1) shall include the following in a disclosure statement:

(a) the name, address, and principal place of business of:

(i) the applicant; and

(ii) each parent, affiliate, or holding company of the applicant that is responsible for a statement that the applicant makes;

(b) an individual statement from each of the following, detailing the person's business experience for the five-year period immediately before the day on which the applicant files the disclosure statement:

(i) the applicant;

(ii) each parent company of the applicant;

(iii) each current director of the applicant; and

(iv) each current executive officer of the applicant;

(c) for each type of business opportunity the applicant offers to enter into or enters into as a seller:

(i) an individual statement from each person described in Subsections (1)(b)(i) and (ii) detailing the length of time, during the five-year period immediately before the day on which the applicant files the disclosure statement, the person has:

(A) operated a business of the type the purchaser would operate under the business opportunity; and

(B) offered to sell or lease that type of business opportunity;

(ii) each trademark, trade name, service mark, advertisement, or other commercial symbol that identifies a product, equipment, a supply, or a service that the applicant sells or leases under the business opportunity;

(iii) a complete statement of:

(A) the total amount that a purchaser pays to obtain or commence the operation of the business under the business opportunity;

(B) if all or part of a fee or deposit described in Subsection (1)(c)(iii)(A) is refundable, the conditions under which the fee or deposit is refundable;

(C) the product, equipment, supply, or service the applicant provides or performs for a purchaser under the business opportunity; and

(D) each oral, written, visual, or other representation that the applicant makes to a prospective purchaser about specific levels of potential sales, income, or gross and net profits under the business opportunity;

(iv) a complete description of:

(A) the type and length of training the applicant promises to a prospective purchaser, if any;

(B) each service the applicant promises to perform in connection with the placement of equipment, a product, or a supply at a location from which the equipment, product, or supply will be sold or used; and

(C) each agreement the applicant makes with an owner or manager of a location where a purchaser's equipment, product, or supply is placed; and

(v) a complete copy of each contract to which a purchaser under the business opportunity would be party;

(d) the total number of business opportunities the applicant has entered into as a seller in each state;

(e) the total number of business opportunities that the applicant has canceled within the 12 months before the day on which the applicant files the disclosure statement;

(f) the total number of business opportunities, to which the applicant is a party, for which a purchaser has requested a refund or cancellation within the 12 months before the day on which the applicant files the disclosure statement;

(g) a statement that discloses each person identified in Subsection (1)(a) who:

(i) has been convicted of a felony or misdemeanor or pleaded no contest to a felony or misdemeanor charge, if the felony or misdemeanor involved fraud, embezzlement, fraudulent conversion, or misappropriation of property;

(ii) has been held liable or consented to the entry of a stipulated judgment in an administrative or civil action based upon:

(A) fraud, embezzlement, fraudulent conversion, misappropriation of property;

(B) the use of untrue or misleading representations; or

(C) the use of any unfair, unlawful, or deceptive business practice; or

(iii) is subject to an injunction or restrictive order relating to business activity as the result of a government agency action;

(h) a financial statement from the applicant that is:

(i) less than 13 months old; and

(ii) signed by an officer, director, trustee, or general or limited partner of the applicant, under a declaration that certifies that to the signatory's knowledge and belief the information in the financial statement is true and accurate; and

(i) a cover sheet that:

(i) is attached to the front or appears at the beginning of the disclosure statement; and

(ii) conspicuously states in at least 12-point upper- and lower-case boldface type:

(A) the name of the applicant;

(B) the date on which the applicant files the disclosure;

(C) the following notice:

"INFORMATION FOR PURCHASE OF A BUSINESS OPPORTUNITY:

To protect you, the State of Utah has required your seller to give you this disclosure statement. The State of Utah has not verified the accuracy of the information in the disclosure statement."; and

(D) if the applicant makes a representation described in Subsection (1)(c)(iii)(D) or 13-15-102(1)(a)(ii)(D) the following notice:

"CAUTION

[~~No guarantee of earnings or ranges of earnings can be made.~~] The number of purchasers who have earned through this business opportunity an amount in excess of the amount [~~of their initial payment~~] the purchaser pays for the business opportunity is at least _____ which represents at least _____% of the total number of purchasers of this business opportunity."

(2) The disclosure statement described in Subsection (1) may not include material or information other than the material and information required under Subsection (1).

Section 5. Section 13-15-203, which is renumbered from Section 13-15-5 is renumbered and amended to read:

[~~13-15-5~~]. 13-15-203. Disclosure statement furnished to purchaser -- Additional nondeceptive information permitted.

[~~All the information required under Section 13-15-4 shall be contained in a single disclosure statement or prospectus which shall be provided to any prospective purchaser at least 10 business days prior to the earlier of:~~]

(1) A seller shall provide the disclosure statement described under Section 13-15-202 to a prospective purchaser at least 10 business days before the day on which the earlier of the following occurs:

[~~(1)~~] (a) the [~~execution by prospective purchaser of any~~] prospective purchaser executes an agreement imposing a binding legal obligation on [~~such~~] the prospective purchaser [~~by which the seller knows or should know,~~] in connection with the seller's sale or proposed sale of [~~the "assisted marketing plan"~~] a business opportunity; or

[~~(2)~~] (b) the [~~payment by a~~] prospective purchaser[~~, by which the seller knows or should know of any consideration~~] makes a payment or provides consideration in connection with the seller's sale or proposed sale of [~~the "assisted market plan." The disclosure statement or~~

~~prospectus may not contain any material or information other than that required under Section 13–15–4. However, the seller may give prospective purchasers nondeceptive information other than that contained in the disclosure statement or prospectus if it does not contradict the information required to appear in the disclosure statement or prospectus. A cover sheet attached to the disclosure statement or prospectus shall conspicuously state the name of the seller, the date of issuance of the disclosure statement or prospectus, and a notice printed in not less than 12 point upper and lower case boldface type as follows:~~] a product or business opportunity.

[~~INFORMATION FOR PURCHASE OF A MARKETING PLAN:~~]

[~~To protect you, the State Division of Consumer Protection has required your seller to give you this information. The State Division of Consumer Protection has not verified this information as to its accuracy. The notice may contain additional precautions deemed necessary and pertinent. The seller, in lieu of the information requested by Section 13–15–4, may file with the commission and provide to prospective purchasers certified disclosure documents authorized for use by the Federal Trade Commission pursuant to Title 16, Chapter I, Subchapter d, Trade Regulation Rules, Part 436, "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures."~~]

(2) A seller may provide a prospective purchaser nondeceptive information apart from the disclosure statement described in Section 13–15–202, if the information does not contradict the information required in the disclosure statement.

Section 6. Section 13-15-301, which is renumbered from Section 13-15-3 is renumbered and amended to read:

Part 3. Enforcement

[~~13–15–3~~]. 13-15-301. Administration and enforcement -- Powers -- Legal counsel -- Fees.

(1) The division shall administer and enforce the provisions of this chapter[~~. In the exercise of its responsibilities, the division shall enjoy the powers, and be subject to the constraints, set forth in Title 13, Chapter 2, Division of Consumer Protection~~] in accordance with Chapter 2, Division of Consumer Protection.

(2) The attorney general, upon request, shall give legal advice to, and act as counsel for, the division in the exercise of [~~its~~] the division's responsibilities under this chapter.

(3) (a) In addition to the division's enforcement powers under Chapter 2, Division of Consumer Protection:

(i) the division director may impose an administrative fine of up to $2,500 for each violation of this chapter; and

(ii) the division may bring an action in a court of competent jurisdiction to enforce a provision of this chapter.

(b) In a court action by the division to enforce a provision of this chapter, the court may:

(i) declare that an act or practice violates a provision of this chapter;

(ii) issue an injunction for a violation of this chapter;

(iii) order disgorgement of any money received in violation of this chapter;

(iv) order payment of disgorged money to an injured purchaser or consumer;

(v) impose a fine of up to $2,500 for each violation of this chapter; or

(vi) award any other relief that the court deems reasonable and necessary.

(4) If a court of competent jurisdiction grants judgment or injunctive relief to the division, the court shall award the division:

(a) reasonable attorney fees;

(b) court costs; and

(c) investigative fees.

(5) (a) A person who violates an administrative or court order issued for a violation of this chapter is subject to a civil penalty of no more than $5,000 for each violation.

(b) A civil penalty authorized under this section may be imposed in any civil action brought by the attorney general on behalf of the division.

(6) All money received for the payment of a fine or civil penalty imposed under this section shall be deposited into the Consumer Protection Education and Training Fund created in Section 13–2–8.

[~~(3) All fees collected under this chapter shall be deposited in the Commerce Service Account created by Section 13–1–2.~~]

[~~(4) (a) As used in this Subsection (4), "consumer complaint" means a complaint that:~~]

[~~(i) is filed with the division by a consumer or business;~~]

[~~(ii) alleges facts relating to conduct that the division regulates under this chapter; and~~]

[~~(iii) (A) alleges a loss to the consumer or business of $3,500 or more; or~~]

[~~(B) is one of at least 50 other complaints against the same person filed by other consumers or businesses during the four years immediately preceding the filing of the complaint.~~]

[~~(b) For purposes of determining the number of complaints against the same person under Subsection (4)(a)(iii)(B), the division may consider complaints filed against multiple corporations, limited liability companies, partnerships, or other business entities under common ownership to be complaints against the same person.~~]

[~~(c) Notwithstanding Subsection 13-11-7(2) and subject to Subsections (4)(d) and (e), a consumer complaint:~~]

[~~(i) is a public record; and~~]

[~~(ii) may not be classified as a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act.~~]

[~~(d) Subsection (4)(c) does not apply to a consumer complaint:~~]

[~~(i) (A) if the division determines through an administrative proceeding that the consumer complaint is nonmeritorious; and~~]

[~~(B) beginning when the nonmeritorious determination is made; or~~]

[~~(ii) that has been on file with the division for more than four years.~~]

[~~(e) Before making a consumer complaint that is subject to Subsection (4)(c) or a response described in Subsection (4)(f) available to the public, the division:~~]

[~~(i) shall redact from the consumer complaint or response any information that would disclose the address, Social Security number, bank account information, email address, or telephone number of the consumer or business; and~~]

[~~(ii) may redact the name of the consumer or business and any other information that could, in the division's judgment, disclose the identity of the consumer or business filing the consumer complaint.~~]

[~~(f) A person's initial, written response to a consumer complaint that is subject to Subsection (4)(c) is a public record.~~]

Section 7. Section 13-15-302, which is renumbered from Section 13-15-6 is renumbered and amended to read:

[~~13-15-6~~]. 13-15-302. Private right of action.

[~~(1) If a seller fails to file the disclosures required under Section 13-15-4, or fails after demand by the division to file the disclosure within 15 days, the division, consistent with Section 13-2-5, shall begin adjudicative proceedings and shall issue a cease and desist order.~~]

[~~(2)~~] (1) [~~Any~~] A purchaser [~~of a business opportunity from~~] may bring an action in a court of competent jurisdiction against a seller who does not comply with this chapter.

(2) If a court of competent jurisdiction finds that a seller violated this chapter, a purchaser who brings an action under Subsection (1) is entitled[~~, in an appropriate court of competent jurisdiction,~~] to:

(a) rescission of the contract[~~, to~~];

(b) an award of [~~a~~] reasonable [~~attorney's fee~~] attorney fees and costs of court in an action to enforce the right of rescission[~~, and to the~~]; and

(c) an amount equal to the greater of:

(i) actual damages; or

(ii) $2,000[~~, whichever is greater~~].

[~~(3) In the event the division is granted judgment or injunctive relief in an appropriate court of competent jurisdiction, the division, in addition to any other relief, is entitled to an award of reasonable attorney's fees, costs of court, and investigative fees.~~]

[~~(4) (a) In addition to other penalties under this chapter, and to its other enforcement powers under Title 13, Chapter 2, Division of Consumer Protection, the division director may impose an administrative fine of up to $2,500 for each violation of this chapter.~~]

[~~(b) All money received through administrative fines imposed under this section shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.~~]

Section 8. Section 13-15-401 is enacted to read:

Part 4. Miscellaneous

13-15-401. Consumer complaints.

(1) As used in this section, "consumer complaint" means a complaint that:

(a) a consumer or business files with the division;

(b) alleges facts relating to conduct that the division regulates under this chapter; and

(c) (i) alleges a loss to the consumer or business described in Subsection (1)(a) of $3,500 or more; or

(ii) is one of at least 50 complaints filed with the division:

(A) against the same person; and

(B) during the four-year period immediately before the day on which the consumer or business described in Subsection (1)(a) files the complaint.

(2) For purposes of determining the number of complaints against the same person under Subsection (1)(c)(ii)(A), the division may consider complaints filed against multiple corporations, limited liability companies, partnerships, or other business entities under common ownership to be complaints against the same person.

(3) Notwithstanding Subsection 13-11-7(2) and subject to Subsections (4) and (5), a consumer complaint:

(a) is a public record; and

(b) may not be classified as a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) Subsection (3) does not apply to a consumer complaint:

(a) that is nonmeritorious, beginning the day on which:

(i) the division determines through an administrative proceeding that the consumer complaint is nonmeritorious; or

(ii) a court of competent jurisdiction finds the complaint nonmeritorious; or

(b) that is on file with the division for more than four years after the day on which the person files the complaint.

(5) Before making a consumer complaint that is subject to Subsection (3) or a response described in Subsection (6) available to the public, the division:

(a) shall redact from the consumer complaint and the seller's response any information that would disclose:

(i) the consumer or seller's:

(A) address;

(B) social security number;

(C) bank account information;

(D) email address; or

(E) telephone number; or

(ii) information similar in nature to the information described in Subsection (5)(a)(i); and

(b) may redact the name of the consumer or business and any other information that could, in the division's judgment, disclose the identity of the consumer or business filing the consumer complaint.

(6) A seller's initial, written response to a consumer complaint that is subject to Subsection (3) is a public record.

Section 9. Repealer.

This bill repeals:

Section 13-15-4.5, Notice of exemption filing.

Section 13-15-7, Civil penalty for violation of cease and desist order.

CHAPTER 244
S. B. 27

Passed January 27, 2022
Approved March 23, 2022
Effective May 4, 2022

UTAH POWERSPORT VEHICLE FRANCHISE ADVISORY BOARD AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions related to the Utah Powersport Vehicle Franchise Advisory Board (Advisory Board).

Highlighted Provisions:

This bill:

- amends the appointment of members to the Advisory Board;
- sunsets the Advisory Board in 2032; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-35-103, as last amended by Laws of Utah 2015, Chapter 258
63I-1-213, as last amended by Laws of Utah 2021, Chapter 26

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-35-103 is amended to read:

13-35-103. Utah Powersport Vehicle Franchise Advisory Board -- Creation -- Appointment of members -- Alternate members -- Chair -- Quorum -- Conflict of interest.

(1) There is created within the department the Utah Powersport Vehicle Franchise Advisory Board that consists of:

(a) the executive director or the executive director's designee; and

(b) [~~six~~] seven members appointed by the executive director, with the concurrence of the governor, as follows:

(i) [~~three~~] four new powersport vehicle franchisees, each from a different congressional district in the state; and

(ii) (A) three members representing powersport vehicle franchisors registered by the department pursuant to Section 13-35-105;

(B) three members of the general public, none of whom shall be related to any franchisee; or

(C) three members consisting of any combination of these representatives under this Subsection (1)(b)(ii).

(2) (a) The executive director shall also appoint, with the concurrence of the governor, three alternate members, with at least one alternate from each of the designations set forth in Subsections (1)(b)(i) and (1)(b)(ii), except that the new powersport vehicle franchisee alternate or alternates for the designation under Subsection (1)(b)(i) may be from any congressional district.

(b) An alternate shall take the place of a regular advisory board member from the same designation at a meeting of the advisory board where that regular advisory board member is absent or otherwise disqualified from participating in the advisory board meeting.

(3) (a) (i) Members of the advisory board appointed under Subsections (1)(b) and (2) shall be appointed for a term of four years.

(ii) No specific term shall apply to the executive director or the executive director's designee.

[~~(b) The executive director may adjust the term of members who were appointed to the advisory board prior to July 1, 2002, by extending the unexpired term of a member for up to two additional years in order to insure that approximately half of the members are appointed every two years.~~]

[~~(c)~~] (b) In the event of a vacancy on the advisory board of a member appointed under Subsection (1)(b) or (2), the executive director with the concurrence of the governor, shall appoint an individual to complete the unexpired term of the member whose office is vacant.

[~~(d)~~] (c) A member may not be appointed to more than two consecutive terms.

(4) (a) The executive director or the executive director's designee shall be the chair of the advisory board.

(b) The department shall keep a record of all hearings, proceedings, transactions, communications, and recommendations of the advisory board.

(5) (a) Four or more members of the advisory board constitute a quorum for the transaction of business.

(b) The action of a majority of a quorum present is considered the action of the advisory board.

(6) (a) A member of the advisory board may not participate as a board member in a proceeding or hearing:

(i) involving the member's business or employer; or

(ii) when a member, a member's business, family, or employer has a pecuniary interest in the outcome or other conflict of interest concerning an issue before the advisory board.

(b) If a member of the advisory board is disqualified under Subsection (6)(a), the executive director shall select the appropriate alternate member to act on the issue before the advisory board as provided in Subsection (2).

(7) Except for the executive director or the executive director's designee, an individual may not be appointed or serve on the advisory board while holding any other elective or appointive state or federal office.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The department shall provide necessary staff support to the advisory board.

Section 2. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates, Title 13.

(1) Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise Advisory Board, is repealed July 1, 2027.

(2) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise Advisory Board, is repealed July 1, [~~2022~~] 2032.

(3) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2026.

CHAPTER 245
S. B. 28

Passed February 11, 2022
Approved March 23, 2022
Effective July 1, 2022

OFFICE OF AMERICAN INDIAN-ALASKA NATIVE HEALTH AND FAMILY SERVICES

Chief Sponsor: Jani Iwamoto
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill creates the Office of American Indian-Alaska Native Health and Family Services within the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Office of American Indian-Alaska Native Health and Family Services within the Department of Health and Human Services;
- moves the American Indian-Alaska Native Health Office and the American Indian-Alaska Native Health Liaison to the Office of American Indian-Alaska Native Health and Family Services;
- requires the executive directors of the Department of Health and the Department of Human Services to jointly appoint:
  - a director of the Office of American Indian-Alaska Native Health and Family Services;
  - an Indian Child Welfare Act Liaison; and
  - an American Indian-Alaska Native Health Liaison;
- requires the Indian Child Welfare Act Liaison and the director of the Office of American Indian-Alaska Native Health and Family Services to meet certain qualifications;
- defines the duties of the Office of American Indian-Alaska Native Health and Family Services and the Indian Child Welfare Act Liaison;
- modifies the duties of the American Indian-Alaska Native Health Liaison;
- creates reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

9-9-104.6, as last amended by Laws of Utah 2021, Chapters 184 and 282

ENACTS:

26B-1-301, Utah Code Annotated 1953
26B-1-302, Utah Code Annotated 1953
26B-1-303, Utah Code Annotated 1953
26B-1-304, Utah Code Annotated 1953
26B-1-306, Utah Code Annotated 1953
26B-1-307, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-1-305, (Renumbered from 26-7-2.5, as last amended by Laws of Utah 2020, Chapter 236)

Utah Code Sections Affected by Coordination Clause:

26B-1-303, Utah Code Annotated 1953
26B-1-305, Utah Code Annotated 1953
26B-1-306, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-9-104.6 is amended to read:

9-9-104.6. Participation of state agencies in meetings with tribal leaders -- Contact information.

(1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.

(2) The following may participate in all meetings described in Subsection (1):

(a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

(b) the governor or the governor's designee;

(c) the American Indian-Alaska Native Health Liaison appointed in accordance with Section [~~26-7-2.5~~] 26B-1-305;

(d) the American Indian-Alaska Native Public Education Liaison appointed in accordance with Section 53F-5-604; and

(e) a representative appointed by the chief administrative officer of the following:

(i) the Department of Human Services;

(ii) the Department of Natural Resources;

(iii) the Department of Workforce Services;

(iv) the Governor's Office of Economic Opportunity;

(v) the State Board of Education; and

(vi) the Utah Board of Higher Education.

(3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

(i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and

(ii) notify the division:

(A) who is the designated contact person described in Subsection (3)(a)(i); and

(B) of any change in who is the designated contact person described in Subsection (3)(a)(i).

(b) This Subsection (3) applies to:

(i) the Department of Agriculture and Food;

(ii) the Department of Cultural and Community Engagement;

(iii) the Department of Corrections;

(iv) the Department of Environmental Quality;

(v) the Department of Public Safety;

(vi) the Department of Transportation;

(vii) the Office of the Attorney General;

(viii) the State Tax Commission; and

(ix) any agency described in Subsections (2)(c) through (e).

(c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).

(4) (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 2. Section 26B-1-301 is enacted to read:

Part 3. (Codified as Part 1) Office of American Indian-Alaska Native Health and Family Services

26B-1-301. (Codified as 26B-1a-101) Definitions.

As used in this part:

(1) "Director" means the director of the office appointed under Section 26B-1-303.

(2) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.

(3) "Health liaison" means the American Indian-Alaska Native Health Liaison appointed under Section 26B-1-305.

(4) "ICWA liaison" means the Indian Child Welfare Act Liaison appointed under Section 26B-1-306.

(5) "Office" means the Office of American Indian-Alaska Native Health and Family Services created in Section 26B-1-302.

Section 3. Section 26B-1-302 is enacted to read:

26B-1-302. (Codified as 26B-1a-102) Office of American Indian-Alaska Native Health and Family Services -- Creation -- Purpose.

(1) There is created within the department the Office of American Indian-Alaska Native Health and Family Services.

(2) The purpose of the office is to oversee and coordinate department services for Utah's American Indian-Alaska Native populations.

Section 4. Section 26B-1-303 is enacted to read:

26B-1-303. (Codified as 26B-1a-103) Director of the office -- Appointment -- Qualifications -- Staff.

(1) The executive director of the Department of Health and the executive director of the Department of Human Services shall jointly appoint a director of the office who:

(a) has a bachelor's degree from an accredited university or college;

(b) is experienced in administration; and

(c) is knowledgeable about the areas of American Indian-Alaska Native practices.

(2) The director is the administrative head of the office and shall serve under the joint supervision of the executive directors.

(3) The executive directors may hire staff as necessary to carry out the duties of the office described in Section 26B-1-304.

Section 5. Section 26B-1-304 is enacted to read:

26B-1-304. (Codified as 26B-1a-104) Duties of the office.

The office shall:

(1) oversee and coordinate department services for Utah's American Indian-Alaska Native populations;

(2) conduct regular and meaningful consultation with Indian tribes when there is a proposed department action that has an impact on an Indian tribe as a sovereign entity;

(3) monitor agreements between the department and Utah's American Indian-Alaska Native populations; and

(4) oversee the health liaison and ICWA liaison.

Section 6. Section 26B-1-305, which is renumbered from Section 26-7-2.5 is renumbered and amended to read:

[~~26-7-2.5~~]. 26B-1-305. (Codified as 26B-1a-105) American Indian-Alaska Native Health Liaison -- Appointment -- Duties.

[~~(1) As used in this section:~~]

[~~(a) "Health care" means care, treatment, service, or a procedure to improve, maintain, diagnose, or otherwise affect an individual's physical or mental condition.~~]

[~~(b) "Liaison" means the American Indian-Alaska Native Health Liaison appointed under this section.~~]

[~~(2) The executive director shall:~~]

[~~(a) establish an office to address health care of Utah's American Indian-Alaska Native population on and off reservations; and~~]

[~~(b) appoint an individual as the American Indian-Alaska Native Health Liaison who serves as the administrative head of the office under the supervision of the executive director.~~]

[~~(3) The office shall on behalf of the executive director and the department:~~]

(1) (a) The executive director of the Department of Health and the executive director of the Department of Human Services shall jointly appoint an individual as the American Indian-Alaska Native Health Liaison.

(b) The health liaison shall serve under the supervision of the director.

(2) The health liaison shall:

(a) promote and coordinate collaborative efforts between the department and Utah's American Indian-Alaska Native population to improve the availability and accessibility of quality health care impacting Utah's American Indian-Alaska Native populations on and off reservations;

(b) interact with the following to improve health disparities for Utah's American Indian-Alaska Native populations:

(i) tribal health programs;

(ii) local health departments;

(iii) state agencies and officials; and

(iv) providers of health care in the private sector;

(c) facilitate education, training, and technical assistance regarding public health and medical assistance programs to Utah's American Indian-Alaska Native populations; and

(d) staff an advisory board by which Utah's tribes may consult with state and local agencies for the development and improvement of public health programs designed to address improved health care for Utah's American Indian-Alaska Native populations on and off the reservation.

[~~(4) The liaison shall annually report the office's activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.~~]

Section 7. Section 26B-1-306 is enacted to read:

26B-1-306. (Codified as 26B-1a-106) Indian Child Welfare Act Liaison -- Appointment -- Qualifications -- Duties.

(1) (a) The executive director of the Department of Health and the executive director of the Department of Human Services shall jointly appoint an individual as the Indian Child Welfare Act Liaison who:

(i) has a bachelor's degree from an accredited university or college; and

(ii) is knowledgeable about the areas of child and family services and Indian tribal child rearing practices.

(b) The ICWA liaison shall serve under the supervision of the director.

(2) The ICWA liaison shall:

(a) act as a liaison between the department and Utah's American Indian populations regarding child and family services;

(b) provide training to department employees regarding the requirements and implementation of the Indian Child Welfare Act, 25 U.S.C. Secs. 1901-1963;

(c) develop and facilitate education and technical assistance programs for Utah's American Indian populations regarding available child and family services;

(d) promote and coordinate collaborative efforts between the department and Utah's American Indian population to improve the availability and accessibility of quality child and family services for Utah's American Indian populations; and

(e) interact with the following to improve delivery and accessibility of child and family services for Utah's American Indian populations:

(i) state agencies and officials; and

(ii) providers of child and family services in the public and private sector.

Section 8. Section 26B-1-307 is enacted to read:

26B-1-307. (Codified as 26B-1a-107) Liaison reporting.

The health liaison and the ICWA liaison shall annually report the liaisons' respective activities and accomplishments to the Native American Legislative Liaison Committee created in Section 36-22-1.

Section 9. Effective date.

This bill takes effect on July 1, 2022.

Section 10. Coordinating S.B. 28 with S.B. 45 -- Technical amendments.

If this S.B. 28 and S.B. 45, Department of Health and Human Services Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) on July 1, 2022, amending Section 26B-1-303 in this S.B. 28 to read:

"(1) The executive director shall appoint a director of the office who:

(a) has a bachelor's degree from an accredited university or college;

(b) is experienced in administration; and

(c) is knowledgeable about the areas of American Indian-Alaska Native practices.

(2) The director is the administrative head of the office and shall serve under the supervision of the executive director.

(3) The executive director may hire staff as necessary to carry out the duties of the office described in Section 26B-1-304.";

(2) on July 1, 2022, amending Subsection 26B-1-305(1)(a) in this S.B. 28 to read:

"(1) (a) The executive director shall appoint an individual as the American Indian-Alaska Native Health Liaison."; and

(3) on July 1, 2022, amending Subsection 26B-1-306(1)(a) in this S.B. 28 to read:

"(1) (a) The executive director shall appoint an individual as the Indian Child Welfare Act Liaison who:

(i) has a bachelor's degree from an accredited university or college; and

(ii) is knowledgeable about the areas of child and family services and Indian tribal child rearing practices.".

CHAPTER 246
S. B. 29

Passed January 27, 2022
Approved March 23, 2022
Effective May 4, 2022

EXECUTIVE RESIDENCE COMMISSION SUNSET EXTENSION

Chief Sponsor: Daniel W. Thatcher
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies the sunset date of the Executive Residence Commission.

Highlighted Provisions:

This bill:

- modifies the sunset date of the Executive Residence Commission, which was established to make recommendations to the Division of Facilities Construction and Management relating to the executive residence.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-267, as last amended by Laws of Utah 2020, Chapter 154

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-267 is amended to read:

63I-1-267. Repeal dates, Title 67.

(1) Section 67-1-8.1, which creates the Executive Residence Commission, is repealed July 1, [~~2022~~] 2027.

(2) Section 67-1-15 is repealed December 31, 2027.

(3) Section 67-3-11 is repealed July 1, 2024.

(4) Title 67, Chapter 5a, Utah Prosecution Council, is repealed July 1, 2027.

(5) Section 67-5b-105, which creates local advisory boards for the Children's Justice Center Program, is repealed July 1, 2021.

CHAPTER 247
S. B. 30
Passed January 27, 2022
Approved March 23, 2022
Effective May 4, 2022

LEGISLATIVE PROCESS COMMITTEE SUNSET EXTENSION

Chief Sponsor: Daniel W. Thatcher
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies the sunset date of the Legislative Process Committee.

Highlighted Provisions:

This bill:

- modifies the sunset date of the Legislative Process Committee, which reviews and considers alternatives to the state's legislative process.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-236, as last amended by Laws of Utah 2021, Chapter 194

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-236 is amended to read:

63I-1-236. Repeal dates, Title 36.

(1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, [~~2023~~] 2028.

(2) Section 36-12-20 is repealed June 30, 2023.

(3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed January 1, 2025.

(4) Section 36-29-106 is repealed June 1, 2021.

(5) Section 36-29-108, Criminal Code Evaluation Task Force, is repealed April 15, 2023.

(6) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee, is repealed January 1, 2022.

CHAPTER 248
S. B. 32

Passed February 4, 2022
Approved March 23, 2022
Effective May 4, 2022

VOTING HISTORY AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill amends provisions relating to voting history.

Highlighted Provisions:

This bill:

- requires an election officer to, when reporting voting history for an election, include certain information relating to a voter whose voter registration is classified as private, without disclosing the identity of the voter.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-5-410, as renumbered and amended by Laws of Utah 2020, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-5-410 is amended to read:

20A-5-410. Election officer to provide voting history information and status.

(1) As used in this section, "voting history record" means the information about the existence and status of absentee ballot requests required by this section.

(2) (a) Each election officer shall maintain, in the election officer's office, a voting history record of those voters registered to vote in the election officer's jurisdiction.

(b) Except as it relates to a voter whose voter registration record is classified as private under Subsection 63G-2-302(1)(k), the voting history record is a public record under Title 63G, Chapter 2, Government Records Access and Management Act.

(3) (a) When an election officer reports voting history for an election, the election officer shall, for each voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), report the following, for that election only, without disclosing the identity of the voter:

(i) for voting by mail, the information described in Subsection (4)(a);

(ii) for early voting, the date the individual voted; and

(iii) for voting on election day, the date the individual voted.

(b) In relation to the information of a voter whose voter registration is classified as private under Subsection 20A-2-104(4)(h), a report described in Subsection (3)(a) may not disclose, by itself or in conjunction with any other public information, the identity or any other personal identifying information of the voter.

[~~(3)~~] (4) The election officer shall ensure that the voting history record for each voting precinct contains:

(a) for voting by mail:

(i) the date that the manual ballot was mailed to the voter; and

(ii) the date that the voted manual ballot was received by the election officer;

(b) for early voting:

(i) the name and address of each individual who participated in early voting; and

(ii) the date the individual voted; and

(c) for voting on election day, the name and address of each individual who voted on election day.

[~~(4)~~] (5) (a) Notwithstanding the time limits for response to a request for records under Section 63G-2-204 or the time limits for a request for records established in any ordinance, the election officer shall ensure that the information required by this section is recorded and made available to the public no later than one business day after its receipt in the election officer's office.

(b) Notwithstanding the fee requirements of Section 63G-2-203 or the fee requirements established in any ordinance, the election officer shall make copies of the voting history record available to the public for the actual cost of production or copying.

CHAPTER 249
S. B. 34

Passed January 27, 2022
Approved March 23, 2022
Effective May 4, 2022

UTAH STATEWIDE RADIO SYSTEM RESTRICTED ACCOUNT SUNSET AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Walt Brooks

LONG TITLE

General Description:

This bill repeals the sunset date for a provision related to the Utah Statewide Radio System Restricted Account.

Highlighted Provisions:

This bill:

- repeals the sunset date for a provision that makes appropriations from the Utah Statewide Radio System Restricted Account nonlapsing; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

[~~(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:~~]

[~~(a) Section 63A-16-102 is repealed;~~]

[~~(b) Section 63A-16-201 is repealed; and~~]

[~~(c) Section 63A-16-202 is repealed.~~]

[~~(2)~~] (1) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

[~~(3)~~] (2) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

[~~(4)~~] (3) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(4) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(5) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-18-102 is repealed;

(b) Section 63A-18-201 is repealed; and

(c) Section 63A-18-202 is repealed.

[~~(5)~~] (6) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

[~~(6)~~] (7) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(7)~~] (8) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

[~~(8)~~] (9) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

[~~(9)~~] (10) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

[~~(10)~~] (11) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.~~]

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

[~~(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.~~]

[~~(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(18)~~] (17) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

[~~(19)~~] (18) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

[~~(20)~~] (19) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

[~~(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.~~]

[~~(22)~~] (20) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(21) Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(23)~~] (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(24)~~] (23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(25)~~] (24) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

[~~(26)~~] (25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (26) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (27) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30)~~] (28) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection(30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31)~~] (29) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (30) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

CHAPTER 250
S. B. 35

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

EXPUNGEMENT MODIFICATIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions related to expungement.

Highlighted Provisions:

This bill:

- amends the duties of the Utah Prosecution Council;
- recodifies Title 77, Chapter 40, Utah Expungement Act;
- amends definitions related to expungement;
- amends the procedures for the automatic expungement of certain offenses;
- amends provisions regarding rules made by the Judicial Council or the Supreme Court;
- modifies the requirements for the automatic deletion of traffic offenses;
- modifies the requirements for a certificate of eligibility to expunge the records of an arrest, investigation, or detention;
- modifies the requirements for a certificate of eligibility to expunge a record of a conviction;
- requires the Bureau of Criminal Identification to provide information needed for the issuance of an expungement order and to provide clear written instructions to petitioners regarding the process for a petition for expungement;
- modifies the requirements for a petition for expungement, including notice requirements concerning prosecutorial entities;
- provides that a certificate of eligibility is not required for a petition of expungement for certain offenses;
- requires the Bureau of Criminal Identification to notify all criminal justice agencies affected by an order of expungement with an exception for the Board of Pardons and Parole;
- prohibits employees of an agency from divulging information contained in an expunged record with certain exceptions;
- allows an agency or a research institution to use expunged records if the agency or a research institution follows certain requirements;
- allows a prosecuting attorney to communicate with another prosecuting attorney regarding expunged records for certain offenses;
- prohibits a prosecuting attorney from using an expunged record for a sentencing enhancement or as a basis for charging the individual with an offense that requires a prior conviction, unless there is a showing of good cause; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5-704, as last amended by Laws of Utah 2021, Chapters 141 and 166
53-10-202.5, as last amended by Laws of Utah 2017, Chapter 286
53E-6-506, as last amended by Laws of Utah 2019, Chapter 186
67-5a-1, as last amended by Laws of Utah 2019, Chapter 86
78B-9-108, as last amended by Laws of Utah 2021, Second Special Session, Chapter 4

ENACTS:

77-40a-301, Utah Code Annotated 1953
77-40a-306, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

77-40a-101, (Renumbered from 77-40-102, as last amended by Laws of Utah 2021, Chapters 206 and 260)
77-40a-102, (Renumbered from 77-40-101.5, as last amended by Laws of Utah 2021, Chapter 262)
77-40a-103, (Renumbered from 77-40-113, as renumbered and amended by Laws of Utah 2010, Chapter 283)
77-40a-104, (Renumbered from 77-40-111, as last amended by Laws of Utah 2019, Chapter 448)
77-40a-105, (Renumbered from 77-40-104.1, as last amended by Laws of Utah 2021, Chapter 272)
77-40a-201, (Renumbered from 77-40-114, as last amended by Laws of Utah 2020, Chapter 218)
77-40a-202, (Renumbered from 77-40-115, as enacted by Laws of Utah 2019, Chapter 448)
77-40a-203, (Renumbered from 77-40-116, as enacted by Laws of Utah 2019, Chapter 448)
77-40a-302, (Renumbered from 77-40-104, as last amended by Laws of Utah 2019, Chapter 448)
77-40a-303, (Renumbered from 77-40-105, as last amended by Laws of Utah 2021, Chapters 206, 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261)
77-40a-304, (Renumbered from 77-40-106, as last amended by Laws of Utah 2017, Chapter 356)
77-40a-305, (Renumbered from 77-40-107, as last amended by Laws of Utah 2021, Chapter 206)
77-40a-401, (Renumbered from 77-40-108, as last amended by Laws of Utah 2019, Chapter 448)
77-40a-402, (Renumbered from 77-40-108.5, as last amended by Laws of Utah 2019, Chapter 448)
77-40a-403, (Renumbered from 77-40-109, as last amended by Laws of Utah 2019, Chapter 448)
77-40a-404, (Renumbered from 77-40-110, as last amended by Laws of Utah 2019, Chapter 448)

77-40a-405, (Renumbered from 77-40-112, as last amended by Laws of Utah 2017, Chapters 356 and 447)

REPEALS:

77-40-101, as enacted by Laws of Utah 2010, Chapter 283

77-40-103, as last amended by Laws of Utah 2020, Chapters 12, 12, and 218

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5-704 is amended to read:

53-5-704. Bureau duties -- Permit to carry concealed firearm -- Certification for concealed firearms instructor -- Requirements for issuance -- Violation -- Denial, suspension, or revocation -- Appeal procedure.

(1) (a) Except as provided in Subsection (1)(b), the bureau shall issue a permit to carry a concealed firearm for lawful self defense to an applicant who is 21 years old or older within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(b) (i) Within 90 days before the day on which a provisional permit holder under Section 53-5-704.5 reaches 21 years old, the provisional permit holder may apply under this section for a permit to carry a concealed firearm for lawful self defense.

(ii) The bureau shall issue a permit for an applicant under Subsection (1)(b)(i) within 60 days after receiving an application, unless the bureau finds proof that the applicant is not qualified to hold a permit under Subsection (2) or (3).

(iii) A permit issued under this Subsection (1)(b):

(A) is not valid until an applicant is 21 years old; and

(B) requires a $10 application fee.

(iv) A person who applies for a permit under this Subsection (1)(b) is not required to retake the firearms training described in Subsection 53-5-704(8).

(c) The permit is valid throughout the state for five years, without restriction, except as otherwise provided by Section 53-5-710.

(d) The provisions of Subsections 76-10-504(1) and (2), and Section 76-10-505 do not apply to an individual issued a permit under Subsection (1)(a) or (b).

(e) Subsection (4)(a) does not apply to a nonresident:

(i) active duty service member, who presents to the bureau orders requiring the active duty service member to report for duty in this state; or

(ii) active duty service member's spouse, stationed with the active duty service member, who presents to the bureau the active duty service member's orders requiring the service member to report for duty in this state.

(2) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if the applicant or permit holder:

(i) has been or is convicted of a felony;

(ii) has been or is convicted of a crime of violence;

(iii) has been or is convicted of an offense involving the use of alcohol;

(iv) has been or is convicted of an offense involving the unlawful use of narcotics or other controlled substances;

(v) has been or is convicted of an offense involving moral turpitude;

(vi) has been or is convicted of an offense involving domestic violence;

(vii) has been or is adjudicated by a state or federal court as mentally incompetent, unless the adjudication has been withdrawn or reversed; and

(viii) is not qualified to purchase and possess a firearm pursuant to Section 76-10-503 and federal law.

(b) In determining whether an applicant or permit holder is qualified to hold a permit under Subsection (2)(a), the bureau shall consider mitigating circumstances.

(3) (a) The bureau may deny, suspend, or revoke a concealed firearm permit if it has reasonable cause to believe that the applicant or permit holder has been or is a danger to self or others as demonstrated by evidence, including:

(i) past pattern of behavior involving unlawful violence or threats of unlawful violence;

(ii) past participation in incidents involving unlawful violence or threats of unlawful violence; or

(iii) conviction of an offense in violation of Title 76, Chapter 10, Part 5, Weapons.

(b) The bureau may not deny, suspend, or revoke a concealed firearm permit solely for a single conviction of an infraction violation of Title 76, Chapter 10, Part 5, Weapons.

(c) In determining whether the applicant or permit holder has been or is a danger to self or others, the bureau may inspect:

(i) expunged records of arrests and convictions of adults as provided in Section [~~77-40-109~~] 77-40a-403; and

(ii) juvenile court records as provided in Section 78A-6-209.

(d) (i) The bureau shall suspend a concealed firearm permit if a permit holder becomes a temporarily restricted person in accordance with Section 53-5c-301.

(ii) Upon removal from the temporary restricted list, the permit holder's permit shall be reinstated unless:

(A) the permit has been revoked, been suspended for a reason other than the restriction described in Subsection (3)(d)(i), or expired; or

(B) the permit holder has become a restricted person under Section 76-10-503.

(4) (a) In addition to meeting the other qualifications for the issuance of a concealed firearm permit under this section, a nonresident applicant who resides in a state that recognizes the validity of the Utah permit or has reciprocity with Utah's concealed firearm permit law shall:

(i) hold a current concealed firearm or concealed weapon permit issued by the appropriate permitting authority of the nonresident applicant's state of residency; and

(ii) submit a photocopy or electronic copy of the nonresident applicant's current concealed firearm or concealed weapon permit referred to in Subsection (4)(a)(i).

(b) A nonresident applicant who knowingly and willfully provides false information to the bureau under Subsection (4)(a) is prohibited from holding a Utah concealed firearm permit for a period of 10 years.

(c) Subsection (4)(a) applies to all applications for the issuance of a concealed firearm permit that are received by the bureau after May 10, 2011.

(d) Beginning January 1, 2012, Subsection (4)(a) also applies to an application for renewal of a concealed firearm permit by a nonresident.

(5) The bureau shall issue a concealed firearm permit to a former peace officer who departs full-time employment as a peace officer, in an honorable manner, within five years of that departure if the officer meets the requirements of this section.

(6) Except as provided in Subsection (7), the bureau shall also require the applicant to provide:

(a) the address of the applicant's permanent residence;

(b) one recent dated photograph;

(c) one set of fingerprints; and

(d) evidence of general familiarity with the types of firearms to be concealed as defined in Subsection (8).

(7) An applicant who is a law enforcement officer under Section 53-13-103 may provide a letter of good standing from the officer's commanding officer in place of the evidence required by Subsection (6)(d).

(8) (a) General familiarity with the types of firearms to be concealed includes training in:

(i) the safe loading, unloading, storage, and carrying of the types of firearms to be concealed; and

(ii) current laws defining lawful use of a firearm by a private citizen, including lawful self-defense, use of force by a private citizen, including use of deadly force, transportation, and concealment.

(b) An applicant may satisfy the general familiarity requirement of Subsection (8)(a) by one of the following:

(i) completion of a course of instruction conducted by a national, state, or local firearms training organization approved by the bureau;

(ii) certification of general familiarity by an individual who has been certified by the bureau, which may include a law enforcement officer, military or civilian firearms instructor, or hunter safety instructor; or

(iii) equivalent experience with a firearm through participation in an organized shooting competition, law enforcement, or military service.

(c) Instruction taken by a student under this Subsection (8) shall be in person and not through electronic means.

(d) A person applying for a renewal permit is not required to retake the firearms training described in this Subsection 53-5-704(8) if the person:

(i) has an unexpired permit; or

(ii) has a permit that expired less than one year before the date on which the renewal application was submitted.

(9) (a) An applicant for certification as a Utah concealed firearms instructor shall:

(i) be at least 21 years old;

(ii) be currently eligible to possess a firearm under Section 76-10-503;

(iii) have:

(A) completed a firearm instruction training course from the National Rifle Association or the Department of Public Safety, Division of Peace Officer Safety Standards and Training; or

(B) received training equivalent to one of the courses referred to in Subsection (9)(a)(iii)(A) as determined by the bureau;

(iv) have taken a course of instruction and passed a certification test as described in Subsection (9)(c); and

(v) possess a Utah concealed firearm permit.

(b) An instructor's certification is valid for three years from the date of issuance, unless revoked by the bureau.

(c) (i) In order to obtain initial certification or renew a certification, an instructor shall attend an instructional course and pass a test under the direction of the bureau.

(ii) (A) The bureau shall provide or contract to provide the course referred to in Subsection (9)(c)(i) twice every year.

(B) The course shall include instruction on current Utah law related to firearms, including concealed carry statutes and rules, and the use of deadly force by private citizens.

(d) (i) Each applicant for certification under this Subsection (9) shall pay a fee of $50.00 at the time of application for initial certification.

(ii) The renewal fee for the certificate is $25.

(iii) The bureau may use a fee paid under Subsections (9)(d)(i) and (ii) as a dedicated credit to cover the cost incurred in maintaining and improving the instruction program required for concealed firearm instructors under this Subsection (9).

(10) A certified concealed firearms instructor shall provide each of the instructor's students with the required course of instruction outline approved by the bureau.

(11) (a) (i) A concealed firearms instructor shall provide a signed certificate to an individual successfully completing the offered course of instruction.

(ii) The instructor shall sign the certificate with the exact name indicated on the instructor's certification issued by the bureau under Subsection (9).

(iii) (A) The certificate shall also have affixed to it the instructor's official seal, which is the exclusive property of the instructor and may not be used by any other individual.

(B) The instructor shall destroy the seal upon revocation or expiration of the instructor's certification under Subsection (9).

(C) The bureau shall determine the design and content of the seal to include at least the following:

(I) the instructor's name as it appears on the instructor's certification;

(II) the words "Utah Certified Concealed Firearms Instructor," "state of Utah," and "my certification expires on (the instructor's certification expiration date)"; and

(III) the instructor's business or residence address.

(D) The seal shall be affixed to each student certificate issued by the instructor in a manner that does not obscure or render illegible any information or signatures contained in the document.

(b) The applicant shall provide the certificate to the bureau in compliance with Subsection (6)(d).

(12) The bureau may deny, suspend, or revoke the certification of an applicant or a concealed firearms instructor if it has reason to believe the applicant or the instructor has:

(a) become ineligible to possess a firearm under Section 76-10-503 or federal law; or

(b) knowingly and willfully provided false information to the bureau.

(13) An applicant for certification or a concealed firearms instructor has the same appeal rights as described in Subsection (16).

(14) In providing instruction and issuing a permit under this part, the concealed firearms instructor and the bureau are not vicariously liable for damages caused by the permit holder.

(15) An individual who knowingly and willfully provides false information on an application filed under this part is guilty of a class B misdemeanor, and the application may be denied, or the permit may be suspended or revoked.

(16) (a) In the event of a denial, suspension, or revocation of a permit, the applicant or permit holder may file a petition for review with the board within 60 days from the date the denial, suspension, or revocation is received by the applicant or permit holder by certified mail, return receipt requested.

(b) The bureau's denial of a permit shall be in writing and shall include the general reasons for the action.

(c) If an applicant or permit holder appeals the denial to the review board, the applicant or permit holder may have access to the evidence upon which the denial is based in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(d) On appeal to the board, the bureau has the burden of proof by a preponderance of the evidence.

(e) (i) Upon a ruling by the board on the appeal of a denial, the board shall issue a final order within 30 days stating the board's decision.

(ii) The final order shall be in the form prescribed by Subsection 63G-4-203(1)(i).

(iii) The final order is final bureau action for purposes of judicial review under Section 63G-4-402.

(17) The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to administer this chapter.

Section 2. Section 53-10-202.5 is amended to read:

53-10-202.5. Bureau services -- Fees.

The bureau shall collect fees for the following services:

(1) applicant fingerprint card as determined by Section 53-10-108;

(2) bail enforcement licensing as determined by Section 53-11-115;

(3) concealed firearm permit as determined by Section 53-5-707;

(4) provisional concealed firearm permit as determined by Section 53-5-707.5;

(5) application for and issuance of a certificate of eligibility for expungement as [~~determined by Section 77-40-106~~] described in Section 77-40a-304;

(6) firearm purchase background check as determined by Section 76-10-526;

(7) name check as determined by Section 53-10-108;

(8) private investigator licensing as determined by Section 53-9-111; and

(9) right of access as determined by Section 53-10-108.

Section 3. Section 53E-6-506 is amended to read:

53E-6-506. UPPAC duties and procedures.

(1) The state board may direct UPPAC to review a complaint about an educator and recommend that the state board:

(a) dismiss the complaint; or

(b) investigate the complaint in accordance with this section.

(2) (a) The state board may direct UPPAC to:

(i) in accordance with this section, investigate a complaint's allegation or decision; or

(ii) hold a hearing.

(b) UPPAC may initiate a hearing as part of an investigation.

(c) Upon completion of an investigation or hearing, UPPAC shall:

(i) provide findings to the state board; and

(ii) make a recommendation for state board action.

(d) UPPAC may not make a recommendation described in Subsection (2)(c)(ii) to adversely affect an educator's license unless UPPAC gives the educator an opportunity for a hearing.

(3) (a) The state board may:

(i) select an independent investigator to conduct a UPPAC investigation with UPPAC oversight; or

(ii) authorize UPPAC to select and oversee an independent investigator to conduct an investigation.

(b) In conducting an investigation, UPPAC or an independent investigator shall conduct the investigation independent of and separate from a related criminal investigation.

(c) In conducting an investigation, UPPAC or an independent investigator may:

(i) in accordance with Section 53E-6-606 administer oaths and issue subpoenas; or

(ii) receive evidence related to an alleged offense, including sealed or expunged records released to the state board under Section [~~77-40-109~~] 77-40a-403.

(d) If UPPAC finds that reasonable cause exists during an investigation, UPPAC may recommend that the state board initiate a background check on an educator as described in Section 53G-11-403.

(e) UPPAC has a rebuttable presumption that an educator committed a sexual offense against a minor child if the educator voluntarily surrendered a license or certificate or allowed a license or certificate to lapse in the face of a charge of having committed a sexual offense against a minor child.

(4) The state board may direct UPPAC to:

(a) recommend to the state board procedures for:

(i) receiving and processing complaints;

(ii) investigating a complaint's allegation or decision;

(iii) conducting hearings; or

(iv) reporting findings and making recommendations to the state board for state board action;

(b) recommend to the state board or a professional organization of educators:

(i) standards of professional performance, competence, and ethical conduct for educators; or

(ii) suggestions for improvement of the education profession; or

(c) fulfill other duties the state board finds appropriate.

(5) UPPAC may not participate as a party in a dispute relating to negotiations between:

(a) a school district and the school district's educators; or

(b) a charter school and the charter school's educators.

(6) The state board shall make rules establishing UPPAC duties and procedures.

Section 4. Section 67-5a-1 is amended to read:

67-5a-1. Utah Prosecution Council -- Duties -- Membership.

(1) There is created within the Office of the Attorney General the Utah Prosecution Council, referred to as the council in this chapter.

(2) The council shall:

(a) (i) provide training and continuing legal education for state and local prosecutors; and

(ii) ensure that any training or continuing legal education described in Subsection (2)(a)(i) complies with Title 63G, Chapter 22, State Training and Certification Requirements;

(b) provide assistance to local prosecutors;

(c) as funds are available and as are budgeted for this purpose, provide reimbursement for unusual expenses related to prosecution for violations of state laws; [~~and~~]

(d) provide training and assistance to law enforcement officers, as required elsewhere within this code[~~.~~]; and

(e) (i) gather and maintain contact information for all prosecuting entities in the state;

(ii) provide the contact information for all prosecuting entities in the state to the Utah state courts; and

(iii) publish the contact information for all prosecuting entities in the state on the council's website.

(3) The council shall be composed of 12 members, selected as follows:

(a) the attorney general or a designated representative;

(b) the commissioner of public safety or a designated representative;

(c) four currently serving county or district attorneys designated by the county or district attorneys' section of the Utah Association of Counties;

(d) four city prosecutors designated as follows:

(i) two by the Utah Municipal Attorneys Association; and

(ii) two by the Utah Misdemeanor Prosecutors Association[~~.~~];

(e) the chair of the Board of Directors of the Statewide Association of Prosecutors and Public Attorneys of Utah; and

(f) the chair of the governing board of the Utah Prosecutorial Assistants Association.

(4) Council members designated in Subsections (3)(c) and (3)(d) shall be approved by a majority vote of currently serving council members.

(5) A county or district attorney's term expires when a successor is designated by the county or district attorneys' section or when the county or district attorney is no longer serving as a county attorney or district attorney, whichever occurs first.

(6) A city prosecutor's term expires when a successor is designated by the association or when the city prosecutor is no longer employed as a city prosecutor, whichever occurs first.

Section 5. Section 77-40a-101, which is renumbered from Section 77-40-102 is renumbered and amended to read:

CHAPTER 40a. EXPUNGEMENT

Part 1. General Provisions

[~~77-40-102~~]. 77-40a-101. Definitions.

As used in this chapter:

[~~(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.~~]

[~~(2)~~] (1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

[~~(3)~~] (2) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

[~~(4)~~] (3) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

[~~(5)~~] (4) (a) [~~"Clean~~] Except as provided in Subsection (4)(c), "clean slate eligible case" means a case:

(i) where[~~, except as provided in Subsection (5)(c),~~] each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections [~~77-40-105(6) and (7)~~] 77-40a-303(5) and (6) without taking into consideration the exception in Subsection [~~77-40-105(9)~~] 77-40a-303(8); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case:

(i) that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

[~~(i)~~] (A) except as provided in Subsection [~~(5)~~] (4)(c), each charge within the case is[~~: (A)~~] a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i)[~~; (B)~~], a class B or class C misdemeanor[~~; or (C)~~], or an infraction;

[~~(ii)~~] (B) the individual involved meets the requirements of Subsection [~~(5)~~] (4)(a)(ii); and

[~~(iii)~~] (C) the time periods described in Subsections [~~(5)~~] (4)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed[~~.~~]; or

(ii) where charges are dismissed without prejudice if each conviction, or charge that was dismissed, in the case would otherwise meet the requirements under Subsection (4)(a) or (b)(i).

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal accounts receivable, as defined in Section 77-32b-102, that:

(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection [~~77-40-105(2)(a)~~] 77-40a-303(1)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the Person;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

[~~(6)~~] (5) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(6) "Criminal protective order" means the same as that term is defined in Section 78B-7-102.

(7) "Criminal stalking injunction" means the same as that term is defined in Section 78B-7-102.

[~~(7)~~] (8) "Department" means the Department of Public Safety established in Section 53-1-103.

[~~(8)~~] (9) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection [~~(8)~~] (9).

[~~(9)~~] (10) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

[~~(10)~~] (11) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

[~~(11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any local ordinance, except:~~]

(12) (a) Except as provided in Subsection (12)(c), "minor regulatory offense" means a class B or C misdemeanor or a local ordinance.

(b) "Minor regulatory offense" includes an offense under Section 76-9-701 or 76-10-105.

(c) "Minor regulatory offense" does not include:

[~~(a)~~] (i) any drug possession offense;

[~~(b)~~] (ii) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

[~~(c)~~] (iii) an offense under Sections 73-18-13 through 73-18-13.6;

[~~(d) those offenses defined in~~] (iv) except as provided in Subsection (12)(b), an offense under Title 76, Utah Criminal Code; or

[~~(e)~~] (v) any local ordinance that is substantially similar to [~~those offenses listed in Subsections (11)(a) through (d)~~] an offense listed in Subsections (12)(c)(i) through (iv).

[~~(12)~~] (13) "Petitioner" means an individual applying for expungement under this chapter.

[~~(13)~~] (14) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) an offense under Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) an offense under Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to [~~those offenses~~] an offense listed in Subsections (14)(a)(i) through (iii).

(b) "Traffic offense" does not mean:

(i) an offense under Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) an offense under Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to [~~the offenses listed in Subsections (13)(b)(i) and (ii)~~] an offense listed in Subsection (14)(b)(i) or (ii).

(15) "Traffic offense case" means that each offense in the case is a traffic offense.

Section 6. Section 77-40a-102, which is renumbered from Section 77-40-101.5 is renumbered and amended to read:

[~~77-40-101.5~~]. 77-40a-102. Applicability to juvenile court records.

This chapter does not apply to an expungement of a record for an adjudication under Section 80-6-701 or a nonjudicial adjustment, as that term is defined in Section 80-1-102, of an offense in the juvenile court.

Section 7. Section 77-40a-103, which is renumbered from Section 77-40-113 is renumbered and amended to read:

[~~77-40-113~~]. 77-40a-103. Retroactive application.

The provisions of this chapter apply retroactively to all arrests and convictions regardless of the date on which the arrests were made or convictions were entered.

Section 8. Section 77-40a-104, which is renumbered from Section 77-40-111 is renumbered and amended to read:

[~~77-40-111~~]. 77-40a-104. Rulemaking authority.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(1) implement procedures for processing an automatic expungement;

(2) implement procedures for applying for certificates of eligibility;

(3) specify procedures for receiving a certificate of eligibility; and

(4) create forms and determine information necessary to be provided to the bureau.

Section 9. Section 77-40a-105, which is renumbered from Section 77-40-104.1 is renumbered and amended to read:

[~~77-40-104.1~~]. 77-40a-105. Eligibility for removing the link between personal identifying information and court case dismissed.

(1) As used in this section:

(a) "Domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) "Personal identifying information" means:

(i) a current name, former name, nickname, or alias; and

(ii) date of birth.

(2) (a) An individual whose criminal case is dismissed, or civil case filed in accordance with Title 78B, Chapter 7, Protective Orders and Stalking Injunctions, is denied, may move the court for an order to remove the link between the individual's personal identifying information from the dismissed case in any publicly searchable database of the Utah state courts [~~and~~].

(b) If a motion is filed under Subsection (2)(a), the court shall grant [~~that relief~~] the motion if:

[~~(a)~~] (i) 30 days have passed from the day on which the case is dismissed or denied;

[~~(b)~~] (ii) no appeal is filed for the dismissed or denied case within the 30-day period described in Subsection [~~(2)(a)~~] (2)(b)(i); and

[~~(c)~~] (iii) no charge in the case was a domestic violence offense.

(3) Removing the link to personal identifying information of a court record under Subsection (2) does not affect a prosecuting, arresting, or other agency's records.

(4) A case history, unless expunged under this chapter, remains public and accessible through a search by case number.

Section 10. Section 77-40a-201, which is renumbered from Section 77-40-114 is renumbered and amended to read:

Part 2. Automatic Expungement and Deletion

[~~77-40-114~~]. 77-40a-201. Automatic expungement procedure.

(1) (a) Except as provided in Subsection (1)(b) and subject to Section [~~77-40-116~~] 77-40a-203, this section governs the process for the automatic expungement of all records in:

(i) except as provided in Subsection (2)[~~(d)~~](e), a case that resulted in an acquittal on all charges;

(ii) except as provided in Subsection (3)[~~(d)~~](e), a case that is dismissed with prejudice; or

(iii) a case that is a clean slate eligible case.

(b) This section does not govern automatic expungement of a traffic offense.

(2) (a) Except as provided in Subsection (2)[~~(d)~~](e), the process for automatic expungement of records for a case that resulted in an acquittal on all charges is as described in Subsections (2)(b) through [~~(c)~~] (d).

(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(d) For a case resulting in an acquittal on all charges on or before May 1, 2020, that is automatically expunged under this Subsection (2), a law enforcement agency shall expunge records for the case within one year after the day on which the law enforcement agency receives notice from the bureau.

[~~(d)~~] (e) For purposes of this section, a case that resulted in acquittal on all charges does not include a case that resulted in an acquittal because the individual is found not guilty by reason of insanity.

(3) (a) The process for an automatic expungement of a case that is dismissed with prejudice is as described in Subsections (3)(b) through [~~(c)~~] (d).

(b) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(c) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

(d) For a case dismissed on or before May 1, 2020, that is automatically expunged under this Subsection (3), a law enforcement agency shall expunge records for the case within one year after the day on which the law enforcement agency receives notice from the bureau.

[~~(d)~~] (e) For purposes of this Subsection (3), a case that is dismissed with prejudice does not include a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b).

(4) (a) The process for the automatic expungement of a clean slate eligible case is as described in Subsections (4)(b) through [~~(f)~~] (g) and in accordance with any rules made by the Judicial Council [~~as described in Subsection (4)(g)~~] or the Supreme Court.

(b) A prosecuting agency, that has complied with Rule 42 of the Utah Rules of Criminal Procedure, shall receive notice on a monthly basis for any case prosecuted by that agency that appears to be a clean slate eligible case.

(c) Within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the prosecuting agency shall provide written notice in accordance with any rules made by the Judicial Council or the Supreme Court if the prosecuting agency objects to an automatic expungement for any of the following reasons:

(i) after reviewing the agency record, the prosecuting agency believes that the case does not meet the definition of a clean slate eligible case;

(ii) the individual has not paid court-ordered restitution to the victim; or

(iii) the prosecuting agency has a reasonable belief, grounded in supporting facts, that an individual with a clean slate eligible case is continuing to engage in criminal activity within or outside of the state.

(d) (i) If a prosecuting agency provides written notice of an objection for a reason described in Subsection (4)(c) within 35 days of the day on which the notice described in Subsection (4)(b) is sent, the court may not proceed with automatic expungement.

(ii) If 35 days pass from the day on which the notice described in Subsection (4)(b) is sent without the prosecuting agency providing written notice of an objection for a reason described in Subsection (4)(c), the court may proceed with automatic expungement.

(e) If a court determines that the requirements for automatic expungement have been met, a district court or justice court shall:

(i) issue, without a petition, an expungement order; and

(ii) based on information available, notify the bureau and the prosecuting agency identified in the case of the order of expungement.

(f) The bureau, upon receiving notice from the court, shall notify the law enforcement agencies identified in the case of the order of expungement.

[~~(g) The Judicial Council shall make rules to govern the process for automatic expungement of records for a clean slate eligible case in accordance with this Subsection (4).~~]

(g) For a clean slate case adjudicated or dismissed on or before May 1, 2020, that is automatically expunged under this Subsection (4), a law enforcement agency shall expunge records for the case within one year after the day on which the law enforcement agency receives notice from the bureau.

(5) Nothing in this section precludes an individual from filing a petition for expungement of records that are eligible for automatic expungement under this section if an automatic expungement has not occurred pursuant to this section.

(6) An automatic expungement performed under this section does not preclude a person from requesting access to expunged records in

accordance with Section [~~77-40-109 or 77-40-110.~~] 77-40a-403 or 77-40a-404.

(7) (a) The Judicial Council and the Supreme Court shall make rules to govern the process for automatic expungement.

(b) The rules under Subsection (7)(a) may authorize:

(i) a presiding judge of a district court to issue an expungement order for any case when the requirements for automatic expungement are met; and

(ii) a presiding judge of a justice court to issue an expungement order for any justice court case within the presiding judge's judicial district when the requirements for automatic expungement are met.

Section 11. Section 77-40a-202, which is renumbered from Section 77-40-115 is renumbered and amended to read:

[~~77-40-115~~]. 77-40a-202. Automatic deletion for traffic offense.

(1) Subject to Section [~~77-40-116~~] 77-40a-203, records for the following traffic offenses shall be deleted without a court order or notice to the prosecuting agency:

(a) a traffic offense case that resulted in an acquittal on all charges;

(b) a traffic offense case that is dismissed with prejudice, [~~other than~~] except for a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b); or

(c) a traffic offense case [~~that is a clean slate eligible case, as that term is defined in Section 77-40-102.~~] for which the following time periods have elapsed from the day on which the case is adjudicated:

(i) at least five years for a class C misdemeanor or an infraction; or

(ii) at least six years for a class B misdemeanor.

(2) The Judicial Council shall make rules to provide an ongoing process for identifying and deleting records on all traffic offenses described in Subsection (1).

Section 12. Section 77-40a-203, which is renumbered from Section 77-40-116 is renumbered and amended to read:

[~~77-40-116~~]. 77-40a-203. Time periods for expungement or deletion -- Identification and processing of clean slate eligible cases.

(1) Reasonable efforts within available funding shall be made to expunge or delete a case as quickly as is practicable with the goal of:

(a) for cases adjudicated on or after May 1, 2020:

(i) expunging a case that resulted in an acquittal on all charges, 60 days after the acquittal;

(ii) expunging a case that resulted in a dismissal with prejudice, other than a case that is dismissed with prejudice as a result of successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b), 180 days after:

(A) for a case in which no appeal was filed, the day on which the entire case against the individual is dismissed with prejudice; or

(B) for a case in which an appeal was filed, the day on which a court issues a final unappealable order;

(iii) expunging a clean slate eligible case that is not a traffic offense within 30 days of the court, in accordance with Section [~~77-40-114~~] 77-40a-201, determining that the requirements for expungement have been satisfied; or

(iv) deleting [~~a clean slate eligible case that is a traffic offense upon identification~~] a traffic offense case described in Subsection 77-40a-202(1)(c) upon identification; and

(b) for cases adjudicated before May 1, 2020, expunging or deleting a case within one year of the day on which the case is identified as eligible for automatic expungement or deletion.

(2) (a) The Judicial Council or the Supreme Court shall make rules governing the identification and processing of clean slate eligible cases in accordance with [~~Sections 77-40-114 and 77-40-115.~~] Section 77-40a-201.

(b) Reasonable efforts shall be made to identify and process all clean slate eligible cases in accordance with [~~Sections 77-40-114 and 77-40-115.~~] Section 77-40a-201.

(c) An individual does not have a cause of action for damages as a result of the failure to identify an individual's case as a clean slate eligible case or to automatically expunge or delete the records of a clean slate eligible case.

Section 13. Section 77-40a-301 is enacted to read:

Part 3. Petition for Expungement

77-40a-301. Application for certificate of eligibility for expungement -- Penalty for false or misleading information on application.

(1) If an individual seeks to expunge the individual's criminal record in regard to an arrest, investigation, detention, or conviction, the individual shall:

(a) except as provided in Subsection 77-40a-305(3) or (4), apply to the bureau for a certificate of eligibility for expungement of the criminal record and pay the application fee as described in Section 77-40a-304;

(b) if the individual is qualified to receive a certificate of eligibility, pay the issuance fee for the certificate of eligibility as described in Section 77-40a-304; and

(c) file a petition for expungement in accordance with Section 77-40a-305.

(2) (a) An individual who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(b) Regardless of whether the individual is prosecuted, the bureau may deny a certificate of eligibility to anyone who knowingly provides false information on an application.

Section 14. Section 77-40a-302, which is renumbered from Section 77-40-104 is renumbered and amended to read:

[~~77-40-104~~]. 77-40a-302. Requirements for certificate of eligibility to expunge records of arrest, investigation, and detention.

An individual who is arrested or formally charged with an offense [~~may apply to the bureau for~~] is eligible to receive a certificate of eligibility from the bureau to expunge the records of arrest, investigation, and detention that may have been made in the case[~~, subject to the following conditions~~] if:

(1) at least 30 days have passed since the day of the arrest for which a certificate of eligibility is sought;

(2) there are no criminal proceedings or pleas in abeyance pending against the individual; [~~and~~]

(3) the individual is not currently on probation or parole;

(4) there is not a criminal protective order or a criminal stalking injunction in effect for the case;

(5) there are no convictions in the case for a traffic offense; and

[~~(3)~~] (6) one of the following occurs:

(a) charges are screened by the investigating law enforcement agency and the [~~prosecutor~~] prosecuting attorney makes a final determination that no charges will be filed in the case;

(b) (i) [~~the entire case is dismissed with prejudice;~~ ~~(c) the entire case is~~] all charges contained in the case are dismissed; and

(ii) if any charge contained in the case is dismissed without prejudice or without condition [~~and~~]:

[~~(i)~~] (A) the [~~prosecutor~~] prosecuting attorney consents in writing to the issuance of a certificate of eligibility; or

[~~(ii)~~] (B) at least 180 days have passed since the day on which [~~the case is~~] the charge is dismissed;

[~~(d)~~] (c) the individual is acquitted at trial on all of the charges contained in the case; or

[~~(e)~~] (d) the statute of limitations expires on all of the charges contained in the case.

Section 15. Section 77-40a-303, which is renumbered from Section 77-40-105 is renumbered and amended to read:

[~~77-40-105~~]. 77-40a-303. Requirements for a certificate of eligibility to expunge records of a conviction.

[~~(1) An individual convicted of an offense may apply to the bureau for a certificate of eligibility to expunge the record of conviction as provided in this section.~~]

[~~(2)~~] (1) Except as provided in [~~Subsection (3)~~] Subsections (2) and (4), an individual is not eligible to receive a certificate of eligibility from the bureau to expunge the records of a conviction if:

(a) the conviction for which expungement is sought is:

(i) a capital felony;

(ii) a first degree felony;

(iii) a felony conviction of a violent felony as defined in Subsection 76-3-203.5(1)(c)(i);

(iv) felony automobile homicide;

(v) a felony conviction described in Subsection 41-6a-501(2);

[~~(vi) a registerable sex offense as defined in Subsection 77-41-102(17); or~~]

(vi) an offense, or a combination of offenses, that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(vii) a registerable child abuse offense as defined in Subsection 77-43-102(2);

(b) a criminal proceeding or a plea in abeyance is pending against the petitioner; [~~or~~]

(c) the petitioner is on probation or parole;

[~~(c)~~] (d) the petitioner intentionally or knowingly provides false or misleading information on the application for a certificate of eligibility[~~.~~]; or

(e) a criminal protective order or a criminal stalking injunction is in effect for the case.

[~~(3)~~] (2) The eligibility limitation described in Subsection [~~(2)~~] (1) does not apply in relation to a conviction for a qualifying sexual offense, as defined in Subsection 76-3-209(1), if, at the time of the offense, the individual who committed the offense was at least 14 years old, but under 18 years old, unless the conviction occurred in district court after the individual was:

(a) charged by criminal information under Section 80-6-502 or 80-6-503; and

(b) bound over to district court under Section 80-6-504.

[~~(4)~~] (3) A petitioner seeking to obtain expungement for a record of conviction is not eligible to receive a certificate of eligibility from the bureau until all of the following have occurred:

(a) the petitioner has paid in full all fines and interest ordered by the court related to the conviction for which expungement is sought;

(b) the petitioner has paid in full all restitution ordered by the court under Section 77-38b-205; and

(c) the following time periods have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for each conviction the petitioner seeks to expunge:

(i) 10 years in the case of a misdemeanor conviction of Subsection 41-6a-501(2) or a felony conviction of Subsection 58-37-8(2)(g);

(ii) seven years in the case of a felony;

(iii) five years in the case of any class A misdemeanor or a felony drug possession offense;

(iv) four years in the case of a class B misdemeanor; or

(v) three years in the case of any other misdemeanor or infraction.

[~~(5)~~] (4) When determining whether to issue a certificate of eligibility for a conviction, the bureau may not consider:

(a) a petitioner's pending or previous:

(i) infraction;

(ii) traffic offense;

(iii) minor regulatory offense; or

(iv) clean slate eligible case that was automatically expunged in accordance with Section [~~77-40-114~~] 77-40a-201; or

(b) a fine or fee related to an offense described in Subsection [~~(5)~~] (4)(a).

[~~(6) The~~] (5) Except as provided in Subsection (8), the bureau may not issue a certificate of eligibility for a conviction if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following[~~, except as provided in Subsection (9)~~]:

(a) two or more felony convictions other than for drug possession offenses, each of which is contained in a separate criminal episode;

(b) any combination of three or more convictions other than for drug possession offenses that include two class A misdemeanor convictions, each of which is contained in a separate criminal episode;

(c) any combination of four or more convictions other than for drug possession offenses that include three class B misdemeanor convictions, each of which is contained in a separate criminal episode; or

(d) five or more convictions other than for drug possession offenses of any degree whether misdemeanor or felony, each of which is contained in a separate criminal episode.

[~~(7) The~~] (6) Except as provided in Subsection (8), the bureau may not issue a certificate of eligibility for a conviction if, at the time the petitioner seeks a certificate of eligibility, the bureau determines that the petitioner's criminal history, including previously expunged convictions, contains any of the following:

(a) three or more felony convictions for drug possession offenses, each of which is contained in a separate criminal episode; or

(b) any combination of five or more convictions for drug possession offenses, each of which is contained in a separate criminal episode.

[~~(8)~~] (7) If the petitioner's criminal history contains convictions for both a drug possession offense and a [~~non drug~~] non-drug possession offense arising from the same criminal episode, that criminal episode shall be counted as provided in Subsection [~~(6)~~] (5) if any [~~non drug~~] non-drug possession offense in that episode:

(a) is a felony or class A misdemeanor; or

(b) has the same or a longer waiting period under Subsection [~~(4)~~] (3) than any drug possession offense in that episode.

[~~(9)~~] (8) If at least 10 years have elapsed from the date the petitioner was convicted or released from incarceration, parole, or probation, whichever occurred last, for all convictions[~~, then~~]:

(a) each numerical eligibility limit defined in [~~Subsection (6)~~] Subsections (5)(a) and (b) shall be increased by one[~~.~~]; and

(b) each numerical eligibility limit defined in Subsections (5)(c), (5)(d), and (6) are not applicable and the bureau may issue a certificate of eligibility if:

(i) the individual is otherwise eligible; and

(ii) the highest convicted offense in the criminal episode for each conviction is:

(A) a class B misdemeanor;

(B) a class C misdemeanor;

(C) a drug possession offense if none of the non-drug possession offenses in the criminal episode are a felony or a class A misdemeanor; or

(D) an infraction.

[~~(10)~~] (9) If, prior to May 14, 2013, the petitioner has received a pardon from the Utah Board of Pardons and Parole, the petitioner is entitled to an expungement order for all pardoned crimes [~~pursuant to~~] in accordance with Section 77-27-5.1.

Section 16. Section 77-40a-304, which is renumbered from Section 77-40-106 is renumbered and amended to read:

[~~77-40-106~~]. 77-40a-304. Certificate of eligibility process -- Issuance of certificate -- Fees.

[~~(1) (a) A petitioner seeking to obtain an expungement for a criminal record shall apply for a certificate of eligibility from the bureau.~~]

[~~(b) A petitioner who intentionally or knowingly provides any false or misleading information to the~~

~~bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.~~]

[~~(c) Regardless of whether the petitioner is prosecuted, the bureau may deny a certificate of eligibility to anyone who knowingly provides false information on an application.~~]

[~~(2)~~] (1) (a) [~~The~~] When a petitioner applies for a certificate of eligibility as described in Subsection 77-40a-301(1), the bureau shall perform a check of records of governmental agencies, including national criminal data bases, to determine whether [~~a~~] the petitioner is eligible to receive a certificate of eligibility under this chapter.

(b) For purposes of determining eligibility under this chapter, the bureau may review records of arrest, investigation, detention, and conviction that have been previously expunged, regardless of the jurisdiction in which the expungement occurred.

(c) Once the eligibility process is complete, the bureau shall notify the petitioner.

[~~(c)~~] (d) If the petitioner meets all of the criteria under Section [~~77-40-104 or 77-40-105,~~] 77-40a-302 or 77-40a-303:

(i) the bureau shall issue a certificate of eligibility [~~to the petitioner which shall be~~] that is valid for a period of [~~90~~] 180 days from the [~~date~~] day on which the certificate is issued[~~.~~];

(ii) the bureau shall provide a petitioner with an identification number for the certificate of eligibility; and

(iii) the petitioner shall pay the issuance fee established by the department as described in Subsection (2).

[~~(d)~~] (e) If, after reasonable research, a disposition for an arrest on the criminal history file is unobtainable, the bureau may issue a special certificate giving determination of eligibility to the court[~~.~~] if:

(i) there are no criminal proceedings or pleas in abeyance pending against the petitioner; and

(ii) the petitioner is not currently on probation or parole.

[~~(3)~~] (2) (a) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.

(b) The application fee shall be paid at the time the petitioner submits an application for a certificate of eligibility to the bureau.

(c) If the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of eligibility or special certificate unless Subsection [~~(3)~~] (2)(d) applies.

(d) An issuance fee may not be assessed against a petitioner who qualifies for a certificate of eligibility under Section [~~77-40-104~~] 77-40a-302 unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

(e) Funds generated under this Subsection [~~(3)~~] (2) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

[~~(4)~~] (3) The bureau shall [~~provide clear written directions to the petitioner along with a list of agencies known to be affected by an order of expungement.~~] include on the certificate of eligibility all information that is needed for the court to issue a valid expungement order.

(4) The bureau shall provide clear written instructions to the petitioner that explain:

(a) the process for a petition for expungement; and

(b) what is required of the petitioner to complete the process for a petition for expungement.

Section 17. Section 77-40a-305, which is renumbered from Section 77-40-107 is renumbered and amended to read:

[~~77-40-107~~]. 77-40a-305. Petition for expungement -- Prosecutorial responsibility -- Hearing.

[~~(1) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103(5), the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.~~]

(1) (a) The petitioner shall file a petition for expungement, in accordance with the Utah Rules of Criminal Procedure, that includes the identification number for the certificate of eligibility described in Subsection 77-40a-304(1)(d)(ii).

(b) Information on a certificate of eligibility is incorporated into a petition by reference to the identification number for the certificate of eligibility.

(2) (a) If a petition for expungement is filed under Subsection (1)(a), the court shall obtain a certificate of eligibility from the bureau.

(b) A court may not accept a petition for expungement if the certificate of eligibility is no longer valid as described in Subsection 77-40a-304(1)(d)(i).

(3) Notwithstanding Subsection (2), the petitioner may file a petition for expungement of a traffic conviction without obtaining a certificate of eligibility if:

(a) (i) for a class C misdemeanor or infraction, at least three years have elapsed from the day on which the petitioner was convicted; or

(ii) for a class B misdemeanor, at least four years have elapsed from the day on which the petitioner was convicted; and

(b) all convictions in the case for the traffic conviction are for traffic offenses.

(4) Notwithstanding Subsection (2), a petitioner may file a petition for expungement of a record for a conviction related to cannabis possession without a certificate of eligibility if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26–61a–102; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (4)(a).

(5) (a) The court shall provide notice of a filing of a petition and certificate of eligibility to the prosecutorial office that handled the court proceedings within three days after the day on which the petitioner's filing fee is paid or waived.

(b) If there were no court proceedings, the court shall provide notice of a filing of a petition and certificate of eligibility to the county attorney's office in the jurisdiction where the arrest occurred.

(c) If the prosecuting agency with jurisdiction over the arrest, investigation, detention, or conviction, was a city attorney's office, the county attorney's office in the jurisdiction where the arrest occurred shall immediately notify the city attorney's office that the county attorney's office has received a notice of a filing of a petition for expungement.

[~~(2)~~] (6) (a) Upon receipt of a notice of a filing of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall [~~provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.~~] make a reasonable effort to provide notice to any victim of the conviction or charge.

(b) The notice under Subsection (6)(a) shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

[~~(3)~~] (7) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after [~~receipt of the petition.~~] the day on which the notice of the filing of the petition is sent by the court to the prosecuting attorney.

[~~(4)~~] (8) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

[~~(5)~~] (9) The petitioner may respond in writing to any objections filed by the [~~prosecutor~~] prosecuting attorney or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after [~~receipt.~~] the day on which the objection or response is received.

[~~(6)~~] (10) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing.

(b) The prosecuting attorney shall notify the victim of the date set for the hearing.

[~~(b)~~] (c) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

[~~(c)~~] (d) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

[~~(7)~~] (11) If no objection is received within 60 days from the [~~date~~] day on which the petition for expungement is filed with the court, the expungement may be granted without a hearing.

[~~(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:~~]

[~~(a) the petition and, except as provided under Subsection 77–40–103(5), certificate of eligibility are sufficient;~~]

[~~(b) the statutory requirements have been met;~~]

[~~(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;~~]

[~~(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77–40–105(7), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction;~~]

[~~(e) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77–40–103(5) for a record of conviction related to cannabis possession:~~]

[~~(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and~~]

[~~(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i);~~]

[~~(f) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and~~]

[~~(g) it is not contrary to the interests of the public to grant the expungement.~~]

[~~(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.~~]

[~~(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.~~]

[~~(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).~~]

[~~(10) If the court grants a petition described in Subsection (8)(e), the court shall make the court's findings in a written order.~~]

[~~(11) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.~~]

Section 18. Section 77-40a-306 is enacted to read:

77-40a-306. Order of expungement.

(1) If a petition is filed in accordance with Section 77-40a-305, the court shall issue an order of expungement if the court finds, by clear and convincing evidence, that:

(a) except as provided in Subsection 77-40a-305(3) or (4), the petition and certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecuting attorney provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement without a certificate of eligibility for expungement under Subsection 77-40a-305(4) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the qualifying condition described in Subsection (1)(d)(i);

(e) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(f) the interests of the public would not be harmed by granting the expungement.

(2) (a) If the court denies a petition described in Subsection (1)(c) because the prosecuting attorney intends to refile charges, the petitioner may apply again for a certificate of eligibility if charges are not refiled within 180 days after the day on which the court denies the petition.

(b) A prosecuting attorney who opposes an expungement of a case dismissed without prejudice, or without condition, shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecuting attorney is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (1)(c).

(3) If the court grants a petition described in Subsection (1)(e), the court shall make the court's findings in a written order.

(4) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be, or should not have been, issued under Section 77-40a-302 or 77-40a-303.

Section 19. Section 77-40a-401, which is renumbered from Section 77-40-108 is renumbered and amended to read:

Part 4. Distribution and Use of Expunged Records

[~~77-40-108~~]. 77-40a-401. Distribution of order -- Redaction -- Receipt of order -- Bureau requirements -- Administrative proceedings.

[~~(1) (a) (i) An individual who receives an order of expungement under Section 77-40-107 or Section 77-27-5.1 shall be responsible for delivering a copy of the order of expungement to all affected criminal justice agencies and officials including the court, arresting agency, booking agency, prosecuting agency, Department of Corrections, and the bureau.~~]

[~~(ii) The provisions of Subsection (1)(a)(i) do not apply to an individual who receives an automatic expungement under Section 77-40-114.~~]

(1) (a) The bureau, upon receiving notice from the court, shall notify all criminal justice agencies affected by the expungement order.

(b) For purposes of Subsection (1)(a), the bureau may not notify the Board of Pardons and Parole of an expungement order if the individual has never been:

(i) sentenced to prison in this state; or

(ii) under the jurisdiction of the Board of Pardons and Parole.

(c) A petitioner may deliver copies of the expungement to all criminal justice agencies affected by the order of expungement.

[~~(b)~~] (d) An individual, who receives an [~~order of~~] expungement order under Section 77-27-5.1, shall pay a processing fee to the bureau, established in accordance with the process in Section 63J-1-504, before the bureau's record may be expunged.

(2) Unless otherwise provided by law or ordered by a court [~~of competent jurisdiction~~] to respond differently, an individual or agency who has received an expungement of an arrest or conviction under this chapter or Section 77-27-5.1 may respond to any inquiry as though the arrest or conviction did not occur.

(3) The bureau shall forward a copy of the expungement order to the Federal Bureau of Investigation.

(4) An agency receiving an expungement order shall expunge the individual's identifying information contained in records in the agency's possession relating to the incident for which expungement is ordered.

(5) Unless ordered by a court to do so, or in accordance with Subsection [~~77-40-109(2)~~] 77-40a-403(2), a government agency or official may not divulge information or records that have been expunged.

(6) (a) An [~~order of~~] expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the order.

(b) Any action taken by an agency after issuance of the order but prior to the agency's receipt of a copy of the order may not be invalidated by the order.

(7) An [~~order of~~] expungement order may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body prior to issuance of the expungement order;

(b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order;

(c) remove any evidence relating to the individual including records of arrest, which the administrative body has used or may use in these proceedings; or

(d) prevent an agency from maintaining, sharing, or distributing any record required by law.

Section 20. Section 77-40a-402, which is renumbered from Section 77-40-108.5 is renumbered and amended to read:

[~~77-40-108.5~~]. 77-40a-402. Distribution for order for vacatur.

(1) An individual who receives an order for vacatur under Subsection 78B-9-108(2) shall be responsible for delivering a copy of the order for vacatur to all affected criminal justice agencies and officials [~~including the court, arresting agency, booking agency, prosecuting agency, Department of Corrections, and the bureau~~].

(2) To complete delivery of the order for vacatur to the bureau, the individual shall complete and attach to the order for vacatur an application for a certificate of eligibility for expungement, including identifying information and fingerprints, [~~as provided in Subsection 77-40-103(1).~~] in accordance with Section 77-40a-301.

(3) [~~The~~] Except as otherwise provided in this section, the bureau shall treat the order for vacatur and attached certificate of eligibility for expungement the same as a valid order for expungement under Section [~~77-40-108, except as provided in this section.~~] 77-40a-401.

(4) Unless otherwise provided by law or ordered by a court [~~of competent jurisdiction~~] to respond differently, an individual who has received a vacatur of conviction under Section 78B-9-108(2) may respond to any inquiry as though the conviction did not occur.

(5) The bureau shall forward a copy of the order for vacatur to the Federal Bureau of Investigation.

(6) An agency receiving an order for vacatur shall expunge the individual's identifying information contained in records in the agency's possession relating to the incident for which vacatur is ordered.

(7) A government agency or official may not divulge information contained in a record of arrest, investigation, detention, or conviction after receiving an order for vacatur to any person or agency, except for:

(a) the individual for whom vacatur was ordered; or

(b) Peace Officer Standards and Training, [~~pursuant to~~] in accordance with Section 53-6-203 and Subsection [~~77-40-109(2)(b)(ii)~~] 77-40a-403(2)(b)(ii).

(8) The bureau may not count vacated convictions against any future expungement eligibility.

Section 21. Section 77-40a-403, which is renumbered from Section 77-40-109 is renumbered and amended to read:

[~~77-40-109~~]. 77-40a-403. Retention and release of expunged records -- Agencies.

(1) (a) The bureau, after receiving an expungement order, shall keep, index, and maintain all expunged records of arrests and convictions.

(b) Any agency, other than the bureau, receiving an expungement order shall develop and implement a process to identify and maintain an expunged record.

(2) (a) (i) [~~Employees of the bureau~~] An employee of the bureau, or any agency with an expunged record, may not divulge any information contained in the [~~bureau's index~~] expunged record to any person or agency without a court order unless:

(A) specifically authorized by statute[~~.~~]; or

(B) subject to Subsection (2)(a)(ii), the information in an expunged record is being shared with another agency through a records management system that both agencies use for the purpose of record management.

(ii) An agency with a records management system may not disclose any information in an expunged record with another agency or person that does not use the records management system for the purpose of record management.

(b) The following [~~organizations~~] entities or agencies may receive information contained in expunged records upon specific request:

(i) the Board of Pardons and Parole;

(ii) Peace Officer Standards and Training;

(iii) federal authorities[~~, only as~~] if required by federal law;

(iv) the Department of Commerce;

(v) the Department of Insurance;

(vi) the State Board of Education; [~~and~~]

(vii) the Commission on Criminal and Juvenile Justice, for purposes of investigating applicants for judicial office[~~.~~]; and

(viii) a research institution or an agency engaged in research regarding the criminal justice system if:

(A) the research institution or agency provides a legitimate research purpose for gathering information from the expunged records;

(B) the research institution or agency enters into a data sharing agreement with the court or agency with custody of the expunged records that protects the confidentiality of any identifying information in the expunged records;

(C) any research using expunged records does not include any individual's name or identifying information in any product of that research; and

(D) any product resulting from research using expunged records includes a disclosure that expunged records were used for research purposes.

(c) [~~A person or agency~~] Except as otherwise provided by this Subsection (2) or by court order, a person, an agency, or an entity authorized by this Subsection (2) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the specific request, [~~except as directed by a court order,~~] including distribution on a public website.

(d) A prosecuting attorney may communicate with another prosecuting attorney, or another prosecutorial agency, regarding information in an expunged record that includes a conviction, or a charge dismissed as a result of a successful completion of a plea in abeyance agreement, for:

(i) stalking as described in Section 76-5-106.5;

(ii) a domestic violence offense as defined in Section 77-36-1;

(iii) an offense that would require the individual to register as a sex offender, as defined in Section 77-41-102; or

(iv) a weapons offense under Title 76, Chapter 10, Part 5, Weapons.

(e) Except as provided in Subsection (4), a prosecuting attorney may not use an expunged record for the purpose of a sentencing enhancement or as a basis for charging an individual with an offense that requires a prior conviction.

(3) The bureau may also use the information in the bureau's index as provided in Section 53-5-704.

(4) If, after obtaining an expungement, an individual is charged with a felony or an offense eligible for enhancement based on a prior conviction, the state may petition the court to open the expunged records upon a showing of good cause.

(5) (a) For judicial sentencing, a court may order any records expunged under this chapter or Section 77-27-5.1 to be opened and admitted into evidence.

(b) The records are confidential and are available for inspection only by the court, parties, counsel for the parties, and any other person who is authorized by the court to inspect them.

(c) At the end of the action or proceeding, the court shall order the records expunged again.

(d) Any person authorized by this Subsection (5) to view expunged records may not reveal or release any information obtained from the expunged records to anyone outside the court.

(6) Records released under this chapter are classified as protected under Section 63G-2-305 and are accessible only as provided under Title 63G, Chapter 2, Part 2, Access to Records, and Subsection 53-10-108(2)(k) for records held by the bureau.

Section 22. Section 77-40a-404, which is renumbered from Section 77-40-110 is renumbered and amended to read:

[~~77-40-110~~]. 77-40a-404. Use of expunged records -- Individuals -- Use in civil actions.

[~~Records~~] A record expunged under this chapter or Section 77-27-5.1 may be released to or viewed by [~~the following individuals~~]:

(1) the petitioner or an individual who receives an automatic expungement under Section [~~77-40-114~~] 77-40a-201;

(2) a law enforcement officer, who was involved in the case, for use solely in the officer's defense of a civil action arising out of the officer's involvement with the petitioner in that particular case; and

(3) parties to a civil action arising out of the expunged incident[~~, providing~~] if the information is kept confidential and utilized only in the action.

Section 23. Section 77-40a-405, which is renumbered from Section 77-40-112 is renumbered and amended to read:

[~~77-40-112~~]. 77-40a-405. Penalty for disclosure of expunged, vacated, or pardoned records.

An employee or agent of an agency that is prohibited from disseminating information from expunged, vacated, or pardoned records under Section 77-27-5.1 or [~~77-40-109~~] 77-40a-403 who knowingly or intentionally discloses identifying information from the expunged, vacated, or pardoned record that has been pardoned, vacated, or expunged, unless allowed by law, is guilty of a class A misdemeanor.

Section 24. Section 78B-9-108 is amended to read:

78B-9-108. Effect of granting relief -- Notice.

(1) If the court grants the petitioner's request for relief, except requests for relief under Subsection 78B-9-104(1)(g), the court shall either:

(a) modify the original conviction or sentence; or

(b) vacate the original conviction or sentence and order a new trial or sentencing proceeding as appropriate.

(2) If the court grants the petitioner's request for relief under Subsection 78B-9-104(1)(g), the court shall:

(a) vacate the original conviction and sentence; and

(b) order the petitioner's records expunged [~~pursuant to Section 77-40-108.5~~] in accordance with Section 77-40a-402.

(3) (a) If the petitioner is serving a felony sentence, the order shall be stayed for five days. Within the stay period, the respondent shall give written notice to the court and the petitioner that the respondent will pursue a new trial or sentencing proceedings, appeal the order, or take no action.

(b) If the respondent fails to provide notice or gives notice at any time during the stay period that it intends to take no action, the court shall lift the stay and deliver the order to the custodian of the petitioner.

(c) If the respondent gives notice of intent to appeal the court's decision, the stay provided for by Subsection (3)(a) shall remain in effect until the appeal concludes, including any petitions for rehearing or for discretionary review by a higher court. The court may lift the stay if the petitioner can make the showing required for a certificate of probable cause under Section 77-20-302 and Utah Rules of Criminal Procedure, Rule 27.

(d) If the respondent gives notice that it intends to retry or resentence the petitioner, the trial court may order any supplementary orders as to arraignment, trial, sentencing, custody, bail, discharge, or other matters that may be necessary.

Section 25. Repealer.

This bill repeals:

Section 77-40-101, Title.

Section 77-40-103, Petition for expungement procedure overview.

CHAPTER 251
S. B. 38
Passed February 4, 2022
Approved March 23, 2022
Effective May 4, 2022

BALLOT AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Melissa G. Ballard

LONG TITLE

General Description:

This bill amends provisions relating to initiatives and referenda on ballots.

Highlighted Provisions:

This bill:

- replaces a ballot title for an initiative or referendum with a short title and summary;
- establishes requirements for the short title and summary;
- provides for the ballot to include the short title of initiatives and referenda and to refer to a ballot proposition insert, included with the ballot, for a voter to review information relating to the initiatives and referenda;
- describes the content of a ballot proposition insert; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-7-209, as last amended by Laws of Utah 2021, Chapter 140
20A-7-308, as last amended by Laws of Utah 2021, Chapter 140
20A-7-508, as last amended by Laws of Utah 2021, Chapter 140
20A-7-608, as last amended by Laws of Utah 2021, Chapter 140

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-7-209 is amended to read:

20A-7-209. Short title and summary of initiative -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) On or before June 5 before the regular general election, the lieutenant governor shall deliver a copy of all of the proposed laws that have qualified for the ballot to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

[~~(ii) prepare an impartial ballot title for each initiative summarizing the contents of the measure; and~~]

(ii) prepare for each initiative:

(A) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(B) an impartial summary of the contents of the measure, not exceeding 125 words; and

(iii) return each petition [~~and ballot title~~], short title, and summary to the lieutenant governor on or before June 26.

(b) The [~~ballot title~~] short title and summary may be distinct from the title of the proposed law attached to the initiative petition[~~, and may not exceed 100 words~~].

(c) If the initiative proposes a tax increase, the Office of Legislative Research and General Counsel shall include the following statement, in bold, in the [~~ballot title~~] summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(d) For each state initiative, the official ballot shall show, in the following order:

(i) the number of the initiative, determined in accordance with Section 20A-6-107;

(ii) the short title; and

[~~(ii)~~] (iii) the initial fiscal impact estimate prepared under Section 20A-7-202.5, as updated under Section 20A-7-204.1[~~; and~~].

[~~(iii) the ballot title described in this section.~~]

(e) For each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review additional information relating to each initiative or referendum, including:

(i) for an initiative, the information described in Subsection 20A-7-202(2), the fiscal impact estimate described in Section 20A-7-202.5, as updated, and the arguments relating to the initiative that are included in the voter information pamphlet; or

(ii) for a referendum, the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(f) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(3) On or before June 27, the lieutenant governor shall mail a copy of the [~~ballot title~~] short title and summary to any sponsor of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, on or before July 6, challenge the wording of the [~~ballot title~~] short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the challenge, the court shall direct the lieutenant governor to send notice of the challenge to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; or

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the individual designated to receive notice about any issues relating to the initiative.

(b) (i) There is a presumption that the [~~ballot~~] short title prepared by the Office of Legislative Research and General Counsel is an impartial [~~summary~~] description of the contents of the initiative.

(ii) The court may not revise the wording of the [~~ballot~~] short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the [~~ballot~~] short title is [~~patently~~] false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the initiative.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the [~~ballot~~] short title and summary;

(ii) hear arguments; and

(iii) [~~certify to the lieutenant governor a ballot title for the measure that meets~~] enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the [~~title verified by the court to the county clerks to be printed on the official ballot~~] short title and summary to the county clerks for inclusion in the ballot and ballot proposition insert, as required by this section.

Section 2. Section 20A-7-308 is amended to read:

20A-7-308. Short title and summary of referendum -- Duties of lieutenant governor and Office of Legislative Research and General Counsel.

(1) Whenever a referendum petition is declared sufficient for submission to a vote of the people, the lieutenant governor shall deliver a copy of the petition and the proposed law to the Office of Legislative Research and General Counsel.

(2) (a) The Office of Legislative Research and General Counsel shall:

(i) entitle each state referendum that qualifies for the ballot "Proposition Number __" and assign a number to the referendum in accordance with Section 20A-6-107;

[~~(ii) prepare an impartial ballot title for the referendum summarizing the contents of the measure; and~~]

(ii) prepare for each referendum:

(A) an impartial short title, not exceeding 25 words, that generally describes the measure; and

(B) an impartial summary of the contents of the measure, not exceeding 125 words;

(iii) submit the [~~ballot title~~] short title and summary to the lieutenant governor within 15 days after the day on which the Office of Legislative Research and General Counsel receives the petition under Subsection (1).

(b) The [~~ballot title~~] short title and summary may be distinct from the title of the law that is the subject of the petition[~~, and may not exceed 100 words~~].

(c) For each state referendum, the official ballot shall show, in the following order:

(i) the number of the referendum, determined in accordance with Section 20A-6-107; and

(ii) the [~~ballot~~] short title described in this section.

(d) For each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the lieutenant governor's website where a voter may review additional information relating to each initiative or referendum, including:

(i) for an initiative, the information described in Subsection 20A-7-202(2), the fiscal impact estimate described in Section 20A-7-202.5, as updated, and the arguments relating to the initiative that are included in the voter information pamphlet; or

(ii) for a referendum, the information described in Subsection 20A-7-302(2) and the arguments relating to the referendum that are included in the voter information pamphlet.

(e) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(3) Immediately after the Office of Legislative Research and General Counsel submits the [~~ballot title~~] short title and summary to the lieutenant governor, the lieutenant governor shall mail or email a copy of the [~~ballot title~~] short title and summary to any of the sponsors of the petition.

(4) (a) (i) At least three of the sponsors of the petition may, within 15 days after the day on which the lieutenant governor mails the [~~ballot title~~] short title and summary, challenge the wording of the [~~ballot title~~] short title and summary prepared by the Office of Legislative Research and General Counsel to the appropriate court.

(ii) After receipt of the appeal, the court shall direct the lieutenant governor to send notice of the appeal to:

(A) any person or group that has filed an argument for or against the measure that is the subject of the challenge; and

(B) any political issues committee established under Section 20A-11-801 that has filed written or electronic notice with the lieutenant governor that identifies the name, mailing or email address, and telephone number of the person designated to receive notice about any issues relating to the referendum.

(b) (i) There is a presumption that the [~~ballot~~] short title prepared by the Office of Legislative Research and General Counsel is an impartial [~~summary~~] description of the contents of the referendum.

(ii) The court may not revise the wording of the [~~ballot~~] short title unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the [~~ballot~~] short title is [~~patently~~] false or biased.

(iii) There is a presumption that the summary prepared by the Office of Legislative Research and General Counsel is an impartial summary of the contents of the measure.

(iv) The court may not revise the wording of the summary unless the plaintiffs rebut the presumption by clearly and convincingly establishing that the summary is false or biased.

(c) The court shall:

(i) examine the [~~ballot~~] short title and summary;

(ii) hear arguments; and

(iii) enter an order consistent with the requirements of this section.

(d) The lieutenant governor shall, in accordance with the court's order, certify the [~~ballot title to the county clerks to be printed on the official ballot~~] short title and summary to the county clerks for inclusion in the ballot or ballot proposition insert, as required by this section.

Section 3. Section 20A-7-508 is amended to read:

20A-7-508. Short title and summary of initiative -- Duties of local clerk and local attorney.

(1) Upon receipt of an initiative petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal initiative that has qualified for the ballot "Proposition Number __" and give it a number as assigned under Section 20A-6-107;

(b) prepare [~~a proposed ballot title~~] for the initiative[~~;~~]:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the initiative; and

(ii) an impartial summary of the contents of the measure, not exceeding 125 words;

(c) file the proposed [~~ballot title~~] short title, summary, and the numbered initiative titles with the local clerk within 20 days after the day on which an eligible voter submits the initiative petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed [~~ballot title~~] short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the initiative petition was circulated.

(3) (a) The [~~ballot title~~] short title and summary may be distinct from the title of the proposed law attached to the initiative petition[~~, and shall express, in not exceeding 100 words, the purpose of the measure~~].

(b) In preparing a [~~ballot~~] short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial [~~statement of the purpose of the measure.~~] description of the subject of the initiative.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the measure.

[~~(c)~~] (d) The [~~ballot title~~] short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the measure.

[~~(d)~~] (e) If the initiative proposes a tax increase, the local attorney shall include the following statement, in bold, in the [~~ballot title~~] summary:

"This initiative seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(4) (a) Within five calendar days after the date the local attorney files a proposed [~~ballot title~~] short title and summary under Subsection (2)(c), the local

legislative body for the jurisdiction where the initiative petition was circulated and the sponsors of the petition may file written comments in response to the proposed [~~ballot title~~] short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final [~~ballot title~~] short title and summary that meets the requirements of Subsection (3); and

(iii) return the petition and file the [~~ballot title~~] short title and summary with the local clerk.

(c) Subject to Subsection (6)[~~, the ballot~~]:

(i) the short title, as determined by the local attorney, shall be printed on the official ballot[~~.~~]; and

(ii) for each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the election officer's website where a voter may review additional information relating to each initiative or referendum, including:

(A) for an initiative, the information described in Subsection 20A-7-502(2), the fiscal impact estimate described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet; or

(B) for a referendum, the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

(d) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(5) Immediately after the local attorney files a copy of the [~~ballot title~~] short title and summary with the local clerk, the local clerk shall serve a copy of the [~~ballot title~~] short title and summary by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the initiative petition was circulated.

(6) (a) If the [~~ballot title~~] short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the initiative petition; or

(ii) a majority of the local legislative body for the jurisdiction where the initiative petition was circulated.

(b) The court:

(i) shall examine the [~~measures~~] short title and summary and consider arguments; and

[~~(ii) may certify to the local clerk a ballot title for the measure that fulfills the intent of this section.~~]

[~~(c) The local clerk shall print the title certified by the court on the official ballot.~~]

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

Section 4. Section 20A-7-608 is amended to read:

20A-7-608. Short title and summary of referendum -- Duties of local clerk and local attorney.

(1) Upon receipt of a referendum petition, the local clerk shall deliver a copy of the petition and the proposed law to the local attorney.

(2) The local attorney shall:

(a) entitle each county or municipal referendum that qualifies for the ballot "Proposition Number __" and give the referendum a number assigned in accordance with Section 20A-6-107;

(b) prepare [~~a proposed ballot title~~] for the referendum[~~;~~]:

(i) an impartial short title, not exceeding 25 words, that generally describes the subject of the measure; and

(ii) an impartial summary of the contents of the measure, not exceeding 125 words;

(c) file the proposed [~~ballot title~~] short title, summary, and the numbered referendum title with the local clerk within 20 days after the day on which an eligible voter submits the referendum petition to the local clerk; and

(d) promptly provide notice of the filing of the proposed [~~ballot title~~] short title and summary to:

(i) the sponsors of the petition; and

(ii) the local legislative body for the jurisdiction where the referendum petition was circulated.

(3) (a) The [~~ballot title~~] short title and summary may be distinct from the title of the law that is the subject of the petition[~~, and shall express, in not exceeding 100 words, the purpose of the measure~~].

(b) In preparing a [~~ballot~~] short title, the local attorney shall, to the best of the local attorney's ability, give a true and impartial [~~statement of the purpose~~] description of the subject of the measure.

(c) In preparing a summary, the local attorney shall, to the best of the local attorney's ability, give a true and impartial summary of the contents of the measure.

[~~(c)~~] (d) The [~~ballot title~~] short title and summary may not intentionally be an argument, or likely to create prejudice, for or against the measure.

(4) (a) Within five calendar days after the day on which the local attorney files a proposed [~~ballot title~~] short title and summary under Subsection (2)(c), the local legislative body for the jurisdiction where the referendum petition was circulated and the sponsors of the petition may file written comments in response to the proposed [~~ballot title~~] short title and summary with the local clerk.

(b) Within five calendar days after the last date to submit written comments under Subsection (4)(a), the local attorney shall:

(i) review any written comments filed in accordance with Subsection (4)(a);

(ii) prepare a final [~~ballot title~~] short title and summary that meets the requirements of Subsection (3); and

(iii) return the petition and file the [~~ballot title~~] short title and summary with the local clerk.

(c) Subject to Subsection (6)[~~, the ballot~~]:

(i) the short title, as determined by the local attorney, shall be printed on the official ballot[~~.~~]; and

(ii) for each ballot that includes an initiative or referendum, the election officer shall include with the ballot a separate ballot proposition insert that includes the short title and summary for each initiative and referendum on the ballot and a link to a location on the election officer's website where a voter may review additional information relating to each initiative or referendum, including:

(A) for an initiative, the information described in Subsection 20A-7-502(2), the fiscal impact estimate described in Section 20A-7-502.5, as updated, and the arguments relating to the initiative that are included in the local voter information pamphlet; or

(B) for a referendum, the information described in Subsection 20A-7-602(2) and the arguments relating to the referendum that are included in the local voter information pamphlet.

(d) For each ballot that includes an initiative or referendum, the ballot shall include the following statement at the beginning of the portion of the ballot that includes ballot measures, "The ballot proposition sheet included with this ballot contains an impartial summary of each initiative and referendum on this ballot."

(5) Immediately after the local attorney files a copy of the [~~ballot title~~] short title and summary with the local clerk, the local clerk shall serve a copy of the [~~ballot title~~] short title and summary by mail upon the sponsors of the petition and the local legislative body for the jurisdiction where the referendum petition was circulated.

(6) (a) If the [~~ballot title~~] short title or summary furnished by the local attorney is unsatisfactory or does not comply with the requirements of this section, the decision of the local attorney may be appealed to the appropriate court by:

(i) at least three sponsors of the referendum petition; or

(ii) a majority of the local legislative body for the jurisdiction where the referendum petition was circulated.

(b) The court:

(i) shall examine the [~~measures~~] short title and summary and consider the arguments; and

[~~(ii) may issue an order to the local clerk that includes a ballot title for the measure that fulfills the intent of this section.~~]

[~~(c) The local clerk shall print the title, as directed by the court, on the official ballot.~~]

(ii) enter an order consistent with the requirements of this section.

(c) The local clerk shall include the short title and summary in the ballot or ballot proposition insert, as required by this section.

CHAPTER 252
S. B. 39

Passed March 2, 2022
Approved March 23, 2022
Effective January 1, 2023

MOBILE WORKFORCE INCOME TAX AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill addresses the tax liability and withholding requirements for a nonresident individual earning wages in the state.

Highlighted Provisions:

This bill:

- creates an exemption from income tax if a nonresident individual works in the state for 20 or fewer days during a taxable year and provides the circumstances for qualification;
- modifies the employer's withholding obligations, including penalties, for a nonresident individual whose wages are exempt from income tax; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-10-116, as last amended by Laws of Utah 2008, Chapters 382 and 389
59-10-117, as last amended by Laws of Utah 2020, Chapter 239
59-10-402, as last amended by Laws of Utah 2020, Chapter 239
59-10-405.5, as last amended by Laws of Utah 2021, Chapter 16

ENACTS:

59-10-117.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-10-116 is amended to read:

59-10-116. Tax on nonresident individual -- Calculation -- Exemption.

(1) Except as provided in Subsection (2), a tax is imposed on a nonresident individual in an amount equal to the product of the:

(a) nonresident individual's state taxable income; and

(b) percentage listed in Subsection 59-10-104(2).

(2) This section does not apply to a nonresident individual:

(a) exempt from taxation under Section 59-10-104.1[.]; or

(b) whose only state source income is wages that are excluded in accordance with Section 59-10-117.5.

Section 2. Section 59-10-117 is amended to read:

59-10-117. State taxable income derived from Utah sources.

(1) For purposes of Section 59-10-116, state taxable income derived from Utah sources includes state taxable income attributable to or resulting from:

(a) the ownership in this state of any interest in real or tangible personal property, including real property or property rights from which gross income from mining as described by Section 613(c), Internal Revenue Code, is derived;

(b) the carrying on of a business, trade, profession, or occupation in this state;

(c) an addition to adjusted gross income required by Subsection 59-10-114(1)(c), (d), or (h) to the extent that the addition was previously subtracted from state taxable income;

(d) a subtraction from adjusted gross income required by Subsection 59-10-114(2)(c) for a refund described in Subsection 59-10-114(2)(c) to the extent that the refund subtracted is related to a tax imposed by this state; or

(e) an adjustment to adjusted gross income required by Section 59-10-115 to the extent the adjustment is related to an item described in Subsections (1)(a) through (d).

(2) For purposes of Subsection (1):

(a) income from intangible personal property, including annuities, dividends, interest, and gains from the disposition of intangible personal property, shall constitute income derived from Utah sources only to the extent that the income is from property employed in a trade, business, profession, or occupation carried on in this state;

(b) a deduction with respect to a capital loss, net long-term capital gain, or net operating loss shall be:

(i) based solely on income, gain, loss, and deduction connected with Utah sources, under rules prescribed by the commission in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) otherwise determined in the same manner as the corresponding federal deductions;

(c) a salary, wage, commission, or compensation for personal services rendered:

(i) subject to Section 59-10-117.5, inside this state is considered to be income derived from Utah sources; and

(ii) outside this state may not be considered to be income derived from Utah sources;

(d) a share of income, gain, loss, deduction, or credit of a nonresident pass-through entity taxpayer, as defined in Section 59-10-1402, derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118;

(e) a nonresident, other than a dealer holding property primarily for sale to customers in the ordinary course of the dealer's trade or business, may not be considered to carry on a trade, business, profession, or occupation in this state solely by reason of the purchase or sale of property for the nonresident's own account;

(f) if a trade, business, profession, or occupation is carried on partly within and partly without this state:

(i) an item of income, gain, loss, or a deduction derived from or connected with Utah sources shall be determined in accordance with Section 59-10-118; and

(ii) a salary, a wage, a commission, or compensation for personal services rendered is not considered to be an item of income from the carrying on of a business, trade, profession, or occupation;

(g) the share of a nonresident estate or trust or a nonresident beneficiary of any estate or trust in income, gain, loss, or deduction derived from or connected with Utah sources shall be determined under Section 59-10-207; and

(h) any dividend, interest, or distributive share of income, gain, or loss from a real estate investment trust, as defined in Section 59-7-101, distributed or allocated to a nonresident investor in the trust, including any shareholder, beneficiary, or owner of a beneficial interest in the trust, shall:

(i) be income from intangible personal property under Subsection (2)(a); and

(ii) constitute income derived from Utah sources only to the extent the nonresident investor is employing its beneficial interest in the trust in a trade, business, profession, or occupation carried on by the investor in this state.

Section 3. Section 59-10-117.5 is enacted to read:

59-10-117.5. Nonresident individual wage exemption.

(1) As used in this section:

(a) "Day" means any period of time during a calendar day that an individual is present in the state, unless the presence is solely for transportation through the state.

(b) "Wages" means income that:

(i) is received by an individual for employment duties performed inside this state; and

(ii) would be subject to withholding in accordance with Section 59-10-402 without regard to Subsection 59-10-402(5)(a).

(2) A nonresident individual's wages may not be considered income derived from Utah sources if:

(a) the nonresident individual has no other income from sources within this state for the taxable year in which the nonresident individual receives the wages;

(b) the nonresident individual is present in this state to perform employment duties for 20 or fewer days during the tax year; and

(c) the nonresident individual's state of residence:

(i) provides a substantially similar exclusion; or

(ii) does not impose a state individual income tax.

(3) This section does not apply to wages received by:

(a) an individual who is a professional athlete or a member of a professional athletic team;

(b) an individual who is a professional entertainer and who performs services in the professional performing arts;

(c) an individual of prominence who performs services for wages on a per-event basis;

(d) an individual who performs construction services to improve real property, predominantly on a construction site, as a laborer;

(e) an individual who is a key employee, without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code; or

(f) an individual who is an employee of a non-corporate employer, and who would be a key employee without regard to ownership or the existence of a benefit plan, for the year immediately preceding the current tax year pursuant to Subsection 416(i), Internal Revenue Code, if:

(i) the term "employee" were substituted for the term "officer"; and

(ii) the individual is one of the non-corporate employer's 50 highest paid employees without regard to whether the individual is an officer.

Section 4. Section 59-10-402 is amended to read:

59-10-402. Requirement of withholding -- Exceptions.

(1) As used in this section:

(a) "Day" means any period of time during a calendar day that an individual is present in the state, unless the presence is solely for transportation through the state.

(b) "Related entity" means:

(i) a stockholder who is an individual, or a member of the stockholder's family as described in Section 318, Internal Revenue Code, if the stockholder and the members of the stockholder's family own, in the aggregate, at least 50% of the value of the nonresident individual's outstanding stock;

(ii) a stockholder, or a stockholder's partnership, limited liability company, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts, or corporations own, in the aggregate, at least 50% of the value of the nonresident individual's outstanding stock; or

(iii) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code if the taxpayer owns, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

(c) "Related person" means a person that, with respect to the nonresident individual during all or any portion of the taxable year, is:

(i) a related entity;

(ii) a component member as defined in Subsection 1563(b), Internal Revenue Code;

(iii) a person to or from whom there is attribution of stock ownership in accordance with Subsection 1563(e), Internal Revenue Code; or

(iv) a person that, notwithstanding the form of organization, bears the same relationship to the nonresident individual as a person described in Subsection (1)(c)(i), (ii), or (iii).

(2) For purposes of determining whether the ownership requirements of a related entity are satisfied, a person shall:

(a) use the attribution rules of the Internal Revenue Code; and

(b) include direct, indirect, beneficial, or constructive ownership.

[~~(1)~~] (3) Each employer making payment of wages shall deduct and withhold from wages an amount to be determined by a commission rule [~~which~~] that will, as closely as possible, pay the income tax imposed by this chapter.

[~~(2)~~] (4) (a) [~~(i)~~] Any employer described in Subsection [~~(1)~~] (3) that is to do business within the state for a period not to exceed 60 days in the aggregate during any calendar year may be relieved from the requirement provided for under this part for such period by furnishing to the commission in advance a certificate so certifying.

[~~(ii)~~] (b) If an employer described in Subsection [~~(2)(a)(i)~~] (4)(a) thereafter does business within the state for a period in excess of 60 days, that employer shall be liable for all the tax that the employer would have been required to deduct and withhold.

[~~(iii)~~] (c) Upon a showing of good cause by the employer, the commission may extend for a period of not to exceed 30 days the time during which the employer is not required to deduct and withhold the tax.

[~~(b) The exemption described in Subsection (2)(a) is from the withholding requirement described in Subsection (1), not from an individual's obligation to pay income taxes as provided in Part 1, Determination and Reporting of Tax Liability and Information.~~]

(5) (a) (i) An employer described in Subsection (3) may not deduct or withhold any amount from wages paid to a nonresident individual if the nonresident individual's wages are excluded from state source income in accordance with Section 59-10-117.5 without regard to Subsection 59-10-117.5(2)(a).

(ii) For purposes of Subsection (5)(a)(i), an employer shall calculate the number of days described in Subsection 59-10-117.5(2)(b) by including the days the nonresident employee is present in the state to perform employment duties on behalf of the employer or any related person.

(b) If a nonresident individual is present in this state to perform employment duties for the employer, a related person, or a combination of the employer and a related person for more than 20 days during a calendar year, the employer shall be liable for all the tax that the employer would have been required to deduct and withhold.

(6) The exceptions described in Subsections (4)(a) and (5)(a) are from the withholding requirement described in Subsection (3), not from an individual's obligation to pay income taxes as provided in Part 1, Determination and Reporting of Tax Liability and Information.

[~~(3)~~] (7) (a) The amount withheld under this section shall be allowed to the recipient of the income as a credit against the tax imposed by this chapter.

(b) Except as provided in Subsection [~~(3)~~] (7)(c), the amount withheld during any calendar year shall be allowed as a credit for the taxable year that begins in the calendar year in which the amount is withheld.

(c) If more than one taxable year begins in a calendar year, the withheld amount shall be allowed as a credit for the last taxable year that begins in the calendar year in which the amount is withheld.

Section 5. Section 59-10-405.5 is amended to read:

59-10-405.5. Definitions -- Withholding tax license requirements -- Penalty -- Application process and requirements -- Fee not required -- Bonds -- Exception.

(1) As used in this section:

(a) [~~"applicant"~~] "Applicant" means a person that:

(i) is required by this section to obtain a license; and

(ii) submits an application:

(A) to the commission; and

(B) for a license under this section[~~;~~].

(b) [~~"application"~~] "Application" means an application for a license under this section[~~;~~].

(c) [~~"fiduciary of the applicant"~~] "Fiduciary of the applicant" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for an applicant; and

(ii) (A) is a corporate officer of the applicant described in Subsection (1)(c)(i);

(B) is a director of the applicant described in Subsection (1)(c)(i);

(C) is an employee of the applicant described in Subsection (1)(c)(i);

(D) is a partner of the applicant described in Subsection (1)(c)(i);

(E) is a trustee of the applicant described in Subsection (1)(c)(i); or

(F) has a relationship to the applicant described in Subsection (1)(c)(i) that is similar to a relationship described in Subsections (1)(c)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~;~~].

(d) [~~"fiduciary of the licensee"~~] "Fiduciary of the licensee" means a person that:

(i) is required to collect, truthfully account for, and pay over an amount under this part for a licensee; and

(ii) (A) is a corporate officer of the licensee described in Subsection (1)(d)(i);

(B) is a director of the licensee described in Subsection (1)(d)(i);

(C) is an employee of the licensee described in Subsection (1)(d)(i);

(D) is a partner of the licensee described in Subsection (1)(d)(i);

(E) is a trustee of the licensee described in Subsection (1)(d)(i); or

(F) has a relationship to the licensee described in Subsection (1)(d)(i) that is similar to a relationship described in Subsections (1)(d)(ii)(A) through (E) as determined by the commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~;~~].

(e) [~~"license"~~] "License" means a license under this section[~~; and~~].

(f) [~~"licensee"~~] "Licensee" means a person that is licensed under this section by the commission.

(2) The following persons are guilty of a criminal violation as provided in Section 59-1-401:

(a) a person that:

(i) is required to withhold, report, or remit any amounts under this part; and

(ii) engages in business within the state before obtaining a license under this section; or

(b) a person that:

(i) pays wages under this part; and

(ii) engages in business within the state before obtaining a license under this section.

(3) The license described in Subsection (2):

(a) shall be granted and issued:

(i) by the commission in accordance with this section;

(ii) without a license fee; and

(iii) if:

(A) an applicant:

(I) states the applicant's name and address in the application; and

(II) provides other information in the application that the commission may require; and

(B) the person meets the requirements of this section to be granted a license as determined by the commission;

(b) may not be assigned to another person; and

(c) is valid:

(i) only for the person named on the license; and

(ii) until:

(A) the person described in Subsection (3)(c)(i):

(I) ceases to do business; or

(II) changes that person's business address; or

(B) the commission revokes the license.

(4) The commission shall review an application and determine whether:

(a) the applicant meets the requirements of this section to be issued a license; and

(b) a bond is required to be posted with the commission in accordance with Subsections (5) and (6) before the applicant may be issued a license.

(5) (a) Except as provided in Subsection (5)(c), an applicant shall post a bond with the commission before the commission may issue the applicant a license if:

(i) a license under this section was revoked for a delinquency under this part for:

(A) the applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(ii) there is a delinquency in withholding, reporting, or remitting any amount under this part for:

(A) an applicant;

(B) a fiduciary of the applicant; or

(C) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part.

(b) If the commission determines it is necessary to ensure compliance with this part, the commission may require a licensee to:

(i) for a licensee that has not posted a bond under this section with the commission, post a bond with the commission in accordance with Subsection (6); or

(ii) for a licensee that has posted a bond under this section with the commission, increase the amount of the bond posted with the commission.

(c) The commission may waive the bond requirement described in Subsection (5)(a), if the applicant is in compliance with a payment agreement that:

(i) relates to the delinquency; and

(ii) is approved by the commission.

(6) (a) A bond required by Subsection (5) shall be:

(i) executed by:

(A) for an applicant, the applicant as principal, with a corporate surety; or

(B) for a licensee, the licensee as principal, with a corporate surety; and

(ii) payable to the commission conditioned upon the faithful performance of all of the requirements of this part including:

(A) the withholding or remitting of any amount under this part;

(B) the payment of any:

(I) penalty as provided in Section 59-1-401; or

(II) interest as provided in Section 59-1-402; or

(C) any other obligation of the[~~:~~] applicant or the licensee under this part.

[~~(I) applicant under this part; or~~]

[~~(II) licensee under this part.~~]

(b) Except as provided in Subsection (6)(d), the commission shall calculate the amount of a bond required by Subsection (5) on the basis of:

(i) commission estimates of:

(A) for an applicant, any amounts the applicant withholds, reports, or remits under this part; or

(B) for a licensee, any amounts the licensee withholds, reports, or remits under this part; and

(ii) any amount of a delinquency described in Subsection (6)(c).

(c) Except as provided in Subsection (6)(d), for purposes of Subsection (6)(b)(ii):

(i) for an applicant, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the applicant;

(II) a fiduciary of the applicant; or

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(B) the amount that any of the following owe under this part:

(I) the applicant;

(II) a fiduciary of the applicant; and

(III) a person for which the applicant or the fiduciary of the applicant is required to collect, truthfully account for, and pay over an amount under this part; or

(ii) for a licensee, the amount of the delinquency is the sum of:

(A) the amount of any delinquency that served as a basis for revoking the license under this section of:

(I) the licensee;

(II) a fiduciary of the licensee; or

(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part; or

(B) the amount that any of the following owe under this part:

(I) the licensee;

(II) a fiduciary of the licensee; and

(III) a person for which the licensee or the fiduciary of the licensee is required to collect, truthfully account for, and pay over an amount under this part.

(d) Notwithstanding Subsection (6)(b) or (c), a bond required by Subsection (5) may not:

(i) be less than $25,000; or

(ii) exceed $500,000.

(7) (a) The commission shall revoke a license under this section if:

(i) a licensee violates any provision of this part; and

(ii) before the commission revokes the license the commission provides the licensee:

(A) reasonable notice; and

(B) a hearing.

(b) If the commission revokes a licensee's license in accordance with Subsection (7)(a), the commission may not issue another license to that licensee until that licensee complies with the requirements of this part, including:

(i) paying any:

(A) amounts due under this part;

(B) penalty as provided in Section 59-1-401; or

(C) interest as provided in Section 59-1-402; and

(ii) posting a bond in accordance with Subsections (5) and (6).

(8) An employer that has erroneously applied the exception described in Subsection 59-10-402(5)(a) solely as a result of miscalculating the number of days a nonresident individual is present in this state to perform employment duties may not be assessed a penalty under this section if:

(a) the employer relied on a regularly maintained time and attendance system that:

(i) requires the employee to record, on a contemporaneous basis, the work location each day the employee is present in a state other than:

(A) the employee's state of residence; or

(B) the place where services are considered performed for purposes of Section 35A-4-204; and

(ii) is used by the employer to allocate the employee's wages between all taxing jurisdictions in which the employee performs employment duties;

(b) the employer does not maintain a time and attendance system described in Subsection (8)(a) and relied on employee travel records that the employer requires the employee to maintain and record on a regular and contemporaneous basis; or

(c) the employer does not maintain a time and attendance system described in Subsection (8)(a) or require the maintenance of employee records described in Subsection (8)(b) and relied on travel expense reimbursement records that the employer requires the employee to submit on a regular and contemporaneous basis.

Section 6. Effective date.

This bill takes effect for a taxable year beginning on or after January 1, 2023.

CHAPTER 253
S. B. 41
Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

BEHAVIORAL HEALTH SERVICES AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill addresses behavioral health treatment and services.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health to:
  - award a grant to a local mental health authority to implement or expand an integrated behavioral health program;
  - develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for physical health services in an integrated behavioral health care setting; and
  - apply for a waiver under the state Medicaid plan to implement the proposal;
- allows a certain medication-assistance treatment drug to be recycled under the Charitable Prescription Drug Recycling Act, subject to federal law;
- creates a sunset date;
- creates reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Health and Human Services -- Integrated Health Care Services -- Medicaid Behavioral Health Services, as an ongoing appropriation:
  - from General Fund, $116,000; and
- to Department of Health and Human Services -- Integrated Health Care Services -- Medicaid Behavioral Health Services, as a one-time appropriation:
  - from General Fund, One-time, $87,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-902, as last amended by Laws of Utah 2021, Chapter 397

58-17b-905, as last amended by Laws of Utah 2021, Chapter 397

63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417

ENACTS:

26-1-43, Utah Code Annotated 1953

26-18-427, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-1-43 is enacted to read:

26-1-43. Integrated behavioral health care grant program.

(1) As used in this section:

(a) "Integrated behavioral health care services" means coordinated physical and behavioral health care services for one patient.

(b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(c) "Project" means a project described in Subsection (2).

(2) Before July 1 of each year, the department shall issue a request for proposals in accordance with this section to award a grant to a local mental health authority for development or expansion of a project to provide effective delivery of integrated behavioral health care services.

(3) To be considered for a grant award under Subsection (2), a local mental health authority shall submit an application to the department that:

(a) explains the benefits of integrated behavioral health care services to a patient who is receiving mental health or substance use disorder treatment;

(b) describes the local mental health authority's operational plan for delivery of integrated behavioral health care services under the proposed project and any data or evidence-based practices supporting the likely success of the operational plan;

(c) includes:

(i) the number of patients to be served by the local mental health authority's proposed project; and

(ii) the cost of the local mental health authority's proposed project; and

(d) provides details regarding:

(i) any plan to use funding sources in addition to the grant award under this section for the local mental health authority's proposed project;

(ii) any existing or planned contracts or partnerships between the local mental health authority and other individuals or entities to develop or implement the local mental health authority's proposed project; and

(iii) the sustainability and reliability of the local mental health authority's proposed project.

(4) In evaluating a local mental health authority's application under Subsection (3) to determine the grant award under Subsection (2), the department shall consider:

(a) how the local mental health authority's proposed project will ensure effective provision of integrated behavioral health care services;

(b) the cost of the local mental health authority's proposed project;

(c) the extent to which any existing or planned contracts or partnerships or additional funding sources described in the local mental health authority's application are likely to benefit the proposed project; and

(d) the sustainability and reliability of the local mental health authority's proposed project.

(5) Before July 1, 2025, the department shall report to the Health and Human Services Interim Committee regarding:

(a) any knowledge gained or obstacles encountered in providing integrated behavioral health care services under each project;

(b) data gathered in relation to each project; and

(c) recommendations for expanding a project statewide.

Section 2. Section 26-18-427 is enacted to read:

26-18-427. (Codified as 26-18-429) Medicaid waiver for increased integrated health care reimbursement.

(1) As used in this section:

(a) "Integrated health care setting" means a health care or behavioral health care setting that provides integrated physical and behavioral health care services.

(b) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(2) The department shall develop a proposal to allow the state Medicaid program to reimburse a local mental health authority for covered physical health care services provided in an integrated health care setting to Medicaid eligible individuals.

(3) Before December 31, 2022, the department shall apply for a Medicaid waiver or a state plan amendment with CMS to implement the proposal described in Subsection (2).

(4) If the waiver or state plan amendment described in Subsection (3) is approved, the department shall:

(a) implement the proposal described in Subsection (2); and

(b) while the waiver or state plan amendment is in effect, submit a report to the Health and Human Services Interim Committee each year before November 30 detailing:

(i) the number of patients served under the waiver or state plan amendment;

(ii) the cost of the waiver or state plan amendment; and

(iii) any benefits of the waiver or state plan amendment.

Section 3. Section 58-17b-902 is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor or individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

(a) a nursing care facility;

(b) an assisted living facility;

(c) a licensed intermediate care facility for people with an intellectual disability;

(d) a manufacturer;

(e) a pharmaceutical wholesale distributor;

(f) an eligible pharmacy; or

(g) a physician's office.

(8) "Eligible pharmacy" means a pharmacy that:

(a) is registered by the division as eligible to participate in the program; and

(b) (i) is licensed in the state as a Class A retail pharmacy; or

(ii) is operated by:

(A) a county;

(B) a county health department;

(C) a pharmacy under contract with a county health department;

(D) the Department of Health, created in Section 26-1-4;

(E) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103; or

(F) a charitable clinic.

(9) (a) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:

[~~(a)~~] (i) except as provided in Subsection (9)(b), a controlled substance; or

[~~(b)~~] (ii) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.

(b) "Eligible prescription drug" includes a medication-assisted treatment drug that may be accepted, transferred, and dispensed under the program in accordance with federal law.

(10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

(a) (i) does not have health insurance; and

(ii) lacks reasonable means to purchase prescribed medications; or

(b) (i) has health insurance; and

(ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Medication-assisted treatment drug" means buprenorphine prescribed to treat substance use withdrawal symptoms or an opiate use disorder.

[~~(12)~~] (13) "Nursing care facility" means the same as that term is defined in Section 26-18-501.

[~~(13)~~] (14) "Physician's office" means a fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under Title 58, Occupations and Professions; and

(b) treats an individual who presents at, or is transported to, the facility.

[~~(14)~~] (15) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

[~~(15)~~] (16) "Unit pack" means the same as that term is defined in Section 58-17b-503.

[~~(16)~~] (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

[~~(17)~~] (18) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

Section 4. Section 58-17b-905 is amended to read:

58-17b-905. Participation in program -- Requirements -- Fees.

(1) An eligible donor, an individual, or an eligible pharmacy may participate in the program.

(2) An eligible pharmacy:

(a) shall comply with all applicable federal and state laws related to the storage, disposal, and distribution of a prescription drug;

(b) shall comply with all applicable federal and state laws related to the acceptance and transfer of a prescription drug, including 21 U.S.C. Chapter 9, Subchapter V, Part H, Pharmaceutical Distribution Supply Chain;

(c) shall, before accepting or dispensing a prescription drug under the program, inspect each prescription drug to determine whether the prescription drug is an eligible prescription drug;

(d) may dispense an eligible prescription drug to a medically indigent individual who:

(i) is located in the state when the drug is dispensed; and

(ii) has a prescription issued by a practitioner;

(e) may charge a handling fee, adopted by the division under Section 63J-1-504; and

(f) may not accept, transfer, or dispense a prescription drug in violation of the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

Section 5. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Section 26-1-43 is repealed December 31, 2025.

[~~(15)~~] (16) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(16)~~] (17) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(17)~~] (18) Section 26-33a-117 is repealed on December 31, 2023.

[~~(18)~~] (19) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(19)~~] (20) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(20)~~] (21) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (22) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (23) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(23)~~] (24) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (25) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (26) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (27) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (28) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(28)~~] (29) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

Section 6. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Health and Human Services -- Integrated Health Care Services

From General Fund	$116,000
From General Fund, One-time	$87,000
Schedule of Programs:	
Medicaid Behavioral Health Services	$203,000

The Legislature intends that the appropriations provided under this item be used to award grants under the integrated behavioral health care grant program created in Section 26-1-43.

CHAPTER 254
S. B. 42

Passed January 27, 2022
Approved March 23, 2022
Effective May 4, 2022

HIGHER EDUCATION PERFORMANCE FUNDING GOALS

Chief Sponsor: Ann Millner
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill codifies five-year performance goals for the Utah System of Higher Education and each institution of higher education.

Highlighted Provisions:

This bill:

- codifies five-year performance goals set by the Utah Board of Higher Education for the Utah System of Higher Education and each institution of higher education;
- provides a repeal date requiring committee review for provisions codifying the five-year goals; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

ENACTS:

53B-7-709, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-7-709 is enacted to read:

53B-7-709. Five-year performance goals.

(1) As used in this section:

(a) "Access metric" means the metric described in Subsection 53B-7-706(2)(a)(ii)(A).

(b) "Award" means a degree or certificate that an institution grants.

(c) "Cohort" means a group of students, defined by the year in which the group enrolls in an institution.

(d) "Five-year performance period" means the five-year period beginning on July 1, 2022, and ending on June 30, 2027.

(e) "High-yield award" means the same as that term is defined in board policy under Subsection 53B-7-706(2)(c).

(f) "High-yield awards metric" means the metric described in Subsection 53B-7-706(2)(a)(ii)(C).

(g) "Institution" means an institution of higher education described in Section 53B-1-102.

(h) "Standard completion time" means the time in which a student typically completes an award program.

(i) "System" means the Utah System of Higher Education.

(j) "Timely completion metric" means the metric described in Subsection 53B-7-706(2)(a)(ii)(B).

(2) The goals established by the board in accordance with Subsection 53B-7-706(1)(a)(ii) for the Utah System of Higher Education for the five-year performance period are:

(a) for the access metric, to increase the percent of Utah high school graduates participating in the system by 3.0%;

(b) for the timely completion metric, to increase the system percentage of a cohort that completes an award in up to and including 1.5 times the standard completion time by 3.0%; and

(c) for the high-yield awards metric, to increase the system percentage of high-yield awards by 3.0%.

(3) In order to meet the system goals described in Subsection (2), the goals for each institution for the five-year performance period are:

(a) for the access metric, to increase the institution's share of Utah high school graduates participating in the system by a percentage that the board determines;

(b) for the timely completion metric, to increase the percent of a cohort enrolled at the institution that completes an award in up to and including 1.5 times the standard completion time or sooner by a percentage that the board determines; and

(c) for the high-yield awards metric, to increase the percent of high-yield awards the institution grants by a percentage that the board determines.

Section 2. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Section 53B-7-709, regarding five-year performance goals for the Utah System of Higher Education, is repealed July 1, 2027.

[~~(7)~~] (8) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

[~~(8)~~] (9) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

[~~(9)~~] (10) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

[~~(10)~~] (11) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

[~~(11)~~] (12) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(13) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

[~~(12)~~] (14) Section 53E-3-515 is repealed January 1, 2023.

[~~(13)~~] (15) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

[~~(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.~~]

[~~(15)~~] (16) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

[~~(16)~~] (17) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.~~]

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

[~~(20) Section 53F-5-212 is repealed July 1, 2024.~~]

[~~(21)~~] (20) Section 53F-5-213 is repealed July 1, 2023.

[~~(22)~~] (21) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (22) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (23) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (24) Section 53F-9-501 is repealed January 1, 2023.

[~~(26)~~] (25) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (26) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 255
S. B. 45

Passed March 4, 2022
Approved March 23, 2022
Effective July 1, 2022

DEPARTMENT OF HEALTH AND HUMAN SERVICES AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Norman K. Thurston

LONG TITLE

General Description:

This bill implements the reorganization of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- implements the reorganization of the Department of Health and Human Services;
- specifies the duties and responsibilities of the newly combined agency;
- harmonizes conflicting provisions of the Utah Health Code and the Utah Human Services Code;
- amends the responsibilities of the Department of Workforce Services;
- updates cross references throughout the Utah Code; and
- makes technical and corresponding changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

10-8-41.6, as last amended by Laws of Utah 2021, Chapter 348

17-43-102, as last amended by Laws of Utah 2009, Chapter 75

17-43-201, as last amended by Laws of Utah 2018, Chapter 68

17-43-301, as last amended by Laws of Utah 2020, Chapter 303

17-50-333, as last amended by Laws of Utah 2021, Chapter 348

26-1-2, as last amended by Laws of Utah 2012, Chapter 391

26-1-10, as last amended by Laws of Utah 2021, Chapter 437

26-1-11, as last amended by Laws of Utah 2011, Chapter 297

26-2-12.5, as last amended by Laws of Utah 2010, Chapter 278

26-2-12.6, as last amended by Laws of Utah 2021, Chapter 284

26-4-17, as last amended by Laws of Utah 2020, Chapter 201

26-7-10, as enacted by Laws of Utah 2020, Chapter 347

26-8a-102, as last amended by Laws of Utah 2021, Chapters 208, 237, and 265

26-8a-103, as last amended by Laws of Utah 2021, Chapters 208 and 237

26-8a-107, as last amended by Laws of Utah 2019, Chapter 262

26-8a-208, as last amended by Laws of Utah 2017, Chapter 326

26-8a-302, as last amended by Laws of Utah 2021, Chapters 208 and 237

26-8a-310, as last amended by Laws of Utah 2021, Chapters 237 and 262

26-9f-103, as last amended by Laws of Utah 2020, Chapter 352

26-10-6, as last amended by Laws of Utah 2018, Chapter 415

26-10b-101, as last amended by Laws of Utah 2014, Chapter 384

26-10b-106, as last amended by Laws of Utah 2016, Chapter 74

26-18-2.4, as last amended by Laws of Utah 2016, Chapters 168 and 279

26-21-2, as last amended by Laws of Utah 2020, Chapter 222

26-21-3, as last amended by Laws of Utah 2021, Chapter 64

26-23b-102, as last amended by Laws of Utah 2021, Chapter 437

26-25-1, as last amended by Laws of Utah 2008, Chapter 3

26-33a-102, as last amended by Laws of Utah 2019, Chapter 349

26-33a-103, as last amended by Laws of Utah 2020, Chapters 352 and 373

26-39-102, as last amended by Laws of Utah 2015, Chapter 220

26-39-200, as last amended by Laws of Utah 2020, Chapters 154 and 352

26-39-201, as last amended by Laws of Utah 2020, Chapter 154

26-39-301, as last amended by Laws of Utah 2018, Chapter 58

26-39-402, as last amended by Laws of Utah 2018, Chapter 415

26-49-102, as last amended by Laws of Utah 2021, Chapter 188

26-54-103, as last amended by Laws of Utah 2019, Chapter 405

26-60-104, as enacted by Laws of Utah 2017, Chapter 241

26-67-102, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

26-67-202, as enacted by Laws of Utah 2020, Chapter 169

26A-1-102, as last amended by Laws of Utah 2021, Chapter 437

26A-1-121, as last amended by Laws of Utah 2021, Chapter 437

26B-1-102, as enacted by Laws of Utah 2021, Chapter 422

26B-1-103, as enacted by Laws of Utah 2021, Chapter 422

26B-1-201, as enacted by Laws of Utah 2021, Chapter 422

26B-1-201.1, as enacted by Laws of Utah 2021, Chapter 422

32B-2-308, as enacted by Laws of Utah 2020, Chapter 186

32B-2-402, as last amended by Laws of Utah 2018, Chapter 330

35A-3-103 (Effective 07/01/22), as last amended by Laws of Utah 2021, Chapter 422
41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
53-3-106, as last amended by Laws of Utah 2018, Chapter 417
53-5-707.6, as enacted by Laws of Utah 2019, Chapter 440
53-10-108, as last amended by Laws of Utah 2021, Chapters 344 and 357
53G-9-301, as last amended by Laws of Utah 2019, Chapter 293
53G-9-309, as renumbered and amended by Laws of Utah 2018, Chapter 3
58-1-601, as enacted by Laws of Utah 2019, Chapter 447
58-17b-620, as last amended by Laws of Utah 2012, Chapter 150
58-17b-627, as enacted by Laws of Utah 2021, Chapter 127
58-17b-902, as last amended by Laws of Utah 2021, Chapter 397
58-17b-907, as last amended by Laws of Utah 2021, Chapter 397
62A-1-104, as last amended by Laws of Utah 2020, Chapter 303
62A-1-107, as last amended by Laws of Utah 2020, Chapters 352 and 373
62A-2-121, as last amended by Laws of Utah 2021, Chapter 262
62A-4a-412, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419
62A-14-108, as last amended by Laws of Utah 2008, Chapter 382
62A-15-102, as last amended by Laws of Utah 2020, Chapter 303
62A-15-103, as last amended by Laws of Utah 2021, Chapters 231 and 277
62A-15-104, as last amended by Laws of Utah 2009, Chapter 75
63A-13-102, as last amended by Laws of Utah 2019, Chapters 286 and 393
63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417
63I-2-226, as last amended by Laws of Utah 2021, Chapters 277, 422, and 433
63J-1-315, as last amended by Laws of Utah 2019, Chapter 393
63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
63M-7-301, as last amended by Laws of Utah 2020, Chapter 304
67-3-11, as last amended by Laws of Utah 2021, Chapter 337
76-5-413, as last amended by Laws of Utah 2021, Chapter 262
76-5-501, as last amended by Laws of Utah 2015, Chapter 39
78B-5-902, as last amended by Laws of Utah 2021, Chapter 208
78B-5-903, as enacted by Laws of Utah 2018, Chapter 109
80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2
80-3-404, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-102, as enacted by Laws of Utah 2021, Chapter 261

ENACTS:

26B-1-305, Utah Code Annotated 1953
26B-2-101, Utah Code Annotated 1953
26B-3-101, Utah Code Annotated 1953
26B-4-101, Utah Code Annotated 1953
26B-5-101, Utah Code Annotated 1953
26B-6-101, Utah Code Annotated 1953
26B-7-101, Utah Code Annotated 1953
26B-8-101, Utah Code Annotated 1953
26B-9-101, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26B-1-104, (Renumbered from 26-1-32, as last amended by Laws of Utah 2011, Chapter 297)
26B-1-105, (Renumbered from 26-1-33, as enacted by Laws of Utah 1981, Chapter 126)
26B-1-202, (Renumbered from 62A-1-111, as last amended by Laws of Utah 2021, Chapters 22 and 262)
26B-1-203, (Renumbered from 62A-1-108, as last amended by Laws of Utah 2020, Chapter 352)
26B-1-204, (Renumbered from 62A-1-105, as last amended by Laws of Utah 2019, Chapters 139 and 246)
26B-1-205, (Renumbered from 62A-1-109, as last amended by Laws of Utah 2021, Chapter 345)
26B-1-206, (Renumbered from 62A-1-107.5, as enacted by Laws of Utah 2003, Chapter 246)
26B-1-207, (Renumbered from 26-1-4, as last amended by Laws of Utah 2013, Chapter 167)
26B-1-208, (Renumbered from 62A-1-112, as last amended by Laws of Utah 2008, Chapter 382)
26B-1-209, (Renumbered from 26-1-6, as last amended by Laws of Utah 2018, Chapter 469)
26B-1-210, (Renumbered from 62A-1-113, as enacted by Laws of Utah 1988, Chapter 1)
26B-1-211, (Renumbered from 26-1-17.1, as enacted by Laws of Utah 2018, Chapter 427)
26B-1-212, (Renumbered from 26-1-17.5, as last amended by Laws of Utah 2018, Chapter 415)
26B-1-213, (Renumbered from 26-1-5, as last amended by Laws of Utah 2016, Chapter 74)
26B-1-301, (Renumbered from 26-1-16, as enacted by Laws of Utah 1981, Chapter 126)
26B-1-302, (Renumbered from 62A-1-202, as last amended by Laws of Utah 2021, Chapter 356)
26B-1-303, (Renumbered from 62A-1-119, as last amended by Laws of Utah 2016, Chapter 168)
26B-1-304, (Renumbered from 26-1-34, as enacted by Laws of Utah 1998, Chapter 247)

REPEALS:

26-1-1, as enacted by Laws of Utah 1981, Chapter 126

26-1-3, as last amended by Laws of Utah 1991, Chapter 112

26-1-4.1, as last amended by Laws of Utah 2008, Chapter 382

26-1-7, as last amended by Laws of Utah 2020, Chapters 169 and 347

26-1-7.1, as last amended by Laws of Utah 2008, Chapter 382

26-1-8, as last amended by Laws of Utah 2020, Chapter 352

26-1-9, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 16

26-1-13, as enacted by Laws of Utah 1981, Chapter 126

26-1-14, as last amended by Laws of Utah 1988, Chapter 169

26-1-15, as enacted by Laws of Utah 1981, Chapter 126

26-1-17, as enacted by Laws of Utah 1981, Chapter 126

26-1-18, as last amended by Laws of Utah 2011, Chapter 366

26-1-20, as enacted by Laws of Utah 1981, Chapter 126

26-1-21, as last amended by Laws of Utah 2011, Chapter 207

26-1-22, as enacted by Laws of Utah 1981, Chapter 126

26-1-23, as last amended by Laws of Utah 2012, Chapter 307

26-1-24, as enacted by Laws of Utah 1981, Chapter 126

26-1-25, as last amended by Laws of Utah 2011, Chapter 297

26-1-30, as last amended by Laws of Utah 2021, Chapters 378 and 437

26B-1-101, as enacted by Laws of Utah 2021, Chapter 422

62A-1-101, as last amended by Laws of Utah 1992, Chapter 30

62A-1-102, as last amended by Laws of Utah 1990, Chapter 183

62A-1-106, as last amended by Laws of Utah 2008, Chapter 382

62A-1-110, as last amended by Laws of Utah 1991, Chapter 292

62A-1-114, as last amended by Laws of Utah 1997, Chapter 375

62A-1-118, as last amended by Laws of Utah 2019, Chapter 335

62A-5-304, as last amended by Laws of Utah 2011, Chapter 366Utah Code Sections Affected by Revisor Instructions:

26B-1-103, as enacted by Laws of Utah 2021, Chapter 422

26B-1-201, as enacted by Laws of Utah 2021, Chapter 422

26B-1-201.1, as enacted by Laws of Utah 2021, Chapter 422

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-41.6 is amended to read:

10-8-41.6. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health[~~,~~] and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(f) "Local health department" means the same as that term is defined in Section 26A-1-102.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) a tobacco product as defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by delegation of the state's police powers to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a municipality unless the person obtains a license from the municipality in which the retail tobacco specialty business is located.

(b) A municipality may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a municipality may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A municipality may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the municipality with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; and

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a municipality to issue a retail tobacco specialty business license; or

(ii) prohibits a municipality from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A municipality may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) A retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the municipality in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) Except as provided in Subsection (7)(e), a retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 2. Section 17-43-102 is amended to read:

17-43-102. Definitions.

As used in this chapter:

(1) "Department" means the Department of Health and Human Services created in Section [~~62A-1-102~~] 26B-1-201.

(2) "Division" means the Division of [~~Substance Abuse and Mental Health created~~] Integrated Healthcare within the [~~Department of Human Services in Section 62A-1-105~~] department.

Section 3. Section 17-43-201 is amended to read:

17-43-201. Local substance abuse authorities -- Responsibilities.

(1) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local substance abuse authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local substance abuse authority.

(iii) In each county other than a county described in Subsection (1)(a)(i) or (ii), the county legislative body is the local substance abuse authority.

(b) Within legislative appropriations and county matching funds required by this section, and under the direction of the division, each local substance abuse authority shall:

(i) develop substance abuse prevention and treatment services plans;

(ii) provide substance abuse services to residents of the county; and

(iii) cooperate with efforts of the [~~Division of Substance Abuse and Mental Health~~] division to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local substance abuse authority shall cooperate with the efforts of the [~~Department of Human Services~~] department to promote a system of care, as defined in Section [~~62A-1-104~~] 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section [~~62A-1-111~~] 26B-1-202.

(2) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide substance abuse prevention and treatment services; or

(ii) create a united local health department that provides substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (3).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of substance abuse services.

(c) Each agreement for joint substance abuse services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined substance abuse authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined substance abuse authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined substance abuse authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined substance abuse authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint substance abuse services may provide for joint operation of services and facilities or for operation of services and facilities under contract by one participating local substance abuse authority for other participating local substance abuse authorities.

(3) A county governing body may elect to combine the local substance abuse authority with the local mental health authority created in Part 3, Local Mental Health Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local substance abuse authority that joins a united local health department shall comply with this part.

(4) (a) Each local substance abuse authority is accountable to the department[~~, the Department of Health,~~] and the state with regard to the use of state and federal funds received from those departments for substance abuse services, regardless of whether the services are provided by a private contract provider.

(b) Each local substance abuse authority shall comply, and require compliance by its contract provider, with all directives issued by the department [~~and the Department of Health~~] regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing substance abuse programs and services. The department [~~and Department of Health~~] shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local substance abuse authorities with regard to programs and services.

(5) Each local substance abuse authority shall:

(a) review and evaluate substance abuse prevention and treatment needs and services, including substance abuse needs and services for individuals incarcerated in a county jail or other county correctional facility;

(b) annually prepare and submit to the division a plan approved by the county legislative body for funding and service delivery that includes:

(i) provisions for services, either directly by the substance abuse authority or by contract, for adults, youth, and children, including those incarcerated in a county jail or other county correctional facility; and

(ii) primary prevention, targeted prevention, early intervention, and treatment services;

(c) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(d) appoint directly or by contract a full or part time director for substance abuse programs, and prescribe the director's duties;

(e) provide input and comment on new and revised rules established by the division;

(f) establish and require contract providers to establish administrative, clinical, procurement, personnel, financial, and management policies regarding substance abuse services and facilities, in accordance with the rules of the division, and state and federal law;

(g) establish mechanisms allowing for direct citizen input;

(h) annually contract with the division to provide substance abuse programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(i) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(j) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(k) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(l) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;

(m) for persons convicted of driving under the influence in violation of Section 41-6a-502 or 41-6a-517, conduct the following as defined in Section 41-6a-501:

(i) a screening;

(ii) an assessment;

(iii) an educational series; and

(iv) substance abuse treatment; and

(n) utilize proceeds of the accounts described in Subsection 62A-15-503(1) to supplement the cost of providing the services described in Subsection (5)(m).

(6) Before disbursing any public funds, each local substance abuse authority shall require that each entity that receives any public funds from the local substance abuse authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the local substance abuse authority shall be subject to examination by:

(i) the division;

(ii) the local substance abuse authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide substance abuse services under an agreement under Subsection (2), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local substance abuse authority; and

(c) the entity will comply with the provisions of Subsection (4)(b).

(7) A local substance abuse authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for substance abuse services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(8) (a) As used in this section, "public funds" means the same as that term is defined in Section 17-43-203.

(b) Public funds received for the provision of services pursuant to the local substance abuse plan may not be used for any other purpose except those authorized in the contract between the local substance abuse authority and the provider for the provision of plan services.

(9) Subject to the requirements of the federal Substance Abuse Prevention and Treatment Block Grant, Pub. L. No. 102-321, a local substance abuse authority shall ensure that all substance abuse treatment programs that receive public funds:

(a) accept and provide priority for admission to a pregnant woman or a pregnant minor; and

(b) if admission of a pregnant woman or a pregnant minor is not possible within 24 hours of the time that a request for admission is made, provide a comprehensive referral for interim services that:

(i) are accessible to the pregnant woman or pregnant minor;

(ii) are best suited to provide services to the pregnant woman or pregnant minor;

(iii) may include:

(A) counseling;

(B) case management; or

(C) a support group; and

(iv) shall include a referral for:

(A) prenatal care; and

(B) counseling on the effects of alcohol and drug use during pregnancy.

(10) If a substance abuse treatment program described in Subsection (9) is not able to accept and admit a pregnant woman or pregnant minor under Subsection (9) within 48 hours of the time that request for admission is made, the local substance

abuse authority shall contact the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare for assistance in providing services to the pregnant woman or pregnant minor.

Section 4. Section 17-43-301 is amended to read:

17-43-301. Local mental health authorities -- Responsibilities.

(1) As used in this section:

(a) "Assisted outpatient treatment" means the same as that term is defined in Section 62A-15-602.

(b) "Crisis worker" means the same as that term is defined in Section 62A-15-1301.

(c) "Local mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(d) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(e) "Public funds" means the same as that term is defined in Section 17-43-303.

(f) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

(2) (a) (i) In each county operating under a county executive-council form of government under Section 17-52a-203, the county legislative body is the local mental health authority, provided however that any contract for plan services shall be administered by the county executive.

(ii) In each county operating under a council-manager form of government under Section 17-52a-204, the county manager is the local mental health authority.

(iii) In each county other than a county described in Subsection (2)(a)(i) or (ii), the county legislative body is the local mental health authority.

(b) Within legislative appropriations and county matching funds required by this section, under the direction of the division, each local mental health authority shall:

(i) provide mental health services to individuals within the county; and

(ii) cooperate with efforts of the [~~Division of Substance Abuse and Mental Health~~] division to promote integrated programs that address an individual's substance abuse, mental health, and physical healthcare needs, as described in Section 62A-15-103.

(c) Within legislative appropriations and county matching funds required by this section, each local mental health authority shall cooperate with the efforts of the [~~Department of Human Services~~] department to promote a system of care, as defined in Section [~~62A-1-104~~] 26B-1-102, for minors with or at risk for complex emotional and behavioral needs, as described in Section [~~62A-1-111~~] 26B-1-202.

(3) (a) By executing an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, two or more counties may join to:

(i) provide mental health prevention and treatment services; or

(ii) create a united local health department that combines substance abuse treatment services, mental health services, and local health department services in accordance with Subsection (4).

(b) The legislative bodies of counties joining to provide services may establish acceptable ways of apportioning the cost of mental health services.

(c) Each agreement for joint mental health services shall:

(i) (A) designate the treasurer of one of the participating counties or another person as the treasurer for the combined mental health authorities and as the custodian of money available for the joint services; and

(B) provide that the designated treasurer, or other disbursing officer authorized by the treasurer, may make payments from the money available for the joint services upon audit of the appropriate auditing officer or officers representing the participating counties;

(ii) provide for the appointment of an independent auditor or a county auditor of one of the participating counties as the designated auditing officer for the combined mental health authorities;

(iii) (A) provide for the appointment of the county or district attorney of one of the participating counties as the designated legal officer for the combined mental health authorities; and

(B) authorize the designated legal officer to request and receive the assistance of the county or district attorneys of the other participating counties in defending or prosecuting actions within their counties relating to the combined mental health authorities; and

(iv) provide for the adoption of management, clinical, financial, procurement, personnel, and administrative policies as already established by one of the participating counties or as approved by the legislative body of each participating county or interlocal board.

(d) An agreement for joint mental health services may provide for:

(i) joint operation of services and facilities or for operation of services and facilities under contract by one participating local mental health authority for other participating local mental health authorities; and

(ii) allocation of appointments of members of the mental health advisory council between or among participating counties.

(4) A county governing body may elect to combine the local mental health authority with the local substance abuse authority created in Part 2, Local

Substance Abuse Authorities, and the local health department created in Title 26A, Chapter 1, Part 1, Local Health Department Act, to create a united local health department under Section 26A-1-105.5. A local mental health authority that joins with a united local health department shall comply with this part.

(5) (a) Each local mental health authority is accountable to the department[~~, the Department of Health,~~] and the state with regard to the use of state and federal funds received from those departments for mental health services, regardless of whether the services are provided by a private contract provider.

(b) Each local mental health authority shall comply, and require compliance by its contract provider, with all directives issued by the department [~~and the Department of Health~~] regarding the use and expenditure of state and federal funds received from those departments for the purpose of providing mental health programs and services. The department [~~and Department of Health~~] shall ensure that those directives are not duplicative or conflicting, and shall consult and coordinate with local mental health authorities with regard to programs and services.

(6) (a) Each local mental health authority shall:

(i) review and evaluate mental health needs and services, including mental health needs and services for:

(A) an individual incarcerated in a county jail or other county correctional facility; and

(B) an individual who is a resident of the county and who is court ordered to receive assisted outpatient treatment under Section 62A-15-630.5;

(ii) in accordance with Subsection (6)(b), annually prepare and submit to the division a plan approved by the county legislative body for mental health funding and service delivery, either directly by the local mental health authority or by contract;

(iii) establish and maintain, either directly or by contract, programs licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(iv) appoint, directly or by contract, a full-time or part-time director for mental health programs and prescribe the director's duties;

(v) provide input and comment on new and revised rules established by the division;

(vi) establish and require contract providers to establish administrative, clinical, personnel, financial, procurement, and management policies regarding mental health services and facilities, in accordance with the rules of the division, and state and federal law;

(vii) establish mechanisms allowing for direct citizen input;

(viii) annually contract with the division to provide mental health programs and services in accordance with the provisions of Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ix) comply with all applicable state and federal statutes, policies, audit requirements, contract requirements, and any directives resulting from those audits and contract requirements;

(x) provide funding equal to at least 20% of the state funds that it receives to fund services described in the plan;

(xi) comply with the requirements and procedures of Title 11, Chapter 13, Interlocal Cooperation Act, Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts, and Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act; and

(xii) take and retain physical custody of minors committed to the physical custody of local mental health authorities by a judicial proceeding under Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 [~~to Division of Substance Abuse and Mental Health~~].

(b) Each plan under Subsection (6)(a)(ii) shall include services for adults, youth, and children, which shall include:

(i) inpatient care and services;

(ii) residential care and services;

(iii) outpatient care and services;

(iv) 24-hour crisis care and services;

(v) psychotropic medication management;

(vi) psychosocial rehabilitation, including vocational training and skills development;

(vii) case management;

(viii) community supports, including in-home services, housing, family support services, and respite services;

(ix) consultation and education services, including case consultation, collaboration with other county service agencies, public education, and public information; and

(x) services to persons incarcerated in a county jail or other county correctional facility.

(7) (a) If a local mental health authority provides for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall:

(i) collaborate with the statewide mental health crisis line described in Section 62A-15-1302;

(ii) ensure that each individual who answers calls to the local mental health crisis line:

(A) is a mental health therapist or a crisis worker; and

(B) meets the standards of care and practice established by the Division of [~~Substance Abuse and~~

~~Mental Health~~] Integrated Healthcare, in accordance with Section 62A-15-1302; and

(iii) ensure that when necessary, based on the local mental health crisis line's capacity, calls are immediately routed to the statewide mental health crisis line to ensure that when an individual calls the local mental health crisis line, regardless of the time, date, or number of individuals trying to simultaneously access the local mental health crisis line, a mental health therapist or a crisis worker answers the call without the caller first:

(A) waiting on hold; or

(B) being screened by an individual other than a mental health therapist or crisis worker.

(b) If a local mental health authority does not provide for a local mental health crisis line under the plan for 24-hour crisis care and services described in Subsection (6)(b)(iv), the local mental health authority shall use the statewide mental health crisis line as a local crisis line resource.

(8) Before disbursing any public funds, each local mental health authority shall require that each entity that receives any public funds from a local mental health authority agrees in writing that:

(a) the entity's financial records and other records relevant to the entity's performance of the services provided to the mental health authority shall be subject to examination by:

(i) the division;

(ii) the local mental health authority director;

(iii) (A) the county treasurer and county or district attorney; or

(B) if two or more counties jointly provide mental health services under an agreement under Subsection (3), the designated treasurer and the designated legal officer;

(iv) the county legislative body; and

(v) in a county with a county executive that is separate from the county legislative body, the county executive;

(b) the county auditor may examine and audit the entity's financial and other records relevant to the entity's performance of the services provided to the local mental health authority; and

(c) the entity will comply with the provisions of Subsection (5)(b).

(9) A local mental health authority may receive property, grants, gifts, supplies, materials, contributions, and any benefit derived therefrom, for mental health services. If those gifts are conditioned upon their use for a specified service or program, they shall be so used.

(10) Public funds received for the provision of services pursuant to the local mental health plan may not be used for any other purpose except those authorized in the contract between the local mental health authority and the provider for the provision of plan services.

(11) A local mental health authority shall provide assisted outpatient treatment services, as described in Section 62A-15-630.4, to a resident of the county who has been ordered under Section 62A-15-630.5 to receive assisted outpatient treatment.

Section 5. Section 17-50-333 is amended to read:

17-50-333. Regulation of retail tobacco specialty business.

(1) As used in this section:

(a) "Community location" means:

(i) a public or private kindergarten, elementary, middle, junior high, or high school;

(ii) a licensed child-care facility or preschool;

(iii) a trade or technical school;

(iv) a church;

(v) a public library;

(vi) a public playground;

(vii) a public park;

(viii) a youth center or other space used primarily for youth oriented activities;

(ix) a public recreational facility;

(x) a public arcade; or

(xi) for a new license issued on or after July 1, 2018, a homeless shelter.

(b) "Department" means the Department of Health[~~,~~] and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(c) "Electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(d) "Flavored electronic cigarette product" means the same as that term is defined in Section 76-10-101.

(e) "Licensee" means a person licensed under this section to conduct business as a retail tobacco specialty business.

(f) "Local health department" means the same as that term is defined in Section 26A-1-102.

(g) "Nicotine product" means the same as that term is defined in Section 76-10-101.

(h) "Retail tobacco specialty business" means a commercial establishment in which:

(i) sales of tobacco products, electronic cigarette products, and nicotine products account for more than 35% of the total quarterly gross receipts for the establishment;

(ii) 20% or more of the public retail floor space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iii) 20% or more of the total shelf space is allocated to the offer, display, or storage of tobacco products, electronic cigarette products, or nicotine products;

(iv) the commercial establishment:

(A) holds itself out as a retail tobacco specialty business; and

(B) causes a reasonable person to believe the commercial establishment is a retail tobacco specialty business;

(v) any flavored electronic cigarette product is sold; or

(vi) the retail space features a self-service display for tobacco products, electronic cigarette products, or nicotine products.

(i) "Self-service display" means the same as that term is defined in Section 76-10-105.1.

(j) "Tobacco product" means:

(i) the same as that term is defined in Section 76-10-101; or

(ii) tobacco paraphernalia as defined in Section 76-10-101.

(2) The regulation of a retail tobacco specialty business is an exercise of the police powers of the state by the state or by the delegation of the state's police power to other governmental entities.

(3) (a) A person may not operate a retail tobacco specialty business in a county unless the person obtains a license from the county in which the retail tobacco specialty business is located.

(b) A county may only issue a retail tobacco specialty business license to a person if the person complies with the provisions of Subsections (4) and (5).

(4) (a) Except as provided in Subsection (7), a county may not issue a license for a person to conduct business as a retail tobacco specialty business if the retail tobacco specialty business is located within:

(i) 1,000 feet of a community location;

(ii) 600 feet of another retail tobacco specialty business; or

(iii) 600 feet from property used or zoned for:

(A) agriculture use; or

(B) residential use.

(b) For purposes of Subsection (4)(a), the proximity requirements shall be measured in a straight line from the nearest entrance of the retail tobacco specialty business to the nearest property boundary of a location described in Subsections (4)(a)(i) through (iii), without regard to intervening structures or zoning districts.

(5) A county may not issue or renew a license for a person to conduct business as a retail tobacco specialty business until the person provides the county with proof that the retail tobacco specialty business has:

(a) a valid permit for a retail tobacco specialty business issued under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located; and

(b) (i) for a retailer that sells a tobacco product, a valid license issued by the State Tax Commission in accordance with Section 59-14-201 or 59-14-301 to sell a tobacco product; or

(ii) for a retailer that sells an electronic cigarette product or a nicotine product, a valid license issued by the State Tax Commission in accordance with Section 59-14-803 to sell an electronic cigarette product or a nicotine product.

(6) (a) Nothing in this section:

(i) requires a county to issue a retail tobacco specialty business license; or

(ii) prohibits a county from adopting more restrictive requirements on a person seeking a license or renewal of a license to conduct business as a retail tobacco specialty business.

(b) A county may suspend or revoke a retail tobacco specialty business license issued under this section:

(i) if a licensee engages in a pattern of unlawful activity under Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act;

(ii) if a licensee violates federal law or federal regulations restricting the sale and distribution of tobacco products or electronic cigarette products to protect children and adolescents;

(iii) upon the recommendation of the department or a local health department under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit; or

(iv) under any other provision of state law or local ordinance.

(7) (a) Except as provided in Subsection (7)(e), a retail tobacco specialty business is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a license to conduct business as a retail tobacco specialty business;

(ii) the retail tobacco specialty business is operating in a county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(b) A retail tobacco specialty business may maintain an exemption under Subsection (7)(a) if:

(i) the license described in Subsection (7)(a)(i) is renewed continuously without lapse or permanent revocation;

(ii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iii) the retail tobacco specialty business does not substantially change the business premises or business operation; and

(iv) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the license described in Subsection (7)(a)(i).

(c) A retail tobacco specialty business that does not qualify for an exemption under Subsection (7)(a) is exempt from Subsection (4) if:

(i) on or before December 31, 2018, the retail tobacco specialty business was issued a general tobacco retailer permit or a retail tobacco specialty business permit under Title 26, Chapter 62, Tobacco, Electronic Cigarette, and Nicotine Product Retail Permit, by the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the retail tobacco specialty business is operating in the county in accordance with all applicable laws except for the requirement in Subsection (4); and

(iii) beginning July 1, 2022, the retail tobacco specialty business is not located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school.

(d) A retail tobacco specialty business may maintain an exemption under Subsection (7)(c) if:

(i) on or before December 31, 2020, the retail tobacco specialty business receives a retail tobacco specialty business permit from the local health department having jurisdiction over the area in which the retail tobacco specialty business is located;

(ii) the permit described in Subsection (7)(d)(i) is renewed continuously without lapse or permanent revocation;

(iii) the retail tobacco specialty business does not close for business or otherwise suspend the sale of tobacco products, electronic cigarette products, or nicotine products for more than 60 consecutive days;

(iv) the retail tobacco specialty business does not substantially change the business premises or business operation as the business existed when the retail tobacco specialty business received a permit under Subsection (7)(d)(i); and

(v) the retail tobacco specialty business maintains the right to operate under the terms of other applicable laws, including:

(A) Title 26, Chapter 38, Utah Indoor Clean Air Act;

(B) zoning ordinances;

(C) building codes; and

(D) the requirements of the retail tobacco permit described in Subsection (7)(d)(i).

(e) A retail tobacco specialty business described in Subsection (7)(a) or (b) that is located within 1,000 feet of a public or private kindergarten, elementary, middle, junior high, or high school before July 1, 2022, is exempt from Subsection (4)(a)(iii)(B) if the retail tobacco specialty business:

(i) relocates, before July 1, 2022, to a property that is used or zoned for commercial use and located within a group of architecturally unified commercial establishments built on a site that is planned, developed, owned, and managed as an operating unit; and

(ii) continues to meet the requirements described in Subsection (7)(b) that are not directly related to the relocation described in this Subsection (7)(e).

Section 6. Section 26-1-2 is amended to read:

26-1-2. Definitions.

[~~Subject to additional definitions contained in the chapters of this title which are applicable to specific chapters, as~~] As used in this title:

(1) "Council" means the Utah Health Advisory Council.

(2) "Department" means the Department of Health and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(3) "Executive director" means the executive director of the department appointed [~~pursuant to Section 26-1-8~~] under Section 26B-1-203.

(4) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or contract with such an agency, that is responsible for public health matters as part of its official mandate.

Section 7. Section 26-1-10 is amended to read:

26-1-10. Executive director -- Enforcement powers.

Subject to the restrictions in this title and to the extent permitted by state law, the executive director is empowered to issue orders to enforce state laws and rules established by the department except where the enforcement power is given to a committee created [~~pursuant to Section 26-1-7~~] under Section 26B-1-204.

Section 8. Section 26-1-11 is amended to read:

26-1-11. Executive director -- Power to amend, modify, or rescind committee rules.

The executive director pursuant to the requirements of the Administrative Rulemaking Act may amend, modify, or rescind any rule of any committee created [~~pursuant to Section 26-1-7~~] under Section 26B-1-204 if the rule creates a clear present hazard or clear potential hazard to the public health except that the executive director may not act until after discussion with the appropriate committee.

Section 9. Section 26-2-12.5 is amended to read:

26-2-12.5. Certified copies of birth certificates -- Fees credited to Children's Account.

(1) In addition to the fees provided for in Section [~~26-1-6~~] 26B-1-209, the department and local registrars authorized to issue certified copies shall charge an additional $3 fee for each certified copy of a birth certificate, including certified copies of supplementary and amended birth certificates, under Sections 26-2-8 through 26-2-11. This additional fee may be charged only for the first copy requested at any one time.

(2) The fee shall be transmitted monthly to the state treasurer and credited to the Children's Account established in Section 62A-4a-309.

Section 10. Section 26-2-12.6 is amended to read:

26-2-12.6. Fee waived for certified copy of birth certificate.

(1) Notwithstanding Section [~~26-1-6~~] 26B-1-209 and Section 26-2-12.5, the department shall waive a fee that would otherwise be charged for a certified copy of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

(a) the individual requesting the certified copy of the birth certificate; and

(b) (i) homeless, as defined in Section 26-18-411;

(ii) a person who is homeless, as defined in Section 35A-5-302;

(iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;

(iv) a homeless service provider as verified by the Department of Workforce Services; or

(v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.

(2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:

(a) a homeless shelter, as defined in Section 10-9a-526;

(b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(c) the Department of Workforce Services;

(d) a homeless service provider as verified by the Department of Workforce Services; or

(e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

Section 11. Section 26-4-17 is amended to read:

26-4-17. Records of medical examiner -- Confidentiality.

(1) The medical examiner shall maintain complete, original records for the medical examiner record, which shall:

(a) be properly indexed, giving the name, if known, or otherwise identifying every individual whose death is investigated;

(b) indicate the place where the body was found;

(c) indicate the date of death;

(d) indicate the cause and manner of death;

(e) indicate the occupation of the decedent, if available;

(f) include all other relevant information concerning the death; and

(g) include a full report and detailed findings of the autopsy or report of the investigation.

(2) (a) Upon written request from an individual described in Subsections (2)(a)(i) through (iv), the medical examiner shall provide a copy of the medical examiner's final report of examination for the decedent, including the autopsy report, toxicology report, lab reports, and investigative reports to any of the following:

(i) a decedent's immediate relative;

(ii) a decedent's legal representative;

(iii) a physician or physician assistant who attended the decedent during the year before the decedent's death; or

(iv) a county attorney, a district attorney, a criminal defense attorney, or other law enforcement official with jurisdiction, as necessary for the performance of the attorney or official's professional duties.

(b) Upon written request from the director or a designee of the director of an entity described in Subsections (2)(b)(i) through (iv), the medical examiner may provide a copy of the of the medical examiner's final report of examination for the decedent, including any other reports described in Subsection (2)(a), to any of the following entities as necessary for performance of the entity's official purposes:

(i) a local health department;

(ii) a local mental health authority;

(iii) a public health authority; or

(iv) another state or federal governmental agency.

(c) The medical examiner may provide a copy of the medical examiner's final report of examination, including any other reports described in Subsection (2)(a), if the final report relates to an issue of public health or safety, as further defined by rule made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Reports provided under Subsection (2) may not include records that the medical examiner obtains from a third party in the course of investigating the decedent's death.

(4) The medical examiner may provide a medical examiner record to a researcher who:

(a) has an advanced degree;

(b) (i) is affiliated with an accredited college or university, a hospital, or another system of care, including an emergency medical response or a local health agency; or

(ii) is part of a research firm contracted with an accredited college or university, a hospital, or another system of care;

(c) requests a medical examiner record for a research project or a quality improvement initiative that will have a public health benefit, as determined by the [~~Department of Health~~] department; and

(d) provides to the medical examiner an approval from:

(i) the researcher's sponsoring organization; and

(ii) the Utah Department of Health and Human Services Institutional Review Board.

(5) Records provided under Subsection (4) may not include a third party record, unless:

(a) a court has ordered disclosure of the third party record; and

(b) disclosure is conducted in compliance with state and federal law.

(6) A person who obtains a medical examiner record under Subsection (4) shall:

(a) maintain the confidentiality of the medical examiner record by removing personally identifying information about a decedent or the decedent's family and any other information that may be used to identify a decedent before using the medical examiner record in research;

(b) conduct any research within and under the supervision of the Office of the Medical Examiner, if the medical examiner record contains a third party record with personally identifiable information;

(c) limit the use of a medical examiner record to the purpose for which the person requested the medical examiner record;

(d) destroy a medical examiner record and the data abstracted from the medical examiner record at the conclusion of the research for which the person requested the medical examiner record;

(e) reimburse the medical examiner, as provided in Section [~~26-1-6~~] 26B-1-209, for any costs incurred by the medical examiner in providing a medical examiner record;

(f) allow the medical examiner to review, before public release, a publication in which data from a medical examiner record is referenced or analyzed; and

(g) provide the medical examiner access to the researcher's database containing data from a medical examiner record, until the day on which the researcher permanently destroys the medical examiner record and all data obtained from the medical examiner record.

(7) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consideration of applicable state and federal law, to establish permissible uses and disclosures of a medical examiner record or other record obtained under this section.

(8) Except as provided in this chapter or ordered by a court, the medical examiner may not disclose any part of a medical examiner record.

(9) A person who obtains a medical examiner record under Subsection (4) is guilty of a class B misdemeanor, if the person fails to comply with the requirements of Subsections (6)(a) through (d).

Section 12. Section 26-7-10 is amended to read:

26-7-10. Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(1) As used in this section:

(a) "Committee" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee created in Section [~~26-1-7~~] 26B-1-204.

(b) "Program" means the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program created in this section.

(2) (a) There is created within the department the Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Program.

(b) In consultation with the committee, the department shall:

(i) establish guidelines for the use of funds appropriated to the program;

(ii) ensure that guidelines developed under Subsection (2)(b)(i) are evidence-based and appropriate for the population targeted by the program; and

(iii) subject to appropriations from the Legislature, fund statewide initiatives to prevent use of electronic cigarettes, nicotine products, marijuana, and other drugs by youth.

(3) (a) The committee shall advise the department on:

(i) preventing use of electronic cigarettes, marijuana, and other drugs by youth in the state;

(ii) developing the guidelines described in Subsection (2)(b)(i); and

(iii) implementing the provisions of the program.

(b) The executive director shall:

(i) appoint members of the committee; and

(ii) consult with the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301 when making the appointments under Subsection (3)(b)(i).

(c) The committee shall include, at a minimum:

(i) the executive director of a local health department as defined in Section 26A-1-102, or the local health department executive director's designee;

(ii) one designee from the department;

(iii) one representative from the Department of Public Safety;

(iv) one representative from the behavioral health community; and

(v) one representative from the education community.

(d) A member of the committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(e) The department shall provide staff support to the committee.

(4) On or before October 31 of each year, the department shall report to:

(a) the Health and Human Services Interim Committee regarding:

(i) the use of funds appropriated to the program;

(ii) the impact and results of the program, including the effectiveness of each program funded under Subsection (2)(b)(iii), during the previous fiscal year;

(iii) a summary of the impacts and results on reducing youth use of electronic cigarettes and nicotine products by entities represented by members of the committee, including those entities who receive funding through the Electronic Cigarette Substance and Nicotine Product Tax Restricted Account created in Section 59-14-807; and

(iv) any recommendations for legislation; and

(b) the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301, regarding:

(i) the effectiveness of each program funded under Subsection (2)(b)(iii) in preventing youth use of electronic cigarettes, nicotine products, marijuana, and other drugs; and

(ii) any collaborative efforts and partnerships established by the program with public and private entities to prevent youth use of electronic cigarettes, marijuana, and other drugs.

Section 13. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or [~~ten~~] 10 digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302; [~~or~~]

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; [~~and~~] or

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section [~~26-1-7~~] 26B-1-204.

(6) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(7) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(8) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(9) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(10) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (10)(a) through (c).

(11) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(12) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(13) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(14) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

(15) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

(16) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

(17) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(18) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

(19) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

(20) "Trauma" means an injury requiring immediate medical or surgical intervention.

(21) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

(22) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

(23) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 14. Section 26-8a-103 is amended to read:

26-8a-103. State Emergency Medical Services Committee -- Membership -- Expenses.

(1) The State Emergency Medical Services Committee created by Section [~~26-1-7~~] 26B-1-204 shall be composed of the following 19 members appointed by the governor, at least six of whom shall reside in a county of the third, fourth, fifth, or sixth class:

(a) five physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as follows:

(i) one surgeon who actively provides trauma care at a hospital;

(ii) one rural physician involved in emergency medical care;

(iii) two physicians who practice in the emergency department of a general acute hospital; and

(iv) one pediatrician who practices in the emergency department or critical care unit of a general acute hospital or a children's specialty hospital;

(b) two representatives from private ambulance providers;

(c) one representative from an ambulance provider that is neither privately owned nor operated by a fire department;

(d) two chief officers from fire agencies operated by the following classes of licensed or designated emergency medical services providers: municipality, county, and fire district, provided that no class of medical services providers may have more than one representative under this Subsection (1)(d);

(e) one director of a law enforcement agency that provides emergency medical services;

(f) one hospital administrator;

(g) one emergency care nurse;

(h) one paramedic in active field practice;

(i) one emergency medical technician in active field practice;

(j) one certified emergency medical dispatcher affiliated with an emergency medical dispatch center;

(k) one licensed mental health professional with experience as a first responder;

(l) one licensed behavioral emergency services technician; and

(m) one consumer.

(2) (a) Except as provided in Subsection (2)(b), members shall be appointed to a four-year term beginning July 1.

(b) Notwithstanding Subsection (2)(a), the governor:

(i) shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years;

(ii) may not reappoint a member for more than two consecutive terms; and

(iii) shall:

(A) initially appoint the second member under Subsection (1)(b) from a different private provider than the private provider currently serving under Subsection (1)(b); and

(B) thereafter stagger each replacement of a member in Subsection (1)(b) so that the member positions under Subsection (1)(b) are not held by representatives of the same private provider.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed by the governor for the unexpired term.

(3) (a) (i) Each January, the committee shall organize and select one of the committee's members as chair and one member as vice chair.

(ii) The committee may organize standing or ad hoc subcommittees, which shall operate in accordance with guidelines established by the committee.

(b) (i) The chair shall convene a minimum of four meetings per year.

(ii) The chair may call special meetings.

(iii) The chair shall call a meeting upon request of five or more members of the committee.

(c) (i) Nine members of the committee constitute a quorum for the transaction of business.

(ii) The action of a majority of the members present is the action of the committee.

(4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) Administrative services for the committee shall be provided by the department.

Section 15. Section 26-8a-107 is amended to read:

26-8a-107. Air Ambulance Committee -- Membership -- Duties.

(1) The Air Ambulance Committee created by Section [~~26-1-7~~] 26B-1-204 shall be composed of the following members:

(a) the state emergency medical services medical director;

(b) one physician who:

(i) is licensed under:

(A) Title 58, Chapter 67, Utah Medical Practice Act;

(B) Title 58, Chapter 67b, Interstate Medical Licensure Compact; or

(C) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) actively provides trauma or emergency care at a Utah hospital; and

(iii) has experience and is actively involved in state and national air medical transport issues;

(c) one member from each level 1 and level 2 trauma center in the state of Utah, selected by the trauma center the member represents;

(d) one registered nurse who:

(i) is licensed under Title 58, Chapter 31b, Nurse Practice Act; and

(ii) currently works as a flight nurse for an air medical transport provider in the state of Utah;

(e) one paramedic who:

(i) is licensed under [~~Title 26, Chapter 8a, Utah Emergency Medical Services System Act~~] this chapter; and

(ii) currently works for an air medical transport provider in the state of Utah; and

(f) two members, each from a different for-profit air medical transport company operating in the state of Utah.

(2) The state emergency medical services medical director shall appoint the physician member under Subsection (1)(b), and the physician shall serve as the chair of the Air Ambulance Committee.

(3) The chair of the Air Ambulance Committee shall:

(a) appoint the Air Ambulance Committee members under Subsections (1)(c) through (f);

(b) designate the member of the Air Ambulance Committee to serve as the vice chair of the committee; and

(c) set the agenda for Air Ambulance Committee meetings.

(4) (a) Except as provided in Subsection (4)(b), members shall be appointed to a two-year term.

(b) Notwithstanding Subsection (4)(a), the Air Ambulance Committee chair shall, at the time of appointment or reappointment, adjust the length of the terms of committee members to ensure that the terms of the committee members are staggered so that approximately half of the committee is reappointed every two years.

(5) (a) A majority of the members of the Air Ambulance Committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the Air Ambulance Committee.

(6) The Air Ambulance Committee shall, before November 30, 2019, and before November 30 of every odd-numbered year thereafter, provide recommendations to the Health and Human Services Interim Committee regarding the development of state standards and requirements related to:

(a) air medical transport provider licensure and accreditation;

(b) air medical transport medical personnel qualifications and training; and

(c) other standards and requirements to ensure patients receive appropriate and high-quality medical attention and care by air medical transport providers operating in the state of Utah.

(7) (a) The committee shall prepare an annual report, using any data available to the department and in consultation with the Insurance Department, that includes the following information for each air medical transport provider that operates in the state:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available to the committee, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer.

(b) When calculating the average charge under Subsection (7)(a)(ii), the committee shall distinguish between:

(i) a rotary wing provider and a fixed wing provider; and

(ii) any other differences between air medical transport service providers that may substantially affect the cost of the air medical transport service, as determined by the committee.

(c) The department shall:

(i) post the committee's findings under Subsection (7)(a) on the department's website; and

(ii) send the committee's findings under Subsection (7)(a) to each emergency medical service provider, health care facility, and other entity that has regular contact with patients in need of air medical transport provider services.

(8) An Air Ambulance Committee member may not receive compensation, benefits, per diem, or travel expenses for the member's service on the committee.

(9) The Office of the Attorney General shall provide staff support to the Air Ambulance Committee.

(10) The Air Ambulance Committee shall report to the Health and Human Services Interim Committee before November 30, 2023, regarding the sunset of this section in accordance with Section 63I-2-226.

Section 16. Section 26-8a-208 is amended to read:

26-8a-208. Fees for training equipment rental, testing, and quality assurance reviews.

(1) The department may charge fees, established pursuant to Section [~~26-1-6~~] 26B-1-209:

(a) for the use of department-owned training equipment;

(b) to administer tests and conduct quality assurance reviews; and

(c) to process an application for a designation, permit, or license.

(2) (a) Fees collected under Subsections (1)(a) and (b) shall be separate dedicated credits.

(b) Fees under Subsection (1)(a) may be used to purchase training equipment.

(c) Fees under Subsection (1)(b) may be used to administer tests and conduct quality assurance reviews.

Section 17. Section 26-8a-302 is amended to read:

26-8a-302. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) medical director;

(iii) emergency medical service instructor;

(iv) behavioral emergency services technician;

(v) advanced behavioral emergency services technician; and

(vi) except emergency medical dispatchers, other types of emergency medical service personnel as the committee considers necessary;

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The department shall coordinate with [~~the Department of Human Services established in Section 62A-1-102, and~~] local mental health authorities described in Section 17-43-301[~~,~~] to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section 26-8a-502, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section 26-8a-310.5.

Section 18. Section 26-8a-310 is amended to read:

26-8a-310. Background clearance for emergency medical service personnel.

(1) Subject to Section 26-8a-310.5, the department shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 26-8a-302 from whom the department receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the [~~Department of Human Services' Division of Child and Family Services~~] department's Licensing Information System described in Section 62A-4a-1006;

(f) the [~~Department of Human Services' Division of Aging and Adult Services~~] department's database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information the department receives under Subsection (1) to the [~~Department of Human Services~~] department to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the [~~Department of Health~~] department; and

(b) notify the [~~Department of Health~~] department upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 19. Section 26-9f-103 is amended to read:

26-9f-103. Utah Digital Health Service Commission.

(1) There is created within the department the Utah Digital Health Service Commission.

(2) The governor shall appoint 13 members to the commission with the advice and consent of the Senate, as follows:

(a) a physician who is involved in digital health service;

(b) a representative of a health care system or a licensed health care facility as that term is defined in Section 26-21-2;

(c) a representative of rural Utah, which may be a person nominated by an advisory committee on rural health issues [~~created pursuant to Section 26-1-20~~];

(d) a member of the public who is not involved with digital health service;

(e) a nurse who is involved in digital health service; and

(f) eight members who fall into one or more of the following categories:

(i) individuals who use digital health service in a public or private institution;

(ii) individuals who use digital health service in serving medically underserved populations;

(iii) nonphysician health care providers involved in digital health service;

(iv) information technology professionals involved in digital health service;

(v) representatives of the health insurance industry;

(vi) telehealth digital health service consumer advocates; and

(vii) individuals who use digital health service in serving mental or behavioral health populations.

(3) (a) The commission shall annually elect a chairperson from its membership. The chairperson shall report to the executive director of the department.

(b) The commission shall hold meetings at least once every three months. Meetings may be held from time to time on the call of the chair or a majority of the board members.

(c) Seven commission members are necessary to constitute a quorum at any meeting and, if a quorum exists, the action of a majority of members present shall be the action of the commission.

(4) (a) Except as provided in Subsection (4)(b), a commission member shall be appointed for a three-year term and eligible for two reappointments.

(b) Notwithstanding Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately 1/3 of the commission is appointed each year.

(c) A commission member shall continue in office until the expiration of the member's term and until a successor is appointed, which may not exceed 90 days after the formal expiration of the term.

(d) Notwithstanding Subsection (4)(c), a commission member who fails to attend 75% of the scheduled meetings in a calendar year shall be disqualified from serving.

(e) When a vacancy occurs in membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The department shall provide informatics staff support to the commission.

(7) The funding of the commission shall be a separate line item to the department in the annual appropriations act.

Section 20. Section 26-10-6 is amended to read:

26-10-6. Testing of newborn infants.

(1) Except in the case where parents object on the grounds that they are members of a specified, well-recognized religious organization whose teachings are contrary to the tests required by this section, a newborn infant shall be tested for:

(a) phenylketonuria (PKU);

(b) other heritable disorders which may result in an intellectual or physical disability or death and for which:

(i) a preventive measure or treatment is available; and

(ii) there exists a reliable laboratory diagnostic test method;

(c) (i) an infant born in a hospital with 100 or more live births annually, hearing loss; and

(ii) an infant born in a setting other than a hospital with 100 or more live births annually, hearing loss; and

(d) critical congenital heart defects using pulse oximetry.

(2) In accordance with Section [~~26-1-6~~] 26B-1-209, the department may charge fees for:

(a) materials supplied by the department to conduct tests required under Subsection (1);

(b) tests required under Subsection (1) conducted by the department;

(c) laboratory analyses by the department of tests conducted under Subsection (1); and

(d) the administrative cost of follow-up contacts with the parents or guardians of tested infants.

(3) Tests for hearing loss described in Subsection (1) shall be based on one or more methods approved by the Newborn Hearing Screening Committee, including:

(a) auditory brainstem response;

(b) automated auditory brainstem response; and

(c) evoked otoacoustic emissions.

(4) Results of tests for hearing loss described in Subsection (1) shall be reported to:

(a) the department; and

(b) when results of tests for hearing loss under Subsection (1) suggest that additional diagnostic procedures or medical interventions are necessary:

(i) a parent or guardian of the infant;

(ii) an early intervention program administered by the department in accordance with Part C of the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1431 et seq.; and

(iii) the Utah Schools for the Deaf and the Blind, created in Section 53E-8-201.

(5) (a) There is established the Newborn Hearing Screening Committee.

(b) The committee shall advise the department on:

(i) the validity and cost of newborn infant hearing loss testing procedures; and

(ii) rules promulgated by the department to implement this section.

(c) The committee shall be composed of at least 11 members appointed by the executive director, including:

(i) one representative of the health insurance industry;

(ii) one pediatrician;

(iii) one family practitioner;

(iv) one ear, nose, and throat specialist nominated by the Utah Medical Association;

(v) two audiologists nominated by the Utah Speech-Language-Hearing Association;

(vi) one representative of hospital neonatal nurseries;

(vii) one representative of the Early Intervention Baby Watch Program administered by the department;

(viii) one public health nurse;

(ix) one consumer; and

(x) the executive director or the executive director's designee.

(d) Of the initial members of the committee, the executive director shall appoint as nearly as possible half to two-year terms and half to four-year terms. Thereafter, appointments shall be for four-year terms except:

(i) for those members who have been appointed to complete an unexpired term; and

(ii) as necessary to ensure that as nearly as possible the terms of half the appointments expire every two years.

(e) A majority of the members constitute a quorum, and a vote of the majority of the members present constitutes an action of the committee.

(f) The committee shall appoint a chairman from the committee's membership.

(g) The committee shall meet at least quarterly.

(h) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(i) The department shall provide staff for the committee.

(6) Before implementing the test required by Subsection (1)(d), the department shall conduct a pilot program for testing newborns for critical congenital heart defects using pulse oximetry. The pilot program shall include the development of:

(a) appropriate oxygen saturation levels that would indicate a need for further medical follow-up; and

(b) the best methods for implementing the pulse oximetry screening in newborn care units.

Section 21. Section 26-10b-101 is amended to read:

26-10b-101. Definitions.

As used in this chapter:

(1) "Committee" means the Primary Care Grant Committee [~~created in Section 26-1-7 and~~] described in Section 26-10b-106.

(2) "Community based organization":

(a) means a private entity; and

(b) includes for profit and not for profit entities.

(3) "Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system, agency, or profession and enables that system, agency, or profession to work effectively in cross-cultural situations.

(4) "Executive director" means the executive director of the department.

(5) "Health literacy" means the degree to which an individual has the capacity to obtain, process, and understand health information and services needed to make appropriate health decisions.

(6) "Institutional capacity" means the ability of a community based organization to implement public and private contracts.

(7) "Medically underserved population" means the population of an urban or rural area or a population group that the committee determines has a shortage of primary health care.

(8) "Primary care grant" means a grant awarded by the department under Subsection 26-10b-102(1).

(9) (a) "Primary health care" means:

(i) basic and general health care services given when a person seeks assistance to screen for or to prevent illness and disease, or for simple and common illnesses and injuries; and

(ii) care given for the management of chronic diseases.

(b) "Primary health care" includes:

(i) services of physicians, nurses, physician's assistants, and dentists licensed to practice in this state under Title 58, Occupations and Professions;

(ii) diagnostic and radiologic services;

(iii) preventive health services including perinatal services, well-child services, and other services that seek to prevent disease or its consequences;

(iv) emergency medical services;

(v) preventive dental services; and

(vi) pharmaceutical services.

(10) "Program" means the primary care grant program created under this chapter.

Section 22. Section 26-10b-106 is amended to read:

26-10b-106. Primary Care Grant Committee.

(1) The [~~Primary Care Grant Committee created in Section 26-1-7~~] committee shall:

(a) review grant applications forwarded to the committee by the department under Subsection 26-10b-104(1);

(b) recommend, to the executive director, grant applications to award under Subsection 26-10b-102(1);

(c) evaluate:

(i) the need for primary health care in different areas of the state;

(ii) how the program is addressing those needs; and

(iii) the overall effectiveness and efficiency of the program;

(d) review annual reports from primary care grant recipients;

(e) meet as necessary to carry out its duties, or upon a call by the committee chair or by a majority of committee members; and

(f) make rules, with the concurrence of the department, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that govern the committee, including the committee's grant selection criteria.

(2) The committee shall consist of:

(a) as chair, the executive director or an individual designated by the executive director; and

(b) six members appointed by the governor to serve up to two consecutive, two-year terms of office, including:

(i) four licensed health care professionals; and

(ii) two community advocates who are familiar with a medically underserved population and with health care systems, where at least one is familiar with a rural medically underserved population.

(3) The executive director may remove a committee member:

(a) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(b) for a rational reason.

(4) A committee member may not receive compensation or benefits for the member's service, except a committee member who is not an employee of the department may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 23. Section 26-18-2.4 is amended to read:

26-18-2.4. Medicaid drug program -- Preferred drug list.

(1) A Medicaid drug program developed by the department under Subsection 26-18-2.3(2)(f):

(a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) may include placing some drugs, except the drugs described in Subsection (2), on a preferred drug list:

(i) to the extent determined appropriate by the department; and

(ii) in the manner described in Subsection (3) for psychotropic drugs;

(d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, and except as provided in Subsection (3), shall immediately implement the prior authorization requirements for a nonpreferred drug that is in the same therapeutic class as a drug that is:

(i) on the preferred drug list on the date that this act takes effect; or

(ii) added to the preferred drug list after this act takes effect; and

(e) except as prohibited by Subsections 58-17b-606(4) and (5), shall establish the prior authorization requirements established under Subsections (1)(c) and (d) which shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, and which shall:

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 a.m. to 5 p.m.;

(ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and

(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

(2) (a) For purposes of this Subsection (2):

(i) "Immunosuppressive drug":

(A) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and

(B) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.

(ii) "Stabilized" means a health care provider has documented in the patient's medical chart that a patient has achieved a stable or steadfast medical state within the past 90 days using a particular psychotropic drug.

(b) A preferred drug list developed under the provisions of this section may not include an immunosuppressive drug.

(c) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the [~~Department of Health~~] department a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(e) The department may include a sedative hypnotic on a preferred drug list in accordance with Subsection (2)(f).

(f) The department shall grant a prior authorization for a sedative hypnotic that is not on the preferred drug list under Subsection (2)(e), if the health care provider has documentation related to one of the following conditions for the Medicaid client:

(i) a trial and failure of at least one preferred agent in the drug class, including the name of the preferred drug that was tried, the length of therapy, and the reason for the discontinuation;

(ii) detailed evidence of a potential drug interaction between current medication and the preferred drug;

(iii) detailed evidence of a condition or contraindication that prevents the use of the preferred drug;

(iv) objective clinical evidence that a patient is at high risk of adverse events due to a therapeutic interchange with a preferred drug;

(v) the patient is a new or previous Medicaid client with an existing diagnosis previously stabilized with a nonpreferred drug; or

(vi) other valid reasons as determined by the department.

(g) A prior authorization granted under Subsection (2)(f) is valid for one year from the date the department grants the prior authorization and shall be renewed in accordance with Subsection (2)(f).

(3) (a) For purposes of this Subsection (3), "psychotropic drug" means the following classes of drugs:

(i) atypical anti-psychotic;

(ii) anti-depressant;

(iii) anti-convulsant/mood stabilizer;

(iv) anti-anxiety; and

(v) attention deficit hyperactivity disorder stimulant.

(b) The department shall develop a preferred drug list for psychotropic drugs. Except as provided in Subsection (3)(d), a preferred drug list for psychotropic drugs developed under this section shall allow a health care provider to override the preferred drug list by writing "dispense as written" on the prescription for the psychotropic drug. A health care provider may not override Section 58-17b-606 by writing "dispense as written" on a prescription.

(c) The department, and a Medicaid accountable care organization that is responsible for providing behavioral health, shall:

(i) establish a system to:

(A) track health care provider prescribing patterns for psychotropic drugs;

(B) educate health care providers who are not complying with the preferred drug list; and

(C) implement peer to peer education for health care providers whose prescribing practices continue to not comply with the preferred drug list; and

(ii) determine whether health care provider compliance with the preferred drug list is at least:

(A) 55% of prescriptions by July 1, 2017;

(B) 65% of prescriptions by July 1, 2018; and

(C) 75% of prescriptions by July 1, 2019.

(d) Beginning October 1, 2019, the department shall eliminate the dispense as written override for the preferred drug list, and shall implement a prior authorization system for psychotropic drugs, in accordance with Subsection (2)(f), if by July 1, 2019, the department has not realized annual savings from implementing the preferred drug list for psychotropic drugs of at least $750,000 General Fund savings.

[~~(e) The department shall report to the Health and Human Services Interim Committee and the Social Services Appropriations Subcommittee before November 30, 2016, and before each November 30 thereafter regarding compliance with and savings from implementation of this Subsection (3).~~]

Section 24. Section 26-21-2 is amended to read:

26-21-2. Definitions.

As used in this chapter:

(1) "Abortion clinic" means a type I abortion clinic or a type II abortion clinic.

(2) "Activities of daily living" means essential activities including:

(a) dressing;

(b) eating;

(c) grooming;

(d) bathing;

(e) toileting;

(f) ambulation;

(g) transferring; and

(h) self-administration of medication.

(3) "Ambulatory surgical facility" means a freestanding facility, which provides surgical services to patients not requiring hospitalization.

(4) "Assistance with activities of daily living" means providing of or arranging for the provision of assistance with activities of daily living.

(5) (a) "Assisted living facility" means:

(i) a type I assisted living facility, which is a residential facility that provides assistance with activities of daily living and social care to two or more residents who:

(A) require protected living arrangements; and

(B) are capable of achieving mobility sufficient to exit the facility without the assistance of another person; and

(ii) a type II assisted living facility, which is a residential facility with a home-like setting that provides an array of coordinated supportive personal and health care services available 24 hours per day to residents who have been assessed under department rule to need any of these services.

(b) Each resident in a type I or type II assisted living facility shall have a service plan based on the assessment, which may include:

(i) specified services of intermittent nursing care;

(ii) administration of medication; and

(iii) support services promoting residents' independence and self sufficiency.

(6) "Birthing center" means a facility that:

(a) receives maternal clients and provides care during pregnancy, delivery, and immediately after delivery; and

(b) (i) is freestanding; or

(ii) is not freestanding, but meets the requirements for an alongside midwifery unit described in Subsection 26-21-29(7).

(7) "Committee" means the Health Facility Committee created in Section [~~26-1-7~~] 26B-1-204.

(8) "Consumer" means any person not primarily engaged in the provision of health care to individuals or in the administration of facilities or institutions in which such care is provided and who does not hold a fiduciary position, or have a fiduciary interest in any entity involved in the provision of health care, and does not receive, either directly or through his spouse, more than 1/10 of his gross income from any entity or activity relating to health care.

(9) "End stage renal disease facility" means a facility which furnishes staff-assisted kidney dialysis services, self-dialysis services, or home-dialysis services on an outpatient basis.

(10) "Freestanding" means existing independently or physically separated from another health care facility by fire walls and doors and administrated by separate staff with separate records.

(11) "General acute hospital" means a facility which provides diagnostic, therapeutic, and rehabilitative services to both inpatients and outpatients by or under the supervision of physicians.

(12) "Governmental unit" means the state, or any county, municipality, or other political subdivision or any department, division, board, or agency of the state, a county, municipality, or other political subdivision.

(13) (a) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, residential-assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, abortion clinics, facilities owned or operated by health maintenance organizations, end stage renal disease facilities, and any other health care facility which the committee designates by rule.

(b) "Health care facility" does not include the offices of private physicians or dentists, whether for individual or group practice, except that it does include an abortion clinic.

(14) "Health maintenance organization" means an organization, organized under the laws of any state which:

(a) is a qualified health maintenance organization under 42 U.S.C. Sec. 300e-9; or

(b) (i) provides or otherwise makes available to enrolled participants at least the following basic health care services: usual physician services, hospitalization, laboratory, x-ray, emergency, and preventive services and out-of-area coverage;

(ii) is compensated, except for copayments, for the provision of the basic health services listed in Subsection (14)(b)(i) to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health services actually provided; and

(iii) provides physicians' services primarily directly through physicians who are either employees or partners of such organizations, or through arrangements with individual physicians or one or more groups of physicians organized on a group practice or individual practice basis.

(15) (a) "Home health agency" means an agency, organization, or facility or a subdivision of an agency, organization, or facility which employs two or more direct care staff persons who provide licensed nursing services, therapeutic services of physical therapy, speech therapy, occupational therapy, medical social services, or home health aide services on a visiting basis.

(b) "Home health agency" does not mean an individual who provides services under the authority of a private license.

(16) "Hospice" means a program of care for the terminally ill and their families which occurs in a home or in a health care facility and which provides medical, palliative, psychological, spiritual, and supportive care and treatment.

(17) "Nursing care facility" means a health care facility, other than a general acute or specialty hospital, constructed, licensed, and operated to provide patient living accommodations, 24-hour staff availability, and at least two of the following patient services:

(a) a selection of patient care services, under the direction and supervision of a registered nurse, ranging from continuous medical, skilled nursing, psychological, or other professional therapies to intermittent health-related or paraprofessional personal care services;

(b) a structured, supportive social living environment based on a professionally designed and supervised treatment plan, oriented to the individual's habilitation or rehabilitation needs; or

(c) a supervised living environment that provides support, training, or assistance with individual activities of daily living.

(18) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(19) "Resident" means a person 21 years [~~of age~~] old or older who:

(a) as a result of physical or mental limitations or age requires or requests services provided in an assisted living facility; and

(b) does not require intensive medical or nursing services as provided in a hospital or nursing care facility.

(20) "Small health care facility" means a four to 16 bed facility that provides licensed health care programs and services to residents.

(21) "Specialty hospital" means a facility which provides specialized diagnostic, therapeutic, or rehabilitative services in the recognized specialty or specialties for which the hospital is licensed.

(22) "Substantial compliance" means in a department survey of a licensee, the department determines there is an absence of deficiencies which would harm the physical health, mental health, safety, or welfare of patients or residents of a licensee.

(23) "Type I abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy; and

(b) does not perform abortions, as defined in Section 76-7-301, after the first trimester of pregnancy.

(24) "Type II abortion clinic" means a facility, including a physician's office, but not including a general acute or specialty hospital, that:

(a) performs abortions, as defined in Section 76-7-301, after the first trimester of pregnancy; or

(b) performs abortions, as defined in Section 76-7-301, during the first trimester of pregnancy and after the first trimester of pregnancy.

Section 25. Section 26-21-3 is amended to read:

26-21-3. Health Facility Committee -- Members -- Terms -- Organization -- Meetings.

(1) (a) The [~~Health Facility Committee created by Section 26-1-7 consists~~] committee shall consist of 12 members appointed by the governor in consultation with the executive director.

(b) The appointed members shall be knowledgeable about health care facilities and issues.

(2) The membership of the committee is:

(a) one physician, licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who is a graduate of a regularly chartered medical school;

(b) one hospital administrator;

(c) one hospital trustee;

(d) one representative of a freestanding ambulatory surgical facility;

(e) one representative of an ambulatory surgical facility that is affiliated with a hospital;

(f) one representative of the nursing care facility industry;

(g) one registered nurse, licensed to practice under Title 58, Chapter 31b, Nurse Practice Act;

(h) one licensed architect or engineer with expertise in health care facilities;

(i) one representative of assisted living facilities licensed under this chapter;

(j) two consumers, one of whom has an interest in or expertise in geriatric care; and

(k) one representative from either a home health care provider or a hospice provider.

(3) (a) Except as required by Subsection (3)(b), members shall be appointed for a term of four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor, giving consideration to recommendations made by the committee, with the consent of the Senate.

(d) A member may not serve more than two consecutive full terms or 10 consecutive years, whichever is less. However, a member may continue to serve as a member until the member is replaced.

(e) The committee shall annually elect from its membership a chair and vice chair.

(f) The committee shall meet at least quarterly, or more frequently as determined by the chair or five members of the committee.

(g) Six members constitute a quorum. A vote of the majority of the members present constitutes action of the committee.

Section 26. Section 26-23b-102 is amended to read:

26-23b-102. Definitions.

As used in this chapter:

(1) "Bioterrorism" means:

(a) the intentional use of any microorganism, virus, infectious substance, or biological product to cause death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism in order to influence, intimidate, or coerce the conduct of government or a civilian population; and

(b) includes anthrax, botulism, small pox, plague, tularemia, and viral hemorrhagic fevers.

[~~(2) "Department" means the Department of Health created in Section 26-1-4 and a local health department as defined in Section 26A-1-102.~~]

[~~(3)~~] (2) "Diagnostic information" means a clinical facility's record of individuals who present for treatment, including the reason for the visit, chief complaint, presenting diagnosis, final diagnosis, and any pertinent lab results.

[~~(4)~~] (3) "Epidemic or pandemic disease":

(a) means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy; and

(b) includes diseases designated by the [~~Department of Health~~] department which have the potential to cause serious illness or death.

[~~(5)~~] (4) "Exigent circumstances" means a significant change in circumstances following the expiration of a public health emergency declared in accordance with this title that:

(a) substantially increases the threat to public safety or health relative to the circumstances in existence when the public health emergency expired;

(b) poses an imminent threat to public safety or health; and

(c) was not known or foreseen and could not have been known or foreseen at the time the public health emergency expired.

[~~(6)~~] (5) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(7)~~] (6) "Legislative emergency response committee" means the same as that term is defined in Section 53-2a-203.

[~~(8)~~] (7) (a) "Order of constraint" means an order, rule, or regulation issued in response to a declared public health emergency under this chapter, that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

[~~(9)~~] (8) "Public health emergency" means an occurrence or imminent credible threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents of permanent or long-term disability. Such illness or health condition includes an illness or health condition resulting from a natural disaster.

[~~(10)~~] (9) "Reportable emergency illness and health condition" includes the diseases, conditions, or syndromes designated by the [~~Department of Health~~] department.

[~~(11)~~] (10) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

Section 27. Section 26-25-1 is amended to read:

26-25-1. Authority to provide data on treatment and condition of persons to designated agencies -- Immunity from liability.

(1) Any person, health facility, or other organization may, without incurring liability, provide the following information to the persons and entities described in Subsection (2):

(a) information as determined by the state registrar of vital records appointed under Title 26, Chapter 2, Utah Vital Statistics Act;

(b) interviews;

(c) reports;

(d) statements;

(e) memoranda;

(f) familial information; and

(g) other data relating to the condition and treatment of any person.

(2) The information described in Subsection (1) may be provided to:

(a) the department and local health departments;

(b) the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare within the Department of Health and Human Services;

(c) scientific and health care research organizations affiliated with institutions of higher education;

(d) the Utah Medical Association or any of its allied medical societies;

(e) peer review committees;

(f) professional review organizations;

(g) professional societies and associations; and

(h) any health facility's in-house staff committee for the uses described in Subsection (3).

(3) The information described in Subsection (1) may be provided for the following purposes:

(a) study and advancing medical research, with the purpose of reducing the incidence of disease, morbidity, or mortality; or

(b) the evaluation and improvement of hospital and health care rendered by hospitals, health facilities, or health care providers.

(4) Any person may, without incurring liability, provide information, interviews, reports, statements, memoranda, or other information relating to the ethical conduct of any health care provider to peer review committees, professional societies and associations, or any in-hospital staff committee to be used for purposes of intraprofessional society or association discipline.

(5) No liability may arise against any person or organization as a result of:

(a) providing information or material authorized in this section;

(b) releasing or publishing findings and conclusions of groups referred to in this section to advance health research and health education; or

(c) releasing or publishing a summary of these studies in accordance with this chapter.

(6) As used in this chapter:

(a) "health care provider" has the meaning set forth in Section 78B-3-403; and

(b) "health care facility" has the meaning set forth in Section 26-21-2.

Section 28. Section 26-33a-102 is amended to read:

26-33a-102. Definitions.

As used in this chapter:

(1) "Committee" means the Health Data Committee created by Section [~~26-1-7~~] 26B-1-204.

(2) "Control number" means a number assigned by the committee to an individual's health data as an identifier so that the health data can be disclosed or used in research and statistical analysis without readily identifying the individual.

(3) "Data supplier" means a health care facility, health care provider, self-funded employer, third-party payor, health maintenance organization, or government department which could reasonably be expected to provide health data under this chapter.

(4) "Disclosure" or "disclose" means the communication of health care data to any individual or organization outside the committee, its staff, and contracting agencies.

[~~(5) "Executive director" means the director of the department.~~]

[~~(6)~~] (5) (a) "Health care facility" means a facility that is licensed by the department under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee, with the concurrence of the department, may by rule add, delete, or modify the list of facilities that come within this definition for purposes of this chapter.

[~~(7)~~] (6) "Health care provider" means any person, partnership, association, corporation, or other facility or institution that renders or causes to be rendered health care or professional services as a physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech pathologist, certified social worker, social service worker, social service aide, marriage and family counselor, or practitioner of obstetrics, and others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons, and officers, employees, or agents of any of the above acting in the course and scope of their employment.

[~~(8)~~] (7) "Health data" means information relating to the health status of individuals, health services delivered, the availability of health manpower and facilities, and the use and costs of resources and services to the consumer, except vital records as defined in Section 26-2-2 shall be excluded.

[~~(9)~~] (8) "Health maintenance organization" has the meaning set forth in Section 31A-8-101.

[~~(10)~~] (9) "Identifiable health data" means any item, collection, or grouping of health data that makes the individual supplying or described in the health data identifiable.

[~~(11) "Individual" means a natural person.~~]

[~~(12)~~] (10) "Organization" means any corporation, association, partnership, agency, department, unit, or other legally constituted institution or entity, or part thereof.

[~~(13)~~] (11) "Research and statistical analysis" means activities using health data analysis including:

(a) describing the group characteristics of individuals or organizations;

(b) analyzing the noncompliance among the various characteristics of individuals or organizations;

(c) conducting statistical procedures or studies to improve the quality of health data;

(d) designing sample surveys and selecting samples of individuals or organizations; and

(e) preparing and publishing reports describing these matters.

[~~(14)~~] (12) "Self-funded employer" means an employer who provides for the payment of health care services for employees directly from the employer's funds, thereby assuming the financial risks rather than passing them on to an outside insurer through premium payments.

[~~(15)~~] (13) "Plan" means the plan developed and adopted by the Health Data Committee under Section 26-33a-104.

[~~(16)~~] (14) "Third party payor" means:

(a) an insurer offering a health benefit plan, as defined by Section 31A-1-301, to at least 2,500 enrollees in the state;

(b) a nonprofit health service insurance corporation licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) a program funded or administered by Utah for the provision of health care services, including the Medicaid and medical assistance programs described in Chapter 18, Medical Assistance Act; and

(d) a corporation, organization, association, entity, or person:

(i) which administers or offers a health benefit plan to at least 2,500 enrollees in the state; and

(ii) which is required by administrative rule adopted by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to supply health data to the committee.

Section 29. Section 26-33a-103 is amended to read:

26-33a-103. Committee membership -- Terms -- Chair -- Compensation.

(1) The [~~Health Data Committee created by Section 26-1-7~~] committee shall be composed of 15 members.

(2) (a) One member shall be:

(i) the commissioner of the Utah Insurance Department; or

(ii) the commissioner's designee who shall have knowledge regarding the health care system and characteristics and use of health data.

(b) Fourteen members shall be appointed by the governor with the advice and consent of the Senate in accordance with Subsection (3) and in accordance with Title 63G, Chapter 24, Part 2, Vacancies. No more than seven members of the committee appointed by the governor may be members of the same political party.

(3) The members of the committee appointed under Subsection (2)(b) shall:

(a) be knowledgeable regarding the health care system and the characteristics and use of health data;

(b) be selected so that the committee at all times includes individuals who provide care;

(c) include one person employed by or otherwise associated with a general acute hospital as defined by Section 26-21-2, who is knowledgeable about the collection, analysis, and use of health care data;

(d) include two physicians, as defined in Section 58-67-102:

(i) who are licensed to practice in this state;

(ii) who actively practice medicine in this state;

(iii) who are trained in or have experience with the collection, analysis, and use of health care data; and

(iv) one of whom is selected by the Utah Medical Association;

(e) include three persons:

(i) who are:

(A) employed by or otherwise associated with a business that supplies health care insurance to its employees; and

(B) knowledgeable about the collection and use of health care data; and

(ii) at least one of whom represents an employer employing 50 or fewer employees;

(f) include three persons representing health insurers:

(i) at least one of whom is employed by or associated with a third-party payor that is not licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(ii) at least one of whom is employed by or associated with a third party payer that is licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans; and

(iii) who are trained in, or experienced with the collection, analysis, and use of health care data;

(g) include two consumer representatives:

(i) from organized consumer or employee associations; and

(ii) knowledgeable about the collection and use of health care data;

(h) include one person:

(i) representative of a neutral, non-biased entity that can demonstrate that it has the broad support of health care payers and health care providers; and

(ii) who is knowledgeable about the collection, analysis, and use of health care data; and

(i) include two persons representing public health who are trained in, or experienced with the collection, use, and analysis of health care data.

(4) (a) Except as required by Subsection (4)(b), as terms of current committee members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Members may serve after their terms expire until replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(6) Committee members shall annually elect a chair of the committee from among their membership. The chair shall report to the executive director.

(7) The committee shall meet at least once during each calendar quarter. Meeting dates shall be set by the chair upon 10 working days notice to the other members, or upon written request by at least four committee members with at least 10 working days notice to other committee members.

(8) Eight committee members constitute a quorum for the transaction of business. Action may not be taken except upon the affirmative vote of a majority of a quorum of the committee.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(10) All meetings of the committee shall be open to the public, except that the committee may hold a closed meeting if the requirements of Sections 52-4-204, 52-4-205, and 52-4-206 are met.

(11) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 30. Section 26-39-102 is amended to read:

26-39-102. Definitions.

As used in this chapter:

(1) "Advisory committee" means the Residential Child Care Licensing Advisory Committee[~~,~~] created in Section [~~26-1-7~~] 26B-1-204.

(2) (a) "Center based child care" means, except as provided in Subsection (2)(b), a child care program licensed under this chapter.

(b) "Center based child care" does not include:

(i) a residential child care provider certified under Section 26-39-402; or

(ii) a facility or program exempt Section 26-39-403.

(3) "Child care" means continuous care and supervision of five or more qualifying children, that is:

(a) in lieu of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

(4) "Child care program" means a child care facility or program operated by a person who holds a license or certificate issued in accordance with this chapter.

(5) "Exempt provider" means a person who provides care described in Subsection 26-39-403(2).

(6) "Licensing committee" means the Child Care Center Licensing Committee created in Section [~~26-1-7~~] 26B-1-204.

(7) "Public school" means:

(a) a school, including a charter school, that:

(i) is directly funded at public expense; and

(ii) provides education to qualifying children for any grade from first grade through twelfth grade; or

(b) a school, including a charter school, that provides:

(i) preschool or kindergarten to qualifying children, regardless of whether the preschool or kindergarten is funded at public expense; and

(ii) education to qualifying children for any grade from first grade through twelfth grade, if each grade, from first grade to twelfth grade, that is provided at the school, is directly funded at public expense.

(8) "Qualifying child" means an individual who is:

(a) (i) under the age of 13 years old; or

(ii) under the age of 18 years old, if the person has a disability; and

(b) a child of:

(i) a person other than the person providing care to the child;

(ii) a licensed or certified residential child care provider, if the child is under the age of four; or

(iii) an employee or owner of a licensed child care center, if the child is under the age of four.

(9) "Residential child care" means child care provided in the home of a provider.

Section 31. Section 26-39-200 is amended to read:

26-39-200. Child Care Center Licensing Committee.

(1) (a) The [~~Child Care Center Licensing Committee created in Section 26-1-7~~] licensing committee shall be comprised of seven members appointed by the governor and approved by the Senate in accordance with this subsection.

(b) The governor shall appoint three members who:

(i) have at least five years of experience as an owner in or director of a for profit or not-for-profit center based child care; and

(ii) hold an active license as a child care center from the department to provide center based child care.

(c) (i) The governor shall appoint one member to represent each of the following:

(A) a parent with a child in center based child care;

(B) a child development expert from the state system of higher education;

(C) except as provided in Subsection (1)(e), a pediatrician licensed in the state; and

(D) an architect licensed in the state.

(ii) Except as provided in Subsection (1)(c)(i)(B), a member appointed under Subsection (1)(c)(i) may not be an employee of the state or a political subdivision of the state.

(d) At least one member described in Subsection (1)(b) shall at the time of appointment reside in a county that is not a county of the first class.

(e) For the appointment described in Subsection (1)(c)(i)(C), the governor may appoint a health care professional who specializes in pediatric health if:

(i) the health care professional is licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act, as an advanced practice nurse practitioner; or

(B) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(ii) before appointing a health care professional under this Subsection (1)(e), the governor:

(A) sends a notice to a professional physician organization in the state regarding the opening for the appointment described in Subsection (1)(c)(i)(C); and

(B) receives no applications from a pediatrician who is licensed in the state for the appointment described in Subsection (1)(c)(i)(C) within 90 days after the day on which the governor sends the notice described in Subsection (1)(e)(ii)(A).

(2) (a) Except as required by Subsection (2)(b), as terms of current members expire, the governor shall appoint each new member or reappointed member to a four-year term ending June 30.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of members are staggered so that approximately half of the licensing committee is appointed every two years.

(c) Upon the expiration of the term of a member of the licensing committee, the member shall continue to hold office until a successor is appointed and qualified.

(d) A member may not serve more than two consecutive terms.

(e) Members of the licensing committee shall annually select one member to serve as chair who shall establish the agenda for licensing committee meetings.

(3) When a vacancy occurs in the membership for any reason, the governor, with the advice and consent of the Senate, shall appoint a replacement for the unexpired term.

(4) (a) The licensing committee shall meet at least every two months.

(b) The director may call additional meetings:

(i) at the director's discretion;

(ii) upon the request of the chair; or

(iii) upon the written request of three or more members.

(5) Three members of the licensing committee constitute a quorum for the transaction of business.

(6) A member of the licensing committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 32. Section 26-39-201 is amended to read:

26-39-201. Residential Child Care Licensing Advisory Committee.

(1) (a) The [~~Residential Child Care Licensing Advisory Committee created in Section 26-1-7~~] advisory committee shall advise the department on rules made by the department under this chapter for residential child care.

(b) The advisory committee shall be composed of the following nine members who shall be appointed by the executive director:

(i) two child care consumers;

(ii) three licensed residential child care providers;

(iii) one certified residential child care provider;

(iv) one individual with expertise in early childhood development; and

(v) two health care providers.

(2) (a) Members of the advisory committee shall be appointed for four-year terms, except for those members who have been appointed to complete an unexpired term.

(b) Appointments and reappointments may be staggered so that 1/4 of the advisory committee changes each year.

(c) The advisory committee shall annually elect a chair from its membership.

(3) The advisory committee shall meet at least quarterly, or more frequently as determined by the executive director, the chair, or three or more members of the committee.

(4) Five members constitute a quorum and a vote of the majority of the members present constitutes an action of the advisory committee.

(5) A member of the advisory committee may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 33. Section 26-39-301 is amended to read:

26-39-301. Duties of the department -- Enforcement of chapter -- Licensing committee requirements.

(1) With regard to residential child care licensed or certified under this chapter, the department may:

(a) make and enforce rules to implement this chapter and, as necessary to protect qualifying children's common needs for a safe and healthy environment, to provide for:

(i) adequate facilities and equipment; and

(ii) competent caregivers, considering the age of the children and the type of program offered by the licensee; and

(b) make and enforce rules necessary to carry out the purposes of this chapter, in the following areas:

(i) requirements for applications, the application process, and compliance with other applicable statutes and rules;

(ii) documentation and policies and procedures that providers shall have in place in order to be licensed, in accordance with Subsection (1)(a);

(iii) categories, classifications, and duration of initial and ongoing licenses;

(iv) changes of ownership or name, changes in licensure status, and changes in operational status;

(v) license expiration and renewal, contents, and posting requirements;

(vi) procedures for inspections, complaint resolution, disciplinary actions, and other procedural measures to encourage and assure compliance with statute and rule; and

(vii) guidelines necessary to assure consistency and appropriateness in the regulation and discipline of licensees.

(2) The department shall enforce the rules established by the licensing committee, with the concurrence of the department, for center based child care.

(3) Rules made under this chapter by the department, or the licensing committee with the concurrence of the department, shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) (a) The licensing committee and the department may not regulate educational curricula, academic methods, or the educational philosophy or approach of the provider.

(b) The licensing committee and the department shall allow for a broad range of educational training and academic background in certification or qualification of child day care directors.

(5) In licensing and regulating child care programs, the licensing committee and the department shall reasonably balance the benefits and burdens of each regulation and, by rule, provide for a range of licensure, depending upon the needs and different levels and types of child care provided.

(6) Notwithstanding the definition of "qualifying child" in Section 26-39-102, the licensing committee and the department shall count children through age 12 and children with disabilities through age 18 toward the minimum square footage requirement for indoor and outdoor areas, including the child of:

(a) a licensed residential child care provider; or

(b) an owner or employee of a licensed child care center.

(7) Notwithstanding Subsection (1)(a)(i), the licensing committee and the department may not exclude floor space used for furniture, fixtures, or equipment from the minimum square footage requirement for indoor and outdoor areas if the furniture, fixture, or equipment is used:

(a) by qualifying children;

(b) for the care of qualifying children; or

(c) to store classroom materials.

(8) (a) A child care center constructed prior to January 1, 2004, and licensed and operated as a child care center continuously since

January 1, 2004, is exempt from the licensing committee's and the department's group size restrictions, if the child to caregiver ratios are maintained, and adequate square footage is maintained for specific classrooms.

(b) An exemption granted under Subsection (7)(a) is transferrable to subsequent licensed operators at the center if a licensed child care center is continuously maintained at the center.

(9) The licensing committee, with the concurrence of the department, shall develop, by rule, a five-year phased-in compliance schedule for playground equipment safety standards.

(10) The department shall set and collect licensing and other fees in accordance with Section [~~26-1-6~~] 26-1-209.

(11) Nothing in this chapter may be interpreted to grant a municipality or county the authority to license or certify a child care program.

Section 34. Section 26-39-402 is amended to read:

26-39-402. Residential child care certificate.

(1) A residential child care provider of five to eight qualifying children shall obtain a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

(2) The minimum qualifications for a Residential Child Care Certificate are:

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section [~~26-1-6~~] 26B-1-209; and

(iii) in accordance with Section 26-39-404, identifying information for each adult person and each juvenile age 12 through 17 years [~~of age~~] old who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section 62A-4a-1006;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a residential care provider of five to eight qualifying children in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

(5) Notwithstanding this section:

(a) a license under Section 26-39-401 is required of a residential child care provider who cares for nine or more qualifying children;

(b) a certified residential child care provider may not provide care to more than two qualifying children under the age of two; and

(c) an inspection may be required of a residential child care provider in connection with a federal child care program.

(6) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 35. Section 26-49-102 is amended to read:

26-49-102. Definitions.

As used in this chapter:

[~~(1) "Department of Health" shall have the meaning provided for in Section 26-1-4.~~]

[~~(2)~~] (1) "Disaster relief organization" means an entity that:

(a) provides emergency or disaster relief services that include health or veterinary services provided by volunteer health practitioners;

(b) is designated or recognized as a provider of the services described in Subsection [~~(2)~~] (1)(a) under a disaster response and recovery plan adopted by:

(i) an agency of the federal government;

[~~(ii) the state Department of Health; or~~]

(ii) the department; or

(iii) a local health department; and

(c) regularly plans and conducts its activities in coordination with:

(i) an agency of the federal government;

[~~(ii) the Department of Health; or~~]

(ii) the department; or

(iii) a local health department.

[~~(3)~~] (2) "Emergency" means:

(a) a state of emergency declared by:

(i) the president of the United States;

(ii) the governor in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; and

(iii) the chief executive officer of a political subdivision in accordance with Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, for a local emergency; or

(b) a public health emergency declared by:

(i) the executive director through a public health order in accordance with Title 26, Utah Health Code; or

(ii) a local health department for a location under the local health department's jurisdiction.

[~~(4)~~] (3) "Emergency Management Assistance Compact" means the interstate compact approved by Congress by Public Law No. 104-321, 110 Stat. 3877 and adopted by Utah in Title 53, Chapter 2a, Part 4, Emergency Management Assistance Compact.

[~~(5)~~] (4) "Entity" means a person other than an individual.

[~~(6)~~] (5) "Health facility" means an entity licensed under the laws of this or another state to provide health or veterinary services.

[~~(7)~~] (6) "Health practitioner" means an individual licensed under Utah law or another state to provide health or veterinary services.

[~~(8)~~] (7) "Health services" means the provision of treatment, care, advice, guidance, other services, or supplies related to the health or death of individuals or human populations, to the extent necessary to respond to an emergency, including:

(a) the following, concerning the physical or mental condition or functional status of an individual or affecting the structure or function of the body:

(i) preventive, diagnostic, therapeutic, rehabilitative, maintenance, or palliative care; or

(ii) counseling, assessment, procedures, or other services;

(b) selling or dispensing a drug, a device, equipment, or another item to an individual in accordance with a prescription; and

(c) funeral, cremation, cemetery, or other mortuary services.

[~~(9)~~] (8) "Host entity":

(a) means an entity operating in Utah that:

(i) uses volunteer health practitioners to respond to an emergency; and

(ii) is responsible during an emergency, for actually delivering health services to individuals or human populations, or veterinary services to animals or animal populations; and

(b) may include disaster relief organizations, hospitals, clinics, emergency shelters, health care provider offices, or any other place where volunteer health practitioners may provide health or veterinary services.

[~~(10)~~] (9) (a) "License" means authorization by a state to engage in health or veterinary services that are unlawful without authorization.

(b) "License" includes authorization under this title to an individual to provide health or veterinary services based upon a national or state certification issued by a public or private entity.

[~~(11)~~] (10) "Local emergency" means the same as that term is defined in Section 53-2a-203.

[~~(12)~~] (11) "Local health department" means the same as that term is defined in Section 26A-1-102.

[~~(13) "Person" means an individual, corporation, business trust, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.~~]

[~~(14)~~] (12) "Public health emergency" means the same as that term is defined in Section 26-23b-102.

[~~(15)~~] (13) "Scope of practice" means the extent of the authorization to provide health or veterinary services granted to a health practitioner by a license issued to the practitioner in the state in which the principal part of the practitioner's services are rendered, including any conditions imposed by the licensing authority.

[~~(16)~~] (14) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) Puerto Rico;

(d) the United States Virgin Islands; or

(e) any territory or insular possession subject to the jurisdiction of the United States.

[~~(17)~~] (15) "Veterinary services" shall have the meaning provided for in Subsection 58-28-102(11).

[~~(18)~~] (16) (a) "Volunteer health practitioner" means a health practitioner who provides health or veterinary services, whether or not the practitioner receives compensation for those services.

(b) "Volunteer health practitioner" does not include a practitioner who receives compensation under a preexisting employment relationship with a host entity or affiliate that requires the practitioner to provide health services in Utah, unless the practitioner is:

(i) not a Utah resident; and

(ii) employed by a disaster relief organization providing services in Utah during an emergency.

Section 36. Section 26-54-103 is amended to read:

26-54-103. Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee -- Creation -- Membership -- Terms -- Duties.

(1) There is created a Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund Advisory Committee.

(2) The advisory committee shall be composed of 11 members as follows:

(a) the executive director, or the executive director's designee;

(b) two survivors, or family members of a survivor, of a traumatic brain injury appointed by the governor;

(c) two survivors, or family members of a survivor, of a traumatic spinal cord injury appointed by the governor;

(d) one traumatic brain injury or spinal cord injury professional appointed by the governor who, at the time of appointment and throughout the professional's term on the committee, does not receive a financial benefit from the fund;

(e) two parents of a child with a nonprogressive neurological condition appointed by the governor;

(f) (i) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor; or

(ii) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act, with experience treating brain and spinal cord injuries, appointed by the governor;

(g) a member of the House of Representatives appointed by the speaker of the House of Representatives; and

(h) a member of the Senate appointed by the president of the Senate.

(3) (a) The term of advisory committee members shall be four years. If a vacancy occurs in the committee membership for any reason, a replacement shall be appointed for the unexpired term in the same manner as the original appointment.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum is present at an open meeting, the action of the majority of members shall be the action of the advisory committee.

(d) The terms of the advisory committee shall be staggered so that members appointed under Subsections (2)(b), (d), and (f) shall serve an initial two-year term and members appointed under Subsections (2)(c), (e), and (g) shall serve four-year terms. Thereafter, members appointed to the advisory committee shall serve four-year terms.

(4) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Title 63G, Chapter 2, Government Records Access and Management Act; and

(c) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules adopted by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) The advisory committee shall:

(a) adopt rules and procedures in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that establish priorities and criteria for the advisory committee to follow in recommending distribution of money from the fund to assist qualified IRC 501(c)(3) charitable clinics, as defined in Sections 26-54-102 and 26-54-102.5;

(b) identify, evaluate, and review the quality of care available to:

(i) individuals with spinal cord and brain injuries through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102; or

(ii) children with nonprogressive neurological conditions through qualified IRC 501(c)(3) charitable clinics, as defined in Section 26-54-102.5; and

(c) explore, evaluate, and review other possible funding sources and make a recommendation to the Legislature regarding sources that would provide adequate funding for the advisory committee to accomplish its responsibilities under this section[~~; and~~].

[~~(d) submit an annual report, not later than November 30 of each year, summarizing the activities of the advisory committee and making recommendations regarding the ongoing needs of individuals with spinal cord or brain injuries and children with nonprogressive neurological conditions to:~~]

[~~(i) the governor;~~]

[~~(ii) the Health and Human Services Interim Committee; and~~]

[~~(iii) the Social Services Appropriations Subcommittee.~~]

(7) Operating expenses for the advisory committee, including the committee's staff, shall be paid for only with money from:

(a) the Spinal Cord and Brain Injury Rehabilitation Fund;

(b) the Pediatric Neuro-Rehabilitation Fund; or

(c) both funds.

Section 37. Section 26-60-104 is amended to read:

26-60-104. Enforcement.

(1) The Division of Occupational and Professional Licensing created in Section 58-1-103 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 58, Occupations and Professions.

(2) The department is authorized to enforce the provisions of:

(a) Section 26-60-103 as it relates to providers licensed under this title[~~.~~]; and

[~~(3) The Department of Human Services created in Section 62A-1-102 is authorized to enforce the provisions of~~]

(b) Section 26-60-103 as it relates to providers licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

Section 38. Section 26-67-102 is amended to read:

26-67-102. Definitions.

As used in this chapter:

(1) "Adult Autism Treatment Account" means the Adult Autism Treatment Account created in Section 26-67-205.

(2) "Advisory committee" means the Adult Autism Treatment Program Advisory Committee created in Section [~~26-1-7~~] 26B-1-204.

(3) "Applied behavior analysis" means the same as that term is defined in Section 31A-22-642.

(4) "Autism spectrum disorder" means the same as that term is defined in Section 31A-22-642.

(5) "Program" means the Adult Autism Treatment Program created in Section 26-67-201.

(6) "Qualified individual" means an individual who:

(a) is at least 22 years old;

(b) is a resident of the state;

(c) has been diagnosed by a qualified professional as having:

(i) an autism spectrum disorder; or

(ii) another neurodevelopmental disorder requiring significant supports through treatment using applied behavior analysis; and

(d) needs significant supports for a condition described in Subsection (6)(c), as demonstrated by formal assessments of the individual's:

(i) cognitive ability;

(ii) adaptive ability;

(iii) behavior; and

(iv) communication ability.

(7) "Qualified provider" means a provider that is qualified under Section 26-67-202 to provide services for the program.

Section 39. Section 26-67-202 is amended to read:

26-67-202. Adult Autism Treatment Program Advisory Committee -- Membership -- Procedures -- Compensation -- Duties -- Expenses.

(1) The Adult Autism Treatment Advisory Committee created in Section [~~26-1-7~~] 26B-1-204 shall consist of six members appointed by the governor to two-year terms as follows:

(a) one individual who:

(i) has a doctorate degree in psychology;

(ii) is a licensed behavior analyst practicing in the state; and

(iii) has treated adults with an autism spectrum disorder for at least three years;

(b) one individual who is:

(i) employed by the department; and

(ii) has professional experience with the treatment of autism spectrum disorder;

(c) three individuals who have firsthand experience with autism spectrum disorders and the effects, diagnosis, treatment, and rehabilitation of autism spectrum disorders, including:

(i) family members of an adult with an autism spectrum disorder;

(ii) representatives of an association that advocates for adults with an autism spectrum disorder; and

(iii) specialists or professionals who work with adults with an autism spectrum disorder; and

(d) one individual who is:

(i) a health insurance professional;

(ii) holds a Doctor of Medicine or Doctor of Philosophy degree, with professional experience relating to the treatment of autism spectrum disorder; and

(iii) has a knowledge of autism benefits and therapy that are typically covered by the health insurance industry.

(2) (a) Notwithstanding Subsection (1), the governor shall, at the time of appointment or

reappointment, adjust the length of terms to ensure the terms of members are staggered so that approximately half of the advisory committee is appointed every year.

(b) If a vacancy occurs in the membership of the advisory committee, the governor may appoint a replacement for the unexpired term.

(3) (a) The advisory committee shall annually elect a chair from its membership.

(b) A majority of the advisory committee constitutes a quorum at any meeting and, if a quorum exists, the action of the majority of members present is the action of the advisory committee.

(4) The advisory committee shall meet as necessary to:

(a) advise the department regarding implementation of the program;

(b) make recommendations to the department and the Legislature for improving the program; and

(c) before October 1 each year, provide a written report of the advisory committee's activities and recommendations to:

(i) the executive director;

(ii) the Health and Human Services Interim Committee; and

(iii) the Social Services Appropriations Subcommittee.

(5) The advisory committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) (a) The department shall staff the advisory committee.

(b) Expenses of the advisory committee, including the cost of advisory committee staff if approved by the executive director, may be paid only with funds from the Adult Autism Treatment Account.

Section 40. Section 26A-1-102 is amended to read:

26A-1-102. Definitions.

As used in this part:

(1) "Board" means a local board of health established under Section 26A-1-109.

(2) "County governing body" means one of the types of county government provided for in Title 17, Chapter 52a, Part 2, Forms of County Government.

(3) "County health department" means a local health department that serves a county and municipalities located within that county.

(4) "Department" means the Department of Health and Human Services created in [~~Title 26, Chapter 1, Department of Health Organization~~] Section 26B-1-201.

(5) "Local health department" means:

(a) a single county local health department;

(b) a multicounty local health department;

(c) a united local health department; or

(d) a multicounty united local health department.

(6) "Mental health authority" means a local mental health authority created in Section 17-43-301.

(7) "Multicounty local health department" means a local health department that is formed under Section 26A-1-105 and that serves two or more contiguous counties and municipalities within those counties.

(8) "Multicounty united local health department" means a united local health department that is formed under Section 26A-1-105.5 and that serves two or more contiguous counties and municipalities within those counties.

(9) (a) "Order of constraint" means an order, rule, or regulation issued by a local health department in response to a declared public health emergency under this chapter that:

(i) applies to all or substantially all:

(A) individuals or a certain group of individuals; or

(B) public places or certain types of public places; and

(ii) for the protection of the public health and in response to the declared public health emergency:

(A) establishes, maintains, or enforces isolation or quarantine;

(B) establishes, maintains, or enforces a stay-at-home order;

(C) exercises physical control over property or individuals;

(D) requires an individual to perform a certain action or engage in a certain behavior; or

(E) closes theaters, schools, or other public places or prohibits gatherings of people to protect the public health.

(b) "Order of constraint" includes a stay-at-home order.

(10) "Public health emergency" means the same as that term is defined in Section 26-23b-102.

(11) "Single county local health department" means a local health department that is created by

the governing body of one county to provide services to the county and the municipalities within that county.

(12) "Stay-at-home order" means an order of constraint that:

(a) restricts movement of the general population to suppress or mitigate an epidemic or pandemic disease by directing individuals within a defined geographic area to remain in their respective residences; and

(b) may include exceptions for certain essential tasks.

(13) "Substance abuse authority" means a local substance abuse authority created in Section 17-43-201.

(14) "United local health department":

(a) means a substance abuse authority, a mental health authority, and a local health department that join together under Section 26A-1-105.5; and

(b) includes a multicounty united local health department.

Section 41. Section 26A-1-121 is amended to read:

26A-1-121. Standards and regulations adopted by local board -- Local standards not more stringent than federal or state standards -- Administrative and judicial review of actions.

(1) (a) Subject to Subsection (1)(g), the board may make standards and regulations:

(i) not in conflict with rules of the [~~Departments of Health and~~] department or the Department of Environmental Quality; and

(ii) necessary for the promotion of public health, environmental health quality, injury control, and the prevention of outbreaks and spread of communicable and infectious diseases.

(b) The standards and regulations under Subsection (1)(a):

(i) supersede existing local standards, regulations, and ordinances pertaining to similar subject matter; [~~and~~]

(ii) [~~except as provided under Subsection (1)(c) and~~] except where specifically allowed by federal law or state statute, may not be more stringent than those established by federal law, state statute, or administrative rules adopted by the [~~Department of Health~~] department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act[~~.~~]; and

[~~(c) (i) The board may make standards and regulations more stringent than corresponding federal law, state statute, or state administrative rules for the purposes described in Subsection (1)(a), only if the board makes a written finding after public comment and hearing and based on evidence in the record, that corresponding federal laws, state statutes, or state administrative rules are not adequate to protect public health and the environment of the state.~~]

[~~(ii) The findings shall address the public health information and studies contained in the record, which form the basis for the board's conclusion.~~]

(iii) notwithstanding Subsection (1)(b)(ii), may be more stringent than those established by federal law, state statute, or administrative rule adopted by the department if the standard or regulation is:

(A) in effect on February 1, 2022; and

(B) not modified or amended after February 1, 2022.

[~~(d)~~] (c) The board shall provide public hearings prior to the adoption of any regulation or standard.

(d) Notice of any public hearing shall be published at least twice throughout the county or counties served by the local health department. The publication may be in one or more newspapers, if the notice is provided in accordance with this Subsection (1)(d).

(e) The hearings may be conducted by the board at a regular or special meeting, or the board may appoint hearing officers who may conduct hearings in the name of the board at a designated time and place.

(f) A record or summary of the proceedings of a hearing shall be taken and filed with the board.

(g) (i) During a declared public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(A) except as provided in Subsection (1)(h), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(B) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(C) a county governing body may at any time terminate, by majority vote of the governing body, an order of constraint issued by a local health department in response to a declared public health emergency.

(ii) (A) For a local health department that serves more than one county, the approval described in Subsection (1)(g)(i)(A) is required for the chief executive officer for which the order of constraint is applicable.

(B) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (1)(g)(i)(C) for the county served by the county governing body.

(h) (i) Notwithstanding Subsection (1)(g)(i)(A), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (1)(g)(i)(A) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (1)(h)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (1)(h)(i) within 72 hours of issuance of the order of constraint.

(i) (i) During a public health emergency declared as described in this title:

(A) a local health department may not impose an order of constraint on a public gathering that applies to a religious gathering differently than the order of constraint applies to any other relevantly similar gathering; and

(B) an individual, while acting or purporting to act within the course and scope of the individual's official local health department capacity, may not prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title, or impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(ii) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (1)(i).

(iii) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(A) is in furtherance of a compelling government interest; and

(B) is the least restrictive means of furthering that compelling government interest.

(iv) Notwithstanding Subsections (1)(i)(i) and (ii), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

(j) If a local health department declares a public health emergency as described in this chapter, and the local health department finds that the public health emergency conditions warrant an extension of the public health emergency beyond the 30-day term or another date designated by the local legislative body, the local health department shall provide written notice to the local legislative body at least 10 days before the expiration of the public health emergency.

(2) (a) A person aggrieved by an action or inaction of the local health department relating to the public health shall have an opportunity for a hearing with the local health officer or a designated representative of the local health department. The board shall grant a subsequent hearing to the person upon the person's written request.

(b) In an adjudicative hearing, a member of the board or the hearing officer may administer oaths, examine witnesses, and issue notice of the hearings or subpoenas in the name of the board requiring the testimony of witnesses and the production of evidence relevant to a matter in the hearing. The local health department shall make a written record of the hearing, including findings of facts and conclusions of law.

(c) Judicial review of a final determination of the local board may be secured by a person adversely affected by the final determination, or by the [~~Departments of Health or~~] department or the Department of Environmental Quality, by filing a petition in the district court within 30 days after receipt of notice of the board's final determination.

(d) The petition shall be served upon the secretary of the board and shall state the grounds upon which review is sought.

(e) The board's answer shall certify and file with the court all documents and papers and a transcript of all testimony taken in the matter together with the board's findings of fact, conclusions of law, and order.

(f) The appellant and the board are parties to the appeal.

(g) The [~~Departments of Health~~] department and the Department of Environmental Quality may become a party by intervention as in a civil action upon showing cause.

(h) A further appeal may be taken to the Court of Appeals under Section 78A-4-103.

(3) Nothing in the provisions of Subsection (1)(b)(ii) or (c), shall limit the ability of a local health department board to make standards and regulations in accordance with Subsection (1)(a) for:

(a) emergency rules made in accordance with Section 63G-3-304; or

(b) items not regulated under federal law, state statute, or state administrative rule.

Section 42. Section 26B-1-102 is amended to read:

TITLE 26B. UTAH HEALTH AND HUMAN SERVICES CODE

CHAPTER 1. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Part 1. General Provisions

26B-1-102. Definitions.

As used in this title:

(1) "Department" means the Department of Health and Human Services created in Section 26B-1-201.

[~~(2) "Department of Health" means the Department of Health created in Section 26-1-4.~~]

[~~(3) "Department of Human Services" means the Department of Human Services created in Section 62A-1-102.~~]

(2) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(3) "Public health authority" means an agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a person acting under a grant of authority from or a contract with such an agency, that is responsible for public health matters as part of the agency or authority's official mandate.

(4) "System of care" means a broad, flexible array of services and supports that:

(a) serve a child with or who is at risk for complex emotional and behavioral needs;

(b) are community based;

(c) are informed about trauma;

(d) build meaningful partnerships with families and children;

(e) integrate service planning, service coordination, and management across state and local entities;

(f) include individualized case planning;

(g) provide management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(h) are guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

Section 43. Section 26B-1-103 is amended to read:

26B-1-103. Purpose of title -- Consolidation of functions into single state agency.

The purpose of this title is to consolidate into a single agency of state government all of the functions previously exercised by[~~:~~] the Department of Health and the Department of Human Services to more efficiently and effectively carry out the responsibilities delegated to the department by state law.

[~~(1) the Department of Health, including all of the powers and duties described in Title 26, Utah Health Code; and~~]

[~~(2) the Department of Human Services, including all of the powers and duties described in Title 62A, Utah Human Services Code.~~]

Section 44. Section 26B-1-104, which is renumbered from Section 26-1-32 is renumbered and amended to read:

[~~26-1-32~~]. 26B-1-104. Severability of code provisions.

If [~~any~~] a provision of this [~~code~~] title or Title 26, Utah Health Code, or the application of any such provision to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [~~code~~] title or Title 26, Utah Health Code, which can be given effect without the invalid provision or application, and to this end the provisions of this [~~code~~] title or Title 26, Utah Health Code, are declared to be severable.

Section 45. Section 26B-1-105, which is renumbered from Section 26-1-33 is renumbered and amended to read:

[~~26-1-33~~]. 26B-1-105. Individual rights protected.

Nothing in this title [~~shall prohibit~~] prohibits an individual from choosing the diet, therapy, or mode of treatment to be administered to an individual or an individual's family.

Section 46. Section 26B-1-201 is amended to read:

Part 2. General Organization and Duties

26B-1-201. Department of Health and Human Services -- Creation -- Duties.

(1) There is created within state government the Department of Health and Human Services, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in this title and previously vested in the Department of Health and the Department of Human Services.

(2) Subject to the limitation and grants of authority in state law, the department shall serve as the health, health planning, medical assistance, and social services authority of the state, and for administration of federally assisted state programs or plans is designated as the sole state agency for:

(a) social service block grants;

(b) alcohol, drug, and mental health programs, including block grants;

(c) child welfare;

(d) state programs supported under the Older Americans Act, 42 U.S.C. Sec. 3001, et seq.;

(e) public health;

(f) health planning;

(g) maternal and child health;

(h) services for individuals with a disability; and

(i) medical assistance.

(3) A state plan or program administered by the department:

(a) shall be developed in the appropriate divisions or offices of the department in accordance with applicable requirements of state and federal law; and

(b) may be amended by the executive director to achieve coordination, efficiency, or economy.

[~~(2)~~] (4) In addition to Subsection (1), [~~during the transition period described in Section 26B-1-201.1,~~] from July 1, 2022, through June 30, 2023, the Department of Health and Human Services [~~may exercise any of~~] shall exercise the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Department of Health and the Department of Human Services under [~~the joint direction of~~]:

[~~(a) the executive director of the Department of Health; and~~]

[~~(b) the executive director of the Department of Human Services.~~]

(a) Title 26, Utah Health Code; and

(b) Title 62A, Utah Human Services Code.

Section 47. Section 26B-1-201.1 is amended to read:

26B-1-201.1. Transition to single state agency -- Transition plan.

(1) As used in this section:

(a) "Transition agencies" means the:

(i) Department of Health; and

(ii) Department of Human Services.

(b) "Transition period" means the period of time:

(i) during which the transition of the department to the Department of Health and Human Services takes place; and

(ii) beginning on [~~the effective date of the bill,~~] March 23, 2021, and ending on July 1, 2022.

[~~(2) On or before December 1, 2021, the transition agencies shall develop a written transition plan for merging the functions of the transition agencies into the Department of Health and Human Services on July 1, 2022, in order to:~~]

[~~(a) more efficiently and effectively manage health and human services programs that are the responsibility of the state;~~]

[~~(b) establish a health and human services policy for the state; and~~]

[~~(c) promote health and the quality of life in the health and human services field.~~]

[~~(3) The written transition plan described in Subsection (2) shall describe:~~]

[~~(a) the tasks that need to be completed before the move on July 1, 2022, including a description of:~~]

[~~(i) how the transition agencies solicited comment from stakeholders, including:~~]

[~~(A) employees of the transition agencies;~~]

[~~(B) clients and partners of the transition agencies;~~]

[~~(C) members of the public;~~]

[~~(D) the Legislature; and~~]

[~~(E) the executive office of the governor;~~]

[~~(ii) the proposed organizational structure of the department, including the transition of responsibilities of employees, by job title and classification, under the newly proposed organizational structure and a plan for these transitions;~~]

[~~(iii) office space and infrastructure requirements related to the transition;~~]

[~~(iv) any work site location changes for transitioning employees;~~]

[~~(v) the transition of service delivery sites;~~]

[~~(vi) amendments needed to existing contracts, including grants;~~]

[~~(vii) legislative changes needed to implement the transition described in this section;~~]

[~~(viii) how the transition agencies will coordinate agency rules;~~]

[~~(ix) procedures for the transfer and reconciliation of budgeting and funding of the department as the transition agencies transition into the department; and~~]

[~~(x) the transition of technology services to the department;~~]

[~~(b) the tasks that may need to be completed after the transition on July 1, 2022; and~~]

[~~(c) how the transition to the department will be funded, including details of:~~]

[~~(i) how expenses associated with the transition will be managed;~~]

[~~(ii) how funding for services provided by the transition agencies will be managed to ensure services will be provided by the transition agencies and the department without interruption; and~~]

[~~(iii) how federal funds will be used by or transferred between the transition agencies and the department to ensure services will be provided by the transition agencies and the department without interruption.~~]

[~~(4) The written transition plan described in Subsection (2) shall:~~]

[~~(a) include a detailed timeline for the completion of the tasks described in Subsection (3)(a);~~]

[~~(b) be updated at least one time in every two week period until the transition is complete;~~]

[~~(c) describe how information will be provided to clients of the transition agencies and the department regarding any changes to where services will be provided and the hours services will be provided;~~]

[~~(d) be provided to the:~~]

[~~(i) Health and Human Services Interim Committee;~~]

[~~(ii) Social Services Appropriations Subcommittee;~~]

[~~(iii) the executive office of the governor;~~]

[~~(iv) Division of Finance; and~~]

[~~(v) Division of Technology Services; and~~]

[~~(c) be made available to employees that are transitioning or may potentially be transitioned.~~]

[~~(5)~~] (2) The transition agencies shall publish information that provides a full overview of [~~the written transition plan and~~] how the move may affect client services offered by the transition agencies on the transition agencies' respective websites, including regular updates regarding:

(a) how the move may affect client services offered by the transition agencies;

(b) information regarding the location where services are provided and the hours services are provided; and

(c) contact information so that clients of the transition agencies can contact transitioning employees and obtain information regarding client services.

[~~(6)~~] (3) The transition agencies may, separately or collectively, enter into a memorandum of understanding regarding how costs and responsibilities will be shared to:

(a) ensure that services provided under agreements with the federal government, including new and ongoing grant programs, are fulfilled;

(b) ensure that commitments made by the transition agencies are met;

(c) provide ongoing or shared services as needed, including the provision of payments to the department from the transition agencies; and

(d) ensure that money from the Department of Health and Human Services Transition Restricted Account created in[~~ Subsection (8)~~] Section 26B-1-305 is used appropriately by the transition agencies and the department.

[~~(7)~~] (4) In implementing the written transition plan described in this section, the transition agencies and the department shall protect existing services, programs, and access to services provided by the transition agencies.

[~~(8) (a) There is created a restricted account within the General Fund known as the "Department of Health and Human Services Transition Restricted Account."~~]

[~~(b) The restricted account shall consist of appropriations made by the Legislature.~~]

[~~(c) Subject to appropriation, the transition agencies and the department may spend money from the restricted account to pay for expenses related to moving the transition agencies into the department, including staff and legal services.~~]

(5) (a) The department shall provide a written update to the entities described in Subsection (5)(b):

(i) at least one time after September 1, 2022, but before November 1, 2022;

(ii) if the executive director adjusts the organizational structure of the department under Subsection 26B-1-204(5) in a manner that conflicts with the organizational structure described in statute; or

(iii) at the request of one or more of the entities described in Subsection (5)(b).

(b) The update described in Subsection (5)(a) shall be provided to:

(i) the Health and Human Services Interim Committee;

(ii) the Social Services Appropriations Subcommittee; and

(iii) the executive office of the governor.

(6) Before November 30 of each year from 2022 through 2025, the department shall report to the Social Services Appropriations Subcommittee:

(a) efficiencies and savings identified by the department as a result of the merger of the transition agencies; and

(b) programs to which the department recommends reinvesting savings identified under Subsection (6)(a).

Section 48. Section 26B-1-202, which is renumbered from Section 62A-1-111 is renumbered and amended to read:

[~~62A-1-111~~]. 26B-1-202. Department authority and duties.

The department may, subject to applicable restrictions in state law and in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law, as the department may consider necessary or desirable for providing health and social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for [~~its~~] the department's programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

[~~(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;~~]

[~~(14)~~] (13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

[~~(15)~~] (14) provide training and educational opportunities for the department's staff;

[~~(16)~~] (15) collect child support payments and any other money due to the department;

[~~(17)~~] (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

[~~(18)~~] (17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403[~~; any policy and procedures shall include~~], including:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

[~~(19)~~] (18) carry out the responsibilities assigned to the department by statute;

[~~(20)~~] (19) examine and audit the expenditures of any public funds provided to a local substance abuse [~~authorities,~~] authority, a local mental health [~~authorities,~~] authority, a local area [~~agencies~~] agency on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to a local [~~authorities, area agencies~~] authority, an area agency, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, [~~it~~] the department may take steps necessary to ensure continuity of services. For purposes of this Subsection [~~(20)~~] (19) "public funds" means the same as that term is defined in Section 62A-15-102;

[~~(21)~~] (20) [~~pursuant to~~] in accordance with Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

[~~(22)~~] (21) within legislative appropriations [~~authorized by the Legislature~~], promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

[~~(23)~~] (22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department; [~~and~~]

[~~(24) reallocate unexpended funds as provided in Section 62A-1-111.6.~~]

(23) enter into cooperative agreements with the Department of Environmental Quality to delineate specific responsibilities to assure that assessment and management of risk to human health from the environment are properly administered;

(24) consult with the Department of Environmental Quality and enter into cooperative agreements, as needed, to ensure efficient use of resources and effective response to potential health and safety threats from the environment, and to prevent gaps in protection from potential risks from the environment to specific individuals or population groups;

(25) to the extent authorized under state law or required by federal law, promote and protect the health and wellness of the people within the state;

(26) establish, maintain, and enforce rules authorized under state law or required by federal law to promote and protect the public health or to prevent disease and illness;

(27) investigate the causes of epidemic, infectious, communicable, and other diseases affecting the public health;

(28) provide for the detection and reporting of communicable, infectious, acute, chronic, or any other disease or health hazard which the department considers to be dangerous, important, or likely to affect the public health;

(29) collect and report information on causes of injury, sickness, death, and disability and the risk factors that contribute to the causes of injury, sickness, death, and disability within the state;

(30) collect, prepare, publish, and disseminate information to inform the public concerning the health and wellness of the population, specific hazards, and risks that may affect the health and wellness of the population and specific activities which may promote and protect the health and wellness of the population;

(31) abate nuisances when necessary to eliminate sources of filth and infectious and communicable diseases affecting the public health;

(32) make necessary sanitary and health investigations and inspections in cooperation with local health departments as to any matters affecting the public health;

(33) establish laboratory services necessary to support public health programs and medical services in the state;

(34) establish and enforce standards for laboratory services which are provided by any laboratory in the state when the purpose of the services is to protect the public health;

(35) cooperate with the Labor Commission to conduct studies of occupational health hazards and occupational diseases arising in and out of employment in industry, and make recommendations for elimination or reduction of the hazards;

(36) cooperate with the local health departments, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations and Assistance Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(37) investigate the causes of maternal and infant mortality;

(38) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians and drivers of motor vehicles killed in highway accidents be examined for the presence and concentration of alcohol, and provide the Commissioner of Public Safety with monthly statistics reflecting the results of these examinations, with necessary safeguards so that information derived from the examinations is not used for a purpose other than the compilation of these statistics;

(39) establish qualifications for individuals permitted to draw blood under Subsection 41-6a-523(1)(a)(vi), 53-10-405(2)(a)(vi), 72-10-502(5)(a)(vi), or 77-23-213(3)(a)(vi), and to issue permits to individuals the department finds qualified, which permits may be terminated or revoked by the department;

(40) establish a uniform public health program throughout the state which includes continuous service, employment of qualified employees, and a basic program of disease control, vital and health statistics, sanitation, public health nursing, and other preventive health programs necessary or desirable for the protection of public health;

(41) conduct health planning for the state;

(42) monitor the costs of health care in the state and foster price competition in the health care delivery system;

(43) establish methods or measures for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals the providers serve;

(44) designate Alzheimer's disease and related dementia as a public health issue and, within budgetary limitations, implement a state plan for Alzheimer's disease and related dementia by incorporating the plan into the department's strategic planning and budgetary process;

(45) coordinate with other state agencies and other organizations to implement the state plan for Alzheimer's disease and related dementia;

(46) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required by the agency or under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code; and

(47) oversee public education vision screening as described in Section 53G-9-404.

Section 49. Section 26B-1-203, which is renumbered from Section 62A-1-108 is renumbered and amended to read:

[~~62A-1-108~~]. 26B-1-203. Executive director -- Appointment -- Compensation -- Qualifications -- Deputy directors required -- Responsibilities.

(1) (a) The chief administrative officer of the department is the executive director, who shall be appointed by the governor with the advice and consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall be experienced in administration, management, and coordination of complex organizations.

(3) If the executive director is not a physician, the executive director or a deputy director shall:

(a) be informed and experienced in public health;

(b) have successfully completed at least a master's degree of public health or public administration from an accredited school of public health or from an accredited program of public health or public administration; and

(c) (i) have at least five years of professional full-time experience, of which at least two years have been in public health in a senior level administrative capacity; or

(ii) have at least five years of professional full-time experience in public health programs, of which at least three years have been in a senior level administrative capacity.

(4) The executive director shall appoint a deputy director of the department who:

(a) shall have successfully completed at least one year's graduate work in an accredited school of public health or an accredited program of public health;

(b) shall have at least five years of professional full-time experience in public health programs; and

(c) is a physician licensed to practice medicine in the state with experience in public health.

[~~(2)~~] (5) The executive director is responsible for:

(a) administration and supervision of the department;

(b) coordination of policies and program activities conducted through the boards, divisions, and offices of the department;

(c) approval of the proposed budget of each board, division, and office within the department; and

(d) [~~such~~] other duties as the Legislature or governor shall assign to [~~him~~] the executive director.

[~~(3)~~] (6) The executive director may appoint deputy or assistant directors to assist [~~him~~] the executive director in carrying out the department's responsibilities.

Section 50. Section 26B-1-204, which is renumbered from Section 62A-1-105 is renumbered and amended to read:

[~~62A-1-105~~]. 26B-1-204. Creation of boards, divisions, and offices -- Power to organize department.

(1) The executive director shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and not inconsistent with law for:

(a) the administration and government of the department;

(b) the conduct of the department's employees; and

(c) the custody, use, and preservation of the records, papers, books, documents, and property of the department.

[~~(1)~~] (2) The following policymaking boards, councils, and committees are created within the Department of Health and Human Services:

(a) [~~the~~] Board of Aging and Adult Services; [~~and~~]

(b) [~~the~~] Utah State Developmental Center Board[~~.~~];

(c) Health Advisory Council;

(d) Health Facility Committee;

(e) State Emergency Medical Services Committee;

(f) Air Ambulance Committee;

(g) Health Data Committee;

(h) Utah Health Care Workforce Financial Assistance Program Advisory Committee;

(i) Residential Child Care Licensing Advisory Committee;

(j) Child Care Center Licensing Committee;

(k) Primary Care Grant Committee;

(l) Adult Autism Treatment Program Advisory Committee;

(m) Youth Electronic Cigarette, Marijuana, and Other Drug Prevention Committee; and

(n) any boards, councils, or committees that are created by statute in:

(i) this title;

(ii) Title 26, Utah Health Code; or

(iii) Title 62A, Utah Human Services Code.

[~~(2)~~] (3) The following divisions are created within the Department of Health and Human Services:

(a) relating to operations:

(i) the Division of Finance and Administration;

(ii) the Division of Licensing and Background Checks;

(iii) the Division of Customer Experience;

(iv) the Division of Data, Systems, and Evaluation; and

(v) the Division of Continuous Quality Improvement;

(b) relating to healthcare administration:

(i) the Division of Integrated Healthcare, which shall include responsibility for:

(A) the state's medical assistance programs; and

(B) behavioral health programs described in Title 62A, Chapter 15, Substance Abuse and Mental Health Act;

(ii) the Division of Aging and Adult Services; and

(iii) the Division of Services for People with Disabilities; and

(c) relating to community health and well-being:

(i) the Division of Child and Family Services;

(ii) the Division of Family Health;

(iii) the Division of Population Health;

(iv) the Division of Juvenile Justice and Youth Services; and

(v) the Office of Recovery Services.

(4) The executive director may establish offices and bureaus to facilitate management of the department as required by, and in accordance with:

(a) this title;

(b) Title 26, Utah Health Code; and

(c) Title 62A, Utah Human Services Code.

(5) From July 1, 2022, through June 30, 2023, the executive director may adjust the organizational structure relating to the department, including the organization of the department's divisions and offices, notwithstanding the organizational structure described in:

(a) this title;

(b) Title 26, Utah Health Code; or

(c) Title 62A, Utah Human Services Code.

[~~(a) the Division of Aging and Adult Services;~~]

[~~(b) the Division of Child and Family Services;~~]

[~~(c) the Division of Services for People with Disabilities;~~]

[~~(d) the Division of Substance Abuse and Mental Health; and~~]

[~~(e) the Division of Juvenile Justice Services.~~]

[~~(3) The following offices are created within the Department of Human Services:~~]

[~~(a) the Office of Licensing;~~]

[~~(b) the Office of Public Guardian;~~]

[~~(c) the Office of Recovery Services; and~~]

[~~(d) the Office of Quality and Design.~~]

Section 51. Section 26B-1-205, which is renumbered from Section 62A-1-109 is renumbered and amended to read:

[~~62A-1-109~~]. 26B-1-205. Division directors -- Appointment -- Compensation -- Qualifications.

(1) (a) The executive director of the department has administrative jurisdiction over each division and office director.

(b) The executive director may make changes in personnel and service functions in the divisions and offices under the executive director's administrative jurisdiction, and authorize designees to perform appropriate responsibilities, to effectuate greater efficiency and economy in the operations of the department.

(c) The executive director may establish offices and bureaus to perform functions such as budgeting, planning, data processing, and personnel administration, to facilitate management of the department.

[~~(1)~~] (2) The chief officer of each division and office enumerated in Section [~~62A-1-105~~] 26B-1-204 shall be a director who shall serve as the executive and administrative head of the division or office.

[~~(2)~~] (3) [~~Each division director shall be appointed by the~~] The executive director shall appoint each division director with the concurrence of the division's board, if the division has a board.

[~~(3)~~] (4) The director of any division may be removed from that position at the will of the executive director after consultation with that division's board, if the division has a board.

[~~(4) Each office director shall be appointed by the executive director.~~]

(5) Directors of divisions and offices shall receive compensation as provided by Title 63A, Chapter 17, Utah State Personnel Management Act.

(6) The director of each division and office shall be experienced in administration and possess such additional qualifications as determined by the executive director, and as provided by law.

Section 52. Section 26B-1-206, which is renumbered from Section 62A-1-107.5 is renumbered and amended to read:

[~~62A-1-107.5~~]. 26B-1-206. Limitation on establishment of advisory bodies.

[~~(1) Department divisions and boards:~~]

(1) A department division or board:

(a) may not establish permanent, ongoing advisory groups unless otherwise specifically created in federal or state statute; and

(b) shall comply with the provisions of this section [~~with regard to any advisory groups created prior to or after July 1, 2003~~].

(2) (a) [~~Divisions and boards~~] A division or board may establish subject-limited and time-limited ad hoc advisory groups to provide input necessary to carry out [~~their~~] the division's or board's assigned responsibilities.

(b) When establishing such an advisory group, the board [~~must~~] shall establish in writing a specific charge and time limit.

(3) The department shall consolidate an advisory group or committee with another committee or advisory group as appropriate to create greater efficiencies and budgetary savings for the department.

[~~(3)~~] (4) [~~Members~~] A member of any ad hoc advisory group shall receive no compensation or benefits for their service.

[~~(4)~~] (5) The provision of staffing and support to any ad hoc advisory group [~~will be~~] is contingent on availability of human and financial resources.

Section 53. Section 26B-1-207, which is renumbered from Section 26-1-4 is renumbered and amended to read:

[~~26-1-4~~]. 26B-1-207. Policymaking responsibilities -- Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants.

[~~(1) There is created the Department of Health, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Health, the Board of Health, the State Health Planning Development Agency, and the Office of Health Care Financing. Unless otherwise specifically provided, when reference is made in any statute of this state to the Board of Health, the Division of Health, the State Health Planning Development Agency, or the Office of Health Care Financing, it refers to the department. The department shall assume all of the policymaking functions, powers, rights, duties, and responsibilities over the division, agency, and office previously vested in the Department of Human Services and its executive director.~~]

[~~(2)~~] (1) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may prescribe by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, reasonable requirements not inconsistent with law for a local health department as defined in Section 26A-1-102.

(b) Except where specifically allowed by federal law or state statute, a local health department, as defined in Section 26A-1-102, may not establish standards or regulations that are more stringent than those established by federal law, state statute, or administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) Nothing in this Subsection (2), limits the ability of a local health department to make standards and regulations in accordance with Subsection 26A-1-121(1)(a) for:

(i) emergency rules made in accordance with Section 63G-3-304; or

(ii) items not regulated under federal law, state statute, or state administrative rule.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate:

(A) the allocation of public health resources between the department and local health departments; and

(B) policies that affect local health departments;

(ii) consider policy changes proposed by the department or local health departments;

(iii) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(iv) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant [~~pursuant to~~] under a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

Section 54. Section 26B-1-208, which is renumbered from Section 62A-1-112 is renumbered and amended to read:

[~~62A-1-112~~]. 26B-1-208. Participation in federal programs -- Federal grants -- Authority of executive director.

(1) The executive director may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs.

(2) Wherever state law authorizes a board, director, division, or office of the department to accept any grant, fund, or service which is to be advanced or contributed in whole or in part by the federal government, that acceptance shall be subject to the approval or disapproval of the executive director.

(3) All applications for federal grants or other federal financial assistance for the support of any department program is subject to the approval of the executive director.

[~~(3)~~] (4) If any executive or legislative provision of the federal government so requires, as a condition to participation by this state in any fund, property, or service, the executive director, with the governor's approval, shall expend whatever funds are necessary out of the money provided by the Legislature for use and disbursement by that department.

Section 55. Section 26B-1-209, which is renumbered from Section 26-1-6 is renumbered and amended to read:

[~~26-1-6~~]. 26B-1-209. Fee schedule adopted by department.

(1) The department may adopt a schedule of fees that may be assessed for services rendered by the department, provided that the fees are:

(a) reasonable and fair; and

(b) submitted to the Legislature as part of the department's annual appropriations request.

(2) When the department submits a fee schedule to the Legislature, the Legislature, in accordance with Section 63J-1-504, may:

(a) approve the fee;

(b) increase or decrease and approve the fee; or

(c) reject any fee submitted to it.

(3) Fees approved by the Legislature [~~pursuant to~~] under this section shall be paid into the state treasury.

Section 56. Section 26B-1-210, which is renumbered from Section 62A-1-113 is renumbered and amended to read:

[~~62A-1-113~~]. 26B-1-210. Department budget -- Reports from divisions.

(1) The department shall prepare and submit to the governor, for inclusion in [~~his~~] the governor's budget to be submitted to the Legislature, a budget of the department's financial requirements needed to carry out [~~its~~] the department's responsibilities, as provided by law during the fiscal year following the Legislature's next Annual General Session.

(2) The executive director shall require a report from each of the divisions and offices of the department, to aid in preparation of the departmental budget.

Section 57. Section 26B-1-211, which is renumbered from Section 26-1-17.1 is renumbered and amended to read:

[~~26-1-17.1~~]. 26B-1-211. Background checks for employees -- Access to abuse and neglect information to screen employees and volunteers.

(1) As used in this section, "bureau" means the Bureau of Criminal Identification created in Section 53-10-201.

(2) Beginning July 1, 2018, the department may require a fingerprint-based local, regional, and national criminal history background check and ongoing monitoring of:

(a) all staff, contracted employees, and volunteers who:

(i) have access to protected health information or personal identifying information;

(ii) have direct [~~contact with~~] access to patients, children, or vulnerable adults as defined in Section [~~62A-2-120~~] 62A-2-101;

(iii) work in areas of privacy and data security;

(iv) handle financial information, including receipt of funds, reviewing invoices, making payments, and other types of financial information; and

(v) perform audit functions, whether internal or external, on behalf of the department; and

(b) job applicants who have been offered a position with the department and the job requirements include those described in Subsection (2)(a).

(3) Beginning July 1, 2022, for the purposes described in Subsection (2), the department may also access:

(a) the department's Management Information System created in Section 62A-4a-1003;

(b) the department's Licensing Information System created in Section 62A-4a-1006;

(c) the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; and

(d) juvenile court records under Subsection 80-3-404(6).

[~~(3)~~] (4) Each individual in a position listed in Subsection (2) shall provide a completed fingerprint card to the department upon request.

[~~(4)~~] (5) The department shall require that an individual required to submit to a background check under Subsection [~~(3)~~] (4) provide a signed waiver on a form provided by the department that meets the requirements of Subsection 53-10-108(4).

[~~(5)~~] (6) For a noncriminal justice background search and registration in accordance with Subsection 53-10-108(13), the department shall submit to the bureau:

(a) the applicant's personal identifying information and fingerprints for a criminal history search of applicable local, regional, and national databases; and

(b) a request for all information received as a result of the local, regional, and nationwide background check.

[~~(6)~~] (7) The department is responsible for the payment of all fees required by Subsection 53-10-108(15) and any fees required to be submitted to the Federal Bureau of Investigation by the bureau.

[~~(7)~~] (8) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) determine how the department will assess the employment status of an individual upon receipt of background information;

(b) determine [~~the type of crimes and the severity that would disqualify~~] when an individual would be disqualified from holding a position[~~; and~~] based on:

(i) the type of crimes and the severity of those crimes; or

(ii) one or more substantiated or supported findings of abuse, neglect, or exploitation; and

(c) identify the appropriate privacy risk mitigation strategy to be used in accordance with Subsection 53-10-108(13)(b).

Section 58. Section 26B-1-212, which is renumbered from Section 26-1-17.5 is renumbered and amended to read:

[~~26-1-17.5~~]. 26B-1-212. Confidential records.

(1) A record classified as confidential under this title shall remain confidential, and be released according to the provisions of this title, notwithstanding Section 63G-2-310.

(2) In addition to [~~those persons~~] a person granted access to a private record described in Subsection 63G-2-302(1)(b), [~~schools, school districts, and local and state health departments and the state Department of Human Services~~] a school, school district, local health department, and the department may share an immunization record as defined in Section 53G-9-301 or any other record relating to a vaccination or immunization as necessary to ensure compliance with Title 53G, Chapter 8, Part 3, Physical Restraint of Students, and to prevent, investigate, and control the causes of epidemic, infectious, communicable, and other diseases affecting the public health.

Section 59. Section 26B-1-213, which is renumbered from Section 26-1-5 is renumbered and amended to read:

[~~26-1-5~~]. 26B-1-213. Department and committee rules and proceedings.

(1) (a) Except in areas subject to concurrence between the department and a committee created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, the department shall have the power to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(b) If the adoption of rules under a provision of this title is subject to concurrence between the department and a committee created under this title and no concurrence can be reached, the department has final authority to adopt, amend, or rescind rules necessary to carry out the provisions of this title.

(c) When the provisions of this title require concurrence between the department and a committee created under this title:

(i) the department shall report to and update the committee on a regular basis related to matters requiring concurrence; and

(ii) the committee shall review the report submitted by the department under this Subsection (1)(c) and shall:

(A) concur with the report; or

(B) provide a reason for not concurring with the report and provide an alternative recommendation to the department.

(2) Rules shall have the force and effect of law and may deal with matters which materially affect the security of health or the preservation and improvement of public health in the state, and any matters as to which jurisdiction is conferred upon the department by this title.

(3) Every rule adopted by the department, or by the concurrence of the department and a committee established under Section [~~26-1-7 or 26-1-7.5, shall be~~] 26B-1-204, is subject to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and [~~shall become~~] is effective at the time and in the manner provided in that act.

(4) If, at the next general session of the Legislature following the filing of a rule with the legislative research director, the Legislature passes a bill disapproving such rule, the rule shall be null and void.

(5) The department, or the department in concurrence with a committee created under Section [~~26-1-7 or 26-1-7.5~~] 26B-1-204, may not adopt a rule identical to a rule disapproved under Subsection (4) of this section before the beginning of the next general session of the Legislature following the general session at which the rule was disapproved.

(6) The department and all committees, boards, divisions, and offices created under this title, Title 26, Utah Health Code, or Title 62A, Utah Human Services Code, shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in any adjudicative proceedings.

(7) (a) The department may hold hearings, administer oaths, subpoena witnesses, and take testimony in matters relating to the exercise and performance of the powers and duties vested in or imposed upon the department.

(b) The department may, at the department's sole discretion, contract with any other agency or department of the state to conduct hearings in the name of the department.

Section 60. Section 26B-1-301, which is renumbered from Section 26-1-16 is renumbered and amended to read:

Part 3. Funds and Accounts

[~~26-1-16~~]. 26B-1-301. Executive director -- Power to accept funds and gifts.

The executive director may accept and receive such other funds and gifts as may be made available from private and public groups for the purposes of promoting and protecting the public health or for the provision of health services to the people of the state and shall expend the same as appropriated by the [~~legislature~~] Legislature.

Section 61. Section 26B-1-302, which is renumbered from Section 62A-1-202 is renumbered and amended to read:

[~~62A-1-202~~]. 26B-1-302. National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account.

(1) There is created in the General Fund a restricted account known as the "National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the account in accordance with Section 41-1a-422;

(b) private contributions; and

(c) donations or grants from public or private entities.

(3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) are selected by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's basketball in the United States;

(c) are headquartered within the state;

(d) create or support programs that focus on issues affecting women and children within the state, with an emphasis on health and education; and

(e) have a board of directors that disperses all funds of the organization.

(4) (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).

(b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:

(i) create or support programs that focus on issues affecting women and children, with an emphasis on health and education;

(ii) create or sponsor programs that will benefit residents within the state; and

(iii) pay the costs of issuing or reordering National Professional Men's Basketball Team Support of Women and Children Issues support special group license plate decals.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Section 62. Section 26B-1-303, which is renumbered from Section 62A-1-119 is renumbered and amended to read:

[~~62A-1-119~~]. 26B-1-303. Respite Care Assistance Fund -- Use of money -- Restrictions.

(1) There is created an expendable special revenue fund known as the Respite Care Assistance Fund.

(2) The fund shall consist of:

(a) gifts, grants, devises, donations, and bequests of real property, personal property, or services, from any source, made to the fund; and

(b) any additional amounts as appropriated by the Legislature.

(3) The fund shall be administered by the director of the Utah Developmental Disabilities Council.

(4) The fund money shall be used for the following activities:

(a) to support a respite care information and referral system;

(b) to educate and train caregivers and respite care providers; and

(c) to provide grants to caregivers.

(5) An individual who receives services paid for from the fund shall:

(a) be a resident of Utah; and

(b) be a primary care giver for:

(i) an aging individual; or

(ii) an individual with a cognitive, mental, or physical disability.

(6) The fund money may not be used for:

(a) administrative expenses that are normally provided for by legislative appropriation; or

(b) direct services or support mechanisms that are available from or provided by another government or private agency.

(7) All interest and other earnings derived from the fund money shall be deposited into the fund.

(8) The state treasurer shall invest the money in the fund under Title 51, Chapter 7, State Money Management Act.

Section 63. Section 26B-1-304, which is renumbered from Section 26-1-34 is renumbered and amended to read:

[~~26-1-34~~]. 26B-1-304. Restricted account created to fund drug testing for law enforcement agencies.

(1) There is created within the General Fund a restricted account known as the State Laboratory Drug Testing Account.

(2) The account consists of a specified portion of fees generated under Subsection 53-3-106(5) from the reinstatement of certain licenses, which shall be deposited in this account.

(3) The [~~Department of Health~~] department shall use funds in this account solely for the costs of performing drug and alcohol analysis tests for state and local law enforcement agencies, and may not assess any charge or fee to the law enforcement agencies for whom the analysis tests are performed.

Section 64. Section 26B-1-305 is enacted to read:

26B-1-305. Department of Health and Human Services Transition Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Department of Health and Human Services Transition Restricted Account."

(2) The restricted account shall consist of appropriations made by the Legislature.

(3) Subject to appropriation, the transition agencies and the department may spend money from the restricted account to pay for expenses related to moving the transition agencies into the department, including staff and legal services.

Section 65. Section 26B-2-101 is enacted to read:

26B-2-101. Clinical services -- Reserved.

Reserved

Section 66. Section 26B-3-101 is enacted to read:

26B-3-101. Licensing and oversight -- Reserved.

Reserved

Section 67. Section 26B-4-101 is enacted to read:

26B-4-101. Health care administration -- Reserved.

Reserved

Section 68. Section 26B-5-101 is enacted to read:

26B-5-101. Health care services -- Reserved.

Reserved

Section 69. Section 26B-6-101 is enacted to read:

26B-6-101. Long-term services and supports -- Reserved.

Reserved

Section 70. Section 26B-7-101 is enacted to read:

26B-7-101. Public health, prevention, and epidemiology -- Reserved.

Reserved

Section 71. Section 26B-8-101 is enacted to read:

26B-8-101. Children, youth, and families -- Reserved.

Reserved

Section 72. Section 26B-9-101 is enacted to read:

26B-9-101. Miscellaneous provisions -- Reserved.

Reserved

Section 73. Section 32B-2-308 is amended to read:

32B-2-308. Drinking while pregnant prevention media and education campaign restricted account.

[~~(1) As used in this section:~~]

[~~(a) "Department of Health" means the Department of Health created in Section 26-1-4.~~]

[~~(b) "Restricted account" means the Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in this section.~~]

[~~(2) (a)~~] There is created a restricted account within the General Fund known as the "Drinking While Pregnant Prevention Media and Education Campaign Restricted Account[~~.~~]," which shall consist of:

[~~(b) The restricted account consists of:~~]

[~~(i)~~] (1) money the Legislature appropriates to the restricted account; and

[~~(ii)~~] (2) interest earned on the restricted account.

Section 74. Section 32B-2-402 is amended to read:

32B-2-402. Definitions -- Calculations.

(1) As used in this part:

(a) "Account" means the Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account created in Section 32B-2-403.

(b) "Advisory council" means the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301.

(c) "Alcohol-related offense" means:

(i) a violation of:

(A) Section 41-6a-502; or

(B) an ordinance that complies with the requirements of:

(I) Subsection 41-6a-510(1); or

(II) Section 76-5-207; or

(ii) an offense involving the illegal:

(A) sale of an alcoholic product;

(B) consumption of an alcoholic product;

(C) distribution of an alcoholic product;

(D) transportation of an alcoholic product; or

(E) possession of an alcoholic product.

(d) "Annual conviction time period" means the time period that:

(i) begins on July 1 and ends on June 30; and

(ii) immediately precedes the fiscal year for which an appropriation under this part is made.

(e) "Municipality" means:

(i) a city;

(ii) a town; or

(iii) a metro township.

(f) (i) "Prevention" is as defined by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare within the Department of Health and Human Services.

(ii) In defining the term "prevention," the Division of Substance Abuse and Mental Health shall:

(A) include only evidence-based or evidence-informed programs; and

(B) provide for coordination with local substance abuse authorities designated to provide substance abuse services in accordance with Section 17-43-201.

(2) For purposes of Subsection 32B-2-404(1)(b)(iii), the number of premises located within the limits of a municipality or county:

(a) is the number determined by the department to be so located;

(b) includes the aggregate number of premises of the following:

(i) a state store;

(ii) a package agency; and

(iii) a retail licensee; and

(c) for a county, consists only of the number located within an unincorporated area of the county.

(3) The department shall determine:

(a) a population figure according to the most current population estimate prepared by the Utah Population Committee;

(b) a county's population for the 25% distribution to municipalities and counties under Subsection

32B-2-404(1)(b)(i) only with reference to the population in the unincorporated areas of the county; and

(c) a county's population for the 25% distribution to counties under Subsection 32B-2-404(1)(b)(iv) only with reference to the total population in the county, including that of a municipality.

(4) (a) A conviction occurs in the municipality or county that actually prosecutes the offense to judgment.

(b) If a conviction is based upon a guilty plea, the conviction is considered to occur in the municipality or county that, except for the guilty plea, would have prosecuted the offense.

Section 75. Section 35A-3-103 (Effective 07/01/22) is amended to read:

35A-3-103 (Effective 07/01/22). Department responsibilities.

The department shall:

(1) administer public assistance programs assigned by the Legislature and the governor;

(2) determine eligibility for public assistance programs in accordance with the requirements of this chapter;

(3) cooperate with the federal government in the administration of public assistance programs;

(4) administer state employment services;

(5) provide for the compilation of necessary or desirable information, statistics, and reports;

(6) perform other duties and functions required by law;

(7) monitor the application of eligibility policy;

(8) develop personnel training programs for effective and efficient operation of the programs administered by the department;

(9) provide refugee resettlement services in accordance with Section 35A-3-701;

(10) provide child care assistance for children in accordance with Part 2, Office of Child Care;

(11) provide services that enable an applicant or recipient to qualify for affordable housing in cooperation with:

(a) the Utah Housing Corporation;

(b) the Housing and Community Development Division; and

(c) local housing authorities;

[~~(12) in accordance with 42 C.F.R. Sec. 431.10, develop non-clinical eligibility policy and procedures to implement the eligibility state plan, waivers, and administrative rules developed and issued by the Department of Health and Human Services for medical assistance under:~~]

[~~(a) Title 26, Chapter 18, Medical Assistance Act; and~~]

[~~(b) Title 26, Chapter 40, Utah Children's Health Insurance Act;~~]

[~~(13)~~] (12) administer the Medicaid Eligibility Quality Control function in accordance with 42 C.F.R. Sec. 431.812; and

[~~(14)~~] (13) conduct non-clinical eligibility hearings and issue final decisions in adjudicative proceedings, including expedited appeals as defined in 42 C.F.R. Sec. 431.224, for medical assistance eligibility under:

(a) Title 26, Chapter 18, Medical Assistance Act; or

(b) Title 26, Chapter 40, Utah Children's Health Insurance Act.

Section 76. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section [~~62A-1-202~~] 26B-1-302;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 77. Section 53-3-106 is amended to read:

53-3-106. Disposition of revenues under this chapter -- Restricted account created -- Uses as provided by appropriation -- Nonlapsing.

(1) There is created within the Transportation Fund a restricted account known as the "Department of Public Safety Restricted Account."

(2) The account consists of money generated from the following revenue sources:

(a) all money received under this chapter;

(b) administrative fees received according to the fee schedule authorized under this chapter and Section 63J-1-504;

(c) beginning on January 1, 2013, money received in accordance with Section 41-1a-1201; and

(d) any appropriations made to the account by the Legislature.

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(4) The expenses of the department in carrying out this chapter shall be provided for by legislative appropriation from this account.

(5) The amount in excess of $45 of the fees collected under Subsection 53-3-105(25) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117, except that of the amount in excess of $45, $100 shall be deposited in the State Laboratory Drug Testing Account created in Section [~~26-1-34~~] 26B-1-304.

(6) All money received under Subsection 41-6a-1406(6)(b)(ii) shall be appropriated by the Legislature from this account to the department to implement the provisions of Section 53-1-117.

(7) Beginning in fiscal year 2009-10, the Legislature shall appropriate $100,000 annually from the account to the state medical examiner

appointed under Section 26-4-4 for use in carrying out duties related to highway crash deaths under Subsection 26-4-7(1).

(8) The division shall remit the fees collected under Subsection 53-3-105(31) to the Bureau of Criminal Identification to cover the costs for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(9) (a) Beginning on January 1, 2013, the Legislature shall appropriate all money received in the account under Section 41-1a-1201 to the Utah Highway Patrol Division for field operations.

(b) The Legislature may appropriate additional money from the account to the Utah Highway Patrol Division for law enforcement purposes.

(10) Appropriations to the department from the account are nonlapsing.

(11) The department shall report to the Department of Health and Human Services, on or before December 31, the amount the department expects to collect under Subsection 53-3-105(25) in the next fiscal year.

Section 78. Section 53-5-707.6 is amended to read:

53-5-707.6. Concealed firearm permit renewal -- Firearm safety and suicide prevention video.

(1) The bureau, in conjunction with the Division of [~~Substance Abuse and Mental Health created in Section 62A-15-103~~] Integrated Healthcare created in Section 26B-1-204, shall create a firearm safety and suicide prevention video that:

(a) is web-accessible;

(b) is no longer than 10 minutes in length; and

(c) includes information about:

(i) safe handling, storage, and use of firearms in a home environment;

(ii) at-risk individuals and individuals who are legally prohibited from possessing firearms; and

(iii) suicide prevention awareness.

(2) Before renewing a firearm permit, an individual shall view the firearm safety and suicide prevention video and submit proof in the form required by the bureau.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the bureau shall make rules that establish procedures for:

(a) producing and distributing the firearm safety and suicide prevention video; and

(b) providing access to the video to an applicant seeking renewal of a firearm permit.

Section 79. Section 53-10-108 is amended to read:

53-10-108. Restrictions on access, use, and contents of division records -- Limited use of records for employment purposes -- Challenging accuracy of records -- Usage fees -- Missing children records -- Penalty for misuse of records.

(1) As used in this section:

(a) "FBI Rap Back System" means the rap back system maintained by the Federal Bureau of Investigation.

(b) "Qualifying child care entity" means:

(i) the Office of Licensing within the Department of Health and Human Services, created in Section 62A-2-103;

(ii) the State Board of Education described in Section 53E-3-201; or

(iii) the Department of Health and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(c) "Rap back system" means a system that enables authorized entities to receive ongoing status notifications of any criminal history reported on individuals whose fingerprints are registered in the system.

(d) "WIN Database" means the Western Identification Network Database that consists of eight western states sharing one electronic fingerprint database.

(2) Except as provided in Subsection (17), dissemination of information from a criminal history record, including information obtained from a fingerprint background check, name check, warrant of arrest information, or information from division files, is limited to:

(a) criminal justice agencies for purposes of administration of criminal justice and for employment screening by criminal justice agencies;

(b) (i) agencies or individuals pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice;

(ii) the agreement shall specifically authorize access to data, limit the use of the data to purposes for which given, and ensure the security and confidentiality of the data;

(c) a qualifying entity for employment background checks for their own employees and persons who have applied for employment with the qualifying entity;

(d) noncriminal justice agencies or individuals for any purpose authorized by statute, executive order, court rule, court order, or local ordinance;

(e) agencies or individuals for the purpose of obtaining required clearances connected with foreign travel or obtaining citizenship;

(f) agencies or individuals for the purpose of a preplacement adoptive study, in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(g) private security agencies through guidelines established by the commissioner for employment background checks for their own employees and prospective employees;

(h) state agencies for the purpose of conducting a background check for the following individuals:

(i) employees;

(ii) applicants for employment;

(iii) volunteers; and

(iv) contract employees;

(i) governor's office for the purpose of conducting a background check on the following individuals:

(i) cabinet members;

(ii) judicial applicants; and

(iii) members of boards, committees, and commissions appointed by the governor;

(j) the office of the lieutenant governor for the purpose of conducting a background check on an individual applying to be a notary public under Section 46-1-3;

(k) agencies and individuals as the commissioner authorizes for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency; and

(l) other agencies and individuals as the commissioner authorizes and finds necessary for protection of life and property and for offender identification, apprehension, and prosecution pursuant to an agreement.

(3) An agreement under Subsection (2)(k) shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, preserve the anonymity of individuals to whom the information relates, and ensure the confidentiality and security of the data.

(4) (a) Before requesting information, a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) shall obtain a signed waiver from the person whose information is requested.

(b) The waiver shall notify the signee:

(i) that a criminal history background check will be conducted;

(ii) who will see the information; and

(iii) how the information will be used.

(c) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a noncriminal justice name based background check of local databases to the bureau shall provide to the bureau:

(i) personal identifying information for the subject of the background check; and

(ii) the fee required by Subsection (15).

(d) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (g) that submits a request for a WIN database check and a nationwide background check shall provide to the bureau:

(i) personal identifying information for the subject of the background check;

(ii) a fingerprint card for the subject of the background check; and

(iii) the fee required by Subsection (15).

(e) Information received by a qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) may only be:

(i) available to individuals involved in the hiring or background investigation of the job applicant, employee, or notary applicant;

(ii) used for the purpose of assisting in making an employment appointment, selection, or promotion decision or for considering a notary applicant under Section 46-1-3; and

(iii) used for the purposes disclosed in the waiver signed in accordance with Subsection (4)(b).

(f) An individual who disseminates or uses information obtained from the division under Subsections (2)(c) through (j) for purposes other than those specified under Subsection (4)(e), in addition to any penalties provided under this section, is subject to civil liability.

(g) A qualifying entity under Subsection (2)(c), state agency, or other agency or individual described in Subsections (2)(d) through (j) that obtains background check information shall provide the subject of the background check an opportunity to:

(i) review the information received as provided under Subsection (9); and

(ii) respond to any information received.

(h) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules to implement this Subsection (4).

(i) The division or its employees are not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsections (2)(c) through (j).

(5) (a) Any criminal history record information obtained from division files may be used only for the purposes for which it was provided and may not be further disseminated, except under Subsection (5)(b), (c), or (d).

(b) A criminal history provided to an agency pursuant to Subsection (2)(f) may be provided by the agency to the individual who is the subject of the history, another licensed child-placing agency, or the attorney for the adoptive parents for the purpose of facilitating an adoption.

(c) A criminal history of a defendant provided to a criminal justice agency under Subsection (2)(a) may also be provided by the prosecutor to a defendant's defense counsel, upon request during the discovery process, for the purpose of establishing a defense in a criminal case.

(d) A public transit district, as described in Title 17B, Chapter 2a, Part 8, Public Transit District Act, that is under contract with a state agency to provide services may, for the purposes of complying with Subsection 62A-5-103.5(5), provide a criminal history record to the state agency or the agency's designee.

(6) The division may not disseminate criminal history record information to qualifying entities under Subsection (2)(c) regarding employment background checks if the information is related to charges:

(a) that have been declined for prosecution;

(b) that have been dismissed; or

(c) regarding which a person has been acquitted.

(7) (a) This section does not preclude the use of the division's central computing facilities for the storage and retrieval of criminal history record information.

(b) This information shall be stored so it cannot be modified, destroyed, or accessed by unauthorized agencies or individuals.

(8) Direct access through remote computer terminals to criminal history record information in the division's files is limited to those agencies authorized by the commissioner under procedures designed to prevent unauthorized access to this information.

(9) (a) The commissioner shall establish procedures to allow an individual right of access to review and receive a copy of the individual's criminal history report.

(b) A processing fee for the right of access service, including obtaining a copy of the individual's criminal history report under Subsection (9)(a) shall be set in accordance with Section 63J-1-504.

(c) (i) The commissioner shall establish procedures for an individual to challenge the completeness and accuracy of criminal history record information contained in the division's computerized criminal history files regarding that individual.

(ii) These procedures shall include provisions for amending any information found to be inaccurate or incomplete.

(10) The private security agencies as provided in Subsection (2)(g):

(a) shall be charged for access; and

(b) shall be registered with the division according to rules made by the division under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) Before providing information requested under this section, the division shall give priority to criminal justice agencies needs.

(12) (a) It is a class B misdemeanor for a person to knowingly or intentionally access, use, disclose, or disseminate a record created, maintained, or to which access is granted by the division or any information contained in a record created, maintained, or to which access is granted by the division for a purpose prohibited or not permitted by statute, rule, regulation, or policy of a governmental entity.

(b) A person who discovers or becomes aware of any unauthorized use of records created or maintained, or to which access is granted by the division shall inform the commissioner and the director of the Utah Bureau of Criminal Identification of the unauthorized use.

(13) (a) Subject to Subsection (13)(b), a qualifying entity or an entity described in Subsection (2) may request that the division register fingerprints taken for the purpose of conducting current and future criminal background checks under this section with:

(i) the WIN Database rap back system, or any successor system;

(ii) the FBI Rap Back System; or

(iii) a system maintained by the division.

(b) A qualifying entity or an entity described in Subsection (2) may only make a request under Subsection (13)(a) if the entity:

(i) has the authority through state or federal statute or federal executive order;

(ii) obtains a signed waiver from the individual whose fingerprints are being registered; and

(iii) establishes a privacy risk mitigation strategy to ensure that the entity only receives notifications for individuals with whom the entity maintains an authorizing relationship.

(14) The division is authorized to submit fingerprints to the FBI Rap Back System to be retained in the FBI Rap Back System for the purpose of being searched by future submissions to the FBI Rap Back System, including latent fingerprint searches.

(15) (a) The division shall impose fees set in accordance with Section 63J-1-504 for the applicant fingerprint card, name check, and to register fingerprints under Subsection (13)(a).

(b) Funds generated under this Subsection (15) shall be deposited into the General Fund as a dedicated credit by the department to cover the costs incurred in providing the information.

(c) The division may collect fees charged by an outside agency for services required under this section.

(16) For the purposes of conducting a criminal background check authorized under Subsection (2)(h), (i), or (j), the Division of Human Resource Management, in accordance with Title 63A, Chapter 17, Utah State Personnel Management Act, and the governor's office shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(17) (a) Except as provided in Subsection (18), if an individual has an active FBI Rap Back System subscription with a qualifying child care entity, the division may, upon request from another qualifying child care entity, transfer the subscription to the requesting qualifying child care entity if:

(i) the requesting qualifying child care entity requests the transfer for the purpose of evaluating whether the individual should be permitted to obtain or retain a license for, or serve as an employee or volunteer in a position where the individual is responsible for, the care, custody, or control of children;

(ii) the requesting qualifying child care entity is expressly authorized by statute to obtain criminal history record information for the individual who is the subject of the request;

(iii) before requesting the transfer, the requesting qualifying child care entity obtains a signed waiver, containing the information described in Subsection (4)(b), from the individual who is the subject of the request;

(iv) the requesting qualifying child care entity or the individual pays any applicable fees set by the division in accordance with Section 63J-1-504; and

(v) the requesting qualifying child care entity complies with the requirements described in Subsection (4)(g).

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules regulating the process described in this Subsection (17).

(18) (a) Subsection (17) does not apply unless the Federal Bureau of Investigation approves the use of the FBI Rap Back System for the purpose described in Subsection (17)(a)(i) under the conditions described in Subsection (17).

(b) Subsection (17) does not apply to the extent that implementation of the provisions of Subsection (17) are contrary to the requirements of the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r or any other federal grant.

(19) (a) Information received by a qualifying child care entity under Subsection (17) may only be disclosed and used as described in Subsection (4)(e).

(b) A person who disseminates or uses information received under Subsection (17) for a purpose other than those described in Subsection (4)(e) is subject to the penalties described in this section and is also subject to civil liability.

(c) A qualifying child care entity is not liable for defamation, invasion of privacy, negligence, or any other claim in connection with the contents of information disseminated under Subsection (17).

Section 80. Section 53G-9-301 is amended to read:

53G-9-301. Definitions.

As used in this part:

(1) "Department" means the Department of Health[~~,~~] and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(2) "Health official" means an individual designated by a local health department from within the local health department to consult and counsel parents and licensed health care providers, in accordance with Subsection 53G-9-304(2)(a).

(3) "Health official designee" means a licensed health care provider designated by a local health department, in accordance with Subsection 53G-9-304(2)(b), to consult with parents, licensed health care professionals, and school officials.

(4) "Immunization" or "immunize" means a process through which an individual develops an immunity to a disease, through vaccination or natural exposure to the disease.

(5) "Immunization record" means a record relating to a student that includes:

(a) information regarding each required vaccination that the student has received, including the date each vaccine was administered, verified by:

(i) a licensed health care provider;

(ii) an authorized representative of a local health department;

(iii) an authorized representative of the department;

(iv) a registered nurse; or

(v) a pharmacist;

(b) information regarding each disease against which the student has been immunized by previously contracting the disease; and

(c) an exemption form identifying each required vaccination from which the student is exempt, including all required supporting documentation described in Section 53G-9-303.

(6) "Legally responsible individual" means:

(a) a student's parent;

(b) the student's legal guardian;

(c) an adult brother or sister of a student who has no legal guardian; or

(d) the student, if the student:

(i) is an adult; or

(ii) is a minor who may consent to treatment under Section 26-10-9.

(7) "Licensed health care provider" means a health care provider who is licensed under Title 58, Occupations and Professions, as:

(a) a medical doctor;

(b) an osteopathic doctor;

(c) a physician assistant; or

(d) an advanced practice registered nurse.

(8) "Local health department" means the same as that term is defined in Section 26A-1-102.

(9) "Required vaccines" means vaccines required by department rule described in Section 53G-9-305.

(10) "School" means any public or private:

(a) elementary or secondary school through grade 12;

(b) preschool;

(c) child care program, as that term is defined in Section 26-39-102;

(d) nursery school; or

(e) kindergarten.

(11) "Student" means an individual who attends a school.

(12) "Vaccinating" or "vaccination" means the administration of a vaccine.

(13) "Vaccination exemption form" means a form, described in Section 53G-9-304, that documents and verifies that a student is exempt from the requirement to receive one or more required vaccines.

(14) "Vaccine" means the substance licensed for use by the United States Food and Drug Administration that is injected into or otherwise administered to an individual to immunize the individual against a communicable disease.

Section 81. Section 53G-9-309 is amended to read:

53G-9-309. School record of students' immunization status -- Confidentiality.

(1) Each school shall maintain a current list of all enrolled students, noting each student:

(a) for whom the school has received a valid and complete immunization record;

(b) who is exempt from receiving a required vaccine; and

(c) who is allowed to attend school under Section 53G-9-308.

(2) Each school shall ensure that the list described in Subsection (1) specifically identifies each disease against which a student is not immunized.

(3) Upon the request of an official from a local health department in the case of a disease outbreak, a school principal or administrator shall:

(a) notify the legally responsible individual of any student who is not immune to the outbreak disease, providing information regarding steps the legally responsible individual may take to protect students;

(b) identify each student who is not immune to the outbreak disease; and

(c) for a period determined by the local health department not to exceed the duration of the disease outbreak, do one of the following at the discretion of the school principal or administrator after obtaining approval from the local health department:

(i) provide a separate educational environment for the students described in Subsection (3)(b) that ensures the protection of the students described in Subsection (3)(b) as well as the protection of the remainder of the student body; or

(ii) prevent each student described in Subsection (3)(b) from attending school.

(4) A name appearing on the list described in Subsection (1) is subject to confidentiality requirements described in Section [~~26-1-17.5~~] 26B-1-212 and Section 53E-9-202.

Section 82. Section 58-1-601 is amended to read:

58-1-601. Suicide prevention video -- Primary care providers.

(1) As used in this section:

(a) "Nurse practitioner" means an individual who is licensed to practice as an advanced practice registered nurse under Chapter 31b, Nurse Practice Act.

(b) "Physician" means an individual licensed to practice as a physician or osteopath under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act.

(c) "Physician assistant" means an individual who is licensed to practice as a physician assistant under Chapter 70a, Utah Physician Assistant Act.

(d) "Primary care provider" means a nurse practitioner, physician, or physician assistant.

(2) The division, in conjunction with the Division of [~~Substance Abuse and Mental Health created in Section 62A-15-103~~] Integrated Healthcare created in Section 26B-1-204, shall:

(a) create a series of suicide prevention videos that:

(i) are web-accessible;

(ii) are each no longer than 20 minutes in length; and

(iii) include information about:

(A) individuals at-risk for suicide; and

(B) suicide prevention and intervention; and

(b) provide, on the division's website, educational materials or courses that relate to suicide prevention that a primary care provider may complete at no cost and apply toward continuing competency requirements required by division rule.

(3) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish procedures for:

(a) producing the suicide prevention videos described in Subsection (2); and

(b) providing access to the videos to each primary care provider.

Section 83. Section 58-17b-620 is amended to read:

58-17b-620. Prescriptions issued within the public health system.

(1) As used in this section:

(a) "Department of Health and Human Services" means the [~~state~~] Department of Health and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(b) "Health department" means either the Department of Health and Human Services or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health [~~rule~~] and Human Services by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section 26-6-2, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

(4) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the physician and the medical director of the state Department of Health and Human Services.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6) (a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

Section 84. Section 58-17b-627 is amended to read:

58-17b-627. Prescription of drugs or devices by a pharmacist.

(1) Beginning January 1, 2022, a pharmacist may prescribe a prescription drug or device if:

(a) prescribing the prescription drug or device is within the scope of the pharmacist's training and experience;

(b) the prescription drug or device is designated by the division by rule under Subsection (3)(a); and

(c) the prescription drug or device is not a controlled substance that is included in Schedules I, II, III, or IV of:

(i) Section 58-37-4; or

(ii) the federal Controlled Substances Act, Title II, P.L. 91-513.

(2) Nothing in this section requires a pharmacist to issue a prescription for a prescription drug or device.

(3) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) designate the prescription drugs or devices that may be prescribed by a pharmacist under this section, beginning with prescription drugs or devices that address a public health concern that is designated by the Department of Health and Human Services, including:

(i) post-exposure HIV prophylaxis;

(ii) pre-exposure HIV prophylaxis;

(iii) self-administered hormonal contraceptives;

(iv) smoking cessation; and

(v) naloxone;

(b) create guidelines that a pharmacist must follow when prescribing a prescription drug or device, including guidelines:

(i) for notifying the patient's primary care or other health care provider about the prescription; and

(ii) to prevent the over-prescription of drugs or devices including but not limited to antibiotics;

(c) address when a pharmacist should refer the patient to an appropriate health care provider or otherwise encourage the patient to seek further medical care; and

(d) implement the provisions of this section.

(4) The division shall make rules under Subsection (3) in collaboration with:

(a) individuals representing pharmacies and pharmacists;

(b) individuals representing physicians and advanced practice clinicians; and

(c) (i) if the executive director of the Department of Health and Human Services is a physician, the executive director of the Department of Health and Human Services;

(ii) if the executive director of the Department of Health and Human Services is not a physician, a deputy director who is a physician in accordance with Subsection [~~26-1-9(4)~~] 26B-1-203(4); or

(iii) a designee of the individual described in [~~Subsection (4)(c)(i) or (ii)~~] Section 26B-1-203.

(5) Before November 1 of each year, the division, in consultation with the individuals described in Subsection (4), shall:

(a) develop recommendations for statutory changes to improve patient access to prescribed drugs in the state; and

(b) report the recommendations developed under Subsection (5)(a) to the Health and Human Services Interim Committee.

Section 85. Section 58-17b-902 is amended to read:

58-17b-902. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(2) "Cancer drug" means a drug that controls or kills neoplastic cells and includes a drug used in chemotherapy to destroy cancer cells.

(3) "Charitable clinic" means a charitable nonprofit corporation that:

(a) holds a valid exemption from federal income taxation issued under Section 501(a), Internal Revenue Code;

(b) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(c) provides, on an outpatient basis, for a period of less than 24 consecutive hours, to an individual not residing or confined at a facility owned or operated by the charitable nonprofit corporation:

(i) advice;

(ii) counseling;

(iii) diagnosis;

(iv) treatment;

(v) surgery; or

(vi) care or services relating to the preservation or maintenance of health; and

(d) has a licensed outpatient pharmacy.

(4) "Charitable pharmacy" means an eligible pharmacy that is operated by a charitable clinic.

(5) "County health department" means the same as that term is defined in Section 26A-1-102.

(6) "Donated prescription drug" means a prescription drug that an eligible donor or individual donates to an eligible pharmacy under the program.

(7) "Eligible donor" means a donor that donates a prescription drug from within the state and is:

(a) a nursing care facility;

(b) an assisted living facility;

(c) a licensed intermediate care facility for people with an intellectual disability;

(d) a manufacturer;

(e) a pharmaceutical wholesale distributor;

(f) an eligible pharmacy; or

(g) a physician's office.

(8) "Eligible pharmacy" means a pharmacy that:

(a) is registered by the division as eligible to participate in the program; and

(b) (i) is licensed in the state as a Class A retail pharmacy; or

(ii) is operated by:

(A) a county;

(B) a county health department;

(C) a pharmacy under contract with a county health department;

(D) the Department of Health[~~,~~] and Human Services created in Section [~~26-1-4~~] 26B-1-201; or

[~~(E) the Division of Substance Abuse and Mental Health, created in Section 62A-15-103; or~~]

[~~(F)~~] (E) a charitable clinic.

(9) "Eligible prescription drug" means a prescription drug, described in Section 58-17b-904, that is not:

(a) a controlled substance; or

(b) a drug that can only be dispensed to a patient registered with the drug's manufacturer in accordance with federal Food and Drug Administration requirements.

(10) "Licensed intermediate care facility for people with an intellectual disability" means the same as that term is defined in Section 58-17b-503.

(11) "Medically indigent individual" means an individual who:

(a) (i) does not have health insurance; and

(ii) lacks reasonable means to purchase prescribed medications; or

(b) (i) has health insurance; and

(ii) lacks reasonable means to pay the insured's portion of the cost of the prescribed medications.

(12) "Nursing care facility" means the same as that term is defined in Section 26-18-501.

(13) "Physician's office" means a fixed medical facility that:

(a) is staffed by a physician, physician's assistant, nurse practitioner, or registered nurse, licensed under Title 58, Occupations and Professions; and

(b) treats an individual who presents at, or is transported to, the facility.

(14) "Program" means the Charitable Prescription Drug Recycling Program created in Section 58-17b-903.

(15) "Unit pack" means the same as that term is defined in Section 58-17b-503.

(16) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-501.

(17) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-17b-502.

Section 86. Section 58-17b-907 is amended to read:

58-17b-907. Rules made by the division.

The rules made by the division under Subsection 58-17b-903(2)(b) shall include:

(1) registration requirements to establish the eligibility of a pharmacy to participate in the program;

(2) a formulary that includes all eligible prescription drugs approved by the federal Food and Drug Administration;

(3) standards and procedures for:

(a) verifying whether a pharmacy or pharmacist participating in the program is licensed and in good standing with the board;

(b) handling of an eligible prescription drug transferred in accordance with Subsection 58-17b-903(2) to an eligible pharmacy or a physician's office, including:

(i) acceptance;

(ii) identification, including redundant criteria for verification;

(iii) documentation, under 21 U.S.C. Sec. 360eee-1, of transaction information, history, and statements;

(iv) safe storage;

(v) security;

(vi) inspection;

(vii) transfer; and

(viii) dispensing;

(c) a pharmacist, pharmacy intern, or licensed pharmacy technician:

(i) working in or consulting with a participating eligible donor; or

(ii) assisting an individual donating the eligible prescription drug;

(d) disposition of a donated prescription drug that is a controlled substance;

(e) record keeping regarding:

(i) the individual or eligible donor that transferred an eligible prescription drug under Subsection 58-17b-903(2)(a);

(ii) the identification and evaluation of a donated prescription drug by a pharmacist or licensed pharmacy technician; and

(iii) the dispensing or disposition of a prescription drug;

(f) determining the status of a medically indigent individual;

(g) labeling requirements to:

(i) ensure compliance with patient privacy laws relating to:

(A) an individual who receives an eligible prescription drug; and

(B) patient information that may appear on a donated prescription drug;

(ii) clearly identify an eligible prescription drug dispensed under the program; and

(iii) communicate necessary information regarding the manufacturer's recommended expiration date or the beyond use date; and

(h) ensuring compliance with the requirements of this part;

(4) a process for seeking input from[~~: (a)~~] the Department of Health[~~,~~] and Human Services created in Section [~~26-1-4, to~~] 26B-1-201 to:

(a) establish program standards and procedures for assisted living facilities and nursing care facilities; and

(b) [~~the Division of Substance Abuse and Mental Health, created in Section 62A-15-103, to~~] establish program standards and procedures for mental health and substance abuse clients; and

(5) the creation of a special training program that a pharmacist and a licensed pharmacy technician at an eligible pharmacy must complete before participating in the program.

Section 87. Section 62A-1-104 is amended to read:

62A-1-104. Definitions.

(1) As used in this title:

(a) "Competency evaluation" means the same as that term is defined in Section 77-15-2.

(b) "Concurrence of the board" means agreement by a majority of the members of a board.

(c) "Department" means the Department of Health and Human Services [~~established in Section 62A-1-102~~] created in Section 26B-1-201.

(d) "Executive director" means the executive director of the department, appointed under Section [~~62A-1-108~~] 26B-1-203.

(e) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(f) "Stabilization services" means in-home services provided to a child with, or who is at risk for, complex emotional and behavioral needs, including teaching the child's parent or guardian skills to improve family functioning.

(g) "System of care" means a broad, flexible array of services and supports that:

(i) serves a child with or who is at risk for complex emotional and behavioral needs;

(ii) is community based;

(iii) is informed about trauma;

(iv) builds meaningful partnerships with families and children;

(v) integrates service planning, service coordination, and management across state and local entities;

(vi) includes individualized case planning;

(vii) provides management and policy infrastructure that supports a coordinated network of interdepartmental service providers, contractors, and service providers who are outside of the department; and

(viii) is guided by the type and variety of services needed by a child with or who is at risk for complex emotional and behavioral needs and by the child's family.

(2) The definitions provided in Subsection (1) are to be applied in addition to definitions contained throughout this title that are applicable to specified chapters or parts.

Section 88. Section 62A-1-107 is amended to read:

62A-1-107. Board of Aging and Adult Services -- Members, appointment, terms, vacancies, chairperson, compensation, meetings, quorum.

(1) The Board of Aging and Adult Services [~~described in Subsection 62A-1-105(1)(a)~~] created in Section 26B-1-204 shall have seven members who are appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) Except as required by Subsection (2)(b), each member shall be appointed for a term of four years, and is eligible for one reappointment.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) Board members shall continue in office until the expiration of their terms and until their successors are appointed, which may not exceed 90 days after the formal expiration of a term.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) No more than four members of the board may be from the same political party. The board shall have diversity of gender, ethnicity, and culture; and members shall be chosen on the basis of their active interest, experience, and demonstrated ability to deal with issues related to the Board of Aging and Adult Services.

(4) The board shall annually elect a chairperson from the board's membership. The board shall hold meetings at least once every three months. Within budgetary constraints, meetings may be held from time to time on the call of the chairperson or of the majority of the members of the board. Four members of the board are necessary to constitute a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the board.

(5) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) The board shall adopt bylaws governing its activities. Bylaws shall include procedures for removal of a board member who is unable or unwilling to fulfill the requirements of the board member's appointment.

(7) The board has program policymaking authority for the division over which the board presides.

(8) A member of the board shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 89. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006 and juvenile court records under Subsection 80-3-404(6), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2);

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section 62A-4a-1003:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection 62A-4a-1003(1)(d); and

(c) for the purpose described in Section [~~62A-1-118~~] 26B-1-211.

(4) The department shall receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section 62A-4a-1006; or

(b) juvenile court records show that a court made a substantiated finding under Section 80-3-404, that the person committed a severe type of child abuse or neglect.

Section 90. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the [~~Division of Substance Abuse and Mental Health, the Department of Health,~~] department or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007, the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in the division's or law enforcement officials' subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger an individual's safety.

(4) Any person who willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and

(ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(8) (a) Except as provided in Subsection (8)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (8)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (8)(b), the court may receive the report into evidence upon a finding on the record of good cause.

Section 91. Section 62A-14-108 is amended to read:

62A-14-108. Office volunteers.

(1) A person who desires to be an office volunteer shall:

(a) possess demonstrated personal characteristics of honesty, integrity, compassion, and concern for incapacitated persons; and

(b) upon request, submit information for a background check pursuant to Section [~~62A-1-118~~] 26B-1-211.

(2) An office volunteer may not receive compensation or benefits, but may be reimbursed by the office for expenses actually and reasonably incurred, consistent with Title 67, Chapter 20, Volunteer Government Workers Act.

(3) An office volunteer is immune from civil liability pursuant to Title 63G, Chapter 8, Immunity for Persons Performing Voluntary Services Act.

Section 92. Section 62A-15-102 is amended to read:

62A-15-102. Definitions.

As used in this chapter:

(1) "Criminal risk factors" means a person's characteristics and behaviors that:

(a) affect the person's risk of engaging in criminal behavior; and

(b) are diminished when addressed by effective treatment, supervision, and other support resources, resulting in reduced risk of criminal behavior.

(2) "Director" means the director [~~of the Division of Substance Abuse and Mental Health~~] appointed under Section 62A-15-104.

(3) "Division" means the Division of [~~Substance Abuse and Mental Health established in Section 62A-15-103~~] Integrated Healthcare created in Section 26B-1-202.

(4) "Local mental health authority" means a county legislative body.

(5) "Local substance abuse authority" means a county legislative body.

(6) "Mental health crisis" means:

(a) a mental health condition that manifests in an individual by symptoms of sufficient severity that a prudent layperson who possesses an average knowledge of mental health issues could reasonably expect the absence of immediate attention or intervention to result in:

(i) serious danger to the individual's health or well-being; or

(ii) a danger to the health or well-being of others; or

(b) a mental health condition that, in the opinion of a mental health therapist or the therapist's designee, requires direct professional observation or intervention.

(7) "Mental health crisis response training" means community-based training that educates laypersons and professionals on the warning signs of a mental health crisis and how to respond.

(8) "Mental health crisis services" means an array of services provided to an individual who experiences a mental health crisis, which may include:

(a) direct mental health services;

(b) on-site intervention provided by a mobile crisis outreach team;

(c) the provision of safety and care plans;

(d) prolonged mental health services for up to 90 days after the day on which an individual experiences a mental health crisis;

(e) referrals to other community resources;

(f) local mental health crisis lines; and

(g) the statewide mental health crisis line.

(9) "Mental health therapist" means the same as that term is defined in Section 58-60-102.

(10) "Mobile crisis outreach team" or "MCOT" means a mobile team of medical and mental health professionals that, in coordination with local law enforcement and emergency medical service personnel, provides mental health crisis services.

(11) (a) "Public funds" means federal money received from the [~~Department of Human Services or the Department of Health~~] department, and state money appropriated by the Legislature to the [~~Department of Human Services, the Department of Health~~] department, a county governing body, or a local substance abuse authority, or a local mental health authority for the purposes of providing substance abuse or mental health programs or services.

(b) "Public funds" include federal and state money that has been transferred by a local substance abuse authority or a local mental health authority to a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority. The money maintains the nature of "public funds" while in the possession of the private entity that has an annual or otherwise ongoing contract with a local substance abuse authority or a local mental health authority to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority.

(c) Public funds received for the provision of services [~~pursuant to~~] under substance abuse or mental health service plans may not be used for any other purpose except those authorized in the contract between the local mental health or substance abuse authority and provider for the provision of plan services.

(12) "Severe mental disorder" means schizophrenia, major depression, bipolar disorders, delusional disorders, psychotic disorders, and other mental disorders as defined by the division.

(13) "Statewide mental health crisis line" means the same as that term is defined in Section 62A-15-1301.

Section 93. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Responsibilities.

(1) (a) [~~There is created~~] The division shall exercise responsibility over the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities outlined in state law that were previously vested in the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under [~~Title 62A,~~] Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the State Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of Occupational and Professional Licensing, programs licensed by the department, and health care facilities licensed by the [~~Department of Health~~] department, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the State Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the State Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i);

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) consult and coordinate with [~~the Department of Health and~~] the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with [~~the Department of Health,~~] local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17–43–201, 17–43–203, 17–43–303, and 17–43–309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17–43–303 and to the responsibility and liability described in Section 17–43–203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17–43–201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school–based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence–based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 94. Section 62A-15-104 is amended to read:

62A-15-104. Director -- Qualifications.

(1) The [~~director of the division shall be appointed by the~~] executive director shall appoint a director within the division to carry out all or part of the duties and responsibilities described in this part.

(2) The director appointed under Subsection (1) shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in matters concerning substance abuse and mental health.

[~~(3) The director is the administrative head of the division.~~]

Section 95. Section 63A-13-102 is amended to read:

63A-13-102. Definitions.

As used in this chapter:

(1) "Abuse" means:

(a) an action or practice that:

(i) is inconsistent with sound fiscal, business, or medical practices; and

(ii) results, or may result, in unnecessary Medicaid related costs; or

(b) reckless or negligent upcoding.

(2) "Claimant" means a person that:

(a) provides a service; and

(b) submits a claim for Medicaid reimbursement for the service.

(3) "Department" means the Department of Health[~~,~~] and Human Services created in Section [~~26–1–4~~] 26B–1–201.

(4) "Division" means the Division of Medicaid and Health Financing, created in Section 26–18–2.1.

(5) "Extrapolation" means a method of using a mathematical formula that takes the audit results from a small sample of Medicaid claims and projects those results over a much larger group of Medicaid claims.

(6) "Fraud" means intentional or knowing:

(a) deception, misrepresentation, or upcoding in relation to Medicaid funds, costs, a claim, reimbursement, or services; or

(b) a violation of a provision of Sections 26–20–3 through 26–20–7.

(7) "Fraud unit" means the Medicaid Fraud Control Unit of the attorney general's office.

(8) "Health care professional" means a person licensed under:

(a) Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) Title 58, Chapter 17b, Pharmacy Practice Act;

(d) Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) Title 58, Chapter 31b, Nurse Practice Act;

(f) Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) Title 58, Chapter 41, Speech–Language Pathology and Audiology Licensing Act;

(h) Title 58, Chapter 42a, Occupational Therapy Practice Act;

(i) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(j) Title 58, Chapter 49, Dietitian Certification Act;

(k) Title 58, Chapter 60, Mental Health Professional Practice Act;

(l) Title 58, Chapter 67, Utah Medical Practice Act;

(m) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(n) Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act;

(o) Title 58, Chapter 70a, Utah Physician Assistant Act; and

(p) Title 58, Chapter 73, Chiropractic Physician Practice Act.

(9) "Inspector general" means the inspector general of the office, appointed under Section 63A–13–201.

(10) "Office" means the Office of Inspector General of Medicaid Services, created in Section 63A–13–201.

(11) "Provider" means a person that provides:

(a) medical assistance, including supplies or services, in exchange, directly or indirectly, for Medicaid funds; or

(b) billing or recordkeeping services relating to Medicaid funds.

(12) "Upcoding" means assigning an inaccurate billing code for a service that is payable or reimbursable by Medicaid funds, if the correct billing code for the service, taking into account reasonable opinions derived from official published coding definitions, would result in a lower Medicaid payment or reimbursement.

(13) (a) "Waste" means the act of using or expending a resource carelessly, extravagantly, or to no purpose.

(b) "Waste" includes an activity that:

(i) does not constitute abuse or necessarily involve a violation of law; and

(ii) relates primarily to mismanagement, an inappropriate action, or inadequate oversight.

Section 96. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

[~~(1) Subsection 26–1–7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.~~]

[~~(2) Subsection 26–1–7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.~~]

[~~(3)~~] (1) Section 26–1–7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

[~~(4)~~] (2) Section 26–1–40 is repealed July 1, 2022.

[~~(5)~~] (3) Section 26–1–41 is repealed July 1, 2026.

[~~(6)~~] (4) Section 26–7–10 is repealed July 1, 2025.

[~~(7)~~] (5) Subsection 26–7–11(5), regarding reports to the Legislature, is repealed July 1, 2028.

[~~(8)~~] (6) Section 26–7–14 is repealed December 31, 2027.

[~~(9)~~] (7) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

[~~(10)~~] (8) Subsection 26–10–6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

[~~(11)~~] (9) Section 26–10b–106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

[~~(12)~~] (10) Subsection 26–15c–104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

[~~(13)~~] (11) Subsection 26–18–2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

[~~(14)~~] (12) Section 26–18–27 is repealed July 1, 2025.

[~~(15)~~] (13) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

[~~(16)~~] (14) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

[~~(17)~~] (15) Section 26-33a-117 is repealed on December 31, 2023.

[~~(18)~~] (16) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

[~~(19)~~] (17) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

[~~(20)~~] (18) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

[~~(21)~~] (19) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

[~~(22)~~] (20) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

[~~(23)~~] (21) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

[~~(24)~~] (22) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

[~~(25)~~] (23) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26)~~] (24) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

[~~(27)~~] (25) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(28)~~] (26) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(27) Subsection 26B-1-204(2)(i), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(28) Subsection 26B-1-204(2)(k), related to the Primary Care Grant Committee, is repealed July 1, 2025.

Section 97. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates -- Titles 26 through 26B.

[~~(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.~~]

[~~(2) Section 26-4-6.1 is repealed January 1, 2022.~~]

[~~(3) Section 26-6-41, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.~~]

[~~(4)~~] (1) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(5)~~] (2) Section 26-8a-107 is repealed July 1, 2024.

[~~(6)~~] (3) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

[~~(7)~~] (4) Section 26-8a-211 is repealed July 1, 2023.

[~~(8)~~] (5) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(9)~~] (6) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[~~(10)~~] (7) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[~~(11)~~] (8) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(12)~~] (9) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(13)~~] (10) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(14)~~] (11) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(15)~~] (12) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(16)~~] (13) Subsection 26-61-202(5) is repealed January 1, 2022.

[~~(17) Section 26A-1-130, in relation to termination of public health emergency powers~~

~~pertaining to COVID-19, is repealed on July 1, 2021.~~]

[~~(18) Section 26B-1-201.1 is repealed July 1, 2022.~~]

(14) Subsection 26B-1-204(2)(f), relating to the Air Ambulance Committee, is repealed July 1, 2024.

Section 98. Section 63J-1-315 is amended to read:

63J-1-315. Medicaid Growth Reduction and Budget Stabilization Account -- Transfers of Medicaid growth savings -- Base budget adjustments.

(1) As used in this section:

(a) "Department" means the Department of Health and Human Services created in Section [~~26-1-4~~] 26B-1-201.

(b) "Division" means the Division of Medicaid and Health Financing created in Section 26-18-2.1.

(c) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Medicaid growth savings" means the Medicaid growth target minus Medicaid program expenditures, if Medicaid program expenditures are less than the Medicaid growth target.

(e) "Medicaid growth target" means Medicaid program expenditures for the previous year multiplied by 1.08.

(f) "Medicaid program" is as defined in Section 26-18-2.

(g) "Medicaid program expenditures" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during a fiscal year.

(h) "Medicaid program expenditures for the previous year" means total state revenue expended for the Medicaid program from the General Fund, including restricted accounts within the General Fund, during the fiscal year immediately preceding a fiscal year for which Medicaid program expenditures are calculated.

(i) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(j) "State revenue" means revenue other than federal revenue.

(k) "State revenue expended for the Medicaid program" includes money transferred or appropriated to the Medicaid Growth Reduction and Budget Stabilization Account only to the extent the money is appropriated for the Medicaid program by the Legislature.

(2) There is created within the General Fund a restricted account to be known as the Medicaid Growth Reduction and Budget Stabilization Account.

(3) (a) (i) Except as provided in Subsection (6), if, at the end of a fiscal year, there is a General Fund revenue surplus, the Division of Finance shall transfer an amount equal to Medicaid growth savings from the General Fund to the Medicaid Growth Reduction and Budget Stabilization Account.

(ii) If the amount transferred is reduced to prevent an operating deficit, as provided in Subsection (6), the Legislature shall include, to the extent revenue is available, an amount equal to the reduction as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(b) If, at the end of a fiscal year, there is not a General Fund revenue surplus, the Legislature shall include, to the extent revenue is available, an amount equal to Medicaid growth savings as an appropriation from the General Fund to the account in the base budget for the second fiscal year following the fiscal year for which the reduction was made.

(c) Subsections (3)(a) and (3)(b) apply only to the fiscal year in which the department implements the proposal developed under Section 26-18-405 to reduce the long-term growth in state expenditures for the Medicaid program, and to each fiscal year after that year.

(4) The Division of Finance shall calculate the amount to be transferred under Subsection (3):

(a) before transferring revenue from the General Fund revenue surplus to:

(i) the General Fund Budget Reserve Account under Section 63J-1-312;

(ii) the Wildland Fire Suppression Fund created in Section 65A-8-204, as described in Section 63J-1-314; and

(iii) the State Disaster Recovery Restricted Account under Section 63J-1-314;

(b) before earmarking revenue from the General Fund revenue surplus to the Industrial Assistance Account under Section 63N-3-106; and

(c) before making any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law.

(5) (a) If, at the close of any fiscal year, there appears to be insufficient money to pay additional debt service for any bonded debt authorized by the Legislature, the Division of Finance may hold back from any General Fund revenue surplus money sufficient to pay the additional debt service requirements resulting from issuance of bonded debt that was authorized by the Legislature.

(b) The Division of Finance may not spend the hold back amount for debt service under Subsection

(5)(a) unless and until it is appropriated by the Legislature.

(c) If, after calculating the amount for transfer under Subsection (3), the remaining General Fund revenue surplus is insufficient to cover the hold back for debt service required by Subsection (5)(a), the Division of Finance shall reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to cover the debt service hold back.

(d) Notwithstanding Subsections (3) and (4), the Division of Finance shall hold back the General Fund balance for debt service authorized by this Subsection (5) before making any transfers to the Medicaid Growth Reduction and Budget Stabilization Account or any other designation or allocation of General Fund revenue surplus.

(6) Notwithstanding Subsections (3) and (4), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists and that holding back earmarks to the Industrial Assistance Account under Section 63N-3-106, transfers to the Wildland Fire Suppression Fund and State Disaster Recovery Restricted Account under Section 63J-1-314, transfers to the General Fund Budget Reserve Account under Section 63J-1-312, or earmarks and transfers to more than one of those accounts, in that order, does not eliminate the operating deficit, the Division of Finance may reduce the transfer to the Medicaid Growth Reduction and Budget Stabilization Account by the amount necessary to eliminate the operating deficit.

(7) The Legislature may appropriate money from the Medicaid Growth Reduction and Budget Stabilization Account only:

(a) if Medicaid program expenditures for the fiscal year for which the appropriation is made are estimated to be 108% or more of Medicaid program expenditures for the previous year; and

(b) for the Medicaid program.

(8) The Division of Finance shall deposit interest or other earnings derived from investment of Medicaid Growth Reduction and Budget Stabilization Account money into the General Fund.

Section 99. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(18) The Technology Development Restricted Account created in Section 31A-3-104.

(19) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(25) The School Readiness Restricted Account created in Section 35A–15–203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A–13–202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40–6–11.

(28) The Oil and Gas Conservation Account created in Section 40–6–14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40–6–23.

(30) The Electronic Payment Fee Restricted Account created by Section 41–1a–121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41–3–110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53–1–120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53–2a–603.

(34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53–3–106.

(35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53–8–303.

(36) The DNA Specimen Restricted Account created in Section 53–10–407.

(37) The Canine Body Armor Restricted Account created in Section 53–16–201.

(38) The Technical Colleges Capital Projects Fund created in Section 53B–2a–118.

(39) The Higher Education Capital Projects Fund created in Section 53B–22–202.

(40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C–3–202.

(41) The Public Utility Regulatory Restricted Account created in Section 54–5–1.5, subject to Subsection 54–5–1.5(4)(d).

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–3a–105.

(43) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58–17b–505.

(44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–22–104.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–55–106.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–56–3.5.

(47) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58–63–103.

(48) The Relative Value Study Restricted Account created in Section 59–9–105.

(49) The Cigarette Tax Restricted Account created in Section 59–14–204.

(50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61–2c–202.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61–2f–204.

(52) Certain funds donated to the Department of Health and Human Services, as provided in Section [~~62A–1–111~~] 26B–1–202.

(53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section [~~62A–1–202~~] 26B–1–302.

(54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A–4a–110.

(55) The Choose Life Adoption Support Restricted Account created in Section 62A–4a–608.

(56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G–3–402.

(57) The Immigration Act Restricted Account created in Section 63G–12–103.

(58) Money received by the military installation development authority, as provided in Section 63H–1–504.

(59) The Computer Aided Dispatch Restricted Account created in Section 63H–7a–303.

(60) The Unified Statewide 911 Emergency Service Account created in Section 63H–7a–304.

(61) The Utah Statewide Radio System Restricted Account created in Section 63H–7a–403.

(62) The Utah Capital Investment Restricted Account created in Section 63N–6–204.

(63) The Motion Picture Incentive Account created in Section 63N–8–103.

(64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(78) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 100. Section 63M-7-301 is amended to read:

63M-7-301. Definitions -- Creation of council -- Membership -- Terms.

(1) (a) As used in this part, "council" means the Utah Substance Use and Mental Health Advisory Council created in this section.

(b) There is created within the governor's office the Utah Substance Use and Mental Health Advisory Council.

(2) The council shall be comprised of the following voting members:

(a) the attorney general or the attorney general's designee;

(b) one elected county official appointed by the Utah Association of Counties;

(c) the commissioner of public safety or the commissioner's designee;

(d) the director of the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare or the director's designee;

(e) the state superintendent of public instruction or the superintendent's designee;

(f) the executive director of the Department of Health and Human Services or the executive director's designee;

(g) the executive director of the Commission on Criminal and Juvenile Justice or the executive director's designee;

(h) the executive director of the Department of Corrections or the executive director's designee;

(i) the director of the Division of Juvenile Justice Services or the director's designee;

(j) the director of the Division of Child and Family Services or the director's designee;

(k) the chair of the Board of Pardons and Parole or the chair's designee;

(l) the director of the Office of Multicultural Affairs or the director's designee;

(m) the director of the Division of Indian Affairs or the director's designee;

(n) the state court administrator or the state court administrator's designee;

(o) one district court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(p) one district court judge who presides over a mental health court and who is appointed by the chief justice of the Utah Supreme Court;

(q) one juvenile court judge who presides over a drug court and who is appointed by the chief justice of the Utah Supreme Court;

(r) one prosecutor appointed by the Statewide Association of Prosecutors;

(s) the chair or co-chair of each committee established by the council;

(t) the chair or co-chair of the Statewide Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

(u) one representative appointed by the Utah League of Cities and Towns to serve a four-year term;

(v) the following members appointed by the governor to serve four-year terms:

(i) one resident of the state who has been personally affected by a substance use or mental health disorder; and

(ii) one citizen representative; and

(w) in addition to the voting members described in Subsections (2)(a) through (v), the following voting members appointed by a majority of the members described in Subsections (2)(a) through (v) to serve four-year terms:

(i) one resident of the state who represents a statewide advocacy organization for recovery from substance use disorders;

(ii) one resident of the state who represents a statewide advocacy organization for recovery from mental illness;

(iii) one resident of the state who represents a statewide advocacy organization for protection of rights of individuals with a disability;

(iv) one resident of the state who represents prevention professionals;

(v) one resident of the state who represents treatment professionals;

(vi) one resident of the state who represents the physical health care field;

(vii) one resident of the state who is a criminal defense attorney;

(viii) one resident of the state who is a military servicemember or military veteran under Section 53B-8-102;

(ix) one resident of the state who represents local law enforcement agencies;

(x) one representative of private service providers that serve youth with substance use disorders or mental health disorders; and

(xi) one resident of the state who is certified by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare as a peer support specialist as described in Subsection 62A-15-103(2)(h).

(3) An individual other than an individual described in Subsection (2) may not be appointed as a voting member of the council.

Section 101. Section 67-3-11 is amended to read:

67-3-11. Health care price transparency tool -- Transparency tool requirements.

(1) The state auditor shall create a health care price transparency tool:

(a) subject to appropriations from the Legislature and any available funding from third-party sources;

(b) with technical support from the Public Employees' Benefit and Insurance Program created in Section 49-20-103, the Department of Health and Human Services, and the Insurance Department; and

(c) in accordance with the requirements in Subsection (2).

(2) A health care price transparency tool created by the state auditor under this section shall:

(a) present health care price information for consumers in a manner that is clear and accurate;

(b) be available to the public in a user-friendly manner;

(c) incorporate existing data collected under Section 26-33a-106.1;

(d) incorporate data collected under Section 26-61a-106, regarding fees for qualified medical providers recommending medical cannabis, as those terms are defined in Section 26-61a-102;

(e) group billing codes for common health care procedures;

(f) be updated on a regular basis; and

(g) be created and operated in accordance with all applicable state and federal laws.

(3) The state auditor may make the health care pricing data from the health care price transparency tool available to the public through an application program interface format if the data meets state and federal data privacy requirements.

(4) (a) Before making a health care price transparency tool available to the public, the state auditor shall:

(i) seek input from the Health Data Committee created in Section [~~26-1-7~~] 26B-1-204 on the overall accuracy and effectiveness of the reports provided by the health care price transparency tool; and

(ii) establish procedures to give data providers a 30-day period to review pricing information before the state auditor publishes the information on the health care price transparency tool.

(b) If the state auditor complies with the requirements of Subsection (4)(a), the health care price transparency tool is not subject to the requirements of Section 26-33a-107.

(5) Each year in which a health care price transparency tool is operational, the state auditor shall report to the Health and Human Services Interim Committee before November 1 of that year:

(a) the utilization of the health care price transparency tool; and

(b) policy options for improving access to health care price transparency data.

Section 102. Section 76-5-413 is amended to read:

76-5-413. Custodial sexual relations or misconduct with youth receiving state services -- Definitions -- Penalties -- Defenses.

(1) As used in this section:

(a) "Actor" means:

(i) an individual employed by the Department of Health and Human Services[~~, as~~] created in Section [~~62A-1-102~~] 26B-1-201, or an employee of a private provider or contractor; or

(ii) an individual employed by the juvenile court of the state, or an employee of a private provider or contractor.

(b) "Department" means the Department of Health and Human Services created in Section [~~62A-1-102~~] 26B-1-201.

(c) "Juvenile court" means the juvenile court of the state created in Section 78A-6-102.

(d) "Private provider or contractor" means any individual or entity that contracts with the:

(i) department to provide services or functions that are part of the operation of the department; or

(ii) juvenile court to provide services or functions that are part of the operation of the juvenile court.

(e) "Youth receiving state services" means an individual:

(i) younger than 18 years old, except as provided under Subsection (1)(e)(ii), who is:

(A) in the custody of the department under Section 80-6-703; or

(B) receiving services from any division of the department if any portion of the costs of these services is covered by public money; or

(ii) younger than 21 years old:

(A) who is in the custody of the Division of Juvenile Justice Services, or the Division of Child and Family Services; or

(B) whose case is under the jurisdiction of the juvenile court.

(2) (a) An actor commits custodial sexual relations with a youth receiving state services if the actor commits any of the acts under Subsection (3):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (2)(a) is a third degree felony, but if the youth receiving state services is younger than 18 years old, a violation of Subsection (2)(a) is a second degree felony.

(c) If the act committed under this Subsection (2) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (2), this Subsection (2) does not prohibit prosecution and sentencing for the more serious offense.

(3) Acts referred to in Subsection (2)(a) are:

(a) having sexual intercourse with a youth receiving state services;

(b) engaging in any sexual act with a youth receiving state services involving the genitals of one individual and the mouth or anus of another individual, regardless of the sex of either participant; or

(c) causing the penetration, however slight, of the genital or anal opening of a youth receiving state services by any foreign object, substance, instrument, or device, including a part of the human body, with the intent to cause substantial emotional or bodily pain to any individual, regardless of the sex of any participant or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant.

(4) (a) An actor commits custodial sexual misconduct with a youth receiving state services if the actor commits any of the acts under Subsection (5):

(i) under circumstances not amounting to commission of, or an attempt to commit, an offense under Subsection (6); and

(ii) (A) the actor knows that the individual is a youth receiving state services; or

(B) a reasonable person in the actor's position should have known under the circumstances that the individual was a youth receiving state services.

(b) A violation of Subsection (4)(a) is a class A misdemeanor, but if the youth receiving state services is younger than 18 years old, a violation of Subsection (4)(a) is a third degree felony.

(c) If the act committed under this Subsection (4) amounts to an offense subject to a greater penalty under another provision of state law than is provided under this Subsection (4), this Subsection (4) does not prohibit prosecution and sentencing for the more serious offense.

(5) Acts referred to in Subsection (4)(a) are the following acts when committed with the intent to cause substantial emotional or bodily pain to any individual or with the intent to arouse or gratify the sexual desire of any individual, regardless of the sex of any participant:

(a) touching the anus, buttocks, pubic area, or any part of the genitals of a youth receiving state services;

(b) touching the breast of a female youth receiving state services; or

(c) otherwise taking indecent liberties with a youth receiving state services.

(6) The offenses referred to in Subsections (2)(a)(i) and (4)(a)(i) are:

(a) Section 76-5-401, unlawful sexual activity with a minor;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403, forcible sodomy;

(g) Section 76-5-403.1, sodomy on a child;

(h) Section 76-5-404, forcible sexual abuse;

(i) Section 76-5-404.1, sexual abuse of a child or aggravated sexual abuse of a child; or

(j) Section 76-5-405, aggravated sexual assault.

(7) (a) It is not a defense to the commission of the offense of custodial sexual relations with a youth receiving state services under Subsection (2) or custodial sexual misconduct with a youth receiving state services under Subsection (4), or an attempt to commit either of these offenses, if the youth receiving state services is younger than 18 years old, that the actor:

(i) mistakenly believed the youth receiving state services to be 18 years old or older at the time of the alleged offense; or

(ii) was unaware of the true age of the youth receiving state services.

(b) Consent of the youth receiving state services is not a defense to any violation or attempted violation of Subsection (2) or (4).

(8) It is a defense that the commission by the actor of an act under Subsection (2) or (4) is the result of compulsion, as the defense is described in Subsection 76-2-302(1).

Section 103. Section 76-5-501 is amended to read:

76-5-501. Definitions.

For purposes of this part:

(1) "Alleged sexual offender" means a person or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, and regarding which:

(a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.

(2) "Department of Health and Human Services" means the [~~state~~] Department of Health [~~as defined in Section 26-1-2~~] and Human Services created in Section 26B-1-201.

(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means a person who is HIV positive as determined by the State Health Laboratory.

(5) "Local department of health" means [~~the~~] a local health department as defined in [~~Subsection 26A-1-102(5)~~] Section 26A-1-102.

(6) "Minor" means a person younger than 18 years [~~of age~~] old.

(7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

(8) "Sexual offense" means a violation of state law prohibiting a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health and Human Services.

Section 104. Section 78B-5-902 is amended to read:

78B-5-902. Definitions.

As used in this part:

(1) "Communication" means an oral statement, written statement, note, record, report, or document made during, or arising out of, a meeting between a law enforcement officer, firefighter, emergency medical service provider, or rescue provider and a peer support team member.

(2) "Behavioral emergency services technician" means an individual who is licensed under Section 26-8a-302 as:

(a) a behavioral emergency services technician; or

(b) an advanced behavioral emergency services technician.

(3) "Emergency medical service provider or rescue unit peer support team member" means a person who is:

(a) an emergency medical service provider as defined in Section 26-8a-102, a regular or volunteer member of a rescue unit acting as an emergency responder as defined in Section 53-2a-502, or another person who has been trained in peer support skills; and

(b) designated by the chief executive of an emergency medical service agency or the chief of a rescue unit as a member of an emergency medical service provider's peer support team or as a member of a rescue unit's peer support team.

(4) "Law enforcement or firefighter peer support team member" means a person who is:

(a) a peace officer, law enforcement dispatcher, civilian employee, or volunteer member of a law enforcement agency, a regular or volunteer member of a fire department, or another person who has been trained in peer support skills; and

(b) designated by the commissioner of the Department of Public Safety, the executive director of the Department of Corrections, a sheriff, a police chief, or a fire chief as a member of a law enforcement agency's peer support team or a fire department's peer support team.

(5) "Trained" means a person who has successfully completed a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the [~~Health~~] Department of Health and Human Services, as applicable.

Section 105. Section 78B-5-903 is amended to read:

78B-5-903. Creation -- Training -- Communications -- Exclusions.

(1) A law enforcement agency, fire department, emergency medical service agency, or rescue unit:

(a) may create a peer support team; and

(b) if a peer support team is created, shall develop guidelines for the peer support team and its members.

(2) A peer support team member shall complete a peer support training program approved by the Peace Officer Standards and Training Division, the State Fire Marshal's Office, or the [~~Health~~] Department of Health and Human Services, as applicable.

(3) In accordance with the Utah Rules of Evidence, a peer support team member may refuse to disclose communications made by a person participating in peer support services, including group therapy sessions.

(4) Subsection (3) applies only to communications made during individual interactions conducted by a peer support team member who is:

(a) acting in the member's capacity as a law enforcement or firefighter peer support team member or an emergency medical service provider or rescue unit peer support team member; and

(b) functioning within the written peer support guidelines that are in effect for the member's respective law enforcement agency, fire department, emergency medical service agency, or rescue unit.

(5) This part does not apply if:

(a) a law enforcement or firefighter peer support team member or emergency medical service provider or rescue unit peer support team member was a witness or a party to the incident that prompted the delivery of peer support services;

(b) information received by a peer support team member is indicative of actual or suspected child abuse, or actual or suspected child neglect;

(c) the person receiving peer support is a clear and immediate danger to the person's self or others;

(d) communication to a peer support team member establishes reasonable cause for the peer support team member to believe that the person receiving peer support services is mentally or emotionally unfit for duty; or

(e) communication to the peer support team member provides evidence that the person who is receiving the peer support services has committed a crime, plans to commit a crime, or intends to conceal a crime.

Section 106. Section 80-1-102 is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Health and Human Services created in Section [~~62A-1-102~~] 26B-1-201.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of [~~Substance Abuse and Mental Health~~] Integrated Healthcare in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 107. Section 80-3-404 is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Petition for removal from Licensing Information System -- Court records.

(1) Upon the filing with the juvenile court of an abuse, neglect, or dependency petition that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect as defined in Section 62A-4a-1002, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered pursuant to a written stipulation of the parties.

(3) (a) An individual described in Subsection 62A-4a-1010(1) may at any time file with the juvenile court a petition for removal of the individual's name from the Licensing Information System.

(b) At the conclusion of the hearing on the petition described in Subsection (3), the juvenile court shall:

(i) make a finding of substantiated, unsubstantiated, or without merit;

(ii) include the finding described in Subsection (1)(a) in a written order; and

(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(4) A proceeding for adjudication of a supported finding under this section of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(5) If an individual whose name appears on the Licensing Information System before May 6, 2002, files a petition under Subsection (3) during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall hear the matter and enter a final decision no later than 60 days after the day on which the petition is filed.

(6) For the purposes of licensing under Sections 26-39-402, [~~62A-1-118~~] 26B-1-211, and 62A-2-120, and for the purposes described in Sections 26-8a-310 and 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:

(a) the juvenile court shall make available records of the juvenile court's findings under Subsections (1) and (2):

(i) for those purposes; and

(ii) only to a person with statutory authority to access the Licensing Information System created under Section 62A-4a-1006; and

(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):

(i) for those purposes; and

(ii) only to a person with statutory authority to also access the Licensing Information System.

Section 108. Section 80-5-102 is amended to read:

80-5-102. Definitions.

As used in this chapter:

(1) "Account" means the Juvenile Justice Reinvestment Restricted Account created in Section 80-5-302.

(2) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include a juvenile offender.

(3) "Aftercare services" means the same as the term "aftercare" is defined in 45 C.F.R. 1351.1.

(4) "Authority" means the Youth Parole Authority created in Section 80-5-701.

(5) "Control" means the authority to detain, restrict, and supervise a juvenile offender in a manner consistent with public safety and the well-being of the juvenile offender and division employees.

(6) "Director" means the director of the Division of Juvenile Justice Services.

(7) "Discharge" means the same as that term is defined in Section 80-6-102.

(8) "Division" means the Division of Juvenile Justice Services created in Section 80-5-103.

(9) "Homeless youth" means a child, other than an emancipated minor:

(a) who is a runaway; or

(b) who is:

(i) not accompanied by the child's parent or guardian; and

(ii) without care, as defined in Section 80-5-602.

(10) "Observation and assessment program" means a nonresidential service program operated or purchased by the division that is responsible only for diagnostic assessment of minors, including for substance use disorder, mental health, psychological, and sexual behavior risk assessments.

(11) "Performance based contracting" means a system of contracting with service providers for the

provision of residential or nonresidential services that:

(a) provides incentives for the implementation of evidence-based juvenile justice programs or programs rated as effective for reducing recidivism by a standardized tool in accordance with Section 63M-7-208; and

(b) provides a premium rate allocation for a minor who receives the evidence-based dosage of treatment and successfully completes the program within three months.

(12) "Rescission" means the same as that term is defined in Section 80-6-102.

(13) "Restitution" means the same as that term is defined in Section 80-6-102.

(14) "Revocation" means the same as that term is defined in Section 80-6-102.

(15) "Temporary custody" means the same as that term is defined in Section 80-6-102.

(16) "Temporary homeless youth shelter" means a facility that:

(a) provides temporary shelter to homeless youth; and

(b) is licensed by the [~~Office of Licensing, created under Section 62A-1-105,~~] Department of Health and Human Services, created in Section 26B-1-201, as a residential support program.

(17) "Termination" means the same as that term is defined in Section 80-6-102.

(18) "Victim" means the same as that term is defined in Section 80-6-102.

(19) "Work program" means a nonresidential public or private service work project established and administered by the division for juvenile offenders for the purpose of rehabilitation, education, and restitution to victims.

(20) (a) "Youth services" means services provided in an effort to resolve family conflict:

(i) for families in crisis when a minor is ungovernable or a runaway; or

(ii) involving a minor and the minor's parent or guardian.

(b) "Youth services" include efforts to:

(i) resolve family conflict;

(ii) maintain or reunite minors with the minors' families; and

(iii) divert minors from entering or escalating in the juvenile justice system.

(c) "Youth services" may provide:

(i) crisis intervention;

(ii) short-term shelter;

(iii) time-out placement; and

(iv) family counseling.

(21) "Youth services center" means a center established by, or under contract with, the division to provide youth services.

Section 109. Repealer.

This bill repeals:

Section 26-1-1, Title cited as "Utah Health Code."

Section 26-1-3, Purpose of title -- Consolidation of health functions into single state agency.

Section 26-1-4.1, Department procedures -- Adjudicative proceedings.

Section 26-1-7, Committees within department.

Section 26-1-7.1, Committee procedures -- Adjudicative proceedings.

Section 26-1-8, Executive director -- Appointment -- Compensation.

Section 26-1-9, Executive director -- Qualifications.

Section 26-1-13, Executive director -- Power to organize department.

Section 26-1-14, Executive director -- Appointment, removal, and compensation of division directors.

Section 26-1-15, Executive director -- Power to accept federal aid.

Section 26-1-17, Executive director -- Power to prescribe rules for administration and government of department.

Section 26-1-18, Authority of department generally.

Section 26-1-20, Advisory committees created by department.

Section 26-1-21, Disposal of property by department.

Section 26-1-22, Budget preparation and submission to governor.

Section 26-1-23, Regulations for local health departments prescribed by department -- Local standards not more stringent than federal or state standards -- Exceptions for written findings.

Section 26-1-24, Hearings conducted by department.

Section 26-1-25, Principal and branch offices of department.

Section 26-1-30, Powers and duties of department.

Section 26B-1-101, Title.

Section 62A-1-101, Short title.

Section 62A-1-102, Department of Human Services -- Creation.

Section 62A-1-106, Adjudicative proceedings.

Section 62A-1-110, Executive director -- Jurisdiction over division and office directors -- Authority.

Section 62A-1-114, Department is state agency for specified federal programs -- Development of state plans and programs.

Section 62A-1-118, Access to abuse and neglect information to screen employees and volunteers.

Section 62A-5-304, Limited admission of persons convicted of felony offenses.

Section 110. Effective date.

This bill takes effect on July 1, 2022.

Section 111. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on July 1, 2022:

(1) replace "Department of Health" or "Department of Human Services" with "Department of Health and Human Services" in any new language added to the Utah Code by legislation passed during the 2022 General Session, except for the references to "Department of Health" and "Department of Human Services" in:

(a) Section 26B-1-103;

(b) Section 26B-1-201; and

(c) Section 26B-1-201.1; and

(2) replace "Division of Substance Abuse and Mental Health" with "Division of Integrated Healthcare."

CHAPTER 256
S. B. 46

Passed February 2, 2022
Approved March 23, 2022
Effective May 4, 2022

MEDICAL CANNABIS PATIENT PROTECTION AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Joel Ferry
Cosponsors: Jacob L. Anderegg
Luz Escamilla
Michael S. Kennedy
Daniel McCay
Evan J. Vickers

LONG TITLE

General Description:

This bill amends protections for medical cannabis patients.

Highlighted Provisions:

This bill:

- amends protections for medical cannabis patients, including public employees, to protect the holding of a medical cannabis card and medical cannabis recommendations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-61a-111, as last amended by Laws of Utah 2021, Chapter 344

78A-2-231, as last amended by Laws of Utah 2021, Chapters 260 and 337

80-3-110, as last amended by Laws of Utah 2021, Chapters 38, 337 and renumbered and amended by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-61a-111 is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat:

(i) an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance[~~.~~]; and

(ii) an employee's status as a medical cannabis cardholder or an employee's medical cannabis recommendation from a qualified medical provider or limited provider in the same way the state or political subdivision treats an employee's prescriptions for any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

(c) Subsections (2)(a) and (b) do not apply where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position, or if the employee's position is dependent on a license that is subject to federal regulations.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 2. Section 78A-2-231 is amended to read:

78A-2-231. Consideration of lawful use or possession of medical cannabis.

(1) As used in this section:

(a) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(b) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(c) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(d) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(e) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis device" means the same as that term is defined in Section 26-61a-102.

(g) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In any judicial proceeding in which a judge, panel, jury, or court commissioner makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the judge, panel, jury, or court commissioner may not consider or treat the individual's card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) Notwithstanding Sections 77-18-105 and 77-2a-3, for probation, release, a plea in abeyance agreement, a diversion agreement, or a tendered admission under Utah Rules of Juvenile Procedure, Rule 25, a term or condition may not require that an individual abstain from the use or possession of medical cannabis, a cannabis product, or a medical cannabis device, either directly or through a general prohibition on violating federal law, without an exception related to medical cannabis use, if the individual's use or possession complies with:

(a) Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(b) Subsection 58-37-3.7(2) or (3).

Section 3. Section 80-3-110 is amended to read:

80-3-110. Consideration of cannabis during proceedings -- Drug testing.

(1) As used in this section:

(a) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(b) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(c) (i) "Chronic" means repeated or patterned.

(ii) "Chronic" does not mean an isolated incident.

(d) "Directions of use" means the same as that term is defined in Section 26-61a-102.

(e) "Dosing guidelines" means the same as that term is defined in Section 26-61a-102.

(f) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(g) "Medical cannabis cardholder" means the same as that term is defined in Section 26-61a-102.

(h) " Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(2) In a proceeding under this chapter, in which the juvenile court makes a finding, determination, or otherwise considers an individual's medical cannabis card, medical cannabis recommendation from a recommending medical provider, or possession or use of medical cannabis, a cannabis product, or a medical cannabis device, the juvenile court may not consider or treat the individual's medical cannabis card, recommendation, possession, or use any differently than the lawful possession or use of any prescribed controlled substance if:

(a) the individual's possession or use complies with Title 4, Chapter 41a, Cannabis Production Establishments;

(b) the individual's possession or use complies with Subsection 58-37-3.7(2) or (3); or

(c) (i) the individual's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act; and

(ii) the individual reasonably complies with the directions of use and dosing guidelines determined by the individual's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5).

(3) In a proceeding under this chapter, a child's parent's or guardian's use of cannabis or a cannabis product is not abuse or neglect of the child unless there is evidence showing that:

(a) the child is harmed because of the child's inhalation or ingestion of cannabis, or because of cannabis being introduced to the child's body in another manner; or

(b) the child is at an unreasonable risk of harm because of chronic inhalation or ingestion of cannabis or chronic introduction of cannabis to the child's body in another manner.

(4) Unless there is harm or an unreasonable risk of harm to the child as described in Subsection (3), in a child welfare proceeding under this chapter, a child's parent's or guardian's use of medical cannabis or a cannabis product is not contrary to the best interests of the child if:

(a) for a medical cannabis cardholder after January 1, 2021, the parent's or guardian's possession or use complies with Title 26, Chapter 61a, Utah Medical Cannabis Act, and there is no evidence that the parent's or guardian's use of medical cannabis unreasonably deviates from the directions of use and dosing guidelines determined by the parent's or guardian's recommending medical provider or through a consultation described in Subsection 26-61a-502(4) or (5); or

(b) before January 1, 2021, the parent's or guardian's possession or use complies with Subsection 58-37-3.7(2) or (3).

(5) Subsection (3) does not prohibit a finding of abuse or neglect of a child, and Subsection (3) does not prohibit a finding that a parent's or guardian's use of medical cannabis or a cannabis product is contrary to the best interests of a child, if there is evidence showing a nexus between the parent's or guardian's use of cannabis or a cannabis product and behavior that would separately constitute abuse or neglect of the child.

(6) If an individual, who is party to a proceeding under this chapter, is ordered by the juvenile court to submit to drug testing, or is referred by the division or a guardian ad litem for drug testing, the individual may not be ordered or referred for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

CHAPTER 257
S. B. 47

Passed February 2, 2022
Approved March 23, 2022
Effective May 4, 2022

COORDINATING COUNCIL FOR PERSONS WITH DISABILITIES SUNSET EXTENSION

Chief Sponsor: Michael S. Kennedy
House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This bill extends the sunset date for the Coordinating Council for Persons with Disabilities.

Highlighted Provisions:

This bill:

- extends the sunset date for the Coordinating Council for Persons with Disabilities; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-262, as last amended by Laws of Utah 2021, Chapters 29 and 91

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

(2) Section 62A-4a-213 is repealed July 1, 2024.

(3) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, [~~2022~~] 2027.

[~~(4) Section 62A-15-114 is repealed December 31, 2021.~~]

[~~(5)~~] (4) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(6)~~] (5) Section 62A-15-118 is repealed December 31, 2023.

[~~(7)~~] (6) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

[~~(8)~~] (7) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(9)~~] (8) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[~~(10)~~] (9) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

CHAPTER 258
S. B. 48

Passed March 3, 2022
Approved March 23, 2022
Effective March 23, 2022
(Exception clause)

INCOME TAX MODIFICATIONS

Chief Sponsor: Daniel McCay
House Sponsor: Mark A. Strong

LONG TITLE

General Description:

This bill modifies provisions related to income tax.

Highlighted Provisions:

This bill:

- updates the language that the State Tax Commission prints on certain documents related to individual income tax returns;
- clarifies that when a tax credit that allows a carry forward expires or is repealed, the applicable carry forward remains in effect;
- provides that a claimant may not claim a social security tax credit or a military retirement tax credit, if a retirement tax credit is claimed on the same return; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-10-103.1, as last amended by Laws of Utah 2011, Chapter 410
59-10-1019, as last amended by Laws of Utah 2021, Chapters 68 and 428
59-10-1042, as enacted by Laws of Utah 2021, Chapter 428
59-10-1043, as enacted by Laws of Utah 2021, Chapter 68

ENACTS:

59-7-538, Utah Code Annotated 1953
59-10-552, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-538 is enacted to read:

59-7-538. Carry forward of expired or repealed tax credit.

When a nonrefundable corporate income tax credit under Part 6, Credits, expires or is repealed, the commission shall allow a taxpayer to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the taxpayer first claimed the tax credit.

Section 2. Section 59-10-103.1 is amended to read:

59-10-103.1. Information to be contained on individual income tax returns or booklets.

(1) The commission shall print the phrase "all state income tax dollars [~~fund education~~] support education, children, and individuals with disabilities" on:

(a) the first page of an individual income tax return; and

(b) the cover page of an individual income tax forms and instructions booklet.

(2) The commission shall include on an individual income tax return a statement for a property owner to declare that the property owner no longer qualifies to receive a residential exemption authorized under Section 59-2-103 for that property owner's primary residence.

Section 3. Section 59-10-552 is enacted to read:

59-10-552. Carry forward of expired or repealed tax credit.

When a nonrefundable individual income tax credit, under Part 10, Nonrefundable Tax Credit Act, expires or is repealed, the commission shall allow a claimant, estate, or trust to carry forward any amount of the tax credit that remains for the period of time described in the tax credit for the taxable year in which the estate, claimant, or estate first claimed the tax credit.

Section 4. Section 59-10-1019 is amended to read:

59-10-1019. Definitions -- Nonrefundable retirement tax credit.

(1) As used in this section:

(a) "Eligible claimant" means a claimant, regardless of whether that claimant is retired, who was born on or before December 31, 1952.

(b) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(d) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(e) "Modified adjusted gross income" means the sum of the following for an eligible claimant or, if the eligible claimant's return under this chapter is allowed a joint filing status, the eligible claimant and the eligible claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(e)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(e)(i).

(f) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each eligible claimant may claim a nonrefundable tax credit of $450 against taxes otherwise due under this part.

(3) [~~(a)~~] An eligible claimant may not:

[~~(i)~~] (a) carry forward or carry back the amount of a tax credit under this section that exceeds the eligible claimant's tax liability for the taxable year; or

[~~(ii)~~] (b) claim a tax credit under this section [~~and~~] for a taxable year if a tax credit under Section 59-10-1042 or 59-10-1043 is claimed on the claimant's return for the same taxable year.

[~~(b) An eligible claimant who qualifies for a tax credit under this section and a tax credit under Section 59-10-1042 or 59-10-1043 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1042 or 59-10-1043.~~]

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $16,000;

(b) for a federal individual income tax return that is allowed a single filing status, $25,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, $32,000; or

(d) for a return under this chapter that is allowed a joint filing status, $32,000.

Section 5. Section 59-10-1042 is amended to read:

59-10-1042. Nonrefundable tax credit for social security benefits.

(1) As used in this section:

(a) "Head of household filing status" means the same as that term is defined in Section 59-10-1018.

(b) "Joint filing status" means the same as that term is defined in Section 59-10-1018.

(c) "Married filing separately status" means a married individual who:

(i) does not file a single federal individual income tax return jointly with that married individual's spouse for the taxable year; and

(ii) files a single federal individual income tax return for the taxable year.

(d) "Modified adjusted gross income" means the sum of the following for a claimant or, if the claimant's return under this chapter is allowed a joint filing status, the claimant and the claimant's spouse:

(i) adjusted gross income for the taxable year for which a tax credit is claimed under this section;

(ii) any interest income that is not included in adjusted gross income for the taxable year described in Subsection (1)(d)(i); and

(iii) any addition to adjusted gross income required by Section 59-10-114 for the taxable year described in Subsection (1)(d)(i).

(e) "Single filing status" means a single individual who files a single federal individual income tax return for the taxable year.

(f) "Social security benefit" means an amount received by a claimant as a monthly benefit in accordance with the Social Security Act, 42 U.S.C. Sec. 401 et seq.

(2) Except as provided in Section 59-10-1002.2 and Subsections (3) and (4), each claimant on a return that receives a social security benefit may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the claimant's social security benefit that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) [~~(a)~~] A claimant may not:

[~~(i)~~] (a) carry forward or carry back the amount of a tax credit under this section that exceeds the claimant's tax liability for the taxable year; or

[~~(ii)~~] (b) claim a tax credit under this section [~~and~~] for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

[~~(b) A claimant that qualifies for a tax credit under this section and a tax credit under Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1019.~~]

(4) The tax credit allowed by Subsection (2) claimed on a return filed under this part shall be reduced by $.025 for each dollar by which modified adjusted gross income for purposes of the return exceeds:

(a) for a federal individual income tax return that is allowed a married filing separately status, $25,000;

(b) for a federal individual income tax return that is allowed a single filing status, $30,000;

(c) for a federal individual income tax return that is allowed a head of household filing status, $50,000; or

(d) for a return under this chapter that is allowed a joint filing status, $50,000.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the calculation and method for claiming the tax credit described in this section.

Section 6. Section 59-10-1043 is amended to read:

59-10-1043. Nonrefundable tax credit for military retirement.

(1) As used in this section:

[~~(a)~~] (a) (i) "Military retirement pay" means retirement pay, including survivor benefits, that relates to service in the armed forces[~~, including service in the Reserves or the National Guard~~] or the reserve components, as described in 10 U.S.C. Sec. 10101.

(ii) "Military retirement pay" does not include:

(A) Social Security income;

(B) 401(k) or IRA distributions; or

(C) income from other sources.

(b) "Survivor benefits" means the retired pay portion of the benefits described in 10 U.S.C. Secs. 1447 through 1455.

(2) Except as provided in Section 59-10-1002.2, a claimant who receives military retirement pay may claim a nonrefundable tax credit against taxes equal to the product of:

(a) the percentage listed in Subsection 59-10-104(2); and

(b) the amount of military retirement pay that is included in adjusted gross income on the claimant's federal income tax return for the taxable year.

(3) [~~(a)~~] A claimant may not:

[~~(i)~~] (a) carry forward or carry back the amount of a tax credit that exceeds the claimant's tax liability for the taxable year; or

[~~(ii)~~] (b) claim a tax credit under this section [~~and~~] for a taxable year if a tax credit under Section 59-10-1019 is claimed on the claimant's return for the same taxable year.

[~~(b) A claimant that qualifies for a tax credit under this section and a tax credit under Section 59-10-1019 may elect whether to claim a tax credit under this section or a tax credit under Section 59-10-1019.~~]

Section 7. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 8. Retrospective operation.

The changes to Sections 59-10-1019, 59-10-1042, and 59-10-1043 have retrospective operation for a taxable year beginning on or after January 1, 2021.

CHAPTER 259
S. B. 51

Passed February 25, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause in Section 27)

TRANSPORTATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill amends provisions related to transportation issues including motor vehicles, vintage vehicles, transportation projects, and a towing rotation pilot program.

Highlighted Provisions:

This bill:

- makes technical changes to correct inaccurate or outdated cross references;
- allows the State Tax Commission to delay the expiration of vehicle registrations in circumstances where materials for registration decals are temporarily unavailable;
- at the time of registration, requires a vintage vehicle that has a model year of 1981 or newer to:
  - provide proof of an emissions inspection; or
  - provide proof of vehicle insurance that is a type specific to a collector vehicle;
- for a vintage vehicle that has a model year of 1981 or newer:
  - increases the registration fee by 50 cents;
  - allows the State Tax Commission to use 50 cents of the increased registration fee to cover the costs to administer the vintage vehicle registration program; and
  - allows certain vintage vehicles to display a historical support special group license plate instead of a vintage vehicle license plate;
- for a vintage vehicle, removes the requirement to display a front license plate;
- amends provisions related to the Office of the Attorney General in prosecution of certain cases related to motor vehicle enforcement;
- allows the Department of Public Safety to establish a pilot program to establish a public-private partnership to manage certain tow rotation dispatch services;
- amends certain allocations of funding for transportation projects;
- clarifies a definition related to local option sales and use taxes for public transit; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Office of the Attorney General -- Internal Service Fund -- Attorney General:
  - from the Dedicated Credits Revenue Temporary Permit Account, $192,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-807.2, as enacted by Laws of Utah 2019, Chapter 479
41-1a-201, as last amended by Laws of Utah 2019, Chapter 459
41-1a-226, as last amended by Laws of Utah 2017, Chapter 406
41-1a-401, as last amended by Laws of Utah 2018, Chapters 260, 260, and 454
41-1a-404, as last amended by Laws of Utah 2015, Chapters 81 and 412
41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
41-1a-1201, as last amended by Laws of Utah 2018, Chapter 424
41-1a-1206, as last amended by Laws of Utah 2020, Chapter 377
41-3-105, as last amended by Laws of Utah 2020, Chapters 354 and 396
41-6a-1642, as last amended by Laws of Utah 2021, Chapter 322
41-21-1, as last amended by Laws of Utah 2016, Chapter 40
53-3-105, as last amended by Laws of Utah 2021, Chapter 284
53-3-219, as last amended by Laws of Utah 2021, Chapter 262
59-12-2220, as last amended by Laws of Utah 2019, Chapter 479
63B-31-103, as enacted by Laws of Utah 2021, Chapter 420
63I-1-272, as last amended by Laws of Utah 2021, Chapter 420
63I-2-272, as last amended by Laws of Utah 2021, Chapter 358
72-1-213.1, as last amended by Laws of Utah 2021, Chapter 222
72-1-213.2, as enacted by Laws of Utah 2021, Chapters 222 and 222
72-2-121, as last amended by Laws of Utah 2021, Chapters 239, 239, 420, and 420
72-2-124, as last amended by Laws of Utah 2021, Chapters 239, 387, and 411
72-5-309, as last amended by Laws of Utah 2021, Chapter 162
72-5-403, as last amended by Laws of Utah 2012, Chapter 121

ENACTS:

53-1-106.2, Utah Code Annotated 1953

REPEALS:

72-1-213, as last amended by Laws of Utah 2019, Chapter 479

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-807.2 is amended to read:

17B-2a-807.2. Existing large public transit district board of trustees -- Appointment -- Quorum -- Compensation -- Terms.

(1) (a) (i) For a large public transit district created before January 1, 2019, and except as provided in Subsection (7), the board of trustees shall consist of three members appointed as described in Subsection (1)(b).

(ii) For purposes of a large public transit district created before January 1, 2019, the nominating regions are as follows:

(A) a central region that is Salt Lake County;

(B) a southern region that is comprised of Utah County and the portion of Tooele County that is part of the large public transit district; and

(C) a northern region that is comprised of Davis County, Weber County, and the portion of Box Elder County that is part of the large public transit district.

(iii) (A) If a large public transit district created before January 1, 2019, annexes an additional county into the large public transit district pursuant to Section 17B-1-402, following the issuance of the certificate of annexation by the lieutenant governor, the political subdivisions making up the large public transit district shall submit to the Legislature for approval a proposal for the creation of three regions for nominating members to the board of trustees of the large public transit district.

(B) If a large public transit district created before January 1, 2019, has a change to the boundaries of the large public transit district, the Legislature, after receiving and considering the proposal described in Subsection (1)(a)(iii)(A), shall designate the three regions for nominating members to the board of trustees of the large public transit district.

(b) (i) Except as provided in Subsection (5), the governor, with advice and consent of the Senate, shall appoint the members of the board of trustees, making:

(A) one appointment from individuals nominated from the central region as described in Subsection (2);

(B) one appointment from individuals nominated from the southern region described in Subsection (3); and

(C) one appointment from individuals nominated from the northern region described in Subsection (4).

(2) For the appointment from the central region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Salt Lake County; and

(b) three individuals nominated by the mayor of Salt Lake County, with approval of the Salt Lake County council.

(3) For the appointment from the southern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) two individuals nominated by the council of governments of Utah County;

(b) two individuals nominated by the county commission of Utah County; and

(c) one individual nominated by the county commission of Tooele County.

(4) For the appointment from the northern region, the governor shall appoint one individual selected from five individuals nominated as follows:

(a) one individual nominated by the council of governments of Davis County;

(b) one individual nominated by the council of governments of Weber County;

(c) one individual nominated by the county commission of Davis County;

(d) one individual nominated by the county commission of Weber County; and

(e) one individual nominated by the county commission of Box Elder County.

(5) (a) The nominating counties described in Subsections (2) through (4) shall ensure that nominations are submitted to the governor no later than June 1 of each respective nominating year.

[~~(5)~~] (b) If the governor fails to appoint one of the individuals nominated as described in Subsection (2), (3), or (4), as applicable, within 60 days of the nominations, the following appointment procedures apply:

[~~(a)~~] (i) for an appointment for the central region, the Salt Lake County council shall appoint an individual, with confirmation by the Senate;

[~~(b)~~] (ii) for an appointment for the southern region, the Utah County commission shall appoint an individual, in consultation with the Tooele County commission, with confirmation by the Senate; and

[~~(c)~~] (iii) for an appointment for the northern region, the Davis County commission and the Weber County commission, collectively, and in consultation with the Box Elder County commission, shall appoint an individual, with confirmation by the Senate.

(6) (a) Each nominee shall be a qualified executive with technical and administrative experience and training appropriate for the position.

(b) The board of trustees of a large public transit district shall be full-time employees of the public transit district.

(c) The compensation package for the board of trustees shall be determined by the local advisory council as described in Section 17B-2a-808.2.

(d) (i) Subject to Subsection (6)(d)(iii), for a board of trustees of a large public transit district, "quorum" means at least two members of the board of trustees.

(ii) Action by a majority of a quorum constitutes an action of the board of trustees.

(iii) A meeting of a quorum of a board of trustees of a large public transit district is subject to Section 52-4-103 regarding convening of a three-member board of trustees and what constitutes a public meeting.

(7) (a) Subject to Subsection (8), each member of the board of trustees of a large public transit district shall serve for a term of four years.

(b) A member of the board of trustees may serve an unlimited number of terms.

(c) Notwithstanding Subsection (2), (3), or (4), as applicable, at the expiration of a term of a member of the board of trustees, if the respective nominating entities and individuals for the respective region described in Subsection (2), (3), or (4), unanimously agree to retain the existing member of the board of trustees, the respective nominating individuals or bodies described in Subsection (2), (3), or (4) are not required to make nominations to the governor, and the governor may reappoint the existing member to the board of trustees.

(8) Each member of the board of trustees of a large public transit district shall serve at the pleasure of the governor.

(9) Subject to Subsections (7) and (8), a board of trustees of a large public transit district that is in place as of February 1, 2019, may remain in place.

(10) The governor shall designate one member of the board of trustees as chair of the board of trustees.

(11) (a) If a vacancy occurs, the nomination and appointment procedures to replace the individual shall occur in the same manner described in Subsection (2), (3), or (4), and, if applicable, Subsection (5), for the respective member of the board of trustees creating the vacancy.

(b) If a vacancy occurs on the board of trustees of a large public transit district, the respective nominating region shall nominate individuals to the governor as described in this section within 60 days after the vacancy occurs.

(c) If the respective nominating region does not nominate to fill the vacancy within 60 days, the governor shall appoint an individual to fill the vacancy.

(d) A replacement board member shall serve for the remainder of the unexpired term, but may serve an unlimited number of terms as provided in Subsection (7)(b).

Section 2. Section 41-1a-201 is amended to read:

41-1a-201. Function of registration -- Registration required -- Penalty.

(1) Unless exempted, a person or automated driving system may not operate and an owner may not engage an automated driving system, give another person permission to engage an automated driving system, or give another person permission to operate a motor vehicle, combination of vehicles, trailer, semitrailer, vintage vehicle, off-highway vehicle, vessel, or park model recreational vehicle in this state unless it has been registered in accordance with this chapter, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act.

(2) Subject to Subsection 53-8-209(3), a violation of this section is an infraction.

(3) (a) In the event that materials are temporarily unavailable for registration items required under Section 41-1a-402, the commission may delay initial vehicle registration or renewal of vehicle registrations.

(b) In a circumstance described in Subsection (3)(a), a person does not violate Subsection (1) for failure to register a vehicle during a delay period described in Subsection (3)(a).

Section 3. Section 41-1a-226 is amended to read:

41-1a-226. Vintage vehicle -- Signed statement -- Registration.

(1) The owner of a vintage vehicle who applies for registration under this part shall provide a signed statement that the vintage vehicle:

(a) is owned and operated for the purposes described in Section 41-21-1; and

(b) is safe to operate on the highways of this state as described in Section 41-21-4.

(2) [~~The~~] For a vintage vehicle with a model year of 1980 or older, the signed statement described in Subsection (1) is in lieu of an emissions inspection, from which a vintage vehicle is exempt under Subsection 41-6a-1642(4).

(3) Before registration of a vintage vehicle that has a model year of 1981 or newer, an owner shall:

(a) obtain a certificate of emissions inspection as provided in Section 41-6a-1642; or

(b) provide proof of vehicle insurance coverage for the vintage vehicle that is a type specific to a vehicle collector.

Section 4. Section 41-1a-401 is amended to read:

41-1a-401. License plates -- Number of plates -- Reflectorization -- Indicia of registration in lieu of or used with plates.

(1) (a) Except as provided in Subsection (1)(c), the division upon registering a vehicle shall issue to the owner:

(i) one license plate for a motorcycle, trailer, or semitrailer;

(ii) one decal for a park model recreational vehicle, in lieu of a license plate, which shall be attached in plain sight to the rear of the park model recreational vehicle;

(iii) one decal for a camper, in lieu of a license plate, which shall be attached in plain sight to the rear of the camper; and

(iv) two identical license plates for every other vehicle.

(b) The license plate or decal issued under Subsection (1)(a) is for the particular vehicle registered and may not be removed during the term for which the license plate or decal is issued or used upon any other vehicle than the registered vehicle.

(c) (i) Notwithstanding Subsections (1)(a) and (b) and except as provided in Subsection (1)(c)(ii), the division, upon registering a motor vehicle that has been sold, traded, or the ownership of which has been otherwise released, shall transfer the license plate issued to the person applying to register the vehicle if:

(A) the previous registered owner has included the license plate as part of the sale, trade, or ownership release; and

(B) the person applying to register the vehicle applies to transfer the license plate to the new registered owner of the vehicle.

(ii) The division may not transfer a personalized or special group license plate to a new registered owner under this Subsection (1)(c) if the new registered owner does not meet the qualification or eligibility requirements for that personalized or special group license plate under Sections 41-1a-410 through 41-1a-422.

(2) The division may receive applications for registration renewal, renew registration, and issue new license plates or decals at any time prior to the expiration of registration.

(3) (a) (i) [~~All~~] Except as provided in Subsection (3)(a)(iii), all license plates to be manufactured and issued by the division shall be treated with a fully reflective material on the plate face that provides effective and dependable reflective brightness during the service period of the license plate.

(ii) [~~For~~] Except as provided in Subsection (3)(a)(iii), for a historical support special group license plate created under this part, the division shall procure reflective material to satisfy the requirement under Subsection (3)(a)(i) as soon as such material is available at a reasonable cost.

(iii) Notwithstanding the reflectivity requirement described in Subsection (3)(a)(i), the division may manufacture and issue a historical support special group license plate without a fully reflective plate face if:

(A) the historical special group license plate is requested for a vintage vehicle that has a model year of 1980 or older; and

(B) the division has manufacturing equipment and technology available to produce the plate in small quantities.

(b) The division shall prescribe all license plate material specifications and establish and implement procedures for conforming to the specifications.

(c) The specifications for the materials used such as the aluminum plate substrate, the reflective sheeting, and glue shall be drawn in a manner so that at least two manufacturers may qualify as suppliers.

(d) The granting of contracts for the materials shall be by public bid.

(4) (a) The commission may issue, adopt, and require the use of indicia of registration it considers advisable in lieu of or in conjunction with license plates as provided in this part.

(b) All provisions of this part relative to license plates apply to these indicia of registration, so far as the provisions are applicable.

(5) A violation of this section is an infraction.

Section 5. Section 41-1a-404 is amended to read:

41-1a-404. Location and position of plates -- Visibility of plates -- Exceptions.

(1) License plates issued for a vehicle other than a motorcycle, trailer, vintage vehicle, or semitrailer shall be attached to the vehicle, one in the front and the other in the rear.

(2) (a) The license plate issued for a motorcycle, trailer, or semitrailer shall be attached to the rear of the motorcycle, trailer, or semitrailer.

(b) (i) An owner of a vintage vehicle shall ensure that a license plate is attached to the rear of the vintage vehicle.

(ii) An owner of a vintage vehicle is not required to display a license plate on the front of the vintage vehicle.

(3) Except as provided in Subsection (5), a license plate shall at all times be:

(a) securely fastened:

(i) in a horizontal position to the vehicle for which it is issued to prevent the plate from swinging;

(ii) at a height of not less than 12 inches from the ground, measuring from the bottom of the plate; and

(iii) in a place and position to be clearly visible; and

(b) maintained:

(i) free from foreign materials; and

(ii) in a condition to be clearly legible.

(4) Enforcement by a state or local law enforcement officer of the requirement under Subsection (1) to attach a license plate to the front of a vehicle shall be only as a secondary action when the vehicle has been detained for a suspected violation by any person in the vehicle of Title 41, Motor Vehicles, other than the requirement under Subsection (1) to attach a license plate to the front of the vehicle, or for another offense.

(5) The provisions of Subsections (3)(a)(iii) and (3)(b) do not apply to a license plate that is obscured exclusively by one or more of the following devices or by the cargo the device is carrying, if the device is installed according to manufacturer specifications or generally accepted installation practices:

(a) a trailer hitch;

(b) a wheelchair lift or wheelchair carrier;

(c) a trailer being towed by the vehicle;

(d) a bicycle rack, ski rack, or luggage rack; or

(e) a similar cargo carrying device.

(6) A violation of this section is an infraction.

Section 6. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) (i) [~~An~~] Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 7. Section 41-1a-1201 is amended to read:

41-1a-1201. Disposition of fees.

(1) All fees received and collected under this part shall be transmitted daily to the state treasurer.

(2) Except as provided in Subsections (3), (6), (7), (8), and (9) and Sections 41-1a-422, 41-1a-1220, 41-1a-1221, and 41-1a-1223 all fees collected under this part shall be deposited [~~in~~] into the Transportation Fund.

(3) Funds generated under Subsections 41-1a-1211(1)(b)(ii), (6)(b)(ii), and (7) and Section 41-1a-1212 may be used by the commission to cover the costs incurred in issuing license plates under Part 4, License Plates and Registration Indicia.

(4) In accordance with Section 63J-1-602.2, all funds available to the commission for the purchase and distribution of license plates and decals are nonlapsing.

(5) (a) Except as provided in Subsections (3) and (5)(b) and Section 41-1a-1205, the expenses of the commission in enforcing and administering this part shall be provided for by legislative appropriation from the revenues of the Transportation Fund.

(b) Three dollars of the registration fees imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 may be used by the commission to cover the costs incurred in enforcing and administering this part.

(c) Fifty cents of the registration fee imposed under Subsection 41-1a-1206(1)(i) for each vintage vehicle that has a model year of 1981 or newer may be used by the commission to cover the costs incurred in enforcing and administering this part.

(6) (a) The following portions of the registration fees imposed under Section 41-1a-1206 for each vehicle shall be deposited [~~in~~] into the Transportation Investment Fund of 2005 created under Section 72-2-124:

(i) $30 of the registration fees imposed under Subsections 41-1a-1206(1)(a), (1)(b), (1)(f), (4), and (7);

(ii) $21 of the registration fees imposed under Subsections 41-1a-1206(1)(c)(i) and (1)(c)(ii);

(iii) $2.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(ii);

(iv) $23 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(i);

(v) $24.50 of the registration fee imposed under Subsection 41-1a-1206(1)(e)(i); and

(vi) $1 of the registration fee imposed under Subsection 41-1a-1206(1)(d)(ii).

(b) The following portions of the registration fees collected for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited [~~in~~] into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) $23.25 of each registration fee collected under Subsection 41-1a-1206(2)(a)(i); and

(ii) $23 of each registration fee collected under Subsection 41-1a-1206(2)(a)(ii).

(7) (a) Ninety-four cents of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited [~~in~~] into the Public Safety Restricted Account created in Section 53-3-106.

(b) Seventy-one cents of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited [~~in~~] into the Public Safety Restricted Account created in Section 53-3-106.

(8) (a) One dollar of each registration fee imposed under Subsections 41-1a-1206(1)(a) and (b) for each vehicle shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(b) One dollar of each registration fee imposed under Subsections 41-1a-1206(2)(a) and (b) for each vehicle registered for a six-month registration period under Section 41-1a-215.5 shall be deposited into the Motor Vehicle Safety Impact Restricted Account created in Section 53-8-214.

(9) Fifty cents of each registration fee imposed under Subsection 41-1a-1206(1)(a) for each motorcycle shall be deposited [~~in~~] into the Spinal Cord and Brain Injury Rehabilitation Fund created in Section 26-54-102.

Section 8. Section 41-1a-1206 is amended to read:

41-1a-1206. Registration fees -- Fees by gross laden weight.

(1) Except as provided in Subsections (2) and (3), at the time application is made for registration or renewal of registration of a vehicle or combination of vehicles under this chapter, a registration fee shall be paid to the division as follows:

(a) $46.00 for each motorcycle;

(b) $44 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles;

(c) unless the semitrailer or trailer is exempt from registration under Section 41-1a-202 or is registered under Section 41-1a-301:

(i) $31 for each trailer or semitrailer over 750 pounds gross unladen weight; or

(ii) $28.50 for each commercial trailer or commercial semitrailer of 750 pounds or less gross unladen weight;

(d) (i) $53 for each farm truck over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $9 for each 2,000 pounds over 14,000 pounds gross laden weight;

(e) (i) $69.50 for each motor vehicle or combination of motor vehicles, excluding farm trucks, over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(f) (i) $69.50 for each park model recreational vehicle over 12,000 pounds, but not exceeding 14,000 pounds gross laden weight; plus

(ii) $19 for each 2,000 pounds over 14,000 pounds gross laden weight;

(g) $45 for each vintage vehicle that [~~is less than 40 years old; and~~] has a model year of 1981 or newer;

(h) in addition to the fee described in Subsection (1)(b):

(i) for each electric motor vehicle:

(A) $90 during calendar year 2020; and

(B) $120 beginning January 1, 2021, and thereafter;

(ii) for each hybrid electric motor vehicle:

(A) $15 during calendar year 2020; and

(B) $20 beginning January 1, 2021, and thereafter;

(iii) for each plug-in hybrid electric motor vehicle:

(A) $39 during calendar year 2020; and

(B) $52 beginning January 1, 2021, and thereafter; and

(iv) for any motor vehicle not described in Subsections (1)(h)(i) through (iii) that is fueled exclusively by a source other than motor fuel, diesel fuel, natural gas, or propane:

(A) $90 during calendar year 2020; and

(B) $120 beginning January 1, 2021, and thereafter[~~.~~]; and

(i) in addition to the fee described in Subsection (1)(g), for a vintage vehicle that has a model year of 1981 or newer, 50 cents.

(2) (a) At the time application is made for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5, a registration fee shall be paid to the division as follows:

(i) $34.50 for each motorcycle; and

(ii) $33.50 for each motor vehicle of 12,000 pounds or less gross laden weight, excluding motorcycles.

(b) In addition to the fee described in Subsection (2)(a)(ii), for registration or renewal of registration of a vehicle under this chapter for a six-month registration period under Section 41-1a-215.5 a registration fee shall be paid to the division as follows:

(i) for each electric motor vehicle:

(A) $69.75 during calendar year 2020; and

(B) $93 beginning January 1, 2021, and thereafter;

(ii) for each hybrid electric motor vehicle:

(A) $11.25 during calendar year 2020; and

(B) $15 beginning January 1, 2021, and thereafter;

(iii) for each plug-in hybrid electric motor vehicle:

(A) $30 during calendar year 2020; and

(B) $40 beginning January 1, 2021, and thereafter; and

(iv) for each motor vehicle not described in Subsections (2)(b)(i) through (iii) that is fueled by a source other than motor fuel, diesel fuel, natural gas, or propane:

(A) $69.75 during calendar year 2020; and

(B) $93 beginning January 1, 2021, and thereafter.

(3) (a) (i) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(a), (1)(b), (1)(c)(i), (1)(c)(ii), (1)(d)(i), (1)(e)(i), (1)(f)(i), (1)(g), (2)(a), (4)(a), and (7), by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(ii) Beginning on January 1, 2022, the commission shall, on January 1, annually adjust the registration fees described in Subsections (1)(h)(i)(B), (1)(h)(ii)(B), (1)(h)(iii)(B), (1)(h)(iv)(B), (2)(b)(i)(B), (2)(b)(ii)(B), (2)(b)(iii)(B), and (2)(b)(iv)(B) by taking the registration fee rate for the previous year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the registration fee of the previous year by the actual percentage change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(b) The amounts calculated as described in Subsection (3)(a) shall be rounded up to the nearest 25 cents.

(4) (a) The initial registration fee for a vintage vehicle that [~~is 40 years old~~] has a model year of 1980 or older is $40.

(b) A vintage vehicle that [~~is 40 years old~~] has a model year of 1980 or older is exempt from the renewal of registration fees under Subsection (1).

(c) A vehicle with a Purple Heart special group license plate issued in accordance with Section 41-1a-421 is exempt from the registration fees under Subsection (1).

(d) A camper is exempt from the registration fees under Subsection (1).

(5) If a motor vehicle is operated in combination with a semitrailer or trailer, each motor vehicle shall register for the total gross laden weight of all units of the combination if the total gross laden weight of the combination exceeds 12,000 pounds.

(6) (a) Registration fee categories under this section are based on the gross laden weight declared in the licensee's application for registration.

(b) Gross laden weight shall be computed in units of 2,000 pounds. A fractional part of 2,000 pounds is a full unit.

(7) The owner of a commercial trailer or commercial semitrailer may, as an alternative to registering under Subsection (1)(c), apply for and obtain a special registration and license plate for a fee of $130.

(8) Except as provided in Section 41-6a-1642, a truck may not be registered as a farm truck unless:

(a) the truck meets the definition of a farm truck under Section 41-1a-102; and

(b) (i) the truck has a gross vehicle weight rating of more than 12,000 pounds; or

(ii) the truck has a gross vehicle weight rating of 12,000 pounds or less and the owner submits to the division a certificate of emissions inspection or a waiver in compliance with Section 41-6a-1642.

(9) A violation of Subsection (8) is an infraction that shall be punished by a fine of not less than $200.

(10) Trucks used exclusively to pump cement, bore wells, or perform crane services with a crane lift capacity of five or more tons, are exempt from 50% of the amount of the fees required for those vehicles under this section.

Section 9. Section 41-3-105 is amended to read:

41-3-105. Administrator's powers and duties -- Administrator and investigators to be law enforcement officers.

(1) The administrator may make rules to carry out the purposes of this chapter and Sections 41-1a-1001 through 41-1a-1006 according to the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) The administrator may employ clerks, deputies, and assistants necessary to discharge the duties under this chapter and may designate the duties of those clerks, deputies, and assistants.

(b) The administrator, assistant administrator, and all investigators shall be law enforcement officers certified by peace officer standards and training as required by Section 53-13-103.

(3) (a) The administrator may investigate any suspected or alleged violation of:

(i) this chapter;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) any law concerning motor vehicle fraud; or

(iv) any rule made by the administrator.

(b) The administrator may bring an action in the name of the state against any person to enjoin a violation found under Subsection (3)(a).

(4) (a) The administrator may prescribe forms to be used for applications for licenses.

(b) The administrator may require information from the applicant concerning the applicant's fitness to be licensed.

(c) Each application for a license shall contain:

(i) if the applicant is an individual, the name and residence address of the applicant and the trade name, if any, under which the applicant intends to conduct business;

(ii) if the applicant is a partnership, the name and residence address of each partner, whether limited or general, and the name under which the partnership business will be conducted;

(iii) if the applicant is a corporation, the name of the corporation, and the name and residence address of each of its principal officers and directors;

(iv) a complete description of the principal place of business, including:

(A) the municipality, with the street and number, if any;

(B) if located outside of any municipality, a general description so that the location can be determined; and

(C) any other places of business operated and maintained by the applicant in conjunction with the principal place of business;

(v) if the application is for a new motor vehicle dealer's license, the name of each motor vehicle the applicant has been enfranchised to sell or exchange, the name and address of the manufacturer or distributor who has enfranchised the applicant, and the name and address of each individual who will act as a salesperson under authority of the license;

(vi) at least five years of business history;

(vii) the federal tax identification number issued to the dealer;

(viii) the sales and use tax license number issued to the dealer under Title 59, Chapter 12, Sales and Use Tax Act; and

(ix) if the application is for a direct-sale manufacturer's license:

(A) the name of each line-make the applicant will sell, display for sale, or offer for sale or exchange;

(B) the name and address of each individual who will act as a direct-sale manufacturer salesperson under authority of the license;

(C) a complete description of the direct-sale manufacturer's authorized service center, including the address and any other place of business the applicant operates and maintains in conjunction with the authorized service center;

(D) a sworn statement that the applicant complies with each qualification for a direct-sale manufacturer under this chapter;

(E) a sworn statement that if at any time the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the applicant will inform the division in writing within 10 business days after the day on which the noncompliance occurs; and

(F) an acknowledgment that if the applicant fails to comply with a qualification for a direct-sale manufacturer under this chapter, the administrator will deny, suspend, or revoke the applicant's direct-sale manufacturer license in accordance with Section 41-3-209.

(5) The administrator may adopt a seal with the words "Motor Vehicle Enforcement Administrator, State of Utah," to authenticate the acts of the administrator's office.

(6) (a) The administrator may require that a licensee erect or post signs or devices on the licensee's principal place of business and any other sites, equipment, or locations operated and maintained by the licensee in conjunction with the licensee's business.

(b) The signs or devices shall state the licensee's name, principal place of business, type and number of licenses, and any other information that the administrator considers necessary to identify the licensee.

(c) The administrator may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, determining allowable size and shape of signs or devices, lettering and other details of signs or devices, and location of signs or devices.

(7) (a) The administrator shall provide for quarterly meetings of the advisory board and may call special meetings.

(b) Notices of all meetings shall be sent to each member not fewer than five days before the meeting.

(8) The administrator, the officers and inspectors of the division designated by the commission, and peace officers shall:

(a) make arrests upon view and without warrant for any violation committed in their presence of any of the provisions of this chapter, or Title 41, Chapter 1a, Motor Vehicle Act;

(b) when on duty, upon reasonable belief that a motor vehicle, trailer, or semitrailer is being operated in violation of any provision of Title 41, Chapter 1a, Motor Vehicle Act, require the driver of the vehicle to stop, exhibit the person's driver license and the registration card issued for the vehicle, and submit to an inspection of the vehicle, the license plates, and registration card;

(c) serve all warrants relating to the enforcement of the laws regulating the operation of motor vehicles, trailers, and semitrailers;

(d) investigate traffic accidents and secure testimony of any witnesses or persons involved; and

(e) investigate reported thefts of motor vehicles, trailers, and semitrailers.

(9) The administrator shall provide security for an area within the commission designated as a secure area under Section 76-8-311.1.

(10) [~~The administrator may contract with a public prosecutor to provide additional~~] The Office of the Attorney General shall provide prosecution of this chapter.

Section 10. Section 41-6a-1642 is amended to read:

41-6a-1642. Emissions inspection -- County program.

(1) The legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard shall require:

(a) a certificate of emissions inspection, a waiver, or other evidence the motor vehicle is exempt from emissions inspection and maintenance program requirements be presented:

(i) as a condition of registration or renewal of registration; and

(ii) at other times as the county legislative body may require to enforce inspection requirements for individual motor vehicles, except that the county legislative body may not routinely require a certificate of emissions inspection, or waiver of the certificate, more often than required under Subsection (9); and

(b) compliance with this section for a motor vehicle registered or principally operated in the county and owned by or being used by a department, division, instrumentality, agency, or employee of:

(i) the federal government;

(ii) the state and any of its agencies; or

(iii) a political subdivision of the state, including school districts.

(2) A vehicle owner subject to Subsection (1) shall obtain a motor vehicle emissions inspection and maintenance program certificate of emissions inspection as described in Subsection (1), but the program may not deny vehicle registration based solely on the presence of a defeat device covered in the Volkswagen partial consent decrees or a United States Environmental Protection Agency-approved vehicle modification in the following vehicles:

(a) a 2.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state pursuant to a partial consent decree, including:

(i) Volkswagen Jetta, model years 2009, 2010, 2011, 2012, 2013, 2014, and 2015;

(ii) Volkswagen Jetta Sportwagen, model years 2009, 2010, 2011, 2012, 2013, and 2014;

(iii) Volkswagen Golf, model years 2010, 2011, 2012, 2013, 2014, and 2015;

(iv) Volkswagen Golf Sportwagen, model year 2015;

(v) Volkswagen Passat, model years 2012, 2013, 2014, and 2015;

(vi) Volkswagen Beetle, model years 2013, 2014, and 2015;

(vii) Volkswagen Beetle Convertible, model years 2013, 2014, and 2015; and

(viii) Audi A3, model years 2010, 2011, 2012, 2013, and 2015; and

(b) a 3.0-liter diesel engine motor vehicle in which its lifetime nitrogen oxide emissions are mitigated in the state to a settlement, including:

(i) Volkswagen Touareg, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(ii) Audi Q7, model years 2009, 2010, 2011, 2012, 2013, 2014, 2015, and 2016;

(iii) Audi A6 Quattro, model years 2014, 2015, and 2016;

(iv) Audi A7 Quattro, model years 2014, 2015, and 2016;

(v) Audi A8, model years 2014, 2015, and 2016;

(vi) Audi A8L, model years 2014, 2015, and 2016;

(vii) Audi Q5, model years 2014, 2015, and 2016; and

(viii) Porsche Cayenne Diesel, model years 2013, 2014, 2015, and 2016.

(3) (a) The legislative body of a county identified in Subsection (1), in consultation with the Air Quality Board created under Section 19-1-106, shall make regulations or ordinances regarding:

(i) emissions standards;

(ii) test procedures;

(iii) inspections stations;

(iv) repair requirements and dollar limits for correction of deficiencies; and

(v) certificates of emissions inspections.

(b) In accordance with Subsection (3)(a), a county legislative body:

(i) shall make regulations or ordinances to attain or maintain ambient air quality standards in the county, consistent with the state implementation plan and federal requirements;

(ii) may allow for a phase-in of the program by geographical area; and

(iii) shall comply with the analyzer design and certification requirements contained in the state implementation plan prepared under Title 19, Chapter 2, Air Conservation Act.

(c) The county legislative body and the Air Quality Board shall give preference to an inspection and maintenance program that:

(i) is decentralized, to the extent the decentralized program will attain and maintain ambient air quality standards and meet federal requirements;

(ii) is the most cost effective means to achieve and maintain the maximum benefit with regard to ambient air quality standards and to meet federal air quality requirements as related to vehicle emissions; and

(iii) provides a reasonable phase-out period for replacement of air pollution emission testing equipment made obsolete by the program.

(d) The provisions of Subsection (3)(c)(iii) apply only to the extent the phase-out:

(i) may be accomplished in accordance with applicable federal requirements; and

(ii) does not otherwise interfere with the attainment and maintenance of ambient air quality standards.

(4) The following vehicles are exempt from an emissions inspection program and the provisions of this section:

(a) an implement of husbandry as defined in Section 41-1a-102;

(b) a motor vehicle that:

(i) meets the definition of a farm truck under Section 41-1a-102; and

(ii) has a gross vehicle weight rating of 12,001 pounds or more;

(c) a vintage vehicle as defined in Section 41-21-1[~~;~~]:

(i) if the vintage vehicle has a model year of 1980 or older; or

(ii) for a vintage vehicle that has a model year of 1981 or newer, if the owner provides proof of vehicle insurance that is a type specific to a vehicle collector;

(d) a custom vehicle as defined in Section 41-6a-1507;

(e) to the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401, et seq., a motor vehicle that is less than two years old on January 1 based on the age of the vehicle as determined by the model year identified by the manufacturer;

(f) a pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight rating of 12,000 pounds or less, if the registered owner of the pickup truck provides a signed statement to the legislative body stating the truck is used:

(i) by the owner or operator of a farm located on property that qualifies as land in agricultural use under Sections 59-2-502 and 59-2-503; and

(ii) exclusively for the following purposes in operating the farm:

(A) for the transportation of farm products, including livestock and its products, poultry and its products, floricultural and horticultural products; and

(B) in the transportation of farm supplies, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production and maintenance;

(g) a motorcycle as defined in Section 41-1a-102;

(h) an electric motor vehicle as defined in Section 41-1a-102; and

(i) a motor vehicle with a model year of 1967 or older.

(5) The county shall issue to the registered owner who signs and submits a signed statement under Subsection (4)(f) a certificate of exemption from emissions inspection requirements for purposes of registering the exempt vehicle.

(6) A legislative body of a county described in Subsection (1) may exempt from an emissions inspection program a diesel-powered motor vehicle with a:

(a) gross vehicle weight rating of more than 14,000 pounds; or

(b) model year of 1997 or older.

(7) The legislative body of a county required under federal law to utilize a motor vehicle emissions inspection program shall require:

(a) a computerized emissions inspection for a diesel-powered motor vehicle that has:

(i) a model year of 2007 or newer;

(ii) a gross vehicle weight rating of 14,000 pounds or less; and

(iii) a model year that is five years old or older; and

(b) a visual inspection of emissions equipment for a diesel-powered motor vehicle:

(i) with a gross vehicle weight rating of 14,000 pounds or less;

(ii) that has a model year of 1998 or newer; and

(iii) that has a model year that is five years old or older.

(8) (a) Subject to Subsection (8)(c), the legislative body of each county required under federal law to utilize a motor vehicle emissions inspection and maintenance program or in which an emissions inspection and maintenance program is necessary to attain or maintain any national ambient air quality standard may require each college or university located in a county subject to this section to require its students and employees who park a motor vehicle not registered in a county subject to this section to provide proof of compliance with an emissions inspection accepted by the county legislative body if the motor vehicle is parked on the college or university campus or property.

(b) College or university parking areas that are metered or for which payment is required per use are not subject to the requirements of this Subsection (8).

(c) The legislative body of a county shall make the reasons for implementing the provisions of this Subsection (8) part of the record at the time that the county legislative body takes its official action to implement the provisions of this Subsection (8).

(9) (a) An emissions inspection station shall issue a certificate of emissions inspection for each motor vehicle that meets the inspection and maintenance program requirements established in [~~rules~~] regulations or ordinances made under Subsection (3).

(b) The frequency of the emissions inspection shall be determined based on the age of the vehicle as determined by model year and shall be required annually subject to the provisions of Subsection (9)(c).

(c) (i) To the extent allowed under the current federally approved state implementation plan, in accordance with the federal Clean Air Act, 42 U.S.C. Sec. 7401 et seq., the legislative body of a county identified in Subsection (1) shall only require the emissions inspection every two years for each vehicle.

(ii) The provisions of Subsection (9)(c)(i) apply only to a vehicle that is less than six years old on January 1.

(iii) For a county required to implement a new vehicle emissions inspection and maintenance program on or after December 1, 2012, under Subsection (1), but for which no current federally approved state implementation plan exists, a vehicle shall be tested at a frequency determined by the county legislative body, in consultation with the Air Quality Board created under Section 19-1-106, that is necessary to comply with federal law or attain or maintain any national ambient air quality standard.

(iv) If a county legislative body establishes or changes the frequency of a vehicle emissions inspection and maintenance program under Subsection (9)(c)(iii), the establishment or change shall take effect on January 1 if the State Tax Commission receives notice meeting the requirements of Subsection (9)(c)(v) from the county before October 1.

(v) The notice described in Subsection (9)(c)(iv) shall:

(A) state that the county will establish or change the frequency of the vehicle emissions inspection and maintenance program under this section;

(B) include a copy of the ordinance establishing or changing the frequency; and

(C) if the county establishes or changes the frequency under this section, state how frequently the emissions testing will be required.

(d) If an emissions inspection is only required every two years for a vehicle under Subsection (9)(c), the inspection shall be required for the vehicle in:

(i) odd-numbered years for vehicles with odd-numbered model years; or

(ii) in even-numbered years for vehicles with even-numbered model years.

(10) (a) Except as provided in Subsections (9)(b), (c), and (d), the emissions inspection required under this section may be made no more than two months before the renewal of registration.

(b) (i) If the title of a used motor vehicle is being transferred, the owner may use an emissions inspection certificate issued for the motor vehicle during the previous 11 months to satisfy the requirement under this section.

(ii) If the transferor is a licensed and bonded used motor vehicle dealer, the owner may use an emissions inspection certificate issued for the motor vehicle in a licensed and bonded motor vehicle dealer's name during the previous 11 months to satisfy the requirement under this section.

(c) If the title of a leased vehicle is being transferred to the lessee of the vehicle, the lessee may use an emissions inspection certificate issued during the previous 11 months to satisfy the requirement under this section.

(d) If the motor vehicle is part of a fleet of 101 or more vehicles, the owner may not use an emissions inspection made more than 11 months before the renewal of registration to satisfy the requirement under this section.

(e) If the application for renewal of registration is for a six-month registration period under Section 41-1a-215.5, the owner may use an emissions inspection certificate issued during the previous eight months to satisfy the requirement under this section.

(11) (a) A county identified in Subsection (1) shall collect information about and monitor the program.

(b) A county identified in Subsection (1) shall supply this information to an appropriate legislative committee, as designated by the Legislative Management Committee, at times determined by the designated committee to identify program needs, including funding needs.

(12) If approved by the county legislative body, a county that had an established emissions inspection fee as of January 1, 2002, may increase the established fee that an emissions inspection station may charge by $2.50 for each year that is exempted from emissions inspections under Subsection (9)(c) up to a $7.50 increase.

(13) (a) Except as provided in Subsection 41-1a-1223(1)(c), a county identified in Subsection (1) may impose a local emissions compliance fee on each motor vehicle registration within the county in accordance with the procedures and requirements of Section 41-1a-1223.

(b) A county that imposes a local emissions compliance fee may use revenues generated from the fee for the establishment and enforcement of an emissions inspection and maintenance program in accordance with the requirements of this section.

(c) A county that imposes a local emissions compliance fee may use revenues generated from the fee to promote programs to maintain a local, state, or national ambient air quality standard.

Section 11. Section 41-21-1 is amended to read:

41-21-1. Definitions.

(1) "Autocycle" means the same as that term is defined in Section 53-3-102.

(2) "Motorcycle" means:

(a) a motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground; or

(b) an autocycle.

(3) (a) "Street rod" means a motor vehicle or motorcycle that:

(i) (A) was manufactured in 1948 or before; or

(B) (I) was manufactured after 1948 to resemble a vehicle that was manufactured in 1948 or before; and

(II) (Aa) has been altered from the manufacturer's original design; or

(Bb) has a body constructed from non-original materials; and

(ii) is primarily a collector's item that is used for:

(A) club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Street rod" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(4) (a) "Vintage travel trailer" means a travel trailer, camping trailer, or fifth wheel trailer that is:

(i) 30 years old or older, from the current year; and

(ii) primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional recreational or vacation use; and

(F) other similar uses.

(b) "Vintage travel trailer" does not include a travel trailer, camping trailer, or fifth wheel trailer that is used for the general, daily transportation of persons or property.

(5) (a) "Vintage vehicle" means a motor vehicle or motorcycle that:

(i) is 30 years old or older from the current year;

(ii) displays:

(A) a unique vehicle type special group license plate issued in accordance with Section 41-1a-418; [~~and~~] or

(B) for a vehicle that has a model year of 1980 or older, a historical support special group plate; and

(iii) is primarily a collector's item that is used for:

(A) participation in club activities;

(B) exhibitions;

(C) tours;

(D) parades;

(E) occasional transportation; and

(F) other similar uses.

(b) "Vintage vehicle" does not include a motor vehicle or motorcycle that is used for general, daily transportation.

(c) "Vintage vehicle" includes a:

(i) street rod; and

(ii) vintage travel trailer.

Section 12. Section 53-1-106.2 is enacted to read:

53-1-106.2. Towing dispatch pilot program.

(1) The department shall evaluate the availability of vendors, products, and technology capable of increasing efficiency, effectiveness, and transparency in the dispatching of towing providers and management of towing rotations in counties of the first or second class as classified under Section 17-50-501 that experience high demand for tow truck services.

(2) The department shall evaluate vendors, products, and technology for:

(a) the following requirements and capabilities:

(i) decreasing delays associated with requesting and dispatching a tow truck motor carrier from an established tow rotation;

(ii) increasing information, transparency, and data collection associated with tow rotation operations, including dispatching, response time, completion, clearance, and storage; and

(iii) increasing responder and traffic safety by reducing secondary crashes, responder time on scene, and the impacts of traffic accidents on traffic flow and safety; and

(b) costs and distribution of costs for the implementation of product programs, equipment, technology, and other requirements.

(3) Based on the information and findings of the request for information described in this section, the department may:

(a) issue a request for proposals to establish a public-private partnership pilot program to achieve the goals described in Subsection (2); and

(b) establish a pilot program to contract with a vendor to provide towing dispatch management as described in this section.

(4) A vendor selected pursuant to Subsection (3) to provide towing dispatch management services as described in this section may not also provide towing, storage, impounding, or other services related to the operation of a towing provider.

Section 13. Section 53-3-105 is amended to read:

53-3-105. Fees for licenses, renewals, extensions, reinstatements, rescheduling, and identification cards.

The following fees apply under this chapter:

(1) An original class D license application under Section 53-3-205 is $52.

(2) An original provisional license application for a class D license under Section 53-3-205 is $39.

(3) An original limited term license application under Section 53-3-205 is $32.

(4) An original application for a motorcycle endorsement under Section 53-3-205 is $18.

(5) An original application for a taxicab endorsement under Section 53-3-205 is $14.

(6) A learner permit application under Section 53-3-210.5 is $19.

(7) A renewal of a class D license under Section 53-3-214 is $52 unless Subsection (12) applies.

(8) A renewal of a provisional license application for a class D license under Section 53-3-214 is $52.

(9) A renewal of a limited term license application under Section 53-3-214 is $32.

(10) A renewal of a motorcycle endorsement under Section 53-3-214 is $18.

(11) A renewal of a taxicab endorsement under Section 53-3-214 is $14.

(12) A renewal of a class D license for an individual 65 and older under Section 53-3-214 is $27.

(13) An extension of a class D license under Section 53-3-214 is $42 unless Subsection (17) applies.

(14) An extension of a provisional license application for a class D license under Section 53-3-214 is $42.

(15) An extension of a motorcycle endorsement under Section 53-3-214 is $18.

(16) An extension of a taxicab endorsement under Section 53-3-214 is $14.

(17) An extension of a class D license for an individual 65 and older under Section 53-3-214 is $22.

(18) An original or renewal application for a commercial class A, B, or C license or an original or renewal of a provisional commercial class A or B license under Part 4, Uniform Commercial Driver License Act, is $52.

(19) A commercial class A, B, or C license skills test is $78.

(20) Each original CDL endorsement for passengers, hazardous material, double or triple trailers, or tankers is $9.

(21) An original CDL endorsement for a school bus under Part 4, Uniform Commercial Driver License Act, is $9.

(22) A renewal of a CDL endorsement under Part 4, Uniform Commercial Driver License Act, is $9.

(23) (a) A retake of a CDL knowledge test provided for in Section 53-3-205 is $26.

(b) A retake of a CDL skills test provided for in Section 53-3-205 is $52.

(24) A retake of a CDL endorsement test provided for in Section 53-3-205 is $9.

(25) A duplicate class A, B, C, or D license certificate under Section 53-3-215 is $23.

(26) (a) A license reinstatement application under Section 53-3-205 is $40.

(b) A license reinstatement application under Section 53-3-205 for an alcohol, drug, or combination of alcohol and any drug-related offense is $45 in addition to the fee under Subsection (26)(a).

(27) (a) An administrative fee for license reinstatement after an alcohol, drug, or combination of alcohol and any drug-related offense under Section 41-6a-520, 53-3-223, or 53-3-231 or an alcohol, drug, or combination of alcohol and any drug-related offense under Part 4, Uniform Commercial Driver License Act, is $255.

(b) This administrative fee is in addition to the fees under Subsection (26).

(28) (a) An administrative fee for providing the driving record of a driver under Section 53-3-104 or 53-3-420 is $8.

(b) The division may not charge for a report furnished under Section 53-3-104 to a municipal, county, state, or federal agency.

(29) A rescheduling fee under Section 53-3-205 or 53-3-407 is $25.

(30) (a) Except as provided under Subsections (30)(b) and (c), an identification card application under Section 53-3-808 is $23.

(b) An identification card application under Section 53-3-808 for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(c) A fee may not be charged for an identification card application if the individual applying:

(i) (A) has not been issued a Utah driver license;

(B) is indigent; and

(C) is at least 18 years [~~of age~~] old; or

(ii) submits written verification that the individual is homeless, as defined in Section 26-18-411, a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(A) a homeless shelter, as defined in Section [~~10-9a-526~~] 35A-16-305;

(B) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(C) the Department of Workforce Services; or

(D) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(31) (a) An extension of a regular identification card under Subsection 53-3-807(4) for a person with a disability, as defined in 42 U.S.C. Sec. 12102, is $17.

(b) The fee described in Subsection (31)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, or a child or youth who is homeless, as defined in 42 U.S.C. Sec. 11434a(2), from:

(i) a homeless shelter, as defined in Section [~~10-9a-526~~] 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services;

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26-2-12.6; or

(v) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(32) (a) An extension of a regular identification card under Subsection 53-3-807(5) is $23.

(b) The fee described in Subsection (32)(a) is waived if the applicant submits written verification that the individual is homeless, as defined in Section 26-18-411, or a person who is homeless, as defined in Section 35A-5-302, from:

(i) a homeless shelter, as defined Section [~~10-9a-526~~] 35A-16-305;

(ii) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(iii) the Department of Workforce Services; or

(iv) a homeless service provider as verified by the Department of Workforce Services as described in Section 26-2-12.6.

(33) In addition to any license application fees collected under this chapter, the division shall impose on individuals submitting fingerprints in accordance with Section 53-3-205.5 the fees that the Bureau of Criminal Identification is authorized to collect for the services the Bureau of Criminal Identification provides under Section 53-3-205.5.

(34) An original mobility vehicle permit application under Section 41-6a-1118 is $30.

(35) A renewal of a mobility vehicle permit under Section 41-6a-1118 is $30.

(36) A duplicate mobility vehicle permit under Section 41-6a-1118 is $12.

Section 14. Section 53-3-219 is amended to read:

53-3-219. Suspension of minor's driving privileges.

(1) The division shall immediately suspend all driving privileges of any person upon receipt of an order suspending driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 80-6-707.

(2) (a) (i) Upon receipt of the first order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 80-6-707, the division shall:

(A) impose a suspension for a period of one year;

(B) if the person has not been issued an operator license, deny the person's application for a license or learner's permit for a period of one year; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for one year beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the first order suspending a person's driving privileges under this section, the division shall reduce the suspension period under Subsection (2)(a)(i)(A), (B), or (C) if ordered by the court in accordance with Subsection 32B-4-409(5)(b), 32B-4-410(4)(b), 76-9-701(4)(b), or 80-6-707(3)(a).

(b) (i) Upon receipt of a second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Subsection [~~80-4-707~~] 80-6-707(3)(b), the division shall:

(A) impose a suspension for a period of two years;

(B) if the person has not been issued an operator license or is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit for a period of two years; or

(C) if the person is under the age of eligibility for a driver license, deny the person's application for a license or learner's permit beginning on the date of conviction and continuing for two years beginning on the date of eligibility for a driver license.

(ii) Upon receipt of the second or subsequent order suspending a person's driving privileges under Section 32B-4-409, Section 32B-4-410, Subsection 76-9-701(1), or Section 80-6-707, the division shall reduce the suspension period if ordered by the court in accordance with Subsection 32B-4-409(5)(c), 32B-4-410(4)(c), 76-9-701(4)(c), or 80-6-707(3)(b).

(3) The Driver License Division shall subtract from any suspension or revocation period for a conviction of a violation of Section 32B-4-409 the number of days for which a license was previously suspended under Section 53-3-231, if the previous sanction was based on the same occurrence upon which the record of conviction is based.

(4) After reinstatement of the license described in Subsection (1), a report authorized under Section 53-3-104 may not contain evidence of the suspension of a minor's license under this section if the minor has not been convicted of any other offense for which the suspension under Subsection (1) may be extended.

Section 15. Section 59-12-2220 is amended to read:

59-12-2220. County option sales and use tax to fund a system for public transit -- Base -- Rate.

(1) Subject to the other provisions of this part and subject to the requirements of this section, beginning on July 1, 2019, the following counties may impose a sales and use tax under this section:

(a) a county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the entire boundary of a county is annexed into a large public transit district; and

(ii) the maximum amount of sales and use tax authorizations allowed pursuant to

Section 59-12-2203 and authorized under the following sections has been imposed:

(A) Section 59-12-2213;

(B) Section 59-12-2214;

(C) Section 59-12-2215;

(D) Section 59-12-2216;

(E) Section 59-12-2217;

(F) Section 59-12-2218; and

(G) Section 59-12-2219;

(b) if the county is not annexed into a large public transit district, the county legislative body may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county if:

(i) the county is an eligible political subdivision as defined in Section 59-12-2219; or

(ii) a city or town within the boundary of the county is an eligible political subdivision as defined in Section 59-12-2219; or

(c) a county legislative body of a county not described in Subsection (1)(a) may impose the sales and use tax on the transactions described in Subsection 59-12-103(1) located within the county, including the cities and towns within the county, if there is a public transit district within the boundary of the county.

(2) For purposes of Subsection (1) and subject to the other provisions of this section, a county legislative body that imposes a sales and use tax under this section may impose the tax at a rate of .2%.

(3) A county imposing a sales and use tax under this section shall expend the revenues collected from the sales and use tax for capital expenses and service delivery expenses of:

(a) a public transit district;

(b) an eligible political subdivision, as that term is defined in Section 59-12-2219; or

(c) another entity providing a service for public transit or a transit facility within the county as those terms are defined in Section 17B-2a-802.

(4) Notwithstanding Section 59-12-2208, a county legislative body may, but is not required to, submit an opinion question to the county's registered voters in accordance with Section 59-12-2208 to impose a sales and use tax under this section.

(5) (a) Notwithstanding any other provision in this section, if a county wishes to impose a sales and use tax under this section, the county legislative body shall pass the ordinance to impose a sales and use tax under this section on or before June 30, 2023.

(b) The county legislative body may not pass an ordinance to impose a sales and use tax under this section on or after July 1, 2023.

(c) Notwithstanding the deadline described in Subsection (5)(a), any sales and use tax imposed under this section on or before June 30, 2023, may remain in effect.

(6) (a) Revenue collected from a sales and use tax under this section may not be used to supplant existing General Fund appropriations that a county has budgeted for transportation or public transit as of the date the tax becomes effective for a county.

(b) The limitation under Subsection (6)(a) does not apply to a designated transportation or public transit capital or reserve account a county may have established prior to the date the tax becomes effective.

Section 16. Section 63B-31-103 is amended to read:

63B-31-103. Transportation bonds -- Maximum amount -- Use for State Infrastructure Bank Fund loans.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $30,000,000.

(b) When the Department of Transportation certifies to the commission the amount of bond proceeds that the commission needs to provide funding for the purposes described in Subsection (2), the commission may issue and sell general obligation bonds in an amount equal to the certified amount plus costs of issuance.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance for general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) (a) Proceeds from the bonds issued under this section shall be provided to the Department of Transportation to transfer to the State Infrastructure Bank Fund created in Section 72-2-202 to be used to issue loans pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund.

(b) Any distribution from the State Infrastructure Bank Fund shall be contingent upon a commitment from the borrower that revenue is available to repay the loan from the State Infrastructure Bank Fund which shall be paid in whole or in part from revenue distributions described in Subsection 72-2-121(4)[~~(m)~~](k).

(c) Notwithstanding Subsection 72-2-204(2), a loan or assistance made with proceeds from bonds issued under this section shall bear an interest rate not to exceed .5% above the bond market interest rate available to the state for an issuance under this section.

Section 17. Section 63I-1-272 is amended to read:

63I-1-272. Repeal dates, Title 72.

(1) Subsection 72-2-121[~~(10)~~](9), which creates transportation advisory committees, is repealed July 1, 2022.

(2) Title 72, Chapter 4, Part 3, Utah State Scenic Byway Program, is repealed January 2, 2025.

Section 18. Section 63I-2-272 is amended to read:

63I-2-272. Repeal dates -- Title 72.

[~~(1) Subsections 72-1-213(2) and (3)(a)(i), related to the Road Usage Charge Advisory Committee, are repealed January 1, 2022.~~]

[~~(2)~~] Section 72-1-216.1 is repealed January 1, 2023.

Section 19. Section 72-1-213.1 is amended to read:

72-1-213.1. Road usage charge program.

(1) As used in this section:

(a) "Account manager" means an entity under contract with the department to administer and manage the road usage charge program.

(b) "Alternative fuel vehicle" means the same as that term is defined in Section 41-1a-102.

(c) "Payment period" means the interval during which an owner is required to report mileage and pay the appropriate road usage charge according to the terms of the program.

(d) "Program" means the road usage charge program established and described in this section.

(2) There is established a road usage charge program as described in this section.

(3) (a) The department shall implement and oversee the administration of the program, which shall begin on January 1, 2020.

(b) To implement and administer the program, the department may contract with an account manager.

(4) (a) The owner or lessee of an alternative fuel vehicle may apply for enrollment of the alternative fuel vehicle in the program.

(b) If an application for enrollment into the program is approved by the department, the owner or lessee of an alternative fuel vehicle may participate in the program in lieu of paying the fee described in Subsection 41-1a-1206(1)(h) or (2)(b).

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department:

(i) shall make rules to establish:

(A) processes and terms for enrollment into and withdrawal or removal from the program;

(B) payment periods and other payment methods and procedures for the program;

(C) standards for mileage reporting mechanisms for an owner or lessee of an alternative fuel vehicle to report mileage as part of participation in the program;

(D) standards for program functions for mileage recording, payment processing, account management, and other similar aspects of the program;

(E) contractual terms between an owner or lessee of an alternative fuel vehicle owner and an account manager for participation in the program;

(F) contractual terms between the department and an account manager, including authority for an account manager to enforce the terms of the program;

(G) procedures to provide security and protection of personal information and data connected to the program, and penalties for account managers for violating privacy protection rules;

(H) penalty procedures for a program participant's failure to pay a road usage charge or tampering with a device necessary for the program; and

(I) department oversight of an account manager, including privacy protection of personal information and access and auditing capability of financial and other records related to administration of the program; and

(ii) may make rules to establish:

(A) an enrollment cap for certain alternative fuel vehicle types to participate in the program;

(B) a process for collection of an unpaid road usage charge or penalty; or

(C) integration of the program with other similar programs, such as tolling.

(b) The department shall make recommendations to and consult with the commission regarding road usage mileage rates for each type of alternative fuel vehicle.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the commission shall, after consultation with the department, make rules to establish the road usage charge mileage rate for each type of alternative fuel vehicle.

(7) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

(8) (a) The department may:

(i) (A) impose a penalty for failure to timely pay a road usage charge according to the terms of the program or tampering with a device necessary for the program; and

(B) request that the Division of Motor Vehicles place a hold on the registration of the owner's or lessee's alternative fuel vehicle for failure to pay a road usage charge according to the terms of the program;

(ii) send correspondence to the owner of an alternative fuel vehicle to inform the owner or lessee of:

(A) the road usage charge program, implementation, and procedures;

(B) an unpaid road usage charge and the amount of the road usage charge to be paid to the department;

(C) the penalty for failure to pay a road usage charge within the time period described in Subsection (8)(a)(iii); and

(D) a hold being placed on the owner's or lessee's registration for the alternative fuel vehicle, if the road usage charge and penalty are not paid within the time period described in Subsection (8)(a)(iii), which would prevent the renewal of the alternative fuel vehicle's registration; and

(iii) require that the owner or lessee of the alternative fuel vehicle pay the road usage charge to the department within 30 days of the date when the department sends written notice of the road usage charge to the owner or lessee.

(b) The department shall send the correspondence and notice described in Subsection (8)(a) to the owner of the alternative fuel vehicle according to the terms of the program.

(9) (a) The Division of Motor Vehicles and the department shall share and provide access to information pertaining to an alternative fuel vehicle and participation in the program including:

(i) registration and ownership information pertaining to an alternative fuel vehicle;

(ii) information regarding the failure of an alternative fuel vehicle owner or lessee to pay a road usage charge or penalty imposed under this section within the time period described in Subsection (8)(a)(iii); and

(iii) the status of a request for a hold on the registration of an alternative fuel vehicle.

(b) If the department requests a hold on the registration in accordance with this section, the Division of Motor Vehicles may not renew the registration of a motor vehicle under Title 41, Chapter 1a, Part 2, Registration, until the department withdraws the hold request.

(10) The owner of an alternative fuel vehicle may apply for enrollment in the program or withdraw from the program according to the terms established by the department pursuant to rules made under Subsection (5).

(11) If enrolled in the program, the owner or lessee of an alternative fuel vehicle shall:

(a) report mileage driven as required by the department pursuant to Subsection (5);

(b) pay the road usage fee for each payment period as set by the department and the commission pursuant to Subsections (5) and (6); and

(c) comply with all other provisions of this section and other requirements of the program.

[~~(12) (a) On or before June 1, 2021, and except for the vehicles excluded in Subsection (12)(b), the department shall submit to a legislative committee designated by the Legislative Management Committee a written plan to enroll all vehicles registered in the state in the program by December 31, 2031.~~]

[~~(b) The plan described in Subsection (12)(a) may exclude authorized carriers described in Subsection 59-12-102(17)(a).~~]

[~~(c) Beginning in 2021, on or before October 1 of each year, the department shall submit annually an electronic report recommending strategies to expand enrollment in the program to meet the deadline provided in Subsection (12)(a).~~]

[~~(13)~~] (12) Beginning in 2021, the department shall submit annually, on or before October 1, to the [~~legislative committee that receives the report described in Subsection (12)(a)~~] Transportation Interim Committee, an electronic report that:

(a) states for the preceding fiscal year:

(i) the amount of revenue collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program; and

(b) provides for the current fiscal year, an estimate of:

(i) the revenue that will be collected from the program;

(ii) the participation rate in the program; and

(iii) the department's costs to administer the program.

Section 20. Section 72-1-213.2 is amended to read:

72-1-213.2. Road Usage Charge Program Special Revenue Fund -- Revenue.

(1) There is created a special revenue fund within the Transportation Fund known as the "Road Usage Charge Program Special Revenue Fund."

(2) (a) The fund shall be funded from the following sources:

[~~(a)~~] (i) revenue collected by the department under Section 72-1-213.1;

[~~(b)~~] (ii) appropriations made to the fund by the Legislature;

[~~(c)~~] (iii) contributions from other public and private sources for deposit into the fund;

[~~(d)~~] (iv) interest earnings on cash balances; and

[~~(e)~~] (v) money collected for repayments and interest on fund money.

(b) If the revenue derived from the sources described in Subsection (2)(a) is insufficient to cover the costs of administering the road usage charge program, subject to Subsection 72-2-107(1), the department may transfer into the fund revenue deposited into the Transportation Fund from the fee described in Subsections 41-1a-1206(1)(h) and

(2)(b) in an amount sufficient to enable the department to administer the road usage charge program.

(3) (a) Revenue generated by the road usage charge program and relevant penalties shall be deposited into the Road Usage Charge Program Special Revenue Fund.

(b) Revenue in the Road Usage Charge Program Special Revenue Fund is nonlapsing.

(4) Upon appropriation by the Legislature, the department may use revenue deposited into the Road Usage Charge Program Special Revenue Fund:

(a) to cover the costs of administering the program; and

(b) for state transportation purposes.

Section 21. Section 72-2-121 is amended to read:

72-2-121. County of the First Class Highway Projects Fund.

(1) There is created a special revenue fund within the Transportation Fund known as the "County of the First Class Highway Projects Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for new construction, major renovations, and improvements to highways within a county of the first class;

(b) the portion of the sales and use tax described in Subsection 59-12-2214(3)(b) deposited into or transferred to the fund;

(c) the portion of the sales and use tax described in Section 59-12-2217 deposited into or transferred to the fund; and

(d) a portion of the local option highway construction and transportation corridor preservation fee imposed in a county of the first class under Section 41-1a-1222 deposited into or transferred to the fund.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) The executive director shall use the fund money only:

(a) to pay debt service and bond issuance costs for bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102;

(b) for right-of-way acquisition, new construction, major renovations, and improvements to highways within a county of the first class and to pay any debt service and bond issuance costs related to those projects, including improvements to a highway located within a municipality in a county of the first class where the municipality is located within the boundaries of more than a single county;

(c) for the construction, acquisition, use, maintenance, or operation of:

(i) an active transportation facility for nonmotorized vehicles;

(ii) multimodal transportation that connects an origin with a destination; or

(iii) a facility that may include a:

(A) pedestrian or nonmotorized vehicle trail;

(B) nonmotorized vehicle storage facility;

(C) pedestrian or vehicle bridge; or

(D) vehicle parking lot or parking structure;

(d) to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount required in Subsection 72-2-121.3(4)(c) minus the amounts transferred in accordance with Subsection 72-2-124(4)(a)(iv);

(e) for a fiscal year beginning on or after July 1, 2013, to pay debt service and bond issuance costs for $30,000,000 of the bonds issued under Section 63B-18-401 for the projects described in Subsection 63B-18-401(4)(a);

(f) for a fiscal year beginning on or after July 1, 2013, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund, to transfer an amount equal to 50% of the revenue generated by the local option highway construction and transportation corridor preservation fee imposed under Section 41-1a-1222 in a county of the first class:

(i) to the legislative body of a county of the first class; and

(ii) to be used by a county of the first class for:

(A) highway construction, reconstruction, or maintenance projects; or

(B) the enforcement of state motor vehicle and traffic laws;

[~~(g) for fiscal year 2015-16 only, and after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to transfer an amount equal to $25,000,000:~~]

[~~(i) to the legislative body of a county of the first class; and~~]

[~~(ii) to be used by the county for the purposes described in this section;~~]

[~~(h)~~] (g) for a fiscal year beginning on or after July 1, 2015, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and the transfer under Subsection (4)(e) has been made, to annually transfer an amount of the sales and use tax revenue imposed in a county of the first class and deposited into the fund in accordance with Subsection 59-12-2214(3)(b) equal to an amount needed to cover the debt to:

(i) the appropriate debt service or sinking fund for the repayment of bonds issued under Section 63B-27-102; and

[~~(ii) the Transportation Fund created in Section 72-2-102 until $28,079,000 has been deposited into the Transportation Fund; and~~]

[~~(iii)~~] (ii) the appropriate debt service or sinking fund for the repayment of bonds issued under Sections 63B-31-102 and 63B-31-103;

[~~(i)~~] (h) after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the [~~transfers under Subsections (4)(h)(i) and (ii) have~~] transfer under Subsection (4)(g)(i) has been made, to annually transfer $2,000,000 to a public transit district in a county of the first class to fund a system for public transit;

[~~(j)~~] (i) for a fiscal year beginning on or after July 1, 2018, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the [~~transfers under Subsections (4)(h)(i) and (ii) have~~] transfer under Subsection (4)(g)(i) has been made, to annually transfer 20% of the amount deposited into the fund under Subsection (2)(b):

(i) to the legislative body of a county of the first class; and

(ii) to fund parking facilities in a county of the first class that facilitate significant economic development and recreation and tourism within the state;

[~~(k)~~] (j) for the 2018-19 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections [~~(4)(h), (i), and (j)~~] (4)(g), (h), and (i) have been made, to transfer $12,000,000 to the department to distribute for the following projects:

(i) $2,000,000 to West Valley City for highway improvement to 4100 South;

(ii) $1,000,000 to Herriman for highway improvements to Herriman Boulevard from 6800 West to 7300 West;

(iii) $1,100,000 to South Jordan for highway improvements to Grandville Avenue;

(iv) $1,800,000 to Riverton for highway improvements to Old Liberty Way from 13400 South to 13200 South;

(v) $1,000,000 to Murray City for highway improvements to 5600 South from State Street to Van Winkle;

(vi) $1,000,000 to Draper for highway improvements to Lone Peak Parkway from 11400 South to 12300 South;

(vii) $1,000,000 to Sandy City for right-of-way acquisition for Monroe Street;

(viii) $900,000 to South Jordan City for right-of-way acquisition and improvements to 10200 South from 2700 West to 3200 West;

(ix) $1,000,000 to West Jordan for highway improvements to 8600 South near Mountain View Corridor;

(x) $700,000 to South Jordan right-of-way improvements to 10550 South; and

(xi) $500,000 to Salt Lake County for highway improvements to 2650 South from 7200 West to 8000 West; and

[~~(l) subject to Subsection (5), for the 2020-2021 fiscal year only, after the department has verified that the amount required under Subsection 72-2-121.3(4)(c) is available in the fund and after the transfer under Subsection (4)(d), the payment under Subsection (4)(e), and the transfers under Subsections (4)(h), (i), and (j) have been made, to transfer the following amounts to the following cities:~~]

[~~(i) $2,600,000 to South Salt Lake City;~~]

[~~(ii) $1,100,000 to Salt Lake City;~~]

[~~(iii) $1,100,000 to West Valley City;~~]

[~~(iv) $1,000,000 to Millcreek;~~]

[~~(v) $700,000 to Sandy;~~]

[~~(vi) $700,000 to West Jordan;~~]

[~~(vii) $500,000 to Murray;~~]

[~~(viii) $500,000 to South Jordan; and~~]

[~~(ix) $500,000 to Taylorsville; and~~]

[~~(m)~~] (k) subject to Subsection (5), for a fiscal year beginning on or after July 1, 2021, and for 15 years thereafter, to annually transfer the following amounts to the following cities, metro townships, and the county of the first class for priority projects to mitigate congestion and improve transportation safety:

[~~(i) $1,100,000 to Salt Lake City;~~]

[~~(ii) $1,100,000 to Sandy;~~]

[~~(iii) $1,100,000 to Taylorsville;~~]

(i) $2,000,000 to Sandy;

(ii) $2,000,000 to Taylorsville;

(iii) $1,100,000 to Salt Lake City;

(iv) $1,100,000 to West Jordan;

(v) $1,100,000 to West Valley City;

(vi) $800,000 to Herriman;

(vii) $700,000 to Draper;

(viii) $700,000 to Riverton;

(ix) $700,000 to South Jordan;

(x) $500,000 to Bluffdale;

[~~(x)~~] (xi) $500,000 to Midvale;

[~~(xi)~~] (xii) $500,000 to Millcreek;

[~~(xii)~~] (xiii) $500,000 to Murray;

[~~(xiii)~~] (xiv) $400,000 to Cottonwood Heights; and

[~~(xiv)~~] (xv) $300,000 to Holladay.

(5) (a) If revenue in the fund is insufficient to satisfy all of the transfers described in Subsection (4)(m), the executive director shall proportionately reduce the amounts transferred as described in Subsection [~~(4)(m)~~] (4)(k).

(b) A local government entity, as that term is defined in Section 63J-1-220, is exempt from entering into an agreement as described in Section 63J-1-220 pertaining to the receipt or expenditure of any funding described in Subsection [~~(4)(l) or (m)~~] (4)(k).

(c) A local government may not use revenue described in [~~Subsections (4)(l) and (m)~~] Subsection (4)(k) to supplant existing class B or class C road funds that a local government has budgeted for transportation projects.

(d) (i) A municipality or county that received a transfer of funds described in Subsection [~~(4)(k)~~] (4)(j) shall submit to the department a statement of cash flow and progress pertaining to the municipality's or county's respective project described in Subsection [~~(4)(k)~~] (4)(j).

(ii) After the department is satisfied that the municipality or county described in Subsection [~~(4)(k)~~] (4)(j) has made substantial progress and the expenditure of funds is programmed and imminent, the department may transfer to the same municipality or county the respective amounts described in [~~Subsections (4)(l) and (m)~~] Subsection (4)(k).

(6) The revenues described in Subsections (2)(b), (c), and (d) that are deposited into the fund and bond proceeds from bonds issued under Sections 63B-16-102, 63B-18-402, and 63B-27-102 are considered a local matching contribution for the purposes described under Section 72-2-123.

(7) The additional administrative costs of the department to administer this fund shall be paid from money in the fund.

(8) Notwithstanding any statutory or other restrictions on the use or expenditure of the revenue sources deposited into this fund, the Department of Transportation may use the money in this fund for any of the purposes detailed in Subsection (4).

[~~(9) (a) For a fiscal year beginning on or after July 1, 2018, at the end of each fiscal year, after all programmed payments and transfers authorized or required under this section have been made, on November 30 the department shall transfer the remainder of the money in the fund to the Transportation Fund to reduce the amount owed to the Transportation Fund under Subsection (4)(h)(ii).~~]

[~~(b) The department shall provide notice to a county of the first class of the amount transferred in accordance with this Subsection (9).~~]

[~~(10)~~] (9) (a) Any revenue in the fund that is not specifically allocated and obligated under Subsections (4) through (8) is subject to the review process described in this Subsection [~~(10)~~] (9).

(b) A county of the first class shall create a county transportation advisory committee as described in Subsection [~~(10)~~] (9)(c) to review proposed transportation and, as applicable, public transit projects and rank projects for allocation of funds.

(c) The county transportation advisory committee described in Subsection [~~(10)~~] (9)(b) shall be composed of the following 13 members:

(i) six members who are residents of the county, nominated by the county executive and confirmed by the county legislative body who are:

(A) members of a local advisory council of a large public transit district as defined in Section 17B-2a-802;

(B) county council members; or

(C) other residents with expertise in transportation planning and funding; and

(ii) seven members nominated by the county executive, and confirmed by the county legislative body, chosen from mayors or managers of cities or towns within the county.

(d) (i) A majority of the members of the county transportation advisory committee constitutes a quorum.

(ii) The action by a quorum of the county transportation advisory committee constitutes an action by the county transportation advisory committee.

(e) The county body shall determine:

(i) the length of a term of a member of the county transportation advisory committee;

(ii) procedures and requirements for removing a member of the county transportation advisory committee;

(iii) voting requirements of the county transportation advisory committee;

(iv) chairs or other officers of the county transportation advisory committee;

(v) how meetings are to be called and the frequency of meetings, but not less than once annually; and

(vi) the compensation, if any, of members of the county transportation advisory committee.

(f) The county shall establish by ordinance criteria for prioritization and ranking of projects, which may include consideration of regional and countywide economic development impacts, including improved local access to:

(i) employment;

(ii) recreation;

(iii) commerce; and

(iv) residential areas.

(g) The county transportation advisory committee shall evaluate and rank each proposed public transit project and regionally significant transportation facility according to criteria developed pursuant to Subsection [~~(10)~~] (9)(f).

(h) (i) After the review and ranking of each project as described in this section, the county transportation advisory committee shall provide a report and recommend the ranked list of projects to the county legislative body and county executive.

(ii) After review of the recommended list of projects, as part of the county budgetary process, the county executive shall review the list of projects and may include in the proposed budget the proposed projects for allocation, as funds are available.

(i) The county executive of the county of the first class, with information provided by the county and relevant state entities, shall provide a report annually to the county transportation advisory committee, and to the mayor or manager of each city, town, or metro township in the county, including the following:

(i) the amount of revenue received into the fund during the past year;

(ii) any funds available for allocation;

(iii) funds obligated for debt service; and

(iv) the outstanding balance of transportation-related debt.

[~~(11)~~] (10) As resources allow, the department shall study in 2020 transportation connectivity in the southwest valley of Salt Lake County, including the feasibility of connecting major east-west corridors to U-111.

Section 22. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) using funds allocated in this Subsection (4)(a)(ix), and other sources of funds, for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before May 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii).

(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before July 1, 2020, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

Section 23. Section 72-5-309 is amended to read:

72-5-309. Acceptance of rights-of-way -- Notice of acknowledgment required.

(1) The governor or the governor's designee may assess whether the grant of the R.S. 2477 has been accepted with regard to any right-of-way so as to

vest title of the right-of-way in the state and the applicable political subdivision as provided for in Section 72-5-103.

(2) If the governor or governor's designee concludes that the grant has been accepted as to any right-of-way, the governor or a designee shall issue a notice of acknowledgment of the acceptance of the R.S. 2477 grant as to that right-of-way.

(3) A notice of acknowledgment of the R.S. 2477 grant shall include:

(a) a statement of reasons for the acknowledgment;

(b) a general description of the right-of-way or rights-of-way subject to the notice of acknowledgment, including the county in which it is located, and notice of where a center-line description derived from Global Positioning System data may be viewed or obtained;

(c) a statement that the owner of the servient estate in the land over which the right-of-way or rights-of-way subject to the notice runs or any person with a competing dominant estate ownership claim may file a petition with the district court for a decision regarding the correctness or incorrectness of the acknowledgment; and

(d) a statement of the time limit provided in Section 72-5-310 for filing a petition.

(4) (a) (i) The governor or the governor's designee may record a notice of acknowledgment, and any supporting affidavit, map, or other document purporting to establish or affect the state's property interest in the right-of-way or rights-of-way, in the office of the county recorder in the county where the right-of-way or rights-of-way exist.

(ii) (A) A notice of acknowledgment recorded in the county recorder's office is not required to be accompanied by a paper copy of the center-line description.

(B) A paper copy of each center-line description together with the notice of acknowledgment shall be placed in the state archives created in Section 63A-12-101 and made available to the public upon request in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(C) An electronic copy of the center-line description identified in a notice of acknowledgment shall be available upon request at:

(I) the county recorder's office; or

(II) the Utah Geospatial Resource Center created in Section [~~63F-1-506~~] 63A-16-505.

(b) A notice of acknowledgment recorded in the county recorder's office is conclusive evidence of acceptance of the R.S. 2477 grant upon:

(i) expiration of the 60-day period for filing a petition under Section 72-5-310 without the filing of a petition; or

(ii) a final court decision that the notice of acknowledgment was not incorrect.

Section 24. Section 72-5-403 is amended to read:

72-5-403. Transportation corridor preservation powers.

(1) The department, counties, and municipalities may:

(a) act in cooperation with one another and other government entities to promote planning for and enhance the preservation of transportation corridors and to more effectively use the money available in the Marda Dillree Corridor Preservation Fund created in Section 72-2-117;

(b) undertake transportation corridor planning, review, and preservation processes; and

(c) acquire fee simple rights and other rights of less than fee simple, including easement and development rights, or the rights to limit development, including rights in alternative transportation corridors, and to make these acquisitions up to a projected 30 years in advance of using those rights in actual transportation facility construction.

(2) In addition to the powers described under Subsection (1), counties and municipalities may:

(a) limit development for transportation corridor preservation by land use regulation and by official maps; and

(b) by ordinance prescribe procedures for approving limited development in transportation corridors until the time transportation facility construction begins.

(3) (a) The department shall identify and the commission shall approve transportation corridors as high priority transportation corridors for transportation corridor preservation.

(b) The department shall notify a county or municipality if the county or municipality has land within its boundaries that is located within the boundaries of a high priority transportation corridor.

(c) The department may, on a voluntary basis, acquire private property rights within the boundaries of a high priority transportation corridor for which a notification has been received in accordance with Section [~~10-9a-509 or 17-27a-508~~] 10-9a-206 or 17-27a-206.

Section 25. Repealer.

This bill repeals:

Section 72-1-213, Road usage charge study -- Recommendations.

Section 26. Appropriation.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 1

To the Office of the Attorney General - Internal Service Fund - Attorney General

From Dedicated Credits Revenue	$192,000
Schedule of Programs:	
Criminal Division	$192,000
Budgeted FTE	1.0

The Legislature intends that the Office of the Attorney General use the appropriation under this item to provide prosecution of Title 41, Chapter 3, Motor Vehicle Business Regulation Act.

Section 27. Effective date.

(1) Except as provided in Subsections (2) and (3), this bill takes effect on May 4, 2022.

(2) If approved by two-thirds of all the members elected to each house, the amendments to Section 41-1a-201 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(3) The amendments to Sections 41-1a-226, 41-1a-1201, 41-1a-1206, and 41-6a-1642 in this bill take effect on January 1, 2023.

CHAPTER 260
S. B. 57

Passed March 4, 2022
Approved March 23, 2022
Effective May 4, 2022

COUNTY AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to the duties of certain county officers.

Highlighted Provisions:

This bill:

- modifies the duties of a district or county attorney related to reviewing county legal documents;
- requires the county executive to rescind an existing executive order when a county legislative body establishes a program or policy that conflicts with the existing executive order;
- requires the county executive to ensure compliance with a program or policy established by a county legislative body; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-18a-504, as enacted by Laws of Utah 2013, Chapter 237
17-53-302, as last amended by Laws of Utah 2011, Chapter 209
17-53-316, as enacted by Laws of Utah 2001, Chapter 241

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-18a-504 is amended to read:

17-18a-504. Review and advise as to form.

The civil counsel shall review and [~~approve~~] advise as to form and legality each county contract, ordinance, regulation, real estate document, conveyance, and legal document.

Section 2. Section 17-53-302 is amended to read:

17-53-302. County executive duties.

Each county executive shall:

(1) exercise supervisory control over all functions of the executive branch of county government;

(2) direct and organize the management of the county in a manner consistent with state law, county ordinance, and the county's optional plan of county government;

(3) (a) carry out programs and policies established by the county legislative body; and

(b) ensure that all departments of county government comply with programs and policies established by the county legislative body;

(4) faithfully ensure compliance with all applicable laws and county ordinances;

(5) exercise supervisory and coordinating control over all departments of county government;

(6) except as otherwise vested in the county legislative body by state law or by the optional plan of county government, and subject to Section 17-53-317, appoint, suspend, and remove the directors of all county departments and all appointive officers of boards and commissions;

(7) except as otherwise delegated by statute to another county officer, exercise administrative and auditing control over all funds and assets, tangible and intangible, of the county;

(8) except as otherwise delegated by statute to another county officer, supervise and direct centralized budgeting, accounting, personnel management, purchasing, and other service functions of the county;

(9) conduct planning studies and make recommendations to the county legislative body relating to financial, administrative, procedural, and operational plans, programs, and improvements in county government;

(10) maintain a continuing review of expenditures and of the effectiveness of departmental budgetary controls;

(11) develop systems and procedures, not inconsistent with statute, for planning, programming, budgeting, and accounting for all activities of the county;

(12) if the county executive is an elected county executive, exercise a power of veto over ordinances enacted by the county legislative body, including an item veto upon budget appropriations, in the manner provided by the optional plan of county government;

(13) review, negotiate, approve, and execute contracts for the county, unless otherwise provided by statute;

(14) perform all other functions and duties required of the executive by state law, county ordinance, and the optional plan of county government; and

(15) sign on behalf of the county all deeds that convey county property.

Section 3. Section 17-53-316 is amended to read:

17-53-316. Executive orders.

(1) The county executive may issue an executive order to:

(a) establish an executive policy;

(b) implement an executive practice; or

(c) execute a legislative policy or ordinance, as provided by statute.

[~~(2) An executive order may not:~~]

(2) (a) The county executive may not issue an executive order that:

[~~(a) be~~] (i) is inconsistent with county ordinances [~~addressing~~] that address the same subject as the executive order or with policies established by the county legislative body [~~addressing~~] that address the same subject as the executive order; or

[~~(b) expand or narrow~~] (ii) expands or narrows legislative action taken or legislative policy issued by the county legislative body.

(b) If a county legislative body adopts an ordinance or establishes a policy that conflicts with an existing executive order, the ordinance or policy adopted or established by the county legislative body supersedes the executive order.

(3) Each executive order exercising supervisory power over other elected county officers shall be consistent with the authority given the county executive under Section 17-53-106.

CHAPTER 261
S. B. 61

Passed February 23, 2022
Approved March 23, 2022
Effective May 4, 2022

DELINQUENT PROPERTY TAX COLLECTION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions related to collection of delinquent property tax.

Highlighted Provisions:

This bill:

- provides when the state, a governmental entity, or a local agency acting on behalf of a political subdivision may collect a delinquent property tax from the debtor's overpayment or refund of income tax; and
- provides the order in which a debtor's income tax overpayment or refund shall be credited against a delinquent property tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1346, as last amended by Laws of Utah 2018, Chapters 197 and 281
63A-3-302, as last amended by Laws of Utah 2021, Chapter 49

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1346 is amended to read:

59-2-1346. Redemption -- Time allowed.

(1) Property may be redeemed on behalf of the record owner by any person at any time before the tax sale which shall be held in May or June as provided in Section 59-2-1351 following the lapse of four years from the date the property tax or tax notice charges became delinquent.

(2) A person may redeem property by paying to the county treasurer all delinquent taxes, tax notice charges, interest, penalties, and administrative costs that have accrued on the property.

(3) (a) Subject to Subsection (3)(d), a person may redeem a subdivided lot by paying the county treasurer the subdivided lot's proportional share of the delinquent taxes, tax notice charges, interest, penalties, and administrative costs accrued on the base parcel, calculated in accordance with Subsection (3)(b).

(b) The county treasurer shall calculate the amount described in Subsection (3)(a) by comparing:

(i) the amount of the value of the base parcel as described in Subsection (3)(b)(ii) that is attributable to the property that comprises the subdivided lot as the property existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed or tax notice charges on the base parcel were listed; and

(ii) the value of the base parcel as it existed on January 1 of the year in which the delinquent property taxes on the base parcel were assessed or tax notice charges on the base parcel were listed.

(c) If the county treasurer does not have sufficient information to calculate the amount described in Subsection (3)(b)(i), upon request from the county treasurer, the county assessor shall provide the county treasurer any information necessary to calculate the amount described in Subsection (3)(b)(i).

(d) A person may redeem a subdivided lot under this Subsection (3) only if the record owner of the subdivided lot is a bona fide purchaser.

(4) (a) At any time before the expiration of the period of redemption, the county treasurer shall accept and credit on account for the redemption of property, payments in amounts of not less than $10, except for the final payment, which may be in any amount.

(b) For the purpose of computing the amount required for redemption and for the purpose of distributing the payments received on account, all payments, except payments described in Subsection (4)(c), shall be applied in the following order:

(i) against the interest and administrative costs accrued on the delinquent tax for the last year included in the delinquent account at the time of payment;

(ii) against the penalty charged on the delinquent tax for the last year included in the delinquent account at the time of payment;

(iii) against the delinquent tax for the last year included in the delinquent account at the time of payment;

(iv) against the interest and administrative costs accrued on the delinquent tax for the next to last year included in the delinquent account at the time of payment; and

(v) so on until the full amount of the delinquent taxes, tax notice charges, penalties, administrative costs, and interest on the unpaid balances are paid within the period of redemption.

(c) For a payment received through a levy on an income tax overpayment or refund in accordance with Title 63A, Chapter 3, Part 3, Accounts Receivable Collection, the payment shall be applied in the following order:

(i) against the penalty charged on the delinquent tax for the earliest year included in the delinquent account at the time of payment;

(ii) against the interest and administrative costs accrued on the delinquent tax for the earliest year included in the delinquent account at the time of payment;

(iii) against the delinquent tax for the earliest year included in the delinquent account at the time of payment;

(iv) against the penalty charged on the delinquent tax for the next earliest year included in the delinquent account at the time of payment; and

(v) so on until:

(A) the full amount of the delinquent taxes, tax notice charges, penalties, administrative costs, and interest on the unpaid balances are paid; or

(B) the amount of the income tax overpayment or refund is exhausted.

Section 2. Section 63A-3-302 is amended to read:

63A-3-302. Unpaid accounts receivable -- Political subdivision agreement with local agency.

(1) (a) Except as provided in [~~Subsection~~] Subsections (1)(b) and (c), if any account receivable at any point has been unpaid for 90 days or more, any agency or other authority of the state, or any political subdivision responsible for collection of the account may proceed under this part to collect the delinquent amount.

(b) A governmental entity within the state that is a health care provider may not proceed under this part when the account receivable is for a medical material or service and the debtor:

(i) has made a payment arrangement with the health care provider; and

(ii) is current on payments under the payment arrangement.

(c) The state, a governmental entity within the state, or a local agency acting on behalf of a political subdivision within the state may proceed under this part on an account receivable that is for a property tax imposed under Title 59, Chapter 2, Property Tax Act, only if the account receivable is three or more years delinquent.

(2) (a) A political subdivision may enter into an agreement with a local agency under which the local agency, for a reasonable fee that the political subdivision and local agency agree upon, prepares and submits the political subdivision's accounts receivable for collection as provided in this part.

(b) Notwithstanding an agreement under Subsection (2)(a), a participating political subdivision shall:

(i) establish an agreement with the division for submitting delinquent accounts receivable under this part; and

(ii) with respect to the accounts receivable that the participating political subdivision submits through a local agency for collection under this part:

(A) receive and respond to an administrative hearing requested under Section 63A-3-305; and

(B) administer an adjudicative proceeding required under Section 63A-3-306.

CHAPTER 262
S. B. 62

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause)

SPECIAL NEEDS OPPORTUNITY SCHOLARSHIP PROGRAM AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill modifies the Special Needs Opportunity Scholarship Program (the program).

Highlighted Provisions:

This bill:

- expands eligibility for the program to include siblings of scholarship students under certain circumstances;
- modifies the duties and rulemaking authority of the State Board of Education in relation to the program;
- provides that eligibility for a scholarship does not affect eligibility for an individualized education program;
- authorizes the scholarship granting organizations to prepare and distribute information about the program to parents who apply for a scholarship under the program;
- clarifies what constitutes a fiscal year for purposes of reporting and administering the program;
- modifies a scholarship granting organization's reporting deadline;
- allows a person that makes a donation to direct a donation to a particular school to which a scholarship will be offered;
- provides for a one-year carry back of the income tax credit for making a donation to the program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

53E-7-401, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-402, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-404, as last amended by Laws of Utah 2021, Chapter 341
53E-7-405, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-407, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53E-7-408, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
59-7-625, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
59-10-1041, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-7-401 is amended to read:

53E-7-401. Definitions.

As used in this part:

(1) "Eligible student" means:

(a) a student who:

[~~(a)~~] (i) is eligible to participate in public school, in kindergarten or grades 1 through 12;

[~~(b)~~] (ii) is a resident of the state;

[~~(c) (i)~~] (iii) (A) has an IEP; or

[~~(ii)~~] (B) is determined by a multidisciplinary evaluation team to be eligible for services under [~~the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419~~] 20 U.S.C. Sec. 1401(3); and

[~~(d)~~] (iv) during the school year for which the student is applying for the scholarship, is not:

[~~(i)~~] (A) a student who receives a scholarship under the Carson Smith Scholarship Program created in Section 53F-4-302; or

[~~(ii)~~] (B) a public school student[~~.~~]; or

(b) a student who:

(i) meets the requirement of Subsections (1)(a)(i) and (ii); and

(ii) is a sibling of and resides in the same household as a student described in Subsection (1)(a) if:

(A) the student described in Subsection (1)(a) is a scholarship student and has verified enrollment or intent to enroll at a qualifying school; and

(B) the sibling is applying for a scholarship to attend the same qualifying school.

(2) (a) "Employee" means an individual working in a position in which the individual's salary, wages, pay, or compensation, including as a contractor, is paid from:

(i) program donations to a scholarship granting organization; or

(ii) scholarship money allocated to a qualifying school by a scholarship granting organization under Section 53E-7-405.

(b) "Employee" does not include an individual who volunteers at the scholarship granting organization or qualifying school.

(3) "Family income" means the annual income of the parent, parents, legal guardian, or legal guardians with whom a scholarship student lives.

(4) "Federal poverty level" means the poverty level as defined by the most recently revised poverty income guidelines published by the United States Department of Health and Human Services in the Federal Register.

(5) "Multidisciplinary evaluation team" means two or more individuals:

(a) who are qualified in two or more separate disciplines or professions; and

(b) who evaluate a child.

[~~(5)~~] (6) "Officer" means:

(a) a member of the board of a scholarship granting organization or qualifying school; or

(b) the chief administrative officer of a scholarship granting organization or qualifying school.

[~~(6)~~] (7) "Program [~~donations~~] donation" means [~~donations~~] a donation to the program under Section 53E-7-405.

[~~(7)~~] (8) "Qualifying school" means a private school that:

(a) provides kindergarten, elementary, or secondary education;

(b) is approved by the state board under Section 53E-7-408; and

(c) meets the requirements described in Section 53E-7-403.

[~~(8)~~] (9) "Relative" means a father, mother, husband, wife, son, daughter, sister, brother, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.

[~~(9)~~] (10) "Scholarship" means a grant awarded to an eligible student:

(a) by a scholarship granting organization out of program donations; and

(b) for the purpose of paying for a scholarship expense.

[~~(10)~~] (11) "Scholarship expense" means:

(a) tuition, fees, or textbooks for a qualifying school;

(b) educational therapy, if the educational therapy is provided by a licensed physician or licensed practitioner, including occupational, behavioral, physical, or speech-language therapies;

(c) textbooks, curriculum, or other instructional materials, including supplemental materials or associated online instruction required by a curriculum;

(d) tuition and fees for an online learning course or program; or

(e) fees associated with a state-recognized industry certification examination or any examination related to college or university admission.

[~~(11)~~] (12) "Scholarship granting organization" means an organization that is:

(a) qualified as tax exempt under Section 501(c)(3), Internal Revenue Code; and

(b) recognized through an agreement with the state board as a scholarship granting organization, as described in Section 53E-7-404.

[~~(12)~~] (13) "Scholarship student" means an eligible student who receives a scholarship under this part.

[~~(13)~~] (14) "Special Needs Opportunity Scholarship Program" or "program" means the program established in Section 53E-7-402.

[~~(14)~~] (15) "Value of the weighted pupil unit" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic state-supported school program.

Section 2. Section 53E-7-402 is amended to read:

53E-7-402. Special Needs Opportunity Scholarship Program.

(1) There is established the Special Needs Opportunity Scholarship Program under which a parent may apply to a scholarship granting organization on behalf of the parent's student for a scholarship to help cover the cost of a scholarship expense.

(2) (a) A scholarship granting organization shall:

[~~(a)~~] (i) award, in accordance with this part, scholarships to eligible students; and

[~~(b)~~] (ii) determine the amount of a scholarship in accordance with Subsection (3).

(b) In awarding scholarships, a scholarship granting organization shall give priority to an eligible student described in Subsection 53E-7-401(1)(a) by:

(i) establishing an August 10 deadline for an eligible student described in Subsection 53E-7-401(1)(b) to apply for a scholarship; and

(ii) awarding a scholarship to an eligible student described in Subsection 53E-7-401(1)(b) only if funds exist after awarding scholarships to all eligible students described in Subsection 53E-7-401(1)(a) who have applied and qualify.

(c) Subject to available funds, a scholarship awarded to an eligible student described in Subsection 53E-7-401(1)(b) shall be for a similar term as a scholarship awarded to the eligible student's sibling.

(3) A scholarship granting organization shall determine a full-year scholarship award to pay for the cost of one or more scholarship expenses in an amount not more than:

(a) for an eligible student described in Subsection 53E-7-401(1)(a) who is:

(i) in grades 1 through 12 with an IEP[~~,~~] and whose family income is:

[~~(i)~~] (A) at or below 185% of the federal poverty level, the value of the weighted pupil unit multiplied by 2.5;

[~~(ii)~~] (B) between 185% and 555% of the federal poverty level, the value of the weighted pupil unit multiplied by two; or

[~~(iii)~~] (C) above 555% of the federal poverty level, the value of the weighted pupil unit multiplied by 1.5;

[~~(b) for an eligible student~~] (ii) in grades 1 through 12 and who does not have an IEP, the value of the weighted pupil unit;

[~~(c) for an eligible student~~] (iii) in kindergarten with an IEP, the value of the weighted pupil unit; or

[~~(d) for an eligible student~~] (iv) in kindergarten and who does not have an IEP, half the value of the weighted pupil unit[~~.~~]; or

(b) for an eligible student described in Subsection 53E–7–401(1)(b), half the value of the weighted pupil unit.

(4) Eligibility for a scholarship as determined by a multidisciplinary evaluation team under this program does not establish eligibility for an IEP under the Individuals with Disabilities Education Act, Subchapter II, 20 U.S.C. Secs. 1400 to 1419, and is not binding on any LEA that is required to provide an IEP under the Individuals with Disabilities Education Act.

[~~(4)~~] (5) The [~~state board shall prepare and disseminate to a scholarship granting organization for distribution~~] scholarship granting organizations shall prepare and disseminate information on the program to a parent applying for a scholarship on behalf of a student[~~:~~].

[~~(a) information on the program; and~~]

[~~(b) information on how a parent may enroll the parent's child in a public school.~~]

[~~(5) A scholarship granting organization shall distribute the information described in Subsection (4) to a parent who applies to the scholarship granting organization for a scholarship on behalf of the parent's student.~~]

Section 3. Section 53E-7-404 is amended to read:

53E-7-404. State board duties.

[~~(1) The state board shall administer the program.~~]

[~~(2)~~] (1) The state board shall:

[~~(a) provide a tax credit certificate form, for use by a scholarship granting organization as described in Section 53E–7–407, that includes:~~]

[~~(i) the name, address, and social security number or federal employer identification number of the person that makes a donation under Section 53E–7–405;~~]

[~~(ii) the date of the donation;~~]

[~~(iii) the amount of the donation;~~]

[~~(iv) the amount of the tax credit; and~~]

[~~(v) any other relevant information;~~]

(a) publish on the state board's website:

(i) information about the program; and

(ii) information about each scholarship granting organization;

(b) conduct a financial review or audit of a scholarship granting organization, if the state board receives evidence of fraudulent practice by the scholarship granting organization;

(c) conduct a criminal background check on each scholarship granting organization employee and scholarship granting organization officer;

(d) establish uniform financial accounting standards for scholarship granting organizations;

(e) annually calculate the amount of the program donations cap described in Section 53E–7–407; and

(f) [~~beginning in 2021,~~] in accordance with Section 53E–1–202.1, annually submit a report on the program to the Public Education Appropriations Subcommittee that includes:

(i) for the 2020–21, 2021–22, 2022–23, and 2023–24 school years, the amount of tuition and fees a qualifying school charges;

(ii) administrative costs of the program;

(iii) the number of scholarship students that are eligible students described in Subsection 53E–7–401(1)(a) and the number of scholarship students that are eligible students described in Subsection 53E–7–401(1)(b) from each school district;

(iv) standards used by the scholarship granting organization to determine whether a student is an eligible student; and

(v) savings to the state and LEAs as a result of scholarship students exiting the public school system.

[~~(3)~~] (2) (a) In accordance with Subsection [~~(4)~~] (3) and Title 63G, Chapter 6a, Utah Procurement Code, the state board shall issue a request for proposals and enter into at least one agreement with an organization that is qualified as tax exempt under Section 501(c)(3), Internal Revenue Code, to be recognized by the state board as a scholarship granting organization.

(b) An organization that responds to a request for proposals described in Subsection [~~(3)~~] (2)(a) shall submit the following information in the organization's response:

(i) a copy of the organization's incorporation documents;

(ii) a copy of the organization's Internal Revenue Service determination letter qualifying the organization as being tax exempt under Section 501(c)(3), Internal Revenue Code;

(iii) a description of the methodology the organization will use to verify that a student is an eligible student under this part; and

(iv) a description of the organization's proposed scholarship application process.

[~~(4)~~] (3) (a) The state board shall enter into an agreement described in Subsection [~~(3)~~] (2)(a) with one scholarship granting organization on or before January 1, 2021.

(b) The state board may enter into an agreement described in Subsection [~~(3)~~] (2)(a) with additional scholarship granting organizations after January 1, 2023, if the state board makes rules regarding how multiple scholarship granting organizations may issue tax credit certificates in accordance with Section 53E-7-407.

(c) (i) No later than 10 days after the day on which the state board enters into an agreement with a scholarship granting organization, the state board shall forward the name and contact information of the scholarship granting organization to the State Tax Commission.

(ii) If, under Subsection [~~(5)~~] (4)(c)(i), the state board bars a scholarship granting organization from further participation in the program, the state board shall, no later than 10 days after the day on which the state board bars the scholarship granting organization, forward the name and contact information of the barred scholarship granting organization to the State Tax Commission.

[~~(5)~~] (4) (a) If the state board determines that a scholarship granting organization has violated a provision of this part or state board rule, the state board shall send written notice to the scholarship granting organization explaining the violation and the remedial action required to correct the violation.

(b) A scholarship granting organization that receives a notice described in Subsection [~~(5)~~] (4)(a) shall, no later than 60 days after the day on which the scholarship granting organization receives the notice, correct the violation and report the correction to the state board.

(c) (i) If a scholarship granting organization that receives a notice described in Subsection [~~(5)~~] (4)(a) fails to correct a violation in the time period described in Subsection [~~(5)~~] (4)(b), the state board may bar the scholarship granting organization from further participation in the program.

(ii) A scholarship granting organization may appeal a decision made by the state board under Subsection [~~(5)~~] (4)(c)(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) A scholarship granting organization may not accept program donations while the scholarship granting organization:

(i) is barred from participating in the program under Subsection [~~(5)~~] (4)(c)(i); or

(ii) has an appeal pending under Subsection [~~(5)~~] (4)(c)(ii).

(e) A scholarship granting organization that has an appeal pending under Subsection [~~(5)~~] (4)(c)(ii) may continue to administer scholarships from previously donated program donations during the pending appeal.

[~~(6)~~] (5) The state board shall provide for a process for a scholarship granting organization to report information as required under Section 53E-7-405.

[~~(7)~~] (6) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules for:

[~~(a) a scholarship granting organization's acceptance of program donations;~~]

[~~(b)~~] (a) the administration of scholarships to a qualifying school receiving scholarship money from a scholarship granting organization that is barred from participating in the program under Subsection [~~(5)~~] (4)(c)(i);

[~~(c) payment of scholarship money to qualifying schools by a scholarship granting organization;~~]

[~~(d) granting scholarship awards and disbursing scholarship money for nontuition scholarship expenses by a scholarship granting organization;~~]

[~~(e)~~] (b) when an eligible student does not continue in enrollment at a qualifying school:

(i) requiring the scholarship granting organization to:

(A) notify the state board; and

(B) obtain reimbursement of scholarship money from the qualifying school in which the eligible student is no longer enrolled; and

(ii) requiring the qualifying school in which the eligible student is no longer enrolled to reimburse scholarship money to the scholarship granting organization;

[~~(f)~~] (c) audit and report requirements as described in Section 53E-7-405; and

[~~(g)~~] (d) requiring the scholarship granting organization, in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, to submit to the state board:

(i) for the 2020-21, 2021-22, 2022-23, and 2023-24 school years, the amount of tuition and fees a qualifying school charges;

(ii) the number of scholarship students that are eligible students described in Subsection 53E-7-401(1)(a) and the number of scholarship students that are eligible students described in Subsection 53E-7-401(1)(b) from each school district;

(iii) standards used to determine whether a student is an eligible student; and

(iv) any other information requested by the [~~state board for the purpose of completing~~] Public Education Appropriations Subcommittee for the state board to include in the annual report described in Section 53E-1-202.1.

Section 4. Section 53E-7-405 is amended to read:

53E-7-405. Program donations -- Scholarship granting organization requirements.

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations and allow a person that makes a program donation to designate a qualifying school to which the donation shall be directed for scholarships;

(b) adopt an application process in accordance with Subsection (5);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school in which the scholarship student is enrolled;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;

(f) ensure that during the state fiscal year:

(i) at least 92% of the scholarship granting organization's revenue from program donations is spent on scholarships;

(ii) up to 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations is spent on marketing and fundraising costs; and

(iv) all revenue from program donations' interest or investments is spent on scholarships;

(g) carry forward no more than 40% of the scholarship granting organization's program donations from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a state fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship student;

(k) report to the state board on or before [~~June~~] October 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) (A) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous [~~calendar year; and~~] state fiscal year to eligible students described in Subsection 53E-7-401(1)(a); and

(B) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous state fiscal year to eligible students described in Subsection 53E-7-401(1)(b); and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

(i) receives scholarship money for tuition expenses; and

(ii) does not have continuing enrollment and attendance at a qualifying school.

(4) The state treasurer shall deposit the money described in Subsection (3)(h) into the Education Fund.

(5) (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school selected by the parent for the applicant to attend using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E-7-404; and

(b) is prepared by a certified public accountant.

(7) (a) If a scholarship granting organization allocates $500,000 or more in scholarships annually through the program, the scholarship granting organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations; and

(ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than 180 days after the last day of a scholarship granting organization's fiscal year.

(c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).

(8) (a) A scholarship granting organization may not allocate scholarship money to a qualifying school if:

(i) the scholarship granting organization determines that the qualifying school intentionally or substantially misrepresented information on overpayment;

(ii) the qualifying school fails to refund an overpayment in a timely manner; or

(iii) the qualifying school routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school under Subsection (8)(a).

(9) If a scholarship recipient transfers to another qualifying school during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools according to the time the scholarship recipient spends at each school.

(10) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer or employee; or

(b) allocate scholarship money to a qualifying school at which the scholarship recipient has a relative who is an officer or an employee of the qualifying school.

Section 5. Section 53E-7-407 is amended to read:

53E-7-407. Tax credit certificates issued by a scholarship granting organization.

(1) In accordance with this section and subject to Subsection (3), a scholarship granting organization shall provide a tax credit certificate, on a form provided by the State Tax Commission, to a person that makes a donation as described in Section 53E-7-405.

[~~(2) (a) The scholarship granting organization shall issue a tax credit certificate described in Subsection (1) on the tax credit certificate form described in Section 53E-7-404.~~]

[~~(b)~~] (2) (a) The scholarship granting organization shall provide the information from a completed tax credit certificate to the State Tax Commission electronically and in a manner prescribed by the State Tax Commission.

[~~(c)~~] (b) A scholarship granting organization shall issue a tax credit certificate within 30 days after the day on which a person makes a donation to the program.

(3) (a) A scholarship granting organization may not issue a tax credit certificate for a calendar year if issuing the tax credit certificate will cause the total amount of the tax credit certificates issued for the calendar year to exceed the program donations cap amount described in Subsection (4).

(b) Before accepting a donation to the program from a person, the scholarship granting organization shall provide the person with notice:

(i) that the donation may not be eligible for a tax credit;

(ii) of the process described in Subsection (3)(c); and

(iii) of the total amount of tax credit certificates that the scholarship granting organization has issued for the calendar year.

(c) During a calendar year, a scholarship granting organization shall:

(i) issue tax credit certificates in the order that the scholarship granting organization received a corresponding donation; and

(ii) track the total amount of program donations received during the year as corresponding tax credit certificates are issued.

(d) If a scholarship granting organization accepts a donation that, when added to the current total amount of program donations received that year, will exceed the program donations cap described in Subsection (4), the scholarship granting organization shall issue a tax credit certificate in the amount that is the difference between the program donations cap and the total amount of program donations received before the donation was received.

(4) (a) The program donations cap for the 2021 calendar year is $5,940,000.

(b) For a calendar year after 2021, the state board shall calculate the program donations cap as follows:

(i) if the total program donations for the previous calendar year exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the cap amount for the previous calendar year increased by 10%; or

(ii) if the total program donations for the previous calendar year did not exceed 90% of the cap amount for that calendar year, the cap for the current calendar year is the same as the cap amount for the previous calendar year.

(5) A person that receives a tax credit certificate in accordance with this section shall retain the certificate for the same time period a person is required to keep books and records under Section 59-1-1406.

Section 6. Section 53E-7-408 is amended to read:

53E-7-408. Eligible private schools.

(1) To be eligible to enroll a scholarship student, a private school shall:

(a) have a physical location in Utah where the scholarship students attend classes and have direct contact with the school's teachers;

(b) (i) contract with an independent licensed certified public accountant to conduct an Agreed Upon Procedures engagement as adopted by the state board, or obtain an audit and report from a licensed independent certified public accountant that conforms with the following requirements:

(A) the audit shall be performed in accordance with generally accepted auditing standards;

(B) the financial statements shall be presented in accordance with generally accepted accounting principles; and

(C) the audited financial statements shall be as of a period within the last 12 months; and

(ii) submit the audit report or report of the agreed upon procedure to the state board when the private school applies to accept scholarship students;

(c) comply with the antidiscrimination provisions of 42 U.S.C. 2000d;

(d) meet state and local health and safety laws and codes;

(e) provide a written disclosure to the parent of each prospective student, before the student is enrolled, of:

(i) the special education services that will be provided to the student, including the cost of those services;

(ii) tuition costs;

(iii) additional fees a parent will be required to pay during the school year; and

(iv) the skill or grade level of the curriculum in which the prospective student will participate;

(f) (i) administer an annual assessment of each scholarship student's academic progress; and

(ii) report the results of the assessment described in Subsection (1)(f)(i) to the scholarship student's parent;

(g) employ or contract with teachers who:

(i) hold baccalaureate or higher degrees;

(ii) have at least three years of teaching experience in public or private schools; or

(iii) have the necessary skills, knowledge, or expertise that qualifies the teacher to provide instruction:

(A) in the subject or subjects taught; and

(B) to the special needs students taught;

(h) maintain documentation demonstrating that teachers at the private school meet the qualifications described in Subsection (1)(g);

(i) require the following individuals to submit to a nationwide, fingerprint-based criminal background check and ongoing monitoring, in accordance with Section 53G-11-402, as a condition for employment or appointment, as authorized by the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. No. 109-248:

(i) an employee who does not hold a current Utah educator license issued by the state board under Chapter 6, Education Professional Licensure;

(ii) a contract employee; and

(iii) a volunteer who is given significant unsupervised access to a student in connection with the volunteer's assignment; and

(j) provide to the parent of a scholarship student the relevant credentials of the teachers who will be teaching the scholarship student.

(2) A private school is not eligible to enroll scholarship students if:

(a) the private school requires a student to sign a contract waiving the student's rights to transfer to another qualifying school during the school year;

(b) the audit report submitted under Subsection (1)(b) contains a going concern explanatory paragraph; or

(c) the report of the agreed upon procedures submitted under Subsection (1)(b) shows that the private school does not have adequate working capital to maintain operations for the first full year, as determined under Subsection (1)(b).

(3) A home school is not eligible to enroll scholarship students.

(4) Residential treatment facilities licensed by the state are not eligible to enroll scholarship students.

(5) A private school intending to enroll scholarship students shall submit an application to the state board [~~by May 1 of the school year preceding the school year in which the private school intends to enroll scholarship students~~].

(6) The state board shall:

(a) approve a private school's application to enroll scholarship students, if the private school meets the eligibility requirements of this section; and

(b) [~~make available to the public~~] publish on the state board's website, a list of private schools approved under this section.

(7) A private school approved under this section that changes ownership shall:

(a) submit a new application to the state board; and

(b) demonstrate that the private school continues to meet the eligibility requirements of this section.

Section 7. Section 59-7-625 is amended to read:

59-7-625. Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.

(1) A taxpayer that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402 may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) [~~(a)~~] If the amount of a tax credit listed on the tax credit certificate exceeds a taxpayer's liability under this chapter for a taxable year, the taxpayer:

(a) may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years[~~.~~]; and

(b) [~~A taxpayer may not~~] may carry back the amount of the tax credit that exceeds the taxpayer's tax liability [~~for the~~] to the previous taxable year.

Section 8. Section 59-10-1041 is amended to read:

59-10-1041. Nonrefundable tax credit for donation to Special Needs Opportunity Scholarship Program.

(1) Except as provided in Subsection (3), a claimant, estate, or trust that makes a donation to the Special Needs Opportunity Scholarship Program established in Section 53E-7-402[~~,~~] may claim a nonrefundable tax credit equal to 100% of the amount stated on a tax credit certificate issued in accordance with Section 53E-7-407.

(2) [~~(a)~~] If the amount of a tax credit listed on the tax credit certificate exceeds a claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the claimant, estate, or trust:

(a) may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next three taxable years[~~.~~]; and

(b) [~~A claimant, estate, or trust may not~~] may carry back the amount of the tax credit that exceeds the claimant's, estate's, or trust's tax liability [~~for the~~] to the previous taxable year.

(3) A claimant, estate, or trust may not claim a credit described in Subsection (1) to the extent the claimant, estate, or trust claims a donation described in Subsection (1) as an itemized deduction on the claimant's, estate's, or trust's federal individual income tax return for that taxable year.

Section 9. Retrospective operation.

The changes to the following sections have retrospective operation for a taxable year beginning on or after January 1, 2022:

(1) Section 59-7-625; and

(2) Section 59-10-1041.

CHAPTER 263
S. B. 74

Passed February 24, 2022
Approved March 23, 2022
Effective May 4, 2022

ALIMONY MODIFICATIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill amends provisions related to alimony.

Highlighted Provisions:

This bill:

- defines terms related to alimony;
- amends provisions related to alimony;
- enacts provisions regarding cohabitation by a current or former spouse; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-5, as last amended by Laws of Utah 2021, Chapter 269
30-3-5.4, as last amended by Laws of Utah 2020, Chapter 337
78B-12-212, as last amended by Laws of Utah 2020, Chapter 337

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-5 is amended to read:

30-3-5. Disposition of property -- Maintenance and health care of parties and children -- Division of debts -- Court to have continuing jurisdiction -- Custody and parent-time -- Alimony -- Nonmeritorious petition for modification.

(1) As used in this section:

(a) "Cohabit" means to live together, or to reside together on a regular basis, in the same residence and in a relationship of a romantic or sexual nature.

(b) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage:

(i) engaging in sexual relations with an individual other than the party's spouse;

(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a child;

(iii) knowingly and intentionally causing the other party or a child to reasonably fear life-threatening harm; or

(iv) substantially undermining the financial stability of the other party or the child.

(c) "Length of the marriage" means, for purposes of alimony, the number of years from the day on which the parties are legally married to the day on which the petition for divorce is filed with the court.

(2) When a decree of divorce is rendered, the court may include in the decree of divorce equitable orders relating to the children, property, debts or obligations, and parties.

[~~(2)~~] (3) The court shall include the following in every decree of divorce:

(a) an order assigning responsibility for the payment of reasonable and necessary medical and dental expenses of a dependent child, including responsibility for health insurance out-of-pocket expenses such as co-payments, co-insurance, and deductibles;

(b) (i) if coverage is or becomes available at a reasonable cost, an order requiring the purchase and maintenance of appropriate health, hospital, and dental care insurance for a dependent child; and

(ii) a designation of which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary in accordance with Section 30-3-5.4 that will take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans;

(c) in accordance with Section 15-4-6.5:

(i) an order specifying which party is responsible for the payment of joint debts, obligations, or liabilities of the parties contracted or incurred during marriage;

(ii) an order requiring the parties to notify respective creditors or obligees, regarding the court's division of debts, obligations, or liabilities and regarding the parties' separate, current addresses; and

(iii) provisions for the enforcement of these orders;

(d) provisions for income withholding in accordance with Title 62A, Chapter 11, Recovery Services; and

(e) if either party owns a life insurance policy or an annuity contract, an acknowledgment by the court that the owner:

(i) has reviewed and updated, where appropriate, the list of beneficiaries;

(ii) has affirmed that those listed as beneficiaries are in fact the intended beneficiaries after the divorce becomes final; and

(iii) understands that if no changes are made to the policy or contract, the beneficiaries currently listed will receive any funds paid by the insurance company under the terms of the policy or contract.

[~~(3)~~] (4) (a) The court may include, in an order determining child support, an order assigning financial responsibility for all or a portion of child care expenses incurred on behalf of a dependent child, necessitated by the employment or training of the custodial parent.

(b) If the court determines that the circumstances are appropriate and that the dependent child would be adequately cared for, the court may include an order allowing the noncustodial parent to provide child care for the dependent child, necessitated by the employment or training of the custodial parent.

[~~(4)~~] (5) The court has continuing jurisdiction to make subsequent changes or new orders for the custody of a child and the child's support, maintenance, health, and dental care, and for distribution of the property and obligations for debts as is reasonable and necessary.

[~~(5)~~] (6) Child support, custody, visitation, and other matters related to a child born to the parents after entry of the decree of divorce may be added to the decree by modification.

[~~(6)~~] (7) (a) In determining parent-time rights of parents and visitation rights of grandparents and other members of the immediate family, the court shall consider the best interest of the child.

(b) Upon a specific finding by the court of the need for peace officer enforcement, the court may include in an order establishing a parent-time or visitation schedule a provision, among other things, authorizing any peace officer to enforce a court-ordered parent-time or visitation schedule entered under this chapter.

[~~(7)~~] (8) If a petition for modification of child custody or parent-time provisions of a court order is made and denied, the court shall order the petitioner to pay the reasonable attorney fees expended by the prevailing party in that action, if the court determines that the petition was without merit and not asserted or defended against in good faith.

[~~(8)~~] (9) If a motion or petition alleges noncompliance with a parent-time order by a parent, or a visitation order by a grandparent or other member of the immediate family where a visitation or parent-time right has been previously granted by the court, the court may award to the prevailing party:

(a) actual attorney fees incurred;

(b) the costs incurred by the prevailing party because of the other party's failure to provide or exercise court-ordered visitation or parent-time, which may include:

(i) court costs;

(ii) child care expenses;

(iii) transportation expenses actually incurred;

(iv) lost wages, if ascertainable; and

(v) counseling for a child or parent if ordered or approved by the court;

(c) make-up parent time consistent with the best interest of the child; and

(d) any other appropriate equitable remedy.

[~~(9)~~] (10) (a) The court shall consider at least the following factors in determining alimony:

(i) the financial condition and needs of the recipient spouse;

(ii) the recipient's earning capacity or ability to produce income, including the impact of diminished workplace experience resulting from primarily caring for a child of the payor spouse;

(iii) the ability of the payor spouse to provide support;

(iv) the length of the marriage;

(v) whether the recipient spouse has custody of a minor child requiring support;

(vi) whether the recipient spouse worked in a business owned or operated by the payor spouse; and

(vii) whether the recipient spouse directly contributed to any increase in the payor spouse's skill by paying for education received by the payor spouse or enabling the payor spouse to attend school during the marriage.

(b) The court may consider the fault of the parties in determining whether to award alimony and the terms of the alimony.

[~~(c) "Fault" means any of the following wrongful conduct during the marriage that substantially contributed to the breakup of the marriage relationship:~~]

[~~(i) engaging in sexual relations with an individual other than the party's spouse;~~]

[~~(ii) knowingly and intentionally causing or attempting to cause physical harm to the other party or a minor child;~~]

[~~(iii) knowingly and intentionally causing the other party or a minor child to reasonably fear life-threatening harm; or~~]

[~~(iv) substantially undermining the financial stability of the other party or the minor child.~~]

[~~(d)~~] (c) The court may, when fault is at issue, close the proceedings and seal the court records.

[~~(e)~~] (d) As a general rule, the court should look to the standard of living, existing at the time of separation, in determining alimony in accordance with Subsection [~~(9)~~] (10)(a). However, the court shall consider all relevant facts and equitable principles and may, in the court's discretion, base alimony on the standard of living that existed at the time of trial. In marriages of short duration, when no child has been conceived or born during the marriage, the court may consider the standard of living that existed at the time of the marriage.

[~~(f)~~] (e) The court may, under appropriate circumstances, attempt to equalize the parties' respective standards of living.

[~~(g)~~] (f) When a marriage of long duration dissolves on the threshold of a major change in the income of one of the spouses due to the collective efforts of both, that change shall be considered in dividing the marital property and in determining the amount of alimony. If one spouse's earning capacity has been greatly enhanced through the efforts of both spouses during the marriage, the court may make a compensating adjustment in dividing the marital property and awarding alimony.

[~~(h)~~] (g) In determining alimony when a marriage of short duration dissolves, and no child has been conceived or born during the marriage, the court may consider restoring each party to the condition which existed at the time of the marriage.

[~~(10)~~] (11) (a) The court has continuing jurisdiction to make substantive changes and new orders regarding alimony based on a substantial material change in circumstances not expressly stated in the divorce decree or in the findings that the court entered at the time of the divorce decree.

(b) A party's retirement is a substantial material change in circumstances that is subject to a petition to modify alimony, unless the divorce decree, or the findings that the court entered at the time of the divorce decree, expressly states otherwise.

(c) The court may not modify alimony or issue a new order for alimony to address needs of the recipient that did not exist at the time the decree was entered, unless the court finds extenuating circumstances that justify that action.

(d) (i) In determining alimony, the income of any subsequent spouse of the payor may not be considered, except as provided in Subsection [~~(9)~~] (10) or this Subsection [~~(10)~~] (11).

(ii) The court may consider the subsequent spouse's financial ability to share living expenses.

(iii) The court may consider the income of a subsequent spouse if the court finds that the payor's improper conduct justifies that consideration.

[~~(e) The court may not order alimony for a duration longer than the number of years that the marriage existed unless, at any time before termination of alimony, the court finds extenuating circumstances that justify the payment of alimony for a longer period of time.~~]

(e) (i) Except as provided in Subsection (11)(e)(iii), the court may not order alimony for a period of time longer than the length of the marriage.

(ii) If a party is ordered to pay temporary alimony during the pendency of the divorce action, the period of time that the party pays temporary alimony shall be counted towards the period of time for which the party is ordered to pay alimony.

(iii) At any time before the termination of alimony, the court may find extenuating circumstances or good cause that justify the payment of alimony for a longer period of time than the length of the marriage.

[~~(11) Unless~~]

(12) (a) Except as provided in Subsection (12)(b), unless a decree of divorce specifically provides otherwise, any order of the court that a party pay alimony to a former spouse automatically terminates upon the remarriage or death of that former spouse. [~~However, if~~]

(b) If the remarriage of the former spouse is annulled and found to be void ab initio, payment of alimony shall resume if the party paying alimony is made a party to the action of annulment and the payor party's rights are determined.

[~~(12) (a) Subject to Subsection (12) (b), an order of the court that a party pay alimony to a former spouse terminates upon establishment by the party paying alimony that the former spouse, after the order for alimony is issued, cohabits with another individual, even if the former spouse is not cohabiting with another person when the party paying alimony files the motion to terminate alimony.~~]

(13) If a party establishes that a current spouse cohabits with another individual during the pendency of the divorce action, the court:

(a) may not order the party to pay temporary alimony to the current spouse; and

(b) shall terminate any order that the party pay temporary alimony to the current spouse.

(14) (a) Subject to Subsection (14)(b), the court shall terminate an order that a party pay alimony to a former spouse if the party establishes that, after the order for alimony is issued, the former spouse cohabits with another individual even if the former spouse is not cohabiting with the individual when the party paying alimony files the motion to terminate alimony.

(b) A party paying alimony to a former spouse may not seek termination of alimony under Subsection [~~(12)~~] (14)(a), later than one year from the day on which the party knew or should have known that the former spouse has cohabited with another individual.

Section 2. Section 30-3-5.4 is amended to read:

30-3-5.4. Designation of primary and secondary health, dental, or hospital insurance coverage.

(1) As used in this section, "health, hospital, or dental insurance plan" has the same meaning as "health care insurance" as defined in Section 31A-1-301.

(2) (a) A decree of divorce rendered in accordance with Section 30-3-5, an order for medical expenses rendered in accordance with Section 78B-12-212, and an administrative order under Section 62A-11-326 shall, in accordance with Subsection (2)(b)(ii), designate which parent's health, hospital, or dental insurance plan is primary coverage and which parent's health, hospital, or dental insurance plan is secondary coverage for a dependent child.

(b) The provisions of the court order required by Subsection (2)(a) shall:

(i) take effect if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans; and

(ii) include the following language:

"If, at any point in time, a dependent child is covered by the health, hospital, or dental insurance plans of both parents, the health, hospital, or dental insurance plan of (Parent's Name) shall be primary coverage for the dependent child and the health, hospital, or dental insurance plan of (Other Parent's Name) shall be secondary coverage for the dependent child. If a parent remarries and his or her dependent child is not covered by that parent's health, hospital, or dental insurance plan but is covered by a step-parent's plan, the health, hospital, or dental insurance plan of the step-parent shall be treated as if it is the plan of the remarried parent and shall retain the same designation as the primary or secondary plan of the dependent child."

(c) A decree of divorce or related court order may not modify the language required by Subsection (2)(b)(ii).

(d) Notwithstanding Subsection (2)(c), a court may allocate the payment of medical expenses including co-payments, deductibles, and co-insurance not covered by health insurance between the parents in accordance with Subsections 30-3-5[~~(2)~~](3)(a) and 78B-12-212(7).

(3) In designating primary coverage pursuant to Subsection (2), a court may take into account:

(a) the birth dates of the parents;

(b) a requirement in a court order, if any, for one of the parents to maintain health insurance coverage for a dependent child;

(c) the parent with physical custody of the dependent child; or

(d) any other factor the court considers relevant.

Section 3. Section 78B-12-212 is amended to read:

78B-12-212. Medical expenses.

(1) A child support order issued or modified in this state on or after July 1, 2018, shall require compliance with this section as of the effective date of the child support order unless the court makes specific findings as to good cause to deviate from the requirements of this section.

(2) (a) The court shall order that health care coverage for the medical expenses of a minor child be provided by a parent.

(b) The court shall order that a parent provide insurance for the medical expenses of a minor child if insurance is available to that parent at a reasonable cost.

(c) The court shall, in accordance with Section 30-3-5, designate which health, hospital, or dental insurance plan is primary and which health, hospital, or dental insurance plan is secondary if at any time a dependent child is covered by both parents' health, hospital, or dental insurance plans.

(3) In determining which parent shall be ordered to maintain insurance for medical expenses, the court or administrative agency may consider the:

(a) reasonableness of the cost;

(b) availability of a group insurance policy;

(c) coverage of the policy; and

(d) preference of the custodial parent.

(4) The order shall require each parent to share equally the out-of-pocket costs of the premium actually paid by a parent for the child's portion of insurance unless the court finds good cause to order otherwise.

(5) The parent who provides the insurance coverage may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium. If the parent does not have insurance but another member of the parent's household provides insurance coverage for the child, the parent may receive credit against the base child support award or recover the other parent's share of the child's portion of the premium.

(6) The child's portion of the premium is a per capita share of the premium actually paid. The premium expense for a child shall be calculated by dividing the premium amount by the number of persons covered under the policy and multiplying the result by the number of children in the instant case.

(7) The order shall, in accordance with Subsection 30-3-5[~~(2)~~](3)(a), include a cash medical support provision that requires each parent to equally share all reasonable and necessary uninsured and unreimbursed medical and dental expenses incurred for a dependent child, including deductibles and copayments unless the court finds good cause to order otherwise.

(8) The parent ordered to maintain insurance shall provide verification of coverage to the other parent, or to the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., upon initial enrollment of the dependent child, and after initial enrollment on or before January 2 of each calendar year. The parent shall notify the other parent, or the Office of Recovery Services under Title IV of the Social Security Act, 42 U.S.C. Sec. 601 et seq., of any change of insurance carrier, premium, or benefits within 30 calendar days of the date the parent first knew or should have known of the change.

(9) A parent who incurs medical expenses shall provide written verification of the cost and payment of medical expenses to the other parent within 30 days of payment.

(10) In addition to any other sanctions provided by the court, a parent incurring medical expenses may be denied the right to receive credit for the expenses or to recover the other parent's share of the expenses if that parent fails to comply with Subsections (8) and (9).

CHAPTER 264
S. B. 76

Passed March 4, 2022
Approved March 23, 2022
Effective May 4, 2022

TARGETED BUSINESS INCOME TAX CREDIT AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill repeals the Targeted Business Income Tax Credit in an Enterprise Zone.

Highlighted Provisions:

This bill:

- provides that a business applicant may claim the Targeted Business Income Tax Credit in an Enterprise Zone (the income tax credit) for a taxable year that begins before January 1, 2023;
- schedules the repeal of provisions of code that reference the income tax credit; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-7-159, as last amended by Laws of Utah 2021, Chapters 282 and 367
59-7-624, as last amended by Laws of Utah 2021, Chapter 282
59-10-137, as last amended by Laws of Utah 2021, Chapters 282 and 367
59-10-1112, as last amended by Laws of Utah 2021, Chapter 282
63I-2-259, as last amended by Laws of Utah 2021, Chapter 370
63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4
63N-2-304, as last amended by Laws of Utah 2019, Chapter 247

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-7-159 is amended to read:

59-7-159. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-619; and

(v) Section 59-7-620[~~; and~~].

[~~(vi) Section 59-7-624.~~]

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-610;

(ii) Section 59-7-614; and

(iii) Section 59-7-614.7.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 2. Section 59-7-624 is amended to read:

59-7-624. Targeted business income tax credit.

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N-2-302.

(2) [~~A~~] For a taxable year that begins before January 1, 2023, a business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic Opportunity under Section 63N-2-304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under Section 59-7-610, Section 59-10-1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section 3. Section 59-10-137 is amended to read:

59-10-137. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1004;

(ii) Section 59-10-1010;

(iii) Section 59-10-1015;

(iv) Section 59-10-1025;

(v) Section 59-10-1027;

(vi) Section 59-10-1031;

(vii) Section 59-10-1032;

(viii) Section 59-10-1035;

(ix) Section 59-10-1104;

(x) Section 59-10-1105; and

(xi) Section 59-10-1108.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1005;

(ii) Section 59-10-1006;

(iii) Section 59-10-1012;

(iv) Section 59-10-1022;

(v) Section 59-10-1023;

(vi) Section 59-10-1028;

(vii) Section 59-10-1034;

(viii) Section 59-10-1037; and

(ix) Section 59-10-1107[~~; and~~].

[~~(x) Section 59-10-1112.~~]

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-10-1007;

(ii) Section 59-10-1014;

(iii) Section 59-10-1017;

(iv) Section 59-10-1018;

(v) Section 59-10-1019;

(vi) Section 59-10-1024;

(vii) Section 59-10-1029;

(viii) Section 59-10-1036;

(ix) Section 59–10–1106; and

(x) Section 59–10–1111.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 4. Section 59-10-1112 is amended to read:

59-10-1112. Targeted business income tax credit.

(1) As used in this section, "business applicant" means the same as that term is defined in Section 63N–2–302.

(2) [~~A~~] For a taxable year that begins before January 1, 2023, a business applicant that is certified and issued a targeted business income tax eligibility certificate by the Governor's Office of Economic Opportunity under Section 63N–2–304 may claim a refundable tax credit in the amount specified on the targeted business income tax eligibility certificate.

(3) For a taxable year for which a business applicant claims a targeted business income tax credit under this section, the business applicant may not claim or carry forward a tax credit under Section 59–7–610, Section 59–10–1007, or Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

Section 5. Section 63I-2-259 is amended to read:

63I-2-259. Repeal dates -- Title 59.

(1) In Section 59–2–926, the language that states "applicable" and "or 53F–2–301.5" is repealed July 1, 2023.

[~~(2) Subsection 59–7–106(1)(w) is repealed December 31, 2021.~~]

[~~(3) Section 59–7–620 is repealed December 31, 2021.~~]

[~~(4) Subsection 59–10–114(2)(j) is repealed December 31, 2021.~~]

(2) Subsection 59–7–610(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(3) Subsection 59–7–614.10(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(4) Section 59–7–624 is repealed December 31, 2024.

(5) Subsection 59–10–210(2)(b)(vi) is repealed December 31, 2024.

(6) Subsection 59–10–1007(8), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(7) Subsection 59–10–1037(5), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(8) Section 59–10–1112 is repealed December 31, 2024.

Section 6. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

[~~(1) Section 63A–3–111 is repealed June 30, 2021.~~]

[~~(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.~~]

[~~(3)~~] (1) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(4)~~] (2) Section 63G–1–502 is repealed July 1, 2022.

[~~(5)~~] (3) The following sections regarding the World War II Memorial Commission are repealed [~~on~~] July 1, 2022:

(a) Section 63G–1–801;

(b) Section 63G–1–802;

(c) Section 63G–1–803; and

(d) Section 63G–1–804.

[~~(6)~~] (4) Section 63H–7a–303 is repealed July 1, 2024.

[~~(7) Subsection 63J–1–206(3)(c), relating to coronavirus, is repealed July 1, 2021.~~]

[~~(8)~~] (5) Sections 63M–7–213 and 63M–7–213.5 are repealed [~~on~~] January 1, 2023.

[~~(9)~~] (6) Section 63M–7–217 is repealed [~~on~~] July 1, 2022.

[~~(10)~~] (7) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(11) Title 63N, Chapter 15, COVID–19 Economic Recovery Programs, is repealed December 31, 2021.~~]

(8) Subsection 63N–2–213(12)(a), relating to claiming a tax credit in the same taxable year as the targeted business income tax credit, is repealed December 31, 2024.

(9) Title 63N, Chapter 2, Part 3, Targeted Business Income Tax Credit in an Enterprise Zone, is repealed December 31, 2024.

Section 7. Section 63N-2-304 is amended to read:

63N-2-304. Application for targeted business income tax credit.

(1) (a) [~~A~~] For a taxable year that begins before January 1, 2023, a business applicant may apply to the office for a targeted business income tax credit eligibility certificate under this part if the business applicant:

(i) is located in:

(A) an enterprise zone; and

(B) a county with a population of less than 25,000;

(ii) meets the requirements of Section 63N-2-212;

(iii) provides a community investment project within the enterprise zone; and

(iv) is not engaged in the following:

(A) construction;

(B) retail trade; or

(C) public utility activities.

(b) For a taxable year for which a business applicant claims a targeted business income tax credit available under this part, the business applicant may not claim or carry forward a tax credit available under Section 59-7-610, 59-10-1007, or 63N-2-213.

(2) (a) A business applicant seeking to claim a targeted business income tax credit under this part shall submit an application to the office by no later than June 1 of the taxable year in which the business applicant is seeking to claim the targeted business income tax credit.

(b) The application described in Subsection (2)(a) shall include:

(i) any documentation required by the office to demonstrate that the business applicant meets the requirements of Subsection (1);

(ii) a plan developed by the business applicant that describes:

(A) if the community investment project includes significant new employment, the projected number and anticipated wage level of the jobs that the business applicant plans to create as the basis for qualifying for a targeted business income tax credit;

(B) if the community investment project includes significant new capital development, the capital development the business applicant plans to make as the basis for qualifying for a targeted business income tax credit;

(C) how the business applicant's plan coordinates with the goals of the enterprise zone in which the business applicant is providing a community investment project;

(D) how the business applicant's plan coordinates with the overall economic development goals of the county or municipality in which the business applicant is providing a community investment project;

(E) any matching funds that will be used for the community investment project;

(F) how any targeted business income tax credit incentives that were awarded in a previous year have been used for the community investment project by the business applicant; and

(G) the requested amount of the targeted business income tax credit; and

(iii) any additional information required by the office.

(3) (a) The office shall:

(i) evaluate an application filed under Subsection (2);

(ii) determine whether the business applicant is potentially eligible for a targeted business income tax credit; and

(iii) if the business applicant is potentially eligible for a targeted business income tax credit, determine performance benchmarks and the deadline for meeting those benchmarks that the business applicant must achieve before the office awards a targeted business income tax credit to the business applicant.

(b) If the office determines that the business applicant is potentially eligible for a targeted business income tax credit, the office shall:

(i) notify the business applicant that the business applicant is eligible for a targeted business income tax credit if the business applicant meets the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii);

(ii) notify the business applicant of the potential amount of the targeted business income tax credit that may be awarded to the business applicant, which amount may be no more than $100,000 for the business applicant in a taxable year; and

(iii) monitor a business applicant to ensure compliance with this section and to measure the business applicant's progress in meeting performance benchmarks.

(c) If the business applicant provides evidence to the office, in a form prescribed by the office, that the business applicant has achieved the performance benchmarks by the deadline as determined by the office as described in Subsection (3)(a)(iii), the office shall:

(i) certify that the business applicant is eligible for a targeted business income tax credit;

(ii) issue a targeted business income tax credit eligibility certificate to the business applicant in accordance with:

(A) for a business applicant that files a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes, Section 59-7-624; or

(B) for a business applicant that files a return under Title 59, Chapter 10, Individual Income Tax Act, Section 59-10-1112; and

(iii) provide a duplicate copy of the targeted business income tax credit eligibility certificate to the State Tax Commission.

(4) The total amount of the targeted business income tax credit eligibility certificates that the office issues under this part for all business applicants may not exceed $300,000 in any fiscal year.

(5) (a) A business applicant shall retain the targeted business income tax credit eligibility certificate as issued under Subsection (3) for the same time period that a person is required to keep books and records under Section 59-1-1406.

(b) The office may audit a business applicant to ensure:

(i) eligibility for a targeted business income tax credit; and

(ii) compliance with this section.

CHAPTER 265
S. B. 78

Passed February 23, 2022
Approved March 23, 2022
Effective May 4, 2022

SCHOOL BOARD EXPANSION REQUIREMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill modifies provisions relating to local school boards.

Highlighted Provisions:

This bill:

- modifies the size of a local school board based on student population in the local school district; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-14-201, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6
20A-14-202, as last amended by Laws of Utah 2019, Chapter 255
20A-14-203, as last amended by Laws of Utah 2016, Chapter 16
53G-3-305, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-14-201 is amended to read:

20A-14-201. Boards of education -- School board districts -- Creation -- Redistricting.

(1) [~~(a)~~] The county legislative body, for local school districts whose boundaries encompass more than a single municipality, and the municipal legislative body, for local school districts contained completely within a municipality, shall divide the local school district into local school board districts as required under Subsection 20A-14-202(1)[~~(a)~~].

[~~(b)~~] (2) The county and municipal legislative bodies shall divide the school district so that the local school board districts are substantially equal in population and are as contiguous and compact as practicable.

[~~(2) (a)~~] (3) County and municipal legislative bodies shall redistrict local school board districts to meet the population, compactness, and contiguity requirements of this section:

[~~(i)~~] (a) at least once every 10 years;

[~~(ii)~~] (b) if a new school district is created:

[~~(A)~~] (i) within 45 days after the canvass of an election at which voters approve the creation of a new school district; and

[~~(B)~~] (ii) at least 60 days before the candidate filing deadline for a school board election;

[~~(iii)~~] (c) whenever school districts are consolidated;

[~~(iv)~~] (d) whenever a school district loses more than 20% of the population of the entire school district to another school district;

[~~(v)~~] (e) whenever a school district loses more than 50% of the population of a local school board district to another school district;

[~~(vi)~~] (f) whenever a school district receives new residents equal to at least 20% of the population of the school district at the time of the last redistricting because of a transfer of territory from another school district; and

[~~(vii)~~] (g) whenever it is necessary to increase the membership of a board as a result of changes in student membership under Section 20A-14-202.

[~~(b)~~] (4) If a school district receives territory containing less than 20% of the population of the transferee district at the time of the last redistricting, the local school board may assign the new territory to one or more existing school board districts.

[~~(3) (a)~~] (5) Redistricting does not affect the right of any school board member to complete the term for which the member was elected.

[~~(b) (i)~~] (6) (a) After redistricting, representation in a local school board district shall be determined as provided in this Subsection [~~(3)~~] (6).

[~~(ii)~~] (b) If, after redistricting, only one board member whose term extends beyond redistricting lives within a [~~redistricted~~] local school board district, that board member shall represent that local school board district.

[~~(iii) (A)~~] (c) If, after redistricting, two or more members whose terms extend beyond redistricting live within a [~~redistricted~~] local school board district, the members involved shall select one member by lot to represent the local school board district.

[~~(B)~~] (d) The other members shall serve at-large for the remainder of their terms.

[~~(C)~~] (e) The at-large board members shall serve in addition to the designated number of board members for the board in question for the remainder of their terms.

[~~(iv)~~] (f) If there is no board member living within a local school board district whose term extends beyond redistricting, the seat shall be treated as vacant and filled as provided in this part.

[~~(4)~~] (7) (a) If, before an election affected by redistricting, the county or municipal legislative body that conducted the redistricting determines that one or more members shall be elected to terms of two years to meet this part's requirements for staggered terms, the legislative body shall determine by lot which of the redistricted local school board districts will elect members to two-year terms and which will elect members to four-year terms.

(b) All subsequent elections are for four-year terms.

[~~(5)~~] (8) Within 10 days after any local school board district boundary change, the county or municipal legislative body making the change shall send an accurate map or plat of the boundary change to the Utah Geospatial Resource Center created under Section 63A-16-505.

Section 2. Section 20A-14-202 is amended to read:

20A-14-202. Local boards of education -- Membership -- When elected -- Qualifications -- Avoiding conflicts of interest.

(1) (a) [~~Except as provided in Subsection (1)(b), the~~] The board of education of a school district with a student population of [~~up to 24,000 students shall consist of~~] less than 10,000 students comprises five members.

(b) The board of education of a school district with a student population of [~~more than 10,000 students but fewer than 24,000 students shall increase from five to seven members beginning with the 2004 regular general election~~] 10,000 or more students but fewer than 50,000 students comprises seven members.

(c) [~~The~~] Before January 1, 2023, the board of education of a school district with a student population of [~~24,000~~] 50,000 or more students [~~shall consist of~~] comprises seven members.

(d) Beginning on January 1, 2023:

(i) the board of education of a school district with a student population of 50,000 or more students but fewer than 100,000 students:

(A) except as provided in Subsection (1)(d)(i)(B), comprises seven members; or

(B) comprises nine members if the board of education of the school district, by majority vote, increases the board to nine members; and

(ii) the board of education of a school district with a student population of 100,000 or more students comprises nine members.

[~~(d)~~] (e) Student population is based on the October 1 student count submitted by districts to the State Board of Education.

[~~(e)~~] (f) If the number of members of a local school board [~~is required to change~~] changes under Subsection (1)(b), (c), or (d), the [~~board shall be reapportioned and elections conducted~~] county or municipality, as applicable, shall redistrict and hold elections as provided in Sections 20A-14-201 and 20A-14-203.

[~~(f)~~] (g) [~~A school district which now has or increases to~~] Notwithstanding Subsections (1)(a) through (d), a school district with a seven-member or nine-member board [~~shall maintain a seven-member board~~] does not decrease in size, regardless of subsequent changes in student population.

[~~(g)~~] (h) (i) Members of a local board of education shall be elected at each regular general election.

(ii) Except as provided in Subsection [~~(1)(g)(iii),~~] (1)(h)(iii), in a regular general election year:

(A) no more than three members of a local board of education may be elected to a five-member board[~~, nor~~];

(B) no more than four members of a local board of education may be elected to a seven-member board[~~, in any election year.~~]; and

(C) no more than five members of a local board of education may be elected to a nine-member board.

(iii) [~~More than three members of a local board of education may be elected to a five-member board and more than four members elected to a seven-member board in any election year~~] A number of members, in excess of the maximums described in Subsection (1)(h)(ii), may be elected only when required [~~by reapportionment or~~] due to redistricting, to fill a vacancy, or to implement [~~Subsection (1)(b)~~] Subsections (1)(b) through (d).

[~~(h)~~] (i) One member of the local board of education shall be elected from each local school board district.

(2) (a) An individual seeking election to a local school board shall have been a resident of the local school board district in which the person is seeking election for at least one year immediately preceding the day of the general election at which the board position will be filled.

(b) A person who has resided within the local school board district, as the boundaries of the district exist on the date of the general election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A member of a local school board shall:

(a) be and remain a registered voter in the local school board district from which the member is elected or appointed; and

(b) maintain the member's primary residence within the local school board district from which the member is elected or appointed during the member's term of office.

(4) A member of a local school board may not, during the member's term in office, also serve as an employee of that board.

Section 3. Section 20A-14-203 is amended to read:

20A-14-203. Becoming a member of a local board of education -- Declaration of candidacy -- Election.

(1) An individual may become a candidate for a local school board by:

[~~(a) (i) in the 2016 general election, by filing a declaration of candidacy with the county clerk, in accordance with Section 20A-9-202, before 5 p.m. on March 17, 2016; or~~]

[~~(ii)~~] (a) [~~in a general election held after 2016, by~~] filing a declaration of candidacy with the county clerk on or after the second Friday in March, and before 5 p.m. on the third Thursday in March, before the next regular general election; and

(b) [~~by~~] paying the fee described in Section 20A-9-202.

(2) (a) The term of office for an individual elected to a local board of education is four years, beginning on the first Monday in January after the election.

(b) A member of a local board of education shall serve until a successor is:

(i) elected; or

(ii) appointed and [~~qualified. (c) A member of a local board of education is "qualified" when the member~~] takes or signs the constitutional oath of office.

Section 4. Section 53G-3-305 is amended to read:

53G-3-305. Redistricting -- Local school board membership.

(1) Upon the creation of a new school district, the [~~county~~] applicable legislative body shall [~~reapportion~~] redistrict the affected school districts [~~pursuant to~~] in accordance with Section 20A-14-201.

(2) Except as provided in Section 53G-3-302, local school board membership in the affected school districts shall be determined under Title 20A, Chapter 14, Part 2, Election of Members of Local Boards of Education.

CHAPTER 266
S. B. 79

Passed February 2, 2022
Approved March 23, 2022
Effective May 4, 2022

SCHOOL INFORMATION MANAGEMENT SYSTEM AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill amends certain deadlines for the operation of a school information management system.

Highlighted Provisions:

This bill:

- amends certain deadlines for the operation of a school information management system.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-518, as last amended by Laws of Utah 2020, Chapter 163

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-518 is amended to read:

53E-3-518. Utah school information management system -- Local education agency requirements.

(1) As used in this section:

(a) "LEA data system" or "LEA's data system" means a data system that:

(i) is developed, selected, or relied upon by an LEA; and

(ii) the LEA uses to collect data or submit data to the state board related to:

(A) student information;

(B) educator information;

(C) financial information; or

(D) other information requested by the state board.

(b) "LEA financial information system" or "LEA's financial information system" means an LEA data system used for financial information.

(c) "Utah school information management system" or "information management system" means the state board's data collection and reporting system described in this section.

(d) "User" means an individual who has authorized access to the information management system.

(2) On or before July 1, [~~2023~~] 2024, the state board shall have in place an information management system that meets the requirements described in this section.

(3) The state board shall ensure that the information management system:

(a) interfaces with an LEA's data systems that meet the requirements described in Subsection (6);

(b) serves as the mechanism for the state board to collect and report on all data that LEAs submit to the state board related to:

(i) student information;

(ii) educator information;

(iii) financial information; and

(iv) other information requested by the state board;

(c) includes a web-based user interface through which a user may:

(i) enter data;

(ii) view data; and

(iii) generate customizable reports;

(d) includes a data warehouse and other hardware or software necessary to store or process data submitted by an LEA;

(e) provides for data privacy, including by complying with Title 53E, Chapter 9, Student Privacy and Data Protection;

(f) restricts user access based on each user's role; and

(g) meets requirements related to a student achievement backpack described in Section 53E-3-511.

(4) The state board shall establish the restrictions on user access described in Subsection (3)(f).

(5) (a) The state board shall make rules that establish the required capabilities for an LEA financial information system.

(b) In establishing the required capabilities for an LEA financial information system, the state board shall consider metrics and capabilities requested by the state treasurer or state auditor.

(6) (a) On or before July 1, [~~2023~~] 2024, an LEA shall ensure that:

(i) all of the LEA's data systems:

(A) meet the data standards established by the state board in accordance with Section 53E-3-501;

(B) are fully compatible with the state board's information management system; and

(C) meet specification standards determined by the state board; and

(ii) the LEA's financial information system meets the requirements described in Subsection (5).

(b) An LEA shall ensure that an LEA data system purchased or developed on or after May 14, 2019, will be compatible with the information management system when the information management system is fully operational.

(7) (a) Subject to appropriations and Subsection (7)(b), the state board may use an appropriation under this section to help an LEA meet the requirements in the rules described in Subsection (5) by:

(i) providing to the LEA funding for implementation and sustainment of the LEA financial information system, either through:

(A) awarding a grant to the LEA; or

(B) providing a reimbursement to the LEA; or

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code, procuring a financial information system on behalf of an LEA for the LEA to use as the LEA's financial information system.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules describing:

(i) how an LEA may apply to the state board for the assistance described in Subsection (7)(a); and

(ii) criteria for the state board to provide the assistance to an LEA.

(8) (a) Beginning July 1, [~~2023~~] 2024, the state board may take action against an LEA that is out of compliance with a requirement described in Subsection (6) until the LEA complies with the requirement.

(b) An action described in Subsection (8)(a) may include the state board withholding funds from the LEA.

CHAPTER 267
S. B. 81

Passed February 16, 2022
Approved March 23, 2022
Effective January 1, 2023

AFFORDABLE HOUSING TAX AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill modifies provisions related to the assessment of real property subject to a low-income housing covenant.

Highlighted Provisions:

This bill:

- defines terms;
- prescribes a valuation method for determining the fair market value of real property subject to a low-income housing covenant;
- requires a county assessor to send a form approved by the State Tax Commission to each owner of real property subject to a low-income housing covenant; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-301.3, as last amended by Laws of Utah 2012, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-301.3 is amended to read:

59-2-301.3. Definitions -- Assessment of real property subject to a low-income housing covenant.

(1) As used in this section:

(a) [~~"low-income~~] "Lease up period" means the period that begins the day on which residential housing located on real property subject to a low-income housing covenant is available for occupancy and ends the day on which the residential housing achieves 90% occupancy for a continuous three-month period.

(b) "Low-income housing covenant" means an agreement:

(i) between:

(A) the Utah Housing Corporation or a government entity; and

(B) an owner of real property upon which residential rental housing is located; [~~and~~]

(ii) in which the owner described in Subsection [~~(1)(a)(i)(B)~~] (1)(b)(i)(B) agrees to limit the amount of rent that a renter may be charged for the residential rental housing; and

(iii) that is filed with the county recorder in the county in which the real property is located.

[~~(b) "residential~~] (c) "Residential rental housing" means housing that:

(i) is used:

(A) for residential purposes; and

(B) as a primary residence; and

(ii) is rental property.

(2) (a) A county assessor shall, in determining the fair market value of real property subject to a low-income housing covenant[~~,~~]:

(i) use the income capitalization approach, if the county assessor finds that the income capitalization approach is a valid indicator of the property's fair market value;

(ii) in using the income capitalization approach:

(A) calculate the property's net operating income using the reduced rent amounts that result from the low-income housing covenant; and

(B) during the lease up period, account for rent loss due to vacancy and lease up costs; and

(iii) take into account all other relevant factors that affect the fair market value of the property, including[~~:~~] the information provided in accordance with Subsection (3).

[~~(a) the information provided in Subsection (3); and~~]

[~~(b) any effects the low-income housing covenant may have on the fair market value of the real property.~~]

[~~(3) (a) Except as provided in Subsection (3)(b), to have a county assessor take into account a low-income housing covenant under Subsection (2), the owner of a property subject to a low-income housing covenant shall, by April 30 of each year, provide to the county assessor:~~]

(b) (i) Subject to Subsection (2)(b)(ii), Subsection (2)(a) applies regardless of whether the property is complete or under construction.

(ii) For a property under construction, when determining fair market value under this section, the county assessor shall take into account the impact of the low-income housing covenant on the fair market value of the property.

(3) (a) On or before April 30 of each year, an owner of real property subject to a low-income housing covenant shall provide to the county assessor the following on a form approved by the commission:

(i) a signed statement from the property owner that the project continues to meet the requirements of the low-income housing covenant;

(ii) a certified financial operating statement for the property for the prior year;

(iii) rent rolls for the property for the prior year; [~~and~~]

(iv) federal and commercial financing terms and agreements for the property[~~.~~]; and

(v) for a property under construction, actual construction costs incurred as of the lien date.

(b) If the April 30 described in Subsection (3)(a) [~~falls within the first 12 months after a low-income housing operation begins on the property, a~~] occurs before occupancy of the property or before the end of the lease up period, the property owner shall provide estimates of the information required by Subsections (3)(a)(ii) [~~through (iv)~~] and (iii).

(c) On or before March 31 each year, the county assessor shall send a copy of the form described in Subsection (3)(a) to each owner of real property subject to a low-income housing covenant located in the county.

(4) If [~~the~~] an owner of [~~a~~] real property subject to a low-income housing covenant fails to meet the requirements of Subsection (3):

(a) the assessor shall:

(i) make a record of the failure to meet the requirements of Subsection (3); and

(ii) make an estimate of the fair market value of the property in accordance with Subsection (2) based on information available to the assessor; and

(b) subject to Subsection (5), the owner shall pay a penalty equal to the greater of:

(i) $250; or

(ii) 5% of the tax due on the property for that year.

(5) (a) Only one penalty per year may be imposed per housing project subject to a low-income housing covenant.

(b) Upon making a record of the action, and upon reasonable cause shown, an assessor may waive, reduce, or compromise the penalty imposed under Subsection (4)(b).

(c) An owner is not subject to a penalty under Subsection (4) for a year in which the county assessor failed to timely comply with Subsection (3)(c).

Section 2. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 268
S. B. 83

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

COSMETIC MANUFACTURING CERTIFICATE PROGRAM

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill authorizes the Department of Agriculture and Food to issue good manufacturing practices certificates to cosmetic manufacturers.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Agriculture and Food to create a process for issuing good manufacturing practices certificates to cosmetics manufacturers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

4-2-801, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-801 is enacted to read:

Part 8. Cosmetics

4-2-801. Good manufacturing practices for cosmetics.

(1) As used in this section:

(a) "Cosmetic" means the same as that term is defined in 21 U.S.C. Sec. 321.

(b) "Good manufacturing practices" means the current good manufacturing practices described in the United States Food and Drug Administration's Guidance for Industry: Cosmetic Good Manufacturing Practices.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section, the department shall make and enforce rules establishing a voluntary certification program for good manufacturing practices for cosmetics, including:

(i) the criteria for receiving a good manufacturing practices certificate, including the qualifications for registering with the department as required by Subsection (3)(a);

(ii) the process to apply for and receive a good manufacturing practices certificate under this section; and

(iii) criteria by which the department will determine the term of a good manufacturing practices certificate in accordance with Subsection (5).

(b) Rules made pursuant to this section may not be more stringent than:

(i) rules established by federal law; or

(ii) guidance published by the United States Food and Drug Administration.

(3) The department's good manufacturing practices certification program shall provide for the issuance of a certificate to an applicant if:

(a) the applicant is registered with the department pursuant to registration requirements established by the department under Subsection (2)(a);

(b) the applicant submits an application to the department requesting a certificate for the applicant's manufacturing facility; and

(c) the department inspects the applicant's manufacturing facility and determines that the applicant is in compliance with good manufacturing practices.

(4) (a) In accordance with Section 63J-1-504, the department shall adopt a schedule of registration and certificate fees to cover the department's costs of administering the certification program described in this section.

(b) Notwithstanding Section 63J-1-504, the department shall retain the fees as dedicated credits.

(5) A good manufacturing practices certificate issued under this section shall:

(a) specify the certificate issuance date and expiration date; and

(b) be valid for a term of one to three years as determined by the department pursuant to criteria established under Subsection (2)(a).

CHAPTER 269
S. B. 84

Passed February 16, 2022
Approved March 23, 2022
Effective May 4, 2022

CHIROPRACTIC PRACTICE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Karen M. Peterson

LONG TITLE

General Description:

This bill amends the Chiropractic Physician Practice Act.

Highlighted Provisions:

This bill:

- allows a chiropractic physician to use advanced imaging, including x-ray, for diagnostic purposes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-73-601, as last amended by Laws of Utah 2004, Chapter 280

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-73-601 is amended to read:

58-73-601. Scope of practice for a chiropractic physician.

(1) A chiropractic physician licensed under this chapter may engage in the practice of chiropractic as defined in Section 58-73-102 in accordance with the following standards.

(2) A chiropractic physician may:

(a) examine, diagnose, and treat only within the scope of chiropractic as described in this Subsection (2);

(b) (i) use x-ray for diagnostic purposes only; and

(ii) order, for diagnostic purposes only:

(A) ultrasound;

(B) magnetic resonance imaging; and

(C) computerized tomography;

(c) administer:

(i) physical agents, including light, heat, cold, water, air, sound, compression, electricity, and electromagnetic radiation except gamma radiation; and

(ii) physical activities and devices, including:

(A) exercise with and without devices;

(B) joint mobilization;

(C) mechanical stimulation;

(D) postural drainage;

(E) traction;

(F) positioning;

(G) wound debridement, cleansing, and dressing changes;

(H) splinting;

(I) training in locomotion and other functional activities with and without assistance devices; and

(J) correction of posture, body mechanics, and gait;

(d) administer the following topically applied medicinal agents, including steroids, anesthetics, coolants, and analgesics for wound care and for musculoskeletal treatment, including their use by iontophoresis or phonophoresis;

(e) treat pain incident to major or minor surgery, cancer, obstetrics, or x-ray therapy;

(f) utilize immobilizing appliances, casts, and supports for support purposes, but may not set displaced bone fractures;

(g) inform the patient of possible side effects of medication and recommend referral to the prescribing practitioner;

(h) provide instruction in the use of physical measures, activities, and devices for preventive and therapeutic purposes;

(i) provide consulting, educational, and other advisory services for the purposes of reducing the incidence and severity of physical disability, movement dysfunctions, bodily malfunction, and pain;

(j) treat a human being to assess, prevent, correct, alleviate, and limit physical disability, movement dysfunction, bodily malfunction, and pain resulting from disorders, congenital and aging conditions, injury, and disease; and

(k) administer, interpret, and evaluate tests.

(3) A chiropractic physician may not:

(a) perform incisive surgery;

(b) administer drugs or medicines for which an authorized prescription is required by law except as provided in Subsection (2)(d);

(c) treat cancer;

(d) practice obstetrics;

(e) prescribe or administer x-ray therapy; or

(f) set displaced fractures.

(4) A chiropractic physician shall assume responsibility for his examinations, diagnoses, and treatment.

(5) Nothing in this section authorizes a chiropractic physician to prescribe, possess for dispensing, dispense, purchase without a prescription written by a licensed and authorized

practitioner, or administer, except under Subsection (2)(d), a drug requiring a prescription to dispense, under Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 17b, Pharmacy Practice Act.

(6) Only primary health care providers licensed under this title as osteopathic physicians, physicians and surgeons, naturopaths, and chiropractic physicians, may diagnose, adjust, manipulate, or therapeutically position the articulation of the spinal column to the extent permitted by their scopes of practice.

CHAPTER 270
S. B. 85

Passed February 25, 2022
Approved March 23, 2022
Effective July 1, 2022

PROTECTIVE ORDER AND STALKING INJUNCTION EXPUNGEMENT

Chief Sponsor: Todd D. Weiler
House Sponsor: Stephanie Pitcher

LONG TITLE

General Description:

This bill addresses the expungement of protective orders and stalking injunctions.

Highlighted Provisions:

This bill:

- defines terms relating to the expungement of protective orders and stalking injunctions;
- makes statutory provisions for the expungement of protective orders and stalking injunctions retroactive;
- allows for the expungement of certain protective orders and stalking injunctions;
- provides the requirements for expunging certain protective orders and stalking injunctions;
- addresses the distribution and effect of an order for expungement of certain protective orders and stalking injunctions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

78B-7-1001, Utah Code Annotated 1953
78B-7-1002, Utah Code Annotated 1953
78B-7-1003, Utah Code Annotated 1953
78B-7-1004, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-7-1001 is enacted to read:

Part 10. Expungement of Protective Orders and Stalking Injunctions

78B-7-1001. Definitions.

As used in this part:

(1) (a) Except as provided in Subsection (1)(b), "agency" means a state, county, or local government entity that generates or maintains records relating to a civil order for which expungement may be ordered.

(b) "Agency" does not include the Division of Child and Family Services created in Section 62A-4a-103.

(2) "Civil order" means:

(a) an ex parte civil protective order;

(b) an ex parte civil stalking injunction;

(c) a civil protective order; or

(d) a civil stalking injunction.

(3) "Expunge" means to seal or otherwise restrict access to an individual's record held by an agency when the record includes a civil order.

(4) "Petitioner" means an individual petitioning for expungement of a civil order under this part.

Section 2. Section 78B-7-1002 is enacted to read:

78B-7-1002. Retroactive application.

The provisions of this part apply retroactively to all civil orders issued before, on, or after May 4, 2022.

Section 3. Section 78B-7-1003 is enacted to read:

78B-7-1003. Requirements for expungement of protective order or stalking injunction.

(1) (a) An individual against whom a civil order is sought may petition the court to expunge records of the civil order.

(b) A petition under Subsection (1) shall be filed in accordance with the Utah Rules of Civil Procedure.

(2) (a) The petitioner shall provide notice to the individual whom filed the civil order against the petitioner in accordance with Rule 4 of the Utah Rules of Civil Procedure.

(b) The individual who filed the civil order against the petitioner:

(i) may file a written objection with the court within 30 days after the day on which the petition is received by the individual; and

(ii) if the individual files a written objection, provide a copy of the written objection to the petitioner.

(c) If the court receives a written objection to the petition for expungement of a civil order, the court shall:

(i) set a date for a hearing on the petition;

(ii) provide notice at least 30 days before the day on which the hearing is held to:

(A) all parties of the civil order; and

(B) any other person or agency that the court has reason to believe may have relevant information related to the expungement of the civil order.

(d) The petitioner may respond, in writing, to any written objection within 14 days after the day on which the written objection is received by the court.

(3) If no written objection is received within 60 days from the day on which the petition for expungement is filed under Subsection (1), the court may grant the expungement in accordance with Subsection (4) without a hearing.

(4) A court may expunge an ex parte civil protective order or an ex parte civil stalking injunction if:

(a) the ex parte civil protective order or the ex parte civil stalking injunction was issued but:

(i) the ex parte civil protective order or the ex parte civil stalking injunction is dismissed, dissolved, or expired upon a hearing by the court;

(ii) the court did not issue a civil protective order or a civil stalking injunction on the same circumstances for which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iii) at least 30 days have passed from the day on which the ex parte civil protective order or the ex parte civil stalking injunction was issued;

(iv) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(v) there are no criminal proceedings pending against the petitioner in the state; or

(b) (i) the individual who filed the ex parte civil protective order or the ex parte civil stalking injunction failed to appear for the hearing on the ex parte civil protective order or ex parte civil stalking injunction;

(ii) at least 30 days have passed from the day on which the hearing on the ex parte civil protective order or the ex parte civil stalking injunction was set to occur, including any continuance, postponement, or rescheduling of the hearing;

(iii) the petitioner has not been arrested, charged, or convicted for violating the ex parte civil protective order or ex parte civil stalking injunction; and

(iv) there are no criminal proceedings pending against the petitioner in the state.

(5) A court may expunge a civil protective order or a civil stalking injunction if:

(a) the civil protective order or the civil stalking injunction has been dismissed, dissolved, vacated, or expired;

(b) three years have passed from the day on which the civil protective order or the civil stalking injunction is dismissed, dissolved, vacated, or expired;

(c) the petitioner has not been arrested, charged, or convicted for violating the civil protective order or the civil stalking injunction; and

(d) there are no criminal proceedings pending against the petitioner in the state.

Section 4. Section 78B-7-1004 is enacted to read:

78B-7-1004. Distribution and effect of order of expungement -- Penalty.

(1) An individual who receives an order of expungement under Section 78B-7-1003 shall be responsible for delivering a copy of the order of expungement to any affected agency.

(2) Upon receipt of an order of expungement as described in Subsection (1), an agency shall expunge all records described in the expungement order that are under the control of the agency.

(3) Upon entry of an expungement order by a court under Section 78B-7-1003:

(a) the civil order is considered to never have occurred; and

(b) the petitioner may reply to an inquiry on the matter as though there was never a civil order.

(4) (a) Unless ordered by a court to do so, an agency or official may not divulge information or records that have been expunged under this part.

(b) An expungement order may not restrict an agency's use or dissemination of records in the agency's ordinary course of business until the agency has received a copy of the expungement order.

(c) Any action taken by an agency after issuance of the expungement order but before the agency's receipt of a copy of the expungement order may not be invalidated by the order.

(5) An expungement order under this part may not:

(a) terminate or invalidate any pending administrative proceedings or actions of which the individual had notice according to the records of the administrative body before issuance of the expungement order;

(b) affect the enforcement of any order or findings issued by an administrative body pursuant to the administrative body's lawful authority prior to issuance of the expungement order; or

(c) prevent an agency from maintaining, sharing, or distributing any record required by law.

(6) An employee or agent of an agency that is prohibited from disseminating information from an expunged record under this section who knowingly or intentionally discloses identifying information from the expunged record, unless allowed by law, is guilty of a class A misdemeanor.

(7) Records expunged under this part may be released to, or viewed by, the following individuals:

(a) the petitioner; or

(b) parties to a civil action arising out of the expunged civil order, providing the information is kept confidential and utilized only in the action.

(8) This part does not preclude a court from considering the same circumstances or evidence for which an expunged civil order was issued in any proceeding that occurs after the civil order is expunged.

Section 5. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 271
S. B. 86

Passed March 1, 2022
Approved March 23, 2022
Effective May 4, 2022

DISTRICT AND JUVENILE COURT JUDGE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill amends provisions related to the number of judges in the district and juvenile court.

Highlighted Provisions:

This bill:

- amends the number of judges in the district and juvenile court; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-1-103, as last amended by Laws of Utah 2020, Chapter 17
78A-1-104, as last amended by Laws of Utah 2020, Chapter 17

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-1-103 is amended to read:

78A-1-103. Number of district judges.

[~~(1)~~] The number of district court judges shall be:

[~~(a)~~] (1) four district judges in the First District;

[~~(b)~~] (2) 14 district judges in the Second District;

[~~(c)~~] (3) 31 district judges in the Third District;

[~~(d)~~] (4) 13 district judges in the Fourth District;

[~~(e)~~] (5) [~~except as provided in Subsection (2), six~~] seven district judges in the Fifth District;

[~~(f)~~] (6) two district judges in the Sixth District;

[~~(g)~~] (7) three district judges in the Seventh District; and

[~~(h)~~] (8) three district judges in the Eighth District.

[~~(2) If the number of juvenile court judges in the Third Juvenile District, as described in Section 78A-1-104, is decreased to nine, the number of district court judges in the Fifth District is increased to seven.~~]

Section 2. Section 78A-1-104 is amended to read:

78A-1-104. Number of juvenile judges.

[~~(1)~~] The number of juvenile court judges shall be:

[~~(a)~~] (1) two juvenile judges in the First Juvenile District;

[~~(b)~~] (2) six juvenile judges in the Second Juvenile District;

[~~(c)~~] (3) [~~except as provided in Subsection (2), 10~~] nine juvenile judges in the Third Juvenile District;

[~~(d)~~] (4) five juvenile judges in the Fourth Juvenile District;

[~~(e)~~] (5) three juvenile judges in the Fifth Juvenile District;

[~~(f)~~] (6) [~~one juvenile judge~~] two juvenile judges in the Sixth Juvenile District;

[~~(g)~~] (7) two juvenile judges in the Seventh Juvenile District; and

[~~(h)~~] (8) two juvenile judges in the Eighth Juvenile District.

[~~(2) (a) If there is a vacancy for a juvenile court judge in the Third Juvenile District, the number of juvenile judges in the Third Juvenile District is decreased to nine.~~]

[~~(b) If a vacancy in the Third Juvenile District occurs and the number of juvenile judges in the Third Juvenile District is decreased to nine, the governor shall fill the vacancy created in Subsection 78A-1-103(2) for the Fifth District in accordance with Section 78A-10-104.~~]

CHAPTER 272
S. B. 87

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

COURT FEE WAIVER AMENDMENTS

Chief Sponsor: Jani Iwamoto
House Sponsor: V. Lowry Snow
Cosponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to the waiver of court fees.

Highlighted Provisions:

This bill:

- amends provisions regarding an affidavit of indigency;
- defines the term, "indigent";
- allows court fees, costs, or security to be waived for indigent individuals;
- requires a court to find an individual indigent under certain circumstances; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-11.3, as last amended by Laws of Utah 2018, Chapter 470
30-3-11.4, as last amended by Laws of Utah 2018, Chapter 470
41-6a-518, as last amended by Laws of Utah 2021, Chapter 83
78A-2-302, as last amended by Laws of Utah 2011, Chapter 366
78A-2-303, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-304, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-305, as last amended by Laws of Utah 2010, Chapter 226
78A-2-306, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-309, as last amended by Laws of Utah 2009, Chapter 146
78A-2-705, as last amended by Laws of Utah 2019, Chapter 326
78A-2-803, as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-5-825, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-6-205, as last amended by Laws of Utah 2011, Chapter 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-11.3 is amended to read:

30-3-11.3. Mandatory educational course for divorcing parents -- Purpose -- Curriculum -- Reporting.

(1) The Judicial Council shall approve and implement a mandatory course for divorcing parents in all judicial districts. The mandatory course is designed to educate and sensitize divorcing parties to their children's needs both during and after the divorce process.

(2) The Judicial Council shall adopt rules to implement and administer this program.

(3) (a) As a prerequisite to receiving a divorce decree, both parties are required to attend a mandatory course on their children's needs after filing a complaint for divorce and receiving a docket number, unless waived under Section 30-3-4. If that requirement is waived, the court may permit the divorce action to proceed.

(b) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce until the moving party completes the mandatory educational course for divorcing parents required by this section.

(4) The court may require unmarried parents to attend this educational course when those parents are involved in a visitation or custody proceeding before the court.

(5) The mandatory course shall instruct both parties:

(a) about divorce and its impacts on:

(i) their child or children;

(ii) their family relationship; and

(iii) their financial responsibilities for their child or children; and

(b) that domestic violence has a harmful effect on children and family relationships.

(6) The course may be provided through live instruction, video instruction, or an online provider. The online and video options must be formatted as interactive presentations that ensure active participation and learning by the parent.

(7) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts and organize the program in each of Utah's judicial districts. The contracts shall provide for the recoupment of administrative expenses through the costs charged to individual parties, pursuant to Subsection (9).

(8) A certificate of completion constitutes evidence to the court of course completion by the parties.

(9) (a) Each party shall pay the costs of the course to the independent contractor providing the course

at the time and place of the course. A fee of $8 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account, described in Section 51-9-408.

(b) Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of [~~impecuniosity~~] indigency as evidenced by an affidavit of [~~impecuniosity~~] indigency filed in the district court in accordance with Section 78A-2-302. In those situations, the independent contractor shall be reimbursed for [~~its~~] the independent contractor's costs from the appropriation to the Administrative Office of the Courts for "Mandatory Educational Course for Divorcing Parents Program." Before a decree of divorce may be entered, the court shall make a final review and determination of [~~impecuniosity~~] indigency and may order the payment of the costs if so determined.

(10) Appropriations from the General Fund to the Administrative Office of the Courts for the "Mandatory Educational Course for Divorcing Parents Program" shall be used to pay the costs of an indigent parent who makes a showing as provided in Subsection (9)(b).

(11) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Section 2. Section 30-3-11.4 is amended to read:

30-3-11.4. Mandatory orientation course for divorcing parties -- Purpose -- Curriculum -- Reporting.

(1) There is established a mandatory divorce orientation course for all parties with minor children who file a petition for temporary separation or for a divorce. A couple with no minor children is not required, but may choose to attend the course. The purpose of the course is to educate parties about the divorce process and reasonable alternatives.

(2) A petitioner shall attend a divorce orientation course no more than 60 days after filing a petition for divorce.

(3) (a) With the exception of a temporary restraining order pursuant to Rule 65, Utah Rules of Civil Procedure, a party may file, but the court may not hear, a motion for an order related to the divorce or petition for temporary separation, until the moving party completes the divorce orientation course.

(b) Notwithstanding Subsection (3)(a), both parties shall attend a divorce orientation course before a divorce decree may be entered, unless waived by the court under Section 30-3-4.

(4) The respondent shall attend the divorce orientation course no more than 30 days after being served with a petition for divorce.

(5) The clerk of the court shall provide notice to a petitioner of the requirement for the course, and information regarding the course shall be included with the petition or motion, when served on the respondent.

(6) The divorce orientation course shall be neutral, unbiased, at least one hour in duration, and include:

(a) options available as alternatives to divorce;

(b) resources available from courts and administrative agencies for resolving custody and support issues without filing for divorce;

(c) resources available to improve or strengthen the marriage;

(d) a discussion of the positive and negative consequences of divorce;

(e) a discussion of the process of divorce;

(f) options available for proceeding with a divorce, including:

(i) mediation;

(ii) collaborative law; and

(iii) litigation; and

(g) a discussion of post-divorce resources.

(7) The course may be provided in conjunction with the mandatory course for divorcing parents required by Section 30-3-11.3.

(8) The Administrative Office of the Courts shall administer the course pursuant to Title 63G, Chapter 6a, Utah Procurement Code, through private or public contracts.

(9) The course may be through live instruction, video instruction, or through an online provider.

(10) (a) A participant shall pay the costs of the course, which may not exceed $30, to the independent contractor providing the course at the time and place of the course.

(b) A petitioner who attends a live instruction course within 30 days of filing may not be charged more than $15 for the course.

(c) A respondent who attends a live instruction course within 30 days of being served with a petition for divorce may not be charged more than $15 for the course.

(d) A fee of $5 shall be collected, as part of the course fee paid by each participant, and deposited in the Children's Legal Defense Account described in Section 51-9-408.

(e) [~~A participant who is unable to pay the costs of the course may attend without payment and request an Affidavit of Impecuniosity from the provider to be filed with the petition or motion. The provider~~] Each party who is unable to pay the costs of the course may attend the course without payment upon a prima facie showing of indigency as evidenced by an affidavit of indigency filed in the district court in accordance with Section 78A-2-302. The independent contractor shall be reimbursed for [~~its~~] the independent contractor's costs by the Administrative Office of the Courts. A petitioner who is later determined not to meet the qualifications for [~~impecuniosity~~] indigency may be ordered to pay the costs of the course.

(11) Appropriations from the General Fund to the Administrative Office of the Courts for the divorce orientation course shall be used to pay the costs of an indigent petitioner who is determined to be [~~impecunious~~] indigent as provided in Subsection (10)(e).

(12) The Online Court Assistance Program shall include instructions with the forms for divorce that inform the petitioner of the requirement of this section.

(13) A certificate of completion constitutes evidence to the court of course completion by the parties.

(14) It shall be an affirmative defense in all divorce actions that the divorce orientation requirement was not complied with, and the action may not continue until a party has complied.

(15) The Administrative Office of the Courts shall adopt a program to evaluate the effectiveness of the mandatory educational course. Progress reports shall be provided if requested by the Judiciary Interim Committee.

Section 3. Section 41-6a-518 is amended to read:

41-6a-518. Ignition interlock devices -- Use -- Probationer to pay cost -- Indigency -- Fee.

(1) As used in this section:

(a) "Commissioner" means the commissioner of the Department of Public Safety.

(b) "Employer verification" means written verification from the employer that:

(i) the employer is aware that the employee is an interlock restricted driver;

(ii) the vehicle the employee is operating for employment purposes is not made available to the employee for personal use;

(iii) the business entity that employs the employee is not entirely or partly owned or controlled by the employee;

(iv) the employer's auto insurance company is aware that the employee is an interlock restricted driver; and

(v) the employee has been added to the employer's auto insurance policy as an operator of the vehicle.

(c) "Ignition interlock system" or "system" means a constant monitoring device or any similar device certified by the commissioner that prevents a motor vehicle from being started or continuously operated without first determining the driver's breath alcohol concentration.

(d) "Probation provider" means the supervisor and monitor of the ignition interlock system required as a condition of probation who contracts with the court in accordance with Subsections 41-6a-507(2) and (3).

(2) (a) In addition to any other penalties imposed under Sections 41-6a-503 and 41-6a-505, and in addition to any requirements imposed as a condition of probation, unless the court determines and states on the record that an ignition interlock system is not necessary for the safety of the community and in the best interest of justice, the court shall require that any person who is convicted of violating Section 41-6a-502 and who is granted probation may not operate a motor vehicle during the period of probation unless that motor vehicle is equipped with a functioning, certified ignition interlock system installed and calibrated so that the motor vehicle will not start or continuously operate if the operator's blood alcohol concentration exceeds .02 grams or greater.

(b) If a person convicted of violating Section 41-6a-502 was under the age of 21 when the violation occurred, the court shall order the installation of the ignition interlock system as a condition of probation.

(c) (i) If a person is convicted of a violation of Section 41-6a-502 within 10 years of a prior conviction as defined in Subsection 41-6a-501(2), the court shall order the installation of the interlock ignition system, at the person's expense, for all motor vehicles registered to that person and all motor vehicles operated by that person.

(ii) A person who operates a motor vehicle without an ignition interlock device as required under this Subsection (2)(c) is in violation of Section 41-6a-518.2.

(d) The division shall post the ignition interlock restriction on the electronic record available to law enforcement.

(e) This section does not apply to a person convicted of a violation of Section 41-6a-502 whose violation does not involve alcohol.

(3) If the court imposes the use of an ignition interlock system as a condition of probation, the court shall:

(a) stipulate on the record the requirement for and the period of the use of an ignition interlock system;

(b) order that an ignition interlock system be installed on each motor vehicle owned or operated by the probationer, at the probationer's expense;

(c) immediately notify the Driver License Division and the person's probation provider of the order; and

(d) require the probationer to provide proof of compliance with the court's order to the probation provider within 30 days of the order.

(4) (a) The probationer shall provide timely proof of installation within 30 days of an order imposing

the use of a system or show cause why the order was not complied with to the court or to the probationer's probation provider.

(b) The probation provider shall notify the court of failure to comply under Subsection (4)(a).

(c) For failure to comply under Subsection (4)(a) or upon receiving the notification under Subsection (4)(b), the court shall order the Driver License Division to suspend the probationer's driving privileges for the remaining period during which the compliance was imposed.

(d) Cause for failure to comply means any reason the court finds sufficiently justifiable to excuse the probationer's failure to comply with the court's order.

(5) (a) Any probationer required to install an ignition interlock system shall have the system monitored by the manufacturer or dealer of the system for proper use and accuracy at least semiannually and more frequently as the court may order.

(b) (i) A report of the monitoring shall be issued by the manufacturer or dealer to the court or the person's probation provider.

(ii) The report shall be issued within 14 days following each monitoring.

(6) (a) If an ignition interlock system is ordered installed, the probationer shall pay the reasonable costs of leasing or buying and installing and maintaining the system.

(b) A probationer may not be excluded from this section for inability to pay the costs, unless:

(i) the probationer files an affidavit of [~~impecuniosity~~] indigency in accordance with Section 78A-2-302; and

(ii) the court enters a finding that the probationer is [~~impecunious~~] indigent.

(c) In lieu of waiver of the entire amount of the cost, the court may direct the probationer to make partial or installment payments of costs when appropriate.

(d) The ignition interlock provider shall cover the costs of waivers by the court under this Subsection (6).

(7) (a) If a probationer is required in the course and scope of employment to operate a motor vehicle owned by the probationer's employer, the probationer may operate that motor vehicle without installation of an ignition interlock system only if:

(i) the motor vehicle is used in the course and scope of employment;

(ii) the employer has been notified that the employee is restricted; and

(iii) the employee has employer verification in the employee's possession while operating the employer's motor vehicle.

(b) (i) To the extent that an employer-owned motor vehicle is made available to a probationer subject to this section for personal use, no exemption under this section shall apply.

(ii) A probationer intending to operate an employer-owned motor vehicle for personal use and who is restricted to the operation of a motor vehicle equipped with an ignition interlock system shall notify the employer and obtain consent in writing from the employer to install a system in the employer-owned motor vehicle.

(c) A motor vehicle owned by a business entity that is all or partly owned or controlled by a probationer subject to this section is not a motor vehicle owned by the employer and does not qualify for an exemption under this Subsection (7).

(8) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner shall make rules setting standards for the certification of ignition interlock systems.

(b) The standards under Subsection (8)(a) shall require that the system:

(i) not impede the safe operation of the motor vehicle;

(ii) have features that make circumventing difficult and that do not interfere with the normal use of the motor vehicle;

(iii) require a deep lung breath sample as a measure of breath alcohol concentration;

(iv) prevent the motor vehicle from being started if the driver's breath alcohol concentration exceeds .02 grams or greater;

(v) work accurately and reliably in an unsupervised environment;

(vi) resist tampering and give evidence if tampering is attempted;

(vii) operate reliably over the range of motor vehicle environments; and

(viii) be manufactured by a party who will provide liability insurance.

(c) The commissioner may adopt in whole or in part, the guidelines, rules, studies, or independent laboratory tests relied upon in certification of ignition interlock systems by other states.

(d) A list of certified systems shall be published by the commissioner and the cost of certification shall be borne by the manufacturers or dealers of ignition interlock systems seeking to sell, offer for sale, or lease the systems.

(e) (i) In accordance with Section 63J-1-504, the commissioner may establish an annual dollar assessment against the manufacturers of ignition interlock systems distributed in the state for the costs incurred in certifying.

(ii) The assessment under Subsection (8)(e)(i) shall be apportioned among the manufacturers on a fair and reasonable basis.

(f) The commissioner shall require a provider of an ignition interlock system certified in accordance with this section to comply with the requirements of Title 53, Chapter 3, Part 10, Ignition Interlock System Program Act.

(9) A violation of this section is a class C misdemeanor.

(10) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the state or its employees in connection with the installation, use, operation, maintenance, or supervision of an interlock ignition system as required under this section.

Section 4. Section 78A-2-302 is amended to read:

78A-2-302. Indigent litigants -- Affidavit.

(1) [~~For purposes of~~] As used in Sections 78A-2-302 through 78A-2-309:

(a) "Convicted" means:

(i) a conviction by entry of a plea of guilty or nolo contendere, guilty with a mental illness, no contest[~~,~~]; and

(ii) a conviction of any crime or offense.

(b) "Indigent" means an individual who is financially unable to pay fees and costs or give security.

[~~(b)~~] (c) "Prisoner" means [~~a person~~] an individual who has been convicted of a crime and is incarcerated for that crime or is being held in custody for trial or sentencing.

[~~(2) As provided in this chapter, any person may institute, prosecute, defend, and appeal any cause in any court in this state without prepayment of fees and costs or security, by taking and subscribing, before any officer authorized to administer an oath, an affidavit of impecuniosity demonstrating financial inability to pay fees and costs or give security.~~]

[~~(3) The affidavit shall contain complete information on the party's:~~]

(2) An individual may institute, prosecute, defend, or appeal any cause in a court in this state without prepayment of fees and costs or security if the individual submits an affidavit demonstrating that the individual is indigent.

(3) A court shall find an individual indigent if the individual's affidavit under Subsection (2) demonstrates:

(a) the individual has an income level at or below 150% of the United States poverty level as defined by the most recent poverty income guidelines published by the United States Department of Health and Human Services;

(b) the individual receives benefits from a means-tested government program, including Temporary Assistance to Needy Families, Supplemental Security Income, the Supplemental Nutrition Assistance Program, or Medicaid;

(c) the individual receives legal services from a nonprofit provider or a pro bono attorney through the Utah State Bar; or

(d) the individual has insufficient income or other means to pay the necessary fees and costs or security without depriving the individual, or the individual's family, of food, shelter, clothing, or other necessities.

(4) An affidavit demonstrating that an individual is indigent under Subsection (3)(d) shall contain complete information on the individual's:

(a) identity and residence;

(b) amount of income, including any government financial support, alimony, or child support;

(c) assets owned, including real and personal property;

(d) business interests;

(e) accounts receivable;

(f) securities, checking and savings account balances;

(g) debts; and

(h) monthly expenses.

[~~(4)~~] (5) If the [~~party~~] individual under Subsection (3) is a prisoner, [~~he~~] the prisoner shall [~~also~~] disclose the amount of money held in [~~his prisoner~~] the prisoner's trust account at the time the affidavit under Subsection (2) is executed [~~as provided in~~] in accordance with Section 78A-2-305.

[~~(5) In addition to the financial disclosures, the affidavit~~] (6) An affidavit of indigency under this section shall state the following:

I, [~~A B~~] (insert name), do solemnly swear or affirm that due to my poverty I am unable to bear the expenses of the action or legal proceedings which I am about to commence or the appeal which I am about to take, and that I believe I am entitled to the relief sought by the action, legal proceedings, or appeal.

Section 5. Section 78A-2-303 is amended to read:

78A-2-303. False affidavit -- Penalty.

(1) [~~A person~~] An individual may assert by affidavit that an affidavit of [~~impecuniosity~~] indigency under Section 78A-2-302, action, or appeal is:

(a) false;

(b) frivolous or without merit; or

(c) malicious.

(2) Upon receipt of an affidavit in accordance with Subsection (1), the court may notify the affiant of the challenge and set a date, not less than five days from receipt of the notice, requiring the affiant to appear and show cause why the affiant should not be required to:

(a) post a bond for the costs of the action or appeal; or

(b) pay the legal fees for the action or appeal.

(3) The court may dismiss the action or appeal if:

(a) the affiant does not appear;

(b) the affiant appears and the court determines the affidavit is false, frivolous, without merit, or malicious; or

(c) the court orders the affiant to post a bond or pay the legal fees and the affiant fails to do so.

Section 6. Section 78A-2-304 is amended to read:

78A-2-304. Effect of filing affidavit -- Nonprisoner.

(1) (a) Upon the filing of [~~the oath or affirmation with any Utah court~~] an affidavit of indigency under Section 78A-2-302 by a nonprisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be waived entirely or in part.

(b) Notwithstanding the party's statement of inability to pay court costs, the court shall require a partial or full filing fee where the financial information provided demonstrates an ability to pay a fee.

(2) (a) In instances where fees or costs are completely waived, the court shall immediately file any complaint or papers on appeal and do what is necessary or proper as promptly as if the litigant had fully paid all the regular fees.

(b) The constable or sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary or proper in the prosecution or defense of the cause, for the [~~impecunious person~~] indigent individual as if all the necessary fees and costs had been fully paid.

(3) (a) [~~However, in cases where an impecunious affidavit~~] In cases where an affidavit of indigency under Section 78A-2-302 is filed, the [~~judge shall question the person~~] court shall question the individual who filed the affidavit at the time of hearing the cause as to [~~his~~] the individual's ability to pay. [~~If the judge~~]

(b) If the court opines that the [~~person~~] individual is reasonably able to pay the costs, the [~~judge~~] court shall direct the judgment or decree not be entered in favor of that [~~person~~] individual until the costs are paid.

(c) The order may be cancelled later upon petition if the facts warrant cancellation.

Section 7. Section 78A-2-305 is amended to read:

78A-2-305. Effect of filing affidavit -- Procedure for review and collection.

(1) (a) Upon receipt of [~~the oath or affirmation~~] an affidavit of indigency under Section 78A-2-302 filed with any Utah court by a prisoner, the court shall immediately request the institution or facility where the prisoner is incarcerated to provide an account statement detailing all financial activities in the prisoner's trust account for the previous six months or since the time of incarceration, whichever is shorter.

(b) The incarcerating facility shall:

(i) prepare and produce to the court the prisoner's six-month trust account statement, current trust account balance, and aggregate disposable income; and

(ii) calculate aggregate disposable income by totaling all deposits made in the prisoner's trust account during the six-month period and subtracting all funds automatically deducted or otherwise garnished from the account during the same period.

(2) The court shall:

(a) review both the affidavit of [~~impecuniosity~~] indigency and the financial account statement; and

(b) based upon the review, independently determine whether or not the prisoner is financially capable of paying all the regular fees and costs associated with filing the action.

(3) When the court concludes that the prisoner is unable to pay full fees and costs, the court shall assess an initial partial filing fee equal to 50% of the prisoner's current trust account balance or 10% of the prisoner's six-month aggregate disposable income, whichever is greater.

(4) (a) After payment of the initial partial filing fee, the court shall require the prisoner to make monthly payments of 20% of the preceding month's aggregate disposable income until the regular filing fee associated with the civil action is paid in full.

(b) The agency having custody of the prisoner shall:

(i) garnish the prisoner's account each month; and

(ii) once the collected fees exceed $10, forward payments to the clerk of the court until the filing fees are paid.

(c) Nothing in this section may be construed to prevent the agency having custody of the prisoner from withdrawing funds from the prisoner's account to pay court-ordered restitution.

(5) Collection of the filing fees continues despite dismissal of the action.

(6) The filing fee collected may not exceed the amount of fees permitted by statute for the commencement of a civil action or an appeal of a civil action.

(7) If the prisoner is filing an initial divorce action or an action to obtain custody of the prisoner's children, the following procedures shall apply for review and collection of fees and costs:

(a) (i) [~~Upon filing an oath or affirmation~~] Upon a filing of an affidavit of indigency under Section 78A-2-302 with any Utah court by a prisoner, the court shall review the affidavit and make an independent determination based on the information provided whether court costs and fees should be paid in full or be waived in whole or in part.

(ii) The court shall require a full or partial filing fee when the prisoner's financial information demonstrates an ability to pay the applicable court fees or costs.

(b) (i) If a prisoner's court fees or costs are completely waived, and if the prisoner files an appeal, the court shall immediately file any complaint or papers on appeal and complete all necessary action as promptly as if the litigant had paid all the fees and costs in full.

(ii) If a prisoner is [~~impecunious~~] indigent, the constable and sheriff shall immediately serve any summonses, writs, process and subpoenas, and papers necessary in the prosecution or defense of the cause as if all the necessary fees and costs had been paid in full.

(c) (i) If a prisoner files an affidavit of [~~impecuniosity~~] indigency, the judge shall question the prisoner at the time of the hearing on the merits of the case as to the prisoner's ability to pay.

(ii) If the judge determines that the prisoner is reasonably able to pay court fees and costs, the final order or decree shall be entered, however the prisoner may not seek enforcement or modification of the decree or order until the prisoner has paid the fees or costs in full.

(iii) A judge may waive the restrictions placed on the prisoner in Subsection (7)(c)(ii) upon a showing of good cause.

Section 8. Section 78A-2-306 is amended to read:

78A-2-306. Notice of filing fee -- Consequence of nonpayment.

(1) When an affidavit of [~~impecuniosity~~] indigency under Section 78A-2-302 has been filed and the court assesses an initial filing fee, the court shall immediately notify the litigant in writing of:

(a) the initial filing fee required as a prerequisite to proceeding with the action;

(b) the procedure available to challenge the initial filing fee assessment as provided in Section 78A-2-307; and

(c) the [~~inmate's~~] prisoner's ongoing obligation to make monthly payments until the entire filing fee is paid.

(2) The court may not authorize service of process or otherwise proceed with the action, except as provided in Section 78A-2-307, until the initial filing fee has been completely paid to the clerk of the court.

Section 9. Section 78A-2-309 is amended to read:

78A-2-309. Liability for fees if successful in litigation.

(1) Nothing in this part shall prevent a justice court judge, clerk, constable, or sheriff from collecting [~~his or her~~] regular fees for all services rendered for the [~~impecunious person~~] indigent individual, in the event the [~~person~~] indigent individual is successful in litigation.

(2) All fees and costs shall be regularly taxed and included in any judgment recovered by the [~~person~~] indigent individual.

(3) The fees and costs shall be paid to a justice court judge, clerk, constable, or sheriff.

(4) If the [~~person~~] indigent individual fails in the action or appeal, [~~then~~] the costs of the action or appeal [~~shall~~] may be adjudged against the [~~person~~] indigent individual.

Section 10. Section 78A-2-705 is amended to read:

78A-2-705. Private attorney guardian ad litem -- Appointment -- Costs and fees -- Duties -- Conflicts of interest -- Pro bono obligation -- Indemnification -- Minimum qualifications.

(1) The court may appoint an attorney as a private attorney guardian ad litem to represent the best interests of the minor in any district court action when:

(a) child abuse, child sexual abuse, or neglect is alleged in any proceeding, and the court has made a finding that an adult party is not indigent as determined under Section 78B-22-202; or

(b) the custody of, or parent-time with, a child is at issue.

(2) (a) The court shall consider the limited number of eligible private attorneys guardian ad litem, as well as the limited time and resources available to a private attorney guardian ad litem, when making an appointment under Subsection (1) and prioritize case assignments accordingly.

(b) The court shall make findings regarding the need and basis for the appointment of a private attorney guardian ad litem.

(c) A court may not appoint a private attorney guardian ad litem in a criminal case.

(3) (a) If the parties stipulate to a private attorney guardian ad litem, the office shall assign the stipulated private attorney guardian ad litem to the case in accordance with this section.

(b) If, under Subsection (3)(a), the parties have not stipulated to a private attorney guardian ad litem, or if the stipulated private attorney guardian ad litem is unable to take the case, the court shall appoint a private attorney guardian ad litem in accordance with Subsection (3)(c).

(c) The court shall state in an order that the court is appointing a private attorney guardian ad litem, to be assigned by the office, to represent the best interests of the child in the matter.

(d) The court shall send the order described in Subsection (3)(c) to the office, in care of the Private Attorney Guardian ad Litem program.

(4) The court shall:

(a) specify in the order appointing a private attorney guardian ad litem the specific issues in the proceeding that the private attorney guardian ad litem shall be involved in resolving, which may include issues relating to the custody of the child and a parent-time schedule;

(b) to the extent possible, bifurcate the issues described in Subsection (4)(a) from the other issues in the case in order to minimize the time constraints placed upon the private attorney guardian ad litem; and

(c) except as provided in Subsection (6), issue a final order within one year after the day on which the private attorney guardian ad litem is appointed in the case:

(i) resolving the issues described in Subsection (4)(a); and

(ii) terminating the private attorney guardian ad litem from the appointment to the case.

(5) The court shall issue an order terminating the appointment of a private attorney guardian ad litem made under this section if:

(a) after receiving input from the private attorney guardian ad litem, the court determines that the minor no longer requires the services of the private attorney guardian ad litem; or

(b) there has been no activity in the case for a period of six consecutive months.

(6) A court may issue an order extending the one-year period described in Subsection (4)(c) for a specified amount of time if the court makes a written finding that there is a compelling reason that the court cannot comply with the requirements described in Subsection (4)(c) within the one-year period.

(7) When appointing a private attorney guardian ad litem under this section, a court may appoint the same private attorney guardian ad litem who represents the minor in another proceeding, or who has represented the minor in a previous proceeding, if that private attorney guardian ad litem is available.

(8) (a) Upon receipt of the court's order, described in Subsections (3)(c) and (d), the office shall assign the case to a private attorney guardian ad litem, if available, in accordance with this section.

(b) (i) If, after the initial assignment of a private attorney guardian ad litem, either party objects to the assigned private attorney guardian ad litem, that party may file an objection with the court within seven days after the day on which the party received notice of the assigned private attorney guardian ad litem.

(ii) If, after the initial assignment of a private attorney guardian ad litem, either attorney for a party discovers that the private attorney guardian ad litem represents an adverse party in a separate matter, that attorney may file an objection with the court within seven days after the day on which the attorney received notice of the private attorney guardian ad litem's representation of an adverse party in a separate matter.

(iii) Upon receipt of an objection, the court shall determine whether grounds exist for the objection, and if grounds exist, the court shall order, without a hearing, the office to assign a new private attorney guardian ad litem, in consultation with the parties and in accordance with this section.

(iv) If no alternative private attorney guardian ad litem is available, the office shall notify the court.

(9) (a) When appointing a private attorney guardian ad litem, the court shall:

(i) assess all or part of the private attorney guardian ad litem fees, court costs, and paralegal, staff, and volunteer expenses against the parties in a proportion the court determines to be just; and

(ii) designate in the order whether the private attorney guardian ad litem shall, as established by rule under Subsection (17):

(A) be paid a set fee and initial retainer;

(B) not be paid and serve pro bono; or

(C) be paid at a rate less than the set fee established by court rule.

(b) If a party claims to be [~~impecunious~~] indigent, the court shall follow the procedure and make a determination, as described in Section 78A-2-302, to set the amount that the party is required to pay, if any, toward the private attorney guardian ad litem's fees and expenses.

(c) The private attorney guardian ad litem may adjust the court-ordered fees or retainer to an amount less than what was ordered by the court at any time before being released from representation by the court.

(10) Upon accepting the court's appointment, the assigned private attorney guardian ad litem shall:

(a) file a notice of appearance with the court within five business days of the day on which the attorney was assigned; and

(b) represent the best interests of the minor until released by the court.

(11) The private attorney guardian ad litem:

(a) shall be certified by the director of the office as meeting the minimum qualifications for appointment; and

(b) may not be employed by, or under contract with, the office unless under contract as a conflict private attorney guardian ad litem in an unrelated case.

(12) The private attorney guardian ad litem appointed under the provisions of this section shall:

(a) represent the best interests of the minor from the date of the appointment until released by the court;

(b) conduct or supervise an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(c) interview witnesses and review relevant records pertaining to the minor and the minor's family, including medical, psychological, and school records;

(d) (i) personally meet with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interview the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor;

(iii) to the extent possible, determine the minor's goals and concerns regarding custody or visitation; and

(iv) to the extent possible, and unless it would be detrimental to the minor, keep the minor advised of:

(A) the status of the minor's case;

(B) all court and administrative proceedings;

(C) discussions with, and proposals made by, other parties;

(D) court action; and

(E) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(e) unless excused by the court, prepare for and attend all mediation hearings and all court conferences and hearings, and present witnesses and exhibits as necessary to protect the best interests of the minor;

(f) identify community resources to protect the best interests of the minor and advocate for those resources; and

(g) participate in all appeals unless excused by the court.

(13) (a) The private attorney guardian ad litem shall represent the best interests of a minor.

(b) If the minor's intent and desires differ from the private attorney guardian ad litem's determination of the minor's best interests, the private attorney guardian ad litem shall communicate to the court the minor's intent and desires and the private attorney guardian ad litem's determination of the minor's best interests.

(c) A difference between the minor's intent and desires and the private attorney guardian ad litem's determination of best interests is not sufficient to create a conflict of interest.

(d) The private attorney guardian ad litem shall disclose the intent and desires of the minor unless the minor:

(i) instructs the private attorney guardian ad litem to not disclose the minor's intent and desires; or

(ii) has not expressed an intent and desire.

(e) The court may appoint one private attorney guardian ad litem to represent the best interests of more than one child of a marriage.

(14) In every court hearing where the private attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the private attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(15) A private attorney guardian ad litem appointed under this section is immune from any civil liability that might result by reason of acts performed within the scope of duties of the private attorney guardian ad litem.

(16) The office and the Guardian ad Litem Oversight Committee shall compile a list of attorneys willing to accept an appointment as a private attorney guardian ad litem.

(17) Upon the advice of the director and the Guardian ad Litem Oversight Committee, the Judicial Council shall establish by rule:

(a) the minimum qualifications and requirements for appointment by the court as a private attorney guardian ad litem;

(b) the standard fee rate and retainer amount for a private attorney guardian ad litem;

(c) the percentage of cases a private attorney guardian ad litem may be expected to take on pro bono;

(d) a system to:

(i) select a private attorney guardian ad litem for a given appointment; and

(ii) determine when a private attorney guardian ad litem shall be expected to accept an appointment pro bono; and

(e) the process for handling a complaint relating to the eligibility status of a private attorney guardian ad litem.

(18) (a) Any savings that result from assigning a private attorney guardian ad litem in a district court case, instead of an office guardian ad litem, shall be applied to the office to recruit and train attorneys for the private attorney guardian ad litem program.

(b) After complying with Subsection (18)(a), the office shall use any additional savings to reduce caseloads and improve current practices in juvenile court.

Section 11. Section 78A-2-803 is amended to read:

78A-2-803. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section 62A-4a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each minor who may become the subject of an abuse, neglect, or dependency petition from the earlier of:

(a) the day on which the minor is removed from the minor's home by the division; or

(b) the day on which the abuse, neglect, or dependency petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the division in accordance with Section 62A-4a-205;

(b) before representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the division to:

(i) maintain a minor in the minor's home; or

(ii) reunify a minor with a minor's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and

(j) makes all necessary court filings to advance the guardian's ad litem position regarding the best interest of the minor.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in investigation and preparation of information regarding the cases of individual minors before the court.

(b) A volunteer, paralegal, or other staff utilized under this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the minor's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the minor;

(C) counseling for the parent, if mandated by the court or recommended by the division; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess the fees or costs described in Subsection (6)(c)(i) against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be an indigent individual.

(d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent individual, the court shall:

(i) require the individual to submit an affidavit of [~~indigence~~] indigency as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The minor's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian's ad litem duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the minor unless the minor:

(i) instructs the guardian ad litem to not disclose the minor's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one minor of a marriage.

(9) The division shall provide an attorney guardian ad litem access to all division records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what is in the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's child welfare worker, but may not:

(i) rely exclusively on the conclusions and findings of the division; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a child welfare worker.

(c) (i) An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a child welfare worker is present for a purpose other than the attorney guardian ad litem's meeting with the client.

(ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, all records of an attorney guardian ad litem are

confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain records released in accordance with Subsection (12)(b) as confidential.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in the office's audits and reports to the Legislature.

(d) (i) Subsection (12)(b) is an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility to provide a guardian ad litem program, and as parens patriae, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 12. Section 78B-5-825 is amended to read:

78B-5-825. Attorney fees -- Award where action or defense in bad faith -- Exceptions.

(1) In civil actions, the court shall award reasonable attorney fees to a prevailing party if the court determines that the action or defense to the action was without merit and not brought or asserted in good faith, except under Subsection (2).

(2) The court, in [~~its~~] the court's discretion, may award no fees or limited fees against a party under Subsection (1), but only if the court:

(a) finds the party has filed an affidavit of [~~impecuniosity~~] indigency under Section 78A-2-302 in the action before the court; or

(b) the court enters in the record the reason for not awarding fees under the provisions of Subsection (1).

Section 13. Section 78B-6-205 is amended to read:

78B-6-205. Judicial Council rules for ADR procedures.

(1) To promote the use of ADR procedures, the Judicial Council may by rule establish experimental and permanent ADR programs administered by the Administrative Office of the Courts under the supervision of the director of Dispute Resolution Programs.

(2) The rules of the Judicial Council shall be based upon the purposes and provisions of this part. Any procedural and evidentiary rules adopted by the Supreme Court may not impinge on the constitutional rights of any parties.

(3) The rules of the Judicial Council shall include provisions:

(a) to orient parties and their counsel to the ADR program, ADR procedures, and the rules of the Judicial Council;

(b) to identify types of civil actions that qualify for ADR procedures;

(c) to refer to ADR procedures all or particular issues within a civil action;

(d) to protect persons not parties to the civil action whose rights may be affected in the resolution of the dispute;

(e) to ensure that no party or its attorney is prejudiced for electing, in good faith, not to participate in an optional ADR procedure;

(f) to exempt any case from the ADR program in which the objectives of ADR would not be realized;

(g) to create timetables to ensure that the ADR procedure is instituted and completed without undue delay or expense;

(h) to establish the qualifications of ADR providers for each form of ADR procedure including that formal education in any particular field may not, by itself, be either a prerequisite or sufficient qualification to serve as an ADR provider under the program authorized by this part;

(i) to govern the conduct of each type of ADR procedure, including the site at which the procedure is conducted;

(j) to establish the means for the selection of an ADR provider for each form of ADR procedure;

(k) to determine the powers, duties, and responsibilities of the ADR provider for each form of ADR procedure;

(l) to establish a code of ethics applicable to ADR providers with means for its enforcement;

(m) to protect and preserve the privacy and confidentiality of ADR procedures;

(n) to protect and preserve the privacy rights of the persons attending the ADR procedures;

(o) to permit waiver of all or part of fees assessed for referral of a case to the ADR program on a showing of [~~impecuniosity~~] indigency or other compelling reason;

(p) to authorize imposition of sanctions for failure of counsel or parties to participate in good faith in the ADR procedure assigned;

(q) to assess the fees to cover the cost of compensation for the services of the ADR provider and reimbursement for the provider's allowable, out-of-pocket expenses and disbursements; and

(r) to allow vacation of an award by a court as provided in Section 78B-11-124.

(4) The Judicial Council may, from time to time, limit the application of its ADR rules to particular judicial districts.

CHAPTER 273
S. B. 90

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

TAX ADMINISTRATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill modifies provisions related to the administration and enforcement of taxes.

Highlighted Provisions:

This bill:

- clarifies that the parties to an administrative garnishment order issued by the State Tax Commission must file certain requests and motions in the district court; and
- changes the term "remote seller" to "voluntary seller."

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-1420, as enacted by Laws of Utah 2021, Chapter 393

59-12-107, as last amended by Laws of Utah 2020, Chapter 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-1-1420 is amended to read:

59-1-1420. Administrative garnishment order for liability.

(1) As used in this section:

(a) "Administrative garnishment order" includes a continuing administrative garnishment order issued under this section.

(b) "Disposable earnings" means the same as that term is defined in Section 70C-7-103.

(c) "Garnishee" means a person to whom the commission issues an administrative garnishment order under this section.

(d) "Nonexempt periodic payment" means any recurring payment that, under Title 78B, Chapter 5, Part 5, Utah Exemptions Act, is not exempt from the judicial process to collect an unsecured debt.

(2) (a) Subject to Subsection (3), if a taxpayer owes a liability, the commission may issue an administrative garnishment order against the taxpayer's personal property, including wages, in the possession or control of a person other than the taxpayer in the same manner and with the same effect as if the order were a writ of garnishment issued by a court with jurisdiction.

(b) In addition to the underlying liability, the commission may satisfy through an administrative garnishment any costs or fees incurred by the commission as a result of issuing the administrative garnishment order.

(3) The commission may issue an administrative garnishment order to a person described in Subsection (2) if:

(a) the commission has filed a warrant against the taxpayer for the underlying liability in accordance with Section 59-1-1414; and

(b) the commission's executive director or the executive director's designee signs the administrative garnishment order.

(4) An administrative garnishment order issued in accordance with this section is subject to the procedures and due process protections provided by Rule 64D, Utah Rules of Civil Procedure.

(5) The maximum portion of a taxpayer's disposable earnings subject to garnishment under this section is the lesser of:

(a) 25% of the taxpayer's disposable earnings; or

(b) the amount by which the taxpayer's disposable earnings for a pay period exceeds the number of weeks in that pay period multiplied by 30 times the federal minimum wage as provided in 29 U.S.C. Sec. 201 et seq., Fair Labor Standards Act of 1938.

(6) Upon agreement by the garnishee, the parties to an administrative garnishment order may accept and transmit documents relating to the administrative garnishment order by electronic means, including service of process, proof of service, interrogatories, answers, and any other information shared between the garnishee and the commission.

(7) In an administrative garnishment order issued under this section, the commission shall:

(a) identify the taxpayer, including:

(i) the taxpayer's name and address; and

(ii) if known:

(A) the last four digits of the taxpayer's social security number, or the taxpayer's full social security number, if the taxpayer's full social security number is required by federal law; and

(B) the taxpayer's date of birth;

(b) contain a statement that includes:

(i) if known, the nature, location, account number, and estimated value of the property subject to administrative garnishment;

(ii) if known, the name, address, and phone number of the person holding the property subject to administrative garnishment; and

(iii) the name, address, and phone number of any person claiming an interest in the property described in Subsection (7)(b)(i) or (ii);

(c) state whether any of the property subject to administrative garnishment consists of earnings;

(d) state the outstanding amount owed under the warrant described in Subsection (3)(a);

(e) state the amount of any applicable costs or fees included in the administrative garnishment;

(f) state the manner in which the garnishee shall deliver the property to the commission; and

(g) state that the commission shall pay the garnishee the fee described in Section 78A-2-216.

(8) As part of the administrative garnishment order, the commission shall serve on the garnishee the following interrogatories:

(a) whether the garnishee is indebted to the taxpayer and, if so, the nature of the indebtedness;

(b) whether the garnishee possesses or controls any property of the taxpayer, and, if so, the nature, location, and estimated value of the property;

(c) whether the garnishee knows of any property of the taxpayer in the possession or control of another person, and if so, the following information about the property:

(i) the nature;

(ii) the location; and

(iii) the estimated value;

(d) (i) whether the garnishee intends to deduct from the property a liquidated claim against the taxpayer;

(ii) a description of any claim described in Subsection (8)(d)(i); and

(iii) the amount deducted, if any;

(e) the date and manner of the garnishee's service of the documents described in Subsection (9)(c) on the taxpayer and any third party;

(f) the date on which the taxpayer was previously served with any continuing administrative garnishment order;

(g) any other relevant information the commission requests, including:

(i) the taxpayer's position;

(ii) the taxpayer's rate of pay;

(iii) the taxpayer's compensation method;

(iv) the taxpayer's pay period; and

(v) a computation of the taxpayer's disposable earnings.

(9) Within seven days after the day on which an administrative garnishment order is served, the garnishee shall:

(a) answer each interrogatory described in Subsection (8);

(b) serve the answers to the interrogatories on the commission;

(c) serve the taxpayer and any other person known to the garnishee to have an interest in the property a copy of:

(i) the administrative garnishment order; and

(ii) the answers to the interrogatories described in Subsection (9)(b); and

(d) inform the taxpayer of the taxpayer's right to reply to the answers described in Subsection (9)(b) and request a hearing in district court as provided by Rule 64D, Utah Rules of Civil Procedure.

(10) (a) A garnishee who acts in accordance with this section and the administrative garnishment order is released from liability unless an answer to an interrogatory is successfully controverted.

(b) Except as provided in Subsection (10)(c), if a garnishee fails to comply with the administrative garnishment order without a court or final administrative order directing otherwise, the garnishee is liable for an amount including:

(i) the lesser of the value of the property or the balance owed under the warrant described in Subsection (3)(a);

(ii) reasonable costs and fees; and

(iii) attorney fees incurred by the parties as a result of the garnishee's failure.

(c) If a garnishee demonstrates that the garnishee took reasonable steps to secure the property, the commission may excuse the garnishee of liability in whole or in part.

(11) If the commission files a motion for an order to show cause to enforce an administrative garnishment order under this section, the commission shall file the motion in district court and attach to the motion a statement that the commission has in good faith conferred or attempted to confer with the garnishee in an effort to settle the issue without court action.

(12) A garnishee is not liable for drawing, accepting, making, or endorsing a negotiable instrument that is not in the possession or control of the garnishee at the time the administrative garnishment order is served.

(13) A garnishee may deduct from the property any liquidated claim against the taxpayer.

(14) (a) If a debt owed by the taxpayer to the garnishee is secured by the property subject to the administrative garnishment order, the commission may apply the property to the debt.

(b) An administrative garnishment order described in Subsection (14)(a) remains in effect regardless of whether the commission applies the property to the debt.

(15) (a) The commission may issue a continuing administrative garnishment order against any nonexempt periodic payment.

(b) A continuing administrative garnishment order applies to payments to the taxpayer:

(i) beginning on the day on which the continuing administrative garnishment order is served; and

(ii) ending on the earlier of:

(A) subject to Subsection (15)(c), one year after the day on which the continuing administrative garnishment order is served;

(B) 120 days after the day on which a second or subsequent continuing administrative garnishment against the taxpayer is served;

(C) the day on which the last nonexempt periodic payment subject to the continuing administrative garnishment order occurs;

(D) the day on which the warrant described in Subsection (3)(a) is stayed, vacated, or satisfied in full; or

(E) the day on which the commission releases the continuing administrative garnishment order.

(c) If the commission issues a continuing administrative garnishment order during the term of another continuing administrative garnishment order against the same taxpayer, the period described in Subsection (15)(b)(i) is tolled if the other continuing administrative garnishment order:

(i) is in effect at the time the commission serves the subsequent continuing administrative garnishment order; and

(ii) requires payments greater than or equal to the maximum portion of disposable earnings described in Subsection (5).

(d) For each periodic payment period, no later than seven days after the day on which the periodic payment period ends, the garnishee shall:

(i) answer each interrogatory described in Subsection (8);

(ii) serve the answers to the interrogatories on the commission, the taxpayer, and any other person known to the garnishee to have an interest in the property; and

(iii) deliver the property to the commission in the manner specified in the continuing administrative garnishment order.

(16) (a) The commission may not name more than one garnishee in an administrative garnishment order.

(b) Priority among garnishments is according to the order of service on the garnishee.

(c) An administrative garnishment order applies to earnings accruing during the pay period in which the order is effective.

(17) This section is subject to Title 78B, Chapter 5, Part 5, Utah Exemptions Act.

Section 2. Section 59-12-107 is amended to read:

59-12-107. Definitions -- Collection, remittance, and payment of tax by sellers or other persons -- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties and interest.

(1) As used in this section:

(a) "Ownership" means direct ownership or indirect ownership through a parent, subsidiary, or affiliate.

(b) "Related seller" means a seller that:

(i) meets one or more of the criteria described in Subsection (2)(a)(i); and

(ii) delivers tangible personal property, a service, or a product transferred electronically that is sold:

(A) by a seller that does not meet one or more of the criteria described in Subsection (2)(a)(i); and

(B) to a purchaser in the state.

(c) "Substantial ownership interest" means an ownership interest in a business entity if that ownership interest is greater than the degree of ownership of equity interest specified in 15 U.S.C. Sec. 78p, with respect to a person other than a director or an officer.

(2) (a) Except as provided in Subsection (2)(f), Section 59-12-107.1, or Section 59-12-123, and subject to Subsection (2)(g), each seller shall pay or collect and remit the sales and use taxes imposed by this chapter if within this state the seller:

(i) has or utilizes:

(A) an office;

(B) a distribution house;

(C) a sales house;

(D) a warehouse;

(E) a service enterprise; or

(F) a place of business similar to Subsections (2)(a)(i)(A) through (E);

(ii) maintains a stock of goods;

(iii) regularly solicits orders, regardless of whether or not the orders are accepted in the state, unless the seller's only activity in the state is:

(A) advertising; or

(B) solicitation by:

(I) direct mail;

(II) electronic mail;

(III) the Internet;

(IV) telecommunications service; or

(V) a means similar to Subsection (2)(a)(iii)(A) or (B);

(iv) regularly engages in the delivery of property in the state other than by:

(A) common carrier; or

(B) United States mail; or

(v) regularly engages in an activity directly related to the leasing or servicing of property located within the state.

(b) A seller is considered to be engaged in the business of selling tangible personal property, a product transferred electronically, or a service for use in the state, and shall pay or collect and remit the sales and use taxes imposed by this chapter if:

(i) the seller holds a substantial ownership interest in, or is owned in whole or in substantial part by, a related seller; and

(ii) (A) the seller sells the same or a substantially similar line of products as the related seller and does so under the same or a substantially similar business name; or

(B) the place of business described in Subsection (2)(a)(i) of the related seller or an in state employee of the related seller is used to advertise, promote, or facilitate sales by the seller to a purchaser.

(c) Subject to Section 59-12-107.6, each seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit the sales and use taxes imposed by this chapter under Subsection (2)(b) shall pay or collect and remit the sales and use tax imposed by this chapter if the seller:

(i) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state; and

(ii) in either the previous calendar year or the current calendar year:

(A) receives gross revenue from the sale of tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state of more than $100,000; or

(B) sells tangible personal property, products transferred electronically, or services for storage, use, or consumption in the state in 200 or more separate transactions.

(d) A seller that does not meet one or more of the criteria provided for in Subsection (2)(a) or is not a seller required to pay or collect and remit sales and use taxes under Subsection (2)(b), Subsection (2)(c), or Section 59-12-107.6 may voluntarily:

(i) collect a tax on a transaction described in Subsection 59-12-103(1); and

(ii) remit the tax to the commission as provided in this part.

(e) The collection and remittance of a tax under this chapter by a seller that is registered under the agreement may not be used as a factor in determining whether that seller is required by this Subsection (2) to:

(i) pay a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(F) this title; or

(ii) collect and remit a tax, fee, or charge under:

(A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(C) Section 19-6-714;

(D) Section 19-6-805;

(E) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; or

(F) this title.

(f) A person shall pay a use tax imposed by this chapter on a transaction described in Subsection 59-12-103(1) if:

(i) the seller did not collect a tax imposed by this chapter on the transaction; and

(ii) the person:

(A) stores the tangible personal property or product transferred electronically in the state;

(B) uses the tangible personal property or product transferred electronically in the state; or

(C) consumes the tangible personal property or product transferred electronically in the state.

(g) The ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being considered to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

(3) (a) Except as provided in Section 59-12-107.1, a seller shall collect a tax under this chapter from a purchaser.

(b) A seller may not collect as tax an amount, without regard to fractional parts of one cent, in excess of the tax computed at the rates prescribed by this chapter.

(c) (i) Each seller shall:

(A) give the purchaser a receipt for the tax collected; or

(B) bill the tax as a separate item and declare the name of this state and the seller's sales and use tax license number on the invoice for the sale.

(ii) The receipt or invoice is prima facie evidence that the seller has collected the tax and relieves the purchaser of the liability for reporting the tax to the commission as a consumer.

(d) A seller is not required to maintain a separate account for the tax collected, but is considered to be a person charged with receipt, safekeeping, and transfer of public money.

(e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the benefit of the state and for payment to the commission in the manner and at the time provided for in this chapter.

(f) If any seller, during any reporting period, collects as a tax an amount in excess of the lawful state and local percentage of total taxable sales allowed under this chapter, the seller shall remit to the commission the full amount of the tax imposed under this chapter, plus any excess.

(g) If the accounting methods regularly employed by the seller in the transaction of the seller's business are such that reports of sales made during a calendar month or quarterly period will impose unnecessary hardships, the commission may accept reports at intervals that, in the commission's opinion, will better suit the convenience of the taxpayer or seller and will not jeopardize collection of the tax.

(h) (i) For a purchase paid with specie legal tender as defined in Section 59-1-1501.1, and until such time as the commission accepts specie legal tender for the payment of a tax under this chapter, if the commission requires a seller to remit a tax under this chapter in legal tender other than specie legal tender, the seller shall state on the seller's books and records and on an invoice, bill of sale, or similar document provided to the purchaser:

(A) the purchase price in specie legal tender and in the legal tender the seller is required to remit to the commission;

(B) subject to Subsection (3)(h)(ii), the amount of tax due under this chapter in specie legal tender and in the legal tender the seller is required to remit to the commission;

(C) the tax rate under this chapter applicable to the purchase; and

(D) the date of the purchase.

(ii) (A) Subject to Subsection (3)(h)(ii)(B), for purposes of determining the amount of tax due under Subsection (3)(h)(i), a seller shall use the most recent London fixing price for the specie legal tender the purchaser paid.

(B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for determining the amount of tax due under Subsection (3)(h)(i) if the London fixing price is not available for a particular day.

(4) (a) Except as provided in Subsections (5) through (7) and Section 59-12-108, the sales or use tax imposed by this chapter is due and payable to the commission quarterly on or before the last day of the month next succeeding each quarterly calendar period.

(b) (i) Each seller shall, on or before the last day of the month next succeeding each quarterly calendar period, file with the commission a return for the preceding quarterly period.

(ii) The seller shall remit with the return under Subsection (4)(b)(i) the amount of the tax required under this chapter to be collected or paid for the period covered by the return.

(c) Except as provided in Subsection (5)(c), a return shall contain information and be in a form the commission prescribes by rule.

(d) (i) Subject to Subsection (4)(d)(ii), the sales tax as computed in the return shall be based on the total nonexempt sales made during the period for which the return is filed, including both cash and charge sales.

(ii) For a sale that includes the delivery or installation of tangible personal property at a location other than a seller's place of business described in Subsection (2)(a)(i), if the delivery or installation is separately stated on an invoice or receipt, a seller may compute the tax due on the sale for purposes of Subsection (4)(d)(i) based on the amount the seller receives for that sale during each period for which the seller receives payment for the sale.

(e) (i) The use tax as computed in the return shall be based on the total amount of purchases for storage, use, or other consumption in this state made during the period for which the return is filed, including both cash and charge purchases.

(ii) (A) As used in this Subsection (4)(e)(ii), "qualifying purchaser" means a purchaser that is required to remit taxes under this chapter, but is not required to remit taxes monthly in accordance with Section 59-12-108, and that converts tangible personal property into real property.

(B) Subject to Subsections (4)(e)(ii)(C) and (D), a qualifying purchaser may remit the taxes due under this chapter on tangible personal property for which the qualifying purchaser claims an exemption as allowed under Subsection 59-12-104(23) or (25) based on the period in which the qualifying purchaser receives payment, in accordance with Subsection (4)(e)(ii)(C), for the conversion of the tangible personal property into real property.

(C) A qualifying purchaser remitting taxes due under this chapter in accordance with Subsection (4)(e)(ii)(B) shall remit an amount equal to the total amount of tax due on the qualifying purchaser's purchase of the tangible personal property that was converted into real property multiplied by a fraction, the numerator of which is the payment received in the period for the qualifying purchaser's sale of the tangible personal property that was converted into real property and the denominator of which is the entire sales price for the qualifying purchaser's sale of the tangible personal property that was converted into real property.

(D) A qualifying purchaser may remit taxes due under this chapter in accordance with this Subsection (4)(e)(ii) only if the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(f) (i) Subject to Subsection (4)(f)(ii) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule extend the time for making returns and paying the taxes.

(ii) An extension under Subsection (4)(f)(i) may not be for more than 90 days.

(g) The commission may require returns and payment of the tax to be made for other than quarterly periods if the commission considers it necessary in order to ensure the payment of the tax imposed by this chapter.

(h) (i) The commission may require a seller that files a simplified electronic return with the commission to file an additional electronic report with the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing:

(A) the information required to be included in the additional electronic report described in Subsection (4)(h)(i); and

(B) one or more due dates for filing the additional electronic report described in Subsection (4)(h)(i).

(5) (a) As used in this Subsection (5) and Subsection (6)(b), "[~~remote~~] voluntary seller" means a seller that is:

(i) registered under the agreement;

(ii) described in Subsection (2)(d); and

(iii) not a:

(A) model 1 seller;

(B) model 2 seller; or

(C) model 3 seller.

(b) (i) Except as provided in Subsection (5)(b)(ii), a tax a [~~remote~~] voluntary seller collects in accordance with Subsection (2)(d) is due and payable:

(A) to the commission;

(B) annually; and

(C) on or before the last day of the month immediately following the last day of each calendar year.

(ii) The commission may require that a tax a [~~remote~~] voluntary seller collects in accordance with Subsection (2)(d) be due and payable:

(A) to the commission; and

(B) on the last day of the month immediately following any month in which the seller accumulates a total of at least $1,000 in agreement sales and use tax.

(c) (i) If a [~~remote~~] voluntary seller remits a tax to the commission in accordance with Subsection (5)(b), the [~~remote~~] voluntary seller shall file a return:

(A) with the commission;

(B) with respect to the tax;

(C) containing information prescribed by the commission; and

(D) on a form prescribed by the commission.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules prescribing:

(A) the information required to be contained in a return described in Subsection (5)(c)(i); and

(B) the form described in Subsection (5)(c)(i)(D).

(d) A tax a [~~remote~~] voluntary seller collects in accordance with this Subsection (5) shall be calculated on the basis of the total amount of taxable transactions under Subsection 59-12-103(1) the [~~remote~~] voluntary seller completes, including:

(i) a cash transaction; and

(ii) a charge transaction.

(6) (a) Except as provided in Subsection (6)(b), a tax a seller that files a simplified electronic return collects in accordance with this chapter is due and payable:

(i) monthly on or before the last day of the month immediately following the month for which the seller collects a tax under this chapter; and

(ii) for the month for which the seller collects a tax under this chapter.

(b) A tax a [~~remote~~] voluntary seller that files a simplified electronic return collects in accordance with this chapter is due and payable as provided in Subsection (5).

(7) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to titling or registration under the laws of this state.

(b) The commission shall collect the tax described in Subsection (7)(a) when the vehicle is titled or registered.

(8) If any sale of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), is made by a wholesaler to a retailer:

(a) the wholesaler is not responsible for the collection or payment of the tax imposed on the sale; and

(b) the retailer is responsible for the collection or payment of the tax imposed on the sale if:

(i) the retailer represents that the tangible personal property, product transferred electronically, or service is purchased by the retailer for resale; and

(ii) the tangible personal property, product transferred electronically, or service is not subsequently resold.

(9) If any sale of property or service subject to the tax is made to a person prepaying sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a contractor or subcontractor of that person:

(a) the person to whom such payment or consideration is payable is not responsible for the collection or payment of the sales or use tax; and

(b) the person prepaying the sales or use tax is responsible for the collection or payment of the sales or use tax if the person prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not been fully credited against sales or use tax due and payable under the rules promulgated by the commission.

(10) (a) For purposes of this Subsection (10):

(i) Except as provided in Subsection (10)(a)(ii), "bad debt" means the same as that term is defined in Section 166, Internal Revenue Code.

(ii) "Bad debt" does not include:

(A) an amount included in the purchase price of tangible personal property, a product transferred electronically, or a service that is:

(I) not a transaction described in Subsection 59-12-103(1); or

(II) exempt under Section 59-12-104;

(B) a financing charge;

(C) interest;

(D) a tax imposed under this chapter on the purchase price of tangible personal property, a product transferred electronically, or a service;

(E) an uncollectible amount on tangible personal property or a product transferred electronically that:

(I) is subject to a tax under this chapter; and

(II) remains in the possession of a seller until the full purchase price is paid;

(F) an expense incurred in attempting to collect any debt; or

(G) an amount that a seller does not collect on repossessed property.

(b) (i) To the extent an amount remitted in accordance with Subsection (4)(d) later becomes bad debt, a seller may deduct the bad debt from the total amount from which a tax under this chapter is calculated on a return.

(ii) A qualifying purchaser, as defined in Subsection (4)(e)(ii)(A), may deduct from the total amount of taxes due under this chapter the amount of tax the qualifying purchaser paid on the qualifying purchaser's purchase of tangible personal property converted into real property to the extent that:

(A) tax was remitted in accordance with Subsection (4)(e) on that tangible personal property converted into real property;

(B) the qualifying purchaser's sale of that tangible personal property converted into real property later becomes bad debt; and

(C) the books and records that the qualifying purchaser keeps in the qualifying purchaser's regular course of business identify by reasonable and verifiable standards that the tangible personal property was converted into real property.

(c) A seller may file a refund claim with the commission if:

(i) the amount of bad debt for the time period described in Subsection (10)(e) exceeds the amount of the seller's sales that are subject to a tax under this chapter for that same time period; and

(ii) as provided in Section 59-1-1410.

(d) A bad debt deduction under this section may not include interest.

(e) A bad debt may be deducted under this Subsection (10) on a return for the time period during which the bad debt:

(i) is written off as uncollectible in the seller's books and records; and

(ii) would be eligible for a bad debt deduction:

(A) for federal income tax purposes; and

(B) if the seller were required to file a federal income tax return.

(f) If a seller recovers any portion of bad debt for which the seller makes a deduction or claims a refund under this Subsection (10), the seller shall report and remit a tax under this chapter:

(i) on the portion of the bad debt the seller recovers; and

(ii) on a return filed for the time period for which the portion of the bad debt is recovered.

(g) For purposes of reporting a recovery of a portion of bad debt under Subsection (10)(f), a seller shall apply amounts received on the bad debt in the following order:

(i) in a proportional amount:

(A) to the purchase price of the tangible personal property, product transferred electronically, or service; and

(B) to the tax due under this chapter on the tangible personal property, product transferred electronically, or service; and

(ii) to:

(A) interest charges;

(B) service charges; and

(C) other charges.

(h) A seller's certified service provider may make a deduction or claim a refund for bad debt on behalf of the seller:

(i) in accordance with this Subsection (10); and

(ii) if the certified service provider credits or refunds the entire amount of the bad debt deduction or refund to the seller.

(i) A seller may allocate bad debt among the states that are members of the agreement if the seller's books and records support that allocation.

(11) (a) A seller may not, with intent to evade any tax, fail to timely remit the full amount of tax required by this chapter.

(b) A violation of this section is punishable as provided in Section 59-1-401.

(c) Each person that fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts determined to be due by the commission under Chapter 1, Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111, within the time required by this chapter, or that fails to file any return as required by this chapter, shall pay, in addition to the tax, penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(d) For purposes of prosecution under this section, each quarterly tax period in which a seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of the tax required to be remitted constitutes a separate offense.

CHAPTER 274
S. B. 91

Passed March 4, 2022
Approved March 23, 2022
Effective May 4, 2022

REVISOR'S TECHNICAL CORRECTIONS TO UTAH CODE

Chief Sponsor: Evan J. Vickers
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill makes technical changes to provisions of the Utah Code.

Highlighted Provisions:

This bill:

- modifies parts of the Utah Code to make technical corrections, including eliminating or correcting references involving repealed provisions, eliminating redundant or obsolete language, making minor wording changes, updating cross-references, and correcting numbering and other errors.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

4-2-108, as last amended by Laws of Utah 2021, Chapter 126
4-18-302, as enacted by Laws of Utah 2021, Chapter 178
4-18-306, as enacted by Laws of Utah 2021, Chapter 178
13-23-4, as last amended by Laws of Utah 2021, First Special Session, Chapter 9
13-32a-106, as last amended by Laws of Utah 2021, Chapter 66
13-32a-109, as last amended by Laws of Utah 2021, Chapter 66
13-32a-116.5, as last amended by Laws of Utah 2019, Chapter 309
13-58-302, as enacted by Laws of Utah 2021, Chapter 185
17-27a-1103, as enacted by Laws of Utah 2021, Chapter 244
17-41-405, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
20A-7-307, as last amended by Laws of Utah 2021, Chapter 140
20A-7-607, as last amended by Laws of Utah 2021, Chapters 80 and 140
20A-20-203, as last amended by Laws of Utah 2021, Chapter 345
24-2-104, as enacted by Laws of Utah 2021, Chapter 230
24-3-101.5, as enacted by Laws of Utah 2021, Chapter 230
24-4-102, as last amended by Laws of Utah 2021, Chapter 230
24-4-118, as last amended by Laws of Utah 2021, Chapter 230
26-8a-413, as last amended by Laws of Utah 2021, Chapter 265
26-18-503, as last amended by Laws of Utah 2021, Chapter 274
26-62-304, as last amended by Laws of Utah 2021, Chapter 348
26-62-305, as last amended by Laws of Utah 2021, Chapter 348
53B-1-301, as last amended by Laws of Utah 2021, Chapters 282, 351, 402, and 425
53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351
53E-1-202, as last amended by Laws of Utah 2021, Chapters 251 and 319
57-13a-104, as last amended by Laws of Utah 2021, Chapter 355
58-31b-803, as last amended by Laws of Utah 2021, Chapter 263
58-83-301, as enacted by Laws of Utah 2010, Chapter 180
59-7-159, as last amended by Laws of Utah 2021, Chapters 282 and 367
59-7-614, as last amended by Laws of Utah 2021, Chapters 280 and 374
59-10-1113, as enacted by Laws of Utah 2021, Chapter 374
59-12-104.2, as last amended by Laws of Utah 2016, Chapter 135
62A-1-111, as last amended by Laws of Utah 2021, Chapters 22 and 262
62A-3-305, as last amended by Laws of Utah 2021, Chapter 419
62A-16-302, as last amended by Laws of Utah 2021, Chapter 231
63A-17-110, as enacted by Laws of Utah 2021, Chapter 158
63C-23-102, as enacted by Laws of Utah 2021, Chapter 171
63H-1-102, as last amended by Laws of Utah 2021, Chapters 314, 414, and 415
63H-1-201, as last amended by Laws of Utah 2021, Chapter 414
63H-1-202, as last amended by Laws of Utah 2021, Chapter 414
63H-1-301, as last amended by Laws of Utah 2021, Chapter 414
63I-1-210, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18
63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307
63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382
63I-2-210, as last amended by Laws of Utah 2021, Chapter 363
63I-2-253, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
63L-11-203, as renumbered and amended by Laws of Utah 2021, Chapter 382
63L-11-301, as enacted by Laws of Utah 2021, Chapter 382
63M-7-405, as last amended by Laws of Utah 2021, Chapter 243
63N-4-103, as last amended by Laws of Utah 2021, Chapter 282

63N-7-301, as last amended by Laws of Utah 2020, Chapter 154

63N-9-102, as last amended by Laws of Utah 2021, Chapter 280

67-3-12, as last amended by Laws of Utah 2021, Chapter 398 and renumbered and amended by Laws of Utah 2021, Chapter 84 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 398

67-19a-101, as last amended by Laws of Utah 2021, Chapter 344

73-18c-201, as last amended by Laws of Utah 2021, Chapter 280

77-23c-102, as last amended by Laws of Utah 2021, Chapter 42

78B-3-106.5, as last amended by Laws of Utah 2011, Chapter 50

78B-9-301, as last amended by Laws of Utah 2021, Chapter 46

79-8-102, as enacted by Laws of Utah 2021, Chapter 280

79-8-106, as renumbered and amended by Laws of Utah 2021, Chapter 280

80-4-307, as renumbered and amended by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-2-108 is amended to read:

4-2-108. Agricultural Advisory Board created -- Composition -- Responsibility -- Terms of office -- Compensation -- Executive committee.

(1) There is created the Agricultural Advisory Board composed of the following 21 members:

(a) the dean of the College of Agriculture and Applied Science from Utah State University; and

(b) the following appointed by the commissioner:

(i) two representatives of associations representing interests of farmers, selected from a list of nominees submitted by at least two associations representing farmers;

(ii) a representative of an association representing cattlemen, selected from a list of nominees submitted by at least one association representing cattlemen;

(iii) one representative of an association representing wool growers, selected from a list of nominees submitted by at least one association representing wool growers;

(iv) one representative of an association representing dairies, selected from a list of nominees submitted by at least one association representing dairies;

(v) one representative of an association representing pork producers, selected from a list of nominees submitted by at least one association representing pork producers;

(vi) one representative of egg and poultry producers;

(vii) one representative of an association representing veterinarians, selected from a list of nominees submitted by at least one association representing veterinarians;

(viii) one representative of an association representing livestock auctions, selected from a list of nominees submitted by at least one association representing livestock auctions;

(ix) one representative of an association representing conservation districts, selected from a list of nominees submitted by at least one association representing conservation districts;

(x) one representative of the Utah horse industry;

(xi) one representative of the food processing industry;

(xii) one representative of the fruit and vegetable industry;

(xiii) one representative of the turkey industry;

(xiv) one representative of manufacturers of food supplements;

(xv) one representative of a consumer affairs group;

(xvi) one representative of urban and small farmers;

(xvii) one representative of an association representing elk breeders, selected from a list of nominees submitted by at least one association representing elk breeders;

(xviii) one representative of an association representing beekeepers, selected from a list of nominees submitted by at least one association representing beekeepers; and

(xix) one representative of fur breeders, selected from a list of nominees submitted by at least one association representing fur breeders.

(2) The Agricultural Advisory Board shall:

(a) advise the commissioner regarding:

(i) the planning, implementation, and administration of the department's programs; and

(ii) the establishment of standards governing the care of livestock and poultry, including consideration of:

(A) food safety;

(B) local availability and affordability of food; and

(C) acceptable practices for livestock and farm management; and

(b) adopt best management practices for sheep, swine, cattle, and poultry industries in the state.

(3) The Agricultural Advisory Board may adopt best management practices for domesticated elk, mink, apiaries, and other agricultural industries in the state.

(4) For purposes of this section, "best management practices" means practices used by agriculture in the production of food and fiber that

are commonly accepted practices, or that are at least as effective as commonly accepted practices, and that:

(a) protect the environment;

(b) protect human health; and

(c) promote the financial viability of agricultural production.

(5) (a) Except as required by Subsection (1)(a) or (5)(b), members of the Agricultural Advisory Board are appointed by the commissioner to four-year terms of office.

(b) Notwithstanding the requirements of Subsection (5)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member may be removed at the discretion of the commissioner upon the request of the group the member represents.

(d) When a vacancy occurs in the membership for any reason, the commissioner shall appoint a replacement for the unexpired term.

(6) The Agricultural Advisory Board shall elect one member to serve as chair of the Agricultural Advisory Board for a term of one year.

(7) (a) The Agricultural Advisory Board shall meet twice a year, but may meet more often at the discretion of the chair.

(b) Attendance of 11 members at a duly called meeting of the Agricultural Advisory Board constitutes a quorum for the transaction of official business.

(8) A member of the Agricultural Advisory Board may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) (a) There is created an executive committee of the Agricultural Advisory Board consisting of the following seven members selected from members of the Agricultural Advisory Board:

(i) the two representatives appointed under Subsection (1)(b)(i);

(ii) the representative appointed under Subsection (1)(b)(ix); and

(iii) four members selected from the Agricultural Advisory Board as follows:

(A) for the initial members of the executive committee, by the commissioner; and

(B) after the initial members of the executive committee are selected, by the executive committee.

(b) (i) A member of the executive committee shall serve a term of four years on the executive committee.

(ii) A member of the executive committee may serve for more than one term on the executive committee.

(iii) When a vacancy occurs in the membership of the executive committee for any reason, the replacement shall be selected in the same manner as under Subsection (9)(a) and for the unexpired term.

(c) Four members of the executive committee constitute a quorum and an action of the majority present when a quorum is present is action by the executive committee.

(d) The executive committee shall annually select a chair of the executive committee.

(e) The executive committee shall meet at least quarterly, except that the chair of the executive committee may call the executive committee for additional meetings.

(f) The executive committee shall:

(i) recommend to the department fees to be imposed under this title;

(ii) accept public comment received under this title; and

(iii) carry out the responsibilities assigned to the executive committee by statute.

Section 2. Section 4-18-302 is amended to read:

4-18-302. Definitions.

As used in this part:

(1) "Agricultural producer" means a person engaged in the production of a product of agriculture, as defined in Section 4-1-109.

(2) "Commission" means the Conservation Commission created in Section 4-18-104.

(3) "Commissioner" means the commissioner of agriculture and food or the commissioner's designee.

(4) "Demonstration project" means an on- or off-farm or ranch project that incorporates soil health practices and principles into soil management for the purposes of demonstrating soil health practices and the resulting impacts to agricultural producers and others.

(5) (a) "Educational project" means a project that promotes knowledge about soil health to eligible entities, consumers, policymakers, and others.

(b) "Educational project" includes the development of written or video-based materials or in-person events, such as workshops, field days, or conferences.

(6) "Eligible entities" means public, governmental, and private entities, including:

(a) conservation districts;

(b) producers;

(c) groups of producers;

(d) producer groups;

(e) producer cooperatives;

(f) water conservancy districts;

(g) American Indian Tribes;

(h) nonprofit entities;

(i) academic or research institutions and subdivisions of these institutions;

(j) the United States or any corporation or agency created or designed by the United States; or

(k) the state or any of the state's agencies or political subdivisions.

(7) "Environmental benefits" means benefits to natural and agricultural resources and human health, including:

(a) improved air quality;

(b) surface or ground water quality and quantity;

(c) improved soil health, including nutrient cycling, soil fertility, or drought resilience;

(d) reductions in agricultural inputs;

(e) carbon sequestration or climate resilience;

(f) increased biodiversity; or

(g) improved nutritional quality of agricultural products.

(8) "Historically underserved producer" means a producer who qualifies as one of the following:

(a) a beginning farmer or rancher, as defined in 7 U.S.C. Sec. 2279;

(b) a limited resource farmer or rancher, as described in 7 U.S.C. Sec. 9081;

(c) a socially disadvantaged farmer or rancher, as defined in 7 U.S.C. Sec. 2003; or

(d) a veteran farmer or rancher, as defined in 7 U.S.C. Sec. 1502.

(9) "Implementation project" means a project that provides incentives directly to producers to implement on-farm or on-ranch soil health practices.

(10) "Incentives" means monetary incentives, including grants and loans, or non-monetary incentives, including equipment, technical assistance, educational materials, outreach, and market development assistance for market premiums or ecosystem services markets.

(11) "Land manager" means a manager of land where agricultural activities occur, including:

(a) a federal land manager;

(b) a lessee of federal, tribal, state, county, municipal, or private land where agricultural activities occur; or

(c) others as the department may determine.

(12) "Landowner" means an owner of record of federal, tribal, state, county, municipal, or private land where agricultural activities occur.

(13) "Program" means the Utah Soil Health Program created in Section 4-18-303.

(14) (a) "Research project" means a project that advances the scientific understanding of how agricultural practices improve soil health, and related impacts, such as environmental benefits, benefits to human health, including the nutritive composition of foods, or economic impacts.

(b) "Research project" includes projects at experiment stations, on:

(i) lands owned by the United States or any corporation or agency created or designed by the United States; [~~and~~]

(ii) lands owned by the state or any of the state's agencies or political subdivisions; or

(iii) private lands.

(15) "Soil health" means the continued capacity of soil to function as a vital living ecosystem that sustains plants, animals, and humans.

(16) "Soil health activities" means implementation of soil health practices, research projects, demonstration projects, or educational projects, or other activities the department finds necessary or appropriate to promote soil health.

(17) "Soil Health Advisory Committee" means the committee created in Section 4-18-306.

(18) "Soil health grant program" means the grant program authorized in Section 4-18-304.

(19) "Soil health practices" means those practices that may contribute to soil health, including:

(a) no-tillage;

(b) conservation tillage;

(c) crop rotations;

(d) intercropping;

(e) cover cropping;

(f) planned grazing;

(g) the application of soil amendments that add carbon or organic matter, including biosolids, manure, compost, or biochar;

(h) revegetation; or

(i) other practices the department determines contribute or have the potential to contribute to soil health.

(20) "Soil health principle" means a principle that promotes soil health and includes maximizing soil cover, minimizing soil disturbance, maximizing biodiversity, maintaining a continual live plant or root in the soil, or integrating livestock.

(21) "State soil health inventory and platform" means a tool, including a geospatial inventory, documenting:

(a) the condition of agricultural soils;

(b) the implementation of soil health practices; or

(c) the environmental and economic impacts, including current and potential future carbon holding capacity of soils, or other information the department considers appropriate.

(22) "Technical assistance organization" means a person, including an eligible entity, who has demonstrated technical expertise in implementing soil health practices and soil health principles, as determined by the department.

Section 3. Section 4-18-306 is amended to read:

4-18-306. Soil Health Advisory Committee.

(1) The Soil Health Advisory Committee is created under the commission.

(2) The Soil Health Advisory Committee shall assist the commission in administering the program.

(3) The Soil Health Advisory Committee shall maintain no less than seven members appointed by the commissioner.

(4) Soil Health Advisory Committee members shall include farmers, ranchers, or other agricultural producers of diverse production systems, including diversity in size, product, irrigated and dryland systems, and other production methods. Members may include:

(a) an irrigated crop producer;

(b) a dryland crop producer;

(c) a dairyman or pasture producer;

(d) a rancher;

(e) a specialty crop or small farm producer;

(f) a crop consultant;

(g) a tribal representative;

(h) a representative with expertise in soil health;

(i) a [~~board~~] committee member representative of the commission; or

(j) a Utah Association of Conservation Districts representative.

(5) At least two members of the Soil Health Advisory Committee shall be water users who own, lease, or represent owners of adjudicated water rights used for agricultural purposes.

(6) Representation on the Soil Health Advisory Committee shall reflect the different geographic areas and demographic diversity of the state, to the greatest extent possible.

(7) (a) The commissioner shall appoint members of the Soil Health Advisory Committee for two year terms.

(b) Notwithstanding the requirements of Subsection (7)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Soil Health Advisory Committee members are staggered so that approximately half of the committee is appointed every two years.

(c) An appointee to the Soil Health Advisory Committee may not serve more than two full terms.

(8) A Soil Health Advisory Committee member shall hold office until the expiration of the term for which the member is appointed or until a successor has been duly appointed.

(9) The commissioner may remove a member of the Soil Health Advisory Committee for cause.

(10) The Soil Health Advisory Committee may invite a representative of the Utah Association of Conservation Districts, the United States Department of Agriculture Natural Resources Conservation Service, Utah State University faculty member, the Department of Natural Resources, Division of Water Rights, and Division of Water Quality, to provide technical expertise to the Soil Health Advisory Committee on an as needed basis.

(11) The department will provide staff to manage the Soil Advisory Health Committee.

(12) The Soil Health Advisory Committee shall make recommendations to the commission concerning and assist in:

(a) setting program priorities;

(b) developing the development of guidelines for the implementation of the program, including guidelines and recommendations for the qualifications of nonprofit entities to receive grant money;

(c) soliciting input from similar stakeholders within each member's area of expertise and region of the state and communicate the Soil Health Advisory Committee's recommendations to the region and stakeholders represented by each member;

(d) soliciting input, in collaboration with the department, from underserved agricultural producers;

(e) soliciting input from producers that reflect the different geographic areas and demographic diversity of the state to the greatest extent possible;

(f) identifying key questions and areas of need to recommend for future research and demonstration efforts;

(g) reviewing soil health grant proposals, including proposed budgets, proposed grant outcomes, and the qualifications of any nonprofits applying for grants;

(h) creating a screening and ranking system for proposals and proposing funding recommendations to the commission;

(i) reviewing agreements for cooperation or collaboration entered into by the department pursuant to Subsection 4-18-305(1)(f) and making recommendations to the commission for approval;

(j) reviewing and recommending soil health practices to ensure they support soil health;

(k) evaluating the results and effectiveness of soil health activities and the program in improving soil health; and

(l) recommending to the commission, ways to enhance statewide efforts to support healthy soils throughout the state.

(13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.

(14) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 4. Section 13-23-4 is amended to read:

13-23-4. Rescission.

(1) A consumer may rescind a contract for the purchase of a health spa service by emailing or mailing written notice of the consumer's intent to rescind:

(a) to the email address or mailing address the health spa provided in the contract, as described in Subsection [~~13-23-4(6)(b)~~] 13-23-3(6)(b); and

(b) (i) before midnight of the third business day after the day on which the consumer and health spa execute the contract, as recorded by timestamp or postmark; or

(ii) if a consumer and health spa execute the contract when the consumer's primary location is not fully operational and available for use, before midnight of the third business day after the day on which the consumer's primary location becomes fully operational and available for use, as recorded by timestamp or postmark.

(2) (a) A consumer who rescinds a contract under this section is entitled to a refund of every payment the consumer made, less the reasonable value of any health spa service the consumer actually received.

(b) The preparation and processing of the contract or another document is not a health spa service that is deductible under Subsection (2)(a) from any refundable amount.

(c) In an enforcement action that the division initiates, a health spa has the burden of proving that any value the health spa retains under Subsection (2)(a) is reasonable.

(3) The rescission of a contract under this section is effective upon the health spa's receipt of written notice of the consumer's intent to rescind the contract.

Section 5. Section 13-32a-106 is amended to read:

13-32a-106. Transaction information provided to the central database -- Protected information.

(1) (a) Except as provided in Subsection 13-32a-104.6(4), a pawn or secondhand business shall transmit electronically in a compatible format information required to be recorded under Sections [~~13-32a-103,~~] 13-32a-104, 13-32a-104.5, and 13-32a-104.6 that is capable of being transmitted electronically to the central database within 24 hours after entering into the transaction.

(b) The division may specify by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the information capable of being transmitted electronically under Subsection (1)(a).

(2) A pawn or secondhand business shall maintain tickets generated by the pawn or secondhand business and shall maintain the tickets in a manner so that the tickets are available to local law enforcement agencies as required by this chapter and as requested by any law enforcement agency as part of an investigation or reasonable random inspection conducted pursuant to this chapter.

(3) (a) If a pawn or secondhand business experiences a computer or electronic malfunction that affects its ability to report transactions as required in Subsection (1), the pawn or secondhand business shall immediately notify the division and the local law enforcement agency of the malfunction.

(b) The pawn or secondhand business shall solve the malfunction within three business days or notify the division and the local law enforcement agency under Subsection (4).

(4) If the computer or electronic malfunction under Subsection (3) cannot be solved within three business days, the pawn or secondhand business shall notify the division and the local law enforcement agency of the reasons for the delay and provide documentation from a reputable computer maintenance company of the reasons why the computer or electronic malfunction cannot be solved within three business days.

(5) A computer or electronic malfunction does not suspend the pawn or secondhand business' obligation to comply with all other provisions of this chapter.

(6) During the malfunction under Subsections (3) and (4), the pawn or secondhand business shall:

(a) arrange with the local law enforcement agency a mutually acceptable alternative method by which the pawn or secondhand business provides the required information to the local law enforcement agency; and

(b) a pawn or secondhand business shall maintain the tickets and other related information required under this chapter in a written form.

(7) A pawn or secondhand business that violates the electronic transaction reporting requirement of this section is subject to an administrative fine of $50 per day if:

(a) the pawn or secondhand business is unable to submit the information electronically due to a computer or electronic malfunction;

(b) the three business day period under Subsection (3) has expired; and

(c) the pawn or secondhand business has not provided documentation regarding its inability to solve the malfunction as required under Subsection (4).

(8) A pawn or secondhand business is not responsible for a delay in transmission of information that results from a malfunction in the central database.

(9) A violation of this section is a Class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 6. Section 13-32a-109 is amended to read:

13-32a-109. Holding period for property -- Return of property -- Penalty.

(1) (a) A pawnbroker may sell property pawned to the pawnbroker if:

(i) 15 calendar days have passed after the day on which the pawnbroker submits the information and any required photograph to the central database;

(ii) the contract period between the pawnbroker and the pledgor expires; and

(iii) the pawnbroker has complied with Sections [~~13-32a-103,~~] 13-32a-104[~~,~~] and 13-32a-106.

(b) If property, including scrap jewelry, is purchased by a pawn or secondhand business, the pawn or secondhand business may sell the property if the pawn or secondhand business has held the property for 15 calendar days after the day on which the pawn or secondhand business submits the information to the central database, and complied with Sections [~~13-32a-103,~~] 13-32a-104, 13-32a-104.6, and 13-32a-106, except that the pawn or secondhand business is not required to hold precious metals or numismatic items under this Subsection (1)(b).

(c) (i) This Subsection (1) does not preclude a law enforcement agency from requiring a pawn or secondhand business to hold property if necessary in the course of an investigation.

(ii) If the property is pawned, the law enforcement agency may require the property be held beyond the terms of the contract between the pledgor and the pawnbroker.

(iii) If the property is sold to the pawn or secondhand business, the law enforcement agency may require the property be held if the pawn or secondhand business has not sold the article.

(d) If the law enforcement agency requesting a hold on property under this Subsection (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify the local law enforcement agency of the request and also the pawn or secondhand business.

(2) If a law enforcement agency requires the pawn or secondhand business to hold property as part of an investigation, the law enforcement agency shall provide to the pawn or secondhand business a hold form issued by the law enforcement agency, that:

(a) states the active case number;

(b) confirms the date of the hold request and the property to be held; and

(c) facilitates the ability of the pawn or secondhand business to track the property when the prosecution takes over the case.

(3) If property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business until further disposition by the law enforcement agency, and as consistent with this chapter.

(4) The initial hold by a law enforcement agency is for a period of 90 days. If the property is not seized by the law enforcement agency, the property shall remain in the custody of the pawn or secondhand business and is subject to the hold unless exigent circumstances require the property to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 90 days if circumstances require the extension.

(b) If there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawn or secondhand business that is subject to the hold prior to the expiration of the initial 90 days.

(c) A law enforcement agency may not hold an item for more than the 180 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

(6) A hold on property under Subsection (2) takes precedence over any request to claim or purchase the property subject to the hold.

(7) If an original victim who has complied with Section 13-32a-115 has not been identified and the hold or seizure of the property is terminated, the law enforcement agency requiring the hold or seizure shall within 15 business days after the termination:

(a) notify the pawn or secondhand business in writing that the hold or seizure has been terminated;

(b) return the property subject to the seizure to the pawn or secondhand business; or

(c) if the property is not returned to the pawn or secondhand business, advise the pawn or secondhand business either in writing or electronically of the specific alternative disposition of the property.

(8) (a) If the original victim who has complied with Section 13-32a-115 has been identified and the hold or seizure of property is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the property is necessary for purposes of prosecution, as provided in Section 24-3-103.

(b) If the prosecuting agency determines that continued possession of the property is not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting agency shall provide a written or electronic notification to the law enforcement agency that authorizes the return of the property to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business of the authorized return of the property under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business that the original victim has identified the property, and direct the pawn or secondhand business to release the property to the original victim at no cost to the original victim.

(iii) If the property was seized, the notice shall advise that the property will be returned to the original victim within 15 days after the day on which the pawn or secondhand business receives the notice, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business shall release property under Subsection (8)(c) unless within 15 days of receiving the notice the pawn or secondhand business complies with Section 13-32a-116.5.

(9) If the law enforcement agency does not notify the pawn or secondhand business that a hold on the property has expired, the pawn or secondhand business shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired. The law enforcement agency shall respond within 30 days by:

(a) confirming that the hold period has expired and that the pawn or secondhand business may manage the property as if acquired in the ordinary course of business; or

(b) providing written notice to the pawn or secondhand business that a court order has continued the period of time for which the item shall be held.

(10) The written notice under Subsection (9)(b) is considered provided when:

(a) personally delivered to the pawn or secondhand business with a signed receipt of delivery;

(b) delivered to the pawn or secondhand business by registered or certified mail; or

(c) delivered by any other means with the mutual assent of the law enforcement agency and the pawn or secondhand business.

(11) If the law enforcement agency does not respond within 30 days under Subsection (9), the pawn or secondhand business may manage the property as if acquired in the ordinary course of business.

(12) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 7. Section 13-32a-116.5 is amended to read:

13-32a-116.5. Contested disposition of property - Procedure.

(1) If a pawn or secondhand business receives notice from a law enforcement agency under Section 13-32a-109 that property that is the subject of a hold or seizure shall be returned to an identified original victim, the pawn or secondhand business may contest the determination and seek a specific alternative disposition if within 15 business days after the day on which the pawn or secondhand business receives the notice:

(a) the pawn or secondhand business gives notice to the identified original victim, by certified mail, that the pawn or secondhand business contests the determination to return the property to the original victim; and

(b) the pawn or secondhand business files a petition in a court having jurisdiction over the matter to determine rightful ownership of the property as provided in Section 24-3-104.

(2) A pawn or secondhand business is guilty of a class B misdemeanor if the pawn or secondhand business:

(a) holds or sells property in violation of a notification from a law enforcement agency that the property is to be returned to an original victim; and

(b) the pawn or secondhand business does not comply with the requirements of this section within the time periods specified.

Section 8. Section 13-58-302 is amended to read:

13-58-302. Cure of default.

(1) If a motorboat dealer defaults as described in Section 13-58-301, the manufacturer or distributor who is part of the agreement shall:

(a) give the dealer written notice of the dealer's default; and

(b) allow the dealer to cure the default within the period described in Subsection (2).

(2) A motorboat dealer may cure a default no later than:

(a) 30 days after the day on which the dealer receives the notice described in Subsection (1), if the dealer defaulted as described in Subsection 13-58-301(1)(b) or (2);

(b) 60 days after the day on which the dealer receives the notice described in Subsection (1), if the dealer defaulted as described in Subsection 13-58-301(1)(a)[~~, (d), or (e)~~]; and

(c) 160 days after the day on which the dealer receives the notice described in Subsection (1), if the dealer defaulted as described in Subsection 13-58-301(1)(c).

Section 9. Section 17-27a-1103 is amended to read:

17-27a-1103. County adoption of a county large concentrated animal feeding operation land use ordinance.

(1) (a) The legislative body of a county desiring to restrict siting of large concentrated animal feeding operations shall adopt a county large concentrated animal feeding operation land use ordinance in accordance with this part by no later than February 1, 2022.

(b) A county may consider an application to locate large concentrated animal feeding operations in the county before the county adopts the county large concentrated animal feeding operation land use ordinance under this part.

(2) A county large concentrated animal feeding operation land use ordinance described in Subsection (1) shall:

(a) designate geographic areas of sufficient size to support large concentrated animal feeding operations, including state trust lands described in Subsection 53C-1-103(8) and private property within the county, including adopting a map described in Section 17-27a-1104;

(b) establish requirements and procedures for applying for a land use decision that provides a reasonable opportunity to operate large concentrated animal feeding operations within the geographic area described in Subsection (2)(a);

(c) disclose fees imposed to apply for the land use decision described in Subsection (2)(b);

(d) disclose any requirements in addition to fees described in Subsection (2)(c) to be imposed by the county; and

(e) provide for administrative remedies consistent with this chapter.

(3) (a) This part does not authorize a county to regulate the operation of large concentrated animal feeding operations in any way that conflicts with state or federal statutes or regulations.

(b) Nothing in this part supersedes or authorizes enactment of an ordinance that infringes on Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or Title 4, Chapter 44, Agricultural Operations Nuisances Act.

Section 10. Section 17-41-405 is amended to read:

17-41-405. Eminent domain restrictions.

(1) A political subdivision having or exercising eminent domain powers may not condemn for any purpose any land within an agriculture protection area that is being used for agricultural production, land within an industrial protection area that is being put to an industrial use, or land within a critical infrastructure materials protection area, unless the political subdivision obtains approval, according to the procedures and requirements of this section, from the applicable legislative body and the advisory board.

(2) Any condemnor wishing to condemn property within an agriculture protection area, industrial protection area, or critical infrastructure materials protection area shall file a notice of condemnation with the applicable legislative body and the relevant protection area's advisory board at least 30 days before filing an eminent domain complaint.

(3) The applicable legislative body and the advisory board shall:

(a) hold a joint public hearing on the proposed condemnation at a location within the county in which the relevant protection area is located; and

(b) post notice of the time, date, place, and purpose of the public hearing:

(i) on the Utah Public Notice Website created in Section 63A-16-601; and

(ii) in five conspicuous public places, designated by the applicable legislative body, within or near the relevant protection area.

(4) (a) If the condemnation is for highway purposes or for the disposal of solid or liquid waste materials, the applicable legislative body and the advisory board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area, industrial protection area, or critical infrastructure materials protection area for the project.

(b) If the condemnation is for any other purpose, the applicable legislative body and the advisory board may approve the condemnation only if:

(i) the proposed condemnation would not have an unreasonably adverse effect upon the preservation and enhancement of:

(A) agriculture within the agriculture protection area;

(B) the industrial use within the industrial protection area; or

(C) critical infrastructure materials operations within the critical infrastructure materials protection area; or

(ii) there is no reasonable and prudent alternative to the use of the land within the relevant protection area for the project.

(5) (a) Within 60 days after receipt of the notice of condemnation, the applicable legislative body and the advisory board shall approve or reject the proposed condemnation.

(b) If the applicable legislative body and the advisory board fail to act within the 60 days or such further time as the applicable legislative body establishes, the condemnation shall be considered rejected.

(6) The applicable legislative body or the advisory board may request the county or municipal attorney to bring an action to enjoin any condemnor from violating any provisions of this section.

Section 11. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) When the lieutenant governor receives a referendum packet from a county clerk, the lieutenant governor shall record the number of the referendum packet received.

(2) (a) The county clerk shall:

(i) post the names and voter identification numbers described in Subsection 20A-7-306[~~(3)~~](2)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

(b) The lieutenant governor:

(i) shall, except as provided in Subsection (2)(b)(ii), declare the petition to be sufficient or insufficient 106 days after the end of the legislative session at which the law passed; or

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(b)(i) if:

(A) the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

(B) a requirement of this part has not been met.

(c) If the total number of names certified under this Subsection (2) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

(d) If the total number of names certified under this Subsection (2) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

(e) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

(f) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(3) (a) If the lieutenant governor refuses to accept and file a referendum that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the referendum petition.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall file the petition, with a verified copy of the judgment attached to the referendum petition, as of the date on which the petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

(4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 12. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) When the local clerk receives a referendum packet from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) (a) The county clerk shall:

(i) post the names and voter identification numbers described in Subsection 20A-7-606(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update.

(b) The local clerk:

(i) shall, except as provided in Subsection (2)(b)(ii), declare the petition to be sufficient or insufficient no later than 111 days after the day of the deadline, described in Subsection 20A-7-606(1), to submit a referendum packet to the county clerk; or

(ii) may declare the petition to be insufficient before the day described in Subsection (2)(b)(i) if:

(A) the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

(B) a requirement of this part has not been met.

(c) If the total number of names certified under this Subsection (2) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient";

(d) If the total number of names certified under this Subsection (2) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."

(e) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

(f) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

(3) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which the petition was originally offered for filing in the local clerk's office.

(c) If the court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

(4) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

(5) (a) Except as provided in Subsection [~~(6)~~] (5)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection [~~(6)~~] (5)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

Section 13. Section 20A-20-203 is amended to read:

20A-20-203. Exemptions from and applicability of certain legal requirements -- Risk management -- Code of ethics.

(1) The commission is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah Government Operations Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title 63A, Chapter 17, Utah State Personnel Management Act.

(2) (a) The commission shall adopt budgetary procedures, accounting, and personnel and human resource policies substantially similar to those from which the commission is exempt under Subsection (1).

(b) The commission is subject to:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) [~~Title 63A, Chapter 1, Part 2,~~] Section 67-3-12 relating to the Utah [~~Public Finance Website~~] public finance website;

(iii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iv) Title 63G, Chapter 6a, Utah Procurement Code; and

(v) Title 63J, Chapter 1, Budgetary Procedures Act.

(3) Subject to the requirements of Subsection 63E-1-304(2), the commission may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

(4) (a) The commission may, by majority vote, adopt a code of ethics.

(b) The commission, and the commission's members and employees, shall comply with a code of ethics adopted under Subsection (4)(a).

(c) The executive director of the commission shall report a commission member's violation of a code of ethics adopted under Subsection (4)(a) to the appointing authority of the commission member.

(d) (i) A violation of a code of ethics adopted under Subsection (4)(a) constitutes cause to remove a member from the commission under Subsection 20A-20-201(3)(b).

(ii) An act or omission by a member of the commission need not constitute a violation of a code of ethics adopted under Subsection (4)(a) to be grounds to remove a member of the commission for cause.

Section 14. Section 24-2-104 is amended to read:

24-2-104. Custody of seized property and contraband.

(1) If a peace officer seizes property or contraband under Section 24-2-102, the property and contraband:

(a) is not recoverable by replevin; and

(b) is considered in the custody of the agency that employed the peace officer.

(2) An agency with custody of seized property shall:

(a) hold the property in safe custody until the property is released or disposed of in accordance with this title; and

(b) maintain a record of the property, including:

(i) a detailed inventory of all property seized;

(ii) the name of the person from [~~whom~~] which the property was seized; and

(iii) the agency's case number.

(3) An agency may process property or contraband that is seized by a peace officer for evidentiary or investigative purposes, including sampling or other preservation procedure, before disposal or destruction.

(4) (a) Except as provided in Subsection (4)(b), no later than 30 days after the day on which a peace officer seizes property in the form of cash or other readily negotiable instruments under Section 24-2-102, an agency shall deposit the property into a separate, restricted, interest-bearing account maintained by the agency solely for the purpose of managing and protecting the property from commingling, loss, or devaluation.

(b) A prosecuting attorney may authorize one or more written extensions of the 30-day period under Subsection (4)(a) if the property needs to maintain the form in which the property was seized for evidentiary purposes or other good cause.

(c) An agency shall:

(i) have written policies for the identification, tracking, management, and safekeeping of seized property; and

(ii) shall have a written policy that prohibits the transfer, sale, or auction of seized property to an employee of the agency.

Section 15. Section 24-3-101.5 is amended to read:

24-3-101.5. Application of this chapter.

The provisions of this chapter do not apply to property for which an agency has filed a notice of intent to seek forfeiture under Section [~~23-4-103~~] 24-4-103.

Section 16. Section 24-4-102 is amended to read:

24-4-102. Property subject to forfeiture.

(1) Except as provided in Subsection (2), (3), or (4), an agency may seek to forfeit:

(a) seized property that was used to facilitate the commission of an offense that is a violation of federal or state law; and

(b) seized proceeds.

(2) If seized property is used to facilitate an offense that is a violation of Section 76-10-1204, 76-10-1205, 76-10-1206, or 76-10-1222, an agency may not forfeit the property if the forfeiture would constitute a prior restraint on the exercise of an affected party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15, or would otherwise unlawfully interfere with the exercise of the party's rights under the First Amendment to the Constitution of the United States or Utah Constitution, Article I, Section 15.

(3) If a motor vehicle is used in an offense that is a violation of Section 41-6a-502, 41-6a-517, a local ordinance that complies with the requirements of Subsection 41-6a-510(1), Subsection 58-37-8(2)(g), or Section 76-5-207, an agency may not seek forfeiture of the motor vehicle, unless:

(a) the operator of the vehicle has previously been convicted of an offense committed after May 12, 2009, that is:

(i) a felony driving under the influence violation under Section 41-6a-502;

(ii) a felony violation under Subsection 58-37-8(2)(g); or

(iii) automobile homicide under Section 76-5-207; or

(b) the operator of the vehicle was driving on a denied, suspended, revoked, or disqualified license and:

(i) the denial, suspension, revocation, or disqualification under Subsection (3)(b)(ii) was imposed because of a violation under:

(A) Section 41-6a-502;

(B) Section 41-6a-517;

(C) a local ordinance that complies with the requirements of Subsection 41-6a-510(1);

(D) Section 41-6a-520;

(E) Subsection 58-37-8(2)(g);

(F) Section 76-5-207; or

(G) a criminal prohibition as a result of a plea bargain after having been originally charged with violating one or more of the sections or ordinances described in Subsections (3)(b)(i)(A) through (F); or

(ii) the denial, suspension, revocation, or disqualification described in Subsections (3)(b)(i)(A) through (G):

(A) is an extension imposed under Subsection 53-3-220(2) of a denial, suspension, revocation, or disqualification; and

(B) the original denial, suspension, revocation, or disqualification was imposed because of a violation described in Subsections (3)(b)(i)(A) through (G).

(4) If a peace officer seizes property incident to an arrest solely for possession of a controlled substance under Subsection 58-37-8(2)(a)(i) but not Subsection [~~53-37-8~~] 58-37-8(2)(b)(i), an agency may not seek to forfeit the property that was seized in accordance with the arrest.

Section 17. Section 24-4-118 is amended to read:

24-4-118. Forfeiture reporting requirements.

(1) An agency shall provide all reasonably available data described in Subsection (5):

(a) if transferring the forfeited property resulting from the final disposition of any civil or criminal forfeiture matter to the commission as required under Subsection 24-4-115(5); or

(b) if the agency has been awarded an equitable share of property forfeited by the federal government.

(2) The commission shall develop a standardized report format that each agency shall use in reporting the data required under this section.

(3) The commission shall annually, on or before April 30, prepare a summary report of the case data submitted by each agency under Subsection (1) during the prior calendar year.

(4) (a) If an agency does not comply with the reporting requirements under this section, the commission shall contact the agency and request that the agency comply with the required reporting provisions.

(b) If an agency fails to comply with the reporting requirements under this section within 30 days after receiving the request to comply, the commission shall report the noncompliance to the attorney general, the speaker of the House of Representatives, and the president of the Senate.

(5) The data for any civil or criminal forfeiture matter for which final disposition has been made under Subsection (1) shall include:

(a) the agency that conducted the seizure;

(b) the case number or other identification;

(c) the date or dates on which the seizure was conducted;

(d) the number of individuals having a known property interest in each seizure of property;

(e) the type of property seized;

(f) the alleged offense that was the cause for seizure of the property;

(g) whether any criminal charges were filed regarding the alleged offense, and if so, the final disposition of each charge, including the conviction, acquittal, or dismissal, or whether action on a charge is pending;

(h) the type of enforcement action that resulted in the seizure, including an enforcement stop, a search warrant, or an arrest warrant;

(i) whether the forfeiture procedure was civil or criminal;

(j) the value of the property seized, including currency and the estimated market value of any tangible property;

(k) the final disposition of the matter, including whether final disposition was entered by stipulation of the parties, including the amount of property returned to any claimant, by default, by summary judgment, by jury award, or by guilty plea or verdict in a criminal forfeiture;

(l) if the property was forfeited by the federal government, the amount of forfeited money awarded to the agency;

(m) the agency's direct costs, expense of reporting under this section, and expenses for obtaining and maintaining the seized property, as described in Subsection 24-4-115(3)(a);

(n) the legal costs and attorney fees paid to the prosecuting attorney, as described in Subsection 24-4-115(3)(b); and

(o) if the property was transferred to a federal agency or any governmental entity not created under and subject to state law:

(i) the date of the transfer;

(ii) the name of the federal agency or entity to which the property was transferred;

(iii) a reference to which reason under Subsection 24-2-106(3) justified the transfer;

(iv) the court or agency where the forfeiture case was heard;

(v) the date of the order of transfer of the property; and

(vi) the value of the property transferred to the federal agency, including currency and the estimated market value of any tangible property.

(6) An agency shall annually on or before April 30 submit a report for the prior calendar year to the commission that states:

(a) whether the agency received an award from the State Asset Forfeiture Grant Program under Section 24-4-117 and, if so, the following information for each award:

(i) the amount of the award;

(ii) the date of the award;

(iii) how the award was used or is planned to be used; and

(iv) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that:

(A) the agency has complied with all inventory, policy, and reporting requirements under Section 24-4-117; and

(B) all awards were used for crime reduction or law enforcement purposes as specified in the application and that the awards were used only upon approval by the agency's legislative body; and

(b) whether the agency received any property, money, or other things of value in accordance with federal law as described in Subsection [~~24-2-106(6)~~] 24-2-105(7) and, if so, the following information for each piece of property, money, or other thing of value:

(i) the case number or other case identification;

(ii) the value of the award and the property, money, or other things of value received by the agency;

(iii) the date of the award;

(iv) the identity of any federal agency involved in the forfeiture;

(v) how the awarded property has been used or is planned to be used; and

(vi) a statement signed by both the agency's executive officer or designee and by the agency's legal counsel, that the agency has only used the award for crime reduction or law enforcement purposes authorized under Section 24-4-117, and that the award was used only upon approval by the agency's legislative body.

(7) (a) On or before July 1 of each year, the commission shall submit notice of the annual reports in Subsection (3) and Subsection (6), in electronic format, to:

(i) the attorney general;

(ii) the speaker of the House of Representatives, for referral to any House standing or interim committees with oversight over law enforcement and criminal justice;

(iii) the president of the Senate, for referral to any Senate standing or interim committees with oversight over law enforcement and criminal justice; and

(iv) each law enforcement agency.

(b) The reports described in Subsection (3) and Subsection (6), as well as the individual case data described in Subsection (1) for the previous calendar year, shall be published on the Utah Open Government website at open.utah.gov on or before July 15 of each year.

Section 18. Section 26-8a-413 is amended to read:

26-8a-413. License renewals.

(1) A licensed provider desiring to renew its license shall meet the renewal requirements established by department rule.

(2) The department shall issue a renewal license for a ground ambulance provider or a paramedic provider upon the licensee's application for a renewal and without a public hearing if:

(a) the applicant was licensed under the provisions of Sections 26-8a-406 through 26-8a-409; and

(b) there has been:

(i) no change in controlling interest in the ownership of the licensee as defined in Section 26-8a-415;

(ii) no serious, substantiated public complaints filed with the department against the licensee during the term of the previous license;

(iii) no material or substantial change in the basis upon which the license was originally granted;

(iv) no reasoned objection from the committee or the department; and

(v) no change to the license type.

(3) (a) (i) The provisions of this Subsection (3) apply to a provider licensed under the provisions of Sections 26-8a-405.1 and 26-8a-405.2.

(ii) A provider may renew its license if the provisions of Subsections (1)[~~, (2)(a) through (d),~~] and (2) and this Subsection (3) are met.

(b) (i) The department shall issue a renewal license to a provider upon the provider's application for renewal for one additional four-year term if the political subdivision certifies to the department that the provider has met all of the specifications of the original bid.

(ii) If the political subdivision does not certify to the department that the provider has met all of the specifications of the original bid, the department may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections 26-8a-405.1 and 26-8a-405.2.

(c) (i) The department shall issue an additional renewal license to a provider who has already been issued a one-time renewal license under the provisions of Subsection (3)(b)(i) if the department and the political subdivision do not receive, prior to the expiration of the provider's license, written notice from an approved applicant informing the political subdivision of the approved applicant's desire to submit a bid for ambulance or paramedic service.

(ii) If the department and the political subdivision receive the notice in accordance with Subsection (3)(c)(i), the department may not issue a renewal license and the political subdivision shall enter into a public bid process under Sections 26-8a-405.1 and 26-8a-405.2.

(4) The department shall issue a renewal license for an air ambulance provider upon the licensee's application for renewal and completion of the renewal requirements established by department rule.

Section 19. Section 26-18-503 is amended to read:

26-18-503. Authorization to renew, transfer, or increase Medicaid certified programs -- Reimbursement methodology.

(1) (a) The division may renew Medicaid certification of a certified program if the program, without lapse in service to Medicaid recipients, has its nursing care facility program certified by the division at the same physical facility as long as the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) The division may renew Medicaid certification of a nursing care facility program that is not currently certified if:

(i) since the day on which the program last operated with Medicaid certification:

(A) the physical facility where the program operated has functioned solely and continuously as a nursing care facility; and

(B) the owner of the program has not, under this section or Section 26-18-505, transferred to another nursing care facility program the license for any of the Medicaid beds in the program; and

(ii) except as provided in Subsection 26-18-502(4), the number of beds granted renewed Medicaid certification does not exceed the number of beds certified at the time the program last operated with Medicaid certification, excluding a period of time where the program operated with temporary certification under Subsection 26-18-504(3).

(2) (a) The division may issue a Medicaid certification for a new nursing care facility program if a current owner of the Medicaid certified program transfers its ownership of the Medicaid certification to the new nursing care facility program and the new nursing care facility program meets all of the following conditions:

(i) the new nursing care facility program operates at the same physical facility as the previous Medicaid certified program;

(ii) the new nursing care facility program gives a written assurance to the director in accordance with Subsection (4);

(iii) the new nursing care facility program receives the Medicaid certification within one year of the date the previously certified program ceased to provide medical assistance to a Medicaid recipient; and

(iv) the licensed and certified bed capacity at the facility has not been expanded, unless the director has approved additional beds in accordance with Subsection (5).

(b) A nursing care facility program that receives Medicaid certification under the provisions of Subsection (2)(a) does not assume the Medicaid liabilities of the previous nursing care facility program if the new nursing care facility program:

(i) is not owned in whole or in part by the previous nursing care facility program; or

(ii) is not a successor in interest of the previous nursing care facility program.

(3) The division may issue a Medicaid certification to a nursing care facility program that was previously a certified program but now resides in a new or renovated physical facility if the nursing care facility program meets all of the following:

(a) the nursing care facility program met all applicable requirements for Medicaid certification at the time of closure;

(b) the new or renovated physical facility is in the same county or within a five-mile radius of the original physical facility;

(c) the time between which the certified program ceased to operate in the original facility and will begin to operate in the new physical facility is not more than three years, unless:

(i) an emergency is declared by the president of the United States or the governor, affecting the building or renovation of the physical facility;

(ii) the director approves an exception to the three-year requirement for any nursing care facility program within the three-year requirement;

(iii) the provider submits documentation supporting a request for an extension to the director that demonstrates a need for an extension; and

(iv) the exception does not extend for more than two years beyond the three-year requirement;

(d) if Subsection (3)(c) applies, the certified program notifies the department within 90 days after ceasing operations in its original facility, of its intent to retain its Medicaid certification;

(e) the provider gives written assurance to the director in accordance with Subsection (4) that no third party has a legitimate claim to operate a certified program at the previous physical facility; and

(f) the bed capacity in the physical facility has not been expanded unless the director has approved additional beds in accordance with Subsection (5).

(4) (a) The entity requesting Medicaid certification under Subsections (2) and (3) shall give

written assurances satisfactory to the director or the director's designee that:

(i) no third party has a legitimate claim to operate the certified program;

(ii) the requesting entity agrees to defend and indemnify the department against any claims by a third party who may assert a right to operate the certified program; and

(iii) if a third party is found, by final agency action of the department after exhaustion of all administrative and judicial appeal rights, to be entitled to operate a certified program at the physical facility the certified program shall voluntarily comply with Subsection (4)(b).

(b) If a finding is made under the provisions of Subsection (4)(a)(iii):

(i) the certified program shall immediately surrender its Medicaid certification and comply with division rules regarding billing for Medicaid and the provision of services to Medicaid patients; and

(ii) the department shall transfer the surrendered Medicaid certification to the third party who prevailed under Subsection (4)(a)(iii).

(5) (a) The director may approve additional nursing care facility programs for Medicaid certification, or additional beds for Medicaid certification within an existing nursing care facility program, if a nursing care facility or other interested party requests Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program, and the nursing care facility program or other interested party complies with this section.

(b) The nursing care facility or other interested party requesting Medicaid certification for a nursing care facility program or additional beds within an existing nursing care facility program under Subsection (5)(a) shall submit to the director:

(i) proof of the following as reasonable evidence that bed capacity provided by Medicaid certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient:

(A) nursing care facility occupancy levels for all existing and proposed facilities will be at least 90% for the next three years;

(B) current nursing care facility occupancy is 90% or more; or

(C) there is no other nursing care facility within a 35-mile radius of the nursing care facility requesting the additional certification; and

(ii) an independent analysis demonstrating that at projected occupancy rates the nursing care facility's after-tax net income is sufficient for the facility to be financially viable.

(c) Any request for additional beds as part of a renovation project are limited to the maximum number of beds allowed in Subsection (7).

(d) The director shall determine whether to issue additional Medicaid certification by considering:

(i) whether bed capacity provided by certified programs within the county or group of counties impacted by the requested additional Medicaid certification is insufficient, based on the information submitted to the director under Subsection (5)(b);

(ii) whether the county or group of counties impacted by the requested additional Medicaid certification is underserved by specialized or unique services that would be provided by the nursing care facility;

(iii) whether any Medicaid certified beds are subject to a claim by a previous certified program that may reopen under the provisions of Subsections (2) and (3);

(iv) how additional bed capacity should be added to the long-term care delivery system to best meet the needs of Medicaid recipients; and

(v) (A) whether the existing certified programs within the county or group of counties have provided services of sufficient quality to merit at least a two-star rating in the Medicare Five-Star Quality Rating System over the previous three-year period; and

(B) information obtained under Subsection (9).

(6) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to adjust the Medicaid nursing care facility property reimbursement methodology to:

(a) only pay that portion of the property component of rates, representing actual bed usage by Medicaid clients as a percentage of the greater of:

(i) actual occupancy; or

(ii) (A) for a nursing care facility other than a facility described in Subsection (6)(a)(ii)(B), 85% of total bed capacity; or

(B) for a rural nursing care facility, 65% of total bed capacity; and

(b) not allow for increases in reimbursement for property values without major renovation or replacement projects as defined by the department by rule.

(7) (a) Except as provided in Subsection 26-18-502(3)[~~(c)~~], if a nursing care facility does not seek Medicaid certification for a bed under Subsections (1) through (6), the department shall, notwithstanding Subsections 26-18-504(3)(a) and (b), grant Medicaid certification for additional beds in an existing Medicaid certified nursing care facility that has 90 or fewer licensed beds, including Medicaid certified beds, in the facility if:

(i) the nursing care facility program was previously a certified program for all beds but now resides in a new facility or in a facility that underwent major renovations involving major structural changes, with 50% or greater facility square footage design changes, requiring review and approval by the department;

(ii) the nursing care facility meets the quality of care regulations issued by CMS; and

(iii) the total number of additional beds in the facility granted Medicaid certification under this section does not exceed 10% of the number of licensed beds in the facility.

(b) The department may not revoke the Medicaid certification of a bed under this Subsection (7) as long as the provisions of Subsection (7)(a)(ii) are met.

(8) (a) If a nursing care facility or other interested party indicates in its request for additional Medicaid certification under Subsection (5)(a) that the facility will offer specialized or unique services, but the facility does not offer those services after receiving additional Medicaid certification, the director shall revoke the additional Medicaid certification.

(b) The nursing care facility program shall obtain Medicaid certification for any additional Medicaid beds approved under Subsection (5) or (7) within three years of the date of the director's approval, or the approval is void.

(9) (a) If the director makes an initial determination that quality standards under Subsection (5)(d)(v) have not been met in a rural county or group of rural counties over the previous three-year period, the director shall, before approving certification of additional Medicaid beds in the rural county or group of counties:

(i) notify the certified program that has not met the quality standards in Subsection (5)(d)(v) that the director intends to certify additional Medicaid beds under the provisions of Subsection (5)(d)(v); and

(ii) consider additional information submitted to the director by the certified program in a rural county that has not met the quality standards under Subsection (5)(d)(v).

(b) The notice under Subsection (9)(a) does not give the certified program that has not met the quality standards under Subsection (5)(d)(v), the right to legally challenge or appeal the director's decision to certify additional Medicaid beds under Subsection (5)(d)(v).

Section 20. Section 26-62-304 is amended to read:

26-62-304. Hearing -- Evidence of criminal conviction.

(1) At a civil hearing conducted under Section 26-62-302, evidence of the final criminal conviction of a tobacco retailer for violation of Section 76-10-114 at the same location and within the same time period as the location and time period alleged in the civil hearing for violation of this chapter for sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old is prima facie evidence of a violation of this chapter.

(2) If the tobacco retailer is convicted of violating Section 76-10-114, the enforcing agency:

(a) shall assess an additional monetary penalty under this chapter for the same offense for which the conviction was obtained; and

(b) shall revoke or suspend a permit in accordance with Section 26-62-305 [~~or 26-62-402~~].

Section 21. Section 26-62-305 is amended to read:

26-62-305. Penalties.

(1) (a) If an enforcing agency determines that a person has violated the terms of a permit issued under this chapter, the enforcing agency may impose the penalties described in this section.

(b) If multiple violations are found in a single inspection by an enforcing agency or a single investigation by a law enforcement agency under Section 77-39-101, the enforcing agency shall treat the multiple violations as one single violation under Subsections (2), (3), and (4).

(2) Except as provided in Subsections (3) and (4), if a violation is found in an investigation by a law enforcement agency under Section 77-39-101 or an inspection by an enforcing agency, the enforcing agency shall:

(a) on a first violation at a retail location, impose a penalty of $1,000;

(b) on a second violation at the same retail location that occurs within one year of a previous violation, impose a penalty of $1,500;

(c) on a third violation at the same retail location that occurs within two years after two previous violations, impose:

(i) a suspension of the permit for 30 consecutive business days within 60 days after the day on which the third violation occurs; or

(ii) a penalty of $2,000; and

(d) on a fourth or subsequent violation within two years of three previous violations:

(i) impose a penalty of $2,000;

(ii) revoke a permit of the retailer; and

(iii) if applicable, recommend to a municipality or county that a retail tobacco specialty business license issued under Section 10-8-41.6 or 17-50-333 be suspended or revoked.

(3) If a violation is found in an investigation of a general tobacco retailer by a law enforcement agency under Section 77-39-101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old and the violation is committed by the owner of the general tobacco retailer, the enforcing agency shall:

(a) on a first violation, impose a fine of $2,000 on the general tobacco retailer; and

(b) on the second violation for the same general tobacco retailer within one year of the first violation:

(i) impose a fine of $5,000; and

(ii) revoke the permit for the general tobacco retailer.

(4) If a violation is found in an investigation of a retail tobacco specialty business by a law enforcement agency under Section 77–39–101 for the sale of a tobacco product, an electronic cigarette product, or a nicotine product to an individual under 21 years old, the enforcing agency shall:

(a) on the first violation:

(i) impose a fine of $5,000; and

(ii) immediately suspend the permit for 30 consecutive days; and

(b) on the second violation at the same retail location within two years of the first violation:

(i) impose a fine of $10,000; and

(ii) revoke the permit for the retail tobacco specialty business.

(5) (a) Except when a transfer described in Subsection (6) occurs, a local health department may not issue a permit to:

(i) a tobacco retailer for whom a permit is suspended or revoked under Subsection (2) or (3) [~~or Section 26–62–402~~]; or

(ii) a tobacco retailer that has the same proprietor, director, corporate officer, partner, or other holder of significant interest as another tobacco retailer for whom a permit is suspended or revoked under Subsection (2), (3), or (4).

(b) A person whose permit:

(i) is suspended under this section may not apply for a new permit for any other tobacco retailer for a period of 12 months after the day on which an enforcing agency suspends the permit; and

(ii) is revoked under this section may not apply for a new permit for any tobacco retailer for a period of 24 months after the day on which an enforcing agency revokes the permit.

(6) Violations of this chapter, Section 10–8–41.6, or Section 17–50–333 that occur at a tobacco retailer location shall stay on the record for that tobacco retailer location unless:

(a) the tobacco retailer is transferred to a new proprietor; and

(b) the new proprietor provides documentation to the local health department that the new proprietor is acquiring the tobacco retailer in an arm's length transaction from the previous proprietor.

Section 22. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68–3–14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A–2–202.5, 53B–30–206, and 59–9–102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B–7–101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B–8–104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B–7–704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(d) the reports described in Section 53B–7–705 by the board on performance;

(e) the report described in Section 53B–8–201 by the board on the Opportunity Scholarship Program;

(f) the report described in Section 53B–8–303 by the board regarding Access Utah promise scholarships;

(g) the report described in Section 53B–8d–104 by the Division of Child and Family Services on tuition waivers for wards of the state;

(h) the report described in Section 53B–12–107 by the Utah Higher Education Assistance Authority;

(i) the report described in Section 53B–13a–104 by the board on the Success Stipend Program;

(j) the report described in Section 53B–17–201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

(k) the report described in Section 53B–26–103 by the Governor's Office of Economic Opportunity on high demand technical jobs projected to support economic growth;

(l) the report described in Section 53B–26–202 by the Medical Education Council on projected demand for nursing professionals; and

(m) the report described in Section 53E–10–308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68–3–14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B–8a–111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B–26–202 by an eligible program to respond to projected demand for nursing professionals; and

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B–29–202[~~; and~~].

[~~(d) the reports described in Section 63C–19–202 by the Higher Education Strategic Planning Commission on the commission's progress.~~]

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B–7–703, the review of performance funding described in Section 53B–7–703;

(b) an appropriation recommendation described in Section 53B–26–103 to fund a proposal responding to workforce needs of a strategic industry cluster;

(c) an appropriation recommendation described in Section 53B–26–202 to fund a proposal responding to projected demand for nursing professionals; and

(d) review of the report described in Section 63B–10–301 by the University of Utah on the status of a bond and bond payments specified in Section 63B–10–301.

Section 23. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68–3–14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9–22–109 by the STEM Action Center Board, including the information described in Section 9–22–113 on the status of the computer science initiative and Section 9–22–114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A–14–302 and the report on research described in Section 35A–14–304 by the Utah Data Research Center;

(c) the report described in Section 35A–15–303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B–1–402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B–1–402;

(f) the reports described in Section 53B–28–401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E–1–203;

(h) the annual report described in Section 53E–2–202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E–8–204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E–10–703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F–4–203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F–4–407 by the state board on UPSTART;

(m) the reports described in Sections 53F–5–214 and 53F–5–215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F–5–405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68–3–14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A–15–303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B–28–402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

[~~(c) the reports described in Section 53E–3–520 by the state board regarding cost centers and implementing activity based costing;~~]

[~~(d)~~] (c) if required, the report described in Section 53E–4–309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(e)~~] (d) if required, the report described in Section 53E–5–210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(f)~~] (e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E–10–309(7) related to the PRIME pilot program;

[~~(g)~~] (f) the report described in Section 53E–10–702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(h)~~] (g) if required, the report described in Section 53F–2–513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(i)~~] (h) upon request, the report described in Section 53F–5–207 by the state board on the Intergenerational Poverty Intervention Grants Program;

[~~(j)~~] (i) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(k)~~] (j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(l)~~] (k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys; and

[~~(m)~~] (l) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services[~~; and~~].

[~~(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.~~]

Section 24. Section 53E-1-202 is amended to read:

53E-1-202. Reports to and action required of the Public Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Public Education Appropriations Subcommittee:

(a) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(b) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities; and

(c) the report by the STEM Action Center Board described in Section 9-22-109, including the information described in Section 9-22-113 on the status of the computer science initiative.

[~~(2) The one-time report by the state board regarding cost centers and implementing activity based costing is due to the Public Education Appropriations Subcommittee in accordance with Section 53E-3-520.~~]

[~~(3)~~] (2) In accordance with applicable provisions, the Public Education Appropriations Subcommittee shall complete the following:

(a) the review described in Section [~~53E-2-301~~] 53F-2-301 of the WPU value rate; and

(b) if required, the study described in Section 53F-4-304 of scholarship payments.

Section 25. Section 57-13a-104 is amended to read:

57-13a-104. Abandonment of prescriptive easement for water conveyance.

(1) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 may, in accordance with this section, abandon all or part of the easement.

(2) A holder of a prescriptive easement for a water conveyance established under Section 57-13a-102 who seeks to abandon the easement or part of the easement shall:

(a) in each county where the easement or part of the easement is located, file in the office of the county recorder a notice of intent to abandon the prescriptive easement that describes the easement or part of the easement to be abandoned;

(b) post copies of the notice of intent to abandon the prescriptive easement in three public places located within the area generally served by the water conveyance that utilizes the easement;

(c) mail a copy of the notice of intent to abandon the prescriptive easement to each municipal and county government where the easement or part of the easement is located;

(d) post a copy of the notice of intent to abandon the prescriptive easement on the Utah Public Notice Website created in Section 63A-16-601; and

(e) after meeting the requirements of Subsections (2)(a), (b), (c), and (d) and at least 45 days after the last day on which the holder of the easement posts the notice of intent to abandon the prescriptive easement in accordance with Subsection (2)(b), file in the office of the county recorder for each county where the easement or part of the easement is located a notice of abandonment that contains the same description required by Subsection (2)(a)[~~(i)~~].

(3) (a) Upon completion of the requirements described in Subsection (2) by the holder of a prescriptive easement for a water conveyance established under Section 57-13a-102:

(i) all interest to the easement or part of the easement abandoned by the holder of the easement is extinguished; and

(ii) subject to each legal right that exists as described in Subsection (3)(b), the owner of a servient estate whose land was encumbered by the easement or part of the easement abandoned may reclaim the land area occupied by the former easement or part of the easement and resume full utilization of the land without liability to the former holder of the easement.

(b) Abandonment of a prescriptive easement under this section does not affect a legal right to have water delivered or discharged through the water conveyance and easement established by a person other than the holder of the easement who abandons an easement as provided in this section.

Section 26. Section 58-31b-803 is amended to read:

58-31b-803. Limitations on prescriptive authority for advanced practice registered nurses.

(1) This section does not apply to an advanced practice registered nurse specializing as a certified registered nurse anesthetist under Subsection 58-31b-102[~~(14)~~](11)(d).

(2) Except as provided in Subsection (3), an advanced practice registered nurse may prescribe or administer a Schedule II controlled substance.

(3) An advanced practice registered nurse described in Subsection (4) may not prescribe or administer a Schedule II controlled substance unless the advanced practice registered nurse:

(a) receives a board certification from a nationally recognized organization;

(b) completes at least 30 hours of instruction, or the equivalent number of credit hours, pertaining to advanced pharmacology during a graduate education program;

(c) when obtaining licensure with the division, demonstrates completion of at least seven hours of continuing education pertaining to prescribing opioids; and

(d) participates in a prescribing mentorship under which the advanced practice registered nurse:

(i) is mentored by:

(A) a physician licensed in accordance with this title; or

(B) an advance practice registered nurse who has been licensed at least three years; and

(ii) periodically provides the mentor described in Subsection [~~(4)~~] (3)(d)(i) timesheets that, in total, demonstrate 1,000 hours of clinical experience.

(4) Subsection (3) applies to an advanced practice registered nurse who:

(a) is engaged in independent solo practice; and

(b) (i) has been licensed as an advanced practice registered nurse for less than one year; or

(ii) has less than 2,000 hours of experience practicing as a licensed advanced practice registered nurse.

Section 27. Section 58-83-301 is amended to read:

58-83-301. Licensure required -- Issuance of licenses.

(1) Beginning July 1, 2010, and except as provided in Section 58-1-307:

(a) a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, shall be licensed under this chapter to engage in the delivery of online pharmaceutical services;

(b) an online contract pharmacy shall be licensed under this chapter to engage in the delivery of online pharmaceutical services; and

(c) an Internet facilitator shall be licensed under this chapter to engage in the delivery of online pharmaceutical services.

(2) The division shall issue, to any person who qualifies under this chapter, a license:

(a) to prescribe online;

(b) to operate as an online contract pharmacy; or

(c) to operate as an Internet facilitator.

[~~(3) (a) A license under this chapter is not required to engage in electronic prescribing under Chapter 82, Electronic Prescribing Act; and~~]

[~~(b) nothing~~] (3) Nothing in this chapter shall prohibit a physician licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, from electronic prescribing or Internet prescribing as permitted by Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act, or other law.

Section 28. Section 59-7-159 is amended to read:

59-7-159. Review of credits allowed under this chapter.

(1) As used in this section, "committee" means the Revenue and Taxation Interim Committee.

(2) (a) The committee shall review the tax credits described in this chapter as provided in Subsection (3) and make recommendations concerning whether the tax credits should be continued, modified, or repealed.

(b) In conducting the review required under Subsection (2)(a), the committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the tax credit under review to provide testimony;

(iii) (A) invite the Governor's Office of Economic Opportunity to present a summary and analysis of the information for each tax credit regarding which the Governor's Office of Economic Opportunity is required to make a report under this chapter; and

(B) invite the Office of the Legislative Fiscal Analyst to present a summary and analysis of the information for each tax credit regarding which the Office of the Legislative Fiscal Analyst is required to make a report under this chapter;

(iv) ensure that the committee's recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(v) undertake other review efforts as determined by the committee chairs or as otherwise required by law.

(3) (a) On or before November 30, 2017, and every three years after 2017, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-601;

(ii) Section 59-7-607;

(iii) Section 59-7-612;

(iv) Section 59-7-614.1; and

(v) Section 59-7-614.5.

(b) On or before November 30, 2018, and every three years after 2018, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-609;

(ii) Section 59-7-614.2;

(iii) Section 59-7-614.10;

(iv) Section 59-7-619; and

[~~(v) Section 59-7-620; and~~]

[~~(vi)~~] (v) Section 59-7-624.

(c) On or before November 30, 2019, and every three years after 2019, the committee shall conduct the review required under Subsection (2) of the tax credits allowed under the following sections:

(i) Section 59-7-610;

(ii) Section 59-7-614; and

(iii) Section 59-7-614.7.

(d) (i) In addition to the reviews described in this Subsection (3), the committee shall conduct a review of a tax credit described in this chapter that is enacted on or after January 1, 2017.

(ii) The committee shall complete a review described in this Subsection (3)(d) three years after the effective date of the tax credit and every three years after the initial review date.

Section 29. Section 59-7-614 is amended to read:

59-7-614. Renewable energy systems tax credits -- Definitions -- Certification -- Rulemaking authority.

(1) As used in this section:

(a) (i) "Active solar system" means a system of equipment that is capable of:

(A) collecting and converting incident solar radiation into thermal, mechanical, or electrical energy; and

(B) transferring a form of energy described in Subsection (1)(a)(i)(A) by a separate apparatus to storage or to the point of use.

(ii) "Active solar system" includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means a system of apparatus and equipment for use in:

(i) converting material into biomass energy, as defined in Section 59-12-102; and

(ii) transporting the biomass energy by separate apparatus to the point of use or storage.

(c) "Commercial energy system" means a system that is:

(i) (A) an active solar system;

(B) a biomass system;

(C) a direct use geothermal system;

(D) a geothermal electricity system;

(E) a geothermal heat pump system;

(F) a hydroenergy system;

(G) a passive solar system; or

(H) a wind system;

(ii) located in the state; and

(iii) used:

(A) to supply energy to a commercial unit; or

(B) as a commercial enterprise.

(d) "Commercial enterprise" means an entity, the purpose of which is to produce:

(i) electrical, mechanical, or thermal energy for sale from a commercial energy system; or

(ii) hydrogen for sale from a hydrogen production system.

(e) (i) "Commercial unit" means a building or structure that an entity uses to transact business.

(ii) Notwithstanding Subsection (1)(e)(i):

(A) with respect to an active solar system used for agricultural water pumping or a wind system, each individual energy generating device is considered to be a commercial unit; or

(B) if an energy system is the building or structure that an entity uses to transact business, a commercial unit is the complete energy system itself.

(f) "Direct use geothermal system" means a system of apparatus and equipment that enables the direct use of geothermal energy to meet energy needs, including heating a building, an industrial process, and aquaculture.

(g) "Geothermal electricity" means energy that is:

(i) contained in heat that continuously flows outward from the earth; and

(ii) used as a sole source of energy to produce electricity.

(h) "Geothermal energy" means energy generated by heat that is contained in the earth.

(i) "Geothermal heat pump system" means a system of apparatus and equipment that:

(i) enables the use of thermal properties contained in the earth at temperatures well below 100 degrees Fahrenheit; and

(ii) helps meet heating and cooling needs of a structure.

(j) "Hydroenergy system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting kinetic water energy into electrical or mechanical energy; and

(ii) transferring this form of energy by separate apparatus to the point of use or storage.

(k) "Hydrogen production system" means a system of apparatus and equipment, located in this state, that uses:

(i) electricity from a renewable energy source to create hydrogen gas from water, regardless of whether the renewable energy source is at a separate facility or the same facility as the system of apparatus and equipment; or

(ii) uses renewable natural gas to produce hydrogen gas.

(l) "Office" means the Office of Energy Development created in Section 79-6-401.

(m) (i) "Passive solar system" means a direct thermal system that utilizes the structure of a building and the structure's operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site.

(ii) "Passive solar system" includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(n) "Photovoltaic system" means an active solar system that generates electricity from sunlight.

(o) (i) "Principal recovery portion" means the portion of a lease payment that constitutes the cost a person incurs in acquiring a commercial energy system.

(ii) "Principal recovery portion" does not include:

(A) an interest charge; or

(B) a maintenance expense.

(p) "Renewable energy source" means the same as that term is defined in Section 54-17-601.

(q) "Residential energy system" means the following used to supply energy to or for a residential unit:

(i) an active solar system;

(ii) a biomass system;

(iii) a direct use geothermal system;

(iv) a geothermal heat pump system;

(v) a hydroenergy system;

(vi) a passive solar system; or

(vii) a wind system.

(r) (i) "Residential unit" means a house, condominium, apartment, or similar dwelling unit that:

(A) is located in the state; and

(B) serves as a dwelling for a person, group of persons, or a family.

(ii) "Residential unit" does not include property subject to a fee under:

(A) Section 59-2-405;

(B) Section 59-2-405.1;

(C) Section 59-2-405.2;

(D) Section 59-2-405.3; or

(E) Section 72-10-110.5.

(s) "Wind system" means a system of apparatus and equipment that is capable of:

(i) intercepting and converting wind energy into mechanical or electrical energy; and

(ii) transferring these forms of energy by a separate apparatus to the point of use, sale, or storage.

(2) A taxpayer may claim an energy system tax credit as provided in this section against a tax due under this chapter for a taxable year.

(3) (a) Subject to the other provisions of this Subsection (3), a taxpayer may claim a nonrefundable tax credit under this Subsection (3) with respect to a residential unit the taxpayer owns or uses if:

(i) the taxpayer:

(A) purchases and completes a residential energy system to supply all or part of the energy required for the residential unit; or

(B) participates in the financing of a residential energy system to supply all or part of the energy required for the residential unit; and

(ii) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (3)(b)(ii) through (iv) and, as applicable, Subsection (3)(c) or (d), the tax credit is equal to 25% of the reasonable costs of each residential energy system installed with respect to each residential unit the taxpayer owns or uses.

(ii) A tax credit under this Subsection (3) may include installation costs.

(iii) A taxpayer may claim a tax credit under this Subsection (3) for the taxable year in which the residential energy system is completed and placed in service.

(iv) If the amount of a tax credit under this Subsection (3) exceeds a taxpayer's tax liability under this chapter for a taxable year, the taxpayer may carry forward the amount of the tax credit exceeding the liability for a period that does not exceed the next four taxable years.

(c) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a residential energy system, other than a photovoltaic system, may not exceed $2,000 per residential unit.

(d) The total amount of tax credit a taxpayer may claim under this Subsection (3) for a photovoltaic system may not exceed:

(i) for a system installed on or after January 1, 2018, but on or before December 31, 2020, $1,600;

(ii) for a system installed on or after January 1, 2021, but on or before December 31, 2021, $1,200;

(iii) for a system installed on or after January 1, 2022, but on or before December 31, 2022, $800;

(iv) for a system installed on or after January 1, 2023, but on or before December 31, 2023, $400; and

(v) for a system installed on or after January 1, 2024, $0.

(e) If a taxpayer sells a residential unit to another person before the taxpayer claims the tax credit under this Subsection (3):

(i) the taxpayer may assign the tax credit to the other person; and

(ii) (A) if the other person files a return under this chapter, the other person may claim the tax credit under this section as if the other person had met the requirements of this section to claim the tax credit; or

(B) if the other person files a return under Chapter 10, Individual Income Tax Act, the other person may claim the tax credit under Section 59-10-1014 as if the other person had met the requirements of Section 59-10-1014 to claim the tax credit.

(4) (a) Subject to the other provisions of this Subsection (4), a taxpayer may claim a refundable tax credit under this Subsection (4) with respect to a commercial energy system if:

(i) the commercial energy system does not use:

(A) wind, geothermal electricity, solar, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity; or

(B) solar equipment capable of producing 2,000 or more kilowatts of electricity;

(ii) the taxpayer purchases or participates in the financing of the commercial energy system;

(iii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (4); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (4)(b)(ii) through (iv), the tax credit is equal to 10% of the reasonable costs of the commercial energy system.

(ii) A tax credit under this Subsection (4) may include installation costs.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (4) for the taxable year in which the commercial energy system is completed and placed in service.

(iv) The total amount of tax credit a taxpayer may claim under this Subsection (4) may not exceed $50,000 per commercial unit.

(c) (i) Subject to Subsections (4)(c)(ii) and (iii), a taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (4) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(ii) A taxpayer described in Subsection (4)(c)(i) may claim as a tax credit under this Subsection (4) only the principal recovery portion of the lease payments.

(iii) A taxpayer described in Subsection (4)(c)(i) may claim a tax credit under this Subsection (4) for a period that does not exceed seven taxable years after the day on which the lease begins, as stated in the lease agreement.

(5) (a) Subject to the other provisions of this Subsection (5), a taxpayer may claim a refundable tax credit under this Subsection (5) with respect to a commercial energy system if:

(i) the commercial energy system uses wind, geothermal electricity, or biomass equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which the taxpayer claims a tax credit under this Subsection (5); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (5)(b)(ii), a tax credit under this Subsection (5) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (5) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (5) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(6) (a) Subject to the other provisions of this Subsection (6), a taxpayer may claim a refundable tax credit as provided in this Subsection (6) if:

(i) the taxpayer owns a commercial energy system that uses solar equipment capable of producing a total of 660 or more kilowatts of electricity;

(ii) (A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the taxpayer; or

(B) the taxpayer sells all or part of the energy produced by the commercial energy system as a commercial enterprise;

(iii) the taxpayer does not claim a tax credit under Subsection (4) and has not claimed and will not claim a tax credit under Subsection (7) for hydrogen production using electricity for which a taxpayer claims a tax credit under this Subsection (6); and

(iv) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsection (6)(b)(ii), a tax credit under this Subsection (6) is equal to the product of:

(A) 0.35 cents; and

(B) the kilowatt hours of electricity produced and used or sold during the taxable year.

(ii) A taxpayer is eligible to claim a tax credit under this Subsection (6) for production occurring during a period of 48 months beginning with the month in which the commercial energy system is placed in commercial service.

(c) A taxpayer that is a lessee of a commercial energy system installed on a commercial unit may claim a tax credit under this Subsection (6) if the taxpayer confirms that the lessor irrevocably elects not to claim the tax credit.

(7) (a) A taxpayer may claim a refundable tax credit as provided in this Subsection (7) if:

(i) the taxpayer owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the taxpayer sells as a commercial enterprise, or supplies for the taxpayer's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the taxpayer has not claimed and will not claim a tax credit under Subsection (4), (5), or (6) or Section 59-7-626 for electricity or hydrogen used to meet the requirements of this Subsection (7); and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (8).

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), a tax credit under this Subsection (7) is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A taxpayer may not receive a tax credit under this Subsection (7) for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A taxpayer is eligible to claim a tax credit under this Subsection (7) for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(8) (a) Before a taxpayer may claim a tax credit under this section, the taxpayer shall obtain a written certification from the office.

(b) The office shall issue a taxpayer a written certification if the office determines that:

(i) the taxpayer meets the requirements of this section to receive a tax credit; and

(ii) the residential energy system, the commercial energy system, or the hydrogen production system with respect to which the taxpayer seeks to claim a tax credit:

(A) has been completely installed;

(B) is a viable system for saving or producing energy from renewable resources; and

(C) is safe, reliable, efficient, and technically feasible to ensure that the residential energy system, the commercial energy system, or the hydrogen production system uses the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules:

(i) for determining whether a residential energy system, a commercial energy system, or a hydrogen production system meets the requirements of Subsection (8)(b)(ii); and

(ii) for purposes of a tax credit under Subsection (3)[~~,~~] or (4), [~~or (6),~~] establishing the reasonable costs of a residential energy system or a commercial energy system, as an amount per unit of energy production.

(d) A taxpayer that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each taxpayer to which the office issues a written certification; and

(ii) for each taxpayer:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the renewable energy system was installed.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(10) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 30. Section 59-10-1113 is amended to read:

59-10-1113. Refundable tax credit for nonrenewable hydrogen production system.

(1) As used in this section:

(a) "Commercial enterprise" means the same as that term is defined in Section 59-7-626.

(b) "Commercial unit" means the same as that term is defined in Section 59-7-626.

(c) "Hydrogen production system" means the same as that term is defined in Section 59-7-626.

(d) "Office" means the Office of Energy Development created in Section 79-6-401.

(2) (a) A claimant, estate, or trust may claim a refundable credit under this section if:

(i) the claimant, estate, or trust owns a hydrogen production system;

(ii) the hydrogen production system is completed and placed in service on or after January 1, 2022;

(iii) the claimant, estate, or trust sells as a commercial enterprise, or supplies for the claimant's, estate's, or trust's own use in commercial units, the hydrogen produced from the hydrogen production system;

(iv) the claimant, estate, or trust has not claimed and will not claim a tax credit under Section 59-10-1106 for electricity used to meet the requirements of this section; and

(v) the taxpayer obtains a written certification from the office in accordance with Subsection (3).

(b) (i) Subject to Subsections (2)(b)(ii) and (iii), a tax credit under this section is equal to the product of:

(A) $0.12; and

(B) the number of kilograms of hydrogen produced during the taxable year.

(ii) A claimant, estate, or trust may not receive a tax credit under this section for more than 5,600 metric tons of hydrogen per taxable year.

(iii) A claimant, estate, or trust is eligible to claim a tax credit under this section for production occurring during a period of 48 months beginning with the month in which the hydrogen production system is placed in commercial service.

(3) (a) Before a claimant, estate, or trust may claim a tax credit under this section, the claimant, estate, or trust shall obtain a written certification from the office.

(b) The office shall issue a claimant, estate, or trust a written certification if the office determines that:

(i) the claimant, estate, or trust meets the requirements of this section to receive a tax credit; and

(ii) the hydrogen production system with respect to which the claimant, estate, or trust seeks to claim a tax credit:

(A) has been completely installed; and

(B) is safe, reliable, efficient, and technically feasible to ensure that the hydrogen production system uses the state's nonrenewable energy resources in an appropriate and economic manner.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules for determining whether a hydrogen production system meets the requirements of [~~this~~] Subsection (3)(b)(ii).

(d) A claimant, estate, or trust that obtains a written certification from the office shall retain the certification for the same time period a person is required to keep books and records under Section 59-1-1406.

(e) The office shall submit to the commission an electronic list that includes:

(i) the name and identifying information of each claimant, estate, or trust to which the office issues a written certification; and

(ii) for each claimant, estate, or trust:

(A) the amount of the tax credit listed on the written certification; and

(B) the date the hydrogen production system was installed.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to address the certification of a tax credit under this section.

(5) A tax credit under this section is in addition to any tax credits provided under the laws or rules and regulations of the United States.

Section 31. Section 59-12-104.2 is amended to read:

59-12-104.2. Exemption for accommodations and services taxed by the Navajo Nation.

(1) As used in this section "tribal taxing area" means the geographical area that:

(a) is subject to the taxing authority of the Navajo Nation; and

(b) consists of:

(i) notwithstanding the issuance of a patent, all land:

(A) within the limits of an Indian reservation under the jurisdiction of the federal government; and

(B) including any rights-of-way running through the reservation; and

(ii) all Indian allotments the Indian titles to which have not been extinguished, including any rights-of-way running through an Indian allotment.

(2) (a) Beginning July 1, 2001, amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) are exempt from the tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)[~~(d)~~](e)(i)(A)(I) to the extent permitted under Subsection (2)(b) if:

(i) the accommodations and services described in Subsection 59-12-103(1)(i) are provided within:

(A) the state; and

(B) a tribal taxing area;

(ii) the Navajo Nation imposes and collects a tax on the amounts paid by or charged to the purchaser for the accommodations and services described in Subsection 59-12-103(1)(i);

(iii) the Navajo Nation imposes the tax described in Subsection (2)(a)(ii) without regard to whether or not the purchaser that pays or is charged for the accommodations and services is an enrolled member of the Navajo Nation; and

(iv) the requirements of Subsection (4) are met.

(b) If but for Subsection (2)(a) the amounts paid by or charged to a purchaser for accommodations and services described in Subsection (2)(a) are subject to a tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)[~~(d)~~](e)(i)(A)(I):

(i) the seller shall collect and pay to the state the difference described in Subsection (3) if that difference is greater than $0; and

(ii) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (3) is equal to or less than $0.

(3) The difference described in Subsection (2)(b) is equal to the difference between:

(a) the amount of tax imposed by Subsection 59-12-103(2)(a)(i)(A) or (2)[~~(d)~~](e)(i)(A)(I) on the amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i); less

(b) the tax imposed and collected by the Navajo Nation on the amounts paid by or charged to a purchaser for the accommodations and services described in Subsection 59-12-103(1)(i).

(4) (a) If, on or after July 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i), any change in the amount of the exemption under Subsection (2) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (4)(b) from the Navajo Nation.

(b) The notice described in Subsection (4)(a) shall state:

(i) that the Navajo Nation has changed or will change the tax rate of a tax imposed on amounts paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i);

(ii) the effective date of the rate change on the tax described in Subsection (4)(b)(i); and

(iii) the new rate of the tax described in Subsection (4)(b)(i).

Section 32. Section 62A-1-111 is amended to read:

62A-1-111. Department authority.

The department may, in addition to all other authority and responsibility granted to the department by law:

(1) adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services to the people of this state;

(2) establish and manage client trust accounts in the department's institutions and community programs, at the request of the client or the client's legal guardian or representative, or in accordance with federal law;

(3) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;

(4) conduct adjudicative proceedings for clients and providers in accordance with the procedures of Title 63G, Chapter 4, Administrative Procedures Act;

(5) establish eligibility standards for its programs, not inconsistent with state or federal law or regulations;

(6) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who was not eligible;

(7) set and collect fees for the department's services;

(8) license agencies, facilities, and programs, except as otherwise allowed, prohibited, or limited by law;

(9) acquire, manage, and dispose of any real or personal property needed or owned by the department, not inconsistent with state law;

(10) receive gifts, grants, devises, and donations; gifts, grants, devises, donations, or the proceeds thereof, may be credited to the program designated by the donor, and may be used for the purposes requested by the donor, as long as the request conforms to state and federal policy; all donated

funds shall be considered private, nonlapsing funds and may be invested under guidelines established by the state treasurer;

(11) accept and employ volunteer labor or services; the department is authorized to reimburse volunteers for necessary expenses, when the department considers that reimbursement to be appropriate;

(12) carry out the responsibility assigned in the workforce services plan by the State Workforce Development Board;

[~~(13) carry out the responsibility assigned by Section 35A-8-602 with respect to coordination of services for the homeless;~~]

[~~(14)~~] (13) carry out the responsibility assigned by Section 62A-5a-105 with respect to coordination of services for students with a disability;

[~~(15)~~] (14) provide training and educational opportunities for the department's staff;

[~~(16)~~] (15) collect child support payments and any other money due to the department;

[~~(17)~~] (16) apply the provisions of Title 78B, Chapter 12, Utah Child Support Act, to parents whose child lives out of the home in a department licensed or certified setting;

[~~(18)~~] (17) establish policy and procedures, within appropriations authorized by the Legislature, in cases where the Division of Child and Family Services or the Division of Juvenile Justice Services is given custody of a minor by the juvenile court under Title 80, Utah Juvenile Code, or the department is ordered to prepare an attainment plan for a minor found not competent to proceed under Section 80-6-403; any policy and procedures shall include:

(a) designation of interagency teams for each juvenile court district in the state;

(b) delineation of assessment criteria and procedures;

(c) minimum requirements, and timeframes, for the development and implementation of a collaborative service plan for each minor placed in department custody; and

(d) provisions for submittal of the plan and periodic progress reports to the court;

[~~(19)~~] (18) carry out the responsibilities assigned to the department by statute;

[~~(20)~~] (19) examine and audit the expenditures of any public funds provided to local substance abuse authorities, local mental health authorities, local area agencies on aging, and any person, agency, or organization that contracts with or receives funds from those authorities or agencies. Those local authorities, area agencies, and any person or entity that contracts with or receives funds from those authorities or area agencies, shall provide the department with any information the department considers necessary. The department is further authorized to issue directives resulting from any examination or audit to local authorities, area agencies, and persons or entities that contract with or receive funds from those authorities with regard to any public funds. If the department determines that it is necessary to withhold funds from a local mental health authority or local substance abuse authority based on failure to comply with state or federal law, policy, or contract provisions, it may take steps necessary to ensure continuity of services. For purposes of this Subsection (20) "public funds" means the same as that term is defined in Section 62A-15-102;

[~~(21)~~] (20) pursuant to Subsection 62A-2-106(1)(d), accredit one or more agencies and persons to provide intercountry adoption services;

[~~(22)~~] (21) within appropriations authorized by the Legislature, promote and develop a system of care and stabilization services:

(a) in compliance with Title 63G, Chapter 6a, Utah Procurement Code; and

(b) that encompasses the department, department contractors, and the divisions, offices, or institutions within the department, to:

(i) navigate services, funding resources, and relationships to the benefit of the children and families whom the department serves;

(ii) centralize department operations, including procurement and contracting;

(iii) develop policies that govern business operations and that facilitate a system of care approach to service delivery;

(iv) allocate resources that may be used for the children and families served by the department or the divisions, offices, or institutions within the department, subject to the restrictions in Section 63J-1-206;

(v) create performance-based measures for the provision of services; and

(vi) centralize other business operations, including data matching and sharing among the department's divisions, offices, and institutions;

[~~(23)~~] (22) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(a) under this title;

(b) by the department; or

(c) by an agency or division within the department; and

[~~(24)~~] (23) reallocate unexpended funds as provided in Section 62A-1-111.6.

Section 33. Section 62A-3-305 is amended to read:

62A-3-305. Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse [~~or neglect~~], neglect, or exploitation from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26-21-201, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Occupational and Professional Licensing if the individual is a health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to

report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 34. Section 62A-16-302 is amended to read:

62A-16-302. Reporting to, and review by, legislative committees.

(1) The Office of Legislative Research and General Counsel shall provide a copy of the report described in Subsection 62A-16-301(1)[~~(b)~~](c), and the responses described in Subsections 62A-16-301(2) and (4)(c) to the chairs of:

(a) the Health and Human Services Interim Committee; or

(b) if the qualified individual who is the subject of the report is an individual described in Subsection 62A-16-102(7)(c), (d), or (h), the Child Welfare Legislative Oversight Panel.

(2) (a) The Health and Human Services Interim Committee may, in a closed meeting, review a report described in Subsection 62A-16-301(1)(b).

(b) The Child Welfare Legislative Oversight Panel shall, in a closed meeting, review a report described in Subsection (1)(b).

(3) (a) The Health and Human Services Interim Committee and the Child Welfare Legislative Oversight Panel may not interfere with, or make recommendations regarding, the resolution of a particular case.

(b) The purpose of a review described in Subsection (2) is to assist a committee or panel described in Subsection (2) in determining whether to recommend a change in the law.

(c) Any recommendation, described in Subsection (3)(b), by a committee or panel for a change in the law shall be made in an open meeting.

(4) (a) On or before September 1 of each year, the department shall provide an executive summary of all formal review reports for the preceding state fiscal year to the Office of Legislative Research and General Counsel.

(b) The Office of Legislative Research and General Counsel shall forward a copy of the executive summary described in Subsection (4)(a) to:

(i) the Health and Human Services Interim Committee; and

(ii) the Child Welfare Legislative Oversight Panel.

(5) The executive summary described in Subsection (4):

(a) may not include any names or identifying information;

(b) shall include:

(i) all recommendations regarding changes to the law that were made during the preceding fiscal year under Subsection 62A-16-204(6);

(ii) all changes made, or in the process of being made, to a law, rule, policy, or procedure in response to a formal review that occurred during the preceding fiscal year;

(iii) a description of the training that has been completed in response to a formal review that occurred during the preceding fiscal year;

(iv) statistics for the preceding fiscal year regarding:

(A) the number of qualified individuals and the type of deaths and near fatalities that are known to the department;

(B) the number of formal reviews conducted;

(C) the categories described in Subsection 62A-16-102[~~(2)~~](7) of qualified individuals;

(D) the gender, age, race, and other significant categories of qualified individuals; and

(E) the number of fatalities of qualified individuals known to the department that are identified as suicides; and

(v) action taken by the Office of Licensing and the Bureau of Internal Review and Audits in response to the near fatality or the death of a qualified individual; and

(c) is a public document.

(6) The Division of Child and Family Services shall, to the extent required by the federal Child Abuse Prevention and Treatment Act, as amended, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or a near fatality.

Section 35. Section 63A-17-110 is amended to read:

63A-17-110. State pay plans for DNR peace officers and wildland firefighters.

(1) As used in this section:

(a) "DNR peace officer" means an employee of the Department of Natural Resources who is designated as a peace officer by law.

(b) "Wildland firefighter" means an employee of the Division of Forestry, Fire, and State Lands who is:

(i) trained in firefighter techniques; and

(ii) assigned to a position of hazardous duty.

(2) The director shall:

(a) establish a specialized state pay plan for DNR peace officers and wildland firefighters that:

(i) meets the requirements of Section 63A-17-307;

(ii) distinguishes the salary range for each DNR peace officer and wildland firefighter classification;

(iii) includes for each DNR peace officer and wildland firefighter classification:

(A) the minimum qualifications; and

(B) any training requirements; and

(iv) provides standards for:

(A) performance evaluation; and

(B) promotion; and

(b) include, in the plan described in Subsection [~~67-19-12(5)~~] 63A-17-307(5), recommendations on funding and salary increases for DNR peace officers and wildland firefighters.

Section 36. Section 63C-23-102 is amended to read:

63C-23-102. Definitions.

As used in this [~~section~~] chapter:

(1) "Council" means the Education and Mental Health Coordinating Council created in Section 63C-23-201.

(2) "Local education agency" or "LEA" means the same as that term is defined in Section 53E-1-102.

(3) "Local mental health authority" means a local mental health authority described in Section 17-43-301.

(4) "Local substance abuse authority" means a local substance abuse authority described in Section 17-43-201.

Section 37. Section 63H-1-102 is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized:

(i) before the year in which the authority creates the project area; or

(ii) before the year in which the project area plan is amended, for property added to a project area by an amendment to a project area plan.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation the authority is entitled to receive under Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) "Develop" means to engage in development.

(6) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, maintenance, operation, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(7) "Development project" means a project to develop land within a project area.

(8) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(9) "Included municipality" means a municipality, some or all of which is included within a project area.

(10) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

(11) "Military Installation Development Authority accommodations tax" or "MIDA accommodations tax" means the tax imposed under Section 63H-1-205.

(12) "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

(13) "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense, the United States Department of Veterans Affairs, or the Utah National Guard.

(14) "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

(15) "Municipal services revenue" means revenue that the authority:

(a) collects from the authority's:

(i) levy of a municipal energy tax;

(ii) levy of a MIDA energy tax;

(iii) levy of a telecommunications tax;

(iv) imposition of a transient room tax; and

(v) imposition of a resort communities tax;

(b) receives under Subsection 59-12-205(2)(b)(ii); and

(c) receives as dedicated tax collections.

(16) "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

(17) "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

(18) "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

(a) the base taxable value of property in the project area;

(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

(19) "Project area plan" means a written plan that, after the plan's effective date, guides and controls the development within a project area.

(20) (a) "Property tax" includes a privilege tax imposed under Title 59, Chapter 4, Privilege Tax, except as described in Subsection (20)(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

(A) a lessee of military land has constructed a facility on the military land that is part of a project area;

(B) the lessee leases space in the facility to the military for the entire calendar year; and

(C) the lease rate paid by the military for the space is $1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses; or

(ii) of the following property owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(A) a hotel;

(B) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(C) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

(21) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

(22) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including the authority or a county, city, town, school district, local district, special service district, or interlocal cooperation entity[~~, including the authority~~].

(23) (a) " Public infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that:

(i) benefit the public, the authority, the military, or military-related entities; and

(ii) (A) are publicly owned by the military, the authority, a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, or another public entity;

(B) are owned by a utility; or

(C) are publicly maintained or operated by the military, the authority, or another public entity.

(b) "Public infrastructure and improvements" also means infrastructure, improvements, facilities, or buildings that:

(i) are privately owned; and

(ii) provide a substantial benefit, as determined by the board, to the development and operation of a project area.

(c) "Public infrastructure and improvements" includes:

(i) facilities, lines, or systems that harness geothermal energy or provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications;

(ii) streets, roads, curb, gutter, sidewalk, walkways, tunnels, solid waste facilities, parking facilities, public transportation facilities, and parks, trails, and other recreational facilities;

(iii) snowmaking equipment and related improvements that can also be used for water storage or fire suppression purposes; and

(iv) a building and related improvements for occupancy by the public, the authority, the military, or military-related entities.

(24) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

(a) spent during the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1); or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

(25) "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

(26) "Taxable value" means the value of property as shown on the last equalized assessment roll.

(27) "Taxing entity":

(a) means a public entity that levies a tax on property within a project area; and

(b) does not include a public infrastructure district that the authority creates under Title 17D, Chapter 4, Public Infrastructure District Act.

(28) "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

(29) "Transient room tax" means a tax under Section 59-12-352.

Section 38. Section 63H-1-201 is amended to read:

63H-1-201. Creation of military installation development authority -- Status and powers of authority -- Limitation.

(1) There is created a military installation development authority.

(2) The authority is:

(a) an independent, nonprofit, separate body corporate and politic, with perpetual succession and statewide jurisdiction, whose purpose is to facilitate the development of land within a project area or on military land associated with a project area;

(b) a political subdivision of the state; and

(c) a public corporation, as defined in Section 63E-1-102.

(3) The authority may:

(a) facilitate the development of land within one or more project areas, including the ongoing operation of facilities within a project area, or development of military land associated with a project area;

(b) sue and be sued;

(c) enter into contracts generally;

(d) by itself or through a subsidiary, buy, obtain an option upon, or otherwise acquire any interest in real or personal property:

(i) in a project area; or

(ii) outside a project area for public infrastructure and improvements, if the board considers the purchase, option, or other interest acquisition to be necessary for fulfilling the authority's development objectives;

(e) sell, convey, grant, dispose of by gift, or otherwise dispose of any interest in real or personal property;

(f) enter into a lease agreement on real or personal property, either as lessee or lessor:

(i) in a project area; or

(ii) outside a project area, if the board considers the lease to be necessary for fulfilling the authority's development objectives;

(g) provide for the development of land within a project area or military land associated with the project area under one or more contracts;

(h) exercise powers and perform functions under a contract, as authorized in the contract;

(i) exercise exclusive police power within a project area to the same extent as though the authority were a municipality, including the collection of regulatory fees;

(j) receive the property tax allocation and other taxes and fees as provided in this chapter;

(k) accept financial or other assistance from any public or private source for the authority's activities, powers, and duties, and expend any funds so received for any of the purposes of this chapter;

(l) borrow money, contract with, or accept financial or other assistance from the federal government, a public entity, or any other source for any of the purposes of this chapter and comply with any conditions of the loan, contract, or assistance;

(m) issue bonds to finance the undertaking of any development objectives of the authority, including bonds under Title 11, Chapter 17, Utah Industrial Facilities and Development Act, and bonds under Title 11, Chapter 42, Assessment Area Act;

(n) hire employees, including contract employees;

(o) transact other business and exercise all other powers provided for in this chapter;

(p) enter into a development agreement with a developer of land within a project area;

(q) enter into an agreement with a political subdivision of the state under which the political subdivision provides one or more municipal services within a project area;

(r) enter into an agreement with a private contractor to provide one or more municipal services within a project area;

(s) provide for or finance an energy efficiency upgrade, a renewable energy system, or electric vehicle charging infrastructure as defined in Section 11-42a-102, in accordance with Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act;

(t) exercise powers and perform functions that the authority is authorized by statute to exercise or perform;

(u) enter into an agreement with the federal government or an agency of the federal government under which the federal government or agency:

(i) provides law enforcement services only to military land within a project area; and

(ii) may enter into a mutual aid or other cooperative agreement with a law enforcement agency of the state or a political subdivision of the state;

(v) by itself or through a subsidiary, act as a facilitator under Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, to provide expertise and knowledge to another governmental entity interested in public-private partnerships;

(w) enter into an intergovernmental support agreement under Title 10, U.S.C. Sec. 2679 with the military to provide support services to the military in accordance with the agreement;

(x) act as a developer, or assist a developer chosen by the military, to develop military land as part of an enhanced use lease under Title 10, U.S.C. Sec. 2667; and

(y) develop public infrastructure and improvements.

(4) The authority may not itself provide law enforcement service or fire protection service within a project area but may enter into an agreement for one or both of those services, as provided in Subsection (3)(q).

(5) The authority shall provide support to a subsidiary that enters into an agreement under Subsection (3)(v) that the authority determines necessary for the subsidiary to fulfill the requirements of the agreement.

(6) Because providing procurement, utility, construction, and other services for use by a military installation, including providing public

infrastructure and improvements for use or occupancy by the military, are core functions of the authority and are typically provided by a local government for the local government's own needs or use, these services provided by the authority for the military under this chapter are considered to be for the authority's own needs and use.

(7) A public infrastructure district created by the authority under Title [~~17B~~] 17D, Chapter [~~2a, Part 12~~] 4, Public Infrastructure District Act, is a subsidiary of the authority.

Section 39. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52–4–103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities – Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E–2–106, 63E–2–107, 63E–2–108, 63E–2–109, 63E–2–110, and 63E–2–111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57–8–3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

(a) notwithstanding Section [~~54–2–104~~] 52–4–104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

(i) the board chair, for the authority board; or

(ii) the subsidiary board chair, for a subsidiary board;

(b) authority staff may adopt a rule governing the use of electronic meetings under Section 52–4–207, if, under Subsection 63H–1–301(3), the board delegates to authority staff the power to adopt the rule; and

(c) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52–4–207, the authority board or subsidiary board, respectively:

(i) is not required to establish an anchor location; and

(ii) may convene and conduct the meeting without the written determination otherwise required under Subsection 52–4–207(4).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G–2–701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G–2–404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H–1–201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H–1–201(3)(v) is not prohibited from receiving a benefit from a public–private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under Title [~~17B~~] 17D, Chapter [~~2a, Part 12~~] 4, Public Infrastructure District Act, may, subject to limitations of Title [~~17B~~] 17D, Chapter [~~2a, Part 12~~] 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in Title [~~17B~~] 17D, Chapter [~~2a, Part 12~~] 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

Section 40. Section 63H-1-301 is amended to read:

63H-1-301. Authority board -- Delegation of power.

(1) The authority shall be governed by a board which shall manage and conduct the business and affairs of the authority and shall determine all questions of authority policy.

(2) All powers of the authority are exercised through the board.

(3) The board may by resolution delegate powers to authority staff, including the power to adopt a rule governing the use of electronic meetings under Section [~~54–2–207~~] 52–4–207.

Section 41. Section 63I-1-210 is amended to read:

63I-1-210. Repeal dates, Title 10.

[~~Section 10–9a–526 is repealed December 31, 2020.~~]

Section 42. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53–2a–105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53–2a–1103 and 53–2a–1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53–5–703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53–6–203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53–13–104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B–6–105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B–17–1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C–3–203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E–3–515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E–4–202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E–4–203" is repealed; and

(b) Section 53E–4–203 is repealed.

(14) Subsections 53E–3–503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E–4–402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

[~~(17) Subsection 53E–8–204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.~~]

[~~(18)~~] (17) Section 53F–2–420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

[~~(19)~~] (18) Section 53F–5–203 is repealed July 1, 2024.

[~~(20) Section 53F–5–212 is repealed July 1, 2024.~~]

[~~(21)~~] (19) Section 53F–5–213 is repealed July 1, 2023.

[~~(22)~~] (20) Section 53F–5–214, in relation to a grant for professional learning, is repealed July 1, 2025.

[~~(23)~~] (21) Section 53F–5–215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

[~~(24)~~] (22) Subsection 53F–9–203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

[~~(25)~~] (23) Section 53F–9–501 is repealed January 1, 2023.

[~~(26)~~] (24) Subsections 53G–4–608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

[~~(27)~~] (25) Subsection 53G–8–211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 43. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section [~~63A–16–102~~] 63A–18–102 is repealed;

(b) Section [~~63A–16–201~~] 63A–18–201 is repealed; and

(c) Section [~~63A–16–202~~] 63A–18–202 is repealed.

(2) Subsection 63A–5b–405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A–5b–1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A–9–301 and 63A–9–302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G–6a–805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J–1–602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J–1–602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J–1–602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36–12–12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J–1–602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J–1–602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J–1–602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title [~~63J~~] 63L, Chapter [~~4~~] 11, Part [~~5~~] 4, Resource Development Coordinating Committee, is is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L–11–305(3), on July 1, 2022:

(a) Subsection 63L–11–305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L–11–305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M–7–301, 63M–7–302, 63M–7–303, 63M–7–304, and 63M–7–306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.~~]

[~~(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.~~]

[~~(c) Notwithstanding Subsection(30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:~~]

[~~(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and~~]

[~~(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.~~]

[~~(31)~~] (29) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (30) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (31) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 44. Section 63I-2-210 is amended to read:

63I-2-210. Repeal dates -- Title 10.

[~~Section 10-6-160.1 is repealed January 1, 2021.~~]

Section 45. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.~~]

[~~(4)~~] (3) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(5)~~] (4) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6)~~] (5) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

[~~(7)~~] (6) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

[~~(8)~~] (7) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(9)~~] (8) Section 53B-8-114 is repealed July 1, 2024.

[~~(10)~~] (9) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) Section 53B-8-202;

(b) Section 53B-8-203;

(c) Section 53B-8-204; and

(d) Section 53B-8-205.

[~~(11)~~] (10) Section 53B-10-101 is repealed o July 1, 2027.

[~~(12)~~] (11) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(13)~~] (12) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(14)~~] (13) Section 53E-3-520 is repealed July 1, 2021.

[~~(15)~~] (14) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(16)~~] (15) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(17)~~] (16) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(18)~~] (17) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (18) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(20)~~] (19) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(21)~~] (20) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

[~~(22)~~] (21) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (22) Section 53F-4-207 is repealed July 1, 2022.

[~~(24)~~] (23) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(25)~~] (24) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(26)~~] (25) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(27)~~] (26) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(28)~~] (27) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(29)~~] (28) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(30)~~] (29) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(31)~~] (30) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(32)~~] (31) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 46. Section 63L-11-203 is amended to read:

63L-11-203. Resource management plan administration.

(1) The office shall consult with the Federalism Commission before expending funds appropriated by the Legislature for the implementation of this section.

(2) To the extent that the Legislature appropriates sufficient funding, the office may procure the services of a non-public entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to assist the office with the office's responsibilities described in Subsection (3).

(3) The office shall:

(a) assist each county with the creation of the county's resource management plan by:

(i) consulting with the county on policy and legal issues related to the county's resource management plan; and

(ii) helping the county ensure that the county's resource management plan meets the requirements of Subsection 17-27a-401(3);

(b) promote quality standards among all counties' resource management plans; and

(c) upon submission by a county, review and verify the county's:

(i) estimated cost for creating a resource management plan; and

(ii) actual cost for creating a resource management plan.

(4) (a) A county shall cooperate with the office, or an entity procured by the office under Subsection (2), with regards to the office's responsibilities under Subsection (3).

(b) To the extent that the Legislature appropriates sufficient funding, the office may, in accordance with Subsection (4)(c), provide funding to a county before the county completes a resource management plan.

(c) The office may provide pre-completion funding described in Subsection (4)(b):

(i) after:

(A) the county submits an estimated cost for completing the resource management plan to the office; and

(B) the office reviews and verifies the estimated cost in accordance with Subsection (3)(c)(i); and

(ii) in an amount up to:

(A) 50% of the estimated cost of completing the resource management plan, verified by the office; or

(B) $25,000, if the amount described in Subsection (4)(c)(i)(A) is greater than $25,000.

(d) To the extent that the Legislature appropriates sufficient funding, the office shall provide funding to a county in the amount described in Subsection (4)(e) after:

(i) a county's resource management plan:

(A) meets the requirements described in Subsection 17-27a-401(3); and

(B) is adopted under Subsection 17-27a-404(5)(d);

(ii) the county submits the actual cost of completing the resource management plan to the office; and

(iii) the office reviews and verifies the actual cost in accordance with Subsection (3)(c)(ii).

(e) The office shall provide funding to a county under Subsection (4)(d) in an amount equal to the difference between:

(i) the lesser of:

(A) the actual cost of completing the resource management plan, verified by the office; or

(B) $50,000; and

(ii) the amount of any pre-completion funding that the county received under Subsections (4)(b) and (c).

(5) To the extent that the Legislature appropriates sufficient funding, after the deadline established in Subsection 17-27a-404(5)(d) for a county to adopt a resource management plan, the office shall:

(a) obtain a copy of each county's resource management plan;

(b) create a statewide resource management plan that:

(i) meets the same requirements described in Subsection 17-27a-401(3); and

(ii) to the extent reasonably possible, coordinates and is consistent with any resource management plan or land use plan established under Title 63J, Chapter 8, State of Utah Resource Management Plan for Federal Lands; and

(c) submit a copy of the statewide resource management plan to the Federalism Commission for review.

(6) Following review of the statewide resource management plan, the Federalism Commission shall prepare a concurrent resolution approving the statewide resource management plan for consideration during the 2018 General Session.

(7) To the extent that the Legislature appropriates sufficient funding, the office shall provide legal support to a county that becomes involved in litigation with the federal government over the requirements of Subsection 17-27a-405(3).

(8) After the statewide resource management plan is approved, as described in Subsection (6), and to the extent that the Legislature appropriates sufficient funding, the office shall monitor the implementation of the statewide resource management plan at the federal, state, and local levels.

Section 47. Section 63L-11-301 is amended to read:

63L-11-301. Office duties relating to plans for the management of federal land.

(1) (a) In preparing or assisting in the preparation of plans, policies, programs, or processes related to the management or use of federal land or natural resources on federal land in the state, the office shall:

(i) incorporate the plans, policies, programs, processes, and desired outcomes of the counties where the federal lands or natural resources are located, to the maximum extent consistent with state and federal law, subject to Subsection (1)(b);

(ii) identify inconsistencies or conflicts between the plans, policies, programs, processes, and desired outcomes prepared under Subsection (1)(a)(i) and the plans, programs, processes, and desired outcomes of local government as early in the preparation process as possible, and seek resolution of the inconsistencies through meetings or other conflict resolution mechanisms involving the necessary and immediate parties to the inconsistency or conflict;

(iii) present to the governor the nature and scope of any inconsistency or other conflict that is not resolved under the procedures in Subsection (1)(a)[~~(i)~~](ii) for the governor's decision about the position of the state concerning the inconsistency or conflict;

(iv) develop, research, and use factual information, legal analysis, and statements of desired future condition for the state, or subregion of the state, as necessary to support the plans, policies, programs, processes, and desired outcomes of the state and the counties where the federal lands or natural resources are located;

(v) establish and coordinate agreements between the state and federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies to facilitate state and local participation in the development, revision, and implementation of land use plans, guidelines, regulations, other instructional memoranda, or similar documents proposed or promulgated for lands and natural resources administered by federal agencies; and

(vi) work in conjunction with political subdivisions to establish agreements with federal land management agencies, federal natural resource management agencies, and federal natural resource regulatory agencies to provide a process for state and local participation in the preparation of, or coordinated state and local response to, environmental impact analysis documents and similar documents prepared pursuant to law by state or federal agencies.

(b) The requirement in Subsection (1)(a)(i) may not be interpreted to infringe upon the authority of the governor.

(2) The office shall cooperate with and work in conjunction with appropriate state agencies and political subdivisions to develop policies, plans, programs, processes, and desired outcomes authorized by this section by coordinating the development of positions:

(a) through the coordinating committee;

(b) in conjunction with local government officials concerning general local government plans; and

(c) by soliciting public comment through the coordinating committee.

Section 48. Section 63M-7-405 is amended to read:

63M-7-405. Compensation of members -- Reports to the Legislature, the courts, and the governor -- Collateral consequences guide.

(1) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(2) (a) The commission shall submit to the Legislature, the courts, and the governor at least 60 days before the annual general session of the Legislature the commission's reports and recommendations for sentencing guidelines and supervision length guidelines and amendments.

(b) The commission shall use existing data and resources from state criminal justice agencies.

(c) The commission may employ professional assistance and other staff members as it considers necessary or desirable.

(3) The commission shall assist and respond to questions from all three branches of government, but is part of the Commission on Criminal and Juvenile Justice for coordination on criminal and juvenile justice issues, budget, and administrative support.

(4) (a) As used in this Subsection (4), "master offense list" means a document that contains all offenses that exist in statute and each offense's associated penalty.

(b) No later than May 1, 2017, the commission shall create a master offense list.

(c) No later than June 30 of each calendar year, the commission shall:

(i) after the last day of the general legislative session, update the master offense list; and

(ii) present the updated master offense list to the Law Enforcement and Criminal Justice Interim Committee.

(5) As used in Subsection (6):

(a) "Adjudication" means an adjudication, as that term is defined in Section [~~78A-6-105~~] 80-1-102, of an offense under Section [~~78A-6-117~~] 80-6-701.

(b) "Civil disability" means a legal right or privilege that is revoked as a result of the individual's conviction or adjudication.

(c) "Collateral consequence" means:

(i) a discretionary disqualification; or

(ii) a mandatory sanction.

(d) "Conviction" means the same as that term is defined in Section 77-38b-102.

(e) "Disadvantage" means any legal or regulatory restriction that:

(i) is imposed on an individual as a result of the individual's conviction or adjudication; and

(ii) is not a civil disability or a legal penalty.

(f) "Discretionary disqualification" means a penalty, a civil disability, or a disadvantage that a court in a civil proceeding, or a federal, state, or local government agency or official, may impose on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage.

(g) "Mandatory sanction" means a penalty, a civil disability, or a disadvantage that:

(i) is imposed on an individual as a result of the individual's adjudication or conviction for an offense regardless of whether the penalty, the civil disability, or the disadvantage is specifically designated as a penalty, a civil disability, or a disadvantage; and

(ii) is not included in the judgment for the adjudication or conviction.

(h) "Offense" means a felony, a misdemeanor, an infraction, or an adjudication under the laws of this state, another state, or the United States.

(i) "Penalty" means an administrative, civil, or criminal sanction imposed to punish the individual for the individual's conviction or adjudication.

(6) (a) The commission shall:

(i) identify any provision of state law, including the Utah Constitution, and any administrative rule that imposes a collateral consequence;

(ii) prepare and compile a guide that contains all the provisions identified in Subsection (6)(a)(i) on or before October 1, 2022; and

(iii) update the guide described in Subsection (6)(a)(ii) annually.

(b) The commission shall state in the guide described in Subsection (6)(a) that:

(i) the guide has not been enacted into law;

(ii) the guide does not have the force of law;

(iii) the guide is for informational purposes only;

(iv) an error or omission in the guide, or in any reference in the guide:

(A) has no effect on a plea, an adjudication, a conviction, a sentence, or a disposition; and

(B) does not prevent a collateral consequence from being imposed;

(v) any laws or regulations for a county, a municipality, another state, or the United States, imposing a collateral consequence are not included in the guide; and

(vi) the guide does not include any provision of state law or any administrative rule imposing a collateral consequence that is enacted on or after March 31 of each year.

(c) The commission shall:

(i) place the statements described in Subsection (6)(b) in a prominent place at the beginning of the guide; and

(ii) make the guide available to the public on the commission's website.

(d) The commission shall:

(i) present the updated guide described in Subsection (6)(a)(iii) annually to the Law Enforcement and Criminal Justice Interim Committee; and

(ii) identify and recommend legislation on collateral consequences to the Law Enforcement and Criminal Justice Interim Committee.

Section 49. Section 63N-4-103 is amended to read:

63N-4-103. Purpose of the Center for Rural Development.

The Center for Rural Development is established to:

(1) foster and support economic development programs and activities for the benefit of rural counties and communities;

(2) foster and support community, county, and resource management planning programs and activities for the benefit of rural counties and communities;

(3) foster and support leadership training programs and activities for the benefit of:

(a) rural leaders in both the public and private sectors;

(b) economic development and planning personnel; and

(c) rural government officials;

(4) foster and support efforts to coordinate and focus the technical and other resources of appropriate institutions of higher education, local governments, private sector interests, associations, nonprofit organizations, federal agencies, and others, in ways that address the economic development, planning, and leadership challenges;

(5) work to enhance the capacity of [~~GOED~~] the GO Utah office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions; and

(6) foster government-to-government collaboration and good working relations between state and rural government regarding economic development and planning issues.

Section 50. Section 63N-7-301 is amended to read:

63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by [~~GOED~~] the GO Utah office for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The [~~executive~~] managing director of [~~GOED's~~] the GO Utah office's Office of Tourism shall use account money appropriated to [~~GOED~~] the GO Utah office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by [~~GOED~~] the GO Utah office.

(6) (a) For each fiscal year beginning on or after July 1, 2007, [~~GOED~~] the GO Utah office shall annually allocate 10% of the account money

appropriated to [~~GOED~~] the GO Utah office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to [~~GOED~~] the GO Utah office that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and

(ii) promote the state and encourage economic growth in the state.

(c) For purposes of this Subsection (6), "sports organization" means an organization that:

(i) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code;

(ii) maintains its principal location in the state;

(iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and

(iv) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting the state for the purpose of attracting sporting events in the state.

(7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.

(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

(c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than $3,000,000.

(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).

(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) 80% of the sales from each business under NAICS Codes:

(A) 532111 Passenger Car Rental;

(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

(C) 5615 Travel Arrangement and Reservation Services;

(D) 7211 Traveler Accommodation; and

(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

(ii) 25% of the sales from each business under NAICS Codes:

(A) 51213 Motion Picture and Video Exhibition;

(B) 532292 Recreational Goods Rental;

(C) 711 Performing Arts, Spectator Sports, and Related Industries;

(D) 712 Museums, Historical Sites, and Similar Institutions; and

(E) 713 Amusement, Gambling, and Recreation Industries;

(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;

(iv) 18% of the sales from each business under NAICS Codes:

(A) 447 Gasoline Stations; and

(B) 81293 Parking Lots and Garages;

(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and

(vi) 5% of the sales from each business under NAICS Codes:

(A) 445 Food and Beverage Stores;

(B) 446 Health and Personal Care Stores;

(C) 448 Clothing and Clothing Accessories Stores;

(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;

(E) 452 General Merchandise Stores; and

(F) 453 Miscellaneous Store Retailers.

(9) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection (9).

(b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.

(c) The office shall establish:

(i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;

(ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and

(iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.

(d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Section 51. Section 63N-9-102 is amended to read:

63N-9-102. Definitions.

As used in this chapter:

(1) "Accessible to the general public," in relation to the awarding of an infrastructure grant, means:

(a) the public may use the infrastructure in accordance with federal and state regulations; and

(b) no community or group retains exclusive rights to access the infrastructure.

(2) "Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105.

(3) "Director" means the director of the Utah Office of Outdoor Recreation.

[~~(4) "Executive director" means the executive director of GOED.~~]

[~~(5)~~] (4) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 63N-9-202.

[~~(6)~~] (5) "Outdoor recreation office" means the Utah Office of Outdoor Recreation created in Section 63N-9-104.

[~~(7)~~] (6) (a) "Recreational infrastructure project" means an undertaking to build or improve the approved facilities and installations needed for the public to access and enjoy the state's outdoors.

(b) "Recreational infrastructure project" may include the:

(i) establishment, construction, or renovation of a trail, trail infrastructure, or trail facilities;

(ii) construction of a project for water-related outdoor recreational activities;

(iii) development of a project for wildlife watching opportunities, including bird watching;

(iv) development of a project that provides winter recreation amenities;

(v) construction or improvement of a community park that has amenities for outdoor recreation; and

(vi) construction or improvement of a naturalistic and accessible playground.

[~~(8)~~] (7) (a) "Underserved or underprivileged community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(b) "Underserved or underprivileged community" includes an economically disadvantaged community where in relation to awarding an infrastructure grant, the people of the community have limited access to or have demonstrated a low level of use of recreational infrastructure.

Section 52. Section 67-3-12 is amended to read:

67-3-12. Utah Public Finance Website -- Establishment and administration -- Records disclosure -- Exceptions.

(1) As used in this section:

(a) (i) Subject to Subsections (1)(a)(ii) and (iii), "independent entity" means the same as that term is defined in Section 63E-1-102.

(ii) "Independent entity" includes an entity that is part of an independent entity described in Subsection (1)(a)(i), if the entity is considered a component unit of the independent entity under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(iii) "Independent entity" does not include the Utah State Retirement Office created in Section 49-11-201.

(b) "Local education agency" means a school district or charter school.

(c) "Participating local entity" means:

(i) a county;

(ii) a municipality;

(iii) a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts;

(iv) a special service district under Title 17D, Chapter 1, Special Service District Act;

(v) a housing authority under Title 35A, Chapter 8, Part 4, Housing Authorities;

(vi) a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act;

(vii) except for a taxed interlocal entity as defined in Section 11-13-602:

(A) an interlocal entity as defined in Section 11-13-103;

(B) a joint or cooperative undertaking as defined in Section 11-13-103; or

(C) any project, program, or undertaking entered into by interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act;

(viii) except for a taxed interlocal entity as defined in Section 11-13-602, an entity that is part of an entity described in Subsections (1)(c)(i) through (vii), if the entity is considered a component unit of the entity described in Subsections (1)(c)(i) through (vii) under the governmental accounting standards issued by the Governmental Accounting Standards Board; or

(ix) a conservation district under Title 17D, Chapter 3, Conservation District Act.

(d) (i) "Participating state entity" means the state of Utah, including its executive, legislative, and judicial branches, its departments, divisions, agencies, boards, commissions, councils, committees, and institutions.

(ii) "Participating state entity" includes an entity that is part of an entity described in Subsection (1)(d)(i), if the entity is considered a component unit of the entity described in Subsection (1)(d)(i) under the governmental accounting standards issued by the Governmental Accounting Standards Board.

(e) "Public finance website" or "website" means the website established by the state auditor in accordance with this section.

(f) "Public financial information" means each record that is required under this section or by rule made by the Office of the State Auditor under Subsection (8) to be made available on the public finance website, a participating local entity's website, or an independent entity's website.

(g) "Qualifying entity" means:

(i) an independent entity;

(ii) a participating local entity;

(iii) a participating state entity;

(iv) a local education agency;

(v) a state institution of higher education as defined in Section 53B-3-102;

(vi) the Utah Educational Savings Plan created in Section [~~58B-8a-103~~] 53B-8a-103;

(vii) the Utah Housing Corporation created in Section 63H-8-201;

(viii) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(ix) the Utah Capital Investment Corporation created in Section 63N-6-301; or

(x) a URS-participating employer.

(h) (i) "URS-participating employer" means an entity that:

(A) is a participating entity, as that term is defined in Section 49-11-102; and

(B) is not required to report public financial information under this section as a qualifying entity described in Subsections (1)(g)(i) through (ix).

(ii) "URS-participating employer" does not include:

(A) the Utah State Retirement Office created in Section 49-11-201; or

(B) a withdrawing entity.

(i) (i) "Withdrawing entity" means an entity that elects to withdraw from participation in a system or plan under Title 49, Chapter 11, Part 6, Procedures and Records.

(ii) "Withdrawing entity" includes a withdrawing entity, as that term is defined in Sections 49-11-623 and 49-11-624.

(2) The state auditor shall establish and maintain a public finance website in accordance with this section.

(3) The website shall:

(a) permit Utah taxpayers to:

(i) view, understand, and track the use of taxpayer dollars by making public financial information available on the Internet for participating state entities, independent entities, participating local entities, and URS-participating employers, using the website; and

(ii) link to websites administered by participating local entities, independent entities, or

URS-participating employers that do not use the website for the purpose of providing public financial information as required by this section and by rule made under Subsection (8);

(b) allow a person that has Internet access to use the website without paying a fee;

(c) allow the public to search public financial information on the website;

(d) provide access to financial reports, financial audits, budgets, or other financial documents that are used to allocate, appropriate, spend, and account for government funds, as may be established by rule made in accordance with Subsection (9);

(e) have a unique and simplified website address;

(f) be guided by the principles described in Subsection 63A-16-202(2);

(g) include other links, features, or functionality that will assist the public in obtaining and reviewing public financial information, as may be established by rule made under Subsection (9); and

(h) include a link to school report cards published on the State Board of Education's website under Section 53E-5-211.

(4) The state auditor shall:

(a) establish and maintain the website, including the provision of equipment, resources, and personnel as necessary;

(b) maintain an archive of all information posted to the website;

(c) coordinate and process the receipt and posting of public financial information from participating state entities; and

(d) coordinate and regulate the posting of public financial information by participating local entities and independent entities.

(5) A qualifying entity shall permit the public to view the qualifying entity's public financial information by posting the public financial information to the public finance website in accordance with rules made under Subsection (9).

(6) The content of the public financial information posted to the public finance website is the responsibility of the qualifying entity posting the public financial information.

(7) A URS-participating employer shall provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the Utah Public Finance Website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (7)(b)(i), submitted to the state auditor for posting on the Utah Public Finance Website.

(8) (a) A qualifying entity may not post financial information that is classified as private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act, to the public finance website.

(b) An individual who negligently discloses financial information that is classified as private, protected, or controlled by Title 63G, Chapter 2, Government Records Access and Management Act, is not criminally or civilly liable for an improper disclosure of the financial information if the financial information is disclosed solely as a result of the preparation or publication of the website.

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Office of the State Auditor:

(a) shall make rules to:

(i) establish which records a qualifying entity is required to post to the public finance website; and

(ii) establish procedures for obtaining, submitting, reporting, storing, and posting public financial information on the public finance website; and

(b) may make rules governing when a qualifying entity is required to disclose an expenditure made by a person under contract with the qualifying entity, including the form and content of the disclosure.

(10) The rules made under Subsection (9) shall only require a URS-participating employer to provide employee compensation information for each fiscal year ending on or after June 30, 2022:

(a) to the state auditor for posting on the public finance website; or

(b) (i) through the URS-participating employer's own website; and

(ii) via a link to the website described in Subsection (10)(b)(i), submitted to the state auditor for posting on the public finance website.

Section 53. Section 67-19a-101 is amended to read:

67-19a-101. Definitions.

As used in this chapter:

(1) "Abusive conduct" means the same as that term is defined in Section 67-26-102.

(2) "Administrator" means the person appointed under Section 67-19a-201 to head the Career Service Review Office.

(3) "Career service employee" means a person employed in career service as defined in Section [~~67-19-3~~] 63A-17-102.

(4) "Division" means the Division of Human Resource Management.

(5) "Employer" means the state of Utah and all supervisory personnel vested with the authority to implement and administer the policies of an agency.

(6) "Excusable neglect" means harmless error, mistake, inadvertence, surprise, a failure to

discover evidence that, through due diligence, could not have been discovered in time to meet the applicable time period, misrepresentation or misconduct by the employer, or any other reason justifying equitable relief.

(7) "Grievance" means:

(a) a complaint by a career service employee concerning any matter touching upon the relationship between the employee and the employer;

(b) any dispute between a career service employee and the employer;

(c) a complaint by a reporting employee that a public entity has engaged in retaliatory action against the reporting employee; and

(d) a complaint that the employer subjected the employee to conditions that a reasonable person would consider intolerable, including abusive conduct.

(8) "Office" means the Career Service Review Office created under Section 67-19a-201.

(9) "Public entity" means the same as that term is defined in Section 67-21-2.

(10) "Reporting employee" means an employee of a public entity who alleges that the public entity engaged in retaliatory action against the employee.

(11) "Retaliatory action" means to do any of the following to an employee in violation of Section 67-21-3:

(a) dismiss the employee;

(b) reduce the employee's compensation;

(c) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(d) fail to promote the employee if the employee would have otherwise been promoted; or

(e) threaten to take an action described in Subsections (11)(a) through (d).

(12) "Supervisor" means the person:

(a) to whom an employee reports; or

(b) who assigns and oversees an employee's work.

Section 54. Section 73-18c-201 is amended to read:

73-18c-201. Division to administer and enforce chapter -- Division may adopt rules.

(1) (a) The division shall administer this chapter.

(b) A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce this chapter [~~in~~] and the rules made under this chapter.

(2) The division, after consultation with the commission, may adopt rules as necessary for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 55. Section 77-23c-102 is amended to read:

77-23c-102. Electronic information or data privacy -- Warrant required for disclosure.

(1) (a) Except as provided in Subsection (2), for a criminal investigation or prosecution, a law enforcement agency may not obtain, without a search warrant issued by a court upon probable cause:

(i) the location information, stored data, or transmitted data of an electronic device; or

(ii) electronic information or data transmitted by the owner of the electronic information or data:

(A) to a provider of a remote computing service; or

(B) through a provider of an electronic communication service.

(b) Except as provided in Subsection (1)(c), a law enforcement agency may not use, copy, or disclose, for any purpose, the location information, stored data, or transmitted data of an electronic device, or electronic information or data provided by a provider of a remote computing service or an electronic communication service, that:

(i) is not the subject of the warrant; and

(ii) is collected as part of an effort to obtain the location information, stored data, or transmitted data of an electronic device, or electronic information or data provided by a provider of a remote computing service or an electronic communication service that is the subject of the warrant in Subsection (1)(a).

(c) A law enforcement agency may use, copy, or disclose the transmitted data of an electronic device used to communicate with the electronic device that is the subject of the warrant if the law enforcement agency reasonably believes that the transmitted data is necessary to achieve the objective of the warrant.

(d) The electronic information or data described in Subsection (1)(b) shall be destroyed in an unrecoverable manner by the law enforcement agency as soon as reasonably possible after the electronic information or data is collected.

(2) (a) A law enforcement agency may obtain location information without a warrant for an electronic device:

(i) in accordance with Section 53-10-104.5;

(ii) if the device is reported stolen by the owner;

(iii) with the informed, affirmative consent of the owner or user of the electronic device;

(iv) in accordance with a judicially recognized exception to warrant requirements;

(v) if the owner has voluntarily and publicly disclosed the location information; or

(vi) from a provider of a remote computing service or an electronic communications service if the provider voluntarily discloses the location information:

(A) under a belief that an emergency exists involving an imminent risk to an individual of death, serious physical injury, sexual abuse, live-streamed sexual exploitation, kidnapping, or human trafficking; or

(B) that is inadvertently discovered by the provider and appears to pertain to the commission of a felony, or of a misdemeanor involving physical violence, sexual abuse, or dishonesty.

(b) A law enforcement agency may obtain stored data or transmitted data from an electronic device or electronic information or data transmitted by the owner of the electronic information or data to a provider of a remote computing service or through a provider of an electronic communication service, without a warrant:

(i) with the informed consent of the owner of the electronic device or electronic information or data;

(ii) in accordance with a judicially recognized exception to warrant requirements; or

(iii) subject to Subsection [~~77-23c-102~~](2)(a)(vi)(B), from a provider of a remote computing service or an electronic communication service if the provider voluntarily discloses the stored or transmitted data as otherwise permitted under 18 U.S.C. Sec. 2702.

(c) A prosecutor may obtain a judicial order as described in Section 77-22-2.5 for the purposes described in Section 77-22-2.5.

(3) A provider of an electronic communication service or a remote computing service, the provider's officers, employees, or agents, or other specified persons may not be held liable for providing information, facilities, or assistance in good faith reliance on the terms of the warrant issued under this section or without a warrant in accordance with Subsection (2).

(4) Nothing in this chapter:

(a) limits or affects the disclosure of public records under Title 63G, Chapter 2, Government Records Access and Management Act;

(b) affects the rights of an employer under Subsection 34-48-202(1)(e) or an administrative rule adopted under Section [~~63F-1-206~~] 63A-16-205; or

(c) limits the ability of a law enforcement agency to receive or use information, without a warrant or subpoena, from the National Center for Missing and Exploited Children under 18 U.S.C. Sec. 2258A.

Section 56. Section 78B-3-106.5 is amended to read:

78B-3-106.5. Claims brought by presumptive personal representative.

(1) "Presumptive personal representative" means:

(a) the spouse of the decedent not alleged to have contributed to the death of the decedent;

(b) if no spouse exists, the spouse of the decedent is incapacitated, or if the spouse of the decedent is alleged to have contributed to the death of the decedent, then an adult child of the decedent not alleged to have contributed to the death of the decedent; or

(c) if the spouse and all children of the decedent are incapacitated, or are alleged to have contributed to the death of the decedent, then a parent of the decedent.

(2) (a) Forty-five days after the death of a person, including a minor, caused by the wrongful act or neglect of another, the presumptive personal representative may present to an insurer and resolve with the insurer a claim for policy limits up to $25,000 for liability and uninsured motorist claims, $10,000 for underinsured motorist claims, and execute any applicable release of liability upon presentation of an affidavit, properly notarized, stating that:

(i) the person presenting the affidavit is the presumptive personal representative;

(ii) 45 days have elapsed since the death of the decedent;

(iii) no application or petition for the appointment of a personal representative is pending or has been granted in any jurisdiction; and

(iv) notice of intent to resolve the claim has been sent to the last-known addresses of all heirs as defined by Section [~~78B-3-102 or~~] 78B-3-105.

(b) Claims for personal injury protection benefits resulting from the death of an insured are exempt from the 45-day waiting requirement, but shall include all information required in Subsections (2)(a)(i), (iii), and (iv).

(3) The presumptive personal representative's claim shall be on behalf of all heirs of the decedent as defined by Section [~~78B-3-102 or~~] 78B-3-105. The personal representative shall have the same duties toward other heirs as those duties provided in Sections 75-3-701 through 75-3-720.

(4) Any insurer and its insured paying a claim arising out of the wrongful death of a person, including a minor, including but not limited to claims for uninsured or underinsured motorist coverage as provided in Section 31A-22-305, to a presumptive personal representative upon presentation of an affidavit as described in Subsection (2) are discharged and released to the same extent as if the insurer and its insured dealt with a personal representative of the decedent. The insurer and its insured are not required to inquire into the truth of any statement in the affidavit.

(5) Nothing in this section affects or prevents, to the limits of insurance protection only, any claim for first party benefits or a proceeding to establish the liability of a tort feasor insured under any policy of

insurance in addition to the policy under which the claim was presented and paid under Subsection (2).

(6) If any heirs are minors, the presumptive personal representative may not distribute more than 50% of the proceeds of the settlement until the distribution has been approved by a court approved settlement in which a conservator is appointed for any minor heirs.

Section 57. Section 78B-9-301 is amended to read:

78B-9-301. Postconviction testing of DNA -- Petition -- Sufficient allegations -- Notification of victim.

(1) As used in this part:

(a) "DNA" means deoxyribonucleic acid.

(b) "Factually innocent" means the same as that term is defined in Section 78B-9-401.5.

(2) An individual convicted of a felony offense may at any time file a petition for postconviction DNA testing in the trial court that entered the judgment of conviction if the individual asserts factual innocence under oath and the petition alleges:

(a) evidence has been obtained regarding the individual's case that is still in existence and is in a condition that allows DNA testing to be conducted;

(b) the chain of custody is sufficient to establish that the evidence has not been altered in any material aspect;

(c) the individual identifies the specific evidence to be tested and states a theory of defense, not inconsistent with theories previously asserted at trial, that the requested DNA testing would support;

(d) the evidence was not previously subjected to DNA testing, or if the evidence was tested previously, the evidence was not subjected to the testing that is now requested, and the new testing may resolve an issue not resolved by the prior testing;

(e) the proposed DNA testing is generally accepted as valid in the scientific field or is otherwise admissible under Utah law;

(f) the evidence that is the subject of the request for testing:

(i) has the potential to produce new, noncumulative evidence; and

(ii) there is a reasonable probability that the defendant would not have been convicted or would have received a lesser sentence if the evidence had been presented at the original trial; and

(g) the individual is aware of the consequences of filing the petition, including:

(i) the consequences specified in Sections 78B-9-302 and 78B-9-304; and

(ii) that the individual is waiving any statute of limitations in all jurisdictions as to any felony offense the individual has committed which is identified through DNA database comparison.

(3) The petition under Subsection (2) shall comply with Utah Rules of Civil Procedure, Rule 65C, including providing the underlying criminal case number.

(4) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel have a duty to cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which may be subject to DNA testing.

(5) (a) (i) An individual who files a petition under this section shall serve notice upon the office of the prosecutor who obtained the conviction, and upon the Utah attorney general.

(ii) The attorney general shall, within 30 days after receipt of service of a copy of the petition, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(b) After the attorney general responds under Subsection (5)(a), the petitioner has the right to reply to the response of the attorney general.

(c) After the attorney general and the petitioner have filed a response and reply in compliance with Subsection (5)(b), the court shall order DNA testing if it finds by a preponderance of the evidence that all criteria of Subsection (2) have been met.

(6) (a) If the court grants the petition for testing, the DNA test shall be performed by the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division created in Section 53-10-103, unless the individual establishes that the state crime laboratory has a conflict of interest or does not have the capability to perform the necessary testing.

(b) If the court orders that the testing be conducted by any laboratory other than the state crime laboratory, the court shall require that the testing be performed:

(i) under reasonable conditions designed to protect the state's interests in the integrity of the evidence; and

(ii) according to accepted scientific standards and procedures.

(7) (a) DNA testing under this section shall be paid for from funds appropriated to the Department of Public Safety under Subsection 53-10-407(4)(d)(ii) from the DNA Specimen Restricted Account created in Section 53-10-407 if:

(i) the court ordered the DNA testing under this section;

(ii) the Utah State Crime Laboratory within the Criminal Investigations and Technical Services Division has a conflict of interest or does not have the capability to perform the necessary testing; and

(iii) the petitioner who has filed for postconviction DNA testing under Section 78B-9-201 is serving a sentence of imprisonment and is indigent.

(b) Under this Subsection (7), costs of DNA testing include costs that are necessary to transport the evidence, prepare samples for analysis, analyze the evidence, and prepare reports of findings.

(8) If the individual is serving a sentence of imprisonment and is indigent, the state shall pay for the costs of the testing under this part, but if the result is not favorable to the individual, the court may order the [~~person~~] individual to reimburse the state for the costs of the testing, in accordance with Subsections 78B-9-302(4) and 78B-9-304(1)(b).

(9) Any victim of the crime regarding which the individual petitions for DNA testing, who has elected to receive notice under Section 77-38-3 shall be notified by the state's attorney of any hearing regarding the petition and testing, even though the hearing is a civil proceeding.

Section 58. Section 79-8-102 is amended to read:

79-8-102. Definitions.

As used in this chapter:

(1) "Children," in relation to the awarding of a UCORE grant, means individuals who are six years old or older and 18 years old or younger.

(2) "Director" means the director of the Division of Recreation.

(3) "Division" means the Division of Recreation.

(4) "Executive director" means the executive director of the Department of Natural Resources.

(5) "UCORE grant" means a children's outdoor recreation and education grant described in Section [~~79-8-402~~] 79-8-302.

(6) (a) "Underserved or underprivileged community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(b) "Underserved or underprivileged community" includes an economically disadvantaged community where in relation to awarding a UCORE grant, the children of the community, including children with disabilities, have limited access to outdoor recreation or education programs.

Section 59. Section 79-8-106 is amended to read:

79-8-106. Utah Outdoor Recreation Infrastructure Account -- Uses -- Costs.

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Infrastructure Account," which[~~,~~]:

(a) the outdoor recreation office shall use to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202; and

(b) the division shall use to fund the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

(2) The account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the account;

(c) appropriations made by the Legislature;

(d) money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior; and

(e) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The division shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105, administer the account.

(4) (a) The cost of administering the account shall be paid from money in the account.

(b) The cost of two full-time positions in the Utah Office of Outdoor Recreation in an amount agreed to by the division and the Utah Office of Outdoor Recreation shall be paid from money in the account.

(5) Interest accrued from investment of money in the account shall remain in the account.

Section 60. Section 80-4-307 is amended to read:

80-4-307. Voluntary relinquishment -- Irrevocable.

(1) The individual consenting to termination of parental rights or voluntarily relinquishing parental rights shall sign or confirm the consent or relinquishment under oath before:

(a) [~~before~~] a judge of any court that has jurisdiction over proceedings for termination of parental rights in this state or any other state, or a public officer appointed by that court for the purpose of taking consents or relinquishments; or

(b) except as provided in Subsection (2), any person authorized to take consents or relinquishments under Subsections 78B-6-124(1) and (2).

(2) Only the juvenile court is authorized to take consents or relinquishments from a parent who has any child who is in the custody of a state agency or who has a child who is otherwise under the jurisdiction of the juvenile court.

(3) The court, appointed officer, or other authorized person shall certify to the best of that person's information and belief that the individual executing the consent or relinquishment has read and understands the consent or relinquishment and has signed the consent or relinquishment freely and voluntarily.

(4) A voluntary relinquishment or consent for termination of parental rights is effective when the

voluntary relinquishment or consent is signed and may not be revoked.

(5) (a) The requirements and processes described in Section 80-4-104, Sections 80-4-301 through 80-4-304, and Part 2, Petition for Termination of Parental Rights, do not apply to a voluntary relinquishment or consent for termination of parental rights.

(b) When determining voluntary relinquishment or consent for termination of parental rights, the juvenile court need only find that the relinquishment or termination is in the child's best interest.

(6) (a) There is a presumption that voluntary relinquishment or consent for termination of parental rights is not in the child's best interest where it appears to the juvenile court that the primary purpose for relinquishment or consent for termination is to avoid a financial support obligation.

(b) The presumption described in Subsection (6)(a) may be rebutted if the juvenile court finds the relinquishment or consent to termination of parental rights will facilitate the establishment of stability and permanency for the child.

(7) Upon granting a voluntary relinquishment the juvenile court may make orders relating to the child's care and welfare that the juvenile court considers to be in the child's best interest.

CHAPTER 275
S. B. 93

Passed March 1, 2022
Approved March 23, 2022
Effective July 1, 2022
(Exception clause in Section 3)

BUSINESS TAX AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill amends tax provisions relating to property used in a business's operation.

Highlighted Provisions:

This bill:

- exempts supplies used in the course of business from personal property tax; and
- exempts certain tangible personal property consumed in the performance of a taxable service from sales and use tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1115, as last amended by Laws of Utah 2021, Chapter 388
59-12-104, as last amended by Laws of Utah 2021, Chapters 280 and 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1115 is amended to read:

59-2-1115. Exemption of certain tangible personal property.

(1) As used in this section:

(a) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(b) (i) "Supply" means taxable tangible personal property that is:

(A) not held for sale in the ordinary course of business;

(B) either carried on hand and for which no record of consumption is taken in ordinary business or typically used up within the calendar year; and

(C) used in the provision of the taxpayer's business activity.

(ii) "Supply" includes an office supply, a shipping supply, a maintenance supply, a replacement part, a lubricating oil, a fuel, or an item consumed in the course of operating the business.

(iii) "Supply" does not include furniture, a fixture, machinery, equipment, a computer, a cellular telephone, or a vehicle.

[~~(b)~~] (c) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used on a public highway, public waterway, or public land or in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) In accordance with Utah Constitution, Article XIII, Section 3, Subsection (2)(a)(vi), which provides that the Legislature may by statute exempt tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue, the Legislature exempts the tangible personal property described in this Subsection (2).

(b) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of $25,000 or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(b), the item is exempt from taxation if:

(i) the item is owned by a business and is not critical to the actual business operation of the business; and

(ii) the acquisition cost of the item is less than $500.

(d) A supply, including the cost of freight-in, is exempt from taxation.

(3) (a) For a calendar year beginning on or after January 1, 2023, the commission shall increase the dollar amount described in Subsection (2)(b):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2021; and

(ii) up to the nearest $100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b), a county assessor may require the taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(b) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(b).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(b) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(c) for an item of tangible taxable personal property or in Subsection (2)(d) for a supply, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 2. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) “syringe”; or

(B) “stoma supply”;

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a

product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as

an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; [~~and~~]

(89) amounts paid or charged for an item exempt under Section 59-12-104.10[~~.~~]; and

(90) amounts paid by the service provider for tangible personal property, other than machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

(a) is consumed in the performance of a service that is subject to tax under Subsection 59-12-103(1)(b), (f), (g), (h), (i), or (j);

(b) has to be consumed for the service provider to provide the service described in Subsection (90)(a); and

(c) will be consumed in the performance of the service described in Subsection (90)(a), to one or more customers, to the point that the tangible personal property disappears or cannot be used for any other purpose.

Section 3. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on July 1, 2022.

(2) The changes to Section 59-2-1115 take effect on January 1, 2023.

CHAPTER 276
S. B. 98

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

JUDICIARY AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions related to judicial administration.

Highlighted Provisions:

This bill:

- addresses compensation for the presiding officer of the Judicial Council;
- clarifies the amount of a fee deposited in the Dispute Resolution Account;
- amends and enacts provisions regarding presiding and associate presiding judges of the courts;
- amends provisions regarding judicial vacancies for justice courts; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

67-8-2, as last amended by Laws of Utah 2015, Chapter 347
78A-2-106, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-2-301, as last amended by Laws of Utah 2021, Chapters 157 and 262
78A-3-101, as last amended by Laws of Utah 2019, Chapter 429
78A-4-102, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-5-106, as renumbered and amended by Laws of Utah 2008, Chapter 3
78A-6-203, as last amended by Laws of Utah 2021, Chapter 261
78A-7-202, as last amended by Laws of Utah 2021, Chapter 355
78A-7-206, as last amended by Laws of Utah 2012, Chapter 205
78A-7-301, as last amended by Laws of Utah 2014, Chapter 189

ENACTS:

78A-7-209.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-8-2 is amended to read:

67-8-2. Salaries of judges established annually in appropriations act -- Bases of salaries -- Additional compensation.

(1) The salaries of judges of courts of record, as described in Section 78A-1-101, shall be set annually by the Legislature in an appropriations act.

(2) Judicial salaries shall be based on the following percentages of the salary of a district court judge:

(a) juvenile court judges: 100%;

(b) Court of Appeals judges: 105%; and

(c) justices of the Supreme Court: 110%.

(3) (a) A salary described in Subsection (2) does not include additional compensation provided for a presiding judge[~~, presiding officer,~~] or associate presiding judge [~~in~~] under:

[~~(i) Section 78A-2-106;~~]

(i) Section 78A-3-101;

(ii) Section 78A-4-102;

(iii) Section 78A-5-106; or

(iv) Section 78A-6-203.

(b) Compensation described in Subsection (3)(a) does not constitute a salary for purposes of Utah Constitution, Article VIII, Section 14.

Section 2. Section 78A-2-106 is amended to read:

78A-2-106. Presiding officer -- Compensation -- Duties.

(1) The chief justice of the Supreme Court shall serve as the presiding officer of the Judicial Council. [~~The presiding officer shall receive as additional compensation the sum of $1,000 per annum or fraction thereof for the period served.~~]

(2) (a) The presiding officer of the Judicial Council shall supervise the courts to ensure uniform adherence to law and to the rules and forms adopted by the council and to promote the proper and efficient functioning of the courts.

(b) The presiding officer of the council may issue orders as necessary to assure compliance with uniform administrative practices.

Section 3. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) $325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) $35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) [~~Three~~] Five dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under

Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26-2-25 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

(dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

Section 4. Section 78A-3-101 is amended to read:

78A-3-101. Number of justices -- Terms -- Chief justice and associate chief justice -- Selection and functions.

(1) The Supreme Court consists of five justices.

(2) (a) A justice of the Supreme Court shall be appointed initially to serve until the first general election held more than three years after the effective date of the appointment. [~~Thereafter,~~]

(b) After the first term of appointment under Subsection (2)(a), the term of office of a justice of the Supreme Court is 10 years and commences on the first Monday in January following the date of election.

(c) A justice whose term expires may serve upon request of the Judicial Council until a successor is appointed and qualified.

(3) (a) The justices of the Supreme Court shall elect a chief justice from among the members of the court by a majority vote of all justices.

(b) The term of the office of chief justice is four years.

(c) The chief justice may serve successive terms.

(d) The chief justice may resign from the office of chief justice without resigning from the Supreme Court.

(e) The chief justice may be removed from the office of chief justice by a majority vote of all justices of the Supreme Court.

(f) The chief justice shall receive the sum of $2,000 per annum as additional compensation for the period served as chief justice.

(4) (a) If the justices are unable to elect a chief justice within 30 days of a vacancy in that office, the associate chief justice shall act as chief justice until a chief justice is elected under this section.

(b) If the associate chief justice is unable or unwilling to act as chief justice, the most senior justice shall act as chief justice until a chief justice is elected under this section.

(5) In addition to the chief justice's duties as a member of the Supreme Court, the chief justice has duties as provided by law.

(6) (a) There is created the office of associate chief justice.

(b) The term of office of the associate chief justice is two years.

(c) The associate chief justice shall be:

(i) elected by a majority vote of the members of the Supreme Court [~~and shall be~~]; and

(ii) allocated duties as the chief justice determines.

(d) If the chief justice is absent or otherwise unable to serve, the associate chief justice shall serve as chief justice.

(e) The chief justice may delegate responsibilities to the associate chief justice as consistent with law.

(f) The associate chief justice shall receive the sum of $1,000 per annum for the period served as associate chief justice.

Section 5. Section 78A-4-102 is amended to read:

78A-4-102. Number of judges -- Terms -- Presiding judge -- Associate presiding judge -- Filing fees.

(1) (a) The Court of Appeals consists of seven judges.

(b) The term of appointment to office as a judge of the Court of Appeals is until the first general election held more than three years after the effective date of the appointment.

(c) [~~Thereafter,~~] After the first term of appointment under Subsection (1)(b), the term of office of a judge of the Court of Appeals is six years and commences on the first Monday in January, next following the date of election.

(d) A judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified. [~~The presiding judge of the Court of Appeals shall receive as additional compensation $1,000 per annum or fraction thereof for the period served.~~]

(2) (a) The Court of Appeals shall sit and render judgment in panels of three judges.

(b) Assignment to panels shall be by random rotation of all judges of the Court of Appeals.

(c) The Court of Appeals by rule shall provide for the selection of a chair for each panel.

(d) The Court of Appeals may not sit en banc.

(3) (a) The judges of the Court of Appeals shall elect a presiding judge from among the members of the court by majority vote of all judges.

(b) The term of office of the presiding judge is two years and until a successor is elected.

(c) A presiding judge of the Court of Appeals may serve in that office no more than two successive terms.

(d) The Court of Appeals may by rule provide for an acting presiding judge to serve in the absence or incapacity of the presiding judge.

(e) The presiding judge of the Court of Appeals shall receive $2,000 per annum of additional compensation for the period served as presiding judge.

(4) (a) The presiding judge may be removed from the office of presiding judge by majority vote of all judges of the Court of Appeals.

(b) In addition to the duties of a judge of the Court of Appeals, the presiding judge shall:

[~~(a)~~] (i) administer the rotation and scheduling of panels;

[~~(b)~~] (ii) act as liaison with the Supreme Court;

[~~(c)~~] (iii) call and preside over the meetings of the Court of Appeals; and

[~~(d)~~] (iv) carry out duties prescribed by the Supreme Court and the Judicial Council.

(5) (a) The judges of the Court of Appeals shall elect an associate presiding judge from among the members of the court by majority vote of all judges.

(b) The associate presiding judge of the Court of Appeals shall receive $1,000 per annum as additional compensation for the period served as associate presiding judge.

[~~(5)~~] (6) Filing fees for the Court of Appeals are the same as for the Supreme Court.

Section 6. Section 78A-5-106 is amended to read:

78A-5-106. Presiding judge -- Associate presiding judge -- Election -- Term -- Compensation -- Powers -- Duties.

(1) In judicial districts having more than one district court judge, the district court judges shall elect one judge of the district to the office of presiding judge.

(2) In judicial districts having more than two district court judges, the district court judges may elect one judge of the district to the office of associate presiding judge.

(3) [~~In districts having five or more full-time judges, court commissioners, referees, or hearing officers, the~~] The presiding judge shall receive an additional $2,000 per annum as compensation for the period served as presiding judge.

(4) [~~In districts having 10 or more full-time judges, court commissioners, referees, or hearing officers, the~~] The associate presiding judge shall receive an additional [~~$2,000~~] $1,000 per annum as compensation for the period served as associate presiding judge.

(5) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) implementing policies of the Judicial Council; and

(b) exercising powers and performing administrative duties as authorized by the Judicial Council.

(6) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 7. Section 78A-6-203 is amended to read:

78A-6-203. Board of Juvenile Court Judges -- Composition -- Purpose -- Presiding judge -- Associate presiding judge.

(1) (a) The Judicial Council shall, by rule, establish a Board of Juvenile Court Judges.

(b) The board shall establish general policies for the operation of the juvenile courts and uniform rules and forms governing practice, consistent with the provisions of this chapter, the rules of the Judicial Council, and the rules of the Supreme Court.

(c) (i) The board may receive and expend any funds that may become available from the federal government or private sources to carry out any of the purposes described in Subsection 78A-6-102(5).

(ii) The board may meet any federal requirements that are conditions precedent to receiving the funds.

(iii) The board may cooperate with the federal government in a program for training personnel employed, or preparing for employment, by the juvenile court and may receive and expend funds from federal or state sources or from private donations for these purposes.

(iv) Funds donated or paid to the juvenile court by private sources for the purpose of compensatory service programs are nonlapsing.

(v) The board may:

(A) contract with public or nonprofit institutions of higher learning for the training of personnel;

(B) conduct short-term training courses of the board's own and hire experts on a temporary basis for this purpose; and

(C) cooperate with the Division of Child and Family Services and other state departments or agencies in personnel training programs.

(d) The board may contract, on behalf of the juvenile court, with the United States Forest Service or other agencies or departments of the federal government or with agencies or departments of other states for the care and placement of minors adjudicated under Title 80, Utah Juvenile Code.

(e) The powers to contract and expend funds are subject to budgetary control and procedures as provided by law.

(2) Under the direction of the presiding officer of the council, the chair shall supervise the juvenile courts to:

(a) ensure uniform adherence to law and to the rules and forms adopted by the Supreme Court and Judicial Council; and

(b) promote the proper and efficient functioning of the juvenile courts.

[~~(3) (a) The judges of districts having more than one juvenile court judge shall elect a presiding juvenile court judge.~~]

[~~(b) In districts comprised of five or more juvenile court judges and court commissioners, the presiding juvenile court judge shall receive an additional $1,000 per annum as compensation.~~]

(3) (a) In judicial districts having more than one juvenile court judge, the juvenile court judges shall elect one judge of the district to the office of presiding judge.

(b) The presiding judge shall receive $2,000 per annum as additional compensation for the period served as presiding judge.

(4) (a) In judicial districts having more than two juvenile court judges, the juvenile court judges may elect one judge of the district to the office of associate presiding judge.

(b) The associate presiding judge shall receive $1,000 per annum as additional compensation for the period served as associate presiding judge.

[~~(4)~~] (5) The presiding juvenile court judge, in accordance with the policies of the Judicial Council, shall:

(a) implement policies of the Judicial Council;

(b) exercise powers and perform administrative duties as authorized by the Judicial Council;

(c) manage the judicial business of the district; and

(d) call and preside over meetings of juvenile court judges of the district.

(6) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 8. Section 78A-7-202 is amended to read:

78A-7-202. Justice court judges to be appointed -- Procedure.

(1) As used in this section:

(a) "Local government executive" means:

(i) for a county:

(A) the chair of the county commission in a county operating under the county commission or expanded county commission form of county government;

(B) the county executive in a county operating under the county executive-council form of county government; and

(C) the county manager in a county operating under the council-manager form of county government;

(ii) for a city or town:

(A) the mayor of the city or town; or

(B) the city manager, in the council-manager form of government described in Subsection 10-3b-103(7); and

(iii) for a metro township, the chair of the metro township council.

(b) "Local legislative body" means:

(i) for a county, the county commission or county council; and

(ii) for a city or town, the council of the city or town.

(2) (a) There is created in each county a county justice court nominating commission to review applicants and make recommendations to the appointing authority for a justice court position.

(b) The commission shall be convened when a new justice court judge position is created or when a vacancy in an existing court occurs for a justice court located within the county.

[~~(a)~~] (c) Membership of the justice court nominating commission shall be as follows:

(i) one member appointed by:

(A) the county commission if the county has a county commission form of government; or

(B) the county executive if the county has an executive-council form of government;

(ii) one member appointed by the municipalities in the counties as follows:

(A) if the county has only one municipality, appointment shall be made by the governing authority of that municipality; or

(B) if the county has more than one municipality, appointment shall be made by a municipal selection committee composed of the mayors of each municipality and the chairs of each metro township in the county;

(iii) one member appointed by the county bar association; and

(iv) two members appointed by the governing authority of the jurisdiction where the judicial office is located.

[~~(b)~~] (d) (i) If there is no county bar association, the member in Subsection (2)[~~(a)~~](c)(iii) shall be appointed by the regional bar association.

(ii) If no regional bar association exists, the state bar association shall make the appointment.

[~~(c)~~] (e) Members appointed under Subsections (2)[~~(a)~~](c)(i) and (ii) may not be the appointing authority or an elected official of a county or municipality.

[~~(d)~~] (f) (i) [~~The~~] Except as provided in Subsection (2)(d)(ii), the nominating commission shall submit at least three names to the appointing authority of the jurisdiction expected to be served by the judge.

(ii) If there are fewer than three applicants for a justice court vacancy, the nominating commission shall submit all qualified applicants to the appointing authority of the jurisdiction expected to be served by the judge.

(iii) The local government executive shall appoint a judge from the list submitted and the appointment ratified by the local legislative body.

[~~(e)~~] (g) (i) The state court administrator shall provide staff to the commission.

(ii) The Judicial Council shall establish rules and procedures for the conduct of the commission.

[~~(3) Judicial vacancies shall be advertised in a newspaper of general circulation, through the Utah State Bar, on the Utah Public Notice Website, created in Section 63A-16-601, and through other appropriate means.~~]

(3) (a) A judicial vacancy for a justice court shall be announced:

(i) as an employment opportunity on the Utah Courts' website;

(ii) in an email to the members of the Utah State Bar; and

(iii) on the Utah Public Notice Website, created in Section 63A-16-601.

(b) A judicial vacancy for a justice court may also be advertised through other appropriate means.

(4) Selection of candidates shall be based on compliance with the requirements for office and competence to serve as a judge.

(5) (a) Once selected, every prospective justice court judge shall attend an orientation seminar conducted under the direction of the Judicial Council.

(b) Upon completion of the orientation [~~program~~] seminar described in Subsection (5)(a), the Judicial Council shall certify the justice court judge as qualified to hold office.

(6) (a) The selection of a person to fill the office of justice court judge is effective upon certification of the judge by the Judicial Council.

(b) A justice court judge may not perform judicial duties until certified by the Judicial Council.

Section 9. Section 78A-7-206 is amended to read:

78A-7-206. Determination of compensation and limits -- Salary survey -- Limits on secondary employment -- Prohibition on holding political or elected office -- Penalties.

(1) Every justice court judge shall be paid a fixed compensation determined by the governing body of the respective municipality or county.

(a) The governing body of the municipality or county may not set a full-time justice court judge's salary at less than 50% nor more than 90% of a district court judge's salary.

(b) The governing body of the municipality or county shall set a part-time justice court judge's salary as follows:

(i) The governing body shall first determine the full-time salary range outlined in Subsection (1)(a).

(ii) The caseload of a part-time judge shall be determined by the office of the state court administrator and expressed as a percentage of the caseload of a full-time judge.

(iii) The judge's salary shall then be determined by applying the percentage determined in Subsection (1)(b)(ii) against the salary range determined in Subsection (1)(a).

(c) A justice court judge shall receive an annual salary adjustment at least equal to the average salary adjustment for all county or municipal employees for the jurisdiction served by the judge.

(d) Notwithstanding Subsection (1)(c), a justice court judge may not receive a salary greater than 90% of the salary of a district court judge.

(e) A justice court judge employed by more than one entity as a justice court judge may not receive a total salary for service as a justice court judge greater than the salary of a district court judge.

(f) A salary described in this Subsection (1) does not include additional compensation provided for a presiding judge or associate presiding judge of a justice court under Section 78A-7-209.5.

(2) A justice court judge may not appear as an attorney in any:

(a) justice court;

(b) criminal matter in any federal, state, or local court; or

(c) juvenile court case involving conduct which would be criminal if committed by an adult.

(3) A justice court judge may not hold any office or employment including contracting for services in any justice agency of state government or any political subdivision of the state including law enforcement, prosecution, criminal defense, corrections, or court employment.

(4) A justice court judge may not hold any office in any political party or organization engaged in any political activity or serve as an elected official in state government or any political subdivision of the state.

(5) A justice court judge may not own or be employed by any business entity which regularly litigates in small claims court.

(6) The Judicial Council shall file a formal complaint with the Judicial Conduct Commission for each violation of this section.

Section 10. Section 78A-7-209.5 is enacted to read:

78A-7-209.5. Presiding judge -- Associate presiding judge -- Election -- Powers -- Duties.

(1) (a) In judicial districts having more than one justice court judge, the justice court judges shall elect one judge of the district to the office of presiding judge.

(b) The presiding judge shall receive an additional $2,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78A-7-301 for the period served as presiding judge.

(2) (a) In judicial districts having more than two justice court judges, the justice court judges may elect one judge of the district to the office of associate presiding judge.

(b) The associate presiding judge shall receive an additional $1,000 per annum as compensation from the Justice Court Technology, Security, and Training Account described in Section 78-7-301 for the period served as associate presiding judge.

(3) The presiding judge has the following authority and responsibilities, consistent with the policies of the Judicial Council:

(a) working with each justice court judge in the district to implement policies and rules of the Judicial Council;

(b) exercising powers and performing administrative duties as authorized by the Judicial Council;

(c) if there is no other appointed justice court judge in that court available, assigning a justice court judge to hear a case in which a judge has been disqualified in accordance with rules of the Supreme Court;

(d) if a justice court judge of the district cannot perform the justice court judge's duties in a case or cases due to illness, death, or other incapacity, and the governing body has not appointed a temporary justice court judge in accordance with Section 78A-7-208:

(i) assigning, on an emergency basis, a justice court judge to hear a case or cases; and

(ii) facilitating judicial coverage with the appointing municipal or county authority until a temporary justice court judge can be appointed, in accordance with Section 78A-7-208, or a new justice court judge is formally appointed and takes office, in accordance with Section 78A-7-202; and

(e) entering orders of expungement in cases expunged in accordance with Section 77-40-114.

(4) (a) When the presiding judge is unavailable, the associate presiding judge shall assume the responsibilities of the presiding judge.

(b) The associate presiding judge shall perform other duties assigned by the presiding judge.

Section 11. Section 78A-7-301 is amended to read:

78A-7-301. Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

(1) There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

[~~(1)~~] (2) The state treasurer shall deposit in the account money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii).

[~~(2)~~] (3) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for:

(a) audit, technology, security, and training needs in justice courts throughout the state[~~.~~]; and

(b) additional compensation for presiding judges and associate presiding judges for justice courts under Section 78A-7-209.5.

CHAPTER 277
S. B. 101

Passed February 10, 2022
Approved March 23, 2022
Effective May 4, 2022

NURSE APPRENTICE LICENSING ACT

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill creates a license for registered nurse apprentices.

Highlighted Provisions:

This bill:

- defines terms;
- allows the Division of Occupational and Professional Licensing to issue a license for a registered nurse apprentice;
- creates requirements for the license; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-4-2, as last amended by Laws of Utah 2021, Chapter 297
26-61a-104, as last amended by Laws of Utah 2020, Chapter 12
58-31b-102, as last amended by Laws of Utah 2021, Chapter 263
58-31b-301, as last amended by Laws of Utah 2007, Chapter 57
58-31b-302, as last amended by Laws of Utah 2018, Chapter 318
58-31b-303, as last amended by Laws of Utah 2006, Chapter 291
58-31b-304, as last amended by Laws of Utah 2009, Chapter 183
75-2a-103, as last amended by Laws of Utah 2021, Chapter 223

ENACTS:

58-31b-306.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-4-2 is amended to read:

26-4-2. Definitions.

As used in this chapter:

(1) "Dead body" [~~is as~~] means the same as that term is defined in Section 26-2-2.

(2) (a) "Death by violence" means death that resulted by the decedent's exposure to physical, mechanical, or chemical forces[~~, and~~].

(b) "Death by violence" includes death [~~which~~] that appears to have been due to homicide, death [~~which~~] that occurred during or in an attempt to commit rape, mayhem, kidnapping, robbery, burglary, housebreaking, extortion, or blackmail accompanied by threats of violence, assault with a dangerous weapon, assault with intent to commit any offense punishable by imprisonment for more than one year, arson punishable by imprisonment for more than one year, or any attempt to commit any of the foregoing offenses.

(3) "Immediate relative" means an individual's spouse, child, parent, sibling, grandparent, or grandchild.

(4) "Health care professional" means any of the following while acting in a professional capacity:

(a) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(b) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act; or

(c) an advance practice registered nurse licensed under Subsection 58-31b-301(2)[~~(d)~~](e).

(5) "Medical examiner" means the state medical examiner appointed pursuant to Section 26-4-4 or a deputy appointed by the medical examiner.

(6) "Medical examiner record" means:

(a) all information that the medical examiner obtains regarding a decedent; and

(b) reports that the medical examiner makes regarding a decedent.

(7) "Regional pathologist" means a trained pathologist licensed to practice medicine and surgery in the state, appointed by the medical examiner pursuant to Subsection 26-4-4(3).

(8) "Sudden death while in apparent good health" means apparently instantaneous death without obvious natural cause, death during or following an unexplained syncope or coma, or death during an acute or unexplained rapidly fatal illness.

(9) "Sudden infant death syndrome" means the death of a child who was thought to be in good health or whose terminal illness appeared to be so mild that the possibility of a fatal outcome was not anticipated.

(10) "Suicide" means death caused by an intentional and voluntary act of an individual who understands the physical nature of the act and intends by such act to accomplish self-destruction.

(11) "Unattended death" means a death that occurs more than 365 days after the day on which a health care professional examined or treated the deceased individual for any purpose, including writing a prescription.

(12) (a) "Unavailable for postmortem investigation" means that a dead body is:

(i) transported out of state;

(ii) buried at sea;

(iii) cremated;

(iv) processed by alkaline hydrolysis; or

(v) otherwise made unavailable to the medical examiner for postmortem investigation or autopsy.

(b) "Unavailable for postmortem investigation" does not include embalming or burial of a dead body pursuant to the requirements of law.

(13) "Within the scope of the decedent's employment" means all acts reasonably necessary or incident to the performance of work, including matters of personal convenience and comfort not in conflict with specific instructions.

Section 2. Section 26-61a-104 is amended to read:

26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a master's-level degree;

(C) a licensed clinical social worker with a master's-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing speciality and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302[~~(4)~~](5)(g);

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions; and

(p) a condition that the Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

Section 3. Section 58-31b-102 is amended to read:

58-31b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to be unprofessional or unlawful conduct in accordance with a fine schedule established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(2) "Applicant" means an individual who applies for licensure or certification under this chapter by submitting a completed application for licensure or certification and the required fees to the department.

(3) "Approved education program" means a nursing education program that is accredited by an accrediting body for nursing education that is approved by the United States Department of Education.

(4) "Board" means the Board of Nursing created in Section 58-31b-201.

(5) "Diagnosis" means the identification of and discrimination between physical and psychosocial signs and symptoms essential to the effective execution and management of health care.

(6) "Examinee" means an individual who applies to take or does take any examination required under this chapter for licensure.

(7) "Licensee" means an individual who is licensed or certified under this chapter.

(8) "Long-term care facility" means any of the following facilities licensed by the Department of Health pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act:

(a) a nursing care facility;

(b) a small health care facility;

(c) an intermediate care facility for people with an intellectual disability;

(d) an assisted living facility Type I or II; or

(e) a designated swing bed unit in a general hospital.

(9) "Medication aide certified" means a certified nurse aide who:

(a) has a minimum of 2,000 hours experience working as a certified nurse aide;

(b) has received a minimum of 60 hours of classroom and 40 hours of practical training that is approved by the division in collaboration with the board, in administering routine medications to patients or residents of long-term care facilities; and

(c) is certified by the division as a medication aide certified.

(10) (a) "Practice as a medication aide certified" means the limited practice of nursing under the supervision, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, of a licensed nurse, involving routine patient care that requires minimal or limited specialized or general knowledge, judgment, and skill, to an individual who:

(i) is ill, injured, infirm, has a physical, mental, developmental, or intellectual disability; and

(ii) is in a regulated long-term care facility.

(b) "Practice as a medication aide certified":

(i) includes:

(A) providing direct personal assistance or care; and

(B) administering routine medications to patients in accordance with a formulary and protocols to be defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not include assisting a resident of an assisted living facility, a long term care facility, or an intermediate care facility for people with an intellectual disability to self administer a medication, as regulated by the Department of Health by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(11) "Practice of advanced practice registered nursing" means the practice of nursing within the generally recognized scope and standards of advanced practice registered nursing as defined by rule and consistent with professionally recognized preparation and education standards of an advanced practice registered nurse by a person licensed under this chapter as an advanced practice registered nurse. "Practice of advanced practice registered nursing" includes:

(a) maintenance and promotion of health and prevention of disease;

(b) diagnosis, treatment, correction, consultation, and referral;

(c) prescription or administration of prescription drugs or devices including:

(i) local anesthesia;

(ii) Schedule III-V controlled substances; and

(iii) Subject to Section 58-31b-803, Schedule II controlled substances; or

(d) the provision of preoperative, intraoperative, and postoperative anesthesia care and related services upon the request of a licensed health care professional by an advanced practice registered nurse specializing as a certified registered nurse anesthetist, including:

(i) preanesthesia preparation and evaluation including:

(A) performing a preanesthetic assessment of the patient;

(B) ordering and evaluating appropriate lab and other studies to determine the health of the patient; and

(C) selecting, ordering, or administering appropriate medications;

(ii) anesthesia induction, maintenance, and emergence, including:

(A) selecting and initiating the planned anesthetic technique;

(B) selecting and administering anesthetics and adjunct drugs and fluids; and

(C) administering general, regional, and local anesthesia;

(iii) postanesthesia follow-up care, including:

(A) evaluating the patient's response to anesthesia and implementing corrective actions; and

(B) selecting, ordering, or administering the medications and studies listed in this Subsection (11)(d); [~~and~~]

(iv) other related services within the scope of practice of a certified registered nurse anesthetist, including:

(A) emergency airway management;

(B) advanced cardiac life support; and

(C) the establishment of peripheral, central, and arterial invasive lines; and

(v) for purposes of this Subsection (11)(d), "upon the request of a licensed health care professional":

(A) means a health care professional practicing within the scope of the health care professional's license, requests anesthesia services for a specific patient; and

(B) does not require an advanced practice registered nurse specializing as a certified registered nurse anesthetist to obtain additional authority to select, administer, or provide preoperative, intraoperative, or postoperative anesthesia care and services.

(12) "Practice of nursing" means assisting individuals or groups to maintain or attain optimal health, implementing a strategy of care to accomplish defined goals and evaluating responses to care and treatment, and requires substantial specialized or general knowledge, judgment, and skill based upon principles of the biological, physical, behavioral, and social sciences. "Practice of nursing" includes:

(a) initiating and maintaining comfort measures;

(b) promoting and supporting human functions and responses;

(c) establishing an environment conducive to well-being;

(d) providing health counseling and teaching;

(e) collaborating with health care professionals on aspects of the health care regimen;

(f) performing delegated procedures only within the education, knowledge, judgment, and skill of the licensee;

(g) delegating nursing tasks that may be performed by others, including an unlicensed assistive personnel; and

(h) supervising an individual to whom a task is delegated under Subsection (12)(g) as the individual performs the task.

(13) "Practice of practical nursing" means the performance of nursing acts in the generally recognized scope of practice of licensed practical nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and as provided in this Subsection (13) by an individual licensed under this chapter as a licensed practical nurse and under the direction of a registered nurse, licensed physician, or other specified health care professional as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Practical nursing acts include:

(a) contributing to the assessment of the health status of individuals and groups;

(b) participating in the development and modification of the strategy of care;

(c) implementing appropriate aspects of the strategy of care;

(d) maintaining safe and effective nursing care rendered to a patient directly or indirectly; and

(e) participating in the evaluation of responses to interventions.

(14) "Practice of registered nursing" means performing acts of nursing as provided in this Subsection (14) by an individual licensed under this chapter as a registered nurse within the generally recognized scope of practice of registered nurses as defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Registered nursing acts include:

(a) assessing the health status of individuals and groups;

(b) identifying health care needs;

(c) establishing goals to meet identified health care needs;

(d) planning a strategy of care;

(e) prescribing nursing interventions to implement the strategy of care;

(f) implementing the strategy of care;

(g) maintaining safe and effective nursing care that is rendered to a patient directly or indirectly;

(h) evaluating responses to interventions;

(i) teaching the theory and practice of nursing; and

(j) managing and supervising the practice of nursing.

(15) "Registered nurse apprentice" means an individual licensed under Subsection 58-31b-301(2)(b) who is learning and engaging in the practice of registered nursing under the indirect supervision of an individual licensed under:

(a) Subsection 58-31b-301(2)(c), (e), or (f);

(b) Chapter 67, Utah Medical Practice Act; or

(c) Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(15)~~] (16) "Routine medications":

(a) means established medications administered to a medically stable individual as determined by a licensed health care practitioner or in consultation with a licensed medical practitioner; and

(b) is limited to medications that are administered by the following routes:

(i) oral;

(ii) sublingual;

(iii) buccal;

(iv) eye;

(v) ear;

(vi) nasal;

(vii) rectal;

(viii) vaginal;

(ix) skin ointments, topical including patches and transdermal;

(x) premeasured medication delivered by aerosol/nebulizer; and

(xi) medications delivered by metered hand-held inhalers.

[~~(16)~~] (17) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-501.

[~~(17)~~] (18) "Unlicensed assistive personnel" means any unlicensed individual, regardless of title, who is delegated a task by a licensed nurse as permitted by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the standards of the profession.

[~~(18)~~] (19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-31b-502 and as may be further defined by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-31b-301 is amended to read:

58-31b-301. License or certification required -- Classifications.

(1) A license is required to engage in the practice of nursing, except as specifically provided in Sections 58-1-307 and 58-31b-308.

(2) The division shall issue to [~~a person~~] an individual who qualifies under this chapter a license or certification in the classification of:

(a) licensed practical nurse;

(b) registered nurse apprentice;

[~~(b)~~] (c) registered nurse;

[~~(c)~~] (d) advanced practice registered nurse intern;

[~~(d)~~] (e) advanced practice registered nurse;

[~~(e)~~] (f) advanced practice registered nurse - CRNA without prescriptive practice; and

[~~(f)~~] (g) medication aide certified.

(3) An individual holding an advanced practice registered nurse license as of July 1, 1998, who cannot document the successful completion of advanced course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics, may not prescribe and shall be issued an "APRN - without prescriptive practice" license.

(4) The division shall grant an advanced practice registered nurse license to any licensed advanced practice registered nurse currently holding prescriptive authority under any predecessor act [~~on July 1, 1998~~].

(5) An individual holding a certified registered nurse anesthetist license as of July 1, 2007, shall be issued an "APRN - CRNA - without prescriptive practice" license.

Section 5. Section 58-31b-302 is amended to read:

58-31b-302. Qualifications for licensure or certification -- Criminal background checks.

(1) An applicant for certification as a medication aide shall:

(a) submit an application to the division on a form prescribed by the division;

(b) pay a fee to the division as determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) have a current certification as a nurse aide, in good standing, from the Department of Health;

(e) have a minimum of 2,000 hours of experience within the two years prior to application, working as a certified nurse aide in a long-term care facility;

(f) obtain letters of recommendation from a long-term care facility administrator and one licensed nurse familiar with the applicant's work practices as a certified nurse aide;

(g) be in a condition of physical and mental health that will permit the applicant to practice safely as a medication aide certified;

(h) have completed an approved education program or an equivalent as determined by the division in collaboration with the board;

(i) have passed the examinations as required by division rule made in collaboration with the board; and

(j) meet with the board, if requested, to determine the applicant's qualifications for certification.

(2) An applicant for licensure as a licensed practical nurse shall:

(a) submit to the division an application in a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will permit the applicant to practice safely as a licensed practical nurse;

(e) have completed an approved practical nursing education program or an equivalent as determined by the board;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

(3) An applicant for a registered nurse apprentice license shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse apprentice;

(e) as determined by an approved registered nursing education program, be:

(i) in good standing with the program; and

(ii) in the last semester, quarter, or competency experience;

(f) have written permission from the program in which the applicant is enrolled; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

[~~(3)~~] (4) An applicant for licensure as a registered nurse shall:

(a) submit to the division an application form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) have a high school diploma or its equivalent;

(d) be in a condition of physical and mental health that will allow the applicant to practice safely as a registered nurse;

(e) have completed an approved registered nursing education program;

(f) have passed the examinations as required by division rule made in collaboration with the board; and

(g) meet with the board, if requested, to determine the applicant's qualifications for licensure.

[~~(4)~~] (5) Applicants for licensure as an advanced practice registered nurse shall:

(a) submit to the division an application on a form prescribed by the division;

(b) pay to the division a fee determined under Section 63J-1-504;

(c) be in a condition of physical and mental health which will allow the applicant to practice safely as an advanced practice registered nurse;

(d) hold a current registered nurse license in good standing issued by the state or be qualified at the time for licensure as a registered nurse;

(e) (i) have earned a graduate degree in:

(A) an advanced practice registered nurse nursing education program; or

(B) a related area of specialized knowledge as determined appropriate by the division in collaboration with the board; or

(ii) have completed a nurse anesthesia program in accordance with Subsection [~~(4)~~](5)(f)(ii);

(f) have completed:

(i) course work in patient assessment, diagnosis and treatment, and pharmacotherapeutics from an education program approved by the division in collaboration with the board; or

(ii) a nurse anesthesia program which is approved by the Council on Accreditation of Nurse Anesthesia Educational Programs;

(g) to practice within the psychiatric mental health nursing specialty, demonstrate, as described in division rule, that the applicant, after completion of a doctorate or master's degree required for licensure, is in the process of completing the applicant's clinical practice requirements in psychiatric mental health nursing, including in psychotherapy;

(h) have passed the examinations as required by division rule made in collaboration with the board;

(i) be currently certified by a program approved by the division in collaboration with the board and submit evidence satisfactory to the division of the certification; and

(j) meet with the board, if requested, to determine the applicant's qualifications for licensure.

[~~(5)~~] (6) For each applicant for licensure or certification under this chapter except an applicant under Subsection 58-31b-301(2)(b):

(a) the applicant shall:

(i) submit fingerprint cards in a form acceptable to the division at the time the application is filed; and

(ii) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application;

(b) the division shall:

(i) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under

Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(ii) submit from each applicant the fingerprint card and the fees described in this Subsection [~~(5)~~] (6)(b) to the Bureau of Criminal Identification; and

(iii) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant; and

(c) the Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(i) check the fingerprints submitted under Subsection [~~(5)~~] (6)(b) against the applicable state and regional criminal records databases;

(ii) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(iii) provide the results from the state, regional, and nationwide criminal history background checks to the division.

[~~(6)~~] (7) For purposes of conducting the criminal background checks required in Subsection [~~(5)~~] (6), the division shall have direct access to criminal background information maintained pursuant to Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

[~~(7)~~] (8) (a) (i) Any new nurse license or certification issued under this section shall be conditional, pending completion of the criminal background check.

(ii) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check discloses the applicant has failed to accurately disclose a criminal history, the license or certification shall be immediately and automatically revoked upon notice to the licensee by the division.

(b) (i) [~~A person~~] An individual whose conditional license or certification has been revoked under Subsection [~~(7)~~] (8)(a) is entitled to a postrevocation hearing to challenge the revocation.

(ii) A postrevocation hearing shall be conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

[~~(8)~~] (9) If [~~a person~~] an individual has been charged with a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the [~~person~~] individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the [~~person~~] individual is disqualified for licensure under this chapter and:

(a) if the [~~person~~] individual is licensed under this chapter, the division:

(i) shall act upon the license as required under Section 58-1-401; and

(ii) may not renew or subsequently issue a license to the [~~person~~] individual under this chapter; and

(b) if the [~~person~~] individual is not licensed under this chapter, the division may not issue a license to the [~~person~~] individual under this chapter.

[~~(9)~~] (10) If [~~a person~~] an individual has been charged with a felony other than a violent felony, as defined in Subsection 76-3-203.5(1)(c), and, as a result, the [~~person~~] individual has been convicted, entered a plea of guilty or nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance pending the successful completion of probation, the division shall determine whether the felony disqualifies the [~~person~~] individual for licensure under this chapter and act upon the license, as required, in accordance with Section 58-1-401.

[~~(10)~~] (11) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 6. Section 58-31b-303 is amended to read:

58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing programs.

An applicant for licensure as a practical nurse or registered nurse who is a graduate of a nursing education program not approved by the division in collaboration with the board must comply with the requirements of this section.

(1) An applicant for licensure as a licensed practical nurse shall:

(a) meet all requirements of Subsection 58-31b-302(2), except Subsection (2)(e); and

(b) produce evidence acceptable to the division and the board that the nursing education program completed by the applicant is equivalent to the minimum standards established by the division in collaboration with the board for an approved licensed practical nursing education program.

(2) An applicant for licensure as a registered nurse shall:

(a) meet all requirements of Subsection 58-31b-302[~~(3)~~](4), except Subsection [~~(3)~~] (4)(e); and

(b) (i) pass the Commission on Graduates of Foreign Nursing Schools (CGFNS) Examination; or

(ii) produce evidence acceptable to the division and the board that the applicant is currently licensed as a registered nurse in one of the states, territories, or the District of Columbia of the United States and has passed the NCLEX-RN examination.

Section 7. Section 58-31b-304 is amended to read:

58-31b-304. Qualifications for admission to the examinations.

(1) To be admitted to the examinations required for certification as a medication aide certified, [~~a person~~] an individual shall:

(a) submit an application on a form prescribed by the division;

(b) pay a fee as determined by the division under Section 63J-1-504; and

(c) meet all requirements of Subsection 58-31b-302(1), except [~~the passing of the examination~~] Subsection (1)(i).

(2) To be admitted to the examinations required for licensure as a practical nurse, [~~a person~~] an individual shall:

(a) submit an application form prescribed by the division;

(b) pay a fee as determined by the division under Section 63J-1-504; and

(c) meet all requirements of Subsection 58-31b-302(2), except Subsection (2)(f).

(3) To be admitted to the examinations required for licensure as a registered nurse, [~~a person~~] an individual shall:

(a) submit an application form prescribed by the division;

(b) pay a fee as determined by the division under Section 63J-1-504; and

(c) meet all the requirements of Subsection 58-31b-302[~~(3)~~](4), except Subsection [~~(3)~~](4)(f).

Section 8. Section 58-31b-306.1 is enacted to read:

58-31b-306.1. Registered nurse apprentice license.

(1) The division shall issue a registered nurse apprentice license to an individual who meets the qualifications under Subsection 58-31b-302(3).

(2) Unless the division extends the license for a specified period of time by written notification provided to the individual, the license expires on the earlier of:

(a) one year from the day on which the license is issued;

(b) after the division receives notice from the examination agency that the individual failed to take or pass the examinations described in Subsection 58-31b-302(4)(f), the day on which the division notifies the applicant that the license is expired; or

(c) the day on which the division issues the individual a license as a registered nurse.

(3) A license described in Subsection (1) is:

(a) valid only in Utah; and

(b) not an eligible license under Chapter 31e, Nurse Licensure Compact - Revised.

(4) The division may make rules to administer the license described in Subsection (1) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 9. Section 75-2a-103 is amended to read:

75-2a-103. Definitions.

As used in this chapter:

(1) "Adult" means [~~a person~~] an individual who is:

(a) at least 18 years of age; or

(b) an emancipated minor.

(2) "Advance health care directive":

(a) includes:

(i) a designation of an agent to make health care decisions for an adult when the adult cannot make or communicate health care decisions; or

(ii) an expression of preferences about health care decisions;

(b) may take one of the following forms:

(i) a written document, voluntarily executed by an adult in accordance with the requirements of this chapter; or

(ii) a witnessed oral statement, made in accordance with the requirements of this chapter; and

(c) does not include a POLST order.

(3) "Agent" means [~~a person~~] an adult designated in an advance health care directive to make health care decisions for the declarant.

(4) "APRN" means [~~a person~~] an individual who is:

(a) certified or licensed as an advance practice registered nurse under Subsection 58-31b-301(2)[~~(d)~~](e);

(b) an independent practitioner;

(c) acting under a consultation and referral plan with a physician; and

(d) acting within the scope of practice for that [~~person~~] individual, as provided by law, rule, and specialized certification and training in that [~~person's~~] individual's area of practice.

(5) "Best interest" means that the benefits to the person resulting from a treatment outweigh the burdens to the person resulting from the treatment, taking into account:

(a) the effect of the treatment on the physical, emotional, and cognitive functions of the person;

(b) the degree of physical pain or discomfort caused to the person by the treatment or the withholding or withdrawal of treatment;

(c) the degree to which the person's medical condition, the treatment, or the withholding or withdrawal of treatment, result in a severe and continuing impairment of the dignity of the person by subjecting the person to humiliation and dependency;

(d) the effect of the treatment on the life expectancy of the person;

(e) the prognosis of the person for recovery with and without the treatment;

(f) the risks, side effects, and benefits of the treatment, or the withholding or withdrawal of treatment; and

(g) the religious beliefs and basic values of the person receiving treatment, to the extent these may assist the decision maker in determining the best interest.

(6) "Capacity to appoint an agent" means that the adult understands the consequences of appointing a particular person as agent.

(7) "Declarant" means an adult who has completed and signed or directed the signing of an advance health care directive.

(8) "Default surrogate" means the adult who may make decisions for an individual when either:

(a) an agent or guardian has not been appointed; or

(b) an agent is not able, available, or willing to make decisions for an adult.

(9) "Emergency medical services provider" means a person [~~who~~] that is licensed, designated, or certified under Title 26, Chapter 8a, Utah Emergency Medical Services System Act.

(10) "Generally accepted health care standards":

(a) is defined only for the purpose of:

(i) this chapter and does not define the standard of care for any other purpose under Utah law; and

(ii) enabling health care providers to interpret the statutory form set forth in Section 75-2a-117; and

(b) means the standard of care that justifies a provider in declining to provide life sustaining care because the proposed life sustaining care:

(i) will not prevent or reduce the deterioration in the health or functional status of [~~a person~~] an individual;

(ii) will not prevent the impending death of [~~a person~~] an individual; or

(iii) will impose more burden on the [~~person~~] individual than any expected benefit to the person.

(11) "Health care" means any care, treatment, service, or procedure to improve, maintain, diagnose, or otherwise affect [~~a person's~~] an individual's physical or mental condition.

(12) "Health care decision":

(a) means a decision about an adult's health care made by, or on behalf of, an adult, that is communicated to a health care provider;

(b) includes:

(i) selection and discharge of a health care provider and a health care facility;

(ii) approval or disapproval of diagnostic tests, procedures, programs of medication, and orders not to resuscitate; and

(iii) directions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care; and

(c) does not include decisions about an adult's financial affairs or social interactions other than as indirectly affected by the health care decision.

(13) "Health care decision making capacity" means an adult's ability to make an informed decision about receiving or refusing health care, including:

(a) the ability to understand the nature, extent, or probable consequences of health status and health care alternatives;

(b) the ability to make a rational evaluation of the burdens, risks, benefits, and alternatives of accepting or rejecting health care; and

(c) the ability to communicate a decision.

(14) "Health care facility" means:

(a) a health care facility as defined in Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; and

(b) private offices of physicians, dentists, and other health care providers licensed to provide health care under Title 58, Occupations and Professions.

(15) "Health care provider" [~~is as~~] means the same as that term is defined in Section 78B-3-403, except that [~~it~~] "health care provider" does not include an emergency medical services provider.

(16) (a) "Life sustaining care" means any medical intervention, including procedures, administration of medication, or use of a medical device, that maintains life by sustaining, restoring, or supplanting a vital function.

(b) "Life sustaining care" does not include care provided for the purpose of keeping [~~a person~~] an individual comfortable.

(17) "Minor" means [~~a person~~] an individual who:

(a) is under 18 years old; and

(b) is not an emancipated minor.

(18) "Physician" means a physician and surgeon or osteopathic surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act or Chapter 68, Utah Osteopathic Medical Practice Act.

(19) "Physician assistant" means [~~a person~~] an individual licensed as a physician assistant under

Title 58, Chapter 70a, Utah Physician Assistant Act.

(20) "POLST order" means an order, on a form designated by the Department of Health under Section 75-2a-106[~~(5)(a)~~], that gives direction to health care providers, health care facilities, and emergency medical services providers regarding the specific health care decisions of the [~~person~~] individual to whom the order relates.

(21) "Reasonably available" means:

(a) readily able to be contacted without undue effort; and

(b) willing and able to act in a timely manner considering the urgency of the circumstances.

(22) "Substituted judgment" means the standard to be applied by a surrogate when making a health care decision for an adult who previously had the capacity to make health care decisions, which requires the surrogate to consider:

(a) specific preferences expressed by the adult:

(i) when the adult had the capacity to make health care decisions; and

(ii) at the time the decision is being made;

(b) the surrogate's understanding of the adult's health care preferences;

(c) the surrogate's understanding of what the adult would have wanted under the circumstances; and

(d) to the extent that the preferences described in Subsections (22)(a) through (c) are unknown, the best interest of the adult.

(23) "Surrogate" means a health care decision maker who is:

(a) an appointed agent;

(b) a default surrogate under the provisions of Section 75-2a-108; or

(c) a guardian.

CHAPTER 278
S. B. 103

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

SPECIAL EDUCATION LICENSING AMENDMENTS

Chief Sponsor: Derrin R. Owens
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill makes changes to licensing requirements for directors of special education at charter schools.

Highlighted Provisions:

This bill:

- requires a director of special education at a charter school to hold an appropriate license issued by the State Board of Education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-5-407, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-5-407 is amended to read:

53G-5-407. Employees of charter schools.

(1) A charter school shall select its own employees.

(2) The charter school governing board shall determine the level of compensation and all terms and conditions of employment, except as otherwise provided in Subsections (7) and (8) and under this chapter and other related provisions.

(3) The following statutes governing public employees and officers do not apply to a charter school:

(a) Chapter 11, Part 5, School District and Utah Schools for the Deaf and the Blind Employee Requirements; and

(b) Title 52, Chapter 3, Prohibiting Employment of Relatives.

(4) (a) To accommodate differentiated staffing and better meet student needs, a charter school, under rules adopted by the state board, shall employ teachers who are licensed.

(b) The charter school governing board shall disclose the qualifications of its teachers to the parents of its students.

(5) (a) [~~State~~] Except as provided in Subsection (5)(b), state board rules governing the licensing or certification of administrative and supervisory personnel do not apply to charter schools.

(b) A director of special education in a charter school shall hold an appropriate license issued by the state board under Title 53E, Chapter 6, Education Professional Licensure.

(6) (a) An employee of a school district may request a leave of absence in order to work in a charter school upon approval of the local school board.

(b) While on leave, the employee may retain seniority accrued in the school district and may continue to be covered by the benefit program of the district if the charter school and the local school board mutually agree.

(7) (a) A proposed or authorized charter school may elect to participate as an employer for retirement programs under:

(i) Title 49, Chapter 12, Public Employees' Contributory Retirement Act;

(ii) Title 49, Chapter 13, Public Employees' Noncontributory Retirement Act; and

(iii) Title 49, Chapter 22, New Public Employees' Tier II Contributory Retirement Act.

(b) An election under this Subsection (7):

(i) shall be documented by a resolution adopted by the charter school governing board; and

(ii) applies to the charter school as the employer and to all employees of the charter school.

(c) The charter school governing board may offer employee benefit plans for its employees:

(i) under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act; or

(ii) under any other program.

(8) A charter school may not revoke an election to participate made under Subsection (7).

(9) The charter school governing board shall ensure that, prior to the beginning of each school year:

(a) each of the charter school's employees signs a document acknowledging that the employee:

(i) has received:

(A) the disclosure required under Section 63A-4-204.5 if the charter school participates in the Risk Management Fund; or

(B) written disclosure similar to the disclosure required under Section 63A-4-204.5 if the charter school does not participate in the Risk Management Fund; and

(ii) understands the legal liability protection provided to the employee and what is not covered, as explained in the disclosure; and

(b) (i) at least one of the charter school's employees or another person is assigned human resource management duties, as defined in Section 17B-1-805; and

(ii) the assigned employee or person described in Subsection (9)(b)(i) receives human resource management training, as defined in Section 17B-1-805.

CHAPTER 279
S. B. 104

Passed February 17, 2022
Approved March 23, 2022
Effective May 4, 2022

COMMUNITY HEALTH WORKER CERTIFICATION PROCESS

Chief Sponsor: Luz Escamilla
House Sponsor: Stewart E. Barlow

LONG TITLE

General Description:

This bill creates a state certification for community health workers.

Highlighted Provisions:

This bill:

- defines terms;
- creates a state certification for community health workers; and
- requires the Department of Health to administer the certification.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

26-69-101, Utah Code Annotated 1953
26-69-102, Utah Code Annotated 1953
26-69-103, Utah Code Annotated 1953
26-69-104, Utah Code Annotated 1953
26-69-105, Utah Code Annotated 1953
26-69-106, Utah Code Annotated 1953
26-69-107, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-69-101 is enacted to read:

CHAPTER 69. (CODIFIED AS CHAPTER 71) COMMUNITY HEALTH WORKER CERTIFICATION

26-69-101. (Codified as 26-71-101) Definitions.

As used in this chapter:

(1) "Capacity building" means strengthening an individual's or a community's ability to participate in shared decision making.

(2) "Community health worker" means an individual who:

(a) works to improve a social determinant of health;

(b) acts as an intermediary between a community and health services or social services to:

(i) facilitate access to services; or

(ii) improve the quality and cultural competence of service delivery; and

(c) increases health knowledge and self-sufficiency of an individual or a community through outreach, capacity building, community education, informal counseling, social support, and other similar activities.

(3) "Core-skill education" means education regarding each of the following:

(a) self-reliance;

(b) outreach;

(c) capacity building;

(d) individual and community assessment;

(e) coordination skills;

(f) relationship building;

(g) facilitation of services;

(h) communication;

(i) professional conduct; and

(j) health promotion.

(4) "Core-skill training" means:

(a) 90 hours of competency-based education; and

(b) 300 hours of community involvement as determined by the department through rule.

(5) "Social determinate of health" means any condition in which an individual or a community lives, learns, works, plays, worships, or ages, that affects the individual's or the community's health or quality of life outcomes or risks.

(6) "State certified" means that an individual has obtained the state certification described in Subsection 26-69-104(1).

Section 2. Section 26-69-102 is enacted to read:

26-69-102. (Codified as 26-71-102) Rulemaking.

The department may make rules as authorized by this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 3. Section 26-69-103 is enacted to read:

26-69-103. (Codified as 26-71-103) Community Health Worker Certification Advisory Board.

The department shall notify the Health and Human Services Interim Committee if the department determines that there is a need to create, by statute, a Community Health Worker Certification Advisory Board.

Section 4. Section 26-69-104 is enacted to read:

26-69-104. (Codified as 26-71-104) Certification -- Unlawful conduct.

(1) The department shall issue to an individual who qualifies under this chapter a certification as a state certified community health worker.

(2) An individual may not use the term "state certified" in conjunction with the individual's work as a community health worker if the individual is not state certified.

(3) The department may fine an individual who violates Subsection (2) in an amount up to $100.

Section 5. Section 26-69-105 is enacted to read:

26-69-105. (Codified as 26-71-105) Qualifications for certification.

(1) The department shall issue a certification described in Section 26-69-104 to a community health worker if the community health worker has:

(a) completed core-skill training administered by:

(i) the department;

(ii) a state professional association that:

(A) is associated with the community health worker profession; and

(B) is aligned with a national community health worker professional association; or

(iii) an entity designated by a state professional association described in Subsection (1)(a)(ii);

(b) completed training regarding basic medical confidentiality requirements, including the confidentiality requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended;

(c) completed an application as designed by the department with a signed statement agreeing to abide by national standards of practice and ethics for community health workers; and

(d) paid a fee established by the department under Section 63J-1-504.

(2) A community health worker with at least 4,000 hours of experience as a community health worker is exempt from the core-skill training requirement described in Subsection (1)(a).

Section 6. Section 26-69-106 is enacted to read:

26-69-106. (Codified as 26-71-106) Certification is voluntary.

This chapter does not prohibit an individual from acting as a community health worker if the individual does not have a certificate described in this chapter.

Section 7. Section 26-69-107 is enacted to read:

26-69-107. (Codified as 26-71-107) Term of certification - Expiration - Renewal.

(1) Subject to Subsection (2), the department shall issue each certification under this chapter in accordance with a two-year renewal cycle.

(2) The department may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles that the department administers.

(3) (a) The department shall print the expiration date on the certification.

(b) Each certification automatically expires on the date shown on the certificate.

(c) The department shall establish procedures through rule to notify each state certified community health worker when the certification is due for renewal.

(4) (a) The department shall renew a certification if the individual has:

(i) met each renewal requirement established by the department through rule; and

(ii) paid a certification renewal fee established by the department.

(b) A rule created by the department under Subsection (4)(a)(i) shall include a requirement regarding:

(i) continuing education; and

(ii) maintaining professional conduct.

CHAPTER 280
S. B. 106

Passed March 1, 2022
Approved March 23, 2022
Effective July 1, 2022

ELECTRICAL FACILITY SALES TAX EXEMPTION

Chief Sponsor: Don L. Ipson
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill enacts a sales and use tax exemption.

Highlighted Provisions:

This bill:

- enacts a sales and use tax exemption for amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by a distribution electrical cooperative or a wholesale electrical cooperative; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2021, Chapters 280 and 367

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul

provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; [~~and~~]

(89) amounts paid or charged for an item exempt under Section 59-12-104.10[~~.~~]; and

(90) amounts paid or charged in connection with the construction, operation, maintenance, repair, or replacement of facilities owned by or constructed for:

(a) a distribution electrical cooperative, as defined in Section 54-2-1; or

(b) a wholesale electrical cooperative, as defined in Section 54-2-1.

Section 2. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 281
S. B. 108

Passed February 18, 2022
Approved March 23, 2022
Effective May 4, 2022

INDIGENT DEFENSE AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions relating to indigent defense.

Highlighted Provisions:

This bill:

- modifies the definition of "indigent defense resource";
- modifies the definition of "indigent defense service provider";
- clarifies who a court may appoint to represent an indigent defendant;
- allows the Indigent Defense Commission to award grants for indigent defense services that are innovative for meeting or exceeding the commission's core principles regarding indigent defense services;
- clarifies who is eligible for appellate defense services; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-22-102, as last amended by Laws of Utah 2021, Chapters 228, 235, 262 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 262
78B-22-201, as last amended by Laws of Utah 2021, Chapter 262
78B-22-203, as enacted by Laws of Utah 2019, Chapter 326
78B-22-406, as last amended by Laws of Utah 2021, Chapters 228 and 262
78B-22-701, as renumbered and amended by Laws of Utah 2019, Chapter 326
78B-22-901, as enacted by Laws of Utah 2020, Chapter 371

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination or Restoration of Parental Rights.

(5) "Executive Director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

(6) [~~(a)~~] "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual[~~, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.~~].

[~~(b) "Indigent defense resources" does not include an indigent defense service provider.~~]

(7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual [~~pursuant to~~] through:

(a) a contract with an indigent defense system to provide indigent defense services; [~~or~~]

(b) an order issued by the court under Subsection 78B-22-203(2)(a)[~~.~~]; or

(c) direct employment with an indigent defense system.

(8) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

(9) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(10) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection [~~(9)~~] (10)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(11) "Minor" means the same as that term is defined in Section 80–1–102.

(12) "Office" means the Office of Indigent Defense Services created in Section 78B–22–451.

(13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense Trust Fund as provided in Sections 78B–22–702 and 78B–22–703.

Section 2. Section 78B-22-201 is amended to read:

78B-22-201. Right to counsel.

(1) A court shall advise the following of the individual's right to counsel [~~when the individual first appears before the court~~] no later than the individual's first court appearance:

(a) an adult charged with a criminal offense the penalty for which includes the possibility of incarceration regardless of whether actually imposed;

(b) a parent or legal guardian facing an action initiated by the state under:

(i) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;

[~~(i)~~] (ii) Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings; or

[~~(ii)~~] (iii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; [~~or~~]

[~~(iii) Title 78A, Chapter 6, Part 4a, Adult Criminal Proceedings;~~]

(c) a parent or legal guardian facing an action initiated by any party under:

(i) Section 78B–6–112; or

[~~(i)~~] (ii) Title 80, Chapter 4, Termination and Restoration of Parental Rights; or

[~~(ii) Section 78B–6–112; or~~]

(d) an individual described in this Subsection (1), who is appealing a conviction or other final court action.

(2) If an individual described in Subsection (1) does not knowingly and voluntarily waive the right to counsel, the court shall determine whether the individual is indigent under Section 78B–22–202.

Section 3. Section 78B-22-203 is amended to read:

78B-22-203. Order for indigent defense services.

(1) (a) A court shall appoint an indigent defense service provider who is employed by an indigent defense system or who has a contract with an indigent defense system to provide indigent defense services for an individual over whom the court has jurisdiction if:

(i) the individual is an indigent individual [~~as defined in Section 78B–22–102~~]; and

(ii) the individual does not have private counsel.

(b) An indigent defense service provider appointed by the court under Subsection (1)(a) shall provide indigent defense services for the indigent individual in all court proceedings in the matter for which the indigent defense service provider is appointed.

(2) (a) Notwithstanding Subsection (1), the court may order that indigent defense services be provided by an indigent defense service provider who does not have a contract with an indigent defense system [~~only~~] if the court finds by clear and convincing evidence that:

(i) all [~~of~~] the contracted indigent defense service providers:

(A) have a conflict of interest; or

(B) do not have sufficient expertise to provide indigent defense services for the indigent individual; or

(ii) the indigent defense system does not have a contract with an indigent defense service provider for indigent defense services.

(b) A court may not order indigent defense services under Subsection (2)(a) unless the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(3) (a) A court may order reasonable indigent defense resources for an individual who has retained private counsel only if the court finds by clear and convincing evidence that:

(i) the individual is an indigent individual;

(ii) the individual would be prejudiced by the substitution of a contracted indigent defense service provider and the prejudice cannot be remedied;

(iii) at the time that private counsel was retained, the individual:

(A) entered into a written contract with private counsel; and

(B) had the ability to pay for indigent defense resources, but no longer has the ability to pay for the indigent defense resources in addition to the cost of private counsel;

(iv) there has been an unforeseen change in circumstances that requires indigent defense resources beyond the individual's ability to pay; and

(v) any representation under this Subsection (3)(a) is made in good faith and is not calculated to allow the individual or retained private counsel to avoid the requirements of this section.

(b) A court may not order indigent defense resources under Subsection (3)(a) until the court conducts a hearing with proper notice to the indigent defense system by sending notice of the hearing to the county clerk or municipal recorder.

(c) At the hearing, the court shall conduct an in camera review of:

(i) the private counsel contract;

(ii) the costs or anticipated costs of the indigent defense resources; and

(iii) other relevant records.

(4) Except as provided in this section, a court may not order indigent defense services.

Section 4. Section 78B-22-406 is amended to read:

78B-22-406. Indigent defense services grant program.

(1) The commission may award grants:

(a) to supplement local spending by an indigent defense system for indigent defense services; and

(b) for contracts to provide indigent defense services for appeals from juvenile court proceedings in a county of the third, fourth, fifth, or sixth class.

(2) The commission may use grant money:

(a) to assist an indigent defense system to provide indigent defense services that meet the commission's core principles for the effective representation of indigent individuals;

(b) to establish and maintain local indigent defense data collection systems;

(c) to provide indigent defense services in addition to indigent defense services that are currently being provided by an indigent defense system;

(d) to provide training and continuing legal education for indigent defense service providers;

(e) to assist indigent defense systems with appeals from juvenile court proceedings;

(f) to pay for indigent defense resources and costs and expenses for parental representation attorneys as described in Subsection 78B-22-804(2); and

(g) to reimburse an indigent defense system for the cost of providing indigent defense services in an action initiated by a private party under Title 80, Chapter 4, Termination and Restoration of Parental Rights, if the indigent defense system has complied with the commission's policies and procedures for reimbursement.

(3) To receive a grant from the commission, an indigent defense system shall demonstrate to the commission's satisfaction that:

(a) the indigent defense system has incurred or reasonably anticipates incurring expenses for indigent defense services that are in addition to the indigent defense system's average annual spending on indigent defense services in the three fiscal years immediately preceding the grant application; and

(b) (i) a grant from the commission is necessary for the indigent defense system to meet the commission's core principles for the effective representation of indigent individuals[~~.~~]; or

(ii) the indigent defense system shall use the grant in an innovative manner that meets the commission's core principles for the effective representation of indigent individuals.

(4) The commission may revoke a grant if an indigent defense system fails to meet requirements of the grant or any of the commission's core principles for the effective representation of indigent individuals.

Section 5. Section 78B-22-701 is amended to read:

78B-22-701. Establishment of Indigent Aggravated Murder Defense Trust Fund -- Use of fund -- Compensation for indigent legal defense from fund.

(1) For purposes of this part, "fund" means the Indigent Aggravated Murder Defense Trust Fund.

(2) (a) There is established a private-purpose trust fund known as the "Indigent Aggravated Murder Defense Trust Fund."

(b) The Division of Finance shall disburse money from the fund at the direction of the board and subject to this chapter.

(3) The fund consists of:

(a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;

(b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and

(c) interest and earnings from the investment of fund money.

(4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with financial resources, as provided in Subsection (6), to fulfill their constitutional and statutory mandates for the provision of [~~an adequate~~] a constitutionally effective defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited in this fund shall be used only:

(a) to reimburse participating counties for expenditures made for an attorney appointed to represent an indigent individual, other than a state inmate in a state prison, prosecuted for aggravated murder in a participating county; and

(b) for administrative costs pursuant to Section 78B-22-501.

Section 6. Section 78B-22-901 is amended to read:

78B-22-901. Definitions.

(1) (a) "Appellate defense services" means the representation of an indigent individual [~~facing~~] described in Subsection 78B-22-201(1)(d) or who is a party to an appeal under Section 77-18a-1.

(b) "Appellate defense services" does not include the representation of an indigent individual facing an appeal in a case where the indigent individual was prosecuted for aggravated murder.

(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

CHAPTER 282
S. B. 110

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

WATER AS PART OF GENERAL PLAN

Chief Sponsor: Michael K. McKell
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill modifies provisions related to general plans to address water.

Highlighted Provisions:

This bill:

- requires a water use and preservation element to be part of a municipal or county general plan with exceptions;
- outlines how a water use and preservation element is integrated into a general plan and what steps to take in developing a water use and preservation element;
- provides for action related to the general plan by the legislative body of a municipality or county;
- addresses assistance by the Division of Water Resources; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Natural Resources – Division of Water Resources as a one-time appropriation:
  - from the General Fund, One-time, $300,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-9a-401, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
10-9a-403, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
10-9a-404, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
17-27a-401, as last amended by Laws of Utah 2021, Chapter 363
17-27a-403, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
17-27a-404, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355

ENACTS:

73-10-36, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) [~~In order to~~] To accomplish the purposes of this chapter, [~~each~~] a municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by [~~each~~] an affected entity; and

(j) an official map.

(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.

(b) On or before December 1, 2019, [~~each~~] any of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and

(iii) a metro township with a population of 5,000 or more.

(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:

(i) the most recent official census or census estimate of the United States Census Bureau; or

(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

(5) Except for a city of the fifth class or a town, on or before December 31, 2025, a municipality that has a general plan that does not include a water use and preservation element that complies with Section 10-9a-403 shall amend the municipality's general plan to comply with Section 10-9a-403.

Section 2. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of [~~its~~] the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing [~~its~~] the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; [~~and~~]

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) except for a city of the fifth class or a town, is coordinated to integrate the land use element with the water use and preservation element; and

(D) except for a city of the fifth class or a town, accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; [~~and~~]

(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing[~~.~~]; and

(iv) except for a city of the fifth class or a town, a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the municipality to modify the municipality's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for other municipalities, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the city;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) [~~utilize~~] use strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the municipality or of an employer that provides contracted services to the municipality;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;

(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(U) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(V) [~~utilize~~] use a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(W) any other program or strategy implemented by the municipality to address the housing needs of residents of the municipality who earn less than 80% of the area median income; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement the strategies described in Subsection (2)(b)(iii)(G) or (H).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by [~~its~~] the municipality's region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization.

(e) In drafting the water use and preservation element, the planning commission:

(i) shall consider:

(A) applicable regional water conservation goals recommended by the Division of Water Resources; and

(B) if Section 73-10-32 requires the municipality to adopt a water conservation plan pursuant to Section 73-10-32, the municipality's water conservation plan;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the municipality; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the municipality's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) shall consult with the public water system or systems serving the municipality with drinking water regarding how implementation of the land use element and water use and preservation element may affect:

(A) water supply planning, including drinking water source and storage capacity consistent with Section 19-4-114; and

(B) water distribution planning, including master plans, infrastructure asset management programs and plans, infrastructure replacement plans, and impact fee facilities plans;

(vi) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing development such as modification of existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vii) for a town, may include, and for another municipality, shall include, a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of:

(A) air[~~,~~];

(B) forests[~~,~~];

(C) soils[~~,~~];

(D) rivers;

(E) groundwater and other waters[~~,~~];

(F) harbors[~~,~~];

(G) fisheries[~~,~~];

(H) wildlife[~~,~~];

(I) minerals[~~,~~]; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters[~~,~~];

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas[~~,~~];

(C) the prevention, control, and correction of the erosion of soils[~~, protection~~];

(D) the preservation and enhancement of watersheds and wetlands[~~,~~]; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the [~~use~~]

adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 3. Section 10-9a-404 is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing [~~its~~] the planning commission's recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that [~~it~~] the legislative body considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, [~~it~~] the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); [~~and~~]

(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403(2)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years[~~.~~]; and

(d) except for a city of the fifth class or a town, on or before December 31, 2025, a water use and preservation element as provided in Subsection 10-9a-403(2)(a)(iv).

Section 4. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, [~~each~~] a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by [~~each~~] an affected entity; and

(i) an official map.

(3) (a) The general plan shall:

(i) allow and plan for moderate income housing growth; and

(ii) contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(b) On or before December 1, 2019, a county with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

(c) The resource management plan described in Subsection (3)(a)(ii) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) The general plan shall include specific provisions related to [~~any areas~~] an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303. The provisions shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

(i) the information identified in Section 19-3-305;

(ii) information supported by credible studies that demonstrates that [~~the provisions of~~] Subsection 19-3-307(2) [~~have~~] has been satisfied; and

(iii) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 5. Section 17-27a-403 is amended to read:

17-27a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of [~~its~~] the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan

amendment when the planning commission initiates the process of preparing [~~its~~] the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; [~~and~~]

(B) may include a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(C) is coordinated to integrate the land use element with the water use and preservation element; and

(D) accounts for the effect of land use categories and land uses on water demand;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

(iii) a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; [~~and~~]

(iv) before May 1, 2017, a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3)[~~.~~]; and

(v) a water use and preservation element that addresses:

(A) the effect of permitted development or patterns of development on water demand and water infrastructure;

(B) methods of reducing water demand and per capita consumption for future development;

(C) methods of reducing water demand and per capita consumption for existing development; and

(D) opportunities for the county to modify the county's operations to eliminate practices or conditions that waste water.

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, which may include a recommendation to implement three or more of the following strategies:

(A) rezone for densities necessary to assure the production of moderate income housing;

(B) facilitate the rehabilitation or expansion of infrastructure that will encourage the construction of moderate income housing;

(C) facilitate the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) consider county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county;

(E) create or allow for, and reduce regulations related to, accessory dwelling units in residential zones;

(F) allow for higher density or moderate income residential development in commercial and mixed-use zones, commercial centers, or employment centers;

(G) encourage higher density or moderate income residential development near major transit investment corridors;

(H) eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) allow for single room occupancy developments;

(J) implement zoning incentives for low to moderate income units in new developments;

(K) [~~utilize~~] use strategies that preserve subsidized low to moderate income units on a long-term basis;

(L) preserve existing moderate income housing;

(M) reduce impact fees, as defined in Section 11-36a-102, related to low and moderate income housing;

(N) participate in a community land trust program for low or moderate income housing;

(O) implement a mortgage assistance program for employees of the county or of an employer that provides contracted services for the county;

(P) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing;

(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;

(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;

(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;

(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;

(U) [~~utilize~~] use a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and

(V) consider any other program or strategy implemented by the county to address the housing needs of residents of the county who earn less than 80% of the area median income.

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; and

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) consider the regional transportation plan developed by [~~its~~] the county's region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

(ii) consider the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization.

(e) In drafting the water use and preservation element, the planning commission:

(i) shall consider applicable regional water conservation goals recommended by the Division of Water Resources;

(ii) shall include a recommendation for:

(A) water conservation policies to be determined by the county; and

(B) landscaping options within a public street for current and future development that do not require the use of lawn or turf in a parkstrip;

(iii) shall review the county's land use ordinances and include a recommendation for changes to an ordinance that promotes the inefficient use of water;

(iv) shall consider principles of sustainable landscaping, including the:

(A) reduction or limitation of the use of lawn or turf;

(B) promotion of site-specific landscape design that decreases stormwater runoff or runoff of water used for irrigation;

(C) preservation and use of healthy trees that have a reasonable water requirement or are resistant to dry soil conditions;

(D) elimination or regulation of ponds, pools, and other features that promote unnecessary water evaporation;

(E) reduction of yard waste; and

(F) use of an irrigation system, including drip irrigation, best adapted to provide the optimal amount of water to the plants being irrigated;

(v) may include recommendations for additional water demand reduction strategies, including:

(A) creating a water budget associated with a particular type of development;

(B) adopting new or modified lot size, configuration, and landscaping standards that will reduce water demand for new single family development;

(C) providing one or more water reduction incentives for existing landscapes and irrigation systems and installation of water fixtures or systems that minimize water demand;

(D) discouraging incentives for economic development activities that do not adequately account for water use or do not include strategies for reducing water demand; and

(E) adopting water concurrency standards requiring that adequate water supplies and facilities are or will be in place for new development; and

(vi) shall include a recommendation for low water use landscaping standards for a new:

(A) commercial, industrial, or institutional development;

(B) common interest community, as defined in Section 57-25-102; or

(C) multifamily housing project.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of:

(A) air[~~,~~];

(B) forests[~~,~~];

(C) soils[~~,~~];

(D) rivers;

(E) groundwater and other waters[~~,~~];

(F) harbors[~~,~~];

(G) fisheries[~~,~~];

(H) wildlife[~~,~~];

(I) minerals[~~,~~]; and

(J) other natural resources; and

(ii) (A) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters[~~,~~];

(B) the regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas[~~,~~];

(C) the prevention, control, and correction of the erosion of soils[~~, protection~~];

(D) the preservation and enhancement of watersheds and wetlands[~~,~~]; and

(E) the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the [~~use~~] adoption of land and water use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 6. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing [~~its~~] the planning commission's recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of [~~its~~] the legislative body's intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication on the Utah Public Notice Website created in Section 63A-16-601.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding [~~the provisions of~~] Subsection 17-27a-401(4), including publication described in Subsection (3)(c)(iii) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that [~~it~~] the legislative body considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, [~~it~~] the legislative body may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a realistic opportunity to meet the need for additional moderate income housing; [~~and~~]

(d) before August 1, 2017, a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv)[~~.~~]; and

(e) on or before December 31, 2025, a water use and preservation element as provided in Subsection 17-27a-403(2)(a)(v).

Section 7. Section 73-10-36 is enacted to read:

73-10-36. Division to provide technical assistance in local government planning.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

(b) "General plan":

(i) for a municipality, means the same as that term is defined in Section 10-9a-103; and

(ii) for a county, means the same as that term is defined in Section 17-27a-103.

(c) "Local government" means a county or a municipality, as defined in Section 10-1-104.

(2) The division may provide technical assistance to a local government to support the local government's adoption of a water use and preservation element in a general plan.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.ITEM 1

To Department of Natural Resources -- Division of Water Resources

From General Fund, One-time	$300,000
Schedule of Programs:	
Planning	$300,000

The Legislature intends that the appropriation under this item be used to fund the cost of the Division of Water Resources providing technical assistance under Section 73-10-36 to a local government's adoption of a water use or preservation element in a general plan. The Legislature intends that the appropriation in this item be nonlapsing.

CHAPTER 283
S. B. 116

Passed February 24, 2022
Approved March 23, 2022
Effective May 4, 2022

STATE BIRD OF PREY DESIGNATION

Chief Sponsor: Michael K. McKell
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill modifies provisions relating to state symbols.

Highlighted Provisions:

This bill:

- designates the golden eagle as the state bird of prey.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-601, as last amended by Laws of Utah 2021, Chapter 429

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-601 is amended to read:

63G-1-601. State symbols.

(1) Utah's state animal is the elk.

(2) Utah's state bird is the sea gull.

(3) Utah's state bird of prey is the golden eagle.

[~~(3)~~] (4) Utah's state centennial astronomical symbol is the Beehive Cluster located in the constellation of Cancer the Crab.

[~~(4)~~] (5) Utah's state centennial star is Dubhe, one of the seven bright stars composing the Big Dipper in the constellation Ursa Major.

[~~(5)~~] (6) Utah's state centennial tartan, which honors the first Scots known to have been in Utah and those Utahns of Scottish heritage, shall have a pattern or repeating-half-sett of white-2, blue-6, red-6, blue-4, red-6, green-18, red-6, and white-4 to represent the tartan worn anciently by the Logan and Skene clans, with the addition of a white stripe.

[~~(6)~~] (7) Utah's state cooking pot is the dutch oven.

[~~(7)~~] (8) Utah's state dinosaur is the Utahraptor.

[~~(8)~~] (9) Utah's state emblem is the beehive.

[~~(9)~~] (10) Utah's state emblem of service and sacrifice of lives lost by members of the military in defense of our freedom is the "Honor and Remember" flag, which consists of:

(a) a red field covering the top two-thirds of the flag;

(b) a white field covering the bottom one-third of the flag, which contains the words "honor" and "remember";

(c) a blue star overlaid by a gold star with a thin white border in the center of the flag spanning the red field and the white field; and

(d) a representation of a folded United States flag beneath the blue and gold stars with three tongues of flame emanating from its top point into the center of the gold star.

[~~(10)~~] (11) Utah's state firearm is the John M. Browning designed M1911 automatic pistol.

[~~(11)~~] (12) Utah's state fish is the Bonneville cutthroat trout.

[~~(12)~~] (13) Utah's state flower is the sego lily.

[~~(13)~~] (14) Utah's state folk dance is the square dance, the folk dance that is called, cued, or prompted to the dancers and includes squares, rounds, clogging, contra, line, and heritage dances.

[~~(14)~~] (15) Utah's state fossil is the Allosaurus.

[~~(15)~~] (16) Utah's state fruit is the cherry.

[~~(16)~~] (17) Utah's state gem is topaz, as is prominently found in the Thomas Mountain Range in Juab County, Utah.

[~~(17)~~] (18) Utah's state grass is Indian rice grass.

[~~(18)~~] (19) Utah's state hymn is "Utah We Love Thee" by Evan Stephens.

[~~(19)~~] (20) Utah's state insect is the honeybee.

[~~(20)~~] (21) Utah's state military museum is the Fort Douglas Military Museum.

[~~(21)~~] (22) Utah's state mineral is copper.

[~~(22)~~] (23) Utah's state motto is "Industry."

[~~(23)~~] (24) Utah's state railroad museum is Ogden Union Station.

[~~(24)~~] (25) Utah's state reptile is the Gila Monster (Heloderma suspectum), whose habitat includes Southwest Utah.

[~~(25)~~] (26) Utah's state rock is coal.

[~~(26)~~] (27) Utah's state song is "Utah This is the Place" by Sam and Gary Francis.

[~~(27)~~] (28) Utah's state stone is honeycomb calcite, which originates in Duchesne County, Utah.

[~~(28)~~] (29) Utah's state tree is the quaking aspen.

[~~(29)~~] (30) Utah's state vegetable is the Spanish sweet onion.

[~~(30)~~] (31) Utah's historic state vegetable is the sugar beet.

[~~(31)~~] (32) Utah's state winter sports are skiing and snowboarding.

[~~(32)~~] (33) Utah's state works of art are Native American rock art.

[~~(33)~~] (34) Utah's state work of land art is the Spiral Jetty.

CHAPTER 284
S. B. 121

Passed February 18, 2022
Approved March 23, 2022
Effective May 4, 2022

ANESTHESIOLOGIST ASSISTANT LICENSING ACT

Chief Sponsor: Michael K. McKell
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill creates a license for anesthesiologist assistants.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Physicians Licensing Board to regulate anesthesiologist assistants;
- establishes a license for anesthesiologist assistants;
- establishes qualifications for licensure;
- establishes terms for the license; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-201, as last amended by Laws of Utah 1997, Chapter 10

ENACTS:

58-70b-101, Utah Code Annotated 1953
58-70b-102, Utah Code Annotated 1953
58-70b-201, Utah Code Annotated 1953
58-70b-301, Utah Code Annotated 1953
58-70b-302, Utah Code Annotated 1953
58-70b-303, Utah Code Annotated 1953
58-70b-401, Utah Code Annotated 1953
58-70b-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-67-201 is amended to read:

58-67-201. Board.

(1) There is created the Physicians Licensing Board consisting of nine physicians and surgeons and two members of the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

[~~(3) (a) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.~~]

(3) (a) In addition to any duty or responsibility described in Section 58-1-202 or 58-1-203, the board shall regulate anesthesiologist assistants licensed under Chapter 70b, Anesthesiologist Assistant Licensing Act.

(b) The board may also designate one of [~~its~~] the board's members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee the board regulates; and

(ii) advise the division in [~~its~~] the division's investigation of these complaints.

(4) A board member who has, under Subsection (3), reviewed a complaint or advised in [~~its~~] the complaint's investigation may be disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning that complaint.

Section 2. Section 58-70b-101 is enacted to read:

CHAPTER 70b. ANESTHESIOLOGIST ASSISTANT LICENSING ACT

Part 1. General Provisions

58-70b-101. Definitions.

As used in this chapter:

(1) "Anesthesiologist" means an individual who:

(a) is licensed under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act; and

(b) has completed a residency program in anesthesiology.

(2) "Anesthesiologist assistant" means an individual licensed under this chapter.

(3) "Board" means the Physicians Licensing Board created in Section 58-67-201.

(4) "Practice of assisting an anesthesiologist" means personally performing the health care services delegated to the anesthesiologist assistant by the supervising anesthesiologist in accordance with the acceptable medical practice and the American Society of Anesthesiologists' guidance for best practice of anesthesia in a care team model.

(5) "Supervision standards" means standards established by the division through rule that:

(a) prohibit an anesthesiologist from supervising more than four anesthesiologist assistants at any one time; and

(b) comply with the rules and regulations for anesthesia service reimbursement created by the Centers for Medicare and Medicaid Services to the extent that the rules and regulations do not conflict with state law.

Section 3. Section 58-70b-102 is enacted to read:

58-70b-102. Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules as authorized by this chapter.

Section 4. Section 58-70b-201 is enacted to read:

Part 2. Board

58-70b-201. Board.

The board shall regulate anesthesiologist assistants.

Section 5. Section 58-70b-301 is enacted to read:

Part 3. Licensing

58-70b-301. Licensure required -- Supervision -- Issuance of licenses.

(1) Beginning January 1, 2023, and except as provided in Section 58-1-307:

(a) a license is required to engage in the practice of assisting an anesthesiologist; and

(b) the practice of assisting an anesthesiologist requires compliance with supervision standards.

(2) The division shall issue to any individual who qualifies under this chapter a license to practice as an anesthesiologist assistant.

Section 6. Section 58-70b-302 is enacted to read:

58-70b-302. Qualifications for licensure.

Each applicant for licensure as an anesthesiologist assistant under this chapter shall:

(1) submit an application on a form established by the division;

(2) pay a fee determined by the division under Section 63J-1-504;

(3) provide satisfactory documentation of having graduated from a program certified by the Commission on Accreditation of Allied Health Education Programs the commission's successor organization;

(4) within 12 months of completing the training under Subsection (3), pass the certification exam offered by the National Commission for Certification of Anesthesiologist Assistants; and

(5) have the certification described in Subsection (4) at the time of the application and maintain the certification throughout the term of the license.

Section 7. Section 58-70b-303 is enacted to read:

58-70b-303. Term of license -- Expiration -- Renewal.

(1) (a) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule.

(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles the division administers.

(2) Each licensee shall, at the time of applying for renewal, demonstrate compliance with continuing education requirements established through rule by the division in collaboration with the board.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews the license in accordance with Section 58-1-308.

Section 8. Section 58-70b-401 is enacted to read:

Part 4. Unlawful and Unprofessional Conduct

58-70b-401. Unlawful conduct.

(1) An individual commits unlawful conduct by:

(a) using the title "anesthesiologist assistant" or any other title or designation tending to indicate that the individual is an anesthesiologist assistant unless that individual has a current license as an anesthesiologist assistant issued under this chapter; or

(b) engaging in the practice of assisting an anesthesiologist without being an anesthesiologist assistant.

(2) An anesthesiologist assistant commits unlawful conduct by engaging in the practice of assisting an anesthesiologist without complying with supervision standards.

Section 9. Section 58-70b-402 is enacted to read:

58-70b-402. Unprofessional conduct.

An anesthesiologist assistant commits unprofessional conduct by:

(1) engaging in any act or practice in a professional capacity which the licensee is not competent to perform through training or experience;

(2) failing to refer a client to other competent professionals when the licensee is unable or unwilling to adequately support or serve the client;

(3) failing to maintain the confidentiality of any information received from a client, unless released by the client or otherwise authorized or required by law; or

(4) exploiting a client for personal advantage, profit, or interest.

CHAPTER 285
S. B. 127

Passed March 1, 2022
Approved March 23, 2022
Effective May 4, 2022

EARLY LITERACY OUTCOMES IMPROVEMENT

Chief Sponsor: Ann Millner
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill amends, enhances, and aligns strategies to improve early literacy outcomes in kindergarten through grade 3.

Highlighted Provisions:

This bill:

- defines terms;
- requires the State Board of Education (state board) to establish strategies and administer programs to improve early literacy outcomes in kindergarten through grade 3, including:
  - providing statewide and regional support in literacy coaching and professional learning in early literacy;
  - establishing a panel with expertise in the science of reading and the science of reading instruction;
  - partnering with a private business or nonprofit organization to annually provide personal, home-use books to certain students;
  - leveraging community engagement in literacy; and
  - contracting with organizations with expertise in coordinating community resources;
- requires the use of diagnostic assessments to target interventions for students lacking competency in a reading skill;
- allows for exceptions for a literacy preparation assessment requirement;
- amends provisions regarding teacher preparation programs;
- requires the Utah Board of Higher Education to consult with the state superintendent of public instruction to ensure fulfillment of certain conditions before distributing additional funding to institutions of higher education to hire additional faculty with training and experience in the science of reading;
- provides grant funding for which local education agencies (LEAs) apply to the state board to provide professional learning in early literacy to educators serving in kindergarten through grade 3;
- amends provisions regarding partnerships that qualify under the Partnerships for Student Success Grant Program;
- requires LEAs to adopt science of reading curriculum and intervention programs;
- requires the state board, the Utah Leading through Effective, Actionable, and Dynamic Education collaborative effort, and the Center for the School of the Future at Utah State University to develop a repository of materials to support LEAs in evidence-based practices for science of reading instruction;
- requires the state board to provide elementary school principals, leaders, and literacy coaches with required professional learning regarding change management; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351
53E-4-307, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53E-6-301, as last amended by Laws of Utah 2020, Chapters 174 and 408
53E-6-302, as last amended by Laws of Utah 2020, Chapter 408
53F-5-214, as enacted by Laws of Utah 2020, Chapter 174 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 362
53F-5-215, as enacted by Laws of Utah 2020, Chapter 174
53F-5-402, as last amended by Laws of Utah 2019, Chapter 186
53G-11-303, as last amended by Laws of Utah 2019, Chapter 293

ENACTS:

53E-3-1001, Utah Code Annotated 1953
53E-3-1002, Utah Code Annotated 1953
53E-3-1003, Utah Code Annotated 1953
53E-3-1004, Utah Code Annotated 1953
53G-10-306, Utah Code Annotated 1953
53G-11-305, Utah Code Annotated 1953Utah Code Sections Affected by Revisor Instructions:
53E-3-1003, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214, 53F-5-214.1, and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;~~]

[~~(j)~~] (i) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

[~~(k)~~] (j) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

[~~(l)~~] (k) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

[~~(m)~~] (l) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

[~~(n)~~] (m) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

Section 2. Section 53E-3-1001 is enacted to read:

53E-3-1001. Statewide goal -- Emphasis on early literacy.

To achieve a strenuous statewide goal of 70% in third grade-level proficiency on the state-administered reading assessment by July 1, 2027, the state board shall:

(1) analyze, align, and target resources, including digital software and tools, in existing state programs and the programs enacted in this bill, as appropriate, to support early literacy within the state; and

(2) identify opportunities to incentivize and support LEAs and elementary schools to analyze data, align plans, and target resources from existing local and LEA programs to support early literacy within the state, resulting in a comprehensive statewide alignment of early literacy plans.

Section 3. Section 53E-3-1002 is enacted to read:

53E-3-1002. Literacy coaching -- Professional learning.

(1) Subject to legislative appropriations, the state board shall provide, train, and assign literacy coaches to schools with low literacy achievement performance to provide early literacy coaching to teachers in kindergarten through grade 3, in accordance with this section.

(2) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) establish criteria to determine which schools qualify for early literacy coaching, prioritizing coaching among:

(i) schools that participate in partnerships that receive grants under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program; and

(ii) schools that fall within the bottom 25% of all schools in literacy achievement performance, as the state board further defines;

(b) establish minimum qualifications for early literacy coach positions to ensure adequate preparation with necessary expertise;

(c) define roles and responsibilities for a literacy coach, including:

(i) assisting educators in analyzing data to inform instructional adjustments;

(ii) engaging in instructional coaching cycles with educators to build capacity for improved classroom instructional practices;

(iii) using principles of adult learning to effectively partner with educators to integrate professional learning into classroom practice;

(iv) leveraging knowledge of the science of reading and evidence-based practices to support educators in maximizing student learning;

(v) partnering with a school's leader to support school-wide literacy goals to provide a team of support for educators to embed the state-wide goals into instructional plans and practice;

(vi) delivering consistent and frequent job-embedded professional learning;

(vii) participating actively in professional learning experiences to deepen knowledge and skills for coaching; and

(viii) designing and facilitating relevant and cohesive professional learning sessions to strengthen the implementation of these evidence-based practices with educators; and

(d) establish parameters for the relationship between a literacy coach and school or LEA, including ensuring that coaches do not engage in activities or duties unrelated to literacy coaching, including:

(i) serving as an evaluator, substitute teacher, clerical aid, recess or lunch aid, behavioral therapist, tester, guidance counselor, interventionist, program manager, or contest leader; or

(ii) any other assignment that frequently disrupts the coach's ability to support educators in improving instructional practice.

(3) The state board shall:

(a) ensure that one staff position supervises early literacy coaches statewide;

(b) select the pool of candidates for literacy coaching positions and coordinate with LEAs regarding interviews, final selection, and placement; and

(c) annually review coaching placements and adjust placements as necessary, based on the school's literacy achievement performance and the criteria established under Subsection (2).

(4) The state board shall provide professional learning support in early literacy by:

(a) facilitating professional learning opportunities to support literacy coaches statewide that includes knowledge and skill development in adult learning practices, job-embedded coaching, and family engagement;

(b) providing professional learning regional consultants to:

(i) support LEAs and regional education service agencies in designing, facilitating, monitoring, and adjusting professional learning in early literacy that aligns with the professional learning standards described in Section 53G-11-303; and

(ii) serve a cohort of LEAs within a geographic region of the state; and

(c) providing statewide professional learning to support the use of collective efficacy, including the implementation of professional learning communities and school leadership teams through 2027.

Section 4. Section 53E-3-1003 is enacted to read:

53E-3-1003. Science of reading.

(1) As used in this section:

(a) "Educator preparation program" means the same as that term is defined in Section 53E-6-302.

(b) "Panel" means the science of reading panel that the state board establishes in accordance with this section.

(c) "University teacher preparation program" means a program described in Section 53E-6-302.

(2) The state board shall establish an expert science of reading panel consisting of up to six experts who have:

(a) knowledge and a research background in the science of reading and the science of reading instruction; and

(b) experience translating the science of reading into effective reading instructional practices.

(3) The panel shall:

(a) meet no less than once every quarter;

(b) provide expertise to and serve in a consultancy capacity to the state board on implementation of:

(i) the early literacy emphases described in Section 53E-3-1001; and

(ii) educator preparation programs;

(c) in consultation with the state board:

(i) provide advanced professional learning opportunities in the science of reading and the science of reading instruction for public schools and educator preparation programs as needed to expand statewide capacity;

(ii) partner with ULEAD, as that term is defined in Section 53E-10-701, to develop and implement an online repository of digital science of reading and science of reading instruction resources that is accessible to public school teachers, school leaders, parents, and educator preparation programs and associated faculty;

(iii) develop professional learning modules to support teachers and school leaders; and

(iv) coordinate with educator preparation programs, university teacher preparation program faculty, deans of education, and literacy leadership fellows to advance the science of reading and the science of reading instruction; and

(d) take part in the hiring of the additional faculty members described in Subsection 53E-6-302(6) with two panel members participating in the hiring process.

(4) The state board may collaborate with panel members to conduct periodic reviews of:

(a) student outcome data;

(b) science of reading and science of reading instruction implementation fidelity in public schools and educator preparation programs through onsite visits; and

(c) advise LEAs regarding the science of reading and the science of reading instruction curriculum and intervention programs.

(5) A panel member:

(a) may not receive compensation or benefits for the member's service on the panel; and

(b) may receive per diem and reimbursement for travel expenses that the panel member incurs as a panel member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(6) The state board shall provide staff support to the panel.

Section 5. Section 53E-3-1004 is enacted to read:

53E-3-1004. Community engagement for early literacy.

(1) The state board shall:

(a) partner with a private business or nonprofit organization to annually provide personal, home-use, age-appropriate printed books or digital books with accompanying electronic reading devices to students:

(i) who attend:

(A) a school that participates in partnerships that receive grants under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program; or

(B) a Title I school, as that term is defined in Section 53F-2-523; and

(ii) at a minimum, in kindergarten through grade 3; and

(b) provide students a choice of language where possible.

(2) The state board shall develop and promote a website that provides resources for teachers and other educational support personnel to support targeted activities and strategies for parents to support at-home reading.

(3) The state board shall contract with one or more organizations that have expertise in coordinating community resources to:

(a) provide training and coaching to community, school, and parent engagement coordinators; and

(b) for a school that is not participating in a partnership that receives a grant under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program:

(i) assess the presence of existing community school infrastructure; and

(ii) provide necessary supports for parent, community, and business engagement, including services and coordination support.

Section 6. Section 53E-4-307 is amended to read:

53E-4-307. Benchmark assessments in reading -- Report to parent.

(1) As used in this section[~~, "competency"~~]:

(a) "Competency" means a demonstrable acquisition of a specified knowledge, skill, or ability that has been organized into a hierarchical arrangement leading to higher levels of knowledge, skill, or ability.

(b) "Diagnostic assessment" means an assessment that measures key literacy skills, including phonemic awareness, sound-symbol recognition, alphabet knowledge, decoding and encoding skills, and comprehension, to determine a student's specific strengths and weaknesses in a skill area.

(c) "Evidence-based" means the same as that term is defined in Section 53G-11-303.

(d) "Evidence-informed" means the same as that term is defined in Section 53G-11-303.

(2) The state board shall approve a benchmark assessment for use statewide by school districts and charter schools to assess the reading competency of students in grades 1 through 6 as provided by this section.

(3) A school district or charter school shall:

(a) administer benchmark assessments to students in grades 1, 2, and 3 at the beginning, middle, and end of the school year using the benchmark assessment approved by the state board; and

(b) after administering a benchmark assessment, report the results to a student's parent.

(4) If a benchmark assessment or supplemental reading assessment indicates a student lacks competency in a reading skill, or is lagging behind other students in the student's grade in acquiring a reading skill, the school district or charter school shall:

(a) administer diagnostic assessments to the student;

[~~(a)~~] (b) using data from the diagnostic assessment, provide specific, focused, and individualized intervention or tutoring to develop the reading skill;

[~~(b)~~] (c) administer formative assessments and progress monitoring at recommended levels for the benchmark assessment to measure the success of the focused intervention;

[~~(c)~~] (d) inform the student's parent of activities that the parent may engage in with the student to assist the student in improving reading proficiency; [~~and~~]

[~~(d)~~] (e) provide information to the parent regarding appropriate interventions available to the student outside of the regular school day that may include tutoring, before and after school programs, or summer school[~~.~~]; and

(f) provide instructional materials that are evidence-informed for core instruction and evidence-based for intervention and supplemental instruction.

(5) (a) In accordance with Section 53F-4-201 and except as provided in Subsection (5)(b), the state board shall contract with one or more educational technology providers for a benchmark assessment system for reading for students in kindergarten through grade 6.

(b) If revenue is insufficient for the benchmark assessment system for the grades described in Subsection (5)(a), the state board shall first prioritize funding a benchmark assessment for students in kindergarten through grade 3.

Section 7. Section 53E-6-301 is amended to read:

53E-6-301. Qualifications of applicants for licenses -- Changes in qualifications.

(1) As used in this section[~~ "literacy~~]:

(a) "Literacy preparation assessment" means an examination that [~~addresses~~] evaluates an individual's knowledge of the science of reading, related to literacy instruction for an individual who teaches preschool, elementary school, or special education.

(b) "Required literacy preparation assessment" means a literacy preparation assessment that the state board uses to determine the qualifications of license applicants.

(2) The state board shall establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the scholarship, training, and experience required of license applicants.

(3) (a) The state board shall announce any increase in the requirements when made.

(b) An increase in requirements shall become effective not less than one year from the date of the announcement.

(4) The state board may determine by examination or otherwise the qualifications of license applicants.

(5) If the state board uses [~~an examination~~] a required literacy preparation assessment under Subsection (4) [~~that is a literacy preparation assessment~~]:

(a) (i) the state board shall make rules to allow an LEA to hire a license applicant who does not successfully pass the required literacy preparation assessment for a limited duration pending successful passage; and

[~~(b)~~] (ii) the license applicant is not eligible for a professional educator license described in Section 53E-6-201 until the license applicant successfully passes the required literacy preparation assessment[~~.~~]; and

(b) the state board may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish exemptions for the required literacy preparation assessment; and

(ii) develop a pathway to demonstrate early literacy competency as an exception to the requirement to pass the required literacy preparation assessment.

Section 8. Section 53E-6-302 is amended to read:

53E-6-302. Educator preparation programs.

(1) As used in this section:

(a) "Educator preparation program" means:

(i) a university teacher education program; or

(ii) a program that prepares individuals using an alternative pathway to licensure, as the state board provides.

(b) "Required literacy preparation assessment" means the same as that term is defined in Section 53E-6-301.

(c) "University teacher preparation program" means a program that an institution of higher education offers to prepare educators for licensure.

[~~(1)~~] (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish standards for approval of [~~a~~] an educator preparation program.

[~~(2)~~] (3) The state board shall ensure that standards adopted under Subsection [~~(1)~~] (2):

(a) meet or exceed generally recognized national standards for preparation of educators[~~.~~]; and

(b) include requirements for educator preparation programs to:

(i) provide instruction in the science of reading; and

(ii) prepare license applicants to pass the required literacy preparation assessment at no cost to the applicants for the preparation, including providing ongoing preparation for up to three total attempts of the required literacy preparation assessment.

[~~(3)~~] (4) The state board shall designate an employee of the state board's staff to:

(a) work with education deans of state institutions of higher education to coordinate [~~on-site monitoring of~~] university teacher preparation programs that may include:

(i) monitoring courses for university teacher preparation programs; and

(ii) working with course instructors for university teacher preparation programs; [~~and~~]

[~~(iii) interviewing students admitted to~~ university teacher preparation programs;]

(b) act as a liaison between:

(i) the state board;

(ii) local school boards or charter school governing boards; and

(iii) representatives of university teacher preparation programs; and

(c) report the employee's findings and recommendations for the improvement of teacher preparation programs to:

(i) the state board; and

(ii) education deans of state institutions of higher education.

[~~(4)~~] (5) The state board shall:

(a) in good faith, consider the findings and recommendations described in Subsection [~~(3)~~] (4)(c); and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules, as the state board determines is necessary, to implement recommendations described in Subsection [~~(3)~~] (4)(c).

(6) Subject to legislative appropriations, the Utah Board of Higher Education shall:

(a) provide matching funds to each of the state's institutions of higher education with a university teacher preparation program:

(i) to hire an additional faculty member who has training in the science of reading and the science of reading instruction; and

(ii) in an amount equal to 75% of the cost of making the hire described in Subsection (6)(a) if the institution provides 25% of the cost; and

(b) consult the state superintendent regarding:

(i) criteria for the hire described in Subsection (6)(a) that would qualify for a distribution of funding; and

(ii) an individual institution's fulfillment of the criteria described in Subsection (6)(b)(i) before distributing funding.

(7) An institution that hires an additional faculty member shall coordinate with the science of reading panel described in Section 53E-3-1003 to include two members of the panel in the institution's hiring process.

(8) The state board shall:

(a) monitor accreditation of university programs regarding the science of reading preparation described in Subsection (3)(b) at the institutions described in Subsection (6)(a); and

(b) (i) develop strategies to provide support for preparation programs with low rates of passage on the required literacy preparation assessment; and

(ii) provide increasing levels of support to a preparation program with low rates of passage on the required literacy preparation assessment for two consecutive years.

Section 9. Section 53F-5-214 is amended to read:

53F-5-214. Grant for professional learning.

(1) Subject to legislative appropriations, the state board shall award grants to LEAs to provide teachers in pre-kindergarten, kindergarten, and grades 1 through 3 with:

(a) professional learning opportunities in early literacy and mathematics[~~.~~]; and

(b) the required early literacy professional learning opportunity described in Subsection (6).

(2) The state board shall award a grant described in [~~this section~~] Subsection (1)(a) to an LEA that submits to the state board a completed application,

as provided by the state board, that includes a description of the evidence-based, based on assessment data, professional learning opportunities the LEA will provide that are:

(a) aligned with the professional learning standards described in Section 53G-11-303; and

(b) targeted to attaining the local and state early learning goals described in Section 53G-7-218.

(3) An LEA that receives a grant described in this section shall use the grant for the purposes described in Subsection (2).

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish:

(a) required elements of the professional learning opportunities described in Subsection (2); [~~and~~]

(b) a formula to determine an LEA's grant amount under this section[~~.~~], including identifying the amount an LEA receives for:

(i) professional learning opportunities under Subsection (2); and

(ii) the required early literacy professional learning opportunity described in Subsection (6); and

(c) specifications regarding the LEA's provision of the required early literacy professional learning opportunity described in Subsection (6).

(5) The state board shall annually report to the Education Interim Committee on or before the November interim committee meeting regarding the administration and outcomes of the grant described in this section.

(6) (a) As used in this Subsection (6), "early literacy professional learning opportunity" means the early literacy opportunity that the majority of recipients of grant funding under this section used before the effective date of this bill to provide professional learning opportunities in early literacy.

(b) (i) Except as described in Subsection (6)(b)(ii), the following shall complete the early literacy professional learning opportunity before July 1, 2025, each:

(A) general and special education teacher in kindergarten through grade 3;

(B) district administrator over literacy;

(C) elementary school principal;

(D) school psychologist serving in an elementary school; and

(E) elementary school literacy coach who serves kindergarten through grade 3.

(ii) The following are exempt from the professional learning opportunity completion requirement in Subsection (6)(b)(i):

(A) an educator who has already completed the early literacy professional learning program;

(B) dual language immersion educators who teach in the target language;

(C) special education teachers who serve students with significant cognitive disabilities;

(D) teachers within one year of retirement; and

(E) other similar educator roles as the state board identifies in board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Before the 2022-2023 school year, each LEA that serves elementary students shall apply for grant funding under this subsection (6) to provide the early literacy professional learning opportunity to each individual described in Subsection (6)(b)(i) within the LEA.

(ii) An LEA that receives a grant for use under this Subsection (6) shall:

(A) use the grant to provide the early literacy professional learning opportunity at the maximum of the restricted rate for each educator described in Subsection (6)(b)(i) within the LEA; and

(B) provide the early literacy professional learning opportunity as part of the educator's contracted time or daily rate.

(d) In awarding grant funding under this section for the required early literacy professional learning opportunity, the state board shall award funding to an LEA to provide the opportunity to each individual described in Subsection (6)(c)(i), prioritizing applicants that have not yet participated in the early literacy professional learning opportunity.

Section 10. Section 53F-5-215 is amended to read:

53F-5-215. Elementary teacher preparation assessment grant.

(1) As used in this section:

(a) "Educator preparation program" means the same as that term is defined in Section 53E-6-302.

[~~(a)~~] (b) "License" means a license that:

(i) is described in Section 53E-6-102; and

(ii) qualifies an individual to teach elementary school.

[~~(b) "Literacy~~]

(c) "Required literacy preparation assessment" means the same as that term is defined in Section 53E-6-301.

(2) Beginning September 1, 2021, subject to legislative appropriations, the state board shall award grants to [~~institutions of higher education~~] educator preparation programs for the cost of the initial attempt of the required literacy preparation assessment for license applicants graduating from the institution or completing the preparation program during the year relevant to the grant.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to establish the license, type of license, or license concentration eligible for the grant described in this section.

(4) [~~An institution of higher education~~] An educator preparation program may apply for a grant described in this section by submitting to the state board an application, as provided by the state board, including an estimate of the number and names of prospective license applicants expected to graduate or complete the program in the year relevant to the grant application.

(5) Notwithstanding Subsections (2) and (4), beginning July 1, 2020, and ending August 31, 2021, the state board may award grants under this section to institutions of higher education to pilot test a literacy preparation assessment.

(6) The state board shall annually report to the Education Interim Committee on or before the November interim committee meeting regarding the administration and outcomes of the grant described in this section.

Section 11. Section 53F-5-402 is amended to read:

53F-5-402. Partnerships for Student Success Grant Program established.

(1) There is created the Partnerships for Student Success Grant Program to improve educational outcomes for low income students through the formation of cross sector partnerships that use data to align and improve efforts focused on student success.

(2) Subject to legislative appropriations, the state board shall award grants to eligible partnerships that enter into a memorandum of understanding between the members of the eligible partnership to plan or implement a partnership that:

(a) establishes shared goals, outcomes, and measurement practices based on unique community needs and interests that:

[~~(i) are aligned with the recommendations of the five- and ten-year plan to address intergenerational poverty described in Section 35A-9-303; and~~]

[~~(ii) address,~~] (i) for students attending [~~a~~] an elementary school within an eligible school feeder pattern, focus on:

(A) kindergarten readiness;

(B) [~~grade 3 mathematics and~~] reading proficiency[~~;~~], consistent with the science of reading, as defined by the science of reading panel described in Section 53E-3-1003; and

(C) grade 3 mathematics; and

(ii) for students attending a secondary school within an eligible school feeder pattern, focus on:

[~~(C)~~] (A) grade 8 mathematics and reading proficiency;

[~~(D)~~] (B) high school graduation;

[~~(E)~~] (C) postsecondary education attainment;

[~~(F)~~] (D) physical and mental health; and

[~~(G)~~] (E) development of career skills and readiness;

(b) coordinates and aligns services to:

(i) students attending schools within an eligible school feeder pattern; and

(ii) the families and communities of the students within an eligible school feeder pattern;

(c) implements a system for:

(i) sharing data to monitor and evaluate shared goals and outcomes, in accordance with state and federal law; and

(ii) accountability for shared goals and outcomes; and

(d) commits to providing matching funds as described in Section 53F-5-403.

(3) In making grant award determinations, the state board shall prioritize funding for an eligible partnership that:

(a) focus on early literacy and mathematics;

[~~(a)~~] (b) includes a low performing school as determined by the state board; or

[~~(b)~~] (c) addresses parent and community engagement.

(4) In awarding grants under this part, the state board:

(a) shall distribute funds to the lead applicant designated by the eligible partnership as described in Section 53F-5-401; and

(b) may not award more than $500,000 per fiscal year to an eligible partnership.

Section 12. Section 53G-10-306 is enacted to read:

53G-10-306. Science of reading curriculum.

Each LEA shall adopt science of reading curriculum and intervention programs as advised by the science of reading panel described in Section 53E-3-1003.

Section 13. Section 53G-11-303 is amended to read:

53G-11-303. Professional learning standards.

(1) As used in this section[~~, "professional~~]:

(a) "Evidence-based" means that a strategy demonstrates a statistically significant effect, of at least a 0.40 effect size, on improving student outcomes based on:

(i) strong evidence from at least one well-designed and well-implemented experimental study, as the state board further defines; or

(ii) moderate evidence from at least one well-designed and well-implemented quasi-experimental study, as the state board further defines.

(b) "Evidence-informed" means that a strategy:

(i) is developed using high-quality research outside of a controlled setting in the given field, as the state board further defines; and

(ii) includes strategies and activities with a strong scientific basis for use, as the state board further defines.

(c) "Professional learning" means a comprehensive, sustained, and evidence-based approach to improving teachers' and principals' effectiveness in raising student achievement.

(2) A school district or charter school shall implement high quality professional learning that meets the following standards:

(a) professional learning occurs within learning communities committed to continuous improvement, individual and collective responsibility, and goal alignment;

(b) professional learning requires skillful leaders who develop capacity, advocate, and create support systems, for professional learning;

(c) professional learning requires prioritizing, monitoring, and coordinating resources for educator learning;

(d) professional learning uses a variety of sources and types of student, educator, and system data to plan, assess, and evaluate professional learning;

(e) professional learning integrates theories, research, and models of human learning to achieve its intended outcomes;

(f) professional learning applies research on change and sustains support for implementation of professional learning for long-term change;

(g) professional learning aligns its outcomes with:

(i) performance standards for teachers and school administrators as described in rules of the state board; and

(ii) performance standards for students as described in the core standards for Utah public schools adopted by the state board pursuant to Section 53E-4-202; [~~and~~]

(h) professional learning:

(i) incorporates the use of technology in the design, implementation, and evaluation of high quality professional learning practices; and

(ii) includes targeted professional learning on the use of technology devices to enhance the teaching and learning environment and the integration of technology in content delivery[~~.~~]; and

(i) professional learning uses evidence-informed core materials and evidence-based instructional practices and intervention materials.

(3) School districts and charter schools shall use money appropriated by the Legislature for professional learning or federal grant money awarded for professional learning to implement professional learning that meets the standards specified in Subsection (2).

(4) The state board, ULEAD, as that term is defined in Section 53E-10-701, and the Center for the School of the Future, established in Section 53B-18-801, shall jointly, in collaboration with an independent university-based research center, develop and maintain a repository of evidence-based practice and evidence-informed intervention materials to support school districts and charter schools in meeting the standards described in Subsection (2).

[~~(4)~~] (5) (a) In the fall of 2014, the state board, through the state superintendent, and in collaboration with an independent consultant acquired through a competitive bid process, shall conduct a statewide survey of school districts and charter schools to:

(i) determine the current state of professional learning for educators as aligned with the standards specified in Subsection (2);

(ii) determine the effectiveness of current professional learning practices; and

(iii) identify resources to implement professional learning as described in Subsection (2).

(b) The state board shall select a consultant from bidders who have demonstrated successful experience in conducting a statewide analysis of professional learning.

(c) (i) Annually in the fall, beginning in 2015 through 2020, the state board, through the state superintendent, in conjunction with school districts and charter schools, shall gather and use data to determine the impact of professional learning efforts and resources.

(ii) Data used to determine the impact of professional learning efforts and resources under Subsection [~~(4)~~] (5)(c)(i) shall include:

(A) student achievement data;

(B) educator evaluation data; and

(C) survey data.

Section 14. Section 53G-11-305 is enacted to read:

53G-11-305. Professional learning in change management.

(1) The state board shall provide the individuals described in Subsection (2) with professional learning regarding change management.

(2) Each elementary principal and a principal supervisor, member of LEA leadership, and LEA literacy specialist shall complete the professional learning described in Subsection (1) before July 1, 2027.

(3) The state board may make rules, in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, to establish a process for the delivery and completion of the professional learning described in this section.

Section 15. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Section 53E-3-1003, from "this bill" to the bill's designated chapter number in the Laws of Utah.

CHAPTER 286
S. B. 128

Passed March 3, 2022
Approved March 23, 2022
Effective May 1, 2022

REAUTHORIZATION OF ADMINISTRATIVE RULES

Chief Sponsor: Curtis S. Bramble
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill provides legislative action regarding administrative rules.

Highlighted Provisions:

This bill:

- ▸ reauthorizes all state agency administrative rules.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Rules reauthorized.

All rules of Utah state agencies are reauthorized.

Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect on May 1, 2022.

CHAPTER 287
S. B. 132

Passed February 25, 2022
Approved March 23, 2022
Effective May 4, 2022

CHILD WELFARE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Christine F. Watkins

LONG TITLE

General Description:

This bill modifies provisions relating to child welfare.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the definition of "relative" used in provisions regarding child welfare, child custody, and adoption;
- modifies the type of performance standards the Division of Child and Family Services (division) is required to track and report to the Legislature;
- clarifies provisions regarding background checks performed by the division for an emergency placement of a child;
- provides a penalty for engaging in child placing and other related actions without a license;
- modifies provisions relating to consent and notice for an abortion performed on a minor;
- subject to certain requirements, creates a rebuttable presumption that placement of a child with the child's relative during a child welfare proceeding is in the best interest of the child;
- requires the division and juvenile court to consider the rebuttable presumption at certain times throughout a child welfare proceeding;
- requires the juvenile court to:
  - determine whether the division considered the rebuttable presumption and preferential consideration for placement of a child with a relative at the child welfare review hearing; and
  - provide preferential consideration to a relative's request for placement of a child at the permanency hearing;
- requires a court to consider whether a child's relative was given due weight as a placement for the child during the child welfare proceeding before entering a final order of adoption for the child; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-117, as last amended by Laws of Utah 2019, Chapter 335

62A-4a-206, as last amended by Laws of Utah 2021, Chapter 262

62A-4a-209, as last amended by Laws of Utah 2021, Chapter 262

62A-4a-602, as last amended by Laws of Utah 2020, Chapter 250

76-7-304.5, as last amended by Laws of Utah 2018, Chapter 282

80-3-102, as renumbered and amended by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

80-3-301, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-302, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-303, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-406, as last amended by Laws of Utah 2021, Chapter 38 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-407, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-409, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-4-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-117 is amended to read:

62A-4a-117. Performance monitoring system -- Annual report.

(1) As used in this section:

(a) "Council" means the Child Welfare Improvement Council established under Section 62A-4a-311.

(b) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.

(c) [~~(i)~~] "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:

[~~(A)~~] (i) child protection services;

[~~(B)~~] (ii) adoption;

(iii) in-home services;

[~~(C)~~] (iv) foster care; [~~and~~]

[~~(D)~~] (v) other substitute care[~~.~~];

[~~(ii) "Performance standards" includes the performance goals and measures in effect in 2008 that the division was subject to under federal court oversight, as amended pursuant to Subsection (2), including:~~]

[~~(A) the qualitative case review; and~~]

[~~(B) the case process review.~~]

(vi) qualitative case review; and

(vii) case process review.

(2) (a) The division may not amend the performance standards unless the amendment is:

(i) necessary and proper for the effective administration of the division; or

(ii) necessary to comply with, or implement changes in, the law.

(b) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the council.

(c) The notice described in Subsection (2)(b) shall include:

(i) the proposed amendment;

(ii) a summary of the reason for the proposed amendment; and

(iii) the proposed effective date of the amendment.

(d) Within 45 days after the day on which the division provides the notice described in Subsection (2)(b) to the council, the council shall provide to the division written comments on the proposed amendment.

(e) The division may not implement a proposed amendment to the performance standards until the earlier of:

(i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection (2)(d); or

(ii) 52 days after the day on which the division provides the notice described in Subsection (2)(b) to the council.

(f) The division shall:

(i) give full, fair, and good faith consideration to all comments and objections received from the council;

(ii) notify the council in writing of:

(A) the division's decision regarding the proposed amendment; and

(B) the reasons that support the decision;

(iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and

(iv) post the changes on the division's website.

(3) The division shall maintain a performance monitoring system to regularly:

(a) collect information on performance indicators; and

(b) compare performance indicators to performance standards.

(4) Before January 1 each year, the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:

(a) a comparison between the performance indicators for the prior fiscal year and the performance standards;

(b) for each performance indicator that does not meet the performance standard:

(i) the reason the standard was not met;

(ii) the measures that need to be taken to meet the standard; and

(iii) the division's plan to comply with the standard for the current fiscal year;

(c) data on the extent to which new and experienced division employees have received training [~~pursuant to~~] under statute, administrative rule, and division policy; and

(d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Section 2. Section 62A-4a-206 is amended to read:

62A-4a-206. Process for removal of a child from foster family -- Procedural due process.

(1) (a) The Legislature finds that, except with regard to a child's natural parent or legal guardian, a foster family has a very limited but recognized interest in its familial relationship with a foster child who has been in the care and custody of that family. In making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.

(b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family prior to removal of a foster child from their home, regardless of the length of time the child has been in that home, unless removal is for the purpose of:

(i) returning the child to the child's natural parent or legal guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative, as defined in Section 80-3-102, who obtained custody or asserted an interest in the child within the preference period described in Subsection [~~80-3-302(8)~~] 80-3-302(7); or

(iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2) (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) Those procedures shall include requirements for:

(i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents prior to removal of the child; and

(ii) an opportunity for foster parents to present their information and concerns to the division and to:

(A) request a review, to be held before removal of the child, by a third party neutral fact finder; or

(B) if the child has been placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by:

(I) the juvenile court judge currently assigned to the child's case; or

(II) if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, it shall place the child in emergency foster care during the pendency of the procedures described in this subsection, instead of making another foster care placement.

(3) If the division removes a child from a foster home based upon the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2). The division may take no formal action with regard to that foster parent's license until after those processes, in addition to any other procedure or hearing required by law, have been completed.

(4) When a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) Whenever the division places a child in a foster home, it shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division pursuant to Subsection (2) and how to access those processes; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who has been in their custody for 12 months or longer, in accordance with the limitations and requirements of Section 80-3-502.

(6) The requirements of this section do not apply to the removal of a child based on a foster parent's request for that removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child has been placed with the foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative, as defined in Section 80-3-102, of the child on the basis of the age or health of the foster parent without determining by:

(a) clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or

(b) a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.

Section 3. Section 62A-4a-209 is amended to read:

62A-4a-209. Emergency placement.

(1) As used in this section:

(a) "Friend" means the same as that term is defined in Section 80-3-102.

(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.

(c) "Relative" means the same as that term is defined in Section 80-3-102.

(2) The division may use an emergency placement under Subsection 62A-4a-202.1(7)(b) when:

(a) the case worker has made the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under the provisions of Section 62A-4a-202.1; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the shelter hearing required by Section 80-3-301;

(b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the individual described in Subsection (2)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the individual meets the criteria for an emergency placement under Subsection (3);

(ii) the individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the shelter hearing unless authorized by the division in writing;

(iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the individual has been informed and understands that the division may continue to search for other possible placements for long-term care, if needed;

(vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the individual.

(3) Except as otherwise provided in Subsection (5), before the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine the answer to the following questions:

(i) would the individual identified as a reference place a child in the home of the emergency placement; and

(ii) are there any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation;

(c) (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection (7); or

(ii) if the emergency placement will be with an individual other than a noncustodial parent or a relative, shall comply with the background check provisions described in Subsection (8) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall have the emergency placement approved by a family service specialist.

(4) (a) The following order of preference shall be applied when determining the individual with whom a child will be placed in an emergency placement described in this section, provided that the individual is willing, and has the ability, to care for the child:

(i) a noncustodial parent of the child in accordance with Section 80-3-302;

(ii) a relative;

(iii) subject to Subsection (4)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iv) a former foster placement designated by the division;

(v) a foster placement, that is not a former foster placement, designated by the division; and

(vi) a shelter facility designated by the division.

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) subject to Subsections (4)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section 62A-4a-202.1 is sexual abuse of the child.

(5) (a) The division may, pending the outcome of the investigation described in Subsections (5)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation, prior to making the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after making an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection (3)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after a child is placed in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, [~~pursuant to~~] under Subsection (7); and

(ii) inspection of the home where the emergency placement is made.

(6) After an emergency placement, the division caseworker must:

(a) respond to the emergency placement's calls within one hour if the custodial parents or guardians attempt to make unauthorized contact with the child or attempt to remove the child;

(b) complete all removal paperwork, including the notice provided to the custodial parents and guardians under Section 80-3-301;

(c) contact the attorney general to schedule a shelter hearing;

(d) complete the placement procedures required in Section 80-3-302; and

(e) continue to search for other relatives as a possible long-term placement, if needed.

(7) (a) The background check described in Subsection (3)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether an individual passes the background check described in this Subsection (7) [~~pursuant to the provisions of Subsection 62A-2-120(14)~~] in accordance with Section 62A-2-120.

(c) Notwithstanding Subsection (7)(b), the division may not place a child with an individual who is prohibited by court order from having access to that child.

(8) (a) The background check described in Subsection (3)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System described in Section 62A-4a-1003.

(b) The division shall determine whether an individual passes the background [~~checks~~] check described in this Subsection (8) [~~pursuant to the provisions of~~] in accordance with Section 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection (8)(a), and the individual contests that denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days of the name-based background checks, the division shall require an individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If an individual fails to provide the fingerprints and written permission described in Subsection (8)(d)(i), the child shall immediately be removed from the home.

Section 4. Section 62A-4a-602 is amended to read:

62A-4a-602. Licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Birth parent" means the same as that term is defined in Section 78B-6-103.

[~~(b)~~] (c) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

[~~(c)~~] (d) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection [~~(1)(c)(i)~~] (1)(d)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) A person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the Office of Licensing within the department, in accordance with Chapter 2, Licensure of Programs and Facilities.

(b) When a child-placing agency's license is suspended or revoked in accordance with [~~that chapter~~] Chapter 2, Licensure of Programs and Facilities, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division.

(3) (a) (i) An attorney, physician, or other person may assist [~~a parent in identifying or locating a person~~]:

(A) a birth parent to identify or locate a prospective adoptive parent who is interested in adopting the birth parent's child[~~, or in identifying or locating~~]; or

(B) a prospective adoptive parent to identify or locate a child to be adopted.

(ii) [~~No~~] A payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may not be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the Office of Licensing [~~within the department~~] shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the Office of Licensing [~~within the department~~].

[~~(4) Nothing in this part:~~]

[~~(a) precludes~~]

(4) A person who intentionally or knowingly violates Subsection (2) or (3) is guilty of a third degree felony.

(5) This part does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings[~~; or~~].

[~~(b) abrogates the right of procedures for independent adoption as provided by law.~~]

[~~(5)~~] (6) In accordance with federal law, only [~~agents or employees~~] an agent or employee of the division and of a licensed child-placing [~~agencies~~] agency may certify to the United States Citizenship and Immigration [~~and Naturalization Service~~] Services that a family meets the division's preadoption requirements.

[~~(6)~~] (7) (a) Neither a licensed child-placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with [~~any individual or individuals that~~] an individual who would not be qualified for adoptive placement [~~pursuant to the provisions of~~] under Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(b) (i) The division, as a licensed child-placing agency, may not place a child in foster care with [~~any~~] an individual [~~or individuals that~~] who would not be qualified for adoptive placement [~~pursuant to the provisions of~~] under Sections 78B-6-117, 78B-6-102, and 78B-6-137. [~~However, nothing in this Subsection (6)(b) limits~~]

(ii) This Subsection (7)(b) does not limit the placement of a child in foster care with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(c) (i) With regard to [~~children who are~~] a child who is in the custody of the state, the division shall establish a rule providing that priority for placement shall be provided to [~~families~~] a family in which a couple is legally married under the laws of this state. [~~However, nothing in this Subsection (6)(c) limits~~]

(ii) This Subsection (7)(c) does not limit the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 5. Section 76-7-304.5 is amended to read:

76-7-304.5. Consent required for abortions performed on minors -- Division of Child and Family Services as guardian of a minor -- Hearing to allow a minor to self-consent -- Appeals.

(1) In addition to the other requirements of this part, a physician may not perform an abortion on a minor unless:

(a) the physician obtains the informed written consent of a parent or guardian of the minor,

[~~consistent~~] in accordance with Sections 76-7-305 and 76-7-305.5;

(b) the minor is granted the right, by court order under Subsection (4)(b), to consent to the abortion without obtaining consent from a parent or guardian; or

(c) (i) a medical condition exists that, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of a pregnant minor as to necessitate the abortion of her pregnancy to avert:

(A) the minor's death; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the minor; and

(ii) there is not sufficient time to obtain the consent in the manner chosen by the minor under Subsection (2) before it is necessary to terminate the minor's pregnancy in order to avert the minor's death or impairment described in Subsection (1)(c)(i).

(2) (a) A [~~pregnant~~] minor who wants to have an abortion may choose:

[~~(a)~~] (i) to seek consent from [~~a~~] the minor's parent or guardian [~~under~~] as described in Subsection (1)[~~(a)~~]; or

[~~(b)~~] (ii) to seek a court order [~~under~~] as described in Subsection (1)[~~(b)~~].

(b) Neither Subsection (1) nor this Subsection (2) require the minor to seek or obtain consent from the minor's parent or guardian if the circumstances described in Subsection 76-7-304(3)(b)(ii) exist.

[~~(3) If a pregnant minor fails to obtain the consent of a parent or guardian of the minor to the performance of an abortion, or if the minor chooses not to seek~~]

(3) If a minor does not obtain the consent of [~~a~~] the minor's parent or guardian, the minor may file a petition with the juvenile court to obtain a court order [~~under~~] as described in Subsection (1)[~~(b)~~].

(4) (a) [~~A~~] The juvenile court shall close the hearing on a petition described in Subsection (3) [~~shall be closed~~] to the public.

(b) After considering the evidence presented at the hearing, the court shall order that the minor may obtain an abortion without the consent of a parent or guardian of the minor if the court finds by a preponderance of the evidence that:

(i) the minor:

(A) has given her informed consent to the abortion; and

(B) is mature and capable of giving informed consent to the abortion; or

(ii) an abortion would be in the minor's best interest.

(5) The Judicial Council shall make rules that:

(a) provide for the administration of the proceedings described in this section;

(b) provide for the appeal of a court's decision under this section;

(c) ensure the confidentiality of the proceedings described in this section and the records related to the proceedings; and

(d) establish procedures to expedite the hearing and appeal proceedings described in this section.

Section 6. Section 80-3-102 is amended to read:

80-3-102. Definitions.

As used in this chapter:

(1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging that a child is:

(a) abused;

(b) neglected; or

(c) dependent.

(2) "Child protection team" means the same as that term is defined in Section 62A-4a-101.

(3) "Custody" means the same as that term is defined in Section 62A-4a-101.

(4) "Division" means the Division of Child and Family Services created in Section 62A-4a-103.

(5) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

(6) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

(7) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is a first cousin of the child's parent;

(c) is [~~an adoptive~~] a permanent guardian or natural parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

(8) "Shelter care" means the same as that term is defined in Section 62A-4a-101.

(9) "Sibling" means the same as that term is defined in Section 62A-4a-101.

(10) "Sibling visitation" means the same as that term is defined in Section 62A-4a-101.

(11) "Substitute care" means the same as that term is defined in Section 62A-4a-101.

(12) "Temporary custody" means the same as that term is defined in Section 62A-4a-101.

Section 7. Section 80-3-301 is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection 62A–4a–202.1(7);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80–3–203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80–3–203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80–3–104, the following individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare worker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80–3–108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections [~~80–3–302(8)(c)~~] 80–3–302(7)(c) through (e), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections [~~80–3–302(8)(c)~~] 80–3–302(7)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection 62A-4a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection 80-1-102(51)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) Where the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section 62A-4a-203, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) Whenever a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter or Title 62A, Chapter 4a, Child and Family Services.

Section 8. Section 80-3-302 is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Natural parent," notwithstanding Section 80-1-102, means:

(i) a biological or adoptive mother of the child;

(ii) an adoptive father of the child; or

(iii) a biological father of the child who:

(A) was married to the child's biological mother at the time the child was conceived or born; or

(B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

(b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, [~~when~~] if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with the requirements of Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection [~~(8)~~] (7), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the division's management information system for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections [~~(7)~~] (6) through [~~(10)~~] (9); or

(d) the child should be placed in the temporary custody of the division.

[~~(5) The time limitations described in Section 80-3-406 with regard to reunification efforts apply to children placed with a previously noncustodial parent under Subsection (2).~~]

[~~(6)~~] (5) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.

[~~(7)~~] (6) Subject to Subsection [~~(8)~~] (7), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter and Title 62A, Chapter 4a, Part 2, Child Welfare Services, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection [~~(7)~~] (6)(a).

[~~(8)~~] (7) (a) (i) Subject to Subsections [~~(8)(b) through (d),~~] (7)(b) through (d) and if the provisions of this section are satisfied, the division and the juvenile court shall give preferential consideration [~~shall be given~~] to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child[~~, and the provisions of this section are satisfied~~].

(ii) For purposes of the preferential consideration under Subsection (7)(a)(i), there is a rebuttable presumption that placement of the child with a relative is in the best interest of the child.

(b) (i) The preferential consideration that the juvenile court or division initially grants a relative or friend [~~is initially granted~~] under Subsection [~~(8)(a)~~] (7)(a)(i) expires 120 days after the day on which the shelter hearing occurs.

(ii) After the day on which the time period described in Subsection [~~(8)(b)(i)~~] (7)(b)(i) expires, the division or the juvenile court may not grant preferential consideration to a relative or friend, who has not obtained custody or asserted an interest in [~~a~~] the child[~~, may not be granted preferential consideration by the division or the juvenile court~~].

(c) (i) The preferential consideration that the juvenile court initially grants a natural parent [~~is initially granted~~] under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs.

(ii) After the time period described in Subsection [~~(8)(c)(i)~~] (7)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.

[~~(iii)~~] (d) Before the day on which the time period described in Subsection [~~(8)(c)(i)~~] (7)(c)(i) expires, the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

[~~(A)~~] (i) a noncustodial parent of the child;

[~~(B)~~] (ii) a relative of the child;

[~~(C)~~] (iii) subject to Subsection [~~(8)(d)~~] (7)(e), a friend if the friend is a licensed foster parent; and

[~~(D)~~] (iv) other placements that are consistent with the requirements of law.

[~~(d)~~] (e) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections [~~(8)(d)(ii)~~] (7)(e)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

[~~(e)~~] (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection [~~(8)(e)(i)~~] (7)(f)(i) becomes licensed as a foster parent within the time frame described in Subsection [~~(8)~~] (7)(b), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

[~~(9)~~] (8) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection [~~(7)~~] (6)(a), the juvenile court:

(i) shall make a specific finding regarding:

[~~(i)~~] (A) the fitness of that relative or friend as a placement for the child; and

[~~(ii)~~] (B) the safety and appropriateness of placement with the relative or friend[~~.~~]; and

(ii) may not consider a request for guardianship or adoption of the child by an individual who is not a relative of the child, or prevent the division from placing the child in the custody of a relative of the child in accordance with this part, until after the day on which the juvenile court makes the findings under Subsection (8)(a)(i).

(b) In making the finding described in Subsection [~~(9)~~] (8)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative, as defined in Section 62A-4a-209, of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections 62A-4a-209(5) and (7);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System described in Section 62A-4a-1003; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative, as defined in Section 62A-4a-209, of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the division's management information system for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection [~~(9)~~] (8)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections [~~(9)~~] (8)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

[~~(10)~~] (9) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection [~~(9)~~] (8), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

[~~(11) When~~] (10) If a juvenile court places a child described in Subsection [~~(7)~~] (6) with the child's relative or friend:

(a) the juvenile court shall:

(i) [~~shall~~] order the relative or friend take custody, subject to the continuing supervision of the juvenile court; [~~and~~]

(ii) provide for reasonable parent-time with the parent or parents from whose custody the child is removed, unless parent-time is not in the best interest of the child; and

(iii) conduct a periodic review no less often than every six months, to determine whether:

(A) placement with the relative or friend continues to be in the child's best interest;

(B) the child should be returned home; or

(C) the child should be placed in the custody of the division;

(b) the juvenile court may enter an order:

[~~(ii) may order~~]

(i) requiring the division to provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being; or

(ii) that the juvenile court considers necessary for the protection and best interest of the child; and

[~~(b)~~] (c) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court[~~;~~].

[~~(c) the juvenile court may enter any order that the juvenile court considers necessary for the protection and best interest of the child;~~]

[~~(d) the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and~~]

[~~(e) the juvenile court shall conduct a periodic review no less often than every six months, to determine whether:~~]

[~~(i) placement with the relative or friend continues to be in the child's best interest;~~]

[~~(ii) the child should be returned home; or~~]

[~~(iii) the child should be placed in the custody of the division.~~]

[~~(12)~~] (11) No later than 12 months after the day on which the child [~~was~~] is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

[~~(13)~~] (12) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to [~~children~~] a child placed with a previously noncustodial parent under Subsection (2) or with a relative or friend under Subsection [~~(7)~~] (6).

[~~(14)~~] (13) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection [~~(14)~~] (13)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection [~~(14)~~] (13)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) Subsection [~~(14)~~] (13)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection [~~(14)~~] (13)(a) on the relative.

[~~(15)~~] (14) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter and Title 62A, Chapter 4a, Child and Family Services.

[~~(16)~~] (15) If, [~~following~~] after the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

[~~(17)~~] (16) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

[~~(18)~~] (17) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

[~~(19)~~] (18) This section does not guarantee that an identified relative or friend will receive custody of the child.

Section 9. Section 80-3-303 is amended to read:

80-3-303. Post-shelter hearing placement of a child in division's temporary custody.

(1) If the juvenile court awards temporary custody of a child to the division under Section 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

(2) In placing a child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and [~~(d)~~] (e), shall comply with the applicable background check provisions described in Section 80-3-302;

(b) is not required to receive approval from the juvenile court before making the placement;

(c) shall consider the preferential consideration and rebuttable presumption described in Subsection 80-3-302(7)(a);

[~~(c)~~] (d) shall, within three days, excluding weekends and holidays, after the day on which the placement is made, give written notice to the juvenile court, and the parties to the proceedings, that the placement has been made;

[~~(d)~~] (e) may place the child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section 62A-4a-209, pending the results of:

(i) the background check described in Subsection [~~80-3-302(14)(a)~~] 80-3-302(13)(a); and

(ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the child; and

[~~(e)~~] (f) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.

(3) If the division's placement decision differs from a child's express wishes [~~if~~] and the child is of sufficient maturity to state the child's wishes in relation to the child's placement, the division shall:

(a) make written findings explaining why the division's decision differs from the child's wishes [~~in a writing provided to~~]; and

(b) provide the written findings to the juvenile court and the child's attorney guardian ad litem.

Section 10. Section 80-3-406 is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement, including the rebuttable presumption described in Subsection 80-3-302(7)(a);

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based upon a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) and (c), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection 62A-4a-205(6)(e); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) Nothing in this section may be construed to entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to

receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's legal guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 11. Section 80-3-407 is amended to read:

80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.

If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

(1) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan [~~established under Section 62A-4a-205; and~~];

(2) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan[~~.~~]; and

(3) the division considered the preferential consideration and rebuttable presumption described in Subsections 80-3-302(7)(a) and 80-3-303(2)(c).

Section 12. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with Sections 62A-4a-210 through 62A-4a-212;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(10) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections 62A-4a-201 and 80-4-104.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(13) (a) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(b) In considering appropriate placement options under Subsection (13)(a), the juvenile court shall provide preferential consideration to a relative's request for placement of the minor.

(14) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

Section 13. Section 80-4-305 is amended to read:

80-4-305. Court disposition of child upon termination of parental rights -- Posttermination reunification.

(1) [~~As~~] Except as provided in Subsection (7), as used in this section, "relative" means:

(a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and

(b) in the case of a child who is an Indian child, an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903.

(2) Upon entry of an order under this chapter, the juvenile court may:

(a) place the child in the legal custody and guardianship of a licensed child placement agency or the division for adoption; or

(b) make any other disposition of the child authorized under Section 80-3-405.

(3) Subject to [~~the requirements of~~] Subsections (4) and [~~(5),~~] (6), the division shall place all

adoptable children placed in the custody of the division [~~shall be placed~~] for adoption.

(4) If the parental rights of all parents of an adoptable child placed in the custody of the division [~~have been~~] are terminated and a suitable adoptive placement is not already available, the juvenile court:

(a) shall determine whether there is a relative who desires to adopt the child;

(b) may order the division to conduct a reasonable search to determine whether there [~~are relatives who are~~] is a relative who is willing to adopt the child; and

(c) shall, if a relative desires to adopt the child:

(i) make a specific finding regarding the fitness of the relative to adopt the child; and

(ii) place the child for adoption with [~~that~~] the relative unless the juvenile court finds that adoption by the relative is not in the best interest of the child.

(5) If an individual who is not a relative of the child desires to adopt the child, the juvenile court shall, before entering an order for adoption of the child, determine whether due weight was given to the relative's preferential consideration under Subsection 80-3-302(7)(a)(i).

[~~(5)~~] (6) This section does not guarantee that a relative will be permitted to adopt the child.

[~~(6)~~] (7) A parent whose rights [~~were~~] are terminated under this chapter, or a relative of the child, as defined by Section 80-3-102, may petition for guardianship of the child if:

(a) (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or

(ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and

(b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.

CHAPTER 288
S. B. 162

Passed February 28, 2022
Approved March 23, 2022
Effective May 4, 2022

COUNTY GOVERNANCE AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Phil Lyman

LONG TITLE

General Description:

This bill modifies provisions related to a county's fiscal procedures.

Highlighted Provisions:

This bill:

- defines terms, including the term "finance officer";
- modifies the duties of a county auditor, a county finance officer, and a county legislative body related to the provision of accounting services in a county;
- modifies the authority of a county legislative body and a county executive to receive financial information related to a county; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

10-3c-203, as last amended by Laws of Utah 2019, Chapter 24
17-19a-101, as enacted by Laws of Utah 2012, Chapter 17
17-19a-102, as enacted by Laws of Utah 2012, Chapter 17
17-19a-205, as enacted by Laws of Utah 2012, Chapter 17
17-36-3, as last amended by Laws of Utah 2014, Chapters 176, 189, 253 and last amended by Coordination Clause, Laws of Utah 2014, Chapter 253
17-36-4, as last amended by Laws of Utah 2019, Chapter 136
17-36-8, as last amended by Laws of Utah 2014, Chapter 176
17-36-10, as last amended by Laws of Utah 2012, Chapter 17
17-36-11, as last amended by Laws of Utah 2012, Chapter 17
17-36-15, as last amended by Laws of Utah 2012, Chapter 17
17-36-20, as last amended by Laws of Utah 2012, Chapter 17
17-36-22, as last amended by Laws of Utah 2009, Chapter 186
17-36-23, as enacted by Laws of Utah 1975, Chapter 22
17-36-32, as last amended by Laws of Utah 2012, Chapter 17
17-36-36, as last amended by Laws of Utah 2014, Chapter 176
17-36-37, as last amended by Laws of Utah 2014, Chapter 176
17-53-212, as last amended by Laws of Utah 2012, Chapter 17
17-53-303, as last amended by Laws of Utah 2012, Chapter 17
20A-7-101, as last amended by Laws of Utah 2021, Chapter 80

REPEALS:

17-19a-203, as last amended by Laws of Utah 2018, Chapter 68

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3c-203 is amended to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district -- Recording of open meetings.

(1) (a) This section applies only to a metro township in which:

(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or

(ii) the metro township is subsequently annexed into a municipal services district.

(b) This section does not apply to a metro township described in Subsection (7)(a) if the municipal services district is dissolved.

(2) (a) Any of the following officials elected or appointed, or persons employed by, the county in which a metro township is located may, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions if the county official and the metro township agree:

(i) the county treasurer may fulfill the duties and hold the powers of treasurer for the metro township;

(ii) the county clerk may fulfill the duties and hold the powers of recorder and clerk for the metro township;

(iii) the county surveyor may fulfill, on behalf of the metro township, all surveyor duties imposed by law;

(iv) the county engineer may fulfill the duties and hold the powers of engineer for the metro township; and

(v) subject to Subsection (2)(b), the county auditor may fulfill the duties and hold the powers of auditor for the metro township.

(b) (i) The county auditor may fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.

(ii) Notwithstanding Subsection (2)(b), in a metro township, services described in Sections [~~17-19a-203,~~] 17-19a-204[~~,~~] and 17-19a-205, and services other than those described in Subsection (2)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, may be performed by county staff other than the county auditor.

(3) (a) Nothing in Subsection (2) may be construed to relieve an official described in Subsections (2)(a)(i) through (v) of a duty to either the county or, if the official and the metro township agree as provided in Subsection (2)(a), the metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection (3)(a), an official or the official's deputy or other person described in Subsections (2)(a)(i) through (v):

(i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(iii) is not subject to:

(A) Chapter 3, Part 11, Personnel Rules and Benefits; or

(B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

(4) The district attorney of the county in which a metro township is located may provide legal counsel to the metro township if the county and the metro township agree.

(5) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

(6) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

(7) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, and Section 10-6-137, if the county clerk and the metro township agree to the county clerk providing recorder and clerk services to the metro township as provided in Subsection 10-3c-203(1)(a)(ii):

(a) the county clerk may choose to not attend an open meeting of the metro township council; and

(b) if the county clerk does not attend an open meeting of the metro township council, the county clerk shall ensure that the chair of the metro township council or a designee of the county clerk, in accordance with Section 52-4-203, makes a recording of the meeting and prepares written minutes of the meeting.

Section 2. Section 17-19a-101 is amended to read:

17-19a-101. Title and scope.

(1) This chapter is known as "County Auditor."

[~~(2) (a) This chapter applies to a county of the first class.~~]

[~~(b) (i) On or before December 31, 2014, a county of the second, third, fourth, fifth, or sixth class is not subject to the provisions of this chapter; and~~]

[~~(ii) on or after January 1, 2015, a county of the second, third, fourth, fifth, or sixth class is subject to the provisions of this chapter.~~]

(2) This chapter applies to each county in the state.

Section 3. Section 17-19a-102 is amended to read:

17-19a-102. Definitions.

As used in this chapter:

(1) "Account" or "accounting" means:

(a) the systematic recording, classification, or summarizing of a financial transaction or event; and

(b) the interpretation or presentation of the result of an action described in Subsection (1)(a).

(2) (a) "Accounting services" means the creation, modification, or deletion of transactions and records in a financial accounting system, including the preparation of a county's annual financial report.

(b) "Accounting services" does not include the creation of a purchase order.

[~~(2)~~] (3) "Audit" or "auditing" means an examination that is a formal analysis of a county account or county financial record:

(a) to verify accuracy, completeness, or compliance with an internal control;

(b) to give a fair presentation of a county's financial status; and

(c) that conforms to the uniform classification of accounts established by the state auditor.

[~~(3)~~] (4) "Book" means a financial record of the county, regardless of a record's format.

[~~(4)~~] (5) (a) "Budget" or "budgeting" means [~~a process or activity conducted by the budget officer related to~~] the preparation or presentation of a proposed or tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.

(b) "Budget" or "budgeting" includes:

(i) a revenue projection;

(ii) a budget request compilation; or

(iii) the performance of an activity described in Subsection [~~(4)~~] (5)(b)(i) or (ii).

[~~(5) "Budget officer" means a person described in Section 17-19a-203.~~]

(6) (a) "Claim" means under the color of law:

(i) a demand presented for money or damages; or

(ii) a cause of action presented for money or damages.

(b) "Claim" does not mean a routine, uncontested, or regular payment, including a bill, purchase, or payroll.

(7) "Performance audit" means a review and audit as described in Subsection 17-19a-206(3) of a county program, county operation, county management system, or county agency to:

(a) review procedures, activities, or policies; and

(b) determine whether the county is achieving the best levels of economy, efficiency, effectiveness, and compliance.

Section 4. Section 17-19a-205 is amended to read:

17-19a-205. Accounting services.

(1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), the county auditor shall provide accounting services for the county [~~as established by ordinance~~].

(2) [~~The~~] For a county operating under the county executive-council form of government as described in Section 17-52a-203, the county [~~legislative body~~] council may, by ordinance, delegate [~~an accounting service~~] accounting services provided for or executed on behalf of the entire county:

(a) to the county executive; or

(b) to an office's or department's officer or director.

(3) For a county operating under the council-manager form of county government as described in Section 17-52a-204, if the county auditor provides preapproval or postpayment review for all payments by the county, the county council may by ordinance passed on or before December 31, 2021, delegate accounting services provided for or executed on behalf of the entire county:

(a) to the county manager; or

(b) to an office's or department's officer or director.

[~~(3)~~] (4) If a [~~county legislative body delegates an accounting service~~] county council delegates the provision of accounting services in accordance with [~~Subsection (2), the legislative body shall make the delegation~~] Subsection (2) or (3):

(a) the county council shall make the delegation in accordance with good management practice to foster effectiveness, efficiency, and the adequate protection of a county asset; [~~and~~]

(b) the county council shall make the delegation by considering appropriate checks and balances within county government[~~.~~]; and

(c) the entity that is selected to provide accounting services shall prepare the tentative budget as provided in Chapter 36, Uniform Fiscal Procedures Act for Counties.

Section 5. Section 17-36-3 is amended to read:

17-36-3. Definitions.

As used in this chapter:

(1) "Accrual basis of accounting" means a method where revenues are recorded when earned and expenditures recorded when they become liabilities notwithstanding that the receipt of the revenue or payment of the expenditure may take place in another accounting period.

(2) "Appropriation" means an allocation of money for a specific purpose.

(3) (a) "Budget" means a plan for financial operations for a fiscal period, embodying estimates for proposed expenditures for given purposes and the means of financing the expenditures.

(b) "Budget" may refer to the budget of a fund for which a budget is required by law, or collectively to the budgets for all those funds.

(4) "Budgetary fund" means a fund for which a budget is required, such as those described in Section 17-36-8.

[~~(5) "Budget officer" means a person described in Section 17-19a-203.~~]

[~~(6)~~] (5) "Budget period" means the fiscal period for which a budget is prepared.

[~~(7)~~] (6) "Check" means an order in a specific amount drawn upon the depositary by any authorized officer in accordance with Section 17-19a-301, or 17-24-1.

[~~(8)~~] (7) "County general fund" means the general fund used by a county.

[~~(9)~~] (8) "Countywide service" means a service provided in both incorporated and unincorporated areas of a county.

[~~(10)~~] (9) "Current period" means the fiscal period in which a budget is prepared and adopted.

[~~(11)~~] (10) "Department" means any functional unit within a fund which carries on a specific activity.

[~~(12)~~] (11) "Encumbrance system" means a method of budgetary control where part of an appropriation is reserved to cover a specific expenditure by charging obligations, such as purchase orders, contracts, or salary commitments to an appropriation account. An expenditure ceases to be an encumbrance when paid or when the actual liability is entered in the books of account.

[~~(13)~~] (12) "Estimated revenue" means any revenue estimated to be received during the budget period in any fund for which a budget is prepared.

(13) "Finance officer" means:

(a) the county auditor or the person selected to provide accounting services for the county in accordance with Section 17-19a-205; or

(b) notwithstanding Subsection (13)(a), for the purposes of preparing a tentative budget in a county operating under a county executive-council form of county government, the county executive.

(14) "Fiscal period" means the annual or biennial period for recording county fiscal operations.

(15) "Fund" means an independent fiscal and accounting entity comprised of a sum of money or other resources segregated for a specific purpose or objective.

(16) "Fund balance" means the excess of the assets over liabilities, reserves, and contributions, as reflected by its books of account.

(17) "Fund deficit" means the excess of liabilities, reserves, and contributions over its assets, as reflected by its books of account.

(18) "General fund" is as defined by the Governmental Accounting Standards Board as reflected in the Uniform Accounting Manual for All Local Governments prepared by the Office of the Utah State Auditor.

(19) "Interfund loan" means a loan of cash from one fund to another, subject to future repayment.

(20) "Last completed fiscal period" means the fiscal period next preceding the current period.

(21) "Modified accrual basis of accounting" means a method under which expenditures other than accrued interest on general long-term debt are recorded at the time liabilities are incurred and revenues are recorded when they become measurable and available to finance expenditures of the current period.

(22) "Municipal capital project" means the acquisition, construction, or improvement of capital assets that facilitate providing municipal service.

(23) "Municipal service" means a service not provided on a countywide basis and not accounted for in an enterprise fund, and includes police patrol, fire protection, culinary or irrigation water retail service, water conservation, local parks, sewers, sewage treatment and disposal, cemeteries, garbage and refuse collection, street lighting, airports, planning and zoning, local streets and roads, curb, gutter, and sidewalk maintenance, and ambulance service.

(24) "Retained earnings" means that part of the net earnings retained by an enterprise or internal service fund which is not segregated or reserved for any specific purpose.

(25) "Special fund" means any fund other than the county general fund, such as those described in Section 17-36-6.

(26) "Unappropriated surplus" means that part of a fund which is not appropriated for an ensuing budget period.

(27) "Warrant" means an order in a specific amount drawn upon the treasurer by the auditor.

Section 6. Section 17-36-4 is amended to read:

17-36-4. State auditor -- Duties.

(1) The state auditor shall:

(a) prescribe a uniform system of fiscal procedures for the several counties;

(b) conduct a constant review and modification of such procedures to improve them;

(c) prepare and supply each county [~~budget~~] finance officer with suitable budget forms; and

(d) prepare instructional materials, conduct training programs, and render other services deemed necessary to assist counties in implementing the uniform system.

(2) The uniform system of procedure may include reasonable exceptions and modifications applicable to counties with a population of 25,000 or less, such population to be determined by the Utah Population Committee. Counties may expand the uniform system to serve better their needs. Deviations from or alterations to the basic prescribed classification system for the identity of funds and accounts should not be made.

Section 7. Section 17-36-8 is amended to read:

17-36-8. Preparation of budgets.

The [~~budget~~] finance officer of each county shall prepare each budget period, [~~on forms~~] in a format provided pursuant to Section 17-36-4, a tentative budget for each of the following funds which are included in [~~its~~] the county's system of accounts:

(1) county general fund;

(2) special revenue funds;

(3) debt service funds;

(4) capital project funds; and

(5) any other fund or funds for which a budget is required by the uniform system of budgeting, accounting, and reporting.

Section 8. Section 17-36-10 is amended to read:

17-36-10. Preparation of tentative budget.

(1) (a) On or before the first day of the next to last month of every fiscal period, the [~~budget~~] finance officer shall prepare for the next budget period and file with the governing body a tentative budget for each fund for which a budget is required.

(b) During the preparation of a tentative budget described in Subsection (1)(a), the following may participate in the creation of the tentative budget:

(i) for a county commission or expanded county commission form of county government, the county commission;

(ii) for a county executive-council form of county government, the county council and the county executive; and

(iii) for a council-manager form of county government, the county council and the county manager.

(2) (a) A department for which county funds are appropriated shall file with the [~~budget~~] finance officer not less than three months before the commencement of each fiscal year on forms furnished by the [~~budget~~] finance officer a detailed estimate and statement of the revenue and necessary expenditures of the department for the next budget year.

(b) The estimate and statement described in Subsection (2)(a) shall set forth:

(i) the number of persons to be regularly employed;

(ii) the kinds of service the department will perform;

(iii) the salaries and wages the department expects to pay;

(iv) the kind of work the department will perform and the improvements the department expects to make; and

(v) the estimated cost of the service, work, and improvements.

(c) The finance officer shall make the estimate and statement described in Subsection (2)(a) available to:

(i) for a county commission or expanded county commission form of county government, the county commission;

(ii) for a county executive-council form of county government, the county council and the county executive; and

(iii) for a council-manager form of county government, the county council and the county manager.

[~~(c)~~] (d) The statement shall also record performance data expressed in work units, unit costs, man hours, and man years sufficient in detail, content, and scope to permit the [~~budget~~] finance officer to prepare and process the county budget.

(3) In the preparation of the budget, the [~~budget~~] finance officer and all other county officers are subject to Sections 17-36-1 through 17-36-44 and to the uniform system of budgeting, accounting, and reporting established therein.

(4) In the tentative budget, the [~~budget~~] finance officer shall set forth in tabular form:

(a) actual revenues and expenditures in the last completed fiscal period;

(b) estimated total revenues and expenditures for the current fiscal period;

(c) the estimated available revenues and expenditures for the ensuing budget period computed by determining:

(i) the estimated expenditure for each fund after review of each departmental budget request; and

(ii) [~~(A)~~] the total revenue requirements of the fund[~~;~~], including:

[~~(B)~~] (A) the part of the total revenue that will be derived from revenue sources other than property tax; and

[~~(C)~~] (B) the part of the total revenue that [~~shall~~] will be derived from property taxes; and

(d) if required by the governing body, actual performance experience to the extent available in work units, unit costs, man hours, and man years for each budgeted fund that includes an appropriation for salaries or wages for the last completed fiscal period and the first eight months of the current fiscal period if the county is on an annual fiscal period, or the first 20 months of the current fiscal period if the county is on a biennial fiscal period, together with the total estimated performance data of like character for the current fiscal period and for the ensuing budget period.

(5) The [~~budget~~] finance officer may recommend modification of any departmental budget request under Subsection (4)(c)(i) before [~~it~~] the budget request is filed with the governing body, if each department head has been given an opportunity to be heard concerning the modification.

(6) (a) A tentative budget shall contain the estimates of expenditures submitted by any department together with specific work programs and other supportive data as the governing body requests.

(b) The [~~budget~~] finance officer shall include with the tentative budget [~~by~~] a supplementary estimate of all capital projects or planned capital projects within the budget period and within the next three succeeding years.

(7) (a) A [~~budget~~] finance officer that submits a tentative budget in a county with a population [~~in excess~~] of more than 25,000 [~~determined in accordance with Section 17-36-4~~] shall include with the tentative budget a budget message in explanation of the budget.

(b) The budget message shall [~~contain~~]:

(i) include an outline of the proposed financial policies of the county for the budget period [~~and~~];

(ii) describe the important features of the budgetary plan[~~. It shall also~~];

(iii) state the reasons for changes from the previous fiscal period in appropriation and revenue items; and

(iv) explain any major changes in financial policy.

(c) A [~~budget message for counties~~] finance officer of a county with a population of less than 25,000 [~~is~~

~~recommended but not incumbent upon the budget officer~~] may prepare a budget message in explanation of the tentative budget.

(8) (a) The governing body shall review, consider, and adopt a tentative budget in a regular or special meeting called for that purpose.

(b) (i) Subject to Subsection (8)(b)(ii), the governing body may thereafter amend or revise the tentative budget prior to public hearings on the tentative budget.

(ii) A governing body may not:

(A) reduce below the required minimum an appropriation required for debt retirement and interest; or

(B) reduce, in accordance with Section 17-36-17, an existing deficit.

Section 9. Section 17-36-11 is amended to read:

17-36-11. Tentative budget -- Public record prior to adoption.

[~~The~~] A tentative budget and all supportive schedules and data shall be a public record available for inspection during business hours at the office of the [~~budget~~] finance officer for at least 10 days [~~prior to~~] before the public hearing on the adoption of a final budget.

Section 10. Section 17-36-15 is amended to read:

17-36-15. Adoption of budget -- Immunity.

(1) (a) On or before the last day of each fiscal period, the governing body by resolution shall adopt the final budget.

(b) A final budget adopted in accordance with Subsection (1)(a) is, unless amended, in effect for the next fiscal period.

(c) The [~~budget~~] finance officer shall:

(i) certify a copy of the final budget, and of any subsequent budget amendment; and

(ii) file a copy with the state auditor not later than 30 days after the day on which the governing body adopts the budget.

(d) The [~~budget~~] finance officer shall file a certified copy of the budget in the office of the [~~budget~~] finance officer for inspection by the public during business hours.

(2) (a) Except as provided in Subsection (2)(b), a county officer or county employee may not file a legal action in state or federal court against the county, a department, or a county officer for any matter related to the following:

(i) the adoption of a county budget;

(ii) a county appropriation;

(iii) a county personnel allocation; or

(iv) a fund related to the county budget, a county appropriation, or a county personnel allocation.

(b) A county or district attorney may enforce a procedural requirement that governs the adoption or approval of a budget in accordance with this chapter.

Section 11. Section 17-36-20 is amended to read:

17-36-20. Purchases or encumbrances by purchasing agent.

(1) A person may not make a purchase or incur an encumbrance on behalf of a county unless that person acts in accordance with an order by, or approval of, the person duly authorized to act as purchasing agent for the county, except encumbrances or expenditures directly investigated and specifically approved by the executive or legislative body.

(2) Unless otherwise provided by the governing body, the [~~budget~~] finance officer or the [~~budget~~] finance officer's agents shall serve as a purchasing agent.

Section 12. Section 17-36-22 is amended to read:

17-36-22. Transfer of unexpended appropriation balance by department.

(1) After review by the [~~budget~~] finance officer and in accordance with budgetary and fiscal policies or ordinances adopted by the county legislative body, any department may:

(a) transfer any unencumbered or unexpended appropriation balance or any part from one expenditure account to another within the department during the budget year; or

(b) incur an excess expenditure of one or more line items.

(2) A transfer or expenditure under Subsection (1) may not occur if the transfer or expenditure would cause the total of all excess expenditures or encumbrances to exceed the total unused appropriation within the department at the close of the budget period.

Section 13. Section 17-36-23 is amended to read:

17-36-23. Transfer of unexpended appropriation balance by governing body.

At the request of the [~~budget~~] finance officer or upon [~~its~~] the governing body's own motion, the governing body may by resolution transfer any unencumbered or unexpended appropriation balance or part thereof from one department in a fund to another department within the same fund[~~;~~], provided that no appropriation for debt retirement and interest, reduction of deficit, or other appropriation required by law may be reduced below the required minimum.

Section 14. Section 17-36-32 is amended to read:

17-36-32. Operating and capital budget -- Expenditures.

(1) (a) As used in this section, "operating and capital budget" means a plan of financial operation

for an enterprise or other special fund embodying estimates of operating and nonoperating resources and expenses and other outlays for a fiscal period.

(b) Except as otherwise expressly provided, "budget" or "budgets" and the procedures and controls relating to them in other sections of this act are not applicable to the operating and capital budgets provided in this section.

(2) At or before the time that the governing body adopts budgets for the budgetary funds specified in Section 17-36-8, the governing body shall adopt an operating and capital budget for the next fiscal period for:

(a) each enterprise fund; and

(b) any other special nonbudgetary fund for which operating and capital budgets are prescribed by the uniform system of budgeting, accounting, and reporting.

(3) (a) The governing body shall adopt and administer the operating and capital budget in accordance with this Subsection (3).

(b) At or before the first day of the next to last month of each fiscal period, the [~~budget~~] finance officer shall prepare for the next fiscal period on forms provided pursuant to Section 17-36-4, and file with the governing body a tentative operating and capital budget for:

(i) each enterprise fund; and

(ii) any other special fund that requires an operating and capital budget.

(c) The tentative operating and capital budget shall be accompanied by a supplementary estimate of all capital projects or planned capital projects:

(i) within the next fiscal period; and

(ii) within the fiscal period immediately following the fiscal period described in Subsection (3)(c)(i).

(d) (i) Subject to Subsection (3)(d)(ii), the [~~budget~~] finance officer shall prepare all estimates after review and consultation, if requested, with a department proposing a capital project.

(ii) After complying with Subsection (3)(d)(i), the [~~budget~~] finance officer may revise any departmental estimate before it is filed with the governing body.

(e) (i) Except as provided in Subsection (3)(e)(iv), if a governing body includes in a tentative budget, or an amendment to a budget, allocations or transfers between a utility enterprise fund and another fund that are not reasonable allocations of costs between the utility enterprise fund and the other fund, the governing body shall:

(A) hold a public hearing;

(B) prepare a written notice of the date, time, place, and purpose of the hearing, in accordance with Subsection (3)(e)(ii); and

(C) subject to Subsection (3)(e)(iii), mail the notice to each utility enterprise fund customer at least seven days before the day of the hearing.

(ii) The purpose portion of the written notice described in Subsection (3)(e)(i)(B) shall identify:

(A) the utility enterprise fund from which money is being transferred;

(B) the amount being transferred; and

(C) the fund to which the money is being transferred.

(iii) The governing body:

(A) may print the written notice required under Subsection (3)(e)(i) on the utility enterprise fund customer's bill; and

(B) shall include the written notice required under Subsection (3)(e)(i) as a separate notification mailed or transmitted with the utility enterprise fund customer's bill.

(iv) The notice and hearing requirements in this Subsection (3)(e) are not required for an allocation or a transfer included in an original budget or in a subsequent budget amendment previously approved by the governing body for the current fiscal year.

(f) (i) The governing body shall review the tentative operating and capital budget at any regular or special meeting called for that purpose.

(ii) In accordance with Subsection (3)(f)(i), the governing body may make any changes to the tentative operating and capital budget that the governing body considers advisable.

(iii) Before the close of the fiscal period, the governing body shall adopt an operating and capital budget for the next fiscal period.

(g) (i) Upon final adoption by the governing body, the operating and capital budget shall be in effect for the budget period subject to amendment.

(ii) The governing body shall:

(A) certify a copy of the operating and capital budget for each fund with the [~~budget~~] finance officer; and

(B) make a copy available to the public during business hours in the offices of the county auditor.

(iii) The governing body shall file a copy of the operating and capital budget with the state auditor within 30 days after the day on which the operating and capital budget is adopted.

(iv) The governing body may during the budget period amend the operating and capital budget of an enterprise or other special fund by resolution.

(v) A copy of the operating and capital budget as amended shall be filed with the state auditor.

(4) Any expenditure from an operating and capital budget shall conform to the requirements for budgets specified by Sections 17-36-20, 17-36-22, 17-36-23, and 17-36-24.

Section 15. Section 17-36-36 is amended to read:

17-36-36. Financial statements.

(1) The [~~budget~~] finance officer shall present to the governing body the following financial statements prepared in the manner prescribed by the uniform system of budgeting, accounting, and reporting:

(a) [~~A~~] a summary of cash receipts and disbursements for each fund or group of funds and for each department within each fund reportable at the end of each month showing the cash and invested balance at the beginning of the period, the total receipts collected during the period, the total disbursements made during the period, and the cash and invested balance at the end of the period[~~.~~];

(b) [~~Not~~] not less than once each quarter or more often if requested by the governing body, a condensed statement of revenues and expenditures and comparison with the budget of the county general fund and the allotments thereof, as reflected by the books of account[~~.~~];

(c) [~~A~~] a comparative quarterly income and expense statement for each enterprise fund showing a comparative analysis between the operations of such fund for the current fiscal reporting period and the same period in the previous year[~~.~~];

(d) [~~A~~] a condensed statement of the operating and capital budget of each enterprise fund showing revenues and expenses and balances compared with the budget for any period requested by the governing body or required by the uniform system of budgeting, accounting, and reporting[~~.~~]; and

(e) [~~Any~~] any other statements of operations or reports on financial condition as the governing body or the uniform system of budgeting, accounting, and reporting may require.

(2) All financial statements made pursuant to this section shall be open for public inspection during regular business hours.

Section 16. Section 17-36-37 is amended to read:

17-36-37. Finance officer -- Annual financial statement -- Contents.

(1) The [~~budget~~] finance officer of each county, within 180 days after the close of each fiscal period, or, for a county that has adopted a fiscal period that is a biennial period, within 180 days after both the midpoint and the close of the fiscal period, except as provided by Section 17-36-38, shall prepare and make available to the governing body an annual financial report [~~which~~] that shall contain:

(a) a statement of revenues and expenditures and a comparison with the budget of the county general fund, similar statements of all other funds for which budgets are required, and statements of revenues and expenditures or of income and expense[~~, as the case may be, of~~] for all other operating funds of the county;

(b) a balance sheet of each fund and a combined balance sheet of all funds as of:

(i) for a county that has adopted a fiscal period that is a biennial period, the midpoint and the close of the fiscal period; and

(ii) for each other county, the close of the fiscal period; or

(c) any other reports the governing body may require, including work performance data, tax levies, taxable values, details of bonded indebtedness, and historical facts of interest to the governing body and the public.

(2) Copies of the annual report shall be furnished to the state auditor and made a matter of public record in the office of the [~~budget~~] finance officer.

Section 17. Section 17-53-212 is amended to read:

17-53-212. Examination and audit of accounts.

(1) As used in this section, "finance officer" means the same as that term is defined in Section 17-36-3.

[~~(1)~~] (2) A county legislative body may examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for its use and benefit.

(3) (a) Subject to Subsection (3)(b), the finance officer of the county shall reply to each request for financial information by a county legislative body or any individual member of a county legislative body within five business days after the day on which the request is received.

(b) If a request for financial information requires an extended time period to research and compile, the finance officer of the county shall provide written notice to the legislative body that includes an explanation for the delay and the date when the information will be provided to the legislative body.

(4) A county legislative body may hire professional staff to provide technical assistance and analysis of all financial matters of the county.

[~~(2)~~] (5) Nothing in this section may be construed to affect a county auditor's authority under Chapter 19a, County Auditor.

Section 18. Section 17-53-303 is amended to read:

17-53-303. Examination and audit of accounts.

(1) As used in this section, "finance officer" means the same as that term is defined in Section 17-36-3.

[~~(1)~~] (2) The county executive may examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county or appropriated by law or otherwise for its use and benefit.

(3) (a) Subject to Subsection (3)(b), the finance officer of the county shall reply to each request for financial information by a county executive within

five business days after the day on which the request is received.

(b) If a request for financial information requires an extended time period to research and compile, the finance officer of the county shall provide written notice to the county executive that includes an explanation for the delay and the date when the information will be provided to the county executive.

[~~(2)~~] (4) Nothing in this section may be construed to affect a county auditor's authority under Chapter 19a, County Auditor.

Section 19. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Budget officer" means:

(a) for a county, the person designated as [~~budget officer in Section 17-19a-203~~] finance officer as defined in Section 17-36-3;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection (1)(a) for the county in which the metro township is located.

(2) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

(3) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(4) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

(5) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

(6) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

(7) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

(8) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

(9) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

(10) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

(11) "Legal voter" means a person who:

(a) is registered to vote; or

(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.

(12) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

(13) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

(14) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

(15) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

(16) "Local legislative body" means the legislative body of a county, city, town, or metro township.

(17) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

(18) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(19) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

(20) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

(21) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

(22) (a) "Signature" means a holographic signature.

(b) "Signature" does not mean an electronic signature.

(23) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

(24) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

(25) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

(26) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

(27) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

(28) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

(29) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 20. Repealer.

This bill repeals:

Section 17-19a-203, Budget officer.

Section 21. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on May 4, 2022, replace the term "budget officer" with "finance officer" in any new language added to the Utah Code in Title 17, Counties, by legislation passed during the 2022 General Session.

CHAPTER 289
S. B. 174

Passed March 2, 2022
Approved March 23, 2022
Effective January 1, 2023

POLLUTION CONTROL EQUIPMENT TAX AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill enacts provisions related to the assessment of certain pollution control equipment.

Highlighted Provisions:

This bill:

- defines "pollution control equipment";
- provides a schedule for valuing county assessed pollution control equipment that is used in connection with a petroleum refinery;
- addresses a taxpayer's opportunity to appeal a valuation; and
- provides circumstances under which a county assessor may deviate from the schedule.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

59-2-301.9, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-301.9 is enacted to read:

59-2-301.9. Assessment of pollution control equipment.

(1) As used in this section, "pollution control equipment" means property that:

(a) is assessed under Part 3, County Assessment;

(b) is used:

(i) to prevent, control, or reduce air or water pollution; and

(ii) in connection with an establishment described in NAICS subsector 324110 of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) is purchased to satisfy a requirement of the federal or state government; and

(d) does not significantly:

(i) increase the facility's output or capacity;

(ii) reduce the facility's total operating costs; or

(iii) extend the useful life of any other property.

(2) The taxable value of pollution control equipment is calculated by applying the percent good factor against the acquisition cost of the pollution control equipment as follows:

Year After Acquisition	Percent Good of Acquisition Cost
First year after acquisition	80%
Second year after acquisition	60%
Third year after acquisition	40%
Fourth year after acquisition	20%
Fifth year or any subsequent year after acquisition	6%

(3) (a) A taxpayer owning property assessed under this section may make an appeal relating to the value of the property in accordance with Section 59-2-1005.

(b) As part of an appeal described in this subsection, a taxpayer may request a deviation from the schedule provided in this section for a specific item of property if use of the schedule does not result in the fair market value of the property, including any relevant installation or assemblage value, at the retail level of trade and on the lien date.

(4) (a) A county assessor may deviate from the schedule provided in this section when necessary to reach fair market value.

(b) When a deviation described in Subsection (4)(a) affects an entire class or type of personal property, the county assessor shall submit to the commission a written report substantiating the deviation with verifiable data.

(c) A county assessor may not use a schedule other than the schedule provided in this section without prior written consent of the commission.

(d) If a county assessor deviates from the schedule provided in this section and the taxpayer makes an appeal in accordance with Subsection (3), the county assessor has the burden of proof in the appeal, whether before a county board of equalization, the commission, or a court.

Section 2. Effective date.

This bill takes effect January 1, 2023.

CHAPTER 290
S. B. 190

Passed March 4, 2022
Approved March 23, 2022
Effective March 23, 2022

MEDICAL CANNABIS ACT AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill amends provisions related to the production and distribution of medical cannabis.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies the distinction between allowable hemp products and medical cannabis products based on tetrahydrocannabinol (THC) and THC analog concentration;
- requires certain retailers marketing a hemp or cannabinoid product to include a statement that the product is not cannabis or medical cannabis;
- requires the identification of any cannabinoids above a certain quantity in a cannabis product;
- identifies an unlawful act of distributing, selling, or marketing an industrial hemp product that contains a certain amount of THC or a THC analog;
- allows the Utah Department of Agriculture and Food (UDAF) to partner with research universities to provide cannabis testing laboratories;
- grants rulemaking authority to UDAF to establish performance standards for licensed independent cannabis testing laboratories;
- provides that certain licenses are non-transferable, and new owners of a licensed business are subject to a modified application process for a new license;
- prohibits the introduction of industrial hemp waste from outside the state into the medical cannabis production stream;
- provides rulemaking authority to UDAF to further define standards regarding labels, packaging, and product forms that may appeal to children;
- amends product labeling requirements;
- clarifies that a sugar coating on certain cannabis product is not prohibited under certain circumstances;
- clarifies provisions related to the liquid suspension medicinal dosage form;
- includes an aerosol as an approved medicinal dosage form;
- expands medical cannabis pharmacy employee access to the electronic verification system;
- amends an exception for public employee protections;
- removes a requirement for medical provider approval of a patient's caregiver designation;
- allows the Utah Department of Health (UDOH) to issue conditional medical cannabis caregiver cards in relation to designating patients with a terminal illness;
- amends provisions regarding designated caregivers to contemplate a caregiver being designated by more than one medical cannabis cardholder;
- allows UDOH to issue a conditional medical cannabis pharmacy license when a license renewal process is not complete before the pharmacy's license expires;
- requires medical cannabis pharmacy agents to complete certain continuing education in federal health privacy laws;
- removes a prohibition on medical cannabis pharmacies employing an individual with a felony;
- allows for the Cannabis Production Establishment Licensing Advisory Board to review certain information in a closed meeting;
- aligns the concept of unprofessional conduct between the various types of recommending medical providers;
- removes certain outdated dates; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

4-41-102, as last amended by Laws of Utah 2020, Chapters 12 and 14

4-41-103.3, as enacted by Laws of Utah 2020, Chapter 14

4-41-103.4, as enacted by Laws of Utah 2020, Chapter 14

4-41-105, as last amended by Laws of Utah 2020, Chapter 14

4-41-402, as last amended by Laws of Utah 2020, Chapter 12

4-41a-102, as last amended by Laws of Utah 2021, Chapters 337 and 350

4-41a-201, as last amended by Laws of Utah 2021, Chapter 350

4-41a-203, as last amended by Laws of Utah 2021, Chapter 350

4-41a-501, as last amended by Laws of Utah 2021, Chapter 350

4-41a-502, as renumbered and amended by Laws of Utah 2018, Third Special Session, Chapter 1

4-41a-602, as last amended by Laws of Utah 2021, Chapters 337 and 350

4-41a-603, as last amended by Laws of Utah 2021, Chapter 350

4-41a-701, as last amended by Laws of Utah 2021, Chapter 350

26-61a-102, as last amended by Laws of Utah 2021, Chapters 337 and 350

26-61a-103, as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350

26-61a-111, as last amended by Laws of Utah 2021, Chapter 344

26-61a-201, as last amended by Laws of Utah 2021, Chapters 17 and further amended by Revisor Instructions, Laws of Utah 2021, Chapters 337, 337, and 350

26-61a-202, as last amended by Laws of Utah 2021, Chapters 17, 337, and 350

26-61a-204, as last amended by Laws of Utah 2021, Chapter 350
26-61a-301, as last amended by Laws of Utah 2021, Chapter 350
26-61a-303, as last amended by Laws of Utah 2021, Chapters 84 and 345
26-61a-305, as last amended by Laws of Utah 2021, Chapter 350
26-61a-401, as last amended by Laws of Utah 2021, Chapter 337
26-61a-501, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-502, as last amended by Laws of Utah 2021, Chapters 337, 350 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 350
26-61a-604, as last amended by Laws of Utah 2020, Chapter 354
26-61a-606, as last amended by Laws of Utah 2021, Chapter 350
52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231
58-5a-102, as last amended by Laws of Utah 2021, Chapter 337
58-31b-502, as last amended by Laws of Utah 2021, Chapters 263 and 337
58-70a-503, as last amended by Laws of Utah 2021, Chapters 312 and 337

Utah Code Sections Affected by Coordination Clause:

26-61a-505, as last amended by Laws of Utah 2021, Chapter 350

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41-102 is amended to read:

4-41-102. Definitions.

As used in this chapter:

(1) "Cannabinoid product" means a [~~chemical compound extracted from a hemp~~] product that:

[~~(a) is processed into a medicinal dosage form; and~~]

(a) contains one or more cannabinoids;

(b) contains less than [~~0.3% tetrahydrocannabinol~~] the cannabinoid product THC level, by dry weight[~~.~~]; and

(c) after December 1, 2022, contains a combined amount of total THC and any THC analog that does not exceed 10% of the total cannabinoid content.

(2) "Cannabinoid product THC level" means a combined concentration of total THC and any THC analog of less than 0.3% on a dry weight basis if laboratory testing confirms a result within a measurement of uncertainty that includes the combined concentration of 0.3%.

(3) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the cannabinoid identified as CAS# 1972-08-3, the primary psychotropic cannabinoid in cannabis.

[~~(2)~~] (4) "Industrial hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by dry weight.

[~~(3)~~] (5) "Industrial hemp certificate" means a certificate that the department issues to a higher education institution to grow or cultivate industrial hemp under Subsection 4-41-103(1).

[~~(4)~~] (6) "Industrial hemp certificate holder" means a person possessing an industrial hemp certificate that the department issues under this chapter.

[~~(5)~~] (7) "Industrial hemp laboratory permit" means a permit that the department issues to a laboratory qualified to test industrial hemp under the state hemp production plan.

[~~(6)~~] (8) "Industrial hemp producer license" means a license that the department issues to a person for the purpose of cultivating or processing industrial hemp or an industrial hemp product.

[~~(7)~~] (9) "Industrial hemp retailer permit" means a permit that the department issues to a retailer who sells any industrial hemp product.

[~~(8)~~] (10) "Industrial hemp product" means a product derived from, or made by, processing industrial hemp plants or industrial hemp parts.

[~~(9)~~] (11) "Laboratory permittee" means a person possessing an industrial hemp laboratory permit that the department issues under this chapter.

[~~(10)~~] (12) "Licensee" means a person possessing an industrial hemp producer license that the department issues under this chapter.

[~~(11)~~] (13) "Medicinal dosage form" means:

(a) a tablet;

(b) a capsule;

(c) a concentrated oil;

(d) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(e) a sublingual preparation;

(f) a topical preparation;

(g) a transdermal preparation;

(h) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(i) other preparations that the department approves.

[~~(12)~~] (14) "Non-compliant material" means:

(a) a hemp plant [~~or hemp product~~] that does not comply with this chapter, including a cannabis plant [~~or product that contains~~] with a concentration of 0.3% tetrahydrocannabinol or greater by dry weight[~~.~~]; and

(b) a cannabinoid product, chemical, or compound with a concentration that exceeds the cannabinoid product THC level.

[~~(13)~~] (15) "Permittee" means a person possessing a permit that the department issues under this chapter.

[~~(14)~~] (16) "Person" means:

(a) an individual, partnership, association, firm, trust, limited liability company, or corporation; and

(b) an agent or employee of an individual, partnership, association, firm, trust, limited liability company, or corporation.

[~~(15)~~] (17) "Research pilot program" means a program conducted by the department in collaboration with at least one licensee to study methods of cultivating, processing, or marketing industrial hemp.

[~~(16)~~] (18) "Retailer permittee" means a person possessing an industrial hemp retailer permit that the department issues under this chapter.

[~~(17)~~] (19) "State hemp production plan" means a plan submitted by the state to, and approved by, the United States Department of Agriculture in accordance with 7 C.F.R. Chapter 990.

(20) "Tetrahydrocannabinol" or "THC" means a delta-9-tetrahydrocannabinol, the cannabinoid identified as CAS# 1972-08-3.

(21) (a) "THC analog" means a substance that is structurally or pharmacologically substantially similar to, or is represented as being similar to, delta-9-THC.

(b) "THC analog" does not include the following substances or the naturally occurring acid forms of the following substances:

(i) cannabichromene (CBC), the cannabinoid identified as CAS# 20675-51-8;

(ii) cannabicyclol (CBL), the cannabinoid identified as CAS# 21366-63-2;

(iii) cannabidiol (CBD), the cannabinoid identified as CAS# 13956-29-1;

(iv) cannabidivarol (CBDV), the cannabinoid identified as CAS# 24274-48-4;

(v) cannabielsoin (CBE), the cannabinoid identified as CAS# 52025-76-0;

(vi) cannabigerol (CBG), the cannabinoid identified as CAS# 25654-31-3;

(vii) cannabigerovarin (CBGV), the cannabinoid identified as CAS# 55824-11-8;

(viii) cannabinol (CBN), the cannabinoid identified as CAS# 521-35-7;

(ix) cannabivarin (CBV), the cannabinoid identified as CAS# 33745-21-0; or

(x) delta-9-tetrahydrocannabivarin (THCV), the cannabinoid identified as CAS# 31262-37-0.

(22) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC, tertrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)".

Section 2. Section 4-41-103.3 is amended to read:

4-41-103.3. Industrial hemp retailer permit.

(1) [~~A~~] Except as provided in Subsection (4), a retailer permittee of the department may market or sell industrial hemp products.

(2) A person seeking an industrial hemp retailer permit shall provide to the department:

(a) the name of the person that is seeking to market or sell an industrial hemp product;

(b) the address of each location where the industrial hemp product will be sold; and

(c) written consent allowing a representative of the department to enter all premises where the person is selling an industrial hemp product for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(3) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp retailer permit.

(4) Any marketing for an industrial hemp product shall include a notice to consumers that the product is hemp and is not cannabis or medical cannabis, as those terms are defined in Section 26-61a-102.

Section 3. Section 4-41-103.4 is amended to read:

4-41-103.4. Industrial hemp laboratory permit.

(1) The department or a laboratory permittee of the department may test industrial hemp and industrial hemp products.

(2) The department or a laboratory permittee of the department may dispose of non-compliant material.

(3) A laboratory seeking an industrial hemp laboratory permit shall:

(a) demonstrate to the department that:

(i) the laboratory and laboratory staff possess the professional certifications required by department rule;

(ii) the laboratory has the ability to test industrial hemp and industrial hemp products using the standards, methods, practices, and procedures required by department rule;

(iii) the laboratory has the ability to meet the department's minimum standards of performance for detecting [~~delta-9 tetrahydrocannabinol (THC) concentration levels~~] concentration levels of THC and any cannabinoid known to be present; and

(iv) the laboratory has a plan that complies with the department's rule for the safe disposal of non-compliant material; and

(b) provide to the department written consent allowing a representative of the department and local law enforcement to enter all premises where the laboratory tests, processes, or stores industrial hemp, industrial hemp products, and non-compliant plants for the purpose of:

(i) conducting a physical inspection; or

(ii) ensuring compliance with the requirements of this chapter.

(4) An individual who has been convicted of a drug-related felony within the last 10 years is not eligible to obtain a license under this chapter.

(5) The department may set a fee in accordance with Subsection 4-2-103(2) for the application for an industrial hemp laboratory permit.

Section 4. Section 4-41-105 is amended to read:

4-41-105. Unlawful acts.

(1) It is unlawful for a person to cultivate, handle, process, or market living industrial hemp plants, viable hemp seeds, leaf materials, or floral materials derived from industrial hemp without the appropriate license or permit issued by the department under this chapter.

(2) It is unlawful for any person to distribute, sell, or market an industrial hemp product or cannabinoid product:

(a) that is not registered with the department [~~pursuant to~~] under Section 4-41-104[~~.~~]; or

(b) with a cannabinoid concentration that exceeds the cannabinoid product THC level.

(3) The department may seize and destroy non-compliant material.

(4) Nothing in this chapter authorizes any person to violate federal law, regulation, or any provision of this title.

Section 5. Section 4-41-402 is amended to read:

4-41-402. Cannabinoid sales and use authorized.

(1) The sale or use of a cannabinoid product is prohibited:

(a) except as provided in this chapter; or

(b) unless the United States Food and Drug Administration approves the product.

(2) The department shall keep a list of registered cannabinoid products that the department has determined, in accordance with Section 4-41-403, are safe for human consumption.

(3) (a) A person may sell or use a cannabinoid product that is in the list of registered cannabinoid products described in Subsection (2).

(b) An individual may use cannabidiol or a cannabidiol product that is not in the list of registered cannabinoid products described in Subsection (2) if:

(i) the individual purchased the product outside the state; and

(ii) the product's contents do not violate Title 58, Chapter 37, Utah Controlled Substances Act.

(4) Any marketing for a cannabinoid product shall include a notice to consumers that the product is hemp or CBD and is not cannabis or medical cannabis, as those terms are defined in Section 26-61a-102.

Section 6. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

(2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in Section 26-61-201.

(3) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(4) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(6) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(7) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(8) "Cannabis derivative product" means a product made using cannabis concentrate.

(9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(10) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(11) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(12) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(13) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(14) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(15) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(16) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(17) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

[~~(18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.~~]

[~~(19)~~] (18) "Department" means the Department of Agriculture and Food.

[~~(20)~~] (19) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

[~~(21)~~] (20) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

[~~(22)~~] (21) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department or a research university operates in accordance with Subsection 4-41a-201(14).

[~~(23)~~] (22) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

[~~(24)~~] (23) "Industrial hemp waste" means:

(a) a cannabinoid [~~extract above 0.3% total THC derived from verified industrial hemp biomass~~] concentrate; or

(b) [~~verified~~] industrial hemp biomass [~~with a total THC concentration of less than 0.3% by dry weight~~].

[~~(25)~~] (24) "Inventory control system" means a system described in Section 4-41a-103.

[~~(26)~~] (25) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

[~~(27)~~] (26) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

[~~(28)~~] (27) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

[~~(29)~~] (28) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

[~~(30)~~] (29) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

[~~(31)~~] (30) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

[~~(32)~~] (31) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4–41a–901.

[~~(33)~~] (32) "Medical cannabis treatment" means the same as that term is defined in Section 26–61a–102.

[~~(34)~~] (33) "Medicinal dosage form" means the same as that term is defined in Section 26–61a–102.

[~~(35)~~] (34) "Qualified medical provider" means the same as that term is defined in Section 26–61a–102.

[~~(36)~~] (35) "Qualified Production Enterprise Fund" means the fund created in Section 4–41a–104.

[~~(37)~~] (36) "Recommending medical provider" means the same as that term is defined in Section 26–61a–102.

[~~(38)~~] (37) "Research university" means the same as that term is defined in Section 53B–7–702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58–37–4.

[~~(39)~~] (38) "State electronic verification system" means the system described in Section 26–61a–103.

[~~(40)~~] (39) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

[~~(41)~~] (40) "Tetrahydrocannabinol" or "THC" means [~~a substance derived from cannabis or a synthetic equivalent as described in Subsection 58–37–4(2)(a)(iii)(AA)~~] the same as that term is defined in Section 4–41–102.

(41) "THC analog" means the same as that term is defined in Section 4–41–102.

(42) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(43) "Total tetrahydrocannabinol" or "total THC" means the [~~sum of the determined amounts of delta–9–THC and tetrahydrocannabinolic acid, calculated as "total THC = delta–9–THC + (THCA x 0.877)."~~] same as that term is defined in Section 4–41–102.

Section 7. Section 4-41a-201 is amended to read:

4-41a-201. Cannabis production establishment -- License.

(1) Except as provided in Subsection (14), a person may not operate a cannabis production establishment without a license that the department issues under this chapter.

(2) (a) (i) Subject to Subsections (6), (7), (8), and (13) and to Section 4–41a–205, for a licensing process that the department initiates after [~~the effective date of this bill~~] March 17, 2021, the department, through the licensing board, shall issue licenses in accordance with Section 4–41a–201.1.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules to specify a transparent and efficient process to:

(A) solicit applications for a license under this section;

(B) allow for comments and questions in the development of applications;

(C) timely and objectively evaluate applications;

(D) hold public hearings that the department deems appropriate; and

(E) select applicants to receive a license.

(iii) The department may not issue a license to operate a cannabis production establishment to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the licensing board:

(i) subject to Subsection (2)(c), a proposed name and address or, for a cannabis cultivation facility, addresses of no more than two facility locations, located in a zone described in Subsection 4–41a–406(2)(a) or (b), where the applicant will operate the cannabis production establishment;

(ii) the name and address of any individual who has:

(A) for a publicly traded company, a financial or voting interest of 2% or greater in the proposed cannabis production establishment;

(B) for a privately held company, a financial or voting interest in the proposed cannabis production establishment; or

(C) the power to direct or cause the management or control of a proposed cannabis production establishment;

(iii) an operating plan that:

(A) complies with Section 4–41a–204;

(B) includes operating procedures that comply with this chapter and any law the municipality or county in which the person is located adopts that is consistent with Section 4–41a–406; and

(C) the department or licensing board approves;

(iv) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least:

(A) $100,000 for each cannabis cultivation facility for which the applicant applies; or

(B) $50,000 for each cannabis processing facility or independent cannabis testing laboratory for which the applicant applies;

(v) an application fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a cannabis production establishment:

(A) within 1,000 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the cannabis production establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The licensing board may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the licensing board determines that it is not reasonably feasible for the applicant to site the proposed cannabis production establishment without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(3) If the licensing board approves an application for a license under this section and Section 4-41a-201.1:

(a) the applicant shall pay the department:

(i) an initial license fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; or

(ii) a fee for a 120-day limited license to operate as a cannabis processing facility described in Subsection (3)(b) that is equal to 33% of the initial license fee described in Subsection (3)(a)(i); and

(b) the department shall notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii).

(4) (a) Except as provided in Subsection (4)(b), a cannabis production establishment shall obtain a separate license for each type of cannabis production establishment and each location of a cannabis production establishment.

(b) The licensing board may issue a cannabis cultivation facility license and a cannabis processing facility license to a person to operate at the same physical location or at separate physical locations.

(5) If the licensing board receives more than one application for a cannabis production establishment within the same city or town, the licensing board shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(6) The licensing board may not issue a license to operate an independent cannabis testing laboratory to a person who:

(a) holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility;

(b) has an owner, officer, director, or employee whose family member holds a license or has an ownership interest in a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility; or

(c) proposes to operate the independent cannabis testing laboratory at the same physical location as a medical cannabis pharmacy, a cannabis processing facility, or a cannabis cultivation facility.

(7) The licensing board may not issue a license to operate a cannabis production establishment to an applicant if any individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019 until January 1, 2023, is actively serving as a legislator.

(8) (a) If an applicant for a cannabis production establishment license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the licensing board may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a license to operate a cannabis cultivation facility under this section holds a license to operate a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act, the licensing board:

(i) shall consult with the Department of Health regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a medical cannabis pharmacy license if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the licensing board finds multiple other factors, in addition to the existing license, that support granting the new license.

(9) The licensing board may revoke a license under this part:

(a) if the cannabis production establishment does not begin cannabis production operations within one year after the day on which the licensing board issues the initial license;

(b) after the third of the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(c) if any individual described in Subsection (2)(b) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(d) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action; [~~or~~]

(e) if the cannabis production establishment demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter[~~.~~];

(f) if, after a change of ownership described in Subsection (15)(c), the board determines that the cannabis production establishment no longer meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; or

(g) for an independent cannabis testing laboratory, if the independent cannabis testing laboratory fails to substantially meet the performance standards described in Subsection (14)(b).

(10) (a) A person who receives a cannabis production establishment license under this chapter, if the municipality or county where the licensed cannabis production establishment will be located requires a local land use permit, shall submit to the licensing board a copy of the licensee's approved application for the land use permit within 120 days after the day on which the licensing board issues the license.

(b) If a licensee fails to submit to the licensing board a copy of the licensee's approved land use permit application in accordance with Subsection (10)(a), the licensing board may revoke the licensee's license.

(11) The department shall deposit the proceeds of a fee that the department imposes under this section into the Qualified Production Enterprise Fund.

(12) The department shall begin accepting applications under this part on or before January 1, 2020.

(13) (a) The department's authority, and consequently the licensing board's authority, to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2)(a)(ii)(A), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(14) (a) Notwithstanding this section, the department:

[~~(a)~~] (i) may not issue more than four licenses to operate an independent cannabis testing laboratory;

[~~(b)~~] (ii) may operate or partner with a research university to operate an independent cannabis testing laboratory;

[~~(c)~~] (iii) if the department operates or partners with a research university to operate an independent cannabis testing laboratory, may not cease operating or partnering with a research university to operate the independent cannabis testing laboratory unless:

[~~(i)~~] (A) the department issues at least two licenses to independent cannabis testing laboratories; and

[~~(ii)~~] (B) the department has ensured that the licensed independent cannabis testing laboratories have sufficient capacity to provide the testing necessary to support the state's medical cannabis market; and

[~~(d)~~] (iv) after ceasing department or research university operations under Subsection [~~(14)(d)(ii)~~] (14)(a)(ii) shall resume independent cannabis testing laboratory operations at any time if:

[~~(i)~~] (A) fewer than two licensed independent cannabis testing laboratories are operating; or

[~~(ii)~~] (B) the licensed independent cannabis testing laboratories become, in the department's determination, unable to fully meet the market demand for testing.

(b) (i) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish performance standards for the operation of an independent cannabis testing laboratory, including deadlines for testing completion.

(ii) A license that the department issues to an independent cannabis testing laboratory is contingent upon substantial satisfaction of the performance standards described in Subsection (14)(b)(i), as determined by the board.

(15) (a) A cannabis production establishment license is not transferrable or assignable.

(b) If the ownership of a cannabis production establishment changes by 50% or more:

(i) the cannabis production establishment shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the board shall:

(A) conduct the application review described in Section 4-41a-201.1; and

(B) award a license to the cannabis production establishment for the remainder of the term of the cannabis production establishment's license before the ownership change if the cannabis production establishment meets the minimum standards for licensure and operation of the cannabis production establishment described in this chapter; and

(iii) if the board approves the license application, notwithstanding Subsection (3), the cannabis production establishment shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 8. Section 4-41a-203 is amended to read:

4-41a-203. Renewal.

The department shall renew a license issued under Section 4-41a-201 every year if:

(1) the licensee meets the requirements of Section 4-41a-201 at the time of renewal;

(2) the board does not identify:

(a) a significant failure of compliance with this chapter or department rules in the review described in Section 4-41a-201.1; or

(b) grounds for revocation described in Subsections 4-41a-201(9)(b) through [~~(e)~~] (g);

(3) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 4-41a-104(5), the department sets in accordance with Section 63J-1-504; and

(4) if the cannabis production establishment changes the operating plan described in Section 4-41a-204 that the department or licensing board approved under Subsection 4-41a-201(2)(b)(iii), the department approves the new operating plan.

Section 9. Section 4-41a-501 is amended to read:

4-41a-501. Cannabis cultivation facility -- Operating requirements.

(1) A cannabis cultivation facility shall ensure that any cannabis growing at the cannabis cultivation facility is not visible from the ground level of the cannabis cultivation facility perimeter.

(2) A cannabis cultivation facility shall use a unique identifier that is connected to the facility's inventory control system to identify:

(a) beginning at the time a cannabis plant is eight inches tall and has a root ball, each cannabis plant;

(b) each unique harvest of cannabis plants;

(c) each batch of cannabis the facility transfers to a medical cannabis pharmacy, a cannabis processing facility, or an independent cannabis testing laboratory; and

(d) any excess, contaminated, or deteriorated cannabis of which the cannabis cultivation facility disposes.

(3) A cannabis cultivation facility shall identify cannabis biomass as cannabis byproduct or cannabis plant product before transferring the cannabis biomass from the facility.

(4) A cannabis cultivation facility shall either:

(a) ensure that a cannabis processing facility chemically or physically processes cannabis cultivation byproduct to produce a cannabis concentrate for incorporation into cannabis derivative products; or

(b) destroy cannabis cultivation byproduct in accordance with Section 4-41a-405.

(5) [~~(a) (i)~~] A cannabis cultivation facility may not purchase or otherwise receive industrial hemp waste [~~unless the waste meets department cannabis testing standards, as determined by an independent cannabis testing laboratory, before the transfer of the waste to the cannabis cultivation facility~~], except under limited circumstances in which the department determines there is a minimal risk of safety or security concern, as the department specifies in rules that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(ii) Upon receipt of the industrial hemp waste described in Subsection (5)(a)(i), the cannabis cultivation facility shall assign a unique identifier to the industrial hemp waste that is connected to the facility's inventory control system.~~]

[~~(iii) Industrial hemp waste described in this Subsection (5)(a) is considered to be cannabis for all testing and regulatory purposes of the department.~~]

[~~(b) Except as provided in Subsection (5)(a), a cannabis production establishment or agent may not receive industrial hemp waste for entry into the medical cannabis program.~~]

[~~(c) A cannabis cultivation facility may not produce more than 120 kilograms of cannabis concentrate from industrial hemp waste in a single license year.~~]

Section 10. Section 4-41a-502 is amended to read:

4-41a-502. Cannabis -- Labeling and child-resistant packaging.

(1) For any cannabis that a cannabis cultivation facility cultivates or otherwise produces and subsequently ships to another cannabis production establishment, the facility shall:

[~~(1)~~] (a) label the cannabis with a label that has a unique batch identification number that is connected to the inventory control system; and

[~~(2)~~] (b) package the cannabis in a container that is:

[~~(a)~~] (i) tamper evident; and

[~~(b)~~] (ii) not appealing to children.

(2) The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to further define standards regarding containers that may appeal to children under Subsection (1)(b)(ii).

Section 11. Section 4-41a-602 is amended to read:

4-41a-602. Cannabis product -- Labeling and child-resistant packaging.

(1) For any cannabis product that a cannabis processing facility processes or produces and for any raw cannabis that the facility packages, the facility shall:

(a) label the cannabis or cannabis product with a label that:

(i) clearly and unambiguously states that the cannabis product or package contains cannabis;

(ii) clearly displays the amount of total composite tetrahydrocannabinol [~~and~~], cannabidiol, and any known cannabinoid described in Subsection 4-41a-701(4) in the labeled container;

(iii) has a unique identification number that:

(A) is connected to the inventory control system; and

(B) identifies the unique cannabis product manufacturing process the cannabis processing facility used to manufacture the cannabis product;

(iv) identifies the cannabinoid extraction process that the cannabis processing facility used to create the cannabis product;

(v) does not display an image, word, or phrase that the facility knows or should know appeals to children; and

(vi) discloses each active or potentially active ingredient, in order of prominence, and possible allergen; and

(b) package the raw cannabis or cannabis product in a medicinal dosage form in a container that:

(i) is tamper evident and tamper resistant;

(ii) does not appeal to children;

(iii) does not mimic a candy container;

(iv) complies with child-resistant effectiveness standards that the United States Consumer Product Safety Commission establishes; and

(v) includes a warning label that states:

(A) for a container labeled before July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."; or

(B) for a container labeled on or after July 1, 2021, "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a recommending medical provider.".

(2) For any cannabis or cannabis product that the cannabis processing facility processes into a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape, the facility shall:

(a) ensure that the label described in Subsection (1)(a) does not contain a photograph or other image of the content of the container; and

(b) include on the label described in Subsection (1)(a) a warning about the risks of over-consumption.

(3) For any cannabis product that contains any derivative cannabinoid or synthetic cannabinoid, the cannabis processing facility shall ensure that the label clearly:

(a) identifies each derivative cannabinoid or synthetic cannabinoid; and

(b) identifies that each derivative or synthetic cannabinoid is a derivative or synthetic cannabinoid.

(4) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department:

(a) shall make rules [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act~~] to establish:

[~~(a)~~] (i) a standard labeling format that:

[~~(i)~~] (A) complies with the requirements of this section; and

[~~(ii)~~] (B) ensures inclusion of a pharmacy label; and

[~~(b)~~] (ii) additional requirements on packaging for cannabis and cannabis products to ensure safety and product quality[~~.~~]; and

(b) may make rules to further define standards regarding images, words, phrases, or containers that may appeal to children under Subsection (1)(a)(v) or (1)(b)(ii).

Section 12. Section 4-41a-603 is amended to read:

4-41a-603. Cannabis product -- Product quality.

(1) A cannabis processing facility:

(a) may not produce a cannabis product in a physical form that:

(i) the facility knows or should know appeals to children;

(ii) is designed to mimic or could be mistaken for a candy product; or

(iii) for a cannabis product used in vaporization, includes a candy-like flavor or another flavor that the facility knows or should know appeals to children; and

(b) notwithstanding Subsection (1)(a)(iii), may produce a concentrated oil with a flavor that the department approves to facilitate minimizing the taste or odor of cannabis.

(2) A cannabis product may vary in the cannabis product's labeled cannabinoid profile by up to 10% of the indicated amount of a given cannabinoid, by weight.

(3) A cannabis processing facility shall isolate derivative cannabinoids and synthetic cannabinoids to a purity of greater than 95%, as determined by an independent cannabis testing laboratory using liquid chromatography-mass spectroscopy or an equivalent method.

(4) The department shall [~~adopt by rule~~] make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(a) adopt human safety standards for the manufacturing of cannabis products that are consistent with best practices for the use of cannabis[~~.~~]; and

(b) further define standards regarding products that may appeal to children under Subsection (1)(a).

(5) Nothing in this section prohibits a sugar coating on a gelatinous cube, gelatinous rectangular cuboid, or lozenge to mask the product's taste, subject to the limitations on form and appearance described in Subsections (1)(a) and (4)(b).

Section 13. Section 4-41a-701 is amended to read:

4-41a-701. Cannabis and cannabis product testing.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to:

(a) determine required adulterant tests for a cannabis plant product, cannabis concentrate, or cannabis product;

(b) determine the amount of any adulterant that is safe for human consumption;

(c) establish protocols for a recall of cannabis or a cannabis product by a cannabis production establishment; or

(d) allow the propagation of testing results forward to derived product if the processing steps the cannabis production establishment uses to produce the product are unlikely to change the results of the test.

(2) The department may require testing for a toxin if:

(a) the department receives information indicating the potential presence of a toxin; or

(b) the department's inspector has reason to believe a toxin may be present based on the inspection of a facility.

(3) (a) A cannabis production establishment may not:

(i) incorporate cannabis concentrate into a cannabis derivative product until an independent cannabis testing laboratory tests the cannabis concentrate in accordance with department rule; or

(ii) transfer cannabis or a cannabis product to a medical cannabis pharmacy until an independent cannabis testing laboratory tests a representative sample of the cannabis or cannabis product in accordance with department rule.

(b) A medical cannabis pharmacy may not offer any cannabis or cannabis product for sale unless an independent cannabis testing laboratory has tested a representative sample of the cannabis or cannabis product in accordance with department rule.

(4) Before the sale of a cannabis product, an independent cannabis testing laboratory shall identify and quantify any cannabinoid known to be present in a cannabis product.

[~~(4)~~] (5) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the standards, methods, practices, and procedures for the testing of cannabis and cannabis products by independent cannabis testing laboratories.

[~~(5)~~] (6) The department may require an independent cannabis testing laboratory to participate in a proficiency evaluation that the department conducts or that an organization that the department approves conducts.

Section 14. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means [~~Delta-8-THC, Delta-9-THC~~] THC, any THC analog, and tetrahydrocannabinolic acid.

(2) "Cannabinoid Product Board" means the Cannabinoid Product Board created in Section 26-61-201.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or any tetrahydrocannabinol or THC analog in a total concentration of 0.3% or greater on a dry weight basis.

(7) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(10) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

(12) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

[~~(13) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:~~]

[~~(a) is similar to Delta-9-THC with a lower psychotropic potency; and~~]

[~~(b) interacts with the CB1 receptor of the nervous system.~~]

[~~(14) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic cannabinoid in cannabis.~~]

[~~(15)~~] (13) "Department" means the Department of Health.

[~~(16)~~] (14) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26-61a-202; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

[~~(17)~~] (15) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

[~~(18)~~] (16) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

[~~(19)~~] (17) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

[~~(20)~~] (18) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

[~~(21)~~] (19) "Inventory control system" means the system described in Section 4-41a-103.

[~~(22)~~] (20) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26-61a-502(4) or (5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

[~~(23)~~] (21) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

[~~(24)~~] (22) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

[~~(25)~~] (23) "Marijuana" means the same as that term is defined in Section 58-37-2.

[~~(26)~~] (24) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

[~~(27)~~] (25) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

[~~(28)~~] (26) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection [~~(16)~~](14)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

[~~(29)~~] (27) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

[~~(30)~~] (28) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

[~~(31)~~] (29) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

[~~(32)~~] (30) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

[~~(33)~~] (31) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(34)~~] (32) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

[~~(35)~~] (33) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

[~~(36)~~] (34) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

[~~(37)~~] (35) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

[~~(38)~~] (36) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

[~~(39)~~] (37) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(40)~~] (38) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension that, after December 1, 2022, does not exceed 30 ml;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; [~~or~~]

(I) a resin or wax; or

(J) an aerosol; or

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection [~~(40)~~] (38)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection [~~(40)~~] (38)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection [~~(40)~~] (38)(a)(ii), except as provided in Subsection [~~(40)~~] (38)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection [~~(40)~~] (38)(a)(ii) after the legal use termination date; [~~or~~]

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch[~~.~~]; or

(iv) a liquid suspension that is branded as a beverage.

[~~(41)~~] (39) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

[~~(42)~~] (40) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

[~~(43)~~] (41) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

[~~(44)~~] (42) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

[~~(45)~~] (43) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

[~~(46)~~] (44) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

[~~(47)~~] (45) "Qualifying condition" means a condition described in Section 26-61a-104.

[~~(48)~~] (46) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

[~~(49)~~] (47) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

[~~(50)~~] (48) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(51)~~] (49) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

[~~(52)~~] (50) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

[~~(53)~~] (51) "State electronic verification system" means the system described in Section 26-61a-103.

[~~(54)~~] (52) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(53) "THC analog" means the same as that term is defined in Section 4-41-102.

[~~(55)~~] (54) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a passport that another country issued.

Section 15. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)[~~(b)~~](a)(iii), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines; and

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit[~~; and~~].

[~~(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;~~]

(d) beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording, allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 26-61a-501[~~(11)~~](10)(a), to [~~record~~]:

(i) access the electronic verification system to review the history within the system of a patient with whom the provider or agent is interacting, limited to read-only access for medical cannabis pharmacy agents unless the medical cannabis pharmacy's pharmacist in charge authorizes add and edit access;

[~~(i)~~] (ii) record a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider; and

[~~(ii)~~] (iii) record a limited medical provider's renewal of the provider's previous recommendation;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of Occupational and Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 26-61a-502(6)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 16. Section 26-61a-111 is amended to read:

26-61a-111. Nondiscrimination for medical care or government employment -- Notice to prospective and current public employees -- No effect on private employers.

(1) For purposes of medical care, including an organ or tissue transplant, a patient's use, in accordance with this chapter, of cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(a) is considered the equivalent of the authorized use of any other medication used at the discretion of a physician; and

(b) does not constitute the use of an illicit substance or otherwise disqualify an individual from needed medical care.

(2) (a) Notwithstanding any other provision of law and except as provided in Subsection (2)(b), the state or any political subdivision shall treat an employee's use of medical cannabis in accordance with this chapter or Section 58-37-3.7 in the same way the state or political subdivision treats employee use of any prescribed controlled substance.

(b) A state or political subdivision employee who has a valid medical cannabis card is not subject to adverse action, as that term is defined in Section 67-21-2, for failing a drug test due to marijuana or tetrahydrocannabinol without evidence that the employee was impaired or otherwise adversely affected in the employee's job performance due to the use of medical cannabis.

(c) Subsections (2)(a) and (b) do not apply:

(i) where the application of Subsection (2)(a) or (b) would jeopardize federal funding, a federal security clearance, or any other federal background determination required for the employee's position[~~, or~~];

(ii) if the employee's position is dependent on a license or peace officer certification that is subject to federal regulations[~~.~~], including 18 U.S.C. Sec. 922(g)(3); or

(iii) if an employee described in Subsections 34A-2-102(1)(h)(ii) through (vi) uses medical cannabis during the 12 hours immediately preceding the employee's shift or during the employee's shift.

(3) (a) (i) A state employer or a political subdivision employer shall take the action described in Subsection (3)(a)(ii) before:

(A) giving to a current employee an assignment or duty that arises from or directly relates to an obligation under this chapter; or

(B) hiring a prospective employee whose assignments or duties would include an assignment or duty that arises from or directly relates to an obligation under this chapter.

(ii) The employer described in Subsection (3)(a)(i) shall give the employee or prospective employee described in Subsection (3)(a)(i) a written notice that notifies the employee or prospective employee:

(A) that the employee's or prospective employee's job duties may require the employee or prospective employee to engage in conduct which is in violation of the criminal laws of the United States; and

(B) that in accepting a job or undertaking a duty described in Subsection (3)(a)(i), although the employee or prospective employee is entitled to the protections of Title 67, Chapter 21, Utah Protection of Public Employees Act, the employee may not object or refuse to carry out an assignment or duty that may be a violation of the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(b) The Division of Human Resource Management shall create, revise, and publish the form of the notice described in Subsection (3)(a).

(c) Notwithstanding Subsection 67-21-3(3), an employee who has signed the notice described in Subsection (3)(a) may not:

(i) claim in good faith that the employee's actions violate or potentially violate the laws of the United States with respect to the manufacture, sale, or distribution of cannabis; or

(ii) refuse to carry out a directive that the employee reasonably believes violates the criminal laws of the United States with respect to the manufacture, sale, or distribution of cannabis.

(d) An employer may not take retaliatory action as defined in Section 67-19a-101 against a current employee who refuses to sign the notice described in Subsection (3)(a).

(4) Nothing in this section requires a private employer to accommodate the use of medical cannabis or affects the ability of a private employer to have policies restricting the use of medical cannabis by applicants or employees.

Section 17. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) The department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501[~~(11)~~](10)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection [~~(8)~~](9); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) (A) six months for the first issuance, and, except as provided in Subsection (5)(a)(ii)(B), for a renewal; or

(B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 [~~does not expire~~] expires after one year.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) A cardholder described in Subsection (6)(a) may renew the cardholder's card:

(i) using the application process described in Subsection (3); or

(ii) through phone or video conference with the recommending medical provider who made the recommendation underlying the card, at the qualifying medical provider's discretion.

(c) A cardholder under Subsection (2)(a) or (b) who renews the cardholder's card shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

[~~(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:~~]

[~~(i) may possess:~~]

[~~(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;~~]

[~~(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and~~]

[~~(C) marijuana drug paraphernalia; and~~]

[~~(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).~~]

(8) The department may revoke a medical cannabis card that the department issues under this section if the cardholder:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after March 17, 2021, a misdemeanor for drug distribution.

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 18. Section 26-61a-202 is amended to read:

26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) [~~(i)~~] A cardholder described in Section 26-61a-201 may designate, through the state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

[~~(ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic verification system reflects a recommending medical provider's indication that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the recommending medical provider recommends.~~]

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 who is a patient in one of the following types of facilities may designate the facility as one of the caregivers described in Subsection (1)(a):

(A) an assisted living facility, as that term is defined in Section 26-21-2;

(B) a nursing care facility, as that term is defined in Section 26-21-2; or

(C) a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b).

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(d) (i) Beginning on the earlier of September 1, 2022, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis caregiver card under this Subsection (1)(d), upon the entry of a caregiver designation under Subsection (1) by a patient with a terminal illness described in Section 26-61a-104, the department shall issue to the designated caregiver an electronic conditional medical cannabis caregiver card, in accordance with this Subsection (1)(d).

(ii) A conditional medical cannabis caregiver card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis caregiver card under Subsection (1)(a), denies the patient's medical cannabis caregiver card application, or revokes the conditional medical cannabis caregiver card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver; and

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis[~~; and~~].

[~~(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021:~~]

[~~(i) may possess up to the legal dosage limit of:~~]

[~~(A) unprocessed medical cannabis in a medicinal dosage form; and~~]

[~~(B) a cannabis product in a medicinal dosage form;~~]

[~~(ii) may possess marijuana drug paraphernalia; and~~]

[~~(iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).~~]

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in [~~Subsection~~] Subsections (5)(b) and (3)(c)(i).

(c) If a cardholder described in Section 26-61a-201 designates an individual as a caregiver who already holds a medical cannabis caregiver card, the individual with the medical cannabis caregiver card:

(i) shall report to the department the information required of applicants under Subsection (5)(b) regarding the new designation;

(ii) if the individual makes the report described in Subsection (3)(c)(i), is not required to file an application for another medical cannabis caregiver card;

(iii) may receive an additional medical cannabis caregiver card in relation to each additional medical cannabis patient who designates the caregiver; and

(iv) is not subject to an additional background check.

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(9); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; [~~and~~]

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder[~~.~~]; and

(iv) any additional information that the department requests to assist in matching the application with the designating medical cannabis patient.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony drug distribution offense; or

(ii) after December 3, 2018, a misdemeanor drug distribution offense.

(9) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 19. Section 26-61a-204 is amended to read:

26-61a-204. Medical cannabis card -- Patient and designated caregiver requirements -- Rebuttable presumption.

(1) (a) A medical cannabis cardholder who possesses medical cannabis that the cardholder purchased under this chapter:

(i) shall carry:

(A) at all times the cardholder's medical cannabis card; and

(B) [~~after the earlier of January 1, 2021, or the day on which the individual purchases any medical cannabis from a medical cannabis pharmacy,~~] with the medical cannabis, a label that identifies that the medical cannabis was sold from a licensed medical cannabis pharmacy and includes an identification number that links the medical cannabis to the inventory control system; and

(ii) may possess up to the legal dosage limit of:

(A) unprocessed cannabis in medicinal dosage form; and

(B) a cannabis product in medicinal dosage form;

(iii) may not possess more medical cannabis than described in Subsection (1)(a)(ii);

(iv) may only possess the medical cannabis in the container in which the cardholder received the medical cannabis from the medical cannabis pharmacy; and

(v) may not alter or remove any label described in Section 4-41a-602 from the container described in Subsection (1)(a)(iv).

(b) Except as provided in Subsection (1)(c) or (e), a medical cannabis cardholder who possesses medical cannabis in violation of Subsection (1)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than the legal dosage limit and equal to or less than twice the legal dosage limit is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(d) An individual who is guilty of a violation described in Subsection (1)(b) or (c) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the penalty described in Subsection (1)(b) or (c).

(e) A nonresident patient who possesses medical cannabis that is not in a medicinal dosage form is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense, is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(f) A medical cannabis cardholder or a nonresident patient who possesses medical cannabis in an amount that is greater than twice the legal dosage limit is subject to the penalties described in Title 58, Chapter 37, Utah Controlled Substances Act.

(2) (a) As used in this Subsection (2), "emergency medical condition" means the same as that term is defined in Section 31A-22-627.

(b) Except as described in Subsection (2)(c), a medical cannabis patient cardholder, a provisional patient cardholder, or a nonresident patient may not use, in public view, medical cannabis or a cannabis product.

(c) In the event of an emergency medical condition, an individual described in Subsection (2)(b) may use, and the holder of a medical cannabis guardian card or a medical cannabis caregiver card may administer to the cardholder's charge, in public view, cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(d) An individual described in Subsection (2)(b) who violates Subsection (2)(b) is:

(i) for a first offense:

(A) guilty of an infraction; and

(B) subject to a fine of up to $100; and

(ii) for a second or subsequent offense:

(A) guilty of a class B misdemeanor; and

(B) subject to a fine of $1,000.

(3) If a medical cannabis cardholder carrying the cardholder's card possesses cannabis in a medicinal dosage form or a cannabis product in compliance

with Subsection (1), or a medical cannabis device that corresponds with the cannabis or cannabis product:

(a) there is a rebuttable presumption that the cardholder possesses the cannabis, cannabis product, or medical cannabis device legally; and

(b) there is no probable cause, based solely on the cardholder's possession of the cannabis in medicinal dosage form, cannabis product in medicinal dosage form, or medical cannabis device, to believe that the cardholder is engaging in illegal activity.

(4) (a) If a law enforcement officer stops an individual who possesses cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, and the individual represents to the law enforcement officer that the individual holds a valid medical cannabis card, but the individual does not have the medical cannabis card in the individual's possession at the time of the stop by the law enforcement officer, the law enforcement officer shall attempt to access the state electronic verification system to determine whether the individual holds a valid medical cannabis card.

(b) If the law enforcement officer is able to verify that the individual described in Subsection (4)(a) is a valid medical cannabis cardholder, the law enforcement officer:

(i) may not arrest or take the individual into custody for the sole reason that the individual is in possession of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device; and

(ii) may not seize the cannabis, cannabis product, or medical cannabis device.

Section 20. Section 26-61a-301 is amended to read:

26-61a-301. Medical cannabis pharmacy -- License -- Eligibility.

(1) A person may not operate as a medical cannabis pharmacy without a license that the department issues under this part.

(2) (a) (i) Subject to Subsections (4) and (5) and to Section 26-61a-305, the department shall issue a license to operate a medical cannabis pharmacy in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(ii) The department may not issue a license to operate a medical cannabis pharmacy to an applicant who is not eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) subject to Subsection (2)(c), a proposed name and address where the applicant will operate the medical cannabis pharmacy;

(ii) the name and address of an individual who:

(A) for a publicly traded company, has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy;

(B) for a privately held company, a financial or voting interest in the proposed medical cannabis pharmacy; or

(C) has the power to direct or cause the management or control of a proposed medical cannabis pharmacy;

(iii) a statement that the applicant will obtain and maintain a performance bond that a surety authorized to transact surety business in the state issues in an amount of at least $100,000 for each application that the applicant submits to the department;

(iv) an operating plan that:

(A) complies with Section 26-61a-304;

(B) includes operating procedures to comply with the operating requirements for a medical cannabis pharmacy described in this chapter and with a relevant municipal or county law that is consistent with Section 26-61a-507; and

(C) the department approves;

(v) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(vi) a description of any investigation or adverse action taken by any licensing jurisdiction, government agency, law enforcement agency, or court in any state for any violation or detrimental conduct in relation to any of the applicant's cannabis-related operations or businesses.

(c) (i) A person may not locate a medical cannabis pharmacy:

(A) within 200 feet of a community location; or

(B) in or within 600 feet of a district that the relevant municipality or county has zoned as primarily residential.

(ii) The proximity requirements described in Subsection (2)(c)(i) shall be measured from the nearest entrance to the medical cannabis pharmacy establishment by following the shortest route of ordinary pedestrian travel to the property boundary of the community location or residential area.

(iii) The department may grant a waiver to reduce the proximity requirements in Subsection (2)(c)(i) by up to 20% if the department determines that it is not reasonably feasible for the applicant to site the proposed medical cannabis pharmacy without the waiver.

(iv) An applicant for a license under this section shall provide evidence of compliance with the proximity requirements described in Subsection (2)(c)(i).

(d) The department may not issue a license to an eligible applicant that the department has selected to receive a license until the selected eligible applicant obtains the performance bond described in Subsection (2)(b)(iii).

(e) If the department receives more than one application for a medical cannabis pharmacy within the same city or town, the department shall consult with the local land use authority before approving any of the applications pertaining to that city or town.

(3) If the department selects an applicant for a medical cannabis pharmacy license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504;

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (2)(b)(ii); and

(c) charge the licensee a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, for any change in location, ownership, or company structure.

(4) The department may not issue a license to operate a medical cannabis pharmacy to an applicant if an individual described in Subsection (2)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution;

(b) is younger than 21 years old; or

(c) after September 23, 2019, until January 1, 2023, is actively serving as a legislator.

(5) (a) If an applicant for a medical cannabis pharmacy license under this section holds a license under Title 4, Chapter 41, Hemp and Cannabinoid Act, the department may not give preference to the applicant based on the applicant's status as a holder of the license.

(b) If an applicant for a medical cannabis pharmacy license under this section holds a license to operate a cannabis cultivation facility under Title 4, Chapter 41a, Cannabis Production Establishments, the department:

(i) shall consult with the Department of Agriculture and Food regarding the applicant; and

(ii) may give consideration to the applicant based on the applicant's status as a holder of a license to operate a cannabis cultivation facility if:

(A) the applicant demonstrates that a decrease in costs to patients is more likely to result from the applicant's vertical integration than from a more competitive marketplace; and

(B) the department finds multiple other factors, in addition to the existing license, that support granting the new license.

(6) (a) The department may revoke a license under this part:

(i) if the medical cannabis pharmacy does not begin operations within one year after the day on which the department issues an announcement of the [~~initial~~] department's intent to award a license to the medical cannabis pharmacy;

(ii) after the third the same violation of this chapter in any of the licensee's licensed cannabis production establishments or medical cannabis pharmacies;

(iii) if an individual described in Subsection (2)(b)(ii) is convicted, while the license is active, under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution;

(iv) if the licensee fails to provide the information described in Subsection (2)(b)(vi) at the time of application, or fails to supplement the information described in Subsection (2)(b)(vi) with any investigation or adverse action that occurs after the submission of the application within 14 calendar days after the licensee receives notice of the investigation or adverse action; [~~or~~]

(v) if the medical cannabis pharmacy demonstrates a willful or reckless disregard for the requirements of this chapter or the rules the department makes in accordance with this chapter[~~.~~]; or

(vi) if, after a change of ownership described in Subsection (11)(c), the department determines that the medical cannabis pharmacy no longer meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter.

(b) The department shall rescind a notice of an intent to issue a license under this part to an applicant or revoke a license issued under this part if the associated medical cannabis pharmacy does not begin operation on or before June 1, 2021.

(7) (a) A person who receives a medical cannabis pharmacy license under this chapter, if the municipality or county where the licensed medical cannabis pharmacy will be located requires a local land use permit, shall submit to the department a copy of the licensee's approved application for the land use permit within 120 days after the day on which the department issues the license.

(b) If a licensee fails to submit to the department a copy the licensee's approved land use permit application in accordance with Subsection (7)(a), the department may revoke the licensee's license.

(8) The department shall deposit the proceeds of a fee imposed by this section into the Qualified Patient Enterprise Fund.

(9) The department shall begin accepting applications under this part on or before March 1, 2020.

(10) (a) The department's authority to issue a license under this section is plenary and is not subject to review.

(b) Notwithstanding Subsection (2), the decision of the department to award a license to an applicant is not subject to:

(i) Title 63G, Chapter 6a, Part 16, Protests; or

(ii) Title 63G, Chapter 6a, Part 17, Procurement Appeals Board.

(11) (a) A medical cannabis pharmacy license is not transferrable or assignable.

(b) A medical cannabis pharmacy shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis pharmacy.

(c) If the ownership of a medical cannabis pharmacy changes by 50% or more:

(i) concurrent with the report described in Subsection (11)(b), the medical cannabis pharmacy shall submit a new application described in Subsection (2)(b), subject to Subsection (2)(c);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis pharmacy for the remainder of the term of the medical cannabis pharmacy's license before the ownership change if the medical cannabis pharmacy meets the minimum standards for licensure and operation of the medical cannabis pharmacy described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (3), the medical cannabis pharmacy shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 21. Section 26-61a-303 is amended to read:

26-61a-303. Renewal.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

(3) If the department has not completed the necessary processes to make a determination on a license renewal under Subsections (1)(a) and (c) before the expiration of a license, the department may issue a conditional medical cannabis pharmacy license to a licensed medical cannabis pharmacy that has applied for license renewal under this section and paid the fee described in Subsection (1)(b).

Section 22. Section 26-61a-305 is amended to read:

26-61a-305. Maximum number of licenses -- Home delivery medical cannabis pharmacies.

(1) (a) Except as provided in Subsections (1)(b) or (d), if a sufficient number of applicants apply, the department shall issue up to 15 medical cannabis pharmacy licenses in accordance with this section.

(b) If an insufficient number of qualified applicants apply for the available number of medical cannabis pharmacy licenses, the department shall issue a medical cannabis pharmacy license to each qualified applicant.

(c) The department may issue the licenses described in Subsection (1)(a) in accordance with this Subsection (1)(c).

(i) Using one procurement process, the department may issue eight licenses to an initial group of medical cannabis pharmacies and six licenses to a second group of medical cannabis pharmacies.

(ii) If the department issues licenses in two phases in accordance with Subsection (1)(c)(i), the department shall:

(A) divide the state into no less than four geographic regions;

(B) issue at least one license in each geographic region during each phase of issuing licenses; and

(C) complete the process of issuing medical cannabis pharmacy licenses no later than July 1, 2020.

(iii) In issuing a 15th license under Subsection (1), the department shall ensure that the license recipient will locate the medical cannabis pharmacy within Dagget, Duchesne, Uintah, Carbon, Sevier, Emery, Grand, or San Juan County.

(d) (i) The department may issue licenses to operate a medical cannabis pharmacy in addition to the licenses described in Subsection (1)(a) if the department determines, in consultation with the Department of Agriculture and Food and after an annual or more frequent analysis of the current and anticipated market for medical cannabis, that each additional license is necessary to provide an adequate supply, quality, or variety of medical cannabis to medical cannabis cardholders.

(ii) The department shall:

(A) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish criteria and processes for the consultation, analysis, and application for a license described in Subsection (1)(d)(i); and

[~~(B) before November 30, 2020, report on the rules described in Subsection (1)(d)(ii)(A) to the Executive Appropriations Committee of the Legislature; and~~]

[~~(C)~~] (B) report to the Executive Appropriations Committee of the Legislature before each time the department issues an additional license under Subsection (1)(d)(i) regarding the results of the consultation and analysis described in Subsection (1)(d)(i) and the application of the criteria described in Subsection (1)(d)(ii)(A) [~~to the intended licensee~~].

(2) (a) If there are more qualified applicants than there are available licenses for medical cannabis pharmacies, the department shall:

(i) evaluate each applicant and award the license to the applicant that best demonstrates:

(A) experience with establishing and successfully operating a business that involves complying with a regulatory environment, tracking inventory, and training, evaluating, and monitoring employees;

(B) an operating plan that will best ensure the safety and security of patrons and the community;

(C) positive connections to the local community;

(D) the suitability of the proposed location and the location's accessibility for qualifying patients;

(E) the extent to which the applicant can increase efficiency and reduce the cost of medical cannabis for patients; and

(F) a strategic plan described in Subsection 26-61a-304(7) that has a comparatively high likelihood of success; and

(ii) ensure a geographic dispersal among licensees that is sufficient to reasonably maximize access to the largest number of medical cannabis cardholders.

(b) In making the evaluation described in Subsection (2)(a), the department may give increased consideration to applicants who indicate a willingness to:

(i) operate as a home delivery medical cannabis pharmacy that accepts electronic medical cannabis orders that the state central patient portal facilitates; and

(ii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(3) The department may conduct a face-to-face interview with an applicant for a license that the department evaluates under Subsection (2).

(4) (a) The department may designate a medical cannabis pharmacy as a home delivery medical cannabis pharmacy if the department determines that the medical cannabis pharmacy's operating plan demonstrates the functional and technical ability to:

(i) safely conduct transactions for medical cannabis shipments;

(ii) accept electronic medical cannabis orders that the state central patient portal facilitates; and

(iii) accept payments through:

(A) a payment provider that the Division of Finance approves, in consultation with the state treasurer, in accordance with Section 26-61a-603; or

(B) a financial institution in accordance with Subsection 26-61a-603(4).

(b) An applicant seeking a designation as a home delivery medical cannabis pharmacy shall identify in the applicant's operating plan any information relevant to the department's evaluation described in Subsection (4)(a), including:

(i) the name and contact information of the payment provider;

(ii) the nature of the relationship between the prospective licensee and the payment provider;

(iii) the processes of the following to safely and reliably conduct transactions for medical cannabis shipments:

(A) the prospective licensee; and

(B) the electronic payment provider or the financial institution described in Subsection (4)(a)(iii); and

(iv) the ability of the licensee to comply with the department's rules regarding the secure transportation and delivery of medical cannabis or medical cannabis product to a medical cannabis cardholder.

(c) Notwithstanding any county or municipal ordinance, a medical cannabis pharmacy that the department designates as a home delivery medical cannabis pharmacy may deliver medical cannabis shipments in accordance with this chapter.

Section 23. Section 26-61a-401 is amended to read:

26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis

pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(9) (a) As a condition precedent to registration and renewal of a medical cannabis pharmacy agent registration card, a medical cannabis pharmacy agent shall:

(i) complete at least one hour of continuing education regarding patient privacy and federal health information privacy laws that is offered by the department under Subsection (9)(b) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(b) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (9).

(c) The pharmacist-in-charge described in Section 26-61a-403 shall ensure that each medical cannabis pharmacy agent working in the medical cannabis pharmacy who has access to the state electronic verification system is in compliance with this Subsection (9).

Section 24. Section 26-61a-501 is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, Section 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection [~~(5)~~] (4):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

[~~(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.~~]

[~~(5)~~] (4) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

[~~(6)~~] (5) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

[~~(7)~~] (6) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

[~~(8)~~] (7) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

[~~(9)~~] (8) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

[~~(10)~~] (9) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection [~~(10)~~] (9)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of Occupational and Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the [~~following labeling requirements~~] requirement to provide the following information under Subsection (9)(b)(i) if the information is already provided on the product label that a cannabis production establishment affixes:

(A) [~~Subsection (10)(b)(i)(B) regarding~~] a unique identification number;

(B) [~~Subsection (10)(b)(i)(F) regarding~~] directions for use and cautionary statements;

(C) [~~Subsection (10)(b)(i)(G) regarding~~] amount and cannabinoid content; and

(D) [~~Subsection (10)(b)(i)(H) regarding~~] a suggested use date.

(iii) If the size of a medical cannabis container does not allow sufficient space to include the labeling requirements described in Subsection (9)(b)(i), the medical cannabis pharmacy may provide the following information described in Subsection (9)(b)(i) on a supplemental label attached to the container or an informational enclosure that accompanies the container:

(A) the cannabinoid content;

(B) the suggested use date; and

(C) any other requirements that the department determines.

[~~(iii)~~] (iv) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection [~~(10)~~] (9)(b)(i).

[~~(11)~~] (10) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) [~~and (c)~~] through (d):

(i) for a written order or an electronic order under circumstances that the department determines, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for [~~a written~~] an order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection [~~(11)~~] (10)(a)(i) or an electronic order that is not subject to verification under Subsection (10)(a)(i), enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

[~~(12)~~] (11) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection [~~(12)~~] (11)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(13)~~] (12) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 25. Section 26-61a-502 is amended to read:

26-61a-502. Dispensing -- Amount a medical cannabis pharmacy may dispense -- Reporting -- Form of cannabis or cannabis product.

(1) (a) A medical cannabis pharmacy may not sell a product other than, subject to this chapter:

(i) cannabis in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(ii) a cannabis product in a medicinal dosage form that the medical cannabis pharmacy acquired from another medical cannabis pharmacy or a cannabis processing facility that is licensed under Section 4-41a-201;

(iii) a medical cannabis device; or

(iv) educational material related to the medical use of cannabis.

(b) A medical cannabis pharmacy may only sell an item listed in Subsection (1)(a) to an individual with:

(i) (A) a medical cannabis card;

(B) a department registration described in Section 26-61a-201(10); and

(ii) a corresponding valid form of photo identification.

(c) Notwithstanding Subsection (1)(a), a medical cannabis pharmacy may not sell a cannabis-based drug that the United States Food and Drug Administration has approved.

(d) Notwithstanding Subsection (1)(b), a medical cannabis pharmacy may not sell a medical cannabis device to an individual described in Subsection 26-61a-201(2)(a)(i)(B) or to a minor described in Subsection 26-61a-201(2)(c) unless the individual or minor has the approval of the Compassionate Use Board in accordance with Subsection 26-61a-105(5).

(2) A medical cannabis pharmacy:

(a) may dispense to a medical cannabis cardholder, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis that:

(A) is in a medicinal dosage form; and

(B) carries a label clearly displaying the amount of tetrahydrocannabinol and cannabidiol in the cannabis; and

(ii) a cannabis product that is in a medicinal dosage form; and

(b) may not dispense:

(i) more medical cannabis than described in Subsection (2)(a); or

(ii) to an individual whose recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis.

(3) An individual with a medical cannabis card:

(a) may purchase, in any one 28-day period, up to the legal dosage limit of:

(i) unprocessed cannabis in a medicinal dosage form; and

(ii) a cannabis product in a medicinal dosage form;

(b) may not purchase:

(i) more medical cannabis than described in Subsection (3)(a); or

(ii) if the relevant recommending medical provider did not recommend directions of use and dosing guidelines, until the individual consults with the pharmacy medical provider in accordance with Subsection (4), any medical cannabis; and

(c) may not use a route of administration that the relevant recommending medical provider or the pharmacy medical provider, in accordance with Subsection (4) or (5), has not recommended.

(4) If a recommending medical provider recommends treatment with medical cannabis but wishes for the pharmacy medical provider to determine directions of use and dosing guidelines:

(a) the recommending medical provider shall provide to the pharmacy medical provider, either through the state electronic verification system or through a medical cannabis pharmacy's recording of a recommendation under the order of a limited medical provider, any of the following information that the recommending medical provider feels would be needed to provide appropriate directions of use and dosing guidelines:

(i) information regarding the qualifying condition underlying the recommendation;

(ii) information regarding prior treatment attempts with medical cannabis; and

(iii) portions of the patient's current medication list; and

(b) before the relevant medical cannabis cardholder may obtain medical cannabis, the pharmacy medical provider shall:

(i) review pertinent medical records, including the recommending medical provider documentation described in Subsection (4)(a); and

(ii) unless the pertinent medical records show directions of use and dosing guidelines from a state central patient portal medical provider in accordance with Subsection (5), after completing the review described in Subsection (4)(b)(i) and consulting with the recommending medical provider as needed, determine the best course of treatment through consultation with the cardholder regarding:

(A) the patient's qualifying condition underlying the recommendation from the recommending medical provider;

(B) indications for available treatments;

(C) directions of use and dosing guidelines; and

(D) potential adverse reactions.

(5) (a) A state central patient portal medical provider may provide the consultation and make the determination described in Subsection (4)(b) for a medical cannabis patient cardholder regarding an electronic order that the state central patient portal facilitates.

(b) The state central patient portal medical provider described in Subsection (5)(a) shall document the directions of use and dosing guidelines, determined under Subsection (5)(a) in the pertinent medical records.

(6) (a) A medical cannabis pharmacy shall:

(i) (A) access the state electronic verification system before dispensing cannabis or a cannabis product to a medical cannabis cardholder in order to determine if the cardholder or, where applicable, the associated patient has met the maximum amount of medical cannabis described in Subsection (2); and

(B) if the verification in Subsection (6)(a)(i) indicates that the individual has met the maximum amount described in Subsection (2), decline the sale, and notify the recommending medical provider who made the underlying recommendation;

(ii) submit a record to the state electronic verification system each time the medical cannabis pharmacy dispenses medical cannabis to a medical cannabis cardholder;

(iii) ensure that the pharmacy medical provider who is a licensed pharmacist reviews each medical cannabis transaction before dispensing the medical cannabis to the cardholder in accordance with pharmacy practice standards;

(iv) package any medical cannabis that is in a container that:

(A) complies with Subsection [~~4-41a-602(2)~~] 4-41a-602(1)(b) or, if applicable, provisions related to a container for unprocessed cannabis flower in the definition of "medicinal dosage form" in Section 26-61a-102;

(B) is tamper-resistant and tamper-evident; and

(C) provides an opaque bag or box for the medical cannabis cardholder's use in transporting the container in public; and

(v) for a product that is a cube that is designed for ingestion through chewing or holding in the mouth for slow dissolution, include a separate, off-label warning about the risks of over-consumption.

(b) A medical cannabis cardholder transporting or possessing the container described in Subsection (6)(a)(iv) in public shall keep the container within the opaque bag or box that the medical cannabis pharmacist provides.

(7) (a) Except as provided in Subsection (7)(b), a medical cannabis pharmacy may not sell medical cannabis in the form of a cigarette or a medical cannabis device that is intentionally designed or constructed to resemble a cigarette.

(b) A medical cannabis pharmacy may sell a medical cannabis device that warms cannabis material into a vapor without the use of a flame and that delivers cannabis to an individual's respiratory system.

(8) (a) A medical cannabis pharmacy may not give, at no cost, a product that the medical cannabis pharmacy is allowed to sell under Subsection (1)(a)(i), (ii), or (iii).

(b) A medical cannabis pharmacy may give, at no cost, educational material related to the medical use of cannabis.

(9) The department may impose a uniform fee on each medical cannabis transaction in a medical cannabis pharmacy in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(10) A medical cannabis pharmacy may purchase and store medical cannabis devices regardless of whether the seller has a cannabis-related license under this title or Title 4, Chapter 41a, Cannabis Production Establishments.

Section 26. Section 26-61a-604 is amended to read:

26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times; [~~or~~]

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution[~~.~~]; or

(d) after a change of ownership described in Subsection (15)(c), the department determines that the medical cannabis courier no longer meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) A medical cannabis courier license is not transferrable or assignable.

(b) A medical cannabis courier shall report in writing to the department no later than 10 business days before the date of any change of ownership of the medical cannabis courier.

(c) If the ownership of a medical cannabis courier changes by 50% or more:

(i) concurrent with the report described in Subsection (15)(b), the medical cannabis courier shall submit a new application described in Subsection (3)(b);

(ii) within 30 days of the submission of the application, the department shall:

(A) conduct an application review; and

(B) award a license to the medical cannabis courier for the remainder of the term of the medical cannabis courier's license before the ownership change if the medical cannabis courier meets the minimum standards for licensure and operation of the medical cannabis courier described in this chapter; and

(iii) if the department approves the license application, notwithstanding Subsection (4), the medical cannabis courier shall pay a license fee that the department sets in accordance with Section 63J-1-504 in an amount that covers the board's cost of conducting the application review.

Section 27. Section 26-61a-606 is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

(a) the individual is an employee of a licensed medical cannabis courier; and

(b) the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of Occupational and Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony within the preceding 10 years; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall

carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section 28. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary [~~in order~~] to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information [~~in order~~] to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; [~~or~~]

(q) as it relates to the Cannabis Production Establishment Licensing Advisory Board, to review confidential information regarding violations and security requirements in relation to the operation of cannabis production establishments; or

[~~(q)~~] (r) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; and

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 29. Section 58-5a-102 is amended to read:

58-5a-102. Definitions.

In addition to the definitions under Section 58-1-102, as used in this chapter:

(1) "Board" means the Podiatric Physician Board created in Section 58-5a-201.

(2) "Indirect supervision" means the same as that term is defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed podiatric physician and engaging in specific tasks assigned by the licensed podiatric physician in accordance with the standards and ethics of the podiatry profession.

(4) "Practice of podiatry" means the diagnosis and treatment of conditions affecting the human foot and ankle and their manifestations of systemic conditions by all appropriate and lawful means, subject to Section 58-5a-103.

(5) "Unlawful conduct" includes:

(a) the conduct that constitutes unlawful conduct under Section 58-1-501; and

(b) for an individual who is not licensed under this chapter:

(i) using the title or name podiatric physician, podiatrist, podiatric surgeon, foot doctor, foot specialist, or D.P.M.; or

(ii) implying or representing that the individual is qualified to practice podiatry.

(6) (a) "Unprofessional conduct" includes, for an individual licensed under this chapter:

(i) the conduct that constitutes unprofessional conduct under Section 58-1-501;

(ii) communicating to a third party, without the consent of the patient, information the individual acquires in treating the patient, except as necessary for professional consultation regarding treatment of the patient;

(iii) allowing the individual's name or license to be used by an individual who is not licensed to practice podiatry under this chapter;

(iv) except as described in Section 58-5a-306, employing, directly or indirectly, any unlicensed individual to practice podiatry;

(v) using alcohol or drugs, to the extent the individual's use of alcohol or drugs impairs the individual's ability to practice podiatry;

(vi) unlawfully prescribing, selling, or giving away any prescription drug, including controlled substances, as defined in Section 58-37-2;

(vii) gross incompetency in the practice of podiatry;

(viii) willfully and intentionally making a false statement or entry in hospital records, medical records, or reports;

(ix) willfully making a false statement in reports or claim forms to governmental agencies or insurance companies with the intent to secure payment not rightfully due;

(x) willfully using false or fraudulent advertising;

(xi) conduct the division defines as unprofessional conduct by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [~~or~~]

(xii) falsely making an entry in, or altering, a medical record with the intent to conceal:

(A) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(B) conduct described in Subsections (6)(a)(i) through (xi) or Subsection 58-1-501(1)[~~.~~]; or

(xiii) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(b) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis within the scope of a practice of podiatry.

Section 30. Section 58-31b-502 is amended to read:

58-31b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) failure to safeguard a patient's right to privacy as to the patient's person, condition, diagnosis, personal effects, or any other matter about which the licensee is privileged to know because of the licensee's or person with a certification's position or practice as a nurse or practice as a medication aide certified;

(b) failure to provide nursing service or service as a medication aide certified in a manner that demonstrates respect for the patient's human dignity and unique personal character and needs without regard to the patient's race, religion, ethnic background, socioeconomic status, age, sex, or the nature of the patient's health problem;

(c) engaging in sexual relations with a patient during any:

(i) period when a generally recognized professional relationship exists between the person licensed or certified under this chapter and the patient; or

(ii) extended period when a patient has reasonable cause to believe a professional relationship exists between the person licensed or certified under the provisions of this chapter and the patient;

(d) (i) as a result of any circumstance under Subsection (1)(c), exploiting or using information about a patient or exploiting the licensee's or the person with a certification's professional relationship between the licensee or holder of a certification under this chapter and the patient; or

(ii) exploiting the patient by use of the licensee's or person with a certification's knowledge of the patient obtained while acting as a nurse or a medication aide certified;

(e) unlawfully obtaining, possessing, or using any prescription drug or illicit drug;

(f) unauthorized taking or personal use of nursing supplies from an employer;

(g) unauthorized taking or personal use of a patient's personal property;

(h) unlawful or inappropriate delegation of nursing care;

(i) failure to exercise appropriate supervision of persons providing patient care services under supervision of the licensed nurse;

(j) employing or aiding and abetting the employment of an unqualified or unlicensed person to practice as a nurse;

(k) failure to file or record any medical report as required by law, impeding or obstructing the filing or recording of such a report, or inducing another to fail to file or record such a report;

(l) breach of a statutory, common law, regulatory, or ethical requirement of confidentiality with respect to a person who is a patient, unless ordered by a court;

(m) failure to pay a penalty imposed by the division;

(n) prescribing a Schedule II controlled substance without complying with the requirements in Section 58-31b-803, if applicable;

(o) violating Section 58-31b-801;

(p) violating the dispensing requirements of Section 58-17b-309 or Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [~~or~~]

(q) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1)[~~.~~]; or

(r) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider, or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(3) Notwithstanding Subsection (2), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for an advanced practice registered nurse described in Subsection (2).

Section 31. Section 58-70a-503 is amended to read:

58-70a-503. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) violation of a patient confidence to any person who does not have a legal right and a professional need to know the information concerning the patient;

(b) knowingly prescribing, selling, giving away, or directly or indirectly administering, or offering to prescribe, sell, furnish, give away, or administer any prescription drug except for a legitimate medical purpose upon a proper diagnosis indicating use of that drug in the amounts prescribed or provided;

(c) prescribing prescription drugs for oneself or administering prescription drugs to oneself, except those that have been legally prescribed for the physician assistant by a licensed practitioner and that are used in accordance with the prescription order for the condition diagnosed;

(d) in a practice that has physician assistant ownership interests, failure to allow a physician the independent final decision making authority on treatment decisions for the physician's patient;

(e) violating the dispensing requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy, if applicable; [~~and~~]

(f) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (e) or Subsection 58-1-501(1)[~~.~~]; and

(g) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act.

(2) (a) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, when registered as a qualified medical provider or acting as a limited medical provider, as those terms are defined in Section 26-61a-102, recommending the use of medical cannabis.

(b) Notwithstanding Subsection (2)(a), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a physician assistant described in Subsection (2)(a).

Section 32. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 33. Coordinating S.B. 190 with S.B. 195 -- Superseding technical and substantive amendments.

If this S.B. 190 and S.B. 195, Medical Cannabis Access Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending Section 26-61a-505 to read:

"26-61a-505. Advertising.

(1) Except as provided in this section, a [~~medical cannabis pharmacy~~] person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

(2) [~~A~~] Subject to Section 26-61a-116, a medical cannabis pharmacy may:

(a) advertise an employment opportunity at the medical cannabis pharmacy[~~.~~];

[~~(3) (a) Notwithstanding~~] (b) notwithstanding any municipal or county ordinance prohibiting signage, [~~a medical cannabis pharmacy may~~] use signage on the outside of the medical cannabis pharmacy that:

(i) includes only:

(A) in accordance with Subsection [~~(3)(b)~~] 26-61a-116(4), the medical cannabis pharmacy's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage[~~.~~];

[~~(b) The department shall define standards for a medical cannabis pharmacy's name and logo to ensure a medical rather than recreational disposition.~~]

[~~(4) (a) A medical cannabis pharmacy may maintain a website that includes information about:~~]

(c) advertise in any medium:

(i) the pharmacy's name and logo;

[~~(i)~~] (ii) the location and hours of operation of the medical cannabis pharmacy;

[~~(ii)~~] (iii) a [~~product or~~] service available at the medical cannabis pharmacy;

[~~(iii)~~] (iv) personnel affiliated with the medical cannabis pharmacy;

[~~(iv)~~] (v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;

(vi) best practices that the medical cannabis pharmacy upholds; and

[~~(v)~~] (vii) educational material related to the medical use of cannabis, as defined by the department[~~.~~];

[~~(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).~~]

[~~(5) (a) A medical cannabis pharmacy may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).~~]

(d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4); and

(e) maintain on the medical cannabis pharmacy's website non-promotional information regarding the medical cannabis pharmacy's inventory.

[~~(b)~~] (3) A medical cannabis pharmacy may not include in an educational event described in Subsection [~~(5)(a)~~] (2)(d):

[~~(i)~~] (a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;

[~~(ii)~~] (b) any gift items or merchandise other than educational materials, as those terms are defined by the department;

[~~(iii)~~] (c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

[~~(iv)~~] (d) a presenter other than the following:

[~~(A)~~] (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

[~~(B)~~] (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

[~~(C)~~] (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

[~~(D)~~] (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

[~~(E)~~] (v) a medical practitioner, similar to the practitioners described in this Subsection [~~(5)(b)(iv)~~] (3)(d)(v), who is licensed in another state or country;

[~~(F)~~] (vi) a state employee; or

[~~(G)~~] (vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

[~~(c)~~] (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:

(a) the educational material described in Subsection (2)(c)(vii); and

(b) the elements of and restrictions on the educational event described in Subsection [~~(5)(a)~~] (3), including:

(i) a minimum age of 21 years old for attendees; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.".

CHAPTER 291
S. B. 191

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

REGULATORY SANDBOX IN EDUCATION

Chief Sponsor: Lincoln Fillmore
House Sponsor: Douglas R. Welton

LONG TITLE

General Description:

This bill permits a school to implement an innovative education program.

Highlighted Provisions:

This bill:

- permits a district school or charter school to:
  - create a plan to implement an innovative education program (innovation plan); and
  - apply to the State Board of Education (state board) for a waiver of state board rule;
- to support an innovative education program, permits a local education agency (LEA) to:
  - expend a percentage of state restricted funding under certain circumstances; and
  - accept private grants, loans, gifts, endowments, devises, or bequests;
- requires a charter school authorizer to amend a charter school's charter agreement to:
  - incorporate an approved innovation plan; and
  - remove an innovation plan that is no longer in effect;
- requires a local school board or charter school authorizer to submit approved innovation plans to the state board;
- permits the state board to terminate an innovation plan under certain circumstances;
- requires the state board to:
  - upon request, report to the Education Interim Committee on the use of state restricted funding an LEA uses to support an innovative education program;
  - annually report to the Education Interim Committee on innovation plans; and
  - waive certain state board rules;
- defines terms; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351

53G-5-303, as last amended by Laws of Utah 2019, Chapter 293

ENACTS:

53G-7-221, Utah Code Annotated 1953

53G-7-222, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-2-522 regarding mental health screening programs;

[~~(k)~~] (l) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

[~~(l)~~] (m) the report described in Section 53F-4-407 by the state board on UPSTART;

[~~(m)~~] (n) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; [~~and~~]

[~~(n)~~] (o) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income[~~.~~]; and

(p) the report described in Section 53G–7–221 by the State Board of Education regarding innovation plans.

(2) In accordance with applicable provisions and Section 68–3–14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A–15–303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B–28–402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

[~~(c) the reports described in Section 53E–3–520 by the state board regarding cost centers and implementing activity based costing;~~]

[~~(d)~~] (c) if required, the report described in Section 53E–4–309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

[~~(e)~~] (d) if required, the report described in Section 53E–5–210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

[~~(f)~~] (e) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E–10–309(7) related to the PRIME pilot program;

[~~(g)~~] (f) the report described in Section 53E–10–702 by Utah Leading through Effective, Actionable, and Dynamic Education;

[~~(h)~~] (g) if required, the report described in Section 53F–2–513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

[~~(i)~~] (h) upon request, the report described in Section 53F–5–207 by the state board on the Intergenerational Poverty Intervention Grants Program;

[~~(j)~~] (i) the report described in Section 53F–5–210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(j) upon request, a report described in Section 53G–7–222 by an LEA regarding expenditure of a percentage of state restricted funds to support an innovative education program;

(k) the report described in Section 53G–7–503 by the state board regarding fees that LEAs charge during the 2020–2021 school year;

(l) the reports described in Section 53G–11–304 by the state board regarding proposed rules and results related to educator exit surveys; and

(m) the report described in Section 62A–15–117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school–based health services[~~; and~~].

[~~(n) the reports described in Section 63C–19–202 by the Higher Education Strategic Planning Commission.~~]

Section 2. Section 53G-5-303 is amended to read:

53G-5-303. Charter agreement -- Content -- Modification.

(1) As used in this section[~~, "satellite~~]:

(2) (a) "Innovation plan" means the same as that term is defined in Section 53G–7–221.

(b) "Satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.

[~~(2)~~] (3) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

[~~(3)~~] (4) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels the charter school will serve;

(e) (i) subject to Section 53G–6–504, the maximum number of students a charter school will serve; or

(ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;

(f) a description of the structure of the charter school governing board, including:

(i) the number of charter school governing board members;

(ii) how members of the charter school governing board are appointed; and

(iii) charter school governing board members' terms of office;

(g) assurances that:

(i) the charter school governing board will comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and state board rules;

(ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and

(iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(h) which administrative rules the state board will waive for the charter school;

(i) minimum financial standards for operating the charter school;

(j) minimum standards for student achievement; and

(k) signatures of the charter school authorizer and the charter school governing board members.

[~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)~~] (5)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection [~~(4)~~] (5)(a) to:

(i) include an enrollment preference described in Subsection 53G-6-502(4)(g)[~~.~~]; or

(ii) only as described in Subsection 53G-7-221(5), include or remove an innovation plan.

Section 3. Section 53G-7-221 is enacted to read:

53G-7-221. Innovative education program -- Innovation plan -- Waiver from state board rule.

(1) As used in this section:

(a) "Approved innovation plan" means an innovation plan that a local approving body approves in accordance with this section.

(b) "Charter trust land council" means a council established by a charter school governing board under Section 53G-7-1205.

(c) "Council" means a charter trust land council or a school community council.

(d) "Effective period" means the time period that an approved innovation plan is in effect, beginning on the date on which the local approving body approves the innovation plan and ending:

(i) at the end of the time period described in Subsection (2)(e)(ii); or

(ii) on the date an innovation school receives written notice that the state board has terminated the innovation plan as described in Subsection (9).

(e) "Innovation LEA" means an LEA that includes an innovation school.

(f) "Innovation plan" means a plan to implement an innovative education program.

(g) "Innovation school" means a public school with an innovation plan that a local approving body approves.

(h) "Innovative education program" or "program" means a program of research-based innovations in a public school, including innovations in:

(i) school staffing;

(ii) curriculum and assessment;

(iii) class scheduling;

(iv) use of financial or other resources;

(v) faculty recruitment;

(vi) employment;

(vii) employee evaluations; or

(viii) compensation.

(i) "Local approving body" means:

(i) for a school district, the local school board; or

(ii) for a charter school, the charter school's authorizer.

(j) "Public school" means a district school or charter school.

(k) "School community council" means a council established at a school within a school district under Section 53G-7-1202.

(l) "Student Achievement Backpack" means the same as that term is defined in Section 53E-3-511.

(2) (a) A public school may create an innovation plan to implement an innovative education program in any area of education.

(b) A public school shall submit an innovation plan to the public school's local approving body.

(3) An innovation plan shall include:

(a) a statement of the public school's mission and an explanation of how the innovation plan will enhance the school's ability to achieve the school's mission;

(b) a description of the innovative education program the public school will implement;

(c) a list and description of the research or scientific basis supporting the innovative education program;

(d) a list of the public school's programs, policies, or operations that the innovation plan impacts, including:

(i) the length of the school day;

(ii) student graduation policies;

(iii) the public school's assessment plan;

(iv) the public school's proposed budget; or

(v) the public school's staffing plan;

(e) (i) a description of the improvements in academic performance the public school expects the innovation plan to achieve;

(ii) the period of time, not less than one year or more than three years, in which the public school will demonstrate the results of the program; and

(iii) a description of the method the public school will use to measure outcomes and demonstrate whether the innovation school achieves the improvements described in Subsection (2)(e)(i);

(f) an estimate of cost savings or increased efficiencies, if any, the public school expects implementing the innovation plan will achieve;

(g) evidence that the following agree to the innovation plan:

(i) a majority of administrators employed at the public school;

(ii) a majority of teachers employed at the public school; and

(iii) a majority of the public school's council;

(h) a statement demonstrating the level of support for the innovation plan from other members of the public school community, including:

(i) school employees other than teachers;

(ii) students;

(iii) parents; and

(iv) the surrounding community;

(i) a request for a waiver of any state board rule required for the public school to implement the innovation plan, if any; and

(j) any additional information the local approving body requires.

(4) (a) A local approving body shall:

(i) review an innovation plan that an innovation school submits under Subsection (2);

(ii) approve or reject the innovation plan within 60 days after the day on which the public school submits the innovation plan; and

(iii) within 30 days after the day on which the local approving body rejects an innovation plan, provide to the public school an explanation in writing of the basis for the rejection.

(b) A local approving body may not approve an innovation plan that would cause a public school to violate:

(i) federal law; or

(ii) state law, other than a state board rule for which an innovation plan requests a waiver.

(c) In approving innovation plans as described in Subsection (4)(a), a local approving body shall give preference to innovations in the following areas:

(i) curriculum;

(ii) academic standards assessments;

(iii) accountability measures, including expanding the use of accountability measures to more accurately present a complete measure of student learning and achievement, including the use of:

(A) graduation or exit examinations;

(B) end-of-course evaluations;

(C) Student Achievement Backpack reviews;

(D) national and international accountability measures;

(E) measures of the percentage of students who enroll in an institution of higher education after high school graduation; or

(F) measures of the percentage of students participating in the concurrent enrollment program described in Section 53F-2-409;

(iv) providing services, including:

(A) special education services;

(B) services related to gifted and talented programs;

(C) services for English language learner students; or

(D) services for students at risk of academic failure, expulsion, or dropping out;

(v) teacher recruitment, training, preparation, or professional learning;

(vi) teacher employment;

(vii) educator evaluations;

(viii) employee compensation, including:

(A) performance pay plans;

(B) total compensation plans; or

(C) retirement or other benefits;

(ix) school governance; and

(x) plans for college and career readiness.

(5) A charter school governing board of an innovation school shall, in accordance with Section 53G-5-303, modify the charter school's charter agreement to:

(a) include an approved innovation plan;

(b) include amendments to an approved innovation plan that a charter school authorizer approves as described in Subsection (6); and

(c) remove an approved innovation plan at the end of the effective period.

(6) (a) (i) An innovation school may submit proposed amendments to an approved innovation plan to the innovation school's local approving body.

(ii) An innovation school shall include with proposed amendments described Subsection (6)(a)(i), evidence that the following agree to the proposed amendments:

(A) a majority of administrators employed at the innovation school;

(B) a majority of teachers employed at the innovation school; and

(C) a majority of the innovation school's council.

(b) A local approving body shall review and may approve or reject proposed amendments that an innovation school submits under Subsection (6)(a).

(7) (a) Within 30 days of the date on which the local approving body approves an innovation plan, or approves an amendment to an approved innovation plan, the local approving body shall submit a copy of the approved innovation plan to the state board.

(b) The state board shall maintain a copy of an approved innovation plan a local approving body submits under Subsection (7)(a).

(c) If an approved innovation plan a local approving body submits to the state board includes a request for waiver of state board rule, the state board shall grant the requested waiver, unless the waiver would:

(i) cause the innovation school to be in violation of state or federal law;

(ii) threaten the health, safety, or welfare of students in the innovation school; or

(iii) waive a rule related to:

(A) employee criminal background checks; or

(B) accounting principles.

(d) An innovation school may apply to the state board for additional or modified waivers of state board rule.

(e) For an additional or modified waiver request described in Subsection (7)(d), the state board may grant the waiver in accordance with Subsection (7)(c), if the waiver would enhance any of the following for an innovative education program:

(i) educational opportunities;

(ii) standards; or

(iii) quality.

(8) (a) An innovation school shall annually report to the local approving body on the innovation plan's progress in achieving the improvements described in Subsection (3)(e)(i).

(b) A local approving body shall annually submit a report described in Subsection (8)(a) to the state board.

(c) (i) The state board may terminate an innovation plan in accordance with rules the state board makes under Subsection (9), if the state board determines that the innovation plan does not demonstrate sufficient progress.

(ii) The state board shall notify the local approving body and the innovation school in writing of the state board's decision to terminate an innovation plan, within 30 days of the date on which the state board makes the decision.

(9) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) requirements for the report described in Subsection (8)(a);

(ii) a procedure for a local approving body to submit the report described in Subsection (8)(b); and

(iii) criteria the state board will use to:

(A) evaluate an innovation plan's progress; and

(B) terminate an innovation plan; and

(b) annually report to the Education Interim Committee, at or before the Education Interim Committee's November meeting, on:

(i) approved innovation plans;

(ii) waivers of state board rule granted under Subsection (7);

(iii) requested waivers of state board rule that the state board does not grant, including the reason for declining to grant the waiver;

(iv) innovation plans terminated under Subsection (8), including the reason for the termination;

(v) any statutory provisions that prevent:

(A) a local approving body from approving an innovation plan; or

(B) the state board from granting a waiver of state board rule; and

(vi) recommendations for legislation to address statutory provisions described in Subsection (9)(b)(v).

(10) An innovation LEA may accept private grants, loans, gifts, endowments, devises, or bequests which are made to support an innovative education program at an innovation school.

Section 4. Section 53G-7-222 is enacted to read:

53G-7-222. Budget flexibility for innovation LEAs.

(1) As used in this section:

(a) "Innovation LEA" means the same as that term is defined in Section 53G-7-221.

(b) "Innovation school" means the same as that term is defined in Section 53G-7-221.

(c) "Innovative education program" means the same as that term is defined in Section 53G-7-221.

(2) Notwithstanding any other provision of the Utah Code:

(a) an innovation LEA may, in each fiscal year:

(i) apply to the state board for approval to expend up to 35% of the LEA's state restricted funding for each formula-based program to support an innovative education program at an innovation school in the innovation LEA; and

(ii) except as provided in Subsection (2)(b), transfer fund balances between funds as necessary to expend funds as described in Subsection (2)(a)(i); and

(b) an innovation LEA may not transfer funds under Subsection (2)(a) related to:

(i) the school LAND Trust Program, established in Section 53G-7-1206; or

(ii) a qualified grant program.

(3) An innovation LEA that expends funds as described in Subsection (2)(a) shall, in accordance with the requirements that the state board establishes under Subsection (4), report to the state board on how the innovation LEA expends the funds.

(4) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) requirements for an innovation LEA to apply for the state board's approval to expend funds as described in Subsection (2);

(ii) procedures for an innovation LEA to submit the application described in Subsection (4)(a); and

(iii) requirements for the report described in Subsection (3); and

(b) upon request of the Education Interim Committee, provide a report described in Subsection (3) to the Education Interim Committee.

(5) In addition to the requirements established by the state board under Subsection (4)(a)(i), an innovation LEA shall demonstrate how the innovation LEA has met the requirements of each formula-based program from which the innovation LEA seeks approval to expend funds as described in Subsection (2).

(6) (a) Nothing in this section authorizes an innovation LEA to violate:

(i) federal law; or

(ii) federal restrictions on the LEA's funds.

(b) An innovation LEA that takes an action that this section authorizes shall ensure that the innovation LEA continues to meet federal maintenance of effort requirements.

CHAPTER 292
S. B. 192

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

CARDIOPULMONARY RESUSCITATION IN SCHOOLS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill addresses cardiopulmonary resuscitation training for high school students.

Highlighted Provisions:

This bill:

- defines terms;
- requires the State Board of Education to make rules to develop and implement cardiopulmonary resuscitation (CPR) training as part of the health curriculum for students;
- requires a local education agency (LEA) to offer CPR training for students as part of the health curriculum;
- with certain exceptions, requires a student to complete CPR training at least once while the student is in high school; and
- creates a grant program to assist LEAs with providing CPR training to students.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the State Board of Education, as an ongoing appropriation:
  - from the Education Fund, Ongoing, $270,000; and
- to the State Board of Education, as a one-time appropriation:
  - from the Education Fund, One-time, $200,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-10-408, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-10-408 is enacted to read:

53G-10-408. Cardiopulmonary resuscitation instruction -- Grant program.

(1) As used in this section:

(a) "Board" means the State Board of Education.

(b) "Cardiopulmonary resuscitation" or "CPR" means artificial ventilation or external chest compression applied to a person who is unresponsive and not breathing.

(c) "Individualized education program" or "IEP" means the same as that term is defined in Section 53E-1-102.

(d) "Local education agency" or "LEA" means a school district or charter school that serves students in grade 9, 10, 11, or 12.

(e) "Psychomotor skills" means sequences of physical actions that are practiced in a manner that supports cognitive learning.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the requirements of this section, the board shall make rules to develop and implement CPR training as part of the core curriculum standards for instruction in health.

(3) The state board may consult with the American Heart Association, the American Red Cross, or other similar organizations to make the rules described in Subsection (2).

(4) Rules made under Subsection (2) shall include:

(a) a requirement that CPR training be based on current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation;

(b) except for a participant who is enrolled in an online-only school, a requirement that CPR training include the use of psychomotor skills with appropriate CPR training equipment; and

(c) a requirement that a student complete CPR training at least once during the period that begins with the beginning of grade 9 and ends at the end of grade 12, except as provided in Subsection (7).

(5) Beginning with the 2022-23 school year, and in accordance with the rules made under Subsection (2), an LEA shall offer CPR training for students.

(6) Rules made under Subsection (2) may not allow an LEA to issue a CPR certification to a student, but may allow a student to receive CPR certification from an individual who provides the CPR training if the individual is authorized to issue a CPR certification by the American Heart Association, American Red Cross, or other similar organization.

(7) A student is exempt from completing CPR training if:

(a) the student's parent or legal guardian requests that the student be exempt from CPR training;

(b) the student provides documentation to the LEA showing that the student has previously received CPR training or has a current CPR certification; or

(c) the student has an IEP and the CPR training is inconsistent with the IEP.

(8) An LEA may accept a donation of materials, equipment, or services related to CPR training if the materials, equipment, or services are in compliance with rules made pursuant to Subsection (2).

(9) (a) There is created the CPR Training Grant Program.

(b) Subject to legislative appropriations, the board shall award grants to LEAs to provide the CPR training described in this section, which may include engaging a qualified CPR instructor or replacing materials and equipment used in CPR training.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board may make rules to establish:

(i) application and eligibility requirements for an LEA that seeks a grant under this section; or

(ii) specific materials or equipment that may be purchased using a grant awarded under this section.

Section 2. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education -- System Standards and Accountability

From Education Fund, Ongoing	$270,000
From Education Fund, One-time	$200,000
Schedule of Programs:	
CPR Training Grant Program	$470,000

(1) The Legislature intends that the State Board of Education use ongoing appropriations under this item to fund grants for LEAs related to the CPR instruction described in Section 53G-10-408.

(2) The Legislature further intends that the State Board of Education use one-time appropriations under this item to fund grants for LEAs to replace currently outdated or missing materials and equipment related to the CPR instruction described in Section 53G-10-408.

CHAPTER 293
S. B. 200

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022
(Exception clause in Section 4)

REVISIONS TO PROPERTY TAX

Chief Sponsor: Wayne A. Harper
House Sponsor: Casey Snider

LONG TITLE

General Description:

This bill modifies provisions related to property tax.

Highlighted Provisions:

This bill:

- requires a business to include the business's NAICS code when filing a signed statement related to the business's taxable personal property;
- modifies the contents of a property tax notice;
- requires a county assessor to notify a taxpayer when the taxpayer qualifies for an exemption to the signed statement requirement related to the taxpayer's business personal property; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

59-2-306, as last amended by Laws of Utah 2010, Chapter 131
59-2-919.1, as last amended by Laws of Utah 2020, Chapter 78
59-2-1115, as last amended by Laws of Utah 2021, Chapter 388

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-306 is amended to read:

59-2-306. Statements by taxpayers -- Power of assessors respecting statements.

(1) (a) The county assessor may request a signed statement from any person setting forth all the real and personal property assessable by the assessor which is owned, possessed, managed, or under the control of the person at 12 noon on January 1.

(b) A request under Subsection (1)(a) shall include a notice of the procedure under Section 59-2-1005 for appealing the value of the personal property.

(2) (a) Except as provided in Subsection (2)(b) or (c), a signed statement described in Subsection (1) shall be filed on or before May 15 of the year the statement described in Subsection (1) is requested by the county assessor.

(b) For a county of the first class, the signed statement described in Subsection (1) shall be filed on the later of:

(i) 60 days after requested by the assessor; or

(ii) on or before May 15 of the year the statement described in Subsection (1) is requested by the county assessor if, by resolution, the county legislative body of that county adopts the deadline described in Subsection (2)(a).

(c) If a county assessor requests a signed statement described in Subsection (1) on or after March 16, the person shall file the signed statement within 60 days after requested by the assessor.

(3) The signed statement shall include the following:

(a) all property belonging to, claimed by, or in the possession, control, or management of the person, any firm of which the person is a member, or any corporation of which the person is president, secretary, cashier, or managing agent;

(b) the county in which the property is located or in which it is taxable; and, if taxable in the county in which the signed statement was made, also the city, town, school district, road district, or other taxing district in which it is located or taxable; [~~and~~]

(c) all lands in parcels or subdivisions not exceeding 640 acres each, the sections and fractional sections of all tracts of land containing more than 640 acres which have been sectionized by the United States [~~Government~~] government, and the improvements on those lands[~~.~~]; and

(d) for a person who owns taxable tangible personal property as defined in Section 59-2-1115, the person's NAICS code, as classified under the current North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

(4) Every assessor may subpoena and examine any person in any county in relation to any signed statement but may not require that person to appear in any county other than the county in which the subpoena is served.

Section 2. Section 59-2-919.1 is amended to read:

59-2-919.1. Notice of property valuation and tax changes.

(1) In addition to the notice requirements of Section 59-2-919, the county auditor, on or before July 22 of each year, shall notify each owner of real estate who is listed on the assessment roll.

(2) The notice described in Subsection (1) shall:

(a) except as provided in Subsection [~~(5)~~] (6), be sent to all owners of real property by mail 10 or more days before the day on which:

(i) the county board of equalization meets; and

(ii) the taxing entity holds a public hearing on the proposed increase in the certified tax rate;

(b) be on a form that is:

(i) approved by the commission; and

(ii) uniform in content in all counties in the state; and

(c) contain for each property:

(i) the assessor's determination of the value of the property;

(ii) the taxable value of the property;

(iii) (A) the deadline for the taxpayer to make an application to appeal the valuation or equalization of the property under Section 59-2-1004; or

(B) for property assessed by the commission, the deadline for the taxpayer to apply to the commission for a hearing on an objection to the valuation or equalization of the property under Section 59-2-1007;

(iv) for a property assessed by the commission, a statement that the taxpayer may not appeal the valuation or equalization of the property to the county board of equalization;

(v) itemized tax information for all applicable taxing entities, including:

(A) the dollar amount of the taxpayer's tax liability for the property in the prior year; and

(B) the dollar amount of the taxpayer's tax liability under the current rate;

(vi) the following, stated separately:

(A) the charter school levy described in Section 53F-2-703;

(B) the multicounty assessing and collecting levy described in Subsection 59-2-1602(2);

(C) the county assessing and collecting levy described in Subsection 59-2-1602(4);

(D) for a fiscal year that begins before July 1, 2023, the combined basic rate as defined in Section 53F-2-301.5; and

(E) for a fiscal year that begins on or after July 1, 2023, the combined basic rate as defined in Section 53F-2-301;

(vii) the tax impact on the property;

(viii) the time and place of the required public hearing for each entity;

(ix) property tax information pertaining to:

(A) taxpayer relief;

(B) options for payment of taxes;

(C) collection procedures; and

(D) the residential exemption described in Section 59-2-103;

(x) information specifically authorized to be included on the notice under this chapter;

(xi) the last property review date of the property as described in Subsection 59-2-303.1(1)(c); and

(xii) other property tax information approved by the commission.

(3) If a taxing entity that is subject to the notice and hearing requirements of Subsection 59-2-919(4) proposes a tax increase, the notice described in Subsection (1) shall state, in addition to the information required by Subsection (2):

(a) the dollar amount of the taxpayer's tax liability if the proposed increase is approved;

(b) the difference between the dollar amount of the taxpayer's tax liability if the proposed increase is approved and the dollar amount of the taxpayer's tax liability under the current rate, placed in close proximity to the information described in Subsection (2)(c)(viii); and

(c) the percentage increase that the dollar amount of the taxpayer's tax liability under the proposed tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the current tax rate.

[~~(4) If a change to state law increases a tax rate stated on a notice described in Subsection (1), the notice described in Subsection (1) shall state in addition to the information required by Subsections (2) and (3):~~]

[~~(a) the difference between the dollar amount of the taxpayer's tax liability under the current tax rate and the dollar amount of the taxpayer's tax liability before the change to state law became effective; and~~]

[~~(b) the percentage increase that the dollar amount of the taxpayer's tax liability under the current tax rate represents as compared to the dollar amount of the taxpayer's tax liability under the tax rate before the change to state law becomes effective.~~]

(4) For tax year 2022, the notice described in Subsection (1) shall state:

(a) the difference between:

(i) the dollar amount of the taxpayer's liability for the combined basic rate as defined in Section 53F-2-301.5; and

(ii) the dollar amount that the taxpayer's liability for the combined basic rate as defined in Section 53F-2-301.5 would have been if the combined basic rate were equal to the sum of the minimum basic tax rate and the WPU value rate, as those terms are defined in Section 53F-2-301.5; and

(b) the percentage change between the amount described in Subsection (4)(a)(i) and the amount described in Subsection (4)(a)(ii).

(5) For tax years 2022 through 2025, the notice described in Subsection (1) shall state:

(a) the difference between:

(i) the dollar amount of the taxpayer's liability for the rate imposed under Subsection 59-2-1602(2)(b)(i); and

(ii) the dollar amount of the taxpayer's liability if the rate imposed under Subsection 59-2-1602(2)(b)(i) were the certified revenue levy; and

(b) the percentage change between the amount described in Subsection (5)(a)(i) and the amount described in Subsection (5)(a)(ii).

[~~(5)~~] (6) (a) Subject to the other provisions of this Subsection [~~(5)~~] (6), a county auditor may, at the county auditor's discretion, provide the notice required by this section to a taxpayer by electronic means if a taxpayer makes an election, according to procedures determined by the county auditor, to receive the notice by electronic means.

(b) (i) If a notice required by this section is sent by electronic means, a county auditor shall attempt to verify whether a taxpayer receives the notice.

(ii) If receipt of the notice sent by electronic means cannot be verified 14 days or more before the county board of equalization meets and the taxing entity holds a public hearing on a proposed increase in the certified tax rate, the notice required by this section shall also be sent by mail as provided in Subsection (2).

(c) A taxpayer may revoke an election to receive the notice required by this section by electronic means if the taxpayer provides written notice to the county auditor on or before April 30.

(d) An election or a revocation of an election under this Subsection [~~(5)~~] (6):

(i) does not relieve a taxpayer of the duty to pay a tax due under this chapter on or before the due date for paying the tax; or

(ii) does not alter the requirement that a taxpayer appealing the valuation or the equalization of the taxpayer's real property submit the application for appeal within the time period provided in Subsection 59-2-1004(3).

(e) A county auditor shall provide the notice required by this section as provided in Subsection (2), until a taxpayer makes a new election in accordance with this Subsection [~~(5)~~] (6), if:

(i) the taxpayer revokes an election in accordance with Subsection [~~(5)~~] (6)(c) to receive the notice required by this section by electronic means; or

(ii) the county auditor finds that the taxpayer's electronic contact information is invalid.

(f) A person is considered to be a taxpayer for purposes of this Subsection [~~(5)~~] (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

Section 3. Section 59-2-1115 is amended to read:

59-2-1115. Exemption of certain tangible personal property.

(1) As used in this section:

(a) (i) "Item of taxable tangible personal property" does not include an improvement to real property or a part that will become an improvement.

(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "item of taxable tangible personal property."

(b) (i) "Taxable tangible personal property" means tangible personal property that is subject to taxation under this chapter.

(ii) "Taxable tangible personal property" does not include:

(A) tangible personal property required by law to be registered with the state before it is used on a public highway, public waterway, or public land or in the air;

(B) a mobile home as defined in Section 41-1a-102; or

(C) a manufactured home as defined in Section 41-1a-102.

(2) (a) In accordance with Utah Constitution, Article XIII, Section 3, Subsection (2)(a)(vi), which provides that the Legislature may by statute exempt tangible personal property that, if subject to property tax, would generate an inconsequential amount of revenue, the Legislature exempts the tangible personal property described in this Subsection (2).

(b) The taxable tangible personal property of a taxpayer is exempt from taxation if the taxable tangible personal property has a total aggregate taxable value per county of $25,000 or less.

(c) For an item of taxable tangible personal property that is not exempt under Subsection (2)(b), the item is exempt from taxation if:

(i) the item is owned by a business and is not critical to the actual business operation of the business; and

(ii) the acquisition cost of the item is less than $500.

(3) (a) For a calendar year beginning on or after January 1, 2023, the commission shall increase the dollar amount described in Subsection (2)(b):

(i) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2021; and

(ii) up to the nearest $100 increment.

(b) For purposes of this Subsection (3), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

(c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative percentage, the consumer price index increase for the year is zero.

(4) (a) For the first calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b), a county assessor may require the

taxpayer to file a signed statement described in Section 59-2-306.

(b) Notwithstanding Section 59-2-306 and subject to Subsection [~~(5)~~] (6), for a calendar year in which a taxpayer qualifies for an exemption described in Subsection (2)(b) after the calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306 with respect to the taxable tangible personal property that is exempt under Subsection (2)(b) may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for the exemption under Subsection (2)(b).

(c) If a taxpayer qualifies for an exemption described in Subsection (2)(b) for five consecutive years and files a signed statement for each of those years in accordance with Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption.

(d) If a taxpayer qualifies for an exemption described in Subsection (2)(c) for an item of tangible taxable personal property, a county assessor may not require the taxpayer to include the item on a signed statement described in Section 59-2-306.

(5) (a) Beginning in 2023, a county assessor shall send a notice to a taxpayer who becomes eligible for the exemption described in Subsection (2)(b).

(b) The county assessor shall:

(i) send the notice during the calendar year in which the taxpayer becomes eligible for the exemption and before the deadline to file a signed statement; and

(ii) in the notice, inform the taxpayer that:

(A) in accordance with Subsection (4)(c), the taxpayer is not required to file a signed statement for each continuing consecutive year for which the taxpayer qualifies for the exemption; and

(B) the taxpayer shall notify the county assessor if the taxpayer's taxable tangible personal property exceeds the total aggregate taxable value described in Subsection (2)(b).

[~~(5)~~] (6) A signed statement with respect to qualifying exempt primary residential rental personal property is as provided in Section 59-2-103.5.

[~~(6)~~] (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules to administer this section and provide for uniform implementation.

Section 4. Retrospective operation.

The changes to Section 59-2-919.1 have retrospective operation to January 1, 2022.

CHAPTER 294
S. B. 206

Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

LIMITS RELATED TO BIG GAME

Chief Sponsor: Ronald M. Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill modifies provisions concerning violations related to big game.

Highlighted Provisions:

This bill:

- provides for the invalidation and forfeiture of a big game permit or big game tag;
- allows for the use of an unfilled big game permit under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

23-16-5, as last amended by Laws of Utah 1995, Chapter 211

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 23-16-5 is amended to read:

23-16-5. Limit of one of any species of big game during license year -- Invalid and forfeited permit or tag.

(1) A person may take only one of any species of big game during a license year, regardless of how many licenses or permits [~~he purchases~~] the person obtains, except as otherwise provided by this [~~code~~] title or proclamations of the Wildlife Board.

(2) (a) If a person kills a big game animal in violation of this title, while attempting to exercise the benefits of a big game permit or big game tag, the big game permit or big game tag is invalid and the person shall forfeit the big game permit or big game tag to the division.

(b) This Subsection (2) does not apply if:

(i) a citation is issued for a rule violation described in Subsection (2)(a); or

(ii) a warning citation for a violation described in Subsection (2)(a) is issued.

(3) The division may grant a season extension to a valid, unfilled big game permit opportunity that was invalidated and forfeited under Subsection (2) if:

(a) the criminal charges associated with the big game permit forfeiture are dismissed, with prejudice, by action of the prosecutor or court, or acquittal of the charges at trial;

(b) the person issued the big game permit that is forfeited requests the division in writing within 60 days of a final action dismissing or acquitting that person of the criminal charges that led to the big game permit forfeiture;

(c) the season extension is granted for the same species and sex, hunt unit, and season dates associated with the forfeited big game permit, as established by the Wildlife Board in the hunt year of the extension; and

(d) the extension occurs in the first season immediately following dismissal of or acquittal on the criminal charges described in Subsection (3)(a).

CHAPTER 295
S. B. 210

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

POST CONVICTION REPRESENTATION AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill addresses the appointment of counsel in a postconviction action or appeal.

Highlighted Provisions:

This bill:

- allows a court to appoint the Indigent Appellate Defense Division in an action or appeal for postconviction relief;
- amends the powers and duties of the Indigent Appellate Defense Division and the chief appellate officer for the Indigent Appellate Defense Division; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-9-109, as last amended by Laws of Utah 2021, Chapter 46
78B-22-901, as enacted by Laws of Utah 2020, Chapter 371
78B-22-903, as last amended by Laws of Utah 2021, Chapter 235
78B-22-904, as last amended by Laws of Utah 2021, Chapter 235

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-9-109 is amended to read:

78B-9-109. Appointment of pro bono counsel or counsel from Indigent Appellate Defense Division.

(1) (a) If any portion of the petition is not summarily dismissed, the court may, upon the request of an indigent petitioner, appoint counsel on a pro bono basis or from the Indigent Appellate Defense Division, created in Section 78B-22-902, to represent the petitioner in the postconviction court or on postconviction appeal.

(b) Counsel who represented the petitioner at trial or on the direct appeal may not be appointed to represent the petitioner under this section.

(2) In determining whether to appoint counsel, the court may consider:

(a) whether the petitioner is incarcerated;

(b) the likelihood that an evidentiary hearing will be necessary;

(c) the likelihood that an investigation will be necessary;

(d) the complexity of the factual and legal issues; and

(e) any other factor relevant to the particular case.

(3) An allegation that counsel appointed under this section was ineffective cannot be the basis for relief in any subsequent postconviction petition.

Section 2. Section 78B-22-901 is amended to read:

78B-22-901. Definitions.

(1) (a) "Appellate defense services" means the representation of an indigent individual:

(i) facing an appeal under Section 77-18a-1[~~.~~]; or

(ii) in an action or on appeal for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act.

(b) "Appellate defense services" does not include the representation of an indigent individual:

(i) facing an appeal in a case where the indigent individual was prosecuted for aggravated murder[~~.~~]; or

(ii) in an action or appeal for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act, if the indigent individual has been sentenced to death.

(2) "Division" means the Indigent Appellate Defense Division created in Section 78B-22-902.

Section 3. Section 78B-22-903 is amended to read:

78B-22-903. Powers and duties of the division.

(1) The division shall:

(a) provide appellate defense services:

(i) for an appeal under Section 77-18a-1, in counties of the third, fourth, fifth, and sixth class; and

(ii) for an action or an appeal for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual; and

(b) provide appellate defense services in accordance with the core principles adopted by the commission under Section 78B-22-404 and any other state and federal standards for appellate defense services.

(2) Upon consultation with the executive director and the commission, the division shall:

(a) adopt a budget for the division;

(b) adopt and publish on the commission's website:

(i) appellate performance standards;

(ii) case weighting standards; and

(iii) any other relevant measures or information to assist with appellate defense services; and

(c) if requested by the commission, provide a report to the commission on:

(i) the provision of appellate defense services by the division;

(ii) the caseloads of appellate attorneys; and

(iii) any other information relevant to appellate defense services in the state.

(3) If the division provides appellate defense services to an indigent individual in an indigent defense system, the division shall provide notice to the district court and the indigent defense system that the division intends to be appointed as counsel for the indigent individual.

(4) The office shall assist with providing training and continual legal education on appellate defense to indigent defense service providers in counties of the third, fourth, fifth, and sixth class.

Section 4. Section 78B-22-904 is amended to read:

78B-22-904. Chief appellate officer -- Qualifications -- Staff -- Duties.

(1) (a) After consulting with the commission, the executive director shall appoint a chief appellate officer.

(b) When appointing the chief appellate officer, the executive director shall give preference to an individual with experience in adult criminal appellate defense representation.

(2) The chief appellate officer shall be an active member of the Utah State Bar with an appropriate background and experience to serve as the chief appellate officer.

(3) The chief appellate officer shall carry out the duties of the division described in Section 78B-22-903.

(4) The chief appellate officer shall:

(a) provide appellate defense services in a county of the third, fourth, fifth, or sixth class;

(b) hire staff as necessary to carry out the duties of the division described in Section 78B-22-903; and

(c) perform all other duties that are necessary for the division to carry out the division's statutory duties.

(5) The chief appellate officer may provide appellate defense services in an action or an appeal for postconviction relief under Title 78B, Chapter 9, Postconviction Remedies Act, if the court appoints the division to represent the indigent individual.

CHAPTER 296
S. B. 212

Passed March 2, 2022
Approved March 23, 2022
Effective May 4, 2022

MANUFACTURING MODERNIZATION GRANT PROGRAM

Chief Sponsor: Ann Millner
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill creates the Manufacturing Modernization Grant Program.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Manufacturing Modernization Grant Program within the Governor's Office of Economic Opportunity;
- provides rulemaking authority;
- includes a sunset date;
- creates reporting requirements; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Governor's Office of Economic Opportunity -- Business Development --- Corporate Recruitment and Business Services, as a one-time appropriation:
  - from General Fund, One-time, $10,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

ENACTS:

63N-3-801, Utah Code Annotated 1953
63N-3-802, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection(30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 3, Part 8, Manufacturing Modernization Grant Program, is repealed July 1, 2025.

[~~(31)~~] (32) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (33) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (34) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 2. Section 63N-3-801 is enacted to read:

Part 8. (Codified as Part 11) Manufacturing Modernization Grant Program

63N-3-801. (Codified as 63N-3-1101) Definitions.

As used in this part:

(1) "Grant" means a grant awarded under Section 63N-3-802.

(2) "Program" means the Manufacturing Modernization Grant Program created in Section 63N-3-802.

(3) "Targeted industry" means an industry or group of industries targeted by the GO Utah board under Section 63N-3-111 for economic development in the state.

Section 3. Section 63N-3-802 is enacted to read:

63N-3-802. (Codified as 63N-3-1102) Manufacturing Modernization Grant Program -- Creation -- Purpose -- Requirements -- Rulemaking -- Report.

(1) (a) There is created the Manufacturing Modernization Grant Program to be administered by the office.

(b) The purpose of the program is to award grants to existing Utah businesses to establish, relocate, retain, or develop manufacturing industry in the state and lessen dependence on manufacturing overseas.

(2) (a) An entity that submits a proposal for a grant to the office shall include details in the proposal regarding:

(i) how the entity plans to use the grant to fulfill the purpose described in Subsection (1)(b);

(ii) any plan to use funding sources in addition to a grant for the proposal; and

(iii) any existing or planned partnerships between the entity and another individual or entity to implement the proposal.

(b) In evaluating a proposal for a grant, the office shall consider:

(i) the likelihood the proposal will accomplish the purpose described in Subsection (1)(b);

(ii) the extent to which any additional funding sources or existing or planned partnerships will benefit the proposal; and

(iii) the viability and sustainability of the proposal.

(c) In determining a grant award, the office:

(i) shall consult with the GO Utah board; and

(ii) may prioritize a targeted industry or an entity with fewer than 250 employees.

(3) Before receiving the grant, a grant recipient shall enter into a written agreement with the office that specifies:

(a) the grant amount;

(b) the time period and structure for distribution of the grant, including any terms and conditions the recipient is required to meet to receive a distribution; and

(c) the expenses for which the recipient may use the grant, including:

(i) to acquire manufacturing equipment;

(ii) production, design, or engineering costs;

(iii) specialized employee training;

(iv) technology upgrades; or

(v) to provide a grant to another individual or entity for the expenses described in Subsections (3)(c)(i) through (iv) or to otherwise fulfill the recipient's proposal.

(4) Subject to Subsection (2), the office may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:

(a) the form and process for submitting a proposal to the office for a grant;

(b) which entities are eligible to apply for a grant;

(c) the method and formula for determining a grant amount; and

(d) the reporting requirements for a grant recipient.

(5) On or before November 30 of each year, the office shall provide a written report to the Economic Development and Workforce Services Interim Committee regarding:

(a) each grant awarded; and

(b) the economic impact of each grant.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending July 1, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Opportunity -- Business Development

From General Fund, One-time	$10,000,000
Schedule of Programs:	
Corporate Recruitment and Business Services	$10,000,000

The Legislature intends that:

(1) the appropriations under this item be used to award grants under Title 63N, Chapter 3, Part 8, Manufacturing Modernization Grant Program; and

(2) under Section 63J-1-603, the appropriations under this item not lapse at the close of fiscal year 2023 or 2024 and the use of any nonlapsing funds is limited to the purpose described in Subsection (1) of this item.

CHAPTER 297
S. B. 217
Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

PROTECTIVE ORDER REVISIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Kera Birkeland

LONG TITLE

General Description:

This bill addresses protective orders and civil stalking injunctions.

Highlighted Provisions:

This bill:

- clarifies that a protective order or civil stalking injunction may be filed in the county where a party is temporarily domiciled; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-7-104, as last amended by Laws of Utah 2020, Chapter 142
78B-7-701, as renumbered and amended by Laws of Utah 2020, Chapter 142

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-7-104 is amended to read:

78B-7-104. Venue of action for ex parte civil protective orders and civil protective orders.

(1) Except as provided in Part 2, Child Protective Orders, the district court has jurisdiction of any action for an ex parte civil protective order or civil protective order brought under this chapter.

(2) An action for an ex parte civil protective order or civil protective order brought under this chapter shall be filed in the county where either party resides, is temporarily domiciled, or in which the action complained of took place.

Section 2. Section 78B-7-701 is amended to read:

78B-7-701. Ex parte civil stalking injunction -- Civil stalking injunction.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual who believes that the individual is the victim of stalking may file a verified written petition for a civil stalking injunction against the alleged stalker with the district court in the district in which the individual or respondent resides, is temporarily domiciled, or in which any of the events occurred.

(ii) A minor with the minor's parent or guardian may file a petition on the minor's own behalf, or a parent, guardian, or custodian may file a petition on the minor's behalf.

(b) A stalking injunction may not be obtained against a law enforcement officer, governmental investigator, or licensed private investigator, who is acting in official capacity.

(2) (a) [~~The~~] Except as provided in Subsection (2)(b), a petition for a civil stalking injunction shall include:

[~~(a)~~] (i) the name of the petitioner[~~, however, the petitioner's address shall be disclosed to the court for purposes of service, but, on request of the petitioner, the address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown~~];

[~~(b)~~] (ii) the name and address, if known, of the respondent;

[~~(c)~~] (iii) specific events and dates of the actions constituting the alleged stalking;

[~~(d)~~] (iv) if there is a prior court order concerning the same conduct, the name of the court in which the order was rendered; and

[~~(e)~~] (v) corroborating evidence of stalking, which may be in the form of a police report, affidavit, record, statement, item, letter, or any other evidence which tends to prove the allegation of stalking.

(b) (i) The petitioner's address shall be disclosed to the court for purposes of service.

(ii) On request of the petitioner, the petitioner's address may not be listed on the petition, and shall be protected and maintained in a separate document or automated database, not subject to release, disclosure, or any form of public access except as ordered by the court for good cause shown.

(3) (a) If the court determines that there is reason to believe that an offense of stalking has occurred, an ex parte civil stalking injunction may be issued by the court that includes any of the following:

(i) respondent may be enjoined from committing stalking;

(ii) respondent may be restrained from coming near the residence, place of employment, or school of the other party or specifically designated locations or persons;

(iii) respondent may be restrained from contacting, directly or indirectly, the other party, including personal, written or telephone contact with the other party, the other party's employers, employees, fellow workers or others with whom communication would be likely to cause annoyance or alarm to the other party; or

(iv) any other relief necessary or convenient for the protection of the petitioner and other specifically designated individuals under the circumstances.

(b) (i) If the petitioner and respondent have minor children, the court shall follow the provisions of

Section 78B-7-603 and take into consideration the respondent's custody and parent-time rights while ensuring the safety of the victim and the minor children.

(ii) If the court issues a civil stalking injunction, but declines to address custody and parent-time issues, a copy of the stalking injunction shall be filed in any action in which custody and parent-time issues are being considered.

(4) (a) Within 10 days after the day on which the the ex parte civil stalking injunction is served, the respondent is entitled to request, in writing, an evidentiary hearing on the civil stalking injunction.

[~~(a)~~] (b) (i) [~~A~~] The court shall hold a hearing requested by the respondent [~~shall be held~~] at the earliest possible time and within 10 days after the day on which the request is filed with the court unless the court finds compelling reasons to continue the hearing. [~~The hearing shall then be held at the earliest possible time. The~~]

(ii) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

[~~(b)~~] (c) An ex parte civil stalking injunction issued under this section shall state on the civil stalking injunction's face:

(i) that the respondent is entitled to a hearing, upon written request within 10 days after the day on which the order is served;

(ii) the name and address of the court where the request may be filed;

(iii) that if the respondent fails to request a hearing within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction is automatically modified to a civil stalking injunction without further notice to the respondent and the civil stalking injunction expires three years after the day on which the ex parte civil stalking injunction is served; and

(iv) that if the respondent requests, in writing, a hearing after the ten-day period after service, the court shall set a hearing within a reasonable time from the date requested.

(5) (a) At the hearing, the court may modify, revoke, or continue the injunction. [~~The~~]

(b) At the hearing, the burden is on the petitioner to show by a preponderance of the evidence that stalking of the petitioner by the respondent has occurred.

(6) (a) The ex parte civil stalking injunction shall be served on the respondent within 90 days after the day on which the ex parte civil stalking injunction is signed.

(b) An ex parte civil stalking injunction is effective upon service.

(c) If [~~no~~] a hearing is not requested in writing by the respondent within 10 days after the day on which the ex parte civil stalking injunction is served, the ex parte civil stalking injunction automatically becomes a civil stalking injunction without further notice to the respondent and expires three years after the day on which the ex parte civil stalking injunction is served.

(7) (a) If the respondent requests a hearing after the 10-day period after service, the court shall set a hearing within a reasonable time from the date requested.

(b) At the hearing, the burden is on the respondent to show good cause why the civil stalking injunction should be dissolved or modified.

(8) (a) Within 24 hours after the affidavit or acceptance of service [~~has been~~] is returned, excluding weekends and holidays, the clerk of the court from which the ex parte civil stalking injunction was issued shall enter a copy of the ex parte civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

[~~(a)~~] (b) The effectiveness of an ex parte civil stalking injunction or civil stalking injunction [~~may~~] does not depend upon entry of the ex parte civil stalking injunction or civil stalking injunction in the statewide system and, for enforcement purposes, a certified copy of an ex parte civil stalking injunction or civil stalking injunction is presumed to be a valid existing order of the court for a period of three years after the day on which the ex parte civil stalking injunction is served on the respondent.

[~~(b)~~] (c) (i) Any changes or modifications of the ex parte civil stalking injunction are effective upon service on the respondent.

(ii) The original ex parte civil stalking injunction continues in effect until service of the changed or modified civil stalking injunction on the respondent.

(9) Within 24 hours after the affidavit or acceptance of service is returned, excluding weekends and holidays, the clerk of the court shall enter a copy of the changed or modified civil stalking injunction and proof of service or acceptance of service in the statewide network for warrants or a similar system.

(10) The ex parte civil stalking injunction or civil stalking injunction may be dissolved at any time upon application of the petitioner to the court that granted the ex parte civil stalking injunction or civil stalking injunction.

(11) An ex parte civil stalking injunction and a civil stalking injunction shall be served by a sheriff or constable in accordance with this section.

(12) The remedies provided in this chapter for enforcement of the orders of the court are in addition to any other civil and criminal remedies available.

(13) The court shall hear and decide all matters arising under this section.

[~~(13)~~] (14) After a hearing with notice to the affected party, the court may enter an order requiring any party to pay the costs of the action, including reasonable attorney fees.

[~~(14)~~] (15) This section does not apply to preliminary injunctions issued under an action for dissolution of marriage or legal separation.

CHAPTER 298
S. B. 218

Passed March 4, 2022
Approved March 23, 2022
Effective July 1, 2022
(Exception clause in Section 13)

FUND OF FUNDS MODIFICATIONS

Chief Sponsor: Scott D. Sandall
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill relates to the Utah Capital Investment Corporation and the Utah fund of funds.

Highlighted Provisions:

This bill:

- repeals the Utah Capital Investment Board;
- modifies and repeals certain provisions relating to the Utah Capital Investment Corporation and the Utah fund of funds to begin the process of winding up the affairs of those entities;
- modifies the Utah Capital Investment Restricted Account to accept funds disbursed to the state by the Utah Capital Investment Corporation or the Utah fund of funds;
- exempts the Utah fund of funds from the Utah Money Management Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

51-7-2, as last amended by Laws of Utah 2021, Chapter 33
63N-6-103, as last amended by Laws of Utah 2021, Chapter 438
63N-6-204, as enacted by Laws of Utah 2021, Chapter 438
63N-6-301, as last amended by Laws of Utah 2021, Chapter 438
63N-6-303, as last amended by Laws of Utah 2021, Chapter 438
63N-6-305, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-401, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-402, as last amended by Laws of Utah 2021, Chapter 438
63N-6-404, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-405, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-410, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283

REPEALS:

63N-6-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-102, as last amended by Laws of Utah 2015, Chapter 420 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-201, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-202, as last amended by Laws of Utah 2019, Chapter 136
63N-6-203, as last amended by Laws of Utah 2019, Chapter 214
63N-6-302, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-304, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-306, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-403, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-406, as last amended by Laws of Utah 2021, Chapter 438
63N-6-407, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-408, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-409, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-6-411, as renumbered and amended by Laws of Utah 2015, Chapter 283

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 51-7-2 is amended to read:

51-7-2. Exemptions from chapter.

The following funds are exempt from this chapter:

(1) funds invested in accordance with the participating employees' designation or direction pursuant to a public employees' deferred compensation plan established and operated in compliance with Section 457 of the Internal Revenue Code of 1986, as amended;

(2) funds of the Utah State Retirement Board;

(3) funds of the Utah Housing Corporation;

(4) endowment funds of higher education institutions;

(5) permanent and other land grant trust funds established pursuant to the Utah Enabling Act and the Utah Constitution;

(6) the State Post-Retirement Benefits Trust Fund;

(7) the funds of the Utah Educational Savings Plan;

(8) funds of the permanent state trust fund created by and operated under Utah Constitution, Article XXII, Section 4;

(9) the funds in the Navajo Trust Fund;

(10) the funds in the Radioactive Waste Perpetual Care and Maintenance Account;

(11) the funds in the Employers' Reinsurance Fund;

(12) the funds in the Uninsured Employers' Fund;

(13) the Utah State Developmental Center Long-Term Sustainability Fund, created in Section 62A-5-206.7; [~~and~~]

(14) the funds in the Risk Management Fund created in Section 63A-4-201[~~.~~]; and

(15) the Utah fund of funds created in Section 63N-6-401.

Section 2. Section 63N-6-103 is amended to read:

63N-6-103. Definitions.

As used in this part:

(1) "Board" means the [~~Utah Capital Investment Board~~] board of directors of the corporation.

[~~(2) "Certificate" means a contract between the board and a designated investor under which a contingent tax credit is available and issued to the designated investor.~~]

[~~(3) (a) Except as provided in Subsection (3)(b), "claimant" means a resident or nonresident person.~~]

[~~(b) "Claimant" does not include an estate or trust.~~]

[~~(4) "Commitment" means a written commitment by a designated purchaser to purchase from the board certificates presented to the board for redemption by a designated investor. Each commitment shall state the dollar amount of contingent tax credits that the designated purchaser has committed to purchase from the board.~~]

[~~(5) "Contingent tax credit" means a contingent tax credit issued under this part that is available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and Income Taxes, or Title 59, Chapter 10, Individual Income Tax Act, if there are insufficient funds in the redemption reserve and the board has not exercised other options for redemption under Subsection 63N-6-408(3)(b).~~]

[~~(6)~~] (2) "Corporation" means the Utah Capital Investment Corporation created under Section 63N-6-301.

[~~(7) "Designated investor" means:~~]

[~~(a) a person who makes a private investment; or~~]

[~~(b) a transferee of a certificate or contingent tax credit.~~]

[~~(8) "Designated purchaser" means:~~]

[~~(a) a person who enters into a written undertaking with the board to purchase a commitment; or~~]

[~~(b) a transferee who assumes the obligations to make the purchase described in the commitment.~~]

[~~(9) "Estate" means a nonresident estate or a resident estate.~~]

[~~(10) "Person" means an individual, partnership, limited liability company, corporation, association, organization, business trust, estate, trust, or any other legal or commercial entity.~~]

[~~(11) "Private investment" means:~~]

[~~(a) an equity interest in the Utah fund of funds; or~~]

[~~(b) a loan to the Utah fund of funds initiated before July 1, 2014, including a loan that was originated before July 1, 2014, and that is refinanced one or more times on or after July 1, 2014.~~]

[~~(12) "Redemption reserve" means the reserve established by the corporation to:~~]

[~~(a) facilitate the cash redemption of certificates; and~~]

[~~(b) provide money for the state as directed by statute.~~]

[~~(13)~~] (3) "Restricted account" means the Utah Capital Investment Restricted Account created in Section 63N-6-204.

[~~(14) "Taxpayer" means a taxpayer:~~]

[~~(a) of an investor; and~~]

[~~(b) if that taxpayer is a:~~]

[~~(i) claimant;~~]

[~~(ii) estate; or~~]

[~~(iii) trust.~~]

[~~(15) "Trust" means a nonresident trust or a resident trust.~~]

[~~(16)~~] (4) "Utah fund of funds" means a [~~limited partnership or~~] limited liability company established under Section 63N-6-401 [~~in which a designated investor purchases an equity interest~~].

Section 3. Section 63N-6-204 is amended to read:

63N-6-204. Utah Capital Investment Restricted Account.

(1) There is created a restricted account within the General Fund known as the Utah Capital Investment Restricted Account.

(2) The restricted account shall be funded by[~~:~~] disbursements from the Utah fund of funds or the corporation.

[~~(a) redemption reserve money and other money from the corporation as directed by statute; and~~]

[~~(b) appropriations made to the account by the Legislature.~~]

(3) The state treasurer shall:

(a) administer the account;

[~~(a)~~] (b) invest money in the restricted account in accordance with Title 51, Chapter 7, State Money Management Act; and

[~~(b)~~] (c) deposit interest or other earnings derived from investment of restricted account money into the restricted account.

(4) The Legislature may appropriate funds from the restricted account to the General Fund or for any other lawful purpose.

[~~(4) Subject to appropriations by the Legislature, the restricted account shall be administered by the Governor's Office of Economic Opportunity for economic development, infrastructure, state parks, recreation, education innovation, or other purposes as directed by the Legislature.~~]

[~~(5) An appropriation from the restricted account is nonlapsing.~~]

Section 4. Section 63N-6-301 is amended to read:

63N-6-301. Utah Capital Investment Corporation -- Powers and purposes -- Reporting requirements.

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.

(c) The corporation shall file with the Division of Corporations and Commercial Code:

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) [~~organize~~] administer the Utah fund of funds;

(b) select an investment fund allocation manager to [~~make venture capital and private equity fund~~] manage investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the investment fund allocation manager;

(d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds; and

[~~(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;~~]

[~~(f)~~] (e) receive investment returns from the Utah fund of funds[~~; and~~].

[~~(g) establish the redemption reserve to be used by the corporation to:~~]

[~~(i) redeem certificates; and~~]

[~~(ii) provide money for the state as directed by statute.~~]

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

(c) pledge the credit or taxing power of the state or any political subdivision of the state; or

(d) make its debts payable out of any money except money of the corporation.

(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

(d) issue debt and equity, and borrow funds;

(e) enter into contracts;

(f) insure against loss;

(g) hire employees; and

(h) perform any other act necessary to carry out its purposes.

(6) (a) The corporation shall[~~, in consultation with the board,~~] publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit, in accordance with Section 68-3-14, the written report to:

(i) the governor;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee;

(iii) the Business and Labor Interim Committee; and

(iv) the Retirement and Independent Entities Interim Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(ii) include a copy of the audit of the Utah fund of funds described in Section 63N-6-405;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

[~~(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;~~]

[~~(v) include the net rate of return of the Utah fund of funds from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;~~]

[~~(vi)~~] (iv) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

[~~(vii)~~] (v) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

[~~(viii)~~] (vi) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

[~~(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;~~]

[~~(x)~~] (vii) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds; and

[~~(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;~~]

[~~(xii)~~] (viii) include an aggregate total value for all funds the Utah fund of funds is invested in[~~, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;~~].

[~~(xiii) describe any redemption or transfer of a certificate issued under this part;~~]

[~~(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;~~]

[~~(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63N-6-102; and~~]

[~~(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.~~]

[~~(c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.~~]

[~~(7) (a) On or before December 1, 2021, the corporation shall provide a written report to the president of the Senate and the speaker of the House of Representatives that includes a detailed plan, time line, and recommendations for the future of the corporation.~~]

[~~(b) The plan shall include recommendations describing:~~]

[~~(i) the divestment of the state from any future liability of the corporation and a time line for realizing gains and winding down all investments from the current Utah fund of funds;~~]

[~~(ii) any plans that the corporation has to raise capital for a fund similar to the current Utah fund of funds that does not require certificates, contingent tax credits, or other guarantees from the state to be provided to equity investors;~~]

[~~(iii) whether the corporation should continue as an independent quasi-public nonprofit corporation under Title 63E, Chapter 2, Independent Corporations Act;~~]

[~~(iv) if the corporation recommends continuing as an independent quasi-public nonprofit corporation, why the corporation should continue, and what benefits the corporation will provide to the state in terms of economic development, job growth, or other benefits;~~]

[~~(v) whether the corporation should be liquidated or dissolved under Section 63N-3-306;~~]

[~~(vi) if the corporation recommends that the corporation be liquidated or dissolved, a detailed plan and time line for dissolution that includes recommendations regarding how assets and realized gains of the corporation should be distributed;~~]

[~~(vii) whether the corporation should be privatized in accordance with Title 63E, Chapter 1, Part 4, Privatization of Independent Entities; and~~]

[~~(viii) if the corporation recommends that the corporation be privatized, a detailed plan and time line for privatization that includes recommendations regarding the distribution of assets and realized gains of the corporation.~~]

[~~(8) In relation to the written report described in Subsection (7), the corporation:~~]

[~~(a) may seek potential commitments through letters of intent or other means to demonstrate the viability of raising capital for a new fund as described in Subsection (7)(b)(ii); and~~]

[~~(b) may not enter into any binding commitments related to a new fund as described in Subsection~~

~~(7)(b)(ii), unless the corporation receives specific authorization through legislation passed by the Legislature after the report described in Subsection (7) is provided.~~]

Section 5. Section 63N-6-303 is amended to read:

63N-6-303. Board of directors.

[~~(1) The initial board of directors of the corporation shall consist of five members.~~]

[~~(2) The persons elected to the initial board of directors by the appointment committee shall include persons who have an expertise, as considered appropriate by the appointment committee, in the areas of:~~]

[~~(a) the selection and supervision of investment managers;~~]

[~~(b) fiduciary management of investment funds; and~~]

[~~(c) other areas of expertise as considered appropriate by the appointment committee.~~]

[~~(3) After the election of the initial board of directors, vacancies in the board of directors of the corporation shall be filled by election by the remaining directors of the corporation.~~]

[~~(4) (a) Board members shall serve four-year terms, except that of the five initial members:~~]

[~~(i) two shall serve four-year terms;~~]

[~~(ii) two shall serve three-year terms; and~~]

[~~(iii) one shall serve a two-year term.~~]

[~~(b) Board members shall serve until their successors are elected and qualified and may serve up to a maximum of two successive terms.~~]

[~~(c) A majority of the board members may remove a board member for cause.~~]

[~~(d) (i) The board shall select a chair by majority vote.~~]

[~~(ii) The chair's term is for one year, which may be extended annually by a majority vote of the members of the board of directors.~~]

(1) The corporation's board of directors comprises the state treasurer and two individuals designated by the state treasurer.

[~~(5)~~] (2) [~~Three~~] Two members of the board are a quorum for the transaction of business.

[~~(6)~~] (3) Members of the board of directors:

(a) are subject to any restrictions on conflicts of interest specified in the organizational documents of the corporation; and

[~~(b) shall annually disclose any venture capital and private equity interests to the corporation; and~~]

[~~(c)~~] (b) may not participate in a vote by the board of directors related to an investment by the Utah fund of funds, if the member has an interest in the investment.

[~~(7)~~] (4) Directors of the corporation:

(a) shall be compensated for direct expenses and mileage; and

(b) may not receive a director's fee or salary for service as directors.

Section 6. Section 63N-6-305 is amended to read:

63N-6-305. Management fee -- Additional financial assistance.

(1) The corporation may charge a management fee on assets under management in the Utah fund of funds.

[~~(2) The fee shall:~~]

[~~(a) be in addition to any fee charged to the Utah fund of funds by the venture capital investment fund allocation manager selected by the corporation; and~~]

[~~(b) be charged only to pay for reasonable and necessary costs of the corporation.~~]

[~~(3) The corporation may apply for and, when qualified, receive financial assistance from the Industrial Assistance Account under Chapter 3, Part 1, Industrial Assistance Account, and under rules made by the Board of Business and Economic Development in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to help establish the program authorized under this part.~~]

(2) The management fee described in Subsection (1) may not, in a calendar year, exceed 1% of the asset value of the Utah fund of funds on the immediately preceding December 31.

(3) In addition to the management fee, the Utah fund of funds will pay directly or reimburse the corporation for out-of-pocket expenses, including fund administration, tax and audit fees and costs, investment and monitoring costs, and similar expenses incurred in connection with the operation of the corporation or the Utah fund of funds.

Section 7. Section 63N-6-401 is amended to read:

63N-6-401. Organization of Utah fund of funds.

(1) The corporation shall organize, and be the sole member and manager of, the Utah fund of funds.

(2) The Utah fund of funds shall [~~make investments in venture capital and private equity partnerships or entities in a manner and for the following purposes:~~] hold and manage investments made by the Utah fund of funds and proceeds from those investments until disbursed to the restricted account or used to pay the fees and expenses described in this chapter.

[~~(a) to encourage the availability of a wide variety of venture capital in the state;~~]

[~~(b) to strengthen the economy of the state;~~]

[~~(c) to help business in the state gain access to sources of capital;~~]

[~~(d) to help build a significant, permanent source of capital available to serve the needs of businesses in the state; and~~]

[~~(e) to accomplish all these benefits in a way that minimizes the use of contingent tax credits.~~]

(3) The Utah fund of funds shall be organized[~~:~~ ~~(a)~~] as a [~~limited partnership or~~] limited liability company [~~under Utah law having the corporation and qualified investment professionals as the general partner or manager;~~], with the corporation as the sole member and manager.

[~~(b) to provide for equity interests for designated investors, which provide for a designated scheduled return and a scheduled redemption in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and~~]

[~~(c) to provide for loans by or the issuance of debt obligations to designated investors that provide for designated payments of principal, interest, or interest equivalent in accordance with rules made by the board pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

[~~(4) Public money may not be invested in the Utah fund of funds.~~]

(4) The Utah fund of funds may not invest money after May 4, 2022, unless the Utah fund of funds committed to the investment before May 4, 2022.

(5) The corporation may disburse proceeds of investments from the Utah fund of funds into the restricted account at any time the corporation determines is in the best interest of the state, leaving sufficient funds to pay expenses and fees owed by, or needed to wind up the affairs of, the corporation or the Utah fund of funds.

(6) The state treasurer shall notify the Executive Appropriations Committee when all investments held by the Utah fund of funds mature and the state treasurer determines it is advisable to complete winding up the affairs of the corporation.

Section 8. Section 63N-6-402 is amended to read:

63N-6-402. Compensation from the Utah fund of funds to the corporation -- Transfer to restricted account.

(1) The corporation shall be compensated for its involvement in the Utah fund of funds through the payment of the management fee described in Section 63N-6-305.

[~~(2) Before any returns may be reinvested in the Utah fund of funds:~~]

[~~(a) any returns shall be paid to designated investors, including the repayment by the Utah fund of funds of any outstanding loans;~~]

[~~(b) any returns in excess of those payable to designated investors shall be deposited in the redemption reserve and shall be:~~]

[~~(i) held by the corporation as a first priority reserve for the redemption of certificates; and~~]

[~~(ii) used by the corporation to provide money for the state as directed by statute;~~]

[~~(c) any returns received by the corporation from investment of amounts held in the redemption reserve that are not used to provide money for the state as directed by statute shall be added to the redemption reserve until the redemption reserve has reached a total of $250,000,000; and~~]

[~~(d) if at the end of a calendar year the redemption reserve exceeds the $250,000,000 limitation referred to in Subsection (2)(c), the corporation may reinvest the excess in the Utah fund of funds.~~]

[~~(3) Funds held by the corporation in the redemption reserve shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.~~]

[~~(4)~~] (2) (a) [~~By June 30, 2021~~] On or before June 30, 2022, the [~~corporation~~] Utah fund of funds shall transfer [~~$20,000,000 from the redemption reserve or other assets of the corporation~~] $15,000,000 to the state treasurer.

(b) The state treasurer shall deposit the money described in Subsection [~~(4)~~] (2)(a) into the restricted account.

Section 9. Section 63N-6-404 is amended to read:

63N-6-404. Powers of Utah fund of funds.

[~~(1)~~] The Utah fund of funds may:

[~~(a)~~] (1) engage consultants and legal counsel;

[~~(b)~~] (2) expend funds;

[~~(c) invest funds;~~]

[~~(d) issue debt and borrow funds;~~]

[~~(e)~~] (3) enter into contracts; and

[~~(f) insure against loss;~~]

[~~(g) hire employees;~~]

[~~(h) issue equity interests to designated investors that have purchased equity interest certificates from the board; and~~]

[~~(i)~~] (4) perform any other act necessary to carry out its purposes.

[~~(2) (a) The Utah fund of funds shall engage a venture capital investment fund allocation manager.~~]

[~~(b) The compensation paid to the fund manager shall be in addition to the management fee paid to the corporation under Section 63N-6-305.~~]

[~~(3) The Utah fund of funds may:~~]

[~~(a) open and manage bank and short-term investment accounts as considered necessary by the venture capital investment fund allocation manager; and~~]

[~~(b) expend money to secure investment ratings for investments by designated investors in the Utah fund of funds.~~]

Section 10. Section 63N-6-405 is amended to read:

63N-6-405. Annual audits.

(1) Each calendar year, an audit of the activities of the Utah fund of funds shall be made as described in this section.

(2) (a) The audit shall be conducted by:

(i) the state auditor; or

(ii) an independent auditor engaged by the state auditor.

(b) An independent auditor used under Subsection (2)(a)(ii) must have no business, contractual, or other connection to:

(i) the corporation; or

(ii) the Utah fund of funds.

(3) The corporation shall pay the costs associated with the annual audit.

(4) The annual audit report shall:

(a) be delivered to:

(i) the corporation; and

(ii) the [~~board~~] state treasurer;

(b) include a valuation of the assets owned by the Utah fund of funds as of the end of the reporting year;

(c) include an opinion regarding the accuracy of the information provided in the annual report described in Subsection 63N-6-301(6); and

[~~(d) include an opinion regarding the accuracy of the information that supports the economic development impact in the state of the Utah fund of funds as described in Subsections 63N-6-203(3)(b)(ii) and 63N-6-406(3); and~~]

[~~(e)~~] (d) be completed on or before September 1 for the previous calendar year so that it may be included in the annual report described in Subsection 63N-6-301(6).

Section 11. Section 63N-6-410 is amended to read:

63N-6-410. Powers and effectiveness.

(1) This chapter may not be construed as a restriction or limitation upon any power which the board might otherwise have under any other law of this state and the provisions of this chapter are cumulative to those powers.

(2) This chapter shall be construed to provide a complete, additional, and alternative method for performing the duties authorized and shall be regarded as supplemental and additional powers to those conferred by any other laws.

[~~(3) With respect to a debt-based private investment only, the provisions of any contract entered into by the board or the Utah fund of funds may not be compromised, diminished, invalidated, or affected by the:~~]

[~~(a) level, timing, or degree of success of the Utah fund of funds or the investment funds in which the Utah fund of funds invests; or~~]

[~~(b) extent to which the investment funds are:~~]

[~~(i) invested in Utah venture capital projects; or~~]

[~~(ii) successful in accomplishing any economic development objectives.~~]

Section 12. Repealer.

This bill repeals:

Section 63N-6-101, Title.

Section 63N-6-102, Findings -- Purpose.

Section 63N-6-201, Utah Capital Investment Board.

Section 63N-6-202, Board members -- Meetings -- Expenses.

Section 63N-6-203, Board duties and powers.

Section 63N-6-302, Incorporator -- Appointment committee.

Section 63N-6-304, Investment manager.

Section 63N-6-306, Dissolution.

Section 63N-6-403, Investments by Utah fund of funds.

Section 63N-6-406, Certificates and contingent tax credits.

Section 63N-6-407, Transfer and registration of certificates.

Section 63N-6-408, Redemption of certificates.

Section 63N-6-409, Use of commitments to redeem certificates.

Section 63N-6-411, Permissible investments.

Section 13. Effective date.

This bill takes effect on July 1, 2022, except that the changes to Sections 63N-6-401 and 63N-6-402 take effect on May 4, 2022.

CHAPTER 299
S. B. 219
Passed March 3, 2022
Approved March 23, 2022
Effective May 4, 2022

ELECTION FUNDING AMENDMENTS

Chief Sponsor: Keith Grover
House Sponsor: Marsha Judkins

LONG TITLE

General Description:

This bill prohibits an election officer from soliciting, accepting, or using funds donated for an election by a person other than a government entity.

Highlighted Provisions:

This bill:

- prohibits an election officer from soliciting, accepting, or using funds donated for an election by a person other than a government entity.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

20A-5-207, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-5-207 is enacted to read:

20A-5-207. Donated funding prohibited.

An election officer may not solicit, accept, or use any funds for an election if those funds are donated by any person other than a government entity.

CHAPTER 300
H.B. 3

Passed March 4, 2022
Approved March 24, 2022
Effective July 1, 2022
(Line Items 155, 250, and 271 vetoed)

APPROPRIATIONS ADJUSTMENTS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022 and for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies;
- provides budget increases and decreases for the use and support of certain public education programs;
- provides budget increases and decreases for the use and support of certain institutions of higher education;
- provides funds for the bills with fiscal impact passed in the 2022 General Session;
- provides budget increases and decreases for other purposes as described;
- provides a mathematical formula for the annual appropriations limit; and,
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $320,777,600 in operating and capital budgets for fiscal year 2022, including:

- ($3,817,300) from the General Fund;
- $14,876,300 from the Education Fund; and
- $309,718,600 from various sources as detailed in this bill.

This bill appropriates ($2,043,500) in expendable funds and accounts for fiscal year 2022.

This bill appropriates $8,170,300 in business-like activities for fiscal year 2022.

This bill appropriates ($6,991,700) in restricted fund and account transfers for fiscal year 2022, including:

- $14,301,500 from the General Fund; and
- ($21,293,200) from various sources as detailed in this bill.

This bill appropriates $332,773,900 in transfers to unrestricted funds for fiscal year 2022.

This bill appropriates $81,269,300 in operating and capital budgets for fiscal year 2023, including:

- ($78,646,200) from the General Fund;
- $113,000 from the Uniform School Fund;
- $60,869,500 from the Education Fund; and
- $98,933,000 from various sources as detailed in this bill.

This bill appropriates $2,508,300 in expendable funds and accounts for fiscal year 2023, including:

- $1,320,000 from the General Fund; and
- $1,188,300 from various sources as detailed in this bill.

This bill appropriates $96,491,400 in business-like activities for fiscal year 2023, including:

- $77,539,000 from the General Fund; and
- $18,952,400 from various sources as detailed in this bill.

This bill appropriates $124,332,200 in restricted fund and account transfers for fiscal year 2023, including:

- $103,039,000 from the General Fund; and
- $21,293,200 from various sources as detailed in this bill.

This bill appropriates $3,000,000 in transfers to unrestricted funds for fiscal year 2023.

This bill appropriates $956,200,000 in capital project funds for fiscal year 2023, all of which is from the General Fund.

Other Special Clauses:

Section 1 of this bill takes effect immediately. Section 2 and Section 3 of this bill take effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1
To Attorney General
From Federal Funds - American
Rescue Plan, One-Time .... (68,400)
Schedule of Programs:
Criminal Prosecution .... (68,400)

BOARD OF PARDONS AND PAROLE

Item 2
To Board of Pardons and Parole
From Federal Funds - American
Rescue Plan, One-Time .... (39,200)
Schedule of Programs:
Board of Pardons and Parole .... (39,200)

Item 3
To Board of Pardons and Parole
From General Fund, One-Time 5,500
Schedule of Programs:

Board of Pardons and Parole 5,500

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 4
To Utah Department of Corrections – Programs and Operations
From Federal Funds – American
Rescue Plan, One–Time .... (6,900,600)
Schedule of Programs:
Department Administrative
Services .... (6,900,600)

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 5
To Judicial Council/State Court Administrator – Administration
From General Fund Rest. – Justice
Court Tech., Security &
Training, One–Time 160,000
Schedule of Programs:
Data Processing 160,000

To implement the provisions of *Traffic Violation Amendments* (House Bill 139, 2022 General Session).

Item 6
To Judicial Council/State Court Administrator – Administration
From General Fund, One–Time 104,800
Schedule of Programs:
District Courts 104,800

To implement the provisions of *DUI Penalty Amendments* (House Bill 143, 2022 General Session).

Item 7
To Judicial Council/State Court Administrator – Administration
From Revenue Transfers, One–Time 79,000
Schedule of Programs:
Data Processing 79,000

To implement the provisions of *Eviction Records Amendments* (House Bill 359, 2022 General Session).

Item 8
To Judicial Council/State Court Administrator – Administration
From General Fund, One–Time 46,000
Schedule of Programs:
Data Processing 46,000

To implement the provisions of *Criminal Code Recodification* (Senate Bill 123, 2022 General Session).

GOVERNORS OFFICE

Item 9
To Governors Office – Governor's Office
From General Fund, One–Time 139,000
Schedule of Programs:
Lt. Governor's Office 139,000

To implement the provisions of *Election Security Amendments* (House Bill 313, 2022 General Session).

OFFICE OF THE STATE AUDITOR

Item 10
To Office of the State Auditor – State Auditor
From General Fund, One–Time 1,000
Schedule of Programs:
State Auditor 1,000

To implement the provisions of *Retirement System Amendments* (House Bill 75, 2022 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 11
To Department of Public Safety – Driver License
From General Fund, One–Time 67,700
Schedule of Programs:
Driver Services 67,700

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

Item 12
To Department of Public Safety – Driver License
From Department of Public Safety
Restricted Account, One–Time 20,500
Schedule of Programs:
Driver Services 20,500

To implement the provisions of *Driver License and License Plate Amendments* (House Bill 328, 2022 General Session).

Item 13
To Department of Public Safety – Programs & Operations
From Federal Funds – American
Rescue Plan, One–Time .... (3,197,600)
Schedule of Programs:
Highway Patrol – Field
Operations .... (3,197,600)

Item 14
To Department of Public Safety – Bureau of Criminal Identification
From General Fund, One–Time 7,900
Schedule of Programs:
Law Enforcement/Criminal
Justice Services 7,900

To implement the provisions of *Driver License and License Plate Amendments* (House Bill 328, 2022 General Session).

Item 15
To Department of Public Safety – Bureau of Criminal Identification
From General Fund, One–Time 46,000
Schedule of Programs:
Non–Government/Other Services 46,000

To implement the provisions of *Expungement Modifications* (Senate Bill 35, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 16
To Utah Education and Telehealth Network – Digital Teaching and Learning Program

The Legislature intends that UETN consider utilizing up to $750,000 of the funding allocated to Network Infrastructure for public library infrastructure.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 17
To Department of Government Operations – Finance – Mandated
From General Fund, One-Time 150,000
Schedule of Programs:
State Employee Benefits 150,000

Item 18
To Department of Government Operations – Finance Administration
From General Fund, One-Time 1,100
Schedule of Programs:
Finance Director's Office 1,100

To implement the provisions of *Blockchain and Digital Innovation Task Force* (House Bill 335, 2022 General Session).

Item 19
To Department of Government Operations – Finance Administration
From General Fund, One-Time 2,600
Schedule of Programs:
Finance Director's Office 2,600

To implement the provisions of *Alcoholic Beverage Control Act Amendments* (Senate Bill 176, 2022 General Session).

Item 20
To Department of Government Operations – State Archives
From State Archives Fund, One-Time 2,600
Schedule of Programs:
Archives Administration 2,600

To implement the provisions of *Funds Amendments* (Senate Bill 186, 2022 General Session).

TRANSPORTATION

Item 21
To Transportation – Highway System Construction

The Legislature intends that the Department of Transportation coordinate with the Governor's Office of Planning and Budget and the Division of Finance to manage capital expenditures in FY 2022 such that total statewide expenditures are in compliance with the maintenance of effort requirements associated with the federal Elementary and Secondary School Emergency Relief Fund and the Governor's Emergency Education Relief Fund.

Item 22
To Transportation – Engineering Services
From Transportation Fund, One-Time .... (2,000,000)
Schedule of Programs:
Engineering Services .... (2,000,000)

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 23
To Department of Commerce – Commerce General Regulation
From Federal Funds – American Rescue Plan, One-Time .... (78,400)
Schedule of Programs:
Administration .... (78,400)

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 24
To Governor's Office of Economic Opportunity – Administration
From Federal Funds – American Rescue Plan, One-Time .... (1,000,000)
Schedule of Programs:
Administration .... (1,000,000)

The Legislature intends that the Division of Finance, in coordination with the Governor's Office of Planning and Budget, reallocate $1,000,000 of Federal Funds – ARPA appropriated in Senate Bill 1001, Item 6, 2021 1st Special Session for "InUtah Pandemic Outreach" to other purposes as determined by the Governor's Office of Planning and Budget.

Item 25
To Governor's Office of Economic Opportunity – Administration
From General Fund, One-Time 12,300
Schedule of Programs:
Administration 12,300

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 26
To Governor's Office of Economic Opportunity – Business Development
From Federal Funds, One-Time 23,000,000
Schedule of Programs:
Corporate Recruitment and Business Services 23,000,000

Item 27
To Governor's Office of Economic Opportunity – Business Development
From General Fund, One-Time 57,600
Schedule of Programs:
Outreach and International Trade 57,600

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 28

To Governor's Office of Economic Opportunity – Pass–Through	
From Federal Funds – American Rescue Plan, One–Time	(5,000,000)
Schedule of Programs:	
Pass–Through	(5,000,000)

Notwithstanding the intent language in Business, Economic Development, and Labor Base Budget (Senate Bill 4 Substitute 1, 2022 General Session) Item 10, the Legislature intends that, under Section 63J–1–603 of the Utah Code, appropriations provided to the Governor's Office of Economic Opportunity – Pass Through in Laws of Utah 2021, shall not lapse at the close of Fiscal Year 2022. The use of any non–lapsing funds is limited to contractual obligations and support, $50,000,000.

The Legislature intends that the Governor's Office of Economic Opportunity reduce American Rescue Plan Act funding allocated for Redevelopment Matching Grants funded in Appropriations Adjustments (Senate Bill 1001, 2021 First Special Session) Item 53 by $5,000,000.

Notwithstanding the intent language in Appropriations Adjustment (Senate Bill 1001, 2022 First Special Session) Item 53 regarding $35 million provided by that item for Redevelopment Matching Grants, the Legislature intends that Go Utah use the remaining $30 million provided by that item for a matching grant program to assist cities, counties, and special districts (applicants) in building stronger communities through investment in housing and neighborhoods.

The matching program shall create incentives for applicants to redevelop and rezone current commercial, retail, or industrial vacant land to a zone that will allow higher density housing as a permitted use and the program shall create a grant for water conservation districts or special service districts to conserve or develop water assets. An applicant may qualify for a matching grant if:

(1) after January 1, 2021, the applicant rezones vacant, undeveloped land that is currently zoned commercial, industrial, or retail to a zone that allows for development of affordable residential housing (attached or detached) as a permitted use at a minimum density of eight units per acre, and the applicant can demonstrate that the applicant has approved a development application with a corresponding affordable residential component; or,

(2) after January 1, 2021, the applicant approves a redevelopment application that allows for the creation of new or additional affordable housing units (attached or detached) at a density of at least eight units to the acre.

By applying to Go Utah, a applicant that meets either of the foregoing qualifications may qualify for a grant of up to $2.5 million to match a like amount of applicant funds that the applicant demonstrates it has spent or will spend on the qualifying project. An applicant may receive an additional $1.5 million for any qualifying project that includes at least 1,000 housing units or is at least 40 units per acre. An applicant may qualify upon application to Go Utah for a grant to begin or complete a project that conserves or develops water assets. The grant amounts available for water assets under this program do not require a match and shall not exceed 35% of total grants made.

An applicant may utilize the grant money to help increase supply of affordable and high quality living units, provided that the grant money is spent or encumbered within six months and in accordance with the American Rescue Plan Act.

An applicant may not apply for a grant until the time allowed for the filing of a land use referendum has expired or until the applicant can demonstrate that the qualifying project is not the subject of any land use referendum or initiative.

In awarding a matching grant under this item, Go Utah shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the eligibility and reporting criteria for an applicant to receive a matching grant, including: (1) the form and process of applying for a matching grant; (2) the method and formula for determining grant amounts; and (3) the reporting requirements of grant recipients.

Go Utah shall provide a report describing the distribution and uses of the grant money to the Governor's Office of Planning and Budget and to the Office of the Legislative Fiscal Analyst. Additionally, Go Utah shall include information describing the distribution and use of the grant money in the office's annual report currently described in Section 63N–1a–306.

Item 29

To Governor's Office of Economic Opportunity – GOUTAH Economic Assistance Grants	
From General Fund, One–Time	(2,000,000)
From Federal Funds – American Rescue Plan, One–Time	(4,500,000)
Schedule of Programs:	
Pass–Through Grants	(6,500,000)

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 30

To Department of Cultural and Community Engagement – Administration	
From Dedicated Credits Revenue, One–Time	100,000
From Revenue Transfers, One–Time	300,000
From Transfer for COVID–19 Response, One–Time	282,300

Schedule of Programs:
Administrative Services 271,400
Utah Multicultural Affairs Office 410,900

In addition to other amounts previously passed in other appropriations bills, the Legislature intends that an additional $620,000 provided for the Department of Heritage and Arts – Administration Division not lapse at the close of Fiscal Year 2022.

Item 31
To Department of Cultural and Community Engagement – Division of Arts and Museums
From Federal Funds, One–Time 1,500,000
From Revenue Transfers, One–Time .. 5,100,000
Schedule of Programs:
Administration 150,000
Grants to Non–profits 6,150,000
Museum Services 300,000

Item 32
To Department of Cultural and Community Engagement – Commission on Service and Volunteerism
From Federal Funds, One–Time 2,079,900
Schedule of Programs:
Commission on Service and Volunteerism 2,079,900

Item 33
To Department of Cultural and Community Engagement – Pass–Through
From Transfer for COVID–19 Response, One–Time 25,500
Schedule of Programs:
Pass–Through 25,500

Item 34
To Department of Cultural and Community Engagement – State History
From Revenue Transfers, One–Time 100,000
Schedule of Programs:
Historic Preservation and Antiquities 100,000

In addition to other amounts previously passed in other appropriations bills, the Legislature intends that an additional $275,000 provided for the Department of Heritage and Arts – State History not lapse at the close of Fiscal Year 2022.

Item 35
To Department of Cultural and Community Engagement – State Library
From Federal Funds, One–Time 1,172,700
From Revenue Transfers, One–Time 150,000
Schedule of Programs:
Administration 150,000
Library Development 1,172,700

In addition to other amounts previously passed in other appropriations bills, the Legislature intends that an additional $300,000 provided for the Department of Heritage and Arts – State Library not lapse at the close of Fiscal Year 2022.

Item 36
To Department of Cultural and Community Engagement – Capital Facilities Grants
From General Fund, One–Time ...... (5,595,000)
Schedule of Programs:
Pass Through Grants .... (5,595,000)

Item 37
To Department of Cultural and Community Engagement – Heritage & Events Grants
From General Fund, One–Time .... (75,000)
From Education Fund, One–Time ..... (200,000)
Schedule of Programs:
Pass Through Grants .... (275,000)

UTAH STATE TAX COMMISSION

Item 38
To Utah State Tax Commission – Tax Administration
From Federal Funds – American Rescue Plan, One–Time .... (112,000)
Schedule of Programs:
Administration Division .... (16,800)
Motor Vehicle Enforcement Division .. (95,200)

Item 39
To Utah State Tax Commission – Tax Administration
From General Fund, One–Time 30,800
Schedule of Programs:
Technology Management 30,800

To implement the provisions of *Driver License and License Plate Amendments* (House Bill 328, 2022 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 40
To Department of Health – Executive Director's Operations
From Federal Funds – American Rescue Plan, One–Time 37,376,600
Schedule of Programs:
Executive Director 37,376,600

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Prior to the expenditure of any funds for System Infrastructure, Optimization, and Enhancements, the Department of Health and Human Services shall submit to the Social Services Appropriations Subcommittee a written plan of proposed expenditures.

Item 41
To Department of Health – Executive Director's Operations
From General Fund, One–Time 4,400
Schedule of Programs:
Center for Health Data and Informatics 4,400

To implement the provisions of *Birth Certificate Amendments* (House Bill 341, 2022 General Session).

Item 42
To Department of Health – Family
Health and Preparedness
From General Fund, One–Time .... (2,800)
Schedule of Programs:
Maternal and Child Health .... (2,800)

Item 43
To Department of Health – Family
Health and Preparedness
From Dedicated Credits Revenue,
One–Time 1,000
Schedule of Programs:
Emergency Medical Services
and Preparedness 1,000

To implement the provisions of *Ground Ambulance Interfacility Transport Licensing* (House Bill 293, 2022 General Session).

Item 44
To Department of Health – Medicaid and
Health Financing

The Legislature intends that the Division of Finance change the location of nonlapsing funds authorized for FY 2023 in S.B. 3, item 55, line 793 to the Health Care Administration line item.

The Department of Health and Human Services and the Department of Workforce Services shall provide up–to–date information about plans and progress in response to the Public Health Emergency enrollment requirements ending. Agencies shall regularly report to the Social Services Appropriations Subcommittee and make public information about eligibility redeterminations and measures, including the number of cases, status, response type and outcomes.

Item 45
To Department of Health – Medicaid Services
From Expendable Receipts – Rebates,
One–Time 59,940,000
Schedule of Programs:
Pharmacy 59,940,000

Pursuant to Section 63J–1–603 of the Utah code, the Legislature intends that any General Fund savings remaining from the enhanced FMAP related to the American Rescue Plan Act of 2021 (ARPA) in the Department of Health and Human Services shall not lapse at the end of the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Integrated Health Care Services line item as a beginning balance in Fiscal Year 2023 and the use of these nonlapsing funds is limited to expenses authorized under the Department's ARPA Home and Community Based Services Enhanced Funding Spending Plan approved by the Centers for Medicare and Medicaid Services.

Item 46
To Department of Health – Primary
Care Workforce Financial Assistance
From General Fund, One–Time 1,770,900
From Closing Nonlapsing Balances ... (1,324,300)
Schedule of Programs:
Primary Care Workforce Financial
Assistance 446,600

DEPARTMENT OF HUMAN SERVICES

Item 47
To Department of Human Services – Division
of Aging and Adult Services

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $300,000 of appropriations provided in Item 68, Chapter 9, Laws of Utah 2021 for the Department of Human Services – Division of Aging and Adult Services not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Long–Term Services and Supports line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; special projects or studies; and client services for Adult Protective Services and the Aging Waiver consistent with the requirements found at UCA 63J–1–603(3).

Item 48
To Department of Human Services – Division
of Child and Family Services
From Federal Funds, One–Time 420,800
From Revenue Transfers, One–Time .. (420,800)

Item 49
To Department of Human Services – Division
of Child and Family Services
From General Fund Restricted –
Abortion Litigation Account,
One–Time 1,500
Schedule of Programs:
Adoption Assistance 1,500

To implement the provisions of *Funds Amendments* (Senate Bill 186, 2022 General Session).

Item 50
To Department of Human Services – Office of
Public Guardian

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $25,000 of appropriations provided in Item 71, Chapter 9, Laws of Utah 2021 for the Department of Human Services – Office of Public Guardian not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Long–Term Services and Supports line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to the purchase of computer equipment and software; capital equipment or improvements; other equipment or supplies; and special projects or studies.

Item 51
To Department of Human Services – Division of Services for People with Disabilities
From Federal Funds – American Rescue Plan, One–Time . . . . (11,200)
Schedule of Programs:
Utah State Developmental Center . . . . (11,200)

Item 52
To Department of Human Services – Division of Substance Abuse and Mental Health
From General Fund, One–Time 200,000
From Federal Funds – American Rescue Plan, One–Time . . . . (2,200)
Schedule of Programs:
Community Mental Health Services . . . 200,000
State Hospital . . . . (2,200)

DEPARTMENT OF WORKFORCE SERVICES

Item 53
To Department of Workforce Services – Administration

The Department of Health and Human Services and the Department of Workforce Services shall provide up-to-date information about plans and progress in response to the Public Health Emergency enrollment requirements ending. Agencies shall regularly report to the Social Services Appropriations Subcommittee and make public information about eligibility redeterminations and measures, including the number of cases, status, response type and outcomes.

Item 54
To Department of Workforce Services – Operations and Policy
From General Fund, One–Time . . . . (400)
Schedule of Programs:
Workforce Development . . . . (400)

To implement the provisions of *Intergenerational Poverty Mitigation Amendments* (House Bill 50, 2022 General Session).

Item 55
To Department of Workforce Services – Operations and Policy
From Federal Funds, One–Time 1,000
Schedule of Programs:
Refugee Assistance 1,000

To implement the provisions of *Driver License Testing Modifications* (House Bill 163, 2022 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 56
To University of Utah – Education and General
From Education Fund, One–Time 76,300
Schedule of Programs:
Education and General 76,300

To implement the provisions of *Behavioral Health Curriculum Program* (Senate Bill 171, 2022 General Session).

UTAH STATE UNIVERSITY

Item 57
To Utah State University – Education and General
From Education Fund, One–Time 15,000,000
Schedule of Programs:
Education and General 15,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 58
To Department of Agriculture and Food – Animal Industry
From Federal Funds – American Rescue Plan, One–Time . . . . (50,400)
Schedule of Programs:
Brand Inspection . . . . (50,400)

Item 59
To Department of Agriculture and Food – Resource Conservation

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that the $2 million appropriation to the Resource Conservation line item in Item 98 of S.B. 3, Current Year Supplemental Appropriations, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to a voluntary, incentive–based, nutrient management program.

Item 60
To Department of Agriculture and Food – Resource Conservation
From General Fund, One–Time . . . . . . (3,000,000)
From Closing Nonlapsing Balances 2,000,000
Schedule of Programs:
Resource Conservation . . . . (1,000,000)

To implement the provisions of *Department of Agriculture and Food Amendments* (House Bill 423, 2022 General Session).

Item 61
To Department of Agriculture and Food – Utah State Fair Corporation
From General Fund, One–Time 3,100,000
Schedule of Programs:
State Fair Corporation 3,100,000

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that the $3,100,000 one–time General Fund appropriation to the State Fair Corporation shall not lapse at the close of FY 2022. Expenditures of these funds are limited to Days of '47 arena improvements.

DEPARTMENT OF NATURAL RESOURCES

Item 62
To Department of Natural Resources – Forestry, Fire and State Lands

The Legislature intends that each agency and institution that received appropriations from Federal Funds – American Rescue Plan in Senate Bill 1001, 2021 First Special Session, or in the 2022 General Session for FY 2022, is authorized to expend any amount from the appropriation not expended by the end of the fiscal year of the appropriation, up to the amount of the appropriation; in a fiscal year following the fiscal year of the appropriation; and prior to the expiration of the period of performance.

The Legislature intends that the appropriations for Strategic and Targeted Forest Fire Treatment and Mitigation to the Division of Forestry, Fire, and State Lands: $500,000 one-time in Laws of Utah 2020, Chapter 436, Item 129; and $900,000 one-time in Laws of Utah 2021, Chapter 441, Item 185, may be used to treat public or private lands.

Item 63

To Department of Natural Resources – Forestry, Fire and State Lands

From Dedicated Credits Revenue, One-Time	10,300
Schedule of Programs:	
Division Administration	10,300

To implement the provisions of *Great Salt Lake Watershed Enhancement* (House Bill 410, 2022 General Session).

Item 64

To Department of Natural Resources – Water Resources

From Federal Funds – American Rescue Plan, One-Time	200,000,000
Schedule of Programs:	
Construction	200,000,000

To implement the provisions of *Secondary Water Metering Amendments* (House Bill 242, 2022 General Session).

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 65

To Department of Natural Resources – Division of Parks

From General Fund Restricted – State Park Fees, One-Time	600,000
Schedule of Programs:	
State Park Operation Management	600,000

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 66

To State Board of Education – Policy, Communication, & Oversight

The Legislature intends that the State Board of Education use up to $65,000 from federal mineral lease, land exchange, or nonlapsing balances in this line item to extend a research contract to develop a scale of operations cost factor for small school districts that includes adjustments for school size and remoteness, and provides guidance to the state in developing, modifying, and maintaining the factor.

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 67

To Legislature – Senate

From General Fund, One-Time	400
Schedule of Programs:	
Administration	400

To implement the provisions of *Blockchain and Digital Innovation Task Force* (House Bill 335, 2022 General Session).

Item 68

To Legislature – Senate

From General Fund, One-Time	1,200
Schedule of Programs:	
Administration	1,200

To implement the provisions of *Criminal Justice Data Management Task Force* (Senate Bill 150, 2022 General Session).

Item 69

To Legislature – Senate

From General Fund, One-Time	800
Schedule of Programs:	
Administration	800

To implement the provisions of *Medical Cannabis Governance Study* (Senate Bill 153, 2022 General Session).

Item 70

To Legislature – Senate

From General Fund, One-Time	800
Schedule of Programs:	
Administration	800

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 71

To Legislature – Senate

From General Fund, One-Time	11,600
Schedule of Programs:	
Administration	11,600

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 1, 2022 General Session).

Item 72

To Legislature – House of Representatives

From General Fund, One-Time 400
Schedule of Programs:
Administration 400

To implement the provisions of *Blockchain and Digital Innovation Task Force* (House Bill 335, 2022 General Session).

Item 73
To Legislature - House of Representatives
From General Fund, One-Time 1,200
Schedule of Programs:
Administration 1,200

To implement the provisions of *Criminal Justice Data Management Task Force* (Senate Bill 150, 2022 General Session).

Item 74
To Legislature - House of Representatives
From General Fund, One-Time 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Medical Cannabis Governance Study* (Senate Bill 153, 2022 General Session).

Item 75
To Legislature - House of Representatives
From General Fund, One-Time 800
Schedule of Programs:
Administration 800

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 76
To Legislature - House of Representatives
From General Fund, One-Time 18,700
Schedule of Programs:
Administration 18,700

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 1, 2022 General Session).

Item 77
To Legislature - Office of the Legislative Fiscal Analyst
From General Fund, One-Time 5,800
Schedule of Programs:
Administration and Research 5,800

To implement the provisions of *Agency Fee Assessment Amendments* (House Bill 383, 2022 General Session).

Item 78
To Legislature - Legislative Services
From General Fund, One-Time 65,000
Schedule of Programs:
Pass-Through 65,000

Item 79
To Legislature - Legislative Services Digital Wellness Commission
From General Fund, One-Time 1,000,000
Schedule of Programs:
Digital Wellness Commission 1,000,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 80
To Department of Health and Human Services - Suicide Prevention and Education Fund
From General Fund Restricted - Concealed Weapons Account, One-Time .... (2,043,500)
Schedule of Programs:
Suicide Prevention and Education Fund .... (2,043,500)

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 81
To Attorney General - ISF - Attorney General
From Dedicated Credits Revenue, One-Time 5,300
Schedule of Programs:
Civil Division 5,300

To implement the provisions of *Great Salt Lake Watershed Enhancement* (House Bill 410, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 82
To Department of Government Operations - Risk Management
From Closing Fund Balance 3,000,000
Schedule of Programs:
Risk Management - Property 3,000,000

Item 83
To Department of Government Operations - Enterprise Technology Division

From Transfer for COVID–19 Response,
One–Time 5,000,000
Schedule of Programs:
ISF – Enterprise Technology
Division 5,000,000

Item 84
To Department of Government Operations –
Enterprise Technology Division
From Dedicated Credits Revenue,
One–Time 137,000
Schedule of Programs:
ISF – Enterprise Technology
Division 137,000

To implement the provisions of *Election Security Amendments* (House Bill 313, 2022 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 85
To Department of Health and Human Services –
Qualified Patient Enterprise Fund
From Dedicated Credits Revenue,
One–Time 14,400
From Closing Fund Balance 13,600
Schedule of Programs:
Qualified Patient Enterprise Fund 28,000

To implement the provisions of *Medical Cannabis Access Amendments* (Senate Bill 195, 2022 General Session).

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 86
To Long–term Capital Projects Fund
From General Fund, One–Time . . . . (15,000,000)
Schedule of Programs:
Long–term Capital Projects
Fund . . . . (15,000,000)

Item 87
To Rail Transportation Restricted Account

The Legislature intends that the Department of Transportation pass–through $3,000,000 from the Rail Transportation Restricted Account one–time appropriated in Senate Bill 6, Item 27 to North Salt Lake for an environmental study for a grade separation at 1100 North in North Salt Lake.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 88
To General Fund Restricted – Industrial
Assistance Account
From General Fund, One–Time 26,301,500
Schedule of Programs:
General Fund Restricted – Industrial
Assistance Account 26,301,500

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 89
To General Fund Restricted – Agriculture
Water Optimization Account
From General Fund, One–Time 3,000,000
Schedule of Programs:
Agricultural Water Optimization
Account 3,000,000

To implement the provisions of*Department of Agriculture and Food Amendments* (House Bill 423, 2022 General Session).

PUBLIC EDUCATION

Item 90
To Uniform School Fund Restricted –
Public Education Economic
Stabilization Restricted Account
From Closing Fund Balance . . . . (21,293,200)
Schedule of Programs:
Public Education Economic
Stabilization Restricted
Account . . . . (21,293,200)

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 91
To General Fund
From ARPA Administrative Fund,
One–Time 332,773,900
Schedule of Programs:
General Fund, One–time 332,773,900

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 92
To Capital Budget – DFCM Capital Projects Fund

The Legislature intends that the Division of Facilities Construction and Management coordinate with the Governor's Office of Planning and Budget and the Division of Finance to manage capital expenditures in FY 2022 such that total statewide expenditures are in compliance with the maintenance of effort requirements associated with the federal Elementary and Secondary School Emergency Relief Fund and the Governor's Emergency Education Relief Fund.

TRANSPORTATION

Item 93
To Transportation – Transit
Transportation Investment Fund

The Legislature intends that the Department of Transportation use funds appropriated from the Transit Transportation Investment Fund for oversight of a project to strategically double track commuter rail lines and a project to develop and construct public transit facilities and related infrastructure pertaining to the Point of the Mountain State Land Authority.

Section 2. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 2(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 94
To Attorney General
From General Fund .... (6,000)
Schedule of Programs:
Administration .... (6,000)

To implement the provisions of *Identity Theft Reporting System Amendments* (House Bill 97, 2022 General Session).

Item 95
To Attorney General
From Education Fund 139,700
From Education Fund, One–Time .... (1,500)
Schedule of Programs:
Administration 138,200

To implement the provisions of *Missing Child Identification Program* (Senate Bill 220, 2022 General Session).

Item 96
To Attorney General
From General Fund Restricted –
Consumer Privacy Account 170,000
From General Fund Restricted – Consumer
Privacy Account, One–Time .... (170,000)

To implement the provisions of *Consumer Privacy Act* (Senate Bill 227, 2022 General Session).

Item 97
To Attorney General – Prosecution Council
From General Fund, One–Time 1,000
Schedule of Programs:
Prosecution Council 1,000

To implement the provisions of *Expungement Modifications* (Senate Bill 35, 2022 General Session).

BOARD OF PARDONS AND PAROLE

Item 98
To Board of Pardons and Parole
From General Fund 1,500
Schedule of Programs:
Board of Pardons and Parole 1,500

To implement the provisions of *Property Theft Amendments* (House Bill 38, 2022 General Session).

Item 99
To Board of Pardons and Parole
From General Fund, One–Time 11,000
Schedule of Programs:
Board of Pardons and Parole 11,000

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

Item 100
To Board of Pardons and Parole
From General Fund 6,600
From General Fund, One–Time .... (4,400)
Schedule of Programs:
Board of Pardons and Parole 2,200

To implement the provisions of *Property and Financial Offense Amendments* (House Bill 229, 2022 General Session).

Item 101
To Board of Pardons and Parole
From General Fund 3,600
From General Fund, One–Time .... (2,900)
Schedule of Programs:
Board of Pardons and Parole 700

To implement the provisions of *Sexual Exploitation Amendments* (Senate Bill 167, 2022 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 102
To Utah Department of Corrections –
Programs and Operations
From General Fund 5,000,000
Schedule of Programs:
Prison Operations Utah State
Correctional Facility 5,000,000

Item 103

To Utah Department of Corrections – Programs and Operations

From General Fund	237,400
From General Fund, One–Time	(110,000)
Schedule of Programs:	
Adult Probation and Parole Programs	55,000
Prison Operations Utah State Correctional Facility	72,400

To implement the provisions of *Property Theft Amendments* (House Bill 38, 2022 General Session).

Item 104

To Utah Department of Corrections – Programs and Operations

From Federal Funds	424,500
Schedule of Programs:	
Adult Probation and Parole Programs	424,500

To implement the provisions of *Forensic Biological Evidence Preservation* (House Bill 65, 2022 General Session).

Item 105

To Utah Department of Corrections – Programs and Operations

From General Fund, One–Time	69,700
Schedule of Programs:	
Department Administrative Services	69,700

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

Item 106

To Utah Department of Corrections – Programs and Operations

From General Fund	107,900
Schedule of Programs:	
Programming Skill Enhancement	107,900

To implement the provisions of *Higher Education and Corrections Council* (House Bill 226, 2022 General Session).

Item 107

To Utah Department of Corrections – Programs and Operations

From General Fund	276,300
From General Fund, One–Time	(184,200)
Schedule of Programs:	
Adult Probation and Parole Programs	(16,500)
Prison Operations Utah State Correctional Facility	108,600

To implement the provisions of *Property and Financial Offense Amendments* (House Bill 229, 2022 General Session).

Item 108

To Utah Department of Corrections – Programs and Operations

From General Fund	181,000
From General Fund, One–Time	(144,800)
Schedule of Programs:	
Prison Operations Utah State Correctional Facility	36,200

To implement the provisions of *Sexual Exploitation Amendments* (Senate Bill 167, 2022 General Session).

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 109

To Judicial Council/State Court Administrator – Administration

From General Fund	27,600
Schedule of Programs:	
District Courts	27,600

To implement the provisions of *Health Care Worker Protection Amendments* (House Bill 32, 2022 General Session).

Item 110

To Judicial Council/State Court Administrator – Administration

From General Fund	5,400
Schedule of Programs:	
District Courts	5,400

To implement the provisions of *Property Theft Amendments* (House Bill 38, 2022 General Session).

Item 111

To Judicial Council/State Court Administrator – Administration

From General Fund	(12,700)
Schedule of Programs:	
District Courts	(12,700)

To implement the provisions of *Sexual Solicitation Amendments* (House Bill 81, 2022 General Session).

Item 112

To Judicial Council/State Court Administrator – Administration

From General Fund	(77,900)
From General Fund, One–Time	(16,300)
Schedule of Programs:	
District Courts	(94,200)

To implement the provisions of *Small Claims Amendments* (House Bill 107, 2022 General Session).

Item 113

To Judicial Council/State Court Administrator – Administration

From General Fund	14,200
From General Fund, One–Time	(8,900)
Schedule of Programs:	
District Courts	5,300

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

Item 114

To Judicial Council/State Court Administrator – Administration

From General Fund	6,400
Schedule of Programs:	
District Courts	6,400

To implement the provisions of *DUI Amendments* (House Bill 137, 2022 General Session).

Item 115

To Judicial Council/State Court Administrator – Administration	
From General Fund Rest. – Justice Court Tech., Security & Training	465,400
Schedule of Programs:	
Data Processing	465,400

To implement the provisions of *Traffic Violation Amendments* (House Bill 139, 2022 General Session).

Item 116

To Judicial Council/State Court Administrator – Administration	
From General Fund	629,000
Schedule of Programs:	
District Courts	629,000

To implement the provisions of *DUI Penalty Amendments* (House Bill 143, 2022 General Session).

Item 117

To Judicial Council/State Court Administrator – Administration	
From General Fund	35,100
From General Fund, One-Time	(31,600)
From Revenue Transfers, One-Time	37,600
Schedule of Programs:	
District Courts	41,100

To implement the provisions of *Eviction Records Amendments* (House Bill 359, 2022 General Session).

Item 118

To Judicial Council/State Court Administrator – Administration	
From General Fund, One-Time	6,000
Schedule of Programs:	
Data Processing	6,000

To implement the provisions of *Expungement Fee Amendments* (House Bill 392, 2022 General Session).

Item 119

To Judicial Council/State Court Administrator – Administration	
From General Fund	150,900
Schedule of Programs:	
District Courts	150,900

To implement the provisions of *Driver Speeding Amendments* (Senate Bill 53, 2022 General Session).

Item 120

To Judicial Council/State Court Administrator – Administration	
From General Fund	2,400
Schedule of Programs:	
District Courts	2,400

To implement the provisions of *Trespass Penalty Amendments* (Senate Bill 68, 2022 General Session).

Item 121

To Judicial Council/State Court Administrator – Administration	
From General Fund	77,900
From General Fund, One-Time	368,700
Schedule of Programs:	
District Courts	446,600

To implement the provisions of *Protective Order and Stalking Injunction Expungement* (Senate Bill 85, 2022 General Session).

Item 122

To Judicial Council/State Court Administrator – Administration	
From General Fund	449,100
From General Fund, One-Time	25,000
Schedule of Programs:	
Juvenile Courts	474,100

To implement the provisions of *District and Juvenile Court Judge Amendments* (Senate Bill 86, 2022 General Session).

Item 123

To Judicial Council/State Court Administrator – Administration	
From General Fund	4,200
Schedule of Programs:	
Court of Appeals	2,000
District Courts	(7,000)
Justice Courts	(3,800)
Juvenile Courts	11,000
Supreme Court	2,000

To implement the provisions of *Judiciary Amendments* (Senate Bill 98, 2022 General Session).

GOVERNORS OFFICE

Item 124

To Governors Office – Commission on Criminal and Juvenile Justice	
From Crime Victim Reparations Fund	140,000
Schedule of Programs:	
Utah Office for Victims of Crime	140,000

Item 125

To Governors Office – Commission on Criminal and Juvenile Justice	
From General Fund	182,400
From General Fund, One-Time	306,300
Schedule of Programs:	
CCJJ Commission	488,700

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

Item 126

To Governors Office – Commission on Criminal and Juvenile Justice	
From General Fund	1,329,100
From General Fund, One-Time	(1,329,100)
From Federal Funds – American Rescue Plan, One-Time	8,304,100
Schedule of Programs:	
CCJJ Commission	8,304,100

To implement the provisions of *Justice Reinvestment Initiative Modifications* (House Bill 403, 2022 General Session).

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 127

To Governors Office – Commission on Criminal and Juvenile Justice

From General Fund	335,000
Schedule of Programs:	
CCJJ Commission	335,000

To implement the provisions of *Criminal Justice Amendments* (Senate Bill 179, 2022 General Session).

Item 128

To Governors Office – Governor's Office

From General Fund	387,500
From General Fund, One–Time	500,000
Schedule of Programs:	
Administration	187,500
Lt. Governor's Office	700,000

Item 129

To Governors Office – Governor's Office

From General Fund, One–Time	282,000
Schedule of Programs:	
Lt. Governor's Office	282,000

To implement the provisions of *Ballot Measure Amendments* (House Bill 218, 2022 General Session).

Item 130

To Governors Office – Governor's Office

From General Fund, One–Time	9,800
Schedule of Programs:	
Lt. Governor's Office	9,800

To implement the provisions of *Voting History Amendments* (Senate Bill 32, 2022 General Session).

Item 131

To Governors Office – Indigent Defense Commission

From General Fund Restricted – Indigent Defense Resources	500,000
Schedule of Programs:	
Indigent Appellate Defense Division	500,000

The Legislature intends that the Indigent Defense Commission expend the $200,000 ongoing General Fund appropriated for indigent defense of inmates in the Central Utah Correctional Facility before any funds are expended from the Indigent Inmate Trust Fund.

Item 132

To Governors Office – Indigent Defense Commission

From Revenue Transfers	21,000
Schedule of Programs:	
Office of Indigent Defense Services	21,000

To implement the provisions of *Parental Representation Amendments* (Senate Bill 181, 2022 General Session).

Item 133

To Governors Office – Indigent Defense Commission

From General Fund Restricted – Indigent Defense Resources	45,000
Schedule of Programs:	
Indigent Appellate Defense Division	45,000

To implement the provisions of *Post Conviction Representation Amendments* (Senate Bill 210, 2022 General Session).

OFFICE OF THE STATE AUDITOR

Item 134

To Office of the State Auditor – State Auditor

The Legislature intends that the State Auditor report to the Government Operations Interim Committee by November 30, 2022 the status of investment practices by state agencies, state offices, state institutions, and other local government entities, including approaches to proxy voting.

Item 135

To Office of the State Auditor – State Auditor

From General Fund, One–Time	3,500
Schedule of Programs:	
State Auditor	3,500

To implement the provisions of *Retail Facility Incentive Payments Amendments* (House Bill 151, 2022 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 136

To Department of Public Safety – Driver License

From Department of Public Safety Restricted Account, One–Time	60,000
Schedule of Programs:	
Driver Services	60,000

To implement the provisions of *Modifications to Driver License Examination* (Senate Bill 216, 2022 General Session).

Item 137

To Department of Public Safety – Emergency Management

From General Fund	8,000
Schedule of Programs:	
Emergency Management	8,000

To implement the provisions of *Emergency Response Amendments* (House Bill 16, 2022 General Session).

Item 138

To Department of Public Safety – Peace Officers' Standards and Training

From General Fund	480,000
Schedule of Programs:	
Basic Training	480,000

Item 139

To Department of Public Safety – Programs & Operations

From General Fund	(1,800,000)
Schedule of Programs:	
Highway Patrol – Field Operations	(1,800,000)

Notwithstanding the fee set in State Agency Fees and Internal Service Fund

Appropriations (House Bill 8, 2022 General Session), the Legislature intends that the fee for Fire and Life Safety Review shall be: Greater of $75/plan review or $.022/sq. ft. and not to exceed $7,500.

Item 140
To Department of Public Safety –
Programs & Operations
From General Fund 150,000
Schedule of Programs:
CITS State Bureau of Investigation 150,000

To implement the provisions of *Forensic Biological Evidence Preservation* (House Bill 65, 2022 General Session).

Item 141
To Department of Public Safety –
Bureau of Criminal Identification
From Dedicated Credits Revenue 600
From Revenue Transfers 400
Schedule of Programs:
Non–Government/Other Services 1,000

To implement the provisions of *Occupational Therapy Licensure Compact* (House Bill 154, 2022 General Session).

Item 142
To Department of Public Safety – Bureau
of Criminal Identification
From Dedicated Credits Revenue,
One–Time 6,000
From Revenue Transfers, One–Time 4,000
Schedule of Programs:
Non–Government/Other Services 10,000

To implement the provisions of *Hemp and CBD Amendments* (House Bill 385, 2022 General Session).

Item 143
To Department of Public Safety – Bureau
of Criminal Identification
From General Fund 120,100
Schedule of Programs:
Non–Government/Other Services 120,100

To implement the provisions of *Expungement Modifications* (Senate Bill 35, 2022 General Session).

Item 144
To Department of Public Safety – Bureau
of Criminal Identification
From Dedicated Credits Revenue 7,500
From Revenue Transfers 6,600
Schedule of Programs:
Non–Government/Other Services 14,100

To implement the provisions of *Advanced Practice Registered Nurse Compact* (Senate Bill 151, 2022 General Session).

STATE TREASURER

Item 145
To State Treasurer
From General Fund 121,600
Schedule of Programs:
Treasury and Investment 121,600

To implement the provisions of *State Finance Review Commission* (House Bill 82, 2022 General Session).

Item 146
To State Treasurer
From Dedicated Credits Revenue 60,000
Schedule of Programs:
Treasury and Investment 60,000

To implement the provisions of *Higher Education Student Assistance Amendments* (Senate Bill 172, 2022 General Session).

UTAH COMMUNICATIONS AUTHORITY

Item 147
To Utah Communications Authority –
Administrative Services Division
From Federal Funds – American
Rescue Plan, One–Time 10,460,000
Schedule of Programs:
Administrative Services Division ... 10,460,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Legislature intends that the appropriation of $10,460,000 from American Rescue Plan Act (ARPA) funds be for state agencies and used for radio replacement for use on the new P25 emergency communications system. The Legislature intends that the maximum amount of funds relevant state agencies receive are as follows: 1. Department of Corrections – $6,900,600; 2. Department of Public Safety – $3,197,600; 3. Tax Commission – $112,000; 4. Department of Agriculture and Food – $50,400; 5. Office of the Attorney General – $68,400; 6. Board of Pardons and Parole – $39,200; 7. Department of Commerce – $78,400; 8. Utah State Development Center – $11,200; 9. Utah State Hospital – $2,200. Should state agencies spend less than these amounts, any unspent funds may be used for other state or local radio replacement for this purpose. The Legislature intends that UCA maximize value of these funds by leveraging bulk radio pricing.

The Legislature intends that $5,000,000 of General Fund provided for Utah Communication Authority – Radio Replacement in Item 25 of House Bill 2, New Fiscal Year Supplemental Appropriations Act be used for a local grant matching program through the Utah Communications Authority (UCA) for radio replacement for use on the new P25 emergency communications system. The Legislature intends that UCA maximize value of these funds by leveraging bulk radio pricing.

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 148

To Department of Government Operations – DFCM Administration

From General Fund	(5,600)
Schedule of Programs:	
DFCM Administration	(5,600)

To implement the provisions of *State Facilities Management Amendments* (Senate Bill 82, 2022 General Session).

Item 149

To Department of Government Operations – Finance – Mandated

From General Fund, One–Time	5,000,000
Schedule of Programs:	
Public Lands Litigation Program	5,000,000

The Legislature intends that the Division of Finance may not allocate the $5.0 million one–time General Fund appropriation for the Public Lands Litigation Program until after the Federalism Commission reports to the Executive Appropriations Committee (EAC) and the EAC approves the allocation.

Item 150

To Department of Government Operations – Finance – Mandated

From General Fund	5,788,800
From Education Fund	503,300
From Transportation Fund	991,600
From Federal Funds	2,306,400
From Dedicated Credits Revenue	696,200
Schedule of Programs:	
Internal Service Fund Rate Impacts	10,286,300

To implement the provisions of *State Employment Amendments* (House Bill 104, 2022 General Session).

Item 151

To Department of Government Operations – Finance Administration

From General Fund, One–Time	700
Schedule of Programs:	
Financial Reporting	700

To implement the provisions of *Watershed Restoration Initiative* (House Bill 131, 2022 General Session).

Item 152

To Department of Government Operations – Finance Administration

From General Fund, One–Time	10,800
Schedule of Programs:	
Finance Director's Office	10,800

To implement the provisions of *Blockchain and Digital Innovation Task Force* (House Bill 335, 2022 General Session).

Item 153

To Department of Government Operations – Finance Administration

From General Fund	4,000
Schedule of Programs:	
Finance Director's Office	4,000

To implement the provisions of *Paid Leave Modifications* (Senate Bill 100, 2022 General Session).

Item 154

To Department of Government Operations – Inspector General of Medicaid Services

From General Fund	1,300
From Federal Funds	3,900
Schedule of Programs:	
Inspector General of Medicaid Services	5,200

To implement the provisions of *Diabetes Prevention Program* (House Bill 80, 2022 General Session).

Item 155

To Department of Government Operations – Inspector General of Medicaid Services

From Federal Funds	5,700
Schedule of Programs:	
Inspector General of Medicaid Services	5,700

To implement the provisions of *Pregnancy and Postpartum Medicaid Coverage Amendments* (House Bill 220, 2022 General Session).

Item 156

To Department of Government Operations – Integrated Technology

From General Fund	261,000
From General Fund, One–Time	500,000
Schedule of Programs:	
Utah Geospatial Resource Center	761,000

CAPITAL BUDGET

Item 157

To Capital Budget – Capital Development – Higher Education

From Federal Funds – American Rescue Plan, One–Time	5,000,000
Schedule of Programs:	
USU Monument Valley	5,000,000

The Legislature intends that $5,000,000 provided by this item be utilized for the Utah State University Monument Valley building.

The Legislature intends that the Utah State University, working with Division of Facilities Construction and Management, use $18,000,000 provided by House Bill 2, Item 100 plus $14,260,500 allocated to the Utah State University in the Higher Education Capital Projects Fund for programming and design and construction of the College of Veterinary Medicine over multiple years with the total cost of the project not to exceed $80,000,000.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Legislature intends that the Utah State University may plan, design, and construct the Nora Eccles Harrison Museum of Art Education and Research Center, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities.

Item 158
To Capital Budget – Pass-Through
From General Fund, One-Time 22,000,000
Schedule of Programs:
Olympic Park Improvement 22,000,000

The Legislature intends that up to $22,000,000 of appropriations provided in this item shall not lapse at the close of FY 2023.

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 159
To State Board of Bonding Commissioners – Debt Service – Debt Service
From General Fund, One-Time ... (100,000,000)
Schedule of Programs:
G.O. Bonds – State Govt .... (100,000,000)

TRANSPORTATION

Item 160
To Transportation – Aeronautics
From Aeronautics Restricted Account, One-Time 150,000
Schedule of Programs:
Administration 150,000

To implement the provisions of *Unmanned Aircraft Amendments* (Senate Bill 122, 2022 General Session).

Item 161
To Transportation – Aeronautics
From Aeronautics Restricted Account .. (425,800)
From Aeronautics Restricted Account, One-Time 425,800

To implement the provisions of *Aviation Amendments* (Senate Bill 166, 2022 General Session).

Item 162
To Transportation – Highway System Construction
From General Fund, One-Time 41,030,000
Schedule of Programs:
State Construction 41,030,000

The Legislature intends that the Department of Transportation (UDOT) use $1,000,000 one-time General Fund appropriations to match federal discretionary grant funds awarded to UDOT to construct a wildlife mitigation project on I-84.

The Legislature intends that the Department of Transportation coordinate with the Governor's Office of Planning and Budget and the Division of Finance to manage capital expenditures in FY 2023 such that total statewide expenditures are in compliance with the maintenance of effort requirements associated with the federal Elementary and Secondary School Emergency Relief Fund and the Governor's Emergency Education Relief Fund.

The Legislature intends that the Department of Transportation use $40,000,000 appropriated by this item to match a federal rail grant and that the Department report to the Executive Appropriations Committee prior to expending state funds for this purpose.

The Legislature intends that if the Department of Transportation determines that land owned by the department near the Calvin L. Rampton Complex is surplus to the department's needs, proceeds from the sale of the surplus property may be used to help mitigate traffic impact associated with the Taylorsville State Office Building.

Item 163
To Transportation – Highway System Construction
From Transportation Fund, One-Time .... (13,000,000)
Schedule of Programs:
State Construction .... (13,000,000)

To implement the provisions of *New Fiscal Year Supplemental Appropriations Act* (House Bill 2, 2022 General Session).

Item 164
To Transportation – Engineering Services
From Transportation Fund, One-Time .. 184,100
Schedule of Programs:
Research 184,100

To implement the provisions of *Vehicle Registration Amendments* (House Bill 186, 2022 General Session).

Item 165
To Transportation – Operations/ Maintenance Management
From Transportation Fund, One-Time ... 22,700
Schedule of Programs:
Traffic Safety/Tramway 22,700

To implement the provisions of *Jordan River Improvement Amendments* (House Bill 319, 2022 General Session).

Item 166
To Transportation – Transportation Investment Fund Capacity Program

Of the $16,200,000 provided by Recreation Infrastructure Amendments (House Bill 409, 2022 General Session) Item 3, the Legislature intends $10,000,000 be used for paved pedestrian or paved nonmotorized transportation projects contingent on the political subdivision in which a project is located contributing equal to or greater than 20 percent of the costs for construction, reconstruction, or renovation of the paved pedestrian or paved nonmotorized transportation project.

Item 167
To Transportation – Transportation Investment Fund Capacity Program
From Transportation Investment
Fund of 2005, One–Time 4,000,000
Schedule of Programs:
Transportation Investment
Fund Capacity Program 4,000,000

To implement the provisions of *State Road Jurisdiction Amendments* (Senate Bill 13, 2022 General Session).

Item 168
To Transportation – Transit
Transportation Investment
From Transit Transportation Investment
Fund, One–Time 250,000
Schedule of Programs:
Transit Transportation Investment 250,000

To implement the provisions of *Public Transit Capital Development Modifications* (House Bill 322, 2022 General Session).

Item 169
To Transportation – Pass–Through
From General Fund, One–Time 3,800,000
Schedule of Programs:
Pass–Through 3,800,000

The Legislature intends that $3,800,000 provided by this item go to the Utah Transit Authority for the completion of the Depot District.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 170
To Department of Alcoholic Beverage
Control –DABC Operations
From Liquor Control Fund 215,600
From Liquor Control Fund,
One–Time . . . . (215,600)

To implement the provisions of *Revenue Bond and Capital Facilities Amendments* (House Bill 191, 2022 General Session).

Item 171
To Department of Alcoholic Beverage
Control – DABC Operations
From Liquor Control Fund 918,900
From Liquor Control Fund,
One–Time 1,384,000
Schedule of Programs:
Executive Director 2,194,900
Warehouse and Distribution 108,000

To implement the provisions of *Consumer Alcoholic Beverage Purchasing* (Senate Bill 14, 2022 General Session).

Item 172
To Department of Alcoholic Beverage
Control – DABC Operations
From Liquor Control Fund 158,900
From Liquor Control Fund, One–Time 15,200
Schedule of Programs:
Operations 174,100

To implement the provisions of *Alcoholic Beverage Control Act Amendments* (Senate Bill 176, 2022 General Session).

DEPARTMENT OF COMMERCE

Item 173
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 2,961,000
Schedule of Programs:
Administration 250,000
Corporations and Commercial
Code 1,610,000
Securities 1,101,000

Item 174
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 1,500
From General Fund Restricted –
Commerce Service Account, One–Time . . . 9,100
Schedule of Programs:
Occupational and Professional
Licensing 10,600

To implement the provisions of *Occupational Therapy Licensure Compact* (House Bill 154, 2022 General Session).

Item 175
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 2,800
From General Fund Restricted –
Commerce Service Account, One–Time . . . 1,300
Schedule of Programs:
Occupational and Professional
Licensing 4,100

To implement the provisions of *Auricular Detoxification Amendments* (House Bill 195, 2022 General Session).

Item 176
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 7,500
Schedule of Programs:
Occupational and Professional
Licensing 7,500

To implement the provisions of *Telephone Solicitation Amendments* (House Bill 217, 2022 General Session).

Item 177
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account . . . . (148,000)
Schedule of Programs:
Administration . . . . (148,000)

To implement the provisions of *Regulatory Sandbox Program Amendments* (House Bill 243, 2022 General Session).

Item 178
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 3,700
From General Fund Restricted – Commerce
Service Account, One-Time 12,100
Schedule of Programs:
Occupational and Professional
Licensing 15,800

To implement the provisions of *Medication Dispenser Amendments* (House Bill 301, 2022 General Session).

Item 179
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account . . . . (1,400)
Schedule of Programs:
Occupational and Professional
Licensing . . . . (1,400)

To implement the provisions of *Dental Provider Malpractice Amendments* (House Bill 318, 2022 General Session).

Item 180
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 483,000
Schedule of Programs:
Administration 483,000

To implement the provisions of *Licensing Amendments* (Senate Bill 16, 2022 General Session).

Item 181
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 97,300
Schedule of Programs:
Occupational and Professional
Licensing 97,300

To implement the provisions of *Occupational and Professional Licensing Modifications* (Senate Bill 43, 2022 General Session).

Item 182
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 24,100
From General Fund Restricted – Commerce
Service Account, One-Time 4,200
Schedule of Programs:
Occupational and Professional
Licensing 28,300

To implement the provisions of *Nurse Apprentice Licensing Act* (Senate Bill 101, 2022 General Session).

Item 183
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 600
From General Fund Restricted – Commerce
Service Account, One-Time 3,000
Schedule of Programs:
Occupational and Professional
Licensing 3,600

To implement the provisions of *Anesthesiologist Assistant Licensing Act* (Senate Bill 121, 2022 General Session).

Item 184
To Department of Commerce – Commerce
General Regulation
From Dedicated Credits Revenue 14,100
From General Fund Restricted –
Commerce Service Account 35,000
From General Fund Restricted – Commerce
Service Account, One-Time 9,800
Schedule of Programs:
Occupational and Professional
Licensing 58,900

To implement the provisions of *Advanced Practice Registered Nurse Compact* (Senate Bill 151, 2022 General Session).

Item 185
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account 114,300
From General Fund Restricted – Commerce
Service Account, One-Time . . . . (114,300)

To implement the provisions of *Consumer Privacy Act* (Senate Bill 227, 2022 General Session).

Item 186
To Department of Commerce – Commerce
General Regulation
From General Fund Restricted –
Commerce Service Account, One-Time . . . 3,800
Schedule of Programs:
Occupational and Professional
Licensing 3,800

To implement the provisions of *Pharmacy Practice Amendments* (Senate Bill 236, 2022 General Session).

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 187
To Governor's Office of Economic Opportunity –
Administration
From General Fund, One-Time 1,000,000
Schedule of Programs:
Administration 1,000,000

Notwithstanding intent language in "New Year Supplemental Appropriations Act" (House Bill 2, 2022 General Session), Item 52, the Legislature intends that American Rescue Plan Act (ARPA) funds provided by H.B. 2 Item 52 be used for a local grant matching program through the Governor's Office of Economic Opportunity. Funds may only be used for Housing and Water projects, as defined in Treasury guidance, in counties of the 2nd, 3rd, 4th and 5th class, in municipalities within any class of county, and in accordance with federal law. Applicants shall not be eligible if: a local government has significant unprogrammed local ARPA dollars or an applicant uses significant revenue replacement after February 1, 2022. The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 188

To Governor's Office of Economic Opportunity – Administration
From General Fund 9,500
Schedule of Programs:
Administration 9,500

To implement the provisions of *Economic Development Modifications* (House Bill 35, 2022 General Session).

Item 189

To Governor's Office of Economic Opportunity – Administration
From General Fund 6,700
Schedule of Programs:
Administration 6,700

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 190

To Governor's Office of Economic Opportunity – Administration
From General Fund, One–Time 10,000
Schedule of Programs:
Administration 10,000

To implement the provisions of *Manufacturing Modernization Grant Program* (Senate Bill 212, 2022 General Session).

Item 191

To Governor's Office of Economic Opportunity – Administration
From General Fund 27,600
Schedule of Programs:
Administration 27,600

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 192

To Governor's Office of Economic Opportunity – Business Development
From General Fund, One–Time .... (1,000,000)
From Federal Funds, One–Time .... (23,000,000)
Schedule of Programs:
Corporate Recruitment and Business Services .... (23,000,000)
Outreach and International Trade .... (1,000,000)

The Legislature intends that the Governor's Office of Economic Opportunity is authorized to retain the fleet vehicle currently assigned to the Office of Outdoor Recreation rather than transfer it to the Department of Natural Resources when the office transfers per House Bill 305, "Natural Resources Revisions" (2022 General Session). The Legislature further intends that the Governor's Office of Economic Opportunity shall surplus one other vehicle from their current fleet to reduce their total fleet by one vehicle.

Item 193

To Governor's Office of Economic Opportunity – Business Development
From Dedicated Credits Revenue 50,000
Schedule of Programs:
Corporate Recruitment and Business Services 50,000

To implement the provisions of *Utah Rural Jobs Act Amendments* (House Bill 25, 2022 General Session).

Item 194

To Governor's Office of Economic Opportunity – Business Development
From General Fund, One–Time 10,000,000
Schedule of Programs:
Corporate Recruitment and Business Services 10,000,000

To implement the provisions of *State Innovation Amendments* (House Bill 326, 2022 General Session).

Item 195

To Governor's Office of Economic Opportunity – Business Development
From General Fund .... (130,000)
From Rural Opportunity Fund 2,250,000
From Rural Opportunity Fund, One–Time 21,300,000
Schedule of Programs:
Corporate Recruitment and Business Services 23,650,000
Outreach and International Trade .... (230,000)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 196

To Governor's Office of Economic Opportunity – Business Development
From General Fund, One–Time 190,000
Schedule of Programs:
Corporate Recruitment and Business Services 185,000
Outreach and International Trade 5,000

To implement the provisions of *Manufacturing Modernization Grant Program* (Senate Bill 212, 2022 General Session).

Item 197

To Governor's Office of Economic Opportunity – Business Development

From General Fund	230,000
Schedule of Programs:	
Outreach and International Trade	230,000

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 198

To Governor's Office of Economic Opportunity - Pass-Through

From General Fund, One-Time	(15,465,000)
Schedule of Programs:	
Pass-Through	(15,465,000)

Notwithstanding the intent language in Appropriations Adjustment (Senate Bill 1001, 2022 First Special Session) Item 53 regarding $35 million provided by that item for Redevelopment Matching Grants, the Legislature intends that Go Utah use the remaining $30 million provided by that item for a matching grant program to assist cities, counties, and special districts (applicants) in building stronger communities through investment in housing and neighborhoods.

The matching program shall create incentives for applicants to redevelop and rezone current commercial, retail, or industrial vacant land to a zone that will allow higher density housing as a permitted use and the program shall create a grant for water conservation districts or special service districts to conserve or develop water assets. An applicant may qualify for a matching grant if:

(1) after January 1, 2021, the applicant rezones vacant, undeveloped land that is currently zoned commercial, industrial, or retail to a zone that allows for development of affordable residential housing (attached or detached) as a permitted use at a minimum density of eight units per acre, and the applicant can demonstrate that the applicant has approved a development application with a corresponding affordable residential component; or,

(2) after January 1, 2021, the applicant approves a redevelopment application that allows for the creation of new or additional affordable housing units (attached or detached) at a density of at least eight units to the acre.

By applying to Go Utah, a applicant that meets either of the foregoing qualifications may qualify for a grant of up to $2.5 million to match a like amount of applicant funds that the applicant demonstrates it has spent or will spend on the qualifying project. An applicant may receive an additional $1.5 million for any qualifying project that includes at least 1,000 housing units or is at least 40 units per acre. An applicant may qualify upon application to Go Utah for a grant to begin or complete a project that conserves or develops water assets. The grant amounts available for water assets under this program do not require a match and shall not exceed 35% of total grants made.

An applicant may utilize the grant money to help increase supply of affordable and high quality living units, provided that the grant money is spent or encumbered within six months and in accordance with the American Rescue Plan Act.

An applicant may not apply for a grant until the time allowed for the filing of a land use referendum has expired or until the applicant can demonstrate that the qualifying project is not the subject of any land use referendum or initiative.

In awarding a matching grant under this item, Go Utah shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the eligibility and reporting criteria for an applicant to receive a matching grant, including: (1) the form and process of applying for a matching grant; (2) the method and formula for determining grant amounts; and (3) the reporting requirements of grant recipients.

Go Utah shall provide a report describing the distribution and uses of the grant money to the Governor's Office of Planning and Budget and to the Office of the Legislative Fiscal Analyst. Additionally, Go Utah shall include information describing the distribution and use of the grant money in the office's annual report currently described in Section 63N-1a-306.

Item 199

To Governor's Office of Economic Opportunity - Pass-Through

From General Fund	1,495,200
From Dedicated Credits Revenue	246,600
Schedule of Programs:	
Pass-Through	1,741,800

To implement the provisions of *Utah Lake Authority* (House Bill 232, 2022 General Session).

Item 200

To Governor's Office of Economic Opportunity - Pete Suazo Utah Athletics Commission

From General Fund	(186,500)
From Dedicated Credits Revenue	(74,000)
Schedule of Programs:	
Pete Suazo Utah Athletics Commission	(260,500)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 201

To Governor's Office of Economic Opportunity - Talent Ready Utah Center

From General Fund	(1,448,400)
From General Fund, One-Time	(2,251,200)
From Dedicated Credits Revenue	(52,400)
From Dedicated Credits Revenue, One-Time	(200)
From Beginning Nonlapsing Balances	(2,000,000)

Schedule of Programs:	
Talent Ready Utah Center	(2,751,600)
Utah Works Program	(3,000,600)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 202

To Governor's Office of Economic Opportunity – Inland Port Authority

From General Fund	130,000
From General Fund, One-Time	19,000
Schedule of Programs:	
Inland Port Authority	149,000

To implement the provisions of *Utah Inland Port Authority Amendments* (House Bill 443, 2022 General Session).

Item 203

To Governor's Office of Economic Opportunity – Point of the Mountain Authority

From General Fund, One-Time	(57,000,000)
Schedule of Programs:	
Point of the Mountain Authority	(57,000,000)

Item 204

To Governor's Office of Economic Opportunity – GOUTAH Economic Assistance Grants

From General Fund	1,150,000
From General Fund, One-Time	6,160,000
From Federal Funds – American Rescue Plan, One-Time	4,500,000
Schedule of Programs:	
Pass-Through Grants	11,810,000

Notwithstanding the intent in "Current Fiscal Year Supplemental Appropriations Act" (Senate Bill 3, 2022 General Session) item 37 and "New Year Supplemental Appropriations Act" (House Bill 2, 2022 General Session) item 59, the Legislature intends that the Governor's Office of Economic Opportunity use appropriations provided by House Bill 2, item 59 and this item to consider funding for the following projects pass-through grants: Northern Economic Alliance $300,000; Pete Suazo Center for Business Development and Entrepreneurship $67,500; Sundance Institute $900,000; Utah Industry Resource Alliance $2,800,000; Utah Small Business Development Center $798,200; World Trade Center Utah $912,500; Get Healthy Utah $250,000; Neighborhood House $180,000; Taste Utah Marketing Campaign $475,000; Utah Council for Citizen Diplomacy $45,000; Women Tech Council/She Tech $250,000; Woman's Excellence for Life $27,000; Youth Impact $45,000; Downtown Alliance $30,000; Utah Sports Commission $6,060,000; Encircle Family and Youth Resource Center $700,000; Youth Bicycle Education Program $325,000; Event Service Industry Revitalization, $4,500,000; Opportunity Zone Economic Development Assistance, $150,000; and Falcon Hill MIDA Project Area Addition $4,160,000.

The Legislature intends that entities receiving pass-through grants in FY 2023 submit applications for the Economic Assistance Competitive Grants program for FY 2024.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 205

To Department of Cultural and Community Engagement – Pass-Through

From General Fund, One-Time	1,700,000
Schedule of Programs:	
Pass-Through	1,700,000

Item 206

To Department of Cultural and Community Engagement – State History

From General Fund	25,000
From General Fund, One-Time	350,000
Schedule of Programs:	
Public History, Communication and Information	375,000

Item 207

To Department of Cultural and Community Engagement – State History

From General Fund	355,300
Schedule of Programs:	
Main Street Program	355,300

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 208

To Department of Cultural and Community Engagement – State Library

From Revenue Transfers	150,000
Schedule of Programs:	
Administration	150,000

Item 209

To Department of Cultural and Community Engagement – Arts & Museums Grants

From General Fund	52,500
From General Fund, One-Time	50,000
Schedule of Programs:	
Pass Through Grants	102,500

Notwithstanding the intent in "New Year Supplemental Appropriations Act" (House Bill 2, 2022 General Session) item 65, The Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by House Bill 2, item 65 and this item to consider funding for the following projects and pass-through grants: El Systema @ Salty Crickets $50,000; Hale Center Theater Orem $300,000; Hill Aerospace Museum $175,000; Ogden Union

Station Foundation $100,000; Utah Shakespeare Festival $350,000; Utah Sports Hall of Fame $252,500, Center Point Legacy Theater $100,000; Utah Humanities $220,000; Tuacahn Center for the Arts $535,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Arts and Museums Competitive Grants program for FY 2024.

Item 210

To Department of Cultural and Community Engagement – Capital Facilities Grants

From General Fund	(52,500)
From General Fund, One–Time	2,435,000
Schedule of Programs:	
Pass Through Grants	4,382,500
Competitive Grants	(2,000,000)

Notwithstanding the intent in "Current Fiscal Year Supplemental Appropriations Act" (Senate Bill 3, 2022 General Session) item 43 and "New Year Supplemental Appropriations Act" (House Bill 2, 2022 General Session) item 66, the Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by House Bill 2, item 66 and this item to consider funding for the following projects and pass–through grants: Utah Shakespeare Festival – Theatrical Equipment $540,000; Improvements to Mount Pleasant's ConToy Arena $340,000; Golden Spike Monument $750,000; Fullmer Legacy Center $2,000,000; Ogden Pioneer Days Stadium Upgrade $1,435,000; Hale Centre Theatre, $1,000,000; and Utah Museum of Contemporary Art, $1,000,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Capital Facilities Competitive Grants program for FY 2024.

Item 211

To Department of Cultural and Community Engagement – Heritage & Events Grants

From General Fund, One–Time	125,000
From Education Fund, One–Time	200,000
Schedule of Programs:	
Pass Through Grants	325,000

Notwithstanding the intent in "Current Fiscal Year Supplemental Appropriations Act" (Senate Bill 3, 2022 General Session) item 44 and "New Year Supplemental Appropriations Act" (House Bill 2, 2022 General Session) item 67, the Legislature intends that the Department of Cultural and Community Engagement use appropriations provided by House Bill 2, item 67 and this item to consider funding for the following projects and pass–through grants: Big Outdoor Expo $135,000; Kearns Accomplishment Pageant $4,500; Larry H. Miller Summer Games $95,000; Utah Valley Tip Off Classic $22,500; Warriors Over the Wasatch/Hill AFB Show $180,000; American West Heritage Center $7,300; Days of 47 Rodeo $200,000; Davis County Support for Utah Championship $120,000; America's Freedom Festival at Provo $100,000; Run Elite Program $166,400; Targeted Youth Support Program $1,100,000; Refugee Soccer $250,000; Utah County Junior Achievement City $500,000; Ute Stampede Economic Development $225,000.

The Legislature intends that entities receiving pass–through grants in FY 2023 submit applications for the Heritage and Events Competitive Grants program for FY 2024.

The Legislature intends that the appropriation for Targeted Youth Support Program in "New Year Supplemental Appropriations Act" (House Bill 2, 2022 General Session) item 67, be distributed as follows: 1. $830,000 to address academic challenges and social–emotional needs of the states at–risk youth; and 2. $270,000 for a facility in Carbon County for at–risk youth programs.

Item 212

To Department of Cultural and Community Engagement – Pete Suazo Athletics Commission

From General Fund	186,500
From Dedicated Credits Revenue	74,000
Schedule of Programs:	
Pete Suazo Athletics Commission	260,500

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

INSURANCE DEPARTMENT

Item 213

To Insurance Department – Insurance Department Administration

From General Fund Restricted – Insurance Department Acct.	20,000
Schedule of Programs:	
Administration	20,000

To implement the provisions of *Insurance Amendments* (House Bill 31, 2022 General Session).

UTAH STATE TAX COMMISSION

Item 214

To Utah State Tax Commission – Tax Administration

From Dedicated Credits Revenue, One–Time	7,500
Schedule of Programs:	
Motor Vehicles	7,500

To implement the provisions of *Special License Plate Designation* (House Bill 13, 2022 General Session).

Item 215

To Utah State Tax Commission – Tax Administration

From Dedicated Credits Revenue, One–Time	7,500
Schedule of Programs:	

Motor Vehicles 7,500

To implement the provisions of *License Plate Revisions* (House Bill 88, 2022 General Session).

Item 216
To Utah State Tax Commission –
Tax Administration
From General Fund, One–Time 476,000
Schedule of Programs:
Motor Vehicles 457,500
Technology Management 18,500

To implement the provisions of *Off-road Vehicle Safety Education* (House Bill 180, 2022 General Session).

Item 217
To Utah State Tax Commission –
Tax Administration
From Education Fund, One–Time 624,400
Schedule of Programs:
Technology Management 624,400

To implement the provisions of Income *Tax Revisions* (House Bill 444, 2022 General Session).

Item 218
To Utah State Tax Commission –
Tax Administration
From General Fund 84,200
From General Fund, One–Time 25,000
Schedule of Programs:
Property Tax Division 109,200

To implement the provisions of *Property Tax Amendments* (Senate Bill 20, 2022 General Session).

Item 219
To Utah State Tax Commission –
Tax Administration
From General Fund Restricted – Motor
Vehicle Enforcement Division
Temporary Permit Account 250,800
Schedule of Programs:
Motor Vehicle Enforcement Division ... 250,800

To implement the provisions of *Transportation Amendments* (Senate Bill 51, 2022 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 220
To Department of Workforce Services –
Administration

The Department of Health and Human Services and the Department of Workforce Services shall provide up-to-date information about plans and progress in response to the Public Health Emergency enrollment requirements ending. Agencies shall regularly report to the Social Services Appropriations Subcommittee and make public information about eligibility redeterminations and measures, including the number of cases, status, response type and outcomes.

Item 221
To Department of Workforce Services –
Administration
From General Fund .... (700)
Schedule of Programs:
Executive Director's Office .... (700)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 222
To Department of Workforce Services –
Housing and Community Development
From Federal Funds – American
Rescue Plan, One–Time 300,000
Schedule of Programs:
Housing Development 300,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 223
To Department of Workforce Services –
Operations and Policy
From General Fund 75,000
From Federal Funds, One–Time 1,723,100
Schedule of Programs:
Workforce Development 1,798,100

The Legislature intends that Temporary Assistance for Needy Families (TANF) federal funds appropriations provided one-time in FY 2022 in Item 94 of Chapter 441 Laws of Utah 2021 for the Domestic Violence Essential Victim Services program ($1,723,100) that remain unspent by the program at the end of FY 2022 are authorized for expenditure by the program in FY 2023 for purposes that comply with the legal requirements and federal regulations of TANF. The use of TANF federal funds is dependent upon the availability of TANF federal funds and the qualification of the program to receive TANF federal funds.

Item 224
To Department of Workforce Services –
Operations and Policy
From General Fund .... (400)
Schedule of Programs:
Workforce Development .... (400)

To implement the provisions of *Intergenerational Poverty Mitigation Amendments* (House Bill 50, 2022 General Session).

Item 225
To Department of Workforce Services –
Operations and Policy

From General Fund	5,000
From Federal Funds	14,900
Schedule of Programs:	
Eligibility Services	19,200
Information Technology	700

To implement the provisions of *Medicaid Waiver for Medically Complex Children Amendments* (House Bill 200, 2022 General Session).

Item 226

To Department of Workforce Services – Operations and Policy

From General Fund	(1,000)
Schedule of Programs:	
Workforce Development	(1,000)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 227

To Department of Workforce Services – Operations and Policy

From General Fund	(1,041,900)
From General Fund, One-Time	(2,700)
From Federal Funds	(6,700)
From Revenue Transfers	(443,400)
From Revenue Transfers, One-Time	(1,300)
Schedule of Programs:	
Utah Data Research Center	(1,496,000)

To implement the provisions of *Higher Education Data Privacy and Governance Revisions* (Senate Bill 226, 2022 General Session).

Item 228

To Department of Workforce Services – State Office of Rehabilitation

From General Fund	(5,200)
Schedule of Programs:	
Executive Director	(5,200)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 229

To Department of Workforce Services – Unemployment Insurance

From General Fund	(100)
Schedule of Programs:	
Adjudication	(100)

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

Item 230

To Department of Workforce Services – Office of Homeless Services

The Legislature intends that up to 3% of the American Rescue Plan Act of 2021 (ARPA) funds appropriated in S.B. 238 for the Department of Workforce Services' Deeply Affordable Housing may be used to fund the administrative expenses associated with the program and in accordance with federal law.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 231

To Department of Health and Human Services – Operations

From General Fund, One-Time	2,990,400
Schedule of Programs:	
Continuous Quality Improvement	2,990,400

The Legislature intends that the Department of Health and Human Services will report to the Social Services Appropriations Subcommittee each year that funding is received for Utah Sustainable Health Collaborative. The FY 2023 report shall be provided by January 1, 2023 and include results achieved with funding, how much funding was used, and progress toward achieving the goal of a patient being able to access their medical information at any point where they access care. The working group shall include at least one member from the following: Utah State Senate (appointed by the President), Utah House of Representatives (appointed by the Speaker), and health insurance companies.

The Legislature intends that state funds for the Utah Sustainable Health Collaborative may not be used for more than 30% of all operational costs in FY 2023. If other funds are not obtained, then funding shall be lapsed back into the General Fund.

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 232

To Department of Health and Human Services – Operations

From Education Fund	543,600
Schedule of Programs:	
Data, Systems, & Evaluations	543,600

To implement the provisions of *Utah Health Workforce Act* (House Bill 176, 2022 General Session).

Item 233

To Department of Health and Human Services –Operations

From General Fund, One-Time	85,200
Schedule of Programs:	
Data, Systems, & Evaluations	85,200

To implement the provisions of *Vital Records Special Characters* (House Bill 310, 2022 General Session).

Item 234

To Department of Health and Human Services – Operations

From General Fund	6,800
From General Fund, One-Time	20,700

Schedule of Programs:
Data, Systems, & Evaluations 27,500

To implement the provisions of *Birth Certificate Amendments* (House Bill 341, 2022 General Session).

Item 235
To Department of Health and
Human Services – Operations
From Dedicated Credits Revenue 25,000
Schedule of Programs:
Ancillary Services 25,000

To implement the provisions of *Community Health Worker Certification Process* (Senate Bill 104, 2022 General Session).

Item 236
To Department of Health and
Human Services – Clinical Services
From Beginning Nonlapsing
Balances 1,324,300
Schedule of Programs:
Primary Care & Rural Health 1,324,300

Item 237
To Department of Health and
Human Services – Clinical Services
From Education Fund 1,305,900
From Dedicated Credits Revenue 215,000
From Revenue Transfers 190,500
From Beginning Nonlapsing Balances ... 513,200
From Closing Nonlapsing Balances .... (513,200)
Schedule of Programs:
Medical Education Council 1,711,400

To implement the provisions of *Utah Health Workforce Act* (House Bill 176, 2022 General Session).

Item 238
To Department of Health and
Human Services – Department Oversight
From General Fund, One–Time 2,900
Schedule of Programs:
Licensing & Background Checks 2,900

To implement the provisions of *Access to Medical Records Amendments* (House Bill 225, 2022 General Session).

Item 239
To Department of Health and Human
Services – Department Oversight
From Dedicated Credits Revenue 22,600
Schedule of Programs:
Licensing & Background Checks 22,600

To implement the provisions of *Congregate Care Program Amendments* (Senate Bill 239, 2022 General Session).

Item 240
To Department of Health and Human
Services – Health Care Administration
From General Fund, One–Time 200,000
From Federal Funds, One–Time 200,000
Schedule of Programs:
LTSS Administration 400,000

The Department of Health and Human Services and the Department of Workforce Services shall provide up-to-date information about plans and progress in response to the Public Health Emergency enrollment requirements ending. Agencies shall regularly report to the Social Services Appropriations Subcommittee and make public information about eligibility redeterminations and measures, including the number of cases, status, response type and outcomes.

Item 241
To Department of Health and Human
Services – Health Care Administration
From Suicide Prevention Fund 12,500
Schedule of Programs:
Integrated Health Care
Administration 12,500

To implement the provisions of *Special License Plate Designation* (House Bill 13, 2022 General Session).

Item 242
To Department of Health and Human
Services – Health Care Administration
From General Fund 65,100
From Federal Funds 151,800
Schedule of Programs:
Integrated Health Care
Administration 216,900

To implement the provisions of *Medicaid Waiver for Medically Complex Children Amendments* (House Bill 200, 2022 General Session).

Item 243
To Department of Health and Human
Services – Health Care Administration
From General Fund, One–Time 5,000
From Federal Funds, One–Time 45,000
Schedule of Programs:
PRISM 50,000

To implement the provisions of *Medicaid Amendments* (House Bill 413, 2022 General Session).

Item 244
To Department of Health and Human
Services – Health Care Administration
From Federal Funds 50,000
From Federal Funds, One–Time .... (23,000)
Schedule of Programs:
PRISM 27,000

To implement the provisions of *Behavioral Health Services Amendments* (Senate Bill 41, 2022 General Session).

Item 245
To Department of Health and Human
Services – Integrated Health Care Services
From General Fund 968,300
From General Fund, One–Time 1,800,000
From Education Fund, One–Time 2,170,000
From Federal Funds 130,000
From Expendable Receipts –
Rebates 59,940,000
Schedule of Programs:
Medicaid Pharmacy Services 60,135,000
Non–Medicaid Behavioral Health
Treatment & Crisis Response 4,873,300

The Legislature intends that the funding for Support for Pregnant Moms with Substance Use Disorder to the Department of Health and Human Services be put through a competitive request for appropriation process before awarding the funds.

The Legislature intends that the Department of Health and Human Services utilize all funds allocated for Equal Medicaid Reimbursement Rate for Autism to reimburse qualified service providers for Applied Behavior Analysis treatment given under Medicaid for children with autism. The department shall provide a report within two months after the close of the fiscal year demonstrating that funding appropriated to autism has actually been spent for this purpose during fiscal year 2023.

The Legislature intends that the $1,800,000 one-time and $553,300 ongoing appropriation provided in this item for crisis Receiving Centers shall be distributed as follows: (a) $1,000,000 one-time for Salt Lake County; (b) $800,000 one-time for Washington County; and (c) $553,300 for Davis and Weber Counties.

The Legislature intends that the additional ongoing funding appropriated to the Department of Health and Human Services for the purpose of enhancing Medicaid Accountable Care Organization rates be used to pay ACO rates up to actuarially certified rates approved by the Centers for Medicare and Medicaid Services. If the Department is unable to establish actuarially certified rates through the CMS rate-setting process for SFY 2023 ACO rates, then it shall incorporate 2019 data, commitments from the ACOs to spend a portion of these funds on increased provider payments and/or other mutually agreeable strategies to facilitate rate approval.

Item 246

To Department of Health and Human Services – Integrated Health Care Services

From General Fund	2,300
From Federal Funds	229,200

Schedule of Programs:

Medicaid Other Services	231,500

To implement the provisions of *Diabetes Prevention Program* (House Bill 80, 2022 General Session).

Item 247

To Department of Health and Human Services – Integrated Health Care Services

From General Fund	929,900
From Federal Funds	2,158,900
From Expendable Receipts	180,000

Schedule of Programs:

Medicaid Home & Community Based Services	3,268,800

To implement the provisions of *Medicaid Waiver for Medically Complex Children Amendments* (House Bill 200, 2022 General Session).

Item 248

To Department of Health and Human Services – Integrated Health Care Services

From General Fund	(384,800)
From Federal Funds	(1,120,900)
From Expendable Receipts	(142,700)
From Medicaid Expansion Fund	3,000

Schedule of Programs:

Medicaid Behavioral Health Services	(1,669,100)
Expansion Behavioral Health Services	23,700

To implement the provisions of *Behavioral Health Amendments* (House Bill 236, 2022 General Session).

Item 249

To Department of Health and Human Services – Integrated Health Care Services

From Federal Funds	134,000
From Federal Funds, One-Time	(134,000)

To implement the provisions of *Behavioral Health Services Amendments* (Senate Bill 41, 2022 General Session).

Item 250

To Department of Health and Human Services – Long-Term Services & Support

From General Fund	143,000

Schedule of Programs:

Services for People with Disabilities	143,000

To implement the provisions of *Disability Ombudsman Program* (House Bill 150, 2022 General Session).

Item 251

To Department of Health and Human Services – Public Health, Prevention, & Epidemiology

From General Fund	250,000

Schedule of Programs:

Integrated Health Promotion & Prevention	250,000

Item 252

To Department of Health and Human Services – Public Health, Prevention, & Epidemiology

From General Fund	2,805,900

Schedule of Programs:

Preparedness & Emergency Health	21,000
Volunteer Emergency Medical Service Personnel Health Insurance Program	2,784,900

To implement the provisions of *Insurance Coverage for Emergency Medical Service Personnel* (House Bill 289, 2022 General Session).

Item 253

To Department of Health and Human Services – Children, Youth, & Families

From General Fund	200,000
From General Fund, One-Time	2,502,800

Schedule of Programs:

Child & Family Services	202,800
Domestic Violence	2,500,000

The legislature intends that $200,000 appropriated to the Department of Health and Human Services, Division of Child and Family Services Line item be used to purchase software that will enhance recruitment, retention, and training of potential foster parents.

The Legislature intends that the additional appropriation of $500,000 from the General Fund one-time in this item be used for Safe Harbor in Davis County only.

Item 254
To Department of Health and Human Services – Children, Youth, & Families
From General Fund 38,500
Schedule of Programs:
Maternal & Child Health 38,500

To implement the provisions of *Medication for Inmates* (House Bill 77, 2022 General Session).

Item 255
To Department of Health and Human Services – Children, Youth, & Families
From Federal Funds 21,000
From Revenue Transfers . . . . (21,000)

To implement the provisions of *Parental Representation Amendments* (Senate Bill 181, 2022 General Session).

Item 256
To Department of Health and Human Services – Office of Recovery Services
From General Fund, One-Time 13,200
Schedule of Programs:
Recovery Services 13,200

To implement the provisions of *Victim Address Confidentiality Program* (House Bill 117, 2022 General Session).

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 257
To University of Utah – Education and General
From General Fund . . . . (10,000,000)
From General Fund, One-Time . . . . (19,400,000)
From Education Fund 10,000,000
From Education Fund, One-Time 23,750,000
From Closing Nonlapsing Balances . . . . (600,000)
Schedule of Programs:
Education and General 3,750,000

Item 258
To University of Utah – Education and General
From Education Fund, One-Time 189,500
Schedule of Programs:
Education and General 189,500

To implement the provisions of *Behavioral Health Curriculum Program* (Senate Bill 171, 2022 General Session).

Item 259
To University of Utah – Rocky Mountain Center for Occupational and Environmental Health
From Education Fund 1,198,000
Schedule of Programs:
Center for Occupational and Environmental Health 1,198,000

UTAH STATE UNIVERSITY

Item 260
To Utah State University – Education and General
From Education Fund 940,000
Schedule of Programs:
Education and General 850,000
Operations and Maintenance 90,000

The Legislature intends that the Utah State University Engineer Program use $18 million provided by New Fiscal Year Supplemental Appropriations Act (House Bill 2, 2022 General Session) Item 100 to aid student learning, university research, and other associated university costs in the development of the zero-emission battery-electric trainset with the express intention of developing both the trainset and the associated technology for the benefit of the public. The funding will facilitate future purchases, if any, by state entities of identical trainsets at a reduced price that does not include the design costs typically included in a purchase.

WEBER STATE UNIVERSITY

Item 261
To Weber State University – Education and General
From Education Fund 802,000
Schedule of Programs:
Education and General 802,000

SOUTHERN UTAH UNIVERSITY

Item 262
To Southern Utah University – Education and General
From Education Fund, One-Time 50,000
Schedule of Programs:
Education and General 50,000

Item 263
To Southern Utah University – Shakespeare Festival
From Education Fund, One-Time 100,000
Schedule of Programs:
Shakespeare Festival 100,000

UTAH VALLEY UNIVERSITY

Item 264
To Utah Valley University – Education and General
From Education Fund, One-Time 2,000,000
Schedule of Programs:
Education and General 2,000,000

The Legislature intends that the appropriation of $2,000,000 one-time be used for the Gary R. Herbert Institute for Public Policy. This funding shall be used by the Institute to support UVU's mission for providing unique opportunities to participate in public policy conversations, internships, and events for students.

SNOW COLLEGE

Item 265
To Snow College – Education and General

From Education Fund	1,000,000
Schedule of Programs:	
Education and General	1,000,000

UTAH BOARD OF HIGHER EDUCATION

Item 266

To Utah Board of Higher Education – Administration

From Education Fund	2,000,000
Schedule of Programs:	
Administration	2,000,000

The Legislature intends that the ongoing $2,000,000 appropriation from the Education Fund in this item for Healthcare Workforce Initiative be limited to surgical tech, certified nursing assistant, licensed practical nurse, and Associate Degree in Nursing programs.

The Legislature intends that up to $10 million of the funding appropriated in H.B. 2, 2022 General Session, Item 130 to the Learn and Work in Utah Expansion be considered for reengagement scholarships.

Item 267

To Utah Board of Higher Education – Administration

From Education Fund	540,000
Schedule of Programs:	
Administration	540,000

To implement the provisions of *Early Literacy Outcomes Improvement* (Senate Bill 127, 2022 General Session).

Item 268

To Utah Board of Higher Education – Administration

From General Fund	1,041,900
From General Fund, One-Time	2,700
From Federal Funds	6,700
From Revenue Transfers	443,400
From Revenue Transfers, One-Time	1,300
Schedule of Programs:	
Utah Data Resource Center	1,496,000

To implement the provisions of *Higher Education Data Privacy and Governance Revisions* (Senate Bill 226, 2022 General Session).

Item 269

To Utah Board of Higher Education – Medical Education Council

From Education Fund	(1,849,500)
From Dedicated Credits Revenue	(215,000)
From Revenue Transfers	(190,500)
From Beginning Nonlapsing Balances	(513,200)
From Closing Nonlapsing Balances	513,200
Schedule of Programs:	
Medical Education Council	(2,255,000)

To implement the provisions of *Utah Health Workforce Act* (House Bill 176, 2022 General Session).

Item 270

To Utah Board of Higher Education – Talent Ready Utah

From Education Fund	2,198,400
From Education Fund, One-Time	2,251,200
From Dedicated Credits Revenue	52,400
From Dedicated Credits Revenue, One-Time	200
Schedule of Programs:	
Talent Ready Utah	4,502,200

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

DIXIE TECHNICAL COLLEGE

Item 271

To Dixie Technical College

From Education Fund	140,000
Schedule of Programs:	
Dixie Technical College	140,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 272

To Department of Agriculture and Food – Rangeland Improvement

From Gen. Fund Rest. – Rangeland Improvement Account, One-Time	1,000,000
Schedule of Programs:	
Rangeland Improvement	1,000,000

Item 273

To Department of Agriculture and Food – Regulatory Services

From General Fund, One-Time	60,000
From Dedicated Credits Revenue	34,000
Schedule of Programs:	
Regulatory Services Administration	94,000

To implement the provisions of *Cosmetic Manufacturing Certificate Program* (Senate Bill 83, 2022 General Session).

Item 274

To Department of Agriculture and Food – Resource Conservation

From General Fund, One-Time	500,000
Schedule of Programs:	
Resource Conservation	500,000

Item 275

To Department of Agriculture and Food – Resource Conservation

From Beginning Nonlapsing Balances	(2,000,000)
Schedule of Programs:	
Resource Conservation	(2,000,000)

To implement the provisions of *Department of Agriculture and Food Amendments* (House Bill 423, 2022 General Session).

Item 276

To Department of Agriculture and Food – Utah State Fair Corporation

From General Fund, One-Time	(3,000,000)
Schedule of Programs:	
State Fair Corporation	(3,000,000)

Item 277

To Department of Agriculture and Food – Industrial Hemp

From Dedicated Credits Revenue 224,200
From Dedicated Credits Revenue,
One-Time 40,000
Schedule of Programs:
Industrial Hemp 264,200

To implement the provisions of *Hemp and CBD Amendments* (House Bill 385, 2022 General Session).

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 278
To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund Restricted -
Environmental Quality 50,800
From General Fund Restricted -
Environmental Quality, One-Time 366,600
Schedule of Programs:
Radiation 366,600
X-Ray 50,800

Item 279
To Department of Environmental Quality - Waste Management and Radiation Control
From General Fund, One-Time .... (877,900)
From General Fund Restricted -
Environmental Quality 622,700
Schedule of Programs:
Radiation .... (366,600)
X-Ray 111,400

To implement the provisions of *Environmental Quality Revenue Amendments* (House Bill 250, 2022 General Session).

Item 280
To Department of Environmental Quality - Water Quality
From Federal Funds - American
Rescue Plan, One-Time .... (15,000,000)
Schedule of Programs:
Water Quality Support .... (15,000,000)

Item 281
To Department of Environmental Quality - Air Quality
From Clean Fuel Conversion Fund 127,700
Schedule of Programs:
Planning 127,700

To implement the provisions of *Energy Efficiency Amendments* (Senate Bill 188, 2022 General Session).

GOVERNOR'S OFFICE

Item 282
To Governor's Office - Office of Energy Development
From General Fund 1,400
Schedule of Programs:
Office of Energy Development 1,400

To implement the provisions of *Project Entity Oversight Committee* (House Bill 215, 2022 General Session).

DEPARTMENT OF NATURAL RESOURCES

Item 283
To Department of Natural Resources - Administration
From General Fund 700,000
Schedule of Programs:
Law Enforcement 700,000

The Legislature intends that $700,000 provided by this item be used to fund a sworn officer pay plan for Department of Natural Resources peace officers.

Item 284
To Department of Natural Resources - Administration
From General Fund Restricted -
Sovereign Lands Management .... (33,700)
Schedule of Programs:
Lake Commissions .... (33,700)

To implement the provisions of *Utah Lake Authority* (House Bill 232, 2022 General Session).

Item 285
To Department of Natural Resources - Cooperative Agreements
From General Fund, One-Time .... (800)
Schedule of Programs:
Cooperative Agreements .... (800)

Item 286
To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund, One-Time 3,000,000
Schedule of Programs:
Project Management 3,000,000

The Legislature intends that the appropriation for Strategic and Targeted Forest Fire Treatment and Mitigation: $500,000 one-time in Laws of Utah 2020, Chapter 436, Item 129; and $900,000 one-time in Laws of Utah 2021, Chapter 441, Item 185, may be used to treat public or private lands.

Item 287
To Department of Natural Resources - Forestry, Fire and State Lands
From Dedicated Credits Revenue 20,000
From Dedicated Credits Revenue,
One-Time .... (400)
Schedule of Programs:
Fire Suppression Emergencies 19,600

To implement the provisions of *Wildfire Amendments* (House Bill 145, 2022 General Session).

Item 288
To Department of Natural Resources - Forestry, Fire and State Lands
From General Fund Restricted -
Sovereign Lands Management .... (34,300)
Schedule of Programs:
Lands Management .... (34,300)

To implement the provisions of *Utah Lake Authority* (House Bill 232, 2022 General Session).

Item 289
To Department of Natural Resources – Oil, Gas and Mining

From General Fund, One-Time	320,000
Schedule of Programs:	
Oil and Gas Program	320,000

To implement the provisions of *Geological Carbon Sequestration Amendments* (House Bill 244, 2022 General Session).

Item 290
To Department of Natural Resources – Parks and Recreation

From General Fund Restricted – Off-highway Vehicle, One-Time	30,000
Schedule of Programs:	
Recreation Services	30,000

To implement the provisions of *Off-road Vehicle Safety Education* (House Bill 180, 2022 General Session).

Item 291
To Department of Natural Resources – Utah Geological Survey

From General Fund, One-Time	150,000
Schedule of Programs:	
Geologic Hazards	150,000

Item 292
To Department of Natural Resources – Utah Geological Survey

From General Fund, One-Time	25,000
Schedule of Programs:	
Ground Water	25,000

To implement the provisions of *Wetland Amendments* (House Bill 118, 2022 General Session).

Item 293
To Department of Natural Resources – Water Resources

From Federal Funds – American Rescue Plan, One-Time	5,150,000
Schedule of Programs:	
Planning	5,150,000

To implement the provisions of *Water Conservation Modifications* (House Bill 121, 2022 General Session).

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 294
To Department of Natural Resources – Water Resources

From General Fund	545,000
Schedule of Programs:	
Planning	545,000

To implement the provisions of *Secondary Water Metering Amendments* (House Bill 242, 2022 General Session).

Item 295
To Department of Natural Resources – Water Rights

From General Fund	(3,000)
From Dedicated Credits Revenue	(18,000)
Schedule of Programs:	
Field Services	(21,000)

To implement the provisions of *Water Rights Proofs on Small Amounts of Water* (Senate Bill 31, 2022 General Session).

Item 296
To Department of Natural Resources – Wildlife Resources

From General Fund, One-Time	150,800
Schedule of Programs:	
Law Enforcement	150,800

Item 297
To Department of Natural Resources – Public Lands Policy Coordinating Office

From General Fund	(11,900)
Schedule of Programs:	
Public Lands Policy Coordinating Office	(11,900)

To implement the provisions of *Federal Land Disposal Law Amendments* (House Bill 172, 2022 General Session).

Item 298
To Department of Natural Resources – Division of Parks

From General Fund Restricted – Boating	(14,800)
From General Fund Restricted – Off-highway Vehicle	(19,800)
From General Fund Restricted – State Park Fees	34,600

Item 299
To Department of Natural Resources – Division of Parks

From General Fund Restricted – State Park Fees	12,500
Schedule of Programs:	
State Park Operation Management	12,500

To implement the provisions of *License Plate Revisions* (House Bill 88, 2022 General Session).

Item 300
To Department of Natural Resources – Division of Parks – Capital

Of the $15,000,000 provided by Recreation Infrastructure Amendments (House Bill 409, 2022 General Session) Item 1, the Legislature intends $12,000,000 be used to build a visitor center at Antelope Island State Park.

Item 301
To Department of Natural Resources – Division of Recreation- Capital

From General Fund, One-Time	400,000
From General Fund Restricted – Off-highway Vehicle, One-Time	1,000,000
Schedule of Programs:	

Off-highway Vehicle Grants 1,000,000
Trails Program 400,000

The Legislature intends the $1,000,000 appropriation from the Off-highway Vehicle Restricted Account be used for constructing the High Desert Trail in eligible counties (Washington, Iron, Beaver, Millard, San Juan, Tooele, and Box Elder).

Of the $5,000,000 provided by Recreation Infrastructure Amendments (House Bill 409, 2022 General Session) Item 2, the Legislature intends $800,000 to be used as an unmatched grant for outdoor access and vertical trails.

PUBLIC EDUCATION

STATE BOARD OF EDUCATION - MINIMUM SCHOOL PROGRAM

Item 302
To State Board of Education – Minimum School Program – Related to Basic School Programs
From Uniform School Fund 113,000
Schedule of Programs:
Effective Teachers in High Poverty Schools Incentive Program 113,000

To implement the provisions of *Effective Teachers in High Poverty Schools Incentive Program Amendments* (House Bill 315, 2022 General Session).

STATE BOARD OF EDUCATION

Item 303
To State Board of Education – Educator Licensing
From Education Fund 152,500
Schedule of Programs:
Educator Licensing 152,500

Item 304
To State Board of Education – Contracted Initiatives and Grants
From Education Fund 4,400
From Education Fund, One-Time 800,000
Schedule of Programs:
Contracts and Grants 804,400

The Legislature intends that the State Board of Education use $300,000 one-time appropriated for Computer-based Social Skills Development to contract with an entity to provide social skills improvement instruction to elementary students, with a focus on kindergarten through third grade, using a portable electronic device to maximize the number of students who may participate in the instruction.

Item 305
To State Board of Education – MSP Categorical Program Administration
From Education Fund, One-Time 5,000
Schedule of Programs:
State Safety and Support Program 5,000

To implement the provisions of *School Epilepsy Training Amendments* (House Bill 241, 2022 General Session).

Item 306
To State Board of Education – Policy, Communication, & Oversight
From Education Fund 152,500
From Education Fund, One-Time .... (1,300,000)
Schedule of Programs:
Student Support Services 152,500
School Turnaround and Leadership Development Act .... (1,300,000)

Item 307
To State Board of Education – Policy, Communication, & Oversight
From Public Education Economic Stabilization Restricted Account, One-Time 2,300,000
Schedule of Programs:
Student Support Services 2,300,000

To implement the provisions of *Period Products in Schools* (House Bill 162, 2022 General Session).

Item 308
To State Board of Education – System Standards & Accountability
From Education Fund 152,500
Schedule of Programs:
Teaching and Learning 152,500

Item 309
To State Board of Education – System Standards & Accountability
From Education Fund 9,130,200
From Public Education Economic Stabilization Restricted Account, One-Time 9,480,000
Schedule of Programs:
Early Literacy Outcomes Improvement 18,610,200

To implement the provisions of Early Literacy Outcomes Improvement (Senate Bill 127, 2022 General Session).

Item 310
To State Board of Education – System Standards & Accountability
From Education Fund 7,700
From Education Fund, One-Time 7,400
Schedule of Programs:
Teaching and Learning 15,100

To implement the provisions of *Regulatory Sandbox in Education* (Senate Bill 191, 2022 General Session).

Item 311
To State Board of Education – System Standards & Accountability
From Education Fund 75,700
From Education Fund, One-Time 75,000
Schedule of Programs:
Teaching and Learning 150,700

To implement the provisions of *Ethnic Studies Amendments* (Senate Bill 244, 2022 General Session).

Item 312
To State Board of Education – Statewide Online Education Costs for Non-Public Students
From Education Fund 681,600

Schedule of Programs:
Statewide Online Education
Program 681,600

To implement the provisions of *Online Course Access Amendments* (House Bill 417, 2022 General Session).

Item 313
To State Board of Education – State Board
and Administrative Operations
From Education Fund 130,000
Schedule of Programs:
Financial Operations 130,000

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 314
To Legislature – Senate
From General Fund, One–Time 4,800
Schedule of Programs:
Administration 4,800

Item 315
To Legislature – Senate
From General Fund 2,400
Schedule of Programs:
Administration 2,400

To implement the provisions of *Project Entity Oversight Committee* (House Bill 215, 2022 General Session).

Item 316
To Legislature – Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Higher Education and Corrections Council* (House Bill 226, 2022 General Session).

Item 317
To Legislature – Senate
From General Fund 2,400
Schedule of Programs:
Administration 2,400

To implement the provisions of *Utah Lake Authority* (House Bill 232, 2022 General Session).

Item 318
To Legislature – Senate
From General Fund, One–Time 4,000
Schedule of Programs:
Administration 4,000

To implement the provisions of *Blockchain and Digital Innovation Task Force* (House Bill 335, 2022 General Session).

Item 319
To Legislature – Senate
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Medicaid Amendments* (House Bill 413, 2022 General Session).

Item 320
To Legislature – Senate
From General Fund, One–Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Criminal Justice Data Management Task Force* (Senate Bill 150, 2022 General Session).

Item 321
To Legislature – Senate
From General Fund, One–Time 2,400
Schedule of Programs:
Administration 2,400

To implement the provisions of *Medical Cannabis Governance Study* (Senate Bill 153, 2022 General Session).

Item 322
To Legislature – Senate
From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 323
To Legislature – Senate
From General Fund 8,000
Schedule of Programs:
Administration 8,000

To implement the provisions of *Ethnic Studies Amendments* (Senate Bill 244, 2022 General Session).

Item 324
To Legislature – Senate
From General Fund 11,600
Schedule of Programs:
Administration 11,600

To implement the provisions of *Joint Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 1, 2022 General Session).

Item 325
To Legislature – House of Representatives
From General Fund, One–Time 4,800
Schedule of Programs:
Administration 4,800

Item 326
To Legislature – House of Representatives
From General Fund 2,400
Schedule of Programs:
Administration 2,400

To implement the provisions of *Project Entity Oversight Committee* (House Bill 215, 2022 General Session).

Item 327
To Legislature – House of Representatives
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Higher Education and Corrections Council* (House Bill 226, 2022 General Session).

Item 328
To Legislature – House of Representatives
From General Fund 2,400
Schedule of Programs:
Administration 2,400

To implement the provisions of *Utah Lake Authority* (House Bill 232, 2022 General Session).

Item 329
To Legislature – House of Representatives
From General Fund, One–Time 4,000
Schedule of Programs:
Administration 4,000

To implement the provisions of *Blockchain and Digital Innovation Task Force* (House Bill 335, 2022 General Session).

Item 330
To Legislature – House of Representatives
From General Fund 1,600
Schedule of Programs:
Administration 1,600

To implement the provisions of *Medicaid Amendments* (House Bill 413, 2022 General Session).

Item 331
To Legislature – House of Representatives
From General Fund, One–Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Criminal Justice Data Management Task Force* (Senate Bill 150, 2022 General Session).

Item 332
To Legislature – House of Representatives
From General Fund, One–Time 4,800
Schedule of Programs:
Administration 4,800

To implement the provisions of *Medical Cannabis Governance Study* (Senate Bill 153, 2022 General Session).

Item 333
To Legislature – House of Representatives
From General Fund 3,200
Schedule of Programs:
Administration 3,200

To implement the provisions of *Utah Broadband Center Advisory Commission* (Senate Bill 214, 2022 General Session).

Item 334
To Legislature – House of Representatives
From General Fund 8,000
Schedule of Programs:
Administration 8,000

To implement the provisions of *Ethnic Studies Amendments* (Senate Bill 244, 2022 General Session).

Item 335
To Legislature – House of Representatives
From General Fund 18,700
Schedule of Programs:
Administration 18,700

To implement the provisions of Joint *Resolution Authorizing Pay of In-session Employees* (Senate Joint Resolution 1, 2022 General Session).

Item 336
To Legislature – Office of the Legislative Fiscal Analyst

The Legislature intends that when preparing base budget bills for the 2023 General Session, the Legislative Fiscal Analyst shall include $50 million one–time from the Long–term Capital Projects Fund to the Inland Port Infrastructure Fund to back bonds issued by the Authority through December of 2023. The Legislative Fiscal Analyst shall ensure that these funds lapse back to the Long–Term Capital Projects Fund if not needed for the bonds.

Item 337
To Legislature – Legislative Services
From General Fund, One–Time 65,000
Schedule of Programs:
Pass–Through 65,000

Item 338
To Legislature – Legislative Services
From General Fund 75,000
Schedule of Programs:
Pass–Through 75,000

To implement the provisions of *Federalism Commission Amendments* (House Bill 209, 2022 General Session).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 339
To Department of Veterans and Military Affairs – DVMA Pass Through
From General Fund 500,000
Schedule of Programs:
DVMA Pass Through 500,000

Subsection 2(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

GOVERNORS OFFICE

Item 340
To Governors Office – Crime Victim Reparations Fund
From Closing Fund Balance 381,800
Schedule of Programs:
Crime Victim Reparations Fund 381,800

To implement the provisions of *Crime Victim Reparations Amendments* (House Bill 228, 2022 General Session).

DEPARTMENT OF PUBLIC SAFETY

Item 341

To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund

From General Fund	1,320,000
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund	1,320,000

Item 342

To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund

From Beginning Fund Balance	(3,000,000)
Schedule of Programs:	
Alcoholic Beverage Control Act Enforcement Fund	(3,000,000)

To implement the provisions of *Alcoholic Beverage Control Act Enforcement Fund* (Senate Bill 201, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

TRANSPORTATION

Item 343

To Transportation – County of the First Class Highway Projects Fund

From Closing Fund Balance	2,300,000
Schedule of Programs:	
County of the First Class Highway Projects Fund	2,300,000

To implement the provisions of *Transportation Amendments* (Senate Bill 51, 2022 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 344

To Department of Workforce Services – Olene Walker Low Income Housing

The Legislature intends that up to $15,000,000 of the appropriation provided by Item 195 in H.B. 2 be used to match private dollars for the preservation and rehabilitation of affordable housing units for low–income individuals through the Utah Housing Preservation Fund.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 345

To Department of Health and Human Services – Suicide Prevention and Education Fund

From General Fund Restricted – Concealed Weapons Account	(43,500)
Schedule of Programs:	
Suicide Prevention and Education Fund	(43,500)

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF NATURAL RESOURCES

Item 346

To Department of Natural Resources – Watershed Restoration Expendable Special Revenue Fund

From Dedicated Credits Revenue, One–Time	1,500,000
Schedule of Programs:	
Watershed Restoration Expendable Special Revenue Fund	1,500,000

To implement the provisions of *Watershed Restoration Initiative* (House Bill 131, 2022 General Session).

Item 347

To Department of Natural Resources – Wild Game Meat Donation Fund

From Dedicated Credits Revenue	50,000
Schedule of Programs:	
Wild Game Meat Donation Fund	50,000

To implement the provisions of *Donation of Food* (House Bill 142, 2022 General Session).

Subsection 2(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 348

To Attorney General – ISF – Attorney General

From Dedicated Credits Revenue	61,600
Schedule of Programs:	
Civil Division	61,600
Budgeted FTE	0.3

To implement the provisions of *State Finance Review Commission* (House Bill 82, 2022 General Session).

Item 349

To Attorney General – ISF – Attorney General

From Dedicated Credits Revenue	246,600
Schedule of Programs:	
Civil Division	246,600
Budgeted FTE	1.3

To implement the provisions of *Utah Lake Authority* (House Bill 232, 2022 General Session).

Item 350

To Attorney General – ISF – Attorney General

From Dedicated Credits Revenue	58,800
Schedule of Programs:	

Civil Division 58,800
Budgeted FTE 0.2

To implement the provisions of *Transportation Amendments* (Senate Bill 51, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 351
To Department of Government Operations – Risk Management
From Closing Fund Balance .... (3,000,000)
Schedule of Programs:
Risk Management – Property ...... (3,000,000)

Item 352
To Department of Government Operations – Risk Management
From Dedicated Credits Revenue 8,000
Schedule of Programs:
ISF – Workers' Compensation 8,000

To implement the provisions of *Emergency Response Amendments* (House Bill 16, 2022 General Session).

Item 353
To Department of Government Operations – Enterprise Technology Division
From General Fund .... (261,000)
From General Fund, One–Time .... (500,000)
Schedule of Programs:
ISF – Integrated Technology Division .... (761,000)

Item 354
To Department of Government Operations – Enterprise Technology Division
From Dedicated Credits Revenue 3,200
From Dedicated Credits Revenue, One–Time 25,000
Schedule of Programs:
ISF – Enterprise Technology Division ... 28,200

To implement the provisions of *Utah Health Workforce Act* (House Bill 176, 2022 General Session).

Item 355
To Department of Government Operations – Enterprise Technology Division
From Dedicated Credits Revenue, One–Time 282,000
Schedule of Programs:
ISF – Enterprise Technology Division 282,000

To implement the provisions of *Ballot Measure Amendments* (House Bill 218, 2022 General Session).

Item 356
To Department of Government Operations – Enterprise Technology Division
From Dedicated Credits Revenue 1,104,100
From Dedicated Credits Revenue, One–Time 4,975,000
Schedule of Programs:
ISF – Enterprise Technology Division 6,079,100

To implement the provisions of *Justice Reinvestment Initiative Modifications* (House Bill 403, 2022 General Session).

Item 357
To Department of Government Operations – Point of the Mountain Infrastructure Fund
From General Fund, One–Time 57,000,000
Schedule of Programs:
Point of the Mountain Infrastructure Fund 57,000,000

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 358
To Governor's Office of Economic Opportunity – Rural Opportunity Fund
From General Fund, One–Time 21,300,000
Schedule of Programs:
Rural Opportunity Fund 21,300,000

To implement the provisions of *Economic and Workforce Development Amendments* (House Bill 333, 2022 General Session).

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 359
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 73,900
From Dedicated Credits Revenue, One–Time .... (39,000)
From Beginning Fund Balance .... (13,600)
From Closing Fund Balance 166,800
Schedule of Programs:
Qualified Patient Enterprise Fund 188,100

To implement the provisions of *Medical Cannabis Access Amendments* (Senate Bill 195, 2022 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 360
To Department of Environmental Quality – Water Development Security Fund – Water Quality
From Federal Funds – American Rescue Plan, One–Time 15,000,000
Schedule of Programs:
Water Quality 15,000,000

Subsection 2(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated.

Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 361
To Employment Incentive Restricted Account
From General Fund 1,500,000
Schedule of Programs:
Employment Incentive
Restricted Account 1,500,000

To implement the provisions of *Probation and Parole Employment Incentive Program* (House Bill 412, 2022 General Session).

Item 362
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 500,000
Schedule of Programs:
General Fund Restricted – Indigent
Defense Resources Account 500,000

Item 363
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 45,000
Schedule of Programs:
General Fund Restricted – Indigent
Defense Resources Account 45,000

To implement the provisions of *Post Conviction Representation Amendments* (Senate Bill 210, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

Item 364
To Long–term Capital Projects Fund
From General Fund, One–Time 100,000,000
Schedule of Programs:
Long–term Capital Projects
Fund 100,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 365
To General Fund Restricted – Environmental Quality
From General Fund 994,000
Schedule of Programs:
GFR – Environmental Quality 994,000

PUBLIC EDUCATION

Item 366
To Uniform School Fund Restricted – Public Education Economic Stabilization Restricted Account
From Beginning Fund Balance 21,293,200
Schedule of Programs:
Public Education Economic
Stabilization Restricted
Account 21,293,200

Subsection 2(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 367
To General Fund
From Alcoholic Beverage Control Act
Enforcement Fund, One–Time 3,000,000
Schedule of Programs:
General Fund, One–time 3,000,000

To implement the provisions of *Alcoholic Beverage Control Act Enforcement Fund* (Senate Bill 201, 2022 General Session).

Subsection 2(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 368
To Capital Budget – DFCM Capital Projects Fund

The Legislature intends that the Division of Facilities Construction and Management coordinate with the Governor's Office of Planning and Budget and the Division of Finance to manage capital expenditures in FY 2023 such that total statewide expenditures are in compliance with the maintenance of effort requirements associated with the federal Elementary and Secondary School Emergency Relief Fund and the Governor's Emergency Education Relief Fund.

Item 369
To Capital Budget – Higher Education Capital Projects Fund

The Legislature intends that the University of Utah, working with Division of Facilities Construction and Management, may use up to $4,800,000 of $20,171,500 allocated to the University of Utah in the Higher Education Capital Projects Fund for programming and design of the Interdisciplinary Computing Building.

TRANSPORTATION

Item 370
To Transportation – Transportation Investment Fund of 2005
From General Fund, One–Time 806,200,000
Schedule of Programs:

Transportation Investment Fund	806,200,000

The Legislature intends that the Department of Transportation use $5,000,000 appropriated to the Transportation Investment Fund by this item to conduct an environmental analysis for an interchange at US-6 and Spanish Fork Center Street.

The Legislature intends that the Department of Transportation use $10,000,000 appropriated by this item for the extension of 9000 S in Salt Lake County at the Mountain View Corridor.

The Legislature intends that the Department of Transportation use the $30,000,000 appropriated by this item for paved pedestrian or paved nonmotorized transportation projects, contingent on the political subdivision in which a project is located contributing equal to or greater than 20 percent of the costs for construction, reconstruction, or renovation of the paved pedestrian or paved nonmotorized transportation project.

The Legislature intends that as projects are prioritized from funds appropriated to the Transportation Investment Fund by this item, the Transportation Commission consider highway projects as they are currently ranked by the Department of Transportation, that the Commission disperse projects statewide geographically, and that the Commission consider projects beyond the normal programming horizon.

The Legislature intends that the Department of Transportation transfer $35,000,000 from funds provided in Item 1, Chapter 387, Laws of Utah 2021, to the Mountainland Association of Governments to reimburse local funds previously expended on state highway projects.

The Legislature intends that the Department of Transportation use $5,000,000 appropriated to the Transportation Investment Fund to conduct an environmental analysis and preliminary engineering for an interchange on I-84 in Mountain Green.

Item 371

To Transportation - Transit Transportation Investment Fund	
From General Fund, One-Time	150,000,000
Schedule of Programs:	
Transit Transportation Investment Fund	150,000,000

The Legislature intends that the Department of Transportation use $75,000,000 appropriated by this item to double track strategic sections of the Front Runner commuter rail system and may use up to $5,000,000 of this appropriation for planning and environmental analysis to extend Front Runner to Payson, including station area planning as appropriate.

The Legislature intends that the Department of Transportation use $75,000,000 appropriated by this item for a future transit project at the Point of the Mountain. The Department of Transportation will complete the alternative analysis that will include both rail and bus rapid transit options for consideration of final plan.

The Legislature intends that the Department of Transportation use funds appropriated from the Transit Transportation Investment Fund for oversight of a project to strategically double track commuter rail lines and a project to develop and construct public transit facilities and related infrastructure pertaining to the Point of the Mountain State Land Authority.

Section 3. FY 2023 Appropriations. Limit Formula.

The state appropriations limit for a given fiscal year, FY, shall be calculated by

$$AppropLimit_{FY} = PerCapitaBase_{1985} \times Pop_{FY-2} \times Inflate_{FY-2} \times SumAdjust_{FY}$$

, where:

(a) $$Inflate_{Base} = \frac{GNPIndex_{vintage,1983}}{GNPIndex_{vintage,1989}} = \frac{(100.8+101.7+102.5+103.3)/4}{(121.9+123.3+124.5+125.9)/4} = \frac{102.075}{123.900}$$

(b) $$Inflate_{FY-2} = \frac{GNPIndex_{FY-2}}{GNPIndex_{1983}} \times Inflate_{Base}$$

(c) $$PerCapitaBase_{1985} = \frac{Appropriations_{1985} - Debt_{1985}}{Pop_{1983} \times Inflate_{Base}} = \frac{734,333,000 - 52,273,100}{1,594,943 \times \left(\frac{102.075}{123.900}\right)}$$

(d) $$SumAdjust_{FY} = \sum_{i=1985}^{FY} \left[Adjust_i \times \left(\frac{Inflate_{FY-2}}{Inflate_{i-2}}\right) \times \left(\frac{Pop_{FY-2}}{Pop_{i-2}}\right) \right]$$

(e) as used in the state appropriations limit formula:

(i) i is a variable representing a given fiscal year;

(ii) $Adjust_i$ is the net adjustments to the state appropriations limit for a given fiscal year due to program or service adjustments, as required under Section 63J-3-203;

(iii) $Appropriations_{1985}$ is the state capital and operations appropriations from the General Fund and non-Uniform School fund in fiscal year 1985;

(iv) $Debt_{1985}$ is the amount the state paid in debt payments in fiscal year 1985;

(v) $GNPIndex_{FY-2}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for the fiscal year two fiscal years before FY, as published by the United States Federal Reserve by January 31 of each year;

(vi) $GNPIndex_{vintage,i}$ is the average of the quarterly values of the Gross National Product Implicit Price Deflator for a given fiscal year, as measured by the Gross National Product Implicit Price Deflator from the vintage series published by the United States Department of Commerce on January 26, 1990;

(vii) $Inflate_{i-2}$ is the change in the general price level of goods and services nationally from 1983 to two fiscal years before a given fiscal year, as measured by the most current Gross National Product Implicit Price Deflator series published by the United States Federal Reserve, adjusted to a 1989 basis;

(viii) $PerCapitaBase_{1985}$ is the amount of real per capita state appropriations for fiscal year 1985; and

(ix) Pop_{i-2} is:

(A) the population as of July 1 in the fiscal year two fiscal years before a given fiscal year, as estimated by the United States Census Bureau by January 31 of each year; or

(B) if the estimate described in Subsection (3)(e)(ix)(A) is not available, an amount determined by the Governor's Office of Management and Budget, estimated by adjusting an available April 1 decennial census count or by adjusting a fiscal year population estimate available from the United States Census Bureau.

Section 4. Effective Date.

If approved by two-thirds of all the members elected to each house, Section 1 of this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override. Section 2 and Section 3 of this bill take effect on July 1, 2022.

CHAPTER 301
H.B. 8

Passed March 1, 2022
Approved March 24, 2022
Effective July 1, 2022

STATE AGENCY FEES AND INTERNAL SERVICE FUND RATE AUTHORIZATION AND APPROPRIATIONS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides budget increases and decreases for the use and support of certain state agencies and institutions of higher education;
- authorizes certain state agency fees;
- authorizes internal service fund rates;
- adjusts funding for the impact of Internal Service Fund rate changes; and,
- provides budget increases and decreases for other purposes as described.

Money Appropriated in this Bill:

This bill appropriates $20,505,100 in operating and capital budgets for fiscal year 2023, including:

- $7,773,700 from the General Fund;
- $3,702,000 from the Education Fund; and
- $9,029,400 from various sources as detailed in this bill.

This bill appropriates $111,400 in expendable funds and accounts for fiscal year 2023.

This bill appropriates $1,800 in business-like activities for fiscal year 2023.

This bill appropriates $3,800 in restricted fund and account transfers for fiscal year 2023, all of which is from the General Fund.

Other Special Clauses:

This bill takes effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 1

To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services

From General Fund	96,000
From Federal Funds	5,300
From Dedicated Credits Revenue	500
From Revenue Transfers	18,600
Schedule of Programs:	
Juvenile Justice & Youth Services	65,200
Secure Care	14,600
Youth Services	34,900
Community Programs	5,700

ATTORNEY GENERAL

Item 2

To Attorney General

From General Fund	13,200
From Federal Funds	2,100
From Dedicated Credits Revenue	700
From Revenue Transfers	500
Schedule of Programs:	
Administration	7,400
Civil	300
Criminal Prosecution	8,800

Item 3

To Attorney General – Children's Justice Centers

From General Fund	(100)
Schedule of Programs:	
Children's Justice Centers	(100)

Item 4

To Attorney General – Prosecution Council

From General Fund	900
From Dedicated Credits Revenue	100
From Revenue Transfers	400
Schedule of Programs:	
Prosecution Council	1,400

BOARD OF PARDONS AND PAROLE

Item 5

To Board of Pardons and Parole

From General Fund	46,100
Schedule of Programs:	
Board of Pardons and Parole	46,100

UTAH DEPARTMENT OF CORRECTIONS

Item 6

To Utah Department of Corrections – Programs and Operations

From General Fund	1,294,900
From Dedicated Credits Revenue	7,700
Schedule of Programs:	
Adult Probation and Parole Administration	21,300
Adult Probation and Parole Programs	157,000

Department Administrative Services	904,100
Department Executive Director	167,600
Department Training	600
Prison Operations Administration	5,500
Prison Operations Central Utah/ Gunnison	30,200
Prison Operations Inmate Placement	6,200
Programming Administration	100
Programming Skill Enhancement	(3,600)
Programming Treatment	(300)
Prison Operations Utah State Correctional Facility	13,900

Item 7
To Utah Department of Corrections – Department Medical Services

From General Fund	21,600
From Dedicated Credits Revenue	300
Schedule of Programs:	
Medical Services	21,900

JUDICIAL COUNCIL/STATE COURT ADMINISTRATOR

Item 8
To Judicial Council/State Court Administrator – Administration

From General Fund	66,300
From Dedicated Credits Revenue	200
From General Fund Restricted – Children's Legal Defense	500
From General Fund Restricted – Court Trust Interest	2,600
From General Fund Restricted – Dispute Resolution Account	100
From General Fund Rest. – Justice Court Tech., Security & Training	700
From General Fund Restricted – Nonjudicial Adjustment Account	100
Schedule of Programs:	
Administrative Office	60,100
Data Processing	100
District Courts	4,700
Juvenile Courts	5,600

Item 9
To Judicial Council/State Court Administrator – Contracts and Leases

From General Fund	12,300
From Dedicated Credits Revenue	200
From General Fund Restricted – State Court Complex Account	3,300
Schedule of Programs:	
Contracts and Leases	15,800

Item 10
To Judicial Council/State Court Administrator – Guardian ad Litem

From General Fund	100
Schedule of Programs:	
Guardian ad Litem	100

GOVERNORS OFFICE

Item 11
To Governors Office – Commission on Criminal and Juvenile Justice

From General Fund	14,600
From Federal Funds	10,700
From Dedicated Credits Revenue	200
From Crime Victim Reparations Fund	2,000
Schedule of Programs:	
CCJJ Commission	5,900
Judicial Performance Evaluation Commission	1,600
Sentencing Commission	200
Utah Office for Victims of Crime	19,800

Item 12
To Governors Office – Governor's Office

From General Fund	81,200
From Dedicated Credits Revenue	40,700
Schedule of Programs:	
Administration	37,300
Governor's Residence	600
Lt. Governor's Office	84,000

Item 13
To Governors Office – Governors Office of Planning and Budget

From General Fund	800
From Dedicated Credits Revenue	100
Schedule of Programs:	
Administration	(10,500)
Management and Special Projects	4,200
Budget, Policy, and Economic Analysis	7,200

Item 14
To Governors Office – Indigent Defense Commission

From Expendable Receipts	200
From General Fund Restricted – Indigent Defense Resources	3,800
From Revenue Transfers	200
Schedule of Programs:	
Office of Indigent Defense Services	4,200

OFFICE OF THE STATE AUDITOR

Item 15
To Office of the State Auditor – State Auditor

From General Fund	(1,400)
From Dedicated Credits Revenue	(1,400)
Schedule of Programs:	
State Auditor	(2,800)

DEPARTMENT OF PUBLIC SAFETY

Item 16
To Department of Public Safety – Driver License

From Federal Funds	900
From Dedicated Credits Revenue	100
From Department of Public Safety Restricted Account	149,900
From Pass-through	200
Schedule of Programs:	
DL Federal Grants	900
Driver License Administration	(4,200)
Driver Records	77,000
Driver Services	77,400

Item 17
To Department of Public Safety – Emergency Management

From General Fund	900
From Federal Funds	28,700
Schedule of Programs:	
Emergency Management	29,600

Item 18
To Department of Public Safety – Highway Safety

From Federal Funds	2,700
Schedule of Programs:	
Highway Safety	2,700

Item 19

To Department of Public Safety - Peace Officers' Standards and Training

From General Fund	180,500
From Dedicated Credits Revenue	17,100
Schedule of Programs:	
Basic Training	189,700
POST Administration	3,500
Regional/Inservice Training	4,400

Item 20

To Department of Public Safety - Programs & Operations

From General Fund	532,100
From Federal Funds	2,000
From Dedicated Credits Revenue	26,000
From Department of Public Safety Restricted Account	37,100
From General Fund Restricted - Fire Academy Support	12,300
From Gen. Fund Rest. - Motor Vehicle Safety Impact Acct.	6,700
From Revenue Transfers	1,000
Schedule of Programs:	
Aero Bureau	400
CITS Administration	3,500
CITS Communications	6,400
CITS State Bureau of Investigation	21,400
CITS State Crime Labs	23,600
Department Commissioner's Office	307,300
Department Fleet Management	100
Department Grants	3,000
Department Intelligence Center	5,100
Fire Marshal - Fire Fighter Training	4,300
Fire Marshal - Fire Operations	8,900
Highway Patrol - Administration	20,700
Highway Patrol - Commercial Vehicle	12,700
Highway Patrol - Federal/State Projects	100
Highway Patrol - Field Operations	132,000
Highway Patrol - Protective Services	2,900
Highway Patrol - Safety Inspections	13,800
Highway Patrol - Special Enforcement	100
Highway Patrol - Special Services	23,300
Highway Patrol - Technology Services	15,700
Information Management - Operations	11,900

Item 21

To Department of Public Safety - Bureau of Criminal Identification

From General Fund	3,300
From Dedicated Credits Revenue	47,400
From General Fund Restricted - Concealed Weapons Account	41,000
From Revenue Transfers	23,100
Schedule of Programs:	
Non-Government/Other Services	114,800

STATE TREASURER

Item 22

To State Treasurer

From General Fund	9,300
From Dedicated Credits Revenue	8,800
From Land Trusts Protection and Advocacy Account	1,200
From Unclaimed Property Trust	16,500
Schedule of Programs:	
Advocacy Office	1,200
Money Management Council	1,300
Treasury and Investment	16,800
Unclaimed Property	16,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 23

To Career Service Review Office

From General Fund	1,700
Schedule of Programs:	
Career Service Review Office	1,700

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 24

To Utah Education and Telehealth Network

From Education Fund	100
From Federal Funds	100
Schedule of Programs:	
Administration	200

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 25

To Department of Government Operations - Administrative Rules

From General Fund	3,100
Schedule of Programs:	
DAR Administration	3,100

Item 26

To Department of Government Operations - DFCM Administration

From General Fund	10,700
From Education Fund	2,600
From Dedicated Credits Revenue	4,600
From Capital Projects Fund	13,900
Schedule of Programs:	
DFCM Administration	31,900
Energy Program	(100)

Item 27

To Department of Government Operations - Executive Director

From General Fund	125,000
From Dedicated Credits Revenue	17,400
Schedule of Programs:	
Executive Director	142,400

Item 28

To Department of Government Operations - Finance - Mandated - Ethics Commissions

From General Fund	100

Schedule of Programs:	
Political Subdivisions Ethics Commission	100

Item 29
To Department of Government Operations – Finance Administration

From General Fund	71,300
From Dedicated Credits Revenue	20,600
From Gen. Fund Rest. – Internal Service Fund Overhead	31,100
Schedule of Programs:	
Finance Director's Office	(1,500)
Financial Information Systems	114,400
Financial Reporting	2,000
Payables/Disbursing	19,400
Payroll	(19,000)
Technical Services	7,700

Item 30
To Department of Government Operations – Inspector General of Medicaid Services

From General Fund	4,500
From Medicaid Expansion Fund	200
From Revenue Transfers	8,700
Schedule of Programs:	
Inspector General of Medicaid Services	13,400

Item 31
To Department of Government Operations – Judicial Conduct Commission

From General Fund	4,000
Schedule of Programs:	
Judicial Conduct Commission	4,000

Item 32
To Department of Government Operations – Purchasing

From General Fund	(9,800)
Schedule of Programs:	
Purchasing and General Services	(9,800)

Item 33
To Department of Government Operations – State Archives

From General Fund	79,400
Schedule of Programs:	
Archives Administration	79,300
Records Analysis	100

Item 34
To Department of Government Operations – Chief Information Officer

From General Fund	67,000
Schedule of Programs:	
Chief Information Officer	67,000

Item 35
To Department of Government Operations – Integrated Technology

From General Fund	10,300
From Federal Funds	5,900
From Dedicated Credits Revenue	10,100
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct.	2,700
Schedule of Programs:	
Utah Geospatial Resource Center	29,000

CAPITAL BUDGET

Item 36
To Capital Budget – Capital Improvements

From General Fund	100
From Education Fund	100
Schedule of Programs:	
Capital Improvements	200

TRANSPORTATION

Item 37
To Transportation – Aeronautics

From Aeronautics Restricted Account	500
Schedule of Programs:	
Administration	600
Civil Air Patrol	(100)

Item 38
To Transportation – Highway System Construction

From Transportation Fund	85,600
From Expendable Receipts	13,200
Schedule of Programs:	
Federal Construction	98,800

Item 39
To Transportation – Engineering Services

From Transportation Fund	(800)
From Federal Funds	(500)
Schedule of Programs:	
Civil Rights	(100)
Construction Management	(200)
Engineering Services	(200)
Preconstruction Admin	(100)
Program Development	(600)
Right–of–Way	(200)
Structures	100

Item 40
To Transportation – Operations/ Maintenance Management

From Transportation Fund	286,100
From Federal Funds	(200)
Schedule of Programs:	
Field Crews	(600)
Maintenance Administration	159,500
Maintenance Planning	(200)
Region 1	(300)
Region 2	(400)
Region 3	(500)
Region 4	(700)
Shops	126,400
Traffic Operations Center	2,800
Traffic Safety/Tramway	(100)

Item 41
To Transportation – Region Management

From Transportation Fund	(3,000)
From Federal Funds	(300)
From Dedicated Credits Revenue	(200)
Schedule of Programs:	
Region 1	(600)
Region 2	(1,200)
Region 3	(1,300)
Region 4	(400)

Item 42
To Transportation – Support Services

From Transportation Fund	1,268,000
From Federal Funds	20,800
Schedule of Programs:	

Administrative Services 50,200
Community Relations (100)
Comptroller (400)
Data Processing 535,400
Human Resources Management 137,700
Ports of Entry (1,300)
Procurement (200)
Risk Management 567,500

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 43
To Department of Alcoholic Beverage Control – DABC Operations
From Liquor Control Fund 258,600
Schedule of Programs:
Administration 62,300
Executive Director 46,100
Operations 145,100
Stores and Agencies 3,500
Warehouse and Distribution 1,600

DEPARTMENT OF COMMERCE

Item 44
To Department of Commerce – Commerce General Regulation
From Federal Funds 900
From Dedicated Credits Revenue 3,000
From General Fund Restricted – Commerce Service Account 265,100
From General Fund Restricted – Factory Built Housing Fees 300
From Gen. Fund Rest. – Nurse Education & Enforcement Acct. 100
From General Fund Restricted – Pawnbroker Operations (100)
From General Fund Restricted – Public Utility Restricted Acct. 10,400
From Revenue Transfers 1,900
From Pass–through (100)
Schedule of Programs:
Administration 243,500
Consumer Protection (900)
Corporations and Commercial Code 900
Occupational and Professional Licensing 27,300
Office of Consumer Services 1,300
Public Utilities 10,300
Real Estate (900)

Item 45
To Department of Commerce – Office of Consumer Services Professional and Technical Services
From General Fund Restricted – Public Utility Restricted Acct. 1,000
Schedule of Programs:
Professional and Technical Services 1,000

Item 46
To Department of Commerce – Public Utilities Professional and Technical Services
From General Fund Restricted – Public Utility Restricted Acct. 1,400
Schedule of Programs:
Professional and Technical Services 1,400

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 47
To Governor's Office of Economic Opportunity – Administration
From General Fund 22,300
Schedule of Programs:
Administration 22,300

Item 48
To Governor's Office of Economic Opportunity – Business Development
From General Fund 6,500
From Federal Funds 400
From Dedicated Credits Revenue 300
From General Fund Restricted – Industrial Assistance Account 200
Schedule of Programs:
Corporate Recruitment and Business Services 4,800
Outreach and International Trade 2,600

Item 49
To Governor's Office of Economic Opportunity – Office of Tourism
From General Fund 10,500
From Dedicated Credits Revenue 300
From General Fund Rest. – Motion Picture Incentive Acct. 1,400
Schedule of Programs:
Administration 7,900
Film Commission 2,100
Operations and Fulfillment 2,200

Item 50
To Governor's Office of Economic Opportunity – Pete Suazo Utah Athletics Commission
From General Fund 5,900
From Dedicated Credits Revenue 2,300
Schedule of Programs:
Pete Suazo Utah Athletics Commission 8,200

Item 51
To Governor's Office of Economic Opportunity – Talent Ready Utah Center
From General Fund 1,000
From Dedicated Credits Revenue 100
Schedule of Programs:
Talent Ready Utah Center 1,000
Utah Works Program 100

FINANCIAL INSTITUTIONS

Item 52
To Financial Institutions – Financial Institutions Administration
From General Fund Restricted – Financial Institutions 8,600
Schedule of Programs:
Administration 8,600

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 53
To Department of Cultural and Community Engagement – Administration

From General Fund	38,000
From Federal Funds	100
From Dedicated Credits Revenue	1,100
Schedule of Programs:	
Administrative Services	4,300
Executive Director's Office	13,500
Information Technology	21,400

Item 54

To Department of Cultural and Community Engagement – Division of Arts and Museums

From General Fund	8,400
Schedule of Programs:	
Administration	4,700
Community Arts Outreach	3,700

Item 55

To Department of Cultural and Community Engagement – Commission on Service and Volunteerism

From Federal Funds	100
Schedule of Programs:	
Commission on Service and Volunteerism	100

Item 56

To Department of Cultural and Community Engagement – Indian Affairs

From General Fund	17,900
From Dedicated Credits Revenue	2,600
Schedule of Programs:	
Indian Affairs	20,500

Item 57

To Department of Cultural and Community Engagement – State History

From General Fund	26,500
Schedule of Programs:	
Administration	26,500

Item 58

To Department of Cultural and Community Engagement – State Library

From General Fund	27,900
From Dedicated Credits Revenue	14,200
Schedule of Programs:	
Administration	41,600
Bookmobile	500

Item 59

To Department of Cultural and Community Engagement – Stem Action Center

From General Fund	200
Schedule of Programs:	
STEM Action Center	200

INSURANCE DEPARTMENT

Item 60

To Insurance Department – Insurance Department Administration

From Federal Funds	1,900
From General Fund Restricted – Captive Insurance	1,900
From General Fund Restricted – Insurance Department Acct.	62,400
From General Fund Rest. – Insurance Fraud Investigation Acct.	1,500
From General Fund Restricted – Technology Development	10,700
Schedule of Programs:	
Administration	64,300
Captive Insurers	1,900
Electronic Commerce Fee	10,700
Insurance Fraud Program	1,500

LABOR COMMISSION

Item 61

To Labor Commission

From General Fund	102,100
From Federal Funds	3,500
From Employers' Reinsurance Fund	800
From General Fund Restricted – Industrial Accident Account	2,500
From General Fund Restricted – Workplace Safety Account	700
Schedule of Programs:	
Adjudication	1,300
Administration	96,500
Antidiscrimination and Labor	800
Boiler, Elevator and Coal Mine Safety Division	4,300
Industrial Accidents	1,300
Utah Occupational Safety and Health	5,400

PUBLIC SERVICE COMMISSION

Item 62

To Public Service Commission

From General Fund Restricted – Public Utility Restricted Acct.	8,200
Schedule of Programs:	
Administration	8,200

UTAH STATE TAX COMMISSION

Item 63

To Utah State Tax Commission – Tax Administration

From General Fund	304,300
From Education Fund	245,000
From Federal Funds	(100)
From Dedicated Credits Revenue	2,600
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account	21,400
From General Fund Rest. – Sales and Use Tax Admin Fees	139,300
Schedule of Programs:	
Administration Division	400,700
Auditing Division	(1,200)
Motor Vehicle Enforcement Division	22,100
Motor Vehicles	4,100
Property Tax Division	(900)
Tax Payer Services	(9,400)
Tax Processing Division	(1,700)
Technology Management	298,800

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 64

To Department of Workforce Services – Administration

From General Fund	65,800
From Federal Funds	110,700

From Dedicated Credits Revenue	2,000
From Expendable Receipts	1,200
From Permanent Community Impact Loan Fund	1,100
From Revenue Transfers	37,500
Schedule of Programs:	
Administrative Support	21,500
Executive Director's Office	(200)
Human Resources	197,000

Item 65

To Department of Workforce Services – General Assistance

From General Fund	(1,100)
From Revenue Transfers	(100)
Schedule of Programs:	
General Assistance	(1,200)

Item 66

To Department of Workforce Services – Housing and Community Development

From General Fund	6,600
From Federal Funds	26,100
From Dedicated Credits Revenue	6,300
From Housing Opportunities for Low Income Households	3,100
From Olene Walker Housing Loan Fund	3,100
From OWHT-Fed Home	3,100
From OWHTF-Low Income Housing	3,100
From Permanent Community Impact Loan Fund	2,400
From Revenue Transfers	4,100
Schedule of Programs:	
Community Development	14,300
Community Development Administration	1,100
Community Services	(100)
HEAT	5,400
Housing Development	36,700
Weatherization Assistance	500

Item 67

To Department of Workforce Services – Operations and Policy

From General Fund	132,900
From Education Fund	(1,100)
From Federal Funds	614,000
From Dedicated Credits Revenue	24,800
From Expendable Receipts	11,200
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	1,200
From Medicaid Expansion Fund	(3,200)
From Navajo Revitalization Fund	200
From OWHTF-Low Income Housing	100
From Permanent Community Impact Loan Fund	7,500
From General Fund Restricted – School Readiness Account	(3,300)
From Revenue Transfers	410,500
Schedule of Programs:	
Eligibility Services	(83,900)
Facilities and Pass-Through	13,500
Information Technology	1,303,200
Workforce Development	(37,600)
Workforce Research and Analysis	(400)

Item 68

To Department of Workforce Services – State Office of Rehabilitation

From General Fund	(3,900)
From Federal Funds	(9,800)
From Dedicated Credits Revenue	(200)
From Expendable Receipts	(100)
Schedule of Programs:	
Blind and Visually Impaired	(400)
Deaf and Hard of Hearing	1,700
Rehabilitation Services	(15,300)

Item 69

To Department of Workforce Services – Unemployment Insurance

From General Fund	(300)
From Federal Funds	(48,300)
From Dedicated Credits Revenue	(1,300)
Schedule of Programs:	
Adjudication	800
Unemployment Insurance Administration	(50,700)

Item 70

To Department of Workforce Services – Office of Homeless Services

From General Fund	200
From Federal Funds	400
From Gen. Fund Rest. – Pamela Atkinson Homeless Account	200
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	1,200
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account	500
Schedule of Programs:	
Homeless Services	2,500

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 71

To Department of Health and Human Services – Operations

From General Fund	472,400
From Federal Funds	395,000
From Dedicated Credits Revenue	24,200
From Revenue Transfers	108,300
Schedule of Programs:	
Executive Director Office	72,200
Ancillary Services	152,800
Finance & Administration	305,200
Data, Systems, & Evaluations	279,700
Public Affairs, Education & Outreach	71,400
American Indian / Alaska Native	13,100
Continuous Quality Improvement	27,000
Customer Experience	78,500

Item 72

To Department of Health and Human Services – Clinical Services

From General Fund	7,300
From Federal Funds	10,600
From Dedicated Credits Revenue	3,600
From Expendable Receipts	100
From Gen. Fund Rest. – State Lab Drug Testing Account	300
From Revenue Transfers	600
Schedule of Programs:	
Medical Examiner	(700)
State Laboratory	8,200
Primary Care & Rural Health	200
Health Equity	14,800

Item 73

To Department of Health and Human Services – Department Oversight

From General Fund	134,100
From Federal Funds	31,000
From Dedicated Credits Revenue	1,700
From Revenue Transfers	1,500
Schedule of Programs:	
Licensing & Background Checks	13,200
Internal Audit	54,700
Admin Hearings	100,400

Item 74

To Department of Health and Human Services – Health Care Administration

From General Fund	80,900
From Federal Funds	467,900
From Dedicated Credits Revenue	100
From Expendable Receipts	59,500
From Medicaid Expansion Fund	7,200
From Nursing Care Facilities Provider Assessment Fund	8,300
From Revenue Transfers	95,000
Schedule of Programs:	
Integrated Health Care Administration	586,700
LTSS Administration	89,600
PRISM	41,600
Utah Developmental Disabilities Council	1,000

Item 75

To Department of Health and Human Services – Integrated Health Care Services

From General Fund	135,000
From Federal Funds	6,800
From Dedicated Credits Revenue	9,900
From Expendable Receipts	700
From Expendable Receipts – Rebates	100
From General Fund Restricted – Statewide Behavioral Health Crisis Response Account	1,300
From Ambulance Service Provider Assess Exp Rev Fund	100
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	100
From General Fund Restricted – Tobacco Settlement Account	200
From Revenue Transfers	45,200
Schedule of Programs:	
Children's Health Insurance Program Services	2,700
Medicaid Home & Community Based Services	200
Medicaid Other Services	1,400
Non–Medicaid Behavioral Health Treatment & Crisis Response	13,200
State Hospital	181,900

Item 76

To Department of Health and Human Services – Long–Term Services & Support

From General Fund	44,600
From Federal Funds	600
From Dedicated Credits Revenue	4,100
From Revenue Transfers	90,100
Schedule of Programs:	
Adult Protective Services	6,600
Office of Public Guardian	800
Aging Waiver Services	300
Services for People with Disabilities	19,400
Utah State Developmental Center	112,300

Item 77

To Department of Health and Human Services – Public Health, Prevention, & Epidemiology

From General Fund	5,700
From Federal Funds	48,300
From Dedicated Credits Revenue	100
From Expendable Receipts	400
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	4,000
From General Fund Restricted – Emergency Medical Services System Account	300
From General Fund Restricted – Tobacco Settlement Account	1,400
From Revenue Transfers	1,300
Schedule of Programs:	
Communicable Disease & Emerging Infections	30,900
Integrated Health Promotion & Prevention	18,500
Preparedness & Emergency Health	12,100

Item 78

To Department of Health and Human Services – Children, Youth, & Families

From General Fund	1,278,700
From Federal Funds	855,900
From Dedicated Credits Revenue	100
From Expendable Receipts	700
From General Fund Restricted – Adult Autism Treatment Account	100
From Revenue Transfers	93,400
Schedule of Programs:	
Child & Family Services	2,208,200
Domestic Violence	300
Child Abuse & Neglect Prevention	800
Children with Special Healthcare Needs	1,900
Maternal & Child Health	17,700

Item 79

To Department of Health and Human Services – Office of Recovery Services

From General Fund	164,600
From Federal Funds	244,200
From Dedicated Credits Revenue	3,800
From Expendable Receipts	3,600
From Revenue Transfers	29,300
Schedule of Programs:	
Recovery Services	131,600
Child Support Services	22,800
Children in Care Collections	300
Attorney General Contract	289,500
Medical Collections	1,300

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 80

To University of Utah – Education and General

From Education Fund	2,510,200

From Dedicated Credits Revenue	836,800
Schedule of Programs:	
Education and General	3,347,000

UTAH STATE UNIVERSITY

Item 81
To Utah State University – Education and General

From Education Fund	267,900
From Dedicated Credits Revenue	89,300
Schedule of Programs:	
Education and General	357,200

WEBER STATE UNIVERSITY

Item 82
To Weber State University – Education and General

From Education Fund	160,800
From Dedicated Credits Revenue	53,600
Schedule of Programs:	
Education and General	214,400

SOUTHERN UTAH UNIVERSITY

Item 83
To Southern Utah University – Education and General

From Education Fund	56,800
From Dedicated Credits Revenue	18,900
Schedule of Programs:	
Education and General	75,700

UTAH VALLEY UNIVERSITY

Item 84
To Utah Valley University – Education and General

From Education Fund	157,600
From Dedicated Credits Revenue	52,600
Schedule of Programs:	
Education and General	210,200

SNOW COLLEGE

Item 85
To Snow College – Education and General

From Education Fund	10,100
From Dedicated Credits Revenue	3,400
Schedule of Programs:	
Education and General	13,500

UTAH TECH UNIVERSITY

Item 86
To Utah Tech University – Education and General

From Education Fund	(2,800)
From Dedicated Credits Revenue	(1,000)
Schedule of Programs:	
Education and General	(3,800)

SALT LAKE COMMUNITY COLLEGE

Item 87
To Salt Lake Community College – Education and General

From Education Fund	(24,100)
From Dedicated Credits Revenue	(8,200)
Schedule of Programs:	
Education and General	(32,300)

UTAH BOARD OF HIGHER EDUCATION

Item 88
To Utah Board of Higher Education – Administration

From Education Fund	96,000
Schedule of Programs:	
Administration	96,000

BRIDGERLAND TECHNICAL COLLEGE

Item 89
To Bridgerland Technical College

From Education Fund	12,600
Schedule of Programs:	
Bridgerland Technical College	12,600

DAVIS TECHNICAL COLLEGE

Item 90
To Davis Technical College

From Education Fund	30,500
Schedule of Programs:	
Davis Technical College	30,500

DIXIE TECHNICAL COLLEGE

Item 91
To Dixie Technical College

From Education Fund	(4,500)
Schedule of Programs:	
Dixie Technical College	(4,500)

MOUNTAINLAND TECHNICAL COLLEGE

Item 92
To Mountainland Technical College

From Education Fund	33,200
Schedule of Programs:	
Mountainland Technical College	33,200

OGDEN-WEBER TECHNICAL COLLEGE

Item 93
To Ogden–Weber Technical College

From Education Fund	51,200
Schedule of Programs:	
Ogden–Weber Technical College	51,200

SOUTHWEST TECHNICAL COLLEGE

Item 94
To Southwest Technical College

From Education Fund	5,800
Schedule of Programs:	
Southwest Technical College	5,800

TOOELE TECHNICAL COLLEGE

Item 95
To Tooele Technical College

From Education Fund	3,900
Schedule of Programs:	
Tooele Technical College	3,900

UINTAH BASIN TECHNICAL COLLEGE

Item 96
To Uintah Basin Technical College

From Education Fund	12,100
Schedule of Programs:	

Uintah Basin Technical College	12,100

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 97
To Department of Agriculture and Food – Administration

From General Fund	182,800
From Federal Funds	14,400
From Dedicated Credits Revenue	19,900
From Revenue Transfers	4,600
Schedule of Programs:	
General Administration	221,700

Item 98
To Department of Agriculture and Food – Animal Industry

From General Fund	4,200
From Federal Funds	2,100
From General Fund Restricted – Livestock Brand	4,900
Schedule of Programs:	
Animal Health	1,200
Brand Inspection	6,800
Meat Inspection	3,200

Item 99
To Department of Agriculture and Food – Building Operations

From General Fund	29,100
Schedule of Programs:	
Building Operations	29,100

Item 100
To Department of Agriculture and Food – Invasive Species Mitigation

From General Fund Restricted – Invasive Species Mitigation Account	400
Schedule of Programs:	
Invasive Species Mitigation	400

Item 101
To Department of Agriculture and Food – Marketing and Development

From General Fund	800
From Federal Funds	400
Schedule of Programs:	
Marketing and Development	1,200

Item 102
To Department of Agriculture and Food – Plant Industry

From General Fund	1,500
From Federal Funds	8,000
From Dedicated Credits Revenue	12,900
From Agriculture Resource Development Fund	700
From Revenue Transfers	1,300
From Pass–through	900
Schedule of Programs:	
Grain Inspection	400
Grazing Improvement Program	5,700
Insect Infestation	1,100
Plant Industry	18,100

Item 103
To Department of Agriculture and Food – Predatory Animal Control

From General Fund	8,000
From Revenue Transfers	4,700
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention	3,900
Schedule of Programs:	
Predatory Animal Control	16,600

Item 104
To Department of Agriculture and Food – Rangeland Improvement

From Gen. Fund Rest. – Rangeland Improvement Account	300
Schedule of Programs:	
Rangeland Improvement	300

Item 105
To Department of Agriculture and Food – Regulatory Services

From General Fund	4,100
From Federal Funds	6,100
From Dedicated Credits Revenue	23,900
From Pass–through	1,000
Schedule of Programs:	
Regulatory Services Administration	6,500
Bedding & Upholstered	300
Weights & Measures	2,400
Food Inspection	1,100
Dairy Inspection	400
Egg Grading and Inspection	24,400

Item 106
To Department of Agriculture and Food – Resource Conservation

From General Fund	1,000
From Federal Funds	600
From Agriculture Resource Development Fund	600
From Revenue Transfers	300
From Utah Rural Rehabilitation Loan State Fund	100
Schedule of Programs:	
Resource Conservation	2,300
Resource Conservation Administration	300

Item 107
To Department of Agriculture and Food – Medical Cannabis

From Qualified Production Enterprise Fund	500
Schedule of Programs:	
Medical Cannabis	500

Item 108
To Department of Agriculture and Food – Industrial Hemp

From Dedicated Credits Revenue	200
Schedule of Programs:	
Industrial Hemp	200

Item 109
To Department of Agriculture and Food – Analytical Laboratory

From General Fund	1,100
From Dedicated Credits Revenue	300
Schedule of Programs:	
Analytical Laboratory	1,400

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 110

To Department of Environmental Quality – Drinking Water

From General Fund	23,300
From Federal Funds	12,200
From Dedicated Credits Revenue	4,900
From Water Dev. Security Fund – Drinking Water Loan Prog.	9,500
Schedule of Programs:	
Drinking Water Administration	25,500
Safe Drinking Water Act	18,000
System Assistance	6,400

Item 111

To Department of Environmental Quality – Environmental Response and Remediation

From General Fund	4,700
From Federal Funds	24,000
From Dedicated Credits Revenue	1,600
From Petroleum Storage Tank Cleanup Fund	2,900
From Petroleum Storage Tank Trust Fund	6,900
Schedule of Programs:	
CERCLA	25,200
Leaking Underground Storage Tanks	13,000
Underground Storage Tanks	1,900

Item 112

To Department of Environmental Quality – Executive Director's Office

From General Fund	108,100
From Federal Funds	16,100
From General Fund Restricted – Environmental Quality	68,900
Schedule of Programs:	
Executive Director Office Administration	192,700
Radon	400

Item 113

To Department of Environmental Quality – Waste Management and Radiation Control

From General Fund	3,000
From Federal Funds	10,400
From Dedicated Credits Revenue	11,000
From General Fund Restricted – Environmental Quality	22,800
From Gen. Fund Rest. – Used Oil Collection Administration	4,200
Schedule of Programs:	
Hazardous Waste	38,700
Radiation	8,300
Used Oil	4,400

Item 114

To Department of Environmental Quality – Water Quality

From General Fund	15,400
From Federal Funds	8,100
From Dedicated Credits Revenue	9,400
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining	400
From Revenue Transfers	4,700
From Water Dev. Security Fund – Utah Wastewater Loan Prog.	2,300
From Water Dev. Security Fund – Water Quality Orig. Fee	100
Schedule of Programs:	
Water Quality Support	20,200
Water Quality Protection	5,800
Water Quality Permits	14,400

Item 115

To Department of Environmental Quality – Air Quality

From General Fund	28,800
From Federal Funds	26,500
From Dedicated Credits Revenue	48,400
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining	3,000
Schedule of Programs:	
Compliance	30,900
Permitting	13,500
Planning	1,100
Air Quality Administration	61,200

DEPARTMENT OF NATURAL RESOURCES

Item 116

To Department of Natural Resources – Administration

From General Fund	1,044,700
Schedule of Programs:	
Administrative Services	505,900
Executive Director	538,000
Law Enforcement	300
Public Information Office	500

Item 117

To Department of Natural Resources – Forestry, Fire and State Lands

From General Fund	(1,000)
From Federal Funds	3,000
From Dedicated Credits Revenue	5,600
From General Fund Restricted – Sovereign Lands Management	2,700
From Revenue Transfers	(6,100)
Schedule of Programs:	
Division Administration	(1,300)
Fire Management	1,400
Fire Suppression Emergencies	(7,100)
Forest Management	700
Lands Management	1,300
Lone Peak Center	3,700
Program Delivery	5,500

Item 118

To Department of Natural Resources – Oil, Gas and Mining

From Federal Funds	16,200
From Dedicated Credits Revenue	300
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining	7,800
From Gen. Fund Rest. – Oil & Gas Conservation Account	40,500
Schedule of Programs:	
Administration	29,000
Coal Program	5,800
Oil and Gas Program	30,000

Item 119

To Department of Natural Resources – Species Protection

From General Fund Restricted – Species Protection	700
Schedule of Programs:	
Species Protection	700

Item 120

To Department of Natural Resources – Utah Geological Survey

From General Fund	11,100
From Federal Funds	800
From Dedicated Credits Revenue	1,500
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account	600
From General Fund Restricted – Mineral Lease	700
From Revenue Transfers	200
Schedule of Programs:	
Administration	(1,000)
Geologic Information and Outreach	15,900

Item 121

To Department of Natural Resources – Water Resources

From General Fund	5,200
From Federal Funds	300
From Water Resources Conservation and Development Fund	1,900
Schedule of Programs:	
Administration	2,000
Construction	1,600
Interstate Streams	200
Planning	3,600

Item 122

To Department of Natural Resources – Water Rights

From General Fund	58,900
From Dedicated Credits Revenue	6,400
Schedule of Programs:	
Adjudication	7,100
Administration	600
Applications and Records	(1,000)
Dam Safety	300
Field Services	12,900
Technical Services	45,400

Item 123

To Department of Natural Resources – Watershed

From General Fund	100
Schedule of Programs:	
Watershed	100

Item 124

To Department of Natural Resources – Wildlife Resources

From General Fund	7,900
From Federal Funds	20,800
From Expendable Receipts	100
From General Fund Restricted – Aquatic Invasive Species Interdiction Account	600
From General Fund Restricted – Mule Deer Protection Account	200
From General Fund Restricted – Predator Control Account	300
From Revenue Transfers	100
From General Fund Restricted – Wildlife Resources	130,700
Schedule of Programs:	
Administrative Services	115,700
Aquatic Section	12,900
Conservation Outreach	5,400
Director's Office	1,900
Habitat Section	8,900
Law Enforcement	8,800
Wildlife Section	7,100

Item 125

To Department of Natural Resources – Public Lands Policy Coordinating Office

From General Fund	81,000
From General Fund Restricted – Constitutional Defense	34,300
Schedule of Programs:	
Public Lands Policy Coordinating Office	115,300

Item 126

To Department of Natural Resources – Division of Parks

From General Fund	18,400
From Federal Funds	200
From Dedicated Credits Revenue	2,100
From General Fund Restricted – State Park Fees	184,500
From Revenue Transfers	200
Schedule of Programs:	
Executive Management	600
State Park Operation Management	54,500
Planning and Design	100
Support Services	150,200

Item 127

To Department of Natural Resources – Division of Recreation

From General Fund Restricted – Boating	500
From General Fund Restricted – Off-highway Vehicle	500
Schedule of Programs:	
Recreation Services	1,000

Item 128

To Department of Natural Resources – Office of Energy Development

From General Fund	(1,100)
From Education Fund	(200)
From Federal Funds	(500)
From Dedicated Credits Revenue	(100)
From Expendable Receipts	(100)
From Ut. S. Energy Program Rev. Loan Fund (ARRA)	(200)
Schedule of Programs:	
Office of Energy Development	(2,200)

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 129

To School and Institutional Trust Lands Administration

From Land Grant Management Fund	17,700
Schedule of Programs:	
Administration	11,500
Auditing	(100)
Board	100
Development – Operating	(300)
Director	200
Grazing and Forestry	3,700
Information Technology Group	2,600

Legal/Contracts	100
Oil and Gas	(100)

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 130
To State Board of Education – Child Nutrition Programs

From Federal Funds	100
Schedule of Programs:	
Child Nutrition	100

Item 131
To State Board of Education – State Charter School Board

From Education Fund	700
Schedule of Programs:	
State Charter School Board	700

Item 132
To State Board of Education – Utah Schools for the Deaf and the Blind

From Education Fund	33,100
From Revenue Transfers	200
Schedule of Programs:	
Administration	33,300

Item 133
To State Board of Education – State Board and Administrative Operations

From Education Fund	44,400
From General Fund Restricted – Mineral Lease	6,600
From Gen. Fund Rest. – Land Exchange Distribution Account	100
From Revenue Transfers	67,600
Schedule of Programs:	
Inter Cost Pool	74,200
Board and Administration	44,500

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 134
To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Acct.	11,700
Schedule of Programs:	
School and Institutional Trust Fund Office	11,700

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 135
To Legislature – Senate

From General Fund	1,200
Schedule of Programs:	
Administration	1,200

Item 136
To Legislature – House of Representatives

From General Fund	1,500
Schedule of Programs:	
Administration	1,500

Item 137
To Legislature – Office of Legislative Research and General Counsel

From General Fund	6,800
Schedule of Programs:	
Administration	6,800

Item 138
To Legislature – Office of the Legislative Fiscal Analyst

From General Fund	5,800
Schedule of Programs:	
Administration and Research	5,800

Item 139
To Legislature – Office of the Legislative Auditor General

From General Fund	3,200
Schedule of Programs:	
Administration	3,200

Item 140
To Legislature – Legislative Services

From General Fund	3,900
From Dedicated Credits Revenue	800
Schedule of Programs:	
Administration	4,700

UTAH NATIONAL GUARD

Item 141
To Utah National Guard

From General Fund	207,300
From Dedicated Credits Revenue	100
Schedule of Programs:	
Administration	300
Operations and Maintenance	207,100

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 142
To Department of Veterans and Military Affairs – Veterans and Military Affairs

From General Fund	67,900
From Federal Funds	900
From Dedicated Credits Revenue	200
Schedule of Programs:	
Administration	65,600
Cemetery	1,500
Military Affairs	100
Outreach Services	1,600
State Approving Agency	200

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 143
To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund
From Dedicated Credits Revenue 12,400
Schedule of Programs:
Alcoholic Beverage Control Act Enforcement Fund 12,400

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 144
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 17,400
Schedule of Programs:
State Debt Collection Fund 17,400

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 145
To Department of Commerce – Consumer Protection Education and Training Fund
From Licenses/Fees 1,100
Schedule of Programs:
Consumer Protection Education and Training Fund 1,100

Item 146
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 100
Schedule of Programs:
RMLERR Fund 100

Item 147
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 1,600
Schedule of Programs:
Securities Investor Education/Training/Enforcement Fund 1,600

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 148
To Governor's Office of Economic Opportunity – Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 100
Schedule of Programs:
Outdoor Recreation Infrastructure Account 100

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 149
To Capitol Preservation Board – State Capitol Fund
From Dedicated Credits Revenue 96,700
Schedule of Programs:
State Capitol Fund 96,700

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 150
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds .... (17,900)
From Dedicated Credits Revenue .... (100)
Schedule of Programs:
Veterans Nursing Home Fund .... (18,000)

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 151
To Labor Commission – Uninsured Employers Fund
From Dedicated Credits Revenue 400
From Premium Tax Collections 200
Schedule of Programs:
Uninsured Employers Fund 600

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 152
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Dedicated Credits Revenue 400
Schedule of Programs:
Qualified Patient Enterprise Fund 400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 153
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 800

Schedule of Programs:	
Qualified Production Enterprise Fund	800

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 154

To General Fund Restricted – Indigent Defense Resources Account	
From General Fund	3,800
Schedule of Programs:	
General Fund Restricted – Indigent Defense Resources Account	3,800

Section 2. Fees. Under the terms and conditions of Utah Code Title 63J Chapter 1 and other fee statutes as applicable, the following fees and rates are approved for the use and support of the government of the State of Utah for the Fiscal Year beginning July 1, 2022 and ending June 30, 2023.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

JUVENILE JUSTICE & YOUTH SERVICES

Government Records Access and Management Act	
Paper (per side of sheet)	0.25
Audio Tape (per tape)	5.00
Video Tape (per tape)	15.00
Mailing	Actual cost
Compiling and Reporting in Another Format (per hour)	25.00
Programmer/Analyst Assistance Required (per hour)	50.00

ATTORNEY GENERAL

Administration	
Government Records Access and Management Act	
Document Certification	2.00
CD Duplication (per CD)	5.00

Plus actual staff costs

DVD Duplication (per DVD)	10.00

Plus actual staff costs

Photocopies	
Non-color (per page)	0.25
Color (per page)	0.40
11 x 17 (per page)	1.00
Odd Size	Actual cost
Document Faxing (per page)	1.00
Long Distance Faxing for Over 10 Pages	1.00
Record Preparation	Actual cost
Record Preparation	2.00

Plus actual postage costs

Other Media	Actual cost
Other Services	Actual cost

CHILDREN'S JUSTICE CENTERS

CJC Conference Registrations (per Variable)	Varies by type

This represents the fee charged for the Children's Justice Center's annual conference. Conference Registration (per unit/day) – Varies by Type.

ISF - ATTORNEY GENERAL

Attorney – Co-located Rate (per Hour)	132.00
Attorney – Office Rate (per Hour)	136.00
Investigator – Co-located Rate (per Month)	Actual cost
Investigator – Office Rate	Actual cost
Paralegal – Co-located Rate (per Hour)	62.00
Paralegal – Office Rate (per Hour)	64.00

PROSECUTION COUNCIL

UPC Training Registrations	
Private Attorney	350.00

This fee covers expenses incurred by the Utah Prosecution Council for trainings provided throughout the year.

UPC Training Registrations	
Public Attorneys	125.00

This fee covers expenses incurred by the Utah Prosecution Council for trainings provided many times per year.

BOARD OF PARDONS AND PAROLE

Digital Media	10.00

UTAH DEPARTMENT OF CORRECTIONS

PROGRAMS AND OPERATIONS

Department Executive Director	
Government Records Access and Management Act (GRAMA) Fees (GRAMA fees apply to the entire Department of Corrections)	
Odd Size Photocopies (per page)	Actual cost

Fee entitled "Odd size photocopies" applies to the entire Department of Corrections.

Document Certification	2.00

Fee entitled "Document Certification" applies to the entire Department of Corrections.

Local Document Faxing (per page)	0.50

Fee entitled "Local Document Faxing" applies to the entire Department of Corrections.

Long Distance Document Faxing (per page)	2.00

Fee entitled "Long Distance Document Faxing" applies to the entire Department Of Corrections.

Staff Time to Search, Compile, and
Otherwise Prepare Record .... Actual cost

Fee entitled "Staff time to search, compile, and otherwise prepare record" applies to the entire Department of Corrections.

Mail and Ship Preparation, Plus
Actual Postage Costs .... Actual cost

Fee entitled "Mail and ship preparation, plus actual postage costs" applies to the entire Department of Corrections.

CD Duplication (per CD) 5.00

Fee entitled "CD Duplication" applies to the entire Department of Corrections.

DVD Duplication (per DVD) 10.00

Fee entitled "DVD Duplication" applies to the entire Department of Corrections.

Other Media .... Actual cost

Fee entitled "Other Media" applies to the entire Department of Corrections.

Other Services .... Actual cost

Fee entitled "Other Services" applies to the entire Department of Corrections.

8.5 x 11 Photocopy (per page) 0.25

Fee entitled "8.5 x 11 photocopy" applies to the entire Department of Corrections.

Parole/Probation Supervision
OSDC Supervision Collection 30.00

Fee entitled "OSDC Supervision Collection" applies for the entire Department of Corrections.

Resident Support 6.00

Fee entitled "Resident Support" applies for the entire Department of Corrections.

Department Wide
Restitution for Prisoner Damages .. Actual cost

Fee entitled "Restitution for Prisoner Damages" applies for the entire Department of Corrections.

False Information Fines .. Range: $1 – $84,200

Fee entitled "False Information Fines" applies for the entire Department of Corrections.

Sale of Services .... Actual cost

Fee entitled "Sale of Services" applies for the entire Department of Corrections.

Inmate Leases & Concessions 11.00

Fee entitled "Inmate Leases & Concessions" applies for the entire Department of Corrections.

Patient Social Security Benefits
Collections .... Amount Based on Actual Collected

Fee entitled "Patient Social Security Benefits Collections" applies for the entire Department of Corrections.

Sale of Goods and Materials .... Actual cost

Fee entitled "Sale of Goods & Materials" applies for the entire Department of Corrections.

Buildings Rental .... Contractual

Fee entitled "Building Rental" applies for the entire Department of Corrections.

Victim Rep Inmate
Withheld .... Range: $1 – $50,000

Fee entitled "Victim Rep Inmate Withheld" applies for the entire Department of Corrections.

Sundry Revenue Collection .... Miscellaneous collections

Fee entitled "Sundry Revenue Collection" applies for the entire Department of Corrections.

Offender Tuition
Offender Tuition Payments .... Actual cost

Fee entitled "Offender Tuition Payments" applies to the entire Department of Corrections.

DEPARTMENT MEDICAL SERVICES

Medical Services
Medical
Prisoner Various Prostheses Co-pay ... 1/2 cost
Inmate Support Collections .... Actual cost

UTAH CORRECTIONAL INDUSTRIES

UCi
Sale of Goods and Materials .. Cost plus profit
Sale of Services .... Cost plus profit

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

ADMINISTRATION

Administrative Office
Email
Email Up to 10 pages 5.00
Email Up to 10 pages 5.00
Audio tape 10.00
Video tape 15.00
CD 10.00
Reporter Text (per half day) 25.00
Personnel time after 15 min
(per 15 minutes) .... Cost of Employee Time
Electronic copy of Court Proceeding
(per half day) 10.00
Mailings .... Actual cost
Preprinted Forms Cost based on number and size

State Court Administrator

Copies (per page) 0.25
Microfiche (per card) 1.00
Data Processing
Court Records Online
Subscription
Over 200 records (per search) 0.10
200 records (per month) 30.00
Online Services Setup 25.00
Fax
Up to 10 pages 5.00
After 10 pages (per page) 0.50

GOVERNORS OFFICE

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE

Extraditions

Extraditions Services–	
Restitution	Court Ordered
Utah Office for Victims of Crime	
Utah Crime Victims Conference	150.00
Utah Victim Assistance Academy	500.00

GOVERNOR'S OFFICE

Administration	
Government Records Access and Management Act (GRAMA) Fees for the Entire Governor's Office	
Staff Time to Search, Compile, and Otherwise Prepare Record	Actual Cost
Mailing	Actual Cost
Paper (per side of sheet)	0.25
Audio Recording	5.00
Video Recording	15.00
Document Faxing (per page)	0.50
Long Distance Faxing over 10 Pages	1.00
Lt. Governor's Office	
Lobbyist	
Lobbyist Badge Replacement	10.00
Election Information	
Copy of Election Results	35.00
Copy of Complete Voter Information Database	1,050.00
Notary	
Notary Commission	95.00
Notary Test Retake Within 30 Days	40.00
Remote Notary Application	50.00
Certifications	
Apostille	20.00
Apostille for Adoption	10.00
Certificate of Authentication	20.00
Certificate of Authentication for Adoption	10.00
Special Certificate	10.00
Photocopies (per page)	0.25
International Postage	10.00
Expedited Processing	
Within Two Hours if Presented Before 3:00 p.m.	75.00
End of Next Business Day	35.00
Local Government and Limited Purpose Entity Registry	
Local Government and Limited Purpose Entity New Registration	50.00
Local Government and Limited Purpose Entity Registration Renewal	25.00

GOVERNORS OFFICE OF PLANNING AND BUDGET

Management and Special Projects	
Conference Registration (per unit / day)	Varies by Type

INDIGENT DEFENSE COMMISSION

Child Welfare Parental Defense Program	
Continuing Legal Education (CLE) Fee (per CLE Hour)	CLE Fee
Parental Defense Fund – Parental Defense Conference Fee (per Person)	150.00

OFFICE OF THE STATE AUDITOR

STATE AUDITOR

Training (per hour)	15.00

This fee is for an individual to take one hour of training provided either online or in person at the Office of the State Auditor.

Professional Services and Event Training	Actual Cost

This fee is to reimburse the State Auditor for the actual costs of audit services or actual costs of training services provided at a location other than online or in the Office of the State Auditor.

Record Access Fee	Actual Cost

This fee is to reimburse the Office of the State Auditor for the actual costs of providing records under the Government Records Access and Management Act (GRAMA).

Financial Transparency Database Subscription Fee	Actual Cost

This fee is to reimburse the Office of the State Auditor for actual costs of accessing large amounts of transparency database information.

DEPARTMENT OF PUBLIC SAFETY

DRIVER LICENSE

Driver License Administration	
Commercial Driver School	
License	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Instructor	30.00
Annual Instructor Renewal	20.00
Duplicate Instructor	6.00
Branch Office Original	30.00
Branch Office Annual Renewal	30.00
Branch Office Reinstatement	75.00
Instructor/Operation Reinstatement	75.00
School Reinstatement	75.00
Commercial Driver License	
Intra-state Medical Waiver	25.00
Certified Record	
first 15 pages	10.75

Includes Motor Vehicle Record

16 to 30 pages	15.75

Includes Motor Vehicle Record

31 to 45 pages	20.75

Includes Motor Vehicle Record

46 or more pages	25.75

Includes Motor Vehicle Record

Copy of Full Driver History	7.00
Copies of any other record	5.00

Includes tape recording, letter, medical copy, arrests

Verification	
Driver Address Record Verification	3.00
Validate Service	0.75
Pedestrian Vehicle Permit	13.00
Citation Monitoring Verification	0.06

Ignition Interlock System	
License	
Provider	
Original	100.00
Annual Renewal	100.00
Duplicate	10.00
Provider Branch Office Inspection	30.00
Provider Branch Office Annual Inspection	30.00
Installer	
Original	30.00
Annual Renewal	30.00
Duplicate	6.00
Provider	
Reinstatement	75.00
Installer	75.00
Driver Records	
Online services	3.00

Utah Interactive Convenience Fee

Driver Services	
Commercial Driver License third party testing	
License	
Original Tester	100.00
Annual Tester Renewal	100.00
Duplicate Tester	10.00
Original Examiner	30.00
Annual Examiner Renewal	20.00
Duplicate Examiner	6.00
Examiner Reinstatement	75.00
Tester Reinstatement	75.00

EMERGENCY MANAGEMENT

PIO Conference Registration Fees	225.00
PIO Conference Late Registration Fee	250.00
PIO Half Conference Registration Fee	100.00
PIO Conference Guest Fee	200.00
Mobile Command Vehicle (per Hour)	65.00
Mobile Command Operator (per Hour)	40.00
Utah Expo Registration Fee	5.00
Utah Certified Emergency Manager (per Application)	100.00

PEACE OFFICERS' STANDARDS AND TRAINING

Basic Training	
Satellite Academy Technology Fee	25.00
Dorm Room	10.00
K-9 Training (out of state agencies)	2,175.00
Duplicate POST Certification	5.00
Duplicate Certificate, Wallet Card	5.00
Duplicate Radar or Intox Card	2.00
Law Enforcement Officials and Judges Firearms Course	1,000.00
Cadet Application	
Online Application Processing Fee	35.00
Rental	
Pursuit Interventions Technique Training Vehicles	100.00
Firing Range	300.00
Shoot House	150.00
Camp William Firing Range	200.00
Peace Officers' Standards and Training (POST)	
Reactivation/Waiver	75.00
Supervisor Class	50.00

PROGRAMS & OPERATIONS

CITS State Crime Labs	
Additional DNA Casework per sample – full analysis	894.00
DNA Casework per sample – Quantitation only	459.00
Drugs – controlled substances per item of evidence	355.00
Fingerprints per item of evidence	345.00
Serology/Biology per item of evidence	335.00
Training Course Materials Reimbursement (per Person)	250.00
Department Commissioner's Office	
Fees Applicable to All Divisions In Department of Public Safety	
Courier Delivery	Actual cost
Fax (per page)	1.00
Audio/Video/Photos (per CD)	25.00
Developed photo negatives (per photo)	1.00
Printed Digital Photos (per paper)	2.00

1, 2, or 4 photos per sheet (8x11) based on request

Miscellaneous Computer Processing (per hour)	Cost of Employee Time
Bulk/E-Data Transaction (per Record)	0.10
Copies	
Mailing	Actual cost
Color (per page)	1.00
Over 50 pages (per page)	0.50
1-10 pages	5.00
11-50 pages	25.00
Department Sponsored Conferences	
Registration (per registrant)	275.00
Late Registration (per registrant)	300.00
Vendor Fee (per Vendor)	700.00
Fire Marshal – Fire Operations	
Fire and Life Safety Review (per Sq. Ft.)	Greater of $75/plan review or $.022/sq. ft.
Annual license for display operator, special effects operator, or flame effects operator (per License)	40.00
Annual license for importer and wholesaler of pyrotechnic devices (per License)	250.00
Inspection For Fire Clearance	
Re-Inspection Fee (per Re-Inspection)	250.00
Liquid Petroleum Gas	
License	
Class I	450.00
Class II	450.00
Class III	105.00
Class IV	150.00
Branch Office	338.00
Duplicate	30.00
Examination	30.00
Re-examination	30.00
Five Year Examination	30.00
Certificate	40.00
Dispenser Operator B	20.00
Plan Reviews	
More than 5000 gallons	150.00
5000 water gallons or less	75.00
Special inspections (per hour)	50.00
Re-inspection	250.00

3rd inspection or more

Private Container Inspection	
More than one container	150.00
One container	75.00
Portable Fire Extinguisher and Automatic Fire Suppression Systems	
License	300.00
Combination	150.00
Branch Office License	150.00
Certificate of Registration	40.00
Duplicate Certificate of Registration	40.00
License Transfer	50.00
Application for exemption	150.00
Examination	30.00
Re-examination	30.00
Five year examination	30.00
Automatic Fire Sprinkler Inspection and Testing	
Certificate of Registration	30.00
Examination	20.00
Re-examination	20.00
Three year extension	20.00
Fire Alarm Inspection and Testing	
Certificate of Registration	40.00
Examination	30.00
Re-examination	30.00
Three year extension	30.00
Highway Patrol - Administration	
UHP Conference Registration Fee	250.00
Online Traffic Reports Utah Interactive Convenience Fee	2.50
Photogrammetry	100.00
Cessna (per hour)	155.00
Plus meals and lodging	
Helicopter (per hour)	1,350.00
Plus meals and lodging	
Court order requesting blood samples be sent to outside agency	40.00
Highway Patrol - Federal/State Projects	
24-7 Sobriety Program	
24-7 Sobriety Program New Participant Set Up Fee (per Participant)	30.00
24-7 Sobriety Program Portable Breath Test (per Test)	2.00
24-7 Sobriety Program Urine Test (per Test)	6.00
24-7 Sobriety Program Continuous Alcohol Monitoring Bracelet (per Day)	10.00
Transportation and Security Details (per hour)	100.00
Plus mileage	
Highway Patrol - Safety Inspections	
Safety Inspection Program	
Safety Inspection Manual	5.50
Stickers (book of 25)	4.50
Sticker reports (book of 25)	3.00
Inspection certificates for passenger/ light truck (book of 50)	3.00
Inspection certificates for ATV (book of 25)	3.00
Inspection Station	
Permit application fee	100.00
Station physical address change	100.00
Replacement of lost permit	2.25
Inspector	
Certificate application fee	7.00
Valid for 5 years	
Certificate renewal fee	4.50
Replacement of lost certificate	1.00

BUREAU OF CRIMINAL IDENTIFICATION

Law Enforcement/Criminal Justice Services	
TAC Conference Registration	100.00
Non-Government/Other Services	
Vacatur Expungement Order Processing Fee	65.00
Replication Fee for Rap Back Enrollment (per Request)	10.00
Record Challenge Fee (per Request)	15.00
Paper Arrest (OTN) Fingerprint Card Packets (per card packet)	15.00
Right of Access (per Request)	15.00
AFIS Retain (per Request)	5.00
Applicant Fingerprint Card (WIN) (per Request)	15.00
Firearm Transaction (Brady Check)	7.50
Name/DOB Applicant Background Check	15.00
Concealed Firearm Permit Instructor Registration	35.00
Board of Pardons Expungement Processing	65.00
Fingerprint Services	15.00
Print Other State Agency Cards	5.00
State Agency ID set up	50.00
Child ID Kits	1.00
Extra Copies Rap Sheet	15.00
Extra Fingerprint Cards	5.00
Concealed weapons permit renewal Utah Interactive Convenience Fee	0.75
Photos15.00	
Application for Removal From White Collar Crime Registry	120.00
Private Investigator	
Original agency license application and license	215.00
Renewal of an agency license	115.00
Original registrant or apprentice license application and license	115.00
Renewal of a registrant or apprentice license	65.00
Late Fee Renewal - Agency	65.00
Late Fee Renewal - Registrant/ Apprentice	45.00
Reinstatement of any license	65.00
Duplicate identification card	25.00
Bail Enforcement	
Original bail enforcement agent license application and license	250.00
Renewal of a bail enforcement agent or bail bond recovery agency license	150.00
Original bail recovery agent license application and license	150.00
Renewal of each bail recovery agent license	100.00
Original bail recovery apprentice license application and license	150.00
Renewal of each bail recovery apprentice license	100.00
Late Fee Renewal - Enforcement Agent/Recovery Agency	50.00
Late Fee Renewal - Recovery Agent	30.00
Late Fee Renewal - Recovery Apprentice	30.00

Reinstatement of a bail enforcement agent or bail bond recovery agency license	50.00
Duplicate identification card	10.00
Reinstatement of an identification card	10.00
Sex Offender Kidnap Registy	
Application for removal from registry	168.00
Eligibility Certificate for removal from registry	25.00
Expungements	
Special certificate of eligibility.	65.00
Application	65.00
Certificate of Eligibility	65.00

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

DFCM ADMINISTRATION

Program Management	
Non-state Funded Project Fees	
Projects <$99,999 (per Project)	4.0%
Maximum fee of $10,600	
Projects >= $100K and <$499,999 (per Project)	$4,000 + 1.8% over $100,000
Maximum fee of $29,200	
Projects >= $500K and <$2,499,999 (per Project)	$11,200 + 0.9% over $500,000
maximum fee of $29,200	
Projects >= $2.5M and <$9,999,999 (per Project)	$29,200 + 0.6% over $2,500,000
Maximum fee of $74,200	
Projects >= $10M and <$49,999,999 (per Project)	$74,200 + 0.18% over $10,000,000
Maximum fees of $146,200	
Projects >= $50M (per Project)	$146,200 + 0.12% over $50,000,000
Maximum fees of $206,200 at $100M	

EXECUTIVE DIRECTOR

Government Records Access and Management Act	
Photocopies, Black & White (per Copy)	0.10
Photocopies, Color (per Copy)	0.25
Photocopy Labor Cost (per Utah Statute 63G-2-203(2)) (per page)	Actual Cost
Certified Copy of a Document (per certification)	4.00
Long Distance Fax Within U.S. (per fax number)	2.00
Electronic Documents on Any Physical Media (per USB (GB))	Actual Cost
Mail Within U.S. (per address)	2.00
Mail Outside U.S. (per address)	5.00
Research or services	Actual cost

FINANCE ADMINISTRATION

Financial Information Systems	
FINET Interface Implementation - Large Project	5,600.00
FINET Interface Implementation - Medium Project	3,700.00
FINET Interface Implementation - Small Project	1,900.00
Custom Report and Dashboard Development and Maintenance	Actual Costs
FINET Interface Document Clean Up (per Hour)	46.00
Credit Card Payments	Variable
Contract rebates	
Financial Reporting	
Loan Origination Fee	500.00
Loan Servicing	125.00
ISF Accounting Services	Actual cost
Cash Mgt Improvement Act Interest Calculation	Actual cost
Single Audit Billing to State Auditor's Office	Actual Cost
Payables/Disbursing	
Disbursements	
Collection Service	15.00
IRS Collection Service	25.00
Payroll	
Out-of-State Employee Maintenance Fee	1,300.00
Out-of-State Employee Set Up Fee	2,200.00
Payroll Interface Document Cleanup	46.00
Tax Review Fee for Out-of-State Payroll	Actual Cost

STATE ARCHIVES

Archives Administration	
Data Base Download (plus Work Setup Fee) (per Record)	0.10
Patron Services	
Copy - Paper to PDF (Copier use by Patron)	0.05
Digital Collection Setup Host fee	300.00
Local Commercial License	10.00
National Commercial License	50.00
Copy - Paper to PDF (copier use by staff)	0.25
General	
Certified Copy of a Document	4.00
Photo Reproductions	
Digital Imaging 300 dpi or higher	10.00
Mailing and Fax Charges	
Within USA	
Mailing in USA - 1 to 10 Pages	3.00
Mailing in USA - Microfilm 1 to 2 Reels	4.00
Mailing in USA - Each additional Microfilm Reel	1.00
Mailing in USA - CD/DVD/USB	4.00
Mailing in USA - Add Postage for Each 10 Pages	1.00
International	
Mailing International - 1 to 10 Pages	5.00
Mailing International - Each Additional 10 Pages	1.00
Mailing International - Microfilm 1 to 2 Reels	6.00
Mailing International - Each additional Microfilm Reel	2.00

Mailing International – CD/DVD/ USB	6.00
Copy Charges	
Audio	
Copy Charges – Audio Recordings	10.00
Price excludes cost of medium	
Documents	
Copy Charges – 11 x 14 and 11 x 17 by Staff, Limit 50	0.50
Copy Charges – 11 x 14 and 11 x 17 by Patron	0.25
8.5x11	
Copy – 8.5 x 11 by Staff, Limit 50	0.25
Copy – 8.5 x 11 by Patron	0.10
Microfilm/Microfiche	
Digital	
Copy – Digital by Staff, Limit 25	1.00
Copy – Digital by Patron	0.15
Paper	
Copy Microfilm – Paper by Staff, Limit 25	1.00
Copy Microfilm – Paper by Patron	0.25
Video	
Copy Video – Video Recording (excludes cost of medium)	20.00
Price excludes cost of medium	
Other	
Archivist Handling fee (per hr.) (per hour)	At Cost
Special Request	At Cost
Supplies	
Supplies – USB Flash Drive (per gigabyte)	5.00
Supplies – CD (per disk)	0.30
Supplies – DVD (per disk)	0.40
Electronic File on–line (per File)	2.50
Preservation Services	
Work Setup Fee (WSF)	17.00
Microfiche Production Fee per Image Plus (WSF) (per image)	0.045
General	
16–mm Master Film	13.00
Digital Copies of Electronic Rolls of Microfilm plus medium cost	10.00
35–mm Master Film	35.00
16–mm Silver Duplicate Copy	30.00
35–mm Silver Duplicate Copy	24.00
Books filmed (per Page)	0.15
Electronic Image to Microfilm (per Reel)	45.00
Microfilm to CD/DVD/USB (per reel)	40.00
Microfilm Lab Processing Setup Fee	5.00
Microfilm to digital PDF conversion	5.00

STATE DEBT COLLECTION FUND

Office of State Debt Collection	
Attorney / Legal fee (per Hour)	$100 per hour
Corrections Tuition Fee	10% of tuition account balance
Collection Penalty	6.0%
Collection Interest	Prime + 2%
Post Judgment Interest	Variable
Labor Commission Wage Claims	Variable
10% of partial payments; 1/3 of claim or $500, whichever is greater for full payments	
Administrative Collection	15.5%
15.5% of amount collected (18.34% effective rate)	
Garnishment Request	Actual cost
Legal Document Service	Actual cost
Greater of $20 or Actual	
Credit card processing fee charged to collection vendors	1.75%
Court Filing, Deposition/ Transcript /Skip Tracing	Actual cost

DIVISION OF FACILITIES CONSTRUCTION AND MANAGEMENT - FACILITIES MANAGEMENT

Box Elder Public Safety	71,705.00
Cultural & Community Engagement MSS	14,964.25
Taylorsville State Office Building	2,891,435.00
SLC VA home	40,667.90
Garage–Groundskeeper I	34.68
Provo Courts/Terrace	1,320,997.88
DEQ Building	104,788.63
Unified Lab #2	865,836.54
Cedar City DNR	77,790.16
Ogden VA Nursing Home	52,945.37
Clearfield Warehouse C6 – Archives	152,535.84
Garage–Facilities Manager / Coord II	73.25
Garage–Grounds Manager	49.00
Spanish Fork Veterinary Lab	50,716.03
Utah Arts Collection	43,900.00
West Jordan Courts	557,835.00
Chase Home	17,428.00
Clearfield Warehouse C7 – DNR/DPS	102,837.00
Garage–Grounds Supervisor	45.00
Garage–Journey Plumber	61.81
Payson VA Nursing Home	189,105.70
Utah State Office of Education	410,669.00
Calvin Rampton Complex	1,602,863.00
Garage–Journey Electrician	72.22
Utah State Developmental Center	2,648,357.00
Vernal DNR Regional	80,394.00
Vernal Drivers License	36,055.00
Department of Public Safety DPS Crime Lab	42,000.00
Cannon Health	860,515.00
Garage–Electronics Resource Group	54.41
Garage–Groundskeeper II	44.00
Garage–Journey HVAC	65.38
Lone Peak Forestry & Fire	45,820.65
N UT Fire Dispatch Center	30,438.66
DPS Drivers License	185,577.00
Alcoholic Beverage Control Stores	1,935,322.50
Garage–Journey Maintenance	58.10
Ivins VA Nursing Home	134,064.39
Utah State Tax Commission	970,200.00
Vernal Juvenile Courts	40,256.00
Veteran's Memorial Cemetery	41,504.00
Work Force Services DWS/DHS – 1385 South State	408,430.70

Alcoholic Beverage Control Administration	804,951.92
Brigham City Regional Center	573,808.00
Garage-Maintenance Supervisor	63.77
Price Public Safety	90,897.00
Vernal 8th District Court	248,649.00
Wasatch Courts	11,518.56
DWS Administration	685,930.00
Archive Building	166,335.00
Capitol Hill Complex	3,124,900.00
Department of Government Operations Surplus Property	59,747.00
Garage-Mechanic	46.00
Juab County Court	76,798.00
Ogden Juvenile Court	444,038.00
Department of Public Safety	
DPS Farmington Public Safety	100,425.00
Work Force Services	
DWS Call Center	200,317.00
Brigham City Court	169,400.00
Cedar City Courts	155,520.00
Dixie Drivers License	72,928.00
Fairpark Driver's License Division	61,571.00
Garage-Administrative Staff	53.41
Garage-Journey Boiler Operator	63.14
Garage-Office Specialist	49.87
Rio Grande Depot	244,431.35
Human Services	
DHS - Vernal	74,117.00
Work Force Services	
DWS Cedar City	93,461.00
Adult Probation and Parole Freemont Office Building	223,375.00
Cedar City Regional Center	92,008.00
DCFS - OREM	120,792.00
Division of Services for the Blind and Visually Impaired Training Housing	49,736.00
Driver License West Valley	98,880.00
Farmington 2nd District Courts	537,465.00
Garage-Apprentice Maintenance	51.96
Garage-Journey Carpenter	58.00
Garage-Temp Groundskeeper	23.50
Glendinning Fine Arts Center	43,691.00
Governor's Residence	177,156.00
Heber M. Wells	1,152,179.00
Highland Regional Center	160,286.40
Layton Court	105,896.00
Logan 1st District Court	379,267.00
Moab Regional Center	142,533.00
Murray Highway Patrol	141,738.00
Natural Resources	745,072.00
Natural Resources Price	124,323.00
Natural Resources Richfield (Forestry)	104,508.14
Navajo Trust Fund Administration	157,640.00
Office of Rehabilitation Services	204,156.00
Ogden Court	562,740.00
Ogden Division of Motor Vehicles and Drivers License	91,964.00
Ogden Juvenile Probation	211,134.00
Ogden Radio Shop	16,434.00
Ogden Regional Center	751,511.27
Orem Public Safety	105,640.00
Orem Region Three Department of Transportation	178,192.00
Provo Juvenile Work Crew	74,164.77
Provo Regional Center	839,011.10
Public Safety Depot Ogden	34,822.00
Richfield Court	161,535.68
Richfield Dept. of Technology Services Center	39,000.00
Richfield Regional Center	75,499.00
Salt Lake Court	1,868,160.00
Salt Lake Government Building #1	972,934.00
Salt Lake Regional Center - 1950 West	250,492.00
St. George Courts	600,353.00
St. George DPS	49,572.00
St. George Tax Commission	64,224.00
State Library	221,121.80
State Library State Mail	162,341.55
State Library Visually Impaired	137,538.65
Taylorsville BCI	185,250.00
Taylorsville Center for the Deaf	138,681.00
Tooele Courts	354,051.00
Unified Lab	883,894.00
Vernal Division of Services for People with Disabilities	31,330.00
Human Services	
DHS Clearfield East	127,306.00
DHS Ogden - Academy Square	299,834.00
Work Force Services	
DWS Brigham City	62,804.00
DWS Clearfield/Davis County	180,633.00
DWS Logan	140,088.00
DWS Metro Employment Center	252,776.00
DWS Midvale	135,640.00
DWS Ogden	203,748.00
DWS Provo	195,970.00
DWS Richfield	58,072.00
DWS South County Employment Center	176,196.00
DWS St. George	86,452.00
DWS Vernal	73,702.00

DIVISION OF FINANCE

ISF - Purchasing Card	
Purchasing Card	Variable
Contract rebates	
Car and/or Hotel Only	8.00
Travel	
Travel Agency Service	
Regular	27.00
Online	17.00
State Agent	22.00
Group	
10-25 people	24.50
26-50 people	22.00
51-99 people	19.50
100+ people	19.00
School District Agent	17.00

DIVISION OF FLEET OPERATIONS

ISF - Fuel Network	
State-Owned Sites Markup on Fuel (per gallon)	0.28
Retail Sites Markup on Fuel (per gallon)	0.18
Percentage of Transaction Value on Non-fuel Purchases	3.0%
EPA Compliance Monitoring (per month)	100.00
Service Rate (per hour)	70.00
Materials Rate	Actual cost

Petroleum Storage Tank Trust Fund Rate	Actual cost
CNG Maintenance and Depreciation (per gallon)	1.15
Accounts receivable late fee	
Past 30 days	5% of balance
Past 60 days	10% of balance
Past 90 days	15% of balance
ISF – Motor Pool	
Telematics GPS tracking	Actual cost
Commercial Equipment Rental	Cost plus $12 Fee
Administrative Fee for Do–Not Replace Vehicles (per Month)	51.29
Service Fee (per occurrence)	12.00
General MP Info Research Fee (per per hour)	12.00
Lost or Damaged Fuel/Maint Card Replacement Fee (per 2)	2.00
Vehicle Complaint Processing Fee (per 20)	20.00
Operator Negligence and Vehicle Abuse Fees (per 0)	
Lease Rate (per month, per vehicle)	See formula
Contract price divided by current life cycle.	
Mileage	See formula
Maintenance and repair costs for a particular vehicle/use type, divided by total miles for that vehicle/use type	
Fuel Pass–through	Actual cost
Equipment rate for Public Safety vehicles	Actual cost
Additional Management	
Daily Pool Rates – Actual Cost From Vendor Contract – Actual Cost	Actual Cost
Vehicle Service Center (per month each vehicle)	7.50
Administrative Fee for Overhead	42.00
Management Information System (per month each vehicle)	4.00
Vehicle Feature and Miscellaneous Equipment Upgrade	Actual cost
Vehicle Class Differential Upgrade	Actual cost
Bad Odometer Research	50.00
Operator fault	
Vehicle Detail Cleaning Service	40.00
Excessive Maintenance, Accessory Fee	Variable
Accounts receivable late fee	
Past 30–days	5% of balance
Past 60–days	10% of balance
Past 90–days	15% of balance
Accident deductible rate charged (per accident)	Actual cost
Operator negligence and vehicle abuse	Variable
Statutory Maintenance Non–Compliance	
10 days late (per vehicle per month)	100.00
20 days late (per vehicle per month)	200.00
30+ days late (per vehicle per month)	300.00
Short Term Used Vehicle Lease	155.02
Transactions Group	
Transactions Rate (per hour)	46.00

DIVISION OF PURCHASING AND GENERAL SERVICES

ISF – Central Mailing	
State Mail	
Courier	
Courier – Zone 1	2.26
Courier – Zone 2	3.88
Courier – Zone 3	8.04
Courier – Zone 4	9.70
Courier – Zone 5	14.35
Courier – Zone 6	17.79
Courier – Zone 7	21.73
Courier – Zone 8	26.42
Courier – Zone 9	28.49
Courier – Zone 10	33.22
Courier – Zone 11	36.02
Courier – Zone 12	39.87
Production	
Incoming OCR Sort	0.103
Business Reply/Postage Due	0.54
Special Handling/Labor (per hour)	85.00
Auto Fold	0.024
Label Generate	0.155
Label Apply	0.15
Auto Tab	0.35
Meter/Seal	0.028
Optical Character Reader	0.028
Additional Insert	0.01
Accountable Mail	1.45
Intelligent Inserting	0.033
ISF – Cooperative Contracting	
Cooperative Contracts	
Administrative	Up to 1.0%
ISF – Federal Surplus Property	
Surplus	
Federal Shipping and handling charges	See formula
Not to exceed 20% of federal acquisition cost plus freight/shipping charges	
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance
ISF – Print Services	
Contract Management (per impression)	0.005
Self Service Copy Rates	0.004
Cost computed by: (Depreciation + Maintenance + Supplies)/Impressions + copy multiplied impressions results	
ISF – State Surplus Property	
Surplus	
Surcharge for use of a Financial Transaction Card	Up to 3%
Surcharge applies only to the amount charged to a financial transaction card	
Online Sales Non–Vehicle	50% of net proceeds
Miscellaneous Property Pick–up Process	
State Agencies	
Total Sales Proceeds	See formula
Less prorated rebate of retained earnings	
Handheld Devices (PDAs and wireless phones)	
Less than 1–Year Old	75% of actual cost
$30 minimum	
1 Year and Older	50% of cost – $30 minimum

Unique Property Processing	Negotiated % of sales price
Electronic/Hazardous Waste Recycling	Actual cost
Vehicles and Heavy Equipment	6.5% of Net Sale Price plus $100 per Vehicle
Default Auction Bids	10% of sales price
Labor (per hour)	26.00

Half hour minimum

Copy Rates (per copy)	0.10
Semi Truck and Trailer Service (per mile)	1.08
Two-ton Flat Bed Service (per mile)	0.61
Forklift Service (per hour)	23.00

4-6000 lbs

On-site sale away from Utah State Agency Surplus Property yard	7% of net sale price
Storage	
Building (per cubic foot per month)	0.43
Fenced lot (per square foot per month)	0.23
Accounts receivable late fees	
Past 30 days	5% of balance
Past 60 days	10% of balance

RISK MANAGEMENT

ISF - Risk Management Administration	
Specialized Lines of Coverage	See Formula

These are specialized lines of insurance outside of typical coverage lines. The aviation fees are pass through costs direct from insurance provider. Also shown are fees to host (administer) the enterprise learning management system (Saba).

Aviation Insurance Premiums (pass through)	
SG-10305 Dept of Public Safety	120,754.00
SG-10269 DNR Dept of Natural Resources	23,825.00
SG-10151 Dept of Agriculture & Food	13,523.00
SG-10350 DOT Dept of Transportation	43,258.00
HE-10364 Utah State University	353,039.00
HE-10365 Utah Valley University	176,406.00
Commercial Auto	
Some Universities and State Agencies	140,399.00
Cyber Liability	
SG-10341 DGO Technology Services DTS	415,228.00
School Districts	240,479.00
Learning Management System	
Learning Management System - Enterprise Rate (per Hour)	55.00
Learning Management System - Garage Rate (per Hour)	55.00
ISF - Workers' Compensation	
Workers Compensation Premiums	
Aviation Crews (per ’$100 wages)	1.60% per $100 wages
Aviation Pilots (per ’$100 wages)	$3.37 per $100 wages
Helicopter Pilots (per ’$100 wages)	$1.53 per $100 wages
Road Construction Crews	1.60% per $100 wages
State Workers	0.61% per $100 wages
Risk Management - Auto	
Auto Property Damage (APD) Premium Methodology	
APD Premiums	See below

Exposure data (vehicles) and loss history are provided to an actuary, who proposes rates listed below.

HE-10356 UCAT-Uintah Basin ATC	4,800.00
Standard Deductible (per incident)	1,500.00

Currently applying a $1,000.00 deductible

APD Premiums: Charter Schools	
CS-10155 American Leadership Academy	1,490.00
CS-10164 C S Lewis Academy Charter School	880.00
CS-10310 Canyon Grove Academy	760.00
CS-10178 City Academy	270.00
CS-10201 East Hollywood High School	340.00
CS-10209 Fast Forward Charter	230.00
CS-10117 Franklin Discovery Academy	270.00
CS-10225 Guadalupe School	1,150.00
CS-10238 Itineris Early College High School	150.00
CS-10245 Karl G Maeser Preparatory Academy	960.00
CS-10258 Merit College Preparatory Academy	880.00
CS-10287 Northern Utah Academy For Math Engr & Science	500.00
CS-10300 Pinnacle Canyon Academy	3,320.00
CS-10302 Providence Hall Charter School	2,060.00
CS-10134 Real Salt Lake Academy	800.00
CS-10459 Salt Lake Charter School	530.00
CS-10321 Salt Lake School For The Performing Arts	1,070.00
CS-10328 Soldier Hollow Charter School	270.00
CS-10337 Success Academy - Iron	310.00
CS-10362 Utah County Academy Of Sciences	150.00
CS-10469 Utah Military Academy	2,710.00
CS-10437 Valley Academy	3,210.00
CS-10102 Vanguard Charter School	530.00
CS-10368 Vista At Entrada School For Performing Arts And Technology	610.00
CS-10369 Walden School Of Liberal Arts	80.00
APD Premiums: Higher Education	
HE-10197 Dixie State University	12,940.00
HE-10318 Salt Lake Community College	26,380.00
HE-10326 Snow College	6,900.00
HE-10333 Southern Utah University	19,710.00
HE-10163 UCAT-Bridgerland ATC	7,490.00
HE-10192 UCAT-Davis ATC	2,750.00

HE-10196 UCAT-Dixie ATC	4,200.00
HE-10263 UCAT-Mountainland ATC	3,520.00
HE-10292 UCAT-Ogden/Weber ATC	1,950.00
HE-10334 UCAT-Southwest ATC	3,020.00
HE-10348 UCAT-Tooele ATC	1,860.00
HE-10358 University of Utah	1,710.00
HE-10364 Utah State University	84,680.00
HE-10365 Utah Valley University	30,720.00
HE-10375 Weber State University	24,320.00

APD Premiums: Independent Agencies

OT-10228 Heber Valley Railroad	710.00
OT-10363 Utah State FairPark	1,110.00

APD Premiums: School Districts

SD-10154 Alpine School District	166,150.00
SD-10159 Beaver School District	7,570.00
SD-10161 Box Elder School District	41,300.00
SD-10166 Cache School District	41,050.00
SD-10168 Canyons School District	61,600.00
SD-10170 Carbon School District	13,030.00
SD-10172 Central Utah Educational Services	80.00
SD-10190 Daggett School District	4,200.00
SD-10194 Davis School District	134,470.00
SD-10199 Duchesne School District	22,490.00
SD-10204 Emery County School District	12,220.00
SD-10212 Garfield School District	7,290.00
SD-10223 Grand School District	5,790.00
SD-10224 Granite School District	112,280.00
SD-10237 Iron School District	27,940.00
SD-10240 Jordan School District	87,370.00
SD-10241 Juab School District	8,070.00
SD-10244 Kane School District	7,800.00
SD-10255 Logan City School District	2,810.00
SD-10259 Millard School District	12,620.00
SD-10262 Morgan School District	8,960.00
SD-10265 Murray School District	8,460.00
SD-10280 Nebo School District	57,830.00
SD-10283 North Sanpete School District	8,870.00
SD-10285 North Summit School District	4,720.00
SD-10286 Northeastern Utah Education Services	380.00
SD-10290 Ogden City School District	6,280.00
SD-10298 Park City School District	9,770.00
SD-10301 Piute School District	4,300.00
SD-10303 Provo School District	20,110.00
SD-10315 Rich School District	4,220.00
SD-10319 Salt Lake School District	44,030.00
SD-10322 San Juan School District	25,250.00
SD-10325 Sevier School District	17,460.00
SD-10329 South Sanpete School District	9,570.00
SD-10330 South Summit School District	6,890.00
SD-10332 Southeastern Educational Center	80.00
SD-10335 Southwest Educational Developmental Center	670.00
SD-10347 Tintic School District	2,030.00
SD-10349 Tooele School District	29,490.00
SD-10357 Uintah School District	22,900.00
SD-10371 Wasatch County School District	16,480.00
SD-10372 Washington County School District	49,940.00
SD-10373 Wayne School District	3,530.00
SD-10374 Weber School District	53,440.00

APD Premiums: State Agencies

SG-10156 Attorney General	11,220.00
SG-10297 Board of Pardons & Parole	1,100.00
SG-10181 DCCE Department of Cultural & Community Engagement	2,040.00
SG-10184 DCCE State Library	6,090.00
SG-10151 Dept of Agriculture & Food	32,030.00
SG-10152 Dept of Alcoholic Beverage Control	1,950.00
SG-10180 Dept of Commerce	4,880.00
SG-10207 Dept of Environmental Quality	4,600.00
SG-10227 Dept of Health	10,070.00
SG-10235 Dept of Insurance	3,070.00
SG-10305 Dept of Public Safety	425,710.00
SG-10367 Dept of Veterans' & Military Affairs	4,600.00
SG-10376 Dept of Workforce Services	28,700.00
SG-10145 DGO FCM Facilities Management ISF	23,510.00
SG-10147 DGO FLT Fleet Operations	28,190.00
SG-10149 DGO PUR Purchasing	250.00
SG-10150 DGO RM Risk Management	960.00
SG-10341 DGO Technology Services DTS	5,160.00
SG-10233 DHS Dept of Human Services	101,890.00
SG-10269 DNR Dept of Natural Resources	116,520.00
SG-10276 DNR DWR Wildlife	4,610.00
SG-10270 DNR Forestry, Fire, & State Lands	420.00
SG-10271 DNR OGM Oil, Gas and Mining	3,290.00
SG-10272 DNR Parks & Recreation	36,770.00
SG-10188 DOC AP&P Administration	75,490.00
SG-10186 DOC Central Utah Corr Facility	8,570.00
SG-10187 DOC Dept of Corrections	57,670.00
SG-10350 DOT Dept of Transportation	174,510.00
SG-10307 DPS UHP Utah Highway Patrol	620.00
SG-10217 Gov Comm Criminal & Juvenile Justice	180.00
SG-10216 Governor's Office	540.00

SG-10219 Governor's Office of Economic Opportunity	3,390.00
SG-10476 Governor's Office of Energy	180.00
SG-10189 Judicial Branch	28,770.00
SG-10246 Labor Commission	6,600.00
SG-10277 Navajo Trust Administration	1,910.00
SG-10304 Public Lands Policy Coordination Office	720.00
SG-10354 School & Institutional Trust Lands Admin	3,340.00
SG-10353 State Treasurer	180.00
SG-10340 Tax Commission	12,720.00
SG-10313 Utah Board of Higher Education	360.00
SG-10361 Utah Communications Authority	4,050.00
SG-10266 Utah National Guard	9,930.00
SG-10157 Utah State Auditor	360.00
SG-10203 Utah State Board of Education	14,840.00

Risk Management - Liability

Liability Premium Methodology

Liability Premiums	1.00

Exposure data and loss history are provided to an actuary, who proposes rates. Penalties shown below may also apply.

Charter School-Existing school Liability rate (per Student)

Charter School Pre-opening Liability Coverage (per School)	1,000.00

For newly-formed Charter Schools

Liability Premiums: Charter Schools

CS-10140 Academy for Math, Engineering, & Science	6,030.00
CS-10155 American Leadership Academy	19,540.00
CS-10160 Beehive Science & Technology Academy	3,950.00
CS-10126 Bonneville Academy	6,190.00
CS-10164 C S Lewis Academy Charter School	3,210.00
CS-10310 Canyon Grove Academy	7,740.00
CS-10471 Career Path High	2,510.00
CS-10127 Center For Creativity Innovation and Discovery	5,180.00
CS-10177 Channing Hall	6,850.00
CS-10178 City Academy	1,590.00
CS-10201 East Hollywood High School	2,960.00
CS-10208 Excelsior Academy Charter School	17,000.00
CS-10209 Fast Forward Charter	3,070.00
CS-10117 Franklin Discovery Academy	8,090.00
CS-10213 Gateway Preparatory Academy	8,200.00
CS-10215 Good Foundations Charter School	4,680.00
CS-10225 Guadalupe School	3,060.00
CS-10119 Ignite Entrepreneurship Academy	7,510.00
CS-10236 Intech Collegiate High School	2,740.00
CS-10238 Itineris Early College High School	4,790.00
CS-10239 John Hancock Foundation	2,420.00
CS-10245 Karl G Maeser Preparatory Academy	7,960.00
CS-10247 Lakeview Academy	11,790.00
CS-10258 Merit College Preparatory Academy	5,080.00
CS-10260 Moab Charter School	1,270.00
CS-10294 Mountain Heights Academy	16,970.00
CS-10264 Mountainville Academy	7,970.00
CS-10278 Navigator Pointe Charter School	5,570.00
CS-10281 Noah Webster Academy	6,350.00
CS-10284 North Star Academy	6,740.00
CS-10287 Northern Utah Academy For Math Engr & Science	15,720.00
CS-10289 Odyssey Charter School	4,020.00
CS-10300 Pinnacle Canyon Academy	4,340.00
CS-10302 Providence Hall Charter School	25,920.00
CS-10311 Quest Academy Charter School	12,470.00
CS-10312 Reagan Academy	7,710.00
CS-10134 Real Salt Lake Academy	5,430.00
CS-10314 Renaissance Academy	9,610.00
CS-10317 Salt Lake Arts Academy	5,180.00
CS-10459 Salt Lake Charter School	3,940.00
CS-10321 Salt Lake School For The Performing Arts	2,480.00
CS-10466 Scholar Academy	9,040.00
CS-10328 Soldier Hollow Charter School	3,430.00
CS-10118 St George Academy	4,210.00
CS-10338 Success Academy - Washington	6,250.00
CS-10343 The Ranches Academy Charter School	4,710.00
CS-10362 Utah County Academy Of Sciences	8,990.00
CS-10447 Utah International Charter School	2,630.00
CS-10469 Utah Military Academy	10,920.00
CS-10437 Valley Academy	6,630.00
CS-10102 Vanguard Charter School	5,810.00
CS-10366 Venture Academy Charter	9,130.00
CS-10368 Vista At Entrada School For Performing Arts And Technology	13,570.00
CS-10369 Walden School Of Liberal Arts	5,850.00
CS-10116 Wallace Stegner Academy	10,500.00
CS-10370 Wasatch Peak Academy	6,060.00
CS-10472 Weber State University Charter Academy	390.00
CS-10465 Winter Sports School	1,380.00

Liability Premiums: Higher Education

HE-10197 Dixie State University	296,440.00
HE-10318 Salt Lake Community College	381,160.00
HE-10326 Snow College	99,080.00

HE–10333 Southern Utah University	238,460.00
HE–10163 UCAT–Bridgerland ATC	43,400.00
HE–10192 UCAT–Davis ATC	45,030.00
HE–10196 UCAT–Dixie ATC	34,700.00
HE–10263 UCAT–Mountainland ATC	44,940.00
HE–10292 UCAT–Ogden/Weber ATC	45,470.00
HE–10334 UCAT–Southwest ATC	15,090.00
HE–10348 UCAT–Tooele ATC	12,690.00
HE–10356 UCAT–Uintah Basin ATC	23,680.00
HE–10358 University of Utah	2,198,670.00
HE–10364 Utah State University	995,570.00
HE–10365 Utah Valley University	677,860.00
HE–10375 Weber State University	384,880.00
Liability Premiums: Independent Agencies	
OT–10228 Heber Valley Railroad	8,670.00
OT–10363 Utah State Fairpark	10,200.00
School Districts (per Group)	9,565,870.00
Liability Premiums: State Agencies	
SG–10156 Attorney General	266,520.00
SG–10297 Board of Pardons & Parole	14,560.00
SG–10169 Capitol Preservation Board	3,450.00
SG–10171 Career Service Review Office	860.00
SG–10181 DCCE Department of Cultural & Community Engagement	53,160.00
SG–10151 Dept of Agriculture & Food	113,870.00
SG–10152 Dept of Alcoholic Beverage Control	161,120.00
SG–10180 Dept of Commerce	114,440.00
SG–10207 Dept of Environmental Quality	149,910.00
SG–10210 Dept of Financial Institutions	21,430.00
SG–10227 Dept of Health	324,040.00
SG–10235 Dept of Insurance	33,810.00
SG–10305 Dept of Public Safety	985,940.00
SG–10367 Dept of Veterans' & Military Affairs	12,210.00
SG–10376 Dept of Workforce Services	474,980.00
SG–10141 DGO Administrative Rules	1,590.00
SG–10142 DGO Archives Administration	8,970.00
SG–10144 DGO Executive Director	1,870.00
SG–10145 DGO FCM Facilities Management ISF	46,950.00
SG–12534 DGO FCM Facilities Management–Admin	19,750.00
SG–10146 DGO FIN Finance	16,030.00
SG–10147 DGO FLT Fleet Operations	8,400.00
SG–10100 DGO Inspector Gen Med Admin	5,950.00
SG–10149 DGO PUR Purchasing	22,980.00
SG–10150 DGO RM Risk Management	10,150.00
SG–10143 DGO SDC State Debt Collection	4,230.00
SG–10341 DGO Technology Services DTS	232,710.00
SG–10233 DHS Dept of Human Services	1,145,040.00
SG–10269 DNR Dept of Natural Resources	954,710.00
SG–10187 DOC Dept of Corrections	1,628,650.00
SG–10350 DOT Dept of Transportation	4,340,000.00
SG–10216 Governor's Office	45,930.00
SG–10219 Governor's Office of Economic Opportunity	32,370.00
SG–10476 Governor's Office of Energy	5,760.00
SG–10229 House of Representatives	7,150.00
SG–10189 Judicial Branch	337,060.00
SG–10242 Judicial Conduct Commission	3,720.00
SG–10246 Labor Commission	44,980.00
SG–10250 Legislative Auditor General	12,850.00
SG–10251 Legislative Fiscal Analyst	9,970.00
SG–10253 Legislative Research & General Counsel	29,980.00
SG–10252 Legislative Services	6,960.00
SG–10277 Navajo Trust Administration	8,690.00
SG–10309 Public Service Commission	7,440.00
SG–10112 School & Institutional Trust Fund Office	2,920.00
SG–10354 School & Institutional Trust Lands Admin	25,390.00
SG–10324 Senate	5,720.00
SG–10353 State Treasurer	11,040.00
SG–10340 Tax Commission	206,740.00
SG–10313 Utah Board of Higher Education	130,150.00
SG–10361 Utah Communications Authority	14,300.00
SG–11317 Utah Independent Redistricting Commission	750.00
SG–10266 Utah National Guard	100,910.00
SG–10157 Utah State Auditor	16,980.00
SG–10203 Utah State Board of Education	265,510.00
Risk Management – Property	
Property Coverage Premium Methodology	
Premium for Existing Insured Building and Contents	See formula

The asset values from prior year are multiplied by the Marshall & Swift Valuation Service rates associated w/ Building Construction Class, Occupancy Type, Building Quality, & Fire Protection Code. Self-reported values may also be accepted. We are changing building values from Marshall & Swift to having a building appraiser give evaluations. The evaluation process extends from FY2021 through FY2023. Exposure data (building values) and loss history are provided to an actuary, who proposes rates net of property discounts and surcharges listed below.

Premium for Newly Insured Buildings

Buildings valued in excess of $25 million reported to broker, who obtains rate from excess insurance carrier. Initial premium cost is passed through to covered entity.

Property Premium Discounts

Fire Suppression Sprinklers	15% discount
Smoke Alarm/Fire Detectors	5% discount
Flexible Water/Gas Connectors	1% discount

Property Premium Surcharges

Lack of Compliance with Risk Mgt. Recommendations	10% surcharge
Building Built Prior to 1950	10% surcharge

Property Premiums: Charter Schools

CS-10140 Academy for Math, Engineering, & Science	880.00
CS-10155 American Leadership Academy	30,280.00
CS-10160 Beehive Science & Technology Academy	1,280.00
CS-10126 Bonneville Academy	8,220.00
CS-10164 C S Lewis Academy Charter School	5,090.00
CS-10310 Canyon Grove Academy	1,620.00
CS-10471 Career Path High	320.00
CS-10127 Center For Creativity Innovation and Discovery	7,230.00
CS-10177 Channing Hall	8,740.00
CS-10178 City Academy	470.00
CS-10201 East Hollywood High School	8,360.00
CS-10208 Excelsior Academy Charter School	18,390.00
CS-10209 Fast Forward Charter	5,540.00
CS-10117 Franklin Discovery Academy	8,500.00
CS-10213 Gateway Preparatory Academy	8,520.00
CS-10215 Good Foundations Charter School	4,590.00
CS-10225 Guadalupe School	670.00
CS-10119 Ignite Entrepreneurship Academy	580.00
CS-10236 Intech Collegiate High School	510.00
CS-10238 Itineris Early College High School	7,640.00
CS-10239 John Hancock Foundation	3,750.00
CS-10245 Karl G Maeser Preparatory Academy	11,460.00
CS-10247 Lakeview Academy	17,680.00
CS-10258 Merit College Preparatory Academy	6,890.00
CS-10260 Moab Charter School	1,540.00
CS-10294 Mountain Heights Academy	560.00
CS-10264 Mountainville Academy	12,610.00
CS-10278 Navigator Pointe Charter School	4,160.00
CS-10281 Noah Webster Academy	7,860.00
CS-10284 North Star Academy	6,340.00
CS-10287 Northern Utah Academy For Math Engr & Science	220.00
CS-10289 Odyssey Charter School	6,150.00
CS-10300 Pinnacle Canyon Academy	22,570.00
CS-10302 Providence Hall Charter School	29,130.00
CS-10311 Quest Academy Charter School	12,300.00
CS-10312 Reagan Academy	8,210.00
CS-10134 Real Salt Lake Academy	10,750.00
CS-10314 Renaissance Academy	7,340.00
CS-10317 Salt Lake Arts Academy	6,640.00
CS-10459 Salt Lake Charter School	480.00
CS-10321 Salt Lake School For The Performing Arts	640.00
CS-10466 Scholar Academy	8,360.00
CS-10328 Soldier Hollow Charter School	5,050.00
CS-10118 St George Academy	4,710.00
CS-10337 Success Academy - Iron	210.00
CS-10338 Success Academy - Washington	170.00
CS-10343 The Ranches Academy Charter School	4,910.00
CS-10362 Utah County Academy Of Sciences	11,980.00
CS-10447 Utah International Charter School	360.00
CS-10469 Utah Military Academy	4,490.00
CS-10437 Valley Academy	5,480.00
CS-10102 Vanguard Charter School	610.00
CS-10366 Venture Academy Charter	13,410.00
CS-10368 Vista At Entrada School For Performing Arts And Technology	12,150.00
CS-10369 Walden School Of Liberal Arts	6,000.00
CS-10116 Wallace Stegner Academy	8,680.00
CS-10370 Wasatch Peak Academy	4,790.00
CS-10472 Weber State University Charter Academy	40.00
CS-10465 Winter Sports School	1,920.00

Property Premiums: Higher Education

HE-10197 Dixie State University	349,640.00
HE-10318 Salt Lake Community College	522,420.00
HE-10326 Snow College	236,240.00
HE-10333 Southern Utah University	451,170.00
HE-10163 UCAT-Bridgerland ATC	79,740.00
HE-10192 UCAT-Davis ATC	110,520.00
HE-10196 UCAT-Dixie ATC	55,760.00
HE-10263 UCAT-Mountainland ATC	72,010.00
HE-10334 UCAT-Southwest ATC	31,740.00
HE-10348 UCAT-Tooele ATC	18,410.00

HE-10292 UCAT-Ogden/ Weber ATC	127,380.00
HE-10356 UCAT-Uintah Basin ATC	79,600.00
HE-10358 University of Utah	9,015,250.00
HE-10364 Utah State University	1,971,960.00
HE-10365 Utah Valley University	803,720.00
HE-10375 Weber State University	935,620.00
Property Premiums: Independent Agencies	
OT-10228 Heber Valley Railroad	6,550.00
SG-10361 Utah Communications Authority	124,460.00
OT-10363 Utah State Fairpark	55,950.00
Property Premiums: School Districts	
SD-10154 Alpine School District	1,018,080.00
SD-10159 Beaver School District	68,490.00
SD-10161 Box Elder School District	317,730.00
SD-10166 Cache School District	288,940.00
SD-10168 Canyons School District	777,040.00
SD-10170 Carbon School District	76,040.00
SD-10190 Daggett School District	18,370.00
SD-10194 Davis School District	1,471,440.00
SD-10199 Duchesne School District	157,320.00
SD-10204 Emery County School District	86,950.00
SD-10212 Garfield School District	48,210.00
SD-10223 Grand School District	49,900.00
SD-10224 Granite School District	761,920.00
SD-10237 Iron School District	202,540.00
SD-10240 Jordan School District	1,148,790.00
SD-10241 Juab School District	58,700.00
SD-10244 Kane School District	96,100.00
SD-10255 Logan City School District	135,160.00
SD-10259 Millard School District	100,220.00
SD-10262 Morgan School District	92,410.00
SD-10265 Murray School District	116,030.00
SD-10280 Nebo School District	451,150.00
SD-10283 North Sanpete School District	46,100.00
SD-10285 North Summit School District	37,150.00
SD-10286 Northeastern Utah Education Services	720.00
SD-10290 Ogden City School District	418,460.00
SD-10298 Park City School District	110,140.00
SD-10301 Piute School District	14,500.00
SD-10303 Provo School District	359,730.00
SD-10315 Rich School District	32,560.00
SD-10319 Salt Lake School District	1,163,730.00
SD-10322 San Juan School District	186,060.00
SD-10325 Sevier School District	109,230.00
SD-10329 South Sanpete School District	141,510.00
SD-10330 South Summit School District	98,070.00
SD-10332 Southeastern Educational Center	1,030.00
SD-10335 Southwest Educational Developmental Center	1,120.00
SD-10347 Tintic School District	41,390.00
SD-10349 Tooele School District	245,070.00
SD-10357 Uintah School District	154,880.00
SD-10371 Wasatch County School District	126,780.00
SD-10372 Washington County School District	716,780.00
SD-10373 Wayne School District	15,960.00
SD-10374 Weber School District	556,120.00
Property Premiums: State Agencies	
SG-10156 Attorney General	4,930.00
SG-10297 Board of Pardons & Parole	1,500.00
SG-10169 Capitol Preservation Board	365,320.00
SG-10171 Career Service Review Office	70.00
SG-10181 DCCE Department of Cultural & Community Engagement	760.00
SG-10185 DCCE Foundation	105,240.00
SG-10184 DCCE State Library	17,260.00
SG-10183 DCCE Utah Arts Council	18,810.00
SG-10151 Dept of Agriculture & Food	8,660.00
SG-10152 Dept of Alcoholic Beverage Control	110,300.00
SG-10180 Dept of Commerce	5,280.00
SG-10207 Dept of Environmental Quality	24,970.00
SG-10210 Dept of Financial Institutions	790.00
SG-10227 Dept of Health	20,650.00
SG-10235 Dept of Insurance	1,310.00
SG-10305 Dept of Public Safety	49,000.00
SG-10367 Dept of Veterans' & Military Affairs	158,690.00
SG-10376 Dept of Workforce Services	49,890.00
SG-10141 DGO Administrative Rules	160.00
SG-10142 DGO Archives Administration	44,210.00
SG-10144 DGO Executive Director	220.00
SG-10145 DGO FCM Facilities Management ISF	1,147,240.00
SG-10146 DGO FIN Finance	6,330.00
SG-10147 DGO FLT Fleet Operations	1,350.00
SG-10230 DGO Human Resource Management	800.00
SG-10149 DGO PUR Purchasing	16,270.00
SG-10150 DGO RM Risk Management	530.00
SG-10143 DGO SDC State Debt Collection	260.00

SG-10341 DGO Technology Services DTS	123,090.00
SG-10233 DHS Dept of Human Services	74,660.00
SG-10234 DHS DSPD Svcs for Disabilities	76,520.00
SG-10231 DHS JJS Juvenile Justice Serv	142,100.00
SG-10232 DHS Substance Abuse & Mental Health	107,270.00
SG-10269 DNR Dept of Natural Resources	11,140.00
SG-10276 DNR DWR Wildlife	197,370.00
SG-10270 DNR Forestry, Fire, & State Lands	12,020.00
SG-10274 DNR Water Resources Administration	1,870.00
SG-10271 DNR OGM Oil, Gas and Mining	2,080.00
SG-10272 DNR Parks & Recreation	523,250.00
SG-10273 DNR Utah Geological Survey	2,490.00
SG-10275 DNR WRi	1,960.00
SG-10188 DOC AP&P Administration	56,740.00
SG-10186 DOC Central Utah Corr Facility	144,230.00
SG-10187 DOC Dept of Corrections	322,420.00
SG-10352 DOT Aeronautics	3,820.00
SG-10351 DOT Construction Management	20,150.00
SG-10350 DOT Dept of Transportation	546,030.00
SG-10306 DPS DL Driver License	9,920.00
SG-10308 DPS FM Fire Marshall	600.00
SG-10307 DPS UHP Utah Highway Patrol	20.00
SG-10217 Gov Comm Criminal & Juvenile Justice	1,610.00
SG-10221 Gov Constitutional Defence	1,140.00
SG-10220 Gov Office Planning and Budget	2,230.00
SG-10216 Governor's Office	11,080.00
SG-10219 Governor's Office of Economic Opportunity	2,060.00
SG-10229 House of Representatives	2,550.00
SG-10189 Judicial Branch	59,400.00
SG-10242 Judicial Conduct Commission	70.00
SG-10246 Labor Commission	3,860.00
SG-10250 Legislative Auditor General	780.00
SG-10251 Legislative Fiscal Analyst	340.00
SG-10253 Legislative Research & General Counsel	1,340.00
SG-10252 Legislative Services	1,470.00
SG-10277 Navajo Trust Administration	3,710.00
SG-10304 Public Lands Policy Coordination Office	300.00
SG-10309 Public Service Commission	1,880.00
SG-10112 School & Institutional Trust Fund Office	1,640.00
SG-10354 School & Institutional Trust Lands Admin	5,230.00
SG-10323 SBE School for the Deaf and Blind	76,960.00
SG-10324 Senate	1,250.00
SG-10353 State Treasurer	1,060.00
SG-10340 Tax Commission	15,430.00
SG-10313 Utah Board of Higher Education	31,180.00
SG-10257 BHE Medical Education Council (UMEC)	60.00
SG-11317 Utah Independent Redistricting Commission	15.00
SG-10266 Utah National Guard	478,070.00
SG-10157 Utah State Auditor	1,250.00
Course of Construction Premiums	
Rate per $100 of value	0.10

Charged once per project (unless scope changes)

ENTERPRISE TECHNOLOGY DIVISION

ISF - Enterprise Technology Division	
Application Developer Rate	
Tier 1 (per Hour)	67.19
Tier 2 (per Hour)	77.84
Tier 3 (per Hour)	81.97
Tier 4 (per Hour)	94.64
Tier 5 (per Hour)	95.21
Tier 6 (per Hour)	106.18
Tier 7 (per Hour)	107.82
Tier 8 (per Hour)	121.05
Master Engineer/Consultant (per Hour)	Special Billing Agreement
Communication and Phone Services	
Business Phone Line VoIP (incl. Softphone & LD) (per Line/Month)	29.16
Business Phone Line Analog (per SBA)	Special Billing Agreement
Toll Free (per Minute)	0.0342
Persistent Chat (per User/Month)	9.35
Contact Center (per Core License/Month)	25.44
Technician Hourly Rate (per Hour)	71.40
Computer Support Services	
Computer and Helpdesk Support (per Device/Month)	70.85
Adobe Pro/Sign (per Device/Month)	1.56
DaaS AWS (per Cost + 10%)	Direct Cost + 10%
DaaS Citrix/GCP (per Device/Month)	39.28
Google Email and Collaboration Tools (per Account/Month)	11.02
On-Call Support (per SBA)	Special Billing Agreement
Database Services	
Oracle Database Hosting Core Model (per Core/Month)	961.38
Oracle Database Hosting Shared Model (per GB/Month)	9.47
SQL Database Hosting Core Model (per Core/Month)	906.08
SQL Database Hosting Shared Model (per GB/Month)	11.51

Hosting Services	
Processing (CPU) (per CPU/Month)	45.39
Memory (per GB/Month)	6.81
General Purpose Storage (per GB/Month)	0.0696
Back-up Services (per GB/Month)	0.1641
Simple Storage (per GB/Month)	0.0198
Web Application Hosting (per Instance/Month)	109.81
Data Center Rack Space - Full Rack (per Rack/Month)	936.85
Data Center Rack Space - Rack U (per Rack U/Month)	31.23
Cloud Hosting and Storage Services (per Actual Cost)	
Network Services	
Network Connection (ISP, VPN) (per Device/Month)	55.86
Network - IoT (per Connection/ Month)	9.82
Network Services - 10 GB (per Connection/Month)	223.43
Network Connection - Non-Cabinet Agencies (per Device/Month)	63.45
Security Services	
Security Support (including Authentication Services) (per Device/Month)	30.44
Security Assessment and Remediation (per Table)	Table

Server Count: 0-5 $12,500; 6-38 $25,000; 39-84 $50,000; >= 85 $100,000

Print Services	
High Speed Laser Print (per Image)	0.0268
Miscellaneous Services	
DTS Consulting Charge (per Hour)	Table

Tier 1: $67.19/hr; Tier 2: $77.84/hr; Tier 3: $81.97/hr; Tier 4: $94.64/hr; Tier 5: $95.21/hr; Tier 6: $106.18/hr; Tier 7: $107.82/hr; Tier 8: $121.05/hr; Master Engineer/Consultant: SBA rate/hr

Consultant Services (Managed Service Provider) (per Cost + 3%)	Direct Cost + 3%
All Other Contracts (per Up to Cost + 1%)	Cost + 1%
Enterprise Software (Adobe, Microsoft, etc.) (per Cost + 10%)	Direct Cost + 10%
Other Technical Services (per Cost + 10%)	Cost + 10%

INTEGRATED TECHNOLOGY

Utah Geospatial Resource Center	
UGRC Services	
GPS Subscriptions (per Subscription/ Year)	600.00
UGRC Plots (per Linear Foot)	6.00
GIT Professional Labor (per Hour)	see schedule below

Tier 1: $67.19/hr; Tier 2: $77.84/hr; Tier 3: $81.97/hr; Tier 4: $94.64/hr; Tier 5: $95.21/hr; Tier 6: $106.18/hr; Tier 7: $107.82/hr; Tier 8: $121.05/hr; Master Engineer/Consultant: SBA rate/hr

HUMAN RESOURCE MANAGEMENT

Statewide Management Liability Training	
Course Fee (per student)	750.00

Per Course

Other Training Fee (per hour)	25.00

$25 per training hour - materials not included.

HUMAN RESOURCES INTERNAL SERVICE FUND

ISF - Core HR Services	
Core HR (per FTE)	12.00
ISF - Field Services	
Consulting Services (Non-Customer) (per Hour)	60.00

Billing for DHRM consultation with agencies who do not use DHRM HR services.

HR Services (per FTE)	820.00
Remote Notary Background Check Fee	6.50

This fee originated after 2019 General Session HB 52 directing DHRM to provide background checks for remote notaries for the state. The cost agreed upon was $6.50 per background check performed.

ISF - Payroll Field Services	
Payroll Services (per FTE)	70.00

TRANSPORTATION

AERONAUTICS

Administration	
Convenience Fee (for Credit or Debit Card Payment)	3%
Airplane Operations	
Aircraft Rental	
Cessna (per hour)	195.00
King Air C90B (per Hour)	935.00
King Air B200 (per Hour)	1,200.00

DOT NON-BUDGETARY

XYD DOT MISCELLANEOUS REVENUE	
Event Coordination, Inspection and Monitoring (Regular Hours) (per Hour)	60.00
Event Coordination, Inspection and Monitoring (Non-regular Hours) (per Hour)	80.00
Special Event Application Review (Single Region) (per Event)	250.00
Special Event Application Review (Multi-region) (per Event)	500.00
Expedited Review Fee (per Event)	600.00
Outdoor Advertising	
New Permit	950.00
Permit Renewal and Administrative Services Fee	90.00
Permit Renewal Late Fee (per Sign)	300.00
Sign Alteration Permit (per Sign)	950.00
Transfer of Ownership Permit	250.00
Retroactive Permit Fee Penalty (per Sign)	250.00
Impound and Storage Fees	25.00

OPERATIONS/ MAINTENANCE MANAGEMENT

Region 4	
Lake Powell Ferry Rates	
Foot Passengers	10.00
Motorcycles	15.00
Vehicles Under 20’	25.00
Vehicles Over 20’ (per Additional Foot)	1.50
Traffic Safety/Tramway	
Tramway Registration	
Two-car or Multicar Aerial Passenger Tramway	
Aerial Tramway - 101 Horse Power or Over	2,030.00
Aerial Tramway - 100 Horse Power or Under	1,010.00
Tramway Surcharge for Winter and Summer Use	15%

This is a surcharge to the registration fee for passenger ropeways that are operated year round. 15% will be added to the registration fee for those ropeways.

Chair Lift	
Fixed Grip	
2 Passenger	630.00
3 Passenger	750.00
4 Passenger	875.00
Conveyor, Rope Tow	260.00
Funicular - Single or Double Reversible	2,030.00
Rope Tow, J-bar, T-bar, or Platter Pull	260.00
Detachable Grip Chair or Gondola	
3 Passenger	1,510.00
4 Passenger	1,625.00
6 Passenger	1,750.00
8 Passenger	1,880.00
Gondola - Cabin Capacity from 5 to 8	1,010.00
Gondola - Cabin Capacity greater than 8	2,030.00

SUPPORT SERVICES

Administrative Services	
Express Lane - Administrative Fee	2.50
Non-sufficient Check Collection	20.00
Non-sufficient Check Service Charge	20.00
Tow Truck Driver Certification	200.00
Access Management Application	
Type 1	75.00
Type 2	475.00
Type 3	1,000.00
Type 4	2,300.00
Access Violation Fine (per Day)	100.00
Encroachment Permits	
Landscaping	30.00
Manhole Access	30.00
Inspection (per Hour)	60.00
Overtime Inspection (per Hour)	80.00
Utility Permits	
Low Impact	30.00
Medium Impact	135.00
High Impact	300.00
Excess Impact	500.00

AMUSEMENT RIDE SAFETY

Citations - Denying Access to the Director 1st Offense	1,000.00
Citations - Denying Access to the Director 2nd Offense	1,500.00
Citations - Failure to Maintain Proper Records for an Amusement Ride 1st Offense	500.00
Citations - Failure to Maintain Proper Records for an Amusement Ride 2nd Offense	1,000.00
Citations - Failure to Notify Director of Intent to Operate within the State 1st Offense	500.00
Citations - Failure to Notify Director of Intent to Operate within the State 2nd Offense	1,000.00
Citations - Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 1st Offense (per Violation, per Ride, per Day)	1,000.00
Citations - Failure to Report a Reportable Injury to the Director within Eight Hours after the Owner-operator Learns of the Reportable Serious Injury 2nd Offense (per Violation, per Ride, per Day)	1,500.00
Citations - Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Failure to Report a Serious Physical Injury to Fair, Show, Landlord, or Owner of the Property 2nd Offense (per Violation, per Ride, per Day)	750.00
Citations - Failure to Update Locations of Operation with Director Prior to Operation 1st Offense (per Violation, per Ride, per Day)	250.00
Citations - Failure to Update Locations of Operation with Director Prior to Operation 2nd Offense (per Violation, per Ride, per Day)	500.00
Citations - Falsifying an Application to the Director 1st Offense	1,000.00
Citations - Falsifying an Application to the Director 2nd Offense	1,500.00
Citations - Operation of an Amusement Ride by an Unqualified Person 1st Offense (per Violation, per Ride, per Day)	500.00
Citations - Operation of an Amusement Ride by an Unqualified Person 2nd Offense (per Violation, per Ride, per Day)	1,000.00
Citations - Operation of an Amusement Ride in Violation of a Cease and Desist Order 1st Offense (per Violation, per Ride, per Day)	1,000.00
Citations - Operation of an Amusement Ride in Violation of a Cease and Desist Order 2nd Offense (per Violation, per Ride, per Day)	2,500.00

Citations – Operation of an Amusement Ride without a Current Permit 1st Offense (per Violation, per Ride, per Day)	500.00
Citations – Operation of an Amusement Ride without a Current Permit 2nd Offense (per Violation, per Ride, per Day)	1,000.00
Citations – Operation of an Amusement Ride without Current Safety Inspection Report 1st Offense (per Violation, per Ride, per Day)	500.00
Citations – Operation of an Amusement Ride without Current Safety Inspection Report 2nd Offense (per Violation, per Ride, per Day)	1,000.00
Citations – Operation of an Amusement Ride without Proper Liability Insurance 1st Offense (per Violation, per Ride, per Day)	500.00
Citations – Operation of an Amusement Ride without Proper Liability Insurance 2nd Offense (per Violation, per Ride, per Day)	1,000.00
Citations – Other Violations to the Statute or Rules not Listed 2nd Offense	250.00
Annual Amusement Ride Permit	
Kiddie Ride	100.00
Non-kiddie Ride	100.00
Multi-ride Annual Amusement Ride Permit (for all amusement rides located at an amusement park that employs more than 1,000 individuals in a calendar year)	
Permit Fee per Ride	
Kiddie Ride	100.00
Non-kiddie Ride	100.00
Annual Inspector Registration	
Application Fee	50.00
Renewal Fee (Every Two Years)	40.00

BUSINESS, ECONOMIC

DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

DABC OPERATIONS

Administration	
Customized Reports Produced by Request (per hour)	50.00
Stock Location Report	25.00
Photocopies	0.15
Returned Check Fee	20.00
Application to Relocate Alcoholic Beverages Due to Change or Residence	20.00
Research (per hour)	30.00
Video/DVD	25.00
Price Lists	
Master Category	8.00
$96 Yearly	
Alpha by Product	8.00
$96 Yearly	
Numeric by Code	8.00
$96 Yearly	
Military	8.00
$96 Yearly	
Executive Director	
Compliance Licensee Lists	10.00
Label Approval Fee	50.00
Fee for DABC staff time for label approval process	
Licensee Rules	20.00
Master Limited Restaurant License Application fee	5,330.00
Master Limited Restaurant License Application fee	
Master Limited Restaurant License renewal fee	4,250.00
Master Limited Restaurant License renewal fee	
Training Fee	25.00
H.B. 442 passed in the 2017 General Session requires DABC to charge a fee for required manager and violation training that will be offered by the department starting in 2018. By statute, the fee is to cover the department's cost of providing the training program. 32B-5-405(3)(e). The new training program is meant to assist licensees to remain in compliance and in business as well as provide education to prevent any future violations.	
Utah Code	30.00
Warehouse and Distribution	
Missed Appointment with Less than 24 Hour Notice (per appointment)	500.00
Missed Appointment Without Notice (per appointment)	1,000.00
Non-Compliant Labeling (per case)	25.00
PO Revisions Not Sent to Purchasing in Advance (per line item)	250.00
Product Disposal (per pallet)	500.00
Re-configuring Pallets (per pallet)	250.00
Restacking Shifted/Collapsed Loads (per load)	250.00

DEPARTMENT OF COMMERCE

COMMERCE GENERAL REGULATION

Administration	
Administration	
All Divisions	
Regulatory Sandbox Registration	500.00
Commerce Department	
All Divisions	
Administrative Expungement Application	200.00
Booklets	Actual Cost
Priority Processing	75.00
List of Licensees/Business Entities	25.00
Photocopies (per copy)	0.30
Verification of Licensure/Custodian of Record	20.00
Returned Check Charge	20.00
FBI Fingerprint File Search	10.00
BCI Fingerprint File Search	20.00
($25 With $5 Rapback included)	
Fingerprint Processing for non-department	10.00

Government Records and Management Act	
Staff time to search, compile and otherwise prepare record	Actual Amount
GRAMA Electronic Record	Actual Cost
Administration	
Motor Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Powersport Vehicle Franchise Act	
Application	83.00
Renewal	83.00
Application in addition to MVFA	27.00
Renewal in addition to MVFA	27.00
Administration Late Renewal	20.00
Employer Legal Status Voluntary Certification (Bi–annual)	3.00
Property Rights Ombudsman	
Filing Request for Advisory Opinion	150.00
Land Use Seminar Continuing Education	25.00
Books	
Citizens Guide to Land Use	
Single copy	15.00
Six or more copies	9.00
Case of 22 books	132.00
Administration	
Home Owner Associations	
HOA Registration	37.00
Change in HOA Registration	10.00
Consumer Protection	
Maintenance Funding Provider	
Maintenance Funding Provider Registrations New Application / Renewal	300.00
Miscellaneous	
Residential vocational and life skills registration	500.00
Transcript / Diploma Request	30.00
Charitable Solicitation Act	
Charity	75.00
Transportation Network Company	
Transportation network Company Registration	5,000.00
Transportation Network Company License Renewal	5,000.00
Immigration Consultants	
Initial Registration Fee	200.00
License Renewal Fee	200.00
Pawnshop Registry	
Pawnbroker Late Fee	50.00
Charitable Solicitation Act	
Professional Fund Raiser	250.00
Telephone Solicitation	
Telemarketing Registration	500.00
Health Spa	
Health Spa Registration / Renewal	100.00
Credit Services Organization	
Credit Services Organization Annual Fee	250.00
Debt Management Services Organizations	250.00
Business Opportunity Disclosure Register	
Exempt	100.00
Approved	200.00
Pawnshop Registry	
Out of State Pawnshop Database Request	900.00
Pawnshop/2nd hand store Registration	300.00
Law Enforcement Registration	3.00
Proprietary Schools	
Initial Application	500.00
Renewal Application	1% of gross revenue
Registration Review	1% of gross revenue
Miscellaneous Fees	
Late Renewal (per month)	25.00
Miscellaneous	
Microcassette Copying (per tape)	Actual Cost
Proprietary Schools Registration Application	1% of gross revenue
$500 min; $2,500 max	
Proprietary Schools	
Accredited Institution Certificate of Exemption Registration/ Renewal	1% of gross revenue
Up to $2,500 or $1,500 min	
Non–Profit Exemption Certificate Registration/Renewal	1,500.00
Corporations and Commercial Code	
Partnerships	
Limited Liability Partnerships	27.00
Since renewal fees are charged the $5 single sign on portal fee currently this will make Registrations and renewals effectively the same price.	
Single–Sign–On	
Single Sign–On–Portal Fee	5.00
Surcharge on Business renewals for Single Sign–On Portal.	
Articles of Incorporation	
Domestic Profit	54.00
Partnerships	
General Partnerships	27.00
5 year renewal	
Other	
Statement Authority	15.00
One time registration or as changes are needed	
Partnerships	
Limited Liability Partnership	
Articles of Incorporation	70.00
Previously under Limited Partnership, now LLP's Articles of Incorporation	
Articles of Incorporation	
Domestic Nonprofit	30.00
Foreign Profit	54.00
Foreign Nonprofit	30.00
Reinstatement	
Profit	54.00
Requalification/Reinstatement	
Nonprofit	30.00
Changes of Corporate Status	
Amend/Restate/Merge–Profit	37.00
Amend/Restate/Merge–Nonprofit	17.00
Amendment–Foreign	37.00
Pre–authorization of document	25.00
Statement of Correction	12.00
Conversion	37.00
Annual Report	
Profit	13.00
Nonprofit	10.00
Limited Partnership	13.00

Limited Liability Company	13.00
Other Foreign/Domestic	13.00
Change Form	13.00
Certification	
Corporate Standing	12.00
Corporate Standing-Long Form	20.00
Commercial Registered Agent	
Registration	52.00
Changes	52.00
Terminations	52.00
Corporation Search	
In House	10.00
Limited Partnership	
Certificate/Qualification	70.00
Reinstate	54.00
Amend/Restate/Merge	37.00
Statement of Correction	12.00
Conversion	37.00
DBA	
Registration	22.00
Renewals	13.00
Business/Real Estate Investment Trust	22.00
Trademark/Electronic Trademark	
Initial Application and 1st Class Code	50.00
Each Additional Class Code	25.00
Renewals	50.00
Assignments	25.00
Unincorporated Cooperative Association	
Articles of Incorporation/Qualification	22.00
Annual Report	7.00
Limited Liability Company	
Articles of Organization/Qualification	54.00
Reinstate	54.00
Amend/Merge	37.00
Statement of Correction	12.00
Conversion	37.00
Other	
Late Renewal	10.00
Out of State Motorist Summons	12.00
Collection Agency Bond	32.00
Unregistered Foreign Business	12.00
Foreign Name Registration	22.00
Statement of Certification	12.00
Name Reservation	22.00
Telecopier Transmittal	5.00
Telecopier Transmittal (per page)	1.00
Commercial Code Lien Filing	
UCC I Filings (per page)	12.00
UCC Addendum (per page)	12.00
UCC III Assignment/Amendment	12.00
UCC III Continuation	12.00
UCC III Termination	No Charge
CFS-1	12.00
CFS Addendum	12.00
CFS-3	12.00
CFS-2	12.00
CFS Registrant	25.00
Master List	25.00
Lien Search	
Search	12.00
Transactions Through Utah Interactive	
Registered Principal Search	3.00
Business Entity Search Principals	1.00
Certificate of Good Standing	12.00
Subscription	75.00
UCC Searches	12.00
List Compilation	
Customized	$5.00 + $0.03 per record
One Stop Business Registration	$5.00 + $0.05 per record
Occupational and Professional Licensing	
Commercial Interior Design	
Commercial Interior Design Certification New Application	70.00
Commercial Interior Design Certification Renewal	47.00
Cosmetologist/Barber	
Barber Renewal	52.00
Esthetician / Nail Technician Apprentice Cosmetology disciplines Registration / Renewal	20.00
Deception Detection	
Deception Detection Examiner Administrator Application	50.00
Deception Detection Examiner Administrator Renewal	32.00
Electrician	
Contractor Surcharge Education Fund (Electricians)	5.00
General Electrical Contractor New Application Filing	175.00
General Electrical Contractor Renewal	113.00
Residential Electrical Contractor New Application Filing	175.00
Residential Electrical Contractor Renewal	113.00
Hair Design	
Hair Designer License Apprenticeship	20.00
Hair Designer License Renewal	52.00
Hair Designer New Application Filing	60.00
Instructor Certificate	60.00
School New Application Filing and Renewal	110.00
Osteopathic Physician and Surgeon	
Interstate Compact License New Application Filing	200.00
Interstate Compact License Renewal	193.00
Other	
Pre-License Conviction Administrative Review	50.00
Physical Therapy	
Physical Therapy Assistant Compact New / Renewal	47.00
Physical Therapy Compact New / Renewal	47.00
Physician and Surgeon	
Physician Compact Interstate Commission service fee	Actual Cost
Qualified Medical Provider Cannabis Fee	100.00
Restricted Associate Physician New Application Filing	210.00
Restricted Associate Physician Renewal	123.00
Plumber	
Contractor Surcharge Education Fund (Plumbers)	5.00
General Plumbing Contractor New Application Filing	175.00
General Plumbing Contractor Renewal	113.00

Residential Plumbing Contractor New Application Filing	175.00
Residential Plumbing Contractor Renewal	113.00
Speech Language Pathologist/Audiologist	
Audiologist Compact New Application Filing	70.00
Audiologist Compact Renewal	47.00
Speech Language Pathologist Compact New Application Filing	70.00
Speech Language Pathologist Compact Renewal	47.00
State Certified Veterinary Technician	
State Certified Veterinary Technician New Application	50.00
State Certified Veterinary Technician Renewal	35.00
State Construction Registry	
Online	
State Construction Registry Final Lien Waiver	Free Filing
State Construction Registry Intent To Finance	8.00
Acupuncturist	
New Application Filing	110.00
Electrician	
Apprentice Electrician tracking per credit hour	0.24
Massage	
Apprentice Renewal	20.00
Plumber	
Plumber CE Course approval	40.00
Plumber CE Course Attendee Tracking / per hour	1.00
Apprentice Plumber CE attendance tracking/ per hour	0.24
Substance Use Disorder Counselor (Licensed)	
Licensed Advanced New Application	85.00
Licensed Advanced Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Advanced Counselor	70.00
Certified Advanced Counselor Intern	70.00
Pharmacy	
Dispensing Medical Practitioner New Application Filing	110.00
Dispensing Medical Practitioner License Renewal	73.00
Dispensing Medical Practitioner Clinic Pharmacy New Application	200.00
Dispensing Medical Practitioner Clinic Pharmacy License Renewal	113.00
Pharmacy Technician Trainee New / Renewal	50.00
Technician Trainee reduced to same $47 as technician	
Music Therapy	
Certified Music Therapist New Application	70.00
Certified Music Therapist Application Renewal	47.00
Physical Therapy	
Dry Needle Registration	50.00
Psychologist	
Behavioral Analyst New Application Filing	120.00
Behavioral Analyst License Renewal	93.00
Assistant Behavioral Analyst New Application Filing	120.00
Assistant Behavioral Analyst License Renewal	93.00
Behavioral Specialist License Renewal	78.00
Assistant Behavioral Specialist License Renewal	78.00
Physician and Surgeon	
Physician and Surgeon Compact Existing Licensee Fee	40.00
Interstate Compact New License Application Filing	200.00
Interstate Compact License Renewal	193.00
Acupuncturist	
License Renewal	63.00
Alarm Company	
Company Application Filing	330.00
Company License Renewal	203.00
Agent Application Filing	60.00
Agent License Renewal	42.00
Agent Temporary Permit	20.00
Architect	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge	10.00
Armored Car	
Registration	330.00
Renewal	203.00
Security Officer Registration	60.00
Security Officer Renewal	42.00
Education Approval	300.00
Athletic Agents	
New Application Filing	510.00
License Renewal	510.00
Athletic Trainer	
New Application Filing	70.00
License Renewal	47.00
Building Inspector	
New Application Filing	85.00
License Renewal	63.00
Certified Court Reporter	
New Application Filing	45.00
License Renewal	42.00
Certified Dietician	
New Application Filing	60.00
License Renewals	37.00
Certified Nurse Midwife	
New Application Filing	100.00
License Renewal	73.00
Intern–New Application Filing	35.00
Certified Public Accountant	
Individual CPA Application Filing	85.00
Individual License/Certificate Renewal	63.00
CPA Firm Application for Registration	90.00
CPA Firm Registration Renewal	52.00
Chiropractic Physician	
New Application Filing	200.00
License Renewal	103.00
Contractor	
New Application Filing	175.00
License Renewals	113.00
New / Change Qualifier	50.00
Corporation Conversion	35.00

Continuing Education Course Approval	40.00
Continuing Education (per credit hour tracking)	1.00
Controlled Substance	
New Application Filing	100.00
License Renewal	78.00
Controlled Substance Handler	
Facility New Application Filing	90.00
Facility License Renewal	68.00
Individual New Application Filing	90.00
Individual License Renewal	68.00
Controlled Substance Precursor	
Distributor New Application Filing	210.00
License Renewal	113.00
Cosmetologist/Barber	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Barber New Application	60.00
School License Renewal	52.00
Barber Instructor Certificate	60.00
Deception Detection	
Examiner New Application Filing	50.00
Examiner License Renewal	32.00
Intern New Application Filing	35.00
Intern License Renewal	32.00
Dentist	
New Application Filing	110.00
License Renewals	73.00
Anesthesia Upgrade New Application	60.00
Dental Hygienist	
New Application Filing	60.00
License Renewal	47.00
Anesthesia Upgrade New Application	35.00
Direct Entry Midwife	
New Application Filing	100.00
License Renewal	73.00
Electrician	
New Application Filing	110.00
License Renewal	63.00
Continuing Education Course Approval	40.00
Continuing Education (per credit hour tracking)	1.00
Electrologist	
New Application Filing	50.00
License Renewals	32.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Elevator Mechanic	
New Application Filing	110.00
License Renewal	63.00
Continuing Education Course Approval	40.00
Continuing Education (per credit hour tracking)	1.00
Engineer, Professional	
New Application Filing	110.00
Engineer License Renewal	63.00
Structural Engineer New Application Filing	110.00
Structural Engineer License Renewal	63.00
Engineer	
Education and Enforcement Surcharge	10.00
Environmental Health Scientist	
New Application Filing	60.00
License Renewal	37.00
New Application Filing In training	60.00
Esthetician	
New Application Filing	60.00
License Renewals	52.00
Instructor Certificate	60.00
Master Esthetician New Application Filing	85.00
Master Esthetician License Renewal	68.00
School New Application Filing	110.00
School License Renewal	110.00
Factory Built Housing	
Dealer New Application Filing	30.00
Dealer License Renewal	30.00
On-site Plant Inspection (per hour)	$50 per hour plus expenses
Factory Built Housing Education and Enforcement	25.00
Funeral Services	
Director New Application Filing	160.00
Director License Renewal	88.00
Intern New Application Filing	85.00
Establishment New Application Filing	250.00
Establishment License Renewal	250.00
Genetic Counselor	
New Application Filing	150.00
License Renewal	138.00
Geologist	
New Application Filing	150.00
License Renewal	123.00
Education and Enforcement Fund	15.00
Handyman Affirmation	
Handyman Exemption Registration/Renewal	35.00
Health Facility Administrator	
New Application Filing	120.00
License Renewals	83.00
Hearing Instrument Specialist	
New Application Filing	150.00
License Renewal	103.00
Intern New Application Filing	35.00
Hunting Guide	
New Application Filing	75.00
License Renewal	50.00
Landscape Architect	
New Application Filing	110.00
License Renewal	63.00
Examination Record	30.00
Education and Enforcement Fund	10.00
Land Surveyor	
New Application Filing	110.00
License Renewals	63.00
Education and Enforcement Surcharge	10.00
Marriage and Family Therapist	
Therapist New Application Filing	120.00
Therapist License Renewal	93.00
Associate New Application Filing	85.00
Externship New Application Filling	85.00
Massage	
Therapist New Application Filing	60.00
Therapist License Renewal	52.00
Apprentice New Application Filing	35.00
Medical Language Interpreter	
New Application Filing	50.00

Interpreter Renewal	25.00
Nail Technician	
New Application Filing	60.00
License Renewal	52.00
Instructor Certificate	60.00
School New Application Filing	110.00
School License Renewal	110.00
Naturopathic Physician	
New Application Filing	200.00
License Renewals	113.00
Nursing	
Licensed Practical Nurse New Application Filing	60.00
Licensed Practical Nurse License Renewal	68.00
Registered Nurse New Application Filing	60.00
Registered Nurse License Renewal	68.00
Advanced Practice RN New Application Filing	100.00
Advanced Practice RN License Renewal	78.00
Advanced Practice RN-Intern New Application Filing	35.00
Certified Nurse Anesthetist New Application Filing	100.00
Certified Nurse Anesthetist License Renewal	78.00
Educational Program Approval-Initial Visit	500.00
Educational Program Approval-Follow-up	250.00
Medication Aide Certified New Application Filing	50.00
Medication Aide Certified License Renewal	42.00
Occupational Therapist	
Occupational Therapist New Application Filing	70.00
Occupational Therapist License Renewal	47.00
Occupational Therapist Assistant New Application Filing	70.00
Occupational Therapist Assistants License Renewal	47.00
Online Contract Pharmacy	
New Application	200.00
Renewal	103.00
Online Internet Facilitator	
New Application	7,000.00
Renewal	7,000.00
Optometrist	
New Application Filing	140.00
License Renewal	93.00
Osteopathic Physician Online Prescriber	
New Application	200.00
License Renewal	193.00
Outfitter	
New License Filing	150.00
Renewal License	50.00
Osteopathic Physician and Surgeon	
New Application Filing	200.00
License Renewals	193.00
Pharmacy	
Pharmacist New Application Filing	110.00
Pharmacist License Renewal	73.00
Pharmacy Intern New Application Filing	100.00
Pharmacy Technician New Application Filing	60.00
Pharmacy Technician License Renewal	57.00
Class A New Application Filing	200.00
Class A License Renewal	103.00
Class B New Application	200.00
Class B License Renewal	103.00
Class C New Application	200.00
Class C License Renewal	103.00
Class D New Application	200.00
Class D License Renewal	103.00
Class E New Application	200.00
Class E License Renewal	103.00
Physical Therapy	
New Application Filing	70.00
License Renewal	47.00
Physical Therapy Assistant	
New Application Filing	60.00
License Renewal	47.00
Physician/Surgeon	
New Application Filing	200.00
License Renewal	193.00
Physician Assistant	
New Application Filing	180.00
License Renewals	133.00
Physician Online Prescriber	
New Application	200.00
License Renewal	193.00
Plumber	
New Application Filing	110.00
License Renewals	63.00
Podiatric Physician	
New Application Filing	200.00
License Renewal	113.00
Pre-Need Funeral Arrangement	
Sales Agent New Application Filing	85.00
Sales Agent License Renewal	73.00
Private Probation Provider	
New Application Filing	85.00
License Renewal	63.00
Clinical Mental Health Counselor	
New Application Filing	120.00
License Renewals	93.00
Professional Counselor Associate New Application Filing	85.00
Associate Clinical Mental Health Extern New Application	85.00
Psychologist	
New Application Filing	200.00
License Renewal	128.00
Certified Psychology Resident New App Filing	85.00
Radiology	
Radiology Technologist New Application Filing	70.00
Radiology Technologist License Renewal	47.00
Radiology Practical Technologist New Application Filing	70.00
Radiology Practical Technologist License Renewal	47.00
Recreation Therapy	

Master Therapeutic Recreational Specialist New Application Filing	70.00
Master Therapeutic Recreational Specialist License Renewal	47.00
Therapeutic Recreational Specialist New Application Filing	70.00
Therapeutic Recreational Specialist License Renewal	47.00
Therapeutic Recreational Technical New License Application	70.00
Therapeutic Recreational Technician License Renewal	47.00
Residence Lien Recovery Fund	
Registration Processing Fee-Voluntary Registrants	25.00
Post-claim Laborer Assessment	20.00
Beneficiary Claim	120.00
Laborer Beneficiary Claim	15.00
Reinstatement of Lapsed Registration	50.00
Late	20.00
Certificate of Compliance	30.00
Respiratory Care Practitioner	
New Application Filing	60.00
License Renewal	52.00
Security Services	
Contract Security Company	
Application Filing	330.00
Contract Security Company Renewal	203.00
Replace/Change Qualifier	50.00
Education Program Approval	300.00
Education Program Approval Renewal	103.00
Armed Security Officer New Application Filing	60.00
Armed Security Officer New License Renewal	42.00
Unarmed Security Officer New	
Application Filing	60.00
Unarmed Security Officer New License Renewal	42.00
Social Worker	
Clinical Social Worker New Application Filing	120.00
Clinical Social Worker License Renewal	93.00
Certified Social Worker New Application Filing	120.00
Certified Social Worker License Renewal	93.00
Certified Social Worker Intern New	85.00
Certified Social Worker Externship	85.00
Social Service Worker New Application Filing	85.00
Social Service Worker License Renewal	78.00
Speech Language Pathologist/Audiologist	
Speech Language Pathologist New Application Filing	70.00
Speech Language Pathologist License Renewal	47.00
Audiologist New Application Filing	70.00
Audiologist License Renewal	47.00
Speech Language Pathologist / Audiologist	
Speech Language Pathologist and Audiologist New Application Filing	70.00
Speech Language Pathologist and Audiologist License Renewal	47.00
Substance Use Disorder Counselor (Licensed)	
New Application Filing	85.00
License Renewal	78.00
Substance Use Disorder Counselor (Certified)	
Certified Substance Counselor	70.00
Certified Counselor Intern	70.00
Certified Substance Extern	70.00
Veterinarian	
New Application Filing	150.00
License Renewal	83.00
Intern New Application Filing	35.00
Vocational Rehab Counselor	
New Application Filing	70.00
License Renewal	47.00
Other	
Inactive/Reactivation/Emeritus License	50.00
Temporary License	50.00
Late Renewal	20.00
License/Registration Reinstatement	50.00
Duplicate License	10.00
Disciplinary File Search (per order document)	12.00
Change Qualifier	50.00
UBC Seminar	Actual Cost
surcharge of 1% of Building Permits in accordance w/ UCA-15a-1-209-5-a	
UBC Building Permit surcharge	1% of Building Cost
State Construction Registry	
Online	
Notice of Commencement	7.50
Appended Notice of Commencement online	7.50
Preliminary Notice	1.25
Notice of Completion	7.50
Required Notifications	Actual Cost
Requested Notifications	Opt in Free
No Charge	
Receipt Retrieval	
Within 2 years	1.00
Beyond 2 years	5.00
Public Search	1.00
Annual account set up	
Auto bill to credit card	60.00
Invoice	100.00
Notice of Construction Loan	8.00
Notice of Intent to Complete	8.00
Notice of Retention	1.25
Notice of Remaining to Complete	1.25
Offline	
Notice of Commencement	15.00
Appended Notice of Commencement - On-line	15.00
Preliminary Notice	6.00
Notice of Completion	15.00
Required Notifications	6.00
Requested Notifications	25.00
Receipt Retrieval	
Within 2 years	6.00
Beyond 2 years	12.50
Public Search	No Charge
Annual account set up	
Auto bill to credit card	75.00
Invoice	125.00
Notice of Construction Loan	15.00
Notice of Intent to Complete	16.00
Notice of Retention	8.00

Notice of Remaining to Complete	6.00
Notice of Loan Default	No Charge
Building Permit	No Charge
Filed by city	
Withdrawal of Preliminary Notice	No Charge
Construction Ownership	
Ownership Status Report	20.00
Ownership Listing/Change	20.00
Physician Educator	
Physician Educator I new application	200.00
Physician Educator I renewal	193.00
Physician Educator II new application	200.00
Physician Educator I renewal	193.00
Radiologist Assistant	
New Application Filing	70.00
License Renewal	47.00
Real Estate	
Appraisers	
AMC National Registry Fee	25.00
Appraisal Education Special Event (per day)	150.00
Appraisal Education Special Event Provider Fee	250.00
Broker/Sales Agent	
Property Management Sales Agent Designation	50.00
Timeshare and Camp Resort	
Late Fee	100.00
Appraisers	
Licensed and Certified Application	250.00
Mortgage Broker	
Mortgage Loan Originator New Application	100.00
Mortgage Loan Originator Renewal	30.00
Sales Agent	
New Application (2 year)	100.00
Renewal	48.00
Education	
Real Estate Education Broker	18.00
Continuing Education Registration	10.00
Real Estate Education Agent	12.00
Appraisers	
Licensed and Certified Renewal	350.00
National Register	80.00
Certifications	
Real Estate Prelicense School Certification	100.00
Real Estate Prelicense Instructor Certification	75.00
Appraisers	
Temporary Permit	100.00
Appraiser Trainee Registration	100.00
Real Estate Education	
Real Estate Continuing Education Course Certification	75.00
Real Estate Continuing Education Instructor Certification	50.00
Appraisers	
Appraiser expert witness	200.00
Appraiser Trainee Renewal	100.00
Certifications	
Real Estate Branch Schools	100.00
Appraiser Prelicense Course Certification	70.00
Appraisers	
Appraiser Pre–License School Application	100.00
Appraiser Pre–License Instructor Application	75.00
Certifications	
Appraiser CE Instructor Application/Renewal	75.00
Appraisers	
Appraiser CE Course Application/Renewal	75.00
Appraiser Temporary Permit Extension	100.00
One time only	
Appraisal Management Company	
AMC Registration	350.00
Appraisal Management Company Renewal	350.00
Appraisal Management Company Late	50.00
Broker	
New Application	100.00
2 year	
Renewal	48.00
Broker/Sales Agent	
Activation	15.00
New Company	200.00
Company Broker Change	50.00
Company Name Change	100.00
Verification (per copy)	20.00
General Division	
Duplicate License	10.00
Certifications/Computer Histories	20.00
Late Renewal	50.00
Reinstatement	100.00
Branch Office	200.00
No Action Letter	120.00
Trust Account Seminar	5.00
Continuing Education Instructor/Course Late	25.00
Mortgage Broker	
Mortgage Lending Manager	
Application	100.00
Renewal	30.00
Mortgage Lender Entities	
Application	200.00
Renewal	200.00
Mortgage DBA	200.00
Activation	15.00
Subdivided Land	
Exemption	
HUD	100.00
Water Corporation	50.00
Temporary Permit	100.00
Application	500.00
Charge over 30	3.00
Inspection Deposit	300.00
Consolidation	200.00
Charge	3.00
Renewal Report	203.00
Timeshare and Camp Resort	
Salesperson	100.00
New and renewal	
Registration	500.00
Per unit charge over 100	3.00
Inspection Deposit	300.00
Consolidation	200.00
Per unit charge	3.00

Temporary Permit	100.00
Renewal Reports	203.00
Registration Addendum	
Supplementary Filing	200.00
Mortgage Education	
Individual	36.00
Entity	50.00
Mortgage Prelicense School	
Certification	100.00
Mortgage Prelicense	
Instructor Certification/Renewal	75.00
Mortgage Branch Schools	100.00
Mortgage Continuing Education	
Course Certification Application	
Renewal	75.00
Mortgage Continuing Education	
Instructor Certification	50.00
Mortgage Out of State	
Records Inspection	500.00
Securities	
Other	
Title III Crowd Funding Notice	
Filing Late Fee	500.00
Title III Crowd Funding Timely	
Notice Filing	100.00
Securities Registration	
Qualification Registration	300.00
Covered Securities Notice Filings	
Regulation A timely Securities Filing	100.00
Late Fee Regulation A Filing	500.00
Securities Registration	
Coordinated Registration	300.00
Exemptions	
Transactional Exemptions	60.00
Transactional Exemptions	
No-action and Interpretative	
Opinions	120.00
Licensing	
Agent	40.00
Broker/Dealer	130.00
Investment Advisor	
New and renewal	40.00
Investment Advisor Representative	
New and renewal	30.00
Certified Dealer	
New and Renewal	500.00
Certified Adviser	
New and Renewal	500.00
Covered Securities Notice Filings	
Investment Companies	600.00
All Other Covered Securities	100.00
Late Fee Rule 506 Notice Filing	500.00
Less than 15 days after sale	
Federal Covered Adviser	
New and Renewal	70.00
Exemptions	
Securities Exemptions	60.00
Other	
Late Renewal	20.00
Fairness Hearing	1,500.00
Statute Booklet	Actual Cost
Small Corp. Offering	
Registration (SCOR)	Variable
Rules and form booklet	Actual Cost
Excluding SCOR	
Postage and Handling	Actual Cost

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

ADMINISTRATION

Government Records Access and Management Act (GRAMA) fees apply for the entire Department	
Odd size photocopies (per Page)	Actual Cost
GRAMA fees apply to the entire Department	
8.5 x 11 photocopy (per page)	0.25
GRAMA fees apply to the entire Department	
Document Certification	2.00
GRAMA fees apply to the entire Department	
Local Document Faxing (per page)	0.50
GRAMA fees apply to the entire Department	
Long Distance Document Faxing (per page)	2.00
GRAMA fees apply to the entire Department	
Staff time to search, compile and prepare records (per Hour)	Actual Cost
GRAMA fees apply to the entire Department	
Mail and ship preparation, plus actual postage (per Hour)	Actual Cost
GRAMA fees apply to the entire Department	
Media Storage Duplication (per Hour)	10.00
GRAMA fees apply to the entire Department	
SPONSORSHIP - LEVEL 1 (per SPONSORSHIP)	$0 to $500
From $1 to $500 fee applies for the entire Department	
SPONSORSHIP - LEVEL 2 (per SPONSORSHIP)	$501 to $1,000
From $501 to $1,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 3 (per SPONSORSHIP)	$1,001 to $5,000
From $1,001 to $5,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 4 (per SPONSORSHIP)	$5,001 to $10,000
From $5,001 to $10,000 fee applies for the entire Department	
SPONSORSHIP - LEVEL 5 (per SPONSORSHIP)	Over $10,000
Over $10,000 fee applies for the entire Department	
GOED Participation Fees (per Participant)	Up to $500 per participant

BUSINESS DEVELOPMENT

Corporate Recruitment and Business Services	
PTAC Participation Fee (per Participant)	Up to $60
Market Tax Credit Fee	100,000.00

Annual fee to certify a proposed equity investment or long-term debt security as a qualified equity investment.

Outreach and International Trade

Loan Origination Fee for Loan
Participation Program (per 1.00) ..... Variable

This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.

Community Reinvestment Agency Database

Community Reinvestment
Agency Database Fee .... Actual Amount

Actual costs to administer the Community Reinvestment Agency Database.

Small Business Innovative Research (SBIR) / Small Business Technology Transfer (STTR)

(SSAC) Search Fee (per User) 75.00

(SSAC) 4-8 hour seminar/workshop
(per User) 75.00

(SSAC) 4-8 hour seminar/workshop:
non-client (per User) 50.00

(SSAC) 4-8 hour seminar/workshop:
client (per User) 25.00

(SSAC) 2-4 hour seminar/workshop
(per User) 25.00

(SSAC) 1-4 hour seminar/workshop
(per User) 10.00

Seminar - Outside speakers: all
day event (per User) 225.00

Seminar - Outside speakers: all
day event (early bird) (per User) 150.00

Seminar - Outside speakers: all
day event (search client) (per User) ... 100.00

CommunityGrants App

CommunityGrants App User - State
of Utah Executive Branch
Agencies (per User) 72.00

CommunityGrants App User - State of Utah Executive Branch Agencies (per User)

CommunityGrants App User -
Tier 1 (per User) 480.00

CommunityGrants App User -
Tier 1 (per User)

CommunityGrants App User -
Tier 2 (per User) 420.00

CommunityGrants App User -
Tier 2 (per User)

CommunityGrants App User -
Tier 3 (per User) 360.00

CommunityGrants App User -
Tier 3 (per User)

CommunityGrants App User -
Tier 4 (per User) 300.00

CommunityGrants App User -
Tier 4 (per User)

CommunityGrants App User -
Tier 5 (per User) 240.00

CommunityGrants App User -
Tier 5 (per User)

CommunityGrants Customer Portal -
100 Members (per User) 3,000.00

CommunityGrants Customer Portal -
100 Members (per 100)

CommunityGrants Customer Community -
Min. 100 Members (per User) 900.00

CommunityGrants Customer Community - Minimum - 100 Members (per 100 Members)

CommunityGrants Customer Community -
Min. 500 Members (per User) 2,000.00

CommunityGrants Customer Community - Minimum - 500 Members (per 100)

CommunityGrants Customer
Community-Wholesale-100
Members (per User) 1,200.00

CommunityGrants Customer Community - Wholesale - 100 Members (per 100)

CommunityGrants Customer
Community- Wholesale-500
Members (per User) 2,400.00

CommunityGrants Customer Community - Wholesale - 500 Members (per 100)

CommunityGrants Customer
Community - Retail - 100
Members (per User) 1,800.00

CommunityGrants Customer Community - Retail - 100 Members (per 100)

CommunityGrants Customer
Community - Retail - 500
Members (per User) 3,720.00

CommunityGrants Customer Community - Retail - 500 Members (per 100)

OFFICE OF TOURISM

Operations and Fulfillment

Tourism/Film Participation Fees
(per Event) .... Actual cost up to $70,000

Gift Store Fee (per Net Revenue) ...... 3% of Net Revenue

Calendars

Calendar sales: Individual (purchases
of less than 30) 10.00

Calendar sales: Bulk (non
state agencies) 8.00

Calendar sales: Bulk (state agencies) 6.00

Calendar sales: Office of Tourism,
Film, and Global Branding employees ... 5.00

These fees may apply to one or more programs within the Office of Tourism Line Item.

Calendar Envelopes 0.50

Posters

Posters: Framed wall posters 55.00

Posters: Non framed wall posters 2.99

Shirts

T-shirt sales (cost per shirt) 10.00

Commissions

Tourism promotional items
re-seller commission 12%

UDOT Signage Commissions 54,000.00

PETE SUAZO UTAH ATHLETICS COMMISSION

Boxing Events

Boxing Event: <500 Seats 500.00

Boxing Event: 500 - 1,000 Seats 500.00

Boxing Event: 1,000 - 3,000 Seats 750.00

Boxing Event: 3,000 – 5,000 seats	1,500.00
Boxing Event: 5,000 – 10,000 Seats	1,500.00
Boxing Event: >10,000 Seats	1,500.00
Unarmed Combat Event	
Unarmed Combat Event: <500 Seats	500.00
Unarmed Combat Event: 500 – 1,000 Seats	500.00
Unarmed Combat Event: 1,000 – 3,000 Seats	750.00
Unarmed Combat Event: 3,000 – 5,000 seats	1,500.00
Unarmed Combat Event: 5,000 – 10,000 Seats	1,500.00
Unarmed Combat Event: >10,000 Seats	1,500.00
Licenses and Badges	
Promoter (per License)	250.00
Official, Manager, Matchmaker (per License)	50.00
Judge, Referee, Matchmaker, Contestant Manager Licenses	
Contestant, Second (Corner) (per License)	Up to $50
Amateur, Professional, Second (Corner), Timekeeper Licenses	
ID Badges (per Badge)	10.00
Drug Tests, Fight Fax, Contestant ID Badge	
Additional Inspector	100.00
Health Testing	20.00
Health and safety testing required for participants	
Event Registration	100.00
Fee to reserve a date on the Pete Suazo Utah Athletic Commission event calendar	
Broadcast Revenue	3,000.00
3% of the first $500,000 and 1% of the next $1,000,000 of the total gross receipts from the sale, lease or other exploitation of internet, broadcasting, television, and motion picture rights for any contest or exhibition thereof without any deductions for commissions, brokerage fees, distribution fees, advertising, contestants' purses or charges, except in no case shall the fee be more than $25,000, nor less than $100.	

FINANCIAL INSTITUTIONS

FINANCIAL INSTITUTIONS ADMINISTRATION

Administration	
Photocopies	0.25

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

UTAH STEM FOUNDATION FUND

Innovation Hub Camp	200.00
Innovation Hub Equipment Use (per hour)	10.00
Innovation Hub General Use (per Day)	5.00
Innovation Hub General Use (monthly) (per month)	25.00
Innovation Hub Premium PLA Filament Use (per gram)	0.02
Innovation Hub Space Rental (per hour)	50.00
Innovation Hub Standard PLA Filament Use (per gram)	0.01
Makerspace Class	100.00

ADMINISTRATION

Administrative Services	
Conference Level 4 – Vendor/Display Table – registration not included (per Table)	300.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.	
Conference Level 5 – Vendor/Display Table – registration not included (per Table)	500.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.	
Department Merchandise	
General Merchandise – Level 1 (per Item)	5.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.	
General Merchandise – Level 2 (per Item)	10.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.	
General Merchandise – Level 3 (per Item)	15.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.	
General Merchandise – Level 4 (per Item)	20.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.	
General Merchandise – Level 5 (per Item)	50.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.	
General Merchandise – Level 6 (per Item)	100.00
Fee entitled "General Merchandise" applies for the entire Department of Cultural and Community Engagement.	
Department Conference	
Conference Level 1 – Early Registration (per Person)	20.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.	
Conference Level 1 – Regular Registration (per Person)	25.00
Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.	

Conference Level 1 – Late Registration (per Person) 30.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 1 – Vendor/Display Table – registration not included (per Table) 50.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 – Early Registration (per Person) 45.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 – Regular Registration (per Person) 50.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 – Late Registration (per Person) 55.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 2 – Vendor/Display Table – registration not included (per Table) 100.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 – Student/ Group/Change Leader Registration (per Person) 70.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 – Early Registration (per Person) 80.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 – Regular Registration (per Person) 95.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 – Late Registration (per Person) 100.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Level 3 – Vendor/Display Table Fee – registration not included (per Table) 150.00

Fee entitled "Conference" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship

Conference Sponsorship Level 1 .... 350.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 2 .... 500.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 3 .... 650.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 4 ...... 1,000.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 5 ...... 2,500.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 6 ...... 5,000.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

Conference Sponsorship Level 7 ..... 10,000.00

Fee entitled "Conference Sponsorship" applies for the entire Department of Cultural and Community Engagement.

General Training and Workshop

General Training/Workshop Participation – Level 1 (per Person) 5.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation – Level 2 (per Person) 10.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation – Level 3 (per Person) 15.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation – Level 4 (per Person) 25.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation – Level 5 (per Person) 30.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation – Level 6 (per Person) 40.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation – Level 7 (per Person) 50.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop
Participation – Level 8 (per Person) 60.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop
Participation – Level 9 (per Person) . . . 125.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop Participation –
Level 10 (per Person) 300.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

General Training/Workshop
Materials Fee (per Person) 15.00

Fee entitled "General Training/Workshop" applies for the entire Department of Cultural and Community Engagement.

Government Records Access and
Management Act
Photocopies (per page) 0.25

GRAMA fees apply for the entire Department of Cultural and Community Engagement.

Information Technology
Online Cultural Resources Viewer
(per unit 1–20, depending on usage) 50.00

DIVISION OF ARTS AND MUSEUMS

Community Arts Outreach
Art Consultation Fee Level 1
(per Hour) . . . . 2 Hour Minimum

2 Hour Minimum – consultation, site visits, and curation

Art Consultation Fee Level 2
(per Hour) 60.00

2 Hour Minimum – condition inspection, reporting, documentation, and pulling from and returning to the vault at (this charge would also be incurred for yearly site inspections without change to loan)

Art Consultation Fee Level 3 (per Hour) . . . 45.00

3 Hour Minimum – packing, shipping, and installation

Change Leader Conference 55.00

This is the fee that will be charged for the annual change leader conference.

Change Leader Institute Level 5 . . . . 500.00
MWAC Registration Level 1 . . . . 75.00
MWAC Registration Level 2 . . . . 85.00
MWAC Registration Level 3 . . . . 95.00
MWAC Registration Level 4 . . . . 100.00
MWAC Registration Level 5 . . . . 110.00
MWAC Registration Level 6 . . . . 125.00
Community Outreach
Traveling Exhibit Fees 125.00
Traveling Exhibit Fees Title I Schools . . 100.00
Mountain West Arts Conference Registration
MWAC Governor's Leadership in
the Arts Luncheon 60.00
MWAC Governor's Leadership in
the Arts Luncheon Late Registrant 65.00
Community/State Partnership Change
Leader Registration
Change Leader Institute Level 1 . . . . 100.00
Change Leader Institute Level 2 . . . . 200.00
Change Leader Institute Level 3 . . . . 300.00
Change Leader Institute Level 4 . . . . 400.00
Museum Services
Museum Environmental Monitoring
Kit Rental/Shipping (per Period) 40.00
Museum Environmental
Monitoring Kit Deposit 150.00

HISTORICAL SOCIETY

State Historical Society
Business/Corporate 80.00

Utah Historical Society Annual Membership

History Conference – Member 50.00

Annual History Conference Registration fee for Utah State Historical Society Members

History Conference – Non member 100.00

Annual History Conference Registration for non historical society members

History Conference – Vendor/
Exhibitor Table 50.00

Annual History Conference

University of Illinois Press 9,600.00

Utah Historical Society Annual Membership UIP manages the institutional subscription agency memberships and sends the money to the State of Utah.

Utah Historical Society Annual Membership
Student/Adjunct/Senior 40.00
Individual 50.00
Sustaining/Business/Corporate 250.00
Patron/Institution/Subscription
Agencies/UIP 100.00
Sponsor 300.00
Lifetime 1,000.00
Utah Historical Quarterly (per issue) 13.00

Cost of a single issue of Utah Historical Quarterly (in addition to mailing costs, when applicable)

Publication Royalties 1.00

STATE HISTORY

Historic Preservation and Antiquities
Anthropological Remains Recovery
(per Recovery or Analysis
and reporting) 2,500.00

Fee is for recovery or analysis and reporting services.

GIS Search – Staff Performed
(per 1/4 Hour) 15.00
GIS Data Cut and Transfer (per Section) . . . 15.00
Library and Collections
Surplus Photo 5x7 . . . . 2.50
Surplus Photo 8x10 . . . . 4.00
B/W Historic Photo
4x5 B/W Historic Photo 7.00
5x7 B/W Historic Photo 10.00
8x10 B/W Historic Photo 15.00
Self Serve Photo 0.50

Digital Image 300 dpl>	10.00
Historic Collection Use	10.00
Research Center	
Self Copy 8.5x11	0.10
Self Copy 11x17	0.25
Staff Copy 8.5x11	0.25
Staff Copy 11x17	0.50
Digital Self Scan/Save (per Page)	0.05
Digital Staff Scan/Save (per Page)	0.25
Microfilm Self Copy (per page)	0.25
Microfilm Self Scan/Save (per Page)	0.15
Microfilm Staff Scan/Save or Copy (per page)	1.00
Audio Recording (per item)	10.00
Video Recording (per item)	20.00
Diazo print	
16 mm diazo print (per roll)	12.00
35 mm diazo print (per roll)	14.00
Microfilm Digitization	40.00
Digital Format Conversion	5.00
Surplus Photo 4x5	1.00
Mailing Charges	1.00

STATE LIBRARY

Administration	
Sale of Used Books/Materials	1.00
Disposal of discarded books.	
Blind and Disabled	
Full Library Services to States With Machines	150.00
Basic Braille Services to States	85.00
Full Library Services to States Without Machines	145.00
Braille and Audio Service to LDS Church	2.50
Library of Congress Contract (MSCW) (per Annual)	999,600.00
Library Development	
Bookmobile Services (per Annual)	684,300.00
Average fee of bookmobile services over the seven service areas.	
Library Resources	
Cataloging Services	7,000.00
Catalog Express Utilization	0.58
Catalog Express Overage	1.17

STEM ACTION CENTER

STEM Bus – Charitable (per Day)	500.00
STEM Bus – Private (per Day)	1,000.00

INSURANCE DEPARTMENT

BAIL BOND PROGRAM

Restricted Revenue	
Bail Bond Agency	
Resident initial or renewal license if renewed prior to renewal deadline	250.00
Annual license period	
Reinstatement of lapsed license	300.00
Annual license period	

HEALTH INSURANCE ACTUARY

Restricted Revenue	
Health Insurance Actuarial Review Assessment	
Assessment for Actuary	200,000.00

INSURANCE DEPARTMENT ADMINISTRATION

Administration	
Continuing Care Provider – Annual Registration Renewal	6,900.00
Continuing Care Provider – Annual Renewal Disclosure Statement	600.00
Continuing Care Provider – Disclosure Statement	600.00
Continuing Care Provider – Initial registration application	6,900.00
Continuing Care Provider – Reinstatement Fee	6,950.00
Initial agency license (per 40.00)	800.00
Initial individual license (per 35.00)	2,800.00
Insurance removal of public access to administrative actions (per 185.00)	185.00
Non–electronic payment processing fee (per 25.00)	25.00
Reinstatement agency license (per 65.00)	65.00
Reinstatement individual license (per 60.00)	60.00
Renewal agency license (per 40.00)	40.00
Renewal individual license (per 35.00)	35.00
Global license fees for Admitted Insurers	
Certificate of Authority	
Independent Review – Initial Application	250.00
Initial License Application	1,000.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Amendment	250.00
Orderly Plan of Withdrawal	50,000.00
Form A Filing	2,000.00
Redomestication Filing	2,000.00
Organizational Permit for Mutual Insurer	1,000.00
Insurer Examinations	72.00
Agency cost	
Global Service Fees for Admitted Insurers	
Zero premium volume	Insurance Rule R590–102–5(4)(d)(i)
More than $0 to less than $1M premium volume	700.00
$1M to less than $3M premium volume	1,100.00
$3M to less than $6 M premium volume	1,550.00
$6M to less than $11M premium volume	2,100.00
$11M to less than $15M premium volume	2,750.00
$15M to less than $20M premium volume	3,500.00
$20M or more in premium volume	4,350.00
Global license fees for Surplus Lines Insurers, Accredited/Trusteed Reninsurer	
Surplus Lines Insurers, Accredited/Trusteed Reinsurers, Employee Welfare Fund	
Initial	1,000.00
Annual	500.00
Late Annual	550.00

Reinstatement	1,000.00
Global license fees for Other Organizations	
Other Organizations	
Initial License Application	250.00
Renewal	200.00
Late Renewal	250.00
Reinstatement	250.00
Annual Service	200.00
Life Settlement Provider	
Initial license application	1,000.00
Renewal	300.00
Late Renewal	350.00
Reinstatement	1,000.00
Annual service	600.00
Global Individual License	
Res/non-res full line producer license or renewal per two-year license period	
Initial, or renewal if renewed prior to renewal deadline	70.00
Reinstatement of Lapsed License	120.00
Res/non-res limited line producer license or renewal per two-year licensing period	
Initial or renewal if renewed prior to renewal deadline	45.00
Reinstatement of lapsed license	95.00
Res/non-res full line producer license or renewal per two-year license period	
Dual Title License Form Filing	25.00
Addition of producer classification or line of authority to individual producer license	25.00
Global Full Line and Limited Line Agency License	
Res/non-res initial or renewal license if renewed prior to renewal deadline	75.00
Reinstatement of lapsed license	125.00
Addition of agency class or line of authority to agency license	25.00
Resident Title initial or renewal license if renewed prior to renewal deadline	100.00
Resident Title Reinstatement of Lapsed License	150.00
Health Insurance Purchasing Alliance	
Res/non-res initial or renewal license if renewed prior to renewal deadline	500.00
Per annual license period	
Late Renewal	550.00
Reinstatement of lapsed license	550.00
Continuing Education	
CE provider initial or renewal license prior to renewal deadline	250.00
CE provider reinstatement of lapsed license	300.00
CE provider post approval or $5 per hour, whichever is more	25.00
Other	
Photocopy (per page)	0.50
Copy Complete Annual Statement	40.00
Accepting Service of legal process	10.00
Returned check charge	20.00
Workers' Comp schedule	5.00
Address Correction	35.00
Production of Lists	
Printed (per page)	1.00
Information already in list format	
Electronic	
Base fee	50.00
1 CD and up to 30 minutes of staff time	
Additional fee billed by invoice	50.00
For each additional 30 minutes or fraction thereof	
Restricted Special Revenue Fees	
Title Insurance Recovery, Education, and Research Fund	
Initial Title Agency License	1,000.00
Renewal Title Agency License	
Band A-$0-$1 million premium volume	125.00
Band B->$1-$10 million premium volume	250.00
Band C->$10-$20 million premium volume	375.00
Band D->$20 million premium volume	500.00
Individual Title Licensee	
Initial or Renewal License	15.00
Professional Employers Organization	
Standard - Initial/Renewal	2,000.00
Standard - Late Renewal or Reinstatement	2,050.00
Certified by an Assurance Organization - Initial	2,000.00
Certified by an Assurance Organization - Renewal	1,000.00
Certified Late Renewal or Reinstatement	1,050.00
Small Operator	
Small Operator - Initial	2,000.00
Small Operator - Renewal	1,000.00
Small Operator - Late Renewal or Reinstatement	1,050.00
Captive Insurers	
Captive Cell Dormancy Certificate	
Annual Renewal fee (per 500.00)	500.00
Captive Cell Initial Application (per 200)	200.00
Captive Cell Initial License (per 1000)	1,000.00
Captive Cell Late Renewal (per 50)	50.00
Captive Cell License Renewal (per 1000)	1,000.00
Captive Dormancy Certificate	
Annual Renewal fee (per 2500.00)	2,500.00
Captive Insurer	
Captive Initial license application	200.00
Initial license application review	Captive - Actual cost
Captive Initial License Issuance	7,250.00
Captive Annual Renewal	7,250.00
Captive Late Renewal	7,300.00
Captive Reinstatement	7,300.00
Captive Insurer Examination Reimbursements	Variable
Criminal Background Checks	
Fingerprinting	
Bureau of Criminal Investigation	15.00
Federal Bureau of Investigation	13.25
Electronic Commerce Fee	
Electronic Commerce Restricted	
E-commerce and internet technology services	
Insurer: admitted, surplus lines	75.00
Captive Insurer	250.00

Other organization and life settlement provider	50.00
CE Provider	20.00
Agency and Health Insurance Purchasing Alliance	10.00
Individual	5.00
Access to rate and form filing database	
Base	45.00
1 DVD and up to 30 minutes access and staff help	
Additional requests	45.00
Each additional 30 minutes or fraction thereof	
Electronic Commerce Restricted	
Database access	3.00
Paper filing process	5.00
Paper Application Processing	25.00
GAP Waiver Program	
Restricted Revenue	
Guaranteed Asset Protection Waiver	
Registration/Annual	1,000.00
GAP Waiver Assessment	50.00
Insurance Fraud Program	
Restricted Revenue	
Fraud Investigation Division	
Zero to $1M premium volume	200.00
>$1M to less than $2.5M premium volume	450.00
$2.5M to less than $5M premium volume	800.00
$5M to less than $10M premium volume	1,600.00
$10M to less than $50M premium volume	6,100.00
$50M or more in premium volume	15,000.00
Fraud Division Investigative Recovery	Variable
Fraud division assessment late fee	50.00
Relative Value Study	
Restricted Revenue	
Relative Value Study	
Relative Value Study Book	10.00
Code Books	57.00
Cost to agency	
Mailing fee for books	3.00

TITLE INSURANCE PROGRAM

Restricted Revenue	
Title Insurance Regulation Assessment	100,000.00

LABOR COMMISSION

Administration	
Industrial Accidents Division	
Workers Compensation	
Coverage Waiver	50.00
Seminar Fee (alternate years) (per registrant)	Not to exceed 500.00
Premium Assessment	
Workplace Safety Fund (per premium)	0.25%
Employers Reinsurance Fund (per premium)	0%
Uninsured Employers Fund (per premium)	0.5%
Industrial Accidents Restricted Account (per premium)	0.50%
Certificate to Self-Insured	
New Self-Insured Certificate	1,200.00
Self Insured Certificate Renewal	650.00
Boiler, Elevator and Coal Mine Safety Division	
Boiler and Pressure Vessel Inspections	
Owner	
User Inspection Agency Certification	250.00
Certificate of Competency	
Original Exam	25.00
Renewal	20.00
Jacketed Kettles and Hot Water Supply	
Consultation	
Witness special inspection (per hour)	60.00
Boilers	
Existing	
<250,000 BTU	30.00
> 250,000 BTU but <4,000,000 BTU	60.00
> 4,000,001 BTU but <2,000,000 BTU	150.00
> 20,000,000 BTU	300.00
New	
<250,000 BTU	45.00
> 250,000 BTU but <4,000,000 BTU	90.00
> 4,000,001 BTU but <20,000,000 BTU	225.00
> 20,000,000 BTU	450.00
Pressure Vessel	
Existing	30.00
New	45.00
Pressure Vessel Inspection by Owner-user	
25 or less on single statement (per vessel)	5.00
26 through 100 on single statement (per statement)	100.00
101 through 500 on single statement (per statement)	200.00
over 500 on single statement (per statement)	400.00
Elevator Inspections Existing Elevators	
Hydraulic	85.00
Electric	85.00
Handicapped	85.00
Other Elevators	85.00
Elevator Inspections New Elevators	
Hydraulic	300.00
Electric	700.00
Handicapped	200.00
Other Elevators	200.00
Consultation and Review (per hour)	60.00
Escalators/Moving Walks	700.00
Remodeled Electric	500.00
Roped Hydraulic	500.00
Coal Mine Certification	
Mine Foreman	50.00
Temporary Mine Foreman	35.00
Fire Boss	50.00
Surface Foreman	50.00
Temporary Surface Foreman	35.00
Hoistman	50.00

Electrician	
Underground	50.00
Surface	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Hydrocarbon Mine Certifications	
Hoistman	50.00
Certification Retest	
Per section	20.00
Maximum fee charge	50.00
Gilsonite	
Mine Examiner	50.00
Shot Firerer	50.00
Mine Foreman	
Certificate	50.00
Temporary	35.00
Photocopies, Search, Printing	
Black and White no special handling	0.25
Research, redacting, unstapling, restapling (per hour)	15.00
More than 1 hour (per hour)	20.00
Color Printing (per page)	0.50
Certified Copies (per certification)	2.00

Plus search fees if applicable

Electronic documents CD or DVD	2.00
Fax, plus telephone costs	0.50

UTAH STATE TAX COMMISSION

LICENSE PLATES PRODUCTION

License Plates Production	
Decal Replacement	1.00
Reflectorized Plate	Up to $20
Plate Mailing Charge (per Plate Set)	4.00

TAX ADMINISTRATION

Administration Division	
Administration	
Liquor Profit Distribution	6.00
All Divisions	
Certified Document	5.00
Faxed Document Processing (per page)	1.00
Record Research	6.50
Photocopies, over 10 copies (per page)	0.10
Research, special requests (per hour)	20.00
Motor Vehicle Enforcement Division	
Temporary Permit Restricted Fund	
Temporary Permit	Not to exceed 12.00

Sold to dealers in bulk, not to exceed approved fee amount

Temporary Sports Event Registration Certificate	Not to exceed 12.00
MV Business Regulation	
Dismantler's Retitling Inspection	50.00
Salvage Vehicle Inspection	50.00
Electronic Payment	
Temporary Permit Books (per book)	Not to exceed 4.00
Dealer Permit Penalties (per penalty)	Not to exceed 1.00
Salvage Buyer's License (per license)	Not to exceed 3.00
Licenses	
Motor Vehicle Manufacturer License	102.00
Motor Vehicle Remanufacturer License	102.00
New Motor Vehicle Dealer	127.00
Transporter	51.00
Body Shop	112.00
Used Motor Vehicle Dealer	127.00
Dismantler	102.00
Salesperson	31.00
Salesperson's License Transfer Fee	31.00
Salesperson's License Reissue	5.00
Crusher	102.00
Used Motorcycle, Off-Highway Vehicle, and Small Trailer Dealer	51.00
New Motorcycle, Off-Highway Vehicle, and Small Trailer Dealer	51.00
Representative	26.00
Distributor or Factory Branch and Distributor Branch's	61.00
Additional place of business	
Temporary	26.00
Permanent	Variable

Variable rate - same rate as the original license fee (based on license type)

License Plates	
Purchase	
Manufacturer	10.00
Dealer	12.00
Dismantler	10.00
Transporter	10.00
Renewal	
Manufacturer	8.50
Dealer	10.50
Dismantler	8.50
Transporter	8.50
In-transit Permit	2.50
Motor Vehicles	
Administration	
All Divisions	
Custom Programming (per hour)	85.00
Data Processing Set-Up	55.00
Sample License Plates	5.00
Parks and Recreation	
Parks & Recreation Decal Replacement	4.00
Motor Vehicle	
Motor Vehicle Information	3.00
Motor Vehicle Information Via Internet	1.00
Motor Vehicle Transaction (per standard unit)	1.65
Motor Carrier	
Cab Card	3.00
Duplicate Registration	3.00
Temporary Permit	
Individual permit	6.00
Electronic Payment	
Authorized Motor Vehicle Registrations	Not to exceed 4.00
License Plates	
Reflectorized Plate	Up to $20
Special Group Plate Programs	
Inventory ordered before July 1, 2003	
Extra Plate Costs	5.50

Plus standard plate fee

New Programs or inventory reorders after July 1, 2003

Start-up or significant program changes (per program)	3,900.00
Extra Plate Costs (per decal set ordered)	3.50
Plus standard plate fee	
Extra Handling Cost (per decal set ordered)	2.40
Special Group Logo Decals	Variable
Variable depending upon the specific order of decals	
Special Group Slogan Decals	Variable
Variable depending upon the specific order of decals	
Tax Payer Services	
Administration	
Lien Subordination	Not to exceed 300.00
Tax Clearance	50.00
Motor and Special Fuel	
International Fuel Tax Administration	
Decal (per set)	4.00
Reinstatement	100.00
Tax Processing Division	
Administration	
All Divisions	
Convenience Fee	Not to exceed 3%
Convenience fee for tax payments and other authorized transactions	

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

ADMINISTRATION

Executive Director's Office	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Workforce Services	
Photocopies (for all copies after the first 10)	0.10
These GRAMA fees apply to the entire Department of Workforce Services.	
Fax Pages Local, All Pages	2.00
These GRAMA fees apply to the entire Department of Workforce Services.	
Fax Pages Long Distance, All Pages	2.00
These GRAMA fees apply to the entire Department of Workforce Services.	
Research (per hour)	20.00
These GRAMA fees apply to the entire Department of Workforce Services.	

HOUSING AND COMMUNITY DEVELOPMENT

Housing Development	
Private Activity Bond	
Confirmation per million volume cap (per million of allocated volume cap)	300.00
Original application: under $3 million	1,500.00
Original application: $3-$5 million	2,000.00
Original application: over $5 million	3,000.00
Private Activity Bond Re-application	
Re-application: under $3 million	750.00
Re-application: $3 - $5 million	1,000.00
Re-application: over $5 million	1,500.00
Private Activity Bond Extension	
Second 90 Day Extension	2,000.00
Third 90 Day Extension	4,000.00
Each Additional 90 Day Extension	4,000.00
Weatherization Assistance	
Certification Training Exam (per Exam)	Actual Cost
Field Certification Test Proctor (per Field Exam)	400.00
Initial Certification Training (per Person)	2,200.00
Intermountain Weatherization Training Center Additional Instructor (per Instructor)	540.00
Intermountain Weatherization Training Center Facility Use 0-24 persons (per Day)	1,100.00
Intermountain Weatherization Training Center Facility Use 25-50 persons (per Day)	1,700.00
Intermountain Weatherization Training Center Training 0-24 persons (per Day)	2,220.00
Intermountain Weatherization Training Center Training 25-50 persons (per Day)	4,000.00
Recertification Refresher Training (per Hour)	105.00
Written Certification Test Proctor (per Written Exam)	300.00

OPERATIONS AND POLICY

Workforce Development	
Career Ladder Course (per Course)	16.00

STATE OFFICE OF REHABILITATION

Blind and Visually Impaired	
Low Vision Store	Actual Cost
Deaf and Hard of Hearing	
Interpreter	
Standard Late Fee (per Assessment)	80.00
Annual Maintenance/Recognition (per Individual)	70.00
Interpreter Certification	
Knowledge Exam (per Exam)	60.00
Novice Exam (per Exam)	150.00
Professional Exam (per Exam)	150.00
Temporary Permit (per Permit)	150.00
Student Permit (per Permit)	15.00
Out-of-State Interpreter Certification	
Utah Novice Level Certificate	300.00
Utah Professional Level Certificate	300.00
Knowledge Exam	120.00

STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM FUND

Loan Origination Fee for Loan Participation Program (per 1.00)	Variable

This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.

Loan Origination Fee for Loan
Guarantee Program (per 1.00) . . . . Variable

This is a variable fee and the department may charge at a rate that is less than or equal to 4% of the loan amount based on participation & risk level.

UNEMPLOYMENT INSURANCE

Unemployment Insurance Administration
Debt Collection Information Disclosure
Fee (per Report) 15.00

Fee for employment information research and report for creditors providing a court order for employment information of a specific debtor.

REFUGEE SERVICES FUND

World Refugee Day Around the
World Booth (per Booth) 25.00
World Refugee Day Food Vendor
(per Booth) 75.00
World Refugee Day Full Partner
Booth (per Full Booth) 100.00
World Refugee Day Global Market
(per Booth) 40.00
World Refugee Day Shared
Partner Booth (per Shared Booth) 50.00
World Refugee Day Soccer (per Team) 50.00

OFFICE OF HOMELESS SERVICES

Homeless Services
State Community Services Office
Homeless Summit 35.00

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OPERATIONS

Executive Director Office
All the fees in this section apply for the entire Department of Health
Clinic Fees Tied to Medicaid
Reimbursement Levels . . . . variable

The Department of Health benchmarks many of its charges in its medical and dental clinics to Medicaid reimbursement rates. If the Legislature authorizes reimbursement increases during the General Session, then the Legislature authorizes a proportional increase in effected clinic fees.

Conference Registrations 100.00
Non-sufficient Check Collection Fee 20.00
Non-sufficient Check Service Charge 20.00
Specialized Services
Expedited Shipping Fee 17.00
Testimony
Expert Testimony Fee for those without a PhD (Doctor of Philosophy) or MD
(Medical Doctor) (per hour) 78.75

Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.

Expert Testimony Fee for those with a PhD (Doctor of Philosophy) or MD
(Medical Doctor) (per hour) 250.00

Includes preparation, consultation, and appearance on criminal and civil cases. Portal to portal, including travel and waiting time. Plus travel costs.

Government Records Access and Management Act (GRAMA)
Mailing or shipping
cost . . . . Actual cost up to a $100.00
Staff time for file search and/or information compilation
Department of Technology
Services (per hour) 70.00

For Department of Technology Services or programmer/analyst staff time.

Department of Health (per hour) 35.00

For Department of Health staff time; first 15 minutes free, additional time.

Copy
11 x 8.5 Black and White (per page) . . . 0.15
11x17 or color (per page) 0.40
Information on disk (per kilobyte) 0.02
Administrative Fee, 1-15 copies 25.00
Administrative Fee, each
additional copy 1.00
Fax (per page) 0.50
Data, Systems, & Evaluations
Data Access Base Fees
Behavioral Risk Factor Surveillance System
Standard Annual Limited Data Set . . . 300.00

The following discounts apply: Local Health Department (100% for any standard annual data set); State Agency, Student or Not for Profit Entity (75% for any standard annual data set); Researcher (50% for any standard annual data set); For Profit Entities pay full amount. Note that entities that have paid to have questions included on the Behavioral Risk Factor Surveillance System are excluded from this fee as their payment includes receipt of data. Fee will be $300.00 for initial dataset. Each additional year dataset will be an additional $150.00 (50% discount).

Healthcare Facilities Data Series
Fee Discounts - Healthcare
Facilities Data Series . . . . Note

Note: (1) the Following Discounts Apply: Local Health Departments (100% for Standard Limited Use or Research Data Sets, including State Tribal Organizations); Healthcare Facility with <5,000 discharges (80% for Standard Limited Use Data Set); Healthcare Facility with 5,000-35,000 discharges (50% for Standard Limited Use Data Set); Prior Years (50% for any data set); Student (75% for any standard data set);

Public University or Nor for Profit Entity (50% for any standard data series); Geographic Subset (discount proportional to percent of records required from limited use data set); On–time Renewal (15% for any data set); (2) Pricing for client–based partnership: The per–client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for redistribution agreements: The distributor shall reimburse the state for 50% of the cost of the data covered by the agreement.

Standard Annual Limited Data Set	3,600.00
Standard Annual Research Data set	6,000.00
Quarterly Preliminary Feeds	4,500.00
Federal Annual Database	4,500.00

All Payer Claims Data Standard Limited Data Series

Fee Discounts – All Payer Claims Data Standard Limited Data Series	Note

Note: (1) The following discounts apply: Local Health Departments (100% for Standard Limited Data Sets, including State Tribal Organizations); Contributing Carrier (50% for standard limited data sets); Student (75% for any standard data set); Single Use and Single User License (50% for any standard limited data set); Geographic Subset (discount proportional to percent of records required from limited data set); On–time Renewal (15% for any data series). (2) Pricing for client–based partnership: The per–client fee is to be negotiated with the partner based on the volume and level of data provided to each client, but may not exceed 70% of the actual cost of the data used. (3) Pricing for redistribution agreements: The distributor shall reimburse the state for 50% of the cost of the data covered by the agreement.

Single Year	8,000.00
Two Years	12,000.00
Three Years	16,000.00
Additional Years	4,000.00

All Payer Claims Data Standard Research Data Series

Fee Discounts – All Payer Claims Data Standard R esearch Data Series	Note

Note: (1) The following discounts apply: Local Health Departments (100% for any standard Research Data Set); Student (50% for any standard research data set); Single Use and Single User License (50% for any standard research data set); On–time Renewal (15% for any data series); (2) Pricing for redistribution agreements: The distributor shall reimburse the state for 50% of the cost of the data covered by the agreement.

Single Year	20,000.00
Two Years	30,000.00
Three Years	40,000.00
Additional Years	10,000.00

Other Data Series and Licenses (Fee Discounts Apply)

Fee Discounts – Other Data Series and Licenses	Note

The following discounts apply: Non–Contributing Carrier (50% for CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set); Contributing Carrier (75% for CAHPS Data Set); Prior Year (20% for HEDIS (Healthcare Effectiveness Data and Information Set) & CAHPS Data Set); Years before Current and Prior Year (35% for HEDIS & CAHPS Data Set); Student (75% for HEDIS & CAHPS Data Set or Survey Responses); Public University or Not for Profit Entity (35% for HEDIS & CAHPS Data Set or Survey Responses); On–time Renewal (15% for any data series).

Institutional License	150,000.00
HEDIS (Healthcare Effectiveness Data and Information Set) Data Set	1,575.00
CAHPS (Consumer Assessment of Healthcare Providers and Systems) Data Set	1,575.00
CAHPS Survey Responses	2,000.00

Other Fees and Services

Custom data services (per hour)	100.66

Note: This hourly fee applies to all custom work, including but not limited to: data extraction analytics; aggregate patient–risk profiles for clinics, payers or systems; data management reprocessing; data matching; and creation of samples or subsets.

Additional Fields to create a custom data set (per field added)	225.00
Individual Information Extract (per person)	100.00
Convenience Fee (for Credit or Debit Card payment)	3%

Birth Certificate

Initial Copy	22.00
Stillbirth Certificate Initial Copy	18.00
Book Copy of Birth Certificate – in addition to birth certificate fee	5.00
Adoption – in addition to birth certificate fee	40.00
Sealed Record Fee – in addition to birth certificate fee	40.00

This fee is for an amendment to a record that will not be displayed on the record as an amendment.

Delayed Registration – in addition to birth certificate fee	40.00
Legitimation – in addition to birth certificate fee	40.00

Death Certificate

Initial Copy	30.00

The Legislature intends that for every initial copy of a Utah Death Certificate sold, $12 shall be remitted to the Office of the Medical Examiner.

Burial Transit Permit	7.00
Disinterment Permit	25.00
Reprint Fee	3.00

Specialized Services

Additional Copies	10.00
Amendment Fee - Affidavit, Court Order, Voluntary Declaration of Paternity - in addition to certificate fee	5.00
Paternity Search (one hour minimum) (per hour)	18.00
Marriage and Divorce Abstracts	18.00
Adoption Registry	25.00
Adoption Expedite Fee	25.00
Death Research (one hour minimum) (per hour)	20.00
Death Notification Subscription Fee (organization less than or equal to 100,000 lives)	500.00
Death Notification Subscription Fee (organizations greater than 100,000 lives)	1,000.00
Death Notification Fee (per matched death)	1.00
Court Order Paternity - in addition to birth certificate fee	40.00
Online Access to Computerized Vital Records (per month)	12.00
Ad-hoc Statistical Requests (per hour)	45.00
Online Convenience Fee	4.00
Online Identity Verification	1.39
Expedite Fee	15.00
Delay of File Fee (charged for every birth/death certificate registered 30 days or more after the event)	50.00
Birth Parent Information Registration	25.00
Adoption Records Access Fee	25.00
Adoption Records Amendment Fee	10.00
Public Affairs, Education & Outreach	
Government Records Access and Management Act (GRAMA) Fees - these GRAMA fees apply for the entire Department of Human Services	
Paper (per side of sheet)	0.25
Audio Tape (per tape)	5.00
Video Tape (per tape)	15.00
Mailing	Actual cost
Compiling and Reporting	
In Another Format (per hour)	25.00
If Programmer/Analyst Assistance is Required (per hour)	50.00

CLINICAL SERVICES

Medical Examiner	
Examinations of Non-jurisdictional Cases	
Autopsy, full or partial	2,500.00
plus cost of body transportation	
External Examination	500.00
plus cost of body transportation	
Facilities	
Use of Office of the Medical Examiner facilities by Non-Office of the Medical Examiner Pathologists	
Use of facilities and staff for autopsy	500.00
Use of facilities only for autopsy or examination	400.00
Use of facilities and staff for external examinations	300.00
Use of Tissue Harvest Room for Acquisition	
Skin Graft	133.00
Bone	266.00
Heart Valve	70.00
Saphenous vein	70.00
Eye	35.00
Reports	
Copy of Autopsy and Toxicology Report	
All requestors.	35.00
No charge for copies for (1) immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii) and (2) for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).	
Copy of Miscellaneous Office of the Medical Examiner Case File Papers	
Copies for immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii)	10.00
All other requestors.	35.00
No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).	
Cremation Authorization	
Review and authorize cremation permit.	150.00
$10.00 per permit payable to Vital Records for processing.	
Expert Services - Forensic Pathologist Case Review, Consultation, and Testimony, Portal to Portal, up to 8 Hours/day	
Criminal cases, out of state (per hour)	500.00
$4,000.00 max/day	
Non-jurisdictional criminal and all civil cases (per hour)	500.00
$4,000.00 max/day	
Consultation on non-Medical Examiner cases (per hour)	500.00
$4,000.00 max/day	
Photographic, Slide, and Digital Services	
Digital Photographic Images	
Copies for immediate relative or legal representative as outlined in UCA 26-4-17(2)(a)(i)-(ii) (per image)	10.00
All other requestors. (per image)	35.00
No charge for copies for law enforcement, physicians, attorneys and government entities as outlined in UCA 26-4-17(2)(a)(iii)-(iv), and 26-4-17(2)(b)(i)-(iv).	
Digital X-ray images from Digital Source (Digital Imaging and Communications in Medicine).	10.00
Copied from color slide negatives. (per image)	5.00
Digital photographic images.	
Body Storage	
Daily charge for use of Medical Examiner Storage Facilities (per Day)	30.00
Beginning 24 hours after notification that body is ready for release.	

Biologic samples requests	
Handling of requested samples for shipping to outside lab.	25.00
Processing of Office of the Medical Examiner samples for Non-Office of the Medical Examiner testing.	
Handling and storage of requested samples by outside sources (per year)	25.00
Storage fee (outside normal Office of the Medical Examiner retention schedule)	
Return request by immediate relative as defined in code UCA 26-4-2(3)	55.00
Sample return fee	
Histology	
Glass Slides (re-cuts, routine stains) per slide	20.00
Glass slides - Immunohistochemical stains per slide	50.00
Histochemical stains per slide	30.00
State Laboratory	
These fees apply for the entire Division of Disease Control and Prevention	
Laboratory General	
Emergency Waiver	
Under certain conditions of public health import (e.g. - disease outbreak, terrorist event, or environmental catastrophe) fees may be reduced or waived.	
Handling	
Total cost of shipping and testing of referral samples to be rebilled to customer. (per Referral lab's invoice)	Actual Cost
Repeat Testing - normal fee will be charged if repeat testing is required due to poor quality sample. (per sample, each reanalysis)	Actual Cost of normal fee
Mycoplasma Genitalium Detection by Nucleic Acid Testing	30.00
All	
Laboratory Testing of Public Health Significance	Actual costs up to $200
The emergence of diseases and subsequent testing methods are unpredictable. This fee allows Utah Public Health Laboratory to offer a test that is vital to protecting the public as the need arises to help diagnosis and prevent illness.	
Newborn Screening	
Laboratory Testing and Follow-up Services	125.00
This fee covers the costs for screening all newborns in the state of Utah for common disorders.	
Out of State Screening	116.00
Chemistry	
Admin	
Chain of Custody Request Fee	20.00
Rush Fee	50.00
Metals	
Standard Metals	
Environmental Protection Agency 200.8 Copper and Lead	26.40
Standard Method 2330B Langelier Index	6.05
Environmental Protection Agency 353.2 Nitrite	17.60
Environmental Protection Agency 353.2 Nitrate	17.60
Environmental Protection Agency 200.8 - Magnesium	13.20
Environmental Protection Agency 200.8 - Iron	13.20
Environmental Protection Agency 200.8 - Potassium	13.20
Environmental Protection Agency 200.8 - Strontium	13.20
Environmental Protection Agency 200.8 Digestion	24.20
Environmental Protection Agency 200.8 Tin	13.20
Environmental Protection Agency 200.8 Cobalt	13.20
Environmental Protection Agency 200.8 Vanadium	13.20
Environmental Protection Agency Method 200.8 Zirconium	13.20
Mercury 245.1	27.50
may include a digestion fee	
Selenium by Selenium Hydride - Atomic Absorption - Standard Method 3114C	35.20
may include a digestion fee	
Environmental Protection Agency 200.8 Aluminum	13.20
Environmental Protection Agency 200.8 Antimony	13.20
Environmental Protection Agency 200.8 Arsenic	13.20
Environmental Protection Agency 200.8 Barium	13.20
Environmental Protection Agency 200.8 Beryllium	13.20
Environmental Protection Agency 200.8 Cadmium	13.20
Environmental Protection Agency 200.8 Chromium	13.20
Environmental Protection Agency 200.8 Copper	13.20
Environmental Protection Agency 200.8 Lead	13.20
Environmental Protection Agency 200.8 Manganese	13.20
Environmental Protection Agency 200.8 Molybdenum	13.20
Environmental Protection Agency 200.8 Nickel	13.20
Environmental Protection Agency 200.8 Selenium	13.20
Environmental Protection Agency 200.8 Silver	13.20
Environmental Protection Agency 200.8 Thallium	13.20
Environmental Protection Agency 200.8 Zinc	13.20
Environmental Protection Agency 200.8 Boron	13.20
Environmental Protection Agency 200.8 Calcium	13.20
Environmental Protection Agency Sodium 200.8	13.20

Hardness (Requires Calcium & Magnesium tests)	6.05
Organic Contaminants	
Environmental Protection Agency 524.2 Trihalomethanes	89.93
Haloacetic Acids Method 6251B	179.30
Environmental Protection Agency 524.2	228.80
Trihalomethanes, Maximum Potential	
Inorganics	
Alkalinity (Total) Standard Method 2320B	8.80
Bromate Environmental Protection Agency 300.1	30.25
Chlorate Environmental Protection Agency 300.1	30.25
Chlorite Environmental Protection Agency 300.1	30.25
Chloride Environmental Protection Agency 300.0	19.31
Environmental Protection Agency 300.0 Fluoride	20.35
Environmental Protection Agency 300.1 Sulfate	17.88
Chromium (Hexavalent) Environmental Protection Agency 218.7	60.50
Cyanide, Total 335.4	55.00
Environmental Protection Agency 353.2 Nitrate + Nitrite	11.28
Perchlorate 314.0	60.50
Environmental Protection Agency 537.1 - Per-and Polyfluoroalkyl Substances	290.00
pH (Test of acidity or alkalinity) 150.1	11.00
Environmental Protection Agency 375.2 Sulfate	13.75
Environmental Protection Agency 180.1 Turbidity	9.35
Odor, Environmental Protection Agency 140.1	30.25
Organic Constituents, Ultra Violet-Absorbing Standard Method 5910B	36.30
Carboxylic Acids (Oxalate, Formate, Acetate)	46.20
Nitrogen, Total Standard Method 4500-N (Lachat)	20.90
Organic Carbon, Total Standard Method 5310B	18.70
Environmental Protection Agency 300.1 Bromide	30.25
Organics	
Anatoxin by Enzyme-Linked Immunosorbent Assay	98.55
Chlorophyll-A by High Performance Liquid Chromatography	110.61
Cyanotoxin Quantitative Polymerase Chain Reaction Method	33.00
Cylindrospermopsin by Enzyme-Linked Immunosorbent Assay	98.55
Periphyton	26.40
Water Bacteriology	
Legionella Standard Methods 9260J	68.20
Liter of water	
Solids, Total Dissolved Standard Method 2540C	14.03
Environmental Protection Agency 325.2 Chloride	7.70
Standard Method 5210B Carbonaceous Biochemical/ Soluble Oxygen Demand	36.30
Standard Method 2120B Color	13.20
Total Microcystins & Nodularins by Enzyme-Linked Immunosorbent Assay	98.55
Legiolert	37.22
Water Microbiology (Drinking Water and Surface Water)	
Total Coliforms/Escherichia coli	20.90
Colilert/Colisure	
Heterotrophic Plate Count by 9215 B Pour Plate	14.30
Inorganic Surface Water (Lakes, Rivers, Streams) Tests	
Ammonia Environmental Protection Agency 350.1	19.25
Biochemical Oxygen Demand 5 day test Standard Method 5210B	28.60
Chlorophyll A Standard Method 10200H - Chlorophyll-A	18.70
Phosphorus, Total 365.1	17.05
Silica 370.1	17.33
Solids, Total Volatile, Environmental Protection Agency 160.4	18.15
Solids, Total Suspended Standard Method 2540D	14.03
Specific Conductance 120.1	8.53
Environmental Protection Agency 376.2 Sulfide	48.40
Infectious Disease	
Arbovirus	
TrioPlex Polymerase Chain Reaction	65.00
Zika Immunoglobulin M	45.00
Next Generation Sequencing	
Bacterial Sequencing	107.00
Bacterial Sequencing Analysis	40.00
Bacterial Sequencing and Identification	108.00
Bacterial Sequencing, Identification, Analysis	122.00
Microbial Source Tracking via shotgun metagenomics sequencing	194.00
Microbial Source Tracking via culture based	150.00
Immunology	
Hepatitis	
Anti-Hepatitis B Antibody	19.50
Anti-Hepatitis B Antigen	19.50
C (Anti-Hepatitis C Virus) Antibody	23.00
HIV (Human Immunodeficiency Virus)	
1/2 and O, Antigen/Antibody Combo	27.00
Supplemental Testing (HIV-1/HIV-2 differentiation)	42.00
Hantavirus	40.00
Syphilis	

Immunoglobulin G (IgG) Antibody (including reflex Rapid Plasma Reagin titer)	10.00
TP-PA (Treponema Pallidum - Particle Agglutination) Confirmation	22.00
QuantiFERON	
QuantiFERON Gold	65.00
Virology	
BioFire FilmArray Respiratory Panel	160.00
Hepatitis C Virus (HCV) detection by quantitative Nucleic Acid Amplification Test	75.00
Herpesvirus (Herpes Simplex Virus-1, Herpes Simplex Virus-2, Varicella Zoster Virus) Detection and Differentiation by Polymerase Chain Reaction	51.00
Rabies - Not epidemiological indicated or pre-authorized	180.00
Influenza PCR (Polymerase Chain Reaction)	150.00
Chlamydia trachomatis and Neisseria gonorrhoeae detection by nucleic acid testing	23.00
Bacteriology	
BioFire FilmArray Gastrointestinal Panel	185.00
Mycobacteriology	
Culture	81.00
Mycobacterium tuberculosis susceptibilities (send out)	175.00
Identification and Susceptibility by GeneXpert	126.00
Organic Wet Chemistry	200.00
Parameter Category Fees charge for each sample tested	
Atomic Absorption/Atomic Emission	300.00
Radiological chemistry - Alpha spectrometry	300.00
Radiological chemistry - Beta	300.00
Calculation of Analytical Results	50.00
Organic Clean Up	200.00
Toxicity/Synthetic Extractions Characteristics Procedure	200.00
Radiological chemistry - Gamma	300.00
Gas Chromatography	
Simple	300.00
Complex	600.00
Semivolatile	500.00
Volatile	500.00
Radiological chemistry - Gas Proportional Counter	300.00
Gravimetric	100.00
High Pressure Liquid Chromatography	300.00
Inductively Coupled Plasma Metals Analysis	400.00
Inductively Coupled Plasma Mass Spectrometry	500.00
Ion Chromatography	200.00
Ion Selective Electrode base methods	100.00
Radiological chemistry - Liquid Scintillation	300.00
Metals Digestion	100.00
Simple Microbiological Testing	100.00
Complex Microbiological Testing	300.00
Organic Extraction	200.00
Physical Properties	100.00
Titrimetric	100.00
Spectrometry	200.00
While Effluent Toxicity	600.00
Environmental Laboratory Certification	
Certification Clarification	

Note: Laboratories applying for certification are subject to the annual certification fee, plus the fee listed, for each category in which they are to be certified.

Annual certification fee (chemistry and/or microbiology)	
Utah laboratories	1,000.00
Out-of-state laboratories	3,000.00

Plus reimbursement of all travel expenses

National Environmental Accreditation Program (NELAP) recognition	1,000.00
Certification change	250.00
Performance Based Method Review (per method fee)	250.00
Primary Method Addition for Recognition Laboratories	500.00
Health Clinics of Utah	
Health Clinics	
Check	
Complete Blood Count	5.00
Complete Metabolic Panel	6.00
Cornell Well Child Check Visits	36.00
G0396 Alcohol, substance screening; 15-30 minute intervention	30.00
G0397 Alcohol, substance screening; 30+ minute intervention	58.00
G0402 Welcome to Medicare Preventive Physical Exam	170.00
G0438 Annual Wellness Check Medicare New Patient	180.00
G0439 Annual Wellness Check Medicare Established Patient	160.00
92552 Audiometry	23.23
93000 Electrocardiogram	10.95
99381 New Patient Under 1	82.55
99382 New Patient Age 1-4	86.23
99383 New Patient Age 5-11	89.63
99384 Age 12-17	100.87
99385 Age 18-20	98.00
99386 New patient well exam	238.00
99387 New patient well exam	200.00
99391 Under 1	74.16
99392 Age 1-4	79.33
99393 Age 5-11	79.08
99394 Age 12-17	86.66
99395 Age 18-20	88.51
99397 Medical Evaluation for 65 Years and Over	210.00
99408 Alcohol, substance screening; 15-30 minute intervention	27.00
99409 Alcohol, substance screening; 30+ minute intervention	51.98
Consult With Another Physician	
99241 History, Exam, Straightforward	34.65
99242 Expanded History and Exam Straightforward	65.68
99243 Detailed History, Exam	89.99

low complexity	
99244 Comprehensive History, Exam	135.22
moderate complexity	
New Patient	
99201 Brief	65.00
99202 Limited	54.21
99203 Intermediate	83.69
99204 Extended	125.46
99205 Comprehensive	165.78
99245 Office Consult for New or Established Patient	164.91
Established Patient	
10007 No Show Fee, Established Patient	5.00
99211 Brief	16.17
99212 Limited	40.40
99213 Intermediate	65.96
99214 Extended	93.75
99215 Comprehensive	131.11
Medicare	
G0008 Flu Shot Administration for Medicare	30.00
G0009 Injection Administration for Pneumonia without Physician for Medicare	30.00
87880 Quick Strep for Test for Medicaid/Medicare	15.67
Repair	
A4460 Ace Wrap (per roll)	7.00
A4550 Surgical Tray	42.00
A4565 Sling	21.00
A4570 Splint	23.00
J7297 Liletta 52 mg Intrauterine Device	1,000.00
J7298 Mirena 52mg Intrauterine Device	1,054.00
58300 Insertion of Intrauterine Device	77.40
58301 Removal of Intrauterine Device	81.08
60001 Aspiration/Injection Thyroid Gland	81.00
80048 Basic Metabolic Profile	3.00
80053 Metabolic Panel Labs Comprehensive	4.00
80061 Lipid Panel Labs	6.00
80061 Quick Lipid Panel	19.00
80076 Hepatic Function Panel	4.00
80100 Drug Screen for Multiple Drug Classes	26.00
80101 Drug Screen for Single Drug Class	26.00
80176 Xylocaine 0-55 cc	29.00
82728 Ferritin	19.00
82948 Glucose for Blood, Regent Strip	4.30
82962 Glucose for Monitoring Device	6.00
83036 Hemoglobin A1C (long-term blood sugar test)	13.23
84460 Alanine Amino Test	15.00
85013 Hematocrit	5.00
85025 Complete Blood Count Labs	4.00
85610 Prothrombin Time	10.00
85651 Erythrocyte Sedimentation Test	11.00
85652 Sedimentation Rate	11.00
86308 Mononucleosis test	15.00
86318 Helicobacter Pylori test	23.00
86318 Quick Helicobacter Pylori test	23.00
86403 Monospot	18.00
86580 Purified Protein Derivative/ Tuberculosis Test	13.00
87082 Presumptive, Pathogenic Organism Screen	16.00
87102 Fungal	16.00
87106 Yeast	8.00
87110 Chlamydia	16.00
87220 Potassium Hydroxide for Wet Prep	10.00
87880 Strep Quick Test	15.67
88164 Cytopathology, Slides, Cervical or Vagina	26.00
Arthrocentesis	
80176 Xylocaine 0-55 cc	20.04
Destruction	
17000 Any Method Benign First Lesion	48.94
17003 Add-on Benign/ Pre-malignant	4.79
17004 Benign Lesion 15 or More	122.61
17110 Flat Wart for Up to 15	83.75
17111 Flat Warts for 15 and More	98.35
Removal Foreign Body, External	
20520 Foreign Body Removal Simple	161.91
57415 Removal of impacted vaginal foreign body	130.92
65025 Eye, Superficial	173.00
65220 Eye, Corneal	215.00
69200 Auditory Canal without General Anesthesia	60.48
69209 Cerumen Removal/One or Both Ears	78.00
Malignant	
17260 Trunk/Arm/Leg 0.5 or Less	73.58
17280 Lesion Face 0.5 cm Less	104.46
17281 Lesion Face 0.6-1	133.53
Arthrocentesis	
20550 Injection for Trigger Point Tendon/Ligament/ Ganglion	41.94
20552 Trigger Point Injection (TPI)	40.50
20600 Small Joint/Ganglion Fingers/Toes	38.77
20610 Major Joint/Bursa Shoulder/Knee	47.83
20605 Intermediate Joint/Bursa Ankle/Elbow	40.30
211 Community Service	52.00
30901 Cauterize (Limited) for Control Nasal Hemorrhage/ Anterior/ Simple	116.44
36415 Venipuncture	3.70
44641 Excision for Malignant Lesion	131.00
46083 Incision for Thrombosed Hemorrhoid, External	156.27
46600 Anoscope	89.27
52000 Cystoscopy	173.81
53670 Catheterization, Urinary, Simple	30.00
Colposcopy	

57421 Biopsy of Vagina/Cervix	131.16
57455 Cervix With Biopsy	119.91
57456 Cervix With Electrocautery conization	112.53
57511 Cryocautery Cervix for Initial or Repeat	143.34
58100 Biopsy, Endometrial	76.49
58110 Endometrial sampling in conjunction with colposcopy	38.14
Culture	
Bacterial	
87070 Culture – Throat	11.86
87077 Incision and Drainage	11.01
87086 Bacterial Urine	9.22
87088 Bacterial Urine Identification and Quantification	11.03
Urine Analysis	
81000 with Microscope	4.24
81002 Urinalysis, dipstick/reagent; non–auto w/o microscope	3.48
81003 Automated and without Microscope	3.06
81025 Human Chorionic Gonadotropin	8.61
Urine	
82043 Microalbumin	7.89
82270 Hemoccult	3.42
Feces Screening	
82570 Creatinine	4.63
84443 Thyroid Stimulating Hormone Labs	10.00
Immunization	
90716 Varicella	150.97
90732 Pneumovax Shot	125.91
90734 Meningitis	134.76
90746 Hepatitis B 19+ Years	69.64
Adult	
90744 Hepatitis B/Newborn–18 Years	28.21
87804 Influenza A	15.67
Quick Test	
90471 Immunization Administration for One Vaccine	13.81
90472 Immunization Administration for Additional Vaccine	13.81
90670 Pneumovax 13	241.38
90700 Diphtheria Tetanus Pertussis	26.30
90702 Diphtheria Tetanus	60.03
90703 Tetanus	26.00
90707 Measles Mumps Rubella	87.31
90715 Adacel – Tetanus Diphtheria Vaccine	35.79
Hepatitis	
90632 Hep A for 18+ Years	64.07
90634 Hep A for Pediatric–Adolescent	35.00
90636 Hep A and B Combination Adult	95.07
90645 Haemophilus Influenza B	47.00
90649 Gardasil Human Papillomavirus Vaccine	161.69
90658 Influenza Virus Vaccine	15.63
90669 Pneumococcal > 5 years old Only	104.00
G0010 Hepatitis B Vaccine Administration	30.00
Simple	
12001 Superficial Wound 2.5 cm or Less	69.66
12002 Wound 2.6–7.5 cm	84.47
12004 Wound 7.6–12.5 cm	98.33
12005 Wound 12.6–20.0 cm	131.52
12011 Face/Ear/Nose/Lip 2.5 cm or Less	69.66
12032 Layer Closure Scalp/ Extremities/Trunk 2.6–7.5 cm	228.89
13120 Complex Scalp/Arms/Legs	269.19
16020 Burn Dress without Anesthesia Office/Hospital Small	63.00
16025 Burn Dress without Anesthesia Medical Face/Extremities	116.31
Arterial Studies	
93922 Noninvasive Physiologic studies of upper or lower extremity arteries at a single level, bilaterally	52.69
93923 Noninvasive physiologic studies of upper or lower extremity arteries at multiple levels or with provocative functional maneuvers; complete bilateral study	80.13
93924 Noninvasive physiologic studies of lower extremity arteries at rest and after treadmill testing; complete bilateral study	101.41
Excision	
11100 Biopsy for Skin Lesion Subcutaneous	165.00
11101 Biopsy for Skin Subcutaneous Each Separate/Additional Lesion	32.00
11200 Removal Skin Tags 1–15	66.59
11201 Removal Skin tag any area, Each Add 10 Lesion	13.87
11300 Shave Biopsy for Epidermal/ Dermal Lesion 1 Trunk–Neck	76.14
11305 Shave Excision and Electrocautery	80.26
Benign	
Trunk/Arm/Leg	
11400 Lesion 0.5cm or Less	95.41
11402 Lesion 1.1–2.0 cm	128.53
11401 Lesion 0.6–1cm	116.41
11403 2.1–3.0 cm	147.96
11404 3.1–4.0 cm	168.34
11420 Scalp/Neck/Genital 0.5 or less	95.94
11421 Lesion 0.6–1.0 cm	119.76
11422 Subcutaneous/Neck/ Genital/Feet 1.1–2.0 cm	134.90
11423 Cyst	153.61
11440 Benign Face/Ear/ Eyelid 0.5cm/less	106.88
Malignant	
Malignant lesion removal 0.5 cm or less 11600	149.40
Incision and Drainage	
10060 Abscess Simple/Single	91.84
10061 Complicated or Multiple	158.04
10080 Pilonidal Cyst	181.24
10120 Incision and Removal Foreign Object–Simple	113.58
10140 Incision and Drainage of Cyst, Hematoma or Seroma	127.76
10160 Puncture Aspiration of Abscess, Hematoma	97.04
Debridement	
11000 Infected Skin up to 10%	42.98

11040 Skin Partial Thickness	44.00
11041 Skin Full Thickness	52.00
11042 Skin and Subcutaneous Tissue	96.33
11044 Skin, Tissue, Muscle, Bone	233.59
11720 Debridement for Nails 1-5	24.58
11721 Debridement for Nails 6 or More	33.22
Avulsion	
11740 Toenail	41.52
11730 Nail Plate Single	86.89
11731 Nail Second	42.00
11732 Nail Each Additional Nail	25.45
11750 Excision for Nail/Matrix Permanent Removal	121.08
11765 Wedge Excision of Skin of Nail Fold Ingrown	125.84
Other	
Form 21 Disability Exam	73.00
1000cc normal saline J7030	2.59
31505 Laryngoscopy	67.37
36416 Capillary Blood Collection	3.19
57160 Fitting and insertion of pessary or other intravaginal support device	54.45
76801 Ultrasound, pregnancy uterus, first trimester trans-abdominal approach	47.67
76805 Ultrasound, pregnancy uterus, after first trimester trans-abdominal approach	50.60
76815 Ultrasound, pregnancy uterus, with image limited	31.49
80305 Drug Screen Direct Observation	11.99
82575 Creatinine Clearance	18.00
82947 Glucose sent out	7.00
83013 H-Pylori Breath Test	83.16
83036 Hemoglobin A1C (long-term blood sugar test) sent out	14.00
84153 Prostate Specific Antigen Test	8.00
88147 Papanicolaou (PAP) Smear for Cervical or Vaginal	8.24
90620 Supplemental Security Income Exam Initial Consult	191.74
90691 Typhoid	75.00
90791 Psychiatric diagnosis evaluation w/o medical service (per 15 minutes)	39.83
90805 Psychiatric Diagnosis Interview Follow-up Visit	92.00
93965 Doppler of Extremity	13.51
94010 Spirometry	15.31
94200 Peak Flow	10.12
94640 Intermittent Pause Pressure Breathing Device - Nebulizer Breathing	10.12
94760 Pulse Oximetry - Oxygen Saturation	10.00
95115 Injections for Allergy Only 1	6.65
95117 Injections for Allergy 2 or More	8.14
96360 IV Monitoring 1st half hour	26.05
96361 IV Monitoring each additional hour	20.00
96372 Injection administration	10.49
96372 ARISTADA Therapeutic, prophylactic, or diagnostic injection ; subcutaneous or intramuscular	40.00
99050 After Hours	24.00
99058 Emergency Visit	36.00
99070 Eye Tray	19.00
99080 Form 20 Disability Exam	82.02
99173 Visual Acuity Screening Test	10.00
99188 App Topical Fluoride Varnish	100.00
99354 Prolonged Services for one Hour	96.17
99386 Exam age 40-64	238.00
99387 New Patient Preventive Medicine Services Age 65 and Older	200.00
99396 Medical Evaluation for Adult 40-64	180.00
A6261 Wound filler/paste	40.00
A6402 Gauze, less than 16 square inches	1.00
A6403 Gauze, 16-48 square inch	2.00
G0101 Papanicolaou (PAP) with Breast Exam Cervical/Vaginal Screen	42.00
G0250 International Normalized Ratio home testing review	8.00
J0170 Injection for Epinephrine	10.00
J0696 Rocephin 250 mg	0.50
J1050 Depo-Provera	0.57
J1071 Testosterone 1mg	0.30
J1200 Benadryl up to 50 mg	0.98
J1885 Toradol 15 mg	0.48
J1943 ARISTADA INITIO 1mg injection aripiprazole lauroxil	3.21
J1944 ARISTADA 1mg Injection, aripiprazole lauroxil	3.15
J2795 Ropivacaine hcl injection 1mg	0.30
J2000 Xylocaine 0-55 cc	5.00
J2001 Lidocaine	0.02
J2550 Phenergan up to 50 mg	2.36
J2675 Progesterone	1.41
J3301 Kenalog-10 (per 10 mg)	1.19
J3420 Injection B-12	2.11
J7302 Levonorgestrel-releasing intrauterine contraceptive	1,002.00
J7608 Albuterol Sulfate 0.5%/ml Inhalation Solution Administration	6.07
J8499 Viscous Lidocaine	5.00
Lipid	29.00
Liver Function Test	6.00
L3908 Wrist Splint	50.00
Residual Functional Capacity Questionnaire	52.00
S0020 Marcaine up to 30 ml	1.41
S9981 Medical Records Copying Fee, Administration	10.00

DEPARTMENT OVERSIGHT

Licensing & Background Checks	
Licensing	
Online Background Check Application	9.00

Adult Day Care	
Initial License Fee	
0-50 Consumers per Program	900.00
More than 50 Consumers per Program	900.00
Renewal Fee	
0-50 Consumers per Program	300.00
More than 50 Consumers per Program	600.00
Per Licensed Capacity	9.00
Child Placing Adoption	
Initial License Fee	900.00
Renewal Fee	750.00
Child Placing Foster	
Initial License Fee and Renewal Fee	250.00
Day Treatment	
Initial License Fee	900.00
Renewal Fee	450.00
Intermediate Secure Treatment	
Initial License Fee	900.00
Renewal Fee	750.00
Per Licensed Capacity	9.00
Life Safety Pre-inspection	
Initial Fee to Verify Life and Fire Safety	600.00
Outdoor Youth Program	
Initial License Fee and Renewal Fee	1,408.00
Outpatient Treatment	
Initial License Fee	900.00
Renewal Fee	300.00
Recovery Residences	
Initial License Fee	1,295.00
Renewal Fee	500.00
Residential Support	
Initial License Fee	900.00
Renewal Fee	300.00
Social Detoxification	
Initial license fee	900.00
Renewal Fee	600.00
Residential Treatment	
Initial License Fee	900.00
Renewal Fee	600.00
Per Licensed Capacity	9.00
Therapeutic School Program	
Initial License Fee	900.00
Renewal Fee	600.00
Per Licensed Capacity	9.00

These fees apply for the entire Department of Health

Background Screening Fee - Public Safety	33.25

This fee should be the same as that charged by the Department of Public Safety. If the Legislature changes the fee charged by Department of Public Safety, then the Legislature also approves the same change for the Department of Health. Fees collected by Family Health and Preparedness are passed through to Public Safety.

Background checks initial or annual renewal (not in Direct Access Clearance System)	18.00

This fee will be assessed at the Division level for background checks not completed through the Direct Access Clearance System.

This fee will be assessed for initial or annual renewal.

Direct Access Clearance System	
Facility Initial or Change of Ownership (per 100)	100.00
Initial Clearance	20.00
Facility Renewal	200.00

These fees apply for the entire Division of Family Health and Preparedness

Credit Card Fee (per transaction)	Not to exceed 3%

To determine the amount charged, a percentage will be calculated using the total of credit card fees incurred by the Division, divided by the total credit card revenues. Convenience Fee (for debit or credit card payment)

Online Processing Fee (per transaction)	0.75

Convenience fee to cover cost of Utah Interactive processing fee.

Fingerprints	12.00
Annual License	
Abortion Clinics	1,800.00
Health Facilities base	260.00

A base fee for health facilities plus the appropriate fee as indicated below applies to any new or renewal license.

Direct Access Clearance System	
Contractor Access	100.00
Two Year Licensing Base	
Plus the appropriate fee as listed below to any new or renewal license	
Health Care Facility	520.00

Every other year

Health Care Providers	
Change Fee	130.00

Charged for making changes to existing licenses.

Hospitals	
Hospital Licensed Bed	39.00
Nursing Care Facilities, and Small Health Care Facilities Licensed Bed	31.20
End Stage Renal Disease Centers	
Licensed Station	182.00
Freestanding Ambulatory Surgery Centers (per facility)	2,990.00
Birthing Centers (per licensed unit)	520.00
Hospice Agencies	1,495.00
Home Health Agencies	1,495.00
Personal Care Agencies	1,000.00
Mammography Screening Facilities	520.00
Assisted Living Facilities	
Type I (per licensed bed)	26.00
Type II (per licensed bed)	26.00
The fee for each satellite and branch office of current licensed facility	260.00
Late Fee	
Within 1 to 14 days after expiration of license	50% of scheduled fee
Within 15 to 30 days after expiration of license	75% of scheduled fee
New Provider/Change in Ownership	
Applications for health care facilities	747.50

Assessed for services rendered providers seeking initial licensure to or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.

Assisted Living and Small Health Care Type-N (nursing focus) Limited Capacity Applications: ... 325.00

Assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation and initial inspection.

Application Termination or Delay

If a health care facility application is terminated or delayed during the application process, then a fee based on services rendered will be retained as follows:

On-site inspections ... 90% of total fee

Plan Review and Inspection

Hospitals

Number of Beds

Up to 16	3,445.00
17 to 50	6,890.00
51 to 100	10,335.00
101 to 200	12,870.00
201 to 300	15,470.00
301 to 400	17,192.50
Over 400, base	17,192.50
Over 400, each additional bed	37.50

In the case of complex or unusual hospital plans, the Bureau will negotiate with the provider an appropriate plan review fee at the start of the review process based on the best estimate of the review time involved and the standard hourly review rate.

Nursing Care Facilities and Small Health Care Facilities

Number of Beds

Up to 5	1,118.00
6 to 16	1,716.00
17 to 50	3,900.00
51 to 100	6,890.00
101 to 200	8,580.00

Freestanding Ambulatory Surgical Facilities (per operating room) ... 1,722.50

Other Freestanding Ambulatory Facilities (per service unit) ... 442.00

Includes Birthing Centers, Abortion Clinics, and similar facilities.

End Stage Renal Disease Facilities (per service unit) ... 175.50

Assisted Living Type I and Type II

Number of Beds

Up to 5	598.00
6 to 16	1,196.00
17 to 50	2,762.50
51 to 100	5,167.50
101 to 200	7,247.50

Each additional inspection required (beyond the two covered by the fees listed above) or each additional inspection requested by the facility shall cost $559.00 plus mileage reimbursement at the approved state rate, for travel to and from the site by a Department representative.

Remodels of Licensed Facilities

Hospitals, Freestanding Surgery Facilities (per square foot) ... 0.29

All others excluding Home Health Agencies (per square foot) ... 0.25

Each additional required on-site inspection ... 559.00

Health Care Facility Licensing Rules ... Actual cost

Plus mailing

Other Plan Review Fee Policies

Plan Review Onsite Inspection ... See Notes

If an existing facility has obtained an exemption from the requirement to submit preliminary and working drawings, or other info regarding compliance with applicable construction rules, then the Department may conduct a detailed on-site inspection in lieu of the plan review. The fee for this will be $559.00 per inspection, plus mileage reimbursement at the approved state rate.

Previously Reviewed or Approved Plan ... 60% of scheduled fee

A facility that uses plans and specifications previously reviewed and approved by the Department. Cost: 60% of the scheduled plan review fee.

Special Equipment Facility Addition or Remodel (per square foot) ... 0.52

A facility making additions or remodels that house special equipment such as CAT (Computer Assisted Tomography) scanner or linear accelerator.

Terminated or Delayed Plan Review

Preliminary Drawing Review ... 25% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 25% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Working Drawings and Specifications Review ... 80% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Certificate of Authority

Working Drawings and Specifications Review ... 80% of scheduled fee

If a project is terminated or delayed less than 12 months during the plan review process, a fee based on services rendered will be retained as 80% of the total fee. If a project is delayed beyond 12 months from the date of the Department's last review, the applicant must re-submit plans and pay a new plan review fee in order to renew the review action.

Conditional Monitoring Inspections

Center-based providers (per visit) ... 253.00

Charge per extra visit begins with the second additional visit required due to non-compliance. Facility is on a conditional license.	
Home-based providers (per visit)	245.00
Charge per extra visit begins with the second additional visit required due to non-compliance. Facility is on a conditional license.	
Annual License	
Child Care Facility Base	62.00
Plus the appropriate fee as listed below to any new or renewal license	
Change in license or certificate during the license period more than twice a year	31.00
Child Care Center Facilities (per child)	1.75
Late Fee	Variable
Within 1 - 30 days after expiration of license facility will be assessed 50% of scheduled fee. For centers, $31 plus $0.75 per child in the requested capacity. For homes, $31.	
New Provider/Change in Ownership	
Applications for Child Care center facilities	200.00
A fee will be assessed for services rendered to providers seeking initial licensure or change of ownership to cover the cost of processing the application, staff consultation, review of facility policies, initial inspection.	
Other	
Inspection fee for non-compliant facility follow-up inspection	25.00

HEALTH CARE ADMINISTRATION

Integrated Health Care Administration	
Provider Enrollment	
Medicaid application fee for prospective or re-enrolling	rate set by federal government
This fee is set by the federal government (Centers for Medicare and Medicaid Services) and is effective on January 1 of each year.	

INTEGRATED HEALTH CARE SERVICES

Children's Health Insurance Program Services	
Quarterly Premium	
Plan B	30.00
138%-150% of Poverty Level	
Plan C	75.00
150%-200% of Poverty Level	
Late	15.00
Non-Medicaid Behavioral Health Treatment & Crisis Response	
Alcoholic Beverage Server	
On Premise and Off Premise Sales	3.50
State Hospital	
Use of USH Facilities	
Photo Shoots (per 2 hours)	20.00
Groups Up To 50 People (per day)	75.00
Groups Over 50 People (per day)	150.00

LONG-TERM SERVICES & SUPPORT

Disabilities - Other Waiver Services	
Graduated	630.00
Critical support services for people with disabilities who are non-Medicaid matched. The fee ranges between 1 percent and 3 percent of gross family income.	

PUBLIC HEALTH, PREVENTION, & EPIDEMIOLOGY

Communicable Disease & Emerging Infections	
Utah Statewide Immunization Information System	
Non-Financial Contributing Partners	
Match on Immunization Records in Database (per record)	12.00
File Format Conversion (per hour)	30.00
Preparedness & Emergency Health	
Data	
EMS License	
Emergency Medical Services License Data Request	500.00
Registration and Licensure	
License/License Renewal Fee	
Instructor 6 Month Extension Fee	40.00
License Verification	10.00
Permit	
Behavior Health Unit (per Vehicle)	100.00
Registration and Licensure	
License/License Renewal Fee	
Course Coordinator Extension Fee	40.00
Inspection	
Dispatch	100.00
Quality Assurance and Designation Review	
Stroke Center Designation/ Redesignation	150.00
Registration and Licensure	
License/License Renewal Fee	
Quality Assurance Review Fee All Levels	30.00
Training Officer Extension Fee	40.00
Quality Assurance Designation Review	
Air Ambulance Quality Assurance Review	5,000.00
Registration and Licensure	
License Fee	
Blood Draw Permit	35.00
Quality Assurance Review Fee for All Levels Late Fee	Certification Fee
Certification Fee	
License/License Renewal Fee	
Initial and Reciprocity Quality Assurance for All Levels	45.00
Decal for purchase for All Levels	2.00
Patches for purchase for All Levels	5.00
Course Audit Fee	40.00
Course Request Fee	
Course for All Levels	300.00
Course for All Levels	300.00
Ground Ambulance - Emergency Medical Technician	
Permit	
Quality Assurance Review (per vehicle)	100.00
Advanced (per vehicle)	130.00
Interfacility Transfer Ambulance	

Permit	
Emergency Medical Technician Quality Assurance Review (per vehicle)	100.00
Advanced (per vehicle)	130.00
Fleet Vehicles	
Permit	
Fleet fee (per fleet)	3,200.00
Agency with 20 or more vehicles	
Paramedic	
Permit	
Rescue (per vehicle)	165.00
Tactical Response (per vehicle)	165.00
Ambulance (per vehicle)	170.00
Interfacility Transfer Service (per vehicle)	170.00
Quick Response Unit	
Permit	
Emergency Medical Technician Quality Assurance Review (per vehicle)	100.00
Advanced (per vehicle)	100.00
Air Ambulance	
Permit	
Advanced (per vehicle)	130.00
Specialized (per vehicle)	165.00
Out of State (per vehicle)	200.00
Quality Assurance Designation Review	
Resource Hospital (per hospital)	150.00
Trauma Center Verification/Quality Assurance Review	5,000.00
Trauma Designation Consultation Quality Assurance Review	750.00
Focused Quality Assurance Review	3,000.00
Emergency Patient Receiving Facility Re-designation	150.00
Emergency Patient Receiving Facility Initial Designation	500.00
Quality Assurance Application Reviews	
Newspaper Publications	
Original Air Ambulance License	850.00
Original Ground Ambulance/Paramedic License Non Contested	850.00
Original Ambulance/Paramedic License Contested	up to actual cost
Original Designation	135.00
Renewal Ambulance/Paramedic/Air License	135.00
Renewal Designation	135.00
Upgrade in Ambulance Service Level	125.00
Change in ownership/operator	
Upgrade in Ambulance Service Level	125.00
Contested	Up to actual cost
Change in geographic service area	
Non-contested	850.00
Contested	Up to actual cost
Quality Assurance Course Review	
Critical Care Endorsement	20.00
Requesting a change to the name. Remove Certification and replace with Endorsement.	
Course Coordinator Seminar Registration	50.00
Emergency Medical Training and Testing Program Designation	135.00
Instructor Seminar	
Registration	150.00
Training Application Late Fee	25.00
None	
Conference Sponsor/Vendor	500.00
New Course Coordinator	
Course Coordination Endorsement	75.00
Course Coordination Endorsement	75.00
New Instructor Endorsement	150.00
Requesting a change to the name. Remove Course Certification and replace with New Instructor Endorsement.	
New Training Officer Endorsement	75.00
Requesting a change to the name. Remove Initial Certification and replace with New Training Officer Endorsement.	
Pediatric	
Advanced Life Support Course	170.00
Education for Prehospital Professionals Course	170.00
Training Officer Seminar Registration	50.00
Training and Seminars Additional Lunch	15.00
Emergency Vehicle Operations Instructor Course	40.00
Medical Director's Course	50.00
Management/Leadership Seminar	150.00
Prehospital Trauma Life Support Course	175.00
Pediatric Advanced Life Support Course Renewal	85.00
Equipment Delivery	
Strike Team BLU-MED Mobile Field Response Tent Support	6,000.00
Pediatric	
Rental of course equipment to for-profit agency	150.00
Quality Assurance Course Review	
Pediatric	
Education for Prehospital Professionals Course Renewal	85.00
Data	
Pre-hospital	
Non-profits Users	800.00
Academic, non-profit, and other government users	
For-profit Users	1,600.00
Trauma Registry	
Non-profits Users	800.00
Academic, non-profit, and other government users	
For-profit Users	1,600.00

CHILDREN, YOUTH, & FAMILIES

Child & Family Services	
Live Scan Testing	10.00
Children with Special Healthcare Needs	
Psychology	
96131 Psychological Testing-each additional hour	136.00
96136 Psychological Test Administration and Scoring-two or more tests	68.00

96137 Psychological Test Administration and Scoring-two or more tests+each additional 30 minutes	68.00
Children with Special Health Care Needs Service	
Balance Charge after Insurance Payment	
Household income less than or equal to 133% of Federal Poverty Level	1.00
Household income 134% to 150% of Federal Poverty Level	20%
Household income 151% to 185% of Federal Poverty Level	40%
Household income greater than 225% of Federal Poverty Level	100%
Evaluation of Speech	
92521 Fluency	150.00
92522 Sound Production	121.00
92523 Sound Production w/ Evaluation of Language Comprehension	260.00
Special Otorhinolaryngologic Services	
92524 Behavioral and Qualitative Analysis of Voice and Resonance	116.00
Physical Medicine and Rehabilitation	
Therapeutic Procedures	
97112 Neuromuscular reeducation	38.00
97116 Gait training	33.00
97542 Wheelchair Assessment fitting/training	25.00
97542 Wheelchair Assessment fitting/training	25.00
Office Visit, New Patient	
99201 Problem focused, straightforward	65.00
99202 Expanded problem, straightforward	110.00
99203 Detailed, Low Complexity	160.00
99204 Comprehensive, Moderate Complexity	245.00
99205 Comprehensive, High Complexity	315.00
Office Visit, Established Patient	
99211 Minimal Service or non-Medical Doctor	30.00
99212 Problem focused, straightforward	65.00
99213 Expanded Problem, Low Complexity	108.00
99214 Detailed, Moderate Complexity	160.00
99215 Comprehensive, High Complexity	220.00
Office Consultation, New or Established Patient	
99241 Problem focused, straightforward	50.00
99242 Expanded problem focused, straightforward	80.00
99243 Detailed Exam, Low Complexity	100.00
99244 Comprehensive, Moderate Complexity	140.00
99245 Comprehensive, High Complexity	426.00
99354 Prolonged, face to face	73.00
First hour	
99355 Prolonged, face to face	112.00
Additional 30 minutes	
99358 Prolonged, non face to face	93.00
First hour	
99359 Prolonged, non face to face	51.00
Additional 30 minutes	
95974 Cranial Neurostimulation evaluation	160.00
T1013 Sign Language oral interview	13.00
Nutrition	
97802 Medical Assessment	22.00
97803 Reassessment	22.00
Psychology	
90791 Psychiatric Diagnostic Evaluation	140.00
90792 Psychiatric Diagnostic Evaluation With Medical Services	157.00
90804 Psychotherapy, face to face, 20-30 minutes	90.00
90806 Psychotherapy, face to face, 50 minutes	130.00
90846 Family Medical Psychotherapy, 30 minutes	112.00
90847 Family Medical Psychotherapy, conjoint 30 minutes	116.00
90885 Evaluation of hospital records	55.00
90889 Preparation of reports	74.00
96103 Testing with computer	30.00
96110 Developmental Testing	136.00
96112 Extended Developmental Testing	136.00
96113 Developmental Testing: Each additional 30 minutes	80.00
For each additional 30 minutes of developmental testing.	
96130 Psychological Testing	136.00
Physical and Occupational Therapy	
97161 Physical Therapy Evaluation	90.00
97162 Physical Therapy Evaluation-Moderate Complexity	90.00
97163 Physical Therapy Evaluation-High Complexity	90.00
97164 Physical Therapy Re-evaluation	52.00
97165 Occupational Therapy Evaluation	90.00
97166 Occupational Therapy Evaluation-Moderate Complexity	90.00
97167 Occupational Therapy Evaluation-High Complexity	90.00
97168 Occupational Therapy Re-evaluation	52.00
97110 Therapeutic Physical Therapy	33.00
97530 Therapeutic Activity	44.00
97535 Self Care Management	37.00
97760 Orthotic Management	38.00
97762 Orthotic/prosthetic Use Management	38.00
G9012 Wheelchair Measurement/ Fitting	312.00
Audiology	
92550 Tympanometry and Acoustic Reflex Threshold Testing	24.00
92551 Audiometry, Pure Tone Screen	13.00
92552 Audiometry, Pure Tone Threshold	20.00
92553 Audiometry, Air and Bone	40.00
92555 Speech Audiometry threshold testing	25.00

92556 Speech Audiometry threshold/ speech recognition testing	40.00
92557 Basic Comprehension, Audiometry	36.00
92567 Tympanometry	12.00
92568 Acoustic reflex testing, threshold	17.00
92570 Tympanometry and Acoustic Reflex Threshold	33.00
Acoustic Reflex Decay Testing	
92579 Visual reinforcement audiometry	42.00
92579-52 Visual reinforcement audiometry, limited	21.00
92582 Conditioning Play Audiometry	72.00
92585 Auditory Evoked Potentials testing	144.00
92587 Evoked Otoacoustic emissions testing	24.00
92590 Hearing Aid Exam	60.00
92591 Hearing Aid Exam, Binaural	75.00
92592-52 Hearing aid check, monaural	31.00
92593-52 Hearing aid check, binaural	44.00
92620 Evaluation of Central Auditory Function	90.00
92621 Evaluation of Central Auditory Function (per 15 minutes)	22.00
Each additional 15 minutes	
V5008 Hearing Check, Patient Under 3 Years Old	38.00
V5257 Hearing Aid, Digital Monaural	2,000.00
V5261 Hearing Aid, Digital Binaural	1,100.00
V5264 Ear Mold Insert	75.00
Baby Watch Early Intervention	
Monthly Participation Fee	
Household income 101% to 186% of Federal Poverty Level	10.00
Household income 187% to 200% of Federal Poverty Level	20.00
Household income 201% to 250% of Federal Poverty Level	30.00
Household income 251% to 300% of Federal Poverty Level	40.00
Household income 301% to 400% of Federal Poverty Level	50.00
Household income 401% to 500% of Federal Poverty Level	60.00
Household income 501% to 600% of Federal Poverty Level	80.00
Household income 601% to 700% of Federal Poverty Level	100.00
Household income 701% to 800% of Federal Poverty Level	120.00
Household income 801% to 900% of Federal Poverty Level	140.00
Household income 901% to 1000% of Federal Poverty Level	160.00
Household income 1001% to 1100% of Federal Poverty Level	180.00
Household income above 1100% of Federal Poverty Level	200.00

OFFICE OF RECOVERY SERVICES

Child Support Services	
Automated Credit Card Convenience	2.00
Fee for self-serve payments made online or through the automated phone system (IVR)	
Collections Processing	12.00
6 percent of payment disbursed up to a maximum of $12 per month	
Assisted Credit Card Convenience	6.00
Fee for phone payments made with the assistance of an accounting worker	
Federal Offset	25.00
Annual Collection	35.00

QUALIFIED PATIENT ENTERPRISE FUND

Caregiver (already background screened as a Guardian) Registration and Card (Initial) (per Guardian/Patient/ Caregiver)	15.00
Caregiver Registration (already background screened as a Guardian) and Card (Renewal) (per Guardian/Patient/Caregiver)	5.00
Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 90-day patient renewal.	
Guardian (already background screened as a Caregiver) and Provisional Card (6 Month) (per Guardian/Patient/Caregiver)	15.00
Guardian (already background screened as a Caregiver) and Provisional Card (90 Days) (per Guardian/Patient/ Caregiver)	5.00
Guardian (already background screened as a Caregiver) and Provisional Card (Initial) (per Guardian/Patient/ Caregiver)	15.00
Non-Utah Resident Guardian and Provisional Card (Initial) (per Guardian/Patient)	15.00
Valid for 21 days	
Non-Utah Resident Guardian and Provisional Card (Renewal) (per Guardian/Patient)	15.00
Guardian may register for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.	
Non-Utah Resident Patient Card (Initial) (per Patient)	15.00
Valid for 21 days	
Non-Utah Resident Patient Card (Renewal) (per Patient)	15.00
Patient may register for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.	
Qualified Medical Provider Proxy Registration (Initial) (per Provider)	30.00
Qualified Medical Provider Proxy Registration (Renewal) (per Provider)	30.00
Renewal every 2 years	
Medical Cannabis	
Pharmacy and Medical Provider Fees	

Pharmacy	
Application (per Region)	2,500.00
License Urban (per Pharmacy per year)	67,000.00
Home Delivery License Urban (per Pharmacy per year)	69,500.00
License Rural (per Pharmacy per year)	50,000.00
Home Delivery License Rural (per Pharmacy per year)	52,500.00
Qualified Medical Provider Registration (Initial) (per Provider)	150.00
Qualified Medical Provider Registration (Renewal) (per Provider)	50.00

Renewal every 2 years

Pharmacy Medical Provider/ Pharmacist Registration Fee (Initial) (per Provider)	150.00
Pharmacy Medical Provider/ Pharmacist Registration Fee (per Provider)	50.00
Pharmacy Agent Registration (Initial or >= 1 Year Expired) (per Agent)	100.00
Pharmacy Agent Registration (Renewal) (per Agent)	50.00
Courier Application (per Courier)	125.00
Courier License (Initial) (per Courier)	2,500.00
Courier License (Renewal) (per Courier)	1,000.00
Courier Agent Registration (Initial or >= 1 Year Expired) (per Agent)	100.00
Courier Agent Registration (Renewal) (per Agent)	50.00
Patient Fees	
Patient Card (Initial) (per Patient)	15.00
Patient Registration Renewal (90 Days) (per Patient)	5.00
Patient Registration Renewal (6 Month) (per Patient)	15.00
Guardian and Provisional Card (Initial or >= 1 Year Expired) (per Guardian/Patient)	68.25
Guardian and Provisional Card (90 Days) (per Guardian/Patient)	5.00
Guardian and Provisional Card (6 Month) (per Guardian/Patient)	24.00
Guardian (already background screened as a Guardian) and Provisional Card (Initial) (per Guardian/Patient)	15.00
Guardian (already background screened as a Guardian) and Provisional Card (90 Days) (per Guardian/patient)	5.00
Guardian (already background screened as a Guardian) and Provisional Card (6 Month) (per Guardian/patient)	15.00
Caregiver Registration and Card (Initial or >= 1 Year Expired) (per Caregiver)	68.25
Caregiver Registration and Card (Renewal) (per Caregiver)	14.00
Caregiver (already background screened as a Caregiver) Registration and Card (Initial) (per Caregiver)	15.00
Caregiver Registration (already background screened as a Caregiver) and Card (Renewal) (per Caregiver)	5.00

Renewal date is dependent upon the renewal date of the related patient card. No fee for the first 90-day patient renewal.

Uniform Transaction Fee (per Transaction)	3.00

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

ADMINISTRATION

General Administration	
General Administration	
Administrative Hearing Fee (per Hour)	Variable

Hourly charge varies from $0 to $500 depending on type of hearing and staffing required.

Registered Farms Recording	10.00
All Agriculture Divisions	
Background Check Fee	51.50
Certified document	25.00
Mileage	Variable

To be charged according to the current mileage rate of the State of Utah.

Copies of files	
Per hour	10.00
Per copy	0.25
Duplicate	15.00
Late	25.00
Print License/Prod Certificate Fee	20.00
Returned check	20.00

ANIMAL INDUSTRY

Animal Health	
Animal Health	
Aerial Hunting License Fee	10.00
Inspection Service (per Hour)	60.00
Commercial Aquaculture Facility	150.00
Commercial Fishing Facility	30.00
Aquaculture Inspection: Aquatic Invasive Species (AIS)	100.00
Aquaculture Inspection: Sterility Testing	100.00
Aquaculture/Fee Fishing: New Facility Inspection	100.00
Aquaculture Inspection: Supplemental Health Inspection	100.00
Citation	
Per violation	500.00
Per head	2.00

If not paid within 15 days, two times the citation fee; if not paid within 30 days, four times the citation fee.

Hatchery Operation (Poultry)	25.00
Poultry Dealer License (per dealer)	25.00

Health Certificate Book	50.00
Trichomoniasis Report Book	8.00
Trichomoniasis Ear Tags	2.00
Auction Market Veterinarians	
Animal Health	
Service Fee for Veterinarians	
Per day	600.00
Per mile	Variable
To be charged according to the current mileage rate of the State of Utah.	
Meat Inspection	
Meat Inspection	
Inspection Service	60.00
Meat Packing	
Meat Packing Plant	150.00
Custom Exempt	150.00
T/A (Talmage-Aiken) Official	150.00
Packing/Processing Official	150.00
Horse Racing Commission	
Utah Horse Commission (fees are not to exceed the amounts identified)	
Owner/Trainer	125.00
Owner	100.00
Organization	100.00
Trainer	100.00
Assistant trainer	100.00
Jockey	100.00
Veterinary Clinic	100.00
Racing Official	100.00
Racing Organization Manager or Official	100.00
Pony Rider	75.00
Groom	75.00
Security Guard	75.00
Security Investigator	75.00
Concessionaire	75.00
Drug Test Fee	100.00
To be charged at Stakes and Futurity races only.	

MARKETING AND DEVELOPMENT

Marketing/Utah's Own	
Utah's Own Supporter	1,000.00
Utah's Own New Member Registration	75.00
Utah's Own Member Renewal	60.00

PLANT INDUSTRY

Grain Inspection	
Grain Inspection	
Regular hourly rate (per hour)	28.00
Overtime hourly rate (per hour)	42.00
Official Inspection Services (includes sampling, except where indicated)	
Railcar (per car)	20.50
Truck or trailer (per carrier)	10.50
Container Inspection	21.50
Submitted sample (per sample)	7.50
Re-inspection	
Based on new sample (per truck)	10.50
Basis file sample	7.50
Based on new sample rail	20.50
Protein test	
Original or file sample retest	8.00
Oil and starch	8.00
Basis new sample	5.50
Factor only determination (per factor)	3.00
Plus samplers hourly rate, if applicable	
Stowage examination services (per certificate)	10.00
Extra copies of certificates (per copy)	1.00
Insect damaged kernel, determination (weevil, bore)	2.75
Sealing rail cars or containers upon request over 5 seals per rail car	5.00
Falling number inspection, per sample (per Sample)	12.00
Class X Weighing inspection (per Inspection)	6.00
Non-Official Services	
Safflower Grading	13.00
Class II weighing (per carrier)	6.00
Grain grading instructions (per hour, per person)	20.00
Set of check Samples	25.00
Proteins-moisture, Set of 5	
Other Requests (per hour)	48.00
Insect Infestation	
Beekeepers	
Insect Identification	10.00
Pest and Disease Lab Diagnostics - Licensed Beekeeper	20.00
Pest and Disease Lab Diagnostics - Non-Licensed Beekeepers	40.00
License	
1 to 20 hives	10.00
21 to 100 hives	25.00
101 to 500 hives	50.00
Agriculture Inspection	
Agricultural Inspection: Inspection services performed (per Hour)	40.00
Agricultural Inspection: Overtime (per hour)	60.00
For inspectors' time over 40 hours per week and on Holidays, plus regular fees.	
Good Agricultural Practices (GAP) Inspection (per hour)	Federal rate
Agricultural Inspection Mileage	Variable
To be charged according to the current mileage rate of the State of Utah.	
Control Atmosphere	10.00
Citations, maximum per violation	500.00
Feed	
Commercial Feed	25.00
Processing	35.00
Custom Formula Permit	75.00
Fertilizer	
Blenders License	75.00
Assessment (per ton)	0.35
Minimum Semiannual Assessment (per Assessment)	20.00
Fertilizer Registration	25.00
Processing	35.00
Hay and Straw Weed Free Certification	
Bulk loads of hay up to 10 loads	30.00
Charge for each hay tag	0.10
Nursery	
Nursery Agency	50.00
Gross Sales ($10.00 min) based on previous calendar year, applies to all Gross Sales Fees)	
$0 to $5,000	40.00
$5,001 to $100,000	80.00
$100,001 to $250,000	120.00

$250,001 to $500,000	160.00
$500,001 and up	200.00
Organic Certification	
Organic, Transitional, and Grass Fed Certification	300.00
Annual registration late fee (per Registration)	100.00
Fee for inspection (per hour)	65.00
Inspectors' time >40 hours per week (overtime) plus regular fees (per hour)	98.00
Major holidays and Sundays plus regular fees (per hour)	98.00
Gross Sales	
$0 to $5,000	Exempt

If an organic producer has gross sales of less than or equal to $5,000 for the previous calendar year, they are exempt from paying this fee.

$5,001 to $10,000	100.00
$10,001 to $15,000	180.00
$15,001 to $20,000	240.00
$20,001 to $25,000	300.00
$25,001 to $30,000	360.00
$30,001 to $35,000	420.00
$35,001 to $50,000	600.00
$50,001 to $75,000	900.00
$75,001 to $100,000	1,200.00
$100,001 to $150,000	1,800.00
$150,001 to $280,000	2,240.00
$280,001 to $375,000	3,000.00
$375,001 to $500,000	4,000.00
$500,001 and up	5,000.00
Phytosanitary	
Phytosanitary Inspection (per inspection)	100.00
Phytosanitary Inspection with grade certification (per inspection)	50.00
Export Compliance Agreements	50.00
Pesticide	
Product Registration	60.00
Processing Service	135.00
Replacement of lost or stolen certificate/license	15.00
Triennial (3 year) examination and educational materials	20.00
Commercial Applicator Certification	
Pesticide Business License	110.00
Triennial (3 year) Certification and License	45.00
Dealer License	
Triennial	100.00
Seed	
Seed Purity	
Flowers	24.00
Grains	16.00
Grasses	34.00
Legumes	16.00
Trees and Shrubs	25.00
Vegetables	16.00
Seed Germination	
Flowers	24.00
Grains	16.00
Grasses	25.00
Legumes	16.00
Trees and Shrubs	25.00
Vegetables	16.00
Seed Tetrazolium Test	
Flowers	44.00
Grains	28.00
Grasses	44.00
Legumes	34.00
Trees and Shrubs	44.00
Vegetables	28.00
Embryo Analysis (Loose Smut Test)	25.00
Cut Test	16.00
Mill Check (per hour)	40.00
Moisture Test	24.00
Canada Standards	20.00
Examination of Extra Quantity for Other Crop or Weed Seed (per hour)	40.00
Examination for Noxious Weeds Only (per hour)	40.00
Identification	No charge

Quick identification using microscope to determine seed type. There is no charge for this service.

Additional Copies of Analysis Reports	1.00
Emergency service for single component only (per sample)	42.00
Shipping Point	
Fruit	
Bulk load (per hundredweight)	0.10
Vegetables	
Potatoes (per hundredweight)	0.10
Onions (per hundredweight)	0.10
Cucurbita (per hundredweight)	0.10

Cucurbita family includes: watermelon, muskmelon, squash (summer, fall, and winter), pumpkin, gourd and others.

One commodity (per certificate)	30.00
Mixed loads (per commodity)	30.00

REGULATORY SERVICES

Regulatory Services Administration	
Domestic Game Slaughter	
Domestic Game Slaughter Permit	500.00
Domestic Game Slaughter Inspection (per Hour)	100.00
Domestic Game Slaughter Mileage	Variable

To be charged according to the current mileage rate of the State of Utah.

Bedding & Upholstered	
Bedding/Upholstered Furniture	
Manufacturers of Bedding and/or Upholstered Furniture	65.00
Wholesale Dealer	65.00
Supply Dealer	65.00
Manufacturers of Quilted Clothing	65.00
Upholsterer with employees	50.00
Upholsterer without employees	25.00
Sterilization Fee	65.00
Processing /All Bedding Upholstery Licenses	40.00
Weights & Measures	
Weights and Measures	
Petroleum Refinery	
Gasoline	
Octane Rating	132.00
Benzene Level	88.00
Pensky-Martens Flash Point	22.00
Overtime charges (per hour)	33.00

Gravity	11.00
Distillation	28.00
Sulfur, X-ray	39.00
Reid Vapor Pressure (RVP)	28.00
Aromatics	55.00
Leads	22.00
Diesel	
Gravity	28.00
Distillation	28.00
Sulfur, X-ray	22.00
Cloud Point	22.00
Conductivity	28.00
Cetane	22.00
Weighing and measuring devices/ individual servicemen (per Serviceperson)	50.00
Metrology services (per hour)	50.00
Fuel Dispenser Inspection, including LPG/CNG	50.00
Base Weights and Measures	
Meter Inspection	50.00
Small Scale Inspection	50.00
Large Scale Inspection	200.00
Check Registers/Scanners	25.00
Special Scale Inspections	
Large Capacity Truck (Man Hour) (per hour)	25.00
Large Capacity Truck (per mile)	2.00
Large Capacity Truck (Equipment Hour) (per hour)	25.00
Pickup Truck (per hour)	25.00
Pickup Truck (per mile)	1.00
Pickup Truck (per hour)	20.00
Equipment use	
Overnight Trip (per day)	Variable
Includes the State's per diem rate plus the cost of lodging.	
Certificate of Free Sale	
Single Certificate	30.00
More than 3 pages	55.00
Citations, maximum per violation	500.00
Food Inspection	
Base Food Inspection by Establishment Type	
Cottage	75.00
Small	150.00
Less than 1,000 sq. ft. / 4 or fewer employees	
Medium	300.00
1,000-5,000 sq. ft., with limited food processing	
Large	500.00
Food processor over 1,000 sq. ft. / Grocery store 1,000-50,000 sq. ft. and two or fewer food processing areas / Warehouse 1,000-50,000 sq. ft.	
Super	750.00
Food processor over 20,000 sq. ft. / Grocery store over 50,000 sq. ft. and more than two food processing areas / Warehouse over 50,000 sq. ft.	
Kratom	
Kratom Product Registration	200.00
Kratom Processing Fee	40.00
Kratom Alkaloid Testing	120.00
Plan Review	
Follow Up	200.00
Alternative Follow Up	0.01
Based on the establishment size as defined in Base Food Inspection (Small, Medium, Large or Super).	
Special Inspection	
Food and Dairy Inspection	
Per hour	30.00
Overtime rate	40.00
Dairy Inspection	
Dairy	
Test milk for payment	100.00
Operate milk manufacturing plant (per Plant)	1,000.00
Make butter (per Operation)	100.00
Haul farm bulk milk (per Operation)	100.00
Make cheese (per Operation)	100.00
Operate a pasteurizer (per Operator)	100.00
Dairy Products Distributor (per Distributor)	500.00
Milk Processing Plants	
Milk Processing Plants - Small (per Each)	250.00
Milk Processing Plants - Medium (per Each)	500.00
Milk Processing Plants - Large (per Each)	1,000.00
Milk Processing Plants - Super (per Each)	2,000.00

QUALIFIED PRODUCTION ENTERPRISE FUND

Medical Cannabis	
Medical Cannabis Cultivation License Fee	100,000.00
Medical Cannabis Cultivation License Application Fee	2,500.00
Medical Cannabis Processor Tier 1 License Fee	100,000.00
Medical Cannabis Processor Tier 1 License Application Fee	1,250.00
Medical Cannabis Processor Tier 2 License Fee	35,000.00
Medical Cannabis Processor Tier 2 License Application Fee	1,250.00
Medical Cannabis Establishment Agent Regist. Fee - Background Check Needed	150.00
Medical Cannabis Establishment Agent Regist. Fee - No Background Check Needed	100.00
Medical Cannabis Laboratory License Fee	15,000.00
Medical Cannabis Laboratory License Application Fee	500.00
Medical Cannabis Research University License	2,500.00
Medical Cannabis Laboratory Testing	
Cannabinoid Testing	125.00
Pesticide Testing	160.00
Foreign Matter Testing	15.00
Heavy Metal Testing	110.00
Mycotoxin Testing	130.00
Microbial Life Testing	120.00
Residual Solvent Testing	110.00
Terpenes Testing	110.00

INDUSTRIAL HEMP

Industrial Hemp	
Industrial Hemp Grower Licensing Fee	500.00
Industrial Hemp Inspection Hourly Rate	65.00
Industrial Hemp Processor Licensing Fee Tier 1	2,500.00
Industrial Hemp Processor Licensing Fee Tier 2	2,000.00
Industrial Hemp Processor Licensing Fee Tier 3	1,000.00
Industrial Hemp Processor Licensing Fee Tier 4	750.00
Industrial Hemp Lab Licensing Fee	2,500.00
Product Registration Fee for Cannabinoid Products	250.00
Cannabis Seed Product Registration Fee	125.00

For products containing Cannabis Seed, Cannabis Seed Oil or Solid Derivatives from Cannabis Seed.

Product Registration Service Fee for Cannabinoid Products	75.00
Late Fee for Product Registration for Cannabis or Cannabis Seed Products	50.00
Hemp Retail Establishment Permit	50.00
Hemp Cannabinoid Testing	70.00

ANALYTICAL LABORATORY

STEC Screen (per Test)	40.00
Analytical Laboratory	
Expedited (Rush) Testing – Any Test	60.00
Appendix N Splits <2 Analysts, per sample	70.00
Appendix N Splits < 15 Analysts, per sample	140.00
Appendix N Splits 15+ Analysts, per sample	200.00
Section 6 Splits <2 Analysts, per sample	70.00
Section 6 Splits < 15 Analysts, per sample	140.00
Section 6 Splits 15+ Analysts	200.00
General Laboratory Test Fee	Actual Cost

All tests not listed in the fee schedule. Amount charged per test is calculated as actual labor and material expenses.

Aflatoxin (20 Sample Minimum)	45.00
Fumonisin (20 Sample Minimum)	45.00
DON (vomitoxin) (20 Sample Minimum)	45.00
Water Test I	250.00

Al, As, B, Ba, Ca, Cd, Cl, Co, Cr, Cu, Fe, K, Mg, Mn, Mo, Na, Ni, P, Pb, S, Se, Zn

Density Analysis	15.00
Alcohol Content Testing	25.00
Anatoxin–a ELISA Test – First Sample	128.00
Anatoxin–a ELISA Test – Additional Samples	13.00
Microcystin ELISA Test – First Sample	124.00
Microcystin ELISA Test – Additional Samples	11.00
Cylindrospermopsin ELISA Test – First Sample	124.00
Cylindrospermopsin ELISA Test– Additional Samples	11.00
Organic/Inorganic Content	20.00
Split Sample Shipping (Flat Rate)	35.00
Milk Laboratory Evaluation Program	
Basic Lab	50.00
Petrifilm Aerobic Plate Count	10.00
Coliform Count	15.00
Antibiotics Screen	30.00
Antibiotics Confirmation Test	55.00
Phosphatase Test	15.00
Reactivated Phosphatase Confirmation	30.00
Wisconsin Mastitis Test (WMT) Screening Test	5.00
Direct Microscopic Somatic Cell Count (DMSCC): Confirmation	15.00
Electronic Somatic Cell Count (ESCC): Instrumentation	8.00
Container Rinse Test	15.00
Water e.coli/Coliform test	30.00
Glycol Coliform test	50.00
Butterfat %	15.00
Added H2O in Raw Milk	5.00
Salmonella Screen	40.00
Salmonella confirmatory testing (per Test)	250.00
E. coli Screen (per Test)	40.00
E. coli confirmatory testing (per Test)	250.00
E. coli O157:H7 Screen	40.00
E. coli O157:H7 confirmation testing	250.00
STEC confirmatory testing (per Test)	450.00
Listeria Screen	40.00
Listeria confirmatory testing (per Test)	250.00
Campylobacter Screen	40.00
Campylobacter confirmation testing	250.00
All Other Services, per hour	50.00
Number of Certified Analyst	30.00
Number of Approved Test	30.00
Total Yearly Assessed	90.00
Seed, Feed, and Meat	
Fat	60.00
Fiber, Crude	60.00
Proximate analysis (moisture, protein, fat, fiber, ash)	90.00
Proximate analysis (moisture, protein, fiber)	60.00
Protein	40.00
NPN (Non–Protein Nitrogen)	50.00
Ash	20.00
Moisture Content Testing	25.00
Water Activity	20.00
Fertilizer	
Nitrogen	40.00
Available Phosphorous	120.00
Potash	120.00
Inorganics	
Digested	

Nutritive Metals, First Analyte	60.00
Nutritive Metals, Additional Analytes	25.00
pH	20.00
Pesticide	
Water	
Water – Single Test	205.00
Water – Multi–residue Test	275.00
Non–water	
Soil/Plants – Single Test	305.00
Soil/Plants – Multi–residue Test	400.00

GENERAL FUND RESTRICTED - UTAH LIVESTOCK BRAND AND ANTI-THEFT ACCOUNT

Brand Inspection	
Brand Verification of Ownership at Slaughter	10.00
Brand Recording	75.00
Verification of Ownership License	100.00
Online Production Sale License	50.00
Livestock Dealer (per dealer)	250.00
Livestock Auction Market (per Market)	100.00
Livestock Dealer/Agent (per Agent)	75.00
Auction Weigh Person (per Weigh Person)	25.00
Minimum Charge (per inspection stop)	20.00
Cattle (per head)	1.00
Horse (per head)	2.00
Sheep (per head)	0.05
Farm Custom Slaughter	100.00
Estray Animals	Variable
Actual amount of proceeds received for the sale of the estray animal.	
Citation (per violation)	200.00
Citation (per head)	2.00
If not paid within 15 days, two times citation fee. If not paid within 30 days, four times citation fee.	
Special Sales	250.00
Temporary Livestock Sale	250.00
Brand Book	25.00
Show and Seasonal Permits	
Horse (per head)	25.00
Cattle (per head)	25.00
Horse Permit	
Lifetime (per first horse)	55.00
First Horse	
Lifetime (per horses after first)	35.00
Horses after first horse	
Duplicate Lifetime	10.00
Lifetime Transfer	10.00
Certified copy of Recording (new brand card)	5.00
Brand Transfer	175.00
Brand Renewal and Registration	175.00
Brand registration is on a 5 year cycle.	
Elk Farming	
Elk Inspection New License	500.00
Elk Brand Inspection (per elk)	5.00
Service Charge (per stop, per owner)	15.00
Elk Hunting Permit	100.00
Elk License	
Renewal	300.00
Late	50.00

DEPARTMENT OF ENVIRONMENTAL QUALITY

DRINKING WATER

Drinking Water Administration	
Special Surveys	Actual cost
File Searches	Actual cost
Cost Recovery	
Preparation, Issuance and Oversight of Enforcement Orders	
Administrative Orders (per order)	6,000.00
Stipulated Enforcement Orders (per order)	2,000.00
Other orders resulting from non–compliance or public health risks (per order)	1,000.00
Safe Drinking Water Act	
Operator Certification Program	
Examination: online	120.00
Any level	
Examination: paper	200.00
Any level	
Renewal of certification	150.00
Every 3 years if applied for during designated period	
Reinstatement of lapsed certificate	300.00
Certificate of reciprocity with another state	150.00
Cross Connection Control Program	
Certification and Renewal	
Program Administrator: paper testing	225.00
Program Administrator: renewal	125.00
Assembly Tester and Class III; initial certification and renewal	225.00
Certificate of reciprocity with another state	225.00
Replacement Certificate	25.00
Cost Recovery	
Additional Follow up – Monitoring Compliance (per violation)	300.00
Additional Follow up – Reporting Compliance (per violation; reassessed every compliance period)	200.00
Additional Follow up – CCR Compliance (per violation; reassessed quarterly)	500.00
Additional Follow up – Public Notice Compliance (per violation; reassessed every compliance period)	500.00
Additional Follow up – Unresolved Significant Deficiencies (per citation; reassessed quarterly)	1,000.00
Additional Follow up – Compliance Inspections and Assessments (per inspection)	1,000.00
System Assistance	
Well Sealing Inspection (per hour)	110.00
Technical Assistance (per hour)	110.00
Cost Recovery	
After–the–Fact Review – Construction without Approval (per project)	1,000.00
After–the–Fact Review – Unapproved Facility in Use (per project)	1,000.00
State Revolving Fund	
Drinking Water Loan	
Origination	1.0% of Loan Amount

ENVIRONMENTAL RESPONSE AND REMEDIATION

Voluntary Cleanup	
Voluntary Environmental Cleanup Program Application Fee	2,500.00
Review/Oversight/Participation in Voluntary Agreements (per hour)	110.00
CERCLA	
Clandestine Drug Lab Decontamination Specialist Certification	
Certification and Recertification	225.00
Retest of Certification Exam	100.00
Enforceable Written Assurance Letters	
Written letter	500.00
Flat fee to cover costs up to 8 hours of work.	
Additional charge for any costs above $500 (per hour)	110.00
Leaking Underground Storage Tanks	
Professional and Technical services or assistance (per hour)	110.00
Including but not limited to EPCRA Technical Assistance, PST Claim Preparation Assistance, Oversight for Tanks Failing to pay PST fee, PST Compliance follow-up Inspection, apportionment of Liability requested by responsible parties, prepare, administer or conduct administrative process, environmental covenants.	
Underground Storage Tanks	
Annual Petroleum Storage Tank	
Tanks on Petroleum Storage Tank (PST) Fund	110.00
Tanks not on PST Fund	220.00
Tanks at Facilities significantly out of compliance with leak prevention or leak detection requirements	300.00
PST Fund Reapplication, Certification of Compliance Reapplication Fee, or both	300.00
Aboveground Petroleum Storage Tank Notification Fee (per Facility)	250.00
Initial Approval of Alternate Petroleum Storage Tank Financial Assurance Mechanisms	420.00
(Non-PST Fund Participants)	
Renewal of Alternate Petroleum Storage Tank Financial Assurance Mechanisms	240.00
(After initial year, with no Mechanism changes)	
Certification or Certification Renewal for UST Contractors	
PST Consultants, UST installers, UST removers, Certified Samplers, & non-government UST inspectors & testers (per Certification)	225.00
PST Consultant Recertification Class	150.00
Environmental Response and Remediation Program Training	Actual cost
UST Operators Registration	50.00
Petroleum Storage Tank Red Tag Replacement	500.00
Applied only when a Red Tag is removed without authorization	
Petroleum Storage Tank Installation Base Fee	500.00
Petroleum Storage Tank Installation Tank Fee (State Inspector)	200.00

EXECUTIVE DIRECTOR'S OFFICE

Executive Director Office Administration	
All Divisions	
Request for copies over 10 pages (per page)	0.25
Copies made by the requestor-over 10 pages (per page)	0.05
Compiling, tailoring, searching, etc., a record in another format.	Actual cost after 1st 1/4 hour
Charged at rate of lowest paid staff employee who has necessary skill/training to perform the request.	
Special computer data requests (per hour)	110.00
CDs (per disk)	10.00
DVDs (per disk)	8.00
Contract Services	Actual Cost
To be charged in order to efficiently utilize department resources, protect dept permitting processes, address extraordinary or unanticipated requests on the permitting processes, or make use of specialized expertise. In providing these services, department may not provide service in a manner that impairs any other person's service from the department.	

WASTE MANAGEMENT AND RADIATION CONTROL

Waste Management and Radiation Control	
Used Oil	
Do It Your Selfer and Used Oil Collection Center Registration	No charge
Hazardous Waste	
Resource Conservation and Recovery Act (RCRA) Facility List	5.00
Solid and Hazardous Waste Program Administration (including Used Oil and Waste Tire Recycling Programs)	
Professional (per hour)	110.00
This fee includes but is not limited to: Review of Site Investigation and Site Remediation Plans, Review of Permit Applications, Permit Modifications and Permit Renewals; Review and Oversight of Administrative Consent Orders and Consent Agreements, Judicial Orders; compliance activities; Review and Oversight of Construction Activities; Review and Oversight of Corrective Action Activities; and Review and Oversight of Vehicle Manufacturer Mercury Switch Removal and Collection Plans	
Hazardous Waste Permit Filing	
Hazardous Waste Operation Plan Renewal	1,000.00
Enforceable Written Assurance Letters or Similar Letters	
Flat fee for up to 8 hours to complete letter	500.00

Additional per hour charge if over the original 8 hours 110.00

Vehicle Manufacturer Mercury Switch Removal and Collection Plan

Mercury Switch Removal and Collection Plan Filing 100.00

Non-Hazardous Solid Waste

Polychlorinated Biphenyl (PCBs) (per ton) 4.75

Or fraction of a ton

Hazardous Waste Flat Fee

(per year) 2,444,800.00

Provides for implementation of waste management programs and oversight of the Hazardous Waste Industry in accordance with UCA 19-6-118.

Solid Waste

Solid Waste Permit Filing (does not apply to Municipalities, Counties, or Special Service Districts seeking review from the Division)

New Comm. Facility

Class V and Class VI Landfills 1,000.00

New Non-Commercial Facility 750.00

New Incinerator

Commercial 5,000.00

Industrial or Private 1,000.00

Plan Renewals and Plan Modifications 100.00

Variance Requests 500.00

Solid Waste Facility Fee

Treatment and Disposal facilities . . . . Greater of $125 or $0.21/ton Quarterly

Treatment (thermal, physical, or chemical) and Disposal facilities including: Land Application, Land Treatment, Composting, Waste to Energy, Landfill, Incineration. The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Transfer facilities . . . . Greater of $125 or $0.11/ton Quarterly

The fees shall be paid by the 15th of the month following the quarter in which the fees accrued using the form prescribed by the department.

Radiation

Radioactive Material

Special Nuclear Material

New License or Renewal License for:

Possession and use in sealed sources contained in devices used in industrial measuring systems, ... 440.00

including X-ray fluorescence analyzers and neutron generators

Possession and use of less than 15 grams in unsealed form for research and development 730.00

Use as calibration and reference sources 180.00

All other licenses 1,150.00

Annual Fee

Possession and use in sealed sources contained in devices used in industrial measuring systems, including X-ray fluorescence analyzers and neutron generators, possession and use of less than 15 grams in unsealed form for research and development 740.00

Use as calibration and reference sources 240.00

All other licenses 1,600.00

Source Material

New License or License Renewal

Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 5,510.00

Regulation of source and byproduct material at uranium mills or commercial waste facilities

Uranium mills or commercial sites disposing of or reprocessing byproduct material , including mills in standby status (per month) 10,760.00

Licenses for possession and use of source material for shielding 230.00

All other source material licenses 1,000.00

Annual Fee

Licenses for concentrations of uranium from other areas for the production of uranium yellow cake 4,810.00

Licenses for possession and use of source material for shielding 365.00

All other source material licenses 1,275.00

Radioactive Material other than Source Material and Special Nuclear Material

New License or License Renewal for possession and use of radioactive material for:

Broad scope for processing or manufacturing for commercial distribution 2,320.00

Others for processing or manufacturing for commercial distribution 1,670.00

Processing or manufacturing and distribution of radiopharmaceuticals, generators, reagent kits, or sources or devices containing radioactive material 2,320.00

The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material 860.00

Industrial radiography operations 1,670.00

Sealed sources for irradiation of materials in which the source is not removed for its shield (self-shielded units) 700.00

Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 1,670.00

10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes 3,340.00

Broad scope for research and development that do not authorize commercial distribution	2,320.00
Research and development that do not authorize commercial distribution	700.00
All other radioactive material	440.00
New License or License Renewal for:	
Licenses that Authorize Services for Other Licensees	320.00
Except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services	
Licenses that authorize services for leak testing only	150.00
New License or License Renewal to distribute items containing radioactive material:	
New License or Renewal to Distribute Items Containing Radioactive Material	700.00
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19, and to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21.	
Annual license fee for possession and use of radioactive material for:	
Broad scope for processing or manufacturing for commercial distribution, processing or manufacturing and distribution of radio-pharmaceuticals, generators, reagent kits, sources or devices containing radioactive material	2,960.00
Or broad scope for research and development that do not authorize commercial distribution.	
Others for processing or manufacturing for commercial distribution	2,040.00
The distribution or redistribution of radiopharmaceuticals, generators, reagent kits, or sources or devices not involving processing of radioactive material	1,000.00
Industrial radiography operations	2,560.00
Sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units), or search and development that do not authorize commercial distribution	940.00
Less than 10,000 curies of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	1,740.00
10,000 curies or more of radioactive material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes	3,480.00
All other radioactive material	520.00
Annual fee for:	
Licenses that Authorize Services for Other Licensees	420.00
Except licenses that authorize leak testing or waste disposal services subject to the fees specified for the listed services	
Licenses that authorize services for leak testing only	160.00
Annual fee to distribute items containing radioactive material:	
Annual Fee to Distribute Items Containing Radioactive Material	580.00
To persons exempt from licensing requirements of R313-19, except specific licenses authorizing redistribution of items authorized for distribution to persons exempt from the licensing requirements of R313-19; or to persons generally licensed under R313-21, except specific licenses authorizing redistribution of items authorized for distribution to persons generally licensed under R313-21.	
Generator Site Access Permits	
Non-Broker Generators transferring radioactive waste (per year)	2,500.00
Brokers (waste collectors or processors) (per year)	7,500.00
Review of licensing or permit actions, amendments, environmental monitoring reports, and miscellaneous reports for uranium recovery facilities (per hour)	110.00
Licenses authorizing receipt of waste radioactive material from others for packaging/repackaging the material	
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material	
New License/Renewal	3,190.00
Annual	2,760.00
Licenses authorizing receipt of prepackaged waste radioactive material from others	
The licensee will dispose of the materials by transfer to another person authorized to receive or dispose of the material	
New License/Renewal	700.00
Annual	1,100.00
Licenses authorizing packing of radioactive waste for shipment to waste disposal site where licensee does not take possession of waste material	
New License/Renewal	440.00
Annual	520.00
Well Logging, Well Surveys, and Tracer Studies Licenses	
for the possession and use of radioactive material for well logging, well surveys and tracer studies other than field flooding tracer studies	
New License/Renewal	1,670.00
Annual	2,100.00
Licenses for possession and use of radioactive material for field flooding tracer studies	
New License/Renewal	Actual cost
Annual	4,000.00
Nuclear Laundries	
Licenses for commercial collection and laundry of items contaminated with radioactive material	
New License/Renewal	1,670.00
Annual	2,380.00

Human Use of Radioactive Material
License for human use of radioactive materials in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
New License/Renewal 1,090.00
Annual 1,280.00
Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development
including human use of radioactive material, except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
New License/Renewal 2,320.00
Annual 2,960.00
Other licenses issued for human use of radioactive material
except for licenses for radioactive material in sealed sources contained in gamma stereotactic radiosurgery or teletherapy devices
New License/Renewal 700.00
Annual 1,100.00
Civil Defense
Licenses for possession and use of radioactive material for civil defense activities
New License/Renewal 700.00
Annual 380.00
Power Source
Licenses for the manufacture and distribution of encapsulated radioactive material wherein the decay energy of the material is used as a source for power
New License/Renewal 5,510.00
Annual 2,520.00
Plan Reviews
Review of plans for decommissioning, decontamination, reclamation, waste disposal pursuant to R313-15-1002, or site restoration activities 400.00
Plus added cost above 8 hours
(per hour) 110.00
Investigation of a misadministration by a third party as defined in R313-30-5 or in R313-32-2, as applicable .... Actual cost
General License
Initial registration/renewal for first year
Measuring, gauging, and control devices
as described in R313-21-22(4), ... 20.00
other than hydrogen-3 (tritium) devices and polonium-210 devices containing no more than 10 millicuries used for producing light or an ionized atmosphere, including In Vitro testing, Depleted Uranium. Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30
Annual fee after initial license/renewal
Measuring, gauging, and control devices
as described in R313-21-22(4) 20.00
other than hydrogen-3 (tritium) and polonium-210 devices containing no more than other than 10 millicuries used for producing light or an ionized atmosphere, including In Vitro testing and Depleted Uranium
Reciprocity - Licensees who conduct activities under the reciprocity provisions of R313-19-30 (per type of license
category) .... Full annual fee

Publication costs for making public notice
of required actions .... Actual cost
Expedited application review
(per hour) 110.00

Applicable when, by mutual consent of the applicant and staff, an application request is taken out of date order and processed by staff.

Management and oversight of
impounded radioactive material .... Actual cost
License amendment, for greater
than three applications in a
calendar year 200.00
Analytical costs for monitoring samples
from radioactive materials
facilities .... Actual cost
Low Level Radioactive Waste
Radioactive Waste Disposal (licenses specifically authorizing the receipt of waste radioactive material from other persons for the purpose of commercial disposal by land by the licensee)
Annual 1,724,200.00
New Application
Siting
application .... Actual costs up to $250,000
License application .... Actual costs up to $1,000,000
Renewal .... Actual costs up to $1,000,000
Pre-licensing, operations review,
and consultation on commercial
low-level radioactive waste
facilities (per hour) 110.00
Review of Commercial Low-level Radioactive Waste Disposal and Uranium Recovery Special Projects .... Actual cost

Applicable when the licensee and the Division agree that a review will be conducted by a contractor in support of the efforts of Division staff.

Used Oil
Used Oil
Permit filing fee for Transporter, Transfer Facility, Processor/Re-refiner, and
Off-Spec Burner, including
Permit Modifications and
Plan Reviews 100.00
Annual Registration for Transporter,
Transfer Facility, Processor/
Re-refiner, Off-Spec Burner,
& Land Application (per year) 100.00
Marketer
Permit Filing 50.00
Annual Registration Fee for
Marketer (per year) 50.00
Waste Tire
Waste Tire Recycling
Registration
Recycler or Transporter (per year) 100.00

Fees for registration applications received during the year will be prorated at $8.30 per month over the number of months remaining in the year.

X-Ray
Machine-Generated Radiation
Annual Registration Fee
Per control unit including first tube, plus annual fee for each additional tube connected to the control unit

Hospital/Therapy, Medical, Chiropractic, Podiatry, Veterinary, Dental and Industrial Facility	45.00
Division Conducted Inspection, Per Tube	
Hospital/Therapy, Medical, Chiropractic, Industrial Facility with High and/or Very High Radiation Areas Accessible to Individuals and Other Types, Annual or Biennial	115.00
Podiatry/Veterinary, Industrial Facility with Cabinet X-Ray Units or Units Designated for Other Purposes	85.00
Dental	
First tube on a single control unit	55.00
Additional tubes on a control unit (per Tube)	22.50
Independent Qualified Experts Conducted Inspections or Registrants Using Qualified Experts	
Inspection report (per Tube)	25.00

WATER QUALITY

Water Quality Support	
Operator Certification	
Certification Examination	100.00
Renewal of Certificate	50.00
or New Certificate Change in Status	
Renewal of Lapsed Certificate plus renewal (per month)	50.00
$150 maximum	
Duplicate Certificate	25.00
Certification by reciprocity with another state	100.00
Annual Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water	
Mineral Mining and Processing	
Sand and Gravel	278.00
Water Quality Protection	
All Other Permits	
UPDES, ground water, underground injection control, construction permits not listed above, and permit modifications (per hour)	110.00
Except projects of political subdivisions funded by the Division of Water Quality.	
Water Quality Permits	
Annual Utah Pollutant Discharge Elimination System (UPDES) Permits, Surface Water	
Cement Manufacturing	
Major	1,002.00
Minor	251.00
Coal Mining and Preparation	
General Permit	501.00
Individual Major	1,503.00
Individual Minor	1,002.00
Concentrated Animal Feeding Operations (CAFO) General Permit	127.00
Construction Dewatering/Hydrostatic Testing General Permit	173.00
Dairy Products	
Major	1,002.00
Minor	501.00
Electric	
Major	1,252.00
Minor	501.00
Fish Hatcheries General Permit	139.00
Food and Kindred Products	
Major	1,252.00
Minor	501.00
Hazardous Waste Clean-up Sites	3,006.00
Geothermal	
Major	1,002.00
Minor	501.00
Inorganic Chemicals	
Major	1,503.00
Minor	751.00
Iron and Steel Manufacturing	
Major	3,006.00
Minor	751.00
Leaking Underground Storage Tank (LUST) Cleanup General Permit	501.00
LUST Cleanup Individual Permit	1,002.00
Meat Products	
Major	1,503.00
Minor	501.00
Metal Finishing and Products	
Major	1,503.00
Minor	751.00
Mineral Mining and Processing	
Salt Extraction	278.00
Other	
Other Majors	1,002.00
Other Minors	501.00
Manufacturing	
Major	2,003.00
Minor	751.00
Oil and Gas Extraction	
flow rate 501.00	
flow rate > 0.5 MGD	751.00
Ore Mining	
Major	1,503.00
Minor	751.00
Major w/ concentration process	11,500.00
Organic Chemicals Manufacturing	
Major	2,505.00
Minor	751.00
Petroleum Refining	
Major	2,003.00
Minor	751.00
Pharmaceutical Preparations	
Major	2,003.00
Minor	751.00
Rubber and Plastic Products	
Major	1,252.00
Minor	751.00
Space Propulsion	
Major	2,783.00
Minor	751.00
Steam and/or Power Electric Plants	
Major	1,002.00
Minor	501.00
Water Treatment Plants (Except Political Subdivisions)	
General Permit	139.00
Annual UPDES Publicly Owned Treatment Works (POTW)	
Large >10 million gallons per day (mgd) flow design (per year)	10,120.00
Medium >3 mgd but <10 mgd flow design (per year)	6,325.00

Small <3mgd but >1 mgd (per year)	1,265.00
Very Small <1 mgd (per year)	633.00
Annual UPDES Pesticide Applicator Fee	
Small Applicator	230.00
Medium Applicator	575.00
Large Applicator	1,898.00
Groundwater Remediation Treatment Plant	6,325.00
Biosolids Annual Fee (Domestic Sludge)	
Small Systems (per year)	443.00
1–4,000 connections	
Medium Systems (per year)	1,285.00
4,001 to 15,000 connections	
Large Systems (per year)	1,866.00
greater than 15,000 connections	
Non–contact Cooling Water	
Flow rate <= 10,000 gallons per day (gpd) (per day)	127.00
10,000 gpd < Flow rate 100,000 gpd (per year)	253.00
100,000 gpd < Flow rate <1.0 mgd (per year)	506.00
Flow Rate > 1.0 mgd (per year)	759.00
Stormwater Permits	
General Multi–Sector Industrial Storm Water Permit (per year)	250.00
Industrial Stormwater No Exposure Certificate (per 5 years)	150.00
General Construction Storm Water Permit (per year)	150.00
Common Plan Storm Water Permit (per year)	150.00
Construction Stormwater Low Erosivity Waiver Fee (per project)	100.00
One–time project based fee.	
Municipal Storm Water	
0–5,000 Population (per year)	750.00
5,001 – 10,000 Population (per year)	1,250.00
10,001 – 50,000 Population (per year)	1,750.00
50,001 – 125,000 Population (per year)	3,000.00
> 125,000 Population (per year)	4,000.00
Registered Stormwater Inspection (RSI) Certifications	
Certification Course and Examination (per year)	200.00
Certification Renewal (per year)	50.00
Renewal of Lapsed Certification (per year)	100.00
Post–marked no more than 90 days after expiration.	
Registered SWPPP Writer RSI) Certification	
Certification Course and Examination (per year)	300.00
Annual Ground Water Permit Administration Fee	
Tailings/Evaporation/Process Ponds; Heaps (per Each)	Actual cost
0–1 Acre	443.00
>1–15 Acres	886.00
>15–50 Acres	1,771.00
>50–300 Acres	2,657.00
>300–500 Acres	7,061.00
>500 Acres	14,122.00

Annual Non–discharging municipal and commercial treatment facilities	350.00
Underground Injection Control Permit Application Fee	
Class I Hazardous Waste Disposal	25,000.00
One–time fee	
Class I Non–Hazardous Waste Disposal	9,000.00
One–time fee	
Class III Solution Mining	7,200.00
One–time fee	
Class V Aquifer Storage and Recovery	5,400.00
One–time fee	
UIC Class V Inventory Review Fee	220.00
All Other Permits	
Complex facilities where the anticipated permit issuance costs will exceed the above categorical fees by 25% (per hour)	110.00
Permittee to be notified upon receipt of application	
Water Quality Cleanup Activities	
Corrective Action, Site Investigation/ Remediation Oversight, Administration of Consent Orders and Agreements, and emergency response to spills and water pollution incidents (per hour)	110.00
Actual cost for sample analytical lab work	actual cost
Technical Review of and assistance given (per hour)	110.00
401 Certification; permit appeals; and sales and use tax exemptions; waste–load analysis	

AIR QUALITY

Compliance	
Major and Minor Source Compliance Inspection (per hour)	110.00
Annual Aggregate Compliance	
20 or less tons per year (per year)	180.00
21–79 tons per year (per year)	360.00
80–99 tons per year (per year)	900.00
100 or more tons per year (per year)	1,260.00
Asbestos and Lead–Based Paint (LBP) Abatement	
Course Accreditation Fee (per hour)	110.00
Asbestos Company/LBP Firm Certification Application (per year)	275.00
LBP Renovation Firm Certification Application (per year)	110.00
Asbestos Individual Certification Application	137.50
Asbestos Individual Certification Application Surcharge, (Non–Utah Accredited Training Provider)	33.00
LBP Abatement Worker Certification Application (per year)	110.00
LBP Inspector, Dust Sampling Technician Certification Application (per year)	137.50
LBP Inspector/Risk Assessor, Supervisor, Project Designer Certification Application (per year)	220.00
LBP Renovator Certification Application (per year)	110.00

Lost Certification Card Replacement	33.00
Annual Asbestos Notification	550.00
Asbestos/LBP Abatement Project Notification Base Fee	165.00
Asbestos/LBP Abatement Project Notification Base Fee - Owner Occupied Residences	55.00
Abatement Unit Fee/100 units or any fraction thereof up to 10,000 units	7.70
(square feet/linear feet/cubic feet) (times 3)	
School Building Asbestos Hazard Emergency Response Act (AHERA) abatement unit fees will be waived	
Abatement Unit Fee/100 units or any fraction thereof more than 10,000 units	3.85
(square feet/linear feet/cubic feet) (times 3)	
School Building AHERA abatement fees will be waived	
Demolition Notification Base	27.50
Demolition unit per 5,000 square feet or any fraction thereof	55.00
Alternative Work Practice Review Application	
<10 day training provider/Private Residence Non-National Emission Standards for Hazardous Air Pollutants (NESHAP) Requests	110.00
NESHAP Structures and Any Other Requests	275.00
Permitting	
Emission Inventory Workshop Attendance	15.00
Air Emissions (per ton)	92.58
Permit Category	
Filing Fees	
Name Changes	100.00
Small Sources Exemptions and Soil Remediation, Source Determination Letter, PBR Registration (Control not Required)	250.00
New non-PSD sources, minor & major modifications to existing sources, Administrative Amendments, PBR Registration (Control Required)	500.00
Any unpermitted sources at an existing facility	1,500.00
New major prevention of significant deterioration (PSD) sources	5,000.00
Monitoring plan review and site visit	
Application Review Fees	
New major source or modifications to major source in nonattainment area	49,500.00
Up to 450 hours, at $110/hour	
New major source or modifications to major source in attainment area	33,000.00
Up to 300 hours, at $110/hour	
New minor source or modifications to minor source	2,200.00
Up to 20 hours, at $110/hour	
Generic permit for minor source or modifications of minor sources	880.00
Up to 8 hours (sources for which engineering review/BACT standardized)	
Temporary Relocations	770.00
Up to 7 hours, at $110/hour	
Permitting cost for additional hours (per hour)	110.00
Technical review of and assistance given (per hour)	110.00
e.g. appeals, sales/use tax exemptions, soils exemptions, soils remediations, name change, small source exemptions, experimental approvals, impact analyses, etc.	
Annual NSR Fee	
Ten year review of non-expiring permits, rule and process training, electronic permitting tools	
<20 tons annual emissions	150.00
20 to 49 tons annual emissions	300.00
50-99 tons annual emissions	600.00
100-250 tons annual emissions	1,000.00
>250 tons annual emissions	1,500.00
Air Quality Training	Actual Cost

DEPARTMENT OF NATURAL RESOURCES

FORESTRY, FIRE AND STATE LANDS

Division Administration	
Administrative	
Application	
Mineral Lease	40.00
Special Lease Agreement	40.00
Mineral Unit/Communitization Agreement	40.00
Special Use Lease Agreement (SULA)	300.00
Grazing Permit	50.00
Materials Permit	200.00
Easement	150.00
Right of Entry	50.00
Exchange of Land	1,000.00
Sovereign Land General Permit	
Private	50.00
Public	
Assignment	
Mineral Lease	
Total Assignment	50.00
Interest Assignment	50.00
Operating Right Assignment	50.00
Overriding Royalty Assignment	50.00
Partial Assignment	50.00
Collateral Assignment	50.00
Special Use Lease Agreement (SULA)	50.00
Grazing Permit per AUM (Animal Unit Month)	2.00
Grazing Sublease per AUM (Animal Unit Month)	2.00
Materials Permits	50.00
Easement	50.00
Right of Entry (ROE)	50.00
Sovereign Land General Permit	50.00
Grazing Non-use (per lease)	10%
Special Use Lease Agreement (SULA) non-use	10%
ROE, Easement, Grazing amendment	50.00

SULA, general permit, mineral lease, materials permit amendment	125.00
Reinstatement	150.00
Surface leases & permits per reinstatement/per lease or permit	
Bioprospecting – Registration	50.00
Oral Auction Administration	Actual cost
Affidavit of Lost Document (per document)	25.00
Certified Document (per document)	10.00
Research on Leases or Title Records (per hour)	50.00
Reproduction of Records	
Self–Service (per copy)	0.10
By staff (per copy)	0.40
Change on Name of Division Records (per occurrence)	20.00
Late Fee	6% or $30
Returned check charge	30.00
Sovereign Lands	
Rights of Entry	
Seismic Survey Fees	
Primacord (per mile)	200.00
Surface Vibrators (per mile)	200.00
Shothole >50 ft (per hole)	50.00
Shothole <50 ft (per mile)	200.00
Pattern Shotholes (per pattern)	200.00
Commercial	200.00
Commercial Recreation Event (per person over 150 people)	2.00
Minimum ROE of $200 plus per person royalty	
Data Processing	
Production Time (per hour)	55.00
Programming Time (per hour)	75.00
Geographic Information System	
Processing Time (per hour)	55.00
Personnel Time (per hour)	50.00
Sovereign Lands	
Easements	
Minimum Easement	225.00
Canal	
Existing	
<=33’ wide (per rod)	15.00
>33’ but <=66’ wide (per rod)	30.00
>66’ but <=100’ wide (per rod)	45.00
>100’ wide (per rod)	60.00
New	
<=33’ wide (per rod)	30.00
>33’ but <=66’ wude (per rod)	45.00
>66’ but <=100’ wide (per rod)	60.00
>100’ wide (per rod)	75.00
Roads	
Existing	
<=33’ wide (per rod)	5.50
>33’ but <=66’ wide (per rod)	11.00
>66’ but <=100’ wide (per rod)	16.50
>100’ wide (per rod)	22.00
New	
<=33’ wide (per rod)	8.50
>33’ but <=66’ wide (per rod)	17.00
>66’ but <=100’ wide (per rod)	25.50
>100’ wid (per rod)	34.00
34.00	
Power lines, Telephone Cables, Retaining walls and jetties	
<=30’ wide (per rod)	14.00
>30’ but <60’ wide (per rod)	20.00
>60’ but <=100’ wide (per rod)	26.00
>100’ but <=200’ wide (per rod)	32.00
>200’ but <=300’ wide (per rod)	42.00
>300’ wide (per rod)	52.00
Pipelines	
<=2” (per rod)	7.00
>2” but <=13” (per rod)	14.00
>13” but <=25” (per rod)	20.00
>25” but <=37” (per rod)	26.00
>37” (per rod) (per rod)	52.00
Special Use Lease Agreements (SULA)	
SULA Lease Rate	450.00
Minimum $450 or market rate per R652–30–400	
Grazing Permits	3.00
Annual rate per AUM (Animal Unit Month)	
Special Use Lease Agreements	Market rate
General Permits	
Mooring Buoys: 3 yr max term	50.00
Renewal – Mooring Buoys; 3 yr max term	50.00
Floating Dock, Wheeled Pier, Seasonal Use; 3 year max	250.00
Dock/pier, Single Upland Owner Use; 3 year max	350.00
Boat Ramp, Temporary, Metal; 3 year max	250.00
Boat Ramp, Concrete, Gravel; 10 year max	700.00
Irrigation Pump – Pump Head Only; 15 year max	50.00
Irrigation Pump – Structure; 15 year max	150.00
Storm Water Outfall, Drain; 10 year max	150.00
Other	450.00
Minimum $450 or market rate per R652–30–400	
Mineral Lease	
Rental Rate 1st ten years (per acre)	1.10
Rental Rate Renewals (per acre)	2.20
Fire Management	
Fax copy (per page)	1.00
Send only	

OIL, GAS AND MINING

Administration	
New Coal Mine Permit Application	5.00
Copy	
Staff Copy (per page)	0.25
Self Copy (per page)	0.10
Minerals Reclamation	
Mineral Program	
Exploration Permit	150.00
Annual Permit	
Small Mining Operations	150.00
Large Mining Operations	
20 to 50 acres	500.00
over 50 acres	1,000.00

UTAH GEOLOGICAL SURVEY

Administration	
Sample Library	
Cutting Thin Section Blanks	10.00
Core Plug < 1 inch (per plug)	10.00

Core Plugs > 1 inch diameter	25.00
Layout–Cuttings, Core, Coal, Oil/Water (per box)	5.00
Binocular/Petrographic Microscopes (per day)	25.00
Workshop Fee – Building Use (per day)	250.00
Workshop – Saturday/ Sunday/Holiday Surcharge	320.00
Research Fee (per hour)	50.00
Core Slabbing	
1.8" Diameter or Smaller (per foot)	10.00
1.8"–3.5" Diameter (per foot)	14.00
Core Photographing	
Box/Closeup 8x10 color/Thin Section (per Photo)	5.00
Miscellaneous	
Copies, Self–Serve (per copy)	0.10
Copies, Staff (per copy)	0.25
Research and Professional Services (per hour)	50.00
Geologic Mapping	
Paleontology	
File Search Requests	
Paleontology File Search Fee	30.00
Up to 30 minutes	

WATER RESOURCES

Administration	
Water Banking Contract Application Fee	200.00
Water Banking Statutory Application Fee	300.00
Color Plots	
Custom Orders	Current staff rate
Plans and Specifications	
Small Set	10.00
Average Size Set	25.00
Large Set	35.00
Cloud Seeding License	Variable
Fees shall be determined by the division based on actual cost.	
Copies, Staff (per hour)	Current staff rate
Planning	
Color Plots	
Existing (per linear foot)	2.00

WATER RIGHTS

Administration	
Applications	
Flow – cubic feet per second (cfs)	
More than 0, not to exceed 0.1	150.00
More than 0.1, not to exceed 0.5	200.00
More than 0.5, not to exceed 1.0	250.00
More than 1.0, not to exceed 2.0	300.00
More than 2.0, not to exceed 3.0	350.00
More than 3.0, not to exceed 4.0	400.00
More than 4.0, not to exceed 5.0	430.00
More than 5.0, not to exceed 6.0	460.00
More than 6.0, not to exceed 7.0	490.00
More than 7.0, not to exceed 8.0	520.00
More than 8.0, not to exceed 9.0	550.00
More than 9.0, not to exceed 10.0	580.00
More than 10.0, not to exceed 11.0	610.00
More than 11.0, not to exceed 12.0	640.00
More than 12.0, not to exceed 13.0	670.00
More than 13.0, not to exceed 14.0	700.00
More than 14.0, not to exceed 15.0	730.00
More than 15.0, not to exceed 16.0	760.00
More than 16.0, not to exceed 17.0	790.00
More than 17.0, not to exceed 18.0	820.00
More than 18.0, not to exceed 19.0	850.00
More than 19.0, not to exceed 20.0	880.00
More than 20.0, not to exceed 21.0	910.00
More than 21.0, not to exceed 22.0	940.00
More than 22.0, not to exceed 23.0	970.00
More than 23.0	1,000.00
Volume – acre–feet (af)	
More than 0, not to exceed 20	150.00
More than 20, not to exceed 100	200.00
More than 100, not to exceed 500	250.00
More than 500, not to exceed 1,000	300.00
More than 1,000, not to exceed 1,500	350.00
More than 1,500, not to exceed 2,000	400.00
More than 2,000, not to exceed 2,500	430.00
More than 2,500, not to exceed 3,000	460.00
More than 3,000, not to exceed 3,500	490.00
More than 3,500, not to exceed 4,000	520.00
More than 4,000, not to exceed 4,500	550.00
More than 4,500, not to exceed 5,000	580.00
More than 5,000, not to exceed 5,500	610.00
More than 5,500, not to exceed 6,000	640.00
More than 6,000, not to exceed 6,500	670.00
More than 6,500, not to exceed 7,000	700.00
More than 7,000, not to exceed 7,500	730.00
More than 7,500, not to exceed 8,000	760.00
More than 8,000, not to exceed 8,500	790.00
More than 8,500, not to exceed 9,000	820.00
More than 9,000, not to exceed 9,500	850.00
More than 9,500, not to exceed 10,000	880.00
More than 10,000, not to exceed 10,500	910.00
More than 10,500, not to exceed 11,000	940.00
More than 11,000, not to exceed 11,500	970.00
More than 11,500	1,000.00
Extension Requests for Submitting a Proof of Appropriation	
Less than 14 years after the date of approval of the application	50.00
14 years or more after the date of approval of the application	150.00
Fixed time periods	150.00

For Each Certification of Copies	10.00
A Reasonable Charge for Preparing	
Copies of a Document	Variable
Actual cost	
Application to Segregate a Water Right	50.00
Groundwater Recovery Permit	2,500.00
Fee Changed from Recharge to Recovery	
Notification for the use of Sewage Effluent or to	
Change the Point of Discharge	750.00
Diligence Claim Investigation	500.00
Report of Water Right Conveyance	
Submission	40.00
Protest Filings	15.00
Livestock Watering Certificate	150.00
Well Driller	
Permit	
Initial	350.00
Renewal (Annual) (per year)	100.00
Late renewal (Annual) (per year)	50.00
Drill Rig Operator Registration	
Initial	100.00
Renewal (Annual) (per year)	50.00
Late Renewal (Annual) (per year)	50.00
Pump Installer License	
Initial	200.00
Renewal (Annual) (per year)	75.00
Late renewal (Annual) (per year)	50.00
Pump Rig Operator Registration	
Initial	75.00
Renewal (Annual) (per year)	25.00
Late renewal (Annual) (per year)	25.00
Stream Alteration	
Commercial	2,000.00
Government	500.00
Non-Commercial	100.00
Field Services	
Applications	
Appropriation	Variable see below

For any application that proposes to appropriate or recharge by both direct flow and storage, there shall be charged the fee for quantity, by cubic feet per second (cfs), or volume, by acre-feet (af), whichever is greater, but not both:

WATERSHED

Sage Grouse Mitigation Agreement	
Fee (per Credit/Acre)	5.00
Sage Grouse Mitigation	
Application Fee	100.00
Sage Grouse Mitigation Credit	
Transfer Fee (per Credit/Acre)	5.00

WILDLIFE RESOURCES

Director's Office	
Fishing Licenses	
Resident	
Youth Fishing (12-13)	5.00
Resident Youth Fishing	
Ages 14-17 (365 Day)	16.00
Resident Fishing Ages 18-64	
(365 Day)	34.00
Resident Multi Year License (Up to 5 years) for Ages 18-64 $33/year.	
Age 65 Or Older (365 Day)	25.00
Disabled Veteran (365 Day)	12.00
Resident Fishing 3 Day Any Age	16.00
7-Day (Any Age)	20.00
Resident Set Line Fishing License	20.00
Nonresident	
Youth Fishing (12-13)	6.00
Nonresident Youth Fishing	
Ages 14-17 (365 Day)	29.00
Nonresident Fishing Age 18	
Or Older (365 Day)	85.00
Nonresident Multi Year (Up to 5 Years) for Ages 18 or Older $84/year (includes license extensions).	
Nonresident Fishing 3 Day Any Age	28.00
7-Day (Any Age)	46.00
Nonresident Set Line Fishing License	23.00
Season Fishing Licenses	
not Combinations	Up to 20% discount
Stamps	
Wyoming Flaming Gorge	12.00
Arizona Lake Powell	9.00
Game Licenses	
Introductory Hunting License	4.00
Upon successful completion of Hunter Education - add to registration fee	
Resident Introductory Combination	
License (Hunter's Ed Completion)	6.00
Nonresident Introductory Combination	
License (Hunter's Ed Completion)	6.00
Resident	
Hunting License (up to 13)	11.00
Resident Hunting License	
Ages 14-17	16.00
Resident Hunting License	
Ages 18-64	34.00
Resident Multi Year license (Up to 5 years) for Ages 18-64 $33/year	
Resident Hunting License	
Ages 65 Or Older	25.00
Resident Hunting License Disabled	
Veteran (365 Day)	25.50
Resident Youth Combination	
License Ages 14-17	20.00
Resident Combination	
License Ages 18-64	38.00
Resident Multi Year License (Up to 5 Years) for ages 18-64 $37/year	
Resident Combination	
Ages 65 or Older	29.00
Resident Combination License	
Disabled Veteran (365 Day)	28.50
Dedicated Hunter Certificate of Registration (COR)	
1 Year (12-17)	40.00
1 Year (18+)	65.00
3 Year (12-17)	120.00
3 Year (18+)	195.00
Lifetime License Dedicated Hunter Certificate of Registration (COR)	
1 Year (12-17)	12.50
1 Year (18+)	25.00
3 Year (12-17)	37.50
3 Year (18+)	75.00
Nonresident	
Nonresident Youth Hunting	
License Ages 17 and Under	29.00

Nonresident Hunting License Age 18 or Older (365 Day)	72.00
Nonresident Multi Year Hunting License	71.00
(Up to 5 Years, including license extensions)	
Nonresident Youth Combination License Ages 17 and under	33.00
Nonresident Combination License Ages 18 Or Older	98.00
Nonresident Multi Year License (Up to 5 Years, includes extensions) for Ages 18 or Older $97/year.	
Nonresident Small Game – 3 Day	42.00
Falconry Meet	15.00
Dedicated Hunter Certificate of Registration (COR)	
1 Year (14–17)	268.00
Includes season fishing license	
1 Year (18+)	349.00
Includes season fishing license	
3 Year (12–17)	814.00
Includes season fishing license	
3 Year (18+)	1,047.00
Includes season fishing license	
General Season Permits	
Resident	
Youth General Season Turkey	25.00
Turkey	35.00
General Season Deer	40.00
Antlerless Deer	30.00
Two Doe Antlerless	45.00
Depredation – Antlerless	30.00
Archery Bull Elk	50.00
General Bull Elk	50.00
Multi Season General Bull Elk	150.00
Antlerless Elk	50.00
Control Antlerless Elk	30.00
Resident Two Cow Elk permit	80.00
Resident Landowner Mitigation	
Deer – Antlerless	30.00
Elk – Antlerless	30.00
Pronghorn – Doe	30.00
Nonresident	
Turkey	115.00
General Season Deer	398.00
Includes season fishing license	
Depredation – Antlerless	107.00
Antlerless Deer	107.00
Two Doe Antlerless	197.00
Archery Bull Elk	593.00
Includes season fishing license	
General Bull	593.00
Includes season fishing license	
Multi Season General Bull Elk	800.00
Antlerless Elk	251.00
Control Antlerless Elk	107.00
Nonresident Two Cow Elk permit	350.00
Nonresident Landowner Mitigation	
Deer – Antlerless	107.00
Two Doe Antlerless Deer Mitigation	197.00
Elk – Antlerless	318.00
Pronghorn – Doe	107.00
Two doe Antlerless Pronghorn Mitigation	197.00
Limited Entry Game Permits	
Deer	
Resident	
Limited Entry	80.00
Multi Season Limited Entry Buck	145.00
Premium Limited Entry	168.00
Multi Season Premium Limited Entry Buck	305.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner	
Buck	40.00
Limited Entry	80.00
Premium Limited Entry	168.00
Antlerless	30.00
Two Doe Antlerless	45.00
Nonresident	
Limited Entry	650.00
Includes season fishing license	
Multi Season Limited Entry Buck	1,100.00
Includes season fishing license	
Premium Limited Entry	768.00
Includes season fishing license	
Multi Season Premium Limited Entry Buck	1,330.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner	
Buck	398.00
Includes season fishing license	
Limited Entry	568.00
Includes season fishing license. Includes CWMU Management buck deer permits.	
Premium Limited Entry	768.00
Includes season fishing license	
Antlerless	107.00
Two Doe Antlerless	197.00
Elk	
Resident	
Limited Entry Bull	285.00
Multi Season Limited Entry Bull	513.00
Depredation	50.00
Depredation – Bull Elk – With Current Year Unused Bull Permit	235.00
Depredation – Bull Elk – Without Current Year Unused Bull Permit	285.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner	
Any Bull	285.00
Antlerless	50.00
Nonresident	
Limited Entry Bull	1,000.00
Includes season fishing license	
Multi Season Limited Entry Bull	1,805.00
Includes fishing license	
Depredation – Antlerless	318.00
Co–Operative Wildlife Management Unit (CWMU)/Landowner	
Any Bull	1,000.00
Includes fishing license	
Antlerless	318.00
Pronghorn	
Resident	
Limited Buck	55.00
Limited Doe	30.00
Limited Two Doe	45.00

Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Buck	55.00
Doe	30.00
Depredation Doe	30.00
Archery Buck	55.00
Nonresident	
Limited Buck	337.00
Includes season fishing license	
Limited Doe	107.00
Limited Two Doe	197.00
Archery Buck	337.00
Includes season fishing license	
Depredation Doe	107.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Buck	337.00
Includes season fishing license	
Doe	107.00
Moose	
Resident	
Bull	413.00
Antlerless	213.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Bull	413.00
Antlerless	213.00
Nonresident	
Bull	2,200.00
Includes season fishing license	
Antlerless	1,000.00
Co-Operative Wildlife Management Unit (CWMU)/Landowner	
Bull	2,200.00
Includes season fishing license	
Antlerless	1,000.00
Bison	
Resident	413.00
Resident Antelope Island	1,110.00
Nonresident	2,200.00
Includes season fishing license	
Nonresident Antelope Island	2,615.00
Includes season fishing license	
Bighorn Sheep	
Resident	
Desert	513.00
Rocky Mountain	513.00
Resident Rocky Mtn/Desert Bighorn Sheep Ewe permit	100.00
Nonresident	
Desert	2,200.00
Includes season fishing license	
Rocky Mountain	2,200.00
Includes season fishing license	
Nonresident Rocky Mtn/Desert Bighorn Sheep Ewe permit	1,000.00
Goats	
Resident Mountain	413.00
Nonresident Mountain	2,200.00
Includes season fishing license	
Cougar/Bear	
Resident	
Cougar	58.00
Bear	83.00
Premium Bear	166.00
Bear Archery	83.00
Cougar Pursuit	30.00
Bear Pursuit	30.00
Nonresident	
Cougar	297.00
Bear	354.00
Multi Season Bear	546.00
Cougar Pursuit	155.00
Bear Pursuit	155.00
Wolf	
Resident	20.00
Nonresident	80.00
Cougar/Bear	
Cougar or Bear Damage	30.00
Wild Turkey	
Resident Limited Entry	35.00
Nonresident Limited Entry	115.00
Waterfowl	
Swan	
Resident	15.00
Nonresident	17.00
Sandhill Crane	
Resident	15.00
Nonresident	17.00
Sportsman Permits	
Resident	
Bull Moose	413.00
Hunter's Choice Bison	413.00
Desert Bighorn Ram	513.00
Bull Elk	513.00
Buck Deer	168.00
Buck Pronghorn	55.00
Bear	83.00
Cougar	58.00
Mountain Goat	413.00
Rocky Mountain Sheep	513.00
Turkey	35.00
Other	
Falconry Permits	
Resident	
Capture	
Apprentice Class	30.00
General Class	50.00
Master Class	50.00
Nonresident	
Capture	
Apprentice Class	132.00
General Class	132.00
Master Class	132.00
Handling	10.00
Includes licenses, Certificate of Registration, and exchanges	
Resident Drawing Application	10.00
Nonresident Draw Applications	15.00
Landowner Association Application	150.00
Nonrefundable	
Resident/Nonresident Dedicated Hunter Hourly Labor Buyout Rate	20.00
Bird Bands	0.25
Furbearer/Trap Registration	
Resident Furbearer	29.00
Any age	
Nonresident Furbearer	177.00
Any age	
Resident Bobcat Temporary Possession	15.00
Nonresident Bobcat Temporary Possession	52.00
Resident Trap Registration	10.00

Nonresident Trap Registration	10.00
Duplicate Licenses, Permits and Tags	
Hunter Education Cards	10.00
Furharvester Education Cards	10.00
Duplicate Vouchers CWMU/ Conservation/ Mitigation	25.00
Refund of Hunting Draw License	25.00
Application Amendment	25.00
Late Harvest Reporting	50.00
Exchange	10.00
Wildlife Management Area Access (Without a Valid License)	10.00
Division Programs	
Participation Fee	Variable

Fees shall be determined by the division using the estimated costs of materials and supplies needed for participation in the event.

Wood Products on Division Land	
Firewood (2 Cords)	10.00
Christmas Tree	5.00
Ornamentals	
Conifers (per tree)	5.00
Maximum $60.00 per permit	
Deciduous (per tree)	3.00
Maximum $60.00 per permit	
Posts	0.40
Maximum $60.00 per permit	
Hunter Education	
Hunter Education Training	6.00
Hunter Education Home Study	6.00
Furharvester Education Training	6.00
Bowhunter Education Class	6.00
Long Distance Verification	2.00
Becoming an Outdoors Woman	150.00
Special Needs Rates Available	
Hunter Education Range	
Adult	5.00
Market price up to $10	
Youth	2.00
Ages 15 and under. Market price up to $5.	
Group for organized groups and not for special passes	50% discount
Spotting Scope Rental	2.00
Trap, Skeet or Riverside Skeet (per round)	5.00
Market price up to $10	
Five Stand - Multi-Station Birds	7.00
Market price up to $10	
Ten Punch Pass	
Ten Punch Pass Shooting Ranges Youth (Rifle/Archery/Handgun)	Up to $45
Market price up to $45.00	
Ten Punch Pass Shooting Ranges (Shotgun)	Up to $95
Market price up to $95.00	
Ten Punch Pass Shooting Ranges Adult (Rifle/Archery/Handgun)	Up to $95
Market price up to $95.00	
Sportsmen Club Meetings	20.00
Shooting Center RV Camping	$10.00 to $50.00
Reproduction of Records	
Self-Service (per copy)	0.10
Staff Service (per copy)	0.25
Geographic Information System	
Personnel Time (per hour)	50.00
Processing (per hour)	55.00
Data Processing	
Programming Time (per hour)	75.00
Production (per hour)	55.00
License Agency	
Application	20.00

Other Services to be reimbursed at actual time and materials

Postage	Current rate
Lost License Paper by License Agents (per page)	10.00
Return check charge	20.00
Hardware Ranch Sleigh Ride	
Adult	5.00
Age 4-8	3.00
Age 0-3	No charge
Education Groups (per person)	1.00
Easement and Leases Schedule	
Application for Leases	
Leases	250.00
Nonrefundable	
Easements	
Rights-of-Way	750.00
Nonrefundable	
Rights-of-Entry	50.00
Nonrefundable	
Easements Oil and Gas Pipelines	250.00
Amendment to Lease, Easement, Right-of-Way	400.00
Nonrefundable	
Amendment to Right of Entry	50.00
Certified Document	5.00
Nonrefundable	
Research on Leases or Title Records (per hour)	50.00
Rights-of-Way	
Leases and Easements - Resulting in Long-Term Uses of Habitat	Variable

Fees shall be determined on a case-by-case basis by the division, using the estimated fair market value of the property, or other legislatively established fees, whichever is greater, plus the cost of administering the lease, right-of-way, or easement. Fair market value shall be determined by customary market valuation practices.

Special Use Permits for Non-Depleting Land Uses of <1 Year	Variable

A nonrefundable application of $50 shall be assessed for any commercial use. Fees for approved special uses will be based on the fair market value of the use, determined by customary practices which may include: an assessment of comparable values for similar properties, comparable fees for similar land uses, or fee schedules. If more than one fee determination applies, the highest fee will be selected.

Width of Easement	
0’ - 30’ Initial	12.00
0’ - 30’ Renewal	8.00
31’ - 60’ Initial	18.00
31’ - 60’ Renewal	12.00
61’ - 100’ Initial	24.00
61’ - 100’ Renewal	16.00
101’ - 200’ Initial	30.00
101’ - 200’ Renewal	20.00

201' – 300' Initial	40.00
201' – 300' Renewal	28.00
>300' Initial	50.00
>300' Renewal	34.00
Outside Diameter of Pipe	
<2.0" Initial	
<2.0"Renewal	4.00
2.0" – 13" Initial	19.00
2.0" – 13" Renewal	8.00
13.1"–37" Initial	38.00
13.1" – 25" Renewal	12.00
25.1" – 37" Renewal	16.00
>37" Initial	75.00
>37" Renewal	32.00
Roads, Canals	
Permanent Loss of Habitat Plus High Maintenance Disturbance	18.00
1' – 33' New Construction	
Permanent Loss of Habitat Plus High Maintenance Disturbance	12.00
1' – 33' Existing	
Permanent Loss of Habitat Plus High Maintenance Disturbance	24.00
33.1' – 66' New Construction	
Permanent Loss of Habitat Plus High Maintenance Disturbance	18.00
33.1' – 66' Existing	
Assignments: Easements, Grazing Permits, Right–of–entry, Special Use	250.00
Certificates of Registration	
Initial – Personal Use	75.00
Initial – Commercial	150.00
TYPE I	
Certificate of Registration (COR) Fishing Contest	
Small, Under 50	20.00
Medium, 50 to 100	100.00
Large, over 200	250.00
Amendment	10.00
Certificate of Registration (COR) Handling	10.00
Renewal	30.00
Late Fee for Failure to Renew Certificates of Registration When Due: Greater of $10 or 20% of Fee	Variable
Greater of $10 or 20% of fee.	
Required Inspections	100.00
Failure to Submit Required Annual Activity Report When Due	10.00
Request for Species Reclassification	200.00
Request for Variance	200.00
Commercial Fishing and	
Dealing Commercially in Aquatic Wildlife	
Dealer in Live/Dead Bait	75.00
Helper Cards – Live/Dead Bait	15.00
Commercial Seiner	1,000.00
Helper Cards – Commercial Seiner	100.00
Commercial Brine Shrimper	15,000.00
Helper Cards – Commercial Brine Shrimper	1,500.00
Upland Game Cooperative	
Wildlife Management Units	
New Application	250.00
Annual	150.00
Big Game Cooperative Wildlife Management Unit	
New Application	250.00
Annual	150.00
Falconry	
Three Year	45.00
Five Year	75.00
Commercial Hunting Areas	
New Application	150.00
Renewal Application	150.00

DIVISION OF PARKS

State Park Operation Management

All fees for the Division of Parks and Recreation may not exceed, but may be less than, the amounts stated in the division's fee schedule.

Golf Course Fees RENTALS	
Motorized Cart, per 9 Holes	16.00
Driving Range	9.00
Golf Course Fees GREENS FEES	
Greens Fees, 9 Holes	25.00
Reservation Fee	10.65
Camping Fees	40.00
Group Camping Fees	400.00
Boating Fees	
Boat Mooring	
In/Off Season With or Without Utilities (per foot)	7.00
Boat and RV Storage	200.00
Promotional Pass	1,100.00
Entrance Fees	
Motor Vehicles	
Day Use Annual Pass	150.00
Group Site Day–Use Fees	250.00
Parking Fee	5.00
Entrance Fees	25.00
Application Fees	250.00
Easement, Grazing permit, Construction/ Maintenance, Special Use Permit, Waiting List, Events	
Assessment and Assignment Fees	
Repository Fees	
Curation (per storage unit)	700.00
Annual Repository Agreement, Annual Agreement Fee, Fee Collection, Return Checks, and Duplicate Document (per storage unit)	80.00
Staff or Researcher Time per Hour	50.00
Equipment and Building Rental per Hour	100.00
OHV and Boating Program Fees	
Boating Section Fees	
Commercial Dealer Demo Pass	200.00
Lodging Fees	
Lodging	120.00

DIVISION OF RECREATION

Recreation Management

Boat Dealer Number and Registration Fee	25.00
OHV and Boating Program Fees	
OHV Program Fee	
Statewide OHV Registration Fee	72.00
State–issued Permit to Non–resident OHV	30.00
OHV Education Fee	

Division's Off-highway Vehicle Program and Personal Watercraft Safety Certificate, including replacement certificates	30.00
Boating Section Fees	
Statewide Boat Registration Fee	40.00
Carrying Passengers for Hire Fee	200.00
Boat Livery Registration Fee	100.00

OFFICE OF ENERGY DEVELOPMENT

Renewable energy Systems Tax Credit and Qualifying Solar Projects Tax Credit	15.00
Well Recompletion or Workover	10.00
Application fee for the Well Recompletion or Workover Tax Credit certificate (59-5-102)	
RESTC Production Tax Credit	150.00
Application fee for the Renewable Energy Systems PRODUCTION Tax Credit.	
Alternative Energy Development Tax Credit	150.00
High Cost Infrastructure Tax Credit, private investment $10 million or less	150.00
High Cost Infrastructure Tax Credit, private investment more than $10 million	250.00

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Administration	
Name change on Administrative Records	
Name Change on Admin. Records - Surface Document	50.00
Name Change on Admin. Records - Lease (per lease)	15.00
Affidavit of Lost Document (per document)	25.00
Surface	
Easements	
Amendment	400.00
Application	750.00
Assignment Fees	250.00
Collateral	250.00
Reinstatement	400.00
Exchange	
Application	1,000.00
Grazing Permit	
Amendment	75.00
Application	75.00
Assignment Fees	30.00
Collateral	50.00
Reinstatement	100.00
Non-Use	20.00
Modified	
Amendment	50.00
Application	250.00
Assignment Fees	250.00
Collateral	50.00
Reinstatement	30.00
Letter of Intent	
Application	100.00
Right of Entry	
Amendment	50.00
Application	50.00
Assignment Fees	250.00
Extension of Time	100.00
Processing	50.00
Right of Entry Trailing Permit	
Application plus AUM (Animal Unit Month) fees	50.00
Sales/Certificates	
Application	250.00
Assignment	250.00
Partial Conveyance	250.00
Patent Reissue	50.00
Processing	500.00
Special Use Agreements	
Amendment	400.00
Application	250.00
Assignment Fees	250.00
Collateral	250.00
Processing	700.00
Reinstatement	400.00
Timber Agreement	
Application (<6 months)	100.00
6 months or less	
Assignment (<6 months)	250.00
6 months or less	
Application (>6 months)	500.00
longer than 6 months	
Assignment (>6 months)	250.00
longer than 6 months	
Extension of Time	250.00
longer than 6 months	
Mineral / Oil & Gas	
Application	
Materials Permit (Sand and Gravel)	250.00
Mineral Materials Permit	100.00
Mineral Lease	30.00
Rockhounding Permit	
Association	200.00
Individual/Family	25.00
Assignment	
Collateral	75.00
Materials Permit (Sand & Gravel) - Assignment	200.00
Operating Rights	75.00
Overriding Royalty	50.00
Record Title	75.00
Segregation	150.00
Processing	
Materials Permit (Sand/Gravel)	700.00
Transfer Active Oil and Gas Lease to Current Form	50.00
Utah Interactive / E-check fee	3.00
Bank Charge / Credit Card fees (per incident)	3 percent
Fee based on total transaction value.	

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

POLICY, COMMUNICATION, & OVERSIGHT

Board and Administration	
Unauthorized parking fee	30.00
Indirect Cost Pool	
Indirect Cost Pool	

Restricted Funds	
USBE percentage of personal service costs	14.8%
Unrestricted Funds	
USBE percentage of personal service costs	18.5%
Special Education	
RTC Special Education Program Monitoring Fee: 1-75 Students (per RTC)	2,200.00
RTC Special Education Program Monitoring Fee: 76+ Students (per RTC)	2,900.00
RTC Special Education Program Monitoring Fee: Distance Over 2 Hours (per RTC)	1,545.00
RTC Special Education Program Monitoring Fee: Distance Up to 2 Hours (per RTC)	490.00
Student Support Services	
Conference or Professional Development Registration (per Day)	50.00

These fees apply to the entire department.

UTAH SCHOOLS FOR THE DEAF AND THE BLIND

Administration	
USDB Audiologist Fee (per Hour)	84.56
Study Abroad Fee	500.00
Support Services	
Conference Attendance	
Educator - Conference Attendance Fee	100.00
Parent - Conference Attendance Fee	25.00
Adult Lunch Tickets (per meal)	4.00
Copy and Fax Machine	
Copy Machine	
Color	1.00
Black/White	0.10
Room Rental	
Conference	100.00
Utah State Instructional Materials Access Center	
USIMAC Book Processing Fee (per Braille Volume)	150.00
USIMAC Book Shipping Fee (per Braille Volume)	15.00
School for the Deaf	
Instruction	
Teachers Aide	16.49
Educator	79.65
After-School Program	30.00
Pre-School Monthly Tuition	100.00
Out-of-State Tuition	50,600.00
Educational Interpreter	50.58
Support Services	
Athletic (per sport)	100.00
Room Rental	
Multipurpose	200.00
School for the Blind	
Instruction	
Student Education Services Aide	33.22
Support Services	
Room Rental	
Dormitory	50.00

STATEWIDE ONLINE EDUCATION COSTS FOR NON-PUBLIC STUDENTS

Statewide Online Education Program	
SOEP Private Provider Application and Monitoring Fee (per FIRST $200,000)	5%

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

STATE CAPITOL FUND

Capitol Hill Grounds	
Commercial Production Grounds/ per event (per day)	2,500.00
Commercial Production White Chapel/ per event	1,000.00
Commercial filming/photography Capitol building-2 hour increments	500.00
Commercial filming/photography Capitol grounds-2 hour increments	250.00
A-South Lawn	
A-South Lawn/per event	2,000.00
A-South Lawn/per hour	400.00
D-West Lawn	
D-West Lawn/per event	500.00
D-West Lawn/per hour	150.00
South Steps	
South Steps/per event (per event)	500.00
South Steps/per hour (per hour)	125.00
Capitol Hill - The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Parking Lot	
Parking Space (per stall per day) For events only	7.00
Rotunda	
Commercial Production Rotunda/ per event (per day)	5,000.00
Rotunda Rental Fee Monday-Thursday (per event)	2,000.00
Rotunda Rental Fee Friday-Sunday (per event)	2,300.00
Rotunda two hour block Mon-Fri during Leg Session and Interim days (7 a.m.-5:30 p.m.)	No charge
Hall of Governors	
Hall of Governors/per event	1,300.00
Hall of Governors - Two hour block Monday - Friday during Leg Session and Interim days (7:00 a.m.-5:30 p.m.)	No charge
Plaza	
Plaza/per event	1,300.00
Plaza/per hour	200.00
Room 105	
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	
Room #105/per hour	50.00
Room #105 Mon - Fri. 7:00 a.m.-5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Room 170	
Nonprofit, Gov't Nonofficial Business, K-12, & Higher Ed	

Room #170/per hour	50.00
Room #170 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Room 210	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Room #210/per hour	50.00
Room #210 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
State Room	
State Room/per event	1,000.00
State Room/per hour	125.00
Board Room	
General Public, Commercial, & Private Groups	
Board Room/per hour	150.00
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Board Room/per hour	75.00
Olmsted Room	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Olmsted Room/per hour	50.00
Olmsted Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Kletting Room	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Kletting Room/per hour	50.00
Kletting Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Seagull Room	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Seagull Room/per hour	50.00
Seagull Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Beehive Room	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Beehive Room/per hour	50.00
Beehive Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Copper Room	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Copper Room/per hour	50.00
Copper Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Aspen Room	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Aspen Room/per hour	50.00
Aspen Room Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
State Office Building – The State Capitol Preservation Board may establish the maximum amount of time a person may use a facility.	
Auditorium	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Auditorium/per hour	75.00
Auditorium Mon – Fri, 11 a.m.–1:30 p.m. during Leg Session and Interim days with the use of preferred caterer	No charge
Room 1112	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Room #1112/per hour	50.00
Room #1112 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
Room B110	
Nonprofit, Gov't Nonofficial Business, K –12, & Higher Ed	
Room #B110/per hour	50.00
Room #B110 Mon – Fri, 7:00 a.m.–5:30 p.m. during Leg Session and Interim days (no more than 8 hours/week)	No charge
White Community Memorial Chapel	
White Chapel per day of event	1,000.00
White Chapel noon–midnight rehearsal	250.00
Miscellaneous Other	
Access Badges	25.00
Additional Labor (per person, per 1/2 hr)	25.00
Additional Personnel (per person, per 1/2 hr)	25.00
Adjustment (per person, per 1/2 hr)	25.00
Administrative Fee	10.00
Baby Grand Piano	200.00
Chairs (per chair)	1.50
Change in set–up fee (per person, per 1/2 hr)	25.00
Easel	10.00
Event/Dance Floor 30x30	1,000.00
Event/Dance Floor 21x21	600.00
Event/Dance Floor 15x15	450.00
Event/Dance Floor 12x12	250.00
Event/Dance Floor 6x6	125.00
Extension Cords	5.00
Free Speech Public Space Usage	No charge
Garbage Can	No charge
Gold Formal Chair (per chair)	5.00
Image Use Fee	50.00
Insurance Coverage for Capitol Hill Facilities and Grounds	Coverage of $1,000,000.00
Locker Rentals (per year)	40.00
Podium	
With Microphone	35.00
Without Microphone	25.00
POLYCOM Phone Rental	10.00
Projector Cart	25.00
Risers (per section)	25.00
Security (per officer, per hour)	60.00
Speaker (per speaker)	15.00
Stanchion	10.00
Standing Microphone	15.00
Table (per table)	7.00
Table Pedestal Round 42" (per table)	10.00
Upright Piano	50.00
US Flag	35.00
Utah Flag	40.00
Wood Folding Chair (per chair)	2.50

UTAH NATIONAL GUARD

Operations and Maintenance
Armory Rental
Armory Rental Fee (per hour) 25.00

Armory rental fee of $25/hour is charged to pay for the additional operations and maintenance costs to the National Guard when an armory is rented to a group outside of the National Guard.

Security Attendant (per hour) 15.00

Utah National Guard requires a security attendant to accompany an armory rental outside of business hours to ensure the security of facilities and equipment.

Refundable Cleaning Deposit 100.00

This refundable fee is required to mitigate the liability of damage or additional cleaning requirement for National Guard armories during or after rental.

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

VETERANS AND MILITARY AFFAIRS

Cemetery
Veterans' Burial 828.00

Individual veteran burial fee at the Utah Veterans Cemetery & Memorial Park. Fee is determined by the National Cemetery Administration within the federal U.S. Department of Veterans Affairs.

Spouse/Dependent Burial 828.00

Individual veteran spouse or dependent burial fee at the Utah Veterans Cemetery & Memorial Park. Fee is determined by the National Cemetery Administration within the federal U.S. Department of Veterans Affairs.

Saturday Burial Surcharge 700.00
Chapel Rental 150.00

Fee for renting the on-site chapel for funerals, memorials, or other events.

Lawn Vase 65.00
Niche Vase 25.00
Disinterment
Cremains Disinterment 150.00
Single Depth Disinterment 600.00
Double Depth Disinterment 900.00

Section 3. Effective Date.
This bill takes effect on July 1, 2022.

CHAPTER 302
H. B. 66

Passed February 4, 2022
Approved March 24, 2022
Effective May 4, 2022

PUBLIC EMPLOYEES' INSURANCE PLAN AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill requires PEHP to discontinue the preferred network for the state risk pool.

Highlighted Provisions:

This bill:

- requires PEHP to discontinue the preferred network for the state risk pool;
- requires PEHP to enroll a state employee into a remaining network if the employee fails to elect a remaining network; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

49-20-401, as last amended by Laws of Utah 2021, Chapters 45 and 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 49-20-401 is amended to read:

49-20-401. Program -- Powers and duties.

(1) The program shall:

(a) act as a self-insurer of employee benefit plans and administer those plans;

(b) enter into contracts with private insurers or carriers to underwrite employee benefit plans as considered appropriate by the program;

(c) indemnify employee benefit plans or purchase commercial reinsurance as considered appropriate by the program;

(d) provide descriptions of all employee benefit plans under this chapter in cooperation with covered employers;

(e) process claims for all employee benefit plans under this chapter or enter into contracts, after competitive bids are taken, with other benefit administrators to provide for the administration of the claims process;

(f) obtain an annual actuarial review of all health and dental benefit plans and a periodic review of all other employee benefit plans;

(g) consult with the covered employers to evaluate employee benefit plans and develop recommendations for benefit changes;

(h) annually submit a budget and audited financial statements to the governor and Legislature [~~which~~] that includes total projected benefit costs and administrative costs;

(i) maintain reserves sufficient to liquidate the unrevealed claims liability and other liabilities of the employee benefit plans as certified by the program's consulting actuary;

(j) submit, in advance, [~~its~~] the program's recommended benefit adjustments for state employees to:

(i) the Legislature; and

(ii) the director of the state Division of Human Resource Management;

(k) determine benefits and rates, upon approval of the board, for multi-employer risk pools, retiree coverage, and conversion coverage;

(l) determine benefits and rates based on the total estimated costs and the employee premium share established by the Legislature, upon approval of the board, for state employees;

(m) administer benefits and rates, upon ratification of the board, for single-employer risk pools;

(n) request proposals for one or more out-of-state provider networks and a dental health plan administered by a third-party carrier at least once every three years for the purposes of:

(i) stimulating competition for the benefit of covered individuals;

(ii) establishing better geographical coverage of medical care services; and

(iii) providing coverage for both active and retired covered individuals;

[~~(o) offer proposals which meet the criteria specified in a request for proposals and accepted by the program to active and retired state covered individuals and which may be offered to active and retired covered individuals of other covered employers at the option of the covered employer;~~]

(o) for a proposal that meets the criteria specified in a request for proposals and is accepted by the program:

(i) offer the proposal to active and retired state-covered individuals; and

(ii) at the option of the covered employer, offer the proposal to active and retired covered individuals of other covered employers;

(p) perform the same functions established in Subsections (1)(a), (b), (e), and (h) for the Department of Health if the program provides program benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act;

(q) establish rules and procedures governing the admission of political subdivisions or educational institutions and their employees to the program;

(r) (i) contract directly with medical providers to provide services for covered individuals at commercially competitive rates; and

(ii) (A) discontinue the preferred network, which offers in-network access to all in-state hospitals, for the state risk pool created in Subsection 49-20-202(1)(a) for plan years starting on or after July 1, 2022; and

(B) for an employee in the state risk pool who fails to elect one of the remaining networks before July 1, 2022, enroll the employee and the employee's dependents into the network that best reflects the utilization pattern of that employee and the employee's dependents;

[~~(s) take additional actions necessary or appropriate to carry out the purposes of this chapter;~~]

[~~(t)~~] (s) (i) require state employees and [~~their~~] the state employees' dependents to participate in the electronic exchange of clinical health records in accordance with Section 26-1-37 unless the enrollee opts out of participation; and

(ii) prior to enrolling the state employee, each time the state employee logs onto the program's website, and each time the enrollee receives written enrollment information from the program, provide notice to the enrollee of the enrollee's participation in the electronic exchange of clinical health records and the option to opt out of participation at any time; [~~and~~]

[~~(u)~~] (t) at the request of a procurement unit, as that term is defined in Section 63G-6a-103, that administers benefits to program recipients who are not covered by Title 26, Utah Health Code, provide services for:

(i) drugs;

(ii) medical devices; or

(iii) other types of medical care[~~.~~]; and

(u) take additional actions necessary or appropriate to carry out the purposes of this chapter.

(2) (a) Funds budgeted and expended shall accrue from rates paid by the covered employers and covered individuals.

(b) [~~Administrative costs shall be approved by the board and reported to the governor and the Legislature.~~] The board shall approve administrative costs and report the administrative costs to the governor and the Legislature.

(3) The Division of Human Resource Management shall include the benefit adjustments described in Subsection (1)(j) in the total compensation plan recommended to the governor required under Subsection 63A-17-307(5)(a).

(4) The program may establish a partnership with a public entity in a different state to purchase or share services related to the administration of medical benefits if:

(a) the program receives approval for the partnership from the board; and

(b) the partnership:

(i) creates cost savings for Utah;

(ii) does not commingle state funds with funds of the public entity in the other state; and

(iii) does not pose a greater actuarial risk to Utah than the program has already assumed.

CHAPTER 303
H. B. 97

Passed February 10, 2022
Approved March 24, 2022
Effective May 4, 2022

IDENTITY THEFT REPORTING SYSTEM AMENDMENTS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill repeals the Identity Theft Reporting Information System (IRIS) Program.

Highlighted Provisions:

This bill:

- repeals the Identity Theft Reporting Information System (IRIS) Program within the Office of the Attorney General; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
67-5-1.5, as last amended by Laws of Utah 2018, Chapter 24

REPEALS:

67-5-22, as last amended by Laws of Utah 2021, Chapter 344

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or

contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information[~~: (a)~~] contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; [~~or~~]

[~~(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;~~]

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 2. Section 67-5-1.5 is amended to read:

67-5-1.5. Special duties -- Employment of staff.

(1) The attorney general may undertake special duties and projects as follows:

(a) employment of child protection services investigators under Section 67-5-16;

(b) administration of the Internet Crimes Against Children Task Force under Section 67-5-20;

(c) administration of the Internet Crimes Against Children (ICAC) Unit under Section 67-5-21;

[~~(d) administration of the Identity Theft Reporting Information System (IRIS) Program under Section 67-5-22;~~]

[~~(e)~~] (d) administration of the Attorney General Crime and Violence Prevention Fund under Section 67-5-24; and

[~~(f)~~] (e) administration of the Mortgage and Financial Fraud Unit under Section 67-5-30.

(2) As permitted by the provisions of this chapter, the attorney general may employ or contract with investigators, prosecutors, and necessary support staff to fulfill the special duties undertaken under this section.

Section 3. Repealer.

This bill repeals:

Section 67-5-22, Identity theft reporting information system -- Internet website and database -- Access -- Maintenance and rulemaking -- Criminal provisions.

Section 4. Deletion of information.

The Office of the Attorney General shall, on or before the effective date of this bill, delete all information received or maintained in relation to the Identity Theft Reporting Information System (IRIS).

CHAPTER 304
H. B. 120

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

UNIFORM PARTITION OF HEIRS' PROPERTY ACT

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts the Uniform Partition of Heirs' Act.

Highlighted Provisions:

This bill:

- defines terms;
- provides the applicability of the Uniform Partition of Heirs' Property Act (Act) in actions regarding the partition of property;
- requires notice of an action for the partition of property that is covered by the Act;
- provides that referees are to be impartial and not a party to an action under the Act;
- requires the court to determine the value of property being partitioned under the Act;
- provides a process for the court to allow cotenants to buy out other cotenants' interests in a property;
- allows the court to partition the property in kind and for sale under certain conditions;
- provides factors for the court to consider when determining whether property should be partitioned in kind;
- provides that the sale of property under the Act must be an open-market sale and provides the requirements for the open-market sale;
- requires a report be submitted to the court on the open-market sale of a partitioned property;
- provides that the law should be applied and construed to promote uniformity with other states that enact this uniform law; and
- contains a provision on the Act's relation to the Electronic Signatures in Global National Commerce Act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

78B-6-1270, Utah Code Annotated 1953
78B-6-1271, Utah Code Annotated 1953
78B-6-1272, Utah Code Annotated 1953
78B-6-1273, Utah Code Annotated 1953
78B-6-1274, Utah Code Annotated 1953
78B-6-1275, Utah Code Annotated 1953
78B-6-1276, Utah Code Annotated 1953
78B-6-1277, Utah Code Annotated 1953
78B-6-1278, Utah Code Annotated 1953
78B-6-1279, Utah Code Annotated 1953
78B-6-1280, Utah Code Annotated 1953
78B-6-1281, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-1270 is enacted to read:

Part 12a. Uniform Partition of Heirs' Property Act

78B-6-1270. Definitions.

As used in this part:

(1) "Ascendant" means an individual who precedes another individual in lineage, in the direct line of ascent from the other individual.

(2) "Collateral" means an individual who is related to another individual under the law of intestate succession of this state but who is not the other individual's ascendant or descendant.

(3) "Descendant" means an individual who follows another individual in lineage, in the direct line of descent from the other individual.

(4) "Determination of value" means a court order:

(a) determining the fair market value of heirs' property under Section 78B-6-1274 or 78B-6-1278; or

(b) adopting the valuation of the property agreed to by all the cotenants.

(5) "Heirs' property" means real property held in tenancy in common that satisfies all of the following requirements as of the filing of a partition action:

(a) there is no agreement in a record binding all the cotenants that governs the partition of the property;

(b) one or more of the cotenants acquired title from a relative, whether living or deceased; and

(c) any of the following applies:

(i) 20% or more of the interests are held by cotenants who are relatives;

(ii) 20% or more of the interests are held by an individual who acquired title from a relative, whether living or deceased; or

(iii) 20% or more of the cotenants are relatives.

(6) "Partition by sale" means a court-ordered sale of the entire heirs' property, whether by an auction, sealed bids, or an open-market sale conducted under Section 78B-6-1278.

(7) "Partition in kind" means the division of heirs' property into physically distinct and separately titled parcels.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(9) "Relative" means an ascendant, a descendant, a collateral, or an individual otherwise related to another individual by blood, marriage, adoption, or a law of this state other than this part.

Section 2. Section 78B-6-1271 is enacted to read:

78B-6-1271. Applicability -- Relation to other law.

(1) This part applies to partition actions filed on or after May 4, 2022.

(2) (a) In an action to partition real property under Title 78B, Chapter 6, Part 12, Partition, the court shall determine whether the property is heirs' property.

(b) If the court determines that the property is heirs' property, the property shall be partitioned under this part, unless all of the cotenants otherwise agree in a record.

(3) This part supplements Title 78B, Chapter 6, Part 12, Partition, and if an action is governed by this part, replaces provisions of Title 78B, Chapter 6, Part 12, Partition, that are inconsistent with this part.

Section 3. Section 78B-6-1272 is enacted to read:

78B-6-1272. Service -- Notice by posting.

(1) This part does not limit or affect the method by which service of a complaint in a partition action may be made.

(2) (a) If the plaintiff in a partition action files a notice by publication and the court determines that the property is heirs' property, the plaintiff, no later than 10 days after the day on which the court determines the property is heirs' property, shall post and maintain while the action is pending a conspicuous sign on the property that is the subject of the action.

(b) The sign shall:

(i) state that the action has commenced; and

(ii) identify the name and address of the court and the common designation by which the property is known.

(c) The court may require the plaintiff to publish on the sign the name of the plaintiff and the known defendants.

Section 4. Section 78B-6-1273 is enacted to read:

78B-6-1273. Referees.

If the court appoints referees, each referee, in addition to the requirements and disqualifications applicable to referees in Title 78B, Chapter 6, Part 12, Partition, shall be disinterested and impartial and not a party to or a participant in the action.

Section 5. Section 78B-6-1274 is enacted to read:

78B-6-1274. Determination of value.

(1) Except as otherwise provided in Subsections (2) and (3), if the court determines that the property that is the subject of a partition action is heirs' property, the court shall determine the fair market value of the property by ordering an appraisal in accordance with Subsection (4).

(2) If all cotenants have agreed to the value of the property or to another method of valuation, the court shall adopt that value or the value produced by the agreed method of valuation.

(3) If the court determines that the evidentiary value of an appraisal is outweighed by the cost of the appraisal, the court, after an evidentiary hearing, shall determine the fair market value of the property and send notice to the parties of the value.

(4) (a) If the court orders an appraisal, the court shall appoint a disinterested real estate appraiser licensed in this state to determine the fair market value of the property assuming sole ownership of the fee simple estate.

(b) On completion of the appraisal, the appraiser shall file a sworn or verified appraisal with the court.

(5) If an appraisal is conducted in accordance with Subsection (4), no later than 10 days after the day on which the appraisal is filed, the court shall send notice to each party with a known address, stating:

(a) the appraised fair market value of the property;

(b) that the appraisal is available at the court clerk's office; and

(c) that a party may file with the court an objection to the appraisal no later than 30 days after the day on which the notice is sent, stating the grounds for the objection.

(6) (a) If an appraisal is filed with the court in accordance with Subsection (4), the court shall conduct a hearing to determine the fair market value of the property no sooner than 31 days after the day on which a copy of the notice of the appraisal is sent to each party under Subsection (5), whether or not an objection to the appraisal is filed under Subsection (5)(c).

(b) In addition to the court-ordered appraisal, the court may consider any other evidence of value offered by a party.

(7) After a hearing under Subsection (6), but before considering the merits of the partition action, the court shall determine the fair market value of the property and send notice to the parties of the value.

Section 6. Section 78B-6-1275 is enacted to read:

78B-6-1275. Cotenant buyout.

(1) If any cotenant requests a partition by sale, after the determination of value under Section 78B-6-1274, the court shall send notice to the parties that any cotenant, except a cotenant that requested the partition by sale, may buy all the interests of the cotenants that requested partition by sale.

(2) No later than 45 days after on the day on which the notice is sent under Subsection (1), any cotenant, except a cotenant that requested

partition by sale, may give notice to the court that the cotenant elects to buy all the interests of the cotenants that requested partition by sale.

(3) The purchase price for each of the interests of a cotenant that requested partition by sale is the value of the entire parcel determined under Section 78B-6-1274 multiplied by the cotenant's fractional ownership of the entire parcel.

(4) After expiration of the 45-day period described in Subsection (2):

(a) if only one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall notify all the parties of the fact that the one cotenant seeks to buy all the interests of the other cotenants;

(b) if more than one cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall:

(i) allocate the right to buy all the interests of the cotenants among the electing cotenants based on each electing cotenant's existing fractional ownership of the entire parcel divided by the total existing fractional ownership of all cotenants electing to buy; and

(ii) send notice to all the parties of that fact and of the price to be paid by each electing cotenant; or

(c) if no cotenant elects to buy all the interests of the cotenants that requested partition by sale, the court shall send notice to all the parties that no cotenant elects to buy all the interests of the cotenants and resolve the partition action under Subsections 78B-6-1276(1) and (2).

(5) (a) If the court sends notice to the parties under Subsection (4)(a) or (b), the court shall set a date, no sooner than 60 days after the day on which the notice was sent, by which electing cotenants shall pay each cotenant's apportioned price to the court.

(b) After the day described in Subsection (5)(a):

(i) if all electing cotenants timely pay each cotenant's apportioned price to the court, the court shall issue an order reallocating all the interests of the cotenants and disburse the amounts held by the court to the persons entitled to the amounts;

(ii) if no electing cotenant timely pays each cotenant's apportioned price, the court shall resolve the partition action under Subsections 78B-6-1276(1) and (2) as if the interests of the cotenants that requested partition by sale were not purchased; or

(iii) if one or more but not all of the electing cotenants fail to pay a cotenant's apportioned price on time, the court, upon a motion, shall give notice to the electing cotenants that paid the cotenant's apportioned price of the interest remaining and the price for all that interest.

(6) (a) No later than 20 days after the day on which the court gives notice in accordance with Subsection (5)(a)(iii), any cotenant that paid may elect to purchase all of the remaining interest by paying the entire price to the court.

(b) After the 20-day period described in Subsection (6)(a):

(i) if only one cotenant pays the entire price for the remaining interest, the court shall:

(A) issue an order reallocating the remaining interest to that cotenant;

(B) issue an order promptly reallocating the interests of all of the cotenants; and

(C) disburse the amounts held by the court to the persons entitled to the amounts;

(ii) if no cotenant pays the entire price for the remaining interest, the court shall resolve the partition action under Subsections 78B-6-1276(1) and (2) as if the interests of the cotenants that requested partition by sale were not purchased; or

(iii) if more than one cotenant pays the entire price for the remaining interest, the court shall:

(A) reapportion the remaining interest among the paying cotenants, based on each paying cotenant's original fractional ownership of the entire parcel divided by the total original fractional ownership of all cotenants that paid the entire price for the remaining interest;

(B) issue an order promptly reallocating all of the cotenants' interests;

(C) disburse the amounts held by the court to the persons entitled to the amounts; and

(D) promptly refund any excess payment held by the court.

(7) No later than 45 days after the day on which the court sends notice to the parties in accordance with Subsection (1), any cotenant entitled to buy an interest under this section may request the court to authorize the sale, as part of the pending action, of the interests of cotenants named as defendants and served with the complaint but that did not appear in the action.

(8) If the court receives a timely request under Subsection (7), the court, after a hearing, may deny the request or authorize the requested additional sale on such terms as the court determines are fair and reasonable if:

(a) a sale authorized under this Subsection (8) occurs only after the purchase prices for all interests subject to sale under Subsections (1) through (6) have been paid to the court and those interests have been reallocated among the cotenants as provided in Subsections (1) through (6); and

(b) the purchase price for the interest of a nonappearing cotenant is based on the court's determination of value of the property under Section 78B-6-1274.

Section 7. Section 78B-6-1276 is enacted to read:

78B-6-1276. Partition alternatives.

(1) (a) Except as provided in Subsection (1)(b), a court shall order partition in kind if:

(i) all the interests of all cotenants that requested partition by sale are not purchased by other cotenants in accordance with Section 78B-6-1275; or

(ii) after conclusion of the buyout under Section 78B-6-1275, a cotenant remains that has requested partition in kind.

(b) A court may not order a partition in kind if the court finds that partition in kind will result in great prejudice to the cotenants as a group after consideration of the factors listed in Section 78B-6-1277.

(c) In considering whether to order partition in kind under Subsection (1)(a), the court shall approve a request by two or more parties to have their individual interests aggregated.

(2) If the court does not order partition in kind under Subsection (1), the court shall order partition by sale in accordance with Section 78B-6-1278, or the court shall dismiss the action if no cotenant requested partition by sale.

(3) If the court orders partition in kind in accordance with Subsection (1), the court may require that one or more cotenants pay one or more other cotenants amounts so that the payments, taken together with the value of the in-kind distributions to the cotenants, will make the partition in kind just and proportionate in value to the fractional interests held.

(4) (a) If the court orders partition in kind, the court shall allocate to the cotenants that are unknown, unlocatable, or the subject of a default judgment, if the cotenants' interests were not bought out in accordance with Section 78B-6-1275, a part of the property representing the combined interests of these cotenants as determined by the court.

(b) The part of the property allocated in accordance with Subsection (4)(a) shall remain undivided.

Section 8. Section 78B-6-1277 is enacted to read:

78B-6-1277. Considerations for partition in kind.

(1) In determining under Subsection 78B-6-1276(1) whether partition in kind would result in great prejudice to the cotenants as a group, the court shall consider:

(a) whether the heirs' property practicably can be divided among the cotenants;

(b) whether partition in kind would apportion the property in such a way that the aggregate fair market value of the parcels resulting from the division would be materially less than the value of the property if it were sold as a whole, taking into account the condition under which a court-ordered sale likely would occur;

(c) evidence of the collective duration of ownership or possession of the property by a cotenant and one or more predecessors in title or predecessors in possession to the cotenant who are or were relatives of the cotenant or each other;

(d) a cotenant's sentimental attachment to the property, including any attachment arising because the property has ancestral or other unique or special value to the cotenant;

(e) the lawful use being made of the property by a cotenant and the degree to which the cotenant would be harmed if the cotenant could not continue the same use of the property;

(f) the degree to which the cotenants have contributed:

(i) the cotenants' pro rata share of the property taxes, insurance, and other expenses associated with maintaining ownership of the property; or

(ii) to the physical improvement, maintenance, or upkeep of the property; and

(g) any other relevant factor.

(2) The court may not consider any one factor in Subsection (1) to be dispositive without weighing the totality of all relevant factors and circumstances.

Section 9. Section 78B-6-1278 is enacted to read:

78B-6-1278. Open-market sale, sealed bids, or auction.

(1) If the court orders a sale of heirs' property, the sale must be an open-market sale unless the court finds that a sale by sealed bids or an auction would be more economically advantageous and in the best interest of the cotenants as a group.

(2) (a) If the court orders an open-market sale and the parties agree on a real estate broker licensed in this state to offer the property for sale no later than 10 days after the day on which the court entered the order, the court shall appoint the broker and establish a reasonable commission.

(b) If the parties do not agree on a broker during the 10-day period described in Subsection (2)(a), the court shall appoint a disinterested real estate broker licensed in this state to offer the property for sale and shall establish a reasonable commission.

(c) The broker shall offer the property for sale in a commercially reasonable manner at a price no lower than the determination of value of the property and on the terms and conditions established by the court.

(3) If the broker appointed under Subsection (2) obtains within a reasonable time an offer to purchase the property for at least the determination of value:

(a) the broker shall comply with the reporting requirements in Section 78B-6-1279; and

(b) the sale may be completed in accordance with state law other than this part.

(4) If the broker appointed under Subsection (2) does not obtain within a reasonable time an offer to

purchase the property for at least the determination of value, the court, after a hearing, may:

(a) approve the highest outstanding offer if there is an outstanding offer;

(b) redetermine the value of the property and order that the property continue to be offered for an additional time; or

(c) order that the property be sold by sealed bids or at an auction.

(5) (a) If the court orders a sale by sealed bids or an auction, the court shall set terms and conditions of the sale.

(b) If the court orders an auction, the auction shall be conducted in accordance with Section 78B-6-1224.

(6) If a purchaser is entitled to a share of the proceeds of the sale, the purchaser is entitled to a credit against the price in an amount equal to the purchaser's share of the proceeds.

Section 10. Section 78B-6-1279 is enacted to read:

78B-6-1279. Report of open-market sale.

(1) Unless required to do so within a shorter time by Title 78B, Chapter 6, Part 12, Partition, a broker appointed under Subsection 78B-6-1278(2) to offer heirs' property for open-market sale shall file a report with the court no later than seven days after the day on which the broker receives an offer to purchase the property for at least the determination of value under Section 78B-6-1274 or 78B-6-1278.

(2) The report required by Subsection (1) shall contain the following information:

(a) a description of the property to be sold to each buyer;

(b) the name of each buyer;

(c) the proposed purchase price;

(d) the terms and conditions of the proposed sale, including the terms of any owner financing;

(e) the amounts to be paid to lienholders;

(f) a statement of contractual or other arrangements or conditions of the broker's commission; and

(g) any other material fact relevant to the sale.

Section 11. Section 78B-6-1280 is enacted to read:

78B-6-1280. Uniformity of application and construction.

In applying and construing this part, consideration shall be given to the need to promote uniformity of this uniform law with respect to the subject matter of the uniform law among states that enact this uniform law.

Section 12. Section 78B-6-1281 is enacted to read:

78B-6-1281. Relation to Electronic Signatures in Global and National Commerce Act.

This part modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

CHAPTER 305
H. B. 132
Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

UNIFORM EASEMENT RELOCATION ACT

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts the Uniform Easement Relocation Act.

Highlighted Provisions:

This bill:

- defines terms;
- addresses the applicability of the Uniform Easement Relocation Act (Act) to certain easements;
- excludes certain easements from relocation under the Act;
- establishes the right of a property owner to relocate an easement in certain circumstances;
- allows a property owner to commence a civil action to relocate an easement;
- provides the requirements for commencing a civil action to relocate an easement;
- addresses a court order for relocation of an easement;
- requires the parties to a civil action for easement relocation to act in good faith in facilitating relocation;
- addresses when a proposed easement relocation is considered to be final and complete;
- addresses the effect of an easement relocation under the Act;
- provides that the right of a property to relocate an easement under the Act cannot be waived, excluded, or restricted by agreement;
- provides that the law should be applied and construed to promote uniformity with other states that enact the Act;
- contains a provision on the Act's relation to the Electronic Signatures in Global National Commerce Act;
- provides that the Act applies to an easement created before, on, or after the effective date of this bill; and
- provides a severability clause.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

57-13c-101, Utah Code Annotated 1953
57-13c-102, Utah Code Annotated 1953
57-13c-103, Utah Code Annotated 1953
57-13c-104, Utah Code Annotated 1953
57-13c-105, Utah Code Annotated 1953
57-13c-106, Utah Code Annotated 1953
57-13c-107, Utah Code Annotated 1953
57-13c-108, Utah Code Annotated 1953
57-13c-109, Utah Code Annotated 1953
57-13c-110, Utah Code Annotated 1953
57-13c-111, Utah Code Annotated 1953
57-13c-112, Utah Code Annotated 1953
57-13c-113, Utah Code Annotated 1953
57-13c-114, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-13c-101 is enacted to read:

CHAPTER 13c. UNIFORM EASEMENT RELOCATION ACT

57-13c-101. Definitions.

As used in this chapter:

(1) "Appurtenant easement" means an easement tied to, or dependent on, ownership or occupancy of a unit or a parcel of real property.

(2) "Common-interest community" means:

(a) an association of unit owners, as defined in Section 57-8-3;

(b) an association, as defined in Section 57-8a-102; or

(c) a cooperative, as defined in Section 57-23-2.

(3) "Conservation easement" means a nonpossessory property interest created for one or more of the following conservation purposes:

(a) retaining or protecting the natural, scenic, wildlife, wildlife-habitat, biological, ecological, or open-space values of real property;

(b) ensuring the availability of real property for agricultural, forest, outdoor-recreational, or open-space uses;

(c) protecting natural resources, including wetlands, grasslands, and riparian areas;

(d) maintaining or enhancing air or water quality;

(e) preserving the historical, architectural, archeological, paleontological, or cultural aspects of real property; or

(f) any other purpose under Chapter 18, Land Conservation Easement Act.

(4) "Dominant estate" means an estate or interest in real property benefitted by an appurtenant easement.

(5) "Easement" means a nonpossessory property interest that:

(a) provides a right to enter, use, or enjoy real property owned by or in the possession of another; and

(b) imposes on the owner or possessor a duty not to interfere with the entry, use, or enjoyment permitted by the instrument creating the easement or, in the case of an easement not established by express grant or reservation, the entry, use, or enjoyment authorized by law.

(6) "Easement holder" means:

(a) in the case of an appurtenant easement, the dominant estate owner; or

(b) in the case of an easement in gross, a public-entity easement, a public-utility easement, a conservation easement, or a negative easement, the grantee of the easement or a successor.

(7) "Easement in gross" means an easement not tied to, or dependent on, ownership or occupancy of a unit or a parcel of real property.

(8) "Highway" means the same as that term is defined in Section 72-1-102.

(9) "Lessee of record" means a person holding a lessee's interest under a recorded lease or memorandum of lease.

(10) "Negative easement" means a nonpossessory property interest whose primary purpose is to impose on a servient estate owner a duty not to engage in a specified use of the estate.

(11) "Person" means an individual, an estate, a business or a nonprofit entity, a public corporation, a government or governmental subdivision, an agency, or an instrumentality, or other legal entity.

(12) "Public entity" means:

(a) the United States;

(b) an agency of the United States;

(c) the state;

(d) a political subdivision of the state; or

(e) an agency of the state or a political subdivision of the state.

(13) "Public-entity easement" means a nonpossessory property interest in which the easement holder is a public entity.

(14) "Public utility" means the same as that term is defined in Section 54-2-1.

(15) (a) "Public-utility easement" means a nonpossessory property interest, including an easement, a right of way, a grant, a permit, a license, or a similar right, that has been granted to:

(i) a public utility;

(ii) a publicly regulated utility or a publicly owned utility under federal law or the laws of this state or a municipality;

(iii) an interstate utility regulated by the Federal Energy Regulatory Commission; or

(iv) a utility cooperative.

(b) "Public-utility easement" includes:

(i) an easement benefitting an intrastate utility, an interstate utility, or a utility cooperative;

(ii) a protected utility easement as defined in Section 54-3-27; and

(iii) a public utility easement as defined in Section 54-3-27.

(16) "Public transit facility" means the same as that term is defined in Section 72-1-102.

(17) (a) "Real property" means an estate or interest in, over, or under land, including structures, fixtures, and other things that by custom, usage, or law pass with a conveyance of land whether or not described or mentioned in the contract of sale or instrument of conveyance.

(b) "Real property" includes:

(i) the interest of a lessor and lessee; and

(ii) an interest in a common-interest community, unless the interest is personal property under Chapter 23, Real Estate Cooperative Marketing Act.

(18) "Record," used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(19) (a) "Security instrument" means a mortgage, a deed of trust, a security deed, a contract for deed, a lease, or other record that creates or provides for an interest in real property to secure payment or performance of an obligation, whether by acquisition or retention of a lien, a lessor's interest under a lease, or title to the real property.

(b) "Security instrument" includes:

(i) a security instrument that also creates or provides for a security interest in personal property;

(ii) a modification or amendment of a security instrument; and

(iii) a record creating a lien on real property to secure an obligation under a covenant running with the real property or owed by a unit owner in a common-interest community.

(20) "Security-interest holder of record" means a person holding an interest in real property created by a recorded security instrument.

(21) "Servient estate" means an estate or interest in real property that is burdened by an easement.

(22) "Title evidence" means a title insurance policy, a preliminary title report or binder, a title insurance commitment, an abstract of title, an attorney's opinion of title based on examination of public records or an abstract of title, or any other means of reporting the state of title to real property that is customary in the locality.

(23) "Unit" means a physical portion of a common-interest community designated for separate ownership or occupancy with boundaries described in a declaration establishing the common-interest community.

(24) (a) "Utility cooperative" means a non-profit entity whose purpose is to deliver a utility service, such as electricity, oil, natural gas, water, sanitary sewer, storm water, or telecommunications, to the non-profit entity's customers or members.

(b) "Utility cooperative" includes an electric cooperative, a rural electric cooperative, a rural water district, and a rural water association.

(25) "Water-conveyance easement" means a ditch, canal, flume, pipeline, or other watercourse used to convey water used for irrigation or storm water drainage, culinary or industrial water, or a federal water project facility.

Section 2. Section 57-13c-102 is enacted to read:

57-13c-102. Scope -- Exclusions.

(1) Except as otherwise provided in Subsection (2), this chapter applies to an easement established:

(a) by express grant or reservation; or

(b) by prescription, implication, necessity, estoppel, or other method.

(2) This chapter may not be used to relocate:

(a) a conservation easement, a negative easement, a public-entity easement, a public-utility easement, or a water-conveyance easement;

(b) an easement held by a mine operator and used in connection with a vested mining use that is recorded in accordance with Section 17-41-501;

(c) any easement associated in any way with a highway or a public transit facility; or

(d) an easement if the proposed location would:

(i) encroach on an area of an estate burdened by a conservation easement, a public-entity easement, a public-utility easement, a water-conveyance easement, a highway, or a public transit facility; or

(ii) interfere with the use or enjoyment of:

(A) a public-entity easement, a public-utility easement, or a water-conveyance easement; or

(B) an easement appurtenant to a conservation easement, a highway, or a public transit facility.

(3) This chapter does not apply to relocation of an easement by consent.

Section 3. Section 57-13c-103 is enacted to read:

57-13c-103. Right of servient estate owner to relocate easement.

A servient estate owner may relocate an easement under this chapter only if the relocation does not materially:

(1) lessen the utility of the easement;

(2) after the relocation, increase the burden on the easement holder in the easement holder's reasonable use and enjoyment of the easement;

(3) impair an affirmative, easement-related purpose for which the easement was created;

(4) during or after the relocation, impair the safety of the easement holder or another person entitled to use and enjoy the easement;

(5) during the relocation, disrupt the use and enjoyment of the easement by the easement holder or another person entitled to use and enjoy the easement, unless the servient estate owner substantially mitigates the duration and nature of the disruption;

(6) impair the physical condition, use, or value of the dominant estate or improvements on the dominant estate;

(7) impair the value of the collateral of a security-interest holder of record in the servient estate or dominant estate;

(8) impair a real-property interest of a lessee of record in the dominant estate; or

(9) impair a recorded real-property interest of any other person in the servient estate or dominant estate.

Section 4. Section 57-13c-104 is enacted to read:

57-13c-104. Commencement of civil action.

(1) To obtain an order to relocate an easement under this chapter, a servient estate owner shall commence a civil action.

(2) (a) Except as provided in Subsection (2)(b), a servient estate owner that commences a civil action under Subsection (1) shall serve a summons and complaint on:

(i) the easement holder whose easement is the subject of the relocation;

(ii) a security-interest holder of record of an interest in the servient estate or dominant estate;

(iii) a lessee of record of an interest in the dominant estate; and

(iv) any other owner of a recorded real-property interest if the relocation would encroach on an area of the servient estate or dominant estate burdened by the interest.

(b) A servient estate owner is not required to serve a summons and complaint under Subsection (2)(a) on the owner of a recorded real-property interest in oil, gas, or minerals in the dominant estate unless:

(i) the real-property interest includes an easement to facilitate oil, gas, or mineral development; or

(ii) the owner is a lessee of record of a real-property interest in oil, gas, or minerals in the dominant estate.

(3) A complaint under this section shall state:

(a) the intent of the servient estate owner to seek the relocation;

(b) the nature, extent, and anticipated dates of commencement and completion of the proposed relocation;

(c) the current and proposed locations of the easement;

(d) the reason the easement is eligible for relocation under Section 57-13c-102;

(e) the reason the proposed relocation satisfies the conditions for relocation under Section 57-13c-103; and

(f) that the servient estate owner has made a reasonable attempt to notify the holders of any public-utility easement, conservation easement, or negative easement on the servient estate or dominant estate of the proposed relocation.

(4) (a) At any time before the court renders a final order in an action under Subsection (1), a person served under Subsection (2)(a)(ii), (iii), or (iv) may file a document, in recordable form, that waives the person's rights to contest or obtain relief in connection with the relocation or subordinates the person's interests to the relocation.

(b) On filing of the document, the court may order that the person is not required to answer or participate further in the action.

Section 5. Section 57-13c-105 is enacted to read:

57-13c-105. Required findings -- Order -- Recording of relocated easement.

(1) The court may not approve relocation of an easement under this chapter unless the servient estate owner:

(a) establishes that the easement is eligible for relocation under Section 57-13c-102; and

(b) satisfies the conditions for relocation under Section 57-13c-103.

(2) An order under this chapter approving relocation of an easement shall:

(a) state that the order is issued in accordance with this chapter;

(b) recite the recording data of the instrument creating the easement, if any, and any amendments and any notice under Chapter 9, Marketable Record Title;

(c) identify the immediately preceding location of the easement;

(d) describe in a legally sufficient manner the new location of the easement;

(e) describe mitigation required of the servient estate owner during relocation;

(f) refer in detail to the plans and specifications of improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;

(g) specify conditions to be satisfied by the servient estate owner to relocate the easement and construct improvements necessary for the easement holder to enter, use, and enjoy the easement in the new location;

(h) include a provision for payment by the servient estate owner of expenses under Section 57-13c-106;

(i) include a provision for compliance by the parties with the obligation of good faith under Section 57-13c-107; and

(j) instruct the servient estate owner to record an affidavit, if required under Subsection 57-13c-108(1), when the servient estate owner substantially completes relocation.

(3) An order under Subsection (2) may include any other provision consistent with this chapter for the fair and equitable relocation of the easement.

(4) (a) Before a servient estate owner proceeds with relocation of an easement under this chapter, the servient estate owner shall:

(i) record, in the land records of each jurisdiction where the servient estate is located, a certified copy of the order under Subsection (2); or

(ii) if the easement was established by the recording of a subdivision plat or a condominium plat, record an amended plat in the land records for the jurisdiction where the servient estate is located.

(b) If a servient estate owner is required to record an amended plat under Subsection (4)(a)(ii):

(i) the servient estate owner is not required to obtain the signatures on the amended plat of the other property owners within the platted area or provide notice of the amended plat; and

(ii) the applicable land use authority is not required to hold a public hearing or consider the amended plat in a public meeting if the easement relocation is the only amendment to the plat.

(c) If a public entity is required to sign an amended plat, the public entity shall sign the amended plat for compliance with the order under Subsection (2).

Section 6. Section 57-13c-106 is enacted to read:

57-13c-106. Expenses of relocation.

A servient estate owner is responsible for reasonable expenses of relocation of an easement under this chapter, including the expense of:

(1) constructing improvements on the servient estate or dominant estate in accordance with an order under Section 57-13c-105;

(2) removing and demolishing any existing improvements on the dominant estate in accordance with an order under Section 57-13-105;

(3) any liability or damages incurred by the easement holder arising out of the relocation of the easement, including environmental investigation, remediation, restoration, or reclamation expenses and any reasonable attorney fees associated with the liability or damages incurred by the easement holder;

(4) any cleanup, removal, repair, remediation, detoxification, or restoration required by a public entity;

(5) during the relocation, mitigating disruption in the use and enjoyment of the easement by the easement holder or another person entitled to use and enjoy the easement;

(6) obtaining a governmental approval or permit to relocate the easement and construct necessary improvements;

(7) preparing and recording the certified copy required by Subsection 57-13c-105(4) and any other document required to be recorded;

(8) any title, survey, or site investigation work required to complete the relocation or required by a party to the civil action as a result of the relocation;

(9) applicable premiums for title insurance related to the relocation;

(10) any expert necessary to review plans and specifications for an improvement to be constructed in the relocated easement or on the dominant estate and to confirm compliance with the plans and specifications referred to in the order under Subsection 57-13c-105(2)(f);

(11) payment of any maintenance cost associated with the relocated easement that is greater than the maintenance cost associated with the easement before relocation; and

(12) obtaining any third-party consent required to relocate the easement.

Section 7. Section 57-13c-107 is enacted to read:

57-13c-107. Duty to act in good faith.

After the court, under Section 57-13c-105, approves relocation of an easement and the servient estate owner commences the relocation, the servient estate owner, the easement holder, and other parties in the civil action shall act in good faith to facilitate the relocation in compliance with this chapter.

Section 8. Section 57-13c-108 is enacted to read:

57-13c-108. Relocation affidavit.

(1) If an order under Section 57-13c-105 requires the construction of an improvement as a condition for relocation of an easement, relocation is substantially complete, and the easement holder is able to enter, use, and enjoy the easement in the new location, the servient estate owner shall:

(a) record, in the land records of each jurisdiction where the servient estate is located, an affidavit certifying that the easement has been relocated; and

(b) send, by certified mail, a copy of the recorded affidavit to the easement holder and parties to the civil action.

(2) Until an affidavit under Subsection (1) is recorded and sent, the easement holder may enter, use, and enjoy the easement in the current location, subject to the court's order under Section 57-13c-105 approving relocation.

(3) If an order under Section 57-13c-105 does not require an improvement to be constructed as a condition of the relocation, recording the order under Subsection 57-13c-105(4) constitutes relocation.

Section 9. Section 57-13c-109 is enacted to read:

57-13c-109. Limited effect on relocation.

(1) Relocation of an easement under this chapter:

(a) is not a new transfer or a new grant of an interest in the servient estate or the dominant estate;

(b) is not a breach or default of, and does not trigger, a due-on-sale clause or other transfer-restriction clause under a security instrument, except as otherwise determined by a court under a law other than this chapter;

(c) is not a breach or default of a lease, except as otherwise determined by a court under a law other than this chapter;

(d) is not a breach or default by the servient estate owner of a recorded document affected by the relocation, except as otherwise determined by a court under a law other than this chapter;

(e) does not affect the priority of the easement with respect to other recorded real-property interests burdening the area of the servient estate where the easement was located before the relocation; and

(f) is not a fraudulent conveyance or voidable transaction under law.

(2) This chapter does not affect any other method of relocating an easement permitted under a law of this state other than this chapter.

Section 10. Section 57-13c-110 is enacted to read:

57-13c-110. Nonwaiver.

The right of a servient estate owner to relocate an easement under this chapter may not be waived, excluded, or restricted by agreement even if:

(1) the instrument creating the easement prohibits relocation or contains a waiver, exclusion, or restriction of this chapter;

(2) the instrument creating the easement requires consent of the easement holder to amend the terms of the easement; or

(3) the location of the easement is fixed by the instrument creating the easement, another agreement, previous conduct, acquiescence, estoppel, or implication.

Section 11. Section 57-13c-111 is enacted to read:

57-13c-111. Uniformity of application and construction.

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the uniform law with respect to the uniform law's subject matter among the states that enact the uniform law.

Section 12. Section 57-13c-112 is enacted to read:

57-13c-112. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Sec. 7003(b).

Section 13. Section 57-13c-113 is enacted to read:

57-13c-113. Transitional provision.

This chapter applies to an easement created before, on, or after May 4, 2022.

Section 14. Section 57-13c-114 is enacted to read:

57-13c-114. Severability.

If any provision of this chapter or the application of the chapter to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

CHAPTER 306
H. B. 146

Passed March 3, 2022
(Passed into law without governor's signature)
Effective May 4, 2022

LOCAL LICENSING AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies the authority of political subdivisions related to business licenses.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the general authority of a municipality and a county related to business licenses;
- modifies a municipality's and a county's regulation and business licensing authority over food truck businesses, including the regulation and business licensing authority over a food truck business that has previously obtained a business license in another political subdivision;
- modifies health and safety inspection requirements for food truck businesses;
- modifies the authority of a political subdivision related to the licensing of a business, including a business that rents all-terrain vehicles; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-1-203, as last amended by Laws of Utah 2018, Chapter 105
11-56-102, as last amended by Laws of Utah 2019, Chapter 260
11-56-103, as last amended by Laws of Utah 2019, Chapter 260
11-56-104, as last amended by Laws of Utah 2019, Chapter 260
17-53-216, as last amended by Laws of Utah 2017, Chapter 361

ENACTS:

11-65-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-1-203 is amended to read:

10-1-203. License fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section:

(a) "Business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(b) "Telecommunications provider" means the same as that term is defined in Section 10-1-402.

(c) "Telecommunications tax or fee" means the same as that term is defined in Section 10-1-402.

(2) Except as provided in Subsections (3) through (5) and [~~(7)(a), and subject to Subsection (7)(b)~~] Subsection (7), the legislative body of a municipality may license for the purpose of regulation any business within the limits of the municipality, may regulate that business by ordinance, and may impose fees on businesses to recover the municipality's costs of regulation.

(3) (a) The legislative body of a municipality may raise revenue by levying and collecting a municipal energy sales or use tax as provided in Part 3, Municipal Energy Sales and Use Tax Act, except a municipality may not levy or collect a franchise tax or fee on an energy supplier other than the municipal energy sales and use tax provided in Part 3, Municipal Energy Sales and Use Tax Act.

(b) (i) Subsection (3)(a) does not affect the validity of a franchise agreement as defined in Subsection 10-1-303(6), that is in effect on July 1, 1997, or a future franchise.

(ii) A franchise agreement as defined in Subsection 10-1-303(6) in effect on January 1, 1997, or a future franchise shall remain in full force and effect.

(c) A municipality that collects a contractual franchise fee pursuant to a franchise agreement as defined in Subsection 10-1-303(6) with an energy supplier that is in effect on July 1, 1997, may continue to collect that fee as provided in Subsection 10-1-310(2).

(d) (i) Subject to the requirements of Subsection (3)(d)(ii), a franchise agreement as defined in Subsection 10-1-303(6) between a municipality and an energy supplier may contain a provision that:

(A) requires the energy supplier by agreement to pay a contractual franchise fee that is otherwise prohibited under Part 3, Municipal Energy Sales and Use Tax Act; and

(B) imposes the contractual franchise fee on or after the day on which Part 3, Municipal Energy Sales and Use Tax Act is:

(I) repealed, invalidated, or the maximum allowable rate provided in Section 10-1-305 is reduced; and

(II) not superseded by a law imposing a substantially equivalent tax.

(ii) A municipality may not charge a contractual franchise fee under the provisions permitted by Subsection (3)(b)(i) unless the municipality charges an equal contractual franchise fee or a tax on all energy suppliers.

(4) (a) Subject to Subsection (4)(b), beginning July 1, 2004, the legislative body of a municipality may raise revenue by levying and providing for the collection of a municipal telecommunications

license tax as provided in Part 4, Municipal Telecommunications License Tax Act.

(b) A municipality may not levy or collect a telecommunications tax or fee on a telecommunications provider except as provided in Part 4, Municipal Telecommunications License Tax Act.

(5) (a) (i) The legislative body of a municipality may by ordinance raise revenue by levying and collecting a license fee or tax on:

(A) a parking service business in an amount that is less than or equal to:

(I) $1 per vehicle that parks at the parking service business; or

(II) 2% of the gross receipts of the parking service business;

(B) a public assembly or other related facility in an amount that is less than or equal to $5 per ticket purchased from the public assembly or other related facility; and

(C) subject to the limitations of Subsections (5)(c) and (d):

(I) a business that causes disproportionate costs of municipal services; or

(II) a purchaser from a business for which the municipality provides an enhanced level of municipal services.

(ii) Nothing in this Subsection (5)(a) may be construed to authorize a municipality to levy or collect a license fee or tax on a public assembly or other related facility owned and operated by another political subdivision other than a community reinvestment agency without the written consent of the other political subdivision.

(b) As used in this Subsection (5):

(i) "Municipal services" includes:

(A) public utilities; and

(B) services for:

(I) police;

(II) fire;

(III) storm water runoff;

(IV) traffic control;

(V) parking;

(VI) transportation;

(VII) beautification; or

(VIII) snow removal.

(ii) "Parking service business" means a business:

(A) that primarily provides off-street parking services for a public facility that is wholly or partially funded by public money;

(B) that provides parking for one or more vehicles; and

(C) that charges a fee for parking.

(iii) "Public assembly or other related facility" means an assembly facility that:

(A) is wholly or partially funded by public money;

(B) is operated by a business; and

(C) requires a person attending an event at the assembly facility to purchase a ticket.

(c) (i) Before the legislative body of a municipality imposes a license fee on a business that causes disproportionate costs of municipal services under Subsection (5)(a)(i)(C)(I), the legislative body of the municipality shall adopt an ordinance defining for purposes of the tax under Subsection (5)(a)(i)(C)(I):

(A) the costs that constitute disproportionate costs; and

(B) the amounts that are reasonably related to the costs of the municipal services provided by the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(I) shall be reasonably related to the costs of the municipal services provided by the municipality.

(d) (i) Before the legislative body of a municipality imposes a license fee on a purchaser from a business for which it provides an enhanced level of municipal services under Subsection (5)(a)(i)(C)(II), the legislative body of the municipality shall adopt an ordinance defining for purposes of the fee under Subsection (5)(a)(i)(C)(II):

(A) the level of municipal services that constitutes the basic level of municipal services in the municipality; and

(B) the amounts that are reasonably related to the costs of providing an enhanced level of municipal services in the municipality.

(ii) The amount of a fee under Subsection (5)(a)(i)(C)(II) shall be reasonably related to the costs of providing an enhanced level of the municipal services.

(6) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(7) A municipality may not:

(a) require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under 18 years [~~of age; or~~] old;

(b) charge any fee for a resident of the municipality to operate a home-based business, unless the combined offsite impact of the home-based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone[~~.~~];

(c) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information, except as specifically authorized under state or federal law.

(8) (a) Notwithstanding Subsection (7)(b), a municipality may charge an administrative fee for a license to a home-based business owner who is otherwise exempt under Subsection (7)(b) but who requests a license from the municipality.

(b) A municipality shall notify the owner of each home-based business of the exemption described in Subsection (7)(b) in any communication with the owner.

(9) The municipality shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(10) If challenged in court, an ordinance enacted by a municipality before January 1, 1994, imposing a business license fee on rental dwellings under this section shall be upheld unless the business license fee is found to impose an unreasonable burden on the fee payer.

Section 2. Section 11-56-102 is amended to read:

11-56-102. Definitions.

As used in this chapter:

(1) "Event permit" means a permit that a political subdivision issues to the organizer of a public food truck event located on public property.

(2) "Food cart" means a cart:

(a) that is not motorized; and

(b) that a vendor, standing outside the frame of the cart, uses to prepare, sell, or serve food or beverages for immediate human consumption.

(3) [~~(a)~~] "Food truck" means:

(a) a fully encased food service establishment:

(i) on a motor vehicle or on a trailer that a motor vehicle pulls to transport; and

(ii) from which a food truck vendor, standing within the frame of the vehicle, prepares, cooks, sells, or serves food or beverages for immediate human consumption[~~.~~];

(b) [~~"Food truck" does not include a food cart or an ice cream truck.~~] a food cart; or

(c) an ice cream truck.

(4) "Food truck business" means a person who operates a food truck or, under the same business, multiple food trucks.

(5) "Food truck event" means an event where an individual has ordered or commissioned the operation of a food truck at a private or public gathering.

(6) "Food truck operator" means a person who owns, manages, or controls, or who has the duty to manage or control, the food truck business.

(7) "Food truck vendor" means a person who sells, cooks, or serves food or beverages from a food truck.

(8) "Health department food truck permit" means a document that a local health department issues to authorize a person to operate a food truck within the jurisdiction of the local health department.

(9) "Ice cream truck" means a fully encased food service establishment:

(a) on a motor vehicle or on a trailer that a motor vehicle pulls to transport;

(b) from which a vendor, from within the frame of the vehicle, serves ice cream;

(c) that attracts patrons by traveling through a residential area and signaling the truck's presence in the area, including by playing music; and

(d) that may stop to serve ice cream at the signal of a patron.

(10) "Local health department" means the same as that term is defined in Section 26A-1-102.

(11) "Political subdivision" means:

(a) a city, town, or metro township; or

(b) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(12) (a) "Temporary mass gathering" means:

(i) an actual or reasonably anticipated assembly of 500 or more people that continues, or reasonably can be expected to continue, for two or more hours per day; or

(ii) an event that requires a more extensive review to protect public health and safety because the event's nature or conditions have the potential of generating environmental or health risks.

(b) "Temporary mass gathering" does not include an assembly of people at a location with permanent facilities designed for that specific assembly, unless the assembly is a temporary mass gathering described in Subsection (12)(a)(i).

Section 3. Section 11-56-103 is amended to read:

11-56-103. Licensing -- Reciprocity -- Fees.

(1) (a) Subject to the provisions of this chapter, a political subdivision may require a food truck business to obtain a business license if the food truck business does not hold a current business license in good standing from another political subdivision in the state.

(b) A political subdivision may only charge a licensing fee to a food truck business in an amount that reimburses the political subdivision for the actual cost of processing the business license.

[~~(1) A political subdivision may not:~~]

[~~(a) require a separate license, permit, or fee beyond the initial or reciprocal business license~~

~~described in Subsection (2) and the fee described in Subsection (3) for a food truck business, regardless of whether a food truck operates in more than one location or on more than one day within the political subdivision in the same calendar year;~~]

[~~(b) require a fee for each employee the food truck business employs; or~~]

[~~(c) as a business license qualification, require a food truck business to, regarding a food truck operator or food truck vendor:~~]

[~~(i) submit to or offer proof of a criminal background check; or~~]

[~~(ii) demonstrate how the operation of the food truck business will comply with a land use or zoning ordinance at the time the business applies for the business license.~~]

[~~(2) (a) A political subdivision shall grant a business license to operate a food truck within the political subdivision to a food truck business that has obtained a business license to operate a food truck in another political subdivision within the state if the food truck business presents to the political subdivision:~~]

[~~(i) a current business license from the other political subdivision within the state; and~~]

[~~(ii) for each food truck that the food truck business operates:~~]

(2) A political subdivision may not:

(a) require a food truck business to:

(i) obtain a separate business license beyond the initial business license described in Subsection (1)(a);

(ii) pay a fee other than the fee for the initial business license described in Subsection (1); or

(iii) pay a fee for each employee the food truck business employs;

(b) as a condition of a food truck business obtaining a business license under Subsection (1):

(i) require a food truck operator or food truck vendor to submit to or offer evidence of a criminal background check, except as provided in Subsection (5); or

(ii) require a food truck operator to demonstrate how the operation of the food truck business will comply with a land use or zoning ordinance at the time the food truck business applies for the business license; or

(c) regulate or restrict the size of a food truck operated by a food truck business.

(3) (a) A political subdivision shall recognize as valid within the political subdivision the business license of a food truck business obtained in another political subdivision within the state, if the business license is current and in good standing.

(b) Notwithstanding Subsection (3)(a), a political subdivision is not required to recognize as valid the business license of a food truck business issued in another political subdivision within the state if the food truck business does not have the following for each food truck that the food truck business operates:

[~~(A)~~] (i) a current health department food truck permit from a local health department within the state; and

[~~(B)~~] (ii) a current approval of a political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted in accordance with Subsection 11-56-104[~~(4)~~](3)(a).

[~~(b) If a food truck business presents the documents described in Subsection (2)(a), the political subdivision may not:~~]

[~~(i) impose additional license qualification requirements on the food truck business before issuing a license to operate within the political subdivision, except for charging a fee in accordance with Subsection (3); or~~]

[~~(ii) issue a license that expires on a date earlier or later than the day on which the license described in Subsection (2)(a)(i) expires.~~]

[~~(c) Nothing in this Subsection (2) prevents a political subdivision from enforcing the political subdivision's land use regulations, zoning, and other ordinances in relation to the operation of a food truck to the extent that the regulations and ordinances do not conflict with this chapter.~~]

[~~(3) (a) For an initial business license, a political subdivision may only charge a licensing fee to a food truck business in an amount that reimburses the political subdivision for the actual cost of processing the business license.~~]

[~~(b) For a reciprocal business license that a political subdivision issues in accordance with Subsection (2), the political subdivision shall reduce the amount of the business licensing fee to an amount that accounts for the actual administrative burden on the political subdivision for processing the reciprocal license.~~]

(4) Nothing in this section prevents a political subdivision from:

(a) requiring a food truck business to comply with local zoning and land use regulations to the extent that the regulations do not conflict with this chapter;

(b) promulgating local ordinances and regulations consistent with this section that address how and where a food truck may operate within the political subdivision;

(c) requiring a food truck business to obtain an event permit[~~,~~] in accordance with Section 11-56-105; or

[~~(d) revoking a license that the political subdivision has issued if the operation of the related food truck within the political subdivision violates the terms of the license.~~]

(d) requiring a food truck business to keep a copy of the following in each food truck operated by the food truck business:

(i) a valid business license for the food truck business, as described in this section, whether issued by the political subdivision or another political subdivision;

(ii) a valid health department food truck permit, as described in Section 11-56-104, whether issued by a local health department or another health department; or

(iii) evidence of passing a fire safety inspection, as described in Section 11-56-104, whether conducted by the political subdivision or another political subdivision.

(5) As a condition of obtaining and maintaining in good standing an initial business license as described in Subsection (1)(a), a political subdivision may require a food truck business that operates one or more ice cream trucks to submit to or offer evidence of an annual criminal background check for each employee of the food truck business that operates or will operate an ice cream truck.

Section 4. Section 11-56-104 is amended to read:

11-56-104. Safety and health inspections and permits -- Fees.

(1) (a) A food truck business shall obtain, for each food truck that the business operates, an annual health department food truck permit from the local health department with jurisdiction over the area in which the majority of the food truck's operations takes place.

(b) A local health department shall recognize as valid a health department food truck permit that has been issued by another local health department within the state.

[~~(2) (a) A local health department shall grant a health department food truck permit to operate a food truck within the jurisdiction of the local health department to a food truck business that has obtained the health department food truck permit described in Subsection (1) from another local health department within the state if the food truck business presents to the local health department the current health department food truck permit from the other local health department.~~]

[~~(b) If a food truck business presents the health department food truck permit described in Subsection (1), the local health department may not:~~]

[~~(i) impose additional permit qualification requirements on the food truck business before issuing a health department food truck permit to operate within the jurisdiction of the local health department, except for charging a fee in accordance with Subsection (3); or~~]

[~~(ii) issue a health department food truck permit that expires on a date earlier or later than the day on which the permit described in Subsection (1) expires.~~]

[~~(3) (a)~~] (2) A local health department may only charge a health department food truck permit fee to a food truck business in an amount that reimburses the local health department for the cost of regulating the food truck.

[~~(b) For a health department food truck permit that a local health department issues in accordance with Subsection (2), the local health department shall reduce the amount of the food truck permit fee to an amount that accounts for the lower administrative burden on the local health department.~~]

[~~(4)~~] (3) (a) A political subdivision inspecting a food truck for fire safety shall conduct the inspection based on the criteria that the Utah Fire Prevention Board, created in Section 53-7-203, establishes in accordance with Section 53-7-204.

(b) (i) A political subdivision shall [~~consider~~] recognize as valid within the political subdivision's jurisdiction an approval from another political subdivision within the state that shows that the food truck passed a fire safety inspection that the other political subdivision conducted.

(ii) A political subdivision may not require that a food truck pass a fire safety inspection in a given calendar year if the food truck business presents to the political subdivision an approval described in Subsection [~~(4)~~] (3)(b)(i) issued during the same calendar year.

[~~(5)~~] (4) (a) Nothing in this section prevents a local health department from[~~: (i)~~] requiring a food truck business to obtain an event permit, in accordance with Section 11-56-105[~~; or~~].

[~~(ii) revoking a health department food truck permit that the local health department has issued if the operation of the related food truck within the jurisdiction of the local health department violates the terms of the permit.~~]

(b) Nothing in this section prevents a political subdivision from revoking the political subdivision's approval:

(i) described in Subsection (1)(b), if the operation of the related food truck within the political subdivision fails a health inspection by a local health department; or

(ii) described in Subsection [~~(4)~~] (3)(b)(i), if the operation of the related food truck within the political subdivision fails to meet the criteria described in Subsection [~~(4)~~] (3)(a).

(c) For each food truck that fails a health inspection as described in Subsection (4)(b)(i), a local health department may charge and collect a fee from the associated food truck business for that health inspection.

Section 5. Section 11-65-101 is enacted to read:

CHAPTER 65. (CODIFIED AS CHAPTER 66) ALL-TERRAIN VEHICLE REGULATION

11-65-101. (Codified as 11-66-101) Limits on regulation of all-terrain vehicles.

(1) As used in this chapter:

(a) "Political subdivision" means:

(i) a city, town, or metro township; or

(ii) a county, as it relates to the licensing and regulation of businesses in the unincorporated area of the county.

(b) "Street-legal ATV" means any all-terrain type vehicle that meets the requirements, including the registration, inspection, and license plate requirements, of being a street-legal ATV as described in Section 41-6a-1509.

(2) For any business, including a business that rents one or more street-legal ATVs, a political subdivision may not as a condition of the business obtaining or maintaining a business license or permit:

(a) require any additional inspection, registration, or license plate requirements, including requiring any additional sticker or other identifying mark, for any street-legal ATV owned or rented by the business;

(b) require any equipment modifications of a street-legal ATV owned or rented by the business; or

(c) limit the amount of street-legal ATVs owned or rented by the business.

(3) A political subdivision may not revoke or fail to renew a business license or permit of a business based on the violation of a traffic ordinance or other local ordinance by any customer of the business operating a street-legal ATV.

(4) A political subdivision may not enact or enforce an unreasonable noise ordinance that imposes a fine or other penalty for the operation of a street-legal ATV.

Section 6. Section 17-53-216 is amended to read:

17-53-216. Business license fees and taxes -- Application information to be transmitted to the county assessor.

(1) As used in this section, "business" means any enterprise carried on for the purpose of gain or economic profit, except that the acts of employees rendering services to employers are not included in this definition.

(2) Except as provided in Subsection (4)[~~(a), and subject to Subsection (4)(b)~~], the legislative body of a county may by ordinance provide for the licensing of businesses within the unincorporated areas of the county for the purpose of regulation, and may impose fees on businesses to recover the county's costs of regulation.

(3) All license fees and taxes shall be uniform in respect to the class upon which they are imposed.

(4) A county may not:

(a) require a license or permit for a business that is operated:

(i) only occasionally; and

(ii) by an individual who is under 18 years [~~of age; or~~] old;

(b) charge a license fee for a home based business unless the combined offsite impact of the home based business and the primary residential use materially exceeds the offsite impact of the primary residential use alone[~~.~~]; or

(c) require, as a condition of obtaining or maintaining a license or permit for a business:

(i) that an employee or agent of a business complete education, continuing education, or training that is in addition to requirements under state law or state licensing requirements; or

(ii) that a business disclose financial information, inventory amounts, or proprietary business information except as specifically authorized under state or federal law.

(5) The county business licensing agency shall transmit the information from each approved business license application to the county assessor within 60 days following the approval of the application.

(6) This section may not be construed to enhance, diminish, or otherwise alter the taxing power of counties existing prior to the effective date of Laws of Utah 1988, Chapter 144.

CHAPTER 307
H. B. 151

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

RETAIL FACILITY INCENTIVE PAYMENTS AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions relating to incentive payments for retail facilities.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a public entity from making, or entering into an agreement to make, certain incentive payments related to retail facilities after a specified date, with specified exceptions;
- requires a public entity that makes certain payments related to retail facilities during a fiscal year to submit a report or notification to the Governor's Office of Economic Opportunity (office);
- requires the office to review a public entity's report to determine whether certain incentive payments comply with this bill;
- allows a public entity to appeal a determination by the office that certain incentive payments had been made in violation of this bill;
- allows the office to notify the state auditor after a specified date if a public entity fails to submit a report or fails to make efforts to recoup misused funds within a certain time;
- allows the state auditor to initiate an audit or investigation if the state auditor receives notice from the office regarding a public entity; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-2, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
11-41-102, as last amended by Laws of Utah 2021, Chapter 367
11-41-103, as enacted by Laws of Utah 2004, Chapter 283
17-27a-102, as last amended by Laws of Utah 2021, Chapter 432
17C-1-407, as last amended by Laws of Utah 2019, Chapters 376 and 480
17C-1-409, as last amended by Laws of Utah 2021, Chapter 214
63G-4-102, as last amended by Laws of Utah 2021, Chapter 291
63N-1a-301, as renumbered and amended by Laws of Utah 2021, Chapter 282
67-3-1, as last amended by Laws of Utah 2021, Chapters 84 and 155

ENACTS:

11-41-104, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-8-2 is amended to read:

10-8-2. Appropriations -- Acquisition and disposal of property -- Municipal authority -- Corporate purpose -- Procedure -- Notice of intent to acquire real property.

(1) (a) [~~A~~] Subject to Section 11-41-103, a municipal legislative body may:

(i) appropriate money for corporate purposes only;

(ii) provide for payment of debts and expenses of the corporation;

(iii) subject to Subsections (4) and (5), purchase, receive, hold, sell, lease, convey, and dispose of real and personal property for the benefit of the municipality, whether the property is within or without the municipality's corporate boundaries, if the action is in the public interest and complies with other law;

(iv) improve, protect, and do any other thing in relation to this property that an individual could do; and

(v) subject to Subsection (2) and after first holding a public hearing, authorize municipal services or other nonmonetary assistance to be provided to or waive fees required to be paid by a nonprofit entity, whether or not the municipality receives consideration in return.

(b) A municipality may:

(i) furnish all necessary local public services within the municipality;

(ii) purchase, hire, construct, own, maintain and operate, or lease public utilities located and operating within and operated by the municipality; and

(iii) subject to Subsection (1)(c), acquire by eminent domain, or otherwise, property located inside or outside the corporate limits of the municipality and necessary for any of the purposes stated in Subsections (1)(b)(i) and (ii), subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(c) Each municipality that intends to acquire property by eminent domain under Subsection (1)(b) shall comply with the requirements of Section 78B-6-505.

(d) Subsection (1)(b) may not be construed to diminish any other authority a municipality may claim to have under the law to acquire by eminent domain property located inside or outside the municipality.

(2) (a) Services or assistance provided pursuant to Subsection (1)(a)(v) is not subject to the provisions of Subsection (3).

(b) The total amount of services or other nonmonetary assistance provided or fees waived under Subsection (1)(a)(v) in any given fiscal year may not exceed 1% of the municipality's budget for that fiscal year.

(3) It is considered a corporate purpose to appropriate money for any purpose that, in the judgment of the municipal legislative body, provides for the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality subject to this Subsection (3).

(a) The net value received for any money appropriated shall be measured on a project-by-project basis over the life of the project.

(b) (i) A municipal legislative body shall establish the criteria for a determination under this Subsection (3).

(ii) A municipal legislative body's determination of value received is presumed valid unless a person can show that the determination was arbitrary, capricious, or illegal.

(c) The municipality may consider intangible benefits received by the municipality in determining net value received.

(d) (i) Before the municipal legislative body makes any decision to appropriate any funds for a corporate purpose under this section, the municipal legislative body shall hold a public hearing.

(ii) At least 14 days before the date of the hearing, the municipal legislative body shall publish a notice of the hearing described in Subsection (3)(d)(i) by posting notice:

(A) in at least three conspicuous places within the municipality; and

(B) on the Utah Public Notice Website created in Section 63A-16-601.

(e) (i) Before a municipality provides notice as described in Subsection (3)(d)(ii), the municipality shall perform a study that analyzes and demonstrates the purpose for an appropriation described in this Subsection (3) in accordance with Subsection (3)(e)(iii).

(ii) A municipality shall make the study described in Subsection (3)(e)(i) available at the municipality for review by interested parties at least 14 days immediately before the public hearing described in Subsection (3)(d)(i).

(iii) A municipality shall consider the following factors when conducting the study described in Subsection (3)(e)(i):

(A) what identified benefit the municipality will receive in return for any money or resources appropriated;

(B) the municipality's purpose for the appropriation, including an analysis of the way the appropriation will be used to enhance the safety, health, prosperity, moral well-being, peace, order, comfort, or convenience of the inhabitants of the municipality; and

(C) whether the appropriation is necessary and appropriate to accomplish the reasonable goals and objectives of the municipality in the area of economic development, job creation, affordable housing, elimination of a development impediment, job preservation, the preservation of historic structures and property, and any other public purpose.

(f) (i) An appeal may be taken from a final decision of the municipal legislative body, to make an appropriation.

(ii) A person shall file an appeal as described in Subsection (3)(f)(i) with the district court within 30 days after the day on which the municipal legislative body makes a decision.

(iii) Any appeal shall be based on the record of the proceedings before the legislative body.

(iv) A decision of the municipal legislative body shall be presumed to be valid unless the appealing party shows that the decision was arbitrary, capricious, or illegal.

(g) The provisions of this Subsection (3) apply only to those appropriations made after May 6, 2002.

(h) This section applies only to appropriations not otherwise approved pursuant to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, or Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(4) (a) Before a municipality may dispose of a significant parcel of real property, the municipality shall:

(i) provide reasonable notice of the proposed disposition at least 14 days before the opportunity for public comment under Subsection (4)(a)(ii); and

(ii) allow an opportunity for public comment on the proposed disposition.

(b) Each municipality shall, by ordinance, define what constitutes:

(i) a significant parcel of real property for purposes of Subsection (4)(a); and

(ii) reasonable notice for purposes of Subsection (4)(a)(i).

(5) (a) Except as provided in Subsection (5)(d), each municipality intending to acquire real property for the purpose of expanding the municipality's infrastructure or other facilities used for providing services that the municipality offers or intends to offer shall provide written notice, as provided in this Subsection (5), of its intent to acquire the property if:

(i) the property is located:

(A) outside the boundaries of the municipality; and

(B) in a county of the first or second class; and

(ii) the intended use of the property is contrary to:

(A) the anticipated use of the property under the general plan of the county in whose unincorporated area or the municipality in whose boundaries the property is located; or

(B) the property's current zoning designation.

(b) Each notice under Subsection (5)(a) shall:

(i) indicate that the municipality intends to acquire real property;

(ii) identify the real property; and

(iii) be sent to:

(A) each county in whose unincorporated area and each municipality in whose boundaries the property is located; and

(B) each affected entity.

(c) A notice under this Subsection (5) is a protected record as provided in Subsection 63G-2-305(8).

(d) (i) The notice requirement of Subsection (5)(a) does not apply if the municipality previously provided notice under Section 10-9a-203 identifying the general location within the municipality or unincorporated part of the county where the property to be acquired is located.

(ii) If a municipality is not required to comply with the notice requirement of Subsection (5)(a) because of application of Subsection (5)(d)(i), the municipality shall provide the notice specified in Subsection (5)(a) as soon as practicable after its acquisition of the real property.

Section 2. Section 11-41-102 is amended to read:

CHAPTER 41. PROHIBITION ON RETAIL FACILITY INCENTIVEPAYMENTS ACT

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a[~~:~~] public entity and a person.

[~~(a) (i) county; or~~]

[~~(ii) municipality; and~~]

[~~(b) person.~~]

[~~(2) "Municipality" means a:~~]

[~~(a) city;~~]

[~~(b) town; or~~]

[~~(c) metro township.~~]

[~~(3) "Payment" includes:~~]

[~~(a) a payment;~~]

[~~(b) a rebate;~~]

[~~(c) a refund; or~~]

[~~(d) an amount similar to Subsections (3)(a) through (c).~~]

[~~(4) "Regional retail business" means a:~~]

[~~(a) retail business that occupies a floor area of more than 80,000 square feet;~~]

[~~(b) dealer as defined in Section 41-1a-102;~~]

[~~(c) retail shopping facility that has at least two anchor tenants if the total number of anchor tenants in the shopping facility occupy a total floor area of more than 150,000 square feet; or~~]

[~~(d) grocery store that occupies a floor area of more than 30,000 square feet.~~]

[~~(5) (a) "Sales and use tax" means a tax:~~]

[~~(i) imposed on transactions within a:~~]

[~~(A) county; or~~]

[~~(B) municipality; and~~]

[~~(ii) except as provided in Subsection (5)(b), authorized under Title 59, Chapter 12, Sales and Use Tax Act.~~]

[~~(b) "Sales and use tax" does not include a tax authorized under:~~]

[~~(i) Subsection 59-12-103(2)(a)(i);~~]

[~~(ii) Subsection 59-12-103(2)(b)(i);~~]

[~~(iii) Subsection 59-12-103(2)(c)(i);~~]

[~~(iv) Subsection 59-12-103(2)(d);~~]

[~~(v) Subsection 59-12-103(2)(e)(i)(A);~~]

[~~(vi) Section 59-12-301;~~]

[~~(vii) Section 59-12-352;~~]

[~~(viii) Section 59-12-353;~~]

[~~(ix) Section 59-12-603; or~~]

[~~(x) Section 59-12-1201.~~]

[~~(6) (a) "Sales and use tax incentive payment" means a payment of revenues:~~]

[~~(i) to a person;~~]

[~~(ii) by a:~~]

[~~(A) county; or~~]

[~~(B) municipality;~~]

[~~(iii) to induce the person to locate or relocate a regional retail business within the:~~]

[~~(A) county; or~~]

[~~(B) municipality; and~~]

[~~(iv) that are derived from a sales and use tax.~~]

[~~(b) "Sales and use tax incentive payment" does not include funding for public infrastructure.~~]

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability

company, corporation, or other entity or association used to carry on a business for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section 23-21-.5.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town, metro township, school district, local district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

(a) a political subdivision;

(b) a state agency as defined in Section 63J-1-220;

(c) a higher education institution as defined in Section 53B-1-201;

(d) the Military Installation Development Authority created in Section 63H-1-201;

(e) the Utah Inland Port Authority created in Section 11-58-201; or

(f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

(a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act; or

(b) a property tax levy.

(13) "Public infrastructure" means:

(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15) (a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17) (a) "Small business" means a business entity that:

(i) has fewer than 30 full-time equivalent employees; and

(ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

(i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;

(ii) a dealer, as defined in Section 41-1a-102; or

(iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 3. Section 11-41-103 is amended to read:

11-41-103. Prohibition on retail facility incentive payments -- Exceptions.

[~~A county or municipality may not:~~]

(1) Except as provided in Subsection (2), a public entity may not:

[~~(1)~~] (a) make a [~~sales and use tax~~] retail facility incentive payment under an agreement that is initiated or entered into on or after July 1, [~~2004~~] 2022; or

[~~(2)~~] (b) initiate or enter into an agreement on or after July 1, [~~2004~~] 2022, to make a [~~sales and use tax~~] retail facility incentive payment.

(2) Notwithstanding Subsection (1), a public entity may make a retail facility incentive payment for:

(a) a retail facility located entirely within a census tract in which more than 51% of residents have a household income at or below 70% of the county area median income;

(b) a retail facility included as part of a mixed-use development in which:

(i) the development includes at least one housing unit for every 1,250 square feet of retail space within the development; and

(ii) at least 10% of the new or proposed housing units within the development qualify as moderate income housing, in accordance with the moderate income housing plan of the municipality or county in which the development is located;

(c) a retail facility included as part of a development in which:

(i) the retail facility has a gross sales floor area of no more than 20,000 square feet; and

(ii) no other retail facility with a gross sales floor area of more than 20,000 square feet is located within the same development;

(d) a retail facility located within a county of the fourth, fifth, or sixth class;

(e) a retail facility for a small business;

(f) a retail facility for a Utah-based nonprofit arts or cultural organization; or

(g) a retail facility for a ski resort that:

(i) has been in operation for at least 40 years; and

(ii) provides at least 1,000 acres for skiing.

(3) A person who receives public funds for a mixed-use development in accordance with Subsection (2)(b) may not use the public funds for the development, construction, renovation, or operation of housing units within the mixed-use development unless the housing units qualify as moderate income housing in accordance with the moderate income housing plan of the municipality or county in which the development is located.

(4) (a) For each fiscal year that a public entity makes a retail facility incentive payment described in Subsections (2)(a) through (c), the public entity shall submit a written report to the office in accordance with Subsection 11-41-104(1).

(b) For each fiscal year that a public entity makes a retail facility incentive payment described in Subsections (2)(d) through (g), the public entity shall submit a notification to the office in accordance with Subsection 11-41-104(2).

Section 4. Section 11-41-104 is enacted to read:

11-41-104. Reporting and notification requirements -- Notice to state auditor.

(1) (a) For a fiscal year beginning on or after July 1, 2022, a public entity that makes a retail facility incentive payment described in Subsections 11-41-103(2)(a) through (c) shall submit a written report to the office on or before June 30 of the fiscal year in which the retail facility incentive payment is made.

(b) The report under Subsection (1)(a) shall:

(i) provide a description of each retail facility incentive payment under Subsections 11-41-103(2)(a) through (c) that the public entity made during the fiscal year, including:

(A) the type of retail facility incentive payment;

(B) the date on which the retail facility incentive payment was made; and

(C) identification of the recipient of the retail facility incentive payment;

(ii) include any other information requested by the office; and

(iii) be in a form prescribed by the office.

(2) (a) For a fiscal year beginning on or after July 1, 2022, a public entity that makes a retail facility incentive payment described in Subsections 11-41-103(2)(d) through (g) shall submit a notification to the office on or before June 30 of the fiscal year in which the retail facility incentive payment is made.

(b) The notification under Subsection (2)(a) shall:

(i) list each retail facility incentive payment under Subsections 11-41-103(2)(d) through (g) that the public entity made during the fiscal year, including the date on which the retail facility incentive payment was made;

(ii) include any other information requested by the office; and

(iii) be in a form prescribed by the office.

(3) Upon the receipt of a report from a public entity under Subsection (1), the office shall review the report to determine whether each retail facility

incentive payment described in the report is in compliance with Section 11-41-103.

(4) After reviewing a public entity's report under Subsection (3), the office shall send a written notice to the public entity if the office determines there is a substantial likelihood that the public entity made a retail facility incentive payment in violation of Section 11-41-103.

(5) The notice under Subsection (4) shall include:

(a) a statement that describes in reasonable detail how the office made a determination of violation;

(b) an explanation of the public entity's right to appeal the determination of violation in accordance with Subsection (6); and

(c) a statement that the office may send notice of the determination of violation to the state auditor in accordance with Subsection (7) if:

(i) (A) the public entity does not appeal the determination of violation in accordance with Subsection (6); and

(B) the office determines that the public entity has failed to make efforts to recover or recoup the amount of public funds lost to the state as a result of the violation within 90 days after the day on which the notice is sent; or

(ii) (A) the determination of violation is upheld on appeal in accordance with Subsection (6); and

(B) the office determines that the public entity has failed to make efforts to recover or recoup the amount of public funds lost to the state as a result of the violation within 90 days after the day on which the determination of violation is upheld.

(6) (a) The public entity may appeal the determination of violation by sending a written notice to the office within 30 days after the day on which the notice described in Subsection (5) is sent.

(b) The notice under Subsection (6)(a) shall include a statement that describes in reasonable detail each objection to the determination of violation.

(c) The executive director shall:

(i) within 90 days after the day on which the office receives notice under Subsection (6)(a), hold a meeting with representatives of the public entity at which the public entity's objections to the determination of violation are discussed; and

(ii) within 30 days after the day on which the meeting under Subsection (6)(c)(i) is held:

(A) issue a written decision that upholds or rescinds the determination of violation; and

(B) send a copy of the written decision to the public entity.

(d) An appeal under this Subsection (6) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(7) (a) Beginning July 1, 2024, the office may send a written notice to the state auditor if the office determines that:

(i) Subsection (5)(c)(i) or (ii) applies to a public entity; or

(ii) a public entity failed to submit the report described in Subsection (1).

(b) The notice under Subsection (7)(a) shall include:

(i) a description of the office's grounds for sending notice;

(ii) a copy of the report submitted to the office under Subsection (1), if applicable; and

(iii) any other information required by the state auditor for purposes of initiating an audit or investigation in accordance with Section 67-3-1.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to implement this section.

Section 5. Section 17-27a-102 is amended to read:

17-27a-102. Purposes -- General land use authority -- Limitations.

(1) (a) The purposes of this chapter are to:

(i) provide for the health, safety, and welfare;

(ii) promote the prosperity;

(iii) improve the morals, peace, good order, comfort, convenience, and aesthetics of each county and each county's present and future inhabitants and businesses;

(iv) protect the tax base;

(v) secure economy in governmental expenditures;

(vi) foster the state's agricultural and other industries;

(vii) protect both urban and nonurban development;

(viii) protect and ensure access to sunlight for solar energy devices;

(ix) provide fundamental fairness in land use regulation;

(x) facilitate orderly growth and allow growth in a variety of housing types; and

(xi) protect property values.

(b) [~~Except as provided in~~] Subject to Subsection (4) and Section 11-41-103, to accomplish the purposes of this chapter, a county may enact all ordinances, resolutions, and rules and may enter into other forms of land use controls and development agreements that the county considers necessary or appropriate for the use and development of land within the unincorporated area of the county or a designated mountainous planning district, including ordinances, resolutions, rules, restrictive covenants, easements, and development agreements governing:

(i) uses;

(ii) density;

(iii) open spaces;

(iv) structures;

(v) buildings;

(vi) energy-efficiency;

(vii) light and air;

(viii) air quality;

(ix) transportation and public or alternative transportation;

(x) infrastructure;

(xi) street and building orientation and width requirements;

(xii) public facilities;

(xiii) fundamental fairness in land use regulation; and

(xiv) considerations of surrounding land uses to balance the foregoing purposes with a landowner's private property interests and associated statutory and constitutional protections.

(2) Each county shall comply with the mandatory provisions of this part before any agreement or contract to provide goods, services, or municipal-type services to any storage facility or transfer facility for high-level nuclear waste, or greater than class C radioactive waste, may be executed or implemented.

(3) (a) Any ordinance, resolution, or rule enacted by a county pursuant to its authority under this chapter shall comply with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(b) A county may enact an ordinance, resolution, or rule that regulates surface activity incident to an oil and gas activity if the county demonstrates that the regulation:

(i) is necessary for the purposes of this chapter;

(ii) does not effectively or unduly limit, ban, or prohibit an oil and gas activity; and

(iii) does not interfere with the state's exclusive jurisdiction to regulate oil and gas activity, as described in Section 40-6-2.5.

(4) (a) This Subsection (4) applies to development agreements entered into on or after May 5, 2021.

(b) A provision in a county development agreement is unenforceable if the provision requires an individual or an entity, as a condition for issuing building permits or otherwise regulating development activities within an unincorporated area of the county, to initiate a process for a municipality to annex the unincorporated area in accordance with Title 10, Chapter 2, Part 4, Annexation.

(c) Subsection (4)(b) does not affect or impair the enforceability of any other provision in the development agreement.

Section 6. Section 17C-1-407 is amended to read:

17C-1-407. Limitations on tax increment.

(1) (a) If the development of retail sales of goods is the primary objective of an urban renewal project area, tax increment from the urban renewal project area may not be paid to or used by an agency unless the agency makes a development impediment determination under Chapter 2, Part 3, Development Impediment Determination in Urban Renewal Project Areas.

(b) [~~Development~~] Except as provided in Section 11-41-103, development of retail sales of goods does not disqualify an agency from receiving tax increment.

(c) After July 1, 2005, an agency may not receive or use tax increment generated from the value of property within an economic development project area that is attributable to the development of retail sales of goods, unless the tax increment was previously pledged to pay for bonds or other contractual obligations of the agency.

(2) (a) For the purpose of this Subsection (2):

(i) "Final tax rate" means the rate used to determine the amount of taxes a taxing entity levies as described in the notice to a taxpayer under Subsection 59-2-1317(2).

(ii) "Increased tax revenue" means tax revenue attributable to a tax rate increase.

(iii) "Tax rate increase" means the amount calculated by subtracting a taxing entity's certified rate, as defined in Section 59-2-924, from the taxing entity's final tax rate.

(b) Except as provided in Subsection (2)(c), for a year in which a taxing entity imposes a final tax rate higher than the certified tax rate, a county shall not pay an agency any portion of a taxing entity's increased tax revenue.

(c) Notwithstanding Subsection (2)(b), a county may pay all or a portion of a taxing entity's increased tax revenue to an agency if, at the time of the project area budget approval, the taxing entity committee or each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204 consents to pay the agency the increased tax revenue.

(d) If the taxing entity committee or each tax entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204 does not consent to payment of the increased tax revenue to the agency under Subsection (2)(c), the county shall distribute to the taxing entity the increased tax revenue in the same manner as other property tax revenue.

(e) Notwithstanding any other provision of this section, if, before tax year 2013, increased tax revenue is paid to an agency without the consent of the taxing entity committee or each taxing entity that is a party to an agreement under Section 17C-4-201 or 17C-5-204, and notwithstanding the law at the time that the tax revenue was collected or increased:

(i) the State Tax Commission, the county as the collector of the taxes, a taxing entity, or any other person or entity may not recover, directly or indirectly, the increased tax revenue from the agency by adjustment of a tax rate used to calculate tax increment or otherwise;

(ii) the county is not liable to a taxing entity or any other person or entity for the increased tax revenue that was paid to the agency; and

(iii) tax increment, including the increased tax revenue, shall continue to be paid to the agency subject to the same number of tax years, percentage of tax increment, and cumulative dollar amount of tax increment as approved in the project area budget and previously paid to the agency.

(f) An adjustment may not be made to incremental value under Section 59-2-924 for increased tax revenue not paid to an agency under this section.

(3) Except as the taxing entity committee otherwise agrees, an agency may not receive tax increment under an urban renewal or economic development project area budget adopted on or after March 30, 2009:

(a) that exceeds the percentage of tax increment or cumulative dollar amount of tax increment specified in the project area budget; or

(b) for more tax years than specified in the project area budget.

Section 7. Section 17C-1-409 is amended to read:

17C-1-409. Allowable uses of agency funds.

(1) (a) An agency may use agency funds:

(i) for any purpose authorized under this title;

(ii) for administrative, overhead, legal, or other operating expenses of the agency, including consultant fees and expenses under Subsection 17C-2-102(1)(b)(ii)(B) or funding for a business resource center;

(iii) subject to Section 11-41-103, to pay for, including financing or refinancing, all or part of:

(A) project area development in a project area, including environmental remediation activities occurring before or after adoption of the project area plan;

(B) housing-related expenditures, projects, or programs as described in Section 17C-1-411 or 17C-1-412;

(C) an incentive or other consideration paid to a participant under a participation agreement;

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

(E) the cost of the installation of publicly owned infrastructure and improvements outside the project area from which the project area funds are collected if the board and the community legislative body determine by resolution that the publicly owned infrastructure and improvements benefit the project area;

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency; or

(vi) subject to Subsection (1)(f), for agency-wide project development under Part 10, Agency Taxing Authority.

(b) The determination of the board and the community legislative body under Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

(c) An agency may not use project area funds received from a taxing entity for the purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an economic development project area plan, or a community reinvestment project area plan without the community legislative body's consent.

(d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a project area fund to another project area fund if:

(A) the board approves; and

(B) the community legislative body approves.

(ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the projections for agency funds are sufficient to repay the loan amount.

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

(e) Before an agency may pay any tax increment or sales tax revenue under Subsection (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the reimbursement with:

(i) the Department of Transportation; or

(ii) a public transit district.

(f) Before an agency may use project area funds for agency-wide project development, as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity committee or each taxing entity party to an interlocal agreement with the agency.

(2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Sales and Use Tax Incentive Payments Act.

(b) An agency may use sales and use tax revenue that the agency receives under an interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the interlocal agreement.

(3) (a) An agency may contract with the community that created the agency or another public entity to use agency funds to reimburse the cost of items authorized by this title to be paid by the agency that are paid by the community or other public entity.

(b) If land is acquired or the cost of an improvement is paid by another public entity and the land or improvement is leased to the community, an agency may contract with and make reimbursement from agency funds to the community.

(4) Notwithstanding any other provision of this title, an agency may not use project area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax revenue as defined in Section 17C-1-1001, to construct a local government building unless the taxing entity committee or each taxing entity party to an interlocal agreement with the agency consents.

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in Section 35A-8-606.

Section 8. Section 63G-4-102 is amended to read:

63G-4-102. Scope and applicability of chapter.

(1) Except as set forth in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to every agency of the state and govern:

(a) state agency action that determines the legal rights, duties, privileges, immunities, or other legal interests of an identifiable person, including agency action to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right, or license; and

(b) judicial review of the action.

(2) This chapter does not govern:

(a) the procedure for making agency rules, or judicial review of the procedure or rules;

(b) the issuance of a notice of a deficiency in the payment of a tax, the decision to waive a penalty or interest on taxes, the imposition of and penalty or interest on taxes, or the issuance of a tax assessment, except that this chapter governs an agency action commenced by a taxpayer or by another person authorized by law to contest the validity or correctness of the action;

(c) state agency action relating to extradition, to the granting of a pardon or parole, a commutation or termination of a sentence, or to the rescission, termination, or revocation of parole or probation, to the discipline of, resolution of a grievance of, supervision of, confinement of, or the treatment of an inmate or resident of a correctional facility, the Utah State Hospital, the Utah State Developmental Center, or a person in the custody or jurisdiction of the Division of Substance Abuse and Mental Health, or a person on probation or parole, or judicial review of the action;

(d) state agency action to evaluate, discipline, employ, transfer, reassign, or promote a student or teacher in a school or educational institution, or judicial review of the action;

(e) an application for employment and internal personnel action within an agency concerning its own employees, or judicial review of the action;

(f) the issuance of a citation or assessment under Title 34A, Chapter 6, Utah Occupational Safety and Health Act, and Title 58, Occupations and Professions, except that this chapter governs an agency action commenced by the employer, licensee, or other person authorized by law to contest the validity or correctness of the citation or assessment;

(g) state agency action relating to management of state funds, the management and disposal of school and institutional trust land assets, and contracts for the purchase or sale of products, real property, supplies, goods, or services by or for the state, or by or for an agency of the state, except as provided in those contracts, or judicial review of the action;

(h) state agency action under Title 7, Chapter 1, Part 3, Powers and Duties of Commissioner of Financial Institutions, Title 7, Chapter 2, Possession of Depository Institution by Commissioner, Title 7, Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies, and [~~Title 63G,~~] Chapter 7, Governmental Immunity Act of Utah, or judicial review of the action;

(i) the initial determination of a person's eligibility for unemployment benefits, the initial determination of a person's eligibility for benefits under Title 34A, Chapter 2, Workers'

Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act, or the initial determination of a person's unemployment tax liability;

(j) state agency action relating to the distribution or award of a monetary grant to or between governmental units, or for research, development, or the arts, or judicial review of the action;

(k) the issuance of a notice of violation or order under Title 26, Chapter 8a, Utah Emergency Medical Services System Act, Title 19, Chapter 2, Air Conservation Act, Title 19, Chapter 3, Radiation Control Act, Title 19, Chapter 4, Safe Drinking Water Act, Title 19, Chapter 5, Water Quality Act, Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, Title 19, Chapter 6, Part 4, Underground Storage Tank Act, or Title 19, Chapter 6, Part 7, Used Oil Management Act, or Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, except that this chapter governs an agency action commenced by a person authorized by law to contest the validity or correctness of the notice or order;

(l) state agency action, to the extent required by federal statute or regulation, to be conducted according to federal procedures;

(m) the initial determination of a person's eligibility for government or public assistance benefits;

(n) state agency action relating to wildlife licenses, permits, tags, and certificates of registration;

(o) a license for use of state recreational facilities;

(p) state agency action under [~~Title 63G,~~] Chapter 2, Government Records Access and Management Act, except as provided in Section 63G-2-603;

(q) state agency action relating to the collection of water commissioner fees and delinquency penalties, or judicial review of the action;

(r) state agency action relating to the installation, maintenance, and repair of headgates, caps, values, or other water controlling works and weirs, flumes, meters, or other water measuring devices, or judicial review of the action;

(s) the issuance and enforcement of an initial order under Section 73-2-25;

(t) (i) a hearing conducted by the Division of Securities under Section 61-1-11.1; and

(ii) an action taken by the Division of Securities under a hearing conducted under Section 61-1-11.1, including a determination regarding the fairness of an issuance or exchange of securities described in Subsection 61-1-11.1(1);

(u) state agency action relating to water well driller licenses, water well drilling permits, water well driller registration, or water well drilling construction standards, or judicial review of the action;

(v) the issuance of a determination and order under Title 34A, Chapter 5, Utah Antidiscrimination Act;

(w) state environmental studies and related decisions by the Department of Transportation approving state or locally funded projects, or judicial review of the action; [~~or~~]

(x) the suspension of operations under Subsection 32B-1-304(3)[~~.~~]; or

(y) the issuance of a determination of violation by the Governor's Office of Economic Opportunity under Section 11-41-104.

(3) This chapter does not affect a legal remedy otherwise available to:

(a) compel an agency to take action; or

(b) challenge an agency's rule.

(4) This chapter does not preclude an agency, prior to the beginning of an adjudicative proceeding, or the presiding officer during an adjudicative proceeding from:

(a) requesting or ordering a conference with parties and interested persons to:

(i) encourage settlement;

(ii) clarify the issues;

(iii) simplify the evidence;

(iv) facilitate discovery; or

(v) expedite the proceeding; or

(b) granting a timely motion to dismiss or for summary judgment if the requirements of Rule 12(b) or Rule 56 of the Utah Rules of Civil Procedure are met by the moving party, except to the extent that the requirements of those rules are modified by this chapter.

(5) (a) A declaratory proceeding authorized by Section 63G-4-503 is not governed by this chapter, except as explicitly provided in that section.

(b) Judicial review of a declaratory proceeding authorized by Section 63G-4-503 is governed by this chapter.

(6) This chapter does not preclude an agency from enacting a rule affecting or governing an adjudicative proceeding or from following the rule, if the rule is enacted according to the procedures outlined in [~~Title 63G,~~] Chapter 3, Utah Administrative Rulemaking Act, and if the rule conforms to the requirements of this chapter.

(7) (a) If the attorney general issues a written determination that a provision of this chapter would result in the denial of funds or services to an agency of the state from the federal government, the applicability of the provision to that agency shall be suspended to the extent necessary to prevent the denial.

(b) The attorney general shall report the suspension to the Legislature at its next session.

(8) Nothing in this chapter may be interpreted to provide an independent basis for jurisdiction to review final agency action.

(9) Nothing in this chapter may be interpreted to restrict a presiding officer, for good cause shown, from lengthening or shortening a time period prescribed in this chapter, except the time period established for judicial review.

(10) Notwithstanding any other provision of this section, this chapter does not apply to a special adjudicative proceeding, as defined in Section 19-1-301.5, except to the extent expressly provided in Section 19-1-301.5.

(11) Subsection (2)(w), regarding action taken based on state environmental studies and policies of the Department of Transportation, applies to any claim for which a court of competent jurisdiction has not issued a final unappealable judgment or order before May 14, 2019.

Section 9. Section 63N-1a-301 is amended to read:

63N-1a-301. Creation of office -- Responsibilities.

(1) There is created the Governor's Office of Economic Opportunity.

(2) The office is:

(a) responsible for implementing the statewide economic development strategy developed by the commission; and

(b) the industrial and business promotion authority of the state.

(3) The office shall:

(a) consistent with the statewide economic development strategy, coordinate and align into a single effort the activities of the economic opportunity agencies in the field of economic development;

(b) provide support and direction to economic opportunity agencies in establishing goals, metrics, and activities that align with the statewide economic development strategy;

(c) administer and coordinate state and federal economic development grant programs;

(d) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(e) promote and encourage the employment of workers in the state and the purchase of goods and services produced in the state by local businesses;

(f) act to create, develop, attract, and retain business, industry, and commerce in the state[~~,~~]:

(i) in accordance with the statewide economic development plan and commission directives; and

(ii) subject to the restrictions in Section 11-41-103;

(g) act to enhance the state's economy;

(h) act to assist strategic industries that are likely to drive future economic growth;

(i) assist communities in the state in developing economic development capacity and coordination with other communities;

(j) identify areas of education and workforce development in the state that can be improved to support economic and business development;

(k) consistent with direction from the commission, develop core strategic priorities for the office, which may include:

(i) enhancing statewide access to entrepreneurship opportunities and small business support;

(ii) focusing industry recruitment and expansion on strategically chosen clusters of industries;

(iii) ensuring that in awarding competitive economic development incentives the office accurately measures the benefits and costs of the incentives; and

(iv) assisting communities with technical support to aid those communities in improving economic development opportunities;

(l) submit an annual written report as described in Section 63N-1a-306; and

(m) perform other duties as provided by the Legislature.

(4) In order to perform its duties under this title, the office may:

(a) enter into a contract or agreement with, or make a grant to, a public or private entity, including a municipality, if the contract or agreement is not in violation of state statute or other applicable law;

(b) except as provided in Subsection (4)(c), receive and expend funds from a public or private source for any lawful purpose that is in the state's best interest; and

(c) solicit and accept a contribution of money, services, or facilities from a public or private donor, but may not use the contribution for publicizing the exclusive interest of the donor.

(5) Money received under Subsection (4)(c) shall be deposited [~~in~~] into the General Fund as dedicated credits of the office.

(6) (a) The office shall:

(i) obtain the advice of the GO Utah board before implementing a change to a policy, priority, or objective under which the office operates; and

(ii) provide periodic updates to the commission regarding the office's efforts under Subsections (3)(a) and (b).

(b) Subsection (6)(a)(i) does not apply to the routine administration by the office of money or services related to the assistance, retention, or recruitment of business, industry, or commerce in the state.

Section 10. Section 67-3-1 is amended to read:

67-3-1. Functions and duties.

(1) (a) The state auditor is the auditor of public accounts and is independent of any executive or administrative officers of the state.

(b) The state auditor is not limited in the selection of personnel or in the determination of the reasonable and necessary expenses of the state auditor's office.

(2) The state auditor shall examine and certify annually in respect to each fiscal year, financial statements showing:

(a) the condition of the state's finances;

(b) the revenues received or accrued;

(c) expenditures paid or accrued;

(d) the amount of unexpended or unencumbered balances of the appropriations to the agencies, departments, divisions, commissions, and institutions; and

(e) the cash balances of the funds in the custody of the state treasurer.

(3) (a) The state auditor shall:

(i) audit each permanent fund, each special fund, the General Fund, and the accounts of any department of state government or any independent agency or public corporation as the law requires, as the auditor determines is necessary, or upon request of the governor or the Legislature;

(ii) perform the audits in accordance with generally accepted auditing standards and other auditing procedures as promulgated by recognized authoritative bodies; and

(iii) as the auditor determines is necessary, conduct the audits to determine:

(A) honesty and integrity in fiscal affairs;

(B) accuracy and reliability of financial statements;

(C) effectiveness and adequacy of financial controls; and

(D) compliance with the law.

(b) If any state entity receives federal funding, the state auditor shall ensure that the audit is performed in accordance with federal audit requirements.

(c) (i) The costs of the federal compliance portion of the audit may be paid from an appropriation to the state auditor from the General Fund.

(ii) If an appropriation is not provided, or if the federal government does not specifically provide for payment of audit costs, the costs of the federal compliance portions of the audit shall be allocated on the basis of the percentage that each state entity's federal funding bears to the total federal funds received by the state.

(iii) The allocation shall be adjusted to reflect any reduced audit time required to audit funds passed through the state to local governments and to reflect any reduction in audit time obtained through the use of internal auditors working under the direction of the state auditor.

(4) (a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to financial audits, and as the auditor determines is necessary, conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds, including a determination of any or all of the following:

(i) the honesty and integrity of all the entity's fiscal affairs;

(ii) whether the entity's administrators have faithfully complied with legislative intent;

(iii) whether the entity's operations have been conducted in an efficient, effective, and cost-efficient manner;

(iv) whether the entity's programs have been effective in accomplishing the intended objectives; and

(v) whether the entity's management, control, and information systems are adequate, effective, and secure.

(b) The auditor may not conduct performance and special purpose audits, examinations, and reviews of any entity that receives public funds if the entity:

(i) has an elected auditor; and

(ii) has, within the entity's last budget year, had the entity's financial statements or performance formally reviewed by another outside auditor.

(5) The state auditor:

(a) shall administer any oath or affirmation necessary to the performance of the duties of the auditor's office; and

(b) may:

(i) subpoena witnesses and documents, whether electronic or otherwise; and

(ii) examine into any matter that the auditor considers necessary.

(6) The state auditor may require all persons who have had the disposition or management of any property of this state or its political subdivisions to submit statements regarding the property at the time and in the form that the auditor requires.

(7) The state auditor shall:

(a) except where otherwise provided by law, institute suits in Salt Lake County in relation to the assessment, collection, and payment of revenues against:

(i) persons who by any means have become entrusted with public money or property and have failed to pay over or deliver the money or property; and

(ii) all debtors of the state;

(b) collect and pay into the state treasury all fees received by the state auditor;

(c) perform the duties of a member of all boards of which the state auditor is a member by the constitution or laws of the state, and any other duties that are prescribed by the constitution and by law;

(d) stop the payment of the salary of any state official or state employee who:

(i) refuses to settle accounts or provide required statements about the custody and disposition of public funds or other state property;

(ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling board or department head with respect to the manner of keeping prescribed accounts or funds; or

(iii) fails to correct any delinquencies, improper procedures, and errors brought to the official's or employee's attention;

(e) establish accounting systems, methods, and forms for public accounts in all taxing or fee-assessing units of the state in the interest of uniformity, efficiency, and economy;

(f) superintend the contractual auditing of all state accounts;

(g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of property taxes from a state or local taxing or fee-assessing unit, if necessary, to ensure that officials and employees in those taxing units comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds;

(h) subject to Subsection (9), withhold the disbursement of tax money from any county, if necessary, to ensure that officials and employees in the county comply with Section 59-2-303.1; and

(i) withhold state allocated funds or the disbursement of property taxes from a local government entity or a limited purpose entity, as those terms are defined in Section 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity registers and maintains the entity's registration with the lieutenant governor, in accordance with Section 67-1a-15.

(8) (a) Except as otherwise provided by law, the state auditor may not withhold funds under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(b) If, after receiving notice under Subsection (8)(a), a state or independent local fee-assessing unit that exclusively assesses fees has not made corrections to comply with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds, the state auditor:

(i) shall provide a recommended timeline for corrective actions;

(ii) may prohibit the state or local fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a state or local fee-assessing unit from accessing money held in an account of a financial institution by filing an action in district court requesting an order of the court to prohibit a financial institution from providing the fee-assessing unit access to an account.

(c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b) upon compliance with state laws and procedures in the budgeting, expenditures, and financial reporting of public funds.

(d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with state law, the state auditor:

(i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to comply;

(ii) may prohibit the taxing or fee-assessing unit from accessing money held by the state; and

(iii) may prohibit a taxing or fee-assessing unit from accessing money held in an account of a financial institution by:

(A) contacting the taxing or fee-assessing unit's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the taxing or fee-assessing unit access to an account.

(e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law, the state auditor shall eliminate a limitation on accessing funds described in Subsection (8)(d).

(9) The state auditor may not withhold funds under Subsection (7)(h) until a county has received formal written notice of noncompliance from the auditor and has been given 60 days to make the specified corrections.

(10) (a) The state auditor may not withhold funds under Subsection (7)(i) until the state auditor receives a notice of non-registration, as that term is defined in Section 67-1a-15.

(b) If the state auditor receives a notice of non-registration, the state auditor may prohibit the local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, from accessing:

(i) money held by the state; and

(ii) money held in an account of a financial institution by:

(A) contacting the entity's financial institution and requesting that the institution prohibit access to the account; or

(B) filing an action in district court requesting an order of the court to prohibit a financial institution from providing the entity access to an account.

(c) The state auditor shall remove the prohibition on accessing funds described in Subsection (10)(b) if the state auditor received a notice of registration, as that term is defined in Section 67-1a-15, from the lieutenant governor.

(11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state auditor:

(a) shall authorize a disbursement by a local government entity or limited purpose entity, as those terms are defined in Section 67-1a-15, or a state or local taxing or fee-assessing unit if the disbursement is necessary to:

(i) avoid a major disruption in the operations of the local government entity, limited purpose entity, or state or local taxing or fee-assessing unit; or

(ii) meet debt service obligations; and

(b) may authorize a disbursement by a local government entity, limited purpose entity, or state or local taxing or fee-assessing unit as the state auditor determines is appropriate.

(12) (a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take temporary custody of public funds if an action is necessary to protect public funds from being improperly diverted from their intended public purpose.

(b) If the state auditor seeks relief under Subsection (12)(a):

(i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8); and

(ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if a court orders the public funds to be protected from improper diversion from their public purpose.

(13) The state auditor shall:

(a) establish audit guidelines and procedures for audits of local mental health and substance abuse authorities and their contract providers, conducted pursuant to Title 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part 3, Local Mental Health Authorities, Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, and Title 62A, Chapter 15, Substance Abuse and Mental Health Act; and

(b) ensure that those guidelines and procedures provide assurances to the state that:

(i) state and federal funds appropriated to local mental health authorities are used for mental health purposes;

(ii) a private provider under an annual or otherwise ongoing contract to provide comprehensive mental health programs or services for a local mental health authority is in compliance with state and local contract requirements, and state and federal law;

(iii) state and federal funds appropriated to local substance abuse authorities are used for substance abuse programs and services; and

(iv) a private provider under an annual or otherwise ongoing contract to provide comprehensive substance abuse programs or services for a local substance abuse authority is in compliance with state and local contract requirements, and state and federal law.

(14) (a) The state auditor may, in accordance with the auditor's responsibilities for political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act, initiate audits or investigations of any political subdivision that are necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability of financial statements, effectiveness, and adequacy of financial controls and compliance with the law.

(b) If the state auditor receives notice under Subsection 11-41-104(7) from the Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor may initiate an audit or investigation of the public entity subject to the notice to determine compliance with Section 11-41-103.

(15) (a) The state auditor may not audit work that the state auditor performed before becoming state auditor.

(b) If the state auditor has previously been a responsible official in state government whose work has not yet been audited, the Legislature shall:

(i) designate how that work shall be audited; and

(ii) provide additional funding for those audits, if necessary.

(16) The state auditor shall:

(a) with the assistance, advice, and recommendations of an advisory committee appointed by the state auditor from among local district boards of trustees, officers, and employees and special service district boards, officers, and employees:

(i) prepare a Uniform Accounting Manual for Local Districts that:

(A) prescribes a uniform system of accounting and uniform budgeting and reporting procedures for local districts under Title 17B, Limited Purpose Local Government Entities - Local Districts, and special service districts under Title 17D, Chapter 1, Special Service District Act;

(B) conforms with generally accepted accounting principles; and

(C) prescribes reasonable exceptions and modifications for smaller districts to the uniform system of accounting, budgeting, and reporting;

(ii) maintain the manual under this Subsection (16)(a) so that the manual continues to reflect generally accepted accounting principles;

(iii) conduct a continuing review and modification of procedures in order to improve them;

(iv) prepare and supply each district with suitable budget and reporting forms; and

(v) (A) prepare instructional materials, conduct training programs, and render other services considered necessary to assist local districts and special service districts in implementing the uniform accounting, budgeting, and reporting procedures; and

(B) ensure that any training described in Subsection (16)(a)(v)(A) complies with Title 63G, Chapter 22, State Training and Certification Requirements; and

(b) continually analyze and evaluate the accounting, budgeting, and reporting practices and experiences of specific local districts and special service districts selected by the state auditor and make the information available to all districts.

(17) (a) The following records in the custody or control of the state auditor are protected records under Title 63G, Chapter 2, Government Records Access and Management Act:

(i) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a past or present governmental employee if the information or allegation cannot be corroborated by the state auditor through other documents or evidence, and the records relating to the allegation are not relied upon by the state auditor in preparing a final audit report;

(ii) records and audit workpapers to the extent the workpapers would disclose the identity of an individual who during the course of an audit, communicated the existence of any waste of public funds, property, or manpower, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the individual be protected;

(iii) before an audit is completed and the final audit report is released, records or drafts circulated to an individual who is not an employee or head of a governmental entity for the individual's response or information;

(iv) records that would disclose an outline or part of any audit survey plans or audit program; and

(v) requests for audits, if disclosure would risk circumvention of an audit.

(b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure of records or information that relate to a violation of the law by a governmental entity or employee to a government prosecutor or peace officer.

(c) The provisions of this Subsection (17) do not limit the authority otherwise given to the state auditor to classify a document as public, private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(d) (i) As used in this Subsection (17)(d), "record dispute" means a dispute between the state auditor and the subject of an audit performed by the state auditor as to whether the state auditor may release a record, as defined in Section 63G-2-103, to the public that the state auditor gained access to in the course of the state auditor's audit but which the subject of the audit claims is not subject to disclosure under Title 63G, Chapter 2, Government Records Access and Management Act.

(ii) The state auditor may submit a record dispute to the State Records Committee, created in Section 63G-2-501, for a determination of whether the state auditor may, in conjunction with the state auditor's release of an audit report, release to the public the record that is the subject of the record dispute.

(iii) The state auditor or the subject of the audit may seek judicial review of a State Records Committee determination under Subsection (17)(d)(ii), as provided in Section 63G-2-404.

(18) If the state auditor conducts an audit of an entity that the state auditor has previously audited and finds that the entity has not implemented a recommendation made by the state auditor in a previous audit, the state auditor shall notify the Legislative Management Committee through the Legislative Management Committee's audit subcommittee that the entity has not implemented that recommendation.

(19) The state auditor shall, with the advice and consent of the Senate, appoint the state privacy officer described in Section 67-3-13.

(20) The state auditor shall report, or ensure that another government entity reports, on the financial, operational, and performance metrics for the state system of higher education and the state system of public education, including metrics in relation to students, programs, and schools within those systems.

CHAPTER 308
H. B. 153

Passed February 17, 2022
Approved March 24, 2022
Effective May 4, 2022

CHILD WELFARE INTERVIEW REQUIREMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill makes changes concerning child interviews during a child welfare investigation.

Highlighted Provisions:

This bill:

- requires the Division of Child and Family Services (division) to take certain steps to ensure a child who is interviewed during a child welfare investigation is supported and comfortable during the interview;
- requires a support person who is present at a child's interview during a child welfare investigation to meet certain requirements;
- deletes provisions requiring the division to document and track child interviews conducted during a child welfare proceeding when a support person is present; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-202.3, as last amended by Laws of Utah 2021, Chapters 29 and 262
62A-4a-409, as last amended by Laws of Utah 2021, Chapters 29, 262, and 365

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-202.3 is amended to read:

62A-4a-202.3. Investigation -- Supported or unsupported reports -- Child in protective custody.

(1) When a child is taken into protective custody in accordance with Section 62A-4a-202.1 or 80-3-204 or when the division takes any other action that would require a shelter hearing under Subsection 80-3-301(1), the division shall immediately initiate an investigation of the:

(a) circumstances of the child; and

(b) grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation under Subsection (1) shall conform to reasonable professional standards, and shall include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

(i) the same child;

(ii) any sibling or other child residing in the same household as the child; and

(iii) the alleged perpetrator;

(b) [~~with regard to a child who is five years old or older,~~] if the child is five years old or older, a personal interview with the child:

(i) outside of the presence of the alleged perpetrator; and

(ii) conducted in accordance with [~~the requirements of~~] Subsection (7);

(c) if a parent or guardian can be located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) [~~where~~] if possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

(i) school personnel; and

(ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

(A) is not the child's parent; and

(B) does not:

(I) live in the child's home; or

(II) otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an additional interview, if:

(a) law enforcement:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews [~~required by~~] under Subsection (2); and

(c) the division finds that an additional interview is not in the best interest of the child.

(4) (a) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.

(b) Inability to identify or locate the perpetrator may not be used by the division as a basis for:

(i) determining that a report is unsupported; or

(ii) closing the case.

(c) The division may not determine a case to be unsupported or identify a case as unsupported solely because the perpetrator [~~was~~] is an out-of-home perpetrator.

(d) [~~Decisions~~] The division shall base the division's decision regarding whether a report is supported, unsupported, or without merit [~~shall be based~~] on the facts of the case at the time the report [~~was~~] is made.

(5) The division [~~should~~] shall maintain protective custody of the child if [~~it~~] the division finds that one or more of the following conditions exist:

(a) the child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) the home of a responsible relative;

(c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the court; or

(d) the child has left a previously court ordered placement.

(6) (a) Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

(i) convene a child protection team to review the circumstances regarding removal of the child from the child's home or school; and

(ii) prepare the testimony and evidence that [~~will be~~] is required of the division at the shelter hearing, in accordance with Section 80-3-301.

(b) At the 24-hour meeting, the division shall have available for review and consideration the complete child protective services and foster care history of the child and the child's parents and siblings.

(7) (a) [~~After~~] Except as provided in Subsection (7)(b), after receipt of a child into protective custody and [~~prior to~~] before the adjudication hearing, all investigative interviews with the child that are initiated by the division shall be[~~:~~] audio or video taped.

[~~(i) except as provided in Subsection (7)(b), audio or video taped; and~~]

[~~(ii) except as provided in Subsection (7)(c), conducted with a support person of the child's choice present.~~]

(b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may be conducted without being taped if the child:

(A) is at least nine years old;

(B) refuses to have the interview audio taped; and

(C) refuses to have the interview video taped.

(ii) If, [~~pursuant to~~] under Subsection (7)(b)(i), an interview is conducted without being taped, the child's refusal shall be documented, as follows:

(A) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or

(B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:

(I) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or

(II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.

(iii) The division shall track the number of interviews under this Subsection (7) that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

[~~(c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an interview of a child may not be an alleged perpetrator.~~]

[~~(ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person present during the interview.~~]

(8) (a) Before conducting an investigative interview described in Subsection (7)(a), the interviewer shall:

(i) assess the child's level of comfort with the interview and make reasonable efforts to ensure the child is comfortable during the interview; and

(ii) unless the interview is conducted at a Children's Justice Center, ask the child whether the child is comfortable being alone in the interview with the interviewer.

(b) If the child is not comfortable being alone in the interview with the interviewer, the interviewer shall conduct the interview with a support person of the child's choice present.

(c) The support person who is present during the interview of the child shall meet the requirements described in Subsections 62A-4a-409(8)(g)(i) and (iii) and may be an individual described in Subsection 62A-4a-409(8)(g)(ii).

[~~(iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person present in the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.~~]

[~~(iv) The division shall track the number of interviews under this Subsection (7) where a child refuses to have a support person present for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.~~]

[~~(8)~~] (9) The division shall cooperate with law enforcement investigations and with the members of a child protection team, if applicable, regarding the alleged perpetrator.

[~~(9)~~] (10) The division may not close an investigation solely on the grounds that the division investigator is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

(a) visiting the home at times other than normal work hours;

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.

Section 2. Section 62A-4a-409 is amended to read:

62A-4a-409. Investigation by division -- Temporary protective custody -- Preremoval interview of a child.

(1) (a) The division shall conduct a thorough preremoval investigation upon receiving either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described under Subsection 62A-4a-404(2) exist.

(b) The primary purpose of the preremoval investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall include the same investigative requirements described in Section 62A-4a-202.3.

(3) The division shall make a written report of [~~its~~] the division's investigation that [~~shall include~~] includes a determination regarding whether the alleged abuse or neglect is supported, unsupported, or without merit.

(4) (a) The division shall use an interdisciplinary approach [~~when~~] if appropriate in dealing with [~~reports~~] a report made under this part.

(b) The division shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services.

(c) The division may include [~~members~~] a member of a child protection team in the division's protective, diagnostic, assessment, treatment, and coordination services.

(d) (i) A representative of the division shall serve as the child protection team's coordinator and chair. [~~Members~~]

(ii) A member of the child protection team shall serve at the coordinator's invitation. [~~Whenever~~]

(iii) If possible, the child protection team shall include [~~representatives~~] a representative of:

[~~(i)~~] (A) health, mental health, education, and law enforcement agencies;

[~~(ii)~~] (B) the child;

[~~(iii)~~] (C) parent and family support groups unless the parent is alleged to be the perpetrator; and

[~~(iv)~~] (D) other appropriate agencies or individuals.

(5) If a report of neglect is based upon or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) When the division completes the division's initial investigation under this part, the division shall give notice of that completion to the person who made the initial report.

(7) [~~Division workers or other child protection team members have~~] A division worker or child protection team member has authority to enter upon public or private premises, using appropriate legal processes, to investigate reports of alleged abuse or neglect, upon notice to parents of [~~their~~] the parents' rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof.

(8) With regard to any interview of a child prior to removal of that child from the child's home:

(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child [~~prior to~~] before the interview of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview;

(b) if a child's parent or stepparent, or a parent's paramour [~~has been~~] is identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);

(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child [~~prior to~~] before complying with Subsection (8)(a);

(d) in [~~all cases~~] a case described in Subsection (8)(b) or (c), the division shall notify a parent of the child [~~shall be notified~~] as soon as practicable after the child [~~has been~~] is interviewed, but in no case later than 24 hours after the interview [~~has taken~~] takes place;

(e) [~~a child's parents shall be notified~~] the division shall notify the child's parent of the time and place of all subsequent interviews with the child; [~~and~~]

(f) before conducting the interview, the interviewer shall:

(i) assess the child's level of comfort with the interview and make reasonable efforts to ensure the child is comfortable during the interview; and

(ii) unless the interview is conducted at a Children's Justice Center, ask the child whether the child is comfortable being alone in the interview with the interviewer; and

[~~(f)~~] (g) if the child is not comfortable being alone in the interview with the interviewer, the child [~~shall be~~] is allowed to have a support person of the child's choice present, who:

(i) is:

(A) 18 years old or older;

(B) readily available; and

(C) willing and able to be present in the interview without influencing the child through statements or reactions;

[~~(i)~~] (ii) may [~~include~~] be:

(A) a school teacher;

(B) an administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate; or

(G) a member of the clergy; and

[~~(ii)~~] (iii) may not be an individual who:

(A) is alleged to be, or potentially may be, the perpetrator[~~.~~]; or

(B) is protective of the perpetrator or unsupportive of the child.

(9) (a) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity [~~subsequent to~~] after the child's removal from the child's original environment.

(b) Control and jurisdiction over the child is determined by [~~the provisions of~~] Title 78A, Chapter 6, Juvenile Court, and Title 80, Utah Juvenile Code, and as otherwise provided by law.

(10) [~~With regard to cases~~] In a case in which law enforcement has or is conducting an investigation of alleged abuse or neglect of a child:

(a) the division shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) the division is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

(11) [~~With regard to~~] In a mutual case in which a child protection team [~~was~~] is involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection team before closing the case.

CHAPTER 309
H. B. 162

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

PERIOD PRODUCTS IN SCHOOLS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Ann Millner
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Kera Birkeland
Brady Brammer
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
James A. Dunnigan
Matthew H. Gwynn
Stephen G. Handy
Timothy D. Hawkes
Sandra Hollins
Karen Kwan
Bradley G. Last
Rosemary T. Lesser
Steven J. Lund
A. Cory Maloy
Kelly B. Miles
Jefferson Moss
Michael J. Petersen
Val L. Peterson
Candice B. Pierucci
Susan Pulsipher
Mike Schultz
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Keven J. Stratton
Jordan D. Teuscher
Norman K Thurston
Christine F. Watkins
Ryan D. Wilcox
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill requires local school boards and charter school governing boards to provide period products in certain restrooms within all school facilities.

Highlighted Provisions:

This bill:

- defines terms;
- requires local school boards and charter school governing boards to:
  - provide period products in certain restrooms within all school facilities;
  - provide certain information to students; and
  - incorporate the provision of period products in ongoing capital operations and maintenance budgets by a certain date; and
- requires the State Board of Education to monitor compliance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-4-412, Utah Code Annotated 1953
53G-5-414, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-4-412 is enacted to read:

53G-4-412. (Codified as 53G-4-413) Required provision of period products in schools.

(1) As used in this section, "period products" means:

(a) tampons;

(b) sanitary napkins; or

(c) other similar products designed for hygiene in connection with the human menstrual cycle.

(2) Beginning July 1, 2022, an LEA shall:

(a) provide period products free of charge to students in each female or unisex restroom within an elementary, middle, junior, or high school or school facility which students use; and

(b) inform public school students of the availability of the period products as described in this section.

(3) To address the cost of the requirements of this section, an LEA shall:

(a) use funds that the Legislature appropriates specifically for the provision of period products; and

(b) incorporate the provision of period products into local ongoing capital operations and maintenance budgets no later than July 1, 2025.

(4) The state board shall:

(a) oversee the implementation of the requirements of this section; and

(b) monitor compliance with this section.

Section 2. Section 53G-5-414 is enacted to read:

53G-5-414. Required provision of period products in schools.

(1) As used in this section, "period products" means:

(a) tampons;

(b) sanitary napkins; or

(c) other similar products designed for hygiene in connection with the human menstrual cycle.

(2) Beginning July 1, 2022, a charter school shall:

(a) provide period products free of charge to students in each female or unisex restroom within an elementary, middle, junior, or high school or school facility which students use; and

(b) inform public school students of the availability of the period products as described in this section.

(3) To address the cost of the requirements of this section, a charter school shall:

(a) use funds that the Legislature appropriates specifically for the provision of period products; and

(b) incorporate the provision of period products into local ongoing capital operations and maintenance budgets no later than July 1, 2025.

(4) The state board shall:

(a) oversee the implementation of the requirements of this section; and

(b) monitor compliance with this section.

CHAPTER 310
H. B. 166

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

WATER FACILITY AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill modifies provisions related to water facilities.

Highlighted Provisions:

This bill:

- modifies criminal and civil provisions related to water facilities, including defining terms, repealing language, and amending criminal intent provisions;
- clarifies award of attorney fees and costs;
- addresses scope of the section; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

73-1-14, as last amended by Laws of Utah 2020, Chapter 64

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-1-14 is amended to read:

73-1-14. Acts against water facilities or interfering with apportioning official -- Penalty and liability.

(1) As used in this section:

(a) "Connection to a water facility" includes:

(i) to introduce water or another substance into or take water from a water facility through a pipeline, flume, ditch, canal, trench, holding pond, or water collection structure;

(ii) to place or maintain a structure capable of introducing water or another substance directly into or of taking water from a water facility from a pipeline, flume, ditch, canal, trench, holding pond, or water collection structure; or

(iii) to cut into or breach a canal or ditch bank for the purpose of introducing water or another substance into or of taking water from the canal or ditch.

[~~(a)~~] (b) "Interfere," for purposes of a water facility, means damage to or modification of the water facility that results in actual blockage or diversion of water, stormwater, wastewater, or sewage.

(c) "Knowingly" means the same as that term is defined in Section 76-2-103.

[~~(b)~~] (d) "Water facility" means a dam, pipeline, culvert, fire hydrant, flume, conduit, ditch, head gate, canal, reservoir, storage tank, spring box, well, meter, weir, valve, casing, cap, or other facility used for the diversion, transportation, distribution, measurement, collection, containment, or storage of water, stormwater, wastewater, or sewage.

(2) [~~A~~] Subject to Subsection (6), a person is guilty of a crime punishable under Section 73-2-27 if the person:

[~~(a) maliciously:~~]

[~~(i) interferes with a water facility;~~]

[~~(ii) damages a water facility;~~]

[~~(iii) destroys a water facility; or~~]

[~~(iv) removes a water facility;~~]

[~~(b)~~] (a) [~~intentionally or~~] knowingly makes a temporary or permanent connection to a water facility without:

(i) first obtaining the written consent of the owner or operator of the water facility; or

(ii) having other lawful authority; or

[~~(c)~~] (b) [~~unlawfully~~] without lawful authority, knowingly interferes with an individual authorized to apportion water while in the discharge of the individual's duties.

(3) A person who commits an act defined as a crime under this section is also liable for damages [~~or~~], other relief, and [~~costs~~] reasonable costs and attorney fees as provided in Section 73-2-28, in a civil action brought by a person injured by that act.

(4) (a) A civil action under this section may be brought independent of a criminal action.

(b) Proof of the elements of a civil action under this section need only be made by a preponderance of the evidence.

(5) A person who complies with Title 54, Chapter 8a, Damage to Underground Utility Facilities, Section 73-1-7, or Section 73-1-15.5 may not be held criminally or civilly liable for actions allowed by those sections.

(6) (a) "Person" for purposes of this section does not include a government entity, including a political subdivision of the state.

(b) This section may not be interpreted to limit or impair a claim otherwise provided by law of a water facility owner or operator against a government entity.

CHAPTER 311
H. B. 168

Passed February 17, 2022
Approved March 24, 2022
Effective May 4, 2022
(Exception clause in Section 5)

PREFERENCES OF WATER RIGHTS AMENDMENTS

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses preferences of water rights during a temporary water shortage emergency.

Highlighted Provisions:

This bill:

- repeals language related to a temporary water shortage emergency;
- enacts a provision related to a temporary water shortage emergency with a delayed effective date;
- requires a study;
- addresses rulemaking authority; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

73-2-1, as last amended by Laws of Utah 2020, Chapters 60 and 352

73-3-21.1, as last amended by Laws of Utah 2011, Chapter 201

ENACTS:

73-3-21.3, Utah Code Annotated 1953

73-3-21.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 73-2-1 is amended to read:

73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.

(1) There shall be a state engineer.

(2) The state engineer shall:

(a) be appointed by the governor with the advice and consent of the Senate;

(b) hold office for the term of four years and until a successor is appointed; and

(c) have five years experience as a practical engineer or the theoretical knowledge, practical experience, and skill necessary for the position.

(3) (a) The state engineer shall be responsible for the general administrative supervision of the waters of the state and the measurement, appropriation, apportionment, and distribution of those waters.

(b) The state engineer may secure the equitable apportionment and distribution of the water according to the respective rights of appropriators.

(4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, regarding:

(a) reports of water right conveyances;

(b) the construction of water wells and the licensing of water well drillers;

(c) dam construction and safety;

(d) the alteration of natural streams;

(e) geothermal resource conservation;

(f) enforcement orders and the imposition of fines and penalties;

(g) the duty of water; and

(h) standards for written plans of a public water supplier that may be presented as evidence of reasonable future water requirements under Subsection 73-1-4(2)(f).

(5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with the purposes and provisions of this title, governing:

(a) water distribution systems and water commissioners;

(b) water measurement and reporting;

(c) groundwater recharge and recovery;

(d) wastewater reuse;

(e) the form, content, and processing procedure for a claim under Section 73-5-13 to surface or underground water that is not represented by a certificate of appropriation;

(f) the form and content of a proof submitted to the state engineer under Section 73-3-16;

(g) the determination of water rights; [~~or~~]

(h) preferences of water rights under Section 73-3-21.5; or

[~~(h)~~] (i) the form and content of applications and related documents, maps, and reports.

(6) The state engineer may bring suit in courts of competent jurisdiction to:

(a) enjoin the unlawful appropriation, diversion, and use of surface and underground water without first seeking redress through the administrative process;

(b) prevent theft, waste, loss, or pollution of surface and underground waters;

(c) enable the state engineer to carry out the duties of the state engineer's office; and

(d) enforce administrative orders and collect fines and penalties.

(7) The state engineer may:

(a) upon request from the board of trustees of an irrigation district under Title 17B, Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited Purpose Local Government Entities – Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a water survey to be made of the lands proposed to be annexed to the district in order to determine and allot the maximum amount of water that could be beneficially used on the land, with a separate survey and allotment being made for each 40–acre or smaller tract in separate ownership; and

(b) upon completion of the survey and allotment under Subsection (7)(a), file with the district board a return of the survey and report of the allotment.

(8) (a) The state engineer may establish water distribution systems and define the water distribution systems' boundaries.

(b) The water distribution systems shall be formed in a manner that:

(i) secures the best protection to the water claimants; and

(ii) is the most economical for the state to supervise.

Section 2. Section 73-3-21.1 is amended to read:

73-3-21.1. Priorities between appropriators.

[~~(1) As used in this section:~~]

[~~(a) "Military facility" means an installation, base, air field, camp, post, station, yard, center, or other facility owned, leased, or operated by, or under the jurisdiction of, the United States Department of Defense or the National Guard.~~]

[~~(b) "Temporary water shortage emergency" means a shortage of water:~~]

[~~(i) whether caused by drought, manmade, or naturally caused;~~]

[~~(ii) for which the governor has declared an emergency; and~~]

[~~(iii) that may not exceed in duration more than two consecutive calendar years.~~]

[~~(2) (a)~~] Appropriators shall have priority among themselves according to the dates of their respective appropriations, so that each appropriator is entitled to receive the appropriator's whole supply before any subsequent appropriator has any right.

[~~(b) Notwithstanding Subsection (2)(a), if there is a temporary water shortage emergency, the use of water for drinking, sanitation, and fire suppression has a preferential right over any other water right for the duration of the temporary water shortage emergency if:~~]

[~~(i) the water is used by:~~]

[~~(A) an individual water user;~~]

[~~(B) a county or municipality;~~]

[~~(C) a public water supplier, as defined in Section 73–1–4; or~~]

[~~(D) a military facility that was in operation on March 10, 2011; and~~]

[~~(ii) the water is used without unnecessary waste.~~]

[~~(c) Notwithstanding Subsection (2)(a), if there is a temporary water shortage emergency, the use of water for agricultural purposes, including irrigation and livestock water, has a preferential right over any other right, except as provided in Subsection (2)(b).~~]

[~~(3) A person using water preferentially during a temporary water shortage emergency shall pay annually to the appropriator whose water use is interrupted the reasonable value of the water use interrupted, crop losses, and other consequential damages incurred as a result of the interruption.~~]

Section 3. Section 73-3-21.3 is enacted to read:

73-3-21.3. Study of preferences during temporary water shortage emergency.

(1) The state engineer shall study how the state should address preferred uses of water during a temporary water shortage emergency including issues such as:

(a) the process for determining whether and how a water use may be given preference; and

(b) compensation for holders of water rights that are affected by preferences being given to certain water uses.

(2) The state engineer may work with stakeholders in conducting the study under this section.

(3) The state engineer shall report the state engineer's findings, including any recommended legislation, to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the 2022 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee.

Section 4. Section 73-3-21.5 is enacted to read:

73-3-21.5. Preferences between appropriators.

(1) As used in this section:

(a) "Electric utility" means:

(i) a municipal electric utility, as defined in Section 10–19–102;

(ii) an electric interlocal entity, as defined in Section 11–13–103;

(iii) an energy services interlocal entity, as defined in Section 11–13–103;

(iv) a project entity, as defined in Section 11-13-103;

(v) an electric improvement district, as defined in Section 17B-2a-406; or

(vi) an electrical corporation, as defined in Section 54-2-1.

(b) "Military facility" means an installation, base, air field, camp, post, station, yard, center, or other facility owned, leased, or operated by, or under the jurisdiction of, the United States Department of Defense or the National Guard.

(c) (i) "Temporary water shortage emergency" means a shortage of water:

(A) whether caused by drought, manmade causes, or natural causes;

(B) for which the governor has declared temporary water shortage emergency in a designated geographic area by executive order; and

(C) that may not exceed in duration more than one calendar year.

(ii) An executive order of the governor declaring a temporary water shortage emergency under this section is not a declaration of a state of emergency under Section 53-2a-206 and is not subject to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act. To exercise an authority granted under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, related to a declaration of a state of emergency, the governor shall issue an executive order that is separate from an executive order declaring a temporary water shortage emergency.

(2) (a) Notwithstanding Section 73-3-21.1, if there is a temporary water shortage emergency, the use of water for drinking, sanitation, generation of electricity, and fire suppression has a preferential right over any other water right for the duration of the temporary water shortage emergency if:

(i) the water is used by:

(A) an individual water user;

(B) a county or municipality;

(C) a public water supplier, as defined in Section 73-1-4;

(D) a military facility that was in operation on March 10, 2011; or

(E) an electric utility; and

(ii) the water is used without unnecessary waste.

(b) Notwithstanding Section 73-3-21.1, if there is a temporary water shortage emergency, the use of water for agricultural purposes, including irrigation and livestock water, has a preferential right over any other right, except as provided in Subsection (2)(a).

(3) A person using water preferentially during a temporary water shortage emergency shall pay the appropriator whose water use is interrupted the reasonable value of the water use interrupted, crop losses, and other consequential damages incurred as a result of the interruption.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer may make rules establishing the process to:

(a) determine the preferential right under Subsection (2) over other water rights for the duration of a temporary water shortage emergency; and

(b) provide for payments under Subsection (3).

Section 5. Effective date.

(1) If approved by two-thirds of all the members elected to each house, the amendments to Section 73-3-21.1 take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The enactment of Section 73-3-21.3 takes effect May 4, 2022.

(3) The following take effect on May 3, 2023:

(a) the amendments to Section 73-2-1; and

(b) the enactment of Section 73-3-21.5.

CHAPTER 312
H. B. 171

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

CUSTODIAL INTERROGATION AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Todd D. Weiler
Cosponsors: Jefferson S. Burton
Matthew H. Gwynn
Stephanie Pitcher

LONG TITLE

General Description:

This bill addresses the custodial interrogation of a child.

Highlighted Provisions:

This bill:

- addresses the use of false information about evidence or an unauthorized statement about leniency in a custodial interrogation of a child; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-6-206, as enacted by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 80-6-206 is amended to read:

80-6-206. Interrogation of a child -- Presence of a parent, legal guardian, or other adult -- Interrogation of a minor in a facility -- Prohibition on false information or unauthorized statement.

(1) As used in this section:

(a) "Custodial interrogation" means any interrogation of a minor while the minor is in custody.

[~~(a)~~] (b) (i) "Friendly adult" means an adult:

(A) [~~that~~] who has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

[~~(b)~~] (c) (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is [~~in custody and~~] subject to a custodial interrogation for an offense, the child has the right:

(a) to have the child's parent or guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

(ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is [~~in custody and~~] subject to [~~interrogation of~~] a custodial interrogation for an offense, the child may not be interrogated unless:

(a) the child has been advised of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection (4), the child's parent or guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section 62A-4a-415.

(4) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer has relied on that misrepresentation in good faith; or

(c) a peace officer or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time [~~in~~] at which the child is [~~in~~] taken into custody.

(5) (a) If a minor is admitted to a detention facility under Section 80-6-205, or the minor is committed

to secure care or a correctional facility, and is subject to a custodial interrogation for an offense, the minor may not be interrogated unless:

(i) the minor has had a meaningful opportunity to consult with the minor's appointed or retained attorney;

(ii) the minor waives the minor's constitutional rights after consultation with the minor's appointed or retained attorney; and

(iii) the minor's appointed or retained attorney is present for the interrogation.

(b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the minor on behalf of a peace officer or a law enforcement agency.

(6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

(7) If a child is subject to a custodial interrogation for an offense, a peace officer, or an individual interrogating a child on behalf of a peace officer or a law enforcement agency, may not knowingly:

(a) provide false information about evidence that is reasonably likely to elicit an incriminating response from the child; or

(b) make an unauthorized statement about leniency for the offense.

CHAPTER 313
H. B. 172

Passed February 17, 2022
Approved March 24, 2022
Effective May 4, 2022

FEDERAL LAND DISPOSAL LAW AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill amends provisions related to the Public Lands Policy Coordinating Office's activities related to federal land disposal laws.

Highlighted Provisions:

This bill:

- repeals the advisory committee and related provisions;
- clarifies reporting;
- authorizes the Public Lands Policy Coordinating Office to take action related to the filing and processing of federal land applications;
- permits agreements with the Secretary of the Interior; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I–1–263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

63L–11–305, as last amended by Laws of Utah 2021, Chapter 280 and renumbered and amended by Laws of Utah 2021, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A–16–102 is repealed;

(b) Section 63A–16–201 is repealed; and

(c) Section 63A–16–202 is repealed.

(2) Subsection 63A–5b–405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A–5b–1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A–9–301 and 63A–9–302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G–6a–805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J–1–602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J–1–602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J–1–602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36–12–12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J–1–602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J–1–602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J–1–602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

[~~(22) In relation to the advisory committee created in Subsection 63L–11–305(3), on July 1, 2022:~~]

[~~(a) Subsection 63L–11–305(1)(a), which defines "advisory committee," is repealed; and~~]

[~~(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.~~]

[~~(23)~~] (22) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

[~~(24)~~] (23) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

[~~(25)~~] (24) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

[~~(26)~~] (25) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27)~~] (26) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

[~~(28)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30)~~] (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(30)~~] (29)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31)~~] (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (31) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (32) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 2. Section 63L-11-305 is amended to read:

63L-11-305. Facilitating the acquisition of federal land.

(1) As used in this section:

[~~(a) "Advisory committee" means the committee established under Subsection (3).~~]

[~~(b)~~] (a) "Federal land" means land that the secretary is authorized to dispose of under the federal land disposal law.

[~~(c)~~] (b) "Federal land disposal law" means the Recreation and Public Purposes Act, 43 U.S.C. Sec. 869 et seq.

[~~(d)~~] (c) "Government entity" means any state or local government entity allowed to submit a land application under the federal land disposal law.

[~~(e)~~] (d) "Land application" means an application under the federal land disposal law requesting the secretary to sell or lease federal land.

[~~(f)~~] (e) "Land application process" means [~~all~~] the actions involved in the process of submitting and obtaining a final decision on a land application.

[~~(g)~~] (f) "Secretary" means the Secretary of the Interior of the United States.

(2) The office shall:

(a) develop expertise:

(i) in the land application process; and

(ii) concerning the factors that tend to increase the chances that a land application will result in the secretary selling or leasing federal land as requested in the land application;

(b) work to educate government entities concerning:

(i) the availability of federal land pursuant to the federal land disposal law; and

(ii) the land application process;

(c) advise and consult with a government entity that requests assistance from the office to formulate and submit a land application and to pursue a decision on the land application;

(d) advise and consult with a government entity that requests assistance from the office to identify and quantify the amount of any funds needed to provide the public use described in a land application;

[~~(e) with the advice and recommendations of the advisory committee:~~]

[~~(i)~~] (e) adopt a list of factors to be considered in determining the degree to which a land application or potential land application is in the public interest; [~~and~~]

[~~(ii)~~] (f) recommend a prioritization of [~~all~~] land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(e)[~~(i)~~];

[~~(f)~~] (g) prepare and submit a written report of land applications:

(i) to the Natural Resources, Agriculture, and Environment Interim Committee and the Federalism Commission;

(ii) (A) annually no later than August 31; and

(B) at other times, if and as requested by the committee or commission; and

(iii) (A) on the activities of the office under this section;

(B) on the land applications and potential land applications in the state; [~~and~~]

(C) on the decisions of the secretary on land applications submitted by government entities in the state; and

(D) the quantity of land acquired under the land applications;

[~~(g)~~] (h) present a summary of information contained in the report described in Subsection (2)[~~(f)~~](g):

(i) at a meeting of the Natural Resources, Agriculture, and Environment Interim Committee and at a meeting of the Federalism Commission;

(ii) annually no later than August 31; and

(iii) at other times, if and as requested by the committee or commission; and

[~~(h)~~] (i) report to the Executive Appropriations Committee of the Legislature, as frequently as the executive director considers appropriate or as requested by the [~~committee~~] Executive Appropriations Committee, on the need for legislative appropriations to provide funds for the public purposes described in land applications.

[~~(3) (a) There is created an advisory committee comprised of:~~]

[~~(i) an individual designated by the chairs of the Federalism Commission;~~]

[~~(ii) an individual designated by the director of the Division of Facilities Construction and Management;~~]

[~~(iii) a representative of the Antiquities Section, created in Section 9-8-304, designated by the director of the Division of State History;~~]

[~~(iv) a representative of municipalities designated by the Utah League of Cities and Towns;~~]

[~~(v) a representative of counties designated by the Utah Association of Counties;~~]

[~~(vi) an individual designated by the Governor's Office of Economic Opportunity; and~~]

[~~(vii) an individual designated by the director of the Division of State Parks, created in Section 79-4-201.~~]

[~~(b) The seven members of the advisory committee under Subsection (3)(a) may, by majority vote, appoint up to four additional volunteer members of the advisory committee.~~]

[~~(c) The advisory committee shall advise and provide recommendations to the office on:~~]

[~~(i) factors the office should consider in determining the degree to which a land application or potential land application is in the public interest; and~~]

[~~(ii) the prioritization of land applications or potential land applications in the state according to the extent to which the land applications are in the public interest, based on the factors adopted under Subsection (2)(e)(i).~~]

[~~(d) A member of the advisory committee may not receive compensation, benefits, or expense reimbursement for the member's service on the advisory committee.~~]

[~~(e) The advisory committee may:~~]

[~~(i) select a chair from among the advisory committee members; and~~]

[~~(ii) meet as often as necessary to perform the advisory committee's duties under this section.~~]

[~~(f) The executive director shall facilitate the convening of the first meeting of the advisory committee.~~]

(3) The office may:

(a) assist a government entity or the secretary in the filing and processing of a land application; and

(b) enter into an agreement with the secretary related to the office assisting in processing a land application.

CHAPTER 314
H. B. 181

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

RAILROAD CROSSING MAINTENANCE AMENDMENTS

Chief Sponsor: Mike Schultz
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to the duties of the Public Service Commission and the Department of Transportation pertaining to safety oversight of railroads and crossings.

Highlighted Provisions:

This bill:

- amends provisions related to the duties of the Public Service Commission and the Department of Transportation pertaining to safety oversight of railroads and crossings to remove confusion caused by outdated references;
- allows the Department of Transportation to allocate the costs of certain safety responsibilities between the relevant public agency and the railroad;
- amends other provisions related to the safety and maintenance of railroads and crossings;
- amends provisions related to railroad company participation and approval of proposed improvements to a railroad crossing; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

54-1-2, as last amended by Laws of Utah 1987, Chapter 92
54-2-1, as last amended by Laws of Utah 2020, Chapter 217
54-3-8, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
54-4-1, as last amended by Laws of Utah 1975, First Special Session, Chapter 9
54-4-2, as last amended by Laws of Utah 2019, Chapter 460
54-4-14, as last amended by Laws of Utah 1975, First Special Session, Chapter 9
54-4-15, as last amended by Laws of Utah 1999, Chapter 190

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 54-1-2 is amended to read:

54-1-2. Powers and duties.

(1) The Public Service Commission shall succeed to all powers and discharge all duties and perform all the functions which by existing and continuing law are conferred upon and required to be discharged or performed by the Public Utilities Commission of Utah.

(2) Whenever any existing and continuing law refers to or names the Public Utilities Commission of Utah or any officer, agent, or employee of such commission, the same shall be construed to mean, refer to, and name the Public Service Commission of Utah or the corresponding officer, agent, or employee of such Public Service Commission [~~; provided, however, that the Department of Transportation shall have jurisdiction over those safety functions transferred to it by the Department of Transportation Act~~].

Section 2. Section 54-2-1 is amended to read:

54-2-1. Definitions.

As used in this title:

(1) "Avoided costs" means the incremental costs to an electrical corporation of electric energy or capacity or both that, due to the purchase of electric energy or capacity or both from small power production or cogeneration facilities, the electrical corporation would not have to generate itself or purchase from another electrical corporation.

(2) "Clean coal technology" means a technology that may be researched, developed, or used for reducing emissions or the rate of emissions from a thermal electric generation plant that uses coal as a fuel source.

(3) "Cogeneration facility":

(a) means a facility that produces:

(i) electric energy; and

(ii) steam or forms of useful energy, including heat, that are used for industrial, commercial, heating, or cooling purposes; and

(b) is a qualifying cogeneration facility under federal law.

(4) "Commission" means the Public Service Commission.

(5) "Commissioner" means a member of the commission.

(6) (a) "Corporation" includes an association and a joint stock company having any powers or privileges not possessed by individuals or partnerships.

(b) "Corporation" does not include towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

(7) "Department" means the Department of Transportation created in Section 72-1-201.

[~~(7)~~] (8) "Distribution electrical cooperative" includes an electrical corporation that:

(a) is a cooperative;

(b) conducts a business that includes the retail distribution of electricity the cooperative purchases or generates for the cooperative's members; and

(c) is required to allocate or distribute savings in excess of additions to reserves and surplus on the basis of patronage to the cooperative's:

(i) members; or

(ii) patrons.

[~~(8)~~] (9) (a) "Electrical corporation" includes every corporation, cooperative association, and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any electric plant, or in any way furnishing electric power for public service or to its consumers or members for domestic, commercial, or industrial use, within this state.

(b) "Electrical corporation" does not include:

(i) an independent energy producer;

(ii) where electricity is generated on or distributed by the producer solely for the producer's own use, or the use of the producer's tenants, or the use of members of an association of unit owners formed under Title 57, Chapter 8, Condominium Ownership Act, and not for sale to the public generally;

(iii) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(iv) a nonutility energy supplier who sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(c) "Electrical corporation" does not include an entity that sells electric vehicle battery charging services:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as an electrical corporation.

[~~(9)~~] (10) "Electric plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits, ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying conductors used or to be used for the transmission of electricity for light, heat, or power.

[~~(10)~~] (11) "Eligible customer" means a person who:

(a) on December 31, 2013:

(i) was a customer of a public utility that, on December 31, 2013, had more than 200,000 retail customers in this state; and

(ii) owned an electric plant that is an electric generation plant that, on December 31, 2013, had a generation name plate capacity of greater than 150 megawatts; and

(b) produces electricity:

(i) from a qualifying power production facility for sale to a public utility in this state;

(ii) primarily for the eligible customer's own use; or

(iii) for the use of the eligible customer's tenant or affiliate.

[~~(11)~~] (12) "Eligible customer's tenant or affiliate" means one or more tenants or affiliates:

(a) of an eligible customer; and

(b) who are primarily engaged in an activity:

(i) related to the eligible customer's core mining or industrial businesses; and

(ii) performed on real property that is:

(A) within a 25-mile radius of the electric plant described in Subsection [~~(10)~~] (11)(a)(ii); and

(B) owned by, controlled by, or under common control with, the eligible customer.

[~~(12)~~] (13) "Gas corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any gas plant for public service within this state or for the selling or furnishing of natural gas to any consumer or consumers within the state for domestic, commercial, or industrial use, except in the situation that:

(a) gas is made or produced on, and distributed by the maker or producer through, private property:

(i) solely for the maker's or producer's own use or the use of the maker's or producer's tenants; and

(ii) not for sale to others;

(b) gas is compressed on private property solely for the owner's own use or the use of the owner's employees as a motor vehicle fuel; or

(c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely for sale as a motor vehicle fuel.

[~~(13)~~] (14) "Gas plant" includes all real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

[~~(14)~~] (15) "Heat corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any heating plant for public service within this state.

[~~(15)~~] (16) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances, and personal property controlled, operated, or managed in connection with or to facilitate the production, generation, transmission, delivery, or furnishing of artificial heat.

(b) "Heating plant" does not include either small power production facilities or cogeneration facilities.

[~~(16)~~] (17) "Independent energy producer" means every electrical corporation, person, corporation, or government entity, their lessees, trustees, or receivers, that own, operate, control, or manage an independent power production or cogeneration facility.

[~~(17)~~] (18) "Independent power production facility" means a facility that:

(a) produces electric energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources; or

(b) is a qualifying power production facility.

[~~(18)~~] (19) "Large-scale electric utility" means a public utility that provides retail electric service to more than 200,000 retail customers in the state.

[~~(19)~~] (20) "Large-scale natural gas utility" means a public utility that provides retail natural gas service to more than 200,000 retail customers in the state.

[~~(20)~~] (21) "Nonutility energy supplier" means a person that:

(a) has received market-based rate authority from the Federal Energy Regulatory Commission in accordance with 16 U.S.C. Sec. 824d, 18 C.F.R. Part 35, Filing of Rate Schedules and Tariffs, or applicable Federal Energy Regulatory Commission orders; or

(b) owns, leases, operates, or manages an electric plant that is an electric generation plant that:

(i) has a capacity of greater than 100 megawatts; and

(ii) is hosted on the site of an eligible customer that consumes the output of the electric plant, in whole or in part, for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

[~~(21)~~] (22) "Private telecommunications system" includes all facilities for the transmission of signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio facilities, that are owned, controlled, operated, or managed by a corporation or person, including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that corporation or person and not for the shared use with or resale to any other corporation or person on a regular basis.

[~~(22)~~] (23) (a) "Public utility" includes every railroad corporation, gas corporation, electrical corporation, distribution electrical cooperative, wholesale electrical cooperative, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, and independent energy producer not described in Section 54-2-201 where the service is performed for, or the commodity delivered to, the public generally, or in the case of a gas corporation or electrical corporation where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use.

(b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation, or independent energy producer not described in Section 54-2-201, performs a service for or delivers a commodity to the public, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(ii) If a gas corporation, independent energy producer not described in Section 54-2-201, or electrical corporation sells or furnishes gas or electricity to any member or consumers within the state, for domestic, commercial, or industrial use, for which any compensation or payment is received, it is considered to be a public utility, subject to the jurisdiction and regulation of the commission and this title.

(c) Any corporation or person not engaged in business exclusively as a public utility as defined in this section is governed by this title in respect only to the public utility owned, controlled, operated, or managed by the corporation or person, and not in respect to any other business or pursuit.

(d) Any person or corporation defined as an electrical corporation or public utility under this section may continue to serve its existing customers subject to any order or future determination of the commission in reference to the right to serve those customers.

(e) (i) "Public utility" does not include any person that is otherwise considered a public utility under this Subsection [~~(22)~~] (23) solely because of that person's ownership of an interest in an electric plant, cogeneration facility, or small power production facility in this state if all of the following conditions are met:

(A) the ownership interest in the electric plant, cogeneration facility, or small power production facility is leased to:

(I) a public utility, and that lease has been approved by the commission;

(II) a person or government entity that is exempt from commission regulation as a public utility; or

(III) a combination of Subsections [~~(22)~~] (23)(e)(i)(A)(I) and (II);

(B) the lessor of the ownership interest identified in Subsection [~~(22)~~] (23)(e)(i)(A) is:

(I) primarily engaged in a business other than the business of a public utility; or

(II) a person whose total equity or beneficial ownership is held directly or indirectly by another person engaged in a business other than the business of a public utility; and

(C) the rent reserved under the lease does not include any amount based on or determined by revenues or income of the lessee.

(ii) Any person that is exempt from classification as a public utility under Subsection [~~(22)~~] (23)(e)(i) shall continue to be so exempt from classification following termination of the lessee's right to possession or use of the electric plant for so long as the former lessor does not operate the electric plant or sell electricity from the electric plant. If the former lessor operates the electric plant or sells electricity, the former lessor shall continue to be so exempt for a period of 90 days following termination, or for a longer period that is ordered by the commission. This period may not exceed one year. A change in rates that would otherwise require commission approval may not be effective during the 90-day or extended period without commission approval.

(f) "Public utility" does not include any person that provides financing for, but has no ownership interest in an electric plant, small power production facility, or cogeneration facility. In the event of a foreclosure in which an ownership interest in an electric plant, small power production facility, or cogeneration facility is transferred to a third-party financer of an electric plant, small power production facility, or cogeneration facility, then that third-party financer is exempt from classification as a public utility for 90 days following the foreclosure, or for a longer period that is ordered by the commission. This period may not exceed one year.

(g) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel does not cause the distributor or transporter to be a "public utility," unless the commission, after notice and a public hearing, determines by rule that it is in the public interest to regulate the distributors or transporters, but the retail sale alone of compressed natural gas as a motor vehicle fuel may not cause the seller to be a "public utility."

(ii) In determining whether it is in the public interest to regulate the distributors or transporters, the commission shall consider, among other things, the impact of the regulation on the availability and price of natural gas for use as a motor fuel.

(h) "Public utility" does not include:

(i) an eligible customer who provides electricity for the eligible customer's own use or the use of the eligible customer's tenant or affiliate; or

(ii) a nonutility energy supplier that sells or provides electricity to:

(A) an eligible customer who has transferred the eligible customer's service to the nonutility energy supplier in accordance with Section 54-3-32; or

(B) the eligible customer's tenant or affiliate.

(i) "Public utility" does not include an entity that sells electric vehicle battery charging services:

(i) if the entity obtains the electricity for the electric vehicle battery charging service, including any electricity from an electricity storage device:

(A) from a large-scale electric utility or an electrical corporation in whose service area the electric vehicle battery charging service is located; and

(B) under an established tariff for rates, charges, and conditions of service; and

(ii) unless the entity conducts another activity in the state that subjects the entity to the jurisdiction and regulation of the commission as a public utility.

(j) "Public utility" does not include an independent energy producer that is not subject to regulation by the commission as a public utility under Section 54-2-201.

[~~(23)~~] (24) "Purchasing utility" means any electrical corporation that is required to purchase electricity from small power production or cogeneration facilities pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Sec. 824a-3.

[~~(24)~~] (25) "Qualifying power producer" means a corporation, cooperative association, or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or person, who owns, controls, operates, or manages any qualifying power production facility or cogeneration facility.

[~~(25)~~] (26) "Qualifying power production facility" means a facility that:

(a) produces electrical energy solely by the use, as a primary energy source, of biomass, waste, a renewable resource, a geothermal resource, or any combination of the preceding sources;

(b) has a power production capacity that, together with any other facilities located at the same site, is no greater than 80 megawatts; and

(c) is a qualifying small power production facility under federal law.

[~~(26)~~] (27) "Railroad" includes every commercial, interurban, and other railway, other than a street railway, and each branch or extension of a railway, by any power operated, together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots, union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all other real estate, fixtures, and personal property of every kind used in connection with a railway owned, controlled, operated, or managed for public service in the transportation of persons or property.

[~~(27)~~] (28) "Railroad corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any railroad for public service within this state.

[~~(28)~~] (29) (a) "Sewerage corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage system for public service within this state.

(b) "Sewerage corporation" does not include private sewerage companies engaged in disposing of sewage only for their stockholders, or towns, cities, counties, conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[~~(29)~~] (30) "Telegraph corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line for public service within this state.

[~~(30)~~] (31) "Telegraph line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telegraph, whether that communication be had with or without the use of transmission wires.

[~~(31)~~] (32) "Telephone cooperative" means a telephone corporation that:

(a) is a cooperative; and

(b) is organized for the purpose of providing telecommunications service to the telephone corporation's members and the public at cost plus a reasonable rate of return.

[~~(32)~~] (33) (a) "Telephone corporation" means any corporation or person, and their lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates, manages, or resells a public telecommunications service as defined in Section 54-8b-2.

(b) "Telephone corporation" does not mean a corporation, partnership, or firm providing:

(i) intrastate telephone service offered by a provider of cellular, personal communication systems (PCS), or other commercial mobile radio service as defined in 47 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications Commission;

(ii) Internet service; or

(iii) resold intrastate toll service.

[~~(33)~~] (34) "Telephone line" includes all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate communication by telephone whether that communication is had with or without the use of transmission wires.

[~~(34)~~] (35) "Transportation of persons" includes every service in connection with or incidental to the safety, comfort, or convenience of the person transported, and the receipt, carriage, and delivery of that person and that person's baggage.

[~~(35)~~] (36) "Transportation of property" includes every service in connection with or incidental to the transportation of property, including in particular its receipt, delivery, elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and hauling, and the transmission of credit by express companies.

[~~(36)~~] (37) "Utility-owned vehicle charging infrastructure" means all facilities, equipment, and electrical systems owned and installed by a large-scale electric utility:

(a) on the customer's side or the large-scale electric utility's side of the electricity metering equipment; and

(b) to facilitate utility vehicle charging service or other electric vehicle battery charging service.

[~~(37)~~] (38) "Utility vehicle charging service" means the furnishing of electricity:

(a) to an electric vehicle battery charging station;

(b) by a public utility in whose service area the charging station is located; and

(c) pursuant to a duly established tariff for rates, charges, and conditions of service for the electricity.

[~~(38)~~] (39) "Water corporation" includes every corporation and person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any water system for public service within this state. It does not include private irrigation companies engaged in distributing water only to their stockholders, or towns, cities, counties, water conservancy districts, improvement districts, or other governmental units created or organized under any general or special law of this state.

[~~(39)~~] (40) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes, headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures, and personal property owned, controlled, operated, or managed in connection with or to facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment, apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

(b) "Water system" does not include private irrigation companies engaged in distributing water only to their stockholders.

[~~(40)~~] (41) "Wholesale electrical cooperative" includes every electrical corporation that is:

(a) in the business of the wholesale distribution of electricity it has purchased or generated to its members and the public; and

(b) required to distribute or allocate savings in excess of additions to reserves and surplus to members or patrons on the basis of patronage.

Section 3. Section 54-3-8 is amended to read:

54-3-8. Preferences forbidden -- Power of commission to determine facts -- Applicability of section.

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

(3) This section does not apply to, and the commission may not enforce this chapter concerning, a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection [~~54-2-1(8)(b)(iii) or (iv), (20), or (22)(h)~~] 54-2-1(9)(b)(iii) or (iv), (21), or (23)(h), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 4. Section 54-4-1 is amended to read:

54-4-1. General jurisdiction.

The commission is hereby vested with power and jurisdiction to supervise and regulate every public utility in this state, and to supervise all of the business of every such public utility in this state, and to do all things, whether herein specifically designated or in addition thereto, which are necessary or convenient in the exercise of such power and jurisdiction; provided, however, that the Department of Transportation shall have jurisdiction over [~~those safety functions transferred to it by the Department of Transportation Act~~] safety functions of public utilities as granted by Subsections 54-4-15(1) through (3) and in Title 72, Transportation Code.

Section 5. Section 54-4-2 is amended to read:

54-4-2. Investigations -- Hearings and notice -- Findings -- Applicability of chapter.

(1) (a) The commission may conduct an investigation if the commission determines an investigation:

(i) is necessary to secure compliance with this title or with an order of the commission;

(ii) is in the public interest; or

(iii) should be made of any act or omission to act, or of anything accomplished or proposed, or of any schedule, classification, rate, price, charge, fare, toll, rental, rule, regulation, service, or facility of any public utility.

(b) If the commission conducts an investigation under Subsection (1)(a), the commission may:

(i) establish a time and place for a hearing;

(ii) provide notice to the public utility concerning the investigation; and

(iii) make findings and orders that are just and reasonable with respect to the investigation.

(2) This chapter does not apply to a schedule, classification, rate, price, charge, fare, toll, rental, rule, service, facility, or contract of an entity described in Subsection [~~54-2-1(8)(b)(iii) or (iv), (20), or (22)(i)~~] 54-2-1(9)(b)(iii) or (iv), (21), or (23)(i), or if the electricity is consumed by an eligible customer for the eligible customer's own use or the use of the eligible customer's tenant or affiliate.

Section 6. Section 54-4-14 is amended to read:

54-4-14. Safety regulation.

The commission shall have power, by general or special orders, rules or regulations, or otherwise, to require every public utility to construct, maintain and operate its line, plant, system, equipment, apparatus, tracks and premises in such manner as to promote and safeguard the health and safety of its employees, passengers, customers and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety or other devices or appliances including interlocking and other protective devices at grade crossings or junctions, and block or other system of signaling, and to establish uniform or other standards of construction and equipment, and to require the performance of any other acts which the health or safety of its employees, passengers, customers or the public may demand, provided, however, that the department of transportation shall have jurisdiction over [~~those safety functions transferred to it by the Department of Transportation Act~~] safety functions of public utilities as granted by Subsections 54-4-15(1) through (3) and in Title 72, Transportation Code.

Section 7. Section 54-4-15 is amended to read:

54-4-15. Establishment and regulation of grade crossings.

(1) (a) No track of any railroad shall be constructed across a public road, highway or street at grade, nor shall the track of any railroad corporation be constructed across the track of any other railroad or street railroad corporation at grade, nor shall the track of a street railroad corporation be constructed across the track of a railroad corporation at grade, without the permission of the Department of Transportation having first been secured; provided, that this subsection shall not apply to the replacement of lawfully existing tracks.

(b) The department shall have the right to refuse its permission or to grant it upon such terms and conditions as it may prescribe.

(2) The department shall have the power to determine and prescribe the manner, including the particular point of crossing, and the terms of installation, operation, maintenance, use and protection of each crossing of one railroad by another railroad or street railroad, and of a street railroad by a railroad and of each crossing of a public road or highway by a railroad or street railroad, and of a street by a railroad or vice versa, and to alter or abolish any such crossing, to restrict the use of such crossings to certain types of traffic in the interest of public safety and is vested with power and it shall be its duty to designate the railroad crossings to be traversed by school buses and motor vehicles carrying passengers for hire, and to require, where in its judgment it would be practicable, a separation of grades at any such crossing heretofore or hereafter established, and to prescribe the terms upon which such separation shall be made and the proportions in which the expense of the alteration or abolition of such crossings or the separation of such grades shall be divided between the railroad or street railroad corporations affected, or between such corporations and the state, county, municipality or other public authority in interest.

(3) (a) The department shall allocate responsibility for the costs of maintenance of railroad crossings, including maintenance of safety devices and crossing materials, between the railroad and the public agency involved.

(b) The department's allocation may be based on ownership and control of the right-of-way, crossing materials, signals and devices, or other factors as appropriate to protect the public safety.

(c) The allocation of maintenance responsibilities for the costs of a railroad crossing shall be determined by the department unless a written request for review of the determination for a specific railroad crossing is made to the department, in which case the department shall conduct a review of the maintenance allocations for the railroad crossing, and may modify the allocation.

(d) Responsibility for the costs of maintenance as determined by the department shall not be subject to modification or waiver by agreement between the railroad and the highway authority without department approval.

(e) Physical maintenance and labor performed on an at-grade railroad crossing shall:

(i) be reserved to the railroad;

(ii) be performed by railroad employees; and

(iii) comply with Code of Federal Regulations, Title 49, Transportation.

(4) (a) Railroad crossing improvements and new crossings which are funded solely by non-federal funds may be required or authorized by the department based on a determination that the improvement or new crossing will improve the overall safety of the public, which determination shall be made after coordination with the railroad, affected highway authority, and communities in accordance with requirements established to determine the need, design, and impacts of the new or improved crossing.

(b) The railroad company affected by the improvement shall timely enter into a written agreement with the department to design and install improvements as determined necessary.

(c) If a railroad company does not make reasonable efforts to participate in determining the need, design, and impacts of a new or improved crossing, does not timely enter into an agreement with the department, or fails to timely provide a design and install improvements as determined necessary, the department may impose and the railroad shall pay a penalty consistent with Section 54-7-25.

(5) A railroad company affected by a new or improved railroad crossing may not require up-front payment of costs as a condition for the railroad company's review, approval, and inspection of a new or improved railroad crossing.

[~~(3)~~] (6) Whenever the department shall find that public convenience and necessity demand the establishment, creation or construction of a crossing of a street or highway over, under or upon the tracks or lines of any public utility, the department may by order, decision, rule or decree require the establishment, construction or creation of such crossing, and such crossing shall thereupon become a public highway and crossing.

[~~(4)~~] (7) (a) The commission retains exclusive jurisdiction for the resolution of any dispute upon petition by any person aggrieved by any action of the department pursuant to this section, except as provided under Subsection [~~(4)~~] (7)(b).

(b) If a petition is filed by a person or entity engaged in a subject activity, as defined in Section 19-3-318, the commission's decision under Subsection [~~(4)~~] (7)(a) regarding resolution of a dispute requires the concurrence of the governor and the Legislature in order to take effect.

(c) The department may:

(i) direct commencement of an action as provided for in Section 54-7-24 in the name of the state to stop or prevent a violation of a department order issued to protect public safety by a railroad company, person, or entity; and

(ii) petition the commission to assess and bring an action as provided for in Section 54-7-21 to recover penalties for failure of a railroad company, person, or entity to comply with a final order of the department issued pursuant to the department's authority under this section.

CHAPTER 315
H. B. 191

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

REVENUE BOND AND CAPITAL FACILITIES AMENDMENTS

Chief Sponsor: Douglas V. Sagers
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This bill amends and enacts provisions relating to calendar year 2022 revenue bonds and revenue for certain capital facility design and construction.

Highlighted Provisions:

This bill:

- increases the amount of revenue bonds previously approved for construction of the Impact-Epicenter building at the University of Utah;
- increases the amount of obligations previously approved for reconstructing the Store 4: Foothill liquor store;
- increases the amount of obligations previously approved for the downtown liquor store relocation;
- expresses the Legislature's intent relating to the Utah Board of Higher Education's issuance, sale, and delivery of revenue bonds to finance:
  - the construction of the fourth wing of Kahlert Village at the University of Utah;
  - the construction of the West Valley Health and Community Center at the University of Utah;
  - the construction of improvements to Maverik Stadium at Utah State University;
  - the construction of Campus View Suites Phase Three at Dixie State University;
  - the construction of a parking garage at Utah Valley University;
  - the construction of the Applied Sciences Building at the University of Utah;
  - the construction of the Mental Health Facility at the University of Utah;
  - the purchase, on behalf of Southern Utah University, of The Cottages at Shakespeare Lane apartment complex and adjoining home; and
  - the construction of an indoor football practice facility at the University of Utah;
- expresses the Legislature's intent relating to the State Building Ownership Authority's issuance of obligations to finance:
  - a new state liquor store in Park City; and
  - a new state liquor store in St. George;
- creates the State Store Land Acquisition and Building Construction Fund (fund);
- authorizes uses for the fund; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

32B-2-307, as enacted by Laws of Utah 2018, Chapter 329
63B-28-101, as last amended by Laws of Utah 2020, Chapter 301
63B-29-101, as enacted by Laws of Utah 2019, Chapter 410
63B-31-201, as enacted by Laws of Utah 2021, Chapter 320
63B-31-202, as enacted by Laws of Utah 2021, Chapter 320

ENACTS:

63B-32-101, Utah Code Annotated 1953
63B-32-102, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

32B-2-307, as enacted by Laws of Utah 2018, Chapter 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-307 is amended to read:

32B-2-307. State Store Land Acquisition and Building Construction Fund.

(1) As used in this section, "fund" means the State Store Land Acquisition and Building Construction Fund created in this section.

[~~(1)~~] (2) There is created an enterprise fund known as the State Store Land Acquisition and Building Construction Fund.

[~~(2)~~] (3) The [~~State Store Land Acquisition Fund~~] fund is funded from the following sources:

(a) appropriations made to the [~~State Store Land Acquisition Fund~~] fund by the Legislature; [~~and~~]

(b) in accordance with Subsection [~~(5)~~] (6)(a), proceeds from revenue bonds authorized by Title 63B, Bonds[~~.~~];

(c) subject to Subsection (7)(b), repayments to the fund; and

(d) the interest described in Subsection (4).

(4) (a) The fund shall earn interest.

(b) Interest earned on the fund shall be deposited into the fund.

[~~(3)~~] (5) Subject to Subsection [~~(4)~~] (6), the department may use the money deposited into the [~~State Store Land Acquisition Fund to purchase or lease property for new state stores.~~] fund:

(a) for construction of new state stores, including to purchase or lease property; and

(b) for maintenance or renovation of existing state stores or facilities.

[~~(4)~~] (6) (a) Before the department spends or commits money from the [~~State Store Land Acquisition Fund~~] fund, the department shall:

(i) present to the Infrastructure and General Government Appropriations Subcommittee a description of how the department will spend the money[~~.~~]; and

(ii) if the department intends to spend or commit money from the fund for construction of a new state store:

(A) receive approval from the Division of Facilities Construction and Management, created in Section 63A-5b-301; and

(B) receive authorization in an appropriations act.

(b) Following a presentation described in Subsection [~~(4)(a)~~] (6)(a)(i), the Infrastructure and General Government Appropriations Subcommittee shall recommend whether the department spend the money in accordance with the department's presentation.

[~~(5) When the department uses money in the State Store Land Acquisition Fund to purchase or lease property for a new state store~~]

(7) (a) If the department uses money in the fund for a purpose described in Subsection (5), and subsequently issues a revenue bond for [~~the state store for which the department purchased or leased the property~~] that purpose, the department shall repay the money [~~used to purchase or lease the property~~] with proceeds from the revenue bond.

(b) If the department uses money from the fund for a purpose described in Subsection (5), and subsequently uses, instead of issuing bonds, cash funding appropriated by the Legislature to fund that purpose, the department shall reimburse the fund:

(i) with proceeds from liquor revenue in the Liquor Control Fund, created in Section 32B-2-301, on a long-term payment schedule set by the state treasurer; and

(ii) before the transfer described in Subsection 32B-2-301(7).

Section 2. Section 63B-28-101 is amended to read:

63B-28-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,451,800 for a Pleasant Grove or Lehi market area liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of [~~Title 63B,~~] Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to [~~$10,759,000~~] $12,859,000 for reconstructing the Store 4: Foothill liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

Section 3. Section 63B-29-101 is amended to read:

63B-29-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to [~~$10,091,100~~] $14,591,000 for the downtown liquor store relocation, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenue.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $14,000,000 for two liquor stores in the Taylorsville and West Valley City market areas, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenue.

Section 4. Section 63B-31-201 is amended to read:

63B-31-201. Revenue bond authorizations -- Utah Board of Higher Education.

(1) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the West Village Graduate and Family Student Housing;

(b) the University of Utah use student housing rental fees and other auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed $125,800,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the West Village Graduate and Family Student Housing, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Impact – Epicenter building;

(b) the University of Utah use donations, student housing rental fees, and other auxiliary revenue as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed [~~$85,700,000~~] $118,700,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Impact – Epicenter building, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing an expansion of the Electric Vehicle and Roadway building;

(b) Utah State University use research revenue, donations, and institutional funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed $9,200,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the expansion of the Electric Vehicle and Roadway building, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Weber State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Stewart Stadium east bleachers;

(b) Weber State University use student fees and institutional funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed $4,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Stewart Stadium east bleachers, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(5) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Weber State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Weber State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the Noorda Engineering and Applied Science building;

(b) Weber State University use lease payments as the primary revenue sources for repayment of any obligation created under authority of this Subsection (5);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (5) may not exceed $8,500,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the Noorda Engineering and Applied Science building, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

Section 5. Section 63B-31-202 is amended to read:

63B-31-202. State Building Ownership Authority obligations for new state liquor stores.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $11,725,700 for a Salt Lake City market area liquor store in Sugarhouse, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1);

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues; and

(d) the Department of Alcoholic Beverage Control use up to $5,000,000 to repay the State Store Land Acquisition and Building Construction Fund under Section 32B-2-307.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,524,000 for a Salt Lake City area market liquor store in east Sandy, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

Section 6. Section 63B-32-101 is enacted to read:

CHAPTER 32. 2022 BONDING AND FINANCING AUTHORIZATIONS

Part 1. 2022 Revenue Bond Authorizations

63B-32-101. Revenue bond authorizations -- Utah Board of Higher Education.

(1) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the fourth wing of Kahlert Village;

(b) the University of Utah use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (1) may not exceed $47,600,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the fourth wing of Kahlert Village subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing the West Valley Health and Community Center;

(b) the University of Utah use clinical revenues and other non-state revenues of the University of

Utah Health Sciences as the primary revenue sources for repayment of any obligation created under authority of this Subsection (2);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (2) may not exceed $400,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the West Valley Health and Community Center subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing improvements to Maverik Stadium;

(b) Utah State University use existing student fees as the primary revenue sources for repayment of any obligation created under authority of this Subsection (3);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (3) may not exceed $7,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct improvements to Maverik Stadium subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Dixie State University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie State University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing Campus View Suites Phase Three;

(b) Dixie State University use student housing rental fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (4);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (4) may not exceed $62,500,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct Campus View Suites Phase Three subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(5) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Utah Valley University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah Valley University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing a parking garage;

(b) Utah Valley University use parking fees and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (5);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (5) may not exceed $12,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct a parking garage subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request additional state funds for operation and maintenance costs or capital improvements.

(6) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the university's share of the cost of constructing the Applied Sciences Building;

(b) the University of Utah use donations and university funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (6); and

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (6) may not exceed $25,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the university of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the University's share of the cost of constructing a Mental Health Facility;

(b) the University of Utah use donations as the primary revenue sources for repayment of any obligation created under authority of this Subsection (7); and

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (7) may not exceed $65,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(8) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of Southern Utah University, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of purchasing The Cottages at Shakespeare Lane apartment complex and adjoining home;

(b) Southern Utah University use donations, student housing rental fees, and other auxiliary revenues as the primary revenue sources for repayment of any obligation created under authority of this Subsection (8);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (8) may not exceed $12,000,000 for acquisition proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements; and

(d) the university may not request state funds for operation and maintenance costs or capital improvements.

(9) The Legislature intends that:

(a) the Utah Board of Higher Education, on behalf of the University of Utah, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the university, other than appropriations of the Legislature, to finance the cost of constructing an indoor football practice facility;

(b) the University of Utah use donations and nonstate university funds as the primary revenue sources for repayment of any obligation created under authority of this Subsection (9);

(c) the amount of revenue bonds or evidences of indebtedness authorized by this Subsection (9) may not exceed $62,000,000 for acquisition and construction proceeds, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(d) the university may plan, design, and construct the indoor football practice facility, subject to the requirements of Title 63A, Chapter 5b, Administration of State Facilities; and

(e) the university may not request state funds for operation and maintenance costs or capital improvements.

Section 7. Section 63B-32-102 is enacted to read:

63B-32-102. State Building Ownership Authority obligations for new state liquor stores.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $8,214,253 for a Summit County market area liquor store in Park City, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $7,455,342 for a Washington County area market liquor store in St. George, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage Control use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage Control may request operation and maintenance funding from sales revenues.

Section 8. Coordinating H.B. 191 with S.B. 82 -- Substantive amendment.

If this H.B. 191 and S.B. 82, State Facilities Management Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by modifying Subsection 32B-2-307(6)(a)(ii)(A) to read:

"(A) receive approval from the Division of Facilities Construction and Management, created in Section 63A-5b-301.".

CHAPTER 316
H. B. 193

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

FULL-DAY KINDERGARTEN

Chief Sponsor: Steve Waldrip
Senate Sponsor: Ann Millner
Cosponsors: Carl R. Albrecht
Melissa G. Ballard
Gay Lynn Bennion
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Stephen G. Handy
Suzanne Harrison
Sandra Hollins
Dan N. Johnson
Karen Kwan
Ashlee Matthews
Carol Spackman Moss
Calvin R. Musselman
Doug Owens
Karen M. Peterson
Stephanie Pitcher
Judy Weeks Rohner
Angela Romero
V. Lowry Snow
Robert M. Spendlove
Andrew Stoddard
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Mike Winder

LONG TITLE

General Description:

This bill amends provisions related to optional enhanced kindergarten.

Highlighted Provisions:

This bill:

- clarifies that kindergarten remains optional;
- establishes distribution standards for the distribution of increased funding for the optional enhanced kindergarten grant program;
- requires the Public Education Appropriations Subcommittee to study the feasibility of transferring ongoing appropriations for optional enhanced kindergarten to the weighted pupil unit if those appropriations reach a certain threshold;
- relocates a requirement for kindergarten entry and exit assessments from the optional enhanced kindergarten grant program;
- amends a definition and school year provisions in relation to a preschool reading program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Minimum School Program - Related to Basic School Programs:
  - From the Uniform School Fund, $12,200,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-15-102, as last amended by Laws of Utah 2020, Chapter 171
53E-4-314, as last amended by Laws of Utah 2020, Chapter 171
53F-2-507, as last amended by Laws of Utah 2020, Chapter 171
53F-4-401, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
53F-4-404, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
53F-4-406, as last amended by Laws of Utah 2020, Chapter 171
53G-7-203, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-15-102 is amended to read:

35A-15-102. Definitions.

As used in this chapter:

(1) "Board" means the School Readiness Board, created in Section 35A-15-201.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

(3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.

(4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) (a) "Eligible private provider" means a child care program that:

(i) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section 26-39-403.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section 26-39-102; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(6) "Eligible student" means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(6); and

(b) (i) (A) who is economically disadvantaged; and

(B) whose parent or legal guardian reports that the student has experienced at least one risk factor; or

(ii) is an English learner.

(7) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section [~~53F-2-507~~] 53G-7-203.

(11) "Kindergarten transition plan" means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

(12) "Local Education Agency" or "LEA" means a school district or charter school.

(13) "Performance outcome measure" means:

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

(14) "Results-based contract" means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the board, a provider of a high quality school readiness program, and an investor.

(15) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child's home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) "School readiness assessment" means the same as that term is defined in Section 53E-4-314.

(17) "Tool" means the tool developed in accordance with Section 35A-15-303.

Section 2. Section 53E-4-314 is amended to read:

53E-4-314. School readiness assessment.

(1) As used in this section:

(a) "School readiness assessment" means a preschool entry and exit profile that measures literacy, numeracy, and lifelong learning practices developed in a student.

(b) "School readiness program" means a preschool program:

(i) in which a student participates in the year before the student is expected to enroll in kindergarten; and

(ii) that receives funding under Title 35A, Chapter 15, Preschool Programs.

(2) The state board shall develop a school readiness assessment that aligns with the kindergarten entry and exit assessment described in Section [~~53F-2-507~~] 53G-7-203.

(3) A school readiness program shall:

(a) except as provided in Subsection (4), administer to each student who participates in the school readiness program the school readiness assessment at the beginning and end of the student's participation in the school readiness program; and

(b) report the results of the assessments described in Subsection (3)(a) or (4) to the School Readiness Board created in Section 35A-15-201.

(4) In place of the assessments described in Subsection (3)(a), a school readiness program that is offered through home-based technology may administer to each student who participates in the school readiness program:

(a) a validated computer adaptive pre-assessment at the beginning of the student's participation in the school readiness program; and

(b) a validated computer adaptive post–assessment at the end of the student's participation in the school readiness program.

(5) (a) The following may submit school readiness assessment data to the School Readiness Board created in Section 35A–15–201:

(i) a private child care provider; or

(ii) an LEA on behalf of a school that is not participating in the High Quality School Readiness Grant Program described in Section 35A–15–301.

(b) If a private child care provider or LEA submits school readiness assessment data to the School Readiness Board under Subsection (5)(a), the state board shall include the school readiness assessment data in the report described in Subsection 35A–15–303(5).

Section 3. Section 53F-2-507 is amended to read:

53F-2-507. Enhanced kindergarten early intervention program.

(1) The state board shall, as described in Subsection (4), distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2), to school districts and charter schools that apply for the funds.

(2) An LEA governing board shall use funds appropriated in this section for a school district or charter school to offer an early intervention program, delivered through an enhanced kindergarten program that:

(a) is an academic program focused on building age–appropriate literacy and numeracy skills;

(b) uses an evidence–based early intervention model;

(c) is targeted to at–risk students; and

(d) is delivered through additional hours or other means.

(3) An LEA governing board may not require a student to participate in an enhanced kindergarten program described in Subsection (2).

(4) [~~Subject to Subsection (6)~~] Except as provided in Subsection (5), the state board shall distribute funds appropriated under this section for an enhanced kindergarten program described in Subsection (2) as follows:

(a) (i) the total allocation for charter schools shall be calculated by:

(A) dividing the number of charter school students by the total number of students in the public education system in the prior school year; and

(B) multiplying the resulting percentage by the total amount of available funds; and

(ii) the amount calculated under Subsection (4)(a) shall be distributed to charter schools with the greatest need for an enhanced kindergarten program, as determined by the state board in consultation with the State Charter School Board;

(b) each school district shall receive the amount calculated by:

(i) multiplying the value of the weighted pupil unit by 0.45; and

(ii) multiplying the result by 20; and

(c) the remaining funds, after the allocations described in Subsections (4)(a) and (4)(b) are made, shall be distributed to applicant school districts by:

(i) determining the number of students eligible to receive free lunch in the prior school year for each school district; and

(ii) prorating the remaining funds based on the number of students eligible to receive free lunch in each school district.

[~~(5) (a) The state board shall:~~]

[~~(i) develop and collect data from kindergarten entry and exit assessments; and~~]

[~~(ii) make rules regarding the administration of and reporting regarding the assessments.~~]

[~~(b) An LEA shall administer the entry and exit assessments described in Subsection (5)(a) to each kindergarten student.~~]

[~~(6) For an LEA that receives funds under Subsection (4): (a) the LEA shall report to the state board the results of the entry and exit assessments described in Subsection (5)(a) in relation to each kindergarten student in the LEA; and (b) the LEA is not eligible for subsequent distributions under Subsection (4) unless the results of the entry and exit assessments demonstrate successful outcomes of the LEA's enhanced kindergarten program, as determined by the board.~~]

(5) Notwithstanding Subsection (4), the state board shall:

(a) distribute any increased funds appropriated under this section after January 1, 2022, for a full–day kindergarten program described in Subsection 53G–7–203(5) to LEAs with the greatest need for a full–day kindergarten program, as determined by the state board; and

(b) in making the distribution described in Subsection (5)(a), consider geography, socioeconomic need, the LEA's receipt of ongoing federal funding, and efforts to expand full–day kindergarten statewide.

(6) If the amount appropriated for kindergarten under this section is equal to or greater than 80% of the potential cost of adjusting the WPU weighting for a kindergarten student under Section 53F–2–302 to a full WPU, the Public Education Appropriations Subcommittee shall study the feasibility of transferring kindergarten funding to the WPU.

Section 4. Section 53F-4-401 is amended to read:

53F-4-401. Definitions.

As used in this part:

(1) "Contractor" means the educational technology provider selected by the state board under Section 53F-4-402.

(2) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

(3) "Preschool child" means a child who is:

(a) (i) four or five years old; and

(ii) not eligible for enrollment under Subsection 53G-4-402(6); or

(b) in the 2021-2022 or 2022-2023 school year, eligible for enrollment in kindergarten or enrolled in kindergarten.

(4) (a) "Private preschool provider" means a child care program that:

(i) (A) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(B) except as provided in Subsection (4)(b)(ii), is exempt from licensure under Section 26-39-403; and

(ii) meets other criteria as established by the state board, consistent with Utah Constitution, Article X, Section 1.

(b) "Private preschool provider" does not include:

(i) a residential certificate provider described in Section 26-39-402; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) "Public preschool" means a preschool program that is provided by a school district or charter school.

(6) "Qualifying participant" means a preschool child who:

(a) resides within the boundaries of a qualifying school as determined under Section 53G-6-302; or

(b) is enrolled in a qualifying preschool.

(7) "Qualifying preschool" means a public preschool or private preschool provider that:

(a) serves preschool children covered by child care subsidies funded by the Child Care and Development Block Grant Program authorized under 42 U.S.C. Secs. 9857-9858r;

(b) participates in a federally assisted meal program that provides funds to licensed child care centers as authorized under Section 53E-3-501; or

(c) is located within the boundaries of a qualifying school.

(8) "Qualifying school" means a school district elementary school that:

(a) has at least 50% of students who were eligible to receive free or reduced lunch the previous school year;

(b) is a school with a high percentage, as determined by the Department of Workforce Services through rule and based on the previous school year enrollments, of students experiencing intergenerational poverty; or

(c) is located in one of the following school districts:

(i) Beaver School District;

(ii) Carbon School District;

(iii) Daggett School District;

(iv) Duchesne School District;

(v) Emery School District;

(vi) Garfield School District;

(vii) Grand School District;

(viii) Iron School District;

(ix) Juab School District;

(x) Kane School District;

(xi) Millard School District;

(xii) Morgan School District;

(xiii) North Sanpete School District;

(xiv) North Summit School District;

(xv) Piute School District;

(xvi) Rich School District;

(xvii) San Juan School District;

(xviii) Sevier School District;

(xix) South Sanpete School District;

(xx) South Summit School District;

(xxi) Tintic School District;

(xxii) Uintah School District; or

(xxiii) Wayne School District.

(9) "UPSTART" means the project established by Section 53F-4-402 that uses a home-based educational technology program to develop school readiness skills of preschool children.

Section 5. Section 53F-4-404 is amended to read:

53F-4-404. Family participation in UPSTART -- Priority enrollment.

(1) The contractor shall:

(a) solicit families to participate in UPSTART through a public information campaign and referrals from participating school districts; and

(b) work with the Department of Workforce Services and the state board to solicit participation from families of qualifying participants to participate in UPSTART.

(2) Preschool children who participate in UPSTART shall:

(a) be from families with diverse socioeconomic and ethnic backgrounds;

(b) reside in different regions of the state in both urban and rural areas; and

(c) be given preference to participate if the preschool children are qualifying participants.

(3) (a) In a contract entered into with an educational technology provider as described in Section 53F-4-402, the state board shall require the provider to prioritize enrollment of qualified participants based on a first come, first served basis.

(b) The state board shall provide a list of qualifying schools and qualifying preschools and other applicable information to the contractor for verification of qualifying participants.

(c) The contractor shall annually provide participant information to the state board as part of the verification process.

(d) A qualifying participant may obtain a computer and peripheral equipment on loan and receive free Internet service for the duration of the qualified participant's participation in UPSTART if the qualifying participant:

(i) is eligible to receive free or reduced lunch; and

(ii) the qualifying participant participates in UPSTART at home.

(4) (a) The contractor shall make the home-based educational technology program available to families at a cost agreed upon by the state board and the contractor if the number of families who would like to participate in UPSTART exceeds the number of participants funded by the legislative appropriation.

(b) The state board and the contractor shall annually post on their websites information on purchasing a home-based educational technology program as provided in Subsection (4)(a).

(c) Except as provided in Subsection (4)(d), a preschool child may only participate in UPSTART through legislative funding once.

(d) Subsection (4)(c) does not apply to a preschool child who, in the 2021-2022 or 2022-2023 school year:

(i) is eligible for enrollment in kindergarten; or

(ii) is enrolled in kindergarten.

Section 6. Section 53F-4-406 is amended to read:

53F-4-406. Audit and evaluation.

(1) The state auditor shall every three years:

(a) conduct an audit of the contractor's use of funds for UPSTART; or

(b) contract with an independent certified public accountant to conduct an audit.

(2) The state board shall:

(a) require by contract that the contractor will open its books and records relating to its expenditure of funds pursuant to the contract to the state auditor or the state auditor's designee;

(b) reimburse the state auditor for the actual and necessary costs of the audit; and

(c) contract with an independent, qualified evaluator, selected through a request for proposals process, to evaluate the home-based educational technology program for preschool children.

(3) The evaluator described in Subsection (2)(c) shall use, among other indicators, assessment scores from an assessment described in Section [~~53F-2-507~~] 53G-7-203 to evaluate whether the contractor has effectively prepared preschool children for academic success as described in Section 53F-4-402.

(4) Of the money appropriated by the Legislature for UPSTART, excluding funds used to provide computers, peripheral equipment, and Internet service to families, no more than 7.5% of the appropriation not to exceed $600,000 may be used for the evaluation and administration of the program.

Section 7. Section 53G-7-203 is amended to read:

53G-7-203. Kindergartens -- Establishment -- Funding -- Assessment.

(1) Kindergartens are an integral part of the state's public education system.

(2) (a) Each local school board shall provide kindergarten classes free of charge for kindergarten children residing within the district.

(b) Nothing in this Subsection (2):

(i) allows an LEA governing board to require a student to participate in a full-day kindergarten program;

(ii) modifies the non-compulsory status of kindergarten under Title 53G, Chapter 6, Part 2, Compulsory Education; or

(iii) requires a student who only attends a half day of kindergarten to participate in dual enrollment under Section 53G-6-702.

(3) Kindergartens established under Subsection (2) shall receive state money under Title 53F, Public Education System -- Funding.

(4) (a) The state board shall:

(i) develop and collect data from kindergarten entry and exit assessments; and

(ii) make rules regarding the administration of and reporting regarding the assessments.

(b) An LEA shall:

(i) administer the entry and exit assessments described in Subsection (4)(a) to each kindergarten student; and

(ii) report to the state board the results of the entry and exit assessments described in Subsection (4)(b)(i) in relation to each kindergarten student in the LEA.

(5) Beginning with the 2022-2023 school year, the state board shall require LEAs to report average daily membership for all kindergarten students who attend kindergarten on a schedule that is equivalent in length to the schedule for grades 1 through 3 with the October 1 data described in Section 53F-2-302.

Section 8. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund	$12,200,000
Schedule of Programs:	
Early Intervention	$12,200,000

CHAPTER 317
H. B. 195

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

AURICULAR DETOXIFICATION AMENDMENTS

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill allows certain health care providers to perform auricular detoxification.

Highlighted Provisions:

This bill:

- defines terms;
- provides the circumstances for when a health care provider may perform auricular detoxification; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-72-304, as last amended by Laws of Utah 2004, Chapter 309

ENACTS:

58-1-602, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-602 is enacted to read:

Part 6. Unique Training and Certification for Health Care Providers

58-1-602. Auricular detoxification certification.

(1) As used in this section:

(a) "Health care provider" means an individual who is licensed under:

(i) Subsection 58-31b-301(2)(a), (b), (d), or (e);

(ii) Chapter 60, Mental Health Professional Practice Act;

(iii) Chapter 61, Part 3, Licensing; or

(iv) Chapter 70a, Utah Physician Assistant Act.

(b) (i) "NADA protocol" means:

(A) a protocol developed by the National Acupuncture Detoxification Association; and

(B) an adjunctive therapy using one to five invariant ear acupuncture or acupressure points for the adjunctive treatment and prevention of substance use disorders or to provide support for individuals who have experienced physical or emotional trauma.

(ii) "NADA protocol" does not include the stimulation of other auricular or distal acupuncture points.

(2) A health care provider may perform the NADA protocol if the health care provider:

(a) obtains a certification from the National Acupuncture Detoxification Association to perform the NADA protocol; and

(b) provides the division proof of obtaining the certification.

(3) A health care provider may perform a protocol substantially similar to the NADA protocol if:

(a) the division has determined the protocol is substantially similar to the NADA protocol; and

(b) the individual has met each requirement the division has created to perform the protocol.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules for implementing Subsection (3).

Section 2. Section 58-72-304 is amended to read:

58-72-304. Exceptions from licensure.

In addition to the exemptions from licensure set forth in Section 58-1-307, the following [~~persons~~] individuals may engage in the practice of acupuncture subject to the stated circumstances and limitations without being licensed under this chapter:

(1) an individual described in Section 58-1-602 who is performing a procedure described in Section 58-1-602;

[~~(1)~~] (2) an individual licensed as a physician and surgeon or osteopathic physician and surgeon under Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act;

[~~(2)~~] (3) a commissioned physician or surgeon serving in the armed forces of the United States or other federal agency; and

[~~(3)~~] (4) a chiropractic physician licensed under Chapter 73, Chiropractic Physician Practice Act[~~. A~~], except that a chiropractic physician may not claim to be a licensed acupuncturist without acupuncturist licensure.

CHAPTER 318
H. B. 196

Passed March 3, 2022
Approved March 24, 2022
Effective July 1, 2022

TRANSFER OF DOMESTIC VIOLENCE CASES

Chief Sponsor: Stephanie Pitcher
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill addresses the transfer of domestic violence cases from the justice court to the district court.

Highlighted Provisions:

This bill:

- creates a sunset date regarding the transfer of a criminal action from the justice court to the district court;
- addresses the jurisdiction of the district court regarding cases transferred by the justice court;
- defines a "domestic violence offense";
- requires a justice court to transfer a case involving a domestic violence offense when the justice court receives a notice of transfer from a prosecuting attorney or a defendant; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2020, Chapter 154
78A-5-102, as last amended by Laws of Utah 2021, Chapter 262
78A-7-106, as last amended by Laws of Utah 2021, Chapter 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(2) Subsection 78A-7-106(6), regarding the transfer of a criminal action involving a domestic violence offense from the justice court to the district court, is repealed on July 1, 2024.

[~~(2)~~] (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(3)~~] (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

Section 2. Section 78A-5-102 is amended to read:

78A-5-102. Jurisdiction -- Appeals.

(1) As used in this section:

(a) "Qualifying offense" means an offense described in Subsection 80-6-502(1)(b).

(b) "Separate offense" means any offense that is not a qualifying offense.

(c) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(2) Except as otherwise provided by the Utah Constitution or by statute, the district court has original jurisdiction in all matters civil and criminal.

(3) A district court judge may issue all extraordinary writs and other writs necessary to carry into effect the district court judge's orders, judgments, and decrees.

(4) The district court has jurisdiction over matters of lawyer discipline consistent with the rules of the Supreme Court.

(5) The district court has jurisdiction over all matters properly filed in the circuit court prior to July 1, 1996.

(6) The district court has appellate jurisdiction over judgments and orders of the justice court as outlined in Section 78A-7-118 and small claims appeals filed in accordance with Section 78A-8-106.

(7) Jurisdiction over appeals from the final orders, judgments, and decrees of the district court is described in Sections 78A-3-102 and 78A-4-103.

(8) The district court has jurisdiction to review:

(a) agency adjudicative proceedings as set forth in Title 63G, Chapter 4, Administrative Procedures Act, and shall comply with the requirements of that chapter in its review of agency adjudicative proceedings; and

(b) municipal administrative proceedings in accordance with Section 10-3-703.7.

(9) Notwithstanding Section 78A-7-106, the district court has original jurisdiction over:

(a) a class B misdemeanor, a class C misdemeanor, an infraction, or a violation of an ordinance for which a justice court has original jurisdiction under Section 78A-7-106 if:

(i) there is no justice court with territorial jurisdiction;

(ii) the offense occurred within the boundaries of the municipality in which the district courthouse is located and that municipality has not formed, or has not formed and then dissolved, a justice court; or

(iii) the offense is included in an indictment or information covering a single criminal episode alleging the commission of a felony or a class A misdemeanor by an individual who is 18 years old or older; or

(b) a qualifying offense committed by an individual who is 16 or 17 years old.

(10) (a) Notwithstanding Subsection 78A-7-106(2), the district court has exclusive jurisdiction over any separate offense:

(i) committed by an individual who is 16 or 17 years old; and

(ii) arising from a single criminal episode containing a qualifying offense for which the district court has original jurisdiction under Subsection (9)(b).

(b) If an individual who is charged with a qualifying offense enters a plea to, or is found guilty of, a separate offense other than the qualifying offense, the district court shall have jurisdiction over the separate offense.

(c) If an individual who is 16 or 17 years old is charged with a qualifying offense and the qualifying offense results in an acquittal, a finding of not guilty, or a dismissal, the exclusive jurisdiction of the district court over any separate offense is terminated.

(11) If a district court has jurisdiction in accordance with Subsection (6), (9)(a)(i), or (9)(a)(ii), the district court has jurisdiction over an offense listed in Subsection 78A-7-106(2) even if the offense is committed by an individual who is 16 or 17 years old.

(12) The district court has subject matter jurisdiction over an offense for which the juvenile court has original jurisdiction if the juvenile court transfers jurisdiction over the offense to the district court in accordance with Section 80-6-504.

(13) The district court has subject matter jurisdiction over an action under Title 78B, Chapter 7, Part 2, Child Protective Orders, if the juvenile court transfers the action to the district court.

(14) (a) The district court has subject matter jurisdiction over a criminal action that the justice court transfers to the district court.

(b) Notwithstanding Subsection 78A-7-106(1), the district court has original jurisdiction over any refiled case of a criminal action transferred to the district court if the district court dismissed the transferred case without prejudice.

Section 3. Section 78A-7-106 is amended to read:

78A-7-106. Jurisdiction -- Transfer to district court.

(1) Except as otherwise provided by Subsection 78A-5-102(8), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(2) Except for an offense for which the juvenile court or the district court has exclusive jurisdiction under Subsection 78A-5-102(10) or Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) Title 23, Wildlife Resources Code of Utah;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-Highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) An offense is committed within the territorial jurisdiction of a justice court if:

(a) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(b) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(c) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(d) an individual commits any act constituting an element of an inchoate offense within the court's jurisdiction, including an agreement in a conspiracy;

(e) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(f) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(i) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(ii) (A) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water; and

(B) as used in Subsection (3)(f)(ii)(A), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made;

(iii) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(iv) the offense is committed on or near the boundary of the court's jurisdiction;

(g) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(h) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6) (a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

Section 4. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 319
H. B. 205

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

COUNTY OFFICER FEES AMENDMENTS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies the requirements for a county legislative body to establish fees for certain county services.

Highlighted Provisions:

This bill:

- requires a county legislative body to adopt an ordinance or resolution that establishes fees for certain county services provided by a county officer; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-53-211, as enacted by Laws of Utah 2000, Chapter 133

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-53-211 is amended to read:

17-53-211. Fees for services -- Exceptions.

The legislative body of each county shall adopt an ordinance [~~establishing~~] or resolution that establishes fees for services provided by each county officer, except:

(1) fees for the recorder, sheriff, and county constables; and

(2) fees established by statute.

CHAPTER 320
H. B. 209
Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

FEDERALISM COMMISSION AMENDMENTS

Chief Sponsor: Ken Ivory
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to the Federalism Commission.

Highlighted Provisions:

This bill:

- amends provisions related to the Federalism Commission's role in reviewing federal laws for compliance with the principles of federalism;
- allows the Federalism Commission to contract with a third party that is a Utah institution of higher education to evaluate federal laws for compliance with the principles of federalism;
- allows the Federalism Commission to analyze and provide recommendations on federal laws and programs; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63C-4a-303, as last amended by Laws of Utah 2019, Chapter 246

63C-4a-304, as renumbered and amended by Laws of Utah 2013, Chapter 101

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63C-4a-303 is amended to read:

63C-4a-303. Federalism Commission to evaluate federal law -- Curriculum on federalism.

(1) (a) In accordance with Section 63C-4a-304, the commission may evaluate a federal law:

[~~(a)~~] (i) as agreed by a majority of the commission; [~~or~~]

[~~(b)~~] (ii) submitted to the commission by a council member[~~.~~]; or

(iii) reported to the commission in accordance with Subsection (1)(b).

(b) (i) To assist the commission in the evaluation of federal law as required in this section and Section 63C-4a-304, the commission may contract with a third party that is a Utah institution of higher education to monitor federal law for possible implications on the principles of federalism.

(ii) A third party contracted to monitor federal law as described in Subsection (1)(b)(i) shall:

(A) monitor federal law for possible implications on the principles of federalism and state sovereignty; and

(B) report to the commission any law or action by the federal government that may implicate the principles of federalism or state sovereignty.

(2) The commission may request information regarding a federal law under evaluation from a United States senator or representative elected from the state.

(3) If the commission finds that a federal law is not authorized by the United States Constitution or violates the principle of federalism as described in Subsection 63C-4a-304(2), a commission cochair or the commission may:

(a) request from a United States senator or representative elected from the state:

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of an evaluation made under Subsection (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; [~~and~~]

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy[~~.~~]; or

(d) give written notice of an evaluation and the conclusions of the commission to any other relevant entity.

(4) The commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the commission's evaluation of a federal law.

(5) A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section 63C-4a-305.

(6) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission or the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

(7) The commission shall develop curriculum for a seminar on the principles of federalism. The curriculum shall be available to the general public and include:

(a) fundamental principles of federalism;

(b) the sovereignty, supremacy, and jurisdiction of the individual states, including their police powers;

(c) the history and practical implementation of the Tenth Amendment to the United States Constitution;

(d) the authority and limits on the authority of the federal government as found in the United States Constitution;

(e) the relationship between the state and federal governments;

(f) methods of evaluating a federal law in the context of the principles of federalism;

(g) how and when challenges should be made to a federal law or regulation on the basis of federalism;

(h) the separate and independent powers of the state that serve as a check on the federal government;

(i) first amendment rights and freedoms contained therein; and

(j) any other issues relating to federalism the commission considers necessary.

(8) The commission may apply for and receive grants, and receive private donations to assist in funding the creation, enhancement, and dissemination of the curriculum.

(9) The commission shall submit a report on or before November 30 of each year to the Government Operations Interim Committee and the Natural Resources, Agriculture, and Environment Interim Committee that:

(a) describes any action taken by the commission under Section 63C-4a-303; and

(b) includes any proposed legislation the commission recommends.

Section 2. Section 63C-4a-304 is amended to read:

63C-4a-304. Standard for evaluation of federal law.

(1) The commission shall evaluate whether a federal law evaluated under Section 63C-4a-303 is authorized by:

(a) United States Constitution, Article I, Section 2, to provide for the decennial census;

(b) United States Constitution, Article I, Section 4, to override state laws regulating the times, places, and manner of congressional elections, other than the place of senatorial elections;

(c) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions by Congress;

(d) United States Constitution, Article I, Section 8, to:

(i) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States, but all duties, imposts, and excises shall be uniform throughout the United States;

(ii) borrow money on the credit of the United States;

(iii) regulate commerce with foreign nations, among the several states, and with the Indian tribes;

(iv) establish a uniform rule of naturalization and uniform laws on the subject of bankruptcies throughout the United States;

(v) coin money, regulate the value of coin money and of foreign coin, and fix the standard of weights and measures;

(vi) provide for the punishment of counterfeiting the securities and current coin of the United States;

(vii) establish post offices and post roads;

(viii) promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

(ix) constitute tribunals inferior to the supreme court;

(x) define and punish piracies and felonies committed on the high seas and offences against the law of nations;

(xi) declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

(xii) raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

(xiii) provide and maintain a navy;

(xiv) make rules for the government and regulation of the land and naval forces;

(xv) provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;

(xvi) provide for organizing, arming, and disciplining the militia, and for governing the part of the militia that may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress;

(xvii) exercise exclusive legislation in all cases whatsoever, over such district, which may not exceed 10 miles square, as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United

States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; or

(xviii) make all laws which shall be necessary and proper for carrying into execution the powers listed in this section, and all other powers vested by the United States Constitution in the government of the United States, or in any department or officer of the United States;

(e) United States Constitution, Article I, Section 9, to authorize a federal officer to receive benefits from a foreign nation;

(f) United States Constitution, Article I, Section 10, to fix the pay of members of Congress and of federal officers;

(g) United States Constitution, Article II Section 1, to:

(i) set the time for choosing electors; or

(ii) establish who succeeded to the presidency after the vice president;

(h) United States Constitution, Article II, Section 2, to:

(i) serve as Commander-in-Chief of the armed forces;

(ii) require the written opinions of executive officers;

(iii) grant reprieves and pardons;

(iv) make vacancy appointments;

(v) make treaties, subject to the advice and consent of the United States Senate;

(vi) appoint foreign affairs officers subject to the advice and consent of the United States Senate;

(vii) appoint domestic affairs officers subject either to the advice and consent of the United States Senate or pursuant to law;

(viii) appoint judges subject to the advice and consent of the United States Senate; or

(ix) authorize the president to fill designated inferior offices without senatorial consent;

(i) United States Constitution, Article II, Section 3, to:

(i) receive representatives of foreign powers;

(ii) execute the laws;

(iii) commission United States officers;

(iv) give Congress information;

(v) make recommendations to Congress;

(vi) convene Congress on extraordinary occasions; or

(vii) adjourn Congress if it cannot agree on a time;

(j) United States Constitution, Article III, Section 1, to:

(i) create exceptions to the supreme court's appellate jurisdiction;

(ii) fix the jurisdiction of federal courts inferior to the supreme court; or

(iii) declare the punishment for treason;

(k) United States Constitution, Article IV, Section 1, to establish the rules by which the records and judgments of states are proved in other states;

(l) United States Constitution, Article IV, Section 3, to:

(i) manage federal property;

(ii) dispose of federal property;

(iii) govern the federal territories; or

(iv) consent to admission of new states or the combination of existing states;

(m) United States Constitution, Article IV, Section 4, to defend states from invasion, insurrection, and non-republican forms of government;

(n) United States Constitution, Article V, Section 1, to propose constitutional amendments;

(o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal officers;

(p) United States Constitution, Amendment XIII, to abolish slavery;

(q) United States Constitution, Amendment XIV, to guard people from certain state abuses;

(r) United States Constitution, Amendment XVI, to impose taxes on income from any source without having to apportion the total dollar amount of tax collected from each state according to each state's population in relation to the total national population;

(s) United States Constitution, Amendment XX, to revise the manner of presidential succession;

(t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and protect the right to vote; or

(u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting Congress.

(2) The commission shall evaluate whether a federal law evaluated under Section 63C-4a-303 violates the principle of federalism by:

(a) affecting the distribution of power and responsibility among the state and national government;

(b) limiting the policymaking discretion of the state;

(c) impacting a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; or

(d) impacting the sovereignty rights and interest of the state or a political subdivision to provide for the health, safety, and welfare and promote the prosperity of the state's or political subdivision's inhabitants.

(3) In the evaluation of a federal law, the commission:

(a) shall rely on:

(i) the text of the United States Constitution, as amended;

(ii) the meaning of the text of the United States Constitution, as amended, at the time of its drafting and ratification; and

(iii) a primary source document that is:

(A) directly relevant to the drafting, adoption, ratification, or initial implementation of the United States Constitution, as amended; or

(B) created by a person directly involved in the drafting, adoption, ratification, or initial implementation of the United States Constitution, as amended;

(b) may rely on other relevant sources, including federal court decisions; and

(c) is not bound by a holding by a federal court.

(4) (a) If the commission determines that a federal law is not authorized as described in this section or otherwise violates the principles of federalism, the commission may recommend appropriate action, including:

(i) no action;

(ii) correspondence with relevant federal agencies or leaders;

(iii) initiating or coordinating public education efforts;

(iv) initiating or joining multi-state coordination;

(v) outreach and coordination with state and local government officers and agencies;

(vi) outreach or coordination with the state's congressional delegation and Congress as a whole;

(vii) lobbying the state's congressional delegation and Congress as a whole;

(viii) legal challenges of the federal action;

(ix) enacting state laws to assert, defend, and preserve the constitutional allocation and balance of governing powers between the federal government and the state; or

(x) other actions within the constitutional powers of the state.

(b) (i) The Legislative Management Committee shall include on the standing agenda for the Legislative Management Committee a report from the commission as described in Subsection (4)(b)(ii).

(ii) The commission:

(A) shall provide to the Legislative Management Committee a report with respect to federal laws that the commission determines are not authorized as described in this section or otherwise violate the principles of federalism; and

(B) with approval of the Legislative Management Committee, may take appropriate action.

(iii) If the Legislative Management Committee is not meeting within a reasonable time, the commission may:

(A) provide a report to the speaker of the House of Representatives and the president of the Senate with respect to federal laws that the commission determines are not authorized as described in this section or otherwise violate the principles of federalism; and

(B) with approval from the speaker of the House of Representatives and the president of the Senate, take appropriate action.

CHAPTER 321
H. B. 210

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

PRIMARY CARE SPENDING AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill requires the Health Data Committee to annually issue a report on primary care spending within the state.

Highlighted Provisions:

This bill:

- requires the Health Data Committee to issue a report on primary care spending within the state; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-33a-106.1, as last amended by Laws of Utah 2019, Chapter 370

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-33a-106.1 is amended to read:

26-33a-106.1. Health care cost and reimbursement data.

(1) The committee shall, as funding is available:

(a) establish a plan for collecting data from data suppliers[~~, as defined in Section 26-33a-102,~~] to determine measurements of cost and reimbursements for risk-adjusted episodes of health care;

(b) share data regarding insurance claims and an individual's and small employer group's health risk factor and characteristics of insurance arrangements that affect claims and usage with the Insurance Department, only to the extent necessary for:

(i) risk adjusting; and

(ii) the review and analysis of health insurers' premiums and rate filings; and

(c) assist the Legislature and the public with awareness of, and the promotion of, transparency in the health care market by reporting on:

(i) geographic variances in medical care and costs as demonstrated by data available to the committee; and

(ii) rate and price increases by health care providers:

(A) that exceed the Consumer Price Index - Medical as provided by the United States Bureau of Labor Statistics;

(B) as calculated yearly from June to June; and

(C) as demonstrated by data available to the committee;

(d) provide on at least a monthly basis, enrollment data collected by the committee to a not-for-profit, broad-based coalition of state health care insurers and health care providers that are involved in the standardized electronic exchange of health data as described in Section 31A-22-614.5, to the extent necessary:

(i) for the department or the Medicaid Office of the Inspector General to determine insurance enrollment of an individual for the purpose of determining Medicaid third party liability;

(ii) for an insurer that is a data supplier, to determine insurance enrollment of an individual for the purpose of coordination of health care benefits; and

(iii) for a health care provider, to determine insurance enrollment for a patient for the purpose of claims submission by the health care provider;

(e) coordinate with the State Emergency Medical Services Committee to publish data regarding air ambulance charges under Section 26-8a-203; [~~and~~]

(f) share data collected under this chapter with the state auditor for use in the health care price transparency tool described in Section 67-3-11[~~.~~]; and

(g) publish annually a report on primary care spending within Utah.

(2) (a) The Medicaid Office of Inspector General shall annually report to the Legislature's Health and Human Services Interim Committee regarding how the office used the data obtained under Subsection (1)(d)(i) and the results of obtaining the data.

(b) A data supplier [~~shall not be~~] is not liable for a breach of or unlawful disclosure of the data [~~obtained by an entity described in Subsection (1)(b)~~] caused by an entity that obtains data in accordance with Subsection (1).

(3) The plan adopted under Subsection (1) shall include:

(a) the type of data that will be collected;

(b) how the data will be evaluated;

(c) how the data will be used;

(d) the extent to which, and how the data will be protected; and

(e) who will have access to the data.

CHAPTER 322
H. B. 215

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

PROJECT ENTITY OVERSIGHT COMMITTEE

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates the Project Entity Oversight Committee.

Highlighted Provisions:

This bill:

- creates the Project Entity Oversight Committee;
- requires a project entity to submit to the Project Entity Oversight Committee certain financial and operating information;
- requires the committee to receive information from:
  - community stakeholders; and
  - a project entity;
- establishes a reporting requirement for the committee; and
- requires the Office of Energy Development to perform duties related to the administration and support of the committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

79-6-401, as renumbered and amended by Laws of Utah 2021, Chapter 280

ENACTS:

11-13-317, Utah Code Annotated 1953
63C-25-101, Utah Code Annotated 1953
63C-25-201, Utah Code Annotated 1953
63C-25-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-317 is enacted to read:

11-13-317. Submitting to the Project Entity Oversight Committee.

Within a reasonable time of the information being available, a project entity shall submit to the Project Entity Oversight Committee, created in Section 63C-25-201, publicly available financial and operating information relating to the project entity, including:

(1) a copy of the project entity's audited financial statements for each fiscal year;

(2) a list of the project entity's financing sources, including:

(a) outstanding bond issuances; and

(b) future planned bond issuances; and

(3) a statement describing the project entity's net charges to its power purchasers for each fiscal year, including:

(a) a description of how those charges vary from the project entity's previous fiscal year charges; and

(b) a statement describing the project entity's annual power sales of the previous fiscal year broken down by entity, including the amount of power sold.

Section 2. Section 63C-25-101 is enacted to read:

CHAPTER 25. (CODIFIED AS CHAPTER 26) PROJECT ENTITY OVERSIGHT COMMITTEE

Part 1. General Provisions

63C-25-101. (Codified as 63C-26-101) Definitions.

As used in this part:

(1) "Board" means the governing board of the project entity.

(2) "Committee" means the Project Entity Oversight Committee created in Section 63C-25-201.

(3) "Project entity" means the same as that term is defined in Section 11-13-103.

Section 3. Section 63C-25-201 is enacted to read:

Part 2. Project Entity Oversight Committee

63C-25-201. (Codified as 63C-26-201) Project Entity Oversight Committee created.

(1) There is created the Project Entity Oversight Committee.

(2) The committee shall be composed of the following 9 members:

(a) the speaker of the House of Representatives shall appoint one member who is a member of the House of Representatives;

(b) the president of the Senate shall appoint one member who is a member of the Senate;

(c) the governor shall appoint one member;

(d) the Millard County Commission shall appoint one member to represent the Millard County Commission;

(e) the board shall appoint one member to represent the board;

(f) the Millard County School District shall appoint one member to represent the Millard County School District;

(g) the School and Institutional Trust Lands Board of Trustees shall nominate one member to represent the School and Institutional Trust Lands;

(h) the Utah League of Cities and Towns shall nominate one member to represent the Utah League of Cities and Towns; and

(i) the Millard County Department of Economic Development shall nominate one member to represent commerce in the Delta area.

(3) (a) Except as provided in Subsections (3)(b) and (3)(c), a member is appointed for a term of four years.

(b) The initial appointments of the members described in Subsections (2)(f) through (i) shall be for two-year terms.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (2).

(4) A member may serve multiple terms.

(5) (a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (2) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(6) The committee shall select a chair from among the committee's members.

(7) (a) A majority of the members of the committee is a quorum.

(b) The action of a majority of a quorum constitutes an action of the committee.

(8) (a) The committee shall meet no fewer than six times per year to accomplish the duties described in Section 63C-25-202.

(b) A majority of the committee may vote to meet less frequently than the number of times described in Subsection (8)(a).

Section 4. Section 63C-25-202 is enacted to read:

63C-25-202. (Codified as 63C-26-202) Committee duties -- Office of Energy Development duties.

(1) The committee shall:

(a) review the information that a project entity submits in accordance with Section 11-13-317;

(b) make available to the public the information that a project entity submits in accordance with Section 11-13-317;

(c) receive input from the local community and stakeholders with respect to concerns about a project entity and the project entity's planned projects;

(d) communicate concerns the committee receives to the project entity;

(e) compile a report describing the information, input, and communications described in Subsections (1)(a) through (d); and

(f) submit the report described in Subsection (1)(e) annually to the Public Utilities, Energy, and Technology Interim Committee on or before October 30.

(2) The Office of Energy Development, created in Section 79-6-401, shall:

(a) provide staff and support to the committee;

(b) ensure the committee is fulfilling the duties described in Subsection (1)(a); and

(c) ensure the committee is functioning as a sufficient liaison for the state, the Legislature, the local community, and the project entity.

Section 5. Section 79-6-401 is amended to read:

79-6-401. Office of Energy Development -- Creation -- Director -- Purpose -- Rulemaking regarding confidential information -- Fees -- Transition for employees.

(1) There is created an Office of Energy Development in the Department of Natural Resources.

(2) (a) The energy advisor shall serve as the director of the office or, on or before June 30, 2029, appoint a director of the office.

(b) The director:

(i) shall, if the energy advisor appoints a director under Subsection (2)(a), report to the energy advisor; and

(ii) may appoint staff as funding within existing budgets allows.

(c) The office may consolidate energy staff and functions existing in the state energy program.

(3) The purposes of the office are to:

(a) serve as the primary resource for advancing energy and mineral development in the state;

(b) implement:

(i) the state energy policy under Section 79-6-301; and

(ii) the governor's energy and mineral development goals and objectives;

(c) advance energy education, outreach, and research, including the creation of elementary, higher education, and technical college energy education programs;

(d) promote energy and mineral development workforce initiatives; and

(e) support collaborative research initiatives targeted at Utah-specific energy and mineral development.

(4) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the office may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded state energy programs.

(5) The office shall perform the duties required by Sections 11-42a-106, 59-5-102, 59-7-614.7, 59-10-1029, 63C-25-202, Part 5, Alternative Energy Development Tax Credit Act, and Part 6, High Cost Infrastructure Development Tax Credit Act.

(6) (a) For purposes of administering this section, the office may make rules, by following Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to maintain as confidential, and not as a public record, information that the office receives from any source.

(b) The office shall maintain information the office receives from any source at the level of confidentiality assigned by the source.

(7) The office may charge application, filing, and processing fees in amounts determined by the office in accordance with Section 63J-1-504 as dedicated credits for performing office duties described in this part.

(8) (a) An employee of the office is an at-will employee.

(b) For an employee of the office on July 1, 2021, the employee shall have the same salary and benefit options the employee had when the office was part of the office of the governor.

CHAPTER 323
H. B. 216
Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

OFFICE OF STATE DEBT COLLECTION AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends provisions relating to the collection procedures of the Office of State Debt Collection.

Highlighted Provisions:

This bill:

- requires the Office of State Debt Collection (office) to:
  - create and maintain a website that provides a debtor certain information regarding the debtor's debts; and
  - create policies regarding settlement practices;
- eliminates a report from the office to the courts;
- requires the office to apply a payment to a debt as directed by a debtor if the payment would eliminate the debt's balance; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63A-3-502, as last amended by Laws of Utah 2021, Chapter 260
77-18-114, as enacted by Laws of Utah 2021, Chapter 260
77-38b-304, as renumbered and amended by Laws of Utah 2021, Chapter 260

ENACTS:

63A-3-502.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-3-502 is amended to read:

63A-3-502. Office of State Debt Collection created -- Duties.

(1) The state and each state agency shall comply with:

(a) the requirements of this chapter; and

(b) any rules established by the Office of State Debt Collection.

(2) There is created the Office of State Debt Collection in the Division of Finance.

(3) The office shall:

(a) have overall responsibility for collecting and managing state receivables;

(b) assist the Division of Finance to develop consistent policies governing the collection and management of state receivables;

(c) oversee and monitor state receivables to ensure that state agencies are:

(i) implementing all appropriate collection methods;

(ii) following established receivables guidelines; and

(iii) accounting for and reporting receivables in the appropriate manner;

(d) assist the Division of Finance to develop policies, procedures, and guidelines for accounting, reporting, and collecting money owed to the state;

(e) provide information, training, and technical assistance to each state agency on various collection-related topics;

(f) write an inclusive receivables management and collection manual for use by each state agency;

(g) prepare quarterly and annual reports of the state's receivables;

(h) create or coordinate a state accounts receivable database;

(i) develop reasonable criteria to gauge state agencies' efforts in maintaining an effective accounts receivable program;

(j) identify any state agency that is not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;

(k) coordinate information, systems, and procedures between each state agency to maximize the collection of past-due accounts receivable;

(l) establish an automated cash receipt process between each state agency;

(m) assist the Division of Finance to establish procedures for writing off accounts receivable for accounting and collection purposes;

(n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or the office's designee;

(o) be a real party in interest for:

(i) an account receivable referred to the office by any state agency; and

(ii) a civil judgment of restitution entered on a civil judgment docket by a court;

(p) allocate money collected for a judgment entered on the civil judgment docket under Section 77-18-114 in accordance with Sections 51-9-402, 63A-3-506, and 78A-5-110; [~~and~~]

(q) if a criminal accounts receivable is transferred to the office under Subsection 77-32b-103(2)(a)(ii), receive, process, and distribute payments for the criminal accounts receivable[~~.~~];

(r) provide a debtor online access to the debtor's accounts receivable or criminal accounts receivable in accordance with Section 63A-3-502.5;

(s) establish a written policy for each of the following:

(i) the settling of an accounts receivable, including that a restitution amount may be settled if the victim approves of the settlement;

(ii) allowing a debtor to pay off a single debt as part of an accounts receivable even if the debtor has a balance on another debt as part of an accounts receivable or criminal accounts receivable;

(iii) setting a payment deadline for settlement agreements and for obtaining an extension of a settlement agreement deadline; and

(iv) reducing administrative costs when a settlement has been reached;

(t) consult with a state agency on whether:

(i) the office may agree to a settlement for an amount that is less than the debtor's principal amount; and

(ii) the state agency may retain authority to negotiate a settlement with a debtor; and

(u) provide the terms and conditions of any payment arrangement that the debtor has made with a state agency or the office when:

(i) the payment arrangement is created; or

(ii) the debtor requests a copy of the terms and conditions.

(4) The office may:

(a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;

(b) collect accounts receivables for higher education entities, if the higher education entity agrees;

(c) prepare a request for proposal for consulting services to:

(i) analyze the state's receivable management and collection efforts; and

(ii) identify improvements needed to further enhance the state's effectiveness in collecting [~~its~~] the state's receivables;

(d) contract with private or state agencies to collect past-due accounts;

(e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;

(f) obtain access to records and databases of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206, including the financial declaration form described in Section 77-38b-204;

(g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-504:

(i) a fee to cover the administrative costs of collection on accounts administered by the office;

(ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;

(iii) an interest charge that is:

(A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or

(B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and

(iv) fees to collect accounts receivable for higher education;

(h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;

(i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;

(j) for a case that is referred to the office or in which the office is a judgment creditor, file a motion or other document related to the office or the accounts receivable in that case, including a satisfaction of judgment, in accordance with the Utah Rules of Civil Procedure;

(k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary;

(l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record;

(m) enter into written agreements with other governmental agencies to obtain and share information for the purpose of collecting state accounts receivable; and

(n) collect accounts receivable for a political subdivision of the state if the political subdivision enters into an agreement or contract with the office under Title 11, Chapter 13, Interlocal Cooperation Act, for the office to collect the political subdivision's accounts receivable.

(5) The office shall ensure that:

(a) a record obtained by the office or a private sector vendor under Subsection (4)(l):

(i) is used only for the limited purpose of collecting accounts receivable; and

(ii) is subject to federal, state, and local agency records restrictions; and

(b) any [~~person~~] individual employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:

(i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and

(ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.

(6) (a) The office shall collect a civil accounts receivable or a civil judgment of restitution ordered by a court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 77-18-114(1) or (2).

(b) The office may not assess:

(i) the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4; and

(ii) an interest charge on a criminal accounts receivable that is transferred to the office under Subsection 77-32b-103(2)(a)(ii).

(7) The office shall require a state agency to:

(a) transfer collection responsibilities to the office or the office's designee according to time limits established by the office;

(b) make annual progress towards implementing collection techniques and improved accounts receivable collections;

(c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report the state's receivables;

(d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;

(e) provide internal accounts receivable training to staff involved in the management and collection of receivables as a supplement to statewide training;

(f) bill for and make initial collection efforts of [~~its~~] the state agency's receivables up to the time the accounts must be transferred; and

(g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.

(8) All interest, fees, and other amounts authorized to be collected by the office under Subsection (4)(g):

(a) are penalties that may be charged by the office;

(b) do not require an order from a court for the office to assess or collect;

(c) are not compensation for actual pecuniary loss;

(d) for a civil accounts receivable:

(i) begin to accrue on the day on which the civil accounts receivable is entered on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) may be collected as part of the civil accounts receivable;

(e) for a civil judgment of restitution:

(i) begin to accrue on the day on which the civil judgment of restitution is entered on the civil judgment docket under Subsection 77-18-114(1); and

(ii) may be collected as part of the civil judgment of restitution;

(f) for all other accounts receivable:

(i) begin to accrue on the day on which the accounts receivable is transferred to the office, even if there is no court order on the day on which the accounts receivable is transferred; and

(ii) may be collected as part of the accounts receivable; and

(g) may be waived by:

(i) the office; or

(ii) if the interest, fee, or other amount is charged in error, the court.

Section 2. Section 63A-3-502.5 is enacted to read:

63A-3-502.5. Debtor's online access to debt amount.

(1) As used in this section, "debt" means:

(a) an accounts receivable; or

(b) a criminal accounts receivable.

(2) On or before December 31, 2022, the office shall provide a debtor who has a debt transferred to the office online access to the debtor's account that identifies:

(a) the total balance the debtor owes for a debt;

(b) (i) each person to whom the debtor owes a debt; or

(ii) if the person's name is redacted by a court or a state agency with authority to redact, another identifier for the debt in place of the person's name;

(c) for each person the debtor owes:

(i) the debtor's original balance for a debt; and

(ii) the debtor's current balance for a debt;

(d) the current interest rate for a debt; and

(e) the history of:

(i) any additional charge added to a debt including:

(A) the reason for the charge;

(B) the total amount of the charge; and

(C) the date the charge was added; and

(ii) any payment made by the debtor including:

(A) the debt to which a payment was applied; and

(B) whether the payment was applied to an administrative cost, accrued interest, the principal, or other fee.

Section 3. Section 77-18-114 is amended to read:

77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection; and

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall[~~: (a)~~] notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied[~~; and~~].

[~~(b) provide the court with an accounting of any distribution made by the Office of State Debt Collection for the civil accounts receivable and the civil judgment of restitution.~~]

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8) (a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit towards the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards the principal of the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 4. Section 77-38b-304 is amended to read:

77-38b-304. Priority.

(1) The court, or the office, shall disburse a payment for restitution within 60 days after the day on which the payment is received from the defendant if:

(a) the victim has complied with Subsection 77-38b-203(2);

(b) if the defendant has tendered a negotiable instrument, funds from the financial institution are actually received; and

(c) the payment to the victim is at least $5, unless the payment is the final payment.

(2) The court, or the office, shall disburse money collected from a defendant for a criminal accounts receivable in the following order of priority:

(a) first, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(b) second, to the cost of obtaining a DNA specimen from the defendant as described in Subsection (4)(b);

(c) third, to any criminal fine or surcharge owed by the defendant;

(d) fourth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(e) fifth, to the cost owed by the defendant for medical care, treatment, hospitalization, and related transportation paid by a county correctional facility under Section 17-50-319; and

(f) sixth, to any other cost owed by the defendant.

(3) [~~The~~] Subject to Subsection (5), the office shall disburse money collected from a defendant for a civil accounts receivable and civil judgment of restitution in the following order of priority:

(a) first, to any past due amount owed to the department for the monthly supervision fee under Subsection 64-13-21(6)(a);

(b) second, and except as provided in Subsection (4)(b), to restitution owed by the defendant in accordance with Subsection (4);

(c) third, to the cost of obtaining a DNA specimen from the defendant in accordance with Subsection (4)(b);

(d) fourth, to any criminal fine or surcharge owed by the defendant;

(e) fifth, to the cost owed by the defendant for a reward described in Section 77-32b-104;

(f) sixth, to the cost owed by the defendant for medical care, treatment, hospitalization and related transportation paid by a county correctional facility under Section 17-50-319; and

(g) seventh, to any other cost owed by the defendant.

(4) (a) [~~If~~] Subject to Subsection (5), if a defendant owes restitution to more than one person or government agency at the same time, the court, or the office, shall disburse a payment for restitution in the following order of priority:

(i) first, to the victim of the offense;

(ii) second, to the Utah Office for Victims of Crime;

(iii) third, any other government agency that has provided reimbursement to the victim as a result of the defendant's criminal conduct; and

(iv) fourth, any insurance company that has provided reimbursement to the victim as a result of the defendant's criminal conduct.

(b) [~~If~~] Subject to Subsection (5), if a defendant is required under Section 53-10-404 to reimburse the department for the cost of obtaining the defendant's DNA specimen, the reimbursement for the cost of obtaining the defendant's DNA specimen is the next priority after restitution to the victim of the offense under Subsection (4)(a)(i).

(c) [~~If~~] Subject to Subsection (5), if the defendant is required to pay restitution to more than one victim, restitution shall be disbursed to each victim according to the percentage of each victim's share of the total order for restitution.

(5) The office shall disburse money collected from a defendant to a debt that is a part of a civil accounts receivable or civil judgment of restitution if:

(a) a defendant has provided a written request to the office to apply the payment to the debt; and

(b) (i) the payment will eliminate the entire balance of the debt, including any interest; or

(ii) after reaching a settlement, the payment amount will eliminate the entire agreed upon balance of the debt, including any interest.

[~~(5)~~] (6) For a criminal accounts receivable, the department shall collect the current and past due amount owed by a defendant for the monthly supervision fee under Subsection 64-13-21(6)(a) until the court enters a civil accounts receivable on the civil judgment docket under Section 77-18-114.

CHAPTER 324
H. B. 217

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

TELEPHONE SOLICITATION AMENDMENTS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill modifies the Telephone and Facsimile Solicitation Act and the Telephone Fraud Prevention Act.

Highlighted Provisions:

This bill:

- modifies the Telephone and Facsimile Solicitation Act definition of ”telephone solicitation” to include a telephone solicitation made to encourage a person to sell real or personal property to the solicitor;
- prohibits a person from making a telephone solicitation to a cellular phone without prior consent;
- amends definitions in the Telephone Fraud Prevention Act (TFPA);
- modifies security requirements for a registered seller under the TFPA;
- specifies penalties for a seller or solicitor who violates the TFPA;
- amends the prohibited practices under the TFPA;
- modifies the types of information the Division of Consumer Protection (division) is required to redact from a consumer complaint regarding conduct the division regulates under the TFPA before making the consumer complaint public; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-25a-102, as last amended by Laws of Utah 2021, Chapter 289
13-25a-103, as last amended by Laws of Utah 2004, Chapters 90 and 263
13-26-2, as last amended by Laws of Utah 2012, Chapter 152
13-26-3, as last amended by Laws of Utah 2013, Chapter 124
13-26-4, as last amended by Laws of Utah 2017, Chapter 98
13-26-5, as last amended by Laws of Utah 1994, Chapter 189
13-26-8, as last amended by Laws of Utah 2013, Chapter 124
13-26-11, as last amended by Laws of Utah 2013, Chapter 124
13-26-12, as enacted by Laws of Utah 2015, Chapter 335

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-25a-102 is amended to read:

13-25a-102. Definitions.

As used in this chapter:

(1) “Advertisement” means material offering for sale, or advertising the availability or quality of, any property, [~~goods, or services~~] good, or service.

(2) (a) “Automated telephone dialing system” means equipment used to:

(i) store or produce telephone numbers;

(ii) call a stored or produced number; and

(iii) connect the number called with a recorded message or artificial voice.

(b) “Automated telephone dialing system” does not include [~~equipment used with a burglar alarm system, voice messaging system, fire alarm system, or other system~~] a system used in an emergency involving the immediate health or safety of a person[~~.~~], including a burglar alarm system, voice messaging system, fire alarm system, or other similar system.

(3) “Division” means the Division of Consumer Protection [~~in the Department of Commerce~~].

(4) (a) “Established business relationship” means a relationship that:

(i) is based on inquiry, application, purchase, or transaction regarding products or services offered;

(ii) is formed by a voluntary two-way communication between a person making a telephone solicitation and a person to whom a telephone solicitation is made; and

(iii) has not been terminated by:

(A) an act by either [~~party~~] person; or

(B) the passage of 18 months since the most recent inquiry, application, purchase, transaction, or voluntary two-way communication.

(b) “Established business relationship” includes a relationship with an affiliate as defined in Section 16-10a-102.

(5) “Facsimile machine” means equipment used for:

(a) scanning or encoding text or images for conversion into electronic signals for transmission; or

(b) receiving electronic signals and reproducing them as a duplicate of the original text or image.

(6) “Negative response” means a statement from a [~~party~~] person stating the [~~party~~] person does not wish to listen to the sales presentation or participate in the solicitation presented in the telephone call.

(7) "On-call emergency provider" means an individual who is required by an employer to be on call to respond to a medical emergency.

(8) "Telephone solicitation" means the initiation of a telephone call or message for a commercial purpose or to seek a financial donation, including calls:

(a) encouraging the purchase or rental of, or investment in, property, goods, or services, regardless of whether the transaction involves a nonprofit organization;

(b) soliciting a sale of or extension of credit for property or services to the person called;

(c) soliciting information that will be used for:

(i) the direct solicitation of a sale of property or services to the person called; or

(ii) an extension of credit to the person called for a sale of property or services; [~~or~~]

(d) soliciting a charitable donation involving the exchange of any premium, prize, gift, ticket, subscription, or other benefit in connection with any appeal made for a charitable purpose[~~.~~]; or

(e) encouraging the person called to sell real or personal property.

(9) "Telephone solicitor" means any [~~natural person~~] individual, firm, organization, partnership, association, or corporation who makes or causes to be made an unsolicited telephone call, including calls made by use of an automated telephone dialing system.

(10) "Unsolicited telephone call" means a telephone call for a commercial purpose or to seek a financial donation other than a call made:

(a) in response to an express request of the person called;

(b) primarily in connection with an existing debt or contract, payment or performance of which has not been completed at the time of the call;

(c) to [~~any~~] a person with whom the telephone solicitor has an established business relationship; or

(d) as required by law for a medical purpose.

Section 2. Section 13-25a-103 is amended to read:

13-25a-103. Prohibited conduct for telephone solicitations -- Exceptions.

(1) Except as provided in Subsection (2), a person may not operate or authorize the operation of an automated telephone dialing system to make a telephone solicitation.

(2) A person may operate an automated telephone dialing system if a call is made:

(a) with the prior express consent of the person who is called agreeing to receive a telephone solicitation from a specific solicitor; or

(b) to a person with whom the solicitor has an established business relationship.

(3) A person may not make a telephone solicitation to a residential telephone or cellular telephone without prior express consent during any of the following times:

(a) [~~before 8 a.m. or after 9 p.m.~~] between the hours of 9 p.m. and 8 a.m. local time;

(b) on a Sunday; or

(c) on a legal holiday.

(4) A person may not make or authorize a telephone solicitation in violation of Title 47 U.S.C. 227.

(5) [~~Any~~] A telephone solicitor who makes an unsolicited telephone call to a telephone number shall:

(a) identify the telephone solicitor;

(b) identify the business on whose behalf the telephone solicitor is soliciting;

(c) promptly identify the purpose of the call [~~promptly~~] upon making contact by telephone with the person who is the object of the telephone solicitation;

(d) discontinue the solicitation if the person being solicited gives a negative response at any time during the telephone call; and

(e) hang up the phone, or in the case of an automated telephone dialing system operator, disconnect the automated telephone dialing system from the telephone line within 25 seconds of the termination of the call by the person being called.

(6) [~~A~~] If a telephone solicitor's service or equipment is capable of displaying the telephone solicitor's telephone number through a caller identification service, the telephone solicitor may not withhold the display of the telephone solicitor's telephone number from a caller identification service when that number is being used for telemarketing purposes [~~and when the telephone solicitor's service or equipment is capable of allowing the display of the number~~].

Section 3. Section 13-26-2 is amended to read:

13-26-2. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Affiliated person" means a seller or a seller's contractor, director, employee, officer, owner, or partner.

[~~(1)~~] (2) "Continuity plan" means a shipment, with the prior express consent of the buyer, at regular intervals of similar special-interest products[~~. A continuity plan is distinguished from a subscription arrangement by no binding commitment period or purchase amount~~], in which there is no binding commitment period or purchase amount.

[~~(2)~~] (3) "Division" means the Division of Consumer Protection.

[~~(3)~~] (4) "Fictitious personal name" means a name other than an individual's [~~true name. An "individual's true name" is the name taken at birth unless changed by operation of law or by civil action~~] legal name.

[~~(4)~~] (5) "Material statement" or "material fact" means information that a person of ordinary intelligence or prudence would consider important in deciding whether [~~or not~~] to accept an offer extended through a telephone solicitation.

(6) "Participant" means a person seeking to register or renew a registration as a seller including:

(a) a seller;

(b) an owner;

(c) an officer;

(d) a director;

(e) a member or manager of a limited liability company;

(f) a principal;

(g) a trustee;

(h) a general or limited partner;

(i) a sole proprietor; or

(j) an individual with a controlling interest in an entity.

[~~(5)~~] (7) "Premium" means a gift, bonus, prize, award, certificate, or other document by which a prospective purchaser is given a right, chance, or privilege to purchase or receive goods or services with a stated or represented value of $25 or more as an inducement to a prospective purchaser to purchase other goods or services.

(8) "Seller" means a person, or a group of persons engaged in a common effort to conduct a telephone solicitation, that:

(a) on behalf of the person, or the group of persons engaged in a common effort to conduct a telephone solicitation:

(i) makes a telephone solicitation; or

(ii) causes a telephone solicitation to be made; or

(b) through a telephone solicitor:

(i) makes a telephone solicitation; or

(ii) causes a telephone solicitation to be made.

[~~(6)~~] (9) "Subscription arrangements," "standing order arrangements," "supplements," and "series arrangements" mean products or services provided, with the prior express request or consent of the buyer, for a specified period of time at a price dependent on the duration of service and to complement an initial purchase.

[~~(7)~~] (10) (a) "Telephone solicitation," "sale," "selling," or "solicitation of sale" means:

(i) a sale or solicitation of goods or services in which:

(A) (I) the seller solicits the sale over the telephone;

(II) the purchaser's agreement to purchase is made over the telephone; and

(III) the purchaser, over the telephone, pays for or agrees to commit to payment for goods or services prior to or upon receipt by the purchaser of the goods or services;

(B) the [~~solicitor~~] seller, not exempt under Section 13-26-4, induces a prospective purchaser over the telephone, to make and keep an appointment that directly results in the purchase of goods or services by the purchaser that would not have occurred without the telephone solicitation and inducement by the [~~solicitor~~] seller;

(C) the seller offers or promises a premium to a prospective purchaser if:

(I) the seller induces the prospective purchaser to initiate a telephone contact with the [~~telephone soliciting business~~] seller; and

(II) the resulting solicitation meets the requirements of Subsection [~~(7)~~] (10)(a); or

(D) the [~~solicitor~~] seller solicits a charitable donation involving the exchange of any premium, prize, gift, ticket, subscription, or other benefit in connection with [~~any~~] an appeal made for a charitable purpose by an organization that is not otherwise exempt under Subsection 13-26-4(2)(b)(iv); or

(ii) a telephone solicitation as defined in Section 13-25a-102.

(b) "Telephone solicitation," "sale," "selling," or "solicitation of sale" does not include a sale or solicitation that occurs solely through an Internet website without the use of a telephone call.

(c) A solicitation of sale or telephone solicitation is considered complete when made, whether or not the person receiving the solicitation agrees to the sale or to make a charitable donation.

[~~(8) "Telephone soliciting business" means a sole proprietorship, partnership, limited liability company, corporation, or other association of individuals engaged in a common effort to conduct telephone solicitations.~~]

[~~(9)~~] (11) "Telephone solicitor" or "solicitor" means [~~a person, partnership, limited liability company, corporation, or other entity that:~~] an individual who engages in a telephone solicitation on behalf of a seller.

[~~(a) makes a telephone solicitation; or~~]

[~~(b) causes a telephone solicitation to be made.~~]

Section 4. Section 13-26-3 is amended to read:

13-26-3. Registration and bond required.

(1) (a) Unless exempt under Section 13-26-4, each [~~telephone soliciting business~~] seller shall

register annually with the division before engaging in telephone solicitations if:

(i) the [~~telephone soliciting business~~] seller engages in telephone solicitations that:

(A) originate in Utah; or

(B) are received in Utah; or

(ii) the [~~telephone soliciting business~~] seller, or a solicitor on behalf of the seller, conducts any business operations in Utah.

(b) The registration form shall designate an agent residing in this state who is authorized by the [~~telephone soliciting business~~] seller to receive service of process in any action brought by this state or a resident of this state.

(c) If a [~~telephone soliciting business~~] seller fails to designate an agent to receive service or fails to appoint a successor to the agent, the division shall:

(i) [~~the business'~~] deny the seller's application for an initial or renewal registration [~~shall be denied~~]; and

[~~(ii) any current registration shall be suspended until an agent is designated.~~]

(ii) if the application is for a renewal registration, suspend the seller's current registration until the seller designates an agent.

(d) [~~(i)~~] For purposes of this section only, the registered agent of a [~~telephone soliciting business~~] seller shall provide the division the registered agent's proof of residency in the state[~~.~~] in the form of:

(i) a valid Utah driver license;

(ii) a valid governmental photo identification issued to a resident of this state; or

(iii) other verifiable identification indicating residency in this state.

[~~(ii) Proof of residency under Subsection (1)(d)(i) may be provided by a valid Utah driver license, valid governmental photo identification issued to a resident of the state, or other verifiable identification indicating residency in the state.~~]

(2) The division may impose an annual registration fee set [~~pursuant to~~] in accordance with Section 63J-1-504 that may include the cost of the criminal background check described in Subsection (4).

(3) (a) Each [~~telephone soliciting business~~] seller subject to this chapter engaging in telephone solicitation or sales in this state shall obtain and maintain the following security:

(i) a performance bond issued by a surety authorized to transact surety business in this state;

(ii) an irrevocable letter of credit issued by a financial institution authorized [~~to do~~] under the laws of this state or the United States doing business in this state; or

(iii) a certificate of deposit held in this state in a [~~depository~~] financial institution [~~regulated by the Department of Financial Institutions~~] authorized under the laws of this state or the United States to accept deposits from the public.

(b) [~~The~~] A seller's bond, letter of credit, or certificate of deposit shall be payable to the division for the benefit of any consumer who incurs damages as the result of [~~any telephone solicitation or sales~~] the seller's violation of this chapter.

(c) [~~The~~] If the consumer has first recovered full damages, the division may recover from the bond, letter of credit, or certificate of deposit administrative fines, civil penalties, investigative costs, attorney fees, and other costs of collecting and distributing funds under this section [~~and the costs of promoting consumer education, but only if the consumer has first recovered full damages~~].

(d) A [~~telephone soliciting business~~] seller shall keep a bond, certificate of deposit, or letter of credit in force for one year after [~~it~~] the day on which the seller notifies the division in writing that [~~it~~] the seller has ceased all activities regulated by this chapter.

(e) The [~~amount to be posted in the form of a~~] seller shall post a bond, irrevocable letter of credit, or certificate of deposit [~~shall be~~] in the amount of:

(i) $25,000 if:

(A) neither the [~~telephone soliciting business~~] seller nor any affiliated person has violated this chapter [~~within three years preceding the date of the application~~] in the three-year period immediately before the day on which the seller files the application; and

(B) the [~~telephone soliciting business~~] seller has fewer than 10 employees;

(ii) $50,000 if:

(A) neither the [~~telephone soliciting business~~] seller nor any affiliated person has violated this chapter [~~within three years preceding the date of the application~~] in the three-year period immediately before the day on which the seller files the application; and

(B) the [~~telephone soliciting business~~] seller has 10 or more employees; or

(iii) $75,000 if the [~~telephone soliciting business~~] seller or any affiliated person has violated this chapter [~~within three years preceding the date of the application~~] in the three-year period immediately before the day on which the seller files the application.

[~~(f) For purposes of Subsection (3)(e) an "affiliated person" means a contractor, director, employee, officer, owner, or partner of the telephone soliciting business.~~]

[~~(4) (a) As used in this Subsection (4), "participant" means an individual with a controlling interest in or an owner, officer, director, member, principal, trustee, general partner, limited partner, manager, sole proprietor, or key employee~~]

~~of a person seeking to register or renew a registration as a telephone soliciting business.~~]

[~~(b) As part of the process to register or renew a registration as a telephone soliciting business, a participant:~~]

[~~(i) may not, within the previous 10 years, have been convicted of a felony;~~]

[~~(ii) may not, within the previous 10 years, have been convicted of a misdemeanor involving moral turpitude, including theft, fraud, or dishonesty; and~~]

(4) To register or renew a registration as a seller, a participant:

(a) may not have been convicted of a felony in the 10-year period immediately before the day on which the participant files the application;

(b) may not have been convicted of a misdemeanor involving moral turpitude, including theft, fraud, or dishonesty, in the 10-year period immediately before the day on which the participant files the application; and

[~~(iii)~~] (c) shall submit to the division:

[~~(A)~~] (i) the participant's fingerprints, in a form acceptable to the division, for purposes of a criminal background check; and

[~~(B)~~] (ii) consent to a criminal background check by the Bureau of Criminal Identification created in Section 53-10-201.

(5) [~~The~~] In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish by rule the registration requirements for [~~telephone soliciting businesses under the terms of Title 63G, Chapter 3, Utah Administrative Rulemaking Act. An administrative proceeding conducted by the division under this chapter shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act~~] a seller.

(6) If information in an application for registration or for renewal of registration as a [~~telephone soliciting business~~] seller materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the day on which information changes or becomes incorrect or incomplete, [~~correct the application or~~] submit the correct information to the division in a manner that the division establishes by rule.

(7) The division director may deny or revoke a registration under this section for any violation of this chapter.

Section 5. Section 13-26-4 is amended to read:

13-26-4. Exemptions from registration.

(1) In [~~any~~] an enforcement action initiated by the division, [~~the~~] a person claiming an exemption has the burden of proving that the person is entitled to the exemption.

(2) The following are exempt from [~~the requirements of~~] this chapter except for the requirements [~~of~~] described in Sections 13-26-8 and 13-26-11:

(a) a broker, agent, dealer, or sales professional licensed [~~under the licensure laws of~~] in this state, when soliciting sales within the scope of [~~his~~] the broker's, agent's, dealer's, or sales professional's license;

(b) the solicitation of sales by:

(i) a public utility that is regulated under Title 54, Public Utilities, or by an affiliate of the public utility;

(ii) a newspaper of general circulation;

(iii) a solicitation of [~~sales~~] sale made by a broadcaster licensed by [~~any~~] a state or federal authority;

(iv) a nonprofit organization if no part of the net earnings from the sale inures to the benefit of [~~any~~]:

(A) a member, officer, trustee, or serving board member of the organization[~~,~~]; or

(B) an individual, or a family member of an individual, holding a position of authority or trust in the organization; and

(v) a person who periodically publishes and delivers a catalog of the [~~solicitor's~~] seller's merchandise to prospective purchasers, if the catalog:

(A) contains the price and a written description or illustration of each item offered for sale;

(B) includes the seller's business address [~~of the solicitor~~];

(C) includes at least 24 pages of written material and illustrations;

(D) is distributed in more than one state; and

(E) has an annual circulation by mailing of not less than 250,000;

(c) [~~any publicly-traded~~] a publicly traded corporation registered with the Securities and Exchange Commission, or [~~any~~] a subsidiary of the publicly traded corporation;

(d) the solicitation of [~~any~~] a depository institution as defined in Section 7-1-103, a subsidiary of a depository institution, personal property broker, securities broker, investment adviser, consumer finance lender, or insurer subject to regulation by an official agency of this state or the United States;

(e) the solicitation by a person soliciting only the sale of telephone services to be provided by the person or the person's employer;

(f) the solicitation of a person relating to a transaction regulated by the Commodities Futures Trading Commission, if:

(i) the person is registered with or temporarily licensed by the commission to conduct [~~that~~] the activity under the Commodity Exchange Act; and

(ii) the registration or license has not expired or been suspended or revoked;

(g) the solicitation of a contract for the maintenance or repair of goods previously purchased from the person:

(i) who is making the solicitation; or

(ii) on whose behalf the solicitation is made;

(h) the solicitation of previous customers of the [~~business~~] person on whose behalf the call is made if the person making the call:

(i) does not offer any premium in conjunction with a sale or offer;

(ii) is not selling an investment or an opportunity for an investment that is not registered with [~~any~~] a state or federal authority; and

(iii) is not regularly engaged in telephone sales;

(i) the solicitation of a sale that is an isolated transaction and not done in the course of a pattern of repeated transactions of a [~~like~~] similar nature;

(j) the solicitation of a person by a retail business [~~establishment~~] that has been in operation for at least five years in Utah under the same name as that used in connection with telemarketing if [~~both of~~] the following occur on a continuing basis:

[~~(i) products are displayed and offered for sale at the place of business, or services are offered for sale and provided at the place of business; and~~]

(i) at the retail business's place of business, the retail business:

(A) displays and offers products for sale; or

(B) offers services for sale and provides the services at the place of business; and

(ii) a majority of the [~~seller's~~] retail business's business involves the [~~buyer obtaining the products or services at the seller's place of business~~] activities described in Subsection (2)(j)(i);

(k) a person primarily soliciting the sale of a magazine or periodical sold by the publisher or the publisher's agent through a written agreement, or printed or recorded material through a contractual plan, such as a book or record club, continuity plan, subscription, standing order arrangement, or supplement or series arrangement if:

(i) the [~~seller~~] person provides the consumer with a form that the consumer may use to instruct the [~~seller~~] person not to ship the offered merchandise, and the arrangement is regulated by the Federal Trade Commission trade regulation concerning use of negative option plans by [~~sellers~~] a person making a sale in commerce; or

(ii) (A) the [~~seller~~] person periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis; and

(B) the consumer retains the right to cancel at any time and receive a full refund for the unused portion;

(l) a telephone marketing service company that provides telemarketing sales services under contract to [~~sellers~~] a person making a sale if:

(i) [~~it~~] the telephone marketing service company has been doing business regularly with customers in Utah for at least five years under the same business name and with [~~its~~] the telephone marketing service company's principal office in the same location;

(ii) at least 75% of [~~its~~] the telephone marketing service company's contracts are performed on behalf of persons [~~exempted~~] exempt from registration under this chapter; and

(iii) neither the telephone marketing service company nor [~~its~~] the telephone marketing service company's principals have been enjoined from doing business or subjected to criminal actions for [~~their~~] the telephone marketing service company's or the telephone marketing company's principal's business activities in this or any other state;

(m) a credit services organization that holds a current registration with the division under Chapter 21, Credit Services Organizations Act, if the credit services organization's telephone solicitations are limited to the solicitation of services regulated under Chapter 21, Credit Services Organizations Act; and

(n) a provider that holds a current registration with the division under Chapter 42, Uniform Debt-Management Services Act, if the provider's telephone solicitations are limited to the solicitation of services regulated under [~~Chapter 21, Credit Services Organizations Act~~] Chapter 42, Uniform Debt-Management Services Act.

Section 6. Section 13-26-5 is amended to read:

13-26-5. Right of rescission -- Cancellation.

(1) As used in this section, "business day" means a day other than Sunday or a federal or state holiday.

[~~(1)~~] (2) (a) Except as provided in Subsections [~~(1)~~] (2)(b) and (c), in addition to any right to otherwise revoke an offer, a person [~~making~~] who makes a purchase from a [~~telephone soliciting business required to be registered under this chapter~~] seller may cancel the sale [~~up to~~] before midnight of the third business day after the [~~receipt of~~] day on which the person receives the merchandise or premium, whichever is later, provided the seller or the seller's solicitor advises the purchaser of [~~his~~] the purchaser's cancellation rights under this chapter at the time [~~any~~] the solicitation is made.

(b) If the seller or the seller's solicitor [~~required to be registered under this chapter~~] fails to orally advise a purchaser of the right to cancel under this section at the time of [~~any~~] a solicitation, the purchaser's right to cancel [~~shall be~~] is extended to 90 days.

(c) If the seller or the seller's solicitor [~~required to be registered under this chapter~~] fails to orally advise a purchaser of [~~his true~~] the seller's or the seller's solicitor's legal name, telephone number, and complete [~~street~~] address at the time of [~~any~~] a solicitation, the purchaser may cancel the sale at any time.

(d) Except as provided in Subsection (5), a seller shall provide a full refund to a purchaser who cancels a sale in accordance with this section.

[~~(2) Sales shall be cancelled by~~]

(3) A purchaser may cancel a sale by:

(a) mailing a notice of cancellation to the [~~telephone~~] seller or seller's solicitor's correct [~~street~~] address, postage prepaid[~~. If~~]; or

(b) if the [~~telephone solicitor provided no~~] seller or the seller's solicitor fails to provide the purchaser with the seller's or the seller's solicitor's correct [~~street~~] address, [~~cancellation can be accomplished by~~] sending a notice of cancellation to the division's [~~offices~~] office, postage prepaid.

[~~(3) (a) If a cancellation involves durable goods, as defined by rule, those goods shall be returned to the seller.~~]

[~~(b) If expendable goods are involved, the purchaser shall return any unused portion of those goods.~~]

[~~(c) A reasonable attempt shall be made to return goods to the solicitor's correct street address within seven days of exercising the right to cancel, providing the solicitor has provided the purchaser with the address. If the solicitor has failed to give a correct address, no return is required to qualify for a full refund of the purchase price.~~]

(4) (a) If a purchaser cancels a sale and the seller or the seller's solicitor provides the purchaser with the seller's correct address, the purchaser shall, within seven business days after the day on which the purchaser exercises the right to cancel, make a reasonable attempt to:

(i) if the canceled sale involves durable goods, return the goods to the seller; or

(ii) if the canceled sale involves expendable goods, return any unused portion of the goods to the seller.

(b) If the seller or the seller's solicitor fails to provide to a purchaser the seller's correct address, a purchaser who cancels a sale is not required to return any canceled goods to the seller.

[~~(d)~~] (5) (a) If the purchaser who cancels a sale has used any portion of the services or goods purchased, the [~~solicitor or telephone soliciting business shall receive a reasonable allowance for value given. This allowance may be deducted from any refund due the purchaser~~] purchaser shall provide the seller a reasonable allowance for the value given.

(b) A seller may deduct the reasonable allowance described in Subsection (5)(a) from any refund due the purchaser.

[~~(e) A solicitor shall be jointly and severally liable with the telephone soliciting business for any refund amount due following the cancellation of a sale made by the solicitor.~~]

[~~(4) For the purposes of this section, "business day" does not include Sunday or a federal or state holiday.~~]

Section 7. Section 13-26-8 is amended to read:

13-26-8. Penalties.

[~~(1) (a) Any telephone soliciting business or any person associated with a telephone soliciting business, including solicitors, salespersons, agents, representatives of a solicitor, or independent contractor, who violates this chapter as a first offense is guilty of a class B misdemeanor.~~]

[~~(b) In the case of a second offense, the person is guilty of a class A misdemeanor.~~]

[~~(c) In the case of three or more offenses, the person is guilty of a third degree felony.~~]

[~~(d) (i) In addition to other penalties under this Subsection (1), the division director may issue a cease and desist order and impose an administrative fine of up to $2,500 for each violation of this chapter.~~]

[~~(ii) For purposes of Subsection (1)(d)(i), each telephone solicitation made in violation of this chapter is a separate violation.~~]

[~~(iii) All money received through administrative fines imposed under this section shall be deposited in the Consumer Protection Education and Training Fund created by Section 13-2-8.~~]

(1) (a) A seller or solicitor who violates a provision of this chapter is guilty of:

(i) a class B misdemeanor for a first violation;

(ii) if the seller or solicitor has one prior violation of this chapter, a class A misdemeanor; and

(iii) if the seller or solicitor has two prior violations of this chapter, a third-degree felony.

(b) For the purposes of Subsection (1)(a), a prior violation includes:

(i) a final prior conviction;

(ii) a final determination by a court of competent jurisdiction; or

(iii) a final determination in an administrative adjudicative proceeding.

(2) [~~Any telephone soliciting business or any person associated with a telephone soliciting business, including solicitors, salespersons, agents, representatives of a solicitor, or independent contractors,~~] A person who violates [~~any~~] a provision of this chapter [~~shall be~~] is subject to a civil penalty in a court of competent jurisdiction [~~not exceeding~~] of up to $2,500 for each [~~unlawful transaction~~] violation of this chapter.

(3) (a) The division may:

(i) in accordance with Title 63G, Chapter 4, Administrative Procedures Act, conduct an administrative proceeding to enforce the provisions of this chapter;

(ii) bring a court action to enforce the provisions of this chapter; and

(iii) in addition to other penalties described in this chapter, issue a cease and desist order and impose an administrative fine of up to $2,500 for each violation of this chapter.

(b) For purposes of this section, each telephone solicitation made in violation of this chapter is a separate violation.

(4) The division shall deposit all administrative fines and civil penalties collected under this chapter into the Consumer Protection Education and Training Fund created in Section 13–2–8.

Section 8. Section 13-26-11 is amended to read:

13-26-11. Prohibited practices.

(1) It is unlawful for [~~any solicitor~~] a seller to:

(a) [~~to~~] solicit a prospective purchaser [~~on behalf of a telephone soliciting business that~~] if the seller is not registered with the division or exempt from registration under this chapter;

[~~(b) to use a fictitious personal name in connection with a telephone solicitation;~~]

[~~(c)~~] (b) [~~to~~] in connection with a telephone solicitation or a filing with the division, make or cause to be made [~~any untrue~~] a false material statement[~~,~~] or fail to disclose a material fact necessary to make [~~any~~] the seller's statement [~~made~~] not misleading[~~, whether in connection with a telephone solicitation or a filing with the division~~];

[~~(d)~~] (c) [~~to~~] make or authorize the making of [~~any~~] a misrepresentation to a purchaser or prospective purchaser about [~~its~~] the seller's compliance with this chapter [~~to any prospective or actual purchaser~~];

[~~(e)~~] (d) [~~to~~] fail to refund within 30 days any amount due a purchaser who exercises the right to cancel under Section 13–26–5; [~~or~~]

[~~(f)~~] (e) [~~to~~] unless the seller is exempt under Section 13–26–4, fail to orally advise a purchaser of the purchaser's right to cancel under Section 13–26–5 [~~unless the solicitor is exempt under Section 13–26–4.~~];

[~~(2) It is unlawful for any telephone soliciting business:~~]

[~~(a) to cause or permit any solicitor to violate any provision of this chapter; or~~]

[~~(b) to use inmates in telephone soliciting operations where inmates have access to personal data about an individual sufficient to physically locate or contact that individual, such as names, addresses, telephone numbers, Social Security numbers, credit card information, or physical descriptions.~~]

(f) employ an inmate in a correctional facility for telephone soliciting operations when the employment would give the inmate access to an individual's personal data, including the individual's name, address, telephone number, Social Security number, credit card information, or physical description; or

(g) cause or permit a solicitor to violate a provision of this chapter.

(2) It is unlawful for a solicitor to:

(a) use a fictitious personal name in connection with a telephone solicitation;

(b) in connection with a telephone solicitation, make or cause to be made a false material statement or fail to disclose a material fact necessary to make the solicitor's statement not misleading;

(c) make a misrepresentation to a purchaser or prospective purchaser about the solicitor's compliance with this chapter; or

(d) unless the solicitor is exempt under Section 13–26–4, fail to orally advise a purchaser of the purchaser's right to cancel under Section 13–26–5.

(3) If a person knows or has reason to know that a seller or solicitor is engaged in an act or practice that violates this chapter, it is unlawful for the person to:

(a) benefit from the seller's or solicitor's services; or

(b) provide substantial assistance or support to the seller or solicitor.

Section 9. Section 13-26-12 is amended to read:

13-26-12. Consumer complaints are public.

(1) As used in this section, "consumer complaint" means a complaint that:

[~~(a) is filed with the division by a consumer or business;~~]

(a) a person files with the division;

(b) alleges facts relating to conduct that the division regulates under this chapter; and

(c) (i) alleges a loss to the [~~consumer or business~~] person described in Subsection (1)(a) of $3,500 or more; or

(ii) is one of at least 50 [~~other~~] complaints filed with the division:

(A) against the same person [~~filed by other consumers or businesses~~]; and

(B) during the [~~four years immediately preceding the filing of the complaint~~] four-year period immediately before the day on which the person described in Subsection (1)(a) files the complaint.

(2) For purposes of determining the number of complaints against the same person under Subsection (1)(c)(ii)(A), the division may consider complaints filed against multiple corporations, limited liability companies, partnerships, or other business entities under common ownership to be complaints against the same person.

(3) Notwithstanding Subsection 13–11–7(2) and subject to Subsections (4) and (5), a consumer complaint:

(a) is a public record; and

(b) may not be classified as a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(4) Subsection (3) does not apply to a consumer complaint:

[~~(a) (i) if the division determines through an administrative proceeding that the consumer complaint is nonmeritorious; and~~]

[~~(ii) beginning when the nonmeritorious determination is made; or~~]

(a) that is nonmeritorious, beginning the day on which:

(i) the division determines through an administrative proceeding that the consumer complaint is nonmeritorious; or

(ii) a court of competent jurisdiction finds the consumer complaint nonmeritorious; or

(b) that [~~has been~~] is on file with the division for more than four years after the day on which the person files the consumer complaint.

(5) Before making a consumer complaint that is subject to Subsection (3) or a response described in Subsection (6) available to the public, the division:

(a) shall redact from the consumer complaint or response any information that would disclose [~~the address, Social Security number, bank account information, email address, or telephone number of the consumer or business; and~~]:

(i) the filer's:

(A) address;

(B) Social Security number;

(C) bank account information;

(D) email address; or

(E) telephone number; or

(ii) information similar in nature to the information described in Subsection (5)(a)(i); and

(b) may redact the name of the [~~consumer or business~~] filer and any other information that could, in the division's judgment, disclose the identity of the [~~consumer or business~~] filer filing the consumer complaint.

(6) A person's initial, written response to a consumer complaint that is subject to Subsection [~~(2)~~] (3) is a public record.

CHAPTER 325
H. B. 218

Passed March 3, 2022
Approved March 24, 2022
Effective January 1, 2023
(Exception clause in Section 62)

BALLOT MEASURE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill amends provisions relating to ballot measures.

Highlighted Provisions:

This bill:

- defines terms;
- modifies provisions relating to a ballot title for a constitutional amendment;
- establishes a process for the electronic collection of signatures, in the presence of a signature gatherer using an approved device, as follows:
  - for a statewide referendum, or a petition seeking the nomination of a registered political party; or
  - for a local initiative or a local referendum;
- limits eligible signatures on a petition to registered voters;
- modifies criminal provisions in relation to eligibility to sign a petition;
- provides for the security of signatures and information collected in relation to signatures; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-9a-509, as last amended by Laws of Utah 2021, Chapters 140 and 385
11-14-301, as last amended by Laws of Utah 2021, Chapter 140
17-27a-508, as last amended by Laws of Utah 2021, Chapters 140 and 385
20A-1-306, as last amended by Laws of Utah 2019, Chapter 24
20A-1-609, as last amended by Laws of Utah 2021, Chapters 140 and 418
20A-7-101, as last amended by Laws of Utah 2021, Chapter 80
20A-7-103, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
20A-7-203, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-204, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-205, as last amended by Laws of Utah 2021, Chapter 140
20A-7-206, as last amended by Laws of Utah 2021, Chapters 140 and 418
20A-7-206.3, as last amended by Laws of Utah 2019, Chapter 210
20A-7-207, as last amended by Laws of Utah 2021, Chapter 140
20A-7-213, as last amended by Laws of Utah 2019, Chapter 210
20A-7-303, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-304, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-304.5, as enacted by Laws of Utah 2021, Chapter 418
20A-7-305, as last amended by Laws of Utah 2021, Chapter 140
20A-7-306, as last amended by Laws of Utah 2021, Chapters 140 and 418
20A-7-306.3, as last amended by Laws of Utah 2021, Chapter 140
20A-7-307, as last amended by Laws of Utah 2021, Chapter 140
20A-7-312, as last amended by Laws of Utah 2019, Chapter 210
20A-7-502.6, as enacted by Laws of Utah 2021, Chapter 418
20A-7-502.7, as last amended by Laws of Utah 2021, Chapter 418
20A-7-503, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-504, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-505, as last amended by Laws of Utah 2021, Chapter 140
20A-7-506, as last amended by Laws of Utah 2021, Chapters 140 and 418
20A-7-506.3, as last amended by Laws of Utah 2021, Chapter 140
20A-7-507, as last amended by Laws of Utah 2021, Chapter 140
20A-7-512, as last amended by Laws of Utah 2019, Chapter 203
20A-7-602.7, as last amended by Laws of Utah 2021, Chapter 418
20A-7-602.8, as last amended by Laws of Utah 2021, Chapter 418
20A-7-603, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-604, as last amended by Laws of Utah 2021, Chapters 140, 418 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 418
20A-7-604.5, as enacted by Laws of Utah 2021, Chapter 418

20A-7-605, as last amended by Laws of Utah 2021, Chapter 140
20A-7-606, as last amended by Laws of Utah 2021, Chapters 140 and 418
20A-7-606.3, as last amended by Laws of Utah 2021, Chapter 140
20A-7-607, as last amended by Laws of Utah 2021, Chapters 80 and 140
20A-7-611, as last amended by Laws of Utah 2021, Chapter 140
20A-7-612, as last amended by Laws of Utah 2019, Chapter 203
20A-7-613, as last amended by Laws of Utah 2021, Chapter 140
20A-9-101, as last amended by Laws of Utah 2020, Chapter 344
20A-9-403, as last amended by Laws of Utah 2020, Chapter 22
20A-9-405, as last amended by Laws of Utah 2018, Chapter 281
20A-9-408, as last amended by Laws of Utah 2021, Second Special Session, Chapter 6

ENACTS:
20A-7-215, Utah Code Annotated 1953
20A-7-216, Utah Code Annotated 1953
20A-7-217, Utah Code Annotated 1953
20A-7-313, Utah Code Annotated 1953
20A-7-314, Utah Code Annotated 1953
20A-7-315, Utah Code Annotated 1953
20A-7-514, Utah Code Annotated 1953
20A-7-515, Utah Code Annotated 1953
20A-7-516, Utah Code Annotated 1953
20A-7-614, Utah Code Annotated 1953
20A-7-615, Utah Code Annotated 1953
20A-7-616, Utah Code Annotated 1953
20A-21-101, Utah Code Annotated 1953
20A-21-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

(5) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(6) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection [~~20A-7-607(4)~~] 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (6)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 2. Section 11-14-301 is amended to read:

11-14-301. Issuance of bonds by governing body -- Computation of indebtedness under constitutional and statutory limitations.

(1) If the governing body has declared the bond proposition to have carried and no contest has been filed, or if a contest has been filed and favorably terminated, the governing body may proceed to issue the bonds voted at the election.

(2) (a) It is not necessary that all of the bonds be issued at one time, but, except as otherwise provided in this Subsection (2), bonds approved by the voters may not be issued more than 10 years after the day on which the election is held.

(b) The 10-year period described in Subsection (2)(a) is tolled if, at any time during the 10-year period:

(i) an application for a referendum petition is filed with a local clerk, in accordance with Section 20A-7-602, with respect to the local obligation law relating to the bonds; or

(ii) the bonds are challenged in a court of law or an administrative proceeding in relation to:

(A) the legality or validity of the bonds, or the election or proceedings authorizing the bonds;

(B) the authority of the local political subdivision to issue the bonds;

(C) the provisions made for the security or payment of the bonds; or

(D) any other issue that materially and adversely affects the marketability of the bonds, as determined by the individual or body that holds the executive powers of the local political subdivision.

(c) For a bond described in this section that is approved by voters on or after May 8, 2002, but before May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends on the later of the day on which:

(i) the local clerk determines that the petition is insufficient, in accordance with Subsection [~~20A-7-607(2)(e)~~] 20A-7-607(3)(d), unless an application, described in Subsection [~~20A-7-607(3)(a)~~] 20A-7-607(4)(a), is made to a court;

(ii) a court determines, under Subsection [~~20A-7-607(3)(c)~~] 20A-7-607(4)(c), that the petition for the referendum is not legally sufficient; or

(iii) for a referendum petition that is sufficient, the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(d) For a bond described in this section that was approved by voters on or after May 14, 2019, a tolling period described in Subsection (2)(b)(i) ends:

(i) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is not legally referable to voters, the later of:

(A) the day on which the county, city, town, or metro township provides the notice described in Subsection 20A-7-602.7(1)(b)(ii); or

(B) if a sponsor appeals, under Subsection 20A-7-602.7(4), the day on which a court decision that the proposed referendum is not legally referable to voters becomes final; or

(ii) if a county, city, town, metro township, or court determines, under Section 20A-7-602.7, that the proposed referendum is legally referable to voters, the later of:

(A) the day on which the local clerk determines, under Section 20A-7-607, that the number of certified names is insufficient for the proposed referendum to appear on the ballot; or

(B) if the local clerk determines, under Section 20A-7-607, that the number of certified names is sufficient for the proposed referendum to appear on the ballot, the day on which the governing body declares, as provided by law, the results of the referendum election on the local obligation law.

(e) A tolling period described in Subsection (2)(b)(ii) ends after:

(i) there is a final settlement, a final adjudication, or another type of final resolution of all challenges described in Subsection (2)(b)(ii); and

(ii) the individual or body that holds the executive powers of the local political subdivision issues a document indicating that all challenges described in Subsection (2)(b)(ii) are resolved and final.

(f) If the 10-year period described in Subsection (2)(a) is tolled under this Subsection (2) and, when the tolling ends and after giving effect to the tolling, the period of time remaining to issue the bonds is less than one year, the period of time remaining to issue the bonds shall be extended to one year.

(g) The tolling provisions described in this Subsection (2) apply to all bonds described in this section that were approved by voters on or after May 8, 2002.

(3) (a) Bonds approved by the voters may not be issued to an amount that will cause the indebtedness of the local political subdivision to exceed that permitted by the Utah Constitution or statutes.

(b) In computing the amount of indebtedness that may be incurred pursuant to constitutional and statutory limitations, the constitutionally or statutorily permitted percentage, as the case may be, shall be applied to the fair market value, as defined under Section 59-2-102, of the taxable property in the local political subdivision, as computed from the last applicable equalized assessment roll before the incurring of the additional indebtedness.

(c) In determining the fair market value of the taxable property in the local political subdivision as provided in this section, the value of all tax equivalent property, as defined in Section 59-3-102, shall be included as a part of the total fair market value of taxable property in the local political subdivision, as provided in Title 59, Chapter 3, Tax Equivalent Property Act.

(4) Bonds of improvement districts issued in a manner that they are payable solely from the revenues to be derived from the operation of the facilities of the district may not be included as bonded indebtedness for the purposes of the computation.

(5) Where bonds are issued by a city, town, or county payable solely from revenues derived from the operation of revenue-producing facilities of the city, town, or county, or payable solely from a special fund into which are deposited excise taxes levied and collected by the city, town, or county, or excise taxes levied by the state and rebated pursuant to law to the city, town, or county, or any combination of those excise taxes, the bonds shall be included as bonded indebtedness of the city, town, or county only to the extent required by the Utah Constitution, and any bonds not so required to be included as bonded indebtedness of the city, town, or county need not be authorized at an election, except as otherwise provided by the Utah Constitution, the bonds being hereby expressly excluded from the election requirement of Section 11-14-201.

(6) A bond election is not void when the amount of bonds authorized at the election exceeded the limitation applicable to the local political subdivision at the time of holding the election, but the bonds may be issued from time to time in an amount within the applicable limitation at the time the bonds are issued.

(7) (a) A local political subdivision may not receive, from the issuance of bonds approved by the voters at an election, an aggregate amount that exceeds by more than 2% the maximum principal amount stated in the bond proposition.

(b) The provision in Subsection (7)(a) applies to bonds issued pursuant to an election held after January 1, 2019.

Section 3. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application

relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a county may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

(5) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(6) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection [~~20A-7-607(4)~~] 20A-7-607(5).

(b) Upon delivery of a written notice described in Subsection (6)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 4. Section 20A-1-306 is amended to read:

20A-1-306. Electronic signatures prohibited.

Notwithstanding Title 46, Chapter 4, Uniform Electronic Transactions Act, and Subsections 68-3-12(1)(e) and 68-3-12.5(28) and (40), an electronic signature may not be used to sign a petition to:

(1) except as provided in Section 20A-21-201, qualify a ballot proposition for the ballot under Chapter 7, Issues Submitted to the Voters;

(2) organize and register a political party under Chapter 8, Political Party Formation and Procedures; or

(3) except as provided in Section 20A-21-201, qualify a candidate for the ballot under Chapter 9, Candidate Qualifications and Nominating Procedures.

Section 5. Section 20A-1-609 is amended to read:

20A-1-609. Omnibus penalties.

(1) (a) Except as provided in Subsection (1)(b), a person who violates any provision of this title is guilty of a class B misdemeanor.

(b) Subsection (1)(a) does not apply to a provision of this title for which another penalty is expressly stated.

(c) An individual is not guilty of a crime for, by signing a petition for an initiative or referendum, falsely making the statement described in Subsection [~~20A-7-203(2)(d)(xx), 20A-7-303(2)(d)(xx), 20A-7-503(2)(d)(xx), or 20A-7-603(2)(d)(xx)~~] 20A-7-203(3)(d)(xx), 20A-7-303(3)(d)(xx), 20A-7-503(3)(d)(xx), or 20A-7-603(3)(d)(xx).

(2) Except as provided by Section 20A-2-101.3 or 20A-2-101.5, an individual convicted of any offense under this title may not:

(a) file a declaration of candidacy for any office or appear on the ballot as a candidate for any office during the election cycle in which the violation occurred;

(b) take or hold the office to which the individual was elected; and

(c) receive the emoluments of the office to which the individual was elected.

(3) (a) Any individual convicted of any offense under this title forfeits the right to vote at any election unless the right to vote is restored as provided in Section 20A-2-101.3 or 20A-2-101.5.

(b) Any person may challenge the right to vote of a person described in Subsection (3)(a) by following the procedures and requirements of Section 20A-3a-803.

Section 6. Section 20A-7-101 is amended to read:

20A-7-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4) used to gather signatures for the electronic initiative process, the electronic referendum process, or the electronic candidate qualification process.

[~~(1)~~] (2) "Budget officer" means:

(a) for a county, the person designated as budget officer in Section 17-19a-203;

(b) for a city, the person designated as budget officer in Subsection 10-6-106(4);

(c) for a town, the town council; or

(d) for a metro township, the person described in Subsection [~~(1)~~] (2)(a) for the county in which the metro township is located.

[~~(2)~~] (3) "Certified" means that the county clerk has acknowledged a signature as being the signature of a registered voter.

[~~(3)~~] (4) "Circulation" means the process of submitting an initiative or referendum petition to legal voters for their signature.

(5) "Electronic initiative process" means:

(a) as it relates to a statewide initiative, the process, described in Sections 20A-7-215 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local initiative, the process, described in Sections 20A-7-514 and 20A-21-201, for gathering signatures.

(6) "Electronic referendum process" means:

(a) as it relates to a statewide referendum, the process, described in Sections 20A-7-313 and 20A-21-201, for gathering signatures; or

(b) as it relates to a local referendum, the process, described in Sections 20A-7-614 and 20A-21-201, for gathering signatures.

[~~(4)~~] (7) "Eligible voter" means a legal voter who resides in the jurisdiction of the county, city, or town that is holding an election on a ballot proposition.

[~~(5)~~] (8) "Final fiscal impact statement" means a financial statement prepared after voters approve an initiative that contains the information required by Subsection 20A-7-202.5(2) or 20A-7-502.5(2).

[~~(6)~~] (9) "Initial fiscal impact estimate" means:

(a) a financial statement prepared under Section 20A-7-202.5 after the filing of an application for an initiative petition; or

(b) a financial and legal statement prepared under Section 20A-7-502.5 or 20A-7-602.5 for an initiative or referendum petition.

[~~(7)~~] (10) "Initiative" means a new law proposed for adoption by the public as provided in this chapter.

[~~(8)~~] (11) "Initiative packet" means a copy of the initiative petition, a copy of the proposed law, and the signature sheets, all of which have been bound together as a unit.

[~~(9)~~] (12) (a) "Land use law" means a law of general applicability, enacted based on the weighing of broad, competing policy considerations, that relates to the use of land, including land use regulation, a general plan, a land use development code, an annexation ordinance, the rezoning of a single property or multiple properties, or a comprehensive zoning ordinance or resolution.

(b) "Land use law" does not include a land use decision, as defined in Section 10-9a-103 or 17-27a-103.

[~~(10)~~] (13) "Legal signatures" means the number of signatures of legal voters that:

(a) meet the numerical requirements of this chapter; and

(b) have been obtained, certified, and verified as provided in this chapter.

[~~(11)~~] (14) "Legal voter" means a person who[~~: (a)~~] is registered to vote[~~; or~~] in Utah.

[~~(b) becomes registered to vote before the county clerk certifies the signatures on an initiative or referendum petition.~~]

[~~(12)~~] (15) "Legally referable to voters" means:

(a) for a proposed local initiative, that the proposed local initiative is legally referable to voters under Section 20A-7-502.7; or

(b) for a proposed local referendum, that the proposed local referendum is legally referable to voters under Section 20A-7-602.7.

[~~(13)~~] (16) "Local attorney" means the county attorney, city attorney, or town attorney in whose jurisdiction a local initiative or referendum petition is circulated.

[~~(14)~~] (17) "Local clerk" means the county clerk, city recorder, or town clerk in whose jurisdiction a local initiative or referendum petition is circulated.

[~~(15)~~] (18) (a) "Local law" includes:

(i) an ordinance;

(ii) a resolution;

(iii) a land use law;

(iv) a land use regulation, as defined in Section 10-9a-103; or

(v) other legislative action of a local legislative body.

(b) "Local law" does not include a land use decision, as defined in Section 10-9a-103.

[~~(16)~~] (19) "Local legislative body" means the legislative body of a county, city, town, or metro township.

[~~(17)~~] (20) "Local obligation law" means a local law passed by the local legislative body regarding a bond that was approved by a majority of qualified voters in an election.

[~~(18)~~] (21) "Local tax law" means a law, passed by a political subdivision with an annual or biannual calendar fiscal year, that increases a tax or imposes a new tax.

(22) "Manual initiative process" means the process for gathering signatures for an initiative using paper signature packets that a signer physically signs.

(23) "Manual referendum process" means the process for gathering signatures for a referendum using paper signature packets that a signer physically signs.

[~~(19)~~] (24) "Measure" means a proposed constitutional amendment, an initiative, or referendum.

[~~(20)~~] (25) "Referendum" means a process by which a law passed by the Legislature or by a local legislative body is submitted or referred to the voters for their approval or rejection.

[~~(21)~~] (26) "Referendum packet" means a copy of the referendum petition, a copy of the law being submitted or referred to the voters for their approval or rejection, and the signature sheets, all of which have been bound together as a unit.

[~~(22) (a) "Signature" means a holographic signature.~~]

[~~(b) "Signature" does not mean an electronic signature.~~]

(27) "Signature":

(a) for a statewide initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-215 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-203; and

(B) does not include an electronic signature;

(b) for a statewide referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-313 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-303; and

(B) does not include an electronic signature;

(c) for a local initiative:

(i) as it relates to the electronic initiative process, means an electronic signature collected under Section 20A-7-514 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual initiative process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-503; and

(B) does not include an electronic signature; or

(d) for a local referendum:

(i) as it relates to the electronic referendum process, means an electronic signature collected under Section 20A-7-614 and Subsection 20A-21-201(6)(c); or

(ii) as it relates to the manual referendum process:

(A) means a holographic signature collected physically on a signature sheet described in Section 20A-7-603; and

(B) does not include an electronic signature.

[~~(23)~~] (28) "Signature sheets" means sheets in the form required by this chapter that are used to collect signatures in support of an initiative or referendum.

[~~(24)~~] (29) "Special local ballot proposition" means a local ballot proposition that is not a standard local ballot proposition.

[~~(25)~~] (30) "Sponsors" means the legal voters who support the initiative or referendum and who sign the application for petition copies.

[~~(26)~~] (31) (a) "Standard local ballot proposition" means a local ballot proposition for an initiative or a referendum.

(b) "Standard local ballot proposition" does not include a property tax referendum described in Section 20A-7-613.

[~~(27)~~] (32) "Tax percentage difference" means the difference between the tax rate proposed by an initiative or an initiative petition and the current tax rate.

[~~(28)~~] (33) "Tax percentage increase" means a number calculated by dividing the tax percentage difference by the current tax rate and rounding the result to the nearest thousandth.

[~~(29)~~] (34) "Verified" means acknowledged by the person circulating the petition as required in Sections 20A-7-205 and 20A-7-305.

Section 7. Section 20A-7-103 is amended to read:

20A-7-103. Constitutional amendments and other questions submitted by the Legislature -- Publication -- Ballot title -- Procedures for submission to popular vote.

(1) The procedures contained in this section govern when the Legislature submits a proposed constitutional amendment or other question to the voters.

(2) The lieutenant governor shall, not more than 60 days or less than 14 days before the date of the election, publish the full text of the amendment, question, or statute in at least one newspaper in every county of the state where a newspaper is published.

(3) The legislative general counsel shall:

(a) entitle each proposed constitutional amendment "Constitutional Amendment __" and assign it a letter according to the requirements of Section 20A-6-107;

(b) entitle each proposed question "Proposition Number __" with the number assigned to the proposition under Section 20A-6-107 placed in the blank;

(c) draft and designate a ballot title for each proposed amendment or question submitted by the Legislature that:

(i) summarizes the subject matter of the amendment or question; and

(ii) for a proposed constitutional amendment, summarizes any legislation that is enacted and will become effective upon the voters' adoption of the proposed constitutional amendment; and

(d) deliver each letter or number and ballot title to the lieutenant governor.

(4) The lieutenant governor shall certify the letter or number and ballot title of each amendment or question to the county clerk of each county no later than 65 days before the date of the election.

(5) The county clerk of each county shall:

(a) ensure that [~~both~~] the letter or number and the ballot title of each amendment and question [~~is~~] prepared in accordance with this section are printed on the sample ballots and official ballots; and

(b) publish [~~them~~] the sample ballots and official ballots as provided by law.

Section 8. Section 20A-7-203 is amended to read:

20A-7-203. Manual initiative process -- Form of initiative petition and signature sheets.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/ beginning on _________(month\day\year);

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah [~~or intend to become registered to vote in Utah before the certification of the petition names by the county clerk~~]; and

My residence and post office address are written correctly after my name.

NOTICE TO SIGNERS:

Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)".

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection [~~(1)~~] (2)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate.".

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

[~~(2)~~] (3) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following statement, "By signing this petition, you are stating that you have read and understand the law proposed by this petition." in 12-point type;

(e) the table described in Subsection [~~(2)~~] (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection [~~(2)~~] (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal Impact of" followed by the title of the initiative, in at least 12-point, bold type;

(ii) except as provided in Subsection [~~(4)~~] (5), the initial fiscal impact estimate's summary statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection 20A-7-204.1(5), in not less than 12-point type;

(iii) if the initiative petition proposes a tax increase, the following statement in 12-point, bold type:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter [~~and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk~~].

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

[~~(3)~~] (4) The final page of each initiative packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _______________, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah [~~or intends to become registered to vote before the certification of the petition names by the county clerk~~].

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

____

(Name) (Residence Address) (Date)

[~~(4)~~] (5) If the initial fiscal impact estimate described in Subsection [~~(2)(i)~~] (3)(f)(ii), as updated in accordance with Subsection 20A-7-204.1(5), exceeds 200 words, the Office of the Legislative Fiscal Analyst shall prepare a shorter summary statement, for the purpose of inclusion on a signature sheet, that does not exceed 200 words.

[~~(5)~~] (6) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(6)~~] (7) An individual's status as a resident, under Subsection [~~(3)~~] (4), is determined in accordance with Section 20A-2-105.

Section 9. Section 20A-7-204 is amended to read:

20A-7-204. Manual initiative process -- Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection [~~(2)~~] (3), circulate initiative packets that meet the form requirements of this part.

[~~(2)~~] (3) The lieutenant governor shall furnish to the sponsors:

(a) a copy of the initiative petition, with any change submitted under Subsection 20A-7-204.1(5); and

(b) a signature sheet.

[~~(3)~~] (4) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

[~~(4)~~] (5) (a) The sponsors or an agent of the sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create the initiative packets by binding a copy of the initiative petition and no more than 50 signature sheets together at the top in a manner that the packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

[~~(5)~~] (6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the lieutenant governor's office.

(c) The lieutenant governor shall keep a record of the number range provided under Subsection [~~(5)~~] (6)(a).

Section 10. Section 20A-7-205 is amended to read:

20A-7-205. Manual initiative process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) A Utah voter may sign an initiative petition if the voter is a legal voter.

[~~(2)~~] (3) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) An individual may not sign the verification printed on the last page of the initiative packet if the person signed a signature sheet in the initiative packet.

[~~(3)~~] (4) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) for an initiative packet received by the county clerk before December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 90 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2)[~~(a)~~]; or

(ii) for an initiative packet received by the county clerk on or after December 1:

(A) 30 days after the day on which the voter signs the signature removal statement; or

(B) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-207(2)[~~(a)~~].

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection [~~(3)~~] (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than the applicable deadline described in Subsection [~~(3)~~] (4)(a).

(e) A person may only remove a signature from an initiative petition in accordance with this Subsection [~~(3)~~] (4).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-206.3.

Section 11. Section 20A-7-206 is amended to read:

20A-7-206. Manual initiative process -- Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the application for the initiative petition is filed; or

(iii) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(b) A person may not submit an initiative packet after the deadline described in Subsection [~~(1)~~] (2)(a).

(c) Before delivering a packet to the county clerk under Subsection [~~(1)~~] (2), the sponsors shall send an email to each individual who provides a legible, valid email address on the form described in Subsection 20A-7-203[~~(2)~~](3)(d) that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature";

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(d) When the sponsors submit the final signature packet to the county clerk, the sponsors shall submit to the county clerk the following written verification, completed and signed by each of the sponsors:

Verification of initiative sponsor

State of Utah, County of ________

I, __________, of __________, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled ______________________;

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature packet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-206[~~(1)~~](2)(c).

____

(Name) (Residence Address) (Date)

(e) Signatures gathered for the initiative petition are not valid if the sponsors do not comply with this Subsection [~~(1)~~] (2).

[~~(2)~~] (3) The county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-206.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) except as provided in Subsection [~~(3)~~] (4), post the name [~~and~~], voter identification number, and date of signature of each registered voter certified under Subsection [~~(2)~~] (3)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified initiative packet to the lieutenant governor.

[~~(3)~~] (4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-205[~~(3)~~](4), the county clerk shall:

(i) ensure that the voter's name [~~and~~], voter identification number, and date of signature are not included in the posting described in Subsection [~~(2)~~] (3)(c); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection [~~(3)~~] (4)(a) before the later of:

(i) the deadline described in Subsection [~~(2)~~] (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-205[~~(3)~~](4).

[~~(4)~~] (5) The county clerk may not certify a signature under Subsection [~~(2)~~] (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-205; or

(b) that does not have a date of signature next to the signature.

[~~(5)~~] (6) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 12. Section 20A-7-206.3 is amended to read:

20A-7-206.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not include a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) [~~The~~] In relation to an individual who signs an initiative petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) if a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid;

(b) if there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i); and

(d) if a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) [~~The~~] In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from an initiative petition, the county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 13. Section 20A-7-207 is amended to read:

20A-7-207. Evaluation by the lieutenant governor.

(1) [~~When~~] In relation to the manual initiative process, when the lieutenant governor receives an initiative packet from a county clerk, the lieutenant governor shall record the number of the initiative packet received.

(2) [~~(a)~~] The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names [~~and~~], voter identification numbers, and dates of signatures described in Subsection 20A-7-206[~~(2)~~](3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for an initiative packet received by the county clerk before December 1, for at least 90 days; or

(B) for an initiative packet received by the county clerk on or after December 1, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update[~~.~~]; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-217(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor:

(A) for a signature received by the county clerk before December 1, for at least 90 days; or

(B) for a signature received by the county clerk on or after December 1, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

[~~(b)~~] (3) The lieutenant governor:

[~~(i)~~] (a) shall, except as provided in Subsection [~~(2)(b)(ii)~~] (3)(b), declare the petition to be sufficient or insufficient on April 30 before the regular general election described in Subsection 20A-7-201(2)(b); or

[~~(ii)~~] (b) may declare the petition to be insufficient before the day described in Subsection [~~(2)(b)(i)~~] (3)(a) if:

[~~(A)~~] (i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201; [~~or~~]

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-201; or

[~~(B)~~] (iii) a requirement of this part has not been met.

[~~(c)~~] (4) (a) If the total number of names certified under [~~this~~] Subsection [~~(2)~~] (3) equals or exceeds the number of names required under Section 20A-7-201, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

[~~(d)~~] (b) If the total number of names certified under [~~this~~] Subsection [~~(2)~~] (3) does not equal or exceed the number of names required under Section 20A-7-201 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

[~~(e)~~] (c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

[~~(3)~~] (5) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

[~~(4)~~] (6) (a) If the lieutenant governor refuses to accept and file an initiative petition that a voter believes is legally sufficient, the voter may, no later than May 15, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the initiative petition.

(b) If the court determines that the initiative petition is legally sufficient, the lieutenant governor shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which the petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

[~~(5)~~] (7) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 14. Section 20A-7-213 is amended to read:

20A-7-213. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to an initiative petition or a statement described in Subsection [~~20A-7-205(3)~~] 20A-7-205(4) or 20A-7-216(4);

(b) knowingly sign the person's name more than once for the same measure at one election;

(c) knowingly indicate [~~on an initiative packet~~] that a person who signed [~~the packet~~] an initiative petition signed the [~~packet~~] petition on a date other than the date that the person signed the [~~packet~~] petition;

(d) sign an initiative petition knowing the person is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date [~~next to~~] associated with the person's [~~name on the initiative packet~~] signature for the initiative petition is not the date that the person signed the [~~packet~~] petition;

(c) the person has not witnessed the signatures of those persons [~~whose names appear in the initiative packet~~] whose signatures the person collects or submits; or

(d) one or more [~~persons whose signatures appear in the initiative packet is either: (i)~~] individuals who signed the initiative petition are not registered to vote in Utah[~~; or~~].

[~~(ii) does not intend to become registered to vote in Utah.~~]

(3) It is unlawful for any person to:

(a) pay a person to sign an initiative petition;

(b) pay a person to remove the person's signature from an initiative petition;

(c) accept payment to sign an initiative petition; or

(d) accept payment to have the person's name removed from an initiative petition.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 15. Section 20A-7-215 is enacted to read:

20A-7-215. Electronic initiative process -- Form of initiative petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic initiative process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This INITIATIVE PETITION is addressed to the Honorable ____, Lieutenant Governor:

The citizens of Utah who sign this petition respectfully demand that the following proposed law be submitted to the legal voters/Legislature of Utah for their/its approval or rejection at the regular general election/session to be held/beginning on _________(month\day\year)."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the following statement:

"Public hearings to discuss this petition were held at: (list dates and locations of public hearings.)".

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(4) (a) The third screen presented on the approved device shall include the title of proposed law, described in Subsection 20A-7-202(2)(d)(i), followed by the entire text of the proposed law.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the third screen stating, "By clicking here, I attest that I have read and understand the entire text of the proposed law."

(5) Subsequent screens shall be presented on the device in the following order, with the individual viewing the device being required, before advancing to the next screen, to click a link at the bottom of the screen with the following statement: "By clicking here, I attest that I have read and understand the information presented on this screen.":

(a) a description of all proposed sources of funding for the costs associated with the proposed law, including the proposed percentage of total funding from each source;

(b) (i) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; or

(ii) if the initiative petition does not propose a tax increase, the following statement, "This initiative petition does not propose a tax increase.";

(c) the initial fiscal impact estimate's summary statement issued by the Office of the Legislative Fiscal Analyst in accordance with Subsection 20A-7-202.5(2)(a), including any update in accordance with Subsection 20A-7-204.1(5);

(d) a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures; and

(e) the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this petition will be made public.

Do you wish to continue and sign this petition?"

(6) (a) If the individual clicks "no" in response to the question described in Subsection (5)(e), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5)(e), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the petition through the signature process described in Section 20A-21-201.

Section 16. Section 20A-7-216 is enacted to read:

20A-7-216. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign an initiative if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) for an electronic signature gathered before December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 90 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4); or

(b) for an electronic signature gathered on or after December 1:

(i) 30 days after the day on which the voter signs the signature removal statement; or

(ii) 45 days after the day on which the county clerk posts the voter's name under Subsection 20A-7-217(4).

(5) (a) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (5)(a)(iii).

(b) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(d) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(e) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Section 20A-7-206.3.

Section 17. Section 20A-7-217 is enacted to read:

20A-7-217. Electronic initiative process -- Collecting signatures -- Email notification -- Removal of signatures.

(1) This section applies only to the electronic initiative process.

(2) A signature-gatherer may not collect a signature after 5 p.m., the earlier of:

(a) 316 days after the day on which the application for the initiative petition is filed; or

(b) the February 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-202.

(3) The lieutenant governor shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-216(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the petition and the petition signature totals.

(b) The county clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-216(4).

Section 18. Section 20A-7-303 is amended to read:

20A-7-303. Manual referendum process -- Form of referendum petition and signature sheets.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, Lieutenant Governor:

We, the undersigned citizens of Utah, respectfully order that Senate (or House) Bill No. ____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election;

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah [~~or intend to become registered to vote in Utah before the certification of the petition names by the county clerk~~]; and

My residence and post office address are written correctly after my name.".

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

[~~(2)~~] (3) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this petition, you are stating that you have read and understand the law that this petition seeks to overturn." in 12-point type;

(e) the table described in Subsection [~~(2)~~] (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection [~~(2)~~] (3)(f); and

(f) at the bottom of the sheet, include the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter [~~and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk~~].

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

[~~(3)~~] (4) The final page of each referendum packet shall contain the following printed or typed statement:

Verification of signature collector

State of Utah, County of ____

I, _______________, of ____, hereby state, under penalty of perjury, that:

I am a Utah resident and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah [~~or intends to become registered to vote before the certification of the petition names by the county clerk~~].

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

____

(Residence Address) (Date).

[~~(4)~~] (5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(5)~~] (6) An individual's status as a resident, under Subsection [~~(3)~~] (4), is determined in accordance with Section 20A-2-105.

Section 19. Section 20A-7-304 is amended to read:

20A-7-304. Manual referendum process -- Circulation requirements -- Lieutenant governor to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsection [~~(2)~~] (3), circulate referendum packets that meet the form requirements of this part.

[~~(2)~~] (3) The lieutenant governor shall furnish to the sponsors:

(a) a copy of the referendum petition; and

(b) a signature sheet.

[~~(3)~~] (4) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

[~~(4)~~] (5) (a) The sponsors or an agent of the sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum and no more than 50 signature sheets together at the top in a manner that the packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

[~~(5)~~] (6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the lieutenant governor's office to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the lieutenant governor's office, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the lieutenant governor's office; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the lieutenant governor's office.

(c) The lieutenant governor shall keep a record of the number range provided under Subsection [~~(5)~~] (6)(a).

Section 20. Section 20A-7-304.5 is amended to read:

20A-7-304.5. Posting referendum information.

(1) On the day on which the lieutenant governor complies with Subsection [~~20A-7-304(2)~~] 20A-7-304(3), or provides the sponsors with access

to the website defined in Section 20A-21-101, the lieutenant governor shall post the following information together in a conspicuous place on the lieutenant governor's website:

(a) the referendum petition;

(b) the referendum; and

(c) information describing how an individual may remove the individual's signature from the [~~signature packet~~] petition.

(2) The lieutenant governor shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the lieutenant governor's website until the referendum fails to qualify for the ballot or is passed or defeated at an election.

Section 21. Section 20A-7-305 is amended to read:

20A-7-305. Manual referendum process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) A Utah voter may sign a referendum petition if the voter is a legal voter.

[~~(2)~~] (3) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the person signed a signature sheet in the referendum packet.

[~~(3)~~] (4) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2)[~~(a)~~].

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection [~~(3)~~] (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-307(2)[~~(a)~~].

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection [~~(3)~~] (4).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section [~~20A-7-206.3~~] 20A-7-306.3.

Section 22. Section 20A-7-306 is amended to read:

20A-7-306. Manual referendum process -- Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to lieutenant governor.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the referendum packet; or

(ii) 40 days after the day on which the legislative session at which the law passed ends.

(b) A person may not submit a referendum packet after the deadline described in Subsection [~~(1)~~] (2)(a).

[~~(2)~~] (3) No later than 21 days after the day on which the county clerk receives a verified referendum packet, the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-306.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) except as provided in Subsection [~~(3)~~] (4), post the name [~~and~~], voter identification number, and date of signature of each registered voter certified under Subsection [~~(2)~~] (3)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified packet to the lieutenant governor.

[~~(3)~~] (4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-305[~~(3)~~](4), the county clerk shall:

(i) ensure that the voter's name [~~and~~], voter identification number, and date of signature are not included in the posting described in Subsection [~~(2)~~] (3)(c); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection [~~(3)~~] (4)(a) before the later of:

(i) the deadline described in Subsection [~~(2)~~] (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-305[~~(3)~~](4).

[~~(4)~~] (5) The county clerk may not certify a signature under Subsection [~~(2)~~] (3):

(a) on an initiative packet that is not verified in accordance with Section 20A-7-305; or

(b) that does not have a date of signature next to the signature.

[~~(5)~~] (6) A person may not retrieve a referendum packet from a county clerk, or make any alterations or corrections to a referendum packet, after the referendum packet is submitted to the county clerk.

Section 23. Section 20A-7-306.3 is amended to read:

20A-7-306.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not include a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) [~~The~~] In relation to an individual who signs a referendum petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) When a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of a person on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the person described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of a person on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the person described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) [~~The~~] In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from a referendum petition, the county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 24. Section 20A-7-307 is amended to read:

20A-7-307. Evaluation by the lieutenant governor.

(1) [~~When~~] In relation to the manual referendum process, when the lieutenant governor receives a referendum packet from a county clerk, the lieutenant governor shall record the number of the referendum packet received.

(2) [~~(a)~~] The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names [~~and~~], voter identification numbers, and dates of signatures described in Subsection 20A-7-306(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update[~~.~~]; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-315(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

[~~(b)~~] (3) The lieutenant governor:

[~~(i)~~] (a) shall, except as provided in Subsection [~~(2)(b)(ii)~~] (3)(b), declare the petition to be sufficient or insufficient 106 days after the end of the legislative session at which the law passed; or

[~~(ii)~~] (b) may declare the petition to be insufficient before the day described in Subsection [~~(2)(b)(i)~~] (3)(a) if:

[~~(A)~~] (i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; [~~or~~]

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-301; or

[~~(B)~~] (iii) a requirement of this part has not been met.

[~~(c)~~] (4) (a) If the total number of names certified under [~~this~~] Subsection [~~(2)~~] (3) equals or exceeds the number of names required under Section 20A-7-301, and the requirements of this part are met, the lieutenant governor shall mark upon the front of the petition the word "sufficient."

[~~(d)~~] (b) If the total number of names certified under [~~this~~] Subsection [~~(2)~~] (3) does not equal or exceed the number of names required under Section 20A-7-301 or a requirement of this part is not met, the lieutenant governor shall mark upon the front of the petition the word "insufficient."

[~~(e)~~] (c) The lieutenant governor shall immediately notify any one of the sponsors of the lieutenant governor's finding.

[~~(f)~~] (d) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

[~~(3)~~] (5) (a) If the lieutenant governor refuses to accept and file a referendum that a voter believes is legally sufficient, the voter may, no later than 10 days after the day on which the lieutenant governor declares the petition insufficient, apply to the appropriate court for an extraordinary writ to compel the lieutenant governor to accept and file the referendum petition.

(b) If the court determines that the referendum petition is legally sufficient, the lieutenant governor shall file the petition, with a verified copy of the judgment attached to the referendum petition, as of the date on which the petition was originally offered for filing in the lieutenant governor's office.

(c) If the court determines that a petition filed is not legally sufficient, the court may enjoin the lieutenant governor and all other officers from certifying or printing the ballot title and numbers of that measure on the official ballot.

[~~(4)~~] (6) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 25. Section 20A-7-312 is amended to read:

20A-7-312. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any person to:

(a) sign any name other than the person's own to a referendum petition;

(b) knowingly sign the person's name more than once for the same measure at one election;

(c) knowingly indicate [~~on a referendum packet~~] that a person who signed [~~the packet signed the packet~~] a referendum petition signed the petition on a date other than the date that the person signed the [~~packet~~] petition;

(d) sign a referendum knowing the person is not a legal voter; or

(e) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any person to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9) knowing that:

(a) the person does not meet the residency requirements of Section 20A-2-105;

(b) the signature date [~~next to~~] associated with the person's [~~name on the referendum packet~~] signature for the referendum is not the date that the person signed the [~~packet~~] petition;

(c) the person has not witnessed the signatures of those persons whose [~~names appear in the referendum packet~~] signatures the person collects or submits; or

(d) one or more [~~persons whose signatures appear in the referendum packet is either: (i)~~] individuals who sign the referendum are not registered to vote in Utah[~~; or~~].

[~~(ii) does not intend to become registered to vote in Utah.~~]

(3) It is unlawful for any person to:

(a) pay a person to sign a referendum petition;

(b) pay a person to remove the person's signature from a referendum petition;

(c) accept payment to sign a referendum petition; or

(d) accept payment to have the person's name removed from a referendum petition.

(4) Any person violating this section is guilty of a class A misdemeanor.

Section 26. Section 20A-7-313 is enacted to read:

20A-7-313. Electronic referendum process -- Form of referendum petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic referendum process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This REFERENDUM PETITION is addressed to the Honorable ____, Lieutenant Governor:

The citizens of Utah who sign this petition respectfully order that Senate (or House) Bill No.____, entitled (title of act, and, if the petition is against less than the whole act, set forth here the part or parts on which the referendum is sought), passed by the Legislature of the state of Utah during the ____ Session, be referred to the people of Utah for their approval or rejection at a regular general election or a statewide special election."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the entire text of the law that is the subject of the referendum petition.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the law that is the subject of the referendum petition."

(4) (a) The third screen presented on the approved device shall include a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(5) The fourth screen presented on the approved device shall include the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this petition will be made public.

Do you wish to continue and sign this petition?"

(6) (a) If the individual clicks "no" in response to the question described in Subsection (5), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the petition through the signature process described in Section 20A-21-201.

Section 27. Section 20A-7-314 is enacted to read:

20A-7-314. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process.

(2) A Utah voter may sign a referendum petition if the voter is a legal voter.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the voter signs the statement requesting removal; or

(b) 45 days after the day on which the lieutenant governor posts the voter's name under Subsection 20A-7-315(4).

(5) (a) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (5)(a)(iii).

(b) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(d) A person may only remove an electronic signature from a referendum petition in accordance with this section.

(e) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Section 20A-7-306.3.

Section 28. Section 20A-7-315 is enacted to read:

20A-7-315. Electronic referendum process -- Collecting signatures ---- Removal of signatures.

(1) This section applies only to the electronic referendum process.

(2) A signature-gatherer may not collect a signature after 5 p.m., 40 days after the day on which the legislative session at which the law passed ends.

(3) The lieutenant governor shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following referendum:

[insert title of initiative]

To access a copy of the referendum petition, the referendum, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-314(4), the county clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the petition and the petition signature totals.

(b) The county clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-314(4).

Section 29. Section 20A-7-502.6 is amended to read:

20A-7-502.6. Posting initiative information.

(1) Within one business day after the day on which the local clerk's office receives the initial fiscal impact estimate under Subsection 20A-7-502.5(4)(a), the local clerk shall post the following information together in a conspicuous place on the local clerk's website:

(a) the initiative petition;

(b) the initiative;

(c) the fiscal impact estimate; and

(d) information describing how an individual may remove the individual's signature from the signature [~~packet~~] petition.

(2) The local clerk shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the local clerk's website until the initiative fails to qualify for the ballot or is passed or defeated at an election.

Section 30. Section 20A-7-502.7 is amended to read:

20A-7-502.7. Referability to voters.

(1) Within 20 days after the day on which an eligible voter files an application to circulate an initiative petition under Section 20A-7-502, counsel for the county, city, town, or metro township to which the initiative pertains shall:

(a) review the proposed law in the initiative application to determine whether the law is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed law is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) A proposed law in an initiative application is legally referable to voters unless:

(a) the proposed law is patently unconstitutional;

(b) the proposed law is nonsensical;

(c) the proposed law is administrative, rather than legislative, in nature;

(d) the proposed law could not become law if passed;

(e) the proposed law contains more than one subject as evaluated in accordance with Subsection 20A-7-502(3);

(f) the subject of the proposed law is not clearly expressed in the law's title;

(g) the proposed law is identical or substantially similar to a legally referable proposed law sought by an initiative application submitted to the local clerk, under Section 20A-7-502, within two years before the day on which the application for the current proposed initiative is filed; or

(h) the application for the proposed law was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not:

(a) reject a proposed initiative as not legally referable to voters; or

(b) bring a legal action, other than to appeal a court decision, challenging a proposed initiative on the grounds that the proposed initiative is not legally referable to voters.

(4) If a county, city, town, or metro township rejects a proposed initiative, a sponsor of the proposed initiative may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), appeal the decision to:

(a) district court; or

(b) the Supreme Court, if the Supreme Court has original jurisdiction over the appeal.

(5) If, on appeal, the court determines that the law proposed in the initiative petition is legally referable to voters, the local clerk shall comply with Subsection [~~20A-7-504(2)~~] 20A-7-504(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any appeal of the determination, is final.

Section 31. Section 20A-7-503 is amended to read:

20A-7-503. Manual initiative process -- Form of initiative petitions and signature sheets.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) (a) Each proposed initiative petition shall be printed in substantially the following form:

"INITIATIVE PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it.

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah [~~or intend to become registered to vote in Utah before the certification of the petition names by the county clerk~~]; and

My residence and post office address are written correctly after my name."

(b) If the initiative petition proposes a tax increase, the following statement shall appear, in at least 14-point, bold type, immediately following the information described in Subsection [~~(1)~~] (2)(a):

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."

(c) The sponsors of an initiative or an agent of the sponsors shall attach a copy of the proposed law to each initiative petition.

[~~(2)~~] (3) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the initiative printed below the horizontal line, in at least 14-point, bold type;

(d) include a table immediately below the title of the initiative, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words "Registered Voter's Printed Name (must be legible to be counted)" in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words "Street Address, City, Zip Code" in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words "Signature of Registered Voter" in 10-point type;

(xii) the second row of the third column shall b .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words "Email Address (optional, to receive additional information)" in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words "Date Signed" in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words "Birth Date or Age (optional)" in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words "By signing this petition, you are stating that you have read and understand the law proposed by this petition." in 12-point type;

(e) the table described in Subsection [~~(2)~~] (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet for the information described in Subsection [~~(2)~~] (3)(f); and

(f) at the bottom of the sheet, include in the following order:

(i) the words "Fiscal impact of" followed by the title of the initiative, in at least 12-point, bold type;

(ii) the initial fiscal impact estimate's summary statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-502.5(3), in not less than 12-point, bold type;

(iii) if the initiative petition proposes a tax increase, the following statement in 12-point, bold type:

"This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; and

(iv) the word "Warning," in 12-point, bold type, followed by the following statement in not less than eight-point type:

"It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter [~~and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk~~].

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records."

[~~(3)~~] (4) The final page of each initiative packet shall contain the following printed or typed statement:

"Verification of signature collector"

State of Utah, County of ____

I, ______________, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual's name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law proposed by the initiative;

I believe that each individual has printed and signed the individual's name and written the individual's post office address and residence correctly, that each signer has read and understands the law proposed by the initiative, and that each signer is registered to vote in Utah [~~or intends to become registered to vote before the certification of the petition names by the county clerk~~].

____

(Name) (Residence Address) (Date)

Each individual who signed the packet wrote the correct date of signature next to the individual's name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

____

(Name) (Residence Address) (Date)".

[~~(4)~~] (5) If the forms described in this section are substantially followed, the initiative petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(5)~~] (6) An individual's status as a resident, under Subsection [~~(3)~~] (4), is determined in accordance with Section 20A-2-105.

Section 32. Section 20A-7-504 is amended to read:

20A-7-504. Manual initiative process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections [~~(2)~~] (3) and 20A-7-401.5(4)(b), circulate initiative packets that meet the form requirements of this part.

[~~(2)~~] (3) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-502.7, that a law proposed in an initiative petition is legally referable to voters, the local clerk shall furnish to the sponsors:

(a) a copy of the initiative petition; and

(b) a signature sheet.

[~~(3)~~] (4) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

[~~(4)~~] (5) (a) The sponsors or an agent of the sponsors may prepare the initiative for circulation by creating multiple initiative packets.

(b) The sponsors or an agent of the sponsors shall create initiative packets by binding a copy of the initiative petition and no more than 50 signature sheets together at the top in a manner that the packets may be conveniently opened for signing.

(c) An initiative packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

[~~(5)~~] (6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the county clerk; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection [~~(5)~~] (6)(a).

Section 33. Section 20A-7-505 is amended to read:

20A-7-505. Manual initiative process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

[~~(2)~~] (3) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each initiative packet; and

(iii) is informed that each signer is required to read and understand the law proposed by the initiative.

(b) An individual may not sign the verification printed on the last page of the initiative packet if the individual signed a signature sheet in the initiative packet.

[~~(3)~~] (4) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-507(2)[~~(a)~~];

(iii) 316 days after the day on which the application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection [~~(3)~~] (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than the applicable deadline described in Subsection [~~(3)~~] (4)(a).

(e) A person may only remove a signature from an initiative petition in accordance with this Subsection [~~(3)~~] (4)(a).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from an initiative petition, in accordance with Section 20A-7-506.3.

Section 34. Section 20A-7-506 is amended to read:

20A-7-506. Manual initiative process -- Submitting the initiative petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) This section applies only to the manual initiative process.

[~~(1)~~] (2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified initiative packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the initiative packet;

(ii) 316 days after the day on which the application is filed; or

(iii) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) A person may not submit an initiative packet after the deadline established in Subsection [~~(1)~~] (2)(a).

(c) Before delivering a packet to the county clerk under Subsection [~~(1)~~] (2), the sponsors shall send an email to each individual who provides a legible, valid email address on the form described in Subsection 20A-7-503[~~(2)~~](3)(d) that includes the following:

(i) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(ii) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the county clerk's website that includes the information referred to in the email]."

(d) When the sponsors submit the final signature packet to the county clerk, the sponsors shall submit to the county clerk the following written verification, completed and signed by each of the sponsors:

"Verification of initiative sponsor

State of Utah, County of ________

I, __________, of __________, hereby state, under penalty of perjury, that:

I am a sponsor of the initiative petition entitled ______________________;

I sent, or caused to be sent, to each individual who provided a legible, valid email address on a signature packet submitted to the county clerk in relation to the initiative petition, the email described in Utah Code Subsection 20A-7-506[~~(1)(c)~~](2)(c).

____

(Name) (Residence Address) (Date)".

(e) Signatures gathered for the initiative petition are not valid if the sponsors do not comply with this Subsection [~~(1)~~] (2).

[~~(2)~~] (3) The county clerk shall, within 21 days after the day on which the county clerk receives the packet:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-506.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) except as provided in Subsection [~~(3)~~] (4), post the name [~~and~~], voter identification number, and date of signature of each registered voter certified under Subsection [~~(2)~~] (3)(b) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor; and

(d) deliver the verified initiative packet to the local clerk.

[~~(3)~~] (4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection 20A-7-505[~~(3)~~](4), the county clerk shall:

(i) ensure that the voter's name [~~and~~], voter identification number, and date of signature are not included in the posting described in Subsection [~~(2)~~] (3)(c); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection [~~(3)~~] (4)(a) before the later of:

(i) the deadline described in Subsection [~~(2)~~] (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection [~~20A-7-505(3)~~] 20A-7-505(4).

(c) The local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection [~~(2)~~] (3)(c) during the period of time described in Subsection [~~20A-7-507(2)(a)(i)~~] 20A-7-507(3)(a).

[~~(4)~~] (5) The county clerk may not certify a signature under Subsection [~~(2)~~] (3) on an initiative packet that is not verified in accordance with Section 20A-7-505.

[~~(5)~~] (6) A person may not retrieve an initiative packet from a county clerk, or make any alterations or corrections to an initiative packet, after the initiative packet is submitted to the county clerk.

Section 35. Section 20A-7-506.3 is amended to read:

20A-7-506.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not mean a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) [~~The~~] In relation to an individual who signs an initiative petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) When a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (2)(b), or (2)(c), the county clerk shall declare the signature to be invalid.

(3) [~~The~~] In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from an initiative petition, the county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 36. Section 20A-7-507 is amended to read:

20A-7-507. Evaluation by the local clerk.

(1) [~~When~~] In relation to the manual initiative process, when a local clerk receives an initiative packet from a county clerk, the local clerk shall record the number of the initiative packet received.

(2) [~~(a)~~] The county clerk shall:

(a) in relation to the manual initiative process:

(i) post the names [~~and~~], voter identification numbers, and dates of signatures described in Subsection [~~20A–7–506(2)(c)~~] 20A–7–506(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update[~~.~~]; or

(b) in relation to the electronic initiative process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A–7–516(4) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 90 days; and

(ii) update on the local government's website the number of signatures certified as of the date of the update.

[~~(b)~~] (3) The local clerk:

[~~(i)~~] (a) shall, except as provided in Subsection [~~(2)(b)(ii)~~] (3)(b), declare the petition to be sufficient or insufficient:

(i) in relation to the manual initiative process, no later than 21 days after the day of the applicable deadline described in Subsection [~~20A–7–506(1)(a)~~] 20A–7–506(2)(a); or

(ii) in relation to the electronic initiative process, no later than 21 days after the day of the applicable deadline described in Subsection 20A–7–516(2); or

[~~(ii)~~] (b) may declare the petition to be insufficient before the day described in Subsection [~~(2)(b)(i)~~] (3)(a) if:

[~~(A)~~] (i) in relation to the manual initiative process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerks, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A–7–501; [~~or~~]

(ii) in relation to the electronic initiative process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-501; or

[~~(B)~~] (iii) a requirement of this part has not been met.

[~~(c)~~] (4) (a) If the total number of names certified [~~names from each verified signature sheet~~] under Subsection (3) equals or exceeds the number of names required by Section 20A-7-501 and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient."

[~~(d)~~] (b) If the total number of names certified [~~names from each verified signature sheet~~] under Subsection (3) does not equal or exceed the number of names required by Section 20A-7-501 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."

[~~(e)~~] (c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

[~~(f)~~] (d) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

[~~(3)~~] (5) If the local clerk finds the total number of certified signatures from each verified signature sheet to be insufficient, any sponsor may file a written demand with the local clerk for a recount of the signatures appearing on the initiative petition in the presence of any sponsor.

[~~(4)~~] (6) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

Section 37. Section 20A-7-512 is amended to read:

20A-7-512. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for any individual to:

(a) sign any name other than the individual's own name to any initiative petition;

(b) sign an initiative knowing the individual is not a legal voter; or

(c) knowingly and willfully violate any provision of this part.

(2) It is unlawful for any individual to sign the verification for an initiative packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the individual has not witnessed the signatures of the individuals whose [~~names appear in the initiative packet~~] signatures the individual collects or submits; or

(c) one or more individuals [~~whose signatures appear in the initiative packet is either: (i)~~] who signed the initiative petition are not registered to vote in Utah[~~; or~~].

[~~(ii) does not intend to become registered to vote in Utah.~~]

(3) An individual who violates this part is guilty of a class A misdemeanor.

Section 38. Section 20A-7-514 is enacted to read:

20A-7-514. Electronic initiative process - Form of initiative petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic initiative process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This INITIATIVE PETITION is addressed to the Honorable ____, County Clerk/City Recorder/Town Clerk:

The citizens of Utah who sign this petition respectfully demand that the following proposed law be submitted to: the legislative body for its approval or rejection at its next meeting; and the legal voters of the county/city/town, if the legislative body rejects the proposed law or takes no action on it."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the title of proposed law, described in Subsection 20A-7-502(2)(d)(i), followed by the entire text of the proposed law.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the proposed law."

(4) Subsequent screens shall be presented on the device in the following order, with the individual viewing the device being required, before advancing to the next screen, to click a link at the bottom of the screen with the following statement, "By clicking here, I attest that I have read and understand the information presented on this screen.":

(a) (i) if the initiative petition proposes a tax increase, the following statement, "This initiative petition seeks to increase the current (insert name of tax) rate by (insert the tax percentage difference) percent, resulting in a(n) (insert the tax percentage increase) percent increase in the current tax rate."; or

(ii) if the initiative petition does not propose a tax increase, the following statement, "This initiative petition does not propose a tax increase.";

(b) the initial fiscal impact estimate's summary statement issued by the budget officer in accordance with Subsection 20A-7-502.5(2)(b) and the cost estimate for printing and distributing information related to the initiative petition in accordance with Subsection 20A-7-502.5(3);

(c) a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures; and

(d) the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign an initiative petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign an initiative petition when the individual knows that the individual is not a registered voter.

WARNING

Even if your voter registration record is classified as private, your name, voter identification number, and date of signature in relation to signing this petition will be made public.

Do you wish to continue and sign this petition?"

(5) (a) If the individual clicks "no" in response to the question described in Subsection (4)(d), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (4)(d), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the petition through the signature process described in Section 20A-21-201.

Section 39. Section 20A-7-515 is enacted to read:

20A-7-515. Electronic initiative process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic initiative process.

(2) A Utah voter may sign a local initiative petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law proposed by the initiative.

(4) (a) A voter who has signed an initiative petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the signature removal statement;

(ii) 90 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-516(4);

(iii) 316 days after the day on which the application is filed; or

(iv) (A) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(B) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (4)(b)(iii).

(c) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(d) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(e) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(f) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from an initiative petition, in accordance with Section 20A-7-506.3.

Section 40. Section 20A-7-516 is enacted to read:

20A-7-516. Electronic initiative process -- Collecting signatures -- Email notification -- Removal of signatures.

(1) This section applies only to the electronic initiative process.

(2) A signature-gatherer may not collect a signature after 5 p.m., the earlier of:

(a) 316 days after the day on which the application is filed; or

(b) (i) for a county initiative, April 15 immediately before the next regular general election immediately after the application is filed under Section 20A-7-502; or

(ii) for a municipal initiative, April 15 immediately before the next municipal general election immediately after the application is filed under Section 20A-7-502.

(3) The local clerk shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

"You signed a petition for the following initiative:

[insert title of initiative]

To access a copy of the initiative petition, the initiative, the fiscal impact statement, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor.

(5) (a) If the local clerk timely receives a statement requesting signature removal under Subsection 20A-7-515(4), the local clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the petition and the petition signature totals.

(b) The local clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-515(4).

Section 41. Section 20A-7-602.7 is amended to read:

20A-7-602.7. Referability to voters of local law other than land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a local law other than a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a local law other than a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges more than one law passed by the local legislative body; or

(c) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a local law other than a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If, under Subsection (1)(b)(ii), a county, city, town, or metro township rejects a proposed referendum concerning a local law other than a land use law, a sponsor of the proposed referendum may, within 10 days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on a challenge or appeal, the court determines that the proposed referendum described in Subsection (4) is legally referable to voters, the local clerk shall comply with Subsection [~~20A-7-604(2)~~] 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 42. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) For a land use law, a proposed referendum is legally referable to voters unless:

(a) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

(b) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

(c) the proposed referendum challenges more than one law passed by the local legislative body; or

(d) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection [~~20A-7-604(2)~~] 20A-7-604(3), or give the sponsors access to the website defined in Section 20A-21-101, within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 43. Section 20A-7-603 is amended to read:

20A-7-603. Manual referendum process -- Form of referendum petition and signature sheets.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) (a) Each proposed referendum petition shall be printed in substantially the following form:

"REFERENDUM PETITION To the Honorable ____, County Clerk/City Recorder/Town Clerk:

We, the undersigned citizens of Utah, respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on __________(month\day\year);

Each signer says:

I have personally signed this petition;

The date next to my signature correctly reflects the date that I actually signed the petition;

I have personally reviewed the entire statement included with this packet;

I am registered to vote in Utah [~~or intend to become registered to vote in Utah before the certification of the petition names by the county clerk~~]; and

My residence and post office address are written correctly after my name."

(b) The sponsors of a referendum or an agent of the sponsors shall attach a copy of the law that is the subject of the referendum to each referendum petition.

[~~(2)~~] (3) Each signature sheet shall:

(a) be printed on sheets of paper 8-1/2 inches long and 11 inches wide;

(b) be ruled with a horizontal line three-fourths inch from the top, with the space above that line blank for the purpose of binding;

(c) include the title of the referendum printed below the horizontal line, in at least 14-point type;

(d) include a table immediately below the title of the referendum, and beginning .5 inch from the left side of the paper, as follows:

(i) the first column shall be .5 inch wide and include three rows;

(ii) the first row of the first column shall be .85 inch tall and contain the words "For Office Use Only" in 10-point type;

(iii) the second row of the first column shall be .35 inch tall;

(iv) the third row of the first column shall be .5 inch tall;

(v) the second column shall be 2.75 inches wide;

(vi) the first row of the second column shall be .35 inch tall and contain the words “Registered Voter’s Printed Name (must be legible to be counted)” in 10-point type;

(vii) the second row of the second column shall be .5 inch tall;

(viii) the third row of the second column shall be .35 inch tall and contain the words “Street Address, City, Zip Code” in 10-point type;

(ix) the fourth row of the second column shall be .5 inch tall;

(x) the third column shall be 2.75 inches wide;

(xi) the first row of the third column shall be .35 inch tall and contain the words “Signature of Registered Voter” in 10-point type;

(xii) the second row of the third column shall be .5 inch tall;

(xiii) the third row of the third column shall be .35 inch tall and contain the words “Email Address (optional, to receive additional information)” in 10-point type;

(xiv) the fourth row of the third column shall be .5 inch tall;

(xv) the fourth column shall be one inch wide;

(xvi) the first row of the fourth column shall be .35 inch tall and contain the words “Date Signed” in 10-point type;

(xvii) the second row of the fourth column shall be .5 inch tall;

(xviii) the third row of the fourth column shall be .35 inch tall and contain the words “Birth Date or Age (optional)” in 10-point type;

(xix) the fourth row of the third column shall be .5 inch tall; and

(xx) the fifth row of the entire table shall be the width of the entire table, .4 inch tall, and contain the following words, “By signing this petition, you are stating that you have read and understand the law that this petition seeks to overturn.” in 12-point type;

(e) the table described in Subsection [~~(2)~~] (3)(d) shall be repeated, leaving sufficient room at the bottom of the sheet or the information described in Subsection [~~(2)~~] (3)(f); and

(f) at the bottom of the sheet, include the word “Warning,” in 12-point, bold type, followed by the following statement in not less than eight-point type:

“It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual’s own name, or to knowingly sign the individual’s name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter [~~and knows that the individual does not intend to become registered to vote before the certification of the petition names by the county clerk~~].

Birth date or age information is not required, but it may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before petition signatures are verified or if the information you provide does not match your voter registration records.”

[~~(3)~~] (4) The final page of each referendum packet shall contain the following printed or typed statement:

“Verification of signature collector

State of Utah, County of ____

I, ______________, of ____, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the names that appear in this packet were signed by individuals who professed to be the individuals whose names appear in it, and each of the individuals signed the individual’s name on it in my presence;

I did not knowingly make a misrepresentation of fact concerning the law this petition seeks to overturn;

I believe that each individual has printed and signed the individual’s name and written the individual’s post office address and residence correctly, that each signer has read and understands the law that the referendum seeks to overturn, and that each signer is registered to vote in Utah [~~or intends to become registered to vote before the certification of the petition names by the county clerk~~].

____

(Name) (Residence Address) (Date)

Each individual who signed the packet wrote the correct date of signature next to the individual’s name.

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it.

____

(Name) (Residence Address) (Date)”.

[~~(4)~~] (5) If the forms described in this section are substantially followed, the referendum petitions are sufficient, notwithstanding clerical and merely technical errors.

[~~(5)~~] (6) An individual’s status as a resident, under Subsection [~~(3)~~] (4), is determined in accordance with Section 20A-2-105.

Section 44. Section 20A-7-604 is amended to read:

20A-7-604. Manual referendum process -- Circulation requirements -- Local clerk to provide sponsors with materials.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) In order to obtain the necessary number of signatures required by this part, the sponsors or an agent of the sponsors shall, after the sponsors receive the documents described in Subsections [~~(2)~~] (3) and 20A-7-401.5(4)(b), circulate referendum packets that meet the form requirements of this part.

[~~(2)~~] (3) Within five days after the day on which a county, city, town, metro township, or court determines, in accordance with Section 20A-7-602.7, that a proposed referendum is legally referable to voters, the local clerk shall furnish to the sponsors:

(a) a copy of the referendum petition; and

(b) a signature sheet.

[~~(3)~~] (4) The sponsors of the petition shall:

(a) arrange and pay for the printing of all additional copies of the petition and signature sheets; and

(b) ensure that the copies of the petition and signature sheets meet the form requirements of this section.

[~~(4)~~] (5) (a) The sponsors or an agent of the sponsors may prepare the referendum for circulation by creating multiple referendum packets.

(b) The sponsors or an agent of the sponsors shall create referendum packets by binding a copy of the referendum petition and no more than 50 signature sheets together at the top in a manner that the packets may be conveniently opened for signing.

(c) A referendum packet is not required to have a uniform number of signature sheets.

(d) The sponsors or an agent of the sponsors shall include, with each packet, a copy of the proposition information pamphlet provided to the sponsors under Subsection 20A-7-401.5(4)(b).

[~~(5)~~] (6) (a) The sponsors or an agent of the sponsors shall, before gathering signatures:

(i) contact the county clerk to receive a range of numbers that the sponsors may use to number signature packets; and

(ii) number each signature packet, sequentially, within the range of numbers provided by the county clerk, starting with the lowest number in the range.

(b) The sponsors or an agent of the sponsors may not:

(i) number a signature packet in a manner not directed by the county clerk; or

(ii) circulate or submit a signature packet that is not numbered in the manner directed by the county clerk.

(c) The county clerk shall keep a record of the number range provided under Subsection [~~(5)~~] (6)(a).

Section 45. Section 20A-7-604.5 is amended to read:

20A-7-604.5. Posting referendum information.

(1) On the day on which the local clerk complies with Subsection [~~20A-7-604(2)~~] 20A-7-604(3), or gives the sponsors access to the website defined in Section 20A-21-101, the local clerk shall post the following information together in a conspicuous place on the local clerk's website:

(a) the referendum petition;

(b) the referendum; and

(c) information describing how an individual may remove the individual's signature from the [~~signature packet~~] petition.

(2) The local clerk shall:

(a) promptly update the information described in Subsection (1) if the information changes; and

(b) maintain the information described in Subsection (1) on the local clerk's website until the referendum fails to qualify for the ballot or is passed or defeated at an election.

Section 46. Section 20A-7-605 is amended to read:

20A-7-605. Manual referendum process -- Obtaining signatures -- Verification -- Removal of signature.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

[~~(2)~~] (3) (a) The sponsors shall ensure that the individual in whose presence each signature sheet was signed:

(i) is at least 18 years old and meets the residency requirements of Section 20A-2-105;

(ii) verifies each signature sheet by completing the verification printed on the last page of each referendum packet; and

(iii) is informed that each signer is required to read and understand the law that the referendum seeks to overturn.

(b) An individual may not sign the verification printed on the last page of the referendum packet if the individual signed a signature sheet in the referendum packet.

[~~(3)~~] (4) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(b) (i) The statement shall include:

(A) the name of the voter;

(B) the resident address at which the voter is registered to vote;

(C) the signature of the voter; and

(D) the date of the signature described in Subsection [~~(3)~~] (4)(b)(i)(C).

(ii) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(c) A voter may not submit a statement by email or other electronic means.

(d) In order for the signature to be removed, the county clerk must receive the statement before 5 p.m. no later than 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-607(2)(a).

(e) A person may only remove a signature from a referendum petition in accordance with this Subsection [~~(3)~~] (4).

(f) A county clerk shall analyze a signature, for purposes of removing a signature from a referendum petition, in accordance with Section 20A-7-606.3.

Section 47. Section 20A-7-606 is amended to read:

20A-7-606. Manual referendum process -- Submitting the referendum petition -- Certification of signatures by the county clerks -- Transfer to local clerk.

(1) This section applies only to the manual referendum process.

[~~(1)~~] (2) (a) The sponsors, or an agent of the sponsors, shall submit a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the first individual signs the referendum packet; or

(ii) 45 days after the day on which the sponsors receive the items described in Subsection [~~20A-7-604(2)~~] 20A-7-604(3) or from the local clerk.

(b) A person may not submit a referendum packet after the deadline described in Subsection [~~(1)~~] (2)(a).

[~~(2)~~] (3) No later than 21 days after the day on which a county clerk receives a verified referendum packet under Subsection [~~(1)~~] (2)(a), the county clerk shall:

(a) determine whether each signer is a registered voter according to the requirements of Section 20A-7-606.3;

(b) certify on the petition whether each name is that of a registered voter;

(c) provide the name [~~and~~], voter identification number, and date of signature of each registered voter certified under Subsection [~~(2)~~] (3)(b); and

(d) deliver the verified packet to the local clerk.

[~~(3)~~] (4) (a) If the county clerk timely receives a statement requesting signature removal under Subsection [~~20A-7-605(3)~~] 20A-7-605(4), the county clerk shall:

(i) ensure that the voter's name [~~and~~], voter identification number, and date of signature are not included in the posting described in Subsection 20A-7-607(2)(a); and

(ii) remove the voter's signature from the signature packets and signature packet totals.

(b) The county clerk shall comply with Subsection [~~(3)~~] (4)(a) before the later of:

(i) the deadline described in Subsection [~~(2)~~] (3); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection [~~20A-7-605(3)~~] 20A-7-605(4).

(c) The local clerk shall post a link in a conspicuous location on the local government's website to the posting described in Subsection 20A-7-607(2)(a) during the period of time described in Subsection 20A-7-607(2)(a)(i).

[~~(4)~~] (5) The county clerk may not certify a signature under Subsection [~~(2)~~] (3):

(a) on a referendum packet that is not verified in accordance with Section 20A-7-605; or

(b) that does not have a date of signature next to the signature.

[~~(5)~~] (6) A person may not retrieve a referendum packet from a county clerk, or make any alterations or corrections to a referendum packet, after the referendum packet is submitted to the county clerk.

Section 48. Section 20A-7-606.3 is amended to read:

20A-7-606.3. Verification of petition signatures.

(1) As used in this section:

(a) "Substantially similar name" means:

(i) the given name and surname shown on the petition, or both, contain only minor spelling differences when compared to the given name and surname shown on the official register;

(ii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is a commonly used abbreviation or variation of the other;

(iii) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is accompanied by a first or middle initial or a middle name which is not shown on the other record; or

(iv) the surname shown on the petition exactly matches the surname shown on the official register, and the given names differ only because one of the given names shown is an alphabetically corresponding initial that has been provided in the place of a given name shown on the other record.

(b) "Substantially similar name" does not mean a name having an initial or a middle name shown on the petition that does not match a different initial or middle name shown on the official register.

(2) [~~The~~] In relation to an individual who signs a referendum petition with a holographic signature, the county clerk shall use the following procedures in determining whether a signer is a registered voter:

(a) When a signer's name and address shown on the petition exactly match a name and address shown on the official register and the signer's signature appears substantially similar to the signature on the statewide voter registration database, the county clerk shall declare the signature valid.

(b) When there is no exact match of an address and a name, the county clerk shall declare the signature valid if:

(i) the address on the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(b)(i).

(c) When there is no match of an address and a substantially similar name, the county clerk shall declare the signature valid if:

(i) the birth date or age on the petition matches the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (2)(c)(i).

(d) If a signature is not declared valid under Subsection (2)(a), (b), or (c), the county clerk shall declare the signature to be invalid.

(3) [~~The~~] In relation to an individual who, with a holographic signature, signs a statement to remove the individual's signature from a referendum petition, the county clerk shall use the following procedures in determining whether to remove a signature from a petition after receiving a timely, valid statement requesting removal of the signature:

(a) if a signer's name and address shown on the statement and the petition exactly match a name and address shown on the official register and the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database, the county clerk shall remove the signature from the petition;

(b) if there is no exact match of an address and a name, the county clerk shall remove the signature from the petition if:

(i) the address on the statement and the petition matches the address of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(b)(i);

(c) if there is no match of an address and a substantially similar name, the county clerk shall remove the signature from the petition if:

(i) the birth date or age on the statement and petition match the birth date or age of an individual on the official register with a substantially similar name; and

(ii) the signer's signature on both the statement and the petition appears substantially similar to the signature on the statewide voter registration database of the individual described in Subsection (3)(c)(i); and

(d) if a signature does not qualify for removal under Subsection (3)(a), (b), or (c), the county clerk may not remove the signature from the petition.

Section 49. Section 20A-7-607 is amended to read:

20A-7-607. Evaluation by the local clerk -- Determination of election for vote on referendum.

(1) [~~When~~] In relation to the manual referendum process, when the local clerk receives a referendum packet from a county clerk, the local clerk shall record the number of the referendum packet received.

(2) [~~(a)~~] The county clerk shall:

(a) in relation to the manual referendum process:

(i) post the names [~~and~~], voter identification numbers, and dates of signatures described in Subsection 20A-7-606(3)(c) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the local clerk's website the number of signatures certified as of the date of the update[~~.~~]; or

(b) in relation to the electronic referendum process:

(i) post the names, voter identification numbers, and dates of signatures described in Subsection 20A-7-616(3) on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days; and

(ii) update on the lieutenant governor's website the number of signatures certified as of the date of the update.

[~~(b)~~] (3) The local clerk:

[~~(i)~~] (a) shall, except as provided in Subsection [~~(2)(b)(ii)~~] (3)(b), declare the petition to be sufficient or insufficient:

(i) in relation to the manual referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-606[~~(1)~~](2), to submit a referendum packet to the county clerk; or

(ii) in relation to the electronic referendum process, no later than 111 days after the day of the deadline, described in Subsection 20A-7-616(2), to collect a signature; or

[~~(ii)~~] (b) may declare the petition to be insufficient before the day described in Subsection [~~(2)(b)(i)~~] (3)(a) if:

[~~(A)~~] (i) in relation to the manual referendum process, the total of all valid signatures on timely and lawfully submitted signature packets that have been certified by the county clerk, plus the number of signatures on timely and lawfully submitted signature packets that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; [~~or~~]

(ii) in relation to the electronic referendum process, the total of all timely and lawfully submitted valid signatures that have been certified by the county clerks, plus the number of timely and lawfully submitted valid signatures received under Subsection 20A-21-201(6)(b) that have not yet been evaluated for certification, is less than the number of names required under Section 20A-7-601; or

[~~(B)~~] (iii) a requirement of this part has not been met.

[~~(c)~~] (4) (a) If the total number of names certified under [~~this~~] Subsection (2) equals or exceeds the number of names required under Section 20A-7-601, and the requirements of this part are met, the local clerk shall mark upon the front of the petition the word "sufficient";

[~~(d)~~] (b) If the total number of names certified under [~~this~~] Subsection [~~(2)~~] (3) does not equal or exceed the number of names required under Section 20A-7-601 or a requirement of this part is not met, the local clerk shall mark upon the front of the petition the word "insufficient."

[~~(e)~~] (c) The local clerk shall immediately notify any one of the sponsors of the local clerk's finding.

[~~(f)~~] (d) After a petition is declared insufficient, a person may not submit additional signatures to qualify the petition for the ballot.

[~~(3)~~] (5) (a) If the local clerk refuses to accept and file any referendum petition, any voter may apply to a court for an extraordinary writ to compel the local clerk to do so within 10 days after the refusal.

(b) If the court determines that the referendum petition is legally sufficient, the local clerk shall file the petition, with a verified copy of the judgment attached to the petition, as of the date on which the petition was originally offered for filing in the local clerk's office.

(c) If the court determines that any petition filed is not legally sufficient, the court may enjoin the local clerk and all other officers from:

(i) certifying or printing the ballot title and numbers of that measure on the official ballot for the next election; or

(ii) as it relates to a local tax law that is conducted entirely by mail, certifying, printing, or mailing the ballot title and numbers of that measure under Section 20A-7-609.5.

[~~(4)~~] (6) A petition determined to be sufficient in accordance with this section is qualified for the ballot.

[~~(5)~~] (7) (a) Except as provided in Subsection [~~(6)~~] (7)(b) or (c), if a referendum relates to legislative action taken after April 15, the election officer may not place the referendum on an election ballot until a primary election, a general election, or a special election the following year.

(b) The election officer may place a referendum described in Subsection [~~(6)~~] (7)(a) on the ballot for a special, primary, or general election held during the year that the legislative action was taken if the following agree, in writing, on a timeline to place the referendum on that ballot:

(i) the local clerk;

(ii) the county clerk; and

(iii) the attorney for the county or municipality that took the legislative action.

(c) For a referendum on a land use law, if, before August 30, the local clerk or a court determines that the total number of certified names equals or exceeds the number of signatures required in Section 20A-7-601, the election officer shall place the referendum on the election ballot for:

(i) the next general election; or

(ii) another election, if the following agree, in writing, on a timeline to place the referendum on that ballot:

(A) the affected owners, as defined in Section 10-9a-103 or 17-27a-103, as applicable;

(B) the local clerk;

(C) the county clerk; and

(D) the attorney for the county or municipality that took the legislative action.

Section 50. Section 20A-7-611 is amended to read:

20A-7-611. Temporary stay -- Effective date -- Effect of repeal by local legislative body.

(1) Any proposed law submitted to the people by referendum petition that is rejected by the voters at any election is repealed as of the date of the election.

(2) If, at the time during the process described in Subsection [~~20A-7-307(2)~~] 20A-7-607(2), the local clerk determines that, at that point in time, an adequate number of signatures are certified to comply with the signature requirements, the local clerk shall:

(a) issue an order temporarily staying the law from going into effect; and

(b) continue the process of certifying signatures and removing signatures as required by this part.

(3) The temporary stay described in Subsection (2) remains in effect, regardless of whether a future count falls below the signature threshold, until the day on which:

(a) if the local clerk declares the petition insufficient, five days after the day on which the local clerk declares the petition insufficient; or

(b) if the local clerk declares the petition sufficient, the day on which the local legislative body issues the proclamation described in Section 20A-7-610.

(4) A proposed law submitted to the people by referendum petition that is approved by the voters at an election takes effect the later of:

(a) five days after the date of the official proclamation of the vote by the local legislative body; or

(b) the effective date specified in the proposed law.

(5) If, after the local clerk issues a temporary stay order under Subsection (2)(a), the local clerk declares the petition insufficient, the proposed law takes effect the later of:

(a) five days after the day on which the local clerk declares the petition insufficient; or

(b) the effective date specified in the proposed law.

(6) (a) A law adopted by the people under this part is not subject to veto.

(b) The local legislative body may amend any laws approved by the people under this part after the people approve the law.

(7) If the local legislative body repeals a law challenged by referendum petition under this part, the referendum petition is void and no further action on the referendum petition is required.

Section 51. Section 20A-7-612 is amended to read:

20A-7-612. Misconduct of electors and officers -- Penalty.

(1) It is unlawful for an individual to:

(a) sign any name other than the individual's own name to any referendum petition;

(b) sign a referendum knowing that the individual is not a legal voter;

(c) in connection with circulating a referendum petition, represent that a document is an official government document if the individual knows or has reason to know that the document is not an official government document; or

(d) knowingly and willfully violate any provision of this part.

(2) It is unlawful for an individual to sign the verification for a referendum packet, or to electronically sign the verification for a signature under Subsection 20A-21-201(9), knowing that:

(a) the individual does not meet the residency requirements of Section 20A-2-105;

(b) the individual has not witnessed the signatures [~~of the individuals whose names appear in the referendum packet~~] the individual collects or submits; or

(c) one or more individuals whose signatures appear in the referendum packet[~~: (i) is either: (A)~~] is not registered to vote in Utah[~~; or~~].

[~~(B) does not intend to become registered to vote in Utah; or~~]

[~~(ii) appears next to an inaccurate date of signature.~~]

(3) An individual who violates this part is guilty of a class A misdemeanor.

(4) The county attorney or municipal attorney shall prosecute any violation of this section.

Section 52. Section 20A-7-613 is amended to read:

20A-7-613. Property tax referendum petition.

(1) As used in this section, "certified tax rate" means the same as that term is defined in Section 59-2-924.

(2) Except as provided in this section, the requirements of this part apply to a referendum petition challenging a taxing entity's legislative body's vote to impose a tax rate that exceeds the certified tax rate.

(3) Notwithstanding Subsection [~~20A-7-606(1)~~] 20A-7-606(2), the sponsors or an agent of the sponsors shall deliver a signed and verified referendum packet to the county clerk of the county in which the packet was circulated before 5 p.m. no later than the earlier of:

(a) 30 days after the day on which the first individual signs the packet; or

(b) 40 days after the day on which the local clerk complies with Subsection [~~20A-7-604(2)~~] 20A-7-604(3).

(4) Notwithstanding Subsections [~~20A-7-606(2) and (3)~~] 20A-7-606(3) and (4), the county clerk shall take the actions required in Subsections [~~20A-7-606(2) and (3)~~] 20A-7-606(3) and (4) within 10 working days after the day on which the county clerk receives the signed and verified referendum packet as described in Subsection (3).

(5) The local clerk shall take the actions required by Section 20A-7-607 within two working days after:

(a) in relation to the manual referendum process, the day on which the local clerk receives the referendum packets from the county clerk[~~.~~]; or

(b) in relation to the electronic referendum process, the deadline described in Subsection 20A-7-616(2).

(6) Notwithstanding Subsection 20A-7-608(2), the local attorney shall prepare the ballot title within two working days after the day on which the referendum petition is declared sufficient for submission to a vote of the people.

(7) Notwithstanding Subsection 20A-7-609 (2)(c), a referendum that qualifies for the ballot under this section shall appear on the ballot for the earlier of the next regular general election or the next municipal general election unless a special election is called.

(8) The election officer shall mail manual ballots on a referendum under this section the later of:

(a) the time provided in Section 20A-3a-202 or 20A-16-403; or

(b) the time that ballots are prepared for mailing under this section.

(9) Section 20A-7-402 does not apply to a referendum described in this section.

(10) (a) If a majority of voters does not vote against imposing the tax at a rate calculated to generate the increased revenue budgeted, adopted, and approved by the taxing entity's legislative body:

(i) the certified tax rate for the fiscal year during which the referendum petition is filed is its most recent certified tax rate; and

(ii) the proposed increased revenues for purposes of establishing the certified tax rate for the fiscal year after the fiscal year described in Subsection (10)(a)(i) are the proposed increased revenues budgeted, adopted, and approved by the taxing entity's legislative body before the filing of the referendum petition.

(b) If a majority of voters votes against imposing a tax at the rate established by the vote of the taxing entity's legislative body, the certified tax rate for the taxing entity is the taxing entity's most recent certified tax rate.

(c) If the tax rate is set in accordance with Subsection (10)(a)(ii), a taxing entity is not required to comply with the notice and public hearing requirements of Section 59-2-919 if the taxing entity complies with those notice and public hearing requirements before the referendum petition is filed.

(11) The ballot title shall, at a minimum, include in substantially this form the following: "Shall the [name of the taxing entity] be authorized to levy a tax rate in the amount sufficient to generate an increased property tax revenue of [amount] for fiscal year [year] as budgeted, adopted, and approved by the [name of the taxing entity].".

(12) A taxing entity shall pay the county the costs incurred by the county that are directly related to meeting the requirements of this section and that the county would not have incurred but for compliance with this section.

(13) (a) An election officer shall include on a ballot a referendum that has not yet qualified for placement on the ballot, if:

(i) sponsors file an application for a referendum described in this section;

(ii) the ballot will be used for the election for which the sponsors are attempting to qualify the referendum; and

(iii) the deadline for qualifying the referendum for placement on the ballot occurs after the day on which the ballot will be printed.

(b) If an election officer includes on a ballot a referendum described in Subsection (13)(a), the ballot title shall comply with Subsection (11).

(c) If an election officer includes on a ballot a referendum described in Subsection (13)(a) that does not qualify for placement on the ballot, the election officer shall inform the voters by any practicable method that the referendum has not qualified for the ballot and that votes cast in relation to the referendum will not be counted.

Section 53. Section 20A-7-614 is enacted to read:

20A-7-614. Electronic referendum process -- Form of referendum petition -- Circulation requirements -- Signature collection.

(1) This section applies only to the electronic referendum process.

(2) (a) The first screen presented on the approved device shall include the following statement:

"This REFERENDUM PETITION is addressed to the Honorable ____, County Clerk/City Recorder/Town Clerk:

The citizens of Utah who sign this petition respectfully order that (description of local law or portion of local law being challenged), passed by the ____ be referred to the voters for their approval or rejection at the regular/municipal general election to be held on __________(month\day\year)."

(b) An individual may not advance to the second screen until the individual clicks a link at the bottom of the first screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(3) (a) The second screen presented on the approved device shall include the entire text of the law that is the subject of the referendum petition.

(b) An individual may not advance to the third screen until the individual clicks a link at the bottom of the second screen stating, "By clicking here, I attest that I have read and understand the entire text of the law that is the subject of the referendum petition."

(4) (a) The third screen presented on the approved device shall include a statement indicating whether persons gathering signatures for the petition may be paid for gathering signatures.

(b) An individual may not advance to the fourth screen until the individual clicks a link at the bottom of the third screen stating, "By clicking here, I attest that I have read and understand the information presented on this screen."

(5) The fourth screen presented on the approved device shall include the following statement, followed by links where the individual may click "yes" or "no":

"I have personally reviewed the entirety of each statement presented on this device;

I am personally signing this petition;

I am registered to vote in Utah; and

All information I enter on this device, including my residence and post office address, is accurate.

It is a class A misdemeanor for an individual to sign a referendum petition with a name other than the individual's own name, or to knowingly sign the individual's name more than once for the same measure, or to sign a referendum petition when the individual knows that the individual is not a registered voter.

Do you wish to continue and sign this petition?"

(6) (a) If the individual clicks "no" in response to the question described in Subsection (5), the next screen shall include the following statement, "Thank you for your time. Please return this device to the signature-gatherer."

(b) If the individual clicks "yes" in response to the question described in Subsection (5), the website, or the application that accesses the website, shall take the signature-gatherer and the individual signing the petition through the signature process described in Section 20A-21-201.

Section 54. Section 20A-7-615 is enacted to read:

20A-7-615. Electronic referendum process -- Obtaining signatures -- Request to remove signature.

(1) This section applies to the electronic referendum process described in Section 20A-21-201.

(2) A Utah voter may sign a local referendum petition if the voter is a legal voter and resides in the local jurisdiction.

(3) The sponsors shall ensure that the signature-gatherer who collects a signature from an individual:

(a) verifies that the individual is at least 18 years old and meets the residency requirements of Section 20A-2-105; and

(b) is informed that each signer is required to read and understand the law that is the subject of the referendum petition.

(4) (a) A voter who has signed a referendum petition may have the voter's signature removed from the petition by submitting to the county clerk a statement requesting that the voter's signature be removed before 5 p.m. no later than the earlier of:

(i) 30 days after the day on which the voter signs the statement requesting removal; or

(ii) 45 days after the day on which the local clerk posts the voter's name under Subsection 20A-7-616(3).

(b) The statement shall include:

(i) the name of the voter;

(ii) the resident address at which the voter is registered to vote;

(iii) the signature of the voter; and

(iv) the date of the signature described in Subsection (4)(b)(iii).

(c) To increase the likelihood of the voter's signature being identified and removed, the statement may include the voter's birth date or age.

(d) A voter may not submit a signature removal statement by email or other electronic means, unless the lieutenant governor establishes a signature removal process that is consistent with the requirements of this section and Section 20A-21-201.

(e) A person may only remove an electronic signature from an initiative petition in accordance with this section.

(f) A county clerk shall analyze a holographic signature, for purposes of removing an electronic signature from a referendum petition, in accordance with Section 20A-7-606.3.

Section 55. Section 20A-7-616 is enacted to read:

20A-7-616. Electronic referendum process -- Collecting signatures -- Removal of signatures.

(1) This section applies only to the electronic referendum process.

(2) A signature-gatherer may not collect a signature after 5 p.m. 45 days after the day on

which the first three sponsors receive notice, under Section 20A-7-602.7 or 20A-7-602.8, that the referendum is legally referable to voters.

(3) The local clerk shall send to each individual who provides a valid email address during the signature-gathering process an email that includes the following:

(a) the subject of the email shall include the following statement, "Notice Regarding Your Petition Signature"; and

(b) the body of the email shall include the following statement in 12-point type:

”You signed a petition for the following referendum:

[insert title of initiative]

To access a copy of the referendum petition, the referendum, and information on the deadline for removing your signature from the petition, please visit the following link: [insert a uniform resource locator that takes the individual directly to the page on the lieutenant governor's website that includes the information referred to in the email]."

(4) Except as provided in Subsection (5), the county clerk shall, within two business days after the day on which the signature of an individual who signs a petition is certified under Section 20A-21-201, post the name, voter identification number, and date of signature of the individual on the lieutenant governor's website, in a conspicuous location designated by the lieutenant governor, for at least 45 days.

(5) (a) If the local clerk timely receives a statement requesting signature removal under Subsection 20A-7-615(4), the local clerk shall:

(i) ensure that the voter's name, voter identification number, and date of signature are not included in the posting described in Subsection (4); and

(ii) remove the voter's signature from the petition and the petition signature totals.

(b) The local clerk shall comply with Subsection (5)(a) before the later of:

(i) the deadline described in Subsection (4); or

(ii) two business days after the day on which the county clerk receives a statement requesting signature removal under Subsection 20A-7-615(4).

Section 56. Section 20A-9-101 is amended to read:

20A-9-101. Definitions.

As used in this chapter:

(1) (a) "Candidates for elective office" means persons who file a declaration of candidacy under Section 20A-9-202 to run in a regular general election for a federal office, constitutional office, multicounty office, or county office.

(b) "Candidates for elective office" does not mean candidates for:

(i) justice or judge of court of record or not of record;

(ii) presidential elector;

(iii) any political party offices; and

(iv) municipal or local district offices.

(2) "Constitutional office" means the state offices of governor, lieutenant governor, attorney general, state auditor, and state treasurer.

(3) "Continuing political party" means the same as that term is defined in Section 20A-8-101.

(4) (a) "County office" means an elective office where the officeholder is selected by voters entirely within one county.

(b) "County office" does not mean:

(i) the office of justice or judge of any court of record or not of record;

(ii) the office of presidential elector;

(iii) any political party offices;

(iv) any municipal or local district offices; and

(v) the office of United States Senator and United States Representative.

(5) "Electronic candidate qualification process" means:

(a) as it relates to a registered political party that is not a qualified political party, the process for gathering signatures electronically to seek the nomination of a registered political party, described in:

(i) Section 20A-9-403;

(ii) Section 20a-9-405, except Subsections 20A-9-405(3) and (5); and

(iii) Section 20A-21-201; and

(b) as it relates to a qualified political party, the process, for gathering signatures electronically to seek the nomination of a registered political party, described in:

(i) Section 20A-9-405, except Subsections 20A-9-405(3) and (5);

(ii) Section 20A-9-408; and

(iii) Section 20A-21-201.

[~~(5)~~] (6) "Federal office" means an elective office for United States Senator and United States Representative.

[~~(6)~~] (7) "Filing officer" means:

(a) the lieutenant governor, for:

(i) the office of United States Senator and United States Representative; and

(ii) all constitutional offices;

(b) for the office of a state senator or state representative, the lieutenant governor or the applicable clerk described in Subsection [~~(6)~~] (7)(c) or (d);

(c) the county clerk, for county offices and local school district offices;

(d) the county clerk in the filer's county of residence, for multicounty offices;

(e) the city or town clerk, for municipal offices; or

(f) the local district clerk, for local district offices.

[~~(7)~~] (8) "Local district office" means an elected office in a local district.

[~~(8)~~] (9) "Local government office" includes county offices, municipal offices, and local district offices and other elective offices selected by the voters from a political division entirely within one county.

(10) "Manual candidate qualification process" means the process for gathering signatures to seek the nomination of a registered political party, using paper signature packets that a signer physically signs.

[~~(9)~~] (11) (a) "Multicounty office" means an elective office where the officeholder is selected by the voters from more than one county.

(b) "Multicounty office" does not mean:

(i) a county office;

(ii) a federal office;

(iii) the office of justice or judge of any court of record or not of record;

(iv) the office of presidential elector;

(v) any political party offices; or

(vi) any municipal or local district offices.

[~~(10)~~] (12) "Municipal office" means an elective office in a municipality.

[~~(11)~~] (13) (a) "Political division" means a geographic unit from which an officeholder is elected and that an officeholder represents.

(b) "Political division" includes a county, a city, a town, a local district, a school district, a legislative district, and a county prosecution district.

[~~(12)~~] (14) "Qualified political party" means a registered political party that:

(a) (i) permits a delegate for the registered political party to vote on a candidate nomination in the registered political party's convention remotely; or

(ii) provides a procedure for designating an alternate delegate if a delegate is not present at the registered political party's convention;

(b) does not hold the registered political party's convention before the fourth Saturday in March of an even-numbered year;

(c) permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods:

(i) seeking the nomination through the registered political party's convention process, in accordance with the provisions of Section 20A-9-407; or

(ii) seeking the nomination by collecting signatures, in accordance with the provisions of Section 20A-9-408; and

(d) (i) if the registered political party is a continuing political party, no later than 5 p.m. on September 30 of an odd-numbered year, certifies to the lieutenant governor that, for the election in the following year, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406; or

(ii) if the registered political party is not a continuing political party, certifies at the time that the registered political party files the petition described in Section 20A-8-103 that, for the next election, the registered political party intends to nominate the registered political party's candidates in accordance with the provisions of Section 20A-9-406.

(15) "Signature," as it relates to a petition for a candidate to seek the nomination of a registered political party, means:

(a) when using the manual candidate qualification process, a holographic signature collected physically on a nomination petition described in Subsection 20A-9-405(3); or

(b) when using the electronic candidate qualification process:

(i) an electronic signature collected under Subsection 20A-21-201(6)(c)(ii)(A); or

(ii) a holographic signature collected electronically under Subsection 20A-21-201(5)(c)(ii)(B).

Section 57. Section 20A-9-403 is amended to read:

20A-9-403. Regular primary elections.

(1) (a) Candidates for elective office that are to be filled at the next regular general election shall be nominated in a regular primary election by direct vote of the people in the manner prescribed in this section. The regular primary election is held on the date specified in Section 20A-1-201.5. Nothing in this section shall affect a candidate's ability to qualify for a regular general election's ballot as an unaffiliated candidate under Section 20A-9-501 or to participate in a regular general election as a write-in candidate under Section 20A-9-601.

(b) Each registered political party that chooses to have the names of the registered political party's candidates for elective office featured with party affiliation on the ballot at a regular general election shall comply with the requirements of this section and shall nominate the registered political party's candidates for elective office in the manner described in this section.

(c) A filing officer may not permit an official ballot at a regular general election to be produced or used if the ballot denotes affiliation between a registered political party or any other political group and a candidate for elective office who is not nominated in the manner prescribed in this section or in Subsection 20A–9–202(4).

(d) Unless noted otherwise, the dates in this section refer to those that occur in each even–numbered year in which a regular general election will be held.

(2) (a) Each registered political party, in a statement filed with the lieutenant governor, shall:

(i) either declare the registered political party's intent to participate in the next regular primary election or declare that the registered political party chooses not to have the names of the registered political party's candidates for elective office featured on the ballot at the next regular general election; and

(ii) if the registered political party participates in the upcoming regular primary election, identify one or more registered political parties whose members may vote for the registered political party's candidates and whether individuals identified as unaffiliated with a political party may vote for the registered political party's candidates.

(b) (i) A registered political party that is a continuing political party shall file the statement described in Subsection (2)(a) with the lieutenant governor no later than 5 p.m. on November 30 of each odd–numbered year.

(ii) An organization that is seeking to become a registered political party under Section 20A–8–103 shall file the statement described in Subsection (2)(a) at the time that the registered political party files the petition described in Section 20A–8–103.

(3) (a) Except as provided in Subsection (3)(e), an individual who submits a declaration of candidacy under Section 20A–9–202 shall appear as a candidate for elective office on the regular primary ballot of the registered political party listed on the declaration of candidacy only if the individual is certified by the appropriate filing officer as having submitted a [~~set of nomination petitions~~] nomination petition that was:

(i) circulated and completed in accordance with Section 20A–9–405; and

(ii) signed by at least 2% of the registered political party's members who reside in the political division of the office that the individual seeks.

(b) (i) A candidate for elective office shall submit [~~nomination petitions~~] signatures for a nomination petition to the appropriate filing officer for verification and certification no later than 5 p.m. on the final day in March.

(ii) A candidate may supplement the candidate's submissions at any time on or before the filing deadline.

(c) (i) The lieutenant governor shall determine for each elective office the total number of signatures that must be submitted under Subsection (3)(a)(ii) or 20A–9–408(8) by counting the aggregate number of individuals residing in each elective office's political division who have designated a particular registered political party on the individuals' voter registration forms on or before November 15 of each odd–numbered year.

(ii) The lieutenant governor shall publish the determination for each elective office no later than November 30 of each odd–numbered year.

(d) The filing officer shall:

(i) except as otherwise provided in Section 20A–21–201, verify signatures on nomination petitions in a transparent and orderly manner, no later than 14 days after the day on which a candidate submits the signatures to the filing officer;

(ii) for all qualifying candidates for elective office who submit nomination petitions to the filing officer, issue certifications referenced in Subsection (3)(a) no later than the deadline described in Subsection 20A–9–202(1)(b);

(iii) consider active and inactive voters eligible to sign nomination petitions;

(iv) consider an individual who signs a nomination petition a member of a registered political party for purposes of Subsection (3)(a)(ii) if the individual has designated that registered political party as the individual's party membership on the individual's voter registration form; and

(v) except as otherwise provided in Section 20A–21–201, utilize procedures described in Section 20A–7–206.3 to verify submitted nomination petition signatures, or use statistical sampling procedures to verify submitted nomination petition signatures in accordance with rules made under Subsection (3)(f).

(e) Notwithstanding any other provision in this Subsection (3), a candidate for lieutenant governor may appear on the regular primary ballot of a registered political party without submitting nomination petitions if the candidate files a declaration of candidacy and complies with Subsection 20A–9–202(3).

(f) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director of elections, within the Office of the Lieutenant Governor, may make rules that:

(i) provide for the use of statistical sampling procedures that:

(A) filing officers are required to use to verify signatures under Subsection (3)(d); and

(B) reflect a bona fide effort to determine the validity of a candidate's entire submission, using widely recognized statistical sampling techniques; and

(ii) provide for the transparent, orderly, and timely submission, verification, and certification of nomination petition signatures.

(g) The county clerk shall:

(i) review the declarations of candidacy filed by candidates for local boards of education to determine if more than two candidates have filed for the same seat;

(ii) place the names of all candidates who have filed a declaration of candidacy for a local board of education seat on the nonpartisan section of the ballot if more than two candidates have filed for the same seat; and

(iii) determine the order of the local board of education candidates' names on the ballot in accordance with Section 20A-6-305.

(4) (a) Before the deadline described in Subsection 20A-9-409(4)(c), the lieutenant governor shall provide to the county clerks:

(i) a list of the names of all candidates for federal, constitutional, multi-county, single county, and county offices who have received certifications under Subsection (3), along with instructions on how those names shall appear on the primary election ballot in accordance with Section 20A-6-305; and

(ii) a list of unopposed candidates for elective office who have been nominated by a registered political party under Subsection (5)(c) and instruct the county clerks to exclude the unopposed candidates from the primary election ballot.

(b) A candidate for lieutenant governor and a candidate for governor campaigning as joint-ticket running mates shall appear jointly on the primary election ballot.

(c) After the county clerk receives the certified list from the lieutenant governor under Subsection (4)(a), the county clerk shall post or publish a primary election notice in substantially the following form:

"Notice is given that a primary election will be held Tuesday, June ____, ________(year), to nominate party candidates for the parties and candidates for nonpartisan local school board positions listed on the primary ballot. The polling place for voting precinct ____ is ____. The polls will open at 7 a.m. and continue open until 8 p.m. of the same day. Attest: county clerk."

(5) (a) A candidate who, at the regular primary election, receives the highest number of votes cast for the office sought by the candidate is:

(i) nominated for that office by the candidate's registered political party; or

(ii) for a nonpartisan local school board position, nominated for that office.

(b) If two or more candidates are to be elected to the office at the regular general election, those party candidates equal in number to positions to be filled who receive the highest number of votes at the regular primary election are the nominees of the candidates' party for those positions.

(c) (i) As used in this Subsection (5)(c), a candidate is "unopposed" if:

(A) no individual other than the candidate receives a certification under Subsection (3) for the regular primary election ballot of the candidate's registered political party for a particular elective office; or

(B) for an office where more than one individual is to be elected or nominated, the number of candidates who receive certification under Subsection (3) for the regular primary election of the candidate's registered political party does not exceed the total number of candidates to be elected or nominated for that office.

(ii) A candidate who is unopposed for an elective office in the regular primary election of a registered political party is nominated by the party for that office without appearing on the primary election ballot.

(6) (a) When a tie vote occurs in any primary election for any national, state, or other office that represents more than one county, the governor, lieutenant governor, and attorney general shall, at a public meeting called by the governor and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the governor determines.

(b) When a tie vote occurs in any primary election for any county office, the district court judges of the district in which the county is located shall, at a public meeting called by the judges and in the presence of the candidates involved, select the nominee by lot cast in whatever manner the judges determine.

(7) The expense of providing all ballots, blanks, or other supplies to be used at any primary election provided for by this section, and all expenses necessarily incurred in the preparation for or the conduct of that primary election shall be paid out of the treasury of the county or state, in the same manner as for the regular general elections.

(8) An individual may not file a declaration of candidacy for a registered political party of which the individual is not a member, except to the extent that the registered political party permits otherwise under the registered political party's bylaws.

Section 58. Section 20A-9-405 is amended to read:

20A-9-405. Nomination petitions for regular primary elections.

(1) This section [~~shall apply~~] applies to the form and circulation of nomination petitions for regular primary elections described in Subsection 20A-9-403(3)(a).

(2) A candidate for elective office, and the agents of the candidate, may not circulate nomination petitions until the candidate has submitted a declaration of candidacy in accordance with Subsection 20A-9-202(1).

(3) [~~The~~] For the manual candidate qualification process, the nomination petitions shall be in substantially the following form:

(a) the petition shall be printed on paper 8-1/2 inches long and 11 inches wide;

(b) the petition shall be ruled with a horizontal line 3/4 inch from the top, with the space above that line blank for purposes of binding;

(c) the petition shall be headed by a caption stating the purpose of the petition and the name of the proposed candidate;

(d) the petition shall feature the word "Warning" followed by the following statement in no less than eight-point, single leaded type: "It is a class A misdemeanor for anyone to knowingly sign a [~~certificate of nomination signature sheet~~] nomination petition with any name other than the person's own name, or more than once for the same candidate, or if the person is not registered to vote in this state [~~and does not intend to become registered to vote in this state before signatures are certified by a filing officer~~].";

(e) the petition shall feature 10 lines spaced one-half inch apart and consecutively numbered one through 10;

(f) the signature portion of the petition shall be divided into columns headed by the following titles:

(i) Registered Voter's Printed Name;

(ii) Signature of Registered Voter;

(iii) Party Affiliation of Registered Voter;

(iv) Birth Date or Age (Optional);

(v) Street Address, City, Zip Code; and

(vi) Date of Signature; and

(g) a photograph of the candidate may appear on the nomination petition.

(4) For the electronic candidate qualification process, the lieutenant governor shall design an electronic form, using progressive screens, that includes:

(a) the following warning:

"Warning: It is a class A misdemeanor for anyone to knowingly sign a nomination petition with any name other than the person's own name, or more than once for the same candidate, or if the person is not registered to vote in this state."; and

(b) the following information for each individual who signs the petition:

(i) name;

(ii) party affiliation;

(iii) date of birth or age, (optional);

(iv) street address, city, zip code;

(v) date of signature;

(vi) other information required under Section 20A-21-201; and

(vii) other information required by the lieutenant governor.

[~~(4)~~] (5) [~~If~~] For the manual candidate qualification process, if one or more nomination petitions are bound together, a page shall be bound to the nomination petition(s) that features the following printed verification statement to be signed and dated by the petition circulator:

"Verification

State of Utah, County of ____

I, ____, of ____, hereby state that:

I am a Utah resident and am at least 18 years old;

All the names that appear on the signature sheets bound to this page were, to the best of my knowledge, signed by the persons who professed to be the persons whose names appear on the signature sheets, and each of them signed the person's name on the signature sheets in my presence;

I believe that each has printed and signed the person's name and written the person's street address correctly, and that each signer is registered to vote in Utah [~~or will register to vote in Utah before the county clerk certifies the signatures on the signature sheet~~]."

[~~(5)~~] (6) The lieutenant governor shall prepare and make public model nomination petition forms and associated instructions.

[~~(6)~~] (7) A nomination petition circulator must be at least 18 years old and a resident of the state, but may affiliate with any political party.

[~~(7)~~] (8) It is unlawful for any person to:

(a) knowingly sign the nomination petition [~~sheet~~] described in [~~Subsection (3)~~] this section or Section 20A-9-408:

(i) with any name other than the person's own name;

(ii) more than once for the same candidate; or

(iii) if the person is not registered to vote in this state [~~and does not intend to become registered to vote in this state prior to 5 p.m. on the final day in March~~];

(b) sign the verification of a [~~certificate of nomination signature sheet described in Subsection (4)~~] signature for a nomination petition if the person:

(i) does not meet the residency requirements of Section 20A-2-105;

(ii) has not witnessed the signing by those persons whose names appear on the [~~certificate of nomination signature sheet~~] nomination petition; or

(iii) knows that a person whose signature appears on the [~~certificate of nomination signature sheet~~] nomination petition is not registered to vote in this state [~~and does not intend to become registered to vote in this state~~];

(c) pay compensation to any person to sign a nomination petition; or

(d) pay compensation to any person to circulate a nomination petition, if the compensation is based directly on the number of signatures submitted to a filing officer rather than on the number of signatures verified or on some other basis.

[~~(8)~~] (9) Any person violating Subsection [~~(7)~~] (8) is guilty of a class A misdemeanor.

[~~(9)~~] (10) Withdrawal of petition signatures [~~shall not be permitted~~] is prohibited.

Section 59. Section 20A-9-408 is amended to read:

20A-9-408. Signature-gathering process to seek the nomination of a qualified political party.

(1) This section describes the requirements for a member of a qualified political party who is seeking the nomination of the qualified political party for an elective office through the signature-gathering process described in this section.

(2) Notwithstanding Subsection 20A-9-201(7)(a), the form of the declaration of candidacy for a member of a qualified political party who is nominated by, or who is seeking the nomination of, the qualified political party under this section shall be substantially as described in Section 20A-9-408.5.

(3) Notwithstanding Subsection 20A-9-202(1)(a), and except as provided in Subsection 20A-9-202(4), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for an elective office that is to be filled at the next general election shall:

(a) within the period beginning on January 1 before the next regular general election and ending at 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer:

(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(c) pay the filing fee.

(4) Notwithstanding Subsection 20A-9-202(2)(a), a member of a qualified political party who, under this section, is seeking the nomination of the qualified political party for the office of district attorney within a multicounty prosecution district that is to be filled at the next general election shall:

(a) on or after January 1 before the next regular general election, and before gathering signatures under this section, file with the filing officer on a form approved by the lieutenant governor a notice of intent to gather signatures for candidacy that includes:

(i) the name of the member who will attempt to become a candidate for a registered political party under this section;

(ii) the name of the registered political party for which the member is seeking nomination;

(iii) the office for which the member is seeking to become a candidate;

(iv) the address and telephone number of the member; and

(v) other information required by the lieutenant governor;

(b) except as provided in Subsection 20A-9-202(1)(c), file a declaration of candidacy, in person, with the filing officer:

(i) on or after 48 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(ii) before 5 p.m. 52 days after the day on which the Legislature's general session begins, as provided in Section 36-3-201; and

(c) pay the filing fee.

(5) Notwithstanding Subsection 20A-9-202(3)(a)(iii), a lieutenant governor candidate who files as the joint-ticket running mate of an individual who is nominated by a qualified political party, under this section, for the office of governor shall, before the deadline described in Subsection 20A-9-202(1)(b), file a declaration of candidacy and submit a letter from the candidate for governor that names the lieutenant governor candidate as a joint-ticket running mate.

(6) The lieutenant governor shall ensure that the certification described in Subsection 20A-9-701(1) also includes the name of each candidate nominated by a qualified political party under this section.

(7) Notwithstanding Subsection 20A-9-701(2), the ballot shall, for each candidate who is nominated by a qualified political party under this section, designate the qualified political party that nominated the candidate.

(8) A member of a qualified political party may seek the nomination of the qualified political party for an elective office by:

(a) complying with the requirements described in this section; and

(b) collecting signatures, on a form approved by the lieutenant governor that complies with Subsection 20A-9-405(3), during the period beginning on January 1 of an even-numbered year and ending at 5 p.m. 14 days before the day on which the qualified political party's convention for the office is held, in the following amounts:

(i) for a statewide race, 28,000 signatures of registered voters in the state who are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(ii) for a congressional district race, 7,000 signatures of registered voters who are residents of the congressional district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iii) for a state Senate district race, 2,000 signatures of registered voters who are residents of the state Senate district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(iv) for a state House district race, 1,000 signatures of registered voters who are residents of the state House district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election;

(v) for a State Board of Education race, the lesser of:

(A) 2,000 signatures of registered voters who are residents of the State Board of Education district and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election; or

(B) 3% of the registered voters of the qualified political party who are residents of the applicable State Board of Education district; and

(vi) for a county office race, signatures of 3% of the registered voters who are residents of the area permitted to vote for the county office and are permitted by the qualified political party to vote for the qualified political party's candidates in a primary election.

(9) (a) This Subsection (9) applies only to the manual candidate qualification process.

[~~(9) (a)~~] (b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, using the manual candidate qualification process, the member shall:

(i) collect the signatures on a form approved by the lieutenant governor, using the same circulation and verification requirements described in Sections 20A-7-204 and 20A-7-205; and

(ii) submit the signatures to the election officer before 5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination.

[~~(b) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.~~]

[~~(c) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:~~]

[~~(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and~~]

[~~(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (9)(c)(i).~~]

[~~(d)~~] (c) Upon timely receipt of the signatures described in Subsections (8) and (9)[~~(a)~~](b), the election officer shall, no later than the earlier of 14 days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature packet to determine whether each individual is a resident of Utah and is at least 18 years old;

(ii) submit the name of each individual described in Subsection [~~(9)(d)(i)~~] (9)(c)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney;

(iii) determine whether each signer is a registered voter who is qualified to sign the petition, using the same method, described in Section 20A-7-206.3, used to verify a signature on a petition; and

(iv) certify whether each name is that of a registered voter who is qualified to sign the signature packet.

(10) (a) This Subsection (10) applies only to the electronic candidate qualification process.

(b) In order for a member of the qualified political party to qualify as a candidate for the qualified political party's nomination for an elective office under this section, the member shall, before 5 p.m. no later than 14 days before the day on which the qualified political party holds the party's convention to select candidates, for the elective office, for the qualified political party's nomination, collect signatures electronically:

(i) in accordance with Section 20A-21-201; and

(ii) using progressive screens, in a format approved by the lieutenant governor, that complies with Subsection 20A-9-405(4).

(c) Upon timely receipt of the signatures described in Subsections (8) and (9)(b), the election officer shall, no later than the earlier of 14 days after the day on which the election officer receives the signatures, or one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate:

(i) check the name of each individual who completes the verification for a signature to determine whether each individual is a resident of Utah and is at least 18 years old; and

(ii) submit the name of each individual described in Subsection (10)(c)(i) who is not a Utah resident or who is not at least 18 years old to the attorney general and the county attorney.

(11) (a) An individual may not gather signatures under this section until after the individual files a notice of intent to gather signatures for candidacy described in this section.

(b) An individual who files a notice of intent to gather signatures for candidacy, described in Subsection (3)(a) or (4)(a), is, beginning on the day on which the individual files the notice of intent to gather signatures for candidacy:

(i) required to comply with the reporting requirements that a candidate for office is required to comply with; and

(ii) subject to the same enforcement provisions, and civil and criminal penalties, that apply to a candidate for office in relation to the reporting requirements described in Subsection (11)(b)(i).

[~~(e)~~] (c) Upon timely receipt of the signatures described in Subsections (8) and [~~(9)(a)~~] (9)(b), or Subsections (8) and (10)(b), the election officer shall, no later than one day before the day on which the qualified political party holds the convention to select a nominee for the elective office to which the signature packets relate, notify the qualified political party and the lieutenant governor of the name of each member of the qualified political party who qualifies as a nominee of the qualified political party, under this section, for the elective office to which the convention relates.

[~~(f)~~] (d) Upon receipt of a notice of intent to gather signatures for candidacy described in this section, the lieutenant governor shall post the notice of intent to gather signatures for candidacy on the lieutenant governor's website in the same location that the lieutenant governor posts a declaration of candidacy.

Section 60. Section 20A-21-101 is enacted to read:

20A-21-101. Definitions.

As used in this chapter:

(1) "Approved device" means a device described in Subsection 20A-21-201(4).

(2) "Candidate qualification process" means the process, described in Section 20A-9-403 or 20A-9-408, of gathering signatures to seek the nomination of a registered political party.

(3) "Electronic candidate qualification process" means the same as that term is defined in Section 20A-9-101.

(4) "Electronic initiative process" means the same as that term is defined in Section 20A-7-101.

(5) "Electronic referendum process" means the same as that term is defined in Section 20A-7-101.

(6) "Manual candidate qualification process" means the same as that term is defined in Section 20A-9-101.

(7) "Petition" means:

(a) as it relates to the electronic initiative process or the electronic referendum process, the electronic record that an individual signs to indicate the individual is in favor of placing the initiative or referendum on the ballot; or

(b) as it relates to electronic candidate qualification process, the electronic record that an individual signs to indicate the individual is in favor of placing an individual's name on the ballot to run for a particular elective office.

(8) "Signature" means:

(a) as it relates to a signature gathered for an initiative or referendum, the same as that term is defined in Section 20A-7-101; or

(b) as it relates to a signature gathered for the candidate qualification process, the same as that term is defined in Section 20A-9-101.

(9) "Website" means:

(a) as it relates to the electronic initiative process or the electronic referendum process, the website designated by the lieutenant governor for collecting the signatures and other information relating to the electronic initiative process or the electronic referendum process; or

(b) as it relates to the electronic candidate qualification process, a website designated by the lieutenant governor for collecting the signatures and other information relating to the electronic candidate qualification process.

Section 61. Section 20A-21-201 is enacted to read:

20A-21-201. Electronic signature gathering for an initiative, a referendum, or candidate qualification.

(1) (a) After filing a petition for a statewide initiative or a statewide referendum, and before gathering signatures, the sponsors shall, after consulting with the Office of the Lieutenant Governor, sign a form provided by the Office of the Lieutenant Governor indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures electronically:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-204, 20A-7-205, and 20A-7-206; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-304, 20A-7-305, and 20A-7-306.

(c) If the sponsors indicate, under Subsection (1)(a), that the sponsors will gather signatures manually:

(i) in relation to a statewide initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-204, 20A-7-205, and 20A-7-206; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-215, 20A-7-216, and 20A-7-217; and

(ii) in relation to a statewide referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-304, 20A-7-305, and 20A-7-306; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-313, 20A-7-314, and 20A-7-315.

(2) (a) After filing a petition for a local initiative or a local referendum, and before gathering signatures, the sponsors shall, after consulting with the local clerk's office, sign a form provided by the local clerk's office indicating whether the sponsors will gather signatures manually or electronically.

(b) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures electronically:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-504, 20A-7-505, and 20A-7-506; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted electronically, in accordance with this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616; and

(B) may not be gathered or submitted using the manual signature-gathering process described in Sections 20A-7-604, 20A-7-605, and 20A-7-606.

(c) If the sponsors indicate, under Subsection (2)(a), that the sponsors will gather signatures manually:

(i) in relation to a local initiative, signatures for that initiative:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-504, 20A-7-505, and 20A-7-506; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-514, 20A-7-515, and 20A-7-516; and

(ii) in relation to a local referendum, signatures for that referendum:

(A) may only be gathered and submitted using the manual signature-gathering process described in Sections 20A-7-604, 20A-7-605, and 20A-7-606; and

(B) may not be gathered or submitted electronically, as described in this section and Sections 20A-7-614, 20A-7-615, and 20A-7-616.

(3) (a) After a candidate files a notice of intent to gather signatures to qualify for a ballot, and before gathering signatures, the candidate shall, after consulting with the election officer, sign a form provided by the election officer indicating whether the candidate will gather signatures manually or electronically.

(b) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures electronically, signatures for the candidate:

(i) may only be gathered and submitted using the electronic candidate qualification process; and

(ii) may not be gathered or submitted using the manual candidate qualification process.

(c) If a candidate indicates, under Subsection (3)(a), that the candidate will gather signatures manually, signatures for the candidate:

(i) may only be gathered and submitted using the manual candidate qualification process; and

(ii) may not be gathered or submitted using the electronic candidate qualification process.

(4) To gather a signature electronically, a signature-gatherer shall:

(a) use a device provided by the signature-gatherer or a sponsor of the petition that:

(i) is approved by the lieutenant governor;

(ii) except as provided in Subsection (4)(a)(iii), does not store a signature or any other information relating to an individual signing the petition in any location other than the location used by the website to store the information;

(iii) does not, on the device, store a signature or any other information relating to an individual signing the petition except for the minimum time necessary to upload information to the website;

(iv) does not contain any applications, software, or data other than those approved by the lieutenant governor; and

(v) complies with cyber-security and other security protocols required by the lieutenant governor;

(b) use the approved device to securely access a website designated by the lieutenant governor, directly, or via an application designated by the lieutenant governor;

(c) while connected to the website, present the approved device to an individual considering signing the petition and, while the signature-gatherer is in the physical presence of the individual:

(i) wait for the individual to reach each screen presented to the individual on the approved device; and

(ii) wait for the individual to advance to each subsequent screen by clicking on the acknowledgement at the bottom of the screen.

(5) Each screen shown on an approved device as part of the signature-gathering process shall appear as a continuous electronic document that, if the entire document does not appear on the screen at once, requires the individual viewing the screen to, before advancing to the next screen, scroll through the document until the individual reaches the end of the document.

(6) After advancing through each screen required for the petition, the signature process shall proceed as follows:

(a) except as provided in Subsection (6)(b):

(i) the individual desiring to sign the petition shall present the individual's driver license or state identification card to the signature-gatherer;

(ii) the signature-gatherer shall verify that the individual pictured on the driver license or state identification card is the individual signing the petition;

(iii) the signature-gatherer shall scan or enter the driver license number or state identification card number through the approved device; and

(iv) immediately after the signature-gatherer complies with Subsection (6)(a)(iii), the website shall determine whether the individual desiring to sign the petition is eligible to sign the petition;

(b) if the individual desiring to sign the petition is unable to provide a driver license or state identification card to the signature gatherer:

(i) the individual may present other valid voter identification;

(ii) if the valid voter identification contains a picture of the individual, the signature-gatherer shall verify that the individual pictured is the individual signing the petition;

(iii) if the valid voter identification does not contain a picture of the individual, the signature-gatherer shall, to the extent reasonably practicable, use the individual's address or other available means to determine whether the identification relates to the individual presenting the identification;

(iv) the signature-gatherer shall scan an image of the valid voter identification and immediately upload the image to the website; and

(v) the individual:

(A) shall enter the individual's address; and

(B) may, at the discretion of the individual, enter the individual's date of birth or age after the individual clicks on the screen acknowledging that they have read and understand the following statement, "Birth date or age information is not required, but may be used to verify your identity with voter registration records. If you choose not to provide it, your signature may not be verified as a valid signature if you change your address before your signature is verified or if the information you provide does not match your voter registration records."; and

(c) after completing the process described in Subsection (6)(a) or (b), the screen shall:

(i) except for a petition to qualify a candidate for the ballot, give the individual signing the petition the opportunity to enter the individual's email address after the individual reads the following statement, "If you provide your email address, you may receive an email with additional information relating to the petition you are signing."; and

(ii) (A) if the website determines, under Subsection (6)(a)(iv), that the individual is eligible to sign the petition, permit the individual to enter the individual's name as the individual's electronic signature and, immediately after the signature-gather timely complies with Subsection (10), certify the signature; or

(B) if the individual provides valid voter identification under Subsection (6)(b), permit the individual to enter the individual's name as the individual's electronic signature.

(7) If an individual provides valid voter identification under Subsection (6)(b), the county clerk shall, within seven days after the day on which the individual submits the valid voter identification, certify the signature if:

(a) the individual is eligible to sign the petition;

(b) the identification provided matches the information on file; and

(c) the signature-gatherer timely complies with Subsection (10).

(8) For each signature submitted under this section, the website shall record:

(a) the information identifying the individual who signs;

(b) the date the signature was collected; and

(c) the name of the signature-gatherer.

(9) An individual who is a signature-gatherer may not sign a petition unless another individual acts as the signature-gatherer when the individual signs the petition.

(10) Except for a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the website:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, ____________________, of ______, hereby state, under penalty of perjury, that:

I am a resident of Utah and am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I did not knowingly make a misrepresentation of fact concerning the law or proposed law to which the petition relates;

I believe that each individual has signed the individual's name and written the individual's residence correctly, that each signer has read and understands the law to which the petition relates, and that each signer is registered to vote in Utah;

Each signature correctly reflects the date on which the individual signed the petition; and

I have not paid or given anything of value to any individual who signed this petition to encourage that individual to sign it."

(11) Except for a petition for a candidate to seek the nomination of a registered political party:

(a) the county clerk may not certify a signature that is not timely verified in accordance with Subsection (10); and

(b) if a signature certified by a county clerk under Subsection (6)(c)(ii)(A) is not timely verified in accordance with Subsection (10), the county clerk shall:

(i) revoke the certification;

(ii) remove the signature from the posting described in Subsection 20A-7-217(4), 20A-7-315(3), 20A-7-516(4), or 20A-7-616(3); and

(iii) update the totals described in Subsections 20A-7-217(5)(a)(ii), 20A-7-315(5)(a)(ii), 20A-7-516(5)(a)(ii), and 20A-7-616(5)(a)(ii).

(12) For a petition for a candidate to seek the nomination of a registered political party, each individual who gathers a signature under this section shall, within one business day after the day on which the individual gathers a signature, electronically sign and submit the following statement to the lieutenant governor in the manner specified by the lieutenant governor:

"VERIFICATION OF SIGNATURE-GATHERER

State of Utah, County of ____

I, ____________________, of ______, hereby state that:

I am a resident of Utah and am at least 18 years old;

All the signatures that I collected on [Date signatures were gathered] were signed by individuals who professed to be the individuals whose signatures I gathered, and each of the individuals signed the petition in my presence;

I believe that each individual has signed the individual's name and written the individual's residence correctly and that each signer is registered to vote in Utah; and

Each signature correctly reflects the date on which the individual signed the petition."

(13) For a petition for a candidate to seek the nomination of a registered political party, the election officer may not certify a signature that is not timely verified in accordance with Subsection (12).

Section 62. Effective date.

This bill takes effect on January 1, 2023, except that the changes to Section 20A-7-103 take effect on May 4, 2022.

CHAPTER 326
H. B. 219

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill enacts the Uniform Unregulated Child Custody Transfer Act (Act).

Highlighted Provisions:

This bill:

- creates, modifies, and repeals definitions;
- prohibits a parent or guardian from transferring custody of a child with intent to abandon the parent's or guardian's rights and responsibilities for the child, except under certain circumstances;
- prohibits a person from receiving custody of a child or assisting in the transfer of custody of the child if the person knows the transfer is a violation of the Act;
- authorizes the Division of Child and Family Services (division) to conduct a home visit or take other action to protect the welfare of a child who the division reasonably believes may be the subject of an unregulated custody transfer;
- prohibits a person from soliciting or advertising to take certain actions in violation of the Act;
- requires a child-placing agency to provide a prospective adoptive parent general adoption information and other information specific to the child to be adopted;
- requires a child-placing agency or the division to provide information about certain financial assistance or support services available to the prospective adoptive parent;
- authorizes the Office of Licensing (office) to initiate proceedings to investigate a violation of the Act;
- authorizes the office to suspend or revoke a child-placing agency's license for a violation of the Act;
- provides the office rulemaking authority;
- provides penalties for a violation of certain provisions of the Act;
- includes a severability clause; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-4a-601, as last amended by Laws of Utah 2017, Chapters 148 and 401
62A-4a-602, as last amended by Laws of Utah 2020, Chapter 250
80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

ENACTS:

78B-24-101, Utah Code Annotated 1953
78B-24-102, Utah Code Annotated 1953
78B-24-201, Utah Code Annotated 1953
78B-24-202, Utah Code Annotated 1953
78B-24-203, Utah Code Annotated 1953
78B-24-204, Utah Code Annotated 1953
78B-24-205, Utah Code Annotated 1953
78B-24-301, Utah Code Annotated 1953
78B-24-302, Utah Code Annotated 1953
78B-24-303, Utah Code Annotated 1953
78B-24-304, Utah Code Annotated 1953
78B-24-305, Utah Code Annotated 1953
78B-24-306, Utah Code Annotated 1953
78B-24-307, Utah Code Annotated 1953
78B-24-308, Utah Code Annotated 1953
78B-24-401, Utah Code Annotated 1953
78B-24-402, Utah Code Annotated 1953
78B-24-403, Utah Code Annotated 1953
78B-24-404, Utah Code Annotated 1953

REPEALS:

62A-4a-607, as last amended by Laws of Utah 2021, Chapter 262
62A-4a-609, as enacted by Laws of Utah 2017, Chapter 401
62A-4a-711, as last amended by Laws of Utah 2021, Chapter 262

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-4a-601 is amended to read:

62A-4a-601. Definitions.

[~~For purposes of~~] As used in this part:

(1) "Child placing" means the same as that term is defined in Section 62A-2-101.

(2) "Child-placing agency" means the same as that term is defined in Section 62A-2-101.

[~~(3) "High needs child" means a child:~~]

[~~(a) with an attachment or trauma-related disorder;~~]

[~~(b) who suffered from prenatal exposure to alcohol or drugs;~~]

[~~(c) who is the subject of an intercountry adoption;~~]

[~~(d) who was previously adopted; or~~]

[~~(e) who is in foster care.~~]

Section 2. Section 62A-4a-602 is amended to read:

62A-4a-602. Licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(c) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(c)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) [~~A~~] Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the Office of Licensing within the department, in accordance with Chapter 2, Licensure of Programs and Facilities.

(b) When a child-placing agency's license is suspended or revoked in accordance with that chapter, the care, control, or custody of any child who has been in the care, control, or custody of that agency shall be transferred to the division.

(3) (a) (i) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted.

(ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the Office of Licensing within the department shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the Office of Licensing within the department.

[~~(4) Nothing in this part:~~]

(4) This part does not:

(a) [~~precludes~~] preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings; or

(b) [~~abrogates~~] abrogate the right of procedures for independent adoption as provided by law.

(5) In accordance with federal law, only [~~agents or employees~~] an agent or employee of the division and of a licensed [~~child placing agencies~~] child-placing agency may certify to the United States Citizenship and Immigration [~~and Naturalization Service~~] Services that a family meets the division's preadoption requirements.

(6) (a) Neither a licensed child-placing agency nor any attorney practicing in this state may place a child for adoption, either temporarily or permanently, with [~~any individual or individuals that~~] an individual who would not be qualified for adoptive placement [~~pursuant to the provisions of~~] under Sections 78B-6-117, 78B-6-102, and 78B-6-137.

(b) (i) The division, as a licensed child-placing agency, may not place a child in foster care with [~~any~~] an individual [~~or individuals that~~] who would not be qualified for adoptive placement [~~pursuant to the provisions of~~] under Sections 78B-6-117, 78B-6-102, and 78B-6-137. [~~However, nothing in this~~]

(ii) This Subsection (6)(b) [~~limits~~] does not limit the placement of a child in foster care with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(c) (i) With regard to [~~children who are~~] a child who is in the custody of the state, the division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that priority for placement shall be provided to [~~families~~] a family in which a couple is legally married under the laws of this state. [~~However, nothing in this~~]

(ii) This Subsection (6)(c) [~~limits~~] does not limit the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 3. Section 78B-24-101 is enacted to read:

CHAPTER 24. UNIFORM UNREGULATED CHILD CUSTODY TRANSFER ACT

Part 1. General Provisions

78B-24-101. Definitions.

As used in this chapter:

(1) "Child" means an unemancipated individual under 18 years old.

(2) (a) "Child-placing agency" means a person with authority under other law of this state to identify or place a child for adoption.

(b) "Child-placing agency" does not include a parent of a child.

(3) "Custody" means the exercise of physical care and supervision of a child.

(4) (a) "Intercountry adoption" means an adoption or placement for adoption of a child who resides in a foreign country at the time of adoption or placement.

(b) "Intercountry adoption" includes an adoption finalized in the child's country of residence or in a state.

(5) "Parent" means an individual recognized as a parent under other law of this state.

(6) "Person" means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(7) "Record" means information:

(a) inscribed on a tangible medium; or

(b) stored in an electronic or other medium and retrievable in perceivable form.

(8) (a) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States.

(b) "State" includes a federally recognized Indian tribe.

Section 4. Section 78B-24-102 is enacted to read:

78B-24-102. Limitations on applicability.

This chapter does not apply to custody of an Indian child, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, to the extent governed by the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 through 1963.

Section 5. Section 78B-24-201 is enacted to read:

Part 2. Prohibition of Unregulated Custody Transfer

78B-24-201. Definitions.

As used in this part:

(1) "Guardian" means a person recognized as a guardian under other law of this state.

(2) "Intermediary" means a person that assists or facilitates a transfer of custody of a child, whether or not for compensation.

Section 6. Section 78B-24-202 is enacted to read:

78B-24-202. Applicability.

This part does not apply to a transfer of custody of a child by a parent or guardian of the child to:

(1) a parent of the child;

(2) a stepparent of the child;

(3) an adult who is related to the child by blood, marriage, or adoption;

(4) an adult who, at the time of the transfer, had a close relationship with the child or the parent or guardian of the child for a substantial period, and whom the parent or guardian reasonably believed, at the time of the transfer, to be a fit custodian of the child;

(5) an Indian custodian, as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, of the child; or

(6) a member of the child's customary family unit recognized by the child's indigenous group.

Section 7. Section 78B-24-203 is enacted to read:

78B-24-203. Prohibited custody transfer.

(1) Except as provided in Subsection (2), a parent or guardian of a child, or an individual with whom a child has been placed for adoption, may not transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child.

(2) A parent or guardian of a child or an individual with whom a child has been placed for adoption may transfer custody of the child to another person with the intent, at the time of the transfer, to abandon the rights and responsibilities concerning the child only through:

(a) adoption or guardianship;

(b) judicial award of custody;

(c) placement by or through a child-placing agency;

(d) other judicial or tribal action; or

(e) safe relinquishment under Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child.

(3) (a) A person may not receive custody of a child, or act as an intermediary in a transfer of custody of a child, if the person knows or reasonably should know the transfer violates Subsection (1).

(b) This subsection does not apply if the person as soon as practicable after the transfer, notifies the Division of Child and Family Services of the transfer or takes appropriate action to establish custody under Subsection (2).

(4) A violation of this section is a class B misdemeanor.

(5) A violation of Subsection (1) is not established solely because a parent or guardian that transfers custody of a child does not regain custody.

Section 8. Section 78B-24-204 is enacted to read:

78B-24-204. Authority and responsibility of the Division of Child and Family Services.

(1) If the Division of Child and Family Services has a reasonable basis to believe that a person has transferred or will transfer custody of a child in violation of Subsection 78B-24-203(1), the Division of Child and Family Services may conduct a home visit as provided by other law of this state and take appropriate action to protect the welfare of the child.

(2) If the Division of Child and Family Services conducts a home visit for a child adopted or placed through an intercountry adoption, the Division of Child and Family Services shall:

(a) prepare a report on the welfare and plan for permanent placement of the child; and

(b) provide a copy of the report to the United States Department of State.

(3) This chapter does not prevent the Division of Child and Family Services from taking appropriate action under law of this state.

Section 9. Section 78B-24-205 is enacted to read:

78B-24-205. Prohibited soliciting or advertising.

(1) A person may not solicit or advertise to:

(a) find a person to which to make a transfer of custody in violation of Subsection 78B-24-203(1);

(b) identify a child for a transfer of custody in violation of Subsection 78B-24-203(3); or

(c) act as an intermediary in a transfer of custody in violation of Subsection 78B-24-203(3).

(2) A violation of this section is a class B misdemeanor.

Section 10. Section 78B-24-301 is enacted to read:

Part 3. Information and Guidance

78B-24-301. Definitions.

As used in this part, "prospective adoptive parent" means an individual who has been approved or permitted under other law of this state to adopt a child.

Section 11. Section 78B-24-302 is enacted to read:

78B-24-302. Scope.

This part applies to placement for adoption of a child who:

(1) has been or is in foster or institutional care;

(2) previously has been adopted in a state;

(3) has been or is being adopted under the law of a foreign country;

(4) has come or is coming to a state from a foreign country to be adopted;

(5) is not a citizen of the United States;

(6) has an attachment or trauma-related disorder; or

(7) suffered from prenatal exposure to alcohol or drugs.

Section 12. Section 78B-24-303 is enacted to read:

78B-24-303. General adoption information.

(1) Within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the child-placing agency shall provide or cause to be provided to the prospective adoptive parent general adoption information.

(2) The information under Subsection (1) shall address:

(a) possible physical, mental, emotional, and behavioral issues concerning:

(i) identity, loss, and trauma that a child might experience before, during, or after adoption; and

(ii) a child leaving familiar ties and surroundings;

(b) the effect that access to resources, including health insurance, might have on the ability of an adoptive parent to meet the needs of a child;

(c) causes of disruption of an adoptive placement or dissolution of an adoption and resources available to help avoid disruption or dissolution; and

(d) prohibitions under Sections 78B-24-203 and 78B-24-205.

Section 13. Section 78B-24-304 is enacted to read:

78B-24-304. Information about a child.

(1) (a) Except as prohibited by other law of this state, within a reasonable time before a child-placing agency places a child for adoption with a prospective adoptive parent, the agency shall provide or cause to be provided to the prospective adoptive parent information specific to the child that is known or reasonably obtainable by the child-placing agency and material to the prospective adoptive parents informed decision to adopt the child.

(b) The information under Subsection (1)(a) shall include:

(i) the child's family, cultural, racial, religious, ethnic, linguistic, and educational background;

(ii) the child's physical, mental, emotional, and behavioral health;

(iii) circumstances that may adversely affect the child's physical, mental, emotional, or behavioral health;

(iv) the child's medical history, including immunizations;

(v) the medical history of the child's genetic parents and siblings;

(vi) the history of an adoptive or out-of-home placement of the child and the reason the adoption or placement ended;

(vii) the child's United States immigration status;

(viii) medical, therapeutic, and educational resources, including language-acquisition training, available to the adoptive parent and child after placement or adoption to assist in responding effectively to physical, mental, emotional, or behavioral issues; and

(ix) available records relevant to the information in Subsections (1)(b)(i) through (viii).

(2) If, before an adoption is finalized, additional information under Subsection (1) that is material to a prospective adoptive parent's informed decision to adopt the child becomes known or reasonably obtainable by the child-placing agency, the child-placing agency shall provide the information to the prospective adoptive parent.

(3) If, after an adoption is finalized, additional information under Subsection (1) becomes known to the child-placing agency, the child-placing agency shall make a reasonable effort to provide the information to the adoptive parent.

Section 14. Section 78B-24-305 is enacted to read:

78B-24-305. Guidance and instruction.

(1) A child-placing agency placing a child for adoption shall provide or cause to be provided to the prospective adoptive parent guidance and instruction specific to the child to help prepare the parent to respond effectively to needs of the child which are known or reasonably ascertainable by the child-placing agency.

(2) The guidance and instruction under Subsection (1) shall address, if applicable:

(a) the potential effect on the child of:

(i) previous adoption or out-of-home placement;

(ii) multiple previous adoptions or out-of-home placements;

(iii) trauma, insecure attachment, fetal alcohol exposure, or malnutrition;

(iv) neglect, abuse, drug exposure, or similar adversity;

(v) separation from a sibling or significant caregiver; and

(vi) a difference in ethnicity, race, or cultural identity between the child and the prospective adoptive parent or other child of the parent;

(b) information available from the federal government on the process for the child to acquire United States citizenship; and

(c) any other matter the child-placing agency considers material to the adoption.

(3) The guidance and instruction under Subsection (1) shall be provided:

(a) for adoption of a child residing in the United States, a reasonable time before the adoption is finalized; or

(b) for an intercountry adoption, in accordance with federal law.

Section 15. Section 78B-24-306 is enacted to read:

78B-24-306. Information about financial assistance and support services.

On request of a child who was placed for adoption or the child's adoptive parent, the child-placing agency placing the child or the Division of Child and Family Services shall provide information about how to obtain financial assistance or support services:

(1) to assist the child or parent to respond effectively to adjustment, behavioral, and other challenges; and

(2) to help preserve the placement or adoption.

Section 16. Section 78B-24-307 is enacted to read:

78B-24-307. Child-placing agency compliance.

(1) The Office of Licensing, created in Section 62A-2-103, may investigate an allegation that a child-placing agency has failed to comply with this part and commence an action for injunctive or other relief or initiate administrative proceedings against the child-placing agency to enforce this part.

(2) (a) The Office of Licensing may initiate a proceeding to determine whether a child-placing agency has failed to comply with this part.

(b) If the Office of Licensing finds that the child-placing agency has failed to comply, the Office of Licensing may suspend or revoke the child-placing agency's license or take other action permitted by law of the state.

Section 17. Section 78B-24-308 is enacted to read:

78B-24-308. Rulemaking authority.

The Office of Licensing, created in Section 62A-2-103, may adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement Sections 78B-24-303, 78B-24-304, 78B-24-305, and 78B-24-306.

Section 18. Section 78B-24-401 is enacted to read:

Part 4. Miscellaneous Provisions

78B-24-401. Uniformity of application and construction.

In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact the uniform act.

Section 19. Section 78B-24-402 is enacted to read:

78B-24-402. Relation to Electronic Signatures in Global and National Commerce Act.

This chapter modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

Section 20. Section 78B-24-403 is enacted to read:

78B-24-403. Transitional provisions.

(1) Part 2, Prohibition of Unregulated Custody Transfer, applies to:

(a) a transfer of custody on or after May 4, 2022; and

(b) soliciting or advertising on or after May 4, 2022.

(2) Part 3, Information and Guidance, applies to placement of a child for adoption more than 60 days after May 4, 2022.

Section 21. Section 78B-24-404 is enacted to read:

78B-24-404. Severability.

If a provision of this chapter or the provision's application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.

Section 22. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated child custody transfer under Section 78B-24-203; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) “Sexual exploitation” means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) “Shelter” means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) “Shelter facility” means the same as that term is defined in Section 62A-4a-101.

(74) “Single criminal episode” means the same as that term is defined in Section 76-1-401.

(75) “Status offense” means an offense that would not be an offense but for the age of the offender.

(76) “Substance abuse” means the misuse or excessive use of alcohol or other drugs or substances.

(77) “Substantiated” means the same as that term is defined in Section 62A-4a-101.

(78) “Supported” means the same as that term is defined in Section 62A-4a-101.

(79) “Termination of parental rights” means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) “Therapist” means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division’s or agency’s custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) “Threatened harm” means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) “Ungovernable” means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child’s family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

[~~(83) “Unregulated custody transfer” means the placement of a child:~~]

[~~(a) with an individual who is not the child’s parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child’s federally recognized tribe;~~]

[~~(b) with the intent of severing the child’s existing parent-child or guardian-child relationship; and~~]

[~~(c) without taking:~~]

[~~(i) reasonable steps to ensure the safety of the child and permanency of the placement; and~~]

[~~(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.~~]

[~~(84)~~] (83) “Unsupported” means the same as that term is defined in Section 62A-4a-101.

[~~(85)~~] (84) “Unsubstantiated” means the same as that term is defined in Section 62A-4a-101.

[~~(86)~~] (85) “Validated risk and needs assessment” means an evidence-based tool that assesses a minor’s risk of reoffending and a minor’s criminogenic needs.

[~~(87)~~] (86) “Without merit” means the same as that term is defined in Section 62A-4a-101.

[~~(88)~~] (87) “Youth offender” means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 23. Repealer.

This bill repeals:

Section 62A-4a-607, Promotion of adoption -- Agency notice to potential adoptive parents.

Section 62A-4a-609, Preplacement disclosure and training before high needs child adoption.

Section 62A-4a-711, Penalty.

CHAPTER 327
H. B. 225

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

ACCESS TO MEDICAL RECORDS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill creates a standard form to request health records.

Highlighted Provisions:

This bill:

- defines terms;
- requires the department to create a standard form to request health records;
- requires a health care provider and the health care provider's contracted third party service provider to accept the standard form; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-5-618, as last amended by Laws of Utah 2021, Chapter 338

ENACTS:

26-69-101, Utah Code Annotated 1953
26-69-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-69-101 is enacted to read:

CHAPTER 69. (CODIFIED AS CHAPTER 70) STANDARD HEALTH RECORD ACCESS FORM

26-69-101. (Codified as 26-70-101) Definitions.

As used in this chapter:

(1) "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended.

(2) "Patient" means the individual whose information is being requested.

(3) "Personal representative" means an individual described in 45 C.F.R. Sec. 164.502(g).

Section 2. Section 26-69-102 is enacted to read:

26-69-102. (Codified as 26-70-102) Standard health record access form.

(1) Before December 31, 2022, the department shall create a standard form that:

(a) is compliant with HIPAA and 42 C.F.R. Part 2; and

(b) a patient or a patient's personal representative may use to request that a copy of the patient's health records be sent to any of the following:

(i) the patient;

(ii) the patient's personal representative;

(iii) the patient's attorney; or

(iv) a third party authorized by the patient.

(2) The form shall include fields for:

(a) the patient's name;

(b) the patient's date of birth;

(c) the patient's phone number;

(d) the patient's address;

(e) (i) the patient's signature and date of signature, which may not require notarization; or

(ii) the signature of the patient's personal representative and date of signature, which may not require notarization;

(f) the name, address, and phone number of the person to which the information will be disclosed;

(g) the records requested, including whether the patient is requesting paper or electronic records;

(h) the duration of time the authorization is valid; and

(i) the dates of service requested.

(3) The form shall include the following options for the field described in Subsection (2)(g):

(a) history and physical examination records;

(b) treatment plans;

(c) emergency room records;

(d) radiology and lab reports;

(e) operative reports;

(f) pathology reports;

(g) consultations;

(h) discharge summary;

(i) outpatient clinic records and progress notes;

(j) behavioral health evaluation;

(k) behavioral health discharge summary;

(l) mental health therapy records;

(m) financial information including an itemized billing statement;

(n) health insurance claim form;

(o) billing form; and

(p) other.

Section 3. Section 78B-5-618 is amended to read:

78B-5-618. Patient access to medical records -- Third party access to medical records.

(1) As used in this section:

(a) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(b) "Indigent individual" means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26-18-3.9.

(c) "Inflation" means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.

(d) "Qualified claim or appeal" means a claim or appeal under any:

(i) provision of the Social Security Act as defined in Section 67-11-2; or

(ii) federal or state financial needs-based benefit program.

[~~(1)~~] (2) Pursuant to Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records from a health care provider [~~as defined in Section 78B-3-403,~~] when that health care provider is governed by the provisions of 45 C.F.R., Parts 160 and 164.

[~~(2)~~] (3) When a health care provider [~~as defined in Section 78B-3-403~~] is not governed by Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R., Parts 160 and 164, a patient or a patient's personal representative may inspect or receive a copy of the patient's records unless access to the records is restricted by law or judicial order.

[~~(3)~~] (4) A health care provider who provides a paper or electronic copy of a patient's records to the patient or the patient's personal representative:

(a) shall provide the copy within the deadlines required by the Health Insurance Portability and Accountability Act of 1996, Administrative Simplification rule, 45 C.F.R. Sec. 164.524(b); and

(b) may charge a reasonable cost-based fee provided that the fee includes only the cost of:

(i) copying, including the cost of supplies for and labor of copying; and

(ii) postage, when the patient or patient's personal representative has requested the copy be mailed.

[~~(4)~~] (5) Except for records provided by a health care provider under Section 26-1-37, a health care provider who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(a) shall provide the copy within 30 days after receipt of notice; and

(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(i) $30 per request for locating a patient's records;

(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(iii) the cost of postage when the requester has requested the copy be mailed;

(iv) if requested, the health care provider will certify the record as a duplicate of the original for a fee of $20; and

(v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

[~~(5)~~] (6) Except for records provided under Section 26-1-37, a contracted third party service [~~which~~] that provides medical records, other than a health care provider under Subsections [~~(3)~~] (4) and [~~(4)~~] (5), who provides a copy of a patient's records to a patient's attorney, legal representative, or other third party authorized to receive records:

(a) shall provide the copy within 30 days after the request; and

(b) may charge a reasonable fee for paper or electronic copies, but may not exceed the following rates:

(i) $30 per request for locating a patient's records;

(ii) reproduction charges may not exceed 53 cents per page for the first 40 pages and 32 cents per page for each additional page;

(iii) the cost of postage when the requester has requested the copy be mailed;

(iv) if requested, the health care provider or the health care provider's contracted third party service will certify the record as a duplicate of the original for a fee of $20; and

(v) any sales tax owed under Title 59, Chapter 12, Sales and Use Tax Act.

[~~(6)~~] (7) A health care provider or the health care provider's contracted third party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider's contracted third party service or in a universally readable image such as portable document format:

(a) if the patient, patient's personal representative, or a third party authorized to receive the records requests the records be delivered in an electronic medium; and

(b) the original medical record is readily producible in an electronic medium.

[~~(7)~~] (8) (a) Except as provided in Subsections [~~(7)~~] (8)(b) and (c), the per page fee in Subsections [~~(3), (4), and (5)~~] (4), (5), and (6) applies to medical records reproduced electronically or on paper.

(b) [~~For record requests made on or after July 1, 2018, the~~] The per page fee for producing a copy of records in an electronic medium shall be 50% of the per page fee otherwise provided in this section, regardless of whether the original medical records are stored in electronic format.

(c) (i) [~~For electronic record requests made on or after July 1, 2021, a~~] A health care provider or a health care provider’s contracted third party service shall deliver the medical records in the electronic medium customarily used by the health care provider or the health care provider’s contracted third party service or in a universally readable image, such as portable document format, if the patient, patient’s personal representative, patient’s attorney, legal representative, or a third party authorized to receive the records, requests the records be delivered in an electronic medium.

(ii) An entity providing requested information under Subsection [~~(7)~~] (8)(c)(i):

(A) shall provide the requested information within 30 days; and

(B) may not charge a fee for the electronic copy that exceeds $150 regardless of the number of pages and regardless of whether the original medical records are stored in electronic format.

[~~(8) (a) As used in this section, “inflation” means the unadjusted Consumer Price Index, as published by the Bureau of Labor Statistics of the United States Department of Labor, that measures the average changes in prices of goods and services purchased by urban wage earners and clerical workers.~~]

[~~(b)~~] (9) (a) [~~Beginning January 1, 2022, and on January 1 of each year thereafter,~~] On January 1 of each year, the state treasurer shall adjust the following fees for inflation:

(i) the fee for providing patient’s records under:

(A) Subsections [~~(4)~~] (5)(b)(i) through (ii); and

(B) Subsections [~~(5)~~] (6)(b)(i) through (ii); and

(ii) the maximum amount that may be charged for an electronic copy under Subsection [~~(7)~~] (8)(c)(ii)(B).

[~~(c)~~] (b) [~~On or before January 30, 2022, and on or before January 30 of each year thereafter~~] On or before January 30 of each year, the state treasurer shall:

(i) certify the inflation–adjusted fees and maximum amounts calculated under this section; and

(ii) notify the Administrative Office of the Courts of the information described in Subsection [~~(8)(c)(i)~~] (9)(b)(i) for posting on the court’s website.

[~~(9) (a) As used in this Subsection (9), “qualified claim or appeal” means a claim or appeal under any:~~]

[~~(i) provision of the Social Security Act as defined in Section 67–11–2; or~~]

[~~(ii) federal or state financial needs–based benefit program.~~]

[~~(b)~~] (10) Notwithstanding Subsections [~~(3) through (5)~~] (4) through (6), if a request for a medical record is accompanied by documentation of a qualified claim or appeal, a health care provider or the health care provider’s contracted third party service:

[~~(i)~~] (a) may not charge a fee for the first copy of the record for each date of service that is necessary to support the qualified claim or appeal in each calendar year;

[~~(ii)~~] (b) for a second or subsequent copy in a calendar year of a date of service that is necessary to support the qualified claim or appeal, may charge a reasonable fee that may not:

[~~(A)~~] (i) exceed 60 cents per page for paper photocopies;

[~~(B)~~] (ii) exceed a reasonable cost for copies of X–ray photographs and other health care records produced by similar processes;

[~~(C)~~] (iii) include an administrative fee or additional service fee related to the production of the medical record; or

[~~(D)~~] (iv) exceed the fee provisions for an electronic copy under Subsection [~~(7)~~] (8)(c); and

[~~(iii)~~] (c) shall provide the health record within 30 days after the day on which the request is received by the health care provider.

[~~(10) (a) As used in this Subsection (10), “indigent individual” means an individual whose household income is at or below 100% of the federal poverty level as defined in Section 26–18–3.9.~~]

[~~(b)~~] (11) (a) Except as otherwise provided in Subsections [~~(3) through (5)~~] (4) through (6), a health care provider or the health care provider’s contracted third party service shall waive all fees under this section for an indigent individual.

[~~(c)~~] (b) A health care provider or the health care provider’s contracted third party service may require the indigent individual or the indigent individual’s authorized representative to provide proof that the individual is an indigent individual by executing an affidavit.

[~~(d)~~] (c) (i) An indigent individual that receives copies of a medical record at no charge under this Subsection [~~(10)~~] (11) is limited to one copy for each date of service for each health care provider, or the health care provider’s contracted third party service, in each calendar year.

(ii) Any request for additional copies in addition to the one copy allowed under Subsection [~~(10)(d)(i)~~] (11)(c) is subject to the fee provisions described in Subsection [~~(9)~~] (10).

(12) By January 1, 2023, a health care provider and all of the health care provider’s contracted third party health related services shall accept a properly executed form described in Title 26, Chapter 69, Standard Health Record Access Form.

CHAPTER 328
H. B. 229

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

PROPERTY AND FINANCIAL OFFENSE AMENDMENTS

Chief Sponsor: Brady Brammer
Senate Sponsor: Michael K. McKell
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill concerns penalties and evidence relating to property and financial offenses.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Sentencing Commission to create and publish for public comment guidelines relating to certain financial and property offenses;
- increases the penalty for a violation of a written false statement on a financial declaration completed by a defendant;
- provides that a prosecuting attorney may subpoena certain information regarding property that may be necessary to satisfy a future restitution order, and that a court may consider this information when establishing a defendant's payment schedule on a criminal accounts receivable; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-12-402, as last amended by Laws of Utah 2021, Chapter 402

63M-7-404, as last amended by Laws of Utah 2021, Chapter 173

76-8-504, as enacted by Laws of Utah 1973, Chapter 196

77-32b-103, as enacted by Laws of Utah 2021, Chapter 260

77-38b-204, as renumbered and amended by Laws of Utah 2021, Chapter 260

77-38b-402, as renumbered and amended by Laws of Utah 2021, Chapter 260

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-12-402 is amended to read:

63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years [~~of age~~] old who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents' Scholarship Program;

(ii) a New Century scholarship described in Section 53B-8-105;

(iii) a promise scholarship described in Section 53B-8-303; or

(iv) a scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under [~~Subsection 76-8-504(2)~~] Section 76-8-504; and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

(B) unemployment compensation under Section 76-8-1301.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 2. Section 63M-7-404 is amended to read:

63M-7-404. Purpose -- Duties.

(1) The purpose of the commission is to develop guidelines and propose recommendations to the Legislature, the governor, and the Judicial Council regarding:

(a) the sentencing and release of juvenile and adult offenders in order to:

(i) respond to public comment;

(ii) relate sentencing practices and correctional resources;

(iii) increase equity in criminal sentencing;

(iv) better define responsibility in criminal sentencing; and

(v) enhance the discretion of sentencing judges while preserving the role of the Board of Pardons and Parole and the Youth Parole Authority;

(b) the length of supervision of adult offenders on probation or parole in order to:

(i) increase equity in criminal supervision lengths;

(ii) respond to public comment;

(iii) relate the length of supervision to an offender's progress;

(iv) take into account an offender's risk of offending again;

(v) relate the length of supervision to the amount of time an offender has remained under supervision in the community; and

(vi) enhance the discretion of the sentencing judges while preserving the role of the Board of Pardons and Parole;

(c) appropriate, evidence-based probation and parole supervision policies and services that assist individuals in successfully completing supervision and reduce incarceration rates from community supervision programs while ensuring public safety, including:

(i) treatment and intervention completion determinations based on individualized case action plans;

(ii) measured and consistent processes for addressing violations of conditions of supervision;

(iii) processes that include using positive reinforcement to recognize an individual's progress in supervision;

(iv) engaging with social services agencies and other stakeholders who provide services that meet offender needs; and

(v) identifying community violations that may not warrant revocation of probation or parole.

(2) (a) The commission shall modify the sentencing guidelines and supervision length guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications under Subsection (2)(a) shall be for the purposes of protecting the public and ensuring efficient use of state funds.

(3) (a) The commission shall modify the criminal history score in the sentencing guidelines for adult offenders to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism.

(b) The modifications to the criminal history score under Subsection (3)(a) shall include factors in an offender's criminal history that are relevant to the accurate determination of an individual's risk of offending again.

(4) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on probation and:

(i) who have violated one or more conditions of probation; and

(ii) whose probation has been revoked by the court.

(b) The guidelines shall consider the seriousness of the violation of the conditions of probation, the probationer's conduct while on probation, and the probationer's criminal history.

(5) (a) The commission shall establish sentencing guidelines for periods of incarceration for individuals who are on parole and:

(i) who have violated a condition of parole; and

(ii) whose parole has been revoked by the Board of Pardons and Parole.

(b) The guidelines shall consider the seriousness of the violation of the conditions of parole, the individual's conduct while on parole, and the individual's criminal history.

(6) The commission shall establish graduated and evidence-based processes to facilitate the prompt and effective response to an individual's progress in

or violation of the terms of probation or parole by the adult probation and parole section of the Department of Corrections, or other supervision services provider, in order to implement the recommendations of the Commission on Criminal and Juvenile Justice for reducing recidivism and incarceration, including:

(a) responses to be used when an individual violates a condition of probation or parole;

(b) responses to recognize positive behavior and progress related to an individual's case action plan;

(c) when a violation of a condition of probation or parole should be reported to the court or the Board of Pardons and Parole; and

(d) a range of sanctions that may not exceed a period of incarceration of more than:

(i) three consecutive days; and

(ii) a total of five days in a period of 30 days.

(7) The commission shall establish graduated incentives to facilitate a prompt and effective response by the adult probation and parole section of the Department of Corrections to an offender's:

(a) compliance with the terms of probation or parole; and

(b) positive conduct that exceeds those terms.

(8) (a) The commission shall establish guidelines, including sanctions and incentives, to appropriately respond to negative and positive behavior of juveniles who are:

(i) nonjudicially adjusted;

(ii) placed on diversion;

(iii) placed on probation;

(iv) placed on community supervision;

(v) placed in an out-of-home placement; or

(vi) placed in a secure care facility.

(b) In establishing guidelines under this Subsection (8), the commission shall consider:

(i) the seriousness of the negative and positive behavior;

(ii) the juvenile's conduct post-adjudication; and

(iii) the delinquency history of the juvenile.

(c) The guidelines shall include:

(i) responses that are swift and certain;

(ii) a continuum of community-based options for juveniles living at home;

(iii) responses that target the individual's criminogenic risk and needs; and

(iv) incentives for compliance, including earned discharge credits.

(9) The commission shall establish supervision length guidelines in accordance with this section before October 1, 2018.

(10) (a) The commission shall create sentencing guidelines and supervision length guidelines for the following financial and property offenses for which a pecuniary loss to a victim may exceed $50,000:

(i) securities fraud, Sections 61-1-1 and 61-1-21;

(ii) sale by an unlicensed broker-dealer, agent, investment adviser, or investment adviser representative, Sections 61-1-3 and 61-1-21;

(iii) offer or sale of unregistered security, Sections 61-1-7 and 61-1-21;

(iv) abuse or exploitation of a vulnerable adult under Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(v) arson, Section 76-6-102;

(vi) burglary, Section 76-6-202;

(vii) theft, Section 76-6-412;

(viii) forgery, Section 76-6-501;

(ix) unlawful dealing of property by a fiduciary, Section 76-6-513;

(x) fraudulent insurance act, Section 76-6-521;

(xi) computer crimes, Section 76-6-703;

(xii) mortgage fraud, Sections 76-6-1203 and 76-6-1204;

(xiii) pattern of unlawful activity, Sections 76-10-1603 and 76-10-1603.5;

(xiv) communications fraud, Section 76-10-1801;

(xv) money laundering, Section 76-10-1904; and

(xvi) other offenses in the discretion of the commission.

(b) The guidelines described in Subsection (10)(a) shall include a sentencing matrix with proportionate escalating sanctions based on the amount of a victim's loss.

(c) On or before August 1, 2022, the commission shall publish for public comment the guidelines described in Subsection (10)(a).

Section 3. Section 76-8-504 is amended to read:

76-8-504. Written false statement.

[~~A person is guilty of a class B misdemeanor if:~~]

(1) [~~He makes a~~] An actor commits the offense of written false statement [~~which he~~] if:

(a) the actor makes a statement that the actor does not believe to be true on or [~~pursuant to~~] under a form bearing a notification authorized by law to the effect that false statements made therein are punishable; or

[~~(2)~~] (b) [~~With~~] with intent to deceive a public servant in the performance of [~~his~~] the public servant's official function, [~~he~~] the actor:

[~~(a)~~] (i) [~~Makes any~~] makes a written false statement [~~which he~~] that the actor does not believe to be true; [~~or~~]

[~~(b)~~] (ii) [~~Knowingly~~] knowingly creates a false impression in a written application for [~~any~~] a pecuniary or other benefit by omitting information necessary to prevent [~~statements therein~~] a statement in the application from being misleading; [~~or~~]

[~~(c)~~] (iii) [~~Submits~~] submits or invites reliance on [~~any writing which he~~] a writing that the actor knows to be lacking in authenticity; or

[~~(d)~~] (iv) [~~Submits~~] submits or invites reliance on [~~any~~] a sample, specimen, map, boundary mark, or other object [~~which he~~] that the actor knows to be false.

(2) (a) Except as provided in Subsection (2)(b), a violation of Subsection (1) is a class B misdemeanor.

(b) A violation of Subsection (1) is a third degree felony if the false statement is on a financial declaration described in Section 77-38b-204.

[~~(3)~~] (3) [~~No person shall be guilty under this section if he~~] It is not an offense under this section if the actor retracts the falsification before it becomes manifest that the falsification was or would be exposed.

Section 4. Section 77-32b-103 is amended to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1)(a) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal accounts receivable for a defendant under Subsection (1)(a), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) After establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, that is charged by a financial institution for the use of a credit or debit card by the defendant to make payments towards the criminal accounts receivable.

(3) (a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204 or in evidence obtained by subpoena under Subsection 77-38b-402(1)(b);

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 62A-15-631:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

Section 5. Section 77-38b-204 is amended to read:

77-38b-204. Financial declaration by defendant.

(1) (a) The Judicial Council shall design and publish a financial declaration form to be completed by a defendant before the sentencing court establishes a payment schedule under Section 77-38b-205.

(b) The financial declaration form shall:

(i) require a defendant to disclose all assets, income, and financial liabilities of the defendant, including:

(A) real property;

(B) vehicles;

(C) precious metals or gems;

(D) jewelry with a value of $1,000 or more;

(E) other personal property with a value of $1,000 or more;

(F) the balance of any bank account and the name of the financial institution for the bank account;

(G) cash;

(H) salary, wages, commission, tips, and business income, including the name of any employer or entity from which the defendant receives a salary, wage, commission, tip, or business income;

(I) pensions and annuities;

(J) intellectual property;

(K) accounts receivable;

(L) accounts payable;

(M) mortgages, loans, and other debts; and

(N) restitution that has been ordered, and not fully paid, in other cases; and

(ii) state that a false statement made in the financial declaration form is punishable as [~~a class B misdemeanor~~] a third degree felony under Section 76-8-504.

(2) After a plea disposition or conviction has been entered but before sentencing, a defendant shall complete the financial declaration form described in Subsection (1).

(3) When a civil judgment of restitution or a civil accounts receivable is entered for a defendant on the civil judgment docket under Section 77-18-114, the court shall provide the Office of State Debt Collection with the defendant's financial declaration form.

Section 6. Section 77-38b-402 is amended to read:

77-38b-402. Preservation of assets.

(1) (a) Before, or at the time, a criminal information, indictment charging a violation, or a petition alleging delinquency is filed, or at any time during the prosecution of the case, a prosecuting attorney may, if in the prosecuting attorney's best judgment there is a substantial likelihood that a conviction will be obtained and restitution will be ordered in the case, petition the court to:

[~~(a)~~] (i) enter a temporary restraining order, an injunction, or both;

[~~(b)~~] (ii) require the execution of a satisfactory performance bond; or

[~~(c)~~] (iii) take any other action to preserve the availability of property that may be necessary to satisfy an anticipated order for restitution.

(b) A prosecuting attorney may subpoena a document, witness, or other evidence that, in the prosecuting attorney's best judgment, may provide evidence relevant to the property described in Subsection (1)(a)(iii).

(2) (a) Upon receiving a request from a prosecuting attorney under Subsection (1)(a), and after notice to a person appearing to have an interest in the property and affording the person an opportunity to be heard, the court may take action as requested by the prosecuting attorney if the court determines:

(i) there is probable cause to believe that an offense has been committed and that the defendant committed the offense, and that failure to enter the order will likely result in the property being sold, distributed, exhibited, destroyed, or removed from the jurisdiction of the court, or otherwise be made unavailable for restitution; and

(ii) the need to preserve the availability of the property or prevent the property's sale, distribution, exhibition, destruction, or removal through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered.

(b) In a hearing conducted in accordance with this section, a court may consider reliable hearsay as defined in Utah Rules of Evidence, Rule 1102.

(c) An order for an injunction entered under this section is effective for the period of time given in the order.

(3) (a) Upon receiving a request for a temporary restraining order from a prosecuting attorney under this section, a court may enter a temporary

restraining order against an owner with respect to specific property without notice or opportunity for a hearing if:

(i) the prosecuting attorney demonstrates that there is a substantial likelihood that the property with respect to which the order is sought appears to be necessary to satisfy an anticipated restitution order under this chapter; and

(ii) provision of notice would jeopardize the availability of the property to satisfy any judgment or order for restitution.

(b) The temporary order in this Subsection (3) expires no later than 10 days after the day on which the temporary order is entered unless extended for good cause shown or the party against whom the temporary order is entered consents to an extension.

(4) A hearing concerning an order entered under this section shall be held as soon as possible, and before the expiration of the temporary order.

CHAPTER 329
H. B. 230

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

REFUGEE AND IMMIGRANT STUDENT POLICIES AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Daniel W. Thatcher
Cosponsors: Karen Kwan
Carol Spackman Moss
Steve Waldrip
Christine F. Watkins

LONG TITLE

General Description:

This bill amends provisions related to enrollment of refugee and immigrant students in public schools.

Highlighted Provisions:

This bill:

- requires the State Board of Education to create a repository for immigrant students' and foreign exchange students' transcripts;
- amends requirements for when:
  - an individual enrolling a student in a school is unable to produce the student's birth certificate; and
  - a student's birth certificate does not accurately reflect the student's age;
- amends requirements related to conditional enrollment when a school has not received a student's complete immunization record;
- defines terms; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-603, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-306, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-308, as renumbered and amended by Laws of Utah 2018, Chapter 3

ENACTS:

53E-3-524, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-524 is enacted to read:

53E-3-524. Newcomer student and foreign exchange student transcript repository.

(1) As used in this section:

(a) "Newcomer student" means a student who:

(i) is three through 21 years old;

(ii) was not born in any state; and

(iii) has not attended one or more schools in one or more states for more than three full academic years.

(b) "Qualified social service provider" means a social service provider that works directly with a student's family.

(c) "Repository" means the online transcript repository described in Subsection (2).

(d) "Social service provider" means:

(i) one of the following professionals, licensed to practice under Section 58-60-205:

(A) a clinical social worker;

(B) a certified social worker;

(C) a certified social worker intern; or

(D) a social service worker; or

(ii) staff employed to provide direct support to a professional described in Subsection (1)(d)(i).

(e) "State" means:

(i) a state of the United States;

(ii) the District of Columbia; or

(iii) the Commonwealth of Puerto Rico.

(f) "Student" means an individual who is enrolled in:

(i) a public school within the state of Utah; and

(ii) any grade from kindergarten through grade 12.

(g) (i) "Transcript" means documentation of a newcomer student's or foreign exchange student's prior educational experience.

(ii) "Transcript" includes oral representations about prior educational experience that a school or an LEA documents.

(2) On or before July 1, 2024, the state board shall establish and maintain, as part of the Utah school information management system described in Section 53E-3-518, an online repository for transcripts.

(3) The state board shall:

(a) ensure that the repository provides a central location for:

(i) an LEA to upload transcripts; and

(ii) LEAs and qualified service providers to share information regarding transcripts, including:

(A) best practices for linguistic interpretation;

(B) interpretation of educational experiences; and

(C) placement of newcomer students;

(b) ensure that use of the repository:

(i) is voluntary; and

(ii) complies with all state and federal student privacy requirements, including:

(A) Title 53E, Chapter 9, Student Privacy and Data Protection; and

(B) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;

(c) provide the repository at no cost to LEAs;

(d) provide access to the repository to qualified social service providers;

(e) establish appropriate access protocols in coordination with LEAs and qualified social service providers; and

(f) annually, before the school enrollment period begins, provide notice of the repository to interested parties that the state board designates in state board rule.

(4) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this section, including rules:

(a) establishing procedures:

(i) to protect student data related to the repository in compliance with Title 53E, Chapter 9, Student Privacy and Data Protection; and

(ii) for the use of the repository by the state board, LEAs, and qualified social service providers;

(b) requiring repository users to enter into a data sharing agreement; and

(c) designating the interested parties described in Subsection (3)(f).

Section 2. Section 53G-6-603 is amended to read:

53G-6-603. Requirement of birth certificate for enrollment of students -- Procedures.

(1) As used in this section:

(a) "Child trafficking" means human trafficking of a child in violation of Section 76-5-308.5.

(b) "Enroller" means an individual who enrolls a student in a public school.

(c) "Review team" means a team described in Subsection (4), assigned to determine a student's biological age as described in this section.

(d) "Social service provider" means the same as that term is defined in Section 53E-3-524.

[~~(1) Upon~~] (2) Except as provided in Subsection (3), upon enrollment of a student for the first time in a particular school, that school shall notify the enroller in writing [~~the person enrolling the student~~] that within 30 days [~~he must~~] the enroller shall provide to the school either:

(a) a certified copy of the student's birth certificate[~~,~~]; or

(b) (i) other reliable proof of the student's [~~identity and age, together with~~]:

(A) identity;

(B) biological age; and

(C) relationship to the student's legally responsible individual; and

(ii) an affidavit explaining the enroller's inability to produce a copy of the student's birth certificate.

[~~(2) (a) Upon the failure of a person enrolling a student to comply with Subsection (1), the school shall notify that person in writing that unless he complies within 10 days the case shall be referred to the local law enforcement authority for investigation.~~]

[~~(b) If compliance is not obtained within that 10 day period, the school shall refer the case to the division.~~]

[~~(3) The school shall immediately report to the division any affidavit received pursuant to this subsection which appears inaccurate or suspicious.~~]

(3) (a) If the documentation described in Subsection (2)(a) or (2)(b)(i) inaccurately reflects the student's biological age, the enroller shall provide to the school:

(i) an affidavit explaining the reasons for the inaccuracy described in Subsection (3)(a); and

(ii) except as provided in Subsection (4), supporting documentation that establishes the student's biological age.

(b) The supporting documentation described in Subsection (3)(a)(ii) may include:

(i) a religious, hospital, or physician certificate showing the student's date of birth;

(ii) an entry in a family religious text;

(iii) an adoption record;

(iv) previously verified school records;

(v) previously verified immunization records;

(vi) documentation from a social service provider; or

(vii) other legal documentation, including from a consulate, that reflects the student's biological age.

(4) (a) If the supporting documentation described in Subsection (3)(b) is not available, the school shall assign a review team to work with the enroller to determine the student's biological age for an LEA to use for a student's enrollment and appropriate placement in a public school.

(b) The review team described in Subsection (4)(a):

(i) may include:

(A) an appropriate district administrator;

(B) the student's teacher or teachers;

(C) the school principal;

(D) a school counselor;

(E) a school social worker;

(F) a school psychologist;

(G) a culturally competent and trauma-informed community representative;

(H) a school nurse or other school health specialist;

(I) an interpreter, if necessary; or

(J) a relevant educational equity administrator; and

(ii) shall include at least three members, at least one of which has completed the instruction described in Subsection 53G-9-207(3)(a), no more than two years prior to the member's appointment to the review team.

(c) In addition to any duty to comply with the mandatory reporting requirements described in Sections 53E-6-701 and 62A-4a-403, a school shall report to local law enforcement and to the division any sign of child trafficking that the review team identifies in carrying out the review team's duties described in Subsection (4)(a).

Section 3. Section 53G-9-306 is amended to read:

53G-9-306. Immunization record part of student's record -- School review process at enrollment -- Transfer.

(1) Each school:

(a) shall request an immunization record for each student at the time the student enrolls in the school;

(b) may not charge a fee related to receiving or reviewing an immunization record or a vaccination exemption form; and

(c) shall retain an immunization record for each enrolled student as part of the student's permanent school record.

(2) (a) Within five business days after the day on which a student enrolls in a school, an individual designated by the school principal or administrator shall:

(i) determine whether the school has received an immunization record for the student;

(ii) review the student's immunization record to determine whether the record complies with Subsection 53G-9-302(1); and

(iii) identify any deficiencies in the student's immunization record.

(b) If the school has not received a student's immunization record or there are deficiencies in the immunization record, the school shall:

(i) place the student on conditional enrollment, in accordance with Section 53G-9-308; and

(ii) within five days after the day on which the school places the student on conditional enrollment, provide the [~~written~~] notice described in Subsection [~~53G-9-308(2)~~] 53G-9-308(3).

(3) A school from which a student transfers shall provide the student's immunization record to the student's new school upon request of the student's legally responsible individual.

Section 4. Section 53G-9-308 is amended to read:

53G-9-308. Conditional enrollment -- Suspension for noncompliance -- Procedure.

(1) As used in this section:

(a) "Enroller" means the same as that term is defined in Section 53G-6-603.

(b) "Newcomer student" means the same as that term is defined in Section 53E-3-524.

(c) "Social service provider" means the same as that term is defined in Section 53E-3-524.

[~~(1)~~] (2) A student for whom a school has not received a complete immunization record may attend the school on a conditional enrollment:

(a) during the period in which the student's immunization record is under review by the school; or

(b) for [~~21~~] 30 calendar days after the day on which the school provides the notice described in Subsection [~~(2)~~] (3).

[~~(2)~~] (3) (a) Within five days after the day on which a school places a student on conditional enrollment, the school shall provide [~~written notice to the student's legally responsible individual, in person or by mail, that~~] notice to the enroller that:

(i) the school has placed the student on conditional enrollment for failure to comply with the requirements of Subsection 53G-9-302(1);

(ii) describes the identified deficiencies in the student's immunization record or states that the school has not received an immunization record for the student;

(iii) gives notice that the student will not be allowed to attend school unless the legally responsible individual cures the deficiencies, or provides an immunization record that complies with Subsection 53G-9-302(1), within the conditional enrollment period described in Subsection [~~(1)~~] (2)(b); and

(iv) describes the process for obtaining a required vaccination.

(b) The school shall deliver the notice described in Subsection (3)(a):

(i) when possible, in the enroller's preferred language; and

(ii) using one of the following methods of delivery, as determined by mutual agreement between the school and the enroller:

(A) written notice delivered in person;

(B) written notice by mail;

(C) written notice by email or other electronic means; or

(D) by telephone, including voicemail.

[~~(b)~~] (4) A school shall remove the conditional enrollment status from a student after the school receives an immunization record for the student that complies with Subsection 53G-9-302(1).

[~~(c)~~] (5) Except as provided in Subsection [~~(2)(d)~~] (6), at the end of the conditional enrollment period, a school shall prohibit a student who does not comply with Subsection 53G-9-302(1) from attending the school until the student complies with Subsection 53G-9-302(1).

[~~(d)~~] (6) A school principal or administrator:

[~~(i)~~] (a) shall grant an additional extension of the conditional enrollment period, if the extension is necessary to complete all required vaccination dosages, for a time period medically recommended to complete all required vaccination dosages; and

[~~(ii)~~] (b) may grant an additional extension of the conditional enrollment period in cases of extenuating circumstances, if the school principal or administrator and [~~a school nurse, a health official, or a health official designee~~] one of the following agree that an additional extension will likely lead to compliance with Subsection 53G-9-302(1) [~~during the additional extension period.~~]:

(i) a school nurse;

(ii) a health official; or

(iii) a health official designee, including:

(A) a social service provider; or

(B) a culturally competent and trauma-informed community representative.

(7) For purposes of Subsection (6), a newcomer student enrolling in a school for the first time is an extenuating circumstance.

CHAPTER 330
H. B. 237

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

LOCAL DISTRICT MODIFICATIONS

Chief Sponsor: Adam Robertson
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill modifies provisions related to the tentative budget of a local district.

Highlighted Provisions:

This bill:

- requires a local district to make a tentative budget available to the public at least seven days before adopting the budget:
  - at the local district's principal office during regular business hours;
  - on the Utah Public Notice Website; and
  - on the local district's website, if the local district has a website; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-608, as renumbered and amended by Laws of Utah 2007, Chapter 329

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-608 is amended to read:

17B-1-608. Tentative budget and data -- Public records.

(1) The tentative budget adopted by the board of trustees and all supporting schedules and data are public records[~~, and are available for public inspection for a period of at least seven days prior to the adoption of a final budget~~].

(2) At least seven days before adopting a final budget in a public meeting, the local district shall:

(a) make the tentative budget available for public inspection at the local district's principal place of business during regular business hours;

(b) if the local district has a website, publish the tentative budget on the local district's website; and

(c) in accordance with Section 63A-16-601, do one of the following:

(i) publish the tentative budget on the Utah Public Notice Website; or

(ii) publish on the Utah Public Notice Website a link to a website on which the tentative budget is published.

CHAPTER 331
H. B. 238

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

STATE HOLIDAY MODIFICATIONS

Chief Sponsor: Sandra Hollins
Senate Sponsor: Jacob L. Anderegg
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Gay Lynn Bennion
Kera Birkeland
Brady Brammer
Joel K. Briscoe
Clare Collard
Jennifer Dailey-Provost
Suzanne Harrison
Marsha Judkins
Karen Kwan
A. Cory Maloy
Ashlee Matthews
Carol Spackman Moss
Doug Owens
Stephanie Pitcher
Judy Weeks Rohner
Angela Romero
V. Lowry Snow
Jordan D. Teuscher
Elizabeth Weight
Mark A. Wheatley
Mike Winder

LONG TITLE

General Description:

This bill amends provisions related to state holidays.

Highlighted Provisions:

This bill:

- provides for the observation of Juneteenth National Freedom Day each year as a holiday throughout the State.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-1-301, as last amended by Laws of Utah 2021, Chapters 335 and 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-1-301 is amended to read:

63G-1-301. Legal holidays -- Personal preference day -- Governor authorized to declare additional days.

(1) (a) The following-named days are legal holidays in this state:

(i) every Sunday, except as provided in Subsection (1)(e);

(ii) January 1, called New Year's Day;

(iii) the third Monday of January, called Dr. Martin Luther King, Jr. Day;

(iv) the third Monday of February, called Washington and Lincoln Day;

(v) the last Monday of May, called Memorial Day;

(vi) on the day described in Subsection (1)(f), Juneteenth National Freedom Day;

[~~(vi)~~] (vii) July 4, called Independence Day;

[~~(vii)~~] (viii) July 24, called Pioneer Day;

[~~(viii)~~] (ix) the first Monday of September, called Labor Day;

[~~(ix)~~] (x) the second Monday of October, called Columbus Day;

[~~(x)~~] (xi) November 11, called Veterans Day;

[~~(xi)~~] (xii) the fourth Thursday of November, called Thanksgiving Day;

[~~(xii)~~] (xiii) December 25, called Christmas; and

[~~(xiii)~~] (xiv) all days which may be set apart by the President of the United States, or the governor of this state by proclamation as days of fast or thanksgiving.

(b) If any of the holidays under Subsections (1)(a)(ii) through [~~(xiii)~~] (v) or Subsections (1)(a)(vii) through (xiv), falls on Sunday, then the following Monday shall be the holiday.

(c) If any of the holidays under Subsections (1)(a)(ii) through [~~(xiii)~~] (v) or Subsections (1)(a)(vii) through (xiv) falls on Saturday, then the preceding Friday shall be the holiday.

(d) Each employee may select one additional day, called Personal Preference Day, to be scheduled pursuant to rules adopted by the Division of Human Resource Management.

(e) For purposes of Utah Constitution Article VI, Section 16, Subsection (1), regarding the exclusion of state holidays from the 45-day legislative general session, Sunday is not considered a state holiday.

(f) (i) The Juneteenth National Freedom Day holiday is on June 19, if that day is on a Monday.

(ii) If June 19 is on a Tuesday, Wednesday, Thursday, or Friday, the Juneteenth National Freedom Day holiday is on the immediately preceding Monday.

(iii) If June 19 is on a Saturday or Sunday, the Juneteenth National Freedom Day holiday is on the immediately following Monday.

(2) (a) Whenever in the governor's opinion extraordinary conditions exist justifying the action, the governor may:

(i) declare, by proclamation, legal holidays in addition to those holidays under Subsection (1); and

(ii) limit the holidays to certain classes of business and activities to be designated by the governor.

(b) A holiday may not extend for a longer period than 60 consecutive days.

(c) Any holiday may be renewed for one or more periods not exceeding 30 days each as the governor may consider necessary, and any holiday may, by like proclamation, be terminated before the expiration of the period for which it was declared.

CHAPTER 332
H. B. 243

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

REGULATORY SANDBOX PROGRAM AMENDMENTS

Chief Sponsor: A. Cory Maloy
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill addresses state regulatory sandbox programs.

Highlighted Provisions:

This bill:

- define terms;
- expands the regulatory sandbox program administered by the Governor's Office of Economic Opportunity (GO Utah office) by allowing a person who offers a financial or insurance product or service to participate in the program;
- requires meetings of the GO Utah office's General Regulatory Sandbox Program Advisory Committee to be open to the public;
- requires the GO Utah office to make certain information regarding the regulatory sandbox program available to the public;
- repeals the regulatory sandbox programs administered by the Department of Commerce and the Department of Insurance; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231
63N-16-102, as enacted by Laws of Utah 2021, Chapter 373
63N-16-103, as enacted by Laws of Utah 2021, Chapter 373
63N-16-104, as enacted by Laws of Utah 2021, Chapter 373
63N-16-201, as enacted by Laws of Utah 2021, Chapter 373
63N-16-202, as enacted by Laws of Utah 2021, Chapter 373
63N-16-206, as enacted by Laws of Utah 2021, Chapter 373

REPEALS:

13-55-101, as enacted by Laws of Utah 2019, Chapter 243
13-55-102, as last amended by Laws of Utah 2021, Chapter 373
13-55-103, as last amended by Laws of Utah 2020, Chapter 143
13-55-104, as enacted by Laws of Utah 2019, Chapter 243
13-55-105, as enacted by Laws of Utah 2019, Chapter 243
13-55-106, as enacted by Laws of Utah 2019, Chapter 243
13-55-107, as enacted by Laws of Utah 2019, Chapter 243
13-55-108, as enacted by Laws of Utah 2019, Chapter 243
31A-47-101, as enacted by Laws of Utah 2020, Chapter 141
31A-47-102, as last amended by Laws of Utah 2021, Chapter 373
31A-47-103, as enacted by Laws of Utah 2020, Chapter 141
31A-47-104, as enacted by Laws of Utah 2020, Chapter 141
31A-47-105, as enacted by Laws of Utah 2020, Chapter 141
31A-47-106, as enacted by Laws of Utah 2020, Chapter 141
31A-47-107, as enacted by Laws of Utah 2020, Chapter 141
31A-47-108, as enacted by Laws of Utah 2020, Chapter 141

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; [~~and~~]

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system[~~.~~]; and

(g) a meeting of the General Regulatory Sandbox Program Advisory Committee if:

(i) the purpose of the meeting is to discuss an application for participation in the regulatory sandbox as defined in Section 63N-16-102; and

(ii) failing to close the meeting would reveal the contents of a record classified as protected under Subsection 63G-2-305(83).

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 2. Section 63N-16-102 is amended to read:

63N-16-102. Definitions.

As used in this chapter:

(1) "Advisory committee" means the General Regulatory Sandbox Program Advisory Committee created in Section 63N-16-104.

(2) "Applicable agency" means a department or agency of the state that by law regulates a business activity and persons engaged in such business activity, including the issuance of licenses or other types of authorization, which the office determines would otherwise regulate a sandbox participant.

(3) "Applicant" means a person that applies to participate in the regulatory sandbox.

(4) "Blockchain technology" means the use of a digital database containing records of financial transactions, which can be simultaneously used and shared within a decentralized, publicly accessible network and can record transactions between two parties in a verifiable and permanent way.

[~~(4)~~] (5) "Consumer" means a person that purchases or otherwise enters into a transaction or agreement to receive an offering pursuant to a demonstration by a sandbox participant.

[~~(5)~~] (6) "Demonstrate" or "demonstration" means to temporarily provide an offering in accordance with the provisions of the regulatory sandbox program described in this chapter.

[~~(6)~~] (7) "Director" means the director of the Utah Office of Regulatory Relief created in Section 63N-16-103.

[~~(7)~~] (8) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(9) "Financial product or service" means:

(a) a financial product or financial service that requires state licensure or registration; or

(b) a financial product, financial service, or banking business that includes a business model, delivery mechanism, offering of deposit accounts, or element that may require a license or other authorization to act as a financial institution, enterprise, or other entity that is regulated by Title 7, Financial Institutions Act, or other related provisions.

[~~(8)~~] (10) "Innovation" means the use or incorporation of a new or existing idea, a new or emerging technology, or a new use of existing technology, including blockchain technology, to address a problem, provide a benefit, or otherwise offer a product, production method, or service.

[~~(9) "Innovative offering" means an offering that includes an innovation.~~]

(11) "Insurance product or service" means an insurance product or insurance service that requires state licensure, registration, or other authorization as regulated by Title 31A, Insurance Code, including an insurance product or insurance service that includes a business model, delivery mechanism, or element that requires a license, registration, or other authorization to do an insurance business, act as an insurance producer or consultant, or engage in insurance adjusting as regulated by Title 31A, Insurance Code.

[~~(10)~~] (12) (a) "Offering" means a product, production method, or service, including a financial product or service or an insurance product or service, that includes an innovation.

(b) "Offering" does not include a product, production method, or service that is governed by[~~:~~] Title 61, Chapter 1, Utah Uniform Securities Act.

[~~(i) Title 31A, Insurance Code, as determined by the insurance commissioner; or~~]

[~~(ii) Title 61, Chapter 1, Utah Uniform Securities Act.~~]

[~~(11)~~] (13) "Product" means a commercially distributed good that is:

(a) tangible personal property;

(b) the result of a production process; and

(c) passed through the distribution channel before consumption.

[~~(12)~~] (14) "Production" means the method or process of creating or obtaining a good, which may include assembling, breeding, capturing, collecting, extracting, fabricating, farming, fishing, gathering, growing, harvesting, hunting, manufacturing, mining, processing, raising, or trapping a good.

[~~(13)~~] (15) "Regulatory relief office" means the Utah Office of Regulatory Relief created in Section 63N-16-103.

[~~(14)~~] (16) "Regulatory sandbox" means the General Regulatory Sandbox Program created in Section 63N-16-201, which allows a person to temporarily demonstrate an offering under a waiver or suspension of one or more state laws or regulations.

[~~(15)~~] (17) "Sandbox participant" means a person whose application to participate in the regulatory sandbox is approved in accordance with the provisions of this chapter.

[~~(16)~~] (18) "Service" means any commercial activity, duty, or labor performed for another person.

Section 3. Section 63N-16-103 is amended to read:

63N-16-103. Creation of regulatory relief office and appointment of director -- Responsibilities of regulatory relief office.

(1) There is created within the Governor's Office of Economic Opportunity the Utah Office of Regulatory Relief.

(2) (a) The regulatory relief office shall be administered by a director.

(b) The director shall report to the executive director and may appoint staff subject to the approval of the executive director.

(3) The regulatory relief office shall:

(a) administer the provisions of this chapter;

(b) administer the regulatory sandbox program; and

(c) act as a liaison between private businesses and applicable agencies to identify state laws or regulations that could potentially be waived or suspended under the regulatory sandbox program.

(4) The regulatory relief office may:

(a) review state laws and regulations that may unnecessarily inhibit the creation and success of new companies or industries and provide recommendations to the governor and the Legislature on modifying such state laws and regulations;

(b) create a framework for analyzing the risk level to the health, safety, and financial well–being of consumers related to permanently removing or temporarily waiving laws and regulations inhibiting the creation or success of new and existing companies or industries;

(c) propose potential reciprocity agreements between states that use or are proposing to use similar regulatory sandbox programs as described in this chapter[~~, Section 13–55–103, or Section 31A–47–103~~]; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, make rules regarding:

(i) administering the regulatory sandbox, including making rules regarding the application process and the reporting requirements of sandbox participants; and

(ii) cooperating and consulting with other agencies in the state that administer sandbox programs.

Section 4. Section 63N-16-104 is amended to read:

63N-16-104. Creation and duties of advisory committee.

(1) There is created the General Regulatory Sandbox Program Advisory Committee.

(2) The advisory committee shall have 11 members as follows:

(a) six members appointed by the director who represent businesses interests and are selected from a variety of industry clusters;

(b) three members appointed by the director who represent state agencies that regulate businesses;

(c) one member of the Senate, appointed by the president of the Senate; and

(d) one member of the House of Representatives, appointed by the speaker of the House of Representatives.

(3) (a) Subject to Subsection (3)(b), members of the advisory committee who are not legislators shall be appointed to a four–year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the director may adjust the length of terms of appointments and reappointments to the advisory committee so that approximately half of the advisory committee is appointed every two years.

(4) The director shall select a chair of the advisory committee on an annual basis.

(5) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business, and the action of the majority of a quorum constitutes the action of the advisory committee.

(6) The advisory committee shall advise and make recommendations to the regulatory relief office as described in this chapter.

(7) The regulatory relief office shall provide administrative staff support for the advisory committee.

(8) (a) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(a) may receive per diem and travel expenses in accordance with:

(i) Sections 63A–3–106 and 63A–3–107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A–3–106 and 63A–3–107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36–2–2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

[~~(9) Meetings of the advisory committee are not subject to Title 52, Chapter 4, Open and Public Meetings Act.~~]

Section 5. Section 63N-16-201 is amended to read:

63N-16-201. General Regulatory Sandbox Program -- Application requirements.

(1) There is created in the regulatory relief office the General Regulatory Sandbox Program.

(2) In administering the regulatory sandbox, the regulatory relief office:

(a) shall consult with each applicable agency;

(b) shall establish a program to enable a person to obtain legal protections and limited access to the market in the state to demonstrate an [~~innovative~~] offering without obtaining a license or other authorization that might otherwise be required;

(c) may enter into agreements with or adopt the best practices of corresponding federal regulatory agencies or other states that are administering similar programs; and

(d) may consult with businesses in the state about existing or potential proposals for the regulatory sandbox.

(3) (a) An applicant for the regulatory sandbox may contact the regulatory relief office to request a consultation regarding the regulatory sandbox before submitting an application.

(b) The regulatory relief office shall provide relevant information regarding the regulatory sandbox program[~~, including informing an applicant whether it would be better to apply for the programs described in Section 13-55-103 or Section 31A-47-103~~].

(c) The regulatory relief office may provide assistance to an applicant in preparing an application for submission.

(4) An applicant for the regulatory sandbox shall provide to the regulatory relief office an application in a form prescribed by the regulatory relief office that:

(a) confirms the applicant is subject to the jurisdiction of the state;

(b) confirms the applicant has established a physical or virtual location in the state, from which the demonstration of an [~~innovative~~] offering will be developed and performed and where all required records, documents, and data will be maintained;

(c) contains relevant personal and contact information for the applicant, including legal names, addresses, telephone numbers, email addresses, website addresses, and other information required by the regulatory relief office;

(d) discloses criminal convictions of the applicant or other participating personnel, if any;

(e) contains a description of the [~~innovative~~] offering to be demonstrated, including statements regarding:

(i) how the offering is subject to licensing, legal prohibition, or other authorization requirements outside of the regulatory sandbox;

(ii) each law or regulation that the applicant seeks to have waived or suspended while participating in the regulatory sandbox program;

(iii) how the offering would benefit consumers;

(iv) how the offering is different from other offerings available in the state;

(v) what risks might exist for consumers who use or purchase the offering;

(vi) how participating in the regulatory sandbox would enable a successful demonstration of the offering;

(vii) a description of the proposed demonstration plan, including estimated time periods for beginning and ending the demonstration;

(viii) recognition that the applicant will be subject to all laws and regulations pertaining to the applicant's offering after conclusion of the demonstration; and

(ix) how the applicant will end the demonstration and protect consumers if the demonstration fails;

(f) lists each government agency, if any, that the applicant knows regulates the applicant's business; and

(g) provides any other required information as determined by the regulatory relief office.

(5) The regulatory relief office may collect an application fee from an applicant that is set in accordance with Section 63J-1-504.

(6) An applicant shall file a separate application for each [~~innovative~~] offering that the applicant wishes to demonstrate.

(7) After an application is filed, the regulatory relief office shall:

(a) [~~shall classify the application and any related information provided by the applicant as a protected record~~] classify, as a protected record, any part of the application that the office determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant in accordance with Subsection 63G-2-305[~~(82)~~](83);

(b) consult with each applicable government agency that regulates the applicant's business regarding whether more information is needed from the applicant; and

(c) seek additional information from the applicant that the regulatory relief office determines is necessary.

(8) No later than five business days after the day on which a complete application is received by the regulatory relief office, the regulatory relief office shall:

(a) review the application and refer the application to each applicable government agency that regulates the applicant's business; [~~and~~]

(b) provide to the applicant:

(i) an acknowledgment of receipt of the application; and

(ii) the identity and contact information of each regulatory agency to which the application has been referred for review[~~.~~]; and

(c) provide public notice, on the office's website and through other appropriate means, of each law or regulation that the office is considering to suspend or waive under the application.

(9) (a) Subject to Subsections (9)(c) and (9)(g), no later than 30 days after the day on which an applicable agency receives a complete application for review, the applicable agency shall provide a written report to the director of the applicable agency's findings.

(b) The report shall:

(i) describe any identifiable, likely, and significant harm to the health, safety, or financial well-being of consumers that the relevant law or regulation protects against; and

(ii) make a recommendation to the regulatory relief office that the applicant either be admitted or denied entrance into the regulatory sandbox.

(c) (i) The applicable agency may request an additional five business days to deliver the written report by providing notice to the director, which request shall automatically be granted.

(ii) The applicable agency may only request one extension per application.

(d) If the applicable agency recommends an applicant under this section be denied entrance into the regulatory sandbox, the written report shall include a description of the reasons for the recommendation, including why a temporary waiver or suspension of the relevant laws or regulations would potentially significantly harm the health, safety, or financial well-being of consumers or the public and the likelihood of such harm occurring.

(e) If the agency determines that the consumer's or public's health, safety, or financial well-being can be protected through less restrictive means than the existing relevant laws or regulations, then the applicable agency shall provide a recommendation of how that can be achieved.

(f) If an applicable agency fails to deliver a written report as described in this Subsection (9), the director shall assume that the applicable agency does not object to the temporary waiver or suspension of the relevant laws or regulations for an applicant seeking to participate in the regulatory sandbox.

(g) Notwithstanding any other provision of this section, an applicable agency may by written notice to the regulatory relief office:

(i) within the 30 days after the day on which the applicable agency receives a complete application for review, or within 35 days if an extension has been requested by the applicable agency, reject an application if the applicable agency determines, in the applicable agency's sole discretion, that the applicant's offering fails to comply with standards or specifications:

(A) required by federal law or regulation; or

(B) previously approved for use by a federal agency; or

(ii) reject an application preliminarily approved by the regulatory relief office, if the applicable agency:

(A) recommended rejection of the application in accordance with Subsection (9)(d) in the agency's written report; and

(B) provides in the written notice under this Subsection (9)(g), a description of the applicable agency's reasons why approval of the application would create a substantial risk of harm to the health or safety of the public, or create unreasonable expenses for taxpayers in the state.

(h) If an applicable agency rejects an application under Subsection (9)(g), the regulatory relief office may not approve the application.

(10) (a) Upon receiving a written report described in Subsection (9), the director shall provide the application and the written report to the advisory committee.

(b) The director may call the advisory committee to meet as needed, but not less than once per quarter if applications are available for review.

(c) After receiving and reviewing the application and each written report, the advisory committee shall provide to the director the advisory committee's recommendation as to whether or not the applicant should be admitted as a sandbox participant under this chapter.

(d) As part of the advisory committee's review of each written report, the advisory committee shall use the criteria required for an applicable agency as described in Subsection (9).

(11) (a) In reviewing an application and each applicable agency's written report, the regulatory relief office shall consult with each applicable agency and the advisory committee before admitting an applicant into the regulatory sandbox.

(b) The consultation with each applicable agency and the consultation with the advisory committee may include seeking information about whether:

(i) the applicable agency has previously issued a license or other authorization to the applicant; and

(ii) the applicable agency has previously investigated, sanctioned, or pursued legal action against the applicant.

(12) In reviewing an application under this section, the regulatory relief office and each applicable agency shall consider whether a competitor to the applicant is or has been a sandbox participant and, if so, weigh that as a factor in favor of allowing the applicant to also become a sandbox participant.

(13) In reviewing an application under this section, the regulatory relief office shall consider whether:

(a) the applicant's plan will adequately protect consumers from potential harm identified by an applicable agency in the applicable agency's written report;

(b) the risk of harm to consumers is outweighed by the potential benefits to consumers from the applicant's participation in the regulatory sandbox; and

(c) certain state laws or regulations that regulate an offering should not be waived or suspended even if the applicant is approved as a sandbox participant, including applicable antifraud or disclosure provisions.

(14) (a) An applicant becomes a sandbox participant if the regulatory relief office approves the application for the regulatory sandbox and enters into a written agreement with the applicant describing the specific laws and regulations that are waived or suspended as part of participation in the regulatory sandbox.

(b) Notwithstanding any other provision of this chapter, the regulatory relief office may not enter into a written agreement with an applicant that waives or suspends a tax, fee, or charge that is administered by the State Tax Commission or that is described in Title 59, Revenue and Taxation.

(15) (a) The director may deny at the director's sole discretion any application submitted under this section for any reason, including if the director determines that the preponderance of evidence demonstrates that suspending or waiving enforcement of a law or regulation would cause a significant risk of harm to consumers or residents of the state.

(b) If the director denies an application submitted under this section, the regulatory relief office shall provide to the applicant a written description of the reasons for not allowing the applicant to be a sandbox participant.

(c) The denial of an application submitted under this section is not subject to:

(i) agency or judicial review; or

(ii) the provisions of Title 63G, Chapter 4, Administrative Procedures Act.

(16) The director shall deny an application for participation in the regulatory sandbox described by this section if[~~: (a) the director determines that the applicant should instead apply for the Regulatory Sandbox Program created in Section 13-55-103 for a financial product or service or the Insurance Regulatory Sandbox Program created in Section 31A-47-103 for an insurance product or service; or (b)~~] the applicant or any person who seeks to participate with the applicant in demonstrating an offering has been convicted, entered a plea of nolo contendere, or entered a plea of guilty or nolo contendere held in abeyance, for any crime involving significant theft, fraud, or dishonesty if the crime bears a significant relationship to the applicant's or other participant's ability to safely and competently participate in the regulatory sandbox program.

(17) (a) When an applicant is approved for participation in the regulatory sandbox, the director [~~may provide~~] shall provide public notice of the approval [~~to competitors of the applicant and to the public~~] on the office's website and through other appropriate means.

(b) The public notice described in Subsection (17)(a) shall state:

(i) the name of the sandbox participant;

(ii) the industries the sandbox participant represents; and

(iii) each law or regulation that is suspended or waived for the sandbox participant as allowed by the regulatory sandbox.

(18) In addition to the information described in Subsection (17), the office shall make the following information available on the office's website and through other appropriate means:

(a) documentation regarding the office's determination and grounds for approving each sandbox participant; and

(b) public notice regarding any sandbox participant's revocation to participate in the regulatory sandbox.

Section 6. Section 63N-16-202 is amended to read:

63N-16-202. Scope of the regulatory sandbox.

(1) If the regulatory relief office approves an application under this part, the sandbox participant has 12 months after the day on which the application was approved to demonstrate the offering described in the sandbox participant's application.

(2) An offering that is demonstrated within the regulatory sandbox is subject to the following:

(a) each consumer shall be a resident of the state; and

(b) no law or regulation may be waived or suspended if waiving or suspending the law or regulation would prevent a consumer from seeking restitution in the event that the consumer is harmed.

(3) This part does not restrict a sandbox participant who holds a license or other authorization in another jurisdiction from acting in accordance with that license or other authorization.

(4) A sandbox participant is deemed to possess an appropriate license or other authorization under the laws of the state for the purposes of any provision of federal law requiring licensure or other authorization by the state.

(5) Subject to Subsection (6):

(a) during the demonstration period, a sandbox participant is not subject to the enforcement of state laws or regulations identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14);

(b) a prosecutor may not file or pursue charges pertaining to a law or regulation identified in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14) that occurs during the demonstration period; and

(c) a state agency may not file or pursue any punitive action against a sandbox participant, including a fine or license suspension or revocation, for the violation of a law or regulation that:

(i) is identified as being waived or suspended in the written agreement between the regulatory relief office and the sandbox participant described in Subsection 63N-16-201(14); and

(ii) occurs during the demonstration period.

(6) Notwithstanding any other provision of this part[~~,~~]:

(a) a sandbox participant does not have immunity related to any criminal offense committed during the sandbox participant's participation in the regulatory sandbox[~~.~~]; and

(b) a sandbox participant that provides an offering that is a financial product or service shall comply with all applicable federal laws and regulations governing consumer protection.

(7) By written notice, the regulatory relief office may end a sandbox participant's participation in the regulatory sandbox at any time and for any reason, including if the director determines that a sandbox participant is not operating in good faith to bring an [~~innovative~~] offering to market.

(8) The regulatory relief office and the regulatory relief office's employees are not liable for any business losses or the recouping of application expenses or other expenses related to the regulatory sandbox, including for:

(a) denying an applicant's application to participate in the regulatory sandbox for any reason; or

(b) ending a sandbox participant's participation in the regulatory sandbox at any time and for any reason.

Section 7. Section 63N-16-206 is amended to read:

63N-16-206. Record keeping and reporting requirements.

(1) A sandbox participant shall retain records, documents, and data produced in the ordinary course of business regarding an offering demonstrated in the regulatory sandbox.

(2) If a sandbox participant ceases to provide an offering before the end of a demonstration period, the sandbox participant shall notify the regulatory relief office and each applicable agency and report on actions taken by the sandbox participant to ensure consumers have not been harmed as a result.

(3) The regulatory relief office shall establish quarterly reporting requirements for a sandbox participant, including information about any consumer complaints.

(4) The regulatory relief office may request records, documents, and data from a sandbox participant and, upon the regulatory relief office's request, the sandbox participant shall make such records, documents, and data available for inspection by the regulatory relief office.

(5) (a) The sandbox participant shall notify the regulatory relief office and each applicable agency of any incidents that result in harm to the health, safety, or financial well-being of a consumer.

(b) If a sandbox participant fails to notify the regulatory relief office and each applicable agency of any incidents as described in Subsection (5)(a), or the regulatory relief office or an applicable agency has evidence that significant harm to a consumer has occurred, the regulatory relief office may immediately remove the sandbox participant from the regulatory sandbox.

(6) (a) No later than 30 days after the day on which a sandbox participant exits the regulatory sandbox, the sandbox participant shall submit a written report to the regulatory relief office and each applicable agency describing an overview of the sandbox participant's demonstration, including any:

(i) incidents of harm to consumers;

(ii) legal action filed against the participant as a result of the participant's demonstration; and

(iii) complaints filed with an applicable agency as a result of the participant's demonstration.

(b) No later than 30 days after the day on which an applicable agency receives the quarterly reporting described in Subsection (3) or a written report from a sandbox participant as described in Subsection [~~(5)~~] (6)(a), the applicable agency shall provide a written report to the regulatory relief office on the demonstration that describes any statutory or regulatory reform the applicable agency recommends as a result of the demonstration.

(7) The regulatory relief office may remove a sandbox participant from the regulatory sandbox at any time if the regulatory relief office determines that a sandbox participant has engaged in, is engaging in, or is about to engage in any practice or transaction that is in violation of this chapter or that constitutes a violation of a law or regulation for which suspension or waiver has not been granted.

Section 8. Repealer.

This bill repeals:

Section 13-55-101, Title.

Section 13-55-102, Definitions.

Section 13-55-103, Regulatory Sandbox Program -- Application requirements.

Section 13-55-104, Scope of the regulatory sandbox.

Section 13-55-105, Consumer protection for regulatory sandbox.

Section 13-55-106, Requirements for exiting regulatory sandbox.

Section 13-55-107, Extensions.

Section 13-55-108, Record keeping and reporting requirements.

Section 31A-47-101, Title.

Section 31A-47-102, Definitions.

Section 31A-47-103, Insurance Regulatory Sandbox Program -- Application requirements.

Section 31A-47-104, Scope of the insurance regulatory sandbox.

Section 31A-47-105, Consumer protection for insurance regulatory sandbox.

Section 31A-47-106, Requirements for exiting insurance regulatory sandbox.

Section 31A-47-107, Extensions.

Section 31A-47-108, Record keeping and reporting requirements.

CHAPTER 333
H. B. 245

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

OCCUPATIONAL SAFETY AND HEALTH AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Don L. Ipson

LONG TITLE

General Description:

This bill amends the Utah Occupational Safety and Health Act regarding penalties.

Highlighted Provisions:

This bill:

- amends civil and criminal penalties for a violation of the Utah Occupational Safety and Health Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-6-307, as last amended by Laws of Utah 2017, Chapter 461

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-6-307 is amended to read:

34A-6-307. Civil and criminal penalties.

(1) (a) The commission may assess civil penalties against [~~any~~] an employer who has received a citation under Section 34A-6-302 as follows:

[~~(a)~~] (i) [~~Except~~] except as provided in Subsections [~~(1)(b) through (d)~~] (1)(a)(ii) through (1)(a)(iv), the commission may assess up to [~~$7,000~~] $13,653 for each cited violation[~~.~~];

[~~(b)~~] (ii) [~~The~~] the commission may not assess [~~less than $250 nor~~] more than [~~$7,000~~] $13,653 for each cited serious violation[~~. A violation is serious only if:~~];

[~~(i) it arises from a condition, practice, method, operation, or process in the workplace of which the employer knows or should know through the exercise of reasonable diligence; and~~]

[~~(ii) there is a substantial possibility that the condition, practice, method, operation, or process could result in death or serious physical harm.~~]

[~~(c)~~] (iii) [~~The~~] the commission may not assess less than [~~$5,000~~] $9,753 nor more than [~~$70,000~~] $136,532 for each cited willful violation[~~.~~];

[~~(d)~~] (iv) [~~The~~] the commission may assess up to [~~$70,000~~] $136,532 for each cited violation if the employer has previously been found to have violated the same standards, code, rule, or order[~~.~~]; and

[~~(e)~~] (v) [~~After~~] after the expiration of the time permitted to an employer to correct a cited violation, the commission may assess up to [~~$7,000~~] $13,653 for each day the violation continues uncorrected.

(b) For purposes of Subsection (1)(a)(ii), a violation is serious only if:

(i) it arises from a condition, practice, method, operation, or process in the workplace of which the employer knows or should know through the exercise of reasonable diligence; and

(ii) there is a substantial possibility that the condition, practice, method, operation, or process could result in death or serious physical harm.

(2) The commission may assess a civil penalty of up to [~~$7,000~~] $13,653 for each violation of [~~any~~] a posting requirement under this chapter.

(3) In deciding the amount to assess for a civil penalty, the commission shall consider all relevant factors, including:

(a) the size of the employer's business;

(b) the nature of the violation;

(c) the employer's good faith or lack of good faith; and

(d) the employer's previous record of compliance or noncompliance with this chapter.

(4) [~~Any~~] A civil penalty collected under this chapter shall be paid into the General Fund.

(5) (a) Criminal penalties under this chapter are as follows:

[~~(a)~~] (i) [~~Any~~] an employer who willfully violates [~~any~~] a standard, code, rule, or order issued under Section 34A-6-202, or [~~any~~] a rule made under this chapter, is guilty of a class A misdemeanor if the violation caused the death of an employee[~~. If the violation causes the death of more than one employee, each death is considered a separate offense.~~];

[~~(b)~~] (ii) [~~Any~~] a person who gives advance notice of any inspection conducted under this chapter without authority from the administrator or the administrator's representatives is guilty of a class A misdemeanor[~~.~~]; and

[~~(c)~~] (iii) [~~Any~~] a person who knowingly makes a false statement, representation, or certification in [~~any~~] an application, a record, a report, a plan, or [~~other~~] another document filed or required to be maintained under this chapter is guilty of a class A misdemeanor.

(b) For purposes of Subsection (5)(a)(i), if the violation causes the death of more than one employee, each death is considered a separate offense.

(6) (a) After a citation issued under this chapter and an opportunity for a hearing under Title 63G, Chapter 4, Administrative Procedures Act, the

division may file an abstract for any uncollected citation penalty in the district court.

(b) The filed abstract described in Subsection (6)(a) shall have the effect of a judgment issued by that court.

(c) The abstract described in Subsection (6)(a) shall state the amount of:

(i) the uncollected citation penalty[~~,~~];

(ii) reasonable [~~attorneys'~~] attorney fees as set by commission rule[~~,~~]; and

(iii) court costs.

CHAPTER 334
H. B. 248

Passed February 25, 2022
Approved March 24, 2022
Effective September 1, 2022
(Exception clause in Section 145)

JUVENILE AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill recodifies, reorganizes, renumbers, amends, repeals, and enacts statutes related to juveniles.

Highlighted Provisions:

This bill:

- creates, repeals, and amends definitions;
- renumbers and amends Title 62A, Chapter 4a, Child and Family Services;
- renumbers and amends Title 55, Chapter 12, Interstate Compact for Juveniles;
- enacts Title 80, Chapter 2, Child Welfare Services;
- enacts Title 80, Chapter 2a, Removal and Protective Custody of a Child;
- repeals the Serious Habitual Offender Comprehensive Action Program (SHOCAP) Act;
- amends provisions allowing a child protection team member to enter a public or private premise to investigate child abuse or neglect;
- allows the Division of Child and Family Services to use certain information in the Management Information System to screen an individual who has or is seeking a position with the Office of Guardian Ad Litem;
- amends the purposes for which the Division of Child and Family Services may have access to criminal background information maintained by the Bureau of Criminal Identification;
- clarifies provisions regarding adoption assistance under an interstate compact;
- requires the Administrative Office of the Courts and the Division of Child and Family Services to provide certain reports to the Child Welfare Legislative Oversight Panel;
- clarifies provisions describing certification to the federal government regarding preadoption requirements of the Division of Child and Family Services;
- amends provisions requiring the Division of Child and Family Services to create an administrative rule regarding adoptive placement of a child with a legally married couple;
- clarifies child abuse or neglect reporting requirements;
- clarifies that the Division of Child and Family Services is required to forward a written report of child abuse or neglect to the state child abuse and neglect registry;
- clarifies a law enforcement agency's duties upon a report of child abuse or neglect and the law enforcement agency's authority to access certain child abuse or neglect records;
- clarifies provisions requiring the Division of Child and Family Services to investigate a report of child abuse or neglect before and after removal of the child from the child's home;
- amends provisions that allow a peace officer to place a removed child in a shelter facility;
- clarifies child welfare interview requirements;
- amends the requirement that the Division of Child and Family Services research successful adoptive families for purposes of providing information to a potential adoptive parent;
- clarifies provisions regarding the sharing of certain records between the Division of Child and Family Services and an Indian tribe;
- amends provisions regarding removal of a child from the child's home and warrants issued by the juvenile court for removal of the child or a runaway youth;
- clarifies the process that a physician or health care facility is required to follow upon removing a child from the custody of a parent for the child's safety; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

62A-2-101, as last amended by Laws of Utah 2021, Chapters 117 and 400

63G-2-302, as last amended by Laws of Utah 2021, Chapters 100, 143, and 367

63I-2-262, as last amended by Laws of Utah 2021, Chapters 156, 204, and 278

78A-2-801, as enacted by Laws of Utah 2021, Chapter 261

78A-2-802, as renumbered and amended by Laws of Utah 2021, Chapter 261

78A-2-803, as renumbered and amended by Laws of Utah 2021, Chapter 261

78A-6-351, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

78A-6-356, as renumbered and amended by Laws of Utah 2021, Chapter 261

78A-6-357, as enacted by Laws of Utah 2021, Chapter 261

80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-3-102, as renumbered and amended by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

80-3-104, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-109, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-201, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-301, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-302, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-404, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-3-406, as last amended by Laws of Utah 2021, Chapter 38 and renumbered and amended by Laws of Utah 2021, Chapter 261

80-4-105, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-4-106, as enacted by Laws of Utah 2021, Chapter 261

80-4-107, as enacted by Laws of Utah 2021, Chapter 261

80-4-305, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-5-601, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-707, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-710, as enacted by Laws of Utah 2021, Chapter 261

80-6-1002, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-1004, as last amended by Laws of Utah 2021, Chapter 231 and renumbered and amended by Laws of Utah 2021, Chapter 261

ENACTS:

26-18-701, Utah Code Annotated 1953

26-18-702, Utah Code Annotated 1953

36-33-101, Utah Code Annotated 1953

36-33-102, Utah Code Annotated 1953

62A-4a-101.5, Utah Code Annotated 1953

62A-4a-1003.5, Utah Code Annotated 1953

80-2-503, Utah Code Annotated 1953

80-2-608, Utah Code Annotated 1953

80-2-802, Utah Code Annotated 1953

80-2-803, Utah Code Annotated 1953

80-2-901, Utah Code Annotated 1953

80-2-1006, Utah Code Annotated 1953

80-2a-101, Utah Code Annotated 1953

80-3-504, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

26-18-703, (Renumbered from 62A-4a-709, as last amended by Laws of Utah 2016, Chapter 296)

36-33-103, (Renumbered from 62A-4a-207, as last amended by Laws of Utah 2021, Chapter 262)

62A-2-108.6, (Renumbered from 62A-4a-602, as last amended by Laws of Utah 2020, Chapter 250)

62A-2-115.1, (Renumbered from 62A-4a-603, as last amended by Laws of Utah 2020, Chapter 250)

62A-2-115.2, (Renumbered from 62A-4a-605, as last amended by Laws of Utah 2017, Chapter 148)

62A-2-126, (Renumbered from 62A-4a-607, as last amended by Laws of Utah 2021, Chapter 262)

62A-2-127, (Renumbered from 62A-4a-606, as last amended by Laws of Utah 2018, Chapter 415)

76-7-205, (Renumbered from 62A-4a-711, as last amended by Laws of Utah 2021, Chapter 262)

80-2-102, (Renumbered from 62A-4a-101, as last amended by Laws of Utah 2021, Chapters 29, 231, 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261)

80-2-201, (Renumbered from 62A-4a-103, as last amended by Laws of Utah 2021, Chapter 262)

80-2-202, (Renumbered from 62A-4a-104, as last amended by Laws of Utah 2009, Chapter 75)

80-2-301, (Renumbered from 62A-4a-105, as last amended by Laws of Utah 2021, Chapters 38 and 262)

80-2-302, (Renumbered from 62A-4a-102, as last amended by Laws of Utah 2021, Chapter 262)

80-2-303, (Renumbered from 62A-4a-113, as last amended by Laws of Utah 2021, Chapter 262)

80-2-304, (Renumbered from 62A-4a-115, as last amended by Laws of Utah 2009, Chapter 75)

80-2-305, (Renumbered from 62A-4a-111, as renumbered and amended by Laws of Utah 1994, Chapter 260)

80-2-306, (Renumbered from 62A-4a-202, as last amended by Laws of Utah 2020, Chapter 250)

80-2-307, (Renumbered from 62A-4a-121, as enacted by Laws of Utah 2008, Chapter 314)

80-2-308, (Renumbered from 62A-4a-212, as enacted by Laws of Utah 2014, Chapter 67)

80-2-401, (Renumbered from 62A-4a-105.5, as last amended by Laws of Utah 2019, Chapter 335)

80-2-402, (Renumbered from 62A-4a-107, as last amended by Laws of Utah 2021, Chapter 231)

80-2-403, (Renumbered from 62A-4a-203.1, as enacted by Laws of Utah 2016, Chapter 231)

80-2-404, (Renumbered from 62A-4a-110, as last amended by Laws of Utah 2019, Chapter 335)

80-2-405, (Renumbered from 62A-4a-107.5, as last amended by Laws of Utah 2008, Chapter 299)

80-2-501, (Renumbered from 62A-4a-309, as last amended by Laws of Utah 2010, Chapter 278)

80-2-502, (Renumbered from 62A-4a-608, as enacted by Laws of Utah 2011, Chapter 438)

80-2-503.5, (Renumbered from 62A-4a-213, as last amended by Laws of Utah 2021, Chapter 263)

80-2-601, (Renumbered from 62A-4a-401, as last amended by Laws of Utah 2016, Chapter 168)

80-2-602, (Renumbered from 62A-4a-403, as last amended by Laws of Utah 2021, Chapter 419)
80-2-603, (Renumbered from 62A-4a-404, as last amended by Laws of Utah 2021, Chapters 231 and 337)
80-2-604, (Renumbered from 62A-4a-405, as last amended by Laws of Utah 2013, Chapter 237)
80-2-605, (Renumbered from 62A-4a-407, as last amended by Laws of Utah 2006, Chapter 75)
80-2-606, (Renumbered from 62A-4a-408, as last amended by Laws of Utah 2006, Chapter 207)
80-2-607, (Renumbered from 62A-4a-406, as last amended by Laws of Utah 2019, Chapter 349)
80-2-609, (Renumbered from 62A-4a-411, as last amended by Laws of Utah 2021, Chapter 419)
80-2-610, (Renumbered from 62A-4a-410, as last amended by Laws of Utah 2021, Chapter 419)
80-2-611, (Renumbered from 62A-4a-1007, as last amended by Laws of Utah 2008, Chapter 299)
80-2-701, (Renumbered from 62A-4a-409, as last amended by Laws of Utah 2021, Chapters 29, 262, and 365)
80-2-702, (Renumbered from 62A-4a-202.3, as last amended by Laws of Utah 2021, Chapters 29 and 262)
80-2-703, (Renumbered from 62A-4a-202.6, as last amended by Laws of Utah 2020, Chapter 250)
80-2-704, (Renumbered from 62A-4a-414, as last amended by Laws of Utah 2010, Chapter 239)
80-2-705, (Renumbered from 62A-4a-415, as enacted by Laws of Utah 2010, Chapter 322)
80-2-706, (Renumbered from 62A-4a-202.8, as last amended by Laws of Utah 2021, Chapters 29 and 262)
80-2-707, (Renumbered from 62A-4a-1009, as last amended by Laws of Utah 2021, Chapter 262)
80-2-708, (Renumbered from 62A-4a-1005, as last amended by Laws of Utah 2021, Chapter 262)
80-2-709, (Renumbered from 62A-4a-202.4, as last amended by Laws of Utah 2021, Chapter 262)
80-2-801, (Renumbered from 62A-4a-902, as last amended by Laws of Utah 2019, Chapter 393)
80-2-804, (Renumbered from 62A-4a-205.6, as last amended by Laws of Utah 2021, Chapter 262)
80-2-805, (Renumbered from 62A-4a-106, as last amended by Laws of Utah 2018, Chapter 53)
80-2-806, (Renumbered from 62A-4a-903, as last amended by Laws of Utah 2016, Chapter 219)
80-2-807, (Renumbered from 62A-4a-905, as last amended by Laws of Utah 2019, Chapter 335)
80-2-808, (Renumbered from 62A-4a-906, as last amended by Laws of Utah 2008, Chapter 382)
80-2-809, (Renumbered from 62A-4a-907, as renumbered and amended by Laws of Utah 2001, Chapter 115)
80-2-902, (Renumbered from 62A-4a-703, as renumbered and amended by Laws of Utah 1994, Chapter 260)
80-2-903, (Renumbered from 62A-4a-704, as renumbered and amended by Laws of Utah 1994, Chapter 260)
80-2-904, (Renumbered from 62A-4a-707, as renumbered and amended by Laws of Utah 1994, Chapter 260)
80-2-905, (Renumbered from 62A-4a-701, as renumbered and amended by Laws of Utah 1994, Chapter 260)
80-2-906, (Renumbered from 62A-4a-702, as last amended by Laws of Utah 2008, Chapter 3)
80-2-907, (Renumbered from 62A-4a-705, as renumbered and amended by Laws of Utah 1994, Chapter 260)
80-2-908, (Renumbered from 62A-4a-706, as renumbered and amended by Laws of Utah 1994, Chapter 260)
80-2-909, (Renumbered from 62A-4a-708, as last amended by Laws of Utah 2008, Chapter 3)
80-2-910, (Renumbered from 62A-4a-710, as enacted by Laws of Utah 2007, Chapter 152)
80-2-1001, (Renumbered from 62A-4a-1003, as last amended by Laws of Utah 2021, Chapter 231)
80-2-1002, (Renumbered from 62A-4a-1006, as last amended by Laws of Utah 2021, Chapter 262)
80-2-1003, (Renumbered from 62A-4a-1008, as last amended by Laws of Utah 2018, Chapter 38)
80-2-1004, (Renumbered from 62A-4a-1010, as last amended by Laws of Utah 2021, Chapter 262)
80-2-1005, (Renumbered from 62A-4a-412, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419)
80-2-1007, (Renumbered from 62A-4a-112, as last amended by Laws of Utah 2019, Chapter 335)
80-2-1101, (Renumbered from 62A-4a-311, as last amended by Laws of Utah 2016, Chapter 231)
80-2-1102, (Renumbered from 62A-4a-117, as last amended by Laws of Utah 2019, Chapter 335)
80-2-1103, (Renumbered from 62A-4a-118, as last amended by Laws of Utah 2021, Chapter 262)
80-2-1104, (Renumbered from 62A-4a-208, as last amended by Laws of Utah 2017, Chapters 181, 330, and 401)

80-2a-201, (Renumbered from 62A-4a-201, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-202, (Renumbered from 62A-4a-202.1, as repealed and reenacted by Laws of Utah 2021, Chapter 261)

80-2a-203, (Renumbered from 62A-4a-202.2, as last amended by Laws of Utah 2021, Chapter 261)

80-2a-301, (Renumbered from 62A-4a-209, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-302, (Renumbered from 62A-4a-203, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-303, (Renumbered from 62A-4a-206.5, as last amended by Laws of Utah 2021, Chapter 262)

80-2a-304, (Renumbered from 62A-4a-206, as last amended by Laws of Utah 2021, Chapter 262)

80-3-307, (Renumbered from 62A-4a-205, as last amended by Laws of Utah 2021, Chapter 262)

80-4-501, (Renumbered from 62A-4a-801, as last amended by Laws of Utah 2020, Chapter 170)

80-4-502, (Renumbered from 62A-4a-802, as last amended by Laws of Utah 2021, Chapter 262)

80-6-1101, (Renumbered from 55-12-100, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1102, (Renumbered from 55-12-101, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1103, (Renumbered from 55-12-102, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1104, (Renumbered from 55-12-103, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1105, (Renumbered from 55-12-104, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1106, (Renumbered from 55-12-105, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1107, (Renumbered from 55-12-106, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1108, (Renumbered from 55-12-107, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1109, (Renumbered from 55-12-108, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1110, (Renumbered from 55-12-109, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1111, (Renumbered from 55-12-110, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1112, (Renumbered from 55-12-111, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1113, (Renumbered from 55-12-112, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1114, (Renumbered from 55-12-113, as enacted by Laws of Utah 2005, Chapter 155)

80-6-1115, (Renumbered from 55-12-114, as renumbered and amended by Laws of Utah 2005, Chapter 155)

80-6-1116, (Renumbered from 55-12-115, as renumbered and amended by Laws of Utah 2005, Chapter 155)

80-6-1117, (Renumbered from 55-12-116, as last amended by Laws of Utah 2018, Chapter 281)

80-6-1118, (Renumbered from 55-12-117, as renumbered and amended by Laws of Utah 2005, Chapter 155)

80-6-1119, (Renumbered from 55-12-118, as renumbered and amended by Laws of Utah 2005, Chapter 155)

REPEALS:

62A-4a-109, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-114, as last amended by Laws of Utah 2021, Chapter 262

62A-4a-119, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-120, as last amended by Laws of Utah 2008, Chapter 382

62A-4a-205.5, as last amended by Laws of Utah 2021, Chapter 262

62A-4a-206.1, as last amended by Laws of Utah 2007, Chapter 169

62A-4a-301, as last amended by Laws of Utah 2008, Chapter 299

62A-4a-302, as last amended by Laws of Utah 2016, Chapter 231

62A-4a-303, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-304, as last amended by Laws of Utah 2008, Chapters 299 and 382

62A-4a-305, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-306, as last amended by Laws of Utah 2009, Chapter 75

62A-4a-307, as renumbered and amended by Laws of Utah 1994, Chapter 260

62A-4a-308, as renumbered and amended by Laws of Utah 1994, Chapter 260

62A-4a-310, as last amended by Laws of Utah 2010, Chapter 278

62A-4a-402, as last amended by Laws of Utah 2021, Chapter 231

62A-4a-601, as last amended by Laws of Utah 2017, Chapters 148 and 401

62A-4a-609, as enacted by Laws of Utah 2017, Chapter 401

62A-4a-901, as enacted by Laws of Utah 2001, Chapter 115

62A-4a-904, as enacted by Laws of Utah 2001, Chapter 115

62A-4a-1001, as enacted by Laws of Utah 2006, Chapter 77

62A-4a-1002, as last amended by Laws of Utah 2018, Chapter 415
62A-4a-1004, as enacted by Laws of Utah 2006, Chapter 77
63M-10-101, as renumbered and amended by Laws of Utah 2008, Chapter 382
63M-10-201, as last amended by Laws of Utah 2016, Chapter 144
80-1-101, as enacted by Laws of Utah 2021, Chapter 261
80-2-101, as enacted by Laws of Utah 2021, Chapter 261
80-3-101, as enacted by Laws of Utah 2021, Chapter 261
80-4-101, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-5-101, as enacted by Laws of Utah 2021, Chapter 261
80-6-101, as enacted by Laws of Utah 2021, Chapter 261
80-7-101, as enacted by Laws of Utah 2021, Chapter 261

Utah Code Sections Affected by Coordination Clause:

62A-2-108.6, Utah Code Annotated 1953
62A-2-126, Utah Code Annotated 1953
76-7-205, Utah Code Annotated 1953
80-2-701, Utah Code Annotated 1953
80-2-702, Utah Code Annotated 1953
80-2-704, Utah Code Annotated 1953
80-2a-101, Utah Code Annotated 1953
80-2a-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-701 is enacted to read:

Part 7. Medical Assistance Under Adoption Assistance Interstate Compact

26-18-701. Definitions.

As used in this part:

(1) "Adoption assistance" means the same as that term is defined in Section 80-2-809.

(2) "Adoption assistance agreement" means the same as that term is defined in Section 80-2-809.

(3) "Adoption assistance interstate compact" means an agreement executed by the Division of Child and Family Services with any other state in accordance with Section 80-2-809.

Section 2. Section 26-18-702 is enacted to read:

26-18-702. Division and Department of Workforce Services compliance with adoption assistance interstate compact.

The division and the Department of Workforce Services shall:

(1) cooperate with the Division of Child and Family Services in regards to an adoption assistance interstate compact; and

(2) comply with an adoption assistance interstate compact.

Section 3. Section 26-18-703, which is renumbered from Section 62A-4a-709 is renumbered and amended to read:

[~~62A-4a-709~~]. 26-18-703. Medical assistance from division or Department of Workforce Services under adoption assistance interstate compact -- Penalty for fraudulent claim.

[~~(1) As used in this section:~~]

[~~(a) "Adoption assistance" means financial support to adoptive parents provided under the Adoption Assistance and Child Welfare Act of 1980, Titles IV (e) and XIX of the Social Security Act.~~]

[~~(b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents or between any state and adoptive parents, providing for adoption assistance.~~]

[~~(c) "Interstate compact" means an agreement executed by the division with any other state, under the authority granted in Section 62A-4a-907.~~]

[~~(2) The Workforce Development Division in the Department of Workforce Services and the Division of Health Care Financing shall cooperate with the division and comply with interstate compacts.~~]

[~~(3)~~] (1) (a) A child who is a resident of this state and is the subject of an adoption assistance interstate compact is entitled to receive medical assistance [~~identification from the Workforce Development Division in~~] from the division and the Department of Workforce Services [~~and the Division of Health Care Financing~~] by filing a certified copy of [~~his~~] the child's adoption assistance agreement with [~~that office~~] the division or the Department of Workforce Services.

(b) The adoptive [~~parents~~] parent of the child described in Subsection (1)(a) shall annually provide [~~that office~~] the division or the Department of Workforce Services with evidence[~~,~~] verifying that the adoption assistance agreement is still effective.

[~~(4)~~] (2) The [~~Workforce Development Division in the~~] Department of Workforce Services shall consider the [~~holder~~] recipient of medical assistance [~~identification received~~] under this section as [~~it~~] the Department of Workforce Services does any other [~~holder~~] recipient of medical assistance [~~identification received~~] under an adoption assistance agreement executed by the [~~division~~] Division of Child and Family Services.

[~~(5) The submission of any claim for payment or reimbursement under this section that is known to be false, misleading, or fraudulent is punishable as a third degree felony.~~]

(3) (a) A person may not submit a claim for payment or reimbursement under this section that the person knows is false, misleading, or fraudulent.

(b) A violation of Subsection (3)(a) is a third degree felony.

Section 4. Section 36-33-101 is enacted to read:

CHAPTER 33. CHILD WELFARE LEGISLATIVE OVERSIGHT PANEL

36-33-101. Definitions.

As used in this chapter:

(1) "Department" means the Department of Human Services created in Section 62A-1-102.

(2) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(3) "Panel" means the Child Welfare Legislative Oversight Panel created in Section 36-33-102.

Section 5. Section 36-33-102 is enacted to read:

36-33-102. Child Welfare Legislative Oversight Panel -- Creation -- Membership -- Interim rules -- Per diem -- Staff support.

(1) There is created the Child Welfare Legislative Oversight Panel composed of the following members:

(a) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and

(b) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.

(2) (a) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel.

(b) The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.

(3) (a) A member of the panel shall serve for two-year terms, or until the member's successor is appointed.

(b) (i) A vacancy occurs when a member ceases to be a member of the Legislature, or when a member resigns from the panel.

(ii) If a vacancy occurs in the membership of the panel, the replacement shall be appointed for the unexpired term in the same manner as the vacated member was appointed.

(4) The panel shall follow the interim committee rules established by the Legislature.

(5) A member of the panel who is a legislator may be compensated in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(6) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.

(b) The panel is authorized to employ additional professional assistance and other staff members as the panel considers necessary and appropriate.

Section 6. Section 36-33-103, which is renumbered from Section 62A-4a-207 is renumbered and amended to read:

[~~62A-4a-207~~]. 36-33-103. Panel powers and duties -- Record access and confidentiality.

[~~(1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the following members:~~]

[~~(i) two members of the Senate, one from the majority party and one from the minority party, appointed by the president of the Senate; and~~]

[~~(ii) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.~~]

[~~(b) Members of the panel shall serve for two-year terms, or until their successors are appointed.~~]

[~~(c) A vacancy exists whenever a member ceases to be a member of the Legislature, or when a member resigns from the panel. Vacancies shall be filled by the appointing authority, and the replacement shall fill the unexpired term.~~]

[~~(2) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.~~]

[~~(3) The panel shall follow the interim committee rules established by the Legislature.~~]

[~~(4)~~] (1) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, [~~and from all state agencies~~] or a state agency involved with the child welfare system, including the division, [~~other offices and agencies~~] another office or agency within the department, the [~~attorney general's office~~] attorney general, the Office of Guardian Ad Litem, [~~and school districts~~] or a school district;

(c) before October 1 of each year, receive a report from the [~~judicial branch~~] Administrative Office of the Courts identifying the cases not in compliance with the time limits established in the following sections, and the reasons for noncompliance:

(i) Subsection 80-3-301(1), regarding shelter hearings;

(ii) Section 80-3-401, regarding pretrial and adjudication hearings;

(iii) Section 80–3–402, regarding dispositional hearings;

[~~(iii)~~] (iv) Section 80–3–406, regarding [~~dispositional hearings and~~] reunification services; and

[~~(iv)~~] (v) Section 80–3–409, regarding permanency hearings and petitions for termination;

(d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of Guardian Ad Litem, the juvenile court, and the public;

(e) (i) receive reports from the [~~executive branch~~] division and the [~~judicial branch~~] Administrative Office of the Courts on budgetary issues impacting the child welfare system; and

(ii) before December 1 of each year, recommend, as the panel considers advisable, budgetary proposals to the Social Services Appropriations Subcommittee and the Executive Offices and Criminal Justice Appropriations Subcommittee[~~, which recommendation should be made before December 1 of each year~~];

(f) study and recommend [~~proposed~~] changes to laws governing the child welfare system;

(g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents [~~whenever~~] if those family ties are severed or infringed;

(h) perform [~~such~~] other duties related to the oversight of the child welfare system as the panel considers appropriate; and

(i) annually report the panel's findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

[~~(5)~~] (2) (a) The panel [~~has authority to~~] may:

(i) review and discuss individual child welfare cases[~~.~~];

[~~(b) When an individual case is discussed, the panel's meeting may be closed pursuant to Title 52, Chapter 4, Open and Public Meetings Act.~~]

(ii) make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system; and

(iii) hold public hearings, as the panel considers advisable, in various locations within the state to afford all interested persons an opportunity to appear and present the persons' views regarding the child welfare system.

(b) (i) If the panel discusses an individual child welfare case, the panel shall close the panel's meeting in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

[~~(c)~~] (ii) [~~When discussing an individual~~] If the panel discusses an individual child welfare case, the panel shall make reasonable efforts to identify and consider the concerns of all parties to the case.

(iii) The panel may not make recommendations to the court, the division, or any other public or private entity regarding the disposition of an individual child welfare case.

[~~(6) (a) The panel has authority to make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system. The panel does not have authority to make recommendations to the court, the division, or any other public or private entity regarding the disposition of any individual case.~~]

[~~(b) The panel may hold public hearings, as it considers advisable, in various locations within the state in order to afford all interested persons an opportunity to appear and present their views regarding the child welfare system in this state.~~]

[~~(7)~~] (3) (a) [~~All records of the panel regarding individual cases shall be~~] A record of the panel regarding an individual child welfare case:

(i) is classified as private[~~,~~] under Section 63G–2–302; and

(ii) may be disclosed only in accordance with federal law and [~~the provisions of~~] Title 63G, Chapter 2, Government Records Access and Management Act.

(b) (i) The panel shall have access to all of the division's records, including [~~those~~] records regarding individual child welfare cases.

(ii) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the panel from the division shall maintain the same classification under Title 63G, Chapter 2, Government Records Access and Management Act, that was designated by the division.

[~~(8)~~] (4) In order to accomplish [~~its~~] the panel's oversight functions under this section, the panel has:

(a) all powers granted to legislative interim committees in Section 36–12–11; and

(b) legislative subpoena powers under [~~Title 36~~], Chapter 14, Legislative Subpoena Powers.

[~~(9) Compensation and expenses of a member of the panel who is a legislator are governed by Section 36–2–2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.~~]

[~~(10) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.~~]

[~~(b) The panel is authorized to employ additional professional assistance and other staff members as it considers necessary and appropriate.~~]

Section 7. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adoption services" means the same as that term is defined in Section 80-2-801.

[~~(1)~~] (2) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

[~~(2)~~] (3) "Applicant" means a person who applies for an initial license or a license renewal under this chapter.

[~~(3)~~] (4) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection [~~(3)~~] (4)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

[~~(4)~~] (5) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection [~~(4)~~] (5)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection [~~(37)~~] (38)(a); or

(B) provides the treatment or services described in Subsection [~~(37)~~] (38)(a) on a limited basis, as described in Subsection [~~(4)~~] (5)(b)(ii).

(b) (i) For purposes of Subsection [~~(4)~~] (5)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection [~~(4)~~] (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection [~~(37)~~] (38)(a) on a limited basis if:

(A) the treatment or services described in Subsection [~~(37)~~] (38)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection [~~(37)~~] (38)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection [~~(37)~~] (38)(a).

(c) "Boarding school" does not include a therapeutic school.

[~~(5)~~] (6) "Child" means an individual under 18 years old.

[~~(6)~~] (7) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

[~~(7)~~] (8) "Child-placing agency" means a person that engages in child placing.

[~~(8)~~] (9) "Client" means an individual who receives or has received services from a licensee.

[~~(9)~~] (10) "Congregate care program" means any of the following that provide services to a child:

(a) an outdoor youth program;

(b) a residential support program;

(c) a residential treatment program; or

(d) a therapeutic school.

[~~(10)~~] (11) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

[~~(11)~~] (12) "Department" means the Department of Human Services.

[~~(12)~~] (13) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

[~~(13)~~] (14) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

[~~(14)~~] (15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

[~~(15)~~] (16) "Director" means the director of the [~~Office of Licensing~~] office.

[~~(16)~~] (17) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(17)~~] (18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

[~~(18)~~] (19) "Elder adult" means a person 65 years old or older.

[~~(19)~~] (20) "Executive director" means the executive director of the department.

[~~(20)~~] (21) "Foster home" means a residence that is licensed or certified by the [~~Office of Licensing~~] office for the full-time substitute care of a child.

[~~(21)~~] (22) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

[~~(22)~~] (23) "Health care provider" means the same as that term is defined in Section 78B-3-403.

[~~(23)~~] (24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

[~~(24)~~] (25) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

[~~(25)~~] (26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(26)~~] (27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

[~~(27)~~] (28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(28)~~] (29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

[~~(29)~~] (30) "Licensee" means an individual or a human services program licensed by the office.

[~~(30)~~] (31) "Local government" means a city, town, metro township, or county.

[~~(31)~~] (32) "Minor" [~~has the same meaning as "child."~~] means child.

[~~(32)~~] (33) "Office" means the Office of Licensing within the Department of Human Services.

[~~(33)~~] (34) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

[~~(34)~~] (35) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

[~~(35)~~] (36) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

[~~(36)~~] (37) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

[~~(37)~~] (38) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

[~~(38)~~] (39) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

[~~(39)~~] (40) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

[~~(40)~~] (41) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

[~~(41)~~] (42) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

[~~(42)~~] (43) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

[~~(43)~~] (44) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

[~~(44)~~] (45) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

[~~(45)~~] (46) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection [~~(45)~~] (46)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

[~~(46)~~] (47) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

[~~(47)~~] (48) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

[~~(48)~~] (49) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

[~~(49)~~] (50) (a) "Youth program" means a program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of its services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

Section 8. Section 62A-2-108.6, which is renumbered from Section 62A-4a-602 is renumbered and amended to read:

[~~62A-4a-602~~]. 62A-2-108.6. Child placing licensure requirements -- Prohibited acts.

(1) As used in this section:

(a) (i) "Advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business.

(ii) "Advertisement" includes a statement or representation described in Subsection (1)(a)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(b) "Clearly and conspicuously disclose" means the same as that term is defined in Section 13-11a-2.

(c) (i) "Matching advertisement" means any written, oral, or graphic statement or representation made in connection with a solicitation of business to provide the assistance described in Subsection (3)(a)(i), regardless of whether there is or will be an exchange described in Subsection (3)(a)(ii).

(ii) "Matching advertisement" includes a statement or representation described in Subsection (1)(c)(i) by a noncable television system, radio, printed brochure, newspaper, leaflet, flyer, circular, billboard, banner, Internet website, social media, or sign.

(2) (a) A person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the [~~Office of Licensing,~~] office in accordance with [~~Chapter 2, Licensure of Programs and Facilities~~] this chapter.

(b) [~~When~~] If a child-placing agency's license is suspended or revoked in accordance with [~~that~~] this chapter, the care, control, or custody of any child who [~~has been~~] is in the care, control, or custody of [~~that~~] the child-placing agency shall be transferred to the [~~division~~] Division of Child and Family Services.

(3) (a) (i) An attorney, physician, or other person may assist a parent in identifying or locating a person interested in adopting the parent's child, or in identifying or locating a child to be adopted.

(ii) No payment, charge, fee, reimbursement of expense, or exchange of value of any kind, or promise or agreement to make the same, may be made for the assistance described in Subsection (3)(a)(i).

(b) An attorney, physician, or other person may not:

(i) issue or cause to be issued to any person a card, sign, or device indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i);

(ii) cause, permit, or allow any sign or marking indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), on or in any building or structure;

(iii) announce, cause, permit, or allow an announcement indicating that the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i), to appear in any newspaper, magazine, directory, on radio or television, or an Internet website relating to a business;

(iv) announce, cause, permit, or allow a matching advertisement; or

(v) announce, cause, permit, or allow an advertisement that indicates or implies the attorney, physician, or other person is available to provide the assistance described in Subsection (3)(a)(i) as part of, or related to, other adoption-related services by using any of the following terms:

(A) "comprehensive";

(B) "complete";

(C) "one-stop";

(D) "all-inclusive"; or

(E) any other term similar to the terms described in Subsections (3)(b)(v)(A) through (D).

(c) An attorney, physician, or other person who is not licensed by the [~~Office of Licensing within the department~~] office shall clearly and conspicuously disclose in any print media advertisement or written contract regarding adoption services or adoption-related services that the attorney, physician, or other person is not licensed to provide adoption services by the [~~Office of Licensing within the department~~] office.

[~~(4) Nothing in this part:~~]

(4) This section does not:

(a) [~~precludes~~] preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings; or

(b) [~~abrogates~~] abrogate the right of procedures for independent adoption as provided by law.

(5) In accordance with federal law, only [~~agents or employees of the division and of licensed child placing agencies~~] an agent or employee of the Division of Child and Family Services or of a licensed child-placing agency may certify to [~~the United States Immigration and Naturalization Service~~] United States Citizenship and Immigration Services that a family meets the [~~division's~~] preadoption requirements of the Division of Child and Family Services.

(6) [~~(a) Neither a licensed child-placing agency nor any attorney practicing in this state may~~] A licensed child-placing agency or an attorney practicing in this state may not place a child for adoption, either temporarily or permanently, with any individual [~~or individuals~~] that would not be qualified for adoptive placement [~~pursuant to the provisions of~~] under Sections [~~78B-6-117,~~] 78B-6-102, 78B-6-117, and 78B-6-137.

[~~(b) The division, as a licensed child-placing agency, may not place a child in foster care with any individual or individuals that would not be qualified for adoptive placement pursuant to the provisions of Sections 78B-6-117, 78B-6-102, and 78B-6-137. However, nothing in this Subsection (6)(b) limits the placement of a child in foster care with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.~~]

[~~(c) With regard to children who are in the custody of the state, the division shall establish a rule providing that priority for placement shall be provided to families in which a couple is legally married under the laws of this state. However, nothing in this Subsection (6)(c) limits the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with~~]

~~the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.~~]

Section 9. Section 62A-2-115.1, which is renumbered from Section 62A-4a-603 is renumbered and amended to read:

[~~62A-4a-603~~]. 62A-2-115.1. Injunctive relief and civil penalty for unlawful child placing -- Enforcement by county attorney or attorney general.

(1) The [~~Office of Licensing within the department or any~~] office or another interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association from violating Section [~~62A-4a-602~~] 62A-2-108.6.

(2) The [~~Office of Licensing~~] office shall:

(a) solicit information from the public relating to violations of Section [~~62A-4a-602~~] 62A-2-108.6; and

(b) upon identifying a violation of Section [~~62A-4a-602~~] 62A-2-108.6:

(i) send a written notice to the person who violated Section [~~62A-4a-602~~] 62A-2-108.6 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of Occupational and Professional Licensing.

(3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section [~~62A-4a-602~~] 62A-2-108.6 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section [~~62A-4a-602~~] 62A-2-108.6, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4) (a) In addition to the remedies provided in Subsections (1) and (3), any person, agency, firm, corporation, or association found to be in violation of Section [~~62A-4a-602~~] 62A-2-108.6 shall forfeit all proceeds identified as resulting from the transaction, and may also be assessed a civil penalty of not more than $10,000 for each violation.

(b) Each act in violation of Section [~~62A-4a-602~~] 62A-2-108.6, including each placement or attempted placement of a child, is a separate violation.

(5) (a) [~~All amounts~~] The amount recovered as [~~penalties~~] a penalty under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the court shall apportion the penalty [~~amounts recovered shall be apportioned by the court~~] among the entities, according to [~~their~~] the entities' involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 10. Section 62A-2-115.2, which is renumbered from Section 62A-4a-605 is renumbered and amended to read:

[~~62A-4a-605~~]. 62A-2-115.2. Child-placing agency proof of authority in a proceeding.

A child-placing agency is not required to present [~~its license, issued under Chapter 2, Licensure of Programs and Facilities, or its~~] the child-placing agency's license issued under this chapter, the child placing agency's certificate of incorporation, or proof of [~~its~~] the child-placing agency's authority to consent to adoption, as proof of [~~its~~] the child-placing agency's authority in any proceeding in which [~~it~~] the child-placing agency is an interested party, unless the court or a party to the proceeding requests that the child-placing agency or [~~its~~] the child-placing agency's representative establish proof of authority.

Section 11. Section 62A-2-126, which is renumbered from Section 62A-4a-607 is renumbered and amended to read:

[~~62A-4a-607~~]. 62A-2-126. Child-placing agency regulation -- Notice to potential adoptive parents.

[~~(1) (a) The division and all child-placing agencies licensed under this part shall~~]

(1) As used in this section, "high needs child" means a child who:

(a) has an attachment or trauma-related disorder;

(b) suffered from prenatal exposure to alcohol or drugs;

(c) is the subject of an intercountry adoption;

(d) was previously adopted; or

(e) is in foster care.

(2) A child-placing agency licensed under this chapter shall:

(a) promote adoption [~~when that~~] if adoption is a possible and appropriate alternative for a child[~~. Specifically, in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of all children in its custody who have a final plan for termination of parental rights pursuant to Section 80-3-409 or a primary permanency plan of adoption.~~];

[~~(b) Beginning May 1, 2000, the division may not place a child for adoption, either temporarily or permanently, with any individual or individuals who do not qualify for adoptive placement pursuant~~

~~to the requirements of Sections 78B-6-117, 78B-6-102, and 78B-6-137.~~]

[~~(2) The division shall obtain or conduct research of prior adoptive families to determine what families may do to be successful with their adoptive children and shall make this research available to potential adoptive parents.~~]

[~~(3) (a) A child-placing agency licensed under this part shall~~]

(b) inform each potential adoptive parent with whom [~~it~~] the child-placing agency is working [~~that~~] at the earliest possible opportunity:

(i) that children in the custody of the state are available for adoption;

(ii) that Medicaid coverage for medical, dental, and mental health services may be available for [~~these children~~] a child in the custody of the state who is adopted;

(iii) that tax benefits, including the tax credit provided for in Section 59-10-1104, and financial assistance may be available to defray the costs of adopting [~~these children~~] a child in the custody of the state;

(iv) that training and ongoing support may be available to the [~~adoptive parents of these children; and~~] adoptive parent of a child in the custody of the state;

(v) that information about [~~individual children~~] a child in the custody of the state who is available for adoption may be obtained by contacting the [~~division's offices or its Internet site as explained by the child-placing agency.~~] Division of Child and Family Services or accessing the Division of Child and Family Services's website; and

(vi) how to contact the Division of Child and Family Services and access the Division of Child and Family Services's website; and

[~~(b) A child-placing agency shall:~~]

[~~(i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity; and~~]

[~~(ii)~~] (c) [~~simultaneously~~] at the time the child-placing agency provides the information described in Subsection (2)(b) to a potential adoptive parent, distribute a copy of the pamphlet prepared by the [~~division in accordance with Subsection (3)(d)~~] Division of Child and Family Services under Section 80-2-803 to the potential adoptive parent.

(3) Before the day on which a child-placing agency refers a high needs child for adoption or enters into a contract to provide adoption services to a potential adoptive parent of a high needs child, the child-placing agency shall ensure that the potential adoptive parent receives, at a minimum:

(a) to the extent available, the following information:

(i) a social history of the high needs child to be adopted, including:

(A) a history of the high needs child's cultural, racial, religious, ethnic, linguistic, and educational background; and

(B) any conditions in the high needs child's country of origin, if applicable, to which the child may have been exposed and that may have an impact on the child's physical or mental health; and

(ii) a record of the high needs child's:

(A) physical health, mental health, behavioral issues, or exposure to trauma, including whether the child-placing agency knows or suspects that the high needs child has been exposed to alcohol or drugs in utero; and

(B) history of institutionalization or previous adoptive or foster placements and, if applicable, the reason a previous placement was terminated; and

(b) training on the following issues:

(i) the impact leaving familiar ties and surroundings may have on a high needs child, and the grief, loss, and identity issues that a high needs child may experience in adoption;

(ii) the potential impact of an institutional setting on a high needs child;

(iii) attachment disorders, trauma-related disorders, fetal alcohol spectrum disorders, and other emotional problems that a high needs child may suffer, particularly when the high needs child has been institutionalized, traumatized, or cared for by multiple caregivers;

(iv) the general characteristics of a successful adoption placement, including information on the financial resources, time, and insurance coverage necessary for handling the adoptive family's and the high needs child's adjustment following placement;

(v) the medical, therapeutic, and educational needs a high needs child may require, including language acquisition training;

(vi) how to access post-placement and post-adoption services that may assist the family to respond effectively to adjustment, behavioral, and other difficulties that may arise after the high needs child is placed or adopted;

(vii) issues that may lead to the disruption of an adoptive placement or the dissolution of an adoption, including how an adoptive parent may access resources to avoid disruption or dissolution;

(viii) the long-term implications for a family that becomes multicultural through adoption;

(ix) for a potential adoptive parent who is seeking to adopt two or more unrelated children, the differing needs of children based on the children's respective ages, backgrounds, length of time outside of family care, and the time management requirements and other challenges that may be presented in a multi-child adoption; and

(x) the prohibition against an unregulated custody transfer of a child under Section 76-7-205.

[~~(c)~~] (4) As a condition of licensure, [~~the~~] a child-placing agency shall certify to the [~~Office of~~

~~Licensing~~] office at the time of license renewal that [~~it~~] the child-placing agency has complied with [~~the provisions of~~] this section.

[~~(d) Before July 1, 2000, the division shall:~~]

[~~(i) prepare a pamphlet that explains the information that is required by Subsection (3)(a); and~~]

[~~(ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child-placing agencies.~~]

[~~(e) The division shall respond to any inquiry made as a result of the notice provided in Subsection (3)(a).~~]

Section 12. Section 62A-2-127, which is renumbered from Section 62A-4a-606 is renumbered and amended to read:

[~~62A-4a-606~~]. 62A-2-127. Child-placing agency responsibility for educational services -- Payment of costs.

(1) A child-placing agency shall ensure that the requirements of Subsections 53G-6-202(2) and 53G-6-203(1) are met through the provision of appropriate educational services for all children served in the state by the child-placing agency.

[~~(2) If the educational services are to be provided through a public school, and:~~]

(2) (a) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides outside the state, [~~then the child placing~~] the child-placing agency shall pay all educational costs required under Sections 53G-6-306 and 53G-7-503[~~; or~~].

(b) If the educational services described in Subsection (1) are provided through a public school and the custodial parent or legal guardian resides within the state, then the [~~child placing~~] child-placing agency shall pay all educational costs required under Section 53G-7-503.

(3) [~~Children~~] A child in the custody or under the care of a Utah state agency [~~are~~] is exempt from the payment of fees required under Subsection (2).

(4) A public school shall admit any child living within [~~its school~~] the public school's boundaries who is under the supervision of a [~~child placing~~] child-placing agency upon payment by the child-placing agency of the tuition and fees required under Subsection (2).

Section 13. Section 62A-4a-101.5 is enacted to read:

CHAPTER 4a. JUVENILE SERVICES

62A-4a-101.5. Juvenile services.

Title 80, Utah Juvenile Code, governs the services provided by the Division of Juvenile Justice Services and the Division of Child and Family Services within the department.

Section 14. Section 62A-4a-1003.5 is enacted to read:

62A-4a-1003.5. Use of Management Information System information at request of the Office of Guardian Ad Litem.

Notwithstanding Section 62A-4a-1003(6)(c), the division may use information in the Management Information System to screen an individual as described in Subsection 62A-4a-1006(4)(c)(ii)(A) at the request of the Office of Guardian Ad Litem.

Section 15. Section 63G-2-302 is amended to read:

63G-2-302. Private records.

(1) The following records are private:

(a) records concerning an individual's eligibility for unemployment insurance benefits, social services, welfare benefits, or the determination of benefit levels;

(b) records containing data on individuals describing medical history, diagnosis, condition, treatment, evaluation, or similar medical data;

(c) records of publicly funded libraries that when examined alone or with other records identify a patron;

(d) records received by or generated by or for:

(i) the Independent Legislative Ethics Commission, except for:

(A) the commission's summary data report that is required under legislative rule; and

(B) any other document that is classified as public under legislative rule; or

(ii) a Senate or House Ethics Committee in relation to the review of ethics complaints, unless the record is classified as public under legislative rule;

(e) records received by, or generated by or for, the Independent Executive Branch Ethics Commission, except as otherwise expressly provided in Title 63A, Chapter 14, Review of Executive Branch Ethics Complaints;

(f) records received or generated for a Senate confirmation committee concerning character, professional competence, or physical or mental health of an individual:

(i) if, prior to the meeting, the chair of the committee determines release of the records:

(A) reasonably could be expected to interfere with the investigation undertaken by the committee; or

(B) would create a danger of depriving a person of a right to a fair proceeding or impartial hearing; and

(ii) after the meeting, if the meeting was closed to the public;

(g) employment records concerning a current or former employee of, or applicant for employment with, a governmental entity that would disclose that individual's home address, home telephone number, social security number, insurance coverage, marital status, or payroll deductions;

(h) records or parts of records under Section 63G-2-303 that a current or former employee identifies as private according to the requirements of that section;

(i) that part of a record indicating a person's social security number or federal employer identification number if provided under Section 31A-23a-104, 31A-25-202, 31A-26-202, 58-1-301, 58-55-302, 61-1-4, or 61-2f-203;

(j) that part of a voter registration record identifying a voter's:

(i) driver license or identification card number;

(ii) social security number, or last four digits of the social security number;

(iii) email address;

(iv) date of birth; or

(v) phone number;

(k) a voter registration record that is classified as a private record by the lieutenant governor or a county clerk under Subsection 20A-2-101.1(5)(a), 20A-2-104(4)(h), or 20A-2-204(4)(b);

(l) a voter registration record that is withheld under Subsection 20A-2-104(7);

(m) a withholding request form described in Subsections 20A-2-104(7) and (8) and any verification submitted in support of the form;

(n) a record that:

(i) contains information about an individual;

(ii) is voluntarily provided by the individual; and

(iii) goes into an electronic database that:

(A) is designated by and administered under the authority of the Chief Information Officer; and

(B) acts as a repository of information about the individual that can be electronically retrieved and used to facilitate the individual's online interaction with a state agency;

(o) information provided to the Commissioner of Insurance under:

(i) Subsection 31A-23a-115(3)(a);

(ii) Subsection 31A-23a-302(4); or

(iii) Subsection 31A-26-210(4);

(p) information obtained through a criminal background check under Title 11, Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

(q) information provided by an offender that is:

(i) required by the registration requirements of Title 77, Chapter 41, Sex and Kidnap Offender Registry or Title 77, Chapter 43, Child Abuse Offender Registry; and

(ii) not required to be made available to the public under Subsection 77-41-110(4) or 77-43-108(4);

(r) a statement and any supporting documentation filed with the attorney general in accordance with Section 34-45-107, if the federal law or action supporting the filing involves homeland security;

(s) electronic toll collection customer account information received or collected under Section 72-6-118 and customer information described in Section 17B-2a-815 received or collected by a public transit district, including contact and payment information and customer travel data;

(t) an email address provided by a military or overseas voter under Section 20A-16-501;

(u) a completed military-overseas ballot that is electronically transmitted under Title 20A, Chapter 16, Uniform Military and Overseas Voters Act;

(v) records received by or generated by or for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, except for:

(i) the commission's summary data report that is required in Section 63A-15-202; and

(ii) any other document that is classified as public in accordance with Title 63A, Chapter 15, Political Subdivisions Ethics Review Commission;

(w) a record described in Section 53G-9-604 that verifies that a parent was notified of an incident or threat;

(x) a criminal background check or credit history report conducted in accordance with Section 63A-3-201;

(y) a record described in Subsection 53-5a-104(7);

(z) on a record maintained by a county for the purpose of administering property taxes, an individual's:

(i) email address;

(ii) phone number; or

(iii) personal financial information related to a person's payment method;

(aa) a record submitted by a taxpayer to establish the taxpayer's eligibility for an exemption, deferral, abatement, or relief under:

(i) Title 59, Chapter 2, Part 11, Exemptions, Deferrals, and Abatements;

(ii) Title 59, Chapter 2, Part 12, Property Tax Relief;

(iii) Title 59, Chapter 2, Part 18, Tax Deferral and Tax Abatement; or

(iv) Title 59, Chapter 2, Part 19, Armed Forces Exemptions; [~~and~~]

(bb) a record provided by the State Tax Commission in response to a request under Subsection 59-1-403(4)(y)(iii)[~~.~~]; and (cc) a record of the Child Welfare Legislative Oversight Panel regarding an individual child welfare case, as described in Subsection 36-33-103(3).

(2) The following records are private if properly classified by a governmental entity:

(a) records concerning a current or former employee of, or applicant for employment with a governmental entity, including performance evaluations and personal status information such as race, religion, or disabilities, but not including records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o) or private under Subsection (1)(b);

(b) records describing an individual's finances, except that the following are public:

(i) records described in Subsection 63G-2-301(2);

(ii) information provided to the governmental entity for the purpose of complying with a financial assurance requirement; or

(iii) records that must be disclosed in accordance with another statute;

(c) records of independent state agencies if the disclosure of those records would conflict with the fiduciary obligations of the agency;

(d) other records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy;

(e) records provided by the United States or by a government entity outside the state that are given with the requirement that the records be managed as private records, if the providing entity states in writing that the record would not be subject to public disclosure if retained by it;

(f) any portion of a record in the custody of the Division of Aging and Adult Services, created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult; and

(g) audio and video recordings created by a body-worn camera, as defined in Section 77-7a-103, that record sound or images inside a home or residence except for recordings that:

(i) depict the commission of an alleged crime;

(ii) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(iii) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(iv) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(v) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording.

(3) (a) As used in this Subsection (3), "medical records" means medical reports, records, statements, history, diagnosis, condition, treatment, and evaluation.

(b) Medical records in the possession of the University of Utah Hospital, its clinics, doctors, or affiliated entities are not private records or controlled records under Section 63G-2-304 when the records are sought:

(i) in connection with any legal or administrative proceeding in which the patient's physical, mental, or emotional condition is an element of any claim or defense; or

(ii) after a patient's death, in any legal or administrative proceeding in which any party relies upon the condition as an element of the claim or defense.

(c) Medical records are subject to production in a legal or administrative proceeding according to state or federal statutes or rules of procedure and evidence as if the medical records were in the possession of a nongovernmental medical care provider.

Section 16. Section 63I-2-262 is amended to read:

63I-2-262. Repeal dates -- Title 62A.

(1) Section 62A-4a-1003.5, relating to the Management Information System, is repealed September 1, 2022.

[~~(1)~~] (2) Subsection 62A-5-103.1(6) is repealed January 1, 2023.

[~~(2)~~] (3) Section 62A-15-120 is repealed January 1, 2025.

[~~(3)~~] (4) Section 62A-15-122 is repealed January 2, 2025

[~~(4)~~] (5) Title 62A, Chapter 15, Part 19, Mental Health Crisis Intervention Council, is repealed January 1, 2023.

Section 17. Section 76-7-205, which is renumbered from Section 62A-4a-711 is renumbered and amended to read:

Part 2. Nonsupport and Custody of Children

[~~62A-4a-711~~]. 76-7-205. Unregulated custody transfer prohibition -- Penalty.

(1) An individual or entity [~~that~~] may not knowingly [~~engages~~] engage in an unregulated custody transfer, as defined in Section 80-1-102[~~, is guilty of~~].

(2) A violation of Subsection (1) is a class B misdemeanor.

Section 18. Section 78A-2-801 is amended to read:

78A-2-801. Definitions.

As used in this [~~chapter~~] part:

(1) "Abuse, neglect, or dependency petition" means the same as that term is defined in Section 80-3-102.

(2) "Attorney guardian ad litem" means an attorney employed by the office.

(3) "Director" means the director of the office.

(4) "Division" means the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

(5) "Guardian ad litem" means an attorney guardian ad litem or a private attorney guardian ad litem.

(6) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(7) "Minor" means the same as that term is defined in Section 80-1-102.

(8) "Office" means the Office of Guardian [~~ad~~] Ad Litem created in Section 78A-2-802.

(9) "Private attorney guardian ad litem" means an attorney designated by the office in accordance with Section 78A-2-705 who is not an employee of the office.

Section 19. Section 78A-2-802 is amended to read:

78A-2-802. Office of Guardian Ad Litem -- Appointment of director -- Duties of director -- Contracts in second, third, and fourth districts.

(1) There is created the Office of Guardian [~~ad~~] Ad Litem under the direct supervision of the Guardian [~~ad~~] Ad Litem Oversight Committee described in Subsection 78A-2-104(13).

(2) (a) The Guardian [~~ad~~] Ad Litem Oversight Committee shall appoint one individual to serve full time as the guardian ad litem director for the state.

(b) The guardian ad litem director shall:

(i) serve at the pleasure of the Guardian [~~ad~~] Ad Litem Oversight Committee, in consultation with the state court administrator;

(ii) be an attorney licensed to practice law in this state and selected on the basis of:

(A) professional ability;

(B) experience in abuse, neglect, and dependency proceedings;

(C) familiarity with the role, purpose, and function of guardians ad litem in both juvenile and district courts; and

(D) ability to develop training curricula and reliable methods for data collection and evaluation; and

(iii) before or immediately after the director's appointment, be trained in nationally recognized standards for an attorney guardian ad litem.

(3) The guardian ad litem director shall:

(a) establish policy and procedure for the management of a statewide guardian ad litem program;

(b) manage the guardian ad litem program to assure that a minor receives qualified guardian ad litem services in an abuse, neglect, [~~and~~] or dependency proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, in accordance with state and federal law and policy;

(c) develop standards for contracts of employment and contracts with independent contractors, and employ or contract with attorneys licensed to practice law in this state, to act as attorney guardians ad litem in accordance with Section 78A-2-803;

(d) develop and provide training programs for volunteers in accordance with the United States Department of Justice National Court Appointed Special Advocates Association standards;

(e) develop and update a guardian ad litem manual that includes:

(i) best practices for an attorney guardian ad litem; and

(ii) statutory and case law relating to an attorney guardian ad litem;

(f) develop and provide a library of materials for the continuing education of attorney guardians ad litem and volunteers;

(g) educate court personnel regarding the role and function of guardians ad litem;

(h) develop needs assessment strategies, perform needs assessment surveys, and ensure that guardian ad litem training programs correspond with actual and perceived needs for training;

(i) design and implement evaluation tools based on specific objectives targeted in the needs assessments described in Subsection (3)(h);

(j) prepare and submit an annual report to the Guardian ad Litem Oversight Committee and the Child Welfare Legislative Oversight Panel created in Section [~~62A-4a-207~~] 36-33-102 regarding:

(i) the development, policy, and management of the statewide guardian ad litem program;

(ii) the training and evaluation of attorney guardians ad litem and volunteers; and

(iii) the number of minors served by the office;

(k) hire, train, and supervise investigators; and

(l) administer the program of private attorney guardians ad litem established [~~by~~] under Section 78A-2-705.

(4) A contract of employment or independent contract described [~~under~~] in Subsection (3)(c) shall provide that an attorney guardian ad litem in the second, third, and fourth judicial districts devote the attorney guardian's ad litem full time and attention to the role of attorney guardian ad litem, having no clients other than the minors whose

interest the attorney guardian ad litem represents within the guardian ad litem program.

Section 20. Section 78A-2-803 is amended to read:

78A-2-803. Appointment of attorney guardian ad litem -- Duties and responsibilities -- Training -- Trained staff and court-appointed special advocate volunteers -- Costs -- Immunity -- Annual report.

(1) (a) The court:

(i) may appoint an attorney guardian ad litem to represent the best interest of a minor involved in any case before the court; and

(ii) shall consider the best interest of a minor, consistent with the provisions of Section [~~62A-4a-201~~] 80-2a-201, in determining whether to appoint a guardian ad litem.

(b) In all cases where an attorney guardian ad litem is appointed, the court shall make a finding that establishes the necessity of the appointment.

(2) An attorney guardian ad litem shall represent the best interest of each minor who may become the subject of an abuse, neglect, or dependency petition from the earlier of:

(a) the day on which the minor is removed from the minor's home by the division; or

(b) the day on which the abuse, neglect, or dependency petition is filed.

(3) The director shall ensure that each attorney guardian ad litem employed by the office:

(a) represents the best interest of each client of the office in all venues, including:

(i) court proceedings; and

(ii) meetings to develop, review, or modify the child and family plan with the division in accordance with Section [~~62A-4a-205~~] 80-3-307;

(b) before representing any minor before the court, be trained in:

(i) applicable statutory, regulatory, and case law; and

(ii) nationally recognized standards for an attorney guardian ad litem;

(c) conducts or supervises an ongoing, independent investigation in order to obtain, first-hand, a clear understanding of the situation and needs of the minor;

(d) (i) personally meets with the minor, unless:

(A) the minor is outside of the state; or

(B) meeting with the minor would be detrimental to the minor;

(ii) personally interviews the minor, unless:

(A) the minor is not old enough to communicate;

(B) the minor lacks the capacity to participate in a meaningful interview; or

(C) the interview would be detrimental to the minor; and

(iii) if the minor is placed in an out-of-home placement, or is being considered for placement in an out-of-home placement, unless it would be detrimental to the minor:

(A) to the extent possible, determines the minor's goals and concerns regarding placement; and

(B) personally assesses or supervises an assessment of the appropriateness and safety of the minor's environment in each placement;

(e) personally attends all review hearings pertaining to the minor's case;

(f) participates in all appeals, unless excused by order of the court;

(g) is familiar with local experts who can provide consultation and testimony regarding the reasonableness and appropriateness of efforts made by the division to:

(i) maintain a minor in the minor's home; or

(ii) reunify a minor with a minor's parent;

(h) to the extent possible, and unless it would be detrimental to the minor, personally or through a trained volunteer, paralegal, or other trained staff, keeps the minor advised of:

(i) the status of the minor's case;

(ii) all court and administrative proceedings;

(iii) discussions with, and proposals made by, other parties;

(iv) court action; and

(v) the psychiatric, medical, or other treatment or diagnostic services that are to be provided to the minor;

(i) in cases where a child and family plan is required, personally or through a trained volunteer, paralegal, or other trained staff, monitors implementation of a minor's child and family plan and any dispositional orders to:

(i) determine whether services ordered by the court:

(A) are actually provided; and

(B) are provided in a timely manner; and

(ii) attempt to assess whether services ordered by the court are accomplishing the intended goal of the services; and

(j) makes all necessary court filings to advance the guardian's ad litem position regarding the best interest of the minor.

(4) (a) Consistent with this Subsection (4), an attorney guardian ad litem may use trained volunteers, in accordance with Title 67, Chapter 20, Volunteer Government Workers Act, trained paralegals, and other trained staff to assist in

investigation and preparation of information regarding the cases of individual minors before the court.

(b) A volunteer, paralegal, or other staff utilized under this section shall be trained in and follow, at a minimum, the guidelines established by the United States Department of Justice Court Appointed Special Advocate Association.

(5) The attorney guardian ad litem shall continue to represent the best interest of the minor until released from that duty by the court.

(6) (a) Consistent with Subsection (6)(b), the juvenile court is responsible for:

(i) all costs resulting from the appointment of an attorney guardian ad litem; and

(ii) the costs of volunteer, paralegal, and other staff appointment and training.

(b) The court shall use funds appropriated by the Legislature for the guardian ad litem program to cover the costs described in Subsection (6)(a).

(c) (i) When the court appoints an attorney guardian ad litem under this section, the court may assess all or part of the attorney fees, court costs, and paralegal, staff, and volunteer expenses against the minor's parents, parent, or legal guardian in a proportion that the court determines to be just and appropriate, taking into consideration costs already borne by the parents, parent, or legal guardian, including:

(A) private attorney fees;

(B) counseling for the minor;

(C) counseling for the parent, if mandated by the court or recommended by the division; and

(D) any other cost the court determines to be relevant.

(ii) The court may not assess the fees or costs described in Subsection (6)(c)(i) against:

(A) a legal guardian, when that guardian is the state; or

(B) consistent with Subsection (6)(d), a parent who is found to be an indigent individual.

(d) For purposes of Subsection (6)(c)(ii)(B), if an individual claims to be an indigent individual, the court shall:

(i) require the individual to submit an affidavit of indigence as provided in Section 78A-2-302; and

(ii) follow the procedures and make the determinations as provided in Section 78A-2-304.

(e) The minor's parents, parent, or legal guardian may appeal the court's determination, under Subsection (6)(c), of fees, costs, and expenses.

(7) An attorney guardian ad litem appointed under this section, when serving in the scope of the attorney guardian's ad litem duties as guardian ad litem is considered an employee of the state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) (a) An attorney guardian ad litem shall represent the best interest of a minor.

(b) If the minor's wishes differ from the attorney's determination of the minor's best interest, the attorney guardian ad litem shall communicate the minor's wishes to the court in addition to presenting the attorney's determination of the minor's best interest.

(c) A difference between the minor's wishes and the attorney's determination of best interest may not be considered a conflict of interest for the attorney.

(d) The guardian ad litem shall disclose the wishes of the minor unless the minor:

(i) instructs the guardian ad litem to not disclose the minor's wishes; or

(ii) has not expressed any wishes.

(e) The court may appoint one attorney guardian ad litem to represent the best interests of more than one minor of a marriage.

(9) The division shall provide an attorney guardian ad litem access to all division records regarding the minor at issue and the minor's family.

(10) (a) An attorney guardian ad litem shall conduct an independent investigation regarding the minor at issue, the minor's family, and what is in the best interest of the minor.

(b) An attorney guardian ad litem may interview the minor's child welfare [~~worker~~] caseworker, but may not:

(i) rely exclusively on the conclusions and findings of the division; or

(ii) except as provided in Subsection (10)(c), conduct a visit with the client in conjunction with the visit of a child welfare [~~worker~~] caseworker.

(c) (i) An attorney guardian ad litem may meet with a client during a team meeting, court hearing, or similar venue when a child welfare [~~worker~~] caseworker is present for a purpose other than the attorney guardian ad litem's meeting with the client.

(ii) A party and the party's counsel may attend a team meeting in accordance with the Utah Rules of Professional Conduct.

(11) (a) An attorney guardian ad litem shall maintain current and accurate records regarding:

(i) the number of times the attorney has had contact with each minor; and

(ii) the actions the attorney has taken in representation of the minor's best interest.

(b) In every hearing where the attorney guardian ad litem makes a recommendation regarding the best interest of the minor, the court shall require the attorney guardian ad litem to disclose the factors that form the basis of the recommendation.

(12) (a) Except as provided in Subsection (12)(b), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, all records of an attorney guardian ad litem are confidential and may not be released or made public upon subpoena, search warrant, discovery proceedings, or otherwise.

(b) Consistent with Subsection (12)(d), all records of an attorney guardian ad litem:

(i) are subject to legislative subpoena, under Title 36, Chapter 14, Legislative Subpoena Powers; and

(ii) shall be released to the Legislature.

(c) (i) Except as provided in Subsection (12)(c)(ii), the Legislature shall maintain records released in accordance with Subsection (12)(b) as confidential.

(ii) Notwithstanding Subsection (12)(c)(i), the Office of the Legislative Auditor General may include summary data and nonidentifying information in the office's audits and reports to the Legislature.

(d) (i) Subsection (12)(b) is an exception to Rules of Professional Conduct, Rule 1.6, as provided by Rule 1.6(b)(4), because of:

(A) the unique role of an attorney guardian ad litem described in Subsection (8); and

(B) the state's role and responsibility to provide a guardian ad litem program, and as parens patriae, to protect minors.

(ii) A claim of attorney-client privilege does not bar access to the records of an attorney guardian ad litem by the Legislature, through legislative subpoena.

Section 21. Section 78A-6-351 is amended to read:

78A-6-351. Summons -- Service and process -- Issuance and contents -- Notice to absent parent or guardian -- Emergency medical or surgical treatment -- Compulsory process for attendance of witnesses when authorized.

(1) (a) After a petition is filed in the juvenile court, the juvenile court shall promptly issue a summons, unless the juvenile court directs that a further investigation is needed.

(b) A summons is not required for a person who:

(i) appears voluntarily; or

(ii) files a written waiver of service with the clerk of the court at or before the hearing.

(2) A summons under Subsection (1)(a) shall contain:

(a) the name of the court;

(b) the title of the proceedings; and

(c) except for a published summons, a brief statement of the substance of the allegations in the petition.

(3) A published summons shall state:

(a) that a proceeding concerning the minor is pending in the court; and

(b) an adjudication will be made.

(4) (a) [~~The summons~~] A summons under Subsection (1)(a) shall require:

(i) a minor to appear personally in the juvenile court at a time and place stated; or

(ii) if a person who has physical custody of the minor, for the person to:

(A) appear personally; and

(B) bring the minor before the court at a time and place stated.

(b) If the minor is a child and a person summoned is not the parent or guardian of the minor, the juvenile court shall issue the summons to the minor's parent or guardian, as the case may be, notifying the parent or guardian of the pendency of the case and of the time and place set for the hearing.

(5) A summons may be issued requiring the appearance of any other person whose presence the juvenile court finds necessary.

(6) If it appears to the juvenile court that the welfare of the minor or of the public requires that the minor be taken into temporary custody under Section 80-6-201 or protective custody under Section [~~62A-4a-202.1~~] 80-2a-202, and it does not conflict with Section 80-6-202, the court may by endorsement upon the summons direct that the person serving the summons take the minor into custody at once.

(7) (a) Upon the sworn testimony of one or more reputable physicians, the juvenile court may order emergency medical or surgical treatment that is immediately necessary for a minor for whom a petition has been filed pending the service of summons upon the minor's parent, guardian, or custodian.

(b) If the juvenile court orders emergency medical or surgical treatment:

(i) if a petition for delinquency has been filed under Section 80-6-305, Subsection 80-6-706(4) shall apply to the juvenile court's decision to order treatment;

(ii) if a petition has been filed under Section 80-3-201, Subsection 80-3-109(3) shall apply to the juvenile court's decision to order treatment; or

(iii) if a petition has been filed under Section 80-4-201, Subsection 80-4-108(4) shall apply to the juvenile court's decision to order treatment.

(8) (a) A minor is entitled to the issuance of compulsory process for the attendance of witnesses on the minor's own behalf.

(b) A minor's parent or guardian is entitled to the issuance of compulsory process for the attendance of witnesses on the parent's or guardian's own behalf or on behalf of the minor.

(c) A guardian ad litem or a juvenile probation officer is entitled to compulsory process for the attendance of witnesses on behalf of the minor.

(9) Service of summons and process and proof of service shall be made in the manner provided in the Utah Rules of Juvenile Procedure.

(10) (a) Service of summons or process shall be made by the sheriff of the county where the service is to be made, or by the sheriff's deputy.

(b) Notwithstanding Subsection (10)(a), upon request of the juvenile court, service shall be made by any other peace officer or by another suitable person selected by the court.

(11) Service of summons in the state shall be made personally, by delivering a copy to the person summoned, except that the parents of a child living together at the parents' usual place of abode may both be served by personal delivery with one copy of the summons for each parent.

(12) (a) If the juvenile court makes a written finding that the juvenile court has reason to believe that personal service of the summons will be unsuccessful, or will not accomplish notification within a reasonable time after issuance of the summons, the juvenile court may order service by registered mail, with a return receipt to be signed by the addressee only, to be addressed to the last-known address of the person to be served in the state.

(b) Service is complete upon return to the juvenile court of the signed receipt.

(13) (a) If the child's parent or guardian required to be summoned under Subsection (4) cannot be found within the state, the fact of the child's presence within the state shall confer jurisdiction on the juvenile court in proceedings in a child's case [~~under this title~~] as to any absent parent or guardian when:

(i) [~~if~~] the address of the parent or guardian is known, due notice is given by sending the parent or guardian a copy of the summons by registered mail with a return receipt to be signed by the addressee only, or by personal service outside the state, as provided in the Utah Rules of Juvenile Procedure; or

(ii) [~~if~~] the address or whereabouts of the parent or guardian outside the state cannot after diligent inquiry be ascertained, due notice is given by publishing a summons:

(A) in a newspaper having general circulation in the county in which the proceeding is pending once a week for four successive weeks; or

(B) in accordance with Section 45-1-101 for four weeks.

(b) (i) If service is by registered mail under Subsection (13)(a)(i), service is complete upon return to the juvenile court of the signed receipt.

(ii) If service is by publication under Subsection (13)(a)(ii), service is complete on the day of the last publication.

(c) Service of summons as provided in this Subsection (13) shall vest the court with jurisdiction over the parent or guardian served in the same manner and to the same extent as if the person served was served personally within the state.

(14) (a) In the case of service in the state, service completed not less than 48 hours before the time set in the summons for the appearance of the person served, shall be sufficient to confer jurisdiction.

(b) In the case of service outside the state, service completed not less than five days before the time set in the summons for appearance of the person served, shall be sufficient to confer jurisdiction.

(15) Computation of periods of time under this chapter and Title 80, Utah Juvenile Code, shall be made in accordance with Utah Rules of Juvenile Procedure, Rule 4.

Section 22. Section 78A-6-356 is amended to read:

78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6) (a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the [~~Department of Human Services~~] department and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the [~~Department of Human Services~~] department as provided in Section 62A-1-117.

(10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) (a) The child's parent or another obligated individual is not responsible for child support for the period of time that the child is removed from the child's home by the Division of Child and Family Services if:

(i) the juvenile court finds that there were insufficient grounds for the removal of the child; and

(ii) the child is returned to the home of the child's parent or guardian based on the finding described in Subsection (12)(a)(i).

(b) If the juvenile court finds insufficient grounds for the removal of the child under Subsection (12)(a), but that the child is to remain in state custody, the juvenile court shall order that the child's parent or another obligated individual is responsible for child support beginning on the day on which it became improper to return the child to the home of the child's parent or guardian.

[~~(12)~~] (13) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established under Subsection 78B-12-205(6) or Section 78B-12-302; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 23. Section 78A-6-357 is amended to read:

78A-6-357. New hearings -- Modification of order or decree -- Requirements for changing or terminating custody, probation, or protective supervision.

(1) If a party seeks a new hearing after an adjudication under Title 80, Utah Juvenile Code, [~~Utah Rules of Juvenile Procedure, Rule 48,~~] Rule 48 of the Utah Rules of Juvenile Procedure shall govern the matter of granting a new hearing.

(2) (a) Except as provided in Subsection (3), a juvenile court may modify or set aside any order or decree made by the juvenile court.

(b) A modification of an order placing a minor on probation may not:

(i) include an order under Section 80-3-405, 80-6-703, 80-6-704, or 80-6-705; or

(ii) extend supervision over a minor, except in accordance with Section 80-6-712.

(3) (a) A parent or guardian of a child whose legal custody has been transferred by the juvenile court to an individual, agency, or institution may petition the juvenile court for restoration of custody or other modification or revocation of the juvenile court's order or decree, except as provided in Subsections (3)(b), (c), and (d) and for a transfer of legal custody for secure care.

(b) A parent or guardian may only petition the juvenile court under Subsection (3)(a) on the ground that a change of circumstances has occurred that requires modification or revocation in the best interest of the child or the public.

(c) A parent may not file a petition after the parent's parental rights have been terminated in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights.

(d) A parent may not file a petition for restoration of custody under this section during the existence of a permanent guardianship established for the child under Subsection 80-3-405(2)(d).

(4) (a) An individual, agency, or institution vested with legal custody of a child may petition the juvenile court for a modification of the custody order on the ground that the change is necessary for the welfare of the child or in the public interest.

(b) The juvenile court shall proceed upon the petition in accordance with this section.

(5) Notice of hearing is required in any case in which the effect of modifying or setting aside an order or decree may be to make any change in the minor's legal custody under Section 80-3-405 or 80-6-703.

(6) (a) Upon the filing of a petition under Subsection (3)(a), the juvenile court shall make a preliminary investigation.

(b) After the preliminary investigation described in Subsection (6)(a), the juvenile court:

(i) may dismiss the petition if the juvenile court finds the alleged change of circumstances, if proved, would not affect the decree; or

(ii) shall conduct a hearing, if the juvenile court finds that further examination of the facts is needed, or if the juvenile court on the juvenile court's own motion determines that the juvenile court's order or decree should be reviewed.

(c) Notice of the hearing described in Subsection (6)(b)(ii) shall be given to all interested persons.

(d) At a hearing under Subsection (6)(b)(ii), the juvenile court may enter an order continuing, modifying, or terminating the juvenile court's order or decree.

(7) Notice of an order terminating probation or protective supervision of a child shall be given to [~~the child's~~]:

(a) the child's parent;

(b) the child's guardian;

(c) the child's custodian; and

(d) [~~where~~] if appropriate, to the child.

(8) Notice of an order terminating probation or protective supervision of a minor who is at least 18 years old shall be given to the minor.

Section 24. Section 80-1-102 is amended to read:

80-1-102. Juvenile Code definitions.

[~~As~~] Except as provided in Section 80-6-1103, as used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means, except as provided in Section 80-2-905, an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section [~~62A-4a-205~~] 80-3-307.

[~~(9) "Child placement agency" means:~~]

[~~(a) a private agency licensed to receive a child for placement or adoption under this code; or~~]

[~~(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.~~]

(9) "Child placing" means the same as that term is defined in Section 62A-2-101.

(10) "Child-placing agency" means the same as that term is defined in Section 62A-2-101.

(11) "Child protection team" means a team consisting of:

(a) the child welfare caseworker assigned to the case;

(b) if applicable, the child welfare caseworker who made the decision to remove the child;

(c) a representative of the school or school district where the child attends school;

(d) if applicable, the law enforcement officer who removed the child from the home;

(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;

(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;

(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and

(h) any other individuals determined appropriate and necessary by the team coordinator and chair.

(12) (a) "Chronic abuse" means repeated or patterned abuse.

(b) "Chronic abuse" does not mean an isolated incident of abuse.

(13) (a) "Chronic neglect" means repeated or patterned neglect.

(b) "Chronic neglect" does not mean an isolated incident of neglect.

[~~(10)~~] (14) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

[~~(11)~~] (15) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

[~~(12)~~] (16) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

[~~(13)~~] (17) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

[~~(14)~~] (18) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

[~~(15)~~] (19) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

[~~(16)~~] (20) "Department" means the Department of Human Services created in Section 62A-1-102.

[~~(17)~~] (21) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

[~~(18)~~] (22) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

[~~(19)~~] (23) "Detention" means home detention or secure detention.

(24) "Detention facility" means a facility, established by the Division of Juvenile Justice Services in accordance with Section 80-5-501, for minors held in detention.

[~~(20)~~] (25) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

[~~(21)~~] (26) "Developmental immaturity" means incomplete development in one or more domains that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

[~~(22)~~] (27) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

[~~(23)~~] (28) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

[~~(24)~~] (29) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

[~~(25)~~] (30) "Emancipated" means the same as that term is defined in Section 80-7-102.

[~~(26)~~] (31) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

[~~(27)~~] (32) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

[~~(28)~~] (33) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

[~~(29)~~] (34) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

[~~(30)~~] (35) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

[~~(31)~~] (36) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

[~~(32)~~] (37) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

[~~(33)~~] (38) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

[~~(34)~~] (39) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

[~~(35)~~] (40) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(36)~~] (41) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

[~~(37)~~] (42) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

[~~(38)~~] (43) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

[~~(39)~~] (44) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

[~~(40)~~] (45) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

[~~(41)~~] (46) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

[~~(42)~~] (47) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

[~~(43)~~] (48) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

[~~(44)~~] (49) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

[~~(45)~~] (50) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(51) "Licensing Information System" means the Licensing Information System maintained by the Division of Child and Family Services under Section 80-2-1002.

(52) "Management Information System" means the Management Information System developed by the Division of Child and Family Services under Section 80-2-1001.

[~~(46)~~] (53) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

[~~(47)~~] (54) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

[~~(48)~~] (55) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

[~~(49)~~] (56) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section 76-5-416.

[~~(50)~~] (57) (a) "Natural parent" means, except as provided in Section 80-3-302, a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

[~~(51)~~] (58) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in [~~Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child~~] Chapter 4, Part 5, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

[~~(52)~~] (59) "Neglected child" means a child who has been subjected to neglect.

[~~(53)~~] (60) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, [~~legal~~] guardian, or custodian.

[~~(54)~~] (61) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

[~~(55)~~] (62) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

[~~(56)~~] (63) "Physical abuse" means abuse that results in physical injury or damage to a child.

[~~(57)~~] (64) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

[~~(58)~~] (65) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

[~~(59)~~] (66) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(67) "Protective services" means expedited services that are provided:

(a) in response to evidence of neglect, abuse, or dependency of a child;

(b) to a cohabitant who is neglecting or abusing a child, in order to:

(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and

(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and

(c) in cases where the child's welfare is endangered:

(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;

(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and

(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:

(A) removal from the child's home;

(B) placement in substitute care; and

(C) petitioning the court for termination of parental rights.

[~~(60)~~] (68) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

[~~(61)~~] (69) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

[~~(62)~~] (70) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

[~~(63)~~] (71) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

[~~(64)~~] (72) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

[~~(65)~~] (73) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

[~~(66)~~] (74) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

[~~(67)~~] (75) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

[~~(68)~~] (76) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

[~~(69)~~] (77) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(78) (a) "Severe type of child abuse or neglect" means, except as provided in Subsection (78)(b):

(i) if committed by an individual who is 18 years old or older:

(A) chronic abuse;

(B) severe abuse;

(C) sexual abuse;

(D) sexual exploitation;

(E) abandonment;

(F) chronic neglect; or

(G) severe neglect; or

(ii) if committed by an individual who is under 18 years old:

(A) causing serious physical injury, as defined in Subsection 76-5-109(1), to another child that indicates a significant risk to other children; or

(B) sexual behavior with or upon another child that indicates a significant risk to other children.

(b) "Severe type of child abuse or neglect" does not include:

(i) the use of reasonable and necessary physical restraint by an educator in accordance with Subsection 53G-8-302(2) or Section 76-2-401;

(ii) an individual's conduct that is justified under Section 76-2-401 or constitutes the use of reasonable and necessary physical restraint or force in self-defense or otherwise appropriate to the circumstances to obtain possession of a weapon or other dangerous object in the possession or under the control of a child or to protect the child or another individual from physical injury; or

(iii) a health care decision made for a child by a child's parent or guardian, unless, subject to Subsection (78)(c), the state or other party to the proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed.

(c) Subsection (78)(b)(iii) does not prohibit a parent or guardian from exercising the right to obtain a second health care opinion.

[~~(70)~~] (79) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection [~~(34)~~] (39), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

[~~(71)~~] (80) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

[~~(72)~~] (81) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

[~~(73)~~] (82) "Shelter facility" means [~~the same as that term is defined in Section 62A-4a-101~~] a nonsecure facility that provides shelter for a minor.

(83) "Significant risk" means a risk of harm that is determined to be significant in accordance with risk assessment tools and rules established by the Division of Child and Family Services in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that focus on:

(a) age;

(b) social factors;

(c) emotional factors;

(d) sexual factors;

(e) intellectual factors;

(f) family risk factors; and

(g) other related considerations.

[~~(74)~~] (84) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

[~~(75)~~] (85) "Status offense" means an offense that would not be an offense but for the age of the offender.

[~~(76)~~] (86) "Substance abuse" means, except as provided in Section 80-2-603, the misuse or excessive use of alcohol or other drugs or substances.

[~~(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(78) "Supported" means the same as that term is defined in Section 62A-4a-101.~~]

(87) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence, and separate consideration of each allegation made or identified in the case, that abuse, neglect, or dependency occurred.

(88) "Substitute care" means:

(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;

(b) services provided for a minor in the protective custody of the Division of Child and Family Services, or a minor in the temporary custody or custody of the Division of Child and Family Services, as those terms are defined in Section 80-2-102; or

(c) the licensing and supervision of a substitute care facility.

(89) "Supported" means a finding by the Division of Child and Family Services based on the evidence available at the completion of an investigation, and separate consideration of each allegation made or identified during the investigation, that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred.

[~~(79)~~] (90) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

[~~(80)~~] (91) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

[~~(81)~~] (92) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

[~~(82)~~] (93) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections [~~(82)~~] (93)(a) and (b).

[~~(83)~~] (94) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or [~~legal~~] guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

[~~(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.~~]

(95) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

(96) "Unsupported" means a finding by the Division of Child and Family Services at the completion of an investigation, after the day on which the Division of Child and Family Services concludes the alleged abuse, neglect, or dependency is not without merit, that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred.

[~~(86)~~] (97) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

[~~(87)~~] (98) "Without merit" means [~~the same as that term is defined in Section 62A-4a-101~~] a finding at the completion of an investigation by the Division of Child and Family Services, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.

[~~(88)~~] (99) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 25. Section 80-2-102, which is renumbered from Section 62A-4a-101 is renumbered and amended to read:

CHAPTER 2. CHILD WELFARE SERVICES

Part 1. General Provisions

[~~62A-4a-101~~]. 80-2-102. Definitions.

As used in this chapter:

[~~(1) "Abuse" means the same as that term is defined in Section 80-1-102.~~]

[~~(2) "Adoption services" means:~~]

[~~(a) placing children for adoption;~~]

[~~(b) subsidizing adoptions under Section 62A-4a-105;~~]

[~~(c) supervising adoption placements until the adoption is finalized by the court;~~]

[~~(d) conducting adoption studies;~~]

[~~(e) preparing adoption reports upon request of the court; and~~]

[~~(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.~~]

[~~(3) "Child" means, except as provided in Part 7, Interstate Compact on Placement of Children, an individual under 18 years old.~~]

[~~(4) "Child protection team" means a team consisting of:~~]

[~~(a) the caseworker assigned to the case;~~]

[~~(b) if applicable, the caseworker who made the decision to remove the child;~~]

[~~(c) a representative of the school or school district where the child attends school;~~]

[~~(d) if applicable, the law enforcement officer who removed the child from the home;~~]

[~~(e) a representative of the appropriate Children's Justice Center, if one is established within the county where the child resides;~~]

[~~(f) if appropriate, and known to the division, a therapist or counselor who is familiar with the child's circumstances;~~]

[~~(g) if appropriate, a representative of law enforcement selected by the chief of police or sheriff in the city or county where the child resides; and~~]

[~~(h) any other individuals determined appropriate and necessary by the team coordinator and chair.~~]

[~~(5) (a) "Chronic abuse" means repeated or patterned abuse.~~]

[~~(b) "Chronic abuse" does not mean an isolated incident of abuse.~~]

[~~(6) (a) "Chronic neglect" means repeated or patterned neglect.~~]

[~~(b) "Chronic neglect" does not mean an isolated incident of neglect.~~]

[~~(7)~~] (1) "Consult" means an interaction between two persons in which the initiating person:

(a) provides information to another person;

(b) provides the other person an opportunity to respond; and

(c) takes the other person's response, if any, into consideration.

[~~(8)~~] (2) "Consumer" means a person who receives services offered by the division in accordance with this chapter.

(3) "Council" means the Child Welfare Improvement Council created in Section 80-2-1101.

[~~(9)~~] (4) "Custody," with regard to the division, means the custody of a minor in the division as of the date of disposition.

[~~(10)~~] (5) "Day-care services" means care of a child for a portion of the day which is less than 24 hours:

(a) in the child's own home by a responsible individual; or

(b) outside of the child's home in a:

(i) day-care center;

(ii) family group home; or

(iii) family child care home.

[~~(11) "Dependent child" or "dependency" means a child, or the condition of a child, who is without proper care through no fault of the child's parent, guardian, or custodian.~~]

[~~(12)~~] (6) "Director" means the director of the [~~Division of Child and Family Services created in Section 62A-4a-103~~] division appointed under Section 80-2-202.

[~~(13)~~] (7) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(8) "Domestic violence" means the same as that term is defined in Section 77-36-1.

[~~(14)~~] (9) "Domestic violence services" means:

(a) temporary shelter, treatment, and related services provided to:

(i) an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(ii) the dependent children of an individual who is a victim of abuse, as defined in Section 78B-7-102; and

(b) treatment services for an individual who is alleged to have committed, has been convicted of, or has pled guilty to[~~, an act of~~] domestic violence [~~as defined in Section 77-36-1~~].

[~~(15) "Educational neglect" means the same as that term is defined in Section 80-1-102.~~]

[~~(16) "Harm" means the same as that term is defined in Section 80-1-102.~~]

[~~(17)~~] (10) "Homemaking [~~service~~] services" means the care of [~~individuals in their domiciles~~] an individual in the individual's domicile, and help given to an individual caretaker [~~relatives~~] relative to achieve improved household and family management through the services of a trained homemaker.

[~~(18) "Incest" means the same as that term is defined in Section 80-1-102.~~]

[~~(19) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.~~]

[~~(20) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.~~]

[~~(21) "Minor" means, except as provided in Part 7, Interstate Compact on Placement of Children, the same as that term is defined in Section 80-1-102.~~]

[~~(22) "Molestation" means the same as that term is defined in Section 80-1-102.~~]

[~~(23)~~] (11) "Mutual case" means a case that [~~has been~~] is:

(a) opened by the division under the division's discretion and procedures;

(b) opened by the law enforcement agency with jurisdiction over the case; and

(c) accepted for investigation by a child protection team, as applicable.

[~~(24) "Natural parent" means the same as that term is defined in Section 80-1-102.~~]

[~~(25) "Neglect" means the same as that term is defined in Section 80-1-102.~~]

[~~(26) "Protective custody" means the same as that term is defined in Section 80-1-102.~~]

[~~(27) "Protective services" means expedited services that are provided:~~]

[~~(a) in response to evidence of neglect, abuse, or dependency of a child;~~]

[~~(b) to a cohabitant who is neglecting or abusing a child, in order to:~~]

[~~(i) help the cohabitant develop recognition of the cohabitant's duty of care and of the causes of neglect or abuse; and~~]

[~~(ii) strengthen the cohabitant's ability to provide safe and acceptable care; and~~]

[~~(c) in cases where the child's welfare is endangered:~~]

[~~(i) to bring the situation to the attention of the appropriate juvenile court and law enforcement agency;~~]

[~~(ii) to cause a protective order to be issued for the protection of the child, when appropriate; and~~]

[~~(iii) to protect the child from the circumstances that endanger the child's welfare including, when appropriate:~~]

[~~(A) removal from the child's home;~~]

[~~(B) placement in substitute care; and~~]

[~~(C) petitioning the court for termination of parental rights.~~]

[~~(28) "Severe abuse" means the same as that term is defined in Section 80-1-102.~~]

[~~(29) "Severe neglect" means the same as that term is defined in Section 80-1-102.~~]

[~~(30) "Sexual abuse" means the same as that term is defined in Section 80-1-102.~~]

[~~(31) "Sexual exploitation" means the same as that term is defined in Section 80-1-102.~~]

(12) (a) "Person responsible for the child's care" means the child's parent, guardian, or other person responsible for the child's care.

(b) "Person responsible for the child's care" includes a person responsible for the child's care in the same home as the child, a relative's home, a group, family, or day care facility, a foster care home, or a residential institution.

[~~(32)~~] (13) "Shelter care" means the temporary care of a minor in a nonsecure facility.

[~~(33) "Shelter facility" means a nonsecure facility that provides shelter care for a minor.~~]

[~~(34)~~] (14) "Sibling" means a child who shares or has shared at least one parent in common either by blood or adoption.

[~~(35)~~] (15) "Sibling visitation" means services provided by the division to facilitate the interaction between a child in division custody with [~~a sibling of that child~~] the child's sibling.

[~~(36) "State" means:~~]

[~~(a) a state of the United States;~~]

[~~(b) the District of Columbia;~~]

[~~(c) the Commonwealth of Puerto Rico;~~]

[~~(d) the Virgin Islands;~~]

[~~(e) Guam;~~]

[~~(f) the Commonwealth of the Northern Mariana Islands; or~~]

[~~(g) a territory or possession administered by the United States.~~]

[~~(37) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.~~]

[~~(38) "Status offense" means the same as that term is defined in Section 80-1-102.~~]

[~~(39) "Substance abuse" means, except as provided in Section 62A-4a-404, the same as that term is defined in Section 80-1-102.~~]

[~~(40) "Substantiated" or "substantiation" means a judicial finding based on a preponderance of the evidence that abuse or neglect occurred. Each allegation made or identified in a given case shall be considered separately in determining whether there should be a finding of substantiated.~~]

[~~(41) "Substitute care" means:~~]

[~~(a) the placement of a minor in a family home, group care facility, or other placement outside the minor's own home, either at the request of a parent or other responsible relative, or upon court order, when it is determined that continuation of care in the minor's own home would be contrary to the minor's welfare;~~]

[~~(b) services provided for a minor awaiting placement; and~~]

[~~(c) the licensing and supervision of a substitute care facility.~~]

[~~(42) "Supported" means a finding by the division based on the evidence available at the completion of an investigation that there is a reasonable basis to conclude that abuse, neglect, or dependency occurred. Each allegation made or identified during the course of the investigation shall be considered separately in determining whether there should be a finding of supported.~~]

(16) (a) "Subject of the report" means a person reported under Part 6, Child Abuse and Neglect Reports.

(b) "Subject of the report" includes the child who is the alleged victim of the report and the person responsible for the child's care.

[~~(43)~~] (17) "Temporary custody" means, with regard to the division, the custody of a child from the day on which the shelter hearing described in Section 80-3-301 is held until the day on which the juvenile court enters a disposition under Section 80-3-405.

[~~(44) "Threatened harm" means the same as that term is defined in Section 80-1-102.~~]

[~~(45)~~] (18) "Transportation services" means travel assistance given to an individual with escort service, if necessary, to and from community facilities and resources as part of a service plan.

[~~(46) "Unsubstantiated" means a judicial finding that there is insufficient evidence to conclude that abuse or neglect occurred.~~]

[~~(47) "Unsupported" means a finding by the division at the completion of an investigation that there is insufficient evidence to conclude that abuse, neglect, or dependency occurred. However, a finding of unsupported means also that the division did not conclude that the allegation was without merit.~~]

[~~(48) "Without merit" means a finding at the completion of an investigation by the division, or a judicial finding, that the alleged abuse, neglect, or dependency did not occur, or that the alleged perpetrator was not responsible for the abuse, neglect, or dependency.~~]

Section 26. Section 80-2-201, which is renumbered from Section 62A-4a-103 is renumbered and amended to read:

Part 2. Division of Child and Family Services

[~~62A-4a-103~~]. 80-2-201. Creation of division.

(1) [~~(a)~~] There is created the Division of Child and Family Services within the department[~~,~~].

(2) The division is under the administration and general supervision of the executive director of the department.

[~~(b)~~] (3) The division [~~is the child, youth, and family services authority of the state and~~] has all functions, powers, duties, rights, and responsibilities [~~created in accordance with~~] described in this chapter and Chapter 2a, Removal and Protective Custody of a Child, except those assumed by the department.

[~~(2) (a) The primary purpose of the division is to provide child welfare services.~~]

[~~(b) The division shall, when possible and appropriate, provide in-home services for the preservation of families in an effort to protect the child from the trauma of separation from the child's family, protect the integrity of the family, and the constitutional rights of parents. In keeping with its ultimate goal and purpose of protecting children, however, when a child's welfare is endangered or reasonable efforts to maintain or reunify a child with the child's family have failed, the division shall act in a timely fashion in accordance with the requirements of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, to provide the child with a stable, permanent environment.~~]

[~~(3) The division shall also provide domestic violence services in accordance with federal law.~~]

Section 27. Section 80-2-202, which is renumbered from Section 62A-4a-104 is renumbered and amended to read:

[~~62A-4a-104~~]. 80-2-202. Division director -- Qualifications -- Responsibilities.

[~~(1) The director of the division shall be appointed by the executive director.~~]

(1) The executive director of the department shall appoint the director of the division.

(2) The director shall have a bachelor's degree from an accredited university or college, be experienced in administration, and be knowledgeable in the areas of child and family services, including child protective services, family preservation, and foster care.

(3) The director is the administrative head of the division.

Section 28. Section 80-2-301, which is renumbered from Section 62A-4a-105 is renumbered and amended to read:

Part 3. Division Responsibilities

[~~62A-4a-105~~]. 80-2-301. Division responsibilities.

(1) The division is the child, youth, and family services authority of the state.

[~~(1)~~] (2) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director of the department may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under [~~Part 9, Adoption Assistance~~] Sections 80-2-806 through 80-2-809, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services in accordance with Section 80-2-306, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with [~~the requirements of~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, and [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with [~~the requirements of~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, and [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence[~~, as defined in Section 77-36-1, and their~~] and the victims' children, in accordance with [~~the provisions of~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, and [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling, as described in Sections 76-5-308 through 76-5-310, or who have engaged in prostitution or sexual solicitation, as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, [~~and~~] or neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection [~~(1)~~] (2)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section [~~62A-4a-107.5~~] 80-2-405; and

(ii) approve facilities that meet the standards established under Subsection [~~(1)~~] (2)(c) to provide substitute care for dependent, abused, [~~and~~] or neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

[~~(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;~~]

[~~(g)~~] (f) in accordance with Subsection [~~(2)~~] (5)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, [~~and~~] or dependent children, in accordance with [~~the requirements of~~] this chapter and Chapter 2a, Removal and Protective Custody of a Child, unless administration is expressly vested in another division or department of the state;

[~~(h)~~] (g) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

[~~(i)~~] (h) compile relevant information, statistics, and reports on child and family service matters in the state;

[~~(j)~~] (i) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections [~~62A-4a-117 and 62A-4a-118~~] 80-2-1102 and 80-2-1103;

[~~(k)~~] (j) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(k) enter into contracts for programs designed to reduce the occurrence or recurrence of abuse and neglect in accordance with Section 80-2-503;

(l) seek reimbursement of funds the division expends on behalf of a child in the protective custody, temporary custody, or custody of the division, from the child's parent or guardian in accordance with an order for child support under Section 78A-6-356;

[~~(l)~~] (m) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, [~~pursuant to~~] under Section 80-3-409, and promote adoption of [~~those~~] the children;

[~~(m)~~] (n) subject to Subsections [~~(2)(b) and~~] (5) and (7), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

[~~(n)~~] (o) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents [~~in the state~~] during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection [~~(1)(n)(i)~~] (2)(o)(i); and

[~~(o)~~] (p) perform other duties and functions required by law.

(3) (a) The division may provide, directly or through contract, services that include the following:

(i) adoptions;

(ii) day-care services;

(iii) out-of-home placements for minors;

(iv) health-related services;

(v) homemaking services;

(vi) home management services;

(vii) protective services for minors;

(viii) transportation services; or

(ix) domestic violence services.

(b) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) (i) Except as provided in Subsection (3)(c)(ii), if the division provides a service through a private contract, the division shall post the name of the service provider on the division's website.

(ii) Subsection (3)(c)(i) does not apply to a foster parent placement.

(4) (a) The division may:

(i) receive gifts, grants, devises, and donations;

(ii) encourage merchants and service providers to:

(A) donate goods or services; or

(B) provide goods or services at a nominal price or below cost;

(iii) distribute goods to applicants or consumers of division services free or for a nominal charge and tax free; and

(iv) appeal to the public for funds to meet needs of applicants or consumers of division services that are not otherwise provided by law, including Sub-for-Santa programs, recreational programs for minors, and requests for household appliances and home repairs.

(b) If requested by the donor and subject to state and federal law, the division shall use a gift, grant, devise, donation, or proceeds from the gift, grant, devise, or donation for the purpose requested by the donor.

[~~(2)~~] (5) (a) In carrying out the requirements of Subsection [~~(1)(g)~~] (2)(f), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in [~~this~~] Subsection [~~(2)~~] (5)(a)(ii), within the division's budget.

(b) [~~When~~] If an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection [~~(1)(m)~~] (2)(n), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is [~~impecunious~~] an indigent individual.

[~~(3) Except to the extent provided by rule, the division is not responsible for investigating~~]

(6) Except to the extent provided by rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division is not required to investigate domestic violence in the presence of a child, as described in Section 76-5-109.1.

[~~(4)~~] (7) The division may not:

(a) require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo[~~.~~]; or

[~~(5)~~] (b) [~~The division may not~~] refer an individual who is receiving services from the division for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 29. Section 80-2-302, which is renumbered from Section 62A-4a-102 is renumbered and amended to read:

[~~62A-4a-102~~]. 80-2-302. Division rulemaking authority -- Family impact statement.

[~~(1) The Division of Child and Family Services, created in Section 62A-4a-103, is responsible for establishing division rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in accordance with the requirements of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, regarding abuse, neglect, and dependency proceedings, and domestic violence services. The division is responsible to see that the legislative purposes for the division are carried out.~~]

[~~(2) The division shall:~~]

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules:

(a) that establish the process for:

(i) determination of eligibility for services offered by the division in accordance with this chapter and Chapter 2a, Removal and Protective Custody of a Child; and

[~~(a)~~] (ii) [~~approve~~] approval of fee schedules for programs within the division;

(b) [~~in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish rules~~] to ensure that private citizens, consumers, foster parents, private contract providers, allied state and local agencies, and others are provided with an opportunity to comment and provide input regarding any new rule or proposed revision of an existing rule; [~~and~~]

(c) that provide a mechanism for:

(i) systematic and regular review of existing rules, including an annual review of all division rules to ensure that the rules comply with [~~the Utah Code~~] applicable statutory provisions; and

(ii) consideration of rule changes proposed by the persons [~~and agencies~~] described in Subsection [~~(2)(b).~~] (1)(b);

[~~(3) (a) The division shall establish rules for the determination of eligibility for services offered by the division in accordance with this chapter.~~]

[~~(b) The division may, by rule, establish eligibility standards for consumers.~~]

[~~(4) The division shall adopt and maintain rules~~]

(d) regarding:

(i) placement for adoption or foster care that are consistent with, and no more restrictive than, applicable statutory provisions[~~.~~];

(ii) abuse, neglect, and dependency proceedings; and

(iii) domestic violence services provided by the division; and

(e) that establish procedures to accommodate the moral and religious beliefs, and culture, of the minors and families that the division serves, including:

(i) the immediate family and other relatives of a minor who is in protective custody, temporary custody, or custody of the division, or otherwise under the jurisdiction of the juvenile court;

(ii) a foster and other out-of-home placement family; and

(iii) an adoptive family.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules that establish:

(a) eligibility standards for consumers of division services; or

(b) requirements for a program described in Subsection 80-2-301(4)(a)(iv).

(3) (a) If the division establishes a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall include an assessment of the impact of the rule on families, including the impact on the authority of a parent to oversee the care, supervision, upbringing, or education of a child in the parent's custody.

(b) The division shall publish a family impact statement describing the assessment described in Subsection (3)(a) in the Utah State Bulletin within 90 days after the day on which the rule described in Subsection (3)(a) is established.

Section 30. Section 80-2-303, which is renumbered from Section 62A-4a-113 is renumbered and amended to read:

[~~62A-4a-113~~]. 80-2-303. Division enforcement authority -- Attorney general responsibilities.

(1) The division shall take legal action that is necessary to enforce [~~the provisions of~~] this chapter and Chapter 2a, Removal and Protective Custody of a Child.

(2) (a) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall enforce [~~all provisions of~~] this chapter, [~~in addition to the requirements of Title 80,~~] Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights, relating to

[~~protection, custody, and parental rights termination for abused, neglected, or dependent minors~~] protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.

(b) The attorney general may contract with the local county attorney to enforce [~~the provisions of~~] this chapter [~~and Title 80~~], Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(c) It is the responsibility of the attorney general's office to:

(i) advise the division regarding decisions to remove a minor from the minor's home;

(ii) represent the division in all court and administrative proceedings related to abuse, neglect, [~~and~~] or dependency including, but not limited to, shelter hearings, dispositional hearings, dispositional review hearings, periodic review hearings, and petitions for termination of parental rights; and

(iii) be available to and advise child welfare caseworkers on an ongoing basis.

(d) (i) The attorney general shall designate no less than 16 full-time attorneys to advise and represent the division in abuse, neglect, and dependency proceedings, including petitions for termination of parental rights.

(ii) The attorneys described in Subsection (2)(d)(i) shall devote [~~their~~] full time and attention to the representation described in Subsection (2)(d)(i) and, insofar as it is practicable, [~~shall~~] be housed in or near various offices of the division statewide.

(3) [~~(a)~~] The attorney general's office shall represent the division [~~with regard to actions involving minors who have not been~~] in an action:

(a) involving a minor who has not been adjudicated as abused or neglected, but who [~~are otherwise committed to~~] is placed in the custody of the division by the juvenile court[~~, and who are placed in custody of the division~~] primarily on the basis of delinquent behavior or a status offense[~~.~~]; or

(b) for reimbursement of funds from a parent or guardian under Subsection 80-2-301(2)(l).

[~~(b) Nothing in this section may be construed to~~] (c) This section does not affect the responsibility of the county attorney or district attorney to represent the state in the matters described in Subsection (3)(a) [~~in accordance with Sections 80-3-104 and 80-4-106~~].

Section 31. Section 80-2-304, which is renumbered from Section 62A-4a-115 is renumbered and amended to read:

[~~62A-4a-115~~]. 80-2-304. Administrative proceedings.

The department and division shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [~~their~~] the department's or division's adjudicative proceedings.

Section 32. Section 80-2-305, which is renumbered from Section 62A-4a-111 is renumbered and amended to read:

[~~62A-4a-111~~]. 80-2-305. Fraudulently obtained services -- Division recovery -- Agreement with Office of Recovery Services.

(1) If it is discovered that a person is fraudulently obtaining, or has fraudulently obtained, services offered by the division in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child, the division shall take all necessary steps, including legal action through the attorney general, to recover all money or the value of services fraudulently obtained.

(2) The division may establish an agreement with the Office of Recovery Services to fulfill the requirements of this section.

Section 33. Section 80-2-306, which is renumbered from Section 62A-4a-202 is renumbered and amended to read:

[~~62A-4a-202~~]. 80-2-306. Division in-home services for the preservation of families.

(1) (a) Within appropriations from the Legislature and money obtained under Subsection (5), the division shall provide in-home services for the purpose of family preservation to any family with a child whose health and safety is not immediately endangered, [~~when~~] if:

(i) (A) the child is at risk of being removed from the home; or

(B) the family is in crisis; and

(ii) the division determines that in-home services are reasonable and appropriate.

(b) In determining whether in-home services are reasonable and appropriate, and in keeping with Subsection [~~62A-4a-201(1)~~] 80-2a-201(1), the child's health, safety, and welfare shall be the paramount concern.

(c) The division shall consider whether the services described in Subsection (1)(b):

(i) will be effective within a six-month period; and

(ii) are likely to prevent continued abuse or neglect of the child.

(2) (a) The division shall maintain a statewide inventory of in-home services available through public and private agencies or individuals for use by child welfare caseworkers.

(b) The inventory described in Subsection (2)(a) shall include:

(i) the method of accessing each service;

(ii) eligibility requirements for each service;

(iii) the geographic areas and the number of families that can be served by each service; and

(iv) information regarding waiting lists for each service.

(3) (a) As part of the division's in-home services for the preservation of families, the division shall provide in-home services in varying degrees of intensity and contact that are specific to the needs of each individual family.

(b) As part of the division's in-home services, the division shall:

(i) provide customized assistance;

(ii) provide support or interventions that are tailored to the needs of the family;

(iii) discuss the family's needs with the parent;

(iv) discuss an assistance plan for the family with the parent; and

(v) address:

(A) the safety of children;

(B) the needs of the family; and

(C) services necessary to aid in the preservation of the family and a child's ability to remain in the home.

(c) [~~In-home services shall be, as practicable, provided~~] The division shall, as practicable, provide in-home services within the region that the family resides, using existing division staff.

(4) (a) The division may use specially trained child welfare caseworkers, private providers, or other persons to provide the in-home services described in Subsection (3).

(b) The division shall allow a child welfare caseworker to be flexible in responding to the needs of each individual family, including:

(i) limiting the number of families assigned; and

(ii) being available to respond to assigned families within 24 hours.

(5) To provide, expand, and improve the delivery of in-home services to prevent the removal of children from [~~their~~] the children's homes and promote the preservation of families, the division shall make substantial effort to obtain funding, including:

(a) federal grants;

(b) federal waivers; and

(c) private money.

Section 34. Section 80-2-307, which is renumbered from Section 62A-4a-121 is renumbered and amended to read:

[~~62A-4a-121~~]. 80-2-307. Division reimbursement of motor vehicle insurance coverage for a foster child.

(1) Within the amounts appropriated to the division for the purposes described in this section, the division may reimburse a foster parent for providing owner's or operator's security covering a foster child's operation of a motor vehicle in amounts required under Section 31A-22-304 if the foster child is in the [~~legal~~] protective custody, temporary custody, or custody of the division.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing:

(a) a procedure for providing the reimbursement to a foster parent described in Subsection (1);

(b) eligibility requirements for a foster parent to qualify for a reimbursement under this section; and

(c) a method for determining the amount of reimbursement that a foster parent is eligible to receive under this section.

[~~(3) The division shall report to the Transportation Interim Committee no later than November 30, 2009:~~]

[~~(a) the number of foster children in the legal custody of the Division of Child and Family Services who have been issued a driver license;~~]

[~~(b) the results and impacts on the division and on foster parents signing for a foster child to receive a driver license; and~~]

[~~(c) the division's cost of reimbursing foster parents for providing owner's or operator's security in accordance with Subsection (1).~~]

Section 35. Section 80-2-308, which is renumbered from Section 62A-4a-212 is renumbered and amended to read:

[~~62A-4a-212~~]. 80-2-308. Division responsibility for normalizing lives of children -- Requirements for caregiver decision making.

(1) As used in this section:

(a) "Activity" means an extracurricular, enrichment, or social activity.

(b) "Age-appropriate" means a type of activity that is generally accepted as suitable for a child of the same age or level of maturity, based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for the child's age or age group.

(c) "Caregiver" means a person with whom a child is placed in an out-of-home placement.

(d) "Out-of-home placement" means the placement of a child in the division's custody outside of the child's home, including placement in a foster home, a residential treatment program, proctor care, or with kin.

(e) "Reasonable and prudent parent standard" means the standard characterized by careful and sensible parental decisions to maintain a child's health, safety, and best interest while at the same time encouraging the child's emotional and developmental growth.

(2) A child who comes into protective custody or the division's temporary custody or custody under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, is entitled to participate in age-appropriate activities for the child's emotional well-being and development of valuable life-coping skills.

(3) The division shall:

(a) make efforts to normalize the life of a child in protective custody or the division's temporary custody or custody and to empower a caregiver to approve or disapprove a child's participation in activities based on the caregiver's own assessment using a reasonable and prudent parent standard, without prior approval of the division; and

(b) allow a caregiver to make important decisions, similar to the decisions that a parent is entitled to make, regarding the child's participation in activities.

[~~(1)~~] (4) (a) A caregiver shall use a reasonable and prudent parent standard in determining whether to permit a child to participate in an activity.

(b) A caregiver shall consider:

(i) the child's age, maturity, and developmental level to maintain the overall health and safety of the child;

(ii) potential risk factors and the appropriateness of the activity;

(iii) the best interest of the child based on the caregiver's knowledge of the child;

(iv) the importance of encouraging the child's emotional and developmental growth;

(v) the importance of providing the child with the most family-like living experience possible; and

(vi) the behavioral history of the child and the child's ability to safely participate in the proposed activity.

(c) The division shall verify that [~~private agencies~~] a private agency providing out-of-home placement under contract with the division:

(i) [~~promote and protect~~] promotes and protects the ability of a child to participate in age-appropriate activities; and

(ii) [~~implement~~] implements policies consistent with this section.

(d) (i) A caregiver is not liable for harm caused to a child in an out-of-home placement if the child participates in an activity approved by the caregiver[~~, when the caregiver has~~] and the caregiver acted in accordance with a reasonable and prudent parent standard.

(ii) This section does not remove or limit any existing liability protection afforded by statute.

[~~(2)~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall adopt rules establishing the procedures for verifying that [~~private agencies~~] a private agency providing out-of-home placement under contract with the division [~~comply with and promote this part~~] complies with and promotes this section.

Section 36. Section 80-2-401, which is renumbered from Section 62A-4a-105.5 is renumbered and amended to read:

Part 4. Division Employees and Volunteers

[~~62A-4a-105.5~~]. 80-2-401. Division employees -- Failure to comply with law or division rule or policy -- Termination.

(1) The director shall ensure that [~~all employees are~~] an employee is fully trained to comply with state [~~law,~~] and federal law, administrative rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and division policy in order to effectively carry out [~~their~~] the employee's assigned duties and functions.

(2) If, after training and supervision, [~~the~~] an employee consistently fails to comply with [~~those~~] laws, rules, or policies, the [~~individual's~~] employee's employment with the division shall be terminated.

Section 37. Section 80-2-402, which is renumbered from Section 62A-4a-107 is renumbered and amended to read:

[~~62A-4a-107~~]. 80-2-402. Child welfare training coordinator -- Mandatory education and training of child welfare caseworkers -- Development of curriculum.

(1) There is created within the division a full-time position of a child welfare training coordinator.

(2) The child welfare training coordinator is not responsible for direct casework services or the supervision of [~~those~~] casework services, but is required to:

(a) develop child welfare curriculum that:

(i) is current and effective, consistent with the division's mission and purpose for child welfare; and

(ii) utilizes curriculum and resources from a variety of sources including those from:

(A) the public sector;

(B) the private sector; and

(C) inside and outside of the state;

(b) recruit, select, and supervise child welfare trainers;

(c) develop a statewide training program, including a budget and identification of sources of funding to support that training;

(d) evaluate the efficacy of training in improving job performance;

(e) assist child protective services and foster care workers in developing and fulfilling their individual training plans;

(f) monitor staff compliance with division training requirements and individual training plans; and

(g) expand the collaboration between the division and schools of social work within institutions of higher education in developing child welfare services curriculum, and in providing and evaluating training.

(3) The director shall, with the assistance of the child welfare training coordinator, establish and ensure child welfare caseworker competency regarding a core curriculum for child welfare services that:

(a) is driven by child safety and family well-being;

(b) emphasizes child and family voice;

(c) is trauma-informed, as defined in Section 63M-7-209; and

(d) is consistent with national child welfare practice standards.

(4) A child welfare caseworker shall complete training in:

(a) the legal duties of a child welfare caseworker;

(b) the responsibility of a child welfare caseworker to protect the safety and legal rights of children, parents, and families at all stages of a case, including:

(i) initial contact;

(ii) safety and risk assessment, as described in Section 80-2-403; and

(iii) intervention;

(c) recognizing situations involving:

(i) substance abuse;

(ii) domestic violence;

(iii) abuse; and

(iv) neglect; and

(d) the relationship of the Fourth and Fourteenth Amendments of the Constitution of the United States to the child welfare caseworker's job, including:

(i) search and seizure of evidence;

(ii) the warrant requirement;

(iii) exceptions to the warrant requirement; and

(iv) removing a child from the custody of the child's parent or guardian.

(5) The division shall train the division's child welfare caseworkers to:

(a) apply the [~~safety, risk, needs, and strength~~] risk assessment tools and rules described in Subsection [~~62A-4a-1002(2).~~] 80-1-102(83); and

(b) develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the child and the child's family.

(6) The division shall use the training of child welfare caseworkers to emphasize:

(a) the importance of maintaining the parent-child relationship;

(b) the preference for providing in-home services over taking a child into protective custody, both for the emotional well-being of the child and the efficient allocation of resources; and

(c) the importance and priority of:

(i) kinship placement in the event a child must be taken into protective custody; and

(ii) guardianship placement, in the event the parent-child relationship is legally terminated and no appropriate adoptive placement is available.

(7) [~~When~~] If a child welfare caseworker is hired, before assuming independent casework responsibilities, the division shall ensure that the child welfare caseworker has:

(a) completed the training described in Subsections (4), (5), and (6); and

(b) participated in sufficient skills development for a child welfare caseworker.

Section 38. Section 80-2-403, which is renumbered from Section 62A-4a-203.1 is renumbered and amended to read:

[~~62A-4a-203.1~~]. 80-2-403. Child welfare caseworker safety and risk assessments.

(1) [~~Child welfare caseworkers~~] A child welfare caseworker within the division shall use evidence-informed or evidence-based safety and risk assessments to guide decisions concerning a child throughout a child protection investigation or proceeding.

(2) As part of [~~the~~] an evidence-informed or evidence-based safety and risk [~~assessments, the division~~] assessment, the child welfare caseworker shall assess at least the following:

(a) threat to [~~a~~] the child's safety;

(b) protective capabilities of a parent or guardian, including the parent or guardian's readiness, willingness, and ability to plan for the child's safety;

(c) [~~a~~] the child's particular vulnerabilities;

(d) interventions required to protect [~~a~~] the child; and

(e) likelihood of future harm to [~~a~~] the child.

Section 39. Section 80-2-404, which is renumbered from Section 62A-4a-110 is renumbered and amended to read:

[~~62A-4a-110~~]. 80-2-404. Division volunteers -- Reimbursement.

[~~(1) The division may receive gifts, grants, devises, and donations. These gifts, grants, devises,~~

~~donations, or their proceeds shall be credited to the program which the donor designates and may be used for the purposes requested by the donor, if the request conforms to state and federal law. If a donor makes no specific request, the division may use the gift, grant, devise, or donation for the best interest of the division.~~]

[~~(2)~~] (1) The division may:

(a) accept and use volunteer labor or services [~~of applicants, recipients, and other members of the community. The division may~~];

(b) reimburse volunteers for necessary expenses, including transportation, and provide recognition awards and [~~recognition~~] meals for services rendered[~~. The division may~~]; and

(c) cooperate with volunteer organizations in collecting funds to be used in the volunteer program. [~~Those donated funds shall be~~]

(2) The funds donated under Section (1)(c) are considered [~~as~~] private, nonlapsing funds until used by the division, and may be invested under guidelines established by the state treasurer[~~;~~].

[~~(b) encourage merchants and providers of services to donate goods and services or to provide them at a nominal price or below cost;~~]

[~~(c) distribute goods to applicants or consumers free or for a nominal charge and tax free; and~~]

[~~(d) appeal to the public for funds to meet applicants' and consumers' needs which are not otherwise provided for by law. Those appeals may include Sub-for-Santa Programs, recreational programs for minors, and requests for household appliances and home repairs, under rules established by the division.~~]

Section 40. Section 80-2-405, which is renumbered from Section 62A-4a-107.5 is renumbered and amended to read:

[~~62A-4a-107.5~~]. 80-2-405. Private recruitment and training of foster care parents and child welfare volunteers -- Extension of immunity.

(1) As used in this section:

(a) "Referring entity" means:

(i) an incorporated or unincorporated organization or association whether formally incorporated or otherwise established and operating for religious, charitable, or educational purposes, that does not distribute any of the organization's or association's income or assets to the organization's or association's members, directors, officers, or other participants;

(ii) an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under Section 501 of the Internal Revenue Code; or

(iii) any not-for-profit organization which is formed and conducted for public benefit and operated primarily for charitable, civic, educational, religious, benevolent, welfare, or health purposes.

(b) "Referring individual" means an individual:

(i) with the authority to act on behalf of a referring entity in making a referral; and

(ii) who may or may not be compensated by the referring entity.

[~~(1)~~] (2) The division may contract with one or more private, nonprofit organizations to recruit and train foster care parents and child welfare volunteers on a statewide or regional basis.

[~~(2)~~] (3) An organization that contracts with the division [~~pursuant to~~] under Subsection [~~(1)~~] (2) shall agree to:

(a) increase the number of licensed and trained foster care parents in the geographic area covered by:

(i) developing a strategic plan;

(ii) assessing the needs, perceptions, and qualities of potential foster care parents;

(iii) assessing the needs, perceptions, and qualities of children in state custody;

(iv) identifying potential foster care parents through public and private resources;

(v) screening foster care parent applicants;

(vi) providing preservice, ongoing, and customized training to foster care parents;

(vii) developing a competency-based training curriculum with input from public and private resources and approved by the division;

(viii) focusing training exercises on skill development; and

(ix) supporting foster care parents by supplying staff support, identifying common issues, encouraging peer support, and connecting available resources;

(b) increase the number of child welfare volunteers in the geographical area covered by:

(i) developing a strategic plan;

(ii) seeking the participation of established volunteer organizations;

(iii) designing and offering initial orientation sessions to child welfare volunteers;

(iv) informing volunteers of options for service as specified by the division; and

(v) facilitating the placement and certification of child welfare volunteers;

(c) coordinate efforts, [~~where~~] if appropriate, with the division;

(d) seek private contributions in furtherance of the organization's activities under this Subsection [~~(2)~~] (3);

(e) perform other related services and activities as may be required by the division; and

(f) establish a system for evaluating performance and obtaining feedback on the activities performed [~~pursuant to~~] under this Subsection [~~(2)~~] (3).

[~~(3)~~] (4) Notwithstanding Subsection [~~(2)~~] (3), the department shall retain ultimate authority over and responsibility for:

(a) initial and ongoing training content, material, curriculum, and techniques, and certification standards used by an organization; and

(b) screening, investigation, licensing, certification, referral, and placement decisions with respect to any [~~person~~] individual recruited or trained by an organization.

[~~(4)~~] (5) (a) An organization under contract with the department and [~~its~~] the department's directors, trustees, officers, employees, and agents, whether compensated or not, may not be held civilly liable for any act or omission on a matter for which the department retains ultimate authority and responsibility under Subsection [~~(3)~~] (4).

(b) [~~Nothing in Subsection (4)(a) may be construed as altering~~] Subsection (5)(a) does not alter the abuse and neglect reporting requirements of Section [~~62A-4a-403~~] 80-2-602, regardless of whether the facts that give rise to such a report occur before or after a screening, investigation, licensing, or placement decision of the department.

[~~(5)~~] (6) A referring entity or a referring individual that voluntarily and without remuneration assists [~~the~~] an organization to identify and recruit foster care parents or child welfare volunteers is not liable in any civil action for any act or omission of:

(a) the referring entity or [~~the~~] referring individual[~~, which~~] that is performed in good faith and in furtherance of the entity's assistance to the organization; or

(b) any [~~person~~] individual directly or indirectly referred to the organization by the entity as a foster care parent or child welfare volunteer, if the referring individual was without actual knowledge of any substantiated fact that would have disqualified the [~~person~~] individual who was referred from such a position at the time the referral was made.

[~~(6) As used in this section:~~]

[~~(a) "referring entity" means:~~]

[~~(i) an incorporated or unincorporated organization or association whether formally incorporated or otherwise established and operating for religious, charitable, or educational purposes which does not distribute any of its income or assets to its members, directors, officers, or other participants;~~]

[~~(ii) any organization which is described in Section 501(c)(3) of the Internal Revenue Code of 1986 and is exempt from tax under Section 501 of the Internal Revenue Code; or~~]

[~~(iii) any not-for-profit organization which is formed and conducted for public benefit and operated primarily for charitable, civic, educational, religious, benevolent, welfare, or health purposes; and~~]

[~~(b) "referring individual" means an individual:~~]

[~~(i) with the authority to act on behalf of a referring entity in making a referral; and~~]

[~~(ii) who may or may not be compensated by the referring entity.~~]

Section 41. Section 80-2-501, which is renumbered from Section 62A-4a-309 is renumbered and amended to read:

Part 5. Funds, Accounts, and Grant Programs

[~~62A-4a-309~~]. 80-2-501. Children's Account.

(1) There is created a restricted account within the General Fund known as the "Children's Account." [~~The restricted account is for crediting of contributions from private sources and from appropriate revenues received under Section 26-2-12.5 for abuse and neglect prevention programs described in Section 62A-4a-305.~~]

[~~(2) Money shall be appropriated from the account to the division by the Legislature under the Utah Budgetary Procedures Act, and shall be drawn upon by the director in consultation with the executive director of the department.~~]

(2) The account shall be funded by:

(a) appropriations to the account by the Legislature;

(b) revenues received under Section 26-2-12.5; and

(c) transfers, grants, gifts, bequests, or any money made available from any source for the abuse and neglect prevention programs described in Subsection 80-2-503(3).

(3) The Legislature shall appropriate money in the account to the division.

(4) (a) The director shall consult with the executive director of the department before using the funds in the account as described in this section.

[~~(3)~~] (b) Except as provided in Subsection [~~(4), the Children's Account~~] (5), the account may be used only to implement prevention programs described in Section [~~62A-4a-305~~] 80-2-503, and may only be allocated to an entity that provides a one-to-one match, comprising a match from the community of at least 50% in cash and up to 50% in in-kind donations, which is 25% of the total funding received from the [~~Children's Account~~] account.

[~~(4) (a) The entity that receives the statewide evaluation contract is excepted from the cash-match provisions of Subsection (3).~~]

[~~(b)~~] (5) Upon recommendation of the executive director of the department and the council, the division may reduce or waive the match requirements described in Subsection [~~(3)~~] (4) for an entity, if the division determines that imposing the requirements would prohibit or limit the provision of services needed in a particular geographic area.

Section 42. Section 80-2-502, which is renumbered from Section 62A-4a-608 is renumbered and amended to read:

[~~62A-4a-608~~]. 80-2-502. Choose Life Adoption Support Restricted Account.

(1) There is created [~~in~~] a restricted account within the General Fund known as the "Choose Life Adoption Support Restricted Account."

(2) The account shall be funded by:

(a) contributions deposited into the [~~Choose Life Adoption Support Restricted Account~~] account in accordance with Section 41-1a-422;

(b) appropriations to the account by the Legislature;

(c) private contributions; and

(d) donations or grants from public or private entities.

(3) The Legislature shall appropriate money in the account to the division.

(4) The division shall distribute the funds in the account to one or more charitable organizations that:

(a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;

(b) have as part of their primary mission the support, promotion, and education of adoption programs; and

(c) are licensed or registered to do business within the state in accordance with state law.

(5) (a) An organization described in Subsection (4) may apply to the division to receive a distribution in accordance with Subsection (4).

(b) An organization that receives a distribution from the division in accordance with Subsection (4) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on adoption;

(ii) conduct educational courses on adoption; and

(iii) provide other programs that support adoption.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under Subsection (4).

Section 43. Section 80-2-503 is enacted to read:

80-2-503. Division contracts for prevention and treatment of child abuse and neglect -- Requirements -- Public hearing -- Funding provided by contractor.

(1) (a) The Legislature finds that there is a need to assist private and public agencies in identifying and establishing community-based education, service, and treatment programs to prevent the occurrence and recurrence of abuse and neglect.

(b) It is the purpose of this section to provide a means to increase prevention and treatment programs designed to reduce the occurrence or recurrence of child abuse and neglect.

(2) The division shall contract with public or private nonprofit organizations, agencies, or schools, or with qualified individuals to establish voluntary community-based educational and service programs designed to reduce or prevent the occurrence or recurrence of abuse and neglect.

(3) (a) A program that the division contracts with under this section shall provide voluntary primary abuse and neglect prevention, and voluntary or court-ordered treatment services.

(b) A program described in Subsection (3)(a) includes:

(i) a program related to prenatal care, perinatal bonding, child growth and development, basic child care, care of children with special needs, and coping with family stress;

(ii) a program related to crisis care, aid to parents, abuse counseling, support groups for abusive or potentially abusive parents and abusive parents' children, and early identification of families where the potential for abuse and neglect exists;

(iii) a program clearly designed to prevent the occurrence or recurrence of abuse, neglect, sexual abuse, sexual exploitation, medical or educational neglect;

(iv) a program that the division and council consider potentially effective in reducing the incidence of family problems leading to abuse or neglect; and

(v) a program designed to establish and assist community resources that prevent abuse and neglect.

(4) The division shall:

(a) consult with appropriate state agencies, commissions, and boards to help determine the probable effectiveness, fiscal soundness, and need for proposed education and service programs for the prevention and treatment of abuse and neglect;

(b) develop policies to determine whether a program will be discontinued or receive continuous funding;

(c) facilitate the exchange of information between and among groups concerned with families and children;

(d) establish flexible fees and fee schedules based on the recipient's ability to pay for part or all of the costs of service received;

(e) before awarding a contract for an abuse or neglect prevention or treatment program or service:

(i) conduct a public hearing to receive public comment on the program or service and ensure the council conducted a public hearing on the program or service in accordance with Subsection (6);

(ii) if the program or service is intended for presentation in public schools, receive evidence that the program or service is approved by the local board of education of each school district that will be utilizing the program or service, or under the direction of the local board of education, the state superintendent; and

(iii) consider need, diversity of geographic locations, the program's or services' coordination with or enhancement of existing services, and the program's or services' extensive use of volunteers;

(f) award a contract under this section for services to prevent abuse and neglect on the basis of probability of success, based in part on sound research data; and

(g) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary to carry out the purposes of this section.

(5) The division may:

(a) require that 25% of the funding for a program contracted for under this section be provided by the contractor operating the program; and

(b) consider a contribution of materials, supplies, or physical facilities as all or part of the funding provided by the contractor under Subsection (5)(a).

(6) The council shall conduct a public hearing to receive public comment on the program or service before the division may enter into a contract under this section.

(7) A contract entered into under this section shall contain a provision for the evaluation of services provided under the contract.

(8) Contract funds awarded under this section for the treatment of victims of abuse or neglect are not a collateral source as defined in Section 63M-7-502.

Section 44. Section 80-2-503.5, which is renumbered from Section 62A-4a-213 is renumbered and amended to read:

[~~62A-4a-213~~]. 80-2-503.5. Psychotropic medication oversight pilot program.

(1) As used in this section, "psychotropic medication" means medication prescribed to affect or alter thought processes, mood, or behavior, including antipsychotic, antidepressant, anxiolytic, or behavior medication.

(2) The division shall, through contract with the Department of Health, establish and operate a psychotropic medication oversight pilot program for children in foster care to ensure that foster children are being prescribed psychotropic medication consistent with [~~their~~] the foster children's needs.

(3) The division shall establish an oversight team to manage the psychotropic medication oversight program, composed of at least the following individuals:

(a) an[~~ "advanced practice registered nurse,"~~] advanced practice registered nurse, as defined in Section 58-31b-102, employed by the Department of Health; and

(b) a child psychiatrist.

(4) The oversight team shall monitor foster children:

(a) six years old or younger who are being prescribed one or more psychotropic medications; and

(b) seven years old or older who are being prescribed two or more psychotropic medications.

(5) The oversight team shall, upon request, be given information or records related to the foster child's health care history, including psychotropic medication history and mental and behavioral health history, from:

(a) the foster child's current or past caseworker;

(b) the foster child; or

(c) the foster child's:

(i) current or past health care provider;

(ii) natural parents; or

(iii) foster parents.

(6) The oversight team may review and monitor the following information about a foster child:

(a) the foster child's history;

(b) the foster child's health care, including psychotropic medication history and mental or behavioral health history;

(c) whether there are less invasive treatment options available to meet the foster child's needs;

(d) the dosage or dosage range and appropriateness of the foster child's psychotropic medication;

(e) the short-term or long-term risks associated with the use of the foster child's psychotropic medication; or

(f) the reported benefits of the foster child's psychotropic medication.

(7) (a) The oversight team may make recommendations to the foster child's health care providers concerning the foster child's psychotropic medication or the foster child's mental or behavioral health.

(b) The oversight team shall provide the recommendations made in Subsection (7)(a) to the foster child's parent or guardian after discussing the recommendations with the foster child's current health care providers.

(8) The division may adopt administrative rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, necessary to administer this section.

(9) The division shall report to the Child Welfare Legislative Oversight Panel regarding the psychotropic medication oversight pilot program by October 1 of each even numbered year.

Section 45. Section 80-2-601, which is renumbered from Section 62A-4a-401 is renumbered and amended to read:

Part 6. Child Abuse and Neglect Reports

[~~62A-4a-401~~]. 80-2-601. Legislative purpose.

It is the purpose of this part to protect the best interests of children, offer protective services to prevent harm to children, stabilize the home environment, preserve family life whenever possible, and encourage cooperation among the states in dealing with the problem of abuse or neglect.

Section 46. Section 80-2-602, which is renumbered from Section 62A-4a-403 is renumbered and amended to read:

[~~62A-4a-403~~]. 80-2-602. Child abuse and neglect reporting requirements -- Exceptions.

(1) Except as provided in Subsection (3), if [~~an individual~~] a person, including an individual licensed under Title 58, Chapter 31b, Nurse Practice Act, or Title 58, Chapter 67, Utah Medical Practice Act, has reason to believe that a child is, or has been, the subject of abuse or neglect, or observes a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect, the [~~individual~~] person shall immediately report the suspected abuse or neglect to the division or to the nearest peace officer or law enforcement agency.

(2) (a) (i) If a peace officer or [~~a~~] law enforcement agency receives a report under Subsection (1), the peace officer or law enforcement agency shall immediately notify the nearest office of the division.

(ii) If the division receives a report under Subsection (1), the division shall immediately notify the appropriate local law enforcement agency.

(b) (i) The division shall, in addition to the division's own investigation in accordance with Section [~~62A-4a-409~~] 80-2-701, coordinate with the law enforcement agency on [~~investigations~~] an investigation undertaken by the law enforcement agency to investigate the report of abuse or neglect under Subsection (1).

(ii) If a law enforcement agency undertakes an investigation of a report under Subsection (1), the law enforcement agency shall provide a final investigatory report to the division upon request.

(3) Subject to Subsection (4), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of [~~that~~] the confession; or

(b) an attorney, or an individual employed by the attorney, if the knowledge or belief of the suspected abuse or neglect of a child arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse or neglect of the child to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(4) (a) When a member of the clergy receives information about abuse or neglect from any source other than confession of the perpetrator, the member of the clergy is required to report [~~that~~] the information even [~~though~~] if the member of the clergy [~~may have~~] also received information about the abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (3) does not exempt the individual from any other efforts required by law to prevent further abuse or neglect by the perpetrator.

(5) The physician-patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Section 47. Section 80-2-603, which is renumbered from Section 62A-4a-404 is renumbered and amended to read:

[~~62A-4a-404~~]. 80-2-603. Fetal alcohol syndrome or spectrum disorder and drug dependency reporting requirements.

(1) As used in this section:

(a) "Health care provider" means:

(i) an individual licensed under:

(A) Title 58, Chapter 31b, Nurse Practice Act;

(B) Title 58, Chapter 44a, Nurse Midwife Practice Act;

(C) Title 58, Chapter 67, Utah Medical Practice Act;

(D) Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(E) Title 58, Chapter 70a, Utah Physician Assistant Act; or

(F) Title 58, Chapter 77, Direct-Entry Midwife Act; or

(ii) an unlicensed individual who practices midwifery.

(b) "Newborn child" means a child who is 30 days old or younger.

[~~(b)~~] (c) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

[~~(c)~~] (d) (i) "Substance abuse" means, except as provided in Subsection [~~(1)(c)(ii)~~] (1)(d)(ii), the same as that term is defined in Section 80-1-102.

(ii) "Substance abuse" does not include use of drugs or other substances that are:

(A) obtained by lawful prescription and used as prescribed; or

(B) obtained in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, and used as recommended by a recommending medical provider.

(2) A health care provider who attends the birth of a newborn child or cares for a newborn child and determines the following, shall report the determination to the division as soon as possible:

(a) the newborn child:

(i) is adversely affected by the child's mother's substance abuse during pregnancy;

(ii) has fetal alcohol syndrome or fetal alcohol spectrum disorder; or

(iii) demonstrates drug or alcohol withdrawal symptoms; or

(b) the parent of the newborn child or a person responsible for the child's care demonstrates functional impairment or an inability to care for the child as a result of the parent's or person's substance abuse.

(3) The physician-patient privilege does not:

(a) excuse an individual who is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, from reporting under this section; or

(b) constitute grounds for excluding evidence regarding the child's injuries, or the cause of the child's injuries, in a judicial or administrative proceeding resulting from a report under this section.

Section 48. Section 80-2-604, which is renumbered from Section 62A-4a-405 is renumbered and amended to read:

[~~62A-4a-405~~]. 80-2-604. Death of a child reporting requirements.

(1) [~~Any~~] A person who has reason to believe that a child has died as a result of abuse or neglect shall report that fact to:

(a) the local law enforcement agency[~~, who shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203~~]; and

(b) the appropriate medical examiner in accordance with Title 26, Chapter 4, Utah Medical Examiner Act.

(2) After receiving a report described in Subsection (1)[~~,~~]:

(a) the local law enforcement agency shall report to the county attorney or district attorney as provided under Section 17-18a-202 or 17-18a-203; and

(b) the medical examiner shall investigate and report the medical examiner's findings to:

[~~(a)~~] (i) the police;

[~~(b)~~] (ii) the appropriate county attorney or district attorney;

[~~(c)~~] (iii) the attorney general's office;

[~~(d)~~] (iv) the division; and

[~~(e)~~] (v) if the institution making the report is a hospital, to [~~that~~] the hospital.

Section 49. Section 80-2-605, which is renumbered from Section 62A-4a-407 is renumbered and amended to read:

[~~62A-4a-407~~]. 80-2-605. Physician removal of a child -- Reporting requirements.

(1) [~~A~~] Subject to Subsection (3), a physician examining or treating a child may take the child into [~~protective~~] custody [~~not to exceed 72 hours~~], without the consent of the child's parent, guardian, or any other person responsible for the child's care or exercising temporary or permanent control over the child, [~~when~~] if the physician has reason to believe that the child's life or safety will be in danger unless [~~protective custody is exercised~~] the child is taken into custody.

(2) (a) [~~The~~] Subject to Subsection (3), the person in charge of a hospital or similar medical facility may retain [~~protective~~] custody of a child [~~suspected of being abused or neglected, when he~~] taken into custody under Subsection (1) if the person reasonably believes the [~~facts warrant that retention. This action may be taken~~] circumstances warrant retention of custody.

(b) The person may take the action described in Subsection (2)(a) regardless of whether additional medical treatment is required[~~, and regardless of whether~~] for the child or the person responsible for the child's care requests the child's return.

[~~(3) The division shall be immediately notified of protective custody exercised under this section. Protective custody~~]

(3) Custody of a child under this section may not exceed 72 hours without an order of the [~~district or~~] juvenile court.

(4) A person who takes a child into, or retains a child in, [~~protective~~] custody under this section shall [~~document~~]:

(a) immediately notify the division that the child is in the person's custody; and

(b) document:

[~~(a)~~] (i) the grounds upon which the child was taken into, or retained in, [~~protective~~] custody; and

[~~(b)~~] (ii) the nature of, and necessity for, any medical care or treatment provided to the child.

Section 50. Section 80-2-606, which is renumbered from Section 62A-4a-408 is renumbered and amended to read:

[~~62A-4a-408~~]. 80-2-606. Written reports.

[~~(1) Reports made pursuant to this part shall be followed by a written report within 48 hours, if requested by the division. The division shall immediately forward a copy of that report to the statewide central register, on forms supplied by the register.~~]

(1) (a) A person who orally reports under Section 80-2-602, 80-2-603, or 80-2-604 shall, upon request of the division, provide the division with a written version of the oral report.

(b) The person shall provide the written report within 48 hours after the division's request.

(2) If, in connection with an intended or completed abortion [~~by a minor~~], a physician is required to make a report of incest or abuse of a minor, the report may not include information that would in any way disclose that the report was made in connection with:

(a) an abortion; or

(b) a consultation regarding an abortion.

(3) The division shall, immediately after receipt, forward a copy of a written report to the state child abuse and neglect registry on a form supplied by the registry.

Section 51. Section 80-2-607, which is renumbered from Section 62A-4a-406 is renumbered and amended to read:

[~~62A-4a-406~~]. 80-2-607. Health care provider photographs of child abuse or neglect.

(1) [~~Any physician, surgeon,~~] A licensed physician, licensed physician assistant, medical examiner, peace officer, [~~law enforcement official,~~] or public health officer or official may take [~~photographs~~] a photograph of the areas of trauma visible on a child and, if medically indicated, perform radiological examinations.

(2) [~~Photographs~~] A photograph may be taken of the premises or of [~~objects~~] an object relevant to a reported circumstance of child abuse or neglect.

(3) [~~Photographs or X-rays, and all other medical records~~] A photograph, X-ray, or other medical record pertinent to an investigation for child abuse or neglect shall be made available to the division, law enforcement [~~officials~~] agencies, and the court.

Section 52. Section 80-2-608 is enacted to read:

80-2-608. Confidential identity of person who reports.

Except as provided in Sections 80-2-611 and 80-2-1005, the division and a law enforcement agency shall ensure the anonymity of the person who makes the initial report under this part and any other person involved in the division's or law enforcement agency's subsequent investigation of the report.

Section 53. Section 80-2-609, which is renumbered from Section 62A-4a-411 is renumbered and amended to read:

[~~62A-4a-411~~]. 80-2-609. Failure to report -- Threats and intimidation -- Penalty.

(1) If the division has substantial grounds to believe that [~~an individual has~~] a person knowingly failed to report [~~suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part~~] under Section 80-2-602 or 80-2-603, the division shall file a complaint with:

(a) the Division of Occupational and Professional Licensing if the [~~individual~~] person is a health care provider, as defined in [~~Section 62A-4a-404~~] Subsection 80-2-603(1)(a)(i), or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the [~~individual~~] person is a law enforcement officer, as defined in Section 53-13-103; [~~and~~] or

(c) the State Board of Education if the [~~individual~~] person is an educator, as defined in Section 53E-6-102.

(2) (a) [~~An individual~~] A person is guilty of a class B misdemeanor if the [~~individual~~] person willfully fails to report [~~the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part~~] under Section 80-2-602 or 80-2-603.

(b) If [~~an individual~~] a person is convicted under Subsection (2)(a), the court may order the [~~individual~~] person, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse and neglect of children.

(c) In determining whether it would be appropriate to charge [~~an individual~~] a person with a violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a reasonable [~~individual~~] person would not have reported suspected abuse or neglect of a child because reporting would have placed the [~~individual~~] person in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use [~~an individual's~~] a person's violation of Subsection (2)(a) as the basis for charging the [~~individual~~] person with another offense.

(e) A prosecution for failure to report under Subsection (2)(a) shall be commenced within two years after the day on which the [~~individual~~] person had knowledge of the suspected abuse[~~, neglect, fetal alcohol syndrome, or fetal drug dependency~~] or neglect or the circumstances described in Subsection 80-2-603(2) and willfully failed to report.

(3) Under circumstances not amounting to a violation of Section 76-8-508, [~~an individual~~] a person is guilty of a class B misdemeanor if the [~~individual~~] person threatens, intimidates, or attempts to intimidate a child who is the [~~subject of a report under this part, the individual~~] subject of the report under Section 80-2-602 or 80-2-603, the person who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child.

Section 54. Section 80-2-610, which is renumbered from Section 62A-4a-410 is renumbered and amended to read:

[~~62A-4a-410~~]. 80-2-610. Immunity from liability for a report -- Exception.

(1) (a) [~~Any~~] A person who in good faith makes a report under Section [~~62A-4a-403, 62A-4a-404, or 62A-4a-405~~] 80-2-602, 80-2-603, or 80-2-604, or who otherwise notifies the division or a peace officer or law enforcement agency of suspected abuse or neglect of a child, is immune from civil and criminal liability in connection with the report or notification.

(b) Except as provided in Subsection (3), [~~any person, official, or institution taking photographs or X-rays~~] a person taking a photograph or X-ray, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody in accordance with [~~this part~~] Chapter 2a, Removal and Protective Custody of a Child, is immune from civil or criminal liability in connection with those actions.

(2) This section does not provide immunity with respect to [~~acts or omissions~~] an act or omission of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(3) The immunity described in Subsection (1)(b) does not apply if the person[~~, official, or institution~~]:

(a) acted or failed to act through fraud or willful misconduct;

(b) in a judicial or administrative proceeding, intentionally or knowingly gave, upon a lawful oath or in any form allowed by law as a substitute for an oath, false testimony material to the issue or matter of inquiry in the proceeding; [~~or~~]

(c) intentionally or knowingly[~~: (i)~~] fabricated evidence; or

[~~(ii)~~] (d) except as provided in Subsection (4), intentionally or knowingly with a conscious disregard for the rights of others, failed to disclose evidence that was known by the person to be relevant to a material issue or matter of inquiry in:

[~~(A) was known to the person, official, or institution; and~~]

[~~(B) (I)~~] (i) [~~was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in~~] a pending judicial or administrative proceeding if the person[~~, official, or institution~~] knew of the pending judicial or administrative proceeding; or

[~~(II)~~] (ii) [~~was known by the person, official, or institution to be relevant to a material issue or matter of inquiry in~~] a judicial or administrative proceeding, if disclosure of the evidence was requested of the employee by a party to the proceeding or counsel for a party to the proceeding.

(4) Immunity is not lost under Subsection [~~(3)(c)(ii)~~] (3)(d), if the person[~~, official, or institution~~]:

(a) failed to disclose evidence described in Subsection [~~(3)(c)(ii)~~] (3)(d), because the person[~~, official, or institution~~] is prohibited by law from disclosing the evidence; or

(b) (i) in accordance with the provisions of 45 C.F.R. 164.502(g)(5), refused to disclose evidence described in Subsection [~~(3)(c)(ii) to a~~] (3)(d) to another person who requested the evidence; and

(ii) after refusing to disclose the evidence under Subsection (4)(b)(i), complied with or responded to a valid court order or valid subpoena received by the person[~~, official, or institution~~] to disclose the evidence described in Subsection [~~(3)(c)(ii)~~] (3)(d).

Section 55. Section 80-2-611, which is renumbered from Section 62A-4a-1007 is renumbered and amended to read:

[~~62A-4a-1007~~]. 80-2-611. False reports -- Investigation -- Notice of penalty.

(1) The division may conduct an investigation to determine whether a report under Section 80-2-602 or 80-2-603 is false.

[~~(1)~~] (2) The division shall send a certified letter to [~~any~~] a person who [~~submits~~] makes a report of abuse or neglect that is placed into or included in any part of the Management Information System, if the division determines, at the conclusion of [~~its~~] the division's investigation, that:

(a) the report is false;

(b) it is more likely than not that the person knew the report was false at the time that person [~~submitted~~] made the report; and

(c) the reporting person's address is known or reasonably available.

[~~(2)~~] (3) The certified letter described in Subsection (2) shall inform the reporting person of:

(a) the division's determination made under Subsection [~~(1)~~] (2);

(b) the penalty for submitting false information under Section 76-8-506 and other applicable laws; and

(c) the obligation or ability of the division under Subsection (4) to inform law enforcement and the person alleged to have committed abuse or neglect:

(i) in the present instance if [~~law enforcement~~] the division considers an immediate referral of the reporting person to law enforcement to be justified by the facts; or

(ii) if the reporting person submits a subsequent false report involving the same alleged perpetrator or victim.

[~~(3)~~] (4) The division:

(a) may inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection [~~(1)~~] (2), if an immediate referral is justified by the facts[~~.~~];

[~~(4)~~] (b) [~~The division~~] shall inform law enforcement and the alleged perpetrator of a report for which a certified letter is required to be sent under Subsection [~~(1)~~] (2) if a second letter is sent to the reporting person involving the same alleged perpetrator or victim[~~.~~]; and

[~~(5)~~] (c) [~~The division~~] shall determine, in consultation with law enforcement:

[~~(a)~~] (i) what information should be given to an alleged perpetrator relating to a false report; and

[~~(b)~~] (ii) whether good cause exists, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not informing an alleged perpetrator about a false report.

[~~(6)~~] (5) [~~Nothing in this section may be construed as requiring~~] This section does not require the division to conduct an investigation beyond what is described in [~~Subsection (1)~~] Subsections (1) and (2), to determine whether [~~or not~~] a report is false.

Section 56. Section 80-2-701, which is renumbered from Section 62A-4a-409 is renumbered and amended to read:

Part 7. Child Abuse and Neglect Investigation

[~~62A-4a-409~~]. 80-2-701. Division preremoval investigation -- Supported or unsupported reports -- Convening of child protection team -- Coordination with law enforcement -- Consultation with child protection team before close of investigation.

(1) (a) The division shall conduct a thorough preremoval investigation upon receiving [~~either an oral or written report of alleged abuse or neglect, or an oral or written report under Subsection 62A-4a-404(2), when~~] a report under Section 80-2-602 or 80-2-603 if there is reasonable cause to suspect that a situation of abuse, neglect, or the circumstances described [~~under Subsection 62A-4a-404(2)~~] in Subsection 80-2-603(2) exist.

(b) The primary purpose of the preremoval investigation described in Subsection (1)(a) shall be protection of the child.

(2) The preremoval investigation described in Subsection (1)(a) shall [~~include the same investigative requirements~~] meet the reasonable professional standards described in Section [~~62A-4a-202.3~~] 80-2-702.

(3) The division shall make a written report of [~~its~~] the division's preremoval investigation under Subsection (1)(a) that [~~shall include~~] includes a determination regarding whether the alleged abuse or neglect in the report described in Subsection (1)(a) is supported, unsupported, or without merit.

(4) [~~(a)~~] The division:

(a) shall use an interdisciplinary approach [~~when~~] if appropriate in dealing with [~~reports~~] a report made under [~~this part.~~] Section 80-2-602, 80-2-603, or 80-2-604;

(b) [~~The division~~] in accordance with Section 80-2-706, shall convene a child protection team to assist the division in the division's protective, diagnostic, assessment, treatment, and coordination services[~~.~~]; and

(c) [~~The division~~] may include [~~members of~~] a member of the child protection team in the division's protective, diagnostic, assessment, treatment, [~~and~~] or coordination services.

[~~(d) A representative of the division shall serve as the team's coordinator and chair. Members of the team shall serve at the coordinator's invitation. Whenever possible, the team shall include representatives of:~~]

[~~(i) health, mental health, education, and law enforcement agencies;~~]

[~~(ii) the child;~~]

[~~(iii) parent and family support groups unless the parent is alleged to be the perpetrator; and~~]

[~~(iv) other appropriate agencies or individuals.~~]

(5) If a report of neglect is based [~~upon~~] on or includes an allegation of educational neglect, the division shall immediately consult with school authorities to verify the child's status in accordance with Sections 53G-6-201 through 53G-6-206.

(6) [~~When the division completes the division's initial~~] Upon completion of the initial preremoval investigation under this [~~part~~] section, the division shall give notice of [~~that~~] the completion to the person who made the initial report described in Subsection (1)(a).

(7) [~~Division workers or other child protection team members have~~] A division child welfare caseworker:

(a) has authority to:

(i) enter upon public or private premises, using appropriate legal processes[~~,~~]; and

(ii) to investigate [~~reports~~] a report of alleged child abuse or neglect, upon notice to [~~parents of their rights~~] a parent of the parent's rights under the Child Abuse Prevention and Treatment Act, 42 U.S.C. Sec. 5106, or any successor thereof[~~.~~]; and

(b) may take a child into protective custody in accordance with Chapter 2a, Removal and Protective Custody of a Child.

[~~(8) With regard to any interview of a child prior to removal of that child from the child's home:~~]

[~~(a) except as provided in Subsection (8)(b) or (c), the division shall inform a parent of the child prior to the interview of:~~]

[~~(i) the specific allegations concerning the child; and~~]

[~~(ii) the time and place of the interview;~~]

[~~(b) if a child's parent or stepparent, or a parent's paramour has been identified as the alleged perpetrator, the division is not required to comply with Subsection (8)(a);~~]

[~~(c) if the perpetrator is unknown, or if the perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation, not to exceed 15 minutes, with the child prior to complying with Subsection (8)(a);~~]

[~~(d) in all cases described in Subsection (8)(b) or (c), a parent of the child shall be notified as soon as practicable after the child has been interviewed, but in no case later than 24 hours after the interview has taken place;~~]

[~~(e) a child's parents shall be notified of the time and place of all subsequent interviews with the child; and~~]

[~~(f) the child shall be allowed to have a support person of the child's choice present, who:~~]

[~~(i) may include:~~]

[~~(A) a school teacher;~~]

[~~(B) an administrator;~~]

[~~(C) a guidance counselor;~~]

[~~(D) a child care provider;~~]

[~~(E) a family member;~~]

[~~(F) a family advocate; or~~]

[~~(G) a member of the clergy; and~~]

[~~(ii) may not be an individual who is alleged to be, or potentially may be, the perpetrator.~~]

[~~(9) In accordance with the procedures and requirements of Sections 62A-4a-202.1 through 62A-4a-202.3, a division worker or child protection team member may take a child into protective custody and deliver the child to a law enforcement officer, or place the child in an emergency shelter facility approved by the juvenile court, at the earliest opportunity subsequent to the child's removal from the child's original environment. Control and jurisdiction over the child is determined by the provisions of Title 78A, Chapter 6, Juvenile Court, and Title 80, Utah Juvenile Code, and as otherwise provided by law.~~]

[~~(10) With regard to cases in which~~]

(8) If law enforcement has investigated or is conducting an investigation of alleged abuse or neglect of a child, the division:

(a) [~~the division~~] shall coordinate with law enforcement to ensure that there is an adequate safety plan to protect the child from further abuse or neglect; and

(b) [~~the division~~] is not required to duplicate an aspect of the investigation that, in the division's determination, has been satisfactorily completed by law enforcement.

[~~(11)~~] (9) [~~With regard to~~] In a mutual case in which a child protection team [~~was~~] is involved in the investigation of alleged abuse or neglect of a child, the division shall consult with the child protection team before closing the case.

Section 57. Section 80-2-702, which is renumbered from Section 62A-4a-202.3 is renumbered and amended to read:

[~~62A-4a-202.3~~]. 80-2-702. Division post-removal investigation -- Supported or unsupported reports -- Convening of child protection team -- Cooperation with law enforcement -- Close of investigation.

(1) [~~When~~] If a child is taken into protective custody in accordance with Section [~~62A-4a-202.1~~] 80-2a-202 or 80-3-204 or [~~when~~] the division takes any other action that [~~would require~~] requires a shelter hearing under Subsection 80-3-301(1), the division shall immediately initiate an investigation of [~~the~~]:

(a) the circumstances of the child; and

(b) the grounds upon which the decision to place the child into protective custody was made.

(2) The division's investigation under Subsection (1) shall conform to reasonable professional standards[~~,~~] and [~~shall~~] include:

(a) a search for and review of any records of past reports of abuse or neglect involving:

(i) the same child;

(ii) any sibling or other child residing in the same household as the child; and

(iii) the alleged perpetrator;

(b) with regard to a child who is five years old or older, a personal interview with the child:

(i) outside of the presence of the alleged perpetrator; and

(ii) conducted in accordance with the requirements of [~~Subsection (7)~~] Section 80-2-704;

(c) if a parent or guardian [~~can be~~] is located, an interview with at least one of the child's parents or guardian;

(d) an interview with the person who reported the abuse, unless the report was made anonymously;

(e) [~~where~~] if possible and appropriate, interviews with other third parties who have had direct contact with the child, including:

(i) school personnel; and

(ii) the child's health care provider;

(f) an unscheduled visit to the child's home, unless:

(i) there is a reasonable basis to believe that the reported abuse was committed by a person who:

(A) is not the child's parent; and

(B) does not[~~: (I)~~] live in the child's home[~~; or (II)~~] or otherwise have access to the child in the child's home; or

(ii) an unscheduled visit is not necessary to obtain evidence for the investigation; and

(g) if appropriate and indicated in any case alleging physical injury, sexual abuse, or failure to meet the child's medical needs, a medical examination, obtained no later than 24 hours after the child is placed in protective custody.

(3) The division may rely on a written report of a prior interview rather than conducting an additional interview under Subsection (2), if:

(a) law enforcement:

(i) previously conducted a timely and thorough investigation regarding the alleged abuse, neglect, or dependency; and

(ii) produced a written report;

(b) the investigation described in Subsection (3)(a)(i) included one or more of the interviews [~~required by~~] described in Subsection (2); and

(c) the division finds that an additional interview is not in the best interest of the child.

(4) (a) (i) The division shall:

(A) make a determination after the division's investigation under Subsection (1) regarding whether the report is supported, unsupported, or without merit; and

(B) base the determination on the facts of the case at the time the report is made.

[~~(4) (a)~~] (ii) The division's determination of whether a report is supported or unsupported may be based on the child's statements alone.

(b) The division may not:

[~~(b)~~] (i) [~~Inability~~] use the inability to identify or locate the perpetrator [~~may not be used by the division~~] as a basis for:

[~~(i)~~] (A) determining that a report is unsupported; or

[~~(ii)~~] (B) closing the case[~~.~~]; or

[~~(c)~~] (ii) [~~The division may not~~] determine a case [~~to be~~] is unsupported or identify a case as unsupported solely because the perpetrator [~~was~~] is an out-of-home perpetrator.

[~~(d) Decisions regarding whether a report is supported, unsupported, or without merit shall be based on the facts of the case at the time the report was made.~~]

(5) The division [~~should~~] shall maintain protective custody of the child if [~~it~~] the division finds that one or more of the following conditions exist:

(a) the child does not have a natural parent, guardian, or responsible relative who is able and willing to provide safe and appropriate care for the child;

(b) (i) shelter of the child is a matter of necessity for the protection of the child; and

(ii) there are no reasonable means by which the child can be protected in:

(A) the child's home; or

(B) the home of a responsible relative;

(c) there is substantial evidence that the parent or guardian is likely to flee the jurisdiction of the juvenile court; or

(d) the child has left a previously court ordered placement.

(6) [~~(a)~~] Within 24 hours after receipt of a child into protective custody, excluding weekends and holidays, the division shall:

[~~(i)~~] (a) convene a child protection team [~~to review the circumstances regarding removal of the child from the child's home or school~~] in accordance with Section 80-2-706; and

[~~(ii)~~] (b) prepare the testimony and evidence that will be required of the division at the shelter hearing, in accordance with Section 80-3-301.

[~~(b) At the 24-hour meeting, the division shall have available for review and consideration the complete child protective services and foster care history of the child and the child's parents and siblings.~~]

[~~(7) (a) After receipt of a child into protective custody and prior to the adjudication hearing, all investigative interviews with the child that are initiated by the division shall be:~~]

[~~(i) except as provided in Subsection (7)(b), audio or video taped; and~~]

[~~(ii) except as provided in Subsection (7)(c), conducted with a support person of the child's choice present.~~]

[~~(b) (i) Subject to Subsection (7)(b)(ii), an interview described in Subsection (7)(a) may be conducted without being taped if the child:~~]

[~~(A) is at least nine years old;~~]

[~~(B) refuses to have the interview audio taped; and~~]

[~~(C) refuses to have the interview video taped.~~]

[~~(ii) If, pursuant to Subsection (7)(b)(i), an interview is conducted without being taped, the child's refusal shall be documented, as follows:~~]

[~~(A) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or~~]

[~~(B) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:~~]

[~~(I) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or~~]

[~~(II) if complying with Subsection (7)(b)(ii)(B)(I) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.~~]

[~~(iii) The division shall track the number of interviews under this Subsection (7) that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.~~]

[~~(c) (i) Notwithstanding Subsection (7)(a)(ii), the support person who is present for an interview of a child may not be an alleged perpetrator.~~]

[~~(ii) Subsection (7)(a)(ii) does not apply if the child refuses to have a support person present during the interview.~~]

[~~(iii) If a child described in Subsection (7)(c)(ii) refuses to have a support person present in the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.~~]

[~~(iv) The division shall track the number of interviews under this Subsection (7) where a child refuses to have a support person present for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.~~]

[~~(8)~~] (7) The division shall cooperate with a law enforcement [~~investigations~~] investigation and with the members of a child protection team, if applicable, regarding the alleged perpetrator.

[~~(9)~~] (8) The division may not close an investigation solely on the grounds that the division [~~investigator~~] is unable to locate the child until all reasonable efforts have been made to locate the child and family members including:

(a) visiting the home at times other than normal work hours;

(b) contacting local schools;

(c) contacting local, county, and state law enforcement agencies; and

(d) checking public assistance records.

Section 58. Section 80-2-703, which is renumbered from Section 62A-4a-202.6 is renumbered and amended to read:

[~~62A-4a-202.6~~]. 80-2-703. Conflict child protective services investigations -- Authority of investigators.

(1) (a) The department, through the Office of Quality and Design created in Section 62A-18-103, shall conduct an independent child protective service investigation to investigate reports of abuse or neglect if:

(i) the report occurs while the child is in the custody of the division; or

(ii) the executive director of the department determines that, if the division conducts the investigation, the division would have an actual or potential conflict of interest in the results of the investigation.

(b) [~~When~~] If a report is made while a child is in the custody of the division that indicates the child is abused or neglected:

(i) the attorney general may, in accordance with Section 67-5-16, and with the consent of the department, employ a child protective services investigator to conduct a conflict investigation of the report; or

(ii) a law enforcement officer, as defined in Section 53-13-103, may, with the consent of the department, conduct a conflict investigation of the report.

(c) Subsection (1)(b)(ii) does not prevent a law enforcement officer from, without the consent of the department, conducting a criminal investigation of abuse or neglect under Title 53, Public Safety Code.

(2) [~~The investigators~~] An investigator described in Subsection (1) may also investigate allegations of abuse or neglect of a child by a department employee or a licensed substitute care provider.

(3) [~~The investigators~~] An investigator described in Subsection (1), if not a law enforcement [~~officers~~] officer, shall have the same rights, duties, and authority of a child [~~protective services investigator employed by the division~~] welfare caseworker to:

(a) make a thorough investigation under Section 80-2-701 upon receiving [~~either an oral or written~~] a report of alleged abuse or neglect of a child, with the primary purpose of [~~that~~] the investigation being the protection of the child;

(b) make an inquiry into the child's home environment, emotional, or mental health, the nature and extent of the child's injuries, and the child's physical safety;

(c) make a written report of [~~their~~] the investigator's investigation, including determination regarding whether the alleged abuse or neglect [~~was~~] is supported, unsupported, or without merit, and forward a copy of [~~that~~] the report to the division within the time mandates for investigations established by the division; and

(d) immediately consult with school authorities to verify the child's status in accordance with

Sections 53G-6-201 through 53G-6-206 [~~when~~] if a report is based [~~upon~~] on or includes an allegation of educational neglect.

Section 59. Section 80-2-704, which is renumbered from Section 62A-4a-414 is renumbered and amended to read:

[~~62A-4a-414~~]. 80-2-704. Division interview of a child -- Support person for the child -- Notice -- Recording.

(1) The division may conduct an investigative interview of a child who:

(a) except as provided in Subsection (5), is the subject of the report or identified during an investigation under Subsection 80-2-701; or

(b) is in protective custody before the day on which the adjudication hearing is held under Section 80-3-401.

(2) (a) If the division interviews a child under Subsection (1), the division shall:

(i) except as provided in Subsection (3), conduct the interview with a support person of the child's choice present; and

(ii) except as provided in Subsection (6), audiotape or videotape the interview.

(b) The interviewer described in Subsection (1) shall say at the beginning of the audiotape or videotape:

(i) the time, date, and place of the interview; and

(ii) the full name and age of the child being interviewed.

(3) (a) Except as provided in Subsection (3)(b), the support person described in Subsection (2) may be:

(i) a school teacher;

(ii) a school administrator;

(iii) a guidance counselor;

(iv) a child care provider;

(v) a family member;

(vi) a family advocate;

(vii) a member of the clergy; or

(viii) another individual chosen by the child.

(b) The support person described in Subsection (2) may not be an individual who is alleged to be, or potentially may be, the perpetrator.

(c) (i) Subsection (2)(a)(i) does not apply if the child refuses to have a support person present during the interview.

(ii) If the child refuses to have a support person present during the interview, the interviewer shall document, in writing, the refusal and the reasons for the refusal.

(iii) The division shall track the number of interviews under this section during which a child refuses to have a support person present for each interviewer, to determine whether a particular interviewer has a higher incidence of refusals than other interviewers.

(4) (a) Except as provided in Subsection (4)(b), the division shall notify the child's parent before the time at which the interview under Subsection (1)(a) is held of:

(i) the specific allegations concerning the child; and

(ii) the time and place of the interview.

(b) (i) The division is not required to provide notice under Subsection (4)(a) if the child's parent or stepparent or the parent's paramour is identified as the alleged perpetrator.

(ii) If the alleged perpetrator is unknown, or the alleged perpetrator's relationship to the child's family is unknown, the division may conduct a minimal interview or conversation with the child that does not exceed 15 minutes before providing notice under Subsection (4)(a).

(iii) The division shall notify the parent of a child who is interviewed under Subsection (4)(b)(i) or (ii) as soon as practicable after the interview is conducted and no later than 24 hours after the interview is conducted.

(c) The division shall notify the child's parent of the time and place of all subsequent interviews of the child.

[~~(1)~~] (5) (a) (i) Except as provided in [~~Subsection (4), interviews of children~~] Subsections (5)(a)(ii) and (6), the division may interview a child under Subsection (1)(a) during an investigation [~~in accordance with Section 62A-4a-409, and involving~~] under Section 80-2-701 that involves allegations of sexual abuse, sexual exploitation, severe abuse, or severe neglect of [~~a child, shall be conducted only under the following conditions~~] the child only if:

[~~(i)~~] (A) the interview [~~shall be~~] is recorded visually and aurally on film, videotape, or by other electronic means;

[~~(ii)~~] (B) both the interviewer and the child [~~shall be~~] are simultaneously recorded and visible on the final product;

[~~(iii)~~] (C) the time and date of the interview [~~shall be~~] is continuously and clearly visible to any subsequent viewer of the recording; and

[~~(iv)~~] (D) the recording equipment [~~shall run~~] runs continuously for the duration of the interview.

[~~(b)~~] (ii) [~~This Subsection (1)~~] Subsection (5)(a)(i) does not apply to initial or minimal interviews conducted in accordance with Subsection [~~62A-4a-409(8)(b) or (c)~~] (4)(b)(ii).

[~~(2) Interviews conducted in accordance with Subsection (1) shall be carried out~~]

(b) The division shall conduct an interview under Subsection (5)(a) in an existing Children's Justice Center or in a soft interview room, [~~when~~] if available.

[~~(a)~~] (c) If [~~the~~] a Children's Justice Center or a soft interview room is not available, the [~~interviewer~~] division shall use the best setting available under the circumstances.

[~~(b)~~] (d) Except as provided in Subsection [~~(4)~~] (6), if the equipment required under Subsection [~~(1)~~] (5)(a) is not available, the [~~interview shall be audiotaped, provided that the interviewer shall clearly state~~] division shall audiotape the interview and the child welfare caseworker shall clearly say at the beginning of the tape:

(i) the time, date, and place of the interview;

(ii) the full name and age of the child being interviewed; and

(iii) that the equipment required under Subsection [~~(1)~~] (5)(a) is not available and why.

(6) (a) Subject to Subsection (6)(b), the division may conduct an interview under Subsection (1) or (5) without taping the interview if the child:

(i) is at least nine years old;

(ii) refuses to have the interview audiotaped; and

(iii) refuses to have the interview videotaped.

(b) If, under Subsection (6)(a), an interview is conducted without being taped, the division shall document the child's refusal to have the interview taped as follows:

[~~(3) Except as provided in Subsection (4), all other investigative interviews shall be audiotaped using electronic means. At the beginning of the tape, the worker shall state clearly the time, date, and place of the meeting, and the full name and age of the child in attendance.~~]

[~~(4) (a) Subject to Subsection (4)(b), an interview described in this section may be conducted without being taped if the child:~~]

[~~(i) is at least nine years old;~~]

[~~(ii) refuses to have the interview audio taped; and~~]

[~~(iii) refuses to have the interview video taped.~~]

[~~(b) If, pursuant to Subsection (4)(a), an interview is conducted without being taped, the child's refusal shall be documented as follows:~~]

(i) the interviewer shall attempt to get the child's refusal on tape, including the reasons for the refusal; or

(ii) if the child does not allow the refusal, or the reasons for the refusal, to be taped, the interviewer shall:

(A) state on the tape that the child is present, but has refused to have the interview, refusal, or the reasons for the refusal taped; or

(B) if complying with Subsection [~~(4)(b)(ii)(A)~~] (6)(b)(ii)(A) will result in the child, who would otherwise consent to be interviewed, to refuse to be interviewed, the interviewer shall document, in writing, that the child refused to allow the interview to be taped and the reasons for that refusal.

(c) The division shall track the number of interviews under this section that are not taped, and the number of refusals that are not taped, for each interviewer, in order to determine whether a particular interviewer has a higher incidence of refusals, or taped refusals, than other interviewers.

Section 60. Section 80-2-705, which is renumbered from Section 62A-4a-415 is renumbered and amended to read:

[~~62A-4a-415~~]. 80-2-705. Law enforcement interview of a child in division's custody.

(1) Except as provided in Subsection (2), the division may not consent to the interview of a child in [~~the division's custody~~] protective custody or the division's temporary custody or custody by a law enforcement officer, unless consent for the interview is obtained from the child's guardian ad litem.

(2) Subsection (1) does not apply if a guardian ad litem is not appointed for the child.

Section 61. Section 80-2-706, which is renumbered from Section 62A-4a-202.8 is renumbered and amended to read:

[~~62A-4a-202.8~~]. 80-2-706. Child protection team convened during division investigation -- Coordination of team -- Timing of team meetings.

[~~(1) A child protection team may assemble for a particular case when:~~]

(1) (a) The division shall convene a child protection team for a particular case:

(i) in accordance with Section 80-2-701;

(ii) if the child is taken into protective custody, for the purpose of reviewing the circumstances regarding removal of the child from the child's home or school; or

(iii) if the division files an abuse, neglect, or dependency petition, as defined in Section 80-3-102, for the purposes of:

(A) reviewing the circumstances of the filing of the abuse, neglect, or dependency petition; and

(B) developing or reviewing implementation of a safety plan to protect the child from further abuse, neglect, or dependency.

(b) The division may convene a child protection team for a particular case if:

[~~(a)~~] (i) the case demonstrates:

[~~(i)~~] (A) the likelihood of severe child abuse or neglect; or

[~~(ii)~~] (B) a high risk of repetition as evidenced by previous involvements with law enforcement or the division; and

[~~(b)~~] (ii) the child protection team is assembled for the purpose of information sharing and identification of resources, services, or actions that support the child and the child's family.

[~~(2) Subject to Subsection (3), if the division files a petition under Section 80-3-201, the division shall convene a child protection team meeting to:~~]

[~~(a) review the circumstances of the filing of the petition; and~~]

[~~(b) develop or review implementation of a safety plan to protect the child from further abuse, neglect, or dependency.~~]

(2) (a) A representative of the division shall serve as coordinator and chair of a child protection team convened under Subsection (1).

(b) A member of the child protection team shall serve at the coordinator's invitation.

(c) If possible, the child protection team coordinator and chair shall include on the child protection team a representative of:

(i) health, mental health, education, and law enforcement agencies;

(ii) the child;

(iii) a parent and family support group unless the parent is alleged to be the perpetrator; and

(iv) other appropriate agencies and individuals.

(3) The division shall hold the child protection team meeting [~~required~~] under Subsection [~~(2) shall be held~~] (1)(a)(ii) or (iii) within the shorter of:

[~~(a) 14 days of the day on which the petition is filed under Section 80-3-201 if the conditions of Subsection (3)(b) or (c) are not met;~~]

[~~(b) 24 hours of the filing of the petition under Section 80-3-201, excluding weekends and holidays, if the child who is the subject of the petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the court; or~~]

[~~(c)~~] (a) 24 hours after receipt of [~~a~~] the child into protective custody, excluding weekends and holidays, if the child is taken into protective custody [~~as provided in Section 62A-4a-202.3.~~];

(b) 24 hours after the abuse, neglect, or dependency petition, as defined in Section 80-3-102, is filed, excluding weekends and holidays, if the child who is the subject of the abuse, neglect, or dependency petition will likely be taken into protective custody unless there is an expedited hearing and services ordered under the protective supervision of the juvenile court; or

(c) 14 days after the day on which the abuse, neglect, or dependency petition, as defined in Section 80-3-102, is filed.

(4) At [~~its~~] a child protection team meeting, the division shall have available and the child protection team shall review the complete child protective services and foster care history of the child and the child's parents and siblings.

Section 62. Section 80-2-707, which is renumbered from Section 62A-4a-1009 is renumbered and amended to read:

[~~62A-4a-1009~~]. 80-2-707. Supported finding of child abuse or neglect after division investigation -- Notice to alleged perpetrator -- Rights of alleged perpetrator -- Administrative review -- Joinder in juvenile court.

(1) (a) Except as provided in Subsection (2), if, after investigation, the division makes a supported finding, the division shall send a notice of agency action to [~~a person with respect to whom the division makes a supported finding. In addition, if~~] the alleged perpetrator.

(b) If the alleged perpetrator described in Subsection (1)(a) is under [~~the age of~~] 18 years old, the division shall:

(i) make reasonable efforts to identify the alleged perpetrator's parent or guardian; and

(ii) send a notice to each parent or guardian identified under Subsection [~~(1)(a)(i)~~] (1)(b)(i) that lives at a different address, unless there is good cause, as defined by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for not sending a notice to [~~a~~] the parent or guardian.

[~~(b) Nothing in this section may be construed as affecting:~~]

(c) This section does not affect:

(i) the manner in which the division conducts an investigation; or

(ii) the use or effect, in any other setting, of a supported finding by the division at the completion of an investigation for any purpose other than for notification under Subsection (1) (a) or (b).

(2) Subsection (1) does not apply to [~~a person who has been~~] an alleged perpetrator who is served with notice under [~~Subsection 62A-4a-1005(1)(a)~~] Section 80-2-708.

(3) The notice described in Subsection (1) shall state that:

(a) [~~that~~] the division [~~has~~] conducted an investigation regarding alleged abuse, neglect, or dependency;

(b) [~~that~~] the division [~~has~~] made a supported finding of abuse, neglect, or dependency;

(c) [~~that~~] facts gathered by the division support the supported finding;

(d) [~~that the person~~] the alleged perpetrator has the right to request:

(i) a copy of the report; and

(ii) an opportunity to challenge the supported finding by the division; and

(e) [~~that~~] failure to request an opportunity to challenge the supported finding within 30 days [~~of receiving the~~] after the day on which the notice is received will result in an unappealable supported finding of abuse, neglect, or dependency unless the [~~person~~] alleged perpetrator can show good cause for why compliance within the 30-day requirement [~~was~~] is virtually impossible or unreasonably burdensome.

(4) (a) [~~A person~~] Except as provided in Subsection (7), an alleged perpetrator may make a request to challenge a supported finding within 30 days [~~of a notice being received~~] after the day on which the alleged perpetrator receives a notice under this section.

(b) Upon receipt of a request under Subsection (4)(a), the Office of Administrative Hearings shall hold an adjudicative proceeding [~~pursuant to~~] under Title 63G, Chapter 4, Administrative Procedures Act.

(5) (a) In an adjudicative proceeding held [~~pursuant to~~] under this section, the division [~~shall have~~] has the burden of proving, by a preponderance of the evidence, that abuse, neglect, or dependency occurred and that the alleged perpetrator [~~was~~] is substantially responsible for the abuse or neglect that occurred.

(b) Any party [~~shall have~~] has the right of judicial review of final agency action, in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(c) [~~Proceedings~~] A proceeding for judicial review of a final agency action under this section shall be closed to the public.

(d) The Judicial Council shall make rules that ensure the confidentiality of the [~~proceedings~~] proceeding described in Subsection (5)(c) and the records related to the proceedings.

(6) Except as otherwise provided in this chapter, an alleged perpetrator who, after receiving notice, fails to challenge a supported finding in accordance with this section:

(a) may not further challenge the finding; and

(b) shall have no right to:

(i) agency review of the finding;

(ii) an adjudicative hearing on the finding; or

(iii) judicial review of the finding.

(7) (a) Except as provided in Subsection (7)(b), an alleged perpetrator may not make a request under Subsection (4) to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency [~~which was also~~] that is the subject of the supported finding.

(b) Subsection (7)(a) does not apply to pleas in abeyance or diversion agreements.

(c) An adjudicative proceeding under Subsection (5) may be stayed during the time a judicial action on the same matter is pending.

(8) [~~Pursuant to~~] Under Section 80-3-404, an adjudicative proceeding on a supported finding of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an [~~adjudicative proceeding~~] adjudication on a supported finding of a severe type of child abuse or neglect.

Section 63. Section 80-2-708, which is renumbered from Section 62A-4a-1005 is renumbered and amended to read:

[~~62A-4a-1005~~]. 80-2-708. Supported finding of a severe type of child abuse or neglect after division investigation -- Notation in Licensing Information System -- Juvenile court petition or notice to alleged perpetrator -- Rights of alleged perpetrator.

(1) If, after investigation, the division makes a supported finding that [~~a person~~] an individual committed a severe type of child abuse or neglect, the division shall:

(a) serve notice of the supported finding on the alleged perpetrator;

[~~(b) enter the following information into the Licensing Information System created in Section 62A-4a-1006:~~]

[~~(i) the name and other identifying information of the perpetrator with the supported finding, without identifying the person as a perpetrator or alleged perpetrator; and~~]

[~~(ii) a notation to the effect that an investigation regarding the person is pending; and~~]

(b) enter the information described in Subsections 80-2-1002(2)(a) and (b) into the Licensing Information System; and

(c) if the division considers it advisable, file a petition for substantiation within one year [~~of the~~] after the day on which the division makes the supported finding.

(2) The notice [~~referred to~~] described in Subsection (1)(a):

(a) shall state that:

(i) the division [~~has~~] conducted an investigation regarding alleged abuse or neglect;

(ii) the division [~~has~~] made a supported finding that the alleged perpetrator described in Subsection (1) committed a severe type of child abuse or neglect;

(iii) facts gathered by the division support the supported finding;

(iv) as a result of the supported finding, the alleged perpetrator's name and other identifying information have been listed in the Licensing Information System in accordance with Subsection (1)(b);

(v) the alleged perpetrator may be disqualified from adopting a child, receiving state funds as a child care provider, or being licensed by:

(A) the department;

(B) a human services licensee;

(C) a child care provider or program; or

(D) a covered health care facility;

(vi) the alleged perpetrator has the rights described in Subsection (3); and

(vii) failure to take [~~either~~] the action described in Subsection (3)(a) within one year after [~~service of~~] the day on which the notice is served will result in the action described in Subsection (3)(b);

(b) shall include a general statement of the nature of the [~~findings~~] supported finding; and

(c) may not include:

(i) the name of a victim or witness; or

(ii) any privacy information related to the victim or a witness.

(3) (a) Upon receipt of the notice described in Subsection (2), the alleged perpetrator has the right to:

(i) file a written request asking the division to review the [~~findings~~] supported finding made under Subsection (1);

(ii) except as provided in Subsection [~~(3)(c)~~] (3)(b), immediately petition the juvenile court under Section 80-3-404; or

(iii) sign a written consent to:

(A) the supported finding made under Subsection (1); and

(B) entry into the Licensing Information System of[~~: (I)~~] the alleged perpetrator's name[~~;~~] and [~~(II)~~] other information regarding the supported finding made under Subsection (1).

[~~(b) Except as provided in Subsection (3)(e), the alleged perpetrator's name and the information described in Subsection (1)(b) shall remain in the Licensing Information System:~~]

[~~(i) if the alleged perpetrator fails to take the action described in Subsection (3)(a) within one year after service of the notice described in Subsections (1)(a) and (2);~~]

[~~(ii) during the time that the division awaits a response from the alleged perpetrator pursuant to Subsection (3)(a); and~~]

[~~(iii) until a court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.~~]

[~~(c)~~] (b) The alleged perpetrator has no right to petition the juvenile court under Subsection (3)(a)(ii) if the juvenile court previously held a hearing on the same alleged incident of abuse or neglect [~~pursuant to~~] after the filing of [~~a petition under Section 80-3-201 by some other~~] an abuse, neglect, or dependency petition, as defined in Section 80-3-102, by another party.

[~~(d)~~] (c) [~~Consent~~] The child's parent or guardian shall give the consent for a child under Subsection (3)(a)(iii) [~~by a child shall be given by the child's parent or guardian~~].

[~~(e) Regardless of whether an appeal on the matter is pending:~~]

[~~(i) the division shall remove an alleged perpetrator's name and the information described in Subsection (1)(b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry was based:~~]

[~~(A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404; or~~]

[~~(B) is found to be substantiated, but is subsequently reversed on appeal; and~~]

[~~(ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (3)(e)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.~~]

[~~(4) Upon the filing of a petition under Subsection (1)(c), the juvenile court shall make a finding of substantiated, unsubstantiated, or without merit as provided in Subsections 80-3-404(1) and (2).~~]

[~~(5)~~] (4) Service of the notice described in Subsections (1)(a) and (2):

(a) shall be personal service in accordance with Utah Rules of Civil Procedure, Rule 4; and

(b) does not preclude civil or criminal action against the alleged perpetrator.

Section 64. Section 80-2-709, which is renumbered from Section 62A-4a-202.4 is renumbered and amended to read:

[~~62A-4a-202.4~~]. 80-2-709. Division access to criminal background information for background screening and investigation.

(1) [~~For purposes of background screening and investigation of abuse or neglect under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, the~~] The division shall have direct access to criminal background information maintained [~~pursuant to~~] under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification[~~.~~], for the purpose of:

(a) background screening under this chapter, Chapter 2a, Removal and Protective Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings, including background screening of an individual who has direct access, as defined in Section 62A-2-101, to a minor:

(i) who is alleged to be or has been abused, neglected, or dependent; and

(ii) for whom the division has an open case; or

(b) investigation of abuse or neglect under this chapter, Chapter 2a, Removal and Protective

Custody of a Child, or Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(2) [~~The~~] Except as provided in Section 80-3-305, the division and the Office of Guardian Ad Litem are authorized to request the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

Section 65. Section 80-2-801, which is renumbered from Section 62A-4a-902 is renumbered and amended to read:

Part 8. Division Child Placing and Adoption Services

[~~62A-4a-902~~]. 80-2-801. Definitions.

As used in this part:

(1) "Adoptable child" means a child:

(a) who is in the custody of the division; and

(b) (i) who has permanency goals of adoption; or

(ii) for whom a final plan for pursuing termination of parental rights is approved in accordance with Section 80-3-409.

[~~(1)~~] (2) (a) "Adoption assistance" means, except as provided in Section 80-2-809, direct financial subsidies and support to adoptive parents of a child with special needs or whose need or condition has created a barrier that would prevent a successful adoption.

(b) "Adoption assistance" [~~may include~~] includes state medical assistance, reimbursement of nonrecurring adoption expenses, or monthly subsidies.

(3) "Adoption services" means, except as used in Section 80-2-806:

(a) placing children for adoption;

(b) subsidizing adoptions under Section 80-2-301;

(c) supervising adoption placements until the adoption is finalized by a court;

(d) conducting adoption studies;

(e) preparing adoption reports upon request of the court; and

(f) providing postadoptive placement services, upon request of a family, for the purpose of stabilizing a possible disruptive placement.

[~~(2)~~] (4) "Child who has a special need" means a child who:

(a) cannot or should not be returned to the home of [~~his~~] the child's biological parents; and [~~who meets at least one of the following conditions:~~]

[~~(a)~~] (b) (i) [~~the child~~] is five years [~~of age~~] old or older;

[~~(b)~~] (ii) [~~the child~~] is under [~~the age of~~] 18 years old with a physical, emotional, or mental disability; or

[~~(c)~~] (iii) [~~the child~~] is a member of a sibling group placed together for adoption.

[~~(3)~~] (5) "Monthly subsidy" means financial support to assist with the costs of adopting and caring for a child who has a special need.

[~~(4)~~] (6) "Nonrecurring adoption expenses" means reasonably necessary adoption fees, court costs, attorney's fees, and other expenses which are directly related to the legal adoption of a child who has a special need.

[~~(5)~~] (7) "State medical assistance" means the Medicaid program and medical assistance as those terms are defined in Section 26-18-2.

[~~(6)~~] (8) "Supplemental adoption assistance" means financial support for extraordinary, infrequent, or uncommon documented needs not otherwise covered by a monthly subsidy, state medical assistance, or other public benefits for which a child who has a special need is eligible.

(9) "Vendor services" means services that a person provides under contract with the division.

Section 66. Section 80-2-802 is enacted to read:

80-2-802. Division child placing and adoption services -- Restrictions on placement of a child.

(1) Except as provided in Subsection (3), the division may provide adoption services and, as a licensed child-placing agency under Title 62A, Chapter 2, Licensure of Programs and Facilities, engage in child placing in accordance with this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights.

(2) The division shall base the division's decision for placement of an adoptable child for adoption on the best interest of the adoptable child.

(3) The division may not:

(a) in accordance with Subsection 62A-2-108.6(6), place a child for adoption, either temporarily or permanently, with an individual who does not qualify for adoptive placement under Sections 78B-6-102, 78B-6-117, and 78B-6-137;

(b) consider a potential adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with a potential adoptive parent; or

(c) except as required under the Indian Child Welfare Act, 25 U.S.C. Secs. 1901 through 1963, base the division's decision for placement of an adoptable child on the race, color, ethnicity, or national origin of either the child or the potential adoptive parent.

(4) The division shall establish a rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing that, subject to Subsection (3) and Section 78B-6-117, priority of placement shall be provided to a family in

which a couple is legally married under the laws of the state.

(5) Subsections (3) and (4) do not limit the placement of a child with the child's biological or adoptive parent, a relative, or in accordance with the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

Section 67. Section 80-2-803 is enacted to read:

80-2-803. Division promotion of adoption -- Adoption research and informational pamphlet.

The division shall:

(1) in accordance with Section 62A-2-126, actively promote the adoption of all children in the division's custody who have a final plan for termination of parental rights under Section 80-3-409 or a primary permanency plan of adoption;

(2) develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children;

(3) obtain information or conduct research regarding prior adoptive families to determine what families may do to be successful with an adoptive child;

(4) make the information or research described in Subsection (3) available to potential adoptive parents;

(5) prepare a pamphlet that explains the information that a child-placing agency is required to provide a potential adoptive parent under Subsection 62A-2-126(2)(b);

(6) regularly distribute copies of the pamphlet described in Subsection (5) to child-placing agencies; and

(7) respond to an inquiry made as a result of the notice provided by a child-placing agency under Subsection 62A-2-126(2)(b).

Section 68. Section 80-2-804, which is renumbered from Section 62A-4a-205.6 is renumbered and amended to read:

[~~62A-4a-205.6~~]. 80-2-804. Adoptive placement time frame -- Division contracts with child-placing agencies.

(1) [~~With regard to~~] Subject to this part, for a child who has a primary permanency plan of adoption or for whom a final plan for pursuing termination of parental rights [~~has been~~] is approved in accordance with Section 80-3-409, the division shall make intensive efforts to place the child in an adoptive home within 30 days [~~of~~] after the earlier of the day on which:

(a) [~~approval of~~] the final plan is approved; or

(b) [~~establishment of~~] the primary permanency plan is established.

(2) If within the time periods described in Subsection (1) the division is unable to locate a suitable adoptive home, [~~it shall~~] the division shall, in accordance with Section 62A-2-126, contract with [~~licensed~~] a variety of child-placing agencies licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities, to search for an appropriate adoptive home for the child, and to place the child for adoption. [~~The division shall comply with the requirements of Section 62A-4a-607 and contract with a variety of child placing agencies licensed under Part 6, Child Placing. In accordance with federal law, the division shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.~~]

[~~(3) The division shall ensure that children who are adopted and were previously in its custody, continue to receive the medical and mental health coverage that they are entitled to under state and federal law.~~]

[~~(4) The division may not consider a prospective adoptive parent's willingness or unwillingness to enter a postadoption contact agreement under Section 78B-6-146 as a condition of placing a child with the prospective adoptive parent.~~]

Section 69. Section 80-2-805, which is renumbered from Section 62A-4a-106 is renumbered and amended to read:

[~~62A-4a-106~~]. 80-2-805. Division post-adoption services and contracts -- Access to health care for an adopted child.

[~~(1) The division may provide, directly or through contract, services that include the following:~~]

[~~(a) adoptions;~~]

[~~(b) day care for children;~~]

[~~(c) out-of-home placements for minors;~~]

[~~(d) health-related services;~~]

[~~(e) homemaking services;~~]

[~~(f) home management services;~~]

[~~(g) protective services for minors;~~]

[~~(h) transportation services; and~~]

[~~(i) domestic violence services.~~]

[~~(2) The division shall monitor services provided directly by the division or through contract to ensure compliance with applicable law and rule.~~]

[~~(3) When the division provides a service through a private contract, not including a foster parent placement, the division shall post the name of the service provider on the division's website.~~]

[~~(4)~~] (1) Unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, the division may not, solely on the basis that the parent or guardian contacts the division regarding services or requests services from the division:

(a) remove or facilitate the removal of a child from the child's home;

(b) file a petition for removal of a child from the child's home;

(c) file a petition for a child protective order;

(d) make a supported finding;

(e) seek a substantiated finding;

(f) file an abuse, neglect, or dependency petition, as defined in Section 80-3-102, or a petition alleging that a child is [~~abused, neglected, dependent, or~~] abandoned; or

(g) file a petition for termination of parental rights, as defined in Section 80-4-102.

[~~(5)~~] (2) (a) The division shall, to the extent that sufficient funds are available, use out-of-home services funds or division-designated post-adopt funds to provide services to a child who is adopted from the custody of the division, without requiring that [~~a~~] the child's parent terminate parental rights, or that [~~a~~] the child's parent or legal guardian [~~of the child~~] transfer or surrender custodial rights, in order to receive the services.

(b) The division may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive services, using out-of-home services funds, for a child who is adopted from the custody of the division.

[~~(6) (a) As used in this Subsection (6), "vendor services" means services that a person provides under contract with the division.~~]

[~~(b)~~] (3) (a) If a parent or guardian of a child who is adopted from the custody of the division requests vendor services from the division, the division shall refer the parent or guardian to a provider of vendor services, at the parent's or guardian's expense, if:

(i) (A) the parent, guardian, or child is not eligible to receive the vendor services from the division; or

(B) the division does not have sufficient funds to provide the services to the parent, guardian, or child;

(ii) the parent, guardian, or child does not have insurance or other funds available to receive the services without the referral; and

(iii) the parent or guardian desires the referral.

[~~(c)~~] (b) If the division awards, extends, or renews a contract with a vendor for vendor services, the division shall include in the contract a requirement that [~~a vendor to whom~~], if the division makes a referral under Subsection [~~(6)(b)~~] (3)(a), the vendor shall:

(i) provide services to the parent, guardian, or child at a rate that does not exceed the rate that the vendor charges the division for the services; and

(ii) may not charge the parent, guardian, or child any fee that the vendor does not charge the division.

(4) The division shall ensure that a child who is adopted and was previously in the division's custody, continues to receive the medical and mental health coverage that the child is entitled to under state and federal law.

Section 70. Section 80-2-806, which is renumbered from Section 62A-4a-903 is renumbered and amended to read:

[~~62A-4a-903~~]. 80-2-806. Division adoption assistance -- Eligibility -- Limitations.

(1) The purpose of this section is to provide adoption assistance to eligible adoptive families to establish and maintain a permanent adoptive placement for a child who has a special need and who qualifies under state and federal law.

(2) (a) The division may provide adoption assistance to an adoptive family who is eligible under this section.

[~~(1)~~] (b) The [~~Division of Child and Family Services~~] division shall establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, eligibility criteria for the receipt of adoption assistance and supplemental adoption assistance.

[~~(2) Eligibility determination shall be based upon:~~]

(c) The division shall base a determination of eligibility for the receipt of adoption assistance or supplemental adoption assistance on:

[~~(a)~~] (i) the needs of the child;

[~~(b)~~] (ii) the resources available to the child; and

[~~(c)~~] (iii) the federal requirements of Section 473, Social Security Act.

[~~(3)~~] (d) The division:

[~~(a)~~] (i) may, to the extent funds are available, use state funds appropriated for adoption assistance to provide post-adoption services to a child who is adopted from the custody of the division; and

[~~(b)~~] (ii) unless a parent or guardian of a child who is adopted from the custody of the division expressly requests otherwise, may not require, request, or recommend that a parent terminate parental rights, or that a parent or guardian transfer or surrender custodial rights, in order to receive post-adoption services for the child, regardless of whether funds for the post-adoption services come from funds appropriated for adoption assistance or post-adoption services.

(3) (a) Except as provided in Subsection (3)(c) and under the federal requirements of Social Security Act, 42 U.S.C. Sec. 670 et seq., the division:

(i) shall provide for:

(A) payment of nonrecurring adoption expenses for an eligible child who has a special need; and

(B) state medical assistance when required by federal law; and

(ii) may provide for monthly subsidies for an eligible child who has a special need.

(b) (i) The division shall base the level of monthly subsidy under Subsection (3)(a) on:

(A) the child's present and long-term treatment and care needs; and

(B) the family's ability to meet the needs of the child.

(ii) The level of monthly subsidy under Subsection (3)(b)(i) may increase or decrease when the child's level of need or the family's ability to meet the child's need changes.

(iii) The family or the division may initiate changes to the monthly subsidy.

(c) (i) Payment of nonrecurring adoption expenses under Subsection (3)(a) may not exceed $2,000 and shall be limited to costs incurred before the day on which the adoption is finalized.

(ii) Financial support provided under Subsection (3)(a) may not exceed the maximum foster care payment that would be paid at the time the subsidy amount is initiated or revised or if the eligible child had been in a foster family home.

Section 71. Section 80-2-807, which is renumbered from Section 62A-4a-905 is renumbered and amended to read:

[~~62A-4a-905~~]. 80-2-807. Division supplemental adoption assistance -- Department advisory committee.

(1) (a) The division may, based [~~upon~~] on annual legislative appropriations for adoption assistance and, subject to Subsection (2)(c), division rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide supplemental adoption assistance for a child who has a special need. [~~Supplemental adoption assistance shall be provided~~]

(b) The division shall provide supplemental adoption assistance under Subsection (1)(a) only after all other resources for which [~~a~~] the child is eligible [~~have been~~] are exhausted.

(2) (a) The department shall, by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish [~~in each region~~] at least one advisory committee to review and make recommendations to the division on individual requests for supplemental adoption assistance.

(b) The advisory committee shall be comprised of:

(i) an adoption expert;

(ii) an adoptive parent;

(iii) a division representative;

(iv) a foster parent; and

(v) an adoption caseworker.

[~~(b)~~] (c) The division [~~rule required in~~] rules described in Subsection (1) shall include a provision that establishes a threshold amount for requests for supplemental adoption assistance that require review by the advisory committee [~~established in this Subsection (2)~~].

Section 72. Section 80-2-808, which is renumbered from Section 62A-4a-906 is renumbered and amended to read:

[~~62A-4a-906~~]. 80-2-808. Division termination or modification of adoption assistance.

(1) [~~Adoption assistance may not be terminated or modified~~] The division may not terminate or modify adoption assistance unless the division [~~has given~~] gives the adoptive parents notice and opportunity for a hearing as required in Title 63G, Chapter 4, Administrative Procedures Act.

(2) [~~Adoption assistance shall be terminated~~] The division shall terminate adoption assistance if any of the following occur:

(a) the adoptive parents request termination;

(b) subject to Subsection (3), the child reaches 18 years [~~of age, unless approval has been given by the division~~] old, unless the division gives approval to continue beyond [~~the age of~~] 18 years old due to mental or physical disability[~~, but in no case shall assistance continue after a child reaches 21 years of age~~];

(c) the child dies;

(d) the adoptive parents die;

(e) the adoptive [~~parent's~~] parents' legal responsibility for the child ceases;

(f) the state determines that the child is no longer receiving support from the adoptive parents;

(g) the child marries; or

(h) the child enters military service.

(3) Adoption assistance may not continue after the day on which the child reaches 21 years old.

Section 73. Section 80-2-809, which is renumbered from Section 62A-4a-907 is renumbered and amended to read:

[~~62A-4a-907~~]. 80-2-809. Interstate compact adoption assistance agreements.

(1) [~~As~~] Notwithstanding Section 80-2-801, as used in this section:

(a) "Adoption assistance" means financial support to [~~adoptive parents~~] an adoptive parent provided under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act.

(b) "Adoption assistance agreement" means a written agreement between the division and adoptive parents, or between any other state and adoptive parents, providing for adoption assistance.

(2) The division may develop and negotiate [~~interstate compacts~~] an interstate compact for the

provision of medical identification and assistance to [~~adoptive parents who receive~~] an adoptive parent who receives adoption assistance.

(3) An interstate compact under Subsection (2) shall include:

(a) a provision:

(i) for joinder by all states;

[~~(b)~~] (ii) [~~a provision~~] for withdrawal from the compact upon written notice to the parties, with a period of one year between the date of the notice and the effective date of withdrawal;

(iii) that a child who is the subject of an adoption assistance agreement with another party state, and who subsequently becomes a resident of this state, shall receive medical identification and assistance in this state under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on the child's adoption assistance agreement; and

(iv) that a child who is the subject of an adoption assistance agreement with the division, and who subsequently becomes a resident of another party state, shall receive medical identification and assistance from that state under the Adoption and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement; and

[~~(c)~~] (b) a requirement that:

(i) each instance of adoption assistance to which the compact applies be covered by [~~a written~~] an adoption assistance agreement between the adoptive parents and the agency of the state [~~which~~] that initially agrees to provide adoption assistance[~~, and that~~];

(ii) any agreement is expressly for the benefit of the adopted child and is enforceable by the adoptive [~~parents~~] parent, and by the state agency providing adoption assistance; and

(iii) the protections of the interstate compact continue for the duration of the adoption assistance and apply to all children and the children's adoptive parents who receive adoption assistance from a party state other than the state in which the children reside.

[~~(d) a provision that a child who is the subject of an adoption assistance agreement with another party state, and who subsequently becomes a resident of this state, shall receive medical identification and assistance in this state under the Adoption Assistance and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement;~~]

[~~(e) a provision that a child who is the subject of an adoption assistance agreement with the division, and who subsequently becomes a resident of another party state, shall receive medical identification and assistance from that state under the Adoption and Child Welfare Act of 1980, Title IV (e) of the Social Security Act, and Title XIX of the Social Security Act, based on his adoption assistance agreement; and~~]

[~~(f) a requirement that the protections of the compact continue for the duration of the adoption assistance and apply to all children and their adoptive parents who receive adoption assistance from a party state other than the state in which they reside.~~]

[~~(3)~~] (4) (a) The division:

(i) shall provide services to a child who is the subject of an adoption assistance agreement executed by the division, and who is a resident of another state, if [~~those~~] the services are not provided by the child's residence state under an interstate compact[~~.~~]; and

[~~(b)~~] (ii) [~~The division may reimburse the adoptive parents~~] may reimburse the adoptive parent upon receipt of evidence of [~~their~~] the adoptive parent's payment for services for which the child is eligible, which were not paid by the residence state, and are not covered by insurance or other third party medical contract.

(b) The services provided under this subsection are [~~those~~] the services for which there is no federal contribution, or which, if federally aided, are not provided by the residence state.

Section 74. Section 80-2-901 is enacted to read:

Part 9. Interstate Compact on Placement of Children

80-2-901. Definitions.

As used in this part:

(1) "State" means:

(a) a state of the United States;

(b) the District of Columbia;

(c) the Commonwealth of Puerto Rico;

(d) the Virgin Islands;

(e) Guam;

(f) the Commonwealth of the Northern Mariana Islands; or

(g) a territory or possession administered by the United States.

(2) "State plan" means the written description of the programs for children, youth, and family services administered by the division in accordance with federal law.

Section 75. Section 80-2-902, which is renumbered from Section 62A-4a-703 is renumbered and amended to read:

[~~62A-4a-703~~]. 80-2-902. Division authority under Article III of Interstate Compact.

(1) The "appropriate public authorities," as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the division.

(2) The division shall receive and act with reference to notices required by Article III of the compact.

Section 76. Section 80-2-903, which is renumbered from Section 62A-4a-704 is renumbered and amended to read:

[~~62A-4a-704~~]. 80-2-903. Director authority under Article V of Interstate Compact.

As used in Paragraph (1) of Article V of the Interstate Compact on the Placement of Children, "appropriate authority in the receiving state," with reference to this state, means the director of the division.

Section 77. Section 80-2-904, which is renumbered from Section 62A-4a-707 is renumbered and amended to read:

[~~62A-4a-707~~]. 80-2-904. Executive director authority under Article VII of Interstate Compact.

(1) As used in Article VII of the Interstate Compact on the Placement of Children, "executive" means the executive director of the department.

(2) The executive director of the department is authorized to appoint a compact administrator in accordance with the terms of Article VII of the compact.

Section 78. Section 80-2-905, which is renumbered from Section 62A-4a-701 is renumbered and amended to read:

[~~62A-4a-701~~]. 80-2-905. Interstate Compact on Placement of Children -- Text.

The Interstate Compact on the Placement of Children is hereby enacted and entered into with all other jurisdictions that legally join in the compact which is, in form, substantially as follows: INTERSTATE COMPACT ON PLACEMENT OF CHILDREN ARTICLE I Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children so that:

(1) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide necessary and desirable care.

(2) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(3) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(4) Appropriate jurisdictional arrangements for the care of the children will be promoted. ARTICLE II Definitions

As used in this compact:

(1) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship, or similar control.

(2) "Sending agency" means a party state, officer, or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, Indian tribe, charitable agency, or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(3) "Receiving state" means the state to which a child is sent, brought or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(4) "Placement" means the arrangement for the care of a child in a family free, adoptive, or boarding home, or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution, primarily educational in character, and any hospital or other medical facility. ARTICLE III Conditions for Placement

(1) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(2) Prior to sending, bringing, or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(a) The name, date, and place of birth of the child.

(b) The identity and address or addresses of the parents or legal guardian.

(c) The name and address of the person, agency, or institution to or with which the sending agency proposes to send, bring, or place the child.

(d) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(e) Any public officer or agency in a receiving agency state which is in receipt of a notice pursuant to Paragraph (2) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(f) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child. ARTICLE IV Penalty for Illegal Placement

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children. ARTICLE V Retention of Jurisdiction

(1) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment, and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting, or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(2) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(3) Nothing in this compact shall be construed to prevent any agency authorized to place children in the receiving agency from performing services or acting as agent in the receiving agency jurisdiction for a private charitable agency of the sending agency; nor to prevent the receiving agency from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in Paragraph (1) above. ARTICLE VI Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact, but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship. ARTICLE VII Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of the party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact. ARTICLE VIII Limitations

This compact shall not apply to:

(1) The sending or bringing of a child into a receiving state by his parent, step-parent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(2) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party or to any other agreement between said states which has the force of law. ARTICLE IX Enactment and Withdrawal

This compact shall be open to joinder by any state, territory, or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico, and with the consent of Congress, the government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties, and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal. ARTICLE X Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States, the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 79. Section 80-2-906, which is renumbered from Section 62A-4a-702 is renumbered and amended to read:

[~~62A-4a-702~~]. 80-2-906. Financial responsibility for child placed under Interstate Compact.

(1) Financial responsibility for a child placed [~~pursuant to~~] under the provisions of the Interstate Compact on the Placement of Children shall, in the first instance, be determined in accordance with the provisions of Article V of the compact. [~~However, in~~]

(2) In the event of partial or complete default of performance [~~thereunder~~] under the compact, the provisions of Title 78B, Chapter 12, Utah Child Support Act, may also be invoked.

Section 80. Section 80-2-907, which is renumbered from Section 62A-4a-705 is renumbered and amended to read:

[~~62A-4a-705~~]. 80-2-907. Fulfillment of requirements under Interstate Compact.

Requirements for visitation, inspection, or supervision of children, homes, institutions, or other agencies in another party state which may apply under [~~Part 2, Child Welfare Services~~] this chapter or Chapter 2a, Removal and Protective Custody of a Child, shall be deemed to be met if performed [~~pursuant to~~] under an agreement entered into by appropriate officers or agencies of this state, or a subdivision thereof, as contemplated by Paragraph (2) of Article V of the Interstate Compact on the Placement of Children.

Section 81. Section 80-2-908, which is renumbered from Section 62A-4a-706 is renumbered and amended to read:

[~~62A-4a-706~~]. 80-2-908. Jurisdiction over delinquent children under Interstate Compact.

Any court having jurisdiction to place delinquent children may place such a child in an institution in another state, [~~pursuant to~~] under Article VI of the Interstate Compact on the Placement of Children, and shall retain jurisdiction as provided in Article V of the compact.

Section 82. Section 80-2-909, which is renumbered from Section 62A-4a-708 is renumbered and amended to read:

[~~62A-4a-708~~]. 80-2-909. Existing authority for child placement continues.

Any person who, under any law of this state other than this part or the [~~interstate compact~~] Interstate Compact on the Placement of Children established under Section [~~62A-4a-701~~] 80-2-905, has authority to make or assist in making the placement of a child, shall continue to have the ability lawfully to make or assist in making that placement, and the provisions of [~~Part 6, Child Placing~~] Sections 62A-2-108.6, 62A-2-115.1, 62A-2-115.2, 62A-2-126, 62A-2-127, Subsections 80-2-802(3)(a) and (4) and 80-2-803(1), (2), and (5) through (7), and [~~of~~] Title 78B, Chapter 6, Part 1, Utah Adoption Act, continue to apply.

Section 83. Section 80-2-910, which is renumbered from Section 62A-4a-710 is renumbered and amended to read:

[~~62A-4a-710~~]. 80-2-910. Interjurisdictional home study report.

(1) The state of Utah may request a home study report from another state or an Indian Tribe for purposes of assessing the safety and suitability of placing a child in a home outside of the jurisdiction of the state of Utah.

(2) The state of Utah may not impose any restriction on the ability of a state agency administering, or supervising the administration of, a state program operated under a state plan approved under Section 42 U.S.C. 671 to contract with a private agency to conduct a home study report described in Subsection (1).

(3) [~~When~~] If the state of Utah receives a home study report described in Subsection (1), the home study report shall be considered to meet all requirements imposed by the state of Utah for completion of a home study before a child is placed in a home, unless, within 14 days after the day on which the report is received, the state of Utah determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child.

Section 84. Section 80-2-1001, which is renumbered from Section 62A-4a-1003 is renumbered and amended to read:

Part 10. Division and Child Welfare Records

[~~62A-4a-1003~~]. 80-2-1001. Management Information System -- Contents -- Classification of records -- Access.

(1) [~~(a)~~] The division shall develop and implement a Management Information System that meets the requirements of this section and the requirements of federal law and regulation.

[~~(b) The information and records contained in the Management Information System:~~]

[~~(i) are private, controlled, or protected records under Title 63G, Chapter 2, Government Records Access and Management Act; and~~]

[~~(ii) except as provided in Subsections (1)(c) and (d), are available only to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information and records described in this Subsection (1)(b).~~]

[~~(c) Notwithstanding Subsection (1)(b)(ii), the information and records described in Subsection (1)(b) are available to a person:~~]

[~~(i) as provided under Subsection (6) or Section 62A-4a-1006; or~~]

[~~(ii) who has specific statutory authorization to access the information or records for the purpose of assisting the state with state and federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need.~~]

[~~(d) Notwithstanding Subsection (1)(b)(ii), the information and records described in Subsection (1)(b) may, to the extent required by Title IV–B or IV–E of the Social Security Act, be provided by the division:~~]

[~~(i) to comply with abuse and neglect registry checks requested by other states; and~~]

[~~(ii) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect.~~]

(2) The Management Information System shall:

(a) contain all key elements of each family's current child and family plan, including:

(i) the dates and number of times the plan has been administratively or judicially reviewed;

(ii) the number of times the parent failed the child and family plan; and

(iii) the exact length of time the child and family plan has been in effect; and

(b) alert child welfare caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.

[~~(2)~~] (3) [~~With regard to all~~] For a child welfare [~~cases~~] case, the Management Information System shall provide each child welfare caseworker and the [~~department's office of licensing~~] Office of Licensing created in Section 62A–2–103, exclusively for the purposes of foster parent licensure and monitoring, with a complete history of each child in [~~that worker's~~] the child welfare caseworker's caseload, including:

(a) a record of all past action taken by the division with regard to [~~that~~] the child and the child's siblings;

(b) the complete case history and all reports and information in the control or keeping of the division regarding [~~that~~] the child and the child's siblings;

(c) the number of times the child has been in the protective custody, temporary custody, and custody of the division;

(d) the cumulative period of time the child has been in the custody of the division;

(e) a record of all reports of abuse or neglect received by the division with regard to [~~that~~] the child's parent[~~, parents,~~] or guardian including:

(i) for each report, documentation of the:

(A) latest status; or

(B) final outcome or determination; and

(ii) information that indicates whether each report was found to be:

(A) supported;

(B) unsupported;

(C) substantiated;

(D) unsubstantiated; or

(E) without merit;

(f) the number of times the child's parent [~~or parents~~] failed any child and family plan; and

(g) the number of different child welfare caseworkers who have been assigned to [~~that~~] the child in the past.

[~~(3) The division's Management Information System shall:~~]

[~~(a) contain all key elements of each family's current child and family plan, including:~~]

[~~(i) the dates and number of times the plan has been administratively or judicially reviewed;~~]

[~~(ii) the number of times the parent or parents have failed that child and family plan; and~~]

[~~(iii) the exact length of time the child and family plan has been in effect; and~~]

[~~(b) alert caseworkers regarding deadlines for completion of and compliance with policy, including child and family plans.~~]

(4) [~~With regard to all~~] For child protective services cases, the Management Information System shall:

(a) monitor the compliance of each case with:

(i) division rule;

(ii) state law; and

(iii) federal law and regulation; and

(b) include the age and date of birth of the alleged perpetrator at the time the abuse or neglect is alleged to have occurred, in order to ensure accuracy regarding the identification of the alleged perpetrator.

(5) Information or a record contained in the Management Information System is:

(a) a private, controlled, or protected record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(b) available only:

(i) to a person or government entity with statutory authorization under Title 63G, Chapter 2, Government Records Access and Management Act, to review the information or record;

(ii) to a person who has specific statutory authorization to access the information or record for the purpose of assisting the state with state or federal requirements to maintain information solely for the purpose of protecting minors and providing services to families in need;

(iii) to the extent required by Title IV(b) or IV(e) of the Social Security Act:

(A) to comply with abuse and neglect registry checks requested by other states; or

(B) to the United States Department of Health and Human Services for purposes of maintaining an electronic national registry of supported or substantiated cases of abuse and neglect;

[~~(5) Except as provided in Subsection (6) regarding contract providers and Section 62A-4a-1006 regarding limited access to the Licensing Information System, all information contained in the division's Management Information System is available~~]

(iv) to the department, upon the approval of the executive director of the department, on a need-to-know basis[~~.~~]; or

(v) as provided in Subsection (6) or Section 80-2-1002.

(6) (a) [~~Subject to this Subsection (6), the division may allow the division's contract providers, court clerks~~] The division may allow a division contract provider, court clerk designated by the Administrative Office of the Courts, the Office of Guardian Ad Litem, or [~~an~~] Indian tribe to have limited access to the Management Information System.

(b) A division contract provider or Indian tribe has access only to information about a person who is currently receiving services from [~~that~~] the specific contract provider or Indian tribe.

(c) [~~(i) Designated court clerks~~] A court clerk may only have access to information necessary to comply with Subsection 78B-7-202(2).

[~~(ii)~~] (d) (i) The Office of Guardian Ad Litem may only access [~~only the information that~~]:

(A) the information that is entered into the Management Information System on or after July 1, 2004, and relates to [~~children and families~~] a child or family where the Office of Guardian Ad Litem is appointed by a court to represent the interests of the [~~children; and~~] child; or

[~~(B) except as provided in Subsection (6)(d), is entered into the Management Information System on or after July 1, 2004.~~]

[~~(d) Notwithstanding Subsection (6)(c)(ii)(B), the Office of Guardian Ad Litem shall have access to all abuse and neglect referrals about children and families~~]

(B) any abuse or neglect referral about a child or family where the office has been appointed by a court to represent the interests of the [~~children~~] child, regardless of the date that the information is entered into the Management Information System.

(ii) The division may use the information in the Management Information System to screen an individual as described in Subsection 80-2-1002(4)(b)(ii)(A) at the request of the Office of Guardian Ad Litem.

(e) [~~Each~~] A contract provider[~~,~~] or designated representative of the Office of Guardian Ad Litem[~~, and~~] or an Indian tribe who requests access to information contained in the Management Information System shall:

(i) take all necessary precautions to safeguard the security of the information contained in the Management Information System;

(ii) train its employees regarding:

(A) requirements for protecting the information contained in the Management Information System [~~as required by~~] under this chapter and under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) the criminal penalties under Sections [~~62A-4a-412 and~~] 63G-2-801 and 80-2-1005 for improper release of information; and

(iii) monitor its employees to ensure that [~~they~~] the employees protect the information contained in the Management Information System as required by law.

[~~(f) The division shall take reasonable precautions to ensure that its contract providers comply with the requirements of this Subsection (6).~~]

(7) The division shall take:

(a) all necessary precautions, including password protection and other appropriate and available technological techniques, to prevent unauthorized access to or release of information contained in the Management Information System[~~.~~]; and

(b) reasonable precautions to ensure that the division's contract providers comply with Subsection (6).

Section 85. Section 80-2-1002, which is renumbered from Section 62A-4a-1006 is renumbered and amended to read:

[~~62A-4a-1006~~]. 80-2-1002. Licensing Information System -- Contents -- Classification of records -- Access -- Unlawful release -- Penalty.

(1) (a) The division shall maintain a sub-part of the Management Information System [~~established pursuant to Section 62A-4a-1003, to be known~~] as the Licensing Information System[~~,~~] to be used:

(i) for licensing purposes; or

(ii) as otherwise [~~specifically~~] provided [~~for~~] by law.

(b) Notwithstanding Subsection (1)(a), the department's access to information in the Management Information System for the licensure and monitoring of a foster parent is governed by Sections 80-2-1001 and 62A-2-121.

[~~(b)~~] (2) The Licensing Information System shall include only the following information:

(a) the name and other identifying information of the alleged perpetrator in a supported finding, without identifying the alleged perpetrator as a perpetrator or alleged perpetrator;

(b) a notation to the effect that an investigation regarding the alleged perpetrator described in Subsection (2)(a) is pending;

[~~(i)~~] (c) the information described in [~~Subsections 62A-4a-1005(1)(b) and (3)(b)~~] Subsection (3);

[~~(ii)~~] (d) consented-to supported findings by [~~alleged perpetrators~~] an alleged perpetrator under Subsection [~~62A-4a-1005(3)(a)(iii); and~~] 80-2-708(3)(a)(iii);

(e) a finding from the juvenile court under Section 80-3-404; and

[~~(iii)~~] (f) the information in the licensing part of the division's Management Information System as of May 6, 2002.

[~~(2) Notwithstanding Subsection (1), the department's access to information in the Management Information System for the licensure and monitoring of foster parents is governed by Sections 62A-4a-1003 and 62A-2-121.~~]

(3) Subject to [~~Subsection 62A-4a-1005(3)(e)~~] Section 80-2-1003, upon receipt of a finding from the juvenile court under Section 80-3-404, the division shall:

(a) promptly amend the Licensing Information System to include the finding; and

(b) enter the [~~information~~] finding in the Management Information System.

(4) [~~(a)~~] Information or a record contained in the Licensing Information System is [~~classified as~~]:

(a) a protected record under Title 63G, Chapter 2, Government Records Access and Management Act[~~.~~]; and

(b) [~~Notwithstanding the disclosure provisions of~~] notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, [~~the information contained in the Licensing Information System may only be used or disclosed as specifically provided in this chapter and Section 62A-2-121.~~] accessible only:

[~~(c) The information described in Subsection (4)(b) is accessible only to:~~]

(i) to the Office of Licensing [~~within the department~~] created in Section 62A-2-103:

(A) for licensing purposes; or

(B) as otherwise specifically provided for by law;

(ii) to the division to:

(A) screen an individual at the request of the Office of Guardian Ad Litem[~~: (I)~~] at the time [~~that~~] the individual seeks a paid or voluntary position with the Office of Guardian Ad Litem[~~; and (II) on an annual basis,~~] and annually throughout the time that the individual remains with the Office of Guardian Ad Litem; and

(B) respond to a request for information from [~~a person~~] an individual whose name is listed in the Licensing Information System;

(iii) [~~persons~~] to a person designated by the Department of Health and approved by the Department of Human Services, only for the following purposes:

(A) licensing a child care program or provider;

(B) determining whether an individual associated with a child care facility, program, or provider, who is exempt from being licensed or certified by the Department of Health under Title 26, Chapter 39, Utah Child Care Licensing Act, has a supported finding of a severe type of child abuse or neglect; or

(C) determining whether an individual who is seeking an emergency medical services license has a supported finding of a severe type of child abuse or neglect;

(iv) [~~persons~~] to a person designated by the Department of Workforce Services and approved by the Department of Human Services for the purpose of qualifying a child care [~~providers~~] provider under Section 35A-3-310.5; [~~and~~]

(v) as provided in Section 62A-2-121; or

[~~(v)~~] (vi) to the department[~~, as specifically~~] or another person, as provided in this chapter.

(5) [~~The persons~~] A person designated by the Department of Health [~~under Subsection (4)(c)(iii) and the persons designated by~~] or the Department of Workforce Services under Subsection (4)[~~(c)(iv)~~] shall adopt measures to:

(a) protect the security of the Licensing Information System; and

(b) strictly limit access to the Licensing Information System to [~~those~~] persons [~~designated~~] allowed access by statute.

(6) [~~All persons designated by statute as having access~~] The department shall approve a person allowed access by statute to information or a record contained in the Licensing Information System [~~shall be approved by the Department of Human Services and receive training from the department~~] and provide training to the person with respect to:

(a) accessing the Licensing Information System;

(b) maintaining strict security; and

(c) the criminal provisions of Sections [~~62A-4a-412 and~~] 63G-2-801 and 80-2-1005 pertaining to the improper release of information.

(7) (a) [~~A person, except those~~] Except as authorized by this chapter, a person may not request another person to obtain or release any other information in the Licensing Information System to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of this Subsection (7) is subject to the criminal [~~penalty~~] penalties described in Sections [~~62A-4a-412 and~~] 63G-2-801 and 80-2-1005.

Section 86. Section 80-2-1003, which is renumbered from Section 62A-4a-1008 is renumbered and amended to read:

[~~62A-4a-1008~~]. 80-2-1003. Deletion, expungement, or notation of information or reports in Management Information System or Licensing Information System.

(1) (a) The division shall delete any reference in the Management Information System or Licensing Information System to a report that:

[~~(a) a report that is determined by the division to be~~] (i) the division determines is without merit, if no subsequent report involving the same alleged perpetrator [~~has occurred~~] occurs within one year after the day on which the division makes the determination; or

[~~(b) a report that is determined by~~] (ii) a court of competent jurisdiction [~~to be~~] determines is unsubstantiated or without merit, if no subsequent report involving the same alleged perpetrator [~~has occurred~~] occurs within five years after the day on which the juvenile court makes the determination.

(b) Except as provided in Subsection (1)(c), the information described in Subsections 80-2-1002(2)(a) and (b) shall remain in the Licensing Information System:

(i) if the alleged perpetrator fails to take the action described in Subsection 80-2-708(3)(a) within one year after the day on which the notice described in Subsections 80-2-708(1)(a) and (2) is served;

(ii) during the time that the division awaits a response from the alleged perpetrator under Subsection 80-2-708(3)(a); and

(iii) until a juvenile court determines that the severe type of child abuse or neglect upon which the Licensing Information System entry was based is unsubstantiated or without merit.

(c) Regardless of whether an appeal on the matter is pending:

(i) the division shall remove the information described in Subsections 80-2-1002(2)(a) and (b) from the Licensing Information System if the severe type of child abuse or neglect upon which the Licensing Information System entry is based:

(A) is found to be unsubstantiated or without merit by the juvenile court under Section 80-3-404; or

(B) is found to be substantiated, but is subsequently reversed on appeal; and

(ii) the division shall place back on the Licensing Information System an alleged perpetrator's name and information that is removed from the Licensing Information System under Subsection (1)(c)(i) if the court action that was the basis for removing the alleged perpetrator's name and information is subsequently reversed on appeal.

(2) (a) The division shall maintain a separation of reports as follows:

[~~(a)~~] (i) those that are supported;

[~~(b)~~] (ii) those that are unsupported;

[~~(c)~~] (iii) those that are without merit;

[~~(d)~~] (iv) those that are unsubstantiated under the law in effect before May 6, 2002;

[~~(e)~~] (v) those that are substantiated under the law in effect before May 6, 2002; and

[~~(f)~~] (vi) those that are consented-to supported findings under Subsection [~~62A-4a-1005~~] 80-2-708(3)(a)(iii).

(b) Only a person with statutory authority may access the information contained in a report described in Subsection (2)(a).

(3) [~~On or before May 1, 2018, the~~] The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the expungement of supported reports or unsupported reports in the Management Information System and the Licensing Information System[~~.~~] that:

[~~(4) The rules described in Subsection (3) shall:~~]

(a) in relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that the division:

(i) [~~the division~~] shall expunge within five years after the last date on which the individual's name [~~was~~] is placed in the information system, without requiring the subject of the report to request expungement;

(ii) [~~the division~~] shall expunge within 10 years after the last date on which the individual's name [~~was~~] is placed in the information system, without requiring the subject of the report to request expungement;

(iii) [~~the division~~] may expunge following an individual's request for expungement in accordance with Subsection (4); and

(iv) [~~the division~~] may not expunge due to the serious nature of the specified types of child abuse or neglect;

(b) establish an administrative process and a standard of review for the subject of a report to make an expungement request; and

(c) define the term "expunge" or "expungement" to clarify the administrative process for removing a record from the information system.

[~~(5)~~] (4) (a) If an individual's name is in the [~~information system~~] Management Information System or Licensing Information System for a type of child abuse or neglect report identified under Subsection [~~(4)~~] (3)(a)(iii), the individual may request to have the report expunged 10 years after the last date on which the individual's name [~~was~~] is placed in the information system for a supported or unsupported report.

[~~(6)~~] (b) If an individual's expungement request is denied, the individual shall wait at least one year after the [~~issuance of~~] day on which the denial is issued before the individual may again request to have the individual's report expunged.

[~~(7) Only persons with statutory authority may access the information contained in any of the reports identified in Subsection (2).~~]

Section 87. Section 80-2-1004, which is renumbered from Section 62A-4a-1010 is renumbered and amended to read:

[~~62A-4a-1010~~]. 80-2-1004. Request for division removal of name from Licensing Information System -- Petition for evidentiary hearing or substantiation.

(1) [~~Persons whose names were~~] Except as provided in Subsection (2), an individual whose name is listed on the Licensing Information System as of May 6, 2002 [~~and who have not been the subject of a court determination with respect to the alleged incident of abuse or neglect~~], may at any time:

(a) request review by the division of [~~their~~] the individual's case and removal of [~~their~~] the individual's name from the Licensing Information System [~~pursuant to~~] under Subsection (3); or

(b) file a petition for [~~an evidentiary hearing~~] substantiation and a request for a finding of unsubstantiated or without merit in accordance with Section 80-3-504.

(2) Subsection (1) does not apply to an individual who has been the subject of any of the following court determinations with respect to the alleged incident of abuse or neglect:

(a) conviction;

(b) adjudication under Section 80-3-402 or 80-6-701;

(c) plea of guilty;

(d) plea of guilty with a mental illness; or

(e) no contest.

(3) If an alleged perpetrator listed on the Licensing Information System [~~prior to~~] before May 6, 2002, requests removal of the alleged perpetrator's name from the Licensing Information System, the division shall, within 30 days after the day on which the request is made:

(a) (i) review the case to determine whether the incident of alleged abuse or neglect qualifies as:

(A) a severe type of child abuse or neglect;

(B) chronic abuse; or

(C) chronic neglect; and

(ii) if the alleged abuse or neglect does not qualify as a type of abuse or neglect described in Subsections (3)(a)(i)(A) through (C), remove the alleged perpetrator's name from the Licensing Information System; or

(b) determine whether to file a petition for substantiation in accordance with Section 80-3-504.

[~~(4) If the division decides to file a petition, that petition must be filed no more than 14 days after the decision.~~]

[~~(5) The juvenile court shall act on the petition as provided in Subsection 80-3-404(3).~~]

[~~(6) If a person whose name appears on the Licensing Information System prior to May 6, 2002 files a petition pursuant to Section 80-3-404 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the court shall hear the matter on an expedited basis.~~]

Section 88. Section 80-2-1005, which is renumbered from Section 62A-4a-412 is renumbered and amended to read:

[~~62A-4a-412~~]. 80-2-1005. Classification of reports of alleged abuse or neglect -- Confidential identity of a person who reports -- Access -- Admitting reports into evidence -- Unlawful release and use -- Penalty.

(1) Except as otherwise provided in this chapter[~~, reports~~] or Chapter 2a, Removal and Protective Custody of a Child, a report made under [~~this part, as well as~~] Part 6, Child Abuse and Neglect Reports, and any other information in the possession of the division obtained as [~~the~~] a result of [~~a~~] the report [~~are~~] is a private, protected, or controlled [~~records~~] record under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) [~~a~~] the subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or [~~its~~] the public prosecutor's deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the Person, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)(o).

[~~(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.~~]

[~~(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).~~]

[~~(3) (a) Except as provided in Section 62A-4a-1007, the~~] (2) In accordance with Section 80-2-608 and except as provided in Section 80-2-611, the division and a law enforcement [~~officials~~] agency shall ensure the anonymity of the person [~~or persons making~~] who makes the initial report under Part 6, Child Abuse and Neglect Reports, and any [~~others~~] other person involved in the division's or law enforcement [~~officials'~~] agency's subsequent investigation of the report.

[~~(b)~~] (3) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter, Chapter 2a, Removal and Protective Custody of a Child, and Title 63G, Chapter 2, Government Records Access and Management Act, [~~when~~] if the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

[~~(i)~~] (a) identify the referent;

[~~(ii)~~] (b) impede a criminal investigation; or

[~~(iii)~~] (c) endanger an individual's safety.

[~~(4) Any person who willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.~~]

[~~(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.~~]

[~~(b) The physician-patient privilege does not:~~]

[~~(i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and~~]

[~~(ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.~~]

[~~(6)~~] (4) A child-placing agency or person who receives a report [~~in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130~~] from the division under Subsection (1)(m) may provide the report to:

(a) [~~may provide this report to the person who is~~] the subject of the report; [~~and~~]

(b) [~~may provide this report to~~] a person who is performing a preplacement adoptive evaluation in accordance with [~~the requirement of~~] Sections 78B-6-128 and 78B-6-130[~~, or~~];

(c) to a licensed child-placing agency; or [~~to~~]

(d) an attorney seeking to facilitate an adoption.

[~~(7)~~] (5) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

[~~(8)~~] (6) (a) Except as provided in Subsection [~~(8)~~] (6)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection [~~(8)~~] (6)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection [~~(8)~~] (6)(b), the court may receive the report into evidence upon a finding on the record of good cause.

(7) (a) A person may not:

(i) willfully permit, or aid and abet, the release of data or information in the possession of the division or contained in the Management Information System in violation of this part or Part 6, Child Abuse and Neglect Reports; or

(ii) if the person is not listed in Subsection (1), request another person to obtain or release a report or other information that the other person obtained under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who violates Subsection (7)(a)(i), or violates Subsection (7)(a)(ii) knowing the person's actions are a violation of Subsection (7)(a)(ii), is guilty of a class C misdemeanor.

Section 89. Section 80-2-1006 is enacted to read:

80-2-1006. Sharing of records with Indian tribe under agreement.

If the division has a privacy agreement with an Indian tribe to protect the confidentiality of division records regarding an Indian child to the same extent that the division is required to protect other division records, the division shall cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child.

Section 90. Section 80-2-1007, which is renumbered from Section 62A-4a-112 is renumbered and amended to read:

[~~62A-4a-112~~]. 80-2-1007. Request to examine division services payment -- Access to related records -- Unlawful use -- Penalty.

(1) (a) An individual who is a taxpayer and resident of this state and who desires to examine a payment for services offered by the division in accordance with this chapter or Chapter 2a, Removal and Protective Custody of a Child, shall sign a statement using a form prescribed by the division[~~. That statement shall include the~~] that includes:

(i) an assertion that the individual is a taxpayer and a resident[~~, and shall include~~] of the state; and

(ii) a commitment that any information obtained will not be used for commercial or political purposes. [~~No partial or complete list of names, addresses, or amounts of payment may be made by any individual under this subsection, and none of that information may be removed from the offices of the division.~~]

(b) An individual may not make a partial or complete list of names, addresses, or amounts of payment under Subsection (1)(a) or remove information regarding names, addresses, or amounts of payment under Subsection (1)(a) from an office of the division.

(2) The division shall[~~,~~]:

(a) after due consideration of the public interest, define the nature of confidential information to be safeguarded by the division; and [~~shall~~]

(b) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) govern the custody and disclosure of the confidential information[~~, as well as to~~]; and

(ii) provide access to information regarding payments for services offered by the division.

(3) This section does not prohibit:

(a) the division or [~~its agents, or individuals, commissions, or agencies~~] an agent of the division, or an individual, commission, or agency duly authorized for the purpose, from making [~~special studies or from~~] a special study or issuing or publishing statistical material [~~and reports~~] or a report of a general character[~~. This section does not prohibit~~]; or

(b) the division or [~~its representatives or employees~~] a division representative or employee from conveying or providing to a local, state, or federal governmental [~~agencies~~] agency written information that would affect an individual's eligibility or ineligibility for financial service, or other beneficial [~~programs~~] program offered by [~~that~~] the governmental agency. [~~Access to the division's program plans, policies, and records, as well as consumer records and data, is governed by~~]

(4) A person may access a division program plan, policy, or record, including a consumer record or data, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

[~~(4) Violation of this section is~~] (5) A person who violates this section is guilty of a class B misdemeanor.

Section 91. Section 80-2-1101, which is renumbered from Section 62A-4a-311 is renumbered and amended to read:

Part 11. Child Welfare Services Improvement and Oversight

[~~62A-4a-311~~]. 80-2-1101. Child Welfare Improvement Council -- Creation -- Membership -- Expenses.

(1) (a) There is established the Child Welfare Improvement Council composed of no more than 25 members who are appointed by the division.

(b) Except as required by Subsection (1)(c), as terms of current council members expire, the division shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (1)(b), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately half of the council is appointed every two years.

(d) The council shall have geographic, economic, gender, cultural, and philosophical diversity.

(e) When a vacancy occurs in the membership for any reason, the division shall appoint the replacement [~~shall be appointed~~] for the unexpired term.

(2) The council shall elect a chairperson from [~~its~~] the council's membership at least biannually.

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance [~~pursuant to~~] under Sections 63A-3-106 and 63A-3-107.

(4) (a) The council shall hold a public meeting quarterly.

(b) Within budgetary constraints, meetings may also be held on the call of the chair, or of a majority of the members.

(c) A majority of the members currently appointed to the council constitute a quorum at any meeting and the action of the majority of the members present shall be the action of the council.

(5) The council shall:

(a) advise the division on matters relating to abuse and neglect;

(b) recommend to the division how funds contained in the Children's Account, created in Section 80-2-501, should be allocated; [~~and~~]

(c) conduct public hearings to receive public comment on an abuse or neglect prevention or treatment program under Section 80-2-503;

(d) provide comments to the division on a proposed amendment to performance standards in accordance with Section 80-2-1102; and

[~~(c)~~] (e) provide community and professional input on the performance of the division.

Section 92. Section 80-2-1102, which is renumbered from Section 62A-4a-117 is renumbered and amended to read:

[~~62A-4a-117~~]. 80-2-1102. Performance monitoring system -- Report.

(1) As used in this section:

[~~(a) "Council" means the Child Welfare Improvement Council established under Section 62A-4a-311.~~]

[~~(b)~~] (a) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.

[~~(c)~~] (b) (i) "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:

(A) child protection services;

(B) adoption;

(C) foster care; and

(D) other substitute care.

(ii) "Performance standards" includes the performance goals and measures in effect in 2008 that the division was subject to under federal court oversight, as amended [~~pursuant to~~] under Subsection (2), including:

(A) the qualitative case review; and

(B) the case process review.

(2) (a) The division shall create performance standards.

[~~(2) (a)~~] (b) The division may not amend [~~the~~] performance standards unless the amendment is:

(i) necessary and proper for the effective administration of the division; or

(ii) necessary to comply with, or implement changes in, the law.

[~~(b)~~] (c) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the council.

[~~(c)~~] (d) The notice described in Subsection [~~(2)(b)~~] (2)(c) shall include:

(i) the proposed amendment;

(ii) a summary of the reason for the proposed amendment; and

(iii) the proposed effective date of the amendment.

[~~(d)~~] (e) Within 45 days after the day on which the division provides the notice described in Subsection [~~(2)(b)~~] (2)(c) to the council, the council shall provide to the division written comments on the proposed amendment.

[~~(e)~~] (f) The division may not implement a proposed amendment to the performance standards until the earlier of:

(i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection [~~(2)(d)~~] (2)(e); or

(ii) 52 days after the day on which the division provides the notice described in Subsection [~~(2)(b)~~] (2)(c) to the council.

[~~(f)~~] (g) The division shall:

(i) give full, fair, and good faith consideration to all comments and objections received from the council;

(ii) notify the council in writing of:

(A) the division's decision regarding the proposed amendment; and

(B) the reasons that support the decision;

(iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and

(iv) post the changes on the division's website.

(3) The division shall maintain a performance monitoring system to regularly:

(a) collect information on performance indicators; and

(b) compare performance indicators to performance standards.

(4) Before January 1 of each year, the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the Social Services Appropriations Subcommittee that includes:

(a) a comparison between the performance indicators for the prior fiscal year and the performance standards;

(b) for each performance indicator that does not meet the performance standard:

(i) the reason the standard was not met;

(ii) the measures that need to be taken to meet the standard; and

(iii) the division's plan to comply with the standard for the current fiscal year;

(c) data on the extent to which new and experienced division employees have received training [~~pursuant to~~] under statute, administrative rule, and division policy; and

(d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Section 93. Section 80-2-1103, which is renumbered from Section 62A-4a-118 is renumbered and amended to read:

[~~62A-4a-118~~]. 80-2-1103. Annual review of child welfare referrals and cases by department -- Review by legislative auditor general -- Reports.

(1) The division shall use principles of quality management systems, including statistical measures of processes of service, and the routine reporting of performance data to employees.

[~~(2) (a) In addition to development of~~]

(2) (a) The department shall:

(i) develop quantifiable outcome measures and performance measures in accordance with Section [~~62A-4a-117, the executive director, or the executive director's designee, shall~~] 80-2-1102; and

(ii) annually review a randomly selected sample of child welfare referrals to and cases handled by the division. [~~The purpose of that review shall be to~~]

(b) In conducting the review described in Subsection (2)(a)(ii), the department shall:

(i) assess whether the division is adequately protecting children and providing appropriate services to families, in accordance with [~~the provisions of Title 62A, Chapter 4a, Child and Family Services, and Title 80,~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Chapter 4, Termination and Restoration of Parental Rights[~~. The review shall~~]; and

(ii) focus directly on the outcome of cases to children and families, and not simply on procedural compliance with specified criteria.

[~~(b)~~] (c) [~~The executive director shall report on the executive director's~~] The department shall report on the review described in Subsection (2)(a) to the legislative auditor general and the Child Welfare Legislative Oversight Panel.

[~~(c)~~] (d) Information obtained as a result of the review described in Subsection (2)(a) shall be provided to child welfare caseworkers, supervisors, and division personnel involved in the respective cases, for purposes of education, training, and performance evaluation.

(3) The [~~executive director's~~] review and report to the legislative auditor general and the Child Welfare Legislative Oversight Panel under Subsection (2) shall include:

(a) the criteria used by the [~~executive director, or the executive director's designee,~~] department in making the evaluation;

(b) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed in each sample case;

(c) findings regarding whether, in each sample case, referrals, removals, or cases were appropriately handled by the division and [~~its~~] the division's employees, and whether children were adequately and appropriately protected and appropriate services provided to families, in accordance with the provisions of [~~Title 62A, Chapter 4a, Child and Family Services, Title 80,~~] this chapter, Chapter 2a, Removal and Protective

Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~and~~] Chapter 4, Termination and Restoration of Parental Rights, and division rule;

(d) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals; and

(e) an assessment of the appropriateness of the division's assignment of priority.

(4) (a) In addition to the [~~executive director's~~] review under Subsection (2), the legislative auditor general shall audit, subject to the prioritization of the Legislative Audit Subcommittee, a sample of child welfare referrals to and cases handled by the division and report the findings to the Child Welfare Legislative Oversight Panel.

(b) An audit under Subsection (4)(a) may be initiated by:

(i) the Audit Subcommittee of the Legislative Management Committee;

(ii) the Child Welfare Legislative Oversight Panel; or

(iii) the legislative auditor general, based on the results of the executive director's review under Subsection (2).

(c) With regard to the sample of referrals, removals, and cases, the Legislative Auditor General's report may include:

(i) findings regarding whether state statutes, division rule, legislative policy, and division policy were followed by the division and [~~its~~] the division's employees;

(ii) a determination regarding whether referrals, removals, and cases were appropriately handled by the division and [~~its~~] the division's employees, and whether children were adequately and appropriately protected and appropriate services provided for families, in accordance with the provisions of [~~Title 62A, Chapter 4a, Child and Family Services, Title 80,~~] this chapter, Chapter 2a, Removal and Protective Custody of a Child, Chapter 3, Abuse, Neglect, and Dependency Proceedings, [~~and~~] Chapter 4, Termination and Restoration of Parental Rights, and division rule;

(iii) an assessment of the division's intake procedures and decisions, including an assessment of the appropriateness of decisions not to accept referrals;

(iv) an assessment of the appropriateness of the division's assignment of priority;

(v) a determination regarding whether the department's review process is effecting beneficial change within the division and accomplishing the mission established by the Legislature and the department for that review process; and

(vi) findings regarding any other issues identified by the auditor or others under this Subsection (4).

Section 94. Section 80-2-1104, which is renumbered from Section 62A-4a-208 is renumbered and amended to read:

[~~62A-4a-208~~]. 80-2-1104. Child protection ombudsman -- Responsibility -- Authority -- Report.

(1) As used in this section:

(a) "Complainant" means a person who initiates a complaint with the ombudsman.

(b) "Complaint" means a complaint regarding an act or omission by the division with respect to a particular child.

[~~(b)~~] (c) "Ombudsman" means the child protection ombudsman appointed [~~pursuant to~~] under this section.

(2) (a) There is created within the department the position of child protection ombudsman. [~~The ombudsman shall be appointed by and serve at the pleasure of the executive director.~~]

[~~(b) The ombudsman shall be:~~]

[~~(i) an individual of~~]

(b) The executive director of the department shall:

(i) appoint an ombudsman who has:

(A) recognized executive and administrative capacity; and

[~~(ii) selected solely with regard to qualifications and fitness to discharge the duties of ombudsman; and~~]

[~~(iii)~~] (B) [~~have~~] experience in child welfare, and in state laws and policies governing abused, neglected, and dependent children[~~.~~]; and

(ii) select the ombudsman solely with regard to qualifications and fitness to discharge the duties of the ombudsman.

(c) The ombudsman shall [~~devote full time to the duties of office.~~]:

(i) serve at the pleasure of the executive director of the department; and

(ii) devote full-time to the duties described in this section.

(3) [~~(a) Except as provided in Subsection (3)(b), the~~] The ombudsman shall[~~,~~]:

(a) unless the ombudsman decides not to investigate the complaint, upon receipt of a complaint [~~from any person~~], investigate whether an act or omission of the division with respect to a particular child:

(i) is contrary to statute, rule, or policy;

(ii) places a child's health or safety at risk;

(iii) is made without an adequate statement of reason; or

(iv) is based on irrelevant, immaterial, or erroneous grounds[~~.~~];

[~~(b) The ombudsman may decline to investigate any complaint. If the ombudsman declines to investigate a complaint or continue an investigation, the ombudsman shall notify the complainant and the division of the decision and of the reasons for that decision.~~]

[~~(c) The ombudsman may conduct an investigation on the ombudsman's own initiative.~~]

[~~(4) The ombudsman shall:~~]

(b) notify the complainant and the division of:

(i) the ombudsman's decision to investigate or not investigate the complaint; and

(ii) if the ombudsman decides not to investigate the complaint, the reason for the decision;

(c) if the ombudsman finds that a person's act or omission violates state or federal criminal law, immediately report the finding to the appropriate county or district attorney or to the attorney general;

(d) immediately notify the division if the ombudsman finds that a child needs protective custody;

(e) prepare a written report of the findings and recommendations, if any, of each investigation;

(f) make recommendations to the division if the ombudsman finds that:

(i) a matter should be further considered by the division;

(ii) an administrative act should be addressed, modified, or canceled;

(iii) action should be taken by the division with regard to one of the division's employees; or

(iv) any other action should be taken by the division;

[~~(a)~~] (g) subject to Subsection (3), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that govern the following:

(i) receiving and processing [~~complaints~~] a complaint;

(ii) notifying [~~complainants~~] a complainant and the division regarding a decision to investigate or to decline to investigate a complaint;

(iii) prioritizing workload;

(iv) maximum time within which [~~investigations shall be~~] an investigation is required to be completed;

(v) conducting [~~investigations~~] an investigation;

(vi) notifying [~~complainants~~] a complainant and the division regarding the results of [~~investigations~~] an investigation; and

(vii) making recommendations based on the findings and results of [~~recommendations~~] investigations;

[~~(b) report findings and recommendations in writing to the complainant and the division, in accordance with the provisions of this section;~~]

[~~(c)~~] (h) within appropriations from the Legislature, employ staff as may be necessary to carry out the ombudsman's duties under this [~~part~~] section;

[~~(d)~~] (i) provide information regarding the role, duties, and functions of the ombudsman to public agencies, private entities, and individuals;

[~~(e) annually report to the:~~]

(j) provide an annual report regarding the ombudsman's duties and recommendations for improvements to the child welfare system to:

(i) the Child Welfare Legislative Oversight Panel;

(ii) the governor;

[~~(iii) Division of Child and Family Services;~~]

(iii) the division; and

(iv) the executive director of the department; and

[~~(v) director of the division; and~~]

[~~(f)~~] (k) as appropriate, make recommendations to the division regarding individual child welfare cases, and the rules, policies, and operations of the division.

(4) (a) The ombudsman may:

(i) decline to investigate a complaint or continue an investigation of a complaint;

(ii) conduct an investigation on the ombudsman's own initiative;

(iii) conduct further investigation upon the request of the complainant or upon the ombudsman's own initiative; and

(iv) advise a complainant to pursue administrative remedies or channels of a complaint before pursuing a complaint with the ombudsman.

(b) Subsection (4)(a)(iv) does not prevent a complainant from making a complaint directly to the ombudsman before pursuing an administrative remedy.

[~~(5) (a) Upon rendering a decision to investigate a complaint, the ombudsman shall notify the complainant and the division of that decision.~~]

[~~(b) The ombudsman may advise a complainant to pursue all administrative remedies or channels of complaint before pursuing a complaint with the ombudsman. Subsequent to processing a complaint, the ombudsman may conduct further investigations upon the request of the complainant or upon the ombudsman's own initiative. Nothing in this subsection precludes a complainant from making a complaint directly to the ombudsman before pursuing an administrative remedy.~~]

[~~(c) If the ombudsman finds that an individual's act or omission violates state or federal criminal law, the ombudsman shall immediately report that~~

~~finding to the appropriate county or district attorney or to the attorney general.~~]

[~~(d) The ombudsman shall immediately notify the division if the ombudsman finds that a child needs protective custody.~~]

[~~(e) The ombudsman shall immediately comply with Part 4, Child Abuse or Neglect Reporting Requirements.~~]

[~~(6) (a) All records of the ombudsman regarding individual cases shall be~~]

(5) (a) A record of the ombudsman regarding an individual child welfare case shall be classified in accordance with federal law and [~~the provisions of~~] Title 63G, Chapter 2, Government Records Access and Management Act. [~~The ombudsman may make public a report prepared pursuant to this section in accordance with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act.~~]

(b) The ombudsman shall have access to all of the department's written and electronic records and databases, including those regarding individual child welfare cases.

(c) In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the ombudsman shall maintain the same classification that was designated by the department.

[~~(7) (a) The ombudsman shall prepare a written report of the findings and recommendations, if any, of each investigation.~~]

[~~(b) The ombudsman shall make recommendations to the division if the ombudsman finds that:~~]

[~~(i) a matter should be further considered by the division;~~]

[~~(ii) an administrative act should be addressed, modified, or canceled;~~]

[~~(iii) action should be taken by the division with regard to one of its employees; or~~]

[~~(iv) any other action should be taken by the division.~~]

Section 95. Section 80-2a-101 is enacted to read:

CHAPTER 2a. REMOVAL AND PROTECTIVE CUSTODY OF A CHILD

Part 1. General Provisions

80-2a-101. Definitions.

(1) "Custody" means the same as that term is defined in Section 80-2-102.

(2) "Division" means the Division of Child and Family Services created in Section 80-2-201.

(3) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

(4) "Nonrelative" means an individual who is not a noncustodial parent or relative.

(5) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, or sibling;

(b) is the first cousin of the child's parent;

(c) is an adoptive parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in 25 U.S.C. Sec. 1903.

(6) "Sibling" means the same as that term is defined in Section 80-2-102.

(7) "Temporary custody" means the same as that term is defined in Section 80-2-102.

Section 96. Section 80-2a-201, which is renumbered from Section 62A-4a-201 is renumbered and amended to read:

Part 2. Warrants and Removal

[~~62A-4a-201~~]. 80-2a-201. Rights of parents -- Children's rights -- Interest and responsibility of state.

(1) (a) Under both the United States Constitution and the constitution of this state, a parent possesses a fundamental liberty interest in the care, custody, and management of the parent's children. A fundamentally fair process must be provided to parents if the state moves to challenge or interfere with parental rights. A governmental entity must support any actions or allegations made in opposition to the rights and desires of a parent regarding the parent's [~~children~~] child by sufficient evidence to satisfy a parent's constitutional entitlement to heightened protection against government interference with the parent's fundamental rights and liberty interests and, concomitantly, the right of the child to be reared by the child's natural parent.

(b) The fundamental liberty interest of a parent concerning the care, custody, and management of the parent's [~~children~~] child is recognized, protected, and does not cease to exist simply because a parent may fail to be a model parent or because the parent's child is placed in the temporary custody of the state. At all times, a parent retains a vital interest in preventing the irretrievable destruction of family life. [~~Prior to~~] Before an adjudication of unfitness, government action in relation to [~~parents and their children~~] a parent and the parent's child may not exceed the least restrictive means or alternatives available to accomplish a compelling state interest. Until the state proves parental unfitness, and the child suffers, or is substantially likely to suffer, serious detriment as a result, the child and the child's [~~parents~~] parent share a vital interest in preventing erroneous termination of their natural relationship and the state cannot presume that a child and the child's [~~parents~~] parent are adversaries.

(c) It is in the best interest and welfare of a child to be raised under the care and supervision of the child's natural parents. A child's need for a normal family life in a permanent home, and for positive, nurturing family relationships is usually best met by the child's natural parents. Additionally, the integrity of the family unit and the right of [~~parents~~] a parent to conceive and raise [~~their children~~] the parent's child are constitutionally protected. The right of a fit, competent parent to raise the parent's child without undue government interference is a fundamental liberty interest that has long been protected by the laws and Constitution and is a fundamental public policy of this state.

(d) The state recognizes that:

(i) a parent has the right, obligation, responsibility, and authority to raise, manage, train, educate, provide and care for, and reasonably discipline the parent's [~~children~~] child; and

(ii) the state's role is secondary and supportive to the primary role of a parent.

(e) It is the public policy of this state that [~~parents retain~~] a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of [~~their children~~] the parent's child.

(f) Subsections (2) through (7) shall be interpreted and applied consistent with this Subsection (1).

(2) It is also the public policy of this state that children have the right to protection from abuse and neglect, and that the state retains a compelling interest in investigating, prosecuting, and punishing abuse and neglect. Therefore, the state, as parens patriae, has an interest in and responsibility to protect [~~children whose parents abuse them or do~~] a child whose parent abuses the child or does not adequately provide for [~~their~~] the child's welfare. There may be circumstances where a parent's conduct or condition is a substantial departure from the norm and the parent is unable or unwilling to render safe and proper parental care and protection. Under those circumstances, the state may take action for the welfare and protection of the parent's [~~children~~] child.

(3) When the division intervenes on behalf of an abused, neglected, or dependent child, [~~it~~] the division shall take into account the child's need for protection from immediate harm and the extent to which the child's extended family may provide needed protection. Throughout [~~its~~] the division's involvement, the division shall utilize the least intrusive and least restrictive means available to protect a child, in an effort to ensure that children are brought up in stable, permanent families, rather than in temporary foster placements under the supervision of the state.

(4) [~~When~~] If circumstances within the family pose a threat to the child's immediate safety or welfare, the division may seek custody of the child for a planned, temporary period and place the child in a safe environment, subject to the requirements of this section and in accordance with [~~the requirements of Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings, and[~~: (a)~~] when safe and appropriate, return the child to the child's parent[~~;~~] or [~~(b)~~] as a last resort, pursue another permanency plan.

(5) In determining and making[~~"~~]reasonable efforts[~~"~~] with regard to a child, [~~pursuant to the provisions of Section 62A-4a-203~~] under Section 80-2a-302, both the division's and the juvenile court's paramount concern shall be the child's health, safety, and welfare. The desires of a parent for the parent's child, and the constitutionally protected rights of a parent, as described in this section, shall be given full and serious consideration by the division and the juvenile court.

(6) In accordance with Subsections 80-2a-302(4) and 80-3-301(12), in cases where [~~actual~~] sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are [~~established~~] involved, the state has no duty to make[~~"~~]reasonable efforts[~~"~~] or to, in any other way, attempt to maintain a child in the child's home, provide reunification services, or [~~to attempt to~~] rehabilitate the offending parent or parents. This Subsection (6) does not exempt the division from providing court-ordered services.

(7) (a) In accordance with Subsection (1), the division shall strive to achieve appropriate permanency for children who are abused, neglected, or dependent. The division shall provide in-home services, [~~where~~] if appropriate and safe, in an effort to help a parent to correct the behavior that resulted in abuse, neglect, or dependency of the parent's child. The division may pursue a foster placement only if in-home services fail or are otherwise insufficient or inappropriate, kinship placement is not safe or appropriate, or in-home services and kinship placement fail and cannot be corrected. The division shall also seek qualified extended family support or a kinship placement to maintain a sense of security and stability for the child.

(b) If the use or continuation of[~~"~~]reasonable efforts,[~~"~~] as described in Subsections (5) and (6), is determined to be inconsistent with the permanency plan for a child, then measures shall be taken, in a timely manner, to place the child in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

(c) Subject to the parental rights recognized and protected under this section, if, because of a parent's conduct or condition, the parent is determined to be unfit or incompetent based on the grounds for termination of parental rights described in [~~Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings,~~] Chapter 4, Termination and Restoration of Parental Rights, the continuing welfare and best interest of the child is of paramount importance, and shall be protected in determining whether that parent's rights should be terminated.

(8) The state's right to direct or intervene in the provision of medical or mental health care for a child is subject to Subsections [~~80-1-102(51)(b)(i)~~]

80-1-102(58)(b)(i) through (iii) and Sections 80-3-109 and 80-3-304.

Section 97. Section 80-2a-202, which is renumbered from Section 62A-4a-202.1 is renumbered and amended to read:

[~~62A-4a-202.1~~]. 80-2a-202. Removal of a child by a peace officer or child welfare caseworker -- Search warrants -- Protective custody and temporary care of a child.

(1) A peace officer or child welfare caseworker may remove a child or take a child into protective custody, temporary custody, or custody in accordance with this section.

[~~(1) A~~] (2)(a) Except as provided in Subsection (2)(b), a peace officer or a child welfare [~~worker~~] caseworker may not enter the home of a child whose case is not under the jurisdiction of the juvenile court, remove a child from the child's home or school, or take a child into protective custody unless:

[~~(a)~~] (i) there exist exigent circumstances sufficient to relieve the peace officer or the child welfare [~~worker~~] caseworker of the requirement to obtain a search warrant under Subsection [~~(4) or (8)~~] (3);

[~~(b)~~] (ii) the peace officer or [~~the~~] child welfare [~~worker~~] caseworker obtains a search warrant under Subsection [~~(4) or (8)~~] (3);

[~~(c)~~] (iii) the peace officer or [~~the~~] child welfare [~~worker~~] caseworker obtains a court order after the child's parent or guardian is given notice and an opportunity to be heard; or

[~~(d)~~] (iv) the peace officer or [~~the~~] child welfare [~~worker~~] caseworker obtains the consent of the child's parent or guardian.

[~~(2)~~] (b) A peace officer or a child welfare [~~worker may not remove a child from the child's home or take a child into custody under this section~~] caseworker may not take action under Subsection (2)(a) solely on the basis of:

[~~(a)~~] (i) educational neglect, truancy, or failure to comply with a court order to attend school; or

[~~(b)~~] (ii) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

[~~(3) (a) A child welfare worker may take action under Subsection (1) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.~~]

[~~(b) Before taking a child into protective custody, and if possible and if consistent with the child's safety and welfare, a child welfare worker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.~~]

[~~(c) If the services described in Subsection (3)(b) are reasonably available, the services described in Subsection (3)(b) shall be utilized.~~]

[~~(d) In determining whether the services described in Subsection (3)(b) are reasonably available, and in making reasonable efforts to provide the services described in Subsection (3)(b), the child's health, safety, and welfare shall be the child welfare worker's paramount concern.~~]

[~~(4)~~] (3) (a) The juvenile court may issue a warrant authorizing a peace officer or a child welfare [~~worker~~] caseworker to search for a child and take the child into protective custody if it appears to the juvenile court upon a verified petition, recorded sworn testimony or an affidavit sworn to by a peace officer or [~~any other~~] another individual, and upon the examination of other witnesses if required by the juvenile court, that there is probable cause to believe that:

(i) there is a threat of substantial harm to the child's health or safety;

(ii) it is necessary to take the child into protective custody to avoid the harm described in Subsection [~~(4)~~] (3)(a)(i); and

(iii) it is likely that the child will suffer substantial harm if the child's parent or guardian [~~of the child~~] is given notice and an opportunity to be heard before the child is taken into protective custody.

(b) In accordance with Section 77-23-210, a peace officer making the search under Subsection (3)(a) may enter a house or premises by force, if necessary, in order to remove the child.

[~~(c) The individual executing the warrant shall take the child to a shelter facility designated by the juvenile court or the division or to an emergency placement if the division makes an emergency placement under Section 62A-4a-209.~~]

(4) (a) A child welfare caseworker may take action under Subsection (2) accompanied by a peace officer or without a peace officer if a peace officer is not reasonably available.

(b) (i) Before taking a child into protective custody, and if possible and consistent with the child's safety and welfare, a child welfare caseworker shall determine whether there are services available that, if provided to a parent or guardian of the child, would eliminate the need to remove the child from the custody of the child's parent or guardian.

(ii) In determining whether the services described in Subsection (4)(b)(i) are reasonably available, the child welfare caseworker shall consider the child's health, safety, and welfare as the paramount concern.

(iii) If the child welfare caseworker determines the services described in Subsection (4)(b)(i) are reasonably available, the services shall be utilized.

(5) (a) If a peace officer or a child welfare [~~worker~~] caseworker takes a child into protective custody under Subsection [~~(1)~~] (2), the peace officer or [~~the~~] child welfare [~~worker~~] caseworker shall:

[~~(a)~~] (i) notify the child's parent or guardian [~~as described in Section 62A-4a-202.2~~] in accordance with Section 80-2a-203; and

[~~(b)~~] (ii) release the child to the care of the child's parent[~~,~~] or guardian[~~,~~] or another responsible adult, unless:

[~~(i)~~] (A) the child's immediate welfare requires the child remain in protective custody; or

[~~(ii)~~] (B) the protection of the community requires the child's detention in accordance with [~~Title 80,~~] Chapter 6, Part 2, Custody and Detention.

(b) (i) If a peace officer or child welfare caseworker is executing a warrant under Subsection (3), the peace officer or child welfare caseworker shall take the child to:

(A) a shelter facility; or

(B) if the division makes an emergency placement under Section 80-2a-301, the emergency placement.

[~~(6)~~] (ii) If a peace officer or a child welfare [~~worker~~] caseworker takes a child to a shelter facility under Subsection (5)(b)(i), the peace officer or the child welfare [~~worker~~] caseworker shall promptly file a written report that includes the child's information, on a form provided by the division, with the shelter facility.

[~~(7) (a)~~] (c) A child removed or taken into protective custody under this section may not be placed or kept in detention[~~, as defined in Section 80-1-102,~~] pending court proceedings, unless the child may be held in detention under [~~Title 80,~~] Chapter 6, Part 2, Custody and Detention.

[~~(b) A child removed from the custody of the child's parent or guardian but who does not require physical restriction shall be given temporary care in:~~]

[~~(i) a shelter facility; or~~]

[~~(ii) an emergency placement in accordance with Section 62A-4a-209.~~]

[~~(c) When making a placement under Subsection (7)(b), the division shall give priority to a placement with a noncustodial parent, relative, or friend in accordance with Section 62A-4a-209.~~]

[~~(d) If the child is not placed with a noncustodial parent, a relative, or a designated friend, the caseworker assigned to the child shall file a report with the caseworker's supervisor explaining why a different placement was in the child's best interest.~~]

[~~(8) A~~] (6) (a) The juvenile court shall issue a warrant authorizing a peace officer or a child welfare worker to search for a child who is missing, has been abducted, or has run away, and take the child into physical custody if the juvenile court determines that[~~: (a) the child is in the legal custody of the division; and (b)~~] the child is missing, has been abducted, or has run away from the protective custody, temporary custody, or custody of the division.

[~~(9) When a~~] (b) If the juvenile court issues a warrant under Subsection [~~(8)~~] (6)(a):

[~~(a)~~] (i) the division shall notify the child's parent or guardian who has a right to parent-time with the child in accordance with Subsection 80-2a-203(5)(a);

[~~(b)~~] (ii) the court shall order:

[~~(i)~~] (A) the law enforcement agency that has jurisdiction over the location from which the child ran away to enter a record of the warrant into the National Crime Information Center database within 24 hours after the time in which the law enforcement agency receives a copy of the warrant; and

[~~(ii)~~] (B) the division to notify the law enforcement agency described in Subsection [~~(9)(b)(i)~~] (6)(b)(ii)(A) of the order described in Subsection [~~(9)(b)(i)~~] (6)(b)(ii)(A); and

(c) the court shall specify the location to which the peace officer or the child welfare [~~worker~~] caseworker shall transport the child.

[~~(10) (a) The parent or guardian to be notified under Subsection (9) must be:~~]

[~~(i) the child's primary caregiver; or~~]

[~~(ii) the parent or guardian who has custody of the child when the order is sought.~~]

[~~(b) The person required to provide notice under Subsection (9) shall make a good faith effort to provide notice to a parent or guardian who:~~]

[~~(i) is not required to be notified under Subsection (10)(a); and~~]

[~~(ii) has a right to parent-time with the child.~~]

Section 98. Section 80-2a-203, which is renumbered from Section 62A-4a-202.2 is renumbered and amended to read:

[~~62A-4a-202.2~~]. 80-2a-203. Notice upon issuance of a warrant or removal of a child -- Locating noncustodial parent -- Information provided to parent, guardian, or responsible relative.

(1) (a) A peace officer or [~~a~~] child welfare [~~worker~~] caseworker who takes a child into protective custody under Subsection [~~62A-4a-202.1(1)~~] 80-2a-202(1), shall immediately use reasonable efforts to locate and inform, through the most efficient means available, the child's parents, including a noncustodial parent, the child's guardian, or a responsible relative:

(i) that the child [~~has been taken into~~] is in protective custody;

(ii) the [~~reasons~~] reason for removal and placement of the child in protective custody;

(iii) that the parent, guardian, or relative will be provided with information on:

(A) the parent's or guardian's procedural rights; and

(B) the preliminary stages of the investigation and shelter hearing;

(iv) of a telephone number where the parent or guardian may access further information;

(v) that the child and the child's parent or guardian are entitled to have an attorney present at the shelter hearing;

(vi) that if the child's parent or guardian is an indigent individual[~~, as defined in Section 78B-22-102,~~] and desires to have an attorney, one will be provided; and

(vii) that resources are available to assist the child's parent or guardian, including:

(A) a parent advocate;

(B) a qualified attorney; or

(C) potential expert witnesses to testify on behalf of the child[~~,~~] or the child's parent [~~or~~], guardian, or [~~the child's~~] family.

(b) For purposes of locating and informing the noncustodial parent [~~as required in~~] under Subsection (1)(a), the division shall search for the noncustodial parent through the [~~national parent locator database~~] Federal Parent Locator Service if the division is unable to locate the noncustodial parent through other reasonable efforts.

(2) At the time that a child is taken into protective custody under Subsection [~~62A-4a-202.1(1), the~~] 80-2a-202(2), the division shall provide the child's parent or [~~a~~] guardian [~~shall be provided~~] an informational packet with:

(a) all of the information described in Subsection (1);

(b) information on the conditions under which a child may be released from protective custody;

(c) information on resources that are available to the parent or guardian, including:

(i) mental health resources;

(ii) substance abuse resources; and

(iii) parenting classes; and

(d) any other information considered relevant by the division.

(3) The division shall ensure the informational packet described in Subsection (2) [~~shall be~~] is:

(a) evaluated periodically for the effectiveness of the informational packet at conveying necessary information and revised accordingly;

(b) written in simple, easy-to-understand language;

(c) available in English and other languages as the division determines to be appropriate and necessary; and

(d) made available for distribution in:

(i) schools;

(ii) health care facilities;

(iii) local police and sheriff's offices;

(iv) the offices of the division; and

(v) any other appropriate office within the [~~Department of Human Services~~] department.

(4) If reasonable efforts are made by the peace officer or child welfare caseworker to notify the child's parent or guardian or a responsible relative [~~in accordance with the requirements of~~] under Subsection (1), failure to notify:

(a) shall be considered to be due to circumstances beyond the control of the peace officer or child welfare caseworker; and

(b) may not be construed to:

(i) permit a new defense to any juvenile or judicial proceeding; or

(ii) interfere with any rights, procedures, or investigations provided for by this chapter [~~or Title 80~~], Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

(5) (a) If the juvenile court issues a warrant under Subsection 80-2a-202(6), the division shall provide notice of the warrant to the child's parent or guardian who:

(i) has a right to parent-time with the child; and

(ii) (A) is the child's primary caregiver; or

(B) has custody of the child when the warrant is sought.

(b) The division shall make a good faith effort to provide notice to the child's parent or guardian who:

(i) is not required to be notified under Subsection (5)(a); and

(ii) has a right to parent-time with the child.

Section 99. Section 80-2a-301, which is renumbered from Section 62A-4a-209 is renumbered and amended to read:

Part 3. Division Placement of a Child After Removal

[~~62A-4a-209~~]. 80-2a-301. Division's emergency placement of a child -- Background checks.

[~~(1) As used in this section:~~]

[~~(a) "Friend" means the same as that term is defined in Section 80-3-102.~~]

[~~(b) "Nonrelative" means an individual, other than a noncustodial parent or a relative.~~]

[~~(c) "Relative" means the same as that term is defined in Section 80-3-102.~~]

[~~(2) The division may use an emergency placement under Subsection 62A-4a-202.1(7)(b) when:~~]

(1) The division may place a child in an emergency placement if:

(a) the [~~case worker has made~~] child welfare caseworker makes the determination that:

(i) the child's home is unsafe;

(ii) removal is necessary under [~~the provisions of Section 62A–4a–202.1~~] Section 80–2a–202; and

(iii) the child's custodial parent or guardian will agree to not remove the child from the home of the individual that serves as the placement and not have any contact with the child until after the time at which the shelter hearing [~~required by~~] is held under Section 80–3–301;

(b) an individual, with preference being given in accordance with Subsection (4), can be identified who has the ability and is willing to provide care for the child who would otherwise be placed in shelter care, including:

(i) taking the child to medical, mental health, dental, and educational appointments at the request of the division; and

(ii) making the child available to division services and the guardian ad litem; and

(c) the individual described in Subsection [~~(2)~~] (1)(b) agrees to care for the child on an emergency basis under the following conditions:

(i) the individual meets the criteria for an emergency placement under Subsection [~~(3)~~] (2);

(ii) the individual agrees to not allow the custodial parent or guardian to have any contact with the child until after the time at which the shelter hearing is held unless authorized by the division in writing;

(iii) the individual agrees to contact law enforcement and the division if the custodial parent or guardian attempts to make unauthorized contact with the child;

(iv) the individual agrees to allow the division and the child's guardian ad litem to have access to the child;

(v) the individual [~~has been~~] is informed and understands that the division may continue to search for other possible placements for long-term care of the child, if needed;

(vi) the individual is willing to assist the custodial parent or guardian in reunification efforts at the request of the division, and to follow all court orders; and

(vii) the child is comfortable with the individual.

[~~(3)~~] (2) Except as [~~otherwise~~] provided in Subsection [~~(5)~~] (4), before the day on which the division places a child in an emergency placement, the division:

(a) may request the name of a reference and may contact the reference to determine [~~the answer to the following questions~~] whether:

(i) [~~would~~] the individual identified as a reference would place a child in the home of the emergency placement; and

(ii) [~~are~~] there are any other relatives or friends to consider as a possible emergency or long-term placement for the child;

(b) in accordance with Subsection (4)(a), shall have the custodial parent or guardian sign an emergency placement agreement form during the investigation described in Subsection (2)(a);

(c) (i) if the emergency placement will be with a relative, shall comply with the background check provisions described in Subsection [~~(7)~~] (6); or

(ii) if the emergency placement will be with an individual other than a noncustodial parent or [~~a~~] relative, shall comply with the background check provisions described in Subsection [~~(8)~~] (7) for adults living in the household where the child will be placed;

(d) shall complete a limited home inspection of the home where the emergency placement is made; and

(e) shall require the child welfare caseworker to have the emergency placement approved by a [~~family service specialist~~] supervisor designated by the division.

[~~(4)~~] (3) (a) [~~The following order of preference shall be applied~~] The division shall apply the following order of preference when determining the [~~individual~~] person with whom a child will be placed in an emergency placement [~~described in this section~~], provided that the individual is able and willing[~~, and has the ability,~~] to care for the child:

(i) a noncustodial parent of the child in accordance with Section 80–3–302;

(ii) a relative;

(iii) subject to Subsection [~~(4)~~] (3)(b), a friend designated by the custodial parent, guardian, or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iv) a former foster placement designated by the division;

(v) a foster placement, that is not a former foster placement, designated by the division; and

(vi) a shelter facility designated by the division.

(b) In determining whether a friend is a willing and appropriate temporary emergency placement for a child, the division:

(i) subject to Subsections [~~(4)~~] (3)(b)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent or legal guardian of the child and one friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child, if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the division's basis for removing the child under Section [~~62A-4a-202.1~~] 80-2a-202 is sexual abuse of the child.

[~~(5)~~] (4) (a) The division may, pending the outcome of the investigation described in Subsections [~~(5)~~] (4)(b) and (c), place a child in emergency placement with the child's noncustodial parent if, based on a limited investigation[~~, prior to making~~] before the day on which the division makes the emergency placement, the division:

(i) determines that the noncustodial parent has regular, unsupervised visitation with the child that is not prohibited by law or court order;

(ii) determines that there is not reason to believe that the child's health or safety will be endangered during the emergency placement; and

(iii) has the custodial parent or guardian sign an emergency placement agreement.

(b) Either before or after [~~making~~] the day on which the division makes an emergency placement with the noncustodial parent of the child, the division may conduct the investigation described in Subsection [~~(3)~~] (2)(a) in relation to the noncustodial parent.

(c) Before, or within one day, excluding weekends and holidays, after [~~a child is placed~~] the day on which the division places a child in an emergency placement with the noncustodial parent of the child, the division shall conduct a limited:

(i) background check of the noncustodial parent, [~~pursuant to~~] under Subsection [~~(7)~~] (6); and

(ii) inspection of the home where the emergency placement is made.

[~~(6)~~] (5) After an emergency placement, the [~~division~~] child welfare caseworker must:

(a) respond to the emergency placement's calls within one hour after the call is received if the custodial [~~parents or guardians attempt~~] parent or guardian attempts to make unauthorized contact with the child or [~~attempt~~] attempts to remove the child from the emergency placement;

(b) complete all removal paperwork, including the notice provided to the [~~custodial parents and guardians~~] child's custodial parent or guardian under Section 80-3-301;

(c) if the child is not placed with a noncustodial parent, relative, or friend, file a report with the child welfare caseworker's supervisor that explains why a different placement is in the child's best interest;

[~~(c)~~] (d) contact the attorney general to schedule a shelter hearing;

[~~(d)~~] (e) complete the placement procedures required in Section 80-3-302; and

[~~(e)~~] (f) continue to search for other relatives as a possible long-term placement for the child, if needed.

[~~(7)~~] (6) (a) The background check described in [~~Subsection (3)(c)(i)~~] Subsections (2)(c)(i) and (4)(c)(i) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check; and

(ii) a search of the Management Information System [~~described in Section 62A-4a-1003~~].

(b) The division shall determine whether an individual passes the background check described in [~~this Subsection (7) pursuant to the provisions of~~] Subsection (6)(a) in accordance with Subsection 62A-2-120(14).

(c) Notwithstanding Subsection [~~(7)~~] (6)(b), the division may not place a child with an individual who is prohibited by court order from having access to [~~that~~] the child.

[~~(8)~~] (7) (a) The background check described in Subsection [~~(3)~~] (2)(c)(ii) shall include completion of:

(i) a name-based, Utah Bureau of Criminal Identification background check;

(ii) a federal name-based criminal background check; and

(iii) a search of the Management Information System [~~described in Section 62A-4a-1003~~].

(b) The division shall determine whether an individual passes the background checks described in [~~this Subsection (8) pursuant to the provisions of~~] Subsection (7)(a) in accordance with Section 62A-2-120.

(c) If the division denies placement of a child as a result of a name-based criminal background check described in Subsection [~~(8)~~] (7)(a), and the individual contests [~~that~~] the denial, the individual shall submit a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(d) (i) Within 15 calendar days [~~of~~] after the day on which the name-based background checks are completed, the division shall require [~~an~~] the individual to provide a complete set of fingerprints with written permission to the Utah Bureau of Criminal Identification for submission to the Federal Bureau of Investigation for a fingerprint-based criminal background check.

(ii) If [~~an~~] the individual fails to provide the fingerprints and written permission described in Subsection [~~(8)~~] (7)(d)(i), the child shall immediately be removed from the child's home.

Section 100. Section 80-2a-302, which is renumbered from Section 62A-4a-203 is renumbered and amended to read:

[~~62A-4a-203~~]. 80-2a-302. Reasonable efforts to maintain a child in the home -- Exception -- Reasonable efforts for reunification.

(1) Because removal of a child from the child's home affects protected, constitutional rights of the parent and has a dramatic, long-term impact on a child, the division shall:

(a) [~~when~~] if possible and appropriate, without danger to the child's welfare, make reasonable efforts to prevent or eliminate the need for removal of a child from the child's home [~~prior to placement~~] before the day on which the child is placed in substitute care;

(b) determine whether there is substantial cause to believe that a child has been or is in danger of abuse or neglect, in accordance with the guidelines described in [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings, before removing the child from the child's home; and

(c) [~~when it is~~] if possible and appropriate, and in accordance with the limitations and requirements of Sections 80-3-406 and 80-3-409, make reasonable efforts to make it possible for a child in substitute care to return to the child's home.

(2) (a) In determining the reasonableness of efforts needed to maintain a child in the child's home or to return a child to the child's home, in accordance with Subsection (1)(a) or (c), the child's health, safety, and welfare shall be the paramount concern.

(b) The division shall consider whether the efforts described in Subsections (1) and (2) are likely to prevent abuse or continued neglect of the child.

(3) [~~When~~] If removal and placement in substitute care is necessary to protect a child, the efforts described in Subsections (1) and (2):

(a) are not reasonable or appropriate; and

(b) should not be utilized.

(4) Subject to Subsection (5), in cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the state has no duty to make reasonable efforts to, in any way, attempt to:

(a) maintain a child in the child's home;

(b) provide reunification services; or

(c) rehabilitate the offending parent or parents.

(5) [~~Nothing in Subsection (4) exempts~~] Subsection (4) does not exempt the division from providing court ordered services.

Section 101. Section 80-2a-303, which is renumbered from Section 62A-4a-206.5 is renumbered and amended to read:

[~~62A-4a-206.5~~]. 80-2a-303. Child missing from division custody -- Placement after locating child.

(1) [~~When~~] If the division receives information that a child in the protective custody, temporary custody, or custody of the division is missing, has been abducted, or has run away, the division shall:

(a) within 24 hours after the time when the division has reason to believe that the information that the child is missing, has been abducted, or has run away is accurate, notify the National Center for Missing and Exploited Children; and

(b) pursue a warrant under Subsection [~~62A-4a-202.1(8)~~] 80-2a-202(6).

(2) [~~When~~] If the division locates a child described in Subsection (1), the division shall:

(a) determine the primary factors that caused or contributed to the child's absence from care;

(b) determine the child's experiences while absent from care, including screening the child to determine if the child is a sex trafficking victim;

(c) to the extent possible, select a placement for the child that accommodates the child's needs and takes into consideration the factors and experiences described in Subsections (2)(a) and (b); and

(d) follow the requirements in Section 80-3-303 for determining an ongoing placement of the child.

Section 102. Section 80-2a-304, which is renumbered from Section 62A-4a-206 is renumbered and amended to read:

[~~62A-4a-206~~]. 80-2a-304. Removal of a child from foster family placement -- Procedural due process.

(1) (a) The Legislature finds that, except with regard to a child's natural parent or [~~legal~~] guardian, a foster family has a very limited but recognized interest in [~~its~~] the foster family's familial relationship with a foster child who has been in the care and custody of [~~that family. In~~] the foster family and in making determinations regarding removal of a child from a foster home, the division may not dismiss the foster family as a mere collection of unrelated individuals.

(b) The Legislature finds that children in the temporary custody and custody of the division are experiencing multiple changes in foster care placements with little or no documentation, and that numerous studies of child growth and development emphasize the importance of stability in foster care living arrangements.

(c) For the reasons described in Subsections (1)(a) and (b), the division shall provide procedural due process for a foster family [~~prior to~~] before removal of a foster child from [~~their~~] the foster family's home, regardless of the length of time the child has been in [~~that~~] the foster family's home, unless removal is for the purpose of:

(i) returning the child to the child's natural parent or [~~legal~~] guardian;

(ii) immediately placing the child in an approved adoptive home;

(iii) placing the child with a relative[~~, as defined in Section 80-3-102,~~] who obtained custody or asserted an interest in the child within the preference period described in Subsection 80-3-302(8); or

(iv) placing an Indian child in accordance with placement preferences and other requirements described in the Indian Child Welfare Act, 25 U.S.C. Sec. 1915.

(2) (a) The division shall maintain and utilize due process procedures for removal of a foster child from a foster home, in accordance with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.

(b) [~~Those~~] The procedures described in Subsection (2)(a) shall include requirements for:

(i) personal communication with, and a written explanation of the reasons for the removal to, the foster parents [~~prior to~~] before removal of the child; and

(ii) an opportunity for foster parents to:

(A) present [~~their~~] the foster parents' information and concerns to the division [~~and to:~~]; and

[~~(A)~~] (B) request a review, to be held before removal of the child, by a third party neutral fact finder[~~; or (B)~~] or if the child [~~has been~~] is placed with the foster parents for a period of at least two years, request a review, to be held before removal of the child, by[~~: (I)~~] the juvenile court judge currently assigned to the child's case[~~; or (II)~~] or, if the juvenile court judge currently assigned to the child's case is not available, another juvenile court judge.

(c) If the division determines that there is a reasonable basis to believe that the child is in danger or that there is a substantial threat of danger to the health or welfare of the child, [~~it~~] the division shall place the child in emergency foster care during the pendency of the procedures described in this [~~subsection~~] Subsection (2), instead of making another foster care placement.

(3) (a) If the division removes a child from a foster home based [~~upon~~] on the child's statement alone, the division shall initiate and expedite the processes described in Subsection (2).

(b) The division may [~~take no~~] not take formal action with regard to [~~that~~] the foster parent's license until after [~~those~~] the processes described in Subsection (2), in addition to any other procedure or hearing required by law, [~~have been~~] are completed.

(4) [~~When~~] If a complaint is made to the division by a foster child against a foster parent, the division shall, within 30 business days after the day on which the complaint is received, provide the foster parent with information regarding the specific nature of the complaint, the time and place of the alleged incident, and who was alleged to have been involved.

(5) [~~Whenever~~] If the division places a child in a foster home, [~~it~~] the division shall provide the foster parents with:

(a) notification of the requirements of this section;

(b) a written description of the procedures enacted by the division [~~pursuant to~~] under Subsection (2) and how to access [~~those processes~~] the procedures; and

(c) written notification of the foster parents' ability to petition the juvenile court directly for review of a decision to remove a foster child who [~~has been in their~~], subject to Section 80-3-502, has been in the foster parents' custody for 12 months or longer[~~, in accordance with the limitations and requirements of Section 80-3-502~~].

(6) [~~The requirements of this section do~~] This section does not apply to the removal of a child based on a foster parent's request for [~~that~~] the removal.

(7) It is unlawful for a person, with the intent to avoid compliance with the requirements of this section, to:

(a) take action, or encourage another to take action, against the license of a foster parent; or

(b) remove a child from a foster home before the child [~~has been~~] is placed with the foster parents for two years.

(8) The division may not remove a foster child from a foster parent who is a relative[~~, as defined in Section 80-3-102,~~] of the child on the basis of the age or health of the foster parent without determining [~~by~~]:

(a) by clear and convincing evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would not be another relative of the child; or

(b) by a preponderance of the evidence that the foster parent is incapable of caring for the foster child, if the alternative foster parent would be another relative of the child.

Section 103. Section 80-3-102 is amended to read:

80-3-102. Definitions.

As used in this chapter:

(1) "Abuse, neglect, or dependency petition" means a petition filed in accordance with this chapter to commence proceedings in a juvenile court alleging that a child is:

(a) abused;

(b) neglected; or

(c) dependent.

[~~(2) "Child protection team" means the same as that term is defined in Section 62A-4a-101.~~]

[~~(3)~~] (2) "Custody" means the same as that term is defined in Section [~~62A-4a-101~~] 80-2-102.

[~~(4)~~] (3) "Division" means the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

[~~(5)~~] (4) "Friend" means an adult who:

(a) has an established relationship with the child or a family member of the child; and

(b) is not the natural parent of the child.

[~~(6)~~] (5) "Immediate family member" means a spouse, child, parent, sibling, grandparent, or grandchild.

[~~(7)~~] (6) "Relative" means an adult who:

(a) is the child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother–in–law, sister–in–law, stepparent, first cousin, stepsibling, or sibling;

(b) is a first cousin of the child's parent;

(c) is an adoptive parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in 25 U.S.C. Sec. 1903.

[~~(8) "Shelter care" means the same as that term is defined in Section 62A–4a–101.~~]

[~~(9)~~] (7) "Sibling" means the same as that term is defined in Section [~~62A–4a–101~~] 80–2–102.

[~~(10)~~] (8) "Sibling visitation" means the same as that term is defined in Section [~~62A–4a–101~~] 80–2–102.

[~~(11) "Substitute care" means the same as that term is defined in Section 62A–4a–101.~~]

[~~(12)~~] (9) "Temporary custody" means the same as that term is defined in Section [~~62A–4a–101~~] 80–2–102.

Section 104. Section 80-3-104 is amended to read:

80-3-104. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

(1) (a) A minor who is the subject of a juvenile court hearing, any person entitled to notice under Section 80–3–201 or 80–3–301, preadoptive parents, foster parents, and any relative providing care for the minor, are:

(i) entitled to notice of, and to be present at, each hearing and proceeding held under this chapter, including administrative reviews; and

(ii) have a right to be heard at each hearing and proceeding described in Subsection (1)(a)(i).

(b) A child's right to be present at a hearing under Subsection (1)(a) is subject to the discretion of the guardian ad litem[~~, as defined in Section 78A–2–801,~~] appointed under Subsection (3) or the juvenile court regarding any possible detriment to the child.

(2) (a) The parent or guardian of a minor who is the subject of an abuse, neglect, or dependency petition has the right to be represented by counsel, and to present evidence, at each hearing.

(b) If a parent or guardian is the subject of an abuse, neglect, or dependency petition, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or [~~legal~~] guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(3) (a) In an abuse, neglect, or dependency proceeding under this chapter, the juvenile court shall order that the child be represented by an attorney guardian ad litem, in accordance with Section 78A–2–803.

(b) A guardian ad litem appointed under Subsection (3)(a) shall represent the best interest of the minor, in accordance with the requirements of Section 78A–2–803:

(i) at the shelter hearing and at all subsequent court and administrative proceedings, including any proceeding for termination of parental rights in accordance with Chapter 4, Termination and Restoration of Parental Rights; and

(ii) in other actions initiated under this chapter when appointed by the court under Section 78A–2–803 or as otherwise provided by law.

(4) Subject to Section 67–5–17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section [~~62A–4a–113~~] 80–2–303, enforce [~~all provisions of~~] this chapter [~~and Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to protection or custody of an abused, neglected, or dependent minor and the termination of parental rights.

(5) (a) The juvenile court shall admit any individual to a hearing under this chapter, including a hearing under Section 80–3–205, unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a minor who is a party to the proceeding;

(ii) impair the fact–finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (5)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Section 105. Section 80-3-109 is amended to read:

80-3-109. Physical or mental health examination during proceedings -- Division duties.

(1) In a proceeding under this chapter, the juvenile court:

(a) may appoint any mental health therapist, as defined in Section 58–60–102, who the juvenile court finds to be qualified to:

(i) evaluate the mental health of a minor or provide mental health services to the minor; or

(ii) after notice and a hearing set for the specific purpose, evaluate the mental health of the minor's parent or guardian or provide mental health services to the parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's mental or emotional condition may be a factor in causing the abuse, neglect, or dependency of the minor; or

(b) may appoint a physician, or a physician assistant, who the juvenile court finds to be qualified to:

(i) physically examine the minor; or

(ii) after notice and a hearing set for the specific purpose, physically examine the minor's parent or guardian if the juvenile court finds from the evidence presented at the hearing that the parent's or guardian's physical condition may be a factor in causing the abuse, neglect, or dependency of the minor.

(2) The juvenile court may not refuse to appoint a mental health therapist under Subsection (1) for the reason that the therapist's recommendations in another case did not follow the recommendations of the division.

(3) The division shall, with regard to a minor in the division's custody:

(a) take reasonable measures to notify a minor's parent or guardian of any non-emergency health treatment or care scheduled for a minor;

(b) include the minor's parent or guardian as fully as possible in making health care decisions for the minor;

(c) defer to the minor's parent's or guardian's reasonable and informed decisions regarding the minor's health care to the extent that the minor's health and well-being are not unreasonably compromised by the parent's or guardian's decision; and

(d) notify the minor's parent or guardian within five business days after the day on which the minor receives emergency health care or treatment.

(4) An examination conducted in accordance with Subsection (1) is not a privileged communication under Utah Rules of Evidence, Rule 506(d)(3), and is exempt from the general rule of privilege.

(5) Subsection (1) applies to a proceeding under this chapter involving:

(a) parents and minors; or

(b) the division.

Section 106. Section 80-3-201 is amended to read:

80-3-201. Petition -- Who may file -- Timing -- Dismissal -- Notice.

(1) Subject to Subsection (2), any interested person may file an abuse, neglect, or dependency petition.

(2) A person described in Subsection (1) shall make a referral with the division before the person files an abuse, neglect, or dependency petition.

(3) If a child who is the subject of an abuse, neglect, or dependency petition is removed from the child's home by the division, the petition shall be filed on or before the day on which the initial shelter hearing described in Section 80-3-301 is held.

(4) An abuse, neglect, or dependency petition shall include:

(a) a concise statement of facts, separately stated, to support the conclusion that the child upon whose behalf the abuse, neglect, or dependency petition is brought is abused, neglected, or dependent; and

(b) a statement regarding whether the child is in protective custody, and if so, the date and precise time the child was taken into protective custody.

(5) (a) Upon the filing of an abuse, neglect, or dependency petition, the petitioner shall serve the petition and notice on:

(i) the guardian ad litem;

(ii) both parents and any guardian of the child; and

(iii) the child's foster parents.

(b) The notice described in Subsection (5) shall contain all of the following:

(i) the name and address of the person to whom the notice is directed;

(ii) the date, time, and place of the hearing on the petition;

(iii) the name of the child on whose behalf the petition is brought;

(iv) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the hearing on the petition, and that if the parent or guardian is indigent and cannot afford an attorney, and desires to be represented by an attorney, one will be provided; and

(v) a statement that the parent or [~~legal~~] guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and for legal counsel appointed for the parent or guardian under Subsection (5)(b)(iv), according to the parent's or guardian's financial ability.

(6) The petitioner shall serve the abuse, neglect, or dependency petition and notice under this section on all individuals described in Subsection (5)(a) as soon as possible after the petition is filed and at least five days before the day on which the hearing is set.

(7) The juvenile court may dismiss an abuse, neglect, or dependency petition at any stage of the proceedings.

(8) If an abuse, neglect, or dependency petition includes an allegation of educational neglect, Sections 53G-6-210 and 53G-6-211 are applicable to the proceedings under this chapter.

Section 107. Section 80-3-301 is amended to read:

80-3-301. Shelter hearing -- Court considerations.

(1) A juvenile court shall hold a shelter hearing to determine the temporary custody of a child within 72 hours, excluding weekends and holidays, after any one or all of the following occur:

(a) removal of the child from the child's home by the division;

(b) placement of the child in protective custody;

(c) emergency placement under Subsection [~~62A-4a-202.1(7)~~] 80-2a-202(5);

(d) as an alternative to removal of the child, a parent enters a domestic violence shelter at the request of the division; or

(e) a motion for expedited placement in temporary custody is filed under Section 80-3-203.

(2) If one of the circumstances described in Subsections (1)(a) through (e) occurs, the division shall issue a notice that contains all of the following:

(a) the name and address of the individual to whom the notice is directed;

(b) the date, time, and place of the shelter hearing;

(c) the name of the child on whose behalf an abuse, neglect, or dependency petition is brought;

(d) a concise statement regarding:

(i) the reasons for removal or other action of the division under Subsection (1); and

(ii) the allegations and code sections under which the proceeding is instituted;

(e) a statement that the parent or guardian to whom notice is given, and the child, are entitled to have an attorney present at the shelter hearing, and that if the parent or guardian is an indigent individual and cannot afford an attorney, and desires to be represented by an attorney, one will be provided in accordance with Title 78B, Chapter 22, Indigent Defense Act; and

(f) a statement that the parent or guardian is liable for the cost of support of the child in the protective custody, temporary custody, and custody of the division, and the cost for legal counsel appointed for the parent or guardian under Subsection (2)(e), according to the financial ability of the parent or guardian.

(3) The notice described in Subsection (2) shall be personally served as soon as possible, but no later than one business day after the day on which the child is removed from the child's home, or the day on which a motion for expedited placement in temporary custody under Section 80-3-203 is filed, on:

(a) the appropriate guardian ad litem; and

(b) both parents and any guardian of the child, unless the parents or guardians cannot be located.

(4) Notwithstanding Section 80-3-104, the following individuals shall be present at the shelter hearing:

(a) the child, unless it would be detrimental for the child;

(b) the child's parents or guardian, unless the parents or guardian cannot be located, or fail to appear in response to the notice;

(c) counsel for the parents, if one is requested;

(d) the child's guardian ad litem;

(e) the child welfare [~~worker~~] caseworker from the division who is assigned to the case; and

(f) the attorney from the attorney general's office who is representing the division.

(5) (a) At the shelter hearing, the juvenile court shall:

(i) provide an opportunity to provide relevant testimony to:

(A) the child's parent or guardian, if present; and

(B) any other individual with relevant knowledge;

(ii) subject to Section 80-3-108, provide an opportunity for the child to testify; and

(iii) in accordance with Subsections 80-3-302(8)(c) through (e), grant preferential consideration to a relative or friend for the temporary placement of the child.

(b) The juvenile court:

(i) may consider all relevant evidence, in accordance with the Utah Rules of Juvenile Procedure;

(ii) shall hear relevant evidence presented by the child, the child's parent or guardian, the requesting party, or the requesting party's counsel; and

(iii) may in the juvenile court's discretion limit testimony and evidence to only that which goes to the issues of removal and the child's need for continued protection.

(6) If the child is in protective custody, the division shall report to the juvenile court:

(a) the reason why the child was removed from the parent's or guardian's custody;

(b) any services provided to the child and the child's family in an effort to prevent removal;

(c) the need, if any, for continued shelter;

(d) the available services that could facilitate the return of the child to the custody of the child's parent or guardian; and

(e) subject to Subsections 80-3-302(8)(c) through (e), whether any relatives of the child or friends of the child's parents may be able and willing to accept temporary placement of the child.

(7) The juvenile court shall consider all relevant evidence provided by an individual or entity authorized to present relevant evidence under this section.

(8) (a) If necessary to protect the child, preserve the rights of a party, or for other good cause shown, the juvenile court may grant no more than one continuance, not to exceed five judicial days.

(b) A juvenile court shall honor, as nearly as practicable, the request by a parent or guardian for a continuance under Subsection (8)(a).

(c) Notwithstanding Subsection (8)(a), if the division fails to provide the notice described in Subsection (2) within the time described in Subsection (3), the juvenile court may grant the request of a parent or guardian for a continuance, not to exceed five judicial days.

(9) (a) If the child is in protective custody, the juvenile court shall order that the child be returned to the custody of the parent or guardian unless the juvenile court finds, by a preponderance of the evidence, consistent with the protections and requirements provided in Subsection [~~62A-4a-201(1)~~] 80-2a-201(1), that any one of the following exists:

(i) subject to Subsection (9)(b)(i), there is a serious danger to the physical health or safety of the child and the child's physical health or safety may not be protected without removing the child from the custody of the child's parent;

(ii) (A) the child is suffering emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(B) the parent or guardian is unwilling or unable to make reasonable changes that would sufficiently prevent future damage; and

(C) there are no reasonable means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(iii) there is a substantial risk that the child will suffer abuse or neglect if the child is not removed from the custody of the child's parent or guardian;

(iv) subject to Subsection (9)(b)(ii), the child or a minor residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited by:

(A) a parent or guardian;

(B) a member of the parent's household or the guardian's household; or

(C) an individual known to the parent or guardian;

(v) the parent or guardian is unwilling to have physical custody of the child;

(vi) the parent or guardian is unable to have physical custody of the child;

(vii) the child is without any provision for the child's support;

(viii) a parent who is incarcerated or institutionalized has not or cannot arrange for safe and appropriate care for the child;

(ix) (A) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(B) the whereabouts of the parent or guardian are unknown; and

(C) reasonable efforts to locate the parent or guardian are unsuccessful;

(x) subject to Subsection [~~80-1-102(51)(b)~~] 80-1-102(58)(b)(i) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(xi) (A) the physical environment or the fact that the child is left unattended beyond a reasonable period of time poses a threat to the child's health or safety; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the threat;

(xii) (A) the child or a minor residing in the same household has been neglected; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would prevent the neglect;

(xiii) the parent, guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act, and any clandestine laboratory operation was located in the residence or on the property where the child resided;

(xiv) (A) the child's welfare is substantially endangered; and

(B) the parent or guardian is unwilling or unable to make reasonable changes that would remove the danger; or

(xv) the child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) (i) Prima facie evidence of the finding described in Subsection (9)(a)(i) is established if:

(A) a court previously adjudicated that the child suffered abuse, neglect, or dependency involving the parent; and

(B) a subsequent incident of abuse, neglect, or dependency involving the parent occurs.

(ii) For purposes of Subsection (9)(a)(iv), if the juvenile court finds that the parent knowingly allowed the child to be in the physical care of an individual after the parent received actual notice that the individual physically abused, sexually abused, or sexually exploited the child, that fact is prima facie evidence that there is a substantial risk that the child will be physically abused, sexually abused, or sexually exploited.

(10) (a) (i) The juvenile court shall make a determination on the record as to whether reasonable efforts were made to prevent or eliminate the need for removal of the child from the child's home and whether there are available services that would prevent the need for continued removal.

(ii) If the juvenile court finds that the child can be safely returned to the custody of the child's parent or guardian through the provision of the services described in Subsection (10)(a)(i), the juvenile court shall place the child with the child's parent or guardian and order that the services be provided by the division.

(b) In accordance with federal law, the juvenile court shall consider the child's health, safety, and welfare as the paramount concern when making the determination described in Subsection (10)(a), and in ordering and providing the services described in Subsection (10)(a).

(11) [~~Where~~] If the division's first contact with the family occurred during an emergency situation in which the child could not safely remain at home, the juvenile court shall make a finding that any lack of preplacement preventive efforts, as described in Section [~~62A-4a-203~~] 80-2a-302, was appropriate.

(12) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved, the juvenile court and the division do not have any duty to make reasonable efforts or to, in any other way, attempt to maintain a child in the child's home, return a child to the child's home, provide reunification services, or attempt to rehabilitate the offending parent or parents.

(13) The juvenile court may not order continued removal of a child solely on the basis of educational neglect, truancy, or failure to comply with a court order to attend school.

(14) (a) [~~Whenever~~] If a juvenile court orders continued removal of a child under this section, the juvenile court shall state the facts on which the decision is based.

(b) If no continued removal is ordered and the child is returned home, the juvenile court shall state the facts on which the decision is based.

(15) If the juvenile court finds that continued removal and temporary custody are necessary for the protection of a child under Subsection (9)(a), the juvenile court shall order continued removal regardless of:

(a) any error in the initial removal of the child;

(b) the failure of a party to comply with notice provisions; or

(c) any other procedural requirement of this chapter [~~or Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child.

Section 108. Section 80-3-302 is amended to read:

80-3-302. Shelter hearing -- Placement of a child.

(1) As used in this section:

(a) "Natural parent," notwithstanding Section 80-1-102, means:

(i) a biological or adoptive mother of the child;

(ii) an adoptive father of the child; or

(iii) a biological father of the child who:

(A) was married to the child's biological mother at the time the child was conceived or born; or

(B) has strictly complied with Sections 78B-6-120 through 78B-6-122, before removal of the child or voluntary surrender of the child by the custodial parent.

(b) "Natural parent" includes the individuals described in Subsection (1)(a) regardless of whether the child has been or will be placed with adoptive parents or whether adoption has been or will be considered as a long-term goal for the child.

(2) (a) At the shelter hearing, [~~when~~] if the juvenile court orders that a child be removed from the custody of the child's parent in accordance with [~~the requirements of~~] Section 80-3-301, the juvenile court shall first determine whether there is another natural parent with whom the child was not residing at the time the events or conditions that brought the child within the juvenile court's jurisdiction occurred, who desires to assume custody of the child.

(b) Subject to Subsection (8), if another natural parent requests custody under Subsection (2)(a), the juvenile court shall place the child with that parent unless the juvenile court finds that the placement would be unsafe or otherwise detrimental to the child.

(c) The juvenile court:

(i) shall make a specific finding regarding the fitness of the parent described in Subsection (2)(b) to assume custody, and the safety and appropriateness of the placement;

(ii) shall, at a minimum, order the division to visit the parent's home, comply with the criminal background check provisions described in Section 80-3-305, and check the [~~division's management information system~~] Management

Information System for any previous reports of abuse or neglect received by the division regarding the parent at issue;

(iii) may order the division to conduct any further investigation regarding the safety and appropriateness of the placement; and

(iv) may place the child in the temporary custody of the division, pending the juvenile court's determination regarding the placement.

(d) The division shall report the division's findings from an investigation under Subsection (2)(c), regarding the child in writing to the juvenile court.

(3) If the juvenile court orders placement with a parent under Subsection (2):

(a) the child and the parent are under the continuing jurisdiction of the juvenile court;

(b) the juvenile court may order:

(i) that the parent take custody subject to the supervision of the juvenile court; and

(ii) that services be provided to the parent from whose custody the child was removed, the parent who has assumed custody, or both; and

(c) the juvenile court shall order reasonable parent-time with the parent from whose custody the child was removed, unless parent-time is not in the best interest of the child.

(4) The juvenile court shall periodically review an order described in Subsection (3) to determine whether:

(a) placement with the parent continues to be in the child's best interest;

(b) the child should be returned to the original custodial parent;

(c) the child should be placed with a relative under Subsections (7) through (10); or

(d) the child should be placed in the temporary custody of the division.

(5) The time limitations described in Section 80-3-406 with regard to reunification efforts apply to [~~children~~] a child placed with a previously noncustodial parent under Subsection (2).

(6) (a) Legal custody of the child is not affected by an order entered under Subsection (2) or (3).

(b) To affect a previous court order regarding legal custody, the party shall petition the court for modification of legal custody.

(7) Subject to Subsection (8), if, at the time of the shelter hearing, a child is removed from the custody of the child's parent and is not placed in the custody of the child's other parent, the juvenile court:

(a) shall, at that time, determine whether there is a relative or a friend who is able and willing to care for the child, which may include asking a child, who is of sufficient maturity to articulate the child's wishes in relation to a placement, if there is a relative or friend with whom the child would prefer to reside;

(b) may order the division to conduct a reasonable search to determine whether there are relatives or friends who are willing and appropriate, in accordance with the requirements of this chapter [~~and Title 62A, Chapter 4a, Part 2, Child Welfare Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, for placement of the child;

(c) shall order the parents to cooperate with the division, within five working days, to provide information regarding relatives or friends who may be able and willing to care for the child; and

(d) may order that the child be placed in the temporary custody of the division pending the determination under Subsection (7)(a).

(8) (a) Subject to Subsections (8)(b) through (d), preferential consideration shall be given to a relative's or a friend's request for placement of the child, if the placement is in the best interest of the child, and the provisions of this section are satisfied.

(b) (i) The preferential consideration that a relative or friend is initially granted under Subsection (8)(a) expires 120 days after the day on which the shelter hearing occurs.

(ii) After the day on which the time period described in Subsection (8)(b)(i) expires, a relative or friend, who has not obtained custody or asserted an interest in a child, may not be granted preferential consideration by the division or the juvenile court.

(c) (i) The preferential consideration that a natural parent is initially granted under Subsection (2) is limited after 120 days after the day on which the shelter hearing occurs.

(ii) After the time period described in Subsection (8)(c)(i), the juvenile court shall base the juvenile court's custody decision on the best interest of the child.

[~~(iii)~~] (d) Before the day on which the time period described in Subsection (8)(c)(i) expires, the following order of preference shall be applied when determining the individual with whom a child will be placed, provided that the individual is willing and able to care for the child:

[~~(A)~~] (i) a noncustodial parent of the child;

[~~(B)~~] (ii) a relative of the child;

[~~(C)~~] (iii) subject to Subsection (8)[~~(d)~~](e), a friend if the friend is a licensed foster parent; and

[~~(D)~~] (iv) other placements that are consistent with the requirements of law.

[~~(d)~~] (e) In determining whether a friend is a willing, able, and appropriate placement for a child, the juvenile court or the division:

(i) subject to Subsections [~~(8)(d)(ii) through (iv)~~] (8)(e)(ii) through (iv), shall consider the child's preferences or level of comfort with the friend;

(ii) is required to consider no more than one friend designated by each parent of the child and one friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement;

(iii) may limit the number of designated friends to two, one of whom shall be a friend designated by the child if the child is of sufficient maturity to articulate the child's wishes in relation to a placement; and

(iv) shall give preference to a friend designated by the child if:

(A) the child is of sufficient maturity to articulate the child's wishes; and

(B) the basis for removing the child under Section 80-3-301 is sexual abuse of the child.

[~~(e)~~] (f) (i) If a parent of the child or the child, if the child is of sufficient maturity to articulate the child's wishes in relation to a placement, is not able to designate a friend who is a licensed foster parent for placement of the child, but is able to identify a friend who is willing to become licensed as a foster parent, the department shall fully cooperate to expedite the licensing process for the friend.

(ii) If the friend described in Subsection [~~(8)(e)(i)~~] (8)(f)(i) becomes licensed as a foster parent within the time frame described in Subsection (8)(b), the juvenile court shall determine whether it is in the best interest of the child to place the child with the friend.

(9) (a) If a relative or friend who is willing to cooperate with the child's permanency goal is identified under Subsection (7)(a), the juvenile court shall make a specific finding regarding:

(i) the fitness of that relative or friend as a placement for the child; and

(ii) the safety and appropriateness of placement with the relative or friend.

(b) In making the finding described in Subsection (9)(a), the juvenile court shall, at a minimum, order the division to:

(i) if the child may be placed with a relative, conduct a background check that includes:

(A) completion of a nonfingerprint-based, Utah Bureau of Criminal Identification background check of the relative;

(B) a completed search, relating to the relative, of the Management Information System [~~described in Section 62A-4a-1003~~]; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative[~~, as defined in Section 62A-4a-209,~~] of the child who resides in the household where the child may be placed;

(ii) if the child will be placed with a noncustodial parent, complete a background check that includes:

(A) the background check requirements applicable to an emergency placement with a noncustodial parent that are described in Subsections [~~62A-4a-209(5) and (7)~~] 80-2a-301(4) and (6);

(B) a completed search, relating to the noncustodial parent of the child, of the Management Information System [~~described in Section 62A-4a-1003~~]; and

(C) a background check that complies with the criminal background check provisions described in Section 80-3-305, of each nonrelative[~~, as defined in Section 62A-4a-209,~~] of the child who resides in the household where the child may be placed;

(iii) if the child may be placed with an individual other than a noncustodial parent or a relative, conduct a criminal background check of the individual, and each adult that resides in the household where the child may be placed, that complies with the criminal background check provisions described in Section 80-3-305;

(iv) visit the relative's or friend's home;

(v) check the [~~division's management information system~~] Management Information System for any previous reports of abuse or neglect regarding the relative or friend at issue;

(vi) report the division's findings in writing to the juvenile court; and

(vii) provide sufficient information so that the juvenile court may determine whether:

(A) the relative or friend has any history of abusive or neglectful behavior toward other children that may indicate or present a danger to this child;

(B) the child is comfortable with the relative or friend;

(C) the relative or friend recognizes the parent's history of abuse and is committed to protect the child;

(D) the relative or friend is strong enough to resist inappropriate requests by the parent for access to the child, in accordance with court orders;

(E) the relative or friend is committed to caring for the child as long as necessary; and

(F) the relative or friend can provide a secure and stable environment for the child.

(c) The division may determine to conduct, or the juvenile court may order the division to conduct, any further investigation regarding the safety and appropriateness of the placement described in Subsection (9)(a).

(d) The division shall complete and file the division's assessment regarding placement with a relative or friend under Subsections (9)(a) and (b) as soon as practicable, in an effort to facilitate placement of the child with a relative or friend.

(10) (a) The juvenile court may place a child described in Subsection (2)(a) in the temporary custody of the division, pending the division's investigation under Subsection (9), and the juvenile court's determination regarding the appropriateness of the placement.

(b) The juvenile court shall ultimately base the juvenile court's determination regarding the appropriateness of a placement with a relative or friend on the best interest of the child.

(11) [~~When~~] If a juvenile court places a child described in Subsection (7) with the child's relative or friend:

(a) the juvenile court:

(i) shall order the relative or friend take custody, subject to the continuing supervision of the juvenile court; and

(ii) may order the division provide necessary services to the child and the child's relative or friend, including the monitoring of the child's safety and well-being;

(b) the child and the relative or friend in whose custody the child is placed are under the continuing jurisdiction of the juvenile court;

(c) the juvenile court may enter any order that the juvenile court considers necessary for the protection and best interest of the child;

(d) the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the child was removed, unless parent-time is not in the best interest of the child; and

(e) the juvenile court shall conduct a periodic review no less often than every six months, to determine whether:

(i) placement with the relative or friend continues to be in the child's best interest;

(ii) the child should be returned home; or

(iii) the child should be placed in the custody of the division.

(12) No later than 12 months after the day on which the child [~~was~~] is removed from the home, the juvenile court shall schedule a hearing for the purpose of entering a permanent order in accordance with the best interest of the child.

(13) The time limitations described in Section 80-3-406, with regard to reunification efforts, apply to [~~children~~] a child placed with a relative or friend under Subsection (7).

(14) (a) If the juvenile court awards temporary custody of a child to the division, and the division places the child with a relative, the division shall:

(i) conduct a criminal background check of the relative that complies with the criminal background check provisions described in Section 80-3-305; and

(ii) if the results of the criminal background check described in Subsection (14)(a)(i) would prohibit the relative from having direct access to the child under Section 62A-2-120, the division shall:

(A) take the child into physical custody; and

(B) within three days, excluding weekends and holidays, after the day on which the child is taken into physical custody under Subsection (14)(a)(ii)(A), give written notice to the juvenile court, and all parties to the proceedings, of the division's action.

(b) Subsection (14)(a) does not prohibit the division from placing a child with a relative, pending the results of the background check described in Subsection (14)(a) on the relative.

(15) If the juvenile court orders that a child be removed from the custody of the child's parent and does not award custody and guardianship to another parent, relative, or friend under this section, the juvenile court shall order that the child be placed in the temporary custody of the division, to proceed to adjudication and disposition and to be provided with care and services in accordance with this chapter [~~and Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child.

(16) (a) If a child reenters the temporary custody or the custody of the division and is placed in foster care, the division shall:

(i) notify the child's former foster parents; and

(ii) upon a determination of the former foster parents' willingness and ability to safely and appropriately care for the child, give the former foster parents preference for placement of the child.

[~~(16)~~] (b) If, following the shelter hearing, the child is placed with an individual who is not a parent, a relative, a friend, or a former foster parent of the child, priority shall be given to a foster placement with a married couple, unless it is in the best interests of the child to place the child with a single foster parent.

(17) In determining the placement of a child, the juvenile court and the division may not take into account, or discriminate against, the religion of an individual with whom the child may be placed, unless the purpose of taking religion into account is to place the child with an individual or family of the same religion as the child.

(18) If the juvenile court's decision differs from a child's express wishes if the child is of sufficient maturity to articulate the wishes in relation to the child's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the child's wishes.

(19) This section does not guarantee that an identified relative or friend will receive custody of the child.

Section 109. Section 80-3-305 is amended to read:

80-3-305. Criminal background checks necessary before out-of-home placement of a child.

(1) Subject to Subsection (3), upon ordering removal of a child from the custody of the child's parent and placing that child in the temporary custody or custody of the division before the division places a child in out-of-home care, the juvenile court shall require the completion of a

nonfingerprint-based background check by the Utah Bureau of Criminal Identification regarding the proposed placement.

(2) (a) Except as provided in Subsection (4), the division [~~and~~] or the Office of Guardian [~~ad~~] Ad Litem may request, or the juvenile court upon the juvenile court's own motion, may order, the Department of Public Safety to conduct a complete Federal Bureau of Investigation criminal background check through the national criminal history system (NCIC).

(b) (i) Except as provided in Subsection (4), upon request by the division or the Office of Guardian ad Litem, or upon the juvenile court's order, an individual subject to the requirements of Subsection (1) shall submit fingerprints and shall be subject to an FBI fingerprint background check.

(ii) The child may be temporarily placed, pending the outcome of the background check described in Subsection (2)(b)(i).

(c) (i) Except as provided in Subsection (2)(c)(ii), the cost of the investigations described in Subsection (2)(a) shall be borne by whoever is to receive placement of the child.

(ii) The division may pay all or part of the cost of the investigations described in Subsection (2)(a).

(3) Except as provided in Subsection (5), a child who is in the [~~legal~~] protective custody, temporary custody, or custody of the division may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent or prospective adoptive parent and any other adult residing in the household;

(b) the department conducts a check of the abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect [~~as defined in Section 62A-4a-1002~~];

(c) the department conducts a check of the abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (3)(b) resided in the five years immediately before the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of a severe type of abuse or neglect [~~as defined in Section 62A-4a-1002~~]; and

(d) each individual required to undergo a background check described in this Subsection (3) passes the background check, in accordance with the provisions of Section 62A-2-120.

(4) Subsections (2)(a) and (b) do not apply to a child who is placed with a noncustodial parent or relative under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303, unless the juvenile court finds that compliance with Subsection (2)(a) or (b) is necessary to ensure the safety of the child.

(5) The requirements under Subsection (3) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a juvenile court from placing a child with:

(i) a noncustodial parent, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (3).

Section 110. Section 80-3-307, which is renumbered from Section 62A-4a-205 is renumbered and amended to read:

[~~62A-4a-205~~]. 80-3-307. Child and family plan developed by division -- Parent-time and relative visitation.

(1) [~~No~~] The division shall develop and finalize a child's child and family plan no more than 45 days after [~~a~~] the day on which the child enters the temporary custody of the division[~~, the child's child and family plan shall be finalized~~].

(2) (a) The division may use an interdisciplinary team approach in developing [~~each~~] a child and family plan.

(b) The interdisciplinary team described in Subsection (2)(a) may include representatives from the following fields:

(i) mental health;

(ii) education; [~~and~~] or

(iii) if appropriate, law enforcement.

(3) (a) The division shall involve all of the following in the development of a child's child and family plan:

(i) both of the child's natural parents, unless the whereabouts of a parent are unknown;

(ii) the child;

(iii) the child's foster parents; and

(iv) if appropriate, the child's stepparent.

(b) Subsection (3)(a) does not prohibit any other party not listed in Subsection (3)(a) or a party's counsel from being involved in the development of a child's child and family plan if the party or counsel's participation is otherwise permitted by law.

(c) In relation to all information considered by the division in developing a child and family plan, the division shall give additional weight and attention [~~shall be given~~] to the input of the child's natural and foster parents upon [~~their~~] the involvement [~~pursuant to~~] of the child's natural and foster parents under Subsections (3)(a)(i) and (iii).

(d) (i) The division shall make a substantial effort to develop a child and family plan with which the child's parents agree.

(ii) If a parent does not agree with a child and family plan:

(A) the division shall strive to resolve the disagreement between the division and the parent; and

(B) if the disagreement is not resolved, the division shall inform the court of the disagreement.

(4) A copy of the child and family plan shall, immediately upon completion, or as soon as reasonably possible thereafter, be provided to [~~the~~]:

(a) the guardian ad litem;

(b) the child's natural parents; and

(c) the child's foster parents.

(5) [~~Each~~] A child and family plan shall:

(a) specifically provide for the safety of the child, in accordance with federal law; [~~and~~]

(b) clearly define what actions or precautions will, or may be, necessary to provide for the health, safety, protection, and welfare of the child[~~.~~];

(c) be specific to each child and the child's family, rather than general;

(d) include individualized expectations and contain specific time frames;

(e) except as provided in Subsection (6), address problems that:

(i) keep a child in the child's placement; and

(ii) keep a child from achieving permanence in the child's life;

(f) be designed to:

(i) minimize disruption to the normal activities of the child's family, including employment and school; and

(ii) as much as practicable, help the child's parent maintain or obtain employment; and

[~~(6)~~] (g) [~~The child and family plan shall~~] set forth, with specificity, at least the following:

[~~(a)~~] (i) the reason the child entered into [~~the custody of the division~~] protective custody or the division's temporary custody or custody;

[~~(b)~~] (ii) documentation of [~~the~~]:

[~~(i)~~] (A) the reasonable efforts made to prevent placement of the child in [~~the custody of the division~~] protective custody or the division's temporary custody or custody; or

[~~(ii)~~] (B) the emergency situation that existed and that prevented the reasonable efforts described in Subsection [~~(6)(b)(i)~~] (5)(g)(ii)(A), from being made;

[~~(c)~~] (iii) the primary permanency plan for the child, as described in Section 80-3-406, and the reason for selection of [~~that~~] the plan;

[~~(d)~~] (iv) the concurrent permanency plan for the child, as described in Section 80-3-406, and the reason for the selection of [~~that~~] the plan;

[~~(e)~~] (v) if the plan is for the child to return to the child's family:

[~~(i)~~] (A) specifically what the parents must do in order to enable the child to be returned home;

[~~(ii)~~] (B) specifically how the requirements described in Subsection [~~(6)(e)(i)~~] (5)(g)(v)(A) may be accomplished; and

[~~(iii)~~] (C) how the requirements described in Subsection [~~(6)(e)(i)~~] (5)(g)(v)(A) will be measured;

[~~(f)~~] (vi) the specific services needed to reduce the problems that necessitated placing the child in [~~the division's custody~~] protective custody or the division's temporary custody or custody;

[~~(g)~~] (vii) the name of the [~~person~~] individual who will provide for and be responsible for case management for the division;

[~~(h)~~] (viii) subject to Subsection (10), a parent-time schedule between the natural parent and the child;

[~~(i)~~] (ix) subject to Subsection (7), the health and mental health care to be provided to address any known or diagnosed mental health needs of the child;

[~~(j)~~] (x) if residential treatment rather than a foster home is the proposed placement, a requirement for a specialized assessment of the child's health needs including an assessment of mental illness and behavior and conduct disorders;

[~~(k)~~] (xi) social summaries that include case history information pertinent to case planning; and

[~~(l)~~] (xii) subject to Subsection (12), a sibling visitation schedule.

(6) For purposes of Subsection (5)(e), a child and family plan may only include requirements that:

(a) address findings made by the court; or

(b) (i) are requested or consented to by a parent or guardian of the child; and

(ii) are agreed to by the division and the guardian ad litem.

(7) (a) Subject to Subsection (7)(b), in addition to the information required under Subsection [~~(6)(i), the~~] (5)(g)(ix), a child and family plan shall include a specialized assessment of the medical and mental health needs of a child, if the child:

(i) is placed in residential treatment; and

(ii) has medical or mental health issues that need to be addressed.

(b) Notwithstanding Subsection (7)(a), a parent shall retain the right to seek a separate medical or mental health diagnosis of the parent's child from a licensed practitioner of the parent's choice.

[~~(8) (a) Each child and family plan shall be specific to each child and the child's family, rather than general.~~]

[~~(b)~~] (8) (a) The division shall train [~~its workers~~] the division's employees to develop child and family plans that comply with:

(i) federal mandates; and

(ii) the specific needs of the particular child and the child's family.

[~~(c) All child and family plans and expectations shall be individualized and contain specific time frames.~~]

[~~(d) Subject to Subsection (8)(h), child and family plans shall address problems that:~~]

[~~(i) keep a child in placement; and~~]

[~~(ii) keep a child from achieving permanence in the child's life.~~]

[~~(e) Each child and family plan shall be designed to minimize disruption to the normal activities of the child's family, including employment and school.~~]

[~~(f) In particular, the time, place, and amount of services, hearings, and other requirements ordered by the court in the child and family plan shall be designed, as much as practicable, to help the child's parents maintain or obtain employment.~~]

[~~(g)~~] (b) The child's natural parents, foster parents, and [~~where~~] if appropriate, stepparents, shall be kept informed of and supported to participate in important meetings and procedures related to the child's placement.

[~~(h) For purposes of Subsection (8)(d), a child and family plan may only include requirements that:~~]

[~~(i) address findings made by the court; or~~]

[~~(ii) (A) are requested or consented to by a parent or guardian of the child; and~~]

[~~(B) are agreed to by the division and the guardian ad litem.~~]

(9) (a) Except as provided in Subsection (9)(b), with regard to a child who is three years old or younger, if the child and family plan is not to return the child home, the primary permanency plan described in Section 80-3-406 for [~~that~~] the child shall be adoption.

(b) Notwithstanding Subsection (9)(a), if the division documents to the court that there is a compelling reason that adoption, reunification, guardianship, and a placement described in Subsection 80-3-301(6)(e) are not in the child's best interest, the court may order another planned permanent living arrangement in accordance with federal law.

(10) (a) Except as provided in Subsection (10)(b), parent-time may only be denied by a court order issued in accordance with Subsection 80-3-406(9).

(b) Notwithstanding Subsection (10)(a), the person designated by the division or a court to supervise a parent-time session may deny parent-time for [~~that~~] the session if the supervising person determines that, based on the parent's condition, it is necessary to deny parent-time [~~in order~~] to:

(i) protect the physical safety of the child;

(ii) protect the life of the child; or

(iii) consistent with Subsection (10)(c), prevent the child from being traumatized by contact with the parent.

(c) In determining whether the condition of the parent described in Subsection (10)(b) will traumatize a child, the person supervising the parent-time session shall consider the impact that the parent's condition will have on the child in light of:

(i) the child's fear of the parent; and

(ii) the nature of the alleged abuse or neglect.

(11) [~~The~~] If a child is in the division's temporary custody or custody, the division shall consider visitation with [~~their grandparents for children in state custody~~] the child's grandparent if:

(a) the division determines the visitation to be in the best interest of the child [~~and:~~];

[~~(a)~~] (b) there are no safety concerns regarding the behavior or criminal background of the [~~grandparents~~] grandparent;

[~~(b)~~] (c) allowing the grandparent visitation would not compete with or undermine the child's reunification plan;

[~~(c)~~] (d) there is a substantial relationship between the [~~grandparents and children~~] grandparent and child; and

[~~(d)~~] (e) the grandparent visitation will not unduly burden the foster parents.

(12) (a) The [~~child and family plan~~] division shall incorporate into the child and family plan reasonable efforts to[~~: (a)~~] provide sibling visitation [~~when~~] if:

(i) siblings are separated due to foster care or adoptive placement;

(ii) the sibling visitation is in the best interest of the child for whom the child and family plan is developed; and

(iii) the division has consent for sibling visitation from the [~~legal~~] guardian of the sibling[~~; and~~].

(b) The division shall obtain consent for sibling visitation from the sibling's [~~legal~~] guardian [~~when~~] if the criteria of Subsections (12)(a)(i) and (ii) are met.

Section 111. Section 80-3-404 is amended to read:

80-3-404. Finding of severe child abuse or neglect -- Order delivered to division -- Court records.

(1) [~~Upon the filing with the juvenile court of~~] If an abuse, neglect, or dependency petition is filed with the juvenile court that informs the juvenile court that the division has made a supported finding that an individual committed a severe type of child abuse or neglect [~~as defined in Section 62A-4a-1002~~], the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding described in Subsection (1)(a) in a written order; and

(c) deliver a certified copy of the order described in Subsection (1)(b) to the division.

(2) The juvenile court shall make the finding described in Subsection (1):

(a) as part of the adjudication hearing;

(b) at the conclusion of the adjudication hearing; or

(c) as part of a court order entered [~~pursuant to~~] under a written stipulation of the parties.

[~~(3) (a) An individual described in Subsection 62A-4a-1010(1) may at any time file with the juvenile court a petition for removal of the individual's name from the Licensing Information System.~~]

[~~(b) At the conclusion of the hearing on the petition described in Subsection (3), the juvenile court shall:~~]

[~~(i) make a finding of substantiated, unsubstantiated, or without merit;~~]

[~~(ii) include the finding described in Subsection (1)(a) in a written order; and~~]

[~~(iii) deliver a certified copy of the order described in Subsection (1)(b) to the division.~~]

[~~(4)~~] (3) [~~A~~] In accordance with Section 80-2-707, a proceeding for adjudication of a supported finding [~~under this section~~] of a type of abuse or neglect that does not constitute a severe type of child abuse or neglect may be joined in the juvenile court with an adjudication of a severe type of child abuse or neglect.

(4) (a) The juvenile court shall make records of the juvenile court's findings under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, or for the purposes described in Sections 26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access.

(b) An appellate court shall make records of an appeal from the juvenile court's decision under Subsection (1) available only to an individual with statutory authority to access the Licensing Information System for the purposes described in Subsection (4)(a).

[~~(5) If an individual whose name appears on the Licensing Information System before May 6, 2002, files a petition under Subsection (3) during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall hear the matter and enter a final decision no later than 60 days after the day on which the petition is filed.~~]

[~~(6) For the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, and for the purposes described in Sections 26-8a-310 and 62A-2-121 and Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access:~~]

[~~(a) the juvenile court shall make available records of the juvenile court's findings under Subsections (1) and (2):~~]

[~~(i) for those purposes; and~~]

[~~(ii) only to a person with statutory authority to access the Licensing Information System created under Section 62A-4a-1006; and~~]

[~~(b) any appellate court shall make available court records of appeals from juvenile court decisions under Subsections (1), (2), (3), and (4):~~]

[~~(i) for those purposes; and~~]

[~~(ii) only to a person with statutory authority to also access the Licensing Information System.~~]

Section 112. Section 80-3-406 is amended to read:

80-3-406. Permanency plan -- Reunification services.

(1) If the juvenile court orders continued removal at the dispositional hearing under Section 80-3-402, and that the minor remain in the custody of the division, the juvenile court shall first:

(a) establish a primary permanency plan and a concurrent permanency plan for the minor in accordance with this section; and

(b) determine whether, in view of the primary permanency plan, reunification services are appropriate for the minor and the minor's family under Subsections (5) through (8).

(2) (a) The concurrent permanency plan shall include:

(i) a representative list of the conditions under which the primary permanency plan will be abandoned in favor of the concurrent permanency plan; and

(ii) an explanation of the effect of abandoning or modifying the primary permanency plan.

(b) In determining the primary permanency plan and concurrent permanency plan, the juvenile court shall consider:

(i) the preference for kinship placement over nonkinship placement;

(ii) the potential for a guardianship placement if parental rights are terminated and no appropriate adoption placement is available; and

(iii) the use of an individualized permanency plan, only as a last resort.

(3) (a) The juvenile court may amend a minor's primary permanency plan before the establishment of a final permanency plan under Section 80-3-409.

(b) The juvenile court is not limited to the terms of the concurrent permanency plan in the event that the primary permanency plan is abandoned.

(c) If, at any time, the juvenile court determines that reunification is no longer a minor's primary permanency plan, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 on or before the earlier of:

(i) 30 days after the day on which the juvenile court makes the determination described in this Subsection (3)(c); or

(ii) the day on which the provision of reunification services, described in Section 80-3-409, ends.

(4) (a) Because of the state's interest in and responsibility to protect and provide permanency for minors who are abused, neglected, or dependent, the Legislature finds that a parent's interest in receiving reunification services is limited.

(b) The juvenile court may determine that:

(i) efforts to reunify a minor with the minor's family are not reasonable or appropriate, based on the individual circumstances; and

(ii) reunification services should not be provided.

(c) In determining reasonable efforts to be made with respect to a minor, and in making reasonable efforts, the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(5) There is a presumption that reunification services should not be provided to a parent if the juvenile court finds, by clear and convincing evidence, that any of the following circumstances exist:

(a) the whereabouts of the parents are unknown, based [~~upon~~] on a verified affidavit indicating that a reasonably diligent search has failed to locate the parent;

(b) subject to Subsection (6)(a), the parent is suffering from a mental illness of such magnitude that the mental illness renders the parent incapable of utilizing reunification services;

(c) the minor was previously adjudicated as an abused child due to physical abuse, sexual abuse, or sexual exploitation, and following the adjudication the child:

(i) was removed from the custody of the minor's parent;

(ii) was subsequently returned to the custody of the parent; and

(iii) is being removed due to additional physical abuse, sexual abuse, or sexual exploitation;

(d) the parent:

(i) caused the death of another minor through abuse or neglect;

(ii) committed, aided, abetted, attempted, conspired, or solicited to commit:

(A) murder or manslaughter of a minor; or

(B) child abuse homicide;

(iii) committed sexual abuse against the minor;

(iv) is a registered sex offender or required to register as a sex offender; or

(v) (A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor;

(e) the minor suffered severe abuse by the parent or by any individual known by the parent if the parent knew or reasonably should have known that the individual was abusing the minor;

(f) the minor is adjudicated as an abused minor as a result of severe abuse by the parent, and the juvenile court finds that it would not benefit the minor to pursue reunification services with the offending parent;

(g) the parent's rights are terminated with regard to any other minor;

(h) the minor was removed from the minor's home on at least two previous occasions and reunification services were offered or provided to the family at those times;

(i) the parent has abandoned the minor for a period of six months or longer;

(j) the parent permitted the minor to reside, on a permanent or temporary basis, at a location where the parent knew or should have known that a clandestine laboratory operation was located;

(k) except as provided in Subsection (6)(b), with respect to a parent who is the minor's birth mother, the minor has fetal alcohol syndrome, fetal alcohol spectrum disorder, or was exposed to an illegal or prescription drug that was abused by the minor's mother while the minor was in utero, if the minor was taken into division custody for that reason, unless the mother agrees to enroll in, is currently enrolled in, or has recently and successfully completed a substance use disorder treatment program approved by the department; or

(l) any other circumstance that the juvenile court determines should preclude reunification efforts or services.

(6) (a) The juvenile court shall base the finding under Subsection (5)(b) on competent evidence from at least two medical or mental health professionals, who are not associates, establishing that, even with the provision of services, the parent is not likely to be capable of adequately caring for the minor within 12 months after the day on which the juvenile court finding is made.

(b) The juvenile court may disregard the provisions of Subsection (5)(k) if the juvenile court finds, under the circumstances of the case, that the substance use disorder treatment described in Subsection (5)(k) is not warranted.

(7) In determining whether reunification services are appropriate, the juvenile court shall take into consideration:

(a) failure of the parent to respond to previous services or comply with a previous child and family plan;

(b) the fact that the minor was abused while the parent was under the influence of drugs or alcohol;

(c) any history of violent behavior directed at the minor or an immediate family member;

(d) whether a parent continues to live with an individual who abused the minor;

(e) any patterns of the parent's behavior that have exposed the minor to repeated abuse;

(f) testimony by a competent professional that the parent's behavior is unlikely to be successful; and

(g) whether the parent has expressed an interest in reunification with the minor.

(8) If, under Subsections (5)(b) through (l), the juvenile court does not order reunification services, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(9) (a) Subject to Subsections (9)(b) and (c), if the juvenile court determines that reunification services are appropriate for the minor and the minor's family, the juvenile court shall provide for reasonable parent-time with the parent or parents from whose custody the minor was removed, unless parent-time is not in the best interest of the minor.

(b) Parent-time is in the best interests of a minor unless the juvenile court makes a finding that it is necessary to deny parent-time in order to:

(i) protect the physical safety of the minor;

(ii) protect the life of the minor; or

(iii) prevent the minor from being traumatized by contact with the parent due to the minor's fear of the parent in light of the nature of the alleged abuse or neglect.

(c) Notwithstanding Subsection (9)(a), a juvenile court may not deny parent-time based solely on a parent's failure to:

(i) prove that the parent has not used legal or illegal substances; or

(ii) comply with an aspect of the child and family plan that is ordered by the juvenile court.

(10) (a) If the juvenile court determines that reunification services are appropriate, the juvenile court shall order that the division make reasonable efforts to provide services to the minor and the minor's parent for the purpose of facilitating reunification of the family, for a specified period of time.

(b) In providing the services described in Subsection (10)(a), the juvenile court and the division shall consider the minor's health, safety, and welfare as the paramount concern.

(11) In cases where sexual abuse, sexual exploitation, abandonment, severe abuse, or severe neglect are involved:

(a) the juvenile court does not have any duty to order reunification services; and

(b) the division does not have a duty to make reasonable efforts to or in any other way attempt to provide reunification services or attempt to rehabilitate the offending parent or parents.

(12) (a) The juvenile court shall:

(i) determine whether the services offered or provided by the division under the child and family plan constitute reasonable efforts on the part of the division;

(ii) determine and define the responsibilities of the parent under the child and family plan in accordance with Subsection [~~62A-4a-205(6)(e)~~] 80-3-307(5)(g)(iii); and

(iii) identify verbally on the record, or in a written document provided to the parties, the responsibilities described in Subsection (12)(a)(ii), for the purpose of assisting in any future determination regarding the provision of reasonable efforts, in accordance with state and federal law.

(b) If the parent is in a substance use disorder treatment program, other than a certified drug court program, the juvenile court may order the parent:

(i) to submit to supplementary drug or alcohol testing, in accordance with Subsection 80-3-110(6), in addition to the testing recommended by the parent's substance use disorder program based on a finding of reasonable suspicion that the parent is abusing drugs or alcohol; and

(ii) to provide the results of drug or alcohol testing recommended by the substance use disorder program to the juvenile court or division.

(13) (a) The time period for reunification services may not exceed 12 months from the day on which the minor was initially removed from the minor's home, unless the time period is extended under Subsection 80-3-409(7).

(b) [~~Nothing in this section may be construed to~~] This section does not entitle any parent to an entire 12 months of reunification services.

(14) (a) If reunification services are ordered, the juvenile court may terminate those services at any time.

(b) If, at any time, continuation of reasonable efforts to reunify a minor is determined to be inconsistent with the final permanency plan for the minor established under Section 80-3-409, then measures shall be taken, in a timely manner, to:

(i) place the minor in accordance with the final permanency plan; and

(ii) complete whatever steps are necessary to finalize the permanent placement of the minor.

(15) Any physical custody of the minor by the parent or a relative during the period described in Subsections (10) through (14) does not interrupt the running of the period.

(16) (a) If reunification services are ordered, the juvenile court shall conduct a permanency hearing in accordance with Section 80-3-409 before the day on which the time period for reunification services expires.

(b) The permanency hearing shall be held no later than 12 months after the original removal of the minor.

(c) If reunification services are not ordered, a permanency hearing shall be conducted within 30 days in accordance with Section 80-3-409.

(17) With regard to a minor in the custody of the division whose parent or parents are ordered to receive reunification services but who have abandoned that minor for a period of six months from the day on which reunification services are ordered:

(a) the juvenile court shall terminate reunification services; and

(b) the division shall petition the juvenile court for termination of parental rights.

(18) When a minor is under the custody of the division and has been separated from a sibling due to foster care or adoptive placement, a juvenile court may order sibling visitation, subject to the division obtaining consent from the sibling's [~~legal~~] guardian, according to the juvenile court's determination of the best interests of the minor for whom the hearing is held.

(19) (a) If reunification services are not ordered under this section, and the whereabouts of a parent becomes known within six months after the day on which the out-of-home placement of the minor is made, the juvenile court may order the division to provide reunification services.

(b) The time limits described in this section are not tolled by the parent's absence.

(20) (a) If a parent is incarcerated or institutionalized, the juvenile court shall order reasonable services unless the juvenile court determines that those services would be detrimental to the minor.

(b) In making the determination described in Subsection (20)(a), the juvenile court shall consider:

(i) the age of the minor;

(ii) the degree of parent-child bonding;

(iii) the length of the sentence;

(iv) the nature of the treatment;

(v) the nature of the crime or illness;

(vi) the degree of detriment to the minor if services are not offered;

(vii) for a minor who is 10 years old or older, the minor's attitude toward the implementation of family reunification services; and

(viii) any other appropriate factors.

(c) Reunification services for an incarcerated parent are subject to the time limitations imposed in this section.

(d) Reunification services for an institutionalized parent are subject to the time limitations imposed in this section, unless the juvenile court determines that continued reunification services would be in the minor's best interest.

Section 113. Section 80-3-504 is enacted to read:

80-3-504. Petition for substantiation -- Court findings -- Expedited hearing -- Records of an appeal.

(1) The division or an individual may file a petition for substantiation in accordance with Section 80-2-1004.

(2) If the division decides to file a petition for substantiation under Section 80-2-1004, the division shall file the petition no more than 14 days after the day on which the division makes the decision.

(3) At the conclusion of the hearing on a petition for substantiation, the juvenile court shall:

(a) make a finding of substantiated, unsubstantiated, or without merit;

(b) include the finding in a written order; and

(c) deliver a certified copy of the order to the division.

(4) If an individual whose name is listed on the Licensing Information System before May 6, 2002, files a petition for substantiation under Section 80-2-1004 during the time that an alleged perpetrator's application for clearance to work with children or vulnerable adults is pending, the juvenile court shall:

(a) hear the matter on an expedited basis; and

(b) enter a final decision no later than 60 days after the day on which the petition for substantiation is filed.

(5) An appellate court shall make a record of an appeal from the juvenile court's decision under Subsection (3) available only to an individual with statutory authority to access the Licensing Information System for the purposes of licensing under Sections 26-39-402, 62A-1-118, and 62A-2-120, or for the purposes described in Sections 26-8a-310, 62A-2-121, or Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access.

Section 114. Section 80-4-105 is amended to read:

80-4-105. Effect of decree.

(1) An order for the termination of parental rights divests the child and the parents of all legal rights, powers, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent.

(2) An order or decree entered under this chapter may not disentitle a child to any benefit due to the child from any third person, including any Indian tribe, agency, state, or the United States.

(3) Except as provided in Sections 80-4-401 and 80-4-402, after the termination of a parent's parental rights, the former parent:

(a) is not entitled to any notice of proceedings for the adoption of the child; and

(b) does not have any right to object to the adoption or to participate in any other placement proceedings.

(4) An order [~~permanently~~] terminating the rights of a parent, guardian, or custodian does not expire with termination of the jurisdiction of the juvenile court.

Section 115. Section 80-4-106 is amended to read:

80-4-106. Individuals entitled to be present at proceedings -- Legal representation -- Attorney general responsibilities.

[~~(1) (a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:~~]

[~~(i) be detrimental to the best interest of a child who is a party to the proceeding;~~]

[~~(ii) impair the fact-finding process; or~~]

[~~(iii) be otherwise contrary to the interests of justice.~~]

[~~(b) The juvenile court may exclude an individual from a hearing under Subsection (1)(a) on the juvenile court's own motion or by motion of a party to the proceeding.~~]

[~~(2)~~] (1) (a) The parties shall be advised of the parties' right to counsel, including the appointment of counsel for a parent or [~~legal~~] guardian facing any action initiated by a private party under this chapter or under Section 78B-6-112 for termination of parental rights.

(b) If a parent or guardian is the subject of a petition for the termination of parental rights, the juvenile court shall:

(i) appoint an indigent defense service provider for a parent or guardian determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel; and

(ii) order indigent defense services for the parent or [~~legal~~] guardian who is determined to be an indigent individual in accordance with Title 78B, Chapter 22, Part 2, Appointment of Counsel.

(c) In any action under this chapter, a guardian ad litem, as defined in Section 78A-2-801, shall represent the child in accordance with Sections 78A-2-803 and 80-3-104.

[~~(d) A guardian ad litem, as defined in Section 78A-2-801, shall represent the child in other actions initiated under this chapter when appointed by the juvenile court under Section 78A-2-803 or as otherwise provided by law.~~]

[~~(3)~~] (2) Subject to Section 67-5-17 and the attorney general's prosecutorial discretion in civil enforcement actions, the attorney general shall, in accordance with Section [~~62A-4a-113~~] 80-2-303, enforce [~~all provisions of~~] this chapter [~~and Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, and Chapter 2a, Removal and Protective Custody of a Child, relating to the termination of parental rights.

(3) (a) The juvenile court shall admit any individual to a hearing unless the juvenile court makes a finding upon the record that the individual's presence at the hearing would:

(i) be detrimental to the best interest of a child who is a party to the proceeding;

(ii) impair the fact-finding process; or

(iii) be otherwise contrary to the interests of justice.

(b) The juvenile court may exclude an individual from a hearing under Subsection (3)(a) on the juvenile court's own motion or by motion of a party to the proceeding.

Section 116. Section 80-4-107 is amended to read:

80-4-107. Record of proceedings -- Written reports and other materials -- Statements of a child.

(1) As used in this section, "record of a proceeding" means the same as that term is defined in Section 80-3-106.

(2) A record of a proceeding under this chapter:

(a) shall be taken in accordance with Section 80-3-106; and

(b) may be requested for release as described in Section 80-3-106.

(3) (a) For purposes of determining proper disposition of a child in hearings upon a petition for termination of parental rights, written reports and other material relating to the [~~minor's~~] child's mental, physical, and social history and condition may be:

(i) received in evidence; and

(ii) considered by the court along with other evidence.

(b) The court may require that an individual who wrote a report or prepared the material under Subsection (3)(a) to appear as a witness if the individual is reasonably available.

(4) For the purpose of establishing abuse, neglect, or dependency under this chapter, the juvenile court may, in the juvenile court's discretion, consider evidence of statements made by a child under eight years old to an individual in a trust relationship.

Section 117. Section 80-4-305 is amended to read:

80-4-305. Court disposition of a child upon termination of parental rights -- Posttermination reunification.

(1) As used in this section, "relative" means:

(a) an adult who is a grandparent, great-grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, sibling, or stepsibling of a child; and

(b) in the case of a child who is an Indian child, an extended family member as defined in 25 U.S.C. Sec. 1903.

(2) Upon entry of an order under this chapter, the juvenile court may:

(a) place the child in the legal custody and guardianship of a [~~licensed child placement agency~~] child-placing agency or the division for adoption; or

(b) make any other disposition of the child authorized under Section 80-3-405.

(3) Subject to the requirements of Subsections (4) and (5), all adoptable children placed in the custody of the division shall be placed for adoption.

(4) If the parental rights of all parents of an adoptable child placed in the custody of the division have been terminated and a suitable adoptive placement is not already available, the juvenile court:

(a) shall determine whether there is a relative who desires to adopt the child;

(b) may order the division to conduct a reasonable search to determine whether there are relatives who are willing to adopt the child; and

(c) shall, if a relative desires to adopt the child:

(i) make a specific finding regarding the fitness of the relative to adopt the child; and

(ii) place the child for adoption with that relative unless the juvenile court finds that adoption by the relative is not in the best interest of the child.

(5) This section does not guarantee that a relative will be permitted to adopt the child.

(6) A parent whose rights were terminated under this chapter, or a relative of the child, as defined by Section 80-3-102, may petition for guardianship of the child if:

(a) (i) following an adoptive placement, the child's adoptive parent returns the child to the custody of the division; or

(ii) the child is in the custody of the division for one year following the day on which the parent's rights were terminated, and no permanent placement has been found or is likely to be found; and

(b) reunification with the child's parent, or guardianship by the child's relative, is in the best interest of the child.

Section 118. Section 80-4-501, which is renumbered from Section 62A-4a-801 is renumbered and amended to read:

**Part 5. Safe Relinquishment
of a Newborn Child**

[~~62A-4a-801~~]. 80-4-501. Definitions.

As used in this part:

(1) "Hospital" means a general acute hospital, as that term is defined in Section 26-21-2, that is:

(a) equipped with an emergency room;

(b) open 24 hours a day, seven days a week; and

(c) employs full-time health care professionals who have emergency medical services training.

(2) "Newborn child" means a child who is approximately 30 days [~~of age~~] old or younger, as determined within a reasonable degree of medical certainty.

Section 119. Section 80-4-502, which is renumbered from Section 62A-4a-802 is renumbered and amended to read:

[~~62A-4a-802~~]. 80-4-502. Safe relinquishment of a newborn child -- Termination of parental rights -- Affirmative defense.

(1) (a) A parent or a parent's designee may safely relinquish a newborn child at a hospital in accordance with [~~the provisions of~~] this part and retain complete anonymity, so long as the newborn child has not been subject to abuse or neglect.

(b) Safe relinquishment of a newborn child who has not otherwise been subject to abuse or neglect shall not, in and of itself, constitute neglect, and the newborn child [~~shall~~] may not be considered a neglected child[~~, as defined in Section 80-1-102,~~] so long as the relinquishment is carried out in substantial compliance with [~~the provisions of~~] this part.

(2) (a) Personnel employed by a hospital shall accept a newborn child who is relinquished [~~pursuant to the provisions of~~] under this part, and may presume that the individual relinquishing is the newborn child's parent or the parent's designee.

(b) The person receiving the newborn child may request information regarding the parent and newborn child's medical histories, and identifying information regarding the nonrelinquishing parent of the newborn child.

(c) If the newborn child's parent or the parent's designee provides the person receiving the newborn child with any of the information described in Subsection (2)(b) or any other personal items, the person shall provide the information or personal items to the division.

(d) Personnel employed by the hospital shall:

(i) provide any necessary medical care to the newborn child;

(ii) notify the division of receipt of the newborn child as soon as possible, but no later than 24 hours after receipt of the newborn child; and

(iii) prepare a birth certificate or foundling birth certificate if parentage is unknown for the newborn child and file the certificate with the Office of Vital Records and Statistics within the Department of Health.

(e) A hospital and personnel employed by a hospital are immune from any civil or criminal liability arising from accepting a newborn child if the personnel employed by the hospital substantially comply with the provisions of this part and medical treatment is administered according to standard medical practice.

(3) The division shall assume care and protective custody of the newborn child immediately upon notice from the hospital.

(4) So long as the division determines there is no abuse or neglect of the newborn child, neither the newborn child nor the child's parents are subject to:

[~~(a) the provisions of Part 2, Child Welfare Services;~~]

[~~(b)~~] (a) the investigation provisions contained in Section [~~62A-4a-409~~] 80-2-701; or

[~~(c)~~] (b) the provisions of [~~Title 80,~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings.

(5) (a) Unless identifying information relating to the nonrelinquishing parent of the newborn child [~~has been~~] is provided, the division shall:

(i) work with local law enforcement and the Bureau of Criminal Identification within the Department of Public Safety in an effort to ensure that the newborn child has not been identified as a missing child;

(ii) immediately place or contract for placement of the newborn child in a potential adoptive home and, within 10 days after the day on which the child is received, file a petition for termination of parental rights in accordance with [~~Title 80, Chapter 4, Termination and Restoration of Parental Rights~~] this chapter;

(iii) direct the Office of Vital Records and Statistics within the Department of Health to conduct a search for:

(A) a birth certificate for the newborn child; and

(B) unmarried biological fathers in the registry maintained by the Office of Vital Records and Statistics in accordance with Title 78B, Chapter 15, Part 4, Registry; and

(iv) provide notice to each potential father identified on the registry described in Subsection (5)(a)(iii) in accordance with Title 78B, Chapter 15, Part 4, Registry.

(b) (i) If no individual has affirmatively identified himself or herself within two weeks after the day on which notice under Subsection (5)(a)(iv) is complete and established paternity by scientific testing within as expeditious a time frame as practicable, a hearing on the petition for termination of parental rights shall be scheduled and notice provided in accordance with [~~Title 80, Chapter 4, Termination and Restoration of Parental Rights~~] this chapter.

(ii) If a nonrelinquishing parent is not identified, relinquishment of a newborn child [~~pursuant to the provisions of~~] under this part [~~shall be~~] is considered grounds for termination of parental rights of both the relinquishing and nonrelinquishing parents under Section 80-4-301.

(6) If at any time [~~prior to the adoption, a court~~] before the day on which the child is adopted, the juvenile court finds it is in the best interest of the newborn child, the court shall deny the petition for termination of parental rights.

(7) The division shall provide for, or contract with a [~~licensed~~] child-placing agency to provide for expeditious adoption of the newborn child.

(8) So long as the individual relinquishing a newborn child is the newborn child's parent or designee, and there is no abuse or neglect, safe relinquishment of a newborn child in substantial compliance with [~~the provisions of~~] this part is an affirmative defense to any potential criminal liability for abandonment or neglect relating to [~~that~~] the relinquishment.

Section 120. Section 80-5-601 is amended to read:

80-5-601. Harboring a runaway -- Reporting requirements -- Division of Child and Family Services to provide assistance -- Affirmative defense -- Providing shelter after notice.

(1) As used in this section, "harbor" means to provide shelter in:

(a) the home of the person who is providing shelter; or

(b) any structure over which the person providing the shelter has any control.

(2) Except as provided in Subsection (3), a person is guilty of a class B misdemeanor if the person:

(a) knowingly and intentionally harbors a child;

(b) knows at the time of harboring the child that the child is a runaway;

(c) fails to notify one of the following, by telephone or other reasonable means, of the location of the child:

(i) the parent or guardian of the child;

(ii) the division; or

(iii) a youth services center; and

(d) fails to notify a person described in Subsection (2)(c) within eight hours after the later of:

(i) the time that the person becomes aware that the child is a runaway; or

(ii) the time that the person begins harboring the child.

(3) A person described in Subsection (2) is not guilty of a violation of Subsection (2) and is not required to comply with Subsections (2)(c) and (d), if:

(a) (i) a court order is issued authorizing a peace officer to take the child into custody; and

(ii) the person notifies a peace officer, or the nearest detention facility, by telephone or other reasonable means, of the location of the child, within eight hours after the later of:

(A) the time that the person becomes aware that the child is a runaway; or

(B) the time that the person begins harboring the child; or

(b) (i) the child is a runaway who consents to shelter, care, or licensed services under Section 80-5-602; and

(ii) (A) the person is unable to locate the child's parent or guardian; or

(B) the child refuses to disclose the contact information for the child's parent or guardian.

(4) A person described in Subsection (2) shall provide a report to the division:

(a) if the person has an obligation under Section [~~62A-4a-403~~] 80-2-602 to report child abuse or neglect; or

(b) if, within 48 hours after the person begins harboring the child:

(i) the person continues to harbor the child; and

(ii) the person does not make direct contact with:

(A) a parent or [~~legal~~] guardian of the child;

(B) the division;

(C) a youth services center; or

(D) a peace officer or the nearest detention facility if a court order is issued authorizing a peace officer to take the child into custody.

(5) It is an affirmative defense to the crime described in Subsection (2) that:

(a) the person failed to provide notice as described in Subsection (2) or (3) due to circumstances beyond the control of the person providing the shelter; and

(b) the person provided the notice described in Subsection (2) or (3) as soon as it was reasonably practicable to provide the notice.

(6) Upon receipt of a report that a runaway is being harbored by a person:

(a) a youth services center shall:

(i) notify the runaway's parent or guardian that a report has been made; and

(ii) inform the runaway's parent or guardian of assistance available from the youth services center; or

(b) the division shall:

(i) make a referral to the Division of Child and Family Services to determine whether the runaway is abused, neglected, or dependent; and

(ii) if appropriate, make a referral for services for the runaway.

(7) (a) A parent or guardian of a runaway who is aware that the runaway is being harbored may notify a law enforcement agency and request assistance in retrieving the runaway.

(b) The local law enforcement agency may assist the parent or guardian in retrieving the runaway.

(8) Nothing in this section prohibits a person from continuing to provide shelter to a runaway, after giving the notice described in Subsections (2) through (4), if:

(a) a parent or guardian of the runaway consents to the continued provision of shelter; or

(b) a peace officer or a parent or guardian of the runaway fails to retrieve the runaway.

(9) Nothing in this section prohibits a person from providing shelter to a child whose parent or guardian has intentionally:

(a) ceased to maintain physical custody of the child; and

(b) failed to make reasonable arrangements for the safety, care, and physical custody of the child.

(10) Nothing in this section prohibits:

(a) a juvenile receiving center or a youth services center from providing shelter to a runaway in accordance with the requirements of this chapter and the rules relating to a juvenile receiving center or a youth services center; or

(b) a government agency from taking custody of a child as otherwise provided by law.

Section 121. Section 80-6-707 is amended to read:

80-6-707. Suspension of driving privileges.

(1) This section applies to a minor who:

(a) at the time that the minor is adjudicated under Section 80-6-701, is at least the age eligible for a driver license under Section 53-3-204; and

(b) is found by the juvenile court to be in actual physical control of a motor vehicle during the commission of the offense for which the minor is adjudicated.

(2) (a) Except as otherwise provided by this section, if a minor is adjudicated for a violation of a traffic law by the juvenile court under Section 80-6-701, the juvenile court may:

(i) suspend the minor's driving privileges; and

(ii) take possession of the minor's driver license.

(b) The juvenile court may order any other eligible disposition under Subsection (1), except for a disposition under Section 80-6-703 or 80-6-705.

(c) If a juvenile court suspends a minor's driving privileges under Subsection (2)(a):

(i) the juvenile court shall prepare and send the order to the Driver License Division of the Department of Public Safety; and

(ii) the minor's license shall be suspended under Section 53-3-219.

(3) The juvenile court may reduce a suspension period imposed under Section 53-3-219 if:

(a) (i) the violation is the minor's first violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(F) Subsection 76-9-701(1); and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment; or

(b) (i) the violation is the minor's second or subsequent violation of:

(A) Section 32B-4-409;

(B) Section 32B-4-410;

(C) Section 58-37-8;

(D) Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(E) Title 58, Chapter 37b, Imitation Controlled Substances Act; or

(F) Subsection 76-9-701(1);

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the juvenile court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219; or

(B) the minor is under 18 years old and the minor's parent or [~~legal~~] guardian provides an affidavit or sworn statement to the juvenile court certifying that to the parent or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Section 53-3-219.

(4) (a) If a minor is adjudicated under Section 80-6-701 for a proof of age violation, as defined in Section 32B-4-411:

(i) the juvenile court may forward a record of adjudication to the Department of Public Safety for a first or subsequent violation; and

(ii) the minor's driving privileges will be suspended:

(A) for a period of at least one year under Section 53-3-220 for a first conviction for a violation of Section 32B-4-411; or

(B) for a period of two years for a second or subsequent conviction for a violation of Section 32B-4-411.

(b) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(A) if:

(i) the violation is the minor's first violation of Section 32B-4-411; and

(ii) (A) the minor completes an educational series as defined in Section 41-6a-501; or

(B) the minor demonstrates substantial progress in substance use disorder treatment.

(c) The juvenile court may reduce the suspension period imposed under Subsection (4)(a)(ii)(B) if:

(i) the violation is the minor's second or subsequent violation of Section 32B-4-411;

(ii) the minor has completed an educational series as defined in Section 41-6a-501 or demonstrated substantial progress in substance use disorder treatment; and

(iii) (A) the minor is 18 years old or older and provides a sworn statement to the court that the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B); or

(B) the minor is under 18 years old and has the minor's parent or guardian provide an affidavit or sworn statement to the court certifying that to the [~~parent~~] parent's or guardian's knowledge the minor has not unlawfully consumed alcohol or drugs for at least a one-year consecutive period during the suspension period imposed under Subsection (4)(a)(ii)(B).

(5) When the Department of Public Safety receives the arrest or conviction record of a minor for a driving offense committed while the minor's license is suspended under this section, the Department of Public Safety shall extend the suspension for a like period of time.

Section 122. Section 80-6-710 is amended to read:

80-6-710. Restitution -- Requirements.

(1) If a minor is adjudicated under Section 80-6-701, the juvenile court may order the minor to repair, replace, or otherwise make restitution for:

(a) material loss caused by an offense listed in the petition; or

(b) conduct for which the minor agrees to make restitution.

(2) Within seven days after the day on which a petition is filed under this chapter, the prosecuting attorney or a juvenile probation officer shall provide notification of the restitution process to all reasonably identifiable and locatable victims of an offense listed in the petition.

(3) A victim that receives notice under Subsection (2) is responsible for providing the [~~prosecutor~~] prosecuting attorney with:

(a) all invoices, bills, receipts, and any other evidence of the injury or out-of-pocket loss;

(b) all documentation of any compensation or reimbursement from an insurance company or a local, state, or federal agency that is related to the injury or out-of-pocket loss;

(c) if available, the victim's proof of identification, including the victim's date of birth, social security number, or driver license number; and

(d) the victim's contact information, including the victim's current home and work address and telephone number.

(4) A prosecuting attorney or victim shall submit a request for restitution to the juvenile court:

(a) if feasible, at the time of disposition; or

(b) within 90 days after disposition.

(5) The juvenile court shall order a financial disposition that prioritizes the payment of restitution.

(6) To determine whether restitution, or the amount of restitution, is appropriate under Subsection (1), the juvenile court:

(a) shall only order restitution for the victim's material loss;

(b) may not order restitution if the juvenile court finds that the minor is unable to pay or acquire the means to pay;

(c) shall credit any amount paid by the minor to the victim in a civil suit against restitution owed by the minor;

(d) shall take into account the presumptive period of supervision for the minor's case under Section 80-6-712, or the presumptive period of commitment for secure care under Section 80-6-804 if the minor is ordered to secure care, in determining the minor's ability to satisfy the restitution order within that presumptive term; and

(e) shall credit any amount paid to the victim in restitution against liability in a civil suit.

(7) If the minor and the victim of the adjudicated offense agree to participate, the juvenile court may refer the minor's case to a restorative justice program, such as victim offender mediation, to address how loss resulting from the adjudicated offense may be addressed.

(8) The juvenile court may require a minor to reimburse an individual, entity, or governmental agency who offered and paid a reward to a person for providing information resulting in an adjudication of a minor for the commission of an offense.

(9) If a minor is returned to this state in accordance with [~~Title 55, Chapter 12,~~] Part 11, Interstate Compact for Juveniles, the juvenile court may order the minor to make restitution for costs expended by any governmental entity for the return of the minor.

Section 123. Section 80-6-1002 is amended to read:

80-6-1002. Vacatur of adjudications.

(1) (a) An individual who has been adjudicated under this chapter may petition the juvenile court for vacatur of the individual's juvenile court records and any related records in the custody of an agency if the record relates to:

(i) an adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313; or

(ii) an adjudication that was based on an offense that the petitioner engaged in while subject to force, fraud, or coercion, as defined in Section 76-5-308.

(b) The petitioner shall include in the petition the relevant juvenile court incident number and any agencies known or alleged to have any documents related to the offense for which vacatur is being sought.

(c) The petitioner shall include with the petition the original criminal history report obtained from the Bureau of Criminal Identification in accordance with the provisions of Section 53-10-108.

(d) The petitioner shall send a copy of the petition to the county attorney or, if within a prosecution district, the district attorney.

(2) (a) Upon the filing of a petition, the juvenile court shall:

(i) set a date for a hearing;

(ii) notify the county attorney or district attorney and the agency with custody of the records at least 30 days prior to the hearing of the pendency of the petition; and

(iii) notify the county attorney or district attorney and the agency with records the petitioner is asking the juvenile court to vacate of the date of the hearing.

(b) (i) The juvenile court shall provide a victim with the opportunity to request notice of a petition for vacatur.

(ii) A victim shall receive notice of a petition for vacatur at least 30 days before the hearing if, before the entry of vacatur, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative, submits a written and signed request for notice to the court in the judicial district in which the crime occurred or judgment was entered.

(iii) The notice shall include a copy of the petition and statutes and rules applicable to the petition.

(3) (a) At the hearing the petitioner, the county attorney or district attorney, a victim, and any other person who may have relevant information about the petitioner may testify.

(b) (i) In deciding whether to grant a petition for vacatur, the juvenile court shall consider whether the petitioner acted subject to force, fraud, or coercion, as defined in Section 76-5-308, at the time of the conduct giving rise to the adjudication.

(ii) (A) If the juvenile court finds by a preponderance of the evidence that the petitioner was subject to force, fraud, or coercion, as defined in Section 76-5-308 at the time of the conduct giving rise to the adjudication, the juvenile court shall grant vacatur.

(B) If the court does not find sufficient evidence, the juvenile court shall deny vacatur.

(iii) If the petition is for vacatur of any adjudication under Section 76-10-1302, 76-10-1304, or 76-10-1313, the juvenile court shall presumptively grant vacatur unless the petitioner acted as a purchaser of any sexual activity.

(c) If vacatur is granted, the juvenile court shall order sealed all of the petitioner's records under the control of the juvenile court and any of the petitioner's records under the control of any other agency or official pertaining to the incident identified in the petition, including relevant related records contained in the Management Information System [~~created by Section 62A-4a-1003~~] and the Licensing Information System [~~created by Section 62A-4a-1005~~].

(4) (a) The petitioner shall be responsible for service of the order of vacatur to all affected state, county, and local entities, agencies, and officials.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or entity receiving the vacatur order shall only vacate all references to the petitioner's name in the records pertaining to the relevant adjudicated juvenile court incident.

(5) (a) Upon the entry of vacatur, the proceedings in the incident identified in the petition shall be considered never to have occurred and the petitioner may properly reply accordingly upon any inquiry in the matter.

(b) Inspection of the records may thereafter only be permitted by the juvenile court upon petition by the individual who is the subject of the records, and only to persons named in the petition.

(6) The juvenile court may not vacate a juvenile court record if the record contains an adjudication of:

(a) Section 76-5-202, aggravated murder; or

(b) Section 76-5-203, murder.

Section 124. Section 80-6-1004 is amended to read:

80-6-1004. Requirements to apply to expunge an adjudication.

(1) (a) Except as provided in Subsection (4), an individual who has been adjudicated by a juvenile court may petition the juvenile court for an order to expunge the individual's juvenile court record and any related records in the custody of an agency if:

(i) the individual has reached 18 years old; and

(ii) at least one year has passed from the date of:

(A) termination of the continuing jurisdiction of the juvenile court; or

(B) the individual's unconditional release from the custody of the division if the individual was committed to secure care.

(b) The juvenile court may waive the requirements in Subsection (1)(a) if the juvenile court finds, and states on the record, the reason why the waiver is appropriate.

(c) The petitioner shall include in the petition described in Subsection (1)(a):

(i) any agency known or alleged to have any records related to the offense for which expungement is being sought; and

(ii) the original criminal history report obtained from the Bureau of Criminal Identification in accordance with Section 53-10-108.

(d) The petitioner shall send a copy of the petition described in Subsection (1)(a) to the county attorney or, if within a prosecution district, the district attorney.

(e) (i) Upon the filing of a petition described in Subsection (1)(a), the juvenile court shall:

(A) set a date for a hearing;

(B) notify the county attorney or district attorney and the agency with custody of the records at least 30 days before the day on which the hearing of the pendency of the petition is scheduled; and

(C) notify the county attorney or district attorney and the agency with records that the petitioner is asking the court to expunge of the date of the hearing.

(ii) (A) The juvenile court shall provide a victim with the opportunity to request notice of a petition described in Subsection (1)(a).

(B) Upon the victim's request under Subsection (1)(e)(ii)(A), the victim shall receive notice of the petition at least 30 days before the day on which the hearing is scheduled if, before the day on which an expungement order is made, the victim or, in the case of a child or an individual who is incapacitated or deceased, the victim's next of kin or authorized representative submits a written and signed request for notice to the juvenile court in the judicial district in which the offense occurred or judgment is entered.

(C) The notice described in Subsection (1)(e)(ii)(B) shall include a copy of the petition described in Subsection (1)(a) and any statutes and rules applicable to the petition.

(2) (a) At the hearing described in Subsection (1)(e)(i), the county attorney or district attorney, a victim, and any other individual who may have relevant information about the petitioner may testify.

(b) In deciding whether to grant a petition described in Subsection (1)(a) for expungement, the juvenile court shall consider whether the rehabilitation of the petitioner has been attained to the satisfaction of the juvenile court, including the petitioner's response to programs and treatment, the petitioner's behavior subsequent to the adjudication, and the nature and seriousness of the conduct.

(c) (i) Except as provided in Subsection (2)(c)(ii), a juvenile court may order expunged all of the petitioner's records under the control of the juvenile court and an agency or an official if the juvenile court finds that:

(A) the petitioner has not, in the five years preceding the day on which the petition described in Subsection (1)(a) is filed, been convicted of a violent felony;

(B) there are no delinquency or criminal proceedings pending against the petitioner; and

(C) a judgment for restitution entered by the juvenile court on the adjudication for which the expungement is sought has been satisfied.

(ii) A court may not order the Division of Child and Family Services to seal a petitioner's record that is contained in the Management Information System [~~created in Section 62A-4a-1003~~] or the Licensing Information System [~~created in Section 62A-4a-1005~~] unless:

(A) the record is unsupported; or

(B) after notice and an opportunity to be heard, the Division of Child and Family Services stipulates in writing to sealing the record.

(3) (a) The petitioner is responsible for service of the expungement order issued under Subsection (2) to any affected agency or official.

(b) To avoid destruction or sealing of the records in whole or in part, the agency or the official receiving the expungement order described in Subsection (3)(a) shall only expunge all references to the petitioner's name in the records pertaining to the petitioner's juvenile court record.

(4) (a) The juvenile court may not expunge a record if the record contains an adjudication of:

(i) Section 76-5-202, aggravated murder; or

(ii) Section 76-5-203, murder.

(b) This section does not apply to an adjudication under [~~Part 3, Abuse, Neglect, and Dependency Proceedings, Part 5, Termination of Parental Rights Act, or Part 14, Restoration of Parental Rights Act~~] Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights.

Section 125. Section 80-6-1101, which is renumbered from Section 55-12-100 is renumbered and amended to read:

Part 11. Interstate Compact for Juveniles

[~~55-12-100~~]. 80-6-1101. Interstate Compact for Juveniles -- Execution of compact.

(1) This [~~chapter~~] part is known as the "Interstate Compact for Juveniles."

(2) The governor is authorized and directed to execute a compact on behalf of this state with any other state or states substantially in the form of this [~~chapter~~] part.

Section 126. Section 80-6-1102, which is renumbered from Section 55-12-101 is renumbered and amended to read:

[~~55-12-101~~]. 80-6-1102. Article 1 -- Purpose.

(1) The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents, and status offenders who are on probation or parole and who have absconded, escaped, or run away from supervision and control and in so doing have endangered their own safety and the safety of others.

(2) The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence.

(3) The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

(4) It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(a) ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(b) ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(c) return juveniles who have run away, absconded, or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(d) make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(e) provide for the effective tracking and supervision of juveniles;

(f) equitably allocate the costs, benefits, and obligations of the compacting states;

(g) establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(h) [~~insure~~] ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(i) establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(j) establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

(k) monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(l) coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

(m) coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision, and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise.

(5) It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and, therefore, are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact.

(6) The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

Section 127. Section 80-6-1103, which is renumbered from Section 55-12-102 is renumbered and amended to read:

[~~55-12-102~~]. 80-6-1103. Article 2 -- Definitions.

(1) As used in this compact, unless the context clearly requires a different construction:

[~~(1)~~] (a) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

[~~(2)~~] (b) "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.

[~~(3)~~] (c) "Compacting State" means any state which has enacted the enabling legislation for this compact.

[~~(4)~~] (d) "Commissioner" means the voting representative of each compacting state appointed pursuant to Section [~~55-12-103~~] 80-6-1104.

[~~(5)~~] (e) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

[~~(6)~~] (f) "Deputy Compact Administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission, and policies adopted by the State Council under this compact.

[~~(7)~~] (g) "Interstate Commission" or "commission" means the Interstate Commission for Juveniles created by Section [~~55-12-103~~] 80-6-1104.

[~~(8)~~] (h) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

[~~(a)~~] (i) "accused delinquent" meaning a person charged with an offense that, if committed by an adult, would be a criminal offense;

[~~(b)~~] (ii) "accused status offender" meaning a person charged with an offense that would not be a criminal offense if committed by an adult;

[~~(c)~~] (iii) "adjudicated delinquent" meaning a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

[~~(d)~~] (iv) "adjudicated status offender" meaning a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

[~~(e)~~] (v) "nonoffender" meaning a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

[~~(9)~~] (i) "Noncompacting state" means any state which has not enacted the enabling legislation for this compact.

[~~(10)~~] (j) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the laws of the compacting states.

[~~(11)~~] (k) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Section [~~55-12-106~~] 80-6-1107 that is of general applicability, implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

[~~(12)~~] (l) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

(2) The definitions in Section 80-1-102 do not apply to this compact.

Section 128. Section 80-6-1104, which is renumbered from Section 55-12-103 is renumbered and amended to read:

[~~55-12-103~~]. 80-6-1104. Article 3 -- Interstate Commission for Juveniles.

(1) The compacting states hereby create the "Interstate Commission for Juveniles."

(2) The commission shall be a body corporate and joint agency of the compacting states.

(3) The commission shall have all the responsibilities, powers, and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(4) The commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder.

(5) The commissioner shall be the compact administrator, deputy compact administrator, or designee from that state who shall serve on the commission in such capacity under or pursuant to the applicable law of the compacting state.

(6) In addition to the commissioners who are the voting representatives of each state, the commission shall include individuals who are not commissioners, but who are members of interested organizations. Noncommissioner members shall include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims.

(7) All noncommissioner members of the commission shall be ex officio, nonvoting members. The commission may provide in its by-laws for additional ex officio, nonvoting members, including members of other national organizations, in numbers to be determined by the commission.

(8) Each compacting state represented at any meeting of the commission is entitled to one vote. A majority of the compacting states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the by-laws of the commission.

(9) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(10) The commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall:

(a) have the power to act on behalf of the commission during periods when the commission is not in session, with the exception of rulemaking or amendment to the compact;

(b) oversee the day-to-day activities of the administration of the compact managed by an executive director and commission staff, which administers enforcement and compliance with the provisions of the compact, its by-laws, and rules; and

(c) perform other duties as directed by the commission or set forth in the by-laws.

(11) Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the commission. A member shall vote in person and may not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(12) The commission's by-laws shall establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(13) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

(a) relate solely to the commission's internal personnel practices and procedures;

(b) disclose matters specifically exempted from disclosure by statute;

(c) disclose trade secrets or commercial or financial information which is privileged or confidential;

(d) involve accusing any person of a crime, or formally censuring any person;

(e) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) disclose investigative records compiled for law enforcement purposes;

(g) disclose information contained in or related to examination, operating, or condition reports prepared by, or on behalf of or for the use of, the commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

(h) disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

(i) specifically relate to the commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(14) For every meeting closed pursuant to this provision, the commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote, reflected in the vote of each member on the question. All documents considered in connection with any action shall be identified in the minutes.

(15) The commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. Methods of data collection, exchange, and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

Section 129. Section 80-6-1105, which is renumbered from Section 55-12-104 is renumbered and amended to read:

[~~55-12-104~~]. 80-6-1105. Article 4 -- Powers and duties of the Interstate Commission.

The commission shall have the following powers and duties:

(1) provide for dispute resolution among compacting states;

(2) promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact;

(3) oversee, supervise, and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the commission;

(4) enforce compliance with the compact provisions, the rules promulgated by the commission, and the by-laws, using all necessary and proper means, including, but not limited to, the use of judicial process;

(5) establish and maintain offices which shall be located within one or more of the compacting states;

(6) purchase and maintain insurance and bonds;

(7) borrow, accept, hire, or contract for services of personnel;

(8) establish and appoint committees and hire staff which it considers necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Section [~~55-12-103~~] 80-6-1104, which shall have the power to act on behalf of the commission in carrying out its powers and duties hereunder;

(9) elect or appoint any officers, attorneys, employees, agents, or consultants, fix their compensation, define their duties, and determine their qualifications;

(10) establish the commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel;

(11) accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of them;

(12) lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed;

(13) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(14) establish a budget and make expenditures and levy dues as provided in Section [~~55-12-108~~] 80-6-1109;

(15) sue and be sued;

(16) adopt a seal and by-laws governing the management and operation of the commission;

(17) perform any functions necessary or appropriate to achieve the purposes of this compact;

(18) report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the commission during the preceding year, including any recommendations that may have been adopted by the commission;

(19) coordinate education, training, and public awareness regarding the interstate movement of juveniles for officials involved in the activity;

(20) establish uniform standards for the reporting, collecting, and exchanging of data; and

(21) maintain its corporate books and records in accordance with the by-laws.

Section 130. Section 80-6-1106, which is renumbered from Section 55-12-105 is renumbered and amended to read:

[~~55-12-105~~]. 80-6-1106. Article 5 -- Organization and operation of the Interstate Commission.

(1) Section A. By-laws

The Interstate Commission shall, by a majority of the members present and voting, within 12 months after the first commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) establishing the fiscal year of the commission;

(b) establishing an executive committee and any other committees as necessary;

(c) providing for the establishment of committees governing any general or specific delegation of any authority or function of the commission;

(d) providing reasonable procedures for calling and conducting meetings of the commission, and ensuring reasonable notice of each meeting;

(e) establishing the titles and responsibilities of the officers of the commission;

(f) providing a mechanism for concluding the operations of the commission and the return of any surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations;

(g) providing "start-up" rules for initial administration of the compact; and

(h) establishing standards and procedures for compliance and technical assistance in carrying out the compact.

(2) Section B. Officers and Staff

(a) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have the authority and duties specified in the by-laws. The chairperson or, in the chairperson's absence or disability, the vice chairperson shall preside at all meetings of the commission.

(b) The officers shall serve without compensation or remuneration from the commission, provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the commission.

(c) The commission shall, through its executive committee, appoint or retain an executive director for any time period, upon any terms and conditions, and for any compensation as the commission may consider appropriate. The executive director shall serve as secretary to the commission, but may not be a member and shall hire and supervise other staff as authorized by the commission.

(3) Section C. Qualified Immunity, Defense, and Indemnification

(a) The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that the person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities; provided, that a person may not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(b) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of the person's employment or duties for acts, errors, or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. Nothing in this Subsection (3) shall be construed to protect any person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the person.

(c) The commission shall defend the executive director or the employees or representatives of the commission and, subject to the approval of the attorney general of the state represented by any commissioner of a compacting state, shall defend the commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the person.

(d) The commission shall indemnify and hold the commissioner of a compacting state, the commissioner's representatives or employees, or the commission's representatives or employees harmless in the amount of any settlement or judgment obtained against the persons arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the persons had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the persons.

Section 131. Section 80-6-1107, which is renumbered from Section 55-12-106 is renumbered and amended to read:

[~~55-12-106~~]. 80-6-1107. Article 6 -- Rulemaking functions of the Interstate Commission.

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rulemaking shall occur pursuant to the criteria set forth in this section and the by-laws and rules adopted pursuant thereto. Rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000), or any other administrative procedures act, as the commission considers appropriate, consistent with due process requirements under the [~~U.S.~~] United States Constitution as interpreted by the [~~U. S.~~] Unites States Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the commission.

(3) When promulgating a rule, the commission shall, at a minimum:

(a) publish the proposed rule's entire text stating the reasons for that proposed rule;

(b) allow and invite any and all persons to submit written data, facts, opinions, and arguments, which information shall be added to the record, and be made publicly available;

(c) provide an opportunity for an informal hearing if petitioned by ten or more persons; and

(d) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(4) Not later than 60 days after a rule is promulgated, the commission shall allow any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the commission's principal office is located for judicial review of the rule. If the court finds that the commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this Subsection (4), evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(5) If a majority of the legislatures of the compacting states reject a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, state that the rule shall have no further force and effect in any compacting state.

(6) The existing rules governing the operation of the Interstate Compact on Juveniles superceded by this act shall be null and void 12 months after the first meeting of the Interstate Commission created in this [~~chapter~~] part.

(7) Upon determination by the Interstate Commission that a state of emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the emergency rule.

Section 132. Section 80-6-1108, which is renumbered from Section 55-12-107 is renumbered and amended to read:

[~~55-12-107~~]. 80-6-1108. Article 7 -- Oversight, enforcement, and dispute resolution by the Interstate Commission.

(1) Section A. Oversight

(a) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor activities being administered in noncompacting states which may significantly affect compacting states.

(b) The courts and executive agencies in each compacting state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission, it shall be entitled to receive all service of process in any proceeding, and shall have standing to intervene in the proceeding for all purposes.

(2) Section B. Dispute Resolution

(a) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

(b) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and noncompacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(c) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Section [~~55-12-109~~] 80-6-1110.

Section 133. Section 80-6-1109, which is renumbered from Section 55-12-108 is renumbered and amended to read:

[~~55-12-108~~]. 80-6-1109. Article 8 -- Finance.

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The commission shall levy on and collect an annual assessment from each compacting state to cover the cost of the internal operations and activities of the commission and its staff which shall be in a total amount sufficient to cover the commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state. The commission shall promulgate a rule binding upon all compacting states which governs the assessment.

(3) The commission may not incur any obligations of any kind prior to securing the funds adequate to meet the obligations, nor shall the commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its by-laws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

Section 134. Section 80-6-1110, which is renumbered from Section 55-12-109 is renumbered and amended to read:

[~~55-12-109~~]. 80-6-1110. Article 9 -- State council.

(1) Each member state shall create a State Council for Interstate Juvenile Supervision.

(2) While each state may determine the membership of its own state council, its membership shall include at least one representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator, or designee.

(3) Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administrator.

(4) Each state council shall advise and may exercise oversight and advocacy concerning that state's participation in commission activities and other duties determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

Section 135. Section 80-6-1111, which is renumbered from Section 55-12-110 is renumbered and amended to read:

[~~55-12-110~~]. 80-6-1111. Article 10 -- Compacting states, effective date, and amendment.

(1) Any state, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Section 55-12-102 is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 35 states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the 35th jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state.

(3) The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states and territories of the United States.

(4) The commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

Section 136. Section 80-6-1112, which is renumbered from Section 55-12-111 is renumbered and amended to read:

[~~55-12-111~~]. 80-6-1112. Article 11 -- Withdrawal, default, termination, and judicial enforcement.

(1) Section A. Withdrawal

(a) Once effective, the compact shall continue in force and remain binding upon each and every compacting state.

(b) A compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law. The effective date of withdrawal is the effective date of the repeal.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The commission shall notify the other compacting states of the withdrawing state's intent to withdraw within 60 days of its receipt thereof.

(d) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(e) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon a later date as determined by the commission.

(2) Section B. Technical Assistance, Fines, Suspension, Termination, and Default

(a) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the commission may impose any or all of the following penalties:

(i) remedial training and technical assistance as directed by the commission;

(ii) alternative dispute resolution;

(iii) fines, fees, and costs in amounts considered to be reasonable as fixed by the commission; and

(iv) suspension or termination of membership in the compact.

(b) Suspension or termination of membership in the compact shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the commission has determined that the offending state is in default.

(c) Immediate notice of suspension shall be given by the commission to the governor, the chief justice, or the chief judicial officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council.

(d) The grounds for default include, but are not limited to, failure of a compacting state to perform obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules, and any other grounds designated in commission by-laws and rules.

(i) The commission shall immediately notify the defaulting state in writing of the penalty imposed by the commission and of the default pending a cure of the default.

(ii) The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default.

(e) If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges, and benefits conferred by this compact shall be terminated upon the effective date of termination.

(f) Within 60 days of the effective date of termination of a defaulting state, the commission shall notify the governor, the chief justice or chief judicial officer, the majority and minority leaders of the defaulting state's legislature, and the state council of the termination.

(g) The defaulting state is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(h) The commission may not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the commission and the defaulting state.

(i) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the commission pursuant to the rules.

(3) Section C. Judicial Enforcement

(a) The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default.

(b) In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of litigation, including reasonable attorneys' fees.

(4) Section D. Dissolution of Compact

(a) The compact dissolves effective upon the date of the withdrawal or default of a compacting state, which reduces membership in the compact to one compacting state.

(b) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, the business and affairs of the Interstate Commission shall be concluded, and any surplus funds shall be distributed in accordance with the by-laws.

Section 137. Section 80-6-1113, which is renumbered from Section 55-12-112 is renumbered and amended to read:

[~~55-12-112~~]. 80-6-1113. Article 12 -- Severability and construction.

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is considered unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

Section 138. Section 80-6-1114, which is renumbered from Section 55-12-113 is renumbered and amended to read:

[~~55-12-113~~]. 80-6-1114. Article 13 -- Binding effect of compact and other laws.

(1) Section A. Other Laws

(a) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(b) All compacting states' laws other than state constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

(2) Section B. Binding Effect of the Compact

(a) All lawful actions of the commission, including all rules and by-laws promulgated by the commission, are binding upon the compacting states.

(b) All agreements between the commission and the compacting states are binding in accordance with their terms.

(c) Upon the request of a party to a conflict over meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation.

(d) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by the provision upon the commission shall be ineffective and the obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which the obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 139. Section 80-6-1115, which is renumbered from Section 55-12-114 is renumbered and amended to read:

[~~55-12-114~~]. 80-6-1115. Juvenile compact administrator.

(1) [~~Pursuant to~~] Under this compact, the governor is authorized and empowered to designate a compact administrator and who, acting jointly with like administrators of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. The compact administrator shall serve subject to the pleasure of the governor.

(2) The compact administrator is authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this state and [~~its~~] this state's subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this state.

Section 140. Section 80-6-1116, which is renumbered from Section 55-12-115 is renumbered and amended to read:

[~~55-12-115~~]. 80-6-1116. Supplementary agreements.

The compact administrator is authorized and empowered to enter into supplementary agreements with appropriate officials of other states [~~pursuant to~~] under the compact. In the event that the supplementary agreement requires or contemplates the use of any institution or facility of this state or requires or contemplates the provision of any service by this state, the supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.

Section 141. Section 80-6-1117, which is renumbered from Section 55-12-116 is renumbered and amended to read:

[~~55-12-116~~]. 80-6-1117. Financial arrangements.

The compact administrator, subject to the approval of the Division of Finance, may make or arrange for any payments necessary to discharge any financial obligations imposed upon this state by the compact or by any supplementary agreement entered into.

Section 142. Section 80-6-1118, which is renumbered from Section 55-12-117 is renumbered and amended to read:

[~~55-12-117~~]. 80-6-1118. Responsibility of parents.

The compact administrator is authorized to take appropriate action to recover from parents or guardians, any and all costs expended by the state, or any of [~~its~~] the state's subdivisions, to return a delinquent or nondelinquent juvenile to this state, for care provided [~~pursuant to~~] under any supplementary agreement, or for care pending the return of the juvenile to this state.

Section 143. Section 80-6-1119, which is renumbered from Section 55-12-118 is renumbered and amended to read:

[~~55-12-118~~]. 80-6-1119. Responsibilities of state courts, departments, agencies, and officers.

The courts, departments, agencies and officers of this state and [~~its~~] this state's subdivisions shall enforce this compact and do all things appropriate to the effectuation of [~~its~~] the compact's purposes and intent which may be within their respective jurisdictions.

Section 144. Repealer.

This bill repeals:

Section 62A-4a-109, Eligibility -- Fee schedules.

Section 62A-4a-114, Financial reimbursement by parent or legal guardian.

Section 62A-4a-119, Division required to produce "family impact statement" with regard to rules.

Section 62A-4a-120, Accommodation of moral and religious beliefs and culture.

Section 62A-4a-205.5, Prohibition of discrimination based on race, color, or ethnicity.

Section 62A-4a-206.1, Foster parent's preference upon child's reentry into foster care.

Section 62A-4a-301, Legislative finding.

Section 62A-4a-302, Definitions.

Section 62A-4a-303, Director's responsibility.

Section 62A-4a-304, Contracts for services.

Section 62A-4a-305, Prevention and treatment programs.

Section 62A-4a-306, Programs and services -- Public hearing requirements -- Review by local board of education.

Section 62A-4a-307, Factors considered in award of contracts.

Section 62A-4a-308, Portion of funding provided by contractor.

Section 62A-4a-310, Funds -- Transfers and gifts.

Section 62A-4a-402, Definitions.

Section 62A-4a-601, Definitions.

Section 62A-4a-609, Preplacement disclosure and training before high needs child adoption.

Section 62A-4a-901, Legislative purpose.

Section 62A-4a-904, Adoption assistance.

Section 62A-4a-1001, Title.

Section 62A-4a-1002, Definitions.

Section 62A-4a-1004, Risk assessment training -- Second health care opinion.

Section 63M-10-101, Title.

Section 63M-10-201, Creation -- Purpose -- Administration -- Access.

Section 80-1-101, Title.

Section 80-2-101, Title.

Section 80-3-101, Title.

Section 80-4-101, Title.

Section 80-5-101, Title.

Section 80-6-101, Title.

Section 80-7-101, Title.

Section 145. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on September 1, 2022.

(2) Section 62A-4a-1003.5 and the amendments to Section 63I-2-262 take effect:

(a) if approved by two-thirds of all members elected to each house, upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override; or

(b) if not approved by two-thirds of all members elected to each house, on May 4, 2022.

Section 146. Coordinating H.B. 248 with H.B. 153 -- Superseding, technical, and substantive amendments.

If this H.B. 248 and H.B. 153, Child Welfare Interview Requirements, both pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) the amendments to Subsection 80-2-701(7) in this H.B. 248 supersede the amendments to Subsection 62A-4a-409(7) in H.B. 153;

(2) the amendments to Section 80-2-702 in this H.B. 248 supersede the amendments to Section 62A-4a-202.3 in H.B. 153; and

(3) Subsections 80-2-704(2) and (3) in this H.B. 248 are amended to read:

"(2) (a) If the division interviews a child under Subsection (1), the division shall, except as provided in Subsection (6), audiotape or videotape the interview.

(b) The interviewer under Subsection (1) shall say at the beginning of the audiotape or videotape:

(i) the time, date, and place of the interview; and

(ii) the full name and age of the child being interviewed.

(3) (a) Before conducting an interview under Subsection (1), the interviewer shall:

(i) assess the child's level of comfort with the interview and make reasonable efforts to ensure the child is comfortable during the interview; and

(ii) unless the interview is conducted at a Children's Justice Center, ask the child whether the child is comfortable being alone in the interview with the interviewer.

(b) (i) If a child who is interviewed under Subsection (1)(a) is not comfortable being alone in the interview with the interviewer, the child is allowed to have a support person of the child's choice present in an interview who:

(A) is 18 years old or older;

(B) is readily available; and

(C) is willing and able to be present in the interview without influencing the child through statements or reactions.

(ii) If a child who is interviewed under Subsection (1)(b) is not comfortable being alone in the interview with the interviewer, the interviewer shall conduct the interview with a support person of the child's choice present who meets the requirements of Subsections (2)(b)(i)(A) through (C).

(c) A support person described in this Subsection (3):

(i) may be:

(A) a school teacher;

(B) a school administrator;

(C) a guidance counselor;

(D) a child care provider;

(E) a family member;

(F) a family advocate;

(G) a member of the clergy; or

(H) another individual chosen by the child; and

(ii) may not be an individual who:

(A) is alleged to be, or potentially may be, the perpetrator; or

(B) is protective of the perpetrator or unsupportive of the child."..

Section 147. Coordinating H.B. 248 with H.B. 219 -- Technical amendments.

If this H.B. 248 and H.B. 219, Uniform Unregulated Child Custody Transfer Act, both pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication Sections 62A-2-126 and 76-7-205 in this H.B. 248 are repealed..

Section 148. Coordinating H.B. 248 with H.B. 219 and S.B. 132 -- Technical and superseding amendments.

If this H.B. 248 and H.B. 219, Uniform Unregulated Child Custody Transfer Act, and S.B. 132, Child Welfare Amendments, all pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) Subsection 62A-2-108.6(2)(a) in this H.B. 248 is amended to read:

"(2) (a) Subject to Section 78B-24-205, a person may not engage in child placing, or solicit money or other assistance for child placing, without a valid license issued by the office in accordance with this chapter."; and

(2) Subsection 62A-2-108.6(4) in this H.B. 248 is amended to read:

"(4) This section does not preclude payment of fees for medical, legal, or other lawful services rendered in connection with the care of a mother, delivery and care of a child, or lawful adoption proceedings."..

Section 149. Coordinating H.B. 248 with S.B. 132 -- Technical and substantive amendments.

If this H.B. 248 and S.B. 132, Child Welfare Amendments, both pass and become law, it is the intent of the Legislature that, on September 1, 2022, when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication:

(1) Subsections 80-2a-101(5)(c) and (d) are amended to read:

"(c) is a permanent guardian or natural parent of the child's sibling; or

(d) in the case of a child who is an Indian child, is an extended family member as defined in the Indian Child Welfare Act, 25 U.S.C. Sec. 1903."; and

(2) Subsection 80-2a-301(6)(b) is amended to read:

"(b) The division shall determine whether an individual passes the background check described in Subsection (6)(a) in accordance with Section 62A-2-120.".

Section 150. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 249, Juvenile Amendments Cross References, does not pass.

CHAPTER 335
H. B. 249
Passed February 25, 2022
Approved March 24, 2022
Effective September 1, 2022

JUVENILE AMENDMENTS CROSS REFERENCES

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill contains the cross references for H.B. 248, Juvenile Amendments.

Highlighted Provisions:

This bill:

- makes technical cross reference changes to provisions related to juveniles that are amended in H.B. 248, Juvenile Amendments; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

10-3-913, as last amended by Laws of Utah 2021, Chapter 29
17-16-21, as last amended by Laws of Utah 2021, Chapter 91
17-22-2, as last amended by Laws of Utah 2021, Chapter 29
26-2-12.5, as last amended by Laws of Utah 2010, Chapter 278
26-6-27, as last amended by Laws of Utah 2021, Chapter 345
26-8a-310, as last amended by Laws of Utah 2021, Chapters 237 and 262
26-21-204, as last amended by Laws of Utah 2021, Chapter 262
26-39-402, as last amended by Laws of Utah 2018, Chapter 415
30-3-5.2, as last amended by Laws of Utah 2014, Chapter 267
30-3-38, as last amended by Laws of Utah 2012, Chapter 347
30-5-2, as last amended by Laws of Utah 2020, Chapter 48
30-5a-103, as last amended by Laws of Utah 2021, Chapter 262
35A-8-901, as renumbered and amended by Laws of Utah 2012, Chapter 212
41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231
53-13-110, as last amended by Laws of Utah 2014, Chapter 189
53B-8d-102, as last amended by Laws of Utah 2021, Chapters 187 and 262
53B-28-202, as enacted by Laws of Utah 2017, Chapter 188
53B-28-303, as enacted by Laws of Utah 2019, Chapter 307
53E-3-513, as last amended by Laws of Utah 2021, Chapter 262
53E-6-701, as last amended by Laws of Utah 2019, Chapter 186
53E-9-203, as last amended by Laws of Utah 2020, Chapter 202
53E-9-308, as last amended by Laws of Utah 2019, Chapters 175 and 186
53G-6-208, as last amended by Laws of Utah 2021, Chapters 262 and 359 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 359
53G-6-302, as last amended by Laws of Utah 2020, Chapter 408
53G-6-707, as last amended by Laws of Utah 2019, Chapters 189, 293, and 324
53G-8-303, as renumbered and amended by Laws of Utah 2018, Chapter 3
53G-9-203, as last amended by Laws of Utah 2019, Chapters 293 and 349
53G-9-207, as last amended by Laws of Utah 2019, Chapters 179 and 293
53G-9-209, as last amended by Laws of Utah 2021, Chapter 262
58-60-114, as last amended by Laws of Utah 2021, Chapter 283
58-60-509, as last amended by Laws of Utah 2011, Chapter 366
58-61-713, as last amended by Laws of Utah 2021, Chapter 283
59-10-1104, as last amended by Laws of Utah 2013, Chapter 414
62A-1-118, as last amended by Laws of Utah 2019, Chapter 335
62A-2-117.5, as last amended by Laws of Utah 2021, Chapter 262
62A-2-120, as last amended by Laws of Utah 2021, Chapters 117, 262, and 400
62A-2-121, as last amended by Laws of Utah 2021, Chapter 262
62A-3-305, as last amended by Laws of Utah 2021, Chapter 419
62A-11-304.4, as last amended by Laws of Utah 2008, Chapters 3 and 382
62A-16-102, as last amended by Laws of Utah 2021, Chapter 231
62A-18-105, as enacted by Laws of Utah 2019, Chapter 139
63A-17-902, as last amended by Laws of Utah 2021, Chapter 262 and renumbered and amended by Laws of Utah 2021, Chapter 344
63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
63I-1-262, as last amended by Laws of Utah 2021, Chapters 29 and 91
63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
67-5-16, as last amended by Laws of Utah 2013, Chapter 171
76-5-109, as last amended by Laws of Utah 2017, Chapter 388
76-5-701, as enacted by Laws of Utah 2019, Chapter 398

76-5-703, as enacted by Laws of Utah 2019, Chapter 398
76-7-302, as last amended by Laws of Utah 2019, Chapters 189 and 208
76-8-318, as enacted by Laws of Utah 2019, Chapter 478
76-8-418, as last amended by Laws of Utah 2021, Chapter 261
76-10-1315, as last amended by Laws of Utah 2021, Chapter 262
77-36-5, as last amended by Laws of Utah 2021, Chapter 159
77-37-4, as last amended by Laws of Utah 2018, Chapter 415
77-38-204, as last amended by Laws of Utah 2017, Chapter 188
78A-2-704, as renumbered and amended by Laws of Utah 2014, Chapter 267
78A-6-102, as last amended by Laws of Utah 2021, Chapter 261
78A-6-103, as last amended by Laws of Utah 2021, Chapter 261
78A-6-104, as repealed and reenacted by Laws of Utah 2021, Chapter 261
78A-6-209, as last amended by Laws of Utah 2021, Chapter 261
78A-6-450, as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-3-502, as last amended by Laws of Utah 2009, Chapter 146
78B-6-103, as last amended by Laws of Utah 2017, Chapters 110, 280, and 417
78B-6-107, as last amended by Laws of Utah 2019, Chapter 491
78B-6-124, as last amended by Laws of Utah 2019, Chapter 354
78B-6-128, as last amended by Laws of Utah 2019, Chapter 491
78B-6-131, as last amended by Laws of Utah 2021, Chapter 262
78B-6-207, as last amended by Laws of Utah 2021, Chapter 262
78B-6-208, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-10-106, as renumbered and amended by Laws of Utah 2008, Chapter 3
80-3-107, as enacted by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 231
80-3-204, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-3-303, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-3-405, as enacted by Laws of Utah 2021, Chapter 261
80-3-407, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-3-409, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-4-102, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-4-203, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-4-301, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-201, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-202, as renumbered and amended by Laws of Utah 2021, Chapter 261
80-6-206, as enacted by Laws of Utah 2021, Chapter 261 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 261

ENACTS:

63I-1-280, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-3-913 is amended to read:

10-3-913. Authority of chief of police -- Oversight.

(1) The chief of police has the same authority as the sheriff within the boundaries of the municipality of appointment. The chief has authority to:

(a) suppress riots, disturbances, and breaches of the peace;

(b) apprehend all persons violating state laws or city ordinances;

(c) diligently discharge his duties and enforce all ordinances of the city to preserve the peace, good order, and protection of the rights and property of all persons;

(d) attend the municipal justice court located within the city when required, provide security for the court, and obey its orders and directions; and

(e) select a representative of law enforcement to serve as a member of a child protection team, as defined in Section [~~62A-4a-101~~] 80-1-102.

(2) This section is not a limitation of a police chief's statewide authority as otherwise provided by law.

(3) The chief of police shall adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender.

(4) (a) Notwithstanding Sections 10-3-918 and 10-3-919, a municipality may not establish a board, committee, or other entity that:

(i) has authority independent of the chief of police; and

(ii) (A) has authority to overrule a hiring or appointment proposal of the chief of police;

(B) is required to review or approve a police department's rules, regulations, policies, or procedures in order for the rules, regulations, policies, or procedures to take effect;

(C) has authority to veto a new policy, or strike down an existing policy, established under the authority of the chief of police;

(D) is required to review or approve a police department's budget in order for the budget to take effect; or

(E) has authority to review or approve a contract the police department makes with a police union or other organization.

(b) Nothing in this Subsection (4):

(i) limits the authority the Utah Code provides over the chief of police;

(ii) prohibits the municipal council or chief executive officer from taking a lawful action described in Subsection (4)(a)(ii) that is allowed by law; or

(iii) limits the authority of a civil service commission established in accordance with Title 10, Chapter 3, Part 10, Civil Service Commission.

(5) Subject to Subsection (4), a municipality may establish a board, committee, or other entity that relates to the provision of law enforcement services and that has authority independent of the chief of police if the municipality:

(a) directly appoints the board, committee, or other entity's members; and

(b) provides direct oversight of the board, committee, or other entity.

Section 2. Section 17-16-21 is amended to read:

17-16-21. Fees of county officers.

(1) As used in this section, "county officer" means a county officer enumerated in Section 17-53-101 except a county recorder, a county constable, or a county sheriff.

(2) (a) A county officer shall collect, in advance, for exclusive county use and benefit:

(i) a fee established by the county legislative body under Section 17-53-211; and

(ii) any other fee authorized or required by law.

(b) As long as the Children's Legal Defense Account is authorized by Section 51-9-408, the county clerk shall:

(i) assess $10 in addition to whatever fee for a marriage license is established under authority of this section; and

(ii) transmit $10 from each marriage license fee to the Division of Finance for deposit in the Children's Legal Defense Account.

(c) (i) As long as the Division of Child and Family Services, created in Section [~~62A-4a-103~~] 80-2-201, has the responsibility under Section [~~62A-4a-105~~] 80-2-301 to provide services, including temporary shelter, for victims of domestic violence, the county clerk shall:

(A) collect $10 in addition to whatever fee for a marriage license is established under authority of this section and in addition to the amount described in Subsection (2)(b), if an applicant chooses, as provided in Subsection (2)(c)(ii), to pay the additional $10; and

(B) to the extent actually paid, transmit $10 from each marriage license fee to the Division of Finance for distribution to the Division of Child and Family Services for the operation of shelters for victims of domestic violence.

(ii) (A) The county clerk shall provide a method for an applicant for a marriage license to choose to pay the additional $10 referred to in Subsection (2)(c)(i).

(B) An applicant for a marriage license may choose not to pay the additional $10 referred to in Subsection (2)(c)(i) without affecting the applicant's ability to be issued a marriage license.

(d) If a county operates an online marriage application system, the county clerk of that county:

(i) may assess $20 in addition to the other fees for a marriage license established under this section;

(ii) except as provided in Subsection (2)(d)(iii), shall transmit $20 from the marriage license fee to the state treasurer for deposit annually as follows:

(A) the first $400,000 shall accrue to the Utah Marriage Commission, created in Title 63M, Chapter 15, Utah Marriage Commission, as dedicated credits for the operation of the Utah Marriage Commission; and

(B) proceeds in excess of $400,000 shall be deposited into the General Fund; and

(iii) may not transmit $20 from the marriage license fee to the state treasurer under this Subsection (2)(d) if both individuals seeking the marriage license certify that they have completed premarital counseling or education in accordance with Section 30-1-34.

(3) This section does not apply to a fee currently being assessed by the state but collected by a county officer.

Section 3. Section 17-22-2 is amended to read:

17-22-2. Sheriff -- General duties.

(1) The sheriff shall:

(a) preserve the peace;

(b) make all lawful arrests;

(c) attend in person or by deputy the Supreme Court and the Court of Appeals when required or when the court is held within his county, all courts of record, and court commissioner and referee sessions held within his county, obey their lawful orders and directions, and comply with the court security rule, Rule 3-414, of the Utah Code of Judicial Administration;

(d) upon request of the juvenile court, aid the court in maintaining order during hearings and transport a minor to and from youth corrections facilities, other institutions, or other designated places;

(e) attend county justice courts if the judge finds that the matter before the court requires the sheriff's attendance for security, transportation, and escort of jail prisoners in his custody, or for the custody of jurors;

(f) command the aid of as many inhabitants of his county as he considers necessary in the execution of these duties;

(g) take charge of and keep the county jail and the jail prisoners;

(h) receive and safely keep all persons committed to his custody, file and preserve the commitments of those persons, and record the name, age, place of birth, and description of each person committed;

(i) release on the record all attachments of real property when the attachment he receives has been released or discharged;

(j) endorse on all process and notices the year, month, day, hour, and minute of reception, and, upon payment of fees, issue a certificate to the person delivering process or notice showing the names of the parties, title of paper, and the time of receipt;

(k) serve all process and notices as prescribed by law;

(l) if he makes service of process or notice, certify on the process or notices the manner, time, and place of service, or, if he fails to make service, certify the reason upon the process or notice, and return them without delay;

(m) extinguish fires occurring in the undergrowth, trees, or wooded areas on the public land within his county;

(n) perform as required by any contracts between the county and private contractors for management, maintenance, operation, and construction of county jails entered into under the authority of Section 17-53-311;

(o) for the sheriff of a county of the second through sixth class that enters into an interlocal agreement for law enforcement service under Title 11, Chapter 13, Interlocal Cooperation Act, provide law enforcement service as provided in the interlocal agreement;

(p) manage search and rescue services in his county;

(q) obtain saliva DNA specimens as required under Section 53-10-404;

(r) on or before January 1, 2003, adopt a written policy that prohibits the stopping, detention, or search of any person when the action is solely motivated by considerations of race, color, ethnicity, age, or gender;

(s) as applicable, select a representative of law enforcement to serve as a member of a child protection team, as defined in Section [~~62A-4a-101~~] 80-1-102; and

(t) perform any other duties that are required by law.

(2) Violation of Subsection (1)(j) is a class C misdemeanor. Violation of any other subsection under Subsection (1) is a class A misdemeanor.

(3) (a) As used in this Subsection (3):

(i) "Police interlocal entity" has the same meaning as defined in Sections 17-30-3 and 17-30a-102.

(ii) "Police local district" has the same meaning as defined in Section 17-30-3.

(b) Except as provided in Subsections (3)(c) and 11-13-202(4), a sheriff in a county which includes within its boundary a police local district or police interlocal entity, or both:

(i) serves as the chief executive officer of each police local district and police interlocal entity within the county with respect to the provision of law enforcement service within the boundary of the police local district or police interlocal entity, respectively; and

(ii) is subject to the direction of the police local district board of trustees or police interlocal entity governing body, as the case may be, as and to the extent provided by agreement between the police local district or police interlocal entity, respectively, and the sheriff.

(c) Notwithstanding Subsection (3)(b), and except as provided in Subsection 11-13-202(4), if a police interlocal entity or police local district enters an interlocal agreement with a public agency, as defined in Section 11-13-103, for the provision of law enforcement service, the sheriff:

(i) does not serve as the chief executive officer of any interlocal entity created under that interlocal agreement, unless the agreement provides for the sheriff to serve as the chief executive officer; and

(ii) shall provide law enforcement service under that interlocal agreement as provided in the agreement.

Section 4. Section 26-2-12.5 is amended to read:

26-2-12.5. Certified copies of birth certificates -- Fees credited to Children's Account.

(1) In addition to the fees provided for in Section 26-1-6, the department and local registrars authorized to issue certified copies shall charge an additional $3 fee for each certified copy of a birth certificate, including certified copies of supplementary and amended birth certificates, under Sections 26-2-8 through 26-2-11. This additional fee may be charged only for the first copy requested at any one time.

(2) The fee shall be transmitted monthly to the state treasurer and credited to the Children's Account established in Section [~~62A-4a-309~~] 80-2-501.

Section 5. Section 26-6-27 is amended to read:

26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section [~~62A-4a-403~~] 80-2-602. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Person, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 63A-17-901, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 6. Section 26-8a-310 is amended to read:

26-8a-310. Background clearance for emergency medical service personnel.

(1) Subject to Section 26-8a-310.5, the department shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 26-8a-302 from whom the department receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains

under Subsections (5) and (11), which, at a minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section [~~62A-4a-1006~~] 80-2-1002;

(f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of Occupational and Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information the department receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and

(b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 7. Section 26-21-204 is amended to read:

26-21-204. Clearance.

(1) The department shall determine whether to grant clearance for each applicant for whom it receives:

(a) the personal identification information specified by the department under Subsection [~~26-21-204~~](4)(b); and

(b) any fees established by the department under Subsection [~~26-21-204~~](9).

(2) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section [~~62A-4a-1006~~] 80-2-1002;

(e) child abuse or neglect findings described in Section 80-3-404;

(f) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of Occupational and Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for clearance, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Department of Human Services, the Division of Occupational and Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26-21-209; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

Section 8. Section 26-39-402 is amended to read:

26-39-402. Residential child care certificate.

(1) A residential child care provider of five to eight qualifying children shall obtain a Residential Child Care Certificate from the department, unless Section 26-39-403 applies.

(2) The minimum qualifications for a Residential Child Care Certificate are:

(a) the submission of:

(i) an application in the form prescribed by the department;

(ii) a certification and criminal background fee established in accordance with Section 26-1-6; and

(iii) in accordance with Section 26-39-404, identifying information for each adult person and each juvenile age 12 through 17 years of age who resides in the provider's home:

(A) for processing by the Department of Public Safety to determine whether any such person has been convicted of a crime;

(B) to screen for a substantiated finding of child abuse or neglect by a juvenile court; and

(C) to discover whether the person is listed in the Licensing Information System described in Section [~~62A-4a-1006~~] 80-2-1002;

(b) an initial and annual inspection of the provider's home within 90 days of sending an intent to inspect notice to:

(i) check the immunization record, as defined in Section 53G-9-301, of each qualifying child who receives child care in the provider's home;

(ii) identify serious sanitation, fire, and health hazards to qualifying children; and

(iii) make appropriate recommendations; and

(c) annual training consisting of 10 hours of department-approved training as specified by the department by administrative rule, including a current department-approved CPR and first aid course.

(3) If a serious sanitation, fire, or health hazard has been found during an inspection conducted pursuant to Subsection (2)(b), the department shall require corrective action for the serious hazards found and make an unannounced follow up inspection to determine compliance.

(4) In addition to an inspection conducted pursuant to Subsection (2)(b), the department may inspect the home of a residential care provider of five to eight qualifying children in response to a complaint of:

(a) child abuse or neglect;

(b) serious health hazards in or around the provider's home; or

(c) providing residential child care without the appropriate certificate or license.

(5) Notwithstanding this section:

(a) a license under Section 26-39-401 is required of a residential child care provider who cares for nine or more qualifying children;

(b) a certified residential child care provider may not provide care to more than two qualifying children under the age of two; and

(c) an inspection may be required of a residential child care provider in connection with a federal child care program.

(6) With respect to residential child care, the department may only make and enforce rules necessary to implement this section.

Section 9. Section 30-3-5.2 is amended to read:

30-3-5.2. Allegations of child abuse or child sexual abuse -- Investigation.

When, in any divorce proceeding or upon a request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court, after making an inquiry, may order that an investigation be conducted by the Division of Child and Family Services within the Department of Human Services in accordance with [~~Title 62A, Chapter 4a, Child and Family Services~~] Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child. A final award of custody or parent-time may not be rendered until a report on that investigation, consistent with Section [~~62A-4a-412~~] 80-2-1005, is received by the court. That investigation shall be conducted by the Division of Child and Family Services within 30 days of the court's notice and request for an investigation. In reviewing this report, the court shall comply with Sections 78A-2-703, 78A-2-705, and 78B-15-612.

Section 10. Section 30-3-38 is amended to read:

30-3-38. Expedited Parent-time Enforcement Program.

(1) There is established an Expedited Parent-time Enforcement Program in the third judicial district to be administered by the Administrative Office of the Courts.

(2) As used in this section:

(a) "Mediator" means a person who:

(i) is qualified to mediate parent-time disputes under criteria established by the Administrative Office of the Courts; and

(ii) agrees to follow billing guidelines established by the Administrative Office of the Courts and this section.

(b) "Services to facilitate parent-time" or "services" means services designed to assist families in resolving parent-time problems through:

(i) counseling;

(ii) supervised parent-time;

(iii) neutral drop-off and pick-up;

(iv) educational classes; and

(v) other related activities.

(3) (a) If a parent files a motion in the third district court alleging that court-ordered parent-time rights are being violated, the clerk of the court, after assigning the case to a judge, shall refer the case to the administrator of this program for assignment to a mediator, unless a parent is incarcerated or otherwise unavailable. Unless the court rules otherwise, a parent residing outside of the state is not unavailable. The director of the program for the courts, the court, or the mediator may excuse either party from the requirement to mediate for good cause.

(b) Upon receipt of a case, the mediator shall:

(i) meet with the parents to address parent-time issues within 15 days of the motion being filed;

(ii) assess the situation;

(iii) facilitate an agreement on parent-time between the parents; and

(iv) determine whether a referral to a service provider under Subsection (3)(c) is warranted.

(c) While a case is in mediation, a mediator may refer the parents to a service provider designated by the Department of Human Services for services to facilitate parent-time if:

(i) the services may be of significant benefit to the parents; or

(ii) (A) a mediated agreement between the parents is unlikely; and

(B) the services may facilitate an agreement.

(d) At any time during mediation, a mediator shall terminate mediation and transfer the case to the administrator of the program for referral to the judge or court commissioner to whom the case was assigned under Subsection (3)(a) if:

(i) a written agreement between the parents is reached; or

(ii) the parents are unable to reach an agreement through mediation and:

(A) the parents have received services to facilitate parent-time;

(B) both parents object to receiving services to facilitate parent-time; or

(C) the parents are unlikely to benefit from receiving services to facilitate parent-time.

(e) Upon receiving a case from the administrator of the program, a judge or court commissioner may:

(i) review the agreement of the parents and, if acceptable, sign it as an order;

(ii) order the parents to receive services to facilitate parent-time;

(iii) proceed with the case; or

(iv) take other appropriate action.

(4) (a) If a parent makes a particularized allegation of physical or sexual abuse of a child who is the subject of a parent-time order against the other parent or a member of the other parent's household to a mediator or service provider, the mediator or service provider shall immediately report that information to:

(i) the judge assigned to the case who may immediately issue orders and take other appropriate action to resolve the allegation and protect the child; and

(ii) the Division of Child and Family Services within the Department of Human Services in the manner required by [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports.

(b) If an allegation under Subsection (4)(a) is made against a parent with parent-time rights or a member of that parent's household, parent-time by that parent shall, pursuant to an order of the court, be supervised until:

(i) the allegation has been resolved; or

(ii) a court orders otherwise.

(c) Notwithstanding an allegation under Subsection (4)(a), a mediator may continue to mediate parent-time problems and a service provider may continue to provide services to facilitate parent-time unless otherwise ordered by a court.

(5) (a) The Department of Human Services may contract with one or more entities in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to provide:

(i) services to facilitate parent-time;

(ii) case management services; and

(iii) administrative services.

(b) An entity who contracts with the Department of Human Services under Subsection (5)(a) shall:

(i) be qualified to provide one or more of the services listed in Subsection (5)(a); and

(ii) agree to follow billing guidelines established by the Department of Human Services and this section.

(6) (a) Except as provided in Subsection (6)(b), the cost of mediation shall be:

(i) reduced to a sum certain;

(ii) divided equally between the parents; and

(iii) charged against each parent taking into account the ability of that parent to pay under billing guidelines adopted in accordance with this section.

(b) A judge may order a parent to pay an amount in excess of that provided for in Subsection (6)(a) if the parent:

(i) failed to participate in good faith in mediation or services to facilitate parent-time; or

(ii) made an unfounded assertion or claim of physical or sexual abuse of a child.

(c) (i) The cost of mediation and services to facilitate parent-time may be charged to parents at periodic intervals.

(ii) Mediation and services to facilitate parent-time may only be terminated on the ground of nonpayment if both parents are delinquent.

(7) (a) The Judicial Council may make rules to implement and administer the provisions of this program related to mediation.

(b) The Department of Human Services may make rules to implement and administer the provisions of this program related to services to facilitate parent-time.

(8) (a) The Administrative Office of the Courts shall adopt outcome measures to evaluate the effectiveness of the mediation component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(b) The Department of Human Services shall adopt outcome measures to evaluate the effectiveness of the services component of this program. Progress reports shall be provided to the Judiciary Interim Committee as requested by the committee.

(c) The Administrative Office of the Courts and the Department of Human Services may adopt joint outcome measures and file joint reports to satisfy the requirements of Subsections (7)(a) and (b).

(9) The Department of Human Services shall, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, apply for federal funds as available.

Section 11. Section 30-5-2 is amended to read:

30-5-2. Visitation rights of grandparents.

(1) In accordance with the provisions and requirements of this section:

(a) a grandparent has standing to bring an action requesting visitation in district court by petition; and

(b) a grandparent may file a petition for visitation rights in the juvenile court or district court where a divorce proceeding or other proceeding involving custody and visitation issues is pending.

(2) (a) In accordance with Section [~~62A-4a-201~~] 80-2a-201, it is the public policy of this state that a parent retains the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.

(b) A court shall presume that a parent's decision in regard to grandparent visitation is in the best interest of the parent's child.

(3) A court may find the presumption in Subsection (2)(b) rebutted if the grandparent, by clear and convincing evidence, establishes that:

(a) the grandparent has filled the role of custodian or caregiver to the grandchild that:

(i) is in a manner akin to a parent; and

(ii) the loss of the relationship between the grandparent and the grandchild would cause substantial harm to the grandchild; or

(b) both parents are unfit or incompetent in a manner that causes potential harm to the grandchild.

(4) (a) If the court finds the presumption in Subsection (2)(b) is rebutted, the court may consider whether grandparent visitation is in the best interest of the grandchild.

(b) If the court considers whether grandparent visitation is in the best interest of the child, the court shall take into account the totality of the circumstances, including:

(i) the reasonableness of the parent's decision to deny grandparent visitation;

(ii) the age of the grandchild;

(iii) the death or unavailability of a parent; and

(iv) if the grandchild is 14 years old or older, the grandchild's desires regarding visitation after the court inquires of the grandchild.

(5) If the court finds the presumption in Subsection (2)(b) is rebutted and grandparent visitation is in the best interest of the grandchild, the court may issue an order for grandparent visitation.

(6) The adoption of a grandchild by the grandchild's stepparent does not diminish or alter visitation rights previously ordered under this section.

(7) On the petition of a grandparent or the legal custodian of a grandchild the court may, after a hearing, modify an order regarding grandparent visitation if:

(a) the circumstances of the grandchild, the grandparent, or the custodian have materially and substantially changed since the entry of the order to be modified, or the order has become unworkable or inappropriate under existing circumstances; and

(b) the court determines that a modification is appropriate based upon the factors set forth in Subsections (3) and (4).

(8) A grandparent may petition the court to remedy a parent's wrongful noncompliance with a visitation order.

Section 12. Section 30-5a-103 is amended to read:

30-5a-103. Custody and visitation for individuals other than a parent.

(1) (a) In accordance with Section [~~62A-4a-201~~] 80-2a-201, it is the public policy of this state that a

parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.

(b) There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the child is in the child's best interest;

(f) the loss or cessation of the relationship between the individual and the child would substantially harm the child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the child.

(3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county where the child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.

(6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:

(a) the child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the child.

(8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

(9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a child under this section to an individual who is not the parent of the child and who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child or aggravated sexual abuse of a child, as described in Section 76-5-404.1;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; or

(k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 13. Section 35A-8-901 is amended to read:

35A-8-901. Assistance to domestic violence shelters -- Rulemaking authority.

(1) (a) The Division of Child and Family Services within the Department of Human Services has statutory responsibility to provide violence services, including temporary shelter, to victims of domestic violence under the provisions of Sections [~~62A-4a-101~~] 80-2-102 and [~~62A-4a-105~~] 80-2-301.

(b) The division may assist the Division of Child and Family Services by providing for the development, construction, and improvement of shelters for victims of domestic violence, as described in Section 77-36-1, through loans and grants to nonprofit and governmental entities.

(2) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing:

(a) procedures for applying for loans and grants;

(b) criteria for awarding loans and grants; and

(c) requirements for the repayment of loans.

(3) The division may appoint an advisory panel to:

(a) assist the division in developing rules under Subsection (2); and

(b) recommend how available funds should be disbursed.

(4) The division shall make loans and grants with money specifically appropriated for that purpose.

(5) The division shall coordinate with the Division of Child and Family Services in complying with the provisions of this section.

Section 14. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section [~~62A-4a-608~~] 80-2-502 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 15. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection [~~62A-4a-207(5)~~] 36-33-103(2);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; and

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 16. Section 53-13-110 is amended to read:

53-13-110. Duties to investigate specified instances of abuse or neglect.

In accordance with the requirements of Section [~~62A-4a-202.6~~] 80-2-703, law enforcement officers shall investigate alleged instances of abuse or neglect of a child that occur while the child is in the custody of the Division of Child and Family Services, within the Department of Human Services.

Section 17. Section 53B-8d-102 is amended to read:

53B-8d-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services.

(2) "Long-term foster care" means an individual who remains in the custody of the division, whether or not the individual resides:

(a) with licensed foster parents; or

(b) in independent living arrangements under the supervision of the division.

(3) "State institution of higher education" means an institution described in Section 53B-1-102.

(4) "Tuition" means tuition at the rate for residents of the state.

(5) "Ward of the state" means an individual:

(a) who is:

(i) at least 17 years old; and

(ii) not older than 26 years old;

(b) who had a permanency goal in the individual's child and family plan, as described in Sections [~~62A-4a-205~~] 80-3-307 and 80-3-409, of long-term foster care while in the custody of the division; and

(c) for whom the custody of the division was not terminated as a result of adoption.

Section 18. Section 53B-28-202 is amended to read:

53B-28-202. Confidentiality of information -- Disclosure of confidential communication.

(1) Except as provided in Subsection (2), and notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a person may not disclose a confidential communication.

(2) A person may disclose a confidential communication if:

(a) the victim gives written and informed consent to the disclosure;

(b) the person has an obligation to disclose the confidential communication under Section 62A-3-305, [~~62A-4a-403~~] 80-2-602, or 78B-3-502;

(c) the disclosure is required by federal law; or

(d) a court of competent jurisdiction orders the disclosure.

Section 19. Section 53B-28-303 is amended to read:

53B-28-303. Institution engagement with a law enforcement agency -- Articulable and significant threat -- Notification to victim.

(1) (a) An institution shall keep confidential from a law enforcement agency a covered allegation

reported to the institution by the victim of the covered allegation.

(b) Notwithstanding Subsection (1)(a), an institution may engage with a law enforcement agency in response to a covered allegation described in Subsection (1)(a):

(i) if the victim consents to the institution engaging with the law enforcement agency; or

(ii) in accordance with Subsection (2).

(2) (a) Subject to Subsection (3), an institution that receives a report described in Subsection (1)(a) may engage with a law enforcement agency in response to the covered allegation if the institution determines, in accordance with Subsection (2)(b), that the information in the covered allegation creates an articulable and significant threat to individual or campus safety at the institution.

(b) To determine whether the information in a covered allegation creates an articulable and significant threat described in Subsection (2)(a), the institution shall consider, if the information is known to the institution, at least the following factors:

(i) whether the circumstances of the covered allegation suggest an increased risk that the alleged perpetrator will commit an additional act of sexual violence or other violence;

(ii) whether the alleged perpetrator has an arrest history that indicates a history of sexual violence or other violence;

(iii) whether records from the alleged perpetrator's previous postsecondary institution indicate that the alleged perpetrator has a history of sexual violence or other violence;

(iv) whether the alleged perpetrator is alleged to have threatened further sexual violence or other violence against the victim or another individual;

(v) whether the act of sexual violence was committed by more than one alleged perpetrator;

(vi) whether the circumstances of the covered allegation suggest there is an increased risk of future acts of sexual violence under similar circumstances;

(vii) whether the act of sexual violence was perpetrated with a weapon; and

(viii) the age of the victim.

(3) An institution shall:

(a) before engaging with a law enforcement agency in accordance with Subsection (2), provide notice to the victim of the following:

(i) the institution's intent to engage with a law enforcement agency;

(ii) the law enforcement agency with which the institution intends to engage; and

(iii) the reason the institution made the determination described in Subsection (2); and

(b) in engaging with a law enforcement agency under Subsection (2):

(i) maintain the confidentiality of the victim; and

(ii) disclose the minimum information required to appropriately address the threat described in Subsection (2)(a).

(4) Nothing in this section supersedes:

(a) an obligation described in Section 62A-3-305, [~~62A-4a-403~~] 80-2-602, or 78B-3-502; or

(b) a requirement described in Part 2, Confidential Communications for Institutional Advocacy Services Act.

Section 20. Section 53E-3-513 is amended to read:

53E-3-513. Parental permission required for specified in-home programs -- Exceptions.

(1) The state board, local school boards, school districts, and public schools are prohibited from requiring infant or preschool in-home literacy or other educational or parenting programs without obtaining parental permission in each individual case.

(2) This section does not prohibit the Division of Child and Family Services, within the Department of Human Services, from providing or arranging for family preservation or other statutorily provided services in accordance with [~~Title 62A, Chapter 4a, Child and Family Services~~] Title 80, Chapter 2, Child Welfare Services, or Title 80, Chapter 2a, Removal and Protective Custody of a Child, or any other in-home services that have been court ordered, in accordance with [~~Title 62A, Chapter 4a, Child and Family Services or~~] Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights.

Section 21. Section 53E-6-701 is amended to read:

53E-6-701. Mandatory reporting of physical or sexual abuse of students.

(1) For purposes of this section, "educator" means, in addition to a person included under Section 53E-6-102, a person, including a volunteer or temporary employee, who at the time of an alleged offense was performing a function in a private school for which a license would be required in a public school.

(2) In addition to any duty to report suspected cases of child abuse or neglect under Section [~~62A-4a-403~~] 80-2-602, an educator who has reasonable cause to believe that a student may have been physically or sexually abused by a school employee shall immediately report the belief and all other relevant information to the school principal, to the superintendent, or to the state board.

(3) A school administrator who has received a report under Subsection (2) or who otherwise has

reasonable cause to believe that a student may have been physically or sexually abused by an educator shall immediately report that information to the state board.

(4) Upon notice that an educator allegedly violated Subsection (2) or (3), the state board shall direct UPPAC to investigate the educator's alleged violation as described in Section 53E-6-604.

(5) A person who makes a report under this section in good faith shall be immune from civil or criminal liability that might otherwise arise by reason of that report.

Section 22. Section 53E-9-203 is amended to read:

53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.

(1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

(a) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;

(b) mental or psychological problems;

(c) sexual behavior, orientation, or attitudes;

(d) illegal, anti-social, self-incriminating, or demeaning behavior;

(e) critical appraisals of individuals with whom the student or family member has close family relationships;

(f) religious affiliations or beliefs;

(g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and

(h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.

(4) (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

(i) records or information, including information about relationships, that may be examined or requested;

(ii) the means by which the records or information shall be examined or reviewed;

(iii) the means by which the information is to be obtained;

(iv) the purposes for which the records or information are needed;

(v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent can view the exact survey to be administered to the parent's student.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, or by order of a court, disclosure to a parent must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

(i) referring the student to appropriate prevention services; and

(ii) informing the student's parent.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.

(9) The state board shall provide procedures for disciplinary action for violations of this section.

(10) Data collected from a survey described in Subsection (1):

(a) is a private record as provided in Section 63G-2-302;

(b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(c) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

Section 23. Section 53E-9-308 is amended to read:

53E-9-308. Sharing student data -- Prohibition -- Requirements for student data manager -- Authorized student data sharing.

(1) (a) Except as provided in Subsection (1)(b), an education entity, including a student data manager, may not share personally identifiable student data without written consent.

(b) An education entity, including a student data manager, may share personally identifiable student data:

(i) in accordance with the Family Education Rights and Privacy Act and related provisions under 20 U.S.C. Secs. 1232g and 1232h;

(ii) as required by federal law; and

(iii) as described in Subsections (3), (5), and (6).

(2) A student data manager shall:

(a) authorize and manage the sharing, outside of the student data manager's education entity, of personally identifiable student data for the education entity as described in this section;

(b) act as the primary local point of contact for the state student data officer described in Section 53E-9-302; and

(c) fulfill other responsibilities described in the data governance plan of the student data manager's education entity.

(3) A student data manager may share a student's personally identifiable student data with a caseworker or representative of the Department of Human Services if:

(a) the Department of Human Services is:

(i) legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect, as provided in Subsection [~~62A-4a-409(5)~~] 80-2-701(5); or

(ii) providing services to the student;

(b) the student's personally identifiable student data is not shared with a person who is not authorized:

(i) to address the student's education needs; or

(ii) by the Department of Human Services to receive the student's personally identifiable student data; and

(c) the Department of Human Services maintains and protects the student's personally identifiable student data.

(4) The Department of Human Services, a school official, or the Utah Juvenile Court may share personally identifiable student data to improve education outcomes for youth:

(a) in the custody of, or under the guardianship of, the Department of Human Services;

(b) receiving services from the Division of Juvenile Justice Services;

(c) in the custody of the Division of Child and Family Services;

(d) receiving services from the Division of Services for People with Disabilities; or

(e) under the jurisdiction of the Utah Juvenile Court.

(5) (a) A student data manager may share personally identifiable student data in response to a subpoena issued by a court.

(b) A person who receives personally identifiable student data under Subsection (5)(a) may not use the personally identifiable student data outside of the use described in the subpoena.

(6) (a) A student data manager may share student data, including personally identifiable student data, in response to a request to share student data for the purpose of research or evaluation, if the student data manager:

(i) verifies that the request meets the requirements of 34 C.F.R. Sec. 99.31(a)(6);

(ii) submits the request to the education entity's research review process; and

(iii) fulfills the instructions that result from the review process.

(b) (i) In accordance with state and federal law, and subject to Subsection (6)(b)(ii), the state board shall share student data, including personally identifiable student data, as requested by the Utah Registry of Autism and Developmental Disabilities described in Section 26-7-4.

(ii) (A) At least 30 days before the state board shares student data in accordance with Subsection (6)(b)(i), the education entity from which the state board received the student data shall provide notice to the parent of each student for which the state board intends to share student data.

(B) The state board may not, for a particular student, share student data as described in Subsection (6)(b)(i) if the student's parent requests that the state board not share the student data.

(iii) A person who receives student data under Subsection (6)(b)(i):

(A) shall maintain and protect the student data in accordance with state board rule described in Section 53E-9-307;

(B) may not use the student data for a purpose not described in Section 26-7-4; and

(C) is subject to audit by the state student data officer described in Section 53E-9-302.

Section 24. Section 53G-6-208 is amended to read:

53G-6-208. Taking custody of a person believed to be a truant minor -- Disposition -- Reports -- Immunity from liability.

(1) Except during the period between March 17, 2021, and June 1, 2022, a peace officer or public school administrator may take a minor into temporary custody if there is reason to believe the minor is a truant minor.

(2) An individual taking a presumed truant minor into custody under Subsection (1) shall, without unnecessary delay, release the minor to:

(a) the principal of the minor's school;

(b) a person who has been designated by the local school board or charter school governing board to receive and return the minor to school; or

(c) a truancy center established under Subsection (5).

(3) If the minor described in Subsection (2) refuses to return to school or go to the truancy center, the officer or administrator shall, without unnecessary delay, notify the minor's parents and release the minor to their custody.

(4) If the parents of a truant minor in custody cannot be reached or are unable or unwilling to accept custody and none of the options in Subsection (2) are available, the minor shall be referred to the Division of Child and Family Services.

(5) (a) (i) A local school board or charter school governing board, singly or jointly with another school board, may establish or designate truancy centers within existing school buildings and staff the centers with existing teachers or staff to provide educational guidance and counseling for truant minors.

(ii) Upon receipt of a truant minor, the center shall, without unnecessary delay, notify and direct the minor's parents to come to the center, pick up the minor, and return the minor to the school in which the minor is enrolled.

(b) (i) If the parents of a truant minor in custody cannot be reached or are unable or unwilling to comply with the request within a reasonable time, the center shall take such steps as are reasonably necessary to ensure the safety and well being of the minor, including, when appropriate, returning the minor to school or referring the minor to the Division of Child and Family Services.

(ii) A minor taken into custody under this section may not be placed in a detention center or other secure confinement facility.

(6) (a) An individual taking action under this section shall report the action to the appropriate school district.

(b) The district described in Subsection (6)(a) shall promptly notify the minor's parents of the action taken.

(7) The Utah Governmental Immunity Act applies to all actions taken under this section.

(8) Nothing in this section may be construed to grant authority to a public school administrator to place a minor in the custody of the Division of Child and Family Services, without complying with [~~Title 62A, Chapter 4a, Part 2, Child Welfare Services~~] Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings.

Section 25. Section 53G-6-302 is amended to read:

53G-6-302. Child's school district of residence -- Determination -- Responsibility for providing educational services.

(1) As used in this section:

(a) "Health care facility" means the same as that term is defined in Section 26-21-2.

(b) "Human services program" means the same as that term is defined in Section 62A-2-101.

(c) "Supervision" means a minor child is:

(i) receiving services from a state agency, local mental health authority, or substance abuse authority with active involvement or oversight; and

(ii) engaged in a human services program that is properly licensed or certified and has provided the school district receiving the minor child with an education plan that complies with the requirements of Section 62A-2-108.1.

(2) The school district of residence of a minor child whose custodial parent resides within Utah is:

(a) the school district in which the custodial parent resides; or

(b) the school district in which the child resides:

(i) while in the custody or under the supervision of a Utah state agency, local mental health authority, or substance abuse authority;

(ii) while under the supervision of a private or public agency which is in compliance with Section [~~62A-4a-606~~] 62A-2-127 and is authorized to provide child placement services by the state;

(iii) while living with a responsible adult resident of the district, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iii) does not violate any other law or rule of the state board;

(iv) while the child is receiving services from a health care facility or human services program, if a determination has been made in accordance with rules made by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(B) exigent circumstances exist that do not permit the case to be appropriately addressed under Section 53G-6-402; and

(C) considering the child to be a resident of the district under this Subsection (2)(b)(iv) does not violate any other law or rule of the state board; or

(v) if the child is married or has been determined to be an emancipated minor by a court of law or by a state administrative agency authorized to make that determination.

(3) A minor child whose custodial parent does not reside in the state is considered to be a resident of the district in which the child lives, unless that designation violates any other law or rule of the state board, if:

(a) the child is married or an emancipated minor under Subsection (2)(b)(v);

(b) the child lives with a resident of the district who is a responsible adult and whom the district agrees to designate as the child's legal guardian under Section 53G-6-303;

(c) if permissible under policies adopted by a local school board, it is established to the satisfaction of the local school board that:

(i) the child lives with a responsible adult who is a resident of the district and is the child's noncustodial parent, grandparent, brother, sister, uncle, or aunt;

(ii) the child's presence in the district is not for the primary purpose of attending the public schools;

(iii) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes; and

(iv) the child is prepared to abide by the policies of the school and school district in which attendance is sought; or

(d) it is established to the satisfaction of the local school board that:

(i) the child's parent moves from the state;

(ii) the child's parent executes a power of attorney under Section 75-5-103 that:

(A) meets the requirements of Subsection (4); and

(B) delegates powers regarding care, custody, or property, including schooling, to a responsible adult with whom the child resides;

(iii) the responsible adult described in Subsection (3)(d)(ii)(B) is a resident of the district;

(iv) the child's physical, mental, moral, or emotional health will best be served by considering the child to be a resident for school purposes;

(v) the child is prepared to abide by the policies of the school and school district in which attendance is sought; and

(vi) the child's attendance in the school will not be detrimental to the school or school district.

(4) (a) If admission is sought under Subsection (2)(b)(iii), (3)(c), or (3)(d), then the district may require the person with whom the child lives to be designated as the child's custodian in a durable power of attorney, issued by the party who has legal custody of the child, granting the custodian full authority to take any appropriate action, including authorization for educational or medical services, in the interests of the child.

(b) Both the party granting and the party empowered by the power of attorney shall agree to:

(i) assume responsibility for any fees or other charges relating to the child's education in the district; and

(ii) if eligibility for fee waivers is claimed under Section 53G-7-504, provide the school district with all financial information requested by the district for purposes of determining eligibility for fee waivers.

(c) Notwithstanding Section 75-5-103, a power of attorney meeting the requirements of this section and accepted by the school district shall remain in force until the earliest of the following occurs:

(i) the child reaches the age of 18, marries, or becomes emancipated;

(ii) the expiration date stated in the document; or

(iii) the power of attorney is revoked or rendered inoperative by the grantor or grantee, or by order of a court of competent jurisdiction.

(5) A power of attorney does not confer legal guardianship.

(6) Each school district is responsible for providing educational services for all children of school age who are residents of the district.

Section 26. Section 53G-6-707 is amended to read:

53G-6-707. Interstate compact students -- Inclusion in attendance count -- Foreign exchange students -- Annual report -- Requirements for exchange student agencies.

(1) A school district or charter school may include the following students in the district's or school's membership and attendance count for the purpose of apportionment of state money:

(a) a student enrolled under an interstate compact, established between the state board and the state education authority of another state, under which a student from one compact state would be permitted to enroll in a public school in the other compact state on the same basis as a resident student of the receiving state; or

(b) a student receiving services under [~~Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children~~] Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children.

(2) A school district or charter school may:

(a) enroll foreign exchange students that do not qualify for state money; and

(b) pay for the costs of those students with other funds available to the school district or charter school.

(3) Due to the benefits to all students of having the opportunity to become familiar with individuals from diverse backgrounds and cultures, school districts are encouraged to enroll foreign exchange students, as provided in Subsection (2), particularly in schools with declining or stable enrollments where the incremental cost of enrolling the foreign exchange student may be minimal.

(4) (a) A local school board or charter school governing board shall require each approved exchange student agency to provide it with a sworn affidavit of compliance prior to the beginning of each school year.

(b) The affidavit shall include the following assurances:

(i) that the agency has complied with all applicable policies of the state board;

(ii) that a household study, including a background check of all adult residents, has been made of each household where an exchange student is to reside, and that the study was of sufficient scope to provide reasonable assurance that the exchange student will receive proper care and supervision in a safe environment;

(iii) that host parents have received training appropriate to their positions, including information about enhanced criminal penalties under Subsection 76-5-406(2)(j) for persons who are in a position of special trust;

(iv) that a representative of the exchange student agency shall visit each student's place of residence at least once each month during the student's stay in Utah;

(v) that the agency will cooperate with school and other public authorities to ensure that no exchange student becomes an unreasonable burden upon the public schools or other public agencies;

(vi) that each exchange student will be given in the exchange student's native language names and telephone numbers of agency representatives and others who could be called at any time if a serious problem occurs; and

(vii) that alternate placements are readily available so that no student is required to remain in a household if conditions appear to exist which unreasonably endanger the student's welfare.

(5) (a) A local school board or charter school governing board shall provide each approved exchange student agency with a list of names and telephone numbers of individuals not associated with the agency who could be called by an exchange student in the event of a serious problem.

(b) The agency shall make a copy of the list available to each of its exchange students in the exchange student's native language.

(6) Notwithstanding Subsection 53F-2-303(3)(a), a school district or charter school shall enroll a foreign exchange student if the foreign exchange student:

(a) is sponsored by an agency approved by the state board;

(b) attends the same school during the same time period that another student from the school is:

(i) sponsored by the same agency; and

(ii) enrolled in a school in a foreign country; and

(c) is enrolled in the school for one year or less.

Section 27. Section 53G-8-303 is amended to read:

53G-8-303. Investigation of complaint -- Confidentiality -- Immunity.

(1) (a) The reporting and investigation requirements of [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports, apply to complaints on corporal punishment.

(b) If a violation is confirmed, school authorities shall take prompt and appropriate action, including in-service training and other administrative action, to ensure against a repetition of the violation.

(2) Reports made on violations of this part are subject to the same requirements of confidentiality as provided under Section [~~62A-4a-412~~] 80-2-1005.

(3) Any school or individual who in good faith makes a report or cooperates in an investigation by a school or authorized public agency concerning a violation of this part is immune from any civil or criminal liability that might otherwise result by reason of those actions.

Section 28. Section 53G-9-203 is amended to read:

53G-9-203. Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

(1) As used in this section:

(a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.

(b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.

(2) School personnel may:

(a) provide information and observations to a student's parent about that student, including observations and concerns in the following areas:

(i) progress;

(ii) health and wellness;

(iii) social interactions;

(iv) behavior; or

(v) topics consistent with Subsection 53E-9-203(6);

(b) communicate information and observations between school personnel regarding a child;

(c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;

(d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;

(e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53G-8-205; and

(f) complete a behavioral health evaluation form if requested by a student's parent to provide information to a licensed physician or physician assistant.

(3) School personnel shall:

(a) report suspected child abuse consistent with Section [~~62A-4a-403~~] 80-2-602;

(b) comply with applicable state and local health department laws, rules, and policies; and

(c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.

(4) Except as provided in Subsection (2), Subsection (6), and Section 53G-9-604, school personnel may not:

(a) recommend to a parent that a child take or continue to take a psychotropic medication;

(b) require that a student take or continue to take a psychotropic medication as a condition for attending school;

(c) recommend that a parent seek or use a type of psychiatric or psychological treatment for a child;

(d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or

(e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent refuses to consent to:

(i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

(ii) a psychiatric or behavioral health evaluation of a child.

(5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.

(6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the state board, working within the school system may:

(a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;

(b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;

(c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and

(d) provide to a parent, upon the specific request of the parent, a list of three or more health care professionals or providers, including licensed physicians, physician assistants, psychologists, or other health specialists.

(7) Local school boards or charter schools shall adopt a policy:

(a) providing for training of appropriate school personnel on the provisions of this section; and

(b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.

(8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent.

Section 29. Section 53G-9-207 is amended to read:

53G-9-207. Child sexual abuse prevention.

(1) As used in this section, "school personnel" means the same as that term is defined in Section 53G-9-203.

(2) The state board shall approve, in partnership with the Department of Human Services, age-appropriate instructional materials for the training and instruction described in Subsections (3)(a) and (4).

(3) (a) A school district or charter school shall provide, every other year, training and instruction on child sexual abuse and human trafficking prevention and awareness to:

(i) school personnel in elementary and secondary schools on:

(A) responding to a disclosure of child sexual abuse in a supportive, appropriate manner;

(B) identifying children who are victims or may be at risk of becoming victims of human trafficking or commercial sexual exploitation; and

(C) the mandatory reporting requirements described in Sections 53E-6-701 and [~~62A-4a-403~~] 80-2-602; and

(ii) parents of elementary school students on:

(A) recognizing warning signs of a child who is being sexually abused or who is a victim or may be at risk of becoming a victim of human trafficking or commercial sexual exploitation; and

(B) effective, age-appropriate methods for discussing the topic of child sexual abuse with a child.

(b) A school district or charter school shall use the instructional materials approved by the state board under Subsection (2) to provide the training and instruction to school personnel and parents under Subsection (3)(a).

(4) (a) In accordance with Subsections (4)(b) and (5), a school district or charter school may provide instruction on child sexual abuse and human trafficking prevention and awareness to elementary school students using age-appropriate curriculum.

(b) A school district or charter school that provides the instruction described in Subsection (4)(a) shall use the instructional materials approved by the state board under Subsection (2) to provide the instruction.

(5) (a) An elementary school student may not be given the instruction described in Subsection (4) unless the parent of the student is:

(i) notified in advance of the:

(A) instruction and the content of the instruction; and

(B) parent's right to have the student excused from the instruction;

(ii) given an opportunity to review the instructional materials before the instruction occurs; and

(iii) allowed to be present when the instruction is delivered.

(b) Upon the written request of the parent of an elementary school student, the student shall be excused from the instruction described in Subsection (4).

(c) Participation of a student requires compliance with Sections 53E-9-202 and 53E-9-203.

(6) A school district or charter school may determine the mode of delivery for the training and instruction described in Subsections (3) and (4).

(7) Upon request of the state board, a school district or charter school shall provide evidence of compliance with this section.

Section 30. Section 53G-9-209 is amended to read:

53G-9-209. Child abuse or neglect reporting requirement.

(1) As used in this section:

(a) "Educational neglect" means the same as that term is defined in Section 80-1-102.

(b) "School personnel" means the same as that term is defined in Section 53G-9-203.

(2) School personnel shall comply with the child abuse and neglect reporting requirements described in Section [~~62A-4a-403~~] 80-2-602.

(3) When school personnel have reason to believe that a child may be subject to educational neglect, school personnel shall submit the report described in Subsection 53G-6-202(8) to the Division of Child and Family Services.

(4) When school personnel have reason to believe that a child is subject to both educational neglect and another form of neglect or abuse, school personnel may not wait to report the other form of neglect or abuse pending preparation of a report regarding educational neglect.

(5) School personnel shall cooperate with the Division of Child and Family Services and share all information with the division that is relevant to the division's investigation of an allegation of abuse or neglect.

Section 31. Section 58-60-114 is amended to read:

58-60-114. Confidentiality -- Exemptions.

(1) Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, a mental health therapist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A mental health therapist under this chapter is not subject to Subsection (1) if:

(a) the mental health therapist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 32. Section 58-60-509 is amended to read:

58-60-509. Confidentiality -- Exemptions.

(1) A licensee under this part may not disclose any confidential communication with a client or patient without the express consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) the authorized agent of a client or patient.

(2) A licensee under this part is not subject to Subsection (1) if:

(a) the licensee is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Rule 506, Utah Rules of Evidence; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 33. Section 58-61-713 is amended to read:

58-61-713. Confidentiality -- Exemptions.

(1) A behavior analyst or behavior specialist under this chapter may not disclose any confidential communication with a client or patient without the express written consent of:

(a) the client or patient;

(b) the parent or legal guardian of a minor client or patient; or

(c) a person authorized to consent to the disclosure of the confidential communication by the client or patient in a written document:

(i) that is signed by the client or the patient; and

(ii) in which the client's or the patient's signature is reasonably verifiable.

(2) A behavior analyst or behavior specialist is not subject to Subsection (1) if:

(a) the behavior analyst or behavior specialist is permitted or required by state or federal law, rule, regulation, or order to report or disclose any confidential communication, including:

(i) reporting under Title 62A, Chapter 3, Part 3, Abuse, Neglect, or Exploitation of a Vulnerable Adult;

(ii) reporting under [~~Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements~~] Title 80, Chapter 2, Part 6, Child Abuse and Neglect Reports;

(iii) reporting under Title 78B, Chapter 3, Part 5, Limitation of Therapist's Duty to Warn; or

(iv) reporting of a communicable disease as required under Section 26-6-6;

(b) the disclosure is part of an administrative, civil, or criminal proceeding and is made under an exemption from evidentiary privilege under Utah Rules of Evidence, Rule 506; or

(c) the disclosure is made under a generally recognized professional or ethical standard that authorizes or requires the disclosure.

Section 34. Section 59-10-1104 is amended to read:

59-10-1104. Tax credit for adoption of a child who has a special need.

(1) As used in this section, a "child who has a special need" means a child who meets at least one of the following conditions:

(a) the child is five years of age or older;

(b) the child:

(i) is under the age of 18; and

(ii) has a physical, emotional, or mental disability; or

(c) the child is a member of a sibling group placed together for adoption.

(2) (a) Subject to the other provisions of this section, a claimant who adopts a child who has a special need may claim a refundable tax credit of $1,000:

(i) for a child who has a special need who the claimant adopts;

(ii) on the claimant's individual income tax return for the taxable year; and

(iii) against taxes otherwise due under this chapter.

(b) A tax credit under this section may not exceed $1,000 per return for a taxable year.

(3) For a claimant to qualify for the tax credit described in Subsection (2) for an adoption:

(a) the order that grants the adoption shall be issued:

(i) on or after January 1, 2013; and

(ii) by:

(A) a court of competent jurisdiction of this state or another state; or

(B) a foreign country;

(b) the claimant shall be a resident of this state on the date the order described in Subsection (3)(a) is issued; and

(c) for an adoption made by a foreign country, the adoption shall be registered in accordance with Section 78B-6-142.

(4) (a) For an adoption for which a court of competent jurisdiction of this state or another state issues the order described in Subsection (3)(a), a claimant may claim a tax credit for the taxable year for which the adoption order becomes final.

(b) For an adoption for which a foreign country issues the order described in Subsection (3)(a), a claimant may claim a tax credit for the taxable year for which a court of competent jurisdiction in this state orders the state registrar to file the adoption order issued by the foreign country.

(5) The credit provided for in this section may not be carried forward or carried back.

(6) Nothing in this section shall affect the ability of any claimant who adopts a child who has a special need to receive adoption assistance under Section [~~62A-4a-907~~] 80-2-809.

Section 35. Section 62A-1-118 is amended to read:

62A-1-118. Access to abuse and neglect information to screen employees and volunteers.

(1) The department may conduct a background check, pursuant to Subsections 62A-2-120(1) through (4), of department employees and volunteers who have direct access, as defined in Section 62A-2-101, to a child or a vulnerable adult.

(2) In addition to conducting a background check described in Subsection (1), and subject to the requirements of this section, the department may search the Division of Child and Family Services' Management Information System described in Section [~~62A-4a-1003~~] 80-2-1001.

(3) With respect to department employees and volunteers, the department may only access information in the systems and databases described in Subsection 62A-2-120(3) and in the Division of Child and Family Services' Management Information System for the purpose of determining at the time of hire and each year thereafter whether a department employee or volunteer has a criminal history, an adjudication of abuse or neglect, or a substantiated or supported finding of abuse, neglect, or exploitation.

(4) A department employee or volunteer to whom Subsection (1) applies shall submit to the department the employee or volunteer's name, other personal identifying information, and consent for the background check on a form specified by the department.

(5) The department shall make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, defining permissible and impermissible work-related activities for a department employee or volunteer with a criminal history or with one or more substantiated or supported findings of abuse, neglect, or exploitation.

Section 36. Section 62A-2-117.5 is amended to read:

62A-2-117.5. Foster care by a child's relative.

(1) In accordance with state and federal law, the division shall provide for licensure of a child's relative for foster or substitute care, when the child is in the temporary custody or custody of the Division of Child and Family Services. If it is determined that, under federal law, allowance is made for an approval process requiring less than full foster parent licensure proceedings for a child's relative, the division shall establish an approval process to accomplish that purpose.

(2) For purposes of this section:

(a) "Custody" and "temporary custody" mean the same as those terms are defined in Section [~~62A-4a-101~~] 80-2-102.

(b) "Relative" means the same as that term is defined in Section 80-3-102.

Section 37. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section [~~62A-4a-1006~~] 80-2-1002;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section [~~62A-4a-1006~~] 80-2-1002; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section [~~62A-4a-1006~~] 80-2-1002;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years old; or

(B) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section [~~62A-4a-1006~~] 80-2-1002;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section [~~62A-4a-1002~~] 80-1-102.

Section 38. Section 62A-2-121 is amended to read:

62A-2-121. Access to abuse and neglect information.

(1) As used in this section:

(a) "Direct service worker" means the same as that term is defined in Section 62A-5-101.

(b) "Personal care attendant" means the same as that term is defined in Section 62A-3-101.

(2) With respect to a licensee, a direct service worker, or a personal care attendant, the department may access only the Licensing Information System of the Division of Child and Family Services created by Section [~~62A-4a-1006~~] 80-2-1002 and juvenile court records under Subsection 80-3-404[~~(6)~~](4), for the purpose of:

(a) (i) determining whether a person associated with a licensee, with direct access to children:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a licensee that a person associated with the licensee:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2);

(b) (i) determining whether a direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a direct service worker or the direct service worker's employer that the direct service worker:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); or

(c) (i) determining whether a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2); and

(ii) informing a person described in Subsections 62A-3-101(9)(a)(i) through (iv) that a personal care attendant:

(A) is listed in the Licensing Information System; or

(B) has a substantiated finding by a juvenile court of a severe type of child abuse or neglect under Subsections 80-3-404(1) and (2).

(3) Notwithstanding Subsection (2), the department may access the Division of Child and Family Services' Management Information System under Section [~~62A-4a-1003~~] 80-2-1001:

(a) for the purpose of licensing and monitoring foster parents;

(b) for the purposes described in Subsection [~~62A-4a-1003(1)(d)~~] 80-2-1001(5)(b)(iii); and

(c) for the purpose described in Section 62A-1-118.

(4) The department shall receive and process personal identifying information under Subsection 62A-2-120(1) for the purposes described in Subsection (2).

(5) The department shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, consistent with this chapter, defining the circumstances under which a person may have direct access or provide services to children when:

(a) the person is listed in the Licensing Information System of the Division of Child and Family Services created by Section [~~62A-4a-1006~~] 80-2-1002; or

(b) juvenile court records show that a court made a substantiated finding under Section 80-3-404, that the person committed a severe type of child abuse or neglect.

Section 39. Section 62A-3-305 is amended to read:

62A-3-305. Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than

confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26-21-201, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of Occupational and Professional Licensing if the individual is a health care provider, as defined in Section [~~62A-4a-404~~] 80-2-603, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 40. Section 62A-11-304.4 is amended to read:

62A-11-304.4. Filing of location information -- Service of process.

(1) (a) Upon the entry of an order in a proceeding to establish paternity or to establish, modify, or enforce a support order, each party shall file identifying information and shall update that information as changes occur:

(i) with the court or administrative agency that conducted the proceeding; and

(ii) after October 1, 1998, with the state case registry.

(b) The identifying information required under Subsection (1)(a) shall include the person's Social

Security number, driver's license number, residential and mailing addresses, telephone numbers, the name, address, and telephone number of employers, and any other data required by the United States Secretary of Health and Human Services.

(c) In any subsequent child support action involving the office or between the parties, state due process requirements for notice and service of process shall be satisfied as to a party upon:

(i) a sufficient showing that diligent effort has been made to ascertain the location of the party; and

(ii) delivery of notice to the most recent residential or employer address filed with the court, administrative agency, or state case registry under Subsection (1)(a).

(2) (a) The office shall provide individuals who are applying for or receiving services under this chapter or who are parties to cases in which services are being provided under this chapter:

(i) with notice of all proceedings in which support obligations might be established or modified; and

(ii) with a copy of any order establishing or modifying a child support obligation, or in the case of a petition for modification, a notice of determination that there should be no change in the amount of the child support award, within 14 days after issuance of such order or determination.

(b) Notwithstanding Subsection (2)(a)(ii), notice in the case of an interstate order shall be provided in accordance with Section 78B-14-614.

(3) Service of all notices and orders under this part shall be made in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the Utah Rules of Civil Procedure, or this section.

(4) Consistent with Title 63G, Chapter 2, Government Records Access and Management Act, the office shall adopt procedures to classify records to prohibit the unauthorized use or disclosure of information relating to a proceeding to:

(a) establish paternity; or

(b) establish or enforce support.

(5) (a) The office shall, upon written request, provide location information available in its files on a custodial or noncustodial parent to the other party or the other party's legal counsel provided that:

(i) the party seeking the information produces a copy of the parent-time order signed by the court;

(ii) the information has not been safeguarded in accordance with Section 454 of the Social Security Act;

(iii) the party whose location is being sought has been afforded notice in accordance with this section of the opportunity to contest release of the information;

(iv) the party whose location is being sought has not provided the office with a copy of a protective order, a current court order prohibiting disclosure, a current court order limiting or prohibiting the requesting person's contact with the party or child whose location is being sought, a criminal order, an administrative order pursuant to Section [~~62A-4a-1009~~] 80-2-707, or documentation of a pending proceeding for any of the above; and

(v) there is no other state or federal law that would prohibit disclosure.

(b) "Location information" shall consist of the current residential address of the custodial or noncustodial parent and, if different and known to the office, the current residence of any children who are the subject of the parent-time order. If there is no current residential address available, the person's place of employment and any other location information shall be disclosed.

(c) For the purposes of this section, "reason to believe" under Section 454 of the Social Security Act means that the person seeking to safeguard information has provided to the office a copy of a protective order, current court order prohibiting disclosure, current court order prohibiting or limiting the requesting person's contact with the party or child whose location is being sought, criminal order signed by a court of competent jurisdiction, an administrative order pursuant to Section [~~62A-4a-1009~~] 80-2-707, or documentation of a pending proceeding for any of the above.

(d) Neither the state, the department, the office nor its employees shall be liable for any information released in accordance with this section.

(6) Custodial or noncustodial parents or their legal representatives who are denied location information in accordance with Subsection (5) may serve the Office of Recovery Services to initiate an action to obtain the information.

Section 41. Section 62A-16-102 is amended to read:

62A-16-102. Definitions.

(1) "Abuse" means the same as that term is defined in Section 80-1-102.

(2) "Child" means the same as that term is defined in Section [~~62A-4a-101~~] 80-1-102.

(3) "Committee" means a fatality review committee that is formed under Section 62A-16-202 or 62A-16-203.

(4) "Dependency" means the same as that term is defined in Section [~~62A-4a-101~~] 80-1-102.

(5) [~~"~~]"Formal review[~~"~~]" means a review of a death or a near fatality that is ordered under Subsection 62A-16-201(6).

(6) "Near fatality" means alleged abuse or neglect that, as certified by a physician, places a child in serious or critical condition.

(7) "Qualified individual" means an individual who:

(a) at the time that the individual dies, is a resident of a facility or program that is owned or operated by the department or a division of the department;

(b) (i) is in the custody of the department or a division of the department; and

(ii) is placed in a residential placement by the department or a division of the department;

(c) at the time that the individual dies, has an open case for the receipt of child welfare services, including:

(i) an investigation for abuse, neglect, or dependency;

(ii) foster care;

(iii) in-home services; or

(iv) substitute care;

(d) had an open case for the receipt of child welfare services within one year before the day on which the individual dies;

(e) was the subject of an accepted referral received by Adult Protective Services within one year before the day on which the individual dies, if:

(i) the department or a division of the department is aware of the death; and

(ii) the death is reported as a homicide, suicide, or an undetermined cause;

(f) received services from, or under the direction of, the Division of Services for People with Disabilities within one year before the day on which the individual dies, unless the individual:

(i) lived in the individual's home at the time of death; and

(ii) the director of the Office of Quality and Design determines that the death was not in any way related to services that were provided by, or under the direction of, the department or a division of the department;

(g) dies within 60 days after the day on which the individual is discharged from the Utah State Hospital, if the department is aware of the death;

(h) is a child who:

(i) suffers a near fatality; and

(ii) is the subject of an open case for the receipt of child welfare services within one year before the day on which the child suffered the near fatality, including:

(A) an investigation for abuse, neglect, or dependency;

(B) foster care;

(C) in-home services; or

(D) substitute care; or

(i) is designated as a qualified individual by the executive director.

(8) "Neglect" means the same as that term is defined in Section 80-1-102.

(9) "Substitute care" means the same as that term is defined in Section [~~62A-4a-101~~] 80-1-102.

Section 42. Section 62A-18-105 is amended to read:

62A-18-105. Powers and duties of the office.

The office shall:

(1) monitor and evaluate the quality of services provided by the department including:

(a) in accordance with Title 62A, Chapter 16, Fatality Review Act, monitoring, reviewing, and making recommendations relating to a fatality review;

(b) overseeing the duties of the child protection ombudsman appointed under Section [~~62A-4a-208~~] 80-2-1104; and

(c) conducting internal evaluations of the quality of services provided by the department and service providers contracted with the department;

(2) conduct investigations described in Section [~~62A-4a-202.6~~] 80-2-703; and

(3) assist the department in developing an integrated human services system and implementing a system of care by:

(a) designing and implementing a comprehensive continuum of services for individuals who receive services from the department or a service provider contracted with the department;

(b) establishing and maintaining department contracts with public and private service providers;

(c) establishing standards for the use of service providers who contract with the department;

(d) coordinating a service provider network to be used within the department to ensure individuals receive the appropriate type of services;

(e) centralizing the department's administrative operations; and

(f) integrating, analyzing, and applying department-wide data and research to monitor the quality, effectiveness, and outcomes of services provided by the department.

Section 43. Section 63A-17-902 is amended to read:

63A-17-902. State agency work week.

(1) Except as provided in Subsection (2), and subject to Subsection (3):

(a) a state agency with five or more employees shall, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone; and

(b) a state agency with fewer than five employees shall, at least eight hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday, provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) in person;

(ii) online; or

(iii) by telephone.

(2) (a) Subsection (1) does not require a state agency to operate a physical location, or provide a service, on a holiday established under Section 63G-1-301.

(b) Except for a legal holiday established under Section 63G-1-301, the following state agencies shall operate at least one physical location, and as many physical locations as necessary, at least nine hours per day on Monday, Tuesday, Wednesday, Thursday, and Friday to provide a service required by statute to another entity of the state, a political subdivision, or the public:

(i) the Division of Technology Services, created in Section 63A-16-103;

(ii) the Division of Child and Family Services, created in Section [~~62A-4a-103~~] 80-2-201; and

(iii) the Office of Guardian Ad Litem, created in Section 78A-2-802.

(3) A state agency shall make staff available, as necessary, to provide:

(a) services incidental to a court or administrative proceeding, during the hours of operation of a court or administrative body, including:

(i) testifying;

(ii) the production of records or evidence; and

(iii) other services normally available to a court or administrative body;

(b) security services; and

(c) emergency services.

(4) This section does not limit the days or hours a state agency may operate.

(5) To provide a service as required by Subsection (1), the chief administrative officer of a state agency may determine:

(a) the number of physical locations, if any are required by this section, operating each day;

(b) the daily hours of operation of a physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(6) To provide a service as required by Subsection (2)(b), the chief administrative officer of a state agency, or a person otherwise designated by law, may determine:

(a) the number of physical locations operating each day;

(b) the daily hours of operation, as required by Subsection (2)(b), of each physical location;

(c) the number of state agency employees who work per day; and

(d) the hours a state agency employee works per day.

(7) A state agency shall:

(a) provide information, accessible from a conspicuous link on the home page of the state agency's website, on a method that a person may use to schedule an in-person meeting with a representative of the state agency; and

(b) except as provided in Subsection (8), as soon as reasonably possible:

(i) contact a person who makes a request for an in-person meeting; and

(ii) when appropriate, schedule and hold an in-person meeting with the person that requests an in-person meeting.

(8) A state agency is not required to comply with Subsection (7)(b) to the extent that the contact or meeting:

(a) would constitute a conflict of interest;

(b) would conflict or interfere with a procurement governed by Title 63G, Chapter 6a, Utah Procurement Code;

(c) would violate an ethical requirement of the state agency or an employee of the state agency; or

(d) would constitute a violation of law.

Section 44. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent

that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property,

governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in [~~Title 62A, Chapter 4a, Child and Family Services~~] Title 80, Chapter 2, Child Welfare Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a

signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 45. Section 63I-1-262 is amended to read:

63I-1-262. Repeal dates, Title 62A.

(1) Section 62A-3-209 is repealed July 1, 2023.

[~~(2) Section 62A-4a-213 is repealed July 1, 2024.~~]

[~~(3)~~] (2) Sections 62A-5a-101, 62A-5a-102, 62A-5a-103, and 62A-5a-104, which create the Coordinating Council for Persons with Disabilities, are repealed July 1, 2022.

[~~(4) Section 62A-15-114 is repealed December 31, 2021.~~]

[~~(5)~~] (3) Subsections 62A-15-116(1) and (5), the language that states "In consultation with the Behavioral Health Crisis Response Commission, established in Section 63C-18-202," is repealed January 1, 2023.

[~~(6)~~] (4) Section 62A-15-118 is repealed December 31, 2023.

[~~(7)~~] (5) Subsections 62A-15-605(3)(h) and (4) relating to the study of long-term needs for adult beds in the state hospital are repealed July 1, 2022.

[~~(8)~~] (6) Section 62A-15-605, which creates the Forensic Mental Health Coordinating Council, is repealed July 1, 2023.

[~~(9)~~] (7) Subsections 62A-15-1100(1) and 62A-15-1101(9), in relation to the Utah Substance Use and Mental Health Advisory Council, are repealed January 1, 2023.

[~~(10)~~] (8) In relation to the Behavioral Health Crisis Response Commission, on July 1, 2023:

(a) Subsections 62A-15-1301(2) and 62A-15-1401(1) are repealed;

(b) Subsection 62A-15-1302(1)(b), the language that states "and in consultation with the commission" is repealed;

(c) Subsection 62A-15-1303(1), the language that states "In consultation with the commission," is repealed;

(d) Subsection 62A-15-1402(2)(a), the language that states "With recommendations from the commission," is repealed; and

(e) Subsection 62A-15-1702(6) is repealed.

Section 46. Section 63I-1-280 is enacted to read:

63I-1-280. Repeal dates, Title 80.

Section 80-2-503.5 is repealed July 1, 2024.

Section 47. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(18) The Technology Development Restricted Account created in Section 31A-3-104.

(19) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(36) The DNA Specimen Restricted Account created in Section 53-10-407.

(37) The Canine Body Armor Restricted Account created in Section 53-16-201.

(38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(43) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(47) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(48) The Relative Value Study Restricted Account created in Section 59-9-105.

(49) The Cigarette Tax Restricted Account created in Section 59-14-204.

(50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(52) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(54) Certain funds donated to the Division of Child and Family Services, as provided in Section [~~62A-4a-110~~] 80-2-404.

(55) The Choose Life Adoption Support Restricted Account created in Section [~~62A-4a-608~~] 80-2-502.

(56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(57) The Immigration Act Restricted Account created in Section 63G-12-103.

(58) Money received by the military installation development authority, as provided in Section 63H-1-504.

(59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(63) The Motion Picture Incentive Account created in Section 63N-8-103.

(64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(78) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 48. Section 67-5-16 is amended to read:

67-5-16. Child protective services investigators within attorney general's office -- Authority -- Training.

(1) The attorney general may employ, with the consent of the Division of Child and Family Services within the Department of Human Services, and in accordance with Section [~~62A-4a-202.6~~] 80-2-703, child protective services investigators to investigate alleged instances of abuse or neglect of a child that occur while a child is in the custody of the Division of Child and Family Services. Those investigators may also investigate reports of abuse or neglect of a child by an employee of the Department of Human Services, or involving a person or entity licensed to provide substitute care for children in the custody of the Division of Child and Family Services.

(2) Attorneys who represent the Division of Child and Family Services under Section 67-5-17, and child protective services investigators employed by the attorney general under Subsection (1), shall be trained on and implement into practice the following items, in order of preference and priority:

(a) the priority of maintaining a child safely in the child's home, whenever possible;

(b) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(c) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

(d) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(e) the use of an individualized permanency goal, only as a last resort.

Section 49. Section 76-5-109 is amended to read:

76-5-109. Child abuse -- Child abandonment.

(1) As used in this section:

(a) "Child" means a human being who is under 18 years of age.

(b) (i) "Child abandonment" means that a parent or legal guardian of a child:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C) (I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days:

(Aa) intentionally fails to resume physical custody of the child; and

(Bb) fails to manifest a genuine intent to resume physical custody of the child.

(ii) "Child abandonment" does not include:

(A) safe relinquishment of a child pursuant to the provisions of Section [~~62A-4a-802~~] 80-4-502; or

(B) giving legal consent to a court order for termination of parental rights:

(I) in a legal adoption proceeding; or

(II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.

(c) "Child abuse" means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.

(d) "Enterprise" is as defined in Section 76-10-1602.

(e) "Physical injury" means an injury to or condition of a child which impairs the physical condition of the child, including:

(i) a bruise or other contusion of the skin;

(ii) a minor laceration or abrasion;

(iii) failure to thrive or malnutrition; or

(iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(f).

(f) (i) "Serious physical injury" means any physical injury or set of injuries that:

(A) seriously impairs the child's health;

(B) involves physical torture;

(C) causes serious emotional harm to the child; or

(D) involves a substantial risk of death to the child.

(ii) "Serious physical injury" includes:

(A) fracture of any bone or bones;

(B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;

(C) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;

(D) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;

(E) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;

(F) any damage to internal organs of the body;

(G) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;

(H) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;

(I) any impediment of the breathing or the circulation of blood by application of pressure to the neck, throat, or chest, or by the obstruction of the nose or mouth, that is likely to produce a loss of consciousness;

(J) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life; or

(K) unconsciousness caused by the unlawful infliction of a brain injury or unlawfully causing any deprivation of oxygen to the brain.

(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a felony of the second degree;

(b) if done recklessly, the offense is a felony of the third degree; or

(c) if done with criminal negligence, the offense is a class A misdemeanor.

(3) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a class A misdemeanor;

(b) if done recklessly, the offense is a class B misdemeanor; or

(c) if done with criminal negligence, the offense is a class C misdemeanor.

(4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:

(a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or

(b) guilty of a felony of the second degree, if, as a result of the child abandonment:

(i) the child suffers a serious physical injury; or

(ii) the person or enterprise receives, directly or indirectly, any benefit.

(5) (a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).

(b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, Forfeiture and Disposition of Property Act.

(6) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to have committed an offense under this section.

(7) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(8) A person is not guilty of an offense under this section for conduct that constitutes:

(a) reasonable discipline or management of a child, including withholding privileges;

(b) conduct described in Section 76-2-401; or

(c) the use of reasonable and necessary physical restraint or force on a child:

(i) in self-defense;

(ii) in defense of others;

(iii) to protect the child; or

(iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (8)(c)(i) through (iii).

Section 50. Section 76-5-701 is amended to read:

76-5-701. Female genital mutilation definition.

(1) As used in this part, female genital mutilation means any procedure that involves partial or total removal of the external female genitalia, or any harmful procedure to the female genitalia, including:

(a) clitoridectomy;

(b) the partial or total removal of the clitoris or the prepuce;

(c) excision or the partial or total removal of the clitoris and the labia minora, with or without excision of the labia majora;

(d) infibulation or the narrowing of the vaginal orifice with the creation of a covering seal by cutting and appositioning the labia minora or the labia majora, with or without excision of the clitoris;

(e) pricking, piercing, incising, or scraping, and cauterizing the genital area; or

(f) any other actions intended to alter the structure or function of the female genitalia for non-medical reasons.

(2) Female genital mutilation is considered a form of child abuse for mandatory reporting under Section [~~62A-4a-403~~] 80-2-602.

Section 51. Section 76-5-703 is amended to read:

76-5-703. Community education program.

(1) The director of the Department of Health shall develop a community education program regarding female genital mutilation.

(2) The program shall include:

(a) education, prevention, and outreach materials regarding the health risks and emotional trauma inflicted by the practice of female genital mutilation;

(b) ways to develop and disseminate information regarding recognizing the risk factors associated with female genital mutilation; and

(c) training materials for law enforcement, teachers, and others who are mandated reporters under Section [~~62A-4a-403~~] 80-2-602, encompassing:

(i) risk factors associated with female genital mutilation;

(ii) signs that an individual may be a victim of female genital mutilation;

(iii) best practices for responses to victims of female genital mutilation; and

(iv) the criminal penalties associated with the facilitation or commission of female genital mutilation.

Section 52. Section 76-7-302 is amended to read:

76-7-302. Circumstances under which abortion authorized.

(1) As used in this section, "viable" means that the unborn child has reached a stage of fetal development when the unborn child is potentially able to live outside the womb, as determined by the attending physician to a reasonable degree of medical certainty.

(2) An abortion may be performed in this state only by a physician.

(3) An abortion may be performed in this state only under the following circumstances:

(a) the unborn child is not viable; or

(b) the unborn child is viable, if:

(i) the abortion is necessary to avert:

(A) the death of the woman on whom the abortion is performed; or

(B) a serious risk of substantial and irreversible impairment of a major bodily function of the woman on whom the abortion is performed;

(ii) two physicians who practice maternal fetal medicine concur, in writing, in the patient's medical record that the fetus:

(A) has a defect that is uniformly diagnosable and uniformly lethal; or

(B) has a severe brain abnormality that is uniformly diagnosable; or

(iii) (A) the woman is pregnant as a result of:

(I) rape, as described in Section 76-5-402;

(II) rape of a child, as described in Section 76-5-402.1; or

(III) incest, as described in Subsection 76-5-406(2)(j) or Section 76-7-102; and

(B) before the abortion is performed, the physician who performs the abortion:

(I) verifies that the incident described in Subsection (3)(b)(iii)(A) has been reported to law enforcement; and

(II) complies with the requirements of Section [~~62A-4a-403~~] 80-2-602.

(4) An abortion may be performed only in an abortion clinic or a hospital, unless it is necessary to perform the abortion in another location due to a medical emergency.

Section 53. Section 76-8-318 is amended to read:

76-8-318. Assault or threat of violence against child welfare worker -- Penalty.

(1) As used in this section:

(a) "Assault" means the same as that term is defined in Section 76-5-102.

(b) "Child welfare worker" means an employee of the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

(c) "Threat of violence" means the same as that term is defined in Section 76-5-107.

(2) An individual who commits an assault or threat of violence against a child welfare worker is guilty of a class A misdemeanor if:

(a) the individual is not:

(i) a prisoner or an individual detained under Section 77-7-15; or

(ii) a minor in the custody of or receiving services from a division within the Department of Human Services;

(b) the individual knew that the victim was a child welfare worker; and

(c) the child welfare worker was acting within the scope of the child welfare worker's authority at the time of the assault or threat of violence.

(3) An individual who violates this section is guilty of a third degree felony if the individual:

(a) causes substantial bodily injury, as defined in Section 76-1-601; and

(b) acts intentionally or knowingly.

Section 54. Section 76-8-418 is amended to read:

76-8-418. Damaging jails or other places of confinement.

(1) As used in this section:

(a) "Child" means the same as that term is defined in Section 80-1-102.

(b) "Detention facility" means the same as that term is defined in Section 80-1-102.

(c) "Secure care facility" means the same as that term is defined in Section 80-1-102.

(d) "Shelter facility" means the same as that term is defined in Section [~~62A-4a-101~~] 80-1-102.

(2) A person who willfully and intentionally breaks down, pulls down, destroys, floods, or otherwise damages any public jail or other place of confinement, including a detention facility, a shelter facility, or a secure care facility, is guilty of a felony of the third degree.

(3) This section is applicable to a child who willfully and intentionally commits an offense against a public jail, a detention facility, a shelter facility, or a secure care facility.

Section 55. Section 76-10-1315 is amended to read:

76-10-1315. Safe harbor for children as victims in commercial sex or sexual solicitation.

(1) As used in this section:

(a) "Child engaged in commercial sex" means a child who:

(i) engages, offers, or agrees to engage in any sexual activity with another individual for a fee, or the functional equivalent of a fee;

(ii) takes steps in arranging a meeting through any form of advertising, agreeing to meet, and meeting at an arranged place for the purpose of sexual activity in exchange for a fee or the functional equivalent of a fee; or

(iii) loiters in or within view of any public place for the purpose of being hired to engage in sexual activity.

(b) "Child engaged in sexual solicitation" means a child who offers or agrees to commit or engage in any sexual activity with another person for a fee or the functional equivalent of a fee under Subsection 76-10-1313(1)(a) or (c).

(c) "Division" means the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

(d) "Juvenile receiving center" means the same as that term is defined in Section 80-1-102.

(2) Upon encountering a child engaged in commercial sex or sexual solicitation, a law enforcement officer shall:

(a) conduct an investigation regarding possible human trafficking of the child pursuant to Sections 76-5-308 and 76-5-308.5;

(b) refer the child to the division;

(c) bring the child to a juvenile receiving center, if available; and

(d) contact the child's parent or guardian, if practicable.

(3) When law enforcement refers a child to the division under Subsection (2)(b) the division shall provide services to the child under [~~Title 62A, Chapter 4a, Child and Family Services~~] Title 80, Chapter 2, Child Welfare Services, and Title 80, Chapter 2a, Removal and Protective Custody of a Child.

(4) A child may not be subjected to delinquency proceedings for prostitution under Section 76-10-1302, or sex solicitation under Section 76-10-1313.

Section 56. Section 77-36-5 is amended to read:

77-36-5. Sentencing -- Restricting contact with victim -- Electronic monitoring -- Counseling -- Cost assessed against perpetrator -- Sentencing protective order -- Continuous protective order.

(1) When a perpetrator is found guilty of a crime involving domestic violence and a condition of the sentence restricts the perpetrator's contact with the victim, a sentencing protective order may be issued under Section 78B-7-804 for the length of the perpetrator's probation or a continuous protective order may be issued under Section 78B-7-804.

(2) In determining the court's sentence, the court, in addition to penalties otherwise provided by law, may require the perpetrator to participate in an electronic or other type of monitoring program.

(3) The court may also require the perpetrator to pay all or part of the costs of counseling incurred by the victim and any children affected by or exposed to the domestic violence offense, as well as the costs for the perpetrator's own counseling.

(4) The court shall:

(a) assess against the perpetrator, as restitution, any costs for services or treatment provided to the victim and affected child of the victim or the perpetrator by the Division of Child and Family Services under Section [~~62A-4a-106~~] 80-2-301; and

(b) order those costs to be paid directly to the division or its contracted provider.

(5) The court may order the perpetrator to obtain and satisfactorily complete treatment or therapy in a domestic violence treatment program, as defined

in Section 62A-2-101, that is licensed by the Department of Human Services.

Section 57. Section 77-37-4 is amended to read:

77-37-4. Additional rights -- Children.

In addition to all rights afforded to victims and witnesses under this chapter, child victims and witnesses shall be afforded these rights:

(1) Children have the right to protection from physical and emotional abuse during their involvement with the criminal justice process.

(2) Children are not responsible for inappropriate behavior adults commit against them and have the right not to be questioned, in any manner, nor to have allegations made, implying this responsibility. Those who interview children have the responsibility to consider the interests of the child in this regard.

(3) Child victims and witnesses have the right to have interviews relating to a criminal prosecution kept to a minimum. All agencies shall coordinate interviews and ensure that they are conducted by persons sensitive to the needs of children.

(4) Child victims have the right to be informed of available community resources that might assist them and how to gain access to those resources. Law enforcement and prosecutors have the duty to ensure that child victims are informed of community resources, including counseling prior to the court proceeding, and have those services available throughout the criminal justice process.

(5) (a) Child victims have the right, once an investigation has been initiated by law enforcement or the Division of Child and Family Services, to keep confidential their interviews that are conducted at a Children's Justice Center, including video and audio recordings, and transcripts of those recordings. Except as provided in Subsection (6), recordings and transcripts of interviews may not be distributed, released, or displayed to anyone without a court order.

(b) A court order described in Subsection (5)(a):

(i) shall describe with particularity to whom the recording or transcript of the interview may be released and prohibit further distribution or viewing by anyone not named in the order; and

(ii) may impose restrictions on access to the materials considered reasonable to protect the privacy of the child victim.

(c) A parent or guardian of the child victim may petition a juvenile or district court for an order allowing the parent or guardian to view a recording or transcript upon a finding of good cause. The order shall designate the agency that is required to display the recording or transcript to the parent or guardian and shall prohibit viewing by anyone not named in the order.

(d) Following the conclusion of any legal proceedings in which the recordings or transcripts are used, the court shall order the recordings and transcripts in the court's file sealed and preserved.

(6) (a) The following offices and their designated employees may distribute and receive a recording or transcript to and from one another without a court order:

(i) the Division of Child and Family Services;

(ii) administrative law judges employed by the Department of Human Services;

(iii) Department of Human Services investigators investigating the Division of Child and Family Services or investigators authorized to investigate under Section [~~62A-4a-202.6~~] 80-2-703;

(iv) an office of the city attorney, county attorney, district attorney, or attorney general;

(v) a law enforcement agency;

(vi) a Children's Justice Center established under Section 67-5b-102; or

(vii) the attorney for the child who is the subject of the interview.

(b) In a criminal case or in a juvenile court in which the state is a party:

(i) the parties may display and enter into evidence a recording or transcript in the course of a prosecution;

(ii) the state's attorney may distribute a recording or transcript to the attorney for the defendant, pro se defendant, respondent, or pro se respondent pursuant to a valid request for discovery;

(iii) the attorney for the defendant or respondent may do one or both of the following:

(A) release the recording or transcript to an expert retained by the attorney for the defendant or respondent if the expert agrees in writing that the expert will not distribute, release, or display the recording or transcript to anyone without prior authorization from the court; or

(B) permit the defendant or respondent to view the recording or transcript, but may not distribute or release the recording or transcript to the defendant or respondent; and

(iv) the court shall advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be distributed, released, or displayed without prior authorization from the court.

(c) A court's failure to advise a pro se defendant or respondent that a recording or transcript received as part of discovery is confidential and may not be used as a defense to prosecution for a violation of the disclosure rule.

(d) In an administrative case, pursuant to a written request, the Division of Child and Family Services may display, but may not distribute or release, a recording or transcript to the respondent or to the respondent's designated representative.

(e) (i) Within two business days of a request from a parent or guardian of a child victim, an investigative agency shall allow the parent or guardian to view a recording after the conclusion of an interview, unless:

(A) the suspect is a parent or guardian of the child victim;

(B) the suspect resides in the home with the child victim; or

(C) the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation.

(ii) If the investigative agency determines that allowing the parent or guardian to view the recording would likely compromise or impede the investigation, the parent or guardian may petition a juvenile or district court for an expedited hearing on whether there is good cause for the court to enter an order allowing the parent or guardian to view the recording in accordance with Subsection (5)(c).

(iii) A Children's Justice Center shall coordinate the viewing of the recording described in this Subsection (6)(e).

(f) A multidisciplinary team assembled by a Children's Justice Center or an interdisciplinary team assembled by the Division of Child and Family Services may view a recording or transcript, but may not receive a recording or transcript.

(g) A Children's Justice Center:

(i) may distribute or display a recording or transcript to an authorized trainer or evaluator for purposes of training or evaluation; and

(ii) may display, but may not distribute, a recording or transcript to an authorized trainee.

(h) An authorized trainer or instructor may display a recording or transcript according to the terms of the authorized trainer's or instructor's contract with the Children's Justice Center or according to the authorized trainer's or instructor's scope of employment.

(i) (i) In an investigation under Section 53E-6-506, in which a child victim who is the subject of the recording or transcript has alleged criminal conduct against an educator, a law enforcement agency may distribute or release the recording or transcript to an investigator operating under State Board of Education authorization, upon the investigator's written request.

(ii) If the respondent in a case investigated under Section 53E-6-506 requests a hearing authorized under that section, the investigator operating under State Board of Education authorization may display, release, or distribute the recording or transcript to the prosecutor operating under State Board of Education authorization or to an expert retained by an investigator.

(iii) Upon request for a hearing under Section 53E-6-506, a prosecutor operating under State Board of Education authorization may display the recording or transcript to a pro se respondent, to an attorney retained by the respondent, or to an expert retained by the respondent.

(iv) The parties to a hearing authorized under Section 53E-6-506 may display and enter into evidence a recording or transcript in the course of a prosecution.

(7) Except as otherwise provided in this section, it is a class B misdemeanor for any individual to distribute, release, or display any recording or transcript of an interview of a child victim conducted at a Children's Justice Center.

Section 58. Section 77-38-204 is amended to read:

77-38-204. Disclosure of confidential communications.

Notwithstanding Title 53B, Chapter 28, Part 2, Confidential Communications for Institutional Advocacy Services Act, the confidential communication between a victim and a sexual assault counselor is available to a third person only when:

(1) the victim is a minor and the counselor believes it is in the best interest of the victim to disclose the confidential communication to the victim's parents;

(2) the victim is a minor and the minor's parents or guardian have consented to disclosure of the confidential communication to a third party based upon representations made by the counselor that it is in the best interest of the minor victim to make such disclosure;

(3) the victim is not a minor, has given consent, and the counselor believes the disclosure is necessary to accomplish the desired result of counseling; or

(4) the counselor has an obligation under [~~Title 62A, Chapter 4a, Child and Family Services~~] Title 80, Chapter 2, Child Welfare Services, or Title 80, Chapter 2a, Removal and Protective Custody of a Child, to report information transmitted in the confidential communication.

Section 59. Section 78A-2-704 is amended to read:

78A-2-704. Public policy regarding attorney guardian ad litem -- Training.

(1) An attorney guardian ad litem may not presume that a child and the child's parent are adversaries.

(2) An attorney guardian ad litem shall be trained on and implement into practice:

(a) the parental rights and child and family protection principles provided in Section [~~62A-4a-201~~] 80-2a-201;

(b) the fundamental liberties of parents and the public policy of the state to support family unification to the fullest extent possible;

(c) the constitutionally protected rights of parents, in cases where the state is a party;

(d) the use of a least restrictive means analysis regarding state claims of a compelling child welfare interest;

(e) the priority of maintaining a child safely in the child's home, whenever possible;

(f) the importance of:

(i) kinship placement, in the event the child is removed from the home; and

(ii) keeping sibling groups together, whenever practicable and in the best interests of the children;

(g) the preference for kinship adoption over nonkinship adoption, if the parent-child relationship is legally terminated;

(h) the potential for a guardianship placement if the parent-child relationship is legally terminated and no appropriate adoption placement is available; and

(i) the use of an individualized permanency plan, only as a last resort.

(3) The office shall implement policies and practice guidelines that reflect the priorities described in Subsections (2)(e) through (i) for the placement of children.

Section 60. Section 78A-6-102 is amended to read:

78A-6-102. Establishment of juvenile court -- Organization and status of court -- Purpose.

(1) There is established a juvenile court for the state.

(2) (a) The juvenile court is a court of record.

(b) The juvenile court shall have a seal.

(c) The juvenile court's judges, clerks, and referees have the power to administer oaths and affirmations.

(d) The juvenile court has the authority to issue search warrants, subpoenas, or investigative subpoenas under Section [~~62A-4a-202.1~~] 80-2a-202, Part 4a, Adult Criminal Proceedings, [~~and~~] Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice, for the same purposes and in the same manner as described in Title 77, Utah Code of Criminal Procedure, and the Utah Rules of Criminal Procedure, for the issuance of search warrants, subpoenas, or investigative subpoenas in other trial courts in the state.

(3) The juvenile court is of equal status with the district courts of the state.

(4) The juvenile court is established as a forum for the resolution of all matters properly brought before the juvenile court, consistent with applicable constitutional and statutory requirements of due process.

(5) The purpose of the court under this chapter is to:

(a) promote public safety and individual accountability by the imposition of appropriate sanctions on persons who have committed acts in violation of law;

(b) order appropriate measures to promote guidance and control, preferably in the minor's own home, as an aid in the prevention of future unlawful conduct and the development of responsible citizenship;

(c) where appropriate, order rehabilitation, reeducation, and treatment for persons who have committed acts bringing them within the court's jurisdiction;

(d) adjudicate matters that relate to minors who are beyond parental or adult control and to establish appropriate authority over these minors by means of placement and control orders;

(e) adjudicate matters that relate to abused, neglected, and dependent children and to provide care and protection for minors by placement, protection, and custody orders;

(f) remove a minor from parental custody only where the minor's safety or welfare, or the public safety, may not otherwise be adequately safeguarded; and

(g) consistent with the ends of justice, act in the best interests of the minor in all cases and preserve and strengthen family ties.

Section 61. Section 78A-6-103 is amended to read:

78A-6-103. Original jurisdiction of the juvenile court -- Magistrate functions -- Findings -- Transfer of a case from another court.

(1) Except as otherwise provided by Subsections 78A-5-102(9), 78A-5-102(10), and 78A-7-106(2), the juvenile court has original jurisdiction over:

(a) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by a child; and

(b) a felony, misdemeanor, infraction, or violation of an ordinance, under municipal, state, or federal law, that was committed by an individual:

(i) who is under 21 years old at the time of all court proceedings; and

(ii) who was under 18 years old at the time the offense was committed.

(2) The juvenile court has original jurisdiction over any proceeding concerning:

(a) a child who is an abused child, neglected child, or dependent child;

(b) a protective order for a child in accordance with Title 78B, Chapter 7, Part 2, Child Protective Orders;

(c) the appointment of a guardian of the individual or other guardian of a minor who comes within the court's jurisdiction under other provisions of this section;

(d) the emancipation of a minor in accordance with Title 80, Chapter 7, Emancipation;

(e) the termination of parental rights in accordance with Title 80, Chapter 4, Termination and Restoration of Parental Rights, including termination of residual parental rights and duties;

(f) the treatment or commitment of a minor who has an intellectual disability;

(g) the judicial consent to the marriage of a minor who is 16 or 17 years old in accordance with Section 30-1-9;

(h) an order for a parent or a guardian of a child under Subsection 80-6-705(3);

(i) a minor under [~~Title 55, Chapter 12~~] Title 80, Chapter 6, Part 11, Interstate Compact for Juveniles;

(j) the treatment or commitment of a child with a mental illness;

(k) the commitment of a child to a secure drug or alcohol facility in accordance with Section 62A-15-301;

(l) a minor found not competent to proceed in accordance with Title 80, Chapter 6, Part 4, Competency;

(m) de novo review of final agency actions resulting from an informal adjudicative proceeding as provided in Section 63G-4-402;

(n) adoptions conducted in accordance with the procedures described in Title 78B, Chapter 6, Part 1, Utah Adoption Act, if the juvenile court has previously entered an order terminating the rights of a parent and finds that adoption is in the best interest of the child;

(o) an ungovernable or runaway child who is referred to the juvenile court by the Division of Juvenile Justice Services if, despite earnest and persistent efforts by the Division of Juvenile Justice Services, the child has demonstrated that the child:

(i) is beyond the control of the child's parent, guardian, or custodian to the extent that the child's behavior or condition endangers the child's own welfare or the welfare of others; or

(ii) has run away from home; and

(p) a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed an offense under Subsection 78A-6-352(4)(b) for failure to comply with a promise to appear and bring a child to the juvenile court.

(3) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701, for the juvenile court to exercise jurisdiction under Subsection (2)(p).

(4) This section does not restrict the right of access to the juvenile court by private agencies or other persons.

(5) The juvenile court has jurisdiction of all magistrate functions relative to cases arising under Title 80, Chapter 6, Part 5, Transfer to District Court.

(6) The juvenile court has jurisdiction to make a finding of substantiated, unsubstantiated, or without merit, in accordance with Section 80-3-404.

(7) The juvenile court has jurisdiction over matters transferred to the juvenile court by another trial court in accordance with Subsection 78A-7-106(4) and Section 80-6-303.

Section 62. Section 78A-6-104 is amended to read:

78A-6-104. Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.

(1) (a) The juvenile court has jurisdiction, concurrent with the district court:

(i) to establish paternity, or to order testing for purposes of establishing paternity, for a child in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Title 80, Chapter 4, Termination and Restoration of Parental Rights, that involves the child;

(ii) over a petition to modify a minor's birth certificate if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103; and

(iii) over questions of custody, support, and parent-time of a minor if the juvenile court has jurisdiction over the minor's case under Section 78A-6-103.

(b) If the juvenile court obtains jurisdiction over a paternity action under Subsection (1)(a)(i), the juvenile court may:

(i) retain jurisdiction over the paternity action until paternity of the child is adjudicated; or

(ii) transfer jurisdiction over the paternity action to the district court.

(2) (a) The juvenile court has jurisdiction, concurrent with the district court or the justice court otherwise having jurisdiction, over a criminal information filed under Part 4a, Adult Criminal Proceedings, for an adult alleged to have committed:

(i) an offense under Section 32B-4-403, unlawful sale, offer for sale, or furnishing to a minor;

(ii) an offense under Section 53G-6-202, failure to comply with compulsory education requirements;

(iii) an offense under Section [~~62A-4a-411~~] 80-2-609, failure to report;

(iv) a misdemeanor offense under Section 76-5-303, custodial interference;

(v) an offense under Section 76-10-2301, contributing to the delinquency of a minor; or

(vi) an offense under Section 80-5-601, harboring a runaway.

(b) It is not necessary for a minor to be adjudicated for an offense or violation of the law under Section 80-6-701 for the juvenile court to exercise jurisdiction under Subsection (2)(a).

(3) (a) When a support, custody, or parent-time award has been made by a district court in a divorce action or other proceeding, and the jurisdiction of the district court in the case is continuing, the juvenile court may acquire jurisdiction in a case involving the same child if the child comes within the jurisdiction of the juvenile court under Section 78A-6-103.

(b) (i) The juvenile court may, by order, change the custody subject to Subsection 30-3-10(6), support, parent-time, and visitation rights previously ordered in the district court as necessary to implement the order of the juvenile court for the safety and welfare of the child.

(ii) An order by the juvenile court under Subsection (3)(b)(i) remains in effect so long as the juvenile court continues to exercise jurisdiction.

(c) If a copy of the findings and order of the juvenile court under this Subsection (3) are filed with the district court, the findings and order of the juvenile court are binding on the parties to the divorce action as though entered in the district court.

(4) This section does not deprive the district court of jurisdiction to:

(a) appoint a guardian for a child;

(b) determine the support, custody, and parent-time of a child upon writ of habeas corpus; or

(c) determine a question of support, custody, and parent-time that is incidental to the determination of an action in the district court.

(5) A juvenile court may transfer a petition for a protective order for a child to the district court if the juvenile court has entered an ex parte protective order and finds that:

(a) the petitioner and the respondent are the natural parent, adoptive parent, or step parent of the child who is the object of the petition;

(b) the district court has a petition pending or an order related to custody or parent-time entered under Title 30, Chapter 3, Divorce, Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, or Title 78B, Chapter 15, Utah Uniform Parentage Act, in which the petitioner and the respondent are parties; and

(c) the best interests of the child will be better served in the district court.

Section 63. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the Person, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections [~~62A-4a-403 and 62A-4a-409~~] 80-2-602 and 80-2-701 and administrative hearings in accordance with Section [~~62A-4a-1009~~] 80-2-707;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient

Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 64. Section 78A-6-450 is amended to read:

78A-6-450. Criminal information for an adult in juvenile court.

A county attorney or district attorney may file a criminal information in the juvenile court charging an adult for:

(1) unlawful sale or furnishing of an alcoholic product to minors in violation of Section 32B-4-403;

(2) failure to report abuse or neglect in violation of Section [~~62A-4a-411~~] 80-2-609;

(3) harboring a runaway in violation of Section 80-5-601;

(4) misdemeanor custodial interference in violation of Section 76-5-303;

(5) contributing to the delinquency of a minor in violation of Section 76-10-2301;

(6) failure to comply with compulsory education requirements in violation of Section 53G-6-202; or

(7) a willful failure to perform a promise to appear under Subsection 78A-6-352(4)(b).

Section 65. Section 78B-3-502 is amended to read:

78B-3-502. Limitation of therapist's duty to warn.

(1) A therapist has no duty to warn or take precautions to provide protection from any violent behavior of his client or patient, except when that client or patient communicated to the therapist an actual threat of physical violence against a clearly identified or reasonably identifiable victim. That duty shall be discharged if the therapist makes reasonable efforts to communicate the threat to the victim, and notifies a law enforcement officer or agency of the threat.

(2) An action may not be brought against a therapist for breach of trust or privilege, or for disclosure of confidential information, based on a therapist's communication of information to a third party in an effort to discharge his duty in accordance with Subsection (1).

(3) This section does not limit or affect a therapist's duty to report child abuse or neglect in accordance with Section [~~62A-4a-403~~] 80-2-602.

Section 66. Section 78B-6-103 is amended to read:

78B-6-103. Definitions.

As used in this part:

(1) "Adoptee" means a person who:

(a) is the subject of an adoption proceeding; or

(b) has been legally adopted.

(2) "Adoption" means the judicial act that:

(a) creates the relationship of parent and child where it did not previously exist; and

(b) except as provided in Subsections 78B-6-138(2) and (4), terminates the parental rights of any other person with respect to the child.

(3) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(4) "Adoption service provider" means:

(a) a child-placing agency;

(b) a licensed counselor who has at least one year of experience providing professional social work services to:

(i) adoptive parents;

(ii) prospective adoptive parents; or

(iii) birth parents; or

(c) the Office of Licensing within the Department of Human Services.

(5) "Adoptive parent" means an individual who has legally adopted an adoptee.

(6) "Adult" means an individual who is 18 years of age or older.

(7) "Adult adoptee" means an adoptee who is 18 years of age or older and was adopted as a minor.

(8) "Adult sibling" means an adoptee's brother or sister, who is 18 years of age or older and whose birth mother or father is the same as that of the adoptee.

(9) "Birth mother" means the biological mother of a child.

(10) "Birth parent" means:

(a) a birth mother;

(b) a man whose paternity of a child is established;

(c) a man who:

(i) has been identified as the father of a child by the child's birth mother; and

(ii) has not denied paternity; or

(d) an unmarried biological father.

(11) "Child-placing agency" means an agency licensed to place children for adoption under Title 62A, [~~Chapter 4a, Part 6, Child Placing~~] Chapter 2, Licensure of Programs and Facilities.

(12) "Cohabiting" means residing with another person and being involved in a sexual relationship with that person.

(13) "Division" means the Division of Child and Family Services, within the Department of Human Services, created in Section [~~62A-4a-103~~] 80-2-201.

(14) "Extra-jurisdictional child-placing agency" means an agency licensed to place children for adoption by a district, territory, or state of the United States, other than Utah.

(15) "Genetic and social history" means a comprehensive report, when obtainable, that contains the following information on an adoptee's birth parents, aunts, uncles, and grandparents:

(a) medical history;

(b) health status;

(c) cause of and age at death;

(d) height, weight, and eye and hair color;

(e) ethnic origins;

(f) where appropriate, levels of education and professional achievement; and

(g) religion, if any.

(16) "Health history" means a comprehensive report of the adoptee's health status at the time of placement for adoption, and medical history, including neonatal, psychological, physiological, and medical care history.

(17) "Identifying information" means information that is in the possession of the office and that contains the name and address of a pre-existing parent or an adult adoptee, or other specific information that by itself or in reasonable conjunction with other information may be used to identify a pre-existing parent or an adult adoptee, including information on a birth certificate or in an adoption document.

(18) "Licensed counselor" means an individual who is licensed by the state, or another state, district, or territory of the United States as a:

(a) certified social worker;

(b) clinical social worker;

(c) psychologist;

(d) marriage and family therapist;

(e) clinical mental health counselor; or

(f) an equivalent licensed professional of another state, district, or territory of the United States.

(19) "Man" means a male individual, regardless of age.

(20) "Mature adoptee" means an adoptee who is adopted when the adoptee is an adult.

(21) "Office" means the Office of Vital Records and Statistics within the Department of Health operating under Title 26, Chapter 2, Utah Vital Statistics Act.

(22) "Parent," for purposes of Section 78B-6-119, means any person described in Subsections 78B-6-120(1)(b) through (f) from whom consent for adoption or relinquishment for adoption is required under Sections 78B-6-120 through 78B-6-122.

(23) "Potential birth father" means a man who:

(a) is identified by a birth mother as a potential biological father of the birth mother's child, but whose genetic paternity has not been established; and

(b) was not married to the biological mother of the child described in Subsection (23)(a) at the time of the child's conception or birth.

(24) "Pre-existing parent" means:

(a) a birth parent; or

(b) an individual who, before an adoption decree is entered, is, due to an earlier adoption decree, legally the parent of the child being adopted.

(25) "Prospective adoptive parent" means an individual who seeks to adopt an adoptee.

(26) "Relative" means:

(a) an adult who is a grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, stepparent, first cousin, stepsibling, sibling of a child, or first cousin of a child's parent; and

(b) in the case of a child defined as an "Indian child" under the Indian Child Welfare Act, 25 U.S.C. Sec. 1903, an "extended family member" as defined by that statute.

(27) "Unmarried biological father" means a man who:

(a) is the biological father of a child; and

(b) was not married to the biological mother of the child described in Subsection (27)(a) at the time of the child's conception or birth.

Section 67. Section 78B-6-107 is amended to read:

78B-6-107. Compliance with the Interstate Compact on Placement of Children -- Compliance with the Indian Child Welfare Act.

(1) (a) Subject to Subsection (1)(b), in any adoption proceeding the petition for adoption shall state whether the child was born in another state and, if so, both the petition and the court's final decree of adoption shall state that the requirements of [~~Title 62A, Chapter 4a, Part 7, Interstate Compact on Placement of Children~~] Title 80, Chapter 2, Part 9, Interstate Compact on Placement of Children, have been complied with.

(b) Subsection (1)(a) does not apply if the prospective adoptive parent is not required to complete a preplacement adoptive evaluation under Section 78B-6-128.

(2) In any adoption proceeding involving an "Indian child," as defined in 25 U.S.C. Sec. 1903, a child-placing agency and the petitioners shall comply with the Indian Child Welfare Act, Title 25, Chapter 21, of the United States Code.

Section 68. Section 78B-6-124 is amended to read:

78B-6-124. Persons who may take consents and relinquishments.

(1) A consent or relinquishment by a birth mother or an adoptee shall be signed before:

(a) a judge of any court that has jurisdiction over adoption proceedings;

(b) subject to Subsection (6), a person appointed by the judge described in Subsection (1)(a) to take consents or relinquishments; or

(c) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency.

(2) If the consent or relinquishment of a birth mother or adoptee is taken out of state it shall be signed before:

(a) subject to Subsection (6), a person who is authorized by a child-placing agency to take consents or relinquishments, if the consent or relinquishment grants legal custody of the child to a child-placing agency or an extra-jurisdictional child-placing agency;

(b) subject to Subsection (6), a person authorized or appointed to take consents or relinquishments by a court of this state that has jurisdiction over adoption proceedings;

(c) a court that has jurisdiction over adoption proceedings in the state where the consent or relinquishment is taken; or

(d) a person authorized, under the laws of the state where the consent or relinquishment is taken, to take consents or relinquishments of a birth mother or adoptee.

(3) The consent or relinquishment of any other person or agency as required by Section 78B-6-120 may be signed before a Notary Public or any person authorized to take a consent or relinquishment under Subsection (1) or (2).

(4) A person, authorized by Subsection (1) or (2) to take consents or relinquishments, shall certify to the best of his information and belief that the person executing the consent or relinquishment has read and understands the consent or relinquishment and has signed it freely and voluntarily.

(5) A person executing a consent or relinquishment is entitled to receive a copy of the consent or relinquishment.

(6) A signature described in Subsection (1)(b), (1)(c), (2)(a), or (2)(b), shall be:

(a) notarized; or

(b) witnessed by two individuals who are not members of the birth mother's or the adoptee's immediate family.

(7) Except as provided in Subsection [~~62A-4a-602(2)~~] 62A-2-108.6(2), a transfer of relinquishment from one child-placing agency to another child-placing agency shall be signed before a Notary Public.

Section 69. Section 78B-6-128 is amended to read:

78B-6-128. Preplacement adoptive evaluations -- Exceptions.

(1) (a) Except as otherwise provided in this section, a child may not be placed in an adoptive home until a preplacement adoptive evaluation, assessing the prospective adoptive parent and the prospective adoptive home, has been conducted in accordance with the requirements of this section.

(b) Except as provided in Section 78B-6-131, the court may, at any time, authorize temporary placement of a child in a prospective adoptive home pending completion of a preplacement adoptive evaluation described in this section.

(c) (i) Subsection (1)(a) does not apply if a pre-existing parent has legal custody of the child to be adopted and the prospective adoptive parent is related to that child or the pre-existing parent as a stepparent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle, or first cousin, unless the court otherwise requests the preplacement adoption.

(ii) The prospective adoptive parent described in this Subsection (1)(c) shall obtain the information described in Subsections (2)(a) and (b), and file that documentation with the court prior to finalization of the adoption.

(d) (i) The preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent.

(ii) If the prospective adoptive parent has previously received custody of a child for the purpose of adoption, the preplacement adoptive evaluation shall be completed or updated within the 12-month period immediately preceding the placement of a child with the prospective adoptive parent and after the placement of the previous child with the prospective adoptive parent.

(2) The preplacement adoptive evaluation shall include:

(a) a criminal history background check regarding each prospective adoptive parent and any other adult living in the prospective home, prepared no earlier than 18 months immediately preceding placement of the child in accordance with the following:

(i) if the child is in state custody, each prospective adoptive parent and any other adult living in the prospective home shall submit fingerprints to the Department of Human Services, which shall perform a criminal history background check in accordance with Section 62A-2-120; or

(ii) subject to Subsection (3), if the child is not in state custody, an adoption service provider or an attorney representing a prospective adoptive parent shall submit fingerprints from the prospective adoptive parent and any other adult living in the prospective home to the Criminal and Technical Services Division of Public Safety for a regional and nationwide background check, to the Office of Licensing within the Department of Human Services for a background check in accordance with Section 62A-2-120, or to the Federal Bureau of Investigation;

(b) a report containing all information regarding reports and investigations of child abuse, neglect, and dependency, with respect to each prospective adoptive parent and any other adult living in the prospective home, obtained no earlier than 18 months immediately preceding the day on which the child is placed in the prospective home, pursuant to waivers executed by each prospective adoptive parent and any other adult living in the prospective home, that:

(i) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is a resident of Utah, is prepared by the Department of Human Services from the records of the Department of Human Services; or

(ii) if the prospective adoptive parent or the adult living in the prospective adoptive parent's home is not a resident of Utah, prepared by the Department of Human Services, or a similar agency in another state, district, or territory of the United States, where each prospective adoptive parent and any other adult living in the prospective home resided in the five years immediately preceding the day on which the child is placed in the prospective adoptive home;

(c) in accordance with Subsection (6), a home study conducted by an adoption service provider that is:

(i) an expert in family relations approved by the court;

(ii) a certified social worker;

(iii) a clinical social worker;

(iv) a marriage and family therapist;

(v) a psychologist;

(vi) a social service worker, if supervised by a certified or clinical social worker;

(vii) a clinical mental health counselor; or

(viii) an Office of Licensing employee within the Department of Human Services who is trained to perform a home study; and

(d) in accordance with Subsection (7), if the child to be adopted is a child who is in the custody of any public child welfare agency, and is a child who has a special need as defined in Section [~~62A-4a-902~~] 80-2-801, the preplacement adoptive evaluation shall be conducted by the Department of Human Services or a child-placing agency that has entered into a contract with the department to conduct the preplacement adoptive evaluations for children with special needs.

(3) For purposes of Subsection (2)(a)(ii), subject to Subsection (4), the criminal history background check described in Subsection (2)(a)(ii) shall be submitted in a manner acceptable to the court that will:

(a) preserve the chain of custody of the results; and

(b) not permit tampering with the results by a prospective adoptive parent or other interested party.

(4) In order to comply with Subsection (3), the manner in which the criminal history background check is submitted shall be approved by the court.

(5) Except as provided in Subsection 78B-6-131(2), in addition to the other requirements of this section, before a child in state custody is placed with a prospective foster parent or a prospective adoptive parent, the Department of Human Services shall comply with Section 78B-6-131.

(6) (a) An individual described in Subsections (2)(c)(i) through (vii) shall be licensed to practice under the laws of:

(i) this state; or

(ii) the state, district, or territory of the United States where the prospective adoptive parent or other person living in the prospective adoptive home resides.

(b) Neither the Department of Human Services nor any of the department's divisions may proscribe who qualifies as an expert in family relations or who may conduct a home study under Subsection (2)(c).

(c) The home study described in Subsection (2)(c) shall be a written document that contains the following:

(i) a recommendation to the court regarding the suitability of the prospective adoptive parent for placement of a child;

(ii) a description of in-person interviews with the prospective adoptive parent, the prospective adoptive parent's children, and other individuals living in the home;

(iii) a description of character and suitability references from at least two individuals who are not related to the prospective adoptive parent and with at least one individual who is related to the prospective adoptive parent;

(iv) a medical history and a doctor's report, based upon a doctor's physical examination of the prospective adoptive parent, made within two years before the date of the application; and

(v) a description of an inspection of the home to determine whether sufficient space and facilities exist to meet the needs of the child and whether basic health and safety standards are maintained.

(7) Any fee assessed by the evaluating agency described in Subsection (2)(d) is the responsibility of the adopting parent.

(8) The person conducting the preplacement adoptive evaluation shall, in connection with the preplacement adoptive evaluation, provide the prospective adoptive parent with literature approved by the Division of Child and Family Services relating to adoption, including information relating to:

(a) the adoption process;

(b) developmental issues that may require early intervention; and

(c) community resources that are available to the prospective adoptive parent.

(9) A copy of the preplacement adoptive evaluation shall be filed with the court.

Section 70. Section 78B-6-131 is amended to read:

78B-6-131. Child in custody of state -- Placement.

(1) Notwithstanding Sections 78B-6-128 through 78B-6-130, and except as provided in Subsection (2), a child who is in the legal custody of the state may not be placed with a prospective foster parent or a prospective adoptive parent, unless, before the child is placed with the prospective foster parent or the prospective adoptive parent:

(a) a fingerprint based FBI national criminal history records check is conducted on the prospective foster parent, prospective adoptive parent, and any other adult residing in the household;

(b) the Department of Human Services conducts a check of the child abuse and neglect registry in each state where the prospective foster parent or prospective adoptive parent resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect;

(c) the Department of Human Services conducts a check of the child abuse and neglect registry of each state where each adult living in the home of the prospective foster parent or prospective adoptive parent described in Subsection (1)(b) resided in the five years immediately preceding the day on which the prospective foster parent or prospective adoptive parent applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(d) each person required to undergo a background check described in this section passes the background check, pursuant to the provisions of Section 62A-2-120.

(2) The requirements under Subsection (1) do not apply to the extent that:

(a) federal law or rule permits otherwise; or

(b) the requirements would prohibit the division or a court from placing a child with:

(i) a noncustodial parent, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303; or

(ii) a relative, under Section [~~62A-4a-209~~] 80-2a-301, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (1).

Section 71. Section 78B-6-207 is amended to read:

78B-6-207. Minimum procedures for mediation.

(1) A judge or court commissioner may refer to mediation any case for which the Judicial Council and Supreme Court have established a program or procedures. A party may file with the court an objection to the referral which may be granted for good cause.

(2) (a) Unless all parties and the neutral or neutrals agree only parties, their representatives, and the neutral may attend the mediation sessions.

(b) If the mediation session is in accordance with a referral under Section 80-3-206 or 80-4-206, the ADR provider or ADR organization shall notify all parties to the proceeding and any person designated by a party. The ADR provider may notify any person whose rights may be affected by the mediated agreement or who may be able to contribute to the agreement. A party may request notice be provided to a person who is not a party.

(3) (a) Except as provided in Subsection (3)(b), any settlement agreement between the parties as a result of mediation may be executed in writing, filed with the clerk of the court, and enforceable as a judgment of the court. If the parties stipulate to dismiss the action, any agreement to dismiss shall not be filed with the court.

(b) With regard to mediation affecting any petition filed under Section 80–3–201 or 80–4–201:

(i) all settlement agreements and stipulations of the parties shall be filed with the court;

(ii) all timelines, requirements, and procedures described in Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights, [~~and in Title 62A, Chapter 4a, Child and Family Services,~~] shall be complied with; and

(iii) the parties to the mediation may not agree to a result that could not have been ordered by the court in accordance with the procedures and requirements of Title 80, Chapter 2, Child Welfare Services, Title 80, Chapter 2a, Removal and Protective Custody of a Child, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights[~~, and Title 62A, Chapter 4a, Child and Family Services~~].

Section 72. Section 78B-6-208 is amended to read:

78B-6-208. Confidentiality.

(1) ADR proceedings shall be conducted in a manner that encourages informal and confidential exchange among the persons present to facilitate resolution of the dispute or a part of the dispute. ADR proceedings shall be closed unless the parties agree that the proceedings be open. ADR proceedings may not be recorded.

(2) No evidence concerning the fact, conduct, or result of an ADR proceeding may be subject to discovery or admissible at any subsequent trial of the same case or same issues between the same parties.

(3) No party to the case may introduce as evidence information obtained during an ADR proceeding unless the information was discovered from a source independent of the ADR proceeding.

(4) Unless all parties and the neutral agree, no person attending an ADR proceeding, including the ADR provider or ADR organization, may disclose or be required to disclose any information obtained in the course of an ADR proceeding, including any memoranda, notes, records, or work product.

(5) Except as provided, an ADR provider or ADR organization may not disclose or discuss any information about any ADR proceeding to anyone outside the proceeding, including the judge or judges to whom the case may be assigned. An ADR provider or an ADR organization may communicate information about an ADR proceeding with the director for the purposes of training, program management, or program evaluation and when consulting with a peer. In making those communications, the ADR provider or ADR organization shall render anonymous all identifying information.

(6) Nothing in this section limits or affects the responsibility to report child abuse or neglect in accordance with Section [~~62A–4a–403~~] 80–2–602.

(7) Records of ADR proceedings under this chapter or under Title 78B, Chapter 11, Utah Uniform Arbitration Act, may not be subject to Title 63G, Chapter 2, Government Records Access and Management Act, except settlement agreements filed with the court after conclusion of an ADR proceeding or awards filed with the court after the period for filing a demand for trial de novo has expired.

Section 73. Section 78B-10-106 is amended to read:

78B-10-106. Exceptions to privilege.

(1) There is no privilege under Section 78B–10–104 for a mediation communication that is:

(a) in an agreement evidenced by a record signed by all parties to the agreement;

(b) available to the public under Title 63G, Chapter 2, Government Records Access and Management Act, or made during a mediation session which is open, or is required by law to be open, to the public;

(c) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;

(d) intentionally used to plan a crime, attempt to commit or commit a crime, or to conceal an ongoing crime or ongoing criminal activity;

(e) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;

(f) except as otherwise provided in Subsection (3), sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or

(g) subject to the reporting requirements in Section 62A–3–305 or [~~62A–4a–403~~] 80–2–602.

(2) There is no privilege under Section 78B–10–104 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that:

(a) the evidence is not otherwise available;

(b) there is a need for the evidence that substantially outweighs the interest in protecting confidentiality; and

(c) the mediation communication is sought or offered in:

(i) a court proceeding involving a felony or misdemeanor; or

(ii) except as otherwise provided in Subsection (3), a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.

(3) A mediator may not be compelled to provide evidence of a mediation communication referred to in Subsection (1)(f) or (2)(c)(ii).

(4) If a mediation communication is not privileged under Subsection (1) or (2), only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under Subsection (1) or (2) does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

Section 74. Section 80-3-107 is amended to read:

80-3-107. Disclosure of records -- Record sharing.

(1) (a) Except as provided in Subsections (1)(c) through (e), in an abuse, neglect, or dependency proceeding occurring after the commencement of a shelter hearing under Section 80-3-301, or the filing of an abuse, neglect, or dependency petition, each party to the proceeding shall provide in writing to any other party or the other party's counsel any information that the party:

(i) plans to report to the juvenile court at the proceeding; or

(ii) could reasonably expect would be requested of the party by the juvenile court at the proceeding.

(b) A party providing the disclosure required under Subsection (1)(a) shall make the disclosure:

(i) for a dispositional hearing under Part 4, Adjudication, Disposition, and Permanency, no less than five days before the day on which the dispositional hearing is held; and

(ii) for all other proceedings, no less than five days before the day on which the proceeding is held.

(c) The division is not required to provide a court report or a child and family plan described in Section [~~62A-4a-205~~] 80-3-307 to each party to the proceeding if:

(i) the information is electronically filed with the juvenile court; and

(ii) each party to the proceeding has access to the electronically filed information.

(d) If a party to a proceeding obtains information after the deadline described in Subsection (1)(b), the information is exempt from the disclosure required under Subsection (1)(a) if the party certifies to the juvenile court that the information was obtained after the deadline.

(e) Subsection (1)(a) does not apply to:

(i) pretrial hearings; and

(ii) the frequent, periodic review hearings held in a dependency drug court case to assess and promote the parent's progress in substance use disorder treatment.

(2) (a) Except as provided in Subsection (2)(b), and notwithstanding any other provision of law:

(i) counsel for all parties to the action shall be given access to all records, maintained by the division or any other state or local public agency, that are relevant to the abuse, neglect, or dependency proceeding under this chapter; and

(ii) if the natural parent of a child is not represented by counsel, the natural parent shall have access to the records described in Subsection (2)(a)(i).

(b) The disclosures described in Subsection (2)(a) are not required if:

(i) subject to Subsection (2)(c), the division or other state or local public agency did not originally create the record being requested;

(ii) disclosure of the record would jeopardize the life or physical safety of a child who has been a victim of abuse or neglect, or any individual who provided substitute care for the child;

(iii) disclosure of the record would jeopardize the anonymity of the individual making the initial report of abuse or neglect or any others involved in the subsequent investigation;

(iv) disclosure of the record would jeopardize the life or physical safety of an individual who has been a victim of domestic violence; or

(v) the record is a Children's Justice Center interview, including a video or audio recording, and a transcript of the recording, the release of which is governed by Section 77-37-4.

(c) If a disclosure is denied under Subsection (2)(b)(i), the division shall inform the individual making the request:

(i) of the existence of all records in the possession of the division or any other state or local public agency;

(ii) of the name and address of the individual or agency that originally created the record; and

(iii) that the individual making the request must seek access to the record from the individual or agency that originally created the record.

Section 75. Section 80-3-204 is amended to read:

80-3-204. Protective custody of a child after a petition is filed -- Grounds.

(1) When an abuse, neglect, or dependency petition is filed, the juvenile court shall apply, in

addressing the petition, the least restrictive means and alternatives available to accomplish a compelling state interest and to prevent irretrievable destruction of family life as described in Subsections [~~62A-4a-201(1) and (7)(a)~~] 80-2a-201(1) and (7)(a) and Section 80-4-104.

(2) After an abuse, neglect, or dependency petition is filed, if the child who is the subject of the petition is not in protective custody, a juvenile court may order that the child be removed from the child's home or otherwise taken into protective custody if the juvenile court finds, by a preponderance of the evidence, that any one or more of the following circumstances exist:

(a) (i) there is an imminent danger to the physical health or safety of the child; and

(ii) the child's physical health or safety may not be protected without removing the child from the custody of the child's parent or guardian;

(b) (i) a parent or guardian engages in or threatens the child with unreasonable conduct that causes the child to suffer harm; and

(ii) there are no less restrictive means available by which the child's emotional health may be protected without removing the child from the custody of the child's parent or guardian;

(c) the child or another child residing in the same household has been, or is considered to be at substantial risk of being, physically abused, sexually abused, or sexually exploited, by a parent or guardian, a member of the parent's or guardian's household, or other individual known to the parent or guardian;

(d) the parent or guardian is unwilling to have physical custody of the child;

(e) the child is abandoned or left without any provision for the child's support;

(f) a parent or guardian who has been incarcerated or institutionalized has not arranged or cannot arrange for safe and appropriate care for the child;

(g) (i) a relative or other adult custodian with whom the child is left by the parent or guardian is unwilling or unable to provide care or support for the child;

(ii) the whereabouts of the parent or guardian are unknown; and

(iii) reasonable efforts to locate the parent or guardian are unsuccessful;

(h) subject to Subsection 80-1-102[~~(51)~~](58)(b) and Sections 80-3-109 and 80-3-304, the child is in immediate need of medical care;

(i) (i) a parent's or guardian's actions, omissions, or habitual action create an environment that poses a serious risk to the child's health or safety for which immediate remedial or preventive action is necessary; or

(ii) a parent's or guardian's action in leaving a child unattended would reasonably pose a threat to the child's health or safety;

(j) the child or another child residing in the same household has been neglected;

(k) the child's natural parent:

(i) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(ii) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(iii) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child;

(l) an infant [~~has been abandoned~~] is an abandoned infant, as defined in Section 80-4-203;

(m) (i) the parent or guardian, or an adult residing in the same household as the parent or guardian, is charged or arrested pursuant to Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) any clandestine laboratory operation was located in the residence or on the property where the child resided; or

(n) the child's welfare is otherwise endangered.

(3) (a) For purposes of Subsection (2)(a), if a child has previously been adjudicated as abused, neglected, or dependent, and a subsequent incident of abuse, neglect, or dependency occurs involving the same substantiated abuser or under similar circumstance as the previous abuse, that fact is prima facie evidence that the child cannot safely remain in the custody of the child's parent.

(b) For purposes of Subsection (2)(c):

(i) another child residing in the same household may not be removed from the home unless that child is considered to be at substantial risk of being physically abused, sexually abused, or sexually exploited as described in Subsection (2)(c) or Subsection (3)(b)(ii); and

(ii) if a parent or guardian has received actual notice that physical abuse, sexual abuse, or sexual exploitation by an individual known to the parent has occurred, and there is evidence that the parent or guardian failed to protect the child, after having received the notice, by allowing the child to be in the physical presence of the alleged abuser, that fact is prima facie evidence that the child is at substantial risk of being physically abused, sexually abused, or sexually exploited.

(4) (a) For purposes of Subsection (2), if the division files an abuse, neglect, or dependency petition, the juvenile court shall consider the division's safety and risk assessments described in Section [~~62A-4a-203.1~~] 80-2-403 to determine whether a child should be removed from the custody of the child's parent or guardian or should otherwise be taken into protective custody.

(b) The division shall make a diligent effort to provide the safety and risk assessments described in Section [~~62A-4a-203.1~~] 80-2-403 to the juvenile court, guardian ad litem, and counsel for the parent or guardian, as soon as practicable before the shelter hearing described in Section 80-3-301.

(5) In the absence of one of the factors described in Subsection (2), a juvenile court may not remove a child from the parent's or guardian's custody on the basis of:

(a) educational neglect, truancy, or failure to comply with a court order to attend school;

(b) mental illness or poverty of the parent or guardian;

(c) disability of the parent or guardian, as defined in Section 57-21-2; or

(d) the possession or use, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act, of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device, as those terms are defined in Section 26-61a-102.

(6) A child removed from the custody of the child's parent or guardian under this section may not be placed or kept in detention, unless the child may be admitted to detention under Chapter 6, Part 2, Custody and Detention.

(7) This section does not preclude removal of a child from the child's home without a warrant or court order under Section [~~62A-4a-202.1~~] 80-2a-202.

(8) (a) Except as provided in Subsection (8)(b), a juvenile court and the division may not remove a child from the custody of the child's parent or guardian on the sole or primary basis that the parent or guardian refuses to consent to:

(i) the administration of a psychotropic medication to a child;

(ii) a psychiatric, psychological, or behavioral treatment for a child; or

(iii) a psychiatric or behavioral health evaluation of a child.

(b) Notwithstanding Subsection (8)(a), a juvenile court or the division may remove a child under conditions that would otherwise be prohibited under Subsection (8)(a) if failure to take an action described under Subsection (8)(a) would present a serious, imminent risk to the child's physical safety or the physical safety of others.

Section 76. Section 80-3-303 is amended to read:

80-3-303. Post-shelter hearing placement of a child in division's temporary custody.

(1) If the juvenile court awards temporary custody of a child to the division under Section 80-3-302, or as otherwise permitted by law, the division shall determine ongoing placement of the child.

(2) In placing a child under Subsection (1), the division:

(a) except as provided in Subsections (2)(b) and (d), shall comply with the applicable background check provisions described in Section 80-3-302;

(b) is not required to receive approval from the juvenile court before making the placement;

(c) shall, within three days, excluding weekends and holidays, after the day on which the placement is made, give written notice to the juvenile court, and the parties to the proceedings, that the placement has been made;

(d) may place the child with a noncustodial parent, relative, or friend, using the same criteria established for an emergency placement under Section [~~62A-4a-209~~] 80-2a-301, pending the results of:

(i) the background check described in Subsection 80-3-302(14)(a); and

(ii) evaluation with the noncustodial parent, relative, or friend to determine the individual's capacity to provide ongoing care to the child; and

(e) shall take into consideration the will of the child, if the child is of sufficient maturity to articulate the child's wishes in relation to the child's placement.

(3) If the division's placement decision differs from a child's express wishes if the child is of sufficient maturity to state the child's wishes in relation to the child's placement, the division shall make findings explaining why the division's decision differs from the child's wishes in a writing provided to the juvenile court and the child's attorney guardian ad litem.

Section 77. Section 80-3-405 is amended to read:

80-3-405. Dispositions after adjudication.

(1) (a) Upon adjudication under Subsection 80-3-402(1), the juvenile court may make the dispositions described in Subsection (2) at the dispositional hearing.

(2) (a) (i) The juvenile court may vest custody of an abused, neglected, or dependent minor in the division or any other appropriate person, with or without court-specified child welfare services, in accordance with the requirements and procedures of this chapter.

(ii) When placing a minor in the custody of the division or any other appropriate person, the juvenile court:

(A) shall give primary consideration to the welfare of the minor;

(B) shall give due consideration to the rights of the parent or parents concerning the minor; and

(C) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(b) (i) The juvenile court may appoint a guardian for the minor if it appears necessary in the interest of the minor.

(ii) A guardian appointed under Subsection (2)(b)(i) may be a public or private institution or agency, but not a nonsecure residential placement provider, in which legal custody of the minor is vested.

(iii) When placing a minor under the guardianship of an individual or of a private agency or institution, the juvenile court:

(A) shall give primary consideration to the welfare of the minor; and

(B) when practicable, may take into consideration the religious preferences of the minor and of the minor's parents or guardian.

(c) The juvenile court may order:

(i) protective supervision;

(ii) family preservation;

(iii) sibling visitation; or

(iv) other services.

(d) (i) If a minor has been placed with an individual or relative as a result of an adjudication under this chapter, the juvenile court may enter an order of permanent legal custody and guardianship with the individual or relative of the minor.

(ii) If a juvenile court enters an order of permanent custody and guardianship with an individual or relative of a minor under Subsection (2)(d)(i), the juvenile court may, in accordance with Section 78A-6-356, enter an order for child support on behalf of the minor against the natural parents of the minor.

(iii) An order under this Subsection (2)(d):

(A) shall remain in effect until the minor is 18 years old;

(B) is not subject to review under Section 78A-6-358; and

(C) may be modified by petition or motion as provided in Section 78A-6-357.

(e) The juvenile court may order a child be committed to the physical custody, as defined in Section 62A-15-701, of a local mental health authority, in accordance with the procedures and requirements of Title 62A, Chapter 15, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(f) (i) If the child has an intellectual disability, the juvenile court may make an order committing a minor to the Utah State Developmental Center in accordance with Title 62A, Chapter 5, Part 3, Admission to an Intermediate Care Facility for People with an Intellectual Disability.

(ii) The juvenile court shall follow the procedure applicable in the district court with respect to judicial commitments to the Utah State Developmental Center when ordering a commitment under Subsection (2)(f)(i).

(g) (i) Subject to Subsection 80-1-102[~~(51)~~](58)(b) and Section 80-3-304, the juvenile court may order that a minor:

(A) be examined or treated by a mental health therapist, as described in Section 80-3-109; or

(B) receive other special care.

(ii) For purposes of receiving the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court may place the minor in a hospital or other suitable facility that is not secure care or secure detention.

(iii) In determining whether to order the examination, treatment, or care described in Subsection (2)(g)(i), the juvenile court shall consider:

(A) the desires of the minor;

(B) the desires of the parent or guardian of the minor if the minor is younger than 18 years old; and

(C) whether the potential benefits of the examination, treatment, or care outweigh the potential risks and side-effects, including behavioral disturbances, suicidal ideation, brain function impairment, or emotional or physical harm resulting from the compulsory nature of the examination, treatment, or care.

(h) The juvenile court may make other reasonable orders for the best interest of the minor.

(3) Upon an adjudication under this chapter, the juvenile court may not:

(a) commit a minor solely on the ground of abuse, neglect, or dependency to the Division of Juvenile Justice Services;

(b) assume the function of developing foster home services; or

(c) vest legal custody of an abused, neglected, or dependent minor in the division to primarily address the minor's ungovernable or other behavior, mental health, or disability, unless the division:

(i) engages other relevant divisions within the department that are conducting an assessment of the minor and the minor's family's needs;

(ii) based on the assessment described in Subsection (3)(c)(i), determines that vesting custody of the minor in the division is the least restrictive intervention for the minor that meets the minor's needs; and

(iii) consents to legal custody of the minor being vested in the division.

(4) The juvenile court may combine the dispositions listed in Subsection (2) if combining the dispositions is permissible and the dispositions are compatible.

Section 78. Section 80-3-407 is amended to read:

80-3-407. Six-month review hearing -- Findings regarding reasonable efforts by division -- Findings regarding child and family plan compliance.

If reunification efforts have been ordered by the juvenile court under Section 80-3-406, the juvenile court shall hold a hearing no more than six months after the day on which the minor is initially removed from the minor's home, in order for the juvenile court to determine whether:

(1) the division has provided and is providing reasonable efforts to reunify the family in accordance with the child and family plan established under Section [~~62A-4a-205~~] 80-3-307; and

(2) the parent has fulfilled or is fulfilling identified duties and responsibilities in order to comply with the requirements of the child and family plan.

Section 79. Section 80-3-409 is amended to read:

80-3-409. Permanency hearing -- Final plan -- Petition for termination of parental rights filed -- Hearing on termination of parental rights.

(1) (a) If reunification services are ordered under Section 80-3-406, with regard to a minor who is in the custody of the division, the juvenile court shall hold a permanency hearing no later than 12 months after the day on which the minor is initially removed from the minor's home.

(b) If reunification services are not ordered at the dispositional hearing, the juvenile court shall hold a permanency hearing within 30 days after the day on which the dispositional hearing ends.

(2) (a) If reunification services are ordered in accordance with Section 80-3-406, the juvenile court shall, at the permanency hearing, determine, consistent with Subsection (3), whether the minor may safely be returned to the custody of the minor's parent.

(b) If the juvenile court finds, by a preponderance of the evidence, that return of the minor to the minor's parent would create a substantial risk of detriment to the minor's physical or emotional well-being, the minor may not be returned to the custody of the minor's parent.

(c) Prima facie evidence that return of the minor to a parent or guardian would create a substantial risk of detriment to the minor is established if:

(i) the parent or guardian fails to:

(A) participate in a court approved child and family plan;

(B) comply with a court approved child and family plan in whole or in part; or

(C) meet the goals of a court approved child and family plan; or

(ii) the minor's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the minor;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the minor; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the minor.

(3) In making a determination under Subsection (2)(a), the juvenile court shall:

(a) review and consider:

(i) the report prepared by the division;

(ii) in accordance with the Utah Rules of Evidence, any admissible evidence offered by the minor's attorney guardian ad litem;

(iii) any report submitted by the division under Subsection 80-3-408(3)(a)(i);

(iv) any evidence regarding the efforts or progress demonstrated by the parent; and

(v) the extent to which the parent cooperated and used the services provided; and

(b) attempt to keep the minor's sibling group together if keeping the sibling group together is:

(i) practicable; and

(ii) in accordance with the best interest of the minor.

(4) With regard to a case where reunification services are ordered by the juvenile court, if a minor is not returned to the minor's parent or guardian at the permanency hearing, the juvenile court shall, unless the time for the provision of reunification services is extended under Subsection (7):

(a) order termination of reunification services to the parent;

(b) make a final determination regarding whether termination of parental rights, adoption, or permanent custody and guardianship is the most appropriate final plan for the minor, taking into account the minor's primary permanency plan established by the juvenile court under Section 80-3-406; and

(c) in accordance with Subsection 80-3-406(2), establish a concurrent permanency plan that identifies the second most appropriate final plan for the minor, if appropriate.

(5) The juvenile court may order another planned permanent living arrangement other than reunification for a minor who is 16 years old or older upon entering the following findings:

(a) the division has documented intensive, ongoing, and unsuccessful efforts to reunify the minor with the minor's parent or parents, or to secure a placement for the minor with a guardian, an adoptive parent, or an individual described in Subsection 80-3-301(6)(e);

(b) the division has demonstrated that the division has made efforts to normalize the life of the minor while in the division's custody, in accordance with [~~Sections 62A-4a-210 through 62A-4a-212~~] Section 80-2-308;

(c) the minor prefers another planned permanent living arrangement; and

(d) there is a compelling reason why reunification or a placement described in Subsection (5)(a) is not in the minor's best interest.

(6) Except as provided in Subsection (7), the juvenile court may not extend reunification services beyond 12 months after the day on which the minor is initially removed from the minor's home, in accordance with the provisions of Section 80-3-406.

(7) (a) Subject to Subsection (7)(b), the juvenile court may extend reunification services for no more than 90 days if the juvenile court finds, beyond a preponderance of the evidence, that:

(i) there has been substantial compliance with the child and family plan;

(ii) reunification is probable within that 90-day period; and

(iii) the extension is in the best interest of the minor.

(b) (i) Except as provided in Subsection (7)(c), the juvenile court may not extend any reunification services beyond 15 months after the day on which the minor is initially removed from the minor's home.

(ii) Delay or failure of a parent to establish paternity or seek custody does not provide a basis for the juvenile court to extend services for the parent beyond the 12-month period described in Subsection (6).

(c) In accordance with Subsection (7)(d), the juvenile court may extend reunification services for one additional 90-day period, beyond the 90-day period described in Subsection (7)(a), if:

(i) the juvenile court finds, by clear and convincing evidence, that:

(A) the parent has substantially complied with the child and family plan;

(B) it is likely that reunification will occur within the additional 90-day period; and

(C) the extension is in the best interest of the minor;

(ii) the juvenile court specifies the facts upon which the findings described in Subsection (7)(c)(i) are based; and

(iii) the juvenile court specifies the time period in which it is likely that reunification will occur.

(d) A juvenile court may not extend the time period for reunification services without complying with the requirements of this Subsection (7) before the extension.

(e) In determining whether to extend reunification services for a minor, a juvenile court shall take into consideration the status of the minor siblings of the minor.

(8) The juvenile court may, in the juvenile court's discretion:

(a) enter any additional order that the juvenile court determines to be in the best interest of the minor, so long as that order does not conflict with the requirements and provisions of Subsections (4) through (7); or

(b) order the division to provide protective supervision or other services to a minor and the minor's family after the division's custody of a minor is terminated.

(9) (a) If the final plan for the minor is to proceed toward termination of parental rights, the petition for termination of parental rights shall be filed, and a pretrial held, within 45 calendar days after the day on which the permanency hearing is held.

(b) If the division opposes the plan to terminate parental rights, the juvenile court may not require the division to file a petition for the termination of parental rights, except as required under Subsection 80-4-203(2).

(10) (a) Any party to an action may, at any time, petition the juvenile court for an expedited permanency hearing on the basis that continuation of reunification efforts are inconsistent with the permanency needs of the minor.

(b) If the juvenile court so determines, the juvenile court shall order, in accordance with federal law, that:

(i) the minor be placed in accordance with the permanency plan; and

(ii) whatever steps are necessary to finalize the permanent placement of the minor be completed as quickly as possible.

(11) Nothing in this section may be construed to:

(a) entitle any parent to reunification services for any specified period of time;

(b) limit a juvenile court's ability to terminate reunification services at any time before a permanency hearing; or

(c) limit or prohibit the filing of a petition for termination of parental rights by any party, or a hearing on termination of parental rights, at any time before a permanency hearing provided that relative placement and custody options have been fairly considered in accordance with Sections [~~62A-4a-201~~] 80-2a-201 and 80-4-104.

(12) (a) Subject to Subsection (12)(b), if a petition for termination of parental rights is filed before the date scheduled for a permanency hearing, the juvenile court may consolidate the hearing on termination of parental rights with the permanency hearing.

(b) For purposes of Subsection (12)(a), if the juvenile court consolidates the hearing on termination of parental rights with the permanency hearing:

(i) the juvenile court shall first make a finding regarding whether reasonable efforts have been made by the division to finalize the permanency plan for the minor; and

(ii) any reunification services shall be terminated in accordance with the time lines described in Section 80-3-406.

(c) The juvenile court shall make a decision on a petition for termination of parental rights within 18 months after the day on which the minor is initially removed from the minor's home.

(13) If a juvenile court determines that a minor will not be returned to a parent of the minor, the juvenile court shall consider appropriate placement options inside and outside of the state.

(14) (a) In accordance with Section 80-3-108, if a minor 14 years old or older desires an opportunity to address the juvenile court or testify regarding permanency or placement, the juvenile court shall give the minor's wishes added weight, but may not treat the minor's wishes as the single controlling factor under this section.

(b) If the juvenile court's decision under this section differs from a minor's express wishes if the minor is of sufficient maturity to articulate the wishes in relation to permanency or the minor's placement, the juvenile court shall make findings explaining why the juvenile court's decision differs from the minor's wishes.

Section 80. Section 80-4-102 is amended to read:

80-4-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Child and Family Services created in Section [~~62A-4a-103~~] 80-2-201.

(2) "Failure of parental adjustment" means that a parent or parents are unable or unwilling within a reasonable time to substantially correct the circumstances, conduct, or conditions that led to placement of their child outside of their home, notwithstanding reasonable and appropriate efforts made by the division to return the child to the home.

(3) "Former parent" means an individual whose legal parental rights were terminated under this chapter.

(4) "Petition to restore parental rights" means a petition filed in accordance with this chapter to restore the rights of a parent with regard to a child.

(5) "Petition for termination of parental rights" means a petition filed in accordance with this chapter to terminate the parental rights of a parent.

(6) "Temporary custody" means the same as that term is defined in Section [~~62A-4a-101~~] 80-2-102.

Section 81. Section 80-4-203 is amended to read:

80-4-203. Mandatory petition for termination of parental rights.

(1) For purposes of this section, "abandoned infant" means a child who is 12 months old or younger and whose parent or parents:

(a) although having legal custody of the child, fail to maintain physical custody of the child without making arrangements for the care of the child;

(b) have failed to:

(i) maintain physical custody; and

(ii) exhibit the normal interest of a natural parent without just cause; or

(c) are unwilling to have physical custody of the child.

(2) Except as provided in Subsection (3), notwithstanding any other provision of this chapter [~~or of Title 62A, Chapter 4a, Child and Family Services~~], Chapter 2, Child Welfare Services, or Chapter 2a, Removal and Protective Custody of a Child, the division shall file a petition for termination of parental rights with regard to:

(a) an abandoned infant; or

(b) the child of a parent, whenever a court has determined that the parent has:

(i) committed murder or child abuse homicide of another child of that parent;

(ii) committed manslaughter of another child of that parent;

(iii) aided, abetted, attempted, conspired, or solicited to commit murder, child abuse homicide, or manslaughter against another child of that parent; or

(iv) committed a felony assault or abuse that results in serious physical injury to:

(A) another child of that parent; or

(B) the other parent of the child.

(3) The division is not required to file a petition for termination of parental rights under Subsection (2) if:

(a) the child is being cared for by a relative;

(b) the division has:

(i) documented in the child's child and family plan a compelling reason for determining that filing a petition for termination of parental rights is not in the child's best interest; and

(ii) made that child and family plan available to the juvenile court for the juvenile court's review; or

(c) (i) the juvenile court has previously determined, in accordance with the provisions and limitations of Sections [~~62A-4a-201, 62A-4a-203~~] 80-2a-201, 80-2a-302, 80-3-301, and 80-3-406, that reasonable efforts to reunify the child with the child's parent or parents were required; and

(ii) the division has not provided, within the time period specified in the child and family plan, services that had been determined to be necessary for the safe return of the child.

Section 82. Section 80-4-301 is amended to read:

80-4-301. Grounds for termination of parental rights -- Findings regarding reasonable efforts by division.

(1) Subject to the protections and requirements of Section 80-4-104, and if the juvenile court finds termination of parental rights, from the child's point of view, is strictly necessary, the juvenile court may terminate all parental rights with respect to the parent if the juvenile court finds any one of the following:

(a) that the parent has abandoned the child;

(b) that the parent has neglected or abused the child;

(c) that the parent is unfit or incompetent;

(d) (i) that the child is being cared for in an out-of-home placement under the supervision of the juvenile court or the division;

(ii) that the parent has substantially neglected, willfully refused, or has been unable or unwilling to remedy the circumstances that cause the child to be in an out-of-home placement; and

(iii) that there is a substantial likelihood that the parent will not be capable of exercising proper and effective parental care in the near future;

(e) failure of parental adjustment, as defined in this chapter;

(f) that only token efforts have been made by the parent:

(i) to support or communicate with the child;

(ii) to prevent neglect of the child;

(iii) to eliminate the risk of serious harm to the child; or

(iv) to avoid being an unfit parent;

(g) (i) that the parent has voluntarily relinquished the parent's parental rights to the child; and

(ii) that termination is in the child's best interest;

(h) that, after a period of trial during which the child was returned to live in the child's own home, the parent substantially and continuously or repeatedly refused or failed to give the child proper parental care and protection; or

(i) the terms and conditions of safe relinquishment of a newborn child have been complied with, in accordance with [~~Title 62A, Chapter 4a, Part 8,~~] Part 5, Safe Relinquishment of a Newborn Child.

(2) The juvenile court may not terminate the parental rights of a parent because the parent has failed to complete the requirements of a child and family plan.

(3) (a) Except as provided in Subsection (3)(b), in any case in which the juvenile court has directed the division to provide reunification services to a parent, the juvenile court must find that the division made reasonable efforts to provide those services before the juvenile court may terminate the parent's rights under Subsection (1)(b), (c), (d), (e), (f), or (h).

(b) Notwithstanding Subsection (3)(a), the juvenile court is not required to make the finding under Subsection (3)(a) before terminating a parent's rights:

(i) under Subsection (1)(b), if the juvenile court finds that the abuse or neglect occurred subsequent to adjudication; or

(ii) if reasonable efforts to provide the services described in Subsection (3)(a) are not required under federal law, and federal law is not inconsistent with Utah law.

Section 83. Section 80-6-201 is amended to read:

80-6-201. Minor taken into temporary custody by peace officer, private citizen, or probation officer -- Grounds -- Protective custody.

(1) A minor may be taken into temporary custody by a peace officer without a court order, or a warrant under Section 80-6-202, if the peace officer has probable cause to believe that:

(a) the minor has committed an offense under municipal, state, or federal law;

(b) the minor seriously endangers the minor's own welfare or the welfare of others and taking the minor into temporary custody appears to be necessary for the protection of the minor or others;

(c) the minor has run away or escaped from the minor's parents, guardian, or custodian; or

(d) the minor is:

(i) subject to the state's compulsory education law; and

(ii) subject to Section 53G-6-208, absent from school without legitimate or valid excuse.

(2) A private citizen may take a minor into temporary custody if under the circumstances the private citizen could make a citizen's arrest under Section 77-7-3 if the minor was an adult.

(3) A juvenile probation officer may take a minor into temporary custody:

(a) under the same circumstances as a peace officer in Subsection (1); or

(b) if the juvenile probation officer has a reasonable suspicion that the minor has violated the conditions of the minor's probation.

(4) (a) Nothing in this part shall be construed to prevent a peace officer or the Division of Child and Family Services from taking a minor into protective custody under Section [~~62A-4a-202.1~~] 80-2a-202 or 80-3-204.

(b) If a peace officer or the Division of Child and Family Services takes a minor into protective custody, the provisions of Chapter 2, Child Welfare

Services, Chapter 2a, Removal and Protective Custody of a Child, and Chapter 3, Abuse, Neglect, and Dependency Proceedings[~~, and Title 62A, Chapter 4a, Child and Family Services,~~] shall govern.

Section 84. Section 80-6-202 is amended to read:

80-6-202. Warrants for minors.

(1) (a) Except as otherwise provided in this section, after a petition is filed under Section 80-6-305, or a criminal information under Section 80-6-503, a juvenile court may issue a warrant for a minor to be taken into temporary custody if:

(i) there is probable cause to believe that:

(A) the minor has committed an offense that would be a felony if committed by an adult;

(B) the minor has failed to appear after the minor or the minor's parent, guardian, or custodian has been legally served with a summons in accordance with Section 78A-6-351 and the Utah Rules of Juvenile Procedure;

(C) there is a substantial likelihood the minor will not respond to a summons;

(D) a summons cannot be served and the minor's present whereabouts are unknown;

(E) serving a summons for the minor will be ineffectual;

(F) the minor seriously endangers others or the public and temporary custody appears to be necessary for the protection of others or the public; or

(G) the minor is a runaway or has escaped from the minor's parent, guardian, or custodian; or

(ii) the minor is under the continuing jurisdiction of the juvenile court and there is probable cause to believe that the minor:

(A) has left the custody of the person or agency vested by a court with legal custody, or guardianship of the minor, without permission; or

(B) has violated a court order.

(b) A warrant issued under this Subsection (1) shall be:

(i) filed in accordance with Utah Rules of Juvenile Procedure, Rule 7; and

(ii) executed in accordance with Title 77, Chapter 7, Arrest, by Whom, and How Made.

(2) A juvenile court may not issue a warrant for a minor to be taken into temporary custody for:

(a) a status offense; or

(b) an infraction.

(3) (a) For a minor not eligible for a warrant under Subsection (2), a juvenile court may issue a warrant that directs a minor to be returned home, to the juvenile court, or to a shelter or other nonsecure facility.

(b) A warrant under Subsection (3)(a) may not direct a minor to secure care or secure detention.

(4) Subsection (2) does not apply to a minor who is under [~~Title 55, Chapter 12~~] Chapter 6, Part 11, Interstate Compact for Juveniles.

Section 85. Section 80-6-206 is amended to read:

80-6-206. Interview of a child -- Presence of a parent, legal guardian, or other adult -- Interview of minor in a facility.

(1) As used in this section:

(a) (i) "Friendly adult" means an adult:

(A) that has an established relationship with the child to the extent that the adult can provide meaningful advice and concerned help to the child should the need arise; and

(B) who is not hostile or adverse to the child's interest.

(ii) "Friendly adult" does not include a parent or guardian of the child.

(b) (i) "Interrogation" means any express questioning or any words or actions that are reasonably likely to elicit an incriminating response.

(ii) "Interrogation" does not include words or actions normally attendant to arrest and custody.

(2) If a child is in custody and subject to interrogation for an offense, the child has the right:

(a) to have the child's parent or guardian present during an interrogation of the child; or

(b) to have a friendly adult present during an interrogation of the child if:

(i) there is reason to believe that the child's parent or guardian has abused or threatened the child; or

(ii) the child's parent's or guardian's interest is adverse to the child's interest, including that the parent or guardian is a victim or a codefendant of the offense alleged to have been committed by the child.

(3) If a child is in custody and subject to interrogation of an offense, the child may not be interrogated unless:

(a) the child has been advised of the child's constitutional rights and the child's right to have a parent or guardian, or a friendly adult if applicable under Subsection (2)(b), present during the interrogation;

(b) the child has waived the child's constitutional rights;

(c) except as provided in Subsection (4), the child's parent or guardian, or the friendly adult if applicable under Subsection (2)(b), was present during the child's waiver under Subsection (3)(b) and has given permission for the child to be interrogated; and

(d) if the child is in the custody of the Division of Child and Family Services and a guardian ad litem has been appointed for the child, the child's guardian ad litem has given consent to an interview of the child as described in Section [~~62A-4a-415~~] 80-2-705.

(4) A child's parent or guardian, or a friendly adult if applicable under Subsection (2)(b), is not required to be present during the child's waiver under Subsection (3) or to give permission to the interrogation of the child if:

(a) the child is emancipated as described in Section 80-7-105;

(b) the child has misrepresented the child's age as being 18 years old or older and a peace officer has relied on that misrepresentation in good faith; or

(c) a peace officer or a law enforcement agency:

(i) has made reasonable efforts to contact the child's parent or legal guardian, or a friendly adult if applicable under Subsection (2)(b); and

(ii) has been unable to make contact within one hour after the time in which the child is in custody.

(5) (a) If a minor is admitted to a detention facility under Section 80-6-205, or the minor is committed to secure care or a correctional facility, and is subject to interrogation for an offense, the minor may not be interrogated unless:

(i) the minor has had a meaningful opportunity to consult with the minor's appointed or retained attorney;

(ii) the minor waives the minor's constitutional rights after consultation with the minor's appointed or retained attorney; and

(iii) the minor's appointed or retained attorney is present for the interrogation.

(b) Subsection (5)(a) does not apply to a juvenile probation officer, or a staff member of a detention facility, unless the juvenile probation officer or the staff member is interrogating the minor on behalf of a peace officer or a law enforcement agency.

(6) A minor may only waive the minor's right to be represented by counsel at all stages of court proceedings as described in Section 78B-22-204.

Section 86. Effective date.

This bill takes effect on September 1, 2022.

Section 87. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 248, Juvenile Amendments, does not pass.

CHAPTER 336
H. B. 250

Passed March 3, 2022
Approved March 24, 2022
Effective July 1, 2022

ENVIRONMENTAL QUALITY REVENUE AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Jani Iwamoto

LONG TITLE

General Description:

This bill addresses fees and funds related to environmental quality.

Highlighted Provisions:

This bill:

- changes where fees for registration, licensing, and inspection of radiation sources are to be deposited;
- clarifies the revenue sources of the Hazardous Substances Mitigation Fund;
- changes where fees for registration of waste tire transporters and recyclers are to be deposited; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

19-1-108, as last amended by Laws of Utah 2018, Chapter 241
19-3-104, as last amended by Laws of Utah 2017, Chapter 360
19-6-307, as last amended by Laws of Utah 2018, Chapter 241
19-6-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-108 is amended to read:

19-1-108. Environmental Quality Restricted Account.

(1) There is created the Environmental Quality Restricted Account.

(2) The sources of money for the [~~restricted account~~] Environmental Quality Restricted Account are:

(a) radioactive waste disposal fees collected under Sections 19-3-106 and 19-3-106.4 and other fees collected under Subsection 19-3-104(5) or 19-3-104(6);

(b) hazardous waste disposal fees collected under Section 19-6-118;

(c) PCB waste disposal fees collected under Section 19-6-118.5;

(d) nonhazardous solid waste disposal fees collected under Section 19-6-119; and

(e) the investment income derived from money in the Environmental Quality Restricted Account.

(3) In each fiscal year the balance of the money collected from the waste disposal fees listed in Subsection (2), collectively, shall be deposited [~~in~~] into the Environmental Quality Restricted Account.

(4) The Legislature may annually appropriate money from the Environmental Quality Restricted Account to the department for the costs of administering:

(a) radiation control programs; and

(b) solid and hazardous waste programs.

(5) Each fiscal year beginning on or after July 1, 2018, and ending on or before June 30, 2022, the Division of Finance shall transfer $200,000 from the Environmental Quality Restricted Account to the Hazardous Substances Mitigation Fund, to provide money to:

(a) meet the state's cost share requirements for cleanup under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sec. 9601 et seq. as amended; and

(b) respond to an emergency as provided in Section 19-6-309.

(6) After the requirements of Subsection (3) are met, sources of money for the [~~restricted account~~] Environmental Quality Restricted Account described in Subsection (2)(a) may only be used for the purpose described in Subsection (4)(a).

(7) [~~In order to~~] To stabilize funding for the radiation control [~~program~~] programs and the solid and hazardous waste [~~program~~] programs, the Legislature shall in years of excess revenues reserve in the Environmental Quality Restricted Account sufficient money to meet departmental needs in years of projected shortages.

(8) The Legislature may not appropriate money from the General Fund to the department as a supplemental appropriation to cover the costs of the radiation control [~~program~~] programs and the solid and hazardous waste [~~program~~] programs in an amount exceeding 25% of the amount of waste disposal fees collected during the most recent prior fiscal year.

(9) Money appropriated under this part that is not expended at the end of the fiscal year lapses into the Environmental Quality Restricted Account.

(10) (a) The balance in the Environmental Quality Restricted Account may not exceed $4,000,000 above the anticipated revenue need for the money in the [~~restricted account~~] Environmental Quality Restricted Account for the fiscal year.

(b) Excess funds under Subsection (10)(a) shall be credited on a proportionate basis to each person who paid money to the [~~fund~~] Environmental

Quality Restricted Account in the previous fiscal year.

Section 2. Section 19-3-104 is amended to read:

19-3-104. Registration and licensing of radiation sources by department -- Assessment of fees -- Rulemaking authority and procedure -- Siting criteria -- Indirect and direct costs.

(1) As used in this section:

(a) "Decommissioning" includes financial assurance.

(b) "Source material" and "byproduct material" mean the same as those terms are defined in the Atomic Energy Act of 1954, 42 U.S.C. Sec. 2014, as amended.

(2) The division may require the registration or licensing of radiation sources that constitute a significant health hazard.

(3) [~~All sources~~] A source of ionizing radiation, including an ionizing radiation producing [~~machines~~] machine, shall be registered or licensed by the department.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules:

(a) necessary for controlling exposure to sources of radiation that constitute a significant health hazard;

(b) to meet the requirements of federal law relating to radiation control to ensure the radiation control [~~program~~] programs under this part [~~is~~] are qualified to maintain primacy from the federal government;

(c) to establish certification procedure and qualifications for persons who survey mammography equipment and oversee quality assurance practices at mammography facilities; and

(d) as necessary regarding the possession, use, transfer, or delivery of source and byproduct material and the disposal of byproduct material to establish requirements for:

(i) the licensing, operation, decontamination, and decommissioning, including financial assurances; and

(ii) the reclamation of sites, structures, and equipment used in conjunction with the activities described in this Subsection (4).

(5) (a) On and after January 1, 2003, a fee is imposed for the regulation of source and byproduct material and the disposal of byproduct material at uranium mills or commercial waste facilities, as provided in this Subsection (5).

[~~(b) On and after January 1, 2003, through March 30, 2003:~~]

[~~(i) $6,667 per month for uranium mills or commercial sites disposing of or reprocessing byproduct material; and~~]

[~~(ii) $4,167 per month for those uranium mills the director has determined are on standby status.~~]

[~~(c) On and after March 31, 2003, through June 30, 2003, the same fees as in Subsection (5)(b) apply, but only if the federal Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation on or before March 30, 2003.~~]

[~~(d)~~] (b) If the Nuclear Regulatory Commission does not grant the amendment for state agreement status on or before March 30, 2003, fees under Subsection (5)[~~(e)~~](c) do not apply and are not required to be paid until on and after the later date of:

(i) October 1, 2003; or

(ii) the date the Nuclear Regulatory Commission grants to Utah an amendment for agreement state status for uranium recovery regulation.

[~~(e)~~] (c) For the payment periods beginning on and after July 1, 2003, the department shall establish the fees required under Subsection (5)(a) under Section 63J-1-504, subject to the restrictions under Subsection (5)[~~(d)~~](b).

[~~(f)~~] (d) The division shall deposit fees [~~it~~] the division receives under this Subsection (5) into the Environmental Quality Restricted Account created in Section 19-1-108.

(6) (a) The division shall assess fees for registration, licensing, and inspection of radiation sources under this section.

(b) The division shall comply with the requirements of Section 63J-1-504 in assessing fees for licensure and registration.

(c) The division shall deposit fees the division receives under this Subsection (6) into the Environmental Quality Restricted Account created in Section 19-1-108.

(7) (a) Except as provided in Subsection (8), [~~and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,~~] the board may not adopt rules, for the purpose of the state assuming responsibilities from the United States Nuclear Regulatory Commission with respect to regulation of sources of ionizing radiation, that are more stringent than the corresponding federal regulations [~~which~~] that address the same circumstances.

(b) In adopting [~~those~~] rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may incorporate corresponding federal regulations by reference.

(8) (a) The board may adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are more stringent than corresponding federal regulations for the purpose described in Subsection (7) only if [~~it~~] the board makes a written finding after public comment and

hearing and based on evidence in the record that corresponding federal regulations are not adequate to protect public health and the environment of the state.

(b) [~~Those~~] The findings described in Subsection (8)(a) shall be accompanied by an opinion referring to and evaluating the public health and environmental information and studies contained in the record [~~which~~] that form the basis for the board's conclusion.

(9) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall by rule:

(i) authorize independent qualified experts to conduct inspections required under this chapter of x-ray facilities registered with the division; and

(ii) establish qualifications and certification procedures necessary for independent experts to conduct [~~these~~] the inspections described in Subsection (9)(a)(i).

(b) Independent experts under this Subsection (9) are not considered employees or representatives of the division or the state when conducting the inspections.

(10) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may by rule establish criteria for siting commercial low-level radioactive waste treatment or disposal facilities, subject to the prohibition imposed by Section 19-3-103.7.

(b) Subject to Subsection 19-3-105(10), any facility under Subsection (10)(a) for which a radioactive material license is required by this section shall comply with [~~those~~] criteria established under this Subsection (10).

(c) Subject to Subsection 19-3-105(10), a facility may not receive a radioactive material license until siting criteria have been established by the board. The criteria also apply to facilities that have applied for but not received a radioactive material license.

(11) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that:

(a) establish financial assurance requirements for closure and postclosure care of radioactive waste land disposal facilities; and

(b) establish financial assurance requirements for closure and postclosure care of an unlicensed facility.

(12) The rules described in Subsection (11) shall include the following provisions:

(a) the financial assurance shall be based on an annual estimate and shall include closure and postclosure costs in [~~all~~] areas subject to the licensed or permitted portions of the facility;

(b) financial assurance for an unlicensed facility that supports the operation of a licensed or permitted facility shall include the estimated cost of:

(i) the removal of structures;

(ii) the testing of structures, roads, and property to ensure no radiological contamination has occurred outside of the licensed area; and

(iii) stabilization and water infiltration control;

(c) financial assurance cost estimates for a single approved waste disposal unit for which the volume of waste already placed and proposed to be placed in the unit within the surety period is less than the full waste capacity of the unit shall reflect the closure and postclosure costs for a waste disposal unit smaller than the approved waste disposal unit, if the unit could be reduced in size, meet closure requirements, and reduce closure costs;

(d) financial assurance cost estimates for two approved adjacent waste disposal units that have been approved to be combined into a single unit and for which the combined volume of waste already placed and proposed to be placed in the units within the surety period is less than the combined waste capacity for the two separate units shall reflect either two separate waste disposal units or a single combined unit, whichever has the lowest closure and postclosure costs;

(e) the licensee or permittee shall annually propose closure and postclosure costs upon which financial assurance amounts are based, including costs of potential remediation at the licensed or permitted facility and, notwithstanding the obligations described in Subsection (12)(b), any unlicensed facility;

(f) to provide the information in Subsection (12)(e), the licensee or permittee shall provide:

(i) a proposed annual cost estimate using the current edition of RS Means Facilities Construction Cost Data or using a process, including an indirect cost multiplier, previously agreed to between the licensee or permittee and the director; or

(ii) (A) for an initial financial assurance determination and for each financial assurance determination every five years thereafter, a proposed competitive site-specific estimate for closure and postclosure care of the facility at least once every five years; and

(B) for each year between a financial assurance determination described in Subsection (12)(f)(ii)(A), a proposed financial assurance estimate that accounts for current site conditions and that includes an annual inflation adjustment to the financial assurance determination using the Gross Domestic Product Implicit Price Deflator of the Bureau of Economic Analysis, United States Department of Commerce, calculated by dividing the latest annual deflator by the deflator for the previous year; and

(g) the director shall:

(i) annually review the licensee's or permittee's proposed closure and postclosure estimate; and

(ii) approve the estimate if the director determines that the estimate would be sufficient to provide for closure and postclosure costs.

(13) Subject to the financial assurance requirements described in Subsections (11) and (12), if the director and the licensee or permittee do not agree on a final financial assurance determination made by the director, the licensee or permittee may appeal the determination in:

(a) an arbitration proceeding governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act, with the costs of the arbitration to be split equally between the licensee or permittee and the division, if both the licensee or permittee and the director agree in writing to arbitration; or

(b) a special adjudicative proceeding under Section 19-1-301.5.

Section 3. Section 19-6-307 is amended to read:

19-6-307. Hazardous Substances Mitigation Fund.

(1) There is created an expendable special revenue fund entitled the "Hazardous Substances Mitigation Fund."

(2) The fund consists of money generated from the following revenue sources:

(a) any voluntary contributions received for the cleanup of hazardous substances facilities;

(b) appropriations made to the fund by the Legislature;

(c) money received by the state under [~~Section~~] Sections 19-6-310 and [~~Section~~] 19-6-316; and

(d) money from [~~waste disposal fees, as described in Section~~] the Environmental Quality Restricted Account in accordance with Subsection 19-1-108(5).

(3) (a) The fund shall earn interest.

(b) [~~All interest~~] Interest earned on fund money shall be deposited into the fund.

(4) The executive director may use fund money to:

(a) take emergency action as provided in Sections 19-6-309 and 19-6-310;

(b) conduct remedial investigations as provided in Sections 19-6-314 through 19-6-316;

(c) pay the amount required by the federal government as the state's portion of the cost of cleanups under authority of CERCLA, as appropriated by the Legislature for that purpose; and

(d) pay the amount required by the federal government as the state's portion of the cost of cleanups under 42 U.S.C. Sec. 6991 et seq., the Leaking Underground Storage Tank Trust Fund, as appropriated by the Legislature for that purpose.

Section 4. Section 19-6-807 is amended to read:

19-6-807. Waste Tire Recycling Fund.

(1) There is created an expendable special revenue fund entitled the "Waste Tire Recycling Fund."

(2) The fund shall consist of:

(a) the proceeds of [~~the~~]:

(i) a fee imposed under Section 19-6-805; and

(ii) a fee imposed under Section 19-6-806; and

(b) penalties collected under this part.

(3) Money in the fund shall be used for:

(a) partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires as provided in this part; and

(b) payment of administrative costs of local health departments as provided in Section 19-6-817.

(4) The Legislature may appropriate money from the fund to pay for:

(a) the costs of the Department of Environmental Quality in administering and enforcing this part; and

(b) other operational costs of the Department of Environmental Quality, if the Legislature estimates there is a deficit in the Department of Environmental Quality's budget for the current or next fiscal year.

Section 5. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 337
H. B. 251

Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

SCHOOL DROPOUT PREVENTION AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Michael K. McKell
Cosponsor: Dan N. Johnson

LONG TITLE

General Description:

This bill makes changes to provisions related to school dropout prevention.

Highlighted Provisions:

This bill:

- requires a local education agency that meets certain criteria to provide dropout prevention and recovery services by either:
  - contracting with a third party; or
  - creating a dropout prevention and recovery plan;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-9-802, as last amended by Laws of Utah 2020, Chapter 137

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-9-802 is amended to read:

53G-9-802. Dropout prevention and recovery -- Flexible enrollment options -- Contracting -- Reporting.

(1) (a) Subject to Subsection (1)(b), an LEA shall provide dropout prevention and recovery services to a designated student, including:

(i) engaging with or attempting to recover a designated student;

(ii) developing a learning plan, in consultation with a designated student, to identify:

(A) barriers to regular school attendance and achievement;

(B) an attainment goal; and

(C) a means for achieving the attainment goal through enrollment in one or more of the programs described in Subsection (2);

(iii) monitoring a designated student's progress toward reaching the designated student's attainment goal; and

(iv) providing tiered interventions for a designated student who is not making progress toward reaching the student's attainment goal.

(b) An LEA shall provide the dropout prevention and recovery services described in Subsection (1)(a):

(i) throughout the calendar year; and

(ii) except as provided in Subsection (1)(c)(i), for each designated student who becomes a designated student while enrolled in the LEA.

(c) (i) A designated student's school district of residence shall provide dropout recovery services if the designated student:

(A) was enrolled in a charter school that does not include grade 12; and

(B) becomes a designated student in the summer after the student completes academic instruction at the charter school through the maximum grade level the charter school is eligible to serve under the charter school's charter agreement as described in Section 53G-5-303.

(ii) In accordance with Subsection (1)(c)(iii), a charter school that does not include grade 12 shall notify each of the charter school's student's district of residence, as determined under Section 53G-6-302, when the student completes academic instruction at the charter school as described in Subsection (1)(c)(i)(B).

(iii) The notification described in Subsection (1)(c)(ii) shall include the student's name, contact information, and student identification number.

(2) (a) An LEA shall provide flexible enrollment options for a designated student that:

(i) are tailored to the designated student's learning plan developed under Subsection (1)(a)(ii); and

(ii) include two or more of the following:

(A) enrollment in the LEA in a traditional program;

(B) enrollment in the LEA in a nontraditional program;

(C) enrollment in a program offered by a private provider that has entered into a contract with the LEA to provide educational services; or

(D) enrollment in a program offered by another LEA.

(b) A designated student may enroll in:

(i) a program offered by the LEA under Subsection (2)(a), in accordance with this public education code, rules established by the state board, and policies established by the LEA; or

(ii) the Statewide Online Education Program, in accordance with Title 53F, Chapter 4, Part 5, Statewide Online Education Program.

(c) An LEA shall make the LEA's best effort to accommodate a designated student's choice of enrollment under Subsection (2)(b).

(3) Beginning with the 2017–18 school year and except as provided in Subsection [~~(4)~~] (5), an LEA shall [~~enter into a contract with a third party to~~] provide the dropout prevention and recovery services described in Subsection (1)(a), for any school year in which the LEA meets the following criteria:

(a) the LEA's graduation rate is lower than the statewide graduation rate; and

(b) (i) the LEA's graduation rate has not increased by at least 1% on average over the previous three school years; or

(ii) during the previous calendar year, at least 10% of the LEA's designated students have not:

(A) reached the students' attainment goals; or

(B) made a year's worth of progress toward the students' attainment goals.

(4) To provide the dropout and recovery services described in Subsection (1)(a), an LEA may:

(a) contract with a third party; or

(b) create a dropout prevention and recovery services plan.

[~~(4)~~] (5) An LEA is not subject to the requirement described in Subsection (3) if:

(a) the LEA is in the LEA's first three years of operation;

(b) the LEA's average graduation rate for the previous three years is higher than the average statewide graduation rate for the previous three years;

(c) the LEA is a special school as that term is used in 34 C.F.R. 300.115; or

(d) the quotient of the total number of an LEA's graduating students plus 10, divided by the total number of students in an LEA's graduating class, is equal to or greater than the statewide graduation rate.

[~~(5)~~] (6) [~~An~~] If an LEA described in Subsection (3) contracts with a third party, the LEA shall ensure that:

(a) a third party with whom the LEA enters into a contract under Subsection [~~(3)~~] (4) has a demonstrated record of effectiveness engaging with and recovering designated students; and

(b) a contract with a third party requires the third party to:

(i) provide the services described in Subsection (1)(a); and

(ii) regularly report progress to the LEA.

[~~(6)~~] (7) An LEA shall annually submit a report to the state board on dropout prevention and recovery services provided under this section, including:

(a) the methods the LEA or third party uses to engage with or attempt to recover designated students under Subsection (1)(a)(i);

(b) the number of designated students who enroll in a program described in Subsection (2) as a result of the efforts described in Subsection [~~(6)(a)~~] (7)(a);

(c) the number of designated students who reach the designated students' attainment goals identified under Subsection (1)(a)(ii)(B); and

(d) funding allocated to provide dropout prevention and recovery services.

[~~(7)~~] (8) The state board shall:

(a) ensure that an LEA described in Subsection (3) contracts with a third party or creates a dropout prevention and recovery services plan to provide dropout prevention and recovery services in accordance with Subsections (3) [~~and (5)~~], (4), and (6); and

(b) report on the provisions of this section in accordance with Section 53E–1–203, including a summary of the reports submitted under Subsection [~~(6)~~] (7).

CHAPTER 338
H. B. 252
Passed February 18, 2022
Approved March 24, 2022
Effective May 4, 2022

EMPLOYEE VERIFICATION REQUIREMENTS

Chief Sponsor: Joel Ferry
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends which employers are required under the Private Employer Verification Act to use the status verification system for a new hire.

Highlighted Provisions:

This bill:

- requires an employer of 150 or more employees to use the status verification system for a new hire.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-47-201 (Contingently Repealed), as last amended by Laws of Utah 2014, Chapter 189

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-47-201 (Contingently Repealed) is amended to read:

13-47-201 (Contingently Repealed). Verification required for new hires.

(1) A private employer who employs [~~15~~] 150 or more employees on or after [~~July 1, 2010~~] May 4, 2022, may not hire a new employee on or after [~~July 1, 2010~~] May 4, 2022, unless the private employer:

(a) is registered with a status verification system to verify the federal legal working status of any new employee; and

(b) uses the status verification system to verify the federal legal working status of the new employee in accordance with the requirements of the status verification system.

(2) This section does not apply to a private employer of a foreign national if the foreign national holds a visa issued in response to a petition by the private employer that is classified as H-2A or H-2B.

CHAPTER 339
H. B. 257
Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

PUBLIC PROSECUTOR MODIFICATIONS

Chief Sponsor: Kay J. Christofferson
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill modifies provisions related to prosecuting an offense in a justice court.

Highlighted Provisions:

This bill:

- modifies provisions related to when a prosecutor may prosecute an offense in a justice court; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-7-105, as last amended by Laws of Utah 2020, Chapter 317

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-7-105 is amended to read:

78A-7-105. Jurisdiction of a county justice court.

(1) (a) The territorial jurisdiction of a county justice [~~courts~~] court extends to the limits of the precinct for which the justice court is created and includes all [~~cities or towns~~] municipalities within the precinct, other than [~~cities~~] a municipality where a municipal justice court exists.

(b) [~~A~~] Subject to Subsection (1)(c), a county or district attorney may file a class B or C misdemeanor offense in a county justice court, regardless of where the act occurred, if:

(i) the same offense could have been filed as a class A misdemeanor in district court;

[~~(ii) statute provides that an attempt to commit the offense described in Subsection (1)(b)(i) is a class B or class C misdemeanor; and~~]

(ii) the county or district attorney files the offense described in Subsection (1)(b)(i) pursuant to Subsection 77-2-2.3(1)(a); and

(iii) the case was submitted to the county or district attorney's office for prosecution.

(c) A prosecutor may not file a class B or C misdemeanor offense in a county justice court if the facts support the filing of the charged offense as a felony under Section 76-3-103.

[~~(c)~~] (d) Notwithstanding Subsection (1)(a), the territorial jurisdiction of a county justice court extends to [~~the place~~] any municipality within the precinct where the act, filed as a class B or C misdemeanor under Subsection (1)(b), occurred.

(2) The territorial jurisdiction of municipal justice courts extends to the corporate limits of the municipality in which the justice court is created.

(3) Justice court judges have the same authority regarding matters within their jurisdiction as judges of courts of record.

(4) A justice court may issue all extraordinary writs and other writs as necessary to carry into effect its orders, judgments, and decrees.

(5) (a) Except as provided in this Subsection (5), a judgment rendered in a justice court does not create a lien upon any real property of the judgment debtor unless the judgment or abstract of the judgment:

(i) is recorded in the office of the county recorder of the county in which the real property of the judgment debtor is located; and

(ii) contains the information identifying the judgment debtor in the judgment or abstract of judgment as required in Subsection 78B-5-201(4)(b) or as a separate information statement of the judgment creditor as required in Subsection 78B-5-201(5).

(b) The lien runs for eight years from the date the judgment was entered in the district court under Section 78B-5-202 unless the judgment is earlier satisfied.

(c) State agencies are exempt from the recording requirement of Subsection (5)(a).

CHAPTER 340
H. B. 258

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

POLITICAL ACTION COMMITTEE AMENDMENTS

Chief Sponsor: Gay Lynn Bennion
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions relating to a political action committee.

Highlighted Provisions:

This bill:

- requires that a person against whom a fine is imposed for failure to file a statement of organization for a political action committee shall pay the fine and file the statement within seven days after the fine is imposed; and
- makes it a class B misdemeanor to fail to file a statement of organization within seven days after receiving written notice of the requirement to file the statement.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-11-601, as last amended by Laws of Utah 2020, Chapter 22

20A-11-603, as last amended by Laws of Utah 2020, Chapter 22

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-11-601 is amended to read:

20A-11-601. Political action committees -- Registration -- Name or acronym used by political action committee -- Criminal penalty for providing false information or accepting unlawful contribution.

(1) (a) A political action committee shall file an initial statement of organization with the lieutenant governor's office no later than 5 p.m. seven days after the day on which the political action committee:

(i) receives contributions totaling at least $750; or

(ii) distributes expenditures for political purposes totaling at least $750.

(b) Unless the political action committee has filed a notice of dissolution under Subsection (7), after filing an initial statement of organization, a political action committee shall file an updated statement of organization with the lieutenant governor's office each year after the year in which the political action committee files an initial statement of organization:

(i) before 5 p.m. on January 10; or

(ii) electronically, before midnight on January 10.

(c) After filing an initial statement of organization, a political action committee shall, before January 10 each year after the year in which the political action committee files an initial statement of organization, file an updated statement of organization with the lieutenant governor's office.

(2) A statement of organization described in Subsection (1) shall include:

(a) the full name of the political action committee, a second name, if any, and an acronym, if any;

(b) the address and phone number of the political action committee;

(c) the name, address, telephone number, title, and occupation of:

(i) the two officers described in Subsection (5) and the treasurer of the political action committee;

(ii) all other officers, advisory members, and governing board members of the political action committee; and

(iii) each individual or entity represented by, or affiliated with, the political action committee; and

(d) other relevant information requested by the lieutenant governor.

(3) (a) A political action committee may not use a name or acronym:

(i) other than a name or acronym disclosed in the political action committee's latest statement of organization;

(ii) that is the same, or deceptively similar to, the name or acronym of another political action committee; or

(iii) that is likely to mislead a potential donor regarding the individuals or entities represented by, or affiliated with, the political action committee.

(b) Within seven days after the day on which a political action committee files an initial statement of organization, the lieutenant governor's office shall:

(i) review the statement and determine whether a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii); and

(ii) if the lieutenant governor's office determines that a name or acronym used by the political action committee violates Subsection (3)(a)(ii) or (iii), order, in writing, that the political action committee:

(A) immediately cease and desist use of the name or acronym; and

(B) within seven days after the day of the order, file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(c) If[~~, beginning on May 14, 2019,~~] a political action committee [~~is using~~] uses a name or acronym that is the same, or deceptively similar to, the name or acronym of another political action committee, the lieutenant governor shall determine which political action committee has been using the name the longest and shall order, in writing, any other political action committee using the same, or a deceptively similar, name or acronym to:

(i) immediately cease and desist use of the name or acronym; and

(ii) within seven days after the day of the order, file an updated statement of organization with a name and acronym that does not violate Subsection (3)(a)(ii) or (iii).

(d) If a political action committee uses a name or acronym other than a name or acronym disclosed in the political action committee's latest statement of organization:

(i) the lieutenant governor shall order, in writing, that the political action committee cease and desist use of the name or acronym; and

(ii) the political action committee shall immediately comply with the order described in Subsection (3)(d)(i).

(4) (a) The lieutenant governor may, in addition to any other penalty provided by law, impose a $100 fine against a political action committee, or against an individual who forms a political action committee, that:

(i) fails to timely file a complete and accurate statement of organization or subsequent statement of organization; or

(ii) fails to comply with an order described in Subsection (3).

(b) If the lieutenant governor imposes a fine described in Subsection (4)(a)(i):

(i) the person against whom the fine is imposed shall, within seven days after the day on which the lieutenant governor imposes the fine:

(A) pay the fine; and

(B) file a complete and accurate statement, or subsequent statement, of organization, as applicable; and

(ii) the lieutenant governor shall provide written notice to the person against whom the fine is imposed:

(A) of the requirements described in Subsection (4)(b)(i); and

(B) that failure to timely comply with the requirement described in Subsection (4)(b)(i)(B) is a class B misdemeanor.

[~~(b)~~] (c) The attorney general, or a political action committee that is harmed by the action of a political action committee in violation of this section, may bring an action for an injunction against the violating political action committee, or an officer of the violating political action committee, to enforce the provisions of this section.

[~~(c)~~] (d) A political action committee may bring an action for damages against another political action committee that uses a name or acronym that is the same, or deceptively similar to, the name or acronym of the political action committee bringing the action.

(5) (a) Each political action committee shall designate two officers who have primary decision-making authority for the political action committee.

(b) An individual may not exercise primary decision-making authority for a political action committee if the individual is not designated under Subsection (5)(a).

(6) A political action committee shall deposit each contribution received in one or more separate accounts in a financial institution that are dedicated only to that purpose.

(7) (a) A registered political action committee that intends to permanently cease operations shall file a notice of dissolution with the lieutenant governor's office.

(b) A notice of dissolution filed by a political action committee does not exempt the political action committee from complying with the financial reporting requirements described in this chapter in relation to all contributions received, and all expenditures made, before, at, or after dissolution.

(c) A political action committee shall, before filing a notice of dissolution, dispose of any money remaining in an account described in Subsection [~~(1)(c)~~] (6) by:

(i) returning the money to the donors;

(ii) donating the money to the campaign account of a candidate or officeholder;

(iii) donating the money to another political action committee;

(iv) donating the money to a political party;

(v) donating the money to an organization that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; or

(vi) making another lawful expenditure of the money for a political purpose.

(d) A political action committee shall report all money donated or expended [~~under Subsection (4)(c)~~] in a financial report to the lieutenant governor, in accordance with the financial reporting requirements described in this chapter.

(8) (a) Unless the political action committee has filed a notice of dissolution under Subsection (7), a political action committee shall file, with the lieutenant governor's office, notice of any change of an officer described in Subsection (5)(a).

(b) A political action committee may not accept a contribution from a political issues committee, but may donate money to a political issues committee.

(c) A political action committee shall:

(i) file a notice of a change of a primary officer described in Subsection (5)(a) before 5 p.m. within

10 days after the day on which the change occurs; and

(ii) include in the notice of change the name and title of the officer being replaced, and the name, address, occupation, and title of the new officer.

(9) (a) A person is guilty of providing false information in relation to a political action committee if the person intentionally or knowingly gives false or misleading material information in a statement of organization or the notice of change of primary officer.

(b) Each primary officer designated in Subsection (5)(a) or (8)(c) is guilty of accepting an unlawful contribution if the political action committee knowingly or recklessly accepts a contribution from a corporation that:

(i) was organized less than 90 days before the date of the general election; and

(ii) at the time the political action committee accepts the contribution, has failed to file a statement of organization with the lieutenant governor's office as required by Section 20A-11-704.

(c) A violation of this Subsection (9) is a third degree felony.

Section 2. Section 20A-11-603 is amended to read:

20A-11-603. Criminal penalties -- Fines.

(1) (a) As used in this Subsection (1), "completed" means that:

(i) the financial statement accurately and completely details the information required by this part except for inadvertent omissions or insignificant errors or inaccuracies; and

(ii) the political action committee corrects the omissions, errors, or inaccuracies described in Subsection (1)(a) in an amended report or the next scheduled report.

(b) Each political action committee that fails to file a completed financial statement before the deadline is subject to a fine imposed in accordance with Section 20A-11-1005.

(c) Each political action committee that fails to file a completed financial statement described in Subsections 20A-11-602(1)(a)(iv) through (vi) is guilty of a class B misdemeanor.

(d) The lieutenant governor shall report all violations of Subsection (1)(c) to the attorney general.

(2) Within 60 days after a deadline for the filing of the January 10 statement required by this part, the lieutenant governor shall review each filed statement to ensure that:

(a) each political action committee that is required to file a statement has filed one; and

(b) each statement contains the information required by this part.

(3) If it appears that any political action committee has failed to file the January 10 statement, if it appears that a filed statement does not conform to the law, or if the lieutenant governor has received a written complaint alleging a violation of the law or the falsity of any statement, the lieutenant governor shall, within five days after the day on which the lieutenant governor discovers the violation or receives the written complaint, notify the political action committee of the violation or written complaint and direct the political action committee to file a statement correcting the problem.

(4) (a) It is unlawful for any political action committee to fail to file or amend a statement within seven days after the day on which the political action committee receives notice from the lieutenant governor under this section.

(b) Each political action committee that violates Subsection (4)(a) is guilty of a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (4)(a) to the attorney general.

(d) In addition to the criminal penalty described in Subsection (4)(b), the lieutenant governor shall impose a civil fine of $1,000 against a political action committee that violates Subsection (4)(a).

(5) (a) It is unlawful for a person to fail to file a complete and accurate statement of organization, or a complete and accurate subsequent statement of organization, within seven days after the day on which the person receives the notice described in Subsection 20A-11-601(4)(b)(ii).

(b) A violation of Subsection (5)(a) is a class B misdemeanor.

(c) The lieutenant governor shall report all violations of Subsection (5)(a) to the attorney general.

CHAPTER 341
H. B. 261

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

CIVIL COMMITMENT REVISIONS

Chief Sponsor: Phil Lyman
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions related to temporary civil commitment.

Highlighted Provisions:

This bill:

- includes a physician assistant and nurse practitioner on the list of individuals who may evaluate, or make travel arrangements for, an individual to be temporarily civilly committed; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-629, as last amended by Laws of Utah 2020, Chapter 225

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-15-629 is amended to read:

62A-15-629. Temporary commitment -- Requirements and procedures.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner stating that the physician, physician assistant, nurse practitioner, or designated examiner has examined the adult within a three-day period immediately preceding that certification, and that the physician, physician assistant, nurse practitioner, or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.

(3) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

(a) as described in Section 62A-15-631, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 62A-15-631(4); or

(b) the patient makes a voluntary application for admission.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, physician assistant, nurse practitioner, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the individual to be committed is present, if the individual is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the individual is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 26-8a-102.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section. This section does not create a special duty of care.

CHAPTER 342
H. B. 264

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

MUNICIPAL ALTERNATE VOTING METHODS AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions relating to the Municipal Alternate Voting Methods Pilot Project.

Highlighted Provisions:

This bill:

- defines terms;
- replaces references to the “canvassing phase” with the term “ballot-counting phase”;
- modifies provisions for determining a voter’s intent on an instant runoff voting ballot;
- modifies provisions for determining when a vote is valid in an instant runoff race;
- modifies and clarifies recount procedures and requirements;
- permits a canvassing deadline extension, when necessary, to conduct a recount; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-4-101, as last amended by Laws of Utah 2020, Chapter 31
20A-4-102, as last amended by Laws of Utah 2020, Chapters 31 and 49
20A-4-304, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-4-601, as enacted by Laws of Utah 2018, Chapter 187
20A-4-603, as last amended by Laws of Utah 2019, Chapter 305
20A-4-604, as enacted by Laws of Utah 2018, Chapter 187

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-4-101 is amended to read:

20A-4-101. Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election before polls close.

(1) Each county legislative body, municipal legislative body, and each poll worker shall comply with the requirements of this section when counting manual ballots on the day of an election, if:

(a) the ballots are cast at a polling place; and

(b) the ballots are counted at the polling place before the polls close.

(2) (a) Each county legislative body or municipal legislative body shall provide:

(i) two sets of ballot boxes for all voting precincts where both receiving and counting judges have been appointed; and

(ii) a counting room for the use of the poll workers counting the ballots during the day.

(b) At any election in any voting precinct in which both receiving and counting judges have been appointed, when at least 20 votes have been cast, the receiving judges shall:

(i) close the first ballot box and deliver it to the counting judges; and

(ii) prepare and use another ballot box to receive voted ballots.

(c) Except as provided in Subsection (2)(f), upon receipt of the ballot box, the counting judges shall:

(i) take the ballot box to the counting room;

(ii) count the votes on the regular ballots in the ballot box;

(iii) place the provisional ballot envelopes in the envelope or container provided for them for return to the election officer; and

(iv) when they have finished counting the votes in the ballot box, return the emptied box to the receiving judges.

(d) (i) During the course of election day, whenever there are at least 20 ballots contained in a ballot box, the receiving judges shall deliver that ballot box to the counting judges for counting; and

(ii) the counting judges shall immediately count the regular ballots and segregate the provisional ballots contained in that box.

(e) The counting judges shall continue to exchange the ballot boxes and count ballots until the polls close.

(f) (i) The director of elections within the Office of the Lieutenant Governor shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, describing the procedures that a counting judge is required to follow for counting ballots in an instant runoff voting race under [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project.

(ii) When counting ballots in an instant runoff voting race described in [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project, a counting judge shall comply with the procedures established under Subsection (2)(f)(i) and [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project.

(3) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(a) to the extent applicable, Section 20A-4-105; and

(b) as applicable, for an instant runoff voting race under [~~Title 20A, Chapter 4,~~] Part 6, Municipal Alternate Voting Methods Pilot Project, [~~Subsection 20A-4-603(3)~~] Subsections 20A-4-603(3) through (5).

Section 2. Section 20A-4-102 is amended to read:

20A-4-102. Manual ballots cast at a polling place -- Counting manual ballots at polling place on day of election after polls close.

(1) (a) This section governs counting manual ballots on the day of an election, if:

(i) the ballots are cast at a polling place; and

(ii) the ballots are counted at the polling place after the polls close.

(b) Except as provided in Subsection (2) or a rule made under Subsection 20A-4-101(2)(f)(i), as soon as the polls have been closed and the last qualified voter has voted, the election judges shall count the ballots by performing the tasks specified in this section in the order that they are specified.

(c) To resolve questions that arise during the counting of ballots, a counting judge shall apply the standards and requirements of:

(i) to the extent applicable, Section 20A-4-105; and

(ii) as applicable, for an instant runoff voting race under Part 6, Municipal Alternate Voting Methods Pilot Project,[~~Subsection 20A-4-603(3)~~] Subsections 20A-4-603(3) through (5).

(2) (a) First, the election judges shall count the number of ballots in the ballot box.

(b) (i) If there are more ballots in the ballot box than there are names entered in the pollbook, the judges shall examine the official endorsements on the ballots.

(ii) If, in the unanimous opinion of the judges, any of the ballots do not bear the proper official endorsement, the judges shall put those ballots in an excess ballot file and not count them.

(c) (i) If, after examining the official endorsements, there are still more ballots in the ballot box than there are names entered in the pollbook, the judges shall place the remaining ballots back in the ballot box.

(ii) One of the judges, without looking, shall draw a number of ballots equal to the excess from the ballot box.

(iii) The judges shall put those excess ballots into the excess ballot envelope and not count them.

(d) When the ballots in the ballot box equal the number of names entered in the pollbook, the judges shall count the votes.

(3) The judges shall:

(a) place all unused ballots in the envelope or container provided for return to the county clerk or city recorder; and

(b) seal that envelope or container.

(4) The judges shall:

(a) place all of the provisional ballot envelopes in the envelope provided for them for return to the election officer; and

(b) seal that envelope or container.

(5) (a) In counting the votes, the election judges shall read and count each ballot separately.

(b) In regular primary elections the judges shall:

(i) count the number of ballots cast for each party;

(ii) place the ballots cast for each party in separate piles; and

(iii) count all the ballots for one party before beginning to count the ballots cast for other parties.

(6) (a) In all elections, the counting judges shall, except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, or a rule made under Subsection 20A-4-101(2)(f)(i):

(i) count one vote for each candidate designated by the marks in the squares next to the candidate's name;

(ii) count each vote for each write-in candidate who has qualified by filing a declaration of candidacy under Section 20A-9-601;

(iii) read every name marked on the ballot and mark every name upon the tally sheets before another ballot is counted;

(iv) evaluate each ballot and each vote based on the standards and requirements of Section 20A-4-105;

(v) write the word "spoiled" on the back of each ballot that lacks the official endorsement and deposit it in the spoiled ballot envelope; and

(vi) read, count, and record upon the tally sheets the votes that each candidate and ballot proposition received from all ballots, except excess or spoiled ballots.

(b) Election judges need not tally write-in votes for fictitious persons, nonpersons, or persons clearly not eligible to qualify for office.

(c) The judges shall certify to the accuracy and completeness of the tally list in the space provided on the tally list.

(d) When the judges have counted all of the voted ballots, they shall record the results on the total votes cast form.

(7) Only an election judge and a watcher may be present at the place where counting is conducted until the count is completed.

Section 3. Section 20A-4-304 is amended to read:

20A-4-304. Declaration of results -- Canvassers' report.

(1) Each board of canvassers shall:

(a) except as provided in Part 6, Municipal Alternate Voting Methods Pilot Project, declare "elected" or "nominated" those persons who:

(i) had the highest number of votes; and

(ii) sought election or nomination to an office completely within the board's jurisdiction;

(b) declare:

(i) "approved" those ballot propositions that:

(A) had more "yes" votes than "no" votes; and

(B) were submitted only to the voters within the board's jurisdiction; or

(ii) "rejected" those ballot propositions that:

(A) had more "no" votes than "yes" votes or an equal number of "no" votes and "yes" votes; and

(B) were submitted only to the voters within the board's jurisdiction;

(c) certify the vote totals for persons and for and against ballot propositions that were submitted to voters within and beyond the board's jurisdiction and transmit those vote totals to the lieutenant governor; and

(d) if applicable, certify the results of each local district election to the local district clerk.

(2) As soon as the result is declared, the election officer shall prepare a report of the result, which shall contain:

(a) the total number of votes cast in the board's jurisdiction;

(b) the names of each candidate whose name appeared on the ballot;

(c) the title of each ballot proposition that appeared on the ballot;

(d) each office that appeared on the ballot;

(e) from each voting precinct:

(i) the number of votes for each candidate;

(ii) for each race conducted by instant runoff voting under Part 6, Municipal Alternate Voting Methods Pilot Project, the number of valid votes cast for each candidate for each potential ballot-counting phase and the name of the candidate excluded in each [~~canvassing~~] ballot-counting phase; and

(iii) the number of votes for and against each ballot proposition;

(f) the total number of votes given in the board's jurisdiction to each candidate, and for and against each ballot proposition;

(g) the number of ballots that were rejected; and

(h) a statement certifying that the information contained in the report is accurate.

(3) The election officer and the board of canvassers shall:

(a) review the report to ensure that it is correct; and

(b) sign the report.

(4) The election officer shall:

(a) record or file the certified report in a book kept for that purpose;

(b) prepare and transmit a certificate of nomination or election under the officer's seal to each nominated or elected candidate;

(c) publish a copy of the certified report in accordance with Subsection (5); and

(d) file a copy of the certified report with the lieutenant governor.

(5) Except as provided in Subsection (6), the election officer shall, no later than seven days after the day on which the board of canvassers declares the election results, publicize the certified report described in Subsection (2):

(a) (i) by publishing notice at least once in a newspaper of general circulation within the jurisdiction;

(ii) by posting one notice, and at least one additional notice per 2,000 population of the jurisdiction, in places within the jurisdiction that are most likely to give notice to the residents of the jurisdiction, subject to a maximum of 10 notices; or

(iii) by mailing notice to each residence within the jurisdiction;

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for one week; and

(c) if the jurisdiction has a website, by posting notice on the jurisdiction's website for one week.

(6) Instead of including a copy of the entire certified report, a notice required under Subsection (5) may contain a statement that:

(a) includes the following: "The Board of Canvassers for [indicate name of jurisdiction] has prepared a report of the election results for the [indicate type and date of election]."; and

(b) specifies the following sources where an individual may view or obtain a copy of the entire certified report:

(i) if the jurisdiction has a website, the jurisdiction's website;

(ii) the physical address for the jurisdiction; and

(iii) a mailing address and telephone number.

(7) When there has been a regular general or a statewide special election for statewide officers, for officers that appear on the ballot in more than one county, or for a statewide or two or more county ballot proposition, each board of canvassers shall:

(a) prepare a separate report detailing the number of votes for each candidate and the number of votes for and against each ballot proposition; and

(b) transmit the separate report by registered mail to the lieutenant governor.

(8) In each county election, municipal election, school election, local district election, and local special election, the election officer shall transmit the reports to the lieutenant governor within 14 days after the date of the election.

(9) In a regular primary election and in a presidential primary election, the board shall transmit to the lieutenant governor:

(a) the county totals for multi-county races, to be telephoned or faxed to the lieutenant governor not later than the second Tuesday after the election; and

(b) a complete tabulation showing voting totals for all primary races, precinct by precinct, to be mailed to the lieutenant governor on or before the third Friday following the primary election.

Section 4. Section 20A-4-601 is amended to read:

20A-4-601. Definitions.

As used in this part:

(1) "Candidate amplifier" means the product of:

(a) two less than the total number of candidates in a given [~~canvassing~~] ballot-counting phase of a multi-candidate race; and

(b) .02%.

(2) "First preference ranking" means the candidate selected as the candidate most preferred by a voter, as indicated by:

(a) the number one; or

(b) if the voter does not assign the number one to any candidate, the number two.

[~~(2)~~] (3) "Multi-candidate race" means a nonpartisan municipal race where:

(a) for the election of at-large officers, the number of candidates who qualify for the race exceeds the total number of seats to be filled; or

(b) for the election of an officer other than an at-large officer, more than two candidates qualify to run for one office.

[~~(3)~~] (4) "Participating municipality" means a municipality that is participating in the pilot project, in accordance with Subsection 20A-4-602(3).

[~~(4)~~] (5) "Pilot project" means the Municipal Alternate Voting Methods Pilot Project created in Section 20A-4-602.

[~~(5)~~] (6) "Recount threshold" means the sum of the candidate amplifier and the following:

(a) for a [~~canvassing~~] ballot-counting phase in which fewer than 100 valid [~~votes~~] rankings are counted, 0.21%;

(b) for a [~~canvassing~~] ballot-counting phase in which at least 100, but fewer than 500, valid [~~votes~~] rankings are counted, 0.19%;

(c) for a [~~canvassing~~] ballot-counting phase in which at least 500, but fewer than 1,000, valid [~~votes~~] rankings are counted, 0.17%;

(d) for a [~~canvassing~~] ballot-counting phase in which at least 1,000, but fewer than 5,000, valid [~~votes~~] rankings are counted, 0.15%;

(e) for a [~~canvassing~~] ballot-counting phase in which at least 5,000, but fewer than 10,000, valid [~~votes~~] rankings are counted, 0.13%; and

(f) for a [~~canvassing~~] ballot-counting phase in which 10,000 or more valid [~~votes~~] rankings are counted, 0.11%.

[~~(6)~~] (7) "Valid" means that the ballot is marked in a manner that permits the [~~vote~~] ranking to be counted during the applicable ballot-counting phase.

Section 5. Section 20A-4-603 is amended to read:

20A-4-603. Instant runoff voting.

(1) In a multi-candidate race, the election officer for a participating municipality shall:

(a) (i) conduct the first ballot-counting phase by counting the valid first preference [~~votes~~] rankings for each candidate; and

(ii) if[~~, after complying with Subsection (5),~~] one of the candidates receives more than 50% of the valid first preference [~~votes~~] rankings counted, declare that candidate elected;

(b) if, after counting the valid first preference [~~votes~~] rankings for each candidate, [~~and complying with Subsection (5),~~] no candidate receives more than 50% of the valid first preference [~~votes~~] rankings counted, conduct the second ballot-counting phase by:

(i) excluding from the multi-candidate race:

(A) the candidate who received the fewest valid first preference [~~votes~~] rankings counted; or

(B) in the event of a tie for the fewest valid first preference [~~votes~~] rankings counted, one of the tied candidates, determined by the [~~tied~~] election officer by lot, in accordance with Subsection (6);

(ii) adding, to the valid first preference [~~votes~~] rankings counted for the remaining candidates, the next valid [~~second~~] preference [~~votes~~] rankings cast for the remaining candidates by the voters who cast a valid first preference [~~vote~~] ranking for the excluded candidate; and

(iii) if, after adding the [~~votes~~] rankings in accordance with Subsection (1)(b)(ii) [~~and complying with Subsection (5)~~], one candidate receives more than 50% of the valid [~~votes~~] rankings counted, declaring that candidate elected; and

(c) if, after adding the next valid [~~second~~] preference [~~votes~~] rankings in accordance with Subsection (1)(b)(ii) [~~and complying with Subsection (5)~~], no candidate receives more than 50% of the valid [~~votes~~] rankings counted, conduct subsequent ballot-counting phases by continuing the process described in Subsection (1)(b) until a candidate receives more than 50% of the valid [~~votes~~] rankings counted, as follows:

(i) [~~after complying with Subsection (5),~~] excluding from consideration the candidate who has the fewest valid [~~votes~~] rankings counted or, in the event of a tie for the fewest valid [~~votes~~] rankings counted, excluding one of the tied candidates, by lot, in accordance with Subsection (6); and

(ii) adding the next valid preference [~~vote~~] ranking cast by each voter whose [~~vote~~] ranking was counted for the last excluded candidate to one of the remaining candidates, in the order of the next preference indicated by the voter.

(2) The election officer shall declare elected the first candidate who receives more than 50% of the valid [~~votes~~] rankings counted under the process described in Subsection (1).

(3) [~~(a)~~] A [~~vote~~] ranking is valid for a particular ballot-counting phase of a multi-candidate race [~~only~~] if:

(a) the voter indicates the voter's preference for that ballot-counting phase and all previous ballot-counting phases[~~.~~]; or

(b) in the event that the voter skips a number in filling out the rankings on a ballot:

(i) the voter clearly indicates an order of preference for the candidates;

(ii) the voter does not skip two or more consecutive numbers at any point before the preference ranking that would otherwise be counted for the current ballot-counting phase;

(iii) the candidate next preferred by the voter is clearly indicated by a subsequent number that most closely follows the number assigned by the voter for the previously-ranked candidate; and

(iv) the voter did not give the same rank to more than one candidate for the applicable ballot-counting phase or a previous ballot-counting phase.

[~~(b)~~] (4) A [~~vote~~] ranking is not valid for a particular ballot-counting phase of a multi-candidate race, and for all subsequent ballot-counting phases, if:

(a) the voter indicates the same rank for more than one candidate for that ballot-counting phase[~~.~~]; or

[~~(4) The election officer shall order a recount of the valid votes in the applicable ballot-counting phase if one candidate appears to have received at least 50% of the vote, and the difference between the number of votes counted for the candidate who received the most valid votes for the applicable ballot-counting phase and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:~~]

[~~(a) the total number of voters who cast a valid vote that is counted in the applicable ballot-counting phase of the race; and~~]

[~~(b) the recount threshold. (5) Before excluding a candidate from a multi-candidate race under Subsection (1), the election officer shall order a recount of the valid votes counted in the applicable ballot-counting phase if the difference between the number of votes counted for the candidate who received the fewest valid votes in the applicable ballot-counting phase of the race and any other candidate in the race is equal to or less than the product of the following, rounded up to the nearest whole number:~~]

[~~(a) the total number of voters who cast a valid vote counted in that ballot-counting phase; and~~]

[~~(b) the recount threshold.~~]

(b) the voter skips two or more consecutive numbers before ranking another candidate.

(5) If, for a ballot-counting phase, a voter ranks a candidate who has withdrawn from the race, the next-ranked candidate who has not withdrawn from the race will be counted for that ballot-counting phase.

(6) For each ballot-counting phase after the first phase, if[~~, after a recount is completed under Subsection (5),~~] two or more candidates tie as having received the fewest valid [~~votes~~] rankings counted at that point in the ballot count, the election officer shall eliminate one of those candidates from consideration, by lot, in the following manner:

(a) determine the names of the candidates who tie as having received the fewest valid [~~votes~~] rankings for that ballot-counting phase;

(b) cast the lot in the presence of at least two election officials and any counting poll watchers who are present and desire to witness the casting of the lot; and

(c) sign a public document that:

(i) certifies the method used for casting the lot and the result of the lot; and

(ii) includes the name of each individual who witnessed the casting of the lot.

(7) In a multi-candidate race for an at-large office, where the number of candidates who qualify for the race exceeds the total number of at-large seats to be filled for the office, the election officer shall count the [~~votes~~] rankings by:

(a) except as provided in Subsection (8), counting [~~votes~~] rankings in the same manner as described in Subsections (1) through (6), until a candidate is declared elected;

(b) repeating the process described in Subsection (7)(a) for all candidates that are not declared elected until another candidate is declared elected; and

(c) continuing the process described in Subsection (7)(b) until all at-large seats in the race are filled.

(8) After a candidate is declared elected under Subsection (7), the election officer shall, in repeating the process described in Subsections (1) through (6) to declare the next candidate elected, add to the [~~vote~~] ranking totals the next valid preference vote of each voter whose [~~vote~~] ranking was counted for a candidate already declared elected.

(9) An election officer for a participating municipality may choose to conduct a primary election by using instant runoff voting in the manner described in Subsections (1) through (6), except that:

(a) instead of determining whether a candidate receives more than 50% of the valid preference [~~votes~~] rankings for a particular ballot-counting phase, the election officer shall proceed to a subsequent ballot-counting stage, and exclude the candidate who receives the fewest valid preference [~~votes~~] rankings in that phase, until twice the number of seats to be filled in the race remain; and

(b) after complying with Subsection (9)(a), the election officer shall declare the remaining candidates nominated to participate in the municipal general election.

(10) After completing all ballot-counting phases in a multi-candidate race, the election officer shall order a full recount of the ballots cast for that race if, in one or more of the ballot-counting phases:

(a) the difference between the number of rankings counted for a candidate who is declared elected and the number of rankings counted for any other candidate in the same ballot-counting phase is equal to or less than the product of the following, rounded up to the nearest whole number:

(i) the total number of voters who cast a valid ranking counted in that ballot-counting phase; and

(ii) the recount threshold; or

(b) the difference between the number of rankings counted for the candidate who received the fewest valid rankings in a ballot-counting phase and the number of rankings counted for any other candidate in the same ballot-counting phase is equal to or less than the product of the following, rounded up to the nearest whole number:

(i) the total number of voters who cast a valid ranking counted in that ballot-counting phase; and

(ii) the recount threshold.

(11) A recount described in Subsection (10):

(a) requires rescanning and tabulating all valid ballots; and

(b) provides for only one recount.

(12) Notwithstanding Section 20A-4-301, a board of municipal canvassers may extend the canvass deadline by up to seven additional days, if necessary, to conduct a recount required under Subsection (10).

Section 6. Section 20A-4-604 is amended to read:

20A-4-604. Batch elimination.

[~~(1)~~] In any ballot count conducted under Section 20A-4-603, the election officer may exclude candidates through batch elimination by, instead of excluding only one candidate in a ballot-counting phase, excluding each candidate:

[~~(a)~~] (1) for which the number of remaining candidates with more valid [~~votes~~] rankings than that candidate is greater than or equal to the number of offices to be filled; and

[~~(b) (i)~~] (2) (a) for which the number of valid [~~votes~~] rankings counted for the candidate in the ballot-counting phase plus the number of [~~votes counting~~] rankings counted for all candidates with fewer valid [~~votes~~] rankings in the ballot-counting phase is less than the number of valid [~~votes~~] rankings for the candidate with the next highest amount of valid [~~votes~~] rankings in the ballot-counting phase; or

[~~(ii)~~] (b) who has fewer valid [~~votes~~] rankings in the ballot-counting phase than a candidate who is excluded under Subsection [~~(1)(b)(i)~~] (2)(a).

[~~(2) The requirements for a recount before excluding a candidate under Subsection 20A-4-603(5) do not apply to candidates who are excluded through batch elimination.~~]

CHAPTER 343
H. B. 270

Passed February 24, 2022
Approved March 24, 2022
Effective January 1, 2023

PARENT ACCESS TO SCHOOL DATA COMPARISON

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill requires the Utah State Board of Education to provide an online school comparison tool to facilitate parent access to compare public school performance.

Highlighted Provisions:

This bill:

- requires the Utah State Board of Education to provide an online school comparison tool to facilitate parent access to compare public school performance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-6-805, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-805 is enacted to read:

53G-6-805. Parental right to school comparison.

(1) Parents have the right to compare public school performance in a given area.

(2) The state board shall provide an online tool that allows parents to:

(a) search for public schools within a given radius of a specific location or within the boundaries of a public school district; and

(b) view a side-by-side comparison of data related to the public schools in the area described in Subsection (2)(a), including the indicators required in Subsection 53E-5-211(1).

Section 2. Effective date.

This bill takes effect on January 1, 2023.

CHAPTER 344
H. B. 276

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

JOINT TENANCY PRESUMPTION AMENDMENTS

Chief Sponsor: Calvin R. Musselman
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill clarifies a provision related to a joint tenancy interest presumption.

Highlighted Provisions:

This bill:

- clarifies that a joint tenancy interest presumption exists between two persons designated as spouses in the granting documents.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-5, as last amended by Laws of Utah 2011, Chapter 88

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-1-5 is amended to read:

57-1-5. Creation of joint tenancy presumed -- Tenancy in common -- Severance of joint tenancy -- Tenants by the entirety -- Tenants holding as community property.

(1) (a) (i) (A) Beginning on May 5, 1997 and ending on May 3, 2022, [~~every~~] an ownership interest in real estate granted to two persons in their own right who are designated as husband and wife in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(B) Beginning on May 4, 2022, an ownership interest in real estate granted to two persons in their own right who are designated as spouses in the granting documents is presumed to be a joint tenancy interest with rights of survivorship, unless severed, converted, or expressly declared in the grant to be otherwise.

(ii) Except as provided in Subsection (1)(a)(iii), joint tenancy may be established between two or more people.

(iii) Joint tenancy may not be established between a person and an entity or organization, including:

(A) a corporation;

(B) a trustee of a trust; or

(C) a partnership.

(iv) Joint tenancy may not be established between an entity or organization and another entity or organization.

(b) [~~Every~~] An ownership interest in real estate that does not qualify for the joint tenancy presumption as provided in Subsection (1)(a) is presumed to be a tenancy in common interest unless expressly declared in the grant to be otherwise.

(2) (a) Use of words "joint tenancy" or "with rights of survivorship" or "and to the survivor of them" or words of similar import means a joint tenancy.

(b) (i) Use of words "tenancy in common" or "with no rights of survivorship" or "undivided interest" or words of similar import declare a tenancy in common.

(ii) Use of words "and/or" in the context of an ownership interest declare a tenancy in common unless accompanied by joint tenancy language described in Subsection (2)(a), which creates a joint tenancy.

(3) A person who owns real property creates a joint tenancy in himself or herself and another or others:

(a) by making a transfer to himself or herself and another or others as joint tenants by use of the words as provided in Subsection (2)(a); or

(b) by conveying to another person or persons an interest in land in which an interest is retained by the grantor and by declaring the creation of a joint tenancy by use of the words as provided in Subsection (2)(a).

(4) In all cases, the interest of joint tenants shall be equal and undivided.

(5) (a) Except as provided in Subsection (5)(b), if a joint tenant makes a bona fide conveyance of the joint tenant's interest in property held in joint tenancy to himself or herself or another, the joint tenancy is severed and converted into a tenancy in common.

(b) If there is more than one joint tenant remaining after a joint tenant severs a joint tenancy under Subsection (5)(a), the remaining joint tenants continue to hold their interest in joint tenancy.

(6) The amendments to this section in Laws of Utah 1997, Chapter 124, have no retrospective operation and shall govern instruments executed and recorded on or after May 5, 1997.

(7) Tenants by the entirety are considered to be joint tenants.

(8) Tenants holding title as community property are considered to be joint tenants.

CHAPTER 345
H. B. 283

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

MENTAL HEALTH PROFESSIONAL LICENSING AMENDMENTS

Chief Sponsor: Norman K. Thurston
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends the Mental Health Professional Practice Act.

Highlighted Provisions:

This bill:

- reduces the number of clinical hours required for licensure as:
  - a social worker;
  - a marriage and family therapist; or
  - a clinical mental health counselor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-205, as last amended by Laws of Utah 2020, Chapter 339
58-60-305, as last amended by Laws of Utah 2020, Chapter 339
58-60-405, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) have completed a minimum of [~~4,000~~] 3,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the [~~4,000~~] 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii);

(f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; and

(g) pass the examination requirement established by rule under Section 58-1-203.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

(d) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), and (c).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(d) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii).

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

(d) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 2. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(d) have completed a minimum of [~~4,000~~] 3,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(c)(i) or (1)(c)(ii), which training may be included as part of the [~~4,000~~] 3,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 3. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)[~~(d)~~](c)(i);

(d) have completed a minimum of [~~4,000~~] 3,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the [~~4,000~~] 3,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

(3) [~~(a)~~] Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

[~~(i)~~] (a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

[~~(ii)~~] (b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

[~~(iii)~~] (c) that the applicant received a passing score that is valid and in good standing on:

[~~(A)~~] (i) the National Counselor Examination; and

[~~(B)~~] (ii) the National Clinical Mental Health Counseling Examination.

[~~(b) During the 2021 interim, the division shall report to the Occupational and Professional Licensure Review Committee created in Section 36-23-102 on:~~]

[~~(i) the number of applicants who applied for licensure under this Subsection (3);~~]

[~~(ii) the number of applicants who were approved for licensure under this Subsection (3);~~]

[~~(iii) any changes to division rule after May 12, 2020, regarding the qualifications for licensure under this section; and~~]

[~~(iv) recommendations for legislation or other action that the division considers necessary to carry out the provisions of this Subsection (3).~~]

CHAPTER 346
H. B. 287

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

VOLUNTEER GOVERNMENT WORKERS AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions of the Volunteer Government Workers Act.

Highlighted Provisions:

This bill:

- defines terms;
- amends the definition of a volunteer to describe the education expenses, stipends, and items that may be provided to a volunteer; and
- modifies a provision relating to the approval of a volunteer.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-3-113, as enacted by Laws of Utah 2015, Chapter 433

63G-7-102, as last amended by Laws of Utah 2019, Chapter 280

67-20-2, as last amended by Laws of Utah 2013, Chapter 249

67-20-3, as last amended by Laws of Utah 2013, Chapter 249

67-20-4, as last amended by Laws of Utah 2014, Chapter 148

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-3-113 is amended to read:

34A-3-113. Presumption of workers' compensation benefits for firefighters.

(1) As used in this section:

(a) (i) "Firefighter" means a member, including a volunteer member, as described in Subsection 67-20-2[~~(5)~~](7)(b)(ii), or a member paid on call, of a fire department or other organization that provides fire suppression and other fire-related service who is responsible for or is in a capacity that includes responsibility for the extinguishment of fires.

(ii) "Firefighter" does not include a person whose job description, duties, or responsibilities do not include direct involvement in fire suppression.

(b) "Presumptive cancer" means one or more of the following cancers:

(i) pharynx;

(ii) esophagus;

(iii) lung; and

(iv) mesothelioma.

(2) If a firefighter who contracts a presumptive cancer meets the requirements of Subsection (3), there is a rebuttable presumption that:

(a) the presumptive cancer was contracted arising out of and in the course of employment; and

(b) the presumptive cancer was not contracted by a willful act of the firefighter.

(3) To be entitled to the rebuttable presumption described in Subsection (2):

(a) during the time of employment as a firefighter, the firefighter undergoes annual physical examinations;

(b) the firefighter shall have been employed as a firefighter for eight years or more and regularly responded to firefighting or emergency calls within the eight-year period; and

(c) if a firefighter has used tobacco, the firefighter provides documentation from a physician that indicates that the firefighter has not used tobacco for the eight years preceding reporting the presumptive cancer to the employer or division.

(4) A presumption established under this section may be rebutted by a preponderance of the evidence.

(5) If a firefighter who contracts a presumptive cancer is employed as a firefighter by more than one employer and qualifies for the presumption under Subsection (2), and that presumption has not been rebutted, the employer and insurer at the time of the last substantial exposure to risk of the presumptive cancer are liable under this chapter pursuant to Section 34A-3-105.

(6) A cause of action subject to the presumption under this section is considered to arise on the date after May 12, 2015, that the employee:

(a) suffers disability from the occupational disease;

(b) knows, or in the exercise of reasonable diligence should have known, that the occupational disease is caused by employment; and

(c) files a claim as provided in Section 34A-3-108.

Section 2. Section 63G-7-102 is amended to read:

63G-7-102. Definitions.

As used in this chapter:

(1) "Arises out of or in connection with, or results from," when used to describe the relationship between conduct or a condition and an injury, means that:

(a) there is some causal relationship between the conduct or condition and the injury;

(b) the causal relationship is more than any causal connection but less than proximate cause; and

(c) the causal relationship is sufficient to conclude that the injury originates with, flows from, or is incident to the conduct or condition.

(2) "Claim" means any asserted demand for or cause of action for money or damages, whether arising under the common law, under state constitutional provisions, or under state statutes, against a governmental entity or against an employee in the employee's personal capacity.

(3) (a) "Employee" includes:

(i) a governmental entity's officers, employees, servants, trustees, or commissioners;

(ii) [~~members~~] a member of a governing body;

(iii) [~~members~~] a member of a government entity board;

(iv) [~~members~~] a member of a government entity commission;

(v) members of an advisory body, officers, and employees of a Children's Justice Center created in accordance with Section 67-5b-102;

(vi) a student [~~teachers~~] holding a license issued by the State Board of Education;

(vii) an educational [~~aides~~] aide;

(viii) [~~students~~] a student engaged in [~~internships~~] an internship under Section 53B-16-402 or 53G-7-902;

[~~(ix) volunteers as defined by Subsection 67-20-2(3); and~~]

[~~(x) tutors.~~]

(ix) a volunteer, as defined in Section 67-20-2; and

(x) a tutor.

(b) "Employee" includes all of the positions identified in Subsection (3)(a), whether or not the individual holding that position receives compensation.

(c) "Employee" does not include an independent contractor.

(4) "Governmental entity" means:

(a) the state and its political subdivisions; and

(b) a law enforcement agency, as defined in Section 53-1-102, that employs one or more law enforcement officers, as defined in Section 53-13-103.

(5) (a) "Governmental function" means each activity, undertaking, or operation of a governmental entity.

(b) "Governmental function" includes each activity, undertaking, or operation performed by a department, agency, employee, agent, or officer of a governmental entity.

(c) "Governmental function" includes a governmental entity's failure to act.

(6) "Injury" means death, injury to a person, damage to or loss of property, or any other injury that a person may suffer to the person or estate, that would be actionable if inflicted by a private person or the private person's agent.

(7) "Personal injury" means an injury of any kind other than property damage.

(8) "Political subdivision" means any county, city, town, school district, community reinvestment agency, special improvement or taxing district, local district, special service district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation.

(9) "Property damage" means injury to, or loss of, any right, title, estate, or interest in real or personal property.

(10) "State" means the state of Utah, and includes each office, department, division, agency, authority, commission, board, institution, hospital, college, university, Children's Justice Center, or other instrumentality of the state.

(11) "Willful misconduct" means the intentional doing of a wrongful act, or the wrongful failure to act, without just cause or excuse, where the actor is aware that the actor's conduct will probably result in injury.

Section 3. Section 67-20-2 is amended to read:

67-20-2. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;

(b) a county, city, town, school district, or special improvement or taxing district; or

(c) any other political subdivision.

(2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:

(a) incarceration;

(b) plea;

(c) sentence;

(d) diversion;

(e) probation; or

(f) parole.

(3) "Emergency medical service volunteer" means an individual who:

(a) provides services as a volunteer under the supervision of a supervising agency or government officer; and

(b) at the time the individual provides the services described in Subsection (3)(a), is:

(i) an emergency medical technician volunteer, a paramedic volunteer, an ambulance volunteer, a volunteer firefighter, or another volunteer provider of emergency medical services; and

(ii) acting in the capacity of a volunteer described in Subsection (3)(b)(i).

(4) "IRS aggregate amount" means the fixed or determinable income aggregate amount described in 26 C.F.R. Sec. 1.6041-1(a)(1)(i)(A).

[~~(3)~~] (5) (a) "Volunteer" means a person who donates service without pay or other compensation except [~~expenses actually and reasonably incurred~~] the following, as approved by the supervising agency[~~.~~]:

(i) expenses actually and reasonably incurred;

(ii) a stipend for future higher education expenses, awarded from the National Service Trust under 45 C.F.R. Secs. 2526.10 and 2527.10;

(iii) a stipend, below the IRS aggregate amount, for:

(A) emergency volunteers, including emergency medical service volunteers, volunteer safety officers, and volunteer search and rescue team members; or

(B) non-emergency volunteers, including senior program volunteers and community event volunteers;

(iv) health benefits provided through the supervising agency;

(v) passthrough stipends or other compensation provided to volunteers through a federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C. Sec. 5058;

(vi) stipends or other compensation, below the IRS aggregate amount, provided to volunteers from any person;

(vii) uniforms, identification, personal protective equipment, or safety equipment used by a volunteer only while volunteering for the supervising entity;

(viii) a nonpecuniary item not exceeding $50 in value;

(ix) nonpecuniary items, below the IRS aggregate amount, donated to the supervising agency with the express intent of benefitting a volunteer; or

(x) meals or gifts, not exceeding $50 in value, provided as part of a volunteers appreciation event by the volunteering agency.

(b) "Volunteer" does not include:

(i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or

(ii) a compensatory service worker.

(c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.

[~~(4)~~] (6) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.

[~~(5)~~] (7) "Volunteer safety officer" means an individual who:

(a) provides services as a volunteer under the supervision of an agency; and

(b) at the time the individual provides the services to the supervising agency described in Subsection [~~(5)~~] (7)(a), the individual is:

(i) exercising peace officer authority as provided in Section 53-13-102; or

(ii) if the supervising agency described in Subsection [~~(5)~~] (7)(a) is a fire department:

(A) on the rolls of the supervising agency as a firefighter;

(B) not regularly employed as a firefighter by the supervising agency; and

(C) acting in a capacity that includes the responsibility for the extinguishment of fire.

[~~(6)~~] (8) "Volunteer search and rescue team member" means an individual who:

(a) provides services as a volunteer under the supervision of a county sheriff; and

(b) at the time the individual provides the services to the county sheriff described in Subsection [~~(6)~~] (8)(a), is:

(i) certified as a member of the county sheriff's search and rescue team; and

(ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

Section 4. Section 67-20-3 is amended to read:

67-20-3. Purposes for which a volunteer is considered a government employee -- Limitations of liability for volunteer facilitators.

(1) Except as provided in Subsection (2) or (3), a volunteer is considered a government employee for purposes of:

(a) receiving workers' compensation medical benefits, which shall be the exclusive remedy for all injuries and occupational diseases as provided under Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act;

(b) the operation of a motor vehicle or equipment if the volunteer is properly licensed and authorized to do so; and

(c) liability protection and indemnification normally afforded a paid [~~a~~] government employee.

(2) (a) A supervising agency shall provide workers' compensation benefits for a volunteer safety officer as provided in Section 67-20-7.

(b) A volunteer safety officer is considered an employee of the supervising agency of the volunteer safety officer for purposes of Subsections (1)(b) and (c).

(3) (a) The county of a county sheriff that certifies and supervises a volunteer search and rescue team member shall provide workers' compensation benefits for the volunteer search and rescue team member as provided in Section 67-20-7.5.

(b) For purposes of Subsections (1)(b) and (c), a volunteer search and rescue team member is considered an employee of the county of the county sheriff that certifies and supervises the volunteer search and rescue team member.

(4) A volunteer facilitator is immune from liability for damages or injuries arising out of or related to the volunteer service of a volunteer provided by the volunteer facilitator to an agency, unless:

(a) an action or omission of the volunteer facilitator is grossly negligent, not made in good faith, or made maliciously, and causes harm to a person or property; or

(b) the volunteer facilitator fails to exercise due diligence in determining the fitness of a volunteer to provide voluntary service to the agency under circumstances that make the volunteer facilitator's failure to exercise due diligence grossly negligent, not in good faith, or malicious.

Section 5. Section 67-20-4 is amended to read:

67-20-4. Approval of volunteer.

(1) Except as approval is provided under Subsection (2), a volunteer may not donate any service to an agency unless the volunteer's services are approved by[~~: (a)~~] the chief executive of that agency or [~~the~~] an authorized agency representative[~~; and~~].

[~~(b) the office of personnel having jurisdiction over that agency.~~]

(2) When the county sheriff determines that a search and rescue emergency situation exists that requires law enforcement action, the county sheriff may approve a volunteer who offers to donate a service for any law enforcement related activity conducted in response to the emergency situation.

CHAPTER 347
H. B. 289

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

INSURANCE COVERAGE FOR EMERGENCY MEDICAL SERVICE PERSONNEL

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Derrin R. Owens
Cosponsors: Carl R. Albrecht
James A. Dunnigan
Joel Ferry
Casey Snider
Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates the Volunteer Emergency Medical Service Personnel Health Insurance Program.

Highlighted Provisions:

This bill:

- creates the Volunteer Emergency Medical Service Personnel Health Insurance Program;
- describes the program benefit limits and eligibility;
- requires the Department of Health to convene an advisory board;
- authorizes program participants to participate in the Public Employees' Benefit and Insurance Program;
- amends the definition of "volunteer" in the Volunteer Government Workers Act;
- establishes a sunset date for the Volunteer Emergency Medical Service Personnel Health Insurance Program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

49-20-201, as last amended by Laws of Utah 2015, Chapter 107

63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417

67-20-2, as last amended by Laws of Utah 2013, Chapter 249

ENACTS:

26-8a-603, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

67-20-2, as last amended by Laws of Utah 2013, Chapter 249

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-603 is enacted to read:

26-8a-603. Volunteer Emergency Medical Service Personnel Health Insurance Program -- Creation -- Administration -- Eligibility -- Benefits -- Rulemaking -- Advisory board.

(1) As used in this section:

(a) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(b) "Local government entity" means a political subdivision that:

(i) is licensed as a ground ambulance provider under Part 4, Ambulance and Paramedic Providers; and

(ii) as of January 1, 2022, does not offer health insurance benefits to volunteer emergency medical service personnel.

(c) "PEHP" means the Public Employees' Benefit and Insurance Program created in Section 49-20-103.

(d) "Political subdivision" means a county, a municipality, a limited purpose government entity described in Title 17B, Limited Purpose Local Government Entities - Local Districts, or Title 17D, Limited Purpose Local Government Entities - Other Entities, or an entity created by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act.

(e) "Qualifying association" means an association that represents two or more political subdivisions in the state.

(2) The Volunteer Emergency Medical Service Personnel Health Insurance Program shall promote recruitment and retention of volunteer emergency medical service personnel by making health insurance available to volunteer emergency medical service personnel.

(3) The department shall contract with a qualifying association to create, implement, and administer the Volunteer Emergency Medical Service Personnel Health Insurance Program described in this section.

(4) Participation in the program is limited to emergency medical service personnel who:

(a) are licensed under Section 26-8a-302 and are able to perform all necessary functions associated with the license;

(b) provide emergency medical services under the direction of a local governmental entity:

(i) by responding to 20% of calls for emergency medical services in a rolling twelve-month period;

(ii) within a county of the third, fourth, fifth, or sixth class; and

(iii) as a volunteer under the Fair Labor Standards Act, in accordance with 29 C.F.R. Sec. 553.106;

(c) are not eligible for a health benefit plan through an employer or a spouse's employer;

(d) are not eligible for medical coverage under a government sponsored healthcare program; and

(e) reside in the state.

(5) (a) A participant in the program is eligible to participate in PEHP in accordance with Subsection (5)(b) and Subsection 49-20-201(3).

(b) Benefits available to program participants under PEHP are limited to health insurance that:

(i) covers the program participant and the program participant's eligible dependents on a July 1 plan year;

(ii) accepts enrollment during an open enrollment period or for a special enrollment event, including the initial eligibility of a program participant;

(iii) if the program participant is no longer eligible for benefits, terminates on the last day of the last month for which the individual is a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program; and

(iv) is not subject to continuation rights under state or federal law.

(6) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define additional criteria regarding benefit design and eligibility for the program.

(b) The department shall convene an advisory board:

(i) to advise the department on making rules under Subsection (6)(a); and

(ii) that includes representation from at least the following entities:

(A) the qualifying association that receives the contract under Subsection (3); and

(B) PEHP.

(7) For purposes of this section, the qualifying association that receives the contract under Subsection (3) shall be considered the public agency for whom the program participant is volunteering under 29 C.F.R. Sec. 553.101.

Section 2. Section 49-20-201 is amended to read:

49-20-201. Program participation -- Eligibility -- Optional for certain groups.

(1) (a) The state shall participate in the program on behalf of [~~its~~] the state's employees.

(b) Other employers, including political subdivisions and educational institutions, are eligible, but are not required, to participate in the program on behalf of their employees.

(2) (a) As provided in Subsection 26-40-110(5), the Department of Health may participate in the program for the purpose of providing health and dental benefits to children enrolled in the Utah Children's Health Insurance Program created in Title 26, Chapter 40, Utah Children's Health Insurance Act.

(b) If the Department of Health participates in the program under the provisions of this Subsection (2), all insurance risk associated with the Utah Children's Health Insurance Program shall be the responsibility of the Department of Health and not the program or the office.

(3) Volunteer emergency medical service personnel are eligible to participate in the program in accordance with Section 26-8a-603.

[~~(3)~~] (4) A covered individual shall be eligible for coverage after termination of employment under rules adopted by the board.

[~~(4)~~] (5) Only the following are eligible for Medicare supplement coverage under this chapter upon becoming eligible for Medicare Part A and Part B coverage:

(a) retirees;

(b) members;

(c) participants;

(d) employees who have medical employee benefit plan coverage at the time of their retirement; and

(e) current spouses of those who are eligible under Subsections [~~(4)~~] (5)(a) through (d).

Section 3. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(16) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.

(27) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

(28) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

(29) Section 26-8a-603 is repealed July 1, 2027.

Section 4. Section 67-20-2 is amended to read:

67-20-2. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) a department, institution, office, college, university, authority, division, board, bureau, commission, council, or other agency of the state;

(b) a county, city, town, school district, or special improvement or taxing district; or

(c) any other political subdivision.

(2) "Compensatory service worker" means a person who performs a public service with or without compensation for an agency as a condition or part of the person's:

(a) incarceration;

(b) plea;

(c) sentence;

(d) diversion;

(e) probation; or

(f) parole.

(3) (a) "Volunteer" means [~~a person~~] an individual who donates service without pay or other compensation except:

(i) expenses actually and reasonably incurred as approved by the supervising agency[~~.~~]; and

(ii) health insurance received by a participant in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section 26-8a-603.

(b) "Volunteer" does not include:

(i) a person participating in human subjects research to the extent that the participation is governed by federal law or regulation inconsistent with this chapter; or

(ii) a compensatory service worker.

(c) "Volunteer" includes a juror or potential juror appearing in response to a summons for a trial jury or grand jury.

(4) "Volunteer facilitator" means a business or nonprofit organization that, from individuals who have a relationship with the business or nonprofit organization, such as membership or employment, provides volunteers to an agency or facilitates volunteers volunteering with an agency.

(5) "Volunteer safety officer" means an individual who:

(a) provides services as a volunteer under the supervision of an agency; and

(b) at the time the individual provides the services to the supervising agency described in Subsection (5)(a), the individual is:

(i) exercising peace officer authority as provided in Section 53-13-102; or

(ii) if the supervising agency described in Subsection (5)(a) is a fire department:

(A) on the rolls of the supervising agency as a firefighter;

(B) not regularly employed as a firefighter by the supervising agency; and

(C) acting in a capacity that includes the responsibility for the extinguishment of fire.

(6) "Volunteer search and rescue team member" means an individual who:

(a) provides services as a volunteer under the supervision of a county sheriff; and

(b) at the time the individual provides the services to the county sheriff described in Subsection (6)(a), is:

(i) certified as a member of the county sheriff's search and rescue team; and

(ii) acting in the capacity of a member of the search and rescue team of the supervising county sheriff.

Section 5. Coordinating H.B. 289 with H.B. 287 -- Technical amendment.

If this H.B. 289 and H.B. 287, Volunteer Government Workers Act, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify Subsection 67-20-2(5)(a) in H.B. 287 to read:

"[~~(3)~~] (5) (a) "Volunteer" means [~~a person~~] an individual who donates service without pay or other compensation except [~~expenses actually and reasonably incurred~~] the following, as approved by the supervising agency[~~.~~]:

(i) expenses actually and reasonably incurred;

(ii) a stipend for future higher education expenses, awarded from the National Service Trust under 45 C.F.R Secs. 2526.10 and 2527.10;

(iii) a stipend, below the IRS aggregate amount, for:

(A) emergency volunteers, including emergency medical service volunteers, volunteer safety officers, and volunteer search and rescue team members; or

(B) non-emergency volunteers, including senior program volunteers and community event volunteers;

(iv) (A) health benefits provided through the supervising agency; or

(B) for a volunteer who participates in the Volunteer Emergency Medical Service Personnel Health Insurance Program described in Section 26-8a-603, health insurance provided through the program;

(v) passthrough stipends or other compensation provided to volunteers through a federal or state program, including Americorp Seniors volunteers, consistent with 42 U.S.C. Sec. 5058;

(vi) stipends or other compensation, below the IRS aggregate amount, provided to volunteers from any person;

(vii) uniforms, identification, personal protective equipment, or safety equipment used by a volunteer only while volunteering for the supervising entity;

(viii) a nonpecuniary item not exceeding $50 in value;

(ix) nonpecuniary items, below the IRS aggregate amount, donated to the supervising agency with the express intent of benefitting a volunteer; or

(x) meals or gifts, not exceeding $50 in value, provided as part of a volunteers appreciation event by the volunteering agency.".

CHAPTER 348
H. B. 290

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

SCHOOL READINESS AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions related to a high quality school readiness program.

Highlighted Provisions:

This bill:

- modifies the eligibility requirements for a preschool student to participate in a high quality school readiness program;
- modifies requirements for lead teacher certifications in a preschool program that an eligible LEA or an eligible private provider runs as part of a high quality school readiness program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-15-102, as last amended by Laws of Utah 2020, Chapter 171

35A-15-202, as last amended by Laws of Utah 2019, Chapter 186 and renumbered and amended by Laws of Utah 2019, Chapter 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-15-102 is amended to read:

35A-15-102. Definitions.

As used in this chapter:

(1) "Board" means the School Readiness Board, created in Section 35A-15-201.

(2) "Economically disadvantaged" means to be eligible to receive free or reduced price lunch.

(3) "Eligible home-based educational technology provider" means a provider that offers a home-based educational technology program to develop the school readiness skills of an eligible student.

(4) (a) "Eligible LEA" means an LEA that has a data system capacity to collect longitudinal academic outcome data, including special education use by student, by identifying each student with a statewide unique student identifier.

(b) "Eligible LEA" includes a program exempt from licensure under Subsection 26-39-403(2)(c).

(5) (a) "Eligible private provider" means a child care program that:

(i) is licensed under Title 26, Chapter 39, Utah Child Care Licensing Act; or

(ii) except as provided in Subsection (5)(b)(ii), is exempt from licensure under Section 26-39-403.

(b) "Eligible private provider" does not include:

(i) residential child care, as defined in Section 26-39-102; or

(ii) a program exempt from licensure under Subsection 26-39-403(2)(c).

(6) "Eligible student" means a student:

(a) (i) who is age three, four, or five; and

(ii) is not eligible for enrollment under Subsection 53G-4-402(6); and

(b) (i) (A) who is economically disadvantaged; and

(B) whose parent or legal guardian reports that the student has experienced at least one risk factor; [~~or~~]

(ii) is an English learner[~~.~~]; or

(iii) is in foster care.

(7) "Evaluation" means an evaluation conducted in accordance with Section 35A-15-303.

(8) "High quality school readiness program" means a preschool program that:

(a) is provided by an eligible LEA, eligible private provider, or eligible home-based educational technology provider; and

(b) meets the elements of a high quality school readiness program described in Section 35A-15-202.

(9) "Investor" means a person that enters into a results-based contract to provide funding to a high quality school readiness program on the condition that the person will receive payment in accordance with Section 35A-15-402 if the high quality school readiness program meets the performance outcome measures included in the results-based contract.

(10) "Kindergarten assessment" means the kindergarten entry assessment described in Section 53F-2-507.

(11) "Kindergarten transition plan" means a plan that supports the smooth transition of a preschool student to kindergarten and includes communication and alignment among the preschool, program, parents, and K-12 personnel.

(12) "Local Education Agency" or "LEA" means a school district or charter school.

(13) "Performance outcome measure" means:

(a) indicators, as determined by the board, on the school readiness assessment and the kindergarten assessment; or

(b) for a results-based contract, the indicators included in the contract.

(14) "Results-based contract" means a contract that:

(a) is entered into in accordance with Section 35A-15-402;

(b) includes a performance outcome measure; and

(c) is between the board, a provider of a high quality school readiness program, and an investor.

(15) "Risk factor" means:

(a) having a mother who was 18 years old or younger when the child was born;

(b) a member of a child's household is incarcerated;

(c) living in a neighborhood with high violence or crime;

(d) having one or both parents with a low reading ability;

(e) moving at least once in the past year;

(f) having ever been in foster care;

(g) living with multiple families in the same household;

(h) having exposure in a child's home to:

(i) physical abuse or domestic violence;

(ii) substance abuse;

(iii) the death or chronic illness of a parent or sibling; or

(iv) mental illness;

(i) the primary language spoken in a child's home is a language other than English; or

(j) having at least one parent who has not completed high school.

(16) "School readiness assessment" means the same as that term is defined in Section 53E-4-314.

(17) "Tool" means the tool developed in accordance with Section 35A-15-303.

Section 2. Section 35A-15-202 is amended to read:

35A-15-202. Elements of a high quality school readiness program.

(1) A high quality school readiness program [~~run by~~] that an eligible LEA or eligible private provider runs shall include [~~the following components~~]:

(a) an evidence-based curriculum that is aligned with all of the developmental domains and academic content areas defined in the Utah [~~Early Childhood Standards adopted by~~] core standards for preschool that the State Board of Education adopts, and that incorporates:

(i) intentional and differentiated instruction in whole group, small group, and child-directed learning; and

(ii) [~~explicit~~] intentional instruction in key areas of literacy and numeracy, as determined by the State Board of Education, that:

(A) is teacher led or through a partnership with a contractor as defined in Section 53F-4-401;

(B) includes specific literary and numeracy skills, such as phonological awareness; and

(C) includes provider monitoring and ongoing professional learning and coaching;

(b) ongoing, focused, and intensive professional development for staff of the school readiness program;

(c) ongoing assessment of a student's educational growth and [~~developmental~~] development that:

(i) is aligned to the Utah core standards for preschool that the State Board of Education adopts; and

(ii) evaluates student progress to inform instruction;

(d) administration of the school readiness assessment to each student;

(e) for a preschool program [~~run by an eligible LEA~~] that an eligible LEA runs, a class size that does not exceed 20 students, with one adult for every 10 students in the class;

(f) ongoing program evaluation and data collection to monitor program goal achievement and implementation of required program components;

(g) family engagement, including ongoing communication between home and school, and parent education opportunities based on each family's circumstances;

[~~(h) for a preschool program run by an eligible LEA, each teacher having at least obtained:~~]

[~~(i) the minimum standard of a child development associate certification; or~~]

[~~(ii) an associate or bachelor's degree in an early childhood education related field;~~]

[~~(i) for a preschool program run by an eligible private provider, by a teacher's second year, each teacher having at least obtained:~~]

(h) only lead teachers who, by the lead teacher's second year, obtain at least:

(i) the minimum standard of a child development associate certification; or

(ii) an associate or bachelor's degree in an early childhood education related field; and

[~~(j)~~] (i) a kindergarten transition plan.

(2) A high quality school readiness program [~~run by~~] that a home-based educational technology provider runs shall:

(a) be an evidence-based and age appropriate individualized interactive instruction assessment and feedback technology program that teaches eligible students early learning skills needed to be successful upon entry into kindergarten;

(b) require regular parental engagement with the student in the student's use of the home-based educational technology program;

(c) be aligned with the Utah [~~early childhood~~] core standards for preschool that the State Board of Education adopts;

(d) require the administration of a pre- and post-assessment of each student whose parent or legal guardian consents to the assessment that, for a home-based technology program that receives funding under this part, is designated by the board in accordance with Section 35A-15-402; and

(e) require technology providers to ensure successful implementation and utilization of the technology program.

CHAPTER 349
H. B. 291

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

REAL ESTATE INTEREST TERMINATION AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to the termination of an interest in real estate.

Highlighted Provisions:

This bill:

- amends provisions related to the termination of an interest in real estate, including the disclosing of a termination of interest upon the death of a tenant; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-1-5.1, as last amended by Laws of Utah 2010, Chapter 381

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-1-5.1 is amended to read:

57-1-5.1. Termination of an interest in real estate -- Affidavit.

(1) (a) Joint tenancy, tenancy by the entirety, or life estate[~~, or~~] interest in real estate terminates upon the death of a tenant holding the interest.

(b) The termination of an interest upon death as described in Subsection (1)(a) may be disclosed by an affidavit that:

(i) cites the terminated interest that is being disclosed;

(ii) contains a legal description of the real property that is affected;

(iii) references the entry number and the book and page of the instrument creating the terminated interest;

(iv) has attached as an exhibit, a copy of the death certificate or other document issued by a government agency as described in Section 75-1-107; and

(v) is recorded in the office of the recorder of the county in which the affected property is located.

(2) A determinable or conditional interest in real estate may be terminated by an affidavit that:

[~~(a) meets the requirements of Subsection (2); and~~]

(a) cites the interest that is being terminated;

(b) contains a legal description of the real property that is affected;

(c) references the entry number and the book and page of the instrument creating the interest to be terminated; and

[~~(b)~~] (d) is recorded in the office of the recorder of the county in which the affected property is located.

[~~(2) Each affidavit required by Subsection (1) shall:~~]

[~~(a) cite the interest that is being terminated;~~]

[~~(b) contain a legal description of the real property that is affected;~~]

[~~(c) reference the entry number and the book and page of the instrument creating the interest to be terminated; and~~]

[~~(d) if the termination is the result of a death, have attached as an exhibit, a copy of the death certificate or other document issued by a governmental agency as described in Section 75-1-107 certifying the death.~~]

(3) [~~The~~] An affidavit [~~required by Subsection (1)~~] described under this section may be in substantially the following form:

"Affidavit

State of Utah)

) ss

County of __________)

I, (name of affiant), being of legal age and being first duly sworn, depose and state as follows:
(The name of the deceased person), the decedent in the attached certificate of death or other document witnessing death is the same person as (the name of the deceased person) named as a party in the document dated (date of document) as entry _______ in book _______, page _______ in the records of the (name of county) County Recorder.

This affidavit is given to terminate of record the decedent's interest in the following described property located in __________________ County, State of Utah: (description of the property).

Dated this ______ day of __________________,

____
(Signature of affiant)

Subscribed to and sworn before me this _______ day of ______________, _________

____
Notary public".

CHAPTER 350
H. B. 292

Passed February 28, 2022
Approved March 24, 2022
Effective May 4, 2022

MICROENTERPRISE HOME KITCHEN AMENDMENTS

Chief Sponsor: Christine F. Watkins
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends the State Fire Code Act regarding a commercial kitchen hood requirement.

Highlighted Provisions:

This bill:

- amends the 2018 edition of the International Fire Code to provide an exemption from the Type 1 hood requirement for a cooking appliance in a permitted microenterprise home kitchen.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

15A-5-203, as last amended by Laws of Utah 2019, Chapter 103

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 15A-5-203 is amended to read:

15A-5-203. Amendments and additions to IFC related to fire safety, building, and site requirements.

(1) For IFC, Chapter 5, Fire Service Features:

(a) In IFC, Chapter 5, a new Section 501.5, Access grade and fire flow, is added as follows: "An authority having jurisdiction over a structure built in accordance with the requirements of the International Residential Code as adopted in the State Construction Code, may require an automatic fire sprinkler system for the structure only by ordinance and only if any of the following conditions exist:

(i) the structure:

(A) is located in an urban-wildland interface area as provided in the Utah Wildland Urban Interface Code adopted as a construction code under the State Construction Code; and

(B) does not meet the requirements described in Utah Code, Subsection 65A-8-203(4)(a) and Utah Administrative Code, R652-122-1300, Minimum Standards for County Wildland Fire Ordinance;

(ii) the structure is in an area where a public water distribution system with fire hydrants does not exist as required in Utah Administrative Code, R309-550-5, Water Main Design;

(iii) the only fire apparatus access road has a grade greater than 10% for more than 500 continual feet;

(iv) the total floor area of all floor levels within the exterior walls of the dwelling unit exceeds 10,000 square feet; or

(v) the total floor area of all floor levels within the exterior walls of the dwelling unit is double the average of the total floor area of all floor levels of unsprinkled homes in the subdivision that are no larger than 10,000 square feet.

(vi) Exception: A single family dwelling does not require a fire sprinkler system if the dwelling:

(A) is located outside the wildland urban interface;

(B) is built in a one-lot subdivision; and

(C) has 50 feet of defensible space on all sides that limits the propensity of fire spreading from the dwelling to another property."

(b) In IFC, Chapter 5, Section 506.1, Where Required, is deleted and rewritten as follows: "Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official, after consultation with the building owner, may require a key box to be installed in an approved location. The key box shall contain keys to gain necessary access as required by the fire code official. For each fire jurisdiction that has at least one building with a required key box, the fire jurisdiction shall adopt an ordinance, resolution, or other operating rule or policy that creates a process to ensure that each key to each key box is properly accounted for and secure."

(c) In IFC, Chapter 5, a new Section 507.1.1, Isolated one- and two-family dwellings, is added as follows: "Fire flow may be reduced for an isolated one- and two-family dwelling when the authority having jurisdiction over the dwelling determines that the development of a full fire-flow requirement is impractical."

(d) In IFC, Chapter 5, a new Section 507.1.2, Pre-existing subdivision lots, is added as follows:

"507.1.2 Pre-existing subdivision lots.

The requirements for a pre-existing subdivision lot shall not exceed the requirements described in Section 501.5."

(e) In IFC, Chapter 5, Section 510.1, Emergency responder radio coverage in new buildings, is amended by adding: "When required by the fire code official," at the beginning of the first paragraph.

(2) For IFC, Chapter 6, Building Services and Systems:

(a) In IFC, Chapter 6, Section 606.7, Elevator key location, is deleted and rewritten as follows: "Firefighter service keys shall be kept in a "Supra-Stor-a-key" elevator key box or similar box with corresponding key system that is adjacent to the elevator for immediate use by the fire department. The key box shall contain one key for each elevator, one key for lobby control, and any other keys necessary for emergency service. The elevator key box shall be accessed using a 6049 numbered key."

(b) In IFC, Chapter 6, Section 607.1, General, is amended as follows: On line three, after the word "Code", add the words "and NFPA 96".

(c) In IFC, Chapter 6, Section 607.2, a new exception 5 is added as follows: "5. A Type 1 hood is not required for a cooking appliance in a microenterprise home kitchen, as that term is defined in Utah Code, Section 26-15c-102, for which the operator obtains a permit in accordance with Utah Code, Title 26, Chapter 15c, Microenterprise Home Kitchen Act."

(3) For IFC, Chapter 7, Fire and Smoke Protection Features, IFC, Chapter 7, Section 705.2, is amended to add the following: "Exception: In Group E Occupancies, where the corridor serves an occupant load greater than 30 and the building does not have an automatic fire sprinkler system installed, the door closers may be of the friction hold-open type on classrooms' doors with a rating of 20 minutes or less only."

CHAPTER 351
H. B. 293

Passed February 28, 2022
Approved March 24, 2022
Effective May 4, 2022

GROUND AMBULANCE INTERFACILITY TRANSPORT LICENSING

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends the Utah Emergency Medical Services System Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires an applicant for ground ambulance or paramedic services to meet certain requirements with respect to a geographic service area; and
- repeals obsolete language regarding a transition to eliminate inconsistent licenses.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-8a-102, as last amended by Laws of Utah 2021, Chapters 208, 237, and 265
26-8a-404, as last amended by Laws of Utah 2019, Chapter 390
26-8a-416, as enacted by Laws of Utah 1999, Chapter 141

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302; or

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; and

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(6) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

(7) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

(8) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

(9) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

(10) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections (10)(a) through (c).

(11) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

(12) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

(13) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

(14) "Level of service" means the level at which an ambulance provider type of service is licensed as:

(a) emergency medical technician;

(b) advanced emergency medical technician; or

(c) paramedic.

[~~(14)~~] (15) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

[~~(15)~~] (16) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

[~~(16)~~] (17) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

[~~(17)~~] (18) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

[~~(18)~~] (19) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

[~~(19)~~] (20) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(20)~~] (21) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(21)~~] (22) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(22)~~] (23) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(23)~~] (24) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

(25) "Type of service" means the category at which an ambulance provider is licensed as:

(a) ground ambulance transport;

(b) ground ambulance interfacility transport; or

(c) both ground ambulance transport and ground ambulance interfacility transport.

Section 2. Section 26-8a-404 is amended to read:

26-8a-404. Ground ambulance and paramedic licenses -- Application and department review.

(1) Except as provided in Section 26-8a-413, an applicant for a ground ambulance or paramedic license shall apply to the department for a license only by:

(a) submitting a completed application;

(b) providing information in the format required by the department; and

(c) paying the required fees, including the cost of the hearing officer.

(2) The department shall make rules establishing minimum qualifications and requirements for:

(a) personnel;

(b) capital reserves;

(c) equipment;

(d) a business plan;

(e) operational procedures;

(f) medical direction agreements;

(g) management and control; and

(h) other matters that may be relevant to an applicant's ability to provide ground ambulance or paramedic service.

(3) An application for a license to provide ground ambulance service or paramedic service shall be for all ground ambulance services or paramedic services arising within the geographic service area, except that an applicant may apply for a license for less than all ground ambulance services or all paramedic services arising within an exclusive geographic area if it can demonstrate how the remainder of that area will be served.

(4) (a) A ground ambulance service licensee may apply to the department for a license to provide a higher level of service as defined by department rule if the application includes:

(i) a copy of the new treatment protocols for the higher level of service approved by the off-line medical director;

(ii) an assessment of field performance by the applicant's off-line director; and

(iii) an updated plan of operation demonstrating the ability of the applicant to provide the higher level of service.

(b) If the department determines that the applicant has demonstrated the ability to provide the higher level of service in accordance with Subsection (4)(a), the department shall issue a revised license reflecting the higher level of service and the requirements of Section 26-8a-408 do not apply.

(c) A revised license issued under Subsection (4)(b):

(i) may only affect the level of service that the licensee may provide; and

(ii) may not affect any other terms, conditions, or limitations of the original license[~~; and~~].

[~~(iii) may not impact the rights of other licensees.~~]

(5) Upon receiving a completed application and the required fees, the department shall review the application and determine whether the application meets the minimum qualifications and requirements for licensure.

(6) The department may deny an application if it finds that it contains any materially false or misleading information, is incomplete, or if the application demonstrates that the applicant fails to meet the minimum qualifications and requirements for licensure under Subsection (2).

(7) If the department denies an application, it shall notify the applicant in writing setting forth the grounds for the denial. A denial may be appealed under Title 63G, Chapter 4, Administrative Procedures Act.

Section 3. Section 26-8a-416 is amended to read:

26-8a-416. Overlapping licenses.

[~~(1) By May 30, 2000, the department shall review all licenses in effect on October 2, 1999, to~~

~~identify overlap, as defined in department rule, in the service areas of two or more licensed providers.~~]

[~~(2) By June 30, 2000, the department shall notify all licensed providers affected by an overlap. By September 30, 2000, the department shall schedule, by order, a deadline to resolve each overlap, considering the effects on the licensed providers and the areas to be addressed.~~]

[~~(3) For each overlap, the department shall meet with the affected licensed providers and provide 120 days for a negotiated resolution, consistent with the criteria in Section 26-8a-408.~~]

[~~(4) (a) If a resolution is reached under Subsection (2) that the department finds satisfies the criteria in Section 26-8a-408, the department shall amend the licenses to reflect the resolution consistent with Subsection (6).~~]

[~~(b) If a resolution is not reached under Subsection (2), the department or any of the licensed providers involved in the matter may request the commencement of a formal adjudicative proceeding to resolve the overlap.~~]

[~~(5) The department shall commence adjudicative proceedings for any overlap that is not resolved by July 1, 2003.~~]

(1) As used in this section:

(a) "Overlap" means two ground ambulance interfacility transport providers that are licensed at the same level of service in all or part of a single geographic service area.

(b) "Overlay" means two ground ambulance interfacility transport providers that are licensed at a different level of service in all or part of a single geographic service area.

[~~(6)~~] (2) Notwithstanding the exclusive geographic service requirement of Section 26-8a-402, the department [~~may amend one or more licenses after a resolution is reached or an adjudicative proceeding has been held to allow:~~] shall recognize overlap and overlay ground ambulance interfacility transport licenses that existed on or before May 4, 2022.

[~~(a) a single licensed provider to serve all or part of the overlap area;~~]

[~~(b) more than one licensed provider to serve the overlap area;~~]

[~~(c) licensed providers to provide different types of service in the overlap area; or~~]

[~~(d) licenses that recognize service arrangements that existed on September 30, 1999.~~]

(3) The department may, without an adjudicative proceeding but with at least 30 days notice to providers in the same geographic service area, amend an existing overlay ground ambulance interfacility transport license solely to convert an overlay into an overlap if the existing ground ambulance interfacility transport licensed provider meets the requirements described in Subsection 26-8a-404(4).

(4) An amendment of a license under this section may not alter:

(a) other terms of the original license, including the applicable geographic service area; or

(b) the license of other providers that provide interfacility transport services in the geographic service area.

[~~(7)~~] (5) Notwithstanding Subsection [~~(6)~~] (2), any license for an overlap area terminates upon:

(a) relinquishment by the provider; or

(b) revocation by the department.

CHAPTER 352
H. B. 294

Passed February 23, 2022
Approved March 24, 2022
Effective May 4, 2022

CHARTER SCHOOL ADMISSIONS AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Kathleen A. Riebe

LONG TITLE

General Description:

This bill amends charter school enrollment provisions.

Highlighted Provisions:

This bill:

- allows a charter school to give enrollment preference to:
  - an individual whose sibling is currently enrolled in a charter school with an approved articulation agreement with the charter school in which the individual is seeking enrollment; and
  - for the 2022-2023 school year, a student who withdrew from the charter school to attend an online school or home school in the 2020-2021 or 2021-2022 school years due to the COVID-19 emergency;
- requires a charter school to enroll a foster child residing in the same residence with a student currently enrolled in a charter school;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-5-303, as last amended by Laws of Utah 2019, Chapter 293

53G-6-502, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 9

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-5-303 is amended to read:

53G-5-303. Charter agreement -- Content -- Modification.

(1) As used in this section, "satellite charter school" means a charter school affiliated with an operating charter school, which has the same charter school governing board and a similar program of instruction, but has a different school number than the affiliated charter.

(2) A charter agreement:

(a) is a contract between the charter school applicant and the charter school authorizer;

(b) shall describe the rights and responsibilities of each party; and

(c) shall allow for the operation of the applicant's proposed charter school.

(3) A charter agreement shall include:

(a) the name of:

(i) the charter school; and

(ii) the charter school applicant;

(b) the mission statement and purpose of the charter school;

(c) the charter school's opening date;

(d) the grade levels the charter school will serve;

(e) (i) subject to Section 53G-6-504, the maximum number of students a charter school will serve; or

(ii) for an operating charter school with satellite charter schools, the maximum number of students of all satellite charter schools collectively served by the operating charter school;

(f) a description of the structure of the charter school governing board, including:

(i) the number of charter school governing board members;

(ii) how members of the charter school governing board are appointed; and

(iii) charter school governing board members' terms of office;

(g) assurances that:

(i) the charter school governing board will comply with:

(A) the charter school's bylaws;

(B) the charter school's articles of incorporation; and

(C) applicable federal law, state law, and state board rules;

(ii) the charter school governing board will meet all reporting requirements described in Section 53G-5-404; and

(iii) except as provided in Part 6, Charter School Credit Enhancement Program, neither the authorizer nor the state, including an agency of the state, is liable for the debts or financial obligations of the charter school or a person who operates the charter school;

(h) which administrative rules the state board will waive for the charter school;

(i) minimum financial standards for operating the charter school;

(j) minimum standards for student achievement; and

(k) signatures of the charter school authorizer and the charter school governing board members.

(4) (a) Except as provided in Subsection (4)(b), a charter agreement may not be modified except by mutual agreement between the charter school authorizer and the charter school governing board.

(b) A charter school governing board may modify the charter school's charter agreement without the mutual agreement described in Subsection (4)(a) to include an enrollment preference described in Subsection 53G-6-502(4)[~~(g)~~](h).

Section 2. Section 53G-6-502 is amended to read:

53G-6-502. Eligible students.

(1) As used in this section:

(a) "At capacity" means operating above the school's open enrollment threshold.

(b) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(c) "Open enrollment threshold" means the same as that term is defined in Section 53G-6-401.

(d) "Refugee" means a person who is eligible to receive benefits and services from the federal Office of Refugee Resettlement.

(e) "School of residence" means the same as that term is defined in Section 53G-6-401.

(2) All resident students of the state qualify for admission to a charter school, subject to the limitations set forth in this section and Section 53G-6-503.

(3) (a) A charter school shall enroll:

(i) a foster child residing in the same residence as an individual who is enrolled in the charter school; and

(ii) an eligible student other than a child described in Subsection (3)(a)(i) who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or the charter school.

(b) If the number of applications described in Subsection (3)(a)(ii) exceeds the capacity of a program, class, grade level, or the charter school, the charter school shall select students on a random basis, except as provided in Subsections (4) through (8).

(4) A charter school may give an enrollment preference to:

(a) a child or grandchild of an individual who has actively participated in the development of the charter school;

(b) a child or grandchild of a member of the charter school governing board;

(c) a sibling of an individual who was previously or is presently enrolled in the charter school;

(d) a child of an employee of the charter school;

(e) a student articulating between charter schools offering similar programs that are governed by the same charter school governing board;

(f) a student articulating from one charter school to another pursuant to an articulation agreement between the charter schools that is approved by the State Charter School Board;

(g) an individual seeking enrollment in a charter school if:

(i) the individual's sibling is a student enrolled in a charter school; and

(ii) the charter school where the individual is seeking enrollment has an articulation agreement with the charter school where the sibling is enrolled that the State Charter School Board approves;

[~~(g)~~] (h) a student who resides within up to a two-mile radius of the charter school and whose school of residence is at capacity;

[~~(h)~~] (i) a child of a military servicemember as defined in Section 53B-8-102; or

[~~(i)~~] (j) for the [~~2021-2022~~] 2022-2023 school year, a student who withdraws from the charter school to attend an online school or home school for the 2020-2021 or 2021-2022 school [~~year~~] years due to the COVID-19 emergency.

(5) (a) Except as provided in Subsection (5)(b), and notwithstanding Subsection (4)[~~(g)~~](h), a charter school that is approved by the state board after May 13, 2014, and is located in a high growth area as defined in Section 53G-6-504 shall give an enrollment preference to a student who resides within a two-mile radius of the charter school.

(b) The requirement to give an enrollment preference under Subsection (5)(a) does not apply to a charter school that was approved without a high priority status pursuant to Subsection 53G-6-504(7)(b).

(6) If a district school converts to charter status, the charter school shall give an enrollment preference to students who would have otherwise attended it as a district school.

(7) (a) A charter school whose mission is to enhance learning opportunities for refugees or children of refugee families may give an enrollment preference to refugees or children of refugee families.

(b) A charter school whose mission is to enhance learning opportunities for English language learners may give an enrollment preference to English language learners.

(8) A charter school may weight the charter school's lottery to give a slightly better chance of admission to educationally disadvantaged students, including:

(a) low-income students;

(b) students with disabilities;

(c) English language learners;

(d) migrant students;

(e) neglected or delinquent students; and

(f) homeless students.

(9) A charter school may not discriminate in the charter school's admission policies or practices on

the same basis as other public schools may not discriminate in admission policies and practices.

CHAPTER 353
H. B. 301

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

MEDICATION DISPENSER AMENDMENTS

Chief Sponsor: Raymond P. Ward
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts provisions relating to the dispensing of drugs by a licensed prescriber.

Highlighted Provisions:

This bill:

- enacts requirements for licensure as a licensed dispensing practice;
- permits a prescriber who practices at a licensed dispensing practice to dispense certain drugs to the prescriber's patients;
- authorizes the division to perform administrative inspections of a licensed dispensing practice;
- requires the division to make certain rules regarding the operating standards of a licensed practice; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-302, as last amended by Laws of Utah 2019, First Special Session, Chapter 5
58-17b-309, as last amended by Laws of Utah 2016, Chapter 207

ENACTS:

58-88-201, Utah Code Annotated 1953
58-88-202, Utah Code Annotated 1953
58-88-203, Utah Code Annotated 1953
58-88-204, Utah Code Annotated 1953
58-88-205, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-302 is amended to read:

58-17b-302. License required -- License classifications for pharmacy facilities.

(1) A license is required to act as a pharmacy, except:

(a) as specifically exempted from licensure under Section 58-1-307; [~~and~~]

(b) for the operation of a medical cannabis pharmacy under Title 26, Chapter 61a, Utah Medical Cannabis Act[~~.~~]; and

(c) to operate a licensed dispensing practice under Chapter 88, Part 2, Dispensing Practice.

(2) The division shall issue a pharmacy license to a facility that qualifies under this chapter in the classification of a:

(a) class A pharmacy;

(b) class B pharmacy;

(c) class C pharmacy;

(d) class D pharmacy;

(e) class E pharmacy; or

(f) dispensing medical practitioner clinic pharmacy.

(3) (a) Each place of business shall require a separate license.

(b) If multiple pharmacies exist at the same address, a separate license shall be required for each pharmacy.

(4) (a) The division may further define or supplement the classifications of pharmacies.

(b) The division may impose restrictions upon classifications to protect the public health, safety, and welfare.

(5) Each pharmacy shall have a pharmacist-in-charge, except as otherwise provided by rule.

(6) Whenever an applicable statute or rule requires or prohibits action by a pharmacy, the pharmacist-in-charge and the owner of the pharmacy shall be responsible for all activities of the pharmacy, regardless of the form of the business organization.

Section 2. Section 58-17b-309 is amended to read:

58-17b-309. Exemptions from licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following individuals may engage in the acts or practices described in this section without being licensed under this chapter:

(1) a person selling or providing contact lenses in accordance with Section 58-16a-801;

(2) an animal shelter that:

(a) under the indirect supervision of a veterinarian, stores, handles, or administers a drug used for euthanising an animal; and

(b) under the indirect supervision of a veterinarian who is under contract with the animal shelter, stores, handles, or administers a rabies vaccine; [~~and~~]

(3) an overdose outreach provider, as defined in Section 26-55-102, that obtains, stores, or furnishes an opiate antagonist in accordance with Title 26, Chapter 55, Opiate Overdose Response Act[~~.~~]; and

(4) a dispensing practitioner, as defined in Section 58-88-201, dispensing a drug under Chapter 88, Part 2, Dispensing Practice.

Section 3. Section 58-88-201 is enacted to read:

CHAPTER 88. GENERAL HEALTH PROFESSIONS

Part 2. Dispensing Practice

58-88-201. Definitions.

As used in this part:

(1) (a) "Dispense" means the delivery by a prescriber of a prescription drug or device to a patient, including the packaging, labeling, and security necessary to prepare and safeguard the drug or device for supplying to a patient.

(b) "Dispense" does not include:

(i) prescribing or administering a drug or device; or

(ii) delivering to a patient a sample packaged for individual use by a licensed manufacturer or re-packager of a drug or device.

(2) "Dispensing practitioner" means an individual who:

(a) is currently licensed as:

(i) a physician and surgeon under Chapter 67, Utah Medical Practice Act;

(ii) an osteopathic physician and surgeon under Chapter 68, Utah Osteopathic Medical Practice Act;

(iii) an advanced practice registered nurse under Subsection 58-31b-301(2)(d); or

(iv) a physician assistant under Chapter 70a, Utah Physician Assistant Act;

(b) is authorized by state law to prescribe and administer drugs in the course of professional practice; and

(c) practices at a licensed dispensing practice.

(3) "Drug" means the same as that term is defined in Section 58-17b-102.

(4) "Health care practice" means:

(a) a health care facility as defined in Section 26-21-2; or

(b) the offices of one or more private prescribers, whether for individual or group practice.

(5) "Licensed dispensing practice" means a health care practice that is licensed as a dispensing practice under Section 58-88-202.

Section 4. Section 58-88-202 is enacted to read:

58-88-202. Dispensing practice -- Drugs that may be dispensed -- Limitations and exceptions.

(1) Notwithstanding Section 58-17b-302, a dispensing practitioner may dispense a drug at a licensed dispensing practice if the drug is:

(a) packaged in a fixed quantity per package by:

(i) the drug manufacturer;

(ii) a pharmaceutical wholesaler or distributor; or

(iii) a pharmacy licensed under Chapter 17b, Pharmacy Practice Act;

(b) dispensed:

(i) at a licensed dispensing practice at which the dispensing practitioner regularly practices; and

(ii) under a prescription issued by the dispensing practitioner to the dispensing practitioner's patient;

(c) for a condition that is not expected to last longer than 30 days; and

(d) for a condition for which the patient has been evaluated by the dispensing practitioner on the same day on which the dispensing practitioner dispenses the drug.

(2) A dispensing practitioner may not dispense:

(a) a controlled substance as defined in Section 58-37-2;

(b) a drug or class of drugs that is designated by the division under Subsection 58-88-205(2);

(c) gabapentin; or

(d) a supply of a drug under this part that exceeds a 30-day supply.

(3) A dispensing practitioner may not make a claim against workers' compensation or automobile insurance for a drug dispensed under this part for outpatient use unless the dispensing practitioner is contracted with a pharmacy network established by the claim payor.

(4) When a dispensing practitioner dispenses a drug to the patient under this part, a dispensing practitioner shall:

(a) disclose to the patient verbally and in writing that the patient is not required to fill the prescription through the licensed dispensing practice and that the patient has a right to fill the prescription through a pharmacy; and

(b) if the patient will be responsible to pay cash for the drug, disclose:

(i) that the patient will be responsible to pay cash for the drug; and

(ii) the amount that the patient will be charged by the licensed dispensing practice for the drug.

(5) This part does not:

(a) require a dispensing practitioner to dispense a drug under this part;

(b) limit a health care prescriber from dispensing under Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

(c) apply to a physician who dispenses:

(i) a drug sample, as defined in Section 58-17b-102, to a patient in accordance with Section 58-1-501.3 or Section 58-17b-610;

(ii) a prescription drug or device to a patient for a patient's immediate need in an emergency department in accordance with Section 58-17b-610.5; or

(iii) a drug in an emergency situation as defined by the division in rule under Chapter 17b, Pharmacy Practice Act.

Section 5. Section 58-88-203 is enacted to read:

58-88-203. Application for licensure as a licensed dispensing practice -- Requirements -- Notification -- Dispensing.

(1) An applicant for licensure as a dispensing practice shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504; and

(c) provide any additional information required by the division by rule.

(2) (a) A dispensing practice shall designate at least one responsible dispensing practitioner who is responsible for all activities of the licensed dispensing practice related to the dispensing of drugs under this part.

(b) A responsible dispensing practitioner for the licensed dispensing practice shall:

(i) be currently licensed to prescribe and administer drugs in the course of professional practice;

(ii) practice at the licensed dispensing practice;

(iii) accept responsibility for the operation of the licensed dispensing practice related to the dispensing of drugs under this part and in accordance with all laws and rules relating to the dispensing of drugs at the licensed dispensing practice; and

(iv) be personally in full and actual charge of the operation of the licensed dispensing practice related to the dispensing of drugs under this part.

(c) Whenever an applicable statute or rule requires or prohibits action by a licensed dispensing practice, the responsible dispensing practitioner or practitioners and the owner of the licensed dispensing practice shall be responsible for all activities of the licensed dispensing practice, regardless of the form of the business or entity.

(3) (a) Each license issued under this section shall be issued for a single, specific address, and is not transferable or assignable.

(b) Each license issued under this section shall be issued in accordance with a two-year renewal cycle established by the division by rule.

(c) The division may extend or shorten a renewal period for a period of up to one year to maintain established renewal cycles or to change an established renewal cycle.

(d) Each license automatically expires on the expiration date shown on the license unless the license is renewed by the licensee in accordance with Section 58-1-308.

(4) (a) A licensed dispensing practice shall report in writing to the division not later than 10 business days before the date of:

(i) a permanent closure of the licensed dispensing practice;

(ii) a change of name or ownership of the licensed dispensing practice;

(iii) a change of location of the licensed dispensing practice; and

(iv) any matter or occurrence that the division requires by rule to be reported.

(b) As defined by the division by rule, a licensed dispensing practice shall report in writing to the division:

(i) theft of a drug, immediately after the licensed dispensing practice is aware that theft has occurred; and

(ii) a disaster, accident, or emergency that may affect the purity or labeling of a drug, medication, device, or other material used in the diagnosis or treatment of injury, illness, or disease immediately upon the occurrence of the disaster, accident, or emergency.

(c) A reporting licensed dispensing practice shall maintain a copy of any notification required by this Subsection (4) for two years and make a copy of the notification available to the division for inspection at the division's request.

Section 6. Section 58-88-204 is enacted to read:

58-88-204. Administrative inspections of a dispensing practice -- Penalties.

(1) The division shall conduct audits and inspections of licensed dispensing practices in accordance with standards established by the division by rule.

(2) Penalties for a violation of this part, including fines and citations, shall be issued by the division under:

(a) Section 58-1-502; and

(b) the dispensing practitioner's respective licensing chapter.

Section 7. Section 58-88-205 is enacted to read:

58-88-205. Operating standards -- Rulemaking.

(1) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the operating standards for a licensed dispensing practice licensed under this part which shall include, but is not limited to, standards for:

(a) security;

(b) labeling;

(c) storage;

(d) supervision;

(e) inventory control; and

(f) patient counseling.

(2) The division may designate individual medications and classes of medications that may not be dispensed at a licensed dispensing practice under this chapter.

(3) When making rules under this part, the division shall consult with a group consisting of:

(a) two members of the Physicians Licensing Board created in Section 58-67-201; and

(b) two members of the Utah State Board of Pharmacy created in Section 58-17b-201.

CHAPTER 354
H. B. 302

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

EDUCATIONAL LANGUAGE SERVICES AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill enacts provisions relating to services for students learning English.

Highlighted Provisions:

This bill:

- amends provisions related to parent engagement with the education process;
- requires an LEA to adopt a policy facilitating assistance to students learning English and their parents;
- defines terms;
- establishes the Educational Interpretation and Translation Services Procurement Advisory Council (council);
- requires the State Board of Education to provide information to the council;
- requires the council to advise the purchasing director of the Division of Purchasing and General Services on certain services for students learning English;
- requires the council to report to the Education Interim Committee;
- enacts sunset provisions for the council; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351
53E-2-303, as last amended by Laws of Utah 2019, Chapter 186
63I-2-253, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4

ENACTS:

53G-7-221, Utah Code Annotated 1953
63A-2-501, Utah Code Annotated 1953
63A-2-502, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section 35A-14-302 and the report on research described in Section 35A-14-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; [~~and~~]

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income[~~.~~]; and

(o) the annual report described in Section 63A-2-502 by the Educational Interpretation and Translation Service Procurement Advisory Council.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

Section 2. Section 53E-2-303 is amended to read:

53E-2-303. Family participation in educational process -- Family engagement policy.

(1) The Legislature recognizes the importance of parental participation in the educational process in order for students to achieve and maintain high levels of performance.

(2) It is, therefore, the policy of the state to:

(a) encourage parents to provide a home environment that values education and send their children to school prepared to learn;

(b) rely upon school districts and schools to provide opportunities for parents of students to be involved in establishing and implementing educational goals for their respective schools and students; and

(c) expect employers to recognize the need for parents and members of the community to participate in the public education system in order to help students achieve and maintain excellence.

(3) (a) Each local school board shall adopt a policy on parental involvement in the schools of the district.

(b) (i) The local school board shall design its policy to build consistent and effective communication among parents, teachers, and administrators.

(ii) The policy described in Subsection (3)(b)(i):

(A) shall include parents or family, when appropriate, of children learning English, regardless of prevalence of children learning English in the geographic area in which the LEA is located; and

(B) may include assistance from community organizations to assist through a preferred method of communication.

(c) The policy shall provide parents with the opportunity to be actively involved in their children's education and to be informed of:

(i) the importance of the involvement of parents in directly affecting the success of their children's educational efforts; and

(ii) groups and organizations that may provide instruction and training to parents to help improve their children's academic success and support their academic efforts.

Section 3. Section 53G-7-221 is enacted to read:

53G-7-221. (Codified as 53G-7-223) Policy supporting students learning English, parents, and families.

(1) An LEA shall adopt a policy addressing the LEA's communication and assistance to students learning English, their parents, and their families.

(2) The policy shall provide:

(a) guidance on the appropriate use of an interpreter and recommended interpreter qualifications, including certification or education-specific experience, for the following:

(i) classroom activities;

(ii) impromptu and scheduled office visits or phone calls;

(iii) enrollment or registration processes;

(iv) the IEP process;

(v) student educational and occupational planning processes;

(vi) fee waiver processes;

(vii) parent engagement activities;

(viii) student disciplinary meetings;

(ix) school community councils;

(x) school board meetings;

(xi) other school or LEA activities; and

(xii) other interactions between the parents of a student learning English and educational staff;

(b) guidance on the appropriate use of a translator or interpreter for the translation or interpretation of:

(i) registration or enrollment materials, including home language surveys and English learning program entrance and exit notifications;

(ii) assignments and accompanying materials;

(iii) report cards or other progress reports;

(iv) student discipline policies and procedures;

(v) grievance procedures and notices of rights and nondiscrimination;

(vi) parent or family handbooks; and

(vii) requests for parent permission; and

(c) any other guidance, including guidance on when oral interpretation is preferable to written translation, to improve instruction and assistance by teachers, counselors, and administrators to a student learning English and the student's parents and family.

(3) The state board shall provide to an LEA notification of LEA requirements described in this section, a model of the policy described in this section, and guidance and technical assistance regarding existing requirements in relevant statute, administrative rule, and federal law.

Section 4. Section 63A-2-501 is enacted to read:

Part 5. Educational Interpretation and Translation Services Procurement Advisory Council

63A-2-501. Definitions.

As used in this part:

(1) "Advisory council" means the Educational Interpretation and Translation Services Procurement Advisory Council established in Section 63A-2-502.

(2) "Contract" means a contract entered into by the division for interpretation or translation services in accordance with Section 63A-2-503.

(3) "Local education agency" or "LEA" means the same as that term is defined in Section 53E-1-102.

(4) "State board" means the State Board of Education.

Section 5. Section 63A-2-502 is enacted to read:

63A-2-502. Educational Interpretation and Translation Services Procurement Advisory Council.

(1) There is established the Educational Interpretation and Translation Services Procurement Advisory Council to provide advice to the purchasing director regarding the language-access needs of LEAs, students learning English, and the families of students learning English.

(2) The advisory council shall consist of the following members:

(a) the purchasing director or the director's designee;

(b) an individual representing the state board, appointed by the state superintendent of public instruction;

(c) the purchasing director for the state board or the director's designee;

(d) an individual representing the Division of Multicultural Affairs created in Section 9-21-201, appointed by the executive director of the Department of Cultural and Community Engagement; and

(e) appointed by the cochairs:

(i) one or more employees of the state board who manage or administer services or programs for a student learning English and the student's parents;

(ii) an administrator from an LEA with a high density of students learning English;

(iii) an administrator from an LEA with a low density of students learning English;

(iv) a teacher, counselor, or other licensed LEA staff, from a school with a high density of students learning English;

(v) a teacher, counselor, or other licensed LEA staff, from a school with a low density of students learning English;

(vi) an individual who works to assist students learning English or minority students navigate school and community resources, such as a refugee liaison;

(vii) an LEA procurement agent;

(viii) an individual representing a community organization that directly serves parents and their children learning English; and

(ix) a parent who is a person learning English and also the parent of a student learning English who is enrolled in an LEA.

(3) (a) The purchasing director and the individual representing the state board, as described in Subsection (2)(b), shall serve as cochairs for the advisory council.

(b) Each advisory council member shall serve until a successor is duly appointed.

(4) The division shall provide staff support to facilitate the function of the council.

(5) (a) A member of the advisory council may not receive compensation or benefits for the council member's service.

(b) An advisory council member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(6) (a) Before the commencement of each school year, the state board shall collect and provide to the advisory council the following information for each LEA:

(i) a list of preferred languages of:

(A) students learning English; and

(B) parents and families of the students described in Subsection (6)(a)(i)(A); and

(ii) the frequency by which each language of a student learning English is preferred.

(b) Before the commencement of each school year after July 1, 2024, the state board shall, for each LEA, collect and provide to the advisory council the list of preferred methods of communication and frequency by which each method is preferred by parents and the parents' children learning English.

(7) (a) Before the commencement of each school year, the advisory council shall advise the purchasing director on:

(i) the needs of the LEAs for interpretation and translation services, as described in Subsection (6);

(ii) the appropriate points of contact at the state board and each LEA that should receive information regarding the availability and use of procured interpretation and translation contracts; and

(iii) the form, manner, and content of information that is to be disseminated to the state board, each LEA, and LEA administrators and principals, regarding the availability and use of procured interpretation and translation contracts.

(b) The advisory council shall include in the information described in Subsection (7)(a)(iii) the following information:

(i) a notice of available contracts;

(ii) the language and types of services offered under each contract;

(iii) the requisite procedures for accessing the services stipulated within the contracts;

(iv) a list of additional translation and interpretation materials, including posters or flyers, provided through a contract;

(v) an opportunity to provide feedback on contracts, including contact information for the division purchasing agent;

(vi) the estimated and actual cost to each LEA for use of interpretation and translation services; and

(vii) the availability of alternative procurement mechanisms that are independent of the division and available contracts.

(8) The advisory council shall report to the Education Interim Committee no later than November 1 each year on the existing use and efficacy of all contracts.

Section 6. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(9) Section 53B-8-114 is repealed July 1, 2024.

(10) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) Section 53B-8-202;

(b) Section 53B-8-203;

(c) Section 53B-8-204; and

(d) Section 53B-8-205.

(11) Section 53B-10-101 is repealed on July 1, 2027.

(12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(13) Subsection 53E-1-201(1)(o) regarding the report by the Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2024.

[~~(13)~~] (14) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(14)~~] (15) Section 53E-3-520 is repealed July 1, 2021.

[~~(15)~~] (16) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(16)~~] (17) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(17)~~] (18) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(18)~~] (19) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (20) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(20)~~] (21) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(21)~~] (22) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

[~~(22)~~] (23) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) Section 53F-4-207 is repealed July 1, 2022.

[~~(24)~~] (25) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(25)~~] (26) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(26)~~] (27) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(27)~~] (28) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(28)~~] (29) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(29)~~] (30) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(30)~~] (31) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(31)~~] (32) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(32)~~] (33) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 7. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

(1) Title 63A, Chapter 2, Part 5, Educational Interpretation and Translation Services Procurement Advisory Council is repealed July 1, 2025.

(2) Section 63A-3-111 is repealed June 30, 2021.

[~~(2)~~] (3) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.

[~~(3)~~] (4) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(4)~~] (5) Section 63G-1-502 is repealed July 1, 2022.

[~~(5)~~] (6) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G-1-801;

(b) Section 63G-1-802;

(c) Section 63G-1-803; and

(d) Section 63G-1-804.

[~~(6)~~] (7) Section 63H-7a-303 is repealed July 1, 2024.

[~~(7)~~] (8) Subsection 63J-1-206(3)(c), relating to coronavirus, is repealed July 1, 2021.

[~~(8)~~] (9) Sections 63M-7-213 and 63M-7-213.5 are repealed on January 1, 2023.

[~~(9)~~] (10) Section 63M-7-217 is repealed on July 1, 2022.

[~~(10)~~] (11) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(11)~~] (12) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.

CHAPTER 355
H. B. 303

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

LOCAL LAND USE AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill revises provisions related to municipal and county land use development and management.

Highlighted Provisions:

This bill:

- modifies provisions related to when a person may challenge an annexation in district court;
- modifies notice requirements after a municipality receives a request for disconnection;
- provides specific notice requirements related to a municipality's or a county's proposed modification to the text of the municipality's or the county's zoning code;
- modifies notice requirements related to an amendment to public improvements in a subdivision or development;
- removes a prohibition on imposing a land use regulation under certain circumstances;
- modifies the authority of a municipality or a county to require the development of moderate income housing as a condition of approval of a land use regulation;
- modifies evidence requirements related to a noncomplying structure or a nonconforming use;
- authorizes a municipality or a county to determine if combining lots constitutes a subdivision amendment;
- modifies the requirements for preparation of a subdivided plat by a surveyor;
- modifies provisions related to determining when a land use decision is illegal;
- creates a process to establish an agreed boundary between landowners when a boundary is disputed or uncertain; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-2-407, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
10-2-501, as last amended by Laws of Utah 2021, Chapters 84 and 345
10-9a-103, as last amended by Laws of Utah 2021, Chapters 140 and 385
10-9a-205, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
10-9a-212, as enacted by Laws of Utah 2012, Chapter 216
10-9a-509, as last amended by Laws of Utah 2021, Chapters 140 and 385
10-9a-511, as last amended by Laws of Utah 2018, Chapter 239
10-9a-601, as last amended by Laws of Utah 2021, Chapter 385
10-9a-603, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345
10-9a-608, as last amended by Laws of Utah 2021, Chapter 385
10-9a-801, as last amended by Laws of Utah 2021, Chapter 385
17-27a-205, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355
17-27a-212, as enacted by Laws of Utah 2012, Chapter 216
17-27a-508, as last amended by Laws of Utah 2021, Chapters 140 and 385
17-27a-510, as last amended by Laws of Utah 2018, Chapter 239
17-27a-601, as last amended by Laws of Utah 2021, Chapter 385
17-27a-603, as last amended by Laws of Utah 2021, Chapters 47, 162, and 345
17-27a-608, as last amended by Laws of Utah 2021, Chapter 385
17-27a-801, as last amended by Laws of Utah 2021, Chapter 385
57-1-45, as last amended by Laws of Utah 2021, Chapter 385

ENACTS:

10-9A-535, Utah Code Annotated 1953
17-27a-531, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-2-407 is amended to read:

10-2-407. Protest to annexation petition -- Planning advisory area planning commission recommendation -- Petition requirements -- Disposition of petition if no protest filed.

(1) A protest to an annexation petition under Section 10-2-403 may only be filed by:

(a) the legislative body or governing board of an affected entity;

(b) an owner of rural real property;

(c) for a proposed annexation of an area within a county of the first class, an owner of private real property that:

(i) is located in the unincorporated area within 1/2 mile of the area proposed for annexation;

(ii) covers at least 25% of the private land area located in the unincorporated area within 1/2 mile of the area proposed for annexation; and

(iii) is equal in value to at least 15% of all real property located in the unincorporated area within 1/2 mile of the area proposed for annexation; or

(d) an owner of private real property located in a mining protection area.

(2) Each protest under Subsection (1) shall:

(a) be filed:

(i) no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i); and

(ii) (A) in a county that has already created a commission under Section 10-2-409, with the commission; or

(B) in a county that has not yet created a commission under Section 10-2-409, with the clerk of the county in which the area proposed for annexation is located;

(b) state each reason for the protest of the annexation petition and, if the area proposed to be annexed is located in a specified county, justification for the protest under the standards established in this chapter;

(c) if the area proposed to be annexed is located in a specified county, contain other information that the commission by rule requires or that the party filing the protest considers pertinent; and

(d) contain the name and address of a contact person who is to receive notices sent by the commission with respect to the protest proceedings.

(3) The party filing a protest under this section shall on the same date deliver or mail a copy of the protest to the city recorder or town clerk of the proposed annexing municipality.

(4) Each clerk who receives a protest under Subsection (2)(a)(ii)(B) shall:

(a) immediately notify the county legislative body of the protest; and

(b) deliver the protest to the boundary commission within five days after:

(i) receipt of the protest, if the boundary commission has previously been created; or

(ii) creation of the boundary commission under Subsection 10-2-409(1)(b), if the boundary commission has not previously been created.

(5) (a) If a protest is filed under this section:

(i) the municipal legislative body may, at its next regular meeting after expiration of the deadline under Subsection (2)(a)(i), deny the annexation petition; or

(ii) if the municipal legislative body does not deny the annexation petition under Subsection (5)(a)(i), the municipal legislative body may take no further action on the annexation petition until after receipt of the commission's notice of its decision on the protest under Section 10-2-416.

(b) If a municipal legislative body denies an annexation petition under Subsection (5)(a)(i), the municipal legislative body shall, within five days after the denial, send notice of the denial in writing to:

(i) the contact sponsor of the annexation petition;

(ii) the commission; and

(iii) each entity that filed a protest.

(6) If no timely protest is filed under this section, the municipal legislative body may, subject to Subsection (7), approve the petition.

(7) Before approving an annexation petition under Subsection (6), the municipal legislative body shall hold a public hearing and provide notice of the public hearing:

(a) (i) at least seven days before the day of the public hearing, by posting one notice, and at least one additional notice per 2,000 population within the municipality and the area proposed for annexation, in places within that combined area that are most likely to give notice to the residents within, and the owners of real property located within, the combined area, subject to a maximum of 10 notices; or

(ii) at least 10 days before the day of the public hearing, by mailing the notice to each residence within, and to each owner of real property located within, the combined area described in Subsection (7)(a)(i);

(b) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for seven days before the day of the public hearing; and

(c) if the municipality has a website, by posting notice on the municipality's website for seven days before the day of the public hearing.

(8) (a) Subject to Subsection (8)(b), only a person or entity that is described in Subsection (1) has standing to challenge an annexation in district court.

(b) A person or entity described in Subsection (1) may only bring an action in district court to challenge an annexation if the person or entity has timely filed a protest as described in Subsection (2) and exhausted the administrative remedies described in this section.

Section 2. Section 10-2-501 is amended to read:

10-2-501. Municipal disconnection -- Definitions -- Request for disconnection -- Requirements upon filing request.

(1) As used in this part "petitioner" means:

(a) one or more persons who:

(i) own title to real property within the area proposed for disconnection; and

(ii) sign a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality; or

(b) the mayor of the municipality within which the area proposed for disconnection is located who signs a request for disconnection proposing to disconnect the area proposed for disconnection from the municipality.

(2) (a) A petitioner proposing to disconnect an area within and lying on the borders of a municipality shall file with that municipality's legislative body a request for disconnection.

(b) Each request for disconnection shall:

(i) contain the names, addresses, and signatures of the owners of more than 50% of any private real property in the area proposed for disconnection;

(ii) give the reasons for the proposed disconnection;

(iii) include a map or plat of the territory proposed for disconnection; and

(iv) designate between one and five persons with authority to act on the petitioner's behalf in the proceedings.

(3) Upon filing the request for disconnection, the petitioner shall publish notice of the request:

(a) (i) once a week for three consecutive weeks before the public hearing described in Section 10-2-502.5 in a newspaper of general circulation within the municipality; or

(ii) if there is no newspaper of general circulation in the municipality, at least three weeks before the day of the public hearing described in Section 10-2-502.5, by posting one notice, and at least one additional notice per 2,000 population of the municipality, in places within the municipality that are most likely to give notice to the residents within, and the owners of real property located within, the municipality, including the residents who live in the area proposed for disconnection; [~~or~~]

[~~(iii) at least three weeks before the day of the public hearing described in Section 10-2-502.5, by mailing notice to each residence within, and each owner of real property located within, the municipality;~~]

(b) on the Utah Public Notice Website created in Section 63A-16-601, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(c) in accordance with the legal notice requirements described in Section 45-1-101, for three weeks before the day of the public hearing described in Section 10-2-502.5;

(d) by mailing notice to each:

(i) owner of real property located within the area proposed to be disconnected; and

(ii) residence within the area proposed to be disconnected;

(e) by delivering a copy of the request to the legislative body of the county in which the area proposed for disconnection is located; and

(f) if the municipality has a website, on the municipality's website for three weeks before the day of the public hearing.

Section 3. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601(5); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or

appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit; or

(b) a land use application[~~; or~~].

[~~(c) the enforcement of a land use regulation, land use permit, or development agreement.~~]

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(43) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(46) "Parcel" means any real property that is not a lot.

(47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 4. Section 10-9a-205 is amended to read:

10-9a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each municipality shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or any modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the municipality; or

(ii) on the municipality's official website; and

(c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by municipal ordinance.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

[~~(3)~~] (4) Each notice of a public meeting under Subsection (1)(b) shall be posted at least 24 hours before the meeting:

(a) in at least three public locations within the municipality; or

(b) on the municipality's official website.

[~~(4)~~] (5) (a) A municipality shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within a proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the municipality will be provided to the municipal legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 10-9a-502.

(c) If a municipality mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection [~~(4)~~] (5) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 5. Section 10-9a-212 is amended to read:

10-9a-212. Notice for an amendment to public improvements in a subdivision or development.

[~~Prior to~~] Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a municipality shall [~~give 30 days mailed notice and an opportunity to comment to anyone who has requested the notice in writing.~~]:

(1) hold a public hearing;

(2) mail a notice 30 days or more before the date of the public hearing to:

(a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and

(b) each person who makes a written request to receive a copy of the notice; and

(3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Section 6. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

[~~(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.~~]

[~~(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.~~]

[~~(5)~~] (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

[~~(6)~~] (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection [~~(6)~~] (5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 7. Section 10-9a-511 is amended to read:

10-9a-511. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A municipality may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A municipality may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in the municipality's zoning ordinance, a municipality may permit a billboard owner to relocate the billboard within the municipality's boundaries to a location that is mutually acceptable to the municipality and the billboard owner.

(ii) If the municipality and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 10-9a-513(2).

(4) (a) Unless the municipality establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the municipality regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection (4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(b) has not occurred.

(5) A municipality may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 8. Section 10-9a-535 is enacted to read:

10-9a-535. Moderate income housing.

(1) A municipality may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the municipality and the applicant enter into a written agreement regarding the number of moderate income housing units; or

(b) the municipality provides incentives for an applicant who agrees to include moderate income housing units in a development.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a municipality may not take into consideration the applicant's decision in the municipality's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a municipality that imposes a resort community sales and use tax as described in Section 59-12-401, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the municipality before January 1, 2022.

Section 9. Section 10-9a-601 is amended to read:

10-9a-601. Enactment of subdivision ordinance.

(1) The legislative body of a municipality may enact ordinances requiring that a subdivision plat comply with the provisions of the municipality's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the municipality may regulate subdivisions only to the extent provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the municipality's subdivision ordinance.

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Section 10. Section 10-9a-603 is amended to read:

10-9a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and underground utility facility owner verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 10-9a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section 10-9a-605 or excluded from the definition of subdivision under Section 10-9a-103, whenever any land is laid out and platted, the owner of the land shall provide to the municipality in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the municipality's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the municipality consider the local health department's approval necessary, the municipality shall approve the plat.

(b) Municipalities are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A municipality may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the municipality; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A municipality shall:

(i) within 20 days after the day on which an owner of land submits to the municipality a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the municipality:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the municipality mails to each facility owner the notice described in Subsection (3)(d)(i), in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a municipality in accordance with Subsection (3)(d)(ii) does not affect or impair the municipality's authority to approve the subdivision plat.

(4) The municipality may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a municipality shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a municipality that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.

(6) (a) A county recorder may not record a plat unless:

(i) prior to recordation, the municipality has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) [~~The surveyor making~~] A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the municipality.

(8) A municipality acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the municipality.

Section 11. Section 10-9a-608 is amended to read:

10-9a-608. Subdivision amendments.

(1) (a) A fee owner of land, as shown on the last county assessment roll, in a subdivision that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 10-9a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being vacated or amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the municipality of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioner fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join in the petition, regardless of whether the properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or municipal utility easement is also subject to Section 10-9a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in the entire plat or on that portion of the plat described in the petition; and

(b) the signature of each owner described in Subsection (4)(a) who consents to the petition.

(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those parcels if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the legal descriptions of both the original properties and the properties resulting from the exchange of title; and

(ii) a document of conveyance shall be recorded in the office of the county recorder with an amended plat.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required in order to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision in a plat already recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 12. Section 10-9a-801 is amended to read:

10-9a-801. No district court review until administrative remedies exhausted --

Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall[~~: (i)~~] presume that a final land use decision of a land use authority or an appeal authority is valid[~~; and (ii) uphold the land use decision~~] unless the land use decision is:

[~~(A)~~] (i) arbitrary and capricious; or

[~~(B)~~] (ii) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision [~~is~~]:

(A) is based on an incorrect interpretation of a land use regulation; [~~or~~]

(B) conflicts with the authority granted by this title; or

[~~(B)~~] (C) is contrary to law.

(d) (i) A court may affirm or reverse a land use decision.

(ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's ruling.

(4) The provisions of Subsection (2)(a) apply from the date on which the municipality takes final action on a land use application, if the municipality conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the municipality has complied with Section 10-9a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders, and, if available, a true and correct transcript of the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay the appeal authority's land use decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order the appeal authority's land use decision stayed pending district court review if the appeal authority finds the order to be in the best interest of the municipality.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 13. Section 17-27a-205 is amended to read:

17-27a-205. Notice of public hearings and public meetings on adoption or modification of land use regulation.

(1) Each county shall give:

(a) notice of the date, time, and place of the first public hearing to consider the adoption or modification of a land use regulation; and

(b) notice of each public meeting on the subject.

(2) Each notice of a public hearing under Subsection (1)(a) shall be:

(a) mailed to each affected entity at least 10 calendar days before the public hearing;

(b) posted:

(i) in at least three public locations within the county; or

(ii) on the county's official website; and

(c) (i) posted on the Utah Public Notice Website created in Section 63A-16-601, at least 10 calendar days before the public hearing; or

(ii) mailed at least 10 days before the public hearing to:

(A) each property owner whose land is directly affected by the land use ordinance change; and

(B) each adjacent property owner within the parameters specified by county ordinance.

(3) In addition to the notice requirements described in Subsections (1) and (2), for any proposed modification to the text of a zoning code, the notice posted in accordance with Subsection (2) shall:

(a) include a summary of the effect of the proposed modifications to the text of the zoning code designed to be understood by a lay person; and

(b) be provided to any person upon written request.

[~~(3)~~] (4) Each notice of a public meeting under Subsection (1)(b) shall be at least 24 hours before the hearing and shall be posted:

(a) in at least three public locations within the county; or

(b) on the county's official website.

[~~(4)~~] (5) (a) A county shall send a courtesy notice to each owner of private real property whose property is located entirely or partially within the proposed zoning map enactment or amendment at least 10 days before the scheduled day of the public hearing.

(b) The notice shall:

(i) identify with specificity each owner of record of real property that will be affected by the proposed zoning map or map amendments;

(ii) state the current zone in which the real property is located;

(iii) state the proposed new zone for the real property;

(iv) provide information regarding or a reference to the proposed regulations, prohibitions, and permitted uses that the property will be subject to if the zoning map or map amendment is adopted;

(v) state that the owner of real property may no later than 10 days after the day of the first public hearing file a written objection to the inclusion of the owner's property in the proposed zoning map or map amendment;

(vi) state the address where the property owner should file the protest;

(vii) notify the property owner that each written objection filed with the county will be provided to the county legislative body; and

(viii) state the location, date, and time of the public hearing described in Section 17-27a-502.

(c) If a county mails notice to a property owner in accordance with Subsection (2)(c)(ii) for a public hearing on a zoning map or map amendment, the notice required in this Subsection [~~(4)~~] (5) may be included in or part of the notice described in Subsection (2)(c)(ii) rather than sent separately.

Section 14. Section 17-27a-212 is amended to read:

17-27a-212. Notice for an amendment to public improvements in a subdivision or development.

[~~Prior to~~] Before implementing an amendment to adopted specifications for public improvements that apply to a subdivision or a development, a county shall [~~give 30 days mailed notice and an opportunity to comment to anyone who has requested the notice in writing.~~]:

(1) hold a public hearing;

(2) mail a notice 30 days or more before the date of the public hearing to:

(a) each person who has submitted a land use application for which the land use authority has not issued a land use decision; and

(b) each person who makes a written request to receive a copy of the notice; and

(3) allow each person who receives a notice in accordance with Subsection (2) to provide public comment in writing before the public hearing or in person during the public hearing.

Section 15. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

[~~(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a county may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted~~

~~within 10 years after the day on which the subdivision plat is recorded.~~]

[~~(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.~~]

[~~(5)~~] (4) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17-27a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

[~~(6)~~] (5) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601(5), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection [~~(6)~~](5)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 16. Section 17-27a-510 is amended to read:

17-27a-510. Nonconforming uses and noncomplying structures.

(1) (a) Except as provided in this section, a nonconforming use or a noncomplying structure may be continued by the present or a future property owner.

(b) A nonconforming use may be extended through the same building, provided no structural alteration of the building is proposed or made for the purpose of the extension.

(c) For purposes of this Subsection (1), the addition of a solar energy device to a building is not a structural alteration.

(2) The legislative body may provide for:

(a) the establishment, restoration, reconstruction, extension, alteration, expansion, or substitution of nonconforming uses upon the terms and conditions set forth in the land use ordinance;

(b) the termination of all nonconforming uses, except billboards, by providing a formula establishing a reasonable time period during which the owner can recover or amortize the amount of his investment in the nonconforming use, if any; and

(c) the termination of a nonconforming use due to its abandonment.

(3) (a) A county may not prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure that is involuntarily destroyed in whole or in part due to fire or other calamity unless the structure or use has been abandoned.

(b) A county may prohibit the reconstruction or restoration of a noncomplying structure or terminate the nonconforming use of a structure if:

(i) the structure is allowed to deteriorate to a condition that the structure is rendered uninhabitable and is not repaired or restored within six months after the day on which written notice is served to the property owner that the structure is uninhabitable and that the noncomplying structure or nonconforming use will be lost if the structure is not repaired or restored within six months; or

(ii) the property owner has voluntarily demolished a majority of the noncomplying structure or the building that houses the nonconforming use.

(c) (i) Notwithstanding a prohibition in the county's zoning ordinance, a county may permit a billboard owner to relocate the billboard within the county's unincorporated area to a location that is mutually acceptable to the county and the billboard owner.

(ii) If the county and billboard owner cannot agree to a mutually acceptable location within 180 days after the day on which the owner submits a written request to relocate the billboard, the billboard owner may relocate the billboard in accordance with Subsection 17-27a-512(2).

(4) (a) Unless the county establishes, by ordinance, a uniform presumption of legal existence for nonconforming uses, the property owner shall have the burden of establishing the legal existence of a noncomplying structure or nonconforming use through substantial evidence, which may not be limited to municipal or county records.

(b) Any party claiming that a nonconforming use has been abandoned shall have the burden of establishing the abandonment.

(c) Abandonment may be presumed to have occurred if:

(i) a majority of the primary structure associated with the nonconforming use has been voluntarily demolished without prior written agreement with the county regarding an extension of the nonconforming use;

(ii) the use has been discontinued for a minimum of one year; or

(iii) the primary structure associated with the nonconforming use remains vacant for a period of one year.

(d) The property owner may rebut the presumption of abandonment under Subsection

(4)(c), and has the burden of establishing that any claimed abandonment under Subsection (4)(c) has not occurred.

(5) A county may terminate the nonconforming status of a school district or charter school use or structure when the property associated with the school district or charter school use or structure ceases to be used for school district or charter school purposes for a period established by ordinance.

Section 17. Section 17-27a-531 is enacted to read:

17-27a-531. Moderate income housing.

(1) A county may only require the development of a certain number of moderate income housing units as a condition of approval of a land use application if:

(a) the county and the applicant enter into a written agreement regarding the number of moderate income housing units; or

(b) the county provides incentives for an applicant who agrees to include moderate income housing units in a development.

(2) If an applicant does not agree to participate in the development of moderate income housing units under Subsection (1)(a) or (b), a county may not take into consideration the applicant's decision in the county's determination of whether to approve or deny a land use application.

(3) Notwithstanding Subsections (1) and (2), a county of the third class, which has a ski resort located within the unincorporated area of the county, may require the development of a certain number of moderate income housing units as a condition of approval of a land use application if the requirement is in accordance with an ordinance enacted by the county before January 1, 2022.

Section 18. Section 17-27a-601 is amended to read:

17-27a-601. Enactment of subdivision ordinance.

(1) The legislative body of a county may enact ordinances requiring that a subdivision plat comply with the provisions of the county's ordinances and this part before:

(a) the subdivision plat may be filed and recorded in the county recorder's office; and

(b) lots may be sold.

(2) If the legislative body fails to enact a subdivision ordinance, the county may regulate subdivisions only as provided in this part.

(3) The joining of a lot or lots to a parcel does not constitute a subdivision as to the parcel or subject the parcel to the county's subdivision ordinance.

(4) A legislative body may adopt a land use regulation that specifies that combining lots does not require a subdivision plat amendment.

Section 19. Section 17-27a-603 is amended to read:

17-27a-603. Plat required when land is subdivided -- Approval of plat -- Owner acknowledgment, surveyor certification, and verification of plat -- Recording plat.

(1) As used in this section:

(a) (i) "Facility owner" means the same as that term is defined in Section 73-1-15.5.

(ii) "Facility owner" includes a canal owner or associated canal operator contact described in:

(A) Section 17-27a-211;

(B) Subsection 73-5-7(3); or

(C) Subsection (6)(c).

(b) "Local health department" means the same as that term is defined in Section 26A-1-102.

(c) "State engineer's inventory of canals" means the state engineer's inventory of water conveyance systems established in Section 73-5-7.

(d) "Underground facility" means the same as that term is defined in Section 54-8a-2.

(e) "Water conveyance facility" means the same as that term is defined in Section 73-1-15.5.

(2) Unless exempt under Section 17-27a-605 or excluded from the definition of subdivision under Section 17-27a-103, whenever any land is laid out and platted, the owner of the land shall provide to the county in which the land is located an accurate plat that describes or specifies:

(a) a subdivision name that is distinct from any subdivision name on a plat recorded in the county recorder's office;

(b) the boundaries, course, and dimensions of all of the parcels of ground divided, by their boundaries, course, and extent, whether the owner proposes that any parcel of ground is intended to be used as a street or for any other public use, and whether any such area is reserved or proposed for dedication for a public purpose;

(c) the lot or unit reference, block or building reference, street or site address, street name or coordinate address, acreage or square footage for all parcels, units, or lots, and length and width of the blocks and lots intended for sale;

(d) every existing right-of-way and recorded easement located within the plat for:

(i) an underground facility;

(ii) a water conveyance facility; or

(iii) any other utility facility; and

(e) any water conveyance facility located, entirely or partially, within the plat that:

(i) is not recorded; and

(ii) of which the owner of the land has actual or constructive knowledge, including from information made available to the owner of the land:

(A) in the state engineer's inventory of canals; or

(B) from a surveyor under Subsection (6)(c).

(3) (a) Subject to Subsections (4), (6), and (7), if the plat conforms to the county's ordinances and this part and has been approved by the culinary water authority, the sanitary sewer authority, and the local health department, if the local health department and the county consider the local health department's approval necessary, the county shall approve the plat.

(b) Counties are encouraged to receive a recommendation from the fire authority and the public safety answering point before approving a plat.

(c) A county may not require that a plat be approved or signed by a person or entity who:

(i) is not an employee or agent of the county; or

(ii) does not:

(A) have a legal or equitable interest in the property within the proposed subdivision;

(B) provide a utility or other service directly to a lot within the subdivision;

(C) own an easement or right-of-way adjacent to the proposed subdivision who signs for the purpose of confirming the accuracy of the location of the easement or right-of-way in relation to the plat; or

(D) provide culinary public water service whose source protection zone designated as provided in Section 19-4-113 is included, in whole or in part, within the proposed subdivision.

(d) A county shall:

(i) within 20 days after the day on which an owner of land submits to the county a complete subdivision plat land use application, mail written notice of the proposed subdivision to the facility owner of any water conveyance facility located, entirely or partially, within 100 feet of the subdivision plat, as determined using information made available to the county:

(A) from the facility owner under Section 10-9a-211, using mapping-grade global positioning satellite units or digitized data from the most recent aerial photo available to the facility owner;

(B) in the state engineer's inventory of canals; or

(C) from a surveyor under Subsection (6)(c); and

(ii) not approve the subdivision plat for at least 20 days after the day on which the county mails to each facility owner the notice under Subsection (3)(d)(i) in order to receive any comments from each facility owner regarding:

(A) access to the water conveyance facility;

(B) maintenance of the water conveyance facility;

(C) protection of the water conveyance facility integrity;

(D) safety of the water conveyance facility; or

(E) any other issue related to water conveyance facility operations.

(e) When applicable, the owner of the land seeking subdivision plat approval shall comply with Section 73-1-15.5.

(f) A facility owner's failure to provide comments to a county in accordance with Subsection (3)(d)(ii) does not affect or impair the county's authority to approve the subdivision plat.

(4) The county may withhold an otherwise valid plat approval until the owner of the land provides the legislative body with a tax clearance indicating that all taxes, interest, and penalties owing on the land have been paid.

(5) (a) Within 30 days after approving a final plat under this section, a county shall submit to the Utah Geospatial Resource Center, created in Section 63A-16-505, for inclusion in the unified statewide 911 emergency service database described in Subsection 63H-7a-304(4)(b):

(i) an electronic copy of the approved final plat; or

(ii) preliminary geospatial data that depict any new streets and situs addresses proposed for construction within the bounds of the approved plat.

(b) If requested by the Utah Geospatial Resource Center, a county that approves a final plat under this section shall:

(i) coordinate with the Utah Geospatial Resource Center to validate the information described in Subsection (5)(a); and

(ii) assist the Utah Geospatial Resource Center in creating electronic files that contain the information described in Subsection (5)(a) for inclusion in the unified statewide 911 emergency service database.

(6) (a) A county recorder may not record a plat unless, subject to Subsection 17-27a-604(1):

(i) prior to recordation, the county has approved and signed the plat;

(ii) each owner of record of land described on the plat has signed the owner's dedication as shown on the plat; and

(iii) the signature of each owner described in Subsection (6)(a)(ii) is acknowledged as provided by law.

(b) [~~The surveyor making~~] A surveyor who prepares the plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) (i) To the extent possible, the surveyor shall consult with the owner or operator, or a representative designated by the owner or operator, of an existing water conveyance facility located within the proposed subdivision, or an existing or proposed underground facility or utility facility located within the proposed subdivision, to verify the accuracy of the surveyor's depiction of the:

(A) boundary, course, dimensions, and intended use of the public rights-of-way, a public or private easement, or grants of record;

(B) location of the existing water conveyance facility, or the existing or proposed underground facility or utility facility; and

(C) physical restrictions governing the location of the existing or proposed underground facility or utility facility.

(ii) The cooperation of an owner or operator of a water conveyance facility, underground facility, or utility facility under Subsection (6)(c)(i):

(A) indicates only that the plat approximates the location of the existing facilities but does not warrant or verify their precise location; and

(B) does not affect a right that the owner or operator has under Title 54, Chapter 8a, Damage to Underground Utility Facilities, a recorded easement or right-of-way, the law applicable to prescriptive rights, or any other provision of law.

(7) (a) Except as provided in Subsection (6)(c), after the plat has been acknowledged, certified, and approved, the owner of the land seeking to record the plat shall, within the time period and manner designated by ordinance, record the plat in the county recorder's office in the county in which the lands platted and laid out are situated.

(b) A failure to record a plat within the time period designated by ordinance renders the plat voidable by the county.

(8) A county acting as a land use authority shall approve a condominium plat that complies with the requirements of Section 57-8-13 unless the condominium plat violates a land use regulation of the county.

Section 20. Section 17-27a-608 is amended to read:

17-27a-608. Subdivision amendments.

(1) (a) A fee owner of a lot, as shown on the last county assessment roll, in a plat that has been laid out and platted as provided in this part may file a written petition with the land use authority to request a subdivision amendment.

(b) Upon filing a written petition to request a subdivision amendment under Subsection (1)(a), the owner shall prepare and, if approved by the land use authority, record a plat in accordance with Section 17-27a-603 that:

(i) depicts only the portion of the subdivision that is proposed to be amended;

(ii) includes a plat name distinguishing the amended plat from the original plat;

(iii) describes the differences between the amended plat and the original plat; and

(iv) includes references to the original plat.

(c) If a petition is filed under Subsection (1)(a), the land use authority shall provide notice of the petition by mail, email, or other effective means to each affected entity that provides a service to an owner of record of the portion of the plat that is being amended at least 10 calendar days before the land use authority may approve the petition for a subdivision amendment.

(d) If a petition is filed under Subsection (1)(a), the land use authority shall hold a public hearing within 45 days after the day on which the petition is filed if:

(i) any owner within the plat notifies the county of the owner's objection in writing within 10 days of mailed notification; or

(ii) a public hearing is required because all of the owners in the subdivision have not signed the revised plat.

(e) A land use authority may not approve a petition for a subdivision amendment under this section unless the amendment identifies and preserves any easements owned by a culinary water authority and sanitary sewer authority for existing facilities located within the subdivision.

(2) The public hearing requirement of Subsection (1)(d) does not apply and a land use authority may consider at a public meeting an owner's petition for a subdivision amendment if:

(a) the petition seeks to:

(i) join two or more of the petitioning fee owner's contiguous lots;

(ii) subdivide one or more of the petitioning fee owner's lots, if the subdivision will not result in a violation of a land use ordinance or a development condition;

(iii) adjust the lot lines of adjoining lots or between a lot and an adjoining parcel if the fee owners of each of the adjoining properties join the petition, regardless of whether the properties are located in the same subdivision;

(iv) on a lot owned by the petitioning fee owner, adjust an internal lot restriction imposed by the local political subdivision; or

(v) alter the plat in a manner that does not change existing boundaries or other attributes of lots within the subdivision that are not:

(A) owned by the petitioner; or

(B) designated as a common area; and

(b) notice has been given to adjoining property owners in accordance with any applicable local ordinance.

(3) A petition under Subsection (1)(a) that contains a request to amend a public street or county utility easement is also subject to Section 17-27a-609.5.

(4) A petition under Subsection (1)(a) that contains a request to amend an entire plat or a portion of a plat shall include:

(a) the name and address of each owner of record of the land contained in:

(i) the entire plat; or

(ii) that portion of the plan described in the petition; and

(b) the signature of each owner who consents to the petition.

(5) (a) The owners of record of adjoining properties where one or more of the properties is a lot may exchange title to portions of those properties if the exchange of title is approved by the land use authority in accordance with Subsection (5)(b).

(b) The land use authority shall approve an exchange of title under Subsection (5)(a) if the exchange of title will not result in a violation of any land use ordinance.

(c) If an exchange of title is approved under Subsection (5)(b):

(i) a notice of approval shall be recorded in the office of the county recorder which:

(A) is executed by each owner included in the exchange and by the land use authority;

(B) contains an acknowledgment for each party executing the notice in accordance with the provisions of Title 57, Chapter 2a, Recognition of Acknowledgments Act; and

(C) recites the legal descriptions of both the properties and the properties resulting from the exchange of title; and

(ii) a document of conveyance of title reflecting the approved change shall be recorded in the office of the county recorder with an amended plat.

(d) A notice of approval recorded under this Subsection (5) does not act as a conveyance of title to real property and is not required to record a document conveying title to real property.

(6) (a) The name of a recorded subdivision may be changed by recording an amended plat making that change, as provided in this section and subject to Subsection (6)(c).

(b) The surveyor preparing the amended plat shall certify that the surveyor:

(i) holds a license in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(ii) (A) has completed a survey of the property described on the plat in accordance with Section 17-23-17 and has verified all measurements; [~~and~~] or

(B) has referenced a record of survey map of the existing property boundaries shown on the plat and verified the locations of the boundaries; and

(iii) has placed monuments as represented on the plat.

(c) An owner of land may not submit for recording an amended plat that gives the subdivision described in the amended plat the same name as a subdivision recorded in the county recorder's office.

(d) Except as provided in Subsection (6)(a), the recording of a declaration or other document that purports to change the name of a recorded plat is void.

Section 21. Section 17-27a-801 is amended to read:

17-27a-801. No district court review until administrative remedies exhausted -- Time for filing -- Tolling of time -- Standards governing court review -- Record on review -- Staying of decision.

(1) No person may challenge in district court a land use decision until that person has exhausted the person's administrative remedies as provided in Part 7, Appeal Authority and Variances, if applicable.

(2) (a) Subject to Subsection (1), a land use applicant or adversely affected party may file a petition for review of a land use decision with the district court within 30 days after the decision is final.

(b) (i) The time under Subsection (2)(a) to file a petition is tolled from the date a property owner files a request for arbitration of a constitutional taking issue with the property rights ombudsman under Section 13-43-204 until 30 days after:

(A) the arbitrator issues a final award; or

(B) the property rights ombudsman issues a written statement under Subsection 13-43-204(3)(b) declining to arbitrate or to appoint an arbitrator.

(ii) A tolling under Subsection (2)(b)(i) operates only as to the specific constitutional taking issue that is the subject of the request for arbitration filed with the property rights ombudsman by a property owner.

(iii) A request for arbitration filed with the property rights ombudsman after the time under Subsection (2)(a) to file a petition has expired does not affect the time to file a petition.

(3) (a) A court shall:

(i) presume that a land use regulation properly enacted under the authority of this chapter is valid; and

(ii) determine only whether:

(A) the land use regulation is expressly preempted by, or was enacted contrary to, state or federal law; and

(B) it is reasonably debatable that the land use regulation is consistent with this chapter.

(b) A court shall[~~: (i)~~] presume that a final land use decision of a land use authority or an appeal authority is valid[~~; and (ii) uphold the land use decision~~] unless the land use decision is:

[~~(A)~~] (i) arbitrary and capricious; or

[~~(B)~~] (ii) illegal.

(c) (i) A land use decision is arbitrary and capricious if the land use decision is not supported by substantial evidence in the record.

(ii) A land use decision is illegal if the land use decision [~~is~~]:

(A) is based on an incorrect interpretation of a land use regulation; [~~or~~]

(B) conflicts with the authority granted by this title; or

[~~(B)~~] (C) is contrary to law.

(d) (i) A court may affirm or reverse a land use decision.

(ii) If the court reverses a land use decision, the court shall remand the matter to the land use authority with instructions to issue a land use decision consistent with the court's decision.

(4) The provisions of Subsection (2)(a) apply from the date on which the county takes final action on a land use application, if the county conformed with the notice provisions of Part 2, Notice, or for any person who had actual notice of the pending land use decision.

(5) If the county has complied with Section 17-27a-205, a challenge to the enactment of a land use regulation or general plan may not be filed with the district court more than 30 days after the enactment.

(6) A challenge to a land use decision is barred unless the challenge is filed within 30 days after the land use decision is final.

(7) (a) The land use authority or appeal authority, as the case may be, shall transmit to the reviewing court the record of the proceedings of the land use authority or appeal authority, including the minutes, findings, orders and, if available, a true and correct transcript of the proceedings.

(b) If the proceeding was recorded, a transcript of that recording is a true and correct transcript for purposes of this Subsection (7).

(8) (a) (i) If there is a record, the district court's review is limited to the record provided by the land use authority or appeal authority, as the case may be.

(ii) The court may not accept or consider any evidence outside the record of the land use authority or appeal authority, as the case may be, unless that evidence was offered to the land use authority or appeal authority, respectively, and the court determines that the evidence was improperly excluded.

(b) If there is no record, the court may call witnesses and take evidence.

(9) (a) The filing of a petition does not stay the land use decision of the land use authority or appeal authority, as the case may be.

(b) (i) Before filing a petition under this section or a request for mediation or arbitration of a constitutional taking issue under Section 13-43-204, a land use applicant may petition the appeal authority to stay the appeal authority's decision.

(ii) Upon receipt of a petition to stay, the appeal authority may order the appeal authority's decision stayed pending district court review if the appeal authority finds the order to be in the best interest of the county.

(iii) After a petition is filed under this section or a request for mediation or arbitration of a constitutional taking issue is filed under Section 13-43-204, the petitioner may seek an injunction staying the appeal authority's land use decision.

(10) If the court determines that a party initiated or pursued a challenge to a land use decision on a land use application in bad faith, the court may award attorney fees.

Section 22. Section 57-1-45 is amended to read:

57-1-45. Boundary line agreements.

(1) [~~A boundary line~~] An agreement to adjust [~~the boundaries of~~] a known boundary between adjoining properties shall comply with Section 10-9a-524 or 17-27a-523, as applicable.

(2) A recorded boundary line agreement to establish the location of a boundary between adjoining properties where the location of the boundary is ambiguous, uncertain, or disputed shall comply with Subsections (3) and (4).

(3) A boundary line agreement between adjoining property owners establishing the owners' existing common boundary for the purpose of settling an ambiguity, uncertainty, or dispute shall include:

(a) the name and signature of each party to the agreement and, if applicable, the name and signature of a party's predecessor in interest who agreed to the location of the boundary line;

(b) the date of the boundary line agreement;

(c) the address of each party to the boundary line agreement for assessment purposes;

(d) a statement describing why the owners of adjoining properties were unable to determine the true location of the boundary line between the adjoining properties;

(e) a statement that the owners of the adjoining properties agree on the boundary line described in the boundary line agreement;

(f) a legal description of each parcel or lot that is subject to the boundary line agreement;

(g) a legal description of the agreed boundary line;

(h) (i) a reference to a record of survey map as defined in Section 17-23-17 in conjunction with the boundary line agreement that shows:

(A) existing dwellings, outbuildings, improvements, and other physical features;

(B) existing easements, rights-of-way, conditions, or restrictions recorded or apparent;

(C) the location of the agreed boundary line; and

(D) an explanation in the survey narrative of the reason for the boundary line agreement; or

(ii) if the parcels or lots are unimproved, an attached exhibit depicting a graphical representation of the location of the agreed boundary line relative to physical objects marking the agreed boundary;

(i) if any of the property that is the subject of the agreement is located in a recorded subdivision and the agreed boundary line is different from the boundary line recorded in the plat, an acknowledgment that each party to the agreement has been advised of the requirement of a subdivision plat amendment; and

(j) a sufficient acknowledgment for each party's signature.

(4) A boundary line agreement described in Subsection (3) may not be:

(a) used to adjust a known boundary described in Subsection (1) between adjoining properties;

(b) used to adjust a lot line in a recorded subdivision plat or create a new parcel or lot; or

(c) used by or recorded by a successor in interest to a property owner who agreed to the boundary line unless the property owners who agreed to the boundary line treated the line as the actual boundary as demonstrated by:

(i) actual possession by each owner up to the boundary line;

(ii) a fence built and agreed to by each owner on the boundary line; or

(iii) each owner cultivating or controlling the land up to the boundary line.

(5) A boundary line agreement described in Subsection (3):

(a) does not affect any previously recorded easement unless the easement is expressly modified by the boundary line agreement;

(b) establishes the common boundary between the adjoining properties in the originally intended location of the boundary line;

(c) affixes the ownership of the adjoining parties to the agreed boundary line;

(d) is not subject to the review or approval of a municipal or county land use authority; and

(e) shall be indexed by a county recorder in the title record against each property affected by the agreed boundary line.

(6) The recording of a boundary line agreement described in Subsection (3) does not constitute a land use approval by a municipality or a county.

(7) A municipality or a county may withhold approval of a land use application for property that is subject to a boundary line agreement described in Subsection (3) if the municipality or the county determines that the land, as established by the boundary line agreement, was not in compliance with the municipality's or the county's land use regulations in effect on the day on which the boundary line agreement was recorded.

(8) If a judgment made by a court that establishes the location of a disputed boundary is recorded in the county title record, the judgment shall act as a boundary line agreement recorded under this section.

CHAPTER 356
H. B. 318

Passed March 1, 2022
Approved March 24, 2022
Effective May 4, 2022

DENTAL PROVIDER MALPRACTICE AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends the Utah Health Care Malpractice Act.

Highlighted Provisions:

This bill:

- exempts dental care providers from the requirement for a prelitigation hearing panel in a health care malpractice action.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-403, as last amended by Laws of Utah 2019, Chapter 349
78B-3-412, as last amended by Laws of Utah 2010, Chapter 97
78B-3-416, as last amended by Laws of Utah 2020, Chapter 339

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-403 is amended to read:

78B-3-403. Definitions.

As used in this part:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.

(7) "Dental care provider" means any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders dental care or professional services as a dentist, dental hygienist, or other person rendering similar care and services relating to or arising out of the practice of dentistry or the practice of dental hygiene, and the officers, employees, or agents of any of the above acting in the course and scope of their employment.

[~~(7)~~] (8) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.

[~~(8)~~] (9) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

[~~(9)~~] (10) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.

[~~(10)~~] (11) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

[~~(11)~~] (12) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.

[~~(12)~~] (13) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

[~~(13)~~] (14) "Hospital" means a public or private institution licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

[~~(14)~~] (15) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

[~~(15)~~] (16) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.

[~~(16)~~] (17) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

[~~(17)~~] (18) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

[~~(18)~~] (19) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.

[~~(19)~~] (20) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

[~~(20)~~] (21) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

[~~(21)~~] (22) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

[~~(22)~~] (23) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(23)~~] (24) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

[~~(24)~~] (25) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.

[~~(25)~~] (26) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.

[~~(26)~~] (27) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.

[~~(27)~~] (28) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.

[~~(28)~~] (29) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

[~~(29)~~] (30) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

[~~(30)~~] (31) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

[~~(31)~~] (32) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(32)~~] (33) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

[~~(33)~~] (34) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

[~~(34)~~] (35) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.

[~~(35)~~] (36) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.

[~~(36)~~] (37) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.

[~~(37)~~] (38) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

[~~(38)~~] (39) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

[~~(39)~~] (40) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

Section 2. Section 78B-3-412 is amended to read:

78B-3-412. Notice of intent to commence action.

(1) A malpractice action against a health care provider may not be initiated unless and until the plaintiff:

(a) gives the prospective defendant or his executor or successor, at least 90 days' prior notice of intent to commence an action; and

(b) except for an action against a dentist or a dental care provider, the plaintiff receives a certificate of compliance from the division in accordance with Section 78B-3-418.

(2) The notice shall include:

(a) a general statement of the nature of the claim;

(b) the persons involved;

(c) the date, time, and place of the occurrence;

(d) the circumstances surrounding the claim;

(e) specific allegations of misconduct on the part of the prospective defendant; and

(f) the nature of the alleged injuries and other damages sustained.

(3) Notice may be in letter or affidavit form executed by the plaintiff or his attorney. Service shall be accomplished by persons authorized and in the manner prescribed by the Utah Rules of Civil Procedure for the service of the summons and complaint in a civil action or by certified mail, return receipt requested, in which case notice shall be considered served on the date of mailing.

(4) Notice shall be served within the time allowed for commencing a malpractice action against a health care provider. If the notice is served less than 90 days prior to the expiration of the applicable time period, the time for commencing the malpractice action against the health care provider shall be extended to 120 days from the date of service of notice.

(5) This section shall, for purposes of determining its retroactivity, not be construed as relating to the limitation on the time for commencing any action, and shall apply only to causes of action arising on or after April 1, 1976. This section shall not apply to third party actions, counterclaims or crossclaims against a health care provider.

Section 3. Section 78B-3-416 is amended to read:

78B-3-416. Division to provide panel -- Exemption -- Procedures -- Statute of limitations tolled -- Composition of panel -- Expenses -- Division authorized to set license fees.

(1) (a) The division shall provide a hearing panel in alleged medical liability cases against health care providers as defined in Section 78B-3-403, except dentists or dental care providers.

(b) (i) The division shall establish procedures for prelitigation consideration of medical liability claims for damages arising out of the provision of or alleged failure to provide health care.

(ii) The division may establish rules necessary to administer the process and procedures related to prelitigation hearings and the conduct of prelitigation hearings in accordance with Sections 78B-3-416 through 78B-3-420.

(c) The proceedings are informal, nonbinding, and are not subject to Title 63G, Chapter 4, Administrative Procedures Act, but are compulsory as a condition precedent to commencing litigation.

(d) Proceedings conducted under authority of this section are confidential, privileged, and immune from civil process.

(e) The division may not provide more than one hearing panel for each alleged medical liability case against a health care provider.

(2) (a) The party initiating a medical liability action shall file a request for prelitigation panel review with the division within 60 days after the service of a statutory notice of intent to commence action under Section 78B-3-412.

(b) The request shall include a copy of the notice of intent to commence action. The request shall be mailed to all health care providers named in the notice and request.

(3) (a) The filing of a request for prelitigation panel review under this section tolls the applicable statute of limitations until the later of:

(i) 60 days following the division's issuance of:

(A) an opinion by the prelitigation panel; or

(B) a certificate of compliance under Section 78B-3-418; or

(ii) the expiration of the time for holding a hearing under Subsection (3)(b)(ii).

(b) The division shall:

(i) send any opinion issued by the panel to all parties by regular mail; and

(ii) complete a prelitigation hearing under this section within:

(A) 180 days after the filing of the request for prelitigation panel review; or

(B) any longer period as agreed upon in writing by all parties to the review.

(c) If the prelitigation hearing has not been completed within the time limits established in Subsection (3)(b)(ii), the claimant shall:

(i) file an affidavit of merit under the provisions of Section 78B-3-423; or

(ii) file an affidavit with the division within 180 days of the request for pre-litigation review, in accordance with Subsection (3)(d), alleging that the respondent has failed to reasonably cooperate in scheduling the hearing.

(d) If the claimant files an affidavit under Subsection (3)(c)(ii):

(i) within 15 days of the filing of the affidavit under Subsection (3)(c)(ii), the division shall determine whether either the respondent or the claimant failed to reasonably cooperate in the scheduling of a pre-litigation hearing; and

(ii) (A) if the determination is that the respondent failed to reasonably cooperate in the scheduling of a hearing, and the claimant did not fail to reasonably cooperate, the division shall, issue a certificate of compliance for the claimant in accordance with Section 78B-3-418; or

(B) if the division makes a determination other than the determination in Subsection (3)(d)(ii)(A), the claimant shall file an affidavit of merit in accordance with Section 78B-3-423, within 30 days of the determination of the division under this Subsection (3).

(e) (i) The claimant and any respondent may agree by written stipulation that no useful purpose would be served by convening a prelitigation panel under this section.

(ii) When the stipulation is filed with the division, the division shall within 10 days after receipt issue a certificate of compliance under Section 78B-3-418, as it concerns the stipulating respondent, and stating that the claimant has complied with all conditions precedent to the commencement of litigation regarding the claim.

(4) The division shall provide for and appoint an appropriate panel or panels to hear complaints of medical liability and damages, made by or on behalf of any patient who is an alleged victim of medical liability. The panels are composed of:

(a) one member who is a resident lawyer currently licensed and in good standing to practice law in this state and who shall serve as chairman of the panel, who is appointed by the division from among qualified individuals who have registered with the division indicating a willingness to serve as panel members, and a willingness to comply with the rules of professional conduct governing lawyers in the state, and who has completed division training regarding conduct of panel hearings;

(b) (i) one or more members who are licensed health care providers listed under Section 78B-3-403, who are practicing and knowledgeable in the same specialty as the proposed defendant, and who are appointed by the division in accordance with Subsection (5); or

(ii) in claims against only a health care facility or the facility's employees, one member who is an individual currently serving in a health care facility administration position directly related to health care facility operations or conduct that includes responsibility for the area of practice that is the subject of the liability claim, and who is appointed by the division; and

(c) a lay panelist who is not a lawyer, doctor, hospital employee, or other health care provider, and who is a responsible citizen of the state, selected and appointed by the division from among individuals who have completed division training with respect to panel hearings.

(5) (a) Each person listed as a health care provider in Section 78B-3-403 and practicing under a license issued by the state, is obligated as a condition of holding that license to participate as a member of a medical liability prelitigation panel at reasonable times, places, and intervals, upon issuance, with advance notice given in a reasonable time frame, by the division of an Order to Participate as a Medical Liability Prelitigation Panel Member.

(b) A licensee may be excused from appearance and participation as a panel member upon the division finding participation by the licensee will create an unreasonable burden or hardship upon the licensee.

(c) A licensee whom the division finds failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000.

(d) A licensee whom the division finds intentionally or repeatedly failed to appear and participate as a panel member when so ordered, without adequate explanation or justification and without being excused for cause by the division, may be assessed an administrative fine not to exceed $5,000, and is guilty of unprofessional conduct.

(e) All fines collected under Subsections (5)(c) and (d) shall be deposited in the Physicians Education Fund created in Section 58-67a-1.

(f) The director of the division may collect a fine that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(g) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a fine.

(h) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a fine.

(6) Each person selected as a panel member shall certify, under oath, that he has no bias or conflict of interest with respect to any matter under consideration.

(7) A member of the prelitigation hearing panel may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) In addition to the actual cost of administering the licensure of health care providers, the division may set license fees of health care providers within the limits established by law equal to their proportionate costs of administering prelitigation panels.

(b) The claimant bears none of the costs of administering the prelitigation panel except under Section 78B-3-420.

CHAPTER 357
H. B. 319

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

JORDAN RIVER IMPROVEMENT AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill addresses Jordan River improvement projects.

Highlighted Provisions:

This bill:

- directs the Jordan River Commission to work with the Department of Transportation regarding issues related to state highways and the Jordan River; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

65A-2-8, as last amended by Laws of Utah 2020, Chapter 157

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 65A-2-8 is amended to read:

65A-2-8. Jordan River improvement projects.

(1) As used in this section:

(a) "Commission" means the Jordan River Commission created by interlocal agreement.

(b) "Zone" means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and 4800 South.

(2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) [~~and (4)~~] through (5), may:

(a) expend money for the following purposes:

(i) enhancing safety, recreation, and conservation in the zone;

(ii) capital improvements within the zone, including:

(A) lighting along the Jordan River and within the zone;

(B) completing construction of a paved pathway on both sides of the Jordan River within the zone;

(C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and

(D) supporting Tracy Aviary, a nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;

(iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;

(iv) hiring or contracting for personnel to perform tasks as directed by the commission;

(v) partnering or contracting with an urban ranger or conservation corp operated by a state institution of higher education or similar service-oriented organizations or programs:

(A) to provide trail, river, and parkway maintenance, invasive species removal and revegetation, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; and

(vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and

(b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).

(3) (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:

(i) the commission;

(ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and

(iii) the relevant municipality within the zone.

(b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:

(i) receive the approval of the commission; and

(ii) consult with:

(A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and

(B) the relevant municipality within the zone.

(4) The commission shall work with the Department of Transportation, created in Section 72-1-201, to:

(a) have the Department of Transportation post by no later than July 1, 2025, as funding allows, consistent and attractive signs where a highway that is designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act, but is not a freeway crosses the Jordan River; and

(b) advise in the development of methods to provide access from a state highway to the trails along the Jordan River where the trail can be safely accessed.

[~~(4)~~] (5) (a) The programs described in this section may only be implemented as appropriations from the Legislature allow.

(b) Money appropriated to programs in this section are managed by the division in accordance with this section.

(c) Money that the Legislature appropriates to programs described in this section are nonlapsing in accordance with Section 63J-1-602.2.

CHAPTER 358
H. B. 320

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

GUARDIANSHIP BILL OF RIGHTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses the rights of a person with respect to a guardianship.

Highlighted Provisions:

This bill:

- addresses the rights of a person alleged to be incapacitated with respect to a guardianship;
- addresses the rights of an incapacitated person with respect to a guardianship;
- provides that the rights of an incapacitated person do not abrogate any remedy provided by law;
- provides that the rights of an incapacitated person may be addressed in a guardianship proceeding or a private cause of action;
- amends the powers and duties of a guardian and conservator to address the rights of an incapacitated person; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

75-5-312, as last amended by Laws of Utah 2018, Chapters 244 and 294

75-5-417, as last amended by Laws of Utah 2004, Chapter 89

ENACTS:

75-5-301.5, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

75-5-301.5, Utah Code Annotated 1953

75-5-312, as last amended by Laws of Utah 2018, Chapters 244 and 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 75-5-301.5 is enacted to read:

75-5-301.5. Rights of a person alleged to be incapacitated -- Rights of an incapacitated person.

(1) Except as otherwise provided by this chapter or any other law, a person alleged to be incapacitated has the right to:

(a) be represented by counsel before a guardianship is imposed and have counsel represent the person during the guardianship proceeding;

(b) receive a copy of all documents filed in a guardianship proceeding;

(c) have a relative, a physician, or any interested person speak about or raise any issue of concern on behalf of the person during the guardianship proceeding;

(d) receive information about guardianships from the court; and

(e) be treated with respect and dignity.

(2) Except as otherwise provided by this chapter or any other law, an incapacitated person for whom a guardian is appointed has right to:

(a) have counsel represent the incapacitated person at any time after the guardian is appointed;

(b) have a relative, a physician, or any interested person speak about or raise any issue of concern on behalf of the person in any court hearing about the guardianship;

(c) receive a copy of all documents filed in court regarding the guardianship;

(d) receive information about guardianships from the court;

(e) ask questions and express concerns or complaints about a guardian and the actions of a guardian to the court;

(f) participate in developing an individualized plan for the incapacitated person's care, including:

(i) managing the incapacitated person's assets and property;

(ii) determining the incapacitated person's residence; and

(iii) determining the services to be received by the incapacitated person;

(g) be given consideration in regards to the incapacitated person's current and previously stated desires, preferences for health care and medical treatment, and religious and moral beliefs;

(h) remain as independent as possible, including giving deference to the incapacitated person's preference for the incapacitated person's residence and standard of living:

(i) as expressed or demonstrated before a determination of capacity was made; or

(ii) as currently expressed or demonstrated by the incapacitated person if the preference is reasonable under the circumstances;

(i) be granted the greatest degree of freedom possible that is consistent with the reasons for the guardianship;

(j) be able to exercise control over all aspects of the incapacitated person's life that are not granted to the guardian in the order of appointment;

(k) engage in any activity that the court has not expressly reserved for the guardian, including marriage or domestic partnership, traveling, working, or having a driver license;

(l) be treated with respect and dignity;

(m) be treated fairly by the incapacitated person's guardian;

(n) maintain privacy and confidentiality in personal matters;

(o) receive telephone calls and personal mail and associate with relatives and acquaintances unless the guardian and the court determine that the association should be restricted or prohibited in accordance with Section 75-5-312.5;

(p) receive timely, effective, and appropriate health care and medical treatment that does not violate the incapacitated person's rights;

(q) have all services provided by a guardian at a reasonable rate of compensation;

(r) have a court review any request for payment by a guardian to avoid excessive or unnecessary fees or duplicative billing;

(s) receive prudent financial management of the incapacitated person's property;

(t) subject to Subsections 75-5-312(3)(f)(viii) and 75-5-417(4), receive a copy of an accounting report regarding the incapacitated person's estate that is submitted to the court by the guardian under Section 75-5-312 or the conservator under Section 75-5-417 if a conservator is appointed for the incapacitated person;

(u) receive and control the incapacitated person's salary;

(v) maintain a bank account and manage the incapacitated person's personal money; and

(w) ask the court to:

(i) review the management activity of a guardian if a dispute cannot be resolved regarding the guardian's management;

(ii) continue to review the need for a guardianship or to modify or terminate a guardianship; and

(iii) enter an order restoring the incapacitated person's capacity at the earliest possible time.

(3) The rights of an incapacitated person under this section do not abrogate any remedy provided by law.

(4) Any right described in this section may be:

(a) addressed in a guardianship proceeding; or

(b) enforced through a private cause of action.

Section 2. Section 75-5-312 is amended to read:

75-5-312. General powers and duties of guardian -- Penalties.

(1) A guardian of an incapacitated person has only the powers, rights, and duties respecting the ward granted in the order of appointment under Section 75-5-304.

(2) Except as provided in Subsection (4), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor child.

(3) In particular, and without qualifying Subsections (1) and (2), a guardian has the following powers and duties, except as modified by order of the court:

(a) To the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the ward, the guardian is entitled to custody of the person of the ward and may establish the ward's place of [~~abode~~] residence within or without this state, except that the guardian must give consideration to the ward's preference for the ward's place of residence in accordance with Section 75-5-301.5.

(b) If entitled to custody of the ward the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education. Without regard to custodial rights of the ward's person, the guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.

(c) A guardian may give any consents or approvals that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service, except that the guardian must:

(i) give consideration to the ward's current and previously stated desires for health care and medical treatment in accordance with Section 75-5-301.5; and

(ii) respect the ward's right to receive timely, effective, and appropriate health care in accordance with Section 75-5-301.5.

(d) A guardian may not unreasonably restrict visitation with the ward by family, relatives, or friends.

(e) If no conservator for the estate of the ward has been appointed, the guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward:

(A) except that the guardian may not use funds from the ward's estate for room and board that the guardian, the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult; and

(B) the guardian shall exercise care to conserve any excess for the ward's needs.

(f) (i) A guardian is required to report the condition of the ward and of the estate that has been subject to the guardian's possession or control, as required by the court or court rule.

(ii) A guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 30 days, based on:

(A) the guardian's own observations; or

(B) information from the ward's physician or other medical care providers.

(iii) A guardian is required to immediately notify persons who request notification and are not restricted in associating with the ward pursuant to Section 75-5-312.5 of:

(A) the ward's admission to a hospital for three or more days or to a hospice program;

(B) the ward's death; and

(C) the arrangements for the disposition of the ward's remains.

(iv) Unless emergency conditions exist, a guardian is required to file with the court a notice of the guardian's intent to move the ward and to serve the notice on all interested persons at least 10 days before the move. The guardian shall take reasonable steps to notify all interested persons and to file the notice with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party.

(v) (A) If no conservator for the estate of the ward has been appointed, the guardian shall, for all estates in excess of $50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis.

(B) For estates less than $50,000, excluding the residence owned by the ward, the guardian shall fill out an informal annual report and mail the report to the court.

[~~(C)~~] (vi) A report under Subsection (3)(f)(v)(A) or (B) shall include a statement [~~of~~] regarding:

(A) all assets at the beginning and end of the reporting year[~~,~~];

(B) any income received during the year[~~,~~];

(C) any disbursements for the support of the ward[~~, and~~];

(D) any investments or trusts that are held for the ward's benefit;

(E) any expenditures or fees charged to the ward's estate; and

(F) any other expenses incurred by the ward's estate.

(vii) (A) [~~The~~] A guardian shall [~~also~~] report the physical conditions of the ward, the place of residence, and a list of others living in the same household to the court.

(B) The court may require additional information.

[~~(D)~~] (C) The forms for both the informal report for estates under $50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the Judicial Council.

[~~(E)~~] (D) An annual report shall be examined and approved by the court.

[~~(F)~~] (E) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual report.

(viii) Upon a motion and after a hearing, the court may alter the frequency of, or the information included in, an accounting report provided to a ward in accordance with Subsection 75-5-301.5(2)(t).

[~~(vi)~~] (ix) Corporate fiduciaries are not required to petition the court, but shall submit their internal report annually to the court. The report shall be examined and approved by the court.

[~~(vii)~~] (x) (A) The guardian shall also render an annual accounting of the status of the person to the court that shall be included in the petition or the informal annual report as required under this Subsection (3)(f).

(B) If a fee is paid for an accounting of an estate, a fee may not be charged for an accounting of the status of a person.

[~~(viii)~~] (xi) If a guardian:

(A) makes a substantial misstatement on filings of annual reports;

(B) is guilty of gross impropriety in handling the property of the ward; or

(C) willfully fails to file the report required by this Subsection (3)(f), after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed, the court may impose a penalty in an amount not to exceed $5,000.

[~~(ix)~~] (xii) The court may also order restitution of funds misappropriated from the estate of a ward. The penalty shall be paid by the guardian and may not be paid by the estate.

[~~(x)~~] (xiii) The provisions and penalties in this Subsection (3)(f) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.

[~~(xi)~~] (xiv) For the purposes of Subsections (3)(f)(i), (ii), (iii), and (iv), "interested persons" means those persons required to receive notice in guardianship proceedings as set forth in Section 75-5-309.

(g) If a conservator has been appointed:

(i) all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this code; and

(ii) the guardian shall account to the conservator for funds expended.

(4) (a) A court may, in the order of appointment, place specific limitations on the guardian's power.

(b) A guardian may not prohibit or place restrictions on association with a relative or qualified acquaintance of an adult ward, unless permitted by court order under Section 75-5-312.5.

(c) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection (2).

(5) Any guardian of one for whom a conservator also has been appointed shall control the custody and care of the ward and is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator, if the amounts agreed upon are reasonable under the circumstances. The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(6) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the protected person after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

(7) A guardian shall, to the extent practicable, encourage the ward to participate in decisions, exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs. To the extent known, a guardian, in making decisions, shall consider the expressed desires and personal values of the ward.

Section 3. Section 75-5-417 is amended to read:

75-5-417. General duty of conservator.

(1) A conservator shall act as a fiduciary and shall observe the standards of care as set forth in Section 75-7-902.

[~~(2) The conservator shall, for all estates in excess of $50,000, excluding the residence owned by the ward, send a report with a full accounting to the court on an annual basis.~~]

(2) (a) For all estates in excess of $50,000 excluding the residence owned by the ward, the conservator shall send a report with a full accounting to the court on an annual basis.

(b) For estates less than $50,000[~~,~~] excluding the residence owned by the ward, the conservator shall fill out an informal annual report and mail the report to the court. [~~The report shall include the following: a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate. The court may require additional information. The forms for both the informal report for estates under $50,000, excluding the residence owned by the ward, and the full accounting report for larger estates shall be approved by the judicial council. This annual report shall be examined and approved by the court.~~]

(c) A report under Subsection (2)(a) or (b) shall include a statement regarding:

(i) all assets at the beginning and end of the reporting year;

(ii) any income received during the year;

(iii) any disbursements for the support of the ward;

(iv) any investments or trusts that are held for the ward's benefit;

(v) any expenditures or fees charged to the ward's estate; and

(vi) any other expenses incurred by the ward's estate.

(d) The Judicial Council shall approve the forms for the accounting reports described in Subsections (2)(a) and (b).

(e) An annual accounting report under Subsection (2)(a) or (b) shall be examined and approved by the court.

(3) (a) Corporate fiduciaries are not required to fully petition the court, but shall submit their internal report annually to the court. [~~The report~~]

(b) A report under Subsection (3)(a) shall be examined and approved by the court.

(4) Upon a motion and after a hearing, the court may alter the frequency of, or the information included in, an accounting report provided to a ward in accordance with Subsection 75-5-301.5(2)(t).

[~~(4)~~] (5) (a) The court may impose a fine in an amount not to exceed $5,000, if, after receiving written notice of the failure to file and after a grace period of two months have elapsed, a conservator or corporate fiduciary:

(i) makes a substantial misstatement on filings of any required annual reports;

(ii) is guilty of gross impropriety in handling the property of the ward; or

(iii) willfully fails to file the report required by this section.

(b) The court may also order restitution of funds misappropriated from the estate of a ward.

(c) The penalty shall be paid by the conservator or corporate fiduciary and may not be paid by the estate.

[~~(5)~~] (6) These provisions and penalties governing annual reports do not apply if the conservator is the parent of the ward.

Section 4. Coordinating H.B. 320 with S.B. 155 -- Substantive amendments.

If this H.B. 320 and S.B. 155, Guardianship and Conservatorship Amendments, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the database for publication by:

(1) amending Subsection 75-5-301.5(2)(t) in H.B. 320 to read:

"(t) subject to Subsections 75-5-312(4)(h) and 75-5-417(4), receive a copy of an accounting report regarding the incapacitated person's estate that is submitted to the court by the guardian under Section 75-5-312 or the conservator under Section 75-5-417 if a conservator is appointed for the incapacitated person;";

(2) amending Subsection 75-5-312(2)(a) in S.B. 155 to read:

"(a) to the extent that it is consistent with the terms of any order by a court relating to detention or commitment of the ward, a guardian is entitled to custody of the person of the ward and may establish the ward's place of residence within, or outside of, this state, except that the guardian must give consideration to the ward's preference for the ward's place of residence in accordance with Section 75-5-301.5;";

(3) amending Subsection 75-5-312(2)(d) in S.B. 155 to read:

"(d) a guardian may give the consent or approval that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service, except that the guardian must:

(i) give consideration to the ward's current and previously stated desires for health care and medical treatment in accordance with Section 75-5-301.5; and

(ii) respect the ward's right to receive timely, effective, and appropriate health care in accordance with Section 75-5-301.5;"; and

(4) amending Subsection 75-5-312(4) in S.B. 155 to read:

"(4)(a) An accounting report under Subsection (2)(k) shall include a statement regarding:

(i) all assets at the beginning and end of the reporting year;

(ii) any income received during the year;

(iii) any disbursements for the support of the ward;

(iv) any investments or trusts that are held for the ward's benefit;

(v) any expenditures or fees charged to the ward's estate; and

(vi) any other expenses incurred by the ward's estate.

(b) The court may require additional information in an accounting report under Subsection (2)(k).

(c) The Judicial Council shall approve forms for the accounting reports described in Subsection (2)(k).

(d) An annual accounting report under Subsection (2)(k) shall be examined and approved by the court.

(e) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual accounting report under Subsection (2)(k).

(f) (i) A corporate fiduciary is not required to petition the court, but shall submit the corporate fiduciary's internal report annually to the court.

(ii) The report under Subsection (4)(f)(i) shall be examined and approved by the court.

(g) If a fee is paid for an accounting of an estate, a fee may not be charged for an accounting of the status of a ward under Subsection (2)(l).

(h) Upon a motion and after a hearing, the court may alter the frequency of, or the information included in, an accounting report provided to a ward in accordance with Subsection 75-5-301.5(2)(t).".

CHAPTER 359
H. B. 321

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

RESTITUTION AMENDMENTS

Chief Sponsor: Nelson T. Abbott
Senate Sponsor: Keith Grover

LONG TITLE

General Description:

This bill amends provisions related to restitution.

Highlighted Provisions:

This bill:

- amends provisions regarding the payment of restitution as a condition of probation;
- clarifies the sentencing court's jurisdiction over a defendant's case in regards to the remittance of a criminal accounts receivable;
- amends provisions related to the payment of a criminal accounts receivable by electronic payment;
- defines terms related to criminal restitution;
- clarifies and addresses the preclusive effect of a conviction in a subsequent civil action; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-18-105, as enacted by Laws of Utah 2021, Chapter 260 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 246
77-18-114, as enacted by Laws of Utah 2021, Chapter 260
77-18-118, as enacted by Laws of Utah 2021, Chapter 260
77-32b-103, as enacted by Laws of Utah 2021, Chapter 260
77-38b-102, as last amended by Laws of Utah 2021, Chapter 262
77-38b-303, as enacted by Laws of Utah 2021, Chapter 260

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 77-18-105 is amended to read:

77-18-105. Pleas held in abeyance -- Suspension of a sentence -- Probation -- Supervision -- Terms and conditions of probation -- Time periods for probation -- Bench supervision for payments on criminal accounts receivable.

(1) If a defendant enters a plea of guilty or no contest in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance:

(a) in accordance with Chapter 2a, Pleas in Abeyance; and

(b) under the terms of the plea in abeyance agreement.

(2) If a defendant is convicted, the court:

(a) shall impose a sentence in accordance with Section 76-3-201; and

(b) may suspend the execution of the sentence and place the defendant:

(i) on probation under the supervision of the department, except as provided in Subsection (5);

(ii) on probation under the supervision of an agency of a local government or a private organization; or

(iii) on court probation under the jurisdiction of the sentencing court.

(3) (a) The legal custody of all probationers under the supervision of the department is with the department.

(b) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.

(c) The court has continuing jurisdiction over all probationers.

(4) (a) Court probation may include an administrative level of services, including notification to the sentencing court of scheduled periodic reviews of the probationer's compliance with conditions.

(b) Supervised probation services provided by the department, an agency of a local government, or a private organization shall specifically address the defendant's risk of reoffending as identified by a screening or an assessment.

(5) A court may not order the department to supervise the probation of an individual who is convicted of a class B or C misdemeanor or an infraction.

(6) (a) If a defendant is placed on probation, the court may order the defendant as a condition of the defendant's probation:

(i) to provide for the support of persons for whose support the defendant is legally liable;

(ii) to participate in available treatment programs, including any treatment program in which the defendant is currently participating if the program is acceptable to the court;

(iii) be voluntarily admitted to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital in accordance with Section 77-18-106;

(iv) if the defendant is on probation for a felony offense, to serve a period of time as an initial condition of probation that does not exceed one year in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

(v) to serve a term of home confinement in accordance with Section 77-18-107;

(vi) to participate in compensatory service programs, including the compensatory service program described in Section 76-6-107.1;

(vii) to pay for the costs of investigation, probation, or treatment services;

[~~(viii) to pay a criminal accounts receivable established for the defendant under Section 77-32b-103; or~~]

(viii) to pay restitution to a victim with interest in accordance with Chapter 38b, Crime Victims Restitution Act; or

(ix) to comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.

(b) (i) Notwithstanding Subsection (6)(a)(iv), the court may modify the probation of a defendant to include a period of time that is served in a county jail immediately before the termination of probation as long as that period of time does not exceed one year.

(ii) If a defendant is ordered to serve time in a county jail as a sanction for a probation violation, the one-year limitation described in Subsection (6)(a)(iv) or (6)(b)(i) does not apply to the period of time that the court orders the defendant to serve in a county jail under this Subsection (6)(b)(ii).

(7) (a) Except as provided in Subsection (7)(b), probation of an individual placed on probation after December 31, 2018:

(i) may not exceed the individual's maximum sentence;

(ii) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and

(iii) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.

(b) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less, may not exceed 36 months.

(c) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed in accordance with Section 64-13-21 regarding earned credits.

(d) This Subsection (7) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(8) (a) Notwithstanding Subsection (7), if there is an unpaid balance of the criminal accounts receivable for the defendant upon termination of the probation period for the defendant under Subsection (7), the court may require the defendant to continue to make payments towards the criminal accounts receivable in accordance with the payment schedule established by the court under Section 77-32b-103.

(b) A court may not require the defendant to make payments as described in Subsection (8)(a) beyond the expiration of the defendant's sentence.

(c) If the court requires a defendant to continue to pay in accordance with the payment schedule for the criminal accounts receivable under this Subsection (8) and the defendant defaults on the criminal accounts receivable, the court shall proceed with an order for a civil judgment of restitution and a civil accounts receivable for the defendant as described in Section 77-18-114.

(d) (i) Upon a motion from the prosecuting attorney, the victim, or upon the court's own motion, the court may require a defendant to show cause as to why the defendant's failure to pay in accordance with the payment schedule should not be treated as contempt of court.

(ii) A court may hold a defendant in contempt for failure to make payments for a criminal accounts receivable in accordance with Title 78B, Chapter 6, Part 3, Contempt.

(e) This Subsection (8) does not apply to the probation of an individual convicted of an offense for criminal nonsupport under Section 76-7-201.

(9) When making any decision regarding probation, the court shall consider information provided by the Department of Corrections regarding a defendant's individual case action plan, including any progress the defendant has made in satisfying the case action plan's completion requirements.

Section 2. Section 77-18-114 is amended to read:

77-18-114. Unpaid balance at termination of sentence -- Past due account -- Notice -- Account or judgment paid in full -- Effect of civil accounts receivable and civil judgment of restitution.

(1) When a defendant's sentence is terminated by law or by the decision of the court or the board:

(a) the board shall provide an accounting of the unpaid balance of the defendant's criminal accounts receivable to the court if the defendant was on parole or incarcerated at the time of termination; and

(b) except as provided in Subsection 77-18-118(1)(g), within 90 days after the day on which a defendant's sentence is terminated, the court shall:

(i) enter an order for a civil accounts receivable and a civil judgment of restitution for a defendant on the civil judgment docket;

(ii) transfer the responsibility of collecting the civil accounts receivable and the civil judgment of restitution to the Office of State Debt Collection; and

(iii) identify in the order under this Subsection (1):

(A) the Office of State Debt Collection as a judgment creditor for the civil accounts receivable and the civil judgment of restitution; and

(B) the victim as a judgment creditor for the civil judgment of restitution.

(2) If a criminal accounts receivable for the defendant is more than 90 days past due and the court has ordered that a defendant does not owe restitution to any victim, or the time period in Subsection 77-38b-205(5) has passed and the court has not ordered restitution, the court may:

(a) enter an order for a civil accounts receivable for the defendant on the civil judgment docket;

(b) identify, in the order under Subsection (2)(a), the Office of State Debt Collection as a judgment creditor for the civil accounts receivable; and

(c) transfer the responsibility of collecting the civil accounts receivable to the Office of State Debt Collection.

(3) An order for a criminal accounts receivable is no longer in effect after the court enters an order for a civil accounts receivable or a civil judgment of restitution under Subsection (1) or (2).

(4) The court shall provide notice to the Office of State Debt Collection and the prosecuting attorney of any hearing that affects an order for the civil accounts receivable or the civil judgment of restitution.

(5) The Office of State Debt Collection shall:

(a) notify the court when a civil judgment of restitution or a civil accounts receivable is satisfied; and

(b) provide the court with an accounting of any distribution made by the Office of State Debt Collection for the civil accounts receivable and the civil judgment of restitution.

(6) When a fine, forfeiture, surcharge, cost, or fee is recorded in an order for a civil accounts receivable on the civil judgment docket, or when restitution is recorded as an order for a civil judgment of restitution on the civil judgment docket, the order:

(a) constitutes a lien on the defendant's real property until the judgment is satisfied; and

(b) may be collected by any means authorized by law for the collection of a civil judgment.

(7) A criminal accounts receivable, a civil accounts receivable, and a civil judgment of restitution are not subject to the civil statutes of limitation and expire only upon payment in full.

(8) (a) If a defendant asserts that a payment was made to a victim or third party for a civil judgment of restitution, or enters into any other transaction that does not involve the Office of State Debt Collection, and the defendant asserts that the payment results in a credit towards the civil judgment of restitution for the defendant:

(i) the defendant shall provide notice to the Office of State Debt Collection and the prosecuting attorney within 30 days after the day on which the payment or other transaction is made; and

(ii) the payment may only be credited towards the principal of the civil judgment of restitution and does not affect any other amount owed to the Office of State Debt Collection under Section 63A-3-502.

(b) Nothing in this Subsection (8) shall be construed to prevent a victim or a third party from providing notice of a payment towards a civil judgment of restitution to the Office of State Debt Collection.

Section 3. Section 77-18-118 is amended to read:

77-18-118. Continuing jurisdiction of a sentencing court.

(1) A sentencing court shall retain jurisdiction over a defendant's criminal case:

(a) if the defendant is on probation as described in Subsection 77-18-105(3)(c);

(b) if the defendant is on probation and the probation period has terminated under Subsection 77-18-105(7), to require the defendant to continue to make payments towards a criminal accounts receivable until the defendant's sentence expires;

(c) within the time periods described in Subsection 77-38b-205(5), to enter or modify an order for a criminal accounts receivable in accordance with Section 77-32b-103;

(d) within the time periods described in Subsection 77-38b-205(5), to enter or modify an order for restitution in accordance with Section 77-38b-205;

(e) until a defendant's sentence is terminated, to correct an error for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(a);

(f) until a defendant's sentence is terminated, to modify a payment schedule for a criminal accounts receivable in accordance with Subsection 77-32b-105(1)(b);

[~~(g) if a defendant files a petition for remittance under Subsection 77-32b-105(1)(c) before the defendant's sentence is terminated, for 90 days from the day on which the petition is filed to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable;~~]

[~~(h)~~] (g) if a defendant files a petition for remittance under Subsection 77-32b-106(1) within 90 days from the day on which the defendant's sentence is terminated, to determine whether to remit, in whole or in part, the defendant's criminal accounts receivable; and

[~~(i)~~] (h) to enter an order for a civil accounts receivable and a civil judgment of restitution in accordance with Section 77-18-114.

(2) This section does not prevent a court from exercising jurisdiction over:

(a) a contempt proceeding for a defendant under Title 78B, Chapter 6, Part 3, Contempt; or

(b) enforcement of a civil accounts receivable or a civil judgment of restitution.

Section 4. Section 77-32b-103 is amended to read:

77-32b-103. Establishment of a criminal accounts receivable -- Responsibility -- Payment schedule -- Delinquency or default.

(1) (a) Except as provided in Subsection (1)(b) and (c), at the time of sentencing or acceptance of a plea in abeyance, the court shall enter an order to establish a criminal accounts receivable for the defendant.

(b) The court is not required to create a criminal accounts receivable for the defendant under Subsection (1) if the court finds that the defendant does not owe restitution and there are no other fines or fees to be assessed against the defendant.

(c) Subject to Subsection 77-38b-205(5), if the court does not create a criminal accounts receivable for a defendant under Subsection (1), the court shall enter an order to establish a criminal accounts receivable for the defendant at the time the court enters an order for restitution under Section 77-38b-205.

(2) After establishing a criminal accounts receivable for a defendant, the court shall:

(a) if a prison sentence is imposed and not suspended for the defendant:

(i) accept any payment for the criminal accounts receivable that is tendered on the date of sentencing; and

(ii) transfer the responsibility of receiving, distributing, and processing payments for the criminal accounts receivable to the Office of State Debt Collection; and

(b) for all other cases:

(i) retain the responsibility for receiving, processing, and distributing payments for the criminal accounts receivable until the court enters a civil accounts receivable or civil judgment of restitution on the civil judgment docket under Subsection 77-18-114(1) or (2); and

(ii) record each payment by the defendant on the case docket.

(c) For a criminal accounts receivable that a court retains responsibility for receiving, processing, and distributing payments under Subsection (2)(b)(i), the Judicial Council may establish rules to require a defendant to pay the cost, or a portion of the cost, for an electronic payment fee that is charged by a financial institution for the use of a credit or debit card [~~by the defendant~~] to make payments towards the criminal accounts receivable.

(3) (a) Upon entering an order for a criminal accounts receivable, the court shall establish a payment schedule for the defendant to make payments towards the criminal accounts receivable.

(b) In establishing the payment schedule for the defendant, the court shall consider:

(i) the needs of the victim if the criminal accounts receivable includes an order for restitution under Section 77-38b-205;

(ii) the financial resources of the defendant, as disclosed in the financial declaration under Section 77-38b-204;

(iii) the burden that the payment schedule will impose on the defendant regarding the other reasonable obligations of the defendant;

(iv) the ability of the defendant to pay restitution on an installment basis or on other conditions fixed by the court;

(v) the rehabilitative effect on the defendant of the payment of restitution and method of payment; and

(vi) any other circumstance that the court determines is relevant.

(4) A payment schedule for a criminal accounts receivable does not limit the ability of a judgment creditor to pursue collection by any means allowable by law.

(5) If the court orders restitution under Section 77-38b-205, or makes another financial decision, after sentencing that increases the total amount owed in a defendant's case, the defendant's criminal accounts receivable balance shall be adjusted to include any new amount ordered by the court.

(6) (a) If a defendant is incarcerated in a county jail or a secure correctional facility, as defined in Section 64-13-1, or the defendant is involuntarily committed under Section 62A-15-631:

(i) all payments for a payment schedule shall be suspended for the period of time that the defendant is incarcerated or involuntarily committed, unless the court, or the board if the defendant is under the jurisdiction of the board, expressly orders the defendant to make payments according to the payment schedule; and

(ii) the defendant shall provide the court with notice of the incarceration or involuntary commitment.

(b) A suspension under Subsection (6)(a) shall remain in place for 60 days after the day in which the defendant is released from incarceration or commitment.

Section 5. Section 77-38b-102 is amended to read:

77-38b-102. Definitions.

As used in this chapter:

(1) "Civil accounts receivable" means the same as that term is defined in Section 77-32b-102.

(2) "Civil judgment of restitution" means the same as that term is defined in Section 77-32b-102.

[~~(1)~~] (3) (a) "Conviction" means:

(i) a plea of:

(A) guilty;

(B) guilty with a mental illness; or

(C) no contest; or

(ii) a judgment of:

(A) guilty; or

(B) guilty with a mental illness.

(b) "Conviction" does not include:

(i) a plea in abeyance until a conviction is entered for the plea in abeyance;

(ii) a diversion agreement; or

(iii) an adjudication of a minor for an offense under Section 80-6-701.

(4) "Criminal accounts receivable" means the same as that term is defined in Section 77-32b-102.

[~~(2)~~] (5) "Criminal conduct" means:

(a) any misdemeanor or felony offense of which the defendant is convicted; or

(b) any other criminal behavior for which the defendant admits responsibility to the sentencing court with or without an admission of committing the criminal behavior.

[~~(3)~~] (6) (a) "Defendant" means an individual who has been convicted of, or entered into a plea disposition for, criminal conduct.

(b) "Defendant" does not include a minor, as defined in Section 80-1-102, who is adjudicated, or enters into a nonjudicial adjustment, for any offense under Title 80, Chapter 6, Juvenile Justice.

[~~(4)~~] (7) "Department" means the Department of Corrections.

[~~(5)~~] (8) "Diversion agreement" means an agreement entered into by the prosecuting attorney and the defendant that suspends criminal proceedings before conviction on the condition that a defendant agree to participate in a rehabilitation program, pay restitution to the victim, or fulfill some other condition.

[~~(6)~~] (9) "Office" means the Office of State Debt Collection created in Section 63A-3-502.

[~~(7)~~] (10) "Party" means the prosecuting attorney, the defendant, or the department involved in a prosecution.

[~~(8)~~] (11) "Payment schedule" means the same as that term is defined in Section 77-32b-102.

[~~(9)~~] (12) (a) "Pecuniary damages" means all demonstrable economic injury, losses, and expenses regardless of whether the economic injury, losses, and expenses have yet been incurred.

(b) "Pecuniary damages" does not include punitive damages or pain and suffering damages.

[~~(10)~~] (13) "Plea agreement" means an agreement entered between the prosecuting attorney and the defendant setting forth the special terms and conditions and criminal charges upon which the defendant will enter a plea of guilty or no contest.

[~~(11)~~] (14) "Plea disposition" means an agreement entered into between the prosecuting attorney and the defendant including a diversion agreement, a plea agreement, a plea in abeyance agreement, or any agreement by which the defendant may enter a plea in any other jurisdiction or where charges are dismissed without a plea.

[~~(12)~~] (15) "Plea in abeyance" means an order by a court, upon motion of the prosecuting attorney and the defendant, accepting a plea of guilty or of no contest from the defendant but not, at that time, entering judgment of conviction against the defendant nor imposing sentence upon the defendant on condition that the defendant comply with specific conditions as set forth in a plea in abeyance agreement.

[~~(13)~~] (16) "Plea in abeyance agreement" means an agreement entered into between the prosecuting attorney and the defendant setting forth the specific terms and conditions upon which, following acceptance of the agreement by the court, a plea may be held in abeyance.

[~~(14)~~] (17) "Restitution" means the payment of pecuniary damages to a victim.

[~~(15)~~] (18) (a) "Victim" means any person who has suffered pecuniary damages that are proximately caused by the criminal conduct of the defendant.

(b) "Victim" includes:

(i) the Utah Office for Victims of Crime if the Utah Office for Victims of Crime makes a payment to a victim under Section 63M-7-519;

(ii) the estate of a deceased victim; and

(iii) a parent, spouse, or sibling of a victim.

(c) "Victim" does not include a codefendant or accomplice.

Section 6. Section 77-38b-303 is amended to read:

77-38b-303. Civil action by a victim.

(1) [~~(a)~~] A provision under this part concerning restitution does not limit or impair the right of a person injured by a defendant's criminal conduct to

sue and recover damages from the defendant in a civil action.

[~~(b)~~] (2) (a) A court's finding on the amount of restitution owed by a defendant under Subsection 77-38b-205(1)(a)(iii) may be used in a civil action [~~for a~~] pertaining to the defendant's liability to a victim as presumptive proof of the victim's pecuniary damages that are proximately caused by the defendant's criminal conduct.

[~~(c)~~] (b) If a conviction in a criminal trial decides the issue of a defendant's liability for pecuniary damages suffered by a victim, the issue of the defendant's liability for pecuniary damages is conclusively determined as to the defendant if the issue is involved in a subsequent civil action.

(c) (i) Except as provided in Subsection (2)(c)(ii), if a defendant is convicted of a misdemeanor or felony offense, the defendant is precluded from subsequently denying the essential allegations of the offense in a subsequent civil action brought against the defendant for the criminal conduct underlying the offense.

(ii) Subsection (2)(c)(i) does not apply if the offense is a class C misdemeanor under Title 41, Chapter 6a, Traffic Code, or the defendant entered a plea of no contest for the offense.

[~~(2)~~] (3) (a) The sentencing court shall credit any payment in favor of the victim in a civil action for the defendant's criminal conduct toward the amount of restitution owed by the defendant to the victim.

(b) In a civil action, a court shall credit any restitution paid by the defendant to a victim for the defendant's criminal conduct towards the victim against any judgment that is in favor of the victim for the civil action.

(c) If a victim receives payment from the defendant for the civil action, the victim shall provide notice to the sentencing court and the court in the civil action of the payment within 30 days after the day on which the victim receives the payment.

(d) Nothing in this section shall prevent a defendant from providing proof of payment to the court or the office.

[~~(3)~~] (4) (a) If a victim prevails in a civil action against a defendant, the court shall award reasonable attorney fees and costs to the victim.

(b) If the defendant prevails in the civil action, the court shall award reasonable costs to the defendant if the court finds that the victim brought the civil action for an improper purpose, including to harass the defendant or to cause unnecessary delay or needless increase in the cost of litigation.

CHAPTER 360
H. B. 323

Passed March 4, 2022
Approved March 24, 2022
Effective July 1, 2022

TRANSIENT ROOM TAX AMENDMENTS

Chief Sponsor: Bradley G. Last
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies provisions related to the transient room tax.

Highlighted Provisions:

This bill:

- authorizes certain counties to use a certain amount of transient room tax revenue for visitor management and destination development if the expenditure is prioritized and recommended by a county's tourism tax advisory board;
- modifies provisions related to a transient room tax reserve fund;
- modifies the general powers and duties of a county legislative body related to the transient room tax;
- modifies provisions related to an annual report by a county legislative body; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-31-2, as last amended by Laws of Utah 2021, Chapter 376
17-31-3, as last amended by Laws of Utah 2021, Chapter 376
17-31-5, as last amended by Laws of Utah 1996, Chapter 79
17-31-5.5, as last amended by Laws of Utah 2021, Chapters 282 and 376

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-31-2 is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions -- Issuance of bonds.

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section 72-10-102.

(b) "Airport" means the same as that term is defined in Section 72-10-102.

(c) "Airport authority" means the same as that term is defined in Section 72-10-102.

(d) "Airport operator" means the same as that term is defined in Section 72-10-102.

(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.

(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a) during fiscal year 2018-19.

(g) "Economic diversification activity" means an economic development activity that is reasonably similar to, supplements, or expands any economic program as administered by the state or the Governor's Office of Economic Opportunity.

(h) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section 59-12-401.

(i) "Emergency medical services provider" means an eligible town, a local district, or a special service district.

(j) "Tourism" means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, development, and advertising for the purpose described in Subsection (2)(a)(i).

(k) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.

(l) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by Section 59-12-301.

(2) Subject to the requirements of this section, a county legislative body may impose the transient room tax for the purposes of:

(a) establishing and promoting:

(i) tourism;

(ii) recreation, film production, and conventions; or

(iii) an economic diversification activity if:

(A) the county is a county of the fourth, fifth, or sixth class;

(B) the county has more than one national park within or partially within the county's boundaries; and

(C) the county has a base population of 9,000 or more according to current United States census data;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas;

(vi) related facilities;

(vii) if a national park is located within or partially within the county's boundaries, the following on any route designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(viii) an airport, if:

(A) the county is a county of the fourth, fifth, or sixth class; and

(B) the county is the airport operator of the airport;

(c) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes listed in Subsection (2)(b);

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105; and

(e) making the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (5).

(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).

(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:

(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and

(ii) the revenue generated from the portion of the rate that exceeds 3%:

(A) for any combination of the purposes described in Subsections (2) and (5); and

(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).

(4) Subject to Subsections (6) and (7), a county may not expend more than 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any combination of the purposes described in Subsections (2)(b) through (2)(e).

(5) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in Subsections (2)(b) through (2)(d) that are permitted to be paid from bond proceeds.

(b) If a county legislative body does not need the revenue generated by the transient room tax for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection (2)(e), the county legislative body shall expend that revenue for the purposes described in Subsection (2), subject to the limitation of Subsection (4).

(6) (a) In addition to the purposes described in Subsection (2), a county legislative body:

(i) may expend up to 4% of the total revenue generated by a transient room tax to pay a provider for emergency medical services in one or more eligible towns[~~.~~]; and

(ii) may expend up to 10% of the total revenue generated by a transient room tax for visitor management and destination development if:

(A) a national park is located within or partially within the county's boundaries; and

(B) the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) has prioritized and recommended the use of the revenue in accordance with Subsection 17-31-8(4).

(b) A county legislative body shall reduce the amount that the county is authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).

(7) (a) Except as provided in Subsection (7)(b), a county legislative body in a county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room tax as follows:

(i) an amount equal to the county's base year promotion expenditure for the purpose described in Subsection (2)(a)(i);

(ii) an amount equal to the difference between the county's base year revenue and the county's base year promotion expenditure in accordance with Subsections (3) through (6); and

(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a)(i); and

(B) subject to Subsection (7)(c), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(a)(ii) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.

(b) A county legislative body in a county of the fourth, fifth, or sixth class with one or more national recreation areas administered by the National Park Service or the Forest Service or national parks within or partially within the county's boundaries shall expend the revenue generated by a transient room tax as follows:

(i) for a purpose described in Subsection (2)(a) and subject to the limitations described in Subsection (7)(d), the greater of:

(A) an amount equal to the county's base year promotion expenditure; or

(B) 37% of the transient room tax revenue; and

(ii) the remainder of the transient room tax not expended in accordance with Subsection (7)(b)(i) for any combination of the purposes described in Subsection (2) and, subject to the limitation described in Subsection (7)(c), Subsection (6).

(c) A county legislative body in a county of the fourth, fifth, or sixth class may not:

(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or

(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

(d) A county legislative body may not expend:

(i) more than 1/5 of the revenue described in Subsection (7)(b)(i) for a purpose described in Subsection (2)(a)(ii); and

(ii) more than 1/3 of the revenue described in Subsection (7)(b)(i) for the purpose described in Subsection (2)(a)(iii).

(e) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

(f) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

(i) Subsections (7)(a) through (d) do not apply; and

(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).

Section 2. Section 17-31-3 is amended to read:

17-31-3. Reserve fund authorized -- Use of collected funds -- Limitation on surplus in fund.

(1) The county legislative body may create a reserve fund.

(2) (a) Subject to [~~Subsection (2)(b)~~] Subsections (2)(b) and (c), a county legislative body shall retain any transient room tax funds collected but not expended during any fiscal year in the reserve fund to be used in accordance with Sections 17-31-2 through 17-31-5.

(b) [~~The~~] Except as described in Subsection (2)(c), accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the current fiscal year.

(c) For a fiscal year beginning on or after July 1, 2019, and ending on or before July 1, 2023:

(i) if a county receives more than 150% of total transient room tax revenue in the fiscal year compared to the total transient room tax revenue received in the previous fiscal year, accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the previous fiscal year plus an amount equal to the total transient room tax revenue that is more than 100% of total transient room tax revenue from the previous fiscal year; and

(ii) if a county adds to the county's reserve fund an amount equal to the total transient room tax revenue that is more than 100% of total transient room tax revenue from the previous fiscal year as authorized in Subsection (2)(c)(i), the county may expend that additional reserve fund money for visitor management and destination development subject to the requirements described in Subsections 17-31-2(6)(a)(ii)(A) and (B).

Section 3. Section 17-31-5 is amended to read:

17-31-5. General powers and duties of a county legislative body related to the transient room tax.

[~~The county legislative body may do and perform any and all other acts and things necessary, convenient, desirable, or appropriate to carry out the provisions of Sections 17-31-2 through 17-31-5.~~]

(1) The legislative body of each county that imposes a transient room tax in accordance with Section 17-31-2:

(a) shall, except as provided in Subsection (2), at least annually consider the priorities and recommendations of the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) in one or more public meetings before finalizing decisions on expenditures of revenue from the transient room tax in each fiscal year;

(b) shall prepare and provide the annual written report for each fiscal year as described in Section 17-31-5.5; and

(c) may do and perform any and all other acts and things necessary, convenient, desirable, or appropriate to carry out the provisions of Sections 17-31-2 through 17-31-5.5.

(2) Subsection (1)(a) does not apply to the legislative body of a county if:

(a) the legislative body of the county has entered into a written contract with a substantially similar body to a tourism tax advisory board as described in Subsection 17-31-8(1)(b); and

(b) the written contract described in Subsection (2)(a) clearly delineates how the expenditures of revenue from the transient room tax are to be spent.

Section 4. Section 17-31-5.5 is amended to read:

17-31-5.5. Report by county legislative body -- Content.

(1) The legislative body of each county that imposes a transient room tax under Section 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a written report in accordance with Subsection (2).

(2) The report described in Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production;

(D) conventions; and

(E) economic diversification activity;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport facilities tax, identification of expenditures for:

(i) financing tourism promotion, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) an airport facility;

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; and

(E) a tourist facility; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

(a) whether the expenditure was used for in-state and out-of-state promotion efforts;

(b) an explanation of how the expenditure targeted a cost created by tourism; and

(c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

(4) [~~A~~] On or before October 1, the county legislative body shall provide a copy of the annual written report described in Subsection (1) for the previous fiscal year to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Opportunity;

(b) the county's tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 5. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 361
H. B. 326

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

STATE INNOVATION AMENDMENTS

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill addresses state innovation.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Strategic Innovation Grant Pilot Program (pilot program) within the Governor's Office of Economic Opportunity (GO Utah office), for awarding grants to businesses to implement projects that address air quality or water conservation;
- requires the GO Utah office to consult with the Division of Air Quality and the Division of Water Resources in administering the pilot program;
- describes the requirements for a business entity to receive grant money under the pilot program;
- requires the GO Utah office to make rules and report on the pilot program;
- establishes a sunset date for the pilot program; and
- includes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

ENACTS:

63N-3-801, Utah Code Annotated 1953
63N-3-802, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) [~~Title 63J, Chapter 4, Part 5,~~] Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30)~~] (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(30)~~] (29)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(30) Title 63N, Chapter 3, Part 8, Strategic Innovation Grant Pilot Program, is repealed July 1, 2027.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 2. Section 63N-3-801 is enacted to read:

Part 8. (Codified as Part 9) Strategic Innovation Grant Pilot Program

63N-3-801. (Codified as 63N-3-901) Definitions.

As used in this part:

(1) "Applicable agency" means:

(a) for a project related to air quality, the Division of Air Quality created in Section 19-1-105; or

(b) for a project related to water resources, the Division of Water Resources created in Section 73-10-18.

(2) "Business entity" means a for-profit or nonprofit business entity.

(3) "Grant" means a grant awarded as part of the pilot program.

(4) "Pilot program" means the Strategic Innovation Grant Pilot Program created in Section 63N-3-802.

Section 3. Section 63N-3-802 is enacted to read:

63N-3-802. (Codified as 63N-3-902) Strategic Innovation Grant Pilot Program.

(1) There is created within the office the Strategic Innovation Grant Pilot Program.

(2) Subject to available funds, the office, in consultation with each applicable agency, shall award grants to business entities to implement projects to improve:

(a) air quality in the state; or

(b) the conservation or more efficient utilization of water resources in the state.

(3) (a) The office, in consultation with each applicable agency, shall develop goals and objectives specific to each type of project described in Subsection (2).

(b) The office shall issue a public solicitation for participation in the pilot program that describes the goals and objectives developed for each particular type of project.

(4) (a) A business entity may apply to the office for a grant under the pilot program.

(b) An application under Subsection (4)(a) shall:

(i) specify:

(A) the expected outcomes that the funding would be used to achieve;

(B) how the business entity intends to achieve the expected outcomes;

(C) how the project is expected to meet the goals and objectives developed for that particular type of project under Subsection (3);

(D) the extent to which the project offers a strategic and innovative solution to achieve the expected outcomes;

(E) the date on which the business entity expects to complete the project, subject to Subsection (6)(b)(vii); and

(F) the total amount of money needed for the project; and

(ii) include any other information requested by the office.

(5) The office shall review and make a determination regarding a grant application after consulting with the applicable agency.

(6) (a) Before the office may award a grant to a business entity under the pilot program, the office, in consultation with the applicable agency, shall enter into a written agreement with the business entity.

(b) The written agreement described in Subsection (6)(a) shall:

(i) specify the amount of the grant;

(ii) specify the time period for distributing the grant;

(iii) specify the terms and conditions for receiving the grant, including reporting requirements;

(iv) identify specific targets and benchmarks that align with the grant proposal;

(v) require the business entity to coordinate or partner with the applicable agency in implementing the project;

(vi) require the business entity to submit to independent evaluations over the course of the project's implementation by the Kem C. Gardner Policy Institute at the University of Utah, the Institute of Land, Water, and Air at Utah State University, or the Bingham Research Center at Utah State University to determine whether the project is meeting:

(A) the targets and benchmarks specified in the written agreement; and

(B) the goals and objectives developed for that particular type of project under Subsection (3); and

(vii) require the business entity to complete the project no later than July 1, 2026.

(c) In awarding grants under this section, the office, in consultation with each applicable agency, shall prioritize projects that:

(i) offer a strategic and innovative solution for achieving the intended outcomes; or

(ii) demonstrate a funding match from a private entity.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office, in consultation with each applicable agency, shall make rules to administer the pilot program.

(8) The office shall, as part of the office's written report under Section 63N-1a-306 submitted in 2026, and if otherwise requested by the Economic Development and Workforce Services Interim Committee, report the following information:

(a) the total amount of grants the office awarded to business entities under the pilot program;

(b) a description of the projects for which the office awarded grants under the pilot program;

(c) a summary of the results of the independent evaluations conducted in accordance with Subsection (6)(b)(vi); and

(d) the office's recommendations regarding the effectiveness of the pilot program and any suggestions for legislation.

CHAPTER 362
H. B. 333

Passed March 3, 2022
Approved March 24, 2022
Effective July 1, 2022

ECONOMIC AND WORKFORCE DEVELOPMENT AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to economic and workforce development.

Highlighted Provisions:

This bill:

- defines terms;
- transfers the Pete Suazo Utah Athletic Commission and the Utah Main Street Program from the Governor's Office of Economic Opportunity (GO Utah office) to the Department of Cultural and Community Engagement;
- modifies the membership of the Main Street Program Advisory Committee;
- transfers the Talent, Education, and Industry Alignment Board (talent board), formerly the Talent, Education, and Industry Alignment Subcommittee, the Talent Ready Utah Program (talent program), the Utah Works Program, and certain workforce development and education programs from the GO Utah office to the Utah System of Higher Education;
- modifies the membership and duties of the talent board;
- requires the talent program to report annually on the talent program's operations to the Utah Board of Higher Education;
- allows the talent program to award grants to business entities offering employee return to work programs;
- establishes the Women in the Economy Subcommittee, formerly the Women in the Economy Commission within the Department of Workforce Services, as a subcommittee of the GO Utah office's Unified Economic Opportunity Commission;
- allows the GO Utah office's Unified Economic Opportunity Commission to establish working groups to assist and advise the commission;
- allows the executive director of the GO Utah office to make rules to administer certain programs established in law;
- prohibits the GO Utah office from distributing pass through funding unless the office follows the standards or criteria described in the appropriation item;
- requires pass through funding appropriated to the GO Utah office to lapse at the end of the fiscal year if the item of appropriation does not include any standards or criteria for distributing the pass through funding;
- modifies the duties of the GO Utah office's Board of Economic Opportunity, formerly the Business and Economic Development Subcommittee;
- allows the GO Utah office to issue economic development tax credits for certain projects for which other tax credits are claimed;
- modifies requirements for the GO Utah office to award grants and loans under the Utah Technology Innovation Funding Program, formerly the Technology Commercialization and Innovation Program;
- establishes the Economic Assistance Grant Program within the GO Utah office, for awarding grants to business entities implementing projects that promote economic opportunities in the state or provide certain services in the state;
- expands the GO Utah office's Rural Opportunity Program, formerly the Rural County Grant Program, by allowing the office to award grants and loans to certain counties, municipalities, and business entities;
- requires the GO Utah office to report annually on the Rural Opportunity Program;
- creates the Rural Opportunity Advisory Committee within the GO Utah office, for advising and making recommendations to the GO Utah office on grant and loan awards under the Rural Opportunity Program;
- creates the Rural Opportunity Fund, to be used by the GO Utah office for awarding grants and loans under certain rural programs;
- creates the Utah Office of Tourism within the GO Utah office and describes the duties of the office;
- modifies the membership and duties of the GO Utah office's Board of Tourism Development;
- creates the Center for International Business and Diplomacy within the GO Utah office and describes the duties of the center;
- repeals certain education coordinating groups within the Utah System of Higher Education;
- repeals the Utah Board of Higher Education's industry advisory council;
- repeals the GO Utah office's business development grant program for disadvantaged rural communities;
- repeals the GO Utah office's Rural Rapid Manufacturing Grant Program;
- repeals the GO Utah office's Rural Speculative Industrial Building Program; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Governor's Office of Economic Opportunity - Rural Coworking and Innovation Center Grant Program, as an ongoing appropriation:
  - from the General Fund, ($750,000); and
- to Governor's Office of Economic Opportunity - Rural Employment Expansion Program, as an ongoing appropriation:
  - from the General Fund, ($1,500,000).

    This bill appropriates $2,250,000 in business-like activities in fiscal year 2023.

Other Special Clauses:

This bill provides a special effective date.

This bill provides coordination clauses.

Utah Code Sections Affected:

AMENDS:

35A-1-109, as last amended by Laws of Utah 2021, Chapters 282 and 382

53B-1-404, as last amended by Laws of Utah 2020, Chapters 352, 373 and renumbered and amended by Laws of Utah 2020, Chapter 365 and last amended by Coordination Clause, Laws of Utah 2020, Chapters 352, and 373
63B-1b-202, as last amended by Laws of Utah 2017, Chapter 345
63I-1-235, as last amended by Laws of Utah 2021, Chapters 28 and 282
63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382
63L-2-301, as last amended by Laws of Utah 2021, Chapters 280, 282, and 382
63N-1a-102, as last amended by Laws of Utah 2021, Chapter 381 and renumbered and amended by Laws of Utah 2021, Chapter 282
63N-1a-201, as enacted by Laws of Utah 2021, Chapter 282
63N-1a-202, as enacted by Laws of Utah 2021, Chapter 282
63N-1a-303, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and amended by Laws of Utah 2021, Chapter 282
63N-1a-306, as last amended by Laws of Utah 2021, Chapter 382 and renumbered and amended by Laws of Utah 2021, Chapter 282
63N-2-104, as last amended by Laws of Utah 2021, Chapters 282, 381 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 282
63N-2-511, as last amended by Laws of Utah 2015, Chapter 417 and renumbered and amended by Laws of Utah 2015, Chapter 283
63N-2-810, as last amended by Laws of Utah 2021, Chapter 282
63N-3-105, as last amended by Laws of Utah 2021, Chapter 282
63N-3-109, as last amended by Laws of Utah 2021, Chapter 282
63N-3-112, as enacted by Laws of Utah 2021, Chapter 282
63N-3-204, as last amended by Laws of Utah 2021, Chapter 282
63N-4-104, as last amended by Laws of Utah 2021, Chapter 282
63N-4-402, as last amended by Laws of Utah 2019, Chapters 45 and 465
63N-4-403, as last amended by Laws of Utah 2021, Chapter 282
63N-4-404, as last amended by Laws of Utah 2020, Chapter 369
63N-6-301, as last amended by Laws of Utah 2021, Chapter 438
63N-7-301, as last amended by Laws of Utah 2020, Chapter 154

ENACTS:
53B-33-109, Utah Code Annotated 1953
63N-1a-307, Utah Code Annotated 1953
63N-3-801, Utah Code Annotated 1953
63N-3-802, Utah Code Annotated 1953
63N-4-801, Utah Code Annotated 1953
63N-4-802, Utah Code Annotated 1953
63N-4-804, Utah Code Annotated 1953
63N-4-805, Utah Code Annotated 1953
63N-7-104, Utah Code Annotated 1953
63N-19-101, Utah Code Annotated 1953
63N-19-102, Utah Code Annotated 1953
63N-19-103, Utah Code Annotated 1953
63N-19-104, Utah Code Annotated 1953

REPEALS AND REENACTS:
63N-7-101, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-7-102, as last amended by Laws of Utah 2020, Chapter 352
63N-7-103, as last amended by Laws of Utah 2020, Chapter 154
63N-7-201, as last amended by Laws of Utah 2021, Chapter 282
63N-7-202, as renumbered and amended by Laws of Utah 2015, Chapter 283

RENUMBERS AND AMENDS:
9-23-101, (Renumbered from 63N-10-102, as last amended by Laws of Utah 2019, Chapter 349)
9-23-201, (Renumbered from 63N-10-201, as last amended by Laws of Utah 2018, Chapter 466)
9-23-202, (Renumbered from 63N-10-203, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-204, (Renumbered from 63N-10-204, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-205, (Renumbered from 63N-10-205, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-301, (Renumbered from 63N-10-301, as last amended by Laws of Utah 2019, Chapter 349)
9-23-302, (Renumbered from 63N-10-302, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-303, (Renumbered from 63N-10-303, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-304, (Renumbered from 63N-10-304, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-305, (Renumbered from 63N-10-305, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-306, (Renumbered from 63N-10-306, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-307, (Renumbered from 63N-10-307, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-308, (Renumbered from 63N-10-308, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-309, (Renumbered from 63N-10-309, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-310, (Renumbered from 63N-10-310, as renumbered and amended by Laws of Utah 2015, Chapter 283)

9-23-311, (Renumbered from 63N-10-311, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-312, (Renumbered from 63N-10-312, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-313, (Renumbered from 63N-10-313, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-314, (Renumbered from 63N-10-314, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-315, (Renumbered from 63N-10-315, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-316, (Renumbered from 63N-10-316, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-317, (Renumbered from 63N-10-317, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-23-318, (Renumbered from 63N-10-318, as renumbered and amended by Laws of Utah 2015, Chapter 283)
9-24-101, (Renumbered from 63N-3-701, as enacted by Laws of Utah 2021, Chapter 407)
9-24-102, (Renumbered from 63N-3-702, as enacted by Laws of Utah 2021, Chapter 407)
9-24-103, (Renumbered from 63N-3-703, as enacted by Laws of Utah 2021, Chapter 407)
53B-33-101 (Effective 07/01/22), (Renumbered from 63N-1b-101 (Effective 07/01/22), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1)
53B-33-102, (Renumbered from 63N-1b-301, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53B-33-103, (Renumbered from 63N-1b-302, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53B-33-104, (Renumbered from 63N-1b-303, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53B-33-105, (Renumbered from 63N-1b-304, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53B-33-106, (Renumbered from 63N-1b-305, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53B-33-107, (Renumbered from 63N-1b-306, as renumbered and amended by Laws of Utah 2021, Chapter 282)
53B-33-108, (Renumbered from 63N-1b-307, as last amended by Laws of Utah 2021, First Special Session, Chapter 4)
63N-1a-401, (Renumbered from 63N-1b-201, as renumbered and amended by Laws of Utah 2021, Chapter 282)
63N-1a-402, (Renumbered from 63N-1b-202, as renumbered and amended by Laws of Utah 2021, Chapter 282)
63N-1b-401, (Renumbered from 35A-11-102, as last amended by Laws of Utah 2016, Chapter 43)
63N-1b-402, (Renumbered from 35A-11-201, as enacted by Laws of Utah 2014, Chapter 127)
63N-1b-403, (Renumbered from 35A-11-202, as enacted by Laws of Utah 2014, Chapter 127)
63N-1b-404, (Renumbered from 35A-11-203, as last amended by Laws of Utah 2016, Chapters 43, 222, and 296)
63N-4-803, (Renumbered from 17-54-104, as enacted by Laws of Utah 2020 Chapter 360)

REPEALS:

17-54-101, as enacted by Laws of Utah 2020, Chapter 360
17-54-102, as last amended by Laws of Utah 2021, Chapter 282
17-54-103, as last amended by Laws of Utah 2021, Chapter 282
35A-11-101, as enacted by Laws of Utah 2014, Chapter 127
53B-1-114, as last amended by Laws of Utah 2021, Chapters 187 and 282
53B-1-407, as enacted by Laws of Utah 2020, Chapter 365
63N-4-201, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-202, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-203, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-204, as renumbered and amended by Laws of Utah 2015, Chapter 283
63N-4-205, as last amended by Laws of Utah 2021, Chapter 282
63N-4-601, as enacted by Laws of Utah 2019, Chapter 503
63N-4-602, as enacted by Laws of Utah 2019, Chapter 503
63N-4-603, as enacted by Laws of Utah 2019, Chapter 503
63N-4-604, as enacted by Laws of Utah 2019, Chapter 503
63N-4-701, as enacted by Laws of Utah 2020, Chapter 360
63N-4-702, as enacted by Laws of Utah 2020, Chapter 360
63N-4-703, as enacted by Laws of Utah 2020, Chapter 360
63N-4-704, as last amended by Laws of Utah 2021, Chapter 282
63N-10-101, as renumbered and amended by Laws of Utah 2015, Chapter 283

Utah Code Sections Affected by Coordination Clause:

63N-2-104.1, Utah Code Annotated 1953
63N-7-301, as last amended by Laws of Utah 2020, Chapter 154

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-23-101, which is renumbered from Section 63N-10-102 is renumbered and amended to read:

CHAPTER 23. PETE SUAZO UTAH ATHLETIC COMMISSION ACT

Part 1. General Provisions

[~~63N-10-102~~]. 9-23-101. Definitions.

As used in this chapter:

(1) "Bodily injury" has the same meaning as defined in Section 76-1-601.

(2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.

(3) (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:

(i) the rules of the contest are not approved by the commission;

(ii) a licensed physician, osteopath, or physician assistant approved by the commission is not in attendance;

(iii) a correct HIV negative test regarding each contestant has not been provided to the commission;

(iv) the contest is not conducted in accordance with commission rules; or

(v) the contestants are not matched by the weight standards established in accordance with Section [~~63N-10-316~~] 9-23-31.

(b) "Club fighting" does not include sparring if:

(i) it is conducted for training purposes;

(ii) no tickets are sold to spectators;

(iii) no concessions are available for spectators;

(iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and

(v) for boxing, 16 ounce boxing gloves are worn.

(4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.

(5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.

(6) "Contestant" means an individual who participates in a contest.

(7) "Designated commission member" means a member of the commission designated to:

(a) attend and supervise a particular contest; and

(b) act on the behalf of the commission at a contest venue.

(8) "Director" means the director appointed by the commission.

(9) "Elimination unarmed combat contest" means a contest where:

(a) a number of contestants participate in a tournament;

(b) the duration is not more than 48 hours; and

(c) the loser of each contest is eliminated from further competition.

(10) "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win.

(11) "Judge" means an individual qualified by training or experience to:

(a) rate the performance of contestants;

(b) score a contest; and

(c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.

(12) "Licensee" means an individual licensed by the commission to act as a:

(a) contestant;

(b) judge;

(c) manager;

(d) promoter;

(e) referee;

(f) second; or

(g) other official established by the commission by rule.

(13) "Manager" means an individual who represents a contestant for the purpose of:

(a) obtaining a contest for a contestant;

(b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or

(c) arranging for a second for the contestant at a contest.

(14) "Promoter" means a person who engages in producing or staging contests and promotions.

(15) "Promotion" means a single contest or a combination of contests that:

(a) occur during the same time and at the same location; and

(b) is produced or staged by a promoter.

(16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.

(17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:

(a) enforcing the rules relating to the contest;

(b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and

(c) acting as a judge if so designated by the commission.

(18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.

(19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.

(20) "Serious bodily injury" has the same meaning as defined in Section 76-1-601.

(21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.

(22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:

(a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;

(b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;

(d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and

(e) contest rules prohibit contestants from:

(i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;

(iii) biting; or

(iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.

(23) (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.

(b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.

(24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.

(25) "Unprofessional conduct" means:

(a) entering into a contract for a contest in bad faith;

(b) participating in any sham or fake contest;

(c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;

(d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;

(e) failing to comply with any limitation, restriction, or condition placed on a license;

(f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;

(g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or

(h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:

(a) for boxing:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than $35, is awarded;

(iii) protective clothing, including protective headgear, a mouthguard, a protective cup, and for a female contestant a chestguard, is worn;

(iv) 16 ounce boxing gloves are worn;

(v) the contest is no longer than three rounds of no longer than three minutes each;

(vi) no winner or loser is declared or recorded; and

(vii) the contestants do not compete in a cage; and

(b) for ultimate fighting:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than $35, is awarded;

(iii) protective clothing, including a protective mouthguard and a protective cup, is worn;

(iv) downward elbow strikes are not allowed;

(v) a contestant is not allowed to stand and strike a downed opponent;

(vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;

(vii) the contest is no longer than three rounds of no longer than three minutes each; and

(viii) no winner or loser is declared or recorded.

Section 2. Section 9-23-201, which is renumbered from Section 63N-10-201 is renumbered and amended to read:

Part 2. Pete Suazo Utah Athletic Commission

[~~63N-10-201~~]. 9-23-201. Commission -- Creation -- Appointments -- Terms -- Expenses -- Quorum.

(1) There is created within the [~~office~~] department the Pete Suazo Utah Athletic Commission consisting of five members.

(2) (a) The governor shall appoint three commission members.

(b) The president of the Senate and the speaker of the House of Representatives shall each appoint one commission member.

(c) The commission members may not be licensees under this chapter.

(3) (a) Except as required by Subsection (3)(b), as terms of current members expire, the governor, president, or speaker, respectively, shall appoint each new member or reappointed member to a four-year term.

(b) The governor shall, at the time of appointment or reappointment, adjust the length of the governor's appointees' terms to ensure that the terms of members are staggered so that approximately half of the commission is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(d) A commission member may be removed for any reason and replaced in accordance with this section by:

(i) the governor, for a commission member appointed by the governor;

(ii) the president of the Senate, for a commission member appointed by the president of the Senate; or

(iii) the speaker of the House of Representatives, for a commission member appointed by the speaker of the House of Representatives.

(4) (a) A majority of the commission members constitutes a quorum.

(b) A majority of a quorum is sufficient authority for the commission to act.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The commission shall annually designate one of its members to serve as chair for a one-year period.

Section 3. Section 9-23-202, which is renumbered from Section 63N-10-203 is renumbered and amended to read:

[~~63N-10-203~~]. 9-23-202. Commission director.

(1) The commission shall employ a director, who may not be a member of the commission, to conduct the commission's business.

(2) The director serves at the pleasure of the commission.

Section 4. Section 9-23-204, which is renumbered from Section 63N-10-204 is renumbered and amended to read:

[~~63N-10-204~~]. 9-23-204. Inspectors.

(1) The commission may appoint one or more official representatives to be designated as inspectors, who shall serve at the pleasure of the commission.

(2) Each inspector must receive from the commission a card authorizing that inspector to act as an inspector for the commission.

(3) An inspector may not promote or sponsor any contest.

(4) Each inspector may receive a fee approved by the commission for the performance of duties under this chapter.

Section 5. Section 9-23-205, which is renumbered from Section 63N-10-205 is renumbered and amended to read:

[~~63N-10-205~~]. 9-23-205. Affiliation with other commissions.

The commission may affiliate with any other state, tribal, or national boxing commission or athletic authority.

Section 6. Section 9-23-301, which is renumbered from Section 63N-10-301 is renumbered and amended to read:

Part 3. Licensing

[~~63N-10-301~~]. 9-23-301. Licensing.

(1) A license is required for a person to act as or to represent that the person is:

(a) a promoter;

(b) a manager;

(c) a contestant;

(d) a second;

(e) a referee;

(f) a judge; or

(g) another official established by the commission by rule.

(2) The commission shall issue to a person who qualifies under this chapter a license in the classifications of:

(a) promoter;

(b) manager;

(c) contestant;

(d) second;

(e) referee;

(f) judge; or

(g) another official who meets the requirements established by rule under Subsection (1)(g).

(3) All money collected under this section and Sections [~~63N-10-304, 63N-10-307, 63N-10-310, and 63N-10-313~~] 9-23-304, 9-23-307, 9-23-310, and 9-23-313 shall be retained as dedicated credits to pay for commission expenses.

(4) Each applicant for licensure as a promoter shall:

(a) submit an application in a form prescribed by the commission;

(b) pay the fee determined by the commission under Section 63J-1-504;

(c) provide to the commission evidence of financial responsibility, which shall include financial statements and other information that the commission may reasonably require to determine that the applicant or licensee is able to competently perform as and meet the obligations of a promoter in this state;

(d) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to the promotions the applicant is promoting;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(5) Each applicant for licensure as a contestant shall:

(a) be not less than 18 years of age at the time the application is submitted to the commission;

(b) submit an application in a form prescribed by the commission;

(c) pay the fee established by the commission under Section 63J-1-504;

(d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon or physician assistant certifying that the applicant is free from any physical or mental condition that indicates the applicant should not engage in activity as a contestant;

(e) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(f) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(g) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(6) Each applicant for licensure as a manager or second shall:

(a) submit an application in a form prescribed by the commission;

(b) pay a fee determined by the commission under Section 63J-1-504;

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and

(e) if requested by the commission or director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(7) Each applicant for licensure as a referee or judge shall:

(a) submit an application in a form prescribed by the commission;

(b) pay a fee determined by the commission under Section 63J-1-504;

(c) make assurances that the applicant:

(i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;

(ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

(iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;

(d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;

(e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and

(f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.

(8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material affect on the integrity of a contest held under this chapter.

(9) (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.

(b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Section 7. Section 9-23-302, which is renumbered from Section 63N-10-302 is renumbered and amended to read:

[~~63N-10-302~~]. 9-23-302. Term of license -- Expiration -- Renewal.

(1) The commission shall issue each license under this chapter in accordance with a renewal cycle established by rule.

(2) At the time of renewal, the licensee shall show satisfactory evidence of compliance with renewal requirements established by rule by the commission.

(3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with the rules established by the commission.

Section 8. Section 9-23-303, which is renumbered from Section 63N-10-303 is renumbered and amended to read:

[~~63N-10-303~~]. 9-23-303. Grounds for denial of license -- Disciplinary proceedings -- Reinstatement.

(1) The commission shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this chapter.

(2) The commission may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee if:

(a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as defined by statute or rule under this chapter;

(b) the applicant or licensee has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(c) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the licensee's condition demonstrates a threat or potential threat to the public health, safety, or welfare, as determined by a ringside physician or the commission.

(3) Any licensee whose license under this chapter has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, or restriction.

(4) The commission may issue cease and desist orders:

(a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and

(b) to any person who otherwise violates this chapter or any rules adopted under this chapter.

(5) (a) The commission may impose an administrative fine for acts of unprofessional or unlawful conduct under this chapter.

(b) An administrative fine under this Subsection (5) may not exceed $2,500 for each separate act of unprofessional or unlawful conduct.

(c) The commission shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in any action to impose an administrative fine under this chapter.

(d) The imposition of a fine under this Subsection (5) does not affect any other action the commission or department may take concerning a license issued under this chapter.

(6) (a) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct under this chapter, unless the commission initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the commission, except under Subsection (6)(b).

(b) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

(7) (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the following may immediately suspend the license of a licensee at such time and for such period that the following believes is necessary to protect the health, safety, and welfare of the licensee, another licensee, or the public:

(i) the commission;

(ii) a designated commission member; or

(iii) if a designated commission member is not present, the director.

(b) The commission shall establish by rule appropriate procedures to invoke the suspension and to provide a suspended licensee a right to a hearing before the commission with respect to the suspension within a reasonable time after the suspension.

Section 9. Section 9-23-304, which is renumbered from Section 63N-10-304 is renumbered and amended to read:

[~~63N-10-304~~]. 9-23-304. Additional fees for license of promoter -- Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.

(1) In addition to the payment of any other fees and money due under this chapter, every promoter shall pay a license fee determined by the commission and established in rule.

(2) License fees collected under this Subsection (2) from professional boxing contests or exhibitions shall be retained by the commission as a dedicated credit to be used by the commission to award grants to organizations that promote amateur boxing in the state and cover commission expenses.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules:

(a) governing the manner in which applications for grants under Subsection (2) may be submitted to the commission; and

(b) establishing standards for awarding grants under Subsection (2) to organizations which promote amateur boxing in the state.

(4) (a) For the purpose of creating a greater interest in contests in the state, the commission may exempt from the payment of license fees under this section one contest or exhibition in each calendar year, intended as a showcase event.

(b) The commission shall select the contest or exhibition to be exempted based on factors which include:

(i) attraction of the optimum number of spectators;

(ii) costs of promoting and producing the contest or exhibition;

(iii) ticket pricing;

(iv) committed promotions and advertising of the contest or exhibition;

(v) rankings and quality of the contestants; and

(vi) committed television and other media coverage of the contest or exhibition.

Section 10. Section 9-23-305, which is renumbered from Section 63N-10-305 is renumbered and amended to read:

[~~63N-10-305~~]. 9-23-305. Jurisdiction of commission.

(1) (a) The commission has the sole authority concerning direction, management, control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held, or given within this state.

(b) A contest or exhibition may not be conducted, held, or given within this state except in accordance with this chapter.

(2) Any contest involving a form of unarmed self-defense must be conducted pursuant to rules for that form which are approved by the commission before the contest is conducted, held, or given.

(3) (a) An area not less than six feet from the perimeter of the ring shall be reserved for the use of:

(i) the designated commission member;

(ii) other commission members in attendance;

(iii) the director;

(iv) commission employees;

(v) officials;

(vi) licensees participating or assisting in the contest; and

(vii) others granted credentials by the commission.

(b) The promoter shall provide security at the direction of the commission or designated commission member to secure the area described in Subsection (3)(a).

(4) The area described in Subsection (3), the area in the dressing rooms, and other areas considered necessary by the designated commission member for the safety and welfare of a licensee and the public shall be reserved for the use of:

(a) the designated commission member;

(b) other commission members in attendance;

(c) the director;

(d) commission employees;

(e) officials;

(f) licensees participating or assisting in the contest; and

(g) others granted credentials by the commission.

(5) The promoter shall provide security at the direction of the commission or designated commission member to secure the areas described in Subsections (3) and (4).

(6) (a) The designated commission member may direct the removal from the contest venue and premises, of any individual whose actions:

(i) are disruptive to the safe conduct of the contest; or

(ii) pose a danger to the safety and welfare of the licensees, the commission, or the public, as determined by the designated commission member.

(b) The promoter shall provide security at the direction of the commission or designated commission member to effectuate a removal under Subsection (6)(a).

Section 11. Section 9-23-306, which is renumbered from Section 63N-10-306 is renumbered and amended to read:

[~~63N-10-306~~]. 9-23-306. Club fighting prohibited.

(1) Club fighting is prohibited.

(2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:

(a) guilty of a class A misdemeanor as provided in Section 76-9-705; and

(b) subject to license revocation under this chapter.

Section 12. Section 9-23-307, which is renumbered from Section 63N-10-307 is renumbered and amended to read:

[~~63N-10-307~~]. 9-23-307. Approval to hold contest or promotion -- Bond required.

(1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.

(2) The application shall be accompanied by a contest fee determined by the commission under Section 63J-1-505.

(3) (a) The commission may approve or deny approval to hold a contest or promotion permitted under this chapter.

(b) Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that:

(i) the promoter of the contest or promotion is properly licensed;

(ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter of the contest or promotion; and

(iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.

(4) (a) Final approval to hold a contest or promotion may not be granted unless the commission receives, not less than seven days before the day of the contest with 10 or more rounds:

(i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant;

(ii) a copy of each contestant's federal identification card;

(iii) a copy of a signed contract between each contestant and the promoter for the contest;

(iv) a statement specifying the maximum number of rounds of the contest;

(v) a statement specifying the site, date, and time of weigh-in; and

(vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest.

(b) Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.

(5) Final approval for a contest under 10 rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.

(6) An applicant shall post a surety bond or cashier's check with the commission in the greater of $10,000 or the amount of the purse, providing for

forfeiture and disbursement of the proceeds if the applicant fails to comply with:

(a) the requirements of this chapter; or

(b) rules made under this chapter relating to the promotion or conduct of the contest or promotion.

Section 13. Section 9-23-308, which is renumbered from Section 63N-10-308 is renumbered and amended to read:

[~~63N-10-308~~]. 9-23-308. Rules for the conduct of contests.

(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the conduct of contests in the state.

(2) The rules shall include:

(a) authority for:

(i) stopping contests; and

(ii) impounding purses with respect to contests when there is a question with respect to the contest, contestants, or any other licensee associated with the contest; and

(b) reasonable and necessary provisions to ensure that all obligations of a promoter with respect to any promotion or contest are paid in accordance with agreements made by the promoter.

(3) (a) The commission may, in its discretion, exempt a contest and each contestant from the definition of unprofessional conduct found in Subsection [~~63N-10-102(25)(f)~~] 9-23-101(25)(f) after:

(i) a promoter requests the exemption; and

(ii) the commission considers relevant factors, including:

(A) the experience of the contestants;

(B) the win and loss records of each contestant;

(C) each contestant's level of training; and

(D) any other evidence relevant to the contestants' professionalism and the ability to safely conduct the contest.

(b) The commission's hearing of a request for an exemption under this Subsection (3) is an informal adjudicative proceeding under Section 63G-4-202.

(c) The commission's decision to grant or deny a request for an exemption under this Subsection (3) is not subject to agency review under Section 63G-4-301.

Section 14. Section 9-23-309, which is renumbered from Section 63N-10-309 is renumbered and amended to read:

[~~63N-10-309~~]. 9-23-309. Medical examinations and drug tests.

(1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants, including provisions under which contestants shall:

(a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;

(b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest;

(c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and

(d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.

(2) (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.

(b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.

Section 15. Section 9-23-310, which is renumbered from Section 63N-10-310 is renumbered and amended to read:

[~~63N-10-310~~]. 9-23-310. Contests.

(1) Except as provided in Section [~~63N-10-317~~] 9-23-317, a licensee may not participate in an unarmed combat contest within a predetermined time after another unarmed combat contest, as prescribed in rules made by the commission.

(2) During the period of time beginning 60 minutes before the beginning of a contest, the promoter shall demonstrate the promoter's compliance with the commission's security requirements to all commission members present at the contest.

(3) The commission shall establish fees in accordance with Section 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of multiple contests conducted under this chapter.

Section 16. Section 9-23-311, which is renumbered from Section 63N-10-311 is renumbered and amended to read:

[~~63N-10-311~~]. 9-23-311. Ringside physician.

(1) The commission shall maintain a list of ringside physicians who hold a Doctor of Medicine (MD) degree and are registered with the commission as approved to act as a ringside

physician and meet the requirements of Subsection (2).

(2) (a) The commission shall appoint a registered ringside physician to perform the duties of a ringside physician at each contest held under this chapter.

(b) The promoter of a contest shall pay a fee determined by the commission by rule to the commission for a ringside physician.

(3) An applicant for registration as a ringside physician shall:

(a) submit an application for registration;

(b) provide the commission with evidence of the applicant's licensure to practice medicine in the state; and

(c) satisfy minimum qualifications established by the department by rule.

(4) A ringside physician at attendance at a contest:

(a) may stop the contest at any point if the ringside physician determines that a contestant's physical condition renders the contestant unable to safely continue the contest; and

(b) works under the direction of the commission.

Section 17. Section 9-23-312, which is renumbered from Section 63N-10-312 is renumbered and amended to read:

[~~63N-10-312~~]. 9-23-312. Contracts.

(1) Before a contest is held, a copy of the signed contract or agreement between the promoter of the contest and each contestant shall be filed with the commission.

(2) Approval of the contract's terms and conditions shall be obtained from the commission as a condition precedent to the contest.

Section 18. Section 9-23-313, which is renumbered from Section 63N-10-313 is renumbered and amended to read:

[~~63N-10-313~~]. 9-23-313. Withholding of purse.

(1) The commission, the director, or any other agent authorized by the commission may order a promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager, or second if, in the judgment of the commission, director, or other agent:

(a) the contestant is not competing honestly or to the best of the contestant's skill and ability or the contestant otherwise violates any rules adopted by the commission or any of the provisions of this chapter; or

(b) the manager or second violates any rules adopted by the commission or any of the provisions of this chapter.

(2) This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of the contestant's skill and ability.

(3) Upon the withholding of any part of a purse or other money pursuant to this section, the commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties, and dispose of the matter as promptly as possible.

(4) If it is determined that a contestant, manager, or second is not entitled to any part of that person's share of the purse or other money, the promoter shall pay the money over to the commission.

Section 19. Section 9-23-314, which is renumbered from Section 63N-10-314 is renumbered and amended to read:

[~~63N-10-314~~]. 9-23-314. Penalty for unlawful conduct.

A person who engages in any act of unlawful conduct, as defined in Section [~~63N-10-102~~] 9-23-101, is guilty of a class A misdemeanor.

Section 20. Section 9-23-315, which is renumbered from Section 63N-10-315 is renumbered and amended to read:

[~~63N-10-315~~]. 9-23-315. Exemptions.

This chapter does not apply to:

(1) any amateur contest or exhibition of unarmed combat conducted by or participated in exclusively by:

(a) a school accredited by the [~~Utah~~] Board of Education;

(b) a college or university accredited by the United States Department of Education; or

(c) any association or organization of a school, college, or university described in Subsections (1)(a) and (b), when each participant in the contests or exhibitions is a bona fide student in the school, college, or university;

(2) any contest or exhibition of unarmed combat conducted in accordance with the standards and regulations of USA Boxing, Inc.; or

(3) a white-collar contest.

Section 21. Section 9-23-316, which is renumbered from Section 63N-10-316 is renumbered and amended to read:

[~~63N-10-316~~]. 9-23-316. Contest weights and classes -- Matching contestants.

(1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing boxing contest weights and classes consistent with those adopted by the Association of Boxing Commissions.

(2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat that is not boxing.

(3) (a) As to any unarmed combat contest, a contestant may not fight another contestant who is outside of the contestant's weight classification.

(b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to fight another contestant who is outside of the contestant's weight classification.

(4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:

(a) a contestant who has contracted to participate in a given weight class may not be permitted to compete if the contestant is not within that weight class at the weigh-in; and

(b) a contestant may have two hours to attempt to gain or lose not more than three pounds in order to be reweighed.

(5) (a) As to any unarmed combat contest, the commission may not allow a contest in which the contestants are not fairly matched.

(b) Factors in determining if contestants are fairly matched include:

(i) the win-loss record of the contestants;

(ii) the weight differential between the contestants;

(iii) the caliber of opponents for each contestant;

(iv) each contestant's number of fights; and

(v) previous suspensions or disciplinary actions of the contestants.

Section 22. Section 9-23-317, which is renumbered from Section 63N-10-317 is renumbered and amended to read:

[~~63N-10-317~~]. 9-23-317. Elimination contests -- Conduct of contests -- Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment -- Limitations on contests.

(1) An elimination unarmed combat contest shall be conducted under the supervision and authority of the commission.

(2) Except as otherwise provided in this section and except as otherwise provided by specific statute, the provisions of this chapter pertaining to boxing apply to an elimination unarmed combat contest.

(3) (a) All contests in an elimination unarmed combat contest shall be no more than three rounds in duration.

(b) A round of unarmed combat in an elimination unarmed combat contest shall:

(i) be no more than one minute in duration; or

(ii) be up to three minutes in duration if there is only a single round.

(c) A period of rest following a round shall be no more than one minute in duration.

(4) A contestant:

(a) shall wear gloves approved by the commission; and

(b) shall wear headgear approved by the commission, the designated commission member, or the director if a designated commission member is not present.

(5) A contestant may participate in more than one contest, but may not participate in more than a total of seven rounds in the entire tournament.

Section 23. Section 9-23-318, which is renumbered from Section 63N-10-318 is renumbered and amended to read:

[~~63N-10-318~~]. 9-23-318. Commission rulemaking.

The commission may make rules governing the conduct of a contest held under this chapter to protect the health and safety of licensees and members of the public.

Section 24. Section 9-24-101, which is renumbered from Section 63N-3-701 is renumbered and amended to read:

CHAPTER 24. UTAH MAIN STREET PROGRAM ACT

[~~63N-3-701~~]. 9-24-101. Definitions.

As used in this [~~part~~] chapter:

(1) "Advisory committee" means the Utah Main Street Advisory Committee created in Section [~~63N-3-703~~] 9-24-103.

(2) "Center" means the National Main Street Center.

(3) "Program" means the Utah Main Street Program created in Section [~~63N-3-702~~] 9-24-102.

Section 25. Section 9-24-102, which is renumbered from Section 63N-3-702 is renumbered and amended to read:

[~~63N-3-702~~]. 9-24-102. Utah Main Street Program.

(1) The Utah Main Street Program is created within the [~~office~~] department to provide resources for the revitalization of downtown or commercial district areas of municipalities in the state.

(2) To implement the program, the [~~office~~] department may:

(a) become a member of the National Main Street Center and partner with the center to become the statewide coordinating program for participating municipalities in the state;

(b) establish criteria for the designation of one or more local main street programs administered by a county or municipality in the state;

(c) consider the recommendations of the advisory committee in designating and implementing local main street programs;

(d) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;

(e) subject to appropriations from the Legislature or other funding, provide financial assistance to designated local main street programs; and

(f) under the direction of the executive director, appoint full-time staff.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~office~~] department may make rules establishing the eligibility and reporting criteria for a downtown area to receive a local main street program designation, including requirements for:

(a) local government support of the local main street program; and

(b) collecting data to measure economic development impact.

(4) The [~~office~~] department shall include in the annual written report described in Section [~~63N-1a-306~~] 9-1-208, a report of the program's operations and details of which municipalities have received:

(a) a local main street program designation; and

(b) financial support from the program.

Section 26. Section 9-24-103, which is renumbered from Section 63N-3-703 is renumbered and amended to read:

[~~63N-3-703~~]. 9-24-103. Main Street Program Advisory Committee -- Membership -- Duties.

(1) There is created [~~in~~] within the [~~office~~] department the Main Street Program Advisory Committee.

(2) The advisory committee is composed of the following members appointed by the executive director:

(a) a representative of the [~~office~~] department who provides administrative oversight of the program;

(b) [~~a representative of the office~~] two representatives of the Governor's Office of Economic Opportunity, one of whom is involved in tourism development;

[~~(c) a representative of the Department of Cultural and Community Engagement;~~]

[~~(d)~~] (c) a representative of the State Historic Preservation Office;

[~~(e)~~] (d) a representative of the [~~Utah~~] Department of Transportation;

[~~(f)~~] (e) a representative of the Housing and Community Development Division within the Department of Workforce Services;

[~~(g)~~] (f) a representative from a local association of governments;

[~~(h)~~] (g) a representative from the private sector involved in a local main street program;

[~~(i)~~] (h) a representative of a local main street program; and

[~~(j)~~] (i) three representatives from various entities that have an interest or expertise in assisting local main street programs.

(3) The advisory committee shall advise and make recommendations to the [~~office~~] department regarding:

(a) the eligibility of applicants for designation as a local main street program;

(b) financial assistance requests from designated local main street programs; and

(c) improving the effectiveness of the program.

(4) (a) Except as provided under Subsection (4)(b), each member of the advisory committee appointed under Subsections [~~(2)(g)~~] (2)(f) through [~~(j)~~] (i) shall be appointed for a four-year term.

(b) The executive director, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of approximately half of the members of the advisory committee appointed under Subsections [~~(2)(g)~~] (2)(f) through [~~(j)~~] (i) end every two years.

(5) The representative of the [~~office~~] department appointed under Subsection (2)(a) shall serve as chair of the advisory committee.

(6) When a vacancy occurs in the membership for any reason, the executive director shall appoint a replacement member.

(7) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(8) A member may not receive compensation or benefits for the member's service, but a member may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 27. Section 35A-1-109 is amended to read:

35A-1-109. Annual report -- Content -- Format.

(1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the department, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the department to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive [~~directors of the department, the Governor's Office of Economic Opportunity~~] director, the commissioner of higher education, and the executive director of the Governor's Office of Planning and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the department that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The department shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the Talent, Education, and Industry Alignment [~~Subcommittee~~] Board created in Section [~~63N-1b-301~~] 53B-33-102.

Section 28. Section 53B-1-404 is amended to read:

53B-1-404. Membership of the board -- Student appointee -- Terms -- Oath -- Officers -- Committees -- Bylaws -- Meetings -- Quorum -- Vacancies -- Compensation -- Training.

(1) The board consists of 18 residents of the state appointed by the governor with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, as follows:

(a) subject to Subsections (2)(a), (3), and (6)(b)(ii), 16 members appointed from among candidates presented to the governor by a nominating committee; and

(b) two student members appointed as described in Subsection (4).

(2) (a) For an appointment of a member effective July 1, 2020, the governor shall appoint the member in accordance with Section 53B-1-501.

(b) Unless appointed by the governor as described in Section 53B-1-501, the term of each individual who is a member of the State Board of Regents on May 12, 2020, expires on June 30, 2020.

(3) If the governor is not satisfied with a sufficient number of the candidates presented by the nominating committee to make the required number of appointments, the governor may request that the committee nominate additional candidates.

(4) (a) For the appointments described in Subsection (1)(b), the governor shall appoint:

(i) one individual who is enrolled in a certificate program at a technical college at the time of the appointment; and

(ii) one individual who:

(A) is a fully matriculated student enrolled in a degree-granting institution; and

(B) is not serving as a student body president at the time of the nomination.

(b) The governor shall select:

(i) an appointee described in Subsection (4)(a)(i) from among three nominees, presented to the governor by a committee consisting of eight students, one from each technical college, each of whom is recognized by the student's technical college; and

(ii) an appointee described in Subsection (4)(a)(ii) from among three nominees presented to the governor by the student body presidents of degree-granting institutions.

(c) An appointee described in Subsection (4)(a) is not subject to the public comment process described in Section 63G-24-204.

(5) (a) All appointments to the board shall be made on a nonpartisan basis.

(b) An individual may not serve simultaneously on the board and an institution board of trustees.

(6) (a) (i) Except as provided in Subsection (6)(a)(ii) and Section 53B-1-501, members shall be appointed to six-year staggered terms, each of which begins on July 1 of the year of appointment.

(ii) A member described in Subsection (1)(b) shall be appointed to a one-year term.

(b) (i) A member described in Subsection (1)(a) may serve up to two consecutive full terms.

(ii) The governor may appoint a member described in Subsection (1)(a) to a second consecutive full term without a recommendation from the nominating committee.

(iii) A member described in Subsection (1)(b) may not serve more than one full term.

(c) (i) The governor may remove a member for cause.

(ii) The governor shall consult with the president of the Senate before removing a member.

(7) (a) A member shall take the official oath of office before entering upon the duties of office.

(b) The oath shall be filed with the Division of Archives and Records Services.

(8) The board shall elect a chair and vice chair from among the board's members who shall serve terms of two years and until their successors are chosen and qualified.

(9) (a) The board shall appoint a secretary from the commissioner's staff to serve at the board's discretion.

(b) The secretary is a full-time employee.

(c) The secretary shall record and maintain a record of all board meetings and perform other duties as the board directs.

(10) (a) The board may establish advisory committees [~~in addition to the advisory council described in Section 53B-1-407~~].

(b) All matters requiring board determination shall be addressed in a properly convened meeting of the board or the board's executive committee.

(11) (a) The board shall enact bylaws for the board's own government not inconsistent with the constitution or the laws of this state.

(b) The board shall provide for an executive committee in the bylaws that:

(i) has the full authority of the board to act upon routine matters during the interim between board meetings;

(ii) may not act on nonroutine matters except under extraordinary and emergency circumstances; and

(iii) shall report to the board at the board's next meeting following an action undertaken by the executive committee.

(12) (a) The board shall meet regularly upon the board's own determination.

(b) The board may also meet, in full or executive session, at the request of the chair, the commissioner, or at least five members of the board.

(13) A quorum of the board is required to conduct the board's business and consists of 10 members.

(14) (a) A vacancy in the board occurring before the expiration of a member's full term shall be immediately filled through the nomination process described in Section 53B-1-406 and in this section.

(b) An individual appointed under Subsection (14)(a) serves for the remainder of the unexpired term.

(15) (a) (i) Subject to Subsection (15)(a)(ii), a member shall receive a daily salary for each calendar day that the member attends a board meeting that is the same as the daily salary for a member of the Legislature described in Section 36-2-3.

(ii) A member may receive a salary for up to 10 calendar days per calendar year.

(b) A member may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(16) The commissioner shall provide to each member:

(a) initial training when the member joins the board; and

(b) ongoing annual training.

(17) A board member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 29. Section 53B-33-101 (Effective 07/01/22), which is renumbered from Section 63N-1b-101 (Effective 07/01/22) is renumbered and amended to read:

CHAPTER 33. (CODIFIED AS CHAPTER 34) TALENT, EDUCATION, AND INDUSTRY ALIGNMENT

[~~63N-1b-101 (Effective 07/01/22)~~]. 53B-33-101 (Effective 07/01/22). (Codified as 53B-34-101) Definitions.

As used in this chapter:

(1) "Apprenticeship program" means a program that:

(a) combines paid on-the-job learning with formal classroom instruction to prepare students for careers; and

(b) includes:

(i) structured on-the-job learning for students under the supervision of a skilled employee;

(ii) classroom instruction for students related to the on-the-job learning;

(iii) ongoing student assessments using established competency and skills standards; and

(iv) the student receiving an industry-recognized credential or degree upon completion of the program.

(2) "Career and technical education region" means an economic service area created in Section 35A-2-101.

(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.

[~~(3)~~] (4) "High quality professional learning" means the professional learning standards for teachers and principals described in Section 53G-11-303.

[~~(4)~~] (5) "Institution of higher education" means the University of Utah, Utah State University, Southern Utah University, Weber State University, Snow College, Utah Tech University, Utah Valley University, or Salt Lake Community College.

[~~(5)~~] (6) "Local education agency" means a school district, a charter school, or the Utah Schools for the Deaf and the Blind.

[~~(6)~~] (7) "Master plan" means the computer science education master plan described in Section [~~63N-1b-304~~] 53B-33-105.

[~~(7)~~] (8) "Participating employer" means an employer that:

(a) partners with an educational institution on a curriculum for an apprenticeship program or work-based learning program; and

(b) provides an apprenticeship or work-based learning program for students.

[~~(8)~~] (9) "State board" means the State Board of Education.

[~~(9) "Talent program" means the Talent Ready Utah Program created in Section 63N-1b-302.~~]

(10) "Talent [~~subcommittee"~~] board" means the Talent, Education, and Industry Alignment [~~Subcommittee~~] Board created in Section [~~63N-1b-301~~] 53B-33-102.

(11) "Talent program" means the Talent Ready Utah Program created in Section 53B-33-103.

(12) "Targeted industry" means an industry or group of industries targeted by the commission for economic development in the state.

[~~(11)~~] (13) "Technical college" means:

(a) the same as that term is defined in Section 53B-1-101.5; and

(b) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B-2a-201.

[~~(12)~~] (14) (a) "Work-based learning program" means a program that combines structured and supervised learning activities with authentic work experiences and that is implemented through industry and education partnerships.

(b) "Work-based learning program" includes the following objectives:

(i) providing students an applied workplace experience using knowledge and skills attained in a program of study that includes an internship, externship, or work experience;

(ii) providing an educational institution with objective input from a participating employer regarding the education requirements of the current workforce; and

(iii) providing funding for programs that are associated with high-wage, in-demand, or emerging occupations.

[~~(13)~~] (15) "Workforce programs" means education or industry programs that facilitate training the state's workforce to meet industry demand.

Section 30. Section 53B-33-102, which is renumbered from Section 63N-1b-301 is renumbered and amended to read:

[~~63N-1b-301~~]. 53B-33-102. (Codified as 53B-34-102) Talent, Education, and Industry Alignment Board -- Creation -- Membership -- Expenses -- Duties.

(1) There is created [~~a subcommittee of the commission called~~] the Talent, Education, and Industry Alignment [~~Subcommittee~~] Board composed of the following members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner [~~of higher education~~] or the [~~commissioner of higher education's~~] commissioner's designee;

(c) the chair of the State Board of Education or the chair's designee;

(d) the executive director of the Department of Workforce Services or the executive [~~director of the department's~~] director's designee;

(e) the executive director of the [~~GO Utah office~~] Governor's Office of Economic Opportunity or the executive director's designee;

(f) the director of the Division of Occupational and Professional Licensing or the director's designee;

(g) the governor's education advisor or the advisor's designee;

(h) one member of the Senate, appointed by the president of the Senate;

(i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(j) the president of the Salt Lake Chamber or the president's designee;

(k) [~~three~~] six representatives of private industry chosen to represent targeted industries, appointed by the commission;

[~~(l) a representative of the technology industry chosen by the commission;~~]

[~~(m)~~] (l) the lieutenant governor or the lieutenant governor's designee; and

[~~(n)~~] (m) any additional individuals appointed by the commission who represent:

(i) one or more individual educational institutions; or

(ii) education or industry professionals.

(2) The [~~commission~~] talent board shall select a chair and vice chair from among the members of the talent [~~subcommittee~~] board.

(3) The talent [~~subcommittee~~] board shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent [~~subcommittee~~] board constitutes a quorum for the transaction of official talent [~~subcommittee~~] board business.

(5) Formal action by the talent [~~subcommittee~~] board requires the majority vote of a quorum.

(6) A member of the talent [~~subcommittee~~] board:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent [~~subcommittee~~] board shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the board and the commission regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the board and the commission regarding how to better align technical education with current and future workforce needs; [~~and~~]

(d) coordinate with the [~~commission~~] talent program to meet the responsibilities described in Subsection [~~63N-1b-302(4).~~] 53B-33-103(4);

(e) develop a computer science education master plan in accordance with Section 53B-33-105;

(f) coordinate with the talent program to meet the responsibilities described in Section 53B-33-107; and

(g) administer the Utah Works Program in accordance with Section 53B-33-108.

(8) Nothing in this section prohibits an individual who, on June 30, 2022, is a member of a subcommittee within the Governor's Office of Economic Opportunity known as the Talent, Education, and Industry Alignment Subcommittee from serving as a member of the talent board.

Section 31. Section 53B-33-103, which is renumbered from Section 63N-1b-302 is renumbered and amended to read:

[~~63N-1b-302~~]. 53B-33-103. (Codified as 53B-34-103) Talent Ready Utah Program.

(1) There is created [~~within the office~~] the Talent Ready Utah Program administered by the commissioner.

(2) The [~~executive director~~] commissioner, with the approval of the board, shall appoint a director of the talent program.

(3) The director of the talent program may appoint staff with the approval of the [~~executive director~~] commissioner.

(4) The talent program shall coordinate with the talent [~~subcommittee~~] board to:

(a) further education and industry alignment in the state;

(b) coordinate the development of new education programs that align with industry demand;

(c) coordinate or partner with other state agencies to administer grant programs;

(d) promote the inclusion of industry partners in education;

(e) provide outreach and information to employers regarding workforce programs and initiatives;

(f) develop and analyze stackable credential programs;

(g) determine efficiencies among workforce providers;

(h) map available workforce programs focusing on programs that successfully create high-paying jobs; and

(i) support initiatives of the talent [~~subcommittee~~] board.

Section 32. Section 53B-33-104, which is renumbered from Section 63N-1b-303 is renumbered and amended to read:

[~~63N-1b-303~~]. 53B-33-104. (Codified as 53B-34-104) Talent program report to board.

The talent program shall [~~prepare an annual report describing~~] annually report to the board on the talent program's operations and recommendations [~~for inclusion in the office's annual written report described in Section 63N-1a-306~~], including the results of the apprenticeship pilot program described in Section [~~63N-1b-306~~] 53B-33-107.

Section 33. Section 53B-33-105, which is renumbered from Section 63N-1b-304 is renumbered and amended to read:

[~~63N-1b-304~~]. 53B-33-105. (Codified as 53B-34-105) Computer science education master plan.

The talent [~~subcommittee~~] board, in consultation with the state board and the talent program, shall develop a computer science education master plan that:

(1) includes a statement of the objectives and goals of the master plan;

(2) describes how the talent [~~subcommittee~~] board and the state board will administer the Computer Science for Utah Grant Program created in Section [~~63N-1b-305~~] 53B-33-106;

(3) provides guidance for local education agencies in implementing computer science education opportunities for students in high school, middle school, and elementary school;

(4) integrates recommendations and best practices from private and public entities that are seeking to improve and expand the opportunities for computer science education, including the Expanding Computer Education Pathways Alliance; and

(5) makes recommendations to assist a local education agency in creating a local education agency computer science plan described in Subsection [~~63N-1b-305(7)~~] 53B-33-106(6), including:

(a) providing recommendations regarding course offerings in computer science;

(b) providing recommendations regarding professional development opportunities in computer science for licensed teachers;

(c) providing recommendations regarding curriculum software for computer science courses;

(d) providing recommendations regarding assessment solutions to measure the learning outcomes of students in computer science courses; and

(e) providing information regarding how a local education agency can receive technical support from the talent [~~subcommittee~~] board in providing computer science education opportunities for students.

Section 34. Section 53B-33-106, which is renumbered from Section 63N-1b-305 is renumbered and amended to read:

[~~63N-1b-305~~]. 53B-33-106. (Codified as 53B-34-106) Computer Science for Utah Grant Program.

(1) As used in this section, "grant program" means the Computer Science for Utah Grant Program created in Subsection (2).

(2) The Computer Science for Utah Grant Program is created to provide grants to eligible local education agencies for improving computer science learning outcomes and course offerings as demonstrated by:

(a) the creation and implementation of a local education agency computer science plan as described in Subsection [~~(7)~~] (6); and

(b) the effective implementation of approved courses and the provision of effective training opportunities for licensed teachers.

(3) Subject to appropriations from the Legislature, [~~and subject to the approval of the talent subcommittee,~~] the state board, in consultation with the talent board, shall distribute to local education agencies money appropriated for the grant program in accordance with this section.

[~~(4) The state board shall:~~]

[~~(a) solicit applications from local education agency boards to receive grant money under the grant program;~~]

[~~(b) make recommendations to the talent subcommittee regarding the awarding of grant money to a local education agency board on behalf of a local education agency based on the criteria described in Subsection (6); and~~]

[~~(c) obtain final approval from the talent subcommittee before awarding grant money.~~]

[~~(5)~~] (4) In administering the Computer Science for Utah Grant Program, the state board [~~and the office~~], in consultation with the talent [~~subcommittee~~] board, may make rules, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) describe the form and deadlines for a grant application by a local education agency under this section; and

(b) describe the reporting requirements required by a local education agency after receiving a grant under this section.

[~~(6)~~] (5) In awarding a grant under Subsection (3), the state board shall consider the effectiveness of the local education agency in creating and implementing a local education agency computer science plan as described in Subsection [~~(7)~~] (6).

[~~(7)~~] (6) Each local education agency that seeks a grant as described in this section shall submit a written computer science plan, in a form approved by the state board [~~and the talent subcommittee~~], that:

(a) covers at least four years;

(b) addresses the recommendations of the talent [~~subcommittee's~~] board's computer science education master plan described in Section [~~63N-1b-304~~] 53B-33-105;

(c) identifies targets for improved computer science offerings, student learning, and licensed teacher training;

(d) describes a computer science professional development program and other opportunities for high quality professional learning for licensed teachers or individuals training to become licensed teachers;

(e) provides a detailed budget, communications, and reporting structure for implementing the computer science plan;

(f) commits to provide one computer science course offering, approved by the talent

[~~subcommittee~~] board, in every middle and high school within the local education agency;

(g) commits to integrate computer science education into the curriculum of each elementary school within the local education agency; and

(h) includes any other requirement established by the state board [~~or the office~~] by rule, in consultation with the talent [~~subcommittee~~] board, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(8)~~] (7) Each local education agency that receives a grant as described in this section shall provide an annual written assessment to the state board and the talent [~~subcommittee~~] board for each year that the local education agency receives a grant or expends grant money that includes:

(a) how the grant money was used;

(b) any improvements in the number and quality of computer science offerings provided by the local education agency and any increase in the number of licensed teachers providing computer science teaching to students;

(c) any difficulties encountered during implementation of the local education agency's written computer science plan and steps that will be taken to address the difficulties; and

(d) any other requirement established by the state board [~~or the office~~] by rule, in consultation with the talent [~~subcommittee~~] board, in accordance with this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(9)~~] (8) (a) The state board and the talent [~~subcommittee~~] board shall review each annual written assessment described in Subsection [~~(8)~~] (7).

(b) As a result of the review described in Subsection [~~(9)~~] (8)(a):

(i) the state board or the talent [~~subcommittee~~] board may provide recommendations to improve the progress of the local education agency in meeting the objectives of the written computer science plan;

(ii) the state board may determine not to renew or extend a grant under this section; or

(iii) the state board or the talent [~~subcommittee~~] board may take other action to assist the local education agency.

Section 35. Section 53B-33-107, which is renumbered from Section 63N-1b-306 is renumbered and amended to read:

[~~63N-1b-306~~]. 53B-33-107. (Codified as 53B-34-107) Apprenticeships and work-based learning.

(1) The talent program, in collaboration with the talent [~~subcommittee~~] board, may partner with one or more of the following to facilitate and encourage apprenticeship opportunities and work-based learning opportunities for Utah students:

(a) the [~~state board~~] State Board of Education;

(b) the Utah system of higher education; [~~and~~] or

(c) a participating employer in the state.

(2) Subject to appropriations from the Legislature and in accordance with the proposal process and other provisions of this section, the talent [~~subcommittee, with the concurrence of the executive director~~] board, in coordination with the talent program, may provide funding for approved apprenticeship opportunities and work-based learning opportunities.

(3) To receive funding under this section, an entity described in Subsection (1) seeking to partner with the talent program shall submit a proposal through the talent program, in a form approved by the talent program and in accordance with deadlines determined by the talent program, that contains the following elements:

(a) the proposal shall include:

(i) a description of the proposed apprenticeship program or work-based learning program that demonstrates the program will be:

(A) responsive to the workforce needs of a high demand industry or occupation; and

(B) a partnership between at least one participating employer and at least one public high school, technical college, or institution of higher education;

(ii) an estimate of:

(A) student enrollment in the program;

(B) what school credit, credentials, certifications, or other workforce attainments will be provided by the program; and

(C) job-placement rates for students who complete the program;

(iii) a description of any financial contributions or in-kind contributions that will be provided by each participating employer in the program;

(iv) if the program would require state board approval under the provisions of Section 53B-16-102, evidence that the state board has approved the program; and

(v) the amount of funding requested for the program, including justification for the funding; and

(b) while not required, a preference may be given to a proposal that includes:

(i) a description of a stackable credentialing pathway for participating students that will be created by the program between at least two of the following:

(A) a public high school;

(B) a technical college; and

(C) an institution of higher education; or

(ii) the potential for participating students to obtain full-time employment with the participating employer upon completion of the program.

(4) The talent [~~subcommittee~~] board shall review and prioritize each proposal received and determine whether the proposal should be funded, using the following criteria:

(a) the quality and completeness of the elements of the proposal described in Subsection (3)(a);

(b) the quality of the optional elements of the proposal described in Subsection (3)(b);

(c) to what extent the proposal would expand the capacity to meet state or regional workforce needs; and

(d) other relevant criteria as determined by the talent [~~subcommittee~~] board.

(5) A partnership that receives funding under this section:

(a) shall use the money to accomplish the proposed apprenticeship program or work-based learning program;

(b) may use the money to offset a participating employer's direct operational costs associated with employing students as part of an approved apprenticeship program or work-based learning program;

(c) except as provided in Subsection (5)(d), may not use the money for educational administration; and

(d) may use the money to support one full-time employee within a career and technical education region if:

(i) each participating local education agency, public high school, technical college, and institution of higher education agree on which entity will house the full-time employee;

(ii) the full-time employee spends all of the employee's time working exclusively to develop apprentice programs or work-based learning programs; and

(iii) the full-time employee is responsible for regular reporting to and receiving training from the director of the talent program.

(6) The talent program shall be responsible for the administration of apprenticeship programs and work-based learning programs described in this section, including:

(a) working with and providing technical assistance to the participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;

(b) establishing reporting requirements for participating partners that establish apprentice programs and work-based learning programs and that receive funding under the provisions of this section;

(c) providing outreach and marketing to encourage more employers to participate; and

(d) annually [~~providing information to the office regarding~~] reporting on the activities, successes, and challenges of the [~~center~~] talent program related to administering apprentice programs and work-based learning programs for inclusion in the [~~office's annual written~~] report described in Section [~~63N-1a-306~~] 53B-33-104, including:

(i) specific entities that received funding under this section;

(ii) the amount of funding provided to each entity; and

(iii) the number of participating students in each apprentice program and work-based learning program.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~and the provisions of this section,~~] the talent program may make rules regarding:

(a) the method and deadlines for applying for funding under this section;

(b) the distribution of funding under this section; and

(c) the reporting requirements of each entity receiving funding under this section.

Section 36. Section 53B-33-108, which is renumbered from Section 63N-1b-307 is renumbered and amended to read:

[~~63N-1b-307~~]. 53B-33-108. (Codified as 53B-34-108) Utah Works Program.

(1) There is created the Utah Works Program.

(2) The [~~program~~] Utah Works Program, under the direction of the talent [~~subcommittee~~] board, shall [~~coordinate and~~] partner with the following entities [~~described below~~] to develop short-term pre-employment training and short-term early employment training for student and workforce participants that meet the needs of businesses that are creating jobs and economic growth in the state [~~by~~]:

(a) [~~partnering with the office,~~] the Department of Workforce Services[~~, and the Utah system of higher education~~];

(b) the Governor's Office of Economic Opportunity; and

[~~(b) partnering with~~] (c) businesses that have significant hiring demands for primarily newly created jobs in the state[~~;~~].

(3) In addition to the duties described in Subsection (2), the Utah Works Program may:

[~~(c) coordinating~~] (a) coordinate with the Department of Workforce Services, education agencies, and employers to create effective recruitment initiatives to attract student and workforce participants and business participants to the program;

[~~(d) coordinating~~] (b) coordinate with the [~~Utah system of higher education~~] board to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program; and

[~~(c) coordinating~~] (c) coordinate with the [~~State Board of Education~~] state board and local education agencies when appropriate to develop educational and training resources to provide student participants in the program qualifications to be hired by business participants in the program.

[~~(3) (a) Subject to appropriation, the office, in consultation with the talent subcommittee, may respond to the COVID-19 pandemic by directing financial grants to institutions of higher education described in Section 53B-2-101 to offer short-term programs to:~~]

[~~(i) provide training to furloughed, laid off, dislocated, underserved, or other populations affected by COVID-19 to fill employment gaps in the state;~~]

[~~(ii) provide training and education related to industry needs; and~~]

[~~(iii) provide students with certificates or other recognition after completion of training.~~]

[~~(b) The office shall include the following information in the annual written report described in Section 63N-1-301:~~]

[~~(i) the process by which the office determines which institutions of higher education shall receive financial grants; and~~]

[~~(ii) the formula for awarding financial grants.~~]

[~~(c) An institution of higher education that receives grant funds under this Subsection (3):~~]

[~~(i) may use grant funds for:~~]

[~~(A) costs associated with developing a new program; or~~]

[~~(B) costs associated with expanding an existing program; and~~]

[~~(ii) shall demonstrate industry needs and opportunities for partnership with industry.~~]

[~~(d) The office shall award grant funds on a rolling basis, until the earlier of funds being exhausted or June 30, 2022.~~]

[~~(e) The office shall conduct outreach, including education about career guidance, training, and workforce programs, to the targeted populations.~~]

(4) The [~~office~~] board, in consultation with the talent [~~subcommittee~~] board, may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, [~~and in accordance with the provisions of this section,~~] make rules regarding the development and administration of the Utah Works Program.

(5) The Utah Works Program shall annually report the following metrics to the [~~office for inclusion in the office's annual report described in Section 63N-1a-306~~] board:

(a) the number of participants in the program;

(b) how program participants learned about or were referred to the program[~~, including the number of participants who learned about or were referred to the program by:~~];

[~~(i) the Department of Workforce Services;~~]

[~~(ii) marketing efforts of the office or talent subcommittee;~~]

[~~(iii) a school counselor; and~~]

[~~(iv) other methods;~~]

(c) the number of participants who have completed training offered by the program; and

(d) the number of participants who have been hired by a business participating in the program.

Section 37. Section 53B-33-109 is enacted to read:

53B-33-109. (Codified as 53B-34-109) Grants for business entities offering employee return to work programs.

(1) As used in this section, "business entity" means a for-profit or nonprofit entity.

(2) Subject to appropriations from the Legislature, the talent program, in consultation with the talent board, may award grants to business entities to offer innovative return to work programs for employees.

(3) A business entity that receives grant funds under this section may only use grant funds for:

(a) costs associated with developing a new return to work program; or

(b) costs associated with expanding an existing return to work program.

(4) The talent program shall include the following information in the report described in Section 53B-33-104:

(a) the process by which the talent program determines which business entities shall receive grants; and

(b) the formula for awarding grants.

(5) The talent program shall award grant funds on a rolling basis, until the earlier of funds being exhausted or June 30, 2025.

Section 38. Section 63B-1b-202 is amended to read:

63B-1b-202. Custodial officer -- Powers and duties.

(1) (a) There is created within the Division of Finance an officer responsible for the care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not responsible for the care, custody, safekeeping, collection, and accounting of a bond, note, contract, trust document, or other evidence of indebtedness relating to the:

(i) Agriculture Resource Development Fund, created in Section 4-18-106;

(ii) Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(iii) Petroleum Storage Tank Trust Fund, created in Section 19-6-409;

(iv) Olene Walker Housing Loan Fund, created in Section 35A-8-502; [~~and~~]

(v) Brownfields Fund, created in Section 19-8-120[~~.~~]; and

(vi) Rural Opportunity Fund, created in Section 63N-4-805.

(2) (a) Each authorizing agency shall deliver to this officer for the officer's care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) This officer shall:

(i) establish systems, programs, and facilities for the care, custody, safekeeping, collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences of indebtedness submitted to the officer under this Subsection (2); and

(ii) shall make available updated reports to each authorizing agency as to the status of loans under their authority.

(3) The officer described in Section 63B-1b-201 shall deliver to the officer described in Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer described in Subsection (1)(a) of all bonds, notes, contracts, trust documents, and other evidences of indebtedness closed as provided in Subsection 63B-1b-201(2)(b).

Section 39. Section 63I-1-235 is amended to read:

63I-1-235. Repeal dates, Title 35A.

(1) Subsection 35A-1-202(2)(d), related to the Child Care Advisory Committee, is repealed July 1, 2026.

(2) Section 35A-3-205, which creates the Child Care Advisory Committee, is repealed July 1, 2026.

(3) Subsection 35A-4-312(5)(p), describing information that may be disclosed to the federal Wage and Hour Division, is repealed July 1, 2022.

(4) Subsection 35A-4-502(5), which creates the Employment Advisory Council, is repealed July 1, 2022.

(5) Title 35A, Chapter 8, Part 22, Commission on Housing Affordability, is repealed July 1, 2023.

(6) Section 35A-9-501 is repealed January 1, 2023.

[~~(7) Title 35A, Chapter 11, Women in the Economy Commission Act, is repealed January 1, 2025.~~]

[~~(8)~~] (7) Sections 35A-13-301 and 35A-13-302, which create the Governor's Committee on Employment of People with Disabilities, are repealed July 1, 2023.

[~~(9)~~] (8) Section 35A-13-303, which creates the State Rehabilitation Advisory Council, is repealed July 1, 2024.

[~~(10)~~] (9) Section 35A-13-404, which creates the advisory council for the Division of Services for the Blind and Visually Impaired, is repealed July 1, 2025.

[~~(11)~~] (10) Sections 35A-13-603 and 35A-13-604, which create the Interpreter Certification Board, are repealed July 1, 2026.

Section 40. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title [~~63J, Chapter 4, Part 5~~] 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

(27) Title 63N, Chapter 1b, Part 4, Women in the Economy Subcommittee, is repealed January 1, 2025.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.~~]

[~~(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.~~]

(31) In relation to the Rural Employment Expansion Program, on July 1, 2023:

(a) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed; and

(b) Subsection 63N-4-805(5)(b), referring to the Rural Employment Expansion Program, is repealed.

(32) In relation to the Board of Tourism Development, on July 1, 2025:

(a) Subsection 63N-2-511(1)(b), which defines "tourism board," is repealed;

(b) Subsections 63N-2-511(3)(a) and (5), the language that states "tourism board" is repealed and replaced with "Utah Office of Tourism";

(c) Subsection 63N-7-101(1), which defines "board," is repealed;

(d) Subsection 63N-7-102(3)(c), which requires the Utah Office of Tourism to receive approval from the Board of Tourism Development, is repealed; and

(e) Title 63N, Chapter 7, Part 2, Board of Tourism Development, is repealed.

(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 41. Section 63L-2-301 is amended to read:

63L-2-301. Promoting or lobbying for a federal designation within the state.

(1) As used in this section:

(a) "Federal designation" means the designation of a:

(i) national monument;

(ii) national conservation area;

(iii) wilderness area or wilderness study area;

(iv) area of critical environmental concern;

(v) research natural area; or

(vi) national recreation area.

(b) (i) "Governmental entity" means:

(A) a state-funded institution of higher education or public education;

(B) a political subdivision of the state;

(C) an office, agency, board, bureau, committee, department, advisory board, or commission that the government funds or establishes to carry out the public's business, regardless of whether the office, agency board, bureau, committee, department, advisory board, or commission is composed entirely of public officials or employees;

(D) an interlocal entity as defined in Section 11-13-103 or a joint or cooperative undertaking as defined in Section 11-13-103;

(E) a governmental nonprofit corporation as defined in Section 11-13a-102; or

(F) an association as defined in Section 53G-7-1101.

(ii) "Governmental entity" does not mean:

(A) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(B) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202;

(C) the Office of the Governor;

(D) the Governor's Office of Planning and Budget created in Section 63J-4-201;

(E) the Public Lands Policy Coordinating Office created in Section 63L-11-201;

(F) the Office of Energy Development created in Section 79-6-401; or

(G) the Governor's Office of Economic Opportunity created in Section 63N-1a-301[~~, including the Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301~~].

(2) (a) A governmental entity, or a person a governmental entity employs and designates as a representative, may investigate the possibility of a federal designation within the state.

(b) A governmental entity that intends to advocate for a federal designation within the state shall:

(i) notify the chairs of the following committees before the introduction of federal legislation:

(A) the Natural Resources, Agriculture, and Environment Interim Committee, if constituted, and the Federalism Commission; or

(B) if the notice is given during a General Session, the House and Senate Natural Resources, Agriculture, and Environment Standing Committees; and

(ii) upon request of the chairs, meet with the relevant committee to review the proposal.

(3) This section does not apply to a political subdivision supporting a federal designation if the federal designation:

(a) applies to 5,000 acres or less; and

(b) has an economical or historical benefit to the political subdivision.

Section 42. Section 63N-1a-102 is amended to read:

63N-1a-102. Definitions.

As used in this title:

(1) "Baseline jobs" means the number of full-time employee positions that existed within a business entity in the state before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(2) "Baseline state revenue" means the amount of state tax revenue collected from a business entity or the employees of a business entity during the year before the date on which a project related to the business entity is approved by the office or by the GO Utah board.

(3) "Commission" means the Unified Economic Opportunity Commission created in Section 63N-1a-201.

(4) "Economic opportunity agency" includes:

(a) the Department of Workforce Services;

(b) the Department of Cultural and Community Engagement;

(c) the Department of Commerce;

(d) the Department of Natural Resources;

(e) the Office of Energy Development;

(f) the State Board of Education;

(g) institutions of higher education;

(h) the Utah Multicultural Commission;

(i) the World Trade Center Utah;

(j) local government entities;

(k) associations of governments;

(l) the Utah League of Cities and Towns;

(m) the Utah Association of Counties;

(n) the Economic Development Corporation of Utah;

(o) the Small Business Administration;

(p) chambers of commerce;

(q) industry associations;

(r) small business development centers; and

(s) other entities identified by the commission or the executive director.

(5) "Executive director" means the executive director of the office.

(6) "Full-time employee" means an employment position that is filled by an employee who works at least 30 hours per week and:

(a) may include an employment position filled by more than one employee, if each employee who works less than 30 hours per week is provided benefits comparable to a full-time employee; and

(b) may not include an employment position that is shifted from one jurisdiction in the state to another jurisdiction in the state.

(7) "GO Utah board" means the [~~Business and Economic Development Subcommittee~~] Board of Economic Opportunity created in Section [~~63N-1b-202~~] 63N-1a-401.

(8) "High paying job" means a newly created full-time employee position where the aggregate average annual gross wage of the employment position, not including health care or other paid or unpaid benefits, is:

(a) at least 110% of the average wage of the county in which the employment position exists; or

(b) for an employment position related to a project described in Chapter 2, Part 1, Economic Development Tax Increment Financing, and that is located within the boundary of a county of the third, fourth, fifth, or sixth class, or located within a municipality in a county of the second class and where the municipality has a population of 10,000 or less:

(i) at least 100% of the average wage of the county in which the employment position exists; or

(ii) an amount determined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the office determines the project is in a county experiencing economic distress.

(9) (a) "Incremental job" means a full-time employment position in the state that:

(i) did not exist within a business entity in the state before the beginning of a project related to the business entity; and

(ii) is created in addition to the number of baseline jobs that existed within a business entity.

(b) "Incremental job" includes a full-time employment position where the employee is hired:

(i) directly by a business entity; or

(ii) by a professional employer organization, as defined in Section 31A-40-102, on behalf of a business entity.

(10) "New state revenue" means the state revenue collected from a business entity or a business entity's employees during a calendar year minus the baseline state revenue calculation.

(11) "Office" or "GO Utah office" means the Governor's Office of Economic Opportunity.

(12) "State revenue" means state tax liability paid by a business entity or a business entity's employees under any combination of the following provisions:

(a) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(b) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(c) Title 59, Chapter 10, Part 2, Trusts and Estates;

(d) Title 59, Chapter 10, Part 4, Withholding of Tax; and

(e) Title 59, Chapter 12, Sales and Use Tax Act.

(13) "State strategic goals" means the strategic goals listed in Section 63N-1a-103.

(14) "Statewide economic development strategy" means the economic development strategy developed by the commission in accordance with Section 63N-1a-202.

(15) "Talent board" means the Talent, Education, and Industry Alignment Board created in Section 53B-33-102.

Section 43. Section 63N-1a-201 is amended to read:

63N-1a-201. Creation of commission.

(1) There is created in the office the Unified Economic Opportunity Commission, established to carry out the mission described in Section 63N-1a-103 and direct the office and other appropriate entities in fulfilling the [~~state's~~] state strategic goals.

(2) The commission consists of:

(a) the following voting members:

(i) the governor, who shall serve as the chair of the commission;

(ii) the executive director, who shall serve as the vice chair of the commission;

(iii) the executive director of the Department of Workforce Services;

(iv) the executive director of the Department of Transportation;

(v) the executive director of the Department of Natural Resources;

(vi) the executive director of the Department of Commerce;

(vii) the commissioner of the Department of Agriculture and Food;

(viii) the executive director of the Governor's Office of Planning and Budget;

(ix) the commissioner of higher education;

(x) the state superintendent of public instruction;

(xi) the president of the Senate or the president's designee;

(xii) the speaker of the House of Representatives or the speaker's designee;

(xiii) one individual who is knowledgeable about housing needs in the state, including housing density and land use, appointed by the governor;

(xiv) one individual who represents the interests of urban cities, appointed by the Utah League of Cities and Towns; and

(xv) one individual who represents the interests of rural counties, appointed by the Utah Association of Counties; and

(b) the following non-voting members:

(i) the chief executive officer of World Trade Center Utah;

(ii) the chief executive officer of the Economic Development Corporation of Utah; and

(iii) a senior advisor to the chair of the commission with expertise in rural affairs of the state, appointed by the chair of the commission.

(3) A majority of commission members constitutes a quorum for the purposes of conducting commission business and the action of a majority of a quorum constitutes the action of the commission.

(4) The executive director of the office, or the executive director's designee, is the executive director of the commission.

(5) The office shall provide:

(a) office space and administrative staff support for the commission; and

(b) the central leadership and coordination of the commission's efforts in the field of economic development.

(6) (a) A member may not receive compensation or benefits for the member's service on the commission, but may receive per diem and travel expenses in accordance with:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 44. Section 63N-1a-202 is amended to read:

63N-1a-202. Commission duties.

(1) The commission shall:

(a) develop, coordinate, and lead a comprehensive statewide economic development strategy that:

(i) unifies and coordinates economic development efforts in the state;

(ii) includes key performance indicators for long-term progress toward the state strategic goals;

(iii) establishes reporting and accountability processes for the key performance indicators; and

(iv) ensures the success of the statewide economic development strategy is shared among the urban and rural areas of the state;

(b) receive feedback, input, and reports from economic opportunity agencies regarding programs related to the statewide economic development strategy;

(c) develop the statewide economic strategy in view of the state water policy described in Section 73-1-21, including the state's commitment to appropriate conservation, efficient and optimal use of water resources, infrastructure development and improvement, optimal agricultural use, water quality, reasonable access to recreational activities, effective wastewater treatment, and protecting and restoring healthy ecosystems;

(d) direct and facilitate changes to or recommend elimination of economic development programs to ensure alignment with the mission and vision described in Section 63N-1a-103;

(e) at least once every five years, identify industry clusters on which the commission recommends the state focus recruiting and expansion efforts;

(f) establish strategies for the recruitment and retention of targeted industry clusters while respecting the different needs of rural and urban areas throughout the state;

(g) establish strategies for supporting entrepreneurship and small business development in the state;

(h) analyze the state's projected long-term population and economic growth and plan for the anticipated impacts of the projected growth in a manner that improves quality of life and is consistent with the statewide economic development strategy and state strategic goals;

(i) identify gaps and potential solutions related to improving infrastructure, especially as related to the state's projected long-term population growth;

(j) support the development of a prepared workforce that can support critical industries and industry clusters identified by the commission;

(k) coordinate and develop strategies that assist education providers and industry to cooperate in supporting students in developing market relevant skills to meet industry needs;

(l) develop strategies and plans to ensure comprehensive economic development efforts are targeted to the unique needs of rural areas of the state;

(m) study the unique needs of multicultural communities throughout the state and develop household-level plans to ensure residents of the state can participate in economic opportunities in the state;

(n) ensure the commission's efforts are, to the extent practicable, data-driven and evidence-based;

(o) support an integrated international trade strategy for the state;

(p) facilitate coordination among public, private, and nonprofit economic opportunity agencies; and

(q) in performing the commission's duties, consider the recommendations of the subcommittees described in Chapter 1b, Commission Subcommittees, the GO Utah board, the talent board, and any working groups established under Subsection (2).

(2) The commission may establish working groups as is deemed appropriate to assist and advise the commission on specified topics or issues related to the commission's duties.

[~~(2)~~] (3) The commission shall provide a report to the office for inclusion in the office's annual written report described in Section 63N-1a-306, that includes:

(a) the statewide economic development strategy;

(b) a description of how the commission fulfilled the commission's statutory purposes and duties during the year, including any relevant findings;

(c) the key performance indicators included in the statewide economic development strategy, including data showing the extent to which the indicators are being met; and

(d) any legislative recommendations.

Section 45. Section 63N-1a-303 is amended to read:

63N-1a-303. Powers and duties of executive director.

(1) Unless otherwise expressly provided by statute, the executive director may organize the office in any appropriate manner, including the appointment of deputy directors of the office.

(2) The executive director may consolidate personnel and service functions for efficiency and economy in the office.

(3) The executive director, with the approval of the governor:

(a) may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs;

(b) may enter into a lawful contract or agreement with another state, a chamber of commerce organization, a service club, or a private entity; and

(c) shall annually prepare and submit to the governor a budget of the office's financial requirements.

(4) With the governor's approval, if a federal program requires the expenditure of state funds as a condition for the state to participate in a fund, property, or service, the executive director may expend necessary funds from money provided by the Legislature for the use of the office.

(5) The executive director shall coordinate with the executive directors of the Department of Workforce Services and the Governor's Office of Planning and Budget to review data and metrics to be reported to the Legislature as described in Subsection 63N-1a-306(2)(b).

(6) Unless otherwise provided in this title, the executive director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as necessary for the administration of programs established under state law.

Section 46. Section 63N-1a-306 is amended to read:

63N-1a-306. Annual report -- Content -- Format.

(1) The office shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the office, including the divisions, sections, boards, commissions, councils, and committees established under this title, for the preceding fiscal year.

(2) For each operation, activity, program, or service provided by the office, the annual report shall include:

(a) a description of the operation, activity, program, or service;

(b) data and metrics:

(i) selected and used by the office to measure progress, performance, effectiveness, and scope of the operation, activity, program, or service, including summary data; and

(ii) that are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement as determined by the executive directors of the office, the Department of Workforce Services, and the Governor's Office of Planning and Budget;

(c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;

(d) historical data from previous years for comparison with data reported under Subsections (2)(b) and (c);

(e) goals, challenges, and achievements related to the operation, activity, program, or service;

(f) relevant federal and state statutory references and requirements;

(g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and

(h) other information determined by the office that:

(i) may be needed, useful, or of historical significance; or

(ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.

(3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.

(4) The office shall:

(a) submit the annual report in accordance with Section 68-3-14;

(b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the office's website; and

(c) provide the data and metrics described in Subsection (2)(b) to the [~~Talent, Education, and Industry Alignment Subcommittee created in Section 63N-1b-301~~] talent board.

Section 47. Section 63N-1a-307 is enacted to read:

63N-1a-307. Restrictions on pass through funding.

(1) As used in this section:

(a) "Pass through funding" means the same as that term is defined in Section 63J-1-220.

(b) "Recipient entity" means the same as that term is defined in Section 63J-1-220.

(2) In addition to the requirements of Section 63J-1-220, the office may not distribute pass through funding to a recipient entity unless the office follows the standards or criteria established by the Legislature to distribute the pass through funding, as described in the applicable item of appropriation.

(3) If an item of appropriation to the office for pass through funding does not include any standards or criteria for distributing the pass through funding, the funds shall lapse to the source fund at the end of the fiscal year, regardless of whether those funds are designated by law as nonlapsing.

Section 48. Section 63N-1a-401, which is renumbered from Section 63N-1b-201 is renumbered and amended to read:

Part 4. Creation of Board of Economic Opportunity

[~~63N-1b-201~~]. 63N-1a-401. Creation of Board of Economic Opportunity.

(1) (a) There is created [~~a subcommittee of the commission, called the Business and Economic Development Subcommittee~~] within the office the Board of Economic Opportunity, consisting of 15 members appointed by the chair of the commission, in consultation with the executive director, to four-year terms of office with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies, [~~including:~~] at least five of whom reside in a county of the third, fourth, fifth, or sixth class.

[~~(i) a representative from a rural association of governments;~~]

[~~(ii) a rural representative of agriculture;~~]

[~~(iii) a rural representative of the travel industry;~~]

[~~(iv) a representative of rural utilities; and~~]

[~~(v) a representative from the oil, gas, or mineral extraction industry.~~]

(b) Notwithstanding the requirements of Subsection (1)(a), the chair of the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the [~~subcommittee~~] board is appointed every two years.

(c) The members may not serve more than two full consecutive terms except where the chair of the commission determines that an additional term is in the best interest of the state.

(2) In appointing members of the [~~committee~~] board, the chair of the commission shall ensure that:

(a) no more than eight members of the [~~subcommittee~~] board are from one political party; and

(b) members represent a variety of geographic areas and economic interests of the state.

(3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(4) Eight members of the [~~subcommittee~~] board constitute a quorum for conducting board business and exercising board power.

(5) The chair of the commission shall select one [~~subcommittee~~] board member as the [~~subcommittee's~~] board's chair and one member as the [~~subcommittee's~~] board's vice chair.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(7) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

[~~(8) Nothing in this section prohibits an individual who, on May 4, 2021, is a member of a board within the office known as the Board of Business and Economic Development from serving as a member of the GO Utah board.~~]

Section 49. Section 63N-1a-402, which is renumbered from Section 63N-1b-202 is renumbered and amended to read:

[~~63N-1b-202~~]. 63N-1a-402. Board of Economic Opportunity duties and powers.

(1) The[~~ Business and Economic Development Subcommittee~~] GO Utah board shall advise and assist the [~~commission~~] office to:

(a) promote and encourage the economic, commercial, financial, industrial, agricultural, and civic welfare of the state;

(b) promote and encourage the development, attraction, expansion, and retention of businesses, industries, and commerce in the state;

(c) support the efforts of local government and regional nonprofit economic development organizations to encourage expansion or retention of businesses, industries, and commerce in the state;

(d) act to enhance the state's economy;

[~~(e) work in conjunction with companies and individuals located or doing business in the state to secure favorable rates, fares, tolls, charges, and classification for transportation of persons or property by:~~]

[~~(i) railroad;~~]

[~~(ii) motor carrier; or~~]

[~~(iii) other common carriers;~~]

[~~(f)~~] (e) develop policies, priorities, and objectives regarding the assistance, retention, or recruitment of business, industries, and commerce in the state;

[~~(g)~~] (f) administer programs for the assistance, retention, or recruitment of businesses, industries, and commerce in the state;

[~~(h)~~] (g) ensure that economic development programs are available to all areas of the state in accordance with federal and state law;

[~~(i)~~] (h) identify local, regional, and statewide rural economic development and planning priorities;

[~~(j)~~] (i) understand, through study and input, issues relating to local, regional, and statewide rural economic development, including challenges, opportunities, best practices, policy, planning, and collaboration; [~~and~~]

(j) make recommendations regarding loans, grants, or other assistance from the Industrial Assistance Account as provided in Section 63N-3-105; and

(k) maintain ethical and conflict of interest standards consistent with those imposed on a public officer under Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

[~~(2) The subcommittee shall:~~]

[~~(a) serve as an advisory board to the commission on rural economic development issues;~~]

[~~(b) prepare an annual strategic plan that:~~]

[~~(i) identifies rural economic development, planning, and leadership training challenges, opportunities, priorities, and objectives; and~~]

[~~(ii) includes a work plan for accomplishing the objectives referred to in Subsection (1)(b)(i); and~~]

[~~(c) oversee the Rural County Grant Program created in Section 17-54-103.~~]

[~~(3) The subcommittee may:~~]

[~~(a) in accordance with Subsection (1)(e), appear as a party litigant on behalf of an individual or a company located or doing business in the state in a proceeding before a regulatory commission of the state, another state, or the federal government; and~~]

[~~(b) in consultation with the executive director, make, amend, or repeal rules for the conduct of its business consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the GO Utah board may, in consultation with the executive director, make rules for the conduct of the GO Utah board's business.

Section 50. Section 63N-1b-401, which is renumbered from Section 35A-11-102 is renumbered and amended to read:

Part 4. Women in the Economy Subcommittee

[~~35A-11-102~~]. 63N-1b-401. Definitions.

As used in this [~~chapter~~] part:

[~~(1) "Commission" means the Women in the Economy Commission created in Section 35A-11-201.~~]

[~~(2)~~] (1) "State institution of higher education" means the same as that term is defined in Section 53B-3-102.

(2) "Subcommittee" means the Women in the Economy Subcommittee created in Section 63N-1b-402.

Section 51. Section 63N-1b-402, which is renumbered from Section 35A-11-201 is renumbered and amended to read:

[~~35A-11-201~~]. 63N-1b-402. Women in the Economy Subcommittee created.

(1) There is created [~~within the department a commission known as the "Women in the Economy Commission."~~] a subcommittee of the commission called the Women in the Economy Subcommittee.

(2) The [~~commission~~] subcommittee shall consist of 11 members as follows:

(a) one senator appointed by the president of the Senate;

(b) one senator appointed by the minority leader of the Senate;

(c) one representative appointed by the speaker of the House of Representatives;

(d) one representative appointed by the minority leader of the House of Representatives;

(e) the executive director of the department, or the executive director's designee; and

(f) six members appointed by the governor as follows:

(i) a representative of a business with fewer than 50 employees that has been awarded for work flexibility or work-life balance;

(ii) a representative of a business with 50 or more employees, but fewer than 500 employees, that has been awarded for work flexibility or work-life balance;

(iii) a representative of a business with 500 or more employees that has been awarded for work flexibility or work-life balance;

(iv) an individual who has experience in demographic work and is employed by a state institution of higher education;

(v) one individual from a nonprofit organization that addresses issues related to domestic violence; and

(vi) one individual with managerial experience with organized labor.

(3) (a) When a vacancy occurs in a position appointed by the governor under Subsection (2)(f), the governor shall appoint a person to fill the vacancy.

(b) Members appointed under Subsection (2)(f) may be removed by the governor for cause.

(c) A member appointed under Subsection (2)(f) shall be removed from the [~~commission~~] subcommittee and replaced by the governor if the member is absent for three consecutive meetings of the [~~commission~~] subcommittee without being excused by the chair of the [~~commission~~] subcommittee.

(d) A member serves until the member's successor is appointed and qualified.

(4) In appointing the members under Subsection (2)(f), the governor shall:

(a) take into account the geographical makeup of the [~~commission~~] subcommittee; and

(b) strive to appoint members who are knowledgeable or have an interest in issues related to women in the economy.

(5) (a) The [~~commission~~] subcommittee shall select two members to serve as cochairs, one of which shall be a legislator.

(b) Subject to the other provisions of this Subsection (5), the cochairs are responsible for the call and conduct of meetings.

(c) The cochairs shall call and hold meetings of the [~~commission~~] subcommittee at least every two months.

(d) One of the bimonthly meetings described in Subsection (5)(c) shall be held while the Legislature is convened in [~~its~~] the Legislature's annual general session.

(e) One or more additional meetings may be called upon request by a majority of the [~~commission's~~] subcommittee's members.

(6) (a) A majority of the members of the [~~commission~~] subcommittee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the [~~commission~~] subcommittee.

(7) (a) A member of the [~~commission~~] subcommittee described in Subsection (2)(e) or (f) may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(8) The [~~department~~] office shall provide staff support to the [~~commission~~] subcommittee.

Section 52. Section 63N-1b-403, which is renumbered from Section 35A-11-202 is renumbered and amended to read:

[~~35A-11-202~~]. 63N-1b-403. Purpose -- Powers and duties of the subcommittee.

(1) The [~~commission's~~] subcommittee's purpose is to:

(a) increase public and government understanding of the current and future impact and needs of the state's women in the economy and how those needs may be most effectively and efficiently met;

(b) identify and recommend implementation of specific policies, procedures, and programs to respond to the rights, needs, and impact of women in the economy; and

(c) facilitate coordination of the functions of public and private entities concerned with women in the economy.

(2) The [~~commission~~] subcommittee shall:

(a) facilitate the communication and coordination of public and private entities that provide services to women or protect the rights of women;

(b) study, evaluate, and report on the status and effectiveness of policies, procedures, and programs that provide services to women or protect the rights of women;

(c) study and evaluate the policies, procedures, and programs implemented by other states that address the needs of women in the economy or protect the rights of women;

(d) facilitate and conduct the research and study of issues related to women in the economy;

(e) provide a forum for public comment on issues related to women in the economy;

(f) provide public information on women in the economy and the services available to women; and

(g) encourage state and local governments to analyze, plan, and prepare for the impact of women in the economy on services and operations.

(3) To accomplish [~~its~~] the subcommittee's duties, the [~~commission~~] subcommittee may:

(a) request and receive from a state or local government agency or institution summary information relating to women in the economy, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics;

(b) apply for and accept grants or donations for uses consistent with the duties of the [~~commission~~] subcommittee from public or private sources; and

(c) appoint one or more [~~special committees~~] working groups to advise and assist the [~~commission~~] subcommittee.

(4) Money received under Subsection (3)(b) shall be:

(a) accounted for and expended in compliance with the requirements of federal and state law; and

(b) continuously available to the [~~commission~~] subcommittee to carry out the [~~commission's~~] subcommittee's duties.

(5) (a) A member of a [~~special committee~~] working group described in Subsection (3)(c):

(i) shall be appointed by the [~~commission~~] subcommittee;

(ii) may be:

(A) a member of the [~~commission~~] subcommittee; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 35A-11-201, may not receive reimbursement or pay for any work done in relation to the [~~special committee~~] working group.

(b) A [~~special committee~~] working group described in Subsection (3)(c) shall report to the [~~commission~~] subcommittee on the progress of the [~~special committee~~] working group.

Section 53. Section 63N-1b-404, which is renumbered from Section 35A-11-203 is renumbered and amended to read:

[~~35A-11-203~~]. 63N-1b-404. Annual report.

(1) The [~~commission~~] subcommittee's shall annually prepare a report for inclusion in the [~~department's~~] office's annual written report described in Section [~~35A-1-109~~] 63N-1a-306.

(2) The report described in Subsection (1) shall:

(a) describe how the [~~commission~~] subcommittee fulfilled [~~its~~] the subcommittee's statutory purposes and duties during the year; and

(b) contain recommendations on how the state should act to address issues relating to women in the economy.

Section 54. Section 63N-2-104 is amended to read:

63N-2-104. Creation of economic development zones -- Tax credits -- Assignment of tax credit.

(1) The office may create an economic development zone in the state if the following requirements are satisfied:

(a) the area is zoned agricultural, commercial, industrial, manufacturing, business park, research park, or other appropriate business related use in a community-approved master plan that contemplates future growth;

(b) the request to create a development zone has first been approved by an appropriate local government entity; and

(c) local incentives have been or will be committed to be provided within the area in accordance with the community's approved incentive policy and application process.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the requirements for a business entity or local government entity to qualify for a tax credit for a new commercial project in a development zone under this part.

(b) The office shall ensure that the requirements described in Subsection (2)(a) include the following:

(i) the new commercial project is within the development zone;

(ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;

(iii) the new commercial project brings new incremental jobs to Utah;

(iv) the new commercial project includes the creation of high paying jobs in the state, significant capital investment in the state, or significant purchases from vendors, contractors, or service providers in the state, or a combination of these three economic factors;

(v) the new commercial project generates new state revenues;

(vi) a business entity, a local government entity, or a community reinvestment agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63N-2-105; and

(vii) unless otherwise advisable in light of economic circumstances, the new commercial project relates to the industry clusters identified by the commission under Section 63N-1a-202.

(3) (a) The office, after consultation with the GO Utah board, may enter into a written agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the requirements described in this section.

(b) (i) With respect to a new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.

(ii) In determining whether to authorize a tax credit with respect to a new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.

(c) (i) Except as provided in Subsection (3)(c)(ii)(A), for a new commercial project that is located within the boundary of a county of the first or second class, the office may not authorize or commit to authorize a tax credit that exceeds:

(A) 50% of the new state revenues from the new commercial project in any given year; or

(B) 30% of the new state revenues from the new commercial project over the lesser of the life of a new commercial project or 20 years.

(ii) If the office authorizes or commits to authorize a tax credit for a new commercial project located within the boundary of:

(A) a municipality with a population of 10,000 or less located within a county of the second class and that is experiencing economic hardship as determined by the office, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years;

(B) a county of the third class, the office shall authorize a tax credit of up to 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years; and

(C) a county of the fourth, fifth, or sixth class, the office shall authorize a tax credit of 50% of new state revenues from the new commercial project over the lesser of the life of the new commercial project or 20 years.

(iii) Notwithstanding any other provisions of this section, the office may not authorize a tax credit under this section for a new commercial project:

(A) to a business entity that has claimed a High Cost Infrastructure Development Tax Credit described in Section 79-6-603 related to the same new commercial project, if the new commercial project is located within a county of the first or second class; or

(B) in an amount more than the amount of the capital investment in the new commercial project.

(d) (i) A local government entity may by resolution assign a tax credit authorized by the office to a community reinvestment agency.

(ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.

(iii) If a local government entity assigns a tax credit to a community reinvestment agency, the written agreement described in Subsection (3)(a) shall:

(A) be between the office, the local government entity, and the community reinvestment agency;

(B) establish the obligations of the local government entity and the community reinvestment agency; and

(C) establish the extent to which any of the local government entity's obligations are transferred to the community reinvestment agency.

(iv) If a local government entity assigns a tax credit to a community reinvestment agency:

(A) the community reinvestment agency shall retain records as described in Subsection (4)(d); and

(B) a tax credit certificate issued in accordance with Section 63N-2-105 shall list the community reinvestment agency as the named applicant.

(4) The office shall ensure that the written agreement described in Subsection (3):

(a) specifies the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;

(b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;

(c) establishes the length of time the business entity or local government entity may claim a tax credit;

(d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and

(e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.

(5) The office may attribute an incremental job or a high paying job to a new commercial project regardless of whether the job is performed in person, within the development zone or remotely from elsewhere in the state.

Section 55. Section 63N-2-511 is amended to read:

63N-2-511. Stay Another Day and Bounce Back Fund.

(1) As used in this section:

(a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created in Subsection (2).

(b) "Tourism board" means the Board of Tourism Development created in Section [~~63N-7-101~~] 63N-7-201.

(2) There is created an expendable special revenue fund known as the Stay Another Day and Bounce Back Fund.

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

(i) annual payments under Section 17-31-9 from the county in which a qualified hotel is located;

(ii) money transferred to the bounce back fund under Section 63N-2-503.5 or 63N-2-512; and

(iii) any money that the Legislature chooses to appropriate to the bounce back fund.

(4) Interest earned by the bounce back fund shall be deposited into the bounce back fund.

(5) The tourism board may use money in the bounce back fund to pay for a tourism program of advertising, marketing, and branding of the state, taking into consideration the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis.

Section 56. Section 63N-2-810 is amended to read:

63N-2-810. Reports on tax credit certificates.

The office shall include the following information in the annual written report described in Section [~~63N-4-106~~] 63N-1a-306:

(1) the total amount listed on tax credit certificates the office issues under this part;

(2) the criteria that the office uses in prioritizing the issuance of tax credits amongst tax credit applicants under this part; and

(3) the economic impact on the state related to providing tax credits under this part.

Section 57. Section 63N-3-105 is amended to read:

63N-3-105. Qualification for assistance.

(1) (a) Except as provided in Section 63N-3-109, the administrator, in consultation with the GO Utah board, shall determine which industries, companies, and individuals qualify to receive money from the Industrial Assistance Account.

(b) Except as provided by Subsection (2), to qualify for financial assistance from the restricted account, an applicant shall:

(i) demonstrate to the satisfaction of the administrator that the applicant will expend funds in the state with employees, vendors, subcontractors, or other businesses in an amount proportional with money provided from the restricted account at a minimum ratio of one to one per year or other more stringent requirements as established on a per project basis by the administrator;

(ii) demonstrate to the satisfaction of the administrator the applicant's ability to sustain economic activity in the state sufficient to repay, by means of cash or appropriate credits, the loan provided by the restricted account; and

(iii) satisfy other criteria the administrator considers appropriate.

(2) (a) The administrator may exempt an applicant from the requirements of Subsection (1)(a) or (b) if:

(i) the applicant is part of a targeted industry;

(ii) the applicant is a quasi-public corporation organized under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, or Title 63E, Chapter 2, Independent Corporations Act, and its operations, as demonstrated to the satisfaction of the administrator, will provide significant economic stimulus to the growth of commerce and industry in the state; or

(iii) the applicant is an entity offering an economic opportunity under Section 63N-3-109.

(b) The administrator may not exempt the applicant from the requirement under Subsection 63N-3-106(2)(b) that the loan be structured so that the repayment or return to the state equals at least the amount of the assistance together with an annual interest charge.

(3) The GO Utah board shall make recommendations to the administrator regarding applications for loans, grants, or other financial assistance from the Industrial Assistance Account.

[~~(3)~~] (4) The administrator shall:

(a) for applicants not described in Subsection (2)(a):

(i) make findings as to whether or not each applicant has satisfied each of the conditions set forth in Subsection (1); and

(ii) monitor the continued compliance by each applicant with each of the conditions set forth in Subsection (1) for five years;

(b) consider the GO Utah board's recommendations with respect to each application;

[~~(b)~~] (c) monitor the compliance by each applicant with the provisions of any contract or agreement entered into between the applicant and the state as provided in Section 63N-3-107; and

[~~(c)~~] (d) make funding decisions based upon appropriate findings and compliance.

Section 58. Section 63N-3-109 is amended to read:

63N-3-109. Financial assistance to entities offering economic opportunities.

(1) Subject to the duties and powers of the GO Utah board under Section [~~63N-1b-202~~] 63N-1a-402, the administrator may provide money from the Industrial Assistance Account to an entity offering an economic opportunity if that entity:

(a) applies to the administrator in a form approved by the administrator; and

(b) meets the qualifications of Subsection (2).

(2) As part of an application for receiving money under this section, an applicant shall:

(a) demonstrate to the satisfaction of the administrator the nature of the economic opportunity and the related benefit to the economic well-being of the state by providing evidence documenting the logical and compelling linkage, either direct or indirect, between the expenditure of money necessitated by the economic opportunity and the likelihood that the state's tax base, regions of the state's tax base, or specific components of the state's tax base will not be reduced but will be maintained or enlarged;

(b) demonstrate how the funding request will act in concert with other state, federal, or local agencies to achieve the economic benefit;

(c) demonstrate how the funding request will act in concert with free market principles; and

(d) satisfy other criteria the administrator considers appropriate.

(3) Before awarding any money under this section, the administrator shall:

(a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activity is to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 59. Section 63N-3-112 is amended to read:

63N-3-112. Talent development grants.

(1) A for-profit business that is creating new incremental high paying jobs in the state, may apply to receive a talent development grant from the restricted account.

(2) In accordance with the provisions of this section and in consultation with the GO Utah board, the administrator may award up to $10,000 per new job created.

(3) The administrator shall designate an application process for a business to apply for the grant.

(4) A business may apply to receive a grant only after each employee has been employed at qualifying wage levels for at least 12 consecutive months.

(5) Money granted for a talent development grant under this section shall be deducted from any other money or incentive awarded by the office to the business.

(6) Grants awarded under this section are only to reimburse a business for the costs incurred to recruit, hire, train, and otherwise employ an employee in a newly created job.

(7) A business shall submit a hiring and training plan detailing what the grant money will be used for as part of the application process.

(8) The administrator may only grant an award up to an amount that is no more than 25% of the estimated costs to be incurred by the business for the costs in the hiring and training plan.

Section 60. Section 63N-3-204 is amended to read:

63N-3-204. Administration -- Grants and loans.

(1) The office shall administer this part.

(2) (a) (i) The office may award Utah Technology [~~Commercialization and~~] Innovation Funding Program grants or issue loans under this part to [~~an applicant that is:~~] small businesses.

[~~(A) an institution of higher education;~~]

[~~(B) a licensee; or~~]

[~~(C) a small business.~~]

(ii) If loans are issued under Subsection (2)(a)(i), the Division of Finance may set up a fund or account as necessary for the proper accounting of the loans.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules [~~for a process to determine whether an institution of higher education that receives a grant under this part must return the grant proceeds or a portion of the grant proceeds if the technology that is developed with the grant proceeds is licensed to a licensee that:~~] establishing procedures for applying for and issuing grants or loans under this part.

[~~(i) does not maintain a manufacturing or service location in the state from which the licensee or a sublicensee exploits the technology; or~~]

[~~(ii) initially maintains a manufacturing or service location in the state from which the licensee~~

~~or a sublicensee exploits the technology, but within five years after issuance of the license the licensee or sublicensee transfers the manufacturing or service location for the technology to a location out of the state.~~]

[~~(c) A repayment by an institution of higher education of grant proceeds or a portion of the grant proceeds may only come from the proceeds of the license established between the licensee and the institution of higher education.~~]

[~~(d)~~] (c) (i) An applicant that [~~is a licensee or small business that~~] receives a grant or loan under this part shall return the grant or loan proceeds or a portion of the grant or loan proceeds to the office if the applicant:

(A) does not maintain [~~a manufacturing or service location in the state from which the applicant exploits the technology~~] the applicant's principal place of business in the state; or

(B) initially maintains [~~a manufacturing or service location in the state from which the applicant exploits the technology~~] the applicant's principal place of business in the state, but within five years after issuance of the grant or loan, the applicant transfers the [~~manufacturing or service location for the technology~~] applicant's principal place of business to an out-of-state location.

(ii) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant or loan.

[~~(iii) A repayment by a licensee that receives a grant may only come from the proceeds of the license to that licensee.~~]

[~~(3) (a) Funding allocations shall be made by the office with the advice of the GO Utah board.~~]

[~~(b) Each proposal shall receive the best available outside review.~~]

[~~(4) (a)~~] (3) In considering each proposal, the office shall weigh technical merit, the level of matching funds from private and federal sources, and the potential for [~~job creation and economic development~~] commercialization and broad impact.

[~~(b) Proposals or consortia that combine and coordinate related research at two or more institutions of higher education shall be encouraged.~~]

[~~(5)~~] (4) The office shall review the activities and progress of grant or loan recipients on a regular basis and, as part of the office's annual written report described in Section 63N-1a-306, report on the accomplishments [~~and~~], direction, and usefulness of the Utah Technology [~~Commercialization and~~] Innovation Funding Program[~~.~~], including recommendations on:

(a) whether the program is beneficial to the state and should continue; and

(b) whether other office programs or programs in other agencies could provide similar state benefits more effectively or at a lower cost.

[~~(6) (a) On or before August 1, 2018, the office shall provide a written analysis and recommendations concerning the usefulness of the Technology Commercialization and Innovation Program described in this part, including whether:~~]

[~~(i) the program is beneficial to the state and should continue; and~~]

[~~(ii) other office programs or programs in other agencies could provide similar benefits to the state more effectively or at a lower cost.~~]

[~~(b) The written analysis and recommendations described in this Subsection (6) shall be provided to:~~]

[~~(i) the Business, Economic Development, and Labor Appropriations Subcommittee;~~]

[~~(ii) the Economic Development and Workforce Services Interim Committee;~~]

[~~(iii) the Business and Labor Interim Committee; and~~]

[~~(iv) the governor.~~]

Section 61. Section 63N-3-801 is enacted to read:

Part 8. (Codified as Part 10) Economic Assistance Grant Program

63N-3-801. (Codified as 63N-3-1001) Definitions.

As used in this part:

(1) "Business entity" means a for-profit or nonprofit entity.

(2) "Grant" means a grant awarded as part of the Economic Assistance Grant Program created in Section 63N-3-802.

(3) "Grant program" means the Economic Assistance Grant Program created in Section 63N-3-802.

Section 62. Section 63N-3-802 is enacted to read:

63N-3-802. (Codified as 63N-3-1002) Creation of Economic Assistance Grant Program -- Requirements -- Rulemaking -- Annual report.

(1) There is created the Economic Assistance Grant Program administered by the office.

(2) Subject to appropriations from the Legislature, the office may award one or more grants to a business entity to provide funding for projects that:

(a) promote and support economic opportunities in the state; and

(b) provide a service in the state related to industry, education, community development, or infrastructure.

(3) In awarding grants, the office may prioritize projects:

(a) that create new jobs in the state;

(b) that develop targeted industries in the state;

(c) where an applicant identifies clear metrics to measure the progress, effectiveness, and scope of the project;

(d) where an applicant secures funding from other sources to help finance the project;

(e) where an applicant demonstrates comprehensive planning of the project; and

(f) that require one-time funds.

(4) Before a business entity may receive a grant, the business entity shall enter into a written agreement with the office that specifies:

(a) the amount of the grant;

(b) the time period for distributing the grant;

(c) the terms and conditions that the business entity shall meet to receive the grant;

(d) the structure of the grant; and

(e) the expenses for which the business entity may expend the grant.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules to administer the grant program.

(6) The office shall include in the annual written report described in Section 63N-1a-306 a report on the grant program, including a description and the amount of any grants awarded.

Section 63. Section 63N-4-104 is amended to read:

63N-4-104. Duties.

(1) The Center for Rural Development shall:

(a) work to enhance the capacity of the office to address rural economic development, planning, and leadership training challenges and opportunities by establishing partnerships and positive working relationships with appropriate public and private sector entities, individuals, and institutions;

(b) work with the GO Utah board to coordinate and focus available resources in ways that address the economic development, planning, and leadership training challenges and priorities in rural Utah;

(c) assist in administering the Rural [~~County Grant Program created in Section 17-54-103, including, as described in Subsection 17-54-103(10), compiling reported information regarding the program for inclusion in the office's annual written report described in Section 63N-1a-306~~] Opportunity Program created in Section 63N-4-802; and

(d) in accordance with economic development and planning policies set by state government, coordinate relations between:

(i) the state;

(ii) rural governments;

(iii) other public and private groups engaged in rural economic planning and development; and

(iv) federal agencies.

(2) (a) The Center for Rural Development may:

(i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out its duties;

(ii) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of rural Utah citizens; and

(iii) use those gifts, grants, devises, and property received under Subsection (2)(a)(ii) for the use and benefit of rural citizens within the state.

(b) All resources received under Subsection (2)(a)(ii) shall be deposited in the General Fund as dedicated credits to be used as directed in Subsection (2)(a)(iii).

Section 64. Section 63N-4-402 is amended to read:

63N-4-402. Definitions.

As used in this part:

(1) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

(2) "Grant" means a grant awarded as part of the Rural Employment Expansion Grant Program created in Section 63N-4-403.

(3) "Grant program" means the Rural Employment Expansion Grant Program created in Section 63N-4-403.

(4) "Mining company" means an entity whose primary business is the exploration for or extraction of minerals from the earth.

(5) "Mining services company" means an entity whose primary business is providing support services for a mining company, including drilling or geological modeling.

[~~(2)~~] (6) (a) "Owner or officer" means an individual who owns an ownership interest in an entity or holds a position where the person has authority to manage, direct, control, or make decisions for:

(i) the entity or a portion of the entity; or

(ii) an employee, agent, or independent contractor of the entity.

(b) "Owner or officer" includes:

(i) a member of a board of directors or other governing body of an entity; or

(ii) a partner in any type of partnership.

[~~(3) "Rural employment expansion grant" means a grant available under this part.~~]

(7) "Rural county" means a county of the third, fourth, fifth, or sixth class.

Section 65. Section 63N-4-403 is amended to read:

63N-4-403. Creation of Rural Employment Expansion Grant Program -- Duties of the office.

(1) There is created the Rural Employment Expansion Grant Program administered by the office.

[~~(1)~~] (2) The office shall:

(a) review a business entity's application for a [~~rural employment expansion grant under this part~~] grant in the order in which the application is received by the office;

(b) ensure that a [~~rural employment expansion~~] grant is only awarded to a business entity that meets the requirements of this part; and

(c) as part of the annual written report described in Section 63N-1a-306, prepare an annual evaluation that provides:

(i) the identity of each business entity that was provided a [~~rural employment expansion~~] grant by the office during the year of the annual report;

(ii) the total amount awarded in [~~rural employment expansion~~] grants for each county; and

(iii) an evaluation of the effectiveness of the [~~rural employment expansion~~] grant in bringing significant new employment to rural communities.

[~~(2)~~] (3) The office may:

(a) authorize a [~~rural employment expansion~~] grant for a business entity under this part;

(b) audit a business entity to ensure:

(i) eligibility for a [~~rural employment expansion~~] grant; and

(ii) compliance with this part; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in accordance with the provisions of this part, make rules regarding the:

(i) form and content of an application for a [~~rural employment expansion~~] grant;

(ii) documentation or other requirements for a business entity to receive a [~~rural employment expansion~~] grant; and

(iii) administration of [~~rural employment expansion~~] grants, including an appeal process and relevant timelines and deadlines.

Section 66. Section 63N-4-404 is amended to read:

63N-4-404. Grant application process.

(1) For a fiscal year beginning on or after July 1, 2018, a business entity seeking to receive a [~~rural employment expansion grant as provided in this part~~] grant shall provide the office with an application [~~for a rural employment expansion grant~~] in a form approved by the office that includes:

(a) a certification, by an officer of the business entity, of each signature on the application;

(b) a document that specifies the projected number and anticipated wage level of the new full-time employee positions that the business entity plans to create as the basis for qualifying for a [~~rural employment expansion~~] grant; and

(c) any additional information required by the office.

(2) (a) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application is inadequate to provide a reasonable justification for authorizing the [~~rural employment expansion~~] grant, the office shall:

(i) deny the application; or

(ii) inform the business entity that the application is inadequate and ask the business entity to submit additional documentation.

(b) (i) If the office denies an application, the business entity may appeal the denial to the office.

(ii) The office shall review any appeal within 10 business days and make a final determination of the business entity's eligibility for a grant [~~under this part~~].

(3) If, after review of an application provided by a business entity as described in Subsection (1), the office determines that the application provides reasonable justification for authorizing a [~~rural employment expansion~~] grant and if there are available funds for the grant, the office shall enter into a written agreement with the business entity that:

(a) indicates the maximum [~~rural employment expansion~~] grant amount the business entity is authorized to receive;

(b) includes a document signed by an officer of the business entity that expressly directs and authorizes the State Tax Commission to disclose to the office the business entity's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

(c) describes the documentation required to demonstrate that the business entity has created the new full-time employee positions described in the application provided under Subsection (1); and

(d) specifies the deadlines to provide the documentation described in Subsection (3)(c).

(4) (a) Subject to available funds, the office may award a [~~rural employment expansion~~] grant to a business entity as follows:

(i) $4,000 for each new full-time employee position in a county where the average county wage is equal to or greater than the state average wage;

(ii) $5,000 for each new full-time employee position in a county where the average county wage is between 85% and 99% of the state average wage; and

(iii) $6,000 for each new full-time employee position in a county where the average county wage is less than 85% of the state average wage.

(b) A business entity may qualify for no more than $250,000 in [~~rural employment expansion~~] grants in any fiscal year.

(5) (a) Subject to available funds, the office shall award a business entity a grant in the amount allowed under this part if the business entity provides documentation to the office:

(i) in a form prescribed by the office under Subsection (3)(c);

(ii) before the deadline described in Subsection (3)(d); and

(iii) that demonstrates that the business applicant has created new full-time employee positions.

(b) If a business entity does not provide the documentation described in Subsection (3)(c) before the deadline described in Subsection (3)(d), the business entity is ineligible to receive a [~~rural employment expansion~~] grant unless the business entity submits a new application to be reviewed by the office in accordance with Subsection (1).

(6) Nothing in this part prevents a business entity that has received a [~~rural employment expansion~~] grant from concurrently applying for or receiving another grant or incentive administered by the office.

[~~(7) (a) As used in this Subsection (7):~~]

[~~(i) "Mining company" means an entity whose primary business is the exploration for or extraction of minerals from the earth.~~]

[~~(ii) "Mining services company" means an entity whose primary business is providing support services for a mining company, including drilling or geological modeling.~~]

[~~(b)~~] (7) If an applicant for a [~~rural employment expansion~~] grant is a mining company or mining services company having business operations within five miles of a rural county, the applicant shall be treated as if the applicant were located within the adjacent rural county in determining whether the applicant qualifies for the [~~rural employment expansion~~] grant program.

Section 67. Section 63N-4-801 is enacted to read:

Part 8. Rural Opportunity Act

63N-4-801. Definitions.

As used in this part:

(1) "Advisory committee" means the Rural Opportunity Advisory Committee created in Section 63N-4-804.

(2) (a) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(b) "Business entity" does not include a business primarily engaged in the following:

(i) construction;

(ii) staffing;

(iii) retail trade; or

(iv) public utility activities.

(3) "CEO board" means a County Economic Opportunity Advisory Board as described in Section 63N-4-803.

(4) "Fund" means the Rural Opportunity Fund created in Section 63N-4-805.

(5) "Qualified asset" means a physical asset that provides or supports an essential public service.

(6) " Qualified project" means a project to build or improve one or more qualified assets for a rural community, including:

(a) telecom and high-speed Internet infrastructure;

(b) power and energy infrastructure;

(c) water and sewerage infrastructure;

(d) healthcare infrastructure; or

(e) other infrastructure as defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(7) "Rural community" means a rural county or rural municipality.

(8) "Rural county" means a county of the third, fourth, fifth, or sixth class.

(9) "Rural municipality" means a city, town, or metro township located within the boundaries of:

(a) a county of the third, fourth, fifth, or sixth class; or

(b) a county of the second class, if the municipality has a population of 10,000 or less.

(10) "Rural Opportunity Program" or "program" means the Rural Opportunity Program created in Section 63N-4-802.

Section 68. Section 63N-4-802 is enacted to read:

63N-4-802. Creation of Rural Opportunity Program -- Awarding of grants and loans -- Rulemaking -- Reporting.

(1) There is created the Rural Opportunity Program.

(2) The program shall be overseen by the advisory committee and administered by the office.

(3) (a) In overseeing the program, the advisory committee shall make recommendations to the office on the awarding of grants and loans under this section.

(b) After reviewing the recommendations of the advisory committee, and subject to appropriations from the Legislature, the office shall:

(i) award grants to rural communities and business entities in accordance with Subsection (4) and rules made by the center under Subsection (6); and

(ii) award loans to rural communities in accordance with Subsection (5) and rules made by the center under Subsection (6).

(4) (a) The office shall annually distribute an equal amount of grant money to all rural counties that have created a CEO board, in an amount up to and including $200,000 annually per county.

(b) In addition to the grant money distributed to rural counties under Subsection (4)(a), the office may use program funds to:

(i) award grants to rural communities that demonstrate a funding match, in an amount established by rule under Subsection (6); and

(ii) award grants to business entities that create new jobs within rural communities.

(c) The office shall award grants under this Subsection (4) to address the economic development needs of rural communities, which needs may include:

(i) business recruitment, development, and expansion;

(ii) workforce training and development; and

(iii) infrastructure, industrial building development, and capital facilities improvements for business development.

(d) In awarding grants under this Subsection (4), the office:

(i) shall prioritize applications in accordance with rules made by the office under Subsection (6); and

(ii) may not award more than $800,000 annually to a rural community or business entity.

(5) (a) In addition to the awarding of grants under Subsection (4), the office may use program funds to award loans to rural communities to provide financing for qualified projects.

(b) (i) A rural community may not receive a loan from the program for a qualified project unless:

(A) the rural community demonstrates to the office that the rural community has exhausted all other means of securing funding from the state for the qualified project; and

(B) the rural community enters into a loan contract with the office.

(ii) A loan contract under Subsection (5)(b)(i)(B):

(A) shall be secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the rural community to the repayment of the loan; and

(B) may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.

(c) A loan under this Subsection (5) shall bear interest at a rate:

(i) not less than bond market interest rates available to the state; and

(ii) not more than .5% above bond market interest rates available to the state.

(d) Before a rural community may receive a loan from the office, the rural community shall:

(i) publish the rural community's intention to obtain the loan at least once in accordance with the publication and notice requirements described in Section 11-14-316; and

(ii) adopt an ordinance or resolution authorizing the loan.

(e) (i) If a rural community that receives a loan from the office fails to comply with the terms of the loan contract, the office may seek any legal or equitable remedy to obtain compliance or payment of damages.

(ii) If a rural community fails to make loan payments when due, the state shall, at the request of the office, withhold an amount of money due to the rural community and deposit the withheld money into the fund to pay the amount due under the contract.

(iii) The office may elect when to take any action or request the withholding of money under this Subsection (5)(e).

(f) All loan contracts, bonds, notes, or other evidence of indebtedness securing any loans shall be collected and accounted for in accordance with Section 63B-1b-202.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the advisory committee, the office shall make rules to administer the program.

(b) The rules under Subsection (6)(a) shall establish:

(i) eligibility criteria for a rural community or business entity to receive a grant or loan under the program;

(ii) application requirements;

(iii) funding match requirements for a rural community to receive a grant under Subsection (4)(b);

(iv) a process for prioritizing grant and loan applications; and

(v) reporting requirements.

(7) The office shall include the following information in the annual written report described in Section 63N-1a-306:

(a) the total amount of grants and loans the office awarded to rural communities and business entities under the program;

(b) a description of the projects for which the office awarded a grant or loan under the program;

(c) the total amount of outstanding debt service that is being repaid by a grant or loan awarded under the program;

(d) whether the grants and loans awarded under the program have resulted in economic development within rural communities; and

(e) the office's recommendations regarding the effectiveness of the program and any suggestions for legislation.

Section 69. Section 63N-4-803, which is renumbered from Section 17-54-104 is renumbered and amended to read:

[~~17-54-104~~]. 63N-4-803. County Economic Opportunity Advisory Board.

(1) (a) Each rural county that seeks to obtain a grant from the office under [~~this chapter~~] Subsection 63N-4-802(4)(a), shall create a [~~CED~~] CEO board composed of at least the following members appointed by the county legislative body:

(i) a county representative;

(ii) a representative of a municipality in the county;

(iii) a workforce development representative;

(iv) a private-sector representative; and

(v) a member of the public who lives in the county.

(b) The county legislative body may also appoint additional members with experience or expertise in economic development matters.

(c) In appointing members of the [~~CED~~] CEO board, the county legislative body may consider gender and socioeconomic diversity.

(2) Each [~~CED~~] CEO board shall assist and advise the county legislative body on:

(a) applying for a grant under [~~this chapter~~] Subsection 63N-4-802(4)(a);

(b) what projects should be funded by grant money provided to a rural county under [~~this chapter~~] Subsection 63N-4-802(4)(a); and

(c) preparing reporting requirements for grant money received by a rural county under [~~this chapter~~] Subsection 63N-4-802(4)(a).

Section 70. Section 63N-4-804 is enacted to read:

63N-4-804. Rural Opportunity Advisory Committee.

(1) There is created within the office the Rural Opportunity Advisory Committee.

(2) The advisory committee shall be composed of seven members appointed by the executive director, at least five of whom shall reside in a rural county.

(3) The advisory committee shall advise and make recommendations to the office regarding the awarding of grants and loans under the Rural Opportunity Program.

(4) (a) Subject to Subsection (4)(b), each member of the advisory committee shall be appointed for a four-year term unless a member is appointed to complete an unexpired term.

(b) The executive director may adjust the length of term at the time of appointment or reappointment so that approximately half of the advisory committee is appointed every two years.

(5) The advisory committee shall annually elect a chair from among the advisory committee's members.

(6) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(7) The office shall provide staff support for the advisory committee.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 71. Section 63N-4-805 is enacted to read:

63N-4-805. Rural Opportunity Fund.

(1) There is created an enterprise fund known as the "Rural Opportunity Fund".

(2) The fund shall be administered by the office for the purposes described in Subsection (5).

(3) The fund consists of:

(a) money appropriated by the Legislature;

(b) donations or grants from public or private entities; and

(c) all money collected from the repayment of fund money used for a loan issued under the Rural Opportunity Program.

(4) (a) The fund shall earn interest.

(b) All interest earned on money in the fund shall be deposited into the fund.

(5) Money in the fund may only be used by the office to:

(a) award grants and loans under the Rural Opportunity Program;

(b) award grants under the Rural Employment Expansion Program created in Section 63N-4-403;

(c) award grants under the Rural Coworking and Innovation Center Grant Program created in Section 63N-4-503; and

(d) pay for administrative costs related to this chapter.

(6) The office may establish separate accounts in the fund for separate programs, administrative and operating expenses, or any other purpose to implement this chapter.

(7) Money in the fund shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

(8) The office shall include a report of how money from the fund was used in the annual written report described in Section 63N-1a-306.

Section 72. Section 63N-6-301 is amended to read:

63N-6-301. Utah Capital Investment Corporation -- Powers and purposes -- Reporting requirements.

(1) (a) There is created an independent quasi-public nonprofit corporation known as the Utah Capital Investment Corporation.

(b) The corporation:

(i) may exercise all powers conferred on independent corporations under Section 63E-2-106;

(ii) is subject to the prohibited participation provisions of Section 63E-2-107; and

(iii) is subject to the other provisions of Title 63E, Chapter 2, Independent Corporations Act, except as otherwise provided in this part.

(c) The corporation shall file with the Division of Corporations and Commercial Code:

(i) articles of incorporation; and

(ii) any amendment to its articles of incorporation.

(d) In addition to the articles of incorporation, the corporation may adopt bylaws and operational policies that are consistent with this chapter.

(e) Except as otherwise provided in this part, this part does not exempt the corporation from the requirements under state law which apply to other corporations organized under Title 63E, Chapter 2, Independent Corporations Act.

(2) The purposes of the corporation are to:

(a) organize the Utah fund of funds;

(b) select an investment fund allocation manager to make venture capital and private equity fund investments by the Utah fund of funds;

(c) negotiate the terms of a contract with the investment fund allocation manager;

(d) execute the contract with the selected investment fund manager on behalf of the Utah fund of funds;

(e) receive funds paid by designated investors for the issuance of certificates by the board for private investment in the Utah fund of funds;

(f) receive investment returns from the Utah fund of funds; and

(g) establish the redemption reserve to be used by the corporation to:

(i) redeem certificates; and

(ii) provide money for the state as directed by statute.

(3) The corporation may not:

(a) exercise governmental functions;

(b) have members;

(c) pledge the credit or taxing power of the state or any political subdivision of the state; or

(d) make its debts payable out of any money except money of the corporation.

(4) The obligations of the corporation are not obligations of the state or any political subdivision of the state within the meaning of any constitutional or statutory debt limitations, but are obligations of the corporation payable solely and only from the corporation's funds.

(5) The corporation may:

(a) engage consultants and legal counsel;

(b) expend funds;

(c) invest funds;

(d) issue debt and equity, and borrow funds;

(e) enter into contracts;

(f) insure against loss;

(g) hire employees; and

(h) perform any other act necessary to carry out its purposes.

(6) (a) The corporation shall, in consultation with the board, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds and submit, in accordance with Section 68-3-14, the written report to:

(i) the governor;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee;

(iii) the Business and Labor Interim Committee; and

(iv) the Retirement and Independent Entities Interim Committee.

(b) The annual report shall:

(i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;

(ii) include a copy of the audit of the Utah fund of funds described in Section 63N-6-405;

(iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;

(iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;

(v) include the net rate of return of the Utah fund of funds from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;

(vi) include detailed information regarding:

(A) realized gains from investments and any realized losses; and

(B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;

(vii) include detailed information regarding all yearly expenditures, including:

(A) administrative, operating, and financing costs;

(B) aggregate compensation information for full- and part-time employees, including benefit and travel expenses; and

(C) expenses related to the allocation manager;

(viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;

(ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;

(x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;

(xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;

(xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;

(xiii) describe any redemption or transfer of a certificate issued under this part;

(xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;

(xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63N-6-102; and

(xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.

(c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.

(7) (a) On or before December 1, 2021, the corporation shall provide a written report to the president of the Senate and the speaker of the House of Representatives that includes a detailed plan, time line, and recommendations for the future of the corporation.

(b) The plan shall include recommendations describing:

(i) the divestment of the state from any future liability of the corporation and a time line for realizing gains and winding down all investments from the current Utah fund of funds;

(ii) any plans that the corporation has to raise capital for a fund similar to the current Utah fund of funds that does not require certificates, contingent tax credits, or other guarantees from the state to be provided to equity investors;

(iii) whether the corporation should continue as an independent quasi-public nonprofit corporation under Title 63E, Chapter 2, Independent Corporations Act;

(iv) if the corporation recommends continuing as an independent quasi-public nonprofit corporation, why the corporation should continue, and what benefits the corporation will provide to the state in terms of economic development, job growth, or other benefits;

(v) whether the corporation should be liquidated or dissolved under Section [~~63N-3-306~~] 63N-6-306;

(vi) if the corporation recommends that the corporation be liquidated or dissolved, a detailed plan and time line for dissolution that includes recommendations regarding how assets and realized gains of the corporation should be distributed;

(vii) whether the corporation should be privatized in accordance with Title 63E, Chapter 1, Part 4, Privatization of Independent Entities; and

(viii) if the corporation recommends that the corporation be privatized, a detailed plan and time line for privatization that includes recommendations regarding the distribution of assets and realized gains of the corporation.

(8) In relation to the written report described in Subsection (7), the corporation:

(a) may seek potential commitments through letters of intent or other means to demonstrate the viability of raising capital for a new fund as described in Subsection (7)(b)(ii); and

(b) may not enter into any binding commitments related to a new fund as described in Subsection (7)(b)(ii), unless the corporation receives specific authorization through legislation passed by the Legislature after the report described in Subsection (7) is provided.

Section 73. Section 63N-7-101 is repealed and reenacted to read:

CHAPTER 7. UTAH OFFICE OF TOURISM

Part 1. General Provisions

63N-7-101. Definitions.

As used in this chapter:

(1) "Board" means the Board of Tourism Development created in Section 63N-7-201.

(2) "Managing director" means the managing director of the Utah Office of Tourism.

(3) "Sports organization" means an organization that:

(a) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code;

(b) maintains the organization's principal location in the state;

(c) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and

(d) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting the state for the purpose of attracting sporting events in the state.

(4) "Tourism office" means the Utah Office of Tourism created in Section 63N-7-102.

Section 74. Section 63N-7-102 is repealed and reenacted to read:

63N-7-102. Utah Office of Tourism created -- Appointment of managing director -- Responsibilities of tourism office.

(1) There is created within the GO Utah office the Utah Office of Tourism.

(2) (a) The executive director shall appoint a managing director of the tourism office.

(b) The managing director may, with the approval of the executive director, appoint staff.

(3) The tourism office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, branding, destination development, and destination management program for the state;

(c) receive approval from the board under Subsection 63N-7-202(1)(a) before implementing the program described in Subsection (3)(b);

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, cultural, and culinary tourist attractions, amenities, and advantages of the state at large;

(f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the tourist attractions, amenities, and advantages of the state;

(g) conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy; and

(h) ensure that any plan or program developed under this Subsection (3) addresses, but not be limited to, the following policies:

(i) enhancing the state's image;

(ii) promoting the state as a year-round destination;

(iii) encouraging expenditures by visitors to the state; and

(iv) expanding the markets where the state is promoted.

Section 75. Section 63N-7-103 is repealed and reenacted to read:

63N-7-103. Annual report.

The executive director shall include, in the annual written report described in Section 63N-1a-306, a report from the managing director on the activities of the tourism office, including information regarding the economic efficiency and results of the tourism advertising, marketing, branding, destination development, and destination management program developed under Section 63N-7-102.

Section 76. Section 63N-7-104 is enacted to read:

63N-7-104. Agreements with other governmental entities.

The tourism office may enter into agreements with state or federal agencies to accept services, quarters, or facilities as a contribution in carrying out the duties and functions of the tourism office.

Section 77. Section 63N-7-201 is repealed and reenacted to read:

Part 2. Board of Tourism Development

63N-7-201. Board of Tourism created -- Members -- Meetings -- Expenses.

(1) There is created within the tourism office the Board of Tourism Development.

(2) (a) The board shall consist of 15 members appointed by the governor to four-year terms with the advice and consent of the Senate.

(b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(3) The members may not serve more than two full consecutive terms unless the governor determines that an additional term is in the best interest of the state.

(4) Not more than eight members of the board may be from the same political party.

(5) (a) The members shall be representative of:

(i) all areas of the state with six being appointed from separate geographical areas as provided in Subsection (5)(b); and

(ii) a diverse mix of business ownership or executive management of tourism related industries.

(b) The geographical representatives shall be appointed as follows:

(i) one member from Salt Lake, Tooele, or Morgan County;

(ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

(iii) one member from Utah, Summit, Juab, or Wasatch County;

(iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County;

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

(c) The tourism industry representatives of ownership or executive management shall be appointed as follows:

(i) one member from ownership or executive management of the lodging industry, as recommended by the tourism industry for the governor's consideration;

(ii) one member from ownership or executive management of the restaurant industry, as recommended by the restaurant industry for the governor's consideration;

(iii) one member from ownership or executive management of the ski industry, as recommended by the ski industry for the governor's consideration; and

(iv) one member from ownership or executive management of a tourism-related transportation provider, as recommended by the tourism industry for the governor's consideration.

(d) One member shall be appointed at large from ownership or executive management of business, finance, economic policy, or the academic media marketing community.

(e) One member shall be appointed from the Utah Tourism Industry Association, as recommended by the association for the governor's consideration.

(f) One member shall be appointed to represent the state's counties, as recommended by the Utah Association of Counties for the governor's consideration.

(g) One member shall be appointed from an arts and cultural organization, as recommended by the arts and cultural community for the governor's consideration.

(h) One member shall be appointed to represent the outdoor recreation industry, as recommended by the outdoor recreation industry for the governor's consideration.

(i) (i) The governor may choose to disregard a recommendation made for the board members described in Subsections (5)(c), (e), and (f) through (h).

(ii) The governor shall request additional recommendations if recommendations are disregarded under Subsection (5)(i)(i).

(6) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term from the same geographic area or industry representation as the member whose office was vacated.

(7) Eight members of the board constitute a quorum for conducting board business and exercising board powers.

(8) The governor shall select one of the board members as chair and one of the board members as vice chair, each for a four-year term as recommended by the board for the governor's consideration.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(10) The board shall meet monthly or as often as the board determines to be necessary at various locations throughout the state.

(11) Members who may have a potential conflict of interest in consideration of fund allocation

decisions shall identify the potential conflict prior to voting on the issue.

(12) (a) The board shall determine attendance requirements for maintaining a designated board seat.

(b) If a board member fails to attend according to the requirements established pursuant to Subsection (12)(a), the board member shall be replaced upon written certification from the board chair or vice chair to the governor.

(c) A replacement appointed by the governor under Subsection (12)(b) shall serve for the remainder of the board member's unexpired term.

(13) (a) The board's office shall be in Salt Lake City.

(b) The tourism office shall provide staff support to the board.

Section 78. Section 63N-7-202 is repealed and reenacted to read:

63N-7-202. Board duties.

(1) The board shall:

(a) approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the tourism office from:

(i) the Tourism Marketing Performance Account created in Section 63N-7-301; and

(ii) the Stay Another Day and Bounce Back Account created in Section 63N-2-511;

(b) review tourism office programs to coordinate and integrate advertising and branding themes, which may include recreational, scenic, historic, cultural, and culinary tourist attractions, amenities, and advantages of the state, to be used in tourism office programs;

(c) encourage and assist in coordinating activities of persons, firms, associations, corporations, civic groups, and governmental agencies that are engaged in publicizing, developing, and promoting the tourist attractions, amenities, and advantages of the state;

(d) advise the tourism office in establishing a cooperative program using funds from the Tourism Marketing Performance Account created in Section 63N-7-301; and

(e) advise the tourism office on the tourism office's planning, policies, and strategies and on trends and opportunities for tourism development that may exist in the various areas of the state.

(2) The board may:

(a) solicit and accept contributions of money, services, and facilities from any other sources, whether public or private, and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role.

(3) The board may not, except as otherwise provided under Subsection (1)(a), make policy related to the management or operation of the tourism office.

Section 79. Section 63N-7-301 is amended to read:

63N-7-301. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by [~~GOED~~] the tourism office for the purposes listed in [~~Subsection (5)~~] Subsections (6) through (8).

(3) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The [~~executive~~] managing director [~~of GOED's Office of Tourism~~] shall use account money appropriated to [~~GOED~~] the tourism office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by [~~GOED~~] the tourism office.

(6) (a) For each fiscal year [~~beginning on or after July 1, 2007, GOED~~], the tourism office shall annually allocate 10% of the account money appropriated to [~~GOED~~] the tourism office to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state.

(b) The sports organization shall:

(i) provide an annual written report to [~~GOED~~] the tourism office that gives an accounting of the use of funds the sports organization receives under this Subsection (6); and

(ii) promote the state and encourage economic growth in the state.

[~~(c) For purposes of this Subsection (6), "sports organization" means an organization that:~~]

[~~(i) is exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code;~~]

[~~(ii) maintains its principal location in the state;~~]

[~~(iii) has a minimum of 15 years experience in the state hosting, fostering, and attracting major summer and winter sporting events statewide; and~~]

[~~(iv) was created to foster state, regional, national, and international sports competitions in the state, to drive the state's Olympic and sports legacy, including competitions related to Olympic sports, and to promote and encourage sports tourism throughout the state, including advertising, marketing, branding, and promoting~~

~~the state for the purpose of attracting sporting events in the state.~~]

(7) Money deposited into the account shall include a legislative appropriation from the cumulative sales and use tax revenue increases described in Subsection (8), plus any additional appropriation made by the Legislature.

(8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified by the State Tax Commission as a set-aside for the account, and the State Tax Commission shall report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the Division of Finance, which shall set aside the certified amount for appropriation to the account.

(b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the set-aside under this Subsection (8) in each fiscal year by applying one of the following formulas: if the annual percentage change in the Consumer Price Index for All Urban Consumers, as published by the Bureau of Labor Statistics of the United States Department of Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

(i) greater than 3%, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than the annual percentage change in the Consumer Price Index for the fiscal year two years before the fiscal year in which the set-aside is to be made, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and the annual percentage change in the Consumer Price Index shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made; or

(ii) 3% or less, and if the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made to the fiscal year two years before the fiscal year in which the set-aside is to be made is greater than 3%, then the difference between the annual percentage change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied by an amount equal to the state sales and use tax revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal year three years before the fiscal year in which the set-aside is to be made.

(c) The total money appropriated to the account in a fiscal year under Subsections (8)(a) and (b) may not exceed the amount appropriated to the account in the preceding fiscal year by more than $3,000,000.

(d) As used in this Subsection (8), "state sales and use tax revenues" are revenues collected under Subsections 59-12-103(2)(a)(i)(A) and 59-12-103(2)(c)(i).

(e) As used in this Subsection (8), "retail sales of tourist-oriented goods and services" are calculated by adding the following percentages of sales from each business registered with the State Tax Commission under one of the following codes of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) 80% of the sales from each business under NAICS Codes:

(A) 532111 Passenger Car Rental;

(B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

(C) 5615 Travel Arrangement and Reservation Services;

(D) 7211 Traveler Accommodation; and

(E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;

(ii) 25% of the sales from each business under NAICS Codes:

(A) 51213 Motion Picture and Video Exhibition;

(B) 532292 Recreational Goods Rental;

(C) 711 Performing Arts, Spectator Sports, and Related Industries;

(D) 712 Museums, Historical Sites, and Similar Institutions; and

(E) 713 Amusement, Gambling, and Recreation Industries;

(iii) 20% of the sales from each business under NAICS Code 722 Food Services and Drinking Places;

(iv) 18% of the sales from each business under NAICS Codes:

(A) 447 Gasoline Stations; and

(B) 81293 Parking Lots and Garages;

(v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair and Maintenance; and

(vi) 5% of the sales from each business under NAICS Codes:

(A) 445 Food and Beverage Stores;

(B) 446 Health and Personal Care Stores;

(C) 448 Clothing and Clothing Accessories Stores;

(D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;

(E) 452 General Merchandise Stores; and

(F) 453 Miscellaneous Store Retailers.

(9) (a) For each fiscal year, the tourism office shall allocate 20% of the funds appropriated to the Tourism Marketing and Performance Account to the cooperative program described in this Subsection (9).

(b) Money allocated to the cooperative program may be awarded to cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing money committed by these entities for advertising and promoting sites and events in the state.

(c) The tourism office shall establish:

(i) an application and approval process for an entity to receive a cooperative program award, including an application deadline;

(ii) the criteria for awarding a cooperative program award, which shall emphasize attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in the state; and

(iii) eligibility, advertising, timing, and reporting requirements of an entity that receives a cooperative program award.

(d) Money allocated to the cooperative program that is not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

Section 80. Section 63N-19-101 is enacted to read:

CHAPTER 19. CENTER FOR INTERNATIONAL BUSINESS AND DIPLOMACY

63N-19-101. Definitions.

As used in this chapter, "center" means the Center for International Business and Diplomacy created in Section 63N-19-103.

Section 81. Section 63N-19-102 is enacted to read:

63N-19-102. Purpose.

The Legislature finds and declares that fostering and developing international economic and diplomatic opportunities is a state public purpose necessary to assure the welfare of Utah's citizens, the growth of Utah's economy, and adequate employment for Utah's citizens.

Section 82. Section 63N-19-103 is enacted to read:

63N-19-103. Creation of Center for International Business and Diplomacy -- Duties -- Rulemaking.

(1) There is created within the office the Center for International Business and Diplomacy.

(2) The center shall:

(a) foster and support efforts to enhance international economic and diplomatic opportunities in the state;

(b) provide outreach and information to businesses that could benefit from international partnerships and business opportunities;

(c) coordinate with the Legislature to accommodate diplomatic visits to the state; and

(d) enter into agreements with appropriate public and private sector entities, individuals, and institutions to support the center's diplomacy efforts.

(3) The center may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules necessary to carry out the center's responsibilities under this chapter.

Section 83. Section 63N-19-104 is enacted to read:

63N-19-104. Annual report.

The center shall include in the annual written report described in Section 63N-1a-306, a report of the center's operations, including:

(1) the number of businesses that received assistance in utilizing international services;

(2) a description of diplomatic visits to the state; and

(3) recommendations regarding changes that would improve the center.

Section 84. Repealer.

This bill repeals:

Section 17-54-101, Title.

Section 17-54-102, Definitions.

Section 17-54-103, Rural County Grant Program.

Section 35A-11-101, Title.

Section 53B-1-114, Coordination for education.

Section 53B-1-407, Industry advisory council.

Section 63N-4-201, Title.

Section 63N-4-202, Definitions.

Section 63N-4-203, Board authority to award a grant or loan to an eligible county -- Interest on a loan -- Eligible county proposal process -- Process for awarding a grant or loan.

Section 63N-4-204, Agreement between the executive director and an eligible county

-- Failure to meet or violation of a term or condition of an agreement.

Section 63N-4-205, Report on amount of grants and loans, projects, and outstanding debt.

Section 63N-4-601, Title.

Section 63N-4-602, Definitions.

Section 63N-4-603, Creation and purpose of the Rural Rapid Manufacturing Grant Program.

Section 63N-4-604, Requirements for awarding a grant.

Section 63N-4-701, Title.

Section 63N-4-702, Definitions.

Section 63N-4-703, Creation and purpose of the Rural Speculative Industrial Building Program.

Section 63N-4-704, Requirements for entering into a lease.

Section 63N-10-101, Title.

Section 85. Appropriation.

Subsection 85(a). Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office of Economic Opportunity - Rural Coworking and Innovation Center Grant Program

From General Fund	($750,000)
Schedule of Programs:	
Rural Coworking and Innovation Center Grant Program	($750,000)

ITEM 2

To Governor's Office of Economic Opportunity - Rural Employment Expansion Program

From General Fund	($1,500,000)
Schedule of Programs:	
Rural Employment Expansion Program	($1,500,000)

Subsection 85(b). Business-like Activities.

The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

Governor's Office of Economic Opportunity

ITEM 3

To Governor's Office of Economic Opportunity - Rural Opportunity Fund

From General Fund	$2,250,000
Schedule of Programs:	
Rural Opportunity Fund	$2,250,000

Section 86. Effective date.

This bill takes effect on July 1, 2022.

Section 87. Coordinating H.B. 333 with H.B. 35 -- Substantive amendment.

If this H.B. 333 and H.B. 35, Economic Development Modifications, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel on July 1, 2022, prepare the Utah Code database for publication by amending Subsection 63N-2-104.1(2)(b) in H.B. 35 to read:

"(b) the business entity has not claimed a High Cost Infrastructure Development Tax Credit under Section 79-6-603 for the same new commercial project, if the new commercial project is located within a county of the first or second class.".

Section 88. Coordinating H.B. 333 with S.B. 91 -- Superseding amendment.

If this H.B. 333 and S.B. 91, Revisor's Technical Corrections to Utah Code, both pass and become law, on July 1, 2022, it is the intent of the Legislature that the amendments to Section 63N-7-301 in this bill supersede the amendments to Section 63N-7-301 in S.B. 91 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 363
H. B. 335

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

BLOCKCHAIN AND DIGITAL INNOVATION TASK FORCE

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill creates the Blockchain and Digital Innovation Task Force.

Highlighted Provisions:

This bill:

- creates the Blockchain and Digital Innovation Task Force (the task force);
- directs the appointment of members to the task force;
- directs the task force to:
  - develop knowledge and expertise about blockchain and related technologies; and
  - make policy recommendations related to blockchain and related technologies;
- requires the task force to report annually to the Business and Labor Interim Committee and the Legislative Management Committee; and
- sets a repeal date for the task force.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-236, as last amended by Laws of Utah 2021, Second Special Session, Chapter 8

ENACTS:

36-29-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-109 is enacted to read:

36-29-109. (Codified as 36-29-110) Blockchain and Digital Innovation Task Force.

(1) As used in this section, "task force" means the Blockchain and Digital Innovation Task Force created in this section.

(2) There is created the Blockchain and Digital Innovation Task Force consisting of the following members:

(a) the president of the Senate shall appoint:

(i) one member of the Senate;

(ii) two members who have experience in:

(A) blockchain;

(B) cryptocurrency;

(C) financial technology; or

(D) digital innovation technology; and

(iii) up to two additional members;

(b) the speaker of the House of Representatives shall appoint:

(i) one member of the House of Representatives;

(ii) two members who have experience in:

(A) blockchain;

(B) cryptocurrency;

(C) financial technology; or

(D) digital innovation technology; and

(iii) up to two additional members;

(c) the state treasurer, or the state treasurer's designee;

(d) the attorney general, or the attorney general's designee; and

(e) the governor shall appoint:

(i) two members with experience in:

(A) blockchain;

(B) cryptocurrency;

(C) financial technology; or

(D) digital innovation technology; and

(ii) up to three additional members.

(3) (a) The member described in Subsection (2)(a)(i) shall serve as cochair of the task force.

(b) The member described in Subsection (2)(b)(i) shall serve as cochair of the task force.

(4) (a) If a vacancy occurs in the membership of the task force described in Subsection (2)(a), (b), or (e), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsections (2)(c) through (e) shall serve until the member's successor is appointed and qualified.

(5) (a) A majority of the members of the task force constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(6) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with:

(i) Section 36-2-2;

(ii) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(iii) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator may not receive compensation for the member's work associated with the task force but may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(7) (a) With good cause, a quorum of the task force may vote to remove a member of the task force described in Subsection (2)(a), (b), or (e).

(b) A member removed under Subsection (7)(a) shall be replaced in accordance with the process for vacancies described in Subsection (4).

(8) The Division of Finance shall provide staff support to the task force.

(9) The task force shall:

(a) develop knowledge and expertise among task force members regarding issues pertaining to blockchain, financial technology, and digital innovation technology; and

(b) develop and introduce recommendations regarding policy pertaining to:

(i) the promotion in the state of the adoption of blockchain, financial technology, and digital innovation;

(ii) the development of nonfinancial incentives for industries in the state related to blockchain, financial technology, and digital innovation;

(iii) the promotion of partnerships with existing financial institutions and regulated financial service entities with respect to blockchain, financial technology, and digital innovation; and

(iv) the regulation in the state of blockchain, financial technology, and digital innovation.

(10) The task force shall report annually on or before November 30 to:

(a) the Business and Labor Interim Committee; and

(b) the Legislative Management Committee.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-29-107.5 is repealed on November 30, 2023.

(2) Section 36-29-109 is repealed on November 30, 2024.

[~~(2)~~] (3) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

CHAPTER 364
H. B. 338

Passed March 1, 2022
Approved March 24, 2022
Effective May 4, 2022
(Exception clause in Section 10)

TRAVEL INSURANCE AMENDMENTS

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends and enact provisions related to travel insurance.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the scope of the Travel Insurance Act;
- enacts provisions regarding the premium tax on a travel insurance premium;
- enacts provisions regarding travel protection plans;
- enacts provisions regarding sales practices for travel insurance;
- enacts provisions regarding travel administrators;
- establishes classification for travel insurance;
- permits an insurer to establish standards for travel insurance under certain conditions;
- grants rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

31A-23a-902, as enacted by Laws of Utah 2014, Chapter 277
31A-23a-905, as enacted by Laws of Utah 2014, Chapter 277
59-9-101, as last amended by Laws of Utah 2017, Chapters 28, 168, and 363

ENACTS:

31A-23a-902.1, Utah Code Annotated 1953
31A-23a-908, Utah Code Annotated 1953
31A-23a-909, Utah Code Annotated 1953
31A-23a-910, Utah Code Annotated 1953
31A-23a-911, Utah Code Annotated 1953
31A-23a-912, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-23a-902 is amended to read:

31A-23a-902. Definitions.

As used in this part, unless the context requires otherwise:

(1) "Aggregator site" means a website that provides access to information regarding insurance products from more than one insurer, including product and insurer information, for use in comparison shopping.

(2) "Blanket travel insurance" means a travel insurance policy that:

(a) an insurer issues to an eligible group; and

(b) covers:

(i) a specific class of persons defined in the policy; and

(ii) all members of the eligible group without a separate charge to an individual member of the eligible group.

(3) "Cancellation fee waiver" means a contractual agreement that:

(a) is between a supplier of a travel assistance service and the supplier's customer; and

(b) waives a non-refundable cancellation fee provision of the supplier's underlying travel contract, with or without regard to:

(i) the reason for the cancellation; or

(ii) the form of reimbursement.

(4) (a) "Eligible group" means a group of two or more persons who:

(i) are engaged in a common enterprise; or

(ii) have an economic, educational, or social affinity or relationship.

(b) "Eligible group" includes:

(i) an entity engaged in the business of providing travel or a travel service in which, with regard to the particular travel or travel service or type of travel or travelers, all members or customers of the group have common exposure to risk attendant to that travel, including:

(A) a tour operator;

(B) a lodging provider;

(C) a vacation property owner;

(D) a hotel or resort;

(E) a travel club;

(F) a travel agency;

(G) a property manager;

(H) a cultural exchange program;

(I) a common carrier; and

(J) the operator, owner, or lessor of a means of transportation of passengers, including an airline, a cruise line, a railroad, a steamship company, and a public bus carrier;

(ii) a college, school, or other institution of learning, covering students, teachers, employees, or volunteers;

(iii) an employer covering employees, volunteers, contractors, a board of directors, dependents, or guests;

(iv) a sports team, camp, or a sponsor of a sports team or camp, covering participants, members, campers, employees, officials, supervisors, or volunteers;

(v) a religious, charitable, recreational, educational, or civic organization, or a branch of a religious, charitable, recreational, educational, or civic organization, covering members, participants, or volunteers;

(vi) a financial institution, a financial institution vendor, or a parent holding company, trustee, or agent of or designated by a financial institution or a financial institution vendor, covering accountholders, credit card holders, debtors, guarantors, or purchasers;

(vii) an incorporated or unincorporated association, including a labor union, that:

(A) has a common interest, constitution, and bylaws;

(B) is organized and maintained in good faith for a purpose other than to cover members or participants of the association; and

(C) covers members of the association;

(viii) an entertainment production company covering participants, volunteers, audience members, contestants, or workers;

(ix) a volunteer fire department, ambulance, rescue, police, or court or a volunteer first aid, civil defense, or other volunteer group similar to first aid or civil defense, covering members, participants, or volunteers;

(x) a preschool, a daycare institution for children or adults, or a senior citizen club, covering attendees or participants;

(xi) an automobile or truck rental or leasing company:

(A) covering individuals who may become renters, lessees, or passengers depending on the travel status of the individual on a rented or leased vehicle; and

(B) if the common carrier, operator, owner or lessor of the means of transportation, or the automobile or truck rental or leasing company is the policyholder; and

(xii) a group not described in Subsections (4)(b)(i) through (xi), if the commissioner determines that:

(A) the members of the group are engaged in a common enterprise, or have an economic, educational, or social affinity or relationship; and

(B) issuance of the policy would not be contrary to the public interest.

(5) "Fulfillment material" means documentation that:

(a) is sent to the purchaser of a travel protection plan;

(b) confirms the purchase of the travel protection plan; and

(c) provides the travel protection plan's coverage and assistance details.

(6) "Group travel insurance" means travel insurance issued to an eligible group, covering each certificate holder in the eligible group.

[~~(1)~~] (7) "Limited lines travel insurance producer" means one of the following designated by an insurer as the travel insurance supervising entity as provided in Subsection 31A-23a-905(4):

(a) a licensed managing general agent or third party administrator; or

(b) a licensed insurance producer, including a limited lines producer.

[~~(2)~~] (8) "Offer and disseminate" means:

(a) providing general information, including a description of the coverage and price;

(b) processing an application;

(c) collecting a premium; and

(d) performing activities that the state permits to be done by a person who is not licensed.

(9) (a) "Travel administrator" means a person who, in connection with travel insurance, directly or indirectly:

(i) underwrites;

(ii) collects a charge, collateral, or a premium from a resident of this state; or

(iii) adjusts or settles a claim on a resident of this state.

(b) "Travel administrator" does not include a person whose action that would otherwise cause the person to be considered a travel administrator is among the following:

(i) a person working for a travel administrator to the extent that the person's activities are subject to the supervision and control of the travel administrator;

(ii) a travel retailer that, in accordance with this part:

(A) offers and disseminates travel insurance; and

(B) is registered under the license of a limited lines travel insurance producer;

(iii) an individual adjusting or settling claims:

(A) in the normal course of that individual's practice or employment as an attorney; and

(B) who does not collect a charge or premium in connection with insurance coverage; or

(iv) a business entity that is affiliated with a licensed insurer while acting as a travel administrator for the direct and assumed insurance business of an affiliated insurer.

(10) (a) "Travel assistance service" means a service:

(i) for which the consumer is not indemnified based on a fortuitous event;

(ii) where providing the service does not result in transfer or shifting of risk that would constitute the business of insurance; and

(iii) that is furnished in connection with planned travel.

(b) "Travel assistance service" includes:

(i) a security advisory;

(ii) destination information;

(iii) a vaccination and immunization information service;

(iv) a travel reservation service;

(v) entertainment;

(vi) activity and event planning;

(vii) translation assistance;

(viii) emergency messaging;

(ix) an international legal or medical referral;

(x) medical case monitoring;

(xi) coordination of transportation arrangements;

(xii) emergency cash transfer assistance;

(xiii) medical prescription replacement assistance;

(xiv) passport and travel document replacement assistance;

(xv) lost luggage assistance; and

(xvi) a concierge service.

[~~(3)~~] (11) (a) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including:

(i) interruption or cancellation of a trip or event;

(ii) loss of baggage or personal effects;

(iii) damages to accommodations or rental vehicles; [~~or~~]

(iv) sickness, accident, disability, or death during travel[~~.~~];

(v) emergency evacuation;

(vi) repatriation of remains; or

(vii) a contractual obligation that indemnifies or pays a specified amount to the traveler upon a determinable contingency related to travel.

(b) "Travel insurance" does not include a major medical plan that provides comprehensive medical protection for a traveler with a trip lasting six months or longer, including an individual working overseas or military personnel being deployed.

(12) "Travel protection plan" means a plan that provides:

(a) travel insurance;

(b) a travel assistance service; or

(c) a cancellation fee waiver.

[~~(4)~~] (13) "Travel retailer" means a business entity that:

(a) makes, arranges, or offers a travel [~~services~~] service; and

(b) may offer and disseminate travel insurance as a service to [~~its~~] the entity's customers on behalf of and under the direction of a limited lines travel insurance producer.

Section 2. Section 31A-23a-902.1 is enacted to read:

31A-23a-902.1. Scope.

(1) The requirements under this part:

(a) apply to travel insurance:

(i) that covers a resident of this state;

(ii) that is sold, solicited, negotiated, or offered in this state; and

(iii) for which policies and certificates are delivered or issued for delivery in this state; and

(b) do not apply, except as expressly provided, to:

(i) a cancellation fee waiver; or

(ii) a travel assistance service.

(2) If there is a conflict between a provision of this part and another provision under this title, this part governs.

Section 3. Section 31A-23a-905 is amended to read:

31A-23a-905. Offering or disseminating travel insurance.

(1) A travel retailer offering or disseminating travel insurance shall make available to a prospective purchaser a brochure or other written material that:

(a) provides the identity and contact information of the insurer and the limited lines travel insurance producer;

(b) explains that the purchase of travel insurance is not required to purchase any other product or service from the travel retailer; and

(c) explains that an unlicensed travel retailer is permitted to provide general information about the insurance offered by the travel retailer, including a description of the coverage and price, but is not qualified or authorized to:

(i) answer a technical [~~questions~~] question about the terms and conditions of the insurance [~~offered by~~] the travel retailer [~~or to~~] offers; or

(ii) evaluate the adequacy of the prospective purchaser's existing insurance coverage.

(2) A travel retailer's employee or authorized representative who is not licensed as an insurance producer may not:

(a) evaluate or interpret the technical terms, benefits, and conditions of the offered travel insurance coverage;

(b) evaluate or provide advice concerning a prospective purchaser's existing insurance coverage; or

(c) hold the person out as a licensed insurer, licensed producer, or insurance expert.

(3) Notwithstanding any other provision of this chapter, a travel retailer whose insurance-related activities, and [~~those of its~~] the activities of the travel retailer's employees and authorized representatives, are limited to offering and disseminating travel insurance on behalf of and under the direction of a limited lines travel insurance producer meeting the conditions stated in this part, is authorized to do so and receive related compensation for services, upon registration of the limited lines travel insurance producer as described in Subsection 31A-23a-904(2).

(4) As the insurer designee, the limited lines travel insurance producer:

(a) is responsible for the acts of the travel retailer; and

(b) shall use responsible means to ensure compliance by the travel retailer under this part.

(5) A person licensed in a general line of authority as an insurance producer is authorized to sell, solicit, and negotiate travel insurance.

Section 4. Section 31A-23a-908 is enacted to read:

31A-23a-908. Travel protection plans.

A person may offer a travel protection plan for one price for the combined features that the travel protection plan offers, if:

(1) the person ensures the travel protection plan:

(a) clearly discloses to the consumer, at or before the time of purchase, that the plan includes:

(i) travel insurance;

(ii) a travel assistance service; or

(iii) a cancellation fee waiver; and

(b) provides information and an opportunity, at or before the time of purchase, for the consumer to obtain additional information regarding the features and pricing of the travel insurance, travel assistance service, and cancellation fee waiver, as applicable; and

(2) the fulfillment material for the travel protection plan:

(a) describes and delineates the travel insurance, travel assistance services, and cancellation fee waiver in the travel protection plan;

(b) includes each travel insurance disclosure required under state law; and

(c) includes the contact information for each person providing a:

(i) travel assistance service; or

(ii) cancellation fee waiver.

Section 5. Section 31A-23a-909 is enacted to read:

31A-23a-909. Sales practices.

(1) As used in this section, "deliver" or "delivery" means:

(a) handing fulfillment material to a policyholder or certificate holder; or

(b) sending fulfillment material by mail or electronic means to a policyholder or certificate holder.

(2) A person who offers or sells a travel insurance policy to a resident of this state shall:

(a) ensure that each document the person provides to the consumer before the consumer purchases the travel insurance, including sales material, advertising material, and marketing material, is consistent with the purchased travel insurance policy, including each form and rate filing;

(b) provide the consumer information and an opportunity to learn more about each pre-existing condition exclusion the policy includes:

(i) before the consumer purchases the policy; and

(ii) in the travel protection plan's fulfillment materials; and

(c) after a consumer purchases a travel protection plan, provide each policyholder or certificate holder as soon as practicable:

(i) the fulfillment materials; and

(ii) the information described in Subsection 31A-23a-904(1).

(3) (a) Except as provided in Subsection (3)(b), a policyholder or certificate holder may cancel a policy or certificate for a full refund of the travel protection plan price during the period that:

(i) begins the day on which the consumer purchases the policy or certificate; and

(ii) ends no earlier than:

(A) if the travel protection plan's fulfillment materials are delivered to the policyholder or certificate holder by mail, 15 days after the day on which the mail is postmarked; or

(B) if the travel protection plan's fulfillment materials are delivered by means other than mail, 10 days after the day on which the delivery occurs.

(b) A policyholder or certificate holder may not cancel a policy or certificate as described in Subsection (3)(a) if an insured under the policy or certificate:

(i) begins a trip covered under the travel insurance coverage; or

(ii) files a claim under the travel insurance coverage.

(4) (a) An unfair trade practice under Section 31A-23a-402 includes:

(i) offering or selling a travel insurance policy that could never result in payment of a claim for an insured under the policy; or

(ii) marketing blanket travel insurance coverage as free of charge.

(b) It is not an unfair trade practice under Section 31A-23a-402 to market travel insurance directly to a consumer through an insurer's website or through an aggregator site, if:

(i) an accurate summary or short description of coverage is provided on the website; and

(ii) the consumer has access to the full provisions of the policy through electronic means.

(c) If a consumer's destination jurisdiction requires insurance coverage and the consumer is provided proof of the requirement at the time of purchase, it is not an unfair trade practice under Section 31A-23a-402 to require that the consumer choose between the following options as a condition of purchasing a trip or travel package:

(i) purchasing the coverage required by the destination jurisdiction through the travel retailer or limited lines travel insurance producer supplying the trip or travel package; or

(ii) agreeing to obtain and provide proof of coverage that meets the destination jurisdiction's requirements before departure.

(5) (a) A person offering, soliciting, or negotiating travel insurance or a travel protection plan may not offer or sell the travel insurance or travel protection plan on an individual or group basis by using a negative option or an opt out provision.

(b) For purposes of Subsection (5)(a), a negative option or opt out provision occurs when a consumer is required to take an affirmative action to deselect coverage, including unchecking a box on an electronic form, when the consumer purchases a trip.

Section 6. Section 31A-23a-910 is enacted to read:

31A-23a-910. Travel administrators.

(1) A person may not act as or represent that the person is a travel administrator for travel insurance unless the person:

(a) is an insurance producer acting within the scope of the producer's license;

(b) is licensed as a managing general agent in accordance with Part 6, Managing General Agents; or

(c) is licensed as a third party administrator in accordance with Chapter 25, Third Party Administrators.

(2) An insurer is responsible for:

(a) an act of a travel administrator administering travel insurance the insurer underwrites; and

(b) ensuring that the travel administrator maintains all books and records relevant to the insurer.

(3) A travel administrator shall make the books and records described in Subsection (2)(b) available to the commissioner upon the commissioner's request.

Section 7. Section 31A-23a-911 is enacted to read:

31A-23a-911. Classification of travel insurance -- Standards -- Status.

(1) An insurer shall classify and file travel insurance under an inland marine line of insurance.

(2) An insurer may:

(a) issue travel insurance as an individual, group, or blanket policy; or

(b) develop eligibility and underwriting standards for travel insurance based on travel protection plans designed for individual or identified marketing or distribution channels, if the standards also meet underwriting standards for inland marine insurance.

(3) Under this part, the following are not insurance:

(a) a cancellation fee waiver; and

(b) a travel assistance service.

Section 8. Section 31A-23a-912 is enacted to read:

31A-23a-912. Rulemaking.

The commissioner may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement the provisions of this part.

Section 9. Section 59-9-101 is amended to read:

59-9-101. Tax basis -- Rates -- Exemptions -- Rate reductions.

(1) (a) Except as provided in Subsection (1)(b), (1)(d), or (5), an admitted insurer shall pay to the commission on or before March 31 in each year, a tax of 2-1/4% of the total premiums received by it during the preceding calendar year from insurance covering property or risks located in this state.

(b) This Subsection (1) does not apply to:

(i) workers' compensation insurance, assessed under Subsection (2);

(ii) title insurance premiums taxed under Subsection (3);

(iii) annuity considerations;

(iv) insurance premiums paid by an institution within the state system of higher education as specified in Section 53B-1-102; and

(v) ocean marine insurance.

(c) The taxable premium under this Subsection (1) shall be reduced by:

(i) the premiums returned or credited to policyholders on direct business subject to tax in this state;

(ii) the premiums received for reinsurance of property or risks located in this state; and

(iii) the dividends, including premium reduction benefits maturing within the year:

(A) paid or credited to policyholders in this state; or

(B) applied in abatement or reduction of premiums due during the preceding calendar year.

(d) (i) For purposes of this Subsection (1)(d):

(A) "Utah variable life insurance premium" means an insurance premium paid:

(I) by:

(Aa) a corporation; or

(Bb) a trust established or funded by a corporation; and

(II) for variable life insurance covering risks located within the state.

(B) "Variable life insurance" means an insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of one or more separate accounts that are established and maintained by the insurer pursuant to Title 31A, Insurance Code.

(ii) Notwithstanding Subsection (1)(a), beginning on January 1, 2006, the tax on that portion of the total premiums subject to a tax under Subsection (1)(a) that is a Utah variable life insurance premium shall be calculated as follows:

(A) 2-1/4% of the first $100,000 of Utah variable life insurance premiums:

(I) paid for each variable life insurance policy; and

(II) received by the admitted insurer in the preceding calendar year; and

(B).08% of the Utah variable life insurance premiums that exceed $100,000:

(I) paid for the policy described in Subsection (1)(d)(ii)(A); and

(II) received by the admitted insurer in the preceding calendar year.

(2) (a) An admitted insurer writing workers' compensation insurance in this state shall pay to the tax commission, on or before March 31 in each year, a premium assessment on the basis of the total workers' compensation premium income received by the insurer from workers' compensation insurance in this state during the preceding calendar year as follows:

(i) on or before December 31, 2010, an amount of equal to or greater than 1%, but equal to or less than 5.75% of the total workers' compensation premium income described in this Subsection (2);

(ii) on and after January 1, 2011, but on or before December 31, 2022, an amount of equal to or greater than 1%, but equal to or less than 4.25% of the total workers' compensation premium income described in this Subsection (2); and

(iii) on and after January 1, 2023, an amount equal to 1.25% of the total workers' compensation premium income described in this Subsection (2).

(b) Total workers' compensation premium income means the net written premium as calculated before any premium reduction for any insured employer's deductible, retention, or reimbursement amounts and also those amounts equivalent to premiums as provided in Section 34A-2-202.

(c) The percentage of premium assessment applicable for a calendar year shall be determined by the Labor Commission under Subsection (2)(d). The total premium income shall be reduced in the same manner as provided in Subsections (1)(c)(i) and (1)(c)(ii), but not as provided in Subsection (1)(c)(iii). The commission shall promptly remit from the premium assessment collected under this Subsection (2):

(i) income to the state treasurer for credit to the Employers' Reinsurance Fund created under Subsection 34A-2-702(1) as follows:

(A) on or before December 31, 2009, an amount of up to 5% of the total workers' compensation premium income;

(B) on and after January 1, 2010, but on or before December 31, 2010, an amount of up to 4.5% of the total workers' compensation premium income;

(C) on and after January 1, 2011, but on or before December 31, 2022, an amount of up to 3% of the total workers' compensation premium income; and

(D) on and after January 1, 2023, 0% of the total workers' compensation premium income;

(ii) an amount equal to .25% of the total workers' compensation premium income to the state treasurer for credit to the Workplace Safety Account created by Section 34A-2-701;

(iii) an amount of up to .5% and any remaining assessed percentage of the total workers' compensation premium income to the state treasurer for credit to the Uninsured Employers' Fund created under Section 34A-2-704; and

(iv) beginning on January 1, 2010, .5% of the total workers' compensation premium income to the state treasurer for credit to the Industrial Accident Restricted Account created in Section 34A-2-705.

(d) (i) The Labor Commission shall determine the amount of the premium assessment for each year on or before each October 15 of the preceding year. The Labor Commission shall make this determination following a public hearing. The determination shall be based upon the recommendations of a qualified actuary.

(ii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Employers'

Reinsurance Fund and to project a funded condition with assets greater than liabilities by no later than June 30, 2025.

(iii) The actuary shall recommend a premium assessment rate sufficient to provide payments of benefits and expenses from the Uninsured Employers' Fund and to maintain it at a funded condition with assets equal to or greater than liabilities.

(iv) At the end of each fiscal year the minimum approximate assets in the Employers' Reinsurance Fund shall be $5,000,000 which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(v) The requirements of Subsection (2)(d)(iv) cease when the future annual disbursements from the Employers' Reinsurance Fund are projected to be less than the calculations of the corresponding future minimum required assets. The Labor Commission shall, after a public hearing, determine if the future annual disbursements are less than the corresponding future minimum required assets from projections provided by the actuary.

(vi) At the end of each fiscal year the minimum approximate assets in the Uninsured Employers' Fund shall be $2,000,000, which amount shall be adjusted each year beginning in 1990 by multiplying by the ratio that the total workers' compensation premium income for the preceding calendar year bears to the total workers' compensation premium income for the calendar year 1988.

(e) A premium assessment that is to be transferred into the General Fund may be collected on premiums received from Utah public agencies.

(3) An admitted insurer writing title insurance in this state shall pay to the commission, on or before March 31 in each year, a tax of .45% of the total premium received by either the insurer or by its agents during the preceding calendar year from title insurance concerning property located in this state. In calculating this tax, "premium" includes the charges made to an insured under or to an applicant for a policy or contract of title insurance for:

(a) the assumption by the title insurer of the risks assumed by the issuance of the policy or contract of title insurance; and

(b) abstracting title, title searching, examining title, or determining the insurability of title, and every other activity, exclusive of escrow, settlement, or closing charges, whether denominated premium or otherwise, made by a title insurer, an agent of a title insurer, a title insurance producer, or any of them.

(4) Beginning July 1, 1986, a former county mutual and a former mutual benefit association shall pay the premium tax or assessment due under this chapter. Premiums received after July 1, 1986, shall be considered in determining the tax or assessment.

(5) The following insurers are not subject to the premium tax on health care insurance that would otherwise be applicable under Subsection (1):

(a) an insurer licensed under Title 31A, Chapter 5, Domestic Stock and Mutual Insurance Corporations;

(b) an insurer licensed under Title 31A, Chapter 7, Nonprofit Health Service Insurance Corporations;

(c) an insurer licensed under Title 31A, Chapter 8, Health Maintenance Organizations and Limited Health Plans;

(d) an insurer licensed under Title 31A, Chapter 9, Insurance Fraternals;

(e) an insurer licensed under Title 31A, Chapter 11, Motor Clubs; and

(f) an insurer licensed under Title 31A, Chapter 14, Foreign Insurers.

(6) (a) As used in this Subsection (6):

(i) "Cancellation fee waiver" means the same as that term is defined in Section 31A-23a-902.

(ii) "Primary certificate holder" means an individual who elects and purchases travel insurance under a group policy.

(iii) "Primary policyholder" means an individual who elects and purchases individual travel insurance.

(iv) "Travel assistance service" means the same as that term is defined in Section 31A-23a-902.

(v) "Travel insurance" means the same as that term is defined in Section 31A-23a-902.

(b) A travel insurer shall:

(i) pay a premium tax required under Subsection (1) on a travel insurance premium that:

(A) an individual primary policyholder pays, if the policyholder is a resident of this state;

(B) a primary certificate holder pays, if the certificate holder is a resident of this state and elects coverage under a group travel insurance policy; or

(C) subject to any apportionment rules that apply to the insurer across multiple taxing jurisdictions or permit the insurer to allocate the premium on an apportioned basis in a reasonable and equitable manner across multiple jurisdictions, a blanket travel insurance policyholder pays for eligible blanket group members, if the policyholder is a resident in this state, has the policyholder's principal place of business in this state, or has the principal place of business of an affiliate or subsidiary that has purchased blanket travel insurance in this state;

(ii) document the state of residence or principal place of business of each policyholder and certificate holder; and

(iii) report as a premium only the amount allocable to travel insurance and not an amount received for:

(A) a cancellation fee waiver; or

(B) a travel assistance service.

[~~(6)~~] (7) A captive insurer, as provided in Section 31A-3-304, that pays a fee imposed under Section 31A-3-304 is not subject to the premium tax under this section.

[~~(7)~~] (8) An insurer issuing multiple policies to an insured may not artificially allocate the premiums among the policies for purposes of reducing the aggregate premium tax or assessment applicable to the policies.

[~~(8)~~] (9) The retaliatory provisions of Title 31A, Chapter 3, Department Funding, Fees, and Taxes, apply to the tax or assessment imposed under this chapter.

Section 10. Effective date.

This bill takes effect on May 4, 2022, with the exception of Section 59-9-101 which takes effect on January 1, 2023.

CHAPTER 365
H. B. 341

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

BIRTH CERTIFICATE AMENDMENTS

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill modifies provisions related to birth certificates.

Highlighted Provisions:

This bill:

- defines terms;
- allows the Department of Health to request additional information for registering a birth under certain circumstances;
- requires the department to accept written requests from an individual to de-identify information associated with registering a birth;
- requires the department to de-identify information related to registering a birth under certain circumstances;
- requires the office to create a report regarding the elimination or reducing of birth certificate fees;
- creates a repeal date for the report; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-2-4, as last amended by Laws of Utah 2007, Chapter 32
26-2-12.6, as last amended by Laws of Utah 2021, Chapter 284
63I-2-226, as last amended by Laws of Utah 2021, Chapters 277, 422, and 433

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-2-4 is amended to read:

26-2-4. Content and form of certificates and reports.

(1) As used in this section, "additional information" means information that is beyond the information necessary to comply with federal standards or state law for registering a birth.

[~~(1)~~] (2) Except as provided in Subsection [~~(5)~~] (6), to promote and maintain nationwide uniformity in the vital records system, the forms of certificates, certification, reports, and other documents and records required by this chapter or the rules implementing this chapter shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval, additions, and modifications by the department.

[~~(2)~~] (3) Certificates, certifications, forms, reports, other documents and records, and the form of communications between persons required by this chapter shall be prepared in the format prescribed by department rule.

[~~(3)~~] (4) All vital records shall include the date of filing.

[~~(4)~~] (5) Certificates, certifications, forms, reports, other documents and records, and communications between persons required by this chapter may be signed, filed, verified, registered, and stored by photographic, electronic, or other means as prescribed by department rule.

[~~(5)~~] (6) (a) The state:

[~~(a)~~] (i) may collect the Social Security number of a deceased individual; and

[~~(b)~~] (ii) may not include the Social Security number of an individual on a certificate of death.

(b) For registering a birth, the department may not require an individual to provide additional information.

(c) The department may request additional information if the department provides a written statement that:

(i) discloses that providing the additional information is voluntary;

(ii) discloses how the additional information will be used and the duration of use;

(iii) describes how the department prevents the additional information from being used in a manner different from the disclosure given under Subsection (6)(c)(ii); and

(iv) includes a notice that the individual is consenting to the department's use of the additional information by providing the additional information.

(d) (i) Beginning July 1, 2022, an individual may submit a written request to the department to de-identify the individual's additional information contained in the department's databases.

(ii) Upon receiving the written request, the department shall de-identify the additional information.

(e) The department shall de-identify additional information contained in the department's databases before the additional information is held by the department for longer than six years.

Section 2. Section 26-2-12.6 is amended to read:

26-2-12.6. Fee waived for certified copy of birth certificate -- Complimentary birth certificate.

(1) Notwithstanding Section 26-1-6 and Section 26-2-12.5, the department shall waive a fee that would otherwise be charged for a certified copy

of a birth certificate, if the individual whose birth is confirmed by the birth certificate is:

(a) the individual requesting the certified copy of the birth certificate; and

(b) (i) homeless, as defined in Section 26-18-411;

(ii) a person who is homeless, as defined in Section 35A-5-302;

(iii) an individual whose primary nighttime residence is a location that is not designed for or ordinarily used as a sleeping accommodation for an individual;

(iv) a homeless service provider as verified by the Department of Workforce Services; or

(v) a homeless child or youth, as defined in 42 U.S.C. Sec. 11434a.

(2) To satisfy the requirement in Subsection (1)(b), the department shall accept written verification that the individual is homeless or a person, child, or youth who is homeless from:

(a) a homeless shelter[~~, as defined in Section 10-9a-526~~];

(b) a permanent housing, permanent, supportive, or transitional facility, as defined in Section 35A-5-302;

(c) the Department of Workforce Services;

(d) a homeless service provider as verified by the Department of Workforce Services; or

(e) a local educational agency liaison for homeless children and youth designated under 42 U.S.C. Sec. 11432(g)(1)(J)(ii).

(3) Before October 1, 2022, the office shall submit a report to the Health and Human Services Interim Committee providing several options on how the office can eliminate or significantly reduce birth certificate fees.

Section 3. Section 63I-2-226 is amended to read:

63I-2-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(c), in relation to the Air Ambulance Committee, is repealed July 1, 2024.

(2) Subsection 26-2-12.6(3), relating to the report for birth certificate fees, is repealed December 31, 2022.

[~~(2)~~] (3) Section 26-4-6.1 is repealed January 1, 2022.

[~~(3)~~] (4) Section 26-6-41, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

[~~(4)~~] (5) Subsection 26-7-8(3) is repealed January 1, 2027.

[~~(5)~~] (6) Section 26-8a-107 is repealed July 1, 2024.

[~~(6)~~] (7) Subsection 26-8a-203(3)(a)(i) is repealed January 1, 2023.

[~~(7)~~] (8) Section 26-8a-211 is repealed July 1, 2023.

[~~(8)~~] (9) In relation to the Air Ambulance Committee, on July 1, 2024, Subsection 26-8a-602(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(9)~~] (10) Subsection 26-18-2.4(3)(e) is repealed January 1, 2023.

[~~(10)~~] (11) Subsection 26-18-411(8), related to reporting on the health coverage improvement program, is repealed January 1, 2023.

[~~(11)~~] (12) Subsection 26-18-420(5), related to reporting on coverage for in vitro fertilization and genetic testing, is repealed July 1, 2030.

[~~(12)~~] (13) In relation to the Air Ambulance Committee, July 1, 2024, Subsection 26-21-32(1)(a) is amended to read:

"(a) provide the patient or the patient's representative with the following information before contacting an air medical transport provider:

(i) which health insurers in the state the air medical transport provider contracts with;

(ii) if sufficient data is available, the average charge for air medical transport services for a patient who is uninsured or out of network; and

(iii) whether the air medical transport provider balance bills a patient for any charge not paid by the patient's health insurer; and".

[~~(13)~~] (14) Subsection 26-33a-106.1(2)(a) is repealed January 1, 2023.

[~~(14)~~] (15) Title 26, Chapter 46, Utah Health Care Workforce Financial Assistance Program, is repealed July 1, 2027.

[~~(15)~~] (16) Subsection 26-61-202(4)(b) is repealed January 1, 2022.

[~~(16)~~] (17) Subsection 26-61-202(5) is repealed January 1, 2022.

[~~(17)~~] (18) Section 26A-1-130, in relation to termination of public health emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

[~~(18)~~] (19) Section 26B-1-201.1 is repealed July 1, 2022.

CHAPTER 366
H. B. 344

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

UTAH MEDICAL CANDOR ACT

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill enacts the Utah Medical Candor Act.

Highlighted Provisions:

This bill:

- defines terms;
- creates a medical candor process where a health care provider may investigate an injury, or suspected injury, associated with a health care process and may communicate information about the investigation to the patient and any representative of the patient;
- addresses written notice of a medical candor process;
- addresses an offer of compensation made as part of a medical candor process;
- addresses confidentiality, disclosure, and effect of communications, materials, or information that is created for or during a medical candor process;
- addresses the confidentiality of information from a patient's medical record that is used or disclosed in a medical candor process;
- addresses the confidentiality of any communication, material, or information provided to a patient or a representative of a patient before participation in a medical candor process;
- addresses the recording of communications during a medical candor process;
- addresses reporting requirements in relation to a medical candor process; and
- allows for the disclosure of deidentified information or data of an adverse event for certain purposes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

ENACTS:

78B-3-450, Utah Code Annotated 1953
78B-3-451, Utah Code Annotated 1953
78B-3-452, Utah Code Annotated 1953
78B-3-453, Utah Code Annotated 1953
78B-3-454, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-3-450 is enacted to read:

Part 4a. Utah Medical Candor Act

78B-3-450. Definitions.

As used in this part:

(1) "Adverse event" means an injury or suspected injury that is associated with a health care process rather than an underlying condition of a patient or a disease.

(2) "Affected party" means:

(a) a patient; and

(b) any representative of a patient.

(3) "Communication" means any written or oral communication created for or during a medical candor process.

(4) "Governmental entity" means the same as that term is defined in Section 63G-7-102.

(5) "Health care" means the same as that term is defined in Section 78B-3-403.

(6) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(7) "Malpractice action against a health provider" means the same as that term is defined in Section 78B-3-403.

(8) "Medical candor process" means the process described in Section 78B-3-451.

(9) "Patient" means the same as that term is defined in Section 78B-3-403.

(10) "Public employee" means the same as the term "employee" as defined in Section 63G-7-102.

(11) (a) Except as provided in Subsection (11)(c), "representative" means the same as that term is defined in Section 78B-3-403.

(b) "Representative" includes:

(i) a parent of a child regardless of whether the parent is the custodial or noncustodial parent;

(ii) a legal guardian of a child;

(iii) a person designated to make decisions on behalf of a patient under a power of attorney, an advanced health care directive, or a similar legal document;

(iv) a default surrogate as defined in Section 75-2a-108; and

(v) if the patient is deceased, the personal representative of the patient's estate or the patient's heirs as defined in Sections 75-1-201 and 78B-3-105.

(c) "Representative" does not include a parent of a child if the parent's parental rights have been terminated by a court.

(12) "State" means the same as that term is defined in Section 63G-7-102.

Section 2. Section 78B-3-451 is enacted to read:

78B-3-451. Medical candor process.

In accordance with this part, a health care provider may engage an affected party in a process where the health care provider and any other health care provider notified in Subsection 78B-3-452(1)(b) that chooses to participate in the process that:

(1) conducts an investigation into an adverse event involving a patient and the health care provided to the patient;

(2) communicates information to the affected party regarding information gathered during an investigation described in Subsection (1);

(3) communicates to the affected party the steps that the health care provider will take to prevent future occurrences of the adverse event; and

(4) determines whether to make an offer of compensation to the affected party for the adverse event.

Section 3. Section 78B-3-452 is enacted to read:

78B-3-452. Notice of medical candor process.

(1) If a health care provider wishes to engage an affected party in a medical candor process, the health care provider shall:

(a) provide a written notice described in Subsection (2) to the affected party within 365 days after the day on which the health care provider knew of the adverse event involving a patient;

(b) provide a written notice, in a timely manner, to any other health care provider involved in the adverse event that invites the health care provider to participate in a medical candor process; and

(c) inform, in a timely manner, any health care provider described in Subsection (1)(b) of an affected party's decision of whether to participate in a medical candor process.

(2) A written notice under Subsection (1)(a) shall:

(a) include an explanation of:

(i) the patient's right to receive a copy of the patient's medical records related to the adverse event; and

(ii) the patient's right to authorize the release of the patient's medical records related to the adverse event to any third party;

(b) include a statement regarding the affected party's right to seek legal counsel at the affected party's expense and to have legal counsel present throughout a medical candor process;

(c) notify the affected party that there are time limitations for a malpractice action against a health care provider and that a medical candor process does not alter or extend the time limitations for a malpractice action against a health care provider;

(d) if the health care provider is a public employee or a governmental entity, notify the affected party that participation in a medical candor process does not alter or extend the deadline for filing the notice of claim required under Section 63G-7-401;

(e) notify the affected party that if the affected party chooses to participate in a medical candor process with a health care provider:

(i) any communication, material, or information created for or during the medical candor process, including a communication to participate in the medical candor process, is confidential, not discoverable, and inadmissible as evidence in a judicial, administrative, or arbitration proceeding arising out of the adverse event; and

(ii) a party to the medical candor process may not record any communication without the mutual consent of all parties to the medical candor process; and

(f) advise the affected party that the affected party, the health care provider, and any other person that participates in a medical candor process must agree, in writing, to the terms and conditions of the medical candor process in order to participate.

(3) If, after receiving a written notice, an affected party wishes to participate in a medical candor process, the affected party must agree, in writing, to the terms and conditions provided in the written notice described in Subsection (2).

(4) If an affected party agrees to participate in a medical candor process, the affected party and the health care provider may include another person in the medical candor process if:

(a) the person receives written notice in accordance with this section; and

(b) the person agrees, in writing, to the terms and conditions provided in the written notice described in Subsection (2).

Section 4. Section 78B-3-453 is enacted to read:

78B-3-453. Nonparticipating health care providers -- Offer of compensation -- Payment.

(1) If any communications, materials, or information in any form during a medical candor process involve a health care provider that was notified under Subsection 78B-3-451(1)(b) but the health care provider is not participating in the medical candor process, a participating health care provider:

(a) may provide only materials or information from the medical record to the affected party regarding any health care provided by the nonparticipating health care provider;

(b) may not characterize, describe, or evaluate health care provided or not provided by the nonparticipating health care provider;

(c) may not attribute fault, blame, or responsibility for the adverse event to the nonparticipating health care provider; and

(d) shall inform the affected party of the limitations and requirements described in Subsections (1)(a), (b), and (c) on any communications, materials, or information made or provided by the participating health care provider in regard to a nonparticipating health care provider.

(2) (a) If a health care provider determines that no offer of compensation is warranted during a medical candor process, the health care provider may orally communicate that decision to the affected party.

(b) If a health care provider determines that an offer of compensation is warranted during a medical candor process, the health care provider shall provide the affected party with a written offer of compensation.

(3) If a health care provider makes an offer of compensation to an affected party during a medical candor process and the affected party is not represented by legal counsel, the health care provider shall:

(a) advise the affected party of the affected party's right to seek legal counsel, at the affected party's expense, regarding the offer of compensation; and

(b) notify the affected party that the affected party may be legally required to repay medical and other expenses that were paid by a third party, including private health insurance, Medicare, or Medicaid.

(4) (a) All parties to an offer of compensation shall negotiate the form of the relevant documents.

(b) As a condition of an offer of compensation under this section, a health care provider may require an affected party to:

(i) execute any document that is necessary to carry out an agreement between the parties regarding the offer of compensation; and

(ii) if court approval is required for compensation to a minor, obtain court approval for the offer of compensation.

(5) If an affected party did not present a written claim or demand for payment before the affected party accepts and receives an offer of compensation as part of a medical candor process, the payment of compensation to the affected party is not a payment resulting from:

(a) a written claim or demand for payment; or

(b) a professional liability claim or a settlement for purposes of Sections 58-67-302, 58-67-302.7, 58-68-302, and 58-71-302.

Section 5. Section 78B-3-454 is enacted to read:

78B-3-454. Confidentiality and effect of medical candor process -- Recording of medical candor process -- Exception for deidentified information or data.

(1) Except as provided in Subsections (2), (3), and (4), all communications, materials, and information in any form specifically created for or during a medical candor process, including the findings or conclusions of the investigation and any offer of compensation, are confidential and privileged in any administrative, judicial, or arbitration proceeding.

(2) Any communication, material, or information in any form that is made or provided in the ordinary course of business, including a medical record or a business record, that is otherwise discoverable or admissible and is not specifically created for or during a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(3) (a) Any information that is required to be documented in a patient's medical record under state or federal law is not privileged by the use or disclosure of the information during a medical candor process.

(b) Information described in Subsection (3)(a) does not include an individual's mental impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(4) (a) Any communication, material, or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(b) Any communication, material, or information described in Subsection (4)(a) does not include a written notice described in Section 78B-3-452.

(5) A communication or offer of compensation made in preparation for or during a medical candor process does not constitute an admission of liability.

(6) Nothing in this part alters or limits the confidential, privileged, or protected nature of communications, information, memoranda, work product, documents, and other materials under other provisions of law.

(7) (a) Notwithstanding Section 77-23a-4, a party to a medical candor process may not record any communication without the mutual consent of all parties to the medical candor process.

(b) A recording made without mutual consent of all parties to the medical candor process may not be used for any purpose.

(8) (a) Notwithstanding any other provision of law, any communication, material, or information created for or during a medical candor process:

(i) is not subject to reporting requirements by a health care provider; and

(ii) does not create a reporting requirement for a health care provider.

(b) If there are reporting requirements independent of, and supported by, information or evidence other than any communication, material, or information created for or during a medical candor process, the reporting shall proceed as if there were no communication, material, or information created for or during the medical candor process.

(c) This Subsection (8) does not release an individual or a health care provider from complying with a reporting requirement.

(9) (a) A health care provider that participates in a medical candor process may provide deidentified information or data about the adverse incident to an agency, company, or organization for the purpose of research, education, patient safety, quality of care, or performance improvement.

(b) Disclosure of deidentified information or data under Subsection (9)(a):

(i) does not constitute a waiver of a privilege or protection of any communication, material, or information created for or during a medical candor process as provided in this section or any other provision of law; and

(ii) is not a violation of the confidentiality requirements of this section.

Section 6. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.J.R. 13, Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process, does not pass.

CHAPTER 367
H. B. 345

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

PUBLIC SAFETY EMPLOYEE PERSONAL DATA AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill modifies provisions relating to protection of personal information of certain public safety employees.

Highlighted Provisions:

This bill:

- creates and modifies definitions;
- modifies requirements and prohibitions relating to protection of personal information of certain public safety employees; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-18-102, as last amended by Laws of Utah 2019, Chapter 402

53-18-103, as last amended by Laws of Utah 2019, Chapter 402

REPEALS:

53-18-101, as enacted by Laws of Utah 2017, Chapter 266

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-18-102 is amended to read:

CHAPTER 18. PROTECTION OF PERSONAL INFORMATION OF PUBLIC SAFETY EMPLOYEES

53-18-102. Definitions.

As used in this chapter:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

(a) filter, screen, allow, or disallow content;

(b) pick, choose, analyze, or digest content; or

(c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(2) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

[~~(2)~~] (4) "Immediate family member" means a [~~law enforcement officer's~~] public safety employee's spouse, child, parent, or grandparent who resides with the [~~officer~~] public safety employee.

[~~(3)~~] (5) "Interactive computer service" means the same as that term is defined in Subsection 47 U.S.C. 230(f).

[~~(4)~~] (6) "Law enforcement officer" or "officer":

(a) means the same as that term is defined in Section 53-13-103;

(b) includes[~~"~~]correctional officers[~~"~~] as defined in Section 53-13-104; and

(c) refers only to officers who are currently employed by, retired from, or were killed in the line of duty while in the employ of a state or local governmental law enforcement agency.

[~~(5)~~] (7) (a) "Personal information"[~~: (a) means a law enforcement officer's or law enforcement officer's~~] means a public safety employee's or a public safety employee's immediate family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, or personal photograph, directions to locate the [~~law enforcement officer's~~] public safety employee's home, or photographs of the [~~law enforcement officer's or the officer's~~] public safety employee's or the public safety employee's immediate family member's home or vehicle[~~; and~~].

(b) "Personal information" includes a record or a part of a record that:

(i) a [~~law enforcement officer~~] public safety employee who qualifies as an at-risk government employee under Section 63G-2-303 requests to be classified as private under Subsection 63G-2-302(1)(h); and

(ii) is classified as private under Title 63G, Chapter 2, Government Records Access and Management Act.

(8) "Public safety employee" means:

(a) a law enforcement officer;

(b) a dispatcher; or

(c) a current or retired employee or contractor of:

(i) a law enforcement agency; or

(ii) a correctional facility.

[~~(6)~~] (9) "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

Section 2. Section 53-18-103 is amended to read:

53-18-103. Internet posting of personal information of public safety employees -- Prohibitions.

(1) (a) A state or local governmental agency that [~~has received~~] receives the form described in Subsection (1)(b) from a [~~law enforcement officer~~] public safety employee may not publicly post on the

Internet the personal information of [~~any law enforcement officer~~] the public safety employee employed by the state or [~~any political subdivision~~] local governmental agency.

(b) Each state or local government agency employing [~~law enforcement officers~~] a public safety employee shall:

(i) provide a form for [~~an officer~~] a public safety employee to request the removal or concealment of the [~~officer's~~] public safety employee's personal information from the state or local government agencies' publicly accessible websites and databases;

(ii) inform the [~~officer~~] public safety employee how to submit a form under this section;

(iii) upon request, assist [~~an officer~~] a public safety employee in completing the form;

(iv) include on the form a disclaimer informing the [~~officer~~] public safety employee that by submitting a completed form the [~~officer~~] public safety employee may not receive official announcements affecting the [~~officer's~~] public safety employee's property, including notices about proposed annexations, incorporation, or zoning modifications; and

(v) require a form submitted by a [~~law enforcement officer~~] public safety employee to be signed by:

(A) for a public safety employee who is a law enforcement officer, the highest ranking elected or appointed official in the officer's chain of command certifying that the individual requesting removal or concealment is a law enforcement officer[~~.~~]; or

(B) for a public safety employee who is not a law enforcement officer, the public safety employee's supervisor.

(2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a [~~law enforcement officer~~] public safety employee, completed and submitted under this section, shall:

(a) classify the [~~law enforcement officer's~~] public safety employee's voter registration record in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109 as a private record; and

(b) classify the [~~law enforcement officer's~~] public safety employee's marriage licenses and marriage license applications, if any, as private records.

(3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form described in Subsection (1)(b) from a [~~law enforcement officer~~] public safety employee, completed and submitted under this section, shall:

(a) provide a method for the assessment roll and index and the tax roll and index that will block public access to the [~~law enforcement officer's~~] public safety employee's personal information; and

(b) provide to the [~~law enforcement officer~~] public safety employee who submits the form a written disclaimer informing the [~~officer~~] public safety employee that the [~~officer~~] public safety employee may not receive official announcements affecting the [~~officer's~~] public safety employee's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A form submitted under this section remains in effect for the shorter of:

(a) four years from the date on which the form was signed by the [~~officer~~] public safety employee, regardless of whether the [~~officer's~~] public safety employee's qualifying employment is terminated during the four years; or

(b) one year after official notice of the [~~law enforcement officer's~~] public safety employee's death is transmitted by the [~~officer's~~] public safety employee's immediate family or the [~~officer's~~] public safety employee's employing agency to all state and local government agencies that are reasonably expected to have records containing personal information of the deceased [~~officer~~] public safety employee.

(5) Notwithstanding Subsection (4), the [~~law enforcement officer~~] public safety employee, or the [~~officer's~~] public safety employee's immediate family if the [~~officer~~] public safety employee is deceased, may rescind the form at any time.

(6) (a) An individual may not, with intent to frighten or harass [~~a law enforcement officer~~] a public safety employee, publicly post on the Internet the personal information of [~~any law enforcement officer~~] a public safety employee knowing the [~~person~~] public safety employee is a [~~law enforcement officer~~] public safety employee.

[~~(a)~~] (b) [~~A violation of this~~] Except as provided in Subsection (6)(c), a violation of Subsection (6)(a) is a class B misdemeanor.

[~~(b)~~] (c) A violation of [~~this~~] Subsection (6)(a) that results in bodily injury to the [~~officer~~] public safety employee, or a member of the [~~officer's~~] public safety employee's immediate family, is a class A misdemeanor.

[~~(c)~~] (d) (i) Each act against a separate individual in violation of [~~this~~] Subsection (6)(a) is a separate offense.

(ii) [~~The~~] A defendant may also be charged separately with the commission of any other criminal conduct related to the commission of an offense under [~~this~~] Subsection (6)(a).

(7) (a) A business or association may not publicly post or publicly display on the Internet the personal information of [~~any law enforcement officer if that officer~~] a public safety employee if the public safety employee has, either directly or through an agent designated under Subsection (7)(c), provided to that business or association a written demand to not disclose the [~~officer's~~] public safety employee's personal information.

(b) A written demand made under [~~this~~] Subsection (7)(a) by a [~~law enforcement officer~~] public safety employee is effective for four years beginning on the day the demand is delivered, regardless of whether [~~or not the law enforcement officer’s~~] the public safety employee’s employment as [~~an officer~~] a public safety employee has terminated during the four years.

(c) A [~~law enforcement officer~~] public safety employee may designate in writing the [~~officer’s~~] public safety employee’s employer or, for a public safety employee who is a law enforcement officer, a representative of [~~any~~] a voluntary professional association of law enforcement officers to act on behalf of the officer and as the officer’s agent to make a written demand [~~pursuant to~~] under this chapter.

(d) (i) A business or association that receives a written demand from a [~~law enforcement officer~~] public safety employee under Subsection (7)(a) shall remove the [~~officer’s~~] public safety employee’s personal information from public display on the Internet, including the removal of information provided to cellular telephone applications, within 24 hours of the delivery of the written demand, and shall ensure that the information is not posted again on the same Internet website or any other Internet website over which the recipient of the written demand maintains or exercises control [~~over~~].

(ii) After receiving the [~~law enforcement officer’s~~] public safety employee’s written demand, the person, business, or association may not publicly post or publicly display on the Internet, the personal information of the [~~law enforcement officer~~] public safety employee.

(iii) This Subsection (7)(d) does not prohibit a telephone corporation, as defined in Section 54-2-1, or [~~its~~] the telephone corporation’s affiliate or other voice service provider, including providers of interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from transferring the [~~law enforcement officer’s~~] public safety employee’s personal information to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, terms of service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the [~~officer~~] public safety employee to the telephone corporation or its affiliate.

(iv) This Subsection (7)(d) does not apply to a telephone corporation or other voice service provider, including providers of interconnected voice over Internet protocol service, with respect to directories or directories listings to the [~~extend~~] extent the entity offers a nonpublished listing option.

(8) (a) A [~~law enforcement officer~~] public safety employee whose personal information is made public as a result of a violation of Subsection (7) may bring an action seeking injunctive or declarative relief in [~~any~~] a court of competent jurisdiction.

(b) If a court finds that a violation has occurred, [~~it~~] the court may grant injunctive or declarative relief and shall award the [~~law enforcement officer~~] public safety employee court costs and reasonable attorney fees.

(c) If the defendant fails to comply with an order of the court issued under [~~this~~] Subsection (8)(b), the court may impose a civil penalty of not more than $1,000 for the defendant’s failure to comply with the court’s order.

(9) (a) A person, business, or association may not solicit, sell, or trade on the Internet the personal information of a [~~law enforcement officer~~] public safety employee, if:

(i) the dissemination of the personal information poses an imminent and serious threat to the [~~law enforcement officer’s~~] public safety employee’s safety or the safety of the [~~law enforcement officer’s~~] public safety employee’s immediate family; and

(ii) the person making the information available on the Internet knows or reasonably should know of the imminent and serious threat.

(b) (i) [~~A law enforcement officer~~] A public safety employee whose personal information is knowingly publicly posted or publicly displayed on the Internet may bring an action in [~~any~~] a court of competent jurisdiction.

(ii) If a jury or court finds that a defendant has committed a violation of Subsection (9)(a), the jury or court shall award damages to the [~~officer~~] public safety employee in the amount of triple the cost of actual damages or $4,000, whichever is greater.

(10) An interactive computer service or access software is not liable under Subsections (7)(d)(i) and (9) for information or content provided by another information content provider.

(11) Unless a state or local government agency receives a completed form directly from [~~the law enforcement officer~~] a public safety employee in accordance with Subsection (1), a state or local government official who makes information available for public inspection in accordance with state law is not in violation of this chapter.

Section 3. Repealer.

This bill repeals:

Section 53-18-101, Title.

CHAPTER 368
H. B. 346

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

FUNDING INDEPENDENCE IN FOREIGN LANGUAGE EDUCATION

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the funding of foreign language education.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits an institution of higher education from seeking or accepting funding support from a restricted foreign entity;
- requires Southern Utah University to establish the Helen Foster Snow Cultural Center, subject to legislative appropriations; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Southern Utah University - Education and General, as a one-time appropriation:
  - from the Education Fund, One-time, $300,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-201, as enacted by Laws of Utah 2010, Chapter 243

53B-1-202, as last amended by Laws of Utah 2016, Chapter 188

ENACTS:

53B-33-101, Utah Code Annotated 1953

53B-33-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-201 is amended to read:

53B-1-201. Definitions.

As used in this part:

(1) "Conditional gift" means a gift as defined in Subsection (4) that is subject to conditions:

(a) imposed, requested, or provided by a foreign government or foreign person; and

(b) that relate to:

(i) what kinds of teachers or students may benefit from the gift; or

(ii) a description of the subject matter to be taught with the support of the gift.

(2) "Foreign government" means a government other than the government of:

(a) the United States;

(b) a state within the United States;

(c) a territory or possession of the United States; or

(d) a political subdivision of the United States.

(3) "Foreign person" means:

(a) a foreign government defined in Subsection (2);

(b) an individual who is not a citizen or national of the United States or of a territory or protectorate of the United States;

(c) a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized under the laws of a foreign government or that has its principal place of business located outside the United States;

(d) if known by the higher education institution, a corporation, partnership, joint venture, proprietorship, trust, association, or other entity that is created or organized pursuant to the laws of the United States or a state within the United States, if a majority of the stock or other equity interest is directly or indirectly owned by, or which derives a majority of its funding from:

(i) a foreign government;

(ii) an individual described in Subsection (3)(b); or

(iii) an entity described in Subsection (3)(c) or (d); or

(e) if known by the higher education institution, a committee or other group in which a majority of the membership is composed of:

(i) a foreign government;

(ii) an individual described in Subsection (3)(b); or

(iii) an entity described in Subsection (3)(c) or (d).

(4) "Gift" means an endowment, scholarship, gift, donation, or grant of money or property of any kind.

(5) "Higher education institution" means an institution in the state system of higher education as defined in Section 53B-1-102.

(6) "Restricted foreign entity" means:

(a) a company that the United States Secretary of Defense is required to list as a military company under the requirements of federal national defense authorization acts;

(b) any affiliate of a company described in Subsection (6)(a);

(c) the country with a commercial or defense industrial base of which a company described in Subsection (6)(a) is a part; or

(d) any subsidiary of a company described in Subsection (6)(a) or a country described in Subsection (6)(c).

Section 2. Section 53B-1-202 is amended to read:

53B-1-202. Disclosure of foreign gifts to higher education institutions --

Prohibition on restricted foreign entity funds.

(1) (a) Except as provided in Subsection (1)(c), on or before July 31 of each year, a higher education institution shall disclose to the board, by filing a disclosure report described in Subsection (2), a gift received by the higher education institution of $50,000 or more from a foreign person, considered alone or in combination with all other gifts from the foreign person, during the period beginning July 1 and ending on June 30 immediately preceding the July 31 deadline.

(b) A higher education institution may rely on the following address of a foreign person to determine the citizenship or nationality of the foreign person if the citizenship or nationality is unknown:

(i) for a foreign person that is an individual, the principal residence; and

(ii) for a foreign person that is not an individual, the principal place of business.

(c) The $50,000 amount described in Subsection (1)(a) is increased to $250,000 if the gift, considered alone or in combination with all other gifts, described in Subsection (1)(a) is from a foreign person:

(i) with a principal residence or principal place of business located in the United States; and

(ii) with a permanent resident status:

(A) under Section 245 of the Immigration and Nationality Act; and

(B) for 10 years or more.

(2) A disclosure report regarding all gifts described in Subsection (1) shall include:

(a) the amount of each gift described in Subsection (1);

(b) the date on which each gift described in Subsection (1) was received by the higher education institution;

(c) the name of the foreign person making each gift described in Subsection (1);

(d) the aggregate amount of all gifts described in Subsection (1) from a foreign person during the prior fiscal year of the higher education institution;

(e) for a conditional gift, a description of the conditions or restrictions related to the conditional gift;

(f) for a conditional gift:

(i) for a foreign person that is an individual, if known, the country of citizenship or principal residence of the individual; or

(ii) for a foreign person that is not an individual, if known, the country of incorporation or place of business of the foreign person; and

(g) for a conditional gift that is a contract entered into between a higher education institution and a foreign person:

(i) the amount;

(ii) the date;

(iii) a description of all conditions or restrictions; and

(iv) the name of the foreign person.

(3) A disclosure report required by this section is a public record open to inspection and review during the higher education institution's business hours.

(4) At the request of the board, the attorney general may file a civil action to compel a higher education institution to comply with the requirements of this section.

(5) The board shall make rules for the administration of this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) Beginning July 1, 2023, a higher education institution may not seek or accept funding support from a restricted foreign entity or an entity that passes on funding support from a restricted foreign entity.

Section 3. Section 53B-33-101 is enacted to read:

CHAPTER 33. (CODIFIED AS CHAPTER 36) SOUTHERN UTAH UNIVERSITY

Part 1. General Provisions

53B-33-101. (Codified as 53B-36-101) Definitions.

Reserved

Section 4. Section 53B-33-201 is enacted to read:

Part 2. Helen Foster Snow Cultural Center

53B-33-201. (Codified as 53B-36-201) Helen Foster Snow Cultural Center.

Subject to legislative appropriations, Southern Utah University shall establish the Helen Foster Snow Cultural Center to provide language support and cultural opportunities to students studying the Mandarin Chinese language.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Southern Utah University - Education and General

From Education Fund, One-time	300,000
Schedule of Programs:	
Education and General	300,000

The Legislature intends that:

(1) appropriations provided under this Item 3 be used for the establishment of the Helen Foster Snow Cultural Center in accordance with Section 53B-33-201; and

(2) under Section 63J-1-603, appropriations provided under this Item 3 not lapse at the close of fiscal year 2023, and the use of any nonlapsing funds is limited to the establishment of the Helen Foster Snow Cultural center in accordance with Section 53B-33-201.

CHAPTER 369
H. B. 350

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

STATE HISTORIC PRESERVATION OFFICE AMENDMENTS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill creates the State Historic Preservation Office.

Highlighted Provisions:

This bill:

- defines terms;
- assigns oversight of the State Historic Preservation Office to the State History Board;
- creates the State Historic Preservation Office;
- describes the process for appointing the state historic preservation officer; and
- describes the duties of the State Historic Preservation Office.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-8-204, as last amended by Laws of Utah 2020, Chapters 352 and 373
9-8-205, as last amended by Laws of Utah 2017, Chapter 48

ENACTS:

9-8-901, Utah Code Annotated 1953
9-8-902, Utah Code Annotated 1953
9-8-903, Utah Code Annotated 1953
9-8-904, Utah Code Annotated 1953
9-8-905, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-8-204 is amended to read:

9-8-204. Board of State History.

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed by the governor with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, [~~as follows: (a) sufficient representatives to satisfy the federal requirements for an adequately qualified State Historic Preservation Review Board; and (b) other~~] who are persons with an interest in the subject matter of the division's responsibilities.

(3) (a) Except as required by Subsection (3)(b), the members shall be appointed for terms of four years and shall serve until their successors are appointed and qualified.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(4) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term with the consent of the Senate.

(5) A simple majority of the board constitutes a quorum for conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 2. Section 9-8-205 is amended to read:

9-8-205. Board duties and powers.

(1) The board shall:

(a) with respect to the division:

(i) make policies to direct the division director in carrying out the director's duties;

[~~(b)~~] (ii) approve the division's rules;

[~~(c)~~] (iii) assist the division in development programs consistent with this chapter; and

[~~(d) function as the State Review Board for purposes of the historic preservation program;~~]

[~~(e) recommend districts, sites, buildings, structures, and objects for listing on the State and National Historic Registers to the director; and~~]

[~~(f)~~] (iv) review and approve, if appropriate, matching grants under Subsection 9-8-203(3)(c)(ii);[~~.~~] and

(b) with respect to the State Historic Preservation Office created in Section 9-8-902:

(i) make policies to direct the state historic preservation officer in carrying out the officer's duties; and

(ii) assist the office in programs consistent with Part 9, State Historic Preservation Office.

(2) The board may establish advisory committees to assist the board, the office, and the division in carrying out the responsibilities under this chapter.

Section 3. Section 9-8-901 is enacted to read:

Part 9. State Historic Preservation Office

9-8-901. Definitions.

As used in this part and in Section 9-8-205:

(1) "Board" means the Board of State History created in Section 9-8-204.

(2) "Committee" means the National Register Review Committee created in Section 9-8-905.

(3) "Office" means the State Historic Preservation Office created in Section 9-8-902.

(4) "Officer" means the state historic preservation officer, appointed in accordance with Section 9-8-903.

Section 4. Section 9-8-902 is enacted to read:

9-8-902. State Historic Preservation Office -- Creation -- Purpose.

(1) There is created within the department the State Historic Preservation Office under the administration and supervision of the executive director or the designee of the executive director.

(2) The office shall be under the policy direction of the board.

(3) The office shall be the authority in the state for state history preservation and shall perform those duties set forth in statute.

Section 5. Section 9-8-903 is enacted to read:

9-8-903. Appointment of state historic preservation officer.

(1) In accordance with 36 C.F.R. Sec. 61.4, the governor shall appoint the state historic preservation officer.

(2) The officer shall administer:

(a) the office; and

(b) the state historic preservation program.

Section 6. Section 9-8-904 is enacted to read:

9-8-904. Office duties.

The office shall:

(1) secure, for the present and future benefit of the state, the protection of archaeological resources and sites which are on state lands;

(2) foster increased cooperation and exchange of information between state authorities, the professional archaeological community, and private individuals;

(3) in cooperation with federal and state agencies, local governments, private organizations, and private individuals, direct and conduct a comprehensive statewide survey of historic properties;

(4) maintain an inventory of the properties described in Subsection (3);

(5) identify and nominate eligible property to the National Register of Historic Places;

(6) administer applications for listing historic property on the National Register of Historic Places;

(7) prepare and implement a comprehensive statewide historic preservation plan;

(8) administer the state program of federal assistance for historic preservation within the state;

(9) advise and assist, as appropriate, state agencies, federal agencies, and local governments in carrying out their historic preservation responsibilities;

(10) cooperate with federal agencies, state agencies, local agencies, private organizations, and individuals to ensure that historic property is taken into consideration at all levels of planning and development;

(11) provide, with respect to historic preservation:

(a) public information;

(b) education;

(c) training; and

(d) technical assistance;

(12) cooperate with local governments in the development of local historic preservation programs;

(13) consult with appropriate federal agencies with respect to:

(a) federal undertakings that may affect historic properties; and

(b) advising and assisting in the evaluation of proposals for rehabilitation projects that may qualify for federal assistance;

(14) perform other duties as designated under 54 U.S.C. Sec. 302303; and

(15) perform other duties as designated by the department and by statute.

Section 7. Section 9-8-905 is enacted to read:

9-8-905. National Register Review Committee.

(1) There is created the National Register Review Committee.

(2) The committee shall be composed of seven members, at least four of whom have professional experience in:

(a) history;

(b) prehistoric and historic archaeology;

(c) architectural history;

(d) architecture;

(e) folklore;

(f) cultural anthropology;

(g) museology, curation, or conservation;

(h) landscape architecture; or

(i) planning.

(3) To qualify as a member with professional experience in a discipline described in Subsection (2), a member shall meet the professional qualifications standards described in 36 C.F.R. Sec. 61.4.

(4) The committee shall serve as Utah's State Historic Preservation Review Board described in 36 C.F.R. Sec. 61.4.

(5) The officer and the director shall make the initial appointments to the committee.

(6) (a) Except as described in Subsections (6)(b) and (c), a member shall serve a term of four years.

(b) When making initial appointments to the committee, the director and the officer shall stagger the terms so that approximately half of the committee members serve an initial term of two years.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (8).

(7) (a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (8) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(8) The committee shall nominate a member to fill a vacancy described in Subsection (6)(c) or (7)(a), subject to the approval of the director and the officer.

(9) A member may serve more than one term, but may not serve more than three terms.

(10) A majority of the members of the committee is a quorum.

(11) A member may not receive compensation or benefits for the member's service.

(12) The committee shall meet at least one time per year.

(13) The committee shall elect a chair from the committee's members.

(14) The committee shall:

(a) review, evaluate, and comment on the eligibility of properties nominated to the National Register of Historic Places;

(b) review the documentation of nominated parties and recommended changes to the National Register of Historic Places nomination;

(c) bring to the attention of the office and the officer properties which may meet the National Register of Historic Places criteria for evaluation;

(d) recommend the removal of properties from the National Register of Historic Places;

(e) assist the officer and the office in statewide efforts to encourage public and private persons to identify, nominate, protect, enhance, and maintain the state's historic resources; and

(f) review the State Historic Preservation Plan prior to submission to the United States Department of the Interior.

CHAPTER 370
H. B. 355
Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

HIGHER EDUCATION FINANCIAL AID AMENDMENTS

Chief Sponsor: Val L. Peterson
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to higher education financial aid.

Highlighted Provisions:

This bill:

- defines terms;
- changes the Public Safety Officer Career Advancement Reimbursement Program to a grant program;
- addresses the amount of money the Utah Board of Higher Education (board) may use for administrative costs and overhead related to the Opportunity Scholarship Program;
- repeals or reorganizes the provisions of the Access Utah Promise Scholarship Program;
- allows the board to establish criteria under which the board may forgive a loan made under the Terrel H. Bell Teaching Incentive Loans program;
- changes the Talent Development Incentive Loan Program to an award program;
- removes the state requirement for financial aid applicants to complete the federal form for selective service;
- directs the board to create educational pathways;
- changes the Success Stipend Program to the Utah Promise Program and modifies the financial aid available under the program;
- repeals the Strategic Workforce Investment; and
- makes technical changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Utah Board of Higher Education – Administration – Administration as an ongoing appropriation:
  - from the Education Fund, $718,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-301, as last amended by Laws of Utah 2021, Chapters 282, 351, 402, and 425
53B-8-105, as last amended by Laws of Utah 2021, Chapter 402
53B-8-112, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13
53B-8-201, as last amended by Laws of Utah 2021, Chapter 402
53B-10-101, as last amended by Laws of Utah 2019, Chapter 129
53B-10-201, as last amended by Laws of Utah 2021, Chapter 282
53B-10-202, as enacted by Laws of Utah 2018, Chapter 402
53B-10-205, as enacted by Laws of Utah 2018, Chapter 402
53B-13a-102, as last amended by Laws of Utah 2011, Chapter 11
53B-13a-103, as last amended by Laws of Utah 2011, Chapter 11
63G-12-402, as last amended by Laws of Utah 2021, Chapter 402
63I-2-253, as last amended by Laws of Utah 2021, First Special Session, Chapter 14
64-13e-102, as last amended by Laws of Utah 2021, Chapter 260

ENACTS:

53b-10-106, Utah Code Annotated 1953

REPEALS AND REENACTS:

53B-13a-104, as last amended by Laws of Utah 2020, Chapter 196

RENUMBERS AND AMENDS:

53B-13a-106, (Renumbered from 53B-8-304, as last amended by Laws of Utah 2021, Chapter 282)

REPEALS:

53B-8-301, as last amended by Laws of Utah 2020, Chapter 365
53B-8-302, as enacted by Laws of Utah 2019, Chapter 444
53B-8-303, as last amended by Laws of Utah 2020, Chapters 63 and 365
53B-10-204, as enacted by Laws of Utah 2018, Chapter 402
53B-11-104, as last amended by Laws of Utah 2020, Chapter 365
53B-13a-101, as last amended by Laws of Utah 2011, Chapter 11
53B-13a-105, as last amended by Laws of Utah 2004, Chapter 10
53B-26-101, as enacted by Laws of Utah 2016, Chapter 338
53B-26-102, as last amended by Laws of Utah 2021, Chapters 187, 282 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 187
53B-26-103, as last amended by Laws of Utah 2021, Chapter 282

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-1-301 is amended to read:

53B-1-301. Reports to and actions of the Higher Education Appropriations Subcommittee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Higher Education Appropriations Subcommittee:

(a) the reports described in Sections 34A-2-202.5, 53B-30-206, and 59-9-102.5 by the Rocky Mountain Center for Occupational and Environmental Health;

(b) the report described in Section 53B-7-101 by the board on recommended appropriations for higher education institutions, including the report described in Section 53B-8-104 by the board on the effects of offering nonresident partial tuition scholarships;

(c) the report described in Section 53B-7-704 by the Department of Workforce Services and the Governor's Office of Economic Opportunity on targeted jobs;

(d) the reports described in Section 53B-7-705 by the board on performance;

(e) the report described in Section 53B-8-201 by the board on the Opportunity Scholarship Program;

[~~(f) the report described in Section 53B-8-303 by the board regarding Access Utah promise scholarships;~~]

[~~(g)~~] (f) the report described in Section 53B-8d-104 by the Division of Child and Family Services on tuition waivers for wards of the state;

[~~(h)~~] (g) the report described in Section 53B-12-107 by the Utah Higher Education Assistance Authority;

[~~(i)~~] (h) the report described in Section [~~53B-13a-104~~] 53B-13a-103 by the board on the [~~Success Stipend Program~~] Utah Promise Program;

[~~(j)~~] (i) the report described in Section 53B-17-201 by the University of Utah regarding the Miners' Hospital for Disabled Miners;

[~~(k) the report described in Section 53B-26-103 by the Governor's Office of Economic Opportunity on high demand technical jobs projected to support economic growth;~~]

[~~(l)~~] (j) the report described in Section 53B-26-202 by the Medical Education Council on projected demand for nursing professionals; and

[~~(m)~~] (k) the report described in Section 53E-10-308 by the State Board of Education and board on student participation in the concurrent enrollment program.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Higher Education Appropriations Subcommittee:

(a) upon request, the information described in Section 53B-8a-111 submitted by the Utah Educational Savings Plan;

(b) a proposal described in Section 53B-26-202 by an eligible program to respond to projected demand for nursing professionals;

(c) a report in 2023 from Utah Valley University and the Utah Fire Prevention Board on the fire and rescue training program described in Section 53B-29-202; and

(d) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission on the commission's progress.

(3) In accordance with applicable provisions, the Higher Education Appropriations Subcommittee shall complete the following:

(a) as required by Section 53B-7-703, the review of performance funding described in Section 53B-7-703;

[~~(b) an appropriation recommendation described in Section 53B-26-103 to fund a proposal responding to workforce needs of a strategic industry cluster;~~]

[~~(c)~~] (b) an appropriation recommendation described in Section 53B-26-202 to fund a proposal responding to projected demand for nursing professionals; and

[~~(d)~~] (c) review of the report described in Section 63B-10-301 by the University of Utah on the status of a bond and bond payments specified in Section 63B-10-301.

Section 2. Section 53B-8-105 is amended to read:

53B-8-105. New Century scholarships -- High school requirements.

(1) Notwithstanding the provisions of this section, the board may not accept a new application for a scholarship described in this section on or after August 15, 2021.

(2) As used in this section:

(a) "Complete the requirements for an associate degree" means that a student:

(i) (A) completes all the required courses for an associate degree from a higher education institution within the state system of higher education that offers associate degrees; and

(B) applies for the associate degree from the institution; or

(ii) completes equivalent requirements described in Subsection (2)(a)(i)(A) from a higher education institution within the state system of higher education that offers baccalaureate degrees but does not offer associate degrees.

(b) "Fee" means a fee approved by the board.

(3) (a) The board shall award New Century scholarships.

(b) The board shall develop and approve the math and science curriculum described under Subsection (4)(a)(ii).

(4) (a) In order to qualify for a New Century scholarship, a student in Utah schools shall complete the requirements for an:

(i) associate degree; or

(ii) approved math and science curriculum.

(b) The requirements under Subsection (4)(a) shall be completed:

(i) by the day on which the student's class graduates from high school; and

(ii) with at least a 3.0 grade point average.

(c) In addition to the requirements in Subsection (4)(a), a student in Utah shall:

(i) complete the high school graduation requirements of:

(A) a public high school established by the State Board of Education and the student's school district or charter school; or

(B) a private high school in the state that is accredited by a regional accrediting body approved by the board; and

(ii) complete high school with at least a 3.5 cumulative high school grade point average.

(5) Notwithstanding Subsection (4), for a student who does not receive a high school grade point average, the student shall:

(a) complete the requirements for an associate degree:

(i) by June 15 of the year the student completes high school; and

(ii) with at least a 3.0 grade point average; and

(b) score a composite ACT score of 26 or higher.

(6) (a) To be eligible for the scholarship, a student:

(i) shall submit an application to the board with:

(A) an official college transcript showing college courses the student has completed to complete the requirements for an associate degree; and

(B) if applicable, an official high school transcript or, if applicable, a copy of the student's ACT scores;

(ii) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid;

(iii) if applicable, shall meet the application deadlines as established by the board under Subsection (11); and

(iv) shall demonstrate, in accordance with rules described in Subsection (6)(b), the completion of a Free Application for Federal Student Aid.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules regarding the completion of the Free Application for Federal Student Aid described in Subsection (6)(a)(iv), including:

(i) provisions for students or parents to opt out of the requirement due to:

(A) financial ineligibility for any potential grant or other financial aid;

(B) personal privacy concerns; or

(C) other reasons the board specifies; and

(ii) direction for applicants to financial aid advisors.

(7) (a) The scholarship may be used at a:

(i) higher education institution within the state system of higher education that offers baccalaureate programs; or

(ii) if the scholarship holder applies for the scholarship on or before October 1, 2019, private, nonprofit college or university in the state accredited by the Northwest Association of Schools and Colleges that offers baccalaureate programs.

(b) (i) Subject to Subsection (7)(e), the total value of the scholarship is up to $5,000, allocated over a time period described in Subsection (7)(c), as prescribed by the board.

(ii) The board may increase the scholarship amount described in Subsection (7)(b)(i) by an amount not to exceed the average percentage tuition increase approved by the board for institutions in the state system of higher education.

(c) The scholarship is valid for the shortest of the following time periods:

(i) two years of full-time equivalent enrollment;

(ii) 60 credit hours; or

(iii) until the student meets the requirements for a baccalaureate degree.

(d) (i) A scholarship holder shall enroll full-time at a higher education institution by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(ii) The board may grant a deferral or leave of absence to a scholarship holder, but the scholarship holder may only receive scholarship money within five years of the student's high school graduation date.

(e) For a scholarship for which a student applies after October 1, 2019:

(i) the board shall reduce the amount of the scholarship holder's scholarship so that the total amount of state aid awarded to the scholarship holder, including tuition or fee waivers or the scholarship, does not exceed the cost of the scholarship holder's tuition and fees; and

(ii) the scholarship holder may only use the scholarship for tuition and fees.

(8) The board may cancel a New Century scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(9) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the General Fund to the board for the costs associated with the New Century Scholarship Program authorized under this section.

(b) It is understood that the appropriation is offset in part by the state money that would otherwise be required and appropriated for these students if they were enrolled in a four-year postsecondary program at a state-operated institution.

(c) Notwithstanding Subsections (3)(a) and (7), if the appropriation under Subsection (9)(a) is insufficient to cover the costs associated with the New Century Scholarship Program, the board may reduce the scholarship amount.

(d) If money appropriated under this section is available after New Century scholarships are awarded, the board shall use the money for the [~~Access Utah Promise Scholarship Program created in Section 53B-8-302~~] Utah Promise Program created in Section 53B-13a-103.

(10) (a) The board shall adopt policies establishing an application process and an appeal process for a New Century scholarship.

(b) The board shall disclose on all applications and related materials that the amount of the scholarship is subject to funding and may be reduced, in accordance with Subsection (9)(c).

(c) The board shall require an applicant for a New Century scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(d) The certification under this Subsection (10) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(11) The board may set deadlines for receiving New Century scholarship applications and supporting documentation.

(12) A student may not receive both a New Century scholarship and an Opportunity scholarship established in [~~Part 2, Opportunity Scholarship Program~~] Section 53B-8-201 or any scholarship established under Sections 53B-8-202 through 53B-8-205.

Section 3. Section 53B-8-112 is amended to read:

53B-8-112. Public Safety Officer Career Advancement Grant Program.

(1) The Public Safety Officer Career Advancement [~~Reimbursement~~] Grant Program is created.

(2) Subject to legislative appropriations and Subsection [~~(7)~~] (6) the board shall [~~reimburse~~] award a grant to an applicant who:

(a) is a certified peace officer, currently employed by a law enforcement agency within the state; and

[~~(b) has been employed as a certified peace officer for three or more consecutive years;~~]

[~~(c)~~] (b) is seeking a post-secondary degree in the area of criminal justice from a credit-granting higher education institution within the state system of higher education, described in Section 53B-1-102[~~; and~~].

[~~(d) is employed as a peace officer for one year following completion of the academic year for which the individual is seeking reimbursement.~~]

[~~(3) Individuals who qualify for reimbursement from the Public Safety Officer Career Advancement Reimbursement Program may apply for reimbursement by July 1 one year after each academic year for which they are requesting reimbursement.~~]

[~~(4) Subject to Legislative appropriations, of the funds appropriated for the Public Safety Officer Career Advancement Reimbursement Program:~~]

[~~(a) 25% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the third or fourth class; and~~]

[~~(b) 12% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the fifth or sixth class.~~]

[~~(5)~~] (3) (a) [~~A~~] Subject to Subsection (3)(b), the board may award a qualified applicant [~~may be reimbursed up to half of~~] up to the cost of tuition and fees.

(b) [~~A reimbursement~~] A grant award under Subsection [~~(5)~~] (3)(a) is limited to:

(i) a maximum of $5,000 each academic year; and

(ii) a maximum of [~~eight~~] four academic years.

(4) The board shall design the program to use a packaging approach that ensures that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

[~~(6)~~] (5) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving [~~reimbursement~~] grant applications and supporting documentation; and

(ii) establish the application process and an appeal process for [~~a reimbursement from~~] the Public Safety Officer Career Advancement [~~Reimbursement~~] Grant Program[~~, including procedures to allow for online application submittals~~].

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded [~~reimbursements~~] grants may be subject to funding or be reduced, in accordance with Subsection [~~(7)~~] (6).

[~~(7)~~] (6) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the Education Fund to the board for the costs associated with the Public Safety

Officer Career Advancement [~~Reimbursement~~] Grant Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Public Safety Officer Career Advancement [~~Reimbursement~~] Grant Program, the board may:

(i) [~~may~~] reduce the amount of a [~~reimbursement~~] grant; [~~and~~] or

(ii) [~~shall~~] distribute [~~reimbursements~~] grants on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

[~~(c) Any individual who is denied reimbursement because of insufficient funds appropriated may re-apply for reimbursement up to two years after the first year of eligibility.~~]

Section 4. Section 53B-8-201 is amended to read:

53B-8-201. Opportunity Scholarship Program.

(1) As used in this section:

(a) "Eligible institution" means:

(i) a degree-granting institution of higher education within the state system of higher education; or

(ii) a private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(b) "Eligible student" means a student who:

(i) applies to the board in accordance with the rules described in Subsection (5);

(ii) is enrolled in an eligible institution; and

(iii) meets the criteria established by the board in rules described in Subsection (5).

(c) "Fee" means:

(i) for an eligible institution that is a degree-granting institution, a fee approved by the board; or

(ii) for an eligible institution that is a technical college, a fee approved by the eligible institution.

(d) "Program" means the Opportunity Scholarship Program described in this section.

(2) (a) Subject to legislative appropriations, the board shall annually distribute money for the Opportunity Scholarship Program described in this section to each eligible institution to award as Opportunity scholarships to eligible students.

(b) The board shall annually determine the amount of an Opportunity scholarship based on:

(i) the number of eligible students in the state; and

(ii) money available for the program.

(c) The board may not use more than 3% of the money appropriated to the program for administrative costs and overhead.

(3) (a) Except as provided in this Subsection (3), an eligible institution shall provide to an eligible student an Opportunity scholarship in the amount determined by the board described in Subsection (2)(b).

(b) For an Opportunity scholarship for which an eligible student applies on or before July 1, 2019, an eligible institution may reduce the amount of the Opportunity scholarship based on other state aid awarded to the eligible student for tuition and fees.

(c) For an Opportunity scholarship for which an eligible student applies after July 1, 2019:

(i) an eligible institution shall reduce the amount of the Opportunity scholarship so that the total amount of state aid awarded to the eligible student, including tuition or fee waivers and the Opportunity scholarship, does not exceed the cost of the eligible student's tuition and fees; and

(ii) the eligible student may only use the Opportunity scholarship for tuition and fees.

(d) An institution described in Subsection (1)(a)(ii) may not award an Opportunity scholarship to an eligible student in an amount that exceeds the average total cost of tuition and fees among the eligible institutions described in Subsection (1)(a)(i).

(e) If the allocation for an eligible institution described in Subsection (1)(a)(ii) is insufficient to provide the amount described in Subsection (2)(b) to each eligible student, the eligible institution may reduce the amount of an Opportunity scholarship.

(4) The board may:

(a) audit an eligible institution's administration of Opportunity scholarships;

(b) require an eligible institution to repay to the board money distributed to the eligible institution under this section that is not provided to an eligible student as an Opportunity scholarship; and

(c) require an eligible institution to enter into a written agreement with the board in which the eligible institution agrees to provide the board with access to information and data necessary for the purposes of the program.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements related to an eligible institution's administration of Opportunity scholarships;

(b) a process for a student to apply to the board to determine the student's eligibility for an Opportunity scholarship;

(c) criteria to determine a student's eligibility for an Opportunity scholarship, including:

(i) minimum secondary education academic performance standards; and

(ii) the completion of a Free Application for Federal Student Aid or a process approved by the board in lieu of the Free Application for Federal Student Aid;

(d) a requirement for each eligible institution to annually report to the board on all Opportunity scholarships awarded by the eligible institution; and

(e) a process for a student to apply to the board for an Opportunity scholarship who would have likely received the scholarship but for an irreconcilable error in the application process described in Subsection (5)(b).

(6) The board shall annually report on the program to the Higher Education Appropriations Subcommittee.

(7) The State Board of Education, a school district, or a public high school shall cooperate with the board and eligible institutions to facilitate the program, including by exchanging relevant data where allowed by law.

Section 5. Section 53B-10-101 is amended to read:

53B-10-101. Terrel H. Bell Teaching Incentive Loans program -- Eligible students -- Cancellation of incentive loans -- Repayment by recipient who fails to meet requirements -- Duration of incentive loans.

(1) (a) Notwithstanding the provisions of this section, the board may not award an incentive loan described in this section on or after July 1, 2019.

(b) The provisions of this section apply to an incentive loan described in this section that was awarded before July 1, 2019.

(2) (a) A Terrel H. Bell Teaching Incentive Loans program is established to recruit and train superior candidates for teaching in Utah's public school system as a component of the teacher quality continuum referred to in Subsections 53E-2-302(7) and 53E-6-103(2)(a).

(b) Under the program, the incentive loans may be used in any of Utah's state-operated institutions of higher education or at a private institution of higher education in Utah that offers a state-approved teacher education program.

(3) (a) The board shall award the incentive loans to college students who have been admitted to, or have made application to and are prepared to enter into, a program preparing students for licensure and who declare an intent to complete the prescribed course of instruction and to teach in this state in accordance with the priorities described under Subsection (6)(c).

(b) The incentive loan may be canceled at any time by the institution of attendance if:

(i) the student fails to make reasonable progress toward completion of licensing requirements; or

(ii) it appears to be a reasonable certainty that the student does not intend to teach in Utah.

(c) The board may grant leaves of absence to incentive loan holders.

(d) The board may establish by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, criteria and procedures under which the board may forgive a loan made under this section.

(4) The board may require an incentive loan recipient who fails to complete the requirements for licensing without good cause to repay all tuition and fees provided by the loan, together with appropriate interest.

(5) (a) The board may require an incentive loan recipient who does not work in the state's public school system or a private school within the state within two years after graduation to repay all tuition and fees provided by the loan, together with appropriate interest, unless waived for good cause.

(b) (i) A recipient who does not teach for a term equal to the number of years of the incentive loan within a reasonable period of time after graduation shall repay a graduated portion of the tuition and fees based upon the uncompleted term.

(ii) One year of teaching is credit for one year's tuition and fees.

(c) All repayments made under this Subsection (5) are for use in the Terrel H. Bell Education Scholarship Program described in Section 53B-8-116.

(6) (a) Each incentive loan is valid for up to four years of full-time equivalent enrollment, or until requirements for licensing or advanced licensing have been met, whichever is less.

(b) (i) Incentive loans apply to both tuition and fees in amounts and are subject to conditions approved by the board, based upon criteria developed to ensure that all recipients of the loans will pursue an education career within the state.

(ii) An incentive loan for tuition and fees at a private institution may not exceed the average scholarship amounts granted for tuition and fees at public institutions of higher education within the state.

(c) Incentive loans shall be awarded in accordance with prioritized critical areas of need for teaching expertise within the state, as determined by the State Board of Education's criticality index and school district priorities based upon data provided by the school district, and may include preparing persons as:

(i) a special education teacher;

(ii) a speech or language pathologist; or

(iii) another licensed professional providing services in the public schools to pupils with disabilities.

Section 6. Section 53B-10-106 is enacted to read:

53B-10-106. Pathways development.

(1) The board shall develop and implement a plan that creates clear educational pathways:

(a) from a technical college described in Subsection 53B-1-102(1)(b) to an institution; and

(b) in course work leading to a qualifying degree or a qualifying job as described in Section 53B-10-203.

(2) The plan shall maximize efficiencies in transferring eared credit and help align academic programs with workforce needs.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board may make rules necessary to establish a plan described in this section.

Section 7. Section 53B-10-201 is amended to read:

Part 2. Talent Development Award Program

53B-10-201. Definitions.

As used in this part:

(1) "Award" means a monetary grant awarded in accordance with Section 53B-10-202.

[~~(1)~~] (2) "Full-time" means the number of credit hours the board determines is full-time enrollment for a student for purposes of the program.

[~~(2)~~] (3) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

[~~(3) "Incentive loan" means a loan described in Section 53B-10-202.~~]

(4) "Institution" means an institution of higher education described in Subsection 53B-1-102 (1)(a).

(5) "Program" means the Talent Development [~~Incentive Loan~~] Award Program created in Section 53B-10-202.

(6) "Qualifying degree" means an associate's or a bachelor's degree that qualifies an individual to work in a qualifying job, as determined by the GO Utah office under Section 53B-10-203.

(7) "Qualifying job" means a job:

(a) described in Section 53B-10-203 for which an individual may receive an [~~incentive loan~~] award for the current two-year period; or

(b) (i) that was selected in accordance with Section 53B-10-203 at the time a recipient received an [~~incentive loan~~] award; and

(ii) (A) for which the recipient is pursuing a qualifying degree;

(B) for which the recipient completed a qualifying degree; or

(C) in which the recipient is working.

(8) "Recipient" means an individual who receives an [~~incentive loan~~] award.

Section 8. Section 53B-10-202 is amended to read:

53B-10-202. Talent Development Award Program.

(1) There is created the Talent Development [~~Incentive Loan~~] Award Program to recruit and train individuals to work in certain jobs that have a high demand for new employees and offer high wages.

(2) Subject to available funds, an institution shall award [~~an incentive loan to~~] an individual who:

[~~(a) is enrolled full time in the institution;~~]

[~~(b) has completed at least:~~]

[~~(i) one semester of full-time equivalent course work if the individual is pursuing an associate's degree; or~~]

[~~(ii) two semesters of full-time equivalent course work if the individual is pursuing a bachelor's degree;~~]

[~~(c)~~] (a) is pursuing or declares an intent to pursue a qualifying degree;

[~~(d)~~] (b) declares an intent to work in a qualifying job described in Subsection 53B-10-201(7)(a) in Utah following graduation;

[~~(e)~~] (c) applies to the institution to receive an [~~incentive loan~~] award; and

[~~(f)~~] (d) meets other criteria determined by the board in the rules described in Section 53B-10-205.

(3) (a) An institution may award [~~an incentive loan to~~] a recipient in an amount up to the cost of resident tuition, fees, and books for the number of credit hours in which the recipient is enrolled each semester.

(b) An institution may award [~~an incentive loan to~~] a recipient for up to the expected amount of time for the recipient to complete the qualifying degree, as determined by the institution.

(c) An institution may cancel an [~~incentive loan~~] award in accordance with the rules described in Section 53B-10-205.

(4) An institution may use money from a partnership with an industry or business for funding or repaying an [~~incentive loan~~] award.

(5) The board may use up to 5% of money appropriated for the program for administration.

Section 9. Section 53B-10-205 is amended to read:

53B-10-205. Rulemaking -- Program administration.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to:

[~~(1)~~] (a) establish an application process for an individual to apply for an [~~incentive loan~~] award;

[~~(2)~~] (b) subject to Section 53B-10-202, establish qualifying criteria for an individual to receive an

[~~incentive loan~~] award, including enrollment status;

(c) establish a process to evaluate applications that prioritizes awards to students who demonstrate financial need;

[~~(3)~~] (d) establish how state funding available for [~~incentive loans~~] awards is divided among institutions;

[~~(4)~~] (e) establish how to determine an amount of money for an [~~incentive loan~~] award;

[~~(5)~~] (f) establish the circumstances under which an institution may[~~:~~] cancel an award; and

[~~(a) cancel an incentive loan; or~~]

[~~(b) waive or delay repayment of an incentive loan; and~~]

[~~(6) administer the program.~~]

(g) require an institution to provide specified information to the board relevant to administering the program.

(2) In administering the program, the board shall use a packaging approach that ensures that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

Section 10. Section 53B-13a-102 is amended to read:

CHAPTER 13A. UTAH PROMISE PROGRAM ACT

53B-13a-102. Definitions.

As used in this chapter:

(1) (a) "Cost of attendance" means the estimated costs associated with attending an institution, as established by the institution in accordance with board policies.

(b) "Cost of attendance" includes costs payable to the institution, other direct educational expenses, transportation, and living expenses while attending the institution.

(2) (a) "Eligible student" means a financially needy student who is:

(i) unconditionally admitted to and enrolled at a Utah postsecondary institution on at least a half-time basis, as defined by the board, in an eligible postsecondary program leading to a defined education or training objective, as defined by the board;

(ii) making satisfactory academic progress, as defined by the institution in published policies or rules, toward an education or training objective; and

(iii) (A) a resident student under Section 53B-8-102 and rules of the board; or

(B) exempt from paying the nonresident portion of total tuition under Section 53B-8-106.

(b) "Eligible student" does not include a graduate student.

(3) "Financially needy student" means a student who demonstrates the financial inability to meet all or a portion of the cost of attendance at an institution for any period of attendance as defined by the board, after considering the student's expected family contribution.

(4) "Fiscal year" means the fiscal year of the state.

(5) "Partner award" means a financial award described in Section 53B-13a-106.

[~~(5)~~] (6) "Program" means the [~~Success Stipend~~] Utah Promise Program.

(7) "Promise partner" means an employer that participates in the program described in Section 53B-13a-106.

[~~(6)~~] (8) "Utah postsecondary institution" or "institution" means:

(a) an institution of higher education listed in Section [~~53B-2-101~~] 53B-1-102; or

(b) a Utah private, nonprofit postsecondary institution that is accredited by a regional accrediting organization recognized by the board.

Section 11. Section 53B-13a-103 is amended to read:

53B-13a-103. Utah Promise Program -- Annual report.

(1) The Legislature finds that:

(a) the prosperity, economic success, and general welfare of the people of Utah and of the state are directly related to the educational levels and skills of the citizens of the state; and

(b) financial assistance, to bridge the gap between a financially needy student's resources and the cost of attendance at a Utah postsecondary institution, is a necessary component for ensuring access to postsecondary education and training.

(2) There is created the [~~Success Stipend~~] Utah Promise Program to provide financial assistance to students [~~who, after utilizing family and personal resources, federal assistance, and scholarships, demonstrate financial need~~].

(3) The board shall annually submit an electronic report to the Higher Education Appropriations Subcommittee regarding the Utah Promise Program.

Section 12. Section 53B-13a-104 is repealed and reenacted to read:

53B-13a-104. Promise grants.

(1) (a) As part of the Utah Promise Program and in accordance with this section, the board shall allocate available money to each institution to use to award promise grants to eligible students to pay the eligible student's cost of attendance.

(b) An eligible student may apply for a promise grant in accordance with procedures established by board rule.

(c) The amount of a promise grant to an eligible student may not exceed the amount equal to the difference between:

(i) the eligible student's cost of attendance; and

(ii) the total value of other financial aid that the eligible student receives toward the eligible student's cost of attendance.

(d) An eligible student may transfer a promise grant to one or more other institutions.

(2) In administering this section, the board shall use a packaging approach that ensures that institutions combine loans, grants, employment, and family and individual contributions toward financing the cost of attendance.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that board shall make rules establishing:

(a) an application process;

(b) eligibility criteria, including:

(i) criteria related to academic achievement and enrollment status; and

(ii) a requirement that an applicant demonstrate completion of the Free Application for Federal Student Aid, unless the student or the student's parent opts out in accordance with board rule;

(c) how a student demonstrates financial need;

(d) a process to defer a promise grant;

(e) a formula to determine the allocation of money to institutions in accordance with Subsection (1), taking into account:

(i) the cost of attendance for programs offered by institutions; and

(ii) the number of eligible students who attend each institution; and

(f) a methodology for prioritizing award of promise grants based primarily on financial need.

(4) After an institution awards a promise grant to an eligible student, the institution shall continue to award a promise grant to the eligible student:

(a) until the earlier of:

(i) two years after the eligible student first receives a promise grant; or

(ii) after the eligible student uses a promise grant to attend an institution for four semesters; and

(b) provided the eligible student continues to meet the eligibility criteria.

(5) The board or an institution may not represent to a recipient or a potential recipient of a promise grant that promise grants will remain available in perpetuity.

(6) (a) The board may require an institution to enter into a participation agreement before the institution may award promise grants.

(b) In a participation agreement, the board shall include a requirement that the institution:

(i) provide to the board information necessary to administer the promise grants;

(ii) comply with this section and board rules related to the promise grants;

(iii) submit reports related to the promise grants as required by board rule; and

(iv) cooperate in any review or financial audit related to the promise grants that the board determines necessary.

(7) (a) The board may use up to 2% of the money appropriated for promise grants for costs related to administering the promise grants.

(b) An institution may use up to 3% of the money the institution receives for promise grants for costs related to administering the promise grants.

Section 13. Section 53B-13a-106, which is renumbered from Section 53B-8-304 is renumbered and amended to read:

[~~53B-8-304~~]. 53B-13a-106. Utah promise partners.

(1) [~~In~~] As part of the Utah Promise Program and in consultation with the Talent Ready Utah Program created in Section 63N-1b-302, [~~and in accordance with Subsection (2),~~] the board [~~shall~~] may select employers to be promise partners.

(2) The board may select an employer as a promise partner if the employer:

(a) applies to the board to be a promise partner; and

(b) meets other requirements established by the board in the rules described in Subsection (5).

(3) An individual employed by a promise partner is eligible to receive a partner award if the individual:

(a) applies for a partner award;

(b) is admitted to and enrolled in an institution;

[~~(c) is a Utah resident;~~]

[~~(d) does not have an associate or higher postsecondary degree;~~]

[~~(e)~~] (c) meets requirements established by the promise partner related to a partner award; and

[~~(f)~~] (d) maintains the eligibility requirements described in this Subsection (3) for the full length of time the individual receives the partner award.

(4) (a) Subject to legislative appropriations and Subsection (4)(b), the board shall award a partner award to an individual who meets the requirements described in Subsection (3).

(b) The board may:

(i) award a partner award for up to the portion of tuition and fees for a program at an institution that is not covered by an employer reimbursement described in Subsection (5)(b); and

(ii) prioritize awarding partner awards if an appropriation for partner awards is not sufficient to provide a partner award to each individual who is eligible under Subsection (3).

(c) The board may continue to award a partner award to a recipient who meets the requirements described in Subsection (3) until the earliest of the following:

(i) two years after the individual initially receives a partner award;

(ii) the recipient uses a partner award to attend an institution for four semesters;

(iii) the recipient completes the requirements for an associate degree; or

(iv) if the recipient attends an institution that does not offer associate degrees, the recipient has 60 earned credit hours.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules that establish:

(a) requirements for an employer to seek and receive approval from the board for the employer's employees to receive partner awards;

(b) requirements related to an employer providing reimbursement to an employee who receives a partner award for a portion of the employee's tuition and fees;

(c) a process for an individual to apply for a partner award;

(d) criteria for the board to prioritize awarding partner awards to individuals; and

(e) a requirement that an institution shall, for a recipient of a partner award:

(i) evaluate the recipient's knowledge, skills, and competencies acquired through formal or informal education outside the traditional postsecondary academic environment; and

(ii) award credit, as applicable, for the recipient's prior learning described in Subsection (5)(e)(i).

(6) The board may allow an individual to apply directly to the board for a partner award.

Section 14. Section 63G-12-402 is amended to read:

63G-12-402. Receipt of state, local, or federal public benefits -- Verification -- Exceptions -- Fraudulently obtaining benefits -- Criminal penalties -- Annual report.

(1) (a) Except as provided in Subsection (3) or when exempted by federal law, an agency or political subdivision of the state shall verify the lawful presence in the United States of an individual at least 18 years of age who applies for:

(i) a state or local public benefit as defined in 8 U.S.C. Sec. 1621; or

(ii) a federal public benefit as defined in 8 U.S.C. Sec. 1611, that is administered by an agency or political subdivision of this state.

(b) For purpose of a license issued under Title 58, Chapter 55, Utah Construction Trades Licensing Act, to an applicant that is an unincorporated entity, the Department of Commerce shall verify in accordance with this Subsection (1) the lawful presence in the United States of each individual who:

(i) owns an interest in the contractor that is an unincorporated entity; and

(ii) engages, or will engage, in a construction trade in Utah as an owner of the contractor described in Subsection (1)(b)(i).

(2) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(3) Verification of lawful presence under this section is not required for:

(a) any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) assistance for health care items and services that:

(i) are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Sec. 1396b(v)(3), of the individual involved; and

(ii) are not related to an organ transplant procedure;

(c) short-term, noncash, in-kind emergency disaster relief;

(d) public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by the communicable disease;

(e) programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter, specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(i) deliver in-kind services at the community level, including through public or private nonprofit agencies;

(ii) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(iii) are necessary for the protection of life or safety;

(f) the exemption for paying the nonresident portion of total tuition as set forth in Section 53B-8-106;

(g) an applicant for a license under Section 61-1-4, if the applicant:

(i) is registered with the Financial Industry Regulatory Authority; and

(ii) files an application with the state Division of Securities through the Central Registration Depository;

(h) a state public benefit to be given to an individual under Title 49, Utah State Retirement and Insurance Benefit Act;

(i) a home loan that will be insured, guaranteed, or purchased by:

(i) the Federal Housing Administration, the Veterans Administration, or any other federal agency; or

(ii) an enterprise as defined in 12 U.S.C. Sec. 4502;

(j) a subordinate loan or a grant that will be made to an applicant in connection with a home loan that does not require verification under Subsection (3)(i);

(k) an applicant for a license issued by the Department of Commerce or individual described in Subsection (1)(b), if the applicant or individual provides the Department of Commerce:

(i) certification, under penalty of perjury, that the applicant or individual is:

(A) a United States citizen;

(B) a qualified alien as defined in 8 U.S.C. Sec. 1641; or

(C) lawfully present in the United States; and

(ii) (A) the number assigned to a driver license or identification card issued under Title 53, Chapter 3, Uniform Driver License Act; or

(B) the number assigned to a driver license or identification card issued by a state other than Utah if, as part of issuing the driver license or identification card, the state verifies an individual's lawful presence in the United States; and

(l) an applicant for:

(i) an Opportunity scholarship described in Title 53B, Chapter 8, Part 2, Regents' Scholarship Program;

(ii) a New Century scholarship described in Section 53B-8-105;

(iii) a promise [~~scholarship described in Section 53B-8-303~~] grant described in Section 53B-13a-104; or

(iv) a scholarship:

(A) for an individual who is a graduate of a high school located within Utah; and

(B) administered by an institution of higher education as defined in Section 53B-2-101.

(4) (a) An agency or political subdivision required to verify the lawful presence in the United States of an applicant under this section shall require the applicant to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is:

(A) a qualified alien as defined in 8 U.S.C. Sec. 1641; and

(B) lawfully present in the United States.

(b) The certificate required under this Subsection (4) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

(5) An agency or political subdivision shall verify a certification required under Subsection (4)(a)(ii) through the federal SAVE program.

(6) (a) An individual who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in a certification under Subsection (3)(k) or (4) is subject to the criminal penalties applicable in this state for:

(i) making a written false statement under Subsection 76-8-504(2); and

(ii) fraudulently obtaining:

(A) public assistance program benefits under Sections 76-8-1205 and 76-8-1206; or

(B) unemployment compensation under Section 76-8-1301.

(b) If the certification constitutes a false claim of United States citizenship under 18 U.S.C. Sec. 911, the agency or political subdivision shall file a complaint with the United States Attorney General for the applicable district based upon the venue in which the application was made.

(c) If an agency or political subdivision receives verification that a person making an application for a benefit, service, or license is not a qualified alien, the agency or political subdivision shall provide the information to the Office of the Attorney General unless prohibited by federal mandate.

(7) An agency or political subdivision may adopt variations to the requirements of this section that:

(a) clearly improve the efficiency of or reduce delay in the verification process; or

(b) provide for adjudication of unique individual circumstances where the verification procedures in this section would impose an unusual hardship on a legal resident of Utah.

(8) It is unlawful for an agency or a political subdivision of this state to provide a state, local, or federal benefit, as defined in 8 U.S.C. Sec. 1611 and 1621, in violation of this section.

(9) A state agency or department that administers a program of state or local public benefits shall:

(a) provide an annual report to the governor, the president of the Senate, and the speaker of the House regarding its compliance with this section; and

(b) (i) monitor the federal SAVE program for application verification errors and significant delays;

(ii) provide an annual report on the errors and delays to ensure that the application of the federal SAVE program is not erroneously denying a state or local benefit to a legal resident of the state; and

(iii) report delays and errors in the federal SAVE program to the United States Department of Homeland Security.

Section 15. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

[~~(1) Section 53-1-106.1 is repealed January 1, 2022.~~]

[~~(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.~~]

[~~(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.~~]

[~~(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.~~]

[~~(4)~~] (1) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

[~~(5)~~] (2) Section 53B-6-105.7 is repealed July 1, 2024.

[~~(6) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.~~]

[~~(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.~~]

[~~(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.~~]

[~~(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.~~]

[~~(8)~~] (3) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

[~~(9)~~] (4) Section 53B-8-114 is repealed July 1, 2024.

[~~(10)~~] (5) The following [~~sections~~] provisions, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) in Subsection 53B-8-105(12), the language that states, "or any scholarship established under Sections 53B-8-202 through 53B-8-205";

[~~(a)~~] (b) Section 53B-8-202;

[~~(b)~~] (c) Section 53B-8-203;

[~~(c)~~] (d) Section 53B-8-204; and

[~~(d)~~] (e) Section 53B-8-205.

[~~(11)~~] (6) Section 53B-10-101 is repealed on July 1, 2027.

[~~(12)~~] (7) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

[~~(13)~~] (8) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

[~~(14) Section 53E-3-520 is repealed July 1, 2021.~~]

[~~(15)~~] (9) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

[~~(16)~~] (10) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(17)~~] (11) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

[~~(18)~~] (12) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

[~~(19)~~] (13) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

[~~(20)~~] (14) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

[~~(21) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.~~]

[~~(22)~~] (15) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (16) Section 53F-4-207 is repealed July 1, 2022.

[~~(24)~~] (17) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(25)~~] (18) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(26)~~] (19) Subsection 53F–4–404(4)(d) is repealed July 1, 2022.

[~~(27)~~] (20) In Subsection 53F–9–302(3), the language that states "or 53F–2–301.5, as applicable" is repealed July 1, 2023.

[~~(28)~~] (21) In Subsection 53F–9–305(3)(a), the language that states "or 53F–2–301.5, as applicable" is repealed July 1, 2023.

[~~(29)~~] (22) In Subsection 53F–9–306(3)(a), the language that states "or 53F–2–301.5, as applicable" is repealed July 1, 2023.

[~~(30)~~] (23) In Subsection 53G–3–304(1)(c)(i), the language that states "or 53F–2–301.5, as applicable" is repealed July 1, 2023.

[~~(31)~~] (24) Subsections 53G–10–204(1)(c) through (e), and Subsection 53G–10–204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(32)~~] (25) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36–12–12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 16. Section 64-13e-102 is amended to read:

64-13e-102. Definitions.

As used in this chapter:

(1) "Actual county daily incarceration rate" means the median amount of jail daily incarceration costs based on the data submitted by counties in accordance with Section 64–13e–104(6)(b).

(2) "Actual state daily incarceration rate" means the average daily incarceration rate, calculated by the department based on the previous three fiscal years, that reflects the following expenses incurred by the department for housing an inmate:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(3) "Alternative treatment" means:

(a) evidence-based cognitive behavioral therapy; or

(b) a certificate-based program provided by [~~a Utah technical college, as defined in Section 53B–26–102.~~]:

(i) an institution of higher education described in Subsection 53B–1–102(1)(b); or

(ii) a degree-granting institution acting in the degree-granting institution's technical education role described in Section 53B–2a–201.

(4) "Annual inmate jail days" means the total number of state probationary inmates housed in a county jail each day for the preceding fiscal year.

(5) "CCJJ" means the Utah Commission on Criminal and Juvenile Justice, created in Section 63M–7–201.

(6) "Department" means the Department of Corrections.

(7) "Division of Finance" means the Division of Finance, created in Section 63A–3–101.

(8) "Final county daily incarceration rate" means the amount equal to:

(a) the amount appropriated by the Legislature for the purpose of making payments to counties under Section 64–13e–104; divided by

(b) the average annual inmate jail days for the preceding five fiscal years.

(9) "Jail daily incarceration costs" means the following daily costs incurred by a county jail for housing a state probationary inmate on behalf of the department:

(a) executive overhead;

(b) administrative overhead;

(c) transportation overhead;

(d) division overhead; and

(e) motor pool expenses.

(10) "State inmate" means an individual, other than a state probationary inmate or state parole inmate, who is committed to the custody of the department.

(11) "State parole inmate" means an individual who is:

(a) on parole, as defined in Section 77–27–1; and

(b) housed in a county jail for a reason related to the individual's parole.

(12) "State probationary inmate" means a felony probationer sentenced to time in a county jail under Subsection 77–18–105(6).

(13) "Treatment program" means:

(a) an alcohol treatment program;

(b) a substance abuse treatment program;

(c) a sex offender treatment program; or

(d) an alternative treatment program.

Section 17. Repealer.

This bill repeals:

Section 53B-8-301, Definitions.

Section 53B-8-302, Access Utah Promise Scholarship Program.

Section 53B-8-303, Access Utah promise scholarships.

Section 53B-10-204, Repayment of an incentive loan.

Section 53B-11-104, Eligibility for student financial aid -- Filing of selective service status.

Section 53B-13a-101, Title.

Section 53B-13a-105, Disbursal of financial aid -- Additional resources.

Section 53B-26-101, Title.

Section 53B-26-102, Definitions.

Section 53B-26-103, GO Utah office reporting requirement -- Proposals -- Funding.

Section 18. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Board of Higher Education – Administration

From Education Fund	$718,000
Schedule of Programs:	
Administration	$718,000

The Legislature intends that the Utah Board of Higher Education use the appropriation provided under this section to pay for up to six full–time positions, including related costs, for the purpose of implementing the educational pathways plan described in Section 53B–10–106.

CHAPTER 371
H. B. 357

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

EMINENT DOMAIN APPRAISAL AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill modifies the requirements for making a settlement offer before an eminent domain trial.

Highlighted Provisions:

This bill:

- requires a plaintiff to obtain an additional appraisal of a property before making a settlement offer if more than 90 days have passed since an earlier appraisal; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-6-509, as last amended by Laws of Utah 2010, Chapter 26

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-509 is amended to read:

78B-6-509. Powers of court or judge -- Settlement offer -- Litigation expenses.

(1) As used in this section, "litigation expenses" means costs necessary to prepare for and conduct a trial, including:

(a) court costs;

(b) expert witness fees;

(c) appraisal fees, except plaintiff's fees related to the additional appraisal described in Subsection (3)(b); and

(d) reasonable attorney fees.

(2) The court shall have the power to:

(a) hear and determine all adverse or conflicting claims to the property sought to be condemned, and the damages; and

(b) determine the respective rights of different parties seeking condemnation of the same property.

(3) (a) A plaintiff described in Subsection 78B-6-507(1)(a) may make a settlement offer for purposes of this Subsection (3) at any time:

(i) following the close of discovery as ordered by the court, but no later than 60 days before the first day of trial; or

(ii) if no order setting the close of discovery exists:

(A) more than nine months from the day that the complaint is filed; and

(B) no later than 60 days before the first day of trial.

(b) If more than 90 days has passed after an appraisal of the property sought to be condemned as described in Subsection 78B-6-510(3) and no additional appraisal has been obtained related to a mediation or arbitration under Section 78B-6-522, or if an appraisal has been obtained related to a mediation or arbitration under Section 78B-6-522 and more than 90 days has passed since that appraisal, before making a settlement offer described in Subsection (3)(a), the plaintiff shall unless waived in writing by the defendant:

(i) obtain an additional appraisal of the property sought to be condemned:

(A) at the plaintiff's expense; and

(B) that uses a valuation date no more than 120 days before the trial date; and

(ii) use the appraisal with the higher value as part of determining just compensation for the settlement offer.

[~~(b)~~] (c) Subject to Subsection (3)[~~(c)~~](d), an offer under Subsection (3)(a) shall:

(i) be in writing;

(ii) be served in accordance with Rule 5, Utah Rules of Civil Procedure, on each defendant to whom the offer is addressed;

(iii) be an offer made:

(A) to the defendant; or

(B) if more than one defendant, jointly to all defendants who have appeared in the case and have not been dismissed;

(iv) state that the offer is being made under Subsection (3)(a); and

(v) specify the amount, less interest and litigation expenses, that the plaintiff is willing to agree is the total just compensation to which the defendant is or defendants jointly are entitled to receive for the property identified in the pending action.

[~~(c)~~] (d) An offer described in Subsection (3)(a) may not be filed with the court unless accepted or in connection with a motion for the award of litigation expenses following trial.

[~~(d)~~] (e) (i) Unless an offer provides a time for the offer to expire, an offer under Subsection (3)(a) shall expire and be deemed rejected 45 days after service.

(ii) An offer that expires or is rejected under Subsection (3)(d)(i):

(A) is not admissible in evidence; and

(B) may not be referred to at trial.

(f) Each appraisal described in Subsection (3)(b), including the contents of each appraisal:

(i) are not admissible in evidence; and

(ii) may not be referred to at trial.

(4) (a) A defendant who receives an offer under Subsection (3)(a) may accept the offer by serving an acceptance of the offer, prior to its expiration, in accordance with Rule 5, Utah Rules of Civil Procedure.

(b) If there is more than one defendant, defendants may accept the offer by serving a joint acceptance of the offer, prior to its expiration, in accordance with Rule 5, Utah Rules of Civil Procedure.

(c) Any party may file with the court an offer made under Subsection (3)(a) together with its acceptance made under Subsection (4)(b).

(d) A plaintiff is entitled to a final judgment of condemnation as prayed for in the complaint upon paying to the defendant or defendants, or depositing with the court clerk for the benefit of the defendants:

(i) the amount of total just compensation agreed to in the offer accepted as described in Subsection (4)(a); and

(ii) any interest due as provided by law.

(e) If there are multiple defendants, the court shall, upon application filed by a defendant, determine each defendant's respective share of the settlement amount.

(5) (a) A defendant described in Subsection 78B-6-507(1)(b), or if there is more than one defendant that has appeared in the case and has not been dismissed, then all defendants jointly, may make an offer under this Subsection (5):

(i) within 30 days after they receive an offer from the plaintiff under Subsection (3)(a); or

(ii) if the plaintiff does not make an offer under Subsection (3)(a), any time following close of discovery as ordered by the court, but not later than 45 days before the first day of trial.

(b) An offer described in Subsection (5)(a) shall:

(i) be in writing;

(ii) be served in accordance with Rule 5, Utah Rules of Civil Procedure;

(iii) (A) be made on behalf of the defendant; or

(B) if there are multiple defendants, the offer shall be made by and on behalf of all defendants jointly who have appeared in the action and have not been dismissed;

(iv) state that the offer is being made under Subsection (5)(a); and

(v) specify the amount, less interest and litigation expenses, that the defendant or defendants jointly are willing to agree is the total just compensation to which the defendant is or defendants jointly are entitled to receive for the property identified in the pending action.

(c) An offer described in Subsection (5)(a) may not be filed with the court unless accepted or in connection with a motion for the award of litigation expenses following trial.

(d) An offer of settlement made by less than all defendants that have appeared in the case and have not been dismissed:

(i) is not an offer under Subsection (5)(a); and

(ii) may not be a basis for awarding litigation expenses under Subsection (7).

(e) (i) Unless an offer provides a time for the offer to expire, an offer under Subsection (5)(a) shall expire and be deemed rejected 21 days after service.

(ii) An offer that expires or is rejected under Subsection (5)(e)(i) is not admissible in evidence and may not be referred to at trial.

(6) (a) A plaintiff who receives an offer under Subsection (5)(a) may accept the offer by serving an acceptance of the offer, prior to its expiration, in accordance with Rule 5, Utah Rules of Civil Procedure.

(b) Any party may file with the court an offer made under Subsection (5)(a) together with its acceptance made under Subsection (6)(a).

(c) A plaintiff is entitled to a final judgment of condemnation as prayed for in the complaint upon paying to the defendant or defendants, or depositing with the court clerk for the benefit of the defendants:

(i) the amount of total just compensation agreed to in the offer accepted as described in Subsection (6)(a); and

(ii) any interest due as provided by law.

(d) If there are multiple defendants, the court shall, upon application filed by a defendant, determine each defendant's respective share of the settlement amount.

(7) (a) Subject to Subsection (7)(b), if the total just compensation awarded to a defendant or defendants, less interest and litigation expenses, is greater than the amount of total just compensation specified in the last settlement offer made by a defendant or defendants under Subsection (5)(a), the court shall award the defendant or defendants litigation expenses not to exceed 1/3 of the amount by which the award of just compensation exceeds the amount offered in the last settlement offer under Subsection (5)(a).

(b) An award under Subsection (7)(a) may not exceed:

(i) if there is one defendant in the case, $50,000; or

(ii) if there are multiple defendants in the case, $100,000 total.

(c) The court shall include any amounts awarded under Subsection (7)(a) in the judgment awarding compensation.

(8) (a) Subject to Subsection (8)(b), if the total just compensation awarded to a defendant or

defendants, less interest and litigation expenses, is less than the amount of total just compensation specified in the last settlement offer made by a plaintiff under Subsection (3)(a), the court shall award the plaintiff litigation expenses not to exceed 1/3 of the amount by which the last offer of settlement made under Subsection (3)(a) exceeds the total just compensation awarded.

(b) An award under Subsection (8)(a) may not exceed $50,000.

(c) The court shall reduce the judgment awarding just compensation by the amount of litigation expenses awarded to the plaintiff under Subsection (8)(a).

(9) If the total just compensation awarded to a defendant, less interest or litigation expenses, is between an offer made by a plaintiff under Subsection (3)(a) and an offer made by the defendant under Subsection (5)(a), the court may not award litigation expenses to either plaintiff or a defendant.

(10) (a) If a plaintiff does not make an offer under Subsection (3)(a), the court may not award:

(i) the plaintiff litigation expenses; or

(ii) the defendant litigation expenses more than the defendant's last offer under Subsection (5)(a), if the defendant made an offer under Subsection (5)(a).

(b) If a defendant does not make an offer under Subsection (5)(a), the court may not award:

(i) the defendant litigation expenses; or

(ii) the plaintiff litigation expenses more than the plaintiff's last offer under Subsection (3)(a), if the plaintiff made an offer under Subsection (3)(a).

(11) A claim for attorney fees under this section must be supported by an hourly billing statement.

(12) Subsections (3) through (10) do not apply to an action filed before July 1, 2010.

CHAPTER 372
H. B. 359

Passed March 2, 2022
Approved March 24, 2022
Effective July 1, 2022

EVICTION RECORDS AMENDMENTS

Chief Sponsor: Marsha Judkins
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill addresses the expungement of eviction records.

Highlighted Provisions:

This bill:

- addresses a stipulation by the parties of an eviction to expungement;
- defines terms relating to the expungement of eviction records;
- addresses the automatic expungement of certain evictions;
- addresses the expungement of certain evictions by petition; and
- addresses the distribution and effect of an order for expungement of an eviction.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

78B-6-850, Utah Code Annotated 1953
78B-6-851, Utah Code Annotated 1953
78B-6-852, Utah Code Annotated 1953
78B-6-853, Utah Code Annotated 1953
78B-6-854, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-6-850 is enacted to read:

Part 8. Expungement of Eviction Records

78B-6-850. Definitions.

As used in this part:

(1) "Agency" means a state, county, or local government entity that generates or maintains records relating to an unlawful detainer action.

(2) "Eviction" means a cause of action for unlawful detainer under Part 8, Forcible Entry and Detainer.

(3) "Expunge" means to seal or otherwise restrict access to records held by a court or an agency.

(4) "Petitioner" means any person petitioning for expungement of an eviction under this section.

(5) (a) "Tenant screening agency" means a person that, for a fee, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating information for the purpose of furnishing a tenant screening report.

(b) "Tenant screening agency" does not include an owner as defined in Section 78B-6-801.

(6) "Tenant screening report" means any written, oral, or other communication prepared by a tenant screening agency that includes information about an individual's rental history for the purpose of serving as a factor in establishing the individual's eligibility for housing.

(7) "Unlawful detainer" means the same as that term is defined in Section 78B-6-801.

Section 2. Section 78B-6-851 is enacted to read:

78B-6-851. Stipulation to expungement by parties.

All parties to an eviction may stipulate in a settlement agreement to the expungement of an eviction.

Section 3. Section 78B-6-852 is enacted to read:

78B-6-852. Automatic expungement of eviction.

(1) (a) Without the filing of a petition, a court shall order expungement of all records of an eviction if:

(i) the entire case was dismissed;

(ii) there is no appeal pending for the case; and

(iii) at least three years have passed from the day on which the eviction was filed; or

(b) the parties to the eviction stipulated to expungement and have filed a stipulation with the court.

(2) The court shall issue an order of expungement when the court determines that an eviction qualifies for automatic expungement under Subsection (1).

(3) This section applies to evictions filed on or after July 1, 2022.

Section 4. Section 78B-6-853 is enacted to read:

78B-6-853. Expungement by petition for eviction.

(1) Any party to an eviction may petition the court to expunge all records of the eviction if:

(a) the eviction was for:

(i) remaining after the end of the lease as described in Subsection 78B-6-802(1)(a); or

(ii) the nonpayment of rent as described in Subsection 78B-6-802(1)(c); and

(b) any judgment for the eviction has been satisfied and a satisfaction of judgment has been filed for the judgment.

(2) A petitioner shall file a petition and provide notice to any other party to the eviction in accordance with the Utah Rules of Civil Procedure.

(3) (a) Any party to the eviction may file a written objection to the petition with the court.

(b) If the court receives a written objection to the petition, the court may not expunge the eviction.

(4) Except as provided in Subsection (5), the court shall order expungement of all records of the eviction if the court does not receive a written objection within 60 days from the day on which the petition is filed.

(5) A court may not expunge an eviction if the judgment for the eviction has not been satisfied.

Section 5. Section 78B-6-854 is enacted to read:

78B-6-854. Notice of expunged eviction -- Tenant screening agency -- Effect of expungement.

(1) (a) The Administrative Office of the Courts shall publish a list on the Utah Courts' website that provides notice of any eviction expunged under this section.

(b) Within 30 days from the day on which an expunged eviction is listed on the Utah Courts' website as described in Subsection (1)(a):

(i) an agency shall expunge any record of the expunged eviction in the custody of the agency; and

(ii) a tenant screening agency shall remove the expunged eviction from any database used by the tenant screening agency.

(2) If an eviction is expunged under this part, a tenant screening agency may not:

(a) disclose the eviction in a tenant screening report pertaining to an individual for whom the eviction has been expunged; or

(b) use the eviction as a factor in determining any score or recommendation in a tenant screening report pertaining to the individual for whom the eviction has been expunged.

(3) Upon entry of an expungement order by a court under this part:

(a) the eviction is considered to never have occurred; and

(b) the individual for whom the eviction is expunged may reply to an inquiry on the matter as though there was never an eviction.

(4) (a) Except as provided in Subsection (1)(b), a court, an agency, a tenant screening agency, or an employee of a court, agency, or tenant screening agency, may not disclose any eviction to, or share any information in a record of an eviction with, a person if the eviction has been expunged under this part.

(b) An expunged record under this part may be released to, or viewed by, a party to the eviction.

Section 6. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 373
H. B. 360

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

TITLE 39A - NATIONAL GUARD AND MILITIA ACT

Chief Sponsor: Val L. Peterson
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill recodifies Title 39, Militias and Armories, as Title 39A, National Guard and Militia Act.

Highlighted Provisions:

This bill:

- restructures Title 39, Militias and Armories, into Title 39A, National Guard and Militia Act;
- creates the following new chapters:
  - Chapter 1, Utah National Guard and Militia Act;
  - Chapter 2, State Armory Board;
  - Chapter 3, Utah National Guard;
  - Chapter 4, Utah State Defense Force;
  - Chapter 5, Utah Code of Military Justice;
  - Chapter 6, Utah Service Members Civil Relief Act;
  - Chapter 7, Morale, Welfare, and Recreation Program; and
  - Chapter 8, West Traverse Sentinel Landscape Act;
- clarifies that the State Defense Force is not subject to federal activation;
- specifies qualifications for the adjutant general and staff;
- removes outdated language and provisions; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

31A-22-508, as enacted by Laws of Utah 1985, Chapter 242
53-2a-603, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20
59-12-104, as last amended by Laws of Utah 2021, Chapters 280 and 367
76-5-102.4, as last amended by Laws of Utah 2017, Chapters 62 and 123
78B-20-302, as enacted by Laws of Utah 2016, Chapter 292
78B-20-311, as enacted by Laws of Utah 2016, Chapter 292

ENACTS:

39A-1-101, Utah Code Annotated 1953
39A-1-102, Utah Code Annotated 1953
39A-1-203, Utah Code Annotated 1953
39A-2-104, Utah Code Annotated 1953
39A-3-101, Utah Code Annotated 1953
39A-3-104, Utah Code Annotated 1953
39A-3-105, Utah Code Annotated 1953
39A-3-106, Utah Code Annotated 1953
39A-3-109, Utah Code Annotated 1953
39A-5-201, Utah Code Annotated 1953
39A-6-102, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

39A-1-201, (Renumbered from 39-1-12, as last amended by Laws of Utah 2018, Chapter 131)
39A-1-202, (Renumbered from 39-1-23, Utah Code Annotated 1953)
39A-2-101, (Renumbered from 39-2-1, as last amended by Laws of Utah 2010, Chapter 286)
39A-2-102, (Renumbered from 39-2-2, as last amended by Laws of Utah 2021, Chapter 89)
39A-2-103, (Renumbered from 39-2-9, Utah Code Annotated 1953)
39A-3-102, (Renumbered from 39-1-3, as last amended by Laws of Utah 2018, Chapter 131)
39A-3-103, (Renumbered from 39-1-9, as last amended by Laws of Utah 1988, Chapter 210)
39A-3-107, (Renumbered from 39-1-51, as last amended by Laws of Utah 2021, Chapter 123)
39A-3-108, (Renumbered from 39-1-47, Utah Code Annotated 1953)
39A-3-110, (Renumbered from 39-1-40.5, as last amended by Laws of Utah 2015, Chapter 70)
39A-3-111, (Renumbered from 39-1-50, as last amended by Laws of Utah 2013, Chapter 237)
39A-3-201, (Renumbered from 39-1-63, as last amended by Laws of Utah 2015, Chapter 65)
39A-3-202, (Renumbered from 39-1-65, as enacted by Laws of Utah 2019, Chapter 299)
39A-3-203, (Renumbered from 39-1-59, as repealed and reenacted by Laws of Utah 2016, Chapter 96)
39A-3-204, (Renumbered from 39-1-59.5, as enacted by Laws of Utah 2016, Chapter 96)
39A-4-101, (Renumbered from 39-1-1, as last amended by Laws of Utah 2018, Chapter 131)
39A-4-102, (Renumbered from 39-4-1, as last amended by Laws of Utah 1988, Chapter 210)
39A-4-103, (Renumbered from 39-4-9, Utah Code Annotated 1953)
39A-4-104, (Renumbered from 39-4-11, as last amended by Laws of Utah 1988, Chapter 210)
39A-4-105, (Renumbered from 39-4-10, as last amended by Laws of Utah 1988, Chapter 210)
39A-4-106, (Renumbered from 39-4-3, as last amended by Laws of Utah 1988, Chapter 210)

39A-4-107, (Renumbered from 39-4-8, Utah Code Annotated 1953)
39A-4-108, (Renumbered from 39-4-5, Utah Code Annotated 1953)
39A-4-109, (Renumbered from 39-4-12, as last amended by Laws of Utah 1988, Chapter 210)
39A-4-110, (Renumbered from 39-4-7, Utah Code Annotated 1953)
39A-4-111, (Renumbered from 39-4-4, Utah Code Annotated 1953)
39A-4-112, (Renumbered from 39-1-8, Utah Code Annotated 1953)
39A-5-101, (Renumbered from 39-6-1, as last amended by Laws of Utah 2015, Chapter 70)
39A-5-102, (Renumbered from 39-6-2, as last amended by Laws of Utah 2015, Chapters 70 and 83)
39A-5-103, (Renumbered from 39-6-6, as last amended by Laws of Utah 2008, Chapter 287)
39A-5-104, (Renumbered from 39-6-3, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-105, (Renumbered from 39-6-5, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-106, (Renumbered from 39-6-40, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9)
39A-5-107, (Renumbered from 39-6-7, as last amended by Laws of Utah 1989, Chapter 15)
39A-5-108, (Renumbered from 39-6-8, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-109, (Renumbered from 39-6-4, as last amended by Laws of Utah 2018, Chapter 131)
39A-5-110, (Renumbered from 39-6-9, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-111, (Renumbered from 39-6-10, as last amended by Laws of Utah 1989, Chapter 15)
39A-5-112, (Renumbered from 39-6-11, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9)
39A-5-113, (Renumbered from 39-6-12, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-114, (Renumbered from 39-6-23, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-115, (Renumbered from 39-6-24, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-116, (Renumbered from 39-6-26, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-117, (Renumbered from 39-6-27, as last amended by Laws of Utah 2008, Chapter 287)
39A-5-118, (Renumbered from 39-6-28, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-119, (Renumbered from 39-6-114, as repealed and reenacted by Laws of Utah 2018, Chapter 131)
39A-5-202, (Renumbered from 39-6-15, as last amended by Laws of Utah 2015, Chapter 70)
39A-5-203, (Renumbered from 39-6-16, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-204, (Renumbered from 39-6-109, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-205, (Renumbered from 39-6-108, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-206, (Renumbered from 39-6-20, as last amended by Laws of Utah 2008, Chapter 287)
39A-5-207, (Renumbered from 39-1-41.5, as last amended by Laws of Utah 1996, Chapter 198)
39A-5-208, (Renumbered from 39-6-19, as last amended by Laws of Utah 1989, Chapter 15)
39A-5-209, (Renumbered from 39-6-30, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-210, (Renumbered from 39-6-31, as last amended by Laws of Utah 1993, Chapter 110)
39A-5-211, (Renumbered from 39-6-29, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-212, (Renumbered from 39-6-35, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-213, (Renumbered from 39-6-34, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-214, (Renumbered from 39-6-22, as last amended by Laws of Utah 1989, Chapter 15)
39A-5-215, (Renumbered from 39-6-33, as last amended by Laws of Utah 1989, Chapter 15)
39A-5-216, (Renumbered from 39-6-32, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-217, (Renumbered from 39-6-38, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-218, (Renumbered from 39-6-41, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-219, (Renumbered from 39-6-39, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-220, (Renumbered from 39-6-42, as last amended by Laws of Utah 1989, Chapter 15)
39A-5-221, (Renumbered from 39-6-43, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-222, (Renumbered from 39-6-44, as enacted by Laws of Utah 1988, Chapter 210)
39A-5-223, (Renumbered from 39-6-45, as last amended by Laws of Utah 1989, Chapter 15)

39A-5-224, (Renumbered from 39-6-46, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-225, (Renumbered from 39-6-52, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-226, (Renumbered from 39-6-47, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-227, (Renumbered from 39-6-53, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-228, (Renumbered from 39-6-54, as last amended by Laws of Utah 2008, Chapter 287)

39A-5-229, (Renumbered from 39-6-55, as last amended by Laws of Utah 1989, Chapter 15)

39A-5-230, (Renumbered from 39-6-56, as last amended by Laws of Utah 1989, Chapter 15)

39A-5-231, (Renumbered from 39-6-58, as last amended by Laws of Utah 2008, Chapter 287)

39A-5-232, (Renumbered from 39-6-59, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-233, (Renumbered from 39-6-61, as last amended by Laws of Utah 1994, Chapter 12)

39A-5-234, (Renumbered from 39-6-62, as last amended by Laws of Utah 1989, Chapter 15)

39A-5-235, (Renumbered from 39-6-37, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-236, (Renumbered from 39-6-63, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-237, (Renumbered from 39-6-64, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9)

39A-5-238, (Renumbered from 39-6-65, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9)

39A-5-239, (Renumbered from 39-6-107, as last amended by Laws of Utah 1993, Chapter 110)

39A-5-301, (Renumbered from 39-6-49, as last amended by Laws of Utah 1989, Chapter 15)

39A-5-302, (Renumbered from 39-6-14, as repealed and reenacted by Laws of Utah 2012, Chapter 60)

39A-5-303, (Renumbered from 39-6-110, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-304, (Renumbered from 39-6-50, as enacted by Laws of Utah 1988, Chapter 210)

39A-5-305, (Renumbered from 39-6-51, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9)

39A-5-306, (Renumbered from 39-6-17, as last amended by Laws of Utah 1989, Chapter 15)

39A-6-101, (Renumbered from 39-7-102, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-103, (Renumbered from 39-7-119, as last amended by Laws of Utah 2008, Chapter 382)

39A-6-104, (Renumbered from 39-7-104, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-105, (Renumbered from 39-7-105, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-106, (Renumbered from 39-7-106, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-107, (Renumbered from 39-7-107, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-108, (Renumbered from 39-7-108, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-109, (Renumbered from 39-7-109, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-110, (Renumbered from 39-7-110, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-111, (Renumbered from 39-7-111, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-112, (Renumbered from 39-7-112, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-113, (Renumbered from 39-7-113, as last amended by Laws of Utah 2018, Chapter 148)

39A-6-114, (Renumbered from 39-7-114, as last amended by Laws of Utah 2018, Chapter 148)

39A-6-115, (Renumbered from 39-7-115, as last amended by Laws of Utah 2018, Chapter 148)

39A-6-116, (Renumbered from 39-7-116, as enacted by Laws of Utah 1997, Chapter 306)

39A-6-117, (Renumbered from 39-7-117, as last amended by Laws of Utah 2018, Chapter 148)

39A-7-101, (Renumbered from 39-9-101, as enacted by Laws of Utah 2014, Chapter 122)

39A-7-102, (Renumbered from 39-9-102, as enacted by Laws of Utah 2014, Chapter 122)

39A-7-103, (Renumbered from 39-9-103, as enacted by Laws of Utah 2014, Chapter 122)

39A-7-104, (Renumbered from 39-9-104, as enacted by Laws of Utah 2014, Chapter 122)

39A-7-105, (Renumbered from 39-9-105, as enacted by Laws of Utah 2014, Chapter 122)

39A-8-101, (Renumbered from 39-10-101, as enacted by Laws of Utah 2018, Chapter 216)

39A-8-102, (Renumbered from 39-10-102, as enacted by Laws of Utah 2018, Chapter 216)
39A-8-103, (Renumbered from 39-10-103, as enacted by Laws of Utah 2018, Chapter 216)
39A-8-104, (Renumbered from 39-10-104, as enacted by Laws of Utah 2018, Chapter 216)
39A-8-105, (Renumbered from 39-10-105, as last amended by Laws of Utah 2021, Chapter 89)

REPEALS:

39-1-2, as last amended by Laws of Utah 2005, Chapter 65
39-1-4, as last amended by Laws of Utah 2005, Chapter 65
39-1-5, as last amended by Laws of Utah 1988, Chapter 210
39-1-7, Utah Code Annotated 1953
39-1-10, Utah Code Annotated 1953
39-1-12.5, as last amended by Laws of Utah 1993, Chapter 110
39-1-13, as last amended by Laws of Utah 1989, Chapter 22
39-1-14, Utah Code Annotated 1953
39-1-15, as last amended by Laws of Utah 2009, Chapter 388
39-1-16, Utah Code Annotated 1953
39-1-17, Utah Code Annotated 1953
39-1-18, as last amended by Laws of Utah 2015, Chapter 83
39-1-19, Utah Code Annotated 1953
39-1-21, as last amended by Laws of Utah 2012, Chapter 369
39-1-22, Utah Code Annotated 1953
39-1-24, as last amended by Laws of Utah 2012, Chapter 215
39-1-25, as last amended by Laws of Utah 2011, Chapter 336
39-1-26, Utah Code Annotated 1953
39-1-28, as last amended by Laws of Utah 1963, Chapter 61
39-1-29, Utah Code Annotated 1953
39-1-30, as last amended by Laws of Utah 1989, Chapter 22
39-1-31, as last amended by Laws of Utah 1963, Chapter 61
39-1-32, as last amended by Laws of Utah 2015, Chapter 83
39-1-33, as last amended by Laws of Utah 1963, Chapter 61
39-1-34, as last amended by Laws of Utah 1963, Chapter 61
39-1-35, as last amended by Laws of Utah 1981, Chapter 174
39-1-37, Utah Code Annotated 1953
39-1-38, as last amended by Laws of Utah 1988, Chapter 210
39-1-38.5, as last amended by Laws of Utah 1996, Chapter 198
39-1-39, as last amended by Laws of Utah 1989, Chapter 15
39-1-41, as last amended by Laws of Utah 2008, Chapter 287
39-1-44, Utah Code Annotated 1953
39-1-45, Utah Code Annotated 1953
39-1-46, as last amended by Laws of Utah 1953, Chapter 63
39-1-52, as last amended by Laws of Utah 1963, Chapter 61
39-1-53, as last amended by Laws of Utah 2018, Chapter 148
39-1-54, as last amended by Laws of Utah 2015, Chapter 391
39-1-56, as last amended by Laws of Utah 1989, Chapter 15
39-1-58, as last amended by Laws of Utah 2004, Chapter 359
39-1-60, as last amended by Laws of Utah 1988, Second Special Session, Chapter 9
39-1-62, as last amended by Laws of Utah 1983, Chapter 179
39-2-7, as last amended by Laws of Utah 1989, Chapter 22
39-4-2, Utah Code Annotated 1953
39-4-6, Utah Code Annotated 1953
39-4-13, as last amended by Laws of Utah 1988, Chapter 210
39-5-1, as last amended by Laws of Utah 1997, Chapter 211
39-5-2, as last amended by Laws of Utah 2013, Chapter 295
39-5-3, as enacted by Laws of Utah 1955, Chapter 130
39-6-18, as enacted by Laws of Utah 1988, Chapter 210
39-6-21, as enacted by Laws of Utah 1988, Chapter 210
39-6-36, as last amended by Laws of Utah 2014, Chapter 189
39-6-48, as enacted by Laws of Utah 1988, Chapter 210
39-6-57, as enacted by Laws of Utah 1988, Chapter 210
39-6-111, as enacted by Laws of Utah 1988, Chapter 210
39-6-112, as enacted by Laws of Utah 1988, Chapter 210
39-6-113, as last amended by Laws of Utah 2018, Chapter 131
39-7-101, as enacted by Laws of Utah 1997, Chapter 306
39-7-103, as enacted by Laws of Utah 1997, Chapter 306
39-8-101, as enacted by Laws of Utah 2006, Chapter 333
39-8-102, as enacted by Laws of Utah 2006, Chapter 333
39-9-106, as enacted by Laws of Utah 2014, Chapter 122
39-9-107, as enacted by Laws of Utah 2014, Chapter 122

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 31A-22-508 is amended to read:

31A-22-508. National Guard groups.

(1) A policy of group life insurance may be issued [~~on the lives of members of the Utah National Guard under Section 39-1-62~~] to a group comprised solely of members of the Utah National Guard if the group policy is issued to an association of members.

(2) The association is the policyholder to insure members of the Utah National Guard for the benefit of persons other than the association or any of its officials.

(3) The premium for the policy shall be paid by the policyholder, either from the association's own funds, or from charges collected from the insured members specifically for the insurance.

Section 2. Section 39A-1-101 is enacted to read:

TITLE 39A. NATIONAL GUARD AND MILITIA ACT

CHAPTER 1. ADMINISTRATION

Part 1. General Provisions

39A-1-101. National Guard and Militia Act.

This title governs the Utah National Guard and unorganized militia in accordance with Utah Constitution Article XV.

Section 3. Section 39A-1-102 is enacted to read:

39A-1-102. Definitions.

As used in this title:

(1) "Adjutant general" means the commanding general of the Utah National Guard as appointed by the governor under Section 39A-1-201.

(2) "National Guard" means the Utah National Guard created in Section 39A-3-101 and in accordance with Utah Constitution Article XV.

(3) "Utah State Defense Force" or "Defense Force" means the unorganized militia as structured in Chapter 4 of this title.

Section 4. Section 39A-1-201, which is renumbered from Section 39-1-12 is renumbered and amended to read:

Part 2. Adjutant General

[~~39-1-12~~]. 39A-1-201. Adjutant general -- Appointment -- Term -- Qualifications.

(1) There shall be one adjutant general of the National Guard appointed by the governor.

(2) The adjutant general is the commanding general of the Utah National Guard and the Utah State Defense Force and holds office for a term of six years, unless terminated by resignation, disability, age, in accordance with Subsection (6), or for cause [~~as determined by a military court or court-martial~~].

[~~(2)~~] (3) The [~~person~~] individual appointed to the office shall:

(a) be a citizen of Utah and meet the requirements provided in Title 32, United States Code;

(b) be a federally recognized commissioned officer, with the rank of colonel or higher, of the National Guard of the United States with no fewer than five years commissioned service in the Utah National Guard; and

(c) as determined by the governor, have sufficient knowledge and experience to command the Utah National Guard.

[~~(3)~~] (4) Active service in the armed forces of the United States may be included in the requirement in Subsection [~~(2)~~] (3)(b), if the officer was a member of the Utah National Guard when the officer entered that service.

(5) The adjutant general shall establish a succession plan consistent with Section 53-2a-804 to ensure the continuity of command.

[~~(4)~~] (6) An officer is no longer eligible to hold the office of adjutant general after attaining [~~66~~] the age of 64 years [~~of age~~].

(7) The adjutant general shall ensure the readiness, training, discipline, and operations of the National Guard.

Section 5. Section 39A-1-202, which is renumbered from Section 39-1-23 is renumbered and amended to read:

[~~39-1-23~~]. 39A-1-202. Seal of adjutant general.

The seal of the adjutant general shall be circular in form, containing an inner circle[~~;~~]. [~~within~~] Within the inner circle shall be a shield with "Utah" impressed [~~thereon~~] on the shield, and between the circles shall be impressed "National Guard, Adjutant General."

Section 6. Section 39A-1-203 is enacted to read:

39A-1-203. Director of joint staff -- Assistant adjutants general -- Chief of staff for the air force.

(1) There is authorized an assistant adjutant general for the Army, an assistant adjutant general for the Air Force, a chief of staff for the Air Force, and a director of joint staff.

(2) The adjutant general, with the approval of the governor, may appoint assistant adjutant generals, a chief of staff for the Air Force, and a director of joint staff with pay from the state.

(3) The assistant adjutants general, the chief of staff for the Air Force, and the director of joint staff shall be at least a federally recognized field grade commissioned officer of the Utah National Guard with not less than five years military service in the armed forces of a state or of the United States, at least three of which shall have been commissioned in the Utah National Guard. The officers shall hold office at the pleasure of the adjutant general.

(4) The adjutant general may detail an officer without the required commissioned service in the Utah National Guard to a position in this section only with the written approval of the governor.

Section 7. Section 39A-2-101, which is renumbered from Section 39-2-1 is renumbered and amended to read:

CHAPTER 2. STATE ARMORY BOARD

[~~39-2-1~~]. 39A-2-101. State Armory Board -- Creation -- Members -- A body corporate -- Powers -- Expenses.

(1) [~~(a) The State Armory Board shall consist of~~] There is created a three member State Armory Board with the following members:

(a) the governor[~~, the chair of the State Building Board,~~];

(b) the executive director of the Department of Government Operations; and

(c) the adjutant general of the Utah National Guard, appointed in accordance with Section 39A-3-102.

[~~(b) It shall be~~] (2) The board is a body corporate with perpetual succession[~~.~~] and the board's property is exempt from all taxes and assessments.

[~~(c) It~~] (3) The board may:

(a) have and use a common seal[~~, and under the name aforesaid may~~];

(b) sue and be sued[~~, and~~];

(c) contract and be contracted with[~~.~~];

(d) [~~It may~~] take and hold by purchase, gift, devise, grant, or bequest real and personal property required for [~~its~~] the board's use[~~.~~]; and

(e) [~~It may also~~] convert property received by gift, devise, or bequest, and not suitable for [~~its~~] the board's uses, into other property [~~so~~] as available, or into money.

[~~(2)~~] (4) The board shall have power to:

(a) borrow money for the purpose of [~~erecting arsenals and armories~~] providing facilities, ranges, and training lands upon the sole credit of the real property to which [~~it~~] the board has [~~the~~] legal title; and

(b) may secure [~~such~~] the loans by mortgage upon [~~such~~] the property[~~:~~].

[~~(i) the~~] (5) The mortgaged property shall be the sole security for [~~such~~] any loan[~~; and~~].

[~~(ii) no~~] (6) A deficiency judgment [~~shall~~] may not be made, rendered, or entered against the board upon the foreclosure of [~~the~~] a mortgage[~~;~~], provided[~~, however,~~] that property in one city [~~shall~~] may not be mortgaged for the purpose of obtaining money for the erection of armories in any other place. [~~Said board shall be deemed a public corporation, and its property shall be exempt from all taxes and assessments.~~]

[~~(3)~~] (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 8. Section 39A-2-102, which is renumbered from Section 39-2-2 is renumbered and amended to read:

[~~39-2-2~~]. 39A-2-102. Responsibilities of State Armory Board.

(1) The board shall supervise and control [~~the armories and arsenals~~] all facilities, ranges, training lands, and all real property held or acquired for the military purposes of the state.

(2) The board may:

(a) provide suitable [~~armories and arsenals~~] facilities, ranges, and training lands for the different organizations of the National Guard;

(b) lease [~~buildings for armory and arsenal purposes~~] real property throughout the state wherever necessary for the use of organizations of the National Guard and for the storage of state and government property at a rental that the board considers reasonable;

(c) erect [~~armories and arsenals~~] facilities and ranges at places within the state that it considers necessary upon lands to which it has acquired the legal title;

(d) expend military funds to acquire legal title to lands and to construct [~~armories and arsenals~~] facilities and ranges;

(e) sell and lease property that the board holds under Subsection (1) for purposes consistent with the mission of the Utah National Guard; and

(f) conduct meetings and take official action in person or as necessary via electronic means, including telephone or video teleconferencing, or a combination of these methods.

(3) (a) Subject to Subsection (3)(b), the board may take options for the purchase of any premises under lease to the state for [~~armory and arsenal~~] National Guard purposes:

(i) at any time during the life of the lease; and

(ii) when the purchase is in the state's interest.

(b) An option is not binding upon the board until it is approved by the Legislature.

(4) (a) Before legally binding the state to sell or lease any [~~armory, army premises, or other~~] real property owned by the National Guard, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(b) Before legally binding the state to purchase any interest in real property, the board shall submit a description of the proposed sale to the Legislative Management Committee for its review and recommendations.

(c) The Legislative Management Committee shall review each proposal and may[~~:~~] approve or disapprove the sale.

[~~(i) recommend that the board complete the purchase or sale; or~~]

[~~(ii) recommend that the board not complete the purchase or sale.~~]

(5) The proceeds from the sales and leases of [~~armories and army~~] real property authorized by this section shall be appropriated to the State Armory Board to be applied toward the acquisition and sale of real property, and the construction of new armories.

(6) Funds may be deposited into a public treasury investment fund to earn interest until use.

Section 9. Section 39A-2-103, which is renumbered from Section 39-2-9 is renumbered and amended to read:

[~~39-2-9~~]. 39A-2-103. Political subdivisions and state agencies may assist in erecting facilities.

[~~The board of commissioners and city councils of cities shall have power to~~] Any political subdivision or state agency may appropriate from any funds [~~of the city~~] available for general purposes [~~such sums as they may deem expedient for the purpose of assisting~~] funds to assist the State Armory Board in the [~~erection of armories within their respective cities, and for the~~] acquisition, construction, and maintenance of [~~armories located and maintained therein, and in all cities where waterworks and an electric light plant are owned by the city the water and electric light used in armories maintained therein may at the discretion of the city be furnished without cost~~] Utah National Guard facilities and infrastructure.

Section 10. Section 39A-2-104 is enacted to read:

39A-2-104. Use of armories by veterans organizations permitted.

Federally chartered veterans organizations have the right to the use of armories owned or leased by the state at no charge, provided that the use does not interfere with the mission of the Utah National Guard as determined by the adjutant general.

Section 11. Section 39A-3-101 is enacted to read:

CHAPTER 3. UTAH NATIONAL GUARD

Part 1. National Guard

39A-3-101. Utah National Guard -- Creation.

(1) There is created the Department of the Utah National Guard.

(2) The Utah National Guard is commanded by an adjutant general and consists of the following:

(a) the joint force headquarters;

(b) the Utah Army National Guard, commanded by an assistant adjutant general for the Army;

(c) the Utah Air National Guard, commanded by an assistant adjutant general for the Air Force; and

(d) the Utah State Defense Force as organized in Title 39A, Chapter 4, Utah State Defense Force.

(3) The numerical strength, composition, distribution, organization, arms, uniforms, equipment, training, and discipline of the National Guard shall be prescribed by the governor in conformity with the laws and regulations of the United States and the laws of this state.

(4) The location of units including headquarters, when not otherwise prescribed by federal law, shall be fixed by the governor on the recommendation of the adjutant general.

Section 12. Section 39A-3-102, which is renumbered from Section 39-1-3 is renumbered and amended to read:

[~~39-1-3~~]. 39A-3-102. Governor commander in chief -- Powers and duties.

(1) The governor by virtue of the governor's office shall be commander in chief of the Utah National Guard [~~and of the unorganized militia, and of any portions of the unorganized militia which may be organized~~].

(2) The governor:

(a) is authorized to issue all orders, rules and regulations necessary to conform the Utah National Guard to Title 32 of the United States Code in its organization, government, discipline, maintenance, training, equipment, and regulations;

(b) shall appoint and commission all officers and select all warrant officers, subject to the provisions of Title 32 of the United State Code; [~~provided, that any appointee failing to receive federal recognition after having been notified by the National Guard Bureau shall revert to status occupied before the appointment;~~]

[~~(c) shall determine and fix the home station and location of the various units of the Utah National Guard;~~]

[~~(d)~~] (c) shall provide [~~armories, warehouses, maintenance and repair shops, hangars, small arms, artillery and aircraft ranges, campsites, concentration areas, training facilities, military reservations and arsenals~~] facilities, ranges, and training lands as required for [~~organizations of~~] the Utah National Guard; and

[~~(e) shall furnish suitable offices, or office space for regular army personnel assigned to duties with the Utah National Guard, the expenses of which may be paid out of the state military appropriations.~~]

(d) may order the National Guard into active service as necessary.

(3) Notwithstanding Subsection (2)(b), an appointee who fails to receive federal recognition

after being notified by the National Guard of the appointment shall revert to the status occupied before the appointment.

Section 13. Section 39A-3-103, which is renumbered from Section 39-1-9 is renumbered and amended to read:

[~~39-1-9~~]. 39A-3-103. National Guard subject to call by United States.

(1) The National Guard [~~of this state~~] is at all times subject to the call of the President of the United States.

(2) When called into the service of the United States, [~~it~~] the National Guard is governed by the applicable laws and military regulations of the United States.

[~~(2)~~] (3) The National Guard and its members shall attend [~~drills, encampments, and maneuvers as the president directs~~] military training as required.

Section 14. Section 39A-3-104 is enacted to read:

39A-3-104. Service members -- Appointment and promotion.

(1) All officers of the National Guard shall be appointed by the governor and receive a state commission.

(2) The power of appointment may be delegated to the adjutant general, and further delegated as the adjutant general considers necessary.

(3) Appointments are subject to approval as prescribed by the laws of the United States or related rules or regulations governing the National Guard.

(4) The appointment, promotion, and withdrawal of a federal commission shall be made in a manner consistent with all applicable federal policies, rules, instructions, or regulations.

(5) The withdrawal of a state commission shall be made in accordance with National Guard regulations in effect at the time of consideration for the withdrawal.

(6) The appointment, promotion, and reduction of enlisted personnel shall be made in a manner consistent with all applicable federal policies, rules, instructions, or regulations.

Section 15. Section 39A-3-105 is enacted to read:

39A-3-105. General officer salary and benefits.

(1) Full-time, state employed general officers or officers appointed to a general officer position shall receive a salary that makes the total federal and state compensation at least commensurate with the pay and allowances for their military grade or assigned position, time in grade, and time in service as established in the United States Department of Defense Finance and Accounting Services annual pay and allowances chart.

(2) General officers appointed to state employment shall receive the benefits and protections in Section 39-1-36 for the term of the appointment.

Section 16. Section 39A-3-106 is enacted to read:

39A-3-106. State active duty orders.

(1) Orders for state duty may be oral or written.

(2) Written orders shall be issued by the governor or the adjutant general.

(3) An oral order may be delivered by an officer or noncommissioned officer.

Section 17. Section 39A-3-107, which is renumbered from Section 39-1-51 is renumbered and amended to read:

[~~39-1-51~~]. 39A-3-107. Pay and benefits of National Guard members on state active duty.

(1) When called into the service of the state and not in the service of the United States, the members of the National Guard shall:

(a) receive at least the same pay and allowance as members of the regular [~~army~~] Army or regular [~~air force~~] Air Force of like [~~rank and length of~~] pay grade and time in service; and

(b) elect to:

(i) receive medical, dental, disability, or death benefits equal to those received by full-time, permanent state employees; or

(ii) maintain any medical, dental, disability, or death benefits already in place[~~; and~~].

[~~(c) receive one ration per day.~~]

(2) The state may not make payments to members of the National Guard for service for which the United States government makes payment.

Section 18. Section 39A-3-108, which is renumbered from Section 39-1-47 is renumbered and amended to read:

[~~39-1-47~~]. 39A-3-108. Military property exempt from civil process.

[~~All military~~] Military property issued to or owned by members of the National Guard [~~shall be~~] is exempt from all civil process.

Section 19. Section 39A-3-109 is enacted to read:

39A-3-109. Loss of property -- Liability.

(1) When Utah National Guard federal property is destroyed, damaged, or lost due to the failure of a service member to perform the duties required by law or regulation, the adjutant general may assess financial liability to the service member.

(2) Within established law and regulation, the adjutant general may require the service member

to reimburse the federal government for all or part of the loss, whether the service member is in federal status, state status, or off duty.

Section 20. Section 39A-3-110, which is renumbered from Section 39-1-40.5 is renumbered and amended to read:

[~~39-1-40.5~~]. 39A-3-110. Utah Code of Military Justice -- Procedures -- Jurisdiction.

(1) [~~Title 39, Chapter 6, Utah Code of Military Justice~~] Title 39A, Chapter 5, is adopted as the Utah Code of Military Justice[~~, which may also be referred to as the UtCMJ~~].

(2) The [~~UtCMJ~~] Utah Code of Military Justice sets forth offenses which, if committed by personnel of the Utah National Guard serving under this title or Title 32, United States Code, are punishable as [~~the Utah Military Court~~] a military court directs [~~under regulations made and published under the UtCMJ~~] in accordance with Chapter 5, Part 2, Military Courts and Part 3, Military Punishments.

(3) [~~The Utah Military Court is a court of the state, convened under orders issued by the governor or the adjutant general.~~] Judges of [~~the~~] a military court may issue summons, executions, and other process. The process shall be served by county sheriffs, at the expense of the state.

(4) Judgments for fines or forfeitures may be docketed in the same manner as district court judgments in each county, and without costs.

(5) Appeals shall be taken to the Court of Appeals.

(6) Sentences of [~~the Utah Military Court~~] a military court shall be served in a county jail. Costs incurred by the county shall be paid out of the General Fund of the state.

(7) Certification as counsel for prosecution or defense, or as a judge of [~~the Utah Military Court~~] a military court, is under orders issued by the adjutant general, and is limited to attorneys who are members of the Utah State Bar and are serving as judge advocates in the Utah National Guard.

(8) A [~~defendant~~] service member may retain, at no cost to the state or National Guard, civilian counsel to represent [~~him~~] the service member before [~~the Utah Military Court~~] a military court.

(9) [~~The Utah Military Court~~] A military court may impose fines not exceeding $2,500, restitution to victims, statutory surcharges, and may issue all writs and judgments for the execution of any [~~of them~~] processes.

(10) When consistent with the Utah Manual for Military Courts, the Utah Rules of Criminal Procedure apply [~~in Utah Military Courts~~].

Section 21. Section 39A-3-111, which is renumbered from Section 39-1-50 is renumbered and amended to read:

[~~39-1-50~~]. 39A-3-111. Military court -- Concurrent prosecutorial jurisdiction with county or district attorney.

(1) The county attorney or district attorney, as appropriate under Sections 17-18a-202 and 17-18a-203, of the county where an offense under the Utah Code of Military Justice is committed has concurrent jurisdiction with [~~the Utah Military Court~~] a military court to prosecute the accused [~~person~~] individual at the expense of the county.

(2) Charges regarding the offense may not be filed in a military court until the appropriate county attorney or district attorney has reviewed and declined to prosecute the offense.

Section 22. Section 39A-3-201, which is renumbered from Section 39-1-63 is renumbered and amended to read:

Part 2. Service Member Benefits

[~~39-1-63~~]. 39A-3-201. Tuition and fees assistance for Utah National Guard members -- Use and allocation -- Appropriation.

(1) (a) As used in this section, "fees" means general course fees, in addition to tuition, that are:

(i) imposed by an institution of higher education; and

(ii) required to be paid by a student to engage in a course of study at the institution of higher education.

(b) "Fees" does not include a special course fee.

(2) The Utah National Guard may provide tuition and fees assistance to a member of the Utah National Guard for study at an institution of higher education, subject to the following requirements:

(a) the individual [~~must~~] shall be, at the time the individual receives the assistance, an active member of the Utah National Guard; and

(b) the assistance is for tuition and fees only and may not be more than the resident tuition and fees for the actual course of postsecondary study engaged in by the individual.

(3) (a) Tuition and fees assistance shall be awarded [~~for each academic year~~] as the adjutant general considers necessary.

(b) An individual may apply to the adjutant general of the state for assistance for each year during which the individual is an active member of the Utah National Guard.

[~~(c) In awarding assistance, the adjutant general shall consider the recruitment and retention needs of the Utah National Guard.~~]

(c) The adjutant general may recoup funds if a recipient fails to meet the requirements of the program.

(4) The adjutant general of the state shall pay [~~the~~] tuition and fees assistance directly to [~~an~~] the

institution of higher education from the funds appropriated.

(5) The adjutant general of the state shall establish regulations, procedures, forms, and reports necessary to administer the allocation of assistance and payment of funds under this section.

[~~(6) The adjutant general of the state shall include a request each year for funds for this program in the annual budget for the Utah National Guard.~~]

[~~(7) An individual who transfers from the Select Reserve to the Utah National Guard is not eligible for the tuition and fees assistance in this section for one year from the date of transfer.~~]

(6) The adjutant general may use no more than 10% of the funds for administration of the program as the adjutant general considers necessary.

Section 23. Section 39A-3-202, which is renumbered from Section 39-1-65 is renumbered and amended to read:

[~~39-1-65~~]. 39A-3-202. Pay and care of soldiers and airmen disabled while on state active duty.

(1) (a) Before a servicemember may be considered disabled in accordance with this section, the Adjutant General shall determine whether the servicemember's illness, injury, or disease was contracted or occurred through the fault or negligence of the servicemember. If the servicemember is determined to be at fault for an injury or developed a disability through his or her own negligent actions, the servicemember is not entitled to any care, pension, or benefit in accordance with this section.

(b) Notwithstanding Subsection (1)(a) the servicemember may be eligible for benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(2) A member of the Utah National Guard or Utah State Defense Force who is disabled through illness, injury, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from duty is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act.

(3) (a) If the disability temporarily incapacitates the servicemember from pursuing the servicemember's usual business or occupation, the servicemember is eligible to receive workers' compensation benefits in accordance with Title 34A, Chapter 2, Workers' Compensation Act, and Chapter 3, Utah Occupational Disease Act.

(b) For the duration of the servicemember's inability to pursue a business or occupation, the [~~Adjutant General~~] adjutant general shall provide compensation [~~equivalent to the difference between~~] so that the total compensation, including the disability compensation received under Subsection (3)(a) [~~and the total pay and allowances under state active duty as provided in Section 39-1-51.~~] is commensurate with the injured service member's lost pay. The adjutant general shall consider lost civilian and military pay in the compensation.

(4) A servicemember who is permanently disabled, shall receive pensions and benefits from the state that [~~persons~~] individuals under like circumstances in the Armed Forces of the United States receive from the United States.

(5) If a servicemember dies as a result of an injury, illness, or disease contracted or incurred while on state active duty or while reasonably proceeding to or returning from active duty, the surviving spouse, minor children, or dependent parents of the servicemember shall receive compensation as directed in Section [~~39-1-59~~] 39A-3-203.

(6) Costs incurred by reason of this section shall be paid out of the funds available to the Utah National Guard.

(7) The [~~Adjutant General~~] adjutant general, with the approval of the governor, shall make and publish regulations to implement this section.

(8) Nothing in this section shall in any way limit or condition any other payment to a servicemember that the law allows.

Section 24. Section 39A-3-203, which is renumbered from Section 39-1-59 is renumbered and amended to read:

[~~39-1-59~~]. 39A-3-203. Compensation for injury or death.

Within 72 hours of the reported death of a member of the National Guard on state active duty, the state shall provide a death gratuity payment of $100,000 to:

(1) the [~~person~~] individual designated as the recipient of the member's unpaid pay and allowances in the member's service record; or

(2) if no one is designated, the designated [~~person~~] individual cannot be found, or the designated [~~person~~] individual has predeceased the member, the member's heirs in accordance with Title 75, Chapter 2, Part 1, Intestate Succession.

Section 25. Section 39A-3-204, which is renumbered from Section 39-1-59.5 is renumbered and amended to read:

[~~39-1-59.5~~]. 39A-3-204. National Guard Death Benefit Restricted Account.

(1) There is created within the General Fund a restricted account known as "National Guard Death Benefit Account."

(2) (a) The restricted account shall be funded from funds appropriated by the Legislature.

(b) Funds in the restricted account may only be used to pay the death benefit authorized in Section [~~39-1-59~~] 39A-3-204.

(c) The restricted account may accrue interest which shall be deposited into the restricted account.

(d) At the close of any fiscal year, any balance in the fund in excess of $2,000,000 shall be transferred to the General Fund.

Section 26. Section 39A-4-101, which is renumbered from Section 39-1-1 is renumbered and amended to read:

CHAPTER 4. UTAH STATE DEFENSE FORCE

[~~39-1-1~~]. 39A-4-101. Utah State Defense Force -- How constituted.

(1) [~~All~~] Unless exempt under Subsection (2), all able-bodied citizens, and all able-bodied [~~persons~~] individuals of foreign birth who have declared their intention to become citizens, [~~who~~] are 18 years [~~of age~~] old or older and younger than [~~66~~] 64 years [~~of age, who~~] old, and are residents of this state, constitute the [~~militia, subject to the following exemptions:~~] Utah State Defense Force.

(2) Individuals exempt from Subsection (1) include:

(a) [~~persons exempted~~] individuals exempted from military service by laws of the United States;

(b) [~~persons exempted~~] individuals exempted from military service by the laws of this state;

(c) all [~~persons~~] individuals who have been honorably discharged from the [~~army, air force, navy, marines, coast guard~~] armed forces, or volunteer forces of the United States;

(d) active members of any regularly organized fire or police department in any city or town, but [~~no~~] a member of the active [~~militia is~~] defense force may not be relieved from duty because [~~of his joining~~] the individual joined any volunteer fire company or department; [~~and~~]

(e) judges and clerks of courts of record[~~,~~];

(f) state and county civil officers holding office by election[~~,~~];

(g) state officers appointed by the governor for a specified term of office[~~,~~];

(h) ministers of the gospel[~~,~~]; and

(i) practicing physicians[~~, superintendents,~~] and hospital officers and assistants [~~of hospitals and prisons and jails~~].

[~~(2)~~] (3) All [~~exempted persons, except those enumerated in Subsections (1)(a) through (e),~~] individuals described in Subsection (1) are liable to military duty in case of war, insurrection, invasion, tumult, riot, or public disaster, or imminent danger of any of these, or after [~~they have~~] voluntarily [~~enlisted~~] enlisting in the National Guard of this state.

Section 27. Section 39A-4-102, which is renumbered from Section 39-4-1 is renumbered and amended to read:

[~~39-4-1~~]. 39A-4-102. Governor authorized to organize Utah State Defense Force.

(1) The governor, by virtue of the governor's office, may organize and maintain [~~within this state, under regulations the United States may prescribe for discipline in training, military forces the governor considers necessary to defend this state~~] the Utah State Defense Force.

(2) [~~These forces shall~~] The Defense Force may be composed of officers commissioned or assigned, and able-bodied citizens of the state who volunteer for service, supplemented if necessary by [~~persons in the militia~~] individuals enrolled by draft or otherwise as provided by law.

(3) [~~These forces~~] The Defense Force shall be additional to and distinct from the National Guard [~~and shall be known as the Utah State Defense Force. These forces may be uniformed~~].

(4) The Defense Force may have prescribed uniforms.

(5) If ordered to active service by the governor, the Defense Force shall be under the command of the adjutant general.

Section 28. Section 39A-4-103, which is renumbered from Section 39-4-9 is renumbered and amended to read:

[~~39-4-9~~]. 39A-4-103. Qualifications of members.

[~~No person shall~~] An individual may not be commissioned or enlisted in [~~such forces~~] the Defense Force who:

(1) is not a citizen of the United States; or [~~who~~]

(2) has been expelled or dishonorably discharged from any military [~~or naval organization of this state, or of another state, or of the United States~~] service.

Section 29. Section 39A-4-104, which is renumbered from Section 39-4-11 is renumbered and amended to read:

[~~39-4-11~~]. 39A-4-104. Term of force enlistment -- Oaths.

[~~A person~~] (1) An individual may not be enlisted in the Defense Force for more than one year, but an enlistment may be renewed.

(2) The oath to be taken upon enlistment in the [~~forces~~] Defense Force shall be substantially in the form prescribed for enlisted [~~men~~] individuals of the National Guard, substituting the words, "Utah State Defense Force," where necessary.

Section 30. Section 39A-4-105, which is renumbered from Section 39-4-10 is renumbered and amended to read:

[~~39-4-10~~]. 39A-4-105. Oaths of force officers.

The oath to be taken by officers commissioned in the [~~forces~~] Defense Force shall be substantially in the form prescribed for officers of the National Guard, but substituting the words "Utah State Defense Force," where necessary.

Section 31. Section 39A-4-106, which is renumbered from Section 39-4-3 is renumbered and amended to read:

[~~39-4-3~~]. 39A-4-106. Compensation of force members.

(1) [~~Every member~~] Members of the Utah State Defense Force, when called into active service by the governor, shall receive compensation as prescribed by the governor.

(2) The compensation may not exceed the rate of pay [~~under law~~] prescribed for officers and other members of the National Guard when called into active service of the state by the governor.

Section 32. Section 39A-4-107, which is renumbered from Section 39-4-8 is renumbered and amended to read:

[~~39-4-8~~]. 39A-4-107. No organizations to be enlisted as a unit.

[~~No~~] A civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of [~~persons~~] individuals or civil group [~~shall be enlisted in such forces~~] may not enlist in the Defense Force as an organization, detachment, company, or unit.

Section 33. Section 39A-4-108, which is renumbered from Section 39-4-5 is renumbered and amended to read:

[~~39-4-5~~]. 39A-4-108. Service outside state prohibited -- Exceptions.

[~~Such forces shall~~] (1) The Defense Force may not be required to serve outside the boundaries of this state [~~except: (1) Upon the request of the governor of another state,~~] unless the governor [~~of this state may, in his discretion, order any portion or all of such forces to assist the military or police forces of such other state who are actually engaged in defending such other state. Such forces~~], in response to a request from the governor of another state through the Emergency Management Assistance Compact, orders the Defense Force to assist outside the state.

(2) The Defense Force may be recalled by the governor at [~~his discretion~~] any time.

[~~(2) Any organization, unit or detachment of such forces, upon order of the officer in immediate command thereof, may continue in fresh pursuit of insurrectionists, saboteurs, enemies or enemy forces beyond the borders of this state into another state until they are apprehended or captured by such organization, unit or detachment or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons; provided, such other state shall have given authority by law for such pursuit by such forces of this state. Any such person who shall be apprehended or captured in such other state shall without unnecessary delay be surrendered to the military or police forces of the state in which he is taken or to the United States, but such surrender shall not constitute a waiver by this state of its right to extradite or prosecute such persons for any crime committed in this state.~~]

Section 34. Section 39A-4-109, which is renumbered from Section 39-4-12 is renumbered and amended to read:

[~~39-4-12~~]. 39A-4-109. Military court law and rules of National Guard applicable.

[~~(1)~~]When the [~~forces~~] Defense Force or any part of [~~them are~~] it is ordered [~~out for~~] to active service [~~or are serving as members of the Utah State Defense Force, the~~] Chapter 5, Utah Code of Military Justice, as it applies to the [~~state~~] National Guard, and regulations prescribed under it apply to the Utah State Defense Force.

[~~(2) Members of the Utah State Defense Force are privileged from arrest under Section 39-1-54, when in state service.~~]

[~~(3) Persons serving in the Utah State Defense Force are, during this service, exempt from posse comitatus and from jury duty.~~]

Section 35. Section 39A-4-110, which is renumbered from Section 39-4-7 is renumbered and amended to read:

[~~39-4-7~~]. 39A-4-110. State Defense Force not subject to United States military service -- Members not exempt from United States military service.

[~~Nothing in this act shall~~] (1) This act may not be construed as authorizing [~~such forces, or any part thereof~~] the Defense Force to be called, ordered or in any manner drafted, as such into the military service of the United States[~~, but no person shall~~].

(2) An individual is not, by reason of [~~his~~] enlistment or commission in [~~any such forces be~~] the Defense Force, exempted from military service under any law of the United States.

Section 36. Section 39A-4-111, which is renumbered from Section 39-4-4 is renumbered and amended to read:

[~~39-4-4~~]. 39A-4-111. Governor may requisition arms and equipment from secretary of defense.

For the use of [~~such forces~~] the Defense Force, the governor is authorized to requisition from the secretary of [~~war such arms~~] defense arms, ammunition, and equipment [~~as may be in possession of and can be spared by the war department;~~] and to make the facilities and equipment of the National Guard available to [~~such forces the facilities of state armories and their equipment and such other state premises and property as may be available~~] the Defense Force.

Section 37. Section 39A-4-112, which is renumbered from Section 39-1-8 is renumbered and amended to read:

[~~39-1-8~~]. 39A-4-112. Governor may proclaim martial law.

(1) Whenever the [~~militia~~] Defense Force or any portion [~~thereof,~~] of the Defense Force is called into active service, the governor may, by proclamation, declare all or any part of any county, city or town in which the troops are serving to be under martial law[~~, and when~~].

(2) When the [~~militia shall be on~~] Defense Force is in active service [~~as herein provided~~], the commanding officer [~~thereof~~] and his subordinates may cooperate with the civil authorities [~~or take entire charge of the situation as in the judgment of the commanding officer the exigencies of the case may require~~] as directed by the adjutant general.

Section 38. Section 39A-5-101, which is renumbered from Section 39-6-1 is renumbered and amended to read:

CHAPTER 5. UTAH CODE OF MILITARY JUSTICE

Part 1. General Provisions

[~~39-6-1~~]. 39A-5-101. Utah Code of Military Justice.

[~~This chapter is known as the "Utah Code of Military Justice," and may also be cited~~] The "Utah Code of Military Justice" may be abbreviated as the "UtCMJ[~~.~~]" and applies to all individuals subject to this title.

Section 39. Section 39A-5-102, which is renumbered from Section 39-6-2 is renumbered and amended to read:

[~~39-6-2~~]. 39A-5-102. Definitions.

As used in this chapter:

(1) "Accuser" means [~~a person~~] an individual who:

(a) signs and swears to charges;

(b) directs that charges nominally be signed and sworn to by another; or

(c) any other [~~person~~] individual who has an interest other than an official interest in the prosecution of the accused.

(2) "Apprehend" means taking an individual into custody by competent authority, with or without a warrant.

(3) "Arrest" means restraining an individual by an order, not imposed as a punishment for an offense, directing the individual to remain within a specified area.

[~~(2)~~] (4) "Commanding officer" means both a commissioned officer and a warrant officer designated as a commander.

[~~(3)~~] (5) "Commissioned officer" includes a commissioned warrant officer.

(6) "Confinement" means the physical restraint of an individual.

[~~(4)~~] (7) "Convening authority" means the governor or the adjutant general.

[~~(5)~~] (8) "Duty status other than state active duty" means any other type of duty, and includes going to and returning from the duty.

[~~(6)~~] (9) "Enlisted member" means [~~a person~~] an individual in an enlisted grade.

[~~(7)~~] (10) "Grade" means a step or degree in a graduated scale of office or military rank, established and designated as a grade by law or regulation.

[~~(8)~~] (11) "Legal officer" means any commissioned officer of the [~~organized~~] National Guard [~~of the state~~] designated to perform legal duties for a command.

[~~(9)~~] (12) "Major command" or "MACOM" means a major subdivision of the [~~Utah~~] National Guard.

[~~(10)~~] (13) "Military" means any or all of the armed forces of the United States.

[~~(11)~~] (14) "Military court" means a court-martial, a court of inquiry, or a provost court.

[~~(12)~~] (15) "Military judge" means a qualified staff judge advocate officer of a military court detailed under Section [~~39-6-20~~] 39A-5-206.

[~~(13)~~] (16) "National Guard" [~~means the Utah Army and Air National Guard, including~~] includes part-time and full-time active guard and reserve (AGR), and [~~includes~~] the Utah [~~unorganized militia~~] State Defense Force when called to active duty by the governor [~~of the state~~].

[~~(14)~~] (17) "Officer" means a commissioned or warrant officer.

[~~(15)~~] (18) "Rank" means the order of precedence among members of the armed forces.

[~~(16)~~] (19) "State active duty" means full-time duty in the active military service of the state under an order of the governor, issued pursuant to the governor's authority, and includes going to and returning from [~~the~~] duty.

[~~(17)~~] (20) "State judge advocate" or "SJA" means the commissioned judge advocate general's corps officer responsible for supervising the delivery of legal services in the National Guard.

[~~(18)~~] (21) "State staff judge advocate" or "SSJA" means the commissioned judge advocate general's corps officer appointed as the senior legal officer for the [~~Utah~~] National Guard.

[~~(19)~~] (22) "Superior commissioned officer" means a commissioned officer superior to another in rank or command.

[~~(20) "UtCMJ" means Title 39, Chapter 6, Utah Code of Military Justice.~~]

(23) "Unit" means any regularly organized command of the National Guard.

Section 40. Section 39A-5-103, which is renumbered from Section 39-6-6 is renumbered and amended to read:

[~~39-6-6~~]. 39A-5-103. State judge advocate -- Appointment -- Qualifications -- Duties -- Assistants.

(1) The adjutant general shall appoint an officer of the National Guard as the state judge advocate. The officer shall be a member of the Utah State Bar, a United States federal court, branch qualified, and designated as a staff judge advocate officer.

(2) The state judge advocate is the principal military legal advisor and shall, in connection with rendering legal advice to the adjutant general, prepare pretrial advice, a post-trial review, and act as legal advisor to the adjutant general on all matters involving military justice[~~, the Utah Manual for Military Courts, and the Utah Code of Military Justice~~].

(3) The adjutant general may appoint assistant state judge advocates as considered necessary. [~~They~~] All assistant state judge advocates shall be officers of the National Guard, members of the Utah State Bar, branch qualified, and designated as staff judge advocate officers.

(4) The SJA or an assistant SJA shall make frequent inspections of military units throughout the state to supervise the administration of military justice.

(5) The convening authority shall review directly with the SJA all matters relating to the administration of military justice and administrative actions. The assistant state judge advocate or legal officer of any command may communicate directly with the assistant state judge advocate or legal officer of a superior or subordinate command, or with the SJA.

(6) [~~A person~~] An individual who has acted as a member, military judge, trial counsel, assistant trial counsel, defense counsel, assistant defense counsel, or investigating officer, or who has been a witness for either the prosecution or defense, may not subsequently act as assistant state judge advocate, SJA, or legal officer to any reviewing authority upon the same case.

Section 41. Section 39A-5-104, which is renumbered from Section 39-6-3 is renumbered and amended to read:

[~~39-6-3~~]. 39A-5-104. Individuals subject to chapter -- Jurisdiction over offenses.

(1) The following [~~persons~~] individuals are subject to this chapter:

(a) all members of the National Guard, including full-time members serving under Title 32, United States Code; and

(b) all other [~~persons~~] individuals lawfully ordered to duty in or with the National Guard or the [~~unorganized militia~~] Utah State Defense Force, from the [~~dates they are~~] date required by the terms of the order or other directive[~~;~~].

(2) (a) If there is a military activation by the federal government, all activated [~~persons~~] individuals who would otherwise be under the jurisdiction of this chapter are subject to concurrent jurisdiction under federal and state law.

(b) [~~Persons~~] Individuals under this subsection may only be tried for offenses occurring during activation and after release from federal service, while within the period of [~~an~~] the applicable statute of limitations.

Section 42. Section 39A-5-105, which is renumbered from Section 39-6-5 is renumbered and amended to read:

[~~39-6-5~~]. 39A-5-105. Application of chapter in and outside of the state -- Military courts held outside the state.

(1) This chapter applies to all [~~persons~~] individuals:

(a) subject to this chapter within the state; [~~and~~]

(b) otherwise subject to this chapter while serving outside the state[~~,~~]; and

(c) while going to and returning from the service outside the state[~~, as if they were serving inside the state~~].

(2) Military courts may be convened and held in units of the National Guard while those units are serving without the state, with the same jurisdiction and powers as to [~~persons~~] individuals subject to this chapter as if the proceedings were held within the state. Offenses committed without the state may be tried and punished either within or without the state, as military necessity dictates.

(3) Nothing in this chapter limits a commander's authority to use adverse administrative action to address misconduct by a member, regardless of the member's status at the time of the misconduct.

Section 43. Section 39A-5-106, which is renumbered from Section 39-6-40 is renumbered and amended to read:

[~~39-6-40~~]. 39A-5-106. Offenses against the state by individual not subject to chapter.

[~~A person~~] An individual not subject to this chapter is guilty of an offense against the state if [~~he~~] the individual willfully neglects or refuses to appear, refuses to qualify as a witness or to testify, or refuses to produce any evidence which [~~that person~~] the individual may have been legally subpoenaed to produce, after [~~he~~] the individual has been:

(1) subpoenaed to appear as a witness or to produce books and records before a military court or before any military or civil officer designated to take a deposition to be read in evidence before the court; and

(2) paid or tendered the fees and mileage of a witness at the rates allowed to witnesses attending the district courts of the state.

Section 44. Section 39A-5-107, which is renumbered from Section 39-6-7 is renumbered and amended to read:

[~~39-6-7~~]. 39A-5-107. Apprehension.

[~~(1) "Apprehension" means the taking of a person into custody by competent authority, with or without a warrant.~~]

[~~(2) A person~~] (1) An individual authorized under this chapter or rules [~~made under it~~] promulgated pursuant to this chapter to apprehend [~~persons~~] individuals subject to this chapter, any provost marshal of a military court appointed under this chapter, and any peace officer authorized by law, may apprehend [~~persons~~] individuals subject to this chapter upon probable cause to believe that an offense has been committed and the [~~person~~] individual to be apprehended committed the offense.

[~~(3)~~] (2) Commissioned officers, warrant officers, and noncommissioned officers may quell disorderly conduct among [~~persons~~] individuals subject to this chapter and may apprehend those [~~persons~~] individuals who are taking part.

Section 45. Section 39A-5-108, which is renumbered from Section 39-6-8 is renumbered and amended to read:

[~~39-6-8~~]. 39A-5-108. Arrest.

[~~(1) "Arrest" means the restraint of a person by an order, not imposed as a punishment for an offense, directing the person to remain within a specified area.~~]

[~~(2)~~] (1) An enlisted service member may be ordered into arrest or confinement by any commanding officer by an order, oral or written, delivered in person or through [~~persons~~] individuals subject to this chapter, or through [~~a person~~] an individual authorized by this chapter to apprehend [~~persons~~] individuals.

(2) A commanding officer may authorize warrant officers or noncommissioned officers to order enlisted members of his or her command or subject to his or her authority into arrest or confinement.

(3) A commissioned officer or warrant officer may be ordered apprehended, or ordered into arrest or confinement, only by a commanding officer to whose authority [~~he~~] the commissioned officer or warrant officer is subject, and only by an order, oral or written, delivered in person or by another commissioned officer. The authority to order the [~~person~~] officer apprehended or into arrest or confinement may not be delegated.

(4) A [~~person~~] service member may not be apprehended or placed under arrest or confinement except upon probable cause.

(5) This section does not limit [~~a person~~] an individual authorized to apprehend offenders in [~~his~~] securing the custody of an alleged offender until the proper authority may be notified.

Section 46. Section 39A-5-109, which is renumbered from Section 39-6-4 is renumbered and amended to read:

[~~39-6-4~~]. 39A-5-109. Fraudulently obtained discharge -- Desertion -- Limitations -- Tolling of time limits.

(1) [~~A person~~] An individual discharged from the [~~Utah~~] National Guard who is later charged with having fraudulently obtained the discharge is subject to trial by a military court on that charge.

(2) After apprehension, the [~~person~~] individual is subject to this chapter while in military custody for trial. Upon conviction of [~~that~~] the charge the [~~person~~] individual is subject to trial for all offenses under this chapter committed prior to the fraudulent discharge.

(3) [~~A person~~] An individual who has deserted from a military unit, which [~~act~~] would subject the [~~person~~] individual to the jurisdiction of this chapter, is not relieved from the jurisdiction of this chapter due to a separation from any later period of service.

(4) An individual charged with desertion or absence without leave shall be tried and punished within four years after the preferral of charges.

(5) Except under Subsection (4), an individual charged with any offense may not be tried by a military court or punished under Section 39A-5-303 if the offense was committed more than two years before the receipt of sworn charges and specifications by an officer exercising jurisdiction as a military court convening authority.

(6) Periods when the accused was outside the state's jurisdiction or in the custody of civilian authorities are excluded in computing limitations of time under this section.

Section 47. Section 39A-5-110, which is renumbered from Section 39-6-9 is renumbered and amended to read:

[~~39-6-9~~]. 39A-5-110. Confinement.

[~~(1) "Confinement" means the physical restraint of a person.~~]

[~~(2) (a) A person~~] (1) (a) An individual subject to this chapter, who is charged with an offense under this chapter, may be ordered into arrest or confinement, as circumstances require.

(b) When [~~a person~~] an individual subject to this chapter is placed into arrest or confinement prior to trial, action shall be taken immediately to notify [~~him~~] the individual of the specific offense charged [~~against him~~], and to either try the [~~person~~] individual, or dismiss the charges [~~against him~~] and release [~~him~~] the individual.

[~~(3)~~] (2) Confinement before, during, or after trial by a military court shall be [~~in either a guard house or a civilian jail, or other~~] ordered by a field grade or general officer and may be in a penal [~~facility~~] institution determined by the governor or [~~his designee~~] the adjutant general.

Section 48. Section 39A-5-111, which is renumbered from Section 39-6-10 is renumbered and amended to read:

[~~39-6-10~~]. 39A-5-111. Parties under obligation to keep a prisoner -- Reporting.

(1) A provost marshal, [~~commander of a guard, master at arms, warden, keeper,~~] sheriff, or officer of a city or county jail or [~~other jail~~] penal institution designated under Section [~~39-6-9~~] 39A-5-110, may not refuse to receive or keep any prisoner [~~committed to his charge~~] if the committing [~~person~~] officer provides a signed statement [~~signed by him,~~] indicating the offense charged against the prisoner.

(2) Any party under Subsection (1) charged with keeping a prisoner shall within 24 hours after [~~that~~] commitment [~~or as soon as he is relieved from guard,~~] report to the commanding officer of the prisoner the name of the prisoner, the nature of the offense charged against him, and the name of the [~~person~~] individual who ordered or authorized the commitment.

Section 49. Section 39A-5-112, which is renumbered from Section 39-6-11 is renumbered and amended to read:

[~~39-6-11~~]. 39A-5-112. Individual confined prior to trial -- Punishment limitations.

(1) Subject to Section [~~39-6-9~~] 39A-5-110, [~~a person~~] an individual in confinement prior to trial may not be subjected to punishment or penalty other than arrest or confinement [~~upon~~] while the charges are pending [~~against him~~].

(2) The arrest or confinement imposed on a prisoner may not be more rigorous than necessary to ensure the prisoner's presence. However, [~~he~~] the prisoner may be:

(a) subjected to minor punishment during that period for discipline violations; and

(b) required to perform labor as necessary for the policing and sanitation of [~~his~~] the prisoner's living [~~quarters, mess facilities, and the area~~] conditions, immediately adjacent [~~to these~~] areas, or as otherwise designated by regulations governing the housing of a prisoner.

Section 50. Section 39A-5-113, which is renumbered from Section 39-6-12 is renumbered and amended to read:

[~~39-6-12~~]. 39A-5-113. Individual accused of offense against civilian -- Sentences of military and civilian courts.

(1) [~~Under this chapter, a person~~] A service member on duty and subject to this chapter who is accused of an offense against a civilian [~~person~~] individual may be delivered, upon request, to [~~the~~] a civilian authority for judicial proceedings.

(2) (a) [~~When a person~~] If an individual under sentence imposed by a military court is delivered to a civilian authority under this section, and the [~~person~~] individual is convicted in a civilian court, the execution of the sentence of the military court is interrupted.

(b) After the [~~person~~] individual has completed the sentence imposed by the civilian court, upon request of military authority, [~~he~~] the individual shall be returned to military custody for completion of [~~his~~] the military court sentence.

Section 51. Section 39A-5-114, which is renumbered from Section 39-6-23 is renumbered and amended to read:

[~~39-6-23~~]. 39A-5-114. Charges and specifications -- Contents -- Notification of accused.

(1) Charges and specifications shall be signed by a [~~person~~] member subject to this chapter under oath before [~~a person~~] an individual authorized to administer oaths and shall state that:

(a) the [~~person~~] individual signing has personal knowledge of, or has investigated, the matters set forth in the document; and

(b) the matters set forth are true to the best of [~~his~~] the individual's knowledge and belief.

(2) (a) Upon the preferring of charges, the appropriate authority shall take action immediately to determine what disposition should be made in the interest of justice and discipline.

(b) The accused shall be informed of the charges against him or her as soon as practicable.

Section 52. Section 39A-5-115, which is renumbered from Section 39-6-24 is renumbered and amended to read:

[~~39-6-24~~]. 39A-5-115. Individual charged -- Limits on evidence obtained from other individuals.

(1) [~~A person~~] An individual subject to this chapter may not:

(a) compel any [~~person~~] individual to incriminate himself or herself or to answer any question, the answer to which may tend to incriminate [~~him~~] the individual;

(b) interrogate, or request any statement from an accused or [~~a person~~] an individual suspected of an offense, without first:

(i) informing [~~him~~] the individual of the nature of the accusation; and

(ii) advising [~~him that he is not required to make any~~] the individual that a statement is not required regarding the offense of which [~~he~~] the individual is accused or suspected, and that any statement [~~made by him~~] may be used as evidence against [~~him~~] the individual in a trial by military court; and

(c) compel any [~~person~~] individual to make a statement or produce evidence before any military court, if the statement or evidence is not material to the issue before the court and may tend to degrade [~~him~~] the individual.

(2) A statement obtained from any [~~person~~] individual in violation of this section, or through the use of coercion, unlawful influence, or unlawful inducement may not be received in evidence against [~~him~~] the individual in a trial by a military court.

Section 53. Section 39A-5-116, which is renumbered from Section 39-6-26 is renumbered and amended to read:

[~~39-6-26~~]. 39A-5-116. Charges to be forwarded to governor or adjutant general.

When [~~a person~~] an individual is held for trial by military court, the commanding officer shall forward the charges, together with the investigation and related papers, to the governor or the adjutant general within five working days, excluding holidays, after the accused is ordered into arrest or confinement.

Section 54. Section 39A-5-117, which is renumbered from Section 39-6-27 is renumbered and amended to read:

[~~39-6-27~~]. 39A-5-117. Review of charge by SJA -- Corrections to charges.

(1) (a) Before directing the trial of any charge by a military court, the convening authority shall refer [~~it~~] the charge to the SJA for consideration and advice.

(b) The convening authority may not refer a charge to a military court for trial unless he or she has found that the charge alleges an offense under this chapter and is warranted by sufficient evidence, as indicated in the report of the investigation.

(2) If the charges or specifications are not formally correct or do not conform to the substance of the evidence contained in the report of the investigating officer, formal corrections and changes in the charges and specifications as necessary may be made to conform to the evidence.

Section 55. Section 39A-5-118, which is renumbered from Section 39-6-28 is renumbered and amended to read:

[~~39-6-28~~]. 39A-5-118. Service of charges on accused.

(1) The trial counsel to whom charges are referred for trial shall cause to be served upon the accused a copy of the charges to be tried.

(2) [~~A person~~] An individual may not, against his or her objection, be brought to trial or be required to participate [~~by himself or with counsel~~] in a session called by the military judge under Section [~~39-6-32~~] 39A-5-216, in a military court case, within five days after the service of charges [~~upon him~~].

Section 56. Section 39A-5-119, which is renumbered from Section 39-6-114 is renumbered and amended to read:

[~~39-6-114~~]. 39A-5-119. Chapter interpretation -- Federal law governs.

(1) Federal laws and regulations, forms, precedents, and usages relating to and governing the armed forces of the United States and the National Guard not inconsistent with the constitution and laws of this state or with a rule or regulation adopted pursuant to Section [~~39-1-3~~] 39A-3-102, apply to and govern the National Guard of this state, including all members on active duty within the state as active duty [~~guard/reserve~~] guard or reserve personnel under U.S.C.A. Title 32, National Guard.

(2) The Uniform Code of Military Justice, 10 U.S.C.A. 47, including regulations, manuals, forms, precedents, and usages implementing, interpreting and complementing the code, is adopted for use by the National Guard of this state and applies as long as it is not inconsistent with:

(a) the constitution and laws of this state, including the regulations, manuals, forms, precedents, and usages implementing, interpreting, and complementing the constitution and laws of this state; or

(b) a rule or regulation adopted pursuant to Section [~~39-1-3~~] 39A-3-102, to govern the National Guard of this state, including all members on active duty within the state as active duty [~~guard/reserve~~] guard or reserve personnel under U.S.C.A. Title 32, National Guard, when the members are serving other than in a federal capacity under U.S.C.A. Title 10.

Section 57. Section 39A-5-201 is enacted to read:

Part 2. Military Courts

39A-5-201. Military courts.

This part sets the requirements and procedures for the conduct of military courts of the Utah National Guard.

Section 58. Section 39A-5-202, which is renumbered from Section 39-6-15 is renumbered and amended to read:

[~~39-6-15~~]. 39A-5-202. Composition -- Convening authority -- Responsibilities.

(1) [~~In~~] Within the National Guard [~~that is~~] while not in federal service, there is created a military court to hear matters designated under the [~~UtCMJ~~] Utah Code of Military Justice.

(2) The governor or the adjutant general of the state is the convening authority for any military court in the state and upon receipt of charges may:

(a) dismiss any charges;

(b) forward charges to a subordinate commander for disposition; or

(c) refer charges to a military court for trial.

(3) A military court shall be convened in accordance with this part.

[~~(2)~~] (4) The court shall be composed of:

(a) a military judge and not fewer than three panel members; or

(b) a military judge, if before the court is assembled, the accused, knowing the identity of the military judge and after consultation with his defense counsel, requests in writing a court composed only of a military judge, and the military judge approves the request.

(5) The convening authority of a military court or court of inquiry:

(a) shall detail or employ qualified court reporters to record the proceedings of and testimony taken by the court; and

(b) may detail or employ interpreters, as necessary.

Section 59. Section 39A-5-203, which is renumbered from Section 39-6-16 is renumbered and amended to read:

[~~39-6-16~~]. 39A-5-203. Jurisdiction -- Punishments.

(1) (a) [~~Subject to Subsections (2) and (3), a~~] A military court in this state has jurisdiction to try [~~persons~~] individuals subject to this chapter for any offense punishable by this chapter.

(b) The military court may, under limitations the governor may prescribe, and under applicable state and federal regulations governing punishment, impose any punishment described in Section 39A-5-302 and not prohibited by this chapter or state law, including the issuance of a bad conduct discharge, when the court is in session to consider a penalty.

(2) Each major command component of the National Guard has military court jurisdiction over all [~~persons~~] individuals subject to this chapter. The exercise of this jurisdiction by one command component over members of another shall be in accordance with regulations prescribed by the governor.

(3) Members of the Utah National Guard [~~or the unorganized militia~~] in federal service are subject to the federal Uniform Code of Military Justice and all federal and state laws pertaining to them, until released back to state control.

(4) The jurisdiction of the courts established by this chapter is presumed, and the burden of proof shall rest on any individual attacking the court's jurisdiction in any action or proceeding.

Section 60. Section 39A-5-204, which is renumbered from Section 39-6-109 is renumbered and amended to read:

[~~39-6-109~~]. 39A-5-204. Authority -- Processes and mandates.

(1) A military court may issue all processes and mandates necessary to carry into effect the court's authority. [~~The court may issue subpoenas duces tecum and enforce by attachment the attendance of witnesses and production of books and records, when they are in the state, and the courts are sitting in the state.~~]

(2) [~~The processes~~] Processes and mandates:

(a) may be issued by a military court judge or the president of other military courts;

(b) may be directed to and executed by the military police assigned to the court, or any peace officer; and

(c) shall be in a form prescribed by regulations issued under this chapter.

(3) (a) All officers to whom [~~the~~] processes or mandates are directed shall execute [~~them~~] and [~~make~~] return [~~of their acts according to~~] all actions in accordance with the requirements of the documents.

(b) Except [~~where~~] as otherwise provided [~~under~~] in this chapter, an officer may not demand or require payment of any fee or charge for receiving, executing, or returning a process or mandate, or for any service in connection with either document.

Section 61. Section 39A-5-205, which is renumbered from Section 39-6-108 is renumbered and amended to read:

[~~39-6-108~~]. 39A-5-205. Execution of military court processes and sentences.

The processes and sentences of the National Guard in its military court, when the guard is not in federal service, shall be executed by the civil officers prescribed by state law.

Section 62. Section 39A-5-206, which is renumbered from Section 39-6-20 is renumbered and amended to read:

[~~39-6-20~~]. 39A-5-206. Military judge -- Qualifications -- Designation for detail.

(1) The [~~authority~~] convening authority of a military court shall, subject to regulations [~~made~~] promulgated by the governor, detail a military judge, as designated by the state judge advocate, to preside over each open session of the court.

(2) A military judge shall be:

(a) a commissioned officer;

(b) a member of the Utah State Bar;

(c) a member of the bar of a federal court; and

(d) certified as qualified for [~~this~~] duty by the state judge advocate.

[~~(3) (a) The military judge of a military court shall be designated by the state judge advocate or the SJA's designee for detail by the convening authority.~~]

[~~(b)~~] (3) Unless the military court [~~was~~] is convened by the governor, neither the adjutant general nor the adjutant general's staff may prepare or review any report concerning the effectiveness, fitness, or efficiency of the detailed military judge that relates to the judge's performance of duty as a military judge.

(4) [~~A person~~] An individual is not eligible to act as a military judge in a case if the [~~person~~] individual:

(a) is the accuser;

(b) is a witness in the case;

(c) has acted as investigating officer; or

(d) is a counsel in the same case.

(5) The military judge of a court may not:

(a) consult with the members of the court, except in the presence of the accused, trial counsel, and defense counsel; or

(b) vote with the members of the court.

Section 63. Section 39A-5-207, which is renumbered from Section 39-1-41.5 is renumbered and amended to read:

[~~39-1-41.5~~]. 39A-5-207. Authority of military court judges -- Payment of witnesses.

(1) Judges of military courts may:

(a) issue a warrant [~~to~~] for the arrest of an accused [~~person and bring him before the court for trial, when the person has failed to obey a prior summons to appear before the court, and a copy of the charge or information has been delivered to the accused with the summons~~] individual who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;

(b) issue subpoenas and subpoenas duces tecum, and enforce by attachment the attendance of witnesses and the production of books and papers;

(c) sentence for a refusal to be sworn or to answer as provided in actions before civil courts; and

(d) issue process to compel witnesses to appear and testify, and compel the production of other evidence in any county within the state.

(2) Witnesses shall be paid in the same manner as in district courts.

Section 64. Section 39A-5-208, which is renumbered from Section 39-6-19 is renumbered and amended to read:

[~~39-6-19~~]. 39A-5-208. Individuals who may serve on a military court.

(1) A commissioned officer off or on duty with the National Guard may serve on a military court for the trial of any [~~person~~] individual brought before the court for trial.

(2) A warrant officer off or on duty with the National Guard may serve on a military court for the trial of any [~~person~~] individual, other than a superior commissioned officer, who is brought before the court for trial.

(3) (a) An enlisted member of the National Guard who is not a member of the same unit as the accused may serve on a military court for the trial of any enlisted member brought before the court for trial.

(b) However, an enlisted member may serve as a member of a court only if before the conclusion of a session called by the court under Section [~~39-6-32~~] 39A-5-216, or in the absence of the session, before the court is assembled for the trial of the accused, the accused personally has requested in writing that enlisted members serve on the court.

(c) If the request is made under Subsection (3)(b), the accused may not be tried by the military court when enlisted members comprise less than 1/2 of the total membership of the court, unless eligible members cannot be obtained on account of physical conditions or military exigencies.

(d) If [~~the~~] eligible members cannot be obtained, the court may be assembled and trial held without them, but the convening authority shall make a detailed written explanation of why [~~they~~] eligible members could not be obtained. This statement shall be appended to the court record.

[~~(e) "Unit" means any regularly organized major command (MACOM) of the National Guard.~~]

(4) (a) [~~A person~~] An individual subject to this chapter [~~shall~~] may be tried by a military court, but no member of the court may be junior to [~~him~~] the individual in rank or grade.

(b) When [~~an authority convenes~~] a military court[~~, it~~] is convened, the convening authority shall detail as members of the court [~~those persons~~] individuals who [~~in his opinion~~] are best qualified for the duty by age, education, training, experience, length of service, and judicial temperament.

(c) A member is not eligible to serve as a member of a military court [~~when he~~] if the member:

(i) is the accuser [~~or~~] in the case;

(ii) is a witness in the case [~~or~~];

(iii) has acted as investigating officer in the case; or

(iv) has acted as counsel in the [~~same~~] case.

(5) An action or proceeding may not be prosecuted or maintained against a convening authority, member of a military court, or individual acting under the court's authority or reviewing the court's proceedings because of:

(a) the imposition, approval, or execution of any sentence;

(b) the imposition or collection of a fine or penalty; or

(c) the execution of any warrant, writ, execution, process, or mandate of a military court.

Section 65. Section 39A-5-209, which is renumbered from Section 39-6-30 is renumbered and amended to read:

[~~39-6-30~~]. 39A-5-209. Military court findings -- Prohibition of censuring or influencing court actions -- Military court member's performance.

[~~(1) An authority convening a military court, or any other commanding officer, or officer serving on the staff of any of these persons, may not censure, reprimand, or admonish the court or any member, military judge, or counsel of the court, with respect to the findings or sentence adjudged by the court, or any other function carried out in the proceeding.~~]

(1) The court or any panel member, military judge, or counsel of the court may not be censured, reprimanded, or admonished by a convening authority, commanding officer, or staff officer with respect to the findings or sentence adjudged by the court, or any other function carried out in the proceeding.

(2) [~~A person~~] An individual subject to this chapter may not attempt to coerce, or by any unauthorized means influence the action of:

(a) the military court or any other military tribunal or any member of [~~these in their~~] a military tribunal arriving at the findings or sentence in any case; or

(b) any convening, approving, or reviewing authority with respect to [~~his~~] any judicial acts.

(3) Subsection (2) does not apply to:

(a) general instructional or informational courses in military justice, if the courses are designed solely for the purpose of instructing members of a command in the substantive and procedural aspects of a military court; or

(b) statements and instructions given in open court by the military judge, the president of a military court, or counsel.

(4) In preparing an effectiveness, efficiency, or fitness report, or any other report or document used in whole or in part for determining whether a member of the National Guard is qualified to be advanced in grade, or in determining the assignment or transfer of a member of the National Guard, or in determining whether a member should be retained in an active status, [~~a person~~] an individual subject to this chapter may not:

(a) consider or evaluate the performance of duty of any member of a military court; or

(b) give a less favorable rating or evaluation of any member of the National Guard because of the zeal with which the member, as counsel, represented any accused before a military court or before any other proceeding authorized by this chapter.

Section 66. Section 39A-5-210, which is renumbered from Section 39-6-31 is renumbered and amended to read:

[~~39-6-31~~]. 39A-5-210. Prosecutions in state name -- Right to defense trial counsel.

(1) The trial counsel of a military court prosecutes in the name of the state, and shall prepare the record of the proceedings under the direction of the court.

(2) (a) The accused has the right to be represented [~~in his defense~~] before a military court by civilian counsel if provided by him at no expense to the state, or by military counsel of his or her own selection if reasonably available.

(b) If the accused has retained civilian counsel [~~of his own choosing~~], the defense counsel and any assistant defense counsel who were detailed shall act as the associate counsel to the civilian counsel [~~for the accused~~] if the accused desires. Otherwise, detailed counsel shall be excused by the military judge.

(3) In a court proceeding resulting in a conviction, the defense counsel may forward for attachment to the record of proceedings a brief of matters that should be considered on behalf of the accused on review, including any objection to the contents of the record.

(4) An assistant trial counsel of a military court may, under the direction of the trial counsel, or as trial counsel when he is so qualified, perform any duty imposed by law, regulation, or the custom of the service on the trial counsel of the court. An assistant trial counsel of a military court may perform any duty of the trial counsel.

(5) An assistant defense counsel of a military court may, under the direction of the defense counsel or when he is qualified to be the defense counsel, perform any duty imposed by law, regulation, or the custom of the service upon counsel for the accused.

Section 67. Section 39A-5-211, which is renumbered from Section 39-6-29 is renumbered and amended to read:

[~~39-6-29~~]. 39A-5-211. Court procedures -- Regulations by governor.

(1) In cases subject to or brought under this chapter, before military courts, or before other military tribunals, the procedure, including elements of proof, may be prescribed by the governor [~~by regulations~~].

(2) The [~~regulations shall, as the~~] governor [~~considers practicable,~~] shall promulgate regulations that apply the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the courts of the state. However, the regulations may not be contrary to or inconsistent with this chapter.

Section 68. Section 39A-5-212, which is renumbered from Section 39-6-35 is renumbered and amended to read:

[~~39-6-35~~]. 39A-5-212. Military court -- Oath or affirmation.

(1) Before performing their respective duties, an oath or affirmation to perform all duties faithfully shall be administered to:

(a) military judges[~~,~~];

(b) interpreters[~~,~~];

(c) members of the court[~~,~~];

(d) the trial counsel[~~,~~];

(e) the assistant trial counsel[~~,~~];

(f) the defense counsel[~~,~~];

(g) the assistant defense counsel[~~,~~]; and

(h) court reporters [~~shall take an oath or affirmation to perform their duties faithfully~~].

(2) (a) The governor shall prescribe by regulation:

(i) the oath or affirmation[~~,~~];

(ii) the time and place of taking [~~either of them,~~] the oath or affirmation;

(iii) the manner of recording the taking[~~,~~]; and

(iv) whether the oath is to be taken for all cases in which these duties are to be performed or for a specific case.

(b) The regulations may provide that an oath or affirmation to faithfully perform any of the duties under Subsection (1) except that of court reporter, be taken at any time by any judge advocate, legal officer, or other [~~person~~] individual certified as qualified or competent for the duty. The regulations may also provide that an oath under this subsection need not again be taken at the time the judge advocate, legal officer, or other [~~person~~] individual having taken an oath under this section is detailed to that duty.

[~~(c)~~] (3) Each witness in a military court shall be examined [~~on~~] under oath or affirmation.

Section 69. Section 39A-5-213, which is renumbered from Section 39-6-34 is renumbered and amended to read:

[~~39-6-34~~]. 39A-5-213. Military court -- Challenge for cause -- Peremptory challenge.

(1) The military judge and members of a military court may be challenged by the accused or the trial counsel for cause stated to the court. The military judge of the court shall determine the relevancy and validity of challenges for cause, and may not receive a challenge to more than one [~~person~~] member at a time. Challenges by the trial counsel shall be presented and decided before those by the accused are offered, unless the judge determines otherwise.

(2) Each accused and the trial counsel are entitled to one peremptory challenge, but the military judge may not be challenged except for cause. The military judge in his or her discretion may grant additional peremptory challenges where appropriate.

Section 70. Section 39A-5-214, which is renumbered from Section 39-6-22 is renumbered and amended to read:

[~~39-6-22~~]. 39A-5-214. Military court members -- When excused -- Trial procedure.

(1) A member of a military court may not be absent or excused after the court has been assembled for the trial of the accused, except because of physical disability, the result of a challenge, or for good cause by order of the convening authority.

(2) (a) When a military court other than a court composed solely of a military judge is reduced to fewer than four members, the trial may not proceed unless the convening authority details new members sufficient to provide not fewer than four members.

(b) When the new members have been sworn, the trial may proceed with the new members present after the recorded evidence previously introduced before the members of the court has been read to the court in the presence of the military judge, the accused, and the counsel for the prosecution and defense.

Section 71. Section 39A-5-215, which is renumbered from Section 39-6-33 is renumbered and amended to read:

[~~39-6-33~~]. 39A-5-215. Military court -- Continuance.

The military judge may, upon good cause shown, grant a continuance to trial or defense counsel for a stated period of time, when a continuance appears to be just.

Section 72. Section 39A-5-216, which is renumbered from Section 39-6-32 is renumbered and amended to read:

[~~39-6-32~~]. 39A-5-216. Military court -- Session -- Procedures.

(1) After the service of charges has been referred for trial to a military court composed of a military judge and panel members, the military judge may, subject to Section [~~39-6-28~~] 39A-5-118, call the court into session. The session shall be:

(a) made a part of the record[~~,~~]; and [~~shall be~~]

(b) in the presence of the accused, the defense counsel, and the trial counsel.

(2) The session may be conducted without the presence of the panel members.

(3) A session under this subsection may be conducted for the following purposes:

(a) hearing and determining motions raising defenses or objections which are capable of determination without trial of the issues raised by a plea of not guilty;

(b) hearing and ruling upon any matter a military judge under this chapter may rule upon, whether or not the matter is appropriate for later consideration or decision by the members of the court;

(c) holding the arraignment and receiving the pleas of the accused, if permitted by regulations [~~prescribed~~] promulgated by the governor or adjutant general; or

(d) performing any other procedural function that may be performed by the military judge under this chapter or under rules [~~prescribed~~] promulgated under Section [~~39-6-39~~] 39A-5-219 and which does not require the presence of the members of the court.

[~~(3)~~] (4) When the members of a military court deliberate or vote, only the members may be present.

(5) All other proceedings, including any other consultation of the members of the court with counsel or the military judge, shall be made a part of the record and shall be in the presence of the accused, the defense counsel, and the military judge.

Section 73. Section 39A-5-217, which is renumbered from Section 39-6-38 is renumbered and amended to read:

[~~39-6-38~~]. 39A-5-217. Plea of not guilty -- Accepted -- Withdrawn.

(1) A plea of not guilty shall be entered in the record, and the court shall proceed as though the accused [~~had~~] pleaded not guilty, if the accused:

(a) after arraignment, makes an irregular pleading;

(b) after a plea of guilty. raises a matter inconsistent with the plea;

(c) has apparently entered the plea of guilty improvidently or through lack of understanding of its meaning and effect; or

(d) fails or refuses to plead.

(2) (a) A plea of guilty by the accused may not be accepted to any charge or specification alleging an offense for which a determinate term of one year confinement may be imposed.

(b) If a plea of guilty has been accepted by the military judge, a finding of guilty, if permitted by regulations promulgated by the governor, shall be entered immediately without vote and constitutes the finding of the court.

(c) If the plea of guilty is withdrawn prior to announcement of the sentence, the proceedings shall continue as though the accused [~~had~~] pleaded not guilty.

Section 74. Section 39A-5-218, which is renumbered from Section 39-6-41 is renumbered and amended to read:

[~~39-6-41~~]. 39A-5-218. Contempt -- Penalty.

(1) A military court may punish for contempt any [~~person~~] individual who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any disorderly conduct.

(2) The punishment may not exceed confinement for three days in the county jail of the county where the proceedings are held, or a fine of $200, or both.

Section 75. Section 39A-5-219, which is renumbered from Section 39-6-39 is renumbered and amended to read:

[~~39-6-39~~]. 39A-5-219. Obtaining evidence and witnesses -- Procedure.

[~~(1)~~]The trial and defense counsel, and the military court, have equal opportunity to obtain witnesses and other evidence under:

(1) regulations promulgated by the governor[~~,~~] or adjutant general[~~, or~~];

(2) the applicable rules of civil and criminal procedure; or

(3) state or federal law [~~prescribe~~].

[~~(2) The military court judge may:~~]

[~~(a) issue a warrant for the arrest of any accused person who, having been served with a warrant and a copy of the charges, disobeys a written order by the convening authority to appear before the court;~~]

[~~(b) issue subpoenas duces tecum and other subpoenas;~~]

[~~(c) enforce by attachment the attendance of witnesses and the production of books and papers; and~~]

[~~(d) sentence for refusal to be sworn or to answer, as under civil procedure.~~]

[~~(3) Process issued in a military court to compel witnesses to appear and testify and to compel the production of other evidence may be served within the boundaries of the state.~~]

Section 76. Section 39A-5-220, which is renumbered from Section 39-6-42 is renumbered and amended to read:

[~~39-6-42~~]. 39A-5-220. Depositions -- Procedure.

(1) After charges have been signed under Section [~~39-6-23~~] 39A-5-114, any party may take oral or written depositions unless the military judge hearing the case, or if the case is not being heard, an authority competent to convene a military court for the trial of [~~those~~] the charges prohibits the depositions for good cause.

(2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.

(3) Depositions may be taken before and authenticated by any military or civil officer authorized to administer oaths under state law or the law of the jurisdiction where the deposition is to be taken [~~to administer oaths~~].

(4) An authenticated deposition, taken upon reasonable notice to the other parties, may be read in evidence, to the extent it is admissible under the rules of evidence, before any military court or any proceeding before a court of inquiry, if [~~it appears to the court~~]:

(a) the witness resides or is beyond the state in which the military court or court of inquiry is ordered to sit, or beyond the distance of 100 miles from the location of the trial or hearing;

(b) the witness due to death, age, illness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the location of the trial or hearing;

(c) the present location of the witness is unknown; or

(d) the deposition was taken in the physical presence of the accused.

Section 77. Section 39A-5-221, which is renumbered from Section 39-6-43 is renumbered and amended to read:

[~~39-6-43~~]. 39A-5-221. Sworn testimony -- Read in evidence.

(1) The sworn testimony of a case which is contained in the authenticated record of proceedings of a court of inquiry, of [~~a person~~] an individual whose oral testimony cannot be obtained, may be read in evidence by any party before a military court if:

(a) the sworn testimony is otherwise admissible under the rules of evidence;

(b) the accused was a party before the court of inquiry;

(c) the same issue was involved or the accused consents to the introduction of the evidence; or

(d) the accused was physically present when the testimony was taken.

(2) The testimony may be read in evidence:

(a) before a court of inquiry or a military board; or

(b) by the defense only in cases extending to the dismissal of a commissioned officer.

Section 78. Section 39A-5-222, which is renumbered from Section 39-6-44 is renumbered and amended to read:

[~~39-6-44~~]. 39A-5-222. Voting by military court members -- Procedure -- Presumption of innocence -- Reasonable doubt -- Burden of proof.

[~~(1) (a) Voting by members of a military court on the findings and on the sentence, and upon questions of challenge, are by secret written ballot.~~]

[~~(b) The junior member of the court counts the votes.~~]

[~~(c) The count shall be reviewed by the president, who shall immediately announce the result of the ballot to the members of the court.~~]

[~~(2)~~] (1) (a) The military judge shall rule upon all questions of law and all interlocutory questions arising during the proceedings.

(b) A ruling made by the military judge upon a question of law or an interlocutory question, other than the factual issue of mental responsibility of the accused, is final and is the ruling of the court. However, the military judge may change the ruling at any time during the trial.

[~~(3)~~] (2) Before a vote is taken on the findings, the military judge shall, in the presence of the accused and counsel, instruct the court as to the elements of the offense and charge the court that:

(a) the accused [~~must be~~] is presumed innocent until [~~his~~] guilt is established by legal and competent evidence beyond reasonable doubt;

(b) if there is reasonable doubt as to the guilt of the accused, the doubt shall be resolved in favor of the accused, and [~~he~~] the accused shall be acquitted;

(c) if there is a reasonable doubt as to the degree of guilt, the finding [~~must~~] shall be in a lower degree, as to which there is no reasonable doubt; and

(d) the burden of proof to establish the guilt of the accused beyond a reasonable doubt is on the state.

(3) (a) Voting by members of a military court on the findings and on the sentence, and upon questions of challenge, are by secret written ballot.

(b) The junior member of the court counts the votes.

(c) The count shall be reviewed by the president, who shall immediately announce the result of the ballot to the members of the court.

(4) (a) [~~Subsections (1), (2), and (3) do not apply to a court~~] If the court is composed of a military judge only, [~~as~~] the military judge [~~of a court~~] determines all questions of law and fact arising during the proceedings. If the accused is convicted, the judge imposes the sentence.

(b) The military judge of a court shall make a general finding and shall [~~in addition~~], on request, find the facts specially.

(c) If an opinion or memorandum of decision is filed, it is sufficient if the findings of fact are included.

Section 79. Section 39A-5-223, which is renumbered from Section 39-6-45 is renumbered and amended to read:

[~~39-6-45~~]. 39A-5-223. Vote necessary for conviction or other questions -- Tie votes.

(1) [~~A person~~] The accused may not be convicted of any offense except by a unanimous verdict of the members of the court present at the time the vote is taken.

(2) [~~(a)~~] All other questions decided by the members of a military court are determined by a majority vote. [~~However, a~~] A determination to reconsider a finding of guilty, to reconsider a sentence, or to decrease [~~it~~] a sentence, may be made by any lesser vote which indicates that the reconsideration is not opposed by the number of votes required for that finding or sentence.

[~~(b)~~] (3) (a) A tie vote on a challenge disqualifies the member challenged.

(b) A tie vote on a motion for a finding of not guilty or on a motion relating to the question of the accused's sanity is a determination against the accused.

(c) A tie vote on any other question is a determination in favor of the accused.

Section 80. Section 39A-5-224, which is renumbered from Section 39-6-46 is renumbered and amended to read:

[~~39-6-46~~]. 39A-5-224. Findings -- Background check prior to sentencing.

(1) A court shall announce its findings and sentence to the parties as soon as determined.

(2) The court panel may defer sentencing pending an investigation of the background of the accused to determine a just and appropriate sentence.

Section 81. Section 39A-5-225, which is renumbered from Section 39-6-52 is renumbered and amended to read:

[~~39-6-52~~]. 39A-5-225. Finding or sentence -- Error -- Review.

(1) A finding or sentence of a military court may not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(2) A reviewing authority with the power to approve or affirm a finding of guilty may approve or affirm that portion of the finding that includes a lesser included offense.

Section 82. Section 39A-5-226, which is renumbered from Section 39-6-47 is renumbered and amended to read:

[~~39-6-47~~]. 39A-5-226. Military court records.

(1) (a) Each military court shall maintain a separate record of the proceedings in each case brought before it. [~~The~~] Each record shall be authenticated by the signature of the military judge.

(b) (i) If the record cannot be authenticated by the military judge due to [~~his~~] death, disability, or absence, it shall be authenticated by the signature of the trial counsel.

(ii) If the trial counsel is unable to authenticate due to [~~his~~] death, disability, or absence, a member of the court panel shall authenticate the record by [~~his~~] signature.

(c) In a court of only a military judge, the record shall be authenticated by the court reporter under the same conditions that a member of a court would authenticate under this section[~~,~~]:

(i) if the proceedings have resulted in an acquittal of all charges and specifications; or[~~, if~~]

(ii) if the proceedings are not affecting a general or flag officer, [~~in~~] for a sentence that does not [~~including~~] include a discharge and is not in excess of that which may be prescribed by regulations of the governor.

(2) A copy of the record of the proceedings of each court shall be given to the accused as soon as it is authenticated.

(3) The expense in preparing and transmitting the record shall be by regulations prescribed by the governor or the adjutant general.

Section 83. Section 39A-5-227, which is renumbered from Section 39-6-53 is renumbered and amended to read:

[~~39-6-53~~]. 39A-5-227. Trial record forwarded to convening authority.

After a trial by a military court, the record shall be forwarded to the convening authority, as the reviewing authority. Action on the record may be taken by the [~~person who convened the court~~] convening authority, a commissioned officer commanding at that time, a successor in command, or by the governor.

Section 84. Section 39A-5-228, which is renumbered from Section 39-6-54 is renumbered and amended to read:

[~~39-6-54~~]. 39A-5-228. Convening authority refers record to SJA -- Opinion.

The convening authority shall refer the record of each military court to the SJA, who shall submit a written opinion to the convening authority. If the final action of the court is an acquittal of all charges and specifications, the opinion is limited to questions of jurisdiction.

Section 85. Section 39A-5-229, which is renumbered from Section 39-6-55 is renumbered and amended to read:

[~~39-6-55~~]. 39A-5-229. Specification dismissal -- No finding of not guilty -- Procedure.

(1) If a specification before a military court has been dismissed on motion and the ruling does not amount to a finding of not guilty, the convening authority may return the record to the court for reconsideration of the ruling and any further appropriate action.

(2) If there is an apparent error or omission in the record or the record shows improper or inconsistent action by a court martial regarding a finding or sentence, that may be rectified without material prejudice to the substantial rights of the accused, the convening authority may return the record to the court for appropriate action. However, the record may not be returned for:

(a) reconsideration of a finding of not guilty of any specification, or a ruling which amounts to a finding of not guilty;

(b) reconsideration of a finding of not guilty of any charge unless the record shows a finding of guilty under a specification laid under that charge, which sufficiently alleges a violation of a provision of this chapter; or

(c) increasing the severity of the sentence.

Section 86. Section 39A-5-230, which is renumbered from Section 39-6-56 is renumbered and amended to read:

[~~39-6-56~~]. 39A-5-230. Rehearing ordered by convening authority -- Grounds -- Procedure.

(1) (a) If the convening authority disapproves the findings and sentence of a military court [~~he may, except if~~], the convening authority may, unless there is a lack of sufficient evidence in the record to support the findings, order a rehearing, and [~~shall~~] state the reasons for disapproval.

(b) If [~~he~~] the convening authority disapproves the findings and sentence and does not order a rehearing, [~~he shall dismiss~~] the charges shall be dismissed.

(2) (a) Each rehearing shall take place before a military court composed of members who are not members of the military court that [~~first~~] originally heard the case.

(b) At a rehearing, the accused may not be tried for any offense [~~of~~] for which [~~he was found~~] a verdict of not guilty was returned by the [~~first~~] original military court.

(3) A sentence imposed may not exceed or be more severe than the original sentence, unless based on a finding of guilty regarding an offense not considered on the merits in the original proceedings.

Section 87. Section 39A-5-231, which is renumbered from Section 39-6-58 is renumbered and amended to read:

[~~39-6-58~~]. 39A-5-231. Convening authority review -- Action by governor final -- SJA review -- Appeal of final action.

(1) When the governor is the convening authority, the governor's action on the review of a record of trial is final.

(2) The state judge advocate shall review the record of trial in each case prior to final action being taken.

(3) The SJA shall make a written review and recommendation on legal issues to the convening authority for [~~its~~] consideration prior to final action in any case.

(4) In a case subject to review by the SJA under this section, the SJA shall submit an opinion regarding any errors committed during the trial and an analysis of the legal effect of the error to the convening authority prior to [~~its~~] the convening authority's affirmation and action regarding the findings and sentence in the case.

(5) The convening authority may affirm only findings of guilty and the sentence or part of the sentence that:

(a) is correct in law and fact; and

(b) should be approved, based on the entire record and the advice of the SJA, and any rebuttal submitted by the accused or defense counsel.

(6) In considering the record, the convening authority may weigh the evidence, judge the credibility of witnesses, and determine controverted questions of fact, recognizing that the trial court saw and heard the testimony of the witnesses.

(7) If the convening authority sets aside the findings and sentence:

(a) a rehearing may be ordered, except when the decision to set aside is based on a lack of sufficient evidence in the record to support the findings; or

(b) if a rehearing is not ordered, the charges shall be dismissed.

(8) (a) Final action approved by the convening authority may be appealed directly to the Utah Court of Appeals.

(b) Notice of appeal shall be filed within 30 days after the final action has been taken by the convening authority.

Section 88. Section 39A-5-232, which is renumbered from Section 39-6-59 is renumbered and amended to read:

[~~39-6-59~~]. 39A-5-232. Military court sentence -- Execution by convening authority.

(1) Except under Sections [~~39-6-17 and 39-6-58~~] 39A-5-306 and 39A-5-231, a military court sentence may be ordered executed by the convening authority when approved [~~by him~~], unless suspended or deferred.

(2) The convening authority [~~shall, in his~~] has discretion[~~,~~] to approve the sentence or [~~the~~] a part or commuted form of the sentence.

(3) After [~~his~~] approval, [~~he~~] the convening authority may suspend the execution of the sentence.

Section 89. Section 39A-5-233, which is renumbered from Section 39-6-61 is renumbered and amended to read:

[~~39-6-61~~]. 39A-5-233. Probation violation -- Hearing -- Counsel -- Execution of suspended sentence.

(1) Probation imposed as a result of a suspended sentence may be vacated by the convening authority.

(2) (a) Before [~~the vacation of the suspension of~~] a suspended military court sentence may be vacated, the officer holding convening authority jurisdiction over the probationer shall hold a hearing on the alleged violation of probation.

(b) The probationer shall be represented by counsel at the hearing.

[~~(2)~~] (3) (a) The record of the hearing and the recommendation of the officer having jurisdiction shall be sent for action to:

(i) the governor in cases involving a military court sentence of confinement[~~, and~~]; or

(ii) in all other cases, to the commanding officer of the [~~unit of the~~] National Guard unit of which the probationer is a member[~~, in all other cases~~].

(b) If the governor or commanding officer vacates the suspension, any unexecuted part of the sentence except a dismissal shall be executed.

[~~(3)~~] (4) The suspension of any other sentence may be vacated by any authority for the command in which the accused is serving or assigned that is competent to convene[~~, for the command in which the accused is serving or assigned,~~] a court that imposed the sentence.

Section 90. Section 39A-5-234, which is renumbered from Section 39-6-62 is renumbered and amended to read:

[~~39-6-62~~]. 39A-5-234. Petition for new trial -- Grounds.

Within 30 days after approval by the convening authority of a military court sentence, the accused may petition the convening authority for a new trial on the ground of newly discovered evidence or fraud on the court.

Section 91. Section 39A-5-235, which is renumbered from Section 39-6-37 is renumbered and amended to read:

[~~39-6-37~~]. 39A-5-235. Second trial on an offense prohibited.

(1) [~~A person~~] An individual may not, without [~~his~~] the individual's written consent, be brought to trial a second time in any military or civilian court of the state for the same offense.

(2) A proceeding in which an accused has been found guilty by a military court upon any charge or specification, is not a trial under this section until the finding of guilty has become final and the review of the case has been completed.

(3) A proceeding that, after the introduction of evidence but before a finding, is dismissed or terminated by the convening authority or on motion of the prosecution for failure of available evidence or witnesses without any fault of the accused is a trial under this section.

Section 92. Section 39A-5-236, which is renumbered from Section 39-6-63 is renumbered and amended to read:

[~~39-6-63~~]. 39A-5-236. Sentence -- Vacation or suspension.

(1) A convening authority may [~~remit~~] vacate or suspend any part or amount of the unexecuted portion of the sentence, including all uncollected forfeitures.

(2) The governor may for good cause shown substitute an administrative form of a discharge for a bad conduct discharge or dismissal executed under a military court sentence.

Section 93. Section 39A-5-237, which is renumbered from Section 39-6-64 is renumbered and amended to read:

[~~39-6-64~~]. 39A-5-237. Sentence set aside -- Rights restored.

(1) Under rules prescribed by the governor or the adjutant general all rights, privileges, and property affected by an executed portion of a military court sentence which has been set aside or disapproved, except an executed dismissal or discharge, shall be restored unless a new trial or rehearing is ordered and the executed part is included in a sentence imposed upon the new trial or rehearing.

(2) If a previously executed sentence of bad conduct discharge is not imposed in a new trial, the governor shall substitute a discharge authorized for administrative issue, unless the accused is serving the remainder of his or her enlistment.

(3) (a) If a previously executed sentence of dismissal is not imposed in a new trial, the governor shall substitute a discharge authorized for administrative issue.

(b) [~~The~~] A commissioned officer dismissed by [~~the~~] a sentence may be reappointed by the governor to the grade and rank [~~he~~] the commissioned officer had attained, if a position is available under the applicable organization.

(c) Time between the dismissal and reappointment is considered service for all purposes.

Section 94. Section 39A-5-238, which is renumbered from Section 39-6-65 is renumbered and amended to read:

[~~39-6-65~~]. 39A-5-238. Finality of military court judgments.

(1) The proceedings, findings, and sentence a military court has reviewed and approved under this chapter, and all dismissals and discharges executed under sentences by military court following review and approval under this chapter, are final and conclusive.

(2) Orders publishing the proceedings of military court and all action taken pursuant to those proceedings are binding upon all departments, courts, agencies, and officers of the state, subject only to action upon a petition for new trial under Section [~~39-6-62~~] 39A-5-234.

Section 95. Section 39A-5-239, which is renumbered from Section 39-6-107 is renumbered and amended to read:

[~~39-6-107~~]. 39A-5-239. Courts of inquiry.

(1) Courts of inquiry to investigate any matter may be convened by the governor or his designee, whether or not the [~~persons~~] individuals involved have requested the inquiry.

(2) A court of inquiry consists of three or more commissioned officers. For each court, the convening authority shall also appoint counsel for the court.

(3) (a) [~~A person~~] An individual subject to this chapter whose conduct is subject to inquiry shall be designated as a party. [~~A person~~] An individual subject to this chapter or employed by the National Guard, who has a direct interest in the subject of inquiry, has the right to be designated as a party upon request to the court.

(b) [~~A person~~] An individual designated as a party shall be given due notice and has the right to be present, represented by counsel, to have counsel appointed, to cross examine witnesses, and to introduce evidence.

(4) Members of a court of inquiry may be challenged by a party, but only for cause stated to the court.

(5) The members, counsel, [~~the~~] reporter, and interpreters of a court of inquiry shall take an oath or affirmation to faithfully perform [~~their duties~~] the duties required under this section.

(6) Witnesses may be summoned to appear and testify and be examined before a court of inquiry, under the same provisions as for a military court.

(7) A court of inquiry shall make findings of fact but may not express opinions or make recommendations, unless required to do so by the convening authority.

(8) (a) A court of inquiry shall keep a record of [~~its~~] the court's proceedings, which shall be authenticated by the signatures of the president and counsel for the court and forwarded to the convening authority.

(b) (i) If the record cannot be authenticated by the president, it shall be signed by a member in lieu of the president.

(ii) If the record cannot be authenticated by the counsel for the court, it shall be authenticated by a member in lieu of the counsel.

Section 96. Section 39A-5-301, which is renumbered from Section 39-6-49 is renumbered and amended to read:

Part 3. Military Punishments

[~~39-6-49~~]. 39A-5-301. Military punishments -- Limits of punishment -- Cruel and unusual punishments -- Use of irons.

(1) Punishment directed by a military court for an offense may not exceed limits prescribed under [~~Section 39-1-38.5~~] Subsection (2) or lesser limits prescribed by the governor [~~may prescribe~~] for the offense.

(2) A military court may impose upon an accused any of the following after conviction for an offense:

(a) incarceration in a county jail for no longer than one year;

(b) a fine of not more than $2,500;

(c) forfeiture of pay of not more than $2,500;

(d) detention of pay equivalent to three months' pay for a period not to exceed one year;

(e) arrest in quarters for officers;

(f) restriction to specified limits for enlisted members;

(g) extra duty for not more than 60 consecutive days;

(h) reprimand;

(i) reduction of enlisted members to the lowest enlisted grade;

(j) a bad conduct discharge for enlisted members;

(k) dismissal for officers;

(l) restitution to any individual or entity injured as a result of the accused's conduct; or

(m) any combination of Subsections (2)(a) through (2)(l).

(3) Cruel or unusual punishments, including flogging, branding, marking, or tattooing on the body may not be imposed by any court or inflicted upon any individual subject to this chapter.

(4) Single or double irons may not be used unless necessary for safe custody.

Section 97. Section 39A-5-302, which is renumbered from Section 39-6-14 is renumbered and amended to read:

[~~39-6-14~~]. 39A-5-302. Nonjudicial punishment.

(1) The governor and the adjutant general of Utah may prescribe regulations governing the administration of nonjudicial punishment. The imposition and enforcement of disciplinary punishment under this section for any act or omission is not a bar to trial by a civilian court of competent jurisdiction.

(2) A service member subject to this chapter may request trial by military court in lieu of nonjudicial punishment at any time prior to imposition of nonjudicial punishment.

(a) Upon receipt of a timely request for trial by military court in lieu of nonjudicial punishment, the commanding officer may grant the request, or deny the request and continue with nonjudicial punishment proceedings. If the commander denies the member's request for trial by military court, the commander may not impose limitations on personal liberty as a punishment under nonjudicial punishment proceedings. For purposes of this section, punishments imposing limitations on personal liberty include restriction to specific limited areas and extra duties.

(b) Denial of a request for trial by military court in lieu of nonjudicial punishment does not create a private right of action and is not subject to judicial review.

(3) Any commanding officer in the [~~Utah~~] National Guard may, in addition to a reprimand, impose one or more of the punishments under this section without the intervention of a military court.

(a) Forfeiture of pay shall be calculated based on the monthly amount a service member would receive as base pay if on active duty.

(b) If a reduction of pay grade is imposed, forfeiture of pay is based on the grade to which the service member was reduced even if the reduction was suspended.

(4) Punishment imposed by the governor, a general officer, or a full colonel upon officers within the general officer's or full colonel's command may include:

(a) forfeiture of not more than one-half of one month's pay per month for three months; and

(b) restriction to specific limited areas, with or without suspension from duty, for not more than 60 consecutive days.

(5) Punishment imposed by the governor, a general officer, or a full colonel upon enlisted personnel within the general officer's or full colonel's command may include:

(a) forfeiture of not more than one-half of one month's pay per month for two months;

(b) reduction of one or more pay grades if the imposing commander holds promotion authority over the grade from which the enlisted [~~person~~] member was demoted, but an enlisted member in a pay grade above E-4 may not be reduced more than two pay grades;

(c) extra duties, including fatigue or other duties, for not more than 60 consecutive days; and

(d) restriction to specific limited areas, with or without suspension from duty, for not more than 60 consecutive days.

(6) Punishment imposed by a commander of the grade of lieutenant colonel or major upon enlisted personnel within the lieutenant colonel's or major's command may include:

(a) forfeiture of not more than one-half of one month's pay per month for two months;

(b) reduction of no more than two pay grades if the imposing commander holds promotion authority over the grade from which the enlisted [~~person~~] member was demoted;

(c) extra duties, including fatigue or other duties, for not more than 45 consecutive days; and

(d) restriction to specific limited areas, with or without suspension of duty, for not more than 45 consecutive days.

(7) Punishment imposed by a commander of the grade of captain or lieutenant upon enlisted personnel within the captain's or lieutenant's command may include:

(a) forfeiture of not more than one-half of one month's pay for one month;

(b) extra duties, including fatigue or other duties, for not more than 30 consecutive days;

(c) restriction to specific limited areas, with or without suspension from duty, for not more than 30 consecutive days; and

(d) reduction of one pay grade if the imposing commander holds promotion authority over the grade from which the enlisted [~~person~~] member was demoted.

(8) Punishments of restriction to specific limited areas and extra duty may be combined to run concurrently, but the combination may not exceed the maximum duration imposable for extra duty.

(9) (a) The imposing commander or a successor in command may, at any time, suspend by probation:

(i) all or any part of the amount of the unexecuted punishment; and

(ii) a reduction in grade or a forfeiture imposed, whether or not executed.

(b) The imposing commander or a successor in command shall set the terms of probation for any suspended punishment.

(c) The imposing commander or a successor in command may, at any time, [~~remit~~] vacate or mitigate any part or amount of the unexecuted punishment. The imposing commander or a successor in command may also set aside in whole or in part the findings, punishment, or both, whether executed or unexecuted, and restore all rights, privileges, and affected property.

(d) The imposing commander or a successor in command may mitigate reduction in grade to forfeiture of pay. Extra duties may be mitigated to restriction.

(e) A mitigated punishment may not span a greater period of time than the original punishment.

(f) When mitigating a reduction in grade to forfeiture of pay, the amount of the forfeiture may not exceed the maximum allowable forfeiture the imposing commander could have originally imposed.

(10) (a) A service member punished under this section may appeal to the next superior commander in the service member's chain of command. The next superior commander shall conduct a de novo review of both the findings and punishment under procedures provided by regulation. The next superior commander may modify or set aside the findings or punishment, having the same options afforded the imposing commander as described in this section. In no case may the next superior commander increase the severity of the findings or the amount of punishment originally imposed.

(b) If two levels of command exist above the imposing commander, the service member, having exhausted the service member's first level of appeal, may appeal to the next superior commander. If the matter originates with the governor, the adjutant general, or one level of command below the adjutant general, no right to a second appeal exists. The decision of the adjutant general on an appeal of nonjudicial punishment is final and is not subject to further appeal or judicial review.

(c) The decision of the governor or the adjutant general to impose nonjudicial punishment upon a service member is final and is not subject to further appeal or judicial review.

(d) The imposing commander shall promptly forward any appeal to the next superior commander. During the course of the appeal, the imposing commander may require the appellant to submit to the imposed punishment.

(11) A superior commander shall first obtain a legal review from a judge advocate of the Utah National Guard before acting on an appeal from any of the following imposed punishments:

(a) forfeiture of more than seven day's pay;

(b) reduction of one or more pay grades;

(c) extra duties for more than 14 days; or

(d) restriction for more than 14 days.

(12) Punishments imposed under this section, except forfeiture of pay, may not extend beyond the termination of the duty status of the punished individual.

Section 98. Section 39A-5-303, which is renumbered from Section 39-6-110 is renumbered and amended to read:

[~~39-6-110~~]. 39A-5-303. Fines.

(1) Fines imposed by a military court may be paid to [~~a~~] the military court or to an officer executing

[~~its~~] process for the court. The amount of the fine may be noted upon any state roll or account for pay of the delinquent and deducted from any pay or allowance due or to become due to [~~him~~] the individual fined, until the fine is completely paid.

(2) Any sum deducted shall be turned in to the military court which imposed the fine and shall be paid by the officer receiving it under the same procedure as for fines and other money collected under a sentence of a military court.

(3) A fine or penalty imposed by a military court upon an officer or enlisted [~~person~~] member shall be paid by the officer collecting it to the state General Fund[~~,~~] within 30 days.

Section 99. Section 39A-5-304, which is renumbered from Section 39-6-50 is renumbered and amended to read:

[~~39-6-50~~]. 39A-5-304. Forfeiture of pay as sentence.

(1) When a lawful and approved sentence of a court includes a forfeiture of pay or allowances in addition to confinement that is not suspended or deferred, the forfeiture may apply to pay or allowances becoming due on or after the date the sentence is approved by the convening authority.

(2) A forfeiture may not extend to any pay or allowances [~~acquired~~] received before that date.

Section 100. Section 39A-5-305, which is renumbered from Section 39-6-51 is renumbered and amended to read:

[~~39-6-51~~]. 39A-5-305. Confinement as sentence -- Penal institutions.

(1) A sentence of confinement imposed by a military court, whether or not it includes discharge or dismissal and whether or not the discharge or dismissal has been executed, may be carried into execution by confinement in any place of confinement under the control of any of the forces of the National Guard or in any [~~jail, penitentiary, or prison under the control~~] penal institution of the state or of any political subdivision of the state.

(2) If the words "hard labor" are not included in a sentence or punishment imposed by a court martial imposing confinement, the authority executing the sentence or punishment is not prohibited from requiring hard labor as a part of the sentence or punishment.

(3) The [~~keepers,~~] officers, sheriffs, and [~~wardens of~~] penal institutions of the state and [~~its~~] any political subdivisions of the state designated by the governor or his designee under Section [~~39-6-10~~] 39A-5-111 shall:

(a) receive [~~persons~~] individuals ordered into confinement before trial and [~~persons~~] individuals committed to confinement by a military court;

(b) confine them according to law; and

(c) receive or confine [~~a person~~] an individual under this chapter without assessing any fee or charge.

Section 101. Section 39A-5-306, which is renumbered from Section 39-6-17 is renumbered and amended to read:

[~~39-6-17~~]. 39A-5-306. Bad conduct discharge or dismissal -- Approval by governor.

(1) A sentence imposing dismissal or bad conduct discharge against a member of the National Guard who is not in federal service may not be executed until it is approved by the governor.

(2) A discharge or dismissal may not be imposed by any military court unless a complete written record of the proceedings has been made and is available for consideration of the military court.

Section 102. Section 39A-6-101, which is renumbered from Section 39-7-102 is renumbered and amended to read:

CHAPTER 6. UTAH SERVICE MEMBERS' CIVIL RELIEF ACT

[~~39-7-102~~]. 39A-6-101. Utah Service Members' Civil Relief Act -- Definitions.

As used in this chapter:

(1) "Dependent" means the spouse and children of a service member or any other [~~person~~] individual dependent upon the service member for support.

(2) "Interest" includes service charges, renewal charges, fees, or any other charges in respect to any obligation or liability.

(3) "Service member" means any member of the Utah National Guard or Utah State Defense Force serving on active military service in an organized military unit.

[~~(3) "Military~~] (4) "State military service" means active, full-time service with a recognized military unit called into service by the governor for at least 30 days.

[~~(4) "Service member" means any member of the National Guard serving on active military service in an organized military unit.~~]

Section 103. Section 39A-6-102 is enacted to read:

39A-6-102. Application of this chapter.

(1) Military members of the National Guard or the Defense Force, when ordered to state military service by the governor have the same rights and protections as provided by federal law for activation to federal military service.

(2) Proper application of this chapter shall suspend or postpone actions upon certain obligations until 60 days after discharge from active, full-time state military service.

Section 104. Section 39A-6-103, which is renumbered from Section 39-7-119 is renumbered and amended to read:

[~~39-7-119~~]. 39A-6-103. Rulemaking authority.

The [~~Adjutant General~~] adjutant general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

Section 105. Section 39A-6-104, which is renumbered from Section 39-7-104 is renumbered and amended to read:

[~~39-7-104~~]. 39A-6-104. Reopening default judgments.

(1) A default judgment rendered in any civil action against a service member during a period of state military service or within 30 days after termination of the state military service may be set aside if:

(a) it appears that the [~~person~~] service member was prejudiced by reason of [~~his~~] the service member's state military service in making a defense to the action;

(b) application by the [~~person~~] service member or [~~his~~] the service member's legal representative is made to the court rendering the judgment not later than 60 days after the termination of the service member's state military service; and

(c) the application provides enough facts that it appears that the defendant has a meritorious or legal defense to the action or some part of the action.

(2) Vacating, setting aside, or reversing any judgment because of any of the provisions of this chapter may not impair any right or title acquired by any bona fide purchaser for value under the judgment.

Section 106. Section 39A-6-105, which is renumbered from Section 39-7-105 is renumbered and amended to read:

[~~39-7-105~~]. 39A-6-105. Stay of proceedings.

(1) If at any point during an action or proceeding it appears that a plaintiff or defendant is a service member and in the conduct of the proceedings may be adversely affected by [~~his~~] the service member's state military service, the court may, on its own motion, stay the proceedings.

(2) The court may stay the proceedings if the service member or another [~~person~~] individual on [~~his~~] the service member's behalf makes a request in writing to the court, unless the court determines on the record that the ability of the plaintiff to pursue the action or the defendant to conduct [~~his~~] a defense is not materially affected by reason of [~~his~~] the service member's state military service.

Section 107. Section 39A-6-106, which is renumbered from Section 39-7-106 is renumbered and amended to read:

[~~39-7-106~~]. 39A-6-106. Fines and penalties on contracts.

(1) If compliance with the terms of a contract is stayed pursuant to this chapter, a fine or penalty may not accrue by reason of failure to comply during the period of the stay.

(2) If a service member has not obtained a stay and a fine or penalty is imposed for nonperformance of an obligation, a court may relieve enforcement if the service member was in state military service when the penalty was incurred and [~~his~~] the service member's ability to pay or perform was materially impaired.

Section 108. Section 39A-6-107, which is renumbered from Section 39-7-107 is renumbered and amended to read:

[~~39-7-107~~]. 39A-6-107. Exercise of rights not to affect future financial transactions.

Application by a service member in state military service for, or receipt of, a stay, postponement, or suspension under the provisions of this chapter in the payment of any fine, penalty, insurance premium, or other civil obligation or liability may not be used for any of the following:

(1) a determination by any lender or other person that the service member is unable to pay any civil obligation or liability in accordance with its terms;

(2) with respect to a credit transaction between a creditor and a service member:

(a) a denial or revocation of credit by the creditor;

(b) a change by the creditor in the terms of an existing credit arrangement; or

(c) a refusal by the creditor to grant credit to the service member in substantially the amount or on substantially the terms requested; or

(3) an adverse report relating to the creditworthiness of the service member by or to any person or entity engaged in the practice of assembling or evaluating consumer credit information.

Section 109. Section 39A-6-108, which is renumbered from Section 39-7-108 is renumbered and amended to read:

[~~39-7-108~~]. 39A-6-108. Stay of execution of judgment.

Unless the court determines on the record that the ability of the service member to comply with the judgment or order entered or sought is not materially affected by reason of [~~his~~] the service member's state military service, the court may, on its own motion, or upon application [~~to it~~] by the service member or another [~~person on his~~] individual on the service member's behalf:

(1) stay the execution of any judgment or order entered against the service member, as provided in this chapter; and

(2) vacate or stay any attachment or garnishment of property, money, or debts in the hands of another, whether before or after judgment as provided in this chapter.

Section 110. Section 39A-6-109, which is renumbered from Section 39-7-109 is renumbered and amended to read:

[~~39-7-109~~]. 39A-6-109. Duration of stays.

(1) Any stay of any action, proceeding, attachment, or execution, ordered by any court under the provisions of this chapter may be ordered for the period of state military service plus 60 days after its termination or any part of that time period.

(2) [~~Where~~] If the service member in state military service is a codefendant with others, the plaintiff may, with leave of the court, proceed against the others.

Section 111. Section 39A-6-110, which is renumbered from Section 39-7-110 is renumbered and amended to read:

[~~39-7-110~~]. 39A-6-110. Statutes of limitations affected by state military service.

The period of state military service is not included in computing any period limited by law, rule, or order for the bringing of any action or proceeding in any court, board, bureau, commission, department, or other agency of government by or against any [~~person~~] individual in state military service or by or against [~~his~~] the service member's heirs, executors, administrators, or assigns, whether the cause of action or the right or privilege to institute the action or proceeding has accrued prior to or during the period of state military service.

Section 112. Section 39A-6-111, which is renumbered from Section 39-7-111 is renumbered and amended to read:

[~~39-7-111~~]. 39A-6-111. Maximum rate of interest.

An obligation or liability bearing interest at a rate in excess of six percent per year incurred by a service member in state military service before [~~his~~] the service member's entry into state military service may not, during any part of the period of state military service, bear interest at a rate in excess of six percent per year unless, in the opinion of the court and upon application to the court by the obligee, the ability of the service member to pay interest upon the obligation or liability at a rate in excess of six percent per year is not materially affected by reason of [~~his~~] the service member's service. The court may make any order in the action that, in [~~its~~] the court's opinion, is just.

Section 113. Section 39A-6-112, which is renumbered from Section 39-7-112 is renumbered and amended to read:

[~~39-7-112~~]. 39A-6-112. Dependent benefits.

Dependents of a service member in state military service are entitled to the benefits accorded to service members in state military service under the provisions of Sections [~~39-7-113 through 39-7-117~~] 39A-6-113 through 39A-6-117 upon application to a court, unless, in the opinion of the court, the ability of the dependents to comply with the terms of the obligation, contract, lease, or bailment has not been materially impaired by reason of the state military service of the service member upon whom the applicants are dependent.

Section 114. Section 39A-6-113, which is renumbered from Section 39-7-113 is renumbered and amended to read:

[~~39-7-113~~]. 39A-6-113. Eviction or distress of dependents.

(1) A landlord may not evict or take and hold property of a service member or the service member's dependents for nonpayment of rent during the period of state military service if the rent on the premises occupied by the service member or the service member's dependents is less than $2,400 per month unless a court allows it after application to the court and an order granted in an action or proceeding affecting the right of possession.

(2) In any action affecting the right of possession, the court may, on its own motion, stay the proceedings for not longer than three months, or make any order the court determines to be reasonable and just under the circumstances, unless the court finds that the ability of the tenant to pay the agreed rent is not materially affected by reason of the service member's state military service.

(3) When a stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application, to relief with respect to the premises similar to that granted service members in military service in Sections [~~39-7-114 through 39-7-116~~] 39A-6-114 through 39A-6-116 to the extent and for any period as the court determines to be just and reasonable under the circumstances.

(4) Any person who knowingly takes part in any eviction or distress otherwise than as provided in Subsection (1), or attempts to do so, is guilty of a class B misdemeanor.

(5) The governor is empowered to order an allotment of the pay of a service member in state military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by any dependents of the service member.

Section 115. Section 39A-6-114, which is renumbered from Section 39-7-114 is renumbered and amended to read:

[~~39-7-114~~]. 39A-6-114. Installment contracts.

(1) The creditor of a service member who, prior to entry into state military service, has entered into an installment contract for the purchase of real or personal property may not terminate the contract or repossess the property for nonpayment or any breach occurring during military service without an order from a court of competent jurisdiction.

(2) The court, upon application to it under this section, may, unless the court finds on the record that the ability of the service member to comply with the terms of the contract is not materially affected by reason of the service member's state military service:

(a) order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(b) order a stay of the proceedings on [~~its~~] the court's own motion, or on motion by the service member or another [~~person~~] individual on the service member's behalf; or

(c) make any other disposition of the case [~~it~~] the court considers to be equitable to conserve the interests of all parties.

(3) Any person who knowingly repossesses property which is the subject of this section other than as provided in Subsection (1) is guilty of a class B misdemeanor.

Section 116. Section 39A-6-115, which is renumbered from Section 39-7-115 is renumbered and amended to read:

[~~39-7-115~~]. 39A-6-115. Mortgage foreclosures.

(1) The creditor of a service member who[~~, prior to entry into military service, has~~] entered into a mortgage contract with the service member or the service member's dependent for the purchase of real or personal property prior to the service member's entry into state military service may not foreclose on the mortgage or repossess the property for nonpayment or any breach occurring during the service member's state military service without an order from a court of competent jurisdiction.

(2) The court, upon an application [~~to it~~] under this section, may, unless the court finds on the record that the ability of the service member to comply with the terms of the mortgage is not materially affected by reason of the service member's state military service:

(a) order repayment of any prior installments or deposits as a condition of terminating the contract and resuming possession of the property;

(b) order a stay of the proceedings on [~~its~~] the court's own motion, or on motion by the service member or another [~~person~~] individual on the service member's behalf; or

(c) make any other disposition of the case as [~~it~~] the court considers to be equitable to conserve the interests of all parties.

(3) In order to come within the provisions of this section, the service member or dependent shall establish the following:

(a) that relief is sought on an obligation secured by a mortgage, trust deed, or other security in the nature of a mortgage on either real or personal property;

(b) that the obligation originated prior to the service member's entry into state military service;

(c) that the property was owned by the service member or the service member's dependent prior to the commencement of state military service; and

(d) that the property is still owned by the service member or the service member's dependent at the time relief is sought.

(4) Any person who knowingly forecloses on property which is the subject of this section other than as provided in Subsection (1) is guilty of a class B misdemeanor.

Section 117. Section 39A-6-116, which is renumbered from Section 39-7-116 is renumbered and amended to read:

[~~39-7-116~~]. 39A-6-116. Application for relief.

(1) A [~~person~~] service member may, at any time during [~~his~~] the service member's period of state military service or within 60 days after discharge or termination, apply to a court for relief in respect of any obligation or liability incurred by the [~~person~~] service member prior to [~~his~~] the service member's period of military service.

(2) The court, after appropriate notice and hearing, unless in [~~its~~] the court's opinion the ability of the applicant to comply with the terms of the obligation or liability has not been materially affected by reason of [~~his~~] the service member's state military service, may grant the following relief:

(a) In the case of an obligation payable under its terms in installments under a contract for the purchase of real estate, or secured by a mortgage or other instrument in the nature of a mortgage upon real estate, a stay of the enforcement of the obligation during the applicant's period of state military service and, from the date of termination of the period of state military service or from the date of application if made after termination of state military service, for a period equal to the period of the remaining life of the installment contract or other instrument plus a period of time equal to the period of state military service of the applicant, or any part of the combined period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of state military service or from the date of application, in equal installments during the combined period at the rate of interest on the unpaid balance as is prescribed in the contract, or other instrument evidencing the obligation, for installments paid when due, and subject to any other terms as the court may consider just.

(b) In the case of any other obligation or liability, a stay of the enforcement during the applicant's period of state military service and, from the date of termination of the period of state military service or from the date of application if made after termination of the period of state military service, for a period of time equal to the period of state military service of the applicant or any part of that period, subject to payment of the balance of principal and accumulated interest due and unpaid at the date of termination of the period of state military service or the date of application, in equal periodic installments during the extended period at the rate of interest prescribed for the obligation or liability, if paid when due, and subject to other terms the court considers to be reasonable and just.

(3) When any court has granted a stay as provided in this section, a fine or penalty may not be accrued for failure to comply with the terms or conditions of the obligation or liability for which the stay was granted during the period the terms and conditions of the stay are complied with.

Section 118. Section 39A-6-117, which is renumbered from Section 39-7-117 is renumbered and amended to read:

[~~39-7-117~~]. 39A-6-117. Storage liens.

(1) A person may not exercise any right to foreclose or enforce any lien for storage of household goods, furniture, or personal effects of a service member in state military service during the service member's period of state military service and for 60 days after termination or discharge, except upon an order previously granted by a court upon application and a return to the court made and approved by the court. In the proceeding the court may, after hearing the matter, on its own motion, and shall, on application [~~to it~~] by the service member in state military service or another [~~person~~] individual on the service member's behalf, unless in the opinion of the court the ability of the service member to pay the storage charges due is not materially affected by reason of the service member's state military service:

(a) stay the proceedings as provided in this chapter; or

(b) make any other disposition the court considers to be equitable to conserve the interest of all the parties.

(2) The enactment of the provisions of this section may not be construed in any way as affecting or limiting the scope of Section [~~39-7-115~~] 39A-6-115.

(3) Any person who knowingly takes any action contrary to the provisions of this section, or attempts to do so, is guilty of a class B misdemeanor.

Section 119. Section 39A-7-101, which is renumbered from Section 39-9-101 is renumbered and amended to read:

CHAPTER 7. MORALE, WELFARE, AND RECREATION PROGRAM

[~~39-9-101~~]. 39A-7-101. State Morale, Welfare, and Recreation Program -- Program established.

[~~(1) This chapter is known as the "State Morale, Welfare, and Recreation Program."~~]

[~~(2)~~] The adjutant general is authorized to establish a Utah National Guard Morale, Welfare, and Recreation Program to serve members of the military, eligible dependents, and others as set out in Section [~~39-9-103~~] 39A-7-103.

Section 120. Section 39A-7-102, which is renumbered from Section 39-9-102 is renumbered and amended to read:

[~~39-9-102~~]. 39A-7-102. Definitions.

For purposes of this chapter:

(1) "Dependent" means the spouse or children of [~~a person~~] an individual eligible to use the program and facilities in accordance with Section [~~39-9-103~~] 39A-7-103.

(2) "MWR" means morale, welfare, and recreation.

(3) "MWR facility" means any Utah National Guard facility located on a Department of Defense or Utah National Guard installation or on property controlled by the Department of Defense or the Utah National Guard, the purpose of which is to enhance MWR for authorized patrons.

Section 121. Section 39A-7-103, which is renumbered from Section 39-9-103 is renumbered and amended to read:

[~~39-9-103~~]. 39A-7-103. Eligibility and facilities.

(1) Use of the MWR program and facilities is limited to:

(a) active and reserve component members of the Utah National Guard and armed forces of the United States;

(b) [~~persons~~] individuals retired from the armed forces of the United States;

(c) civilian employees of the Utah National Guard;

(d) dependents of authorized [~~persons~~] individuals in Subsections (1)(a) through (c);

(e) contracted employees of the Utah National Guard while working on-site or conducting business on National Guard property; [~~and~~]

(f) sponsored [~~persons~~] individuals when personally accompanied by a sponsor who is an eligible patron as described in this section; and

(g) other personnel or organizations at the discretion of the adjutant general.

(2) MWR facilities include any of the following, even if the shop, building, or parcel is only partially used for MWR purposes:

(a) post or base exchange;

(b) canteen or service club;

(c) barber shop;

(d) fitness center;

(e) snack bar;

(f) restaurant;

(g) billeting operation;

(h) laundry facility;

(i) range;

(j) swimming pool; or

(k) any other shop, building, or parcel that meets the definition of MWR facility in Section [~~39-9-102~~] 39A-7-102.

(3) The adjutant general shall, by regulation, determine specific use priorities when MWR facilities cannot accommodate all authorized patrons.

Section 122. Section 39A-7-104, which is renumbered from Section 39-9-104 is renumbered and amended to read:

[~~39-9-104~~]. 39A-7-104. Administration of MWR Program.

(1) The adjutant general may authorize the program to:

(a) contract for goods and services;

(b) hire employees; and

(c) receive funds from patrons in exchange for goods or services provided within the program.

(2) The adjutant general is authorized to establish MWR facilities throughout the state that, in the adjutant general's judgment, are necessary for military purposes.

(3) The adjutant general shall promulgate regulations to govern the operation of the program.

(4) The adjutant general may appoint a director for the program.

(5) The adjutant general shall establish a system of bookkeeping, accounting, and auditing procedures for the proper handling of funds derived from the program's operations.

(6) The program may use State Armory Board-controlled properties, provided:

(a) the use incurs no more than nominal cost to the state; or

(b) any costs to the state above nominal associated with the use are reimbursed to the state by the program.

Section 123. Section 39A-7-105, which is renumbered from Section 39-9-105 is renumbered and amended to read:

[~~39-9-105~~]. 39A-7-105. National Guard MWR Fund -- Proceeds.

(1) There is created an expendable special revenue fund known as the National Guard MWR Fund.

(2) The fund shall consist of:

(a) all proceeds collected under this chapter;

(b) donations made to the National Guard MWR Program; and

(c) any appropriations to the program by the Legislature.

(3) Money from the fund shall be used for the enhancement of morale, welfare, and recreation, and the administration of the program under this chapter, including paying the costs of:

(a) salaries of program employees;

(b) public liability insurance, when needed;

(c) the adjutant general's Outreach Program;

(d) the State Partnership Program; and

(e) any other expenses considered necessary in furtherance of the program by the adjutant general or the adjutant general's designee.

Section 124. Section 39A-8-101, which is renumbered from Section 39-10-101 is renumbered and amended to read:

CHAPTER 8. WEST TRAVERSE SENTINEL LANDSCAPE ACT

[~~39-10-101~~]. 39A-8-101. West Traverse Sentinel Landscape Act -- Purpose.

[~~(1) This chapter is known as "West Traverse Sentinel Landscape Act."~~]

[~~(2)~~] The purpose of this act is to:

[~~(a)~~] (1) identify lands adjacent to Camp Williams that are important to the nation's defense mission;

[~~(b)~~] (2) preserve and enhance the relationship between adjacent landowners and Camp Williams; and

[~~(c)~~] (3) create incentives to encourage adjacent landowners to adopt land management practices consistent with Camp Williams's military mission.

Section 125. Section 39A-8-102, which is renumbered from Section 39-10-102 is renumbered and amended to read:

[~~39-10-102~~]. 39A-8-102. Area designation -- West Traverse Sentinel Landscape.

(1) The compatible use buffer area surrounding Camp Williams shall be known as the West Traverse Sentinel Landscape.

(2) Lands designated by the committee established in Section [~~39-10-103~~] 39A-8-103 and lands acquired or encumbered through the Camp Williams Army Compatible Use Buffer (ACUB) Program shall be added to the buffer area.

Section 126. Section 39A-8-103, which is renumbered from Section 39-10-103 is renumbered and amended to read:

[~~39-10-103~~]. 39A-8-103. West Traverse Sentinel Landscape Coordinating Committee.

(1) There is created the West Traverse Sentinel Landscape Coordinating Committee.

(2) The committee shall be composed of the following members:

(a) the adjutant general of the Utah National Guard or another senior officer appointed by the adjutant general;

(b) the executive director of the Department of Veterans and Military Affairs or the director's designee;

(c) a landowner, selected by the chair, who owns property within the sentinel landscape area;

(d) a representative from a land conservation organization in Utah recognized as accredited under the standards and practices of the Land Trust Accreditation Commission;

(e) a representative from each municipality adjacent to Camp Williams, at the discretion of the municipality;

(f) one representative each from Salt Lake, Utah, and Tooele counties, at the discretion of the county governing body;

(g) a representative from a nongovernmental land management organization; and

(h) one member selected from a state agency that participates in land management activities.

(3) Committee members shall be selected and serve in accordance with this Subsection (3).

(a) The committee member representing Subsection (2)(c) shall be selected by the chair from a list of nominees presented by local officials.

(b) The committee members representing Subsections (2)(d) and (g) shall be invited to participate by the chair with the approval of a majority of the committee.

(c) Each incorporated municipality bordering Camp Williams shall, at its discretion no later than July 1 of each year, provide the chair with the name of the individual who will represent the municipality on the committee, as provided in Subsection (2)(e). If the municipality declines to be represented on the committee, it shall send a letter to the chair on the municipality's letterhead stating that no individual will be appointed.

(d) If a county, as provided in Subsection (2)(f), declines to be represented on the committee, it shall send a letter to the chair on the county's letterhead not later than July 1 of each year stating that no individual will be appointed.

(e) The committee chair shall request the appointment of members representing Subsection (2)(h) from:

(i) the governor if the request is for a member from a state agency; or

(ii) the mayor or governing body of a local government entity if the request is for a member from a local government agency.

(4) The adjutant general or his appointee shall serve as chair of the committee.

(5) The committee shall meet at the call of the chair, but not less than twice each calendar year.

(6) A member may not receive compensation or benefits for the member's service but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The Utah National Guard shall provide staff support for the committee.

Section 127. Section 39A-8-104, which is renumbered from Section 39-10-104 is renumbered and amended to read:

[~~39-10-104~~]. 39A-8-104. Committee responsibilities.

(1) The committee shall:

(a) identify lands to be included in the designated sentinel landscape;

(b) develop strategies and recommendations to encourage landowners within the sentinel landscape to voluntarily participate in and begin or continue land uses compatible with Camp Williams's military mission; and

(c) publish any policies and procedures as administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) In designating sentinel lands, the coordinating committee shall include all working or natural lands that the coordinating committee believes contribute to the long-term sustainability of the military missions conducted at Camp Williams.

(3) The committee shall determine the appropriate level of state resources required to adequately protect Camp Williams's military mission and may apply for grants from the LeRay McAllister Critical Lands Conservation Program to aid in securing those resources.

(4) In determining lands to designate, the coordinating committee shall seek input from:

(a) the director of the Department of Defense Readiness and Environmental Protection Integration Program; and

(b) the director of the National Guard Bureau Army Compatible Use Buffer Program, as authorized under 10 U.S.C. Sec. 2684(a).

(5) The committee shall provide a written report of its activities if state funds are expended during the previous calendar year no later than July 31 annually to:

(a) the governor;

(b) the Government Operations Interim Committee; and

(c) the Executive Appropriations Committee.

Section 128. Section 39A-8-105, which is renumbered from Section 39-10-105 is renumbered and amended to read:

[~~39-10-105~~]. 39A-8-105. West Traverse Sentinel Landscape Fund.

(1) As used in this section:

(a) "Committee" means the West Traverse Sentinel Landscape Coordinating Committee created in Section [~~39-10-103~~] 39A-8-103.

(b) "Fund" means the West Traverse Sentinel Landscape Fund.

(2) There is created a restricted account within the General Fund known as the West Traverse Sentinel Landscape Fund.

(3) The fund shall consist of:

(a) appropriations from the Legislature; and

(b) grants or donations from other public or private sources.

(4) The fund shall be administered by the Utah National Guard and the committee.

(5) The purpose of the fund shall be to provide:

(a) matching funds for established federal funding programs concerning sentinel landscapes;

(b) matching funds for local and private funding programs that assist with sentinel landscape designations;

(c) incentives for landowners who voluntarily participate in land management practices that are consistent with Camp Williams's military missions;

(d) sentinel landscape monitoring, community outreach, and education;

(e) costs associated with due diligence and administration of purchasing land and easements; and

(f) administrative costs as approved by the Utah National Guard and the committee.

(6) The committee may make an appropriation request through the Utah National Guard to the Legislature for necessary funds to carry out the committee's purpose.

(7) Upon appropriation, funds may only be used for landscapes that qualify under:

(a) the Army Compatible Use Buffer Program guidelines or similar regulations as a federal program whose purpose is to secure landscapes that serve to buffer military installations;

(b) Internal Revenue Code guidelines in 26 U.S.C. Sec. 170(h); or

(c) local municipal or county guidelines established through the committee and consistent with Camp Williams's military mission.

Section 129. Section 53-2a-603 is amended to read:

53-2a-603. State Disaster Recovery Restricted Account.

(1) (a) There is created a restricted account in the General Fund known as the "State Disaster Recovery Restricted Account."

(b) The disaster recovery account consists of:

(i) money deposited into the disaster recovery account in accordance with Section 63J-1-314;

(ii) money appropriated to the disaster recovery account by the Legislature; and

(iii) any other public or private money received by the division that is:

(A) given to the division for purposes consistent with this section; and

(B) deposited into the disaster recovery account at the request of:

(I) the division; or

(II) the person or entity giving the money.

(c) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.

(2) Subject to being appropriated by the Legislature, money in the disaster recovery account may only be expended or committed to be expended as follows:

(a) (i) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that does not exceed $500,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster;

(ii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $500,000, but does not exceed $3,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if the division:

(A) before making the expenditure or commitment to expend, obtains approval for the expenditure or commitment to expend from the governor;

(B) subject to Subsection (5), provides written notice of the expenditure or commitment to expend to the speaker of the House of Representatives, the president of the Senate, the Division of Finance, the Executive Offices and Criminal Justice Appropriations Subcommittee, the Legislative Management Committee, and the Office of the Legislative Fiscal Analyst no later than 72 hours after making the expenditure or commitment to expend; and

(C) makes the report required by Subsection 53-2a-606(2);

(iii) subject to Section 53-2a-606, in any fiscal year the division may expend or commit to expend an amount that exceeds $3,000,000, but does not exceed $5,000,000, in accordance with Section 53-2a-604, to fund costs to the state of emergency disaster services in response to a declared disaster if, before making the expenditure or commitment to expend, the division:

(A) obtains approval for the expenditure or commitment to expend from the governor; and

(B) submits the expenditure or commitment to expend to the Executive Appropriations Committee in accordance with Subsection 53-2a-606(3); and

(iv) in any fiscal year the division may expend or commit to expend an amount that does not exceed $150,000 to fund expenses incurred by the National Guard if:

(A) in accordance with Section [~~39-1-5~~] 39A-3-103, the governor orders into active service the National Guard in response to a declared disaster; and

(B) the money is not used for expenses that qualify for payment as emergency disaster services;

(b) money not described in Subsections (2)(a)(i), (ii), and (iii) may be expended or committed to be expended to fund costs to the state directly related to a declared disaster that are not costs related to:

(i) emergency disaster services;

(ii) emergency preparedness; or

(iii) notwithstanding whether a county participates in the Wildland Fire Suppression Fund created in Section 65A-8-204, any fire suppression or presuppression costs that may be paid for from the Wildland Fire Suppression Fund if the county participates in the Wildland Fire Suppression Fund;

(c) to fund the Local Government Emergency Response Loan Fund created in Section 53-2a-607;

(d) the division may provide advanced funding from the disaster recovery account to recognized agents of the state when:

(i) Utah has agreed, through the division, to enact the Emergency Management Assistance Compact with another member state that has requested assistance during a declared disaster;

(ii) Utah agrees to provide resources to the requesting member state;

(iii) the agent of the state who represents the requested resource has no other funding source available at the time of the Emergency Management Assistance Compact request; and

(iv) the disaster recovery account has a balance of funds available to be utilized while maintaining a minimum balance of $10,000,000;

(e) the division may expend up to $3,200,000 during fiscal year 2019 to fund operational costs incurred by the division during fiscal year 2019; and

(f) to fund up to $500,000 for the governor's emergency appropriations described in Subsection 63J-1-217(4).

(3) All funding provided in advance to an agent of the state and subsequently reimbursed shall be credited to the account.

(4) The state treasurer shall invest money in the disaster recovery account according to Title 51, Chapter 7, State Money Management Act.

(5) (a) Except as provided in Subsections (1) and (2), the money in the disaster recovery account may not be diverted, appropriated, expended, or committed to be expended for a purpose that is not listed in this section.

(b) Notwithstanding Section 63J-1-410, the Legislature may not appropriate money from the disaster recovery account to eliminate or otherwise reduce an operating deficit if the money appropriated from the disaster recovery account is expended or committed to be expended for a purpose other than one listed in this section.

(c) The Legislature may not amend the purposes for which money in the disaster recovery account may be expended or committed to be expended except by the affirmative vote of two-thirds of all the members elected to each house.

(6) The division:

(a) shall provide the notice required by Subsection (2)(a)(ii) using the best available method under the circumstances as determined by the division; and

(b) may provide the notice required by Subsection (2)(a)(ii) in electronic format.

Section 130. Section 59-12-104 is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax under Chapter 13, Motor and Special Fuel Tax Act;

(2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:

(a) construction materials except:

(i) construction materials purchased by or on behalf of institutions of the public education system as defined in Utah Constitution, Article X, Section 2, provided the construction materials are clearly identified and segregated and installed or converted to real property which is owned by institutions of the public education system; and

(ii) construction materials purchased by the state, its institutions, or its political subdivisions which are installed or converted to real property by employees of the state, its institutions, or its political subdivisions; or

(b) tangible personal property in connection with the construction, operation, maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities providing additional project capacity, as defined in Section 11-13-103;

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed $1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(b) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

(c) services related to Subsection (4)(a) or (b);

(5) sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce;

(6) sales of commercials, motion picture films, prerecorded audio program tapes or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture exhibitor, distributor, or commercial television or radio broadcaster;

(7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

(8) sales made to or by religious or charitable institutions in the conduct of their regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are fulfilled;

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period necessary to transport the vehicle to the borders of this state;

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

(i) the item is intended for human use; and

(ii) (A) a prescription was issued for the item; or

(B) the item was purchased by a hospital or other medical facility; and

(b) (i) Subsection (10)(a) applies to:

(A) a drug;

(B) a syringe; or

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

(A) a church; or

(B) a charitable institution; or

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

(B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided for a patient by:

(i) a medical facility; or

(ii) a nursing facility; and

(c) Subsections (12)(a) and (b) apply to:

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

(13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property or a product transferred electronically by a person:

(i) regardless of the number of transactions involving the sale of that tangible personal property or product transferred electronically by that person; and

(ii) not regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(b) this Subsection (13) does not apply if:

(i) the sale is one of a series of sales of a character to indicate that the person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(ii) the person holds that person out as regularly engaged in the business of selling that type of tangible personal property or product transferred electronically;

(iii) the person sells an item of tangible personal property or product transferred electronically that the person purchased as a sale that is exempt under Subsection (25); or

(iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of this state in which case the tax is based upon:

(A) the bill of sale or other written evidence of value of the vehicle or vessel being sold; or

(B) in the absence of a bill of sale or other written evidence of value, the fair market value of the vehicle or vessel being sold at the time of the sale as determined by the commission; and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules establishing the circumstances under which:

(i) a person is regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically is one of a series of sales of a character to indicate that a person is regularly engaged in the business of selling that type of tangible personal property or product transferred electronically; or

(iii) a person holds that person out as regularly engaged in the business of selling a type of tangible personal property or product transferred electronically;

(14) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by:

(a) a manufacturing facility that:

(i) is located in the state; and

(ii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses or consumes the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the web search portal;

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

(A) a government identification tag placed on the tooling, equipment, or parts; or

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property or a product transferred electronically traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

(i) the bill of sale or other written evidence of value of the vehicle being sold and the vehicle being traded in; or

(ii) in the absence of a bill of sale or other written evidence of value, the then existing fair market value of the vehicle being sold and the vehicle being traded in, as determined by the commission; and

(b) Subsection (17)(a) does not apply to the following items of tangible personal property or products transferred electronically traded in as full or part payment of the purchase price:

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

(18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property or a product transferred electronically used or consumed primarily and directly in farming operations, regardless of whether the tangible personal property or product transferred electronically:

(A) becomes part of real estate; or

(B) is installed by a farmer, contractor, or subcontractor; or

(ii) sales of parts used in the repairs or renovations of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is exempt under Subsection (18)(a)(i); and

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

(i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or supplies if used in a manner that is incidental to farming; and

(B) tangible personal property that is considered to be used in a manner that is incidental to farming includes:

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

(iii) a vehicle required to be registered by the laws of this state during the period ending two years after the date of the vehicle's purchase;

(19) sales of hay;

(20) exclusive sale during the harvest season of seasonal crops, seedling plants, or garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or garden, farm, or other agricultural produce is sold by:

(a) the producer of the seasonal crops, seedling plants, or garden, farm, or other agricultural produce;

(b) an employee of the producer described in Subsection (20)(a); or

(c) a member of the immediate family of the producer described in Subsection (20)(a);

(21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

(22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags, nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler, or retailer for use in packaging tangible personal property to be sold by that manufacturer, processor, wholesaler, or retailer;

(23) a product stored in the state for resale;

(24) (a) purchases of a product if:

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

(I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

(II) by a nonresident person who is not living or working in this state at the time of the purchase;

(C) used for the personal use or enjoyment of the nonresident person described in Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

(D) not used in conducting business in this state; and

(ii) for:

(A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of the product for a purpose for which the product is designed occurs outside of this state;

(B) a boat, the boat is registered outside of this state; or

(C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state;

(b) the exemption provided for in Subsection (24)(a) does not apply to:

(i) a lease or rental of a product; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(ii) the first use of a product if that phrase has the same meaning in this Subsection (24) as in Subsection (63); or

(iii) a purpose for which a product is designed if that phrase has the same meaning in this Subsection (24) as in Subsection (63);

(25) a product purchased for resale in the regular course of business, either in its original form or as an ingredient or component part of a manufactured or compounded product;

(26) a product upon which a sales or use tax was paid to some other state, or one of its subdivisions, except that the state shall be paid any difference between the tax paid and the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

(27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person for use in compounding a service taxable under the subsections;

(28) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

(b) (i) not used in this state; or

(ii) used in this state:

(A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state; or

(B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time period necessary to transport the boat, boat trailer, or outboard motor to the borders of this state;

(31) sales of aircraft manufactured in Utah;

(32) amounts paid for the purchase of telecommunications service for purposes of providing telecommunications service;

(33) sales, leases, or uses of the following:

(a) a vehicle by an authorized carrier; or

(b) tangible personal property that is installed on a vehicle:

(i) sold or leased to or used by an authorized carrier; and

(ii) before the vehicle is placed in service for the first time;

(34) (a) 45% of the sales price of any new manufactured home; and

(b) 100% of the sales price of any used manufactured home;

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

(a) a person presents a prescription for the durable medical equipment; and

(b) the durable medical equipment is used for home use only;

(37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

(c) passenger ropeways as defined in Section 72-11-102; or

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

(39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

(b) if a seller that sells or rents at the same business location the right to use or operate for amusement, entertainment, or recreation one or more unassisted amusement devices and one or more assisted amusement devices, the exemption described in Subsection (40)(a) applies if the seller separately accounts for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for the assisted amusement devices; and

(c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules:

(i) governing the circumstances under which sales are at the same business location; and

(ii) establishing the procedures and requirements for a seller to separately account for the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

(ii) an entity within the state system of public education, including:

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

(42) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(43) (a) sales made to or by:

(i) an area agency on aging; or

(ii) a senior citizen center owned by a county, city, or town; or

(b) sales made by a senior citizen center that contracts with an area agency on aging;

(44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:

(a) actually come into contact with a semiconductor; or

(b) ultimately become incorporated into real property;

(45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

(46) the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

(47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission; and

(b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

(48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

(49) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

(50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

(51) (a) sales of an item described in Subsection (51)(b) if the item:

(i) does not constitute legal tender of a state, the United States, or a foreign nation; and

(ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

(52) amounts paid on a sale-leaseback transaction;

(53) sales of a prosthetic device:

(a) for use on or in a human; and

(b) (i) for which a prescription is required; or

(ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

(i) a motion picture;

(ii) a television program;

(iii) a movie made for television;

(iv) a music video;

(v) a commercial;

(vi) a documentary; or

(vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

(i) a live musical performance;

(ii) a live news program; or

(iii) a live sporting event;

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi); or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is an alternative energy electricity production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

(I) other equipment used for locating a power line or pole; and

(b) this Subsection (55) does not apply to:

(i) tangible personal property used in construction of:

(A) a new alternative energy electricity production facility; or

(B) the increase in the capacity of an alternative energy electricity production facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

(B) the increased capacity described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii);

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is a waste energy production facility;

(B) is located in the state; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its generation capacity increased by one or more megawatts on or after July 1, 2004, as a result of the use of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

(H) other equipment used for locating a power line or pole; and

(b) this Subsection (56) does not apply to:

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

(B) the increase in the capacity of a waste energy facility;

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the waste energy facility described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii); or

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

(i) is leased or purchased for or by a facility that:

(A) is located in the state;

(B) produces fuel from alternative energy, including:

(I) methanol; or

(II) ethanol; and

(C) (I) becomes operational on or after July 1, 2004; or

(II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as a result of the installation of the tangible personal property;

(ii) has an economic life of five or more years; and

(iii) is installed on the facility described in Subsection (57)(a)(i);

(b) this Subsection (57) does not apply to:

(i) tangible personal property used in construction of:

(A) a new facility described in Subsection (57)(a)(i); or

(B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

(ii) contracted services required for construction and routine maintenance activities; and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the facility described in Subsection (57)(a)(i) is operational; or

(B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state; and

(b) the exemption under Subsection (58)(a) is not allowed to the extent that the other state or political entity to which the tangible personal property is shipped imposes a sales, use, gross receipts, or other similar transaction excise tax on the transaction against which the other state or political entity allows a credit for sales and use taxes imposed by this chapter;

(59) purchases:

(a) of one or more of the following items in printed or electronic format:

(i) a list containing information that includes one or more:

(A) names; or

(B) addresses; or

(ii) a database containing information that includes one or more:

(A) names; or

(B) addresses; and

(b) used to send direct mail;

(60) redemptions or repurchases of a product by a person if that product was:

(a) delivered to a pawnbroker as part of a pawn transaction; and

(b) redeemed or repurchased within the time period established in a written agreement between the person and the pawnbroker for redeeming or repurchasing the product;

(61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

(i) is purchased or leased by, or on behalf of, a telecommunications service provider; and

(ii) has a useful economic life of one or more years; and

(b) the following apply to Subsection (61)(a):

(i) telecommunications enabling or facilitating equipment, machinery, or software;

(ii) telecommunications equipment, machinery, or software required for 911 service;

(iii) telecommunications maintenance or repair equipment, machinery, or software;

(iv) telecommunications switching or routing equipment, machinery, or software; or

(v) telecommunications transmission equipment, machinery, or software;

(62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may, for purposes of Subsection (62)(a), make rules defining what constitutes purchases of tangible personal property or a product transferred electronically that are used in the research and development of alternative energy technology;

(63) (a) purchases of tangible personal property or a product transferred electronically if:

(i) the tangible personal property or product transferred electronically is:

(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

(C) used in conducting business in this state; and

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

(B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered outside of this state and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(b) the exemption provided for in Subsection (63)(a) does not apply to:

(i) a lease or rental of tangible personal property or a product transferred electronically; or

(ii) a sale of a vehicle exempt under Subsection (33); and

(c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for purposes of Subsection (63)(a), the commission may by rule define what constitutes the following:

(i) conducting business in this state if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(ii) the first use of tangible personal property or a product transferred electronically if that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

(iii) a purpose for which tangible personal property or a product transferred electronically is designed if that phrase has the same meaning in this Subsection (63) as in Subsection (24);

(64) sales of disposable home medical equipment or supplies if:

(a) a person presents a prescription for the disposable home medical equipment or supplies;

(b) the disposable home medical equipment or supplies are used exclusively by the person to whom the prescription described in Subsection (64)(a) is issued; and

(c) the disposable home medical equipment and supplies are listed as eligible for payment under:

(i) Title XVIII, federal Social Security Act; or

(ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

(65) sales:

(a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or

(b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:

(i) clearly identified; and

(ii) installed or converted to real property owned by the public transit district;

(66) sales of construction materials:

(a) purchased on or after July 1, 2010;

(b) purchased by, on behalf of, or for the benefit of an international airport:

(i) located within a county of the first class; and

(ii) that has a United States customs office on its premises; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the international airport described in Subsection (66)(b); and

(B) located at the international airport described in Subsection (66)(b);

(67) sales of construction materials:

(a) purchased on or after July 1, 2008;

(b) purchased by, on behalf of, or for the benefit of a new airport:

(i) located within a county of the second class; and

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

(A) owned or operated by the new airport described in Subsection (67)(b);

(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

(A) as defined in Section 41(d), Internal Revenue Code; and

(B) in the state; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts:

(i) for the machinery and equipment described in Subsection (74)(a); and

(ii) that have an economic life of three or more years;

(75) a sale or lease of tangible personal property used in the preparation of prepared food if:

(a) for a sale:

(i) the ownership of the seller and the ownership of the purchaser are identical; and

(ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or

(b) for a lease:

(i) the ownership of the lessor and the ownership of the lessee are identical; and

(ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;

(76) (a) purchases of machinery or equipment if:

(i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) the machinery or equipment:

(A) has an economic life of three or more years; and

(B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

(iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

(A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(B) subject to taxation under this chapter; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

(i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and

(ii) subject to taxation under this chapter;

(77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);

(78) amounts paid or charged to access a database:

(a) if the primary purpose for accessing the database is to view or retrieve information from the database; and

(b) not including amounts paid or charged for a:

(i) digital audio work;

(ii) digital audio-visual work; or

(iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years; and

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

(ii) have an economic life of three or more years;

(80) sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

(a) is stored, used, or consumed in the state; and

(b) is temporarily brought into the state from another state:

(i) during a disaster period as defined in Section 53-2a-1202;

(ii) by an out-of-state business as defined in Section 53-2a-1202;

(iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

(iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

(82) sales of goods and services at a morale, welfare, and recreation facility, as defined in Section [~~39-9-102~~] 39A-7-102, made pursuant to [~~Title 39, Chapter 9~~] Title 39A, Chapter 7, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) amounts paid or charged for a purchase or lease made by a qualifying data center or an occupant of a qualifying data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in:

(i) the operation of the qualifying data center; or

(ii) the occupant's operations in the qualifying data center; and

(b) have an economic life of one or more years;

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle;

(86) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 79-6-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) if the person holds a valid refiner tax exemption certification as defined in Section 79-6-701;

(87) amounts paid to or charged by a proprietor for accommodations and services, as defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax imposed under Section 63H-1-205;

(88) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, or materials, except for office equipment or office supplies, by an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(b) is located in this state; and

(c) uses the machinery, equipment, normal operating repair or replacement parts, or materials in the operation of the establishment; and

(89) amounts paid or charged for an item exempt under Section 59-12-104.10.

Section 131. Section 76-5-102.4 is amended to read:

76-5-102.4. Assault against peace officer or a military servicemember in uniform -- Penalties.

(1) As used in this section:

(a) "Assault" means the same as that term is defined in Section 76-5-102.

(b) "Military servicemember in uniform" means:

(i) a member of any branch of the United States military who is wearing a uniform as authorized by the member's branch of service; or

(ii) a member of the National Guard serving as provided in Section [~~39-1-5 or 39-1-9~~] 39A-3-103.

(c) "Peace officer" means:

(i) a law enforcement officer certified under Section 53-13-103;

(ii) a correctional officer under Section 53-13-104;

(iii) a special function officer under Section 53-13-105; or

(iv) a federal officer under Section 53-13-106.

(d) "Threat of violence" means the same as that term is defined in Section 76-5-107.

(2) A person is guilty of a class A misdemeanor, except as provided in Subsections (3) and (4), who:

(a) commits an assault or threat of violence against a peace officer, with knowledge that the person is a peace officer, and when the peace officer is acting within the scope of authority as a peace officer; or

(b) commits an assault or threat of violence against a military servicemember in uniform when that servicemember is on orders and acting within the scope of authority granted to the military servicemember in uniform.

(3) A person who violates Subsection (2) is guilty of a third degree felony if the person:

(a) has been previously convicted of a class A misdemeanor or a felony violation of this section; or

(b) the person causes substantial bodily injury.

(4) A person who violates Subsection (2) is guilty of a second degree felony if the person uses:

(a) a dangerous weapon as defined in Section 76-1-601; or

(b) other means or force likely to produce death or serious bodily injury.

(5) A person who violates this section shall serve, in jail or another correctional facility, a minimum of:

(a) 90 consecutive days for a second offense; and

(b) 180 consecutive days for each subsequent offense.

(6) The court may suspend the imposition or execution of the sentence required under Subsection (5) if the court finds that the interests of justice would be best served by the suspension and the court makes specific findings concerning the disposition on the record.

(7) This section does not affect or limit any individual's constitutional right to the lawful expression of free speech, the right of assembly, or any other recognized rights secured by the Constitution or laws of Utah or by the Constitution or laws of the United States.

Section 132. Section 78B-20-302 is amended to read:

78B-20-302. Proceeding for temporary custody -- Order.

(1) After a deploying parent receives notice of deployment and until the deployment terminates, a court may issue a temporary order granting custodial responsibility unless prohibited by Section [~~39-7-105~~] 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522. A court may not issue a permanent order granting custodial responsibility without the consent of the deploying parent.

(2) At any time after a deploying parent receives notice of deployment, either parent may file a motion regarding custodial responsibility of a child during deployment. The motion shall be filed in a pending proceeding for custodial responsibility in a court with jurisdiction under Section 78B-20-104 or, if there is no pending proceeding in a court with jurisdiction under Section 78B-20-104, in a new action for granting custodial responsibility during deployment.

Section 133. Section 78B-20-311 is amended to read:

78B-20-311. Modifying or terminating grant of custodial responsibility to nonparent.

(1) Except for an order under Section 78B-20-305, except as otherwise provided in Subsection (2), and consistent with Section [~~39-7-105~~] 39A-6-105 and the Servicemembers Civil Relief Act, 50 U.S.C. Appendix Sections 521 and 522, on motion of a deploying parent, other parent, or any nonparent to whom caretaking authority, decision-making authority, or limited contact has been granted, the court may modify or terminate the grant if the modification or termination is consistent with this part and it is in the best interest of the child. A modification is temporary and terminates pursuant to Part 4, Return from Deployment, after the deploying parent returns from deployment, unless the grant has been terminated before that time by court order.

(2) On motion of a deploying parent, the court shall terminate a grant of limited contact.

Section 134. Repealer.

This bill repeals:

Section 39-1-2, Militia divided into two parts.

Section 39-1-4, Staff of commander in chief.

Section 39-1-5, Governor may call guard into active service -- Authority.

Section 39-1-7, Muster of unorganized militia.

Section 39-1-10, Unorganized militia in service, how governed.

Section 39-1-12.5, Convening authority for military court.

Section 39-1-13, Adjutant general -- As disbursing and property officer.

Section 39-1-14, Adjutant general -- Drawing vouchers for property damage.

Section 39-1-15, Adjutant general -- Disposition of unserviceable property.

Section 39-1-16, Adjutant general -- Rendering accounts.

Section 39-1-17, Adjutant general -- Custodian of military trophies.

Section 39-1-18, Director of joint staff -- Assistant adjutant general for the army —

Assistant adjutant general for air -- Commander, land component command -- Chief of staff for air -- Officer for permanent duty as personnel officer.

Section 39-1-19, Clerical assistance.

Section 39-1-21, Adjutant general -- Salary.

Section 39-1-22, Caretakers.

Section 39-1-24, Duties of assistant adjutants general.

Section 39-1-25, Property and fiscal officer of the United States for Utah.

Section 39-1-26, Assistant quartermaster-general.

Section 39-1-28, Loss of property -- Liability.

Section 39-1-29, Organization of National Guard controlled by federal law.

Section 39-1-30, Officers of National Guard -- Commissions.

Section 39-1-31, Commissions to officers -- Relative rank.

Section 39-1-32, National Guard -- Enlistment -- Qualifications -- Discharge.

Section 39-1-33, Noncommissioned officers.

Section 39-1-34, Excuse from drill -- Furloughs and leaves of absence.

Section 39-1-35, State employees in National Guard -- Care of dependents when called into service.

Section 39-1-37, Military duties.

Section 39-1-38, Regulations and forms.

Section 39-1-38.5, Utah Manual for Military Courts to be issued -- Military court jurisdiction.

Section 39-1-39, Orders for duty -- How served.

Section 39-1-41, Discharge or dismissal.

Section 39-1-44, Members of military courts exempt from liability.

Section 39-1-45, Jurisdiction presumed.

Section 39-1-46, Arsenal -- Military supplies -- Loss.

Section 39-1-52, Encampments.

Section 39-1-53, Military units not to leave state.

Section 39-1-54, Privilege from arrest or citation -- Exceptions.

Section 39-1-56, Execution of a judgment imposing a fine -- Disposition of fines.

Section 39-1-58, Vacating officer commissions -- Placement of officers in reserves.

Section 39-1-60, Laws and regulations of United States control.

Section 39-1-62, Group life insurance for members of National Guard.

Section 39-2-7, Budget -- Annual legislative approval.

Section 39-4-2, Governor to prescribe rules and regulations.

Section 39-4-6, Forces of another state in fresh pursuit may make arrests.

Section 39-4-13, Short title.

Section 39-5-1, Power of governor to execute.

Section 39-5-2, Form of compact.

Section 39-5-3, Owner of property free from liability for injuries to persons or property during actual, impending, or mock attack.

Section 39-6-18, Convening military court.

Section 39-6-21, Military court -- Duties of convening authority.

Section 39-6-36, Desertion or absence without leave and other offenses -- Time limit on trial -- Tolling of time limits.

Section 39-6-48, Cruel and unusual punishments -- Use of irons.

Section 39-6-57, Convening authority -- Approval of findings and sentence.

Section 39-6-111, Action by military court -- Protection from prosecution.

Section 39-6-112, Presumption of military court jurisdiction.

Section 39-6-113, Jurisdiction over offenses.

Section 39-7-101, Short title.

Section 39-7-103, Application of this chapter.

Section 39-8-101, Definitions.

Section 39-8-102, Counseling program.

Section 39-9-106, Risk management.

Section 39-9-107, Equipment rentals and sales of food and beverage.

CHAPTER 374
H. B. 363

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

MODIFICATIONS TO CIVIL COMMITMENT

Chief Sponsor: Steve Eliason
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill addresses civil commitment.

Highlighted Provisions:

This bill:

- modifies the definition of "substantial danger" for purposes of civil commitment;
- clarifies that certain processes for release of a patient from voluntary civil commitment apply to adult patients;
- subject to certain requirements, extends the maximum period for adult temporary civil commitment;
- requires a local mental health authority to inform an adult who is temporarily civilly committed of the reason for commitment;
- describes certain rights of an adult who is temporarily civilly committed;
- requires a court to order an applicant to consult with the appropriate local mental health authority before the court issues an order of civil commitment;
- clarifies that a party may be transferred or substituted in accordance with the Utah Rules of Civil Procedure if a civil commitment case is transferred to another court;
- subject to certain requirements, allows a designated examiner to conduct an evaluation of an individual for civil commitment through telehealth;
- provides that at a hearing for civil commitment, the court may order assisted outpatient treatment if the individual does not meet the conditions for civil commitment;
- requires a court to dismiss commitment proceedings if the individual does not meet the conditions for civil commitment or assisted outpatient treatment; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-15-602, as last amended by Laws of Utah 2021, Chapter 122
62A-15-627, as last amended by Laws of Utah 2018, Chapter 322
62A-15-629, as last amended by Laws of Utah 2020, Chapter 225
62A-15-631, as last amended by Laws of Utah 2021, Chapter 122

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-15-602 is amended to read:

62A-15-602. Definitions.

As used in this part, Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health, Part 8, Interstate Compact on Mental Health, Part 9, Utah Forensic Mental Health Facility, Part 10, Declaration for Mental Health Treatment, and Part 12, Essential Treatment and Intervention Act:

(1) "Adult" means an individual 18 years [~~of age~~] old or older.

(2) "Approved treatment facility or program" means a treatment provider that meets the standards described in Subsection 62A-15-103(2)(a)(v).

(3) "Assisted outpatient treatment" means involuntary outpatient mental health treatment ordered under Section 62A-15-630.5.

(4) "Commitment to the custody of a local mental health authority" means that an adult is committed to the custody of the local mental health authority that governs the mental health catchment area where the adult resides or is found.

(5) "Community mental health center" means an entity that provides treatment and services to a resident of a designated geographical area, that operates by or under contract with a local mental health authority, and that complies with state standards for community mental health centers.

(6) "Designated examiner" means:

(a) a licensed physician, preferably a psychiatrist, who is designated by the division as specially qualified by training or experience in the diagnosis of mental or related illness; or

(b) a licensed mental health professional designated by the division as specially qualified by training and who has at least five years' continual experience in the treatment of mental illness.

(7) "Designee" means a physician who has responsibility for medical functions including admission and discharge, an employee of a local mental health authority, or an employee of a person that has contracted with a local mental health authority to provide mental health services under Section 17-43-304.

(8) "Essential treatment" and "essential treatment and intervention" mean court-ordered treatment at a local substance abuse authority or an approved treatment facility or program for the treatment of an adult's substance use disorder.

(9) "Harmful sexual conduct" means the following conduct upon an individual without the individual's consent, including the nonconsensual circumstances described in Subsections 76-5-406(2)(a) through (l):

(a) sexual intercourse;

(b) penetration, however slight, of the genital or anal opening of the individual;

(c) any sexual act involving the genitals or anus of the actor or the individual and the mouth or anus of either individual, regardless of the gender of either participant; or

(d) any sexual act causing substantial emotional injury or bodily pain.

(10) "Informed waiver" means the patient was informed of a right and, after being informed of that right and the patient's right to waive the right, expressly communicated his or her intention to waive that right.

(11) "Institution" means a hospital or a health facility licensed under Section 26-21-8.

(12) "Local substance abuse authority" means the same as that term is defined in Section 62A-15-102 and described in Section 17-43-201.

(13) "Mental health facility" means the Utah State Hospital or other facility that provides mental health services under contract with the division, a local mental health authority, a person that contracts with a local mental health authority, or a person that provides acute inpatient psychiatric services to a patient.

(14) "Mental health officer" means an individual who is designated by a local mental health authority as qualified by training and experience in the recognition and identification of mental illness, to:

(a) apply for and provide certification for a temporary commitment; or

(b) assist in the arrangement of transportation to a designated mental health facility.

(15) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(16) "Patient" means an individual who is:

(a) under commitment to the custody or to the treatment services of a local mental health authority; or

(b) undergoing essential treatment and intervention.

(17) "Physician" means an individual who is:

(a) licensed as a physician under Title 58, Chapter 67, Utah Medical Practice Act; or

(b) licensed as a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(18) "Serious bodily injury" means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

(19) "Substantial danger" means that due to mental illness, an individual is at serious risk of:

(a) suicide;

(b) serious bodily self-injury;

(c) serious bodily injury because the individual is incapable of providing the basic necessities of life, including food, clothing, or shelter;

(d) causing or attempting to cause serious bodily injury to another individual; [~~or~~]

(e) engaging in harmful sexual conduct[~~.~~]; or

(f) if not treated, suffering severe and abnormal mental, emotional, or physical distress that:

(i) is associated with significant impairment of judgment, reason, or behavior; and

(ii) causes a substantial deterioration of the individual's previous ability to function independently.

(20) "Treatment" means psychotherapy, medication, including the administration of psychotropic medication, or other medical treatments that are generally accepted medical or psychosocial interventions for the purpose of restoring the patient to an optimal level of functioning in the least restrictive environment.

Section 2. Section 62A-15-627 is amended to read:

62A-15-627. Release of voluntary adult -- Exceptions.

(1) [~~A~~] Except as provided in Subsection (2), a mental health facility shall immediately release an adult patient:

(a) who is voluntarily admitted, as described in Section 62A-15-625, and who requests release, verbally or in writing[~~,~~]; or

(b) whose release is requested in writing by the patient's legal guardian, parent, spouse, or adult next of kin[~~, shall be immediately released except that:~~].

(2) (a) An adult patient's release under Subsection (1) may be conditioned upon the agreement of the patient, if:

(i) the request for release is made by an individual other than the patient; or

[~~(b)~~] (ii) [~~if~~] the admitting local mental health authority, [~~a~~] the designee of the local mental health authority, or [~~a~~] the admitting mental health facility has cause to believe that release of the patient would be unsafe for the patient or others[~~,~~].

(b) (i) An adult patient's release [~~of that patient~~] may be postponed for up to 48 hours, excluding weekends and holidays, [~~provided that~~] if the admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility [~~shall cause to be instituted~~] causes involuntary commitment proceedings to be commenced with the district court within the specified time period.

[~~(2)~~] (ii) The admitting local mental health authority, the designee of the local mental health authority, or the admitting mental health facility shall provide written notice of the postponement and the reasons for the postponement to the patient without undue delay.

(3) [~~No judicial proceedings~~] A judicial proceeding for involuntary commitment may not be commenced with respect to a voluntary patient unless the patient [~~has requested~~] requests release.

Section 3. Section 62A-15-629 is amended to read:

62A-15-629. Temporary commitment -- Requirements and procedures -- Rights.

(1) An adult shall be temporarily, involuntarily committed to a local mental health authority upon:

(a) a written application that:

(i) is completed by a responsible individual who has reason to know, stating a belief that the adult, due to mental illness, is likely to pose substantial danger to self or others if not restrained and stating the personal knowledge of the adult's condition or circumstances that lead to the individual's belief; and

(ii) includes a certification by a licensed physician or designated examiner stating that the physician or designated examiner has examined the adult within a three-day period immediately preceding [~~that~~] the certification, and that the physician or designated examiner is of the opinion that, due to mental illness, the adult poses a substantial danger to self or others; or

(b) a peace officer or a mental health officer:

(i) observing an adult's conduct that gives the peace officer or mental health officer probable cause to believe that:

(A) the adult has a mental illness; and

(B) because of the adult's mental illness and conduct, the adult poses a substantial danger to self or others; and

(ii) completing a temporary commitment application that:

(A) is on a form prescribed by the division;

(B) states the peace officer's or mental health officer's belief that the adult poses a substantial danger to self or others;

(C) states the specific nature of the danger;

(D) provides a summary of the observations upon which the statement of danger is based; and

(E) provides a statement of the facts that called the adult to the peace officer's or mental health officer's attention.

(2) If at any time a patient committed under this section no longer meets the commitment criteria described in Subsection (1), the local mental health authority or the local mental health authority's designee shall document the change and release the patient.

(3) (a) A patient committed under this section may be held for a maximum of 24 hours after commitment, excluding Saturdays, Sundays, and legal holidays, unless:

[~~(a)~~] (i) as described in Section 62A-15-631, an application for involuntary commitment is commenced, which may be accompanied by an order of detention described in Subsection 62A-15-631(4); [~~or~~]

[~~(b)~~] (ii) the patient makes a voluntary application for admission[~~.~~]; or

(iii) before expiration of the 24 hour period, a licensed physician, licensed physician assistant, licensed nurse practitioner, or designated examiner examines the patient and certifies in writing that:

(A) the patient, due to mental illness, poses a substantial danger to self or others;

(B) additional time is necessary for evaluation and treatment of the patient's mental illness; and

(C) there is no appropriate less-restrictive alternative to commitment to evaluate and treat the patient's mental illness.

(b) A patient described in Subsection (3)(a)(iii) may be held for a maximum of 48 hours after the 24 hour period described in Subsection (3)(a) expires, excluding Saturdays, Sundays, and legal holidays.

(c) Subsection (3)(a)(iii) applies to an adult patient.

(4) Upon a written application described in Subsection (1)(a) or the observation and belief described in Subsection (1)(b)(i), the adult shall be:

(a) taken into a peace officer's protective custody, by reasonable means, if necessary for public safety; and

(b) transported for temporary commitment to a facility designated by the local mental health authority, by means of:

(i) an ambulance, if the adult meets any of the criteria described in Section 26-8a-305;

(ii) an ambulance, if a peace officer is not necessary for public safety, and transportation arrangements are made by a physician, designated examiner, or mental health officer;

(iii) the city, town, or municipal law enforcement authority with jurisdiction over the location where the [~~individual to be committed~~] adult is present, if the [~~individual~~] adult is not transported by ambulance;

(iv) the county sheriff, if the designated facility is outside of the jurisdiction of the law enforcement authority described in Subsection (4)(b)(iii) and the [~~individual~~] adult is not transported by ambulance; or

(v) nonemergency secured behavioral health transport as that term is defined in Section 26-8a-102.

(5) Notwithstanding Subsection (4):

(a) an individual shall be transported by ambulance to an appropriate medical facility for treatment if the individual requires physical medical attention;

(b) if an officer has probable cause to believe, based on the officer's experience and de-escalation training that taking an individual into protective custody or transporting an individual for temporary commitment would increase the risk of substantial danger to the individual or others, a peace officer may exercise discretion to not take the individual into custody or transport the individual, as permitted by policies and procedures established by the officer's law enforcement agency and any applicable federal or state statute, or case law; and

(c) if an officer exercises discretion under Subsection (4)(b) to not take an individual into protective custody or transport an individual, the officer shall document in the officer's report the details and circumstances that led to the officer's decision.

(6) (a) The local mental health authority shall inform an adult patient committed under this section of the reason for commitment.

(b) An adult patient committed under this section has the right to:

(i) within three hours after arrival at the local mental health authority, make a telephone call, at the expense of the local mental health authority, to an individual of the patient's choice; and

(ii) see and communicate with an attorney.

[~~(6)~~] (7) (a) Title 63G, Chapter 7, Governmental Immunity Act of Utah, applies to this section.

(b) This section does not create a special duty of care.

Section 4. Section 62A-15-631 is amended to read:

62A-15-631. Involuntary commitment under court order -- Examination -- Hearing -- Power of court -- Findings required -- Costs.

(1) A responsible individual who has credible knowledge of an adult's mental illness and the condition or circumstances that have led to the adult's need to be involuntarily committed may initiate an involuntary commitment court proceeding by filing, in the district court in the county where the proposed patient resides or is found, a written application that includes:

(a) unless the court finds that the information is not reasonably available, the proposed patient's:

(i) name;

(ii) date of birth; and

(iii) social security number;

(b) (i) a certificate of a licensed physician or a designated examiner stating that within the seven-day period immediately preceding the certification, the physician or designated examiner examined the proposed patient and is of the opinion that the proposed patient has a mental illness and should be involuntarily committed; or

(ii) a written statement by the applicant that:

(A) the proposed patient has been requested to, but has refused to, submit to an examination of mental condition by a licensed physician or designated examiner;

(B) is sworn to under oath; and

(C) states the facts upon which the application is based; and

(c) a statement whether the proposed patient has previously been under an assisted outpatient treatment order, if known by the applicant.

(2) [~~(a) Subject to Subsection (2)(b), before~~] Before issuing a judicial order, the court [~~may~~]:

(a) shall require the applicant to consult with the appropriate local mental health authority[~~, and the court~~] at or before the hearing; and

(b) may direct a mental health professional from [~~that~~] the local mental health authority to interview the applicant and the proposed patient to determine the existing facts and report [~~them~~] the existing facts to the court.

[~~(b) The consultation described in Subsection (2)(a):~~]

[~~(i) may take place at or before the hearing; and~~]

[~~(ii) is required if the local mental health authority appears at the hearing.~~]

[~~(3) If the court finds from the application, from any other statements under oath, or from any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a substantial danger to self or others requiring involuntary commitment pending examination and hearing; or, if the proposed patient has refused to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily, the~~]

(3) The court may issue an order, directed to a mental health officer or peace officer, to immediately place [~~the~~] a proposed patient in the custody of a local mental health authority or in a temporary emergency facility, as [~~provided~~] described in Section 62A-15-634, to be detained for the purpose of examination[~~.~~] if:

(a) the court finds from the application, any other statements under oath, or any reports from a mental health professional that there is a reasonable basis to believe that the proposed patient has a mental illness that poses a danger to self or others and requires involuntary commitment pending examination and hearing; or

(b) the proposed patient refuses to submit to an interview with a mental health professional as directed by the court or to go to a treatment facility voluntarily.

(4) (a) [~~Notice~~] The court shall provide notice of commencement of proceedings for involuntary commitment, setting forth the allegations of the application and any reported facts, together with a copy of any official order of detention, [~~shall be provided by the court~~] to a proposed patient before, or upon, placement of the proposed patient in the custody of a local mental health authority or, with respect to any proposed patient presently in the custody of a local mental health authority whose status is being changed from voluntary to involuntary, upon the filing of an application for that purpose with the court.

(b) [~~A~~] The place of detention shall maintain a copy of [~~that~~] the order of detention [~~shall be maintained at the place of detention~~].

(5) (a) [~~Notice of commencement of those proceedings shall be provided by the~~] The court shall provide notice of commencement of proceedings for involuntary commitment as soon as practicable to the applicant, any legal guardian, any immediate adult family members, legal counsel for the parties involved, the local mental health authority or [~~its~~] the local mental health authority's designee, and any other persons whom the proposed patient or the court [~~shall designate. That~~] designates.

(b) Except as provided in Subsection (5)(c), the notice under Subsection (5)(a) shall advise [~~those~~] the persons that a hearing may be held within the time provided by law.

(c) If the proposed patient [~~has refused~~] refuses to permit release of information necessary for provisions of notice under this subsection, the court shall determine the extent of notice [~~shall be determined by the court~~].

(6) Proceedings for commitment of an individual under [~~the age of~~] 18 years old to a local mental health authority may be commenced in accordance with Part 7, Commitment of Persons Under Age 18 to Division of Substance Abuse and Mental Health.

(7) (a) The district court may, in [~~its~~] the district court's discretion, transfer the case to any other district court within this state, [~~provided that~~] if the transfer will not be adverse to the interest of the proposed patient.

(b) If a case is transferred under Subsection (7)(a), the parties to the case may be transferred and the local mental health authority may be substituted in accordance with Utah Rules of Civil Procedure, Rule 25.

(8) Within 24 hours, excluding Saturdays, Sundays, and legal holidays, of the issuance of a judicial order, or after commitment of a proposed patient to a local mental health authority or [~~its~~] the local mental health authority's designee under court order for detention or examination, the court shall appoint two designated examiners:

(a) who did not sign the civil commitment application nor the civil commitment certification under Subsection (1);

(b) one of whom is a licensed physician; and

(c) one of whom may be designated by the proposed patient or the proposed patient's counsel, if that designated examiner is reasonably available.

(9) The court shall schedule a hearing to be held within 10 calendar days [~~of~~] after the day on which the designated examiners are appointed.

(10) (a) The designated examiners shall:

[~~(a)~~] (i) conduct [~~their~~] the examinations separately;

[~~(b)~~] (ii) conduct the examinations at the home of the proposed patient, at a hospital or other medical facility, or at any other suitable place, including through telehealth, that is not likely to have a harmful effect on the proposed patient's health;

[~~(c)~~] (iii) inform the proposed patient, if not represented by an attorney:

[~~(i)~~] (A) that the proposed patient does not have to say anything;

[~~(ii)~~] (B) of the nature and reasons for the examination;

[~~(iii)~~] (C) that the examination was ordered by the court;

[~~(iv)~~] (D) that any information volunteered could form part of the basis for the proposed patient's involuntary commitment;

[~~(v)~~] (E) that findings resulting from the examination will be made available to the court; and

[~~(vi)~~] (F) that the designated examiner may, under court order, obtain the proposed patient's mental health records; and

[~~(d)~~] (iv) within 24 hours of examining the proposed patient, report to the court, orally or in writing, whether the proposed patient is mentally ill, has agreed to voluntary commitment, as described in Section 62A-15-625, or has acceptable programs available to the proposed patient without court proceedings.

(b) If [~~the~~] a designated examiner reports orally under Subsection (10)(a), the designated examiner shall immediately send a written report to the clerk of the court.

(11) If a designated examiner is unable to complete an examination on the first attempt because the proposed patient refuses to submit to the examination, the court shall fix a reasonable compensation to be paid to the examiner.

(12) If the local mental health authority, [~~its~~] the local mental health authority's designee, or a

medical examiner determines before the court hearing that the conditions justifying the findings leading to a commitment hearing no longer exist, the local mental health authority, [~~its~~] the local mental health authority's designee, or the medical examiner shall immediately report [~~that~~] the determination to the court.

(13) The court may terminate the proceedings and dismiss the application at any time, including [~~prior to~~] before the hearing, if the designated examiners or the local mental health authority or [~~its~~] the local mental health authority's designee informs the court that the proposed patient:

(a) does not meet the criteria in Subsection (16);

(b) has agreed to voluntary commitment, as described in Section 62A-15-625; [~~or~~]

(c) has acceptable options for treatment programs that are available without court proceedings[~~.~~]; or

(d) meets the criteria for assisted outpatient treatment described in Section 62A-15-630.5.

(14) (a) Before the hearing, the court shall provide the proposed patient an opportunity to be represented by counsel [~~shall be afforded to the proposed patient~~], and if neither the proposed patient nor others provide counsel, the court shall appoint counsel and allow counsel sufficient time to consult with the proposed patient before the hearing.

(b) In the case of an indigent proposed patient, the county in which the proposed patient resides or is found shall make payment of reasonable attorney fees for counsel, as determined by the court[~~, shall be made by the county in which the proposed patient resides or is found~~].

(15) (a) (i) The court shall afford the proposed patient, the applicant, and [~~all other persons~~] any other person to whom notice is required to be given [~~shall be afforded~~] an opportunity to appear at the hearing, to testify, and to present and cross-examine witnesses.

(ii) The court may, in [~~its~~] the court's discretion, receive the testimony of any other person.

(iii) The court may allow a waiver of the proposed patient's right to appear for good cause, which cause shall be set forth in the record, or an informed waiver by the patient, which shall be included in the record.

(b) The court is authorized to exclude [~~all persons~~] any person not necessary for the conduct of the proceedings and may, upon motion of counsel, require the testimony of each designated examiner to be given out of the presence of any other designated examiners.

(c) The [~~hearing shall be conducted~~] court shall conduct the hearing in as informal a manner as may be consistent with orderly procedure, and in a physical setting that is not likely to have a harmful effect on the mental health of the proposed patient, while preserving the due process rights of the proposed patient.

(d) The court shall consider [~~all~~] any relevant historical and material information that is offered, subject to the rules of evidence, including reliable hearsay under Rule 1102, Utah Rules of Evidence.

(e) (i) A local mental health authority or [~~its~~] the local mental health authority's designee or the physician in charge of the proposed patient's care shall, at the time of the hearing, provide the court with the following information:

(A) the detention order;

(B) admission notes;

(C) the diagnosis;

(D) any doctors' orders;

(E) progress notes;

(F) nursing notes;

(G) medication records pertaining to the current commitment; and

(H) whether the proposed patient has previously been civilly committed or under an order for assisted outpatient treatment.

(ii) [~~That~~] The information described in Subsection (15)(e)(i) shall also be supplied to the proposed patient's counsel at the time of the hearing, and at any time prior to the hearing upon request.

(16) (a) The court shall order commitment of [~~a~~] an adult proposed patient [~~who is 18 years of age or older~~] to a local mental health authority if, upon completion of the hearing and consideration of the information presented, the court finds by clear and convincing evidence that:

[~~(a)~~] (i) the proposed patient has a mental illness;

[~~(b)~~] (ii) because of the proposed patient's mental illness the proposed patient poses a substantial danger to self or others;

[~~(c)~~] (iii) the proposed patient lacks the ability to engage in a rational decision-making process regarding the acceptance of mental treatment as demonstrated by evidence of inability to weigh the possible risks of accepting or rejecting treatment;

[~~(d)~~] (iv) there is no appropriate less-restrictive alternative to a court order of commitment; and

[~~(e)~~] (v) the local mental health authority can provide the proposed patient with treatment that is adequate and appropriate to the proposed patient's conditions and needs. [~~In the absence of the required findings of the court after the hearing, the court shall dismiss the proceedings.~~]

(b) (i) If, at the hearing, the court determines that the proposed patient has a mental illness but does not meet the other criteria described in Subsection (16)(a), the court may consider whether the proposed patient meets the criteria for assisted outpatient treatment under Section 62A-15-630.5.

(ii) The court may order the proposed patient to receive assisted outpatient treatment in accordance with Section 62A-15-630.5 if, at the hearing, the court finds the proposed patient meets the criteria for assisted outpatient treatment under Section 62A-15-630.5.

(iii) If the court determines that neither the criteria for commitment under Subsection (16)(a) nor the criteria for assisted outpatient treatment under Section 62A-15-630.5 are met, the court shall dismiss the proceedings after the hearing.

(17) (a) (i) The order of commitment shall designate the period for which the patient shall be treated.

(ii) [~~When~~] If the patient is not under an order of commitment at the time of the hearing, [~~that~~] the patient's treatment period may not exceed six months without [~~benefit of~~] a review hearing.

(iii) Upon [~~such~~] a review hearing, to be commenced [~~prior to~~] before the expiration of the previous order of commitment, an order for commitment may be for an indeterminate period, if the court finds by clear and convincing evidence that the [~~required conditions~~] criteria described in Subsection (16) will last for an indeterminate period.

(b) (i) The court shall maintain a current list of all patients under [~~its~~] the court's order of commitment[~~. That list shall be reviewed~~] and review the list to determine those patients who have been under an order of commitment for the court designated period.

(ii) At least two weeks [~~prior to~~] before the expiration of the designated period of any order of commitment still in effect, the court that entered the original order of commitment shall inform the appropriate local mental health authority or [~~its~~] the local mental health authority's designee of the expiration.

(iii) [~~The~~] Upon receipt of the information described in Subsection (17)(b)(ii), the local mental health authority or [~~its~~] the local mental health authority's designee shall immediately reexamine the reasons upon which the order of commitment was based.

(iv) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or [~~its~~] the local mental health authority's designee determines that the conditions justifying [~~that~~] commitment no longer exist, [~~it~~] the local mental health authority or the local mental health authority's designee shall discharge the patient from involuntary commitment and immediately report the discharge to the court.[~~ Otherwise,~~]

(v) If, after reexamination under Subsection (17)(b)(iii), the local mental health authority or the local mental health authority's designee determines that the conditions justifying commitment continue to exist, the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(c) (i) The local mental health authority or [~~its~~] the local mental health authority's designee responsible for the care of a patient under an order of commitment for an indeterminate period shall, at six-month intervals, reexamine the reasons upon which the order of indeterminate commitment was based.

(ii) If the local mental health authority or [~~its~~] the local mental health authority's designee determines that the conditions justifying [~~that~~] commitment no longer exist, [~~that~~] the local mental health authority or [~~its~~] the local mental health authority's designee shall discharge the patient from [~~its~~] the local mental health authority's or the local mental health authority designee's custody and immediately report the discharge to the court.

(iii) If the local mental health authority or [~~its~~] the local mental health authority's designee determines that the conditions justifying [~~that~~] commitment continue to exist, the local mental health authority or [~~its~~] the local mental health authority's designee shall send a written report of [~~those~~] the findings to the court.

(iv) [~~The~~] A patient and the patient's counsel of record shall be notified in writing that the involuntary commitment will be continued under Subsection (17)(c)(iii), the reasons for [~~that~~] the decision to continue, and that the patient has the right to a review hearing by making a request to the court.

(v) Upon receiving [~~the~~] a request under Subsection (17)(c)(iv), the court shall immediately appoint two designated examiners and proceed under Subsections (8) through (14).

(18) (a) Any patient committed as a result of an original hearing or a patient's legally designated representative who is aggrieved by the findings, conclusions, and order of the court entered in the original hearing has the right to a new hearing upon a petition filed with the court within 30 days [~~of the entry of~~] after the day on which the court order is entered.

(b) The petition [~~must~~] shall allege error or mistake in the findings, in which case the court shall appoint three impartial designated examiners previously unrelated to the case to conduct an additional examination of the patient.

(c) [~~The~~] Except as provided in Subsection (18)(b), the court shall, in all other respects, conduct the new hearing [~~shall, in all other respects, be conducted~~] in the manner otherwise permitted.

(19) [~~Costs~~] The county in which the proposed patient resides or is found shall pay the costs of all proceedings under this section [~~shall be paid by the county in which the proposed patient resides or is found~~].

CHAPTER 375
H. B. 369

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

MEDICAL PANEL GOVERNMENTAL IMMUNITY AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions related to medical panels appointed under the Workers' Compensation Act.

Highlighted Provisions:

This bill:

- establishes that a member of a medical panel acting within the scope of duties of a medical panel member is considered an employee of the state for purposes of indemnification under the Governmental Immunity Act of Utah; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

34A-2-601, as last amended by Laws of Utah 2013, Chapter 428

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 34A-2-601 is amended to read:

34A-2-601. Medical panel, director, or consultant -- Findings and reports -- Objections to report -- Hearing -- Expenses.

(1) (a) The Division of Adjudication may refer the medical aspects of a case described in this Subsection (1)(a) to a medical panel appointed by an administrative law judge:

(i) upon the filing of a claim for compensation arising out of and in the course of employment for:

(A) disability by accident; or

(B) death by accident; and

(ii) if the employer or the employer's insurance carrier denies liability.

(b) An administrative law judge may appoint a medical panel upon the filing of a claim for compensation based upon disability or death due to an occupational disease.

(c) A medical panel appointed under this section shall consist of one or more physicians specializing in the treatment of the disease or condition involved in the claim.

(d) A member of a medical panel appointed under this section, when acting within the scope of duties of a medical panel member, is considered an employee of this state for purposes of indemnification under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

[~~(d)~~] (e) As an alternative method of obtaining an impartial medical evaluation of the medical aspects of a controverted case, the division may employ a medical director or one or more medical consultants:

(i) on a full-time or part-time basis; and

(ii) for the purpose of:

(A) evaluating medical evidence; and

(B) advising an administrative law judge with respect to the administrative law judge's ultimate fact-finding responsibility.

[~~(e)~~] (f) If all parties agree to the use of a medical director or one or more medical consultants, the medical director or one or more medical consultants is allowed to function in the same manner and under the same procedures as required of a medical panel.

(2) (a) A medical panel, medical director, or medical consultant may do the following to the extent the medical panel, medical director, or medical consultant determines that it is necessary or desirable:

(i) conduct a study;

(ii) take an x-ray;

(iii) perform a test; or

(iv) if authorized by an administrative law judge, conduct a post-mortem examination.

(b) A medical panel, medical director, or medical consultant shall make:

(i) a report in writing to the administrative law judge in a form prescribed by the Division of Adjudication; and

(ii) additional findings as the administrative law judge may require.

(c) In an occupational disease case, in addition to the requirements of Subsection (2)(b), a medical panel, medical director, or medical consultant shall certify to the administrative law judge:

(i) the extent, if any, of the disability of the claimant from performing work for remuneration or profit;

(ii) whether the sole cause of the disability or death, in the opinion of the medical panel, medical director, or medical consultant results from the occupational disease; and

(iii) (A) whether any other cause aggravated, prolonged, accelerated, or in any way contributed to the disability or death; and

(B) if another cause contributed to the disability or death, the extent in percentage to which the other cause contributed to the disability or death.

(d) (i) An administrative law judge shall promptly distribute full copies of a report submitted to the administrative law judge under this Subsection (2) by mail to:

(A) the applicant;

(B) the employer;

(C) the employer's insurance carrier; and

(D) an attorney employed by a person listed in Subsections (2)(d)(i)(A) through (C).

(ii) Within 20 days after the day on which the report described in Subsection (2)(d)(i) is deposited in the United States post office, the following may file with the administrative law judge a written objection to the report:

(A) the applicant;

(B) the employer; or

(C) the employer's insurance carrier.

(iii) If no written objection is filed within the period described in Subsection (2)(d)(ii), the report is considered admitted in evidence.

(e) (i) An administrative law judge may base the administrative law judge's finding and decision on the report of:

(A) a medical panel;

(B) the medical director; or

(C) one or more medical consultants.

(ii) Notwithstanding Subsection (2)(e)(i), an administrative law judge is not bound by a report described in Subsection (2)(e)(i) if other substantial conflicting evidence in the case supports a contrary finding.

(f) (i) If a written objection to a report is filed under Subsection (2)(d), the administrative law judge may set the case for hearing to determine the facts and issues involved.

(ii) At a hearing held pursuant to this Subsection (2)(f), any party may request the administrative law judge to have any of the following present at the hearing for examination and cross-examination:

(A) the chair of the medical panel;

(B) the medical director; or

(C) the one or more medical consultants.

(iii) For good cause shown, an administrative law judge may order the following to be present at the hearing for examination and cross-examination:

(A) a member of a medical panel, with or without the chair of the medical panel;

(B) the medical director; or

(C) a medical consultant.

(g) (i) A written report of a medical panel, medical director, or one or more medical consultants may be received as an exhibit at a hearing described in Subsection (2)(f).

(ii) Notwithstanding Subsection (2)(g)(i), a report received as an exhibit under Subsection (2)(g)(i) may not be considered as evidence in the case except as far as the report is sustained by the testimony admitted.

(h) For a claim referred under Subsection (1) to a medical panel, medical director, or medical consultant before July 1, 1997, the commission shall pay out of the Employers' Reinsurance Fund established in Section 34A-2-702:

(i) expenses of a study or report of the medical panel, medical director, or medical consultant; and

(ii) the expenses of the medical panel's, medical director's, or medical consultant's appearance before an administrative law judge.

(i) (i) For a claim referred under Subsection (1) to a medical panel, medical director, or medical consultant on or after July 1, 1997, the commission shall pay out of the Uninsured Employers' Fund established in Section 34A-2-704 the expenses of:

(A) a study or report of the medical panel, medical director, or medical consultant; and

(B) the medical panel's, medical director's, or medical consultant's appearance before an administrative law judge.

(ii) Notwithstanding Section 34A-2-704, the expenses described in Subsection (2)(i)(i) shall be paid from the Uninsured Employers' Fund whether or not the employment relationship during which the industrial accident or occupational disease occurred is localized in Utah as described in Subsection 34A-2-704(20).

(3) (a) The commission may employ a qualified physician as medical panel director who, in addition to the other duties outlined in this section for a medical director, is responsible for:

(i) assisting the commission in creating and enforcing standards for medical panels and medical consultants;

(ii) training members of medical panels or medical consultants;

(iii) increasing the number of physicians who participate on medical panels;

(iv) ensuring medical panels include appropriate specialists; and

(v) monitoring the quality of medical panel and medical consultant reports.

(b) The commission shall pay the expenses of employing a medical panel director described in this Subsection (3) out of the Uninsured Employers' Fund established in Section 34A-2-704.

CHAPTER 376
H. B. 373

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

CONVENTION AND TOURISM BUSINESS ASSESSMENT AREA ACT

Chief Sponsor: Robert M. Spendlove
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This bill enacts the Convention and Tourism Business Assessment Area Act.

Highlighted Provisions:

This bill:

- defines terms;
- allows the legislative body of certain counties to designate a convention and tourism business assessment area to levy an assessment on certain lodging establishments to pay for certain activities that benefit lodging establishments;
- establishes requirements for a county legislative body to designate an assessment area, including procedures for filing a petition to designate an assessment area, giving notice of the proposed assessment area, hearing protests, and holding a public meeting to adopt an ordinance or resolution designating the assessment area;
- establishes requirements for a county legislative body to amend, renew, or dissolve the assessment area; and
- establishes requirements for a person to contest the levying of an assessment or the designation of an assessment area.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

11-42b-101, Utah Code Annotated 1953
11-42b-102, Utah Code Annotated 1953
11-42b-103, Utah Code Annotated 1953
11-42b-104, Utah Code Annotated 1953
11-42b-105, Utah Code Annotated 1953
11-42b-106, Utah Code Annotated 1953
11-42b-107, Utah Code Annotated 1953
11-42b-108, Utah Code Annotated 1953
11-42b-109, Utah Code Annotated 1953
11-42b-110, Utah Code Annotated 1953
11-42b-111, Utah Code Annotated 1953
11-42b-112, Utah Code Annotated 1953
11-42b-113, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-42b-101 is enacted to read:

CHAPTER 42b. CONVENTION AND TOURISM BUSINESS ASSESSMENT AREA ACT

11-42b-101. Definitions.

As used in this chapter:

(1) "Assessment" means the assessment that a specified county levies on benefitted properties under this chapter to pay for beneficial activities.

(2) "Assessment area" means a convention and tourism business assessment area designated under this chapter.

(3) (a) "Beneficial activity" means any activity or service that increases hotel room rates or occupancy levels at lodging establishments.

(b) "Beneficial activity" includes an activity to:

(i) promote tourism;

(ii) sponsor or incentivize a cultural or sports event, festival, conference, or convention;

(iii) facilitate economic or workforce development for the lodging industry, including workforce recruitment or retention; or

(iv) promote placemaking, visitor management, or destination enhancement.

(4) "Benefitted property" means a lodging establishment that directly or indirectly benefits from a beneficial activity.

(5) "Guest" means an individual for whom a lodging establishment provides lodging accommodations for compensation.

(6) "Lodging establishment" means the same as that term is defined in Section 29-2-102.

(7) "Municipality" means a city, town, or metro township.

(8) "Owner" means the owner of a benefitted property, or the authorized agent or employee of the owner.

(9) "Qualified number of owners" means a number of owners of benefitted properties that represents 60% or more of the total assessment amount levied against all benefitted properties within a proposed or existing assessment area, provided that if an owner of one or more benefitted properties represents 40% or more of the total assessment amount levied against all benefitted properties within a proposed or existing assessment area, no more than 40% of the total assessment amount shall be attributed to that owner.

(10) "Specified county" means a county of the first or second class.

(11) "Third party administrator" means a private nonprofit organization, primarily engaged in destination marketing and promotion, that enters into a contract with a specified county to provide beneficial activities within an assessment area in accordance with the management plan.

Section 2. Section 11-42b-102 is enacted to read:

11-42b-102. Designating an assessment area -- Levying and paying an assessment - Requirements and prohibitions.

(1) Subject to the requirements of this part, the legislative body of a specified county intending to

levy an assessment on benefitted properties to pay for beneficial activities shall adopt an ordinance or resolution designating an assessment area.

(2) A specified county that levies an assessment under this chapter for beneficial activities:

(a) shall:

(i) levy an assessment on each benefitted property within the assessment area;

(ii) use an assessment method that, when applied to a benefitted property, reflects an equitable portion of the benefit the benefitted property will receive for the beneficial activities for which the assessment is levied;

(iii) levy and collect an assessment in accordance with a management plan that meets the requirements of Subsection 11-42b-103(2)(a); and

(iv) contract with a third party administrator to implement beneficial activities within the assessment areas;

(b) may:

(i) levy an assessment only on lodging establishments located within the geographical boundaries of the specified county;

(ii) establish benefit zones that divide the assessment area into multiple types or classifications to:

(A) levy a different level of assessment; or

(B) use a different assessment method in each classification to reflect more fairly the benefits that property within the different types or classifications is expected to receive because of the proposed beneficial activities;

(iii) rely on estimated benefits from an increase in:

(A) retail sales rates;

(B) customer base;

(C) public perception;

(D) hotel room rates and occupancy levels;

(E) the commercial environment from enhanced services;

(F) another articulable method of estimating benefits; or

(G) a combination of the methods described in Subsections (2)(b)(iii)(A) through (F); and

(iv) may not:

(A) include, within an assessment area, any area of land that is included within the geographic boundaries of a municipality unless the legislative body of the municipality adopts an ordinance or resolution consenting to the municipality's inclusion in the assessment area; or

(B) levy an assessment for a period longer than 10 years, unless the assessment area is renewed in accordance with Section 11-42b-109.

(3) The legislative body of a specified county may not adopt a designation ordinance or resolution under Subsection (1) unless the legislative body:

(a) receives a petition that meets the requirements of Section 11-42b-103;

(b) gives notice as provided in Section 11-42b-104;

(c) receives and considers all protests filed under Section 11-42b-105;

(d) holds a public hearing as provided in Section 11-42b-106; and

(e) holds a public meeting as provided in Section 11-42b-107.

(4) (a) The owner of a benefitted property that pays an assessment under this chapter may place the assessment as a mandatory surcharge on guest receipts.

(b) A surcharge under this Subsection (4):

(i) shall be disclosed on all information and communication platforms of the benefitted property in the same manner as other surcharges, hotel and occupancy taxes, and sales and use taxes as required by applicable laws and regulations; and

(ii) may not:

(A) be used to calculate a benefitted property's gross receipts or gross revenues for any purpose, including the calculation of sales revenue, occupancy taxes, or state income taxes; or

(B) be considered as part of income pursuant to any lease or operator agreement.

(5) The payment of an assessment under this chapter may not be taken as a deduction from income for state income tax purposes.

Section 3. Section 11-42b-103 is enacted to read:

11-42b-103. Petition to designate assessment area -- Requirements -- Management plan contents.

(1) The process for a specified county to designate an assessment area is initiated by the filing of a petition with the legislative body of the specified county.

(2) A petition under Subsection (1) shall:

(a) include a proposed management plan that:

(i) describes:

(A) the boundaries and duration of the proposed assessment area;

(B) each benefitted property proposed to be assessed;

(C) the total estimated amount of assessment to be levied against all benefitted properties for each year an assessment is levied;

(D) the method by which the proposed assessment is calculated;

(E) the beneficial activities to be paid by assessments for each year an assessment is levied;

(F) the total estimated amount of assessment to be expended on beneficial activities for each year an assessment is levied;

(G) the proposed source or sources of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each owner of benefitted property to calculate the amount of the assessment to be levied against the owner's benefitted property;

(H) any proposed benefit zones as described in Subsection 11-42b-102(2)(b)(ii); and

(I) the interest, penalties, and costs or other requirements of the proposed assessment;

(ii) establishes procedures for collecting the proposed assessment;

(iii) requires the legislative body to contract with a third party administrator to implement the proposed beneficial activities within the assessment area;

(iv) includes a statement regarding the right of a benefitted property to impose a surcharge on guests of the benefitted property as provided in Subsection 11-42b-102(4); and

(b) be signed by a qualified number of owners.

Section 4. Section 11-42b-104 is enacted to read:

11-42b-104. Notice of proposed assessment area -- Requirements.

(1) If the legislative body of a specified county receives a petition that meets the requirements of Section 11-42b-103, the legislative body shall give notice of the proposed assessment area.

(2) The notice under Subsection (1) shall:

(a) include the following information:

(i) a statement that the legislative body received a petition to designate an assessment area under Section 11-42b-103;

(ii) a statement that the specified county proposes to:

(A) designate one or more areas within the specified county's geographic boundaries as an assessment area;

(B) contract with a third party administrator to provide beneficial activities within the proposed assessment area; and

(C) finance some or all of the cost of providing beneficial activities by an assessment on benefitted properties within the assessment area;

(iii) a summary of the contents of the proposed management plan, including the information described in Subsection 11-42b-103(2)(a)(i);

(iv) a statement explaining how an individual can access the petition described in Subsection (2)(a), including the contents of the proposed management plan;

(v) a statement that contains:

(A) the date described in Section 11-42b-105 and the location at which a protest under Section 11-42b-105 may be filed;

(B) the method by which the legislative body will determine the number of protests required to defeat the designation of the proposed assessment area or implementation of the proposed beneficial activities, subject to Subsection 11-42b-107(1)(b); and

(C) a statement in large, boldface, and conspicuous type explaining that an owner of a benefitted property must protest the designation of the assessment area in writing if the owner objects to the area designation or being assessed for the proposed beneficial activities;

(vi) the date, time, and place of the public hearing required in Section 11-42b-106; and

(vii) any other information the legislative body considers appropriate;

(b) (i) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the hearing required in Section 11-42b-106; and

(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the deadline for filing protests specified in the notice under Subsection (2)(a)(v); and

(c) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2)(b) to each owner of benefitted property within the proposed assessment area at the owner's mailing address.

(3) (a) The legislative body may record the version of the notice that is published or posted in accordance with Subsection (2)(b) with the office of the county recorder.

(b) The notice recorded under Subsection (3)(a) expires and is no longer valid one year after the day on which the legislative body records the notice if the legislative body has failed to adopt the designation ordinance or resolution under Section 11-42b-102 designating the assessment area for which the notice was recorded.

Section 5. Section 11-42b-105 is enacted to read:

11-42b-105. Protests.

(1) An owner of a benefitted property that is proposed to be assessed and who does not want the benefitted property to be included in the assessment area may, within 30 days after the day of the hearing described in Section 11-42b-106, file a written protest with the legislative body:

(a) against:

(i) the designation of an assessment area;

(ii) the inclusion of the owner's benefitted property in the proposed assessment area; or

(iii) the proposed beneficial activities to be implemented; or

(b) protesting:

(i) whether the assessment meets the requirements of Section 11-42b-102; or

(ii) any other aspect of the proposed designation of an assessment area.

(2) Each protest under Subsection (1) shall:

(a) describe or otherwise identify the benefitted property owned by the person filing the protest; and

(b) include the signature of the owner of the benefitted property.

(3) An owner subject to assessment may withdraw a protest at any time before the expiration of the 30-day period described in Subsection (1) by filing a written withdrawal with the legislative body.

(4) If the legislative body intends to assess benefitted properties within the proposed assessment area by establishing benefit zones, as described in Subsection 11-42b-102(2)(b)(ii), and the legislative body has clearly noticed the legislative body's intent, the legislative body shall:

(a) in determining whether adequate protests have been filed, aggregate the protests by the type of beneficial activity or by classification; and

(b) apply to and calculate for each type of beneficial activity or classification the threshold requirements of adequate protests.

(5) The failure of an owner of a benefitted property within the proposed assessment area to file a timely written protest constitutes a waiver of any objection to:

(a) the designation of the assessment area;

(b) any beneficial activity to be implemented within the assessment area;

(c) the inclusion of the owner's benefitted property within the assessment area; and

(d) the fact, but not amount, of benefit to the owner's benefitted property.

(6) The legislative body shall post the total and percentage of the written protests the legislative body receives under this section on the legislative body's website, or, if no website is available, at the legislative body's place of business at least five days before the public meeting described in Section 11-42b-106.

Section 6. Section 11-42b-106 is enacted to read:

11-42b-106. Public hearing.

(1) On the date and at the time and place specified in the notice under Section 11-42b-104, the legislative body shall hold a public hearing.

(2) (a) The legislative body:

(i) subject to Subsection (2)(a)(ii), may continue the public hearing from time to time to a fixed future date and time; and

(ii) may not hold a public hearing that is a continuance less than five days before the deadline for filing protests described in Section 11-42b-105.

(b) The continuance of a public hearing does not restart or extend the protest period described in Subsection 11-42b-105.

(3) At the public hearing, the legislative body shall hear all:

(a) objections to the designation of the proposed assessment area or the beneficial activities proposed to be implemented within the assessment area;

(b) objections to whether the assessment will meet the requirements of Section 11-42b-102; and

(c) persons desiring to be heard.

Section 7. Section 11-42b-107 is enacted to read:

11-42b-107. Public meeting -- Adoption of ordinance or resolution regarding proposed assessment area -- Limitations.

(1) (a) After holding a public hearing under Section 11-42b-106 and within 90 days after the day that the protest period expires in accordance with Section 11-42b-105, the legislative body shall:

(i) count the written protests filed or withdrawn in accordance with Section 11-42b-105 and calculate whether adequate protests have been filed; and

(ii) hold a public meeting to announce the protest tally and whether adequate protests have been filed.

(b) Adequate protests are filed under Subsection (1)(a) if protests have been filed by a qualified number of owners.

(c) If adequate protests are not filed, the legislative body at the public meeting may adopt a resolution or ordinance:

(i) abandoning the proposal to designate an assessment area; or

(ii) (A) designating an assessment area; and

(B) approving a management plan as proposed under Section 11-42b-103, or with changes under Subsection (1)(e).

(d) If adequate protests are filed, the legislative body at the public meeting:

(i) may not adopt a resolution or ordinance designating the assessment area; and

(ii) may adopt a resolution or ordinance to abandon the proposal to designate the assessment area.

(e) In the absence of adequate protests upon the expiration of the protest period and subject to Subsection (1)(e)(ii), the legislative body may make changes to:

(i) a beneficial activity proposed for implementation under the proposed management plan; or

(ii) the area or areas proposed to be included within the assessment area under the proposed management plan.

(2) A legislative body may not make a change in accordance with Subsection (1)(e)(i) if the change would result in:

(a) a change in the nature of a beneficial activity or reduction in the estimated amount of benefit to a benefitted property, whether in size, quality, or otherwise, than that described in the proposed management plan;

(b) an estimated total assessment to any benefitted business within the assessment area that exceeds the estimate described in the proposed management plan; or

(c) a financing term that extends beyond the estimated term of financing under the proposed management plan.

(3) After the adoption of an ordinance or resolution described in Subsection (1)(c)(ii), the legislative body may contract with a third party administrator to provide beneficial activities within the assessment area.

Section 8. Section 11-42b-108 is enacted to read:

11-42b-108. Amendments to management plan -- Procedure -- Notice requirements.

(1) After the legislative body adopts an ordinance or resolution approving a management plan as provided in Subsection 11-42b-108(1)(c)(ii) and contracts with a third party administrator to provide beneficial activities within the assessment area, the legislative body may amend the management plan if:

(a) the third party administrator submits to the legislative body a written request for amendments;

(b) subject to Subsection (2), the legislative body gives notice of the proposed amendments;

(c) the legislative body holds a public meeting no more than 90 days after the day on which the legislative body gives notice under Subsection (1)(b); and

(d) at the public meeting described in Subsection (1)(c), the legislative body adopts an ordinance or resolution approving the amendments to the management plan.

(2) The notice described in Subsection (1)(b) shall:

(a) describe the proposed amendments to the management plan;

(b) state the date, time, and place of the public meeting described in Subsection (1)(c); and

(c) (i) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the public meeting described in Subsection (1)(c); and

(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the public meeting described in Subsection (1)(c); and

(d) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2)(c) to each owner of benefitted property within the assessment area at the owner's mailing address.

Section 9. Section 11-42b-109 is enacted to read:

11-42b-109. Renewal of assessment area designation -- Procedure -- Disposition of previous revenues.

(1) Upon the expiration of an assessment area, the legislative body may, for a period not to exceed 10 years, renew the assessment area as provided in this section.

(2) (a) If there are no changes to the management plan or the designation of the third party administrator, the legislative body may not renew the assessment area unless:

(i) subject to Subsection (2)(c), the legislative body gives notice of the proposed renewal;

(ii) the legislative body holds a public meeting no more than 90 days after the day on which the legislative body gives notice under Subsection (2)(a)(i); and

(iii) at the public meeting described in Subsection (2)(a)(ii), the legislative body adopts an ordinance or resolution renewing the assessment area designation.

(b) If there are changes to the management plan or the designation of the third party administrator, the legislative body may not renew the assessment area unless the legislative body:

(i) gives notice of the proposed renewal in accordance with Section 11-42b-104;

(ii) receives and considers all protests filed under Section 11-42b-105;

(iii) holds a public hearing as provided in Section 11-42b-106;

(iv) holds a public meeting as provided in Section 11-42b-107; and

(v) at the public meeting described in Subsection (2)(b)(iv), adopts an ordinance or resolution renewing the assessment area.

(c) The notice described in Subsection (2)(a)(i) shall:

(i) state:

(A) that the legislative body proposes to renew the assessment area with no changes; and

(B) the date, time, and place of the public meeting described in Subsection (2)(a)(ii);

(ii) (A) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the public meeting described in Subsection (2)(a)(ii); and

(B) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the public meeting described in Subsection (2)(a)(ii); and

(iii) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (2)(c)(ii) to each owner of benefitted property within the assessment area at the owner's mailing address.

(3) (a) Upon renewal of an assessment area, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be transferred to the renewed assessment area.

(b) If the renewed assessment area includes a benefitted property that was not included in the previous assessment area, the third party administrator may only expend revenues described in Subsection (3)(a) on benefitted properties that were included in the previous assessment area.

(c) If the renewed assessment area does not include a benefitted property that was included in the previous assessment area, the third party administrator shall refund to the owner of the benefitted property the revenues described in Subsection (3)(a) attributable to the benefitted property.

Section 10. Section 11-42b-110 is enacted to read:

11-42b-110. Dissolution of assessment area -- Procedure -- Disposition of revenues.

(1) The legislative body may dissolve an assessment area before the assessment area expires as provided in this section.

(2) The legislative body may not dissolve an assessment area under Subsection (1) unless:

(a) (i) the legislative body determines there has been a misappropriation of funds, malfeasance, or a violation of law in connection with the management of the assessment area; or

(ii) a petition to dissolve the assessment area:

(A) is signed by a qualified number of owners; and

(B) is submitted to the legislative body within the period described in Subsection (3);

(b) subject to Subsection (4), the legislative body gives notice of the proposed dissolution;

(c) the legislative body holds a public meeting; and

(d) at the public meeting described in Subsection (2)(c), the legislative body adopts an ordinance or resolution dissolving the assessment area.

(3) The owners of benefitted properties may submit to the legislative body a petition described in Subsection (2)(a)(ii):

(a) within a 30-day period that begins after the day on which the assessment area is designated by ordinance or resolution under Section 11-42b-107; or

(b) within the same 30-day period during each subsequent year in which the assessment area exists.

(4) The notice described in Subsection (2)(b) shall:

(a) state:

(i) the reasons for the proposed dissolution; and

(ii) the date, time, and place of the public meeting described in Subsection (2)(c);

(b) (i) be posted in at least three public places within the specified county's geographic boundaries at least 20 but not more than 35 days before the day of the public meeting described in Subsection (2)(c); and

(ii) be published on the Utah Public Notice Website described in Section 63A-16-601 for four weeks before the public meeting described in Subsection (2)(c); and

(c) be mailed, postage prepaid, within 10 days after the first publication or posting of the notice under Subsection (4)(b) to each owner of benefitted property within the assessment area at the owner's mailing address.

(5) Upon the dissolution of an assessment area, the third party administrator shall return to the owner of each benefitted property any remaining revenues attributable to the benefitted property.

Section 11. Section 11-42b-111 is enacted to read:

11-42b-111. Action to contest assessment or proceeding.

(1) A person who contests an assessment or any proceeding to designate an assessment area may commence a civil action against the specified county to:

(a) set aside a proceeding to designate an assessment area; or

(b) enjoin the levy or collection of an assessment.

(2) A person bringing an action under Subsection (1) shall bring the action in the district court with jurisdiction in the specified county.

(3) (a) Except as provided in Subsection (3)(b), a person may not begin the action against or serve a summons relating to the action on the specified county more than 30 days after:

(i) the effective date of the designation ordinance or resolution adopted under Section 11-42b-107, if the action relates to the designation of an assessment area or the levying of an assessment; or

(ii) the effective date of the ordinance or resolution adopted under Section 11-42b-108, if the action relates to the levying of an assessment under an amended management plan.

(b) If each benefitted property within an assessment area consents to the designation of the assessment area and the levying of an assessment, or if each benefitted property within an assessment area consents to the amendments to the management plan, as applicable, a person may not bring an action against or serve a summons relating to the action on the specified county more than 15 days after:

(i) the effective date of the designation ordinance or resolution adopted under Section 11-42b-107, if the action relates to the designation of an assessment area or the levying of an assessment; or

(ii) the effective date of the ordinance or resolution adopted under Section 11-42b-108, if the action relates to the levying of an assessment under an amended management plan.

(4) An action under Subsection (1) is the exclusive remedy of a person who contests an assessment or any proceeding to designate an assessment area.

(5) A court may not set aside, in part or in whole or declare invalid an assessment, a proceeding to designate an assessment area, or a proceeding to levy an assessment that meets the requirements of Section 11-42b-102 because of an error or irregularity that does not relate to the equity or justice of the assessment or proceeding.

(6) (a) A person may bring a claim of misuse of assessment funds through a mandamus action regardless of the expiration of the period for bringing an action under Subsection (3).

(b) This section does not prohibit the filing of criminal charges against or the prosecution of a party for the misuse of assessment funds.

Section 12. Section 11-42b-112 is enacted to read:

11-42b-112. No limitation on other county powers.

(1) This chapter does not limit a power that a specified county has under other applicable law to:

(a) make an improvement or provide a service;

(b) create a district;

(c) levy an assessment or tax; or

(d) issue a bond or a refunding bond.

(2) If there is a conflict between a provision of this chapter and any other statutory provision, the provision of this chapter governs.

Section 13. Section 11-42b-113 is enacted to read:

11-42b-113. Severability.

A court's invalidation of any provision of this chapter does not affect the validity of any other provision of this chapter.

CHAPTER 377
H. B. 374

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

SENSITIVE MATERIALS IN SCHOOLS

Chief Sponsor: Ken Ivory
Senate Sponsor: Todd D. Weiler
Cosponsors: Adam Robertson
Travis M. Seegmiller
Rex P. Shipp
Keven J. Stratton

LONG TITLE

General Description:
This bill prohibits certain sensitive instructional materials in public schools.

Highlighted Provisions:
This bill:

- defines certain instructional materials as sensitive materials;
- prohibits sensitive materials in a public school;
- requires the State Board of Education (state board) to, in consultation with the Office of the Attorney General, provide guidance and training to public schools on identifying sensitive materials;
- requires a local education agency to include parents who are reflective of a school's community when determining whether an instructional material is sensitive material;
- requires the state board to report to the Education Interim Committee and the Government Operations Interim Committee on:
  - implementation and compliance with certain provisions; and
  - complaints a local education agency or the state board receives regarding a violation of provisions in this bill;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

AMENDS:
53E-4-202, as last amended by Laws of Utah 2021, Chapters 84 and 345
53E-4-403, as last amended by Laws of Utah 2019, Chapter 186

ENACTS:
53G-10-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-202 is amended to read:

53E-4-202. Core standards for Utah public schools.

(1) (a) In establishing minimum standards related to curriculum and instruction requirements under Section 53E-3-501, the state board shall, in consultation with local school boards, school superintendents, teachers, employers, and parents implement core standards for Utah public schools that will enable students to, among other objectives:

(i) communicate effectively, both verbally and through written communication;

(ii) apply mathematics; and

(iii) access, analyze, and apply information.

(b) Except as provided in this public education code, the state board may recommend but may not require a local school board or charter school governing board to use:

(i) a particular curriculum or instructional material; or

(ii) a model curriculum or instructional material.

(2) The state board shall, in establishing the core standards for Utah public schools:

(a) identify the basic knowledge, skills, and competencies each student is expected to acquire or master as the student advances through the public education system; and

(b) align with each other the core standards for Utah public schools and the assessments described in Section 53E-4-303.

(3) The basic knowledge, skills, and competencies identified pursuant to Subsection (2)(a) shall increase in depth and complexity from year to year and focus on consistent and continual progress within and between grade levels and courses in the basic academic areas of:

(a) English, including explicit phonics, spelling, grammar, reading, writing, vocabulary, speech, and listening; and

(b) mathematics, including basic computational skills.

(4) Before adopting core standards for Utah public schools, the state board shall:

(a) publicize draft core standards for Utah public schools on the state board's website and the Utah Public Notice website created under Section 63A-16-601;

(b) invite public comment on the draft core standards for Utah public schools for a period of not less than 90 days; and

(c) conduct three public hearings that are held in different regions of the state on the draft core standards for Utah public schools.

(5) LEA governing boards shall design their school programs, that are supported by generally accepted scientific standards of evidence, to focus on the core standards for Utah public schools with the expectation that each program will enhance or help achieve mastery of the core standards for Utah public schools.

(6) Except as provided in [~~Section~~] Sections 53G-10-103 and 53G-10-402, each school

may select instructional materials and methods of teaching, that are supported by generally accepted scientific standards of evidence, that the school considers most appropriate to meet the core standards for Utah public schools.

(7) The state may exit any agreement, contract, memorandum of understanding, or consortium that cedes control of the core standards for Utah public schools to any other entity, including a federal agency or consortium, for any reason, including:

(a) the cost of developing or implementing the core standards for Utah public schools;

(b) the proposed core standards for Utah public schools are inconsistent with community values; or

(c) the agreement, contract, memorandum of understanding, or consortium:

(i) was entered into in violation of Chapter 3, Part 8, Implementing Federal or National Education Programs, or Title 63J, Chapter 5, Federal Funds Procedures Act;

(ii) conflicts with Utah law;

(iii) requires Utah student data to be included in a national or multi-state database;

(iv) requires records of teacher performance to be included in a national or multi-state database; or

(v) imposes curriculum, assessment, or data tracking requirements on home school or private school students.

(8) The state board shall submit a report in accordance with Section 53E-1-203 on the development and implementation of the core standards for Utah public schools, including the time line established for the review of the core standards for Utah public schools by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203.

Section 2. Section 53E-4-403 is amended to read:

53E-4-403. Commission's evaluation of instructional materials -- Recommendation by the state board.

(1) Semi-annually after reviewing the evaluations of the commission, the state board shall recommend instructional materials for use in the public schools.

(2) The standard period of time instructional materials shall remain on the list of recommended instructional materials shall be five years.

(3) Unsatisfactory instructional materials may be removed from the list of recommended instructional materials at any time within the period applicable to the instructional materials.

(4) Except as provided in [~~Section~~] Sections 53G-10-103 and 53G-10-402, each school shall have discretion to select instructional materials for use by the school. A school may select:

(a) instructional materials recommended by the state board as provided in this section; or

(b) other instructional materials the school considers appropriate to teach the core standards for Utah public schools.

Section 3. Section 53G-10-103 is enacted to read:

53G-10-103. Sensitive instructional materials.

(1) As used in this section:

(a) (i) "Instructional material" means a material, regardless of format, used:

(A) as or in place of textbooks to deliver curriculum within the state curriculum framework for courses of study by students; or

(B) to support a student's learning in the school setting.

(ii) "Instructional material" includes reading materials, handouts, videos, digital materials, websites, online applications, and live presentations.

(b) "LEA governing board" means:

(i) for a school district, the local school board;

(ii) for a charter school, the charter school governing board; or

(iii) for the Utah Schools for the Deaf and the Blind, the state board.

(c) "Material" means the same as that term is defined in Section 76-10-1201.

(d) "Minor" means any person less than 18 years old.

(e) "Public school" means:

(i) a district school;

(ii) a charter school; or

(iii) the Utah Schools for the Deaf and the Blind.

(f) (i) "School setting" means, for a public school:

(A) in a classroom;

(B) in a school library; or

(C) on school property.

(ii) "School setting" includes the following activities that an organization or individual or organization outside of a public school conducts, if a public school or an LEA sponsors or requires the activity:

(A) an assembly;

(B) a guest lecture;

(C) a live presentation; or

(D) an event.

(g) (i) "Sensitive material" means an instructional material that is pornographic or indecent material as that term is defined in Section 76-10-1235.

(ii) "Sensitive material" does not include an instructional material:

(A) that an LEA selects under Section 53G-10-402;

(B) for medical courses;

(C) for family and consumer science courses; or

(D) for another course the state board exempts in state board rule.

(2) (a) Sensitive materials are prohibited in the school setting.

(b) A public school may not:

(i) adopt, use, distribute, provide a student access to, or maintain in the school setting, sensitive materials; or

(ii) permit a speaker or presenter in the school setting to display or distribute sensitive materials.

(3) An LEA shall include parents who are reflective of the members of the school's community when determining if an instructional material is sensitive material.

(4) The state board shall:

(a) in consultation with the Office of the Attorney General, provide guidance and training to support public schools in identifying instructional materials that meet the definition of sensitive materials under this section; and

(b) report to the Education Interim Committee and the Government Operations Interim Committee, at or before the November 2022 interim meeting, on implementation and compliance with this section, including:

(i) any policy the state board or an LEA adopts to implement or comply with this section;

(ii) any rule the state board makes to implement or comply with this section; and

(iii) any complaints an LEA or the state board receives regarding a violation of this section, including:

(A) action taken in response to a complaint described in this Subsection (4)(b)(iii); and

(B) if an LEA retains an instructional material for which the LEA or the state board receives a complaint, the LEA's rationale for retaining the instructional material.

CHAPTER 378
H. B. 380

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

SCHOOL ENROLLMENT AMENDMENTS

Chief Sponsor: Mike Winder
Senate Sponsor: John D. Johnson

LONG TITLE

General Description:

This bill makes changes to the application period for early enrollment for nonresident students.

Highlighted Provisions:

This bill:

- changes the application period for early enrollment for nonresident students from December 1 through the third Friday in February, to November 15 through the first Friday in February.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-402, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-402 is amended to read:

53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the state board;

(iii) (A) submission of applications from [~~December 1~~] November 15 through the [~~third~~] first Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time $5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; or

(d) the district determines that enrollment within the school will exceed the school's open enrollment threshold.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

CHAPTER 379
H. B. 384
Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

ANESTHESIA AND SEDATION AMENDMENTS

Chief Sponsor: Suzanne Harrison
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends and enacts provisions related to anesthesia and sedation.

Highlighted Provisions:

This bill:

- defines terms;
- consolidates and modifies requirements that an anesthesia or sedation provider must perform before, during, and after a patient undergoes anesthesia or sedation in outpatient settings;
- gives authority to the Division of Occupational and Professional Licensing (division) to establish safety standards for sedation and anesthesia; and
- prohibits an employer from taking adverse action against an individual who notifies the division of a violation related to anesthesia and sedation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-1-510, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-510 is enacted to read:

58-1-510. Anesthesia and sedation requirements -- Unprofessional conduct -- Whistleblower protection.

(1) As used in this section:

(a) "Anesthesia or sedation provider" means an individual who is licensed:

(i) under Chapter 5a, Podiatric Physician Licensing Act;

(ii) under Subsection 58-31b-301(2)(e);

(iii) under Chapter 67, Utah Medical Practice Act;

(iv) under Chapter 68, Utah Osteopathic Medical Practice Act; or

(v) as a dentist under Chapter 69, Dentist and Dental Hygienist Practice Act, and who has obtained the appropriate permit established by the division under Subsection 58-69-301(4).

(b) "Deep sedation" means a drug-induced depression of consciousness where an individual:

(i) cannot be easily aroused;

(ii) responds purposefully following repeated or painful stimulation;

(iii) may not be able to independently maintain ventilatory function;

(iv) may require assistance in maintaining a patent airway; and

(v) usually maintains cardiovascular function.

(c) "General anesthesia" means a drug-induced loss of consciousness where an individual:

(i) cannot be aroused, even by painful stimulation;

(ii) is often unable to maintain ventilatory function;

(iii) often requires assistance in maintaining a patent airway and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function; and

(iv) may not be able to maintain cardiovascular function.

(d) "General anesthetic" means a drug identified as a general anesthetic by the federal Food and Drug Administration.

(e) "Minimal sedation" means a drug-induced state where an individual:

(i) responds normally to verbal commands;

(ii) may have reduced cognitive function and physical coordination; and

(iii) maintains airway reflexes, ventilatory function, and cardiovascular function.

(f) "Moderate sedation" means a drug-induced depression of consciousness where an individual:

(i) responds purposefully to verbal commands, either alone or accompanied by light tactile stimulation;

(ii) maintains a patent airway;

(iii) maintains spontaneous ventilation; and

(iv) usually maintains cardiovascular function.

(2) An anesthesia or sedation provider may not cause a patient to undergo moderate sedation, deep sedation, or general anesthesia, in an outpatient setting that is not an emergency department without:

(a) first providing the following information in writing and verbally:

(i) the level of anesthesia or sedation being administered;

(ii) the identity, type of license, and training of the provider who is performing the procedure for which the anesthesia or sedation will be administered;

(iii) the identity, type of license, and a description of the training described in Subsection (4) of the anesthesia or sedation provider who will be administering the anesthesia or sedation; and

(iv) a description of the monitoring that will occur during the sedation or anesthesia, including descriptions related to the monitoring of the patient's oxygenation, ventilation, and circulation;

(b) after complying with Subsection (2)(a), obtaining the patient's written and verbal consent regarding the procedure;

(c) having the training described in Subsection (4);

(d) directly supervising the patient;

(e) if the patient is a minor, having a current pediatric advanced life support certification;

(f) if the patient is an adult, having a current advanced cardiovascular life support certification;

(g) having at least one individual in the procedure room who has advanced airway training and the knowledge and skills to recognize and treat airway complications and rescue a patient who entered a deeper than intended level of sedation;

(h) having access during the procedure to an advanced cardiac life support crash cart in the office with equipment that:

(i) is regularly maintained according to guidelines established by the American Heart Association; and

(ii) includes:

(A) a defibrillator;

(B) administrable oxygen;

(C) age appropriate airway equipment;

(D) positive pressure ventilation equipment; and

(E) unexpired emergency and reversal medications including naloxone for opioid sedation and flumazenil for benzodiazepine sedation;

(i) using monitors that meet basic standards set by the American Society of Anesthesiologists and continually monitoring ventilatory function with capnography unless precluded or invalidated by the nature of the patient, procedure, or equipment; and

(j) entering appropriate information into the patient's chart or medical record, which shall include:

(i) the patient's name;

(ii) the route and site the anesthesia or sedation was administered;

(iii) the time of anesthesia or sedation administration and the dosage;

(iv) the patient's periodic vital signs during the procedure; and

(v) the name of the individual who monitored the patient's oxygenation and ventilation.

(3) (a) An anesthesia or sedation provider who violates Subsection (2) or any rule created by the division to implement this section commits unprofessional conduct.

(b) An individual commits unprofessional conduct if the individual administers anesthesia or sedation for which the individual is not appropriately trained.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to create training and safety standards regarding the inducing of general anesthesia, deep sedation, and moderate sedation:

(i) for each license described in Subsection (1)(a);

(ii) that are based on standards created by nationally recognized organizations, such as the American Society of Anesthesiologists, the American Dental Association, or the American Association of Oral and Maxillofacial Surgeons; and

(iii) that include safety standards for general anesthetic use that are consistent with federal Food and Drug Administration guidance.

(b) For making rules described in Subsection (4)(a), the division shall consult with the applicable licensing boards and a board described in Sections 58-67-201, 58-68-201, and 58-69-201.

(5) The requirements of Subsection (2) do not apply to the practice of inducing minimal sedation.

(6) An employer may not take an adverse employment action against an employee if:

(a) the employee notifies the division of:

(i) a violation of this section; or

(ii) a violation of any rule created by the division to implement this section; and

(b) the employment action is based on the individual notifying the division of the violation.

CHAPTER 380
H. B. 387

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

BALLOT PROCESSING AMENDMENTS

Chief Sponsor: Mark A. Strong
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends provisions relating to the administration and security of the election process.

Highlighted Provisions:

This bill:

- defines terms;
- requires the posting of certain statistics relating to ballots and the schedule for processing ballots;
- modifies the qualifications for, and the access provided to, a poll watcher;
- requires the logging of certain information relating to replicated ballots;
- requires the separate storage of adjudicated ballots; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

20A-3a-402, as last amended by Laws of Utah 2021, Chapter 62
20A-3a-801, as renumbered and amended by Laws of Utah 2020, Chapter 31
20A-4-104, as last amended by Laws of Utah 2021, First Special Session, Chapter 15
20A-4-105, as last amended by Laws of Utah 2020, Chapters 31 and 49

ENACTS:

20A-3a-404, Utah Code Annotated 1953
20A-3a-807, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-3a-402 is amended to read:

20A-3a-402. Custody of ballots voted at a polling place -- Disposition -- Counting ballots -- Release of tally.

[~~(1) This section governs ballots voted at a polling place.~~]

(1) (a) For ballots voted at a polling place:

[~~(2) (a)~~] (b) [~~The~~] the election officer shall deliver all return envelopes containing valid ballots and valid provisional ballots that are in the election officer's custody to the counting center before noon on the day of the official canvass following the election[~~.~~];

[~~(b)~~] (c) [~~Valid~~] valid ballots, including valid provisional ballots, may be processed and counted:

(i) by the election officer, or poll workers acting under the supervision of the election officer, before the date of the canvass; and

(ii) at the canvass, by the election officer or poll workers, acting under the supervision of the official canvassers of the election[~~.~~];

[~~(c)~~] (d) [~~When~~] when processing ballots, the election officer and poll workers shall comply with the procedures and requirements of Section 20A-3a-401 in opening envelopes, verifying signatures, confirming eligibility of the ballots, and depositing ballots in preparation for counting[~~.~~]; and

[~~(3) (a) After~~] (e) all valid ballots, including valid provisional ballots have been deposited, the ballots shall be counted in the usual manner.

[~~(b)~~] (2) (a) After the polls close on the date of the election, the election officer shall publicly release the results of [~~those~~] all ballots, including provisional ballots, that have been counted on or before the date of the election.

[~~(c)~~] (b) Except as provided in Subsection [~~(3)(d)~~] (2)(c), on each day, beginning on the day after the date of the election and ending on the day before the date of the canvass, the election officer shall publicly release[~~: (i)~~] the results of all ballots, including provisional ballots, counted on that day[~~; and~~].

[~~(ii) an estimate of the total number of voted ballots in the custody of the election officer that have not yet been counted.~~]

[~~(d)~~] (c) (i) If complying with Subsection [~~(3)(c)~~] (2)(b) on a particular day will likely result in disclosing a vote cast by an individual voter, the election officer shall request permission from the lieutenant governor to delay compliance for the minimum number of days necessary to protect against disclosure of the voter's vote.

(ii) The lieutenant governor shall grant a request made under Subsection [~~(3)(d)(i)~~] (2)(c)(i) if the lieutenant governor finds that the delay is necessary to protect against disclosure of a voter's vote.

[~~(e)~~] (d) On the date of the canvass, the election officer shall provide a tally of all ballots, including provisional ballots, counted, and the resulting tally shall be added to the official canvass of the election.

[~~(4) (a) On the day after the date of the election, the election officer shall determine the number of ballots received by the election officer at that time and shall make that number available to the public.~~]

[~~(b) The election officer may elect to publicly release updated totals for the number of ballots received by the election officer up through the date of the canvass.~~]

Section 2. Section 20A-3a-404 is enacted to read:

20A-3a-404. (Codified as 20A-3a-405) Ballot statistics.

(1) An election officer shall post and update the data described in Subsection (2) on the election officer's website, on the following days, after the election officer finishes processing ballots on that day:

(a) the day on which the election officer begins mailing ballots;

(b) except as provided in Subsection (5)(a), until the day described in Subsection (1)(c), each Monday, Wednesday, and Friday after the day described in Subsection (1)(a); and

(c) the Friday before the day of the election.

(2) The data that an election officer is required to post under Subsection (1) includes:

(a) the number of ballots in the county clerk's possession; and

(b) of the number of ballots described in Subsection (2)(a):

(i) the number of ballots that have not yet begun processing;

(ii) the number of ballots in process; and

(iii) the number of ballots processed.

(3) Except as provided in Subsection (5)(b), an election officer shall post and update the data described in Subsection (4) on the election officer's website on the following days:

(a) the Friday after the day of the election;

(b) until the day described in Subsection (3)(c), each Monday, Wednesday, and Friday after the day described in Subsection (3)(a); and

(c) on the last day of the canvass.

(4) The data that an election officer is required to post under Subsection (3) includes:

(a) a best estimate of the number of ballots received, to date, by the election officer;

(b) the number of ballots in possession of the election officer that have been rejected and are not yet cured;

(c) the number of provisional ballots in the possession of the election officer that have not been processed;

(d) the number of ballots that need to be adjudicated, but have not yet been adjudicated;

(e) the number of ballots awaiting replication; and

(f) the number of ballots that have been replicated.

(5) (a) Except for the Monday described in Subsection (1)(c), an election officer is not required to update the data described in Subsection (2) on a Monday if the election officer does not process any ballots the preceding Saturday or Sunday.

(b) An election officer is not required to update the data described in Subsection (4) on a Monday if the election officer does not process any ballots the preceding Saturday or Sunday.

Section 3. Section 20A-3a-801 is amended to read:

20A-3a-801. Watchers.

(1) As used in this section, "administering election officer" means:

(a) the election officer; or

(b) if the election officer is the lieutenant governor, the county clerk of the county in which an individual will act as a watcher.

(2) (a) Any individual who is registered or preregistered to vote in Utah may become a watcher in an election at any time by registering as a watcher with the administering election officer.

(b) An individual who registers under Subsection (2)(a) is not required to be certified by a person under Subsection (3) in order to act as a watcher.

(c) An individual who registers as a watcher shall notify the administering election officer of the dates, times, and locations that the individual intends to act as a watcher.

(d) An election official may not prohibit a watcher from performing a function described in Subsection (4) because the watcher did not provide the notice described in Subsection (2)(c).

(e) An administering election officer shall provide a copy of this section, or instructions on how to access an electronic copy of this section, to a watcher at the time the watcher registers under this Subsection (2).

(3) (a) A person that is a candidate whose name will appear on the ballot, a qualified write-in candidate for the election, a registered political party, or a political issues committee may certify an individual as an official watcher for the person:

(i) by filing an affidavit with the administering election officer responsible to designate an individual as an official watcher for the certifying person; and

(ii) if the individual registers as a watcher under Subsection (2)(a).

(b) A watcher who is certified by a person under Subsection (3)(a) may not perform the same function described in Subsection (4) at the same time and in the same location as another watcher who is certified by that person.

(c) A watcher who is certified by a person under Subsection (3)(a) may designate another individual to serve in the watcher's stead during the watcher's temporary absence by filing with a poll worker an affidavit that designates the individual as a temporary replacement.

(4) A watcher may:

(a) observe the setup or takedown of a polling location;

(b) observe a voter checking in at a polling location;

(c) observe the collection, receipt, and processing of a ballot, including a provisional ballot or a ballot cast by a covered voter as defined in Section 20A-16-102;

(d) observe the transport or transmission of a ballot that is in an election official's custody;

(e) observe the opening and inspection of a manual ballot;

(f) observe ballot [~~duplication~~] replication;

(g) observe the conduct of logic and accuracy testing described in Section 20A-5-802;

(h) observe ballot tabulation;

(i) observe the process of storing and securing a ballot;

(j) observe a post-election audit;

(k) observe a canvassing board meeting described in Title 20A, Chapter 4, Part 3, Canvassing Returns;

(l) observe the certification of the results of an election; [~~or~~]

(m) observe a recount[~~.~~]; or

(n) observe signature verification.

(5) An administering election officer shall:

(a) permit uniform, nondiscriminatory access for a watcher to observe each stage of an election process;

(b) establish locations for a watcher to observe an event described in Subsection (4), other than an event described in Subsection (4)(d) or (k), from no further than six feet away; and

(c) except for a county of the fourth, fifth, or sixth class, for any ballot adjudication, or upload of votes from a voting machine or scanner, that is conducted on a computer screen, project the activity onto a screen that is large enough to be viewed by each watcher.

[~~(5)~~] (6) (a) A watcher may not:

(i) [~~electronically~~] record an activity described in Subsection (4) if the recording would reveal a vote or otherwise violate a voter's privacy or a voter's right to cast a secret ballot;

(ii) interfere with an activity described in Subsection (4), except to challenge an individual's eligibility to vote under Section 20A-3a-803; or

(iii) divulge information related to the number of votes counted, tabulated, or cast for a candidate or ballot proposition until after the election officer makes the information public.

(b) A person who violates Subsection [~~(5)~~] (6)(a)(iii) is guilty of a third degree felony.

[~~(6)~~] (7) (a) Notwithstanding Subsection (2)(a) or (4), in order to maintain a safe working environment for an election official or to protect the safety or security of a ballot, an administering election officer may take reasonable action to:

(i) limit the number of watchers at a single location;

(ii) remove a watcher for violating a provision of this section;

(iii) remove a watcher for interfering with an activity described in Subsection (4);

(iv) designate areas for a watcher to reasonably observe the activities described in Subsection (4); or

(v) ensure that a voter's ballot secrecy is protected throughout the watching process.

(b) If an administering election officer limits the number of watchers at a single location under Subsection (6)(a)(i), the administering election officer shall give preferential access to the location to a watcher designated under Subsection (3).

(c) An administering election officer may provide a watcher a badge that identifies the watcher and require the watcher to wear the badge while acting as a watcher.

Section 4. Section 20A-3a-807 is enacted to read:

20A-3a-807. Notification of ballot processes.

(1) As used in this section, "ballot process" includes:

(a) signature verification;

(b) opening ballots;

(c) scanning ballots;

(d) adjudicating ballots;

(e) replicating damaged or defective ballots; or

(f) tabulating votes.

(2) A county clerk shall:

(a) beginning at least three days before the day on which the county clerk begins mailing ballots for an election, and ending on the first day of the canvass, post on the county clerk's website a schedule of the hours, over the next three days, during which the county clerk plans to conduct one or more ballot processes; and

(b) update any changes to the schedule at least 24 hours before the clerk modifies the hours.

Section 5. Section 20A-4-104 is amended to read:

20A-4-104. Counting ballots electronically.

(1) (a) Before beginning to count ballots using automatic tabulating equipment, the election officer shall test the automatic tabulating equipment to ensure that it will accurately count the votes cast for all offices and all measures.

(b) The election officer shall provide public notice of the time and place of the test:

(i) (A) by publishing notice at least 48 hours before the test in a newspaper of general circulation in the county, municipality, or jurisdiction where the equipment is used;

(B) at least 10 days before the day of the test, by posting one notice, and at least one additional notice per 2,000 population of the county, municipality, or jurisdiction, in places within the county, municipality, or jurisdiction that are most likely to give notice to the voters in the county, municipality, or jurisdiction, subject to a maximum of 10 notices; or

(C) at least 10 days before the day of the test, by mailing notice to each registered voter in the county, municipality, or jurisdiction where the equipment is used;

(ii) by posting notice on the Utah Public Notice Website, created in Section 63A-16-601, for four weeks before the day of the test; and

(iii) if the county, municipality, or jurisdiction has a website, by posting notice on the website for four weeks before the day of the test.

(c) The election officer shall conduct the test by processing a preaudited group of ballots.

(d) The election officer shall ensure that:

(i) a predetermined number of valid votes for each candidate and measure are recorded on the ballots;

(ii) for each office, one or more ballots have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating equipment to reject those votes; and

(iii) a different number of valid votes are assigned to each candidate for an office, and for and against each measure.

(e) If any error is detected, the election officer shall determine the cause of the error and correct it.

(f) The election officer shall ensure that:

(i) the automatic tabulating equipment produces an errorless count before beginning the actual counting; and

(ii) the automatic tabulating equipment passes the same test at the end of the count before the election returns are approved as official.

(2) (a) The election officer or the election officer's designee shall supervise and direct all proceedings at the counting center.

(b) (i) Proceedings at the counting center are public and may be observed by interested persons.

(ii) Only those persons authorized to participate in the count may touch any ballot or return.

(c) The election officer shall deputize and administer an oath or affirmation to all persons who are engaged in processing and counting the ballots that they will faithfully perform their assigned duties.

(3) (a) If any ballot is damaged or defective so that it cannot properly be counted by the automatic tabulating equipment, the election officer shall ensure that two counting judges jointly:

[~~(a)~~] (i) make a true replication of the ballot with an identifying serial number;

[~~(b)~~] (ii) substitute the replicated ballot for the damaged or defective ballot;

[~~(c)~~] (iii) label the replicated ballot "replicated"; and

[~~(d)~~] (iv) record the replicated ballot's serial number on the damaged or defective ballot.

(b) The lieutenant governor shall provide to each election officer a standard form on which the election officer shall maintain a log of all replicated ballots, that includes, for each ballot:

(i) the serial number described in Subsection (3)(a);

(ii) the identification of the individuals who replicated the ballot;

(iii) the reason for the replication; and

(iv) any other information required by the lieutenant governor.

(c) An election officer shall:

(i) maintain the log described in Subsection (3)(b) in a complete and legible manner, as ballots are replicated;

(ii) at the end of each day during which one or more ballots are replicated, make an electronic copy of the log; and

(iii) keep each electronic copy made under Subsection (3)(c)(ii) for at least 22 months.

(4) The election officer may:

(a) conduct an unofficial count before conducting the official count in order to provide early unofficial returns to the public;

(b) release unofficial returns from time to time after the polls close; and

(c) report the progress of the count for each candidate during the actual counting of ballots.

(5) Beginning on the day after the date of the election, if an election officer releases early unofficial returns or reports the progress of the count for each candidate under Subsection (4), the election officer shall, with each release or report, disclose an estimate of the total number of voted ballots in the election officer's custody that have not yet been counted.

(6) The election officer shall review and evaluate the provisional ballot envelopes and prepare any valid provisional ballots for counting as provided in Section 20A-4-107.

(7) (a) The election officer or the election officer's designee shall:

(i) separate, count, and tabulate any ballots containing valid write-in votes; and

(ii) complete the standard form provided by the clerk for recording valid write-in votes.

(b) In counting the write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the poll workers shall count the valid write-in vote as being the obvious intent of the voter.

(8) (a) The election officer shall certify the return printed by the automatic tabulating equipment, to which have been added write-in and absentee votes, as the official return of each voting precinct.

(b) Upon completion of the count, the election officer shall make official returns open to the public.

(9) If for any reason it becomes impracticable to count all or a part of the ballots with tabulating equipment, the election officer may direct that they be counted manually according to the procedures and requirements of this part.

(10) After the count is completed, the election officer shall seal and retain the programs, test materials, and ballots as provided in Section 20A-4-202.

Section 6. Section 20A-4-105 is amended to read:

20A-4-105. Standards and requirements for evaluating voter's ballot choice.

(1) (a) An election officer shall ensure that when a question arises regarding a vote recorded on a manual ballot, two counting judges jointly adjudicate the ballot, except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in accordance with the requirements of this section.

(b) If the counting judges disagree on the disposition of a vote recorded on a ballot that is adjudicated under this section, the counting judges may not count the vote.

(c) An election officer shall store adjudicated ballots separately from other ballots to enable a court to review the ballots if the election is challenged in court.

(2) Except as provided in Subsection (10), Subsection 20A-3a-204(6), or Part 6, Municipal Alternate Voting Methods Pilot Project, if a voter marks more names than there are individuals to be elected to an office, or if the counting judges cannot determine a voter's choice for an office, the counting judges may not count the voter's vote for that office.

(3) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges shall count a defective or incomplete mark on a manual ballot if:

(a) the defective or incomplete mark is in the proper place; and

(b) there is no other mark or cross on the ballot indicating the voter's intent to vote other than as indicated by the incomplete or defective mark.

(4) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, the counting judges may not reject a ballot marked by the voter because of marks on the ballot other than those marks allowed by this section unless the extraneous marks on a ballot show an intent by an individual to mark the individual's ballot so that the individual's ballot can be identified.

(5) (a) In counting the ballots, the counting judges shall give full consideration to the intent of the voter.

(b) The counting judges may not invalidate a ballot because of mechanical or technical defects in voting or failure on the part of the voter to follow strictly the rules for balloting required by Chapter 3a, Voting.

(6) The counting judges may not reject a ballot because of an error in:

(a) stamping or writing an official endorsement; or

(b) delivering the wrong ballots to a polling place.

(7) The counting judges may not count a manual ballot that does not have the official endorsement by an election officer.

(8) The counting judges may not count a ballot proposition vote or candidate vote for which the voter is not legally entitled to vote, as defined in Section 20A-4-107.

(9) If the counting judges discover that the name of a candidate is misspelled on a ballot, or that the initial letters of a candidate's given name are transposed or omitted in whole or in part on a ballot, the counting judges shall count a voter's vote for the candidate if it is apparent that the voter intended to vote for the candidate.

(10) The counting judges shall count a vote for the president and the vice president of any political party as a vote for the presidential electors selected by the political party.

(11) Except as otherwise provided in Part 6, Municipal Alternate Voting Methods Pilot Project, in counting the valid write-in votes, if, by casting a valid write-in vote, a voter has cast more votes for an office than that voter is entitled to vote for that office, the counting judges shall count the valid write-in vote as being the obvious intent of the voter.

CHAPTER 381
H. B. 388

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

LOCAL DISTRICTS AMENDMENTS

Chief Sponsor: Stephen G. Handy
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill modifies provisions related to local districts.

Highlighted Provisions:

This bill:

- modifies provisions related to adopting a resolution related to a local district;
- modifies the requirements for being a board member of certain local districts;
- modifies requirements related to obtaining insurance coverage for a board member of a local district;
- modifies the requirements for appointing a board member to a local district;
- modifies requirements related to a person filing to become a candidate for an elective position on a local district board;
- modifies provisions related to compensation of a board member of a local district;
- modifies provisions related to the purchasing procedures of a local district;
- modifies provisions related to the authority of a municipal services district; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17B-1-212, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-1-213, as last amended by Laws of Utah 2014, Chapter 405
17B-1-302, as last amended by Laws of Utah 2019, Chapters 40 and 108
17B-1-303, as last amended by Laws of Utah 2021, Chapters 84 and 345
17B-1-304, as last amended by Laws of Utah 2021, Chapter 355
17B-1-306, as last amended by Laws of Utah 2021, Chapters 84, 345, 355, and 415
17B-1-307, as last amended by Laws of Utah 2017, Chapter 70
17B-1-618, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-2a-822, as renumbered and amended by Laws of Utah 2007, Chapter 329
17B-2a-1104, as last amended by Laws of Utah 2015, Chapter 352

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-1-212 is amended to read:

17B-1-212. Resolution indicating whether the requested service will be provided.

(1) (a) Within 60 days after the last hearing required under Section 17B-1-210 concerning a request, the legislative body of each county whose unincorporated area includes and the legislative body of each municipality whose boundaries include any part of the proposed local district shall adopt a resolution indicating whether the county or municipality will provide to the area of the proposed local district within its boundaries the service proposed to be provided by the proposed local district.

(b) If a county or municipality adopts a resolution indicating that the county or municipality will provide the service proposed to be provided by the proposed local district under Subsection (1)(a), the resolution shall include a reasonable timeline for the county or municipality to begin providing the service.

(2) If the legislative body of a county or municipality fails to adopt a resolution within the time provided under Subsection (1), the county or municipal legislative body shall be considered to have declined to provide the service requested and to have consented to the creation of the local district.

(3) If the county or municipality adopts a resolution under Subsection (1) indicating that it will provide the requested service but does not, within 120 days after the adoption of that resolution, take substantial measures to provide the requested service, the county or municipal legislative body shall be considered to have declined to provide the requested service.

(4) Each county or municipality that adopts a resolution under Subsection (1) indicating that it will provide the requested service:

(a) shall diligently proceed to take all measures necessary to provide the service[~~.~~]; and

(b) if the county or municipality fails to timely provide the requested service, the county will be considered to have declined to provide the service and the creation of the local district may proceed accordingly.

Section 2. Section 17B-1-213 is amended to read:

17B-1-213. Protest after adoption of resolution -- Adoption of resolution approving creation for certain districts.

(1) For purposes of this section, "adequate protests" means protests that are:

(a) filed with the county clerk, municipal clerk or recorder, or local district secretary or clerk, as the case may be, within 60 days after the last public hearing required under Section 17B-1-210; and

(b) signed by:

(i) the owners of private real property that:

(A) is located within the proposed local district;

(B) covers at least 25% of the total private land area within the applicable area; and

(C) is equal in value to at least 15% of the value of all private real property within the applicable area; or

(ii) registered voters residing within the applicable area equal in number to at least 25% of the number of votes cast in the applicable area for the office of president of the United States at the most recent election prior to the adoption of the resolution.

(2) An owner may withdraw a protest at any time before the expiration of the 60-day period described in Subsection (1)(a).

(3) If adequate protests are filed, the governing body that adopted a resolution under Subsection 17B-1-203(1)(d) or (e):

(a) may not:

(i) hold or participate in an election under Subsection 17B-1-214(1) with respect to the applicable area;

(ii) take any further action under the protested resolution to create a local district or include the applicable area in a local district; or

(iii) for a period of two years, adopt a resolution under Subsection 17B-1-203(1)(d) or (e) proposing the creation of a local district including substantially the same area as the applicable area and providing the same service as the proposed local district in the protested resolution; and

(b) shall, within five days after receiving adequate protests, mail or deliver written notification of the adequate protests to the responsible body.

(4) Subsection (3)(a) may not be construed to prevent an election from being held for a proposed local district whose boundaries do not include an applicable area that is the subject of adequate protests.

(5) (a) If adequate protests are not filed with respect to a resolution proposing the creation of a local district for which an election is not required under Subsection 17B-1-214(3)(d), (e), (f), or (g), a resolution approving the creation of the local district [~~may~~] shall be adopted by:

(i) (A) the legislative body of a county whose unincorporated area is included within the proposed local district; and

(B) the legislative body of a municipality whose area is included within the proposed local district; or

(ii) the board of trustees of the initiating local district.

(b) Each resolution adopted under Subsection (5)(a) shall:

(i) describe the area included in the local district;

(ii) be accompanied by a map that shows the boundaries of the local district;

(iii) describe the service to be provided by the local district;

(iv) state the name of the local district; and

(v) provide a process for the appointment of the members of the initial board of trustees.

Section 3. Section 17B-1-302 is amended to read:

17B-1-302. Board member qualifications -- Number of board members.

(1) Except as provided in Section 17B-2a-905, each member of a local district board of trustees shall be:

(a) a registered voter at the location of the member's residence; and

(b) except as otherwise provided in Subsection (2) or (3), a resident within:

(i) the boundaries of the local district; and

(ii) if applicable, the boundaries of the division of the local district from which the member is elected or appointed.

(2) (a) As used in this Subsection (2):

(i) "Proportional number" means the number of members of a board of trustees that bears, as close as mathematically possible, the same proportion to all members of the board that the number of seasonally occupied homes bears to all residences within the district that receive service from the district.

(ii) "Seasonally occupied home" means a single-family residence:

(A) that is located within the local district;

(B) that receives service from the local district; and

(C) whose owner does not reside permanently at the residence but may occupy the residence on a temporary or seasonal basis.

(b) If over 50% of the residences within a local district that receive service from the local district are seasonally occupied homes, the requirement under Subsection (1)(b) is replaced, for a proportional number of members of the board of trustees, with the requirement that the member be an owner of land, or an agent or officer of the owner of land, that:

(i) receives service from the district; and

(ii) is located within the local district and, if applicable, the division from which the member is elected.

(3) (a) For a board of trustees member in a basic local district, or in any other type of local district that is located solely within a county of the fourth, fifth, or sixth class, that has within the district's boundaries fewer than one residential dwelling unit

per 10 acres of land, the requirement under Subsection (1)(b) may be replaced by the requirement that the member be a resident within the boundaries of the local district, or that the member be an owner of land within the local district that receives service from the district[~~,~~] or an agent or officer of the owner.

(b) A member of the board of trustees of a service area described in Subsection 17B-2a-905(2)(a) or (3)(a), who is an elected official of the county appointing the individual, is not subject to the requirements described in Subsection (1)(b) if the elected official was elected at large by the voters of the county.

(c) Notwithstanding Subsection (1)(b) and except as provided in Subsection (3)(d), the county legislative body may appoint to the local district board one of the county legislative body's own members, regardless of whether the member resides within the boundaries described in Subsection (1)(b), if:

(i) the county legislative body satisfies the procedures to fill a vacancy described in:

(A) for the appointment of a new board member, Subsections 17B-1-304(2) and (3); or

(B) for an appointment to fill a midterm vacancy, Subsection 20A-1-512(1)(a)(ii) or Subsection 20A-1-512(2);

(ii) fewer qualified candidates timely file to be considered for appointment to the local district board than are necessary to fill the board;

(iii) the county legislative body appoints each of the qualified candidates who timely filed to be considered for appointment to the board; and

(iv) the county legislative body appoints a member of the body to the local district board, in accordance with Subsection 17B-1-304(6) or Subsection 20A-1-512(1)(c), who was:

(A) elected at large by the voters of the county;

(B) elected from a division of the county that includes more than 50% of the geographic area of the local district; or

(C) if the local district is divided into divisions under Section 17B-1-306.5, elected from a division of the county that includes more than 50% of the geographic area of the division of the local district in which there is a board vacancy.

(d) If it is necessary to reconstitute the board of trustees of a local district located solely within a county of the fourth, fifth, or sixth class because the term of a majority of the members of the board has expired without new trustees having been elected or appointed as required by law, even if sufficient qualified candidates timely file to be considered for a vacancy on the board, the county legislative body may appoint to the local district board no more than one of the county legislative body's own members who does not satisfy the requirements of Subsection (1).

(4) (a) Except as otherwise provided by statute, the number of members of each board of trustees of a local district that has nine or fewer members shall have an odd number of members that is no fewer than three.

(b) If a board of trustees of a local district has more than nine members, the number of members may be odd or even.

(5) For a newly created local district, the number of members of the initial board of trustees shall be the number specified:

(a) for a local district whose creation was initiated by a petition under Subsection 17B-1-203(1)(a), (b), or (c), in the petition; or

(b) for a local district whose creation was initiated by a resolution under Subsection 17B-1-203(1)(d) or (e), in the resolution.

(6) (a) For an existing local district, the number of members of the board of trustees may be changed by a two-thirds vote of the board of trustees.

(b) No change in the number of members of a board of trustees under Subsection (6)(a) may:

(i) violate Subsection (4); or

(ii) serve to shorten the term of any member of the board.

Section 4. Section 17B-1-303 is amended to read:

17B-1-303. Term of board of trustees members -- Oath of office -- Bond -- Notice of board member contact information.

(1) (a) Except as provided in Subsections (1)(b), (c), (d), and (e), the term of each member of a board of trustees begins at noon on the January 1 following the member's election or appointment.

(b) The term of each member of the initial board of trustees of a newly created local district begins:

(i) upon appointment, for an appointed member; and

(ii) upon the member taking the oath of office after the canvass of the election at which the member is elected, for an elected member.

(c) The term of each water conservancy district board member whom the governor appoints in accordance with Subsection 17B-2a-1005(2)(c):

(i) begins on the later of the following:

(A) the date on which the Senate consents to the appointment; or

(B) the expiration date of the prior term; and

(ii) ends on the February 1 that is approximately four years after the date described in Subsection (1)(c)(i)(A) or (B).

(d) The term of a member of a board of trustees whom an appointing authority appoints in accordance with Subsection (5)(b) begins upon the member taking the oath of office.

(e) If the member of the board of trustees fails to assume or qualify for office on January 1 for any reason, the term begins on the date the member assumes or qualifies for office.

(2) (a) (i) Except as provided in Subsection (8), and subject to Subsections (2)(a)(ii) and (iii), the term of each member of a board of trustees is four years, except that approximately half the members of the initial board of trustees, chosen by lot, shall serve a two-year term so that the term of approximately half the board members expires every two years.

(ii) If the terms of members of the initial board of trustees of a newly created local district do not begin on January 1 because of application of Subsection (1)(b), the terms of those members shall be adjusted as necessary, subject to Subsection (2)(a)(iii), to result in the terms of their successors complying with:

(A) the requirement under Subsection (1)(a) for a term to begin on January 1 following a member's election or appointment; and

(B) the requirement under Subsection (2)(a)(i) that terms be four years.

(iii) If the term of a member of a board of trustees does not begin on January 1 because of the application of Subsection (1)(e), the term is shortened as necessary to result in the term complying with the requirement under Subsection (1)(a) that the successor member's term, regardless of whether the incumbent is the successor, begins at noon on January 1 following the successor member's election or appointment.

(iv) An adjustment under Subsection (2)(a)(ii) may not add more than a year to or subtract more than a year from a member's term.

(b) Each board of trustees member shall serve until a successor is duly elected or appointed and qualified, unless the member earlier is removed from office or resigns or otherwise leaves office.

(c) If a member of a board of trustees no longer meets the qualifications of Subsection 17B-1-302(1), (2), or (3), or if the member's term expires without a duly elected or appointed successor:

(i) the member's position is considered vacant, subject to Subsection (2)(c)(ii); and

(ii) the member may continue to serve until a successor is duly elected or appointed and qualified.

(3) (a) (i) Before entering upon the duties of office, each member of a board of trustees shall take the oath of office specified in Utah Constitution, Article IV, Section 10.

(ii) A judge, county clerk, notary public, or the local district clerk may administer an oath of office.

(b) The member of the board of trustees taking the oath of office shall file the oath of office with the clerk of the local district.

(c) The failure of a board of trustees member to take the oath under Subsection (3)(a) does not invalidate any official act of that member.

(4) A board of trustees member may serve any number of terms.

(5) (a) Except as provided in Subsection (6), each midterm vacancy in a board of trustees position is filled in accordance with Section 20A-1-512.

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), the appointing authority may appoint an individual to fill a new board of trustees position in accordance with Section 17B-1-304 or 20A-1-512.

(6) (a) For purposes of this Subsection (6):

(i) "Appointed official" means a person who:

(A) is appointed as a member of a local district board of trustees by a county or municipality that is entitled to appoint a member to the board; and

(B) holds an elected position with the appointing county or municipality.

(ii) "Appointing entity" means the county or municipality that appointed the appointed official to the board of trustees.

(b) The board of trustees shall declare a midterm vacancy for the board position held by an appointed official if:

(i) during the appointed official's term on the board of trustees, the appointed official ceases to hold the elected position with the appointing entity; and

(ii) the appointing entity submits a written request to the board to declare the vacancy.

(c) Upon the board's declaring a midterm vacancy under Subsection (6)(b), the appointing entity shall appoint another person to fill the remaining unexpired term on the board of trustees.

(7) (a) [~~Each~~] A member of a board of trustees shall [~~give a~~] obtain a fidelity bond or obtain theft or crime insurance for the faithful performance of the member's duties, in the amount and with the sureties or with an insurance company that the board of trustees prescribes.

(b) The local district:

(i) may assist the board of trustees in obtaining a fidelity bond or obtaining theft or crime insurance as a group or for members individually; and

(ii) shall pay the cost of each fidelity bond or insurance coverage required under [~~Subsection (7)(a)~~] this Subsection (7).

(8) (a) The lieutenant governor may extend the term of an elected district board member by one year in order to compensate for a change in the election year under Subsection 17B-1-306(14).

(b) When the number of members of a board of trustees increases in accordance with Subsection 17B-1-302(6), to ensure that the term of approximately half of the board members expires every two years in accordance with Subsection (2)(a):

(i) the board shall set shorter terms for approximately half of the new board members, chosen by lot; and

(ii) the initial term of a new board member position may be less than two or four years.

(9) (a) A local district shall:

(i) post on the Utah Public Notice Website created in Section 63A-16-601 the name, phone number, and email address of each member of the local district's board of trustees;

(ii) update the information described in Subsection (9)(a)(i) when:

(A) the membership of the board of trustees changes; or

(B) a member of the board of trustees' phone number or email address changes; and

(iii) post any update required under Subsection (9)(a)(ii) within 30 days after the date on which the change requiring the update occurs.

(b) This Subsection (9) applies regardless of whether the county or municipal legislative body also serves as the board of trustees of the local district.

Section 5. Section 17B-1-304 is amended to read:

17B-1-304. Appointment procedures for appointed members.

(1) The appointing authority may, by resolution, appoint persons to serve as members of a local district board by following the procedures established by this section.

(2) (a) In any calendar year when appointment of a new local district board member is required, the appointing authority shall prepare a notice of vacancy that contains:

(i) the positions that are vacant that shall be filled by appointment;

(ii) the qualifications required to be appointed to those positions;

(iii) the procedures for appointment that the governing body will follow in making those appointments; and

(iv) the person to be contacted and any deadlines that a person shall meet who wishes to be considered for appointment to those positions.

(b) The appointing authority shall:

(i) post the notice of vacancy in four public places within the local district at least one month before the deadline for accepting nominees for appointment; and

(ii) post the notice of vacancy on the Utah Public Notice Website, created in Section 63A-16-601, for five days before the deadline for accepting nominees for appointment.

(c) The appointing authority may bill the local district for the cost of preparing, printing, and publishing the notice.

(3) (a) [~~Not sooner than two months after~~] After the appointing authority is notified of [~~the~~] a vacancy and has satisfied the requirements described in Subsection (2), the appointing authority shall select a person to fill the vacancy from the applicants who meet the qualifications established by law.

(b) The appointing authority shall:

(i) comply with Title 52, Chapter 4, Open and Public Meetings Act, in making the appointment;

(ii) allow any interested persons to be heard; and

(iii) adopt a resolution appointing a person to the local district board.

(c) If no candidate for appointment to fill the vacancy receives a majority vote of the appointing authority, the appointing authority shall select the appointee from the two top candidates by lot.

(4) Persons appointed to serve as members of the local district board serve four-year terms, but may be removed for cause at any time after a hearing by two-thirds vote of the appointing body.

(5) (a) At the end of each board member's term, the position is considered vacant, and, after following the appointment procedures established in this section, the appointing authority may either reappoint the incumbent board member or appoint a new member.

(b) Notwithstanding Subsection (5)(a), a board member may continue to serve until a successor is elected or appointed and qualified in accordance with Subsection 17B-1-303(2)(b).

(6) Notwithstanding any other provision of this section, if the appointing authority appoints one of its own members and that member meets all applicable statutory board member qualifications, the appointing authority need not comply with Subsection (2) or (3).

Section 6. Section 17B-1-306 is amended to read:

17B-1-306. Local district board -- Election procedures.

(1) Except as provided in Subsection (12), each elected board member shall be selected as provided in this section.

(2) (a) Each election of a local district board member shall be held:

(i) at the same time as the municipal general election or the regular general election, as applicable; and

(ii) at polling places designated by the local district board in consultation with the county clerk for each county in which the local district is located, which polling places shall coincide with municipal general election or regular general election polling places, as applicable, whenever feasible.

(b) The local district board, in consultation with the county clerk, may consolidate two or more polling places to enable voters from more than one district to vote at one consolidated polling place.

(c) (i) Subject to Subsections (5)(h) and (i), the number of polling places under Subsection (2)(a)(ii) in an election of board members of an irrigation district shall be one polling place per division of the district, designated by the district board.

(ii) Each polling place designated by an irrigation district board under Subsection (2)(c)(i) shall coincide with a polling place designated by the county clerk under Subsection (2)(a)(ii).

(3) The clerk of each local district with a board member position to be filled at the next municipal general election or regular general election, as applicable, shall provide notice of:

(a) each elective position of the local district to be filled at the next municipal general election or regular general election, as applicable;

(b) the constitutional and statutory qualifications for each position; and

(c) the dates and times for filing a declaration of candidacy.

(4) The clerk of the local district shall publish the notice described in Subsection (3):

(a) by posting the notice on the Utah Public Notice Website created in Section 63A-16-601, for 10 days before the first day for filing a declaration of candidacy; [~~and~~]

(b) by posting the notice in at least five public places within the local district at least 10 days before the first day for filing a declaration of candidacy; and

(c) if the local district has a website, on the local district's website for 10 days before the first day for filing a declaration of candidacy.

(5) (a) Except as provided in Subsection (5)(c), to become a candidate for an elective local district board position, an individual shall file a declaration of candidacy in person with an official designated by the local district[~~, during office hours,~~] within the candidate filing period for the applicable election year in which the election for the local district board is held[~~.~~] and:

(i) during the local district's standard office hours, if the standard office hours provide at least three consecutive office hours each day during the candidate filing period that is not a holiday or weekend; or

(ii) if the standard office hours of a local district do not provide at least three consecutive office hours each day, a three-hour consecutive time period each day designated by the local district during the candidate filing period that is not a holiday or weekend.

(b) When the candidate filing deadline falls on a Saturday, Sunday, or holiday, the filing time shall be extended until the close of normal office hours on the following regular business day.

(c) Subject to Subsection (5)(f), an individual may designate an agent to file a declaration of candidacy with the official designated by the local district if:

(i) the individual is located outside of the state during the entire filing period;

(ii) the designated agent appears in person before the official designated by the local district; and

(iii) the individual communicates with the official designated by the local district using an electronic device that allows the individual and official to see and hear each other.

(d) (i) Before the filing officer may accept any declaration of candidacy from an individual, the filing officer shall:

(A) read to the individual the constitutional and statutory qualification requirements for the office that the individual is seeking; and

(B) require the individual to state whether the individual meets those requirements.

(ii) If the individual does not meet the qualification requirements for the office, the filing officer may not accept the individual's declaration of candidacy.

(iii) If it appears that the individual meets the requirements of candidacy, the filing officer shall accept the individual's declaration of candidacy.

(e) The declaration of candidacy shall be in substantially the following form:

"I, (print name) ____________, being first duly sworn, say that I reside at (Street) ____________, City of ________________, County of ________________, state of Utah, (Zip Code) ______, (Telephone Number, if any)____________; that I meet the qualifications for the office of board of trustees member for ______________________ (state the name of the local district); that I am a candidate for that office to be voted upon at the next election; and that, if filing via a designated agent, I will be out of the state of Utah during the entire candidate filing period, and I hereby request that my name be printed upon the official ballot for that election.

(Signed)

____

Subscribed and sworn to (or affirmed) before me by ____________ on this ______ day of ____________, ____.

(Signed) ________________________

(Clerk or Notary Public)".

(f) An agent designated under Subsection (5)(c) may not sign the form described in Subsection (5)(e).

(g) Each individual wishing to become a valid write-in candidate for an elective local district board position is governed by Section 20A-9-601.

(h) If at least one individual does not file a declaration of candidacy as required by this section, an individual shall be appointed to fill that board position in accordance with the appointment provisions of Section 20A-1-512.

(i) If only one candidate files a declaration of candidacy and there is no write-in candidate who complies with Section 20A-9-601, the board, in accordance with Section 20A-1-206, may:

(i) consider the candidate to be elected to the position; and

(ii) cancel the election.

(6) (a) A primary election may be held if:

(i) the election is authorized by the local district board; and

(ii) the number of candidates for a particular local board position or office exceeds twice the number of persons needed to fill that position or office.

(b) The primary election shall be conducted:

(i) on the same date as the municipal primary election or the regular primary election, as applicable; and

(ii) according to the procedures for primary elections provided under Title 20A, Election Code.

(7) (a) Except as provided in Subsection (7)(c), within one business day after the deadline for filing a declaration of candidacy, the local district clerk shall certify the candidate names to the clerk of each county in which the local district is located.

(b) (i) Except as provided in Subsection (7)(c) and in accordance with Section 20A-6-305, the clerk of each county in which the local district is located and the local district clerk shall coordinate the placement of the name of each candidate for local district office in the nonpartisan section of the ballot with the appropriate election officer.

(ii) If consolidation of the local district election ballot with the municipal general election ballot or the regular general election ballot, as applicable, is not feasible, the local district board of trustees, in consultation with the county clerk, shall provide for a separate local district election ballot to be administered by poll workers at polling locations designated under Subsection (2).

(c) (i) Subsections (7)(a) and (b) do not apply to an election of a member of the board of an irrigation district established under Chapter 2a, Part 5, Irrigation District Act.

(ii) (A) Subject to Subsection (7)(c)(ii)(B), the board of each irrigation district shall prescribe the form of the ballot for each board member election.

(B) Each ballot for an election of an irrigation district board member shall be in a nonpartisan format.

(C) The name of each candidate shall be placed on the ballot in the order specified under Section 20A-6-305.

(8) (a) Each voter at an election for a board of trustees member of a local district shall:

(i) be a registered voter within the district, except for an election of:

(A) an irrigation district board of trustees member; or

(B) a basic local district board of trustees member who is elected by property owners; and

(ii) meet the requirements to vote established by the district.

(b) Each voter may vote for as many candidates as there are offices to be filled.

(c) The candidates who receive the highest number of votes are elected.

(9) Except as otherwise provided by this section, the election of local district board members is governed by Title 20A, Election Code.

(10) (a) Except as provided in Subsection 17B-1-303(8), a person elected to serve on a local district board shall serve a four-year term, beginning at noon on the January 1 after the person's election.

(b) A person elected shall be sworn in as soon as practical after January 1.

(11) (a) Except as provided in Subsection (11)(b), each local district shall reimburse the county or municipality holding an election under this section for the costs of the election attributable to that local district.

(b) Each irrigation district shall bear the district's own costs of each election the district holds under this section.

(12) This section does not apply to an improvement district that provides electric or gas service.

(13) Except as provided in Subsection 20A-3a-605(1)(b), the provisions of Title 20A, Chapter 3a, Part 6, Early Voting, do not apply to an election under this section.

(14) (a) As used in this Subsection (14), "board" means:

(i) a local district board; or

(ii) the administrative control board of a special service district that has elected members on the board.

(b) A board may hold elections for membership on the board at a regular general election instead of a municipal general election if the board submits an application to the lieutenant governor that:

(i) requests permission to hold elections for membership on the board at a regular general election instead of a municipal general election; and

(ii) indicates that holding elections at the time of the regular general election is beneficial, based on potential cost savings, a potential increase in voter turnout, or another material reason.

(c) Upon receipt of an application described in Subsection (14)(b), the lieutenant governor may approve the application if the lieutenant governor concludes that holding the elections at the regular general election is beneficial based on the criteria described in Subsection (14)(b)(ii).

(d) If the lieutenant governor approves a board's application described in this section:

(i) all future elections for membership on the board shall be held at the time of the regular general election; and

(ii) the board may not hold elections at the time of a municipal general election unless the board receives permission from the lieutenant governor to hold all future elections for membership on the board at a municipal general election instead of a regular general election, under the same procedure, and by applying the same criteria, described in this Subsection (14).

(15) (a) This Subsection (15) applies to a local district if:

(i) the local district's board members are elected by the owners of real property, as provided in Subsection 17B-1-1402(1)(b); and

(ii) the local district was created before January 1, 2020.

(b) The board of a local district described in Subsection (15)(a) may conduct an election:

(i) to fill a board member position that expires at the end of the term for that board member's position; and

(ii) notwithstanding Subsection 20A-1-512 (1)(a)(i), to fill a vacancy in an unexpired term of a board member.

(c) An election under Subsection (15)(b) may be conducted as determined by the local district board, subject to Subsection (15)(d).

(d) (i) The local district board shall provide to property owners eligible to vote at the local district election:

(A) notice of the election; and

(B) a form to nominate an eligible individual to be elected as a board member.

(ii) (A) The local district board may establish a deadline for a property owner to submit a nomination form.

(B) A deadline under Subsection (15)(d)(ii)(A) may not be earlier than 15 days after the board provides the notice and nomination form under Subsection (15)(d)(i).

(iii) (A) After the deadline for submitting nomination forms, the local district board shall provide a ballot to all property owners eligible to vote at the local district election.

(B) A local district board shall allow at least five days for ballots to be returned.

(iv) A local district board shall certify the results of an election under this Subsection (15) during an open meeting of the board.

Section 7. Section 17B-1-307 is amended to read:

17B-1-307. Annual compensation -- Per diem compensation -- Participation in group insurance plan -- Reimbursement of expenses.

(1) (a) Except as provided in Subsection 17B-1-308(1)(e), a member of a board of trustees may receive compensation for service on the board, as determined by the board of trustees.

(b) The amount of compensation under this Subsection (1) may not exceed $5,000 per year.

(c) (i) As determined by the board of trustees, a member of the board of trustees may participate in a group insurance plan provided to employees of the local district on the same basis as employees of the local district.

(ii) The amount that the local district pays to provide a member with coverage under a group insurance plan shall be included as part of the member's compensation for purposes of Subsection (1)(b).

(d) The amount that a local district pays employer-matching employment taxes, if a member of the board of trustees is treated as an employee for federal tax purposes, does not constitute compensation under Subsection (1).

(2) In addition to the compensation provided under Subsection (1), the board of trustees may elect to allow a member to receive per diem and travel expenses for up to 12 meetings or activities per year in accordance with rules adopted by the board of trustees or Section 11-55-103.

Section 8. Section 17B-1-618 is amended to read:

17B-1-618. Purchasing procedures.

All purchases or encumbrances by a local district shall be made or incurred according to the purchasing procedures established [~~by~~] for each district [~~by resolution~~] by the district's rulemaking authority, as that term is defined in Section 63G-6a-103, and only on an order or approval of the person or persons duly authorized.

Section 9. Section 17B-2a-822 is amended to read:

17B-2a-822. Multicounty district may employ or contract for law enforcement officers -- Law enforcement officer status, powers, and jurisdiction.

(1) The board of trustees of a multicounty district may employ law enforcement officers or contract with other law enforcement agencies to provide law enforcement services for the district.

(2) A law enforcement officer employed or provided by contract under Subsection (1) is a law enforcement officer under Section 53-13-103 and shall be subject to the provisions of that section.

[~~(3) Subject to the provisions of Section 53-13-103, the jurisdiction of a law enforcement officer employed under this section is limited to transit facilities and transit vehicles.~~]

Section 10. Section 17B-2a-1104 is amended to read:

17B-2a-1104. Additional municipal services district powers.

In addition to the powers conferred on a municipal services district under Section 17B-1-103, a municipal services district may:

(1) notwithstanding Subsection 17B-1-202(3), provide no more than six municipal services; [~~and~~]

(2) assist a municipality or a county located within a municipal services district by providing staffing and administrative services, including:

(a) human resources staffing and services;

(b) finance and budgeting staffing and services; and

(c) information technology staffing and services; and

[~~(2)~~] (3) issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district.

CHAPTER 382
H. B. 389

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

NURSING EDUCATION PROGRAM AMENDMENTS

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill amends the provisions related to unaccredited nursing education programs.

Highlighted Provisions:

This bill:

- enables the Division of Occupational and Professional Licensing to approve a qualified nursing education program for up to five years under certain conditions;
- grants rulemaking authority to the Division of Occupational and Professional Licensing for approving a nursing education program for another period of approval; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-31b-601, as last amended by Laws of Utah 2020, Chapter 272

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-31b-601 is amended to read:

58-31b-601. Minimum standards for nursing programs to qualify graduates -- Temporary approval to qualify graduates for licensure -- Minimum standards for medication aide training to qualify persons for certification.

(1) Except as provided in [~~Subsection (2)~~] Subsections (2) and (3), to qualify as an approved education program for the purpose of qualifying graduates for licensure under this chapter, a nursing education program shall be accredited by an accrediting body for nursing education that is [~~approved~~] recognized by the United States Department of Education.

(2) (a) [~~In accordance with Subsection (2)(b) and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the~~] The division, in consultation with the board, may [~~make rules establishing requirements for a nursing education program to qualify for a limited time as an approved education program~~] approve a nursing education program for up to five years, for the purpose of qualifying graduates for licensure under this chapter, if the program:

(i) [~~(A) is in the process of obtaining~~] holds candidacy or is in the process of applying for candidacy for the accreditation described in Subsection (1);

(ii) has been denied initial accreditation after holding candidacy for the accreditation described in Subsection (1); or

(iii) is no longer accredited under Subsection (1); and

(b) has not previously received a term of approval granted by the division.

[~~(B) has recently been denied accreditation after seeking to obtain the accreditation described in Subsection (1); or~~]

[~~(C) has recently lost the accreditation described in Subsection (1); and~~]

[~~(ii) is approved under Subsection (2)(a) on or before May 15, 2016.~~]

[~~(b) A program approved under Subsection (2)(a) may qualify graduates for licensure under Subsection (2)(a) until June 30, 2022.~~]

[~~(c) Beginning November 30, 2020, a program approved under Subsection (2)(a) may not enroll any new students into the program unless:~~]

[~~(i) the program has a final site visit scheduled with a nursing program accreditor for the accreditation described in Subsection (1); and~~]

[~~(ii) the final site visit described in Subsection (2)(c)(i) is scheduled during the period beginning November 30, 2020, and ending May 30, 2021.~~]

[~~(d) On or after July 1, 2022, a nursing education program that is not an approved education program under Subsection (1) may not qualify graduates for licensure under this chapter.~~]

(3) (a) For a nursing education program that has previously received a term of approval granted under Subsection (2), the division may reapprove the nursing education program for the purpose of qualifying graduates for licensure if:

(i) the reapproval is for a period that does not exceed five years; and

(ii) a minimum of 12 months has passed since the day on which the previous term of approval expired.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, in consultation with the board, shall make rules to implement Subsection (3)(a).

[~~(3)~~] (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the division shall make rules defining the minimum standards for a medication aide certified training program to qualify a person for certification under this chapter as a medication aide certified.

CHAPTER 383
H. B. 390

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

EARLY COLLEGE AND CONCURRENT ENROLLMENT PROGRAM AMENDMENTS

Chief Sponsor: V. Lowry Snow
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill amends provisions related to Advanced Placement and concurrent enrollment programs.

Highlighted Provisions:

This bill:

- aligns references to Advanced Placement courses, exams, and credit;
- amends requirements for a State Board of Education funding distribution formula for early college programs to prioritize funding to cover the cost of each early college program test for certain students;
- addresses LEA use of certain program funds for concurrent enrollment courses for certain students;
- allows an LEA to charge a restricted rate for indirect costs in concurrent enrollment programs; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-8-203, as last amended by Laws of Utah 2020, Chapter 386
53B-8-205, as renumbered and amended by Laws of Utah 2017, Chapter 386
53E-10-307, as last amended by Laws of Utah 2020, Chapter 365
53F-2-408.5, as enacted by Laws of Utah 2020, Chapter 378
53F-2-409, as last amended by Laws of Utah 2020, Chapters 220, 365, 378, and 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-8-203 is amended to read:

53B-8-203. Regents' Scholarship Program -- Base Regents' scholarship -- Qualifications -- Application.

(1) This section only applies to a student who graduates from high school on or before July 1, 2018.

(2) A student qualifies for a Base Regents' scholarship if the student:

(a) completes the high school graduation requirements of:

(i) a public school established by the State Board of Education and the student's school district or charter school; or

(ii) a private high school in the state that is accredited by a regional accrediting body approved by the board;

(b) completes high school with at least a 3.0 cumulative grade point average;

(c) has at least one reported ACT test score; and

(d) (i) completes the following high school or college credit in grades 9 through 12:

(A) four units of credit of English;

(B) four units of credit of mathematics;

(C) three and one-half units of credit of social science;

(D) three units of credit of lab-based natural science; and

(E) two units of credit of sequential world or classical language other than English; and

(ii) except as provided in Subsection (5), earns a course grade on a transcript of "C" or above in each individual course listed in Subsection (2)(d)(i).

(3) The board shall establish policies to determine specific courses that meet the requirements under Subsection (2)(d)(i).

(4) To be eligible for the scholarship, a student:

(a) shall submit an application to the board with:

(i) a copy of the student's official high school transcript and ACT scores; and

(ii) if applicable, a college transcript showing a college course the student has completed to meet the requirements of Subsection (2)(d);

(b) shall be a citizen of the United States or a noncitizen who is eligible to receive federal student aid; and

(c) if applicable, shall meet the application deadlines as established by the board under Subsection 53B-8-202(10).

(5) For purposes of determining if a student meets the grade requirements of Subsection (2)(d)(ii), the board shall assign additional weights to grades earned in courses described in Subsection (2)(d)(i) that are [~~advanced placement~~] Advanced Placement, concurrent enrollment, or International Baccalaureate program courses.

(6) (a) The amount of the Base Regents' scholarship is $1,000.

(b) The board may adjust the amount of the Base Regents' scholarship by up to a percentage of the average percentage tuition increase approved by the board for institutions in the system of higher education.

(7) (a) The board shall require an applicant for a Regents' scholarship to certify under penalty of perjury that:

(i) the applicant is a United States citizen; or

(ii) the applicant is a noncitizen who is eligible to receive federal student aid.

(b) The certification under this Subsection (7) shall include a statement advising the signer that providing false information subjects the signer to penalties for perjury.

Section 2. Section 53B-8-205 is amended to read:

53B-8-205. Supplemental scholarship award -- Exemplary academic achievement -- Regents' diploma.

(1) This section only applies to a student who graduates from high school on or before July 1, 2018.

(2) A student who qualifies for the Base Regents' scholarship in accordance with the provisions of Section 53B-8-203 shall qualify for an additional Exemplary Academic Achievement scholarship if the student:

(a) completes high school with a cumulative grade point average of 3.5 or higher;

(b) except as provided in Subsection (8), earns a course grade on a transcript of "B" or above in each individual course listed in Subsection 53B-8-203(2)(d)(i); and

(c) (i) scores a composite ACT score of 26 or higher; and

(ii) if determined by the board's policies, achieves additional ACT college readiness benchmark scores in English, mathematics, reading, and science.

(3) For a student who graduates from high school in the 2009-10 school year:

(a) if used at a higher education institution described in Subsection 53B-8-202(4)(a), the value of an Exemplary Academic Achievement scholarship is up to 75% of the tuition costs at the selected institution; or

(b) if used at a higher education institution described in Subsection 53B-8-202(4)(b), the value of an Exemplary Academic Achievement scholarship is up to 75% of the tuition costs at the institution, not to exceed 75% of the average tuition costs at the institutions described in Subsection 53B-8-202(4)(a).

(4) (a) For a student who graduates from high school in or after the 2010-11 school year, the total value of an Exemplary Academic Achievement scholarship is up to $5,000, allocated over a time period described in Subsection (5), as prescribed by the board.

(b) The board may adjust the amount of the Exemplary Academic Achievement scholarship by up to a percentage of the average percentage tuition increase approved by the board for institutions in the state system of higher education.

(5) An Exemplary Academic Achievement scholarship is valid for the shortest of the following time periods:

(a) two years of full-time equivalent enrollment;

(b) 65 credit hours; or

(c) until the student meets the requirements for a baccalaureate degree.

(6) The board may cancel an Exemplary Academic Achievement scholarship at any time if the student fails to:

(a) register for at least 15 credit hours per semester;

(b) maintain a 3.3 grade point average for two consecutive semesters; or

(c) make reasonable progress toward the completion of a baccalaureate degree.

(7) A student who qualifies for the Exemplary Academic Achievement scholarship under this section may also receive a Regents' diploma endorsement to be issued by the board.

(8) For purposes of determining if a student meets the grade requirements of Subsection (2)(b), the board shall assign additional weights to grades earned in courses described in Subsection 53B-8-203(2)(d)(i) that are [~~advanced placement~~] Advanced Placement, concurrent enrollment, or International Baccalaureate program courses.

Section 3. Section 53E-10-307 is amended to read:

53E-10-307. Concurrent enrollment courses for accelerated foreign language students.

(1) As used in this section:

(a) "Accelerated foreign language student" means an eligible student who has passed a world language [~~advanced placement~~] Advanced Placement exam.

(b) "Blended learning delivery model" means an education delivery model in which a student learns, at least in part:

(i) through online learning with an element of student control over time, place, path, and pace; and

(ii) in the physical presence of an instructor.

(c) "State university" means an institution of higher education that offers courses leading to a bachelor's degree.

(2) The University of Utah shall partner with all state universities to develop, as part of the concurrent enrollment program described in this part, concurrent enrollment courses that:

(a) are age-appropriate foreign language courses for accelerated foreign language students;

(b) count toward a foreign language degree offered by an institution of higher education; and

(c) are delivered:

(i) using a blended learning delivery model; and

(ii) by an eligible instructor described in Subsection 53E-10-302(6)(a).

Section 4. Section 53F-2-408.5 is amended to read:

53F-2-408.5. Early college programs.

(1) As used in this section:

(a) "[~~Advanced placement~~] Advanced Placement course" means a rigorous course developed by the College Board that:

(i) is developed by a committee composed of college faculty and [~~advanced placement~~] Advanced Placement teachers and covers the breadth of information, skills, and assignments found in the corresponding college course; and

(ii) for which a student who performs well on an exam for the course may be:

(A) granted college credit; or

(B) given advanced standing at a college or university.

(b) "Eligible low income student" means a student who:

(i) takes an [~~advanced placement~~] Advanced Placement course test;

(ii) has applied for an [~~advanced placement~~] Advanced Placement course test fee reduction; and

(iii) qualifies for a free lunch or a lunch provided at a reduced cost.

(c) "International Baccalaureate program" means a program established by the International Baccalaureate Organization.

(d) "Local education agency" or "LEA" means:

(i) a school district; or

(ii) a charter school.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish a formula to distribute money appropriated for the early college programs described in Subsection (2)(b).

(b) Subject to Subsection (2)(c), the formula described in Subsection (2)(a) shall:

(i) include an allocation of money for the following early college programs:

[~~(A) advanced placement courses;~~]

[~~(B) advanced placement course test fees for eligible low income students; and~~]

(A) Advanced Placement courses; and

[~~(C)~~] (B) International Baccalaureate programs; and

(ii) prioritize funding to:

(A) increase access to early college programs for groups of students who are underrepresented in early college programs[~~.~~]; and

(B) cover the cost of each early college program test taken by a student experiencing socioeconomic disadvantage.

(c) The state board may not allocate more that $100,000 of an appropriation under this section for International Baccalaureate programs.

(d) The state board shall consult with LEAs before making the rules described in Subsection (2)(a).

(3) (a) An LEA shall use money distributed under this section for the purposes described in Subsection (2)(b), prioritizing the cost of tests described in Subsection (2)(b)(ii)(B) before using the remainder of the money for other allowable uses.

(b) An LEA may charge the restricted rate for indirect costs in Advanced Placement and International Baccalaureate programs.

(4) The state board shall develop performance criteria to measure the effectiveness of the early college programs described in this section.

(5) If an LEA receives an allocation of less than $10,000 for the early college programs described in this section, the LEA may use the allocation as described in Section 53F-2-206.

Section 5. Section 53F-2-409 is amended to read:

53F-2-409. Concurrent enrollment funding.

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken for which:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the Utah Board of Higher Education.

(c) From the money allocated under Subsection (3)(a), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the Utah Board of Higher Education.

(d) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The Utah Board of Higher Education shall make rules, in accordance with Title 63G, Chapter

3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually increase the money appropriated for concurrent enrollment in proportion to the percentage increase over the previous school year in:

(a) concurrent enrollment; and

(b) the value of the weighted pupil unit.

(5) (a) An LEA that receives money under this section may prioritize using the money to increase access to concurrent enrollment for groups of students who are underrepresented in concurrent enrollment.

(b) If an LEA receives an allocation of less than $10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

(c) An LEA shall:

(i) use program funds to increase access to concurrent enrollment courses for students experiencing socioeconomic disadvantage, including by paying student fees related to the student's participation in a concurrent enrollment course, except fees for textbooks; and

(ii) allocate funding equal to the cost of fees described in Subsection (5)(c)(i), excluding fees for textbooks, from the LEA's total allocation of concurrent enrollment funding before allocating the remainder of program funds for a use described in Subsections (5)(a) and (5)(b).

(6) An LEA may charge a restricted rate for indirect costs in concurrent enrollment programs.

CHAPTER 384
H. B. 392

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

EXPUNGEMENT FEE AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions related to fees for expungements.

Highlighted Provisions:

This bill:

- creates sunset dates regarding the suspension of certain expungement fees;
- suspends fees for the issuance of a certificate of eligibility or a special certificate of eligibility from the Bureau of Criminal Identification for an expungement until June 30, 2023;
- suspends fees for a petition for expungement until June 30, 2023;
- creates a reporting requirement for expungement data; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to General Fund Restricted - Court Security Account, as a one-time appropriation:
  - from the General Fund, One-time, $62,700;
- to General Fund Restricted - Children's Legal Defense, as a one-time appropriation:
  - from the General Fund, One-time, $10,500;
- to Civil Fees Judges' Retirement Trust Fund, as a one-time appropriation:
  - from the General Fund, One-time, $31,400; and
- to Department of Public Safety - Bureau of Criminal Identification - Non-Government/Other Services, as a one-time appropriation:
  - from the General Fund, One-time, $400,000.

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53-10-202.5, as last amended by Laws of Utah 2017, Chapter 286
63I-1-277, as renumbered and amended by Laws of Utah 2008, Chapter 382
63I-1-278, as last amended by Laws of Utah 2020, Chapter 154
77-40-103, as last amended by Laws of Utah 2020, Chapters 12 and 218
77-40-106, as last amended by Laws of Utah 2017, Chapter 356
77-40-107, as last amended by Laws of Utah 2021, Chapter 206
78A-2-301, as last amended by Laws of Utah 2021, Chapters 157 and 262
78A-2-301.5, as last amended by Laws of Utah 2013, Chapter 245

ENACTS:

77-40-117, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63I-1-277, as renumbered and amended by Laws of Utah 2008, Chapter 382
77-40-106, as last amended by Laws of Utah 2017, Chapter 356
77-40-117, Utah Code Annotated 1953
77-40a-107, Utah Code Annotated 1953
77-40a-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-10-202.5 is amended to read:

53-10-202.5. Bureau services -- Fees.

The bureau shall collect fees for the following services:

(1) applicant fingerprint card as determined by Section 53-10-108;

(2) bail enforcement licensing as determined by Section 53-11-115;

(3) concealed firearm permit as determined by Section 53-5-707;

(4) provisional concealed firearm permit as determined by Section 53-5-707.5;

(5) [~~application for and issuance of~~] a certificate of eligibility for expungement as determined by Section 77-40-106;

(6) firearm purchase background check as determined by Section 76-10-526;

(7) name check as determined by Section 53-10-108;

(8) private investigator licensing as determined by Section 53-9-111; and

(9) right of access as determined by Section 53-10-108.

Section 2. Section 63I-1-277 is amended to read:

63I-1-277. Repeal dates, Title 77.

Subsection 77-40-106(5), regarding the suspension of issuance fees for certificates of eligibility, is repealed on July 1, 2023.

Section 3. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Subsections 78A-2-301(4) and 78A-2-301.5(12), regarding the suspension of filing fees for petitions for expungement, are repealed on July 1, 2023.

[~~(1)~~] (2) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

[~~(2)~~] (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(3)~~] (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support

Guidelines Advisory Committee, is repealed July 1, 2026.

Section 4. Section 77-40-103 is amended to read:

77-40-103. Petition for expungement procedure overview.

The process for a petition for the expungement of records under this chapter regarding the arrest, investigation, detention, and conviction of a petitioner is as follows:

(1) The petitioner shall apply to the bureau for a certificate of eligibility for expungement and pay the application fee established by the department.

(2) Once the eligibility process is complete, the bureau shall:

(a) notify the petitioner[~~.~~]; and

(b) if the petitioner is qualified to receive a certificate of eligibility for expungement, issue a certificate of eligibility.

[~~(3) If the petitioner is qualified to receive a certificate of eligibility for expungement, the petitioner shall pay the issuance fee established by the department.~~]

[~~(4)~~] (3) (a) The petitioner shall file the certificate of eligibility with a petition for expungement in the court in which the proceedings occurred.

(b) If there were no court proceedings, or the court no longer exists, the petitioner may file the petition in the district court where the arrest occurred.

(c) If a petitioner files a certificate of eligibility electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded.

(d) If the petitioner files the original certificate of eligibility with the petition, the clerk or the court shall scan and return the original certificate to the petitioner or the petitioner's attorney, who shall keep the original certificate until the proceedings are concluded.

[~~(5)~~] (4) Notwithstanding [~~Subsections (3) and (4)~~] Subsection (3), if the petitioner is not qualified to receive a certificate of eligibility for expungement, the petitioner may file a petition without a certificate to obtain expungement for a record of conviction related to cannabis possession if the petition demonstrates that:

(a) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(b) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection [~~(5)~~] (4)(a).

[~~(6)~~] (5) (a) The petitioner shall deliver a copy of the petition and certificate of eligibility to the prosecutorial office that handled the court proceedings.

(b) If there were no court proceedings, the petitioner shall deliver the copy of the petition and certificate to the county attorney's office in the jurisdiction where the arrest occurred.

[~~(7)~~] (6) If the prosecutor or the victim files an objection to the petition, the court shall set a hearing and notify the prosecutor and the victim of the date set for the hearing.

[~~(8)~~] (7) If the court requests a response from the Division of Adult Probation and Parole and a response is received, the petitioner may file a written reply in accordance with Section 77-40-107.

[~~(9)~~] (8) A court may grant an expungement without a hearing if no objection is received.

[~~(10)~~] (9) Upon receipt of an order of expungement, the petitioner shall deliver copies to all government agencies in possession of records relating to the expunged matter.

Section 5. Section 77-40-106 is amended to read:

77-40-106. Application for certificate of eligibility -- Fees.

(1) (a) A petitioner seeking to obtain an expungement for a criminal record shall apply for a certificate of eligibility from the bureau.

(b) A petitioner who intentionally or knowingly provides any false or misleading information to the bureau when applying for a certificate of eligibility is guilty of a class B misdemeanor and subject to prosecution under Section 76-8-504.6.

(c) Regardless of whether the petitioner is prosecuted, the bureau may deny a certificate of eligibility to anyone who knowingly provides false information on an application.

(2) (a) The bureau shall perform a check of records of governmental agencies, including national criminal data bases, to determine whether a petitioner is eligible to receive a certificate of eligibility under this chapter.

(b) For purposes of determining eligibility under this chapter, the bureau may review records of arrest, investigation, detention and conviction that have been previously expunged, regardless of the jurisdiction in which the expungement occurred.

(c) If the petitioner meets all of the criteria under Section 77-40-104 or 77-40-105, the bureau shall issue a certificate of eligibility to the petitioner which shall be valid for a period of 90 days from the date the certificate is issued.

(d) If, after reasonable research, a disposition for an arrest on the criminal history file is unobtainable, the bureau may issue a special certificate giving determination of eligibility to the court.

(3) (a) The bureau shall charge application and issuance fees for a certificate of eligibility or special certificate in accordance with the process in Section 63J-1-504.

(b) The application fee shall be paid at the time the petitioner submits an application for a certificate of eligibility to the bureau.

(c) If the bureau determines that the issuance of a certificate of eligibility or special certificate is appropriate, the petitioner will be charged an additional fee for the issuance of a certificate of eligibility or special certificate unless Subsection (3)(d) applies.

(d) An issuance fee may not be assessed against a petitioner who qualifies for a certificate of eligibility under Section 77-40-104 unless the charges were dismissed pursuant to a plea in abeyance agreement under Title 77, Chapter 2a, Pleas in Abeyance, or a diversion agreement under Title 77, Chapter 2, Prosecution, Screening, and Diversion.

(e) Funds generated under this Subsection (3) shall be deposited in the General Fund as a dedicated credit by the department to cover the costs incurred in determining eligibility.

(4) The bureau shall provide clear written directions to the petitioner along with a list of agencies known to be affected by an order of expungement.

(5) (a) The requirement for a petitioner to pay an issuance fee for a certificate of eligibility or a special certificate of eligibility under Subsection (3) is suspended from May 4, 2022, to June 30, 2023.

(b) The bureau may not charge a fee for the issuance of a certificate of eligibility or a special certificate of eligibility during the time period described in Subsection (5)(a).

Section 6. Section 77-40-107 is amended to read:

77-40-107. Petition for expungement -- Prosecutorial responsibility -- Hearing -- Standard of proof -- Exception.

(1) The petitioner shall file a petition for expungement and, except as provided in Subsection 77-40-103[~~(5)~~](4), the certificate of eligibility in the court specified in Section 77-40-103 and deliver a copy of the petition and certificate to the prosecuting agency. If the certificate is filed electronically, the petitioner or the petitioner's attorney shall keep the original certificate until the proceedings are concluded. If the original certificate is filed with the petition, the clerk of the court shall scan it and return it to the petitioner or the petitioner's attorney, who shall keep it until the proceedings are concluded.

(2) (a) Upon receipt of a petition for expungement of a conviction or a charge dismissed in accordance with a plea in abeyance, the prosecuting attorney shall provide notice of the expungement request by first-class mail to the victim at the most recent address of record on file.

(b) The notice shall:

(i) include a copy of the petition, certificate of eligibility, statutes, and rules applicable to the petition;

(ii) state that the victim has a right to object to the expungement; and

(iii) provide instructions for registering an objection with the court.

(3) The prosecuting attorney and the victim, if applicable, may respond to the petition by filing a recommendation or objection with the court within 35 days after receipt of the petition.

(4) (a) The court may request a written response to the petition from the Division of Adult Probation and Parole within the Department of Corrections.

(b) If requested, the response prepared by the Division of Adult Probation and Parole shall include:

(i) the reasons probation was terminated; and

(ii) certification that the petitioner has completed all requirements of sentencing and probation or parole.

(c) The Division of Adult Probation and Parole shall provide a copy of the response to the petitioner and the prosecuting attorney.

(5) The petitioner may respond in writing to any objections filed by the prosecutor or the victim and the response prepared by the Division of Adult Probation and Parole within 14 days after receipt.

(6) (a) If the court receives an objection concerning the petition from any party, the court shall set a date for a hearing and notify the petitioner and the prosecuting attorney of the date set for the hearing. The prosecuting attorney shall notify the victim of the date set for the hearing.

(b) The petitioner, the prosecuting attorney, the victim, and any other person who has relevant information about the petitioner may testify at the hearing.

(c) The court shall review the petition, the certificate of eligibility, and any written responses submitted regarding the petition.

(7) If no objection is received within 60 days from the date the petition for expungement is filed with the court, the expungement may be granted without a hearing.

(8) The court shall issue an order of expungement if the court finds by clear and convincing evidence that:

(a) the petition and, except as provided under Subsection 77-40-103[~~(5)~~](4), certificate of eligibility are sufficient;

(b) the statutory requirements have been met;

(c) if the petitioner seeks expungement after a case is dismissed without prejudice or without condition, the prosecutor provided written consent and has not filed and does not intend to refile related charges;

(d) if the petitioner seeks expungement of drug possession offenses allowed under Subsection 77-40-105(7), the petitioner is not illegally using controlled substances and is successfully managing any substance addiction;

(e) if the petitioner seeks expungement without a certificate of eligibility for expungement under

Subsection 77-40-103[~~(5)~~](4) for a record of conviction related to cannabis possession:

(i) the petitioner had, at the time of the relevant arrest or citation leading to the conviction, a qualifying condition, as that term is defined in Section 26-61a-102; and

(ii) the possession of cannabis in question was in a form and an amount to medicinally treat the condition described in Subsection (8)(e)(i);

(f) if an objection is received, the petition for expungement is for a charge dismissed in accordance with a plea in abeyance agreement, and the charge is an offense eligible to be used for enhancement, there is good cause for the court to grant the expungement; and

(g) it is not contrary to the interests of the public to grant the expungement.

(9) (a) If the court denies a petition described in Subsection (8)(c) because the prosecutor intends to refile charges, the person seeking expungement may again apply for a certificate of eligibility if charges are not refiled within 180 days of the day on which the court denies the petition.

(b) A prosecutor who opposes an expungement of a case dismissed without prejudice or without condition shall have a good faith basis for the intention to refile the case.

(c) A court shall consider the number of times that good faith basis of intention to refile by the prosecutor is presented to the court in making the court's determination to grant the petition for expungement described in Subsection (8)(c).

(10) If the court grants a petition described in Subsection (8)(e), the court shall make the court's findings in a written order.

(11) A court may not expunge a conviction of an offense for which a certificate of eligibility may not be or should not have been issued under Section 77-40-104 or 77-40-105.

Section 7. Section 77-40-117 is enacted to read:

77-40-117. (Codified as 77-40a-107) Expungement data requirements -- Report.

(1) No later than November 1 of each year, the Administrative Office of the Courts shall submit a written report to the Executive Offices and Criminal Justice Appropriations Subcommittee and the Judiciary Interim Committee regarding expungement data for the preceding fiscal year, including:

(a) the number of petitions filed for expungement in the district, justice, and juvenile courts;

(b) the number of petitions granted for expungement in the district, justice, and juvenile courts;

(c) the number of orders issued for an automatic expungement by the district, justice, and juvenile courts;

(d) the total number of individuals for whom at least one automatic expungement order was issued by the district, justice, or juvenile court; and

(e) the total number of individuals for whom at least one petition-based expungement order was issued by the district, justice, or juvenile court.

(2) No later than November 1 of each year, the bureau shall submit a written report to the Executive Offices and Criminal Justice Appropriations Subcommittee and the Judiciary Interim Committee regarding expungement data for the preceding fiscal year, including:

(a) the number of applications for expungement received by the bureau;

(b) the number of certificates of eligibility issued by the bureau; and

(c) the number of orders for expungement received by the bureau.

Section 8. Section 78A-2-301 is amended to read:

78A-2-301. Civil fees of the courts of record -- Courts complex design.

(1) (a) The fee for filing any civil complaint or petition invoking the jurisdiction of a court of record not governed by another subsection is $375.

(b) The fee for filing a complaint or petition is:

(i) $90 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $200 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $375 if the claim for damages or amount in interpleader is $10,000 or more;

(iv) $325 if the petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance;

(v) $35 for a motion for temporary separation order filed under Section 30-3-4.5;

(vi) $125 if the petition is for removal from the Sex Offender and Kidnap Offender Registry under Section 77-41-112; and

(vii) $35 if the petition is for guardianship and the prospective ward is the biological or adoptive child of the petitioner.

(c) The fee for filing a small claims affidavit is:

(i) $60 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $100 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $185 if the claim for damages or amount in interpleader exclusive of court costs, interest, and attorney fees is $7,500 or more.

(d) The fee for filing a counter claim, cross claim, complaint in intervention, third party complaint, or other claim for relief against an existing or joined party other than the original complaint or petition is:

(i) $55 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $165 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000 and less than $10,000;

(iii) $170 if the original petition is filed under Subsection (1)(a), the claim for relief is $10,000 or more, or the party seeks relief other than monetary damages; and

(iv) $130 if the original petition is filed under Title 30, Chapter 3, Divorce, or Title 30, Chapter 4, Separate Maintenance.

(e) The fee for filing a small claims counter affidavit is:

(i) $50 if the claim for relief exclusive of court costs, interest, and attorney fees is $2,000 or less;

(ii) $70 if the claim for relief exclusive of court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(iii) $120 if the claim for relief exclusive of court costs, interest, and attorney fees is $7,500 or more.

(f) The fee for depositing funds under Section 57-1-29 when not associated with an action already before the court is determined under Subsection (1)(b) based on the amount deposited.

(g) The fee for filing a petition is:

(i) $240 for trial de novo of an adjudication of the justice court or of the small claims department; and

(ii) $80 for an appeal of a municipal administrative determination in accordance with Section 10-3-703.7.

(h) The fee for filing a notice of appeal, petition for appeal of an interlocutory order, or petition for writ of certiorari is $240.

(i) The fee for filing a petition for expungement is $150.

(j) (i) Fifteen dollars of the fees established by Subsections (1)(a) through (i) shall be allocated to and between the Judges' Contributory Retirement Trust Fund and the Judges' Noncontributory Retirement Trust Fund, as provided in Title 49, Chapter 17, Judges' Contributory Retirement Act, and Title 49, Chapter 18, Judges' Noncontributory Retirement Act.

(ii) Four dollars of the fees established by Subsections (1)(a) through (i) shall be allocated by the state treasurer to be deposited into the restricted account, Children's Legal Defense Account, as provided in Section 51-9-408.

(iii) Three dollars of the fees established under Subsections (1)(a) through (e), (1)(g), and (1)(s) shall be allocated to and deposited with the Dispute Resolution Account as provided in Section 78B-6-209.

(iv) Thirty dollars of the fees established by Subsections (1)(a), (1)(b)(iii) and (iv), (1)(d)(iii) and (iv), (1)(g)(ii), (1)(h), and (1)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(v) Twenty dollars of the fees established by Subsections (1)(b)(i) and (ii), (1)(d)(ii) and (1)(g)(i) shall be allocated by the state treasurer to be deposited into the restricted account, Court Security Account, as provided in Section 78A-2-602.

(k) The fee for filing a judgment, order, or decree of a court of another state or of the United States is $35.

(l) The fee for filing a renewal of judgment in accordance with Section 78B-6-1801 is 50% of the fee for filing an original action seeking the same relief.

(m) The fee for filing probate or child custody documents from another state is $35.

(n) (i) The fee for filing an abstract or transcript of judgment, order, or decree of the State Tax Commission is $30.

(ii) The fee for filing an abstract or transcript of judgment of a court of law of this state or a judgment, order, or decree of an administrative agency, commission, board, council, or hearing officer of this state or of its political subdivisions other than the State Tax Commission, is $50.

(o) The fee for filing a judgment by confession without action under Section 78B-5-205 is $35.

(p) The fee for filing an award of arbitration for confirmation, modification, or vacation under Title 78B, Chapter 11, Utah Uniform Arbitration Act, that is not part of an action before the court is $35.

(q) The fee for filing a petition or counter-petition to modify a domestic relations order other than a protective order or stalking injunction is $100.

(r) The fee for filing any accounting required by law is:

(i) $15 for an estate valued at $50,000 or less;

(ii) $30 for an estate valued at $75,000 or less but more than $50,000;

(iii) $50 for an estate valued at $112,000 or less but more than $75,000;

(iv) $90 for an estate valued at $168,000 or less but more than $112,000; and

(v) $175 for an estate valued at more than $168,000.

(s) The fee for filing a demand for a civil jury is $250.

(t) The fee for filing a notice of deposition in this state concerning an action pending in another state under Utah Rules of Civil Procedure, Rule 30 is $35.

(u) The fee for filing documents that require judicial approval but are not part of an action before the court is $35.

(v) The fee for a petition to open a sealed record is $35.

(w) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(x) (i) The fee for a petition for authorization for a minor to marry required by Section 30-1-9 is $5.

(ii) The fee for a petition for emancipation of a minor provided in Title 80, Chapter 7, Emancipation, is $50.

(y) The fee for a certificate issued under Section 26-2-25 is $8.

(z) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(aa) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(bb) The Judicial Council shall, by rule, establish a schedule of fees for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act. Fees under Subsection (1)(bb) and (cc) shall be credited to the court as a reimbursement of expenditures.

(cc) The Judicial Council may, by rule, establish a reasonable fee to allow members of the public to conduct a limited amount of searches on the Xchange database without having to pay a monthly subscription fee.

(dd) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(ee) Except as provided in this section, all fees collected under this section are paid to the General Fund. Except as provided in this section, all fees shall be paid at the time the clerk accepts the pleading for filing or performs the requested service.

(ff) The filing fees under this section may not be charged to the state, the state's agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (1)(ff) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(2) (a) (i) From March 17, 1994, until June 30, 1998, the state court administrator shall transfer all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, as dedicated credits to the Division of Facilities Construction and Management Capital Projects Fund.

(ii) (A) Except as provided in Subsection (2)(a)(ii)(B), the Division of Facilities Construction and Management shall use up to $3,750,000 of the revenue deposited into the Capital Projects Fund under this Subsection (2)(a) to design and take other actions necessary to initiate the development of a courts complex in Salt Lake City.

(B) If the Legislature approves funding for construction of a courts complex in Salt Lake City in the 1995 Annual General Session, the Division of Facilities Construction and Management shall use the revenue deposited into the Capital Projects Fund under this Subsection (2)(a)(ii) to construct a courts complex in Salt Lake City.

(C) After the courts complex is completed and all bills connected with its construction have been paid, the Division of Facilities Construction and Management shall use any money remaining in the Capital Projects Fund under this Subsection (2)(a)(ii) to fund the Vernal District Court building.

(iii) The Division of Facilities Construction and Management may enter into agreements and make expenditures related to this project before the receipt of revenues provided for under this Subsection (2)(a)(iii).

(iv) The Division of Facilities Construction and Management shall:

(A) make those expenditures from unexpended and unencumbered building funds already appropriated to the Capital Projects Fund; and

(B) reimburse the Capital Projects Fund upon receipt of the revenues provided for under this Subsection (2).

(b) After June 30, 1998, the state court administrator shall ensure that all revenues representing the difference between the fees in effect after May 2, 1994, and the fees in effect before February 1, 1994, are transferred to the Division of Finance for deposit in the restricted account.

(c) The Division of Finance shall deposit all revenues received from the state court administrator into the restricted account created by this section.

(d) (i) From May 1, 1995, until June 30, 1998, the state court administrator shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Facilities Construction and Management Capital Projects Fund. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(ii) After June 30, 1998, the state court administrator or a municipality shall transfer $7 of the amount of a fine or bail forfeiture paid for a violation of Title 41, Motor Vehicles, in a court of record to the Division of Finance for deposit in the restricted account created by this section. The division of money pursuant to Section 78A-5-110 shall be calculated on the balance of the fine or bail forfeiture paid.

(3) (a) There is created within the General Fund a restricted account known as the State Courts Complex Account.

(b) The Legislature may appropriate money from the restricted account to the state court administrator for the following purposes only:

(i) to repay costs associated with the construction of the court complex that were funded from sources other than revenues provided for under this Subsection (3)(b)(i); and

(ii) to cover operations and maintenance costs on the court complex.

(4) (a) The requirement of a fee for filing a petition for expungement under Subsection (1)(i) is suspended from May 4, 2022, to June 30, 2023.

(b) An individual may not be charged a fee for filing a petition for expungement during the time period described in Subsection (4)(a).

Section 9. Section 78A-2-301.5 is amended to read:

78A-2-301.5. Civil fees for justice courts.

(1) The fee for filing a small claims affidavit is:

(a) $60 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is $2,000 or less;

(b) $100 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(c) $185 if the claim for damages or amount in interpleader exclusive of justice court costs, interest, and attorney fees is $7,500 or more.

(2) The fee for filing a small claims counter affidavit is:

(a) $50 if the claim for relief exclusive of justice court costs, interest, and attorney fees is $2,000 or less;

(b) $70 if the claim for relief exclusive of justice court costs, interest, and attorney fees is greater than $2,000, but less than $7,500; and

(c) $120 if the claim for relief exclusive of justice court costs, interest, and attorney fees is $7,500 or more.

(3) The fee for filing a petition for expungement is $135.

(4) The fee for a petition to open a sealed record is $35.

(5) The fee for a writ of replevin, attachment, execution, or garnishment is $50 in addition to any fee for a complaint or petition.

(6) The fee for filing a notice of appeal to a court of record is $10. This fee covers all services of the justice court on appeal but does not satisfy the trial de novo filing fee in the court of record.

(7) The fee for a certified copy of a document is $4 per document plus 50 cents per page.

(8) The fee for an exemplified copy of a document is $6 per document plus 50 cents per page.

(9) The fee schedule adopted by the Judicial Council for copies of documents and forms and for the search and retrieval of records under Title 63G, Chapter 2, Government Records Access and Management Act, shall apply.

(10) There is no fee for services or the filing of documents not listed in this section or otherwise provided by law.

(11) The filing fees under this section may not be charged to the state, its agencies, or political subdivisions filing or defending any action. In judgments awarded in favor of the state, its agencies, or political subdivisions, except the Office of Recovery Services, the court shall order the filing fees and collection costs to be paid by the judgment debtor. The sums collected under this Subsection (11) shall be applied to the fees after credit to the judgment, order, fine, tax, lien, or other penalty and costs permitted by law.

(12) (a) The requirement of a fee for filing a petition for expungement under Subsection (3) is suspended from May 4, 2022, to June 30, 2023.

(b) An individual may not be charged a fee for filing a petition for expungement during the time period described in Subsection (12)(a).

Section 10. FY 2023 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

Subsection 1(a). **Restricted Fund and Account Transfers.**

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted - Court Security Account

From General Fund, One-time	$62,700
Schedule of Programs:	
General Fund Restricted - Court Security Account	$62,700

ITEM 2

To General Fund Restricted - Children's Legal Defense

From General Fund, One-time	$10,500
Schedule of Programs:	

General Fund Restricted – Children's Legal Defense	$10,500

ITEM 3

To Civil Fees Judges' Retirement Trust Fund

From General Fund, One-time	$31,400

Schedule of Programs:

Civil Fees Judges' Retirement Trust Fund	$31,400

Subsection 1(b). **Operating and Capital Budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 4

To Department of Public Safety – Bureau of Criminal Identification

From General Fund, One-time	$400,000

Schedule of Programs:

Non-Government/ Other Services	$400,000

Section 11. Coordinating H.B. 392 with S.B. 35 -- Substantive and technical amendments.

If this H.B. 392 and S.B. 35, Expungement Modifications, both pass and become law, the Legislature intends that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by:

(1) changing the reference to Subsection 77-40-106(5) in Section 63I-1-277 in H.B. 392 to Subsection 77-40a-304(5); and

(2) renumbering Section 77-40-117 enacted by H.B. 392 to Section 77-40a-107.

CHAPTER 385
H. B. 394

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

RECYCLING TRANSPARENCY AMENDMENTS

Chief Sponsor: Douglas R. Welton
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill requires certain recyclable material haulers to publish information about the end location of recyclable materials.

Highlighted Provisions:

This bill:

- defines terms;
- requires a recyclable material hauler who bills customers through a political subdivision's billing and collection system to provide, to the political subdivision, data about the end location of recyclable materials collected by the recyclable material hauler; and
- requires a political subdivision to publish the recycling data in a newsletter and, if available, on the political subdivision's website.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

19-6-509, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-509 is enacted to read:

19-6-509. Recycling data.

(1) As used in this section:

(a) "Municipal solid waste" means nonhazardous solid waste, including garbage, refuse, office waste, or other similar material that results from the operation of residential, municipal, commercial, or institutional establishments or community activities.

(b) "Recyclable material" means municipal solid waste that is suitable for recycling.

(c) "Recyclable material hauler" means a person, including a political subdivision, who:

(i) for compensation, collects and transports recyclable material; and

(ii) uses the billing and collection system of a political subdivision to bill or collect payment from the recyclable material hauler's customers.

(d) "Recycle" means to take action to recover recyclable materials from the municipal solid waste stream for the purposes of use or reuse, conversion into raw materials, or use in the production of new products.

(2) A recyclable material hauler shall report, in accordance with Subsection (3) and according to the best of the recycler's knowledge, the approximate tonnage of recyclable material collected by the recyclable material hauler that the recyclable material hauler delivered to:

(a) a landfill; and

(b) a recycling facility.

(3) (a) At least two times each calendar year, a recyclable material hauler shall provide the information described in Subsection (2) to the political subdivision whose billing and collection system the recyclable material hauler uses.

(b) The recyclable material hauler shall provide data under Subsection (3)(a) for the longer of:

(i) the time since the recyclable material hauler last provided the data; or

(ii) six months before the day on which the data is provided.

(4) Within 45 days after the day on which a recyclable material hauler provides data under this section, a political subdivision shall publish the data, as available:

(a) in a newsletter produced by the municipality; and

(b) on a website operated by the municipality.

CHAPTER 386
H. B. 396

Passed March 3, 2022
Approved March 24, 2022
Effective July 1, 2022

PAID PROFESSIONAL HOURS FOR EDUCATORS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Brady Brammer
Joel K. Briscoe
Walt Brooks
Jefferson S. Burton
Kay J. Christofferson
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Joel Ferry
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Timothy D. Hawkes
Jon Hawkins
Sandra Hollins
Ken Ivory
Dan N. Johnson
Marsha Judkins
Brian S. King
Michael L. Kohler
Karen Kwan
Bradley G. Last
Rosemary T. Lesser
Karianne Lisonbee
Steven J. Lund
A. Cory Maloy
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Calvin R. Musselman
Merrill F. Nelson
Doug Owens
Michael J. Petersen
Karen M. Peterson
Val L. Peterson
Candice B. Pierucci
Stephanie Pitcher
Susan Pulsipher
Judy Weeks Rohner
Angela Romero
Douglas V. Sagers
Mike Schultz
Travis M. Seegmiller
Rex P. Shipp
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Steve Waldrip
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This bill requires the State Board of Education to provide funding to local education agencies for additional paid professional hours for educators.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to provide funding to local education agencies (LEAs) for additional paid professional hours for educators;
- describes the professional development LEAs will provide with state board funding; and
- requires the Executive Appropriations Committee, in preparing budget bills, to use one-time appropriations in the Public Education Economic Stabilization Restricted Account for a certain amount of paid professional hours for educators.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to State Board of Education - Minimum School Program - Related to Basic Programs, as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $64,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53F-9-204, as last amended by Laws of Utah 2020, Chapter 207

ENACTS:

53F-7-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-7-202 is enacted to read:

53F-7-202. (Codified as 53F-7-203) Paid professional hours for educators.

(1) Subject to legislative appropriations, the state board shall provide funding to each LEA to provide additional paid professional hours to the following educators in accordance with this section:

(a) general education and special education teachers;

(b) counselors;

(c) school administration;

(d) school specialists;

(e) student support;

(f) school psychologists;

(g) speech language pathologists; and

(h) audiologists.

(2) The state board shall distribute funds appropriated to the state board under Subsection 53F-9-204(6) to each LEA in proportion to the number of educators described in Subsection (1) within the LEA.

(3) An LEA shall use funding under this section to provide paid professional hours that:

(a) provide educators with the knowledge and skills necessary to enable students to succeed in a well-rounded education and to meet the challenging state academic standards; and

(b) may include activities that:

(i) improve and increase an educator's:

(A) knowledge of the academic subjects the educator teaches;

(B) time to plan and prepare daily lessons based on student needs;

(C) understanding of how students learn; and

(D) ability to analyze student work and achievement from multiple sources, including how to adjust instructional strategies, assessments, and materials based on the analysis;

(ii) are an integral part of broad school-wide and LEA-wide educational improvement plans;

(iii) allow personalized plans for each educator to address the educator's specific needs identified in observation or other feedback;

(iv) advance educator understanding of:

(A) effective and evidence-based instructional strategies; and

(B) strategies for improving student academic achievement or substantially increasing the knowledge and teaching skills of educators;

(v) are aligned with, and directly related to, academic goals of the school or LEA; and

(vi) include instruction in the use of data and assessments to inform and instruct classroom practice.

(4) An educator shall:

(a) before the first day of instruction in a given school year, create a plan, in consultation with the educator's principal, on how the educator plans to use paid professional hours provided under this section during the school year; and

(b) before the end of a given school year, provide a written statement to the educator's principal of how the educator used paid professional hours provided under this section during the school year.

Section 2. Section 53F-9-204 is amended to read:

53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing Education Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the Education Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system; and

(b) the Minimum School Program for a year in which Education Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

(6) In preparing budget bills for a given fiscal year, the Executive Appropriations Committee shall make the one-time appropriations described in Subsection (3)(a) by appropriating at least the lesser of 10% of the total amount of the one-time appropriations or the cost of providing 32 paid professional hours for teachers in accordance with Section 53F-7-202.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Public Education Economic Stabilization Restricted Account, One-time	$64,000,000
Schedule of Programs:	
Educator Professional Time	$64,000,000

Section 4. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 387
H. B. 398

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

TRAFFIC SAFETY DATA SHARING AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill allows the Department of Health to share certain information with the Department of Public Safety.

Highlighted Provisions:

This bill:

- allows the Department of Health to share certain information with the Department of Public Safety.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-8a-203, as last amended by Laws of Utah 2017, Chapter 419

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-203 is amended to read:

26-8a-203. Data collection.

(1) The committee shall specify the information that shall be collected for the emergency medical services data system established pursuant to Subsection (2).

(2) (a) The department shall establish an emergency medical services data system, which shall provide for the collection of information, as defined by the committee, relating to the treatment and care of patients who use or have used the emergency medical services system.

(b) [~~Beginning July 1, 2017, the~~] The committee shall coordinate with the Health Data Authority created in Chapter 33a, Utah Health Data Authority Act, to create a report of data collected by the Health Data Committee under Section 26-33a-106.1 regarding:

(i) appropriate analytical methods;

(ii) the total amount of air ambulance flight charges in the state for a one-year period; and

(iii) of the total number of flights in a one-year period under Subsection (2)(b)[~~(i)~~](ii):

(A) the number of flights for which a patient had no personal responsibility for paying part of the flight charges;

(B) the number of flights for which a patient had personal responsibility to pay all or part of the flight charges;

(C) the range of flight charges for which patients had personal responsibility under Subsection (2)(b)(iii)(B), including the median amount for paid patient personal responsibility; and

(D) the name of any air ambulance provider that received a median paid amount for patient responsibility in excess of the median amount for all paid patient personal responsibility during the reporting year.

(c) The department may share, with the Department of Public Safety, information from the emergency medical services data system that:

(i) relates to traffic incidents;

(ii) is for the improvement of traffic safety;

(iii) may not be used for the prosecution of criminal matters; and

(iv) may not include any personally identifiable information.

(3) (a) [~~The department shall, beginning October 1, 2017, and on or before each October 1 thereafter,~~] On or before October 1, the department shall make the information in Subsection (2)(b) public and send the information in Subsection (2)(b) to:

(i) the Health and Human Services Interim Committee; and

(ii) public safety dispatchers and first responders in the state.

(b) Before making the information in Subsection (2)(b) public, the committee shall provide the air ambulance providers named in the report with the opportunity to respond to the accuracy of the information in the report under Section 26-33a-107.

(4) Persons providing emergency medical services:

(a) shall provide information to the department for the emergency medical services data system established pursuant to Subsection (2)(a);

(b) are not required to provide information to the department under Subsection (2)(b); and

(c) may provide information to the department under Subsection (2)(b) or (3)(b).

CHAPTER 388
H. B. 399

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

GOVERNMENT RECORD AMENDMENTS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to government records.

Highlighted Provisions:

This bill:

- modifies the list of records that may be classified as protected to include an employee statement given as part of a governmental entity's investigation into possible wrongdoing, under certain circumstances;
- modifies governmental immunity provisions relating to claims for attorney fees and costs under the Government Records Access and Management Act and makes those claims not subject to the Governmental Immunity Act of Utah;
- includes costs in what can be claimed in certain proceedings under the Government Records Access and Management Act;
- modifies a provision relating to the jurisdiction of the Court of Appeals to exclude a proceeding under the Government Records Access and Management Act that precedes judicial review; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
63G-2-405, as last amended by Laws of Utah 2012, Chapter 377
63G-2-802, as last amended by Laws of Utah 2019, Chapter 334
63G-7-301, as last amended by Laws of Utah 2020, Chapters 288, 338, and 365
63G-7-302, as last amended by Laws of Utah 2008, Chapter 3 and renumbered and amended by Laws of Utah 2008, Chapter 382
78A-4-103, as last amended by Laws of Utah 2021, Chapter 130

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under

Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702 (2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; [~~and~~]

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision[~~.~~]; and

(84) a statement that an employee of a governmental entity provides to the governmental entity as part of the governmental entity's personnel or administrative investigation into potential misconduct involving the employee if the governmental entity:

(a) requires the statement under threat of employment disciplinary action, including possible termination of employment, for the employee's refusal to provide the statement; and

(b) provides the employee assurance that the statement cannot be used against the employee in any criminal proceeding.

Section 2. Section 63G-2-405 is amended to read:

63G-2-405. Confidential treatment of records for which no exemption applies.

(1) A court may, on appeal or in a declaratory or other action, order the confidential treatment of records for which no exemption from disclosure applies if:

(a) there are compelling interests favoring restriction of access to the record; and

(b) the interests favoring restriction of access clearly are greater than or equal to the interests favoring access.

(2) If a governmental entity requests a court to restrict access to a record under this section, the court shall require the governmental entity to pay the reasonable attorney fees and costs incurred by the lead party in opposing the governmental entity's request, if:

(a) the court finds that no statutory or constitutional exemption from disclosure could reasonably apply to the record in question; and

(b) the court denies confidential treatment under this section.

(3) This section does not apply to records that are specifically required to be public under statutory provisions outside of this chapter or under Section 63G-2-301, except as provided in Subsection (4).

(4) (a) Access to drafts and empirical data in drafts may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the deliberative nature of the record.

(b) Access to original data in a computer program may be limited under this section, but the court may consider, in its evaluation of interests favoring restriction of access, only those interests that relate to the underlying information, and not to the status of that data as part of a computer program.

(5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney fees or costs under this section is not subject to Chapter 7, Governmental Immunity Act of Utah.

Section 3. Section 63G-2-802 is amended to read:

63G-2-802. Injunction -- Attorney fees and costs.

(1) A district court in this state may enjoin any governmental entity or political subdivision that violates or proposes to violate the provisions of this chapter.

(2) (a) A district court may assess against any governmental entity or political subdivision reasonable attorney fees and [~~other litigation~~] costs reasonably incurred in connection with a judicial appeal to determine whether a requester is entitled to access to records under a records request, if the requester substantially prevails.

(b) In determining whether to award [~~attorneys' fees~~] attorney fees or costs under this section, the court shall consider:

(i) the public benefit derived from the case;

(ii) the nature of the requester's interest in the records; and

(iii) whether the governmental entity's or political subdivision's actions had a reasonable basis.

(c) Attorney fees and costs shall not ordinarily be awarded if the purpose of the litigation is primarily to benefit the requester's financial or commercial interest.

(3) Neither attorney fees nor costs [~~shall~~] may be awarded for fees or costs incurred during administrative proceedings.

(4) Notwithstanding Subsection (2), a court may only award attorney fees and costs incurred in connection with appeals to district courts under Subsection 63G–2–404(2) if the attorney fees and costs were incurred 20 or more days after the requester provided to the governmental entity or political subdivision a statement of position that adequately explains the basis for the requester's position.

(5) [~~Claims~~] Except for the waiver of immunity in Subsection 63G–7–301(2)(e), a claim for attorney fees or costs as provided in this section [~~or for damages are~~] is not subject to [~~Title 63G,~~] Chapter 7, Governmental Immunity Act of Utah.

Section 4. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G–7–401, 63G–7–402, 63G–7–403, or 63G–7–601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G–7–302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) [~~subject to Subsection 63G–7–302(2), as to any action brought to recover attorney fees~~] as to any claim for attorney fees or costs under Sections 63G–2–405 and 63G–2–802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G–7–201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G–7–101(4) and 63G–7–201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment; and

(j) notwithstanding Subsection 63G–7–101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76–9–702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76–5–404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77–41–102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G–11–402.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 5. Section 63G-7-302 is amended to read:

63G-7-302. Assessment of compensation and damages in an action for taking or damaging private property.

[~~(1)~~] In any action brought under the authority of Article I, Section 22, of the Utah Constitution for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation, compensation and damages shall be assessed according to the requirements of Title 78B, Chapter 6, Part 5, Eminent Domain.

[~~(2) (a) Notwithstanding Section 63G-7-401, a notice of claim for attorney fees under Subsection 63G-7-301(2)(e) may be filed contemporaneously with a petition for review under Section 63G-2-404.~~]

[~~(b) The provisions of Subsection 63G-7-403(1), relating to the governmental entity's response to a claim, and the provisions of Section 63G-7-601, requiring an undertaking, do not apply to a notice of claim for attorney fees filed contemporaneously with a petition for review under Section 63G-2-404.~~]

[~~(c) Any other claim under this chapter that is related to a claim for attorney fees under Subsection~~

~~63G-7-301(2)(e) may be brought contemporaneously with the claim for attorney fees or in a subsequent action.~~]

Section 6. Section 78A-4-103 is amended to read:

78A-4-103. Court of Appeals jurisdiction.

(1) As used in this section, "informal adjudicative proceeding" does not include a proceeding under Title 63G, Chapter 2, Part 4, Appeals, that precedes judicial review under Section 63G-2-404.

[~~(1)~~] (2) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

[~~(2)~~] (3) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final order or decree resulting from:

(A) a formal adjudicative proceeding of a state agency;

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

[~~(3)~~] (4) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

[~~(4)~~] (5) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.

CHAPTER 389
H. B. 400
Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

ASSOCIATE PHYSICIAN LICENSE AMENDMENTS

Chief Sponsor: Stewart E. Barlow
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill amends provisions relating to an associate physician license.

Highlighted Provisions:

This bill:

- repeals a restriction that an associate physician may only practice primary care services; and
- amends provisions relating to the collaborative practice arrangement for an associate physician.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-67-302.8, as last amended by Laws of Utah 2020, Chapters 124 and 339
58-67-807, as last amended by Laws of Utah 2020, Chapter 124
58-68-302.5, as last amended by Laws of Utah 2020, Chapters 124 and 339
58-68-807, as last amended by Laws of Utah 2020, Chapter 124

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-67-302.8 is amended to read:

58-67-302.8. Restricted licensing of an associate physician.

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-67-302(1)(a) through (c), (1)(d)(i), and (1)(g) through (j);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-67-302(1)(d)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine [~~as described in Subsection (3)~~], the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-67-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

[~~(3) An associate physician's scope of practice is limited to primary care services.~~]

Section 2. Section 58-67-807 is amended to read:

58-67-807. Collaborative practice arrangement.

(1) (a) The division, in consultation with the board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a collaborative practice arrangement.

(b) The division shall require a collaborative practice arrangement to:

(i) limit the associate physician to providing primary care services;

(ii) be consistent with the skill, training, and competence of the associate physician;

(iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health care services by the associate physician;

(iv) provide complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the associate physician;

(v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where the collaborating physician authorizes the associate physician to prescribe;

(vi) require at every office where the associate physician is authorized to prescribe in collaboration with a physician a prominently displayed disclosure statement informing patients that patients may be seen by an associate physician and have the right to see the collaborating physician;

(vii) specify all specialty or board certifications of the collaborating physician and all certifications of the associate physician;

(viii) specify the manner of collaboration between the collaborating physician and the associate physician, including how the collaborating physician and the associate physician shall:

(A) engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(B) maintain geographic proximity[~~, except as provided in Subsection (1)(d)~~]; and

(C) provide oversight of the associate physician during the absence, incapacity, infirmity, or emergency of the collaborating physician;

(ix) describe the associate physician's controlled substance prescriptive authority in collaboration with the collaborating physician, including:

(A) a list of the controlled substances the collaborating physician authorizes the associate physician to prescribe; and

(B) documentation that the authorization to prescribe the controlled substances is consistent with the education, knowledge, skill, and competence of the associate physician and the collaborating physician;

(x) list all other written practice arrangements of the collaborating physician and the associate physician; and

(xi) specify the duration of the written practice arrangement between the collaborating physician and the associate physician[~~; and~~].

[~~(xii) describe the time and manner of the collaborating physician's review of the associate physician's delivery of health care services, including provisions that the collaborating physician, or another physician designated in the collaborative practice arrangement, shall review every 14 days:~~]

[~~(A) a minimum of 10% of the charts documenting the associate physician's delivery of health care services; and~~]

[~~(B) a minimum of 20% of the charts in which the associate physician prescribes a controlled substance, which may be counted in the number of charts to be reviewed under Subsection (1)(b)(xii)(A).~~]

(c) An associate physician and the collaborating physician may modify a collaborative practice arrangement, but the changes to the collaborative practice arrangement are not binding unless:

(i) the associate physician notifies the division within 10 days after the day on which the changes are made; and

(ii) the division approves the changes.

[~~(d) If the collaborative practice arrangement provides for an associate physician to practice in a medically underserved area:~~]

[~~(i) the collaborating physician shall document the completion of at least a two-month period of time during which the associate physician shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present; and~~]

[~~(ii) the collaborating physician shall document the completion of at least 120 hours in a four-month period by the associate physician during which the associate physician shall practice with the collaborating physician on-site before prescribing a controlled substance when the collaborating physician is not on-site.~~]

(2) An associate physician:

(a) shall clearly identify himself or herself as an associate physician;

(b) is permitted to use the title "doctor" or "Dr."; and

(c) if authorized under a collaborative practice arrangement to prescribe Schedule III through V controlled substances, shall register with the United States Drug Enforcement Administration as part of the drug enforcement administration's mid-level practitioner registry.

(3) (a) A physician or surgeon licensed and in good standing under Section 58-67-302 may enter into a collaborative practice arrangement with an associate physician licensed under Section 58-67-302.8.

(b) A physician or surgeon may not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians.

(c) (i) No contract or other agreement shall:

(A) require a physician to act as a collaborating physician for an associate physician against the physician's will;

(B) deny a collaborating physician the right to refuse to act as a collaborating physician, without penalty, for a particular associate physician; or

(C) limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any associate physician.

(ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing protocols, standing orders, or delegation, to violate a hospital's established applicable standards for safe medical practice.

(d) A collaborating physician is responsible at all times for the oversight of the activities of, and accepts responsibility for, the primary care services rendered by the associate physician.

(4) The division shall makes rules, in consultation with the board, the deans of medical schools in the state, and primary care residency program directors in the state, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing educational methods and programs that:

(a) an associate physician shall complete throughout the duration of the collaborative practice arrangement;

(b) shall facilitate the advancement of the associate physician's medical knowledge and capabilities; and

(c) may lead to credit toward a future residency program.

Section 3. Section 58-68-302.5 is amended to read:

58-68-302.5. Restricted licensing of an associate physician.

(1) An individual may apply for a restricted license as an associate physician if the individual:

(a) meets the requirements described in Subsections 58-68-302(1)(a) through (c), (1)(d)(i), and (1)(g) through (j);

(b) successfully completes Step 1 and Step 2 of the United States Medical Licensing Examination or the equivalent steps of another board-approved medical licensing examination:

(i) within three years after the day on which the applicant graduates from a program described in Subsection 58-68-302(1)(d)(i); and

(ii) within two years before applying for a restricted license as an associate physician; and

(c) is not currently enrolled in and has not completed a residency program.

(2) Before a licensed associate physician may engage in the practice of medicine [~~as described in Subsection (3)~~], the licensed associate physician shall:

(a) enter into a collaborative practice arrangement described in Section 58-68-807 within six months after the associate physician's initial licensure; and

(b) receive division approval of the collaborative practice arrangement.

[~~(3) An associate physician's scope of practice is limited to primary care service.~~]

Section 4. Section 58-68-807 is amended to read:

58-68-807. Collaborative practice arrangement.

(1) (a) The division, in consultation with the board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the approval of a collaborative practice arrangement.

(b) The division shall require a collaborative practice arrangement to:

(i) limit the associate physician to providing primary care services;

(ii) be consistent with the skill, training, and competence of the associate physician;

(iii) specify jointly agreed-upon protocols, or standing orders for the delivery of health care services by the associate physician;

(iv) provide complete names, home and business addresses, zip codes, and telephone numbers of the collaborating physician and the associate physician;

(v) list all other offices or locations besides those listed in Subsection (1)(b)(iv) where the collaborating physician authorizes the associate physician to prescribe;

(vi) require at every office where the associate physician is authorized to prescribe in collaboration with a physician a prominently displayed disclosure statement informing patients that patients may be seen by an associate physician and have the right to see the collaborating physician;

(vii) specify all specialty or board certifications of the collaborating physician and all certifications of the associate physician;

(viii) specify the manner of collaboration between the collaborating physician and the associate physician, including how the collaborating physician and the associate physician shall:

(A) engage in collaborative practice consistent with each professional's skill, training, education, and competence;

(B) maintain geographic proximity[~~, except as provided in Subsection (1)(d)~~]; and

(C) provide oversight of the associate physician during the absence, incapacity, infirmity, or emergency of the collaborating physician;

(ix) describe the associate physician's controlled substance prescriptive authority in collaboration with the collaborating physician, including:

(A) a list of the controlled substances the collaborating physician authorizes the associate physician to prescribe; and

(B) documentation that the authorization to prescribe the controlled substances is consistent with the education, knowledge, skill, and competence of the associate physician and the collaborating physician;

(x) list all other written practice arrangements of the collaborating physician and the associate physician; and

(xi) specify the duration of the written practice arrangement between the collaborating physician and the associate physician[~~; and~~].

[~~(xii) describe the time and manner of the collaborating physician's review of the associate physician's delivery of health care services, including provisions that the collaborating physician, or another physician designated in the collaborative practice arrangement, shall review every 14 days:~~]

[~~(A) a minimum of 10% of the charts documenting the associate physician's delivery of health care services; and~~]

[~~(B) a minimum of 20% of the charts in which the associate physician prescribes a controlled substance, which may be counted in the number of charts to be reviewed under Subsection (1)(b)(xii)(A).~~]

(c) An associate physician and the collaborating physician may modify a collaborative practice arrangement, but the changes to the collaborative practice arrangement are not binding unless:

(i) the associate physician notifies the division within 10 days after the day on which the changes are made; and

(ii) the division approves the changes.

[~~(d) If the collaborative practice arrangement provides for an associate physician to practice in a medically underserved area:~~]

[~~(i) the collaborating physician shall document the completion of at least a two-month period of time during which the associate physician shall practice with the collaborating physician continuously present before practicing in a setting where the collaborating physician is not continuously present; and~~]

[~~(ii) the collaborating physician shall document the completion of at least 120 hours in a four-month period by the associate physician during which the associate physician shall practice with the collaborating physician on-site before prescribing a controlled substance when the collaborating physician is not on-site.~~]

(2) An associate physician:

(a) shall clearly identify himself or herself as an associate physician;

(b) is permitted to use the title "doctor" or "Dr."; and

(c) if authorized under a collaborative practice arrangement to prescribe Schedule III through V controlled substances, shall register with the United States Drug Enforcement Administration as part of the drug enforcement administration's mid-level practitioner registry.

(3) (a) A physician or surgeon licensed and in good standing under Section 58-68-302 may enter into a collaborative practice arrangement with an associate physician licensed under Section 58-68-302.5.

(b) A physician or surgeon may not enter into a collaborative practice arrangement with more than three full-time equivalent associate physicians.

(c) (i) No contract or other agreement shall:

(A) require a physician to act as a collaborating physician for an associate physician against the physician's will;

(B) deny a collaborating physician the right to refuse to act as a collaborating physician, without penalty, for a particular associate physician; or

(C) limit the collaborating physician's ultimate authority over any protocols or standing orders or in the delegation of the physician's authority to any associate physician.

(ii) Subsection (3)(c)(i)(C) does not authorize a physician, in implementing such protocols, standing orders, or delegation, to violate a hospital's established applicable standards for safe medical practice.

(d) A collaborating physician is responsible at all times for the oversight of the activities of, and accepts responsibility for, the primary care services rendered by the associate physician.

(4) The division shall makes rules, in consultation with the board, the deans of medical schools in the state, and primary care residency program directors in the state, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing educational methods and programs that:

(a) an associate physician shall complete throughout the duration of the collaborative practice arrangement;

(b) shall facilitate the advancement of the associate physician's medical knowledge and capabilities; and

(c) may lead to credit toward a future residency program.

CHAPTER 390
H. B. 403

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

JUSTICE REINVESTMENT INITIATIVE MODIFICATIONS

Chief Sponsor: Ryan D. Wilcox
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill requires the Division of Technology Services and the State Commission on Criminal and Juvenile Justice to collaborate on and create a Criminal Justice Database as a repository for statutorily required data.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Division of Technology Services to create a database for information and data required to be reported to the State Commission on Criminal and Juvenile Justice;
- provides parameters and standards for the database;
- creates a grant program to assist agencies with compliance;
- requires the State Commission on Criminal and Juvenile Justice to assist with the development and management of the database;
- requires that the State Commission on Criminal and Juvenile Justice provide reports to Interim and Standing Committees; and
- provides that entities that are not in compliance with reporting requirements may not receive grants from the Commission on Criminal and Juvenile Justice.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

63M-7-214, as renumbered and amended by Laws of Utah 2020, Chapter 230

ENACTS:

63A-16-1001, Utah Code Annotated 1953
63A-16-1002, Utah Code Annotated 1953
63M-7-218, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

63A-16-1002, Utah Code Annotated 1953
63M-7-218, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-16-1001 is enacted to read:

Part 10. Criminal Justice Database

63A-16-1001. Definitions.

As used in this part:

(1) "Commission" means the State Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(2) "Criminal justice agency" means an agency or institution directly involved in the apprehension, prosecution, and incarceration of an individual involved in criminal activity, including law enforcement, correctional facilities, jails, courts, probation, and parole.

(3) "Database" means the Criminal Justice Database created in this part.

(4) "Division" means the Division of Technology Services created in Section 63A-16-103.

Section 2. Section 63A-16-1002 is enacted to read:

63A-16-1002. Criminal Justice Database.

(1) The commission shall oversee the creation and management of a Criminal Justice Database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 17-22-32, county jail reporting requirements;

(b) Section 24-4-118, forfeiture reporting requirements;

(c) Section 41-6a-511, courts to collect and maintain data;

(d) Section 63M-7-214, law enforcement agency grant reporting;

(e) Section 63M-7-216, prosecutorial data collection;

(f) Section 64-13-21, supervision of sentenced offenders placed in community;

(g) Section 64-13-25, standards for programs;

(h) Section 64-13-45, department reporting requirements;

(i) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

(j) Section 77-7-8.5, use of tactical groups;

(k) Section 77-20-103, release data requirements;

(l) Section 77-22-2.5, court orders for criminal investigations;

(m) Section 78A-2-109.5, court demographics reporting;

(n) Section 78B-7-120, lethality assessments; and

(o) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023.

Section 3. Section 63M-7-214 is amended to read:

63M-7-214. Commission on Criminal and Juvenile Justice -- Grants.

(1) As used in this section:

(a) "Commission" means the Commission on Criminal and Juvenile Justice created in Section 63M-7-201.

(b) "Law enforcement agency" means a state or local law enforcement agency.

(c) "Other appropriate agency" means a state or local government agency, or a nonprofit organization, that works to prevent illegal drug activity and enforce laws regarding illegal drug activity and related criminal activity by:

(i) programs, including education, prevention, treatment, and research programs; and

(ii) enforcement of laws regarding illegal drugs.

(2) The commission shall implement law enforcement operations and programs related to reducing illegal drug activity as listed in Subsection (3).

(3) (a) The first priority of the commission is to annually allocate not more than $2,500,000, depending upon funding available from other sources, to directly fund the operational costs of state and local law enforcement agencies' drug or crime task forces, including multijurisdictional task forces.

(b) The second priority of the commission is to allocate grants for specified law enforcement agency functions and other agency functions as the commission finds appropriate to more effectively reduce illegal drug activity and related criminal activity, including providing education, prevention, treatment, and research programs.

(4) (a) In allocating grants and determining the amount of the grants to carry out the purposes of Subsection (3), the commission shall consider:

(i) the demonstrated ability of the agency to appropriately use the grant to implement the proposed functions and how this function or task force will add to the law enforcement agency's current efforts to reduce illegal drug activity and related criminal activity; and

(ii) the agency's cooperation with other state and local agencies and task forces.

(b) Agencies qualify for a grant only if they demonstrate compliance with all reporting and policy requirements applicable under this section and under Title 63M, Chapter 7, Criminal Justice and Substance Abuse, in order to qualify as a potential grant recipient.

(5) The commission shall allocate grants to local law enforcement agencies to assist in complying with the requirements of Subsection 63A-16-1002(4). The commission shall only use funds appropriated for this purpose for the grants.

[~~(5)~~] (6) Recipient agencies may only use grant money after approval or appropriation by the agency's governing body, and a determination that the grant money is nonlapsing.

[~~(6)~~] (7) A recipient law enforcement agency may use funds granted under this section only for the purposes stated by the commission in the grant.

[~~(7)~~] (8) (a) For each fiscal year, any law enforcement agency that receives a grant from the commission under this section shall prepare and file with the commission and the state auditor a report in a form specified by the commission.

(b) The report shall include the following regarding each grant:

(i) the agency's name;

(ii) the amount of the grant;

(iii) the date of the grant;

(iv) how the grant has been used; and

(v) a statement signed by both the agency's or political subdivision's executive officer or designee and by the agency's legal counsel, that all grant funds were used for law enforcement operations and programs approved by the commission and that relate to reducing illegal drug activity and related criminal activity, as specified in the grant.

Section 4. Section 63M-7-218 is enacted to read:

63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through (n).

Section 5. Coordinating H.B. 403 with S.B. 179 -- Substantive amendments.

If this H.B. 403 and S.B. 179, Criminal Justice Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel, when preparing the Utah Code database for publication:

(1) modify Section 63A-16-1002 to read as follows:

"63A-16-1002. Criminal Justice Database.

(1) The commission shall oversee the creation and management of a Criminal Justice Database for information and data required to be reported to the commission, organized by county, and accessible to all criminal justice agencies in the state.

(2) The division shall assist with the development and management of the database.

(3) The division, in collaboration with the commission, shall create:

(a) master standards and formats for information submitted to the database;

(b) a portal, bridge, website, or other method for reporting entities to provide the information;

(c) a master data management index or system to assist in the retrieval of information in the database;

(d) a protocol for accessing information in the database that complies with state privacy regulations; and

(e) a protocol for real-time audit capability of all data accessed through the portal by participating data source, data use entities, and regulators.

(4) Each criminal justice agency charged with reporting information to the commission shall provide the data or information to the database in a form prescribed by the commission.

(5) The database shall be the repository for the statutorily required data described in:

(a) Section 13-53-111, recidivism reporting requirements;

(b) Section 17-22-32, county jail reporting requirements;

(c) Section 17-55-201, Criminal Justice Coordinating Councils reporting;

(d) Section 24-4-118, forfeiture reporting requirements;

(e) Section 41-6a-511, courts to collect and maintain data;

(f) Section 63M-7-214, law enforcement agency grant reporting;

(g) Section 63M-7-216, prosecutorial data collection;

(h) Section 64-13-21, supervision of sentenced offenders placed in community;

(i) Section 64-13-25, standards for programs;

(j) Section 64-13-45, department reporting requirements;

(k) Section 64-13e-104, housing of state probationary inmates or state parole inmates;

(l) Section 77-7-8.5, use of tactical groups;

(m) Section 77-20-103, release data requirements;

(n) Section 77-22-2.5, court orders for criminal investigations;

(o) Section 78A-2-109.5, court demographics reporting; and

(p) any other statutes which require the collection of specific data and the reporting of that data to the commission.

(6) The commission shall report:

(a) progress on the database, including creation, configuration, and data entered, to the Law Enforcement and Criminal Justice Interim Committee not later than November 2022; and

(b) all data collected as of December 31, 2022, to the Law Enforcement and Criminal Justice Interim Committee, the House Law Enforcement and Criminal Justice Standing Committee, and the Senate Judiciary, Law Enforcement and Criminal Justice Standing Committee not later than January 16, 2023."; and

(2) not enact Section 63M-7-218 in S.B. 179, and modify Section 63M-7-218 in this H.B. 403 to read as follows:

"63M-7-218. State grant requirements.

Beginning July 1, 2023, the commission may not award any grant of state funds to any entity subject to, and not in compliance with, the reporting requirements in Subsections 63A-16-1002(5)(a) through (o).".

CHAPTER 391
H. B. 406

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

JAIL PHOTO DISTRIBUTION PROHIBITION

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions related to the use of an image taken of an individual during the process of booking the individual into jail.

Highlighted Provisions:

This bill:

- provides that an image taken of an individual during the process of booking the individual into jail is not a protected record when disseminated by a law enforcement agency under certain circumstances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of

Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of Occupational and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of Occupational and Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) [~~(a)~~] an image taken of an individual during the process of booking the individual into jail, unless:

[~~(i)~~] (a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

[~~(ii)~~] (b) a law enforcement agency releases or disseminates the image:

(i) after determining that[~~:(A)~~] the individual is a fugitive or an imminent threat to an individual or to public safety[~~;~~] and [~~(B)~~] releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding; or

[~~(iii)~~] (c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

CHAPTER 392
H. B. 411

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

VOTING ADMINISTRATION AMENDMENTS

Chief Sponsor: Michael J. Petersen
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill amends provisions relating to the administration of elections.

Highlighted Provisions:

This bill:

- establishes a deadline to cure a rejected ballot; and
- makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-3a-401, as renumbered and amended by Laws of Utah 2020, Chapter 31

Utah Code Sections Affected by Coordination Clause:

20A-3a-401, as renumbered and amended by Laws of Utah 2020, Chapter 31

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 20A-3a-401 is amended to read:

20A-3a-401. Custody of voted ballots mailed or deposited in a ballot drop box -- Disposition -- Notice.

(1) This section governs ballots returned by mail or via a ballot drop box.

(2) (a) Poll workers shall open return envelopes containing manual ballots that are in the custody of the poll workers in accordance with Subsection (2)(b).

(b) The poll workers shall, first, compare the signature of the voter on the affidavit of the return envelope to the signature of the voter in the voter registration records.

(3) After complying with Subsection (2), the poll workers shall determine whether:

(a) the signatures correspond;

(b) the affidavit is sufficient;

(c) the voter is registered to vote in the correct precinct;

(d) the voter's right to vote the ballot has been challenged;

(e) the voter has already voted in the election;

(f) the voter is required to provide valid voter identification; and

(g) if the voter is required to provide valid voter identification, whether the voter has provided valid voter identification.

(4) (a) The poll workers shall take the action described in Subsection (4)(b) if the poll workers determine that:

(i) the signatures correspond;

(ii) the affidavit is sufficient;

(iii) the voter is registered to vote in the correct precinct;

(iv) the voter's right to vote the ballot has not been challenged;

(v) the voter has not already voted in the election; and

(vi) for a voter required to provide valid voter identification, that the voter has provided valid voter identification.

(b) If the poll workers make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) remove the manual ballot from the return envelope in a manner that does not destroy the affidavit on the return envelope;

(ii) ensure that the ballot does not unfold and is not otherwise examined in connection with the return envelope; and

(iii) place the ballot with the other ballots to be counted.

(c) If the poll workers do not make all of the findings described in Subsection (4)(a), the poll workers shall:

(i) disallow the vote;

(ii) without opening the return envelope, mark across the face of the return envelope:

(A) "Rejected as defective"; or

(B) "Rejected as not a registered voter"; and

(iii) place the return envelope, unopened, with the other rejected return envelopes.

(5) (a) If the poll workers reject an individual's ballot because the poll workers determine that the signature on the return envelope does not match the individual's signature in the voter registration records, the election officer shall contact the individual in accordance with Subsection (7) by mail, email, text message, or phone, and inform the individual:

(i) that the individual's signature is in question;

(ii) how the individual may resolve the issue; and

(iii) that, in order for the ballot to be counted, the individual is required to deliver to the election officer a correctly completed affidavit, provided by the county clerk, that meets the requirements described in Subsection (5)(b).

(b) An affidavit described in Subsection (5)(a)(iii) shall include:

(i) an attestation that the individual voted the ballot;

(ii) a space for the individual to enter the individual's name, date of birth, and driver license number or the last four digits of the individual's social security number;

(iii) a space for the individual to sign the affidavit; and

(iv) a statement that, by signing the affidavit, the individual authorizes the lieutenant governor's and county clerk's use of the individual's signature on the affidavit for voter identification purposes.

(c) In order for an individual described in Subsection (5)(a) to have the individual's ballot counted, the individual shall deliver the affidavit described in Subsection (5)(b) to the election officer.

(d) An election officer who receives a signed affidavit under Subsection (5)(c) shall immediately:

(i) scan the signature on the affidavit electronically and keep the signature on file in the statewide voter registration database developed under Section 20A-2-109; and

(ii) if the election officer receives the affidavit no later than 5 p.m. [~~the day before~~] three days before the day on which the canvass begins, count the individual's ballot.

(6) If the poll workers reject an individual's ballot for any reason, other than the reason described in Subsection (5)(a), the election officer shall notify the individual of the rejection in accordance with Subsection (7) by mail, email, text message, or phone and specify the reason for the rejection.

(7) An election officer who is required to give notice under Subsection (5) or (6) shall give the notice no later than:

(a) if the election officer rejects the ballot before election day:

(i) one business day after the day on which the election officer rejects the ballot, if the election officer gives the notice by email or text message; or

(ii) two business days after the day on which the election officer rejects the ballot, if the election officer gives the notice by postal mail or phone;

(b) seven days after election day if the election officer rejects the ballot on election day; or

(c) seven days after the canvass if the election officer rejects the ballot after election day and before the end of the canvass.

(8) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless:

(a) the election officer receives a signed affidavit from the individual under Subsection (5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity[~~.~~]; and

(b) the affidavit described in Subsection (8)(a) is received, or the confirmation described in Subsection (8)(a) occurs, no later than 5 p.m. three days before the day on which the canvass begins.

(9) The election officer shall retain and preserve the return envelopes in the manner provided by law for the retention and preservation of ballots voted at that election.

Section 2. Coordinating H.B. 411 with H.B. 188 -- Technical amendment.

If this H.B. 411 and H.B. 188, Voter Signature Verification Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel prepare the Utah Code database for publication by amending Subsection 20A-3a-401(8) of this bill to read:

"[~~(8)~~] (7) An election officer may not count the ballot of an individual whom the election officer contacts under Subsection (5) or (6) unless:

(a) (i) the election officer receives a signed affidavit from the individual under Subsection [~~(5)(b) or is otherwise able to establish contact with the individual to confirm the individual's identity.~~] (5)(a)(ii)(C); and

(ii) the affidavit described in Subsection (7)(a)(i) is received no later than 5 p.m. three days before the day on which the canvass begins; or

(b) (i) the election officer or the election officer's employee communicates directly with the voter;

(ii) the voter provides identifying information to the officer or employee that the officer or employee verifies using the voter's voter registration file; and

(iii) the election officer maintains written documentation of compliance with Subsections (7)(b)(i) and (ii).".

CHAPTER 393
H. B. 412

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

PROBATION AND PAROLE EMPLOYMENT INCENTIVE PROGRAM

Chief Sponsor: Karianne Lisonbee
Senate Sponsor: Michael K. McKell
Cosponsors: Cheryl K. Acton
Travis M. Seegmiller

LONG TITLE

General Description:

This bill establishes an employment incentive program for adult probation and parole.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Adult Probation and Parole Employment Incentive Program, to be administered by the Department of Corrections and the Governor's Office of Planning and Budget;
- requires the department to track and report certain statistics and other information relating to adult probation and parole;
- creates a restricted account to hold money to be used for the employment incentive program;
- describes the criteria and calculations upon which employment incentives payments are made to the department and to adult probation and parole regions; and
- provides for disbursement of employment incentive payments and describes the purposes for which the payments may be expended.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

64-13g-101, Utah Code Annotated 1953
64-13g-102, Utah Code Annotated 1953
64-13g-103, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 64-13g-101 is enacted to read:

CHAPTER 13g. PROBATION AND PAROLE EMPLOYMENTINCENTIVE PROGRAM

64-13g-101. Definitions.

As used in this chapter:

(1) "Average daily population" means the average daily number of individuals on parole or felony probation in the region during the applicable fiscal year.

(2) "Baseline parole employment rate" means the average of the parole employment rates for fiscal years 2023, 2024, and 2025.

(3) "Baseline probation employment rate" means the average of the probation employment rates for fiscal years 2023, 2024, and 2025.

(4) "Department" means the Department of Corrections.

(5) "Eligible employment" means an occupation, or combined occupations, that:

(a) consist of at least 130 hours in a 30-day period; and

(b) are verified via paystubs, employment letters, contracts, or other reliable methods, as determined by the department.

(6) "Evidence-based" means a supervision policy, procedure, program, or practice demonstrated by scientific research to reduce recidivism of individuals on parole or felony probation.

(7) "Marginal cost of incarceration" means the total costs of incarceration, per inmate, that fluctuate based on inmate population.

(8) "Office" means the Governor's Office of Planning and Budget.

(9) "Parole employment rate" means the percentage of individuals on parole who held eligible employment for at least nine months in a one-year period, if at least a portion of the nine-months was during the preceding fiscal year.

(10) "Probation employment rate" means the percentage of individuals on felony probation who held eligible employment for at least nine months in a one-year period, if at least a portion of the nine-months was during the preceding fiscal year.

(11) "Program" means the Adult Probation and Parole Employment Incentive Program, created in Section 64-13g-102.

(12) "Region" means one of the geographic regions into which the Department of Corrections has divided the state for purposes of supervising adult probation and parole.

(13) "Restricted account" means the Employment Incentive Restricted Account created in Section 64-13g-103.

Section 2. Section 64-13g-102 is enacted to read:

64-13g-102. Adult Probation and Parole Employment Incentive Program.

(1) There is created the Adult Probation and Parole Employment Incentive Program.

(2) The department and the office shall implement the program in accordance with the requirements of this chapter.

(3) Beginning July 2026, and each July after 2026, the department shall calculate and report to the office, for the preceding fiscal year, for each region and statewide:

(a) the parole employment rate and the average length of employment of individuals on parole;

(b) the probation employment rate and average length of employment of individuals on felony probation;

(c) the percentage of individuals on parole or felony probation who are convicted of a crime committed on or after the day on which the individuals began parole or felony probation;

(d) the number and percentage of individuals who successfully complete parole or felony probation;

(e) if the recidivism percentage described in Subsection (3)(c) represents a decrease in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage described in Subsection (3)(c) relates, the estimated costs of incarceration savings to the state, based on the marginal cost of incarceration;

(f) the number of individuals who successfully complete parole and, during the entire six months before the day on which the individuals' parole ends, held eligible employment; and

(g) the number of individuals who successfully complete felony probation and, during the entire six months before the day on which the individuals' parole ended, held eligible employment.

(4) In addition to the information described in Subsection (3), the department shall report, for each region, the number and types of parole or probation programs that were created, replaced, or discontinued during the preceding fiscal year.

(5) After receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region:

(a) add the region's baseline parole employment rate and the region's baseline probation employment rate;

(b) add the region's parole employment rate and the region's probation employment rate;

(c) subtract the sum described in Subsection (5)(a) from the sum described in Subsection (5)(b); and

(d) (i) if the rate difference described in Subsection (5)(c) is zero or less than zero, assign an employment incentive payment of zero to the region; or

(ii) except as provided in Subsection (7), if the rate difference described in Subsection (5)(c) is greater than zero, assign an employment incentive payment to the region by:

(A) multiplying the rate difference by the average daily population for that region; and

(B) multiplying the product of the calculation described in Subsection (5)(d)(ii)(A) by $2,500.

(6) In addition to the employment incentive payment described in Subsection (5), after receiving the information described in Subsections (3) and (4), the office, in consultation with the department, shall, for each region, multiply the sum of the numbers described in Subsections (3)(f) and (g) for the region by $2,500 to determine the end-of-supervision employment incentive payment for the region.

(7) The employment incentive payment, or end-of-supervision employment supervision payment, for a region is zero if the recidivism percentage for the region, described in Subsection (3)(c), represents an increase in the recidivism percentage when compared to the fiscal year immediately preceding the fiscal year to which the recidivism percentage for the region, described in Subsection (3)(c), relates.

(8) Upon determining an employment incentive payment for a region in accordance with Subsections (5)(d)(ii), (6), and (7), the office shall authorize distribution, from the restricted account, of the incentive payment as follows:

(a) 15% of the payment may be used by the department for expenses related to administering the program; and

(b) 85% of the payment shall be used by the region to improve and expand supervision and rehabilitative services to individuals on parole or adult probation, including by:

(i) implementing and expanding evidence-based practices for risk and needs assessments for individuals;

(ii) implementing and expanding intermediate sanctions, including mandatory community service, home detention, day reporting, restorative justice programs, and furlough programs;

(iii) expanding the availability of evidence-based practices for rehabilitation programs, including drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and other employment services;

(iv) hiring additional officers, contractors, or other personnel to implement evidence-based practices for rehabilitative and vocational programing;

(v) purchasing and adopting new technologies or equipment that are relevant to, and enhance, supervision, rehabilitation, or vocational training; or

(vi) evaluating the effectiveness of rehabilitation and supervision programs and ensuring program fidelity.

(9) (a) The report described in Subsections (3) and (4) is a public record.

(b) The department shall maintain a complete and accurate accounting of the payment and use of funds under this section.

(c) If the money in the restricted account is insufficient to make the full employment incentive payments or the full end-of-supervision employment incentive payments, the office shall authorize the payments on a prorated basis.

Section 3. Section 64-13g-103 is enacted to read:

64-13g-103. Employment Incentive Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Employment Incentive Restricted Account."

(2) The account consists of appropriations made by the Legislature.

(3) The office shall authorize expenditures from the account in accordance with Section 64-13g-102.

(4) Subject to legislative appropriations, the department and each region shall expend money from the restricted account only in accordance with Subsection 64-13g-102(8).

CHAPTER 394
H. B. 413

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

MEDICAID AMENDMENTS

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This bill modifies provisions related to the Medicaid program.

Highlighted Provisions:

This bill:

- amends provisions relating to the targeted adult Medicaid program;
- requires the department to convene a working group to discuss the delivery of behavioral health services in the Medicaid program; and
- authorizes certain adjustments in the delivery of behavioral health services for individuals who are in the targeted adult Medicaid program if the department determines that certain requirements are met.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Health and Human Services -- Integrated Health Care Services -- Medicaid Behavioral Health Services, as an ongoing appropriation:
  - from the General Fund, $436,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-411, as last amended by Laws of Utah 2020, Chapter 225

ENACTS:

26-18-427, Utah Code Annotated 1953
26-18-428, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-411 is amended to read:

26-18-411. Health coverage improvement program -- Eligibility -- Annual report -- Expansion of eligibility for adults with dependent children.

(1) [~~For purposes of~~] As used in this section:

(a) "Adult in the expansion population" means an individual who:

(i) is described in 42 U.S.C. Sec. 1396a(a)(10)(A)(i)(VIII); and

(ii) is not otherwise eligible for Medicaid as a mandatory categorically needy individual.

(b) "Enhancement waiver program" means the Primary Care Network enhancement waiver program described in Section 26-18-416.

(c) "Federal poverty level" means the poverty guidelines established by the Secretary of the United States Department of Health and Human Services under 42 U.S.C. Sec. 9909(2).

(d) "Health coverage improvement program" means the health coverage improvement program described in Subsections (3) through (10).

(e) "Homeless":

(i) means an individual who is chronically homeless, as determined by the department; and

(ii) includes someone who was chronically homeless and is currently living in supported housing for the chronically homeless.

(f) "Income eligibility ceiling" means the percent of federal poverty level:

(i) established by the state in an appropriations act adopted pursuant to Title 63J, Chapter 1, Budgetary Procedures Act; and

(ii) under which an individual may qualify for Medicaid coverage in accordance with this section.

(g) "Targeted adult Medicaid program" means the program implemented by the department under Subsections (5) through (7).

(2) Beginning July 1, 2016, the department shall amend the state Medicaid plan to allow temporary residential treatment for substance abuse, for the traditional Medicaid population, in a short term, non-institutional, 24-hour facility, without a bed capacity limit that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan, as approved by CMS and as long as the county makes the required match under Section 17-43-201.

(3) Beginning July 1, 2016, the department shall amend the state Medicaid plan to increase the income eligibility ceiling to a percentage of the federal poverty level designated by the department, based on appropriations for the program, for an individual with a dependent child.

(4) Before July 1, 2016, the division shall submit to CMS a request for waivers, or an amendment of existing waivers, from federal statutory and regulatory law necessary for the state to implement the health coverage improvement program in the Medicaid program in accordance with this section.

(5) (a) An adult in the expansion population is eligible for Medicaid if the adult meets the income eligibility and other criteria established under Subsection (6).

(b) An adult who qualifies under Subsection (6) shall receive Medicaid coverage:

(i) through the traditional fee for service Medicaid model in counties without Medicaid accountable care organizations or the state's Medicaid accountable care organization delivery system, where implemented and subject to Section 26-18-428;

(ii) except as provided in Subsection (5)(b)(iii), for behavioral health, through the counties in accordance with Sections 17-43-201 and 17-43-301;

(iii) that, subject to Section 26-18-428, integrates behavioral health services and physical health services with Medicaid accountable care organizations in select geographic areas of the state that choose an integrated model; and

(iv) that permits temporary residential treatment for substance abuse in a short term, non-institutional, 24-hour facility, without a bed capacity limit, as approved by CMS, that provides rehabilitation services that are medically necessary and in accordance with an individualized treatment plan.

[~~(c) Medicaid accountable care organizations and counties that elect to integrate care under Subsection (5)(b)(iii) shall collaborate on enrollment, engagement of patients, and coordination of services.~~]

(6) (a) An individual is eligible for the health coverage improvement program under Subsection (5) if:

(i) at the time of enrollment, the individual's annual income is below the income eligibility ceiling established by the state under Subsection (1)(f); and

(ii) the individual meets the eligibility criteria established by the department under Subsection (6)(b).

(b) Based on available funding and approval from CMS, the department shall select the criteria for an individual to qualify for the Medicaid program under Subsection (6)(a)(ii), based on the following priority:

(i) a chronically homeless individual;

(ii) if funding is available, an individual:

(A) involved in the justice system through probation, parole, or court ordered treatment; and

(B) in need of substance abuse treatment or mental health treatment, as determined by the department; or

(iii) if funding is available, an individual in need of substance abuse treatment or mental health treatment, as determined by the department.

(c) An individual who qualifies for Medicaid coverage under Subsections (6)(a) and (b) may remain on the Medicaid program for a 12-month certification period as defined by the department. Eligibility changes made by the department under Subsection (1)(f) or (6)(b) shall not apply to an individual during the 12-month certification period.

(7) The state may request a modification of the income eligibility ceiling and other eligibility criteria under Subsection (6) each fiscal year based on projected enrollment, costs to the state, and the state budget.

(8) Before September 30 of each year, the department shall report to the Health and Human Services Interim Committee and to the Executive Appropriations Committee:

(a) the number of individuals who enrolled in Medicaid under Subsection (6);

(b) the state cost of providing Medicaid to individuals enrolled under Subsection (6); and

(c) recommendations for adjusting the income eligibility ceiling under Subsection (7), and other eligibility criteria under Subsection (6), for the upcoming fiscal year.

(9) The current Medicaid program and the health coverage improvement program, when implemented, shall coordinate with a state prison or county jail to expedite Medicaid enrollment for an individual who is released from custody and was eligible for or enrolled in Medicaid before incarceration.

(10) Notwithstanding Sections 17-43-201 and 17-43-301, a county does not have to provide matching funds to the state for the cost of providing Medicaid services to newly enrolled individuals who qualify for Medicaid coverage under the health coverage improvement program under Subsection (6).

(11) If the enhancement waiver program is implemented, the department:

(a) may not accept any new enrollees into the health coverage improvement program after the day on which the enhancement waiver program is implemented;

(b) shall transition all individuals who are enrolled in the health coverage improvement program into the enhancement waiver program;

(c) shall suspend the health coverage improvement program within one year after the day on which the enhancement waiver program is implemented;

(d) shall, within one year after the day on which the enhancement waiver program is implemented, use all appropriations for the health coverage improvement program to implement the enhancement waiver program; and

(e) shall work with CMS to maintain any waiver for the health coverage improvement program while the health coverage improvement program is suspended under Subsection (11)(c).

(12) If, after the enhancement waiver program takes effect, the enhancement waiver program is repealed or suspended by either the state or federal government, the department shall reinstate the health coverage improvement program and continue to accept new enrollees into the health coverage improvement program in accordance with the provisions of this section.

Section 2. Section 26-18-427 is enacted to read:

26-18-427. Behavioral health delivery working group.

(1) As used in this section, "targeted adult Medicaid program" means the same as that term is defined in Section 26-18-411.

(2) On or before May 31, 2022, the department shall convene a working group to collaborate with the department on:

(a) establishing specific and measurable metrics regarding:

(i) compliance of managed care organizations in the state with federal Medicaid managed care requirements;

(ii) timeliness and accuracy of authorization and claims processing in accordance with Medicaid policy and contract requirements;

(iii) reimbursement by managed care organizations in the state to providers to maintain adequacy of access to care;

(iv) availability of care management services to meet the needs of Medicaid-eligible individuals enrolled in the plans of managed care organizations in the state; and

(v) timeliness of resolution for disputes between a managed care organization and the managed care organization's providers and enrollees;

(b) improving the delivery of behavioral health services in the Medicaid program;

(c) proposals to implement the delivery system adjustments authorized under Subsection 26-18-428(3); and

(d) issues that are identified by managed care organizations, behavioral health service providers, and the department.

(3) The working group convened under Subsection (2) shall:

(a) meet quarterly; and

(b) consist of at least the following individuals:

(i) the executive director or the executive director's designee;

(ii) for each Medicaid accountable care organization with which the department contracts, an individual selected by the accountable care organization;

(iii) five individuals selected by the department to represent various types of behavioral health services providers, including, at a minimum, individuals who represent providers who provide the following types of services:

(A) acute inpatient behavioral health treatment;

(B) residential treatment;

(C) intensive outpatient or partial hospitalization treatment; and

(D) general outpatient treatment;

(iv) a representative of an association that represents behavioral health treatment providers in the state, designated by the Utah Behavioral Healthcare Council convened by the Utah Association of Counties;

(v) a representative of an organization representing behavioral health organizations;

(vi) the chair of the Utah Substance Use and Mental Health Advisory Council created in Section 63M-7-301;

(vii) a representative of an association that represents local authorities who provide public behavioral health care, designated by the department;

(viii) one member of the Senate, appointed by the president of the Senate; and

(ix) one member of the House of Representatives, appointed by the speaker of the House of Representatives.

(4) The working group convened under this section shall recommend to the department:

(a) specific and measurable metrics under Subsection (2)(a);

(b) how physical and behavioral health services may be integrated for the targeted adult Medicaid program, including ways the department may address issues regarding:

(i) filing of claims;

(ii) authorization and reauthorization for treatment services;

(iii) reimbursement rates; and

(iv) other issues identified by the department, behavioral health services providers, or Medicaid managed care organizations;

(c) ways to improve delivery of behavioral health services to enrollees, including changes to statute or administrative rule; and

(d) wraparound service coverage for enrollees who need specific, nonclinical services to ensure a path to success.

Section 3. Section 26-18-428 is enacted to read:

26-18-428. Delivery system adjustments for the targeted adult Medicaid program.

(1) As used in this section, "targeted adult Medicaid program" means the same as that term is defined in Section 26-18-411.

(2) The department may implement the delivery system adjustments authorized under Subsection (3) only on the later of:

(a) July 1, 2023; and

(b) the department determining that the Medicaid program, including providers and managed care organizations, are satisfying the metrics established in collaboration with the working group convened under Subsection 26-18-427(2).

(3) The department may, for individuals who are enrolled in the targeted adult Medicaid program:

(a) integrate the delivery of behavioral and physical health in certain counties; and

(b) deliver behavioral health services through an accountable care organization where implemented.

(4) Before implementing the delivery system adjustments described in Subsection (3) in a county, the department shall, at a minimum, seek input from:

(a) individuals who qualify for the targeted adult Medicaid program who reside in the county;

(b) the county's executive officer, legislative body, and other county officials who are involved in the delivery of behavioral health services;

(c) the local mental health authority and substance use authority that serves the county;

(d) Medicaid managed care organizations operating in the state, including Medicaid accountable care organizations;

(e) providers of physical or behavioral health services in the county who provide services to enrollees in the targeted adult Medicaid program in the county; and

(f) other individuals that the department deems necessary.

(5) If the department provides Medicaid coverage through a managed care delivery system under this section, the department shall include language in the department's managed care contracts that require the managed care plan to:

(a) be in compliance with federal Medicaid managed care requirements;

(b) timely and accurately process authorizations and claims in accordance with Medicaid policy and contract requirements;

(c) adequately reimburse providers to maintain adequacy of access to care;

(d) provide care management services sufficient to meet the needs of Medicaid eligible individuals enrolled in the managed care plan's plan; and

(e) timely resolve any disputes between a provider or enrollee with the managed care plan.

(6) The department may take corrective action if the managed care organization fails to comply with the terms of the managed care organization's contract.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To the Department of Health and Human Services – Integrated Health Care Services

From General Fund	$436,000
Schedule of Programs:	
Medicaid Behavioral Health Services	$436,000

The Legislature intends that appropriations provided under this section be used by the Division of Integrated Healthcare within the Department of Health and Human Services to pass through to local substance abuse and mental health authorities to pay for the local substance abuse and mental health authorities' increased match requirement associated with the request for appropriation in the 2022 General Session entitled Alignment of Behavioral Health Service Codes for Medicaid Reimbursement.

CHAPTER 395
H. B. 417

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

ONLINE COURSE ACCESS AMENDMENTS

Chief Sponsor: Kera Birkeland
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill ensures payment of an online course fee for students attending small schools.

Highlighted Provisions:

This bill:

- requires the State Board of Education to use funds from an appropriation to the Statewide Online Education Program to pay an online course fee for a student attending a small school.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53F-4-518, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-4-518 is enacted to read:

53F-4-518. Small school student access to college and career readiness courses.

Subject to legislative appropriations and notwithstanding Subsections 53F-4-509(2) and (3), in lieu of a deduction described in Subsection 53F-4-507(2), the state board shall use funds from an appropriation for the Statewide Online Education Program to pay for an online course fee described in Section 53F-4-505 for a student who is enrolled in a public high school that enrolls fewer than 1,000 students.

CHAPTER 396
H. B. 418

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

GRID RESILIENCE COMMITTEE

Chief Sponsor: Carl R. Albrecht
Senate Sponsor: Derrin R. Owens
Cosponsors: Karianne Lisonbee
Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates the Grid Resilience Committee.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Grid Resilience Committee;
- assigns duties to the committee; and
- establishes a reporting requirement for the committee.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53-2a-1501, Utah Code Annotated 1953
53-2a-1502, Utah Code Annotated 1953
53-2a-1503, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-2a-1501 is enacted to read:

Part 1. Grid Resilience Committee

53-2a-1501. Definitions.

As used in this part:

(1) "Committee" means the Grid Resilience Committee created in Section 53-2a-1503.

(2) "Division" means the Utah Division of Emergency Management created in Section 53-21-103.

(3) "Grid resilience" means efforts to provide greater resilience to the state's infrastructure with respect to:

(a) weather events;

(b) wildfire;

(c) acts of terrorism; or

(d) other potentially damaging events.

Section 2. Section 53-2a-1502 is enacted to read:

53-2a-1502. Grid Resilience Committee -- Creation -- Membership.

(1) There is created the Grid Resilience Committee composed of the following members:

(a) the director of the division shall appoint two representatives from the division;

(b) the director of the Office of Energy Development shall appoint a representative from the Office of Energy Development;

(c) the director of the Division of Public Utilities shall appoint a representative from the Division of Public Utilities;

(d) the adjutant general of the Utah Army National Guard shall appoint a representative of the Utah Army National Guard;

(e) the chief executive officer of Utah Associated Municipal Power Systems shall appoint a representative of Utah Associated Municipal Power Systems;

(f) the chief executive officer of the Utah Municipal Power Agency shall appoint a representative of the Utah Municipal Power Agency; and

(g) the governor shall appoint:

(i) one member who is currently employed by a large-scale electric utility, as that term is defined in Section 54-2-1;

(ii) one member who is currently employed by a wholesale electric cooperative, as that term is defined in Section 54-2-1;

(iii) one member who is currently employed by a rural electric cooperative, as that term is defined in Section 54-24-102;

(iv) one member who is currently employed in the power plant fuels sector; and

(v) two members with expertise in critical infrastructure protection.

(2) The committee shall elect a chair from among the members of the committee.

(3) If a vacancy occurs in the membership of the committee:

(a) the replacement shall be replaced in the same manner in which the original appointment was made; and

(b) the replacement shall be appointed for the unexpired term.

(4) (a) A majority of the members of the committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the committee.

(5) (a) Except as described in Subsections (5)(b) and (c), a member shall serve a term of three years.

(b) A member shall serve until the member's successor is appointed and qualified.

(c) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or replacement, adjust the length of terms to ensure that the terms of the committee members are staggered so that approximately half of the committee members appointed under

Subsection (1)(g) are appointed for an initial term of one and one-half years.

(6) A member may be appointed to more than one term.

(7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses incurred as a member of the committee at the rates established by the Division of Finance under:

(a) Sections 63A-3-106 and 63A-3-107; and

(b) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

Section 3. Section 53-2a-1503 is enacted to read:

53-2a-1503. Committee duties -- Reporting -- Staffing.

(1) The committee shall:

(a) develop knowledge about grid resilience and critical infrastructure protection;

(b) invite, as necessary, presenters with expertise in grid resilience or critical infrastructure protection; and

(c) discuss recommendations for state action related to increasing grid resilience and enhancing critical infrastructure protection.

(2) The committee shall meet no fewer than four times each year.

(3) Annually, on or before November 30, the committee shall report recommendations to increase grid resilience and enhance critical infrastructure protection to the Public Utilities, Energy, and Technology Interim Committee.

(4) Any recommendations the committee makes in accordance with Subsection (2) shall comply with national standards that are:

(a) developed by the Institute of Electrical and Electronics Engineers;

(b) developed by a federal regulatory agency; or

(c) commonly accepted by public utilities as best practices.

(5) The division shall provide staff and support to the committee.

CHAPTER 397
H. B. 419

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

AUDIT COMMITTEE AUTHORITY AMENDMENTS

Chief Sponsor: Karen M. Peterson
Senate Sponsor: Kathleen A. Riebe

LONG TITLE

General Description:

This bill modifies the responsibilities and powers of an audit committee established by the State Board of Education.

Highlighted Provisions:

This bill:

- requires the State Board of Education to designate, in writing, the responsibilities and powers of an audit committee established by the State Board of Education.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-5-301, as last amended by Laws of Utah 2016, Chapter 195

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-5-301 is amended to read:

63I-5-301. Audit committee -- Powers and duties.

(1) (a) Each appointing authority may establish an audit committee to monitor the activities of the agency internal audit program.

(b) An audit committee may serve more than one state agency internal audit program.

(2) The appointing authority shall ensure that audit committee members have the expertise to provide effective oversight of and advice about internal audit activities and services.

(3) [~~If~~] Except as provided in Subsection (4), if an audit committee has been established, the audit committee shall:

(a) appoint, evaluate, and, if necessary, remove the agency internal audit director;

(b) prepare and adopt formal policies that define:

(i) the purpose of the agency's internal audit program; and

(ii) the authority and responsibility of the agency's internal auditors;

(c) ensure that policies adopted under Subsection (3)(b):

(i) do not place limitations on the scope of the internal audit program's work; and

(ii) clarify that an auditor does not have authority or responsibility for an activity that the auditor audits;

(d) ensure that:

(i) the audit director employs a sufficient number of professional and support staff to implement an effective internal audit program;

(ii) compensation, training, job tenure, and advancement of internal auditing staff is based upon job performance;

(iii) the audit director and staff collectively possess the knowledge, skills, and experience essential to the practices of the profession and are proficient in applying internal auditing standards, procedures, and techniques;

(iv) the internal audit program has staff who are qualified in disciplines necessary to meet the audit responsibilities, including accounting, business management, public administration, human resource management, economics, finance, statistics, electronic data processing, or engineering;

(v) internal audit staff are free of operational and management responsibilities that would impair their ability to make independent audits of any aspects of the agency's operations;

(vi) the audit director and the internal audit staff have access to all personnel and records, data, and other agency information that the audit director or staff consider necessary to carry out their assigned duties; and

(vii) the audit director and internal audit staff have the necessary access to the agency head, agency management, and agency staff;

(e) approve internal auditing policies proposed by the agency head or audit director;

(f) review and approve the annual internal audit plan, modifications to the internal audit plan, risk assessment, and budget;

(g) review internal and external audit reports, follow-up reports, and quality assurance reviews of the internal audit office; and

(h) periodically meet with the agency internal audit director to discuss pertinent matters, including whether there are any restrictions on the scope of audits.

(4) In relation to an audit committee established by the State Board of Education, the State Board of Education shall:

(a) designate, in writing, the responsibilities and powers described in Subsection (3) that are held by the State Board of Education and the responsibilities and powers described in Subsection (3) that are held by the audit committee; and

(b) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for selecting the entity to be audited, determining the scope of the audit, and determining the procedures to be used in conducting the audit, including due process procedures.

CHAPTER 398
H. B. 420

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

TITLE IX REPORTING

Chief Sponsor: Kera Birkeland
Senate Sponsor: Michael K. McKell
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Gay Lynn Bennion
Clare Collard
Jennifer Dailey-Provost
Suzanne Harrison
Dan N. Johnson
Marsha Judkins
Karen Kwan
Rosemary T. Lesser
Karianne Lisonbee
Carol Spackman Moss
Candice B. Pierucci
Stephanie Pitcher
Susan Pulsipher
Judy Weeks Rohner
Christine F. Watkins
Elizabeth Weight

LONG TITLE

General Description:

This bill addresses reporting of information regarding student participation in school athletics categorized by gender.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain schools to report information regarding student participation in interscholastic sports available to students enrolled at the school;
- requires certain schools to include in the school's report information regarding an action plan that the school creates to address a discrepancy in participation in gender-designated interscholastic sports; and
- requires a local governing board to review the report in a public board meeting.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53G-6-901, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-901 is enacted to read:

53G-6-901. (Codified as 53G-6-902) Report -- Action plan.

(1) As used in this section:

(a) "Gender-designated interscholastic sport" means a sport that is specifically designated for female or male students.

(b) "Interscholastic sport" means an activity in which a student represents the student's school in the sport in competition against another school.

(c) "School" means a public school that sponsors or offers an interscholastic sport in which students enrolled at the school may participate.

(d) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) Before the beginning of each academic year, the athletic director or another administrator of each school shall report to the school's local governing board regarding:

(a) the number and type of interscholastic sports available at the school, categorized by gender designation;

(b) the number of students competing in a gender-designated interscholastic sport at the school, categorized by gender;

(c) the amount of spending that the school devotes to each gender-designated sport, reported in total amount and on a per-student basis;

(d) a comparison and evaluation of designated practice and game locations in gender-designated interscholastic sports;

(e) any information regarding the school's efforts in Title IX compliance; and

(f) if there is a discrepancy between male-designated and female-designated sports of 10% or greater, an action plan that the school develops to address the discrepancy.

(3) An LEA governing board that receives the report described in Subsection (2) shall review the report in a public board meeting.

CHAPTER 399
H. B. 428

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

SCHOOL SAFETY AMENDMENTS

Chief Sponsor: Sandra Hollins
Senate Sponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill amends student safety and support provisions.

Highlighted Provisions:

This bill:

- requires the State Board of Education to provide training on certain state and federal law;
- requires a local education agency (LEA) to:
  - review information on harassment and discrimination within the LEA;
  - adopt a plan for harassment- and discrimination-free learning; and
  - report on the plan;
- requires the state board and an LEA to report data on the demographics of a victim of bullying, hazing, cyber-bullying, or retaliation; and
- makes conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to State Board of Education - State Board and Administrative Operations, as a one-time appropriation:
  - from Education Fund, One-time, $10,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-3-516, as last amended by Laws of Utah 2020, Chapters 388 and 408
53G-8-802, as last amended by Laws of Utah 2020, Chapter 408
53G-9-606, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-3-516 is amended to read:

53E-3-516. School disciplinary and law enforcement action report -- Rulemaking authority.

(1) As used in this section:

(a) "Disciplinary action" means an action by a public school meant to formally discipline a student of that public school that includes a suspension or expulsion.

(b) "Law enforcement agency" means the same as that term is defined in Section 77-7a-103.

(c) "Minor" means the same as that term is defined in Section 53G-6-201.

(d) "Other law enforcement activity" means a significant law enforcement interaction with a minor that does not result in an arrest, including:

(i) a search and seizure by an SRO;

(ii) issuance of a criminal citation;

(iii) issuance of a ticket or summons;

(iv) filing a delinquency petition; or

(v) referral to a probation officer.

(e) "School is in session" means the hours of a day during which a public school conducts instruction for which student attendance is counted toward calculating average daily membership.

(f) (i) "School-sponsored activity" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific public school, according to LEA governing board policy, and satisfies at least one of the following conditions:

(A) the activity is managed or supervised by a school district, public school, or public school employee;

(B) the activity uses the school district or public school facilities, equipment, or other school resources; or

(C) the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or Minimum School Program dollars.

(ii) "School-sponsored activity" includes preparation for and involvement in a public performance, contest, athletic competition, demonstration, display, or club activity.

(g) "Student resource officer" or "SRO" means the same as that term is defined in Section 53G-8-701.

(2) Beginning on July 1, 2023, the state board shall develop an annual report regarding the following incidents that occur on school grounds while school is in session or during a school-sponsored activity:

(a) arrests of a minor;

(b) other law enforcement activities; and

(c) disciplinary actions.

(3) Pursuant to state and federal law, law enforcement agencies shall collaborate with the state board and LEAs to provide and validate data and information necessary to complete the report described in Subsection (2), as requested by an LEA or the state board.

(4) The report described in Subsection (2) shall include the following information listed separately for each LEA:

(a) the number of arrests of a minor, including the reason why the minor was arrested;

(b) the number of other law enforcement activities, including the following information for each incident:

(i) the reason for the other law enforcement activity; and

(ii) the type of other law enforcement activity used;

(c) the number of disciplinary actions imposed, including:

(i) the reason for the disciplinary action; and

(ii) the type of disciplinary action; [~~and~~]

(d) the number of SROs employed[~~.~~]; and

(e) if applicable, the demographics of an individual who is subject to, as the following are defined in Section 53G-9-601, bullying, hazing, cyber-bullying, or retaliation.

(5) The report described in Subsection (2) shall include the following information, in aggregate, for each element described in Subsections (4)(a) through (c):

(a) age;

(b) grade level;

(c) race;

(d) sex; and

(e) disability status.

(6) Information included in the annual report described in Subsection (2) shall comply with:

(a) Chapter 9, Part 3, Student Data Protection;

(b) Chapter 9, Part 2, Student Privacy; and

(c) the Family Education Rights and Privacy Act, 20 U.S.C. Secs. 1232g and 1232h.

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to compile the report described in Subsection (2).

(8) The state board shall provide the report described in Subsection (2) in accordance with Section 53E-1-203 for incidents that occurred during the previous school year.

Section 2. Section 53G-8-802 is amended to read:

53G-8-802. State Safety and Support Program -- State board duties -- LEA duties.

(1) There is created the State Safety and Support Program.

(2) The state board shall:

(a) develop in conjunction with the Division of Substance Abuse and Mental Health model student safety and support policies for an LEA, including:

(i) evidence-based procedures for the assessment of and intervention with an individual whose behavior poses a threat to school safety;

(ii) procedures for referrals to law enforcement; and

(iii) procedures for referrals to a community services entity, a family support organization, or a health care provider for evaluation or treatment;

(b) provide training:

(i) in school safety;

(ii) in evidence-based approaches to improve school climate and address and correct bullying behavior;

(iii) in evidence-based approaches in identifying an individual who may pose a threat to the school community;

(iv) in evidence-based approaches in identifying an individual who may be showing signs or symptoms of mental illness;

(v) on permitted disclosures of student data to law enforcement and other support services under the Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g; [~~and~~]

(vi) on permitted collection of student data under 20 U.S.C. Sec. 1232h and Sections 53E-9-203 and 53E-9-305; and

(vii) for administrators on rights and prohibited acts under:

(A) Chapter 9, Part 6, Bullying and Hazing;

(B) Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.;

(C) Title IX of Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;

(D) Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Sec. 701 et seq.; and

(E) the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.;

(c) conduct and disseminate evidence-based research on school safety concerns;

(d) disseminate information on effective school safety initiatives;

(e) encourage partnerships between public and private sectors to promote school safety;

(f) provide technical assistance to an LEA in the development and implementation of school safety initiatives;

(g) in conjunction with the Department of Public Safety, develop and make available to an LEA a model critical incident response training program that includes protocols for conducting a threat assessment, and ensuring building security during an incident;

(h) provide space for the public safety liaison described in Section 53-1-106 and the school-based mental health specialist described in Section 62A-15-103;

(i) create a model school climate survey that may be used by an LEA to assess stakeholder perception of a school environment and, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:

(i) requiring an LEA to:

(A) create or adopt and disseminate a school climate survey; and

(B) disseminate the school climate survey;

(ii) recommending the distribution method, survey frequency, and sample size of the survey; and

(iii) specifying the areas of content for the school climate survey; and

(j) collect aggregate data and school climate survey results from each LEA.

(3) Nothing in this section requires an individual to respond to a school climate survey.

(4) The state board shall require an LEA to:

(a) (i) review data from the state board-facilitated surveys containing school climate data for each school within the LEA; and

(ii) based on the review described in Subsection (4)(a)(i):

(A) revise practices, policies, and training to eliminate harassment and discrimination in each school within the LEA;

(B) adopt a plan for harassment- and discrimination-free learning; and

(C) host outreach events or assemblies to inform students and parents of the plan adopted under Subsection (4)(a)(ii)(B);

(b) no later than September 1 of each school year, send a notice to each student, parent, and LEA staff member stating the LEA's commitment to maintaining a school climate that is free of harassment and discrimination; and

(c) report to the state board:

(i) no later than August 1, 2023, on the LEA's plan adopted under Subsection (4)(a)(ii)(B); and

(ii) after August 1, 2023, annually on the LEA's implementation of the plan and progress.

Section 3. Section 53G-9-606 is amended to read:

53G-9-606. Model policy and state board duties.

(1) On or before September 1, 2018, the state board shall:

(a) update the state board's model policy on bullying, cyber-bullying, hazing, and retaliation to include abusive conduct; and

(b) post the model policy described in Subsection (1)(a) on the state board's website.

(2) The state board shall require [~~a~~] an LEA governing board to report annually to the state board on:

(a) the LEA governing board's policy, including implementation of the signed statement requirement described in Subsection 53G-9-605(3);

(b) the LEA governing board's training of school employees relating to bullying, cyber-bullying, hazing, and retaliation described in Section 53G-9-607; [~~and~~]

(c) the demographics of an individual who is subject to bullying, hazing, cyber-bullying, or retaliation subject to:

(i) Title 53E, Chapter 9, Part 2, Student Privacy;

(ii) Title 53E, Chapter 9, Part 3, Student Data Protection;

(iii) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(iv) 34 C.F.R. Part 99; and

[~~(c)~~] (d) other information related to this part, as determined by the state board.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education - State Board and Administrative Operations

From Education Fund, One-time	$10,000
Schedule of Programs:	
Board and Administration	$10,000

The Legislature intends that the State Board of Education use funds appropriated under this section to implement the training for administrators on federal law outlined in Section 53G-8-802 in fiscal year 2023.

CHAPTER 400
H. B. 436

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

AMENDMENTS TO THE DIVISION OF CONSUMER PROTECTION

Chief Sponsor: James A. Dunnigan
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill amends the Health Spa Act.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions of the Health Spa Act regarding:
  - a contract for a health spa service;
  - the assignment of a contract for a health spa service;
  - a change in a consumer's primary location; and
  - an exemption from bond, letter of credit, or certificate of deposit requirement; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-23-2, as last amended by Laws of Utah 2021, Chapter 266
13-23-3, as last amended by Laws of Utah 2021, First Special Session, Chapter 9
13-23-5, as last amended by Laws of Utah 2021, Chapter 266
13-23-6, as last amended by Laws of Utah 2021, First Special Session, Chapter 9
13-23-8, as enacted by Laws of Utah 2017, Chapter 98
63I-2-213, as last amended by Laws of Utah 2021, First Special Session, Chapter 9

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-23-2 is amended to read:

13-23-2. Definitions.

As used in this chapter:

(1) "Business enterprise" means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in carrying on a business.

(2) "Consumer" means a purchaser of health spa services for consideration.

[~~(3) "Consumer's primary location" means the health spa facility that a health spa designates in a contract for health spa services as the health spa facility the consumer will primarily use for health spa services.~~]

[~~(4)~~] (3) "Division" means the Division of Consumer Protection.

[~~(5)~~] (4) (a) "Health spa" means a business enterprise that provides access to a facility:

(i) for a charge or a fee; and

(ii) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.

(b) "Health spa" does not include:

(i) a licensed physician who operates a facility at which the physician engages in the practice of medicine;

(ii) a hospital, intermediate care facility, or skilled nursing care facility;

(iii) a public or private school, college, or university;

(iv) the state or a political subdivision of the state;

(v) the United States or a political subdivision of the United States;

(vi) a person offering instruction if the person does not:

(A) utilize an employee or independent contractor; or

(B) grant a consumer the use of a facility containing exercise equipment;

(vii) a business enterprise, the primary operation of which is to teach self-defense or a martial art, including kickboxing, judo, or karate;

(viii) a business enterprise, the primary operation of which is to teach or allow an individual to develop a specific skill rather than develop or preserve physical fitness, including gymnastics, tennis, rock climbing, or a winter sport;

(ix) a business enterprise, the primary operation of which is to teach or allow an individual to practice yoga or Pilates;

(x) a private employer who owns and operates a facility exclusively for the benefit of the employer's employees, retirees, or family members, if the operation of the facility:

(A) is only incidental to the overall function and purpose of the employer's business; and

(B) is offered on a nonprofit basis;

(xi) an individual providing professional services within the scope of the individual's license with the Division of Occupational and Professional Licensing;

(xii) a country club;

(xiii) a nonprofit religious, ethnic, or community organization;

(xiv) a residential weight reduction center;

(xv) a business enterprise that only offers virtual services;

(xvi) a business enterprise that only offers a credit for a service that a separate business enterprise offers;

(xvii) the owner of a lodging establishment, as defined in Section 29-2-102, if the owner only provides access to the lodging establishment's facility to:

(A) a guest, as defined in Section 29-2-102; or

(B) an operator or employee of the lodging establishment;

(xviii) an association, declarant, owner, lessor, or developer of a residential housing complex, planned community, or development, if at least 80% of the individuals accessing the facility reside in the housing complex, planned community, or development; or

(xix) a person offering a personal training service exclusively as an employee or independent contractor of a health spa.

[~~(6)~~] (5) "Health spa facility" means a facility to which a business entity provides access:

(a) for a charge or a fee; and

(b) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.

[~~(7)~~] (6) (a) "Health spa service" means instruction, a service, a privilege, or a right that a health spa offers for sale.

(b) "Health spa service" includes a personal training service.

[~~(8)~~] (7) "Personal training service" means the personalized instruction, training, supervision, or monitoring of an individual's physical fitness or well-being, through exercise, weight control, or athletics.

(8) "Primary location" means the health spa facility that a health spa designates in a contract for health spa services as the health spa facility the consumer in the contract will primarily use for health spa services.

Section 2. Section 13-23-3 is amended to read:

13-23-3. Contracts for health spa services.

(1) (a) A contract for the purchase of a health spa service shall be in writing.

(b) The written contract described in Subsection (1)(a) shall constitute the entire agreement between the consumer and the health spa.

(2) (a) The health spa shall provide the consumer with a fully completed copy of the contract required by Subsection (1):

(i) at the time of the contract's execution; and

(ii) at any time, upon the consumer's request.

(b) The copy described in Subsection (2)(a) shall show:

(i) the date of the transaction;

(ii) the name and address of the health spa;

(iii) the name, address, and telephone number of the consumer; and

(iv) the consumer's primary location.

(3) (a) A contract described in Subsection (1):

(i) may not have a term in excess of 36 months; and

(ii) subject to Subsection (3)(b), may include an automatic renewal provision.

(b) An automatic renewal provision described in Subsection (3)(a) is effective if notice of the automatic renewal provision is provided to the consumer no sooner than 60 days before, and no later than 30 days before, the day on which the contract automatically renews.

(c) Except for a lifetime membership sold before May 1, 1995, a health spa may not offer a lifetime membership.

(4) A contract described in Subsection (1) or an attachment to the contract shall clearly state each rule of the health spa that applies to:

(a) the consumer's use of the health spa's facilities and services; and

(b) cancellation and refund policies of the health spa.

(5) A contract described in Subsection (1) shall specify which equipment or facility of the health spa:

(a) is omitted from the contract's coverage; or

(b) may be changed at the health spa's discretion.

(6) A contract described in Subsection (1) shall clearly:

(a) state the consumer's rescission rights under Section 13-23-4; and

(b) provide an email address and a mailing address where the consumer can send the health spa a notice of intent to rescind the contract.

(7) (a) If a consumer and a health spa enter into a contract described in Subsection (1) before May 4, 2022, the health spa may:

(i) assign the contract to another health spa that requires the consumer to obtain a contracted health spa service at a health spa facility within five driving miles from the consumer's initial primary location; or

(ii) change the consumer's primary location to a health spa facility within five driving miles from the consumer's initial primary location.

(b) If a consumer and a health spa enter into a contract described in Subsection (1) on or after May 4, 2022, the health spa may not:

(i) assign the contract to another health spa that requires the consumer to obtain a contracted health spa service at a health spa facility within five driving miles from the consumer's initial primary location, unless the health spa that enters into the contract includes in the contract a disclaimer that:

(A) is in at least 12-point, bold type on the first page of the contract; and

(B) states that the health spa may assign the contract to another health spa requiring the consumer to obtain a contracted health spa service at another facility within five driving miles from the consumer's initial primary location; or

(ii) change the consumer's primary location to a health spa facility within five driving miles from the consumer's initial primary location, unless the health spa includes in the contract a disclaimer that:

(A) is in at least 12-point, bold type on the first page of the contract; and

(B) states that the health spa may change the consumer's primary location to a health spa facility within five driving miles from the consumer's initial primary location.

[~~(7)~~] (8) (a) Except as permitted under Subsection [~~(7)~~] (8)(b), a health spa may not assign a contract for a health spa service to a health spa that requires the consumer to obtain a contracted health spa service at a health spa facility farther than five driving miles from the consumer's initial primary location, unless the health spa:

(i) provides the consumer the option to cancel the contract; and

(ii) receives approval from the consumer to assign the contract.

(b) A health spa may assign a consumer's contract for a health spa service without complying with Subsection [~~(7)~~] (8)(a), if:

(i) during the 60-day period immediately before the day on which the health spa assigns the consumer's contract, the consumer uses a health spa facility operated by the assignee more frequently than the consumer's primary location;

(ii) the assignee changes the consumer's primary location to the health spa facility described in Subsection [~~(7)~~] (8)(b)(i); and

(iii) the health spa has a reciprocity agreement with the assignee.

[~~(8)~~] (9) (a) Except as permitted under Subsection [~~(8)~~] (9)(b), before a health spa changes a consumer's primary location to a health spa facility farther than five driving miles from the consumer's initial primary location, the health spa shall provide the consumer the option to:

(i) cancel the contract for a health spa service; or

(ii) (A) continue the contract at the new health spa facility; and

(B) designate the new health spa facility as the consumer's primary location.

(b) A health spa may change a consumer's primary location without providing the consumer the option described in Subsection [~~(8)~~] (9)(a), if:

(i) during the 60-day period immediately before the day on which the health spa changes the consumer's primary location, the consumer uses a health spa facility other than the consumer's primary location more frequently than the consumer's primary location; and

(ii) the health spa changes the consumer's primary location to the health spa facility described in Subsection [~~(8)~~] (9)(b)(i).

[~~(9)~~] (10) The provisions of this section apply regardless of when the execution of a contract described in Subsection (1)(a) occurs.

Section 3. Section 13-23-5 is amended to read:

13-23-5. Registration -- Bond, letter of credit, or certificate of deposit required -- Penalties.

(1) (a) (i) A health spa may not operate a health spa facility in this state unless the health spa registers the health spa facility with the division in accordance with this section.

(ii) Registration of a health spa facility under this chapter is effective for one year.

(iii) To renew a health spa facility registration under this section, the health spa shall submit a registration renewal application to the division at least 30 days before the day on which the health spa facility's registration expires.

(iv) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish:

(A) the initial health spa facility registration process, including the content of any forms;

(B) the health spa facility registration renewal process, including the content of any forms; and

(C) a surety exemption process, including the content of any forms.

(b) Each health spa registering a health spa facility in this state shall designate a registered agent for receiving service of process.

(c) A health spa's registered agent shall be reasonably available from 8 a.m. until 5 p.m. during normal working days.

(d) The division shall charge and collect a fee for registration and registration renewal under guidelines provided in Section 63J-1-504.

(e) If a health spa fails to submit a complete registration renewal application before the day on which a health spa facility's registration expires, the health spa shall pay a fee of $25 for each month or part of a month that passes:

(i) after the day on which the registration expires; and

(ii) before the day on which the health spa submits a complete registration renewal application.

(f) The fee described in Subsection (1)(e) is in addition to the registration renewal fee described in Subsection (1)(d).

(g) A health spa registering or renewing a registration shall provide the division a copy of the liability insurance policy that:

(i) covers the health spa; and

(ii) is in effect at the time of the registration or registration renewal.

(h) If information in an application to register or renew the registration of a health spa facility materially changes or becomes incorrect or incomplete, the applicant shall, within 30 days after the day on which the information changes or becomes incorrect or incomplete, correct the application or submit the correct information to the division in a manner that the division establishes by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Section 13-23-6, for each health spa facility a health spa operates, the health spa shall obtain and maintain:

(i) a performance bond issued by a surety authorized to transact surety business in this state;

(ii) an irrevocable letter of credit issued by a financial institution authorized to do business in this state; or

(iii) a certificate of deposit.

(b) The bond, letter of credit, or certificate of deposit described in Subsection (2)(a) shall be payable to the division for the benefit of a consumer who incurs damages as the result of the health spa:

(i) violating this chapter; or

(ii) going out of business.

(c) (i) After each consumer has fully recovered damages, the division may recover from the bond, letter of credit, or certificate of deposit described in Subsection (2)(a) the costs of collecting and distributing funds under this section, in an amount up to 10% of the face value of the bond, letter of credit, or certificate of deposit.

(ii) The total liability of the issuer of the bond, letter of credit, or certificate of deposit described in this Subsection (2) may not exceed the amount of the bond, letter of credit, or certificate of deposit.

(iii) A health spa shall maintain a bond, letter of credit, or certificate of deposit described in this Subsection (2) in force for one year after the day on which the health spa notifies the division in writing that the health spa has ceased all activities regulated under this chapter at the health spa facility.

(d) (i) The division may impose a fine against a health spa that fails to comply with the requirements of this Subsection (2) of up to $100 per day that the health spa remains out of compliance.

(ii) The division shall deposit each fine the division collects under this Subsection (2)(d) into the Consumer Protection Education and Training Fund created in Section 13-2-8.

(3) (a) In accordance with the schedule established in Subsection (3)(b), a health spa shall base the minimum principal amount of the bond, letter of credit, or certificate of deposit required under Subsection (2) on:

(i) the number of unexpired contracts for a health spa service, at the time the health spa submits the health spa facility registration or registration renewal application, that designate the health spa facility as the consumer's primary location; or

(ii) if at the time the health spa submits the health spa facility registration application the health spa has not executed a contract for a health spa service that designates the health spa facility as a consumer's primary location, the number of contracts for a health spa service designating the health spa facility as a consumer's primary location that the health spa reasonably expects to execute during the health spa facility's first year of registration.

(b)

Principal Amount of Bond, Letter of Credit, or Certificate of Deposit	Number of Contracts
$5,000	100 or fewer
$10,000	101 to 250
$15,000	251 to 500
35,000	501 to 1,500
50,000	1,501 to 3,000
75,000	3,001 or more

(c) A health spa [~~that is not exempt under Section 13-23-6~~] shall comply with Subsections (3)(a) and (b) with respect to all of the health spa's unexpired contracts for a health spa service[~~, regardless of whether a portion of those contracts satisfies~~] that do not satisfy the criteria in Section 13-23-6.

(4) A health spa shall furnish a copy of the current bond, letter of credit, or certificate of deposit to the division before selling, offering or attempting to sell, soliciting the sale of, or becoming a party to any contract to provide a health spa service.

(5) A health spa shall:

(a) maintain accurate records of:

(i) the bond, letter of credit, or certificate of deposit; and

(ii) of each payment made, due, or to become due to the issuer; and

(b) open the records described in Subsection (5)(a) to inspection by the division at any time during normal business hours.

(6) (a) A health spa with a health spa facility registered under this section shall submit a new initial registration for the health spa facility, if the health spa:

(i) changes ownership;

(ii) permanently ceases and then again commences operation at the health spa facility; or

(iii) relocates the health spa facility.

(b) The former owner of a health spa may not release, cancel, or terminate the owner's liability under any bond, letter of credit, or certificate of deposit previously filed with the division, unless:

(i) the new owner has filed a new bond, letter of credit, or certificate of deposit for the benefit of consumers covered under the previous owner's bond, letter of credit, or certificate of deposit; or

(ii) the former owner has refunded all unearned payments to consumers.

(7) If a health spa permanently ceases operation or relocates a health spa facility, the health spa shall provide the division notice at least 45 days before the day on which health spa permanently ceases operation or relocates the health spa facility.

Section 4. Section 13-23-6 is amended to read:

13-23-6. Exemptions from bond, letter of credit, or certificate of deposit requirement.

(1) A health spa is exempt from Subsections 13-23-5(2) through (5) for a health spa facility, if the health spa only offers access to a health spa service at the health spa facility through:

(a) the purchase of an individual class or session;

(b) the purchase of a package:

(i) with a defined number of classes or sessions; and

(ii) for which the health spa may not hold more than $150 worth of a consumer's unused credit;

(c) the purchase of a monthly membership or pass, payment for which the health spa does not collect from a consumer more than two months in advance;

(d) an installment contract that:

(i) provides for the consumer to make all payments due under the contract, including a down payment, an enrollment fee, a membership fee, or any other payment to the health spa, in equal monthly installments spread over the entire term of the contract; and

(ii) contains the following clause: "If this health spa ceases operations at or changes the consumer's primary location in violation of Utah Code Subsection 13-23-3(7) [~~or~~], (8), or (9), no further payments under this contract shall be due to anyone, including any assignee of the contract or purchaser of any note associated with or contained in this contract."; or

(e) a combination of health spa services described in Subsections (1)(a) through (d).

(2) For purposes of finding the principal amount for the bond, letter of credit, or certificate of deposit required under Section 13-23-5, a health spa is not required to include in the calculation described in Subsection 13-23-5(3) a contract that offers access to a health spa service as described in Subsection (1).

[~~(2)~~] (3) A health spa that claims exemption from Subsections 13-23-5(2) through (5) or that a contract should be excluded from the calculation described in Subsection 13-23-5(3) bears the burden of proving to the division that the health spa or contract meets the [~~exemption~~] relevant criteria described in Subsection (1) or (2).

Section 5. Section 13-23-8 is amended to read:

13-23-8. Grounds for denial, suspension, or revocation.

The director may, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, issue an order to deny, suspend, or revoke an application or registration upon a finding that the order is in the public interest and that:

(1) the application for registration or renewal is incomplete or misleading in a material respect;

(2) the applicant or person registered under this chapter or an officer, director, agent, or employee of the applicant or registrant has:

(a) violated this chapter;

(b) violated Chapter 11, Utah Consumer Sales Practices Act;

(c) been enjoined by a court, or is the subject of an administrative order issued in this or another state, if the injunction or order:

(i) includes a finding or admission of fraud, breach of fiduciary duty, or material misrepresentation; or

(ii) is based on a finding of lack of integrity, truthfulness, or mental competence of the applicant;

(d) obtained or attempted to obtain a registration by misrepresentation;

(e) failed to timely provide the division with any information required by this chapter; or

(f) failed to pay a fine imposed by the division;

(3) the applicant's or registrant's bond, letter of credit, or certificate of deposit ceases to be in effect;

(4) the applicant or registrant requested an exemption from maintaining a bond, letter of credit, or certificate of deposit under Section 13-23-6, but does not meet the requirements for exemption; [~~or~~]

(5) the applicant or registrant excluded from the principal amount calculation described in Subsection 13-23-5(3) for a bond, letter of credit, or certificate of deposit, a contract that did not meet the requirements for exclusion described in Section 13-23-6; or

[~~(5)~~] (6) the applicant or registrant ceases to provide health spa services.

Section 6. Section 63I-2-213 is amended to read:

63I-2-213. Repeal dates -- Title 13.

[~~(1) On July 1, 2022:~~]

[~~(a) Subsection 13-23-3(7)(a) is repealed and replaced with the following:~~]

[~~"(a) Except as permitted under Subsection (7)(b), a health spa may not assign a contract for a health spa service unless the health spa:~~]

[~~(i) provides the consumer the option to cancel the contract; and~~]

[~~(ii) receives approval from the consumer to assign the contract."; and~~]

[~~(b) Subsection 13-23-3(8)(a) is repealed and replaced with the following:~~]

[~~"(a) Except as permitted under Subsection (8)(b), before a health spa changes a consumer's primary location, the health spa shall provide the consumer the option to:~~]

[~~(i) cancel the contract for a health spa service; or~~]

[~~(ii) (A) continue the contract at the new health spa facility; and~~]

[~~(B) designate the new health spa facility as the consumer's primary location."~~]

[~~(2)~~] Title 13, Chapter 47, Private Employer Verification Act, is repealed on the program start date, as defined in Section 63G-12-102.

CHAPTER 401
H. B. 437
Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

EDUCATION RESEARCH AND INNOVATION AMENDMENTS

Chief Sponsor: Jefferson Moss
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill modifies provisions related to the Utah Leading through Effective, Actionable, and Dynamic Education program.

Highlighted Provisions:

This bill:

- changes the chair of the Utah Leading through Effective, Actionable, and Dynamic Education (ULEAD) steering committee to two co-chairs;
- amends the membership of the ULEAD director selection committee and the ULEAD steering committee;
- amends the duties of the ULEAD director, steering committee, and director selection committee;
- adds requirements for certain research and reports;
- requires the State Board of Education (state board) to provide a means for the steering committee to meet remotely;
- permits the ULEAD director to utilize state board staff under certain circumstances;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-10-701, as last amended by Laws of Utah 2019, Chapter 186
53E-10-702, as last amended by Laws of Utah 2019, Chapter 324
53E-10-703, as last amended by Laws of Utah 2020, Chapter 408
53E-10-704, as last amended by Laws of Utah 2020, Chapter 365
53E-10-706, as last amended by Laws of Utah 2019, Chapter 186
53E-10-707, as last amended by Laws of Utah 2019, Chapter 186

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-10-701 is amended to read:

53E-10-701. Definitions.

As used in this part:

(1) "Director" means the director of ULEAD appointed under this part.

(2) "Director Selection Committee" or "selection committee" means the committee created in Section 53E-10-704 that appoints the director.

(3) "Local education agency" or "LEA" means a public:

(a) school district;

(b) school; or

(c) charter school.

(4) "Participating institution" means a public or private research institution that enters into an arrangement with the director to provide research and other services described in this part.

(5) "Research clearinghouse" means a collection of information maintained and distributed by ULEAD in accordance with Section 53E-10-706.

(6) "Steering committee" means the committee that:

(a) advises the director;

(b) sets research priorities as described in this part; and

(c) is created in Section 53E-10-707.

(7) "ULEAD" means Utah Leading through Effective, Actionable, and Dynamic Education through the efforts of the director, participating institutions, and the steering committee as described in this part.

Section 2. Section 53E-10-702 is amended to read:

53E-10-702. ULEAD established -- Duties -- Funding.

There is created the Utah Leading through Effective, Actionable, and Dynamic Education, a collaborative effort in research and innovation between the director, participating institutions, and education leaders to:

(1) gather and explain current education research in an electronic research clearinghouse for use by practitioners;

(2) initiate and disseminate research reports on innovative and successful practices by Utah LEAs, and guided by the steering committee, practitioners, and policymakers;

(3) promote statewide innovation and collaboration by:

(a) identifying experts in areas of practice;

(b) conducting conferences, webinars, and online forums for practitioners; and

(c) facilitating direct collaboration between schools; and

(4) (a) report to the Education Interim Committee and policymakers on innovative and successful K-12 practices in Utah and other states, prioritizing practices in Utah; and

(b) in the report, propose policy changes to remove barriers to implementation of successful practices.

Section 3. Section 53E-10-703 is amended to read:

53E-10-703. ULEAD director -- Qualification and employment -- Duties -- Reporting -- Annual conference.

(1) The ULEAD director shall:

(a) (i) hold a doctorate degree in education or an equivalent degree; and

(ii) have demonstrated experience in research and dissemination of best practices in education; and

(b) (i) be a full-time employee; [~~and~~]

(ii) report to the state superintendent[~~.~~]; and

(iii) provide a report to the selection committee, at least twice per year, on the status of the ULEAD program.

(2) The state superintendent shall:

(a) evaluate the director's performance annually;

(b) report on the director's performance to the selection committee; and

(c) provide space for the director and the director's staff.

(3) The director may:

(a) hire staff, using only money specifically appropriated to ULEAD[~~.~~]; and

(b) with approval from the superintendent, utilize state board staff.

(4) The director shall perform the following duties and functions:

(a) gather current research on innovative and effective practices in K-12 education for use by policymakers and practitioners;

(b) facilitate collaboration between LEAs, higher education researchers, and practitioners by:

(i) sharing innovative and effective practices in Utah shown to improve student learning;

(ii) identifying experts in Utah in specific areas of practice; and

(iii) maintaining a research clearinghouse and directory of researchers; and

(c) analyze barriers to replication or adaption of innovative and successful practices studied by ULEAD or contributed to the ULEAD research clearinghouse.

(5) The director shall:

(a) prioritize reports and other research based on recommendations of the steering committee in accordance with Subsection 53E-10-707(5), and after consulting with individuals described in Subsection 53E-10-707(6);

(b) identify Utah LEAs, or schools outside the public school system, that are:

(i) innovative in specific areas of practice; and

(ii) more effective or efficient than comparable LEAs in improving student learning, especially for students performing below proficiency;

(c) establish criteria for innovative practice reports to be performed by participating institutions and included in the research clearinghouse, including report templates;

(d) arrange with participating institutions to generate innovative practice reports on effective and innovative K-12 education practices; and

(e) (i) disseminate each innovative practice report to the state board for dissemination to LEAs and school leaders; and

(ii) publish innovative practice reports on the ULEAD website.

(6) In an innovative practice report, a participating institution shall:

(a) include or reference a review of research regarding the practice in which the subject LEA has demonstrated success;

(b) identify through academically acceptable, evidence-based research methods the causes of the LEA's successful practice;

(c) identify opportunities for LEAs to adopt or customize innovative or best practices;

(d) address limitations to successful replication or adaptation of the successful practice by other LEAs, which may include barriers arising from federal or state law, state or LEA policy, socioeconomic conditions, or funding limitations;

(e) include practical templates for successful replication and adaptation of successful practices, following criteria established by the director;

(f) identify experts in the successful practice that is the subject of the innovative practice report, including teachers or administrators at the subject LEA; and

(g) include:

(i) an executive summary describing the innovative practice report; and

(ii) a video component or other elements designed to ensure that an innovative practice report is readily understandable by practitioners.

(7) The director may, if requested by an LEA leader or policymaker, conduct an evidence-based review of a possible innovation in an area of practice.

(8) The director may also accept innovative practice reports from trained practitioners that meet the criteria set by the director.

(9) The director or a participating institution, to enable successful replication or adaption of successful practices, may recommend to:

(a) the Legislature, amendments to state law; or

(b) the state board, revisions to state board rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or policy.

(10) (a) The director shall:

[~~(a)~~] (i) report on the activities of ULEAD annually to the state board; and

[~~(b)~~] (ii) provide reports or other information to the state board upon state board request.

(b) The report described in Subsection (10)(a)(i) shall include:

(i) examples identified for innovative practice reports; and

(ii) the current status of ULEAD's relationship with participating institutions.

(11) The director shall:

(a) prepare an annual report on ULEAD research and other activities;

(b) submit the report in accordance with [~~Section~~] Sections 53E-1-201 and 53E-1-202;

(c) publish the annual report on the ULEAD website; and

(d) disseminate the report to the state board for dissemination to LEAs and school leaders through electronic channels.

(12) The director shall facilitate and conduct an annual conference on successful and innovative K-12 education practices in Utah, featuring:

(a) Utah education leaders; and

(b) practitioners and researchers, chosen by the director, to discuss the subjects of LEA and other ULEAD activities, or other innovative and successful education practices.

Section 4. Section 53E-10-704 is amended to read:

53E-10-704. Director Selection Committee -- Membership -- Powers and duties -- Compensation.

(1) There is created the Director Selection Committee to appoint the director.

(2) The selection committee shall consist of the following [~~nine~~] five members each appointed for two-year [~~staggered terms, with the initial terms of the members described in Subsections (2)(a), (b), and (c) to be three years~~] terms:

(a) one member of the office of the governor, who is the chair of the selection committee and appointed by the governor;

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) one member of the Senate, appointed by the president of the Senate;

(d) one member of the state board, appointed by the chair of the state board; and

[~~(e) one member of the Utah Board of Higher Education, appointed by the chair of the Utah Board of Higher Education;~~]

[~~(f)~~] (e) one member appointed by the state superintendent[~~;~~].

[~~(g) one member of the State Charter School Board, appointed by the chair of the State Charter School Board;~~]

[~~(h) one member of the Utah School Boards Association recognized in Section 53G-4-502, appointed by the association executive director; and~~]

[~~(i) one member of a state association that represents school superintendents, appointed by the association executive director.~~]

(3) (a) A member of the selection committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the selection committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) A majority of the members shall constitute a quorum for the transaction of selection committee business.

(5) (a) The selection committee shall select and appoint a director for a four-year term.

(b) The director may be appointed for more than one term.

(6) (a) In addition to the meetings required under Subsections (6)(b) and (c), the selection committee shall hold at least one meeting each year.

(b) In a year in which the director is appointed, the selection committee shall:

(i) solicit applications for the director position to be submitted no later than June 1;

(ii) hold at least two meetings to discuss candidates for the open director position; and

(iii) select and appoint by majority vote a candidate to fill the director position to begin employment no later than August 1.

[~~(b)~~] (c) Notwithstanding Subsection [~~(6)(a)~~] (6)(b), if a midterm vacancy in the director position occurs, the selection committee shall:

(i) no later than 25 business days after the day on which the position is vacated, solicit applications for the director position;

(ii) hold at least two meetings to discuss candidates for the vacant position; and

(iii) no later than 60 business days after the day on which the position is vacated, select a candidate to fill the director position for the remainder of the term.

(7) (a) The selection committee:

(i) may remove a director before the completion of the director's term only by a majority vote of the selection committee; and

(ii) is the only person empowered to remove the director.

(b) The chair shall hold a meeting to consider removing the director upon request of two or more selection committee members.

(8) A member of the selection committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The selection committee shall:

(a) establish criteria for evaluation of the ULEAD program, including the degree of participation by participating institutions and practitioners; [~~and~~]

(b) evaluate the effectiveness of ULEAD every four years for purposes of continuing the program[~~.~~]; and

(c) meet with the superintendent at least annually to discuss the progress of ULEAD projects and processes as described in this part.

(10) The selection committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 5. Section 53E-10-706 is amended to read:

53E-10-706. Electronic resources -- Research clearinghouse.

(1) The state board shall publish a ULEAD website containing information provided by the director as described in this part.

(2) The director shall within two years of appointment:

(a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and

(b) include in the research clearinghouse:

(i) research on K-12 education, including peer-reviewed research;

(ii) information on K-12 education innovation and best practices;

(iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;

(iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;

(v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section 35A-14-201 and data maintained by the state board;

(vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and

(vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.

(3) The director shall publish:

(a) as identified in ULEAD research and reports, an electronic directory of:

(i) K-12 education experts [~~identified in ULEAD research and reports~~]; and

(ii) LEAs described in Subsection 53E-10-703(5)(b); and

(b) a monthly report to LEAs, via electronic channels provided by the state board, highlighting ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.

(4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Section 6. Section 53E-10-707 is amended to read:

53E-10-707. ULEAD Steering Committee.

(1) (a) There is created the ULEAD Steering Committee.

(b) The [~~director is the chair~~] member described in Subsection (2)(b) and the member described in Subsection (2)(e) are the co-chairs of the steering committee.

(2) The steering committee shall consist of the following members each appointed for a term of [~~one year~~] two years:

(a) the director;

(b) one member of the state board appointed by the chair of the state board;

(c) the state superintendent or the state superintendent's designee;

(d) the staff director of the State Charter School Board or the director's designee;

(e) one member appointed by the office of the governor;

(f) one member, appointed by the director, who is a superintendent of a school district;

(g) one member, appointed by the director, of a local school board;

(h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;

(i) [~~two principals~~] one principal or other public school [~~leaders~~] leader of charter schools, appointed by the director;

(j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and

(k) [~~two members~~] one member representing citizens or business, nominated by the members of the public and appointed by the director.

(3) (a) A member of the steering committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) (a) The steering committee shall hold a meeting at least [~~semi annually in January and July or~~] quarterly on dates [~~otherwise~~] chosen by the co-chairs, in consultation with the director.

(b) The state board shall provide physical space for the steering committee to meet, or a means to participate in a meeting remotely.

(5) The steering committee shall:

(a) discuss prospective and current ULEAD projects and findings;

(b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;

(c) facilitate connections between the director and Utah's political, business, education technology, and academic communities; [~~and~~]

(d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section 35A-14-201[~~.~~]; and

(e) annually vote on and establish steering committee priorities for ULEAD.

(6) In order to determine research priorities for ULEAD, the director shall consult with:

(a) members of the Legislature responsible for public education;

(b) members of Utah professional education associations, including principals and LEA governing board members; and

(c) policy-research centers based in Utah.

(7) The state board or state superintendent may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.

(8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

CHAPTER 402
H. B. 439

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

ELECTED PUBLIC BODY TRANSPARENCY AMENDMENTS

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Kirk A. Cullimore
Cosponsor: Travis M. Seegmiller

LONG TITLE

General Description:

This bill modifies provisions of the Open and Public Meetings Act.

Highlighted Provisions:

This bill:

- modifies the requirement for recording votes in the meeting minutes for a public body that has members who were elected to the public body;
- modifies a provision relating to electronic meetings; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-203, as last amended by Laws of Utah 2021, Chapters 84, 176, and 345
52-4-207, as last amended by Laws of Utah 2021, Chapter 242

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) (a) Written minutes of an open meeting shall include:

(i) the date, time, and place of the meeting;

(ii) the names of members present and absent;

(iii) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;

(iv) a record, by individual member, of each vote taken by the public body;

(v) the name of each person who:

(A) is not a member of the public body; and

(B) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;

(vi) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(a)(v); and

(vii) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.

(b) A public body may satisfy the requirement under Subsection (2)(a)(iii) or (vi) that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided.

(c) A public body that has members who were elected to the public body shall satisfy the requirement described in Subsection (2)(a)(iv) by recording each vote:

(i) in list format;

(ii) by category for each action taken by a member, including yes votes, no votes, and absent members; and

(iii) by each member's name.

(3) A recording of an open meeting shall:

(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and

(b) be properly labeled or identified with the date, time, and place of the meeting.

(4) (a) As used in this Subsection (4):

(i) "Approved minutes" means written minutes:

(A) of an open meeting; and

(B) that have been approved by the public body that held the open meeting.

(ii) "Electronic information" means information presented or provided in an electronic format.

(iii) "Pending minutes" means written minutes:

(A) of an open meeting; and

(B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.

(iv) "Specified local public body" means a legislative body of a county, city, town, or metro township.

(v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.

(vi) "State website" means the Utah Public Notice Website created under Section 63A-16-601.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post to the state website a copy of the approved minutes and any public materials distributed at the meeting;

(B) make the approved minutes and public materials available to the public at the public body's primary office; and

(C) if the public body provides online minutes under Subsection (2)(b), post approved minutes that comply with Subsection (2)(b) and the public materials on the public body's website; and

(iii) within three business days after holding an open meeting, post on the state website an audio recording of the open meeting, or a link to the recording.

(f) A specified local public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(g) A public body that is not a state public body or a specified local public body shall:

(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting:

(A) post and make available a copy of the approved minutes and any public materials distributed at the meeting, as provided in Subsection (4)(e)(ii); or

(B) comply with Subsections (4)(e)(ii)(B) and (C) and post to the state website a link to a website on which the approved minutes and any public materials distributed at the meeting are posted; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are $50,000 or less.

Section 2. Section 52-4-207 is amended to read:

52-4-207. Electronic meetings -- Authorization -- Requirements.

(1) Except as otherwise provided for a charter school in Section 52-4-209, a public body may convene and conduct an electronic meeting in accordance with this section.

(2) (a) A public body may not hold an electronic meeting unless the public body has adopted a resolution, rule, or ordinance governing the use of electronic meetings.

(b) The resolution, rule, or ordinance may:

(i) prohibit or limit electronic meetings based on budget, public policy, or logistical considerations;

(ii) require a quorum of the public body to:

(A) be present at a single anchor location for the meeting; and

(B) vote to approve establishment of an electronic meeting in order to include other members of the public body through an electronic connection;

(iii) require a request for an electronic meeting to be made by a member of a public body up to three days prior to the meeting to allow for arrangements to be made for the electronic meeting;

(iv) restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability; or

(v) establish other procedures, limitations, or conditions governing electronic meetings not in conflict with this section.

[~~(3) A public body that convenes or conducts an electronic meeting shall:~~]

[~~(a) give public notice of the meeting:~~]

[~~(i) in accordance with Section 52-4-202; and~~]

[~~(ii) except for an electronic meeting under Subsection (5)(a), post written notice at the anchor location; and~~]

[~~(b) in addition to giving public notice required by Subsection (3)(a), provide:~~]

[~~(i) notice of the electronic meeting to the members of the public body at least 24 hours before the meeting so that they may participate in and be counted as present for all purposes, including the determination that a quorum is present; and~~]

[~~(ii) a description of how the members will be connected to the electronic meeting.~~]

(3) A public body that convenes and conducts an electronic meeting shall:

(a) give public notice of the electronic meeting in accordance with Section 52-4-202;

(b) except for an electronic meeting described in Subsection (5), post written notice of the electronic meeting at the anchor location; and

(c) except as otherwise provided in a rule of the Legislature applicable to the public body, at least 24 hours before the electronic meeting is scheduled to begin, provide each member of the public body a description of how to electronically connect to the meeting.

(4) (a) Except as provided in Subsection (5), a public body that convenes and conducts an electronic meeting shall provide space and facilities at an anchor location for members of the public to attend the open portions of the meeting.

(b) A public body that convenes and conducts an electronic meeting may provide means by which members of the public who are not physically present at the anchor location may attend the meeting remotely by electronic means.

(5) Subsection (4)(a) does not apply to an electronic meeting if:

(a) (i) the chair of the public body determines that:

(A) conducting the meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present or who would otherwise be present at the anchor location; or

(B) the location where the public body would normally meet has been ordered closed to the public for health or safety reasons; and

(ii) the public notice for the meeting includes:

(A) a statement describing the chair's determination under Subsection (5)(a)(i);

(B) a summary of the facts upon which the chair's determination is based; and

(C) information on how a member of the public may attend the meeting remotely by electronic means; or

(b) (i) during the course of the electronic meeting, the chair:

(A) determines that continuing to conduct the electronic meeting as provided in Subsection (4)(a) presents a substantial risk to the health or safety of those present at the anchor location; and

(B) announces during the electronic meeting the chair's determination under Subsection (5)(b)(i)(A) and states a summary of the facts upon which the determination is made; and

(ii) in convening the electronic meeting, the public body has provided means by which members of the public who are not physically present at the anchor location may attend the electronic meeting remotely by electronic means.

(6) A determination under Subsection (5)(a)(i) expires 30 days after the day on which the chair of the public body makes the determination.

(7) Compliance with the provisions of this section by a public body constitutes full and complete compliance by the public body with the corresponding provisions of Sections 52-4-201 and 52-4-202.

CHAPTER 403
H. B. 440

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022
(Exception clause in Section 17)

HOMELESS SERVICES AMENDMENTS

Chief Sponsor: Steve Eliason
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to the oversight and provision of services for individuals experiencing homelessness.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the membership of the Utah Homelessness Council (council) within the Office of Homeless Services (office);
- establishes the Utah Homeless Network Steering Committee within the office and describes the membership and duties of the steering committee;
- allows certain municipalities to receive funds from the Homeless Shelter Cities Mitigation Restricted Account (account) to mitigate the impacts of homeless shelters;
- establishes a formula for the office's disbursement of funds to municipalities that have been approved by the council to receive account funds;
- removes provisions allowing the office to provide grants from the account;
- modifies provisions related to the process for municipalities to request account funds;
- requires the council to consider certain factors in determining whether to approve or deny a municipality's request for account funds;
- removes provisions requiring the office to make recommendations to the Legislature regarding requests for account funds;
- requires certain councils of governments to annually prepare and submit to the office an overflow plan that establishes plans for temporary overflow shelters within the county during a limited period of time;
- requires the office to review the overflow plan to determine whether the plan is sufficient for the provision of services for individuals experiencing homelessness during a limited period of time;
- allows certain homeless shelters to expand capacity during a limited period of time under certain circumstances;
- prohibits municipalities from imposing certain capacity limits on homeless shelters during a limited period of time under certain circumstances;
- prohibits municipalities from restricting an entity from operating a temporary overflow shelter from a facility owned or operated by the entity during a limited period of time under certain circumstances;
- allows the office to contract with an entity to operate a temporary overflow shelter from a state facility during a limited period of time under certain circumstances;
- requires the office to make rules governing certain overflow plans and temporary overflow shelters; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Workforce Services – Office of Homeless Services, as a one–time appropriation:
  - from General Fund, $5,800,000;
- to General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account, as an ongoing appropriation:
  - from General Fund, $5,000,000;
- to Department of Workforce Services – Office of Homeless Services, as an ongoing appropriation:
  - from General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account, $5,000,000; and
- to Department of Workforce Services – Office of Homeless Services, as a one–time appropriation:
  - from Federal Funds – American Rescue Plan, $1,000,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A–16–102, as enacted by Laws of Utah 2021, Chapter 281
35A–16–203, as enacted by Laws of Utah 2021, Chapter 281
35A–16–204, as enacted by Laws of Utah 2021, Chapter 281
35A–16–205, as enacted by Laws of Utah 2021, Chapter 281
59–12–205, as last amended by Laws of Utah 2021, Chapter 281

ENACTS:

35A–16–206, Utah Code Annotated 1953
35A–16–207, Utah Code Annotated 1953
35A–16–401, Utah Code Annotated 1953
35A–16–501, Utah Code Annotated 1953
35A–16–502, Utah Code Annotated 1953
35A–16–503, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

35A–16–402, (Renumbered from 35A–16–304, as renumbered and amended by Laws of Utah 2021, Chapter 281)
35A–16–403, (Renumbered from 35A–16–305, as renumbered and amended by Laws of Utah 2021, Chapter 281)
35A–16–404, (Renumbered from 35A–16–307, as renumbered and amended by Laws of Utah 2021, Chapter 281)

REPEALS:

35A–16–306, as renumbered and amended by Laws of Utah 2021, Chapter 281
63J–1–801, as last amended by Laws of Utah 2021, Chapter 281
63J–1–802, as last amended by Laws of Utah 2021, Chapter 281

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-16-102 is amended to read:

35A-16-102. Definitions.

As used in this chapter:

(1) "Collaborative applicant" means the entity designated by a continuum of care to collect and submit data and apply for funds on behalf of the continuum of care, as required by the United States Department of Housing and Urban Development.

(2) "Continuum of care" means a regional or local planning body designated by the United States Department of Housing and Urban Development to coordinate services for individuals experiencing homelessness within an area of the state.

[~~(1)~~] (3) "Coordinator" means the state homelessness coordinator appointed under Section 63J-4-202.

[~~(2)~~] (4) "Executive committee" means the executive committee of the homelessness council described in Section 35A-16-204.

[~~(3)~~] (5) "Homeless Management Information System" or "HMIS" means an information technology system that:

(a) is used to collect client-level data and data on the provision of housing and services to homeless individuals and individuals at risk of homelessness in the state; and

(b) meets the requirements of the United States Department of Housing and Urban Development.

[~~(4)~~] (6) "Homeless services budget" means the comprehensive annual budget and overview of all homeless services available in the state described in Subsection 35A-16-203(1)(b).

[~~(5)~~] (7) "Homelessness council" means the Utah Homelessness Council created in Section 35A-16-204.

(8) "Local homeless council" means a local planning body designated by the steering committee to coordinate services for individuals experiencing homelessness within an area of the state.

[~~(6)~~] (9) "Office" means the Office of Homeless Services.

(10) "Steering committee" means the Utah Homeless Network Steering Committee created in Section 35A-16-206.

[~~(7)~~] (11) "Strategic plan" means the statewide strategic plan to minimize homelessness in the state described in Subsection 35A-16-203(1)(c).

Section 2. Section 35A-16-203 is amended to read:

35A-16-203. Powers and duties of the coordinator.

(1) The coordinator shall:

(a) coordinate the provision of homeless services in the state;

(b) in cooperation with the homelessness council, develop and maintain a comprehensive annual budget and overview of all homeless services available in the state, which homeless services budget shall receive final approval by the homelessness council;

(c) in cooperation with the homelessness council, create a statewide strategic plan to minimize homelessness in the state, which strategic plan shall receive final approval by the homelessness council;

(d) in cooperation with the homelessness council, oversee funding provided for the provision of homeless services, which funding shall receive final approval by the homelessness council, including funding from the:

(i) Pamela Atkinson Homeless Account created in Section 35A-16-301;

(ii) Homeless to Housing Reform Restricted Account created in Section 35A-16-303; and

(iii) Homeless Shelter Cities Mitigation Restricted Account created in Section [~~35A-16-304~~] 35A-16-402;

(e) provide administrative support to and serve as a member of the homelessness council;

(f) at the governor's request, report directly to the governor on issues regarding homelessness in the state and the provision of homeless services in the state; and

(g) report directly to the president of the Senate and the speaker of the House of Representatives at least twice each year on issues regarding homelessness in the state and the provision of homeless services in the state.

(2) The coordinator, in cooperation with the homelessness council, shall ensure that the homeless services budget described in Subsection (1)(b) includes an overview and coordination plan for all funding sources for homeless services in the state, including from state agencies, Continuum of Care organizations, housing authorities, local governments, federal sources, and private organizations.

(3) The coordinator, in cooperation with the homelessness council, shall ensure that the strategic plan described in Subsection (1)(c):

(a) outlines specific goals and measurable benchmarks for minimizing homelessness in the state and for coordinating services for individuals experiencing homelessness among all service providers in the state;

(b) identifies best practices and recommends improvements to the provision of services to individuals experiencing homelessness in the state to ensure the services are provided in a safe, cost-effective, and efficient manner;

(c) identifies best practices and recommends improvements in coordinating the delivery of services to the variety of populations experiencing homelessness in the state, including through the use of electronic databases and improved data sharing among all service providers in the state; and

(d) identifies gaps and recommends solutions in the delivery of services to the variety of populations experiencing homelessness in the state.

(4) In overseeing funding for the provision of homeless services as described in Subsection (1)(d), the coordinator:

(a) shall prioritize the funding of programs and providers that have a documented history of successfully reducing the number of individuals experiencing homelessness, reducing the time individuals spend experiencing homelessness, moving individuals experiencing homelessness to permanent housing, or reducing the number of individuals who return to experiencing homelessness; and

(b) except for a program or provider providing services to victims of domestic violence, may not approve funding to a program or provider that does not enter into a written agreement with the office to collect and share HMIS data regarding the provision of services to individuals experiencing homelessness so that the provision of services can be coordinated among state agencies, local governments, and private organizations.

(5) In cooperation with the homelessness council, the coordinator shall update the annual statewide budget and the strategic plan described in this section on an annual basis.

(6) (a) On or before October 1, the coordinator shall provide a written report to the department for inclusion in the department's annual written report described in Section 35A-1-109.

(b) The written report shall include:

(i) the homeless services budget;

(ii) the strategic plan; and

(iii) recommendations regarding improvements to coordinating and providing services to individuals experiencing homelessness in the state.

Section 3. Section 35A-16-204 is amended to read:

35A-16-204. Utah Homelessness Council.

(1) There is created within the office the Utah Homelessness Council.

(2) The homelessness council shall consist of the following members:

(a) a representative of the public sector with expertise in homelessness issues, appointed by the Legislature;

(b) a representative of the private sector, appointed by the Utah Impact Partnership or the partnership's successor organization;

(c) a representative of the private sector with expertise in homelessness issues, appointed by the governor;

(d) a statewide philanthropic leader, appointed by the governor;

(e) a statewide philanthropic leader, appointed by the Utah Impact Partnership or the partnership's successor organization;

(f) the mayor of Salt Lake County;

(g) the mayor of Salt Lake City;

(h) the mayor of Midvale;

(i) the mayor of South Salt Lake;

(j) the mayor of Ogden;

(k) the mayor of St. George;

(l) the executive director of the Department of Health and Human Services, or the executive director's designee;

(m) the [~~executive director of the Department of Health, or the executive director's~~] commissioner of public safety, or the commissioner's designee;

(n) the executive director of the Department of Corrections, or the executive director's designee;

(o) the executive director of the Department of Workforce Services, or the executive director's designee;

(p) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;

(q) a member of the Senate, appointed by the president of the Senate;

(r) a member of the House of Representatives, appointed by the speaker of the House of Representatives;

(s) the state superintendent of public instruction or the superintendent's designee;

(t) a faith-based leader in the state, appointed by the governor;

(u) five local representatives[~~, including at least two private providers of services for people experiencing homelessness,~~] appointed by the [~~Utah Homeless Network~~] steering committee, of which at least two are private providers of services for people experiencing homelessness;

(v) one individual who has experienced homelessness, appointed by the governor; and

(w) the coordinator.

(3) The member appointed under Subsection (2)(a) and the member appointed under Subsection (2)(b) shall serve as the cochairs of the homelessness council.

(4) The following [~~eight~~] nine members of the homelessness council shall serve as the executive committee of the homelessness council:

(a) the cochairs of the homelessness council as described in Subsection (3);

(b) the private sector representative appointed under Subsection (2)(c);

(c) the statewide philanthropic leader appointed under Subsection (2)(d);

(d) the statewide philanthropic leader appointed under Subsection (2)(e);

(e) the mayor of Salt Lake County;

(f) a mayor chosen among the member mayors described in Subsections (2)(g) through (2)(k), appointed by the member mayors; [~~and~~]

(g) a local representative chosen among the local representatives described in Subsection (2)(u), appointed by the cochairs of the homelessness council; and

[~~(g)~~] (h) the coordinator.

(5) The cochairs and the executive committee may call homelessness council meetings and set agendas for [~~committee~~] meetings.

(6) The homelessness council shall meet at least four times per year.

(7) A majority of members of the homelessness council constitutes a quorum of the homelessness council at any meeting, and the action of the majority of members present constitutes the action of the homelessness council.

(8) A majority of members of the executive committee constitutes a quorum of the executive committee at any meeting, and the action of the majority of members present constitutes the action of the executive committee.

(9) (a) Except as required by Subsection (9)(b), appointed members of the homelessness council shall serve a term of four years.

(b) Notwithstanding the requirements of Subsection (9)(a), the appointing authority, at the time of appointment or reappointment, may adjust the length of terms to ensure that the terms of homelessness council members are staggered so that approximately half of appointed homelessness council members are appointed every two years.

(10) When a vacancy occurs in the appointed membership for any reason, the replacement is appointed for the unexpired term.

(11) (a) Except as described in Subsection (11)(b), a member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(b) Compensation and expenses of a commission member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(12) The office and the department shall provide administrative support to the homelessness council.

Section 4. Section 35A-16-205 is amended to read:

35A-16-205. Duties of the homelessness council.

The homelessness council:

(1) shall provide final approval for:

(a) the homeless services budget;

(b) the strategic plan; and

(c) the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d);

(2) in cooperation with the coordinator, shall:

(a) develop and maintain the homeless services budget;

(b) develop and maintain the strategic plan; and

(c) review applications and approve funding for the provision of homeless services in the state as described in Subsection 35A-16-203(1)(d);

(3) shall review local and regional plans for providing services to individuals experiencing homelessness;

(4) shall cooperate with local homeless councils [~~as designated by the Utah Homeless Network~~] to:

(a) develop a common agenda and vision for reducing homelessness in each local oversight body's respective region;

(b) as part of the homeless services budget, develop a spending plan that coordinates the funding supplied to local stakeholders; and

(c) align local funding to projects that improve outcomes and target specific needs in each community;

(5) shall coordinate gap funding with private entities for providing services to individuals experiencing homelessness;

(6) shall recommend performance and accountability measures for service providers, including the support of collecting consistent and transparent data; and

(7) when reviewing and giving final approval for requests as described in Subsection 35A-16-203(1)(d):

(a) may only recommend funding if the proposed recipient has a policy to share client-level service information with other entities in accordance with state and federal law to enhance the coordination of services for individuals who are experiencing homelessness; and

(b) shall identify specific targets and benchmarks that align with the strategic plan for each recommended award.

Section 5. Section 35A-16-206 is enacted to read:

35A-16-206. Utah Homeless Network Steering Committee.

(1) There is created within the office the Utah Homeless Network Steering Committee.

(2) The steering committee shall consist of the following members:

(a) the chair of each local homeless council or the chair's designee;

(b) one individual who has experienced homelessness, appointed by the cochairs of the steering committee;

(c) one representative of the collaborative applicant for the Balance of State continuum of care, appointed by the collaborative applicant;

(d) one representative of the collaborative applicant for the Mountainland continuum of care, appointed by the collaborative applicant;

(e) one representative of the collaborative applicant for the Salt Lake County continuum of care, appointed by the collaborative applicant;

(f) one representative of the office's program staff, appointed by the coordinator; and

(g) one representative of the office's data staff, appointed by the coordinator.

(3) The steering committee shall select two members from among the members described in Subsection (2)(a) to serve as cochairs, of which:

(a) one cochair shall be chosen among the members representing:

(i) the Mountainland local homeless council;

(ii) the Salt Lake County local homeless council;

(iii) the Davis local homeless council; and

(iv) the Weber-Morgan local homeless council; and

(b) one cochair shall be chosen among the members representing all other local homeless councils that are not listed in Subsection (3)(a).

(4) The cochairs are responsible for the call and conduct of meetings.

(5) (a) A majority of the members of the steering committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes the action of the steering committee.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The office and the department shall provide administrative support to the steering committee.

Section 6. Section 35A-16-207 is enacted to read:

35A-16-207. Duties of the steering committee.

The steering committee shall:

(1) support connections across continuums of care, local homeless councils, and state and local governments;

(2) coordinate statewide emergency and crisis response in relation to services for individuals experiencing homelessness;

(3) provide training to providers of services for individuals experiencing homelessness, stakeholders, and policymakers;

(4) educate the general public and other interested persons regarding the needs, challenges, and opportunities for individuals experiencing homelessness; and

(5) make recommendations to the homelessness council regarding the awarding of funding for the provision of homeless services as described in Subsection 35A-16-203(1)(d).

Section 7. Section 35A-16-401 is enacted to read:

Part 4. Homeless Shelter Cities Mitigation Restricted Account

35A-16-401. Definitions.

As used in this part:

(1) "Account" means the Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

(2) "Eligible municipality" means:

(a) a first-tier eligible municipality;

(b) a second-tier eligible municipality; or

(c) a third-tier eligible municipality.

(3) "Eligible services" means public safety services or any other services that mitigate the impacts of the location of an eligible shelter, as further defined by rule made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) "Eligible shelter" means:

(a) for a first-tier eligible municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 80 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation;

(b) for a second-tier municipality, a homeless shelter that:

(i) has the capacity to provide temporary shelter to at least 25 individuals per night, as verified by the office;

(ii) operates year-round; and

(iii) is not subject to restrictions that limit the hours, days, weeks, or months of operation; and

(c) for a third-tier eligible municipality, a homeless shelter that:

(i) (A) has the capacity to provide temporary shelter to at least 50 individuals per night, as verified by the office; and

(B) operates for no less than three months during the period beginning October 1 and ending April 30 of the following year; or

(ii) (A) meets the definition of a homeless shelter under Section 35A-16-501; and

(B) increases capacity during an overflow period, as defined in Section 35A-16-501, in accordance with Subsection 35A-16-502(6)(a).

(5) "First-tier eligible municipality" means a municipality that:

(a) is located within a county of the first or second class;

(b) has or is proposed to have an eligible shelter within the municipality's geographic boundaries;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a first-tier eligible municipality in accordance with Section 35A-16-404.

(6) "Homeless shelter" means a facility that provides or is proposed to provide temporary shelter to individuals experiencing homelessness.

(7) "Municipality" means a city, town, or metro township.

(8) "Public safety services" means law enforcement, emergency medical services, or fire protection.

(9) "Second-tier eligible municipality" means a municipality that:

(a) is located within a county of the third, fourth, fifth, or sixth class;

(b) has or is proposed to have an eligible shelter within the municipality's geographic boundaries;

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services; and

(d) is certified as a second-tier eligible municipality in accordance with Section 35A-16-404.

(10) "Third-tier eligible municipality" means a municipality that:

(a) is located within any county;

(b) has or is proposed to have an eligible shelter within the municipality's geographic boundaries; and

(c) due to the location of an eligible shelter within the municipality's geographic boundaries, requires eligible services.

Section 8. Section 35A-16-402, which is renumbered from Section 35A-16-304 is renumbered and amended to read:

[~~35A-16-304~~]. 35A-16-402. Homeless Shelter Cities Mitigation Restricted Account -- Formula for disbursing account funds to eligible municipalities.

[~~(1) As used in this section:~~]

[~~(a) "Annual local contribution" means:~~]

[~~(i) for a participating local government, the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection 59-12-205(2)(a) for the previous fiscal year; or~~]

[~~(ii) for an eligible municipality or a grant eligible entity that is certified in accordance with Section 35A-8-609, $0.~~]

[~~(b) "Eligible municipality" means the same as that term is defined in Section 35A-16-305.~~]

[~~(c) "Grant eligible entity" means the same as that term is defined in Section 35A-16-306.~~]

[~~(d) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality or grant eligible entity as certified by the department in accordance with Section 35A-16-307.~~]

[~~(2)~~] (1) There is created a restricted account within the General Fund known as the Homeless Shelter Cities Mitigation Restricted Account.

[~~(3)~~] (2) The account shall be funded by:

(a) local sales and use tax revenue deposited into the account in accordance with Section 59-12-205; [~~and~~]

(b) interest earned on the account[~~.~~]; and

(c) appropriations made to the account by the Legislature.

[~~(4) (a)~~] (3) The office shall administer the account.

[~~(b) Subject to appropriation, the office shall disburse funds from the account to:~~]

[~~(i) eligible municipalities in accordance with Sections 35A-16-305 and 63J-1-802; and~~]

[~~(ii) grant eligible entities in accordance with Sections 35A-16-306 and 63J-1-802.~~]

(4) (a) Subject to appropriations, the office shall annually disburse funds from the account as follows:

(i) 92.5% shall be disbursed to first-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(i) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office;

(ii) 2.5% shall be disbursed to second-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, of which:

(A) 70% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality, as determined by the office;

(B) 20% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total number of individuals experiencing homelessness who are served by eligible shelters within each municipality as compared to the total population of the municipality, as determined by the office; and

(C) 10% of the amount described in Subsection (4)(a)(ii) shall be disbursed proportionately among applicants based on the total year-round capacity of all eligible shelters within each municipality, as determined by the office; and

(iii) 5% shall be disbursed to third-tier eligible municipalities that have been approved to receive account funds under Section 35A-16-403, in accordance with a formula established by the office and approved by the homelessness council.

(b) In disbursing funds to first-tier municipalities under Subsection (4)(a)(i), the maximum amount of funds that the office may disburse each year to a single first-tier municipality may not exceed the greater of:

(i) $2,750,000; or

(ii) 25% of the total amount of funds disbursed under Subsection (4)(a)(i).

(c) In disbursing funds to second-tier municipalities under Subsection (4)(a)(ii), the maximum amount of funds that the office may disburse each year to a single second-tier municipality may not exceed 50% of the total amount of funds disbursed under Subsection (4)(a)(ii).

(d) The office may disburse funds to a third-tier municipality under Subsection (4)(a)(iii) regardless of whether the municipality receives funds under Subsection (4)(a)(i) as a first-tier municipality or funds under Subsection (4)(a)(ii) as a second-tier municipality.

Section 9. Section 35A-16-403, which is renumbered from Section 35A-16-305 is renumbered and amended to read:

[~~35A-16-305~~]. 35A-16-403. Eligible municipality application process for Homeless Shelter Cities Mitigation Restricted Account funds.

[~~(1) As used in this section:~~]

[~~(a) "Account" means the restricted account created in Section 35A-16-304.~~]

[~~(b) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a metro township that:~~]

[~~(i) has, or is proposed to have, a homeless shelter within the city's, town's, or metro township's geographic boundaries;~~]

[~~(ii) due to the location of a homeless shelter within the city's, town's, or metro township's geographic boundaries, needs more public safety services than the city, town, or metro township needed before the location of the homeless shelter within the city's, town's, or metro township's geographic boundaries; and~~]

[~~(iii) is certified as an eligible municipality in accordance with Section 35A-16-307.~~]

[~~(c) "Homeless shelter" means a facility that:~~]

[~~(i) provides or is proposed to provide temporary shelter to homeless individuals;~~]

[~~(ii) has or is proposed to have the capacity to provide temporary shelter to at least 200 individuals per night; and~~]

[~~(iii) operates year-round and is not subject to restrictions that limit the hours, days, weeks, or months of operation.~~]

[~~(d) "Public safety services" means law enforcement, emergency medical services, and fire protection.~~]

[~~(2) (a) An eligible municipality may request account funds to employ and equip additional personnel to provide public safety services in and around a homeless shelter within the eligible municipality's geographic boundaries.~~]

[~~(b) (i) An eligible municipality that builds or has proposed to build a homeless shelter on or after July 1, 2018, shall be eligible to receive at least 40% of the account funds, if the eligible municipality meets the requirements of this section.~~]

[~~(ii) An eligible municipality that built a homeless shelter on or before June 30, 2018, shall be eligible to receive at least 20% of the account funds, if the eligible municipality meets the requirements of this section.~~]

(1) An eligible municipality may apply for account funds to mitigate the impacts of the location of an eligible shelter through the provision of

eligible services within the eligible municipality's boundaries.

[~~(3)~~] (2) (a) This Subsection [~~(3)~~] (2) applies to a fiscal year beginning on or after July 1, [~~2019~~] 2022.

(b) (i) The homelessness council shall set aside time on the agenda of a homelessness council meeting that occurs on or after July 1 and on or before November 30 to allow an eligible municipality to present a request for account funds for the next fiscal year.

(ii) An eligible municipality may present a request for account funds by:

(A) sending an electronic copy of the request to the homelessness council before the meeting; and

(B) appearing at the meeting to present the request.

(c) The request described in Subsection [~~(3)(b)~~] (2)(b)(ii) shall contain:

[~~(i) data relating to the eligible municipality's public safety services for the last fiscal year before a homeless shelter was located or proposed to be located within the eligible municipality's boundaries, including:~~]

[~~(A) crime statistics; and~~]

[~~(B) calls for public safety services;~~]

[~~(ii) data showing the eligible municipality's need for public safety services in the next fiscal year;~~]

[~~(iii) a summary of the eligible municipality's proposed use of account funds; and~~]

[~~(iv) a copy of the eligible municipality's budget, which includes a request in a specific amount for additional personnel to provide public safety services.~~]

(i) a proposal outlining the need for eligible services, including a description of each eligible service for which the eligible municipality requests account funds;

(ii) a description of the eligible municipality's proposed use of account funds;

(iii) a description of the outcomes that the funding would be used to achieve, including indicators that would be used to measure progress toward the specified outcomes; and

(iv) the amount of account funds requested.

(d) (i) On or before November 30, an eligible municipality that received account funds during the previous fiscal year shall file electronically with the homelessness council a report that includes:

(A) a summary of the amount of account funds that the eligible municipality expended and the eligible municipality's specific use of those funds;

(B) an evaluation of the eligible municipality's effectiveness in using the account funds to address the eligible municipality's [~~public safety~~] needs due to the location of an eligible shelter; [~~and~~]

(C) an evaluation of the eligible municipality's progress regarding the outcomes and indicators described in Subsection (2)(c)(iii); and

[~~(C)~~] (D) any proposals for improving the eligible municipality's effectiveness in using account funds that the eligible municipality may receive in future fiscal years.

(ii) The homelessness council may request additional information as needed to make the evaluation described in Subsection [~~(3)~~] (2)(e).

(e) The homelessness council shall evaluate a request made in accordance with this Subsection [~~(3)~~] (2) using the following factors:

(i) the strength [~~and reliability of the data~~] of the proposal that the eligible municipality provided to support the request;

(ii) if the eligible municipality received account funds during the previous fiscal year, the efficiency with which the eligible municipality used any account funds during the previous fiscal year;

(iii) the availability of funding for the eligible municipality under Subsection 35A-16-402(4);

[~~(iii)~~] (iv) the availability of alternative funding for the eligible municipality to address the eligible municipality's [~~need for public safety services~~] needs due to the location of an eligible shelter; [~~and~~]

(v) whether the eligible municipality enacts and enforces an ordinance that prohibits camping; and

[~~(iv)~~] (vi) any other considerations identified by the homelessness council.

(f) (i) After making the evaluation described in Subsection [~~(3)(e) and subject to other provisions of this Subsection (3)(f)~~] (2)(e), the homelessness council shall vote to [~~recommend that~~] either approve or deny an eligible municipality's request [~~be:~~] for account funds.

[~~(A) funded as requested; or~~]

[~~(B) funded at a reduced level, as determined by the homelessness council.~~]

(ii) The homelessness council shall support the [~~recommendation described in Subsection (3)(f)(i)~~] homelessness council's decision under Subsection (2)(f)(i) with findings on each of the factors described in Subsection [~~(3)~~] (2)(e).

[~~(g) The committee shall submit the recommendation described in Subsection (3)(f) to:~~]

[~~(i) the governor for inclusion in the governor's budget to be submitted to the Legislature; and~~]

[~~(ii) the Social Services Appropriations Subcommittee of the Legislature for approval in accordance with Section 63J-1-802.~~]

[~~(h) (i) An eligible municipality that is approved to receive account funds under Section 63J-1-802 shall submit an invoice of the eligible municipality's expenses, with supporting documentation, to the office monthly for reimbursement.~~]

[~~(ii) Each month, the office shall disburse the revenue in the account to reimburse an eligible~~

~~municipality that submits the information described in Subsection (3)(h)(i) for the amount on the invoice or contract.~~]

(g) (i) If the homelessness council approves an eligible municipality's request to receive account funds under Subsection (2)(f), the office, subject to appropriation, shall calculate the amount of funds for disbursement to the eligible municipality under Subsection 35A-16-402(4).

(ii) An eligible municipality that is approved to receive account funds may submit an invoice of the eligible municipality's expenses, with supporting documentation, to the office monthly for reimbursement.

[~~(4)~~] (3) On or before October 1, the coordinator, in cooperation with the homelessness council, shall:

(a) submit an annual written report electronically to the Social Services Appropriations Subcommittee of the Legislature that gives a complete accounting of the office's disbursement of the money from the account under this section for the previous fiscal year; and

(b) include information regarding the disbursement of money from the account under this section in the annual report described in Section 35A-1-109.

(4) In accordance with Title 63G, Chapter 3, Administrative Rulemaking Act, the office shall make rules governing the process for calculating the amount of funds that an eligible municipality may receive under Subsection 35A-16-402(4).

Section 10. Section 35A-16-404, which is renumbered from Section 35A-16-307 is renumbered and amended to read:

[~~35A-16-307~~]. 35A-16-404. Certification of eligible municipality.

(1) The office shall certify each year, on or after July 1 and before the first meeting of the homelessness council after July 1, the [~~cities or towns~~] municipalities that meet the requirements of [~~an~~] a first-tier eligible municipality or a second-tier eligible municipality [~~or a grant eligible entity~~] as of July 1.

(2) On or before October 1, the office shall provide a list of the [~~cities, towns, or metro townships~~] municipalities that the office has certified as meeting the requirements of [~~an~~] a first-tier eligible municipality or a second-tier eligible municipality [~~or a grant eligible entity~~] for the year to the State Tax Commission.

Section 11. Section 35A-16-501 is enacted to read:

Part 5. Overflow Plan Requirements

35A-16-501. Definitions.

As used in this part:

(1) "Applicable county" means a county of the first class.

(2) "Capacity limit" means a limit as to the number of individuals that a homeless shelter may provide overnight shelter to under a conditional use permit.

(3) "Conference of mayors" means an association consisting of the mayor of each municipality located within a county.

(4) "Council of governments" means the same as that term is defined in Section 72-2-117.5.

(5) "Homeless shelter" means a facility that:

(a) is located within an applicable county;

(b) provides temporary shelter to individuals experiencing homelessness;

(c) has the capacity to provide temporary shelter to at least 200 individuals per night;

(d) operates year-round; and

(e) is not subject to restrictions that limit the hours, days, weeks, or months of operation.

(6) "Municipality" means a city, town, or metro township.

(7) "Overflow period" means the period beginning October 1 and ending April 30 of the following year.

(8) "Overflow plan" means the plan described in Subsection 35A-16-502(1).

(9) "State facility" means the same as that term is defined in Section 63A-5b-1001.

(10) "Subsequent overflow period" means the overflow period that begins on October 1 of the year in which a council of governments is required to submit an overflow plan to the office under Section 35A-16-502.

(11) "Temporary overflow shelter" means a facility that:

(a) provides temporary emergency shelter to no more than 150 individuals experiencing homelessness during an overflow period; and

(b) does not operate year-round.

Section 12. Section 35A-16-502 is enacted to read:

35A-16-502. Overflow plan required -- Contents -- Review - Consequences after determination of noncompliance.

(1) (a) Subject to the requirements of this section, a conference of mayors of an applicable county shall annually prepare an overflow plan:

(i) in consultation with the local homeless council with jurisdiction over the applicable county; and

(ii) for the purpose described in Subsection (1)(c), in coordination with the council of governments of the applicable county.

(b) To assist the conference of mayors in preparing the overflow plan under Subsection (1)(a), the local homeless council with jurisdiction over the applicable county shall provide the following information to the conference of mayors:

(i) information regarding the need for one or more temporary overflow shelters to operate within the applicable county during the subsequent overflow period; and

(ii) potential locations within the applicable county for one or more temporary overflow shelters during the subsequent overflow period.

(c) On or before September 1 of each year, the council of governments of the applicable county shall submit to the office the overflow plan prepared by the conference of mayors under Subsection (1)(a).

(d) The council of governments may not make changes to the overflow plan prepared by the conference of mayors unless the changes are approved by the conference of mayors.

(2) The overflow plan shall:

(a) establish plans for the operation of one or more temporary overflow shelters within the applicable county during the subsequent overflow period;

(b) ensure that each temporary overflow shelter described in Subsection (2)(a) will meet all local zoning requirements before beginning operations;

(c) provide assurances that individuals experiencing homelessness in the applicable county will have sufficient access to shelter during the subsequent overflow period; and

(d) be approved by:

(i) the conference of mayors of the applicable county; and

(ii) the chief executive officer of each municipality located within the applicable county in which a temporary overflow shelter is planned to be located under the overflow plan.

(3) Within 10 days after the day on which the office receives an overflow plan under this section, the office shall, in accordance with Subsection (4), complete a review of the overflow plan to determine if the overflow plan complies with this section.

(4) The office shall make a determination of noncompliance if:

(a) after completing a review of an overflow plan, the office determines that the overflow plan does not meet the requirements of Subsection (2); or

(b) a council of governments fails to submit an overflow plan required under this section.

(5) No later than five days after the day on which the office makes a determination of noncompliance under Subsection (4), the office shall send notice of noncompliance to:

(a) the chair of the conference of mayors of the applicable county;

(b) the local homeless council with jurisdiction over the applicable county;

(c) the council of governments of the applicable county; and

(d) the legislative body of each municipality located within the applicable county.

(6) Subject to Subsections (7) through (13) and rules made by the office under Section 35A-16-503, the following provisions apply during the subsequent overflow period if the office sends notice of noncompliance under Subsection (5):

(a) a homeless shelter located within the applicable county may have an occupant load factor of one individual for every 40 net square feet;

(b) a municipality located within the applicable county may not:

(i) enact or enforce an ordinance that imposes a capacity limit on a homeless shelter that conflicts with Subsection (6)(a); or

(ii) enact or enforce an ordinance that restricts an entity from operating a temporary overflow shelter from a facility owned or operated by the entity; and

(c) the office may contract with a for-profit or nonprofit entity to operate a temporary overflow shelter from a state facility located within the applicable county:

(i) in coordination with the Division of Facilities Construction and Management; and

(ii) in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(7) A homeless shelter may not expand the homeless shelter's capacity under Subsection (6)(a) unless:

(a) the homeless shelter complies with the applicable building code and fire code;

(b) the fire code official approves the layout of the homeless shelter; and

(c) for a homeless shelter in operation on January 1, 2022, the homeless shelter's total capacity does not exceed 25% of the capacity limit applicable to the homeless shelter on January 1, 2022.

(8) Subsection (6)(a) does not apply to a homeless shelter that is reserved exclusively for use by families.

(9) An entity may not operate a temporary overflow shelter under Subsection (6)(b)(ii) unless the office first authorizes the operation of the temporary overflow shelter.

(10) In authorizing the operation of a temporary overflow shelter under Subsection (6)(b)(ii), the office shall:

(a) prioritize the conversion of a hotel or a motel as a temporary overflow shelter; and

(b) consider any information provided by the local homeless council to the conference of mayors under Subsection (1)(b).

(11) Unless otherwise approved by the municipality in which a temporary overflow shelter is located, the office may not authorize the operation of a temporary overflow shelter under Subsection (6)(b)(ii) or (c):

(a) within a one-mile radius of a homeless shelter;

(b) within 1,000 feet of a community location as defined in Section 10-8-41.6; or

(c) within 600 feet of any property zoned for residential use.

(12) If the office authorizes the operation of a temporary overflow shelter within a municipality under Subsection (6)(b)(ii) or (c), the office may not authorize a temporary overflow shelter within the same municipality under Subsection (6)(b)(ii) or (c) during the three overflow periods immediately following the overflow period in which the office authorized the temporary overflow shelter, unless otherwise approved by the municipality.

(13) The aggregate number of beds available at all temporary overflow shelters authorized under Subsections (6)(b)(ii) and (c) during a single overflow period may not exceed 230 beds.

Section 13. Section 35A-16-503 is enacted to read:

35A-16-503. Rules.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules governing:

(1) the submission of an overflow plan under Subsection 35A-16-502(1);

(2) the review of an overflow plan for purposes of determining compliance under Subsection 35A-16-502(4);

(3) the process of sending a notice of noncompliance under Subsection 35A-16-502(5); and

(4) the location, establishment, and operation of a temporary overflow shelter under Subsections 35A-16-502(6)(b)(ii) and (c).

Section 14. Section 59-12-205 is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenue -- Determination of population.

(1) To maintain in effect sales and use tax ordinances adopted pursuant to Section 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's sales and use tax ordinances:

(a) within 30 days of the day on which the state makes an amendment to an applicable provision of Part 1, Tax Collection; and

(b) as required to conform to the amendments to Part 1, Tax Collection.

(2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

(a) 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the percentage that the population of the county, city, or town bears to the total population of all counties, cities, and towns in the state; and

(b) (i) except as provided in Subsections (2)(b)(ii) and (iii), 50% of each dollar collected from the sales and use tax authorized by this part shall be distributed to each county, city, and town on the basis of the location of the transaction as determined under Sections 59-12-211 through 59-12-215;

(ii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area described in a project area plan adopted by the military installation development authority under Title 63H, Chapter 1, Military Installation Development Authority Act, shall be distributed to the military installation development authority created in Section 63H-1-201; and

(iii) 50% of each dollar collected from the sales and use tax authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section 11-58-201.

(3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

(i) the county, city, or town is a:

(A) county of the third, fourth, fifth, or sixth class;

(B) city of the fifth class; or

(C) town;

(ii) the county, city, or town received a distribution under this section for the calendar year beginning on January 1, 2008, that was less than the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007;

(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), the city or town had located within the city or town for one or more days during the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

(iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1; or

(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a city or town for one or more days during the calendar year beginning on January 1, 2008, was not the holder of a direct payment permit under Section 59-12-107.1.

(b) The commission shall make the distribution required by this Subsection (3) to a county, city, or town described in Subsection (3)(a):

(i) from the distribution required by Subsection (2)(a); and

(ii) before making any other distribution required by this section.

(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by multiplying the fraction calculated under Subsection (3)(c)(ii) by $333,583.

(ii) For purposes of Subsection (3)(c)(i):

(A) the numerator of the fraction is the difference calculated by subtracting the distribution a county, city, or town described in Subsection (3)(a) received under this section for the calendar year beginning on January 1, 2008, from the distribution under this section that the county, city, or town received for the calendar year beginning on January 1, 2007; and

(B) the denominator of the fraction is $333,583.

(d) A distribution required by this Subsection (3) is in addition to any other distribution required by this section.

(4) (a) As used in this Subsection (4):

(i) "Eligible county, city, or town" means a county, city, or town that:

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b) equal to the amount described in Subsection (4)(b)(ii); and

(B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1, 2016.

(ii) "Minimum tax revenue distribution" means the total amount of tax revenue distributions an eligible county, city, or town received from a tax imposed in accordance with this part for fiscal year 2004-05.

(b) An eligible county, city, or town shall receive a tax revenue distribution for a tax imposed in accordance with this part equal to the greater of:

(i) the payment required by Subsection (2); or

(ii) the minimum tax revenue distribution.

(5) (a) For purposes of this Subsection (5):

(i) "Annual local contribution" means the lesser of $200,000 or an amount equal to 1.8% of the participating local government's tax revenue distribution amount under Subsection (2)(a) for the previous fiscal year.

(ii) "Participating local government" means a county or municipality, as defined in Section 10-1-104, that is not an eligible municipality [~~or grant eligible entity~~] certified in accordance with Section [~~35A-16-307~~] 35A-16-404.

(b) For revenue collected from the tax authorized by this part that is distributed on or after January 1, 2019, the commission, before making a tax revenue distribution under Subsection (2)(a) to a participating local government, shall:

(i) subtract one-twelfth of the annual local contribution for each participating local government from the participating local government's tax revenue distribution under Subsection (2)(a); and

(ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter Cities Mitigation Restricted Account created in Section [~~35A-16-304~~] 35A-16-402.

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) or (4), the commission shall apply the provisions of this Subsection (5) after the commission applies the provisions of Subsections (3) and (4).

(6) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If a needed population estimate is not available from the United States Bureau of the Census, population figures shall be derived from the estimate from the Utah Population Committee.

(c) The population of a county for purposes of this section shall be determined only from the unincorporated area of the county.

Section 15. Repealer.

This bill repeals:

Section 35A-16-306, Grant eligible entity application process for Homeless Shelter Cities Mitigation Restricted Account funds.

Section 63J-1-801, Definitions.

Section 63J-1-802, Submission of council recommendations -- Adoption, procedure, and approval -- Appropriation.

Section 16. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Office of Homeless Services

From General Fund, One-time $5,800,000

Schedule of Programs:

Homeless Services $5,800,000

The Legislature intends that:

(1) the Office of Homeless Services use appropriations under this item to provide loan repayment assistance to homeless shelters as defined in Section 35A-16-501; and

(2) under Utah Code Section 63J-1-603, appropriations under this item not lapse at the close of fiscal year 2023.ITEM 2

To General Fund Restricted -- Homeless Shelter Cities Mitigation Restricted Account

From General Fund $5,000,000

Schedule of Programs:

General Fund Restricted -- Homeless Shelter Cities Mitigation Restricted Account $5,000,000

ITEM 3

To Department of Workforce Services -- Office of Homeless Services

From General Fund Restricted — Homeless Shelter Cities Mitigation Restricted Account $5,000,000

Schedule of Programs:

Homeless Services $5,000,000

The Legislature intends that the Office of Homeless Services use appropriations under this item for disbursing funds to eligible municipalities in accordance with Title 35A, Chapter 16, Part 4, Homeless Shelter Cities Mitigation Restricted Account.

ITEM 4

To Department of Workforce Services -- Office of Homeless Services

From Federal Funds -- American Rescue Plan, One-time $1,000,000

Schedule of Programs:

Homeless Services $1,000,000

The Legislature intends that the Office of Homeless Services use appropriations under this item for disbursing funds only to third-tier eligible municipalities in accordance with Title 35A, Chapter 16, Part 4, Homeless Shelter Cities Mitigation Restricted Account.

Section 17. Effective date.

(1) Except as provided in Subsection (2), this bill takes effect on May 4, 2022.

(2) The actions affecting the following sections take effect on July 1, 2022:

(a) Section 35A-16-203;

(b) Section 35A-16-306;

(c) Section 35A-16-401;

(d) Section 35A-16-402;

(e) Section 35A-16-403;

(f) Section 35A-16-404;

(g) Section 59-12-205;

(h) Section 63J-1-801; and

(i) Section 63J-1-802.

CHAPTER 404
H. B. 441

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

COMMUNITY PARAMEDICINE AMENDMENTS

Chief Sponsor: Dan N. Johnson
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill authorizes the creation of community paramedicine programs.

Highlighted Provisions:

This bill:

- defines terms;
- authorizes the creation of community paramedicine programs; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-8a-102, as last amended by Laws of Utah 2021, Chapters 208, 237, and 265

ENACTS:

26-8a-212, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-102 is amended to read:

26-8a-102. Definitions.

As used in this chapter:

(1) (a) "911 ambulance or paramedic services" means:

(i) either:

(A) 911 ambulance service;

(B) 911 paramedic service; or

(C) both 911 ambulance and paramedic service; and

(ii) a response to a 911 call received by a designated dispatch center that receives 911 or E911 calls.

(b) "911 ambulance or paramedic services" does not mean a seven or ten digit telephone call received directly by an ambulance provider licensed under this chapter.

(2) "Ambulance" means a ground, air, or water vehicle that:

(a) transports patients and is used to provide emergency medical services; and

(b) is required to obtain a permit under Section 26-8a-304 to operate in the state.

(3) "Ambulance provider" means an emergency medical service provider that:

(a) transports and provides emergency medical care to patients; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

(4) (a) "Behavioral emergency services" means delivering a behavioral health intervention to a patient in an emergency context within a scope and in accordance with guidelines established by the department.

(b) "Behavioral emergency services" does not include engaging in the:

(i) practice of mental health therapy as defined in Section 58-60-102;

(ii) practice of psychology as defined in Section 58-61-102;

(iii) practice of clinical social work as defined in Section 58-60-202;

(iv) practice of certified social work as defined in Section 58-60-202;

(v) practice of marriage and family therapy as defined in Section 58-60-302; or

(vi) practice of clinical mental health counseling as defined in Section 58-60-402; and

(vii) practice as a substance use disorder counselor as defined in Section 58-60-502.

(5) "Committee" means the State Emergency Medical Services Committee created by Section 26-1-7.

(6) "Community paramedicine" means medical care:

(a) provided by emergency medical service personnel; and

(b) provided to a patient who is not:

(i) in need of ambulance transportation; or

(ii) located in a health care facility as defined in Section 26-21-2.

[~~(6)~~] (7) "Direct medical observation" means in-person observation of a patient by a physician, registered nurse, physician's assistant, or individual licensed under Section 26-8a-302.

[~~(7)~~] (8) "Emergency medical condition" means:

(a) a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in:

(i) placing the individual's health in serious jeopardy;

(ii) serious impairment to bodily functions; or

(iii) serious dysfunction of any bodily organ or part; or

(b) a medical condition that in the opinion of a physician or the physician's designee requires direct medical observation during transport or may require the intervention of an individual licensed under Section 26-8a-302 during transport.

[~~(8)~~] (9) (a) "Emergency medical service personnel" means an individual who provides emergency medical services or behavioral emergency services to a patient and is required to be licensed or certified under Section 26-8a-302.

(b) "Emergency medical service personnel" includes a paramedic, medical director of a licensed emergency medical service provider, emergency medical service instructor, behavioral emergency services technician, other categories established by the committee, and a certified emergency medical dispatcher.

[~~(9)~~] (10) "Emergency medical service providers" means:

(a) licensed ambulance providers and paramedic providers;

(b) a facility or provider that is required to be designated under Subsection 26-8a-303(1)(a); and

(c) emergency medical service personnel.

[~~(10)~~] (11) "Emergency medical services" means:

(a) medical services;

(b) transportation services;

(c) behavioral emergency services; or

(d) any combination of the services described in Subsections [~~(10)~~] (11)(a) through (c).

[~~(11)~~] (12) "Emergency medical service vehicle" means a land, air, or water vehicle that is:

(a) maintained and used for the transportation of emergency medical personnel, equipment, and supplies to the scene of a medical emergency; and

(b) required to be permitted under Section 26-8a-304.

[~~(12)~~] (13) "Governing body":

(a) means the same as that term is defined in Section 11-42-102; and

(b) for purposes of a "special service district" under Section 11-42-102, means a special service district that has been delegated the authority to select a provider under this chapter by the special service district's legislative body or administrative control board.

[~~(13)~~] (14) "Interested party" means:

(a) a licensed or designated emergency medical services provider that provides emergency medical services within or in an area that abuts an exclusive geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers;

(b) any municipality, county, or fire district that lies within or abuts a geographic service area that is the subject of an application submitted pursuant to Part 4, Ambulance and Paramedic Providers; or

(c) the department when acting in the interest of the public.

[~~(14)~~] (15) "Medical control" means a person who provides medical supervision to an emergency medical service provider.

[~~(15)~~] (16) "Non-911 service" means transport of a patient that is not 911 transport under Subsection (1).

[~~(16)~~] (17) "Nonemergency secured behavioral health transport" means an entity that:

(a) provides nonemergency secure transportation services for an individual who:

(i) is not required to be transported by an ambulance under Section 26-8a-305; and

(ii) requires behavioral health observation during transport between any of the following facilities:

(A) a licensed acute care hospital;

(B) an emergency patient receiving facility;

(C) a licensed mental health facility; and

(D) the office of a licensed health care provider; and

(b) is required to be designated under Section 26-8a-303.

[~~(17)~~] (18) "Paramedic provider" means an entity that:

(a) employs emergency medical service personnel; and

(b) is required to obtain a license under Part 4, Ambulance and Paramedic Providers.

[~~(18)~~] (19) "Patient" means an individual who, as the result of illness, injury, or a behavioral emergency condition, meets any of the criteria in Section 26-8a-305.

[~~(19)~~] (20) "Political subdivision" means:

(a) a city, town, or metro township;

(b) a county;

(c) a special service district created under Title 17D, Chapter 1, Special Service District Act, for the purpose of providing fire protection services under Subsection 17D-1-201(9);

(d) a local district created under Title 17B, Limited Purpose Local Government Entities - Local Districts, for the purpose of providing fire protection, paramedic, and emergency services;

(e) areas coming together as described in Subsection 26-8a-405.2(2)(b)(ii); or

(f) an interlocal entity under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(20)~~] (21) "Trauma" means an injury requiring immediate medical or surgical intervention.

[~~(21)~~] (22) "Trauma system" means a single, statewide system that:

(a) organizes and coordinates the delivery of trauma care within defined geographic areas from the time of injury through transport and rehabilitative care; and

(b) is inclusive of all prehospital providers, hospitals, and rehabilitative facilities in delivering care for trauma patients, regardless of severity.

[~~(22)~~] (23) "Triage" means the sorting of patients in terms of disposition, destination, or priority. For prehospital trauma victims, triage requires a determination of injury severity to assess the appropriate level of care according to established patient care protocols.

[~~(23)~~] (24) "Triage, treatment, transportation, and transfer guidelines" means written procedures that:

(a) direct the care of patients; and

(b) are adopted by the medical staff of an emergency patient receiving facility, trauma center, or an emergency medical service provider.

Section 2. Section 26-8a-212 is enacted to read:

26-8a-212. Community paramedicine program.

(1) A ground ambulance provider or a designated quick response provider, as designated in accordance with Section 26-8a-303, may develop and implement a community paramedicine program.

(2) (a) Before providing services, a community paramedicine program shall:

(i) implement training requirements as determined by the committee; and

(ii) submit a written community paramedicine operational plan to the department that meets requirements established by the committee.

(b) A community paramedicine program shall report data, as determined by the committee, related to community paramedicine to the department.

(3) A service provided as part of a community paramedicine program may not be billed to an individual or a health benefit plan as defined in Section 31A-1-301 unless:

(a) the service is provided in partnership with a health care facility as defined in Section 26-21-2; and

(b) the partnering health care facility is the person that bills the individual or health benefit plan.

(4) Nothing in this section affects any billing authorized under Section 26-8a-403.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the committee shall make rules to implement this section.

CHAPTER 405
H. B. 456
Passed March 4, 2022
Approved March 24, 2022
Effective July 1, 2022

DIGITAL USER ASSET PAYMENT AMENDMENTS

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Kirk A. Cullimore

LONG TITLE

General Description:

This bill makes provisions related to the use of digital user assets to make payments to participating government agencies and political subdivisions.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Division of Finance to contract with a third party to accept payments to participating government agencies in the form of digital assets;
- authorizes the Division of Finance to contract with a third party to accept payments to political subdivisions in the form of digital assets;
- gives the division rulemaking authority to determine standards a third party must meet to provide the payment service; and
- describes the assignment of liability with respect to aspects of providing this payment service.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

63A-3-112, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-3-112 is enacted to read:

63A-3-112. Digital user asset collection.

(1) As used in this section:

(a) "Agency" means a state government entity that receives payments for services or fees and is eligible to enter into a contract for payment services with the division.

(b) "Agency payment" means a payment that is due directly to an agency and that the agency collects either directly or through a third-party payment processor with whom the division has a contract.

(c) "Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format.

(d) "Digital security" means a digital asset which constitutes a security, as that term is defined in Section 70A-8-101.

(e) (i) "Digital user asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes.

(ii) "Digital user asset" includes an open blockchain token.

(iii) "Digital user asset" does not include a digital security.

(f) "Participating agency" means an agency that meets the division's requirements to accept payments made through a service provider with whom the division has a contract.

(g) "Political subdivision" means the same as that term is defined in Section 63G-7-102.

(h) "Political subdivision payment" means a payment that is due directly to a political subdivision and that the political subdivision collects either directly or through a third-party payment processor with whom the political subdivision has a contract.

(i) "Service provider" means a person with demonstrated experience exchanging digital user assets for legal tender.

(2) The division shall contract with a service provider to provide a service to process an agency payment for a participating agency by:

(a) taking the payment in the form of a digital user asset; and

(b) converting the digital user asset into legal tender to pay the agency payment.

(3) (a) When contracting with a service provider to provide the service described in Subsection (2), the division has discretion to choose a service provider that can only provide the exchange service for a limited class or type of digital user asset.

(b) The division may contract with more than one service provider to provide the service described in Subsection (2).

(c) Nothing in this section shall be interpreted to require the division to provide the service described in Subsection (2) for all types of digital user assets.

(4) (a) The person paying the agency payment bears responsibility for any costs the service provider charges for the service provider's service.

(b) The division may collect a fee established in accordance with the procedures and requirements of Section 63J-1-504 to cover the costs to the division of providing the service described in Subsection (2).

(5) The division shall contract to provide the service described in Subsection (2) on or before January 1, 2023.

(6) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:

(a) establish standards that a person must meet to be eligible to enter into a contract as a service provider; and

(b) establish requirements an agency must meet to be a participating agency.

(7) A political subdivision may enter into an agreement with the division for the division to contract with a service provider to, on behalf of the political subdivision:

(a) provide a service to collect a political subdivision payment in the form of a digital user asset; and

(b) convert the digital user asset into legal tender to pay the political subdivision payment.

(8) Nothing in this section shall be interpreted to impose liability upon the person paying the agency payment or a participating agency for a change in value of the digital user asset after the moment of payment to the service provider.

Section 2. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 406
H. B. 462

Passed March 3, 2022
Approved March 24, 2022
Effective June 1, 2022

UTAH HOUSING AFFORDABILITY AMENDMENTS

Chief Sponsor: Steve Waldrip
Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill modifies provisions related to affordable housing and the provision of services related to affordable housing.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain political subdivisions to adopt an implementation plan as part of the moderate income housing element of the political subdivision's general plan;
- modifies the list of strategies that a political subdivision may select, or are required to select, for implementation as part of the moderate income housing element of the political subdivision's general plan;
- requires certain municipalities to develop and adopt station area plans for specified areas surrounding public transit stations;
- requires certain political subdivisions to amend the political subdivision's general plan by a specified date if the general plan does not include certain provisions related to moderate income housing;
- modifies requirements for a political subdivision's annual moderate income housing report to the Housing and Community Development Division (division) within the Department of Workforce Services (department);
- allows a political subdivision to have priority consideration for certain funds or projects if the political subdivision demonstrates plans to implement a certain number of moderate income housing strategies;
- prohibits a political subdivision from receiving certain funds if the political subdivision fails to comply with moderate income housing reporting requirements;
- prohibits a political subdivision from imposing impact fees for the construction of certain internal accessory dwelling units;
- requires the Point of the Mountain State Land Authority to consult with the Unified Economic Opportunity Commission in planning the development of the point of the mountain state land;
- modifies requirements for a public transit district to participate in a transit-oriented development;
- requires certain counties to prepare and submit a proposal to create a housing and transit reinvestment zone by a specified date;
- modifies local referenda signature requirements for local land use laws that relate to the use of land within certain transit areas;
- limits the referability to voters of local land use laws that relate to the use of land within certain transit areas;
- requires the division to develop a statewide database of moderate income housing units;
- requires the division to develop a methodology for determining whether a political subdivision is complying with certain moderate income housing requirements, to be submitted to and approved by the Commission on Housing Affordability by a certain date;
- modifies the membership of the Olene Walker Housing Loan Fund Board;
- requires an entity that receives any money from the Olene Walker Housing Loan Fund after a certain date to provide an annual accounting to the department;
- repeals certain limits on the amount of money the department may distribute from the Economic Revitalization and Investment Fund;
- establishes the Rural Housing Fund, to be used by the division to provide loans for certain moderate income housing projects in rural areas;
- allows the department to use a certain amount of money from specified funds to offset administrative costs;
- allows the Private Activity Bond Review Board to transfer certain unused allotment account funds to any other allotment account, and exempts such funds from certain set aside requirements;
- allows state entities, in addition to political subdivisions, to grant real property for certain developments that include moderate income housing;
- allows the Governor's Office of Economic Opportunity to use funds from the Industrial Assistance Account to provide financial assistance to entities offering technical assistance to municipalities for planning; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Workforce Services -- Housing and Community Development, as a one-time appropriation:
  - from the General Fund, $500,000;
- to Department of Workforce Services -- Housing and Community Development, as a one-time appropriation:
  - from the General Fund, $750,000;
- to Department of Workforce Services -- Administration, as an ongoing appropriation:
  - from the General Fund, $132,000;
- to Department of Workforce Services -- Housing and Community Development, as a one-time appropriation:
  - from the General Fund, $250,000; and
- to Department of Workforce Services -- Housing and Community Development, as a one-time appropriation:
  - from the General Fund, $250,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

10-9a-103, as last amended by Laws of Utah 2021, Chapters 140 and 385

10-9a-401, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

10-9a-403, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

10-9a-404, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

10-9a-408, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

10-9a-509, as last amended by Laws of Utah 2021, Chapters 140 and 385

11-36a-202, as last amended by Laws of Utah 2021, Chapter 35

11-59-203, as enacted by Laws of Utah 2018, Chapter 388

17-27a-103, as last amended by Laws of Utah 2021, Chapters 140, 363, and 385

17-27a-401, as last amended by Laws of Utah 2021, Chapter 363

17-27a-403, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

17-27a-404, as last amended by Laws of Utah 2021, Chapters 84, 345, and 355

17-27a-408, as last amended by Laws of Utah 2020, Chapter 434

17-27a-508, as last amended by Laws of Utah 2021, Chapters 140 and 385

17B-2a-802, as last amended by Laws of Utah 2020, Chapter 377

17B-2a-804, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

20A-7-601, as last amended by Laws of Utah 2021, Chapter 140

20A-7-602.8, as last amended by Laws of Utah 2021, Chapter 418

35A-8-101, as last amended by Laws of Utah 2021, Chapter 281

35A-8-503, as last amended by Laws of Utah 2019, Chapter 327

35A-8-504, as last amended by Laws of Utah 2020, Chapter 241

35A-8-507.5, as enacted by Laws of Utah 2021, Chapter 333

35A-8-508, as last amended by Laws of Utah 2014, Chapter 371

35A-8-509, as enacted by Laws of Utah 2017, Chapter 279

35A-8-510, as enacted by Laws of Utah 2017, Chapter 279

35A-8-511, as enacted by Laws of Utah 2017, Chapter 279

35A-8-512, as enacted by Laws of Utah 2017, Chapter 279

35A-8-513, as enacted by Laws of Utah 2017, Chapter 279

35A-8-803, as last amended by Laws of Utah 2019, Chapter 327

35A-8-2105, as renumbered and amended by Laws of Utah 2018, Chapter 182

35A-8-2106, as renumbered and amended by Laws of Utah 2018, Chapter 182

35A-8-2203, as enacted by Laws of Utah 2018, Chapter 392

63J-4-802, as enacted by Laws of Utah 2021, First Special Session, Chapter 4

63N-3-603, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

72-1-304, as last amended by Laws of Utah 2021, Chapters 239, 239, 411, and 411

72-2-124, as last amended by Laws of Utah 2021, Chapters 239, 387, and 411

ENACTS:

10-9a-403.1, Utah Code Annotated 1953

35A-8-509.5, Utah Code Annotated 1953

63L-12-101, Utah Code Annotated 1953

63N-3-113, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63L-12-102, (Renumbered from 10-8-501, as enacted by Laws of Utah 2021, Chapter 333)

Utah Code Sections Affected by Coordination Clause:

10-9a-403, as last amended by Laws of Utah 2021, First Special Session, Chapter 3

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-9a-103 is amended to read:

10-9a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or

(c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601[~~(5)~~](6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(9) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution Article I, Section 22.

(10) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(11) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(12) (a) "Development agreement" means a written agreement or amendment to a written agreement between a municipality and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(13) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.

(14) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (14)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (14)(a)(i); or

(ii) a therapeutic school.

(15) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(16) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(17) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.

(18) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(19) "Historic preservation authority" means a person, board, commission, or other body designated by a legislative body to:

(a) recommend land use regulations to preserve local historic districts or areas; and

(b) administer local historic preservation land use regulations within a local historic district or area.

(20) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.

(21) "Identical plans" means building plans submitted to a municipality that:

(a) are clearly marked as "identical plans";

(b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and

(iv) does not require any additional engineering or analysis.

(22) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(23) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(24) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the municipality's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(25) "Improvement warranty period" means a period:

(a) no later than one year after a municipality's acceptance of required landscaping; or

(b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.

(26) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:(a) is required for human occupation; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) whether the improvement is public or private, as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) development of a commercial, industrial, mixed use, condominium, or multifamily project.

(27) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(28) "Land use applicant" means a property owner, or the property owner's designee, who

submits a land use application regarding the property owner's land.

(29) "Land use application":

(a) means an application that is:

(i) required by a municipality; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(30) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(31) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(32) "Land use permit" means a permit issued by a land use authority.

(33) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(34) "Legislative body" means the municipal council.

(35) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(36) "Local historic district or area" means a geographically definable area that:

(a) contains any combination of buildings, structures, sites, objects, landscape features, archeological sites, or works of art that contribute to the historic preservation goals of a legislative body; and

(b) is subject to land use regulations to preserve the historic significance of the local historic district or area.

(37) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(38) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 10-9a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(39) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(40) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.

(41) "Municipal utility easement" means an easement that:

(a) is created or depicted on a plat recorded in a county recorder's office and is described as a municipal utility easement granted for public use;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the municipality or the municipality's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines;

(d) is used or occupied with the consent of the municipality in accordance with an authorized franchise or other agreement;

(e) (i) is used or occupied by a specified public utility in accordance with an authorized franchise or other agreement; and

(ii) is located in a utility easement granted for public use; or

(f) is described in Section 10-9a-529 and is used by a specified public utility.

(42) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(43) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.

(44) "Nonconforming use" means a use of land that:

(a) legally existed before its current land use designation;

(b) has been maintained continuously since the time the land use ordinance governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(45) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the municipality's general plan.

(46) "Parcel" means any real property that is not a lot.

(47) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 10-9a-524, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(48) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(49) "Plan for moderate income housing" means a written document adopted by a municipality's legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the municipality;

(b) an estimate of the need for moderate income housing in the municipality for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the municipality's program to encourage an adequate supply of moderate income housing.

(50) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 10-9a-603 or 57-8-13.

(51) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(52) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(53) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(54) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(55) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(56) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(57) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(58) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(59) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(60) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(61) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(62) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(63) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(64) "State" includes any department, division, or agency of the state.

(65) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (65)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 10-9a-524 if no new parcel is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 10-9a-524 and 10-9a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(v) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vi) a parcel boundary adjustment;

(vii) a lot line adjustment;

(viii) a road, street, or highway dedication plat;

(ix) a deed or easement for a road, street, or highway purpose; or

(x) any other division of land authorized by law.

(66) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 10-9a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(67) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(68) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(69) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(70) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(71) "Unincorporated" means the area outside of the incorporated area of a city or town.

(72) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(73) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 2. Section 10-9a-401 is amended to read:

10-9a-401. General plan required -- Content.

(1) In order to accomplish the purposes of this chapter, each municipality shall prepare and adopt a comprehensive, long-range general plan for:

(a) present and future needs of the municipality; and

(b) growth and development of all or any part of the land within the municipality.

(2) The general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) if the municipality is a town, the protection or promotion of moderate income housing;

(g) the protection and promotion of air quality;

(h) historic preservation;

(i) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(j) an official map.

[~~(3) (a) The general plan of a municipality, other than a town, shall plan for moderate income housing growth.~~]

[~~(b) On or before December 1, 2019, each of the following that have a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a):~~]

[~~(i) a city of the first, second, third, or fourth class;~~]

[~~(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; and~~]

[~~(iii) a metro township with a population of 5,000 or more.~~]

[~~(c) The population figures described in Subsections (3)(b)(ii) and (iii) shall be derived from:~~]

[~~(i) the most recent official census or census estimate of the United States Census Bureau; or~~]

[~~(ii) if a population figure is not available under Subsection (3)(c)(i), an estimate of the Utah Population Committee.~~]

(3) (a) The general plan of a specified municipality, as defined in Section 10-9a-408, shall include a moderate income housing element that meets the requirements of Subsection 10-9a-403(2)(a)(iii).

(b) On or before October 1, 2022, a specified municipality, as defined in Section 10-9a-408, with a general plan that does not comply with Subsection (3)(a) shall amend the general plan to comply with Subsection (3)(a).

(4) Subject to Subsection 10-9a-403(2), the municipality may determine the comprehensiveness, extent, and format of the general plan.

Section 3. Section 10-9a-403 is amended to read:

10-9a-403. General plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 10-9a-203, of [~~its~~] the planning commission's intent to make a recommendation to the municipal legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing [~~its~~] the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for the area within the municipality.

(c) The plan may include areas outside the boundaries of the municipality if, in the planning commission's judgment, those areas are related to the planning of the municipality's territory.

(d) Except as otherwise provided by law or with respect to a municipality's power of eminent domain, when the plan of a municipality involves territory outside the boundaries of the municipality, the municipality may not take action affecting that territory without the concurrence of the county or other municipalities affected.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) [~~may include~~] includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) for a municipality that has access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce;

(C) for a municipality that does not have access to a major transit investment corridor, addresses the municipality's plan for residential and commercial development in areas that will maintain and improve the connections between housing, transportation, employment, education, recreation, and commerce; and

(D) correlates with the population projections, the employment projections, and the proposed land use element of the general plan; and

[~~(iii) for a municipality described in Subsection 10-9a-401(3)(b), a plan that provides a realistic opportunity to meet the need for additional moderate income housing.~~]

(iii) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(iii) for implementation, including one additional moderate income housing strategy as provided in Subsection (2)(b)(iv) for a specified municipality that has a fixed guideway public transit station; and

(C) includes an implementation plan as provided in Subsection (2)(c).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that municipalities shall facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life;

(ii) for a town, may include, and for [~~other municipalities~~] a specified municipality as defined in Section 10-9a-408, shall include, an analysis of how the municipality will provide a realistic opportunity for the development of moderate income housing within the next five years;

(iii) for a town, may include, and for other municipalities, shall include, a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to [~~assure~~] facilitate the production of moderate income housing;

(B) [~~facilitate~~] demonstrate investment in the rehabilitation or expansion of infrastructure that [~~will encourage~~] facilitates the construction of moderate income housing;

(C) [~~facilitate~~] demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) [~~consider~~] identify and utilize general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the [~~city~~] municipality for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) [~~allow~~] zone or rezone for higher density or moderate income residential development in commercial [~~and~~] or mixed-use zones near major transit investment corridors, commercial centers, or employment centers;

(G) [~~encourage higher density or~~] amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for [~~low to~~] moderate income units in new developments;

[~~(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;~~]

[~~(L)~~] (K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

[~~(M)~~] (L) reduce, waive, or eliminate impact fees[~~, as defined in Section 11-36a-102,~~] related to [~~low and~~] moderate income housing;

[~~(N) participate in~~] (M) demonstrate creation of, or participation in, a community land trust program for [~~low or~~] moderate income housing;

[~~(O)~~] (N) implement a mortgage assistance program for employees of the municipality [~~or of~~], an employer that provides contracted services to the municipality, or any other public employer that operates within the municipality;

[~~(P)~~] (O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for affordable housing programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

[~~(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;~~]

[~~(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;~~]

[~~(S) apply for or partner with an entity that applies for programs administered by an association of governments established by an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act;~~]

[~~(T) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;~~]

[~~(U) apply for or partner with an entity that applies for programs administered by a~~

~~metropolitan planning organization or other transportation agency that provides technical planning assistance;~~]

[~~(V) utilize~~] (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency[~~; and~~] to create or subsidize moderate income housing;

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) develop and adopt a station area plan in accordance with Section 10-9a-403.1;

(W) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

[~~(W)~~] (X) demonstrate implementation of any other program or strategy [~~implemented by the municipality~~] to address the housing needs of residents of the municipality who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing; and

(iv) in addition to the recommendations required under Subsection (2)(b)(iii), for a municipality that has a fixed guideway public transit station, shall include a recommendation to implement [~~the strategies~~]:

(A) the strategy described in Subsection (2)(b)(iii)(V); and

(B) a strategy described in Subsection (2)(b)(iii)(G) [~~or~~], (H), or (Q).

(c) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for implementing each of the moderate income housing strategies selected by the municipality for implementation.

(ii) The timeline described in Subsection (2)(c)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the municipality, whether one-time or ongoing; and

(B) provide flexibility for the municipality to make adjustments as needed.

[~~(c)~~] (d) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the municipality; [~~and~~]

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture[~~.~~]; and

(iii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

[~~(d)~~] (e) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by [~~its~~] the region's metropolitan planning organization, if the municipality is within the boundaries of a metropolitan planning organization; or

[~~(ii)~~] (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the municipality is not within the boundaries of a metropolitan planning organization[~~.~~]; and

(ii) consider and coordinate with any station area plans adopted by the municipality if required under Section 10-9a-403.1.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected municipal revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 10-9a-401(2) or (3); and

(g) any other element the municipality considers appropriate.

Section 4. Section 10-9a-403.1 is enacted to read:

10-9a-403.1. Station area plan requirements -- Contents -- Review and certification by applicable metropolitan planning organization.

(1) As used in this section:

(a) "Applicable metropolitan planning organization" means the metropolitan planning organization that has jurisdiction over the area in which a fixed guideway public transit station is located.

(b) "Applicable public transit district" means the public transit district, as defined in Section 17B-2a-802, of which a fixed guideway public transit station is included.

(c) "Existing fixed guideway public transit station" means a fixed guideway public transit station for which construction begins before June 1, 2022.

(d) "Fixed guideway" means the same as that term is defined in Section 59-12-102.

(e) "Metropolitan planning organization" means an organization established under 23 U.S.C. Sec. 134.

(f) "New fixed guideway public transit station" means a fixed guideway public transit station for which construction begins on or after June 1, 2022.

(g) "Qualifying land use application" means a land use application:

(i) that involves land located within a station area for an existing public transit station that provides rail services;

(ii) that involves land located within a station area for which the municipality has not yet satisfied the requirements of Subsection (2)(a);

(iii) that proposes the development of an area greater than five contiguous acres;

(iv) that would require the municipality to amend the municipality's general plan or change a zoning designation for the land use application to be approved;

(v) that would require a higher density than the density currently allowed by the municipality;

(vi) that proposes the construction of new residential units, at least 10% of which are dedicated to moderate income housing; and

(vii) for which the land use applicant requests the municipality to initiate the process of satisfying the requirements of Subsection (2)(a) for the station area in which the development is proposed, subject to Subsection (3)(d).

(h) (i) "Station area" means:

(A) for a fixed guideway public transit station that provides rail services, the area within a one-half mile radius of the center of the fixed guideway public transit station platform; or

(B) for a fixed guideway public transit station that provides bus services only, the area within a one-fourth mile radius of the center of the fixed guideway public transit station platform.

(ii) "Station area" includes any parcel bisected by the radius limitation described in Subsection (1)(h)(i)(A) or (B).

(i) "Station area plan" means a plan that:

(i) establishes a vision, and the actions needed to implement that vision, for the development of land within a station area; and

(ii) is developed and adopted in accordance with this section.

(2) (a) Subject to the requirements of this section, a municipality that has a fixed guideway public transit station located within the municipality's boundaries shall, for the station area:

(i) develop and adopt a station area plan; and

(ii) adopt any appropriate land use regulations to implement the station area plan.

(b) The requirements of Subsection (2)(a) shall be considered satisfied if:

(i) (A) the municipality has already taken actions to satisfy the requirements of Subsection (2)(a) for a station area, including actions that involve public and stakeholder engagement processes, market assessments, the creation of a station area vision, planning and implementation activities, capital programs, the adoption of land use regulations, or other similar actions; and

(B) the municipality adopts a resolution demonstrating the requirements of Subsection (2)(a) have been satisfied; or

(ii) (A) the municipality has determined that conditions exist that make satisfying a portion or all of the requirements of Subsection (2)(a) for a station area impracticable, including conditions that relate to existing development, entitlements, land ownership, land uses that make opportunities for new development and long-term redevelopment infeasible, environmental limitations, market readiness, development impediment conditions, or other similar conditions; and

(B) the municipality adopts a resolution describing the conditions that exist to make satisfying the requirements of Subsection (2)(a) impracticable.

(c) To the extent that previous actions by a municipality do not satisfy the requirements of Subsection (2)(a) for a station area, the municipality shall take the actions necessary to satisfy those requirements.

(3) (a) A municipality that has a new fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the new fixed guideway public transit station before the new fixed guideway public transit station begins transit services.

(b) Except as provided in Subsections (3)(c) and (d), a municipality that has an existing fixed guideway public transit station located within the municipality's boundaries shall satisfy the requirements of Subsection (2)(a) for the station area surrounding the existing fixed guideway public transit station on or before December 31, 2025.

(c) If a municipality has more than four existing fixed guideway public transit stations located within the municipality's boundaries, the municipality shall:

(i) on or before December 31, 2025, satisfy the requirements of Subsection (2)(a) for four or more station areas located within the municipality; and

(ii) on or before December 31 of each year thereafter, satisfy the requirements of Subsection (2)(a) for no less than two station areas located within the municipality until the municipality has satisfied the requirements of Subsection (2)(a) for each station area located within the municipality.

(d) (i) Subject to Subsection (3)(d)(ii):

(A) if a municipality receives a complete qualifying land use application on or before July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed on or before July 1, 2023; and

(B) if a municipality receives a complete qualifying land use application after July 1, 2022, the municipality shall satisfy the requirements of Subsection (2)(a) for the station area in which the development is proposed within a 12-month period beginning on the first day of the month immediately following the month in which the qualifying land use application is submitted to the municipality.

(ii) (A) A municipality is not required to satisfy the requirements of Subsection (2)(a) for more than two station areas under Subsection (3)(d)(i) within any 12-month period.

(B) If a municipality receives more than two complete qualifying land use applications on or before July 1, 2022, the municipality shall select two station areas for which the municipality will satisfy the requirements of Subsection (2)(a) in accordance with Subsection (3)(d)(i)(A).

(iii) A municipality shall process on a first priority basis a land use application, including an application for a building permit, if:

(A) the land use application is for a residential use within a station area for which the municipality has not satisfied the requirements of Subsection (2)(a); and

(B) the municipality would be required to change a zoning designation for the land use application to be approved.

(e) Notwithstanding Subsections (3)(a) through (d), the time period for satisfying the requirements of Subsection (2)(a) for a station area may be extended once for a period of 12 months if:

(i) the municipality demonstrates to the applicable metropolitan planning organization that conditions exist that make satisfying the requirements of Subsection (2)(a) within the required time period infeasible, despite the municipality's good faith efforts; and

(ii) the applicable metropolitan planning organization certifies to the municipality in writing that the municipality satisfied the demonstration in Subsection (3)(e)(i).

(4) (a) Except as provided in Subsection (4)(b), if a station area is included within the boundaries of more than one municipality, each municipality with jurisdiction over the station area shall satisfy the requirements of Subsection (2)(a) for the portion of the station area over which the municipality has jurisdiction.

(b) Two or more municipalities with jurisdiction over a station area may coordinate to develop a shared station area plan for the entire station area.

(5) A municipality that has more than one fixed guideway public transit station located within the municipality may, through an integrated process, develop station area plans for multiple station areas if the station areas are within close proximity of each other.

(6) (a) A municipality that is required to develop and adopt a station area plan under this section may request technical assistance from the applicable metropolitan planning organization.

(b) An applicable metropolitan planning organization that receives funds from the Governor's Office of Economic Opportunity under Section 63N-3-113 shall, when utilizing the funds, give priority consideration to requests for technical assistance for station area plans required under Subsection (3)(d).

(7) (a) A station area plan shall promote the following objectives within the station area:

(i) increasing the availability and affordability of housing, including moderate income housing;

(ii) promoting sustainable environmental conditions;

(iii) enhancing access to opportunities; and

(iv) increasing transportation choices and connections.

(b) (i) To promote the objective described in Subsection (7)(a)(i), a municipality may consider implementing the following actions:

(A) aligning the station area plan with the moderate income housing element of the municipality's general plan;

(B) providing for densities necessary to facilitate the development of moderate income housing;

(C) providing for affordable costs of living in connection with housing, transportation, and parking; or

(D) any other similar action that promotes the objective described in Subsection (7)(a)(i).

(ii) To promote the objective described in Subsection (7)(a)(ii), a municipality may consider implementing the following actions:

(A) conserving water resources through efficient land use;

(B) improving air quality by reducing fuel consumption and motor vehicle trips;

(C) establishing parks, open spaces, and recreational opportunities; or

(D) any other similar action that promotes the objective described in Subsection (7)(a)(ii).

(iii) To promote the objective described in Subsection (7)(a)(iii), a municipality may consider the following actions:

(A) maintaining and improving the connections between housing, transit, employment, education, recreation, and commerce;

(B) encouraging mixed-use development;

(C) enabling employment and educational opportunities within the station area;

(D) encouraging and promoting enhanced broadband connectivity; or

(E) any other similar action that promotes the objective described in Subsection (7)(a)(iii).

(iv) To promote the objective described in Subsection (7)(a)(iv), a municipality may consider the following:

(A) supporting investment in infrastructure for all modes of transportation;

(B) increasing utilization of public transit;

(C) encouraging safe streets through the designation of pedestrian walkways and bicycle lanes;

(D) encouraging manageable and reliable traffic conditions;

(E) aligning the station area plan with the regional transportation plan of the applicable metropolitan planning organization; or

(F) any other similar action that promotes the objective described in Subsection (7)(a)(iv).

(8) A station area plan shall include the following components:

(a) a station area vision that:

(i) is consistent with Subsection (7); and

(ii) describes the following:

(A) opportunities for the development of land within the station area under existing conditions;

(B) constraints on the development of land within the station area under existing conditions;

(C) the municipality's objectives for the transportation system within the station area and the future transportation system that meets those objectives;

(D) the municipality's objectives for land uses within the station area and the future land uses that meet those objectives;

(E) the municipality's objectives for public and open spaces within the station area and the future public and open spaces that meet those objectives; and

(F) the municipality's objectives for the development of land within the station area and the future development standards that meet those objectives;

(b) a map that depicts:

(i) the area within the municipality that is subject to the station area plan, provided that the station area plan may apply to areas outside of the station area; and

(ii) the area where each action is needed to implement the station area plan;

(c) an implementation plan that identifies and describes each action needed within the next five years to implement the station area plan, and the party responsible for taking each action, including any actions to:

(i) modify land use regulations;

(ii) make infrastructure improvements;

(iii) modify deeds or other relevant legal documents;

(iv) secure funding or develop funding strategies;

(v) establish design standards for development within the station area; or

(vi) provide environmental remediation;

(d) a statement that explains how the station area plan promotes the objectives described in Subsection (7)(a); and

(e) as an alternative or supplement to the requirements of Subsection (7) or (8), and for purposes of Subsection (2)(b)(ii), a statement that describes any conditions that would make the following impracticable:

(i) promoting the objectives described in Subsection (7)(a); or

(ii) satisfying the requirements of Subsection (8).

(9) A municipality shall develop a station area plan with the involvement of all relevant stakeholders that have an interest in the station area through public outreach and community engagement, including:

(a) other impacted communities;

(b) the applicable public transit district;

(c) the applicable metropolitan planning organization;

(d) the Department of Transportation;

(e) owners of property within the station area; and

(f) the municipality's residents and business owners.

(10) (a) A municipality that is required to develop and adopt a station area plan for a station area under this section shall submit to the applicable metropolitan planning organization and the applicable public transit district documentation evidencing that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area, including:

(i) a station area plan; or

(ii) a resolution adopted under Subsection (2)(b)(i) or (ii).

(b) The applicable metropolitan planning organization, in consultation with the applicable public transit district, shall:

(i) review the documentation submitted under Subsection (10)(a) to determine the municipality's compliance with this section; and

(ii) provide written certification to the municipality if the applicable metropolitan planning organization determines that the municipality has satisfied the requirement of Subsection (2)(a)(i) for the station area.

(c) The municipality shall include the certification described in Subsection (10)(b)(ii) in the municipality's report to the Department of Workforce Services under Section 10-9a-408.

Section 5. Section 10-9a-404 is amended to read:

10-9a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 10-9a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) The legislative body may adopt, reject, or make any revisions to the proposed general plan or amendment that it considers appropriate.

(b) If the municipal legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(4) The legislative body shall adopt:

(a) a land use element as provided in Subsection 10-9a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 10-9a-403(2)(a)(ii); and

[~~(c) for a municipality, other than a town, after considering the factors included in Subsection 10-9a-403(2)(b)(iii), a plan to provide a realistic opportunity to meet the need for additional moderate income housing within the next five years.~~]

(c) for a specified municipality as defined in Section 10-9a-408, a moderate income housing element as provided in Subsection 10-9a-403(2)(a)(iii).

Section 6. Section 10-9a-408 is amended to read:

10-9a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

[~~(1) The legislative body of a municipality described in Subsection 10-9a-401(3)(b) shall annually:~~]

[~~(a) review the moderate income housing plan element of the municipality's general plan and implementation of that element of the general plan;~~]

[~~(b) prepare a report on the findings of the review described in Subsection (1)(a); and~~]

[~~(c) post the report described in Subsection (1)(b) on the municipality's website.~~]

[~~(2) The report described in Subsection (1) shall include:~~]

[~~(a) a revised estimate of the need for moderate income housing in the municipality for the next five years;~~]

[~~(b) a description of progress made within the municipality to provide moderate income housing, demonstrated by analyzing and publishing data on the number of housing units in the municipality that are at or below:~~]

[~~(i) 80% of the adjusted median family income;~~]

[~~(ii) 50% of the adjusted median family income; and~~]

[~~(iii) 30% of the adjusted median family income;~~]

[~~(c) a description of any efforts made by the municipality to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency; and~~]

[~~(d) a description of how the municipality has implemented any of the recommendations related to moderate income housing described in Subsection 10-9a-403(2)(b)(iii).~~]

[~~(3) The legislative body of each municipality described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the municipality is located, and, if located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.~~]

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified municipality's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 10-9a-403 (2)(b)(iii).

(e) "Specified municipality" means:

(i) a city of the first, second, third, or fourth class;

(ii) a city of the fifth class with a population of 5,000 or more, if the city is located within a county of the first, second, or third class; or

(iii) a metro township with a population of 5,000 or more.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified municipality shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified municipality for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified municipality during the previous fiscal year to implement the moderate income housing strategies selected by the specified municipality for implementation;

(iii) a description of each land use regulation or land use decision made by the specified municipality during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified municipality's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified municipality in the previous fiscal year in implementing the moderate income housing strategies;

(v) information regarding the number of internal and external or detached accessory dwelling units located within the specified municipality for which the specified municipality:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified municipality in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified municipality's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified municipality is located, and, if the specified municipality is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) subject to Subsection 10-9a-403(2)(b)(iv), five or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) three or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) four or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified municipality's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified municipality's implementation plan;

(C) identify a clear correlation between the specified municipality's land use regulations and land use decisions and the specified municipality's efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified municipality's selected moderate income housing strategies.

(5) (a) A specified municipality qualifies for priority consideration under this Subsection (5) if the specified municipality's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified municipality made plans to implement:

(A) five or more moderate income housing strategies if the specified municipality does not have a fixed guideway public transit station; or

(B) six or more moderate income housing strategies if the specified municipality has a fixed guideway public transit station.

(b) The following apply to a specified municipality described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the boundaries of the specified municipality in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified municipality qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified municipality that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified municipality qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified municipality qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified municipality qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified municipality's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified municipality.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified municipality has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).

(7) (a) A specified municipality is ineligible for funds under this Subsection (7) if the specified municipality:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified municipality's moderate income housing report within 90 days after the day on which the division sent to the specified municipality a notice of noncompliance under Subsection (6).

(b) The following apply to a specified municipality described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the boundaries of the specified municipality in accordance with Subsection 72-2-124(5); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified municipality under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified municipality is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified municipality, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified municipality that is ineligible for funds;

(ii) describe the funds for which the specified municipality is ineligible to receive;

(iii) specify the fiscal year during which the specified municipality is ineligible for funds; and

(iv) state the basis for the division's determination that the specified municipality is ineligible for funds.

[~~(4)~~] (8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 10-9a-404(4)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 7. Section 10-9a-509 is amended to read:

10-9a-509. Applicant's entitlement to land use application approval -- Municipality's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application as described in Subsection (1)(c), including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the municipality formally initiates proceedings to amend the municipality's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The municipality shall process an application without regard to proceedings the municipality initiated to amend the municipality's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the municipality initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) A subsequent incorporation of a municipality or a petition that proposes the incorporation of a municipality does not affect a land use application approved by a county in accordance with Section 17-27a-508.

(e) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(f) A municipality may not impose on an applicant who has submitted a complete application a requirement that is not expressed in:

(i) this chapter;

(ii) a municipal ordinance; or

(iii) a municipal specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(g) A municipality may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a municipal ordinance.

(h) Except as provided in Subsection (1)(i), a municipality may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the land use permit or subdivision plat; or

(ii) in this chapter or the municipality's ordinances.

(i) A municipality may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the municipality have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A municipality is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A municipality may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a municipality may not impose on a building permit applicant for a single-family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

(5) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 10-9a-305(8) that complies with the requirements of that subsection, the specified public agency vests in the municipality's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(6) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A-7-601[~~(5)~~](6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A-7-101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A-7-607(4).

(b) Upon delivery of a written notice described in Subsection (6)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 8. Section 11-36a-202 is amended to read:

11-36a-202. Prohibitions on impact fees.

(1) A local political subdivision or private entity may not:

(a) impose an impact fee to:

(i) cure deficiencies in a public facility serving existing development;

(ii) raise the established level of service of a public facility serving existing development; or

(iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement;

(b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or

(c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.

(2) (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:

(i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;

(ii) on a school district or charter school for a park, recreation facility, open space, or trail;

(iii) on a school district or charter school unless:

(A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and

(B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;

(iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:

(A) the Utah National Guard;

(B) the Utah Highway Patrol; or

(C) a state institution of higher education that has its own police force; [~~or~~]

(v) on development activity on the state fair park, as defined in Section 63H-6-102[~~.~~]; or

(vi) on development activity that consists of the construction of an internal accessory dwelling unit, as defined in Section 10-9a-530, within an existing primary dwelling.

(b) (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:

(A) the school is intended to replace another school, whether on the same or a different parcel;

(B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and

(C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.

(ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)(i) because the new school creates a greater demand or need for public facilities than the school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

(c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:

(i) the state's development causes an impact on the road facility; and

(ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.

(3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 11-36a-206.

Section 9. Section 11-59-203 is amended to read:

11-59-203. Authority duties and responsibilities.

(1) As the authority plans, manages, and implements the development of the point of the mountain state land, the authority shall pursue development strategies and objectives designed to:

(a) maximize the creation of high-quality jobs and encourage and facilitate a highly trained workforce;

(b) ensure strategic residential and commercial growth;

(c) promote a high quality of life for residents on and surrounding the point of the mountain state land, including strategic planning to facilitate:

(i) jobs close to where people live;

(ii) vibrant urban centers;

(iii) housing types that incorporate affordability factors and match workforce needs;

(iv) parks, connected trails, and open space, including the preservation of natural lands to the extent practicable and consistent with the overall development plan; and

(v) preserving and enhancing recreational opportunities;

(d) complement the development on land in the vicinity of the point of the mountain state land;

(e) improve air quality and minimize resource use; and

(f) accommodate and incorporate the planning, funding, and development of an enhanced and expanded future transit and transportation infrastructure and other investments, including:

(i) the acquisition of rights-of-way and property necessary to ensure transit access to the point of the mountain state land; and

(ii) a world class mass transit infrastructure, to service the point of the mountain state land and to enhance mobility and protect the environment.

(2) In planning the development of the point of the mountain state land, the authority shall:

(a) consult with applicable governmental planning agencies, including:

(i) relevant metropolitan planning organizations; [~~and~~]

(ii) Draper City and Salt Lake County planning and governing bodies; and

(iii) in regards to the factors described in Subsections (1)(c)(i) and (iii), the Unified Economic Opportunity Commission created in Section 63N-1a-201;

(b) research and explore the feasibility of attracting a nationally recognized research center; and

(c) research and explore the appropriateness of including labor training centers and a higher education presence on the point of the mountain state land.

Section 10. Section 17-27a-103 is amended to read:

17-27a-103. Definitions.

As used in this chapter:

(1) "Accessory dwelling unit" means a habitable living unit added to, created within, or detached from a primary single-family dwelling and contained on one lot.

(2) "Adversely affected party" means a person other than a land use applicant who:

(a) owns real property adjoining the property that is the subject of a land use application or land use decision; or

(b) will suffer a damage different in kind than, or an injury distinct from, that of the general community as a result of the land use decision.

(3) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified property owner, property owner's association, public utility, or the Utah Department of Transportation, if:

(a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;

(b) the entity has filed with the county a copy of the entity's general or long-range plan; or

(c) the entity has filed with the county a request for notice during the same calendar year and before the county provides notice to an affected entity in compliance with a requirement imposed under this chapter.

(4) "Affected owner" means the owner of real property that is:

(a) a single project;

(b) the subject of a land use approval that sponsors of a referendum timely challenged in accordance with Subsection 20A-7-601[~~(5)~~](6); and

(c) determined to be legally referable under Section 20A-7-602.8.

(5) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.

(6) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.

(7) (a) "Charter school" means:

(i) an operating charter school;

(ii) a charter school applicant that a charter school authorizer approves in accordance with Title 53G, Chapter 5, Part 3, Charter School Authorization; or

(iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.

(b) "Charter school" does not include a therapeutic school.

(8) "Chief executive officer" means the person or body that exercises the executive powers of the county.

(9) "Conditional use" means a land use that, because of the unique characteristics or potential impact of the land use on the county, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.

(10) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:

(a) Fifth or Fourteenth Amendment of the Constitution of the United States; or

(b) Utah Constitution, Article I, Section 22.

(11) "County utility easement" means an easement that:

(a) a plat recorded in a county recorder's office described as a county utility easement or otherwise as a utility easement;

(b) is not a protected utility easement or a public utility easement as defined in Section 54-3-27;

(c) the county or the county's affiliated governmental entity owns or creates; and

(d) (i) either:

(A) no person uses or occupies; or

(B) the county or the county's affiliated governmental entity uses and occupies to provide a utility service, including sanitary sewer, culinary water, electrical, storm water, or communications or data lines; or

(ii) a person uses or occupies with or without an authorized franchise or other agreement with the county.

(12) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.

(13) "Development activity" means:

(a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;

(b) any change in use of a building or structure that creates additional demand and need for public facilities; or

(c) any change in the use of land that creates additional demand and need for public facilities.

(14) (a) "Development agreement" means a written agreement or amendment to a written agreement between a county and one or more parties that regulates or controls the use or development of a specific area of land.

(b) "Development agreement" does not include an improvement completion assurance.

(15) (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

(b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. Sec. 802.

(16) "Educational facility":

(a) means:

(i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;

(ii) a structure or facility:

(A) located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the use of that building; and

(iii) a building to provide office and related space to a school district's administrative personnel; and

(b) does not include:

(i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:

(A) not located on the same property as a building described in Subsection (16)(a)(i); and

(B) used in support of the purposes of a building described in Subsection (16)(a)(i); or

(ii) a therapeutic school.

(17) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.

(18) "Flood plain" means land that:

(a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or

(b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.

(19) "Gas corporation" has the same meaning as defined in Section 54-2-1.

(20) "General plan" means a document that a county adopts that sets forth general guidelines for proposed future development of:

(a) the unincorporated land within the county; or

(b) for a mountainous planning district, the land within the mountainous planning district.

(21) "Geologic hazard" means:

(a) a surface fault rupture;

(b) shallow groundwater;

(c) liquefaction;

(d) a landslide;

(e) a debris flow;

(f) unstable soil;

(g) a rock fall; or

(h) any other geologic condition that presents a risk:

(i) to life;

(ii) of substantial loss of real property; or

(iii) of substantial damage to real property.

(22) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance to connect to a county water, sewer, storm water, power, or other utility system.

(23) "Identical plans" means building plans submitted to a county that:

(a) are clearly marked as "identical plans";

(b) are substantially identical building plans that were previously submitted to and reviewed and approved by the county; and

(c) describe a building that:

(i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;

(ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;

(iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the county; and

(iv) does not require any additional engineering or analysis.

(24) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.

(25) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a county to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:

(a) recording a subdivision plat; or

(b) development of a commercial, industrial, mixed use, or multifamily project.

(26) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:

(a) complies with the county's written standards for design, materials, and workmanship; and

(b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.

(27) "Improvement warranty period" means a period:

(a) no later than one year after a county's acceptance of required landscaping; or

(b) no later than one year after a county's acceptance of required infrastructure, unless the county:

(i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and

(ii) has substantial evidence, on record:

(A) of prior poor performance by the applicant; or

(B) that the area upon which the infrastructure will be constructed contains suspect soil and the county has not otherwise required the applicant to mitigate the suspect soil.

(28) "Infrastructure improvement" means permanent infrastructure that is essential for the public health and safety or that:

(a) is required for human consumption; and

(b) an applicant must install:

(i) in accordance with published installation and inspection specifications for public improvements; and

(ii) as a condition of:

(A) recording a subdivision plat;

(B) obtaining a building permit; or

(C) developing a commercial, industrial, mixed use, condominium, or multifamily project.

(29) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:

(a) runs with the land; and

(b) (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or

(ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.

(30) "Interstate pipeline company" means a person or entity engaged in natural gas transportation subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(31) "Intrastate pipeline company" means a person or entity engaged in natural gas transportation that is not subject to the jurisdiction of the Federal Energy Regulatory Commission under the Natural Gas Act, 15 U.S.C. Sec. 717 et seq.

(32) "Land use applicant" means a property owner, or the property owner's designee, who submits a land use application regarding the property owner's land.

(33) "Land use application":

(a) means an application that is:

(i) required by a county; and

(ii) submitted by a land use applicant to obtain a land use decision; and

(b) does not mean an application to enact, amend, or repeal a land use regulation.

(34) "Land use authority" means:

(a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

(b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.

(35) "Land use decision" means an administrative decision of a land use authority or appeal authority regarding:

(a) a land use permit;

(b) a land use application; or

(c) the enforcement of a land use regulation, land use permit, or development agreement.

(36) "Land use permit" means a permit issued by a land use authority.

(37) "Land use regulation":

(a) means a legislative decision enacted by ordinance, law, code, map, resolution, specification, fee, or rule that governs the use or development of land;

(b) includes the adoption or amendment of a zoning map or the text of the zoning code; and

(c) does not include:

(i) a land use decision of the legislative body acting as the land use authority, even if the decision is expressed in a resolution or ordinance; or

(ii) a temporary revision to an engineering specification that does not materially:

(A) increase a land use applicant's cost of development compared to the existing specification; or

(B) impact a land use applicant's use of land.

(38) "Legislative body" means the county legislative body, or for a county that has adopted an

alternative form of government, the body exercising legislative powers.

(39) "Local district" means any entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.

(40) "Lot" means a tract of land, regardless of any label, that is created by and shown on a subdivision plat that has been recorded in the office of the county recorder.

(41) (a) "Lot line adjustment" means a relocation of a lot line boundary between adjoining lots or between a lot and adjoining parcels in accordance with Section 17-27a-608:

(i) whether or not the lots are located in the same subdivision; and

(ii) with the consent of the owners of record.

(b) "Lot line adjustment" does not mean a new boundary line that:

(i) creates an additional lot; or

(ii) constitutes a subdivision.

(c) "Lot line adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(42) "Major transit investment corridor" means public transit service that uses or occupies:

(a) public transit rail right-of-way;

(b) dedicated road right-of-way for the use of public transit, such as bus rapid transit; or

(c) fixed-route bus corridors subject to an interlocal agreement or contract between a municipality or county and:

(i) a public transit district as defined in Section 17B-2a-802; or

(ii) an eligible political subdivision as defined in Section 59-12-2219.

(43) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(44) "Mountainous planning district" means an area designated by a county legislative body in accordance with Section 17-27a-901.

(45) "Nominal fee" means a fee that reasonably reimburses a county only for time spent and expenses incurred in:

(a) verifying that building plans are identical plans; and

(b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.

(46) "Noncomplying structure" means a structure that:

(a) legally existed before the structure's current land use designation; and

(b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations that govern the use of land.

(47) "Nonconforming use" means a use of land that:

(a) legally existed before the current land use designation;

(b) has been maintained continuously since the time the land use ordinance regulation governing the land changed; and

(c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.

(48) "Official map" means a map drawn by county authorities and recorded in the county recorder's office that:

(a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;

(b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and

(c) has been adopted as an element of the county's general plan.

(49) "Parcel" means any real property that is not a lot.

(50) (a) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining parcels adjusting the mutual boundary, either by deed or by a boundary line agreement in accordance with Section 17-27a-523, if no additional parcel is created and:

(i) none of the property identified in the agreement is a lot; or

(ii) the adjustment is to the boundaries of a single person's parcels.

(b) "Parcel boundary adjustment" does not mean an adjustment of a parcel boundary line that:

(i) creates an additional parcel; or

(ii) constitutes a subdivision.

(c) "Parcel boundary adjustment" does not include a boundary line adjustment made by the Department of Transportation.

(51) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.

(52) "Plan for moderate income housing" means a written document adopted by a county legislative body that includes:

(a) an estimate of the existing supply of moderate income housing located within the county;

(b) an estimate of the need for moderate income housing in the county for the next five years;

(c) a survey of total residential land use;

(d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and

(e) a description of the county's program to encourage an adequate supply of moderate income housing.

(53) "Planning advisory area" means a contiguous, geographically defined portion of the unincorporated area of a county established under this part with planning and zoning functions as exercised through the planning advisory area planning commission, as provided in this chapter, but with no legal or political identity separate from the county and no taxing authority.

(54) "Plat" means an instrument subdividing property into lots as depicted on a map or other graphical representation of lands that a licensed professional land surveyor makes and prepares in accordance with Section 17-27a-603 or 57-8-13.

(55) "Potential geologic hazard area" means an area that:

(a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or

(b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.

(56) "Public agency" means:

(a) the federal government;

(b) the state;

(c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or

(d) a charter school.

(57) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(58) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.

(59) "Public street" means a public right-of-way, including a public highway, public avenue, public boulevard, public parkway, public road, public lane, public alley, public viaduct, public subway, public tunnel, public bridge, public byway, other public transportation easement, or other public way.

(60) "Receiving zone" means an unincorporated area of a county that the county designates, by ordinance, as an area in which an owner of land may receive a transferable development right.

(61) "Record of survey map" means a map of a survey of land prepared in accordance with Section 10-9a-603, 17-23-17, 17-27a-603, or 57-8-13.

(62) "Residential facility for persons with a disability" means a residence:

(a) in which more than one person with a disability resides; and

(b) (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or

(ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(63) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:

(a) parliamentary order and procedure;

(b) ethical behavior; and

(c) civil discourse.

(64) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.

(65) "Sending zone" means an unincorporated area of a county that the county designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.

(66) "Site plan" means a document or map that may be required by a county during a preliminary review preceding the issuance of a building permit to demonstrate that an owner's or developer's proposed development activity meets a land use requirement.

(67) "Specified public agency" means:

(a) the state;

(b) a school district; or

(c) a charter school.

(68) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.

(69) "State" includes any department, division, or agency of the state.

(70) (a) "Subdivision" means any land that is divided, resubdivided, or proposed to be divided into two or more lots or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.

(b) "Subdivision" includes:

(i) the division or development of land, whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument, regardless of whether the division includes all or a portion of a parcel or lot; and

(ii) except as provided in Subsection (70)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.

(c) "Subdivision" does not include:

(i) a bona fide division or partition of agricultural land for agricultural purposes;

(ii) a boundary line agreement recorded with the county recorder's office between owners of adjoining parcels adjusting the mutual boundary in accordance with Section 17-27a-523 if no new lot is created;

(iii) a recorded document, executed by the owner of record:

(A) revising the legal descriptions of multiple parcels into one legal description encompassing all such parcels; or

(B) joining a lot to a parcel;

(iv) a bona fide division or partition of land in a county other than a first class county for the purpose of siting, on one or more of the resulting separate parcels:

(A) an electrical transmission line or a substation;

(B) a natural gas pipeline or a regulation station; or

(C) an unmanned telecommunications, microwave, fiber optic, electrical, or other utility service regeneration, transformation, retransmission, or amplification facility;

(v) a boundary line agreement between owners of adjoining subdivided properties adjusting the mutual lot line boundary in accordance with Sections 17-27a-523 and 17-27a-608 if:

(A) no new dwelling lot or housing unit will result from the adjustment; and

(B) the adjustment will not violate any applicable land use ordinance;

(vi) a bona fide division of land by deed or other instrument if the deed or other instrument states in writing that the division:

(A) is in anticipation of future land use approvals on the parcel or parcels;

(B) does not confer any land use approvals; and

(C) has not been approved by the land use authority;

(vii) a parcel boundary adjustment;

(viii) a lot line adjustment;

(ix) a road, street, or highway dedication plat;

(x) a deed or easement for a road, street, or highway purpose; or

(xi) any other division of land authorized by law.

(71) "Subdivision amendment" means an amendment to a recorded subdivision in accordance with Section 17-27a-608 that:

(a) vacates all or a portion of the subdivision;

(b) alters the outside boundary of the subdivision;

(c) changes the number of lots within the subdivision;

(d) alters a public right-of-way, a public easement, or public infrastructure within the subdivision; or

(e) alters a common area or other common amenity within the subdivision.

(72) "Substantial evidence" means evidence that:

(a) is beyond a scintilla; and

(b) a reasonable mind would accept as adequate to support a conclusion.

(73) "Suspect soil" means soil that has:

(a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;

(b) bedrock units with high shrink or swell susceptibility; or

(c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.

(74) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals who are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.

(75) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.

(76) "Unincorporated" means the area outside of the incorporated area of a municipality.

(77) "Water interest" means any right to the beneficial use of water, including:

(a) each of the rights listed in Section 73-1-11; and

(b) an ownership interest in the right to the beneficial use of water represented by:

(i) a contract; or

(ii) a share in a water company, as defined in Section 73-3-3.5.

(78) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Section 11. Section 17-27a-401 is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, each county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by each affected entity; and

(i) an official map.

[~~(3) (a) The general plan shall:~~]

[~~(i) allow and plan for moderate income housing growth; and~~]

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

[~~(ii) contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.~~]

[~~(b)~~] (ii) On or before [~~December 1, 2019, a~~] October 1, 2022, a specified county, as defined in Section 17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection [~~(3)(a)(ii)~~] (3)(b) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

(xii) flood plains and river terraces;

(xiii) wetlands;

(xiv) riparian areas;

(xv) predator control;

(xvi) wildlife;

(xvii) fisheries;

(xviii) recreation and tourism;

(xix) energy resources;

(xx) mineral resources;

(xxi) cultural, historical, geological, and paleontological resources;

(xxii) wilderness;

(xxiii) wild and scenic rivers;

(xxiv) threatened, endangered, and sensitive species;

(xxv) land access;

(xxvi) law enforcement;

(xxvii) economic considerations; and

(xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

(i) establish findings pertaining to the item;

(ii) establish defined objectives; and

(iii) outline general policies and guidelines on how the objectives described in Subsection (3)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to any areas within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

[~~(i)~~] (A) the information identified in Section 19-3-305;

[~~(ii)~~] (B) information supported by credible studies that demonstrates that the provisions of Subsection 19-3-307(2) have been satisfied; and

[~~(iii)~~] (C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under Title 23, Wildlife Resources Code of Utah.

Section 12. Section 17-27a-403 is amended to read:

17-27a-403. Plan preparation.

(1) (a) The planning commission shall provide notice, as provided in Section 17-27a-203, of [~~its~~] the planning commission's intent to make a recommendation to the county legislative body for a general plan or a comprehensive general plan amendment when the planning commission initiates the process of preparing [~~its~~] the planning commission's recommendation.

(b) The planning commission shall make and recommend to the legislative body a proposed general plan for:

(i) the unincorporated area within the county; or

(ii) if the planning commission is a planning commission for a mountainous planning district, the mountainous planning district.

(c) (i) The plan may include planning for incorporated areas if, in the planning commission's judgment, they are related to the planning of the unincorporated territory or of the county as a whole.

(ii) Elements of the county plan that address incorporated areas are not an official plan or part of a municipal plan for any municipality, unless the county plan is recommended by the municipal planning commission and adopted by the governing body of the municipality.

(2) (a) At a minimum, the proposed general plan, with the accompanying maps, charts, and descriptive and explanatory matter, shall include the planning commission's recommendations for the following plan elements:

(i) a land use element that:

(A) designates the long-term goals and the proposed extent, general distribution, and location of land for housing for residents of various income levels, business, industry, agriculture, recreation, education, public buildings and grounds, open space, and other categories of public and private uses of land as appropriate; and

(B) [~~may include~~] includes a statement of the projections for and standards of population density and building intensity recommended for the various land use categories covered by the plan;

(ii) a transportation and traffic circulation element that:

(A) provides the general location and extent of existing and proposed freeways, arterial and collector streets, public transit, active transportation facilities, and other modes of transportation that the planning commission considers appropriate;

(B) addresses the county's plan for residential and commercial development around major transit investment corridors to maintain and improve the connections between housing, employment, education, recreation, and commerce; and

(C) correlates with the population projections, the employment projections, and the proposed land use element of the general plan;

[~~(iii) a plan for the development of additional moderate income housing within the unincorporated area of the county or the mountainous planning district, and a plan to provide a realistic opportunity to meet the need for additional moderate income housing; and~~]

(iii) for a specified county as defined in Section 17-27a-408, a moderate income housing element that:

(A) provides a realistic opportunity to meet the need for additional moderate income housing within the next five years;

(B) selects three or more moderate income housing strategies described in Subsection (2)(b)(ii) for implementation; and

(C) includes an implementation plan as provided in Subsection (2)(e); and

(iv) [~~before May 1, 2017,~~] a resource management plan detailing the findings, objectives, and policies required by Subsection 17-27a-401(3).

(b) In drafting the moderate income housing element, the planning commission:

(i) shall consider the Legislature's determination that counties should facilitate a reasonable opportunity for a variety of housing, including moderate income housing:

(A) to meet the needs of people of various income levels living, working, or desiring to live or work in the community; and

(B) to allow people with various incomes to benefit from and fully participate in all aspects of neighborhood and community life; and

(ii) shall include an analysis of how the county will provide a realistic opportunity for the development of moderate income housing within the planning horizon, [~~which may include~~] including a recommendation to implement three or more of the following moderate income housing strategies:

(A) rezone for densities necessary to [~~assure~~] facilitate the production of moderate income housing;

(B) [~~facilitate~~] demonstrate investment in the rehabilitation or expansion of infrastructure that [~~will encourage~~] facilitates the construction of moderate income housing;

(C) [~~facilitate~~] demonstrate investment in the rehabilitation of existing uninhabitable housing stock into moderate income housing;

(D) [~~consider~~] identify and utilize county general fund subsidies or other sources of revenue to waive construction related fees that are otherwise generally imposed by the county for the construction or rehabilitation of moderate income housing;

(E) create or allow for, and reduce regulations related to, internal or detached accessory dwelling units in residential zones;

(F) [~~allow~~] zone or rezone for higher density or moderate income residential development in commercial [~~and~~] or mixed-use zones, commercial centers, or employment centers;

(G) [~~encourage~~] amend land use regulations to allow for higher density or new moderate income residential development in commercial or mixed-use zones near major transit investment corridors;

(H) amend land use regulations to eliminate or reduce parking requirements for residential development where a resident is less likely to rely on the resident's own vehicle, such as residential development near major transit investment corridors or senior living facilities;

(I) amend land use regulations to allow for single room occupancy developments;

(J) implement zoning incentives for [~~low to~~] moderate income units in new developments;

[~~(K) utilize strategies that preserve subsidized low to moderate income units on a long-term basis;~~]

[~~(L)~~] (K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or establishing a housing loss mitigation fund;

[~~(M)~~] (L) reduce, waive, or eliminate impact fees[~~, as defined in Section 11-36a-102,~~] related to [~~low and~~] moderate income housing;

[~~(N) participate in~~] (M) demonstrate creation of, or participation in, a community land trust program for [~~low or~~] moderate income housing;

[~~(O)~~] (N) implement a mortgage assistance program for employees of the county [~~or of~~], an employer that provides contracted services for the county, or any other public employer that operates within the county;

[~~(P)~~] (O) apply for or partner with an entity that applies for state or federal funds or tax incentives to promote the construction of moderate income housing, an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity, an entity that applies for affordable housing programs administered by the Department of Workforce Services, an entity that applies for services provided by a public housing authority to preserve and create moderate income housing, or any other entity that applies for programs or services that promote the construction or preservation of moderate income housing;

[~~(Q) apply for or partner with an entity that applies for programs offered by the Utah Housing Corporation within that agency's funding capacity;~~]

[~~(R) apply for or partner with an entity that applies for affordable housing programs administered by the Department of Workforce Services;~~]

[~~(S) apply for or partner with an entity that applies for services provided by a public housing authority to preserve and create moderate income housing;~~]

[~~(T) apply for or partner with an entity that applies for programs administered by a metropolitan planning organization or other transportation agency that provides technical planning assistance;~~]

[~~(U) utilize~~] (P) demonstrate utilization of a moderate income housing set aside from a community reinvestment agency, redevelopment agency, or community development and renewal agency to create or subsidize moderate income housing; [~~and~~]

(Q) create a housing and transit reinvestment zone pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act;

(R) eliminate impact fees for any accessory dwelling unit that is not an internal accessory dwelling unit as defined in Section 10-9a-530;

(S) create a program to transfer development rights for moderate income housing;

(T) ratify a joint acquisition agreement with another local political subdivision for the purpose of combining resources to acquire property for moderate income housing;

(U) develop a moderate income housing project for residents who are disabled or 55 years old or older;

(V) create or allow for, and reduce regulations related to, multifamily residential dwellings compatible in scale and form with detached single-family residential dwellings and located in walkable communities within residential or mixed-use zones; and

[~~(V) consider~~] (W) demonstrate implementation of any other program or strategy [~~implemented by the county~~] to address the housing needs of residents of the county who earn less than 80% of the area median income, including the dedication of a local funding source to moderate income housing or the adoption of a land use ordinance that requires 10% or more of new residential development in a residential zone be dedicated to moderate income housing.

(iii) If a specified county, as defined in Section 17-27a-408, has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022, the specified county shall include as part of the specified county's recommended strategies under Subsection (2)(b)(ii) a recommendation to implement the strategy described in Subsection (2)(b)(ii)(Q).

(c) In drafting the land use element, the planning commission shall:

(i) identify and consider each agriculture protection area within the unincorporated area of the county or mountainous planning district; [~~and~~]

(ii) avoid proposing a use of land within an agriculture protection area that is inconsistent with or detrimental to the use of the land for agriculture[~~.~~]; and

(iii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(d) In drafting the transportation and traffic circulation element, the planning commission shall:

(i) (A) consider and coordinate with the regional transportation plan developed by [~~its~~] the region's metropolitan planning organization, if the relevant areas of the county are within the boundaries of a metropolitan planning organization; or

[~~(ii)~~] (B) consider and coordinate with the long-range transportation plan developed by the Department of Transportation, if the relevant areas of the county are not within the boundaries of a metropolitan planning organization[~~.~~]; and

(ii) consider and coordinate with any station area plans adopted by municipalities located within the county under Section 10-9a-403.1.

(e) (i) In drafting the implementation plan portion of the moderate income housing element as described in Subsection (2)(a)(iii)(C), the planning commission shall establish a timeline for implementing each of the moderate income housing strategies selected by the county for implementation.

(ii) The timeline described in Subsection (2)(e)(i) shall:

(A) identify specific measures and benchmarks for implementing each moderate income housing strategy selected by the county; and

(B) provide flexibility for the county to make adjustments as needed.

(3) The proposed general plan may include:

(a) an environmental element that addresses:

(i) to the extent not covered by the county's resource management plan, the protection, conservation, development, and use of natural resources, including the quality of air, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources; and

(ii) the reclamation of land, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land on hillsides, stream channels and other environmentally sensitive areas, the prevention, control, and correction of the erosion of soils, protection of watersheds and wetlands, and the mapping of known geologic hazards;

(b) a public services and facilities element showing general plans for sewage, water, waste disposal, drainage, public utilities, rights-of-way, easements, and facilities for them, police and fire protection, and other public services;

(c) a rehabilitation, redevelopment, and conservation element consisting of plans and programs for:

(i) historic preservation;

(ii) the diminution or elimination of a development impediment as defined in Section 17C-1-102; and

(iii) redevelopment of land, including housing sites, business and industrial sites, and public building sites;

(d) an economic element composed of appropriate studies and forecasts, as well as an economic development plan, which may include review of existing and projected county revenue and expenditures, revenue sources, identification of basic and secondary industry, primary and secondary market areas, employment, and retail sales activity;

(e) recommendations for implementing all or any portion of the general plan, including the use of land use ordinances, capital improvement plans, community development and promotion, and any other appropriate action;

(f) provisions addressing any of the matters listed in Subsection 17-27a-401(2) or (3)(a)(i); and

(g) any other element the county considers appropriate.

Section 13. Section 17-27a-404 is amended to read:

17-27a-404. Public hearing by planning commission on proposed general plan or amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection by legislative body.

(1) (a) After completing its recommendation for a proposed general plan, or proposal to amend the general plan, the planning commission shall schedule and hold a public hearing on the proposed plan or amendment.

(b) The planning commission shall provide notice of the public hearing, as required by Section 17-27a-204.

(c) After the public hearing, the planning commission may modify the proposed general plan or amendment.

(2) The planning commission shall forward the proposed general plan or amendment to the legislative body.

(3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body shall provide notice of its intent to consider the general plan proposal.

(b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan regarding Subsection 17-27a-401(4). The hearing procedure shall comply with this Subsection (3)(b).

(ii) The hearing format shall allow adequate time for public comment at the actual public hearing, and shall also allow for public comment in writing to be submitted to the legislative body for not fewer than 90 days after the date of the public hearing.

(c) (i) The legislative body shall give notice of the hearing in accordance with this Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(4) are complete.

(ii) Direct notice of the hearing shall be given, in writing, to the governor, members of the state Legislature, executive director of the Department of Environmental Quality, the state planning coordinator, the Resource Development Coordinating Committee, and any other citizens or entities who specifically request notice in writing.

(iii) Public notice shall be given by publication on the Utah Public Notice Website created in Section 63A-16-601.

(iv) The notice shall be published to allow reasonable time for interested parties and the state to evaluate the information regarding the provisions of Subsection 17-27a-401(4), including publication described in Subsection (3)(c)(iii) for 180 days before the date of the hearing to be held under this Subsection (3).

(4) (a) After the public hearing required under this section, the legislative body may adopt, reject, or make any revisions to the proposed general plan that it considers appropriate.

(b) The legislative body shall respond in writing and in a substantive manner to all those providing comments as a result of the hearing required by Subsection (3).

(c) If the county legislative body rejects the proposed general plan or amendment, it may provide suggestions to the planning commission for the planning commission's review and recommendation.

(5) The legislative body shall adopt:

(a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

(b) a transportation and traffic circulation element as provided in Subsection 17-27a-403(2)(a)(ii);

[~~(c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to provide a~~

~~realistic opportunity to meet the need for additional moderate income housing; and~~]

(c) for a specified county as defined in Section 17-27-408, a moderate income housing element as provided in Subsection 17-27a-403(2)(a)(iii); and

(d) [~~before August 1, 2017,~~] a resource management plan as provided by Subsection 17-27a-403(2)(a)(iv).

Section 14. Section 17-27a-408 is amended to read:

17-27a-408. Moderate income housing report -- Contents -- Prioritization for funds or projects -- Ineligibility for funds after noncompliance -- Civil actions.

[~~(1) The legislative body of each county of the first, second, or third class, which has a population in the county's unincorporated areas of more than 5,000 residents, shall annually:~~]

[~~(a) review the moderate income housing plan element of the county's general plan and implementation of that element of the general plan;~~]

[~~(b) prepare a report on the findings of the review described in Subsection (1)(a); and~~]

[~~(c) post the report described in Subsection (1)(b) on the county's website.~~]

[~~(2) The report described in Subsection (1) shall include:~~]

[~~(a) a revised estimate of the need for moderate income housing in the unincorporated areas of the county for the next five years;~~]

[~~(b) a description of progress made within the unincorporated areas of the county to provide moderate income housing demonstrated by analyzing and publishing data on the number of housing units in the county that are at or below:~~]

[~~(i) 80% of the adjusted median family income;~~]

[~~(ii) 50% of the adjusted median family income; and~~]

[~~(iii) 30% of the adjusted median family income;~~]

[~~(c) a description of any efforts made by the county to utilize a moderate income housing set-aside from a community reinvestment agency, redevelopment agency, or a community development and renewal agency; and~~]

[~~(d) a description of how the county has implemented any of the recommendations related to moderate income housing described in Subsection 17-27a-403(2)(b)(ii).~~]

[~~(3) The legislative body of each county described in Subsection (1) shall send a copy of the report under Subsection (1) to the Department of Workforce Services, the association of governments in which the county is located, and, if the unincorporated area of the county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization.~~]

(1) As used in this section:

(a) "Division" means the Housing and Community Development Division within the Department of Workforce Services.

(b) "Implementation plan" means the implementation plan adopted as part of the moderate income housing element of a specified county's general plan as provided in Subsection 10-9a-403(2)(c).

(c) "Moderate income housing report" or "report" means the report described in Subsection (2)(a).

(d) "Moderate income housing strategy" means a strategy described in Subsection 17-27a-403(2)(b)(ii).

(e) "Specified county" means a county of the first, second, or third class, which has a population of more than 5,000 in the county's unincorporated areas.

(2) (a) Beginning in 2022, on or before October 1 of each calendar year, the legislative body of a specified county shall annually submit a written moderate income housing report to the division.

(b) The moderate income housing report submitted in 2022 shall include:

(i) a description of each moderate income housing strategy selected by the specified county for implementation; and

(ii) an implementation plan.

(c) The moderate income housing report submitted in each calendar year after 2022 shall include:

(i) the information required under Subsection (2)(b);

(ii) a description of each action, whether one-time or ongoing, taken by the specified county during the previous fiscal year to implement the moderate income housing strategies selected by the specified county for implementation;

(iii) a description of each land use regulation or land use decision made by the specified county during the previous fiscal year to implement the moderate income housing strategies, including an explanation of how the land use regulation or land use decision supports the specified county's efforts to implement the moderate income housing strategies;

(iv) a description of any barriers encountered by the specified county in the previous fiscal year in implementing the moderate income housing strategies; and

(v) information regarding the number of internal and external or detached accessory dwelling units located within the specified county for which the specified county:

(A) issued a building permit to construct; or

(B) issued a business license to rent;

(vi) a description of how the market has responded to the selected moderate income housing strategies, including the number of entitled moderate income housing units or other relevant data; and

(vii) any recommendations on how the state can support the specified county in implementing the moderate income housing strategies.

(d) The moderate income housing report shall be in a form:

(i) approved by the division; and

(ii) made available by the division on or before July 1 of the year in which the report is required.

(3) Within 90 days after the day on which the division receives a specified county's moderate income housing report, the division shall:

(a) post the report on the division's website;

(b) send a copy of the report to the Department of Transportation, the Governor's Office of Planning and Budget, the association of governments in which the specified county is located, and, if the unincorporated area of the specified county is located within the boundaries of a metropolitan planning organization, the appropriate metropolitan planning organization; and

(c) subject to Subsection (4), review the report to determine compliance with Subsection (2).

(4) (a) The report described in Subsection (2)(b) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(b);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies; and

(iii) is in a form approved by the division.

(b) The report described in Subsection (2)(c) complies with Subsection (2) if the report:

(i) includes the information required under Subsection (2)(c);

(ii) demonstrates to the division that the specified county made plans to implement three or more moderate income housing strategies;

(iii) is in a form approved by the division; and

(iv) provides sufficient information for the division to:

(A) assess the specified county's progress in implementing the moderate income housing strategies;

(B) monitor compliance with the specified county's implementation plan;

(C) identify a clear correlation between the specified county's land use decisions and efforts to implement the moderate income housing strategies; and

(D) identify how the market has responded to the specified county's selected moderate income housing strategies.

(5) (a) A specified county qualifies for priority consideration under this Subsection (5) if the specified county's moderate income housing report:

(i) complies with Subsection (2); and

(ii) demonstrates to the division that the specified county made plans to implement five or more moderate income housing strategies.

(b) The following apply to a specified county described in Subsection (5)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the Transportation Commission may give priority consideration to transportation projects located within the unincorporated areas of the specified county in accordance with Subsection 72-1-304(3)(c); and

(ii) the Governor's Office of Planning and Budget may give priority consideration for awarding financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(6).

(c) Upon determining that a specified county qualifies for priority consideration under this Subsection (5), the division shall send a notice of prioritization to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (5)(c) shall:

(i) name the specified county that qualifies for priority consideration;

(ii) describe the funds or projects for which the specified county qualifies to receive priority consideration;

(iii) specify the fiscal year during which the specified county qualifies for priority consideration; and

(iv) state the basis for the division's determination that the specified county qualifies for priority consideration.

(6) (a) If the division, after reviewing a specified county's moderate income housing report, determines that the report does not comply with Subsection (2), the division shall send a notice of noncompliance to the legislative body of the specified county.

(b) The notice described in Subsection (6)(a) shall:

(i) describe each deficiency in the report and the actions needed to cure each deficiency;

(ii) state that the specified county has an opportunity to cure the deficiencies within 90 days after the day on which the notice is sent; and

(iii) state that failure to cure the deficiencies within 90 days after the day on which the notice is sent will result in ineligibility for funds under Subsection (7).

(7) (a) A specified county is ineligible for funds under this Subsection (7) if the specified county:

(i) fails to submit a moderate income housing report to the division; or

(ii) fails to cure the deficiencies in the specified county's moderate income housing report within 90 days after the day on which the division sent to the specified county a notice of noncompliance under Subsection (6).

(b) The following apply to a specified county described in Subsection (7)(a) during the fiscal year immediately following the fiscal year in which the report is required:

(i) the executive director of the Department of Transportation may not program funds from the Transportation Investment Fund of 2005, including the Transit Transportation Investment Fund, to projects located within the unincorporated areas of the specified county in accordance with Subsection 72-2-124(6); and

(ii) the Governor's Office of Planning and Budget may not award financial grants to the specified county under the COVID-19 Local Assistance Matching Grant Program in accordance with Subsection 63J-4-802(7).

(c) Upon determining that a specified county is ineligible for funds under this Subsection (7), the division shall send a notice of ineligibility to the legislative body of the specified county, the Department of Transportation, and the Governor's Office of Planning and Budget.

(d) The notice described in Subsection (7)(c) shall:

(i) name the specified county that is ineligible for funds;

(ii) describe the funds for which the specified county is ineligible to receive;

(iii) specify the fiscal year during which the specified county is ineligible for funds; and

(iv) state the basis for the division's determination that the specified county is ineligible for funds.

[~~(4)~~] (8) In a civil action seeking enforcement or claiming a violation of this section or of Subsection 17-27a-404(5)(c), a plaintiff may not recover damages but may be awarded only injunctive or other equitable relief.

Section 15. Section 17-27a-508 is amended to read:

17-27a-508. Applicant's entitlement to land use application approval -- Application relating to land in a high priority transportation corridor -- County's requirements and limitations -- Vesting upon submission of development plan and schedule.

(1) (a) (i) An applicant who has submitted a complete land use application, including the payment of all application fees, is entitled to substantive review of the application under the land use regulations:

(A) in effect on the date that the application is complete; and

(B) applicable to the application or to the information shown on the submitted application.

(ii) An applicant is entitled to approval of a land use application if the application conforms to the requirements of the applicable land use regulations, land use decisions, and development standards in effect when the applicant submits a complete application and pays all application fees, unless:

(A) the land use authority, on the record, formally finds that a compelling, countervailing public interest would be jeopardized by approving the application and specifies the compelling, countervailing public interest in writing; or

(B) in the manner provided by local ordinance and before the applicant submits the application, the county formally initiates proceedings to amend the county's land use regulations in a manner that would prohibit approval of the application as submitted.

(b) The county shall process an application without regard to proceedings the county initiated to amend the county's ordinances as described in Subsection (1)(a)(ii)(B) if:

(i) 180 days have passed since the county initiated the proceedings; and

(ii) the proceedings have not resulted in an enactment that prohibits approval of the application as submitted.

(c) A land use application is considered submitted and complete when the applicant provides the application in a form that complies with the requirements of applicable ordinances and pays all applicable fees.

(d) The continuing validity of an approval of a land use application is conditioned upon the applicant proceeding after approval to implement the approval with reasonable diligence.

(e) A county may not impose on an applicant who has submitted a complete application a requirement that is not expressed:

(i) in this chapter;

(ii) in a county ordinance; or

(iii) in a county specification for public improvements applicable to a subdivision or development that is in effect on the date that the applicant submits an application.

(f) A county may not impose on a holder of an issued land use permit or a final, unexpired subdivision plat a requirement that is not expressed:

(i) in a land use permit;

(ii) on the subdivision plat;

(iii) in a document on which the land use permit or subdivision plat is based;

(iv) in the written record evidencing approval of the land use permit or subdivision plat;

(v) in this chapter; or

(vi) in a county ordinance.

(g) Except as provided in Subsection (1)(h), a county may not withhold issuance of a certificate of occupancy or acceptance of subdivision improvements because of an applicant's failure to comply with a requirement that is not expressed:

(i) in the building permit or subdivision plat, documents on which the building permit or subdivision plat is based, or the written record evidencing approval of the building permit or subdivision plat; or

(ii) in this chapter or the county's ordinances.

(h) A county may not unreasonably withhold issuance of a certificate of occupancy where an applicant has met all requirements essential for the public health, public safety, and general welfare of the occupants, in accordance with this chapter, unless:

(i) the applicant and the county have agreed in a written document to the withholding of a certificate of occupancy; or

(ii) the applicant has not provided a financial assurance for required and uncompleted landscaping or infrastructure improvements in accordance with an applicable ordinance that the legislative body adopts under this chapter.

(2) A county is bound by the terms and standards of applicable land use regulations and shall comply with mandatory provisions of those regulations.

(3) A county may not, as a condition of land use application approval, require a person filing a land use application to obtain documentation regarding a school district's willingness, capacity, or ability to serve the development proposed in the land use application.

(4) (a) Except as provided in Subsection (4)(b), for a period of 10 years after the day on which a subdivision plat is recorded, a county may not impose on a building permit applicant for a single–family dwelling located within the subdivision any land use regulation that is enacted within 10 years after the day on which the subdivision plat is recorded.

(b) Subsection (4)(a) does not apply to any changes in the requirements of the applicable building code, health code, or fire code, or other similar regulations.

(5) Upon a specified public agency's submission of a development plan and schedule as required in Subsection 17–27a–305(8) that complies with the requirements of that subsection, the specified public agency vests in the county's applicable land use maps, zoning map, hookup fees, impact fees, other applicable development fees, and land use regulations in effect on the date of submission.

(6) (a) If sponsors of a referendum timely challenge a project in accordance with Subsection 20A–7–601[~~(5)~~](6), the project's affected owner may rescind the project's land use approval by delivering a written notice:

(i) to the local clerk as defined in Section 20A–7–101; and

(ii) no later than seven days after the day on which a petition for a referendum is determined sufficient under Subsection 20A–7–607(4).

(b) Upon delivery of a written notice described in Subsection (6)(a) the following are rescinded and are of no further force or effect:

(i) the relevant land use approval; and

(ii) any land use regulation enacted specifically in relation to the land use approval.

Section 16. Section 17B-2a-802 is amended to read:

17B-2a-802. Definitions.

As used in this part:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households that meet certain gross household income requirements based on the area median income for households of the same size.

(a) "Affordable housing" may include housing occupied or reserved for occupancy by households that meet specific area median income targets or ranges of area median income targets.

(b) "Affordable housing" does not include housing occupied or reserved for occupancy by households with gross household incomes that are more than 60% of the area median income for households of the same size.

(2) "Appointing entity" means the person, county, unincorporated area of a county, or municipality appointing a member to a public transit district board of trustees.

(3) (a) "Chief executive officer" means a person appointed by the board of trustees of a small public transit district to serve as chief executive officer.

(b) "Chief executive officer" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B–2a–810 and 17B–2a–811 and includes all rights, duties, and responsibilities assigned to the general manager but prescribed by the board of trustees to be fulfilled by the chief executive officer.

(4) "Council of governments" means a decision–making body in each county composed of membership including the county governing body and the mayors of each municipality in the county.

(5) "Department" means the Department of Transportation created in Section 72–1–201.

(6) "Executive director" means a person appointed by the board of trustees of a large public transit district to serve as executive director.

(7) (a) "General manager" means a person appointed by the board of trustees of a small public transit district to serve as general manager.

(b) "General manager" shall enjoy all the rights, duties, and responsibilities defined in Sections 17B-2a-810 and 17B-2a-811 prescribed by the board of trustees of a small public transit district.

(8) "Large public transit district" means a public transit district that provides public transit to an area that includes:

(a) more than 65% of the population of the state based on the most recent official census or census estimate of the United States Census Bureau; and

(b) two or more counties.

(9) (a) "Locally elected public official" means a person who holds an elected position with a county or municipality.

(b) "Locally elected public official" does not include a person who holds an elected position if the elected position is not with a county or municipality.

(10) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(11) "Multicounty district" means a public transit district located in more than one county.

(12) "Operator" means a public entity or other person engaged in the transportation of passengers for hire.

(13) (a) "Public transit" means regular, continuing, shared-ride, surface transportation services that are open to the general public or open to a segment of the general public defined by age, disability, or low income.

(b) "Public transit" does not include transportation services provided by:

(i) chartered bus;

(ii) sightseeing bus;

(iii) taxi;

(iv) school bus service;

(v) courtesy shuttle service for patrons of one or more specific establishments; or

(vi) intra-terminal or intra-facility shuttle services.

(14) "Public transit district" means a local district that provides public transit services.

(15) "Small public transit district" means any public transit district that is not a large public transit district.

[~~(16) "Station area plan" means a plan adopted by the relevant municipality or county that establishes and preserves a vision for areas within one-half mile of a fixed guideway station of a large public transit district, the development of which includes:~~]

[~~(a) involvement of all relevant stakeholders who have an interest in the station area, including relevant metropolitan planning organizations;~~]

[~~(b) identification of major infrastructural and policy constraints and a course of action to address those constraints; and~~]

[~~(c) other criteria as determined by the board of trustees of the relevant public transit district.~~]

(16) "Station area plan" means a plan developed and adopted by a municipality in accordance with Section 10-9a-403.1.

(17) "Transit facility" means a transit vehicle, transit station, depot, passenger loading or unloading zone, parking lot, or other facility:

(a) leased by or operated by or on behalf of a public transit district; and

(b) related to the public transit services provided by the district, including:

(i) railway or other right-of-way;

(ii) railway line; and

(iii) a reasonable area immediately adjacent to a designated stop on a route traveled by a transit vehicle.

(18) "Transit vehicle" means a passenger bus, coach, railcar, van, or other vehicle operated as public transportation by a public transit district.

(19) "Transit-oriented development" means a mixed use residential or commercial area that is designed to maximize access to public transit and includes the development of land owned by a large public transit district.

(20) "Transit-supportive development" means a mixed use residential or commercial area that is designed to maximize access to public transit and does not include the development of land owned by a large public transit district.

Section 17. Section 17B-2a-804 is amended to read:

17B-2a-804. Additional public transit district powers.

(1) In addition to the powers conferred on a public transit district under Section 17B-1-103, a public transit district may:

(a) provide a public transit system for the transportation of passengers and their incidental baggage;

(b) notwithstanding Subsection 17B-1-103(2)(g) and subject to Section 17B-2a-817, levy and collect property taxes only for the purpose of paying:

(i) principal and interest of bonded indebtedness of the public transit district; or

(ii) a final judgment against the public transit district if:

(A) the amount of the judgment exceeds the amount of any collectable insurance or indemnity policy; and

(B) the district is required by a final court order to levy a tax to pay the judgment;

(c) insure against:

(i) loss of revenues from damage to or destruction of some or all of a public transit system from any cause;

(ii) public liability;

(iii) property damage; or

(iv) any other type of event, act, or omission;

(d) acquire, contract for, lease, construct, own, operate, control, or use:

(i) a right-of-way, rail line, monorail, bus line, station, platform, switchyard, terminal, parking lot, or any other facility necessary or convenient for public transit service; or

(ii) any structure necessary for access by persons and vehicles;

(e) (i) hire, lease, or contract for the supplying or management of a facility, operation, equipment, service, employee, or management staff of an operator; and

(ii) provide for a sublease or subcontract by the operator upon terms that are in the public interest;

(f) operate feeder bus lines and other feeder or ridesharing services as necessary;

(g) accept a grant, contribution, or loan, directly through the sale of securities or equipment trust certificates or otherwise, from the United States, or from a department, instrumentality, or agency of the United States;

(h) study and plan transit facilities in accordance with any legislation passed by Congress;

(i) cooperate with and enter into an agreement with the state or an agency of the state or otherwise contract to finance to establish transit facilities and equipment or to study or plan transit facilities;

(j) subject to Subsection 17B-2a-808.1(5), issue bonds as provided in and subject to Chapter 1, Part 11, Local District Bonds, to carry out the purposes of the district;

(k) from bond proceeds or any other available funds, reimburse the state or an agency of the state for an advance or contribution from the state or state agency;

(l) do anything necessary to avail itself of any aid, assistance, or cooperation available under federal law, including complying with labor standards and making arrangements for employees required by the United States or a department, instrumentality, or agency of the United States;

(m) sell or lease property;

(n) except as provided in Subsection (2)(b), assist in or operate transit-oriented or transit-supportive developments;

(o) establish, finance, participate as a limited partner or member in a development with limited liabilities in accordance with Subsection (1)(p), construct, improve, maintain, or operate transit facilities, equipment, and, in accordance with Subsection (3), transit-oriented developments or transit-supportive developments; and

(p) subject to the restrictions and requirements in Subsections (2) and (3), assist in a transit-oriented development or a transit-supportive development in connection with project area development as defined in Section 17C-1-102 by:

(i) investing in a project as a limited partner or a member, with limited liabilities; or

(ii) subordinating an ownership interest in real property owned by the public transit district.

(2) (a) A public transit district may only assist in the development of areas under Subsection (1)(p) that have been approved by the board of trustees, and in the manners described in Subsection (1)(p).

(b) A public transit district may not invest in a transit-oriented development or transit-supportive development as a limited partner or other limited liability entity under the provisions of Subsection (1)(p)(i), unless the partners, developer, or other investor in the entity, makes an equity contribution equal to no less than 25% of the appraised value of the property to be contributed by the public transit district.

(c) (i) For transit-oriented development projects, a public transit district shall adopt transit-oriented development policies and guidelines that include provisions on affordable housing.

(ii) For transit-supportive development projects, a public transit district shall work with the metropolitan planning organization and city and county governments where the project is located to collaboratively seek to create joint plans for the areas within one-half mile of transit stations, including plans for affordable housing.

(d) A current board member of a public transit district to which the board member is appointed may not have any interest in the transactions engaged in by the public transit district pursuant to Subsection (1)(p)(i) or (ii), except as may be required by the board member's fiduciary duty as a board member.

(3) For any transit-oriented development or transit-supportive development authorized in this section, the public transit district shall:

(a) perform a cost-benefit analysis of the monetary investment and expenditures of the development, including effect on:

(i) service and ridership;

(ii) regional plans made by the metropolitan planning agency;

(iii) the local economy;

(iv) the environment and air quality;

(v) affordable housing; and

(vi) integration with other modes of transportation; and

(b) provide evidence to the public of a quantifiable positive return on investment, including improvements to public transit service.

(4) A public transit district may [~~not~~] participate in a transit-oriented development only if:

(a) for a transit-oriented development involving a municipality:

(i) the relevant municipality [~~or county~~] has [~~not~~] developed and adopted a station area plan; and

[~~(b) (i) for a transit-oriented development involving a municipality,~~]

(ii) the municipality is [~~not~~] in compliance with Sections 10-9a-403 and 10-9a-408 regarding the inclusion of moderate income housing in the general plan and the required reporting requirements; or

[~~(ii)~~] (b) for a transit-oriented development involving property in an unincorporated area of a county, the county is [~~not~~] in compliance with Sections 17-27a-403 and 17-27a-408 regarding inclusion of moderate income housing in the general plan and required reporting requirements.

(5) A public transit district may be funded from any combination of federal, state, local, or private funds.

(6) A public transit district may not acquire property by eminent domain.

Section 18. Section 20A-7-601 is amended to read:

20A-7-601. Referenda -- General signature requirements -- Signature requirements for land use laws, subjurisdictional laws, and transit area land use laws -- Time requirements.

(1) As used in this section:

(a) "Number of active voters" means the number of active voters in the county, city, or town on the immediately preceding January 1.

(b) "Qualifying county" means a county that has created a small public transit district, as defined in Section 17B-2a-802, on or before January 1, 2022.

(c) "Qualifying transit area" means:

(i) a station area, as defined in Section 10-9a-403.1, for which the municipality with jurisdiction over the station area has satisfied the requirements of Subsection 10-9a-403.1(2)(a), as demonstrated by the adoption of a station area plan or resolution under Subsection 10-9a-403.1(2); or

(ii) a housing and transit reinvestment zone, as defined in Section 63N-3-602, created within a qualifying county.

[~~(b)~~] (d) "Subjurisdiction" means an area comprised of all precincts and subprecincts in the jurisdiction of a county, city, or town that are subject to a subjurisdictional law.

[~~(c)~~] (e) (i) "Subjurisdictional law" means a local law or local obligation law passed by a local legislative body that imposes a tax or other payment obligation on property in an area that does not include all precincts and subprecincts under the jurisdiction of the county, city, town, or metro township.

(ii) "Subjurisdictional law" does not include a land use law.

(f) "Transit area land use law" means a land use law that relates to the use of land within a qualifying transit area.

[~~(d)~~] (g) "Voter participation area" means an area described in Subsection 20A-7-401.3(1)(a) or (2)(b).

(2) Except as provided in [~~Subsection (3) or (4)~~] Subsections (3) through (5), an eligible voter seeking to have a local law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first class:

(i) 7.75% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 7.75% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 7.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 7.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a county of the second class:

(i) 8% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 8% of the number of active voters in at least 75% of the county's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 8.25% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 8.25% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a county of the third class:

(i) 9.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 9.5% of the number of active voters in at least 75% of the county's voter participation areas;

(f) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 10% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 10% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a county of the fourth class:

(i) 11.5% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the county's voter participation areas;

(h) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 11.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 11.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(i) for a metro township with a population of 1,000 or more but less than 10,000, a city of the fifth class, or a county of the fifth class, 25% of the number of active voters in the metro township, city, or county; or

(j) for a metro township with a population of less than 1,000, a town, or a county of the sixth class, 35% of the number of active voters in the metro township, town, or county.

(3) Except as provided in Subsection (4) or (5), an eligible voter seeking to have a land use law or local obligation law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county of the first, second, third, or fourth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a county of the fifth or sixth class:

(i) 16% of the number of active voters in the county; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the county's voter participation areas;

(c) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 15% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 15% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 16% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 16% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 27.5% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 27.5% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(f) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 29% of the number of active voters in the metro township or city; and

(ii) beginning on January 1, 2020, 29% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(g) for a metro township with a population of 1,000 or more but less than 10,000, or a city of the fifth class, 35% of the number of active voters in the metro township or city; or

(h) for a metro township with a population of less than 1,000 or a town, 40% of the number of active voters in the metro township or town.

(4) A person seeking to have a subjurisdictional law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures of the residents in the subjurisdiction equal to:

(a) 10% of the number of active voters in the subjurisdiction if the number of active voters exceeds 25,000;

(b) 12-1/2% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 25,000 but is more than 10,000;

(c) 15% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 10,000 but is more than 2,500;

(d) 20% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 2,500 but is more than 500;

(e) 25% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 500 but is more than 250; and

(f) 30% of the number of active voters in the subjurisdiction if the number of active voters does not exceed 250.

(5) An eligible voter seeking to have a transit area land use law passed by the local legislative body submitted to a vote of the people shall obtain legal signatures equal to:

(a) for a county:

(i) 20% of the number of active voters in the county; and

(ii) 21% of the number of active voters in at least 75% of the county's voter participation areas;

(b) for a metro township with a population of 100,000 or more, or a city of the first class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 20% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(c) for a metro township with a population of 65,000 or more but less than 100,000, or a city of the second class:

(i) 20% of the number of active voters in the metro township or city; and

(ii) 21% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(d) for a metro township with a population of 30,000 or more but less than 65,000, or a city of the third class:

(i) 34% of the number of active voters in the metro township or city; and

(ii) 34% of the number of active voters in at least 75% of the metro township's or city's voter participation areas;

(e) for a metro township with a population of 10,000 or more but less than 30,000, or a city of the fourth class:

(i) 36% of the number of active voters in the metro township or city; and

(ii) 36% of the number of active voters in at least 75% of the metro township's or city's voter participation areas; or

(f) for a metro township with a population less than 10,000, a city of the fifth class, or a town, 40% of the number of active voters in the metro township, city, or town.

[~~(5)~~] (6) Sponsors of any referendum petition challenging, under Subsection (2), (3), [~~or~~] (4), or (5), any local law passed by a local legislative body shall file the application before 5 p.m. within seven days after the day on which the local law was passed.

[~~(6)~~] (7) Nothing in this section authorizes a local legislative body to impose a tax or other payment obligation on a subjurisdiction in order to benefit an area outside of the subjurisdiction.

Section 19. Section 20A-7-602.8 is amended to read:

20A-7-602.8. Referability to voters of local land use law -- Limitations on referability to voters of transit area land use law.

(1) Within 20 days after the day on which an eligible voter files an application to circulate a referendum petition under Section 20A-7-602 for a land use law, counsel for the county, city, town, or metro township to which the referendum pertains shall:

(a) review the application to determine whether the proposed referendum is legally referable to voters; and

(b) notify the first three sponsors, in writing, whether the proposed referendum is:

(i) legally referable to voters; or

(ii) rejected as not legally referable to voters.

(2) (a) [~~For a land use law, a~~] Subject to Subsection (2)(b), for a land use law, a proposed referendum is legally referable to voters unless:

[~~(a)~~] (i) the proposed referendum challenges an action that is administrative, rather than legislative, in nature;

[~~(b)~~] (ii) the proposed referendum challenges a land use decision, rather than a land use regulation, as those terms are defined in Section 10-9a-103 or 17-27a-103;

[~~(c)~~] (iii) the proposed referendum challenges more than one law passed by the local legislative body; or

[~~(d)~~] (iv) the application for the proposed referendum was not timely filed or does not comply with the requirements of this part.

(b) In addition to the limitations of Subsection (2)(a), a proposed referendum is not legally referable to voters for a transit area land use law, as defined in Section 20A-7-601, if the transit area land use law was passed by a two-thirds vote of the local legislative body.

(3) After the end of the 20-day period described in Subsection (1), a county, city, town, or metro township may not, for a land use law:

(a) reject a proposed referendum as not legally referable to voters; or

(b) except as provided in Subsection (4), challenge, in a legal action or otherwise, a proposed referendum on the grounds that the proposed referendum is not legally referable to voters.

(4) (a) If a county, city, town, or metro township rejects a proposed referendum concerning a land use law, a sponsor of the proposed referendum may, within seven days after the day on which a sponsor is notified under Subsection (1)(b), challenge or appeal the decision to:

(i) the Supreme Court, by means of an extraordinary writ, if possible; or

(ii) a district court, if the sponsor is prohibited from pursuing an extraordinary writ under Subsection (4)(a)(i).

(b) Failure of a sponsor to timely challenge or appeal a rejection under Subsection (4)(a) terminates the referendum.

(5) If, on challenge or appeal, the court determines that the proposed referendum is legally referable to voters, the local clerk shall comply with Subsection 20A-7-604(2) within five days after the day on which the determination, and any challenge or appeal of the determination, is final.

Section 20. Section 35A-8-101 is amended to read:

35A-8-101. Definitions.

As used in this chapter:

(1) "Accessible housing" means housing which has been constructed or modified to be accessible, as described in the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(2) "Director" means the director of the division.

(3) "Division" means the Housing and Community Development Division.

(4) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(5) "Moderate income housing unit" means a housing unit that qualifies as moderate income housing.

Section 21. Section 35A-8-503 is amended to read:

35A-8-503. Housing loan fund board -- Duties -- Expenses.

(1) There is created the Olene Walker Housing Loan Fund Board.

(2) The board is composed of [~~11~~] 13 voting members.

(a) The governor shall appoint the following members to four-year terms:

(i) two members from local governments[~~;~~], of which:

(A) one member shall be a locally elected official who resides in a county of the first or second class; and

(B) one member shall be a locally elected official who resides in a county of the third, fourth, fifth, or sixth class;

(ii) two members from the mortgage lending community[~~;~~], of which:

(A) one member shall have expertise in single-family mortgage lending; and

(B) one member shall have expertise in multi-family mortgage lending;

(iii) one member from real estate sales interests;

(iv) [~~one member~~] two members from home builders interests[~~;~~], of which:

(A) one member shall have expertise in single-family residential construction; and

(B) one member shall have expertise in multi-family residential construction;

(v) one member from rental housing interests;

(vi) [~~one member~~] two members from housing advocacy interests[~~;~~], of which:

(A) one member who resides within any area in a county of the first or second class; and

(B) one member who resides within any area in a county of the third, fourth, fifth, or sixth class;

(vii) one member of the manufactured housing interest;

(viii) one member with expertise in transit-oriented developments; and

(ix) one member who represents rural interests.

(b) The director or the director's designee serves as the secretary of the board.

(c) The members of the board shall annually elect a chair from among the voting membership of the board.

(3) (a) Notwithstanding the requirements of Subsection (2), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(b) When a vacancy occurs in the membership for any reason, the replacement is appointed for the unexpired term.

(4) (a) The board shall:

(i) meet regularly, at least quarterly to conduct business of the board, on dates fixed by the board;

(ii) meet twice per year, with at least one of the meetings in a rural area of the state, to provide information to and receive input from the public regarding the state's housing policies and needs;

(iii) keep minutes of its meetings; and

(iv) comply with the procedures and requirements of Title 52, Chapter 4, Open and Public Meetings Act.

(b) [~~Six~~] Seven members of the board constitute a quorum, and the governor, the chair, or a majority of the board may call a meeting of the board.

(5) The board shall:

(a) review the housing needs in the state;

(b) determine the relevant operational aspects of any grant, loan, or revenue collection program established under the authority of this chapter;

(c) determine the means to implement the policies and goals of this chapter;

(d) select specific projects to receive grant or loan money; and

(e) determine how fund money shall be allocated and distributed.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 22. Section 35A-8-504 is amended to read:

35A-8-504. Distribution of fund money.

(1) As used in this section:

(a) "Community" means the same as that term is defined in Section 17C-1-102.

(b) "Income targeted housing" means the same as that term is defined in Section 17C-1-102.

[~~(1)~~] (2) The executive director shall:

(a) make grants and loans from the fund for any of the activities authorized by Section 35A-8-505, as directed by the board;

(b) establish the criteria with the approval of the board by which loans and grants will be made; and

(c) determine with the approval of the board the order in which projects will be funded.

[~~(2)~~] (3) The executive director shall distribute, as directed by the board, any federal money contained in the fund according to the procedures, conditions, and restrictions placed upon the use of the money by the federal government.

[~~(3) (a)~~] (4) The executive director shall distribute, as directed by the board, any funds received under Section 17C-1-412 to pay the costs of providing income targeted housing within the community that created the community reinvestment agency under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act.

[~~(b) As used in Subsection (3)(a):~~]

[~~(i) "Community" means the same as that term is defined in Section 17C-1-102.~~]

[~~(ii) "Income targeted housing" means the same as that term is defined in Section 17C-1-102.~~]

[~~(4)~~] (5) Except for federal money, money received under Section 17C-1-412, and money appropriated for use in accordance with Section 35A-8-2105, the executive director shall distribute, as directed by the board, money in the fund according to the following requirements:

[~~(a) the executive director shall distribute at least 30% of the money in the fund to rural areas of the state;~~]

[~~(b)~~] (a) the executive director shall distribute at least 70% of the money in the fund to benefit persons whose annual income is at or below 50% of the median family income for the state;

[~~(c)~~] (b) the executive director may [~~not use more than~~] use up to 3% of the revenues of the fund, including any appropriation to the fund, to offset department or board administrative expenses;

[~~(d)~~] (c) the executive director shall distribute any remaining money in the fund to benefit persons whose annual income is at or below 80% of the median family income for the state; and

[~~(e)~~] (d) if the executive director or the executive director's designee makes a loan in accordance with this section, the interest rate of the loan shall be based on the borrower's ability to pay.

[~~(5)~~] (6) The executive director may, with the approval of the board:

(a) enact rules to establish procedures for the grant and loan process by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) service or contract, under Title 63G, Chapter 6a, Utah Procurement Code, for the servicing of loans made by the fund.

Section 23. Section 35A-8-507.5 is amended to read:

35A-8-507.5. Predevelopment grants.

[~~(1) The executive director under the direction of the board may:~~]

[~~(a) award one or more predevelopment grants to nonprofit or for-profit entities in preparation for the construction of low-income housing units;~~]

[~~(b) award a predevelopment grant in an amount of no more than $50,000 per project;~~]

[~~(c) may only award a predevelopment grant in relation to a project in:~~]

[~~(i) a city of the fifth or sixth class, or a town, in a rural area of the state; or~~]

[~~(ii) any municipality or unincorporated area in a county of the fourth, fifth, or sixth class.~~]

(1) The executive director may, under the direction of the board, award one or more predevelopment grants to a nonprofit or for-profit entity:

(a) in preparation for a project that:

(i) involves the construction of moderate income housing units; and

(ii) is located within:

(A) a city of the fifth or sixth class, or a town, in a rural area of the state; or

(B) any municipality or unincorporated area in a county of the fourth, fifth, or sixth class; and

(b) in an amount of no more than $50,000 per project.

(2) The executive director shall, under the direction of the board [~~shall~~], award each predevelopment grant in accordance with the provisions of this section and the provisions related to grant applications, grant awards, and reporting requirements in this part.

(3) [~~A~~] The recipient of a predevelopment grant:

(a) may [~~be used by a recipient for offsetting~~] use grant funds to offset the predevelopment funds needed to prepare for the construction of low–income housing units, including market studies, surveys, environmental and impact studies, technical assistance, and preliminary architecture, engineering, or legal work; and

(b) may not [~~be used by a recipient~~] use grant funds to pay for staff salaries [~~of a grant recipient~~] or construction costs.

(4) The executive director shall, under the direction of the board [~~shall~~], prioritize the awarding of a predevelopment grant for a project [~~in~~] that is located within:

(a) a county of the fifth or sixth class [~~and where the municipality or unincorporated~~]; and

(b) an area that has underdeveloped infrastructure, as demonstrated by at least two of the following:

[~~(a)~~] (i) limited or no availability of natural gas;

[~~(b)~~] (ii) limited or no availability of a sewer system;

[~~(c)~~] (iii) limited or no availability of broadband Internet;

[~~(d)~~] (iv) unpaved residential streets; or

[~~(e)~~] (v) limited local construction professionals, vendors, or services.

Section 24. Section 35A-8-508 is amended to read:

35A-8-508. Annual accounting.

(1) The executive director shall monitor the activities of recipients of grants and loans issued under this part on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board or by this part.

(2) [~~An~~] Beginning July 1, 2021, an entity that receives [~~a grant or loan~~] any money from the fund under this part shall provide the executive director with an annual accounting of how the money the entity received from the fund has been spent.

(3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board.

(4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A–1–109:

(a) accounting for expenditures authorized by the board; and

(b) evaluating the effectiveness of the program.

Section 25. Section 35A-8-509 is amended to read:

35A-8-509. Economic Revitalization and Investment Fund.

(1) There is created an enterprise fund known as the "Economic Revitalization and Investment Fund."

(2) The Economic Revitalization and Investment Fund consists of money from the following:

(a) money appropriated to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) money returned to the department under [~~Section 35A–8–512~~] Subsection 35A–8–512(3)(a).

(3) The Economic Revitalization and Investment Fund shall earn interest, which shall be deposited into the Economic Revitalization and Investment Fund.

(4) The executive director may distribute money from the Economic Revitalization and Investment Fund to one or more projects that:

(a) include affordable housing units for households[~~: (i)~~] whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; and

[~~(ii) at rental rates no greater than the rates described in Subsection 35A–8–511(2)(b); and~~]

(b) have been approved by the board in accordance with Section 35A–8–510.

(5) (a) A housing sponsor may apply to the department to receive a distribution in accordance with Subsection (4).

(b) The application shall include:

(i) the location of the project;

(ii) the number, size, and tenant income requirements of affordable housing units described in Subsection (4)(a) that will be included in the project; and

(iii) a written commitment to enter into a deed restriction that reserves for a period of 30 years the affordable housing units described in Subsection (5)(b)(ii) or their equivalent for occupancy by households that meet the income requirements described in Subsection (5)(b)(ii).

(c) The commitment in Subsection (5)(b)(iii) shall be considered met if a housing unit is:

(i) (A) occupied or reserved for occupancy by a household whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located; or

(B) occupied by a household whose income is no more than 60% of the area median income for households of the same size in the county or municipality where the project is located if that household met the income requirement described in Subsection (4)(a) when the household originally entered into the lease agreement for the housing unit; and

(ii) rented at a rate no greater than the rate described in Subsection 35A–8–511(2)(b).

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make additional rules providing procedures for a person to apply to the department to receive a distribution described in Subsection (4).

(6) The executive director may expend up to 3% of the revenues of the Economic Revitalization and Investment Fund, including any appropriation to the Economic Revitalization and Investment Fund, to offset department or board administrative expenses.

Section 26. Section 35A-8-509.5 is enacted to read:

35A-8-509.5. Rural Housing Fund.

(1) There is created an enterprise fund known as the "Rural Housing Fund."

(2) The Rural Housing Fund consists of money from the following:

(a) money appropriated to the account by the Legislature;

(b) private contributions;

(c) donations or grants from public or private entities; and

(d) money returned to the department under Subsection 35A-8-512(3)(b).

(3) The Rural Housing Fund shall earn interest, which shall be deposited into the Rural Housing Fund.

(4) Subject to appropriation, the executive director may expend funds in the Rural Housing Fund to provide loans for projects that:

(a) are located within:

(i) a county of the third, fourth, fifth, or sixth class; or

(ii) a municipality in a county of the second class with a population of 10,000 or less;

(b) include moderate income housing units; and

(c) have been approved by the board in accordance with Section 35A-8-510.

(5) (a) A housing sponsor may apply to the department to receive a loan under this section.

(b) An application under Subsection (5)(a) shall specify:

(i) the location of the project;

(ii) the number, size, and income requirements of moderate income housing units that will be included in the project; and

(iii) a written commitment to enter into a deed restriction that reserves for a period of 50 years the moderate income housing units described in Subsection (5)(b)(ii).

(c) A commitment under Subsection (5)(b)(iii) shall be considered satisfied if a housing unit is occupied by a household that met the income requirement for moderate income housing when the household originally entered into the lease agreement for the housing unit.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing procedures and requirements for housing sponsors to apply for and receive loans under this section.

(6) The executive director may expend up to 3% of the revenues of the Rural Housing Fund, including any appropriation to the Rural Housing Fund, to offset department or board administrative expenses.

Section 27. Section 35A-8-510 is amended to read:

35A-8-510. Housing loan fund board approval.

(1) The board shall review the project applications described in [~~Subsection~~] Subsections 35A-8-509(5) and 35A-8-509.5(5).

(2) (a) The board may approve a project that meets the requirements of Subsections 35A-8-509(4) and (5) to receive funds from the Economic Revitalization and Investment Fund.

(b) The board may approve a project that meets the requirements of Subsections 35A-8-509.5(4) and (5) to receive funds from the Rural Housing Fund.

(3) The board shall give preference to projects:

(a) that include significant additional or matching funds from an individual, private organization, or local government entity;

(b) that include significant contributions by the applicant to total project costs, including contributions secured by the applicant from other sources such as professional, craft, and trade services and lender interest rate subsidies;

(c) with significant local government contributions in the form of infrastructure, improvements, or other assistance;

(d) where the applicant has demonstrated the ability, stability, and resources to complete the project;

(e) that will serve the greatest need;

(f) that promote economic development benefits;

(g) that allow integration into a local government housing plan;

(h) that would mitigate or correct existing health, safety, or welfare concerns; or

(i) that remedy a gap in the supply of and demand for affordable housing.

Section 28. Section 35A-8-511 is amended to read:

35A-8-511. Activities authorized to receive account money.

[~~(1)~~] The executive director may distribute funds from the Economic Revitalization and Investment

Fund and the Rural Housing Fund for any of the following activities undertaken as part of an approved project:

[~~(a)~~] (1) the acquisition, rehabilitation, or new construction of a building that includes [~~affordable~~] moderate income housing units;

[~~(b)~~] (2) the purchase of land for the construction of a building that will include [~~affordable~~] moderate income housing units; or

[~~(c)~~] (3) pre-development work, including planning, studies, design, and site work for a building that will include [~~affordable~~] moderate income housing units.

[~~(2) The maximum amount of money that may be distributed from the Economic Revitalization and Investment Fund for each affordable housing unit that has been committed in accordance with Subsection 35A-8-509(5)(b)(iii) is the present value, based on the current market interest rate as determined by the board for a multi-family mortgage loan in the county or metropolitan area where the project is located, of 360 monthly payments equal to the difference between:~~]

[~~(a) the most recent United States Department of Housing and Urban Development fair market rent for a unit of the same size in the county or metropolitan area where the project is located; and~~]

[~~(b) an affordable rent equal to 30% of the income requirement described in Subsection 35A-8-509(5)(b)(ii) for a household of:~~]

[~~(i) one person if the unit is an efficiency unit;~~]

[~~(ii) two people if the unit is a one-bedroom unit;~~]

[~~(iii) four people if the unit is a two-bedroom unit;~~]

[~~(iv) five people if the unit is a three-bedroom unit;~~]

[~~(v) six people if the unit is a four-bedroom unit; or~~]

[~~(vi) eight people if the unit is a five-bedroom or larger unit.~~]

Section 29. Section 35A-8-512 is amended to read:

35A-8-512. Repayment of funds.

(1) Upon the earlier of 30 years from the date an approved project is placed in service or the sale or transfer of the affordable housing units acquired, constructed, or rehabilitated as part of an approved project funded under [~~Section 35A-8-511~~] Subsection 35A-8-511(1), the housing sponsor shall remit to the department:

(a) the total amount of money distributed by the department to the housing sponsor for the project; and

(b) an additional amount of money determined by contract with the department prior to the initial disbursement of money [~~from the Economic Revitalization and Investment Fund~~].

(2) Any claim arising under Subsection (1) is a lien against the real property funded under this chapter.

(3) (a) Any money returned to the department under Subsection (1) from a housing sponsor that received funds from the Economic Revitalization and Investment Fund shall be deposited in the Economic Revitalization and Investment Fund.

(b) Any money returned to the department under Subsection (1) from a housing sponsor that received funds from the Rural Housing Fund shall be deposited in the Rural Housing Fund.

Section 30. Section 35A-8-513 is amended to read:

35A-8-513. Annual accounting.

(1) The executive director shall monitor the activities of recipients of funds from the Economic Revitalization and Investment Fund and the Rural Housing Fund on a yearly basis to ensure compliance with the terms and conditions imposed on the recipient by the executive director with the approval of the board.

(2) (a) A housing sponsor that receives funds from the Economic Revitalization and Investment Fund shall provide the executive director with an annual accounting of how the money the entity received from the Economic Revitalization and Investment Fund has been spent and evidence that the commitment described in Subsection 35A-8-509(5) has been met.

(b) A housing sponsor that receives funds from the Rural Housing Fund shall provide the executive director with an annual accounting of how the money the entity received from the Rural Housing Fund has been spent and evidence that the commitment described in Subsection 35A-8-509.5(5) has been met.

(3) The executive director shall make an annual report to the board accounting for the expenditures authorized by the board under the Economic Revitalization and Investment Fund and the Rural Housing Fund.

(4) The board shall submit a report to the department for inclusion in the annual written report described in Section 35A-1-109 that includes:

(a) an accounting for expenditures authorized by the board; and

(b) an evaluation of the effectiveness of [~~the~~] each program.

Section 31. Section 35A-8-803 is amended to read:

35A-8-803. Division -- Functions.

(1) In addition to any other functions the governor or Legislature may assign:

(a) the division shall:

(i) provide a clearinghouse of information for federal, state, and local housing assistance programs;

(ii) establish, in cooperation with political subdivisions, model plans and management methods to encourage or provide for the development of affordable housing that may be adopted by political subdivisions by reference;

(iii) undertake, in cooperation with political subdivisions, a realistic assessment of problems relating to housing needs, such as:

(A) inadequate supply of dwellings;

(B) substandard dwellings; and

(C) inability of medium and low income families to obtain adequate housing;

(iv) provide the information obtained under Subsection (1)(a)(iii) to:

(A) political subdivisions;

(B) real estate developers;

(C) builders;

(D) lending institutions;

(E) affordable housing advocates; and

(F) others having use for the information;

(v) advise political subdivisions of serious housing problems existing within their jurisdiction that require concerted public action for solution;

(vi) assist political subdivisions in defining housing objectives and in preparing for adoption a plan of action covering a five–year period designed to accomplish housing objectives within their jurisdiction; [~~and~~]

(vii) for municipalities or counties required to submit an annual moderate income housing report to the department as described in Section 10–9a–408 or 17–27a–408:

(A) assist in the creation of the reports; and

[~~(B) evaluate the reports for the purposes of Subsections 72–2–124(5) and (6); and~~]

(B) review the reports to meet the requirements of Sections 10–9a–408 and 17–27a–408;

(viii) establish and maintain a database of moderate income housing units located within the state; and

(ix) on or before December 1, 2022, develop and submit to the Commission on Housing Affordability a methodology for determining whether a municipality or county is taking sufficient measures to protect and promote moderate income housing in accordance with the provisions of Sections 10–9a–403 and 17–27a–403; and

(b) within legislative appropriations, the division may accept for and on behalf of, and bind the state to, any federal housing or homeless program in which the state is invited, permitted, or authorized to participate in the distribution, disbursement, or administration of any funds or service advanced, offered, or contributed in whole or in part by the federal government.

(2) The administration of any federal housing program in which the state is invited, permitted, or authorized to participate in distribution, disbursement, or administration of funds or services, except those administered by the Utah Housing Corporation, is governed by Sections 35A–8–501 through 35A–8–508.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules describing the [~~evaluation~~] review process for moderate income housing reports described in Subsection (1)(a)(vii).

Section 32. Section 35A-8-2105 is amended to read:

35A-8-2105. Allocation of volume cap.

(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the allotment accounts as described in Section 35A–8–2106.

(b) The board of review may distribute up to 50% of each increase in the volume cap for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section 35A–8–2106.

(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes of the board of review.

(3) (a) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part.

(b) In making an allocation of volume cap the board of review shall consider the following:

(i) the principal amount of the bonds proposed to be issued;

(ii) the nature and the location of the project or the type of program;

(iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;

(iv) whether the project or program could obtain adequate financing without an allocation of volume cap;

(v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;

(vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;

(vii) the anticipated economic development created or retained within the local community and the state as a whole;

(viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole;

(ix) if the project is a residential rental project, the degree to which the residential rental project:

(A) targets lower income populations; and

(B) is accessible housing; and

(x) whether the project meets the principles of quality growth recommended by the Quality Growth Commission created in Section 11-38-201.

(4) The board of review shall provide evidence of an allocation of volume cap by issuing a certificate in accordance with Section 35A-8-2107.

(5) (a) [~~From~~] Subject to Subsection (5)(c), from January 1 to June 30 of each year, the board of review shall set aside at least 50% of the Small Issue Bond Account that may only be allocated to manufacturing projects.

(b) [~~From~~] Subject to Subsection (5)(c), from July 1 to August 15 of each year, the board of review shall set aside at least 50% of the Pool Account that may only be allocated to manufacturing projects.

(c) The board of review is not required to set aside any unused volume cap under Subsection 35A-8-2106(2)(c) to satisfy the requirements of Subsection (5)(a) or (b).

Section 33. Section 35A-8-2106 is amended to read:

35A-8-2106. Allotment accounts.

(1) There are created the following allotment accounts:

(a) the Single Family Housing Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified mortgage bonds under Section 143 of the code;

(b) the Student Loan Account, for which eligible issuing authorities are those authorized under the code and state statute to issue qualified student loan bonds under Section 144(b) of the code;

(c) the Small Issue Bond Account, for which eligible issuing authorities are those authorized under the code and state statute to issue:

(i) qualified small issue bonds under Section 144(a) of the code;

(ii) qualified exempt facility bonds for qualified residential rental projects under Section 142(d) of the code; or

(iii) qualified redevelopment bonds under Section 144(c) of the code;

(d) the Exempt Facilities Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap other than for purposes described in [~~Subsections~~] Subsection (1)(a), (b), or (c);

(e) the Pool Account, for which eligible issuing authorities are those authorized under the code and state statute to issue any bonds requiring an allocation of volume cap; and

(f) the Carryforward Account, for which eligible issuing authorities are those with projects or programs qualifying under Section 146(f) of the code.

(2) (a) The volume cap shall be distributed to the allotment accounts on January 1 of each year on the following basis:

(i) 42% to the Single Family Housing Account;

(ii) 33% to the Student Loan Account;

(iii) 1% to the Exempt Facilities Account; and

(iv) 24% to the Small Issue Bond Account.

(b) From July 1 to September 30 of each year, the board of review may transfer any unallocated volume cap from the Exempt Facilities Account or the Small Issue Bond Account to the Pool Account.

(c) Upon written notification by the issuing authorities eligible for volume cap allocation from the Single Family Housing Account or the Student Loan Account that all or a portion of volume cap distributed into that allotment account will not be used, the board of review may transfer the unused volume cap [~~between the Single Family Housing Account and the Student Loan Account~~] to any other allotment account.

(d) From October 1 to the third Friday of December of each year, the board of review shall transfer all unallocated volume cap into the Pool Account.

(e) On the third Saturday of December of each year, the board of review shall transfer uncollected volume cap, or allocated volume cap for which bonds have not been issued prior to the third Saturday of December, into the Carryforward Account.

(f) If the authority to issue bonds designated in any allotment account is rescinded by amendment to the code, the board of review may transfer any unallocated volume cap from that allotment account to any other allotment account.

Section 34. Section 35A-8-2203 is amended to read:

35A-8-2203. Duties of the commission.

(1) The commission's duties include:

(a) increasing public and government awareness and understanding of the housing affordability needs of the state and how those needs may be most effectively and efficiently met, through empirical study and investigation;

(b) identifying and recommending implementation of specific strategies, policies, procedures, and programs to address the housing affordability needs of the state;

(c) facilitating the communication and coordination of public and private entities that are involved in developing, financing, providing, advocating for, and administering affordable housing in the state;

(d) studying, evaluating, and reporting on the status and effectiveness of policies, procedures, and programs that address housing affordability in the state;

(e) studying and evaluating the policies, procedures, and programs implemented by other states that address housing affordability;

(f) providing a forum for public comment on issues related to housing affordability; [~~and~~]

(g) providing recommendations to the governor and Legislature on strategies, policies, procedures, and programs to address the housing affordability needs of the state[~~.~~]; and

(h) on or before December 31, 2022, approving the methodology developed by the division under Subsection 35A-8-803(1)(a)(ix).

(2) To accomplish its duties, the commission may:

(a) request and receive from a state or local government agency or institution summary information relating to housing affordability, including:

(i) reports;

(ii) audits;

(iii) projections; and

(iv) statistics; and

(b) appoint one or more advisory groups to advise and assist the commission.

(3) (a) A member of an advisory group described in Subsection (2)(b):

(i) shall be appointed by the commission;

(ii) may be:

(A) a member of the commission; or

(B) an individual from the private or public sector; and

(iii) notwithstanding Section 35A-8-2202, may not receive reimbursement or pay for any work done in relation to the advisory group.

(b) An advisory group described in Subsection (2)(b) shall report to the commission on the progress of the advisory group.

Section 35. Section 63J-4-802 is amended to read:

63J-4-802. Creation of COVID-19 Local Assistance Matching Grant Program -- Eligibility -- Duties of the office.

(1) There is established a grant program known as COVID-19 Local Assistance Matching Grant Program that is administered by the office.

(2) The office shall award financial grants to local governments that meet the qualifications described in Subsection (3) to provide support for:

(a) projects or services that address the economic impacts of the COVID-19 emergency on housing insecurity, lack of affordable housing, or homelessness;

(b) costs incurred in addressing public health challenges resulting from the COVID-19 emergency;

(c) necessary investments in water and sewer infrastructure; or

(d) any other purpose authorized under the American Rescue Plan Act.

(3) To be eligible for a grant under this part, a local government shall:

(a) provide matching funds in an amount determined by the office; and

(b) certify that the local government will spend grant funds:

(i) on a purpose described in Subsection (2);

(ii) within the time period determined by the office; and

(iii) in accordance with the American Rescue Plan Act.

(4) As soon as is practicable, but on or before September 15, 2021, the office shall, with recommendations from the review committee, establish:

(a) procedures for applying for and awarding grants under this part, using an online grants management system that:

(i) manages each grant throughout the duration of the grant;

(ii) allows for:

(A) online submission of grant applications; and

(B) auditing and reporting for a local government that receives grant funds; and

(iii) generates reports containing information about each grant;

(b) criteria for awarding grants; and

(c) reporting requirements for grant recipients.

(5) Subject to appropriation, the office shall award grant funds on a competitive basis until December 31, 2024.

(6) If the office receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the office may prioritize the awarding of a financial grant under this section to the municipality or county during the fiscal year specified in the notice.

(7) If the office receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), or a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the office may not award a financial grant under this section to the municipality or county during the fiscal year specified in the notice.

[~~(6)~~] (8) Before November 30 of each year, ending November 30, 2025, the office shall submit a report to the Executive Appropriations Committee that includes:

(a) a summary of the procedures, criteria, and requirements established under Subsection (4);

(b) a summary of the recommendations of the review committee under Section 63J-4-803;

(c) the number of applications submitted under the grant program during the previous year;

(d) the number of grants awarded under the grant program during the previous year;

(e) the aggregate amount of grant funds awarded under the grant program during the previous year; and

(f) any other information the office considers relevant to evaluating the success of the grant program.

[~~(7)~~] (9) The office may use funds appropriated by the Legislature for the grant program to pay for administrative costs.

Section 36. Section 63L-12-101 is enacted to read:

CHAPTER 12. GRANTING OF REAL PROPERTY FOR MODERATE INCOME HOUSING

63L-12-101. Definitions.

As used in this chapter:

(1) "Governmental entity" means:

(a) an agency, as that term is defined in Section 63G-10-102;

(b) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(c) the School and Institutional Trust Lands Board of Trustees created in Section 53C-1-202; or

(d) a political subdivision, as that term is defined in Section 63L-11-102.

(2) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the housing is located.

(3) "Municipality" means the same as that term is defined in Section 10-1-104.

Section 37. Section 63L-12-102, which is renumbered from Section 10-8-501 is renumbered and amended to read:

[~~10-8-501~~]. 63L-12-102. Grant of real property for moderate income housing.

[~~(1) As used in this part, "affordable housing unit" means a rental housing unit where a household whose income is no more than 50% of the area median income for households where the housing unit is located is able to occupy the housing unit paying no more than 31% of the household's income for gross housing costs including utilities.~~]

[~~(2)~~] (1) Subject to the requirements of this section, [~~and for a municipality, Subsection 10-8-2(4), a political subdivision~~] a governmental entity may grant real property owned by the [~~political subdivision~~] governmental entity to an entity for the development of [~~one or more affordable housing units on the real property that will serve households at various income levels whereby at least 20% of the housing units are affordable housing units~~] moderate income housing on the real property.

[~~(3) A political subdivision~~]

(2) A governmental entity shall ensure that real property granted [~~as described in~~] under Subsection [~~(2)~~] (1) is deed restricted for [~~affordable~~] moderate income housing for at least 30 years after the day on which each [~~affordable~~] moderate income housing unit is completed and occupied.

[~~(4)~~] (3) If applicable, a [~~political subdivision~~] governmental entity granting real property under this section shall comply with:

(a) the provisions of Title 78B, Chapter 6, Part 5, Eminent Domain[~~.~~];

(b) Subsection 10-8-2(4), if a municipality is granting real property under this section;

(c) Subsection 17-50-312(5), if a county is granting real property under this section; and

(d) except as provided in Subsection (4), any other applicable provisions of law that govern the granting of real property by the governmental entity.

[~~(5)~~] (4) A municipality granting real property under this section is not subject to the provisions of Subsection 10-8-2(3).

Section 38. Section 63N-3-113 is enacted to read:

63N-3-113. Financial assistance to entities offering technical assistance to municipalities in connection with planning.

(1) The administrator may provide money from the Industrial Assistance Account to an entity offering technical assistance to a municipality in connection with planning for housing, transportation, and growth.

(2) As part of an application for receiving money under this section, an applicant shall:

(a) describe the activities the entity will undertake to provide technical assistance to a municipality in connection with planning for housing, transportation, and growth; and

(b) satisfy other criteria the administrator considers appropriate.

(3) Before awarding any money under this section, the administrator shall:

(a) make findings as to whether an applicant has satisfied the requirements of Subsection (2);

(b) establish benchmarks and timeframes in which progress toward the completion of the agreed upon activities are to occur;

(c) monitor compliance by an applicant with any contract or agreement entered into by the applicant and the state as provided by Section 63N-3-107; and

(d) make funding decisions based upon appropriate findings and compliance.

Section 39. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing;

(c) conservation of water resources through efficient land use;

(d) improving air quality by reducing fuel consumption and motor vehicle trips;

(e) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(f) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2); and

(g) increasing access to employment and educational opportunities.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed housing units within the housing and transit reinvestment zone are affordable housing units;

(b) a dedication of at least 51% of the developable area within the housing and transit reinvestment zone to residential development with an average of 50 multi-family dwelling units per acre or greater; and

(c) mixed-use development.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

(4) A municipality or public transit county may only propose a housing and transit reinvestment zone that:

(a) subject to Subsection (5):

(i) (A) for a municipality, does not exceed a 1/3 mile radius of a commuter rail station; or

(B) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

(ii) has a total area of no more than 125 noncontiguous square acres;

(b) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(c) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(5) If a parcel is bisected by the 1/3 mile radius, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a).

(6) The notice of commencement of collection of tax increment required in Subsection (4)(c) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Opportunity.

(7) (a) This Subsection (7) applies to a specified county, as defined in Section 17-27a-408, that has created a small public transit district on or before January 1, 2022.

(b) A county described in Subsection (7)(a) shall, in accordance with Section 63N-3-604, prepare and submit to the Governor's Office of Economic Opportunity a proposal to create a housing and transit reinvestment zone on or before December 31, 2022.

Section 40. Section 72-1-304 is amended to read:

72-1-304. Written project prioritization process for new transportation capacity projects -- Rulemaking.

(1) (a) The Transportation Commission, in consultation with the department and the metropolitan planning organizations as defined in Section 72-1-208.5, shall develop a written prioritization process for the prioritization of:

(i) new transportation capacity projects that are or will be part of the state highway system under Chapter 4, Part 1, State Highways;

(ii) paved pedestrian or paved nonmotorized transportation projects that:

(A) mitigate traffic congestion on the state highway system; and

(B) are part of an active transportation plan approved by the department;

(iii) public transit projects that directly add capacity to the public transit systems within the state, not including facilities ancillary to the public transit system; and

(iv) pedestrian or nonmotorized transportation projects that provide connection to a public transit system.

(b) (i) A local government or district may nominate a project for prioritization in accordance with the process established by the commission in rule.

(ii) If a local government or district nominates a project for prioritization by the commission, the local government or district shall provide data and evidence to show that:

(A) the project will advance the purposes and goals described in Section 72-1-211;

(B) for a public transit project, the local government or district has an ongoing funding source for operations and maintenance of the proposed development; and

(C) the local government or district will provide 40% of the costs for the project as required by Subsection 72-2-124(4)(a)(viii) or 72-2-124(9)(e).

(2) The following shall be included in the written prioritization process under Subsection (1):

(a) a description of how the strategic initiatives of the department adopted under Section 72-1-211 are advanced by the written prioritization process;

(b) a definition of the type of projects to which the written prioritization process applies;

(c) specification of a weighted criteria system that is used to rank proposed projects and how it will be used to determine which projects will be prioritized;

(d) specification of the data that is necessary to apply the weighted ranking criteria; and

(e) any other provisions the commission considers appropriate, which may include consideration of:

(i) regional and statewide economic development impacts, including improved local access to:

(A) employment;

(B) educational facilities;

(C) recreation;

(D) commerce; and

(E) residential areas, including moderate income housing as demonstrated in the local government's or district's general plan pursuant to Section 10-9a-403 or 17-27a-403;

(ii) the extent to which local land use plans relevant to a project support and accomplish the strategic initiatives adopted under Section 72-1-211; and

(iii) any matching funds provided by a political subdivision or public transit district in addition to the 40% required by Subsections 72-2-124(4)(a)(viii) and 72-2-124(9)(e).

(3) (a) When prioritizing a public transit project that increases capacity, the commission:

(i) may give priority consideration to projects that are part of a transit-oriented development or transit-supportive development as defined in Section 17B-2a-802; and

(ii) shall give priority consideration to projects that are within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(b) When prioritizing a transportation project that increases capacity, the commission may give priority consideration to projects that are:

(i) part of a transportation reinvestment zone created under Section 11-13-227 if:

(A) the state is a participant in the transportation reinvestment zone; or

(B) the commission finds that the transportation reinvestment zone provides a benefit to the state transportation system; or

(ii) within the boundaries of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.

(c) If the department receives a notice of prioritization for a municipality as described in Subsection 10-9a-408(5), or a notice of prioritization for a county as described in Subsection 17-27a-408(5), the commission may, during the fiscal year specified in the notice, give priority consideration to transportation projects that are within the boundaries of the municipality or the unincorporated areas of the county.

(4) In developing the written prioritization process, the commission:

(a) shall seek and consider public comment by holding public meetings at locations throughout the state; and

(b) may not consider local matching dollars as provided under Section 72-2-123 unless the state provides an equal opportunity to raise local matching dollars for state highway improvements within each county.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

Transportation Commission, in consultation with the department, shall make rules establishing the written prioritization process under Subsection (1).

(6) The commission shall submit the proposed rules under this section to a committee or task force designated by the Legislative Management Committee for review prior to taking final action on the proposed rules or any proposed amendment to the rules described in Subsection (5).

Section 41. Section 72-2-124 is amended to read:

72-2-124. Transportation Investment Fund of 2005.

(1) There is created a capital projects fund entitled the Transportation Investment Fund of 2005.

(2) The fund consists of money generated from the following sources:

(a) any voluntary contributions received for the maintenance, construction, reconstruction, or renovation of state and federal highways;

(b) appropriations made to the fund by the Legislature;

(c) registration fees designated under Section 41-1a-1201;

(d) the sales and use tax revenues deposited into the fund in accordance with Section 59-12-103; and

(e) revenues transferred to the fund in accordance with Section 72-2-106.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) (a) Except as provided in Subsection (4)(b), the executive director may only use fund money to pay:

(i) the costs of maintenance, construction, reconstruction, or renovation to state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ii) the costs of maintenance, construction, reconstruction, or renovation to the highway projects described in Subsections 63B-18-401(2), (3), and (4);

(iii) principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 minus the costs paid from the County of the First Class Highway Projects Fund in accordance with Subsection 72-2-121(4)(e);

(iv) for a fiscal year beginning on or after July 1, 2013, to transfer to the 2010 Salt Lake County Revenue Bond Sinking Fund created by Section 72-2-121.3 the amount certified by Salt Lake County in accordance with Subsection 72-2-121.3(4)(c) as necessary to pay the debt service on $30,000,000 of the revenue bonds issued by Salt Lake County;

(v) principal, interest, and issuance costs of bonds authorized by Section 63B-16-101 for projects prioritized in accordance with Section 72-2-125;

(vi) all highway general obligation bonds that are intended to be paid from revenues in the Centennial Highway Fund created by Section 72-2-118;

(vii) for fiscal year 2015-16 only, to transfer $25,000,000 to the County of the First Class Highway Projects Fund created in Section 72-2-121 to be used for the purposes described in Section 72-2-121;

(viii) if a political subdivision provides a contribution equal to or greater than 40% of the costs needed for construction, reconstruction, or renovation of paved pedestrian or paved nonmotorized transportation for projects that:

(A) mitigate traffic congestion on the state highway system;

(B) are part of an active transportation plan approved by the department; and

(C) are prioritized by the commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304;

(ix) $705,000,000 for the costs of right-of-way acquisition, construction, reconstruction, or renovation of or improvement to the following projects:

(A) the connector road between Main Street and 1600 North in the city of Vineyard;

(B) Geneva Road from University Parkway to 1800 South;

(C) the SR-97 interchange at 5600 South on I-15;

(D) two lanes on U-111 from Herriman Parkway to 11800 South;

(E) widening I-15 between mileposts 10 and 13 and the interchange at milepost 11;

(F) improvements to 1600 North in Orem from 1200 West to State Street;

(G) widening I-15 between mileposts 6 and 8;

(H) widening 1600 South from Main Street in the city of Spanish Fork to SR-51;

(I) widening US 6 from Sheep Creek to Mill Fork between mileposts 195 and 197 in Spanish Fork Canyon;

(J) I-15 northbound between mileposts 43 and 56;

(K) a passing lane on SR-132 between mileposts 41.1 and 43.7 between mileposts 43 and 45.1;

(L) east Zion SR-9 improvements;

(M) Toquerville Parkway;

(N) an environmental study on Foothill Boulevard in the city of Saratoga Springs;

(O) for construction of an interchange on Bangerter Highway at 13400 South; and

(P) an environmental impact study for Kimball Junction in Summit County; and

(x) $28,000,000 as pass-through funds, to be distributed as necessary to pay project costs based upon a statement of cash flow that the local jurisdiction where the project is located provides to the department demonstrating the need for money for the project, for the following projects in the following amounts:

(A) $5,000,000 for Payson Main Street repair and replacement;

(B) $8,000,000 for a Bluffdale 14600 South railroad bypass;

(C) $5,000,000 for improvements to 4700 South in Taylorsville; and

(D) $10,000,000 for improvements to the west side frontage roads adjacent to U.S. 40 between mile markers 7 and 10.

(b) The executive director may use fund money to exchange for an equal or greater amount of federal transportation funds to be used as provided in Subsection (4)(a).

(5) (a) Except as provided in Subsection (5)(b), if the department receives a notice of ineligibility for a municipality as described in Subsection 10-9a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of [~~a municipality that is required to adopt a moderate income housing plan element as part of the municipality's general plan as described in Subsection 10-9a-401(3), if the municipality has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii)~~] the municipality during the fiscal year specified in the notice.

[~~(b) Within the boundaries of a municipality that is required under Subsection 10-9a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the municipality's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:~~]

(b) Within the boundaries of a municipality described in Subsection (5)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility or interchange connecting limited-access facilities;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections (5)(a) and (b) do not apply to a project programmed by the executive director before [~~May 1, 2020~~] July 1, 2022, for projects prioritized by the commission under Section 72-1-304.

(6) (a) Except as provided in Subsection (6)(b), if the department receives a notice of ineligibility for a county as described in Subsection 17-27a-408(7), the executive director may not program fund money to a project prioritized by the commission under Section 72-1-304, including fund money from the Transit Transportation Investment Fund, within the boundaries of the unincorporated area of [~~a county, if the county is required to adopt a moderate income housing plan element as part of the county's general plan as described in Subsection 17-27a-401(3) and if the county has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii)~~] the county during the fiscal year specified in the notice.

[~~(b) Within the boundaries of the unincorporated area of a county where the county is required under Subsection 17-27a-401(3) to plan for moderate income housing growth but has failed to adopt a moderate income housing plan element as part of the county's general plan or has failed to implement the requirements of the moderate income housing plan as determined by the results of the Department of Workforce Service's review of the annual moderate income housing report described in Subsection 35A-8-803(1)(a)(vii), the executive director:~~]

(b) Within the boundaries of the unincorporated area of a county described in Subsection (6)(a), the executive director:

(i) may program fund money in accordance with Subsection (4)(a) for a limited-access facility to a project prioritized by the commission under Section 72-1-304;

(ii) may not program fund money for the construction, reconstruction, or renovation of an interchange on a limited-access facility;

(iii) may program Transit Transportation Investment Fund money for a multi-community fixed guideway public transportation project; and

(iv) may not program Transit Transportation Investment Fund money for the construction, reconstruction, or renovation of a station that is part of a fixed guideway public transportation project.

(c) Subsections [~~(5)~~] (6)(a) and (b) do not apply to a project programmed by the executive director before July 1, [~~2020~~] 2022, for projects prioritized by the commission under Section 72-1-304.

(7) (a) Before bonds authorized by Section 63B-18-401 or 63B-27-101 may be issued in any fiscal year, the department and the commission shall appear before the Executive Appropriations Committee of the Legislature and present the amount of bond proceeds that the department needs to provide funding for the projects identified in Subsections 63B-18-401(2), (3), and (4) or Subsection 63B-27-101(2) for the current or next fiscal year.

(b) The Executive Appropriations Committee of the Legislature shall review and comment on the amount of bond proceeds needed to fund the projects.

(8) The Division of Finance shall, from money deposited into the fund, transfer the amount of funds necessary to pay principal, interest, and issuance costs of bonds authorized by Section 63B-18-401 or 63B-27-101 in the current fiscal year to the appropriate debt service or sinking fund.

(9) (a) There is created in the Transportation Investment Fund of 2005 the Transit Transportation Investment Fund.

(b) The fund shall be funded by:

(i) contributions deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) deposits of sales and use tax increment related to a housing and transit reinvestment zone as described in Section 63N-3-610;

(iv) private contributions; and

(v) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) Subject to Subsection (9)(e), the Legislature may appropriate money from the fund for public transit capital development of new capacity projects to be used as prioritized by the commission through the prioritization process adopted under Section 72-1-304.

(e) (i) The Legislature may only appropriate money from the fund for a public transit capital development project or pedestrian or nonmotorized transportation project that provides connection to the public transit system if the public transit district or political subdivision provides funds of equal to or greater than 40% of the costs needed for the project.

(ii) A public transit district or political subdivision may use money derived from a loan granted pursuant to Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, to provide all or part of the 40% requirement described in Subsection (9)(e)(i) if:

(A) the loan is approved by the commission as required in Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund; and

(B) the proposed capital project has been prioritized by the commission pursuant to Section 72-1-303.

(10) (a) There is created in the Transportation Investment Fund of 2005 the Cottonwood Canyons Transportation Investment Fund.

(b) The fund shall be funded by:

(i) money deposited into the fund in accordance with Section 59-12-103;

(ii) appropriations into the account by the Legislature;

(iii) private contributions; and

(iv) donations or grants from public or private entities.

(c) (i) The fund shall earn interest.

(ii) All interest earned on fund money shall be deposited into the fund.

(d) The Legislature may appropriate money from the fund for public transit or transportation projects in the Cottonwood Canyons of Salt Lake County.

Section 42. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Housing and Community Development

From General Fund, One-time	$500,000
Schedule of Programs:	
Housing Development	$500,000

The Legislature intends that the Department of Workforce Services use funds appropriated under this item to develop a statewide database for moderate income housing units as described in Subsection 35A-8-803(1)(a)(viii).

ITEM 2

To Department of Workforce Services -- Housing and Community Development

From General Fund, One-time	$750,000
Schedule of Programs:	

Housing Development $750,000

The Legislature intends that:

(1) the Department of Workforce Services use $375,000 of the funds appropriated under this item in each of the fiscal years 2023 and 2024 to provide assistance to landlords under the Department of Workforce Services' Section 8 Landlord Incentive Program; and

(2) under the terms of Section 63J-1-603 of the Utah Code, appropriations under this item not lapse at the close of fiscal year 2023.

ITEM 3

To Department of Workforce Services — Administration

From General Fund $132,000

Schedule of Programs:

Administrative Support $132,000

The Legislature intends that the Department of Workforce Services use funds appropriated under this item to hire one full-time equivalent employee.

ITEM 4

To Department of Workforce Services -- Housing and Community Development

From General Fund, One-time $250,000

Schedule of Programs:

Housing Development $250,000

The Legislature intends that:

(1) the Department of Workforce Services distribute funds appropriated under this item to a nonprofit entity in the state that provides training and education on land use law;

(2) the Department of Workforce Services follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code, in selecting the recipient entity; and

(3) the recipient entity use funds distributed from the Department of Workforce Services under this item to provide regional land use training and workshops to local officials and policymakers on housing issues.

ITEM 5

To Department of Workforce Services -- Housing and Community Development

From General Fund, One-time $250,000

Schedule of Programs:

Housing Development $250,000

The Legislature intends that:

(1) the Department of Workforce Services distribute funds appropriated under this item to a nonprofit entity in the state that engages in efforts to increase housing affordability through local zoning and housing regulation reform; and

(2) the Department of Workforce Services follow the provisions of Title 63G, Chapter 6a, Utah Procurement Code, in selecting the recipient entity.

Section 43. Effective date.

This bill takes effect on June 1, 2022.

Section 44. Coordinating H.B. 462 with H.B. 303 -- Substantive amendment.

If this H.B. 462 and H.B. 303, Local Land Use Amendments, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel on June 1, 2022, prepare the Utah Code database for publication by amending Subsection 10-9a-403(2)(b)(iii)(K) in H.B. 462 to read:

"[~~(L)~~] (K) preserve existing and new moderate income housing and subsidized units by utilizing a landlord incentive program, providing for deed restricted units through a grant program, or, notwithstanding Section 10-9a-535, establishing a housing loss mitigation fund;".

CHAPTER 407
H. B. 475

Passed March 2, 2022
Approved March 24, 2022
Effective March 24, 2022

USE OF PUBLIC EDUCATION STABILIZATION ACCOUNT ONE-TIME FUNDING

Chief Sponsor: Bradley G. Last
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This bill provides for the use of certain recurring one-time funding from the Public Education Economic Stabilization Restricted Account within the public education system.

Highlighted Provisions:

This bill:

- defines terms;
- creates a capital projects fund known as the Small School District Capital Projects Fund (fund) to provide state funding for certain local capital development projects;
- requires the Executive Appropriations Committee, in preparing budget bills, to use one-time appropriations in the Public Education Economic Stabilization Restricted Account for:
  - a general distribution to school districts and charter schools for local one-time funding priorities; and
  - the Small School District Capital Projects Fund to a certain limit;
- establishes the Capital Projects Evaluation Panel (panel) under the State Board of Education (state board);
- provides the membership and duties of the panel;
- provides state funding for local capital development projects through grants and low-interest or no-interest loans;
- grants rulemaking authority to the state board regarding the capital development project proposal and approval process; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to State Board of Education - Public Education Capital Projects Fund, as a one-time appropriation:
  - from the Uniform Public Education Economic Stabilization Restricted Account, One-time, $50,000,000;
- to Capital Budgets - Public Education Capital Development, as a one-time appropriation:
  - from Public Education Capital Development Fund, One-time, $30,000,000;
- to State Board of Education - Minimum School Program - Related to Basic School Programs, as a one-time appropriation:
  - from Public Education Economic Stabilization Restricted Account, One-time, $91,500,000; and
- to Capital Budget - Public Education Capital Development Fund, as a one-time appropriation:
  - from the Public Education Economic Stabilization Restricted Account, One-time, $30,000,000.

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

ENACTS:

53F-7-202, Utah Code Annotated 1953
53F-9-601, Utah Code Annotated 1953
53F-10-101, Utah Code Annotated 1953
53F-10-102, Utah Code Annotated 1953
53F-10-201, Utah Code Annotated 1953
53F-10-202, Utah Code Annotated 1953
53F-10-301, Utah Code Annotated 1953
53F-10-302, Utah Code Annotated 1953

Utah Code Sections Affected by Revisor Instructions:

53F-10-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-7-202 is enacted to read:

53F-7-202. Distribution of one-time funding for student and school support.

(1) Subject to legislative appropriations, the state board shall allocate one-time funding appropriated for student and school support in accordance with this section by:

(a) for charter schools:

(i) distributing an amount that is equal to the product of:

(A) charter school enrollment on October 1 in the prior year, or projected enrollment for a charter school in the charter school's first year of operations, divided by enrollment on October 1 in public schools statewide in the prior year; and

(B) the total amount available for distribution; and

(ii) allocating to each charter school:

(A) an equally divided portion of 20% of the amount described in Subsection (1)(a)(i); and

(B) 80% of the amount described in Subsection (1)(a)(i) on a per-student basis; and

(b) for school districts, distributing the remainder of funds available for distribution after the distribution to charter schools under Subsection (1)(a) by allocating to each school district:

(i) a base allocation relative to student enrollment as follows:

(A) for a school district with enrollment less than 1% of total state enrollment, $500,000;

(B) for a school district with enrollment of between 1% and 5% of total state enrollment, $350,000; and

(C) for a school district with enrollment greater than 5% of total state enrollment, $200,000; and

(ii) after the base allocation described in Subsection (1)(b)(i), the remainder on a per-student basis.

(2) (a) An LEA shall:

(i) use funds that the state board distributes under this section to support students and schools through one-time priorities that the relevant local governing board approves, including student safety, technology, instructional materials, and capital facility improvements; and

(ii) submit to the state board an accounting of the use of the LEA's use of the funds that the state board distributes under this section.

(b) Subsection (2)(a) does not require state board authorization or approval of an LEA expenditure.

Section 2. Section 53F-9-601 is enacted to read:

53F-9-601. Small School District Capital Projects Fund.

(1) As used in this section:

(a) "Capital development project" means the same as that term is defined in Section 63A-5b-401.

(b) "Fund" means the Small School District Capital Projects Fund created in this section.

(2) (a) There is created a capital projects fund known as the Small School District Capital Projects Fund.

(b) Subject to legislative appropriations, and except as provided in Subsection (4), money in the fund shall be used for a capital development project in accordance with this section and Title 53F, Chapter 10, State Funding -- Capital Projects.

(c) The fund shall:

(i) be funded by:

(A) one-time appropriations; and

(B) repayment and interest on loans described in Section 53F-10-303; and

(ii) accrue interest, which shall be deposited into the fund.

(3) The state board shall authorize disbursements from the fund.

(4) The state board shall administer the fund in accordance with this section.

Section 3. Section 53F-10-101 is enacted to read:

CHAPTER 10. STATE FUNDING -- CAPITAL PROJECTS

Part 1. General Provisions

53F-10-101. Definitions.

As used in this section:

(1) "Capital development project" means the same as that term is defined in Section 63A-5b-401, including new construction, capital expansion, and renovation.

(2) "Capital local levy" means the levy that a local school board imposes under Section 53F-8-303.

(3) "Capital Projects Evaluation Panel" or "panel" means the panel established in Section 53F-10-201.

(4) "Capital projects funding" means funds distributed from the Small School District Capital Projects Fund.

(5) "Division" means the Division of Facilities Construction and Management.

(6) "Eligible school district" means a school district:

(a) in a county of the fourth, fifth, or sixth class; and

(b) that qualifies for state guarantee funding related to local levies under Section 53F-2-601.

(7) "Small School District Capital Projects Fund" or "fund" means the capital projects fund created in Section 53F-9-601.

Section 4. Section 53F-10-102 is enacted to read:

53F-10-102. Capital development project proposal process -- State board role.

(1) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process for school districts to submit to the panel proposals for funding for capital development projects under this chapter, including:

(a) the panel's review, prioritization, and recommendation to the state board;

(b) the state board's consideration and approval, if applicable, of proposed capital development projects; and

(c) management of panel processes and administration.

(2) The state board may fund direct costs and administration of the panel, not to exceed $200,000.

(3) The state board shall:

(a) evaluate recommendations of the panel regarding proposed capital development projects;

(b) approve proposed capital development projects, subject to the availability of capital development funding; and

(c) oversee the disbursement of capital development funding.

Section 5. Section 53F-10-201 is enacted to read:

Part 2. Capital Projects Evaluation Panel

53F-10-201. Capital Projects Evaluation Panel.

(1) There is created the Capital Projects Evaluation Panel to review, prioritize, and approve

proposals for state funding of capital projects under this chapter.

(2) The panel consists of the following members:

(a) the state superintendent of public instruction or the state superintendent's designee, who serves as chair of the panel;

(b) the deputy superintendent for financial operations or the deputy superintendent's designee;

(c) two individuals with expertise in school construction whom the state superintendent appoints;

(d) two individuals with construction and construction financing experience, at least one of whom being an employee of the division, whom the governor appoints; and

(e) the state treasurer or the state treasurer's designee, only in the case of panel action regarding a loan under Section 53F-10-302.

(3) (a) (i) Except as provided under Subsection (3)(a)(ii), an appointed member of the panel shall serve a term of two years.

(ii) Notwithstanding Subsection (3)(a)(i), a panel member's term ends on the day on which the member's position allowing the member to serve on the panel under Subsection (2) ends.

(b) The state superintendent and governor shall make the respective appointments:

(i) for the initial appointments, before July 1, 2022;

(ii) for subsequent terms, before July 1 of each even-numbered year, by:

(A) reappointing the panel member whose term expires under Subsection (3)(a)(i); or

(B) appointing a new panel member; and

(iii) in the case of a vacancy created under Subsection (3)(a)(ii), for the remainder of the vacated term.

(c) The state superintendent and governor may change the relevant appointment described in Subsection (2) at any time for the remainder of the existing term.

(4) A panel member:

(a) may not receive compensation or benefits for the member's service on the panel other than a member who is an existing state employee receiving the employee's existing compensation and benefits related to the employee's state employment; and

(b) may receive per diem and reimbursement for travel expenses that the member incurs as a panel member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(5) (a) A majority of the panel members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the panel.

(6) (a) The state board shall provide staff support to the panel.

(b) The division shall provide technical expertise to the panel as requested by the panel.

Section 6. Section 53F-10-202 is enacted to read:

53F-10-202. Panel duties.

(1) The panel shall:

(a) determine criteria for:

(i) the allowed uses of capital project fund resources described in Sections 53F-10-301 and 53F-10-302 and the prioritization of proposed capital development projects, including the extent to which a proposed project:

(A) eliminates risks to student life and safety through renewal or replacement;

(B) enhances efficiency of use, including combining necessarily existent small schools, described in Section 53F-2-304;

(C) addresses essential program growth and capacity;

(D) provides a cost effective solution that is appropriate for the facility's need; and

(E) comports with the school district's provision of matching funds and sufficient revenues for ongoing operation and maintenance;

(b) evaluate capital development project proposals to ensure viability, efficiency, and adherence to education and construction standards;

(c) prioritize capital development projects;

(d) recommend that the state board distribute capital project funding to school districts;

(e) if necessary based on the circumstances of the capital development project, in partnership with the division, oversee the capital development project; and

(f) report to the state board regarding the panel's actions.

(2) The panel may:

(a) determine that a technical assistance liaison is necessary for an eligible school district applying for capital project funding under this chapter to efficiently complete the project; and

(b) facilitate engagement with the division or a willing school district partner having the required technical expertise in similar capital development projects.

Section 7. Section 53F-10-301 is enacted to read:

Part 3. Local Capital Development Project Funding

53F-10-301. Capital development project grants.

(1) (a) Except as provided in Subsection (1)(b), after reviewing an eligible school district's ability to independently generate project funding, the panel may recommend to the state board, and the state board may authorize a distribution of capital project funding in the following amounts to an eligible school district for a capital development project that the panel has prioritized:

(i) for an eligible school district with a capital local levy rate of at least 0.00105, up to 50% of the total cost of the capital development project as a 1:1 matching grant;

(ii) for an eligible school district with a capital local levy rate of at least 0.0015, up to 66.67% of the total cost of the capital development project as a 2:1 matching grant;

(iii) for an eligible school district with a capital local levy rate of at least 0.0018, up to 75% of the total cost of the capital development project as a 3:1 matching grant;

(iv) for an eligible school district with a capital local levy rate of at least 0.00225, up to 80% of the total cost of the capital development project as a 4:1 matching grant; and

(v) up to 100% of the total cost of the capital development project as a non-matching grant for an eligible school district that:

(A) has incurred debt equal to 90% of the debt limit imposed by Utah Constitution, Article XIV, Section 4; and

(B) unless the school district's capital local levy rate is at least 0.00225, increases the school district's capital local levy by 10% after the effective date of this bill.

(b) Notwithstanding Subsection (1)(a), if increasing a capital local levy to a threshold described in Subsection (1)(a) would result in a per-household property tax that, based on county property tax data in the State Tax Commission's annual report, is higher than 125% of the statewide average of property tax as a percentage of household income, based on census household income data, the threshold necessary to qualify for the relevant level of grant funding shall be the capital local levy rate that would result in an overall per-household property tax that is equal to 125% of the statewide average of property tax as a percentage of household income.

(2) The panel shall determine the terms of a grant described in Subsection (1), subject to approval by the state board.

(3) A school district that receives grant funding under this section shall demonstrate the ability to provide sufficient ongoing funding to support the operation and maintenance of the new or renovated facility resulting from the capital development project based on standards that the panel establishes.

Section 8. Section 53F-10-302 is enacted to read:

53F-10-302. Capital development project loans.

(1) The panel may recommend and the state board may distribute capital project funding for a loan to an eligible school district to provide the required match amount described in Section 53F-10-301 for a capital development project that the panel has prioritized:

(a) at an interest rate that the state treasurer establishes that is equal to the state's most recent general obligation bond rate; or

(b) at no interest for a school district:

(i) with a per-household property tax that is higher than 125% of the statewide average of property tax as a percentage of household income, based on the data sets described in Subsection 53F-10-302(1)(b); and

(ii) that has incurred debt equal to 90% of the debt limit imposed by Utah Constitution, Article XIV, Section 4.

(2) The panel shall determine the repayment terms of a loan described in Subsection (1), subject to state board approval, based on established standards.

(3) Repayment of a loan described in Subsection (1) and associated interest shall be deposited into the Small School District Capital Projects Fund.

(4) An LEA that receives loan funding under this section shall demonstrate the ability to provide sufficient ongoing funding to support the operation and maintenance of the new or renovated facility resulting from the capital development project based on standards that the panel establishes.

Section 9. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

Section 9(a). Operating and Capital Budgets.

ITEM 1

To State Board of Education - Public Education Capital Projects Fund

From Public Education Economic Stabilization Restricted Account, One-time	$50,000,000
Schedule of Programs:	
Small School District Capital Projects Fund	$50,000,000

The Legislature intends that the State Board of Education distribute appropriated funds from the Small School District Capital Projects Fund, in accordance with Title 53F, Chapter 10, State Funding -- Capital Projects.

ITEM 2

To Capital Budgets -- Public Education Capital Development

From Public Education Capital Development Fund, One-time	$30,000,000
Schedule of Programs:	
Schools for the Deaf and the Blind Salt Lake	$15,000,000
Schools for the Deaf and the Blind St. George	$15,000,000

The Legislature intends that:

(1) the State Board of Education in consultation with the Division of Facilities Construction and Management, evaluate the provision of capital facilities for the Utah Schools for the Deaf and the Blind in southwestern Utah and Salt Lake County to address student academic needs of direct instruction and support services, efficiency of use, and maximizing student capacity, impact of delivering services to students in each region, cost effectiveness, and priority of construction;

(2) the State Board of Education report the findings of the evaluation to the Executive Appropriations Committee by October 1, 2022; and

(3) that the Division of Finance release appropriated funds to the Division of Facilities Construction and Management to construct facilities as recommended in the report.

ITEM 3

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Public Education Economic Stabilization Restricted Account, One-time	$91,500,000
Schedule of Programs:	
Public Education Capital and Technology One-time	$91,500,000

The Legislature intends that the State Board of Education distribute funds under this item in accordance with Section 53F-7-202.

ITEM 4

The Legislature intends that the Public Education Appropriations Subcommittee:

(a) receive input from the State Board of Education, governor, and local education agencies regarding the distribution of one-time allocations from the Public Education Economic Stabilization Restricted Account to school districts and charter schools described in Items 1 through 3; and

(b) report the subcommittee's recommendations to the Executive Appropriations Committee by December 1, 2022.

Section 9(b). Capital Projects Fund.

The Legislature has reviewed the following capital projects funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 5

To Capital Budget - Public Education Capital Development Fund

From Public Education Economic Stabilization Restricted Account, One-time	$30,000,000
Schedule of Programs:	
Public Education Capital Development Fund	$30,000,000

Section 10. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

Section 11. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, replace the reference in Section 53F-10-301 from "the effective date of this bill" to the bill's actual effective date.

CHAPTER 408
H. B. 481

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

EDUCATION REPORTING AMENDMENTS

Chief Sponsor: Susan Pulsipher
Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill reduces certain reporting requirements on local education agencies.

Highlighted Provisions:

This bill:

- eliminates certain components of a literacy proficiency plan that a local education agency (LEA) is required to submit to the State Board of Education (state board);
- eliminates an assessment and reporting requirement for LEAs participating in the Digital Teaching and Learning Grant Program;
- amends a provision requiring the state board to contract with an independent evaluator regarding the grant program; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-2-503, as last amended by Laws of Utah 2021, Chapter 251
53F-2-510, as last amended by Laws of Utah 2021, Chapter 251
53G-7-218, as enacted by Laws of Utah 2020, Chapter 174

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-503 is amended to read:

53F-2-503. Early Literacy Program -- Literacy proficiency plan.

(1) As used in this section:

(a) "Program" means the Early Literacy Program.

(b) "Program money" means:

(i) school district revenue allocated to the program from other money available to the school district, except money provided by the state, for the purpose of receiving state funds under this section; and

(ii) money appropriated by the Legislature to the program.

(2) The Early Literacy Program consists of program money and is created to supplement other school resources for early literacy.

(3) Subject to future budget constraints, the Legislature may annually appropriate money to the Early Literacy Program.

(4) An LEA governing board of a school district or a charter school that serves students in any of grades kindergarten through grade 3 shall submit, in accordance with Section 53G-7-218, a plan to the state board for literacy proficiency improvement that incorporates the following components:

(a) core instruction in:

(i) phonological awareness;

(ii) phonics;

(iii) fluency;

(iv) comprehension;

(v) vocabulary;

(vi) oral language; and

(vii) writing;

(b) intervention strategies that are aligned to student needs;

[~~(c) professional development for classroom teachers, literacy coaches, and interventionists in kindergarten through grade 3;~~]

[~~(d)~~] (c) assessments that support adjustments to core and intervention instruction;

[~~(e)~~] (d) a growth goal for the school district or charter school that:

(i) is based upon student learning gains as measured by benchmark assessments administered pursuant to Section 53E-4-307; and

(ii) includes a target of at least 60% of all students in grades 1 through 3 meeting the growth goal; and

[~~(f)~~] (e) at least one goal that is specific to the school district or charter school that:

(i) is measurable;

(ii) addresses current performance gaps in student literacy based on data; and

(iii) includes specific strategies for improving outcomes[~~; and~~].

[~~(g) if a school uses interactive literacy software, the use of interactive literacy software, including early interactive reading software described in Section 53F-4-203.~~]

(5) (a) There are created within the Early Literacy Program three funding programs:

(i) the Base Level Program;

(ii) the Guarantee Program; and

(iii) the Low Income Students Program.

(b) The state board may use up to $7,500,000 from an appropriation described in Subsection (3) for computer-assisted instructional learning and assessment programs.

(6) Money appropriated to the state board for the Early Literacy Program and not used by the state

board for computer-assisted instructional learning and assessments described in Subsection (5)(b) shall be allocated to the three funding programs as follows:

(a) 8% to the Base Level Program;

(b) 46% to the Guarantee Program; and

(c) 46% to the Low Income Students Program.

(7) (a) For a school district or charter school to participate in the Base Level Program, the LEA governing board shall submit a plan described in Subsection (4) and shall receive approval of the plan from the state board.

(b) (i) The local school board of a school district qualifying for Base Level Program funds and the charter school governing boards of qualifying elementary charter schools combined shall receive a base amount.

(ii) The base amount for the qualifying elementary charter schools combined shall be allocated among each charter school in an amount proportionate to:

(A) each existing charter school's prior year fall enrollment in grades kindergarten through grade 3; and

(B) each new charter school's estimated fall enrollment in grades kindergarten through grade 3.

(8) (a) A local school board that applies for program money in excess of the Base Level Program funds may choose to first participate in the Guarantee Program or the Low Income Students Program.

(b) A school district shall fully participate in either the Guarantee Program or the Low Income Students Program before the local school board may elect for the school district to either fully or partially participate in the other program.

(c) For a school district to fully participate in the Guarantee Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000056.

(d) For a school district to fully participate in the Low Income Students Program, the local school board shall allocate to the program money available to the school district, except money provided by the state, equal to the amount of revenue that would be generated by a tax rate of .000065.

(e) (i) The state board shall verify that a local school board allocates the money required in accordance with Subsections (8)(c) and (d) before the state board distributes funds in accordance with this section.

(ii) The State Tax Commission shall provide the state board the information the state board needs in order to comply with Subsection (8)(e)(i).

(9) (a) Except as provided in Subsection (9)(c), the local school board of a school district that fully participates in the Guarantee Program shall receive state funds in an amount that is:

(i) equal to the difference between $21 multiplied by the school district's total WPUs and the revenue the local school board is required to allocate under Subsection (8)(c) for the school district to fully participate in the Guarantee Program; and

(ii) not less than $0.

(b) Except as provided in Subsection (9)(c), an elementary charter school shall receive under the Guarantee Program an amount equal to $21 times the elementary charter school's total WPUs.

(c) The state board may adjust the $21 guarantee amount described in Subsections (9)(a) and (b) to account for actual appropriations and money used by the state board for computer-assisted instructional learning and assessments.

(10) The state board shall distribute Low Income Students Program funds in an amount proportionate to the number of students in each school district or charter school who qualify for free or reduced price school lunch multiplied by two.

(11) A school district that partially participates in the Guarantee Program or Low Income Students Program shall receive program funds based on the amount of school district revenue allocated to the program as a percentage of the amount of revenue that could have been allocated if the school district had fully participated in the program.

(12) (a) An LEA governing board shall use program money for early literacy interventions and supports in kindergarten through grade 3 that have proven to significantly increase the percentage of students who are proficient in literacy, including:

(i) evidence-based intervention curriculum;

(ii) literacy assessments that identify student learning needs and monitor learning progress; or

(iii) focused literacy interventions that may include:

(A) the use of reading specialists or paraprofessionals;

(B) tutoring;

(C) before or after school programs;

(D) summer school programs; or

(E) the use of interactive computer software programs for literacy instruction and assessments for students.

(b) An LEA governing board may use program money for portable technology devices used to administer literacy assessments.

(c) Program money may not be used to supplant funds for existing programs, but may be used to augment existing programs.

(13) If an LEA governing board uses program money in a manner that is inconsistent with Subsection (12), the school district or charter school is liable for reimbursing the state board for the

amount of program money improperly used, up to the amount of program money received from the state board.

(14) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to implement the program.

(b) (i) The rules under Subsection (14)(a) shall require each LEA governing board to annually report progress in meeting goals described in Subsections [~~(4)(e)~~] (4)(d) and [~~(f)~~] (e), including the strategies the school district or charter school uses to address the goals.

(ii) If a school district or charter school does not meet or exceed the school district's or charter school's goals described in Subsections [~~(4)(e)~~] (4)(d) or [~~(f)~~] (e), the LEA governing board shall prepare a new plan that corrects deficiencies.

(iii) The new plan described in Subsection (14)(b)(ii) shall be approved by the state board before the LEA governing board receives an allocation for the next year.

(15) The state board may use up to 3% of the funds appropriated by the Legislature to carry out the provisions of this section for administration of the program.

(16) The state board shall make an annual report in accordance with Section 53E-1-203 that:

(a) includes information on:

(i) student learning gains in early literacy for the past school year and the five-year trend;

(ii) the percentage of grade 3 students who are proficient in English language arts in the past school year and the five-year trend;

(iii) the progress of school districts and charter schools in meeting goals described in a plan described in Subsection (4); and

(iv) the specific strategies or interventions used by school districts or charter schools that have significantly improved early grade literacy proficiency; and

(b) may include recommendations on how to increase the percentage of grade 3 students who are proficient in English language arts, including how to use a strategy or intervention described in Subsection (16)(a)(iv) to improve literacy proficiency for additional students.

(17) The report described in Subsection (16) shall include information provided through the digital reporting platform described in Subsection 53G-7-218(5)(a).

Section 2. Section 53F-2-510 is amended to read:

53F-2-510. Digital Teaching and Learning Grant Program.

(1) As used in this section:

(a) "Advisory committee" means the committee established by the state board under Subsection (7)(b).

(b) "Digital readiness assessment" means an assessment provided by the state board that:

(i) is completed by an LEA analyzing an LEA's readiness to incorporate comprehensive digital teaching and learning; and

(ii) informs the preparation of an LEA's plan for incorporating comprehensive digital teaching and learning.

(c) "High quality professional learning" means the professional learning standards described in Section 53G-11-303.

(d) "Implementation assessment" means an assessment that analyzes an LEA's implementation of an LEA plan, including identifying areas for improvement, obstacles to implementation, progress toward the achievement of stated goals, and recommendations going forward.

(e) "LEA plan" means an LEA's plan to implement a digital teaching and learning program that meets the requirements of this section and requirements set forth by the state board and the advisory committee.

(f) "Program" means the Digital Teaching and Learning Grant Program created and described in Subsections [~~(6)~~] (5) through [~~(11)~~] (10).

(g) "Utah Education and Telehealth Network" or "UETN" means the Utah Education and Telehealth Network created in Section 53B-17-105.

(2) (a) The state board shall establish a digital teaching and learning task force to develop a funding proposal to present to the Legislature for digital teaching and learning in elementary and secondary schools.

(b) The digital teaching and learning task force shall include representatives of:

(i) the state board;

(ii) UETN;

(iii) LEAs; and

(iv) the Governor's Education Excellence Commission.

(3) As funding allows, the state board shall develop a master plan for a statewide digital teaching and learning program, including the following:

(a) a statement of purpose that describes the objectives or goals the state board will accomplish by implementing a digital teaching and learning program;

(b) a forecast for fundamental components needed to implement a digital teaching and learning program, including a forecast for:

(i) student and teacher devices;

(ii) Wi-Fi and wireless compatible technology;

(iii) curriculum software;

(iv) assessment solutions;

(v) technical support;

(vi) change management of LEAs;

(vii) high quality professional learning;

(viii) Internet delivery and capacity; and

(ix) security and privacy of users;

(c) a determination of the requirements for:

(i) statewide technology infrastructure; and

(ii) local LEA technology infrastructure;

(d) standards for high quality professional learning related to implementing and maintaining a digital teaching and learning program;

(e) a statewide technical support plan that will guide the implementation and maintenance of a digital teaching and learning program, including standards and competency requirements for technical support personnel;

(f) (i) a grant program for LEAs; or

(ii) a distribution formula to fund LEA digital teaching and learning programs;

(g) in consultation with UETN, an inventory of the state public education system's current technology resources and other items and a plan to integrate those resources into a digital teaching and learning program;

(h) an ongoing evaluation process that is overseen by the state board;

(i) proposed rules that incorporate the principles of the master plan into the state's public education system as a whole; and

(j) a plan to ensure long-term sustainability that:

(i) accounts for the financial impacts of a digital teaching and learning program; and

(ii) facilitates the redirection of LEA savings that arise from implementing a digital teaching and learning program.

(4) UETN shall:

(a) in consultation with the state board, conduct an inventory of the state public education system's current technology resources and other items as determined by UETN, including software;

(b) perform an engineering study to determine the technology infrastructure needs of the public education system to implement a digital teaching and learning program, including the infrastructure needed for the state board, UETN, and LEAs; and

(c) as funding allows, provide infrastructure and technology support for school districts and charter schools.

[~~(5) Beginning July 1, 2016, and ending July 1, 2021, each LEA, including each school within an LEA, shall annually complete a digital readiness assessment.~~]

[~~(6)~~] (5) There is created the Digital Teaching and Learning Grant Program to improve educational outcomes in public schools by effectively incorporating comprehensive digital teaching and learning technology.

[~~(7)~~] (6) The state board shall:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules for the administration of the program, including rules requiring:

(i) an LEA to complete a digital readiness assessment;

[~~(i)~~] (ii) an LEA plan to include measures to ensure that the LEA monitors and implements technology with best practices, including the recommended use for effectiveness;

[~~(ii)~~] (iii) an LEA plan to include robust goals for learning outcomes and appropriate measurements of goal achievement; and

[~~(iii)~~] (iv) an LEA to demonstrate that the LEA plan can be fully funded by grant funds or a combination of grant and local funds;

(b) establish an advisory committee to make recommendations on the program and LEA plan requirements and report to the state board; and

(c) in accordance with this section, approve LEA plans and award grants.

[~~(8)~~] (7) (a) The state board shall, subject to legislative appropriations, award a grant to an LEA:

(i) that submits an LEA plan that meets the requirements described in Subsection [~~(9)~~] (8); and

(ii) for which the LEA's leadership and management members have completed a digital teaching and learning leadership and implementation training as provided in Subsection [~~(8)~~] (7)(b).

(b) The state board or its designee shall provide the training described in Subsection [~~(8)~~] (7)(a)(ii).

[~~(9)~~] (8) The state board shall establish requirements of an LEA plan that shall include:

(a) the results of the LEA's digital readiness assessment and a proposal to remedy an obstacle to implementation or other issues identified in the assessment;

(b) a proposal to provide high quality professional learning for educators in the use of digital teaching and learning technology;

(c) a proposal for leadership training and management restructuring, if necessary, for successful implementation;

(d) clearly identified targets for improved student achievement, student learning, and college readiness through digital teaching and learning; and

(e) any other requirement established by the state board in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including an application process and metrics to analyze the quality of a proposed LEA plan.

[~~(10)~~] (9) The state board or the state board's designee shall establish an interactive dashboard available to each LEA that is awarded a grant for the LEA to track and report the LEA's long-term, intermediate, and direct outcomes in real time and for the LEA to use to create customized reports.

[~~(11)~~] (10) (a) There is no federal funding, federal requirement, federal education agreement, or national program included or related to this state adopted program.

(b) Any inclusion of federal funding, federal requirement, federal education agreement, or national program shall require separate express approval as provided in Title 53E, Chapter 3, Part 8, Implementing Federal or National Education Programs.

[~~(12) An LEA that receives a grant as part of the program shall:~~]

[~~(a) complete an implementation assessment for each year that the LEA is expending grant money; and~~]

[~~(b) (i) report the findings of the implementation assessment to the state board; and~~]

[~~(ii) submit to the state board a plan to resolve issues raised in the implementation assessment.~~]

(11) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:

(a) support each LEA that receives a grant as part of the program to complete an implementation assessment for each year that the LEA participates;

(b) report the findings of an implementation assessment to the state board; and

(c) submit to the state board recommendations to resolve issues that an implementation assessment raises.

[~~(13)~~] (12) The state board or the state board's designee shall review an implementation assessment and review each participating LEA's progress from the previous year, as applicable.

[~~(14)~~] (13) The state board shall establish interventions for an LEA that does not make progress on implementation of the LEA's implementation plan, including:

(a) nonrenewal of, or time period extensions for, the LEA's grant;

(b) reduction of funds; or

(c) other interventions to assist the LEA.

[~~(15) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall contract with an independent evaluator to:~~]

[~~(a) annually evaluate statewide direct and intermediate outcomes beginning the first year that grants are awarded, including baseline data collection for long-term outcomes;~~]

[~~(b) in the fourth year after a grant is awarded, and each year thereafter, evaluate statewide long-term outcomes; and~~]

[~~(c) report on the information described in Subsections (15)(a) and (b) to the state board.~~]

[~~(16)~~] (14) (a) To implement an LEA plan, a contract, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or other agreement with one or more providers of technology powered learning solutions and one or more providers of wireless networking solutions may be entered into by:

(i) UETN, in cooperation with or on behalf of, as applicable, the state board, the state board's designee, or an LEA; or

(ii) an LEA.

(b) A contract or agreement entered into under Subsection [~~(16)~~] (14)(a) may be a contract or agreement that:

(i) UETN enters into with a provider and payment for services is directly appropriated by the Legislature, as funds are available, to UETN;

(ii) UETN enters into with a provider and pays for the provider's services and is reimbursed for payments by an LEA that benefits from the services;

(iii) UETN negotiates the terms of on behalf of an LEA that enters into the contract or agreement directly with the provider and the LEA pays directly for the provider's services; or

(iv) an LEA enters into directly, pays a provider, and receives preapproved reimbursement from a UETN fund established for this purpose.

(c) If an LEA does not reimburse UETN in a reasonable time for services received under a contract or agreement described in Subsection [~~(16)~~] (14)(b), the state board shall pay the balance due to UETN from the LEA's funds received under [~~Title 53F,~~] Chapter 2, State Funding -- Minimum School Program.

(d) If UETN negotiates or enters into an agreement as described in Subsection [~~(16)(b)(ii) or (16)(b)(iii)~~] (14)(b)(ii) or (14)(b)(iii), and UETN enters into an additional agreement with an LEA that is associated with the agreement described in Subsection [~~(16)(b)(ii) or (16)(b)(iii)~~] (14)(b)(ii) or (14)(b)(iii), the associated agreement may be treated by UETN and the LEA as a cooperative procurement, as that term is defined in Section 63G-6a-103, regardless of whether the associated agreement satisfies the requirements of Section 63G-6a-2105.

Section 3. Section 53G-7-218 is amended to read:

53G-7-218. Establishment of early learning plan -- Digital reporting platform.

(1) A local school board of a school district or a charter school governing board of a charter school that serves students in any of kindergarten or grades 1 through 3 shall annually submit to the state board an early learning plan that includes:

(a) the early literacy plan described in Section 53F-2-503, including:

(i) the growth goal described in Subsection [~~53F-2-503(4)(e)~~] 53F-2-503(4)(d); and

(ii) one goal that is specific to the school district or charter school as described in Subsection [~~53F-2-503(4)(f)~~] 53F-2-503(4)(e);

(b) the early mathematics plan described in Section 53E-3-521, including:

(i) a growth goal for the school district or charter school that:

(A) is based upon student learning gains as measured by the mathematics benchmark assessment described in Section 53E-4-307.5; and

(B) includes the target that the state board establishes under Section 53E-3-521; and

(ii) one goal that:

(A) is specific to the school district or charter school;

(B) is measurable;

(C) addresses current performance gaps in student mathematics proficiency based on data; and

(D) includes specific strategies for improving outcomes; and

(c) one additional goal related to literacy or mathematics that:

(i) is specific to the school district or charter school;

(ii) is measurable;

(iii) addresses current performance gaps in student literacy or mathematics proficiency based on data; and

(iv) includes specific strategies for improving outcomes.

(2) A local school board or charter school governing board shall approve a plan described in Subsection (1) in a public meeting before submitting the plan to the state board.

(3) (a) The state board shall:

(i) provide model plans that a local school board or a charter school governing board may use;

(ii) develop uniform standards for acceptable growth goals that a local school board or a charter school governing board adopts for a school district or charter school under this section; and

(iii) review and approve or disapprove a plan submitted under this section.

(b) Notwithstanding Subsection (3)(a), a local school board or a charter school governing board may develop the board's own plan.

(4) The state board shall:

(a) develop strategies to provide support for a school district or charter school that fails to meet:

(i) (A) the growth goal related to the state literacy target described in Subsection (1)(a)(i); or

(B) the growth goal related to the state mathematics target described in Subsection (1)(b)(i); and

(ii) one of the goals specific to the school district or charter school described in Subsections (1)(a)(ii), (1)(b)(ii), or (1)(c); and

(b) provide increasing levels of support to a school district or charter school that fails to meet the combination of goals described in Subsection (4)(a) for two consecutive years.

(5) (a) The state board shall use a digital reporting platform to provide information to school districts and charter schools about interventions that increase proficiency in literacy and mathematics.

(b) The digital reporting platform described in Subsection (5)(a) shall include performance information for a school district or charter school on the goals described in Subsection (1).

CHAPTER 409
S. B. 2

Passed March 2, 2022
Approved March 24, 2022
Effective March 24, 2022
(Exception clause in Section 11)

PUBLIC EDUCATION BUDGET AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of public education for the fiscal year beginning July 1, 2021, and ending June 30, 2022, and appropriates funds for the fiscal year beginning July 1, 2022, and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of school districts, charter schools, and state education agencies;
- sets the value of the weighted pupil unit (WPU) at $4,038 for fiscal year 2023;
- directs the State Board of Education on how to execute certain funding programs;
- provides teacher bonuses for certain teachers who accepted extra work assignments;
- permits the state board to use certain nonlapsing balances to provide grants for scholarships for certain school employees to become school-based mental health workers;
- changes the state contribution for transportation costs for school districts;
- changes the calculation of WPUs for foreign exchange students;
- amends the calculation of hold-harmless allocations to local education agencies for At-Risk WPUs;
- amends the growth formula for concurrent enrollment;
- provides appropriations for other purposes as described;
- transfers funding from the Uniform School Fund to various restricted funds and accounts;
- reorganizes operating programs among line items at the State Board of Education;
- provides appropriations for other purposes as described;
- makes technical and conforming changes; and
- approves intent language.

Monies Appropriated in this Bill:

This bill appropriates $496,787,400 in operating and capital budgets for fiscal year 2022, including:

- ($21,293,200) from the Uniform School Fund;
- ($807,600) from the Education Fund; and
- $518,888,200 from various sources as detailed in this bill.

This bill appropriates $21,293,200 in restricted fund and account transfers for fiscal year 2022, from the Uniform School Fund.

This bill appropriates $712,092,400 in operating and capital budgets for fiscal year 2023, including:

- $126,973,600 from the Uniform School Fund;
- $25,440,500 from the Education Fund; and
- $559,678,300 from various sources as detailed in this bill.

This bill appropriates $8,733,200 in restricted fund and account transfers for fiscal year 2023, from the Education Fund.

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53F-2-301.5, as last amended by Laws of Utah 2021, Chapter 6
53F-2-303, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53F-2-314, as enacted by Laws of Utah 2021, Chapter 319
53F-2-402, as last amended by Laws of Utah 2019, Chapter 186
53F-2-409, as last amended by Laws of Utah 2020, Chapters 220, 365, 378, and 408
53F-2-415, as last amended by Laws of Utah 2020, Chapters 202 and 408
63I-2-253, as last amended by Laws of Utah 2021, First Special Session, Chapter 14

ENACTS:

53F-2-524, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53F-2-301.5, as last amended by Laws of Utah 2021, Chapter 6

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-2-301.5 is amended to read:

53F-2-301.5. Minimum basic tax rate for a fiscal year that begins on July 1, 2018, 2019, 2020, 2021, or 2022.

(1) The provisions of this section are in effect for a fiscal year that begins before July 1, 2023.

(2) As used in this section:

(a) "Basic levy increment rate" means a tax rate that will generate an amount of revenue equal to $75,000,000.

(b) "Combined basic rate" means a rate that is the sum of:

(i) the rate floor; and

(ii) the WPU value rate.

(c) "Commission" means the State Tax Commission.

(d) "Equity pupil tax rate" means the tax rate that is:

(i) calculated by subtracting the minimum basic tax rate from the rate floor; or

(ii) zero, if the rate calculated in accordance with Subsection (2)(d)(i) is zero or less.

(e) "Minimum basic local amount" means an amount that is:

(i) equal to the sum of:

(A) the school districts' contribution to the basic school program the previous fiscal year;

(B) the amount generated by the basic levy increment rate; and

(C) the eligible new growth, as defined in Section 59-2-924 and rules of the State Tax Commission multiplied by the minimum basic tax rate; and

(ii) set annually by the Legislature in Subsection (3)(a).

(f) "Minimum basic tax rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the minimum basic local amount described in Subsection (3)(a).

(g) "Rate floor" means a rate that is the greater of:

(i) a .0016 tax rate; or

(ii) the minimum basic tax rate.

(h) "Weighted pupil unit value" or "WPU value" means the amount established each year in the enacted public education budget that is multiplied by the number of weighted pupil units to yield the funding level for the basic school program.

(i) "WPU value amount" means an amount that is:

(i) equal to the product of:

(A) the WPU value increase limit; and

(B) the percentage share of local revenue to the cost of the basic school program in the prior fiscal year; and

(ii) set annually by the Legislature in Subsection (4)(a).

(j) "WPU value increase limit" means the lesser of:

(i) the total cost to the basic school program to increase the WPU value over the WPU value in the prior fiscal year; or

(ii) the total cost to the basic school program to increase the WPU value by 4% over the WPU value in the prior fiscal year.

(k) "WPU value rate" means a tax rate certified by the commission that will generate an amount of revenue equal to the WPU value amount described in Subsection (4)(a).

(3) (a) The minimum basic local amount for the fiscal year that begins on July 1, [~~2021, is $575,931,800~~] 2022, is $645,921,400 in revenue statewide.

(b) The preliminary estimate for the minimum basic tax rate for the fiscal year that begins on July 1, [~~2021, is .001554~~] 2022, is 0.001579.

(4) (a) The WPU value amount for the fiscal year that begins on July 1, [~~2021, is $22,484,800~~] 2022, is $24,952,000 in revenue statewide.

(b) The preliminary estimate for the WPU value rate for the fiscal year that begins on July 1, [~~2021, is .000063~~] 2022, is 0.000061.

(5) (a) On or before June 22, the commission shall certify for the year:

(i) the minimum basic tax rate; and

(ii) the WPU value rate.

(b) The estimate of the minimum basic tax rate provided in Subsection (3)(b) and the estimate of the WPU value rate provided in Subsection (4)(b) is based on a forecast for property values for the next calendar year.

(c) The certified minimum basic tax rate described in Subsection (5)(a)(i) and the certified WPU value rate described in Subsection (5)(a)(ii) are based on property values as of January 1 of the current calendar year, except personal property, which is based on values from the previous calendar year.

(6) (a) To qualify for receipt of the state contribution toward the basic school program and as a school district's contribution toward the cost of the basic school program for the school district, a local school board shall impose the combined basic rate.

(b) (i) The state is not subject to the notice requirements of Section 59-2-926 before imposing the tax rates described in this Subsection (6).

(ii) The state is subject to the notice requirements of Section 59-2-926 if the state authorizes a tax rate that exceeds the tax rates described in this Subsection (6).

(7) (a) The state shall contribute to each school district toward the cost of the basic school program in the school district an amount of money that is the difference between the cost of the school district's basic school program and the sum of the revenue generated by the school district by the following:

(i) the minimum basic tax rate;

(ii) the basic levy increment rate;

(iii) the equity pupil tax rate; and

(iv) the WPU value rate.

(b) (i) If the difference described in Subsection (7)(a) equals or exceeds the cost of the basic school program in a school district, no state contribution shall be made to the basic school program for the school district.

(ii) The proceeds of the difference described in Subsection (7)(a) that exceed the cost of the basic school program shall be paid into the Uniform School Fund as provided by law and by the close of the fiscal year in which the proceeds were calculated.

(8) Upon appropriation by the Legislature, the Division of Finance shall deposit an amount equal to the proceeds generated statewide:

(a) by the basic levy increment rate into the Minimum Basic Growth Account created in Section 53F-9-302;

(b) by the equity pupil tax rate into the Local Levy Growth Account created in Section 53F-9-305; and

(c) by the WPU value rate into the Teacher and Student Success Account created in Section 53F-9-306.

Section 2. Section 53F-2-303 is amended to read:

53F-2-303. Foreign exchange student weighted pupil units.

(1) A school district or charter school may include foreign exchange students in the district's or school's membership and attendance count for the purpose of apportionment of state money, except as provided in Subsections (2) through (5).

(2) (a) Notwithstanding Section 53F-2-302, foreign exchange students may not be included in average daily membership for the purpose of determining the number of weighted pupil units in the grades 1-12 basic program.

(b) Subject to the limitation in Subsection (3), and except as provided in Subsection (5), the number of weighted pupil units in the grades 1-12 basic program attributed to foreign exchange students shall be equal to the number of foreign exchange students who were:

(i) enrolled in a school district or charter school on October 1 of the previous fiscal year; and

(ii) sponsored by an agency approved by the district's local school board or charter school's governing board.

(3) (a) Except as provided in Subsection (5), the total number of foreign exchange students in the state that may be counted for the purpose of apportioning state money under Subsection (2) shall be the [~~lesser~~] greater of:

(i) [~~the number of foreign exchange~~] 0.0025 of students enrolled in grades 10 through 12 in public schools in the state on October 1 of the previous fiscal year; or

(ii) 328 foreign exchange students.

(b) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the cap on the number of foreign exchange students that may be counted for the purpose of apportioning state money under Subsection (2).

(4) Notwithstanding Section 53F-2-601, weighted pupil units in the grades 1-12 basic program for foreign exchange students, as determined by Subsections (2) and (3), may not be included for the purposes of determining a school district's state guarantee money under Section 53F-2-601.

(5) This section does not apply to the 2020-2021 academic year.

Section 3. Section 53F-2-314 is amended to read:

53F-2-314. Weighted pupil units for students who are at-risk.

(1) As used in this section:

(a) "At risk" means that a public education student:

(i) scores below proficient on a state board or LEA approved assessment; or

(ii) meets an LEA governing board's approved definition of an at-risk student.

(b) "Limited English proficiency" means that an English learner student received a score of 1-4 on an English language proficiency assessment.

(2) (a) Additional weighted pupil units for students who are at-risk are computed based on the number of students within each LEA on October 1 of the previous school year as follows, added to a base of five WPUs for each LEA:

(i) for the fiscal year beginning on July 1, 2021:

(A) for each student who is eligible to receive free or reduced price lunch, .05 additional weighted pupil units; and

(B) for each student with limited English proficiency, .025 additional weighted pupil units; and

(ii) for each fiscal year after the fiscal year described in Subsection (2)(a)(i), the additional weighed pupil units shall increase, subject to the approval of the Executive Appropriations Committee, by amounts that the Public Education Appropriations Subcommittee recommends in the subcommittee's evaluation and recommendations described in Section 53E-1-202.2, up to:

(A) for each student who is eligible to receive free or reduced price lunch, .3 total weighted pupil units; and

(B) for each student with limited English proficiency, up to .1 total weighted pupil units.

(b) Funding for a student who falls within both Subsections (2)(a)(i)(A) and (B) shall be computed under both weighting factors.

(3) An LEA governing board shall use money distributed under this section to improve the academic achievement of students who are at-risk.

(4) For a year in which an allocation to an LEA under this section is less than the allocation to the LEA under the Enhancement for At-Risk Students Program in the 2021 fiscal year, the Executive Appropriations Committee shall include a one-time appropriation in the public education budget to supplement the difference between the two amounts, less any amount of state guarantee money that an LEA receives under Subsection 53F-2-601(2)(a), from weighted pupil units generated in Subsection (2).

(5) (a) Annually, an LEA shall provide the following information to the state board:

(i) a report of the LEA's use of funds allocated under this section through the annual financial reporting process; and

(ii) the LEA's outcome data or a report of intervention effectiveness related to the use of the LEA's use of funds allocated under this section.

(b) The state board shall monitor the learning outcomes resulting from the LEA's use of funds under this section.

Section 4. Section 53F-2-402 is amended to read:

53F-2-402. State support of pupil transportation.

(1) Money appropriated to the state board for state-supported transportation of public school students shall be apportioned and distributed in accordance with Section 53F-2-403, except as otherwise provided in this section.

(2) (a) The Utah Schools for the Deaf and the Blind shall use an allocation of pupil transportation money to pay for transportation of students based on current valid contractual arrangements and best transportation options and methods as determined by the schools.

(b) All student transportation costs of the schools shall be paid from the allocation of pupil transportation money specified in statute.

(3) (a) A local school board may only claim eligible transportation costs as legally reported on the prior year's annual financial report submitted under Section 53G-4-404.

(b) The state shall contribute up to 85% of approved transportation costs for each school district, subject to budget constraints.

(c) If in a fiscal year the total transportation allowance for all school districts exceeds the amount appropriated for that purpose, all allowances shall be reduced pro rata to equal not more than the amount appropriated.

Section 5. Section 53F-2-409 is amended to read:

53F-2-409. Concurrent enrollment funding.

(1) The terms defined in Section 53E-10-301 apply to this section.

(2) The state board shall allocate money appropriated for concurrent enrollment in accordance with this section.

(3) (a) The state board shall allocate money appropriated for concurrent enrollment in proportion to the number of credit hours earned for courses taken for which:

(i) an LEA primarily bears the cost of instruction; and

(ii) an institution of higher education primarily bears the cost of instruction.

(b) From the money allocated under Subsection (3)(a)(i), the state board shall distribute:

(i) 60% of the money to LEAs; and

(ii) 40% of the money to the Utah Board of Higher Education.

(c) From the money allocated under Subsection (3)(a), the state board shall distribute:

(i) 40% of the money to LEAs; and

(ii) 60% of the money to the Utah Board of Higher Education.

(d) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money to LEAs under Subsections (3)(b)(i) and (3)(c)(i).

(e) The Utah Board of Higher Education shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the distribution of the money allocated to institutions of higher education under Subsections (3)(b)(ii) and (3)(c)(ii).

(4) Subject to budget constraints, the Legislature shall annually [~~increase the~~] modify the amount of money appropriated for concurrent enrollment in proportion to the percentage increase or decrease over the previous school year in:

[~~(a) concurrent enrollment; and~~]

(a) the number of statewide course credits earned; and

(b) the value of the weighted pupil unit.

(5) (a) An LEA that receives money under this section may prioritize using the money to increase access to concurrent enrollment for groups of students who are underrepresented in concurrent enrollment.

(b) If an LEA receives an allocation of less than $10,000 under this section, the LEA may use the allocation as described in Section 53F-2-206.

Section 6. Section 53F-2-415 is amended to read:

53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.

(1) As used in this section:

(a) "Qualifying personnel" means a school counselor or other counselor, school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

(i) is licensed; and

(ii) collaborates with educators and a student's parent on:

(A) early identification and intervention of the student's academic and mental health needs; and

(B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(b) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; or

(ii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) if the state board approves the LEA's plan before April 1, 2020, in an amount of money that the LEA equally matches using local money, unrestricted state money, or money distributed to the LEA under Section 53G-7-1303.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel; or

(b) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section[~~.~~]; and

(b) $1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; or

(b) youth suicide prevention programs described in Section 53G-9-702.

Section 7. Section 53F-2-524 is enacted to read:

53F-2-524. Teacher bonuses for extra assignments.

(1) Subject to legislative appropriations for this purpose, the state board shall provide grants to LEAs to compensate a teacher who accepted an additional work assignment to substitute for another teacher between December 2021, and May 2022.

(2) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act, to establish for the grant described in this Subsection (2):

(a) eligibility criteria for a teacher to qualify for a grant up to $100 per additional work assignment;

(b) an application process; and

(c) a distribution formula.

Section 8. Section 63I-2-253 is amended to read:

63I-2-253. Repeal dates -- Titles 53 through 53G.

(1) Section 53-1-106.1 is repealed January 1, 2022.

(2) (a) Section 53-2a-217, regarding procurement during an epidemic or pandemic emergency, is repealed on December 31, 2021.

(b) When repealing Section 53-2a-217, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(3) Section 53-2a-219, in relation to termination of emergency powers pertaining to COVID-19, is repealed on July 1, 2021.

(4) (a) Subsection 53B-2a-108(5), regarding exceptions to the composition of a technical college board of trustees, is repealed July 1, 2022.

(b) When repealing Subsection 53B-2a-108(5), the Office of Legislative Research and General Counsel shall, in addition to its authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(5) Section 53B-6-105.7 is repealed July 1, 2024.

(6) (a) Subsection 53B-7-705(6)(b)(iii)(A), the language that states "Except as provided in Subsection (6)(b)(iii)(B)," is repealed July 1, 2021.

(b) Subsection 53B-7-705(6)(b)(iii)(B), regarding comparing a technical college's change in performance with the technical college's average performance, is repealed July 1, 2021.

(7) (a) Subsection 53B-7-707(3)(a)(ii), the language that states "Except as provided in Subsection (3)(b)," is repealed July 1, 2021.

(b) Subsection 53B-7-707(3)(b), regarding performance data of a technical college during a fiscal year before fiscal year 2020, is repealed July 1, 2021.

(8) Section 53B-7-707 regarding performance metrics for technical colleges is repealed July 1, 2023.

(9) Section 53B-8-114 is repealed July 1, 2024.

(10) The following sections, regarding the Regents' scholarship program, are repealed on July 1, 2023:

(a) Section 53B-8-202;

(b) Section 53B-8-203;

(c) Section 53B-8-204; and

(d) Section 53B-8-205.

(11) Section 53B-10-101 is repealed on July 1, 2027.

(12) Title 53B, Chapter 18, Part 14, Uintah Basin Air Quality Research Project, is repealed July 1, 2023.

(13) Section 53E-1-202.2, regarding a Public Education Appropriations Subcommittee evaluation and recommendations, is repealed January 1, 2024.

(14) Section 53E-3-520 is repealed July 1, 2021.

(15) Subsection 53E-10-309(7), related to the PRIME pilot program, is repealed July 1, 2024.

(16) In Subsections 53F-2-205(4) and (5), regarding the State Board of Education's duties if contributions from the minimum basic tax rate are overestimated or underestimated, the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

(17) Section 53F-2-209, regarding local education agency budgetary flexibility, is repealed July 1, 2024.

(18) Subsection 53F-2-301(1), relating to the years the section is not in effect, is repealed July 1, 2023.

(19) Section 53F-2-302.1, regarding the Enrollment Growth Contingency Program, is repealed July 1, 2023.

(20) Subsection 53F-2-314(4), relating to a one-time expenditure between the at-risk WPU add-on funding and previous at-risk funding, is repealed January 1, 2024.

(21) Section 53F-2-418, regarding the Supplemental Educator COVID-19 Stipend, is repealed January 1, 2022.

(22) Section 53F-2-524, regarding teacher bonuses for extra work assignments, is repealed July 1, 2024.

[~~(22)~~] (23) In Subsection 53F-2-515(1), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(23)~~] (24) Section 53F-4-207 is repealed July 1, 2022.

[~~(24)~~] (25) Subsection 53F-4-401(3)(b), regarding a child enrolled or eligible for enrollment in kindergarten, is repealed July 1, 2022.

[~~(25)~~] (26) In Subsection 53F-4-404(4)(c), the language that states "Except as provided in Subsection (4)(d)" is repealed July 1, 2022.

[~~(26)~~] (27) Subsection 53F-4-404(4)(d) is repealed July 1, 2022.

[~~(27)~~] (28) In Subsection 53F-9-302(3), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(28)~~] (29) In Subsection 53F-9-305(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(29)~~] (30) In Subsection 53F-9-306(3)(a), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(30)~~] (31) In Subsection 53G-3-304(1)(c)(i), the language that states "or 53F-2-301.5, as applicable" is repealed July 1, 2023.

[~~(31)~~] (32) Subsections 53G-10-204(1)(c) through (e), and Subsection 53G-10-204(6), related to the civics engagement pilot program, are repealed on July 1, 2023.

[~~(32)~~] (33) On July 1, 2023, when making changes in this section, the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make corrections necessary to ensure that sections and subsections identified in this section are complete sentences and accurately reflect the office's perception of the Legislature's intent.

Section 9. Fiscal Year 2022 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending on June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 9(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.Public EducationState Board of Education - Minimum School Program

ITEM 1

To State Board of Education - Minimum School Program - Related to Basic School Programs

From Uniform School Fund, One-Time	(21,293,200)
From Federal Funds - American Rescue Plan Act One-Time	10,000,000
From Closing Nonlapsing Balances	21,293,200
Schedule of Programs:	
Teacher Bonuses for Extra Assignments	10,000,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act of 2021 may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.State Board of Education

Item 2

To State Board of Education - Child Nutrition Programs

From Federal Funds, One-Time	140,628,300
Schedule of Programs:	
Child Nutrition	140,628,300

Item 3

To State Board of Education - Child Nutrition - Federal Commodities

From Federal Funds, One-Time	11,112,100
Schedule of Programs:	
Child Nutrition - Federal Commodities	11,112,100

Item 4

To State Board of Education - Contracted Initiatives and Grants

From Education Fund, One-Time	(14,500)
Schedule of Programs:	
Special Needs Opportunity Scholarship Administration	(14,500)

Item 5

To State Board of Education - MSP Categorical Program Administration

From Education Fund, One-Time	(500,000)
Schedule of Programs:	
Beverley Taylor Sorenson Elementary Arts Learning Program	(80,000)
Dual Immersion	(80,000)
Youth-in-Custody	(80,000)
Early Literacy Program	(80,000)
CTE Online Assessments	(80,000)
State Safety and Support Program	(100,000)

Item 6

To State Board of Education - Policy, Communication, and Oversight

From Education Fund, One-Time	(293,100)
From Federal Funds, One-Time	329,135,200
From Transfer for COVID-19 Response, One-Time	210,900
Schedule of Programs:	
Board and Administration	210,900
Financial Operations	(293,100)
Special Education	81,047,400
Student Support Services	248,087,800

(1) The Legislature intends that funds appropriated under this item from the American Rescue Plan Act of 2021 may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

(2) The Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 7

To State Board of Education – System Standards and Accountability

From Dedicated Credits Revenue, One–Time	3,375,000

Schedule of Programs:

Assessment and Accountability	3,375,000

Item 8

To State Board of Education – Utah Schools for the Deaf and the Blind

From Dedicated Credits Revenue, One–Time	3,133,500

Schedule of Programs:

Administration	3,133,500

Subsection 9(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.Public Education

Item 9

To Uniform School Fund Restricted – Public Education Economic Stabilization Restricted Account

From Uniform School Fund, One–Time	21,293,200

Schedule of Programs:

Public Education Economic Stabilization Restricted Account	21,293,200

Section 10. Fiscal Year 2023 Appropriations

(1) The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts otherwise appropriated for fiscal year 2023.

(2) Notwithstanding H.B. 1, Public Education Base Budget Amendments, the value of the weighted pupil unit for fiscal year 2023 is $4,038.

Subsection 10(a). Operating and Capital Budgets.

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.Public EducationState Board of Education – Minimum School ProgramItem 10

To State Board of Education – Minimum School Program – Basic School Program

From Uniform School Fund	109,659,900
From Public Education Economic Stabilization Restricted Account, One–Time	3,600,000
From Local Revenue	8,733,200

Schedule of Programs:

Kindergarten	3,466,700
Grades 1 – 12	79,631,400
Foreign Exchange (59 WPUs)	281,000
Necessarily Existent Small Schools	4,992,000
Professional Staff	7,460,300
Special Education – Add–on	11,734,400
Special Education – Self–Contained	1,454,600
Special Education – Preschool	1,478,300
Special Education – Extended School Year	59,800
Special Education – Impact Aid	269,300
Special Education – Extended Year for Special Educators	118,100
Career and Technical Education – Add–on	3,803,400
Class Size Reduction	5,538,600
Students At–Risk Add–on	1,705,200

Item 11

To State Board of Education – Minimum School Program – Basic School Program

From Uniform School Fund4,037,000

Schedule of Programs:

Special Education – Add–on (1,033 WPUs)	4,037,000

The Legislature intends that the State Board of Education use funds appropriated by this item to implement the provisions of H.B. 113, Students with Disabilities Funding Revisions.Item 12

To State Board of Education – Minimum School Program – Related to Basic School Programs

From Uniform School Fund	13,026,700
From Uniform School Fund, One–Time	250,000
From Public Education Economic Stabilization Restricted Account, One–Time	9,500,000
From Teacher and Student Success Account	8,733,200
From Beginning Nonlapsing Balances	(21,293,200)
From Closing Nonlapsing Balances	21,293,200

Schedule of Programs:

Pupil Transportation To and From School	3,861,900

At-Risk Students - Gang Prevention and Intervention	73,900
Youth in Custody	975,800
Adult Education	548,400
Enhancement for Accelerated Students	212,100
Concurrent Enrollment	2,154,600
Title I Schools Paraeducators Program	250,000
Charter School Local Replacement	4,000,000
Beverley Taylor Sorenson Elementary Arts Learning Program	4,200,000
Teacher and Student Success Program	8,733,200
Charter School Funding Base Program	5,000,000
English Language Learner Software	1,500,000

The Legislature intends that the State Board of Education notify local education agencies that receive an allocation from the English Language Learner Software Program that beginning in fiscal year 2024, local education agencies will fund the agencies' software programs out of the agencies' Students At-Risk - WPU Add-on program allocation.

State Board of Education

Item 13

To State Board of Education - Child Nutrition Programs

From Federal Funds	166,669,100
Schedule of Programs:	
Child Nutrition	136,397,700
Federal Commodities	30,271,400

Item 14

To State Board of Education - Child Nutrition - Federal Commodities

From Federal Funds	(19,159,300)
Schedule of Programs:	
Child Nutrition - Federal Commodities	(19,159,300)

Item 15

To State Board of Education - Educator Licensing

From Education Fund	175,000
Schedule of Programs:	
Educator Licensing	175,000

Item 16

To State Board of Education - Fine Arts Outreach

From Education Fund	500,000
Schedule of Programs:	
Professional Outreach Programs in the Schools	465,000
Provisional Program	35,000

(1) The Legislature intends that the State Board of Education distribute, at the beginning of fiscal year 2023, nonlapsing balances remaining in the Fine Arts Outreach line item at the end of fiscal year 2022 to the contracted organizations participating in the Professional Outreach Programs in the Schools (POPS).

(2) The Legislature intends that the amount the state board allocates under Subsection (1):

(a) be proportional to each organization's contracted share of ongoing appropriations; and

(b) not include a private match requirement.

Item 17

To State Board of Education - Contracted Initiatives and Grants

From Education Fund	(489,400)
From Education Fund, One-Time	13,610,200
From Public Education Economic Stabilization Restricted Account, One-Time	7,500,000
From Revenue Transfers	38,900
From Beginning Nonlapsing Balances	(7,330,900)
From Closing Nonlapsing Balances	10,263,300
Schedule of Programs:	
Computer Science Initiatives	8,000,000
Contracts and Grants	9,210,200
Software Licenses for Early Literacy	2,000,000
Early Warning Pilot Program	450,000
Kindergarten Supplement Enrichment Program	(25,100)
School Turnaround and Leadership Development Act	(4,043,000)
UPSTART	8,000,000

Item 18

To State Board of Education - MSP Categorical Program Administration

From Education Fund	(58,300)
From Revenue Transfers	(25,300)
From Beginning Nonlapsing Balances	108,800
From Closing Nonlapsing Balances	(78,000)
Schedule of Programs:	
Adult Education	(29,000)
Dual Immersion	(30,000)

Youth-in-Custody	(104,000)
Early Literacy Program	(29,000)
CTE Student Organizations	(29,000)
State Safety and Support Program	(29,000)
Early Intervention	197,200

Item 19

To State Board of Education - Science Outreach

From Education Fund	500,000

Schedule of Programs:

Informal Science Education Enhancement	500,000

Item 20

To State Board of Education - Policy, Communication, & Oversight

From General Fund	(200)
From Education Fund	(5,926,400)
From Federal Funds	(83,939,500)
From Federal Funds, One-Time	39,490,500
From General Fund Restricted - Mineral Lease	(1,148,800)
From General Fund Restricted - Land Exchange Distribution Account	(16,200)
From General Fund Restricted - School Readiness Account	(65,500)
From Revenue Transfers	(4,483,400)
From Uniform School Fund Restricted - Trust Distribution Account	(752,400)
From Beginning Nonlapsing Balances	(14,191,000)
From Closing Nonlapsing Balances	(1,643,300)
From Lapsing Balance	64,500

Schedule of Programs:

Board and Administration	(5,312,300)
Data and Statistics	(2,413,500)
Financial Operations	(4,106,200)
Indirect Cost Pool	(8,107,900)
Information Technology	(14,277,700)
Teacher Retention in Indigenous Schools Grants	501,400
Policy and Communication	180,000
School Trust	(697,000)
Special Education	(81,912,000)
Student Support Services	39,490,500
School Turnaround and Leadership Development Act	4,043,000

Item 21

To State Board of Education - System Standards & Accountability

From Education Fund	(580,200)
From Federal Funds	82,184,200
From Federal Funds, One-Time	31,393,100
From Dedicated Credits Revenue	85,000
From Revenue Transfers	(541,200)
From Beginning Nonlapsing Balances	197,900
From Closing Nonlapsing Balances	(30,100)

Schedule of Programs:

Assessment and Accountability	(180,000)
Teacher Retention in Indigenous Schools Grants	(501,400)
Special Education	113,305,100
RTC Fees	85,000

(1) The Legislature intends that the State Board of Education use $1,796,600 one-time from the Readiness Improvement Success Empowerment (RISE) assessment settlement funds to cover costs associated with a new contract for the RISE assessment.

(2) The Legislature intends that the State Board of Education use any revenue or nonlapsing balances generated from the licensing of Readiness Improvement Success Empowerment (RISE) questions to develop additional assessment questions for all state assessments, provide professional learning for Utah educators, and for risk mitigation purposes.

Item 22

To State Board of Education - State Charter School Board

From Education Fund	(200,000)
From Education Fund, One-Time	(199,500)

Schedule of Programs:

State Charter School Board	(399,500)

Item 23

To State Board of Education - Teaching and Learning

From Education Fund	(171,700)
From Revenue Transfers	22,200
From Beginning Nonlapsing Balances	(22,600)

Schedule of Programs:

Student Access to High Quality School Readiness Programs	(172,100)

Item 24

To State Board of Education - Utah Schools for the Deaf and the Blind

From Education Fund	700,000

From Education Fund, One-Time	500,000
From Dedicated Credits Revenue	3,133,500

Schedule of Programs:

Administration	3,833,500
Utah State Instructional Materials Access Center	500,000

(1) The Legislature intends that the State Board of Education monitor the implementation of one-time funds appropriated to the Schools for the Deaf and the Blind in fiscal year 2022 and fiscal year 2023 to ensure these funds are not used for ongoing purposes.

(2) The Legislature intends that the State Board of Education:

(a) conduct a cost benefit analysis on maintaining the Utah State Instructional Materials Access Center as a state level function or contracting with a private provider for relevant instructional materials; and

(b) report to the Public Education Appropriations Subcommittee by October 1, 2022.

Item 25

To State Board of Education - Statewide Online Education Costs for Non-Public Students

From Education Fund	377,000
From Education Fund, One-Time	3,177,800

Schedule of Programs:

Statewide Online Education Program	3,554,800

Item 26

To State Board of Education - State Board and Administrative Operations

From General Fund	200
From Education Fund	13,526,000
From Federal Funds	1,755,300
From Federal Funds, One-Time	300,000,000
From General Fund Restricted - Mineral Lease	1,148,800
From General Fund Restricted - Land Exchange Distribution Account	16,200
From General Fund Restricted - School Readiness Account	65,500
From Revenue Transfers	4,988,800
From Uniform School Fund Restricted - Trust Distribution Account	752,400
From Beginning Nonlapsing Balances	21,237,800
From Closing Nonlapsing Balances	(8,511,900)
From Lapsing Balance	(64,500)

Schedule of Programs:

Financial Operations	4,106,200
Information Technology	14,277,700
Inter Cost Pool	8,107,900
Data and Statistics	2,413,500
School Trust	697,000
Board and Administration	5,312,300
Federal Coronavirus Relief for Public Education	300,000,000

(1) The Legislature intends that funds appropriated under this item from the American Rescue Plan Act of 2021 may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021.

(2) The Legislature further intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

(3) Notwithstanding the intent language associated with items 24, 28, 29, 31 through 39, and 41 of H.B. 1, Public Education Base Budget Amendments, the Legislature intends that the State Board Education:

(a) not use previously identified performance measures;

(b) continue to develop the system performance measures and recommend new performance measures to be included in the 2024 base budget; and

(c) provide to the Public Education Appropriations Subcommittee, with performance measures, initial performance targets, and up to five years of historic performance data where available:

(i) a status report by June 1, 2022; and

(ii) a final report by October 1, 2022.

Subsection 10(b). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.Public Education

Item 27

To Teacher and Student Success Account

From Education Fund	8,733,200

Schedule of Programs:

Teacher and Student Success Account	8,733,200

Section 11. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected

to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The following sections of this bill take effect on July 1, 2022:

(a) Section 53F-2-301.5;

(b) Section 53F-2-303;

(c) Section 53F-2-314;

(d) Section 53F-2-402;

(e) Section 53F-2-409;

(f) Section 53F-2-415;

(g) Section 63I-2-253;

(h) Section 10, Fiscal Year 2023 Appropriations;

(i) Subsection 10(a), Operating and Capital Budgets; and

(j) Subsection 10(b), Restricted Fund and Account Transfers.

Section 12. Coordinating S.B. 2 with H.B. 1 -- Superseding technical and substantive amendments.

If this S.B. 2 and H.B. 1, Public Education Base Budget Amendments, both pass and become law, it is the intent of the Legislature that the amendments to Section 53F-2-301.5 in this bill supersede the amendments to Section 53F-2-301.5 in H.B. 1 when the Office of Legislative Research and General Counsel prepares the Utah Code database for publication.

CHAPTER 410
S.B. 3

Passed March 2, 2022
Approved March 24, 2022
Effective March 24, 2022

CURRENT FISCAL YEAR SUPPLEMENTAL APPROPRIATIONS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2021 and ending June 30, 2022.

Highlighted Provisions:

This bill:

- provides appropriations for the use and support of higher education and certain state agencies;
- provides appropriations for other purposes as described; and
- provides intent language.

Money Appropriated in this Bill:

This bill appropriates $480,410,800 in operating and capital budgets for fiscal year 2022, including:

- ($824,956,100) from the General Fund;
- $450,420,100 from the Education Fund; and
- $854,946,800 from various sources as detailed in this bill.

This bill appropriates ($26,371,500) in expendable funds and accounts for fiscal year 2022.

This bill appropriates $105,829,100 in business-like activities for fiscal year 2022, including:

- $8,722,800 from the General Fund; and
- $97,106,300 from various sources as detailed in this bill.

This bill appropriates ($5,597,300) in restricted fund and account transfers for fiscal year 2022, including:

- ($9,760,400) from the General Fund; and
- $4,163,100 from various sources as detailed in this bill.

This bill appropriates $4,132,600 in transfers to unrestricted funds for fiscal year 2022.

This bill appropriates $60,000,000 in capital project funds for fiscal year 2022, all of which is from the Education Fund.

Other Special Clauses:

This bill takes effect immediately.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2022 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2021 and ending June 30, 2022. These are additions to amounts otherwise appropriated for fiscal year 2022.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 1

To Attorney General	
From General Fund, One-Time	(311,500)
From Federal Funds, One-Time	40,500
From Revenue Transfers, One-Time	31,200
Schedule of Programs:	
Child Protection	(325,000)
Criminal Prosecution	85,200

The Legislature intends that the Attorney General's Office, Investigations Division, may purchase one additional vehicle with department funds in Fiscal Year 2022 or Fiscal Year 2023.

The Legislature intends that the Attorney General's Office, Medicaid Fraud Unit, may purchase one additional vehicle with department funds in Fiscal Year 2022 or Fiscal Year 2023.

Item 2

To Attorney General - Children's Justice Centers	
From General Fund, One-Time	(4,774,000)
From Education Fund, One-Time	4,774,000
From Dedicated Credits Revenue, One-Time	55,000
Schedule of Programs:	
Children's Justice Centers	55,000

Item 3

To Attorney General - Prosecution Council	
From Federal Funds, One-Time	1,900
Schedule of Programs:	
Prosecution Council	1,900

Item 4

To Attorney General - State Settlement Agreements	
From General Fund, One-Time	(4,300,000)
From General Fund Restricted - Public Lands Litigation Restricted Account, One-Time	4,500,000
Schedule of Programs:	
State Settlement Agreements	200,000

Notwithstanding Item 5 of H.B. 6, and Under Section 63-J-1-603 of the Utah Code, the Legislature intends that appropriations provided to the Attorney General - State Settlements Item 56 of Chapter 8, Laws of Utah, and this H.B. 6, "Executive Offices and Criminal Justice Base Budget" not lapse at the close of Fiscal Year 2022. The use of any unused funds is limited to payment of costs associated with the Commerce Clause litigation up to $1,650,000, the Utah Monuments litigation up to $5,000,000, Civil Litigation up to $200,000, and the False Claims Lawsuit Settlement Agreement up to $1,855,000.

BOARD OF PARDONS AND PAROLE

Item 5
To Board of Pardons and Parole

From General Fund, One-Time	(21,500)
Schedule of Programs:	
Board of Pardons and Parole	(21,500)

UTAH DEPARTMENT OF CORRECTIONS

Item 6
To Utah Department of Corrections - Programs and Operations

From General Fund, One-Time	(1,000,000)
From Revenue Transfers, One-Time	2,279,400
Schedule of Programs:	
Adult Probation and Parole Programs	80,800
Department Executive Director	(1,000,000)
Programming Skill Enhancement	2,049,800
Programming Treatment	148,800

The Legislature intends that the Department of Corrections may use any one-time operational savings from FY 2021 and FY 2022 to increase ongoing correctional officer compensation before the start of FY 2023 comparable to the increases funded in FY 2023 through the funding item "Correctional Officers Compensation Increases"

The Legislature intends that, if the Department of Corrections is able to reallocate resources internally to find additional Adult Probation & Parole Agents and AP&P Supervisors, for every two agents and for every one supervisor hired or reassigned to field supervision duties, the Legislature grants the authority to purchase one vehicle with Department funds.

Item 7
To Utah Department of Corrections - Department Medical Services

From General Fund, One-Time	987,900
Schedule of Programs:	
Medical Services	987,900

Item 8
To Utah Department of Corrections - Jail Contracting

From General Fund, One-Time	(2,000,000)
Schedule of Programs:	
Jail Contracting	(2,000,000)

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 9
To Judicial Council/State Court Administrator - Administration

From General Fund, One-Time	(43,304,100)
From Education Fund, One-Time	43,259,800
Schedule of Programs:	
District Courts	(44,300)

Item 10
To Judicial Council/State Court Administrator - Guardian ad Litem

From General Fund, One-Time	(8,375,900)
From Education Fund, One-Time	8,295,500
Schedule of Programs:	
Guardian ad Litem	(80,400)

Item 11
To Judicial Council/State Court Administrator - Jury and Witness Fees

From General Fund, One-Time	(77,100)
Schedule of Programs:	
Jury, Witness, and Interpreter	(77,100)

GOVERNORS OFFICE

Item 12
To Governors Office - Constitutional Defense Council

From Beginning Nonlapsing Balances	(13,300)
Schedule of Programs:	
Constitutional Defense Council	(13,300)

Item 13
To Governors Office - Governor's Office

From General Fund, One-Time	72,100
Schedule of Programs:	
Administration	74,000
Lt. Governor's Office	(1,900)

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that up to $74,000 General Fund provided for the Governor's Office - Governor's Office line item shall not lapse at the close of Fiscal Year 2022. The use of these unused funds is limited to one-time expenditures for the expansion of the constituent services system.

Item 14
To Governors Office - Governors Office of Planning and Budget

From General Fund, One-Time	(140,000)
From Federal Funds, One-Time	1,000,000
Schedule of Programs:	
Administration	(140,000)
Planning Coordination	1,000,000

The Legislature intends that each agency and institution that received appropriations from Federal Funds - American Rescue Plan in Senate Bill 1001, 2021 First Special Session, or in the 2022 General Session for FY 2022, is authorized to expend any amount from the appropriation not expended by the end of the fiscal year of the appropriation, up to the amount of the appropriation; in a fiscal year following the fiscal year of the appropriation; and prior to the expiration of the period of performance.

Item 15
To Governors Office - Indigent Defense Commission

From Beginning Nonlapsing Balances	(81,600)
Schedule of Programs:	
Indigent Appellate Defense Division	(81,600)

DEPARTMENT OF HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 16

To Department of Human Services – Division of Juvenile Justice Services – Programs and Operations

From General Fund, One–Time	(91,030,800)
From Education Fund, One–Time	90,716,600
From Revenue Transfers, One–Time	20,300
Schedule of Programs:	
Administration	(249,500)
Community Provider Payments	(44,400)

Notwithstanding the intent language passed in Item 25 of Senate Bill 6 of the 2021 General Session, the Legislature intends that $4,500,000 provided for the Department of Human Services – Division of Juvenile Justice Services as Fiscal Year 2022 beginning balances be used for the following purposes: IT, data processing and technology based expenditures; capital expenditures and developments, projects, facility repairs, maintenance, critical needs, and improvements; other charges for pass–through expenditures; and short–term projects and studies that promote efficiency and service improvement.

OFFICE OF THE STATE AUDITOR

Item 17

To Office of the State Auditor – State Auditor

From General Fund, One–Time	(40,900)
Schedule of Programs:	
State Auditor	(40,900)

DEPARTMENT OF PUBLIC SAFETY

Item 18

To Department of Public Safety – Division of Homeland Security – Emergency and Disaster Management

From Expendable Receipts, One–Time	4,000,000
Schedule of Programs:	
Emergency and Disaster Management	4,000,000

Item 19

To Department of Public Safety – Driver License

From General Fund, One–Time	(2,300)
Schedule of Programs:	
Driver Services	(2,300)

Item 20

To Department of Public Safety – Emergency Management

From General Fund, One–Time	(20,000)
From Federal Funds, One–Time	61,000,000
From Expendable Receipts, One–Time	15,000
Schedule of Programs:	
Emergency Management	60,995,000

Item 21

To Department of Public Safety – Highway Safety

From General Fund, One–Time	(100)
From Dedicated Credits Revenue, One–Time	25,000
From Revenue Transfers, One–Time	800,000
Schedule of Programs:	
Highway Safety	824,900

Item 22

To Department of Public Safety – Programs & Operations

From General Fund, One–Time	(1,000,000)
From Dedicated Credits Revenue, One–Time	100,000
From Expendable Receipts, One–Time	300,000
Schedule of Programs:	
Aero Bureau	100,000
Department Commissioner's Office	(1,000,000)
Department Grants	300,000

Item 23

To Department of Public Safety – Bureau of Criminal Identification

From Dedicated Credits Revenue, One–Time	1,000,000
Schedule of Programs:	
Non–Government/Other Services	1,000,000

UTAH COMMUNICATIONS AUTHORITY

Item 24

To Utah Communications Authority – Administrative Services Division

From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct., One–Time	(1,413,600)
From General Fund Restricted – Utah Statewide Radio System Acct., One–Time	1,999,500
Schedule of Programs:	
911 Division	(1,413,600)
Administrative Services Division	1,999,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 25

To Utah Education and Telehealth Network

From Education Fund, One–Time	1,043,100
From Federal Funds – American Rescue Plan, One–Time	19,295,400
Schedule of Programs:	
Administration	956,500
Technical Services	14,950,000
Utah Telehealth Network	4,432,000

The Legislature intends that the appropriations by this line item from the American Rescue Plan Act Capital Projects Fund may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021 Capital Projects fund after the Grant Plan has been approved by the U.S. Department of the Treasury. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 26
To Department of Government Operations – DFCM Administration
From Dedicated Credits Revenue,
One–Time 731,100
Schedule of Programs:
DFCM Administration 731,100

The Legislature intends that DFCM add up to 3 vehicles for Project Management staff to provide services to customers in FY 2022.

Item 27
To Department of Government Operations – Finance – Mandated

The Legislature intends that FY 2020, FY 2021, or FY 2022 appropriations from Federal Funds – Coronavirus Relief Fund or Federal Funds – American Rescue Plan remain available for expenditure in future fiscal years until all funds are expended or the period of availability has ended. This authorization to make expenditures in future fiscal years fulfills the Legislative review and approval of certain federal funds requests as required under 63J–5–204.

Item 28
To Department of Government Operations – Finance Administration
From State Debt Collection Fund,
One–Time 1,000,000
Schedule of Programs:
Financial Reporting 1,000,000

CAPITAL BUDGET

Item 29
To Capital Budget – Capital Development – Higher Education
From Higher Education Capital
Projects Fund, One–Time 60,000,000
Schedule of Programs:
UU School of Medicine 60,000,000

Item 30
To Capital Budget – Property Acquisition
From Education Fund, One–Time 16,500,000
Schedule of Programs:
Bridgerland Tech Land Bank 16,500,000

STATE BOARD OF BONDING COMMISSIONERS - DEBT SERVICE

Item 31
To State Board of Bonding Commissioners – Debt Service – Debt Service
From General Fund, One–Time . . . (350,000,000)
Schedule of Programs:
G.O. Bonds – State Govt . . . . (350,000,000)

The Legislature intends that in the event that sequestration or other federal action reduces the anticipated Build America Bond subsidy payments that are deposited into the Debt Service line item as federal funds, the Division of Finance, acting on behalf of the State Bonding Commission, shall reduce the appropriated transfer from Nonlapsing Balances Debt Service to the General Fund, onetime proportionally to the reduction in subsidy payment received, thus holding the Debt Service line item harmless.

TRANSPORTATION

Item 32
To Transportation – Highway System Construction
From Transportation Fund,
One–Time 17,252,700
Schedule of Programs:
Rehabilitation/Preservation 17,252,700

There is appropriated to the Department of Transportation from the Transportation Fund, not otherwise appropriated, a sum sufficient, but not more than the surplus of the Transportation Fund, to be used by the department for the construction, rehabilitation, and preservation of State highways in Utah. The Legislature intends that the appropriation fund first, a maximum participation with the federal government for the construction of federally designated highways, as provided by law, and last the construction of State highways, as funding permits. No portion of the money appropriated by this item shall be used either directly or indirectly to enhance the appropriation otherwise made by this act to the Department of Transportation for other purposes.

Item 33
To Transportation – Engineering Services
From Transportation Fund,
One–Time 2,000,000
Schedule of Programs:
Engineering Services 2,000,000

Item 34
To Transportation – Safe Sidewalk Construction

The Legislature intends that the funds appropriated from the Transportation Fund for pedestrian safety projects be used specifically to correct pedestrian hazards on state highways. The Legislature also intends that local authorities be encouraged to participate in the construction of pedestrian safety devices. The appropriated funds are to be used according to the criteria set forth in UCA 72–8–104. The funds appropriated for sidewalk construction shall not lapse at the close of FY 2022. If local governments cannot use their allocation of Sidewalk Safety Funds in two years, these funds will be available for other governmental entities which are prepared to use the resources. The Legislature intends that local participation in the Sidewalk Construction Program be on a 75% state and 25% local match basis.

Item 35

To Transportation – Transit Transportation Investment

Under terms of UCA 63J–1–603, the Legislature intends that appropriations provided for the Transit Transportation Investment line item in Item 81, Chapter 3, Laws of Utah 2021, shall not lapse at the close of FY 2022. Expenditures of these funds are limited to the Transit Transportation Investment program.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 36

To Department of Commerce – Commerce General Regulation

From General Fund Restricted – Utah Housing Opportunity Restricted, One–Time	29,600
Schedule of Programs:	
Real Estate	29,600

Under Section 63J–1–603 of the Utah Code, the Legislature intends that appropriations provided to Commerce Administration in Laws of Utah 2021 from Single Sign–On Expendable Special Revenue Fund, One–Time, shall not lapse at the close of Fiscal Year 2022. The use of which is limited to $300,000.

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 37

To Governor's Office of Economic Opportunity – GOUTAH Economic Assistance Grants

From General Fund, One–Time	2,000,000
From Federal Funds – American Rescue Plan, One–Time	4,500,000
Schedule of Programs:	
Pass–Through Grants	6,500,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Legislature intends that the Governor's Office of Economic Opportunity consider the following projects and programs for pass-through grants: Utah Sports Commission $2,000,000; Event Service Industry Revitalization $4,500,000.

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 38

To Department of Cultural and Community Engagement – Administration

From General Fund, One–Time	338,000
Schedule of Programs:	
Administrative Services	338,000

Item 39

To Department of Cultural and Community Engagement – Division of Arts and Museums

The Legislature intends that the Division of Arts and Museums be allowed to purchase one new vehicle in FY 2022 or FY 2023.

Under section 63J–1–603 of the Utah Code, the Legislature intends that up to $2,000,000 of the General Fund provided by Item 85, Chapter 2, Laws of Utah 2021 for the Department of Cultural and Community Engagement – Division of Arts and Museums not lapse at the close of Fiscal Year 2022. These funds will be used for the intended purpose of capital grants to cultural organizations.

Item 40

To Department of Cultural and Community Engagement – Pass–Through

From General Fund, One–Time	(500,000)
Schedule of Programs:	
Pass–Through	(500,000)

Item 41

To Department of Cultural and Community Engagement – State History

From General Fund, One–Time	110,000
Schedule of Programs:	
Library and Collections	40,000
Public History, Communication and Information	70,000

The Legislature intends that the Division of State History be allowed to purchase one new vehicle in FY 2022 or FY 2023.

Item 42

To Department of Cultural and Community Engagement – Stem Action Center

Under section 63J–I–603 of the Utah Code, the Legislature intends that up to an additional $1,000,000 of the General Fund provided by Item 92, Chapter 2, Laws of Utah 2021 for the Department of Heritage and Arts – STEM Action Center Division not lapse at the close of Fiscal Year 2022. These funds will be used for contractual obligations and support.

Item 43

To Department of Cultural and Community Engagement – Capital Facilities Grants

From General Fund, One–Time	5,595,000
Schedule of Programs:	
Pass Through Grants	5,595,000

The Legislature intends that the Department of Cultural and Community Engagement consider the following projects and programs for pass-through grants:

Fullmer Legacy Center $1,000,000; Ogden Pioneer Days Stadium Upgrade $1,435,000; Falcon Hill MIDA Project Area Addition $4,160,000.

Item 44

To Department of Cultural and Community Engagement – Heritage & Events Grants

From General Fund, One–Time	75,000
From Education Fund, One–Time	200,000
Schedule of Programs:	
Pass Through Grants	275,000

The Legislature intends that the Department of Cultural and Community Engagement consider the following projects and programs for pass–through grants: Davis County Support for Utah Championship $75,000; Refugee Soccer $200,000.

INSURANCE DEPARTMENT

Item 45

To Insurance Department – Insurance Department Administration

From Federal Funds – American Rescue Plan, One–Time	50,400
From General Fund Restricted – Insurance Department Acct., One–Time	(20,400)
Schedule of Programs:	
Administration	30,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

LABOR COMMISSION

Item 46

To Labor Commission

From General Fund, One–Time	(716,900)
Schedule of Programs:	
Administration	(716,900)

UTAH STATE TAX COMMISSION

Item 47

To Utah State Tax Commission – License Plates Production

From Dedicated Credits Revenue, One–Time	825,000
Schedule of Programs:	
License Plates Production	825,000

Item 48

To Utah State Tax Commission – Tax Administration

From General Fund, One–Time	305,200
From Education Fund, One–Time	266,200
From Dedicated Credits Revenue, One–Time	515,500
From General Fund Restricted – Electronic Payment Fee Rest. Acct, One–Time	1,300,000
From General Fund Rest. – Sales and Use Tax Admin Fees, One–Time	128,900
Schedule of Programs:	
Motor Vehicle Enforcement Division	50,000
Motor Vehicles	1,250,000
Property Tax Division	15,000
Tax Payer Services	217,500
Tax Processing Division	500,000
Technology Management	483,300

SOCIAL SERVICES

DEPARTMENT OF HEALTH

Item 49

To Department of Health – Children's Health Insurance Program

From General Fund, One–Time	(14,724,500)
From Education Fund, One–Time	13,475,700
From Federal Funds, One–Time	1,423,600
From Federal Funds – Enhanced FMAP, One–Time	1,601,100
From Expendable Receipts – Rebates, One–Time	4,000,000
Schedule of Programs:	
Children's Health Insurance Program	5,775,900

Item 50

To Department of Health – Disease Control and Prevention

From General Fund, One–Time	(1,133,200)
From Education Fund, One–Time	468,000
From Federal Funds, One–Time	1,811,300
From Dedicated Credits Revenue, One–Time	186,000
From Expendable Receipts, One–Time	144,900
From Expendable Receipts – Rebates, One–Time	585,500
From Department of Public Safety Restricted Account, One–Time	315,300
From Revenue Transfers, One–Time	1,714,900
From Closing Nonlapsing Balances	(147,900)
Schedule of Programs:	
Clinical and Environmental Lab Certification Programs	124,700
Epidemiology	2,852,800
Health Promotion	1,053,900
Utah Public Health Laboratory	(1,200)
Hepatitis C Pilot Program	(85,400)

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends that under Item 75 of Chapter 441, Laws of Utah 2021, up to $85,400 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Public Health, Prevention, & Epidemiology line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to Hepatitis C Outreach Pilot Program.

Notwithstanding the fee amount authorized in Chapter 10 of Laws of Utah

2021, for "Laboratory Testing and Follow-up Services" under Newborn Screening, the Legislature intends that this fee be set at $125 effective April 1, 2022.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 58 of Chapter 9, laws of Utah 2021, up to $1,025,000 provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Public Health, Prevention, & Epidemiology line item as a beginning balance in Fiscal Year 2023 use of any nonlapsing funds is limited to: (1) $500,000 to alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs or for emergent disease control and prevention needs; (2) $175,000 to maintenance or replacement of computer equipment, software, or other purchases or services that improve or expand services provided by Communicable Disease and Emerging Infections; (3) $75,000 for use of the Traumatic Brain Injury Fund; (4) $25,000 to local health departments expenses in responding to a local health emergency; and (5) $250,000 to support the Utah Produce Incentive Program.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 56 of Chapter 5, laws of Utah 2021, up to $1,312,500 provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Clinical Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to: (1) $500,000 to maintenance or replacement of computer equipment and software, equipment, building improvements or other purchases or services that improve or expand services provided by the Office of the Medical Examiner; (2) $500,000 to laboratory equipment, computer equipment, software, and building improvements for the Unified State Laboratory; (3) $312,500 to replacement, upgrading, maintenance, or purchase of laboratory or computer equipment and software for the Newborn Screening Program.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 75 of Chapter 441, Laws of Utah 2021, up to $62,500 General Fund provided for the Department of Health's Disease Control and Prevention line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Clinical Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to the Phenylketonuria (PKU) Formula Program.

Item 51

To Department of Health - Executive Director's Operations

From General Fund, One-Time	(189,500)
From Federal Funds, One-Time	25,116,800
From Closing Nonlapsing Balances	(7,800)
Schedule of Programs:	
Center for Health Data and Informatics	(33,800)
Executive Director	24,958,100
Office of Internal Audit	(2,400)
Program Operations	(2,400)

The Legislature intends that the use of the $18,500,000 American Rescue Plan Act funding appropriated to the Department of Health in SB1001, line 755 June 2021 Special Session, be expanded to include COVID response testing contracts, test kits, testing and response personnel, and novel therapeutics, in addition to vaccine distribution/access in alternative locations, educational information and similar expenses.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 112 of Chapter 5, Laws of Utah 2021, up to $2,350,000 provided for the Department of Health Executive Director line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Operations line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to (1) $1,800,000 for general operations of the Executive Director's Office due to a forecasted reduction in the federal indirect collections in FY 2023, (2) $300,000 in programming and information technology projects, replacement of computers and other information technology equipment, and a time-limited deputy to the Department of Technology Services director that helps coordinate information technology projects, (3) $200,000 ongoing development and maintenance of the vital records application portal, and (4) $50,000 ongoing maintenance and upgrades of the database in the Office of Medical Examiner and the Electronic Death Entry Network or replacement of personal computers and information technology equipment in the Center for Health Data and Informatics.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 76 of Chapter 441, Laws of Utah 2021, up to $32,800 General Fund provided for the Department of Health's Executive Director's Operations line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Operations line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to the implementation of H.B. 195, Identifying Wasteful Health Care Spending, from the 2020 General Session.

The Legislature intends that the Department of Health develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2022. For FY 2022 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2022. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Item 52

To Department of Health - Family Health and Preparedness

From General Fund, One-Time	(2,465,300)
From Education Fund, One-Time	2,523,700
From Federal Funds, One-Time	5,424,900
From Dedicated Credits Revenue, One-Time	263,700
From Expendable Receipts, One-Time	177,600
From Revenue Transfers, One-Time	1,543,000
From Beginning Nonlapsing Balances	(1,065,900)
From Closing Nonlapsing Balances	(150,000)
Schedule of Programs:	
Children with Special Health Care Needs	1,687,400
Director's Office	13,500
Emergency Medical Services and Preparedness	118,800
Health Facility Licensing and Certification	4,372,600
Maternal and Child Health	166,000
Primary Care	(106,600)

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 60 of Chapter 9, of Utah Laws 2021, up to $100,000 provided for the Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Children, Youth, & Families line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to $100,000 to evidence-based nurse home visiting services for at-risk individuals with a priority focus on first-time mothers.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 206 of Chapter 442, Laws of Utah 2021, up to $50,000 General Fund provided for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Clinical Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to funding for the Maliheh Free Clinic.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 60 of Chapter 9, Laws of Utah 2021, up to $500,000 provided for the Department of Health's Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2022. Civil money penalties collected in the Bureau of Licensing for Child Care Licensing and Health Facility Licensing programs. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Oversight line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to upgrades to databases, training for providers and staff, or assistance of individuals during a facility shutdown.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 60 of Chapter 9, of Utah Laws 2021, up to $505,000 provided for the Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Oversight line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to (1) $210,000 to health facility plan review activities in Health Facility Licensing and Certification, (2) $150,000 to health facility licensure and certification activities in Health Facility Licensing and Certification, and (3) $145,000 to Emergency Medical Services and Health Facility Licensing background screening for replacement of live scan machines, and enhancements and maintenance of the Direct Access Clearing System.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 60 of Chapter 9, of Utah Laws 2021, up to $200,000 provided for the Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Public Health, Prevention, & Epidemiology line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to $200,000 to testing, certifications, background screenings, replacement of testing equipment and supplies in the Emergency Medical Services program.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 57 of Chapter 9, of Utah Laws 2021, up to $50,000 provided for the Family Health and Preparedness line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Clinical Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to $50,000 to the services of eligible clients in the Assistance for People with Bleeding Disorders Program.

Item 53

To Department of Health – Medicaid and Health Financing

From General Fund, One–Time	(43,300)
From Federal Funds, One–Time	2,078,000
From Expendable Receipts, One–Time	3,896,100
From Ambulance Service Provider Assess Exp Rev Fund, One–Time	20,000
From Revenue Transfers, One–Time	135,000
Schedule of Programs:	
Long–term Services and Supports	(109,000)
Financial Services	3,916,100
Other Seeded Services	2,278,700

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends that under Item 62 of Chapter 9, Laws of Utah 2021, up to $975,000 provided for the Department of Health's Medicaid and Health Financing line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Health Care Administration line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to: (1) $500,000 for providing application level security and redundancy for core Medicaid applications and (2) $475,000 for compliance with unfunded mandates and the purchase of computer equipment and software.

Item 54

To Department of Health – Medicaid Sanctions

From Beginning Nonlapsing Balances	1,065,900
From Closing Nonlapsing Balances	(1,065,900)

Item 55

To Department of Health – Medicaid Services

From General Fund, One–Time	(292,129,400)
From Education Fund, One–Time	244,454,000
From Federal Funds, One–Time	57,011,300
From Federal Funds – Enhanced FMAP, One–Time	51,854,800
From Expendable Receipts, One–Time	(16,530,700)
From Expendable Receipts – Rebates, One–Time	60,000
From General Fund Restricted – Cigarette Tax Restricted Account, One–Time	7,000
From Medicaid Expansion Fund, One–Time	4,163,100
From Revenue Transfers, One–Time	40,970,200
From Closing Nonlapsing Balances	(30,000)
Schedule of Programs:	
Accountable Care Organizations	(7,131,600)
Home and Community Based Waivers	55,907,600
Inpatient Hospital	(1,019,800)
Intermediate Care Facilities for the Intellectually Disabled	2,030,900
Medicaid Expansion	41,512,200
Mental Health and Substance Abuse	6,547,400
Other Services	1,110,900
Pharmacy	60,000
Physician and Osteopath	(1,800)
School Based Skills Development	(9,185,500)

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends that under Item 79 of Chapter 441, Laws of Utah 2021, up to $30,000 General Fund provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Integrated Health Care Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to the implementation of H.B. 436, Health and Human Services Amendments, from the 2020 General Session.

Pursuant to Section 63J–1–603 of the Utah code, the Legislature intends that under Item 64 of Chapter 9, Laws of Utah 2021, up to $1,225,000 from the General Fund provided in this item for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Integrated Health Care Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to quality improvements in intermediate care facilities for individuals with intellectual disabilities serving Utah Medicaid clients.

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends under Item 64 of Chapter 9, Laws of Utah 2021, up to $9,000,000 from the General Fund provided for the Department of Health's Medicaid Services line item shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Integrated Health Care Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to (1) $500,000 for providing application level security and redundancy for core Medicaid applications and (2) $8,500,000 for the redesign and replacement of the Medicaid Management Information System.

Item 56

To Department of Health – Primary Care Workforce Financial Assistance

From General Fund, One–Time	(300,000)
From Education Fund, One–Time	300,000
From Beginning Nonlapsing Balances	(1,770,900)
From Closing Nonlapsing Balances	1,324,300
Schedule of Programs:	
Primary Care Workforce Financial Assistance	(446,600)

Item 57

To Department of Health – Rural Physicians Loan Repayment Assistance

From General Fund, One–Time	(304,800)
From Education Fund, One–Time	304,800

DEPARTMENT OF HUMAN SERVICES

Item 58

To Department of Human Services – Division of Aging and Adult Services

From General Fund, One–Time	261,900
From Federal Funds, One–Time	2,061,900
From Closing Nonlapsing Balances	(300,000)
Schedule of Programs:	
Administration – DAAS	342,200
Local Government Grants – Formula Funds	1,681,600

Item 59

To Department of Human Services – Division of Child and Family Services

From General Fund, One–Time	1,951,700
From Education Fund, One–Time	(1,825,400)
From Federal Funds, One–Time	2,937,300
From Revenue Transfers, One–Time	420,800
From Closing Nonlapsing Balances	(4,187,500)
Schedule of Programs:	
Adoption Assistance	(206,500)
Out–of–Home Care	(171,400)
Selected Programs	925,000
Service Delivery	(1,250,200)

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $4,000,000 of appropriations provided in Item 69, Chapter 9, Laws of Utah 2021 for the Department of Human Services – Division of Child and Family Services not lapse at the close of FY 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Children, Youth, & Families line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to facility repair, maintenance, and improvements; Adoption Assistance; Contracted Services; In–Home Services; Out of Home Care; Selected Services; Service Delivery; Special Needs; Domestic Violence Programs; SAFE Management Information System development and operations consistent with the requirements found at UCA 63J–1–603(3)(b).

Item 60

To Department of Human Services – Executive Director Operations

From Federal Funds, One–Time	321,000
From Closing Nonlapsing Balances	(1,575,000)
Schedule of Programs:	
Executive Director's Office	(1,254,000)

The Legislature intends that the Department of Health and Human Services work with the Utah Office for Victims of Crime, other relevant state agencies, offices, committee staff, and service providers to provide a written report to the Social Services Appropriations Subcommittees by May 27, 2022 outlining a statewide approach to coordinating funding, accountability and oversight for victim services, including domestic violence, in a statewide, targeted fashion, including a description of: all agencies and offices involved with victim services and domestic violence and the activities they undertake; all ongoing funding by source, allowable uses, and any applicable funding formulas; accountability and oversight for such funding; how the state currently assesses needs and demand for services; and identify strategies and recommended next steps to improve statewide coordination.

The Legislature intends that the Department of Human Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2022. For FY 2022 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2022. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $1,575,000 of appropriations provided in Items 4 and 5, Chapter 422, Laws of Utah 2021 for the Department of Human Services Executive Director Operations line item not lapse at the close of FY 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Operations line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; one–time expenditures from the Department of Health and Human Services Transition Account; and short–term projects and studies that promote efficiency and service improvement.

The Legislature intends that dedicated credits for the Department of Human Services, Office of Licensing in the Executive Director Line Item not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Department Oversight line item as a beginning balance in Fiscal Year 2023 and the use of these nonlapsing funds is limited to expenditures relating to the cost of licensing and inspection requirements, as stated in section 62A–2–108.2 of the Utah Code.

Pursuant to Section 63J–1–603 of the Utah code, the Legislature intends that any General Fund savings remaining from the enhanced FMAP related to the American Rescue Plan Act of 2021 (ARPA) in the Department of Health and Human Services shall not lapse at the end of the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to expenses authorized under the Department's ARPA Home and Community Based Services Enhanced Funding Spending

Plan approved by the Centers for Medicare and Medicaid Services.

The Legislature intends that the Department of Health and Human Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2022. For FY 2023 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2023. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

The Legislature intends that the Department of Health and Human Services report to the Social Services Appropriations Subcommittee by June 1, 2022 data and other evidence to show that the funding for Statewide Sexual Assault and Interpersonal Violence Prevention Program from FY 2016 through FY 2021 accomplished objectives established for the Temporary Assistance for Needy Families program.

Item 61

To Department of Human Services – Office of Public Guardian

From General Fund, One–Time	(637,600)
From Education Fund, One–Time	637,600
From Closing Nonlapsing Balances	(25,000)
Schedule of Programs:	
Office of Public Guardian	(25,000)

Item 62

To Department of Human Services – Office of Recovery Services

From Federal Funds, One–Time	460,100
From Expendable Receipts, One–Time	900,800
Schedule of Programs:	
Children in Care Collections	900,800
Electronic Technology	460,100

Item 63

To Department of Human Services – Division of Services for People with Disabilities

From General Fund, One–Time	19,219,700
From Education Fund, One–Time	(19,384,300)
From Federal Funds, One–Time	(42,000)
From Revenue Transfers, One–Time	16,343,100
Schedule of Programs:	
Community Supports Waiver	1,222,300
Service Delivery	14,914,200

The Legislature intends that for all funding provided in FY 2022 for Home and Community–based and Intermediate Care Facility Direct Care Staff Salary Increases, none of the appropriated funds shall be spent on administration–related costs or provider profits.

Under Subsection 62A–5–102(7)(a) of the Utah Code, the Legislature intends that the Division of Services for People with Disabilities (DSPD) use Fiscal Year 2022 beginning nonlapsing funds to provide services for individuals needing emergency services, individuals needing additional waiver services, and individuals court ordered into DSPD services, to provide increases to providers for direct care staff salaries, and for facility repairs, maintenance, and improvements to provide services to eligible individuals waiting for services, limited one–time services including respite care, service brokering, family skill building and preservation classes, after school group services, and other professional services. The Legislature further intends DSPD report to the Office of Legislative Fiscal Analyst by October 15, 2022 on the use of these nonlapsing funds.

Item 64

To Department of Human Services – Division of Substance Abuse and Mental Health

From General Fund, One–Time	(4,320,400)
From Education Fund, One–Time	4,000,000
From Revenue Transfers, One–Time	320,400
From Closing Nonlapsing Balances	(12,852,300)
Schedule of Programs:	
Community Mental Health Services	(1,408,900)
Mental Health Centers	(8,035,000)
State Substance Abuse Services	(3,408,400)

Pursuant to Section 63J–1–603 of the Utah Code, the Legislature intends that under Item 232 of Chapter 442, Laws of Utah 2021, up to $1,408,900 General Fund provided for HB 35, Mental Health Treatment Access Amendments (2020 Defunded Bill) shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to funding for HB 35, Mental Health Treatment Access Amendments (2020 Defunded Bill).

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $2,400,000 of appropriations provided in Item 74, Chapter 9, Laws of Utah 2021 and subsequent FY 2022 appropriations for the Department of Human Services – Division of Substance Abuse and Mental Health not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Integrated Health Care Services line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short–term projects and studies that promote efficiency and service improvement; appropriated one–time projects; and appropriated restricted fund purposes.

Under Section 63J–1–603 of the Utah Code, the Legislature intends that up to $600,000 of appropriations provided in Item 74, Chapter 9, Laws of Utah 2021 and subsequent FY 2022 appropriations for the Department of Human Services - Division of Substance Abuse and Mental Health not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Health Care Administration line item as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to expenditures for data processing and technology based expenditures; facility repairs, maintenance, and improvements; other charges and pass through expenditures; short-term projects and studies that promote efficiency and service improvement; appropriated one-time projects; and appropriated restricted fund purposes.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 89 of Chapter 441, Laws of Utah 2021, up to $126,000 General Fund provided for Family Resource Facilitator and Prevention Request shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to funding for Family Resource Facilitator and Prevention Request.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 89 of Chapter 441, Laws of Utah 2021, up to $36,000 General Fund provided for Safetynet shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to funding for Safetynet.

Pursuant to Section 63J-1-603 of the Utah Code, the Legislature intends that under Item 89 of Chapter 441, Laws of Utah 2021, up to $246,400 General Fund provided for Vivitrol Medication Assisted Treatment Program shall not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to funding for Vivitrol Medication Assisted Treatment Program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $8,035,000 of appropriations provided in Item 74, Chapter 9, Laws of Utah 2021 not lapse at the close of Fiscal Year 2022. The nonlapsing funds shall be applied to the Department of Health and Human Services Health Care Administration and Integrated Health Care Services line items as a beginning balance in Fiscal Year 2023 and the use of any nonlapsing funds is limited to existing grants for software to operate the mental health crisis line.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $12,930,100 of the ongoing appropriation provided in Item 3, Chapter 303, Laws of Utah 2020 for the Department of Human Services - Division of Substance Abuse and Mental Health not lapse at the close of FY 2022. The use of any nonlapsing funds is limited to expenditures for development and implementation of a behavioral health receiving center for which a grant was awarded under Section 62A-15-118. The nonlapsing funds shall be applied to the Department of Health and Human Services Integrated Health Care Services line item as a beginning balance in Fiscal Year 2023.

DEPARTMENT OF WORKFORCE SERVICES

Item 65

To Department of Workforce Services - Administration

From General Fund, One-Time	161,900
From Federal Funds, One-Time	3,731,000
From Dedicated Credits Revenue, One-Time	(31,000)
From Expendable Receipts, One-Time	31,000
From Revenue Transfers, One-Time	21,100
From Unemployment Compensation Fund, One-Time	1,800
From Closing Nonlapsing Balances	(200,000)
Schedule of Programs:	
Administrative Support	2,015,200
Communications	154,000
Executive Director's Office	429,400
Human Resources	229,100
Internal Audit	888,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $200,000 of General Fund appropriations provided in Item 75 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Administration line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, and one-time projects.

The Legislature intends that the Department of Workforce Services develop one proposed performance measure for each new funding item of $10,000 or more from the General Fund, Education Fund, or Temporary Assistance for Needy Families (TANF) federal funds by May 1, 2022. For FY 2022 items, the department shall report the results of the measures, plus the actual amount spent and the month and year of implementation, by August 31, 2022. The department shall provide this information to the Office of the Legislative Fiscal Analyst.

Item 66

To Department of Workforce Services - General Assistance

From General Fund, One-Time	(4,773,600)
From Education Fund, One-Time	3,037,100
Schedule of Programs:	
General Assistance	(1,736,500)

Item 67

To Department of Workforce Services - Housing and Community Development

From Federal Funds, One-Time	(1,502,400)
From Dedicated Credits Revenue, One-Time	(109,139,900)
From Expendable Receipts, One-Time	169,389,900
From OWHTF-Low Income Housing, One-Time	5,700
From Closing Nonlapsing Balances	(1,558,500)
Schedule of Programs:	
Community Services	(2,952,400)
Housing Development	59,897,200
Weatherization Assistance	250,000

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,000,000 of Special Administrative Expense Account appropriations provided in Item 18 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to one-time affordable housing projects and needs, including one-time administrative expenses.

Notwithstanding the stated uses of nonlapsing Special Administrative Expense Account (SAEA) appropriations provided for the Department of Workforce Services' Housing and Community Development line item in 2021 General Session Senate Bill 7, Item 18, Lines 459-466 and notwithstanding the stated uses of nonlapsing dedicated credit revenue appropriations provided for the Department of Workforce Services' Housing and Community Development line item in 2021 General Session Senate Bill 7, Item 18, Lines 488-495, the Legislature intends that the nonlapsing SAEA and dedicated credit funds may also be used for affordable housing projects and needs (including one-time administrative expenses in Fiscal Year 2022 for gap financing of private activity bond financed multi-family housing as provided in 2021 General Session Senate Bill 2, Item 212) and one-time COVID community relief activities.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of general fund appropriations provided in Item 78 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time projects; time-limited, temporary personnel or contractor costs; and one-time training.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $400,000 of dedicated credit revenue appropriations provided in Item 78 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to one-time affordable housing projects and needs including administrative expenses or projects for the Private Activity Bond program.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of expendable receipts appropriations provided in Item 78 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Housing and Community Development Division line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to weatherization assistance projects, including the pass-through of utility rebates by the Department of Workforce Services for weatherization assistance projects completed by local governments.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $158,500 of dedicated credit revenue appropriations provided in Item 72 of Chapter 5 Laws of Utah 2020, for the Department of Workforce Services' Housing and Community Development line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to one-time affordable housing projects and needs including administrative expenses or projects for the Private Activity Bond program.

Item 68

To Department of Workforce Services - Nutrition Assistance - SNAP

From Federal Funds, One-Time	233,090,700
Schedule of Programs:	
Nutrition Assistance - SNAP	233,090,700

Item 69

To Department of Workforce Services - Operations and Policy

From General Fund, One-Time	(3,672,600)
From Education Fund, One-Time	4,475,000
From Federal Funds, One-Time	4,855,300
From Dedicated Credits Revenue, One-Time	(975,000)
From Expendable Receipts, One-Time	975,000
From Revenue Transfers, One-Time	(10,100)
From Unemployment Compensation Fund, One-Time	4,100
From Closing Nonlapsing Balances	(4,700,000)
Schedule of Programs:	
Eligibility Services	961,500
Facilities and Pass-Through	837,900
Information Technology	2,954,700
Utah Data Research Center	(20,000)
Workforce Development	(3,977,200)
Workforce Research and Analysis	194,800

The Legislature authorizes the Department of Workforce Services, as allowed by the fund's authorizing statute, to spend all available money, as authorized by the Department of Health, in the Medicaid Expansion Fund (fund 2252) for FY 2022 regardless of the amount appropriated.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of Special Administrative Expense Account appropriations provided in Item 94 of Chapter 441 Laws of Utah 2021, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to programs that reinvest in the workforce and support employer initiatives and one-time studies.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $3,200,000 of General Fund appropriations provided in Item 80 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Operations and Policy line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of equipment and software, one-time studies, one-time projects, time-limited, temporary personnel or contractor costs, and one-time training.

Item 70

To Department of Workforce Services - State Office of Rehabilitation

From Federal Funds, One-Time	138,300
From Dedicated Credits Revenue, One-Time	(600)
From Expendable Receipts, One-Time	600
From Closing Nonlapsing Balances	(2,510,000)
Schedule of Programs:	
Blind and Visually Impaired	124,800
Deaf and Hard of Hearing	9,600
Executive Director	(2,509,200)
Rehabilitation Services	3,100

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,500,000 of General Fund appropriations provided in Item 76 of Chapter 5 Laws of Utah 2020 and Item 82 of Chapter 9 Laws of Utah 2021 and Education Fund appropriations provided in Items 41 and 236 of Chapter 442 of Laws of Utah 2021 for the Department of Workforce Services' State Office of Rehabilitation line item shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of equipment and software, including assistive technology devices and items for the low vision store; one-time studies; one-time projects associated with client services; and one-time projects to enhance or maintain State Office of Rehabilitation facilities and to facilitate co-location of personnel.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $10,000 of dedicated credit revenue appropriations provided in Item 82 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' State Office of Rehabilitation line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of items and devices for the low vision store.

Item 71

To Department of Workforce Services - Unemployment Insurance

From General Fund, One-Time	(13,600)
From Federal Funds, One-Time	1,807,600
From Dedicated Credits Revenue, One-Time	48,500
From Expendable Receipts, One-Time	1,500
From Unemployment Compensation Fund, One-Time	34,100
From Closing Nonlapsing Balances	(500,000)
Schedule of Programs:	
Adjudication	54,400
Unemployment Insurance Administration	1,323,700

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of General Fund appropriations provided in Item 83 of Chapter 9 Laws of Utah 2021, for the Department of Workforce Services' Unemployment Insurance line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of equipment and software and one-time projects associated with client services.

Item 72

To Department of Workforce Services - Office of Homeless Services

From Federal Funds, One-Time	29,802,200
From Gen. Fund Rest. - Pamela Atkinson Homeless Account, One-Time	550,000
From Gen. Fund Rest. - Homeless Housing Reform Rest. Acct, One-Time	6,862,300
From Revenue Transfers, One-Time	1,025,000
From Closing Nonlapsing Balances	(2,000,000)
Schedule of Programs:	
Homeless Services	36,239,500

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $500,000 of general fund appropriations provided in Item 3 of Chapter 281 Laws of Utah 2021, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to the purchase of equipment and software; one-time studies; one-time projects; time-limited, temporary personnel or contractor costs; and one-time training.

Under Section 63J-1-603 of the Utah Code, the Legislature intends that up to $1,500,000 of general fund appropriations provided in Item 1 of Chapter 414 Laws of Utah 2020, for the Department of Workforce Services' Office of Homeless Services line item, shall not lapse at the close of Fiscal Year 2022. The use of any nonlapsing funds is limited to improvement of the electronic Homeless Management Information System as described in Senate

Bill 244 of the Utah Legislature 2020 General Session.

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 73

To University of Utah – Education and General

From General Fund, One-Time	(16,568,900)
From Education Fund, One-Time	16,568,900
From Dedicated Credits Revenue, One-Time	3,093,400
Schedule of Programs:	
Education and General	3,093,400

Item 74

To University of Utah – School of Medicine

From Dedicated Credits Revenue, One-Time	996,200
Schedule of Programs:	
School of Medicine	996,200

Item 75

To University of Utah – Cancer Research and Treatment

From General Fund, One-Time	(9,000,000)
From Education Fund, One-Time	9,000,000

Item 76

To University of Utah – School of Dentistry

From Dedicated Credits Revenue, One-Time	6,958,600
Schedule of Programs:	
School of Dentistry	6,958,600

Item 77

To University of Utah – SafeUT Crisis Text and Tip

From General Fund, One-Time	(250,000)
From Education Fund, One-Time	250,000

UTAH STATE UNIVERSITY

Item 78

To Utah State University – Education and General

From General Fund, One-Time	355,400
From Education Fund, One-Time	(355,400)
From Dedicated Credits Revenue, One-Time	9,713,600
Schedule of Programs:	
Education and General	9,633,000
USU – School of Veterinary Medicine	80,600

Item 79

To Utah State University – USU – Eastern Education and General

From Dedicated Credits Revenue, One-Time	1,273,100
Schedule of Programs:	
USU – Eastern Education and General	1,273,100

Item 80

To Utah State University – USU – Eastern Career and Technical Education

From Dedicated Credits Revenue, One-Time	182,000
Schedule of Programs:	
USU – Eastern Career and Technical Education	182,000

Item 81

To Utah State University – Blanding Campus

From Dedicated Credits Revenue, One-Time	786,900
Schedule of Programs:	
Blanding Campus	786,900

WEBER STATE UNIVERSITY

Item 82

To Weber State University – Education and General

From General Fund, One-Time	(267,700)
From Education Fund, One-Time	335,500
From Dedicated Credits Revenue, One-Time	3,214,900
Schedule of Programs:	
Education and General	3,282,700

SOUTHERN UTAH UNIVERSITY

Item 83

To Southern Utah University – Education and General

From General Fund, One-Time	(20,100)
From Education Fund, One-Time	20,100
From Dedicated Credits Revenue, One-Time	9,115,500
Schedule of Programs:	
Education and General	9,115,500

UTAH VALLEY UNIVERSITY

Item 84

To Utah Valley University – Education and General

From General Fund, One-Time	(5,700)
From Education Fund, One-Time	5,700
From Dedicated Credits Revenue, One-Time	2,682,200
Schedule of Programs:	
Education and General	2,682,200

Item 85

To Utah Valley University – Fire and Rescue Training

From General Fund, One-Time	(300,000)
From Education Fund, One-Time	300,000

SNOW COLLEGE

Item 86

To Snow College – Education and General

From General Fund, One-Time	(90,200)
From Education Fund, One-Time	90,200

UTAH TECH UNIVERSITY

Item 87

To Utah Tech University – Education and General

From General Fund, One-Time	(100,500)
From Education Fund, One-Time	100,500
From Dedicated Credits Revenue, One-Time	6,545,700
Schedule of Programs:	
Education and General	6,545,700

SALT LAKE COMMUNITY COLLEGE

Item 88

To Salt Lake Community College – Education and General

From General Fund, One–Time .... (30,900)
From Education Fund, One–Time 275,900
From Dedicated Credits Revenue,
One–Time 1,974,400
From Other Financing Sources,
One–Time 230,000
Schedule of Programs:
Education and General 2,449,400

Item 89
To Salt Lake Community College – School of Applied Technology
From Dedicated Credits Revenue,
One–Time 17,000
Schedule of Programs:
School of Applied Technology 17,000

UTAH BOARD OF HIGHER EDUCATION

Item 90
To Utah Board of Higher Education – Administration
From General Fund, One–Time ...... (5,107,300)
From Education Fund, One–Time 5,107,300

DIXIE TECHNICAL COLLEGE

Item 91
To Dixie Technical College
From Dedicated Credits Revenue,
One–Time 101,800
Schedule of Programs:
Dixie Technical College 101,800

OGDEN-WEBER TECHNICAL COLLEGE

Item 92
To Ogden–Weber Technical College
From Beginning Nonlapsing Balances ... 638,800
From Closing Nonlapsing Balances .... (638,800)

SOUTHWEST TECHNICAL COLLEGE

Item 93
To Southwest Technical College
From Dedicated Credits Revenue,
One–Time 6,900
Schedule of Programs:
Southwest Technical College 6,900

The Legislature authorizes Southwest Technical College to add two vehicles to its motor pool.

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 94
To Department of Agriculture and Food – Administration
From Federal Funds, One–Time 200,000
Schedule of Programs:
General Administration 200,000

Item 95
To Department of Agriculture and Food – Animal Industry
From Dedicated Credits Revenue,
One–Time 5,000
From General Fund Restricted –
Horse Racing, One–Time 40,000
Schedule of Programs:
Animal Health 5,000
Horse Racing Commission 40,000

Item 96
To Department of Agriculture and Food – Plant Industry
From Federal Funds, One–Time 852,300
Schedule of Programs:
Environmental Quality 1,352,300
Plant Industry .... (500,000)

Item 97
To Department of Agriculture and Food – Regulatory Services
From Federal Funds, One–Time 200,000
From Dedicated Credits Revenue,
One–Time 255,200
Schedule of Programs:
Bedding & Upholstered 255,200
Egg Grading and Inspection 200,000

Item 98
To Department of Agriculture and Food – Resource Conservation
From General Fund, One–Time 2,000,000
From Federal Funds – American
Rescue Plan, One–Time 50,000,000
Schedule of Programs:
Resource Conservation 52,000,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 99
To Department of Agriculture and Food – Utah State Fair Corporation
From Dedicated Credits Revenue,
One–Time 2,546,000
Schedule of Programs:
State Fair Corporation 2,546,000

Item 100
To Department of Agriculture and Food – Analytical Laboratory
From Federal Funds, One–Time 100,000
Schedule of Programs:
Analytical Laboratory 100,000

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 101
To Department of Environmental Quality – Drinking Water
From Dedicated Credits Revenue,
One–Time .... (325,000)
Schedule of Programs:
Safe Drinking Water Act .... (300,000)

System Assistance (25,000)

Item 102

To Department of Environmental Quality – Environmental Response and Remediation

From Petroleum Storage Tank Cleanup Fund, One-Time (181,200)

Schedule of Programs:

Leaking Underground Storage Tanks (181,200)

Item 103

To Department of Environmental Quality – Executive Director's Office

From General Fund, One-Time 500,000

Schedule of Programs:

Local Health Departments 500,000

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the one-time $500,000 General Fund appropriation for the Department of Environmental Quality Executive Directors Office shall not lapse at the close of FY 2022. The use of these funds is limited to the Westwater Community water and power projects.

Item 104

To Department of Environmental Quality – Waste Management and Radiation Control

From Federal Funds, One-Time 106,000

Schedule of Programs:

Solid Waste 106,000

Item 105

To Department of Environmental Quality – Water Quality

From General Fund, One-Time (2,000,000)

From Federal Funds, One-Time 1,299,100

From Federal Funds – American Rescue Plan, One-Time 30,000,000

From Revenue Transfers, One-Time (484,800)

From Closing Nonlapsing Balances 2,000,000

Schedule of Programs:

Water Quality Support (484,800)

Water Quality Protection 31,299,100

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Item 106

To Department of Environmental Quality – Air Quality

From General Fund, One-Time 4,318,700

From Beginning Nonlapsing Balances (2,000,000)

Schedule of Programs:

Planning 2,318,700

Notwithstanding intent language passed in H.B. 5, under the terms of 63J-1-603, the Legislature intends that $2,000,000 previously designated for replacing wood-fired stoves and fireplaces with gas appliances not lapse at the close of FY 2022 and instead be used for the following purposes in the following amounts: Air Quality Monitoring Network Expansion in Summit and Wasatch Counties ($462,500), Department of Environmental Quality Air Quality Outreach ($500,000), E-bus Air Quality Mapping Project ($120,000), and Air Quality Ozone Monitoring Infrastructure for the Wasatch Front ($917,500).

Under the terms of 63J-1-603 of the Utah Code, the Legislature intends that the $2,318,700 one-time appropriation from the General Fund for the Division of Air Quality shall not lapse at the close of FY 2022. The use of these funds is limited to Ozone Monitoring Infrastructure for the Wasatch Front.

DEPARTMENT OF NATURAL RESOURCES

Item 107

To Department of Natural Resources – Contributed Research

From Expendable Receipts, One-Time 700,000

Schedule of Programs:

Contributed Research 700,000

Item 108

To Department of Natural Resources – Forestry, Fire and State Lands

From General Fund, One-Time 115,600

From Federal Funds, One-Time 1,500,000

From Dedicated Credits Revenue, One-Time 2,000,000

Schedule of Programs:

Forest Management 1,500,000

Lands Management 115,600

Lone Peak Center 2,000,000

Item 109

To Department of Natural Resources – Utah Geological Survey

From Dedicated Credits Revenue, One-Time 143,900

From General Fund Restricted – Mineral Lease, One-Time 673,500

From Revenue Transfers, One-Time 272,700

Schedule of Programs:

Administration 673,500

Energy and Minerals 416,600

Item 110

To Department of Natural Resources – Water Rights

From Dedicated Credits Revenue, One-Time 500,000

Schedule of Programs:

Applications and Records 500,000

Item 111

To Department of Natural Resources – Watershed

From Dedicated Credits Revenue, One-Time 50,000

Schedule of Programs:

Watershed	50,000

Item 112

To Department of Natural Resources – Wildlife Resources	
From General Fund, One–Time	400,000
From General Fund Restricted – Aquatic Invasive Species Interdiction Account, One–Time	405,000
From General Fund Restricted – Wildlife Resources, One–Time	(56,400)
Schedule of Programs:	
Administrative Services	(56,400)
Law Enforcement	805,000

Item 113

To Department of Natural Resources – Division of Parks	
From Federal Funds, One–Time	64,400
From Expendable Receipts, One–Time	125,000
From General Fund Restricted – Zion National Park Support Programs, One–Time	(4,000)
Schedule of Programs:	
Park Management Contracts	(4,000)
State Park Operation Management	189,400

Item 114

To Department of Natural Resources – Division of Parks – Capital	
From Federal Funds, One–Time	4,000,000
Schedule of Programs:	
Renovation and Development	4,000,000

Item 115

To Department of Natural Resources – Division of Recreation	
From General Fund Restricted – Zion National Park Support Programs, One–Time	4,000
Schedule of Programs:	
Recreation Agreements	4,000

Item 116

To Department of Natural Resources – Division of Recreation– Capital	
From Federal Funds, One–Time	2,500,000
Schedule of Programs:	
Land and Water Conservation	2,500,000

Item 117

To Department of Natural Resources – Office of Energy Development	
From General Fund, One–Time	3,000,000
From Federal Funds, One–Time	5,500,000
From Dedicated Credits Revenue, One–Time	50,000
From Expendable Receipts, One–Time	50,000
Schedule of Programs:	
Office of Energy Development	8,600,000

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that the one–time $3,000,000 General Fund appropriation for the Office of Energy Development shall not lapse at the close of FY 2022. The use of these funds is limited to the Electric Vehicle Charging Infrastructure in Rural Utah.

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 118

To School and Institutional Trust Lands Administration	
From Land Grant Management Fund, One–Time	1,500,000
Schedule of Programs:	
Administration	1,000,000
Information Technology Group	500,000

Under the terms of 63J–1–603 of the Utah Code, the Legislature intends that the $1,000,000 one–time Land Grant Management Fund appropriation to the School and Institutional Trust Lands Administration shall not lapse at the close of FY 2022. The use of these funds is limited to office relocation expenses.

EXECUTIVE APPROPRIATIONS

LEGISLATURE

Item 119

To Legislature – Office of Legislative Research and General Counsel	
From General Fund, One–Time	210,000
Schedule of Programs:	
Administration	210,000

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 120

To Department of Veterans and Military Affairs – Veterans and Military Affairs	
From General Fund, One–Time	(900,000)
From Education Fund, One–Time	1,200,000
From Dedicated Credits Revenue, One–Time	39,400
Schedule of Programs:	
Cemetery	310,700
Outreach Services	28,700

Item 121

To Department of Veterans and Military Affairs – DVMA Pass Through	
From General Fund, One–Time	30,000
Schedule of Programs:	
DVMA Pass Through	30,000

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 122
To Department of Workforce Services – Olene Walker Low Income Housing
From Federal Funds, One–Time ... (26,371,500)
Schedule of Programs:
Olene Walker Low Income Housing ... (26,371,500)

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J–1–410, for any included Internal Service Fund, the Legislature approves budgets, full–time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 123
To Attorney General – ISF – Attorney General
From General Fund, One–Time ... (227,200)
Schedule of Programs:
Civil Division ... (227,200)

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 124
To Department of Government Operations – Division of Finance
From Dedicated Credits Revenue, One–Time ... 300,000
From Beginning Fund Balance ... 15,200
From Closing Fund Balance ... (110,300)
Schedule of Programs:
ISF – Purchasing Card ... 204,900

The Legislature intends that the ISF – Finance – Purchasing Card program be authorized to increase its Capital Outlay for the new Travel and Expense Reporting System by $125,000 in FY 2022 and by $1,325,000 in FY 2023.

Item 125
To Department of Government Operations – Division of Fleet Operations
From Dedicated Credits Revenue, One–Time ... (300,000)
From Beginning Fund Balance ... (15,200)
From Closing Fund Balance ... 110,300
Schedule of Programs:
ISF – Travel Office ... (204,900)

Item 126
To Department of Government Operations – Risk Management
From Closing Fund Balance ... (3,000,000)
Schedule of Programs:
ISF – Workers' Compensation ... (3,000,000)

Item 127
To Department of Government Operations – Human Resources Internal Service Fund
Budgeted FTE ... 6.0

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 128
To Department of Workforce Services – Unemployment Compensation Fund
From Federal Funds, One–Time ... 306,300
Schedule of Programs:
Unemployment Compensation Fund ... 306,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 129
To Department of Health and Human Services – Qualified Patient Enterprise Fund
From Closing Fund Balance ... 1,000,000
Schedule of Programs:
Qualified Patient Enterprise Fund ... 1,000,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 130
To Department of Environmental Quality – Water Development Security Fund – Drinking Water
From General Fund, One–Time ... 5,670,000
From Federal Funds, One–Time ... 55,800,000
From Federal Funds – American Rescue Plan, One–Time ... 25,000,000
Schedule of Programs:
Drinking Water ... 86,470,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

The Legislature intends that the $400,000 one–time General Fund appropriation to the Drinking Water – Water Development Security Fund be used for the Navajo Water Settlement Capital Facilities Plan.

Item 131
To Department of Environmental Quality – Water Development Security Fund – Water Quality
From General Fund, One-Time 3,280,000
From Federal Funds, One-Time 13,000,000
From Federal Funds – American Rescue Plan, One-Time 5,000,000
Schedule of Programs:
Water Quality 21,280,000

The Legislature intends that funds appropriated by this item from the American Rescue Plan Act may only be expended or distributed for purposes that comply with the legal requirements and federal guidelines under the American Rescue Plan Act of 2021. Additionally, the Legislature intends that the agency administering these funds meet all compliance and reporting requirements associated with these funds, as directed by the Governor's Office of Planning and Budget.

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

Item 132
To General Fund Restricted – Industrial Assistance Account
From General Fund, One-Time .... (10,000,000)
Schedule of Programs:
General Fund Restricted – Industrial Assistance Account .... (10,000,000)

Item 133
To General Fund Restricted – Native American Repatriation Restricted Account
From General Fund, One-Time .... (20,000)
Schedule of Programs:
General Fund Restricted – Native American Repatriation Restricted Account .... (20,000)

SOCIAL SERVICES

Item 134
To Medicaid Expansion Fund
From Dedicated Credits Revenue, One-Time 11,384,200
From Closing Fund Balance .... (7,221,100)
Schedule of Programs:
Medicaid Expansion Fund 4,163,100

EXECUTIVE APPROPRIATIONS

Item 135
To New Public Safety and Firefighter tier II Retirements Benefits Restricted Account
From General Fund, One-Time 259,600
Schedule of Programs:
New Public Safety and Firefighter Tier II Retirement Benefits Restricted Account 259,600

Subsection 1(e). Transfers to Unrestricted Funds. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 136
To General Fund
From Crime Victim Reparations Fund, One-Time 28,700
From Nonlapsing Balances – Constitutional Defense Council 13,300
From Nonlapsing Balances – Indigent Appellate Defense Division 81,600
Schedule of Programs:
General Fund, One-time 123,600

SOCIAL SERVICES

Item 137
To General Fund
From Medicaid Expansion Fund, One-Time 609,000
From Qualified Patient Enterprise Fund, One-Time 1,000,000
Schedule of Programs:
General Fund, One-time 1,609,000

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

Item 138
To General Fund
From Qualified Production Enterprise Fund, One-Time 400,000
From Nonlapsing Balances – Division of Air Quality 2,000,000
Schedule of Programs:
General Fund, One-time 2,400,000

Subsection 1(f). Capital Project Funds. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAPITAL BUDGET

Item 139
To Capital Budget – Higher Education Capital Projects Fund
From Education Fund, One-Time 60,000,000
Schedule of Programs:
Higher Education Capital Projects Fund 60,000,000

The Legislature intends that $60,000,000 one-time appropriation provided by this item be used for the University of Utah School of Medicine.

Section 2. Effective Date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the Governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8 without the Governor's signature, or in the case of a veto, the date of override.

CHAPTER 411
S.B. 8

Passed March 2, 2022
Approved March 24, 2022
Effective July 1, 2022

STATE AGENCY AND HIGHER EDUCATION COMPENSATION APPROPRIATIONS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill supplements or reduces appropriations otherwise provided for the support and operation of state government for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Highlighted Provisions:

This bill:

- provides funding for a 3.5% labor market increase for state employees;
- provides funding for performance-based discretionary, targeted, and directed salary increases for state employees;
- provides funding for a 5.75% labor market and performance-based increase for higher education employees;
- provides funding for step and lane increases for employees of the Utah Schools for the Deaf and the Blind;
- provides funding for an average 6.7% increase in health insurance benefits rates and 1% increase in dental insurance benefits rates for state and higher education employees;
- provides funding for a 2.59% State pick up of public safety and firefighter employee retirement contributions for employees in the Tier II Defined Contribution Plan;
- provides funding for retirement rate changes for certain state employees;
- provides funding for an up-to $26 per pay period match for qualifying state employees enrolled in a defined contribution plan; and
- provides funding for other compensation adjustments as authorized.

Money Appropriated in this Bill:

This bill appropriates $251,865,500 in operating and capital budgets for fiscal year 2023, including:

- $94,583,200 from the General Fund;
- $85,938,800 from the Education Fund; and
- $71,343,500 from various sources as detailed in this bill.

This bill appropriates $321,400 in expendable funds and accounts for fiscal year 2023, including:

- $28,000 from the General Fund; and
- $293,400 from various sources as detailed in this bill.

This bill appropriates $2,865,700 in business-like activities for fiscal year 2023, including:

- $5,100 from the General Fund; and
- $2,860,600 from various sources as detailed in this bill.

This bill appropriates $57,300 in restricted fund and account transfers for fiscal year 2023, all of which is from the General Fund.

Other Special Clauses:

This bill takes effect on July 1, 2022.

Utah Code Sections Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. FY 2023 Appropriations. The following sums of money are appropriated for the fiscal year beginning July 1, 2022 and ending June 30, 2023.

Subsection 1(a). Operating and Capital Budgets. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF HEALTH AND HUMAN SERVICES - DIVISION OF JUVENILE JUSTICE SERVICES

Item 1

To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services

From General Fund	3,907,900
From General Fund, One-Time	329,900
From Federal Funds	66,300
From Federal Funds, One-Time	7,700
From Dedicated Credits Revenue	19,400
From Dedicated Credits Revenue, One-Time	1,600
From Expendable Receipts	500
From Expendable Receipts, One-Time	100
From Revenue Transfers	27,700
From Revenue Transfers, One-Time	2,800
Schedule of Programs:	
Juvenile Justice & Youth Services	419,800
Secure Care	1,197,800
Youth Services	2,422,800
Community Programs	323,500

Item 2

To Department of Health and Human Services – Division of Juvenile Justice Services – Juvenile Justice & Youth Services

From General Fund, One-Time	300
Schedule of Programs:	
Youth Services	300

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

ATTORNEY GENERAL

Item 3

To Attorney General

From General Fund	2,462,300
From General Fund, One-Time	61,600
From Federal Funds	130,300

From Federal Funds, One-Time	10,700
From Dedicated Credits Revenue	32,100
From Dedicated Credits Revenue, One-Time	3,100
From Attorney General Litigation Fund	400
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(1,700)
From General Fund Restricted - Tobacco Settlement Account	1,400
From General Fund Restricted - Tobacco Settlement Account, One-Time	200
From Revenue Transfers	40,400
From Revenue Transfers, One-Time	2,900
Schedule of Programs:	
Administration	444,300
Civil	262,100
Criminal Prosecution	2,037,300

Item 4

To Attorney General

From General Fund, One-Time	1,300
Schedule of Programs:	
Criminal Prosecution	1,300

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 5

To Attorney General - Children's Justice Centers

From General Fund	45,000
From General Fund, One-Time	1,600
From Dedicated Credits Revenue	300
From Expendable Receipts	2,300
From Expendable Receipts, One-Time	200
Schedule of Programs:	
Children's Justice Centers	49,400

Item 6

To Attorney General - Prosecution Council

From General Fund	50,300
From General Fund, One-Time	2,000
From Dedicated Credits Revenue	1,300
From Dedicated Credits Revenue, One-Time	300
From Revenue Transfers	8,100
From Revenue Transfers, One-Time	800
Schedule of Programs:	
Prosecution Council	62,800

BOARD OF PARDONS AND PAROLE

Item 7

To Board of Pardons and Parole

From General Fund	181,400
From General Fund, One-Time	28,900
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(5,800)
Schedule of Programs:	
Board of Pardons and Parole	204,500

Item 8

To Board of Pardons and Parole

From General Fund, One-Time	1,200
Schedule of Programs:	
Board of Pardons and Parole	1,200

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

UTAH DEPARTMENT OF CORRECTIONS

Item 9

To Utah Department of Corrections - Programs and Operations

From General Fund	23,832,700
From General Fund, One-Time	2,020,400
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(934,600)
Schedule of Programs:	
Adult Probation and Parole Administration	225,300
Adult Probation and Parole Programs	7,682,000
Department Administrative Services	664,400
Department Executive Director	436,200
Department Training	207,800
Prison Operations Administration	484,700
Prison Operations Central Utah/Gunnison	4,592,800
Prison Operations Inmate Placement	301,100
Programming Administration	37,400
Programming Skill Enhancement	1,219,300
Programming Treatment	570,000
Prison Operations Utah State Correctional Facility	8,497,500

Item 10

To Utah Department of Corrections - Programs and Operations

From General Fund, One-Time	277,800
Schedule of Programs:	
Adult Probation and Parole Administration	300
Adult Probation and Parole Programs	76,300
Department Administrative Services	400
Department Executive Director	1,100
Department Training	1,000
Prison Operations Administration	8,000
Prison Operations Central Utah/Gunnison	63,600
Programming Skill Enhancement	5,300
Programming Treatment	1,100
Prison Operations Utah State Correctional Facility	120,700

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 11

To Utah Department of Corrections - Department Medical Services

From General Fund	792,900
From General Fund, One-Time	92,400

From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(5,500)
Schedule of Programs:	
Medical Services	879,800

Item 12

To Utah Department of Corrections – Department Medical Services

From General Fund, One–Time	1,600
Schedule of Programs:	
Medical Services	1,600

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

JUDICIAL COUNCIL/ STATE COURT ADMINISTRATOR

Item 13

To Judicial Council/State Court Administrator – Administration

From General Fund	9,943,500
From General Fund, One–Time	485,400
From Federal Funds	23,400
From Federal Funds, One–Time	2,100
From General Fund Restricted – Court Security Account	3,300
From General Fund Restricted – Court Security Account, One–Time	700
Schedule of Programs:	
Administrative Office	236,500
Court of Appeals	251,300
Courts Security	6,500
Data Processing	331,200
District Courts	6,941,400
Grants Program	25,500
Judicial Education	39,200
Justice Courts	11,800
Juvenile Courts	2,368,600
Law Library	53,600
Supreme Court	192,800

The Legislature intends the salary for a District Court judge for the fiscal year beginning July 1, 2022, and ending June 30, 2023, shall be $185,200. The Legislature intends that other judicial salaries shall be calculated in accordance with the formula set forth in UCA Title 67 Chapter 8 Section 2 and rounded to the nearest $50.

Item 14

To Judicial Council/State Court Administrator – Guardian ad Litem

From General Fund	483,600
From General Fund, One–Time	38,600
Schedule of Programs:	
Guardian ad Litem	522,200

Item 15

To Judicial Council/State Court Administrator – Jury and Witness Fees

From General Fund	26,200
From General Fund, One–Time	3,400
Schedule of Programs:	
Jury, Witness, and Interpreter	29,600

GOVERNORS OFFICE

Item 16

To Governors Office – Commission on Criminal and Juvenile Justice

From General Fund	197,500
From General Fund, One–Time	19,400
From Federal Funds	100,200
From Federal Funds, One–Time	10,500
From Dedicated Credits Revenue	1,800
From Dedicated Credits Revenue, One–Time	300
From Crime Victim Reparations Fund	10,800
From Crime Victim Reparations Fund, One–Time	1,800
From General Fund Restricted – Criminal Forfeiture Restricted Account	3,900
From General Fund Restricted – Criminal Forfeiture Restricted Account, One–Time	200
Schedule of Programs:	
CCJJ Commission	120,300
Extraditions	2,400
Judicial Performance Evaluation Commission	20,900
Sentencing Commission	7,800
State Asset Forfeiture Grant Program	4,100
State Task Force Grants	4,100
Substance Use and Mental Health Advisory Council	8,900
Utah Office for Victims of Crime	177,900

Item 17

To Governors Office – Governor's Office

From General Fund	237,000
From General Fund, One–Time	14,300
From Dedicated Credits Revenue	43,700
From Dedicated Credits Revenue, One–Time	2,700
Schedule of Programs:	
Administration	175,300
Governor's Residence	17,900
Lt. Governor's Office	92,300
Washington Funding	12,200

The Legislature intends that the Governor's salary for the fiscal year beginning July 1, 2022 and ending June 30, 2023 shall be $174,700. Other constitutional offices shall be calculated in accordance with the formula set forth in Section 67–22–1.

Item 18

To Governors Office – Governors Office of Planning and Budget

From General Fund	181,500
From General Fund, One–Time	13,900
Schedule of Programs:	
Administration	35,800
Management and Special Projects	35,800
Budget, Policy, and Economic Analysis	92,900
Planning Coordination	30,900

Item 19

To Governors Office – Indigent Defense Commission

From Expendable Receipts	2,400
From Expendable Receipts, One–Time	200
From General Fund Restricted – Indigent Defense Resources	56,900
From General Fund Restricted – Indigent Defense Resources, One–Time	5,300
From Revenue Transfers	2,400
From Revenue Transfers, One–Time	200

Schedule of Programs:

Office of Indigent Defense Services	49,000
Indigent Appellate Defense Division	18,400

Item 20

To Governors Office – Colorado River Authority of Utah

From General Fund Restricted – Colorado River Authority of Utah Restricted Account	39,100
From General Fund Restricted – Colorado River Authority of Utah Restricted Account, One–Time	3,200

Schedule of Programs:

Colorado River Authority of Utah	42,300

OFFICE OF THE STATE AUDITOR

Item 21

To Office of the State Auditor – State Auditor

From General Fund	390,500
From General Fund, One–Time	12,700
From Dedicated Credits Revenue	118,300
From Dedicated Credits Revenue, One–Time	11,700

Schedule of Programs:

State Auditor	533,200

DEPARTMENT OF PUBLIC SAFETY

Item 22

To Department of Public Safety – Driver License

From Dedicated Credits Revenue	700
From Dedicated Credits Revenue, One–Time	100
From Department of Public Safety Restricted Account	1,845,500
From Department of Public Safety Restricted Account, One–Time	124,000
From Public Safety Motorcycle Education Fund	3,400
From Public Safety Motorcycle Education Fund, One–Time	700
From Pass–through	2,100
From Pass–through, One–Time	300

Schedule of Programs:

Driver License Administration	159,500
Driver Records	317,400
Driver Services	1,495,800
Motorcycle Safety	4,100

Item 23

To Department of Public Safety – Emergency Management

From General Fund	13,000
From General Fund, One–Time	1,400
From Federal Funds	202,800
From Federal Funds, One–Time	21,700

Schedule of Programs:

Emergency Management	238,900

Item 24

To Department of Public Safety – Highway Safety

From Federal Funds	55,200
From Federal Funds, One–Time	7,600
From Public Safety Motorcycle Education Fund	500
From Public Safety Motorcycle Education Fund, One–Time	100

Schedule of Programs:

Highway Safety	63,400

Item 25

To Department of Public Safety – Peace Officers' Standards and Training

From General Fund	151,500
From General Fund, One–Time	12,300
From Dedicated Credits Revenue	7,000
From Dedicated Credits Revenue, One–Time	500

Schedule of Programs:

Basic Training	87,000
POST Administration	51,200
Regional/Inservice Training	33,100

Item 26

To Department of Public Safety – Programs & Operations

From General Fund	24,219,800
From General Fund, One–Time	710,400
From Federal Funds	27,900
From Federal Funds, One–Time	1,200
From Dedicated Credits Revenue	331,500
From Dedicated Credits Revenue, One–Time	34,000
From Department of Public Safety Restricted Account	117,200
From Department of Public Safety Restricted Account, One–Time	13,000
From General Fund Restricted – Fire Academy Support	111,500
From General Fund Restricted – Fire Academy Support, One–Time	10,700
From Gen. Fund Rest. – Motor Vehicle Safety Impact Acct.	95,100
From Gen. Fund Rest. – Motor Vehicle Safety Impact Acct., One–Time	9,900
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(288,700)
From Revenue Transfers	14,500
From Revenue Transfers, One–Time	700
From Gen. Fund Rest. – Utah Highway Patrol Aero Bureau	4,600
From Gen. Fund Rest. – Utah Highway Patrol Aero Bureau, One–Time	400

Schedule of Programs:

Aero Bureau	35,100
CITS Administration	20,300
CITS Communications	430,200
CITS State Bureau of Investigation	310,800
CITS State Crime Labs	1,138,200
Department Commissioner's Office	187,300
Department Fleet Management	3,900
Department Grants	44,000
Department Intelligence Center	65,000
Fire Marshal – Fire Fighter Training	20,900
Fire Marshal – Fire Operations	114,200

Highway Patrol – Administration	49,500
Highway Patrol – Commercial Vehicle	207,200
Highway Patrol – Field Operations	22,116,000
Highway Patrol – Protective Services	329,100
Highway Patrol – Safety Inspections	35,200
Highway Patrol – Special Enforcement	58,800
Highway Patrol – Special Services	206,600
Highway Patrol – Technology Services	41,400

Item 27

To Department of Public Safety – Programs & Operations

From General Fund, One–Time	103,500
Schedule of Programs:	
CITS Communications	14,600
CITS State Bureau of Investigation	8,200
Fire Marshal – Fire Operations	800
Highway Patrol – Commercial Vehicle	1,100
Highway Patrol – Field Operations	70,300
Highway Patrol – Protective Services	5,100
Highway Patrol – Special Enforcement	1,700
Highway Patrol – Special Services	1,700

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 28

To Department of Public Safety – Bureau of Criminal Identification

From General Fund	28,200
From General Fund, One–Time	1,000
From Dedicated Credits Revenue	516,500
From Dedicated Credits Revenue, One–Time	14,800
From General Fund Restricted – Concealed Weapons Account	342,800
From General Fund Restricted – Concealed Weapons Account, One–Time	12,800
From Revenue Transfers	70,300
From Revenue Transfers, One–Time	7,200
Schedule of Programs:	
Non–Government/Other Services	993,600

STATE TREASURER

Item 29

To State Treasurer

From General Fund	33,700
From General Fund, One–Time	2,000
From Dedicated Credits Revenue	33,300
From Dedicated Credits Revenue, One–Time	1,600
From Land Trusts Protection and Advocacy Account	17,100
From Land Trusts Protection and Advocacy Account, One–Time	1,400
From Unclaimed Property Trust	71,000
From Unclaimed Property Trust, One–Time	6,500
Schedule of Programs:	
Advocacy Office	18,500
Money Management Council	5,000
Treasury and Investment	65,600
Unclaimed Property	77,500

INFRASTRUCTURE AND GENERAL GOVERNMENT

CAREER SERVICE REVIEW OFFICE

Item 30

To Career Service Review Office

From General Fund	8,600
From General Fund, One–Time	1,400
Schedule of Programs:	
Career Service Review Office	10,000

UTAH EDUCATION AND TELEHEALTH NETWORK

Item 31

To Utah Education and Telehealth Network – Digital Teaching and Learning Program

From Federal Funds	4,800
Schedule of Programs:	
Digital Teaching and Learning Program	4,800

Item 32

To Utah Education and Telehealth Network

From General Fund	17,200
From Education Fund	294,300
From Federal Funds	96,200
From Dedicated Credits Revenue	139,300
Schedule of Programs:	
Administration	87,800
Instructional Support	95,300
KUEN Broadcast	6,800
Public Information	6,900
Technical Services	299,600
Utah Telehealth Network	50,600

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 33

To Department of Government Operations – Administrative Rules

From General Fund	14,600
From General Fund, One–Time	2,600
Schedule of Programs:	
DAR Administration	17,200

Item 34

To Department of Government Operations – DFCM Administration

From General Fund	87,800
From General Fund, One–Time	10,300
From Education Fund	17,600
From Education Fund, One–Time	2,300
From Dedicated Credits Revenue	32,900
From Dedicated Credits Revenue, One–Time	4,100
From Capital Projects Fund	92,800
From Capital Projects Fund, One–Time	11,800
Schedule of Programs:	
DFCM Administration	240,300

Energy Program	19,300

Item 35

To Department of Government Operations – Executive Director

From General Fund	25,300
From General Fund, One–Time	2,900
From Dedicated Credits Revenue	3,900
From Dedicated Credits Revenue, One–Time	400
Schedule of Programs:	
Executive Director	32,500

Item 36

To Department of Government Operations – Finance – Mandated

From General Fund	2,776,000
From General Fund, One–Time	(6,276,100)
Schedule of Programs:	
State Employee Benefits	(3,500,100)

Under provisions of Section 63A–17–805, Utah Code Annotated, the employer defined contribution match for the fiscal year beginning July 1, 2022 and ending June 30, 2023 shall be $26 per pay period.

Item 37

To Department of Government Operations – Finance – Mandated

From General Fund	422,200
From General Fund, One–Time	(422,200)

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 38

To Department of Government Operations – Finance Administration

From General Fund	266,200
From General Fund, One–Time	22,800
From Dedicated Credits Revenue	43,500
From Dedicated Credits Revenue, One–Time	6,800
From Gen. Fund Rest. – Internal Service Fund Overhead	13,600
From Gen. Fund Rest. – Internal Service Fund Overhead, One–Time	2,100
Schedule of Programs:	
Finance Director's Office	20,100
Financial Information Systems	57,900
Financial Reporting	187,600
Payables/Disbursing	61,200
Payroll	28,200

Item 39

To Department of Government Operations – Inspector General of Medicaid Services

From General Fund	26,400
From General Fund, One–Time	3,800
From Federal Funds	300
From Federal Funds, One–Time	100
From Medicaid Expansion Fund	800
From Medicaid Expansion Fund, One–Time	100
From Revenue Transfers	52,200
From Revenue Transfers, One–Time	7,600
Schedule of Programs:	
Inspector General of Medicaid Services	91,300

Item 40

To Department of Government Operations – Judicial Conduct Commission

From General Fund	6,900
From General Fund, One–Time	700
Schedule of Programs:	
Judicial Conduct Commission	7,600

Item 41

To Department of Government Operations – Purchasing

From General Fund	53,000
Schedule of Programs:	
Purchasing and General Services	53,000

Item 42

To Department of Government Operations – State Archives

From General Fund	77,100
From General Fund, One–Time	13,400
From Federal Funds	1,600
From Federal Funds, One–Time	200
From Dedicated Credits Revenue	2,000
From Dedicated Credits Revenue, One–Time	500
Schedule of Programs:	
Archives Administration	27,500
Patron Services	27,700
Preservation Services	10,600
Records Analysis	29,000

Item 43

To Department of Government Operations – Chief Information Officer

From General Fund	23,800
From General Fund, One–Time	1,300
Schedule of Programs:	
Chief Information Officer	25,100

Item 44

To Department of Government Operations – Integrated Technology

From General Fund	22,800
From General Fund, One–Time	2,800
From Federal Funds	10,000
From Federal Funds, One–Time	1,500
From Dedicated Credits Revenue	22,400
From Dedicated Credits Revenue, One–Time	2,700
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct.	5,900
From Gen. Fund Rest. – Statewide Unified E–911 Emerg. Acct., One–Time	800
Schedule of Programs:	
Utah Geospatial Resource Center	68,900

TRANSPORTATION

Item 45

To Transportation – Aeronautics

From Dedicated Credits Revenue	9,800
From Dedicated Credits Revenue, One–Time	1,500
From Aeronautics Restricted Account	36,500
From Aeronautics Restricted Account, One–Time	6,800
Schedule of Programs:	

Administration	24,900
Airplane Operations	29,700

Item 46

To Transportation – Highway System Construction

From Transportation Fund	3,600
From Federal Funds	800
Schedule of Programs:	
State Construction	4,400

Item 47

To Transportation – Engineering Services

From Transportation Fund	928,300
From Transportation Fund, One–Time	107,700
From Federal Funds	250,800
From Federal Funds, One–Time	44,000
From Dedicated Credits Revenue	41,300
From Dedicated Credits Revenue, One–Time	8,300
Schedule of Programs:	
Civil Rights	21,400
Construction Management	89,600
Engineer Development Pool	184,500
Engineering Services	98,400
Environmental	118,500
Highway Project Management Team	22,900
Planning and Investment	14,300
Materials Lab	137,500
Preconstruction Admin	81,100
Program Development	311,300
Research	52,700
Right–of–Way	107,500
Structures	140,700

Item 48

To Transportation – Operations/ Maintenance Management

From Transportation Fund	2,696,900
From Transportation Fund, One–Time	450,100
From Federal Funds	220,300
From Federal Funds, One–Time	34,100
From Dedicated Credits Revenue	44,400
From Dedicated Credits Revenue, One–Time	7,700
Schedule of Programs:	
Field Crews	573,500
Maintenance Planning	141,400
Region 1	346,400
Region 2	558,200
Region 3	322,900
Region 4	677,600
Seasonal Pools	151,500
Shops	237,400
Traffic Operations Center	314,000
Traffic Safety/Tramway	130,600

Item 49

To Transportation – Region Management

From Transportation Fund	832,300
From Transportation Fund, One–Time	119,000
From Federal Funds	84,700
From Federal Funds, One–Time	11,500
From Dedicated Credits Revenue	69,600
From Dedicated Credits Revenue, One–Time	10,000
Schedule of Programs:	
Region 1	244,300
Region 2	400,100
Region 3	199,500
Region 4	283,200

Item 50

To Transportation – Support Services

From Transportation Fund	581,500
From Transportation Fund, One–Time	87,300
From Federal Funds	74,200
From Federal Funds, One–Time	16,700
Schedule of Programs:	
Administrative Services	62,300
Community Relations	72,300
Comptroller	239,500
Data Processing	8,700
Human Resources Management	37,200
Internal Auditor	27,400
Ports of Entry	250,000
Procurement	40,100
Risk Management	22,200

Item 51

To Transportation – Amusement Ride Safety

From General Fund Restricted – Amusement Ride Safety Restricted Account	4,100
From General Fund Restricted – Amusement Ride Safety Restricted Account, One–Time	700
Schedule of Programs:	
Amusement Ride Safety	4,800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

Item 52

To Department of Alcoholic Beverage Control – DABC Operations

From Liquor Control Fund	808,300
From Liquor Control Fund, One–Time	75,100
Schedule of Programs:	
Administration	26,900
Executive Director	120,300
Stores and Agencies	636,000
Warehouse and Distribution	100,200

DEPARTMENT OF COMMERCE

Item 53

To Department of Commerce – Building Inspector Training

From Dedicated Credits Revenue	2,700
From Dedicated Credits Revenue, One–Time	300
Schedule of Programs:	
Building Inspector Training	3,000

Item 54

To Department of Commerce – Commerce General Regulation

From Federal Funds	12,100
From Federal Funds, One–Time	1,700
From Dedicated Credits Revenue	39,800
From Dedicated Credits Revenue, One–Time	5,200
From General Fund Restricted – Commerce Service Account	799,600
From General Fund Restricted – Commerce Service Account, One–Time	87,500

From General Fund Restricted – Factory Built Housing Fees	2,900
From General Fund Restricted – Factory Built Housing Fees, One–Time	400
From Gen. Fund Rest. – Geologist Education and Enforcement	400
From Gen. Fund Rest. – Geologist Education and Enforcement, One–Time	100
From Gen. Fund Rest. – Nurse Education & Enforcement Acct.	1,300
From Gen. Fund Rest. – Nurse Education & Enforcement Acct., One–Time	200
From General Fund Restricted – Pawnbroker Operations	4,500
From General Fund Restricted – Pawnbroker Operations, One–Time	800
From General Fund Restricted – Public Utility Restricted Acct.	128,600
From General Fund Restricted – Public Utility Restricted Acct., One–Time	18,300
From Revenue Transfers	27,400
From Revenue Transfers, One–Time	3,700
From Pass–through	3,600
From Pass–through, One–Time	600

Schedule of Programs:

Administration	84,000
Consumer Protection	88,200
Corporations and Commercial Code	90,000
Occupational and Professional Licensing	353,700
Office of Consumer Services	22,100
Public Utilities	140,100
Real Estate	79,500
Securities	281,100

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 55

To Governor's Office of Economic Opportunity – Administration

From General Fund	94,100
From General Fund, One–Time	6,300

Schedule of Programs:

Administration	100,400

Item 56

To Governor's Office of Economic Opportunity – Business Development

From General Fund	204,700
From General Fund, One–Time	15,800
From Federal Funds	11,300
From Federal Funds, One–Time	900
From Dedicated Credits Revenue	6,400
From Dedicated Credits Revenue, One–Time	700
From General Fund Restricted – Industrial Assistance Account	5,300
From General Fund Restricted – Industrial Assistance Account, One–Time	400

Schedule of Programs:

Corporate Recruitment and Business Services	148,700
Outreach and International Trade	96,800

Item 57

To Governor's Office of Economic Opportunity – Office of Tourism

From General Fund	122,400
From General Fund, One–Time	12,000
From Dedicated Credits Revenue	9,100
From Dedicated Credits Revenue, One–Time	1,100
From General Fund Rest. – Motion Picture Incentive Acct.	19,900
From General Fund Rest. – Motion Picture Incentive Acct., One–Time	2,400

Schedule of Programs:

Administration	30,900
Film Commission	34,300
Operations and Fulfillment	101,700

Item 58

To Governor's Office of Economic Opportunity – Pete Suazo Utah Athletics Commission

From General Fund	4,400
From Dedicated Credits Revenue	1,500

Schedule of Programs:

Pete Suazo Utah Athletics Commission	5,900

Item 59

To Governor's Office of Economic Opportunity – Talent Ready Utah Center

From General Fund	19,500
From General Fund, One–Time	1,200
From Dedicated Credits Revenue	1,800
From Dedicated Credits Revenue, One–Time	200

Schedule of Programs:

Talent Ready Utah Center	22,700

FINANCIAL INSTITUTIONS

Item 60

To Financial Institutions – Financial Institutions Administration

From General Fund Restricted – Financial Institutions	212,400
From General Fund Restricted – Financial Institutions, One–Time	31,800

Schedule of Programs:

Administration	244,200

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT

Item 61

To Department of Cultural and Community Engagement – Administration

From General Fund	76,400
From General Fund, One–Time	12,100

Schedule of Programs:

Administrative Services	53,000
Executive Director's Office	18,900
Information Technology	4,200
Utah Multicultural Affairs Office	12,400

Item 62

To Department of Cultural and Community Engagement – Division of Arts and Museums

From General Fund	80,100
From General Fund, One–Time	10,700
From Federal Funds	9,900
From Dedicated Credits Revenue	1,100

Schedule of Programs:

Administration	13,500
Community Arts Outreach	79,700

Museum Services	8,600

Item 63

To Department of Cultural and Community Engagement – Commission on Service and Volunteerism

From General Fund	2,200
From General Fund, One–Time	300
From Federal Funds	25,100
From Federal Funds, One–Time	3,100
From Dedicated Credits Revenue	300
Schedule of Programs:	
Commission on Service and Volunteerism	31,000

Item 64

To Department of Cultural and Community Engagement – Indian Affairs

From General Fund	8,100
From Dedicated Credits Revenue	1,100
Schedule of Programs:	
Indian Affairs	9,200

Item 65

To Department of Cultural and Community Engagement – State History

From General Fund	65,100
From General Fund, One–Time	9,500
From Federal Funds	23,000
From Federal Funds, One–Time	3,100
From Dedicated Credits Revenue	11,400
From Dedicated Credits Revenue, One–Time	1,600
Schedule of Programs:	
Administration	14,300
Historic Preservation and Antiquities	57,600
History Projects and Grants	3,500
Library and Collections	18,500
Public History, Communication and Information	19,800

Item 66

To Department of Cultural and Community Engagement – State Library

From General Fund	66,000
From General Fund, One–Time	10,400
From Federal Funds	21,600
From Federal Funds, One–Time	3,700
From Dedicated Credits Revenue	46,400
From Dedicated Credits Revenue, One–Time	7,100
Schedule of Programs:	
Administration	18,900
Blind and Disabled	59,000
Bookmobile	26,600
Library Development	21,000
Library Resources	29,700

Item 67

To Department of Cultural and Community Engagement – Stem Action Center

From General Fund	29,200
From General Fund, One–Time	3,700
From Federal Funds	5,100
From Federal Funds, One–Time	700
From Dedicated Credits Revenue	4,500
From Dedicated Credits Revenue, One–Time	600
Schedule of Programs:	
STEM Action Center	43,800

INSURANCE DEPARTMENT

Item 68

To Insurance Department – Bail Bond Program

From General Fund Restricted – Bail Bond Surety Administration	4,500
Schedule of Programs:	
Bail Bond Program	4,500

Item 69

To Insurance Department – Health Insurance Actuary

From General Fund Rest. – Health Insurance Actuarial Review	5,900
From General Fund Rest. – Health Insurance Actuarial Review, One–Time	700
Schedule of Programs:	
Health Insurance Actuary	6,600

Item 70

To Insurance Department – Insurance Department Administration

From General Fund	400
From General Fund, One–Time	4,800
From Federal Funds	9,000
From Federal Funds, One–Time	1,200
From Dedicated Credits Revenue	100
From General Fund Restricted – Captive Insurance	43,100
From General Fund Restricted – Captive Insurance, One–Time	6,800
From General Fund Restricted – Insurance Department Acct.	252,300
From General Fund Restricted – Insurance Department Acct., One–Time	36,000
From General Fund Rest. – Insurance Fraud Investigation Acct.	49,800
From General Fund Rest. – Insurance Fraud Investigation Acct., One–Time	2,600
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(3,300)
Schedule of Programs:	
Administration	299,100
Captive Insurers	49,900
Insurance Fraud Program	53,800

Item 71

To Insurance Department – Insurance Department Administration

From General Fund, One–Time	1,400
Schedule of Programs:	
Administration	500
Insurance Fraud Program	900

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 72

To Insurance Department – Title Insurance Program

From General Fund Rest. – Title Licensee Enforcement Acct.	7,700
From General Fund Rest. – Title Licensee Enforcement Acct., One–Time	700
Schedule of Programs:	

Title Insurance Program	8,400

LABOR COMMISSION

Item 73

To Labor Commission

From General Fund	195,100
From General Fund, One-Time	25,000
From Federal Funds	131,400
From Federal Funds, One-Time	14,300
From Dedicated Credits Revenue	3,800
From Dedicated Credits Revenue, One-Time	400
From Employers' Reinsurance Fund	2,100
From Employers' Reinsurance Fund, One-Time	300
From General Fund Restricted – Industrial Accident Account	97,500
From General Fund Restricted – Industrial Accident Account, One-Time	15,400
From General Fund Restricted – Workplace Safety Account	23,200
From General Fund Restricted – Workplace Safety Account, One-Time	2,500
Schedule of Programs:	
Adjudication	52,800
Administration	46,100
Antidiscrimination and Labor	79,700
Boiler, Elevator and Coal Mine Safety Division	63,100
Industrial Accidents	62,900
Utah Occupational Safety and Health	203,100
Workplace Safety	3,300

PUBLIC SERVICE COMMISSION

Item 74

To Public Service Commission

From General Fund Restricted – Public Utility Restricted Acct.	69,300
From General Fund Restricted – Public Utility Restricted Acct., One-Time	10,100
From Revenue Transfers	400
Schedule of Programs:	
Administration	79,800

UTAH STATE TAX COMMISSION

Item 75

To Utah State Tax Commission – Tax Administration

From General Fund	1,600,200
From General Fund, One-Time	177,900
From Education Fund	1,220,900
From Education Fund, One-Time	163,400
From Federal Funds	46,900
From Federal Funds, One-Time	7,700
From Dedicated Credits Revenue	514,700
From Dedicated Credits Revenue, One-Time	40,100
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account	115,800
From General Fund Restricted – Motor Vehicle Enforcement Division Temporary Permit Account, One-Time	9,000
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(1,200)
From General Fund Rest. – Sales and Use Tax Admin Fees	627,500
From General Fund Rest. – Sales and Use Tax Admin Fees, One-Time	86,200
From Revenue Transfers	12,500
From Revenue Transfers, One-Time	1,800
From Uninsured Motorist Identification Restricted Account	5,500
From Uninsured Motorist Identification Restricted Account, One-Time	800
Schedule of Programs:	
Administration Division	695,400
Auditing Division	1,116,500
Motor Vehicle Enforcement Division	129,800
Motor Vehicles	1,202,700
Property Tax Division	536,000
Seasonal Employees	3,600
Tax Payer Services	696,900
Tax Processing Division	248,800

Item 76

To Utah State Tax Commission – Tax Administration

From General Fund, One-Time	500
Schedule of Programs:	
Motor Vehicle Enforcement Division	500

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

SOCIAL SERVICES

DEPARTMENT OF WORKFORCE SERVICES

Item 77

To Department of Workforce Services – Administration

From General Fund	131,700
From General Fund, One-Time	15,900
From Federal Funds	295,100
From Federal Funds, One-Time	36,600
From Dedicated Credits Revenue	4,500
From Dedicated Credits Revenue, One-Time	500
From Expendable Receipts	2,300
From Expendable Receipts, One-Time	200
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	400
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct, One-Time	100
From Navajo Revitalization Fund	400
From Olene Walker Housing Loan Fund	400
From Olene Walker Housing Loan Fund, One-Time	100
From OWHTF-Low Income Housing	400
From OWHTF-Low Income Housing, One-Time	100
From Permanent Community Impact Loan Fund	4,800
From Permanent Community Impact Loan Fund, One-Time	600

From General Fund Restricted – School Readiness Account	300
From General Fund Restricted – School Readiness Account, One-Time	100
From Revenue Transfers	101,200
From Revenue Transfers, One-Time	13,600
Schedule of Programs:	
Administrative Support	467,200
Communications	44,800
Executive Director's Office	46,100
Internal Audit	51,200

Item 78

To Department of Workforce Services – General Assistance

From General Fund	45,800
From General Fund, One-Time	3,700
From Revenue Transfers	2,500
From Revenue Transfers, One-Time	200
Schedule of Programs:	
General Assistance	52,200

Item 79

To Department of Workforce Services – Housing and Community Development

From General Fund	31,900
From General Fund, One-Time	3,600
From Federal Funds	124,800
From Federal Funds, One-Time	15,800
From Dedicated Credits Revenue	42,400
From Dedicated Credits Revenue, One-Time	3,300
From Expendable Receipts	1,700
From Expendable Receipts, One-Time	300
From Housing Opportunities for Low Income Households	21,800
From Housing Opportunities for Low Income Households, One-Time	1,900
From Navajo Revitalization Fund	800
From Olene Walker Housing Loan Fund	21,800
From Olene Walker Housing Loan Fund, One-Time	1,900
From OWHT-Fed Home	21,800
From OWHT-Fed Home, One-Time	1,900
From OWHTF-Low Income Housing	21,800
From OWHTF-Low Income Housing, One-Time	1,900
From Permanent Community Impact Loan Fund	8,100
From Permanent Community Impact Loan Fund, One-Time	1,500
From Qualified Emergency Food Agencies Fund	100
From Revenue Transfers	27,700
From Revenue Transfers, One-Time	2,100
From Uintah Basin Revitalization Fund	200
Schedule of Programs:	
Community Development	46,200
Community Development Administration	22,000
Community Services	4,300
HEAT	15,200
Housing Development	253,100
Weatherization Assistance	18,300

Item 80

To Department of Workforce Services – Operations and Policy

From General Fund	1,558,900
From General Fund, One-Time	145,900
From Education Fund	39,100
From Education Fund, One-Time	7,700
From Federal Funds	2,809,400
From Federal Funds, One-Time	307,600
From Dedicated Credits Revenue	12,200
From Dedicated Credits Revenue, One-Time	2,100
From Expendable Receipts	16,600
From Expendable Receipts, One-Time	2,900
From Medicaid Expansion Fund	154,000
From Medicaid Expansion Fund, One-Time	16,200
From Olene Walker Housing Loan Fund	400
From Olene Walker Housing Loan Fund, One-Time	100
From OWHTF-Low Income Housing	300
From OWHTF-Low Income Housing, One-Time	100
From General Fund Restricted – School Readiness Account	224,800
From General Fund Restricted – School Readiness Account, One-Time	23,400
From Revenue Transfers	2,004,300
From Revenue Transfers, One-Time	206,100
Schedule of Programs:	
Eligibility Services	4,432,300
Utah Data Research Center	87,300
Workforce Development	2,816,100
Workforce Research and Analysis	196,400

Item 81

To Department of Workforce Services – State Office of Rehabilitation

From General Fund	550,300
From General Fund, One-Time	60,400
From Federal Funds	1,234,800
From Federal Funds, One-Time	139,400
From Dedicated Credits Revenue	10,300
From Dedicated Credits Revenue, One-Time	1,600
From Expendable Receipts	9,200
From Expendable Receipts, One-Time	1,400
From Revenue Transfers	1,400
From Revenue Transfers, One-Time	200
Schedule of Programs:	
Blind and Visually Impaired	151,200
Deaf and Hard of Hearing	106,400
Disability Determination	482,800
Executive Director	8,900
Rehabilitation Services	1,259,700

Item 82

To Department of Workforce Services – Unemployment Insurance

From General Fund	30,500
From General Fund, One-Time	4,800
From Federal Funds	1,313,000
From Federal Funds, One-Time	135,600
From Dedicated Credits Revenue	37,900
From Dedicated Credits Revenue, One-Time	3,300
From Expendable Receipts	800
From Expendable Receipts, One-Time	100
From Permanent Community Impact Loan Fund	100
From Revenue Transfers	3,200
From Revenue Transfers, One-Time	600

Schedule of Programs:

Adjudication	152,900
Unemployment Insurance Administration	1,377,000

Item 83

To Department of Workforce Services – Office of Homeless Services

From General Fund	2,200
From General Fund, One-Time	300
From Federal Funds	5,800
From Federal Funds, One-Time	800
From Gen. Fund Rest. – Pamela Atkinson Homeless Account	3,100
From Gen. Fund Rest. – Pamela Atkinson Homeless Account, One-Time	400
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct	16,100
From Gen. Fund Rest. – Homeless Housing Reform Rest. Acct, One-Time	2,200
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account	6,500
From General Fund Restricted – Homeless Shelter Cities Mitigation Restricted Account, One-Time	900

Schedule of Programs:

Homeless Services	38,300

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 84

To Department of Health and Human Services – Operations

From General Fund	513,900
From General Fund, One-Time	60,300
From Federal Funds	388,900
From Federal Funds, One-Time	43,300
From Dedicated Credits Revenue	70,000
From Dedicated Credits Revenue, One-Time	7,500
From Revenue Transfers	112,800
From Revenue Transfers, One-Time	10,500

Schedule of Programs:

Executive Director Office	70,600
Ancillary Services	67,500
Finance & Administration	306,200
Data, Systems, & Evaluations	309,400
Public Affairs, Education & Outreach	43,200
American Indian / Alaska Native	14,500
Continuous Quality Improvement	347,100
Customer Experience	48,700

Item 85

To Department of Health and Human Services – Clinical Services

From General Fund	618,600
From General Fund, One-Time	26,900
From Federal Funds	172,500
From Federal Funds, One-Time	8,700
From Dedicated Credits Revenue	409,200
From Dedicated Credits Revenue, One-Time	27,900
From Expendable Receipts	27,500
From Expendable Receipts, One-Time	3,000
From Department of Public Safety Restricted Account	8,900
From Department of Public Safety Restricted Account, One-Time	700
From Gen. Fund Rest. – State Lab Drug Testing Account	21,400
From Gen. Fund Rest. – State Lab Drug Testing Account, One-Time	2,000
From Revenue Transfers	5,500
From Revenue Transfers, One-Time	400

Schedule of Programs:

Medical Examiner	385,800
State Laboratory	775,400
Primary Care & Rural Health	55,500
Health Clinics of Utah	73,700
Health Equity	42,800

Item 86

To Department of Health and Human Services – Department Oversight

From General Fund	271,400
From General Fund, One-Time	38,200
From Federal Funds	180,600
From Federal Funds, One-Time	26,200
From Dedicated Credits Revenue	52,600
From Dedicated Credits Revenue, One-Time	8,800
From Revenue Transfers	86,800
From Revenue Transfers, One-Time	12,300

Schedule of Programs:

Licensing & Background Checks	580,100
Internal Audit	76,400
Admin Hearings	20,400

Item 87

To Department of Health and Human Services – Health Care Administration

From General Fund	326,400
From General Fund, One-Time	41,400
From Federal Funds	1,032,400
From Federal Funds, One-Time	115,100
From Dedicated Credits Revenue	400
From Dedicated Credits Revenue, One-Time	100
From Expendable Receipts	189,100
From Expendable Receipts, One-Time	20,700
From Medicaid Expansion Fund	70,000
From Medicaid Expansion Fund, One-Time	7,800
From Nursing Care Facilities Provider Assessment Fund	30,600
From Nursing Care Facilities Provider Assessment Fund, One-Time	3,200
From Revenue Transfers	243,600
From Revenue Transfers, One-Time	31,300

Schedule of Programs:

Integrated Health Care Administration	1,549,900
LTSS Administration	268,700
PRISM	275,800
Utah Developmental Disabilities Council	17,700

Item 88

To Department of Health and Human Services – Integrated Health Care Services

From General Fund	5,053,200
From General Fund, One-Time	245,000
From Federal Funds	192,400
From Federal Funds, One-Time	17,600
From Dedicated Credits Revenue	186,400

From Dedicated Credits Revenue, One–Time	17,300
From Expendable Receipts	14,500
From Expendable Receipts, One–Time	2,300
From Expendable Receipts – Rebates	9,600
From Expendable Receipts – Rebates, One–Time	800
From General Fund Restricted – Statewide Behavioral Health Crisis Response Account	26,200
From General Fund Restricted – Statewide Behavioral Health Crisis Response Account, One–Time	2,500
From Ambulance Service Provider Assess Exp Rev Fund	1,300
From Ambulance Service Provider Assess Exp Rev Fund, One–Time	200
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	800
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account, One–Time	100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(4,600)
From General Fund Restricted – Tobacco Settlement Account	1,400
From General Fund Restricted – Tobacco Settlement Account, One–Time	200
From Revenue Transfers	1,177,900
From Revenue Transfers, One–Time	60,500
Schedule of Programs:	
Children’s Health Insurance Program Services	30,600
Medicaid Home & Community Based Services	80,200
Medicaid Pharmacy Services	33,300
Medicaid Other Services	99,100
Non–Medicaid Behavioral Health Treatment & Crisis Response	231,000
State Hospital	6,531,400

Item 89

To Department of Health and Human Services – Integrated Health Care Services

From General Fund, One–Time	2,200
Schedule of Programs:	
State Hospital	2,200

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 90

To Department of Health and Human Services – Long–Term Services & Support

From General Fund	1,496,600
From General Fund, One–Time	88,700
From Federal Funds	25,000
From Federal Funds, One–Time	2,800
From Dedicated Credits Revenue	62,600
From Dedicated Credits Revenue, One–Time	6,000
From Expendable Receipts	900
From Expendable Receipts, One–Time	200
From Revenue Transfers	2,690,200
From Revenue Transfers, One–Time	117,400
Schedule of Programs:	
Aging & Adult Services	4,300
Adult Protective Services	195,900
Office of Public Guardian	36,200
Aging Waiver Services	10,500
Services for People with Disabilities	322,800
Utah State Developmental Center	3,920,700

Item 91

To Department of Health and Human Services – Public Health, Prevention, & Epidemiology

From General Fund	251,400
From General Fund, One–Time	16,500
From Federal Funds	1,970,800
From Federal Funds, One–Time	146,400
From Dedicated Credits Revenue	13,900
From Dedicated Credits Revenue, One–Time	1,300
From Expendable Receipts	8,500
From Expendable Receipts, One–Time	1,100
From Expendable Receipts – Rebates	13,700
From Expendable Receipts – Rebates, One–Time	1,700
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account	83,900
From General Fund Restricted – Electronic Cigarette Substance and Nicotine Product Tax Restricted Account, One–Time	14,400
From General Fund Restricted – Emergency Medical Services System Account	31,500
From General Fund Restricted – Emergency Medical Services System Account, One–Time	4,100
From General Fund Restricted – Tobacco Settlement Account	51,800
From General Fund Restricted – Tobacco Settlement Account, One–Time	5,300
From Revenue Transfers	47,100
From Revenue Transfers, One–Time	4,700
Schedule of Programs:	
Communicable Disease & Emerging Infections	1,546,300
Integrated Health Promotion & Prevention	703,600
Preparedness & Emergency Health	405,400
Population Health	12,800

Item 92

To Department of Health and Human Services – Children, Youth, & Families

From General Fund	3,411,100
From General Fund, One–Time	300,800
From Federal Funds	1,583,400
From Federal Funds, One–Time	168,800
From Dedicated Credits Revenue	25,800
From Dedicated Credits Revenue, One–Time	2,600
From Expendable Receipts	2,100

From Expendable Receipts, One-Time	300
From General Fund Restricted – Adult Autism Treatment Account	4,600
From General Fund Restricted – Adult Autism Treatment Account, One-Time	700
From Gen. Fund Rest. – Children's Hearing Aid Pilot Program Account	2,500
From Gen. Fund Rest. – Children's Hearing Aid Pilot Program Account, One-Time	400
From Gen. Fund Rest. – K. Oscarson Children's Organ Transp.	900
From Gen. Fund Rest. – K. Oscarson Children's Organ Transp., One-Time	200
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(900)
From Revenue Transfers	142,500
From Revenue Transfers, One-Time	11,000
Schedule of Programs:	
Child & Family Services	4,773,400
Domestic Violence	27,700
Child Abuse & Neglect Prevention	78,500
Children with Special Healthcare Needs	513,100
Maternal & Child Health	264,100

Item 93

To Department of Health and Human Services – Office of Recovery Services

From General Fund	282,200
From General Fund, One-Time	48,500
From Federal Funds	493,200
From Federal Funds, One-Time	80,900
From Dedicated Credits Revenue	125,900
From Dedicated Credits Revenue, One-Time	21,600
From Expendable Receipts	117,200
From Expendable Receipts, One-Time	20,100
From Medicaid Expansion Fund	1,800
From Medicaid Expansion Fund, One-Time	300
From Revenue Transfers	67,700
From Revenue Transfers, One-Time	13,500
Schedule of Programs:	
Recovery Services	242,500
Child Support Services	879,200
Children in Care Collections	26,400
Medical Collections	124,800

HIGHER EDUCATION

UNIVERSITY OF UTAH

Item 94

To University of Utah – Education and General

From Education Fund	24,108,100
From Dedicated Credits Revenue	7,127,800
Schedule of Programs:	
Education and General	28,510,800
Operations and Maintenance	2,725,100

Item 95

To University of Utah – Educationally Disadvantaged

From Education Fund	23,300
Schedule of Programs:	
Educationally Disadvantaged	23,300

Item 96

To University of Utah – School of Medicine

From Education Fund	2,365,200
From Dedicated Credits Revenue	788,600
Schedule of Programs:	
School of Medicine	3,153,800

Item 97

To University of Utah – University Hospital

From Education Fund	329,900
Schedule of Programs:	
University Hospital	307,300
Miners' Hospital	22,600

Item 98

To University of Utah – School of Dentistry

From Education Fund	454,100
From Dedicated Credits Revenue	151,200
Schedule of Programs:	
School of Dentistry	605,300

Item 99

To University of Utah – Public Service

From Education Fund	100,800
Schedule of Programs:	
Seismograph Stations	38,100
Natural History Museum of Utah	55,300
State Arboretum	7,400

Item 100

To University of Utah – Statewide TV Administration

From Education Fund	139,600
Schedule of Programs:	
Public Broadcasting	139,600

Item 101

To University of Utah – Poison Control Center

From Education Fund	165,500
Schedule of Programs:	
Poison Control Center	165,500

Item 102

To University of Utah – Center on Aging

From Education Fund	6,300
Schedule of Programs:	
Center on Aging	6,300

Item 103

To University of Utah – Rocky Mountain Center for Occupational and Environmental Health

From Education Fund	10,700
Schedule of Programs:	
Center for Occupational and Environmental Health	10,700

UTAH STATE UNIVERSITY

Item 104

To Utah State University – Education and General

From Education Fund	10,902,800
From Dedicated Credits Revenue	3,295,200
Schedule of Programs:	
Education and General	13,023,100
USU – School of Veterinary Medicine	157,200
Operations and Maintenance	1,017,700

Item 105

To Utah State University – USU – Eastern Education and General

From Education Fund	436,600

From Dedicated Credits Revenue ... 145,300
Schedule of Programs:
USU – Eastern Education and General ... 581,900

Item 106
To Utah State University – USU – Eastern Educationally Disadvantaged
From Education Fund ... 2,700
Schedule of Programs:
USU – Eastern Educationally Disadvantaged ... 2,700

Item 107
To Utah State University – USU – Eastern Career and Technical Education
From Education Fund ... 281,700
Schedule of Programs:
USU – Eastern Career and Technical Education ... 281,700

Item 108
To Utah State University – Regional Campuses
From Education Fund ... 1,186,300
From Dedicated Credits Revenue ... 303,300
Schedule of Programs:
Administration ... 278,400
Uintah Basin Regional Campus ... 392,500
Brigham City Regional Campus ... 292,400
Tooele Regional Campus ... 526,300

Item 109
To Utah State University – Water Research Laboratory
From Education Fund ... 178,500
Schedule of Programs:
Water Research Laboratory ... 178,500

Item 110
To Utah State University – Agriculture Experiment Station
From Education Fund ... 745,400
Schedule of Programs:
Agriculture Experiment Station ... 745,400

Item 111
To Utah State University – Cooperative Extension
From Education Fund ... 1,078,200
Schedule of Programs:
Cooperative Extension ... 1,078,200

Item 112
To Utah State University – Prehistoric Museum
From Education Fund ... 24,700
Schedule of Programs:
Prehistoric Museum ... 24,700

Item 113
To Utah State University – Blanding Campus
From Education Fund ... 158,200
From Dedicated Credits Revenue ... 52,800
Schedule of Programs:
Blanding Campus ... 211,000

Item 114
To Utah State University – USU – Custom Fit
From Education Fund ... 2,700
Schedule of Programs:
USU – Custom Fit ... 2,700

WEBER STATE UNIVERSITY

Item 115
To Weber State University – Education and General
From Education Fund ... 6,377,200
From Dedicated Credits Revenue ... 2,125,000
Schedule of Programs:
Education and General ... 7,977,900
Operations and Maintenance ... 524,300

Item 116
To Weber State University – Educationally Disadvantaged
From Education Fund ... 21,900
Schedule of Programs:
Educationally Disadvantaged ... 21,900

SOUTHERN UTAH UNIVERSITY

Item 117
To Southern Utah University – Education and General
From Education Fund ... 3,871,400
From Dedicated Credits Revenue ... 1,290,300
Schedule of Programs:
Education and General ... 4,825,200
Operations and Maintenance ... 336,500

Item 118
To Southern Utah University – Educationally Disadvantaged
From Education Fund ... 3,200
Schedule of Programs:
Educationally Disadvantaged ... 3,200

Item 119
To Southern Utah University – Rural Development
From Education Fund ... 11,000
Schedule of Programs:
Rural Development ... 11,000

UTAH VALLEY UNIVERSITY

Item 120
To Utah Valley University – Education and General
From Education Fund ... 10,275,200
From Dedicated Credits Revenue ... 3,424,900
Schedule of Programs:
Education and General ... 12,962,100
Operations and Maintenance ... 738,000

Item 121
To Utah Valley University – Educationally Disadvantaged
From Education Fund ... 10,900
Schedule of Programs:
Educationally Disadvantaged ... 10,900

Item 122
To Utah Valley University – Fire and Rescue Training
From Education Fund ... 175,200
Schedule of Programs:
Fire and Rescue Training ... 175,200

SNOW COLLEGE

Item 123
To Snow College – Education and General
From Education Fund ... 1,388,400
From Dedicated Credits Revenue ... 462,900

Schedule of Programs:
Education and General 1,666,000
Operations and Maintenance 185,300

Item 124
To Snow College – Career and Technical Education
From Education Fund 171,100
Schedule of Programs:
Career and Technical Education 171,100

Item 125
To Snow College – Snow College – Custom Fit
From Education Fund 11,300
Schedule of Programs:
Snow College – Custom Fit 11,300

UTAH TECH UNIVERSITY

Item 126
To Utah Tech University – Education and General
From Education Fund 3,096,000
From Dedicated Credits Revenue 1,032,000
Schedule of Programs:
Education and General 3,874,500
Operations and Maintenance 253,500

Item 127
To Utah Tech University – Zion Park Amphitheater
From Education Fund 1,400
From Dedicated Credits Revenue 600
Schedule of Programs:
Zion Park Amphitheater 2,000

SALT LAKE COMMUNITY COLLEGE

Item 128
To Salt Lake Community College – Education and General
From Education Fund 6,026,100
From Dedicated Credits Revenue 2,008,700
Schedule of Programs:
Education and General 7,242,800
Operations and Maintenance 792,000

Item 129
To Salt Lake Community College – School of Applied Technology
From Education Fund 522,100
Schedule of Programs:
School of Applied Technology 522,100

Item 130
To Salt Lake Community College – SLCC – Custom Fit
From Education Fund 7,700
Schedule of Programs:
SLCC – Custom Fit 7,700

UTAH BOARD OF HIGHER EDUCATION

Item 131
To Utah Board of Higher Education – Administration
From Education Fund 372,300
Schedule of Programs:
Administration 372,300

Item 132
To Utah Board of Higher Education – Student Assistance
From Education Fund 17,800
Schedule of Programs:
Regents' Scholarship 17,800

Item 133
To Utah Board of Higher Education – Student Support
From Education Fund 2,100
Schedule of Programs:
Math Competency Initiative 2,100

Item 134
To Utah Board of Higher Education – Medical Education Council
From Education Fund 35,200
Schedule of Programs:
Medical Education Council 35,200

BRIDGERLAND TECHNICAL COLLEGE

Item 135
To Bridgerland Technical College
From Education Fund 841,400
Schedule of Programs:
Bridgerland Technical College 841,400

DAVIS TECHNICAL COLLEGE

Item 136
To Davis Technical College
From Education Fund 1,117,200
Schedule of Programs:
Davis Technical College 1,117,200

Item 137
To Davis Technical College – USTC Davis – Custom Fit
From Education Fund 2,300
Schedule of Programs:
USTC Davis – Custom Fit 2,300

DIXIE TECHNICAL COLLEGE

Item 138
To Dixie Technical College
From Education Fund 478,800
Schedule of Programs:
Dixie Technical College 478,800

MOUNTAINLAND TECHNICAL COLLEGE

Item 139
To Mountainland Technical College
From Education Fund 908,100
Schedule of Programs:
Mountainland Technical College 908,100

Item 140
To Mountainland Technical College – USTC Mountainland – Custom Fit
From Education Fund 15,700
Schedule of Programs:
USTC Mountainland – Custom Fit 15,700

OGDEN-WEBER TECHNICAL COLLEGE

Item 141
To Ogden–Weber Technical College
From Education Fund 782,700
Schedule of Programs:
Ogden–Weber Technical College 782,700

SOUTHWEST TECHNICAL COLLEGE

Item 142
To Southwest Technical College

From Education Fund	298,800

Schedule of Programs:

Southwest Technical College	298,800

TOOELE TECHNICAL COLLEGE

Item 143

To Tooele Technical College

From Education Fund	269,100

Schedule of Programs:

Tooele Technical College	269,100

UINTAH BASIN TECHNICAL COLLEGE

Item 144

To Uintah Basin Technical College

From Education Fund	478,400

Schedule of Programs:

Uintah Basin Technical College	478,400

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 145

To Department of Agriculture and Food – Administration

From General Fund	55,400
From General Fund, One-Time	5,200
From Federal Funds	4,600
From Federal Funds, One-Time	400
From Dedicated Credits Revenue	6,000
From Dedicated Credits Revenue, One-Time	500
From Revenue Transfers	1,600
From Revenue Transfers, One-Time	100

Schedule of Programs:

General Administration	73,800

Item 146

To Department of Agriculture and Food – Animal Industry

From General Fund	79,700
From General Fund, One-Time	9,700
From Federal Funds	47,400
From Federal Funds, One-Time	5,800
From Dedicated Credits Revenue	1,700
From Dedicated Credits Revenue, One-Time	300
From General Fund Restricted – Livestock Brand	33,000
From General Fund Restricted – Livestock Brand, One-Time	4,400

Schedule of Programs:

Animal Health	54,400
Brand Inspection	51,200
Meat Inspection	76,400

Item 147

To Department of Agriculture and Food – Invasive Species Mitigation

From General Fund Restricted – Invasive Species Mitigation Account	12,500
From General Fund Restricted – Invasive Species Mitigation Account, One-Time	600

Schedule of Programs:

Invasive Species Mitigation	13,100

Item 148

To Department of Agriculture and Food – Marketing and Development

From General Fund	11,000
From General Fund, One-Time	1,400
From Federal Funds	4,100
From Federal Funds, One-Time	600
From Dedicated Credits Revenue	400

Schedule of Programs:

Marketing and Development	17,500

Item 149

To Department of Agriculture and Food – Plant Industry

From General Fund	9,400
From General Fund, One-Time	1,400
From Federal Funds	59,500
From Federal Funds, One-Time	7,800
From Dedicated Credits Revenue	89,300
From Dedicated Credits Revenue, One-Time	12,000
From Agriculture Resource Development Fund	3,100
From Agriculture Resource Development Fund, One-Time	400
From Revenue Transfers	5,900
From Revenue Transfers, One-Time	900
From Pass-through	5,200
From Pass-through, One-Time	700

Schedule of Programs:

Environmental Quality	2,900
Grain Inspection	10,100
Grazing Improvement Program	28,300
Insect Infestation	30,400
Plant Industry	123,900

Item 150

To Department of Agriculture and Food – Predatory Animal Control

From General Fund	21,100
From General Fund, One-Time	3,200
From Revenue Transfers	12,600
From Revenue Transfers, One-Time	1,900
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention	9,800
From Gen. Fund Rest. – Agriculture and Wildlife Damage Prevention, One-Time	1,500

Schedule of Programs:

Predatory Animal Control	50,100

Item 151

To Department of Agriculture and Food – Rangeland Improvement

From Gen. Fund Rest. – Rangeland Improvement Account	19,100
From Gen. Fund Rest. – Rangeland Improvement Account, One-Time	1,900

Schedule of Programs:

Rangeland Improvement	21,000

Item 152

To Department of Agriculture and Food – Regulatory Services

From General Fund	62,800
From General Fund, One-Time	5,900
From Federal Funds	88,000
From Federal Funds, One-Time	5,500
From Dedicated Credits Revenue	194,900

From Dedicated Credits Revenue, One-Time	16,400
From Pass-through	3,300
From Pass-through, One-Time	200
Schedule of Programs:	
Regulatory Services Administration	7,800
Bedding & Upholstered	14,600
Weights & Measures	55,100
Food Inspection	189,100
Dairy Inspection	30,400
Egg Grading and Inspection	80,000

Item 153

To Department of Agriculture and Food - Resource Conservation

From General Fund	26,900
From General Fund, One-Time	4,100
From Federal Funds	16,200
From Federal Funds, One-Time	2,800
From Dedicated Credits Revenue	400
From Agriculture Resource Development Fund	19,000
From Agriculture Resource Development Fund, One-Time	2,800
From Revenue Transfers	8,000
From Revenue Transfers, One-Time	1,300
From Utah Rural Rehabilitation Loan State Fund	2,500
From Utah Rural Rehabilitation Loan State Fund, One-Time	300
Schedule of Programs:	
Resource Conservation	71,900
Resource Conservation Administration	12,400

Item 154

To Department of Agriculture and Food - Industrial Hemp

From Dedicated Credits Revenue	19,100
From Dedicated Credits Revenue, One-Time	1,700
Schedule of Programs:	
Industrial Hemp	20,800

Item 155

To Department of Agriculture and Food - Analytical Laboratory

From General Fund	58,400
From General Fund, One-Time	4,200
From Dedicated Credits Revenue	16,400
From Dedicated Credits Revenue, One-Time	1,100
From Qualified Production Enterprise Fund	28,800
Schedule of Programs:	
Analytical Laboratory	108,900

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 156

To Department of Environmental Quality - Drinking Water

From General Fund	89,100
From General Fund, One-Time	3,600
From Federal Funds	117,200
From Federal Funds, One-Time	12,500
From Dedicated Credits Revenue	19,000
From Dedicated Credits Revenue, One-Time	1,500
From Water Dev. Security Fund - Drinking Water Loan Prog.	27,100
From Water Dev. Security Fund - Drinking Water Loan Prog., One-Time	2,600
From Water Dev. Security Fund - Drinking Water Orig. Fee	6,300
From Water Dev. Security Fund - Drinking Water Orig. Fee, One-Time	900
Schedule of Programs:	
Drinking Water Administration	32,300
Safe Drinking Water Act	84,500
System Assistance	136,700
State Revolving Fund	26,300

Item 157

To Department of Environmental Quality - Environmental Response and Remediation

From General Fund	119,400
From General Fund, One-Time	2,400
From Federal Funds	117,600
From Federal Funds, One-Time	14,600
From Dedicated Credits Revenue	29,300
From Dedicated Credits Revenue, One-Time	3,800
From General Fund Restricted - Petroleum Storage Tank	2,900
From General Fund Restricted - Petroleum Storage Tank, One-Time	100
From Petroleum Storage Tank Cleanup Fund	15,800
From Petroleum Storage Tank Cleanup Fund, One-Time	2,300
From Petroleum Storage Tank Trust Fund	51,000
From Petroleum Storage Tank Trust Fund, One-Time	7,000
From General Fund Restricted - Voluntary Cleanup	20,700
From General Fund Restricted - Voluntary Cleanup, One-Time	1,300
Schedule of Programs:	
Voluntary Cleanup	26,600
CERCLA	150,500
Tank Public Assistance	3,000
Leaking Underground Storage Tanks	112,800
Underground Storage Tanks	95,300

Item 158

To Department of Environmental Quality - Executive Director's Office

From General Fund	51,700
From General Fund, One-Time	7,700
From Federal Funds	9,800
From Federal Funds, One-Time	1,400
From General Fund Restricted - Environmental Quality	34,000
From General Fund Restricted - Environmental Quality, One-Time	5,000
Schedule of Programs:	
Executive Director Office Administration	106,800
Radon	2,800

Item 159

To Department of Environmental Quality - Waste Management and Radiation Control

From General Fund	176,500

From General Fund, One-Time	3,500
From Federal Funds	31,700
From Federal Funds, One-Time	4,500
From Dedicated Credits Revenue	56,400
From Dedicated Credits Revenue, One-Time	7,300
From Expendable Receipts	6,800
From Expendable Receipts, One-Time	700
From General Fund Restricted – Environmental Quality	147,600
From General Fund Restricted – Environmental Quality, One-Time	18,400
From Gen. Fund Rest. – Used Oil Collection Administration	19,700
From Gen. Fund Rest. – Used Oil Collection Administration, One-Time	2,500
From Waste Tire Recycling Fund	6,100
From Waste Tire Recycling Fund, One-Time	100
Schedule of Programs:	
Hazardous Waste	178,800
Solid Waste	57,300
Radiation	88,200
Low Level Radioactive Waste	73,100
WIPP	11,900
Used Oil	38,500
Waste Tire	11,200
X-Ray	22,800

Item 160

To Department of Environmental Quality – Water Quality

From General Fund	225,900
From General Fund, One-Time	11,200
From Federal Funds	99,300
From Federal Funds, One-Time	15,800
From Dedicated Credits Revenue	56,600
From Dedicated Credits Revenue, One-Time	8,600
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining	2,300
From General Fund Restricted – GFR – Division of Water Quality Oil, Gas, and Mining, One-Time	300
From Revenue Transfers	16,900
From Revenue Transfers, One-Time	2,600
From Gen. Fund Rest. – Underground Wastewater System	2,800
From Gen. Fund Rest. – Underground Wastewater System, One-Time	200
From Water Dev. Security Fund – Utah Wastewater Loan Prog.	31,800
From Water Dev. Security Fund – Utah Wastewater Loan Prog., One-Time	5,100
From Water Dev. Security Fund – Water Quality Orig. Fee	1,800
From Water Dev. Security Fund – Water Quality Orig. Fee, One-Time	300
Schedule of Programs:	
Water Quality Support	102,800
Water Quality Protection	200,600
Water Quality Permits	174,100
Onsite Waste Water	4,000

Item 161

To Department of Environmental Quality – Air Quality

From General Fund	279,200
From General Fund, One-Time	14,500
From Federal Funds	105,100
From Federal Funds, One-Time	15,600
From Dedicated Credits Revenue	147,200
From Dedicated Credits Revenue, One-Time	20,600
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining	19,500
From General Fund Restricted – GFR – Division of Air Quality Oil, Gas, and Mining, One-Time	2,800
From Clean Fuel Conversion Fund	1,600
From Clean Fuel Conversion Fund, One-Time	200
Schedule of Programs:	
Compliance	231,900
Permitting	106,700
Planning	243,300
Air Quality Administration	24,400

DEPARTMENT OF NATURAL RESOURCES

Item 162

To Department of Natural Resources – Administration

From General Fund	83,800
From General Fund, One-Time	12,500
From General Fund Restricted – Sovereign Lands Management	3,100
From General Fund Restricted – Sovereign Lands Management, One-Time	400
Schedule of Programs:	
Administrative Services	41,000
Executive Director	38,500
Lake Commissions	5,300
Law Enforcement	6,700
Public Information Office	8,300

Item 163

To Department of Natural Resources – Contributed Research

From Expendable Receipts	1,800
Schedule of Programs:	
Contributed Research	1,800

Item 164

To Department of Natural Resources – Cooperative Agreements

From General Fund, One-Time	600
From Federal Funds	135,900
From Federal Funds, One-Time	6,800
From Expendable Receipts	55,800
From Expendable Receipts, One-Time	2,700
From Revenue Transfers	70,500
From Revenue Transfers, One-Time	1,900
Schedule of Programs:	
Cooperative Agreements	274,200

Item 165

To Department of Natural Resources – Cooperative Agreements

From General Fund, One-Time	200
Schedule of Programs:	

Cooperative Agreements	200

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 166

To Department of Natural Resources – Forestry, Fire and State Lands

From General Fund	1,931,300
From General Fund, One–Time	4,600
From Federal Funds	147,300
From Federal Funds, One–Time	23,700
From Dedicated Credits Revenue	201,700
From Dedicated Credits Revenue, One–Time	34,200
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(1,100)
From General Fund Restricted – Sovereign Lands Management	210,800
From General Fund Restricted – Sovereign Lands Management, One–Time	30,800
From Revenue Transfers	7,900
From Revenue Transfers, One–Time	1,700
Schedule of Programs:	
Division Administration	109,900
Fire Management	156,300
Fire Suppression Emergencies	11,200
Forest Management	135,800
Lands Management	96,900
Lone Peak Center	755,300
Program Delivery	1,327,500

Item 167

To Department of Natural Resources – Forestry, Fire and State Lands

From General Fund, One–Time	500
Schedule of Programs:	
Program Delivery	500

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 168

To Department of Natural Resources – Oil, Gas and Mining

From Federal Funds	214,100
From Federal Funds, One–Time	16,900
From Dedicated Credits Revenue	19,200
From Dedicated Credits Revenue, One–Time	1,400
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining	135,900
From General Fund Restricted – GFR – Division of Oil, Gas, and Mining, One–Time	9,600
From Gen. Fund Rest. – Oil & Gas Conservation Account	187,300
From Gen. Fund Rest. – Oil & Gas Conservation Account, One–Time	18,100
Schedule of Programs:	
Abandoned Mine	106,200
Administration	92,100
Coal Program	113,900
Minerals Reclamation	100,900
Oil and Gas Program	189,400

Item 169

To Department of Natural Resources – Species Protection

From General Fund Restricted – Species Protection	73,700
From General Fund Restricted – Species Protection, One–Time	5,900
Schedule of Programs:	
Species Protection	79,600

Item 170

To Department of Natural Resources – Utah Geological Survey

From General Fund	287,700
From General Fund, One–Time	23,500
From Federal Funds	67,800
From Federal Funds, One–Time	7,900
From Dedicated Credits Revenue	34,600
From Dedicated Credits Revenue, One–Time	2,000
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account	20,400
From General Fund Restricted – Utah Geological Survey Oil, Gas, and Mining Restricted Account, One–Time	3,600
From General Fund Restricted – Mineral Lease	66,600
From General Fund Restricted – Mineral Lease, One–Time	4,300
From Gen. Fund Rest. – Land Exchange Distribution Account	1,600
From Gen. Fund Rest. – Land Exchange Distribution Account, One–Time	200
From Revenue Transfers	46,400
From Revenue Transfers, One–Time	6,600
Schedule of Programs:	
Administration	29,100
Energy and Minerals	118,700
Geologic Hazards	91,400
Geologic Information and Outreach	132,300
Geologic Mapping	103,100
Ground Water	98,600

Item 171

To Department of Natural Resources – Water Resources

From General Fund	151,300
From General Fund, One–Time	19,000
From Federal Funds	14,600
From Federal Funds, One–Time	2,500
From Water Resources Conservation and Development Fund	140,700
From Water Resources Conservation and Development Fund, One–Time	10,100
Schedule of Programs:	
Administration	27,100
Construction	151,000
Interstate Streams	11,900
Planning	148,200

Item 172

To Department of Natural Resources – Water Rights	
From General Fund	446,000
From General Fund, One–Time	38,200
From Federal Funds	7,900
From Federal Funds, One–Time	600
From Dedicated Credits Revenue	207,400
From Dedicated Credits Revenue, One–Time	20,100
From General Fund Restricted – Boating	300
From General Fund Restricted – Off–highway Vehicle	500
From General Fund Restricted – State Park Fees	400
Schedule of Programs:	
Adjudication	150,900
Administration	35,700
Applications and Records	273,500
Dam Safety	74,400
Field Services	136,000
Technical Services	50,900

Item 173

To Department of Natural Resources – Watershed	
From General Fund	2,900
From General Fund, One–Time	400
Schedule of Programs:	
Watershed	3,300

Item 174

To Department of Natural Resources – Wildlife Resources	
From General Fund	259,900
From General Fund, One–Time	58,100
From Federal Funds	980,200
From Federal Funds, One–Time	80,900
From Expendable Receipts	2,300
From Expendable Receipts, One–Time	300
From General Fund Restricted – Aquatic Invasive Species Interdiction Account	20,600
From General Fund Restricted – Aquatic Invasive Species Interdiction Account, One–Time	2,700
From General Fund Restricted – Mule Deer Protection Account	6,600
From General Fund Restricted – Mule Deer Protection Account, One–Time	1,100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(39,500)
From General Fund Restricted – Predator Control Account	21,000
From General Fund Restricted – Predator Control Account, One–Time	1,700
From General Fund Restricted – Support for State–owned Shooting Ranges Restricted Account	400
From General Fund Restricted – Support for State–owned Shooting Ranges Restricted Account, One–Time	100
From Revenue Transfers	2,800
From Revenue Transfers, One–Time	300
From General Fund Restricted – Wildlife Conservation Easement Account	100
From General Fund Restricted – Wildlife Habitat	35,500
From General Fund Restricted – Wildlife Habitat, One–Time	700
From General Fund Restricted – Wildlife Resources	1,203,100
From General Fund Restricted – Wildlife Resources, One–Time	116,300
Schedule of Programs:	
Administrative Services	177,700
Aquatic Section	822,300
Conservation Outreach	184,300
Director's Office	68,200
Habitat Council	36,200
Habitat Section	459,400
Law Enforcement	436,000
Wildlife Section	571,100

Item 175

To Department of Natural Resources – Wildlife Resources	
From General Fund, One–Time	10,600
Schedule of Programs:	
Administrative Services	300
Law Enforcement	9,900
Wildlife Section	400

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 176

To Department of Natural Resources – Public Lands Policy Coordinating Office	
From General Fund	46,600
From General Fund, One–Time	6,200
From General Fund Restricted – Constitutional Defense	20,100
From General Fund Restricted – Constitutional Defense, One–Time	2,600
Schedule of Programs:	
Public Lands Policy Coordinating Office	75,500

Item 177

To Department of Natural Resources – Division of Parks	
From General Fund	93,600
From General Fund, One–Time	50,100
From Dedicated Credits Revenue	34,400
From Dedicated Credits Revenue, One–Time	4,000
From General Fund Restricted – Boating	14,800
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(32,400)
From General Fund Restricted – Off–highway Vehicle	19,800
From General Fund Restricted – State Park Fees	690,700
From General Fund Restricted – State Park Fees, One–Time	77,300
From Revenue Transfers	900
From Revenue Transfers, One–Time	200
Schedule of Programs:	
Executive Management	30,800
State Park Operation Management	839,600

Planning and Design	22,500
Support Services	60,500

Item 178
To Department of Natural Resources – Division of Parks

From General Fund, One-Time	11,500
Schedule of Programs:	
State Park Operation Management	11,100
Support Services	400

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

Item 179
To Department of Natural Resources – Division of Recreation

From Federal Funds	23,900
From Federal Funds, One-Time	3,000
From General Fund Restricted – Boating	9,600
From General Fund Restricted – Boating, One-Time	1,200
From General Fund Restricted – Off-highway Vehicle	15,100
From General Fund Restricted – Off-highway Vehicle, One-Time	1,900
Schedule of Programs:	
Recreation Management	54,700

Item 180
To Department of Natural Resources – Office of Energy Development

From General Fund	49,700
From General Fund, One-Time	5,200
From Education Fund	4,700
From Education Fund, One-Time	800
From Federal Funds	24,300
From Federal Funds, One-Time	2,700
From Dedicated Credits Revenue	2,400
From Dedicated Credits Revenue, One-Time	200
From Expendable Receipts	3,400
From Expendable Receipts, One-Time	600
From Ut. S. Energy Program Rev. Loan Fund (ARRA)	4,400
From Ut. S. Energy Program Rev. Loan Fund (ARRA), One-Time	700
Schedule of Programs:	
Office of Energy Development	99,100

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION

Item 181
To School and Institutional Trust Lands Administration

From Land Grant Management Fund	423,000
From Land Grant Management Fund, One-Time	36,200
Schedule of Programs:	
Accounting	25,900
Administration	24,300
Auditing	20,600
Board	2,600
Development – Operating	61,600
Director	31,600
External Relations	8,000
Grazing and Forestry	28,800
Information Technology Group	54,000
Legal/Contracts	39,600
Mining	28,900
Oil and Gas	28,200
Surface	105,100

PUBLIC EDUCATION

STATE BOARD OF EDUCATION

Item 182
To State Board of Education – Child Nutrition Programs

From Federal Funds	134,600
From Federal Funds, One-Time	12,900
From Dedicated Credit – Liquor Tax	20,600
From Dedicated Credit – Liquor Tax, One-Time	3,200
Schedule of Programs:	
Child Nutrition	171,300

Item 183
To State Board of Education – Educator Licensing

From Education Fund	89,500
From Education Fund, One-Time	6,900
Schedule of Programs:	
Educator Licensing	96,400

Item 184
To State Board of Education – Contracted Initiatives and Grants

From General Fund	9,200
From General Fund, One-Time	1,000
From Education Fund	37,800
From Education Fund, One-Time	1,400
Schedule of Programs:	
Carson Smith Scholarships	8,000
Software Licenses for Early Literacy	4,600
General Financial Literacy	3,900
Intergenerational Poverty Interventions	4,000
Partnerships for Student Success	7,500
UPSTART	5,400
ULEAD	10,100
Supplemental Educational Improvement Matching Grants	2,200
Special Needs Opportunity Scholarship Administration	3,700

Item 185
To State Board of Education – MSP Categorical Program Administration

From Education Fund	155,500
From Education Fund, One-Time	10,500
Schedule of Programs:	
Adult Education	11,900
Beverley Taylor Sorenson Elem. Arts Learning Program	6,300
CTE Comprehensive Guidance	6,900
Digital Teaching and Learning	23,200
Dual Immersion	6,400
At-Risk Students	24,500
Special Education State Programs	9,400
Youth-in-Custody	29,100
Early Literacy Program	14,100
State Safety and Support Program	6,200
Student Health and Counseling Support Program	11,200

Early Learning Training and Assessment	7,100
Early Intervention	9,700

Item 186

To State Board of Education – Policy, Communication, & Oversight

From Education Fund	177,400
From Education Fund, One-Time	13,400
From Federal Funds	92,900
From Federal Funds, One-Time	7,300
From Education Fund Restricted – Underage Drinking Prevention Program Restricted Account	4,800
From Education Fund Restricted – Underage Drinking Prevention Program Restricted Account, One-Time	300

Schedule of Programs:

Policy and Communication	82,100
Student Support Services	197,400
School Turnaround and Leadership Development Act	16,600

Item 187

To State Board of Education – System Standards & Accountability

From Education Fund	344,900
From Education Fund, One-Time	24,800
From Federal Funds	361,400
From Federal Funds, One-Time	25,800
From Dedicated Credits Revenue	6,700
From Dedicated Credits Revenue, One-Time	700

Schedule of Programs:

Teaching and Learning	217,400
Assessment and Accountability	125,700
Career and Technical Education	139,200
Special Education	282,000

Item 188

To State Board of Education – State Charter School Board

From Education Fund	69,100
From Education Fund, One-Time	5,200

Schedule of Programs:

State Charter School Board	74,300

Item 189

To State Board of Education – Utah Schools for the Deaf and the Blind

From Education Fund	2,211,900
From Education Fund, One-Time	199,200
From Federal Funds	4,400
From Federal Funds, One-Time	600
From Dedicated Credits Revenue	61,500
From Dedicated Credits Revenue, One-Time	9,000
From Revenue Transfers	226,000
From Revenue Transfers, One-Time	36,400

Schedule of Programs:

Administration	1,203,800
Transportation and Support Services	510,200
Utah State Instructional Materials Access Center	124,700
School for the Deaf	466,200
School for the Blind	444,100

Item 190

To State Board of Education – Statewide Online Education Costs for Non-Public Students

From Education Fund	20,700
From Education Fund, One-Time	2,600

Schedule of Programs:

Statewide Online Education Program	23,300

Item 191

To State Board of Education – State Board and Administrative Operations

From Education Fund	487,800
From Education Fund, One-Time	38,100
From Federal Funds	30,200
From Federal Funds, One-Time	6,000
From General Fund Restricted – Mineral Lease	17,800
From General Fund Restricted – Mineral Lease, One-Time	1,600
From General Fund Restricted – School Readiness Account	1,400
From General Fund Restricted – School Readiness Account, One-Time	200
From Revenue Transfers	265,300
From Revenue Transfers, One-Time	21,000
From Uniform School Fund Rest. – Trust Distribution Account	20,900

Schedule of Programs:

Financial Operations	176,400
Information Technology	244,900
Inter Cost Pool	311,600
Data and Statistics	48,200
School Trust	20,900
Board and Administration	85,300
Federal Coronavirus Relief for Public Education	3,000

SCHOOL AND INSTITUTIONAL TRUST FUND OFFICE

Item 192

To School and Institutional Trust Fund Office

From School and Institutional Trust Fund Management Acct.	89,400
From School and Institutional Trust Fund Management Acct., One-Time	4,100

Schedule of Programs:

School and Institutional Trust Fund Office	93,500

EXECUTIVE APPROPRIATIONS

CAPITOL PRESERVATION BOARD

Item 193

To Capitol Preservation Board

From General Fund	44,400
From General Fund, One-Time	4,200

Schedule of Programs:

Capitol Preservation Board	48,600

LEGISLATURE

Item 194

To Legislature – Senate

From General Fund	152,600
From General Fund, One-Time	6,400

Schedule of Programs:

Administration	159,000

Item 195

To Legislature – House of Representatives

From General Fund	180,700
From General Fund, One–Time	5,900

Schedule of Programs:

Administration	186,600

Item 196

To Legislature – Office of Legislative Research and General Counsel

From General Fund	677,100
From General Fund, One–Time	24,900

Schedule of Programs:

Administration	702,000

Item 197

To Legislature – Office of the Legislative Fiscal Analyst

From General Fund	272,400
From General Fund, One–Time	13,800

Schedule of Programs:

Administration and Research	286,200

Item 198

To Legislature – Office of the Legislative Auditor General

From General Fund	394,600
From General Fund, One–Time	15,700

Schedule of Programs:

Administration	410,300

Item 199

To Legislature – Legislative Services

From General Fund	288,200
From General Fund, One–Time	12,000
From Dedicated Credits Revenue	13,300
From Dedicated Credits Revenue, One–Time	400

Schedule of Programs:

Administration	74,700
Information Technology	239,200

UTAH NATIONAL GUARD

Item 200

To Utah National Guard

From General Fund	270,200
From General Fund, One–Time	18,200
From Federal Funds	668,400
From Federal Funds, One–Time	75,000
From Dedicated Credits Revenue	300
From Dedicated Credits Revenue, One–Time	100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(7,000)

Schedule of Programs:

Administration	90,000
Operations and Maintenance	935,200

Item 201

To Utah National Guard

From General Fund, One–Time	2,100

Schedule of Programs:

Operations and Maintenance	2,100

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 202

To Department of Veterans and Military Affairs – Veterans and Military Affairs

From General Fund	97,800
From General Fund, One–Time	7,200
From Federal Funds	18,900
From Federal Funds, One–Time	2,100
From Dedicated Credits Revenue	3,200
From Dedicated Credits Revenue, One–Time	200

Schedule of Programs:

Administration	34,100
Cemetery	27,100
Military Affairs	4,700
Outreach Services	56,300
State Approving Agency	7,200

Subsection 1(b). Expendable Funds and Accounts. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

DEPARTMENT OF PUBLIC SAFETY

Item 203

To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund

From General Fund, One–Time	21,300
From Dedicated Credits Revenue	151,300
From Dedicated Credits Revenue, One–Time	19,000
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(16,500)

Schedule of Programs:

Alcoholic Beverage Control Act Enforcement Fund	175,100

Item 204

To Department of Public Safety – Alcoholic Beverage Control Act Enforcement Fund

From General Fund, One–Time	6,300

Schedule of Programs:

Alcoholic Beverage Control Act Enforcement Fund	6,300

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 205
To Department of Government Operations – State Debt Collection Fund
From Dedicated Credits Revenue 40,700
From Dedicated Credits Revenue, One–Time 7,200
Schedule of Programs:
State Debt Collection Fund 47,900

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

DEPARTMENT OF COMMERCE

Item 206
To Department of Commerce – Cosmetologist/Barber, Esthetician, Electrologist Fund
From Licenses/Fees 3,300
From Licenses/Fees, One–Time 700
Schedule of Programs:
Cosmetologist/Barber, Esthetician, Electrologist Fund 4,000

Item 207
To Department of Commerce – Real Estate Education, Research, and Recovery Fund
From Dedicated Credits Revenue 6,900
From Dedicated Credits Revenue, One–Time 700
Schedule of Programs:
Real Estate Education, Research, and Recovery Fund 7,600

Item 208
To Department of Commerce – Residential Mortgage Loan Education, Research, and Recovery Fund
From Licenses/Fees 4,400
From Licenses/Fees, One–Time 600
From Interest Income 400
Schedule of Programs:
RMLERR Fund 5,400

Item 209
To Department of Commerce – Securities Investor Education/Training/Enforcement Fund
From Licenses/Fees 2,700
From Licenses/Fees, One–Time 700
Schedule of Programs:
Securities Investor Education/ Training/ Enforcement Fund 3,400

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY

Item 210
To Governor's Office of Economic Opportunity – Outdoor Recreation Infrastructure Account
From Dedicated Credits Revenue 12,800
From Dedicated Credits Revenue, One–Time 1,300
Schedule of Programs:
Outdoor Recreation Infrastructure Account 14,100

PUBLIC SERVICE COMMISSION

Item 211
To Public Service Commission – Universal Public Telecom Service
From Dedicated Credits Revenue 6,000
From Dedicated Credits Revenue, One–Time 700
Schedule of Programs:
Universal Public Telecommunications Service Support 6,700

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 212
To Department of Agriculture and Food – Salinity Offset Fund
From Revenue Transfers 2,600
From Revenue Transfers, One–Time 300
Schedule of Programs:
Salinity Offset Fund 2,900

DEPARTMENT OF ENVIRONMENTAL QUALITY

Item 213
To Department of Environmental Quality – Hazardous Substance Mitigation Fund
From General Fund 400
From Interest Income 800
From General Fund Restricted – Environmental Quality 1,200
Schedule of Programs:
Hazardous Substance Mitigation Fund ... 2,400

EXECUTIVE APPROPRIATIONS

UTAH NATIONAL GUARD

Item 214
To Utah National Guard – National Guard MWR Fund
From Dedicated Credits Revenue 19,000
From Dedicated Credits Revenue, One–Time 1,400
Schedule of Programs:
National Guard MWR Fund 20,400

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS

Item 215
To Department of Veterans and Military Affairs – Utah Veterans Nursing Home Fund
From Federal Funds 21,800
From Federal Funds, One–Time 3,400
Schedule of Programs:
Veterans Nursing Home Fund 25,200

Subsection 1(c). Business-like Activities. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

ATTORNEY GENERAL

Item 216

To Attorney General - ISF - Attorney General

From Dedicated Credits Revenue	699,900
Schedule of Programs:	
Civil Division	423,600
Child Protection Division	161,800
Criminal Division	114,500

UTAH DEPARTMENT OF CORRECTIONS

Item 217

To Utah Department of Corrections - Utah Correctional Industries

From General Fund, One-Time	1,300
From Dedicated Credits Revenue	404,600
From Dedicated Credits Revenue, One-Time	21,100
From GFR Public Safety and Firefighter Tier II Retirement Benefits Account	(1,400)
Schedule of Programs:	
Utah Correctional Industries	425,600

Item 218

To Utah Department of Corrections - Utah Correctional Industries

From General Fund, One-Time	400
Schedule of Programs:	
Utah Correctional Industries	400

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate Concurrent Resolution 1, 2022 General Session).

INFRASTRUCTURE AND GENERAL GOVERNMENT

DEPARTMENT OF GOVERNMENT OPERATIONS

Item 219

To Department of Government Operations - Division of Facilities Construction and Management - Facilities Management

From Dedicated Credits Revenue	99,500
Schedule of Programs:	
ISF - Facilities Management	99,500

Item 220

To Department of Government Operations - Division of Fleet Operations

From Dedicated Credits Revenue	14,800
Schedule of Programs:	
Transactions Group	14,800

Item 221

To Department of Government Operations - Division of Purchasing and General Services

From Dedicated Credits Revenue	57,100
From Other Financing Sources	100
Schedule of Programs:	
ISF - Central Mailing	52,200
ISF - Print Services	5,000

Item 222

To Department of Government Operations - Enterprise Technology Division

From Dedicated Credits Revenue	1,214,900
Schedule of Programs:	
ISF - Enterprise Technology Division	1,214,900

Item 223

To Department of Government Operations - Human Resources Internal Service Fund

From Dedicated Credits Revenue	219,800
Schedule of Programs:	
ISF - Field Services	196,000
ISF - Payroll Field Services	23,800

BUSINESS, ECONOMIC DEVELOPMENT, AND LABOR

LABOR COMMISSION

Item 224

To Labor Commission - Uninsured Employers Fund

From Dedicated Credits Revenue	700
From Premium Tax Collections	300
Schedule of Programs:	
Uninsured Employers Fund	1,000

SOCIAL SERVICES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Item 225

To Department of Health and Human Services - Qualified Patient Enterprise Fund

From General Fund, One-Time	2,600
From Dedicated Credits Revenue	85,300
From Dedicated Credits Revenue, One-Time	7,700
Schedule of Programs:	
Qualified Patient Enterprise Fund	95,600

Item 226

To Department of Health and Human Services - Qualified Patient Enterprise Fund

From General Fund, One-Time	800
Schedule of Programs:	
Qualified Patient Enterprise Fund	800

To implement the provisions of *Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions* (Senate

Concurrent Resolution 1, 2022 General Session).

NATURAL RESOURCES, AGRICULTURE, AND ENVIRONMENTAL QUALITY

DEPARTMENT OF AGRICULTURE AND FOOD

Item 227
To Department of Agriculture and Food – Agriculture Loan Programs
From Agriculture Resource Development Fund 5,500
From Agriculture Resource Development Fund, One–Time 1,100
From Utah Rural Rehabilitation Loan State Fund 3,200
From Utah Rural Rehabilitation Loan State Fund, One–Time 600
Schedule of Programs:
Agriculture Loan Program 10,400

Item 228
To Department of Agriculture and Food – Qualified Production Enterprise Fund
From Dedicated Credits Revenue 23,200
From Dedicated Credits Revenue, One–Time 2,600
Schedule of Programs:
Qualified Production Enterprise Fund 25,800

Subsection 1(d). Restricted Fund and Account Transfers. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

EXECUTIVE OFFICES AND CRIMINAL JUSTICE

Item 229
To General Fund Restricted – Indigent Defense Resources Account
From General Fund 25,700
From General Fund, One–Time 3,400
Schedule of Programs:
General Fund Restricted – Indigent Defense Resources Account 29,100

Item 230
To Colorado River Authority of Utah Restricted Account
From General Fund 25,000
From General Fund, One–Time 3,200
Schedule of Programs:
Colorado River Authority Restricted Account 28,200

Section 2. Effective Date.
This bill takes effect on July 1, 2022.

CHAPTER 412
S. B. 14

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

CONSUMER ALCOHOLIC BEVERAGE PURCHASING

Chief Sponsor: Gene Davis
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This bill amends provisions of the Alcoholic Beverage Control Act regarding consumer purchasing.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Division of Consumer Purchasing (division) within the Department of Alcoholic Beverage Control;
- moves the wine subscription program under the administration of the division;
- requires the division to establish a consumer purchasing system;
- outlines the parameters of the consumer purchasing system; and
- grants the Alcoholic Beverage Control Commission rulemaking authority.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-701, as enacted by Laws of Utah 2020, Chapter 178
32B-2-702, as enacted by Laws of Utah 2020, Chapter 178
32B-2-703, as enacted by Laws of Utah 2020, Chapter 178

ENACTS:

32B-2-212, Utah Code Annotated 1953
32B-2-801, Utah Code Annotated 1953
32B-2-802, Utah Code Annotated 1953
32B-2-803, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-212 is enacted to read:

32B-2-212. Division of Consumer Purchasing.

There is created with the department the Division of Consumer Purchasing to establish and administer:

(1) the wine subscription program described in Part 7, Wine Subscription Program; and

(2) the consumer purchasing system described in Part 8, Consumer Purchasing System.

Section 2. Section 32B-2-701 is amended to read:

32B-2-701. Definitions.

As used in this part:

(1) "Division" means the Division of Consumer Purchasing created in Section 32B-2-212.

(2) "Subscriber" means an individual who subscribes to a wine subscription as described in Subsection 32B-2-702(2).

[~~(2)~~] (3) "Subscription program" means the wine subscription program established in Section 32B-2-702.

[~~(3)~~] (4) "Wine subscription" means an arrangement in which a customer pays a recurring price at regular intervals for a product that involves the shipment or transportation of wine.

[~~(4)~~] (5) "Wine subscription business" means a person that:

(a) sells or offers for sale a wine subscription; and

(b) contracts with the department to participate in the subscription program.

Section 3. Section 32B-2-702 is amended to read:

32B-2-702. Wine subscription program.

(1) The [~~department~~] division shall establish and administer a wine subscription program as described in this part.

(2) The subscription program shall permit an individual to subscribe to a wine subscription that a wine subscription business sells or offers for sale by:

(a) enrolling in the wine subscription program in a manner the [~~department~~] division prescribes;

(b) authorizing the [~~department~~] division to purchase the wine subscription in the individual's name;

(c) paying the [~~department~~] division, in a manner the [~~department~~] division prescribes:

(i) the price of the wine subscription;

(ii) in addition to any tax, the markup described in Subsection 32B-2-304(4); and

(iii) a fee the [~~department~~] division charges in accordance with Subsection 32B-2-703(1); and

(d) designating the state store or package agency at which the individual would prefer to collect the wine.

(3) The [~~department~~] division shall:

(a) designate by contract with a wine subscription business the department warehouse to which the wine subscription business ships or transports wine under the subscription program;

(b) deliver wine purchased through the subscription program to the appropriate state store or package agency; and

(c) notify a subscriber when wine purchased through the subscription program is ready for the subscriber to collect from the state store or package agency described in Subsection (3)(b).

Section 4. Section 32B-2-703 is amended to read:

32B-2-703. Fees -- Rulemaking.

(1) The [~~department~~] division may charge a fee as part of the subscription program:

(a) in accordance with Section 63J-1-504; and

(b) to cover costs to the [~~department~~] division for administering the subscription program.

(2) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of this part, including rules designating which package agencies may receive from the [~~department~~] division wines that are purchased through the subscription program.

Section 5. Section 32B-2-801 is enacted to read:

Part 8. Consumer Purchasing System

32B-2-801. Definitions.

As used in this part:

(1) "Consumer purchasing system" means the consumer purchasing system established in Section 32B-2-802.

(2) "Division" means the Division of Consumer Purchasing created in Section 32B-2-212.

Section 6. Section 32B-2-802 is enacted to read:

32B-2-802. Consumer purchasing system.

(1) The division shall establish and administer a consumer purchasing system that:

(a) allows a person to:

(i) order an alcoholic product from an approved vendor through the division; and

(ii) pick up an alcoholic product ordered as described in Subsection (1)(a)(i) from a state store or package agency; and

(b) requires a person ordering an alcoholic product as described in Subsection (1)(a) to, at the time the order is made:

(i) designate a state store or package agency at which the person would prefer to collect the alcoholic product; and

(ii) pay the division for the alcoholic product order in full, including:

(A) the cost of the alcoholic product; and

(B) in addition to any tax, the markup described in Section 32B-2-304.

(2) The division shall:

(a) ensure that an alcoholic product ordered through the consumer purchasing system is shipped or transported to a department warehouse;

(b) deliver an alcoholic product ordered through the consumer purchasing system to the appropriate state store or package agency;

(c) notify the person who ordered an alcoholic product through the consumer purchasing system when the alcoholic product is ready for the person to collect; and

(d) administer the consumer purchasing system in a manner that:

(i) is efficient;

(ii) ensures timely delivery of alcoholic products; and

(iii) frequently updates a person who orders an alcoholic product through the consumer purchasing system on the status of the order.

(3) The division may not require that a person order a specific quantity of an alcoholic product that is:

(a) different than a quantity the vendor offers for sale; or

(b) larger than the smallest quantity the vendor offers for sale.

Section 7. Section 32B-2-803 is enacted to read:

32B-2-803. Rulemaking.

The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of this part.

CHAPTER 413
S. B. 16

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

LICENSING AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill addresses proposed and existing regulated occupations.

Highlighted Provisions:

This bill:

- creates the Office of Professional Licensure Review (office);
- defines terms;
- requires the office to:
  - conduct a sunrise review for each application to establish a new regulated occupation;
  - review each regulated occupation at least once every 10 years; and
  - review and respond to each legislator inquiry regarding an occupational licensing matter;
- establishes criteria for conducting a sunrise review or periodic review;
- provides legislative oversight of the scheduling and scope of each periodic review;
- requires the office to annually prepare and submit a written report to the Business and Labor Interim Committee;
- provides a sunset date for provisions of this bill, subject to review;
- repeals the Occupational and Professional Licensure Review Committee Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301, as last amended by Laws of Utah 2019, Chapter 133
58-55-201, as last amended by Laws of Utah 2020, Chapters 154 and 339
63I-1-213, as last amended by Laws of Utah 2021, Chapter 26

ENACTS:

13-1b-101, Utah Code Annotated 1953
13-1b-102, Utah Code Annotated 1953
13-1b-201, Utah Code Annotated 1953
13-1b-202, Utah Code Annotated 1953
13-1b-203, Utah Code Annotated 1953
13-1b-301, Utah Code Annotated 1953
13-1b-302, Utah Code Annotated 1953
13-1b-303, Utah Code Annotated 1953
13-1b-304, Utah Code Annotated 1953

REPEALS:

36-23-101, as enacted by Laws of Utah 1999, Chapter 152
36-23-101.5, as last amended by Laws of Utah 2019, Chapter 276
36-23-102, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
36-23-103, as last amended by Laws of Utah 2013, Chapter 323
36-23-104, as last amended by Laws of Utah 2014, Chapter 387
36-23-105, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
36-23-106, as last amended by Laws of Utah 2018, Chapter 281 and last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
36-23-107, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
36-23-108, as enacted by Laws of Utah 1999, Chapter 152
36-23-109, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
58-1-110, as enacted by Laws of Utah 2013, Chapter 323

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-1b-101 is enacted to read:

CHAPTER 1b. OFFICE OF PROFESSIONAL LICENSURE REVIEW

Part 1. General Provisions

13-1b-101. Definitions.

As used in this chapter:

(1) "Department" means the Department of Commerce.

(2) "Director" means the director of the office.

(3) "Executive director" means the executive director of the Department of Commerce.

(4) "Government requestor" means:

(a) the governor;

(b) an executive branch officer other than the governor;

(c) an executive branch agency;

(d) a legislator; or

(e) a legislative committee.

(5) "Health, safety, or financial welfare of the public" includes protecting against physical injury, property damage, or financial harm of the public.

(6) "License" or "licensing" means a state-granted authorization for a person to engage in a specified occupation:

(a) based on the person meeting personal qualifications established under state law; and

(b) where state law requires the authorization before the person may lawfully engage in the occupation for compensation.

(7) "Newly regulate" means to create by statute or administrative rule a new license, certification, registration, or exemption classification regarding an occupation.

(8) "Occupation" means a course of conduct, pursuit, or profession that includes the sale of goods or services that are not illegal to sell, irrespective of whether the individual selling the goods or services is subject to an occupational regulation.

(9) "Office" means the Office of Professional Licensure Review created in this chapter.

(10) "Periodic review" means a review described in Subsection 13-1b-203(2).

(11) (a) "Personal qualifications" means criteria established in state law related to an individual's background.

(b) "Personal qualifications" includes:

(i) completion of an approved education program;

(ii) satisfactory performance on an examination;

(iii) work experience; and

(iv) completion of continuing education.

(12) "Regulated occupation" means an occupation that:

(a) requires a person to obtain a license to practice the occupation; or

(b) provides for state certification or state registration.

(13) "State certification" means a state-granted authorization given to a person to use the term "state certified" as part of a designated title related to engaging in a specified occupation:

(a) based on the person meeting personal qualifications established under state law; and

(b) where state law prohibits a noncertified person from using the term "state certified" as part of a designated title but does not otherwise prohibit a noncertified person from engaging in the occupation for compensation.

(14) "State registration" means a state-granted authorization given to a person to use the term "state registered" as part of a designated title related to engaging in a specified occupation:

(a) based on the person meeting requirements established under state law, which may include the person's name and address, the person's agent for service of process, the location of the activity to be performed, and bond or insurance requirements;

(b) where state law does not require the person to meet any personal qualifications; and

(c) where state law prohibits a nonregistered person from using the term "state registered" as part of a designated title.

(15) "Sunrise review" means a review under this chapter of an application to establish a new regulated occupation.

Section 2. Section 13-1b-102 is enacted to read:

13-1b-102. Applicability.

This chapter applies to any regulation of an occupation that is administered by a state executive branch agency.

Section 3. Section 13-1b-201 is enacted to read:

Part 2. Organization

13-1b-201. Creation of office -- Director appointed -- Personnel.

(1) There is created within the department the Office of Professional Licensure Review to perform the functions and duties described in this chapter.

(2) The office is under the direction and control of a director appointed by the executive director with approval of the governor.

(3) The executive director shall establish the salary of the director in accordance with standards established by the Division of Human Resource Management.

Section 4. Section 13-1b-202 is enacted to read:

13-1b-202. Powers of the director and the office.

(1) The director may employ personnel necessary to carry out the duties and responsibilities of the office at salaries determined by the executive director in accordance with standards established by the Division of Human Resource Management.

(2) The office may:

(a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the responsibilities of the office described in this chapter, including rules creating criteria for conducting a sunrise review or a periodic review;

(b) make recommendations to other state executive branch agencies regarding regulated occupations; and

(c) survey stakeholders regarding appropriate criteria for conducting a sunrise review or a periodic review.

(3) A state executive branch agency may adopt or reject a recommendation described in Subsection (2)(b).

Section 5. Section 13-1b-203 is enacted to read:

13-1b-203. Duties.

The office shall:

(1) for each application submitted in accordance with Section 13-1b-301, conduct a sunrise review in accordance with Section 13-1b-302 before November 1:

(a) of the year in which the application is submitted, if the application is submitted on or before July 1; or

(b) of the subsequent year, if the application is submitted after July 1;

(2) beginning in 2023 and in accordance with Section 13-1b-303, conduct a review of each regulated occupation at least once every 10 years;

(3) review and respond to any legislator inquiry regarding a proposed or existing regulated occupation; and

(4) report to the Business and Labor Interim Committee in accordance with Section 13-1b-304.

Section 6. Section 13-1b-301 is enacted to read:

Part 3. Office Review and Reporting

13-1b-301. Application for sunrise review -- Fees.

(1) If a government requestor or a representative of an occupation that is not a regulated occupation proposes that the state make the occupation a regulated occupation, the government requestor or representative shall, before the introduction of any proposed legislation, submit to the office an application for sunrise review in a form the office prescribes.

(2) The application described in Subsection (1) shall describe:

(a) why making the occupation a regulated occupation is necessary to protect against present, recognizable, and significant harm to the health, safety, or financial welfare of the public; and

(b) the least restrictive regulation of the occupation that would protect against present, recognizable, and significant harm to the health, safety, or financial welfare of the public.

(3) If a representative of an occupation submits an application in accordance with this section, the application shall include a nonrefundable fee of $500.

(4) All application fees collected under this section shall be deposited into the General Fund.

Section 7. Section 13-1b-302 is enacted to read:

13-1b-302. Review criteria.

In conducting a sunrise review or a periodic review, unless otherwise directed in accordance with Subsection 13-1b-203(3), the office shall consider the following criteria:

(1) whether the regulation of the occupation is necessary to address a present, recognizable, and significant harm to the health, safety, or financial welfare of the public;

(2) for any harm to the health, safety, or financial welfare of the public, the harm's:

(a) severity;

(b) probability; and

(c) permanence;

(3) the extent to which the proposed or existing regulation of the occupation protects against or diminishes the harm described in Subsection (1);

(4) whether the proposed or existing regulation of the occupation:

(a) affects the supply of qualified practitioners;

(b) creates barriers to:

(i) service that are not in the public financial welfare or interest; or

(ii) entry into the occupation or related occupations;

(c) imposes new costs on existing practitioners;

(d) affects:

(i) license reciprocity with other jurisdictions; or

(ii) mobility of practitioners; or

(e) if the occupation involves a health care provider, impacts the health care provider's ability to obtain payment of benefits for the health care provider's treatment of an illness, injury, or health care condition under an insurance contract subject to Section 31A-22-618;

(5) if the review involves licensing, the potential alternative pathways for a person to obtain a license;

(6) the costs to the state of regulating the occupation;

(7) whether the proposed or existing administering agency has sufficient expertise and resources;

(8) the regulation of the occupation in other jurisdictions;

(9) the scope of the proposed or existing regulation, including:

(a) whether the occupation is clearly distinguishable from an already regulated occupation; and

(b) potential for regulating only certain occupational activities;

(10) the potentially less burdensome alternatives to the proposed or existing regulation and the effect of implementing an alternative method of regulation on:

(a) the health, safety, or financial welfare of the public;

(b) the occupation; and

(c) practitioners of the occupation; and

(11) any other criteria the office adopts, including criteria suggested in a stakeholder survey.

Section 8. Section 13-1b-303 is enacted to read:

13-1b-303. Legislative prioritization of reviews.

(1) Before October 1 of each year, the office shall prepare and submit to the Business and Labor

Interim Committee a list of each periodic review that the office proposes to conduct during the upcoming year, including the scope of each periodic review.

(2) Before December 1 of the calendar year in which the office submits a list under Subsection (1), the Business and Labor Interim Committee shall:

(a) approve the list, with or without modification; and

(b) submit a copy of the approved list to the Legislative Management Committee for approval, with or without modification.

Section 9. Section 13-1b-304 is enacted to read:

13-1b-304. Reporting.

(1) Beginning in 2024, before October 1, the office shall annually prepare and submit a written report to the Business and Labor Interim Committee that describes the office's work during the prior year.

(2) In a written report described in Subsection (1), the office shall include:

(a) a summary of each periodic review, each sunrise review, and each response to a legislator inquiry; and

(b) each recommendation the office made to another state executive branch agency regarding a regulated occupation.

Section 10. Section 58-1-301 is amended to read:

58-1-301. License application -- Licensing procedure.

(1) (a) Each license applicant shall apply to the division in writing upon forms available from the division.

(b) Each completed application shall:

(i) contain documentation of the particular qualifications required of the applicant;

(ii) include the applicant's social security number;

(iii) be verified by the applicant; and

(iv) be accompanied by the appropriate fees.

(c) An applicant's social security number is a private record under Subsection 63G-2-302(1)(i).

(2) (a) The division shall issue a license to an applicant who submits a complete application if the division determines that the applicant meets the qualifications of licensure.

(b) The division shall provide a written notice of additional proceedings to an applicant who submits a complete application, but who has been, is, or will be placed under investigation by the division for conduct directly bearing upon the applicant's qualifications for licensure, if the outcome of additional proceedings is required to determine the division's response to the application.

(c) The division shall provide a written notice of denial of licensure to an applicant who submits a complete application if the division determines that the applicant does not meet the qualifications of licensure.

(d) The division shall provide a written notice of incomplete application and conditional denial of licensure to an applicant who submits an incomplete application, which notice shall advise the applicant that the application is incomplete and that the application is denied, unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all qualifications for licensure.

(3) The division may only issue a license to an applicant under this title if the applicant meets the requirements for that license as established under this title and by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) If an applicant meets all requirements for a specific license, the division shall issue the license to the applicant.

(5) (a) As used in this Subsection (5):

(i) (A) "Competency-based licensing requirement" means a practical assessment of knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation or profession regulated by this title, and which the director determines is at least as effective as a time-based licensing requirement at demonstrating proficiency and protecting the health and safety of the public.

(B) "Competency-based licensing requirement" may include any combination of training, experience, testing, or observation.

(ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks, months, or years of education, training, supervised training, or other experience that an applicant for licensure under this title is required to complete before receiving a license under this title.

(B) "Time-based licensing requirement" does not include an associate degree, a bachelor's degree, or a graduate degree from an accredited institution of higher education.

(b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title that has a time-based licensing requirement, the director, after consultation with the appropriate board, may by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement.

(c) If a time-based licensing requirement involves a program that must be approved or accredited by a specific entity or board, the director may only allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement under Subsection (5)(b) if the competency-based requirement is approved or accredited by the specific entity or board as a replacement or alternative to the time-based licensing requirement.

[~~(d) By October 1 of each year, the director shall provide a written report to the Occupational and Professional Licensure Review Committee describing any competency-based licensing requirements implemented under this Subsection (5).~~]

Section 11. Section 58-55-201 is amended to read:

58-55-201. Boards created -- Duties.

(1) There is created the Plumbers Licensing Board consisting of seven members as follows:

(a) three members shall be licensed from among the license classifications of master or journeyman plumber, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(b) three members shall be licensed plumbing contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(c) one member shall be from the public at large with no history of involvement in the construction trades.

(2) (a) There is created the Alarm System Security and Licensing Board consisting of five members as follows:

(i) three individuals who are officers or owners of a licensed alarm business;

(ii) one individual from among nominees of the Utah Peace Officers Association; and

(iii) one individual representing the general public.

(b) The Alarm System Security and Licensing Board shall designate one of its members on a permanent or rotating basis to:

(i) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and

(ii) advise the division in its investigation of these complaints.

(c) A board member who has, under this Subsection (2)(c), reviewed a complaint or advised in its investigation is disqualified from participating with the board when the board serves as a presiding officer in an adjudicative proceeding concerning the complaint.

(3) There is created the Electricians Licensing Board consisting of seven members as follows:

(a) three members shall be licensed from among the license classifications of master or journeyman electrician, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation;

(b) three members shall be licensed electrical contractors, of whom at least one shall represent a union organization and at least one shall be selected having no union affiliation; and

(c) one member shall be from the public at large with no history of involvement in the construction trades or union affiliation.

(4) The duties, functions, and responsibilities of each board described in Subsections (1) through (3) include the following:

(a) recommending to the commission appropriate rules;

(b) recommending to the commission policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) overseeing the screening of applicants for licensing, renewal, reinstatement, and relicensure;

(e) assisting the commission in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession the board represents; and

(f) acting as presiding officer in conducting hearings associated with the adjudicative proceedings and in issuing recommended orders when so authorized by the commission.

[~~(5) The division, in collaboration with the Plumbers Licensing Board and the Electricians Licensing Board, shall provide a preliminary report on or before October 1, 2019, and a final written report on or before June 1, 2020, to the Business and Labor Interim Committee and the Occupational and Professional Licensure Review Committee that provides recommendations for consistent educational and training standards for plumber and electrician apprentice programs in the state, including recommendations for education and training provided by all providers, including institutions of higher education and technical colleges.~~]

Section 12. Section 63I-1-213 is amended to read:

63I-1-213. Repeal dates, Title 13.

(1) Title 13, Chapter 1b, Office of Professional Licensure Review, is repealed July 1, 2034.

[~~(1)~~] (2) Section 13-32a-112, which creates the Pawnshop and Secondhand Merchandise Advisory Board, is repealed July 1, 2027.

[~~(2)~~] (3) Section 13-35-103, which creates the Powersport Motor Vehicle Franchise Advisory Board, is repealed July 1, 2022.

[~~(3)~~] (4) Section 13-43-202, which creates the Land Use and Eminent Domain Advisory Board, is repealed July 1, 2026.

Section 13. Repealer.

This bill repeals:

Section 36-23-101, Title.

Section 36-23-101.5, Definitions.

Section 36-23-102, Occupational and Professional Licensure Review Committee.

Section 36-23-103, Committee terms -- Vacancies.

Section 36-23-104, Committee meetings -- Compensation -- Quorum -- Legislative rules.

Section 36-23-105, Applications -- Fees.

Section 36-23-106, Duties -- Reporting.

Section 36-23-107, Sunrise or sunset review -- Criteria.

Section 36-23-108, Staff support.

Section 36-23-109, Review of state regulation of occupations.

Section 58-1-110, Legislative review in Title 58, Occupations and Professions.

CHAPTER 414
S. B. 21

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

SCHOOL STANDARDS REVIEW COMMITTEE SUNSET EXTENSION

Chief Sponsor: John D. Johnson
House Sponsor: Susan Pulsipher

LONG TITLE

General Description:

This bill extends the repeal date for the statute creating standards review committees and related provisions.

Highlighted Provisions:

This bill:

- extends the repeal date for the statute that creates standards review committees and related provisions from January 1, 2023, to January 1, 2028.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-253 is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.

(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.

(6) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.

(7) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.

(8) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.

(9) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.

(10) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.

(11) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.

(12) Section 53E-3-515 is repealed January 1, 2023.

(13) In relation to a standards review committee, on January 1, [~~2023~~] 2028:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

(14) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

(15) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

(16) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

(17) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

(18) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

(19) Section 53F-5-203 is repealed July 1, 2024.

(20) Section 53F-5-212 is repealed July 1, 2024.

(21) Section 53F-5-213 is repealed July 1, 2023.

(22) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

(23) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

(24) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

(25) Section 53F-9-501 is repealed January 1, 2023.

(26) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

(27) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

CHAPTER 415
S. B. 43

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

OCCUPATIONAL AND PROFESSIONAL LICENSING MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill modifies provisions related to licensed professions.

Highlighted Provisions:

This bill:

- changes the name of the Division of Occupational and Professional Licensing (division);
- defines terms;
- amends defined terms;
- modifies licensing board duties;
- amends license application requirements;
- modifies the division's authority to grant a license by endorsement;
- removes good moral character provisions for certain licensed professions;
- amends the definition of "practice of environmental health science";
- modifies provisions related to speech-language pathology and audiology;
- amends provisions related to unprofessional conduct for certain professions;
- modifies the division's citation authority for certain unprofessional conduct for the construction trades;
- modifies provisions related to armored car company and contract security company license qualifications;
- amends provisions related to chiropractic physician license qualifications;
- defines as unprofessional conduct the following actions by a chiropractic physician:
  - making a false entry under certain circumstances;
  - sharing professional fees with a person who is not licensed; or
  - paying a person for a patient referral;
- removes the sunset date for provisions relating to online curriculum for a licensed cosmetology related program;
- extends the sunset date for the Recreational Therapy Practice Act;
- prohibits a kickback or bribe for a referral for a good or service that relates to an insurance claim or claim for damages;
- creates a criminal penalty for certain prohibited activities; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

13-1-2, as last amended by Laws of Utah 2021, Chapter 345
13-23-2, as last amended by Laws of Utah 2021, Chapter 266
15A-1-102, as last amended by Laws of Utah 2020, Chapter 43
15A-3-402, as last amended by Laws of Utah 2020, Chapter 441
17-21-18.5, as last amended by Laws of Utah 2019, Chapter 302
17-22-30, as last amended by Laws of Utah 2021, Chapter 148
17-23-17, as last amended by Laws of Utah 2016, Chapter 303
26-2-2, as last amended by Laws of Utah 2020, Chapter 251
26-4-10.5, as enacted by Laws of Utah 2016, Chapter 104
26-6-27, as last amended by Laws of Utah 2021, Chapter 345
26-7-13, as enacted by Laws of Utah 2020, Chapter 201
26-8a-310, as last amended by Laws of Utah 2021, Chapters 237 and 262
26-15-3, as last amended by Laws of Utah 2011, Chapter 14
26-21-22, as enacted by Laws of Utah 1998, Chapter 288
26-21-26, as last amended by Laws of Utah 2016, Chapter 99
26-21-204, as last amended by Laws of Utah 2021, Chapter 262
26-49-205, as enacted by Laws of Utah 2008, Chapter 242
26-55-105, as enacted by Laws of Utah 2016, Chapter 208 and last amended by Coordination Clause, Laws of Utah 2016, Chapter 202
26-55-108, as last amended by Laws of Utah 2018, Chapter 38
26-60-104, as enacted by Laws of Utah 2017, Chapter 241
26-61-202, as last amended by Laws of Utah 2020, Chapter 12
26-61a-103, as last amended by Laws of Utah 2021, Chapters 17, 337, 344, and 350
26-61a-106, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-303, as last amended by Laws of Utah 2021, Chapters 84 and 345
26-61a-401, as last amended by Laws of Utah 2021, Chapter 337
26-61a-403, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-501, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-503, as last amended by Laws of Utah 2021, Chapter 337
26-61a-506, as last amended by Laws of Utah 2020, Chapter 12
26-61a-605, as last amended by Laws of Utah 2021, Chapter 350
26-61a-606, as last amended by Laws of Utah 2021, Chapter 350

26-64-102, as enacted by Laws of Utah 2018, Chapter 295
26A-1-113, as last amended by Laws of Utah 2011, Chapter 14
26A-1-114, as last amended by Laws of Utah 2021, Chapter 437
26A-1-126, as last amended by Laws of Utah 2013, Chapter 44
31A-22-642, as last amended by Laws of Utah 2019, Chapter 332
32B-4-305, as last amended by Laws of Utah 2021, Chapter 260
34-38-13, as last amended by Laws of Utah 2004, Chapter 152
35A-6-105, as last amended by Laws of Utah 2021, Chapters 282 and 301
36-23-102, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
36-23-107, as last amended by Coordination Clause, Laws of Utah 2018, Chapter 307
38-1a-102, as last amended by Laws of Utah 2019, Chapter 250
38-1b-102, as last amended by Laws of Utah 2016, Chapter 350
38-11-102, as last amended by Laws of Utah 2020, Chapters 154 and 339
38-11-103, as last amended by Laws of Utah 1995, Chapter 172
41-6a-502, as last amended by Laws of Utah 2020, Chapter 177
41-6a-502.5, as last amended by Laws of Utah 2021, Chapter 79
53-2a-1205, as enacted by Laws of Utah 2014, Chapter 376
53-10-114, as enacted by Laws of Utah 1998, Chapter 101
53B-24-304, as renumbered and amended by Laws of Utah 2013, Chapter 28
53F-2-305, as last amended by Laws of Utah 2020, Chapters 308 and 408
53F-2-405, as last amended by Laws of Utah 2020, Chapters 308 and 408
58-1-102, as last amended by Laws of Utah 2016, Chapter 127
58-1-103, as renumbered and amended by Laws of Utah 1993, Chapter 297
58-1-202, as last amended by Laws of Utah 2018, Chapter 129
58-1-301, as last amended by Laws of Utah 2019, Chapter 133
58-1-302, as last amended by Laws of Utah 2020, Chapter 339
58-3a-302, as last amended by Laws of Utah 2020, Chapter 339
58-9-302, as last amended by Laws of Utah 2018, Chapter 326
58-16a-302, as last amended by Laws of Utah 2020, Chapter 339
58-17b-504, as last amended by Laws of Utah 2020, Chapter 339
58-20b-102, as enacted by Laws of Utah 2018, Third Special Session, Chapter 1
58-22-102, as last amended by Laws of Utah 2020, Chapter 339
58-28-304, as last amended by Laws of Utah 2020, Chapter 339
58-28-503, as last amended by Laws of Utah 2018, Chapter 318
58-31b-303, as last amended by Laws of Utah 2006, Chapter 291
58-31b-503, as last amended by Laws of Utah 2020, Chapter 339
58-37-2, as last amended by Laws of Utah 2020, Chapter 12
58-37-6, as last amended by Laws of Utah 2021, Chapters 23, 165, and 262
58-37-8, as last amended by Laws of Utah 2021, Chapter 236
58-37c-5, as repealed and reenacted by Laws of Utah 1992, Chapter 155
58-37c-6, as last amended by Laws of Utah 2008, Chapter 382
58-37c-21, as last amended by Laws of Utah 1999, Chapter 21
58-37d-9, as last amended by Laws of Utah 1999, Chapter 21
58-38a-201, as last amended by Laws of Utah 2020, Chapter 26
58-41-4, as last amended by Laws of Utah 2019, Chapter 349
58-44a-302, as last amended by Laws of Utah 2016, Chapter 238
58-44a-402, as last amended by Laws of Utah 2018, Chapter 318
58-55-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
58-55-302, as last amended by Laws of Utah 2020, Chapter 339
58-55-502, as last amended by Laws of Utah 2011, Chapters 170 and 413
58-55-503, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
58-56-2, as enacted by Laws of Utah 1989, Chapter 269
58-57-14, as last amended by Laws of Utah 2008, Chapter 382
58-61-704, as last amended by Laws of Utah 2020, Chapter 339
58-63-102, as last amended by Laws of Utah 2017, Chapter 197
58-63-302, as last amended by Laws of Utah 2020, Chapter 339
58-67-503, as last amended by Laws of Utah 2020, Chapter 339
58-68-503, as last amended by Laws of Utah 2020, Chapter 339
58-71-402, as last amended by Laws of Utah 2008, Chapter 382
58-73-302, as last amended by Laws of Utah 2020, Chapter 339
58-73-501, as last amended by Laws of Utah 1998, Chapter 26
58-83-102, as enacted by Laws of Utah 2010, Chapter 180
58-83-302, as enacted by Laws of Utah 2010, Chapter 180
58-83-401, as last amended by Laws of Utah 2011, Chapter 367
58-83-502, as last amended by Laws of Utah 2020, Chapter 25
58-87-103, as renumbered and amended by Laws of Utah 2017, Chapter 225

59-10-1111, as enacted by Laws of Utah 2016, Chapter 407
62A-3-202, as last amended by Laws of Utah 2018, Chapter 60
62A-3-305, as last amended by Laws of Utah 2021, Chapter 419
62A-3-311.1, as last amended by Laws of Utah 2017, Chapter 195
62A-3-312, as last amended by Laws of Utah 2017, Chapter 176
62A-4a-411, as last amended by Laws of Utah 2021, Chapter 419
62A-4a-603, as last amended by Laws of Utah 2020, Chapter 250
62A-15-103, as last amended by Laws of Utah 2021, Chapters 231 and 277
63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373, and 382
63I-1-258, as last amended by Laws of Utah 2021, Chapter 32
63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
63N-1b-301, as renumbered and amended by Laws of Utah 2021, Chapter 282
78B-3-403, as last amended by Laws of Utah 2019, Chapter 349

ENACTS:
76-10-3201, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
58-15-101, (Renumbered from 58-15-2, as last amended by Laws of Utah 2016, Chapter 238)
58-15-201, (Renumbered from 58-15-3, as last amended by Laws of Utah 2011, Chapter 366)
58-15-301, (Renumbered from 58-15-4, as last amended by Laws of Utah 2009, Chapter 183)
58-15-302, (Renumbered from 58-15-4.5, as enacted by Laws of Utah 1993, Chapter 297)
58-15-303, (Renumbered from 58-15-11, as last amended by Laws of Utah 2020, Chapter 339)
58-15-401, (Renumbered from 58-15-12, as enacted by Laws of Utah 1993, Chapter 297)
58-15-501, (Renumbered from 58-15-10, as repealed and reenacted by Laws of Utah 1993, Chapter 297)

REPEALS:
58-1-101, as renumbered and amended by Laws of Utah 1993, Chapter 297
58-5a-305, as last amended by Laws of Utah 1996, Chapter 232
58-15-1, as enacted by Laws of Utah 1985, Chapter 49

Utah Code Sections Affected by Coordination Clause:
26-69-405, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-1-2 is amended to read:

13-1-2. Creation and functions of department -- Divisions created -- Fees -- Commerce Service Account.

(1) (a) There is created the Department of Commerce.

(b) The department shall:

(i) execute and administer state laws regulating business activities and occupations affecting the public interest; and

(ii) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:

(A) under this title;

(B) by the department; or

(C) by an agency or division within the department.

(2) Within the department the following divisions are created:

(a) the Division of [~~Occupational and~~] Professional Licensing;

(b) the Division of Real Estate;

(c) the Division of Securities;

(d) the Division of Public Utilities;

(e) the Division of Consumer Protection; and

(f) the Division of Corporations and Commercial Code.

(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department by following the procedures and requirements of Section 63J-1-504.

(b) The department shall submit each fee established in this manner to the Legislature for [~~its~~] the Legislature's approval as part of the department's annual appropriations request.

(c) (i) There is created a restricted account within the General Fund known as the "Commerce Service Account."

(ii) The restricted account created in Subsection (3)(c)(i) consists of fees collected by each division and by the department.

(iii) The undesignated account balance may not exceed $1,000,000 at the end of each fiscal year.

(iv) At the end of each fiscal year, the director of the Division of Finance shall transfer into the General Fund any undesignated funds in the account that exceed the amount necessary to maintain the undesignated account balance at $1,000,000.

(d) The department may not charge or collect a fee or expend money from the restricted account without approval by the Legislature.

(4) (a) As used in this Subsection (4):

(i) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business for profit.

(ii) "Fund" means the Single Sign-On Expendable Special Revenue Fund, created in Subsection (4)(c).

(iii) "Renewal fee" means a fee that the Division of Corporations and Commercial Code, established in Section 13-1a-1, is authorized or required to charge a business entity in connection with the business entity's periodic renewal of [~~its~~] the business entity's status with the Division of Corporations and Commercial Code.

(iv) "Single sign-on fee" means a fee described in Subsection (4)(b) to pay for the establishment and maintenance of the single sign-on business portal.

(v) "Single sign-on business portal" means the same as that term is defined in Section 63A-16-802.

(b) (i) The schedule of fees adopted by the department under Subsection (3) shall include a single sign-on fee, not to exceed $5, as part of a renewal fee.

(ii) The department shall deposit all single sign-on fee revenue into the fund.

(c) (i) There is created the Single Sign-On Expendable Special Revenue Fund.

(ii) The fund consists of:

(A) money that the department collects from the single sign-on fee; and

(B) money that the Legislature appropriates to the fund.

(d) The department shall use the money in the fund to pay for costs:

(i) to design, create, operate, and maintain the single sign-on business portal; and

(ii) incurred by:

(A) the Department of Technology Services, created in Section 63A-16-103; or

(B) a third-party vendor working under a contract with the Department of Technology Services.

(e) The department shall report on fund revenues and expenditures to the Public Utilities, Energy, and Technology Interim Committee of the Legislature annually and at any other time requested by the committee.

Section 2. Section 13-23-2 is amended to read:

13-23-2. Definitions.

As used in this chapter:

(1) "Business enterprise" means a sole proprietorship, partnership, association, joint venture, corporation, limited liability company, or other entity used in carrying on a business.

(2) "Consumer" means a purchaser of health spa services for consideration.

(3) "Consumer's primary location" means the health spa facility that a health spa designates in a contract for health spa services as the health spa facility the consumer will primarily use for health spa services.

(4) "Division" means the Division of Consumer Protection.

(5) (a) "Health spa" means a business enterprise that provides access to a facility:

(i) for a charge or a fee; and

(ii) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.

(b) "Health spa" does not include:

(i) a licensed physician who operates a facility at which the physician engages in the practice of medicine;

(ii) a hospital, intermediate care facility, or skilled nursing care facility;

(iii) a public or private school, college, or university;

(iv) the state or a political subdivision of the state;

(v) the United States or a political subdivision of the United States;

(vi) a person offering instruction if the person does not:

(A) utilize an employee or independent contractor; or

(B) grant a consumer the use of a facility containing exercise equipment;

(vii) a business enterprise, the primary operation of which is to teach self-defense or a martial art, including kickboxing, judo, or karate;

(viii) a business enterprise, the primary operation of which is to teach or allow an individual to develop a specific skill rather than develop or preserve physical fitness, including gymnastics, tennis, rock climbing, or a winter sport;

(ix) a business enterprise, the primary operation of which is to teach or allow an individual to practice yoga or Pilates;

(x) a private employer who owns and operates a facility exclusively for the benefit of the employer's employees, retirees, or family members, if the operation of the facility:

(A) is only incidental to the overall function and purpose of the employer's business; and

(B) is offered on a nonprofit basis;

(xi) an individual providing professional services within the scope of the individual's license with the Division of [~~Occupational and~~] Professional Licensing;

(xii) a country club;

(xiii) a nonprofit religious, ethnic, or community organization;

(xiv) a residential weight reduction center;

(xv) a business enterprise that only offers virtual services;

(xvi) a business enterprise that only offers a credit for a service that a separate business enterprise offers;

(xvii) the owner of a lodging establishment, as defined in Section 29-2-102, if the owner only provides access to the lodging establishment's facility to:

(A) a guest, as defined in Section 29-2-102; or

(B) an operator or employee of the lodging establishment;

(xviii) an association, declarant, owner, lessor, or developer of a residential housing complex, planned community, or development, if at least 80% of the individuals accessing the facility reside in the housing complex, planned community, or development; or

(xix) a person offering a personal training service exclusively as an employee or independent contractor of a health spa.

(6) "Health spa facility" means a facility to which a business entity provides access:

(a) for a charge or a fee; and

(b) for the development or preservation of physical fitness or well-being, through exercise, weight control, or athletics.

(7) (a) "Health spa service" means instruction, a service, a privilege, or a right that a health spa offers for sale.

(b) "Health spa service" includes a personal training service.

(8) "Personal training service" means the personalized instruction, training, supervision, or monitoring of an individual's physical fitness or well-being, through exercise, weight control, or athletics.

Section 3. Section 15A-1-102 is amended to read:

15A-1-102. Definitions.

As used in this title:

(1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.

(2) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103, except as provided in:

(a) Part 4, State Fire Code Administration Act; and

(b) Chapter 5, State Fire Code Act.

(3) "State Construction Code" means the State Construction Code adopted by:

(a) Chapter 2, Adoption of State Construction Code;

(b) Chapter 2a, Tall Wood Buildings of Mass Timber Construction Incorporated as Part of State Construction Code;

(c) Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code;

(d) Chapter 4, Local Amendments Incorporated as Part of State Construction Code; and

(e) Chapter 6, Additional Construction Requirements.

(4) "State Fire Code" means the State Fire Code adopted by Chapter 5, State Fire Code Act.

(5) "Utah Code" means the Utah Code Annotated (1953), as amended.

Section 4. Section 15A-3-402 is amended to read:

15A-3-402. Amendments to Chapters 1 through 5 of IMC.

(1) In IMC, Table 403.3.1.1, note h is deleted and replaced with the following:

"h. 1. A nail salon shall provide each manicure station where a nail technician files or shapes an acrylic nail, as defined by rule by the Division of [~~Occupational and~~] Professional Licensing, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with:

a. a source capture system equipped with, at minimum, a MERV 8 particulate filter and an activated carbon filter that is capable of filtering and recirculating air to inside space at a rate not less than 50 cfm per station; or

b. a source capture system capable of exhausting not less than 50 cfm per station.

c. A nail salon that complies with Note h. la or h. lb is not required to comply with the labeling, listing, or testing requirements described in International Mechanical Code sections 301.7 or 301.8.

2. For a source capture system described in paragraph 1, the source capture system inlets for exhausting or recirculating air shall be located in accordance with Section 502.20.

3. Where one or more exhausting source capture systems described in paragraph 1 operate continuously during occupancy, the source capture system exhaust rate shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.

4. The requirements of this note apply to:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

(2) In IMC, Section 502.20 is deleted and rewritten as follows:

"502.20 Manicure stations. A nail salon that files or shapes an acrylic nail shall provide each manicure station with a source capture system in accordance with Table 403.3.1.1, note h. For a manicure table that does not have factory-installed source capture system inlets for recirculating or exhausting air, a nail salon shall provide the manicure table with inlets for recirculating or exhausting air located not more than 12 inches (305 mm) horizontally and vertically from the point of any acrylic chemical application.

Exception: Section 502.20 applies to a manicure station in:

a. an existing nail salon that remodels the nail salon after July 1, 2017;

b. a new nail salon that begins construction after July 1, 2017; and

c. all nail salons beginning on July 1, 2020."

Section 5. Section 17-21-18.5 is amended to read:

17-21-18.5. Fees of county recorder.

(1) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, $40;

(b) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, $40, and if an instrument contains more than 10 descriptions, $2 for each additional description;

(c) for recording mining location notices and affidavits of labor affecting mining claims, $40; and

(d) for an affidavit or proof of labor which contains more than 10 mining claims, $2 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, $5;

(c) for recording any plat, $50 for each sheet and $2 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, $5 for one name and $2 for each additional name;

(e) for recording any license issued by the Division of [~~Occupational and~~] Professional Licensing, $40; and

(f) for recording a federal tax lien, $40, and for the discharge of the lien, $40.

(4) A county recorder may not charge more than one recording fee for each instrument, regardless of whether the instrument bears multiple descriptive titles or includes one or more attachments as part of the instrument.

(5) By January 1, 2022, each county shall accept and provide for electronic recording of instruments.

(6) The county may determine and collect a fee for all services not enumerated in this section.

(7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

Section 6. Section 17-22-30 is amended to read:

17-22-30. Prohibition on providing copy of booking photograph -- Statement required -- Criminal liability for false statement -- Remedy for failure to remove or delete.

(1) As used in this section:

(a) "Booking photograph" means a photograph or image of an individual that is generated:

(i) for identification purposes; and

(ii) when the individual is booked into a county jail.

(b) "Publish-for-pay publication" or "publish-for-pay website" means a publication or website that requires the payment of a fee or other consideration in order to remove or delete a booking photograph from the publication or website.

(2) A sheriff may not provide a copy of a booking photograph in any format to a person requesting a copy of the booking photograph if:

(a) the booking photograph will be placed in a publish-for-pay publication or posted to a publish-for-pay website; or

(b) the booking photograph is a protected record under Subsection 63G-2-305[~~(82)~~](81).

(3) (a) A person who requests a copy of a booking photograph from a sheriff shall, at the time of making the request, submit a statement signed by the person affirming that the booking photograph will not be placed in a publish-for-pay publication or posted to a publish-for-pay website.

(b) A person who submits a false statement under Subsection (3)(a) is subject to criminal liability as provided in Section 76-8-504.

(4) (a) Except as provided in Subsection (5), a publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within 30 calendar days after the day on which the individual makes the request.

(b) A publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) may not condition removal or destruction of the booking photograph on the payment of a fee in an amount greater than $50.

(c) If the publish-for-pay publication or publish-for-pay website described in Subsection (4)(a) does not remove and destroy the booking photograph in accordance with Subsection (4)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $50 per day for each day after the 30-day deadline described in Subsection (4)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(5) (a) A publish-for-pay publication or a publish-for-pay website shall remove and destroy a booking photograph of an individual who submits a request for removal and destruction within seven calendar days after the day on which the individual makes the request if:

(i) the booking photograph relates to a criminal charge:

(A) on which the individual was acquitted or not prosecuted; or

(B) that was expunged, vacated, or pardoned; and

(ii) the individual submits, in relation to the request, evidence of a disposition described in Subsection (5)(a)(i).

(b) If the publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) does not remove and destroy the booking photograph in accordance with Subsection (5)(a), the publish-for-pay publication or publish-for-pay website is liable for:

(i) all costs, including reasonable attorney fees, resulting from any legal action that the individual brings in relation to the failure of the publish-for-pay publication or publish-for-pay website to remove and destroy the booking photograph; and

(ii) a civil penalty of $100 per day for each day after the seven-day deadline described in Subsection (5)(a) on which the booking photograph is visible or publicly accessible in the publish-for-pay publication or on the publish-for-pay website.

(c) An act of a publish-for-pay publication or publish-for-pay website described in Subsection (5)(a) that seeks to condition removal or destruction of the booking photograph on the payment of any fee or amount constitutes theft by extortion under Section 76-6-406.

Section 7. Section 17-23-17 is amended to read:

17-23-17. Map of boundary survey -- Procedure for filing -- Contents -- Marking of monuments -- Record of corner changes -- Penalties.

(1) As used in this section:

(a) "Land surveyor" means a surveyor who is licensed to practice land surveying in this state in accordance with Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act.

(b) (i) "Township" means a term used in the context of identifying a geographic area in common surveyor practice.

(ii) "Township" does not mean a metro township as that term is defined in Section 10-2a-403.

(2) (a) (i) Each land surveyor making a boundary survey of lands within this state to establish or reestablish a boundary line or to obtain data for constructing a map or plat showing a boundary line shall file a map of the survey that meets the requirements of this section with the county surveyor or designated office within 90 days of the establishment or reestablishment of a boundary.

(ii) A land surveyor who fails to file a map of the survey as required by Subsection (2)(a)(i) is guilty of an infraction.

(iii) Each failure to file a map of the survey as required by Subsection (2)(a)(i) is a separate violation.

(b) The county surveyor or designated office shall file and index the map of the survey.

(c) The map shall be a public record in the office of the county surveyor or designated office.

(3) This type of map shall show:

(a) the location of survey by quarter section and township and range;

(b) the date of survey;

(c) the scale of drawing and north point;

(d) the distance and course of all lines traced or established, giving the basis of bearing and the distance and course to two or more section corners or quarter corners, including township and range, or to identified monuments within a recorded subdivision;

(e) all measured bearings, angles, and distances separately indicated from those of record;

(f) a written boundary description of property surveyed;

(g) all monuments set and their relation to older monuments found;

(h) a detailed description of monuments found and monuments set, indicated separately;

(i) the surveyor's seal or stamp; and

(j) the surveyor's business name and address.

(4) (a) The map shall contain a written narrative that explains and identifies:

(i) the purpose of the survey;

(ii) the basis on which the lines were established; and

(iii) the found monuments and deed elements that controlled the established or reestablished lines.

(b) If the narrative is a separate document, it shall contain:

(i) the location of the survey by quarter section and by township and range;

(ii) the date of the survey;

(iii) the surveyor's stamp or seal; and

(iv) the surveyor's business name and address.

(c) The map and narrative shall be referenced to each other if they are separate documents.

(5) The map and narrative shall be created on material of a permanent nature on stable base reproducible material in the sizes required by the county surveyor.

(6) (a) Any monument set by a licensed professional land surveyor to mark or reference a point on a property or land line shall be durably and visibly marked or tagged with the registered business name or the letters "L.S." followed by the registration number of the surveyor in charge.

(b) If the monument is set by a licensed land surveyor who is a public officer, it shall be marked with the official title of the office.

(7) (a) If, in the performance of a survey, a surveyor finds or makes any changes to the section corner or quarter-section corner, or their accessories, the surveyor shall complete and submit to the county surveyor or designated office a record of the changes made.

(b) The record shall be submitted within 45 days of the corner visits and shall include the surveyor's seal, business name, and address.

(8) The Utah State Board of Engineers and Land Surveyors Examiners may revoke the license of any land surveyor who fails to comply with the requirements of this section, according to the procedures set forth in Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act.

(9) Each federal or state agency, board, or commission, local district, special service district, or municipal corporation that makes a boundary survey of lands within this state shall comply with this section.

Section 8. Section 26-2-2 is amended to read:

26-2-2. Definitions.

As used in this chapter:

(1) "Adoption document" means an adoption-related document filed with the office, a petition for adoption, a decree of adoption, an original birth certificate, or evidence submitted in support of a supplementary birth certificate.

(2) "Certified nurse midwife" means an individual who:

(a) is licensed to practice as a certified nurse midwife under Title 58, Chapter 44a, Nurse Midwife Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2)~~] (3) "Custodial funeral service director" means a funeral service director who:

(a) is employed by a licensed funeral establishment; and

(b) has custody of a dead body.

[~~(3)~~] (4) "Dead body" or "decedent" means a human body or parts of the human body from the condition of which it reasonably may be concluded that death occurred.

[~~(4)~~] (5) "Dead fetus" means a product of human conception, other than those circumstances described in Subsection 76-7-301(1):

(a) of 20 weeks' gestation or more, calculated from the date the last normal menstrual period began to the date of delivery; and

(b) that was not born alive.

[~~(5)~~] (6) "Declarant father" means a male who claims to be the genetic father of a child, and, along with the biological mother, signs a voluntary declaration of paternity to establish the child's paternity.

[~~(6)~~] (7) "Dispositioner" means:

(a) a person designated in a written instrument, under Subsection 58-9-602(1), as having the right and duty to control the disposition of the decedent, if the person voluntarily acts as the dispositioner; or

(b) the next of kin of the decedent, if:

(i) (A) a person has not been designated as described in Subsection [~~(6)~~] (7)(a); or

(B) the person described in Subsection [~~(6)~~] (7)(a) is unable or unwilling to exercise the right and duty described in Subsection [~~(6)~~] (7)(a); and

(ii) the next of kin voluntarily acts as the dispositioner.

[~~(7)~~] (8) "Fetal remains" means:

(a) an aborted fetus as that term is defined in Section 26-21-33; or

(b) a miscarried fetus as that term is defined in Section 26-21-34.

[~~(8)~~] (9) "File" means the submission of a completed certificate or other similar document, record, or report as provided under this chapter for registration by the state registrar or a local registrar.

[~~(9)~~] (10) "Funeral service director" means the same as that term is defined in Section 58-9-102.

[~~(10)~~] (11) "Health care facility" means the same as that term is defined in Section 26-21-2.

[~~(11)~~] (12) "Health care professional" means a physician, physician assistant, [~~or~~] nurse practitioner, or certified nurse midwife.

[~~(12)~~] (13) "Licensed funeral establishment" means:

(a) if located in Utah, a funeral service establishment, as that term is defined in Section 58-9-102, that is licensed under Title 58, Chapter 9, Funeral Services Licensing Act; or

(b) if located in a state, district, or territory of the United States other than Utah, a funeral service establishment that complies with the licensing laws of the jurisdiction where the establishment is located.

[~~(13)~~] (14) "Live birth" means the birth of a child who shows evidence of life after the child is entirely outside of the mother.

[~~(14)~~] (15) "Local registrar" means a person appointed under Subsection 26-2-3(3)(b).

[~~(15)~~] (16) "Nurse practitioner" means an individual who:

(a) is licensed to practice as an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(16)~~] (17) "Office" means the Office of Vital Records and Statistics within the Department of Health, operating under Title 26, Chapter 2, Utah Vital Statistics Act.

[~~(17)~~] (18) "Physician" means a person licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

[~~(18)~~] (19) "Physician assistant" means an individual who:

(a) is licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act; and

(b) has completed an education program regarding the completion of a certificate of death developed by the department by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(19)~~] (20) "Presumed father" means the father of a child conceived or born during a marriage as defined in Section 30-1-17.2.

[~~(20)~~] (21) "Registration" or "register" means acceptance by the local or state registrar of a certificate and incorporation of the certificate into the permanent records of the state.

[~~(21)~~] (22) "State registrar" means the state registrar of vital records appointed under Subsection 26-2-3(2)(e).

[~~(22)~~] (23) "Vital records" means:

(a) registered certificates or reports of birth, death, fetal death, marriage, divorce, dissolution of marriage, or annulment;

(b) amendments to any of the registered certificates or reports described in Subsection [~~(22)~~] (23)(a);

(c) an adoption document; and

(d) other similar documents.

[~~(23)~~] (24) "Vital statistics" means the data derived from registered certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, divorce, dissolution of marriage, or annulment.

Section 9. Section 26-4-10.5 is amended to read:

26-4-10.5. Medical examiner to report death caused by prescribed controlled substance poisoning or overdose.

(1) If a medical examiner determines that the death of a person who is 12 years [~~of age~~] old or older at the time of death resulted from poisoning or overdose involving a prescribed controlled substance, the medical examiner shall, within three business days after the day on which the medical examiner determines the cause of death, send a written report to the Division of [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, that includes:

(a) the decedent's name;

(b) each drug or other substance found in the decedent's system that may have contributed to the poisoning or overdose, if known; and

(c) the name of each person the medical examiner has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the decedent.

(2) This section does not create a new cause of action.

Section 10. Section 26-6-27 is amended to read:

26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention (CDC), or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the Person, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of [~~Occupational and~~] Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 63A-17-901, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 11. Section 26-7-13 is amended to read:

26-7-13. Opioid and Overdose Fatality Review Committee.

(1) As used in this section:

(a) "Committee" means the Opioid and Overdose Fatality Review Committee created in this section.

(b) "Opioid overdose death" means a death primarily caused by opioids or another substance that closely resembles an opioid.

(2) The department shall establish the Opioid and Overdose Fatality Review Committee.

(3) (a) The committee shall consist of:

(i) the attorney general, or the attorney general's designee;

(ii) a state, county, or municipal law enforcement officer;

(iii) the manager of the department's Violence Injury Program, or the manager's designee;

(iv) an emergency medical services provider;

(v) a representative from the Office of the Medical Examiner;

(vi) a representative from the Division of Substance Abuse and Mental Health;

(vii) a representative from the Office of Vital Records;

(viii) a representative from the Office of Health Care Statistics;

(ix) a representative from the Division of [~~Occupational and~~] Professional Licensing;

(x) a healthcare professional who specializes in the prevention, diagnosis, and treatment of substance use disorders;

(xi) a representative from a state or local jail or detention center;

(xii) a representative from the Department of Corrections;

(xiii) a representative from Juvenile Justice Services;

(xiv) a representative from the Department of Public Safety;

(xv) a representative from the Commission on Criminal and Juvenile Justice;

(xvi) a physician from a Utah-based medical center; and

(xvii) a physician from a nonprofit vertically integrated health care organization.

(b) The president of the Senate may appoint one member of the Senate, and the speaker of the House of Representatives may appoint one member of the House of Representatives, to serve on the committee.

(4) The executive director of the department shall appoint a committee coordinator.

(5) (a) The department shall give the committee access to all reports, records, and other documents that are relevant to the committee's responsibilities under Subsection (6) including reports, records, or documents that are private, controlled, or protected under Title 63G, Chapter 2, Government Records Access and Management Act.

(b) In accordance with Subsection 63G-2-206(6), the committee is subject to the same restrictions on disclosure of a report, record, or other document received under Subsection (5)(a) as the department.

(6) The committee shall:

(a) conduct a multidisciplinary review of available information regarding a decedent of an opioid overdose death, which shall include:

(i) consideration of the decedent's points of contact with health care systems, social services systems, criminal justice systems, and other systems; and

(ii) identification of specific factors that put the decedent at risk for opioid overdose;

(b) promote cooperation and coordination among government entities involved in opioid misuse, abuse, or overdose prevention;

(c) develop an understanding of the causes and incidence of opioid overdose deaths in the state;

(d) make recommendations for changes to law or policy that may prevent opioid overdose deaths;

(e) inform public health and public safety entities of emerging trends in opioid overdose deaths;

(f) monitor overdose trends on non-opioid overdose deaths; and

(g) review non-opioid overdose deaths in the manner described in Subsection (6)(a), when the committee determines that there are a substantial number of overdose deaths in the state caused by the use of a non-opioid.

(7) A committee may interview or request information from a staff member, a provider, or any other person who may have knowledge or expertise that is relevant to the review of an opioid overdose death.

(8) A majority vote of committee members present constitutes the action of the committee.

(9) The committee may meet up to eight times each year.

(10) When an individual case is discussed in a committee meeting under Subsection (6)(a), (6)(g), or (7), the committee shall close the meeting in accordance with Sections 52-4-204 through 52-4-206.

Section 12. Section 26-8a-310 is amended to read:

26-8a-310. Background clearance for emergency medical service personnel.

(1) Subject to Section 26-8a-310.5, the department shall determine whether to grant background clearance for an individual seeking licensure or certification under Section 26-8a-302 from whom the department receives:

(a) the individual's social security number, fingerprints, and other personal identification information specified by the department under Subsection (4); and

(b) any fees established by the department under Subsection (10).

(2) The department shall determine whether to deny or revoke background clearance for individuals for whom the department has previously granted background clearance.

(3) The department shall determine whether to grant, deny, or revoke background clearance for an individual based on an initial and ongoing evaluation of information the department obtains under Subsections (5) and (11), which, at a

minimum, shall include an initial criminal background check of state, regional, and national databases using the individual's fingerprints.

(4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that specify:

(a) the criteria the department will use under Subsection (3) to determine whether to grant, deny, or revoke background clearance; and

(b) the other personal identification information an individual seeking licensure or certification under Section 26-8a-302 must submit under Subsection (1).

(5) To determine whether to grant, deny, or revoke background clearance, the department may access and evaluate any of the following:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) adjudications by a juvenile court of committing an act that if committed by an adult would be a felony or misdemeanor, if:

(i) the applicant is under 28 years old; or

(ii) the applicant:

(A) is over 28 years old; and

(B) has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor;

(c) juvenile court arrest, adjudication, and disposition records, other than those under Subsection (5)(b), as allowed under Section 78A-6-209;

(d) child abuse or neglect findings described in Section 80-3-404;

(e) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(f) the Department of Human Services' Division of Aging and Adult Services database of reports of vulnerable adult abuse, neglect, or exploitation, described in Section 62A-3-311.1;

(g) Division of [~~Occupational and~~] Professional Licensing records of licensing and certification under Title 58, Occupations and Professions;

(h) records in other federal criminal background databases available to the state; and

(i) any other records of arrests, warrants for arrest, convictions, pleas in abeyance, pending diversion agreements, or dispositions.

(6) Except for the Department of Public Safety, an agency may not charge the department for information accessed under Subsection (5).

(7) When evaluating information under Subsection (3), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(8) The department shall adopt measures to protect the security of information the department accesses under Subsection (5), which shall include limiting access by department employees to those responsible for acquiring, evaluating, or otherwise processing the information.

(9) The department may disclose personal identification information the department receives under Subsection (1) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (5)(d) through (f).

(10) The department may charge fees, in accordance with Section 63J-1-504, to pay for:

(a) the cost of obtaining, storing, and evaluating information needed under Subsection (3), both initially and on an ongoing basis, to determine whether to grant, deny, or revoke background clearance; and

(b) other department costs related to granting, denying, or revoking background clearance.

(11) The Criminal Investigations and Technical Services Division within the Department of Public Safety shall:

(a) retain, separate from other division records, personal information under Subsection (1), including any fingerprints sent to it by the Department of Health; and

(b) notify the Department of Health upon receiving notice that an individual for whom personal information has been retained is the subject of:

(i) a warrant for arrest;

(ii) an arrest;

(iii) a conviction, including a plea in abeyance; or

(iv) a pending diversion agreement.

(12) The department shall use the Direct Access Clearance System database created under Section 26-21-209 to manage information about the background clearance status of each individual for whom the department is required to make a determination under Subsection (1).

(13) Clearance granted for an individual licensed or certified under Section 26-8a-302 is valid until two years after the day on which the individual is no longer licensed or certified in Utah as emergency medical service personnel.

Section 13. Section 26-15-3 is amended to read:

26-15-3. Department to advise regarding the plumbing code.

(1) The department shall advise the Division of [~~Occupational and~~] Professional Licensing and the

Uniform Building Code Commission with respect to the adoption of a state construction code under Section 15A-1-204, including providing recommendations as to:

(a) a specific edition of a plumbing code issued by a nationally recognized code authority; and

(b) any amendments to a nationally recognized code.

(2) The department may enforce the plumbing code adopted under Section 15A-1-204.

(3) Section 58-56-9 does not apply to health inspectors acting under this section.

Section 14. Section 26-21-22 is amended to read:

26-21-22. Reporting of disciplinary information -- Immunity from liability.

A health care facility licensed under this chapter which reports disciplinary information on a licensed nurse to the Division of [~~Occupational and~~] Professional Licensing within the Department of Commerce as required by Section 58-31b-702 is entitled to the immunity from liability provided by that section.

Section 15. Section 26-21-26 is amended to read:

26-21-26. General acute hospital to report prescribed controlled substance poisoning or overdose.

(1) If a person who is 12 years [~~of age~~] old or older is admitted to a general acute hospital for poisoning or overdose involving a prescribed controlled substance, the general acute hospital shall, within three business days after the day on which the person is admitted, send a written report to the Division of [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, that includes:

(a) the patient's name and date of birth;

(b) each drug or other substance found in the person's system that may have contributed to the poisoning or overdose, if known;

(c) the name of each person who the general acute hospital has reason to believe may have prescribed a controlled substance described in Subsection (1)(b) to the person, if known; and

(d) the name of the hospital and the date of admission.

(2) Nothing in this section may be construed as creating a new cause of action.

Section 16. Section 26-21-204 is amended to read:

26-21-204. Clearance.

(1) The department shall determine whether to grant clearance for each applicant for whom it receives:

(a) the personal identification information specified by the department under Subsection 26-21-204(4)(b); and

(b) any fees established by the department under Subsection 26-21-204(9).

(2) The department shall establish a procedure for obtaining and evaluating relevant information concerning covered individuals, including fingerprinting the applicant and submitting the prints to the Criminal Investigations and Technical Services Division of the Department of Public Safety for checking against applicable state, regional, and national criminal records files.

(3) The department may review the following sources to determine whether an individual should be granted or retain clearance, which may include:

(a) Department of Public Safety arrest, conviction, and disposition records described in Title 53, Chapter 10, Criminal Investigations and Technical Services Act, including information in state, regional, and national records files;

(b) juvenile court arrest, adjudication, and disposition records, as allowed under Section 78A-6-209;

(c) federal criminal background databases available to the state;

(d) the Department of Human Services' Division of Child and Family Services Licensing Information System described in Section 62A-4a-1006;

(e) child abuse or neglect findings described in Section 80-3-404;

(f) the Department of Human Services' Division of Aging and Adult Services vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(g) registries of nurse aids described in 42 C.F.R. Sec. 483.156;

(h) licensing and certification records of individuals licensed or certified by the Division of [~~Occupational and~~] Professional Licensing under Title 58, Occupations and Professions; and

(i) the List of Excluded Individuals and Entities database maintained by the United States Department of Health and Human Services' Office of Inspector General.

(4) The department shall adopt rules that:

(a) specify the criteria the department will use to determine whether an individual is granted or retains clearance:

(i) based on an initial evaluation and ongoing review of information under Subsection (3); and

(ii) including consideration of the relationship the following may have to patient and resident protection:

(A) warrants for arrest;

(B) arrests;

(C) convictions, including pleas in abeyance;

(D) pending diversion agreements;

(E) adjudications by a juvenile court under Section 80-6-701 if the individual is over 28 years old and has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, or the individual is under 28 years old; and

(F) any other findings under Subsection (3); and

(b) specify the personal identification information that must be submitted by an individual or covered body with an application for clearance, including:

(i) the applicant's Social Security number; and

(ii) fingerprints.

(5) For purposes of Subsection (4)(a), the department shall classify a crime committed in another state according to the closest matching crime under Utah law, regardless of how the crime is classified in the state where the crime was committed.

(6) The Department of Public Safety, the Administrative Office of the Courts, the Department of Human Services, the Division of [~~Occupational and~~] Professional Licensing, and any other state agency or political subdivision of the state:

(a) shall allow the department to review the information the department may review under Subsection (3); and

(b) except for the Department of Public Safety, may not charge the department for access to the information.

(7) The department shall adopt measures to protect the security of the information it reviews under Subsection (3) and strictly limit access to the information to department employees responsible for processing an application for clearance.

(8) The department may disclose personal identification information specified under Subsection (4)(b) to the Department of Human Services to verify that the subject of the information is not identified as a perpetrator or offender in the information sources described in Subsections (3)(d) through (f).

(9) The department may establish fees, in accordance with Section 63J-1-504, for an application for clearance, which may include:

(a) the cost of obtaining and reviewing information under Subsection (3);

(b) a portion of the cost of creating and maintaining the Direct Access Clearance System database under Section 26-21-209; and

(c) other department costs related to the processing of the application and the ongoing review of information pursuant to Subsection (4)(a) to determine whether clearance should be retained.

Section 17. Section 26-49-205 is amended to read:

26-49-205. Provision of volunteer health or veterinary services -- Administrative sanctions -- Authority of Division of Professional Licensing.

(1) Subject to Subsections (2) and (3), a volunteer health practitioner shall comply with the scope of practice for a similarly licensed practitioner established by the licensing provisions, practice acts, or other Utah laws.

(2) Except as otherwise provided in Subsection (3), this chapter does not authorize a volunteer health practitioner to provide services that are outside the volunteer health practitioner's scope of practice, even if a similarly licensed practitioner in Utah would be permitted to provide the services.

(3) (a) In accordance with this section and Section 58-1-405, the Division of [~~Occupational and~~] Professional Licensing may issue an order modifying or restricting the health or veterinary services that volunteer health practitioners may provide pursuant to this chapter.

(b) An order under this subsection takes effect immediately, without prior notice or comment, and is not a rule within the meaning of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, or a directive within the meaning of Title 63G, Chapter 4, Administrative Procedures Act.

(4) A host entity may restrict the health or veterinary services that a volunteer health practitioner may provide under this chapter.

(5) (a) A volunteer health practitioner does not engage in unauthorized practice unless the volunteer health practitioner has reason to know of any limitation, modification, or restriction under this chapter, Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or that a similarly licensed practitioner in Utah would not be permitted to provide the services.

(b) A volunteer health practitioner has reason to know of a limitation, modification, or restriction, or that a similarly licensed practitioner in Utah would not be permitted to provide a service, if:

(i) the volunteer health practitioner knows the limitation, modification, or restriction exists or that a similarly licensed practitioner in Utah would not be permitted to provide the service; or

(ii) from all the facts and circumstances known to the volunteer health practitioner at the relevant time, a reasonable person would conclude that:

(A) the limitation, modification, or restriction exists; or

(B) a similarly licensed practitioner in Utah would not be permitted to provide the service.

(6) In addition to the authority granted by law of Utah other than this chapter to regulate the conduct of volunteer health practitioners, the Division of [~~Occupational and~~] Professional Licensing Act or other disciplinary authority in Utah:

(a) may impose administrative sanctions upon a volunteer health practitioner licensed in Utah for conduct outside of Utah in response to an out-of-state emergency;

(b) may impose administrative sanctions upon a volunteer health practitioner not licensed in Utah for conduct in Utah in response to an in-state emergency; and

(c) shall report any administrative sanctions imposed upon a volunteer health practitioner licensed in another state to the appropriate licensing board or other disciplinary authority in any other state in which the volunteer health practitioner is known to be licensed.

(7) In determining whether or not to impose administrative sanctions under Subsection (6), the Division of [~~Occupational and~~] Professional Licensing Act or other disciplinary authority shall consider the circumstances in which the conduct took place, including:

(a) any exigent circumstances; and

(b) the volunteer health practitioner's scope of practice, education, training, experience, and specialized skill.

Section 18. Section 26-55-105 is amended to read:

26-55-105. Standing prescription drug orders for an opiate antagonist.

(1) Notwithstanding Title 58, Chapter 17b, Pharmacy Practice Act, a person licensed under Title 58, Chapter 17b, Pharmacy Practice Act, to dispense an opiate antagonist may dispense the opiate antagonist:

(a) pursuant to a standing prescription drug order made in accordance with Subsection (2); and

(b) without any other prescription drug order from a person licensed to prescribe an opiate antagonist.

(2) A physician who is licensed to prescribe an opiate antagonist, including a physician acting in the physician's capacity as an employee of the department, or a medical director of a local health department, as defined in Section 26A-1-102, may issue a standing prescription drug order authorizing the dispensing of the opiate antagonist under Subsection (1) in accordance with a protocol that:

(a) limits dispensing of the opiate antagonist to:

(i) an individual who is at increased risk of experiencing an opiate-related drug overdose event;

(ii) a family member of, friend of, or other person, including a person described in Subsections 26-55-107(1)(a)(i)(A) through (1)(a)(i)(F), that is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event; or

(iii) an overdose outreach provider for:

(A) furnishing to an individual who is at increased risk of experiencing an opiate-related drug overdose event, or to a family member of, friend of, or other individual who is in a position to assist an individual who is at increased risk of experiencing an opiate-related drug overdose event, as provided in Section 26-55-106; or

(B) administering to an individual experiencing an opiate-related drug overdose event;

(b) requires the physician to specify the persons, by professional license number, authorized to dispense the opiate antagonist;

(c) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the opiate antagonist;

(d) requires those authorized by the physician to dispense the opiate antagonist to make and retain a record of each person to whom the opiate antagonist is dispensed, which shall include:

(i) the name of the person;

(ii) the drug dispensed; and

(iii) other relevant information; and

(e) is approved by the Division of [~~Occupational and~~] Professional Licensing within the Department of Commerce by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 19. Section 26-55-108 is amended to read:

26-55-108. Coprescription guidelines.

(1) As used in this section:

(a) "Controlled substance prescriber" means the same as that term is defined in Section 58-37-6.5.

(b) "Coprescribe" means to issue a prescription for an opiate antagonist with a prescription for an opiate.

(2) The department shall, in consultation with the Physicians Licensing Board created in Section 58-67-201, the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, and the [~~Department of Occupational and~~] Division of Professional Licensing created in Section 58-1-103, establish by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, scientifically based guidelines for controlled substance prescribers to coprescribe an opiate antagonist to a patient.

Section 20. Section 26-60-104 is amended to read:

26-60-104. Enforcement.

(1) The Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 58, Occupations and Professions.

(2) The department is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under this title.

(3) The Department of Human Services created in Section 62A-1-102 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

Section 21. Section 26-61-202 is amended to read:

26-61-202. Cannabinoid Product Board -- Duties.

(1) The board shall review any available scientific research related to the human use of cannabis, a cannabinoid product, or an expanded cannabinoid product that:

(a) was conducted under a study approved by an IRB;

(b) was conducted or approved by the federal government; or

(c) (i) was conducted in another country; and

(ii) demonstrates, as determined by the board, a sufficient level of scientific reliability and significance to merit the board's review.

(2) Based on the research described in Subsection (1), the board shall evaluate the safety and efficacy of cannabis, cannabinoid products, and expanded cannabinoid products, including:

(a) medical conditions that respond to cannabis, cannabinoid products, and expanded cannabinoid products;

(b) cannabis and cannabinoid dosage amounts and medical dosage forms;

(c) interaction of cannabis, cannabinoid products, and expanded cannabinoid products with other treatments; and

(d) contraindications, adverse reactions, and potential side effects from use of cannabis, cannabinoid products, and expanded cannabinoid products.

(3) Based on the board's evaluation under Subsection (2), the board shall develop guidelines for treatment with cannabis, a cannabinoid product, and an expanded cannabinoid product that include:

(a) a list of medical conditions, if any, that the board determines are appropriate for treatment with cannabis, a cannabis product, a cannabinoid product, or an expanded cannabinoid product;

(b) a list of contraindications, side effects, and adverse reactions that are associated with use of cannabis, cannabinoid products, or expanded cannabinoid products;

(c) a list of potential drug-drug interactions between medications that the United States Food and Drug Administration has approved and cannabis, cannabinoid products, and expanded cannabinoid products; and

(d) any other guideline the board determines appropriate.

(4) The board shall submit the guidelines described in Subsection (3) to the director of the Division of [~~Occupational and~~] Professional Licensing.

(5) Guidelines that the board develops under this section may not limit the availability of cannabis, cannabinoid products, or expanded cannabinoid products permitted under Title 4, Chapter 41a, Cannabis Production Establishments, or Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 22. Section 26-61a-103 is amended to read:

26-61a-103. Electronic verification system.

(1) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall:

(a) enter into a memorandum of understanding in order to determine the function and operation of the state electronic verification system in accordance with Subsection (2);

(b) coordinate with the Division of Purchasing, under Title 63G, Chapter 6a, Utah Procurement Code, to develop a request for proposals for a third-party provider to develop and maintain the state electronic verification system in coordination with the Division of Technology Services; and

(c) select a third-party provider who:

(i) meets the requirements contained in the request for proposals issued under Subsection (1)(b); and

(ii) may not have any commercial or ownership interest in a cannabis production establishment or a medical cannabis pharmacy.

(2) The Department of Agriculture and Food, the department, the Department of Public Safety, and the Division of Technology Services shall ensure that, on or before March 1, 2020, the state electronic verification system described in Subsection (1):

(a) allows an individual to apply for a medical cannabis patient card or, if applicable, a medical cannabis guardian card, provided that the card may not become active until:

(i) the relevant qualified medical provider completes the associated medical cannabis recommendation; or

(ii) for a medical cannabis card related to a limited medical provider's recommendation, the medical cannabis pharmacy completes the recording described in Subsection (2)(d);

(b) allows an individual to apply to renew a medical cannabis patient card or a medical cannabis guardian card in accordance with Section 26-61a-201;

(c) allows a qualified medical provider, or an employee described in Subsection (3) acting on behalf of the qualified medical provider, to:

(i) access dispensing and card status information regarding a patient:

(A) with whom the qualified medical provider has a provider-patient relationship; and

(B) for whom the qualified medical provider has recommended or is considering recommending a medical cannabis card;

(ii) electronically recommend, after an initial face-to-face visit with a patient described in Subsection 26-61a-201(4)(b), treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form and optionally recommend dosing guidelines;

(iii) electronically renew a recommendation to a medical cannabis patient cardholder or medical cannabis guardian cardholder:

(A) using telehealth services, for the qualified medical provider who originally recommended a medical cannabis treatment during a face-to-face visit with the patient; or

(B) during a face-to-face visit with the patient, for a qualified medical provider who did not originally recommend the medical cannabis treatment during a face-to-face visit; and

(iv) notate a determination of physical difficulty or undue hardship, described in Subsection 26-61a-202(1), to qualify a patient to designate a caregiver;

(d) beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facility medical cannabis pharmacy recording, allows a medical cannabis pharmacy medical provider or medical cannabis pharmacy agent, in accordance with Subsection 26-61a-501(11)(a), to record:

(i) a patient's recommendation from a limited medical provider, including any directions of use, dosing guidelines, or caregiver indications from the limited medical provider; and

(ii) a limited medical provider's renewal of the provider's previous recommendation;

(e) connects with:

(i) an inventory control system that a medical cannabis pharmacy uses to track in real time and archive purchases of any cannabis in a medicinal dosage form, cannabis product in a medicinal dosage form, or a medical cannabis device, including:

(A) the time and date of each purchase;

(B) the quantity and type of cannabis, cannabis product, or medical cannabis device purchased;

(C) any cannabis production establishment, any medical cannabis pharmacy, or any medical cannabis courier associated with the cannabis, cannabis product, or medical cannabis device; and

(D) the personally identifiable information of the medical cannabis cardholder who made the purchase; and

(ii) any commercially available inventory control system that a cannabis production establishment utilizes in accordance with Section 4-41a-103 to use data that the Department of Agriculture and Food requires by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, from the inventory tracking system that a licensee uses to track and confirm compliance;

(f) provides access to:

(i) the department to the extent necessary to carry out the department's functions and responsibilities under this chapter;

(ii) the Department of Agriculture and Food to the extent necessary to carry out the functions and responsibilities of the Department of Agriculture and Food under Title 4, Chapter 41a, Cannabis Production Establishments; and

(iii) the Division of [~~Occupational and~~] Professional Licensing to the extent necessary to carry out the functions and responsibilities related to the participation of the following in the recommendation and dispensing of medical cannabis:

(A) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(B) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(C) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(D) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(E) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

(g) provides access to and interaction with the state central patient portal;

(h) communicates dispensing information from a record that a medical cannabis pharmacy submits to the state electronic verification system under Subsection 26-61a-502(6)(a)(ii) to the controlled substance database;

(i) provides access to state or local law enforcement:

(i) during a law enforcement encounter, without a warrant, using the individual's driver license or state ID, only for the purpose of determining if the individual subject to the law enforcement encounter has a valid medical cannabis card; or

(ii) after obtaining a warrant; and

(j) creates a record each time a person accesses the system that identifies the person who accesses the system and the individual whose records the person accesses.

(3) (a) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing employee access under this

Subsection (3), an employee of a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider provides written notice to the department of the employee's identity and the designation described in Subsection (3)(a)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(b) An employee of a business that employs a qualified medical provider may access the electronic verification system for a purpose described in Subsection (2)(c) on behalf of the qualified medical provider if:

(i) the qualified medical provider has designated the employee as an individual authorized to access the electronic verification system on behalf of the qualified medical provider;

(ii) the qualified medical provider and the employing business jointly provide written notice to the department of the employee's identity and the designation described in Subsection (3)(b)(i); and

(iii) the department grants to the employee access to the electronic verification system.

(4) (a) As used in this Subsection (4), "prescribing provider" means:

(i) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(b) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of allowing provider access under this Subsection (4), a prescribing provider may access information in the electronic verification system regarding a patient the prescribing provider treats.

(5) The department may release limited data that the system collects for the purpose of:

(a) conducting medical and other department approved research;

(b) providing the report required by Section 26-61a-703; and

(c) other official department purposes.

(6) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(a) the limitations on access to the data in the state electronic verification system as described in this section; and

(b) standards and procedures to ensure accurate identification of an individual requesting information or receiving information in this section.

(7) (a) Any person who knowingly and intentionally releases any information in the state electronic verification system in violation of this section is guilty of a third degree felony.

(b) Any person who negligently or recklessly releases any information in the state electronic verification system in violation of this section is guilty of a class C misdemeanor.

(8) (a) Any person who obtains or attempts to obtain information from the state electronic verification system by misrepresentation or fraud is guilty of a third degree felony.

(b) Any person who obtains or attempts to obtain information from the state electronic verification system for a purpose other than a purpose this chapter authorizes is guilty of a third degree felony.

(9) (a) Except as provided in Subsection (9)(e), a person may not knowingly and intentionally use, release, publish, or otherwise make available to any other person information obtained from the state electronic verification system for any purpose other than a purpose specified in this section.

(b) Each separate violation of this Subsection (9) is:

(i) a third degree felony; and

(ii) subject to a civil penalty not to exceed $5,000.

(c) The department shall determine a civil violation of this Subsection (9) in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(d) Civil penalties assessed under this Subsection (9) shall be deposited into the General Fund.

(e) This Subsection (9) does not prohibit a person who obtains information from the state electronic verification system under Subsection (2)(a), (c), or (f) from:

(i) including the information in the person's medical chart or file for access by a person authorized to review the medical chart or file;

(ii) providing the information to a person in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996; or

(iii) discussing or sharing that information about the patient with the patient.

Section 23. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education --

Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~] Professional Licensing and:

(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;

(B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of [~~Occupational and~~] Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(5) A recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends medical cannabis treatment in accordance with this chapter.

(b) For purposes of Subsection (6)(a), the communication of the following, through a website, by a qualified medical provider, does not constitute advertising:

(i) a green cross;

(ii) a qualifying condition that the individual treats;

(iii) the individual's registration as a qualified medical provider; or

(iv) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a recommending medical provider or pharmacy medical provider.

(10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 24. Section 26-61a-303 is amended to read:

26-61a-303. Renewal.

(1) The department shall renew a license under this part every year if, at the time of renewal:

(a) the licensee meets the requirements of Section 26-61a-301;

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(c) if the medical cannabis pharmacy changes the operating plan described in Section 26-61a-304 that the department approved under Subsection 26-61a-301(2)(b)(iv), the department approves the new operating plan.

(2) (a) If a licensed medical cannabis pharmacy abandons the medical cannabis pharmacy's license, the department shall publish notice of an available license:

(i) in a newspaper of general circulation for the geographic area in which the medical cannabis pharmacy license is available; or

(ii) on the Utah Public Notice Website established in Section 63A-16-601.

(b) The department may establish criteria, in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to identify the medical cannabis pharmacy actions that constitute abandonment of a medical cannabis pharmacy license.

Section 25. Section 26-61a-401 is amended to read:

26-61a-401. Medical cannabis pharmacy agent -- Registration.

(1) An individual may not serve as a medical cannabis pharmacy agent of a medical cannabis pharmacy unless the department registers the individual as a medical cannabis pharmacy agent.

(2) A recommending medical provider may not act as a medical cannabis pharmacy agent, have a financial or voting interest of 2% or greater in a medical cannabis pharmacy, or have the power to direct or cause the management or control of a medical cannabis pharmacy.

(3) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis pharmacy on behalf of a prospective medical cannabis pharmacy agent, register and issue a medical cannabis pharmacy agent registration card to the prospective agent if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective agent seeks to act as the medical cannabis pharmacy agent; and

(C) the submission required under Subsection (3)(b); and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis pharmacy agent registration card within less than one year after the expiration of the applicant's previous medical cannabis pharmacy agent registration card, each prospective agent described in Subsection (3)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (3)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (3)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (3)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (3)(d)(i) to the Bureau of Criminal Identification.

(4) The department shall designate, on an individual's medical cannabis pharmacy agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent.

(5) A medical cannabis pharmacy agent shall comply with a certification standard that the department develops in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule, in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) The department shall ensure that the certification standard described in Subsection (5) includes training in:

(a) Utah medical cannabis law; and

(b) medical cannabis pharmacy best practices.

(7) The department may revoke the medical cannabis pharmacy agent registration card of, or refuse to issue a medical cannabis pharmacy agent registration card to, an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(8) (a) A medical cannabis pharmacy agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis pharmacy agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis pharmacy agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (3)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

Section 26. Section 26-61a-403 is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of [~~Occupational and~~] Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of [~~Occupational and~~] Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), an individual may not advertise that the individual dispenses medical cannabis.

(b) For purposes of this Subsection (5), the communication of the following, through a website, by a pharmacy medical provider, does not constitute advertising:

(i) a green cross;

(ii) the individual's registration as a pharmacy medical provider; or

(iii) a scientific study regarding medical cannabis use.

Section 27. Section 26-61a-501 is amended to read:

26-61a-501. Operating requirements -- General.

(1) (a) A medical cannabis pharmacy shall operate:

(i) at the physical address provided to the department under Section 26-61a-301; and

(ii) in accordance with the operating plan provided to the department under Section 26-61a-301 and, if applicable, 26-61a-304.

(b) A medical cannabis pharmacy shall notify the department before a change in the medical cannabis pharmacy's physical address or operating plan.

(2) An individual may not enter a medical cannabis pharmacy unless the individual:

(a) is at least 18 years old or is an emancipated minor under Section 80-7-105; and

(b) except as provided in Subsection (5):

(i) possesses a valid:

(A) medical cannabis pharmacy agent registration card;

(B) pharmacy medical provider registration card; or

(C) medical cannabis card;

(ii) is an employee of the department or the Department of Agriculture and Food performing an inspection under Section 26-61a-504; or

(iii) is another individual as the department provides.

(3) A medical cannabis pharmacy may not employ an individual who is younger than 21 years old.

(4) A medical cannabis pharmacy may not employ an individual who has been convicted of a felony under state or federal law.

(5) Notwithstanding Subsection (2)(a), a medical cannabis pharmacy may authorize an individual who is not a medical cannabis pharmacy agent or pharmacy medical provider to access the medical cannabis pharmacy if the medical cannabis pharmacy tracks and monitors the individual at all times while the individual is at the medical cannabis pharmacy and maintains a record of the individual's access.

(6) A medical cannabis pharmacy shall operate in a facility that has:

(a) a single, secure public entrance;

(b) a security system with a backup power source that:

(i) detects and records entry into the medical cannabis pharmacy; and

(ii) provides notice of an unauthorized entry to law enforcement when the medical cannabis pharmacy is closed; and

(c) a lock on each area where the medical cannabis pharmacy stores cannabis or a cannabis product.

(7) A medical cannabis pharmacy shall post, both clearly and conspicuously in the medical cannabis pharmacy, the limit on the purchase of cannabis described in Subsection 26-61a-502(2).

(8) Except for an emergency situation described in Subsection 26-61a-201(3)(c), a medical cannabis pharmacy may not allow any individual to consume cannabis on the property or premises of the medical cannabis pharmacy.

(9) A medical cannabis pharmacy may not sell cannabis or a cannabis product without first indicating on the cannabis or cannabis product label the name of the medical cannabis pharmacy.

(10) (a) Each medical cannabis pharmacy shall retain in the pharmacy's records the following information regarding each recommendation underlying a transaction:

(i) the recommending medical provider's name, address, and telephone number;

(ii) the patient's name and address;

(iii) the date of issuance;

(iv) directions of use and dosing guidelines or an indication that the recommending medical provider did not recommend specific directions of use or dosing guidelines; and

(v) if the patient did not complete the transaction, the name of the medical cannabis cardholder who completed the transaction.

(b) (i) Except as provided in Subsection (10)(b)(iii), a medical cannabis pharmacy may not sell medical cannabis unless the medical cannabis has a label securely affixed to the container indicating the following minimum information:

(A) the name, address, and telephone number of the medical cannabis pharmacy;

(B) the unique identification number that the medical cannabis pharmacy assigns;

(C) the date of the sale;

(D) the name of the patient;

(E) the name of the recommending medical provider who recommended the medical cannabis treatment;

(F) directions for use and cautionary statements, if any;

(G) the amount dispensed and the cannabinoid content;

(H) the suggested use date;

(I) for unprocessed cannabis flower, the legal use termination date; and

(J) any other requirements that the department determines, in consultation with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy.

(ii) A medical cannabis pharmacy is exempt from the following labeling requirements if the information is already provided on the product label that a cannabis production establishment affixes:

(A) Subsection (10)(b)(i)(B) regarding a unique identification number;

(B) Subsection (10)(b)(i)(F) regarding directions for use and cautionary statements;

(C) Subsection (10)(b)(i)(G) regarding amount and cannabinoid content; and

(D) Subsection (10)(b)(i)(H) regarding a suggested use date.

(iii) A medical cannabis pharmacy may sell medical cannabis to another medical cannabis pharmacy without a label described in Subsection (10)(b)(i).

(11) A pharmacy medical provider or medical cannabis pharmacy agent shall:

(a) upon receipt of an order from a limited medical provider in accordance with Subsections 26-61a-106(1)(b) and (c):

(i) for a written order, contact the limited medical provider or the limited medical provider's office to verify the validity of the recommendation; and

(ii) for a written order that the pharmacy medical provider or medical cannabis pharmacy agent verifies under Subsection (11)(a)(i) or an electronic order, enter the limited medical provider's recommendation or renewal, including any associated directions of use, dosing guidelines, or caregiver indication, in the state electronic verification system;

(b) in processing an order for a holder of a conditional medical cannabis card described in Subsection 26-61a-201(1)(b) that appears irregular or suspicious in the judgment of the pharmacy medical provider or medical cannabis pharmacy agent, contact the recommending medical provider or the recommending medical provider's office to verify the validity of the recommendation before processing the cardholder's order;

(c) unless the medical cannabis cardholder has had a consultation under Subsection 26-61a-502(4) or (5), verbally offer to a medical cannabis cardholder at the time of a purchase of cannabis, a cannabis product, or a medical cannabis device, personal counseling with the pharmacy medical provider; and

(d) provide a telephone number or website by which the cardholder may contact a pharmacy medical provider for counseling.

(12) (a) A medical cannabis pharmacy may create a medical cannabis disposal program that allows an individual to deposit unused or excess medical cannabis, cannabis residue from a medical cannabis device, or medical cannabis product in a locked box or other secure receptacle within the medical cannabis pharmacy.

(b) A medical cannabis pharmacy with a disposal program described in Subsection (12)(a) shall ensure that only a medical cannabis pharmacy agent or pharmacy medical provider can access deposited medical cannabis or medical cannabis products.

(c) A medical cannabis pharmacy shall dispose of any deposited medical cannabis or medical cannabis products by:

(i) rendering the deposited medical cannabis or medical cannabis products unusable and unrecognizable before transporting deposited medical cannabis or medical cannabis products from the medical cannabis pharmacy; and

(ii) disposing of the deposited medical cannabis or medical cannabis products in accordance with:

(A) federal and state law, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, protocols for a recall of cannabis and cannabis products by a medical cannabis pharmacy.

Section 28. Section 26-61a-503 is amended to read:

26-61a-503. Partial filling.

(1) As used in this section, "partially fill" means to provide less than the full amount of cannabis or cannabis product that the recommending medical provider recommends, if the recommending medical provider recommended specific dosing parameters.

(2) A pharmacy medical provider may partially fill a recommendation for a medical cannabis treatment at the request of the recommending

medical provider who issued the medical cannabis treatment recommendation or the medical cannabis cardholder.

(3) The department shall make rules, in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying how to record the date, quantity supplied, and quantity remaining of a partially filled medical cannabis treatment recommendation.

(4) A pharmacy medical provider who is a pharmacist may, upon the request of a medical cannabis cardholder, determine different dosing parameters, subject to the dosing limits in Subsection 26-61a-502(2), to fill the quantity remaining of a partially filled medical cannabis treatment recommendation if:

(a) the pharmacy medical provider determined dosing parameters for the partial fill under Subsection 26-61a-502(4) or (5); and

(b) the medical cannabis cardholder reports that:

(i) the partial fill did not substantially affect the qualifying condition underlying the medical cannabis recommendation; or

(ii) the patient experienced an adverse reaction to the partial fill or was otherwise unable to successfully use the partial fill.

Section 29. Section 26-61a-506 is amended to read:

26-61a-506. Medical cannabis transportation.

(1) Only the following individuals may transport medical cannabis under this chapter:

(a) a registered medical cannabis pharmacy agent;

(b) a registered medical cannabis courier agent;

(c) a registered pharmacy medical provider; or

(d) a medical cannabis cardholder who is transporting a medical cannabis treatment that the cardholder is authorized to transport.

(2) Except for an individual with a valid medical cannabis card under this chapter who is transporting a medical cannabis treatment that the cardholder is authorized to transport, an individual described in Subsection (1) shall possess a transportation manifest that:

(a) includes a unique identifier that links the cannabis or cannabis product to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis that the individual is transporting; and

(c) identifies the departure and arrival times and locations of the individual transporting the medical cannabis.

(3) (a) In addition to the requirements in Subsections (1) and (2), the department may establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis to ensure that the medical cannabis remains safe for human consumption.

(b) The transportation described in Subsection (1)(a) is limited to transportation between a medical cannabis pharmacy and:

(i) another medical cannabis pharmacy; or

(ii) for a medical cannabis shipment, a medical cannabis cardholder's home address.

(4) (a) It is unlawful for an individual described in Subsection (1) to make a transport described in this section with a manifest that does not meet the requirements of this section.

(b) Except as provided in Subsection (4)(d), an individual who violates Subsection (4)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (4)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (4)(b).

(d) If the individual described in Subsection (4)(a) is transporting more medical cannabis than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

(5) An individual other than an individual described in Subsection (1) may transport a medical cannabis device within the state if the transport does not also contain medical cannabis.

Section 30. Section 26-61a-605 is amended to read:

26-61a-605. Medical cannabis shipment transportation.

(1) The department shall ensure that each home delivery medical cannabis pharmacy is capable of delivering, directly or through a medical cannabis courier, medical cannabis shipments in a secure manner.

(2) (a) A home delivery medical cannabis pharmacy may contract with a licensed medical cannabis courier to deliver medical cannabis shipments to fulfill electronic medical cannabis

orders that the state central patient portal facilitates.

(b) If a home delivery medical cannabis pharmacy enters into a contract described in Subsection (2)(a), the pharmacy shall:

(i) impose security and personnel requirements on the medical cannabis courier sufficient to ensure the security and safety of medical cannabis shipments; and

(ii) provide regular oversight of the medical cannabis courier.

(3) Except for an individual with a valid medical cannabis card who transports a shipment the individual receives, an individual may not transport a medical cannabis shipment unless the individual is:

(a) a registered pharmacy medical provider;

(b) a registered medical cannabis pharmacy agent; or

(c) a registered agent of the medical cannabis courier described in Subsection (2).

(4) An individual transporting a medical cannabis shipment under Subsection (3) shall possess a physical or electronic transportation manifest that:

(a) includes a unique identifier that links the medical cannabis shipment to a relevant inventory control system;

(b) includes origin and destination information for the medical cannabis shipment the individual is transporting; and

(c) indicates the departure and estimated arrival times and locations of the individual transporting the medical cannabis shipment.

(5) In addition to the requirements in Subsections (3) and (4), the department may establish by rule, in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, requirements for transporting medical cannabis shipments that are related to safety for human consumption of cannabis or a cannabis product.

(6) (a) It is unlawful for an individual to transport a medical cannabis shipment with a manifest that does not meet the requirements of Subsection (4).

(b) Except as provided in Subsection (6)(d), an individual who violates Subsection (6)(a) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(c) An individual who is guilty of a violation described in Subsection (6)(b) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (6)(b).

(d) If the individual described in Subsection (6)(a) is transporting more cannabis, cannabis product, or medical cannabis devices than the manifest identifies, except for a de minimis administrative error:

(i) this chapter does not apply; and

(ii) the individual is subject to penalties under Title 58, Chapter 37, Utah Controlled Substances Act.

Section 31. Section 26-61a-606 is amended to read:

26-61a-606. Medical cannabis courier agent -- Background check -- Registration card -- Rebuttable presumption.

(1) An individual may not serve as a medical cannabis courier agent unless:

(a) the individual is an employee of a licensed medical cannabis courier; and

(b) the department registers the individual as a medical cannabis courier agent.

(2) (a) The department shall, within 15 days after the day on which the department receives a complete application from a medical cannabis courier on behalf of a medical cannabis courier agent, register and issue a medical cannabis courier agent registration card to the prospective agent if the medical cannabis courier:

(i) provides to the department:

(A) the prospective agent's name and address;

(B) the name and address of the medical cannabis courier;

(C) the name and address of each home delivery medical cannabis pharmacy with which the medical cannabis courier contracts to deliver medical cannabis shipments; and

(D) the submission required under Subsection (2)(b);

(ii) as reported under Subsection (2)(c), has not been convicted under state or federal law of:

(A) a felony; or

(B) after December 3, 2018, a misdemeanor for drug distribution; and

(iii) pays the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) Except for an applicant reapplying for a medical cannabis courier agent registration card within less than one year after the expiration of the applicant's previous medical cannabis courier agent registration card, each prospective agent described in Subsection (2)(a) shall:

(i) submit to the department:

(A) a fingerprint card in a form acceptable to the Department of Public Safety; and

(B) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the prospective agent's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(ii) consent to a fingerprint background check by:

(A) the Bureau of Criminal Identification; and

(B) the Federal Bureau of Investigation.

(c) The Bureau of Criminal Identification shall:

(i) check the fingerprints the prospective agent submits under Subsection (2)(b) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(ii) report the results of the background check to the department;

(iii) maintain a separate file of fingerprints that prospective agents submit under Subsection (2)(b) for search by future submissions to the local and regional criminal records databases, including latent prints;

(iv) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(v) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(d) The department shall:

(i) assess an individual who submits fingerprints under Subsection (2)(b) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(ii) remit the fee described in Subsection (2)(d)(i) to the Bureau of Criminal Identification.

(3) The department shall designate on an individual's medical cannabis courier agent registration card the name of the medical cannabis pharmacy where the individual is registered as an agent and each home delivery medical cannabis courier for which the medical cannabis courier delivers medical cannabis shipments.

(4) (a) A medical cannabis courier agent shall comply with a certification standard that the department develops, in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy, or a third-party certification standard that the department designates by rule in collaboration with the Division of [~~Occupational and~~] Professional Licensing and the Board of Pharmacy and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall ensure that the certification standard described in Subsection (4)(a) includes training in:

(i) Utah medical cannabis law;

(ii) the medical cannabis shipment process; and

(iii) medical cannabis courier agent best practices.

(5) (a) A medical cannabis courier agent registration card expires two years after the day on which the department issues or renews the card.

(b) A medical cannabis courier agent may renew the agent's registration card if the agent:

(i) is eligible for a medical cannabis courier agent registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information; and

(iii) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(6) The department may revoke or refuse to issue or renew the medical cannabis courier agent registration card of an individual who:

(a) violates the requirements of this chapter; or

(b) is convicted under state or federal law of:

(i) a felony; or

(ii) after December 3, 2018, a misdemeanor for drug distribution.

(7) A medical cannabis courier agent whom the department has registered under this section shall carry the agent's medical cannabis courier agent registration card with the agent at all times when:

(a) the agent is on the premises of the medical cannabis courier, a medical cannabis pharmacy, or a medical cannabis cardholder's home address; and

(b) the agent is handling a medical cannabis shipment.

(8) If a medical cannabis courier agent handling a medical cannabis shipment possesses the shipment in compliance with Subsection (7):

(a) there is a rebuttable presumption that the agent possesses the shipment legally; and

(b) there is no probable cause, based solely on the agent's possession of the medical cannabis shipment that the agent is engaging in illegal activity.

(9) (a) A medical cannabis courier agent who violates Subsection (7) is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (9)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (9)(a).

Section 32. Section 26-64-102 is amended to read:

26-64-102. Definitions.

As used in this chapter:

(1) "Dispense" means the same as that term is defined in Section 58-17b-102.

(2) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103.

(3) "Local health department" means:

(a) a local health department, as defined in Section 26A-1-102; or

(b) a multicounty local health department, as defined in Section 26A-1-102.

(4) "Patient counseling" means the same as that term is defined in Section 58-17b-102.

(5) "Pharmacist" means the same as that term is defined in Section 58-17b-102.

(6) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.

(7) "Physician" means the same as that term is defined in Section 58-67-102.

(8) "Prescribe" means the same as that term is defined in Section 58-17b-102.

(9) (a) "Self-administered hormonal contraceptive" means a self-administered hormonal contraceptive that is approved by the United States Food and Drug Administration to prevent pregnancy.

(b) "Self-administered hormonal contraceptive" includes an oral hormonal contraceptive, a hormonal vaginal ring, and a hormonal contraceptive patch.

(c) "Self-administered hormonal contraceptive" does not include any drug intended to induce an abortion, as that term is defined in Section 76-7-301.

Section 33. Section 26A-1-113 is amended to read:

26A-1-113. Right of entry to regulated premises by representatives for inspection.

(1) Upon presenting proper identification, authorized representatives of local health departments may enter upon the premises of properties regulated by local health departments to perform routine inspections to insure compliance with rules, standards, regulations, and ordinances as adopted by the Departments of Health and Environmental Quality, local boards of health, county or municipal governing bodies, or administered by the Division of [~~Occupational and~~] Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act.

(2) Section 58-56-9 does not apply to health inspectors acting under this section.

(3) This section does not authorize local health departments to inspect private dwellings.

Section 34. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7) and (8), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of [~~Occupational and~~] Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on [~~its~~] the local health department's own initiative or in cooperation with the Department of Health or Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within [~~its~~] the local health department's boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the

installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

Section 35. Section 26A-1-126 is amended to read:

26A-1-126. Medical reserve corps.

(1) In addition to the duties listed in Section 26A-1-114, a local health department may establish a medical reserve corps in accordance with this section.

(2) The purpose of a medical reserve corps is to enable a local health authority to respond with appropriate health care professionals to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the president of the United States or other federal official requesting public health related activities.

(3) (a) A local health department may train health care professionals who participate in a medical reserve corps to respond to an emergency or declaration for public health related activities pursuant to Subsection (2).

(b) When an emergency or request for public health related activities has been declared in accordance with Subsection (2), a local health department may activate a medical reserve corps for the duration of the emergency or declaration for public health related activities.

(4) For purposes of this section, a medical reserve corps may include persons who:

(a) are licensed under Title 58, Occupations and Professions, and who are operating within the scope of their practice;

(b) are exempt from licensure, or operating under modified scope of practice provisions in accordance with Subsections 58-1-307(4) and (5); and

(c) within the 10 years preceding the declared emergency, held a valid license, in good standing in Utah, for one of the occupations described in Subsection 58-13-2(1), but the license is not currently active.

(5) (a) Notwithstanding the provisions of Subsections 58-1-307(4)(a) and (5)(b) the local health department may authorize a person described in Subsection (4) to operate in a modified scope of practice as necessary to respond to the declaration under Subsection (2).

(b) A person operating as a member of an activated medical reserve corps or training as a member of a medical reserve corps under this section:

(i) shall be volunteering for and supervised by the local health department;

(ii) shall comply with the provisions of this section;

(iii) is exempt from the licensing laws of Title 58, Occupations and Professions; and

(iv) shall carry a certificate issued by the local health department which designates the individual as a member of the medical reserve corps during the duration of the emergency or declaration for public health related activities pursuant to Subsection (2).

(6) The local department of health may access the Division of [~~Occupational and~~] Professional Licensing database for the purpose of determining if a person's current or expired license to practice in the state was in good standing.

(7) The local department of health shall maintain a registry of persons who are members of a medical reserve corps. The registry of the medical reserve corps shall be made available to the public and to the Division of [~~Occupational and~~] Professional Licensing.

Section 36. Section 31A-22-642 is amended to read:

31A-22-642. Insurance coverage for autism spectrum disorder.

(1) As used in this section:

(a) "Applied behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

(b) "Autism spectrum disorder" means pervasive developmental disorders as defined by the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders (DSM).

(c) "Behavioral health treatment" means counseling and treatment programs, including applied behavior analysis, that are:

(i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and

(ii) provided or supervised by a:

(A) board certified behavior analyst; or

(B) person licensed under Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, whose scope of practice includes mental health services.

(d) "Diagnosis of autism spectrum disorder" means medically necessary assessments, evaluations, or tests:

(i) performed by a licensed physician who is board certified in neurology, psychiatry, or pediatrics and has experience diagnosing autism spectrum disorder, or a licensed psychologist with experience diagnosing autism spectrum disorder; and

(ii) necessary to diagnose whether an individual has an autism spectrum disorder.

(e) "Pharmacy care" means medications prescribed by a licensed physician and any health-related services considered medically necessary to determine the need or effectiveness of the medications.

(f) "Psychiatric care" means direct or consultative services provided by a psychiatrist licensed in the state in which the psychiatrist practices.

(g) "Psychological care" means direct or consultative services provided by a psychologist licensed in the state in which the psychologist practices.

(h) "Therapeutic care" means services provided by licensed or certified speech therapists, occupational therapists, or physical therapists.

(i) "Treatment for autism spectrum disorder":

(i) means evidence-based care and related equipment prescribed or ordered for an individual diagnosed with an autism spectrum disorder by a physician or a licensed psychologist described in Subsection (1)(d) who determines the care to be medically necessary; and

(ii) includes:

(A) behavioral health treatment, provided or supervised by a person described in Subsection (1)(c)(ii);

(B) pharmacy care;

(C) psychiatric care;

(D) psychological care; and

(E) therapeutic care.

(2) (a) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2016, and before January 1, 2020, shall provide coverage for the diagnosis and treatment of autism spectrum disorder:

(i) for a child who is at least two years old, but younger than 10 years old; and

(ii) in accordance with the requirements of this section and rules made by the commissioner.

(b) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2020, shall provide coverage for the diagnosis and treatment of autism spectrum disorder in accordance with the requirements of this section and rules made by the commissioner.

(3) The commissioner may adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to set the minimum standards of coverage for the treatment of autism spectrum disorder.

(4) Subject to Subsection (5), the rules described in Subsection (3) shall establish durational limits, amount limits, deductibles, copayments, and coinsurance for the treatment of autism spectrum disorder that are similar to, or identical to, the coverage provided for other illnesses or diseases.

(5) (a) Coverage for behavioral health treatment for a person with an autism spectrum disorder shall cover at least 600 hours a year.

(b) Notwithstanding Subsection (5)(a), for a health benefit plan offered in the individual market or the large group market and entered into or renewed on or after January 1, 2020, coverage for behavioral health treatment for a person with an autism spectrum disorder may not have a limit on the number of hours covered.

(c) Other terms and conditions in the health benefit plan that apply to other benefits covered by the health benefit plan apply to coverage required by this section.

(d) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment under Subsections (5)(a) and (b) shall include in the plan's provider network both board certified behavior analysts and mental health providers qualified under Subsection (1)(c)(ii).

(6) A health care provider shall submit a treatment plan for autism spectrum disorder to the insurer within 14 business days of starting treatment for an individual. If an individual is receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a review of that treatment not more than once every three months. A review of treatment under this Subsection (6) may include a review of treatment goals and progress toward the treatment goals. If an insurer makes a determination to stop treatment as a result of the review of the treatment plan under this subsection, the determination of the insurer may be reviewed under Section 31A-22-629.

Section 37. Section 32B-4-305 is amended to read:

32B-4-305. Additional criminal penalties.

(1) (a) As used in this section, "business entity" means a corporation, partnership, association, limited liability company, or similar entity.

(b) In addition to the penalties provided in Title 76, Chapter 3, Punishments, this section applies.

(2) Upon a defendant's conviction of an offense defined in this title, the court may order the defendant to pay restitution or costs in accordance with Subsection 76-3-201(4).

(3) (a) Upon a business entity's conviction of an offense defined in this title, and a failure of the business entity to pay a fine imposed upon it:

(i) if [~~it~~] the business entity is a domestic business entity, the powers, rights, and privileges of the business entity may be suspended or revoked; and

(ii) if [~~it~~] the business entity is a foreign business entity, it forfeits its right to do intrastate business in this state.

(b) The department shall transmit the name of a business entity described in Subsection (3)(a) to the Division of Corporations and Commercial Code. Upon receipt of the information, the Division of Corporations and Commercial Code shall immediately record the action in a manner that makes the information available to the public.

(c) A suspension, revocation, or forfeiture under this Subsection (3) is effective from the day on which the Division of Corporations and Commercial Code records the information.

(d) A certificate of the Division of Corporations and Commercial Code is prima facie evidence of a suspension, revocation, or forfeiture.

(e) This section may not be construed as affecting, limiting, or restricting a proceeding that otherwise may be taken for the imposition of any other punishment or the modes of enforcement or recovery of fines or penalties.

(4) (a) Upon the conviction of a business entity required to have a business license to operate [~~its~~] the business entity's activities, or upon the conviction of any of [~~its~~] the business entity's staff of any offense defined in this title, with the knowledge, consent, or acquiescence of the business entity, the department shall forward a copy of the judgment of conviction to the appropriate governmental entity responsible for issuing and revoking the business license.

(b) A governmental entity that receives a copy of a judgment under this Subsection (4) may institute appropriate proceedings to revoke the business license.

(c) Upon revocation under this Subsection (4), a governmental entity may not issue a business license to the business entity for at least one year from the date of revocation.

(d) Upon the conviction for a second or other offense, the governmental entity may not issue a business license for at least two years from the date of revocation.

(5) (a) Upon conviction of one of the following of an offense defined in this title, the department shall forward a certified copy of the judgment of conviction to the Division of [~~Occupational and~~] Professional Licensing:

(i) a health care practitioner; or

(ii) an individual licensed as a veterinarian under Title 58, Chapter 28, Veterinary Practice Act.

(b) The Division of [~~Occupational and~~] Professional Licensing may bring a proceeding in accordance with Title 58, Occupations and Professions, to revoke the license issued under Title 58, Occupations and Professions, of an individual described in Subsection (5)(a).

(c) Upon revocation of a license under Subsection (5)(b):

(i) the Division of [~~Occupational and~~] Professional Licensing may not issue a license to the individual under Title 58, Occupations and Professions, for at least one year from the date of revocation; and

(ii) if the individual is convicted of a second or subsequent offense, the Division of [~~Occupational and~~] Professional Licensing may not issue a license to the individual under Title 58, Occupations and Professions, for at least two years from the date of revocation.

Section 38. Section 34-38-13 is amended to read:

34-38-13. Confidentiality of test-related information.

(1) For purposes of this section, "test-related information" means the following received by the employer through the employer's drug or alcohol testing program:

(a) information;

(b) interviews;

(c) reports;

(d) statements;

(e) memoranda; or

(f) test results.

(2) Except as provided in Subsections (3) and (6), test-related information is a confidential communication and may not be:

(a) used or received in evidence;

(b) obtained in discovery; or

(c) disclosed in any public or private proceeding.

(3) Test-related information:

(a) shall be disclosed to the Division of [~~Occupational and~~] Professional Licensing:

(i) in the manner provided in Subsection 58-13-5(3); and

(ii) only to the extent required under Subsection 58-13-5(3); and

(b) may only be used in a proceeding related to:

(i) an action taken by the Division of [~~Occupational and~~] Professional Licensing under Section 58-1-401 when the Division of [~~Occupational and~~] Professional Licensing is taking action in whole or in part on the basis of test-related information disclosed under Subsection (3)(a);

(ii) an action taken by an employer under Section 34-38-8; or

(iii) an action under Section 34-38-11.

(4) Test-related information shall be the property of the employer.

(5) An employer is entitled to use a drug or alcohol test result as a basis for action under Section 34-38-8.

(6) An employer may not be examined as a witness with regard to test-related information, except:

(a) in a proceeding related to an action taken by the employer under Section 34-38-8;

(b) in an action under Section 34-38-11; or

(c) in an action described in Subsection (3)(b)(i).

Section 39. Section 35A-6-105 is amended to read:

35A-6-105. Commissioner of Apprenticeship Programs.

(1) There is created the position of Commissioner of Apprenticeship Programs within the department.

(2) The commissioner shall be appointed by the executive director and chosen from one or more recommendations provided by a majority vote of the State Workforce Development Board.

(3) The commissioner may be terminated without cause by the executive director.

(4) The commissioner shall:

(a) promote and educate the public, including high school guidance counselors and potential participants in apprenticeship programs, about apprenticeship programs, youth apprenticeship, and pre-apprenticeship programs offered in the state, including apprenticeship, youth apprenticeship, and pre-apprenticeship programs offered by private sector businesses, trade groups, labor unions, partnerships with educational institutions, and other associations in the state;

(b) coordinate with the department and other stakeholders, including union and nonunion apprenticeship programs, the Office of Apprenticeship, the State Board of Education, the Utah system of higher education, the Department of Commerce, the Division of [~~Occupational and~~] Professional Licensing, and the Governor's Office of Economic Opportunity to improve and promote apprenticeship opportunities in the state; and

(c) provide an annual written report to:

(i) the department for inclusion in the department's annual written report described in Section 35A-1-109;

(ii) the Business, Economic Development, and Labor Appropriations Subcommittee; and

(iii) the Higher Education Appropriations Subcommittee.

(5) The annual written report described in Subsection (4)(c) shall provide information concerning:

(a) the number of available apprenticeship, youth apprenticeship, and pre-apprenticeship programs in the state;

(b) the number of apprentice participants in each program;

(c) the completion rate of each program;

(d) the cost of state funding for each program; and

(e) recommendations for improving apprenticeship, youth apprenticeship, and pre-apprenticeship programs.

Section 40. Section 36-23-102 is amended to read:

36-23-102. Occupational and Professional Licensure Review Committee.

(1) There is created the Occupational and Professional Licensure Review Committee.

(2) The committee consists of nine members appointed as follows:

(a) three members of the House of Representatives, appointed by the speaker of the House of Representatives, with no more than two appointees from the same political party;

(b) three members of the Senate, appointed by the president of the Senate, with no more than two appointees from the same political party; and

(c) three public members appointed jointly by the speaker of the House of Representatives and the president of the Senate from the following two groups:

(i) at least one member who has previously served, but is no longer serving, on an advisory board created under Title 58, Occupations and Professions; and

(ii) at least one member from the general public who does not hold a license issued by the Division of [~~Occupational and~~] Professional Licensing.

(3) (a) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(a) as a cochair of the committee.

(b) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(b) as a cochair of the committee.

Section 41. Section 36-23-107 is amended to read:

36-23-107. Sunrise or sunset review -- Criteria.

(1) In conducting a sunrise review or a sunset review under this chapter, the committee may:

(a) receive information from:

(i) representatives of the lawful occupation proposed to be newly regulated or that is subject to a sunset review;

(ii) the Division of [~~Occupational and~~] Professional Licensing; or

(iii) any other person; and

(b) review a proposal with or without considering proposed statutory language.

(2) When conducting a sunrise review or sunset review under this chapter, the committee shall:

(a) consider whether state regulation of the lawful occupation is necessary to address a compelling state interest in protecting against present, recognizable, and significant harm to the health or safety of the public;

(b) consider if the committee's recommendations to the Legislature would negatively affect the interests of members of the regulated lawful occupation, including the effect on matters of reciprocity with other states;

(c) if the committee determines that state regulation of the lawful occupation is not necessary to protect against present, recognizable, and significant harm to the health or safety of the public, recommend to the Legislature that the state not regulate the profession;

(d) if the committee determines that state regulation of the lawful occupation is necessary in protecting against present, recognizable, and significant harm to the health or safety of the public, consider whether:

(i) the proposed or existing statute is narrowly tailored to protect against present, recognizable, and significant harm to the health or safety of the public; and

(ii) a potentially less restrictive alternative to licensing, including state certification, state registration, or exemption, would avoid unnecessary regulation while still protecting the health and safety of the public; and

(e) recommend to the Legislature any necessary changes to the proposed or existing statute to ensure it is narrowly tailored to protect against present, recognizable, and significant harm to the health or safety of the public.

(3) In [~~its~~] the committee's performance of each sunrise review or sunset review, the committee may apply the following criteria, to the extent that it is applicable:

(a) whether the unregulated practice of the occupation or profession has clearly harmed or may harm or endanger the health, safety, or welfare of the public;

(b) whether the potential for harm or endangerment described in Subsection (3)(a) is easily recognizable and not remote;

(c) whether regulation of the occupation or profession will significantly diminish an identified risk to the health, safety, or welfare of the public;

(d) whether regulation of the lawful occupation:

(i) imposes significant new economic hardship on the public;

(ii) significantly diminishes the supply of qualified practitioners; or

(iii) otherwise creates barriers to service that are not consistent with the public welfare or interest;

(e) whether the lawful occupation requires knowledge, skills, and abilities that are:

(i) teachable; and

(ii) testable;

(f) whether the lawful occupation is clearly distinguishable from other lawful occupations that are already regulated;

(g) whether the lawful occupation has:

(i) an established code of ethics;

(ii) a voluntary certification program; or

(iii) other measures to ensure a minimum quality of service;

(h) whether:

(i) the lawful occupation involves the treatment of an illness, injury, or health care condition; and

(ii) practitioners of the lawful occupation will request payment of benefits for the treatment under an insurance contract subject to Section 31A-22-618;

(i) whether the public can be adequately protected by means other than regulation; and

(j) other appropriate criteria as determined by the committee.

Section 42. Section 38-1a-102 is amended to read:

38-1a-102. Definitions.

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

(2) "Anticipated improvement" means the improvement:

(a) for which preconstruction service is performed; and

(b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting shares or other ownership interest.

(5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

(6) "Compensation" means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) "Construction lender" means a person who makes a construction loan.

(8) "Construction lien" means a lien under this chapter for construction work.

(9) "Construction loan" does not include a consumer loan secured by the equity in the consumer's home.

(10) "Construction project" means an improvement that is constructed pursuant to an original contract.

(11) "Construction work":

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

(12) "Contestable notice" means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

(13) "Contesting person" means an owner, original contractor, subcontractor, or other interested person.

(14) "Designated agent" means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

(15) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103.

(16) "Entry number" means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

(17) "Final completion" means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over the construction project, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of the construction work by the local government entity having jurisdiction over the construction project, if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over the construction project does not issue a certificate of occupancy or perform a final inspection.

(18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).

(19) "First preliminary notice filing" means a preliminary notice that:

(a) is the earliest preliminary notice filed on the construction project for which the preliminary notice is filed;

(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

(c) is not cancelled under Section 38-1a-307.

(20) "Government project-identifying information" has the same meaning as defined in Section 38-1b-102.

(21) "Improvement" means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection (21)(a).

(22) "Interested person" means a person that may be affected by a construction project.

(23) "Notice of commencement" means a notice required under Section 38-1b-201 for a government project, as defined in Section 38-1b-102.

(24) "Original contract":

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

(25) "Original contractor" means a person, including an owner-builder, that contracts with an owner to provide preconstruction service or construction work.

(26) "Owner" means the person that owns the project property.

(27) "Owner-builder" means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner's real property; and

(b) obtains a building permit for the improvement.

(28) "Preconstruction lien" means a lien under this chapter for a preconstruction service.

(29) "Preconstruction service":

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

(ii) for compensation separate from any compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

(30) "Private project" means a construction project that is not a government project.

(31) "Project property" means the real property on or for which preconstruction service or construction work is or will be provided.

(32) "Registry" means the State Construction Registry under Part 2, State Construction Registry.

(33) "Required notice" means:

(a) a notice of preconstruction service under Section 38-1a-401;

(b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

(c) a notice of commencement;

(d) a notice of construction loan under Section 38-1a-601;

(e) a notice under Section 38-1a-602 concerning a construction loan default;

(f) a notice of intent to obtain final completion under Section 38-1a-506; or

(g) a notice of completion under Section 38-1a-507.

(34) "Subcontractor" means a person that contracts to provide preconstruction service or construction work to:

(a) a person other than the owner; or

(b) the owner, if the owner is an owner-builder.

(35) "Substantial work" does not include repair work or warranty work.

(36) "Supervisory subcontractor" means a person that:

(a) is a subcontractor under contract to provide preconstruction service or construction work; and

(b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

Section 43. Section 38-1b-102 is amended to read:

38-1b-102. Definitions.

As used in this chapter:

(1) "Alternate means" means the same as that term is defined in Section 38-1a-102.

(2) "Construction project" means the same as that term is defined in Section 38-1a-102.

(3) "Construction work" means the same as that term is defined in Section 38-1a-102.

(4) "Designated agent" means the same as that term is defined in Section 38-1a-102.

(5) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103.

(6) "Government project" means a construction project undertaken by or for:

(a) the state, including a department, division, or other agency of the state; or

(b) a county, city, town, school district, local district, special service district, community reinvestment agency, or other political subdivision of the state.

(7) "Government project-identifying information" means:

(a) the lot or parcel number of each lot included in the project property that has a lot or parcel number; or

(b) the unique project number assigned by the designated agent.

(8) "Original contractor" means the same as that term is defined in Section 38-1a-102.

(9) "Owner" means the same as that term is defined in Section 38-1a-102.

(10) "Owner-builder" means the same as that term is defined in Section 38-1a-102.

(11) "Private project" means a construction project that is not a government project.

(12) "Project property" means the same as that term is defined in Section 38-1a-102.

(13) "Registry" means the same as that term is defined in Section 38-1a-102.

Section 44. Section 38-11-102 is amended to read:

38-11-102. Definitions.

(1) "Certificate of compliance" means an order issued by the director to the owner finding that the owner is in compliance with the requirements of Subsections 38-11-204(4)(a) and (4)(b) and is entitled to protection under Section 38-11-107.

(2) "Construction on an owner-occupied residence" means designing, engineering, constructing, altering, remodeling, improving, repairing, or maintaining a new or existing residence.

(3) "Department" means the Department of Commerce.

(4) "Director" means the director of the Division of [~~Occupational and~~] Professional Licensing or the director's designee.

(5) "Division" means the Division of [~~Occupational and~~] Professional Licensing.

(6) "Duplex" means a single building having two separate living units.

(7) "Encumbered fund balance" means the aggregate amount of outstanding claims against the fund. The remainder of the money in the fund is unencumbered funds.

(8) "Executive director" means the executive director of the Department of Commerce.

(9) "Factory built housing" is as defined in Section 15A-1-302.

(10) "Factory built housing retailer" means a person that sells factory built housing to consumers.

(11) "Fund" means the Residence Lien Recovery Fund established under Section 38-11-201.

(12) "Laborer" means a person who provides services at the site of the construction on an owner-occupied residence as an employee of an original contractor or other qualified beneficiary performing qualified services on the residence.

(13) "Licensee" means any holder of a license issued under Title 58, Chapter 3a, Architects Licensing Act; Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; Chapter 53, Landscape Architects Licensing Act; and Chapter 55, Utah Construction Trades Licensing Act.

(14) "Nonpaying party" means the original contractor, subcontractor, or real estate developer who has failed to pay the qualified beneficiary making a claim against the fund.

(15) "Original contractor" means a person who contracts with the owner of real property or the owner's agent to provide services, labor, or material for the construction of an owner-occupied residence.

(16) "Owner" means a person who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction on an owner-occupied residence upon real property that the person:

(i) owns; or

(ii) purchases after the person enters into a contract described in this Subsection (16)(a) and before completion of the owner-occupied residence;

(b) contracts with a real estate developer to buy a residence upon completion of the construction on the owner-occupied residence; or

(c) purchases a residence from a real estate developer after completion of the construction on the owner-occupied residence.

(17) "Owner-occupied residence" means a residence that is, or after completion of the construction on the residence will be, occupied by

the owner or the owner's tenant or lessee as a primary or secondary residence within 180 days after the day on which the construction on the residence is complete.

(18) "Qualified beneficiary" means a person who:

(a) provides qualified services;

(b) pays necessary fees required under this chapter; and

(c) registers with the division:

(i) as a licensed contractor under Subsection 38-11-301(1) or (2), if that person seeks recovery from the fund as a licensed contractor; or

(ii) as a person providing qualified services other than as a licensed contractor under Subsection 38-11-301(3) if the person seeks recovery from the fund in a capacity other than as a licensed contractor.

(19) (a) "Qualified services" means the following performed in construction on an owner-occupied residence:

(i) contractor services provided by a contractor licensed or exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(ii) architectural services provided by an architect licensed under Title 58, Chapter 3a, Architects Licensing Act;

(iii) engineering and land surveying services provided by a professional engineer or land surveyor licensed or exempt from licensure under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act;

(iv) landscape architectural services by a landscape architect licensed or exempt from licensure under Title 58, Chapter 53, Landscape Architects Licensing Act;

(v) design and specification services of mechanical or other systems;

(vi) other services related to the design, drawing, surveying, specification, cost estimation, or other like professional services;

(vii) providing materials, supplies, components, or similar products;

(viii) renting equipment or materials;

(ix) labor at the site of the construction on the owner-occupied residence; and

(x) site preparation, set up, and installation of factory built housing.

(b) "Qualified services" does not include the construction of factory built housing in the factory.

(20) "Real estate developer" means a person having an ownership interest in real property who:

(a) contracts with a person who is licensed as a contractor or is exempt from licensure under Title 58, Chapter 55, Utah Construction Trades Licensing Act, for the construction of a residence that is offered for sale to the public; or

(b) is a licensed contractor under Title 58, Chapter 55, Utah Construction Trades Licensing Act, who engages in the construction of a residence that is offered for sale to the public.

(21) (a) "Residence" means an improvement to real property used or occupied, to be used or occupied as, or in conjunction with:

(i) a primary or secondary detached single-family dwelling; or

(ii) a multifamily dwelling up to and including duplexes.

(b) "Residence" includes factory built housing.

(22) "Subsequent owner" means a person who purchases a residence from an owner within 180 days after the day on which the construction on the residence is completed.

Section 45. Section 38-11-103 is amended to read:

38-11-103. Administration.

This chapter shall be administered by the Division of [~~Occupational and~~] Professional Licensing pursuant to the provisions of this chapter and consistent with Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act.

Section 46. Section 41-6a-502 is amended to read:

41-6a-502. Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration -- Reporting of convictions.

(1) A person may not operate or be in actual physical control of a vehicle within this state if the person:

(a) has sufficient alcohol in the person's body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .05 grams or greater at the time of the test;

(b) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating a vehicle; or

(c) has a blood or breath alcohol concentration of .05 grams or greater at the time of operation or actual physical control.

(2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.

(3) A violation of this section includes a violation under a local ordinance similar to this section adopted in compliance with Section 41-6a-510.

(4) Beginning on July 1, 2012, a court shall, monthly, send to the Division of [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the name,

case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving under the influence, in whole or in part, of a prescribed controlled substance.

(5) An offense described in this section is a strict liability offense.

(6) A guilty or no contest plea to an offense described in this section may not be held in abeyance.

Section 47. Section 41-6a-502.5 is amended to read:

41-6a-502.5. Impaired driving -- Penalty -- Reporting of convictions -- Sentencing requirements.

(1) With the agreement of the prosecutor, a plea to a class B misdemeanor violation of Section 41-6a-502 committed on or after July 1, 2008, may be entered as a conviction of impaired driving under this section if:

(a) the defendant completes court ordered probation requirements; or

(b) (i) the prosecutor agrees as part of a negotiated plea; and

(ii) the court finds the plea to be in the interest of justice.

(2) A conviction entered under this section is a class B misdemeanor.

(3) (a) (i) If the entry of an impaired driving plea is based on successful completion of probation under Subsection (1)(a), the court shall enter the conviction at the time of the plea.

(ii) If the defendant fails to appear before the court and establish successful completion of the court ordered probation requirements under Subsection (1)(a), the court shall enter an amended conviction of Section 41-6a-502.

(iii) The date of entry of the amended order under Subsection (3)(a)(ii) is the date of conviction.

(b) The court may enter a conviction of impaired driving immediately under Subsection (1)(b).

(4) For purposes of Section 76-3-402, the entry of a plea to a class B misdemeanor violation of Section 41-6a-502 as impaired driving under this section is a reduction of one degree.

(5) (a) The court shall notify the Driver License Division of each conviction entered under this section.

(b) Beginning on July 1, 2012, a court shall, monthly, send to the Division of [~~Occupational and~~] Professional Licensing, created in Section 58-1-103, a report containing the name, case number, and, if known, the date of birth of each person convicted during the preceding month of a violation of this section for whom there is evidence that the person was driving while impaired, in whole or in part, by a prescribed controlled substance.

(6) (a) The provisions in Subsections 41-6a-505(1), (3), (5), and (7) that require a sentencing court to order a convicted person to participate in a screening, an assessment, or an educational series, or obtain substance abuse treatment or do a combination of those things, apply to a conviction entered under this section.

(b) The court shall render the same order regarding screening, assessment, an educational series, or substance abuse treatment in connection with a first, second, or subsequent conviction under this section as the court would render in connection with applying respectively, the first, second, or subsequent conviction requirements of Subsections 41-6a-505(1), (3), (5), and (7).

(7) (a) Except as provided in Subsection (7)(b), a report authorized by Section 53-3-104 may not contain any evidence of a conviction for impaired driving in this state if the reporting court notifies the Driver License Division that the defendant is participating in or has successfully completed the program of a driving under the influence court.

(b) The provisions of Subsection (7)(a) do not apply to a report concerning:

(i) a CDL license holder; or

(ii) a violation that occurred in a commercial motor vehicle.

(8) The provisions of this section are not available:

(a) to a person who has a prior conviction as that term is defined in Subsection 41-6a-501(2); or

(b) where there is admissible evidence that the individual:

(i) had a blood alcohol level of .16 or higher;

(ii) had a blood alcohol level of .05 or higher in addition to any measurable controlled substance; or

(iii) had a combination of two or more controlled substances in the person's body that were not:

(A) prescribed by a licensed physician; or

(B) recommended in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act.

Section 48. Section 53-2a-1205 is amended to read:

53-2a-1205. Administration -- Notification and procedures.

(1) Any out-of-state business that enters the state shall, within a reasonable time after entry, not to exceed 30 days, provide to the Division of [~~Occupational and~~] Professional Licensing a statement that it is in the state for purposes of responding to the disaster or emergency, which statement shall include the business's:

(a) name;

(b) state of domicile;

(c) principal business address;

(d) federal tax identification number;

(e) date of entry;

(f) contact information; and

(g) evidence of compliance with the regulatory or licensing requirements in Section 53-2a-1203, such as a copy of applicable permits or licenses.

(2) Any affiliate of a registered business in the state and any out-of-state business that is registered as a public utility in another state and that is providing assistance under the terms of a utility multistate mutual aid agreement shall not be required to provide the information required in Subsection (1), unless requested by the Division of [~~Occupational and~~] Professional Licensing within a reasonable period of time.

(3) An out-of-state business or an out-of-state employee that remains in the state after the disaster period shall complete state and local registration, licensing, and filing requirements that establish the requisite business presence or residency in the state.

(4) The Division of [~~Occupational and~~] Professional Licensing shall:

(a) make rules necessary to implement Subsection (3);

(b) develop and provide forms or online processes; and

(c) maintain and make available an annual report of any designations made pursuant to this section.

Section 49. Section 53-10-114 is amended to read:

53-10-114. Authority regarding drug precursors.

(1) As used in this section, "acts" means:

(a) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; and

(b) Title 58, Chapter 37d, Clandestine Drug Lab Act.

(2) The division has authority to enforce the drug lab and precursor acts. To carry out this purpose, the division may:

(a) inspect, copy, and audit any records, inventories of controlled substance precursors, and reports required under the acts and rules adopted under the acts;

(b) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;

(c) assist the law enforcement agencies of the state in enforcing the acts;

(d) conduct investigations to enforce the acts;

(e) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

(f) work in cooperation with the Division of [~~Occupational and~~] Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Section 50. Section 53B-24-304 is amended to read:

53B-24-304. Powers of council.

The council may:

(1) conduct surveys, with the assistance of the Division of [~~Occupational and~~] Professional Licensing within the Department of Commerce, to assess and meet changing market and education needs;

(2) notwithstanding the provisions of Subsection 35A-4-312(3), receive information obtained by the Division of Workforce Information and Payment Services under the provisions of Section 35A-4-312 for purposes consistent with the council's duties as identified under Section 53B-24-303, including identifying changes in the medical and health care workforce numbers, types, and geographic distribution;

(3) appoint advisory committees of broad representation on interdisciplinary clinical education, workforce mix planning and projections, funding mechanisms, and other topics as is necessary;

(4) use federal money for necessary administrative expenses to carry out [~~its~~] the council's duties and powers as permitted by federal law;

(5) distribute program money in accordance with Subsection 53B-24-303(7); and

(6) as is necessary to carry out [~~its~~] the council's duties under Section 53B-24-303:

(a) hire employees; and

(b) adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 51. Section 53F-2-305 is amended to read:

53F-2-305. Professional staff weighted pupil units.

(1) Professional staff weighted pupil units are computed and distributed in accordance with the following schedule:

(a) Professional Staff Cost Formula

Years of Experience	Bachelor's Degree	Bachelor's +30 Qt.Hr.	Master's Degree	Master's Degree +45 Qt. Hr	Doctorate
1	1.00	1.05	1.10	1.15	1.20
2	1.05	1.10	1.15	1.20	1.25
3	1.10	1.15	1.20	1.25	1.30
4	1.15	1.20	1.25	1.30	1.35
5	1.20	1.25	1.30	1.35	1.40
6	1.25	1.30	1.35	1.40	1.45
7	1.30	1.35	1.40	1.45	1.50
8	1.35	1.40	1.45	1.50	1.55
9			1.50	1.55	1.60
10				1.60	1.65
11					1.70

(b) Multiply the number of full-time or equivalent professional personnel in each applicable experience category in Subsection (1)(a) by the applicable weighting factor.

(c) Divide the total of Subsection (1)(b) by the number of professional personnel included in Subsection (1)(b) and reduce the quotient by 1.00.

(d) Multiply the result of Subsection (1)(c) by 1/4 of the weighted pupil units computed in accordance with Sections 53F-2-302 and 53F-2-304.

(2) The state board shall enact rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that require a certain percentage of a school district's or charter school's professional staff to be certified in the area in which the staff teaches in order for the school district or charter school to receive full funding under the schedule.

(3) If an individual's teaching experience is a factor in negotiating a contract of employment to teach in the state's public schools, then the LEA governing board is encouraged to accept as credited experience all of the years the individual has taught in the state's public schools.

(4) The professional personnel described in Subsection (1) shall include an individual employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) a license in the field of social work issued by the Division of [~~Occupational and~~] Professional Licensing; and

(b) a position as a social worker.

Section 52. Section 53F-2-405 is amended to read:

53F-2-405. Educator salary adjustments.

(1) As used in this section, "educator" means a person employed by a school district, charter school, or the Utah Schools for the Deaf and the Blind who holds:

(a) (i) a license issued by the state board; and

(ii) a position as a:

(A) classroom teacher;

(B) speech pathologist;

(C) librarian or media specialist;

(D) preschool teacher;

(E) mentor teacher;

(F) teacher specialist or teacher leader;

(G) guidance counselor;

(H) audiologist;

(I) psychologist; or

(J) social worker; or

(b) (i) a license issued by the Division of [~~Occupational and~~] Professional Licensing; and

(ii) a position as a social worker.

(2) In recognition of the need to attract and retain highly skilled and dedicated educators, the Legislature shall annually appropriate money for educator salary adjustments, subject to future budget constraints.

(3) Money appropriated to the state board for educator salary adjustments shall be distributed to school districts, charter schools, and the Utah Schools for the Deaf and the Blind in proportion to the number of full-time-equivalent educator positions in a school district, a charter school, or the Utah Schools for the Deaf and the Blind as compared to the total number of full-time-equivalent educator positions in school districts, charter schools, and the Utah Schools for the Deaf and the Blind.

(4) A school district, a charter school, or the Utah Schools for the Deaf and the Blind shall award bonuses to educators as follows:

(a) the amount of the salary adjustment shall be the same for each full-time-equivalent educator position in the school district, charter school, or the Utah Schools for the Deaf and the Blind;

(b) an individual who is not a full-time educator shall receive a partial salary adjustment based on the number of hours the individual works as an educator; and

(c) a salary adjustment may be awarded only to an educator who has received a satisfactory rating or above on the educator's most recent evaluation.

(5) The state board may make rules as necessary to administer this section in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) (a) Subject to future budget constraints, the Legislature shall appropriate sufficient money each year to:

(i) maintain educator salary adjustments provided in prior years; and

(ii) provide educator salary adjustments to new employees.

(b) Money appropriated for educator salary adjustments shall include money for the following employer-paid benefits:

(i) retirement;

(ii) worker's compensation;

(iii) social security; and

(iv) Medicare.

(7) (a) Subject to future budget constraints, the Legislature shall:

(i) maintain the salary adjustments provided to school administrators in the 2007-08 school year; and

(ii) provide salary adjustments for new school administrators in the same amount as provided for existing school administrators.

(b) The appropriation provided for educator salary adjustments shall include salary adjustments for school administrators as specified in Subsection (7)(a).

(c) In distributing and awarding salary adjustments for school administrators, the state board, a school district, a charter school, or the Utah Schools for the Deaf and the Blind shall comply with the requirements for the distribution and award of educator salary adjustments as provided in Subsections (3) and (4).

Section 53. Section 58-1-102 is amended to read:

58-1-102. Definitions.

For purposes of this title:

(1) "Ablative procedure" is as defined in Section 58-67-102.

(2) "Cosmetic medical procedure":

(a) is as defined in Section 58-67-102; and

(b) except for Chapter 67, Utah Medical Practice Act, and Chapter 68, Utah Osteopathic Medical Practice Act, does not apply to the scope of practice of an individual licensed under this title if the individual's scope of practice includes the authority to operate or perform surgical procedures.

(3) "Department" means the Department of Commerce.

(4) "Director" means the director of the Division of [~~Occupational and~~] Professional Licensing.

(5) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103.

(6) "Executive director" means the executive director of the Department of Commerce.

(7) "Licensee" includes any holder of a license, certificate, registration, permit, student card, or apprentice card authorized under this title.

(8) (a) (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but not intended or expected to excise, vaporize, disintegrate, or remove living tissue.

(ii) Notwithstanding Subsection (8)(a)(i), nonablative procedure includes hair removal.

(b) "Nonablative procedure" does not include:

(i) a superficial procedure;

(ii) the application of permanent make-up; or

(iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within their scope of practice.

(9) "Pain clinic" means:

(a) a clinic that advertises its primary purpose is the treatment of chronic pain; or

(b) a clinic in which greater than 50% of the clinic's annual patient population receive treatment primarily for non-terminal chronic pain using Schedule II-III controlled substances.

(10) "Superficial procedure" means a procedure that is expected or intended to temporarily alter living skin tissue and may excise or remove stratum corneum but have no appreciable risk of damage to any tissue below the stratum corneum.

(11) "Unlawful conduct" has the meaning given in Subsection 58-1-501(1).

(12) "Unprofessional conduct" has the meaning given in Subsection 58-1-501(2).

Section 54. Section 58-1-103 is amended to read:

58-1-103. Division created to administer licensing laws.

There is created within the Department of Commerce the Division of [~~Occupational and~~] Professional Licensing. The division shall administer and enforce all licensing laws of Title 58, Occupations and Professions.

Section 55. Section 58-1-202 is amended to read:

58-1-202. Boards -- Duties, functions, and responsibilities.

(1) The duties, functions, and responsibilities of each board established under this title include the following:

(a) recommending to the director appropriate rules and statutory changes, including changes to remove regulations that are no longer necessary or effective in protecting the public and enhancing commerce;

(b) recommending to the director policy and budgetary matters;

(c) approving and establishing a passing score for applicant examinations;

(d) screening applicants and recommending licensing, renewal, reinstatement, and relicensure actions to the director in writing;

(e) assisting the director in establishing standards of supervision for students or persons in training to become qualified to obtain a license in the occupation or profession it represents; and

(f) acting as presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders when so designated by the director.

(2) Subsection (1) does not apply to boards created in Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(3) (a) Each board or commission established under this title may recommend to the appropriate legislative committee whether the board or commission supports a change to a licensing act.

(b) This Subsection (3) does not:

(i) require a board's approval to amend a practice act; and

(ii) apply to technical or clarifying amendments to a practice act.

Section 56. Section 58-1-301 is amended to read:

58-1-301. License application -- Licensing procedure.

(1) (a) Each license applicant shall apply to the division in writing upon forms available from the division.

(b) Each completed application shall:

(i) contain documentation of the particular qualifications required of the applicant under this title or rules made by the division;

(ii) include the applicant's full legal name and social security number;

(iii) be verified by the applicant; and

(iv) be accompanied by the appropriate fees.

(c) An applicant's social security number is a private record under Subsection 63G-2-302(1)(i).

(2) (a) The division shall issue a license to an applicant who submits a complete application if the division determines that the applicant meets the qualifications of licensure.

(b) The division shall provide a written notice of additional proceedings to an applicant who submits a complete application, but who has been, is, or will be placed under investigation by the division for conduct directly bearing upon the applicant's qualifications for licensure, if the outcome of additional proceedings is required to determine the division's response to the application.

(c) The division shall provide a written notice of denial of licensure to an applicant who submits a complete application if the division determines that the applicant does not meet the qualifications of licensure.

(d) The division shall provide a written notice of incomplete application and conditional denial of licensure to an applicant who submits an incomplete application, which notice shall advise the applicant that the application is incomplete and that the application is denied, unless the applicant corrects the deficiencies within the time period specified in the notice and otherwise meets all qualifications for licensure.

(3) The division may only issue a license to an applicant under this title if the applicant meets the requirements for that license as established under this title and by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(4) If an applicant meets all requirements for a specific license, the division shall issue the license to the applicant.

(5) (a) As used in this Subsection (5):

(i) (A) "Competency-based licensing requirement" means a practical assessment of knowledge and skills that clearly demonstrate a person is prepared to engage in an occupation or profession regulated by this title, and which the director determines is at least as effective as a time-based licensing requirement at demonstrating proficiency and protecting the health and safety of the public.

(B) "Competency-based licensing requirement" may include any combination of training, experience, testing, or observation.

(ii) (A) "Time-based licensing requirement" means a specific number of hours, weeks, months, or years of education, training, supervised training, or other experience that an applicant for licensure under this title is required to complete before receiving a license under this title.

(B) "Time-based licensing requirement" does not include an associate degree, a bachelor's degree, or a graduate degree from an accredited institution of higher education.

(b) Subject to Subsection (5)(c), for an occupation or profession regulated by this title that has a time-based licensing requirement, the director, after consultation with the appropriate board, may by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement.

(c) If a time-based licensing requirement involves a program that must be approved or accredited by a specific entity or board, the director may only allow an applicant to complete a competency-based licensing requirement as an alternative to completing the time-based licensing requirement under Subsection (5)(b) if the competency-based requirement is approved or accredited by the specific entity or board as a replacement or alternative to the time-based licensing requirement.

(d) By October 1 of each year, the director shall provide a written report to the Occupational and Professional Licensure Review Committee describing any competency-based licensing requirements implemented under this Subsection (5).

Section 57. Section 58-1-302 is amended to read:

58-1-302. License by endorsement.

(1) Subject to Subsections [~~(2), (3), (4), and (5)~~] (3) through (6), the division shall issue a license [~~without examination~~] to a person who has been licensed in a state, district, or territory of the United States if:

(a) after being licensed outside of this state, the person has at least one year of experience in the state, district, or territory of the United States where the license was issued;

(b) the person's license is in good standing in the state, district, or territory of the United States where the license was issued; and

(c) the division determines that the license issued by the state, district, or territory of the United States encompasses a similar scope of practice as the license sought in this state.

(2) Subject to Subsections (3) through (6), the division may issue a license to a person who:

(a) has been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) (A) after being licensed, the person has at least one year of experience in the jurisdiction where the license was issued; and

(B) the division determines that the person's education, experience, and skills demonstrate competency in the occupation or profession for which the person seeks licensure; or

(ii) the division determines that the licensure requirements of the jurisdiction at the time the license was issued were substantially similar to the current licensure requirements of this state; or

(b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:

(i) the person was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and

(ii) the division determines that the education or experience was substantially similar to the current education or experience requirements for licensure in this state.

[~~(2)~~] (3) The division, in consultation with the applicable licensing board, may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

[~~(3) Notwithstanding the provisions of Subsection (1), the~~]

(4) The division may refuse to issue a license to a person under the provisions of this section if:

(a) the division determines that there is reasonable cause to believe that the person is not qualified to receive a license in this state; or

(b) the person has a previous or pending disciplinary action related to the person's license.

[~~(4)~~] (5) Before a person may be issued a license under this section, the person shall:

(a) pay a fee determined by the department under Section 63J-1-504; and

(b) produce satisfactory evidence of the person's identity, qualifications, and good standing in the occupation or profession for which licensure is sought.

[~~(5)~~] (6) In accordance with Section 58-1-107, licensure endorsement provisions in this section are subject to and may be supplemented or altered by licensure endorsement provisions or multistate licensure compacts in specific chapters of this title.

[~~(6)~~] (7) On or before October 1, 2022, the division shall provide a written report to the Business and Labor Interim Committee regarding the effectiveness and sufficiency of the provisions of this section at ensuring that persons receiving a license without examination under the provisions of this section are qualified to receive a license in this state.

Section 58. Section 58-3a-302 is amended to read:

58-3a-302. Qualifications for licensure.

(1) Except as provided in Subsection (2), each applicant for licensure as an architect shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have graduated and received an earned bachelors or masters degree from an architecture program meeting criteria established by rule by the division in collaboration with the board;

(d) have successfully completed a program of diversified practical experience established by rule by the division in collaboration with the board;

(e) have successfully passed examinations established by rule by the division in collaboration with the board; and

(f) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

(2) Each applicant for licensure as an architect by endorsement shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) submit satisfactory evidence of:

(i) (A) current licensure in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

[~~(ii)~~] (B) current certification from the National Council of Architectural Registration Boards; or

[~~(iii)~~] (ii) (A) current license in good standing in a jurisdiction recognized by rule by the division in collaboration with the board; and

[~~(iv)~~] (B) full-time employment as a licensed architect as a principal for at least five of the last seven years immediately preceding the date of the application;

(d) have successfully passed [~~any~~] an examination established by rule by the division in collaboration with the board; and

(e) meet with the board or representative of the division upon request for the purpose of evaluating the applicant's qualifications for license.

Section 59. Section 58-9-302 is amended to read:

58-9-302. Qualifications for licensure.

(1) Each applicant for licensure as a funeral service director shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

[~~(c) be of good moral character in that the applicant has not been convicted of:~~]

[~~(i) a first or second degree felony;~~]

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii) any other crime that when considered with the duties and responsibilities of a funeral service director is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;~~]

[~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education degree;

[~~(e)~~] (d) have obtained an associate degree, or its equivalent, in mortuary science from a school of funeral service accredited by the American Board of Funeral Service Education or other accrediting body recognized by the U.S. Department of Education;

[~~(f)~~] (e) have completed not less than 2,000 hours and 50 embalmings, over a period of not less than one year, of satisfactory performance in training as a licensed funeral service intern under the supervision of a licensed funeral service director; and

[~~(g)~~] (f) obtain a passing score on examinations approved by the division in collaboration with the board.

(2) Each applicant for licensure as a funeral service intern shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

[~~(c) be of good moral character in that the applicant has not been convicted of:~~]

[~~(i) a first or second degree felony;~~]

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii) any other crime that when considered with the duties and responsibilities of a funeral service intern is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;~~]

[~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education degree; and

[~~(e)~~] (d) obtain a passing score on an examination approved by the division in collaboration with the board.

(3) Each applicant for licensure as a funeral service establishment and each funeral service establishment licensee shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) have in place:

(i) an embalming room for preparing dead human bodies for burial or final disposition, which may serve one or more facilities operated by the applicant;

(ii) a refrigeration room that maintains a temperature of not more than 40 degrees fahrenheit for preserving dead human bodies prior to burial or final disposition, which may serve one or more facilities operated by the applicant; and

(iii) maintain at all times a licensed funeral service director who is responsible for the day-to-day operation of the funeral service establishment and who is personally available to perform the services for which the license is required;

(d) affiliate with a licensed preneed funeral arrangement sales agent or funeral service director if the funeral service establishment sells preneed funeral arrangements;

(e) file with the completed application a copy of each form of contract or agreement the applicant will use in the sale of preneed funeral arrangements;

(f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product to be sold by the provider or the provider's sales agent; and

(g) if the applicant intends to offer alkaline hydrolysis in a funeral service establishment, provide evidence that in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) the funeral service establishment meets the minimum standards for the handling, holding, and processing of deceased human remains in a safe, clean, private, and respectful manner; and

(ii) all operators of the alkaline hydrolysis equipment have received adequate training.

(4) Each applicant for licensure as a preneed funeral arrangement sales agent shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

[~~(c) be of good moral character in that the applicant has not been convicted of:~~]

[~~(i) a first or second degree felony;~~]

[~~(ii) a misdemeanor involving moral turpitude; or~~]

[~~(iii) any other crime that when considered with the duties and responsibilities of a preneed funeral sales agent is considered by the division and the board to indicate that the best interests of the public are not served by granting the applicant a license;~~]

[~~(d)~~] (c) have obtained a high school diploma or its equivalent or a higher education degree;

[~~(e)~~] (d) have obtained a passing score on an examination approved by the division in collaboration with the board;

[~~(f)~~] (e) affiliate with a licensed funeral service establishment; and

[~~(g)~~] (f) provide evidence of appropriate licensure with the Insurance Department if the applicant intends to engage in the sale of any preneed funeral arrangements funded in whole or in part by an insurance policy or product.

Section 60. Section 58-15-101, which is renumbered from Section 58-15-2 is renumbered and amended to read:

CHAPTER 15. HEALTH FACILITY ADMINISTRATOR ACT

Part 1. General Provisions

[~~58-15-2~~]. 58-15-101. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Administrator" means a person who is charged with the general administration of a health facility, regardless of whether [~~that~~]:

(a) the person has an ownership interest in the facility [~~and whether his~~]; or

(b) the person's functions and duties are shared with one or more persons.

(2) "Board" means the Health Facility Administrators Licensing Board created in Section [~~58-15-3~~] 58-15-201.

(3) "Health facility" means a skilled nursing facility, an intermediate care facility, or an intermediate care facility for individuals with an intellectual disability.

(4) "Intermediate care facility" means an institution that provides, on a regular basis, health care and services to individuals who do not require the degree of care and treatment a hospital or skilled nursing facility provides, but who require health care and services in addition to room and board.

(5) "Intermediate care facility for people with an intellectual disability" means an institution that provides, on a regular basis, health-related care and service to individuals with intellectual disabilities as defined in Section 68-3-12.5 or individuals with related conditions, who do not require the degree of care and treatment a hospital or skilled nursing facility provides, but who require health-related care and services above the need for room and board.

(6) "Skilled nursing facility" means an institution primarily providing inpatients with skilled nursing care and related services on a continuing basis for patients who require mental, medical, or nursing care, or service for the rehabilitation of an injured individual, a sick individual, or an individual with a disability.

(7) "Unprofessional conduct" as defined in Section 58-1-501 and as may be further defined by rule includes:

(a) intentionally filing a false report or record, intentionally failing to file a report or record required by state or federal law, or [~~wilfully~~] willfully impeding or obstructing the filing of a required report. These reports or records only include those which are signed in the capacity of a licensed health facility administrator; and

(b) acting in a manner inconsistent with the health and safety of the patients of the health facility in which he is the administrator.

Section 61. Section 58-15-201, which is renumbered from Section 58-15-3 is renumbered and amended to read:

Part 2. Board

[~~58-15-3~~]. 58-15-201. Health Facility Administrators Licensing Board.

(1) There is created a Health Facility Administrators Licensing Board consisting of:

(a) one administrator from a skilled nursing facility[~~,~~];

(b) two administrators from intermediate care facilities[~~,~~];

(c) one administrator from an intermediate care facility for people with an intellectual disability[~~,~~]; and

(d) one member from the general public.

(2) The board shall be appointed and serve in accordance with Section 58-1-201.

(3) (a) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203.

(b) The board, in collaboration with the division, may establish continuing education requirements by rule.

(c) Board members may not receive compensation for their involvement in continuing education programs.

Section 62. Section 58-15-301, which is renumbered from Section 58-15-4 is renumbered and amended to read:

Part 3. Licensing

[~~58-15-4~~]. 58-15-301. Licensure requirements.

(1) An applicant for a license under this chapter shall submit to the division a written application [~~to the division, verified under oath, that the applicant is of good moral character as it relates to the functions and responsibilities of the practice of administration of a health facility~~] in a form prescribed by the division.

(2) After July 1, 1985, all new applicants are required to have[~~, in addition to Subsection (1),~~] the education or experience requirements as established by rule and as approved by the division.

(3) The applicant shall pay [~~a fee to the Department of Commerce determined by it pursuant to~~] to the department a fee in an amount determined by the department in accordance with Section 63J-1-504 for:

(a) admission to the examination[~~, for~~];

(b) an initial license[~~, and for~~]; and

(c) a renewal license.

(4) (a) The applicant shall pass a written examination in subjects determined by the board.

(b) Upon the applicant passing the examination described in Subsection (4)(a) and [~~payment of~~] paying the license fee described in Subsection (3), the board shall recommend issuance to the applicant of a license to practice as a health facility administrator.

(5) (a) A temporary license may be issued without examination to a person who meets the requirements established by statute and by rule for an administrator. [~~The~~]

(b) A temporary license may be issued only:

(i) to fill a position of administrator that unexpectedly becomes vacant; and [~~may be issued for only a single period not to exceed six months.~~]

(ii) for a single period of six months or less.

[~~(6) A license may be granted to an applicant who is a licensed nursing home administrator in another state if the standards for licensure in the other state are equivalent to those criteria set forth in Subsections (1) and (2), and if the applicant is otherwise qualified.~~]

Section 63. Section 58-15-302, which is renumbered from Section 58-15-4.5 is renumbered and amended to read:

[~~58-15-4.5~~]. 58-15-302. Term of license -- Expiration -- Renewal.

(1) (a) Each license issued under this chapter shall be issued in accordance with a two-year renewal cycle established by rule.

(b) A renewal period described in Subsection (1)(a) may be extended or shortened by as much as one year to maintain established renewal cycles or to change an established renewal cycle.

(2) Each license automatically expires on the expiration date shown on the license unless renewed by the licensee in accordance with Section 58-1-308.

Section 64. Section 58-15-303, which is renumbered from Section 58-15-11 is renumbered and amended to read:

[~~58-15-11~~]. 58-15-303. Exemptions to chapter.

(1) In addition to the exemptions described in Section 58-1-307, this chapter does not apply to:

(a) a facility of a recognized church or denomination that cares for the sick and suffering by mental or spiritual means if no drug or material remedy is used in the care provided; or

(b) the superintendent of the Utah State Developmental Center described in Section 62A-5-201.

(2) Any facility or person exempted under this section shall comply with each statute and rule on sanitation and life safety.

Section 65. Section 58-15-401, which is renumbered from Section 58-15-12 is renumbered and amended to read:

Part 4. License Denial and Discipline

[~~58-15-12~~]. 58-15-401. Grounds for denial of license -- Disciplinary proceedings.

Grounds for refusal to issue a license to an applicant, for refusal to renew the license of a licensee, to revoke, suspend, restrict, or place on probation the license of a licensee, to issue a public or private reprimand to a licensee, and to issue cease and desist orders shall be in accordance with Section 58-1-401.

Section 66. Section 58-15-501, which is renumbered from Section 58-15-10 is renumbered and amended to read:

Part 5. Unlawful Conduct

[~~58-15-10~~]. 58-15-501. Penalty for unlawful conduct.

[~~Any~~] A person who violates the unlawful conduct provisions defined in Subsection 58-1-501(1) is guilty of a class B misdemeanor.

Section 67. Section 58-16a-302 is amended to read:

58-16a-302. Qualifications for licensure.

[~~(1)~~] An applicant for licensure as an optometrist shall:

[~~(a)~~] (1) submit an application in a form prescribed by the division;

[~~(b)~~] (2) pay a fee as determined by the division under Section 63J-1-504;

[~~(c) (i)~~] (3) (a) be a doctoral graduate of a recognized school of optometry accredited by the American Optometric Association's Accreditation Council on Optometric Education; or

[~~(ii)~~] (b) be a graduate of a school of optometry located outside the United States that meets the criteria that would qualify the school for accreditation under Subsection [~~(1)(c)(i)~~] (3)(a), as demonstrated by the applicant for licensure;

[~~(d)~~] (4) if the applicant graduated from a recognized school of optometry prior to July 1, 1996, have successfully completed a course of study satisfactory to the division, in consultation with the board, in general and ocular pharmacology and emergency medical care;

[~~(e)~~] (5) have passed examinations approved by the division in consultation with the board that include:

[~~(i)~~] (a) a standardized national optometry examination;

[~~(ii)~~] (b) a standardized clinical examination; and

[~~(iii)~~] (c) a standardized national therapeutics examination; and

[~~(f)~~] (6) meet with the board and representatives of the division, if requested by either party, for the purpose of evaluating the applicant's qualifications for licensure.

[~~(2) Notwithstanding Subsection (1) and Section 58-1-302, the division shall issue a license under this chapter by endorsement to an individual who:~~]

[~~(a) submits an application for licensure by endorsement on a form approved by the division;~~]

[~~(b) pays a fee established by the division in accordance with Section 63J-1-504;~~]

[~~(c) verifies that the individual is licensed as an optometrist in good standing in each state of the United States, or province of Canada, in which the individual is currently licensed as an optometrist; and~~]

[~~(d) has been actively engaged in the legal practice of optometry for at least 3,200 hours during the immediately preceding two years in a manner consistent with the legal practice of optometry in this state.~~]

Section 68. Section 58-17b-504 is amended to read:

58-17b-504. Penalty for unlawful or unprofessional conduct -- Fines -- Citations.

(1) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(i) and Subsections 58-17b-501(7) and (11) is guilty of a third degree felony.

(2) Any person who violates any of the unlawful conduct provisions of Subsection 58-1-501(1)(a)(ii), Subsections 58-1-501(1)(b) through (e), and Section 58-17b-501, except Subsections 58-17b-501(7) and (11), is guilty of a class A misdemeanor.

(3) (a) Subject to Subsection (5) and in accordance with Section 58-17b-401, for acts of unprofessional or unlawful conduct, the division may:

(i) assess administrative penalties; and

(ii) take any other appropriate administrative action.

(b) An administrative penalty imposed pursuant to this section shall be deposited in the General Fund as a dedicated credit to be used by the division for pharmacy licensee education and enforcement as provided in Section 58-17b-505.

(4) If a licensee has been convicted of violating Section 58-17b-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed an administrative fine under this chapter for the same offense for which the conviction was obtained.

(5) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) Any person who is in violation of the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 37f, Controlled Substance Database Act, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any rule or order issued with respect to these provisions, as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (5) of up to $10,000 per single violation or up to $2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule, and may, in addition to or in lieu of, be ordered to cease and desist from violating the provisions of Section 58-17b-501 or 58-17b-502, Chapter 37, Utah Controlled Substances Act, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, or any rule or order issued with respect to these provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-17b-401 may not be assessed through a citation.

(d) Each citation shall be in writing and specifically describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated. The citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative

Procedures Act. The citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(e) Each citation issued under this section, or a copy of each citation, may be served upon any person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(iii) by mail.

(f) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(g) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

(h) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(i) No citation may be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(6) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 69. Section 58-20b-102 is amended to read:

58-20b-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Accredited program" means a degree-offering program from:

(a) an institution, college, or university that is accredited by the Department of Education or the Council for Higher Education Accreditation; or

(b) a non-accredited institution, college, or university that offers education equivalent to Department of Education-accredited programs, as determined by a third party selected by the board.

(2) "Board" means the Environmental Health Scientist Board created in Section 58-20b-201.

(3) "General supervision" means the supervising environmental health scientist is available for immediate voice communication with the person he or she is supervising.

(4) "Practice of environmental health science" means:

(a) the enforcement of, the issuance of permits required by, or the inspection for the purpose of enforcing state and local public health laws in the following areas:

(i) air quality;

(ii) food [~~quality~~] safety;

(iii) solid, hazardous, and toxic substances disposal;

(iv) consumer product safety;

(v) housing;

(vi) noise control;

(vii) radiation protection;

(viii) water quality;

(ix) vector control;

(x) drinking water quality;

(xi) milk sanitation;

(xii) rabies control;

(xiii) public health nuisances;

(xiv) indoor clean air regulations;

(xv) institutional and residential sanitation; or

(xvi) recreational facilities sanitation; or

(b) representing oneself in any manner as, or using the titles "environmental health scientist," "environmental health scientist-in-training," or "registered sanitarian."

(5) "Unlawful conduct" means the same as that term is defined in Section 58-1-501.

(6) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-20b-501 and as may be further defined by division rule.

Section 70. Section 58-22-102 is amended to read:

58-22-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Professional Engineers and Professional Land Surveyors Licensing Board created in Section 58-22-201.

(2) "Building" means a structure which has human occupancy or habitation as its principal purpose, and includes the structural, mechanical,

and electrical systems, utility services, and other facilities required for the building, and is otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(3) "Complete construction plans" means a final set of plans, specifications, and reports for a building or structure that normally includes:

(a) floor plans;

(b) elevations;

(c) site plans;

(d) foundation, structural, and framing detail;

(e) electrical, mechanical, and plumbing design;

(f) information required by the energy code;

(g) specifications and related calculations as appropriate; and

(h) all other documents required to obtain a building permit.

(4) "EAC/ABET" means the Engineering Accreditation Commission/Accreditation Board for Engineering and Technology.

(5) "Fund" means the Professional Engineer, Professional Structural Engineer, and Professional Land Surveyor Education and Enforcement Fund created in Section 58-22-103.

(6) "NCEES" means the National Council of Examiners for Engineering and Surveying.

(7) "Principal" means a licensed professional engineer, professional structural engineer, or professional land surveyor having responsible charge of an organization's professional engineering, professional structural engineering, or professional land surveying practice.

(8) "Professional engineer" means a person licensed under this chapter as a professional engineer.

(9) (a) "Professional engineering," "the practice of engineering," or "the practice of professional engineering" means a service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to the service or creative work as consultation, investigation, evaluation, planning, design, and design coordination of engineering works and systems, planning the use of land and water, facility programming, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any of which embraces these services or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, and including other professional services as may be necessary to the planning, progress, and completion of any engineering services.

(b) "The practice of professional engineering" does not include the practice of architecture as defined in Section 58-3a-102, but a licensed professional engineer may perform architecture work as is incidental to the practice of engineering.

(10) "Professional engineering intern" means a person who:

(a) has completed the education requirements to become a professional engineer;

(b) has passed the fundamentals of engineering examination; and

(c) is engaged in obtaining the four years of qualifying experience for licensure under the [~~direct~~] supervision of a licensed professional engineer.

(11) "Professional land surveying" or "the practice of land surveying" means a service or work, the adequate performance of which requires the application of special knowledge of the principles of mathematics, the related physical and applied sciences, and the relevant requirements of law for adequate evidence to the act of measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water for the purpose of determining areas and volumes, for the monumenting or locating of property boundaries or points controlling boundaries, and for the platting and layout of lands and subdivisions of lands, including the topography, alignment and grades of streets, and for the preparation and perpetuation of maps, record plats, field notes records, and property descriptions that represent these surveys and other duties as sound surveying practices could direct.

(12) "Professional land surveyor" means an individual licensed under this chapter as a professional land surveyor.

(13) "Professional structural engineer" means a person licensed under this chapter as a professional structural engineer.

(14) (a) "Professional structural engineering" or "the practice of structural engineering" means a service or creative work providing structural engineering services for significant structures, including:

(i) buildings and other structures representing a substantial hazard to human life, which include:

(A) buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300;

(B) buildings and other structures with elementary school, secondary school, or day care facilities with an occupant load greater than 250;

(C) buildings and other structures with an occupant load greater than 500 for colleges or adult education facilities;

(D) health care facilities with an occupant load of 50 or more resident patients, but not having surgery or emergency treatment facilities;

(E) jails and detention facilities with a gross area greater than 3,000 square feet; and

(F) buildings and other structures with an occupant load greater than 5,000;

(ii) buildings and other structures designated as essential facilities, including:

(A) hospitals and other health care facilities having surgery or emergency treatment facilities with a gross area greater than 3,000 square feet;

(B) fire, rescue, and police stations and emergency vehicle garages with a mean height greater than 24 feet or a gross area greater than 5,000 square feet;

(C) designated earthquake, hurricane, or other emergency shelters with a gross area greater than 3,000 square feet;

(D) designated emergency preparedness, communication, and operation centers and other buildings required for emergency response with a mean height more than 24 feet or a gross area greater than 5,000 square feet;

(E) power-generating stations and other public utility facilities required as emergency backup facilities with a gross area greater than 3,000 square feet;

(F) structures with a mean height more than 24 feet or a gross area greater than 5,000 square feet containing highly toxic materials as defined by the division by rule, where the quantity of the material exceeds the maximum allowable quantities set by the division by rule; and

(G) aviation control towers, air traffic control centers, and emergency aircraft hangars at commercial service and cargo air services airports as defined by the Federal Aviation Administration with a mean height greater than 35 feet or a gross area greater than 20,000 square feet; and

(iii) buildings and other structures requiring special consideration, including:

(A) structures or buildings that are normally occupied by human beings and are five stories or more in height;

(B) structures or buildings that are normally occupied by human beings and have an average roof height more than 60 feet above the average ground level measured at the perimeter of the structure; and

(C) buildings that are over 200,000 aggregate gross square feet in area.

(b) "Professional structural engineering" or "the practice of structural engineering":

(i) includes the definition of professional engineering or the practice of professional engineering as provided in Subsection (9); and

(ii) may be further defined by rules made by the division in collaboration with the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(15) "Structure" means that which is built or constructed, an edifice or building of any kind, or a piece of work artificially built up or composed of parts joined together in a definite manner, and as otherwise governed by the State Construction Code or an approved code under Title 15A, State Construction and Fire Codes Act.

(16) "Supervision [~~of an employee, subordinate, associate, or drafter of a licensee~~]" means that a licensed professional engineer, professional structural engineer, or professional land surveyor is responsible for and personally reviews, corrects when necessary, and approves work performed by an employee, subordinate, associate, or drafter under the direction of the licensee, and may be further defined by rule by the division in collaboration with the board.

(17) "TAC/ABET" means the Technology Accreditation Commission/Accreditation Board for Engineering and Technology.

(18) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-22-501.

(19) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-22-502.5.

Section 71. Section 58-28-304 is amended to read:

58-28-304. Temporary license -- License reciprocity.

(1) The division may issue a temporary license to practice veterinary medicine, surgery, and dentistry to any person not qualified for licensure under [~~Subsection (4)~~] Section 58-1-302 who meets all requirements of Section 58-28-302 with the exception of Subsections 58-28-302(1)(a) and (c), except that the temporary license shall by its terms expire at the date examination results are available for the examination next following the date of the issuance of the temporary license.

(2) The temporary license shall permit the holder to practice under the indirect supervision of a veterinarian licensed to practice in this state.

(3) The division may extend the expiration date of the temporary license until the following examination date if:

(a) the applicant shows to the board good cause for failing to take or pass the examination; and

(b) the majority of the board members recommend the extension.

[~~(4) Upon the recommendation of the board, the division may issue a license without examination to a person who:~~]

[~~(a) has been licensed or registered to practice veterinary medicine, surgery, and dentistry in any state, district, or territory of the United States or in~~

~~any foreign country, whose educational, examination, and experience requirements are or were at the time the license was issued equal to those of this state;~~]

[~~(b) has engaged in the practice of veterinary medicine, dentistry, and surgery while licensed by another jurisdiction for at least two years;~~]

[~~(c) obtained the license in another jurisdiction after passing an examination component acceptable to the division and the board;~~]

[~~(d) produces satisfactory evidence of having practiced veterinary medicine competently and in accordance with the standards and ethics of the profession while practicing in another jurisdiction; and~~]

[~~(e) produces satisfactory evidence of identity and good moral character as it relates to the applicant's functions and practice as a licensed veterinarian.~~]

Section 72. Section 58-28-503 is amended to read:

58-28-503. Penalty for unlawful or unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-28-501 is guilty of a third degree felony.

(2) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the division may impose administrative penalties of up to $10,000 for acts of unprofessional conduct or unlawful conduct under this chapter.

(3) Assessment of a penalty under this section does not affect any other action the division is authorized to take regarding a license issued under this chapter.

(4) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 73. Section 58-31b-303 is amended to read:

58-31b-303. Qualifications for licensure -- Graduates of nonapproved nursing programs.

An applicant for licensure as a practical nurse or registered nurse who is a graduate of a nursing education program not approved by the division in collaboration with the board must comply with the requirements of this section.

(1) An applicant for licensure as a licensed practical nurse shall:

(a) meet all requirements of Subsection 58-31b-302(2), except Subsection 58-31b-302(2)(e); and

(b) produce evidence acceptable to the division and the board that the nursing education program completed by the applicant is equivalent to the minimum standards established by the division in collaboration with the board for an approved licensed practical nursing education program.

(2) An applicant for licensure as a registered nurse shall:

(a) meet all requirements of Subsection 58-31b-302(3), except Subsection 58-31b-302(3)(e); and

(b) (i) pass the Commission on Graduates of Foreign Nursing Schools (CGFNS) Examination; or

(ii) produce evidence acceptable to the division and the board that the applicant is currently licensed as a registered nurse in one of the states, territories, or the District of Columbia of the United States or in Canada and has passed the NCLEX-RN examination in English.

Section 74. Section 58-31b-503 is amended to read:

58-31b-503. Penalties and administrative actions for unlawful conduct and unprofessional conduct.

(1) Any person who violates the unlawful conduct provision specifically defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.

(2) Any person who violates any of the unlawful conduct provisions specifically defined in Subsections 58-1-501(1)(b) through (f) and 58-31b-501(1)(d) is guilty of a class A misdemeanor.

(3) Any person who violates any of the unlawful conduct provisions specifically defined in this chapter and not set forth in Subsection (1) or (2) is guilty of a class B misdemeanor.

(4) (a) Subject to Subsection (6) and in accordance with Section 58-31b-401, for acts of unprofessional or unlawful conduct, the division may:

(i) assess administrative penalties; and

(ii) take any other appropriate administrative action.

(b) An administrative penalty imposed pursuant to this section shall be deposited [~~in~~] into the "Nurse Education and Enforcement Account" as provided in Section 58-31b-103.

(5) If a licensee has been convicted of violating Section 58-31b-501 prior to an administrative finding of a violation of the same section, the licensee may not be assessed an administrative fine

under this chapter for the same offense for which the conviction was obtained.

(6) (a) If upon inspection or investigation, the division concludes that a person has violated the provisions of Section 58-31b-401, 58-31b-501, or 58-31b-502, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and that disciplinary action is appropriate, the director or the director's designee from within the division shall:

(i) promptly issue a citation to the person according to this chapter and any pertinent administrative rules;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(b) Any person who is in violation of a provision described in Subsection (6)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding may be assessed a fine:

(i) pursuant to this Subsection (6) of up to $10,000 per single violation or up to $2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; and

(ii) in addition to or in lieu of the fine imposed under Subsection (6)(b)(i), be ordered to cease and desist from violating a provision of Sections 58-31b-501 and 58-31b-502, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to those provisions.

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-31b-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

(i) be in writing; and

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days of service of the citation in order to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation; and

(iii) be served upon any person upon whom a summons may be served:

(A) in accordance with the Utah Rules of Civil Procedure;

(B) personally or upon the person's agent by a division investigator or by any person specially designated by the director; or

(C) by mail.

(e) If within 20 calendar days from the service of a citation, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with the citation after it becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(7) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 75. Section 58-37-2 is amended to read:

58-37-2. Definitions.

(1) As used in this chapter:

(a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(i) a practitioner or, in the practitioner's presence, by the practitioner's authorized agent; or

(ii) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or practitioner but does not include a motor carrier, public warehouseman, or employee of any of them.

(c) "Consumption" means ingesting or having any measurable amount of a controlled substance in a person's body, but this Subsection (1)(c) does not include the metabolite of a controlled substance.

(d) "Continuing criminal enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or groups of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities created or maintained for the purpose of engaging in conduct which constitutes the commission of episodes of activity made unlawful by Title 58, Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise.

(e) "Control" means to add, remove, or change the placement of a drug, substance, or immediate precursor under Section 58-37-3.

(f) (i) "Controlled substance" means a drug or substance:

(A) included in Schedules I, II, III, IV, or V of Section 58-37-4;

(B) included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;

(C) that is a controlled substance analog; or

(D) listed in Section 58-37-4.2.

(ii) "Controlled substance" does not include:

(A) distilled spirits, wine, or malt beverages, as those terms are defined in Title 32B, Alcoholic Beverage Control Act;

(B) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in human or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(C) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which:

(I) are not otherwise regulated by law; and

(II) may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(g) (i) "Controlled substance analog" means:

(A) a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in Schedules I and II of Section 58-37-4, a substance listed in Section 58-37-4.2, or in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513;

(B) a substance which has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513; or

(C) A substance which, with respect to a particular individual, is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of controlled substances listed in Schedules I and II of Section 58-37-4, substances listed in Section 58-37-4.2, or substances listed in Schedules I and II of the federal Controlled Substances Act, Title II, P.L. 91-513.

(ii) "Controlled substance analog" does not include:

(A) a controlled substance currently scheduled in Schedules I through V of Section 58-37-4;

(B) a substance for which there is an approved new drug application;

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, to the extent the conduct with respect to the substance is permitted by the exemption;

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance;

(E) any drug intended for lawful use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals, which contains ephedrine, pseudoephedrine, norpseudoephedrine, or phenylpropanolamine if the drug is lawfully purchased, sold, transferred, or furnished as an over-the-counter medication without prescription; or

(F) dietary supplements, vitamins, minerals, herbs, or other similar substances including concentrates or extracts, which are not otherwise regulated by law, which may contain naturally occurring amounts of chemical or substances listed in this chapter, or in rules adopted pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(h) (i) "Conviction" means a determination of guilt by verdict, whether jury or bench, or plea, whether guilty or no contest, for any offense proscribed by:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act; or

(ii) for any offense under the laws of the United States and any other state which, if committed in this state, would be an offense under:

(A) Chapter 37, Utah Controlled Substances Act;

(B) Chapter 37a, Utah Drug Paraphernalia Act;

(C) Chapter 37b, Imitation Controlled Substances Act;

(D) Chapter 37c, Utah Controlled Substance Precursor Act; or

(E) Chapter 37d, Clandestine Drug Lab Act.

(i) "Counterfeit substance" means:

(i) any controlled substance or container or labeling of any controlled substance that:

(A) without authorization bears the trademark, trade name, or other identifying mark, imprint, number, device, or any likeness of them, of a manufacturer, distributor, or dispenser other than the person or persons who in fact manufactured, distributed, or dispensed the substance which falsely purports to be a controlled substance distributed by any other manufacturer, distributor, or dispenser; and

(B) a reasonable person would believe to be a controlled substance distributed by an authorized manufacturer, distributor, or dispenser based on the appearance of the substance as described under Subsection (1)(i)(i)(A) or the appearance of the container of that controlled substance; or

(ii) any substance other than under Subsection (1)(i)(i) that:

(A) is falsely represented to be any legally or illegally manufactured controlled substance; and

(B) a reasonable person would believe to be a legal or illegal controlled substance.

(j) "Deliver" or "delivery" means the actual, constructive, or attempted transfer of a controlled substance or a listed chemical, whether or not an agency relationship exists.

(k) "Department" means the Department of Commerce.

(l) "Depressant or stimulant substance" means:

(i) a drug which contains any quantity of barbituric acid or any of the salts of barbituric acid;

(ii) a drug which contains any quantity of:

(A) amphetamine or any of its optical isomers;

(B) any salt of amphetamine or any salt of an optical isomer of amphetamine; or

(C) any substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found and by regulation designated habit-forming because of its stimulant effect on the central nervous system;

(iii) lysergic acid diethylamide; or

(iv) any drug which contains any quantity of a substance which the Secretary of Health and Human Services or the Attorney General of the United States after investigation has found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(m) "Dispense" means the delivery of a controlled substance by a pharmacist to an ultimate user pursuant to the lawful order or prescription of a practitioner, and includes distributing to, leaving with, giving away, or disposing of that substance as well as the packaging, labeling, or compounding necessary to prepare the substance for delivery.

(n) "Dispenser" means a pharmacist who dispenses a controlled substance.

(o) "Distribute" means to deliver other than by administering or dispensing a controlled substance or a listed chemical.

(p) "Distributor" means a person who distributes controlled substances.

(q) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103.

(r) (i) "Drug" means:

(A) a substance recognized in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or Official National Formulary, or any supplement to any of them, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or animals;

(B) a substance that is required by any applicable federal or state law or rule to be dispensed by prescription only or is restricted to administration by practitioners only;

(C) a substance other than food intended to affect the structure or any function of the body of humans or other animals; and

(D) substances intended for use as a component of any substance specified in Subsections (1)(r)(i)(A), (B), and (C).

(ii) "Drug" does not include dietary supplements.

(s) "Drug dependent person" means any individual who unlawfully and habitually uses any controlled substance to endanger the public morals, health, safety, or welfare, or who is so dependent upon the use of controlled substances as to have lost the power of self-control with reference to the individual's dependency.

(t) "Food" means:

(i) any nutrient or substance of plant, mineral, or animal origin other than a drug as specified in this chapter, and normally ingested by human beings; and

(ii) foods for special dietary uses as exist by reason of a physical, physiological, pathological, or other condition including but not limited to the conditions of disease, convalescence, pregnancy, lactation, allergy, hypersensitivity to food, underweight, and overweight; uses for supplying a particular dietary need which exist by reason of age including but not limited to the ages of infancy and childbirth, and also uses for supplementing and for fortifying the ordinary or unusual diet with any vitamin, mineral, or other dietary property for use of a food. Any particular use of a food is a special dietary use regardless of the nutritional purposes.

(u) "Immediate precursor" means a substance which the Attorney General of the United States has found to be, and by regulation designated as being, the principal compound used or produced primarily for use in the manufacture of a controlled substance, or which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(v) "Indian" means a member of an Indian tribe.

(w) "Indian religion" means any religion:

(i) the origin and interpretation of which is from within a traditional Indian culture or community; and

(ii) which is practiced by Indians.

(x) "Indian tribe" means any tribe, band, nation, pueblo, or other organized group or community of Indians, including any Alaska Native village, which is legally recognized as eligible for and is consistent with the special programs, services, and entitlements provided by the United States to Indians because of their status as Indians.

(y) "Manufacture" means the production, preparation, propagation, compounding, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis.

(z) "Manufacturer" includes any person who packages, repackages, or labels any container of any controlled substance, except pharmacists who dispense or compound prescription orders for delivery to the ultimate consumer.

(aa) (i) "Marijuana" means all species of the genus cannabis and all parts of the genus, whether growing or not, including:

(A) seeds;

(B) resin extracted from any part of the plant, including the resin extracted from the mature stalks;

(C) every compound, manufacture, salt, derivative, mixture, or preparation of the plant, seeds, or resin; and

(D) any synthetic equivalents of the substances contained in the plant cannabis sativa or any other species of the genus cannabis which are chemically indistinguishable and pharmacologically active.

(ii) "Marijuana" does not include:

(A) the mature stalks of the plant;

(B) fiber produced from the stalks;

(C) oil or cake made from the seeds of the plant;

(D) except as provided in Subsection (1)(aa)(i), any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks, fiber, oil or cake;

(E) the sterilized seed of the plant which is incapable of germination; or

(F) any compound, mixture, or preparation approved by the federal Food and Drug Administration under the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq. that is not listed in a schedule of controlled substances in Section 58-27-4 or in the federal Controlled Substances Act, Title II, P.L. 91-513.

(bb) "Money" means officially issued coin and currency of the United States or any foreign country.

(cc) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, coca leaves, and opiates;

(ii) a compound, manufacture, salt, derivative, or preparation of opium, coca leaves, or opiates;

(iii) opium poppy and poppy straw; or

(iv) a substance, and any compound, manufacture, salt, derivative, or preparation of the substance, which is chemically identical with any of the substances referred to in Subsection (1)(cc)(i), (ii), or (iii), except narcotic drug does not include decocainized coca leaves or extracts of coca leaves which do not contain cocaine or ecgonine.

(dd) "Negotiable instrument" means documents, containing an unconditional promise to pay a sum of money, which are legally transferable to another party by endorsement or delivery.

(ee) "Opiate" means any drug or other substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability.

(ff) "Opium poppy" means the plant of the species papaver somniferum L., except the seeds of the plant.

(gg) "Person" means any corporation, association, partnership, trust, other institution or entity or one or more individuals.

(hh) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ii) "Possession" or "use" means the joint or individual ownership, control, occupancy, holding, retaining, belonging, maintaining, or the application, inhalation, swallowing, injection, or consumption, as distinguished from distribution, of controlled substances and includes individual, joint, or group possession or use of controlled substances. For a person to be a possessor or user of a controlled substance, it is not required that the person be shown to have individually possessed, used, or controlled the substance, but it is sufficient if it is shown that the person jointly participated with one or more persons in the use, possession, or control of any substances with knowledge that the activity was occurring, or the controlled substance is found in a place or under circumstances indicating that the person had the ability and the intent to exercise dominion and control over it.

(jj) "Practitioner" means a physician, dentist, naturopathic physician, veterinarian, pharmacist, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis a controlled substance in the course of professional practice or research in this state.

(kk) "Prescribe" means to issue a prescription:

(i) orally or in writing; or

(ii) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

(ll) "Prescription" means an order issued:

(i) by a licensed practitioner, in the course of that practitioner's professional practice or by collaborative pharmacy practice agreement; and

(ii) for a controlled substance or other prescription drug or device for use by a patient or an animal.

(mm) "Production" means the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(nn) "Securities" means any stocks, bonds, notes, or other evidences of debt or of property.

(oo) "State" means the state of Utah.

(pp) "Ultimate user" means any person who lawfully possesses a controlled substance for the person's own use, for the use of a member of the person's household, or for administration to an animal owned by the person or a member of the person's household.

(2) If a term used in this chapter is not defined, the definition and terms of Title 76, Utah Criminal Code, shall apply.

Section 76. Section 58-37-6 is amended to read:

58-37-6. License to manufacture, produce, distribute, dispense, administer, or conduct research -- Issuance by division -- Denial, suspension, or revocation -- Records required -- Prescriptions.

(1) (a) The division may adopt rules relating to the licensing and control of the manufacture, distribution, production, prescription, administration, dispensing, conducting of research with, and performing of laboratory analysis upon controlled substances within this state.

(b) The division may assess reasonable fees to defray the cost of issuing original and renewal licenses under this chapter pursuant to Section 63J-1-504.

(2) (a) (i) Every person who manufactures, produces, distributes, prescribes, dispenses, administers, conducts research with, or performs laboratory analysis upon any controlled substance in Schedules I through V within this state, or who proposes to engage in manufacturing, producing, distributing, prescribing, dispensing, administering, conducting research with, or performing laboratory analysis upon controlled substances included in Schedules I through V within this state shall obtain a license issued by the division.

(ii) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal period by as much as one year to stagger the renewal cycles it administers.

(b) Persons licensed to manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon controlled substances in Schedules I through V within this state may possess, manufacture, produce, distribute, prescribe, dispense, administer, conduct research with, or perform laboratory analysis upon those substances to the extent authorized by their license and in conformity with this chapter.

(c) The following persons are not required to obtain a license and may lawfully possess controlled substances included in Schedules II through V under this section:

(i) an agent or employee, except a sales representative, of any registered manufacturer, distributor, or dispenser of any controlled substance, if the agent or employee is acting in the usual course of the agent or employee's business or employment; however, nothing in this subsection shall be interpreted to permit an agent, employee, sales representative, or detail man to maintain an inventory of controlled substances separate from the location of the person's employer's registered and licensed place of business;

(ii) a motor carrier or warehouseman, or an employee of a motor carrier or warehouseman, who possesses a controlled substance in the usual course of the person's business or employment; and

(iii) an ultimate user, or a person who possesses any controlled substance pursuant to a lawful order of a practitioner.

(d) The division may enact rules waiving the license requirement for certain manufacturers, producers, distributors, prescribers, dispensers, administrators, research practitioners, or laboratories performing analysis if waiving the license requirement is consistent with public health and safety.

(e) A separate license is required at each principal place of business or professional practice where the applicant manufactures, produces, distributes, dispenses, conducts research with, or performs laboratory analysis upon controlled substances.

(f) The division may enact rules providing for the inspection of a licensee or applicant's establishment, and may inspect the establishment according to those rules.

(3) (a) (i) Upon proper application, the division shall license a qualified applicant to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances included in Schedules I through V, unless it determines that issuance of a license is inconsistent with the public interest.

(ii) The division may not issue a license to any person to prescribe, dispense, or administer a Schedule I controlled substance except under Subsection (3)(a)(i).

(iii) In determining public interest under this Subsection (3)(a), the division shall consider whether the applicant has:

(A) maintained effective controls against diversion of controlled substances and any Schedule I or II substance compounded from any controlled substance into channels other than legitimate medical, scientific, or industrial channels;

(B) complied with applicable state and local law;

(C) been convicted under federal or state laws relating to the manufacture, distribution, or dispensing of substances;

(D) past experience in the manufacture of controlled dangerous substances;

(E) established effective controls against diversion; and

(F) complied with any other factors that the division establishes that promote the public health and safety.

(b) Licenses granted under Subsection (3)(a) do not entitle a licensee to manufacture, produce, distribute, conduct research with, or perform laboratory analysis upon controlled substances in Schedule I other than those specified in the license.

(c) (i) Practitioners shall be licensed to administer, dispense, or conduct research with substances in Schedules II through V if they are authorized to administer, dispense, or conduct research under the laws of this state.

(ii) The division need not require a separate license for practitioners engaging in research with nonnarcotic controlled substances in Schedules II through V where the licensee is already licensed under this chapter in another capacity.

(iii) With respect to research involving narcotic substances in Schedules II through V, or where the division by rule requires a separate license for research of nonnarcotic substances in Schedules II through V, a practitioner shall apply to the division prior to conducting research.

(iv) Licensing for purposes of bona fide research with controlled substances by a practitioner considered qualified may be denied only on a ground specified in Subsection (4), or upon evidence that the applicant will abuse or unlawfully transfer or fail to safeguard adequately the practitioner's supply of substances against diversion from medical or scientific use.

(v) Practitioners registered under federal law to conduct research in Schedule I substances may conduct research in Schedule I substances within this state upon providing the division with evidence of federal registration.

(d) Compliance by manufacturers, producers, and distributors with the provisions of federal law respecting registration, excluding fees, entitles them to be licensed under this chapter.

(e) The division shall initially license those persons who own or operate an establishment engaged in the manufacture, production, distribution, dispensation, or administration of controlled substances prior to April 3, 1980, and who are licensed by the state.

(4) (a) Any license issued pursuant to Subsection (2) or (3) may be denied, suspended, placed on probation, or revoked by the division upon finding that the applicant or licensee has:

(i) materially falsified any application filed or required pursuant to this chapter;

(ii) been convicted of an offense under this chapter or any law of the United States, or any state, relating to any substance defined as a controlled substance;

(iii) been convicted of a felony under any other law of the United States or any state within five years of the date of the issuance of the license;

(iv) had a federal registration or license denied, suspended, or revoked by competent federal authority and is no longer authorized to manufacture, distribute, prescribe, or dispense controlled substances;

(v) had the licensee's license suspended or revoked by competent authority of another state for violation of laws or regulations comparable to those of this state relating to the manufacture, distribution, or dispensing of controlled substances;

(vi) violated any division rule that reflects adversely on the licensee's reliability and integrity with respect to controlled substances;

(vii) refused inspection of records required to be maintained under this chapter by a person authorized to inspect them; or

(viii) prescribed, dispensed, administered, or injected an anabolic steroid for the purpose of manipulating human hormonal structure so as to:

(A) increase muscle mass, strength, or weight without medical necessity and without a written prescription by any practitioner in the course of the practitioner's professional practice; or

(B) improve performance in any form of human exercise, sport, or game.

(b) The division may limit revocation or suspension of a license to a particular controlled substance with respect to which grounds for revocation or suspension exist.

(c) (i) Proceedings to deny, revoke, or suspend a license shall be conducted pursuant to this section and in accordance with the procedures set forth in Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, and conducted in conjunction with the appropriate representative committee designated by the director of the department.

(ii) Nothing in this Subsection (4)(c) gives the Division of [~~Occupational and~~] Professional Licensing exclusive authority in proceedings to deny, revoke, or suspend licenses, except where the division is designated by law to perform those functions, or, when not designated by law, is designated by the executive director of the Department of Commerce to conduct the proceedings.

(d) (i) The division may suspend any license simultaneously with the institution of proceedings under this section if it finds there is an imminent danger to the public health or safety.

(ii) Suspension shall continue in effect until the conclusion of proceedings, including judicial review, unless withdrawn by the division or dissolved by a court of competent jurisdiction.

(e) (i) If a license is suspended or revoked under this Subsection (4), all controlled substances owned or possessed by the licensee may be placed under seal in the discretion of the division.

(ii) Disposition may not be made of substances under seal until the time for taking an appeal has lapsed, or until all appeals have been concluded, unless a court, upon application, orders the sale of perishable substances and the proceeds deposited with the court.

(iii) If a revocation order becomes final, all controlled substances shall be forfeited.

(f) The division shall notify promptly the Drug Enforcement Administration of all orders suspending or revoking a license and all forfeitures of controlled substances.

(g) If an individual's Drug Enforcement Administration registration is denied, revoked, surrendered, or suspended, the division shall immediately suspend the individual's controlled substance license, which shall only be reinstated by the division upon reinstatement of the federal registration, unless the division has taken further administrative action under Subsection (4)(a)(iv), which would be grounds for the continued denial of the controlled substance license.

(5) (a) A person licensed under Subsection (2) or (3) shall maintain records and inventories in conformance with the record keeping and inventory requirements of federal and state law and any additional rules issued by the division.

(b) (i) A physician, dentist, naturopathic physician, veterinarian, practitioner, or other individual who is authorized to administer or professionally use a controlled substance shall keep a record of the drugs received by the individual and a record of all drugs administered, dispensed, or professionally used by the individual otherwise than by a prescription.

(ii) An individual using small quantities or solutions or other preparations of those drugs for local application has complied with this Subsection (5)(b) if the individual keeps a record of the quantity, character, and potency of those solutions or preparations purchased or prepared by the individual, and of the dates when purchased or prepared.

(6) Controlled substances in Schedules I through V may be distributed only by a licensee and pursuant to an order form prepared in compliance with division rules or a lawful order under the rules and regulations of the United States.

(7) (a) An individual may not write or authorize a prescription for a controlled substance unless the individual is:

(i) a practitioner authorized to prescribe drugs and medicine under the laws of this state or under the laws of another state having similar standards; and

(ii) licensed under this chapter or under the laws of another state having similar standards.

(b) An individual other than a pharmacist licensed under the laws of this state, or the pharmacist's licensed intern, as required by Sections 58-17b-303 and 58-17b-304, may not dispense a controlled substance.

(c) (i) A controlled substance may not be dispensed without the written prescription of a practitioner, if the written prescription is required by the federal Controlled Substances Act.

(ii) That written prescription shall be made in accordance with Subsection (7)(a) and in conformity with Subsection (7)(d).

(iii) In emergency situations, as defined by division rule, controlled substances may be dispensed upon oral prescription of a practitioner, if reduced promptly to writing on forms designated by the division and filed by the pharmacy.

(iv) Prescriptions reduced to writing by a pharmacist shall be in conformity with Subsection (7)(d).

(d) Except for emergency situations designated by the division, an individual may not issue, fill, compound, or dispense a prescription for a controlled substance unless the prescription is signed by the prescriber in ink or indelible pencil or is signed with an electronic signature of the prescriber as authorized by division rule, and contains the following information:

(i) the name, address, and registry number of the prescriber;

(ii) the name, address, and age of the person to whom or for whom the prescription is issued;

(iii) the date of issuance of the prescription; and

(iv) the name, quantity, and specific directions for use by the ultimate user of the controlled substance.

(e) A prescription may not be written, issued, filled, or dispensed for a Schedule I controlled substance unless:

(i) the individual who writes the prescription is licensed under Subsection (2); and

(ii) the prescribed controlled substance is to be used in research.

(f) Except when administered directly to an ultimate user by a licensed practitioner, controlled substances are subject to the restrictions of this Subsection (7)(f).

(i) A prescription for a Schedule II substance may not be refilled.

(ii) A Schedule II controlled substance may not be filled in a quantity to exceed a one-month's supply, as directed on the daily dosage rate of the prescriptions.

(iii) (A) A prescription for a Schedule II or Schedule III controlled substance that is an opiate and that is issued for an acute condition shall be completely or partially filled in a quantity not to exceed a seven-day supply as directed on the daily dosage rate of the prescription.

(B) Subsection (7)(f)(iii)(A) does not apply to prescriptions issued for complex or chronic conditions which are documented as being complex or chronic in the medical record.

(C) A pharmacist is not required to verify that a prescription is in compliance with Subsection (7)(f)(iii).

(iv) A Schedule III or IV controlled substance may be filled only within six months of issuance, and may not be refilled more than six months after the date of its original issuance or be refilled more than five times after the date of the prescription unless renewed by the practitioner.

(v) All other controlled substances in Schedule V may be refilled as the prescriber's prescription directs, but they may not be refilled one year after the date the prescription was issued unless renewed by the practitioner.

(vi) Any prescription for a Schedule II substance may not be dispensed if it is not presented to a pharmacist for dispensing by a pharmacist or a pharmacy intern within 30 days after the date the prescription was issued, or 30 days after the dispensing date, if that date is specified separately from the date of issue.

(vii) A practitioner may issue more than one prescription at the same time for the same Schedule II controlled substance, but only under the following conditions:

(A) no more than three prescriptions for the same Schedule II controlled substance may be issued at the same time;

(B) no one prescription may exceed a 30-day supply; and

(C) a second or third prescription shall include the date of issuance and the date for dispensing.

(g) An order for a controlled substance in Schedules II through V for use by an inpatient or an outpatient of a licensed hospital is exempt from all requirements of this Subsection (7) if the order is:

(i) issued or made by a prescribing practitioner who holds an unrestricted registration with the federal Drug Enforcement Administration, and an active Utah controlled substance license in good standing issued by the division under this section, or a medical resident who is exempted from licensure under Subsection 58-1-307(1)(c);

(ii) authorized by the prescribing practitioner treating the patient and the prescribing practitioner designates the quantity ordered;

(iii) entered upon the record of the patient, the record is signed by the prescriber affirming the prescriber's authorization of the order within 48 hours after filling or administering the order, and the patient's record reflects the quantity actually administered; and

(iv) filled and dispensed by a pharmacist practicing the pharmacist's profession within the physical structure of the hospital, or the order is taken from a supply lawfully maintained by the hospital and the amount taken from the supply is administered directly to the patient authorized to receive it.

(h) A practitioner licensed under this chapter may not prescribe, administer, or dispense a controlled substance to a child, without first obtaining the consent required in Section 78B-3-406 of a parent, guardian, or person standing in loco parentis of the child except in cases of an emergency. For purposes of Subsection (7)(h), "child" has the same meaning as defined in Section 80-1-102, and "emergency" means any physical condition requiring the administration of a controlled substance for immediate relief of pain or suffering.

(i) A practitioner licensed under this chapter may not prescribe or administer dosages of a controlled substance in excess of medically recognized quantities necessary to treat the ailment, malady, or condition of the ultimate user.

(j) A practitioner licensed under this chapter may not prescribe, administer, or dispense any controlled substance to another person knowing that the other person is using a false name, address, or other personal information for the purpose of securing the controlled substance.

(k) A person who is licensed under this chapter to manufacture, distribute, or dispense a controlled substance may not manufacture, distribute, or dispense a controlled substance to another licensee or any other authorized person not authorized by this license.

(l) A person licensed under this chapter may not omit, remove, alter, or obliterate a symbol required by this chapter or by a rule issued under this chapter.

(m) A person licensed under this chapter may not refuse or fail to make, keep, or furnish any record notification, order form, statement, invoice, or information required under this chapter.

(n) A person licensed under this chapter may not refuse entry into any premises for inspection as authorized by this chapter.

(o) A person licensed under this chapter may not furnish false or fraudulent material information in any application, report, or other document required to be kept by this chapter or willfully make any false statement in any prescription, order, report, or record required by this chapter.

(8) (a) (i) Any person licensed under this chapter who is found by the division to have violated any of the provisions of Subsections (7)(k) through (o) or Subsection (10) is subject to a penalty not to exceed $5,000. The division shall determine the procedure for adjudication of any violations in accordance with Sections 58-1-106 and 58-1-108.

(ii) The division shall deposit all penalties collected under Subsection (8)(a)(i) into the General Fund as a dedicated credit to be used by the division under Subsection 58-37f-502(1).

(iii) The director may collect a penalty that is not paid by:

(A) referring the matter to a collection agency; or

(B) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(iv) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(v) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

(b) Any person who knowingly and intentionally violates Subsections (7)(h) through (j) or Subsection (10) is:

(i) upon first conviction, guilty of a class B misdemeanor;

(ii) upon second conviction, guilty of a class A misdemeanor; and

(iii) on third or subsequent conviction, guilty of a third degree felony.

(c) Any person who knowingly and intentionally violates Subsections (7)(k) through (o) shall upon conviction be guilty of a third degree felony.

(9) Any information communicated to any licensed practitioner in an attempt to unlawfully procure, or to procure the administration of, a controlled substance is not considered to be a privileged communication.

(10) A person holding a valid license under this chapter who is engaged in medical research may produce, possess, administer, prescribe, or dispense a controlled substance for research purposes as licensed under Subsection (2) but may not otherwise prescribe or dispense a controlled substance listed in Section 58-37-4.2.

(11) (a) As used in this Subsection (11):

(i) "High risk prescription" means a prescription for an opiate or a benzodiazepine that is written to continue for longer than 30 consecutive days.

(ii) "Database" means the controlled substance database created in Section 58-37f-201.

(b) A practitioner who issues a high risk prescription to a patient shall, before issuing the high risk prescription to the patient, verify in the database that the patient does not have a high risk prescription from a different practitioner that is currently active.

(c) If the database shows that the patient has received a high risk prescription that is currently active from a different practitioner, the practitioner may not issue a high risk prescription to the patient unless the practitioner:

(i) contacts and consults with each practitioner who issued a high risk prescription that is currently active to the patient;

(ii) documents in the patient's medical record that the practitioner made contact with each practitioner in accordance with Subsection (11)(c)(i); and

(iii) documents in the patient's medical record the reason why the practitioner believes that the patient needs multiple high risk prescriptions from different practitioners.

(d) A practitioner shall satisfy the requirement described in Subsection (11)(c) in a timely manner, which may be after the practitioner issues the high risk prescription to the patient.

Section 77. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance, except for 11-nor-9-carboxy-tetrahydro-cannabinol; and

(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another; or

(B) if the controlled substance is marijuana, operates a motor vehicle as defined in Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in Section 76-1-601 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of [~~Occupational and~~] Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years [~~of age~~] old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 78. Section 58-37c-5 is amended to read:

58-37c-5. Responsibility of Department of Commerce -- Delegation to the Division of Professional Licensing -- Rulemaking authority of the division.

(1) Responsibility for the enforcement of the licensing and reporting provisions of this chapter shall be with the Department of Commerce.

(2) The executive director shall delegate specific responsibility within the department to the Division of [~~Occupational and~~] Professional Licensing.

(3) The division shall make, adopt, amend, and repeal rules necessary for the proper administration and enforcement of this chapter.

Section 79. Section 58-37c-6 is amended to read:

58-37c-6. Division duties.

The division shall be responsible for the licensing and reporting provisions of this chapter and those duties shall include:

(1) providing for a system of licensure of regulated distributors and regulated purchasers;

(2) refusing to renew a license or revoking, suspending, restricting, placing on probation, issuing a private or public letter of censure or reprimand, or imposing other appropriate action against a license;

(3) with respect to the licensure and reporting provisions of this chapter, investigating or causing to be investigated any violation of this chapter by any person and to cause, when necessary, appropriate administrative action with respect to the license of that person;

(4) presenting evidence obtained from investigations conducted by appropriate county attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee;

(5) conducting hearings for the purpose of revoking, suspending, placing on probation, or imposing other appropriate administrative action against the license of regulated distributors or regulated purchasers in accordance with the provisions of Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, and Title 63G, Chapter 4, Administrative Procedures Act;

(6) assisting all other law enforcement agencies of the state in enforcing all laws regarding controlled substance precursors;

(7) specifying reports, frequency of reports, and conditions under which reports are to be submitted and to whom reports are to be submitted by regulated distributors and regulated purchasers with respect to transactions involving threshold amounts of controlled substance precursors; and

(8) performing all other functions necessary to fulfill division duties and responsibilities as outlined under this chapter or rules adopted pursuant to this chapter.

Section 80. Section 58-37c-21 is amended to read:

58-37c-21. Department of Public Safety enforcement authority.

(1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section 53-10-103.

(2) The division has authority to enforce this chapter. To carry out this purpose, the division may:

(a) inspect, copy, and audit records, inventories of controlled substance precursors, and reports required under this chapter and rules adopted under this chapter;

(b) enter the premises of regulated distributors and regulated purchasers during normal business hours to conduct administrative inspections;

(c) assist the law enforcement agencies of the state in enforcing this chapter;

(d) conduct investigations to enforce this chapter;

(e) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

(f) work in cooperation with the Division of [~~Occupational and~~] Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Section 81. Section 58-37d-9 is amended to read:

58-37d-9. Department of Public Safety enforcement authority.

(1) As used in this section, "division" means the Criminal Investigations and Technical Services Division of the Department of Public Safety, created in Section 53-10-103.

(2) The division has authority to enforce this chapter. To carry out this purpose, the division may:

(a) assist the law enforcement agencies of the state in enforcing this chapter;

(b) conduct investigations to enforce this chapter;

(c) present evidence obtained from investigations conducted in conjunction with appropriate county and district attorneys and the Office of the Attorney General for civil or criminal prosecution or for administrative action against a licensee; and

(d) work in cooperation with the Division of [~~Occupational and~~] Professional Licensing, created under Section 58-1-103, to accomplish the purposes of this section.

Section 82. Section 58-38a-201 is amended to read:

58-38a-201. Controlled Substances Advisory Committee.

There is created within the Division of [~~Occupational and~~] Professional Licensing the Controlled Substances Advisory Committee. The committee consists of:

(1) the director of the Department of Health or the director's designee;

(2) the State Medical Examiner or the examiner's designee;

(3) the commissioner of the Department of Public Safety or the commissioner's designee;

(4) the director of the Bureau of Forensic Services created in Section 53-10-401, or the director's designee;

(5) the director of the Utah Poison Control Center or the director's designee;

(6) one physician who is a member of the Physicians Licensing Board and is designated by that board;

(7) one pharmacist who is a member of the Utah State Board of Pharmacy and is designated by that board;

(8) one dentist who is a member of the Dentist and Dental Hygienist Licensing Board and is designated by that board;

(9) one physician who is currently licensed and practicing in the state, to be appointed by the governor;

(10) one psychiatrist who is currently licensed and practicing in the state, to be appointed by the governor;

(11) one individual with expertise in substance abuse addiction, to be appointed by the governor;

(12) one representative from the Statewide Association of Prosecutors, to be designated by that association;

(13) one naturopathic physician who is currently licensed and practicing in the state, to be appointed by the governor;

(14) one advanced practice registered nurse who is currently licensed and practicing in this state, to be appointed by the governor; and

(15) one member of the public, to be appointed by the governor.

Section 83. Section 58-41-4 is amended to read:

58-41-4. Exemptions from chapter.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in the practice of speech-language pathology and audiology subject to the stated circumstances and limitations without being licensed under this chapter:

(a) a qualified person licensed in this state under any law existing in this state prior to May 13, 1975, engaging in the profession for which [~~he~~] the person is licensed;

(b) a medical doctor, physician, physician assistant, or surgeon licensed in this state, engaging in his or her specialty in the practice of medicine;

(c) a hearing aid dealer or [~~salesman from~~] salesperson selling, fitting, adjusting, and repairing hearing aids, and conducting hearing tests solely for that purpose. However, a hearing aid dealer may not conduct audiologic testing on persons [~~under the age of 18 years~~] younger than 18 years old except under the direct supervision of an audiologist licensed under this chapter;

(d) a person who has obtained a valid and current credential issued by the State Board of Education while specifically performing [~~specifically~~] the functions of a speech-language pathologist or audiologist[~~, in no way in his own interest, solely within the confines of and under the direction and jurisdiction of and only in the academic interest of the schools by which employed in this state~~] solely within the confines of, under the direction and jurisdiction of, and in the academic interest of the school employing the person;

(e) a person employed as a speech-language pathologist or audiologist by federal government agencies or subdivisions or, prior to July 1, 1989, by state or local government agencies or subdivisions, while specifically performing speech-language pathology or audiology services [~~in no way in his own interest,~~] solely within the confines of [~~and~~], under the direction and jurisdiction of, and in the specific interest of [~~that~~] the agency or subdivision;

(f) a person identified in Subsections (1)(d) and (e) may offer lectures for a fee, or monetary or other compensation, without being licensed[~~; however, such person may elect to be subject to the requirements of this chapter~~];

(g) a person employed by an accredited [~~colleges or universities~~] college or university as a speech-language pathologist or audiologist [~~from~~] performing the services or functions described in this chapter [~~when they~~] if the services or functions are:

(i) performed solely as an assigned teaching function of the person's employment;

(ii) solely in academic interest and pursuit as a function of [~~that~~] the person's employment;

(iii) in no way for [~~their~~] the person's own interest; and

(iv) provided for no fee, monetary or otherwise, other than [~~their~~] the person's agreed institutional salary;

(h) a person pursuing a course of study leading to a degree in speech-language pathology or audiology while enrolled in an accredited college or university, provided:

(i) those activities constitute an assigned, directed, and supervised part of [~~his~~] the person's curricular study, and in no other interest[~~, and~~];

(ii) that all examinations, tests, histories, charts, progress notes, reports, correspondence, [~~and all~~] documents, and records [~~which he~~] the person produces be identified clearly as having been conducted and prepared by a student in training [~~and that such a~~];

(iii) that the person is obviously identified and designated by appropriate title clearly indicating the person's training status; and [~~provided that he~~]

(iv) that the person does not hold [~~himself~~] out directly or indirectly [~~as being~~] to the public or otherwise represent that the person is qualified to practice independently;

(i) a person trained in elementary audiometry and qualified to perform basic audiometric tests while employed by and under the direct supervision of a licensed medical doctor to perform solely for [~~him while under his direct supervision,~~] the licensed medical doctor, the elementary conventional audiometric tests of air conduction screening, air conduction threshold testing, and tympanometry;

(j) a person [~~while performing as a~~] performing the functions of a speech-language pathologist or audiologist for the sole purpose of obtaining required professional experience under the provisions of this chapter and only during the period the person is obtaining the required professional experience, if [~~he~~] the person:

(i) meets all training requirements; and

(ii) is professionally responsible to and under the supervision of a speech-language pathologist or audiologist who holds the CCC or a state license in speech-language pathology or audiology[~~. This provision is applicable only during the time that person is obtaining the required professional experience~~];

(k) a corporation, partnership, trust, association, group practice, or [~~like~~] similar organization engaging in speech-language pathology or audiology services without certification or license, if [~~it acts~~] acting only through employees or [~~consists~~] consisting only of persons who are licensed under this chapter;

(l) [~~performance of~~] a person who is not a resident of this state performing speech-language pathology or audiology services in this state [~~by a speech-language pathologist or audiologist who is not a resident of this state and is not licensed under this chapter if~~ those] if:

(i) the services are performed for no more than one month in any calendar year in association with a speech-language pathologist or audiologist licensed under this chapter[~~, and if that~~]; and

(ii) the person meets the qualifications and requirements for application for licensure described in Section 58-41-5; [~~and~~]

(m) a person certified under Title 53E, Public Education System -- State Administration, as a teacher of the deaf, from providing the services or performing the functions [~~he~~] the person is certified to perform[~~.~~]; and

(n) a person who is:

(i) trained in newborn hearing screening as described in rules made by the Department of Health in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) is working under the indirect supervision of a licensed audiologist responsible for a newborn hearing screening program established by the Department of Health under Section 26-10-6.

(2) No person is exempt from the requirements of this chapter who performs or provides any services as a speech-language pathologist or audiologist for which a fee, salary, bonus, gratuity, or compensation of any kind paid by the recipient of the service; or who engages any part of his professional work for a fee practicing in conjunction with, by permission of, or apart from his position of employment as speech-language pathologist or audiologist in any branch or subdivision of local, state, or federal government or as otherwise identified in this section.

Section 84. Section 58-44a-302 is amended to read:

58-44a-302. Qualifications for licensure.

(1) An applicant for licensure as a nurse midwife shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

[~~(c) be of good moral character;~~]

[~~(d)~~] (c) at the time of application for licensure hold a license in good standing as a registered nurse in Utah, or be at that time qualified for a license as a registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

[~~(e)~~] (d) have completed:

(i) a certified nurse midwifery education program accredited by the Accreditation Commission for Midwifery Education and approved by the division; or

(ii) a nurse midwifery education program located outside of the United States which is approved by the division and is equivalent to a program accredited by the Accreditation Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for the national certifying examination administered by the Accreditation Commission for Midwifery Education or its designee; and

[~~(f)~~] (e) have passed examinations established by the division rule in collaboration with the board within two years after completion of the approved education program required under Subsection [~~(1)(e)~~] (1)(d).

(2) For purposes of Subsection [~~(1)(e)~~] (1)(d), as of January 1, 2010, the accredited education program or it's equivalent must grant a graduate degree, including post-master's certificate, in nurse midwifery.

Section 85. Section 58-44a-402 is amended to read:

58-44a-402. Authority to assess penalty.

(1) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the division may impose an administrative penalty of up to $10,000 for unprofessional or unlawful conduct under this chapter in accordance with a fine schedule established by rule.

(2) The assessment of a penalty under this section does not affect any other action the division is authorized to take regarding a license issued under this chapter.

(3) The division may impose an administrative penalty of up to $500 for any violation of Subsection 58-44a-501(2), (3), or (4), consistent with Section 58-44a-503.

(4) (a) The director may collect a penalty that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 86. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) "Alarm system" means equipment and devices assembled for the purpose of:

(a) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

(b) signaling a robbery or attempted robbery on protected premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master

electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(8) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(9) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(10) "Commission" means the Construction Services Commission created under Section 58-55-103.

(11) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(12) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(13) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (13), by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(14) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(15) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(17) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(18) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(19) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(20) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(21) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(22) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(23) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform or superintend construction of fixed works or components of fixed works requiring specialized engineering knowledge and skill in any of the following: [~~irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.~~]

(i) irrigation;

(ii) drainage;

(iii) water power;

(iv) water supply;

(v) flood control;

(vi) an inland waterway;

(vii) a harbor;

(viii) a railroad;

(ix) a highway;

(x) a tunnel;

(xi) an airport;

(xii) an airport runway;

(xiii) a sewer;

(xiv) a bridge;

(xv) a refinery;

(xvi) a pipeline;

(xvii) a chemical plant;

(xviii) an industrial plant;

(xix) a pier;

(xx) a foundation;

(xxi) a power plant; or

(xxii) a utility plant or installation.

(b) A general engineering contractor may not perform [~~construction of structures~~] or superintend:

(i) construction of a structure built primarily for the support, shelter, and enclosure of persons, animals, and chattels[~~.~~]; or

(ii) performance of:

(A) plumbing work;

(B) electrical work; or

(C) mechanical work.

(25) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(27) "Individual" means a natural person.

(28) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(29) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(30) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(31) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(32) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(34) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(35) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small

commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(36) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(37) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(38) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(39) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in the plumbing trade as limited to the plumbing of residential buildings.

(40) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(41) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(42) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and [~~industrial~~] residential purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(44) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(45) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(46) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(48) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(49) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 87. Section 58-55-302 is amended to read:

58-55-302. Qualifications for licensure.

(1) Each applicant for a license under this chapter shall:

(a) submit an application prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) meet the examination requirements established by this section and by rule by the commission with the concurrence of the director, which requirements include:

(i) for licensure as an apprentice electrician, apprentice plumber, or specialty contractor, no division-administered examination is required;

(ii) for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, the only required division-administered examination is a division-administered examination that covers information from the 25-hour course described in Subsection (1)(e)(iii), which course may have been previously completed as part of applying for any other license under this chapter, and, if the 25-hour course was completed on or after July 1, 2019, the five-hour business law course described in Subsection (1)(e)(iv); and

(iii) if required in Section 58-55-304, an individual qualifier must pass the required division-administered examination if the applicant is a business entity;

(d) if an apprentice, identify the proposed supervisor of the apprenticeship;

(e) if an applicant for a contractor's license:

(i) produce satisfactory evidence of financial responsibility, except for a construction trades instructor for whom evidence of financial responsibility is not required;

(ii) produce satisfactory evidence of:

(A) except as provided in Subsection (2)(a), and except that no employment experience is required for licensure as a specialty contractor, two years full-time paid employment experience in the construction industry, which employment experience, unless more specifically described in this section, may be related to any contracting classification and does not have to include supervisory experience; and

(B) knowledge of the principles of the conduct of business as a contractor, reasonably necessary for the protection of the public health, safety, and welfare;

(iii) except as otherwise provided by rule by the commission with the concurrence of the director, complete a 25-hour course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, and which course may include:

(A) construction business practices;

(B) bookkeeping fundamentals;

(C) mechanics lien fundamentals;

(D) other aspects of business and construction principles considered important by the commission with the concurrence of the director; and

(E) for no additional fee, a provider-administered examination at the end of the 25-hour course;

(iv) complete a five-hour business and law course established by rule by the commission with the concurrence of the director, which is taught by an approved prelicensure course provider, if an applicant for licensure as a general building contractor, general engineering contractor, residential and small commercial contractor, general plumbing contractor, residential plumbing contractor, general electrical contractor, or residential electrical contractor, except that if the 25-hour course described in Subsection (1)(e)(iii) was completed before July 1, 2019, the applicant does not need to take the business and law course;

(v) (A) be a licensed master electrician if an applicant for an electrical contractor's license or a licensed master residential electrician if an applicant for a residential electrical contractor's license;

(B) be a licensed master plumber if an applicant for a plumbing contractor's license or a licensed master residential plumber if an applicant for a residential plumbing contractor's license; or

(C) be a licensed elevator mechanic and produce satisfactory evidence of three years experience as an elevator mechanic if an applicant for an elevator contractor's license; and

(vi) when the applicant is an unincorporated entity, provide a list of the one or more individuals who hold an ownership interest in the applicant as of the day on which the application is filed that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(f) if an applicant for a construction trades instructor license, satisfy any additional requirements established by rule.

(2) (a) If the applicant for a contractor's license described in Subsection (1) is a building inspector, the applicant may satisfy Subsection (1)(e)(ii)(A) by producing satisfactory evidence of two years

full-time paid employment experience as a building inspector, which shall include at least one year full-time experience as a licensed combination inspector.

(b) The applicant shall file the following with the division before the division issues the license:

(i) proof of workers' compensation insurance which covers employees of the applicant in accordance with applicable Utah law;

(ii) proof of public liability insurance in coverage amounts and form established by rule except for a construction trades instructor for whom public liability insurance is not required; and

(iii) proof of registration as required by applicable law with the:

(A) Department of Commerce;

(B) Division of Corporations and Commercial Code;

(C) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(D) State Tax Commission; and

(E) Internal Revenue Service.

(3) In addition to the general requirements for each applicant in Subsection (1), applicants shall comply with the following requirements to be licensed in the following classifications:

(a) (i) A master plumber shall produce satisfactory evidence that the applicant:

(A) has been a licensed journeyman plumber for at least two years and had two years of supervisory experience as a licensed journeyman plumber in accordance with division rule;

(B) has received at least an associate of applied science degree or similar degree following the completion of a course of study approved by the division and had one year of supervisory experience as a licensed journeyman plumber in accordance with division rule; or

(C) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master plumber.

(ii) An individual holding a valid Utah license as a journeyman plumber, based on at least four years of practical experience as a licensed apprentice under the supervision of a licensed journeyman plumber and four years as a licensed journeyman plumber, in effect immediately prior to May 5, 2008, is on and after May 5, 2008, considered to hold a current master plumber license under this chapter, and satisfies the requirements of this Subsection (3)(a) for the purpose of renewal or reinstatement of that license under Section 58-55-303.

(iii) An individual holding a valid plumbing contractor's license or residential plumbing contractor's license, in effect immediately prior to May 5, 2008, is on or after May 5, 2008:

(A) considered to hold a current master plumber license under this chapter if licensed as a plumbing contractor and a journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303; and

(B) considered to hold a current residential master plumber license under this chapter if licensed as a residential plumbing contractor and a residential journeyman plumber, and satisfies the requirements of this Subsection (3)(a) for purposes of renewal or reinstatement of that license under Section 58-55-303.

(b) A master residential plumber applicant shall produce satisfactory evidence that the applicant:

(i) has been a licensed residential journeyman plumber for at least two years and had two years of supervisory experience as a licensed residential journeyman plumber in accordance with division rule; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master residential plumber.

(c) A journeyman plumber applicant shall produce satisfactory evidence of:

(i) successful completion of the equivalent of at least four years of full-time training and instruction as a licensed apprentice plumber under supervision of a licensed master plumber or journeyman plumber and in accordance with a planned program of training approved by the division;

(ii) at least eight years of full-time experience approved by the division in collaboration with the Plumbers Licensing Board; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman plumber.

(d) A residential journeyman plumber shall produce satisfactory evidence of:

(i) completion of the equivalent of at least three years of full-time training and instruction as a licensed apprentice plumber under the supervision of a licensed residential master plumber, licensed residential journeyman plumber, or licensed journeyman plumber in accordance with a planned program of training approved by the division;

(ii) completion of at least six years of full-time experience in a maintenance or repair trade involving substantial plumbing work; or

(iii) meeting the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman plumber.

(e) The conduct of licensed apprentice plumbers and their licensed supervisors shall be in accordance with the following:

(i) while engaging in the trade of plumbing, a licensed apprentice plumber shall be under the immediate supervision of a licensed master plumber, licensed residential master plumber, licensed journeyman plumber, or licensed residential journeyman plumber;

(ii) beginning in a licensed apprentice plumber's fourth year of training, a licensed apprentice plumber may work without supervision for a period not to exceed eight hours in any 24-hour period; and

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor.

(f) A master electrician applicant shall produce satisfactory evidence that the applicant:

(i) is a graduate electrical engineer of an accredited college or university approved by the division and has one year of practical electrical experience as a licensed apprentice electrician;

(ii) is a graduate of an electrical trade school, having received an associate of applied sciences degree following successful completion of a course of study approved by the division, and has two years of practical experience as a licensed journeyman electrician;

(iii) has four years of practical experience as a journeyman electrician; or

(iv) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed master electrician.

(g) A master residential electrician applicant shall produce satisfactory evidence that the applicant:

(i) has at least two years of practical experience as a residential journeyman electrician; or

(ii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a master residential electrician.

(h) A journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed at least four years of full-time training and instruction as a licensed apprentice electrician under the supervision of a master electrician or journeyman electrician and in accordance with a planned training program approved by the division;

(ii) has at least eight years of full-time experience approved by the division in collaboration with the Electricians Licensing Board; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed journeyman electrician.

(i) A residential journeyman electrician applicant shall produce satisfactory evidence that the applicant:

(i) has successfully completed two years of training in an electrical training program approved by the division;

(ii) has four years of practical experience in wiring, installing, and repairing electrical apparatus and equipment for light, heat, and power under the supervision of a licensed master, journeyman, residential master, or residential journeyman electrician; or

(iii) meets the qualifications for expedited licensure as established by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that clearly demonstrate the applicant has the knowledge and skills to be a licensed residential journeyman electrician.

(j) The conduct of licensed apprentice electricians and their licensed supervisors shall be in accordance with the following:

(i) A licensed apprentice electrician shall be under the immediate supervision of a licensed master, journeyman, residential master, or residential journeyman electrician;

(ii) beginning in a licensed apprentice electrician's fourth year of training, a licensed apprentice electrician may work without supervision for a period not to exceed eight hours in any 24-hour period;

(iii) rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding the ratio of apprentices allowed under the immediate supervision of a licensed supervisor, including the ratio of apprentices in their fourth year of training or later that are allowed to be under the immediate supervision of a licensed supervisor; and

(iv) a licensed supervisor may have up to three licensed apprentice electricians on a residential project, or more if established by rules made by the commission, in concurrence with the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(k) An alarm company applicant shall:

(i) have a qualifying agent who is an officer, director, partner, proprietor, or manager of the applicant who:

(A) demonstrates 6,000 hours of experience in the alarm company business;

(B) demonstrates 2,000 hours of experience as a manager or administrator in the alarm company business or in a construction business; and

(C) passes an examination component established by rule by the commission with the concurrence of the director;

(ii) if a corporation, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all corporate officers, directors, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all shareholders owning 5% or more of the outstanding shares of the corporation, except this shall not be required if the stock is publicly listed and traded;

(iii) if a limited liability company, provide:

(A) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all company officers, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state; and

(B) the names, addresses, dates of birth, social security numbers, and fingerprint cards of all individuals owning 5% or more of the equity of the company;

(iv) if a partnership, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of all general partners, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(v) if a proprietorship, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the proprietor, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

(vi) if a trust, provide the names, addresses, dates of birth, social security numbers, and fingerprint cards of the trustee, and those responsible management personnel employed within the state or having direct responsibility for managing operations of the applicant within the state;

[~~(vii) be of good moral character in that officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company is considered by the board to indicate that the best interests of the public are served by granting the applicant a license;~~]

[~~(viii)~~] (vii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, trustees, and responsible management personnel have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

[~~(ix)~~] (viii) document that none of the applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel are currently suffering from habitual drunkenness or from drug addiction or dependence;

[~~(x)~~] (ix) file and maintain with the division evidence of:

(A) comprehensive general liability insurance in form and in amounts to be established by rule by the commission with the concurrence of the director;

(B) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law; and

(C) registration as is required by applicable law with the:

(I) Division of Corporations and Commercial Code;

(II) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(III) State Tax Commission; and

(IV) Internal Revenue Service; and

[~~(xi)~~] (x) meet with the division and board.

(l) Each applicant for licensure as an alarm company agent shall:

(i) submit an application in a form prescribed by the division accompanied by fingerprint cards;

(ii) pay a fee determined by the department under Section 63J-1-504;

[~~(iii) be of good moral character in that the applicant has not been convicted of a felony, a misdemeanor involving moral turpitude, or any other crime that when considered with the duties and responsibilities of an alarm company agent is considered by the board to indicate that the best~~

~~interests of the public are served by granting the applicant a license;~~]

[~~(iv)~~] (iii) not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored;

[~~(v)~~] (iv) not be currently suffering from habitual drunkenness or from drug addiction or dependence; and

[~~(vi)~~] (v) meet with the division and board if requested by the division or the board.

(m) (i) Each applicant for licensure as an elevator mechanic shall:

(A) provide documentation of experience and education credits of not less than three years work experience in the elevator industry, in construction, maintenance, or service and repair; and

(B) satisfactorily complete a written examination administered by the division established by rule under Section 58-1-203; or

(C) provide certificates of completion of an apprenticeship program for elevator mechanics, having standards substantially equal to those of this chapter and registered with the United States Department of Labor Bureau Apprenticeship and Training or a state apprenticeship council.

(ii) (A) If an elevator contractor licensed under this chapter cannot find a licensed elevator mechanic to perform the work of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator, the contractor may:

(I) notify the division of the unavailability of licensed personnel; and

(II) request the division issue a temporary elevator mechanic license to an individual certified by the contractor as having an acceptable combination of documented experience and education to perform the work described in this Subsection (3)(m)(ii)(A).

(B) (I) The division may issue a temporary elevator mechanic license to an individual certified under Subsection (3)(m)(ii)(A)(II) upon application by the individual, accompanied by the appropriate fee as determined by the department under Section 63J-1-504.

(II) The division shall specify the time period for which the license is valid and may renew the license for an additional time period upon its determination that a shortage of licensed elevator mechanics continues to exist.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules establishing when Federal Bureau of Investigation records shall be checked for applicants as an alarm company or alarm company agent.

(5) [~~To determine if an applicant meets the qualifications of Subsections (3)(k)(vii) and (3)(l)(iii)~~] For each applicant described in Subsection (3)(k) or (l), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure as an alarm company or alarm company agent and each applicant's officers, directors, shareholders described in Subsection (3)(k)(ii)(B), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the Federal Bureau of Investigation for criminal history information under this section.

(6) The Department of Public Safety shall send to the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the Federal Bureau of Investigation review concerning an applicant in a timely manner after receipt of information from the Federal Bureau of Investigation.

(7) (a) The division shall charge each applicant for licensure as an alarm company or alarm company agent a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the Federal Bureau of Investigation the costs of records reviews under this section.

(8) Information obtained by the division from the reviews of criminal history records of the Department of Public Safety and the Federal Bureau of Investigation shall be used or disseminated by the division only for the purpose of determining if an applicant for licensure as an alarm company or alarm company agent is qualified for licensure.

(9) (a) An application for licensure under this chapter shall be denied if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application;

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(a)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked within two years before the date of the applicant's application; or

(iv) (A) the applicant includes an individual who was an owner, director, or officer of an unincorporated entity at the time the entity's license under this chapter was revoked; and

(B) the application for licensure is filed within 60 months after the revocation of the unincorporated entity's license.

(b) An application for licensure under this chapter shall be reviewed by the appropriate licensing board prior to approval if:

(i) the applicant has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application;

(ii) (A) the applicant is a partnership, corporation, or limited liability company; and

(B) any corporate officer, director, shareholder holding 25% or more of the stock in the applicant, partner, member, agent acting as a qualifier, or any person occupying a similar status, performing similar functions, or directly or indirectly controlling the applicant has served in any similar capacity with any person or entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application; or

(iii) (A) the applicant is an individual or sole proprietorship; and

(B) any owner or agent acting as a qualifier has served in any capacity listed in Subsection (9)(b)(ii)(B) in any entity which has had a previous license, which was issued under this chapter, suspended or revoked more than two years before the date of the applicant's application.

(10) (a) (i) A licensee that is an unincorporated entity shall file an ownership status report with the division every 30 days after the day on which the license is issued if the licensee has more than five owners who are individuals who:

(A) own an interest in the contractor that is an unincorporated entity;

(B) own, directly or indirectly, less than an 8% interest, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in the unincorporated entity; and

(C) engage, or will engage, in a construction trade in the state as owners of the contractor described in Subsection (10)(a)(i)(A).

(ii) If the licensee has five or fewer owners described in Subsection (10)(a)(i), the licensee shall provide the ownership status report with an application for renewal of licensure.

(b) An ownership status report required under this Subsection (10) shall:

(i) specify each addition or deletion of an owner:

(A) for the first ownership status report, after the day on which the unincorporated entity is licensed under this chapter; and

(B) for a subsequent ownership status report, after the day on which the previous ownership status report is filed;

(ii) be in a format prescribed by the division that includes for each owner, regardless of the owner's percentage ownership in the unincorporated entity, the information described in Subsection (1)(e)(vi);

(iii) list the name of:

(A) each officer or manager of the unincorporated entity; and

(B) each other individual involved in the operation, supervision, or management of the unincorporated entity; and

(iv) be accompanied by a fee set by the division in accordance with Section 63J-1-504 if the ownership status report indicates there is a change described in Subsection (10)(b)(i).

(c) The division may, at any time, audit an ownership status report under this Subsection (10):

(i) to determine if financial responsibility has been demonstrated or maintained as required under Section 58-55-306; and

(ii) to determine compliance with Subsection 58-55-501(23), (24), or (26) or Subsection 58-55-502(8) or (9).

(11) (a) An unincorporated entity that provides labor to an entity licensed under this chapter by providing an individual who owns an interest in the unincorporated entity to engage in a construction trade in Utah shall file with the division:

(i) before the individual who owns an interest in the unincorporated entity engages in a construction trade in Utah, a current list of the one or more individuals who hold an ownership interest in the unincorporated entity that includes for each individual:

(A) the individual's name, address, birth date, and social security number; and

(B) whether the individual will engage in a construction trade; and

(ii) every 30 days after the day on which the unincorporated entity provides the list described in Subsection (11)(a)(i), an ownership status report containing the information that would be required under Subsection (10) if the unincorporated entity were a licensed contractor.

(b) When filing an ownership list described in Subsection (11)(a)(i) or an ownership status report described in Subsection (11)(a)(ii), an unincorporated entity shall pay a fee set by the division in accordance with Section 63J-1-504.

(12) This chapter may not be interpreted to create or support an express or implied independent contractor relationship between an unincorporated entity described in Subsection (10) or (11) and the owners of the unincorporated entity for any purpose, including income tax withholding.

(13) A social security number provided under Subsection (1)(e)(vi) is a private record under Subsection 63G-2-302(1)(i).

Section 88. Section 58-55-502 is amended to read:

58-55-502. Unprofessional conduct.

Unprofessional conduct includes:

(1) failing to establish, maintain, or demonstrate financial responsibility while licensed as a contractor under this chapter;

(2) disregarding or violating through gross negligence or a pattern of negligence:

(a) the building or construction laws of this state or any political subdivision;

(b) the safety and labor laws applicable to a project;

(c) any provision of the health laws applicable to a project;

(d) the workers' compensation insurance laws of this state applicable to a project;

(e) the laws governing withholdings for employee state and federal income taxes, unemployment taxes, Social Security payroll taxes, or other required withholdings; or

(f) any reporting, notification, and filing laws of this state or the federal government;

(3) any willful, fraudulent, or deceitful act by a licensee, caused by a licensee, or at a licensee's direction which causes material injury to another;

(4) contract violations that pose a threat or potential threat to the public health, safety, and welfare including:

(a) willful, deliberate, or grossly negligent departure from or disregard for plans or specifications, or abandonment or failure to complete a project without the consent of the owner or the owner's duly authorized representative or the consent of any other person entitled to have the particular project completed in accordance with the plans, specifications, and contract terms;

(b) failure to deposit funds to the benefit of an employee as required under any written contractual obligation the licensee has to the employee;

(c) failure to maintain in full force and effect any health insurance benefit to an employee that was extended as a part of any written contractual obligation or representation by the licensee, unless the employee is given written notice of the licensee's intent to cancel or reduce the insurance benefit at least 45 days before the effective date of the cancellation or reduction;

(d) failure to reimburse the Residence Lien Recovery Fund as required by Section 38-11-207;

(e) failure to provide, when applicable, the information required by Section 38-11-108; and

(f) willfully or deliberately misrepresenting or omitting a material fact in connection with an application to claim recovery from the Residence Lien Recovery Fund under Section 38-11-204;

(5) failing as an alarm company to notify the division of the cessation of performance of its qualifying agent, or failing to replace its qualifying agent as required under Section 58-55-304;

(6) failing as an alarm company agent to carry or display a copy of the licensee's license as required under Section 58-55-311;

(7) failing to comply with operating standards established by rule in accordance with Section 58-55-308;

(8) an unincorporated entity licensed under this chapter having an individual who owns an interest in the unincorporated entity engage in a construction trade in Utah while not lawfully present in the United States;

(9) an unincorporated entity failing to provide the following for an individual who engages, or will engage, in a construction trade in Utah for the unincorporated entity:

(a) workers' compensation coverage to the extent required by Title 34A, Chapter 2, Workers' Compensation Act, and Title 34A, Chapter 3, Utah Occupational Disease Act; and

(b) unemployment compensation in accordance with Title 35A, Chapter 4, Employment Security Act, for an individual who owns, directly or indirectly, less than an 8% interest in the unincorporated entity, as defined by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; [~~or~~]

(10) the failure of an alarm company or alarm company agent to inform a potential customer, before the customer's purchase of an alarm system or alarm service from the alarm company, of the policy of the county, city, or town within which the customer resides relating to priority levels for responding to an alarm signal transmitted by the alarm system that the alarm company provides the customer[~~.~~]; or

(11) failing to continuously maintain insurance and registration as required under Subsection 58-55-302(2).

Section 89. Section 58-55-503 is amended to read:

58-55-503. Penalty for unlawful conduct -- Citations.

(1) (a) (i) A person who violates Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (4), (5), (6), (7), (9), (10), (12), (14), (15), (16)(e), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2), or who fails to comply with a citation issued under this section after it is final, is guilty of a class A misdemeanor.

(ii) As used in this section in reference to Subsection 58-55-504(2), "person" means an individual and does not include a sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(b) A person who violates the provisions of Subsection 58-55-501(8) may not be awarded and may not accept a contract for the performance of the work.

(2) A person who violates the provisions of Subsection 58-55-501(13) is guilty of an infraction unless the violator did so with the intent to deprive the person to whom money is to be paid of the money received, in which case the violator is guilty of theft, as classified in Section 76-6-412.

(3) Grounds for immediate suspension of a licensee's license by the division and the commission include:

(a) the issuance of a citation for violation of Subsection 58-55-308(2), Section 58-55-501, or Subsection 58-55-504(2); and

(b) the failure by a licensee to make application to, report to, or notify the division with respect to any matter for which application, notification, or reporting is required under this chapter or rules adopted under this chapter, including:

(i) applying to the division for a new license to engage in a new specialty classification or to do business under a new form of organization or business structure;

(ii) filing a current financial statement with the division; and

(iii) notifying the division concerning loss of insurance coverage or change in qualifier.

(4) (a) (i) If upon inspection or investigation, the division concludes that a person has violated the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), [~~or~~] (28), Subsection 58-55-502(4)(a) or (11), Subsection 58-55-504(2), or any rule or order issued with respect to these subsections, and that disciplinary action is appropriate, the director or the director's designee from within the division shall promptly issue a citation to the person according to this chapter and any pertinent rules, attempt to negotiate a stipulated settlement, or notify the person to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(ii) A person who is in violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (20), (21), (22), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2), as evidenced by an uncontested citation, a stipulated settlement, or by a finding of violation in an adjudicative proceeding, may be assessed a fine pursuant to this Subsection (4) and may, in addition to or in lieu of, be ordered to cease and desist from violating Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (16)(e), (18), (20), (21), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2).

(iii) Except for a cease and desist order, the licensure sanctions cited in Section 58-55-401 may not be assessed through a citation.

(b) (i) A citation shall be in writing and describe with particularity the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated.

(ii) A citation shall clearly state that the recipient must notify the division in writing within 20 calendar days of service of the citation if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(iii) A citation shall clearly explain the consequences of failure to timely contest the citation or to make payment of any fines assessed by the citation within the time specified in the citation.

(c) A citation issued under this section, or a copy of a citation, may be served upon a person upon whom a summons may be served:

(i) in accordance with the Utah Rules of Civil Procedure;

(ii) personally or upon the person's agent by a division investigator or by a person specially designated by the director; or

(iii) by mail.

(d) (i) If within 20 calendar days after the day on which a citation is served, the person to whom the citation was issued fails to request a hearing to contest the citation, the citation becomes the final order of the division and is not subject to further agency review.

(ii) The period to contest a citation may be extended by the division for cause.

(e) The division may refuse to issue or renew, suspend, revoke, or place on probation the license of a licensee who fails to comply with a citation after the citation becomes final.

(f) The failure of an applicant for licensure to comply with a citation after the citation becomes final is a ground for denial of license.

(g) A citation may not be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(h) (i) Except as provided in Subsections (4)(h)(ii) and (5), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $1,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $2,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to $2,000 for each day of continued offense.

(ii) Except as provided in Subsection (5), if a person violates Subsection 58-55-501(16)(e) or (28), the director or the director's designee shall assess a fine in accordance with the following:

(A) for a first offense handled pursuant to Subsection (4)(a), a fine of up to $2,000;

(B) for a second offense handled pursuant to Subsection (4)(a), a fine of up to $4,000; and

(C) for any subsequent offense handled pursuant to Subsection (4)(a), a fine of up to $4,000 for each day of continued offense.

(i) (i) For purposes of issuing a final order under this section and assessing a fine under Subsection (4)(h), an offense constitutes a second or subsequent offense if:

(A) the division previously issued a final order determining that a person committed a first or second offense in violation of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (23), (24), (25), (26), (27), or (28), or Subsection 58-55-504(2); or

(B) (I) the division initiated an action for a first or second offense;

(II) a final order has not been issued by the division in the action initiated under Subsection (4)(i)(i)(B)(I);

(III) the division determines during an investigation that occurred after the initiation of the action under Subsection (4)(i)(i)(B)(I) that the person committed a second or subsequent violation of the provisions of Subsection 58-55-308(2), Subsection 58-55-501(1), (2), (3), (9), (10), (12), (14), (16)(e), (18), (19), (23), (24), (25), (26), (27), (28), or Subsection 58-55-504(2); and

(IV) after determining that the person committed a second or subsequent offense under Subsection (4)(i)(i)(B)(III), the division issues a final order on the action initiated under Subsection (4)(i)(i)(B)(I).

(ii) In issuing a final order for a second or subsequent offense under Subsection (4)(i)(i), the division shall comply with the requirements of this section.

(j) In addition to any other licensure sanction or fine imposed under this section, the division shall revoke the license of a licensee that violates Subsection 58-55-501(23) or (24) two or more times within a 12-month period, unless, with respect to a violation of Subsection 58-55-501(23), the licensee can demonstrate that the licensee successfully verified the federal legal working status of the individual who was the subject of the violation using a status verification system, as defined in Section 13-47-102.

(k) For purposes of this Subsection (4), a violation of Subsection 58-55-501(23) or (24) for each individual is considered a separate violation.

(5) If a person violates Section 58-55-501, the division may not treat the violation as a subsequent violation of a previous violation if the violation occurs five years or more after the day on which the person committed the previous violation.

(6) If, after an investigation, the division determines that a person has committed multiple of the same type of violation of Section 58-55-501, the division may treat each violation as a separate violation of Section 58-55-501 and apply a penalty under this section to each violation.

(7) (a) A penalty imposed by the director under Subsection (4)(h) shall be deposited into the Commerce Service Account created by Section 13-1-2.

(b) A penalty that is not paid may be collected by the director by either referring the matter to a collection agency or bringing an action in the district court of the county in which the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(c) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(d) In an action brought to collect a penalty, the court shall award reasonable attorney fees and costs to the prevailing party.

Section 90. Section 58-56-2 is amended to read:

58-56-2. Chapter administration.

The provisions of this chapter shall be administered by the Division of [~~Occupational and~~] Professional Licensing.

Section 91. Section 58-57-14 is amended to read:

58-57-14. Unlawful conduct -- Penalty.

(1) Beginning January 1, 2007, "unlawful conduct" includes:

(a) using the following titles, names, or initials, if the user is not properly licensed under this chapter:

(i) respiratory care practitioner;

(ii) respiratory therapist; and

(iii) respiratory technician; and

(b) using any other name, title, or initials that would cause a reasonable person to believe the user is licensed under this chapter if the user is not properly licensed under this chapter.

(2) Any person who violates the unlawful conduct provision specifically defined in Subsection 58-1-501(1)(a) is guilty of a third degree felony.

(3) Any person who violates any of the unlawful conduct provisions specifically defined in Subsections 58-1-501(1)(b) through (f) and Subsection (1) of this section is guilty of a class A misdemeanor.

(4) After a proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the division may assess administrative penalties for acts of unprofessional or unlawful conduct or any other appropriate administrative action.

Section 92. Section 58-61-704 is amended to read:

58-61-704. Term of license or registration.

(1) (a) The division shall issue each license under this part with a two-year renewal cycle established by division rule.

(b) The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.

(2) At the time of renewal, the licensed individual shall show satisfactory evidence of renewal requirements as required under this part.

(3) Each license or registration expires on the expiration date shown on the license unless renewed by the licensed individual in accordance with Section 58-1-308.

(4) (a) A registration as a registered behavior specialist or a registered assistant behavior specialist:

(i) expires on the day the individual is no longer employed in accordance with Subsection 58-61-705(5)(d) or (6)(d); and

(ii) may not be renewed.

(b) The Department of Human Services, or an organization contracted with a division of the Department of Human Services, shall notify the Division of [~~Occupational and~~] Professional Licensing when a person registered under this part is no longer employed as a registered behavior specialist or a registered assistant behavior specialist.

Section 93. Section 58-63-102 is amended to read:

58-63-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Agreement for services" means a written and signed agreement between a security service provider and a client that:

(a) contains clear language that addresses and assigns financial responsibility;

(b) describes the length, duties, and scope of the security services that will be provided; and

(c) describes the compensation that will be paid by the client for the security services, including the compensation for each security officer.

(2) "Armed courier service" means a person engaged in business as a contract security company who transports or offers to transport tangible personal property from one place or point to another under the control of an armed security officer employed by that service.

(3) "Armed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is:

(i) guarding personal or real property; or

(ii) providing protection or security to the life and well being of humans or animals; and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(4) "Armored car company" means a person engaged in business under contract to others who transports or offers to transport tangible personal property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or any other high value items, that require secured delivery from one place to another under the control of an armored car security officer employed by the company using a specially equipped motor vehicle offering a high degree of security.

(5) "Armored car security officer" means an individual:

(a) employed by an armored car company;

(b) whose primary duty is to guard the tangible property, currency, valuables, jewelry, SNAP benefits as defined in Section 35A-1-102, or other high value items that require secured delivery from one place to another; and

(c) who wears, carries, possesses, or has immediate access to a firearm in the performance of the individual's duties.

(6) "Board" means the Security Services Licensing Board created in Section 58-63-201.

(7) "Client" means a person, company, or entity that contracts for and receives security services from a contract security company or an armored car company.

(8) "Contract security company" means a company that is registered with the Division of Corporations and Commercial Code and is engaged in business to provide security services to another person, business, or entity on a contractual basis by assignment of an armed or unarmed private security officer.

(9) "Corporate officer" means an individual who is on file with the Division of Corporations and Commercial Code as:

(a) a corporate officer of a contract security company or an armored car company that is a corporation; or

(b) a sole proprietor of a contract security company or an armored car company that is not a corporation.

(10) "Financial responsibility," when referring to a contract security company, means that a contract security company may only provide security services to a client if the contract security company:

(a) enters into an agreement for services with the client;

(b) maintains a current general liability insurance policy with:

(i) at least an annual $1,000,000 per occurrence limit;

(ii) at least an annual $2,000,000 aggregate limit; and

(iii) the following riders:

(A) general liability;

(B) assault and battery;

(C) personal injury;

(D) false arrest;

(E) libel and slander;

(F) invasion of privacy;

(G) broad form property damage;

(H) damage to property in the care, custody, or control of the security service provider; and

(I) errors and omissions;

(c) maintains a workers' compensation insurance policy with at least a $1,000,000 per occurrence limit and that covers each security officer employed by the contract security company; and

(d) maintains a federal employer identification number and an unemployment insurance employer account as required under state and federal law.

(11) "Identification card" means a personal pocket or wallet size card issued by the division to each armored car and armed or unarmed private security officer licensed under this chapter.

(12) "Law enforcement agency" means the same as that term is defined in Section 53-1-102.

(13) "Owner" means an individual who is listed with the Division of Corporations and Commercial Code as a majority stockholder of a company, a general partner of a partnership, or the proprietor of a sole proprietorship.

(14) "Peace officer" means a person who:

(a) is a certified peace officer as defined in Title 53, Chapter 13, Peace Officer Classifications; and

(b) derives total or special law enforcement powers from, and is an employee of, the federal government, the state, or a political subdivision, agency, department, branch, or service of either, of a municipality, or a unit of local government.

(15) "Regular basis" means at least 20 hours per month.

(16) "Responsible management personnel" means an individual who is responsible for managing an applicant's operations.

[~~(16)~~] (17) (a) "Security officer" means an individual who is licensed as an armed or unarmed private security officer under this chapter and who:

(i) is employed by a contract security company securing, guarding, or otherwise protecting tangible personal property, real property, or the life and well being of human or animal life against:

(A) trespass or other unlawful intrusion or entry;

(B) larceny;

(C) vandalism or other abuse;

(D) arson or other criminal activity; or

(E) personal injury caused by another person or as a result of an act or omission by another person;

(ii) is controlling, regulating, or directing the flow of movements of an individual or vehicle; or

(iii) providing street patrol service.

(b) "Security officer" does not include an individual whose duties include taking admission tickets, checking credentials, ushering, or checking bags, purses, backpacks, or other materials of individuals who are entering a sports venue, concert venue, theatrical venue, convention center, fairgrounds, public assembly facility, or mass gathering location if:

(i) the individual carries out these duties without the use of specialized equipment;

(ii) the authority of the individual is limited to denying entry or passage of another individual into or within the facility; and

(iii) the individual is not authorized to use physical force in the performance of the individual's duties under this Subsection [~~(16)~~] (17)(b).

[~~(17)~~] (18) "Security service provider" means a contract security company or an armored car company licensed under this chapter.

[~~(18)~~] (19) "Security system" means equipment, a device, or an instrument installed for:

(a) detecting and signaling entry or intrusion by an individual into or onto, or exit from the premises protected by the system; or

(b) signaling the commission of criminal activity at the election of an individual having control of the features of the security system.

[~~(19)~~] (20) "Specialized resource, motor vehicle, or equipment" means an item of tangible personal property specifically designed for use in law enforcement or in providing security or guard services, or that is specially equipped with a device or feature designed for use in providing law enforcement, security, or guard services, but does not include:

(a) standardized clothing, whether or not bearing a company name or logo, if the clothing does not bear the words "security" or "guard"; or

(b) an item of tangible personal property, other than a firearm or nonlethal weapon, that may be used without modification in providing security or guard services.

[~~(20)~~] (21) "Street patrol service" means a contract security company that provides patrols by means of foot, vehicle, or other method of transportation using public streets, thoroughfares, or property in the performance of the company's duties and responsibilities.

[~~(21)~~] (22) "Unarmed private security officer" means an individual:

(a) employed by a contract security company;

(b) whose primary duty is guarding personal or real property or providing protection or security to the life and well being of humans or animals;

(c) who does not wear, carry, possess, or have immediate access to a firearm in the performance of the individual's duties; and

(d) who wears clothing of distinctive design or fashion bearing a symbol, badge, emblem, insignia, or other device that identifies the individual as a security officer.

[~~(22)~~] (23) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-63-501.

[~~(23)~~] (24) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-63-502 and as may be further defined by rule.

Section 94. Section 58-63-302 is amended to read:

58-63-302. Qualifications for licensure.

(1) Each applicant for licensure as an armored car company or a contract security company shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have a qualifying agent who:

(i) shall meet with the division and the board and demonstrate that the applicant and the qualifying agent meet the requirements of this section;

(ii) is a resident of the state and is [~~a corporate officer~~] responsible management personnel or an owner of the applicant;

(iii) exercises material day-to-day authority in the conduct of the applicant's business by making substantive technical and administrative decisions and whose primary employment is with the applicant;

(iv) is not concurrently acting as a qualifying agent or employee of another armored car company or contract security company and is not engaged in any other employment on a regular basis;

(v) is not involved in any activity that would conflict with the qualifying agent's duties and responsibilities under this chapter to ensure that the qualifying agent's and the applicant's performance under this chapter does not jeopardize the health or safety of the general public;

(vi) is not an employee of a government agency;

(vii) passes an examination component established by rule by the division in collaboration with the board; and

(viii) (A) demonstrates 6,000 hours of compensated experience as a manager, supervisor, or administrator of an armored car company or a contract security company; or

(B) demonstrates 6,000 hours of supervisory experience acceptable to the division in collaboration with the board with a federal, United States military, state, county, or municipal law enforcement agency;

(d) if a corporation, provide:

(i) the names, addresses, dates of birth, and social security numbers of all corporate officers, directors, and [~~those~~] responsible management personnel [~~employed within the state or having direct responsibility for managing operations of the applicant within the state~~]; and

(ii) the names, addresses, dates of birth, and social security numbers, of all shareholders owning 5% or more of the outstanding shares of the corporation, unless waived by the division if the stock is publicly listed and traded;

(e) if a limited liability company, provide:

(i) the names, addresses, dates of birth, and social security numbers of all company officers, and [~~those~~] responsible management personnel [~~employed within the state or having direct responsibility for managing operations of the applicant within the state~~]; and

(ii) the names, addresses, dates of birth, and social security numbers of all individuals owning 5% or more of the equity of the company;

(f) if a partnership, provide the names, addresses, dates of birth, and social security numbers of all general partners, and [~~those~~] responsible management personnel [~~employed within the state or having direct responsibility for managing operations of the applicant within the state~~];

(g) if a proprietorship, provide the names, addresses, dates of birth, and social security numbers of the proprietor, and [~~those~~] responsible management personnel [~~employed within the state or having direct responsibility for managing operations of the applicant within the state~~];

(h) have good moral character in that officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel have not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of a contract security company or an armored car company by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(i) document that none of the applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel:

(i) have been declared by a court of competent jurisdiction incompetent by reason of mental defect or disease and not been restored; and

(ii) currently suffer from habitual drunkenness or from drug addiction or dependence;

(j) file and maintain with the division evidence of:

(i) comprehensive general liability insurance in a form and in amounts established by rule by the division in collaboration with the board;

(ii) workers' compensation insurance that covers employees of the applicant in accordance with applicable Utah law;

(iii) registration with the Division of Corporations and Commercial Code; and

(iv) registration as required by applicable law with the:

(A) Unemployment Insurance Division in the Department of Workforce Services, for purposes of Title 35A, Chapter 4, Employment Security Act;

(B) State Tax Commission; and

(C) Internal Revenue Service; and

(k) meet with the division and board if requested by the division or board.

(2) Each applicant for licensure as an armed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include a minimum of eight hours of classroom or online curriculum;

(h) successfully complete firearms training requirements established by rule by the division in collaboration with the board, which shall include a minimum of 12 hours of training;

(i) pass the examination requirement established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(3) Each applicant for licensure as an unarmed private security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an unarmed private security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(e) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(f) successfully complete basic education and training requirements established by rule by the division in collaboration with the board, which shall include a minimum of eight hours of classroom or online curriculum;

(g) pass the examination requirement established by rule by the division in collaboration with the board; and

(h) meet with the division and board if requested by the division or board.

(4) Each applicant for licensure as an armored car security officer shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) have good moral character in that the applicant has not been convicted of:

(i) a felony;

(ii) a misdemeanor involving moral turpitude; or

(iii) a crime that when considered with the duties and responsibilities of an armored car security officer by the division and the board indicates that the best interests of the public are not served by granting the applicant a license;

(d) not be prohibited from possession of a firearm or ammunition under 18 U.S.C. Sec. 922(g);

(e) not have been declared incompetent by a court of competent jurisdiction by reason of mental defect or disease and not been restored;

(f) not be currently suffering from habitual drunkenness or from drug addiction or dependence;

(g) successfully complete basic education and training requirements established by rule by the division in collaboration with the board;

(h) successfully complete firearms training requirements established by rule by the division in collaboration with the board;

(i) pass the examination requirements established by rule by the division in collaboration with the board; and

(j) meet with the division and board if requested by the division or the board.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make a rule establishing when the division shall request a Federal Bureau of Investigation records' review for an applicant who is applying for licensure or licensure renewal under this chapter.

(6) To determine if an applicant meets the qualifications of Subsections (1)(h), (2)(c), (3)(c), and (4)(c), the division shall provide an appropriate number of copies of fingerprint cards to the Department of Public Safety with the division's request to:

(a) conduct a search of records of the Department of Public Safety for criminal history information relating to each applicant for licensure under this chapter and each applicant's officers, directors, shareholders described in Subsection (1)(d)(ii), partners, proprietors, and responsible management personnel; and

(b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant requiring a check of records of the FBI for criminal history information under this section.

(7) The Department of Public Safety shall send the division:

(a) a written record of criminal history, or certification of no criminal history record, as contained in the records of the Department of Public Safety in a timely manner after receipt of a fingerprint card from the division and a request for review of Department of Public Safety records; and

(b) the results of the FBI review concerning an applicant in a timely manner after receipt of information from the FBI.

(8) (a) The division shall charge each applicant a fee, in accordance with Section 63J-1-504, equal to the cost of performing the records reviews under this section.

(b) The division shall pay the Department of Public Safety the costs of all records reviews, and the Department of Public Safety shall pay the FBI the costs of records reviews under this chapter.

(9) The division shall use or disseminate the information it obtains from the reviews of criminal history records of the Department of Public Safety and the FBI only to determine if an applicant for licensure or licensure renewal under this chapter is qualified for licensure.

Section 95. Section 58-67-503 is amended to read:

58-67-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-67-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

(i) assessing administrative penalties; or

(ii) taking other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited [~~in~~] into the Physician Education Fund created in Section 58-67a-1.

(3) If a licensee has been convicted of unlawful conduct, described in Section 58-67-501, before an administrative proceeding regarding the same conduct, the division may not assess an additional administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated provisions of Section 58-67-501, Section 58-67-502, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

(i) issue a citation to the individual;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to $10,000 per single violation or up to $2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of the provisions described in Subsection (4)(a).

(c) An individual's license may not be suspended or revoked through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of license.

(h) No citation may be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 96. Section 58-68-503 is amended to read:

58-68-503. Penalties and administrative actions for unlawful and unprofessional conduct.

(1) Any person who violates the unlawful conduct provisions of Section 58-68-501 or Section 58-1-501 is guilty of a third degree felony.

(2) (a) Subject to Subsection (4), the division may punish unprofessional or unlawful conduct by:

(i) assessing administrative penalties; or

(ii) taking any other appropriate administrative action.

(b) A monetary administrative penalty imposed under this section shall be deposited [~~in~~] into the Physician Education Fund described in Section 58-67a-1.

(3) If a licensee is convicted of unlawful conduct, described in Section 58-68-501, before an administrative proceeding regarding the same conduct, the licensee may not be assessed an administrative fine under this chapter for the same conduct.

(4) (a) If the division concludes that an individual has violated the provisions of Section 58-68-501, Section 58-68-502, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, Chapter 37, Utah Controlled Substances Act, or any rule or order issued with respect to these provisions, and disciplinary action is appropriate, the director or director's designee shall:

(i) issue a citation to the individual;

(ii) attempt to negotiate a stipulated settlement; or

(iii) notify the individual that an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act, will be commenced and the individual is invited to appear.

(b) The division may take the following action against an individual who is in violation of a provision described in Subsection (4)(a), as evidenced by an uncontested citation, a stipulated settlement, or a finding of violation in an adjudicative proceeding:

(i) assess a fine of up to $10,000 per single violation or $2,000 per day of ongoing violation, whichever is greater, in accordance with a fine schedule established by rule; or

(ii) order to cease and desist from the behavior that constitutes a violation of provisions described in Subsection (4)(a).

(c) Except for an administrative fine and a cease and desist order, the licensure sanctions cited in Section 58-1-401 may not be assessed through a citation.

(d) Each citation issued under this section shall:

(i) be in writing;

(ii) clearly describe or explain:

(A) the nature of the violation, including a reference to the provision of the chapter, rule, or order alleged to have been violated;

(B) that the recipient must notify the division in writing within 20 calendar days from the day on which the citation is served if the recipient wishes to contest the citation at a hearing conducted under Title 63G, Chapter 4, Administrative Procedures Act; and

(C) the consequences of failure to timely contest the citation or pay the fine assessed by the citation within the time specified in the citation; and

(iii) be served in accordance with the requirements of the Utah Rules of Civil Procedure.

(e) If the individual to whom the citation is issued fails to request a hearing to contest the citation within 20 calendar days from the day on which the citation is served, the citation becomes the final order of the division and is not subject to further agency review. The period to contest the citation may be extended by the division for cause.

(f) The division may refuse to issue or renew or suspend, revoke, or place on probation the license of an individual who fails to comply with a citation after the citation becomes final.

(g) The failure of an applicant for licensure to comply with a citation after it becomes final is a ground for denial of a license.

(h) No citation may be issued under this section after the expiration of one year following the date on which the violation that is the subject of the citation is reported to the division.

(5) (a) The director may collect a penalty imposed under this section that is not paid by:

(i) referring the matter to a collection agency; or

(ii) bringing an action in the district court of the county where the person against whom the penalty is imposed resides or in the county where the office of the director is located.

(b) A county attorney or the attorney general of the state shall provide legal assistance and advice to the director in an action to collect a penalty.

(c) A court shall award reasonable attorney fees and costs to the prevailing party in an action brought by the division to collect a penalty.

Section 97. Section 58-71-402 is amended to read:

58-71-402. Authority to assess penalty.

(1) After proceeding pursuant to Title 63G, Chapter 4, Administrative Procedures Act, and Title 58, Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, the division may impose administrative penalties of up to $10,000 for acts of unprofessional conduct or unlawful conduct under this chapter.

(2) Assessment of a penalty under this section does not affect any other action the division is authorized to take regarding a license issued under this chapter.

Section 98. Section 58-73-302 is amended to read:

58-73-302. Qualifications for licensure.

(1) Each applicant for licensure as a chiropractic physician, other than those applying for a license based on licensure as a chiropractor or chiropractic physician in another jurisdiction, shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate satisfactory completion of at least two years of general study in a college or university;

(d) demonstrate having earned a degree of doctor of chiropractic from a chiropractic college or university that at the time the degree was conferred was accredited by the Council on Chiropractic Education, Inc., or an equivalent chiropractic accrediting body recognized by the United States Department of Education and by the division rule made in collaboration with the board;

(e) demonstrate successful completion of:

(i) the National Chiropractic Boards:

(A) Parts I and II;

(B) Written Clinical Competency Examination; and

(C) [~~Physical Therapy~~] Physiotherapy;

(ii) the Utah Chiropractic Law and Rules Examination; and

(iii) a practical examination approved by the division in collaboration with the board; and

(f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

(2) Each applicant for licensure as a chiropractic physician based on licensure as a chiropractor or chiropractic physician in another jurisdiction shall:

(a) submit an application in the form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) demonstrate having obtained licensure as a chiropractor or chiropractic physician in another state under education requirements which were equivalent to the education requirements in this state to obtain a chiropractor or chiropractic physician license at the time the applicant obtained the license in the other state;

(d) demonstrate successful completion of:

(i) the Utah Chiropractic Law and Rules Examination; and

(ii) the Special Purposes Examination for Chiropractic (SPEC) of the National Board of Chiropractic Examiners;

(e) have been actively engaged in the practice of chiropractic for not less than two years immediately preceding application for licensure in this state; and

(f) meet with the board, if requested, for the purpose of reviewing the applicant's qualifications for licensure.

Section 99. Section 58-73-501 is amended to read:

58-73-501. Unprofessional conduct.

Unprofessional conduct is as defined in Section 58-1-501, as defined by division rule, and also includes:

(1) engaging in practice as a chiropractic physician after electing to place his license on inactive status, without having established with the board that he has initiated or completed continuing education necessary to reinstate active status of his license;

(2) failing to complete required continuing professional education;

(3) violating any of the scope of practice standards set forth in Section 58-73-601;

(4) failing to maintain patient records in sufficient detail to clearly substantiate a diagnosis, all treatment rendered to the patient in accordance with the recognized standard of chiropractic care, and fees charged for professional services;

(5) refusing to divulge to the division on demand the means, methods, device, or instrumentality used in the treatment of a disease, injury, ailment, or infirmity, unless that information is protected by the physician-patient privilege of Utah and the patient has not waived that privilege;

(6) refusing the division or [~~its~~] the division's employees access to his office, instruments, laboratory equipment, appliances, or supplies at reasonable times for purposes of inspection;

(7) fraudulently representing that curable disease, sickness, or injury can be cured in a stated time, or knowingly making any false statement in connection with the practice of chiropractic;

(8) offering, undertaking, or agreeing to cure or treat a disease, injury, ailment, or infirmity by a secret means, method, device, or instrumentality;

(9) willfully and intentionally making any false statement or entry in any chiropractic office records or other chiropractic records or reports;

(10) knowingly engaging in billing practices which are abusive and represent charges which are fraudulent or grossly excessive for services rendered;

(11) performing, procuring, or agreeing to procure or perform, or advising, aiding in or abetting, or offering or attempting to procure or aid or abet in the procuring of a criminal abortion;

(12) willfully betraying or disclosing a professional confidence or violation of a privileged communication, except:

(a) as required by law; or

(b) to assist the division by fully and freely exchanging information concerning applicants or licensees with the licensing or disciplinary boards of other states or foreign countries, the Utah chiropractic associations, their component societies, or chiropractic societies of other states, countries, districts, territories, or foreign countries;

(13) directly or indirectly giving or receiving any fee, commission, rebate, or other compensation for professional services not actually rendered or supervised, but this subsection does not preclude the legal relationships within lawful professional partnerships, corporations, or associations; [~~and~~]

(14) knowingly failing to transfer a copy of pertinent and necessary medical records or a summary of them to another physician when requested to do so by the subject patient or his designated representative[~~.~~];

(15) making a false entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (14) or Subsection 58-1-501(1);

(16) sharing professional fees with a person who is not licensed under this chapter; and

(17) paying a person for a patient referral.

Section 100. Section 58-83-102 is amended to read:

58-83-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Board" means the Online Prescribing, Dispensing, and Facilitation Licensing Board created in Section 58-83-201.

(2) "Branching questionnaire" means an adaptive and progressive assessment tool approved by the board.

(3) "Delivery of online pharmaceutical services" means the process in which a prescribing practitioner diagnoses a patient and prescribes one or more of the drugs authorized by Section 58-83-306, using:

(a) a branching questionnaire or other assessment tool approved by the division for the purpose of diagnosing and assessing a patient's health status;

(b) an Internet contract pharmacy to:

(i) dispense the prescribed drug; or

(ii) transfer the prescription to another pharmacy; and

(c) an Internet facilitator to facilitate the practices described in Subsections (3)(a) and (b).

(4) "Division" means the [~~Utah~~] Division of [~~Occupational and~~] Professional Licensing.

(5) "Internet facilitator" means a licensed provider of a web-based system for electronic communication between and among an online prescriber, the online prescriber's patient, and the online contract pharmacy.

(6) "Online contract pharmacy" means a pharmacy licensed and in good standing under Chapter 17b, Pharmacy Practice Act, as either a Class A Retail Pharmacy or a Class B Closed Door Pharmacy and licensed under this chapter to fulfill prescriptions issued by an online prescriber through a specific Internet facilitator.

(7) "Online prescriber" means a person:

(a) licensed under another chapter of this title;

(b) whose license under another chapter of this title includes assessing, diagnosing, and prescribing authority for humans; and

(c) who has obtained a license under this chapter to engage in online prescribing.

(8) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-83-501.

(9) "Unprofessional conduct" is as defined in Sections 58-1-203 and 58-83-502, and as further defined by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 101. Section 58-83-302 is amended to read:

58-83-302. Qualifications for licensure.

(1) Each applicant for licensure as an online prescriber under this chapter shall:

(a) submit an application in a form prescribed by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

[~~(c) be of good moral character;~~]

[~~(d)~~] (c) document that the applicant holds a Utah license that is active and in good standing and authorizes the licensee to engage in the assessment, diagnosis, and treatment of human ailments and the prescription of medications;

[~~(e)~~] (d) document that any other professional license the applicant possesses from other jurisdictions is in good standing;

[~~(f)~~] (e) (i) submit to the division an outline of the applicant's proposed online assessment, diagnosis, and prescribing tool, such as a branching questionnaire; and

(ii) demonstrate the proposed online assessment, diagnosis, and prescribing tool to the board and establish to the board's satisfaction that the utilization of that assessment tool to facilitate the prescription of the drugs approved for online prescribing under Section 58-83-305 does not compromise the public's health, safety, or welfare;

[~~(g)~~] (f) submit policies and procedures that address patient confidentiality, including measures that will be taken to ensure that the age and other identifying information of the person completing the online branching questionnaire are accurate;

[~~(h)~~] (g) describe the mechanism by which the online prescriber and patient will communicate with one another, including electronic and telephonic communication;

[~~(i)~~] (h) describe how the online prescriber/patient relationship will be established and maintained;

[~~(j)~~] (i) submit the name, address, and contact person of the Internet facilitator with whom the online prescriber has contracted to provide services that the online prescriber will use to engage in online assessment, diagnosis, and prescribing; and

[~~(k)~~] (j) submit documentation satisfactory to the board regarding public health, safety, and welfare demonstrating:

(i) how the online prescriber will comply with the requirements of Section 58-83-305;

(ii) the contractual services arrangement between the online prescriber and:

(A) the Internet facilitator; and

(B) the online contract pharmacy; and

(iii) how the online prescriber will allow and facilitate the division's ability to conduct audits in accordance with Section 58-83-308.

(2) An online prescriber may not use the services of an Internet facilitator or online contract pharmacy whose license is not active and in good standing.

(3) Each applicant for licensure as an online contract pharmacy under this chapter shall:

(a) be licensed in good standing in Utah as a Class A Retail Pharmacy or a Class B Closed Door Pharmacy;

(b) submit a written application in the form prescribed by the division;

(c) pay a fee as determined by the department under Section 63J-1-504;

(d) submit any contract between the applicant and the Internet facilitator with which the applicant is or will be affiliated;

(e) submit proof of liability insurance acceptable to the division that expressly covers all activities the online contract pharmacy will engage in under this chapter, which coverage shall be in a minimum amount of $1,000,000 per occurrence with a policy limit of not less than $3,000,000;

(f) submit a signed affidavit to the division attesting that the online contract pharmacy will not dispense a drug that is prescribed by an online prescriber engaged in the delivery of online pharmaceutical services under the provisions of this chapter unless:

(i) the drug is specifically approved by the division under Section 58-83-306; and

(ii) both the prescribing and the dispensing of the drug were facilitated by the Internet facilitator with whom the Internet contract pharmacy is associated under Subsection [~~58-83-302~~](3)(d);

(g) document that any other professional license the applicant possesses from other jurisdictions is active and in good standing; and

(h) demonstrate to the division that the applicant has satisfied any background check required by Section 58-17b-307, and each owner, officer, or manager of the applicant online contract pharmacy has not engaged in any act, practice, or omission, which when considered with the duties and responsibilities of a licensee under this chapter indicates there is cause to believe that issuing a license under this chapter is inconsistent with the public's health, safety, or welfare.

(4) Each applicant for licensure as an Internet facilitator under this chapter shall:

(a) submit a written application in the form prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) submit any contract between the applicant and the following with which the applicant will be affiliated:

(i) each online prescriber; and

(ii) the single online contract pharmacy;

(d) submit written policies and procedures satisfactory to the division that:

(i) address patient privacy, including compliance with 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;

(ii) ensure compliance with all applicable laws by health care personnel and the online prescriber who will process patient communications;

(iii) list the hours of operation;

(iv) describe the types of services that will be permitted electronically;

(v) describe the required patient information to be included in the communication, such as patient name, identification number, and type of transaction;

(vi) establish procedures for archiving and retrieving information; and

(vii) establish quality oversight mechanisms;

(e) submit written documentation of the applicant's security measures to ensure the confidentiality and integrity of any user-identifiable medical information;

(f) submit a description of the mechanism for:

(i) patients to access, supplement, and amend patient-provided personal health information;

(ii) back-up regarding the Internet facilitator electronic interface;

(iii) the quality of information and services provided via the interface; and

(iv) patients to register complaints regarding the Internet facilitator, the online prescriber, or the online contract pharmacy;

(g) submit a copy of the Internet facilitator's website;

(h) sign an affidavit attesting that:

(i) the applicant will not access any medical records or information contained in the medical record except as necessary to administer the website and the branching questionnaire; and

(ii) the applicant and its principals, and any entities affiliated with them, will only use the services of a single online contract pharmacy named on the license approved by the division; and

(i) submit any other information required by the division.

Section 102. Section 58-83-401 is amended to read:

58-83-401. Grounds for denial of license -- Disciplinary proceedings -- Termination of authority to prescribe -- Immediate and significant danger.

(1) Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public reprimand to a licensee, and for issuing a cease and desist order:

(a) shall be in accordance with Section 58-1-401; and

(b) includes:

(i) prescribing, dispensing, or facilitating the prescribing or dispensing of a drug not approved by the board under Section 58-83-306; or

(ii) any other violation of this chapter.

(2) The termination or expiration of a license under this chapter for any reason does not limit the division's authority to start or continue any investigation or adjudicative proceeding.

(3) (a) Because of the working business relationship between and among the online prescriber, the Internet facilitator, and the online contract pharmacy, each entity's ability to comply with this chapter may depend in some respects on the actions of the others.

(b) It is possible that a particular action or inaction by the online prescriber, the Internet facilitator, or the online contract pharmacy could have the effect of causing the other licensed entities to be out of compliance with this chapter, and each entity may, therefore, be held accountable for any related party's non-compliance, if the party knew or reasonably should have known of the other person's non-compliance.

(4) (a) An online prescriber may lose the practitioner's professional license to prescribe any drug under this title if the online prescriber knew or reasonably should have known that the provisions of this chapter were violated by the online prescriber, the Internet facilitator, or the online contract pharmacy.

(b) It is not a defense to an alleged violation under this chapter that the alleged violation was a result of an action or inaction not by the charged party but by the related online prescriber, the online contract pharmacy, or the Internet facilitator.

(5) The following actions may result in an immediate suspension of the online prescriber's license, the online contract pharmacy's license, or the Internet facilitator's license, and each is considered an immediate and significant danger to the public health, safety, or welfare requiring immediate action by the division pursuant to Section 63G-4-502 to terminate the delivery of online pharmaceutical services by the licensee:

(a) online prescribing, dispensing, or facilitation with respect to:

(i) a person [~~under the age of~~] who is younger than 18 years old;

(ii) a legend drug not authorized by the division in accordance with Section 58-83-306; and

(iii) any controlled substance;

(b) violating this chapter after having been given reasonable opportunity to cure the violation;

(c) using the name or official seal of the state, the [~~Utah Department of Commerce~~] department, or the [~~Utah Division of Occupational and Professional Licensing~~] division, or their boards, in an unauthorized manner; or

(d) failing to respond to a request from the division within the time frame requested for:

(i) an audit of the website; or

(ii) records of the online prescriber, the Internet facilitator, or the online contract pharmacy.

Section 103. Section 58-83-502 is amended to read:

58-83-502. Unprofessional conduct.

"Unprofessional conduct" includes, in addition to the definition in Section 58-1-501 and as may be further defined by administrative rule:

(1) except as provided in Section 58-83-306, online prescribing, dispensing, or facilitation with respect to a person [~~under the age of~~] who is younger than 18 years old;

(2) using the name or official seal of the state, the [~~Utah Department of Commerce~~] division, or the [~~Utah Division of Occupational and Professional Licensing~~] division, or their boards, in an unauthorized manner;

(3) failing to respond promptly to a request by the division for information including:

(a) an audit of the website; or

(b) records of the online prescriber, the Internet facilitator, or the online contract pharmacy;

(4) using an online prescriber, online contract pharmacy, or Internet facilitator without approval of the division;

(5) failing to inform a patient of the patient's freedom of choice in selecting who will dispense a prescription in accordance with Subsection 58-83-305(1)(n);

(6) failing to keep the division informed of the name and contact information of the Internet facilitator or online contract pharmacy;

(7) violating the dispensing and labeling requirements of Chapter 17b, Part 8, Dispensing Medical Practitioner and Dispensing Medical Practitioner Clinic Pharmacy; or

(8) falsely making an entry in, or altering, a medical record with the intent to conceal:

(a) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(b) conduct described in Subsections (1) through (7) or Subsection 58-1-501(1).

Section 104. Section 58-87-103 is amended to read:

58-87-103. Administration -- Rulemaking -- Service of process.

(1) (a) This chapter shall be administered by the division and is subject to the requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, so long as the requirements of Chapter 1, Division of [~~Occupational and~~] Professional Licensing Act, are not inconsistent with the requirements of this chapter.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to implement this chapter.

(2) By acting as an athlete agent in this state, a nonresident individual appoints the director of the division as the individual's agent for service of process in any civil action in this state related to the individual acting as an athlete agent in this state.

Section 105. Section 59-10-1111 is amended to read:

59-10-1111. Refundable tax credit for psychiatrists, psychiatric mental health nurse practitioners, and volunteer retired psychiatrists.

(1) As used in this section:

(a) "Psychiatric mental health nurse practitioner" means the same as that term is defined in Section 58-1-111.

(b) "Psychiatrist" means the same as that term is defined in Section 58-1-111.

(c) "Tax credit certificate" means a certificate issued by the Division of [~~Occupational and~~] Professional Licensing under Section 58-1-111 certifying that the claimant is entitled to a tax credit under this section.

(d) "Volunteer retired psychiatrist" means the same as that term is defined in Section 58-1-111.

(2) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate issued by the Division of [~~Occupational and~~] Professional Licensing under Subsection 58-1-111(3), may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of $10,000.

(3) A claimant who is a psychiatrist or a psychiatric mental health nurse practitioner and who submits a tax credit certificate under Subsection 58-1-111(4) may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of $10,000.

(4) A claimant who is a volunteer retired psychiatrist and who submits a tax credit certificate under Subsection 58-1-111(5) may claim a refundable tax credit:

(a) as provided in this section; and

(b) in the amount of $10,000.

(5) A claimant may claim a tax credit under Subsections (2) through (4) for no more than 10 taxable years for each tax credit.

(6) (a) In accordance with any rules prescribed by the commission under Subsection (6)(b), the commission shall make a refund to a claimant who claims a tax credit under this section if the amount of the tax credit exceeds the claimant's tax liability for the taxable year.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making a refund to a claimant as required by Subsection (6)(a).

Section 106. Section 62A-3-202 is amended to read:

62A-3-202. Definitions.

As used in this part:

(1) "Assisted living facility" means the same as that term is defined in Section 26-21-2.

(2) "Auxiliary aids and services" means items, equipment, or services that assist in effective communication between an individual who has a mental, hearing, vision, or speech disability and another individual.

(3) "Government agency" means any department, division, office, bureau, board, commission, authority, or any other agency or instrumentality created by the state, or to which the state is a party, or created by any county or municipality, which is responsible for the regulation, visitation, inspection, or supervision of facilities, or which provides services to patients, residents, or clients of facilities.

(4) "Intermediate care facility" means the same as that term is defined in Section [~~58-15-2~~] 58-15-101.

(5) (a) "Long-term care facility" means:

(i) a skilled nursing facility;

(ii) except as provided in Subsection (5)(b), an intermediate care facility;

(iii) a nursing home;

(iv) a small health care facility;

(v) a small health care facility type N; or

(vi) an assisted living facility.

(b) "Long-term care facility" does not mean an intermediate care facility for people with an intellectual disability, as defined in Section [~~58-15-2~~] 58-15-101.

(6) "Ombudsman" means the administrator of the long-term care ombudsman program, created pursuant to Section 62A-3-203.

(7) "Ombudsman program" means the Long-Term Care Ombudsman Program.

(8) "Resident" means an individual who resides in a long-term care facility.

(9) "Skilled nursing facility" means the same as that term is defined in Section [~~58-15-2~~] 58-15-101.

(10) "Small health care facility" means the same as that term is defined in Section 26-21-2.

(11) "Small health care facility type N" means a residence in which a licensed nurse resides and provides protected living arrangements, nursing care, and other services on a daily basis for two to three individuals who are also residing in the residence and are unrelated to the licensee.

Section 107. Section 62A-3-305 is amended to read:

62A-3-305. Reporting requirements -- Investigation -- Exceptions -- Immunity -- Penalties -- Nonmedical healing.

(1) Except as provided in Subsection (4), if an individual has reason to believe that a vulnerable adult is, or has been, the subject of abuse, neglect, or exploitation, the individual shall immediately report the suspected abuse, neglect, or exploitation

to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(2) (a) If a peace officer or a law enforcement agency receives a report under Subsection (1), the peace officer or the law enforcement agency shall immediately notify Adult Protective Services.

(b) Adult Protective Services and the peace officer or the law enforcement agency shall coordinate, as appropriate, efforts to investigate the report under Subsection (1) and to provide protection to the vulnerable adult.

(3) When a report under Subsection (1), or a subsequent investigation by Adult Protective Services, indicates that a criminal offense may have occurred against a vulnerable adult:

(a) Adult Protective Services shall notify the nearest local law enforcement agency regarding the potential offense; and

(b) the law enforcement agency shall initiate an investigation in cooperation with Adult Protective Services.

(4) Subject to Subsection (5), the reporting requirement described in Subsection (1) does not apply to:

(a) a member of the clergy, with regard to any confession made to the member of the clergy while functioning in the ministerial capacity of the member of the clergy and without the consent of the individual making the confession, if:

(i) the perpetrator made the confession directly to the member of the clergy; and

(ii) the member of the clergy is, under canon law or church doctrine or practice, bound to maintain the confidentiality of that confession; or

(b) an attorney, or an individual employed by the attorney, if knowledge of the suspected abuse, neglect, or exploitation of a vulnerable adult arises from the representation of a client, unless the attorney is permitted to reveal the suspected abuse, neglect, or exploitation of the vulnerable adult to prevent reasonably certain death or substantial bodily harm in accordance with Utah Rules of Professional Conduct, Rule 1.6.

(5) (a) When a member of the clergy receives information about abuse, neglect, or exploitation of a vulnerable adult from any source other than confession of the perpetrator, the member of the clergy is required to report that information even though the member of the clergy may have also received information about abuse or neglect from the confession of the perpetrator.

(b) Exemption of the reporting requirement for an individual described in Subsection (4) does not exempt the individual from any other efforts required by law to prevent further abuse, neglect, or exploitation of a vulnerable adult by the perpetrator.

(6) (a) As used in this Subsection (6), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, or exploitation of a vulnerable adult under Subsection (1); or

(ii) constitute grounds for excluding evidence regarding a vulnerable adult's injuries, or the cause of the vulnerable adult's injuries, in any judicial or administrative proceeding resulting from a report under Subsection (1).

(7) (a) An individual who in good faith makes a report under Subsection (1), or who otherwise notifies Adult Protective Services or a peace officer or law enforcement agency, is immune from civil and criminal liability in connection with the report or notification.

(b) A covered provider or covered contractor, as defined in Section 26-21-201, that knowingly fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency, under Subsection (1), is subject to a private right of action and liability for the abuse, neglect, or exploitation of a vulnerable adult that is committed by the individual who was not reported to Adult Protective Services or to the nearest peace officer or law enforcement agency.

(c) This Subsection (7) does not provide immunity with respect to acts or omissions of a governmental employee except as provided in Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(8) If Adult Protective Services has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, or exploitation of a vulnerable adult in accordance with this section, Adult Protective Services shall file a complaint with:

(a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(9) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report suspected abuse, neglect, or exploitation of a vulnerable adult to Adult Protective Services, or to the nearest peace officer or law enforcement agency under Subsection (1).

(b) If an individual is convicted under Subsection (9)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse, neglect, and exploitation of vulnerable adults.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (9)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse, neglect, or exploitation of a vulnerable adult because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (9)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (9)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, or exploitation and willfully failed to report.

(10) Under circumstances not amounting to a violation of Section 76–8–508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a vulnerable adult who is the subject of a report under Subsection (1), the individual who made the report under Subsection (1), a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

(11) An adult is not considered abused, neglected, or a vulnerable adult for the reason that the adult has chosen to rely solely upon religious, nonmedical forms of healing in lieu of medical care.

Section 108. Section 62A-3-311.1 is amended to read:

62A-3-311.1. Statewide database -- Restricted use and access.

(1) The division shall maintain a database for reports of vulnerable adult abuse, neglect, or exploitation made pursuant to this part.

(2) The database shall include:

(a) the names and identifying data of the alleged abused, neglected, or exploited vulnerable adult and the alleged perpetrator;

(b) information regarding whether or not the allegation of abuse, neglect, or exploitation was found to be:

(i) supported;

(ii) inconclusive;

(iii) without merit; or

(iv) for reports for which the finding is made before May 5, 2008:

(A) substantiated; or

(B) unsubstantiated; and

(c) any other information that may be helpful in furthering the purposes of this part, as determined by the division.

(3) Information obtained from the database may be used only:

(a) for statistical summaries compiled by the department that do not include names or other identifying data;

(b) where identification of an individual as a perpetrator may be relevant in a determination regarding whether to grant or deny a license, privilege, or approval made by:

(i) the department;

(ii) the Division of [~~Occupational and~~] Professional Licensing;

(iii) the Bureau of Licensing, within the Department of Health;

(iv) the Bureau of Emergency Medical Services and Preparedness, within the Department of Health, or a designee of the Bureau of Emergency Medical Services and Preparedness;

(v) any government agency specifically authorized by statute to access or use the information in the database; or

(vi) an agency of another state that performs a similar function to an agency described in Subsections (3)(b)(i) through (iv); or

(c) as otherwise specifically provided by law.

Section 109. Section 62A-3-312 is amended to read:

62A-3-312. Access to information in database.

The database and the adult protection case file:

(1) shall be made available to law enforcement agencies, the attorney general's office, city attorneys, the Division of [~~Occupational and~~] Professional Licensing, and county or district attorney's offices;

(2) shall be released as required under Subsection 63G–2–202(4)(c); and

(3) may be made available, at the discretion of the division, to:

(a) subjects of a report as follows:

(i) a vulnerable adult named in a report as a victim of abuse, neglect, or exploitation, or that adult's attorney or legal guardian; and

(ii) a person identified in a report as having abused, neglected, or exploited a vulnerable adult, or that person's attorney; and

(b) persons involved in an evaluation or assessment of the vulnerable adult as follows:

(i) an employee or contractor of the department who is responsible for the evaluation or assessment of an adult protection case file;

(ii) a multidisciplinary team approved by the division to assist Adult Protective Services in the evaluation, assessment, and disposition of a vulnerable adult case;

(iii) an authorized person or agency providing services to, or responsible for, the care, treatment, assessment, or supervision of a vulnerable adult named in the report as a victim, when in the opinion of the division, that information will assist in the protection of, or provide other benefits to, the victim;

(iv) a licensing authority for a facility, program, or person providing care to a victim named in a report; and

(v) legally authorized protection and advocacy agencies when they represent a victim or have been requested by the division to assist on a case, including:

(A) the Office of Public Guardian, created in Section 62A-14-103; and

(B) the Long-Term Care Ombudsman Program, created in Section 62A-3-203.

Section 110. Section 62A-4a-411 is amended to read:

62A-4a-411. Failure to report -- Threats and intimidation -- Penalties.

(1) If the division has substantial grounds to believe that an individual has knowingly failed to report suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part, the division shall file a complaint with:

(a) the Division of [~~Occupational and~~] Professional Licensing if the individual is a health care provider, as defined in Section 62A-4a-404, or a mental health therapist, as defined in Section 58-60-102;

(b) the appropriate law enforcement agency if the individual is a law enforcement officer, as defined in Section 53-13-103; and

(c) the State Board of Education if the individual is an educator, as defined in Section 53E-6-102.

(2) (a) An individual is guilty of a class B misdemeanor if the individual willfully fails to report the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency in accordance with this part.

(b) If an individual is convicted under Subsection (2)(a), the court may order the individual, in addition to any other sentence the court imposes, to:

(i) complete community service hours; or

(ii) complete a program on preventing abuse and neglect of children.

(c) In determining whether it would be appropriate to charge an individual with a violation of Subsection (2)(a), the prosecuting attorney shall take into account whether a reasonable individual would not have reported suspected abuse or neglect of a child because reporting would have placed the individual in immediate danger of death or serious bodily injury.

(d) Notwithstanding any contrary provision of law, a prosecuting attorney may not use an individual's violation of Subsection (2)(a) as the basis for charging the individual with another offense.

(e) A prosecution for failure to report under Subsection (2)(a) shall be commenced within two years after the day on which the individual had knowledge of the suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency and willfully failed to report.

(3) Under circumstances not amounting to a violation of Section 76-8-508, an individual is guilty of a class B misdemeanor if the individual threatens, intimidates, or attempts to intimidate a child who is the subject of a report under this part, the individual who made the report, a witness, or any other person cooperating with an investigation conducted in accordance with this chapter.

Section 111. Section 62A-4a-603 is amended to read:

62A-4a-603. Injunction -- Enforcement by county attorney or attorney general.

(1) The Office of Licensing within the department or any interested person may commence an action in district court to enjoin any person, agency, firm, corporation, or association violating Section 62A-4a-602.

(2) The Office of Licensing shall:

(a) solicit information from the public relating to violations of Section 62A-4a-602; and

(b) upon identifying a violation of Section 62A-4a-602:

(i) send a written notice to the person who violated Section 62A-4a-602 that describes the alleged violation; and

(ii) notify the following persons of the alleged violation:

(A) the local county attorney; and

(B) the Division of [~~Occupational and~~] Professional Licensing.

(3) (a) A county attorney or the attorney general shall institute legal action as necessary to enforce the provisions of Section 62A-4a-602 after being informed of an alleged violation.

(b) If a county attorney does not take action within 30 days after the day on which the county attorney is informed of an alleged violation of Section 62A-4a-602, the attorney general may be requested to take action, and shall then institute legal proceedings in place of the county attorney.

(4) (a) In addition to the remedies provided in Subsections (1) and (3), any person, agency, firm, corporation, or association found to be in violation of Section 62A-4a-602 shall forfeit all proceeds identified as resulting from the transaction, and

may also be assessed a civil penalty of not more than $10,000 for each violation.

(b) Each act in violation of Section 62A-4a-602, including each placement or attempted placement of a child, is a separate violation.

(5) (a) All amounts recovered as penalties under Subsection (4) shall be placed in the General Fund of the prosecuting county, or in the state General Fund if the attorney general prosecutes.

(b) If two or more governmental entities are involved in the prosecution, the penalty amounts recovered shall be apportioned by the court among the entities, according to their involvement.

(6) A judgment ordering the payment of any penalty or forfeiture under Subsection (4) is a lien when recorded in the judgment docket, and has the same effect and is subject to the same rules as a judgment for money in a civil action.

Section 112. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) (a) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director.

(b) The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate with and assist treatment centers, recovery residences, and other organizations that provide services to individuals recovering from a substance abuse disorder, by identifying and disseminating information about effective practices and programs;

(v) except as provided in Section 62A-15-103.5, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to develop, in collaboration with public and private programs, minimum standards for public and private providers of substance abuse and mental health programs licensed by the department under Title 62A, Chapter 2, Licensure of Programs and Facilities;

(vi) promote integrated programs that address an individual's substance abuse, mental health, physical health, and criminal risk factors;

(vii) establish and promote an evidence-based continuum of screening, assessment, prevention, treatment, and recovery support services in the community for individuals with substance use disorder and mental illness that addresses criminal risk factors;

(viii) evaluate the effectiveness of programs described in this Subsection (2);

(ix) consider the impact of the programs described in this Subsection (2) on:

(A) emergency department utilization;

(B) jail and prison populations;

(C) the homeless population; and

(D) the child welfare system; and

(x) promote or establish programs for education and certification of instructors to educate individuals convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of the state hospital's budget, administrative policy, and coordination of services with local service plans;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that an individual receiving services through a local mental health authority or the Utah State Hospital be informed about and, if desired by the individual, provided assistance in the completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, a private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authority;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services that include community-based services for individuals involved in the criminal justice system, in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services, or services for individuals involved in the criminal justice system, according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services;

(C) services result in improved overall health and functioning;

(D) a statewide comprehensive continuum of community-based services designed to reduce criminal risk factors for individuals who are determined to have substance abuse or mental illness conditions or both, and who are involved in the criminal justice system;

(E) compliance, where appropriate, with the certification requirements in Subsection (2)(j); and

(F) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with the local substance abuse authority's provider of substance abuse programs and services and each local mental health authority's contract with the local mental health authority's provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements; and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

(d) ensure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority, in accordance with Subsections 17-43-201(5)(b) and 17-43-301(6)(a)(ii), to submit a plan to the division on or before May 15 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority and each local substance abuse authority's contract provider, and each local mental health authority and each local mental health authority's contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to the local substance abuse authority or the local mental health authorities are consistent with services rendered by the authority or the authority's contract provider, and with outcomes reported by the authority's contract provider; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance use disorder and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) define "prevention" by rule as required under Title 32B, Chapter 2, Part 4, Alcoholic Beverage and Substance Abuse Enforcement and Treatment Restricted Account Act;

(h) (i) train and certify an adult as a peer support specialist, qualified to provide peer supports services to an individual with:

(A) a substance use disorder;

(B) a mental health disorder; or

(C) a substance use disorder and a mental health disorder;

(ii) certify a person to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist;

(iii) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish training and certification requirements for a peer support specialist;

(B) specify the types of services a peer support specialist is qualified to provide;

(C) specify the type of supervision under which a peer support specialist is required to operate; and

(D) specify continuing education and other requirements for maintaining or renewing certification as a peer support specialist; and

(iv) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(A) establish the requirements for a person to be certified to carry out, as needed, the division's duty to train and certify an adult as a peer support specialist; and

(B) specify how the division shall provide oversight of a person certified to train and certify a peer support specialist;

(i) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment to an individual who is incarcerated or who is required to participate in treatment by a court or by the Board of Pardons and Parole, including:

(i) collaboration with the Department of Corrections and the Utah Substance Use and Mental Health Advisory Council to develop and coordinate the standards, including standards for county and state programs serving individuals convicted of class A and class B misdemeanors;

(ii) determining that the standards ensure available treatment, including the most current practices and procedures demonstrated by recognized scientific research to reduce recidivism, including focus on the individual's criminal risk factors; and

(iii) requiring that all public and private treatment programs meet the standards established under this Subsection (2)(i) in order to receive public funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice for the costs of providing screening, assessment, prevention, treatment, and recovery support;

(j) except as provided in Section 62A-15-103.5, establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements and procedures for the certification of licensed public and private providers, including individuals licensed by the Division of [~~Occupational and~~] Professional Licensing, programs licensed by the department, and health care facilities licensed by the Department of Health, who provide, as part of their practice, substance use disorder and mental health treatment to an individual involved in the criminal justice system, including:

(i) collaboration with the Department of Corrections, the Utah Substance Use and Mental Health Advisory Council, and the Utah Association of Counties to develop, coordinate, and implement the certification process;

(ii) basing the certification process on the standards developed under Subsection (2)(i) for the treatment of an individual involved in the criminal justice system; and

(iii) the requirement that a public or private provider of treatment to an individual involved in the criminal justice system shall obtain certification on or before July 1, 2016, and shall renew the certification every two years, in order to qualify for funds allocated to the division, the Department of Corrections, or the Commission on Criminal and Juvenile Justice on or after July 1, 2016;

(k) collaborate with the Commission on Criminal and Juvenile Justice to analyze and provide recommendations to the Legislature regarding:

(i) pretrial services and the resources needed to reduce recidivism;

(ii) county jail and county behavioral health early-assessment resources needed for an offender convicted of a class A or class B misdemeanor; and

(iii) the replacement of federal dollars associated with drug interdiction law enforcement task forces that are reduced;

(l) (i) establish performance goals and outcome measurements for all treatment programs for which minimum standards are established under Subsection (2)(i), including recidivism data and data regarding cost savings associated with recidivism reduction and the reduction in the number of inmates, that are obtained in collaboration with the Administrative Office of the Courts and the Department of Corrections; and

(ii) collect data to track and determine whether the goals and measurements are being attained and make this information available to the public;

(m) in the division's discretion, use the data to make decisions regarding the use of funds allocated to the division, the Administrative Office of the Courts, and the Department of Corrections to provide treatment for which standards are established under Subsection (2)(i);

(n) annually, on or before August 31, submit the data collected under Subsection (2)(k) to the Commission on Criminal and Juvenile Justice, which shall compile a report of findings based on the data and provide the report to the Judiciary Interim Committee, the Health and Human Services Interim Committee, the Law Enforcement and Criminal Justice Interim Committee, and the related appropriations subcommittees; and

(o) consult and coordinate with the Department of Health and the Division of Child and Family Services to develop and manage the operation of a program designed to reduce substance abuse during pregnancy and by parents of a newborn child that includes:

(i) providing education and resources to health care providers and individuals in the state regarding prevention of substance abuse during pregnancy;

(ii) providing training to health care providers in the state regarding screening of a pregnant woman or pregnant minor to identify a substance abuse disorder; and

(iii) providing referrals to pregnant women, pregnant minors, or parents of a newborn child in need of substance abuse treatment services to a facility that has the capacity to provide the treatment services.

(3) In addition to the responsibilities described in Subsection (2), the division shall, within funds appropriated by the Legislature for this purpose, implement and manage the operation of a firearm safety and suicide prevention program, in consultation with the Bureau of Criminal Identification created in Section 53-10-201, including:

(a) coordinating with the Department of Health, local mental health and substance abuse authorities, a nonprofit behavioral health advocacy group, and a representative from a Utah-based nonprofit organization with expertise in the field of firearm use and safety that represents firearm owners, to:

(i) produce and periodically review and update a firearm safety brochure and other educational materials with information about the safe handling and use of firearms that includes:

(A) information on safe handling, storage, and use of firearms in a home environment;

(B) information about at-risk individuals and individuals who are legally prohibited from possessing firearms;

(C) information about suicide prevention awareness; and

(D) information about the availability of firearm safety packets;

(ii) procure cable-style gun locks for distribution under this section;

(iii) produce a firearm safety packet that includes the firearm safety brochure and the cable-style gun lock described in this Subsection (3); and

(iv) create a suicide prevention education course that:

(A) provides information for distribution regarding firearm safety education;

(B) incorporates current information on how to recognize suicidal behaviors and identify individuals who may be suicidal; and

(C) provides information regarding crisis intervention resources;

(b) distributing, free of charge, the firearm safety packet to the following persons, who shall make the firearm safety packet available free of charge:

(i) health care providers, including emergency rooms;

(ii) mobile crisis outreach teams;

(iii) mental health practitioners;

(iv) other public health suicide prevention organizations;

(v) entities that teach firearm safety courses;

(vi) school districts for use in the seminar, described in Section 53G-9-702, for parents of students in the school district; and

(vii) firearm dealers to be distributed in accordance with Section 76-10-526;

(c) creating and administering a rebate program that includes a rebate that offers between $10 and $200 off the purchase price of a firearm safe from a participating firearms dealer or a person engaged in the business of selling firearm safes in Utah, by a Utah resident;

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, making rules that establish procedures for:

(i) producing and distributing the suicide prevention education course and the firearm safety brochures and packets;

(ii) procuring the cable-style gun locks for distribution; and

(iii) administering the rebate program; and

(e) reporting to the Health and Human Services Interim Committee regarding implementation and success of the firearm safety program and suicide prevention education course at or before the November meeting each year.

(4) (a) The division may refuse to contract with and may pursue legal remedies against any local substance abuse authority or local mental health authority that fails, or has failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(5) (a) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with the oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309.

(b) Nothing in this Subsection (5) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(6) In carrying out the division's duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but

shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(7) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(8) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) use of public funds;

(b) oversight of public funds; and

(c) governance of substance use disorder and mental health programs and services.

(9) The Legislature may refuse to appropriate funds to the division upon the division's failure to comply with the provisions of this part.

(10) If a local substance abuse authority contacts the division under Subsection 17-43-201(10) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

(11) The division shall employ a school-based mental health specialist to be housed at the State Board of Education who shall work with the State Board of Education to:

(a) provide coordination between a local education agency and local mental health authority;

(b) recommend evidence-based and evidence informed mental health screenings and intervention assessments for a local education agency; and

(c) coordinate with the local community, including local departments of health, to enhance and expand mental health related resources for a local education agency.

Section 113. Section 63G-2-305 is amended to read:

63G-2-305. Protected records.

The following records are protected if properly classified by a governmental entity:

(1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has provided the governmental entity with the information specified in Section 63G-2-309;

(2) commercial information or nonindividual financial information obtained from a person if:

(a) disclosure of the information could reasonably be expected to result in unfair competitive injury to the person submitting the information or would impair the ability of the governmental entity to obtain necessary information in the future;

(b) the person submitting the information has a greater interest in prohibiting access than the public in obtaining access; and

(c) the person submitting the information has provided the governmental entity with the information specified in Section 63G-2-309;

(3) commercial or financial information acquired or prepared by a governmental entity to the extent that disclosure would lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the governmental entity or cause substantial financial injury to the governmental entity or state economy;

(4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);

(5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;

(6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:

(a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:

(i) an invitation for bids;

(ii) a request for proposals;

(iii) a request for quotes;

(iv) a grant; or

(v) other similar document; or

(b) an unsolicited proposal, as defined in Section 63G-6a-712;

(7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:

(a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or

(b) (i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and

(ii) at least two years have passed after the day on which the request for information is issued;

(8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:

(a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;

(b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(c) in the case of records that would identify property, potential sellers of the described property have already learned of the governmental entity's plans to acquire the property;

(d) in the case of records that would identify the appraisal or estimated value of property, the potential sellers have already learned of the governmental entity's estimated value of the property; or

(e) the property under consideration for public acquisition is a single family residence and the governmental entity seeking to acquire the property has initiated negotiations to acquire the property as required under Section 78B-6-505;

(9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated transaction of real or personal property including intellectual property, which, if disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of the subject property, unless:

(a) the public interest in access is greater than or equal to the interests in restricting access, including the governmental entity's interest in maximizing the financial benefit of the transaction; or

(b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the value of the subject property have already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual;

(12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

(14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

(15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;

(16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;

(17) records that are subject to the attorney client privilege;

(18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;

(19) (a) (i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and

(ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and

(b) (i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

(ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of legislative action or policy may not be classified as protected under this section;

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or those students admitted, may not be classified as protected under this section;

(29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;

(30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;

(31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;

(32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;

(33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

(34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;

(35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

(37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:

(a) the donor requests anonymity in writing;

(b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

(c) except for an institution within the state system of higher education defined in

Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;

(38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;

(39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

(I) the institution within the state system of higher education defined in Section 53B-1-102; or

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

(iii) the property of a private person who provides the Division of Emergency Management information;

(49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;

(50) as provided in Section 26-39-501:

(a) information or records held by the Department of Health related to a complaint regarding a child care program or residential child care which the department is unable to substantiate; and

(b) information or records related to a complaint received by the Department of Health from an anonymous complainant regarding a child care program or residential child care;

(51) unless otherwise classified as public under Section 63G-2-301 and except as provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

(a) the individual is required to provide the information in order to comply with a law, ordinance, rule, or order of a government entity; and

(b) the subject of the record has a reasonable expectation that this information will be kept confidential due to:

(i) the nature of the law, ordinance, rule, or order; and

(ii) the individual complying with the law, ordinance, rule, or order;

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

(c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;

(53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:

(a) conducted within the state system of higher education, as defined in Section 53B-1-102; and

(b) conducted using animals;

(54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote on whether or not to recommend that the voters retain a judge including information disclosed under Subsection 78A-12-203(5)(e);

(55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;

(56) records provided or received by the Public Lands Policy Coordinating Office in furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

(a) a management plan for a water conveyance facility in the possession of the Division of Water Resources or the Board of Water Resources; or

(b) an outline of an emergency response plan in possession of the state or a county or municipality;

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health or the Division of [~~Occupational and~~] Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections 58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) any record in the custody of the Utah Office for Victims of Crime relating to a victim, including:

(a) a victim's application or request for benefits;

(b) a victim's receipt or denial of benefits; and

(c) any administrative notes or records made or created for the purpose of, or used to, evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim Reparations Fund;

(65) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images

inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 62A-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(66) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102, except for application materials for a publicly announced finalist;

(67) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

(68) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;

(69) work papers as defined in Section 31A-2-204;

(70) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;

(71) a record submitted to the Insurance Department in accordance with Section 31A-37-201;

(72) a record described in Section 31A-37-503;

(73) any record created by the Division of [~~Occupational and~~] Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

(74) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;

(75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

(c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

(d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

(e) Title 20A, Election Code;

(76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;

(77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

(78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

(80) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;

(81) (a) an image taken of an individual during the process of booking the individual into jail, unless:

(i) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(ii) a law enforcement agency releases or disseminates the image after determining that:

(A) the individual is a fugitive or an imminent threat to an individual or to public safety; and

(B) releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(iii) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest.

(82) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section 63M-14-205; and

(c) the disclosure of which would:

(i) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(ii) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(iii) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system; and

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

Section 114. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

[~~(2) Section 58-11a-302.5 is repealed July 1, 2022.~~]

[~~(3)~~] (2) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

[~~(4)~~] (3) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

[~~(5)~~] (4) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

[~~(6)~~] (5) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

[~~(7)~~] (6) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, [~~2023~~] 2033.

[~~(8)~~] (7) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

[~~(9)~~] (8) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

[~~(10)~~] (9) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

[~~(11)~~] (10) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

[~~(12)~~] (11) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

[~~(13)~~] (12) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, 2022.

[~~(14)~~] (13) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

[~~(15)~~] (14) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

[~~(16)~~] (15) The following sections are repealed on July 1, 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

Section 115. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.

(7) The "Latino Community Support Restricted Account" created in Section 13-1-16.

(8) The Clean Air Support Restricted Account created in Section 19-1-109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23-14-13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.

(14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.

(17) The Nurse Home Visiting Restricted Account created in Section 26-63-601.

(18) The Technology Development Restricted Account created in Section 31A-3-104.

(19) The Criminal Background Check Restricted Account created in Section 31A-3-105.

(20) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.

(21) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.

(22) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.

(23) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

(24) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(35) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(36) The DNA Specimen Restricted Account created in Section 53-10-407.

(37) The Canine Body Armor Restricted Account created in Section 53-16-201.

(38) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(39) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(40) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(41) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(43) Certain fines collected by the Division of [~~Occupational and~~] Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(47) Certain fines collected by the Division of [~~Occupational and~~] Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(48) The Relative Value Study Restricted Account created in Section 59-9-105.

(49) The Cigarette Tax Restricted Account created in Section 59-14-204.

(50) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for

principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(52) Certain funds donated to the Department of Human Services, as provided in Section 62A-1-111.

(53) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202.

(54) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A-4a-110.

(55) The Choose Life Adoption Support Restricted Account created in Section 62A-4a-608.

(56) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(57) The Immigration Act Restricted Account created in Section 63G-12-103.

(58) Money received by the military installation development authority, as provided in Section 63H-1-504.

(59) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(60) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(61) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(62) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(63) The Motion Picture Incentive Account created in Section 63N-8-103.

(64) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(65) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(66) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

(78) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 116. Section 63N-1b-301 is amended to read:

63N-1b-301. Talent, Education, and Industry Alignment Subcommittee -- Creation -- Membership -- Expenses -- Duties.

(1) There is created a subcommittee of the commission called the Talent, Education, and Industry Alignment Subcommittee composed of the following members:

(a) the state superintendent of public instruction or the superintendent's designee;

(b) the commissioner of higher education or the commissioner of higher education's designee;

(c) the chair of the State Board of Education or the chair's designee;

(d) the executive director of the Department of Workforce Services or the executive director of the department's designee;

(e) the executive director of the GO Utah office or the executive director's designee;

(f) the director of the Division of [~~Occupational and~~] Professional Licensing or the director's designee;

(g) the governor's education advisor or the advisor's designee;

(h) one member of the Senate, appointed by the president of the Senate;

(i) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

(j) the president of the Salt Lake Chamber or the president's designee;

(k) three representatives of private industry chosen by the commission;

(l) a representative of the technology industry chosen by the commission;

(m) the lieutenant governor or the lieutenant governor's designee; and

(n) any additional individuals appointed by the commission who represent:

(i) one or more individual educational institutions; or

(ii) education or industry professionals.

(2) The commission shall select a chair and vice chair from among the members of the talent subcommittee.

(3) The talent subcommittee shall meet at least quarterly.

(4) Attendance of a majority of the members of the talent subcommittee constitutes a quorum for the transaction of official talent subcommittee business.

(5) Formal action by the talent subcommittee requires the majority vote of a quorum.

(6) A member of the talent subcommittee:

(a) may not receive compensation or benefits for the member's service; and

(b) who is not a legislator may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) The talent subcommittee shall:

(a) (i) review and develop metrics to measure the progress, performance, effectiveness, and scope of any state operation, activity, program, or service that primarily involves employment training or placement; and

(ii) ensure that the metrics described in Subsection (7)(a) are consistent and comparable for each state operation, activity, program, or service that primarily involves employment training or placement;

(b) make recommendations to the commission regarding how to better align training and education in the state with industry demand;

(c) make recommendations to the commission regarding how to better align technical education with current and future workforce needs; and

(d) coordinate with the commission to meet the responsibilities described in Subsection 63N-1b-302(4).

Section 117. Section 76-10-3201 is enacted to read:

Part 32. Prohibition on Kickbacks

76-10-3201. Prohibition on kickbacks.

(1) As used in this section:

(a) "Kickback or bribe" means a rebate, compensation, or any other form of remuneration, that is:

(i) direct or indirect;

(ii) overt or covert; or

(iii) in cash or in kind.

(b) "Kickback or bribe" does not include a fee that is:

(i) shared between two or more individuals, each of whom is licensed to practice law; and

(ii) charged for services provided in the individual's capacity as a licensee described in Subsection (1)(b)(i).

(2) (a) An actor may not solicit or receive a kickback or bribe in return for the referral of a person to another person for the furnishing of any good or service that relates to any insurance claim or a claim for damages.

(b) An actor may not offer or pay a kickback or bribe to induce the referral of a person to another person for the furnishing of any good or service that relates to any insurance claim or a claim for damages.

(3) A violation of Subsection (2)(a) or (b) is a third degree felony.

(4) This section does not apply to an individual licensed to practice law when referring, without compensation, a client for medical treatment or evaluation.

Section 118. Section 78B-3-403 is amended to read:

78B-3-403. Definitions.

As used in this part:

(1) "Audiologist" means a person licensed to practice audiology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(2) "Certified social worker" means a person licensed to practice as a certified social worker under Section 58-60-205.

(3) "Chiropractic physician" means a person licensed to practice chiropractic under Title 58, Chapter 73, Chiropractic Physician Practice Act.

(4) "Clinical social worker" means a person licensed to practice as a clinical social worker under Section 58-60-205.

(5) "Commissioner" means the commissioner of insurance as provided in Section 31A-2-102.

(6) "Dental hygienist" means a person licensed to engage in the practice of dental hygiene as defined in Section 58-69-102.

(7) "Dentist" means a person licensed to engage in the practice of dentistry as defined in Section 58-69-102.

(8) "Division" means the Division of [~~Occupational and~~] Professional Licensing created in Section 58-1-103.

(9) "Future damages" includes a judgment creditor's damages for future medical treatment, care or custody, loss of future earnings, loss of bodily function, or future pain and suffering.

(10) "Health care" means any act or treatment performed or furnished, or which should have been performed or furnished, by any health care provider for, to, or on behalf of a patient during the patient's medical care, treatment, or confinement.

(11) "Health care facility" means general acute hospitals, specialty hospitals, home health agencies, hospices, nursing care facilities, assisted living facilities, birthing centers, ambulatory surgical facilities, small health care facilities, health care facilities owned or operated by health maintenance organizations, and end stage renal disease facilities.

(12) "Health care provider" includes any person, partnership, association, corporation, or other facility or institution who causes to be rendered or who renders health care or professional services as a hospital, health care facility, physician, physician assistant, registered nurse, licensed practical nurse, nurse-midwife, licensed direct-entry midwife, dentist, dental hygienist, optometrist, clinical laboratory technologist, pharmacist, physical therapist, physical therapist assistant, podiatric physician, psychologist, chiropractic physician, naturopathic physician, osteopathic physician, osteopathic physician and surgeon, audiologist, speech-language pathologist, clinical social worker, certified social worker, social service worker, marriage and family counselor, practitioner of obstetrics, licensed athletic trainer, or others rendering similar care and services relating to or arising out of the health needs of persons or groups of persons and officers, employees, or agents of any of the above acting in the course and scope of their employment.

(13) "Hospital" means a public or private institution licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(14) "Licensed athletic trainer" means a person licensed under Title 58, Chapter 40a, Athletic Trainer Licensing Act.

(15) "Licensed direct-entry midwife" means a person licensed under the Direct-entry Midwife Act to engage in the practice of direct-entry midwifery as defined in Section 58-77-102.

(16) "Licensed practical nurse" means a person licensed to practice as a licensed practical nurse as provided in Section 58-31b-301.

(17) "Malpractice action against a health care provider" means any action against a health care provider, whether in contract, tort, breach of warranty, wrongful death, or otherwise, based upon alleged personal injuries relating to or arising out of health care rendered or which should have been rendered by the health care provider.

(18) "Marriage and family therapist" means a person licensed to practice as a marriage therapist or family therapist under Sections 58-60-305 and 58-60-405.

(19) "Naturopathic physician" means a person licensed to engage in the practice of naturopathic medicine as defined in Section 58-71-102.

(20) "Nurse-midwife" means a person licensed to engage in practice as a nurse midwife under Section 58-44a-301.

(21) "Optometrist" means a person licensed to practice optometry under Title 58, Chapter 16a, Utah Optometry Practice Act.

(22) "Osteopathic physician" means a person licensed to practice osteopathy under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(23) "Patient" means a person who is under the care of a health care provider, under a contract, express or implied.

(24) "Periodic payments" means the payment of money or delivery of other property to a judgment creditor at intervals ordered by the court.

(25) "Pharmacist" means a person licensed to practice pharmacy as provided in Section 58-17b-301.

(26) "Physical therapist" means a person licensed to practice physical therapy under Title 58, Chapter 24b, Physical Therapy Practice Act.

(27) "Physical therapist assistant" means a person licensed to practice physical therapy, within the scope of a physical therapist assistant license, under Title 58, Chapter 24b, Physical Therapy Practice Act.

(28) "Physician" means a person licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act.

(29) "Physician assistant" means a person licensed to practice as a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(30) "Podiatric physician" means a person licensed to practice podiatry under Title 58, Chapter 5a, Podiatric Physician Licensing Act.

(31) "Practitioner of obstetrics" means a person licensed to practice as a physician in this state under Title 58, Chapter 67, Utah Medical Practice Act, or under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(32) "Psychologist" means a person licensed under Title 58, Chapter 61, Psychologist Licensing Act, to engage in the practice of psychology as defined in Section 58-61-102.

(33) "Registered nurse" means a person licensed to practice professional nursing as provided in Section 58-31b-301.

(34) "Relative" means a patient's spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, sister, half brother, half sister, or spouse's parents. The term includes relationships that are created as a result of adoption.

(35) "Representative" means the spouse, parent, guardian, trustee, attorney-in-fact, person designated to make decisions on behalf of a patient under a medical power of attorney, or other legal agent of the patient.

(36) "Social service worker" means a person licensed to practice as a social service worker under Section 58-60-205.

(37) "Speech-language pathologist" means a person licensed to practice speech-language pathology under Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act.

(38) "Tort" means any legal wrong, breach of duty, or negligent or unlawful act or omission proximately causing injury or damage to another.

(39) "Unanticipated outcome" means the outcome of a medical treatment or procedure that differs from an expected result.

Section 119. Repealer.

This bill repeals:

Section 58-1-101, Short title.

Section 58-5a-305, License by endorsement.

Section 58-15-1, Title.

Section 120. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, make the following changes in any new language added to the Utah Code by legislation passed during the 2022 General Session:

(1) replace "Division of Occupational and Professional Licensing" with "Division of Professional Licensing"; and

(2) replace "Division of Occupational and Professional Licensing Act" with "Division of Professional Licensing Act."

Section 121. Coordinating S.B. 43 with H.B. 176 -- Substantive and technical amendments.

If this S.B. 43 and H.B. 176, Utah Health Workforce Act, both pass and become law, it is the intent of the Legislature that on July 1, 2022, the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, modify:

(1) Subsection 26-69-405(2) to read:

"[~~(4)~~] (2) use federal money for necessary administrative expenses to carry out [~~the council's~~] UMEC's duties and powers as permitted by federal law;"; and

(2) Subsection 26-69-405(4) to read:

"[~~(6)~~] (4) as is necessary to carry out [~~the council's~~] UMEC's duties under Section [~~53B-24-303: (a) hire employees; and (b)~~] 26-69-404, adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act."

CHAPTER 416
S. B. 44

Passed February 4, 2022
Approved March 24, 2022
Effective May 4, 2022

MENTAL HEALTH PROFESSIONAL PRACTICE ACT AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Merrill F. Nelson

LONG TITLE

General Description:

This bill amends provisions relating to clinical mental health counselors and marriage and family therapists.

Highlighted Provisions:

This bill:

- increases the maximum amount of time that an individual may practice as an associate clinical mental health counselor or associate marriage and family therapist;
- repeals a reporting requirement; and
- extends the sunset date for a provision that creates a pathway to obtain licensure as an associate clinical mental health counselor.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-60-305, as last amended by Laws of Utah 2020, Chapter 339
58-60-405, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
63I-1-258, as last amended by Laws of Utah 2021, Chapter 32

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(d) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(c)(i) or (1)(c)(ii), which training may be included as part of the 4,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than [~~one year~~] two years from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed [~~two~~] four years past the date the minimum supervised clinical training requirement has been completed.

Section 2. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection [~~(1)(d)(i)~~] (1)(c)(i);

(d) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 4,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; and

(f) pass the examination requirement established by division rule under Section 58-1-203.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than [~~one year~~] two years from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of [~~two~~] four years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

(3) [~~(a)~~] Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

[~~(i)~~] (a) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

[~~(ii)~~] (b) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

[~~(iii)~~] (c) that the applicant received a passing score that is valid and in good standing on:

[~~(A)~~] (i) the National Counselor Examination; and

[~~(B)~~] (ii) the National Clinical Mental Health Counseling Examination.

[~~(b) During the 2021 interim, the division shall report to the Occupational and Professional Licensure Review Committee created in Section 36-23-102 on:~~]

[~~(i) the number of applicants who applied for licensure under this Subsection (3);~~]

[~~(ii) the number of applicants who were approved for licensure under this Subsection (3);~~]

[~~(iii) any changes to division rule after May 12, 2020, regarding the qualifications for licensure under this section; and~~]

[~~(iv) recommendations for legislation or other action that the division considers necessary to carry out the provisions of this Subsection (3).~~]

Section 3. Section 63I-1-258 is amended to read:

63I-1-258. Repeal dates, Title 58.

(1) Section 58-3a-201, which creates the Architects Licensing Board, is repealed July 1, 2026.

(2) Section 58-11a-302.5 is repealed July 1, 2022.

(3) Title 58, Chapter 13, Health Care Providers Immunity from Liability Act, is repealed July 1, 2026.

(4) Title 58, Chapter 15, Health Facility Administrator Act, is repealed July 1, 2025.

(5) Title 58, Chapter 20b, Environmental Health Scientist Act, is repealed July 1, 2028.

(6) Subsection 58-37-6(7)(f)(iii) is repealed July 1, 2022, and the Office of Legislative Research and General Counsel is authorized to renumber the remaining subsections accordingly.

(7) Title 58, Chapter 40, Recreational Therapy Practice Act, is repealed July 1, 2023.

(8) Title 58, Chapter 41, Speech-Language Pathology and Audiology Licensing Act, is repealed July 1, 2029.

(9) Title 58, Chapter 42a, Occupational Therapy Practice Act, is repealed July 1, 2025.

(10) Title 58, Chapter 46a, Hearing Instrument Specialist Licensing Act, is repealed July 1, 2023.

(11) Title 58, Chapter 47b, Massage Therapy Practice Act, is repealed July 1, 2024.

(12) Subsection 58-55-201(2), which creates the Alarm System and Security Licensing Advisory Board, is repealed July 1, 2027.

(13) Subsection 58-60-405(3), regarding certain educational qualifications for licensure and reporting, is repealed July 1, [~~2022~~] 2032.

(14) Title 58, Chapter 61, Part 7, Behavior Analyst Licensing Act, is repealed July 1, 2026.

(15) Title 58, Chapter 72, Acupuncture Licensing Act, is repealed July 1, 2027.

(16) The following sections are repealed on July 1, 2022:

(a) Section 58-5a-502;

(b) Section 58-31b-502.5;

(c) Section 58-67-502.5;

(d) Section 58-68-502.5; and

(e) Section 58-69-502.5.

CHAPTER 417
S. B. 49

Passed March 4, 2022
(Passed into law without governor's signature)
Effective May 4, 2022

STATE FILM PRODUCTION INCENTIVES AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Stephen G. Handy
Cosponsor: Daniel W. Thatcher

LONG TITLE

General Description:

This bill modifies provisions related to motion picture incentives.

Highlighted Provisions:

This bill:

- defines terms;
- allows the Governor's Office of Economic Opportunity to issue an additional amount of tax credit incentives each fiscal year only for rural film productions;
- establishes a sunset date for the additional amount of tax credit incentives for rural film productions; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

63N-8-102, as last amended by Laws of Utah 2021, Chapter 282

63N-8-103, as last amended by Laws of Utah 2021, Chapters 282 and 436

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) [~~Title 63J, Chapter 4, Part 5~~] Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30)~~] (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(30)~~] (29)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31)~~] (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (31) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(32) Subsection 63N-8-103(3)(c), which allows the Governor's Office of Economic Opportunity to issue an amount of tax credit certificates only for rural productions, is repealed on July 1, 2024.

(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section 2. Section 63N-8-102 is amended to read:

63N-8-102. Definitions.

As used in this chapter:

(1) "Digital media company" means a company engaged in the production of a digital media project.

(2) "Digital media project" means all or part of a production of interactive entertainment or animated production that is produced for distribution in commercial or educational markets, which shall include projects intended for Internet or wireless distribution.

(3) "Dollars left in the state" means expenditures made in the state for a state-approved production, including:

(a) an expenditure that is subject to:

(i) a corporate franchise or income tax under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) an individual income tax under Title 59, Chapter 10, Individual Income Tax Act; and

(iii) a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, notwithstanding any sales and use tax exemption allowed by law; or

(iv) a combination of Subsections (3)(a)(i), (ii), and (iii);

(b) payments made to a nonresident only to the extent of the income tax paid to the state on the payments, the amount of per diems paid in the state, and other direct reimbursements transacted in the state; and

(c) payments made to a payroll company or loan-out corporation that is registered to do business in the state, only to the extent of the amount of withholding under Section 59-10-402.

(4) "Loan-out corporation" means a corporation owned by one or more artists that provides services of the artists to a third party production company.

(5) "Motion picture company" means a company engaged in the production of:

(a) motion pictures;

(b) television series; or

(c) made-for-television movies.

(6) "Motion picture incentive" means either a cash rebate from the Motion Picture Incentive Account or a refundable tax credit under Section 59-7-614.5 or 59-10-1108.

(7) "New state revenues" means:

(a) incremental new state sales and use tax revenues generated as a result of a digital media project that a digital media company pays under Title 59, Chapter 12, Sales and Use Tax Act;

(b) incremental new state tax revenues that a digital media company pays as a result of a digital media project under:

(i) Title 59, Chapter 7, Corporate Franchise and Income Taxes;

(ii) Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information;

(iii) Title 59, Chapter 10, Part 2, Trusts and Estates;

(iv) Title 59, Chapter 10, Part 4, Withholding of Tax; or

(v) a combination of Subsections (7)(b)(i), (ii), (iii), and (iv);

(c) incremental new state revenues generated as individual income taxes under Title 59, Chapter 10, Part 1, Determination and Reporting of Tax Liability and Information, paid by employees of the new digital media project as evidenced by payroll records from the digital media company; or

(d) a combination of Subsections (7)(a), (b), and (c).

(8) "Payroll company" means a business entity that handles the payroll and becomes the employer of record for the staff, cast, and crew of a motion picture production.

(9) "Refundable tax credit" means a refundable motion picture tax credit authorized under Section 63N-8-103 and claimed under Section 59-7-614.5 or 59-10-1108.

(10) "Restricted account" means the Motion Picture Incentive Account created in Section 63N-8-103.

(11) "Rural production" means a state-approved production in which at least 75% of the total number of production days occur within a county of the third, fourth, fifth, or sixth class.

[~~(11)~~] (12) "State-approved production" means a production under Subsections (2) and (5) that is:

(a) approved by the office and ratified by the GO Utah board; and

(b) produced in the state by a motion picture company.

[~~(12)~~] (13) "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate for a taxable year.

[~~(13)~~] (14) "Tax credit certificate" means a certificate issued by the office that:

(a) lists the name of the applicant;

(b) lists the applicant's taxpayer identification number;

(c) lists the amount of tax credit that the office awards the applicant for the taxable year; and

(d) may include other information as determined by the office.

Section 3. Section 63N-8-103 is amended to read:

63N-8-103. Motion Picture Incentive Account created -- Cash rebate incentives -- Refundable tax credit incentives.

(1) (a) There is created within the General Fund a restricted account known as the Motion Picture Incentive Account, which the office shall use to provide cash rebate incentives for state-approved productions by a motion picture company.

(b) All interest generated from investment of money in the restricted account shall be deposited in the restricted account.

(c) The restricted account shall consist of an annual appropriation by the Legislature.

(d) The office shall:

(i) with the advice of the GO Utah board, administer the restricted account; and

(ii) make payments from the restricted account as required under this section.

(e) The cost of administering the restricted account shall be paid from money in the restricted account.

(2) (a) A motion picture company or digital media company seeking disbursement of an incentive allowed under an agreement with the office shall follow the procedures and requirements of this Subsection (2).

(b) The motion picture company or digital media company shall provide the office with an incentive request form, provided by the office, identifying and documenting the dollars left in the state and new state revenues generated by the motion picture company or digital media company for state-approved production, including any related tax returns by the motion picture company, payroll company, digital media company, or loan-out corporation under Subsection (2)(d).

(c) For a motion picture company, an independent certified public accountant shall:

(i) review the incentive request form submitted by the motion picture company; and

(ii) provide a report on the accuracy and validity of the incentive request form, including the amount of dollars left in the state, in accordance with the agreed upon procedures established by the office by rule.

(d) The motion picture company, digital media company, payroll company, or loan-out corporation shall provide the office with a document that expressly directs and authorizes the State Tax Commission to disclose the entity's tax returns and other information concerning the entity that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code, to the office.

(e) The office shall submit the document described in Subsection (2)(d) to the State Tax Commission.

(f) Upon receipt of the document described in Subsection (2)(d), the State Tax Commission shall provide the office with the information requested by the office that the motion picture company, digital media company, payroll company, or loan-out corporation directed or authorized the State Tax Commission to provide to the office in the document described in Subsection (2)(d).

(g) Subject to Subsection (3), for a motion picture company the office shall:

(i) review the incentive request form from the motion picture company described in Subsection (2)(b) and verify that the incentive request form was reviewed by an independent certified public accountant as described in Subsection (2)(c); and

(ii) based upon the independent certified public accountant's report under Subsection (2)(c), determine the amount of the incentive that the motion picture company is entitled to under the motion picture company's agreement with the office.

(h) Subject to Subsection (3), for a digital media company, the office shall:

(i) ensure the digital media project results in new state revenues; and

(ii) based upon review of new state revenues, determine the amount of the incentive that a digital media company is entitled to under the digital media company's agreement with the office.

(i) Subject to Subsection (3), if the incentive is in the form of a cash rebate, the office shall pay the incentive from the restricted account to the motion picture company, notwithstanding Subsections 51-5-3(23)(b) and 63J-1-105(6).

(j) If the incentive is in the form of a refundable tax credit under Section 59-7-614.5 or 59-10-1108, the office shall:

(i) issue a tax credit certificate to the motion picture company or digital media company; and

(ii) provide a digital record of the tax credit certificate to the State Tax Commission.

(k) A motion picture company or digital media company may not claim a motion picture tax credit under Section 59-7-614.5 or 59-10-1108 unless the motion picture company or digital media company has received a tax credit certificate for the claim issued by the office under Subsection (2)(j)(i).

(l) A motion picture company or digital media company may claim a motion picture tax credit on the motion picture company's or the digital media company's tax return for the amount listed on the tax credit certificate issued by the office.

(m) A motion picture company or digital media company that claims a tax credit under Subsection (2)(l) shall retain the tax credit certificate and all supporting documentation in accordance with Subsection 63N-8-104(6).

(3) (a) Subject to [~~Subsections (3)(b) and (c)~~] this Subsection (3), the office may issue $6,793,700 in tax credit certificates under this part in each fiscal year.

(b) For the fiscal year ending June 30, 2022, the office may issue $8,393,700 in tax credit certificates under this part.

(c) For a fiscal year beginning on or after July 1, 2022, in addition to the amount of tax credit certificates authorized under Subsection (3)(a), the office may issue $12,000,000 in tax credit certificates under this part only for rural productions.

[~~(c)~~] (d) If the office does not issue tax credit certificates in a fiscal year totaling the amount authorized under [~~Subsections (3)(a) and (b)~~] this Subsection (3), the office may carry over that amount for issuance in subsequent fiscal years.

CHAPTER 418
S. B. 56

Passed February 17, 2022
Approved March 24, 2022
Effective May 4, 2022

CRIMINAL STALKING EXEMPTION AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This bill creates an exemption in the criminal stalking statute for a law enforcement officer, governmental investigator, or licensed private investigator.

Highlighted Provisions:

This bill:

- creates an exemption in the criminal stalking statute for a law enforcement officer, governmental investigator, or licensed private investigator acting in an official capacity; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-3-203.5, as last amended by Laws of Utah 2013, Chapter 278
76-5-106.5, as last amended by Laws of Utah 2020, Chapter 142
78B-7-903, as enacted by Laws of Utah 2020, Chapter 142

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 76-3-203.5 is amended to read:

76-3-203.5. Habitual violent offender -- Definition -- Procedure -- Penalty.

(1) As used in this section:

(a) "Felony" means any violation of a criminal statute of the state, any other state, the United States, or any district, possession, or territory of the United States for which the maximum punishment the offender may be subjected to exceeds one year in prison.

(b) "Habitual violent offender" means a person convicted within the state of any violent felony and who on at least two previous occasions has been convicted of a violent felony and committed to either prison in Utah or an equivalent correctional institution of another state or of the United States either at initial sentencing or after revocation of probation.

(c) "Violent felony" means:

(i) any of the following offenses, or any attempt, solicitation, or conspiracy to commit any of the following offenses punishable as a felony:

(A) aggravated arson, arson, knowingly causing a catastrophe, and criminal mischief, Title 76, Chapter 6, Part 1, Property Destruction;

(B) assault by prisoner, Section 76-5-102.5;

(C) disarming a police officer, Section 76-5-102.8;

(D) aggravated assault, Section 76-5-103;

(E) aggravated assault by prisoner, Section 76-5-103.5;

(F) mayhem, Section 76-5-105;

(G) stalking, Subsection 76-5-106.5(2) [~~or (3)~~];

(H) threat of terrorism, Section 76-5-107.3;

(I) child abuse, Subsection 76-5-109(2)(a) or (b);

(J) commission of domestic violence in the presence of a child, Section 76-5-109.1;

(K) abuse or neglect of a child with a disability, Section 76-5-110;

(L) abuse, neglect, or exploitation of a vulnerable adult, Section 76-5-111;

(M) endangerment of a child or vulnerable adult, Section 76-5-112.5;

(N) criminal homicide offenses under Title 76, Chapter 5, Part 2, Criminal Homicide;

(O) kidnapping, child kidnapping, and aggravated kidnapping under Title 76, Chapter 5, Part 3, Kidnapping, Trafficking, and Smuggling;

(P) rape, Section 76-5-402;

(Q) rape of a child, Section 76-5-402.1;

(R) object rape, Section 76-5-402.2;

(S) object rape of a child, Section 76-5-402.3;

(T) forcible sodomy, Section 76-5-403;

(U) sodomy on a child, Section 76-5-403.1;

(V) forcible sexual abuse, Section 76-5-404;

(W) aggravated sexual abuse of a child or sexual abuse of a child, Section 76-5-404.1;

(X) aggravated sexual assault, Section 76-5-405;

(Y) sexual exploitation of a minor, Section 76-5b-201;

(Z) sexual exploitation of a vulnerable adult, Section 76-5b-202;

(AA) aggravated burglary and burglary of a dwelling under Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass;

(BB) aggravated robbery and robbery under Title 76, Chapter 6, Part 3, Robbery;

(CC) theft by extortion under Subsection 76-6-406(2)(a) or (b);

(DD) tampering with a witness under Subsection 76-8-508(1);

(EE) retaliation against a witness, victim, or informant under Section 76-8-508.3;

(FF) tampering with a juror under Subsection 76-8-508.5(2)(c);

(GG) extortion to dismiss a criminal proceeding under Section 76-8-509 if by any threat or by use of force theft by extortion has been committed pursuant to Subsections 76-6-406(2)(a), (b), and (i);

(HH) possession, use, or removal of explosive, chemical, or incendiary devices under Subsections 76-10-306(3) through (6);

(II) unlawful delivery of explosive, chemical, or incendiary devices under Section 76-10-307;

(JJ) purchase or possession of a dangerous weapon or handgun by a restricted person under Section 76-10-503;

(KK) unlawful discharge of a firearm under Section 76-10-508;

(LL) aggravated exploitation of prostitution under Subsection 76-10-1306(1)(a);

(MM) bus hijacking under Section 76-10-1504; and

(NN) discharging firearms and hurling missiles under Section 76-10-1505; or

(ii) any felony violation of a criminal statute of any other state, the United States, or any district, possession, or territory of the United States which would constitute a violent felony as defined in this Subsection (1) if committed in this state.

(2) If a person is convicted in this state of a violent felony by plea or by verdict and the trier of fact determines beyond a reasonable doubt that the person is a habitual violent offender under this section, the penalty for a:

(a) third degree felony is as if the conviction were for a first degree felony;

(b) second degree felony is as if the conviction were for a first degree felony; or

(c) first degree felony remains the penalty for a first degree penalty except:

(i) the convicted person is not eligible for probation; and

(ii) the Board of Pardons and Parole shall consider that the convicted person is a habitual violent offender as an aggravating factor in determining the length of incarceration.

(3) (a) The prosecuting attorney, or grand jury if an indictment is returned, shall provide notice in the information or indictment that the defendant is subject to punishment as a habitual violent offender under this section. Notice shall include the case number, court, and date of conviction or commitment of any case relied upon by the prosecution.

(b) (i) The defendant shall serve notice in writing upon the prosecutor if the defendant intends to deny that:

(A) the defendant is the person who was convicted or committed;

(B) the defendant was represented by counsel or had waived counsel; or

(C) the defendant's plea was understandingly or voluntarily entered.

(ii) The notice of denial shall be served not later than five days prior to trial and shall state in detail the defendant's contention regarding the previous conviction and commitment.

(4) (a) If the defendant enters a denial under Subsection (3)(b) and if the case is tried to a jury, the jury may not be told, until after it returns its verdict on the underlying felony charge, of the:

(i) defendant's previous convictions for violent felonies, except as otherwise provided in the Utah Rules of Evidence; or

(ii) allegation against the defendant of being a habitual violent offender.

(b) If the jury's verdict is guilty, the defendant shall be tried regarding the allegation of being an habitual violent offender by the same jury, if practicable, unless the defendant waives the jury, in which case the allegation shall be tried immediately to the court.

(c) (i) Before or at the time of sentencing the trier of fact shall determine if this section applies.

(ii) The trier of fact shall consider any evidence presented at trial and the prosecution and the defendant shall be afforded an opportunity to present any necessary additional evidence.

(iii) Before sentencing under this section, the trier of fact shall determine whether this section is applicable beyond a reasonable doubt.

(d) If any previous conviction and commitment is based upon a plea of guilty or no contest, there is a rebuttable presumption that the conviction and commitment were regular and lawful in all respects if the conviction and commitment occurred after January 1, 1970. If the conviction and commitment occurred prior to January 1, 1970, the burden is on the prosecution to establish by a preponderance of the evidence that the defendant was then represented by counsel or had lawfully waived the right to have counsel present, and that the defendant's plea was understandingly and voluntarily entered.

(e) If the trier of fact finds this section applicable, the court shall enter that specific finding on the record and shall indicate in the order of judgment and commitment that the defendant has been found by the trier of fact to be a habitual violent offender and is sentenced under this section.

(5) (a) The sentencing enhancement provisions of Section 76-3-407 supersede the provisions of this section.

(b) Notwithstanding Subsection (5)(a), the "violent felony" offense defined in Subsection (1)(c) shall include any felony sexual offense violation of Title 76, Chapter 5, Part 4, Sexual Offenses, to determine if the convicted person is a habitual violent offender.

(6) The sentencing enhancement described in this section does not apply if:

(a) the offense for which the person is being sentenced is:

(i) a grievous sexual offense;

(ii) child kidnapping, Section 76-5-301.1;

(iii) aggravated kidnapping, Section 76-5-302; or

(iv) forcible sexual abuse, Section 76-5-404; and

(b) applying the sentencing enhancement provided for in this section would result in a lower maximum penalty than the penalty provided for under the section that describes the offense for which the person is being sentenced.

Section 2. Section 76-5-106.5 is amended to read:

76-5-106.5. Stalking -- Definitions -- Injunction -- Penalties -- Exemption -- Duties of law enforcement officer.

(1) As used in this section:

(a) “Course of conduct” means two or more acts directed at or toward a specific [~~person~~] individual, including:

(i) acts in which the actor follows, monitors, observes, photographs, surveils, threatens, or communicates to or about [~~a person~~] an individual, or interferes with [~~a person’s~~] an individual’s property:

(A) directly, indirectly, or through any third party; and

(B) by any action, method, device, or means; or

(ii) when the actor engages in any of the following acts or causes someone else to engage in any of these acts:

(A) approaches or confronts [~~a person~~] an individual;

(B) appears at the [~~person’s~~] individual’s workplace or contacts the [~~person’s~~] individual’s employer or [~~coworkers~~] coworker;

(C) appears at [~~a person’s~~] an individual’s residence or contacts [~~a person’s neighbors~~] an individual’s neighbor, or enters property owned, leased, or occupied by [~~a person~~] an individual;

(D) sends material by any means to the [~~person~~] individual or for the purpose of obtaining or disseminating information about or communicating with the [~~person~~] individual to a member of the [~~person’s~~] individual’s family or household, employer, coworker, friend, or associate of the [~~person~~] individual;

(E) places an object on or delivers an object to property owned, leased, or occupied by [~~a person~~] an individual, or to the [~~person’s~~] individual’s place of employment with the intent that the object be delivered to the [~~person~~] individual; or

(F) uses a computer, the Internet, text messaging, or any other electronic means to commit an act that is a part of the course of conduct.

(b) “Emotional distress” means significant mental or psychological suffering, whether or not medical or other professional treatment or counseling is required.

(c) “Immediate family” means a spouse, parent, child, sibling, or any other [~~person~~] individual who regularly resides in the household or who regularly resided in the household within the prior six months.

(d) “Private investigator” means the same as that term is defined in Section 76-9-408.

[~~(d)~~] (e) “Reasonable person” means a reasonable person in the victim’s circumstances.

[~~(e)~~] (f) “Stalking” means an offense as described in Subsection (2) [~~or (3)~~].

[~~(f)~~] (g) “Text messaging” means a communication in the form of electronic text or one or more electronic images sent by the actor from a telephone or computer to another [~~person’s~~] individual’s telephone or computer by addressing the communication to the recipient’s telephone number.

(2) [~~A person is guilty of stalking who~~] An actor commits stalking if the actor intentionally or knowingly:

(a) engages in a course of conduct directed at a specific [~~person~~] individual and knows or should know that the course of conduct would cause a reasonable person:

[~~(a)~~] (i) to fear for the [~~person’s~~] individual’s own safety or the safety of a third [~~person~~] individual; or

[~~(b)~~] (ii) to suffer other emotional distress[~~.~~]; or

[~~(3) A person is guilty of stalking who intentionally or knowingly violates:~~]

(b) violates:

[~~(a)~~] (i) a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions; or

[~~(b)~~] (ii) a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

[~~(4)~~] (3) In [~~any~~] a prosecution under this section, it is not a defense that the actor:

(a) was not given actual notice that the course of conduct was unwanted; or

(b) did not intend to cause the victim fear or other emotional distress.

[~~(5)~~] (4) An offense of stalking may be prosecuted under this section in any jurisdiction where one or more of the acts that is part of the course of conduct was initiated or caused an effect on the victim.

[~~(6)~~] (5) (a) [~~Stalking~~] A violation of Subsection (2) is a class A misdemeanor:

[~~(a)~~] (i) upon the [~~offender's~~] actor's first violation of Subsection (2); or

[~~(b)~~] (ii) if the [~~offender~~] actor violated a stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

[~~(7)~~] (b) [~~Stalking~~] Notwithstanding Subsection (5)(a), a violation of Subsection (2) is a third degree felony if the [~~offender~~] actor:

[~~(a)~~] (i) has been previously convicted of an offense of stalking;

[~~(b)~~] (ii) has been previously convicted in another jurisdiction of an offense that is substantially similar to the offense of stalking;

[~~(c)~~] (iii) has been previously convicted of any felony offense in Utah or of any crime in another jurisdiction which if committed in Utah would be a felony, in which the victim of the stalking offense or a member of the victim's immediate family was also a victim of the previous felony offense;

[~~(d)~~] (iv) violated a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions; or

[~~(e)~~] (v) has been or is at the time of the offense a cohabitant, as defined in Section 78B-7-102, of the victim.

[~~(8)~~] (c) [~~Stalking~~] Notwithstanding Subsections (5)(a) and (b), a violation of Subsection (2) is a second degree felony if the [~~offender~~] actor:

[~~(a)~~] (i) used a dangerous weapon [~~as defined in Section 76-1-601~~] or used other means or force likely to produce death or serious bodily injury, in the commission of the crime of stalking;

[~~(b)~~] (ii) has been previously convicted two or more times of the offense of stalking;

[~~(c)~~] (iii) has been convicted two or more times in another jurisdiction or jurisdictions of offenses that are substantially similar to the offense of stalking;

[~~(d)~~] (iv) has been convicted two or more times, in any combination, of offenses under Subsection [~~(7)(a), (b), or (c)~~] (5)(b)(i), (ii), or (iii);

[~~(e)~~] (v) has been previously convicted two or more times of felony offenses in Utah or of crimes in another jurisdiction or jurisdictions which, if committed in Utah, would be felonies, in which the victim of the stalking was also a victim of the previous felony offenses; or

[~~(f)~~] (vi) has been previously convicted of an offense under Subsection [~~(7)(d) or (e)~~] (5)(b)(iv) or (v).

(6) (a) Except as provided in Subsection (6)(b), an actor does not violate this section if the actor is acting:

(i) in the actor's official capacity as a law enforcement officer, governmental investigator, or private investigator; and

(ii) for a legitimate official or business purpose.

(b) A private investigator is not exempt from this section if the private investigator engages in conduct that would constitute a ground for disciplinary action under Section 53-9-118.

[~~(9)~~] (7) (a) A permanent criminal stalking injunction limiting the contact between the [~~defendant~~] actor and victim may be filed in accordance with Section 78B-7-902.

(b) This section does not preclude the filing of criminal information for stalking based on the same act which is the basis for the violation of the stalking injunction issued under Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions, or a permanent criminal stalking injunction issued under Title 78B, Chapter 7, Part 9, Criminal Stalking Injunctions.

[~~(10)~~] (8) (a) A law enforcement officer who responds to an allegation of stalking shall use all reasonable means to protect the victim and prevent further violence, including:

(i) taking action that, in the officer's discretion, is reasonably necessary to provide for the safety of the victim and any family or household member;

(ii) confiscating the weapon or weapons involved in the alleged stalking;

(iii) making arrangements for the victim and any child to obtain emergency housing or shelter;

(iv) providing protection while the victim removes essential personal effects;

(v) arranging, facilitating, or providing for the victim and any child to obtain medical treatment; and

(vi) arranging, facilitating, or providing the victim with immediate and adequate notice of the rights of victims and of the remedies and services available to victims of stalking, in accordance with Subsection [~~(10)~~] (8)(b).

(b) (i) A law enforcement officer shall give written notice to the victim in simple language, describing the rights and remedies available under this section and Title 78B, Chapter 7, Part 7, Civil Stalking Injunctions.

(ii) The written notice shall also include:

(A) a statement that the forms needed in order to obtain a stalking injunction are available from the court clerk's office in the judicial district where the victim resides or is temporarily domiciled; and

(B) a list of shelters, services, and resources available in the appropriate community, together with telephone numbers, to assist the victim in accessing any needed assistance.

(c) If a weapon is confiscated under this Subsection [~~(10)~~] (8), the law enforcement agency shall return the weapon to the individual from whom the weapon is confiscated if a stalking injunction is not issued or once the stalking injunction is terminated.

Section 3. Section 78B-7-903 is amended to read:

78B-7-903. Penalties.

(1) A violation of a permanent criminal stalking injunction issued under this part is a third degree felony in accordance with Subsection 76-5-106.5[~~(7)~~](5)(b).

(2) A violation of a permanent criminal stalking injunction issued under this part may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

CHAPTER 419
S. B. 60

Passed February 10, 2022
Approved March 24, 2022
Effective May 4, 2022

AGREEMENTS TO PROVIDE STATE SERVICES SUNSET EXTENSION

Chief Sponsor: Karen Mayne
House Sponsor: Christine F. Watkins
Cosponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill addresses agreements that a designated agency may negotiate and enter into with the United States Postal Service that allows the United States Postal Service to provide one or more state services at one or more post office locations within the state.

Highlighted Provisions:

This bill:

- extends the sunset date of the agreements to provide state services; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-21-201, as last amended by Laws of Utah 2021, Chapter 282

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63G-21-201 is amended to read:

63G-21-201. Limited authorization to provide state services at post office locations.

(1) If allowed by federal law, a designated agency may negotiate and enter into an agreement with USPS that allows USPS to provide one or more state services at one or more post office locations within the state.

(2) The designated agency shall ensure that the agreement described in Subsection (1) includes:

(a) the term of the agreement, which may not extend beyond July 1, [~~2025~~] 2028;

(b) provisions to ensure the security of state data and resources;

(c) provisions to provide training to USPS employees on how to provide each state service in the agreement;

(d) except as provided in Subsection (2)(e), provisions authorizing compensation to USPS for at least 100% of attributable costs of all property and services that USPS provides under the agreement; and

(e) if the agreement is between USPS and the Division of Wildlife Resources to sell fishing, hunting, or trapping licenses, provisions requiring compliance with Section 23-19-15 regarding wildlife license agents, including remuneration for services rendered.

(3) After one or more designated agencies enter into an agreement described in Subsection (1), the Governor's Office of Economic Opportunity shall create a marketing campaign to advertise and promote the availability of state services at each selected USPS location.

Section 2. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, [~~2025~~] 2028.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection(30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

CHAPTER 420
S. B. 80

Passed February 16, 2022
Approved March 24, 2022
Effective July 1, 2022

REAL PROPERTY RECORDING AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill addresses the recording of documents concerning real property.

Highlighted Provisions:

This bill:

- provides the requirements for a legal description of real property in a document to be recorded with a county recorder; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-21-20, as last amended by Laws of Utah 2019, Chapter 302
57-3-105, as last amended by Laws of Utah 2011, Chapter 88

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-21-20 is amended to read:

17-21-20. Recording required -- Recorder may impose requirements on documents to be recorded -- Prerequisites -- Additional fee for noncomplying documents -- Recorder may require tax serial number -- Exceptions -- Requirements for recording final local entity plat.

(1) Subject to Subsections (2), (3), and (4), a county recorder shall record each paper, notice, and instrument required by law to be recorded in the office of the county recorder unless otherwise provided.

(2) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, each document that is submitted for recording to a county recorder's office shall:

(a) unless otherwise provided by law, be an original or certified copy of the document;

(b) be in English or be accompanied by an accurate English translation of the document;

(c) contain a brief title, heading, or caption on the first page stating the nature of the document;

(d) except as otherwise provided by statute, contain the legal description of the property that is the subject of the document in accordance with Subsection 57-3-105(4);

(e) comply with the requirements of Section 17-21-25 and Subsections 57-3-105(1) and (2);

(f) except as otherwise provided by statute, be notarized with the notary stamp with the seal legible; and

(g) have original signatures.

(3) (a) Subject to Chapter 21a, Uniform Real Property Electronic Recording Act, a county recorder may require that each paper, notice, and instrument submitted for recording in the county recorder's office:

(i) be on white paper that is 8-1/2 inches by 11 inches in size;

(ii) have a margin of one inch on the left and right sides and at the bottom of each page;

(iii) have a space of 2-1/2 inches down and 4-1/2 inches across the upper right corner of the first page and a margin of one inch at the top of each succeeding page;

(iv) not be on sheets of paper that are continuously bound together at the side, top, or bottom;

(v) not contain printed material on more than one side of each page;

(vi) be printed in black ink and not have text smaller than seven lines of text per vertical inch; and

(vii) be sufficiently legible to make certified copies.

(b) A county recorder who intends to establish requirements under Subsection (3)(a) shall first:

(i) provide formal notice of the requirements; and

(ii) establish and publish an effective date for the requirements that is at least three months after the formal notice under Subsection (3)(b)(i).

(4) (a) To facilitate the abstracting of an instrument to which a tax identification number is assigned, a county recorder may require that the applicable tax identification number of each parcel described in the instrument be noted on the instrument before the county recorder [~~may accept~~] accepts the instrument for recording.

(b) If a county recorder requires the applicable tax identification number to be on an instrument before [~~it~~] the instrument may be recorded:

(i) the county recorder shall post a notice of that requirement in a conspicuous place at the recorder's office;

(ii) the tax identification number may not be considered to be part of the legal description and may be indicated on the margin of the instrument; and

(iii) an error in the tax identification number does not affect the validity of the instrument or effectiveness of the recording.

(5) Subsections (2), (3), and (4) do not apply to:

(a) a map or plat;

(b) a certificate or affidavit of death that a government agency issues;

(c) a military discharge or other record that a branch of the United States military service issues;

(d) a document regarding taxes that is issued by the Internal Revenue Service of the United States Department of the Treasury;

(e) a document submitted for recording that has been filed with a court and conforms to the formatting requirements established by the court; or

(f) a document submitted for recording that is in a form required by law.

(6) (a) As used in this Subsection (6):

(i) "Boundary action" has the same meaning as defined in Section 17-23-20.

(ii) "Local entity" has the same meaning as defined in Section 67-1a-6.5.

(b) A person may not submit to a county recorder for recording a plat depicting the boundary of a local entity as the boundary exists as a result of a boundary action, unless:

(i) the plat has been approved under Section 17-23-20 by the county surveyor as a final local entity plat, as defined in Section 17-23-20; and

(ii) the person also submits for recording:

(A) the original notice of an impending boundary action, as defined in Section 67-1a-6.5, for the boundary action for which the plat is submitted for recording;

(B) the original applicable certificate, as defined in Section 67-1a-6.5, issued by the lieutenant governor under Section 67-1a-6.5 for the boundary action for which the plat is submitted for recording; and

(C) each other document required by statute to be submitted for recording with the notice of an impending boundary action and applicable certificate.

(c) Promptly after recording the documents described in Subsection (6)(b) relating to a boundary action, but no later than 10 days after recording, the county recorder shall send a copy of all those documents to the State Tax Commission.

Section 2. Section 57-3-105 is amended to read:

57-3-105. Legal description of real property and names and addresses required in documents.

(1) Except as otherwise provided by statute, if a document for recording does not conform to this section, a person may not present [~~a~~] the document to the office of the recorder of the county for recording [~~unless the document complies with this section~~].

(2) A document executed after July 1, [~~1983~~] 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document contains a legal description of the real property in accordance with Subsection (4).

(3) (a) A document conveying title to real property presented for recording after July 1, [~~1981~~] 2022, is entitled to be recorded in the office of the recorder of the county in which the property described in the document is located only if the document:

(i) names the grantees and recites a mailing address to be used for assessment and taxation [~~in addition to the legal description required under Subsection (2).~~]; and

(ii) includes a legal description of the real property in accordance with Subsection (4).

(b) The address of the management committee may be used as the mailing address of a grantee as required in Subsection (3)(a) if the interest conveyed is a timeshare interest as defined by Section 57-19-2.

[~~(4) A person may not present and a county recorder may refuse to accept a document for recording if the document does not conform to this section.~~]

(4) A legal description required under this Section and Subsection 17-21-20(2)(d) shall include a description of the real property by:

(a) metes and bounds;

(b) a government survey that:

(i) references the Public Land Survey System; and

(ii) specifies the township, range, base and meridian, and section, with aliquot part or government lot, if applicable, of the real property;

(c) if the real property consists of a mining claim:

(i) the claim name; and

(ii) if available, a state or federal agency serial number; or

(d) (i) a lot, block, tract, parcel, or unit within a previously recorded plat or map;

(ii) station and offset with reference to centerline;

(iii) a centerline described using:

(A) a bearing and distance; or

(B) at least three elements of curve data;

(iv) a point referenced to a corner of the Public Land Survey System or other controlling corner; or

(v) a type of legal description not described in Subsections (4)(d)(i) through (iv) that meets the requirements described in Section 57-10-4 for a legal and satisfactory description of a land boundary.

(5) Notwithstanding Subsections (2), (3), and (4), a master form, as defined in Section 57-3-201, that does not meet the requirements of Subsections (2) and (3) is entitled to be recorded in the office of the recorder of the county in which the property described in the master form is located if [~~it~~] the master form complies with Part 2, Master Mortgage and Trust Deeds.

Section 3. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 421
S. B. 82

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022
(Exception clause in Section 52)

STATE FACILITIES MANAGEMENT AMENDMENTS

Chief Sponsor: David G. Buxton
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill modifies provisions relating to the management of state facilities.

Highlighted Provisions:

This bill:

- eliminates the State Building Board;
- gives duties of the former State Building Board to the Division of Facilities Construction and Management and the Department of Government Operations;
- increases the limit of the value of property that the Division of Facilities Construction and Management may acquire without legislative approval from $250,000 to $500,000;
- with respect to code provisions dealing with the disposal of property owned by the Division of Facilities Construction and Management, increases the limit of the value of property not subject to those code provisions from $250,000 to $500,000;
- modifies provisions relating to the supervision and control of the allocation of space for institutions of higher education and courts;
- provides that the disposition of property owned by the Division of Facilities Construction and Management in connection with the establishment of a state liquor store or the construction of student housing is not subject to provisions otherwise applicable to the disposition of division-owned property;
- for a diagnostic, treatment, parole, probation, or other secured facility project, increases the threshold for that project from $250,000 to $500,000 to trigger a requirement for the director of the Division of Facilities Construction and Management to notify a local government entity affected by the project; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17B-2a-818.5, as last amended by Laws of Utah 2020, Chapters 32 and 152
19-1-206, as last amended by Laws of Utah 2020, Chapters 32 and 152
26-29-1, as last amended by Laws of Utah 2001, Chapter 73
26-29-3, as last amended by Laws of Utah 2001, Chapter 73
39-2-1, as last amended by Laws of Utah 2010, Chapter 286
53B-2a-112 (Superseded 07/01/22), as last amended by Laws of Utah 2020, Chapter 365
53B-2a-112 (Effective 07/01/22), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
53B-2a-113, as last amended by Laws of Utah 2020, Chapter 365
53B-2a-117, as last amended by Laws of Utah 2020, Chapters 152 and 365
53B-7-101, as last amended by Laws of Utah 2020, Chapter 365
53B-7-103, as last amended by Laws of Utah 2021, Chapter 187
53B-21-104, as last amended by Laws of Utah 2020, Chapter 365
53B-22-204, as last amended by Laws of Utah 2020, Chapter 152
53E-3-706, as last amended by Laws of Utah 2019, Chapter 186
63A-5b-102, as last amended by Laws of Utah 2021, Chapter 187
63A-5b-303, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-402, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-403, as last amended by Laws of Utah 2021, Chapter 187
63A-5b-404, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-503, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-601, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-603, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-604, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-802, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-803, as last amended by Laws of Utah 2020, Chapter 365
63A-5b-806, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-901, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-902, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-904, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-905, as last amended by Laws of Utah 2021, Chapters 84 and 345
63A-5b-907, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-910, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-1001, as enacted by Laws of Utah 2020, Chapter 152
63A-5b-1003, as renumbered and amended by Laws of Utah 2020, Chapter 152
63A-5b-1104, as enacted by Laws of Utah 2020, Chapter 152
63B-1-101, as last amended by Laws of Utah 2003, Chapter 2

63B-1-304, as last amended by Laws of Utah 2020, Chapter 152
63C-9-403, as last amended by Laws of Utah 2020, Chapters 32 and 152
63G-6a-103, as last amended by Laws of Utah 2021, Chapters 179, 179, 344, and 345
63G-6a-109, as last amended by Laws of Utah 2020, Chapter 257
63G-6a-204, as last amended by Laws of Utah 2020, Chapters 257 and 354
63G-6a-303, as last amended by Laws of Utah 2021, Chapter 344
63G-6a-1302, as last amended by Laws of Utah 2020, Chapter 257
63H-6-103, as last amended by Laws of Utah 2021, Chapters 33, 84, and 345
63H-6-108, as last amended by Laws of Utah 2016, Third Special Session, Chapter 2
63J-4-401, as last amended by Laws of Utah 2021, Chapter 382
72-6-107.5, as last amended by Laws of Utah 2020, Chapters 32 and 152
78A-5-111, as renumbered and amended by Laws of Utah 2008, Chapter 3
79-2-404, as last amended by Laws of Utah 2020, Chapters 32 and 152

ENACTS:

63A-5b-907.5, Utah Code Annotated 1953

REPEALS:

63A-5b-201, as last amended by Laws of Utah 2021, Chapter 382
63A-5b-202, as last amended by Laws of Utah 2021, Chapters 187 and 344
63A-5b-203, as enacted by Laws of Utah 2020, Chapter 152

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17B-2a-818.5 is amended to read:

17B-2a-818.5. Contracting powers of public transit districts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the public transit district on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the public transit district that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employee's dependents during the duration of the contract by submitting to the public transit district a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the public transit district.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with an ordinance adopted by the public transit district under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The public transit district shall adopt ordinances:

(a) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the [~~State Building Board~~] Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403; and

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(b) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the public transit district or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the public transit district upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the district shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) a department or division determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 2. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the [~~State Building Board~~] Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 3. Section 26-29-1 is amended to read:

26-29-1. Buildings and facilities to which chapter applies -- Standards available to interested parties -- Division of Facilities Construction and Management staff to advise, review, and approve plans when possible.

(1) (a) The standards in this chapter apply to all buildings and facilities used by the public that are

constructed or remodeled in whole or in part by the use of state funds, or the funds of any political subdivision of the state.

(b) All of those buildings and facilities constructed in Utah after May 12, 1981, shall conform to the standard prescribed in this chapter except buildings, facilities, or portions of them, not intended for public use, including:

(i) caretaker dwellings;

(ii) service buildings; and

(iii) heating plants.

(2) This chapter applies to temporary or emergency construction as well as permanent buildings.

(3) (a) The standards established in this chapter apply to the remodeling or alteration of any existing building or facility within the jurisdictions set forth in this chapter where the remodeling or alteration will affect an area of the building or facility in which there are architectural barriers for persons with a physical disability.

(b) If the remodeling involves less than 50% of the space of the building or facility, only the areas being remodeled need comply with the standards.

(c) If remodeling involves 50% or more of the space of the building or facility, the entire building or facility shall be brought into compliance with the standards.

(4) (a) All individuals and organizations are encouraged to apply the standards prescribed in this chapter to all buildings used by the public, but that are financed from other than public funds.

(b) The [~~State Building Board~~] Division of Facilities Construction and Management shall:

(i) make the standards established by this chapter available to interested individuals and organizations; and

(ii) upon request and to the extent possible, make available the services of the [~~building board~~] Division of Facilities Construction and Management staff to advise, review, and approve plans and specifications in order to comply with the standards of this chapter.

Section 4. Section 26-29-3 is amended to read:

26-29-3. Basis for standards.

The standards of this chapter are the current edition of planning and design criteria to prevent architectural barriers for the aged and persons with a physical disability, as promulgated by the [~~State Building Board~~] Division of Facilities Construction and Management.

Section 5. Section 39-2-1 is amended to read:

39-2-1. Members -- A body corporate -- Powers -- Expenses.

(1) [~~(a)~~] The State Armory Board:

(a) shall consist of the governor, the [~~chair of the State Building Board,~~] executive director of the Department of Government Operations, and the adjutant general[~~.~~];

(b) [~~It shall be~~] is a body corporate with perpetual succession[~~.~~];

(c) [~~It~~] may have and use a common seal, and under the name [~~aforesaid~~] of the State Armory Board, may sue and be sued, and contract and be contracted with[~~.~~];

(d) [~~It~~] may take and hold by purchase, gift, devise, grant, or bequest real and personal property required for [~~its use.~~] the use of the State Armory Board;

(e) [~~It may also~~] may convert property received by gift, devise, or bequest, and not suitable for [~~its~~] the uses of the State Armory Board, into other property so available, or into money[~~.~~]; and

(f) is a public corporation whose property is exempt from taxes and assessments.

(2) (a) The board [~~shall have power to~~] may:

[~~(a)~~] (i) borrow money for the purpose of erecting arsenals and armories upon the sole credit of the real property to which [~~it~~] the State Armory Board has the legal title; and

[~~(b)~~] (ii) [~~may secure such loans~~] secure loans described in Subsection (2)(a)(i) by mortgage upon [~~such property:~~] property to which the State Armory Board has legal title.

(b) (i) [~~the mortgaged property~~] Property mortgaged for a loan as provided in Subsection (2)(a) shall be the sole security for [~~such loan; and~~] the loan.

(ii) [~~no~~] No deficiency judgment shall be made, rendered, or entered against the board upon the foreclosure of [~~the mortgage; provided, however, that~~] a mortgage under Subsection (2)(a).

(iii) The board may not mortgage property in one city [~~shall not be mortgaged~~] for the purpose of obtaining money for the erection of armories in any other place. [~~Said board shall be deemed a public corporation, and its property shall be exempt from all taxes and assessments.~~]

(3) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Section 53B-2a-112 (Superseded 07/01/22) is amended to read:

53B-2a-112 (Superseded 07/01/22). Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Dixie State University for Dixie Technical College.

(2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's higher education institution and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's higher education institution, if applicable.

(b) The [~~State Building Board~~] Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the [~~State Building Board~~] Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 7. Section 53B-2a-112 (Effective 07/01/22) is amended to read:

53B-2a-112 (Effective 07/01/22). Technical colleges -- Relationships with other public and higher education institutions -- Agreements -- Priorities -- New capital facilities.

(1) As used in this section, "higher education institution" means:

(a) Utah State University for:

(i) Bridgerland Technical College;

(ii) Tooele Technical College; and

(iii) Uintah Basin Technical College;

(b) Weber State University for:

(i) Ogden-Weber Technical College; and

(ii) Davis Technical College;

(c) Utah Valley University for Mountainland Technical College;

(d) Southern Utah University for Southwest Technical College; and

(e) Utah Tech University for Dixie Technical College.

(2) A technical college may enter into agreements:

(a) with other higher education institutions to cultivate cooperative relationships; or

(b) with other public and higher education institutions to enhance career and technical education within the technical college's region.

(3) Before a technical college develops new instructional facilities, the technical college shall give priority to:

(a) maintaining the technical college's existing instructional facilities for both secondary and adult students;

(b) coordinating with the president of the technical college's higher education institution and entering into any necessary agreements to provide career and technical education to secondary and adult students that:

(i) maintain and support existing higher education career and technical education programs; and

(ii) maximize the use of existing higher education facilities; and

(c) developing cooperative agreements with school districts, charter schools, other higher education institutions, businesses, industries, and community and private agencies to maximize the availability of career and technical education instructional facilities for both secondary and adult students.

(4) (a) Before submitting a funding request pertaining to new capital facilities and land purchases to the board, a technical college shall:

(i) ensure that all available instructional facilities are maximized in accordance with Subsections (3)(a) through (c); and

(ii) coordinate the request with the president of the technical college's higher education institution, if applicable.

(b) The [~~State Building Board~~] Division of Facilities Construction and Management shall make a finding that the requirements of this section are met before the [~~State Building Board~~] Division of Facilities Construction and Management may consider a funding request from the board pertaining to new capital facilities and land purchases for a technical college.

(c) A technical college may not construct, approve the construction of, plan for the design or construction of, or consent to the construction of a career and technical education facility without approval of the Legislature.

(5) Before acquiring new fiscal and administrative support structures, a technical college shall:

(a) review the use of existing public or higher education administrative and accounting systems, financial record systems, and student and financial aid systems for the delivery of career and technical education in the region;

(b) determine the feasibility of using existing systems; and

(c) with the approval of the technical college board of trustees and the board, use the existing systems.

Section 8. Section 53B-2a-113 is amended to read:

53B-2a-113. Technical colleges -- Leasing authority -- Lease-purchase agreements -- Report.

(1) A technical college may enter into a lease with other higher education institutions, school districts, charter schools, state agencies, or business and industry for a term of:

(a) one year or less with the approval of the technical college board of trustees; or

(b) more than one year with the approval of the board if:

(i) the Legislature approves funding for the lease prior to a technical college entering into the lease; or

(ii) the lease agreement includes language that allows termination of the lease without penalty.

(2) (a) A technical college may enter into a lease-purchase agreement if:

(i) there is a long-term benefit to the state;

(ii) the project is included in the technical college master plan;

(iii) the lease-purchase agreement includes language that allows termination of the lease;

(iv) the lease-purchase agreement is approved by the technical college board of trustees and the board; and

(v) the lease-purchase agreement is:

(A) reviewed by the Division of Facilities Construction and Management; and

[~~(B) reviewed by the State Building Board; and~~]

[~~(C)~~] (B) approved by the Legislature.

(b) An approval under Subsection (2)(a) shall include a recognition of:

(i) all parties, dates, and elements of the agreement;

(ii) the equity or collateral component that creates the benefit; and

(iii) the options dealing with the sale and division of equity.

(3) (a) Each technical college shall provide an annual lease report to the board that details each of the technical college's leases, annual costs, location, square footage, and recommendations for lease continuation.

(b) The board shall compile and distribute an annual combined lease report for all technical colleges to the Division of Facilities Construction and Management and to others upon request.

(4) The board shall use the annual combined lease report in determining planning, utilization, and budget requests.

Section 9. Section 53B-2a-117 is amended to read:

53B-2a-117. Legislative approval -- Capital development projects -- Prioritization.

(1) As used in this section:

(a) "Consumer Price Index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

(b) "Fund" means the Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(2) In accordance with this section, a technical college is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(3) In accordance with Section 53B-2a-112, a technical college shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the technical college seeks legislative approval.

(4) The board shall:

(a) review each proposal submitted under Subsection (3) to ensure that the proposal complies with Section 53B-2a-112;

(b) based on the results of the board's review under Subsection (4)(a), create:

(i) a list of approved dedicated projects, prioritized in accordance with Subsection (6); and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (6); and

(c) submit the lists described in Subsection (4)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

[~~(iv) the State Building Board for the State Building Board's:~~]

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (4)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (4)(b)(ii).

(5) A dedicated project:

(a) is subject to the [~~State Building Board's~~] recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the [~~State Building Board's~~] prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(6) (a) Subject to Subsection (7), the board shall prioritize funding requests for capital development projects described in this section based on:

(i) growth and capacity;

(ii) effectiveness and support of critical programs;

(iii) cost effectiveness;

(iv) building deficiencies and life safety concerns; and

(v) alternative funding sources.

(b) The board shall establish:

(i) how the board will measure each factor described in Subsection (6)(a); and

(ii) procedures for prioritizing funding requests for capital development projects described in this section.

(7) (a) Subject to Subsection (7)(b), and in accordance with Subsection (6), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $7,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $7,000,000 but less than $14,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $14,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (7)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(8) (a) A technical college may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider a technical college's request described in Subsection (8)(a).

Section 10. Section 53B-7-101 is amended to read:

53B-7-101. Combined requests for appropriations -- Board review of operating budgets -- Submission of budgets -- Recommendations -- Hearing request -- Appropriation formulas -- Allocations -- Dedicated credits -- Financial affairs.

(1) As used in this section:

(a) "Higher education institution" or "institution" means an institution of higher education listed in Section 53B-1-102.

(b) "Research university" means the University of Utah or Utah State University.

(2) (a) Subject to Subsection (3), the board shall recommend a combined appropriation for the operating budgets of higher education institutions for inclusion in a state appropriations act.

(b) The board's combined budget recommendation shall include:

(i) employee compensation;

(ii) mandatory costs, including building operations and maintenance, fuel, and power;

(iii) performance funding described in Part 7, Performance Funding;

(iv) statewide and institutional priorities, including scholarships, financial aid, and technology infrastructure; and

(v) enrollment growth.

(c) The board's recommendations shall be available for presentation to the governor and to the Legislature at least 30 days before the convening of the Legislature, and shall include schedules showing the recommended amounts for each institution, including separately funded programs or divisions.

(d) The recommended appropriations shall be determined by the board only after the board has reviewed the proposed institutional operating budgets, and has consulted with the various institutions and board staff in order to make appropriate adjustments.

(3) In the combined request for appropriation, the board shall differentiate between appropriations requested for academic education and appropriations requested for technical education.

(4) (a) Institutional operating budgets shall be submitted to the board at least 90 days before the convening of the Legislature in accordance with procedures established by the board.

(b) Except as provided in Sections 53B-2a-117 and 53B-22-204, funding requests pertaining to capital facilities and land purchases shall be submitted in accordance with procedures prescribed by the [~~State Building Board~~] Division of Facilities Construction and Management.

(5) (a) The budget recommendations of the board shall be accompanied by full explanations and supporting data.

(b) The appropriations recommended by the board shall be made with the dual objective of:

(i) justifying for higher education institutions appropriations consistent with their needs, and consistent with the financial ability of the state; and

(ii) determining an equitable distribution of funds among the respective institutions in accordance with the aims and objectives of the statewide master plan for higher education.

(6) (a) The board shall request a hearing with the governor on the recommended appropriations.

(b) After the governor delivers his budget message to the Legislature, the board shall request hearings on the recommended appropriations with the Higher Education Appropriations Subcommittee.

(c) If either the total amount of the state appropriations or its allocation among the institutions as proposed by the Legislature or the Higher Education Appropriations Subcommittee is substantially different from the recommendations of the board, the board may request further hearings with the Legislature or the Higher Education Appropriations Subcommittee to reconsider both the total amount and the allocation.

(7) The board may devise, establish, periodically review, and revise formulas for the board's use and for the use of the governor and the Higher Education Appropriations Subcommittee in making appropriation recommendations.

(8) (a) The board shall recommend to each session of the Legislature the minimum tuitions, resident and nonresident, for each institution which it considers necessary to implement the budget recommendations.

(b) The board may fix the tuition, fees, and charges for each institution at levels the board finds necessary to meet budget requirements.

(9) Money allocated to each institution by legislative appropriation may be budgeted in accordance with institutional work programs approved by the board, provided that the expenditures funded by appropriations for each institution are kept within the appropriations for the applicable period.

(10) The dedicated credits, including revenues derived from tuitions, fees, federal grants, and proceeds from sales received by the institutions are appropriated to the respective institutions to be used in accordance with institutional work programs.

(11) An institution may do the institution's own purchasing, issue the institution's own payrolls, and handle the institution's own financial affairs under the general supervision of the board.

(12) If the Legislature appropriates money in accordance with this section, the money shall be distributed to the board and higher education institutions to fund the items described in Subsection (2)(b).

Section 11. Section 53B-7-103 is amended to read:

53B-7-103. Board designated state educational agent for federal contracts and aid -- Individual research grants -- Powers of institutions or foundations under authorized programs.

(1) (a) The board is the designated state educational agency authorized to negotiate and contract with the federal government and to accept financial or other assistance from the federal government or any of its agencies in the name of and in behalf of the state of Utah, under terms and conditions as may be prescribed by congressional enactment designed to further higher education.

(b) Nothing in this chapter alters or limits the authority of the [~~State Building Board~~] Division of Facilities Construction and Management to act as the designated state agency to administer programs on behalf of and accept funds from federal, state, and other sources, for capital facilities for the benefit of higher education.

(2) (a) Subject to policies and procedures established by the board, an institution of higher education and the institution of higher education's employees may apply for and receive grants or research and development contracts within the educational role of the recipient institution.

(b) A program described in Subsection (2)(a) may be conducted by and through the institution, or by and through any foundation or organization that is established for the purpose of assisting the institution in the accomplishment of the institution's purposes.

(3) An institution or the institution's foundation or organization engaged in a program authorized by the board may do the following:

(a) enter into contracts with federal, state, or local governments or their subsidiary agencies or departments, with private organizations, companies, firms, or industries, or with individuals for conducting the authorized programs;

(b) subject to the approval of the controlling state agency, conduct authorized programs within any of the penal, corrective, or custodial institutions of this state and engage the voluntary participation of inmates in those programs;

(c) accept contributions, grants, or gifts from, and enter into contracts and cooperative agreements with, any private organization, company, firm, industry, or individual, or any governmental agency or department, for support of authorized programs within the educational role of the recipient institution, and may agree to provide matching funds with respect to those programs from resources available to the institution; and

(d) retain, accumulate, invest, commit, and expend the funds and proceeds from programs funded under Subsection (3)(c), including the acquisition of real and personal property reasonably required for their accomplishment, except that no portion of the funds and proceeds may be diverted from or used for purposes other than those authorized or undertaken under Subsection (3)(c), or may ever become a charge upon or obligation of the state of Utah or the general funds appropriated for the normal operations of the institution unless otherwise permitted by law.

(4) (a) Except as provided in Subsection (4)(b), all contracts and research or development grants or contracts requiring the use or commitment of facilities, equipment, or personnel under the control of an institution of higher education are subject to the approval of the board.

(b) (i) The board may delegate the approval of a contract or grant described in Subsection (4)(a) to an institution of higher education board of trustees.

(ii) If the board makes a delegation described in Subsection (4)(b)(i), the board of trustees shall annually report to the board on all approved contracts or grants.

Section 12. Section 53B-21-104 is amended to read:

53B-21-104. Deposit of bond proceeds -- Division of Facilities Construction and Management responsibilities and approval.

(1) The board treasurer or other fiscal officer, with the approval of the state treasurer, deposits the proceeds from the sale of bonds under this chapter into a special Construction Trust Fund Account established in compliance with the State Money Management Act of 1974.

(2) The proceeds are credited to the board on behalf of the institution of higher education for which the bonds were issued.

(3) The proceeds are kept in a separate fund and used solely for the purpose for which they were authorized by the board.

(4) The [~~State Building Board~~] Division of Facilities Construction and Management makes all contracts and executes all instruments which it considers necessary to provide for the projects referred to in Section 53B-21-101.

(5) The proceeds in the special Construction Trust Fund Account shall be disbursed only upon receipt of written statements supported by itemized estimates and claims presented to the Division of Facilities Construction and Management as provided in the resolution authorizing the issuance of the bonds.

Section 13. Section 53B-22-204 is amended to read:

53B-22-204. Funding request for capital development project -- Legislative approval -- Board prioritization, approval, and review.

(1) In accordance with this section, an institution is required to receive legislative approval in an appropriations act for a dedicated project or a nondedicated project.

(2) An institution shall submit to the board a proposal for a funding request for each dedicated project or nondedicated project for which the institution seeks legislative approval.

(3) The board shall:

(a) review each proposal submitted under Subsection (2) to ensure the proposal:

(i) is cost effective and an efficient use of resources;

(ii) is consistent with the institution's mission and master plan; and

(iii) fulfills a critical institutional facility need;

(b) based on the results of the board's review under Subsection (3)(a), create:

(i) a list of approved dedicated projects; and

(ii) a list of approved nondedicated projects, prioritized in accordance with Subsection (5); and

(c) submit the lists described in Subsection (3)(b) to:

(i) the governor;

(ii) the Infrastructure and General Government Appropriations Subcommittee;

(iii) the Higher Education Appropriations Subcommittee; and

[~~(iv) the State Building Board for the State Building Board's:~~]

(iv) the Division of Facilities Construction and Management for a:

(A) recommendation, for the list described in Subsection (3)(b)(i); or

(B) recommendation and prioritization, for the list described in Subsection (3)(b)(ii).

(4) A dedicated project:

(a) is subject to the [~~State Building Board's~~] recommendation of the Division of Facilities Construction and Management as described in Section 63A-5b-403; and

(b) is not subject to the [~~State Building Board's~~] prioritization of the Division of Facilities Construction and Management as described in Section 63A-5b-403.

(5) (a) Subject to Subsection (6), the board shall prioritize institution requests for funding for nondedicated projects based on:

(i) capital facility need;

(ii) utilization of facilities;

(iii) maintenance and condition of facilities; and

(iv) any other factor determined by the board.

(b) On or before August 1, 2019, the board shall establish how the board will prioritize institution requests for funding for nondedicated projects, including:

(i) how the board will measure each factor described in Subsection (5)(a); and

(ii) procedures for prioritizing requests.

(6) (a) Subject to Subsection (6)(b), and in accordance with Subsection (5), the board may annually prioritize:

(i) up to three nondedicated projects if the ongoing appropriation to the fund is less than $50,000,000;

(ii) up to two nondedicated projects if the ongoing appropriation to the fund is at least $50,000,000 but less than $100,000,000; or

(iii) one nondedicated project if the ongoing appropriation to the fund is at least $100,000,000.

(b) For each calendar year beginning on or after January 1, 2020, the dollar amounts described in Subsection (6)(a) shall be adjusted by an amount equal to the percentage difference between:

(i) the Consumer Price Index for the 2019 calendar year; and

(ii) the Consumer Price Index for the previous calendar year.

(7) (a) An institution may request operations and maintenance funds for a capital development project approved under this section.

(b) The Legislature shall consider an institution's request described in Subsection (7)(a).

(8) After an institution completes a capital development project described in this section, the board shall review the capital development project, including the costs and design of the capital development project.

Section 14. Section 53E-3-706 is amended to read:

53E-3-706. Enforcement of part by state superintendent -- Employment of personnel -- School districts and charter schools -- Certificate of inspection verification.

(1) The state superintendent shall enforce this part.

(2) The state superintendent may employ architects or other qualified personnel, or contract with the [~~State Building Board~~] Division of Facilities Construction and Management, the state fire marshal, or a local governmental entity to:

(a) examine the plans and specifications of any school building or alteration submitted under this part;

(b) verify the inspection of any school building during or following construction; and

(c) perform other functions necessary to ensure compliance with this part.

(3) (a) (i) If a local school board uses the school district's building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and issues its own certificate authorizing permanent occupancy of the school building, the local school board shall file a certificate of inspection verification with the local governmental entity's building official and the state board, advising those entities that the school district has complied with the inspection provisions of this part.

(ii) If a charter school uses a school district building inspector under Subsection 10-9a-305(6)(a)(ii) or 17-27a-305(6)(a)(ii) and the school district issues to the charter school a certificate authorizing permanent occupancy of the school building, the charter school shall file with the state board a certificate of inspection verification.

(iii) If a local school board or charter school uses a local governmental entity's building inspector under Subsection 10-9a-305(6)(a)(i) or 17-27a-305(6)(a)(i) and the local governmental entity issues the local school board or charter school a certificate authorizing permanent occupancy of the school building, the local school board or charter school shall file with the state board a certificate of inspection verification.

(iv) (A) If a local school board or charter school uses an independent, certified building inspector under Subsection 10-9a-305(6)(a)(iii) or 17-27a-305(6)(a)(iii), the local school board or charter school shall, upon completion of all required inspections of the school building, file with the state board a certificate of inspection verification and a request for the issuance of a certificate authorizing permanent occupancy of the school building.

(B) Upon the local school board's or charter school's filing of the certificate and request as provided in Subsection (3)(a)(iv)(A), the school district or charter school shall be entitled to temporary occupancy of the school building that is the subject of the request for a period of 90 days, beginning the date the request is filed, if the school district or charter school has complied with all applicable fire and life safety code requirements.

(C) Within 30 days after the local school board or charter school files a request under Subsection (3)(a)(iv)(A) for a certificate authorizing permanent occupancy of the school building, the state superintendent shall:

(I) (Aa) issue to the local school board or charter school a certificate authorizing permanent occupancy of the school building; or

(Bb) deliver to the local school board or charter school a written notice indicating deficiencies in the school district's or charter school's compliance with the inspection provisions of this part; and

(II) mail a copy of the certificate authorizing permanent occupancy or the notice of deficiency to the building official of the local governmental entity in which the school building is located.

(D) Upon the local school board or charter school remedying the deficiencies indicated in the notice under Subsection (3)(a)(iv)(C)(I)(Bb) and notifying the state superintendent that the deficiencies have been remedied, the state superintendent shall issue a certificate authorizing permanent occupancy of the school building and mail a copy of the certificate to the building official of the local governmental entity in which the school building is located.

(E) (I) The state superintendent may charge the school district or charter school a fee for an inspection that the state superintendent considers necessary to enable the state superintendent to issue a certificate authorizing permanent occupancy of the school building.

(II) A fee under Subsection (3)(a)(iv)(E)(I) may not exceed the actual cost of performing the inspection.

(b) For purposes of this Subsection (3):

(i) "local governmental entity" means either a municipality, for a school building located within a municipality, or a county, for a school building located within an unincorporated area in the county; and

(ii) "certificate of inspection verification" means a standard inspection form developed by the state superintendent in consultation with local school boards and charter schools to verify that inspections by qualified inspectors have occurred.

Section 15. Section 63A-5b-102 is amended to read:

63A-5b-102. Definitions.

As used in this chapter:

[~~(1) "Board" means the state building board created in Section 63A-5b-201.~~]

[~~(2)~~] (1) "Capitol hill facilities" means the same as that term is defined in Section 63C-9-102.

[~~(3)~~] (2) "Capitol hill grounds" means the same as that term is defined in Section 63C-9-102.

[~~(4)~~] (3) "Compliance agency" means the same as that term is defined in Section 15A-1-202.

[~~(5)~~] (4) "Director" means the division director, appointed under Section 63A-5b-302.

[~~(6)~~] (5) "Division" means the Division of Facilities Construction and Management created in Section 63A-5b-301.

[~~(7)~~] (6) "Institution of higher education" means an institution listed in Subsection 53B-2-101(1).

[~~(8)~~] (7) "Trust lands administration" means the School and Institutional Trust Lands Administration established in Section 53C-1-201.

[~~(9)~~] (8) "Utah Board of Higher Education" means the Utah Board of Higher Education established in Section 53B-1-402.

Section 16. Section 63A-5b-303 is amended to read:

63A-5b-303. Duties and authority of division.

(1) (a) The division shall:

(i) subject to Subsection (1)(b), supervise and control the allocation of space, in accordance with legislative directive through annual appropriations acts, other legislation, or statute, to agencies in all buildings or space owned, leased, or rented by or to the state, except as provided in Subsection (3) or as otherwise provided by statute;

(ii) assure the efficient use of all building space under the division's supervision and control;

(iii) acquire title to all real property, buildings, fixtures, and appurtenances for use by the state or an agency, as authorized by the Legislature through an appropriation act, other legislation, or statute, subject to Subsection (1)(c);

(iv) except as otherwise provided by statute, hold title to all real property, buildings, fixtures, and appurtenances owned by the state or an agency;

(v) collect and maintain all deeds, abstracts of title, and all other documents evidencing title to or an interest in property belonging to the state or [~~of~~] to the state's departments, except institutions of higher education and the trust lands administration;

(vi) (A) periodically conduct a market analysis of proposed rates and fees; and

(B) include in a market analysis a comparison of the division's rates and fees with the rates and fees of other public or private sector providers of comparable services, if rates and fees for comparable services are reasonably available;

(vii) fulfill the division's responsibilities under Part 10, Energy Conservation and Efficiency, including responsibilities:

(A) to implement the state building energy efficiency program under Section 63A-5b-1002; and

(B) related to the approval of loans from the State Facility Energy Efficiency Fund under Section 63A-5a-1003;

(viii) convey, lease, or dispose of the real property, water rights, or water shares associated with the Utah State Developmental Center if directed to do so by the Utah State Developmental Center board, as provided in Subsection 62A-5-206.6(2); and

(ix) take all other action that the division is required to do under this chapter or other applicable statute.

(b) In making an allocation of space under Subsection (1)(a)(i), the division shall conduct one or more studies to determine the actual needs of each agency.

(c) The division may, without legislative approval, acquire title to real property for use by the state or an agency if the acquisition cost does not exceed [~~$250,000~~] $500,000.

(2) The division may:

(a) sue and be sued;

(b) as authorized by the Legislature, buy, lease, or otherwise acquire, by exchange or otherwise, and hold real or personal property necessary for the discharge of the division's duties; and

(c) take all other action necessary for carrying out the purposes of this chapter.

(3) (a) The division may not supervise or control the allocation of space for [~~an institution of higher education or~~] an entity in the public education system.

(b) The supervision and control of the legislative area is reserved to the Legislature.

[~~(c) The supervision and control of the trial courts area is reserved to the judiciary.~~]

[~~(d)~~] (c) The supervision and control of capitol hill facilities and capitol hill grounds is reserved to the State Capitol Preservation Board.

(d) (i) Subject to Subsection (3)(d)(ii), the supervision and control of the allocation of space for an institution of higher education is reserved to the Utah Board of Higher Education.

(ii) The Utah Board of Higher Education shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for an institution of higher education.

(e) (i) Subject to Subsection (3)(e)(ii), the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1) is reserved to the Administrative Office of the Courts referred to in Subsection 78A-2-108(3).

(ii) The Administrative Office of the Courts shall consult and cooperate with the division in the establishment and enforcement of standards for the supervision and control of the allocation of space for the courts of record listed in Subsection 78A-1-101(1).

(4) Before the division charges a rate, fee, or other amount for a service provided by the division's internal service fund to an executive branch agency, or to a service subscriber other than an executive branch agency, the division shall:

(a) submit an analysis of the proposed rate, fee, or other amount to the rate committee created in Section 63A-1-114; and

(b) obtain the approval of the Legislature as required by Section 63J-1-410.

Section 17. Section 63A-5b-402 is amended to read:

63A-5b-402. Capital development process -- Approval requirements.

(1) Except as provided in Section 63A-5b-404, the [~~board~~] division shall, on behalf of all agencies, submit capital development project recommendations and priorities to the Legislature for approval and prioritization.

(2) An agency that requests an appropriation for a capital development project shall submit to the division for transmission to the [~~board~~] Legislature a capital development project request and a feasibility study relating to the capital development project.

(3) (a) The division shall, [~~in consultation with the board and~~] in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules that establish standards and requirements for a capital development project request and feasibility study.

(b) The rules shall include:

(i) a deadline by which an agency is required to submit a capital development project request;

(ii) conditions under which an agency may modify the agency's capital development project request after the agency submits the request, and requirements applicable to a modification; and

(iii) requirements for the contents of a feasibility study, including:

(A) the need for the capital development project;

(B) the appropriateness of the scope of the capital development project;

(C) any private funding for the capital development project; and

(D) the economic and community impacts of the capital development project.

(4) The division shall verify the completion and accuracy of a feasibility study that an agency submits under Subsection (2) prior to [~~transmitting the feasibility study to the board~~] submitting capital development project recommendations and priorities under Subsection (1).

Section 18. Section 63A-5b-403 is amended to read:

63A-5b-403. Institutions of higher education -- Capital development projects -- Dedicated and nondedicated projects -- Recommendations and prioritization.

(1) As used in this section:

(a) "Dedicated project" has the same meaning as that term is defined in:

(i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a, Technical Education; or

(ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) "Nondedicated project" has the same meaning as that term is defined in:

(i) Section 53B-2a-101, for a capital development project under Title 53B, Chapter 2a, Technical Education; or

(ii) Section 53B-22-201, for a capital development project under Title 53B, Chapter 22, Higher Education Capital Projects.

(2) (a) The [~~board~~] division shall submit recommendations to the Legislature in accordance with:

(i) Section 53B-2a-117, for a dedicated project under Title 53B, Chapter 2a, Technical Education; or

(ii) Section 53B-22-204, for a dedicated project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) A dedicated project is not subject to prioritization by the [~~board~~] division.

(3) (a) The [~~board~~] division shall prioritize nondedicated projects in accordance with:

(i) Section 63A-5b-402; and

(ii) (A) Section 53B-2a-117, for a nondedicated project under Title 53B, Chapter 2a, Technical Education; or

(B) Section 53B-22-204, for a nondedicated project under Title 53B, Chapter 22, Higher Education Capital Projects.

(b) In the [~~board's~~] division's scoring process for prioritizing nondedicated projects, the [~~board~~] division shall give more weight to a request that is designated as a higher priority by the Utah Board of Higher Education than a request that is designated as a lower priority by the Utah Board of Higher Education only for determining the order of prioritization among requests submitted by the Utah Board of Higher Education.

(4) The [~~board~~] division shall require that an institution of higher education that submits a request for a capital development project address whether and how, as a result of the project, the institution of higher education will:

(a) offer courses or other resources that will help meet demand for jobs, training, and employment in the current market and the projected market for the next five years;

(b) respond to individual skilled and technical job demand over the next three, five, and 10 years;

(c) respond to industry demands for trained workers;

(d) help meet commitments made by the Governor's Office of Economic Opportunity, including relating to training and incentives;

(e) respond to changing needs in the economy; and

(f) respond to demands for online or in-class instruction, based on demographics.

(5) The division shall:

(a) (i) assist institutions of higher education in providing the information required by Subsection [~~(3)~~] (4); and

(ii) verify the completion and accuracy of the information submitted by an institution of higher education under Subsection [~~(3)~~] (4);

(b) assist the Utah Board of Higher Education to fulfill the requirements of Section 53B-2a-112 in connection with the finding that the [~~technical college~~] division is required to make under Subsection 53B-2a-112[~~(5)~~](4)(b); and

(c) assist the Utah Board of Higher Education in submitting a list of dedicated projects to the [~~board~~] division for approval and nondedicated projects to the [~~board~~] division for recommendation and prioritization pursuant to Section 53B-22-204.

Section 19. Section 63A-5b-404 is amended to read:

63A-5b-404. Exceptions to requirement of legislative approval for capital development projects.

(1) (a) Except as provided in this section, a capital development project may not be constructed on state property without legislative approval.

(b) The [~~board~~] division may authorize a capital development project on state property without legislative approval only as provided in this section.

(2) (a) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if:

(i) the [~~board~~] division determines that the requesting agency has provided adequate assurance that state funds will not be used for the design or construction of the facility;

(ii) the agency provides to the [~~board~~] division a written document, signed by the head of the agency:

(A) stating that funding or a revenue stream is in place, or will be in place before the project is completed, to ensure that increased state funding will not be required to cover the cost of operations and maintenance for the resulting facility or for immediate or future capital improvements; and

(B) detailing the source of the funding that will be used for the cost of operations and maintenance and for immediate and future capital improvements to the resulting facility; and

(iii) the [~~board~~] division determines that the use of the state property:

(A) is appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(b) For a facility constructed without legislative approval under Subsection (2)(a), an agency may not request:

(i) increased state funds for operations and maintenance; or

(ii) increased state capital improvement funding.

(3) Legislative approval is not required for:

(a) a facility:

(i) to be built with funds other than state funds and owned by an entity other than a state entity; and

(ii) that is within a research park area at the University of Utah or Utah State University;

(b) a facility to be built at This is the Place State Park by the This is the Place Foundation with funds of the This is the Place Foundation or with donated services or materials and that may include grant money from the state;

(c) a project that:

(i) is funded by the Uintah Basin Revitalization Fund or the Navajo Revitalization Fund; and

(ii) does not provide a new facility for an agency or institution of higher education; or

(d) a project on school and institutional trust lands that:

(i) is funded by the trust lands administration from the Land Grant Management Fund; and

(ii) does not fund construction of a new facility for an agency or institution of higher education.

(4) (a) Legislative approval is not required for a capital development project to be built for the Department of Transportation resulting from:

(i) an exchange of real property under Section 72-5-111; or

(ii) a sale or exchange of real property from a maintenance facility if the proceeds from the sale of the real property are used for, or the real property is exchanged for:

(A) real property for another maintenance facility; or

(B) another maintenance facility, including improvements for a maintenance facility.

(b) If the Department of Transportation approves a sale or exchange under Subsection (4)(a) for a capital development project subject to the board's approval, the Department of Transportation shall notify the president of the Senate, the speaker of the House of Representatives, and the cochairs of the Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriations Committee about any new facilities to be built or improved.

Section 20. Section 63A-5b-503 is amended to read:

63A-5b-503. Planning Fund expenditures authorized -- Ceiling on expenditures -- Recovery.

(1) The Planning Fund shall be used to make payments for engineering, architectural, and other planning expenses necessary to make a meaningful cost estimate of any facility or improvement with a demonstrable or immediate need.

(2) The director may make expenditures from the Planning Fund in order to provide planning information to [~~the board,~~] the governor[~~,~~] and the Legislature, up to a maximum of $350,000 in outstanding Planning Fund commitments.

(3) (a) The director shall authorize all payments made from the Planning Fund.

(b) Payments from the Planning Fund shall be a charge on the project for which they were drawn.

(c) If the Legislature appropriates money for a building project for which planning costs have previously been paid from the Planning Fund, the director shall credit that amount to the Planning Fund.

(4) (a) The director may expend money from the Planning Fund for architectural and engineering services incident to the planning and preparation of applications for funds on construction financed by other than state sources, including federal grants.

(b) Upon approval of financing referred to in Subsection (4)(a), the director shall reimburse to the Planning Fund the money spent for architectural and engineering services.

Section 21. Section 63A-5b-601 is amended to read:

63A-5b-601. Definitions.

As used in this part:

(1) (a) "Facility" means any building, structure, or other improvement that is constructed:

(i) on property [~~owned by~~] that the state[~~,~~] or any of the state's departments, commissions, institutions, or agencies owns; or

(ii) by the state[~~,~~] or any of the state's departments, commissions, institutions, or agencies on property [~~not owned by~~] that the state does not own.

(b) "Facility" does not mean an unoccupied structure that is a component of the state highway system.

(2) "Local government" means the county, municipality, or local school district that would have jurisdiction to act as the compliance agency if the division did not have jurisdiction to act as the compliance agency.

Section 22. Section 63A-5b-603 is amended to read:

63A-5b-603. Contracting powers of director -- Bids -- Retainage.

(1) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the director may enter into a contract for any work or professional service that the division [~~or board~~] may do or have done.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the director may make rules establishing circumstances under which bids may be modified when all bids for a construction project exceed available funds as determined by the director.

(b) In making the rules described in Subsection (2)(a), the director shall provide for the fair and equitable treatment of bidders.

(c) The judgment of the director as to the responsibility and qualifications of a bidder is conclusive, except in case of fraud or bad faith.

(3) The division shall make all payments to the contractor for completed work in accordance with Section 15-6-2 and pay the interest specified in Section 15-6-3 on any payments that are late.

(4) If the division retains or withholds a payment on a contract with a private contractor to do work for the division, the division shall retain or withhold and release the payment as provided in Section 13-8-5.

Section 23. Section 63A-5b-604 is amended to read:

63A-5b-604. Construction, alteration, and repair of state facilities -- Powers of director -- Exceptions -- Expenditure of appropriations -- Compliance agency role.

(1) (a) Except as provided in this section and Section 63A-5b-1101, the director shall exercise direct supervision over the design and construction of all new facilities, and all alterations, repairs, and improvements to existing facilities, if the total project construction cost, regardless of the funding source, is greater than $100,000.

(b) A state entity may exercise direct supervision over the design and construction of all new facilities, and over all alterations, repairs, and improvements to existing facilities, if:

(i) the total project construction cost, regardless of the funding sources, is $100,000 or less; and

(ii) the state entity assures compliance with the division's forms and contracts and the division's design, construction, alteration, repair, improvement, and code inspection standards.

(2) The director may enter into a capital improvement partnering agreement with an institution of higher education that permits the institution of higher education to exercise direct supervision for a capital improvement project with oversight from the division.

(3) (a) Subject to Subsection (3)(b), the director may delegate control over design, construction, and other aspects of any project to entities of state government on a project-by-project basis.

(b) With respect to a delegation of control under Subsection (3)(a), the director may:

(i) impose terms and conditions on the delegation that the director considers necessary or advisable to protect the interests of the state; and

(ii) revoke the delegation and assume control of the design, construction, or other aspect of a delegated project if the director considers the revocation and assumption of control to be necessary to protect the interests of the state.

(4) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] director may delegate control over design, construction, and all other aspects of any project to entities of state government on a categorical basis for projects within a particular dollar range and a particular project type.

(b) Rules adopted by the [~~board~~] director under Subsection (4)(a) may:

(i) impose the terms and conditions on categorical delegation that the [~~board~~] director considers necessary or advisable to protect the interests of the state;

(ii) provide for the revocation of the delegation on a categorical [~~or project specific~~] basis and for the division to assume control of the design, construction, or other aspect of a category of delegated projects or a specific delegated project if the [~~board~~] director considers revocation of the delegation and assumption of control to be necessary to protect the interests of the state;

(iii) require that a categorical delegation be renewed by the [~~board~~] director on an annual basis; and

(iv) require the division's oversight of delegated projects.

(5) (a) A state entity to which project control is delegated under this section shall:

(i) assume fiduciary control over project finances;

(ii) assume all responsibility for project budgets and expenditures; and

(iii) receive all funds appropriated for the project, including any contingency funds contained in the appropriated project budget.

(b) Notwithstanding a delegation of project control under this section, a state entity to which control is delegated is required to comply with the division's codes and guidelines for design and construction.

(c) A state entity to which project control is delegated under this section may not access, for the delegated project, the division's statewide contingency reserve and project reserve authorized in Section 63A-5b-609.

(d) For a facility that will be owned, operated, maintained, and repaired by an entity that is not an agency and that is located on [~~state~~] property that the state owns or leases as a tenant, the director may authorize the facility's owner to administer the design and construction of the project relating to that facility.

(6) (a) A project for the construction of a new facility and a project for alterations, repairs, and improvements to an existing facility are not subject to Subsection (1) if the project:

(i) occurs on property under the jurisdiction of the State Capitol Preservation Board;

(ii) is within a designated research park at the University of Utah or Utah State University;

(iii) occurs within the boundaries of This is the Place State Park and is administered by This is the Place Foundation; or

(iv) is for the creation and installation of art under Title 9, Chapter 6, Part 4, Utah Percent-for-Art Act.

(b) Notwithstanding Subsection (6)(a)(iii), the This is the Place Foundation may request the director to administer the design and construction of a project within the boundaries of This is the Place State Park.

(7) (a) The role of compliance agency under Title 15A, State Construction and Fire Codes Act, shall be filled by:

(i) the director, for a project administered by the division;

(ii) the entity designated by the State Capitol Preservation Board, for a project under Subsection (6)(a)(i);

(iii) the local government, for a project that is:

(A) not subject to the division's administration under Subsection (6)(a)(ii); or

(B) administered by This is the Place Foundation under Subsection (6)(a)(iii);

(iv) the compliance agency designated by the director, for a project under Subsection (2), (3), (4), or (5)(d); and

(v) for the installation of art under Subsection (6)(a)(iv), the entity that is acting as the compliance officer for the balance of the project for which the art is being installed.

(b) A local government acting as the compliance agency under Subsection (7)(a)(iii) may:

(i) only review plans and inspect construction to enforce the state construction code or an approved code under Title 15A, State Construction and Fire Codes Act; and

(ii) charge a building permit fee of no more than the amount the local government could have charged if the land upon which the improvements are located were not owned by the state.

(8) (a) The zoning authority of a local government under [~~Section 10-9a-305 or 17-27a-305~~] Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act, or Title 17, Chapter 27a, County Land Use, Development, and Management Act, does not apply to the use of [~~state~~] property that the state owns or any improvements constructed on [~~state~~] property that the state owns, including improvements constructed by an entity other than a state entity.

(b) A state entity controlling the use of [~~state~~] property that the state owns shall consider any input received from a local government in determining how the property is to be used.

Section 24. Section 63A-5b-802 is amended to read:

63A-5b-802. Leasing responsibilities of the director.

(1) The director shall:

(a) prepare and submit a yearly request to the governor and Legislature for a designated amount of square footage by type of space to be leased by the division for that fiscal year;

(b) lease, in the name of the division, all real property space to be occupied by a leasing agency;

(c) in leasing space:

(i) use a process consistent with the best interest of the state, the requirements of the leasing agency, and the anticipated use of the property; and

(ii) comply with any legislative mandates contained in the appropriations act or other legislation;

(d) apply the criteria contained in Subsection (1)(f) to prepare a report evaluating each high-cost lease at least 12 months before the lease expires;

(e) evaluate each lease under the division's control and apply the criteria contained in Subsection (1)(f), as applicable, to evaluate the lease;

(f) in evaluating leases:

(i) determine whether the lease is cost-effective when the needs of the leasing agency to be housed in the leased facilities are considered;

(ii) determine whether another option such as construction, use of other state-owned space, or a lease-purchase agreement is more cost-effective than leasing;

(iii) determine whether the significant lease terms are cost-effective and provide the state with sufficient flexibility and protection from liability;

(iv) compare the proposed lease payments to the current market rates, and evaluate whether the proposed lease payments are reasonable under current market conditions;

(v) compare proposed significant lease terms to the current market, and recommend whether these proposed terms are reasonable under current market conditions; and

(vi) if applicable, recommend that the lease or modification to a lease be approved or disapproved;

(g) based upon the evaluation, include in the report recommendations that identify viable alternatives to:

(i) make the lease cost-effective; or

(ii) meet the leasing agency's needs when the lease expires; and

(h) upon request, provide the information included in the report to:

(i) the leasing agency benefitted by the lease; and

(ii) the Office of the Legislative Fiscal Analyst.

(2) The director may:

(a) subject to legislative appropriation, enter into a facility lease with a term of up to 10 years if the length of the lease's term is economically advantageous to the state; and

(b) [~~with the approval of the board and~~] subject to legislative appropriation, enter into a facility lease with a term of more than 10 years if the length of the lease's term is economically advantageous to the state.

Section 25. Section 63A-5b-803 is amended to read:

63A-5b-803. Reporting of leasing activity.

(1) The director shall:

(a) prepare a standard form upon which a leasing agency and another state institution or entity can report the current and proposed lease activity of the leasing agency, institution, or entity, including any lease renewal; and

(b) develop procedures and mechanisms within the division to:

(i) obtain and share information about each leasing agency's real property needs; and

(ii) provide oversight and review of lessors and lessees during the term of each lease.

(2) Each leasing agency, the [~~Judicial Council~~] Administrative Office of the Courts, and the board of trustees for each institution of higher education, shall report all current and proposed lease activity on the standard form prepared by the division to:

(a) the division; and

(b) the Office of the Legislative Fiscal Analyst.

Section 26. Section 63A-5b-806 is amended to read:

63A-5b-806. Division rules on the value of property bought or exchanged -- Exception.

(1) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to ensure that, if the division buys or exchanges real property, the value of the real property is congruent with the proposed price and other terms of the purchase or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined in Section 61-2g-102, demonstrates the real property's value; and

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined in Section 61-2g-102.

(3) The rules adopted under Subsection (1) do not apply to the purchase or exchange of real property, or an interest in real property, with a value of less than [~~$250,000~~] $500,000, as estimated by the division.

Section 27. Section 63A-5b-901 is amended to read:

63A-5b-901. Definitions.

As used in this part:

(1) "Applicant" means a person who submits a timely, qualified proposal to the division.

(2) "Condemnee" means the same as that term is defined in Section 78B-6-520.3.

[~~(3) "Convey" means:~~]

[~~(a) to provide for a primary state agency's occupancy or use of vacant division-owned property; or~~]

[~~(b) to effect a transfer of ownership or lease of vacant division-owned property to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.~~]

[~~(4)~~] (3) "Division-owned property" means real property, including an interest in real property, to which the division holds title, regardless of who occupies or uses the real property.

[~~(5)~~] (4) "Local government entity" means a county, city, town, metro township, local district, special service district, community development and renewal agency, conservation district, school district, or other political subdivision of the state.

[~~(6)~~] (5) "Primary state agency" means a state agency for which the division holds title to real property that the state agency occupies or uses, as provided in Subsection 63A-5b-303(1)(a)(iv).

[~~(7)~~] (6) "Private party" means a person who is not a state agency, local government entity, or public purpose nonprofit entity.

[~~(8)~~] (7) "Public purpose nonprofit entity" means a corporation, association, organization, or entity that:

(a) is located within the state;

(b) is not a state agency or local government entity;

(c) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code; and

(d) operates to fulfill a public purpose.

[~~(9)~~] (8) "Qualified proposal" means a written proposal that:

(a) meets the criteria established by the division by rule under Section 63A-5b-903;

(b) if submitted by a local government entity or public purpose nonprofit entity, explains the public purpose for which the local government entity or public purpose nonprofit entity seeks a transfer of ownership or lease of the vacant division-owned property; and

(c) the director determines will, if accepted and implemented, provide a material benefit to the state.

[~~(10)~~] (9) "Secondary state agency" means a state agency:

(a) that is authorized to hold title to real property that the state agency occupies or uses, as provided in [~~Subsection 63A-5b-303(4)~~] Section 63A-5b-304; and

(b) for which the division does not hold title to real property that the state agency occupies or uses.

[~~(11)~~] (10) "State agency" means a department, division, office, entity, agency, or other unit of state government.

[~~(12)~~] (11) "Transfer of ownership" includes a transfer of the ownership of vacant division-owned property that occurs as part of an exchange of the vacant division-owned property for another property.

[~~(13)~~] (12) "Vacant division-owned property" means division-owned property that:

(a) a primary state agency [~~has discontinued to occupy or use~~] is not occupying or using; and

(b) the director has determined should be made available for:

(i) use or occupancy by a primary state agency; or

(ii) a transfer of ownership or lease to a secondary state agency, local government entity, public purpose nonprofit entity, or private party.

[~~(14)~~] (13) "Written proposal" means a brief statement in writing that explains:

(a) the proposed use or occupancy, transfer of ownership, or lease of vacant division-owned property; and

(b) how the state will benefit from the proposed use or occupancy, transfer of ownership, or lease.

Section 28. Section 63A-5b-902 is amended to read:

63A-5b-902. Application of part.

(1) The provisions of this part, other than this section, do not apply to:

(a) a conveyance, lease, or disposal under Subsection 63A-5b-303(1)(a)[~~(ix)~~](viii); [~~or~~]

(b) the division's disposal or lease of division-owned property with a value under [~~$250,000~~] $500,000, as estimated by the division[~~.~~]; or

(c) a conveyance, lease, or disposal of division-owned property in connection with:

(i) the establishment of a state store, as defined in Section 32B-1-102; or

(ii) the construction of student housing.

(2) Nothing in Subsection (1)(b) or (c) may be construed to diminish or eliminate the division's responsibility to manage division-owned property in the best interests of the state.

Section 29. Section 63A-5b-904 is amended to read:

63A-5b-904. Division authority with respect to vacant division-owned property -- Limitations.

(1) Subject to Section 63A-5b-909, the division may[~~, as provided in this part~~]:

(a) provide for a primary state agency's occupancy or use of vacant division-owned property, if the director determines that the primary state agency's occupancy or use is in the best interests of the state;

(b) effect a transfer of ownership or lease of vacant division-owned property [~~to a secondary state agency, local government entity, public purpose nonprofit entity, or private party~~], as provided in this section; or

(c) refer vacant division-owned property to the Department of Transportation for sale by auction, as provided in Section 63A-5b-908.

(2) (a) The division may effect a transfer of ownership or lease of vacant division-owned property to an applicant for fair market value if the director determines that the transfer of ownership or lease to that applicant is in the state's best interest.

(b) In determining the state's best interest under Subsection (2)(a), the director may consider:

(i) the price and financial terms of all qualified proposals; and

(ii) the relative benefits to the state of the proposed uses of the vacant division-owned property as stated in the qualified proposals.

[~~(2)~~] (3) The division may [~~not~~] effect a transfer of ownership or lease of vacant division-owned property without receiving fair market value in return [~~unless~~] if:

(a) the director determines that the transfer of ownership or lease is in the best interests of the state;

(b) for a proposed transfer of ownership or lease to a local government entity, public purpose nonprofit entity, or private party, the director determines that the local government entity, public purpose nonprofit entity, or private party intends to use the property to fulfill a public purpose;

(c) the director requests and receives a recommendation on the proposed transfer of ownership or lease from the Legislative Executive Appropriations Committee;

(d) the director communicates the Executive Appropriations Committee's recommendation to the executive director; and

(e) the executive director approves the transfer of ownership or lease.

[~~(3)~~] (4) (a) If the division effects a transfer of ownership of vacant division-owned property without receiving fair market value in return, [~~as provided in this part,~~] the division shall require the documents memorializing the transfer of ownership to preserve to the division:

(i) in the case of a transfer of ownership of vacant division-owned property to a secondary state agency, local government entity, or public purpose nonprofit entity for no or nominal consideration, a right of reversion, providing for the ownership of the property to revert to the division if the property ceases to be used for the public benefit; or

(ii) in the case of any other transfer of ownership of vacant division-owned property, a right of first refusal allowing the division to purchase the property from the transferee for the same price that the transferee paid to the division if the transferee wishes to transfer ownership of the former vacant division-owned property.

(b) Subsection [~~(3)~~] (4)(a) does not apply to the sale of vacant division-owned property at an auction under Section 63A-5b-908.

Section 30. Section 63A-5b-905 is amended to read:

63A-5b-905. Notice required before division may effect a transfer of ownership or lease of division-owned property.

(1) Before the division may [~~convey~~] effect a transfer of ownership or lease of vacant division-owned property, the division shall give notice as provided in Subsection (2).

(2) A notice required under Subsection (1) shall:

(a) identify and describe the vacant division-owned property;

(b) indicate the availability of the vacant division-owned property;

(c) invite persons interested in the vacant division-owned property to submit a written proposal to the division;

(d) indicate the deadline for submitting a written proposal;

(e) be posted on the division's website for at least 60 consecutive days before the deadline for submitting a written proposal, in a location specifically designated for notices dealing with vacant division-owned property;

(f) be posted on the Utah Public Notice Website created in Section 63A-16-601 for at least 60 consecutive days before the deadline for submitting a written proposal; and

(g) be sent by email to each person who has previously submitted to the division a written request to receive notices under this section.

Section 31. Section 63A-5b-907 is amended to read:

63A-5b-907. Priorities for vacant division-owned property -- Division to convey vacant division-owned property.

(1) This section applies to a proposed transfer of ownership or lease of vacant division-owned property at less than fair market value.

[~~(1)~~] (2) (a) [~~A~~] An applicant that is a state agency has priority for vacant division-owned property over an applicant that is a local government entity, a public purpose nonprofit entity, and a private party.

(b) [~~A~~] An applicant that is a local government entity and an applicant that is a public purpose nonprofit entity have:

(i) priority for vacant division-owned property over an applicant that is a private party; and

(ii) between them the same priority for vacant division-owned property.

[~~(2)~~] (3) If the division receives multiple timely qualified proposals from applicants with the highest and same priority, the division shall:

(a) notify the [~~board~~] executive director of:

(i) the availability of the vacant division-owned property; and

(ii) the applicants with the highest and same priority that have submitted qualified proposals; and

(b) provide the [~~board~~] executive director with a copy of the timely qualified proposals submitted by the applicants with the highest and same priority.

[~~(3)~~] (4) Within 30 days after being notified under Subsection [~~(2)~~] (3), the [~~board~~] executive director shall:

(a) determine which applicant's qualified proposal is most likely to result in the highest and best public benefit; and

(b) notify the division of the [~~board's~~] executive director's decision under Subsection [~~(3)~~] (4)(a).

[~~(4)~~] (5) The division shall [~~convey~~] effect a transfer of ownership or lease of the vacant division-owned property to:

(a) the applicant with the highest priority under Subsection [~~(1)~~] (2), if the division receives a timely qualified proposal from a single applicant with the highest priority; or

(b) the applicant whose qualified proposal was determined by the [~~board~~] executive director under Subsection [~~(3)~~] (4) to be most likely to result in the highest and best public benefit, if the division receives multiple timely qualified proposals from applicants with the highest and same priority.

[~~(5) (a) If the division leases vacant division-owned property to a private party, the division shall, within 30 days after a lease agreement is executed, provide written notice of the lease to:~~]

[~~(i) the municipality in which the vacant division-owned property is located, if the vacant division-owned property is within a municipality; or~~]

[~~(ii) the county in whose unincorporated area the vacant division-owned property is located, if the vacant division-owned property is not located within a municipality.~~]

[~~(b) Nothing in this chapter may be used by a private party leasing division-owned property as a basis for not complying with applicable local land use ordinances and regulations.~~]

Section 32. Section 63A-5b-907.5 is enacted to read:

63A-5b-907.5. Lease of division-owned property to a private party.

(1) If the division leases division-owned property to a private party, the division shall, within 30 days after a lease agreement is executed, provide written notice of the lease to:

(a) the municipality in which the division-owned property is located, if the division-owned property is within a municipality; or

(b) the county in whose unincorporated area the division-owned property is located, if the division-owned property is not located within a municipality.

(2) Nothing in this part may be used by a private party leasing division-owned property as a basis for not complying with applicable local land use ordinances and regulations.

Section 33. Section 63A-5b-910 is amended to read:

63A-5b-910. Disposition of proceeds received by division from sale of vacant division-owned property.

(1) (a) Except as provided in Section 62A-5-206.7, the division shall pay into the state treasury the money received from the transfer of ownership or lease of vacant division-owned property.

(b) Money paid into the state treasury under Subsection (1)(a):

(i) becomes a part of the funds provided by law for carrying out the building program of the state; and

(ii) is appropriated for the purpose described in Subsection (1)(b)(i).

(2) The proceeds from the transfer of ownership or lease of vacant division-owned property belonging to or used by a particular state agency shall, to the extent practicable, be expended for the construction of buildings or in the performance of other work for the benefit of that state agency.

Section 34. Section 63A-5b-1001 is amended to read:

63A-5b-1001. Definitions.

As used in this part:

(1) "Energy efficiency measure" means an action taken or initiated by an agency that:

(a) reduces the agency's energy or fuel use or resource energy consumption, water or other resource consumption, operation and maintenance costs, or cost of energy, fuel, water, or other resource; or

(b) increases the agency's energy or fuel efficiency or resource consumption efficiency.

(2) "Energy efficiency program" means a program established under Section 63A-5b-1002 for the purpose of improving energy efficiency measures and reducing the energy costs for state facilities.

(3) "Fund" means the State Facility Energy Efficiency Fund created in Section 63A-5b-1003.

(4) "Performance efficiency agreement" means an agreement entered into by an agency whereby the agency implements one or more energy efficiency measures and finances the costs associated with implementation of performance efficiency measures using the stream of expected savings in costs resulting from implementation of the performance efficiency measures as a funding source for repayment.

(5) (a) "State facility" means any building, structure, or other improvement that is constructed on property [~~owned by~~] that the state, any of the state's departments, commissions, institutions, or agencies, or a state institution of higher education owns or leases as a tenant.

(b) "State facility" does not include:

(i) an unoccupied structure that is a component of the state highway system;

(ii) a privately owned structure that is located on property [~~owned by~~] that the state, any of the state's departments, commissions, institutions, or agencies, or a state institution of higher education owns or leases as a tenant; or

(iii) a structure that is located on land administered by the trust lands administration under a lease, permit, or contract with the trust lands administration.

Section 35. Section 63A-5b-1003 is amended to read:

63A-5b-1003. State Facility Energy Efficiency Fund -- Contents -- Use of fund money.

(1) There is created a revolving loan fund known as the "State Facility Energy Efficiency Fund."

(2) The fund shall consist of:

(a) money transferred from the Stripper Well-Petroleum Violation Escrow Fund;

(b) money appropriated by the Legislature;

(c) money received for the repayment of loans made from the fund; and

(d) interest earned on the fund.

(3) The [~~board~~] division shall make a loan from the fund to an agency to finance all or part of energy efficiency measures.

(4) (a) (i) An agency requesting a loan shall submit an application to the [~~board~~] division in the form and containing the information that the [~~board~~] division requires, including plans and specifications for the proposed energy efficiency measures.

(ii) An agency may request a loan to fund all or part of the cost of energy efficiency measures.

(b) If the [~~board~~] division rejects the application, the [~~board~~] division shall notify the applicant stating the reasons for the rejection.

(5) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~board~~] division shall make rules establishing:

(i) criteria to determine:

(A) loan eligibility;

(B) energy efficiency measures priority; and

(C) ways to measure energy savings that take into account fluctuations in energy costs and temperature; and

(ii) a method of monitoring actual savings resulting from energy efficiency measures implemented using loan money from the fund, using objective and verifiable post-construction measures, if available.

(b) In making rules that establish prioritization criteria for energy efficiency measures, the [~~board~~] division may consider:

(i) possible additional sources of revenue;

(ii) the feasibility and practicality of the energy efficiency measures;

(iii) the energy savings attributable to eligible energy efficiency measures;

(iv) the annual energy savings;

(v) the projected energy cost payback of eligible energy efficiency measures;

(vi) other benefits to the state attributable to eligible energy efficiency measures;

(vii) the availability of federal funds for the energy efficiency measures; and

(viii) whether to require an agency to provide matching funds for the energy efficiency measures.

(6) (a) In reviewing energy efficiency measures for possible funding, the [~~board~~] division shall:

(i) review the loan application and the plans and specifications for the energy efficiency measures;

(ii) determine whether to grant the loan by applying the loan eligibility criteria; and

(iii) if the loan is granted, prioritize funding of the energy efficiency measures by applying the prioritization criteria.

(b) The [~~board~~] division may condition approval of a loan application and the availability of funds on assurances from the agency that the [~~board~~] division considers necessary to ensure that the agency:

(i) uses the proceeds to pay the cost of the energy efficiency measures; and

(ii) implements the energy efficiency measures.

(7) The division shall annually report to the Government Operations Interim Committee of the Legislature the actual savings resulting from energy efficiency measures implemented using loan money from the fund, as monitored pursuant to rules adopted under Subsection (5)(a)(ii).

[~~(8) The manager of the energy efficiency program shall provide staff support when the board performs the duties established in this section.~~]

Section 36. Section 63A-5b-1104 is amended to read:

63A-5b-1104. Notification to local governments for construction or modification of certain facilities.

(1) (a) The director or the director's designee shall notify in writing the elected representatives of a local government entity directly and substantively affected by any diagnostic, treatment, parole, probation, or other secured facility project exceeding [~~$250,000~~] $500,000, if:

(i) the nature of the project has been significantly altered since an earlier notification;

(ii) the project would significantly change the nature of the functions presently conducted at the location; or

(iii) the project is new construction.

(b) At the request of the state entity or the local government entity, representatives from the state entity and the affected local entity shall conduct or participate in a local public hearing or hearings to discuss the issues described in Subsection (1)(a).

(2) (a) (i) Before beginning the construction of student housing on property owned by the state or

an institution of higher education, the director shall provide written notice of the proposed construction, as provided in Subsection (2)(a)(ii), if any of the proposed student housing buildings is within 300 feet of privately owned residential property.

(ii) Each notice under Subsection (2)(a)(i) shall be provided to the legislative body and, if applicable, the mayor of:

(A) the county in whose unincorporated area the privately owned residential property is located; or

(B) the municipality in whose boundary the privately owned residential property is located.

(b) (i) Within 21 days after receiving the notice required by Subsection (2)(a)(i), a county or municipality entitled to the notice may submit a written request to the director for a public hearing on the proposed student housing construction.

(ii) If a county or municipality requests a hearing under Subsection (2)(b)(i), the director and the county or municipality shall jointly hold a public hearing to provide information to the public and to allow the director and the county or municipality to receive input from the public about the proposed student housing construction.

Section 37. Section 63B-1-101 is amended to read:

63B-1-101. Definitions.

As used in this title:

[~~(1) "Board" means the State Building Board.~~]

[~~(2)~~] (1) "Bond anticipation note" means:

(a) any financing note issued according to the procedures and requirements of this title in anticipation of the receipt of the proceeds of the sale of the bonds authorized under this title; and

(b) any renewal of those notes.

[~~(3)~~] (2) "Bonds" means any bonds, bond anticipation notes, or other obligations authorized under this title for which the full faith, credit, and resources and ad valorem taxing power of the state have been pledged for the payment of the principal of and interest on the bonds.

[~~(4)~~] (3) "Capital project" means any land, building, facility, highway, improvement, equipment, or other property, or combination of them, that the state of Utah or any of its agencies, divisions, institutions, or other administrative subunits are authorized by law to acquire or construct.

[~~(5)~~] (4) "Commission" means the State Bonding Commission created in Section 63B-1-201.

[~~(6)~~] (5) "Division" means the Division of Facilities Construction and Management.

[~~(7)~~] (6) "Sinking fund" means the fund or account established as provided in this title to hold money to pay the principal and interest on each series of bonds as they become due.

Section 38. Section 63B-1-304 is amended to read:

63B-1-304. State Building Ownership Authority created -- Members -- Compensation -- Location in Department of Administrative Services.

(1) There is created a body politic and corporate to be known as the State Building Ownership Authority composed of:

(a) the governor;

(b) the state treasurer; and

(c) the [~~chair of the state building board created under Section 63A-5b-201~~] executive director of the Department of Government Operations.

(2) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(3) (a) Upon request, the division shall provide staff support to the State Building Ownership Authority.

(b) The State Building Ownership Authority may seek and obtain independent financial advice, support, and information from the state financial advisor created under Section 67-4-16.

Section 39. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the [~~State Building Board~~] Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 40. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

[~~(7) "Building board" means the State Building Board, created in Section 63A-5b-201.~~]

[~~(8)~~] (7) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

[~~(9)~~] (8) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

[~~(10)~~] (9) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

[~~(11)~~] (10) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

[~~(12)~~] (11) "Conservation district" means the same as that term is defined in Section 17D-3-102.

[~~(13)~~] (12) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

[~~(14)~~] (13) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

[~~(15)~~] (14) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

[~~(16)~~] (15) "Contract" means an agreement for a procurement.

[~~(17)~~] (16) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

[~~(18)~~] (17) "Contractor" means a person who is awarded a contract with a procurement unit.

[~~(19)~~] (18) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

[~~(20)~~] (19) "Cooperative purchasing organization" means an organization, association, or alliance of purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

[~~(21)~~] (20) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

[~~(22)~~] (21) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

[~~(23)~~] (22) "Days" means calendar days, unless expressly provided otherwise.

[~~(24)~~] (23) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

[~~(25)~~] (24) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

[~~(26)~~] (25) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

[~~(27)~~] (26) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

[~~(28)~~] (27) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

[~~(29)~~] (28) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

[~~(30)~~] (29) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

[~~(31)~~] (30) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

[~~(32)~~] (31) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

[~~(33)~~] (32) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

[~~(34)~~] (33) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

[~~(35)~~] (34) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

[~~(36)~~] (35) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

[~~(37)~~] (36) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

[~~(38)~~] (37) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(39)~~] (38) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) [~~the building board or~~] the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

[~~(40)~~] (39) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection [~~(40)~~] (39)(a).

[~~(41)~~] (40) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

[~~(42)~~] (41) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

[~~(43)~~] (42) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

[~~(44)~~] (43) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

[~~(45)~~] (44) "Local building authority" means the same as that term is defined in Section 17D-2-102.

[~~(46)~~] (45) "Local district" means the same as that term is defined in Section 17B-1-102.

[~~(47)~~] (46) "Local government procurement unit" means:

(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;

(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or

(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.

[~~(48)~~] (47) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

[~~(49)~~] (48) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

[~~(50)~~] (49) "Municipality" means a city, town, or metro township.

[~~(51)~~] (50) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection [~~(51)~~] (50)(a).

[~~(52)~~] (51) "Offeror" means a person who submits a proposal in response to a request for proposals.

[~~(53)~~] (52) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

[~~(54)~~] (53) "Procure" means to acquire a procurement item through a procurement.

[~~(55)~~] (54) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

[~~(56)~~] (55) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

[~~(57)~~] (56) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

[~~(p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;~~]

[~~(ii)~~] (p) (i) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

[~~(iii)~~] (ii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

[~~(iv)~~] (iii) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

[~~(v)~~] (iv) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

[~~(58)~~] (57) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district;

(xi) a public corporation; and

(b) does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

[~~(59)~~] (58) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

[~~(60)~~] (59) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

[~~(61)~~] (60) "Public corporation" means the same as that term is defined in Section 63E-1-102.

[~~(62)~~] (61) "Public entity" means the state or any other government entity within the state that expends public funds.

[~~(63)~~] (62) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

[~~(64)~~] (63) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[~~(65)~~] (64) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[~~(66)~~] (65) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(67)~~] (66) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

[~~(68)~~] (67) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

[~~(69)~~] (68) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

[~~(70)~~] (69) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

[~~(71)~~] (70) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

[~~(72)~~] (71) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

[~~(73)~~] (72) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(74)~~] (73) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[~~(75)~~] (74) "Responsive" means conforming in all material respects to the requirements of a solicitation.

[~~(76)~~] (75) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

[~~(77)~~] (76) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for [~~the building board or~~] the facilities division, the [~~building board~~] facilities division;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

[~~(78)~~] (77) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[~~(79)~~] (78) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[~~(80)~~] (79) "Sole source contract" means a contract resulting from a sole source procurement.

[~~(81)~~] (80) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[~~(82)~~] (81) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

[~~(83)~~] (82) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

[~~(84)~~] (83) "Special service district" means the same as that term is defined in Section 17D-1-102.

[~~(85)~~] (84) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[~~(86)~~] (85) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

[~~(87)~~] (86) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[~~(88)~~] (87) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[~~(89)~~] (88) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

[~~(90)~~] (89) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

[~~(91)~~] (90) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

[~~(92)~~] (91) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

[~~(93)~~] (92) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

[~~(94)~~] (93) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 41. Section 63G-6a-109 is amended to read:

63G-6a-109. Issuing procurement unit and conducting procurement unit.

(1) With respect to a procurement by an executive branch procurement unit, except for a procurement by an executive branch procurement unit that, under Subsection 63G-6a-103[~~(39)~~](38)(b), (c), (d), or (e), is designated as an independent procurement unit:

(a) the division is the issuing procurement unit; and

(b) the executive branch procurement unit is the conducting procurement unit and is responsible to ensure that the procurement is conducted in compliance with this chapter.

(2) With respect to a procurement by any other procurement unit, the procurement unit is both the issuing procurement unit and the conducting procurement unit.

(3) A conducting procurement unit is responsible for contract administration.

Section 42. Section 63G-6a-204 is amended to read:

63G-6a-204. Applicability of rules of Utah State Procurement Policy Board and Division of Facilities Construction and Management -- Report to interim committee.

(1) Except as provided in Subsection (2), rules made by the board under this chapter shall govern all procurement units for which the board is the rulemaking authority.

(2) The [~~building board~~] facilities division rules governing procurement of construction, design professional services, and leases apply to the procurement of construction, design professional services, and leases of real property by the facilities division.

(3) A rulemaking authority may make its own rules, consistent with this chapter, governing procurement by a person over which the rulemaking authority has rulemaking authority.

(4) The board shall make a report on or before July 1 of each year to a legislative interim committee, designated by the Legislative Management Committee created under Section 36-12-6, on the establishment, implementation, and enforcement of the rules made under Section 63G-6a-203.

Section 43. Section 63G-6a-303 is amended to read:

63G-6a-303. Role, duties, and authority of chief procurement officer.

(1) The chief procurement officer:

(a) is the director of the division;

(b) serves as the central procurement officer of the state;

(c) serves as a voting member of the board; and

(d) serves as the protest officer for a protest relating to a procurement of an executive branch procurement, except an executive branch procurement unit designated under Subsection 63G-6a-103[~~(39)~~](38)(b), (c), (d), or (e) as an independent procurement unit, or a state cooperative contract procurement, unless the chief procurement officer designates another to serve as protest officer, as authorized in this chapter.

(2) Except as otherwise provided in this chapter, the chief procurement officer shall:

(a) develop procurement policies and procedures supporting ethical procurement practices, fair and open competition among vendors, and transparency within the state's procurement process;

(b) administer the state's cooperative purchasing program, including state cooperative contracts and associated administrative fees;

(c) enter into an agreement with a public entity for services provided by the division, if the agreement is in the best interest of the state;

(d) ensure the division's compliance with any applicable law, rule, or policy, including a law, rule, or policy applicable to the division's role as an issuing procurement unit or conducting procurement unit, or as the state's central procurement organization;

(e) manage the division's electronic procurement system;

(f) oversee the recruitment, training, career development, certification requirements, and performance evaluation of the division's procurement personnel;

(g) make procurement training available to procurement units and persons who do business with procurement units;

(h) provide exemplary customer service and continually improve the division's procurement operations;

(i) exercise all other authority, fulfill all other duties and responsibilities, and perform all other functions authorized under this chapter; and

(j) ensure that any training described in this Subsection (2) complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(3) With respect to a procurement or contract over which the chief procurement officer has authority under this chapter, the chief procurement officer, except as otherwise provided in this chapter:

(a) shall:

(i) manage and supervise a procurement to ensure to the extent practicable that taxpayers receive the best value;

(ii) prepare and issue standard specifications for procurement items;

(iii) review contracts, coordinate contract compliance, conduct contract audits, and approve change orders;

(iv) in accordance with Section 63A-16-204, coordinate with the Division of Technology Services, created in Section 63A-16-103, with respect to the procurement of information technology services by an executive branch procurement unit;

(v) correct, amend, or cancel a procurement at any stage of the procurement process if the procurement is out of compliance with this chapter or a board rule;

(vi) after consultation with the attorney general's office, correct, amend, or cancel a contract at any time during the term of the contract if:

(A) the contract is out of compliance with this chapter or a board rule; and

(B) the chief procurement officer determines that correcting, amending, or canceling the contract is in the best interest of the state; and

(vii) make a reasonable attempt to resolve a contract dispute, in coordination with the attorney general's office; and

(b) may:

(i) delegate limited purchasing authority to a state agency, with appropriate oversight and control to ensure compliance with this chapter;

(ii) delegate duties and authority to an employee of the division, as the chief procurement officer considers appropriate;

(iii) negotiate and settle contract overcharges, undercharges, and claims, in accordance with the law and after consultation with the attorney general's office;

(iv) authorize a procurement unit to make a procurement pursuant to a regional solicitation, as defined in Subsection 63G-6a-2105(7), even if the procurement item is also offered under a state cooperative contract, if the chief procurement officer determines that the procurement pursuant to a regional solicitation is in the best interest of the acquiring procurement unit; and

(v) remove an individual from the procurement process or contract administration for:

(A) having a conflict of interest or the appearance of a conflict of interest with a person responding to a solicitation or with a contractor;

(B) having a bias or the appearance of bias for or against a person responding to a solicitation or for or against a contractor;

(C) making an inconsistent or unexplainable score for a solicitation response;

(D) having inappropriate contact or communication with a person responding to a solicitation;

(E) socializing inappropriately with a person responding to a solicitation or with a contractor;

(F) engaging in any other action or having any other association that causes the chief procurement officer to conclude that the individual cannot fairly evaluate a solicitation response or administer a contract; or

(G) any other violation of a law, rule, or policy.

(4) The chief procurement officer may not delegate to an individual outside the division the chief procurement officer's authority over a procurement described in Subsection (3)(a)(iv).

(5) The chief procurement officer has final authority to determine whether an executive branch procurement unit's anticipated expenditure of public funds, anticipated agreement to expend public funds, or provision of a benefit constitutes a procurement that is subject to this chapter.

(6) Except as otherwise provided in this chapter, the chief procurement officer shall review, monitor, and audit the procurement activities and delegated procurement authority of an executive branch procurement unit, except to the extent that an executive branch procurement unit is designated under Subsection 63G-6a-103(39)(b), (c), (d), or (e) as an independent procurement unit, to ensure compliance with this chapter, rules made by the applicable rulemaking authority, and division policies.

Section 44. Section 63G-6a-1302 is amended to read:

63G-6a-1302. Alternative methods of construction contracting management.

(1) A rulemaking authority shall, by rule provide as many alternative methods of construction contracting management as determined to be feasible.

(2) The rules described in Subsection (1) shall:

(a) grant to the procurement official responsible for carrying out the construction project the discretion to select the appropriate method of construction contracting management for a particular project; and

(b) require the procurement official to execute and include in the contract file a written statement describing the facts that led to the selection of a particular method of construction contracting management for each project.

(3) Before choosing a construction contracting management method, the procurement official responsible for carrying out the construction project shall consider the following factors:

(a) when the project must be ready to be occupied;

(b) the type of project;

(c) the extent to which the requirements of the procurement unit, and the way they are to be met are known;

(d) the location of the project;

(e) the size, scope, complexity, and economics of the project;

(f) the source of funding and any resulting constraints necessitated by the funding source;

(g) the availability, qualification, and experience of public personnel to be assigned to the project and the amount of time that the public personnel can devote to the project; and

(h) the availability, qualifications, and experience of outside consultants and contractors to complete the project under the various methods being considered.

(4) A rulemaking authority may make rules that authorize the use of a construction manager/general contractor as one method of construction contracting management.

(5) The rules described in Subsection (2) shall require that:

(a) the construction manager/general contractor be selected using:

(i) a standard procurement process; or

(ii) an exception to the requirement to use a standard procurement process, described in Part 8, Exceptions to Procurement Requirements; and

(b) when entering into a subcontract that was not specifically included in the construction manager/general contractor's cost proposal, the construction manager/general contractor shall procure the subcontractor by using a standard procurement process, or an exception to the requirement to use a standard procurement process, described in Part 8, Exceptions to Procurement Requirements, in the same manner as if the subcontract work was procured directly by the procurement unit.

(6) Procurement rules adopted by the [~~building board~~] facilities division under Subsections (1) through (3) for state building construction projects may authorize the use of a design-build provider as one method of construction contracting management.

(7) A design-build contract may include a provision for obtaining the site for the construction project.

(8) A design-build contract or a construction manager/general contractor contract may include provision by the contractor of operations, maintenance, or financing.

Section 45. Section 63H-6-103 is amended to read:

63H-6-103. Utah State Fair Corporation -- Legal status -- Powers.

(1) There is created an independent public nonprofit corporation known as the "Utah State Fair Corporation."

(2) The board shall file articles of incorporation for the corporation with the Division of Corporations and Commercial Code.

(3) The corporation, subject to this chapter, has all powers and authority permitted nonprofit corporations by law.

(4) The corporation shall:

(a) manage, supervise, and control:

(i) all activities relating to the annual exhibition described in Subsection (4)(j); and

(ii) except as otherwise provided by statute, all state expositions, including setting the time, place, and purpose of any state exposition;

(b) for public entertainment, displays, and exhibits or similar events:

(i) provide, sponsor, or arrange the events;

(ii) publicize and promote the events; and

(iii) secure funds to cover the cost of the exhibits from:

(A) private contributions;

(B) public appropriations;

(C) admission charges; and

(D) other lawful means;

(c) acquire and designate exposition sites;

(d) use generally accepted accounting principles in accounting for the corporation's assets, liabilities, and operations;

(e) seek corporate sponsorships for the state fair park or for individual buildings or facilities within the fair park;

(f) work with county and municipal governments, the Salt Lake Convention and Visitor's Bureau, the Utah Travel Council, and other entities to develop and promote expositions and the use of the state fair park;

(g) develop and maintain a marketing program to promote expositions and the use of the state fair park;

(h) in accordance with provisions of this part, operate and maintain the state fair park, including the physical appearance and structural integrity of the state fair park and the buildings located at the state fair park;

(i) prepare an economic development plan for the state fair park;

(j) hold an annual exhibition that:

(i) is called the state fair or a similar name;

(ii) promotes and highlights agriculture throughout the state;

(iii) includes expositions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah;

(iv) includes the award of premiums for the best specimens of the exhibited articles and animals;

(v) permits competition by livestock exhibited by citizens of other states and territories of the United States; and

(vi) is arranged according to plans approved by the board;

(k) fix the conditions of entry to the annual exhibition described in Subsection (4)(j); and

(l) publish a list of premiums that will be awarded at the annual exhibition described in Subsection (4)(j) for the best specimens of exhibited articles and animals.

(5) In addition to the annual exhibition described in Subsection (4)(j), the corporation may hold other exhibitions of livestock, poultry, agricultural, domestic science, horticultural, floricultural, mineral and industrial products, manufactured articles, and domestic animals that, in the corporation's opinion, will best stimulate agricultural, industrial, artistic, and educational pursuits and the sharing of talents among the people of Utah.

(6) The corporation may:

(a) employ advisers, consultants, and agents, including financial experts and independent legal counsel, and fix their compensation;

(b) (i) participate in the state's Risk Management Fund created under Section 63A-4-201 or any captive insurance company created by the risk manager; or

(ii) procure insurance against any loss in connection with the corporation's property and other assets, including mortgage loans;

(c) receive and accept aid or contributions of money, property, labor, or other things of value from any source, including any grants or appropriations from any department, agency, or instrumentality of the United States or Utah;

(d) hold, use, loan, grant, and apply that aid and those contributions to carry out the purposes of the corporation, subject to the conditions, if any, upon which the aid and contributions were made;

(e) enter into management agreements with any person or entity for the performance of the corporation's functions or powers;

(f) establish whatever accounts and procedures as necessary to budget, receive, and disburse, account for, and audit all funds received, appropriated, or generated;

(g) subject to Subsection (8), lease any of the facilities at the state fair park;

(h) sponsor events as approved by the board; and

(i) enter into one or more agreements to develop the state fair park.

(7) (a) Except as provided in Subsection (7)(c), as an independent agency of Utah, the corporation is exempt from:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Government Operations Code;

(iv) Title 63J, Chapter 1, Budgetary Procedures Act; and

(v) Title 63A, Chapter 17, Utah State Personnel Management Act.

(b) The board shall adopt policies parallel to and consistent with:

(i) Title 51, Chapter 5, Funds Consolidation Act;

(ii) Title 51, Chapter 7, State Money Management Act;

(iii) Title 63A, Utah Government Operations Code; and

(iv) Title 63J, Chapter 1, Budgetary Procedures Act.

(c) The corporation shall comply with:

(i) Title 52, Chapter 4, Open and Public Meetings Act;

(ii) Title 63G, Chapter 2, Government Records Access and Management Act;

(iii) the provisions of Section 67-3-12;

(iv) Title 63G, Chapter 6a, Utah Procurement Code, except for a procurement for:

(A) entertainment provided at the state fair park;

(B) judges for competitive exhibits; or

(C) sponsorship of an event at the state fair park; and

(v) the legislative approval requirements for new facilities established in Section 63A-5b-404.

(8) (a) Before the corporation executes a lease described in Subsection (6)(g) with a term of 10 or more years, the corporation shall:

(i) submit the proposed lease to the [~~State Building Board~~] division for the [~~State Building Board's~~] division's approval or rejection; and

(ii) if the [~~State Building Board~~] division approves the proposed lease, submit the proposed lease to the Executive Appropriations Committee for the Executive Appropriation Committee's review and recommendation in accordance with Subsection (8)(b).

(b) The Executive Appropriations Committee shall review a proposed lease submitted in accordance with Subsection (8)(a) and recommend to the corporation that the corporation:

(i) execute the proposed sublease; or

(ii) reject the proposed sublease.

Section 46. Section 63H-6-108 is amended to read:

63H-6-108. Operation of the state fair park.

(1) The corporation shall:

(a) operate and maintain the state fair park in accordance with the facility maintenance standards approved by the [~~State Building Board~~] division;

(b) pay for all costs associated with operating and maintaining the state fair park;

(c) obtain approval from the division before the corporation commences capital developments or capital improvements on the state fair park that involve:

(i) a construction project that costs more than $250,000; or

(ii) the construction of a new building that costs more than $1,000,000;

(d) obtain a building permit from the division before commencing an activity that requires a building permit;

(e) ensure that:

(i) any design plan related to the state fair park satisfies any applicable design standards established by the division [~~or the State Building Board~~]; and

(ii) construction performed on the state fair park satisfies any applicable construction standards established by the division [~~or the State Building Board~~];

(f) for any new construction project on the state fair park that costs $250,000 or more:

(i) notify the division before commencing the new construction project; and

(ii) coordinate with the division regarding review of design plans and construction management;

(g) obtain approval from the division before the corporation makes any alteration or addition to the water system, heating system, plumbing system, air conditioning system, or electrical system;

(h) obtain approval from the [~~State Building Board~~] division before the corporation demolishes a building or facility on the state fair park;

(i) keep the state fair park fully insured to protect against loss or damage by fire, vandalism, or malicious mischief;

(j) in accordance with Subsection (3), at the corporation's expense, and for the mutual benefit of the division, maintain general public liability insurance in an amount equal to at least $1,000,000 through one or more companies that are:

(i) licensed to do business in the state;

(ii) selected by the corporation; and

(iii) approved by the division and the Division of Risk Management;

(k) ensure that the division is an additional insured with primary coverage on each insurance policy that the corporation obtains in accordance with this section;

(l) give the division notice at least 30 days before the day on which the corporation cancels any insurance policy that the corporation obtains in accordance with this section; and

(m) if any lien is recorded or filed against the state fair park as a result of an act or omission of the corporation, cause the lien to be satisfied or cancelled within 10 days after the day on which the corporation receives notice of the lien.

(2) [~~The State Building Board~~] At least 90 calendar days before demolition work begins, the division shall notify the State Historic Preservation Office of any [~~State Building Board meeting at which the State Building Board will consider approval~~] division plan to demolish a facility on the state fair park.

(3) The general public liability insurance described in Subsection (1)(j) shall:

(a) insure against any claim for personal injury, death, or property damage that occurs at the state fair park; and

(b) be a blanket policy that covers all activities of the corporation.

(4) The division shall administer any capital improvements on the state fair park that cost more than $250,000.

(5) Upon 24 hours notice to the corporation, the division may enter the state fair park to inspect the state fair park and make any repairs that the division determines necessary.

(6) If the corporation no longer operates as an independent public nonprofit corporation as described in this chapter, the state shall assume the responsibilities of the corporation under any contract that is:

(a) in effect as of the day on which the status of the corporation changes; and

(b) for the lease, construction, or development of a building or facility on the state fair park.

(7) (a) A debt or obligation contracted by the corporation is a debt or obligation of the corporation.

(b) The state is not liable and assumes no responsibility for any debt or obligation described in Subsection (7)(a), unless the Legislature expressly:

(i) authorizes the corporation to contract for the debt or obligation; and

(ii) accepts liability or assumes responsibility for the debt or obligation.

(8) The provisions of this section apply notwithstanding any contrary provision in Title 63A, Chapter 5b, Administration of State Facilities.

Section 47. Section 63J-4-401 is amended to read:

63J-4-401. Planning coordinator appointment, functions, and duties.

(1) (a) The executive director shall appoint a planning coordinator to perform the functions and duties stated in this section.

(b) The planning coordinator serves at the pleasure of and under the direction of the executive director.

(2) The planning coordinator shall:

(a) act as the governor's adviser on state, regional, metropolitan, and local governmental planning matters relating to public improvements and land use;

(b) counsel with the authorized representatives of the Department of Transportation, the [~~State Building Board~~] Division of Facilities Construction and Management, the Department of Health, the Department of Workforce Services, the Labor Commission, the Department of Natural Resources, the School and Institutional Trust Lands Administration, and other proper persons concerning all state planning matters;

(c) when designated to do so by the governor, receive funds made available to the state by the federal government;

(d) receive, review, and provide an internet-accessible repository of plans and studies of the various state agencies and political subdivisions relating to public improvements, housing, land use, economic development, transportation infrastructure, water infrastructure, and utility infrastructure;

(e) if a conflict occurs between the plans and proposals of state agencies, prepare specific recommendations for the resolution of the conflict and submit the recommendations to the governor for a decision resolving the conflict;

(f) if a conflict occurs between the plans and proposals of a state agency and a political subdivision or between two or more political subdivisions, advise these entities of the conflict and make specific recommendations for the resolution of the conflict;

(g) act as the governor's planning agent in planning public improvements and land use and, in this capacity, undertake special studies and investigations, participate in cross-jurisdictional planning activities, and, if needed, provide coordination;

(h) provide information and cooperate with the Legislature or any of its committees in conducting planning studies;

(i) cooperate and exchange information with federal agencies and local, metropolitan, or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local programs;

(j) make recommendations to the governor that the planning coordinator considers advisable for the proper development and coordination of plans for state government and political subdivisions;

(k) assist in the interpretation of projections and analyses with respect to future growth needs; and

(l) actively participate in informing the short-term and long-term budgetary needs of the state.

(3) (a) The planning coordinator may:

(i) perform regional and state planning and assist state government planning agencies in performing state planning;

(ii) provide planning assistance to Indian tribes regarding planning for Indian reservations;

(iii) assist city, county, metropolitan, and regional planning agencies in performing local, metropolitan, and regional planning, subject to Subsection (3)(b); and

(iv) conduct, or coordinate with stakeholders to conduct, public meetings or hearings to:

(A) encourage maximum public understanding of and agreement with the factual data and assumptions upon which projections and analyses are based; and

(B) receive suggestions as to the types of projections and analyses that are needed.

(b) In performing the duties described in Subsection (3)(a)(iii), to the extent possible the planning coordinator and any agent or designee of the planning coordinator shall recognize and promote the plans, policies, programs, processes, and desired outcomes of the city, county, metropolitan, or regional planning agency that the planning coordinator or the planning coordinator's agent or designee is assisting.

(4) In assisting in the preparation of plans, policies, programs, or processes related to the management or use of federal lands or natural resources on federal lands in the state, the planning coordinator shall coordinate with the Public Lands Policy Coordinating Office created in Section 63L-11-201.

Section 48. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the [~~State Building Board~~] Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 49. Section 78A-5-111 is amended to read:

78A-5-111. Transfer of court operating responsibilities -- Facilities -- Staff -- Budget.

(1) A county's determination to transfer responsibility for operation of the district court to the state is irrevocable.

(2) (a) Court space suitable for the conduct of judicial business as specified by the Judicial Council shall be provided by the state from appropriations made by the Legislature for these purposes.

(b) The state may, in order to carry out its obligation to provide these facilities, lease space from a county, or reimburse a county for the number of square feet used by the district. Any lease and reimbursement shall be determined in accordance with the standards of the [~~State Building Board~~] Division of Facilities Construction and Management applicable to state agencies generally. A county or municipality terminating a lease with the court shall provide written notice to the Judicial Council at least one year prior to the effective date of the termination.

(c) District courts shall be located in municipalities that are sites for the district court or circuit court as of January 1, 1994. Removal of the district court from the municipality shall require prior legislative approval by joint resolution.

(3) The state shall provide legal reference materials for all district judges' chambers and courtrooms, as required by Judicial Council rule. Maintenance of county law libraries shall be in consultation with the court executive of the district court.

(4) (a) At the request of the Judicial Council, the county or municipality shall provide staff for the district court in county seats or municipalities under contract with the administrative office of the courts.

(b) Payment for necessary expenses shall be by a contract entered into annually between the state and the county or municipality, which shall specifically state the agreed costs of personnel, supplies, and services, as well as the method and terms of payment.

(c) Workload measures prepared by the state court administrator and projected costs for the next fiscal year shall be considered in the negotiation of contracts.

(d) Each May 1 preceding the general session of the Legislature, the county or municipality shall submit a budget request to the Judicial Council, the governor, and the legislative fiscal analyst for services to be rendered as part of the contract under Subsection (4)(b) for the fiscal year immediately following the legislative session. The Judicial Council shall consider this information in developing its budget request. The legislative fiscal analyst shall provide the Legislature with the county's or municipality's original estimate of expenses. By June 15 preceding the state's fiscal year, the county and the state court administrator shall negotiate a contract to cover expenses in accordance with the appropriation approved by the Legislature. The contracts may not include payments for expenses of service of process, indigent defense costs, or other costs or expenses provided by law as an obligation of the county or municipality.

Section 50. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the [~~State Building Board~~] Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 51. Repealer.

This bill repeals:

Section 63A-5b-201, Creation of state building board -- Composition -- Appointment -- Per diem and expenses -- Board officers.

Section 63A-5b-202, State Building Board powers and duties.

Section 63A-5b-203, Meetings of state building board -- Rules of procedure -- Quorum.

Section 52. Effective date.

This bill takes effect on May 4, 2022, except that the amendments to Section 53B-2a-112 (Effective 07/01/22) take effect on July 1, 2022.

CHAPTER 422
S. B. 92

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

PROJECT ENTITY OVERSIGHT MODIFICATIONS

Chief Sponsor: Derrin R. Owens
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions related to the procurement and meeting practices of project entities.

Highlighted Provisions:

This bill:

- defines terms;
- requires project entities to comply with the Open and Public Meetings Act;
- describes situations in which a project entity may close a meeting under the Open and Public Meetings Act; and
- requires project entities to:
  - adopt provisions related to procurement; and
  - comply with provisions of the Utah Procurement Code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-316, as enacted by Laws of Utah 2021, Second Special Session, Chapter 7
11-13-603, as last amended by Laws of Utah 2021, Second Special Session, Chapter 7
52-4-103, as last amended by Laws of Utah 2019, Chapters 25 and 246
52-4-204, as last amended by Laws of Utah 2021, Chapter 217
52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231
63G-6a-103, as last amended by Laws of Utah 2021, Chapters 179, 344, and 345

ENACTS:

63G-6a-107.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-13-316 is amended to read:

11-13-316. Project entity oversight.

(1) Notwithstanding any other provision of law, a project entity is a political subdivision that:

(a) pursuant to Utah Constitution, Article VI, Section 33, is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state; and

(b) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary for the legislative auditor general or the office to fulfill the duties described in Subsection (1)(a).

(2) Subsection (1) takes precedence over Section 36-12-15.

(3) A project entity shall comply with Title 63G, Chapter 6a, Utah Procurement Code, unless the governing board of the project entity adopts policies for procurement that enable the project entity to efficiently fulfill the project entity's responsibilities under the project entity's organization agreement.

(4) If a project entity does not adopt policies for procurement under Subsection (3), then for purposes of Title 63G, Chapter 6a, Utah Procurement Code:

(a) the project entity is a local government procurement unit, as defined in Section 63G-6a-103; and

(b) the governing board is a procurement official, as defined in Section 63G-6a-103.

(5) A project entity shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

Section 2. Section 11-13-603 is amended to read:

11-13-603. Taxed interlocal entity.

(1) Except for purposes of an audit, examination, or review by the Office of the Legislative Auditor General as described in Subsection (8) and notwithstanding any other provision of law:

(a) the use of an asset by a taxed interlocal entity does not constitute the use of a public asset;

(b) a taxed interlocal entity's use of an asset that was a public asset before the taxed interlocal entity's use of the asset does not constitute a taxed interlocal entity's use of a public asset;

(c) an official of a project entity is not a public treasurer; and

(d) a taxed interlocal entity's governing board shall determine and direct the use of an asset by the taxed interlocal entity.

(2) (a) A taxed interlocal entity that is not a project entity is not subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

(b) A project entity is subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code to the extent described in Section 11-13-316.

(3) (a) A taxed interlocal entity is not a participating local entity as defined in Section 67-3-12.

(b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall provide:

(i) the taxed interlocal entity's financial statements for and as of the end of the fiscal year and the prior fiscal year, including:

(A) the taxed interlocal entity's statement of net position as of the end of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses and of cash flows for the fiscal year; or

(B) financial statements that are equivalent to the financial statements described in Subsection (3)(b)(i)(A) and, at the time the financial statements were created, were in compliance with generally accepted accounting principles that are applicable to taxed interlocal entities; and

(ii) the accompanying auditor's report and management's discussion and analysis with respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal year.

(c) The taxed interlocal entity shall provide the information described in Subsection (3)(b) within a reasonable time after the taxed interlocal entity's independent auditor delivers to the taxed interlocal entity's governing board the auditor's report with respect to the financial statements for and as of the end of the fiscal year.

(d) Notwithstanding Subsections (3)(b) and (c) or a taxed interlocal entity's compliance with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

(i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of Finance; and

(ii) the information described in Subsection (3)(b)(i) or (ii) does not constitute public financial information as defined in Section 67-3-12.

(4) (a) A taxed interlocal entity's governing board is not a governing board as defined in Section 51-2a-102.

(b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act.

(5) Notwithstanding any other provision of law, a taxed interlocal entity is not subject to the following provisions:

(a) Part 4, Governance;

(b) Part 5, Fiscal Procedures for Interlocal Entities;

(c) Subsection 11-13-204(1)(a)(i) or (ii)(J);

(d) Subsection 11-13-206(1)(f);

(e) Subsection 11-13-218(5)(a);

(f) Section 11-13-225;

(g) Section 11-13-226; or

(h) Section 53-2a-605.

(6) (a) In addition to having the powers described in Subsection 11-13-204(1)(a)(ii), a taxed interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt, amend, or repeal bylaws, policies, or procedures.

(b) Nothing in Part 4, Governance, or Part 5, Fiscal Procedures for Interlocal Entities, may be construed to limit the power or authority of a taxed interlocal entity.

(7) (a) A governmental law enacted after May 12, 2015, and on or before November 10, 2021, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is a project entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the taxed interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon a taxed interlocal entity."

(b) A governmental law enacted after May 12, 2015, is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity that is an energy services interlocal entity unless the governmental law expressly states the section of governmental law to be applicable to and binding upon the energy services interlocal entity with the following words: "[Applicable section or subsection number] constitutes an exception to Subsection 11-13-603(7)(a) and is applicable to and binding upon an energy services interlocal entity."

(c) Sections 11-13-601 through 11-13-608 constitute an exception to Subsections (7)(a) and (7)(b) and are applicable to and binding upon a taxed interlocal entity.

(8) (a) Notwithstanding any other provision of law, a taxed interlocal entity that is a project entity is a political subdivision that:

(i) pursuant to Utah Constitution, Article VI, Section 33, is subject to the authority of the legislative auditor to conduct audits of any funds, functions, and accounts in any political subdivision of this state; and

(ii) is subject to the requirement to provide the Office of the Legislative Auditor General with all records, documents, and reports necessary of the legislative auditor general or the office to fulfill the duties described in Subsection (8)(a)(i).

(b) Subsection (8)(a) takes precedence over Section 36-12-15.

Section 3. Section 52-4-103 is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) (a) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a

subject over which that public body has jurisdiction or advisory power.

(b) "Convening" does not include the initiation of a routine conversation between members of a board of trustees of a large public transit district if the members involved in the conversation do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

(a) electronic mail;

(b) instant messaging;

(c) electronic chat;

(d) text messaging, as that term is defined in Section 76-4-401; or

(e) any other method that conveys a message or facilitates communication electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

(i) a chance gathering or social gathering;

(ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405; or

(iii) a convening of a three-member board of trustees of a large public transit district as defined in Section 17B-2a-802 if:

(A) the board members do not, during the conversation, take a tentative or final vote on the matter that is the subject of the conversation; or

(B) the conversation pertains only to day-to-day management and operation of the public transit district.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of administrative or operational matters:

(A) for which no formal action by the public body is required; or

(B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

(A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

(B) consists of two or more persons;

(C) expends, disburses, or is supported in whole or in part by tax revenue; and

(D) is vested with the authority to make decisions regarding the public's business; or

(ii) any administrative, advisory, executive, or policymaking body of an association, as that term is defined in Section 53G-7-1101, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity, as that term is defined in Section 53G-7-1101.

(b) "Public body" includes:

(i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103;

(ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102; [~~and~~]

(iii) the Utah Independent Redistricting Commission[~~.~~]; and

(iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

(i) a political party, a political group, or a political caucus;

(ii) a conference committee, a rules committee, or a sifting committee of the Legislature;

(iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;

(iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity; or

(v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:

(A) the Research and General Counsel Subcommittee;

(B) the Budget Subcommittee; and

(C) the Audit Subcommittee.

(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii) or (9)(c)(v).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 4. Section 52-4-204 is amended to read:

52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.

(1) A closed meeting may be held if:

(a) (i) a quorum is present;

(ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and

(iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;

(B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;

(C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; [~~or~~]

(D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint; [~~or~~]

(E) for a project entity that is conducting an open meeting for the purposes of determining the value of an asset, developing a strategy related to the sale or use of that asset;

(F) for a project entity that is conducting an open meeting for purposes of discussing a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(G) for a project entity that is conducting an open meeting for purposes of discussing a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential competitor of, the project entity; or

(b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";

(ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints"; or

(iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, provided that public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint."

(2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.

(3) (a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.

(b) (i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.

(ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.

(4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:

(a) the reason or reasons for holding the closed meeting;

(b) the location where the closed meeting will be held; and

(c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.

(5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.

Section 5. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; [~~and~~]

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system[~~.~~]; and

(g) a meeting of a project entity if:

(i) the purpose of the meeting is to conduct a strategy session to discuss market conditions relevant to a business decision regarding the value of a project entity asset if the terms of the business decision are publicly disclosed before the decision is finalized and a public discussion would:

(A) disclose the appraisal or estimated value of the project entity asset under consideration; or

(B) prevent the project entity from completing on the best possible terms a contemplated transaction concerning the project entity asset;

(ii) the purpose of the meeting is to discuss a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity;

(iii) the purpose of the meeting is to discuss a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or

(iv) failing to close the meeting would prevent the project entity from getting the best price on the market.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 6. Section 63G-6a-103 is amended to read:

63G-6a-103. Definitions.

As used in this chapter:

(1) "Approved vendor" means a person who has been approved for inclusion on an approved vendor list through the approved vendor list process.

(2) "Approved vendor list" means a list of approved vendors established under Section 63G-6a-507.

(3) "Approved vendor list process" means the procurement process described in Section 63G-6a-507.

(4) "Bidder" means a person who submits a bid or price quote in response to an invitation for bids.

(5) "Bidding process" means the procurement process described in Part 6, Bidding.

(6) "Board" means the Utah State Procurement Policy Board, created in Section 63G-6a-202.

(7) "Building board" means the State Building Board, created in Section 63A-5b-201.

(8) "Change directive" means a written order signed by the procurement officer that directs the contractor to suspend work or make changes, as authorized by contract, without the consent of the contractor.

(9) "Change order" means a written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of a contract, upon mutual agreement of the parties to the contract.

(10) "Chief procurement officer" means the individual appointed under Section 63A-2-102.

(11) "Conducting procurement unit" means a procurement unit that conducts all aspects of a procurement:

(a) except:

(i) reviewing a solicitation to verify that it is in proper form; and

(ii) causing the publication of a notice of a solicitation; and

(b) including:

(i) preparing any solicitation document;

(ii) appointing an evaluation committee;

(iii) conducting the evaluation process, except the process relating to scores calculated for costs of proposals;

(iv) selecting and recommending the person to be awarded a contract;

(v) negotiating the terms and conditions of a contract, subject to the issuing procurement unit's approval; and

(vi) contract administration.

(12) "Conservation district" means the same as that term is defined in Section 17D-3-102.

(13) "Construction project":

(a) means a project for the construction, renovation, alteration, improvement, or repair of a public facility on real property, including all services, labor, supplies, and materials for the project; and

(b) does not include services and supplies for the routine, day-to-day operation, repair, or maintenance of an existing public facility.

(14) "Construction manager/general contractor":

(a) means a contractor who enters into a contract:

(i) for the management of a construction project; and

(ii) that allows the contractor to subcontract for additional labor and materials that are not included in the contractor's cost proposal submitted at the time of the procurement of the contractor's services; and

(b) does not include a contractor whose only subcontract work not included in the contractor's cost proposal submitted as part of the procurement of the contractor's services is to meet subcontracted portions of change orders approved within the scope of the project.

(15) "Construction subcontractor":

(a) means a person under contract with a contractor or another subcontractor to provide services or labor for the design or construction of a construction project;

(b) includes a general contractor or specialty contractor licensed or exempt from licensing under Title 58, Chapter 55, Utah Construction Trades Licensing Act; and

(c) does not include a supplier who provides only materials, equipment, or supplies to a contractor or subcontractor for a construction project.

(16) "Contract" means an agreement for a procurement.

(17) "Contract administration" means all functions, duties, and responsibilities associated with managing, overseeing, and carrying out a contract between a procurement unit and a contractor, including:

(a) implementing the contract;

(b) ensuring compliance with the contract terms and conditions by the conducting procurement unit and the contractor;

(c) executing change orders;

(d) processing contract amendments;

(e) resolving, to the extent practicable, contract disputes;

(f) curing contract errors and deficiencies;

(g) terminating a contract;

(h) measuring or evaluating completed work and contractor performance;

(i) computing payments under the contract; and

(j) closing out a contract.

(18) "Contractor" means a person who is awarded a contract with a procurement unit.

(19) "Cooperative procurement" means procurement conducted by, or on behalf of:

(a) more than one procurement unit; or

(b) a procurement unit and a cooperative purchasing organization.

(20) "Cooperative purchasing organization" means an organization, association, or alliance of

purchasers established to combine purchasing power in order to obtain the best value for the purchasers by engaging in procurements in accordance with Section 63G-6a-2105.

(21) "Cost-plus-a-percentage-of-cost contract" means a contract under which the contractor is paid a percentage of the total actual expenses or costs in addition to the contractor's actual expenses or costs.

(22) "Cost-reimbursement contract" means a contract under which a contractor is reimbursed for costs which are allowed and allocated in accordance with the contract terms and the provisions of this chapter, and a fee, if any.

(23) "Days" means calendar days, unless expressly provided otherwise.

(24) "Definite quantity contract" means a fixed price contract that provides for a specified amount of supplies over a specified period, with deliveries scheduled according to a specified schedule.

(25) "Design professional" means:

(a) an individual licensed as an architect under Title 58, Chapter 3a, Architects Licensing Act;

(b) an individual licensed as a professional engineer or professional land surveyor under Title 58, Chapter 22, Professional Engineers and Professional Land Surveyors Licensing Act; or

(c) an individual certified as a commercial interior designer under Title 58, Chapter 86, State Certification of Commercial Interior Designers Act.

(26) "Design professional procurement process" means the procurement process described in Part 15, Design Professional Services.

(27) "Design professional services" means:

(a) professional services within the scope of the practice of architecture as defined in Section 58-3a-102;

(b) professional engineering as defined in Section 58-22-102;

(c) master planning and programming services; or

(d) services within the scope of the practice of commercial interior design, as defined in Section 58-86-102.

(28) "Design-build" means the procurement of design professional services and construction by the use of a single contract.

(29) "Division" means the Division of Purchasing and General Services, created in Section 63A-2-101.

(30) "Educational procurement unit" means:

(a) a school district;

(b) a public school, including a local school board or a charter school;

(c) the Utah Schools for the Deaf and the Blind;

(d) the Utah Education and Telehealth Network;

(e) an institution of higher education of the state described in Section 53B-1-102; or

(f) the State Board of Education.

(31) "Established catalogue price" means the price included in a catalogue, price list, schedule, or other form that:

(a) is regularly maintained by a manufacturer or contractor;

(b) is published or otherwise available for inspection by customers; and

(c) states prices at which sales are currently or were last made to a significant number of any category of buyers or buyers constituting the general buying public for the supplies or services involved.

(32) (a) "Executive branch procurement unit" means a department, division, office, bureau, agency, or other organization within the state executive branch.

(b) "Executive branch procurement unit" does not include the Colorado River Authority of Utah as provided in Section 63M-14-210.

(33) "Facilities division" means the Division of Facilities Construction and Management, created in Section 63A-5b-301.

(34) "Fixed price contract" means a contract that provides a price, for each procurement item obtained under the contract, that is not subject to adjustment except to the extent that:

(a) the contract provides, under circumstances specified in the contract, for an adjustment in price that is not based on cost to the contractor; or

(b) an adjustment is required by law.

(35) "Fixed price contract with price adjustment" means a fixed price contract that provides for an upward or downward revision of price, precisely described in the contract, that:

(a) is based on the consumer price index or another commercially acceptable index, source, or formula; and

(b) is not based on a percentage of the cost to the contractor.

(36) "Grant" means an expenditure of public funds or other assistance, or an agreement to expend public funds or other assistance, for a public purpose authorized by law, without acquiring a procurement item in exchange.

(37) "Immaterial error":

(a) means an irregularity or abnormality that is:

(i) a matter of form that does not affect substance; or

(ii) an inconsequential variation from a requirement of a solicitation that has no, little, or a trivial effect on the procurement process and that is not prejudicial to other vendors; and

(b) includes:

(i) a missing signature, missing acknowledgment of an addendum, or missing copy of a professional license, bond, or insurance certificate;

(ii) a typographical error;

(iii) an error resulting from an inaccuracy or omission in the solicitation; and

(iv) any other error that the procurement official reasonably considers to be immaterial.

(38) "Indefinite quantity contract" means a fixed price contract that:

(a) is for an indefinite amount of procurement items to be supplied as ordered by a procurement unit; and

(b) (i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

(39) "Independent procurement unit" means:

(a) (i) a legislative procurement unit;

(ii) a judicial branch procurement unit;

(iii) an educational procurement unit;

(iv) a local government procurement unit;

(v) a conservation district;

(vi) a local building authority;

(vii) a local district;

(viii) a public corporation;

(ix) a special service district; or

(x) the Utah Communications Authority, established in Section 63H-7a-201;

(b) the building board or the facilities division, but only to the extent of the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities;

(c) the attorney general, but only to the extent of the procurement authority provided under Title 67, Chapter 5, Attorney General;

(d) the Department of Transportation, but only to the extent of the procurement authority provided under Title 72, Transportation Code; or

(e) any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, but only to the extent of that statutory procurement authority.

(40) "Invitation for bids":

(a) means a document used to solicit:

(i) bids to provide a procurement item to a procurement unit; or

(ii) quotes for a price of a procurement item to be provided to a procurement unit; and

(b) includes all documents attached to or incorporated by reference in a document described in Subsection (40)(a).

(41) "Issuing procurement unit" means a procurement unit that:

(a) reviews a solicitation to verify that it is in proper form;

(b) causes the notice of a solicitation to be published; and

(c) negotiates and approves the terms and conditions of a contract.

(42) "Judicial procurement unit" means:

(a) the Utah Supreme Court;

(b) the Utah Court of Appeals;

(c) the Judicial Council;

(d) a state judicial district; or

(e) an office, committee, subcommittee, or other organization within the state judicial branch.

(43) "Labor hour contract" is a contract under which:

(a) the supplies and materials are not provided by, or through, the contractor; and

(b) the contractor is paid a fixed rate that includes the cost of labor, overhead, and profit for a specified number of labor hours or days.

(44) "Legislative procurement unit" means:

(a) the Legislature;

(b) the Senate;

(c) the House of Representatives;

(d) a staff office of the Legislature, the Senate, or the House of Representatives; or

(e) a committee, subcommittee, commission, or other organization:

(i) within the state legislative branch; or

(ii) (A) that is created by statute to advise or make recommendations to the Legislature;

(B) the membership of which includes legislators; and

(C) for which the Office of Legislative Research and General Counsel provides staff support.

(45) "Local building authority" means the same as that term is defined in Section 17D-2-102.

(46) "Local district" means the same as that term is defined in Section 17B-1-102.

(47) "Local government procurement unit" means:

[~~(a) a county or municipality, and each office or agency of the county or municipality, unless the county or municipality adopts its own procurement code by ordinance;~~]

[~~(b) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; or~~]

[~~(c) a county or municipality that has adopted a portion of this chapter by ordinance, to the extent that a term in the ordinance is used in the adopted portion of this chapter, and each office or agency of that county or municipality.~~]

(a) a county, municipality, or project entity, and each office of the county, municipality, or project entity, unless:

(i) the county or municipality adopts a procurement code by ordinance; or

(ii) the project entity adopts a procurement code through the process described in Section 11-13-316;

(b) (i) a county or municipality that has adopted this entire chapter by ordinance, and each office or agency of that county or municipality; and

(ii) a project entity that has adopted this entire chapter through the process described in Subsection 11-13-16; or

(c) a county, municipality, or project entity, and each office of the county, municipality, or project entity that has adopted a portion of this chapter to the extent that:

(i) a term in the ordinance is used in the adopted chapter; or

(ii) a term in the ordinance is used in the language a project entity adopts in its procurement code through the process described in Section 11-13-316.

(48) "Multiple award contracts" means the award of a contract for an indefinite quantity of a procurement item to more than one person.

(49) "Multiyear contract" means a contract that extends beyond a one-year period, including a contract that permits renewal of the contract, without competition, beyond the first year of the contract.

(50) "Municipality" means a city, town, or metro township.

(51) "Nonadopting local government procurement unit" means:

(a) a county or municipality that has not adopted Part 16, Protests, Part 17, Procurement Appeals Board, Part 18, Appeals to Court and Court Proceedings, and Part 19, General Provisions Related to Protest or Appeal; and

(b) each office or agency of a county or municipality described in Subsection (51)(a).

(52) "Offeror" means a person who submits a proposal in response to a request for proposals.

(53) "Preferred bidder" means a bidder that is entitled to receive a reciprocal preference under the requirements of this chapter.

(54) "Procure" means to acquire a procurement item through a procurement.

(55) "Procurement" means the acquisition of a procurement item through an expenditure of public funds, or an agreement to expend public funds, including an acquisition through a public-private partnership.

(56) "Procurement item" means an item of personal property, a technology, a service, or a construction project.

(57) "Procurement official" means:

(a) for a procurement unit other than an independent procurement unit, the chief procurement officer;

(b) for a legislative procurement unit, the individual, individuals, or body designated in a policy adopted by the Legislative Management Committee;

(c) for a judicial procurement unit, the Judicial Council or an individual or body designated by the Judicial Council by rule;

(d) for a local government procurement unit:

(i) the legislative body of the local government procurement unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a local district, the board of trustees of the local district or the board of trustees' designee;

(f) for a special service district, the governing body of the special service district or the governing body's designee;

(g) for a local building authority, the board of directors of the local building authority or the board of directors' designee;

(h) for a conservation district, the board of supervisors of the conservation district or the board of supervisors' designee;

(i) for a public corporation, the board of directors of the public corporation or the board of directors' designee;

(j) for a school district or any school or entity within a school district, the board of the school district or the board's designee;

(k) for a charter school, the individual or body with executive authority over the charter school or the designee of the individual or body;

(l) for an institution of higher education described in Section 53B-2-101, the president of the institution of higher education or the president's designee;

(m) for the State Board of Education, the State Board of Education or the State Board of Education's designee;

(n) for the Utah Board of Higher Education, the Commissioner of Higher Education or the designee of the Commissioner of Higher Education;

(o) for the Utah Communications Authority, established in Section 63H-7a-201, the executive director of the Utah Communications Authority or the executive director's designee; or

(p) (i) for the building board, and only to the extent of procurement activities of the building board as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the building board or the director's designee;

(ii) for the facilities division, and only to the extent of procurement activities of the facilities division as an independent procurement unit under the procurement authority provided under Title 63A, Chapter 5b, Administration of State Facilities, the director of the facilities division or the director's designee;

(iii) for the attorney general, and only to the extent of procurement activities of the attorney general as an independent procurement unit under the procurement authority provided under Title 67, Chapter 5, Attorney General, the attorney general or the attorney general's designee;

(iv) for the Department of Transportation created in Section 72-1-201, and only to the extent of procurement activities of the Department of Transportation as an independent procurement unit under the procurement authority provided under Title 72, Transportation Code, the executive director of the Department of Transportation or the executive director's designee; or

(v) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, and only to the extent of the procurement activities of the department, division, office, or entity as an independent procurement unit under the procurement authority provided outside this chapter for the department, division, office, or entity, the chief executive officer of the department, division, office, or entity or the chief executive officer's designee.

(58) "Procurement unit":

(a) means:

(i) a legislative procurement unit;

(ii) an executive branch procurement unit;

(iii) a judicial procurement unit;

(iv) an educational procurement unit;

(v) the Utah Communications Authority, established in Section 63H-7a-201;

(vi) a local government procurement unit;

(vii) a local district;

(viii) a special service district;

(ix) a local building authority;

(x) a conservation district; and

(xi) a public corporation; and

(b) except for a project entity, to the extent that a project entity is subject to this chapter as described in Section 11-13-316, does not include a political subdivision created under Title 11, Chapter 13, Interlocal Cooperation Act.

(59) "Professional service" means labor, effort, or work that requires specialized knowledge, expertise, and discretion, including labor, effort, or work in the field of:

(a) accounting;

(b) administrative law judge service;

(c) architecture;

(d) construction design and management;

(e) engineering;

(f) financial services;

(g) information technology;

(h) the law;

(i) medicine;

(j) psychiatry; or

(k) underwriting.

(60) "Protest officer" means:

(a) for the division or an independent procurement unit:

(i) the procurement official;

(ii) the procurement official's designee who is an employee of the procurement unit; or

(iii) a person designated by rule made by the rulemaking authority; or

(b) for a procurement unit other than an independent procurement unit, the chief procurement officer or the chief procurement officer's designee who is an employee of the division.

(61) "Project entity" means the same as that term is defined in Section 11-13-103.

[~~(61)~~] (62) "Public corporation" means the same as that term is defined in Section 63E-1-102.

[~~(62)~~] (63) "Public entity" means the state or any other government entity within the state that expends public funds.

[~~(63)~~] (64) "Public facility" means a building, structure, infrastructure, improvement, or other facility of a public entity.

[~~(64)~~] (65) "Public funds" means money, regardless of its source, including from the federal government, that is owned or held by a procurement unit.

[~~(65)~~] (66) "Public transit district" means a public transit district organized under Title 17B, Chapter 2a, Part 8, Public Transit District Act.

[~~(66)~~] (67) "Public-private partnership" means an arrangement or agreement, occurring on or after January 1, 2017, between a procurement unit and one or more contractors to provide for a public need through the development or operation of a project in which the contractor or contractors share with the procurement unit the responsibility or risk of developing, owning, maintaining, financing, or operating the project.

[~~(67)~~] (68) "Qualified vendor" means a vendor who:

(a) is responsible; and

(b) submits a responsive statement of qualifications under Section 63G-6a-410 that meets the minimum mandatory requirements, evaluation criteria, and any applicable score thresholds set forth in the request for statement of qualifications.

[~~(68)~~] (69) "Real property" means land and any building, fixture, improvement, appurtenance, structure, or other development that is permanently affixed to land.

[~~(69)~~] (70) "Request for information" means a nonbinding process through which a procurement unit requests information relating to a procurement item.

[~~(70)~~] (71) "Request for proposals" means a document used to solicit proposals to provide a procurement item to a procurement unit, including all other documents that are attached to that document or incorporated in that document by reference.

[~~(71)~~] (72) "Request for proposals process" means the procurement process described in Part 7, Request for Proposals.

[~~(72)~~] (73) "Request for statement of qualifications" means a document used to solicit information about the qualifications of a person interested in responding to a potential procurement, including all other documents attached to that document or incorporated in that document by reference.

[~~(73)~~] (74) "Requirements contract" means a contract:

(a) under which a contractor agrees to provide a procurement unit's entire requirements for certain procurement items at prices specified in the contract during the contract period; and

(b) that:

(i) does not require a minimum purchase amount; or

(ii) provides a maximum purchase limit.

[~~(74)~~] (75) "Responsible" means being capable, in all respects, of:

(a) meeting all the requirements of a solicitation; and

(b) fully performing all the requirements of the contract resulting from the solicitation, including being financially solvent with sufficient financial resources to perform the contract.

[~~(75)~~] (76) "Responsive" means conforming in all material respects to the requirements of a solicitation.

[~~(76)~~] (77) "Rule" includes a policy or regulation adopted by the rulemaking authority, if adopting a policy or regulation is the method the rulemaking authority uses to adopt provisions that govern the applicable procurement unit.

[~~(77)~~] (78) "Rulemaking authority" means:

(a) for a legislative procurement unit, the Legislative Management Committee;

(b) for a judicial procurement unit, the Judicial Council;

(c) (i) only to the extent of the procurement authority expressly granted to the procurement unit by statute:

(A) for the building board or the facilities division, the building board;

(B) for the Office of the Attorney General, the attorney general;

(C) for the Department of Transportation created in Section 72-1-201, the executive director of the Department of Transportation; and

(D) for any other executive branch department, division, office, or entity that has statutory procurement authority outside this chapter, the governing authority of the department, division, office, or entity; and

(ii) for each other executive branch procurement unit, the board;

(d) for a local government procurement unit:

(i) the governing body of the local government unit; or

(ii) an individual or body designated by the local government procurement unit;

(e) for a school district or a public school, the board, except to the extent of a school district's own nonadministrative rules that do not conflict with the provisions of this chapter;

(f) for a state institution of higher education, the Utah Board of Higher Education;

(g) for the State Board of Education or the Utah Schools for the Deaf and the Blind, the State Board of Education;

(h) for a public transit district, the chief executive of the public transit district;

(i) for a local district other than a public transit district or for a special service district, the board, except to the extent that the board of trustees of the local district or the governing body of the special service district makes its own rules:

(i) with respect to a subject addressed by board rules; or

(ii) that are in addition to board rules;

(j) for the Utah Educational Savings Plan, created in Section 53B-8a-103, the Utah Board of Higher Education;

(k) for the School and Institutional Trust Lands Administration, created in Section 53C-1-201, the School and Institutional Trust Lands Board of Trustees;

(l) for the School and Institutional Trust Fund Office, created in Section 53D-1-201, the School and Institutional Trust Fund Board of Trustees;

(m) for the Utah Communications Authority, established in Section 63H-7a-201, the Utah Communications Authority board, created in Section 63H-7a-203; or

(n) for any other procurement unit, the board.

[~~(78)~~] (79) "Service":

(a) means labor, effort, or work to produce a result that is beneficial to a procurement unit;

(b) includes a professional service; and

(c) does not include labor, effort, or work provided under an employment agreement or a collective bargaining agreement.

[~~(79)~~] (80) "Small purchase process" means the procurement process described in Section 63G-6a-506.

[~~(80)~~] (81) "Sole source contract" means a contract resulting from a sole source procurement.

[~~(81)~~] (82) "Sole source procurement" means a procurement without competition pursuant to a determination under Subsection 63G-6a-802(1)(a) that there is only one source for the procurement item.

[~~(82)~~] (83) "Solicitation" means an invitation for bids, request for proposals, or request for statement of qualifications.

[~~(83)~~] (84) "Solicitation response" means:

(a) a bid submitted in response to an invitation for bids;

(b) a proposal submitted in response to a request for proposals; or

(c) a statement of qualifications submitted in response to a request for statement of qualifications.

[~~(84)~~] (85) "Special service district" means the same as that term is defined in Section 17D-1-102.

[~~(85)~~] (86) "Specification" means any description of the physical or functional characteristics or of the nature of a procurement item included in an invitation for bids or a request for proposals, or otherwise specified or agreed to by a procurement unit, including a description of:

(a) a requirement for inspecting or testing a procurement item; or

(b) preparing a procurement item for delivery.

[~~(86)~~] (87) "Standard procurement process" means:

(a) the bidding process;

(b) the request for proposals process;

(c) the approved vendor list process;

(d) the small purchase process; or

(e) the design professional procurement process.

[~~(87)~~] (88) "State cooperative contract" means a contract awarded by the division for and in behalf of all public entities.

[~~(88)~~] (89) "Statement of qualifications" means a written statement submitted to a procurement unit in response to a request for statement of qualifications.

[~~(89)~~] (90) "Subcontractor":

(a) means a person under contract to perform part of a contractual obligation under the control of the contractor, whether the person's contract is with the contractor directly or with another person who is under contract to perform part of a contractual obligation under the control of the contractor; and

(b) includes a supplier, distributor, or other vendor that furnishes supplies or services to a contractor.

[~~(90)~~] (91) "Technology" means the same as "information technology," as defined in Section 63A-16-102.

[~~(91)~~] (92) "Tie bid" means that the lowest responsive bids of responsible bidders are identical in price.

[~~(92)~~] (93) "Time and materials contract" means a contract under which the contractor is paid:

(a) the actual cost of direct labor at specified hourly rates;

(b) the actual cost of materials and equipment usage; and

(c) an additional amount, expressly described in the contract, to cover overhead and profit, that is not based on a percentage of the cost to the contractor.

[~~(93)~~] (94) "Transitional costs":

(a) means the costs of changing:

(i) from an existing provider of a procurement item to another provider of that procurement item; or

(ii) from an existing type of procurement item to another type;

(b) includes:

(i) training costs;

(ii) conversion costs;

(iii) compatibility costs;

(iv) costs associated with system downtime;

(v) disruption of service costs;

(vi) staff time necessary to implement the change;

(vii) installation costs; and

(viii) ancillary software, hardware, equipment, or construction costs; and

(c) does not include:

(i) the costs of preparing for or engaging in a procurement process; or

(ii) contract negotiation or drafting costs.

[~~(94)~~] (95) "Vendor":

(a) means a person who is seeking to enter into a contract with a procurement unit to provide a procurement item; and

(b) includes:

(i) a bidder;

(ii) an offeror;

(iii) an approved vendor;

(iv) a design professional; and

(v) a person who submits an unsolicited proposal under Section 63G-6a-712.

Section 7. Section 63G-6a-107.5 is enacted to read:

63G-6a-107.5. Application of chapter to project entities.

This chapter applies to a project entity to the extent described in Section 11-13-316.

CHAPTER 423
S. B. 95

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

LIMITATIONS ON EMPLOYER LIABILITY

Chief Sponsor: Derrin R. Owens
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This bill addresses liability of an employer.

Highlighted Provisions:

This bill:

- defines terms;
- addresses liability of an employer for negligently hiring an employee that has been previously convicted of an offense;
- creates a sunset date; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-278, as last amended by Laws of Utah 2020, Chapter 154

ENACTS:

78B-4-518, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-1-278 is amended to read:

63I-1-278. Repeal dates, Title 78A and Title 78B.

(1) Section 78B-3-421, regarding medical malpractice arbitration agreements, is repealed July 1, 2029.

(2) Section 78B-4-518, regarding the limitation on employer liability for an employee convicted of an offense, is repealed on July 1, 2025.

[~~(2)~~] (3) Title 78B, Chapter 6, Part 2, Alternative Dispute Resolution Act, is repealed July 1, 2026.

[~~(3)~~] (4) Title 78B, Chapter 12, Part 4, Advisory Committee, which creates the Child Support Guidelines Advisory Committee, is repealed July 1, 2026.

Section 2. Section 78B-4-518 is enacted to read:

Part 5. Particular Limitations on Liability

78B-4-518. Limitation on liability of employer for employee convicted of offense.

(1) As used in this section:

(a) (i) Except as provided in Subsection (1)(a)(ii), "employee" means an individual whom an employer hired for compensation to perform services.

(ii) "Employee" does not include an independent contractor as defined in Subsection 34A-2-103(2)(b).

(b) "Employer" means a person, including the state and any political subdivision of the state, that employs one or more employees and is engaged in an industry or business related to:

(i) automotive repair and maintenance;

(ii) construction;

(iii) culinary arts;

(iv) manufacturing;

(v) oil, gas, or mining;

(vi) retail sale of goods or services; or

(vii) transportation of freight, merchandise, or other property by a commercial vehicle.

(2) A cause of action may not be brought against an employer for negligently hiring an employee based solely on evidence that the employee has been previously convicted in this state or in another jurisdiction of an offense.

(3) Subsection (2) does not preclude a cause of action for negligent hiring of an employee if the employer knew, or should have known, about the employee's prior conviction and due to the employee's prior conviction:

(a) the employer violated state or federal law by hiring or continuing to employ the employee; or

(b) the employer's hiring of the employee constitutes willful misconduct or gross negligence.

(4) The protections provided to an employer under this section do not apply in a cause of action concerning the misuse of funds or property of a person other than the employer if:

(a) on the date that the employee was hired by the employer, the employee had been previously convicted of an offense that includes fraud or the misuse of funds as an element of the offense; and

(b) it was foreseeable that the position for which the employee was hired would involve duties in managing funds or property.

(5) Section 63G-7-301 does not waive any immunity provided under this section for an employer that is a governmental entity or an employee of a governmental entity as those terms are defined in Section 63G-7-102.

(6) This section does not:

(a) create a cause of action; or

(b) expand an existing cause of action.

CHAPTER 424
S. B. 97

Passed February 9, 2022
Approved March 24, 2022
Effective May 4, 2022

SOLID AND HAZARDOUS WASTE AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Steven J. Lund

LONG TITLE

General Description:

This bill modifies provisions regarding commercial nonhazardous solid waste treatment, storage, or disposal facilities.

Highlighted Provisions:

This bill:

- amends definitions to provide that a facility that receives only waste from the exploration or production of oil and gas is not considered a commercial nonhazardous solid waste treatment, storage, or disposal facility; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-102, as last amended by Laws of Utah 2020, Chapter 256

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-102 is amended to read:

19-6-102. Definitions.

As used in this part:

(1) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the facility or site.

(3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or disposal.

(b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility" does not include a commercial facility that:

(i) receives waste for recycling;

(ii) receives waste to be used as fuel, in compliance with federal and state requirements; [~~or~~]

(iii) is solely under contract with a local government within the state to dispose of nonhazardous solid waste generated within the boundaries of the local government[~~.~~]; or

(iv) receives only waste from the exploration and production of oil and gas.

(4) "Construction waste or demolition waste":

(a) means waste from building materials, packaging, and rubble resulting from construction, demolition, remodeling, and repair of pavements, houses, commercial buildings, and other structures, and from road building and land clearing; and

(b) does not include:

(i) asbestos;

(ii) contaminated soils or tanks resulting from remediation or cleanup at a release or spill;

(iii) waste paints;

(iv) solvents;

(v) sealers;

(vi) adhesives; or

(vii) hazardous or potentially hazardous materials similar to that described in Subsections (4)(b)(i) through (vi).

(5) "Director" means the director of the Division of Waste Management and Radiation Control.

(6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid or hazardous waste into or on land or water so that the waste or any constituent of the waste may enter the environment, be emitted into the air, or discharged into any waters, including groundwaters.

(7) "Division" means the Division of Waste Management and Radiation Control, created in Subsection 19-1-105(1)(d).

(8) "Generation" or "generated" means the act or process of producing nonhazardous solid or hazardous waste.

(9) (a) "Hazardous waste" means a solid waste or combination of solid wastes other than household waste that, because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

(b) "Hazardous waste" does not include those wastes listed in 40 C.F.R. Sec. 261.4(b).

(10) "Health facility" means a:

(a) hospital;

(b) psychiatric hospital;

(c) home health agency;

(d) hospice;

(e) skilled nursing facility;

(f) intermediate care facility;

(g) intermediate care facility for people with an intellectual disability;

(h) residential health care facility;

(i) maternity home or birthing center;

(j) free standing ambulatory surgical center;

(k) facility owned or operated by a health maintenance organization;

(l) state renal disease treatment center, including a free standing hemodialysis unit;

(m) the office of a private physician or dentist whether for individual or private practice;

(n) veterinary clinic; or

(o) mortuary.

(11) "Household waste" means any waste material, including garbage, trash, and sanitary wastes in septic tanks, derived from households, including single-family and multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

(12) "Infectious waste" means a solid waste that contains or may reasonably be expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by a susceptible host could result in an infectious disease.

(13) "Manifest" means the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage.

(14) "Mixed waste" means material that is a hazardous waste as defined in this chapter and is also radioactive as defined in Section 19-3-102.

(15) "Modification request" means a request under Section 19-6-108 to modify a permitted facility or site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste.

(16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan" means a plan or approval under Section 19-6-108, including:

(a) a plan to own, construct, or operate a facility or site for the purpose of transferring, treating, or disposing of nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

(b) a closure plan;

(c) a modification request; or

(d) an approval that the director is authorized to issue.

(17) "Permit" includes an operation plan.

(18) "Permittee" means a person who is obligated under an operation plan.

(19) (a) "Solid waste" means garbage, refuse, sludge, including sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, or agricultural operations and from community activities.

(b) "Solid waste" does not include solid or dissolved materials in domestic sewage or in irrigation return flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality Act, or under the Water Pollution Control Act, 33 U.S.C. Sec. 1251 et seq.

(c) "Solid waste" does not include metal that is:

(i) purchased as a valuable commercial commodity; and

(ii) not otherwise hazardous waste or subject to conditions of the federal hazardous waste regulations, including the requirements for recyclable materials found at 40 C.F.R. 261.6.

(20) "Solid waste management facility" means the same as that term is defined in Section 19-6-502.

(21) "Storage" means the actual or intended containment of solid or hazardous waste either on a temporary basis or for a period of years in such a manner as not to constitute disposal of the waste.

(22) (a) "Transfer" means the collection of nonhazardous solid waste from a permanent, fixed, supplemental collection facility for movement to a vehicle for movement to an offsite nonhazardous solid waste storage or disposal facility.

(b) "Transfer" does not mean:

(i) the act of moving nonhazardous solid waste from one location to another location on the site where the nonhazardous solid waste is generated; or

(ii) placement of nonhazardous solid waste on the site where the nonhazardous solid waste is generated in preparation for movement off that site.

(23) "Transportation" means the off-site movement of solid or hazardous waste to any intermediate point or to any point of storage, treatment, or disposal.

(24) "Treatment" means a method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid or hazardous waste so as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for recovery, amenable to storage, or reduced in volume.

(25) "Underground storage tank" means a tank that is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.

CHAPTER 425
S. B. 100

Passed March 2, 2022
Approved March 24, 2022
Effective July 1, 2022

PAID LEAVE MODIFICATIONS

Chief Sponsor: Todd D. Weiler
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill requires certain state employers to offer paid parental leave.

Highlighted Provisions:

This bill:

- defines terms;
- requires certain state employers to provide certain employees paid parental leave upon:
  - the birth of the employee's child;
  - the adoption of a minor child; or
  - the appointment of legal guardianship of a minor child or incapacitated adult;
- requires the Department of Human Resource Management to adopt rules to administer parental leave; and
- allows the Department of Government Operations to transfer certain money for the costs of parental leave.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to the Department of Government Operations -- Finance Mandated Paid Parental Leave -- Paid Parental Leave, as ongoing appropriation:
  - from the General Fund, $1,752,200.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63A-17-511, as renumbered and amended by Laws of Utah 2021, Chapter 344
63J-1-206, as last amended by Laws of Utah 2021, Chapters 22 and 344

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63A-17-511 is amended to read:

63A-17-511. Parental leave -- Postpartum recovery leave.

(1) As used in this section:

(a) "Parental leave" means leave hours a state employer provides to a parental leave eligible employee.

[~~(a) "Eligible~~] (b) "Parental leave eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

[~~(iv) gives birth to a child.~~]

(iv) (A) is a birth parent as defined in Section 78B-6-103;

(B) legally adopts a minor child, unless the individual is the spouse of the pre-existing parent;

(C) is the intended parent of a child born under a validated gestational agreement in accordance with Title 78B, Chapter 15, Part 8, Gestational Agreement; or

(D) is appointed the legal guardian of a minor child or incapacitated adult.

[~~(b)~~] (c) "Postpartum recovery leave" means leave hours a state employer provides to [~~an~~] a postpartum recovery leave eligible employee to recover from childbirth.

[~~(c)~~] (d) "Retaliatory action" means to do any of the following to an employee:

(i) dismiss the employee;

(ii) reduce the employee's compensation;

(iii) fail to increase the employee's compensation by an amount that the employee is otherwise entitled to or was promised;

(iv) fail to promote the employee if the employee would have otherwise been promoted; or

(v) threaten to take an action described in Subsections (1)[~~(c)~~](d)(i) through (iv).

(e) "Postpartum recovery leave eligible employee" means an employee who:

(i) is in a position that receives retirement benefits under Title 49, Utah State Retirement and Insurance Benefit Act;

(ii) accrues paid leave benefits that can be used in the current and future calendar years;

(iii) is not reemployed as defined in Section 49-11-1202; and

(iv) gives birth to a child.

[~~(d)~~] (f) (i) "State employer" means:

(A) a state executive branch agency, including the State Tax Commission, the National Guard, and the Board of Pardons and Parole;

(B) the legislative branch of the state; or

(C) the judicial branch of the state.

(ii) "State employer" does not include:

(A) an institute of higher education;

(B) the Utah Board of Higher Education;

(C) the State Board of Education;

(D) an independent entity as defined in Section 63E-1-102;

(E) the Attorney General's Office;

(F) the State Auditor's Office; or

(G) the State Treasurer's Office.

(g) "Qualified employee" means:

(i) a parental leave eligible employee; or

(ii) a postpartum leave eligible employee.

(2) (a) Except as provided in [~~Subsection (3), a state employer shall allow an eligible employee to use up to 120 hours of paid postpartum recovery leave based on a 40-hour work week for recovery from childbirth.~~] Subsections (4) and (5), a state employer shall:

(i) allow a parental leave eligible employee to use up to three work weeks of paid parental leave for:

(A) the birth of the parental leave eligible employee's child;

(B) the adoption of a minor child; or

(C) the appointment of legal guardianship of a minor child or incapacitated adult; and

(ii) allow a postpartum recovery leave eligible employee to use up to three work weeks of paid postpartum recovery leave for recovery from childbirth.

(b) A state employer shall allow [~~an eligible~~] a qualified employee who is part-time or who works in excess of a 40-hour work week or its equivalent to use the amount of parental leave or postpartum recovery leave available to the [~~eligible~~] qualified employee under this section on a pro rata basis as adopted by rule by the division under Subsection [~~(11)~~] (12).

(3) (a) Parental leave described in Subsection (2)(a)(i):

(i) may not be used before the day on which:

(A) the parental leave eligible employee's child is born;

(B) the parental leave eligible employee adopts a minor child; or

(C) the parental leave eligible employee is appointed legal guardian of a minor child or incapacitated adult;

(ii) may not be used more than six months after the date described in Subsection (3)(a)(i);

(iii) may not be used intermittently, unless:

(A) by mutual written agreement between the state employer and the parental leave eligible employee; or

(B) a health care provider certifies that intermittent leave is medically necessary due to a serious health condition of the child;

(iv) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

(v) runs consecutively to postpartum recovery leave.

(b) The amount of parental leave authorized under Subsection (2)(a)(i) does not increase if a parental leave eligible employee:

(i) has more than one child born from the same pregnancy;

(ii) adopts more than one minor child; or

(iii) is appointed legal guardian of more than one minor child or incapacitated adult.

(c) A parental leave eligible employee may not use more than three work weeks of paid parental leave within a single 12-month period, regardless of whether during that 12-month period the parental leave eligible employee:

(i) becomes the parent of more than one child;

(ii) adopts more than one minor child; or

(iii) is appointed legal guardian of more than one minor child or incapacitated adult.

[~~(3)~~] (4) (a) Postpartum recovery leave described in Subsection (2)(a)(ii):

(i) shall be used starting on the day on which the postpartum recovery leave eligible employee gives birth, unless a health care provider certifies that an earlier start date is medically necessary;

(ii) shall be used in a single continuous period; [~~and~~]

(iii) runs concurrently with any leave authorized under the Family and Medical Leave Act of 1993, 29 U.S.C. Sec. 2601 et seq.; and

(iv) runs consecutively to parental leave.

(b) The amount of postpartum recovery leave authorized under Subsection (2)(a)(ii) does not increase if [~~an~~] a postpartum recovery leave eligible employee has more than one child born from the same pregnancy.

[~~(4)~~] (5) (a) Except as provided in Subsection [~~(4)~~] (5)(b), [~~an eligible~~] a qualified employee shall give the state employer notice at least 30 days before the day on which the [~~eligible~~] qualified employee plans to:

(i) begin using parental leave or postpartum recovery leave under this section; and

(ii) stop using postpartum recovery leave under this section.

(b) If circumstances beyond the [~~eligible~~] qualified employee's control prevent the [~~eligible~~] qualified employee from giving notice in accordance with Subsection [~~(4)~~] (5)(a), the [~~eligible~~] qualified employee shall give each notice described in Subsection [~~(4)~~] (5)(a) as soon as reasonably practicable.

[~~(5) A~~] (6) Except as provided in Subsections (3)(a)(iv) and (4)(a)(iii), a state employer may not charge parental leave or postpartum recovery leave under this section against sick, annual, compensatory, excess, or other leave a qualified employee is entitled to.

[~~(6)~~] (7) A state employer may not compensate [~~an eligible~~] a qualified employee for any unused parental leave or postpartum recovery leave upon termination of employment.

[~~(7)~~] (8) (a) Following the expiration of [~~an eligible~~] a qualified employee's parental leave or postpartum recovery leave under this section, the state employer shall ensure that the [~~eligible~~] qualified employee may return to:

(i) the position that the [~~eligible~~] qualified employee held before using parental leave or postpartum recovery leave; or

(ii) a position within the state employer that is equivalent in seniority, status, benefits, and pay to the position that the [~~eligible~~] qualified employee held before using parental leave or postpartum recovery leave.

(b) If during the time [~~an eligible~~] a qualified employee uses parental leave or postpartum recovery leave under this section the state employer experiences a reduction in force and, as part of the reduction in force, the [~~eligible~~] qualified employee would have been separated had the [~~eligible~~] qualified employee not been using the parental leave or postpartum recovery leave, the state employer may separate the [~~eligible~~] qualified employee in accordance with any applicable process or procedure as if the [~~eligible~~] qualified employee were not using the parental leave or postpartum recovery leave.

[~~(8)~~] (9) During the time [~~an eligible~~] a qualified employee uses parental leave or postpartum recovery leave under this section, the [~~eligible~~] qualified employee shall continue to receive all employment related benefits and payments at the same level that the [~~eligible~~] qualified employee received immediately before beginning the parental leave or postpartum leave, provided that the [~~eligible~~] qualified employee pays any required employee contributions.

[~~(9)~~] (10) A state employer may not:

(a) interfere with or otherwise restrain [~~an eligible~~] a qualified employee from using parental leave or postpartum recovery leave in accordance with this section; or

(b) take retaliatory action against [~~an eligible~~] a qualified employee for using parental leave or postpartum recovery leave in accordance with this section.

[~~(10)~~] (11) A state employer shall provide each employee written information regarding [~~an eligible~~] a qualified employee's right to use parental leave or postpartum recovery leave under this section.

[~~(11)~~] (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall, [~~by~~] on or before July 1, [~~2021~~] 2022, make rules for the use and administration of parental leave and postpartum recovery leave under this section, including a schedule that provides paid parental leave or postpartum recovery leave for [~~an eligible~~] a qualified employee who is part-time or who works in excess of a 40-hour work week on a pro rata basis.

Section 2. Section 63J-1-206 is amended to read:

63J-1-206. Appropriations governed by chapter -- Restrictions on expenditures -- Transfer of funds -- Exclusion.

(1) (a) Except as provided in Subsections (1)(b) and (2)(e), or where expressly exempted in the appropriating act:

(i) all money appropriated by the Legislature is appropriated upon the terms and conditions set forth in this chapter; and

(ii) any department, agency, or institution that accepts money appropriated by the Legislature does so subject to the requirements of this chapter.

(b) This section does not apply to:

(i) the Legislature and its committees; and

(ii) the Investigation Account of the Water Resources Construction Fund, which is governed by Section 73-10-8.

(2) (a) Each item of appropriation is to be expended subject to any schedule of programs and any restriction attached to the item of appropriation, as designated by the Legislature.

(b) Each schedule of programs or restriction attached to an appropriation item:

(i) is a restriction or limitation upon the expenditure of the respective appropriation made;

(ii) does not itself appropriate any money; and

(iii) is not itself an item of appropriation.

(c) (i) An appropriation or any surplus of any appropriation may not be diverted from any department, agency, institution, division, or line item to any other department, agency, institution, division, or line item.

(ii) If the money appropriated to an agency to pay lease payments under the program established in Section 63A-5b-703 exceeds the amount required for the agency's lease payments to the Division of Facilities Construction and Management, the agency may:

(A) transfer money from the lease payments line item to other line items within the agency; and

(B) retain and use the excess money for other purposes.

(iii) The executive director of the Department of Human Services may transfer unrestricted General Fund money appropriated to the department between line items within the department in accordance with Section 62A-1-111.6.

(d) The money appropriated subject to a schedule of programs or restriction may be used only for the purposes authorized.

(e) In order for a department, agency, or institution to transfer money appropriated to it from one program to another program, the department, agency, or institution shall revise its budget execution plan as provided in Section 63J-1-209.

(f) (i) The procedures for transferring money between programs within a line item as provided by Subsection (2)(e) do not apply to money appropriated to the State Board of Education for the Minimum School Program or capital outlay programs created in Title 53F, Chapter 3, State Funding -- Capital Outlay Programs.

(ii) The state superintendent may transfer money appropriated for the programs specified in Subsection (2)(f)(i) only as provided by Section 53F-2-205.

(3) Notwithstanding Subsection (2)(c)(i):

(a) the state superintendent may transfer money appropriated for the Minimum School Program between line items in accordance with Section 53F-2-205; and

(b) the Department of Government Operations may transfer money appropriated for the purpose of paying the costs of paid employee parental leave and postpartum recovery leave under Section 63A-17-511 to another department, agency, institution, or division.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Government Operations -- Finance Mandated Paid Postpartum Recovery and Parental Leave

From General Fund, Ongoing	$1,752,200
Schedule of Programs:	
Paid Postpartum Recovery and Parental Leave	$1,752,200

The Legislature intends that the Department of Government Operations use the appropriation under this item to offset incremental costs associated with hiring a replacement employee, the payment of overtime to a current employee, or other labor-related costs due to an employee utilizing parental leave or postpartum recovery leave under Section 63A-17-511. Any unexpended funds remaining at the end of each fiscal year lapses to the General Fund.

Section 4. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 426
S. B. 102

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

WIRELESS COMMUNICATION DEVICE USE IN A MOTOR VEHICLE

Chief Sponsor: Chris H. Wilson
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill amends provisions related to the use of a wireless communication device while operating a motor vehicle.

Highlighted Provisions:

This bill:

- amends definitions;
- prohibits an individual from using a wireless communication device to view or take a photograph while operating a moving motor vehicle;
- modifies provisions related to suspending an individual's driver license upon a conviction of using a wireless communication device while operating a moving motor vehicle;
- modifies the conduct that constitutes automobile homicide involving using a wireless communication device while operating a moving motor vehicle; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

41-6a-1716, as last amended by Laws of Utah 2021, Chapter 232
53-3-218, as last amended by Laws of Utah 2021, Chapter 120
53-3-402, as last amended by Laws of Utah 2015, Chapters 52 and 422
76-5-207.5, as last amended by Laws of Utah 2012, Chapter 193
80-6-712, as enacted by Laws of Utah 2021, Chapter 261
80-6-804, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-6a-1716 is amended to read:

41-6a-1716. Prohibition on using a wireless communication device while operating a motor vehicle -- Exceptions -- Penalties.

(1) As used in this section:

[~~(a) "Handheld wireless communication device" means a handheld device used for the transfer of information without the use of electrical conductors or wires.~~]

[~~(b) "Handheld wireless communication device" includes a:~~]

[~~(i) wireless telephone;~~]

[~~(ii) text messaging device;~~]

[~~(iii) laptop; or~~]

[~~(iv) any substantially similar communication device that is readily removable from the vehicle and is used to write, send, or read text or data through manual input.~~]

[~~(c) "Handheld wireless communication device" does not include a two-way radio device described in 47 C.F.R. Part 90, 95, or 97.~~]

(a) "Wireless communication device" means:

(i) a cellular phone;

(ii) a portable telephone;

(iii) a text messaging device;

(iv) a personal digital assistant;

(v) a stand-alone computer, including a tablet, laptop, or notebook computer;

(vi) a global positioning receiver;

(vii) a device used to display a video, movie, broadcast television image, or visual image; or

(viii) a substantially similar communication device used to initiate or receive communication, information, or data.

(b) "Wireless communication device" does not include a two-way radio device described in 47 C.F.R. Part 90, 95, or 97, or a functional equivalent.

(2) Except as provided in Subsection (3), [~~a person~~] an individual may not use a [~~handheld~~] wireless communication device while operating a moving motor vehicle on a highway in this state to manually:

[~~(a) write, send, or read a written communication, including:~~]

[~~(i) a text message;~~]

[~~(ii) an instant message; or~~]

[~~(iii) electronic mail;~~]

[~~(b) dial a phone number;~~]

[~~(c) access the Internet;~~]

[~~(d) view or record video; or~~]

[~~(e) enter data into a handheld wireless communication device.~~]

(a) (i) write or send a written communication, including:

(A) a text message;

(B) an instant message; or

(C) electronic mail;

(ii) dial a phone number;

(iii) access the internet;

(iv) record video;

(v) take a photograph; or

(vi) enter data into a wireless communication device;

(b) read a written communication, including:

(i) a text message;

(ii) an instant message; or

(iii) electronic mail; or

(c) view a video or photograph.

(3) Subsection (2) does not prohibit [~~a person~~] an individual from using a [~~handheld~~] wireless communication device while operating a moving motor vehicle:

(a) when using a [~~handheld~~] wireless communication device for voice communication;

(b) to view a global positioning or navigation device or a global positioning or navigation application;

(c) during a medical emergency;

(d) when reporting a safety hazard or requesting assistance relating to a safety hazard;

(e) when reporting criminal activity or requesting assistance relating to a criminal activity;

(f) when used by a law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment; or

(g) to operate:

(i) hands-free or voice operated technology; or

(ii) a system that is physically or electronically integrated into the motor vehicle.

(4) [~~A person~~] An individual convicted of a violation of this section is guilty of a:

(a) class C misdemeanor with a maximum fine of $100; or

(b) class B misdemeanor if the [~~person~~] individual:

(i) has also inflicted serious bodily injury upon another as a proximate result of using a [~~handheld~~] wireless communication device in violation of this section while operating a moving motor vehicle on a highway in this state; or

(ii) has a prior conviction under this section, that is within three years of:

(A) the current conviction under this section; or

(B) the commission of the offense upon which the current conviction is based.

Section 2. Section 53-3-218 is amended to read:

53-3-218. Court to report convictions and may recommend suspension of license -- Severity of speeding violation defined.

(1) As used in this section, "conviction" means conviction by the court of first impression or final administrative determination in an administrative traffic proceeding.

(2) (a) Except as provided in Subsection (2)(c), a court having jurisdiction over offenses committed under this chapter or any other law of this state, or under any municipal ordinance regulating driving motor vehicles on highways or driving motorboats on the water, shall forward to the division within five days, an abstract of the court record of the conviction or plea held in abeyance of any person in the court for a reportable traffic or motorboating violation of any laws or ordinances, and may recommend the suspension of the license of the person convicted.

(b) When the division receives a court record of a conviction or plea in abeyance for a motorboat violation, the division may only take action against a person's driver license if the motorboat violation is for a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(c) A court may not forward to the division an abstract of a court record of a conviction for a violation described in Subsection 53-3-220(1)(c)(i) or (ii), unless the court found that the person convicted of the violation was an operator of a motor vehicle at the time of the violation.

(3) (a) A court may not order the division to suspend a person's driver license based solely on the person's failure to pay a penalty accounts receivable.

(b) The court may notify the division, and the division may, prior to sentencing, suspend the driver license of a person who fails to appear if the person is charged with:

(i) an offense of any level that is a moving traffic violation;

(ii) an offense described in Title 41, Chapter 12a, Part 3, Owner's or Operator's Security Requirement; or

(iii) an offense described in Subsection 53-3-220(1)(a) or (b).

(4) The abstract shall be made in the form prescribed by the division and shall include:

(a) the name, date of birth, and address of the party charged;

(b) the license certificate number of the party charged, if any;

(c) the registration number of the motor vehicle or motorboat involved;

(d) whether the motor vehicle was a commercial motor vehicle;

(e) whether the motor vehicle carried hazardous materials;

(f) whether the motor vehicle carried 16 or more occupants;

(g) whether the driver presented a commercial driver license;

(h) the nature of the offense;

(i) whether the offense involved an accident;

(j) the driver's blood alcohol content, if applicable;

(k) if the offense involved a speeding violation:

(i) the posted speed limit;

(ii) the actual speed; and

(iii) whether the speeding violation occurred on a highway that is part of the interstate system as defined in Section 72-1-102;

(l) the date of the hearing;

(m) the plea;

(n) the judgment or whether bail was forfeited; and

(o) the severity of the violation, which shall be graded by the court as "minimum," "intermediate," or "maximum" as established in accordance with Subsection 53-3-221(4).

(5) When a convicted person secures a judgment of acquittal or reversal in any appellate court after conviction in the court of first impression, the division shall reinstate the convicted person's license immediately upon receipt of a certified copy of the judgment of acquittal or reversal.

(6) Upon a conviction for a violation of the prohibition on using a [~~handheld~~] wireless communication device [~~for text messaging or electronic mail communication~~] while operating a moving motor vehicle under Section 41-6a-1716, a judge may order a suspension of the convicted person's license for a period of three months.

(7) Upon a conviction for a violation of careless driving under Section 41-6a-1715 that causes or results in the death of another person, a judge may order a revocation of the convicted person's license for a period of one year.

Section 3. Section 53-3-402 is amended to read:

53-3-402. Definitions.

As used in this part:

(1) "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propanol, and isopropanol.

(2) "Alcohol concentration" means the number of grams of alcohol per:

(a) 100 milliliters of blood;

(b) 210 liters of breath; or

(c) 67 milliliters of urine.

(3) "Commercial driver license information system" or "CDLIS" means the information system established under Title XII, Pub. L. 99-570, the Commercial Motor Vehicle Safety Act of 1986, as a clearinghouse for information related to the licensing and identification of commercial motor vehicle drivers.

(4) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substance Act, 21 U.S.C. 802(6), and includes all substances listed on the current Schedules I through V of 21 C.F.R., Part 1308 as they may be revised from time to time.

(5) "Employee" means any driver of a commercial motor vehicle, including:

(a) full-time, regularly employed drivers;

(b) casual, intermittent, or occasional drivers;

(c) leased drivers; and

(d) independent, owner-operator contractors while in the course of driving a commercial motor vehicle who are either directly employed by or under lease to an employer.

(6) "Employer" means any individual or person including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns an individual to drive a commercial motor vehicle.

(7) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term of more than one year.

(8) "Foreign jurisdiction" means any jurisdiction other than the United States or a state of the United States.

(9) "Gross vehicle weight rating" or "GVWR" means the value specified by the manufacturer as the maximum loaded weight of a single vehicle or GVWR of a combination or articulated vehicle, and includes the GVWR of the power unit plus the total weight of all towed units and the loads on those units.

(10) "Hazardous material" has the same meaning as defined under 49 C.F.R. Sec. 383.5.

(11) "Imminent hazard" means the existence of a condition, practice, or violation that presents a substantial likelihood that death, serious illness, severe personal injury, or a substantial endangerment to health, property, or the environment is expected to occur immediately, or before the condition, practice, or violation can be abated.

(12) "Medical certification status" means the medical certification of a commercial driver license holder or commercial motor vehicle operator in any of the following categories:

(a) Non-excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce;

(ii) is both subject to and meets the qualification requirements under 49 C.F.R. Part 391; and

(iii) is required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(b) Excepted interstate. A person shall certify that the person:

(i) operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 C.F.R. Sec. 390.3(f), 391.2, 391.68, or 398.3 from all or parts of the qualification requirements of 49 C.F.R. Part 391; and

(ii) is not required to obtain a medical examiner's certificate under 49 C.F.R. Sec. 391.45.

(c) Non-excepted intrastate. A person shall certify that the person:

(i) operates only in intrastate commerce; and

(ii) is subject to state driver qualification requirements under Sections 53-3-303.5, 53-3-304, and 53-3-414.

(d) Excepted intrastate. A person shall certify that the person:

(i) operates in intrastate commerce; and

(ii) engages exclusively in transportation or operations excepted from all parts of the state driver qualification requirements.

(13) "NDR" means the National Driver Register.

(14) "Nonresident CDL" means a commercial driver license issued by a state to an individual who resides in a foreign jurisdiction.

(15) "Out-of-service order" means a temporary prohibition against driving a commercial motor vehicle.

(16) "Port-of-entry agent" has the same meaning as provided in Section 72-1-102.

(17) "Serious traffic violation" means a conviction of any of the following:

(a) speeding 15 or more miles per hour above the posted speed limit;

(b) reckless driving as defined by state or local law;

(c) improper or erratic traffic lane changes;

(d) following the vehicle ahead too closely;

(e) any other motor vehicle traffic law which arises in connection with a fatal traffic accident;

(f) operating a commercial motor vehicle without a CDL or a CDIP;

(g) operating a commercial motor vehicle without the proper class of CDL or CDL endorsement for the type of vehicle group being operated or for the passengers or cargo being transported;

(h) operating a commercial motor vehicle without a CDL or CDIP license certificate in the driver's possession in violation of Section 53-3-404;

(i) using a [~~handheld~~] wireless communication device in violation of Section 41-6a-1716 while operating a commercial motor vehicle; or

(j) using a hand-held mobile telephone while operating a commercial motor vehicle in violation of 49 C.F.R. Sec. 392.82.

(18) "State" means a state of the United States, the District of Columbia, any province or territory of Canada, or Mexico.

(19) "United States" means the 50 states and the District of Columbia.

Section 4. Section 76-5-207.5 is amended to read:

76-5-207.5. Automobile homicide involving using a wireless communication device while operating a motor vehicle.

(1) As used in this section:

(a) "Criminally negligent" means criminal negligence as defined [~~by~~] in Subsection 76-2-103(4).

[~~(b) "Handheld wireless communication device" has the same meaning as defined in Section 41-6a-1716.~~]

[~~(c)~~] (b) "Motor vehicle" means any self-propelled vehicle [~~and includes any~~], including an automobile, truck, van, motorcycle, train, engine, watercraft, or aircraft.

[~~(d)~~] (c) "Negligent" means [~~simple negligence,~~] the failure to exercise [~~that~~] the degree of care that a reasonable and prudent [~~persons exercise under like or~~] person exercises under similar circumstances.

(d) "Wireless communication device" means the same as that term is defined in Section 41-6a-1716.

(2) Criminal homicide is automobile homicide, a third degree felony, if the person operates a moving motor vehicle in a negligent manner:

(a) while using a [~~handheld~~] wireless communication device in violation of Section 41-6a-1716; and

(b) causing the death of another person.

(3) Criminal homicide is automobile homicide, a second degree felony, if the person operates a moving motor vehicle in a criminally negligent manner:

(a) while using a [~~handheld~~] wireless communication device in violation of Section 41-6a-1716; and

(b) causing the death of another person.

Section 5. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of a qualifying relative or guardian, or at an independent living program contracted or operated by the division.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) In accordance with Section 80-6-711 and Subsections (1) and (2), the juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation, or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) community or compensatory service hours have not been completed;

(iv) there is an outstanding fine; or

(v) there is a failure to pay restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court may extend supervision for no more than three months.

(7) If the juvenile court extends supervision under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(8) For a minor who is under the continuing jurisdiction of the juvenile court and whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only be extended as intake probation.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving [~~handheld~~] using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 6. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving [~~a handheld~~] using a wireless communication device while operating a motor vehicle;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section 76-1-601, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section 76-1-601; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously committed to the division for secure care.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

CHAPTER 427
S. B. 111

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

PERMANENT COMMUNITY IMPACT FUND BOARD AMENDMENTS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This bill addresses the Permanent Community Impact Fund Board.

Highlighted Provisions:

This bill:

- modifies the membership of the Permanent Community Impact Fund Board (impact board);
- designates the member appointed by the governor who resides in a rural county as the chair of the impact board;
- describes the responsibilities of the chair of the impact board;
- requires the majority vote of a quorum of the impact board to take action;
- directs the Department of Workforce Services to provide staff support to the impact board; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-8-304, as last amended by Laws of Utah 2020, Chapters 352 and 373

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-8-304 is amended to read:

35A-8-304. Permanent Community Impact Fund Board created -- Members -- Terms -- Chair -- Expenses.

(1) There is created within the department the Permanent Community Impact Fund Board composed of 11 members as follows:

[~~(a) the chair of the Board of Water Resources or the chair's designee;~~]

[~~(b) the chair of the Water Quality Board or the chair's designee;~~]

[~~(c) the director of the department or the director's designee;~~]

[~~(d)~~] (a) the state treasurer or the state treasurer's designee;

[~~(e)~~] (b) the chair of the Transportation Commission or the chair's designee;

(c) the executive director of the Governor's Office of Planning and Budget or the executive director's designee;

[~~(f)~~] (d) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;

[~~(g)~~] (e) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne County;

[~~(h)~~] (f) a locally elected official who resides in Duchesne, Daggett, or Uintah County;

[~~(i)~~] (g) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane County; [~~and~~]

[~~(j) a locally elected official from each of the two counties that produced the most mineral lease money during the previous four-year period, prior to the term of appointment, as determined by the department.~~]

(h) a locally elected official from the county that:

(i) produced the most mineral lease money related to oil extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and

(ii) does not already have a representative on the impact board;

(i) a locally elected official from the county that:

(i) produced the most mineral lease money related to natural gas extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and

(ii) does not already have a representative on the impact board;

(j) a locally elected official from the county that:

(i) produced the most mineral lease money related to coal extraction during the four-year period immediately preceding the term of appointment, as determined by the department at the end of each term; and

(ii) does not already have a representative on the impact board; and

(k) an individual who resides in a county of the third, fourth, fifth, or sixth class, appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(2) (a) The members specified under Subsections [~~(1)(f)~~] (1)(d) through (j) may not reside in the same county and shall be:

(i) nominated by the Board of Directors of the Southeastern Association of Local Governments, the Six County Association of Governments, the Uintah Basin Association of Governments, and the Five County Association of Governments, respectively, except that [~~a member under Subsection (1)(j)~~] the members specified under Subsections (1)(h) through (j) shall be nominated by the Board of Directors of the Association of Governments from the region of the state in which the county is located; and

(ii) appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) Except as required by Subsection (2)(c), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(d) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(3) The terms of office for the members [~~of the impact board~~] specified under Subsections (1)(a) through [~~(1)(e)~~] (c) shall run concurrently with the [~~terms~~] term of office for the [~~councils, boards, committees, commission, departments, or offices~~] commission, department, or office from which [~~the members come~~] each member comes.

[~~(4) The executive director of the department, or the executive director's designee, is the chair of the impact board.~~]

(4) (a) The member specified under Subsection (1)(k) is the chair of the impact board.

(b) The chair of the impact board is responsible for the call and conduct of meetings.

(5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(6) A member described in Subsections [~~(1)(f) through (j)~~] (1)(d) through (k) shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(7) (a) A majority of the members of the impact board constitutes a quorum.

(b) Action by a majority vote of a quorum of the impact board constitutes action by the impact board.

(8) The department shall provide staff support to the impact board.

CHAPTER 428
S. B. 115

Passed February 22, 2022
Approved March 24, 2022
Effective May 4, 2022

FIREARM PREEMPTION AMENDMENTS

Chief Sponsor: Chris H. Wilson
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill addresses the Legislature's preemption of the field of firearm regulation for the state.

Highlighted Provisions:

This bill:

- defines terms;
- clarifies preemption of the field of firearms regulation;
- creates the Firearms Preemption Enforcement Act;
- outlines exceptions and violations of legislative firearm preemption;
- provides for civil action and remedies for a violation of legislative firearm preemption;
- addresses governmental immunity; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-5a-102, as last amended by Laws of Utah 2013, Chapter 278

63G-7-301, as last amended by Laws of Utah 2020, Chapters 288, 338, and 365

76-10-500, as enacted by Laws of Utah 1999, Chapter 5

ENACTS:

53-5a-103.5, Utah Code Annotated 1953

78B-6-2301, Utah Code Annotated 1953

78B-6-2302, Utah Code Annotated 1953

78B-6-2303, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53-5a-102 is amended to read:

53-5a-102. Uniform firearm laws.

(1) As used in this section:

(a) "Ammunition" means the same as that term is defined in Section 53-5d-102.

(b) "Dangerous weapon" means the same as that term is defined in Section 76-10-501.

(c) "Firearm" means:

(i) a pistol, revolver, shotgun, short barreled shotgun, rifle or short barreled rifle, or a device that could be used as a dangerous weapon from which is expelled a projectile by action of an explosive;

(ii) ammunition; and

(iii) a firearm accessory.

(d) "Firearm accessory" means the same as that term is defined in Section 53-5b-103.

(e) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.

(f) "Short barreled shotgun" or "short barreled rifle" means the same as that term is defined in Section 76-10-501.

(g) "Shotgun" means the same as that term is defined in Section 76-10-501.

[~~(1)~~] (2) The individual right to keep and bear arms being a constitutionally protected right under Article I, Section 6 of the Utah Constitution and the Second Amendment to the United States Constitution, the Legislature finds the need to provide uniform civil and criminal firearm laws throughout the state and declares that the Legislature occupies the whole field of state regulation of firearms.

[~~(2)~~] (3) Except as specifically provided by state law, a local [~~authority~~] or state governmental entity may not:

(a) prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping a firearm at the individual's place of residence, property, business, or in any vehicle lawfully in the individual's possession or lawfully under the individual's control; or

(b) require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm.

[~~(3)~~] (4) In conjunction with Title 76, Chapter 10, Part 5, Weapons, this section is uniformly applicable throughout this state and in all [~~its~~] the state's political subdivisions [~~and municipalities~~].

[~~(4) All authority~~] (5) Authority to regulate firearms is reserved to the state except where the Legislature specifically delegates responsibility to local [~~authorities~~] or state governmental entities.

[~~(5)~~] (6) Unless specifically authorized by the Legislature by statute, a local [~~authority or state entity~~] or state governmental entity may not enact, establish, or enforce any ordinance, regulation, rule, or policy pertaining to firearms that in any way inhibits or restricts the possession, ownership, purchase, sale, transfer, transport, or use of firearms on either public or private property.

[~~(6) As used in this section:~~]

[~~(a) "firearm" has the same meaning as defined in Section 76-10-501; and~~]

[~~(b) "local authority or state entity" includes public school districts, public schools, and state institutions of higher education.~~]

[~~(7) Nothing in this section restricts or expands~~]

(7) This section does not restrict or expand private property rights.

(8) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm Preemption Enforcement Act.

Section 2. Section 53-5a-103.5 is enacted to read:

53-5a-103.5. Firearm regulation in homeless shelters.

(1) As used in this section:

(a) (i) "Homeless shelter" means a permanent or temporary facility operated or owned by a local or state governmental entity that provides temporary shelter to homeless individuals and has the capacity to provide temporary shelter to at least 10 individuals per night.

(ii) "Homeless shelter" does not include a permanent or temporary facility operated by a local or state governmental entity that provides temporary shelter to individuals displaced due to a disaster or under a state of emergency.

(b) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.

(2) (a) Except as provided in Subsection (2)(b) and subject to Subsection (3), a local or state governmental entity may prohibit the possession of a firearm within a homeless shelter over which the local or state government entity exercises authority.

(b) A local or state governmental entity may not prohibit the possession of a firearm on the grounds outside of a homeless shelter.

(3) If a local or state governmental entity prohibits the possession of a firearm under Subsection (2), the local or state governmental entity shall:

(a) display readily visible signage at all public entrances of the homeless shelter indicating that firearms are not permitted inside the homeless shelter;

(b) (i) provide a means of detecting a firearm at all public entrances to the homeless shelter; and

(ii) ensure an individual is physically present at a public entrance to the homeless shelter when the public entrance to the homeless shelter is in use;

(c) provide secure storage for a firearm while an individual is inside the homeless shelter; and

(d) prohibit the collection of information about a firearm that is stored at the homeless shelter, including taking a photograph of the firearm or recording the serial number of the firearm.

(4) A stored firearm in a homeless shelter that is abandoned for more than seven days by the owner of the firearm may be relinquished by the homeless shelter to a law enforcement agency for disposal.

Section 3. Section 63G-7-301 is amended to read:

63G-7-301. Waivers of immunity.

(1) (a) Immunity from suit of each governmental entity is waived as to any contractual obligation.

(b) Actions arising out of contractual rights or obligations are not subject to the requirements of Section 63G-7-401, 63G-7-402, 63G-7-403, or 63G-7-601.

(c) The Division of Water Resources is not liable for failure to deliver water from a reservoir or associated facility authorized by Title 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of water is due to drought, other natural condition, or safety condition that causes a deficiency in the amount of available water.

(2) Immunity from suit of each governmental entity is waived:

(a) as to any action brought to recover, obtain possession of, or quiet title to real or personal property;

(b) as to any action brought to foreclose mortgages or other liens on real or personal property, to determine any adverse claim on real or personal property, or to obtain an adjudication about any mortgage or other lien that the governmental entity may have or claim on real or personal property;

(c) as to any action based on the negligent destruction, damage, or loss of goods, merchandise, or other property while it is in the possession of any governmental entity or employee, if the property was seized for the purpose of forfeiture under any provision of state law;

(d) subject to Subsection 63G-7-302(1), as to any action brought under the authority of Utah Constitution, Article I, Section 22, for the recovery of compensation from the governmental entity when the governmental entity has taken or damaged private property for public uses without just compensation;

(e) subject to Subsection 63G-7-302(2), as to any action brought to recover attorney fees under Sections 63G-2-405 and 63G-2-802;

(f) for actual damages under Title 67, Chapter 21, Utah Protection of Public Employees Act;

(g) as to any action brought to obtain relief from a land use regulation that imposes a substantial burden on the free exercise of religion under Title 63L, Chapter 5, Utah Religious Land Use Act;

(h) except as provided in Subsection 63G-7-201(3), as to any injury caused by:

(i) a defective, unsafe, or dangerous condition of any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them; or

(ii) any defective or dangerous condition of a public building, structure, dam, reservoir, or other public improvement;

(i) subject to Subsections 63G-7-101(4) and 63G-7-201(4), as to any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment; [~~and~~]

(j) notwithstanding Subsection 63G-7-101(4), as to a claim for an injury resulting from a sexual battery, as provided in Section 76-9-702.1, committed:

(i) against a student of a public elementary or secondary school, including a charter school; and

(ii) by an employee of a public elementary or secondary school or charter school who:

(A) at the time of the sexual battery, held a position of special trust, as defined in Section 76-5-404.1, with respect to the student;

(B) is criminally charged in connection with the sexual battery; and

(C) the public elementary or secondary school or charter school knew or in the exercise of reasonable care should have known, at the time of the employee's hiring, to be a sex offender, as defined in Section 77-41-102, required to register under Title 77, Chapter 41, Sex and Kidnap Offender Registry, whose status as a sex offender would have been revealed in a background check under Section 53G-11-402[~~.~~]; and

(k) as to any action brought under Section 78B-6-2303.

(3) (a) As used in this Subsection (3):

(i) "Code of conduct" means a code of conduct that:

(A) is not less stringent than a model code of conduct, created by the State Board of Education, establishing a professional standard of care for preventing the conduct described in Subsection (3)(a)(i)(D);

(B) is adopted by the applicable local education governing body;

(C) regulates behavior of a school employee toward a student; and

(D) includes a prohibition against any sexual conduct between an employee and a student and against the employee and student sharing any sexually explicit or lewd communication, image, or photograph.

(ii) "Local education agency" means:

(A) a school district;

(B) a charter school; or

(C) the Utah Schools for the Deaf and the Blind.

(iii) "Local education governing board" means:

(A) for a school district, the local school board;

(B) for a charter school, the charter school governing board; or

(C) for the Utah Schools for the Deaf and the Blind, the state board.

(iv) "Public school" means a public elementary or secondary school.

(v) "Sexual abuse" means the offense described in Subsection 76-5-404.1(2).

(vi) "Sexual battery" means the offense described in Section 76-9-702.1, considering the term "child" in that section to include an individual under age 18.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim against a local education agency for an injury resulting from a sexual battery or sexual abuse committed against a student of a public school by a paid employee of the public school who is criminally charged in connection with the sexual battery or sexual abuse, unless:

(i) at the time of the sexual battery or sexual abuse, the public school was subject to a code of conduct; and

(ii) before the sexual battery or sexual abuse occurred, the public school had:

(A) provided training on the code of conduct to the employee; and

(B) required the employee to sign a statement acknowledging that the employee has read and understands the code of conduct.

(4) (a) As used in this Subsection (4):

(i) "Higher education institution" means an institution included within the state system of higher education under Section 53B-1-102.

(ii) "Policy governing behavior" means a policy adopted by a higher education institution or the Utah Board of Higher Education that:

(A) establishes a professional standard of care for preventing the conduct described in Subsections (4)(a)(ii)(C) and (D);

(B) regulates behavior of a special trust employee toward a subordinate student;

(C) includes a prohibition against any sexual conduct between a special trust employee and a subordinate student; and

(D) includes a prohibition against a special trust employee and subordinate student sharing any sexually explicit or lewd communication, image, or photograph.

(iii) "Sexual battery" means the offense described in Section 76-9-702.1.

(iv) "Special trust employee" means an employee of a higher education institution who is in a position of special trust, as defined in Section 76-5-404.1, with a higher education student.

(v) "Subordinate student" means a student:

(A) of a higher education institution; and

(B) whose educational opportunities could be adversely impacted by a special trust employee.

(b) Notwithstanding Subsection 63G-7-101(4), immunity from suit is waived as to a claim for an injury resulting from a sexual battery committed against a subordinate student by a special trust employee, unless:

(i) the institution proves that the special trust employee's behavior that otherwise would constitute a sexual battery was:

(A) with a subordinate student who was at least 18 years old at the time of the behavior; and

(B) with the student's consent; or

(ii) (A) at the time of the sexual battery, the higher education institution was subject to a policy governing behavior; and

(B) before the sexual battery occurred, the higher education institution had taken steps to implement and enforce the policy governing behavior.

Section 4. Section 76-10-500 is amended to read:

76-10-500. Uniform law.

(1) As used in this section:

(a) "Directive" means the same as that term is defined in Section 78B-6-2301.

(b) "Firearm" means the same as that term is defined in Section 53-5a-102.

(c) "Local or state governmental entity" means the same as that term is defined in Section 78B-6-2301.

[~~(1)~~] (2) The individual right to keep and bear arms being a constitutionally protected right under Article I, Section 6, of the Utah Constitution and the Second Amendment to the United States Constitution, the Legislature finds the need to provide uniform civil and criminal laws throughout the state and declares that the Legislature occupies the whole field of state regulation of firearms.

(3) Except as specifically provided by state law, [~~a citizen of the United States or a lawfully admitted alien shall not be~~] a local or state governmental entity may not:

(a) [~~prohibited~~] prohibit an individual from owning, possessing, purchasing, selling, transferring, transporting, or keeping any firearm at [~~his~~] the individual's place of residence, property, business, or in any vehicle lawfully in [~~his~~] the individual's possession or lawfully under [~~his~~] the individual's control; or

(b) [~~required~~] require an individual to have a permit or license to purchase, own, possess, transport, or keep a firearm.

[~~(2)~~] (4) This part is uniformly applicable throughout this state and in all [~~its~~] the state's political subdivisions [~~and municipalities. All authority~~].

(5) Authority to regulate firearms [~~shall be~~] is reserved to the state except where the Legislature specifically delegates responsibility to local [~~authorities~~] or state governmental entities.

(6) Unless specifically authorized by the Legislature by statute, a local [~~authority~~] or state governmental entity may not enact or enforce [~~any ordinance, regulation, or rule~~] a directive pertaining to firearms that in any way inhibits or restricts the possession, ownership, purchase, sale, transfer, transport, or use of firearms on either public or private property.

(7) This part does not restrict or expand private property rights.

(8) A violation of this section is subject to Title 78B, Chapter 6, Part 23, Firearm Preemption Enforcement Act.

Section 5. Section 78B-6-2301 is enacted to read:

Part 23. Firearm Preemption Enforcement Act.

78B-6-2301. Definitions.

As used in this part:

(1) "Directive" means an ordinance, regulation, measure, rule, enactment, order, or policy issued, enacted, or required by a local or state governmental entity.

(2) "Firearm" means the same as that term is defined in Section 53-5a-102.

(3) "Legislative firearm preemption" means the preemption provided for in Sections 53-5a-102 and 76-10-500.

(4) "Local or state governmental entity" means:

(a) a department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state, including the Utah Board of Higher Education, each institution of higher education, and the boards of trustees of each higher education institution; or

(b) a county, city, town, metro township, local district, local education agency, public school, school district, charter school, special service district under Title 17D, Chapter 1, Special Service District Act, an entity created by interlocal cooperation agreement under Title 11, Chapter 13, Interlocal Cooperation Act, or any other governmental entity designated in statute as a political subdivision of the state.

Section 6. Section 78B-6-2302 is enacted to read:

78B-6-2302. Violation of legislative preemption -- Exceptions.

(1) A local or state governmental entity may not enact or enforce a directive that violates legislative firearm preemption.

(2) This part does not prohibit the enactment or enforcement of a directive:

(a) by a law enforcement agency if the directive pertains to a firearm issued to or used by a peace officer in the course of the peace officer's official duties;

(b) by a correctional facility or mental health facility under Section 76-8-311.3;

(c) of judicial administration if the directive establishes a secure courthouse;

(d) by the State Tax Commission if the directive establishes a secure area within a State Tax Commission facility; or

(e) by a local or state governmental entity if the directive is developed in response to and in accordance with legislative authority.

Section 7. Section 78B-6-2303 is enacted to read:

78B-6-2303. Civil action -- Injunction -- Damages -- Immunity.

(1) A person who is harmed by a local or state governmental entity that makes or causes to be enforced a directive in violation of legislative firearm preemption may submit a written communication to the local or state governmental entity that harmed the person asking the local or state governmental entity that harmed the person to rescind or repeal the directive.

(2) (a) If a local or state governmental entity fails to rescind or repeal a directive within 30 days after the day on which the local or state governmental entity receives a request described in Subsection (1), the person who submitted the request may file suit against the local or state governmental entity that failed to rescind or repeal the directive.

(b) The suit described in Subsection (2)(a) may be filed in any court of this state having jurisdiction over the local or state governmental entity that failed to rescind or repeal the directive in accordance with Title 63G, Chapter 7, Governmental Immunity Act of Utah.

(3) If the court determines that the local or state governmental entity that failed to rescind or repeal the directive violated legislative firearm preemption, the court shall:

(a) order that the relevant directive is void;

(b) prohibit the local or state governmental entity that failed to rescind or repeal the void directive from enforcing the void directive; and

(c) award to the prevailing party:

(i) actual damages, which includes the cost of time in bringing the civil action or defending against the action;

(ii) reasonable attorney fees and costs in accordance with the laws of this state; and

(iii) interest on the sums awarded under this Subsection (3) accrued at the legal rate from the date on which the suit is filed.

CHAPTER 429
S. B. 119

Passed February 23, 2022
Approved March 24, 2022
Effective May 4, 2022

PRECONSTRUCTION AND CONSTRUCTION LIENS AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill modifies provisions related to preconstruction and construction liens.

Highlighted Provisions:

This bill:

- modifies definitions related to preconstruction and constructions liens, including definitions of the terms "owner" and "project property";
- modifies and clarifies when preconstruction and construction liens attach to certain property interests; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

38-1a-102, as last amended by Laws of Utah 2019, Chapter 250
38-1a-301, as renumbered and amended by Laws of Utah 2012, Chapter 278
38-1a-506, as renumbered and amended by Laws of Utah 2012, Chapter 278

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 38-1a-102 is amended to read:

38-1a-102. Definitions.

As used in this chapter:

(1) "Alternate means" means a method of filing a legible and complete notice or other document with the registry other than electronically, as established by the division by rule.

(2) "Anticipated improvement" means [~~the~~] an improvement:

(a) for which preconstruction service is performed; and

(b) that is anticipated to follow the performing of preconstruction service.

(3) "Applicable county recorder" means the office of the recorder of each county in which any part of the property on which a claimant claims or intends to claim a preconstruction or construction lien is located.

(4) "Bona fide loan" means a loan to an owner or owner-builder by a lender in which the owner or owner-builder has no financial or beneficial interest greater than 5% of the voting shares or other ownership interest.

(5) "Claimant" means a person entitled to claim a preconstruction or construction lien.

(6) "Compensation" means the payment of money for a service rendered or an expense incurred, whether based on:

(a) time and expense, lump sum, stipulated sum, percentage of cost, cost plus fixed or percentage fee, or commission; or

(b) a combination of the bases listed in Subsection (6)(a).

(7) "Construction lender" means a person who makes a construction loan.

(8) "Construction lien" means a lien under this chapter for construction work.

(9) "Construction loan" does not include a consumer loan secured by the equity in [~~the~~] a consumer's home.

(10) "Construction project" means an improvement that is constructed pursuant to an original contract.

(11) "Construction work":

(a) means labor, service, material, or equipment provided for the purpose and during the process of constructing, altering, or repairing an improvement; and

(b) includes scheduling, estimating, staking, supervising, managing, materials testing, inspection, observation, and quality control or assurance involved in constructing, altering, or repairing an improvement.

(12) "Contestable notice" means a notice of preconstruction service under Section 38-1a-401, a preliminary notice under Section 38-1a-501, or a notice of completion under Section 38-1a-506.

(13) "Contesting person" means an owner, original contractor, subcontractor, or other interested person.

(14) "Designated agent" means the third party the division contracts with as provided in Section 38-1a-202 to create and maintain the registry.

(15) "Division" means the Division of Occupational and Professional Licensing created in Section 58-1-103.

(16) "Entry number" means the reference number that:

(a) the designated agent assigns to each notice or other document filed with the registry; and

(b) is unique for each notice or other document.

(17) "Final completion" means:

(a) the date of issuance of a permanent certificate of occupancy by the local government entity having jurisdiction over [~~the~~] a construction project, if a permanent certificate of occupancy is required;

(b) the date of the final inspection of [~~the~~] construction work by the local government entity having jurisdiction over [~~the~~] a construction project, if an inspection is required under a state-adopted building code applicable to the construction work, but no certificate of occupancy is required;

(c) unless the owner is holding payment to ensure completion of construction work, the date on which there remains no substantial work to be completed to finish the construction work under the original contract, if a certificate of occupancy is not required and a final inspection is not required under an applicable state-adopted building code; or

(d) the last date on which substantial work was performed under the original contract, if, because the original contract is terminated before completion of the construction work defined by the original contract, the local government entity having jurisdiction over [~~the~~] a construction project does not issue a certificate of occupancy or perform a final inspection.

(18) "Final lien waiver" means a form that complies with Subsection 38-1a-802(4)(c).

(19) "First preliminary notice filing" means a preliminary notice that:

(a) is the earliest preliminary notice filed on [~~the~~] a construction project for which the preliminary notice is filed;

(b) is filed on a construction project that, at the time the preliminary notice is filed, has not reached final completion; and

(c) is not [~~cancelled~~] canceled under Section 38-1a-307.

(20) "Government project-identifying information" has the same meaning as defined in Section 38-1b-102.

(21) "Improvement" means:

(a) a building, infrastructure, utility, or other human-made structure or object constructed on or for and affixed to real property; or

(b) a repair, modification, or alteration of a building, infrastructure, utility, or object referred to in Subsection (21)(a).

(22) "Interested person" means a person that may be affected by a construction project.

(23) "Notice of commencement" means a notice required under Section 38-1b-201 for a government project[~~,~~] as defined in Section 38-1b-102.

(24) "Original contract":

(a) means a contract between an owner and an original contractor for preconstruction service or construction work; and

(b) does not include a contract between an owner-builder and another person.

(25) "Original contractor" means a person, including an owner-builder, that contracts with an owner to provide preconstruction service or construction work.

(26) "Owner" means [~~the person that owns the project property~~] a person who possesses an interest in a project property and contracts with an original contractor for preconstruction service or construction work.

(27) "Owner-builder" means an owner, including an owner who is also an original contractor, who:

(a) contracts with one or more other persons for preconstruction service or construction work for an improvement on the owner's real property; and

(b) obtains a building permit for the improvement.

(28) "Preconstruction lien" means a lien under this chapter for a preconstruction service.

(29) "Preconstruction service":

(a) means to plan or design, or to assist in the planning or design of, an improvement or a proposed improvement:

(i) before construction of the improvement commences; and

(ii) for compensation separate from any compensation paid or to be paid for construction work for the improvement; and

(b) includes consulting, conducting a site investigation or assessment, programming, preconstruction cost or quantity estimating, preconstruction scheduling, performing a preconstruction construction feasibility review, procuring construction services, and preparing a study, report, rendering, model, boundary or topographic survey, plat, map, design, plan, drawing, specification, or contract document.

(30) "Private project" means a construction project that is not a government project.

(31) "Project property" means the real property interest on or for which preconstruction service or construction work is or will be provided.

(32) "Registry" means the State Construction Registry under Part 2, State Construction Registry.

(33) "Required notice" means:

(a) a notice of preconstruction service under Section 38-1a-401;

(b) a preliminary notice under Section 38-1a-501 or Section 38-1b-202;

(c) a notice of commencement;

(d) a notice of construction loan under Section 38-1a-601;

(e) a notice under Section 38-1a-602 concerning a construction loan default;

(f) a notice of intent to obtain final completion under Section 38-1a-506; or

(g) a notice of completion under Section 38-1a-507.

(34) "Subcontractor" means a person that contracts to provide preconstruction service or construction work to:

(a) a person other than the owner; or

(b) the owner, if the owner is an owner-builder.

(35) "Substantial work" does not include repair work or warranty work.

(36) "Supervisory subcontractor" means a person that:

(a) is a subcontractor under contract to provide preconstruction service or construction work; and

(b) contracts with one or more other subcontractors for the other subcontractor or subcontractors to provide preconstruction service or construction work that the person is under contract to provide.

Section 2. Section 38-1a-301 is amended to read:

38-1a-301. Those entitled to lien -- What may be attached.

(1) Except as provided in Section 38-11-107, a person who provides preconstruction service or construction work on or for a project property has a lien on the project property for the reasonable value of the preconstruction service or construction work, respectively, as provided in this chapter.

(2) A person may claim a preconstruction lien and a separate construction lien on the same project property.

(3) (a) A construction lien may include an amount claimed for a preconstruction service.

(b) A preconstruction lien may not include an amount claimed for construction work.

(4) (a) A preconstruction or construction lien attaches only to the interest that the owner has in the project property that is the subject of the lien.

(b) If an owner possesses an interest in the project property that is less than fee simple, a preconstruction or construction lien attaches only to the lesser interest of the owner and does not attach to the fee simple interest.

(c) Notwithstanding Subsection (4)(b), a preconstruction or construction lien may attach to the fee simple interest in the project property, if the person who provides preconstruction service or construction work can demonstrate that the preconstruction service or construction work:

(i) was authorized by the person possessing the fee simple interest in the project property; and

(ii) provides a substantial benefit to the person who owns the fee simple interest beyond the time period of the lesser interest possessed by the owner.

Section 3. Section 38-1a-506 is amended to read:

38-1a-506. Notice of intent to obtain final completion.

(1) An owner[~~, as defined in Section 14-2-1,~~] of a nonresidential construction project that is registered with the registry, or an original contractor of a commercial nonresidential construction project that is registered with the registry under Section 38-1a-501, shall file with the registry a notice of intent to obtain final completion as provided in this section if:

(a) the completion of performance time under the original contract for construction work is greater than 120 days;

(b) the total original construction contract price exceeds $500,000; and

(c) the original contractor or owner has not obtained a payment bond in accordance with Section 14-2-1.

(2) The notice of intent described in Subsection (1) shall be filed at least 45 days before the day on which the owner or original contractor of a commercial nonresidential construction project files or could have filed a notice of completion under Section 38-1a-507.

(3) A person who provides construction work to an owner or original contractor who files a notice of intent in accordance with Subsection (1) shall file an amendment to the person's preliminary notice previously filed by the person as required in Section 38-1a-501:

(a) that includes:

(i) a good faith estimate of the total amount remaining due to complete the contract, purchase order, or agreement relating to the person's approved construction work;

(ii) the identification of each original contractor or subcontractor with whom the person has a contract or contracts for providing construction work; and

(iii) a separate statement of all known amounts or categories of work in dispute; and

(b) no later than 20 days after the day on which the owner or original contractor files a notice of intent.

(4) (a) A person described in Subsection (3) may demand a statement of adequate assurance from the owner, original contractor, or subcontractor with whom the person has privity of contract no later than 10 days after the day on which the person files a balance statement in accordance with Subsection (3) from an owner, original contractor, or subcontractor who is in privity of contract with the person.

(b) A demand for adequate assurance as described in Subsection (4)(a) may include a request for a statement from the owner, original contractor, or subcontractor that the owner, original contractor, or subcontractor has sufficient funds dedicated and available to pay for all sums due to the person filing for the adequate assurances or that will become due in order to complete a construction project.

(c) A person who demands adequate assurance under Subsection (4)(a) shall deliver copies of the demand to the owner and original contractor:

(i) by hand delivery with a responsible party's acknowledgment of receipt;

(ii) by certified mail with a return receipt; or

(iii) as provided under Rule 4, Utah Rules of Civil Procedure.

(5) (a) A person described in Subsection (3) may bring a legal action against a party with whom the person is in privity of contract, including a request for injunctive or declaratory relief, to determine the adequacy of the funds of the owner, original contractor, or subcontractor with whom the demanding person contracted if, after the person demands adequate assurance in accordance with the requirements of this section:

(i) the owner, original contractor, or subcontractor fails to provide adequate assurance that the owner, original contractor, or subcontractor has sufficient available funds, or access to financing or other sufficient available funds, to pay for the completion of the demanding person's approved work on the construction project; or

(ii) the parties disagree, in good faith, as to whether there are adequate funds, or access to financing or other sufficient available funds, to pay for the completion of the demanding person's approved work on the construction project.

(b) If a court finds that an owner, original contractor, or subcontractor has failed to provide adequate assurance in accordance with Subsection (4)(a), the court may require the owner, original contractor, or subcontractor to post adequate security with the court sufficient to assure timely payment of the remaining contract balance for the approved work of the person seeking adequate assurance, including:

(i) cash;

(ii) a bond;

(iii) an irrevocable letter of credit;

(iv) property;

(v) financing; or

(vi) another form of security approved by the court.

(6) (a) A person is subject to the civil penalty described in Subsection (6)(b), if the person files a balance statement described in Subsection (3) that misrepresents the amount due under the contract with the intent to:

(i) charge an owner, original contractor, or subcontractor more than the actual amount due; or

(ii) procure any other unfair advantage or benefit on the person's behalf.

(b) The civil penalty described in Subsection (6)(a) is the greater of:

(i) twice the amount by which the balance statement filed under Subsection (3) exceeds the amount actually remaining due under the contract for completion of construction; and

(ii) the actual damages incurred by the owner, original contractor, or subcontractor.

(7) A court shall award reasonable attorney fees to a prevailing party for an action brought under this section.

(8) Failure to comply with the requirements established in this section does not affect any other requirement or right under this chapter.

(9) A person who has not filed a preliminary notice as required under Section 38-1a-501 is not entitled to a right or a remedy provided in this section.

(10) This section does not create a cause of action against a person with whom the demanding party is not in privity of contract.

CHAPTER 430
S. B. 124

Passed February 16, 2022
Approved March 24, 2022
Effective May 4, 2022

CRIMINAL CODE RECODIFICATION CROSS REFERENCES

Chief Sponsor: Karen Mayne
House Sponsor: Karianne Lisonbee
Cosponsor: Todd D. Weiler

LONG TITLE

General Description:

This bill contains the cross-references for S.B. 123, Criminal Code Recodification.

Highlighted Provisions:

This bill:

- contains the cross-references for the Criminal Code Recodification; and
- contains sections renumbered and moved from the Criminal Code.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-32-116, as renumbered and amended by Laws of Utah 2017, Chapter 345
20A-2-101.5, as last amended by Laws of Utah 2013, Chapter 263
26-6-27, as last amended by Laws of Utah 2021, Chapter 345
26-7-14, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4
26-10-9, as last amended by Laws of Utah 2021, Chapter 262
26A-1-114, as last amended by Laws of Utah 2021, Chapter 437
30-3-34.5, as enacted by Laws of Utah 2014, Chapter 239
30-5a-103, as last amended by Laws of Utah 2021, Chapter 262
31A-21-501, as last amended by Laws of Utah 2012, Chapters 39 and 303
34A-2-110, as last amended by Laws of Utah 2019, Chapter 193
53-10-104.5, as enacted by Laws of Utah 2013, Chapter 185
53-10-403, as last amended by Laws of Utah 2021, Chapter 213
53-13-110.5, as enacted by Laws of Utah 2021, Chapter 230
53B-28-304, as enacted by Laws of Utah 2019, Chapter 307
53G-11-405, as last amended by Laws of Utah 2019, Chapter 293
57-14-102, as last amended by Laws of Utah 2019, Chapter 345
58-37-8, as last amended by Laws of Utah 2021, Chapter 236
62A-2-120, as last amended by Laws of Utah 2021, Chapters 117, 262, and 400
62A-3-301, as last amended by Laws of Utah 2019, Chapter 281
62A-4a-105, as last amended by Laws of Utah 2021, Chapters 38 and 262
62A-4a-412, as last amended by Laws of Utah 2021, Chapters 29, 231, 262, and 419
63G-12-102, as last amended by Laws of Utah 2015, Chapter 258
63M-7-502, as last amended by Laws of Utah 2021, Chapter 260
63M-7-513, as last amended by Laws of Utah 2021, Chapter 260
63N-10-102, as last amended by Laws of Utah 2019, Chapter 349
75-2-803, as last amended by Laws of Utah 2006, Chapter 270
75-2-807, as enacted by Laws of Utah 2021, Chapter 225 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 225
75-9-105, as last amended by Laws of Utah 2020, Chapter 354
77-23a-8, as last amended by Laws of Utah 2019, Chapter 211
77-27-7, as last amended by Laws of Utah 2018, Chapter 334
77-27-9, as last amended by Laws of Utah 2021, Chapters 18, 21 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 21
77-27-10, as last amended by Laws of Utah 2021, Chapter 173
77-36-1, as last amended by Laws of Utah 2021, Chapters 134 and 159
77-36-2.2, as last amended by Laws of Utah 2013, Chapter 143
77-37-3, as last amended by Laws of Utah 2021, Chapters 260, 262 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 262
77-37-5, as last amended by Laws of Utah 2021, Chapter 260
77-38-3, as last amended by Laws of Utah 2021, Chapter 260
77-38-15, as last amended by Laws of Utah 2021, Chapter 260
77-40-102, as last amended by Laws of Utah 2021, Chapters 206 and 260
77-41-102, as last amended by Laws of Utah 2021, Chapter 2 and further amended by Revisor Instructions, Laws of Utah 2021, First Special Session, Chapter 2
77-41-106, as last amended by Laws of Utah 2020, Chapter 108
77-43-102, as enacted by Laws of Utah 2017, Chapter 282
78A-6-209, as last amended by Laws of Utah 2021, Chapter 261
78B-2-308, as last amended by Laws of Utah 2018, Chapter 192
78B-6-117, as last amended by Laws of Utah 2021, Chapter 262
78B-7-102, as last amended by Laws of Utah 2021, Chapter 262
78B-7-502, as last amended by Laws of Utah 2020, Chapters 108 and 142

78B-7-801, as last amended by Laws of Utah 2021, Chapter 159 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 159

78B-7-903, as enacted by Laws of Utah 2020, Chapter 142

78B-9-402, as last amended by Laws of Utah 2021, Chapters 36, 36, 46, and 46

80-1-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

80-6-304, as renumbered and amended by Laws of Utah 2021, Chapter 261

80-6-703, as enacted by Laws of Utah 2021, Chapter 261

80-6-705, as enacted by Laws of Utah 2021, Chapter 261

80-6-712, as enacted by Laws of Utah 2021, Chapter 261

80-6-804, as last amended by Laws of Utah 2021, First Special Session, Chapter 2

RENUMBERS AND AMENDS:

53-10-801, (Renumbered from 76-5-501, as last amended by Laws of Utah 2015, Chapter 39)

53-10-802, (Renumbered from 76-5-502, as last amended by Laws of Utah 2021, Chapter 58)

53-10-803, (Renumbered from 76-5-503, as last amended by Laws of Utah 2011, Chapter 131)

53-10-804, (Renumbered from 76-5-504, as last amended by Laws of Utah 2011, Chapter 177)

53-10-901, (Renumbered from 76-5-601, as enacted by Laws of Utah 2017, Chapter 249)

53-10-902, (Renumbered from 76-5-602, as last amended by Laws of Utah 2018, Chapter 57)

53-10-903, (Renumbered from 76-5-603, as last amended by Laws of Utah 2018, Chapter 57)

53-10-904, (Renumbered from 76-5-604, as last amended by Laws of Utah 2018, Chapter 57)

53-10-905, (Renumbered from 76-5-605, as enacted by Laws of Utah 2017, Chapter 249)

53-10-906, (Renumbered from 76-5-606, as enacted by Laws of Utah 2017, Chapter 249)

53-10-907, (Renumbered from 76-5-607, as enacted by Laws of Utah 2017, Chapter 249)

53-10-908, (Renumbered from 76-5-608, as last amended by Laws of Utah 2020, Chapter 108)

53-10-909, (Renumbered from 76-5-609, as enacted by Laws of Utah 2017, Chapter 249)

53-10-910, (Renumbered from 76-5-610, as enacted by Laws of Utah 2017, Chapter 249)

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-32-116 is amended to read:

4-32-116. Attempt to bribe state officer or employee -- Acceptance of bribe -- Interference with official duties -- Penalties.

(1) (a) A person who gives, pays, or offers, directly or indirectly, any money or other thing of value, to any officer or employee of this state who is authorized to perform any duties under this chapter, with the intent to influence the officer or employee in the discharge of the officer's or employee's duty, is guilty of a felony of the third degree, and upon conviction, shall be punished by a fine of not more than $5,000 or imprisonment of not more than five years, or both.

(b) An officer or employee of this state authorized to perform duties under this chapter who accepts money, a gift, or other thing of value from any person given with intent to influence the officer's or employee's official action, is guilty of a felony of the third degree and shall, upon conviction, be discharged from office, and fined in an amount of not more than $5,000, or imprisoned for not more than five years, or both.

(2) (a) A person who assaults, obstructs, impedes, intimidates, or interferes with any person engaged in the performance of official duties under this chapter, with or without a dangerous or deadly weapon, is guilty of a felony of the third degree and upon conviction shall be punished by a fine of not more than $5,000, or by imprisonment of not more than five years, or both.

(b) A person who, in the commission of any violation of Subsection (2) of this section, uses a dangerous weapon as defined in Section [~~76-1-601~~] 76-1-101.5, is guilty of a felony of the second degree and upon conviction shall be punished by a fine of not more than $10,000, or by imprisonment for a period of not more than 10 years, or both.

(c) A person who kills another person engaged in the performance of official duties under this chapter shall be punished as provided in Section 76-5-202.

Section 2. Section 20A-2-101.5 is amended to read:

20A-2-101.5. Convicted felons -- Restoration of right to vote and right to hold office.

(1) As used in this section, "convicted felon" means a person convicted of a felony in any state or federal court of the United States.

(2) Each convicted felon's right to register to vote and to vote in an election is restored when:

(a) the felon is sentenced to probation;

(b) the felon is granted parole; or

(c) the felon has successfully completed the term of incarceration to which the felon was sentenced.

(3) Except as provided by Subsection (4), a convicted felon's right to hold elective office is restored when:

(a) all of the felon's felony convictions have been expunged; or

(b) (i) 10 years have passed since the date of the felon's most recent felony conviction;

(ii) the felon has paid all court-ordered restitution and fines; and

(iii) for each felony conviction that has not been expunged, the felon has:

(A) completed probation in relation to the felony;

(B) been granted parole in relation to the felony; or

(C) successfully completed the term of incarceration associated with the felony.

(4) An individual who has been convicted of a grievous sexual offense, as defined in Section [~~76-1-601~~] 76-1-101.5, against a child, may not hold the office of State Board of Education member or local school board member.

Section 3. Section 26-6-27 is amended to read:

26-6-27. Information regarding communicable or reportable diseases confidentiality -- Exceptions.

(1) Information collected pursuant to this chapter in the possession of the department or local health departments relating to an individual who has or is suspected of having a disease designated by the department as a communicable or reportable disease under this chapter shall be held by the department and local health departments as strictly confidential. The department and local health departments may not release or make public that information upon subpoena, search warrant, discovery proceedings, or otherwise, except as provided by this section.

(2) The information described in Subsection (1) may be released by the department or local health departments only in accordance with the requirements of this chapter and as follows:

(a) specific medical or epidemiological information may be released with the written consent of the individual identified in that information or, if that individual is deceased, his next-of-kin;

(b) specific medical or epidemiological information may be released to medical personnel or peace officers in a medical emergency, as determined by the department in accordance with guidelines it has established, only to the extent necessary to protect the health or life of the individual identified in the information, or of the attending medical personnel or law enforcement or public safety officers;

(c) specific medical or epidemiological information may be released to authorized personnel within the department, local health departments, public health authorities, official health agencies in other states, the United States Public Health Service, the Centers for Disease Control and Prevention [~~(CDC)~~], or when necessary to continue patient services or to undertake public health efforts to interrupt the transmission of disease;

(d) if the individual identified in the information is under the age of 18, the information may be released to the Division of Child and Family Services within the Department of Human Services in accordance with Section 62A-4a-403. If that information is required in a court proceeding involving child abuse or sexual abuse under Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, the information shall be disclosed in camera and sealed by the court upon conclusion of the proceedings;

(e) specific medical or epidemiological information may be released to authorized personnel in the department or in local health departments, and to the courts, to carry out the provisions of this title, and rules adopted by the department in accordance with this title;

(f) specific medical or epidemiological information may be released to blood banks, organ and tissue banks, and similar institutions for the purpose of identifying individuals with communicable diseases. The department may, by rule, designate the diseases about which information may be disclosed under this subsection, and may choose to release the name of an infected individual to those organizations without disclosing the specific disease;

(g) specific medical or epidemiological information may be released in such a way that no individual is identifiable;

(h) specific medical or epidemiological information may be released to a "health care provider" as defined in Section 78B-3-403, health care personnel, and public health personnel who have a legitimate need to have access to the information in order to assist the patient, or to protect the health of others closely associated with the patient;

(i) specific medical or epidemiological information regarding a health care provider, as defined in Section 78B-3-403, may be released to the department, the appropriate local health department, and the Division of Occupational and Professional Licensing within the Department of Commerce, if the identified health care provider is endangering the safety or life of any individual by his continued practice of health care;

(j) specific medical or epidemiological information may be released in accordance with Section 26-6-31 if an individual is not identifiable; and

(k) specific medical or epidemiological information may be released to a state agency as defined in Section 63A-17-901, to perform the analysis described in Subsection 26-6-32(4) if the state agency agrees to act in accordance with the requirements in this chapter.

(3) The provisions of Subsection (2)(h) do not create a duty to warn third parties, but is intended only to aid health care providers in their treatment and containment of infectious disease.

Section 4. Section 26-7-14 is amended to read:

26-7-14. Study on violent incidents and fatalities involving substance abuse -- Report.

(1) As used in this section:

(a) "Drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression resulting from the consumption or use of a controlled substance, or another substance with which a controlled substance or alcohol was combined, that results in an individual requiring medical assistance.

(b) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(c) "Violent incident" means:

(i) aggravated assault as described in Section 76-5-103;

(ii) child abuse as described in [~~Section 76-5-109~~] Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(iii) an offense described in Title 76, Chapter 5, Part 2, Criminal Homicide;

(iv) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(v) a burglary offense described in Sections 76-6-202 through 76-6-204.5;

(vi) an offense described in Title 76, Chapter 6, Part 3, Robbery;

(vii) a domestic violence offense, as defined in Section 77-36-1; and

(viii) any other violent offense, as determined by the department.

(2) In 2021 and continuing every other year, the department shall provide a report before October 1 to the Health and Human Services Interim Committee regarding the number of:

(a) violent incidents and fatalities that occurred in the state during the preceding calendar year that, at the time of occurrence, involved substance abuse;

(b) drug overdose events in the state during the preceding calendar year; and

(c) recommendations for legislation, if any, to prevent the occurrence of the events described in Subsections (2)(a) and (b).

(3) Before October 1, 2020, the department shall:

(a) determine what information is necessary to complete the report described in Subsection (2) and from which local, state, and federal agencies the information may be obtained;

(b) determine the cost of any research or data collection that is necessary to complete the report described in Subsection (2);

(c) make recommendations for legislation, if any, that is necessary to facilitate the research or data collection described in Subsection (3)(b), including recommendations for legislation to assist with information sharing between local, state, federal, and private entities and the department; and

(d) report the findings described in Subsections (3)(a) through (c) to the Health and Human Services Interim Committee.

(4) The department may contract with another state agency, private entity, or research institution to assist the department with the report described in Subsection (2).

Section 5. Section 26-10-9 is amended to read:

26-10-9. Immunizations -- Consent of minor to treatment.

(1) This section:

(a) is not intended to interfere with the integrity of the family or to minimize the rights of parents or children; and

(b) applies to a minor, who at the time care is sought is:

(i) married or has been married;

(ii) emancipated as provided for in Section 80-7-105;

(iii) a parent with custody of a minor child; or

(iv) pregnant.

(2) (a) A minor described in Subsections (1)(b)(i) and (ii) may consent to:

(i) vaccinations against epidemic infections and communicable diseases as defined in Section 26-6-2; and

(ii) examinations and vaccinations required to attend school as provided in Title 53G, Public Education System -- Local Administration.

(b) A minor described in Subsections (1)(b)(iii) and (iv) may consent to the vaccinations described in Subsections (2)(a)(i) and (ii), and the vaccine for human papillomavirus only if:

(i) the minor represents to the health care provider that the minor is an abandoned minor as defined in Section [~~76-5-109~~] 76-5-109.3; and

(ii) the health care provider makes a notation in the minor's chart that the minor represented to the health care provider that the minor is an abandoned minor under Section [~~76-5-109~~] 76-5-109.3.

(c) Nothing in Subsection (2)(a) or (b) requires a health care provider to immunize a minor.

(3) The consent of the minor pursuant to this section:

(a) is not subject to later disaffirmance because of the minority of the person receiving the medical services;

(b) is not voidable because of minority at the time the medical services were provided;

(c) has the same legal effect upon the minor and the same legal obligations with regard to the giving of consent as consent given by a person of full age and capacity; and

(d) does not require the consent of any other person or persons to authorize the medical services described in Subsections (2)(a) and (b).

(4) A health care provider who provides medical services to a minor in accordance with the provisions of this section is not subject to civil or criminal liability for providing the services described in Subsections (2)(a) and (b) without obtaining the consent of another person prior to rendering the medical services.

(5) This section does not remove the requirement for parental consent or notice when required by Section 76-7-304 or 76-7-304.5.

(6) The parents, parent, or legal guardian of a minor who receives medical services pursuant to Subsections (2)(a) and (b) are not liable for the payment for those services unless the parents, parent, or legal guardian consented to the medical services.

Section 6. Section 26A-1-114 is amended to read:

26A-1-114. Powers and duties of departments.

(1) Subject to Subsections (7) and (8), a local health department may:

(a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances, department rules, and local health department standards and regulations relating to public health and sanitation, including the plumbing code administered by the Division of Occupational and Professional Licensing under Title 15A, Chapter 1, Part 2, State Construction Code Administration Act, and under Title 26, Chapter 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas served by the local health department;

(b) establish, maintain, and enforce isolation and quarantine, and exercise physical control over property and over individuals as the local health department finds necessary for the protection of the public health;

(c) establish and maintain medical, environmental, occupational, and other laboratory services considered necessary or proper for the protection of the public health;

(d) establish and operate reasonable health programs or measures not in conflict with state law which:

(i) are necessary or desirable for the promotion or protection of the public health and the control of disease; or

(ii) may be necessary to ameliorate the major risk factors associated with the major causes of injury, sickness, death, and disability in the state;

(e) close theaters, schools, and other public places and prohibit gatherings of people when necessary to protect the public health;

(f) abate nuisances or eliminate sources of filth and infectious and communicable diseases affecting the public health and bill the owner or other person in charge of the premises upon which this nuisance occurs for the cost of abatement;

(g) make necessary sanitary and health investigations and inspections on its own initiative or in cooperation with the Department of Health or Environmental Quality, or both, as to any matters affecting the public health;

(h) pursuant to county ordinance or interlocal agreement:

(i) establish and collect appropriate fees for the performance of services and operation of authorized or required programs and duties;

(ii) accept, use, and administer all federal, state, or private donations or grants of funds, property, services, or materials for public health purposes; and

(iii) make agreements not in conflict with state law which are conditional to receiving a donation or grant;

(i) prepare, publish, and disseminate information necessary to inform and advise the public concerning:

(i) the health and wellness of the population, specific hazards, and risk factors that may adversely affect the health and wellness of the population; and

(ii) specific activities individuals and institutions can engage in to promote and protect the health and wellness of the population;

(j) investigate the causes of morbidity and mortality;

(k) issue notices and orders necessary to carry out this part;

(l) conduct studies to identify injury problems, establish injury control systems, develop standards for the correction and prevention of future occurrences, and provide public information and instruction to special high risk groups;

(m) cooperate with boards created under Section 19-1-106 to enforce laws and rules within the jurisdiction of the boards;

(n) cooperate with the state health department, the Department of Corrections, the Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime Victim Reparations Board to conduct testing for HIV infection of alleged sexual offenders, convicted sexual offenders, and any victims of a sexual offense;

(o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

(p) provide public health assistance in response to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities.

(2) The local health department shall:

(a) establish programs or measures to promote and protect the health and general wellness of the people within the boundaries of the local health department;

(b) investigate infectious and other diseases of public health importance and implement measures to control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health which may include involuntary testing of alleged sexual offenders for the HIV infection pursuant to Section [~~76-5-502~~] 53-10-802 and voluntary testing of victims of sexual offenses for HIV infection pursuant to Section [~~76-5-503~~] 53-10-803;

(c) cooperate with the department in matters pertaining to the public health and in the administration of state health laws; and

(d) coordinate implementation of environmental programs to maximize efficient use of resources by developing with the Department of Environmental Quality a Comprehensive Environmental Service Delivery Plan which:

(i) recognizes that the Department of Environmental Quality and local health departments are the foundation for providing environmental health programs in the state;

(ii) delineates the responsibilities of the department and each local health department for the efficient delivery of environmental programs using federal, state, and local authorities, responsibilities, and resources;

(iii) provides for the delegation of authority and pass through of funding to local health departments for environmental programs, to the extent allowed by applicable law, identified in the plan, and requested by the local health department; and

(iv) is reviewed and updated annually.

(3) The local health department has the following duties regarding public and private schools within its boundaries:

(a) enforce all ordinances, standards, and regulations pertaining to the public health of persons attending public and private schools;

(b) exclude from school attendance any person, including teachers, who is suffering from any communicable or infectious disease, whether acute or chronic, if the person is likely to convey the disease to those in attendance; and

(c) (i) make regular inspections of the health-related condition of all school buildings and premises;

(ii) report the inspections on forms furnished by the department to those responsible for the condition and provide instructions for correction of any conditions that impair or endanger the health or life of those attending the schools; and

(iii) provide a copy of the report to the department at the time the report is made.

(4) If those responsible for the health-related condition of the school buildings and premises do not carry out any instructions for corrections provided in a report in Subsection (3)(c), the local health board shall cause the conditions to be corrected at the expense of the persons responsible.

(5) The local health department may exercise incidental authority as necessary to carry out the provisions and purposes of this part.

(6) Nothing in this part may be construed to authorize a local health department to enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon monoxide detector in a residential dwelling against anyone other than the occupant of the dwelling.

(7) (a) Except as provided in Subsection (7)(c), a local health department may not declare a public health emergency or issue an order of constraint until the local health department has provided notice of the proposed action to the chief executive officer of the relevant county no later than 24 hours before the local health department issues the order or declaration.

(b) The local health department:

(i) shall provide the notice required by Subsection (7)(a) using the best available method under the circumstances as determined by the local health department;

(ii) may provide the notice required by Subsection (7)(a) in electronic format; and

(iii) shall provide the notice in written form, if practicable.

(c) (i) Notwithstanding Subsection (7)(a), a local health department may declare a public health emergency or issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (7)(a) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department declares a public health emergency or issues an order of constraint as described in Subsection (7)(c)(i), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate a declaration of a public health emergency or an order of constraint issued as described in Subsection (7)(c)(i) within 72 hours of declaration of the public health emergency or issuance of the order of constraint.

(d) The relevant county governing body may at any time terminate a public health emergency or an order of constraint issued by the local health department by majority vote of the county governing body in response to a declared public health emergency.

(8) (a) Except as provided in Subsection (8)(b), a public health emergency declared by a local health department expires at the earliest of:

(i) the local health department or the chief executive officer of the relevant county finding that the threat or danger has passed or the public health emergency reduced to the extent that emergency conditions no longer exist;

(ii) 30 days after the date on which the local health department declared the public health emergency; or

(iii) the day on which the public health emergency is terminated by majority vote of the county governing body.

(b) (i) The relevant county legislative body, by majority vote, may extend a public health emergency for a time period designated by the county legislative body.

(ii) If the county legislative body extends a public health emergency as described in Subsection (8)(b)(i), the public health emergency expires on the date designated by the county legislative body.

(c) Except as provided in Subsection (8)(d), if a public health emergency declared by a local health department expires as described in Subsection (8)(a), the local health department may not declare a public health emergency for the same illness or occurrence that precipitated the previous public health emergency declaration.

(d) (i) Notwithstanding Subsection (8)(c), subject to Subsection (8)(f), if the local health department finds that exigent circumstances exist, after providing notice to the county legislative body, the department may declare a new public health emergency for the same illness or occurrence that precipitated a previous public health emergency declaration.

(ii) A public health emergency declared as described in Subsection (8)(d)(i) expires in accordance with Subsection (8)(a) or (b).

(e) For a public health emergency declared by a local health department under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act, the Legislature may terminate by joint resolution a public health emergency that was declared based on exigent circumstances or that has been in effect for more than 30 days.

(f) If the Legislature or county legislative body terminates a public health emergency declared due to exigent circumstances as described in Subsection (8)(d)(i), the local health department may not declare a new public health emergency for the same illness, occurrence, or exigent circumstances.

(9) (a) During a public health emergency declared under this chapter or under Title 26, Chapter 23b, Detection of Public Health Emergencies Act:

(i) except as provided in Subsection (9)(b), a local health department may not issue an order of constraint without approval of the chief executive officer of the relevant county;

(ii) the Legislature may at any time terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days; and

(iii) a county governing body may at any time terminate by majority vote of the governing body an order of constraint issued by a local health department in response to a declared public health emergency.

(b) (i) Notwithstanding Subsection (9)(a)(i), a local health department may issue an order of constraint without approval of the chief executive officer of the relevant county if the passage of time necessary to obtain approval of the chief executive officer of the relevant county as required in Subsection (9)(a)(i) would substantially increase the likelihood of loss of life due to an imminent threat.

(ii) If a local health department issues an order of constraint as described in Subsection (9)(b), the local health department shall notify the chief executive officer of the relevant county before issuing the order of constraint.

(iii) The chief executive officer of the relevant county may terminate an order of constraint issued as described in Subsection (9)(b) within 72 hours of issuance of the order of constraint.

(c) (i) For a local health department that serves more than one county, the approval described in Subsection (9)(a)(i) is required for the chief executive officer for which the order of constraint is applicable.

(ii) For a local health department that serves more than one county, a county governing body may only terminate an order of constraint as described in Subsection (9)(a)(iii) for the county served by the county governing body.

(10) (a) During a public health emergency declared as described in this title:

(i) the department or a local health department may not impose an order of constraint on a religious gathering that is more restrictive than an order of constraint that applies to any other relevantly similar gathering; and

(ii) an individual, while acting or purporting to act within the course and scope of the individual's official department or local health department capacity, may not:

(A) prevent a religious gathering that is held in a manner consistent with any order of constraint issued pursuant to this title; or

(B) impose a penalty for a previous religious gathering that was held in a manner consistent with any order of constraint issued pursuant to this title.

(b) Upon proper grounds, a court of competent jurisdiction may grant an injunction to prevent the violation of this Subsection (10).

(c) During a public health emergency declared as described in this title, the department or a local health department shall not issue a public health order or impose or implement a regulation that substantially burdens an individual's exercise of religion unless the department or local health department demonstrates that the application of the burden to the individual:

(i) is in furtherance of a compelling government interest; and

(ii) is the least restrictive means of furthering that compelling government interest.

(d) Notwithstanding Subsections (8)(a) and (c), the department or a local health department shall allow reasonable accommodations for an individual to perform or participate in a religious practice or rite.

Section 7. Section 30-3-34.5 is amended to read:

30-3-34.5. Supervised parent-time.

(1) Considering the fundamental liberty interests of parents and children, it is the policy of this state that divorcing parents have unrestricted and unsupervised access to their children. When necessary to protect a child and no less restrictive means is reasonably available however, a court may order supervised parent-time if the court finds evidence that the child would be subject to physical or emotional harm or child abuse, as described in [~~Section 76-5-109~~] Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114, from the noncustodial parent if left unsupervised with the noncustodial parent.

(2) A court that orders supervised parent-time shall give preference to persons suggested by the parties to supervise, including relatives. If the court finds that the persons suggested by the parties are willing to supervise, and are capable of protecting the children from physical or emotional harm, or child abuse, the court shall authorize the persons to supervise parent-time.

(3) If the court is unable to authorize any persons to supervise parent-time pursuant to Subsection (2), the court may require that the noncustodial parent seek the services of a professional individual or agency to exercise their supervised parent-time.

(4) At the time supervised parent-time is imposed, the court shall consider:

(a) whether the cost of professional or agency services is likely to prevent the noncustodial parent from exercising parent-time; and

(b) whether the requirement for supervised parent-time should expire after a set period of time.

(5) The court shall, in its order for supervised parent-time, provide specific goals and expectations for the noncustodial parent to accomplish before unsupervised parent-time may be granted. The court shall schedule one or more follow-up hearings to revisit the issue of supervised parent-time.

(6) A noncustodial parent may, at any time, petition the court to modify the order for supervised parent-time if the noncustodial parent can demonstrate that the specific goals and expectations set by the court in Subsection (5) have been accomplished.

Section 8. Section 30-5a-103 is amended to read:

30-5a-103. Custody and visitation for individuals other than a parent.

(1) (a) In accordance with Section 62A-4a-201, it is the public policy of this state that a parent retain the fundamental right and duty to exercise primary control over the care, supervision, upbringing, and education of the parent's children.

(b) There is a rebuttable presumption that a parent's decisions are in the child's best interests.

(2) A court may find the presumption in Subsection (1) rebutted and grant custodial or visitation rights to an individual other than a parent who, by clear and convincing evidence, establishes that:

(a) the individual has intentionally assumed the role and obligations of a parent;

(b) the individual and the child have formed a substantial emotional bond and created a parent-child type relationship;

(c) the individual substantially contributed emotionally or financially to the child's well being;

(d) the assumption of the parental role is not the result of a financially compensated surrogate care arrangement;

(e) the continuation of the relationship between the individual and the child is in the child's best interest;

(f) the loss or cessation of the relationship between the individual and the child would substantially harm the child; and

(g) the parent:

(i) is absent; or

(ii) is found by a court to have abused or neglected the child.

(3) A proceeding under this chapter may be commenced by filing a verified petition, or petition supported by an affidavit, in the juvenile court if a matter is pending, or in the district court in the county where the child:

(a) currently resides; or

(b) lived with a parent or an individual other than a parent who acted as a parent within six months before the commencement of the action.

(4) A proceeding under this chapter may be filed in a pending divorce, parentage action, or other proceeding, including a proceeding in the juvenile court involving custody of or visitation with a child.

(5) The petition shall include detailed facts supporting the petitioner's right to file the petition including the criteria set forth in Subsection (2) and residency information as set forth in Section 78B-13-209.

(6) A proceeding under this chapter may not be filed against a parent who is actively serving outside the state in any branch of the military.

(7) Notice of a petition filed pursuant to this chapter shall be served in accordance with the rules of civil procedure on all of the following:

(a) the child's biological, adopted, presumed, declarant, and adjudicated parents;

(b) any individual who has court-ordered custody or visitation rights;

(c) the child's guardian;

(d) the guardian ad litem, if one has been appointed;

(e) an individual or agency that has physical custody of the child or that claims to have custody or visitation rights; and

(f) any other individual or agency that has previously appeared in any action regarding custody of or visitation with the child.

(8) The court may order a custody evaluation to be conducted in any action brought under this chapter.

(9) The court may enter temporary orders in an action brought under this chapter pending the entry of final orders.

(10) Except as provided in Subsection (11), a court may not grant custody of a child under this section to an individual who is not the parent of the child and who, before a custody order is issued, is convicted, pleads guilty, or pleads no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in [~~Section 76-5-109~~] Sections 76-5-109, 76-5-109.2, 76-5-109.3, and 76-5-114;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child [~~or aggravated sexual abuse of a child~~], as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; or

(k) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (10).

(11) (a) As used in this Subsection (11), "disqualifying offense" means an offense listed in Subsection (10) that prevents a court from granting custody except as provided in this Subsection (11).

(b) An individual described in Subsection (10) may only be considered for custody of a child if the following criteria are met by clear and convincing evidence:

(i) the individual is a relative, as defined in Section 80-3-102, of the child;

(ii) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(iii) during the 10 years before the day on which the individual files a petition with the court seeking custody the individual has not been convicted, plead guilty, or plead no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iv) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(v) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(vi) the individual can provide evidence of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that custody by the individual who has committed the disqualifying offense ensures the best interests of the child are met;

(vii) (A) there is no other responsible relative known to the court who has or likely could develop an emotional bond with the child and does not have a disqualifying offense; or

(B) if there is a responsible relative known to the court that does not have a disqualifying offense, Subsection (11)(d) applies; and

(viii) that the continuation of the relationship between the individual with the disqualifying offense and the child could not be sufficiently maintained through any type of visitation if custody were given to the relative with no disqualifying offense described in Subsection (11)(d).

(c) The individual with the disqualifying offense bears the burden of proof regarding why placement with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If, as provided in Subsection (11)(b)(vii)(B), there is a responsible relative known to the court who does not have a disqualifying offense:

(i) preference for custody is given to a relative who does not have a disqualifying offense; and

(ii) before the court may place custody with the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(12) Subsections (10) and (11) apply to a case pending on March 25, 2017, for which a final decision on custody has not been made and to a case filed on or after March 25, 2017.

Section 9. Section 31A-21-501 is amended to read:

31A-21-501. Definitions.

For purposes of this part:

(1) "Applicant" means:

(a) in the case of an individual life or accident and health policy, the person who seeks to contract for insurance benefits; or

(b) in the case of a group life or accident and health policy, the proposed certificate holder.

(2) "Cohabitant" means an emancipated individual pursuant to Section 15-2-1 or an individual who is 16 years [~~of age~~] old or older who:

(a) is or was a spouse of the other party;

(b) is or was living as if a spouse of the other party;

(c) is related by blood or marriage to the other party;

(d) has one or more children in common with the other party; or

(e) resides or has resided in the same residence as the other party.

(3) "Child abuse" means the commission or attempt to commit against a child a criminal offense described in:

(a) Title 76, Chapter 5, Part 1, Assault and Related Offenses;

(b) Title 76, Chapter 5, Part 4, Sexual Offenses;

(c) Section 76-9-702, Lewdness;

(d) Section 76-9-702.1, Sexual battery; or

(e) Section 76-9-702.5, Lewdness involving a child.

(4) "Domestic violence" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another and includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) assault, as described in Section 76-5-102;

(c) criminal homicide, as described in Section 76-5-201;

(d) harassment, as described in Section 76-5-106;

(e) electronic communication harassment, as described in Section 76-9-201;

(f) [~~kidnaping, child kidnaping~~] kidnapping, child kidnapping, or aggravated [~~kidnaping~~] kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(g) mayhem, as described in Section 76-5-105;

(h) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201;

(i) stalking, as described in Section 76-5-106.5;

(j) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(k) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(l) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Part 2, Burglary and Criminal Trespass, or Part 3, Robbery;

(m) possession of a deadly weapon with intent to assault, as described in Section 76-10-507; or

(n) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508.

(5) "Subject of domestic abuse" means an individual who is, has been, may currently be, or may have been subject to domestic violence or child abuse.

Section 10. Section 34A-2-110 is amended to read:

34A-2-110. Workers' compensation insurance fraud -- Elements -- Penalties -- Notice.

(1) As used in this section:

(a) "Corporation" [~~has the same meaning as~~] means the same as that term is defined in Section 76-2-201.

(b) "Intentionally" [~~has the same meaning as~~] means the same as that term is defined in Section 76-2-103.

(c) "Knowingly" [~~has the same meaning as~~] means the same as that term is defined in Section 76-2-103.

(d) "Person" [~~has the same meaning as~~] means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(e) "Recklessly" [~~has the same meaning as~~] means the same as that term is defined in Section 76-2-103.

(f) "Thing of value" means one or more of the following obtained under this chapter or Chapter 3, Utah Occupational Disease Act:

(i) workers' compensation insurance coverage;

(ii) disability compensation;

(iii) a medical benefit;

(iv) a good;

(v) a professional service;

(vi) a fee for a professional service; or

(vii) anything of value.

(2) (a) A person is guilty of workers' compensation insurance fraud if that person intentionally, knowingly, or recklessly:

(i) devises a scheme or artifice to do the following by means of a false or fraudulent pretense, representation, promise, or material omission:

(A) obtain a thing of value under this chapter or Chapter 3, Utah Occupational Disease Act;

(B) avoid paying the premium that an insurer charges, for an employee on the basis of the underwriting criteria applicable to that employee, to obtain a thing of value under this chapter or Chapter 3, Utah Occupational Disease Act; or

(C) deprive an employee of a thing of value under this chapter or Chapter 3, Utah Occupational Disease Act; and

(ii) communicates or causes a communication with another in furtherance of the scheme or artifice.

(b) A violation of this Subsection (2) includes a scheme or artifice to:

(i) make or cause to be made a false written or oral statement with the intent to obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act, at a rate that does not reflect the risk, industry, employer, or class code actually covered by the insurance coverage;

(ii) form a business, reorganize a business, or change ownership in a business with the intent to:

(A) obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act, at a rate that does not reflect the risk, industry, employer, or class code actually covered by the insurance coverage;

(B) misclassify an employee as described in Subsection (2)(b)(iii); or

(C) deprive an employee of workers' compensation coverage as required by Subsection 34A-2-103(8);

(iii) misclassify an employee as one of the following so as to avoid the obligation to obtain insurance coverage as mandated by this chapter or Chapter 3, Utah Occupational Disease Act:

(A) an independent contractor;

(B) a sole proprietor;

(C) an owner;

(D) a partner;

(E) an officer; or

(F) a member in a limited liability company;

(iv) use a workers' compensation coverage waiver issued under Part 10, Workers' Compensation Coverage Waivers Act, to deprive an employee of workers' compensation coverage under this chapter or Chapter 3, Utah Occupational Disease Act; or

(v) collect or make a claim for temporary disability compensation as provided in Section 34A-2-410 while working for gain.

(3) (a) Workers' compensation insurance fraud under Subsection (2) is punishable in the manner prescribed in Subsection (3)(c).

(b) A corporation or association is guilty of the offense of workers' compensation insurance fraud under the same conditions as those set forth in Section 76-2-204.

(c) (i) In accordance with Subsection (3)(c)(ii), the determination of the degree of an offense under Subsection (2) shall be measured by the following on the basis of which creates the greatest penalty:

(A) the total value of all property, money, or other things obtained or sought to be obtained by the scheme or artifice described in Subsection (2); or

(B) the number of individuals not covered under this chapter or Chapter 3, Utah Occupational

Disease Act, because of the scheme or artifice described in Subsection (2).

(ii) A person is guilty of:

(A) a class A misdemeanor:

(I) if the value of the property, money, or other thing of value described in Subsection (3)(c)(i)(A) is less than $1,000; or

(II) for each individual described in Subsection (3)(c)(i)(B), if the number of individuals described in Subsection (3)(c)(i)(B) is less than five;

(B) a third degree felony:

(I) if the value of the property, money, or other thing of value described in Subsection (3)(c)(i)(A) is equal to or greater than $1,000, but is less than $5,000; or

(II) for each individual described in Subsection (3)(c)(i)(B), if the number of individuals described in Subsection (3)(c)(i)(B) is equal to or greater than five, but is less than 50; and

(C) a second degree felony:

(I) if the value of the property, money, or other thing of value described in Subsection (3)(c)(i)(A) is equal to or greater than $5,000; or

(II) for each individual described in Subsection (3)(c)(i)(B), if the number of individuals described in Subsection (3)(c)(i)(B) is equal to or greater than 50.

(4) The following are not a necessary element of an offense described in Subsection (2):

(a) reliance on the part of a person;

(b) the intent on the part of the perpetrator of an offense described in Subsection (2) to permanently deprive a person of property, money, or anything of value; or

(c) an insurer or self-insured employer giving written notice in accordance with Subsection (5) that workers' compensation insurance fraud is a crime.

(5) (a) An insurer or self-insured employer who, in connection with this chapter or Chapter 3, Utah Occupational Disease Act, prints, reproduces, or furnishes a form described in Subsection (5)(b) shall cause to be printed or displayed in comparative prominence with other content on the form the statement: "Any person who knowingly presents false or fraudulent underwriting information, files or causes to be filed a false or fraudulent claim for disability compensation or medical benefits, or submits a false or fraudulent report or billing for health care fees or other professional services is guilty of a crime and may be subject to fines and confinement in state prison."

(b) Subsection (5)(a) applies to a form upon which a person:

(i) applies for insurance coverage;

(ii) applies for a workers' compensation coverage waiver issued under Part 10, Workers' Compensation Coverage Waivers Act;

(iii) reports payroll;

(iv) makes a claim by reason of accident, injury, death, disease, or other claimed loss; or

(v) makes a report or gives notice to an insurer or self-insured employer.

(c) An insurer or self-insured employer who issues a check, warrant, or other financial instrument in payment of compensation issued under this chapter or Chapter 3, Utah Occupational Disease Act, shall cause to be printed or displayed in comparative prominence above the area for endorsement a statement substantially similar to the following: "Workers' compensation insurance fraud is a crime punishable by Utah law."

(d) This Subsection (5) applies only to the legal obligations of an insurer or a self-insured employer.

(e) A person who violates Subsection (2) is guilty of workers' compensation insurance fraud, and the failure of an insurer or a self-insured employer to fully comply with this Subsection (5) is not:

(i) a defense to violating Subsection (2); or

(ii) grounds for suppressing evidence.

(6) In the absence of malice, a person, employer, insurer, or governmental entity that reports a suspected fraudulent act relating to a workers' compensation insurance policy or claim is not subject to civil liability for libel, slander, or another relevant cause of action.

(7) (a) In an action involving workers' compensation, this section supersedes Title 31A, Chapter 31, Insurance Fraud Act.

(b) Nothing in this section prohibits the Insurance Department from investigating violations of this section or from pursuing civil or criminal penalties for violations of this section in accordance with Section 31A-31-109 and this title.

Section 11. Section 53-10-104.5 is amended to read:

53-10-104.5. Wireless service -- Call location in emergencies.

(1) As used in this section:

(a) "Call location information" means the best available location information, including information obtained by use of historical cellular site information or a mobile locator tool.

(b) "Law enforcement agency" or "agency" has the same definition as in Section 53-1-102.

(c) "Mobile telecommunications service" has the same definition as in Section 54-8b-2.

(d) "Telecommunication device" has the same definition as in Section 76-6-409.5.

(2) A mobile telecommunications service shall provide call location information regarding a telecommunication device user whom a law enforcement agency has reason to believe is in need of services under Subsection (2)(a) or (b), upon the request of a law enforcement agency or a public safety communications center if the agency or

center determines the location information is necessary in order to respond to:

(a) a call for emergency response services; or

(b) an emergency situation that involves the imminent risk of death or serious bodily injury as defined in Section [~~76-1-601~~] 76-1-101.5.

(3) The mobile telecommunications service may establish procedures for its voluntary response to a request for location under Subsection (2).

(4) A mobile telecommunications service that, acting in good faith, provides information as requested under Subsection (2) may not be held civilly liable for providing the information.

(5) (a) The division shall obtain contact information from all mobile telecommunication service providers that provide services in this state to facilitate communicating location requests under Subsection (2).

(b) The division shall provide the contact information to all public safety communications centers in the state and shall provide updates to the contact information.

Section 12. Section 53-10-403 is amended to read:

53-10-403. DNA specimen analysis -- Application to offenders, including minors.

(1) Sections 53-10-403.6, 53-10-404, 53-10-404.5, 53-10-405, and 53-10-406 apply to any person who:

(a) has pled guilty to or has been convicted of any of the offenses under Subsection (2)(a) or (b) on or after July 1, 2002;

(b) has pled guilty to or has been convicted by any other state or by the United States government of an offense which if committed in this state would be punishable as one or more of the offenses listed in Subsection (2)(a) or (b) on or after July 1, 2003;

(c) has been booked on or after January 1, 2011, through December 31, 2014, for any offense under Subsection (2)(c);

(d) has been booked:

(i) by a law enforcement agency that is obtaining a DNA specimen on or after May 13, 2014, through December 31, 2014, under Subsection 53-10-404(4)(b) for any felony offense; or

(ii) on or after January 1, 2015, for any felony offense; or

(e) is a minor under Subsection (3).

(2) Offenses referred to in Subsection (1) are:

(a) any felony or class A misdemeanor under the Utah Code;

(b) any offense under Subsection (2)(a):

(i) for which the court enters a judgment for conviction to a lower degree of offense under Section 76-3-402; or

(ii) regarding which the court allows the defendant to enter a plea in abeyance as defined in Section 77-2a-1; or

(c) (i) any violent felony as defined in Section 53-10-403.5;

(ii) sale or use of body parts, Section 26-28-116;

(iii) failure to stop at an accident that resulted in death, Section 41-6a-401.5;

(iv) driving with any amount of a controlled substance in a person's body and causing serious bodily injury or death, Subsection 58-37-8(2)(g);

(v) a felony violation of enticing a minor over the Internet, Section 76-4-401;

(vi) a felony violation of propelling a substance or object at a correctional officer, a peace officer, or an employee or a volunteer, including health care providers, Section 76-5-102.6;

(vii) aggravated human trafficking, Section 76-5-310, and aggravated human smuggling, Section [~~76-5-310~~] 76-5-310.1;

(viii) a felony violation of unlawful sexual activity with a minor, Section 76-5-401;

(ix) a felony violation of sexual abuse of a minor, Section 76-5-401.1;

(x) unlawful sexual contact with a 16 or 17-year old, Section 76-5-401.2;

(xi) sale of a child, Section 76-7-203;

(xii) aggravated escape, Subsection 76-8-309(2);

(xiii) a felony violation of assault on an elected official, Section 76-8-315;

(xiv) influencing, impeding, or retaliating against a judge or member of the Board of Pardons and Parole, Section 76-8-316;

(xv) advocating criminal syndicalism or sabotage, Section 76-8-902;

(xvi) assembly for advocating criminal syndicalism or sabotage, Section 76-8-903;

(xvii) a felony violation of sexual battery, Section 76-9-702.1;

(xviii) a felony violation of lewdness involving a child, Section 76-9-702.5;

(xix) a felony violation of abuse or desecration of a dead human body, Section 76-9-704;

(xx) manufacture, possession, sale, or use of a weapon of mass destruction, Section 76-10-402;

(xxi) manufacture, possession, sale, or use of a hoax weapon of mass destruction, Section 76-10-403;

(xxii) possession of a concealed firearm in the commission of a violent felony, Subsection 76-10-504(4);

(xxiii) assault with the intent to commit bus hijacking with a dangerous weapon, Subsection 76-10-1504(3);

(xxiv) commercial obstruction, Subsection 76-10-2402(2);

(xxv) a felony violation of failure to register as a sex or kidnap offender, Section 77-41-107;

(xxvi) repeat violation of a protective order, Subsection 77-36-1.1(4); or

(xxvii) violation of condition for release after arrest under Section 78B-7-802.

(3) A minor under Subsection (1) is a minor 14 years old or older who is adjudicated by the juvenile court due to the commission of any offense described in Subsection (2), and who:

(a) committed an offense under Subsection (2) within the jurisdiction of the juvenile court on or after July 1, 2002; or

(b) is in the legal custody of the Division of Juvenile Justice Services on or after July 1, 2002, for an offense under Subsection (2).

Section 13. Section 53-10-801, which is renumbered from Section 76-5-501 is renumbered and amended to read:

[~~76-5-501~~]. 53-10-801. Definitions.

For purposes of this part:

(1) "Alleged sexual offender" means [~~a person~~] an individual or a minor regarding whom an indictment, petition, or an information has been filed or an arrest has been made alleging the commission of a sexual offense or an attempted sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, and regarding which:

(a) a judge has signed an accompanying arrest warrant, pickup order, or any other order based upon probable cause regarding the alleged offense; and

(b) the judge has found probable cause to believe that the alleged victim has been exposed to conduct or activities that may result in an HIV infection as a result of the alleged offense.

(2) "Department of Health" means the state Department of Health as defined in Section 26-1-2.

(3) "HIV infection" means an indication of Human Immunodeficiency Virus (HIV) infection determined by current medical standards and detected by any of the following:

(a) presence of antibodies to HIV, verified by a positive "confirmatory" test, such as Western blot or other method approved by the Utah State Health Laboratory. Western blot interpretation will be based on criteria currently recommended by the Association of State and Territorial Public Health Laboratory Directors;

(b) presence of HIV antigen;

(c) isolation of HIV; or

(d) demonstration of HIV proviral DNA.

(4) "HIV positive individual" means [~~a person~~] an individual who is HIV positive as determined by the State Health Laboratory.

(5) "Local department of health" means the department as defined in Subsection 26A-1-102(5).

(6) "Minor" means [~~a person~~] an individual younger than 18 years [~~of age~~] old.

(7) "Positive" means an indication of the HIV infection as defined in Subsection (3).

(8) "Sexual offense" means a violation of [~~state law prohibiting a sexual~~] any offense under Title 76, Chapter 5, Part 4, Sexual Offenses.

(9) "Test" or "testing" means a test or tests for HIV infection conducted by and in accordance with standards recommended by the Department of Health.

Section 14. Section 53-10-802, which is renumbered from Section 76-5-502 is renumbered and amended to read:

[~~76-5-502~~]. 53-10-802. Request for testing -- Mandatory testing -- Liability for costs.

(1) (a) An alleged victim of [~~the~~] a sexual offense, the parent or guardian of an alleged victim who is a minor, or the guardian of an alleged victim who is a vulnerable adult as defined in Section 62A-3-301 may request that the alleged sexual offender against whom the indictment, information, or petition is filed or regarding whom the arrest has been made be tested to determine whether the alleged offender is an HIV positive individual.

(b) If the alleged victim under Subsection (1)(a) has requested that the alleged offender be tested, the alleged offender shall submit to being tested not later than 48 hours after an information or indictment is filed or an order requiring a test is signed.

(c) If the alleged victim under Subsection (1)(a) requests that the alleged offender be tested more than 48 hours after an information or indictment is filed, the offender shall submit to being tested not later than 24 hours after the request is made.

(d) As soon as practicable, the results of the test conducted pursuant to this section shall be provided to:

(i) the alleged victim who requested the test;

(ii) the parent or guardian of the alleged victim, if the alleged victim is a minor;

(iii) the legal guardian of the alleged victim if the victim is a vulnerable adult as defined in Section 62A-3-301;

(iv) the alleged offender; and

(v) the parent or legal guardian of the alleged offender, if the offender is a minor.

(e) If follow-up testing is medically indicated, the results of follow-up testing of the alleged offender shall be sent as soon as practicable to:

(i) the alleged victim;

(ii) the parent or guardian of the alleged victim if the alleged victim is [~~younger than 18 years of age~~] a minor;

(iii) the legal guardian of the alleged victim, if the victim is a vulnerable adult as defined in Section 62A-3-301;

(iv) the alleged offender; and

(v) the parent or legal guardian of the alleged offender, if the alleged offender is a minor.

(2) If the mandatory test has not been conducted, and the alleged offender or alleged minor offender is already confined in a county jail, state prison, or a secure youth corrections facility, the alleged offender shall be tested while in confinement.

(3) (a) The secure youth corrections facility or county jail shall cause the blood specimen of the alleged offender under Subsection (1) confined in that facility to be taken and shall forward the specimen to:

(i) the Department of Health; or

(ii) an alternate testing facility, as determined by the secure youth corrections facility or county jail, if testing under Subsection (3)(a)(i) is unavailable.

(b) The entity that receives the specimen under Subsection (3)(a) shall provide the result to the prosecutor as soon as practicable for release to the parties as described in Subsection (1)(d) or (e).

(4) The Department of Corrections shall cause the blood specimen of the alleged offender defined in Subsection (1) confined in any state prison to be taken and shall forward the specimen to the Department of Health as provided in Section 64-13-36.

(5) The alleged offender who is tested is responsible upon conviction for the costs of testing, unless the alleged offender is indigent. The costs will then be paid by the Department of Health from the General Fund.

Section 15. Section 53-10-803, which is renumbered from Section 76-5-503 is renumbered and amended to read:

[~~76-5-503~~]. 53-10-803. Voluntary testing -- Victim to request -- Costs paid by Utah Office for Victims of Crime.

(1) A victim or minor victim of a sexual offense as provided under Title 76, Chapter 5, Part 4, Sexual Offenses, may request a test for the HIV infection.

(2) (a) The local health department shall obtain the blood specimen from the victim and forward the specimen to the Department of Health.

(b) The Department of Health shall analyze the specimen of the victim.

(3) The testing shall consist of a base-line test of the victim at the time immediately or as soon as possible after the alleged occurrence of the sexual offense. If the base-line test result is not positive, follow-up testing shall occur at three months and six months after the alleged occurrence of the sexual offense.

(4) The Crime Victim Reparations Fund shall pay for the costs of the victim testing if the victim provides a substantiated claim of the sexual offense, does not test HIV positive at the base-line testing phase, and complies with eligibility criteria established by the Utah Office for Victims of Crime.

Section 16. Section 53-10-804, which is renumbered from Section 76-5-504 is renumbered and amended to read:

[~~76-5-504~~]. 53-10-804. Victim notification and counseling.

(1) (a) The Department of Health shall provide the victim who requests testing of the alleged sexual offender's human immunodeficiency virus status counseling regarding HIV disease and referral for appropriate health care and support services.

(b) If the local health department in whose jurisdiction the victim resides and the Department of Health agree, the Department of Health shall forward a report of the alleged sexual offender's human immunodeficiency virus status to the local health department and the local health department shall provide the victim who requests the test with the test results, counseling regarding HIV disease, and referral for appropriate health care and support services.

(2) Notwithstanding the provisions of Section 26-6-27, the Department of Health and a local health department acting pursuant to an agreement made under Subsection (1) may disclose to the victim the results of the alleged sexual offender's human immunodeficiency virus status as provided in this section.

Section 17. Section 53-10-901, which is renumbered from Section 76-5-601 is renumbered and amended to read:

[~~76-5-601~~]. 53-10-901. Title.

This part is known as the "Sexual Assault Kit Processing Act."

Section 18. Section 53-10-902, which is renumbered from Section 76-5-602 is renumbered and amended to read:

[~~76-5-602~~]. 53-10-902. Definitions.

For purposes of this part:

(1) "Collecting facility" means a hospital, health care facility, or other facility that performs sexual assault examinations.

(2) "Department" means the Department of Public Safety.

(3) "Restricted kit" means a sexual assault kit:

(a) that is collected by a collecting facility; and

(b) for which a victim who is 18 years [~~of age~~] old or older at the time of the sexual assault kit evidence collection declines:

(i) to have his or her sexual assault kit processed; and

(ii) to have the sexual assault examination form shared with any entity outside of the collection facility.

(4) "Sexual assault kit" means a package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of sexual assault.

(5) "Trauma-informed, victim-centered" means policies, procedures, programs, and practices that:

(a) have demonstrated an ability to minimize retraumatization associated with the criminal justice process by recognizing the presence of trauma symptoms and acknowledging the role that trauma has played in the life of a victim of sexual assault or sexual abuse; and

(b) encourage law enforcement officers to interact with victims of sexual assault or sexual abuse with compassion and sensitivity in a nonjudgmental manner.

Section 19. Section 53-10-903, which is renumbered from Section 76-5-603 is renumbered and amended to read:

[~~76-5-603~~]. 53-10-903. All sexual assault kits to be submitted.

(1) Except as provided in Subsection [~~76-5-604~~] 53-10-904(5), beginning July 1, 2018, all sexual assault kits received by law enforcement agencies shall be submitted to the Utah Bureau of Forensic Services in accordance with the provisions of this part.

(2) The Utah Bureau of Forensic Services shall test all sexual assault kits that the bureau receives with the goal of developing autosomal DNA profiles that are eligible for entry into the Combined DNA Index System.

(3) (a) The testing of all sexual assault kits shall be completed within a specified amount of time, as determined by administrative rule consistent with the provisions of this part.

(b) The ability of the Utah Bureau of Forensic Services to meet the established time frames may be dependent upon the following factors:

(i) the number of sexual assault kits that the Utah Bureau of Forensic Services receives;

(ii) the technology available and improved testing methods;

(iii) fully trained and dedicated staff to meet the full workload needs of the Utah Bureau of Forensic Services; and

(iv) the number of lab requests received relating to other crime categories.

Section 20. Section 53-10-904, which is renumbered from Section 76-5-604 is renumbered and amended to read:

[~~76-5-604~~]. 53-10-904. Sexual assault kit processing -- Restricted kits.

(1) Unless the health care provider designates a sexual assault kit as a restricted kit, the collecting facility shall enter the required victim information into the statewide sexual assault kit tracking system, defined in Section 76-5-607, within 24 hours of performing a sexual assault examination.

(2) A restricted kit may only be designated as a restricted kit:

(a) by a health care provider; and

(b) at the time of collection.

(3) Each sexual assault kit collected by medical personnel shall be taken into custody by a law enforcement agency as soon as possible and within one business day of notice from the collecting facility.

(4) The law enforcement agency that receives a sexual assault kit shall enter the required information into the statewide sexual assault kit tracking system, provided in Section [~~76-5-607~~] 53-10-907, within five business days of receiving a sexual assault kit from a collecting facility.

(5) Each sexual assault kit received by a law enforcement agency from a collecting facility that relates to an incident that occurred outside of the jurisdiction of the law enforcement agency shall be transferred to the law enforcement agency with jurisdiction over the incident within 10 days of learning that another law enforcement agency has jurisdiction.

(6) (a) Except for restricted kits, each sexual assault kit shall be submitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after receipt by a law enforcement agency.

(b) Restricted kits may not be submitted to the Utah Bureau of Forensic Services.

(c) Restricted kits shall be maintained by the law enforcement agency with jurisdiction, in accordance with the provisions of this part.

(d) A restricted kit may be changed to an unrestricted kit if the victim informs the designated law enforcement agency that he or she wants to have the sexual assault kit processed and agrees to release of the sexual assault examination form with the sexual assault kit. Once a victim indicates that he or she wants the sexual assault kit processed:

(i) the kit may no longer be classified as restricted; and

(ii) the kit shall be transmitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after the victim chooses to unrestrict his or her kit with law enforcement.

(7) If available, a suspect standard or a consensual partner elimination standard shall be submitted to the Utah Bureau of Forensic Services:

(a) with the sexual assault kit, if available, at the time the sexual assault kit is submitted; or

(b) as soon as possible, but no later than 30 days from the date the kit was obtained by the law enforcement agency, if not obtained until after the sexual assault kit is submitted.

(8) Failure to meet a deadline established in this part or as part of any rules established by the department is not a basis for dismissal of a criminal action or a bar to the admissibility of the evidence in a criminal action.

Section 21. Section 53-10-905, which is renumbered from Section 76-5-605 is renumbered and amended to read:

[~~76-5-605~~]. 53-10-905. Sexual assault kit retention and disposal.

Any item of evidence gathered by collecting facility personnel, law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant may not be disposed of before trial of a criminal defendant unless:

(1) 50 years have passed from the date of evidence collection for sexual assault kits relating to an uncharged or unresolved crime; or

(2) 20 years have passed from the date of evidence collection for restricted kits, and:

(a) the prosecution has determined that the defendant will not be tried for the criminal offense;

(b) the prosecution has filed a motion with the court to destroy the evidence; and

(c) an attempt has been made to notify the victim as required in Subsections 77-37-3(3)(b)(i) and (ii).

Section 22. Section 53-10-906, which is renumbered from Section 76-5-606 is renumbered and amended to read:

[~~76-5-606~~]. 53-10-906. Victim notification of rights -- Notification of law enforcement.

(1) Collecting facility personnel who conduct sexual assault examinations shall inform each victim of a sexual assault of:

(a) available services for treatment of sexually transmitted infections, pregnancy, and other medical and psychiatric conditions;

(b) available crisis intervention or other mental health services provided;

(c) the option to receive prophylactic medication to prevent sexually transmitted infections and pregnancy;

(d) the right to determine:

(i) whether to provide a personal statement about the sexual assault to law enforcement; and

(ii) if law enforcement should have access to any paperwork from the forensic examination; and

(e) the victim's rights as provided in Section 77-37-3.

(2) The collecting facility shall notify law enforcement as soon as practicable if the victim of a sexual assault decides to interview and discuss the assault with law enforcement.

(3) If a victim of a sexual assault declines to provide a personal statement about the sexual assault to law enforcement, the collecting facility shall provide a written notice to the victim that contains the following information:

(a) where the sexual assault kit will be stored;

(b) notice that the victim may choose to contact law enforcement any time after declining to provide a personal statement;

(c) the name, phone number, and email address of the law enforcement agency having jurisdiction; and

(d) the name and phone number of a local rape crisis center.

Section 23. Section 53-10-907, which is renumbered from Section 76-5-607 is renumbered and amended to read:

[~~76-5-607~~]. 53-10-907. Statewide sexual assault kit tracking system.

(1) The department shall develop and implement a statewide tracking system [~~by July 1, 2018,~~] that contains the following information for all sexual assault kits collected by law enforcement:

(a) the submission status of sexual assault kits by law enforcement to the Utah Bureau of Forensic Services;

(b) notification by the Utah Bureau of Forensic Services to law enforcement of DNA analysis findings; and

(c) the storage location of sexual assault kits.

(2) The tracking system shall include a secure electronic access that allows the submitting agency, collecting facility, department, and a victim, or his or her designee, to access or receive information, provided that the disclosure does not impede or compromise an active investigation, about the:

(a) lab submission status;

(b) DNA analysis findings provided to law enforcement; and

(c) storage location of a sexual assault kit that was gathered from that victim.

Section 24. Section 53-10-908, which is renumbered from Section 76-5-608 is renumbered and amended to read:

[~~76-5-608~~]. 53-10-908. Law enforcement -- Training -- Sexual assault, sexual abuse, and human trafficking.

(1) The department and the Utah Prosecution Council shall develop training in trauma-informed responses and investigations of sexual assault and sexual abuse, which include, but are not limited to, the following:

(a) recognizing the symptoms of trauma;

(b) understanding the impact of trauma on a victim;

(c) responding to the needs and concerns of a victim of sexual assault or sexual abuse;

(d) delivering services to victims of sexual assault or sexual abuse in a compassionate, sensitive, and nonjudgmental manner;

(e) understanding cultural perceptions and common myths of sexual assault and sexual abuse; and

(f) techniques of writing reports in accordance with Subsection (5).

(2) (a) The department and the Utah Prosecution Council shall offer the training in Subsection (1) to all certified law enforcement officers in the state.

(b) The training for all law enforcement officers may be offered through an online course, developed by the department and the Utah Prosecution Council.

(3) The training listed in Subsection (1) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer.

(4) (a) The department and the Utah Prosecution Council shall develop and offer an advanced training course for officers who investigate cases of sexual assault or sexual abuse.

(b) The advanced training course shall include:

(i) all criteria listed in Subsection (1); and

(ii) interviewing techniques in accordance with the curriculum standards in Subsection (5).

(5) The department shall consult with the Utah Prosecution Council to develop the specific training requirements of this section, including curriculum standards for report writing and response to sexual assault and sexual abuse, including trauma-informed and victim-centered interview techniques, which have been demonstrated to minimize retraumatizing victims.

(6) The Office of the Attorney General shall develop and offer training for law enforcement officers in investigating human trafficking offenses.

(7) The training described in Subsection (6) shall be offered to all law enforcement officers in the state by July 1, 2020.

(8) The training described in Subsection (6) shall be offered by the Peace Officer Standards and Training division to all persons seeking certification as a peace officer, in conjunction with the training described in Subsection (1), beginning July 1, 2021.

(9) The Office of the Attorney General, the department, and the Utah Prosecution Council shall consult with one another to provide the training described in Subsection (6) jointly with the training described in Subsection (1) as reasonably practicable.

Section 25. Section 53-10-909, which is renumbered from Section 76-5-609 is renumbered and amended to read:

[~~76-5-609~~]. 53-10-909. Rulemaking authority.

After consultation with the Utah Bureau of Forensic Services and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules, consistent with this part, regarding:

(1) the procedures for the submission and testing of all sexual assault kits collected by law enforcement and prosecutorial agencies in the state;

(2) the information and evidence that is required to be submitted as part of each sexual assault kit submission; and

(3) goals for the completion of analysis and classification of all sexual assault kit submissions.

Section 26. Section 53-10-910, which is renumbered from Section 76-5-610 is renumbered and amended to read:

[~~76-5-610~~]. 53-10-910. Reporting requirement.

The Department of Public Safety and the Utah Bureau of Forensic Services shall report by July 31 of each year to the Law Enforcement and Criminal Justice Interim Committee and the Executive Offices and Criminal Justice Appropriations Subcommittee regarding:

(1) the timelines set for testing all sexual assault kits submitted to the Utah Bureau of Forensic Services as provided in Subsection [~~76-5-603~~] 53-10-903(2);

(2) the goals established in Section [~~76-5-609~~] 53-10-909;

(3) the status of meeting those goals;

(4) the number of sexual assault kits that are sent to the Utah Bureau of Forensic Services for testing;

(5) the number of restricted kits held by law enforcement;

(6) the number of sexual assault kits that are not processed in accordance with the timelines established in this part; and

(7) future appropriations requests that will ensure that all DNA cases can be processed according to the timelines established by this part.

Section 27. Section 53-13-110.5 is amended to read:

53-13-110.5. Retention of records of interviews of minors.

If a peace officer, or the officer's employing agency, records an interview of a minor during an investigation of a violation of Section 76-5-402.1, 76-5-402.3, 76-5-403.1, [~~or~~] 76-5-404.1, or

76–5–404.3, the agency shall retain a copy of the recording for 18 years after the day on which the last recording of the interview is made, unless the prosecuting attorney requests in writing that the recording be retained for an additional period of time.

Section 28. Section 53B-28-304 is amended to read:

53B-28-304. Criminal retaliation against a victim or a witness.

(1) As used in this section:

(a) "Bodily injury" means the same as that term is defined in Section [~~76–1–601~~] 76–1–101.5.

(b) "Damage" means physical damage to an individual's property.

(2) An individual is guilty of a third degree felony if the individual inflicts bodily injury or damage:

(a) upon a victim of or a witness to an act of sexual violence alleged in a covered allegation; and

(b) in retaliation for the victim's or the witness's:

(i) report of the covered allegation; or

(ii) involvement in an investigation initiated by the institution in response to the covered allegation.

(3) An individual is guilty of a third degree felony if the individual:

(a) communicates an intention to inflict bodily injury:

(i) upon a victim of or a witness to an act of sexual violence alleged in a covered allegation; and

(ii) in retaliation for the victim's or the witness's:

(A) report of the covered allegation; or

(B) involvement in an investigation initiated by the institution in response to the covered allegation; and

(b) (i) intends the communication described in Subsection (3)(a) as a threat against the victim or the witness; or

(ii) knows that the communication described in Subsection (3)(a) will be viewed as a threat against the victim or the witness.

Section 29. Section 53G-11-405 is amended to read:

53G-11-405. Due process for individuals--Review of criminal history information.

(1) (a) In accordance with Section 53–10–108, an authorized entity shall provide an individual an opportunity to review and respond to any criminal history information received under this part.

(b) If an authorized entity decides to disqualify an individual as a result of criminal history information received under this part, an individual may request a review of:

(i) information received; and

(ii) the reasons for the disqualification.

(c) An authorized entity shall provide an individual described in Subsection (1)(b) with written notice of:

(i) the reasons for the disqualification; and

(ii) the individual's right to request a review of the disqualification.

(2) (a) An LEA or qualifying private school shall make decisions regarding criminal history information for the individuals subject to the background check requirements under Section 53G–11–402 in accordance with:

(i) Subsection (3);

(ii) administrative procedures established by the LEA or qualifying private school; and

(iii) rules established by the state board.

(b) The state board shall make decisions regarding criminal history information for licensed educators in accordance with:

(i) Subsection (3);

(ii) Title 53E, Chapter 6, Education Professional Licensure; and

(iii) rules established by the state board.

(3) When making decisions regarding initial employment, initial licensing, or initial appointment for the individuals subject to background checks under this part, an authorized entity shall consider:

(a) any convictions, including pleas in abeyance;

(b) any matters involving a felony; and

(c) any matters involving an alleged:

(i) sexual offense;

(ii) class A misdemeanor drug offense;

(iii) offense against the person under Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual;

(iv) class A misdemeanor property offense that is alleged to have occurred within the previous three years; and

(v) any other type of criminal offense, if more than one occurrence of the same type of offense is alleged to have occurred within the previous eight years.

Section 30. Section 57-14-102 is amended to read:

57-14-102. Definitions.

As used in this chapter:

(1) "Charge" means the admission price or fee asked in return for permission to enter or go upon the land.

(2) "Child" means an individual who is 16 years [~~of age~~] old or younger.

(3) (a) "Land" means any land within the state boundaries.

(b) "Land" includes roads, railway corridors, water, water courses, private ways and buildings, structures, and machinery or equipment when attached to the realty.

(4) "Owner" means the possessor of any interest in the land, whether public or private land, including a tenant, a lessor, a lessee, an occupant, or person in control of the land.

(5) "Person" includes any person, regardless of age, maturity, or experience, who enters upon or uses land for recreational purposes.

(6) "Recreational purpose" includes, but is not limited to, any of the following or any combination thereof:

(a) hunting;

(b) fishing;

(c) swimming;

(d) skiing;

(e) snowshoeing;

(f) camping;

(g) picnicking;

(h) hiking;

(i) studying nature;

(j) waterskiing;

(k) engaging in water sports;

(l) engaging in equestrian activities;

(m) using boats;

(n) mountain biking;

(o) riding narrow gauge rail cars on a narrow gauge track that does not exceed 24 inch gauge;

(p) using off-highway vehicles or recreational vehicles;

(q) viewing or enjoying historical, archaeological, scenic, or scientific sites;

(r) aircraft operations; and

(s) equestrian activity, skateboarding, skydiving, paragliding, hang gliding, roller skating, ice skating, walking, running, jogging, bike riding, or in-line skating.

(7) "Serious physical injury" means any physical injury or set of physical injuries that:

(a) seriously impairs a person's health;

(b) was caused by use of a dangerous weapon as defined in Section [~~76-1-601~~] 76-1-101.5;

(c) involves physical torture or causes serious emotional harm to a person; or

(d) creates a reasonable risk of death.

(8) "Trespasser" means a person who enters on the land of another without:

(a) express or implied permission; or

(b) invitation.

Section 31. Section 58-37-8 is amended to read:

58-37-8. Prohibited acts -- Penalties.

(1) Prohibited acts A -- Penalties and reporting:

(a) Except as authorized by this chapter, it is unlawful for a person to knowingly and intentionally:

(i) produce, manufacture, or dispense, or to possess with intent to produce, manufacture, or dispense, a controlled or counterfeit substance;

(ii) distribute a controlled or counterfeit substance, or to agree, consent, offer, or arrange to distribute a controlled or counterfeit substance;

(iii) possess a controlled or counterfeit substance with intent to distribute; or

(iv) engage in a continuing criminal enterprise where:

(A) the person participates, directs, or engages in conduct that results in a violation of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, that is a felony; and

(B) the violation is a part of a continuing series of two or more violations of Chapter 37, Utah Controlled Substances Act, Chapter 37a, Utah Drug Paraphernalia Act, Chapter 37b, Imitation Controlled Substances Act, Chapter 37c, Utah Controlled Substance Precursor Act, or Chapter 37d, Clandestine Drug Lab Act, on separate occasions that are undertaken in concert with five or more persons with respect to whom the person occupies a position of organizer, supervisor, or any other position of management.

(b) A person convicted of violating Subsection (1)(a) with respect to:

(i) a substance or a counterfeit of a substance classified in Schedule I or II, a controlled substance analog, or gammahydroxybutyric acid as listed in Schedule III is guilty of a second degree felony, punishable by imprisonment for not more than 15 years, and upon a second or subsequent conviction is guilty of a first degree felony;

(ii) a substance or a counterfeit of a substance classified in Schedule III or IV, or marijuana, or a substance listed in Section 58-37-4.2 is guilty of a third degree felony, and upon a second or subsequent conviction is guilty of a second degree felony; or

(iii) a substance or a counterfeit of a substance classified in Schedule V is guilty of a class A misdemeanor and upon a second or subsequent conviction is guilty of a third degree felony.

(c) A person who has been convicted of a violation of Subsection (1)(a)(ii) or (iii) may be sentenced to imprisonment for an indeterminate term as provided by law, but if the trier of fact finds a firearm as defined in Section 76-10-501 was used, carried, or possessed on the person or in the person's immediate possession during the commission or in furtherance of the offense, the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently.

(d) (i) A person convicted of violating Subsection (1)(a)(iv) is guilty of a first degree felony punishable by imprisonment for an indeterminate term of not less than:

(A) seven years and which may be for life; or

(B) 15 years and which may be for life if the trier of fact determined that the defendant knew or reasonably should have known that any subordinate under Subsection (1)(a)(iv)(B) was under 18 years old.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(iii) Subsection (1)(d)(i)(B) does not apply to any defendant who, at the time of the offense, was under 18 years old.

(e) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (1)(a).

(2) Prohibited acts B -- Penalties and reporting:

(a) It is unlawful:

(i) for a person knowingly and intentionally to possess or use a controlled substance analog or a controlled substance, unless it was obtained under a valid prescription or order, directly from a practitioner while acting in the course of the person's professional practice, or as otherwise authorized by this chapter;

(ii) for an owner, tenant, licensee, or person in control of a building, room, tenement, vehicle, boat, aircraft, or other place knowingly and intentionally to permit them to be occupied by persons unlawfully possessing, using, or distributing controlled substances in any of those locations; or

(iii) for a person knowingly and intentionally to possess an altered or forged prescription or written order for a controlled substance.

(b) A person convicted of violating Subsection (2)(a)(i) with respect to:

(i) marijuana, if the amount is 100 pounds or more, is guilty of a second degree felony; or

(ii) a substance classified in Schedule I or II, or a controlled substance analog, is guilty of a class A misdemeanor on a first or second conviction, and on a third or subsequent conviction if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based is guilty of a third degree felony.

(c) Upon a person's conviction of a violation of this Subsection (2) subsequent to a conviction under Subsection (1)(a), that person shall be sentenced to a one degree greater penalty than provided in this Subsection (2).

(d) A person who violates Subsection (2)(a)(i) with respect to all other controlled substances not included in Subsection (2)(b)(i) or (ii), including a substance listed in Section 58-37-4.2, or marijuana, is guilty of a class B misdemeanor.

(i) Upon a third conviction the person is guilty of a class A misdemeanor, if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(ii) Upon a fourth or subsequent conviction the person is guilty of a third degree felony if each prior offense was committed within seven years before the date of the offense upon which the current conviction is based.

(e) A person convicted of violating Subsection (2)(a)(i) while inside the exterior boundaries of property occupied by a correctional facility as defined in Section 64-13-1 or a public jail or other place of confinement shall be sentenced to a penalty one degree greater than provided in Subsection (2)(b), and if the conviction is with respect to controlled substances as listed in:

(i) Subsection (2)(b), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and:

(A) the court shall additionally sentence the person convicted to a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) Subsection (2)(d), the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted to a term of six months to run consecutively and not concurrently.

(f) A person convicted of violating Subsection (2)(a)(ii) or (iii) is:

(i) on a first conviction, guilty of a class B misdemeanor;

(ii) on a second conviction, guilty of a class A misdemeanor; and

(iii) on a third or subsequent conviction, guilty of a third degree felony.

(g) A person is subject to the penalties under Subsection (2)(h) who, in an offense not amounting to a violation of Section 76-5-207:

(i) violates Subsection (2)(a)(i) by knowingly and intentionally having in the person's body any measurable amount of a controlled substance, except for 11-nor-9-carboxy-tetrahydro cannabinol; and

(ii) (A) if the controlled substance is not marijuana, operates a motor vehicle as defined in Section 76-5-207 in a negligent manner, causing serious bodily injury as defined in Section [~~76-1-601~~] 76-1-101.5 or the death of another; or

(B) if the controlled substance is marijuana, operates a motor vehicle as defined in Section 76-5-207 in a criminally negligent manner, causing serious bodily injury as defined in Section [~~76-1-601~~] 76-1-101.5 or the death of another.

(h) A person who violates Subsection (2)(g) by having in the person's body:

(i) a controlled substance classified under Schedule I, other than those described in Subsection (2)(h)(ii), or a controlled substance classified under Schedule II is guilty of a second degree felony;

(ii) except as provided in Subsection (2)(g)(ii)(B), marijuana, tetrahydrocannabinols, or equivalents described in Subsection 58-37-4(2)(a)(iii)(S) or (AA), or a substance listed in Section 58-37-4.2 is guilty of a third degree felony; or

(iii) a controlled substance classified under Schedules III, IV, or V is guilty of a class A misdemeanor.

(i) A person is guilty of a separate offense for each victim suffering serious bodily injury or death as a result of the person's negligent driving in violation of Subsection(2)(g) whether or not the injuries arise from the same episode of driving.

(j) The Administrative Office of the Courts shall report to the Division of Occupational and Professional Licensing the name, case number, date of conviction, and if known, the date of birth of each person convicted of violating Subsection (2)(a).

(3) Prohibited acts C -- Penalties:

(a) It is unlawful for a person knowingly and intentionally:

(i) to use in the course of the manufacture or distribution of a controlled substance a license number which is fictitious, revoked, suspended, or issued to another person or, for the purpose of obtaining a controlled substance, to assume the title of, or represent oneself to be, a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person;

(ii) to acquire or obtain possession of, to procure or attempt to procure the administration of, to obtain a prescription for, to prescribe or dispense to a person known to be attempting to acquire or obtain possession of, or to procure the administration of a controlled substance by misrepresentation or failure by the person to disclose receiving a controlled substance from another source, fraud, forgery, deception, subterfuge, alteration of a prescription or written order for a controlled substance, or the use of a false name or address;

(iii) to make a false or forged prescription or written order for a controlled substance, or to utter the same, or to alter a prescription or written order issued or written under the terms of this chapter; or

(iv) to make, distribute, or possess a punch, die, plate, stone, or other thing designed to print, imprint, or reproduce the trademark, trade name, or other identifying mark, imprint, or device of another or any likeness of any of the foregoing upon any drug or container or labeling so as to render a drug a counterfeit controlled substance.

(b) (i) A first or second conviction under Subsection (3)(a)(i), (ii), or (iii) is a class A misdemeanor.

(ii) A third or subsequent conviction under Subsection (3)(a)(i), (ii), or (iii) is a third degree felony.

(c) A violation of Subsection (3)(a)(iv) is a third degree felony.

(4) Prohibited acts D -- Penalties:

(a) Notwithstanding other provisions of this section, a person not authorized under this chapter who commits any act that is unlawful under Subsection (1)(a) or Section 58-37b-4 is upon conviction subject to the penalties and classifications under this Subsection (4) if the trier of fact finds the act is committed:

(i) in a public or private elementary or secondary school or on the grounds of any of those schools during the hours of 6 a.m. through 10 p.m.;

(ii) in a public or private vocational school or postsecondary institution or on the grounds of any of those schools or institutions during the hours of 6 a.m. through 10 p.m.;

(iii) in or on the grounds of a preschool or child-care facility during the preschool's or facility's hours of operation;

(iv) in a public park, amusement park, arcade, or recreation center when the public or amusement park, arcade, or recreation center is open to the public;

(v) in or on the grounds of a house of worship as defined in Section 76-10-501;

(vi) in or on the grounds of a library when the library is open to the public;

(vii) within an area that is within 100 feet of any structure, facility, or grounds included in Subsections (4)(a)(i), (ii), (iii), (iv), (v), and (vi);

(viii) in the presence of a person younger than 18 years [~~of age~~] old, regardless of where the act occurs; or

(ix) for the purpose of facilitating, arranging, or causing the transport, delivery, or distribution of a substance in violation of this section to an inmate or on the grounds of a correctional facility as defined in Section 76-8-311.3.

(b) (i) A person convicted under this Subsection (4) is guilty of a first degree felony and shall be imprisoned for a term of not less than five years if the penalty that would otherwise have been established but for this Subsection (4) would have been a first degree felony.

(ii) Imposition or execution of the sentence may not be suspended, and the person is not eligible for probation.

(c) If the classification that would otherwise have been established would have been less than a first degree felony but for this Subsection (4), a person convicted under this Subsection (4) is guilty of one degree more than the maximum penalty prescribed for that offense. This Subsection (4)(c) does not apply to a violation of Subsection (2)(g).

(d) (i) If the violation is of Subsection (4)(a)(ix):

(A) the person may be sentenced to imprisonment for an indeterminate term as provided by law, and the court shall additionally sentence the person convicted for a term of one year to run consecutively and not concurrently; and

(B) the court may additionally sentence the person convicted for an indeterminate term not to exceed five years to run consecutively and not concurrently; and

(ii) the penalties under this Subsection (4)(d) apply also to a person who, acting with the mental state required for the commission of an offense, directly or indirectly solicits, requests, commands, coerces, encourages, or intentionally aids another person to commit a violation of Subsection (4)(a)(ix).

(e) It is not a defense to a prosecution under this Subsection (4) that:

(i) the actor mistakenly believed the individual to be 18 years old or older at the time of the offense or was unaware of the individual's true age; or

(ii) the actor mistakenly believed that the location where the act occurred was not as described in Subsection (4)(a) or was unaware that the location where the act occurred was as described in Subsection (4)(a).

(5) A violation of this chapter for which no penalty is specified is a class B misdemeanor.

(6) (a) For purposes of penalty enhancement under Subsections (1) and (2), a plea of guilty or no contest to a violation or attempted violation of this section or a plea which is held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(b) A prior conviction used for a penalty enhancement under Subsection (2) shall be a conviction that is:

(i) from a separate criminal episode than the current charge; and

(ii) from a conviction that is separate from any other conviction used to enhance the current charge.

(7) A person may be charged and sentenced for a violation of this section, notwithstanding a charge and sentence for a violation of any other section of this chapter.

(8) (a) A penalty imposed for violation of this section is in addition to, and not in lieu of, a civil or administrative penalty or sanction authorized by law.

(b) When a violation of this chapter violates a federal law or the law of another state, conviction or acquittal under federal law or the law of another state for the same act is a bar to prosecution in this state.

(9) In any prosecution for a violation of this chapter, evidence or proof that shows a person or persons produced, manufactured, possessed, distributed, or dispensed a controlled substance or substances, is prima facie evidence that the person or persons did so with knowledge of the character of the substance or substances.

(10) This section does not prohibit a veterinarian, in good faith and in the course of the veterinarian's professional practice only and not for humans, from prescribing, dispensing, or administering controlled substances or from causing the substances to be administered by an assistant or orderly under the veterinarian's direction and supervision.

(11) Civil or criminal liability may not be imposed under this section on:

(a) a person registered under this chapter who manufactures, distributes, or possesses an imitation controlled substance for use as a placebo or investigational new drug by a registered practitioner in the ordinary course of professional practice or research; or

(b) a law enforcement officer acting in the course and legitimate scope of the officer's employment.

(12) (a) Civil or criminal liability may not be imposed under this section on any Indian, as defined in Section 58-37-2, who uses, possesses, or transports peyote for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion as defined in Section 58-37-2.

(b) In a prosecution alleging violation of this section regarding peyote as defined in Section 58-37-4, it is an affirmative defense that the peyote was used, possessed, or transported by an Indian for bona fide traditional ceremonial purposes in connection with the practice of a traditional Indian religion.

(c) (i) The defendant shall provide written notice of intent to claim an affirmative defense under this Subsection (12) as soon as practicable, but not later than 10 days before trial.

(ii) The notice shall include the specific claims of the affirmative defense.

(iii) The court may waive the notice requirement in the interest of justice for good cause shown, if the prosecutor is not unfairly prejudiced by the lack of timely notice.

(d) The defendant shall establish the affirmative defense under this Subsection (12) by a preponderance of the evidence. If the defense is established, it is a complete defense to the charges.

(13) (a) It is an affirmative defense that the person produced, possessed, or administered a controlled substance listed in Section 58-37-4.2 if the person was:

(i) engaged in medical research; and

(ii) a holder of a valid license to possess controlled substances under Section 58-37-6.

(b) It is not a defense under Subsection (13)(a) that the person prescribed or dispensed a controlled substance listed in Section 58-37-4.2.

(14) It is an affirmative defense that the person possessed, in the person's body, a controlled substance listed in Section 58-37-4.2 if:

(a) the person was the subject of medical research conducted by a holder of a valid license to possess controlled substances under Section 58-37-6; and

(b) the substance was administered to the person by the medical researcher.

(15) The application of any increase in penalty under this section to a violation of Subsection (2)(a)(i) may not result in any greater penalty than a second degree felony. This Subsection (15) takes precedence over any conflicting provision of this section.

(16) (a) It is an affirmative defense to an allegation of the commission of an offense listed in Subsection (16)(b) that the person or bystander:

(i) reasonably believes that the person or another person is experiencing an overdose event due to the ingestion, injection, inhalation, or other introduction into the human body of a controlled substance or other substance;

(ii) reports, or assists a person who reports, in good faith the overdose event to a medical provider, an emergency medical service provider as defined in Section 26-8a-102, a law enforcement officer, a 911 emergency call system, or an emergency dispatch system, or the person is the subject of a report made under this Subsection (16);

(iii) provides in the report under Subsection (16)(a)(ii) a functional description of the actual location of the overdose event that facilitates responding to the person experiencing the overdose event;

(iv) remains at the location of the person experiencing the overdose event until a responding law enforcement officer or emergency medical service provider arrives, or remains at the medical care facility where the person experiencing an overdose event is located until a responding law enforcement officer arrives;

(v) cooperates with the responding medical provider, emergency medical service provider, and law enforcement officer, including providing information regarding the person experiencing the overdose event and any substances the person may have injected, inhaled, or otherwise introduced into the person's body; and

(vi) is alleged to have committed the offense in the same course of events from which the reported overdose arose.

(b) The offenses referred to in Subsection (16)(a) are:

(i) the possession or use of less than 16 ounces of marijuana;

(ii) the possession or use of a scheduled or listed controlled substance other than marijuana; and

(iii) any violation of Chapter 37a, Utah Drug Paraphernalia Act, or Chapter 37b, Imitation Controlled Substances Act.

(c) As used in this Subsection (16) and in Section 76-3-203.11, "good faith" does not include seeking medical assistance under this section during the course of a law enforcement agency's execution of a search warrant, execution of an arrest warrant, or other lawful search.

(17) If any provision of this chapter, or the application of any provision to any person or circumstances, is held invalid, the remainder of this chapter shall be given effect without the invalid provision or application.

(18) A legislative body of a political subdivision may not enact an ordinance that is less restrictive than any provision of this chapter.

(19) If a minor who is under 18 years old is found by a court to have violated this section, the court may order the minor to complete:

(a) a screening as defined in Section 41-6a-501;

(b) an assessment as defined in Section 41-6a-501 if the screening indicates an assessment to be appropriate; and

(c) an educational series as defined in Section 41-6a-501 or substance use disorder treatment as indicated by an assessment.

Section 32. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

(F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years old; or

(B) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in [~~Section 76-5-109~~] Sections 76-5-109, 76-5-109.2, and 76-5-109.3;

(B) commission of domestic violence in the presence of a child, as described in Section [~~76-5-109.1~~] 76-5-114;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 33. Section 62A-3-301 is amended to read:

62A-3-301. Definitions.

As used in this part:

(1) "Abandonment" means any knowing or intentional action or failure to act, including desertion, by a person acting as a caretaker for a vulnerable adult that leaves the vulnerable adult without the means or ability to obtain necessary food, clothing, shelter, or medical or other health care.

(2) "Abuse" means:

(a) knowingly or intentionally:

(i) attempting to cause harm;

(ii) causing harm; or

(iii) placing another in fear of harm;

(b) unreasonable or inappropriate use of physical restraint, medication, or isolation that causes or is likely to cause harm to a vulnerable adult;

(c) emotional or psychological abuse;

(d) a sexual offense as described in Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual; or

(e) deprivation of life sustaining treatment, or medical or mental health treatment, except:

(i) as provided in Title 75, Chapter 2a, Advance Health Care Directive Act; or

(ii) when informed consent, as defined in Section 76-5-111, has been obtained.

(3) "Adult" means an individual who is 18 years [~~of age~~] old or older.

(4) "Adult protection case file" means a record, stored in any format, contained in a case file maintained by Adult Protective Services.

(5) "Adult Protective Services" means the unit within the division responsible to investigate abuse, neglect, and exploitation of vulnerable adults and provide appropriate protective services.

(6) "Capacity to consent" means the ability of an individual to understand and communicate regarding the nature and consequences of decisions relating to the individual, and relating to the individual's property and lifestyle, including a decision to accept or refuse services.

(7) "Caretaker" means a person or public institution that is entrusted with or assumes the responsibility to provide a vulnerable adult with care, food, shelter, clothing, supervision, medical or other health care, resource management, or other necessities for pecuniary gain, by contract, or as a result of friendship, or who is otherwise in a position of trust and confidence with a vulnerable adult, including a relative, a household member, an attorney-in-fact, a neighbor, a person who is employed or who provides volunteer work, a court-appointed or voluntary guardian, or a person who contracts or is under court order to provide care.

(8) "Counsel" means an attorney licensed to practice law in this state.

(9) "Database" means the statewide database maintained by the division under Section 62A-3-311.1.

(10) (a) "Dependent adult" means an individual 18 years old or older, who has a physical or mental impairment that restricts the individual's ability to carry out normal activities or to protect the individual's rights.

(b) "Dependent adult" includes an individual who has physical or developmental disabilities or whose physical or mental capacity has substantially diminished because of age.

(11) "Elder abuse" means abuse, neglect, or exploitation of an elder adult.

(12) "Elder adult" means an individual 65 years old or older.

(13) "Emergency" means a circumstance in which a vulnerable adult is at an immediate risk of death, serious physical injury, or serious physical, emotional, or financial harm.

(14) "Emergency protective services" means measures taken by Adult Protective Services under time-limited, court-ordered authority for the purpose of remediating an emergency.

(15) (a) "Emotional or psychological abuse" means knowing or intentional verbal or nonverbal conduct directed at a vulnerable adult that results in the vulnerable adult suffering mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(b) "Emotional or psychological abuse" includes intimidating, threatening, isolating, coercing, or harassing.

(c) "Emotional or psychological abuse" does not include verbal or non-verbal conduct by a vulnerable adult who lacks the capacity to intentionally or knowingly:

(i) engage in the conduct; or

(ii) cause mental anguish, emotional distress, fear, humiliation, degradation, agitation, or confusion.

(16) "Exploitation" means an offense described in [~~Subsection 76-5-111(4) or (9) or~~] Section 76-5-111.3, 76-5-111.4, or 76-5b-202.

(17) "Harm" means pain, mental anguish, emotional distress, hurt, physical or psychological damage, physical injury, serious physical injury, suffering, or distress inflicted knowingly or intentionally.

(18) "Inconclusive" means a finding by the division that there is not a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(19) "Intimidation" means communication through verbal or nonverbal conduct which threatens deprivation of money, food, clothing, medicine, shelter, social interaction, supervision, health care, or companionship, or which threatens isolation or abuse.

(20) (a) "Isolation" means knowingly or intentionally preventing a vulnerable adult from having contact with another person, unless the restriction of personal rights is authorized by court order, by:

(i) preventing the vulnerable adult from communicating, visiting, interacting, or initiating interaction with others, including receiving or inviting visitors, mail, or telephone calls, contrary to the expressed wishes of the vulnerable adult, or communicating to a visitor that the vulnerable adult is not present or does not want to meet with or talk to the visitor, knowing that communication to be false;

(ii) physically restraining the vulnerable adult in order to prevent the vulnerable adult from meeting with a visitor; or

(iii) making false or misleading statements to the vulnerable adult in order to induce the vulnerable adult to refuse to receive communication from visitors or other family members.

(b) "Isolation" does not include an act:

(i) intended in good faith to protect the physical or mental welfare of the vulnerable adult; or

(ii) performed pursuant to the treatment plan or instructions of a physician or other professional advisor of the vulnerable adult.

(21) "Lacks capacity to consent" is as defined in Section [~~76-5-111~~] 76-5-111.4.

(22) (a) "Neglect" means:

(i) (A) failure of a caretaker to provide necessary care, including nutrition, clothing, shelter, supervision, personal care, or dental, medical, or other health care for a vulnerable adult, unless the vulnerable adult is able to provide or obtain the necessary care without assistance; or

(B) failure of a caretaker to provide protection from health and safety hazards or maltreatment;

(ii) failure of a caretaker to provide care to a vulnerable adult in a timely manner and with the degree of care that a reasonable person in a like position would exercise;

(iii) a pattern of conduct by a caretaker, without the vulnerable adult's informed consent, resulting in deprivation of food, water, medication, health care, shelter, cooling, heating, or other services necessary to maintain the vulnerable adult's well being;

(iv) knowing or intentional failure by a caretaker to carry out a prescribed treatment plan that causes or is likely to cause harm to the vulnerable adult;

(v) self-neglect by the vulnerable adult; or

(vi) abandonment by a caretaker.

(b) "Neglect" does not include conduct, or failure to take action, that is permitted or excused under Title 75, Chapter 2a, Advance Health Care Directive Act.

(23) "Physical injury" includes the damage and conditions described in Section 76-5-111.

(24) "Protected person" means a vulnerable adult for whom the court has ordered protective services.

(25) "Protective services" means services to protect a vulnerable adult from abuse, neglect, or exploitation.

(26) "Self-neglect" means the failure of a vulnerable adult to provide or obtain food, water, medication, health care, shelter, cooling, heating, safety, or other services necessary to maintain the vulnerable adult's well being when that failure is the result of the adult's mental or physical impairment. Choice of lifestyle or living arrangements may not, by themselves, be evidence of self-neglect.

(27) "Serious physical injury" is as defined in Section 76-5-111.

(28) "Supported" means a finding by the division that there is a reasonable basis to conclude that abuse, neglect, or exploitation occurred.

(29) "Undue influence" occurs when a person:

(a) uses influence to take advantage of a vulnerable adult's mental or physical impairment; or

(b) uses the person's role, relationship, or power:

(i) to exploit, or knowingly assist or cause another to exploit, the trust, dependency, or fear of a vulnerable adult; or

(ii) to gain control deceptively over the decision making of the vulnerable adult.

(30) "Vulnerable adult" means an elder adult, or a dependent adult who has a mental or physical impairment which substantially affects that person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own financial resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(31) "Without merit" means a finding that abuse, neglect, or exploitation did not occur.

Section 34. Section 62A-4a-105 is amended to read:

62A-4a-105. Division responsibilities.

(1) The division shall:

(a) administer services to minors and families, including:

(i) child welfare services;

(ii) domestic violence services; and

(iii) all other responsibilities that the Legislature or the executive director may assign to the division;

(b) provide the following services:

(i) financial and other assistance to an individual adopting a child with special needs under Part 9, Adoption Assistance, not to exceed the amount the division would provide for the child as a legal ward of the state;

(ii) non-custodial and in-home services, including:

(A) services designed to prevent family break-up; and

(B) family preservation services;

(iii) reunification services to families whose children are in substitute care in accordance with the requirements of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(iv) protective supervision of a family, upon court order, in an effort to eliminate abuse or neglect of a child in that family;

(v) shelter care in accordance with the requirements of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(vi) domestic violence services, in accordance with the requirements of federal law;

(vii) protective services to victims of domestic violence, as defined in Section 77-36-1, and their children, in accordance with the provisions of this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings;

(viii) substitute care for dependent, abused, and neglected children;

(ix) services for minors who are victims of human trafficking or human smuggling as described in Sections 76-5-308 through [~~76-5-310~~] 76-5-310.1 or who have engaged in prostitution or sexual solicitation as defined in Sections 76-10-1302 and 76-10-1313; and

(x) training for staff and providers involved in the administration and delivery of services offered by the division in accordance with this chapter;

(c) establish standards for all:

(i) contract providers of out-of-home care for minors and families;

(ii) facilities that provide substitute care for dependent, abused, and neglected children placed in the custody of the division; and

(iii) direct or contract providers of domestic violence services described in Subsection (1)(b)(vi);

(d) have authority to:

(i) contract with a private, nonprofit organization to recruit and train foster care families and child welfare volunteers in accordance with Section 62A-4a-107.5; and

(ii) approve facilities that meet the standards established under Subsection (1)(c) to provide substitute care for dependent, abused, and neglected children placed in the custody of the division;

(e) cooperate with the federal government in the administration of child welfare and domestic violence programs and other human service activities assigned by the department;

(f) if there is a privacy agreement with an Indian tribe to protect the confidentiality of division records to the same extent that the division is required to protect division records, cooperate with and share all appropriate information in the division's possession regarding an Indian child, the Indian child's parent or guardian, or a proposed placement for the Indian child with the Indian tribe that is affiliated with the Indian child;

(g) in accordance with Subsection (2)(a), promote and enforce state and federal laws enacted for the protection of abused, neglected, and dependent children, in accordance with the requirements of this chapter, unless administration is expressly vested in another division or department of the state;

(h) cooperate with the Workforce Development Division within the Department of Workforce Services in meeting the social and economic needs of an individual who is eligible for public assistance;

(i) compile relevant information, statistics, and reports on child and family service matters in the state;

(j) prepare and submit to the department, the governor, and the Legislature reports of the operation and administration of the division in accordance with the requirements of Sections 62A-4a-117 and 62A-4a-118;

(k) within appropriations from the Legislature, provide or contract for a variety of domestic violence services and treatment methods;

(l) ensure regular, periodic publication, including electronic publication, regarding the number of children in the custody of the division who:

(i) have a permanency goal of adoption; or

(ii) have a final plan of termination of parental rights, pursuant to Section 80-3-409, and promote adoption of those children;

(m) subject to Subsections (2)(b) and (5), refer an individual receiving services from the division to the local substance abuse authority or other private or public resource for a court-ordered drug screening test;

(n) report before November 30, 2020, and every third year thereafter, to the Social Services Appropriations Subcommittee regarding:

(i) the daily reimbursement rate that is provided to licensed foster parents based on level of care;

(ii) the amount of money spent on daily reimbursements for licensed foster parents in the state during the previous fiscal year; and

(iii) any recommended changes to the division's budget to support the daily reimbursement rates described in Subsection (1)(n)(i); and

(o) perform other duties and functions required by law.

(2) (a) In carrying out the requirements of Subsection (1)(g), the division shall:

(i) cooperate with the juvenile courts, the Division of Juvenile Justice Services, and with all public and private licensed child welfare agencies and institutions to develop and administer a broad range of services and support;

(ii) take the initiative in all matters involving the protection of abused or neglected children, if adequate provisions have not been made or are not likely to be made; and

(iii) make expenditures necessary for the care and protection of the children described in this Subsection (2)(a), within the division's budget.

(b) When an individual is referred to a local substance abuse authority or other private or public resource for court-ordered drug screening under Subsection (1)(m), the court shall order the individual to pay all costs of the tests unless:

(i) the cost of the drug screening is specifically funded or provided for by other federal or state programs;

(ii) the individual is a participant in a drug court; or

(iii) the court finds that the individual is impecunious.

(3) Except to the extent provided by rule, the division is not responsible for investigating domestic violence in the presence of a child, as described in Section [~~76-5-109.1~~] 76-5-114.

(4) The division may not require a parent who has a child in the custody of the division to pay for some or all of the cost of any drug testing the parent is required to undergo.

(5) The division may not refer an individual who is receiving services from the division for drug testing by means of a hair or fingernail test that is administered to detect the presence of drugs.

Section 35. Section 62A-4a-412 is amended to read:

62A-4a-412. Reports, information, and referrals confidential.

(1) Except as otherwise provided in this chapter, reports made under this part, as well as any other information in the possession of the division obtained as the result of a report are private, protected, or controlled records under Title 63G, Chapter 2, Government Records Access and Management Act, and may only be made available to:

(a) a police or law enforcement agency investigating a report of known or suspected abuse or neglect, including members of a child protection team;

(b) a physician who reasonably believes that a child may be the subject of abuse or neglect;

(c) an agency that has responsibility or authority to care for, treat, or supervise a minor who is the subject of a report;

(d) a contract provider that has a written contract with the division to render services to a minor who is the subject of a report;

(e) a subject of the report, the natural parents of the child, and the guardian ad litem;

(f) a court, upon a finding that access to the records may be necessary for the determination of an issue before the court, provided that in a divorce, custody, or related proceeding between private parties, the record alone is:

(i) limited to objective or undisputed facts that were verified at the time of the investigation; and

(ii) devoid of conclusions drawn by the division or any of the division's workers on the ultimate issue of whether or not an individual's acts or omissions constituted any level of abuse or neglect of another individual;

(g) an office of the public prosecutor or its deputies in performing an official duty;

(h) a person authorized by a Children's Justice Center, for the purposes described in Section 67-5b-102;

(i) a person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses;

(j) the State Board of Education, acting on behalf of itself or on behalf of a local education agency, as defined in Section 63J-5-102, for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, limited to information with substantiated or supported findings involving an alleged sexual offense, an alleged felony or class A misdemeanor drug offense, or any alleged offense against the person under Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, and with the understanding that the office must provide the subject of a report received under Subsection (1)(k) with an opportunity to respond to the report before making a decision concerning licensure or employment;

(k) any individual identified in the report as a perpetrator or possible perpetrator of abuse or neglect, after being advised of the screening prohibition in Subsection (2);

(l) a person filing a petition for a child protective order on behalf of a child who is the subject of the report;

(m) a licensed child-placing agency or person who is performing a preplacement adoptive evaluation in accordance with the requirements of Sections 78B-6-128 and 78B-6-130;

(n) an Indian tribe to:

(i) certify or license a foster home;

(ii) render services to a subject of a report; or

(iii) investigate an allegation of abuse, neglect, or dependency; or

(o) the Division of Substance Abuse and Mental Health, the Department of Health, or a local substance abuse authority, described in Section 17-43-201, for the purpose of providing substance abuse treatment to a pregnant woman or a parent of a newborn child, or the services described in Subsection 62A-15-103(2)(o).

(2) (a) A person, unless listed in Subsection (1), may not request another person to obtain or release a report or any other information in the possession of the division obtained as a result of the report that is available under Subsection (1)(k) to screen for potential perpetrators of abuse or neglect.

(b) A person who requests information knowing that the request is a violation of Subsection (2)(a) is subject to the criminal penalty in Subsection (4).

(3) (a) Except as provided in Section 62A-4a-1007, the division and law enforcement officials shall ensure the anonymity of the person or persons making the initial report and any others involved in the division's or law enforcement officials' subsequent investigation.

(b) Notwithstanding any other provision of law, excluding Section 80-3-107, but including this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, when the division makes a report or other information in the division's possession available under Subsection (1)(e) to a subject of the report or a parent of a child, the division shall remove from the report or other information only the names, addresses, and telephone numbers of individuals or specific information that could:

(i) identify the referent;

(ii) impede a criminal investigation; or

(iii) endanger an individual's safety.

(4) Any person who willfully permits, or aides and abets the release of data or information obtained as a result of this part, in the possession of the division or contained on any part of the Management Information System, in violation of this part or Sections 62A-4a-1003 through 62A-4a-1007, is guilty of a class C misdemeanor.

(5) (a) As used in this Subsection (5), "physician" means an individual licensed to practice as a physician or osteopath in this state under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(b) The physician-patient privilege does not:

(i) excuse a physician from reporting suspected abuse, neglect, fetal alcohol syndrome, or fetal drug dependency under this part; and

(ii) constitute grounds for excluding evidence regarding a child's injuries, or the cause of the child's injuries, in any judicial or administrative proceeding resulting from a report under this part.

(6) A child-placing agency or person who receives a report in connection with a preplacement adoptive evaluation under Sections 78B-6-128 and 78B-6-130:

(a) may provide this report to the person who is the subject of the report; and

(b) may provide this report to a person who is performing a preplacement adoptive evaluation in accordance with the requirement of Sections 78B-6-128 and 78B-6-130, or to a licensed child-placing agency or to an attorney seeking to facilitate an adoption.

(7) A member of a child protection team may, before the day on which the child is removed, share case-specific information obtained from the division under this section with other members of the child protection team.

(8) (a) Except as provided in Subsection (8)(b), in a divorce, custody, or related proceeding between private parties, a court may not receive into evidence a report that:

(i) is provided to the court:

(A) under Subsection (1)(f); or

(B) by a parent of the child after the record is made available to the parent under Subsection (1)(e);

(ii) describes a parent of the child as the alleged perpetrator; and

(iii) is found to be unsubstantiated, unsupported, or without merit.

(b) (i) After a motion to admit the report described in Subsection (8)(a) is made, the court shall allow sufficient time for all subjects of the record to respond before making a finding on the motion.

(ii) After considering the motion described in Subsection (8)(b), the court may receive the report into evidence upon a finding on the record of good cause.

Section 36. Section 63G-12-102 is amended to read:

63G-12-102. Definitions.

As used in this chapter:

(1) "Basic health insurance plan" means a health plan that is actuarially equivalent to a federally qualified high deductible health plan.

(2) "Department" means the Department of Public Safety created in Section 53-1-103.

(3) "Employee" means an individual employed by an employer under a contract for hire.

(4) "Employer" means a person who has one or more employees employed in the same business, or in or about the same establishment, under any contract of hire, express or implied, oral or written.

(5) "E-verify program" means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, 8 U.S.C. Sec. 1324a, known as the e-verify program.

(6) "Family member" means for an undocumented individual:

(a) a member of the undocumented individual's immediate family;

(b) the undocumented individual's grandparent;

(c) the undocumented individual's sibling;

(d) the undocumented individual's grandchild;

(e) the undocumented individual's nephew;

(f) the undocumented individual's niece;

(g) a spouse of an individual described in this Subsection (6); or

(h) an individual who is similar to one listed in this Subsection (6).

(7) "Federal SAVE program" means the Systematic Alien Verification for Entitlements Program operated by the United States Department of Homeland Security or an equivalent program designated by the Department of Homeland Security.

(8) "Guest worker" means an undocumented individual who holds a guest worker permit.

(9) "Guest worker permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-205.

(10) "Immediate family" means for an undocumented individual:

(a) the undocumented individual's spouse; or

(b) a child of the undocumented individual if the child is:

(i) under 21 years [~~of age~~] old; and

(ii) unmarried.

(11) "Immediate family permit" means a permit issued in accordance with Section 63G-12-207 to an undocumented individual who meets the eligibility criteria of Section 63G-12-206.

(12) "Permit" means a permit issued under Part 2, Guest Worker Program, and includes:

(a) a guest worker permit; and

(b) an immediate family permit.

(13) "Permit holder" means an undocumented individual who holds a permit.

(14) "Private employer" means an employer who is not the federal government or a public employer.

(15) "Program" means the Guest Worker Program described in Section 63G-12-201.

(16) "Program start date" means the day on which the department is required to implement the program under Subsection 63G-12-202(3).

(17) "Public employer" means an employer that is:

(a) the state of Utah or any administrative subunit of the state;

(b) a state institution of higher education, as defined in Section 53B-3-102;

(c) a political subdivision of the state including a county, city, town, school district, local district, or special service district; or

(d) an administrative subunit of a political subdivision.

(18) "Relevant contact information" means the following for an undocumented individual:

(a) the undocumented individual's name;

(b) the undocumented individual's residential address;

(c) the undocumented individual's residential telephone number;

(d) the undocumented individual's personal email address;

(e) the name of the person with whom the undocumented individual has a contract for hire;

(f) the name of the contact person for the person listed in Subsection (18)(e);

(g) the address of the person listed in Subsection (18)(e);

(h) the telephone number for the person listed in Subsection (18)(e);

(i) the names of the undocumented individual's immediate family members;

(j) the names of the family members who reside with the undocumented individual; and

(k) any other information required by the department by rule made in accordance with Chapter 3, Utah Administrative Rulemaking Act.

(19) "Restricted account" means the Immigration Act Restricted Account created in Section 63G-12-103.

(20) "Serious felony" means a felony under:

(a) Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual;

(b) Title 76, Chapter 5b, Sexual Exploitation Act;

(c) Title 76, Chapter 6, Offenses Against Property;

(d) Title 76, Chapter 7, Offenses Against the Family;

(e) Title 76, Chapter 8, Offenses Against the Administration of Government;

(f) Title 76, Chapter 9, Offenses Against Public Order and Decency; and

(g) Title 76, Chapter 10, Offenses Against Public Health, Safety, Welfare, and Morals.

(21) (a) "Status verification system" means an electronic system operated by the federal government, through which an authorized official of a state agency or a political subdivision of the state may inquire by exercise of authority delegated pursuant to 8 U.S.C. Sec. 1373, to verify the citizenship or immigration status of an individual within the jurisdiction of the agency or political subdivision for a purpose authorized under this section.

(b) "Status verification system" includes:

(i) the e-verify program;

(ii) an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986;

(iii) the Social Security Number Verification Service or similar online verification process implemented by the United States Social Security Administration; or

(iv) an independent third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in Subsection (21)(b)(i), (ii), or (iii).

(22) "Unauthorized alien" is as defined in 8 U.S.C. Sec. 1324a(h)(3).

(23) "Undocumented individual" means an individual who:

(a) lives or works in the state; and

(b) is not in compliance with the Immigration and Nationality Act, 8 U.S.C. Sec. 1101 et seq. with regard to presence in the United States.

(24) "U-verify program" means the verification procedure developed by the department in accordance with Section 63G-12-210.

Section 37. Section 63M-7-502 is amended to read:

63M-7-502. Definitions.

As used in this part:

(1) "Accomplice" means an individual who has engaged in criminal conduct as described in Section 76-2-202.

(2) "Board" means the Crime Victim Reparations and Assistance Board created under Section 63M-7-504.

(3) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(4) "Claimant" means any of the following claiming reparations under this part:

(a) a victim;

(b) a dependent of a deceased victim; or

(c) an individual or representative who files a reparations claim on behalf of a victim.

(5) "Child" means an unemancipated individual who is under 18 years old.

(6) "Collateral source" means any source of benefits or advantages for economic loss otherwise reparable under this part that the victim or claimant has received, or that is readily available to the victim from:

(a) the offender;

(b) the insurance of the offender or the victim;

(c) the United States government or any of its agencies, a state or any of its political subdivisions, or an instrumentality of two or more states, except in the case on nonobligatory state-funded programs;

(d) social security, Medicare, and Medicaid;

(e) state-required temporary nonoccupational income replacement insurance or disability income insurance;

(f) workers' compensation;

(g) wage continuation programs of any employer;

(h) proceeds of a contract of insurance payable to the victim for the loss the victim sustained because of the criminally injurious conduct;

(i) a contract providing prepaid hospital and other health care services or benefits for disability; or

(j) veteran's benefits, including veteran's hospitalization benefits.

(7) (a) "Criminally injurious conduct" other than acts of war declared or not declared means conduct that:

(i) is or would be subject to prosecution in this state under Section 76-1-201;

(ii) occurs or is attempted;

(iii) causes, or poses a substantial threat of causing, bodily injury or death;

(iv) is punishable by fine, imprisonment, or death if the individual engaging in the conduct possessed the capacity to commit the conduct; and

(v) does not arise out of the ownership, maintenance, or use of a motor vehicle, aircraft, or water craft, unless the conduct is intended to cause bodily injury or death, or is conduct which is or would be punishable under Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, or as any offense chargeable as driving under the influence of alcohol or drugs.

(b) "Criminally injurious conduct" includes an act of terrorism, as defined in 18 U.S.C. Sec. 2331 committed outside of the United States against a resident of this state. "Terrorism" does not include an "act of war" as defined in 18 U.S.C. Sec. 2331.

(c) "Criminally injurious conduct" includes a felony violation of Section 76-7-101 and other conduct leading to the psychological injury of an individual resulting from living in a setting that involves a bigamous relationship.

(8) (a) "Dependent" means a natural person to whom the victim is wholly or partially legally responsible for care or support.

(b) "Dependent" includes a child of the victim born after the victim's death.

(9) "Dependent's economic loss" means loss after the victim's death of contributions of things of economic value to the victim's dependent, not including services the dependent would have received from the victim if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of victim's death.

(10) "Dependent's replacement services loss" means loss reasonably and necessarily incurred by the dependent after the victim's death in obtaining services in lieu of those the decedent would have performed for the victim's benefit if the victim had not suffered the fatal injury, less expenses of the dependent avoided by reason of the victim's death and not subtracted in calculating the dependent's economic loss.

(11) "Director" means the director of the office.

(12) "Disposition" means the sentencing or determination of penalty or punishment to be imposed upon an individual:

(a) convicted of a crime;

(b) found delinquent; or

(c) against whom a finding of sufficient facts for conviction or finding of delinquency is made.

(13) (a) "Economic loss" means economic detriment consisting only of allowable expense, work loss, replacement services loss, and if injury causes death, dependent's economic loss and dependent's replacement service loss.

(b) "Economic loss" includes economic detriment even if caused by pain and suffering or physical impairment.

(c) "Economic loss" does not include noneconomic detriment.

(14) "Elderly victim" means an individual 60 years old or older who is a victim.

(15) "Fraudulent claim" means a filed reparations based on material misrepresentation of fact and intended to deceive the reparations staff for the purpose of obtaining reparation funds for which the claimant is not eligible.

(16) "Fund" means the Crime Victim Reparations Fund created in Section 63M-7-526.

(17) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(18) (a) "Medical examination" means a physical examination necessary to document criminally injurious conduct.

(b) "Medical examination" does not include mental health evaluations for the prosecution and investigation of a crime.

(19) "Mental health counseling" means outpatient and inpatient counseling necessitated as

a result of criminally injurious conduct, is subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(20) "Misconduct" means conduct by the victim that was attributable to the injury or death of the victim as provided by rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(21) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damage, except as provided in this part.

(22) "Pecuniary loss" does not include loss attributable to pain and suffering except as otherwise provided in this part.

(23) "Offender" means an individual who has violated Title 76, Utah Criminal Code, through criminally injurious conduct regardless of whether the individual is arrested, prosecuted, or convicted.

(24) "Offense" means a violation of Title 76, Utah Criminal Code.

(25) "Office" means the director, the reparations and assistance officers, and any other staff employed for the purpose of carrying out the provisions of this part.

(26) "Perpetrator" means the individual who actually participated in the criminally injurious conduct.

(27) "Reparations award" means money or other benefits provided to a claimant or to another on behalf of a claimant after the day on which a reparations claim is approved by the office.

(28) "Reparations claim" means a claimant's request or application made to the office for a reparations award.

(29) (a) "Reparations officer" means an individual employed by the office to investigate claims of victims and award reparations under this part.

(b) "Reparations officer" includes the director when the director is acting as a reparations officer.

(30) "Replacement service loss" means expenses reasonably and necessarily incurred in obtaining ordinary and necessary services in lieu of those the injured individual would have performed, not for income but the benefit of the injured individual or the injured individual's dependents if the injured individual had not been injured.

(31) (a) "Representative" means the victim, immediate family member, legal guardian, attorney, conservator, executor, or an heir of an individual.

(b) "Representative" does not include a service provider or collateral source.

(32) "Restitution" means the same as that term is defined in Section 77-38b-102.

(33) "Secondary victim" means an individual who is traumatically affected by the criminally injurious conduct subject to rules made by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(34) "Service provider" means an individual or agency who provides a service to a victim for a monetary fee, except attorneys as provided in Section 63M-7-524.

(35) "Serious bodily injury" means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(36) "Substantial bodily injury" means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(37) (a) "Victim" means an individual who suffers bodily or psychological injury or death as a direct result of:

(i) criminally injurious conduct; or

(ii) the production of pornography in violation of Section 76-5b-201 if the individual is a minor.

(b) "Victim" does not include an individual who participated in or observed the judicial proceedings against an offender unless otherwise provided by statute or rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) "Victim" includes a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. Sec. 2331, committed outside of the United States.

(38) "Work loss" means loss of income from work the injured victim would have performed if the injured victim had not been injured and expenses reasonably incurred by the injured victim in obtaining services in lieu of those the injured victim would have performed for income, reduced by any income from substitute work the injured victim was capable of performing but unreasonably failed to undertake.

Section 38. Section 63M-7-513 is amended to read:

63M-7-513. Collateral sources.

(1) (a) An order for restitution may not be considered readily available as a collateral source.

(b) Receipt of a reparations award under this part is considered an assignment of the victim's rights to restitution from the offender.

(2) (a) The victim may not discharge a claim against an individual or entity without the office's written permission.

(b) The victim shall fully cooperate with the office in pursuing the office's right of reimbursement, including providing the office with any evidence in the victim's possession.

(3) The office's right of reimbursement applies regardless of whether the victim is fully compensated for the victim's losses.

(4) Notwithstanding Subsection 63M-7-512(1)(a), a victim of a sexual offense who requests testing of the victim's self may be

reimbursed for the costs of the HIV test only as provided in Subsection [~~76-5-503~~] 53-10-803(4).

Section 39. Section 63N-10-102 is amended to read:

63N-10-102. Definitions.

As used in this chapter:

(1) "Bodily injury" has the same meaning as defined in Section [~~76-1-601~~] 76-1-101.5.

(2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.

(3) (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:

(i) the rules of the contest are not approved by the commission;

(ii) a licensed physician, osteopath, or physician assistant approved by the commission is not in attendance;

(iii) a correct HIV negative test regarding each contestant has not been provided to the commission;

(iv) the contest is not conducted in accordance with commission rules; or

(v) the contestants are not matched by the weight standards established in accordance with Section 63N-10-316.

(b) "Club fighting" does not include sparring if:

(i) it is conducted for training purposes;

(ii) no tickets are sold to spectators;

(iii) no concessions are available for spectators;

(iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and

(v) for boxing, 16 ounce boxing gloves are worn.

(4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.

(5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.

(6) "Contestant" means an individual who participates in a contest.

(7) "Designated commission member" means a member of the commission designated to:

(a) attend and supervise a particular contest; and

(b) act on the behalf of the commission at a contest venue.

(8) "Director" means the director appointed by the commission.

(9) "Elimination unarmed combat contest" means a contest where:

(a) a number of contestants participate in a tournament;

(b) the duration is not more than 48 hours; and

(c) the loser of each contest is eliminated from further competition.

(10) "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win.

(11) "Judge" means an individual qualified by training or experience to:

(a) rate the performance of contestants;

(b) score a contest; and

(c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.

(12) "Licensee" means an individual licensed by the commission to act as a:

(a) contestant;

(b) judge;

(c) manager;

(d) promoter;

(e) referee;

(f) second; or

(g) other official established by the commission by rule.

(13) "Manager" means an individual who represents a contestant for the purpose of:

(a) obtaining a contest for a contestant;

(b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or

(c) arranging for a second for the contestant at a contest.

(14) "Promoter" means a person who engages in producing or staging contests and promotions.

(15) "Promotion" means a single contest or a combination of contests that:

(a) occur during the same time and at the same location; and

(b) is produced or staged by a promoter.

(16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.

(17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:

(a) enforcing the rules relating to the contest;

(b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and

(c) acting as a judge if so designated by the commission.

(18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.

(19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.

(20) "Serious bodily injury" has the same meaning as defined in Section [~~76-1-601~~] 76-1-101.5.

(21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.

(22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:

(a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;

(b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;

(c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;

(d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and

(e) contest rules prohibit contestants from:

(i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;

(ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;

(iii) biting; or

(iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.

(23) (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.

(b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.

(24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.

(25) "Unprofessional conduct" means:

(a) entering into a contract for a contest in bad faith;

(b) participating in any sham or fake contest;

(c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;

(d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;

(e) failing to comply with any limitation, restriction, or condition placed on a license;

(f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;

(g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or

(h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:

(a) for boxing:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than $35, is awarded;

(iii) protective clothing, including protective headgear, a mouthguard, a protective cup, and for a female contestant a chestguard, is worn;

(iv) 16 ounce boxing gloves are worn;

(v) the contest is no longer than three rounds of no longer than three minutes each;

(vi) no winner or loser is declared or recorded; and

(vii) the contestants do not compete in a cage; and

(b) for ultimate fighting:

(i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;

(ii) no cash prize, or other prize valued at greater than $35, is awarded;

(iii) protective clothing, including a protective mouthguard and a protective cup, is worn;

(iv) downward elbow strikes are not allowed;

(v) a contestant is not allowed to stand and strike a downed opponent;

(vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;

(vii) the contest is no longer than three rounds of no longer than three minutes each; and

(viii) no winner or loser is declared or recorded.

Section 40. Section 75-2-803 is amended to read:

75-2-803. Definitions -- Effect of homicide on intestate succession, wills, trusts, joint assets, life insurance, and beneficiary designations -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Disposition or appointment of property" includes a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(b) "Disqualifying homicide" means a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, except automobile homicide, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including but not limited to Chapter 2, Principles of Criminal Responsibility.

(c) "Governing instrument" means a governing instrument executed by the decedent.

(d) "Killer" means a person who commits a disqualifying homicide.

(e) "Revocable," with respect to a disposition, appointment, provision, or nomination, means one under which the decedent, at the time of or immediately before death, was alone empowered, by law or under the governing instrument, to cancel the designation, in favor of the killer, whether or not the decedent was then empowered to designate himself in place of his killer and whether or not the decedent then had capacity to exercise the power.

(2) An individual who commits a disqualifying homicide of the decedent forfeits all benefits under this chapter with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as if the killer disclaimed his intestate share.

(3) The killing of the decedent by means of a disqualifying homicide:

(a) revokes any revocable:

(i) disposition or appointment of property made by the decedent to the killer in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the killer; and

(iii) nomination of the killer in a governing instrument, nominating or appointing the killer to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, or agent; and

(b) severs the interests of the decedent and killer in property held by them at the time of the killing as joint tenants with the right of survivorship, transforming the interests of the decedent and killer into tenancies in common.

(4) A severance under Subsection (3)(b) does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property which are relied upon, in the ordinary course of transactions involving such property, as evidence of ownership.

(5) Provisions of a governing instrument are given effect as if the killer disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the killer predeceased the decedent.

(6) A wrongful acquisition of property or interest by one who kills another under circumstances not covered by this section shall be treated in accordance with the principle that one who kills cannot profit from his wrong.

(7) The court, upon the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual has committed a disqualifying homicide of the decedent. If the court determines that, under that standard, the individual has committed a disqualifying homicide of the decedent, the determination conclusively establishes that individual as having committed a disqualifying homicide for purposes of this section, unless the court finds that the act of disinheritance would create a manifest injustice. A judgment of criminal conviction for a disqualifying homicide of the decedent, after all direct appeals have been exhausted, conclusively establishes that the convicted individual has committed the disqualifying homicide for purposes of this section.

(8) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a disqualifying homicide, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section. A payor or other third party is liable for a payment made or other action taken after the payor

or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) Written notice of a claimed forfeiture or revocation under Subsection (8)(a) shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of written notice of a claimed forfeiture or revocation under this section, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate, or if no proceedings have been commenced, to or with the court having jurisdiction of probate proceedings relating to the decedent's estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination under this section, shall order disbursement in accordance with the determination. Payments, transfers, or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

(9) (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation, is neither obligated under this section to return the payment, item of property, or benefit nor is liable under this section for the amount of the payment or the value of the item of property or benefit. But a person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to it under this section.

(b) If this section or any part of this section is preempted by federal law with respect to a payment, an item of property, or any other benefit covered by this section, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section is obligated to return the payment, item of property, or benefit, or is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who would have been entitled to it were this section or part of this section not preempted.

Section 41. Section 75-2-807 is amended to read:

75-2-807. Effect of disqualifying felony offense on intestate succession, wills, trusts, joint assets, life insurance, beneficiary designations -- Forfeiture -- Revocation.

(1) As used in this section:

(a) "Abuser" means a person who is convicted of committing a disqualifying felony offense against a vulnerable adult.

(b) "Dependent adult" means the same as that term is defined in Section 76-5-111.

(c) "Disposition or apportionment of property" means a transfer of an item of property or any other benefit to a beneficiary designated in a governing instrument.

(d) "Disqualifying felony offense" means a felony offense against a vulnerable adult that meets the elements of:

(i) felony financial exploitation of a vulnerable adult, as described in [~~Subsection 76-5-111(9)~~] Section 76-5-111.4;

(ii) felony aggravated abuse of a vulnerable adult, as described in [~~Subsection 76-5-111(2)~~] Section 76-5-111.2;

(iii) felony abuse of a vulnerable adult based on isolation, as described in Subsection 76-5-111(3); or

(iv) any felony offense in another state, territory, or district of the United States that, if committed in Utah, would constitute a felony offense described in this Subsection (1)(d).

(e) "Elder adult" means the same as that term is defined in Section 76-5-111.

(f) "Governing instrument" means a governing instrument executed by a vulnerable adult.

(g) "Vulnerable adult" means the same as that term is defined in Section 76-5-111.

(2) (a) An abuser who is convicted of a disqualifying felony offense against a vulnerable adult forfeits any benefit under this chapter with respect to the vulnerable adult's estate:

(i) that the vulnerable adult made to the abuser in a governing instrument; or

(ii) according to intestate succession, as described in Title 75, Chapter 2, Intestate Succession and Wills.

(b) The abuser described in Subsection (2)(a):

(i) may not inherit, take, enjoy, receive, or otherwise benefit from the estate of the vulnerable adult described in Subsection (2)(a), including by any:

(A) intestate share;

(B) elective share;

(C) omitted spouse's or child's share;

(D) homestead allowance;

(E) exempt property;

(F) family allowance;

(G) banknote or other form of physical currency;

(H) deposit account;

(I) interest-bearing account;

(J) contents of a safe deposit box;

(K) investment;

(L) retirement benefit or account;

(M) pension;

(N) annuity; or

(O) insurance proceed; and

(ii) is considered to have predeceased the vulnerable adult with respect to any intestate property or governing instrument belonging to the vulnerable adult.

(3) Conviction of a disqualifying felony offense against a vulnerable adult:

(a) revokes any revocable:

(i) disposition or apportionment of property that the vulnerable adult made to the abuser in a governing instrument;

(ii) provision in a governing instrument conferring a general or nongeneral power of appointment on the abuser; and

(iii) nomination of the abuser in a governing instrument nominating or appointing the abuser to serve in any fiduciary or representative capacity, including a personal representative, representative payee, executor, trustee, or agent; and

(b) (i) severs any interest in property held by the abuser and the vulnerable adult as joint tenants with the right of survivorship; and

(ii) transforms the interests described in Subsection (3)(b)(i) to a tenancy in common.

(4) A wrongful acquisition of property or interest by an abuser under circumstances not covered by this section shall be treated in accordance with the principle that one cannot profit from one's own wrongdoing.

(5) Revocation by the court of an abuser's interest in the property of the vulnerable adult and of an abuser's powers and appointments in the estate of the vulnerable adult as established by any governing instrument is final.

(6) Conviction of a disqualifying felony offense against a vulnerable adult:

(a) prevents any revocable interest or share an abuser has or may have in the estate of the vulnerable adult, under Subsection (2), from vesting into a right of property upon the death of the vulnerable adult; and

(b) is the triggering event for action under this section.

(7) As a consequence of bringing an action under this section, a court may not reduce or eliminate the rights, interest, or share in the estate of a vulnerable adult belonging to any interested person who:

(a) petitions the court under this section; and

(b) retains a property or other interest in the estate of a vulnerable adult, either as an heir, devisee, legatee, beneficiary, survivor, appointee, or claimant, notwithstanding any no-contest provision which appears in any governing instrument of the vulnerable adult.

(8) (a) A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument that a disqualifying felony offense affects, or for having taken any other action in good faith reliance on the validity of the governing instrument, upon request and satisfactory proof of the decedent's death, before the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(b) A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation under this section.

(c) (i) An individual seeking enforcement of this section shall mail a written notice of a claimed forfeiture or revocation to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action.

(ii) Upon receipt of a written notice of a claimed forfeiture or revocation described in Subsection (8)(c)(i), a payor or other third party may pay any amount owed or transfer or deposit any item of property the payor or third party holds to or with:

(A) the court having jurisdiction of the probate proceedings relating to the vulnerable adult's estate; or

(B) if the individual who gave notice has not brought an action under this section, to or with the court having jurisdiction of probate proceedings relating to the decedent's estate located in the county of the decedent's residence.

(d) A court described in Subsection (8)(c)(ii) shall:

(i) hold the funds or item of property; and

(ii) upon the court's determination under this section, order disbursement in accordance with the determination.

(e) A payor's or third party's payment, transfer, or deposit made to or with the court discharges the payor or third party from all claims for the value of the paid amounts or transferred or deposited items of property.

(9) (a) A person who purchases property for value and without notice, or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation:

(i) may retain the payment, item of property, or benefit; and

(ii) is not liable under this section for the amount of the payment or the value of the item of property or benefit.

(b) A person who, not for value, receives a payment, item of property, or any other benefit to which the person is not entitled under this section:

(i) shall return the payment, item of property, or benefit to the person who is entitled to the payment or the item of property or benefit under this section; or

(ii) is personally liable for the amount of the payment or the value of the item of property or benefit, to the person who is entitled to the payment or the item of property or benefit under this section.

(c) If this section, or any part of this section, is preempted by federal law with respect to a payment, an item of property, or any other benefit that this section addresses, a person who, not for value, receives the payment, item of property, or any other benefit to which the person is not entitled under this section:

(i) shall return the payment, item of property, or benefit to the person who would have been entitled to the payment or the item of property or benefit if this section or the relevant part of this section was not preempted; or

(ii) is personally liable for the amount of the payment, or the value of the item of property or benefit, to the person who would have been entitled to the payment or the item of property or benefit if this section or the relevant part of this section was not preempted.

(10) Notwithstanding Subsections (2) through (6), and notwithstanding an abuser's conviction for a disqualifying felony offense, the abuser may inherit, take, enjoy, receive, or otherwise benefit from the estate of the vulnerable adult if:

(a) (i) after the abuser's conviction, the vulnerable adult executes a new governing instrument or amends or affirms an existing governing instrument under which the abuser receives a benefit; and

(ii) the vulnerable adult is not incapacitated, as that term is defined in Section 75-1-201, at the time the vulnerable adult makes the execution, amendment, or affirmation described in Subsection (10)(a)(i); or

(b) the court reviewing a petition under this section determines that a manifest injustice would result if the abuser is disinherited by operation of this section.

(11) This section:

(a) does not operate retrospectively;

(b) except as provided in Subsection (11)(c), does not apply to a disqualifying felony offense that occurred prior to May 5, 2021; and

(c) applies to a disqualifying felony offense described in Subsection (10)(b) if any portion of the offense persists after May 5, 2021.

Section 42. Section 75-9-105 is amended to read:

75-9-105. Execution of power of attorney.

(1) A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney before a notary public or other individual authorized by the law to take acknowledgments. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

(2) If the principal resides or is about to reside in a hospital, assisted living, skilled nursing, or similar facility, at the time of execution of the power of attorney, the principal may not name any agent that is the owner, operator, health care provider, or employee of the hospital, assisted living facility, skilled nursing, or similar residential care facility unless the agent is the spouse, legal guardian, or next of kin of the principal, or unless the agent's authority is strictly limited to the purpose of assisting the principal to establish eligibility for Medicaid.

(3) A violation of Subsection (2) is a violation of [~~Subsection 76-5-111(9)(a)~~] Section 76-5-111.4.

Section 43. Section 77-23a-8 is amended to read:

77-23a-8. Court order to authorize or approve interception -- Procedure.

(1) The attorney general of the state, any assistant attorney general specially designated by the attorney general, any county attorney, district attorney, deputy county attorney, or deputy district attorney specially designated by the county attorney or by the district attorney, may authorize an application to a judge of competent jurisdiction for an order for an interception of wire, electronic, or oral communications by any law enforcement agency of the state, the federal government or of any political subdivision of the state that is responsible for investigating the type of offense for which the application is made.

(2) The judge may grant the order in conformity with the required procedures when the interception sought may provide or has provided evidence of the commission of:

(a) any act:

(i) prohibited by the criminal provisions of:

(A) Title 58, Chapter 37, Utah Controlled Substances Act;

(B) Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(C) Title 58, Chapter 37d, Clandestine Drug Lab Act; and

(ii) punishable by a term of imprisonment of more than one year;

(b) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act, and punishable by a term of imprisonment of more than one year;

(c) an offense:

(i) of:

(A) attempt, Section 76–4–101;

(B) conspiracy, Section 76–4–201;

(C) solicitation, Section 76–4–203; and

(ii) punishable by a term of imprisonment of more than one year;

(d) a threat of terrorism offense punishable by a maximum term of imprisonment of more than one year, Section 76–5–107.3;

(e) (i) aggravated murder, Section 76–5–202;

(ii) murder, Section 76–5–203; or

(iii) manslaughter, Section 76–5–205;

(f) (i) kidnapping, Section 76–5–301;

(ii) child kidnapping, Section 76–5–301.1;

(iii) aggravated kidnapping, Section 76–5–302;

(iv) human trafficking, Section 76–5–308, 76–5–308.1, or 76–5–308.5, or human smuggling, Section [~~76–5–308~~] 76–5–308.3; or

(v) aggravated human trafficking, Section 76–5–310, or aggravated human smuggling, Section [~~76–5–310~~] 76–5–310.1;

(g) (i) arson, Section 76–6–102; or

(ii) aggravated arson, Section 76–6–103;

(h) (i) burglary, Section 76–6–202; or

(ii) aggravated burglary, Section 76–6–203;

(i) (i) robbery, Section 76–6–301; or

(ii) aggravated robbery, Section 76–6–302;

(j) an offense:

(i) of:

(A) theft, Section 76–6–404;

(B) theft by deception, Section 76–6–405; or

(C) theft by extortion, Section 76–6–406; and

(ii) punishable by a maximum term of imprisonment of more than one year;

(k) an offense of receiving stolen property that is punishable by a maximum term of imprisonment of more than one year, Section 76–6–408;

(l) a financial card transaction offense punishable by a maximum term of imprisonment of more than one year, Section 76–6–506.2, 76–6–506.3, 76–6–506.5, or 76–6–506.6;

(m) bribery of a labor official, Section 76–6–509;

(n) bribery or threat to influence a publicly exhibited contest, Section 76–6–514;

(o) a criminal simulation offense punishable by a maximum term of imprisonment of more than one year, Section 76–6–518;

(p) criminal usury, Section 76–6–520;

(q) a fraudulent insurance act offense punishable by a maximum term of imprisonment of more than one year, Section 76–6–521;

(r) a violation of Title 76, Chapter 6, Part 7, Utah Computer Crimes Act, punishable by a maximum term of imprisonment of more than one year, Section 76–6–703;

(s) bribery to influence official or political actions, Section 76–8–103;

(t) misusing public money or public property, Section 76–8–402;

(u) tampering with a witness or soliciting or receiving a bribe, Section 76–8–508;

(v) retaliation against a witness, victim, or informant, Section 76–8–508.3;

(w) tampering with a juror, retaliation against a juror, Section 76–8–508.5;

(x) extortion or bribery to dismiss criminal proceeding, Section 76–8–509;

(y) obstruction of justice, Section 76–8–306;

(z) destruction of property to interfere with preparation for defense or war, Section 76–8–802;

(aa) an attempt to commit crimes of sabotage, Section 76–8–804;

(bb) conspiracy to commit crimes of sabotage, Section 76–8–805;

(cc) advocating criminal syndicalism or sabotage, Section 76–8–902;

(dd) assembly for advocating criminal syndicalism or sabotage, Section 76–8–903;

(ee) riot punishable by a maximum term of imprisonment of more than one year, Section 76–9–101;

(ff) dog fighting, training dogs for fighting, or dog fighting exhibitions punishable by a maximum term of imprisonment of more than one year, Section 76–9–301.1;

(gg) possession, use, or removal of an explosive, chemical, or incendiary device and parts, Section 76–10–306;

(hh) delivery to a common carrier or mailing of an explosive, chemical, or incendiary device, Section 76–10–307;

(ii) exploiting prostitution, Section 76–10–1305;

(jj) aggravated exploitation of prostitution, Section 76–10–1306;

(kk) bus hijacking or assault with intent to commit hijacking, Section 76–10–1504;

(ll) discharging firearms and hurling missiles, Section 76–10–1505;

(mm) violations of Title 76, Chapter 10, Part 16, Pattern of Unlawful Activity Act, and the offenses listed under the definition of unlawful activity in the act, including the offenses not punishable by a maximum term of imprisonment of more than one year when those offenses are investigated as predicates for the offenses prohibited by the act, Section 76-10-1602;

(nn) communications fraud, Section 76-10-1801;

(oo) money laundering, Sections 76-10-1903 and 76-10-1904; or

(pp) reporting by a person engaged in a trade or business when the offense is punishable by a maximum term of imprisonment of more than one year, Section 76-10-1906.

Section 44. Section 77-27-7 is amended to read:

77-27-7. Parole or hearing dates -- Interview -- Hearings -- Report of alienists -- Mental competency.

(1) The Board of Pardons and Parole shall determine within six months after the date of an offender's commitment to the custody of the Department of Corrections, for serving a sentence upon conviction of a felony or class A misdemeanor offense, a date upon which the offender shall be afforded a hearing to establish a date of release or a date for a rehearing, and shall promptly notify the offender of the date.

(2) Before reaching a final decision to release any offender under this chapter, the chair shall cause the offender to appear before the board, its panel, or any appointed hearing officer, who shall personally interview the offender to consider the offender's fitness for release and verify as far as possible information furnished from other sources. Any offender may waive a personal appearance before the board. Any offender outside of the state shall, if ordered by the board, submit to a courtesy hearing to be held by the appropriate authority in the jurisdiction in which the offender is housed in lieu of an appearance before the board. The offender shall be promptly notified in writing of the board's decision.

(3) (a) In the case of an offender convicted of violating or attempting to violate any of the provisions of Section 76-5-301.1, Subsection 76-5-302(1)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, the chair may appoint one or more alienists who shall examine the offender within six months prior to a hearing at which an original parole date is granted on any offense listed in this Subsection (3).

(b) The alienists shall report in writing the results of the examination to the board prior to the hearing. The report of the appointed alienists shall specifically address the question of the offender's current mental condition and attitudes as they relate to any danger the offender may pose to children or others if the offender is released on parole.

(4) A parolee may petition the board for termination of lifetime parole as provided in Section 76-3-202 in the case of a parolee convicted of a first degree felony violation, or convicted of attempting to violate Section 76-5-301.1, Subsection 76-5-302[~~(1)~~](2)(b)(vi), Section 76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404.1, 76-5-404.3, or 76-5-405, and released on parole before January 1, 2019.

(5) In any case where an offender's mental competency is questioned by the board, the chair may appoint one or more alienists to examine the offender and report in writing to the board, specifically addressing the issue of competency.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules governing:

(a) the hearing process;

(b) alienist examination; and

(c) parolee petitions for termination of parole.

Section 45. Section 77-27-9 is amended to read:

77-27-9. Parole proceedings.

(1) (a) The Board of Pardons and Parole may parole any offender or terminate the sentence of any offender committed to a penal or correctional facility under the jurisdiction of the Department of Corrections except as provided in Subsection (2).

(b) The board may not release any offender before the minimum term has been served unless the board finds mitigating circumstances which justify the release and unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(c) The board may not parole any offender or terminate the sentence of any offender unless the board has granted a full hearing, in open session, after previous notice of the time and location of the hearing, and recorded the proceedings and decisions of the board.

(d) The release of an offender shall be at the initiative of the board, which shall consider each case as the offender becomes eligible. However, a prisoner may submit the prisoner's own application, subject to the rules of the board promulgated in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An individual sentenced to prison prior to April 29, 1996, for a first degree felony involving child kidnapping, a violation of Section 76-5-301.1; aggravated kidnapping, a violation of Section 76-5-302; rape of a child, a violation of Section 76-5-402.1; object rape of a child, a violation of Section 76-5-402.3; sodomy upon a child, a violation of Section 76-5-403.1; aggravated sexual abuse of a child, a violation of [~~Subsection 76-5-404.1(4)~~] Section 76-5-404.3; aggravated sexual assault, a violation of Section 76-5-405; or a prior offense as described in Section 76-3-407, may

not be eligible for release on parole by the Board of Pardons and Parole until the offender has fully completed serving the minimum mandatory sentence imposed by the court. This Subsection (2)(a) supersedes any other provision of law.

(b) The board may not parole any offender or commute or terminate the sentence of any offender before the offender has served the minimum term for the offense, if the offender was sentenced prior to April 29, 1996, and if:

(i) the offender was convicted of forcible sexual abuse, forcible sodomy, rape, aggravated assault, kidnapping, aggravated kidnapping, or aggravated sexual assault as defined in Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual; and

(ii) the victim of the offense was under 18 years old at the time the offense was committed.

(c) For a crime committed on or after April 29, 1996, but before January 1, 2019, the board may parole any offender under Subsections (2)(b)(i) and (ii) for lifetime parole as provided in this section.

(d) The board may not pardon or parole any offender or commute or terminate the sentence of any offender who is sentenced to life in prison without parole except as provided in Subsection (7).

(e) On or after April 27, 1992, the board may commute a sentence of death only to a sentence of life in prison without parole.

(f) The restrictions imposed in Subsections (2)(d) and (e) apply to all cases that come before the Board of Pardons and Parole on or after April 27, 1992.

(g) The board may not parole any offender convicted of a homicide unless:

(i) the remains of the victim have been recovered; or

(ii) the offender can demonstrate by a preponderance of the evidence that the offender has cooperated in good faith in efforts to locate the remains.

(h) Subsection (2)(g) applies to any offender convicted of a homicide after February 25, 2021, or any offender who was incarcerated in a correctional facility on or after February 25, 2021, for a homicide offense.

(3) The board may rescind:

(a) an inmate's prison release date prior to the inmate being released from custody; or

(b) an offender's termination date from parole prior to the offender being terminated from parole.

(4) (a) The board may issue subpoenas to compel the attendance of witnesses and the production of evidence, to administer oaths, and to take testimony for the purpose of any investigation by the board or any of the board's members or by a designated hearing examiner in the performance of the board's duties.

(b) A person who willfully disobeys a properly served subpoena issued by the board is guilty of a class B misdemeanor.

(5) (a) The board may adopt rules consistent with law for the board's government, meetings and hearings, the conduct of proceedings before the board, the parole and pardon of offenders, the commutation and termination of sentences, and the general conditions under which parole may be granted and revoked.

(b) The rules shall ensure an adequate opportunity for victims to participate at hearings held under this chapter, as provided in Section 77-27-9.5.

(c) The rules may allow the board to establish reasonable and equitable time limits on the presentations by all participants in hearings held under this chapter.

(6) The board does not provide counseling or therapy for victims as a part of their participation in any hearing under this chapter.

(7) The board may parole a person sentenced to life in prison without parole if the board finds by clear and convincing evidence that the person is permanently incapable of being a threat to the safety of society.

Section 46. Section 77-27-10 is amended to read:

77-27-10. Conditions of parole -- Inmate agreement to warrant -- Rulemaking -- Intensive early release parole program.

(1) (a) When the Board of Pardons and Parole releases an offender on parole, it shall issue to the parolee a certificate setting forth the conditions of parole, including the graduated and evidence-based responses to a violation of a condition of parole established by the Sentencing Commission in accordance with Section 64-13-21, which the offender shall accept and agree to as evidenced by the offender's signature affixed to the agreement.

(b) The parole agreement shall require that the inmate agree in writing that the board may issue a warrant and conduct a parole revocation hearing if:

(i) the board determines after the grant of parole that the inmate willfully provided to the board false or inaccurate information that the board finds was significant in the board's determination to grant parole; or

(ii) (A) the inmate has engaged in criminal conduct prior to the granting of parole; and

(B) the board did not have information regarding the conduct at the time parole was granted.

(c) A copy of the agreement shall be delivered to the Department of Corrections and a copy shall be given to the parolee. The original shall remain with the board's file.

(2) (a) If an offender convicted of violating or attempting to violate Section 76-5-301.1, [~~Subsection 76-5-302(1), Section~~] 76-5-302,

76-5-402, 76-5-402.1, 76-5-402.2, 76-5-402.3, 76-5-403, 76-5-403.1, 76-5-404, 76-5-404.1, 76-5-404.3, or 76-5-405, is released on parole, the board shall order outpatient mental health counseling and treatment as a condition of parole.

(b) The board shall develop standards and conditions of parole under this Subsection (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(c) This Subsection (2) does not apply to intensive early release parole.

(3) (a) In addition to the conditions set out in Subsection (1), the board may place offenders in an intensive early release parole program. The board shall determine the conditions of parole which are reasonably necessary to protect the community as well as to protect the interests of the offender and to assist the offender to lead a law-abiding life.

(b) The offender is eligible for this program only if the offender:

(i) has not been convicted of a sexual offense; or

(ii) has not been sentenced pursuant to Section 76-3-406.

(c) The department shall:

(i) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for operation of the program;

(ii) adopt and implement internal management policies for operation of the program;

(iii) determine whether or not to refer an offender into this program within 120 days from the date the offender is committed to prison by the sentencing court; and

(iv) make the final recommendation to the board regarding the placement of an offender into the program.

(d) The department may not consider credit for time served in a county jail awaiting trial or sentencing when calculating the 120-day period.

(e) The prosecuting attorney or sentencing court may refer an offender for consideration by the department for participation in the program.

(f) The board shall determine whether or not to place an offender into this program within 30 days of receiving the department's recommendation.

(4) This program shall be implemented by the department within the existing budget.

(5) During the time the offender is on parole, the department shall collect from the offender the monthly supervision fee authorized by Section 64-13-21.

(6) When a parolee commits a violation of the parole agreement, the department may:

(a) respond in accordance with the graduated and evidence-based responses established in accordance with Section 64-13-21; or

(b) when the graduated and evidence-based responses established in accordance with Section 64-13-21 indicate, refer the parolee to the Board of Pardons and Parole for revocation of parole.

Section 47. Section 77-36-1 is amended to read:

77-36-1. Definitions.

As used in this chapter:

(1) "Cohabitant" means the same as that term is defined in Section 78B-7-102.

(2) "Department" means the Department of Public Safety.

(3) "Divorced" means an individual who has obtained a divorce under Title 30, Chapter 3, Divorce.

(4) "Domestic violence" or "domestic violence offense" means any criminal offense involving violence or physical harm or threat of violence or physical harm, or any attempt, conspiracy, or solicitation to commit a criminal offense involving violence or physical harm, when committed by one cohabitant against another. "Domestic violence" or "domestic violence offense" includes commission or attempt to commit, any of the following offenses by one cohabitant against another:

(a) aggravated assault, as described in Section 76-5-103;

(b) aggravated cruelty to an animal, as described in Subsection 76-9-301(4), with the intent to harass or threaten the other cohabitant;

(c) assault, as described in Section 76-5-102;

(d) criminal homicide, as described in Section 76-5-201;

(e) harassment, as described in Section 76-5-106;

(f) electronic communication harassment, as described in Section 76-9-201;

(g) kidnapping, child kidnapping, or aggravated kidnapping, as described in Sections 76-5-301, 76-5-301.1, and 76-5-302;

(h) mayhem, as described in Section 76-5-105;

(i) sexual offenses, as described in Title 76, Chapter 5, Part 4, Sexual Offenses, and Section 76-5b-201, Sexual exploitation of a minor -- Offenses;

(j) stalking, as described in Section 76-5-106.5;

(k) unlawful detention or unlawful detention of a minor, as described in Section 76-5-304;

(l) violation of a protective order or ex parte protective order, as described in Section 76-5-108;

(m) any offense against property described in Title 76, Chapter 6, Part 1, Property Destruction, Title 76, Chapter 6, Part 2, Burglary and Criminal Trespass, or Title 76, Chapter 6, Part 3, Robbery;

(n) possession of a deadly weapon with criminal intent, as described in Section 76-10-507;

(o) discharge of a firearm from a vehicle, near a highway, or in the direction of any person, building, or vehicle, as described in Section 76-10-508;

(p) disorderly conduct, as defined in Section 76-9-102, if a conviction or adjudication of disorderly conduct is the result of a plea agreement in which the perpetrator was originally charged with a domestic violence offense otherwise described in this Subsection (4), except that a conviction or adjudication of disorderly conduct as a domestic violence offense, in the manner described in this Subsection (4)(p), does not constitute a misdemeanor crime of domestic violence under 18 U.S.C. Sec. 921, and is exempt from the federal Firearms Act, 18 U.S.C. Sec. 921 et seq.;

(q) child abuse, as described in Section [~~76-5-109.1~~] 76-5-114;

(r) threatening use of a dangerous weapon, as described in Section 76-10-506;

(s) threatening violence, as described in Section 76-5-107;

(t) tampering with a witness, as described in Section 76-8-508;

(u) retaliation against a witness or victim, as described in Section 76-8-508.3;

(v) unlawful distribution of an intimate image, as described in Section 76-5b-203, or unlawful distribution of a counterfeit intimate image, as described in Section 76-5b-205;

(w) sexual battery, as described in Section 76-9-702.1;

(x) voyeurism, as described in Section 76-9-702.7;

(y) damage to or interruption of a communication device, as described in Section 76-6-108; or

(z) an offense described in Subsection 78B-7-806(1).

(5) "Jail release agreement" means the same as that term is defined in Section 78B-7-801.

(6) "Jail release court order" means the same as that term is defined in Section 78B-7-801.

(7) "Marital status" means married and living together, divorced, separated, or not married.

(8) "Married and living together" means a couple whose marriage was solemnized under Section 30-1-4 or 30-1-6 and who are living in the same residence.

(9) "Not married" means any living arrangement other than married and living together, divorced, or separated.

(10) "Protective order" includes an order issued under Subsection 78B-7-804(3).

(11) "Pretrial protective order" means a written order:

(a) specifying and limiting the contact a person who has been charged with a domestic violence offense may have with an alleged victim or other specified individuals; and

(b) specifying other conditions of release under [~~Sections~~] Section 78B-7-802 or 78B-7-803, pending trial in the criminal case.

(12) "Sentencing protective order" means a written order of the court as part of sentencing in a domestic violence case that limits the contact an individual who is convicted or adjudicated of a domestic violence offense may have with a victim or other specified individuals under Section 78B-7-804.

(13) "Separated" means a couple who have had their marriage solemnized under Section 30-1-4 or 30-1-6 and who are not living in the same residence.

(14) "Victim" means a cohabitant who has been subjected to domestic violence.

Section 48. Section 77-36-2.2 is amended to read:

77-36-2.2. Powers and duties of law enforcement officers to arrest -- Reports of domestic violence cases -- Reports of parties' marital status.

(1) The primary duty of law enforcement officers responding to a domestic violence call is to protect the victim and enforce the law.

(2) (a) In addition to the arrest powers described in Section 77-7-2, when a peace officer responds to a domestic violence call and has probable cause to believe that an act of domestic violence has been committed, the peace officer shall arrest without a warrant or shall issue a citation to any person that the peace officer has probable cause to believe has committed an act of domestic violence.

(b) (i) If the peace officer has probable cause to believe that there will be continued violence against the alleged victim, or if there is evidence that the perpetrator has either recently caused serious bodily injury or used a dangerous weapon in the domestic violence offense, the officer shall arrest and take the alleged perpetrator into custody, and may not utilize the option of issuing a citation under this section.

(ii) For purposes of Subsection (2)(b)(i), "serious bodily injury" and "dangerous weapon" mean the same as those terms are defined in Section [~~76-1-601~~] 76-1-101.5.

(c) If a peace officer does not immediately exercise arrest powers or initiate criminal proceedings by citation or otherwise, the officer shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence, in accordance with the requirements of Section 77-36-2.1.

(3) If a law enforcement officer receives complaints of domestic violence from two or more opposing persons, the officer shall evaluate each complaint separately to determine who the predominant aggressor was. If the officer determines that one person was the predominant

physical aggressor, the officer need not arrest the other person alleged to have committed domestic violence. In determining who the predominant aggressor was, the officer shall consider:

(a) any prior complaints of domestic violence;

(b) the relative severity of injuries inflicted on each person;

(c) the likelihood of future injury to each of the parties; and

(d) whether one of the parties acted in self defense.

(4) A law enforcement officer may not threaten, suggest, or otherwise indicate the possible arrest of all parties in order to discourage any party's request for intervention by law enforcement.

(5) (a) A law enforcement officer who does not make an arrest after investigating a complaint of domestic violence, or who arrests two or more parties, shall submit a detailed, written report specifying the grounds for not arresting any party or for arresting both parties.

(b) A law enforcement officer who does not make an arrest shall notify the victim of the right to initiate a criminal proceeding and of the importance of preserving evidence.

(6) (a) A law enforcement officer responding to a complaint of domestic violence shall prepare an incident report that includes the officer's disposition of the case.

(b) From January 1, 2009, until December 31, 2013, any law enforcement officer employed by a city of the first or second class responding to a complaint of domestic violence shall also report, either as a part of an incident report or on a separate form, the following information:

(i) marital status of each of the parties involved;

(ii) social, familial, or legal relationship of the suspect to the victim; and

(iii) whether or not an arrest was made.

(c) The information obtained in Subsection (6)(b):

(i) shall be reported monthly to the department;

(ii) shall be reported as numerical data that contains no personal identifiers; and

(iii) is a public record as defined in Section 63G-2-103.

(d) The incident report shall be made available to the victim, upon request, at no cost.

(e) The law enforcement agency shall forward a copy of the incident report to the appropriate prosecuting attorney within five days after the complaint of domestic violence occurred.

(7) The department shall compile the information described in Subsections (6)(b) and (c) into a report and present that report to the Law Enforcement and Criminal Justice Interim Committee during the 2013 interim, no later than May 31, 2013.

(8) Each law enforcement agency shall, as soon as practicable, make a written record and maintain records of all incidents of domestic violence reported to it, and shall be identified by a law enforcement agency code for domestic violence.

Section 49. Section 77-37-3 is amended to read:

77-37-3. Bill of rights.

(1) The bill of rights for victims and witnesses is:

(a) Victims and witnesses have a right to be informed as to the level of protection from intimidation and harm available to them, and from what sources, as they participate in criminal justice proceedings as designated by Section 76-8-508, regarding witness tampering, and Section 76-8-509, regarding threats against a victim. Law enforcement, prosecution, and corrections personnel have the duty to timely provide this information in a form which is useful to the victim.

(b) Victims and witnesses, including children and their guardians, have a right to be informed and assisted as to their role in the criminal justice process. All criminal justice agencies have the duty to provide this information and assistance.

(c) Victims and witnesses have a right to clear explanations regarding relevant legal proceedings; these explanations shall be appropriate to the age of child victims and witnesses. All criminal justice agencies have the duty to provide these explanations.

(d) Victims and witnesses should have a secure waiting area that does not require them to be in close proximity to defendants or the family and friends of defendants. Agencies controlling facilities shall, whenever possible, provide this area.

(e) Victims may seek restitution or reparations, including medical costs, as provided in Title 63M, Chapter 7, Criminal Justice and Substance Abuse, Title 77, Chapter 38b, Crime Victims Restitution Act, and Section 80-6-710. State and local government agencies that serve victims have the duty to have a functional knowledge of the procedures established by the Crime Victim Reparations Board and to inform victims of these procedures.

(f) Victims and witnesses have a right to have any personal property returned as provided in Sections 77-24a-1 through 77-24a-5. Criminal justice agencies shall expeditiously return the property when it is no longer needed for court law enforcement or prosecution purposes.

(g) Victims and witnesses have the right to reasonable employer intercession services, including pursuing employer cooperation in minimizing employees' loss of pay and other benefits resulting from their participation in the criminal justice process. Officers of the court shall provide these services and shall consider victims' and witnesses' schedules so that activities which conflict can be avoided. Where conflicts cannot be avoided, the victim may request that the responsible agency intercede with employers or other parties.

(h) Victims and witnesses, particularly children, should have a speedy disposition of the entire criminal justice process. All involved public agencies shall establish policies and procedures to encourage speedy disposition of criminal cases.

(i) Victims and witnesses have the right to timely notice of judicial proceedings they are to attend and timely notice of cancellation of any proceedings. Criminal justice agencies have the duty to provide these notifications. Defense counsel and others have the duty to provide timely notice to prosecution of any continuances or other changes that may be required.

(j) Victims of sexual offenses have the following rights:

(i) the right to request voluntary testing for themselves for HIV infection as provided in Section [~~76-5-503~~] 53-10-803 and to request mandatory testing of the alleged sexual offender for HIV infection as provided in Section [~~76-5-502~~] 53-10-802;

(ii) the right to be informed whether a DNA profile was obtained from the testing of the rape kit evidence or from other crime scene evidence;

(iii) the right to be informed whether a DNA profile developed from the rape kit evidence or other crime scene evidence has been entered into the Utah Combined DNA Index System;

(iv) the right to be informed whether there is a match between a DNA profile developed from the rape kit evidence or other crime scene evidence and a DNA profile contained in the Utah Combined DNA Index System, provided that disclosure would not impede or compromise an ongoing investigation; and

(v) the right to designate a person of the victim's choosing to act as a recipient of the information provided under this Subsection (1)(j) and under Subsections (2) and (3).

(k) Subsections (1)(j)(ii) through (iv) do not require that the law enforcement agency communicate with the victim or the victim's designee regarding the status of DNA testing, absent a specific request received from the victim or the victim's designee.

(2) The law enforcement agency investigating a sexual offense may:

(a) release the information indicated in Subsections (1)(j)(ii) through (iv) upon the request of a victim or the victim's designee and is the designated agency to provide that information to the victim or the victim's designee;

(b) require that the victim's request be in writing; and

(c) respond to the victim's request with verbal communication, written communication, or by email, if an email address is available.

(3) The law enforcement agency investigating a sexual offense has the following authority and responsibilities:

(a) If the law enforcement agency determines that DNA evidence will not be analyzed in a case where the identity of the perpetrator has not been confirmed, the law enforcement agency shall notify the victim or the victim's designee.

(b) (i) If the law enforcement agency intends to destroy or dispose of rape kit evidence or other crime scene evidence from an unsolved sexual assault case, the law enforcement agency shall provide written notification of that intention and information on how to appeal the decision to the victim or the victim's designee of that intention.

(ii) Written notification under this Subsection (3) shall be made not fewer than 60 days prior to the destruction or disposal of the rape kit evidence or other crime scene evidence.

(c) A law enforcement agency responsible for providing information under Subsections (1)(j)(ii) through (iv), (2), and (3) shall do so in a timely manner and, upon request of the victim or the victim's designee, shall advise the victim or the victim's designee of any significant changes in the information of which the law enforcement agency is aware.

(d) The law enforcement agency investigating the sexual offense is responsible for informing the victim or the victim's designee of the rights established under Subsections (1)(j)(ii) through (iv) and (2), and this Subsection (3).

(4) Informational rights of the victim under this chapter are based upon the victim providing the current name, address, telephone number, and email address, if an email address is available, of the person to whom the information should be provided to the criminal justice agencies involved in the case.

Section 50. Section 77-37-5 is amended to read:

77-37-5. Remedies -- District Victims' Rights Committee.

(1) In each judicial district, the Utah Council on Victims of Crime, established in Section 63M-7-601, shall appoint a person who shall chair a judicial district victims' rights committee consisting of:

(a) a county attorney or district attorney;

(b) a sheriff;

(c) a corrections field services administrator;

(d) an appointed victim advocate;

(e) a municipal attorney;

(f) a municipal chief of police; and

(g) other representatives as appropriate.

(2) The committee shall meet at least semiannually to review progress and problems related to this chapter, Title 77, Chapter 38, Rights

of Crime Victims Act, Title 77, Chapter 38b, Crime Victims Restitution Act, and Utah Constitution Article I, Section 28. Victims and other interested parties may submit matters of concern to the victims' rights committee. The committee may hold a hearing open to the public on any appropriate matter of concern and may publish its findings. These matters shall also be considered at the meetings of the victims' rights committee. The committee shall forward minutes of all meetings to the Utah Council on Victims of Crime for review and other appropriate action.

(3) If a victims' rights committee is unable to resolve a complaint, it may refer the complaint to the Utah Council on Victims of Crime.

(4) The Utah Office for Victims of Crime shall provide materials to local law enforcement to inform every victim of a sexual offense of the right to request testing of the convicted sexual offender and of the victim as provided in Section [~~76-5-502~~] 53-10-802.

(5) (a) If a person acting under color of state law willfully or wantonly fails to perform duties so that the rights in this chapter are not provided, an action for injunctive relief may be brought against the individual and the government entity that employs the individual.

(b) For all other violations, if the committee finds a violation of a victim's right, it shall refer the matter to the appropriate court for further proceedings consistent with Subsection 77-38-11(2).

(c) The failure to provide the rights in this chapter or Title 77, Chapter 38, Rights of Crime Victims Act, does not constitute cause for a judgment against the state or any government entity, or any individual employed by the state or any government entity, for monetary damages, attorney fees, or the costs of exercising any rights under this chapter.

(6) The person accused of and subject to prosecution for the crime or the act which would be a crime if committed by a competent adult, has no standing to make a claim concerning any violation of the provisions of this chapter.

Section 51. Section 77-38-3 is amended to read:

77-38-3. Notification to victims -- Initial notice, election to receive subsequent notices -- Form of notice -- Protected victim information -- Pretrial criminal no contact order.

(1) Within seven days after the day on which felony criminal charges are filed against a defendant, the prosecuting agency shall provide an initial notice to reasonably identifiable and locatable victims of the crime contained in the charges, except as otherwise provided in this chapter.

(2) The initial notice to the victim of a crime shall provide information about electing to receive notice of subsequent important criminal justice hearings listed in Subsections 77-38-2(5)(a) through (f) and rights under this chapter.

(3) The prosecuting agency shall provide notice to a victim of a crime:

(a) for the important criminal justice hearings, provided in Subsections 77-38-2(5)(a) through (f), which the victim has requested; and

(b) for a restitution request to be submitted in accordance with Section 77-38b-202.

(4) (a) The responsible prosecuting agency may provide initial and subsequent notices in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(b) In the event of an unforeseen important criminal justice hearing, listed in Subsections 77-38-2(5)(a) through (f) for which a victim has requested notice, a good faith attempt to contact the victim by telephone shall be considered sufficient notice, provided that the prosecuting agency subsequently notifies the victim of the result of the proceeding.

(5) (a) The court shall take reasonable measures to ensure that its scheduling practices for the proceedings provided in Subsections 77-38-2(5)(a) through (f) permit an opportunity for victims of crimes to be notified.

(b) The court shall consider whether any notification system that the court might use to provide notice of judicial proceedings to defendants could be used to provide notice of judicial proceedings to victims of crimes.

(6) A defendant or, if it is the moving party, the Division of Adult Probation and Parole, shall give notice to the responsible prosecuting agency of any motion for modification of any determination made at any of the important criminal justice hearings provided in Subsections 77-38-2(5)(a) through (f) in advance of any requested court hearing or action so that the prosecuting agency may comply with the prosecuting agency's notification obligation.

(7) (a) Notice to a victim of a crime shall be provided by the Board of Pardons and Parole for the important criminal justice hearing under Subsection 77-38-2(5)(g).

(b) The board may provide notice in any reasonable manner, including telephonically, electronically, orally, or by means of a letter or form prepared for this purpose.

(8) Prosecuting agencies and the Board of Pardons and Parole are required to give notice to a victim of a crime for the proceedings provided in Subsections 77-38-2(5)(a) through (f) only where the victim has responded to the initial notice, requested notice of subsequent proceedings, and provided a current address and telephone number if applicable.

(9) To facilitate the payment of restitution and the notice of hearings regarding restitution, a victim who seeks restitution and notice of

restitution hearings shall provide the court with the victim's current address and telephone number.

(10) (a) Law enforcement and criminal justice agencies shall refer any requests for notice or information about crime victim rights from victims to the responsible prosecuting agency.

(b) In a case in which the Board of Pardons and Parole is involved, the responsible prosecuting agency shall forward any request for notice the prosecuting agency has received from a victim to the Board of Pardons and Parole.

(11) In all cases where the number of victims exceeds 10, the responsible prosecuting agency may send any notices required under this chapter in the prosecuting agency's discretion to a representative sample of the victims.

(12) (a) A victim's address, telephone number, and victim impact statement maintained by a peace officer, prosecuting agency, Youth Parole Authority, Division of Juvenile Justice Services, Department of Corrections, Utah State Courts, and Board of Pardons and Parole, for purposes of providing notice under this section, are classified as protected under Subsection 63G–2–305(10).

(b) The victim's address, telephone number, and victim impact statement is available only to the following persons or entities in the performance of their duties:

(i) a law enforcement agency, including the prosecuting agency;

(ii) a victims' right committee as provided in Section 77–37–5;

(iii) a governmentally sponsored victim or witness program;

(iv) the Department of Corrections;

(v) the Utah Office for Victims of Crime;

(vi) the Commission on Criminal and Juvenile Justice;

(vii) the Utah State Courts; and

(viii) the Board of Pardons and Parole.

(13) The notice provisions as provided in this section do not apply to misdemeanors as provided in Section 77–38–5 and to important juvenile justice hearings as provided in Section 77–38–2.

(14) (a) When a defendant is charged with a felony crime under Sections 76–5–301 through [~~76–5–310~~] 76–5–310.1 regarding kidnapping, human trafficking, and human smuggling; Sections 76–5–401 through [~~76–5–413~~] 76–5–413.3 regarding sexual offenses; or Section 76–10–1306 regarding aggravated exploitation of prostitution, the court may, during any court hearing where the defendant is present, issue a pretrial criminal no contact order:

(i) prohibiting the defendant from harassing, telephoning, contacting, or otherwise communicating with the victim directly or through a third party;

(ii) ordering the defendant to stay away from the residence, school, place of employment of the victim, and the premises of any of these, or any specified place frequented by the victim or any designated family member of the victim directly or through a third party; and

(iii) ordering any other relief that the court considers necessary to protect and provide for the safety of the victim and any designated family or household member of the victim.

(b) Violation of a pretrial criminal no contact order issued pursuant to this section is a third degree felony.

(c) (i) The court shall provide to the victim a certified copy of any pretrial criminal no contact order that has been issued if the victim can be located with reasonable effort.

(ii) The court shall also transmit the pretrial criminal no contact order to the statewide domestic violence network in accordance with Section 78B–7–113.

Section 52. Section 77-38-15 is amended to read:

77-38-15. Civil action against human traffickers and human smugglers.

(1) A victim of a person that commits any of the [~~offense of~~] following offenses may bring a civil action against that person:

(a) human trafficking [~~or~~] for labor under Section 76–5–308;

(b) human trafficking for sexual exploitation under Section 76–5–308.1;

(c) human smuggling under Section [~~76–5–308,~~] 76–5–308.3;

(d) human trafficking of a child under Section 76–5–308.5[~~,~~];

(e) aggravated human trafficking [~~or~~] under Section 76–5–310;

(f) aggravated human smuggling under Section [~~76–5–310,~~] 76–5–310.1; or

(g) benefitting from human trafficking under [~~Subsection 76–5–309(4) may bring a civil action against that person~~] Section 76–5–309.

(2) (a) The court may award actual damages, compensatory damages, punitive damages, injunctive relief, or any other appropriate relief.

(b) The court may award treble damages on proof of actual damages if the court finds that the person's acts were willful and malicious.

(3) In an action under this section, the court shall award a prevailing victim reasonable attorney fees and costs.

(4) An action under this section shall be commenced no later than 10 years after the later of:

(a) the day on which the victim was freed from the human trafficking or human smuggling situation;

(b) the day on which the victim attains 18 years old; or

(c) if the victim was unable to bring an action due to a disability, the day on which the victim's disability ends.

(5) The time period described in Subsection (4) is tolled during a period of time when the victim fails to bring an action due to the person:

(a) inducing the victim to delay filing the action;

(b) preventing the victim from filing the action; or

(c) threatening and causing duress upon the victim in order to prevent the victim from filing the action.

(6) The court shall offset damages awarded to the victim under this section by any restitution paid to the victim under Title 77, Chapter 38b, Crime Victims Restitution Act.

(7) A victim may bring an action described in this section in any court of competent jurisdiction where:

(a) a violation described in Subsection (1) occurred;

(b) the victim resides; or

(c) the person that commits the offense resides or has a place of business.

(8) If the victim is deceased or otherwise unable to represent the victim's own interests in court, a legal guardian, family member, representative of the victim, or court appointee may bring an action under this section on behalf of the victim.

(9) This section does not preclude any other remedy available to the victim under the laws of this state or under federal law.

Section 53. Section 77-40-102 is amended to read:

77-40-102. Definitions.

As used in this chapter:

(1) "Administrative finding" means a decision upon a question of fact reached by an administrative agency following an administrative hearing or other procedure satisfying the requirements of due process.

(2) "Agency" means a state, county, or local government entity that generates or maintains records relating to an investigation, arrest, detention, or conviction for an offense for which expungement may be ordered.

(3) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in Section 53-10-201.

(4) "Certificate of eligibility" means a document issued by the bureau stating that the criminal record and all records of arrest, investigation, and detention associated with a case that is the subject of a petition for expungement is eligible for expungement.

(5) (a) "Clean slate eligible case" means a case:

(i) where, except as provided in Subsection (5)(c), each conviction within the case is:

(A) a misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor conviction; or

(C) an infraction conviction;

(ii) that involves an individual:

(A) whose total number of convictions in Utah state courts, not including infractions, traffic offenses, or minor regulatory offenses, does not exceed the limits described in Subsections 77-40-105(6) and (7) without taking into consideration the exception in Subsection 77-40-105(9); and

(B) against whom no criminal proceedings are pending in the state; and

(iii) for which the following time periods have elapsed from the day on which the case is adjudicated:

(A) at least five years for a class C misdemeanor or an infraction;

(B) at least six years for a class B misdemeanor; and

(C) at least seven years for a class A conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(b) "Clean slate eligible case" includes a case that is dismissed as a result of a successful completion of a plea in abeyance agreement governed by Subsection 77-2a-3(2)(b) if:

(i) except as provided in Subsection (5)(c), each charge within the case is:

(A) a misdemeanor for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i);

(B) a class B or class C misdemeanor; or

(C) an infraction;

(ii) the individual involved meets the requirements of Subsection (5)(a)(ii); and

(iii) the time periods described in Subsections (5)(a)(iii)(A) through (C) have elapsed from the day on which the case is dismissed.

(c) "Clean slate eligible case" does not include a case:

(i) where the individual is found not guilty by reason of insanity;

(ii) where the case establishes a criminal accounts receivable, as defined in Section 77-32b-102, that:

(A) has been entered as a civil accounts receivable or a civil judgment of restitution, as those terms are defined in Section 77-32b-102, and transferred to the Office of State Debt Collection under Section 77-18-114; or

(B) has not been satisfied according to court records; or

(iii) that resulted in one or more pleas held in abeyance or convictions for the following offenses:

(A) any of the offenses listed in Subsection 77-40-105(2)(a);

(B) an offense against the person in violation of Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual;

(C) a weapons offense in violation of Title 76, Chapter 10, Part 5, Weapons;

(D) sexual battery in violation of Section 76-9-702.1;

(E) an act of lewdness in violation of Section 76-9-702 or 76-9-702.5;

(F) an offense in violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(G) damage to or interruption of a communication device in violation of Section 76-6-108;

(H) a domestic violence offense as defined in Section 77-36-1; or

(I) any other offense classified in the Utah Code as a felony or a class A misdemeanor other than a class A misdemeanor conviction for possession of a controlled substance in violation of Subsection 58-37-8(2)(a)(i).

(6) "Conviction" means judgment by a criminal court on a verdict or finding of guilty after trial, a plea of guilty, or a plea of nolo contendere.

(7) "Department" means the Department of Public Safety established in Section 53-1-103.

(8) "Drug possession offense" means an offense under:

(a) Subsection 58-37-8(2), except any offense under Subsection 58-37-8(2)(b)(i), possession of 100 pounds or more of marijuana, any offense enhanced under Subsection 58-37-8(2)(e), violation in a correctional facility or Subsection 58-37-8(2)(g), driving with a controlled substance illegally in the person's body and negligently causing serious bodily injury or death of another;

(b) Subsection 58-37a-5(1), use or possession of drug paraphernalia;

(c) Section 58-37b-6, possession or use of an imitation controlled substance; or

(d) any local ordinance which is substantially similar to any of the offenses described in this Subsection (8).

(9) "Expunge" means to seal or otherwise restrict access to the individual's record held by an agency when the record includes a criminal investigation, detention, arrest, or conviction.

(10) "Jurisdiction" means a state, district, province, political subdivision, territory, or possession of the United States or any foreign country.

(11) "Minor regulatory offense" means any class B or C misdemeanor offense, and any local ordinance, except:

(a) any drug possession offense;

(b) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(c) Sections 73-18-13 through 73-18-13.6;

(d) those offenses defined in Title 76, Utah Criminal Code; or

(e) any local ordinance that is substantially similar to those offenses listed in Subsections (11)(a) through (d).

(12) "Petitioner" means an individual applying for expungement under this chapter.

(13) (a) "Traffic offense" means:

(i) all infractions, class B misdemeanors, and class C misdemeanors in Title 41, Chapter 6a, Traffic Code;

(ii) Title 53, Chapter 3, Part 2, Driver Licensing Act;

(iii) Title 73, Chapter 18, State Boating Act; and

(iv) all local ordinances that are substantially similar to those offenses.

(b) "Traffic offense" does not mean:

(i) Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(ii) Sections 73-18-13 through 73-18-13.6; or

(iii) any local ordinance that is substantially similar to the offenses listed in Subsections (13)(b)(i) and (ii).

Section 54. Section 77-41-102 is amended to read:

77-41-102. Definitions.

As used in this chapter:

(1) "Bureau" means the Bureau of Criminal Identification of the Department of Public Safety established in section 53-10-201.

(2) "Business day" means a day on which state offices are open for regular business.

(3) "Certificate of eligibility" means a document issued by the Bureau of Criminal Identification showing that the offender has met the requirements of Section 77-41-112.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States military, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Kidnap offender" means any individual, other than a natural parent of the victim:

(a) who has been convicted in this state of a violation of:

(i) Subsection 76-5-301[~~(1)~~](2)(c) or (d), kidnapping;

(ii) Section 76-5-301.1, child kidnapping;

(iii) Section 76-5-302, aggravated kidnapping;

(iv) Section 76-5-308, human trafficking for labor [~~and~~];

(v) Section 76-5-308.3, human smuggling;

[~~(v)~~] (vi) Section 76-5-308, human smuggling, when the individual smuggled is under 18 years old;

[~~(vi)~~] (vii) Section 76-5-308.5, human trafficking of a child for labor;

[~~(vii)~~] (viii) Section 76-5-310, aggravated human trafficking [~~and~~];

(ix) Section 76-5-310.1, aggravated human smuggling[~~, on or after May 10, 2011~~];

[~~(viii)~~] (x) Section 76-5-311, human trafficking of a vulnerable adult for labor; or

[~~(ix)~~] (xi) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (9)(a)(i) through (iii);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (9)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a kidnap offender in any other jurisdiction of original conviction;

(B) who is required to register as a kidnap offender by any state, federal, or military court; or

(C) who would be required to register as a kidnap offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, who is in this state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (9), or any substantially equivalent offense in another jurisdiction; or

(B) as a result of the conviction, who is required to register in the individual's state of residence;

(e) who is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (9); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (9)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense and:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(10) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(11) "Offender" means a kidnap offender as defined in Subsection (9) or a sex offender as defined in Subsection (17).

(12) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, social security number, PIN number, or Internet passwords.

(13) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(14) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(15) "Registration website" means the Sex and Kidnap Offender Notification and Registration website described in Section 77-41-110 and the information on the website.

(16) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(17) "Sex offender" means any individual:

(a) convicted in this state of:

(i) a felony or class A misdemeanor violation of Section 76-4-401, enticing a minor;

(ii) Section 76-5b-202, sexual exploitation of a vulnerable adult[~~, on or after May 10, 2011~~];

(iii) Section [~~76-5-308~~] 76-5-308.1, human trafficking for sexual exploitation;

(iv) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(v) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(vi) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(vii) Section 76-5-401, unlawful sexual activity with a minor, except as provided in Subsection 76-5-401(3)(b) or (c);

(viii) Section 76-5-401.1, sexual abuse of a minor, except as provided in Subsection 76-5-401.1(3);

(ix) Section 76-5-401.2, unlawful sexual conduct with a 16 or 17 year old;

(x) Section 76-5-402, rape;

(xi) Section 76-5-402.1, rape of a child;

(xii) Section 76-5-402.2, object rape;

(xiii) Section 76-5-402.3, object rape of a child;

(xiv) a felony violation of Section 76-5-403, forcible sodomy;

(xv) Section 76-5-403.1, sodomy on a child;

(xvi) Section 76-5-404, forcible sexual abuse;

(xvii) Section 76-5-404.1, sexual abuse of a child, or Section 76-5-404.3, aggravated sexual abuse of a child;

(xviii) Section 76-5-405, aggravated sexual assault;

(xix) Section 76-5-412, custodial sexual relations, when the individual in custody is younger than 18 years old, if the offense is committed on or after May 10, 2011;

(xx) Section 76-5b-201, sexual exploitation of a minor;

(xxi) Section 76-5b-204, sexual extortion or aggravated sexual extortion;

(xxii) Section 76-7-102, incest;

(xxiii) Section 76-9-702, lewdness, if the individual has been convicted of the offense four or more times;

(xxiv) Section 76-9-702.1, sexual battery, if the individual has been convicted of the offense four or more times;

(xxv) any combination of convictions of Section 76-9-702, lewdness, and of Section 76-9-702.1, sexual battery, that total four or more convictions;

(xxvi) Section 76-9-702.5, lewdness involving a child;

(xxvii) a felony or class A misdemeanor violation of Section 76-9-702.7, voyeurism;

(xxviii) Section 76-10-1306, aggravated exploitation of prostitution; or

(xxix) attempting, soliciting, or conspiring to commit any felony offense listed in this Subsection (17)(a);

(b) (i) who has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court that is substantially equivalent to the offenses listed in Subsection (17)(a); and

(ii) who is:

(A) a Utah resident; or

(B) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) (A) who is required to register as a sex offender in any other jurisdiction of original conviction;

(B) who is required to register as a sex offender by any state, federal, or military court; or

(C) who would be required to register as a sex offender if residing in the jurisdiction of the original conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) who, in any 12-month period, is in the state for a total of 10 or more days, regardless of whether or not the offender intends to permanently reside in this state;

(d) (i) (A) who is a nonresident regularly employed or working in this state; or

(B) who is a student in this state; and

(ii) (A) who was convicted of one or more offenses listed in Subsection (17)(a), or any substantially equivalent offense in any jurisdiction; or

(B) who is, as a result of the conviction, required to register in the individual's jurisdiction of residence;

(e) who is found not guilty by reason of insanity in this state, or in any other jurisdiction of one or more offenses listed in Subsection (17)(a); or

(f) (i) who is adjudicated under Section 80-6-701 for one or more offenses listed in Subsection (17)(a); and

(ii) who has been committed to the division for secure care, as defined in Section 80-1-102, for that offense and:

(A) the individual remains in the division's custody until 30 days before the individual's 21st birthday; or

(B) if the juvenile court extended the juvenile court's jurisdiction over the individual under Section 80-6-605, the individual remains in the division's custody until 30 days before the individual's 25th birthday.

(18) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(19) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 55. Section 77-41-106 is amended to read:

77-41-106. Registerable offenses.

Offenses referred to in Subsection 77-41-105(3)(c)(i) are:

(1) any offense listed in Subsection 77-41-102(9) or (17) if, at the time of the conviction, the offender has previously been convicted of an offense listed in Subsection 77-41-102(9) or (17) or has previously been required to register as a sex offender for an offense committed as a juvenile;

(2) a conviction for any of the following offenses, including attempting, soliciting, or conspiring to commit any felony of:

(a) Section 76-5-301.1, child kidnapping, except if the offender is a natural parent of the victim;

(b) Section 76-5-402, rape;

(c) Section 76-5-402.1, rape of a child;

(d) Section 76-5-402.2, object rape;

(e) Section 76-5-402.3, object rape of a child;

(f) Section 76-5-403.1, sodomy on a child;

(g) [~~Subsection 76-5-404.1(4)~~] Section 76-4-404.3, aggravated sexual abuse of a child; or

(h) Section 76-5-405, aggravated sexual assault;

(3) Section [~~76-5-308~~] 76-5-308.1, human trafficking for sexual exploitation;

(4) Section 76-5-308.5, human trafficking of a child for sexual exploitation;

(5) Section 76-5-310, aggravated human trafficking for sexual exploitation;

(6) Section 76-5-311, human trafficking of a vulnerable adult for sexual exploitation;

(7) Section 76-4-401, a felony violation of enticing a minor over the Internet;

(8) Section 76-5-302, aggravated kidnapping, except if the offender is a natural parent of the victim;

(9) Section 76-5-403, forcible sodomy;

(10) Section 76-5-404.1, sexual abuse of a child;

(11) Section 76-5b-201, sexual exploitation of a minor;

(12) Subsection 76-5b-204[~~(4)~~](2)(b), aggravated sexual extortion; or

(13) Section 76-10-1306, aggravated exploitation of prostitution, on or after May 10, 2011.

Section 56. Section 77-43-102 is amended to read:

77-43-102. Definitions.

As used in this chapter:

(1) "Business day" means a day on which state offices are open for regular business.

(2) "Child abuse offender" means any person who:

(a) has been convicted in this state of a felony violation of:

(i) Subsection [~~76-5-109(2)(a) or (b),~~] 76-5-109.2(3)(a) or (b), aggravated child abuse;

(ii) Section 76-5-308.5, human trafficking of a child; or

(iii) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (2)(a)(i) or (ii);

(b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (2)(a) and who is:

(i) a Utah resident; or

(ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(c) (i) is required to register as a child abuse offender in any other jurisdiction of original conviction, who is required to register as a child abuse offender by any state, federal, or military court, or who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and

(ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;

(d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (2)(a), or any substantially equivalent offense in another jurisdiction, or who, as a result of the conviction, is required to register in the person's state of residence;

(e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (2)(a); or

(f) is adjudicated delinquent based on one or more offenses listed in Subsection (2)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days before the person's 21st birthday.

(3) "Correctional facility" means the same as that term is defined in Section 64-13-1.

(4) "Department" means the Department of Corrections.

(5) "Division" means the Division of Juvenile Justice Services.

(6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.

(7) "Indian Country" means:

(a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;

(b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and

(c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.

(8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States Armed Forces, Canada, the United Kingdom, Australia, or New Zealand.

(9) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.

(10) "Offender" means a child abuse offender as defined in Subsection (2).

(11) "Online identifier" or "Internet identifier":

(a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and

(b) does not include date of birth, Social Security number, PIN number, or Internet passwords.

(12) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.

(13) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.

(14) "Registration website" means the Child Abuse Offender Notification and Registration website described in Section 77-43-108 and the information on the website.

(15) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.

(16) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.

(17) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Section 57. Section 78A-6-209 is amended to read:

78A-6-209. Court records -- Inspection.

(1) The juvenile court and the juvenile court's probation department shall keep records as required by the board and the presiding judge.

(2) A court record shall be open to inspection by:

(a) the parents or guardian of a child, a minor who is at least 18 years old, other parties in the case, the attorneys, and agencies to which custody of a minor has been transferred;

(b) for information relating to adult offenders alleged to have committed a sexual offense, a felony or class A misdemeanor drug offense, or an offense against the person under Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, the State Board of Education for the purpose of evaluating whether an individual should be permitted to obtain or retain a license as an educator or serve as an employee or volunteer in a school, with the understanding that the State Board of Education must provide the individual with an opportunity to respond to any information gathered from the State Board of Education's inspection of the records before the State Board of Education makes a decision concerning licensure or employment;

(c) the Criminal Investigations and Technical Services Division, established in Section 53-10-103, for the purpose of a criminal history background check for the purchase of a firearm and establishing good character for issuance of a concealed firearm permit as provided in Section 53-5-704;

(d) the Division of Child and Family Services for the purpose of Child Protective Services Investigations in accordance with Sections 62A-4a-403 and 62A-4a-409 and administrative hearings in accordance with Section 62A-4a-1009;

(e) the Office of Licensing for the purpose of conducting a background check in accordance with Section 62A-2-120;

(f) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health for the purpose of evaluating under the provisions of Subsection 26-39-404(3) whether a licensee should be permitted to obtain or retain a license to provide child care, with the understanding that the department must provide the individual who committed the offense with an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision concerning licensure;

(g) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether an individual meets the background screening requirements of Title 26, Chapter 21, Part 2, Clearance for Direct Patient Access, with the understanding that the department must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a decision under that part; and

(h) for information related to a minor who has committed a sexual offense, a felony, or an offense that if committed by an adult would be a misdemeanor, the Department of Health to determine whether to grant, deny, or revoke background clearance under Section 26-8a-310 for an individual who is seeking or who has obtained an emergency medical service personnel license under Section 26-8a-302, with the understanding that the Department of Health must provide the individual who committed the offense an opportunity to respond to any information gathered from the Department of Health's inspection of records before the Department of Health makes a determination.

(3) With the consent of the juvenile court, a court record may be inspected by the child, by persons having a legitimate interest in the proceedings, and by persons conducting pertinent research studies.

(4) If a petition is filed charging a minor who is 14 years old or older with an offense that would be a felony if committed by an adult, the juvenile court shall make available to any person upon request the petition, any adjudication or disposition orders, and the delinquency history summary of the minor charged unless the records are closed by the juvenile court upon findings on the record for good cause.

(5) A juvenile probation officer's records and reports of social and clinical studies are not open to inspection, except by consent of the juvenile court, given under rules adopted by the board.

(6) The juvenile court may charge a reasonable fee to cover the costs associated with retrieving a requested record that has been archived.

Section 58. Section 78B-2-308 is amended to read:

78B-2-308. Legislative findings -- Civil actions for sexual abuse of a child -- Window for revival of time barred claims.

(1) The Legislature finds that:

(a) child sexual abuse is a crime that hurts the most vulnerable in our society and destroys lives;

(b) research over the last 30 years has shown that it takes decades for children and adults to pull their lives back together and find the strength to face what happened to them;

(c) often the abuse is compounded by the fact that the perpetrator is a member of the victim's family and when such abuse comes out, the victim is further stymied by the family's wish to avoid public embarrassment;

(d) even when the abuse is not committed by a family member, the perpetrator is rarely a stranger and, if in a position of authority, often brings pressure to bear on the victim to ensure silence;

(e) in 1992, when the Legislature enacted the statute of limitations requiring victims to sue within four years of majority, society did not understand the long-lasting effects of abuse on the victim and that it takes decades for the healing necessary for a victim to seek redress;

(f) the Legislature, as the policy-maker for the state, may take into consideration advances in medical science and understanding in revisiting policies and laws shown to be harmful to the citizens of this state rather than beneficial; and

(g) the Legislature has the authority to change old laws in the face of new information, and set new policies within the limits of due process, fairness, and justice.

(2) As used in this section:

(a) "Child" means an individual under 18 years [~~of age~~] old.

(b) "Discovery" means when a victim knows or reasonably should know that the injury or illness was caused by the intentional or negligent sexual abuse.

(c) "Injury or illness" means either a physical injury or illness or a psychological injury or illness. A psychological injury or illness need not be accompanied by physical injury or illness.

(d) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section [~~76-5-416~~] 76-5-401.1.

(e) "Negligently" means a failure to act to prevent the child sexual abuse from further occurring or to report the child sexual abuse to law enforcement when the adult who could act knows or reasonably should know of the child sexual abuse and is the victim's parent, stepparent, adoptive parent, foster parent, legal guardian, ancestor, descendant, brother, sister, uncle, aunt, first cousin, nephew, niece, grandparent, stepgrandparent, or any individual cohabiting in the child's home.

(f) "Perpetrator" means an individual who has committed an act of sexual abuse.

(g) "Sexual abuse" means acts or attempted acts of sexual intercourse, sodomy, or molestation by an adult directed towards a child.

(h) "Victim" means an individual who was intentionally or negligently sexually abused. It does not include individuals whose claims are derived through another individual who was sexually abused.

(3) (a) A victim may file a civil action against a perpetrator for intentional or negligent sexual abuse suffered as a child at any time.

(b) A victim may file a civil action against a non-perpetrator for intentional or negligent sexual abuse suffered as a child:

(i) within four years after the individual attains the age of 18 years; or

(ii) if a victim discovers sexual abuse only after attaining the age of 18 years, that individual may bring a civil action for such sexual abuse within four years after discovery of the sexual abuse, whichever period expires later.

(4) The victim need not establish which act in a series of continuing sexual abuse incidents caused the injury complained of, but may compute the date of discovery from the date of discovery of the last act by the same perpetrator which is part of a common scheme or plan of sexual abuse.

(5) The knowledge of a custodial parent or guardian may not be imputed to an individual under the age of 18 years.

(6) A civil action may be brought only against a living individual who:

(a) intentionally perpetrated the sexual abuse;

(b) would be criminally responsible for the sexual abuse in accordance with Section 76-2-202; or

(c) negligently permitted the sexual abuse to occur.

(7) A civil action against an individual described in Subsection (6)(a) or (b) for sexual abuse that was time barred as of July 1, 2016, may be brought within 35 years of the victim's 18th birthday, or within three years of the effective date of this Subsection (7), whichever is longer.

(8) A civil action may not be brought as provided in Subsection (7) for:

(a) any claim that has been litigated to finality on the merits in a court of competent jurisdiction prior to July 1, 2016, however termination of a prior civil action on the basis of the expiration of the statute of limitations does not constitute a claim that has been litigated to finality on the merits; and

(b) any claim where a written settlement agreement was entered into between a victim and a defendant or perpetrator, unless the settlement agreement was the result of fraud, duress, or unconscionability. There is a rebuttable presumption that a settlement agreement signed by the victim when the victim was not represented by an attorney admitted to practice law in this state at the time of the settlement was the result of fraud, duress, or unconscionability.

Section 59. Section 78B-6-117 is amended to read:

78B-6-117. Who may adopt -- Adoption of minor.

(1) A minor child may be adopted by an adult individual, in accordance with this section and this part.

(2) A child may be adopted by:

(a) adults who are legally married to each other in accordance with the laws of this state, including adoption by a stepparent; or

(b) subject to Subsections (3) and (4), a single adult.

(3) A child may not be adopted by an individual who is cohabiting in a relationship that is not a legally valid and binding marriage under the laws of this state unless the individual is a relative of the child or a recognized placement under the Indian Child Welfare Act, 25 U.S.C. Sec. 1901 et seq.

(4) To provide a child who is in the custody of the division with the most beneficial family structure, when a child in the custody of the division is placed for adoption, the division or child-placing agency shall place the child with a married couple, unless:

(a) there are no qualified married couples who:

(i) have applied to adopt a child;

(ii) are willing to adopt the child; and

(iii) are an appropriate placement for the child;

(b) the child is placed with a relative of the child;

(c) the child is placed with an individual who has already developed a substantial relationship with the child;

(d) the child is placed with an individual who:

(i) is selected by a parent or former parent of the child, if the parent or former parent consented to the adoption of the child; and

(ii) the parent or former parent described in Subsection (4)(d)(i):

(A) knew the individual with whom the child is placed before the parent consented to the adoption; or

(B) became aware of the individual with whom the child is placed through a source other than the division or the child-placing agency that assists with the adoption of the child; or

(e) it is in the best interests of the child to place the child with a single adult.

(5) Except as provided in Subsection (6), an adult may not adopt a child if, before adoption is finalized, the adult has been convicted of, pleaded guilty to, or pleaded no contest to a felony or attempted felony involving conduct that constitutes any of the following:

(a) child abuse, as described in Section 76-5-109;

(b) child abuse homicide, as described in Section 76-5-208;

(c) child kidnapping, as described in Section 76-5-301.1;

(d) human trafficking of a child, as described in Section 76-5-308.5;

(e) sexual abuse of a minor, as described in Section 76-5-401.1;

(f) rape of a child, as described in Section 76-5-402.1;

(g) object rape of a child, as described in Section 76-5-402.3;

(h) sodomy on a child, as described in Section 76-5-403.1;

(i) sexual abuse of a child [~~or aggravated sexual abuse of a child~~], as described in Section 76-5-404.1, or aggravated sexual abuse of a child, as described in Section 76-5-404.3;

(j) sexual exploitation of a minor, as described in Section 76-5b-201; [~~or~~]

(k) aggravated child abuse, as described in Section 76-5-109.2;

(l) child abandonment, as described in Section 76-5-109.3;

(m) commission of domestic violence in the presence of a child, as described in Section 76-5-114; or

[~~(k)~~] (n) an offense in another state that, if committed in this state, would constitute an offense described in this Subsection (5).

(6) (a) For purpose of this Subsection (6), "disqualifying offense" means an offense listed in Subsection (5) that prevents a court from considering an individual for adoption of a child except as provided in this Subsection (6).

(b) An individual described in Subsection (5) may only be considered for adoption of a child if the following criteria are met by clear and convincing evidence:

(i) at least 10 years have elapsed from the day on which the individual is successfully released from prison, jail, parole, or probation related to a disqualifying offense;

(ii) during the 10 years before the day on which the individual files a petition with the court seeking adoption, the individual has not been convicted, pleaded guilty, or pleaded no contest to an offense greater than an infraction or traffic violation that would likely impact the health, safety, or well-being of the child;

(iii) the individual can provide evidence of successful treatment or rehabilitation directly related to the disqualifying offense;

(iv) the court determines that the risk related to the disqualifying offense is unlikely to cause harm, as defined in Section 80-1-102, or potential harm to the child currently or at any time in the future when considering all of the following:

(A) the child's age;

(B) the child's gender;

(C) the child's development;

(D) the nature and seriousness of the disqualifying offense;

(E) the preferences of a child 12 years old or older;

(F) any available assessments, including custody evaluations, home studies, pre-placement adoptive evaluations, parenting assessments, psychological or mental health assessments, and bonding assessments; and

(G) any other relevant information;

(v) the individual can provide evidence of all of the following:

(A) the relationship with the child is of long duration;

(B) that an emotional bond exists with the child; and

(C) that adoption by the individual who has committed the disqualifying offense ensures the best interests of the child are met; and

(vi) the adoption is by:

(A) a stepparent whose spouse is the adoptee's parent and consents to the adoption; or

(B) subject to Subsection (6)(d), a relative of the child as defined in Section 80-3-102 and there is not another relative without a disqualifying offense filing an adoption petition.

(c) The individual with the disqualifying offense bears the burden of proof regarding why adoption with that individual is in the best interest of the child over another responsible relative or equally situated individual who does not have a disqualifying offense.

(d) If there is an alternative responsible relative who does not have a disqualifying offense filing an adoption petition, the following applies:

(i) preference for adoption shall be given to a relative who does not have a disqualifying offense; and

(ii) before the court may grant adoption to the individual who has the disqualifying offense over another responsible, willing, and able relative:

(A) an impartial custody evaluation shall be completed; and

(B) a guardian ad litem shall be assigned.

(7) Subsections (5) and (6) apply to a case pending on March 25, 2017, for which a final decision on adoption has not been made and to a case filed on or after March 25, 2017.

Section 60. Section 78B-7-102 is amended to read:

78B-7-102. Definitions.

As used in this chapter:

(1) "Abuse" means, except as provided in Section 78B-7-201, intentionally or knowingly causing or attempting to cause another individual physical harm or intentionally or knowingly placing another individual in reasonable fear of imminent physical harm.

(2) "Affinity" means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(3) "Civil protective order" means an order issued, subsequent to a hearing on the petition, of which the petitioner and respondent have been given notice, under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(4) "Civil stalking injunction" means a stalking injunction issued under Part 7, Civil Stalking Injunctions.

(5) (a) "Cohabitant" means an emancipated individual under Section 15-2-1 or an individual who is 16 years old or older who:

(i) is or was a spouse of the other party;

(ii) is or was living as if a spouse of the other party;

(iii) is related by blood or marriage to the other party as the individual's parent, grandparent, sibling, or any other individual related to the individual by consanguinity or affinity to the second degree;

(iv) has or had one or more children in common with the other party;

(v) is the biological parent of the other party's unborn child;

(vi) resides or has resided in the same residence as the other party; or

(vii) is or was in a consensual sexual relationship with the other party.

(b) "Cohabitant" does not include:

(i) the relationship of natural parent, adoptive parent, or step-parent to a minor; or

(ii) the relationship between natural, adoptive, step, or foster siblings who are under 18 years old.

(6) "Consanguinity" means the same as that term is defined in Section [~~76-1-601~~] 76-1-101.5.

(7) "Criminal protective order" means an order issued under Part 8, Criminal Protective Orders.

(8) "Criminal stalking injunction" means a stalking injunction issued under Part 9, Criminal Stalking Injunctions.

(9) "Court clerk" means a district court clerk.

(10) (a) "Dating partner" means an individual who:

(i) (A) is an emancipated individual under Section 15-2-1 or Title 80, Chapter 7, Emancipation; or

(B) is 18 years old or older; and

(ii) is, or has been, in a dating relationship with the other party.

(b) "Dating partner" does not include an intimate partner.

(11) (a) "Dating relationship" means a social relationship of a romantic or intimate nature, or a relationship which has romance or intimacy as a goal by one or both parties, regardless of whether the relationship involves sexual intimacy.

(b) "Dating relationship" does not include casual fraternization in a business, educational, or social context.

(c) In determining, based on a totality of the circumstances, whether a dating relationship exists:

(i) all relevant factors shall be considered, including:

(A) whether the parties developed interpersonal bonding above a mere casual fraternization;

(B) the length of the parties' relationship;

(C) the nature and the frequency of the parties' interactions, including communications indicating that the parties intended to begin a dating relationship;

(D) the ongoing expectations of the parties, individual or jointly, with respect to the relationship;

(E) whether, by statement or conduct, the parties demonstrated an affirmation of their relationship to others; and

(F) whether other reasons exist that support or detract from a finding that a dating relationship exists; and

(ii) it is not necessary that all, or a particular number, of the factors described in Subsection (11)(c)(i) are found to support the existence of a dating relationship.

(12) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(13) "Ex parte civil protective order" means an order issued without notice to the respondent under:

(a) Part 2, Child Protective Orders;

(b) Part 4, Dating Violence Protective Orders;

(c) Part 5, Sexual Violence Protective Orders; or

(d) Part 6, Cohabitant Abuse Protective Orders.

(14) "Ex parte civil stalking injunction" means a stalking injunction issued without notice to the respondent under Part 7, Civil Stalking Injunctions.

(15) "Foreign protection order" means the same as that term is defined in Section 78B-7-302.

(16) "Intimate partner" means the same as that term is defined in 18 U.S.C. Sec. 921.

(17) "Law enforcement unit" or "law enforcement agency" means any public agency having general police power and charged with making arrests in connection with enforcement of the criminal statutes and ordinances of this state or any political subdivision.

(18) "Peace officer" means those individuals specified in Title 53, Chapter 13, Peace Officer Classifications.

(19) "Qualifying domestic violence offense" means the same as that term is defined in Section 77-36-1.1.

(20) "Respondent" means the individual against whom enforcement of a protective order is sought.

(21) "Stalking" means the same as that term is defined in Section 76-5-106.5.

Section 61. Section 78B-7-502 is amended to read:

78B-7-502. Definitions.

As used in this part:

(1) "Ex parte sexual violence protective order" means an order issued without notice to the respondent under this part.

(2) "Protective order" means:

(a) a sexual violence protective order; or

(b) an ex parte sexual violence protective order.

(3) "Sexual violence" means the commission or the attempt to commit:

(a) any sexual offense described in Title 76, Chapter 5, Part 4, Sexual Offenses, or Title 76, Chapter 5b, Part 2, Sexual Exploitation;

(b) human trafficking for sexual exploitation under Section [~~76-5-308~~] 76-5-308.1; or

(c) aggravated human trafficking for forced sexual exploitation under Section 76-5-310.

(4) "Sexual violence protective order" means an order issued under this part after a hearing on the petition, of which the petitioner and respondent have been given notice.

Section 62. Section 78B-7-801 is amended to read:

78B-7-801. Definitions.

As used in this part:

(1) (a) "Jail release agreement" means a written agreement that is entered into by an individual who is arrested or issued a citation, regardless of whether the individual is booked into jail:

(i) under which the arrested or cited individual agrees to not engage in any of the following:

(A) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(B) threatening or harassing the alleged victim; or

(C) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

(ii) that specifies other conditions of release from jail or arrest.

(b) "Jail release agreement" includes a written agreement that includes the conditions described in Section (1)(a) entered into by a minor who is taken into custody or placed in detention or a shelter facility under Section 78A-6-112.

(2) "Jail release court order" means a written court order that:

(a) orders an arrested or cited individual not to engage in any of the following:

(i) telephoning, contacting, or otherwise communicating with the alleged victim, directly or indirectly;

(ii) threatening or harassing the alleged victim; or

(iii) knowingly entering onto the premises of the alleged victim's residence or on premises temporarily occupied by the alleged victim; and

(b) specifies other conditions of release from jail.

(3) "Minor" means the same as that term is defined in Section 80-1-102.

(4) "Offense against a child or vulnerable adult" means the commission or attempted commission of an offense described in [~~Section 76-5-109, 76-5-109.1, 76-5-110, 76-5-111, or 76-9-702.1.~~]:

(a) Section 76-5-109, child abuse;

(b) Section 76-5-109.2, aggravated child abuse;

(c) Section 76-5-109.3, child abandonment;

(d) Section 76-5-110, abuse or neglect of a child with a disability;

(e) Section 76-5-111, abuse of a vulnerable adult;

(f) Section 76-5-111.2, aggravated abuse of a vulnerable adult;

(g) Section 76-5-111.3, personal dignity exploitation of a vulnerable adult;

(h) Section 76-5-111.4, financial exploitation of a vulnerable adult;

(i) Section 76-5-114, commission of domestic violence in the presence of a child; or

(j) Section 76-9-702.1, sexual battery.

(5) "Qualifying offense" means:

(a) domestic violence;

(b) an offense against a child or vulnerable adult; or

(c) the commission or attempted commission of an offense described in Section 76-9-702.1 or Title 76, Chapter 5, Part 4, Sexual Offenses.

Section 63. Section 78B-7-903 is amended to read:

78B-7-903. Penalties.

(1) A violation of a permanent criminal stalking injunction issued under this part is a third degree felony in accordance with Subsection [~~76-5-106.5(7)~~] 76-5-106.5(3)(b).

(2) A violation of a permanent criminal stalking injunction issued under this part may be enforced in a civil action initiated by the stalking victim, a criminal action initiated by a prosecuting attorney, or both.

Section 64. Section 78B-9-402 is amended to read:

78B-9-402. Petition for determination of factual innocence -- Sufficient allegations -- Notification of victim -- Payment to surviving spouse.

(1) A person who has been convicted of a felony offense may petition the district court in the county in which the person was convicted for a hearing to establish that the person is factually innocent of the crime or crimes of which the person was convicted.

(2) (a) The petition shall contain an assertion of factual innocence under oath by the petitioner and shall aver, with supporting affidavits or other credible documents, that:

(i) newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent;

(ii) the specific evidence identified by the petitioner in the petition establishes innocence;

(iii) the material evidence is not merely cumulative of evidence that was known;

(iv) the material evidence is not merely impeachment evidence; and

(v) viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.

(b) (i) The court shall review the petition in accordance with the procedures in Subsection (9)(b), and make a finding that the petition has satisfied the requirements of Subsection (2)(a).

(ii) If the court finds the petition does not meet all the requirements of Subsection (2)(a), the court shall dismiss the petition without prejudice and send notice of the dismissal to the petitioner and the attorney general.

(3) (a) The petition shall also contain an averment that:

(i) neither the petitioner nor the petitioner's counsel knew of the evidence at the time of trial or sentencing or in time to include the evidence in any previously filed post-trial motion or postconviction motion, and the evidence could not have been discovered by the petitioner or the petitioner's counsel through the exercise of reasonable diligence; or

(ii) a court has found ineffective assistance of counsel for failing to exercise reasonable diligence in uncovering the evidence.

(b) (i) Upon entry of a finding that the petition is sufficient under Subsection (2)(a), the court shall then review the petition to determine if Subsection (3)(a) has been satisfied.

(ii) If the court finds that the requirements of Subsection (3)(a) have not been satisfied, the court may dismiss the petition without prejudice and give notice to the petitioner and the attorney general of the dismissal, or the court may waive the requirements of Subsection (3)(a) if the court finds the petition should proceed to hearing based upon the strength of the petition, and that there is other evidence that could have been discovered through the exercise of reasonable diligence by the petitioner or the petitioner's counsel at trial, and the other evidence:

(A) was not discovered by the petitioner or the petitioner's counsel;

(B) is material upon the issue of factual innocence; and

(C) has never been presented to a court.

(4) (a) If the conviction for which the petitioner asserts factual innocence was based upon a plea of guilty, the petition shall contain the specific nature and content of the evidence that establishes factual innocence.

(b) The court shall review the evidence and may dismiss the petition at any time in the course of the proceedings, if the court finds that the evidence of factual innocence relies solely upon the recantation of testimony or prior statements made by a witness against the petitioner, and the recantation appears to the court to be equivocal or self serving.

(5) A person who has already obtained postconviction relief that vacated or reversed the person's conviction or sentence may also file a petition under this part in the same manner and form as described above, if no retrial or appeal regarding this offense is pending.

(6) If some or all of the evidence alleged to be exonerating is biological evidence subject to DNA testing, the petitioner shall seek DNA testing in accordance with Section 78B-9-301.

(7) Except as provided in Subsection (9), the petition and all subsequent proceedings shall be in compliance with and governed by Utah Rules of Civil Procedure, Rule 65C and shall include the underlying criminal case number.

(8) After a petition is filed under this section, prosecutors, law enforcement officers, and crime laboratory personnel shall cooperate in preserving evidence and in determining the sufficiency of the chain of custody of the evidence which is the subject of the petition.

(9) (a) A person who files a petition under this section shall serve notice of the petition and a copy of the petition upon the office of the prosecutor who obtained the conviction and upon the Utah attorney general.

(b) (i) The assigned judge shall conduct an initial review of the petition.

(ii) If it is apparent to the court that the petitioner is either merely relitigating facts, issues, or evidence presented in previous proceedings or presenting issues that appear frivolous or speculative on their face, the court shall dismiss the petition, state the basis for the dismissal, and serve notice of dismissal upon the petitioner and the attorney general.

(iii) If, upon completion of the initial review, the court does not dismiss the petition, the court shall order the attorney general to file a response to the petition.

(iv) The attorney general shall, within 30 days after the day on which the attorney general receives the court's order, or within any additional period of time the court allows, answer or otherwise respond to all proceedings initiated under this part.

(c) (i) After the time for response by the attorney general under Subsection (9)(b) has passed, the court shall order a hearing if the court finds the petition meets the requirements of Subsections (2) and (3) and finds there is a bona fide and compelling issue of factual innocence regarding the charges of which the petitioner was convicted.

(ii) No bona fide and compelling issue of factual innocence exists if the petitioner is merely relitigating facts, issues, or evidence presented in a previous proceeding or if the petitioner is unable to identify with sufficient specificity the nature and reliability of the newly discovered evidence that establishes the petitioner's factual innocence.

(d) (i) If the parties stipulate that the evidence establishes that the petitioner is factually innocent, the court may find the petitioner is factually innocent without holding a hearing.

(ii) If the state will not stipulate that the evidence establishes that the petitioner is factually innocent, no determination of factual innocence may be made by the court without first holding a hearing under this part.

(10) The court may not grant a petition for a hearing under this part during the period in which criminal proceedings in the matter are pending before any trial or appellate court, unless stipulated to by the parties.

(11) Any victim of a crime that is the subject of a petition under this part, and who has elected to receive notice under Section 77-38-3, shall be notified by the state's attorney of any hearing regarding the petition.

(12) (a) A petition to determine factual innocence under this part, or Part 3, Postconviction Testing of DNA, shall be filed separately from any petition for postconviction relief under Part 1, General Provisions.

(b) Separate petitions may be filed simultaneously in the same court.

(13) The procedures governing the filing and adjudication of a petition to determine factual innocence apply to all petitions currently filed or pending in the district court and any new petitions filed on or after June 1, 2012.

(14) (a) As used in this Subsection (14) and in Subsection (15):

(i) "Married" means the legal marital relationship established between two individuals and as recognized by the law; and

(ii) "Spouse" means an individual married to the petitioner at the time the petitioner was found guilty of the offense regarding which a petition is filed and who has since then been continuously married to the petitioner until the petitioner's death.

(b) A claim for determination of factual innocence under this part is not extinguished upon the death of the petitioner.

(c) (i) If any payments are already being made to the petitioner under this part at the time of the death of the petitioner, or if the finding of factual innocence occurs after the death of the petitioner, the payments due under Section 78B-9-405 shall be paid in accordance with Section 78B-9-405 to the petitioner's surviving spouse.

(ii) Payments cease upon the death of the spouse.

(15) The spouse under Subsection (14) forfeits all rights to receive any payment under this part if the spouse is charged with a homicide established by a preponderance of the evidence that meets the elements of any felony homicide offense in Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, except automobile homicide, applying the same principles of culpability and defenses as in Title 76, Utah Criminal Code, including Title 76, Chapter 2, Principles of Criminal Responsibility.

Section 65. Section 80-1-102 is amended to read:

80-1-102. Juvenile code definitions.

As used in this title:

(1) (a) "Abuse" means:

(i) (A) nonaccidental harm of a child;

(B) threatened harm of a child;

(C) sexual exploitation;

(D) sexual abuse; or

(E) human trafficking of a child in violation of Section 76-5-308.5; or

(ii) that a child's natural parent:

(A) intentionally, knowingly, or recklessly causes the death of another parent of the child;

(B) is identified by a law enforcement agency as the primary suspect in an investigation for intentionally, knowingly, or recklessly causing the death of another parent of the child; or

(C) is being prosecuted for or has been convicted of intentionally, knowingly, or recklessly causing the death of another parent of the child.

(b) "Abuse" does not include:

(i) reasonable discipline or management of a child, including withholding privileges;

(ii) conduct described in Section 76-2-401; or

(iii) the use of reasonable and necessary physical restraint or force on a child:

(A) in self-defense;

(B) in defense of others;

(C) to protect the child; or

(D) to remove a weapon in the possession of a child for any of the reasons described in Subsections (1)(b)(iii)(A) through (C).

(2) "Abused child" means a child who has been subjected to abuse.

(3) (a) "Adjudication" means a finding by the court, incorporated in a decree, that the facts alleged in the petition have been proved.

(b) "Adjudication" does not mean a finding of not competent to proceed in accordance with Section 80-6-402.

(4) (a) "Adult" means an individual who is 18 years old or older.

(b) "Adult" does not include an individual:

(i) who is 18 years old or older; and

(ii) who is a minor.

(5) "Attorney guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(6) "Board" means the Board of Juvenile Court Judges.

(7) "Child" means an individual who is under 18 years old.

(8) "Child and family plan" means a written agreement between a child's parents or guardian and the Division of Child and Family Services as described in Section 62A-4a-205.

(9) "Child placement agency" means:

(a) a private agency licensed to receive a child for placement or adoption under this code; or

(b) a private agency that receives a child for placement or adoption in another state, which is licensed or approved where such license or approval is required by law.

(10) "Clandestine laboratory operation" means the same as that term is defined in Section 58-37d-3.

(11) "Commit" or "committed" means, unless specified otherwise:

(a) with respect to a child, to transfer legal custody; and

(b) with respect to a minor who is at least 18 years old, to transfer custody.

(12) "Community-based program" means a nonsecure residential or nonresidential program, designated to supervise and rehabilitate juvenile offenders, that prioritizes the least restrictive setting, consistent with public safety, and operated by or under contract with the Division of Juvenile Justice Services.

(13) "Community placement" means placement of a minor in a community-based program described in Section 80-5-402.

(14) "Correctional facility" means:

(a) a county jail; or

(b) a secure correctional facility as defined in Section 64-13-1.

(15) "Criminogenic risk factors" means evidence-based factors that are associated with a minor's likelihood of reoffending.

(16) "Department" means the Department of Human Services created in Section 62A-1-102.

(17) "Dependent child" or "dependency" means a child who is without proper care through no fault of the child's parent, guardian, or custodian.

(18) "Deprivation of custody" means transfer of legal custody by the juvenile court from a parent or a previous custodian to another person, agency, or institution.

(19) "Detention" means home detention or secure detention.

(20) "Detention risk assessment tool" means an evidence-based tool established under Section 80-5-203 that:

(a) assesses a minor's risk of failing to appear in court or reoffending before adjudication; and

(b) is designed to assist in making a determination of whether a minor shall be held in detention.

(21) "Developmental immaturity" means incomplete development in one or more domains

that manifests as a functional limitation in the minor's present ability to:

(a) consult with counsel with a reasonable degree of rational understanding; and

(b) have a rational as well as factual understanding of the proceedings.

(22) "Disposition" means an order by a juvenile court, after the adjudication of a minor, under Section 80-3-405 or 80-4-305 or Chapter 6, Part 7, Adjudication and Disposition.

(23) "Educational neglect" means that, after receiving a notice of compulsory education violation under Section 53G-6-202, the parent or guardian fails to make a good faith effort to ensure that the child receives an appropriate education.

(24) "Educational series" means an evidence-based instructional series:

(a) obtained at a substance abuse program that is approved by the Division of Substance Abuse and Mental Health in accordance with Section 62A-15-105; and

(b) designed to prevent substance use or the onset of a mental health disorder.

(25) "Emancipated" means the same as that term is defined in Section 80-7-102.

(26) "Evidence-based" means a program or practice that has had multiple randomized control studies or a meta-analysis demonstrating that the program or practice is effective for a specific population or has been rated as effective by a standardized program evaluation tool.

(27) "Forensic evaluator" means the same as that term is defined in Section 77-15-2.

(28) "Formal probation" means a minor is:

(a) supervised in the community by, and reports to, a juvenile probation officer or an agency designated by the juvenile court; and

(b) subject to return to the juvenile court in accordance with Section 80-6-607.

(29) "Group rehabilitation therapy" means psychological and social counseling of one or more individuals in the group, depending upon the recommendation of the therapist.

(30) "Guardian" means a person appointed by a court to make decisions regarding a minor, including the authority to consent to:

(a) marriage;

(b) enlistment in the armed forces;

(c) major medical, surgical, or psychiatric treatment; or

(d) legal custody, if legal custody is not vested in another individual, agency, or institution.

(31) "Guardian ad litem" means the same as that term is defined in Section 78A-2-801.

(32) "Harm" means:

(a) physical or developmental injury or damage;

(b) emotional damage that results in a serious impairment in the child's growth, development, behavior, or psychological functioning;

(c) sexual abuse; or

(d) sexual exploitation.

(33) "Home detention" means placement of a minor:

(a) if prior to a disposition, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court; or

(b) if after a disposition, and in accordance with Section 78A-6-353 or 80-6-704, in the minor's home, or in a surrogate home with the consent of the minor's parent, guardian, or custodian, under terms and conditions established by the Division of Juvenile Justice Services or the juvenile court.

(34) (a) "Incest" means engaging in sexual intercourse with an individual whom the perpetrator knows to be the perpetrator's ancestor, descendant, brother, sister, uncle, aunt, nephew, niece, or first cousin.

(b) "Incest" includes:

(i) blood relationships of the whole or half blood, without regard to legitimacy;

(ii) relationships of parent and child by adoption; and

(iii) relationships of stepparent and stepchild while the marriage creating the relationship of a stepparent and stepchild exists.

(35) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(36) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(37) "Indigent defense service provider" means the same as that term is defined in Section 78B-22-102.

(38) "Indigent defense services" means the same as that term is defined in Section 78B-22-102.

(39) "Indigent individual" means the same as that term is defined in Section 78B-22-102.

(40) (a) "Intake probation" means a minor is:

(i) monitored by a juvenile probation officer; and

(ii) subject to return to the juvenile court in accordance with Section 80-6-607.

(b) "Intake probation" does not include formal probation.

(41) "Intellectual disability" means a significant subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior that constitutes a substantial limitation to the individual's ability to function in society.

(42) "Juvenile offender" means:

(a) a serious youth offender; or

(b) a youth offender.

(43) "Juvenile probation officer" means a probation officer appointed under Section 78A-6-205.

(44) "Juvenile receiving center" means a nonsecure, nonresidential program established by the Division of Juvenile Justice Services, or under contract with the Division of Juvenile Justice Services, that is responsible for minors taken into temporary custody under Section 80-6-201.

(45) "Legal custody" means a relationship embodying:

(a) the right to physical custody of the minor;

(b) the right and duty to protect, train, and discipline the minor;

(c) the duty to provide the minor with food, clothing, shelter, education, and ordinary medical care;

(d) the right to determine where and with whom the minor shall live; and

(e) the right, in an emergency, to authorize surgery or other extraordinary care.

(46) "Mental illness" means:

(a) a psychiatric disorder that substantially impairs an individual's mental, emotional, behavioral, or related functioning; or

(b) the same as that term is defined in:

(i) the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; or

(ii) the current edition of the International Statistical Classification of Diseases and Related Health Problems.

(47) "Minor" means, except as provided in Sections 80-6-501, 80-6-901, and 80-7-102:

(a) a child; or

(b) an individual:

(i) (A) who is at least 18 years old and younger than 21 years old; and

(B) for whom the Division of Child and Family Services has been specifically ordered by the juvenile court to provide services because the individual was an abused, neglected, or dependent child or because the individual was adjudicated for an offense; or

(ii) (A) who is at least 18 years old and younger than 25 years old; and

(B) whose case is under the continuing jurisdiction of the juvenile court under Chapter 6, Juvenile Justice.

(48) "Mobile crisis outreach team" means the same as that term is defined in Section 62A-15-102.

(49) "Molestation" means that an individual, with the intent to arouse or gratify the sexual desire of any individual, touches the anus, buttocks, pubic area, or genitalia of any child, or the breast of a female child, or takes indecent liberties with a child as defined in Section [~~76-5-416~~] 76-5-401.1.

(50) (a) "Natural parent" means a minor's biological or adoptive parent.

(b) "Natural parent" includes the minor's noncustodial parent.

(51) (a) "Neglect" means action or inaction causing:

(i) abandonment of a child, except as provided in Title 62A, Chapter 4a, Part 8, Safe Relinquishment of a Newborn Child;

(ii) lack of proper parental care of a child by reason of the fault or habits of the parent, guardian, or custodian;

(iii) failure or refusal of a parent, guardian, or custodian to provide proper or necessary subsistence or medical care, or any other care necessary for the child's health, safety, morals, or well-being;

(iv) a child to be at risk of being neglected or abused because another child in the same home is neglected or abused;

(v) abandonment of a child through an unregulated custody transfer; or

(vi) educational neglect.

(b) "Neglect" does not include:

(i) a parent or guardian legitimately practicing religious beliefs and who, for that reason, does not provide specified medical treatment for a child;

(ii) a health care decision made for a child by the child's parent or guardian, unless the state or other party to a proceeding shows, by clear and convincing evidence, that the health care decision is not reasonable and informed;

(iii) a parent or guardian exercising the right described in Section 80-3-304; or

(iv) permitting a child, whose basic needs are met and who is of sufficient age and maturity to avoid harm or unreasonable risk of harm, to engage in independent activities, including:

(A) traveling to and from school, including by walking, running, or bicycling;

(B) traveling to and from nearby commercial or recreational facilities;

(C) engaging in outdoor play;

(D) remaining in a vehicle unattended, except under the conditions described in Subsection 76-10-2202(2);

(E) remaining at home unattended; or

(F) engaging in a similar independent activity.

(52) "Neglected child" means a child who has been subjected to neglect.

(53) "Nonjudicial adjustment" means closure of the case by the assigned juvenile probation officer, without an adjudication of the minor's case under Section 80-6-701, upon the consent in writing of:

(a) the assigned juvenile probation officer; and

(b) (i) the minor; or

(ii) the minor and the minor's parent, legal guardian, or custodian.

(54) "Not competent to proceed" means that a minor, due to a mental illness, intellectual disability or related condition, or developmental immaturity, lacks the ability to:

(a) understand the nature of the proceedings against the minor or of the potential disposition for the offense charged; or

(b) consult with counsel and participate in the proceedings against the minor with a reasonable degree of rational understanding.

(55) "Parole" means a conditional release of a juvenile offender from residency in secure care to live outside of secure care under the supervision of the Division of Juvenile Justice Services, or another person designated by the Division of Juvenile Justice Services.

(56) "Physical abuse" means abuse that results in physical injury or damage to a child.

(57) (a) "Probation" means a legal status created by court order, following an adjudication under Section 80-6-701, whereby the minor is permitted to remain in the minor's home under prescribed conditions.

(b) "Probation" includes intake probation or formal probation.

(58) "Prosecuting attorney" means:

(a) the attorney general and any assistant attorney general;

(b) any district attorney or deputy district attorney;

(c) any county attorney or assistant county attorney; and

(d) any other attorney authorized to commence an action on behalf of the state.

(59) "Protective custody" means the shelter of a child by the Division of Child and Family Services from the time the child is removed from the home until the earlier of:

(a) the day on which the shelter hearing is held under Section 80-3-301; or

(b) the day on which the child is returned home.

(60) "Protective supervision" means a legal status created by court order, following an adjudication on the ground of abuse, neglect, or dependency, whereby:

(a) the minor is permitted to remain in the minor's home; and

(b) supervision and assistance to correct the abuse, neglect, or dependency is provided by an agency designated by the juvenile court.

(61) (a) "Related condition" means a condition that:

(i) is found to be closely related to intellectual disability;

(ii) results in impairment of general intellectual functioning or adaptive behavior similar to that of an intellectually disabled individual;

(iii) is likely to continue indefinitely; and

(iv) constitutes a substantial limitation to the individual's ability to function in society.

(b) "Related condition" does not include mental illness, psychiatric impairment, or serious emotional or behavioral disturbance.

(62) (a) "Residual parental rights and duties" means the rights and duties remaining with a parent after legal custody or guardianship, or both, have been vested in another person or agency, including:

(i) the responsibility for support;

(ii) the right to consent to adoption;

(iii) the right to determine the child's religious affiliation; and

(iv) the right to reasonable parent-time unless restricted by the court.

(b) If no guardian has been appointed, "residual parental rights and duties" includes the right to consent to:

(i) marriage;

(ii) enlistment; and

(iii) major medical, surgical, or psychiatric treatment.

(63) "Runaway" means a child, other than an emancipated child, who willfully leaves the home of the child's parent or guardian, or the lawfully prescribed residence of the child, without permission.

(64) "Secure care" means placement of a minor, who is committed to the Division of Juvenile Justice Services for rehabilitation, in a facility operated by, or under contract with, the Division of Juvenile Justice Services, that provides 24-hour supervision and confinement of the minor.

(65) "Secure care facility" means a facility, established in accordance with Section 80-5-503, for juvenile offenders in secure care.

(66) "Secure detention" means temporary care of a minor who requires secure custody in a physically restricting facility operated by, or under contract with, the Division of Juvenile Justice Services:

(a) before disposition of an offense that is alleged to have been committed by the minor; or

(b) under Section 80-6-704.

(67) "Serious youth offender" means an individual who:

(a) is at least 14 years old, but under 25 years old;

(b) committed a felony listed in Subsection 80-6-503(1) and the continuing jurisdiction of the juvenile court was extended over the individual's case until the individual was 25 years old in accordance with Section 80-6-605; and

(c) is committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

(68) "Severe abuse" means abuse that causes or threatens to cause serious harm to a child.

(69) "Severe neglect" means neglect that causes or threatens to cause serious harm to a child.

(70) "Sexual abuse" means:

(a) an act or attempted act of sexual intercourse, sodomy, incest, or molestation by an adult directed towards a child;

(b) an act or attempted act of sexual intercourse, sodomy, incest, or molestation committed by a child towards another child if:

(i) there is an indication of force or coercion;

(ii) the children are related, as described in Subsection (34), including siblings by marriage while the marriage exists or by adoption;

(iii) there have been repeated incidents of sexual contact between the two children, unless the children are 14 years old or older; or

(iv) there is a disparity in chronological age of four or more years between the two children;

(c) engaging in any conduct with a child that would constitute an offense under any of the following, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense:

(i) Title 76, Chapter 5, Part 4, Sexual Offenses, except for Section 76-5-401, if the alleged perpetrator of an offense described in Section 76-5-401 is a minor;

(ii) child bigamy, Section 76-7-101.5;

(iii) incest, Section 76-7-102;

(iv) lewdness, Section 76-9-702;

(v) sexual battery, Section 76-9-702.1;

(vi) lewdness involving a child, Section 76-9-702.5; or

(vii) voyeurism, Section 76-9-702.7; or

(d) subjecting a child to participate in or threatening to subject a child to participate in a sexual relationship, regardless of whether that sexual relationship is part of a legal or cultural marriage.

(71) "Sexual exploitation" means knowingly:

(a) employing, using, persuading, inducing, enticing, or coercing any child to:

(i) pose in the nude for the purpose of sexual arousal of any individual; or

(ii) engage in any sexual or simulated sexual conduct for the purpose of photographing, filming, recording, or displaying in any way the sexual or simulated sexual conduct;

(b) displaying, distributing, possessing for the purpose of distribution, or selling material depicting a child:

(i) in the nude, for the purpose of sexual arousal of any individual; or

(ii) engaging in sexual or simulated sexual conduct; or

(c) engaging in any conduct that would constitute an offense under Section 76-5b-201, sexual exploitation of a minor, regardless of whether the individual who engages in the conduct is actually charged with, or convicted of, the offense.

(72) "Shelter" means the temporary care of a child in a physically unrestricted facility pending a disposition or transfer to another jurisdiction.

(73) "Shelter facility" means the same as that term is defined in Section 62A-4a-101.

(74) "Single criminal episode" means the same as that term is defined in Section 76-1-401.

(75) "Status offense" means an offense that would not be an offense but for the age of the offender.

(76) "Substance abuse" means the misuse or excessive use of alcohol or other drugs or substances.

(77) "Substantiated" means the same as that term is defined in Section 62A-4a-101.

(78) "Supported" means the same as that term is defined in Section 62A-4a-101.

(79) "Termination of parental rights" means the permanent elimination of all parental rights and duties, including residual parental rights and duties, by court order.

(80) "Therapist" means:

(a) an individual employed by a state division or agency for the purpose of conducting psychological treatment and counseling of a minor in the division's or agency's custody; or

(b) any other individual licensed or approved by the state for the purpose of conducting psychological treatment and counseling.

(81) "Threatened harm" means actions, inactions, or credible verbal threats, indicating that the child is at an unreasonable risk of harm or neglect.

(82) "Ungovernable" means a child in conflict with a parent or guardian, and the conflict:

(a) results in behavior that is beyond the control or ability of the child, or the parent or guardian, to manage effectively;

(b) poses a threat to the safety or well-being of the child, the child's family, or others; or

(c) results in the situations described in Subsections (82)(a) and (b).

(83) "Unregulated custody transfer" means the placement of a child:

(a) with an individual who is not the child's parent, step-parent, grandparent, adult sibling, adult uncle or aunt, or legal guardian, or a friend of the family who is an adult and with whom the child is familiar, or a member of the child's federally recognized tribe;

(b) with the intent of severing the child's existing parent-child or guardian-child relationship; and

(c) without taking:

(i) reasonable steps to ensure the safety of the child and permanency of the placement; and

(ii) the necessary steps to transfer the legal rights and responsibilities of parenthood or guardianship to the individual taking custody of the child.

(84) "Unsupported" means the same as that term is defined in Section 62A-4a-101.

(85) "Unsubstantiated" means the same as that term is defined in Section 62A-4a-101.

(86) "Validated risk and needs assessment" means an evidence-based tool that assesses a minor's risk of reoffending and a minor's criminogenic needs.

(87) "Without merit" means the same as that term is defined in Section 62A-4a-101.

(88) "Youth offender" means an individual who is:

(a) at least 12 years old, but under 21 years old; and

(b) committed by the juvenile court to the Division of Juvenile Justice Services for secure care under Sections 80-6-703 and 80-6-705.

Section 66. Section 80-6-304 is amended to read:

80-6-304. Nonjudicial adjustments.

(1) If the juvenile court receives a referral for an offense committed by a minor that is, or appears to be, within the juvenile court's jurisdiction, a juvenile probation officer shall make a preliminary inquiry in accordance with Subsections (3), (4), and (5) to determine whether the minor is eligible to enter into a nonjudicial adjustment.

(2) If a minor is referred to the juvenile court for multiple offenses arising from a single criminal episode, and the minor is eligible under this section for a nonjudicial adjustment, the juvenile probation officer shall offer the minor one nonjudicial adjustment for all offenses arising from the single criminal episode.

(3) (a) The juvenile probation officer may:

(i) conduct a validated risk and needs assessment; and

(ii) request that a prosecuting attorney review a referral in accordance with Subsection (9) if:

(A) the results of the validated risk and needs assessment indicate the minor is high risk; or

(B) the results of the validated risk and needs assessment indicate the minor is moderate risk and the referral is for a class A misdemeanor violation under Title 76, Chapter 5, Offenses Against the [~~Person~~] Individual, or Title 76, Chapter 9, Part 7, Miscellaneous Provisions.

(b) If a minor violates Section 41-6a-502, the minor shall:

(i) undergo a drug and alcohol screening;

(ii) if found appropriate by the screening, participate in an assessment; and

(iii) if warranted by the screening and assessment, follow the recommendations of the assessment.

(4) Except as provided in Subsection (5)(b), the juvenile probation officer shall request that a prosecuting attorney review a referral in accordance with Subsection (9) if:

(a) the referral involves:

(i) a felony offense; or

(ii) a violation of:

(A) Section 41-6a-502, driving under the influence;

(B) Section 76-5-112, reckless endangerment creating a substantial risk of death or serious bodily injury;

(C) Section 76-5-206, negligent homicide;

(D) Section 76-9-702.1, sexual battery;

(E) Section 76-10-505.5, possession of a dangerous weapon, firearm, or short barreled shotgun on or about school premises; or

(F) Section 76-10-509, possession of a dangerous weapon by minor, but only if the dangerous weapon is a firearm;

(b) the minor has a current suspended order for custody under Section 80-6-711; or

(c) the referral involves an offense alleged to have occurred before an individual was 12 years old and the offense is a felony violation of:

(i) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(ii) Section 76-5-202, aggravated murder or attempted aggravated murder;

(iii) Section 76-5-203, murder or attempted murder;

(iv) Section 76-5-302, aggravated kidnapping;

(v) Section 76-5-405, aggravated sexual assault;

(vi) Section 76-6-103, aggravated arson;

(vii) Section 76-6-203, aggravated burglary;

(viii) Section 76-6-302, aggravated robbery; or

(ix) Section 76-10-508.1, felony discharge of a firearm.

(5) (a) Except as provided in Subsections (3) and (4), the juvenile probation officer shall offer a nonjudicial adjustment to a minor if the minor:

(i) is referred for an offense that is a misdemeanor, infraction, or status offense;

(ii) has no more than two prior adjudications; and

(iii) has no more than three prior unsuccessful nonjudicial adjustment attempts.

(b) If the juvenile court receives a referral for an offense that is alleged to have occurred before an individual was 12 years old, the juvenile probation officer shall offer a nonjudicial adjustment to the individual, unless the referral includes an offense described in Subsection (4)(c).

(c) (i) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in a nonjudicial adjustment as one prior nonjudicial adjustment.

(ii) For purposes of determining a minor's eligibility for a nonjudicial adjustment under this Subsection (5), the juvenile probation officer shall treat all offenses arising out of a single criminal episode that resulted in one or more prior adjudications as a single adjudication.

(d) Except as provided in Subsection (4), the juvenile probation officer may offer a nonjudicial adjustment to a minor who does not meet the criteria provided in Subsection (5)(a).

(6) For a nonjudicial adjustment, the juvenile probation officer may require a minor to:

(a) pay a financial penalty of no more than $250 to the juvenile court, subject to the terms established under Subsection (8)(c);

(b) pay restitution to any victim;

(c) complete community or compensatory service;

(d) attend counseling or treatment with an appropriate provider;

(e) attend substance abuse treatment or counseling;

(f) comply with specified restrictions on activities or associations;

(g) attend victim-offender mediation if requested by the victim; and

(h) comply with any other reasonable action that is in the interest of the minor, the community, or the victim.

(7) (a) Within seven days of receiving a referral that appears to be eligible for a nonjudicial adjustment in accordance with Subsection (5), the juvenile probation officer shall provide an initial notice to reasonably identifiable and locatable victims of the offense contained in the referral.

(b) The victim shall be responsible to provide to the juvenile probation officer upon request:

(i) invoices, bills, receipts, and any other evidence of injury, loss of earnings, and out-of-pocket loss;

(ii) documentation and evidence of compensation or reimbursement from an insurance company or an agency of the state, any other state, or the federal government received as a direct result of the crime for injury, loss of earnings, or out-of-pocket loss; and

(iii) proof of identification, including home and work address and telephone numbers.

(c) The inability, failure, or refusal of the victim to provide all or part of the requested information shall result in the juvenile probation officer determining restitution based on the best information available.

(8) (a) The juvenile probation officer may not predicate acceptance of an offer of a nonjudicial adjustment on an admission of guilt.

(b) The juvenile probation officer may not deny a minor an offer of a nonjudicial adjustment due to a minor's inability to pay a financial penalty under Subsection (6).

(c) The juvenile probation officer shall base a fee, fine, or the restitution for a nonjudicial adjustment under Subsection (6) upon the ability of the minor's family to pay as determined by a statewide sliding scale developed in accordance with Section 63M-7-208.

(d) A nonjudicial adjustment may not extend for more than 90 days, unless a juvenile court judge extends the nonjudicial adjustment for an additional 90 days.

(e) (i) Notwithstanding Subsection (8)(d), a juvenile court judge may extend a nonjudicial adjustment beyond the 180 days permitted under Subsection (8)(d) for a minor who is offered a nonjudicial adjustment under Subsection (5)(b) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, or is referred under Subsection (9)(b)(ii) for a sexual offense under Title 76, Chapter 5, Part 4, Sexual Offenses, that the minor committed before the minor was 12 years old, if the judge determines that:

(A) the nonjudicial adjustment requires specific treatment for the sexual offense;

(B) the treatment cannot be completed within 180 days after the day on which the minor entered into the nonjudicial adjustment; and

(C) the treatment is necessary based on a clinical assessment that is developmentally appropriate for the minor.

(ii) If a juvenile court judge extends a minor's nonjudicial adjustment under Subsection (8)(e)(i), the judge may extend the nonjudicial adjustment until the minor completes the treatment under this Subsection (8)(e), but the judge may only grant each extension for 90 days at a time.

(f) If a minor violates Section 76-10-105, the minor may be required to pay a fine or penalty and participate in a court-approved tobacco education program with a participation fee.

(9) If a prosecuting attorney is requested to review a referral in accordance with Subsection (3) or (4), a minor fails to substantially comply with a condition agreed upon as part of the nonjudicial adjustment, or a minor is not offered or declines a nonjudicial adjustment in accordance with Subsection (5), the prosecuting attorney shall:

(a) review the case; and

(b) (i) dismiss the case;

(ii) refer the case back to the juvenile probation officer for a new attempt at nonjudicial adjustment; or

(iii) except as provided in Subsections (10)(b), (11), and 80-6-305(2), file a petition with the juvenile court.

(10) (a) A prosecuting attorney may file a petition only upon reasonable belief that:

(i) the charges are supported by probable cause;

(ii) admissible evidence will be sufficient to support adjudication beyond a reasonable doubt; and

(iii) the decision to charge is in the interests of justice.

(b) Failure to pay a fine or fee may not serve as a basis for filing of a petition under Subsection (9)(b)(iii) if the minor has substantially complied with the other conditions agreed upon in accordance with Subsection (6) or conditions imposed through any other court diversion program.

(11) A prosecuting attorney may not file a petition against a minor unless:

(a) the prosecuting attorney has statutory authority to file the petition under Section 80-6-305; and

(b) (i) the minor does not qualify for a nonjudicial adjustment under Subsection (5);

(ii) the minor declines a nonjudicial adjustment;

(iii) the minor fails to substantially comply with the conditions agreed upon as part of the nonjudicial adjustment;

(iv) the minor fails to respond to the juvenile probation officer's inquiry regarding eligibility for or an offer of a nonjudicial adjustment after being provided with notice for preliminary inquiry; or

(v) the prosecuting attorney is acting under Subsection (9).

(12) If the prosecuting attorney files a petition in a juvenile court, or a proceeding is commenced against a minor under Section 80-6-302, the juvenile court may refer the case to the juvenile probation officer for another offer of nonjudicial adjustment.

Section 67. Section 80-6-703 is amended to read:

80-6-703. Placement of a child -- Commitment of a minor to the division -- Limitations.

(1) (a) If a child is adjudicated for an offense under Section 80-6-701, the juvenile court may:

(i) place the child in the legal custody of a relative or other suitable individual regardless of whether the minor is placed on probation under Subsection 80-6-702(1); or

(ii) appoint a guardian for the child if it appears that a guardian is necessary in the interest of the child.

(b) The juvenile court may not assume the function of developing foster home services in placing a child in the legal custody of a relative or other suitable individual under Subsection (1)(a).

(c) (i) If the juvenile court appoints a guardian for a child under Subsection (1)(a)(ii), the juvenile court:

(A) may appoint a public or private institution or agency as the guardian of the child; and

(B) may not appoint a nonsecure residential placement provider for which legal custody of the child is vested.

(d) In placing a child under the guardianship or legal custody of an individual or private agency or institution under Subsection (1)(a)(ii), the juvenile court:

(i) shall give primary consideration to the welfare of the child; and

(ii) may take into consideration the religious preferences of the child and the child's parent.

(2) If a minor is adjudicated under Section 80-6-701, the juvenile court shall only commit the minor to the division and order the division to provide recommendations and services if:

(a) nonresidential treatment options have been exhausted or nonresidential treatment options are not appropriate; and

(b) the minor is adjudicated under this chapter for:

(i) a felony;

(ii) a misdemeanor when the minor has five prior misdemeanors or felony adjudications arising from separate criminal episodes; or

(iii) a misdemeanor involving the use of a dangerous weapon as defined in Section [~~76-1-601~~] 76-1-101.5.

(3) A juvenile court may not commit a minor to the division:

(a) for residential observation and evaluation or residential observation and assessment;

(b) for contempt of court, except to the extent permitted under Section 78A-6-353;

(c) for a violation of probation;

(d) for failure to pay a fine, fee, restitution, or other financial obligation;

(e) for unfinished compensatory or community service hours;

(f) for an infraction; or

(g) for a status offense.

(4) If the juvenile court commits a minor to the division, the juvenile court shall:

(a) find whether the minor is being committed to the division for placement in a community-based program, secure detention under Section 80-6-704, or secure care under Section 80-6-705;

(b) specify the criteria under Subsection (3) for which the juvenile court is committing the minor to the division; and

(c) establish the period of time that the minor is committed to the division in accordance with Section 80-6-712.

(5) (a) Except for an order for secure care under Section 80-6-705, if the juvenile court commits a minor to the division, or places the minor with an individual under this section, the juvenile court shall include in the order a date for a review and presumptive termination of the minor's case by the juvenile court in accordance with Section 80-6-712.

(b) For each review of a minor's case under Subsection (5)(a), the juvenile court shall set a new date for a review and presumptive termination of the minor's case.

(6) If a minor is adjudicated for an offense under Section 80-6-701, a juvenile court may not commit a minor to:

(a) except as provided in Subsection (7), the Division of Child and Family Services; or

(b) a correctional facility.

(7) The juvenile court may not commit a minor to the Division of Child and Family Services to address the minor's ungovernable or other behavior, mental health, or disability, unless the Division of Child and Family Services:

(a) engages other relevant divisions of the department in conducting an assessment of the minor and the minor's family's needs;

(b) based on an assessment under Subsection (7)(a), determines that committing the minor to the Division of Child and Family Services is the least restrictive intervention for the minor that meets the minor's needs; and

(c) consents to the minor being committed to the Division of Child and Family Services.

(8) If a minor is committed to the division under this section, the division may not transfer custody of the minor to a correctional facility.

Section 68. Section 80-6-705 is amended to read:

80-6-705. Secure care -- Limitations -- Order for therapy for parent with minor in secure care.

(1) If a minor is adjudicated for an offense under Section 80-6-701, the juvenile court may order the minor to secure care if the juvenile court finds that:

(a) (i) the minor poses a risk of harm to others; or

(ii) the minor's conduct resulted in the victim's death; and

(b) the minor is adjudicated for:

(i) a felony offense;

(ii) a misdemeanor offense if the minor has five prior misdemeanor or felony adjudications arising from separate criminal episodes; or

(iii) a misdemeanor offense involving use of a dangerous weapon as defined in Section [~~76-1-601~~] 76-1-101.5.

(2) A juvenile court may not order a minor to secure care for:

(a) contempt of court;

(b) a violation of probation;

(c) failure to pay a fine, fee, restitution, or other financial obligation;

(d) unfinished compensatory or community service hours;

(e) an infraction; or

(f) a status offense.

(3) The juvenile court may, on the recommendation of the division, order a parent of a minor in secure care to undergo group rehabilitation therapy under the direction of a therapist, who has supervision of the minor in secure care, or any other therapist for a period recommended by the division.

Section 69. Section 80-6-712 is amended to read:

80-6-712. Time periods for supervision of probation or placement -- Termination of continuing jurisdiction.

(1) If the juvenile court places a minor on probation under Section 80-6-702, the juvenile court shall establish a period of time for supervision for the minor that is:

(a) if the minor is placed on intake probation, no more than three months; or

(b) if the minor is placed on formal probation, from four to six months, but may not exceed six months.

(2) (a) If the juvenile court commits a minor to the division under Section 80-6-703, and the minor's

case is under the jurisdiction of the court, the juvenile court shall establish:

(i) for a minor placed out of the home, a period of custody from three to six months, but may not exceed six months; and

(ii) for aftercare services if the minor was placed out of the home, a period of supervision from three to four months, but may not exceed four months.

(b) A minor may be supervised for aftercare under Subsection (2)(a)(ii) in the home of a qualifying relative or guardian, or at an independent living program contracted or operated by the division.

(3) If the juvenile court orders a minor to secure care, the authority shall:

(a) have jurisdiction over the minor's case; and

(b) apply the provisions of Part 8, Commitment and Parole.

(4) (a) In accordance with Section 80-6-711 and Subsections (1) and (2), the juvenile court shall terminate continuing jurisdiction over a minor's case at the end of the time period described in Subsection (1) for probation, or Subsection (2) for commitment to the division, unless:

(i) termination would interrupt the completion of the treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the minor commits a new misdemeanor or felony offense;

(iii) community or compensatory service hours have not been completed;

(iv) there is an outstanding fine; or

(v) there is a failure to pay restitution in full.

(b) The juvenile court shall determine whether a minor has completed a treatment program under Subsection (4)(a)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the minor's record in the treatment program; and

(iii) the minor's completion of the goals of the treatment program.

(5) Subject to Subsection (8), if one of the circumstances under Subsection (4) exists the juvenile court may extend supervision for the time needed to address the specific circumstance.

(6) If a circumstance under Subsection (4)(a)(iii), (iv), or (v) exists, the juvenile court may extend supervision for no more than three months.

(7) If the juvenile court extends supervision under this section, the grounds for the extension and the length of any extension shall be recorded in the court records and tracked in the data system used by the Administrative Office of the Courts and the division.

(8) For a minor who is under the continuing jurisdiction of the juvenile court and whose supervision is extended under Subsection (4)(a)(iii), (iv), or (v), supervision may only be extended as intake probation.

(9) If a minor leaves supervision without authorization for more than 24 hours, the supervision period for the minor shall toll until the minor returns.

(10) This section does not apply to any minor adjudicated under this chapter for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (10)(a) through (o) involving the use of a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5, that is a felony; and

(ii) the minor has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon; or

(q) a felony offense other than an offense listed in Subsections (10)(a) through (p) and the minor has been previously committed to the division for secure care.

Section 70. Section 80-6-804 is amended to read:

80-6-804. Review and termination of secure care.

(1) If a juvenile offender is ordered to secure care under Section 80-6-705, the juvenile offender shall appear before the authority within 45 days after the day on which the juvenile offender is ordered to secure care for review of a treatment plan and to establish parole release guidelines.

(2) (a) If a juvenile offender is ordered to secure care under Section 80-6-705, the authority shall set a presumptive term of commitment for the juvenile offender from three to six months, but the presumptive term may not exceed six months.

(b) The authority shall release the juvenile offender on parole at the end of the presumptive term of commitment unless:

(i) termination would interrupt the completion of a treatment program determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606; or

(ii) the juvenile offender commits a new misdemeanor or felony offense.

(c) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(b)(i) by considering:

(i) the recommendations of the licensed service provider for the treatment program;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(d) The authority may extend the length of commitment and delay parole release for the time needed to address the specific circumstance if one of the circumstances under Subsection (2)(b) exists.

(e) The authority shall:

(i) record the length of the extension and the grounds for the extension; and

(ii) report annually the length and grounds of extension to the commission.

(f) Records under Subsection (2)(e) shall be tracked in the data system used by the juvenile court and the division.

(3) (a) If a juvenile offender is committed to secure care, the authority shall set a presumptive term of parole supervision, including aftercare services, from three to four months, but the presumptive term may not exceed four months.

(b) If the authority determines that a juvenile offender is unable to return home immediately upon release, the juvenile offender may serve the term of parole in the home of a qualifying relative or guardian or at an independent living program contracted or operated by the division.

(c) The authority shall release a juvenile offender from parole and terminate the authority's jurisdiction at the end of the presumptive term of parole, unless:

(i) termination would interrupt the completion of a treatment program that is determined to be necessary by the results of a validated risk and needs assessment under Section 80-6-606;

(ii) the juvenile offender commits a new misdemeanor or felony offense; or

(iii) restitution has not been completed.

(d) The authority shall determine whether a juvenile offender has completed a treatment program under Subsection (2)(c)(i) by considering:

(i) the recommendations of the licensed service provider;

(ii) the juvenile offender's record in the treatment program; and

(iii) the juvenile offender's completion of the goals of the treatment program.

(e) If one of the circumstances under Subsection (3)(c) exists, the authority may delay parole release only for the time needed to address the specific circumstance.

(f) The authority shall:

(i) record the grounds for extension of the presumptive length of parole and the length of the extension; and

(ii) report annually the extension and the length of the extension to the commission.

(g) Records under Subsection (3)(f) shall be tracked in the data system used by the juvenile court and the division.

(h) If a juvenile offender leaves parole supervision without authorization for more than 24 hours, the term of parole shall toll until the juvenile offender returns.

(4) Subsections (2) and (3) do not apply to a juvenile offender committed to secure care for:

(a) Section 76-5-103, aggravated assault resulting in serious bodily injury to another;

(b) Section 76-5-202, aggravated murder or attempted aggravated murder;

(c) Section 76-5-203, murder or attempted murder;

(d) Section 76-5-205, manslaughter;

(e) Section 76-5-206, negligent homicide;

(f) Section 76-5-207, automobile homicide;

(g) Section 76-5-207.5, automobile homicide involving a handheld wireless communication device;

(h) Section 76-5-208, child abuse homicide;

(i) Section 76-5-209, homicide by assault;

(j) Section 76-5-302, aggravated kidnapping;

(k) Section 76-5-405, aggravated sexual assault;

(l) a felony violation of Section 76-6-103, aggravated arson;

(m) Section 76-6-203, aggravated burglary;

(n) Section 76-6-302, aggravated robbery;

(o) Section 76-10-508.1, felony discharge of a firearm;

(p) (i) an offense other than an offense listed in Subsections (4)(a) through (o) involving the use of a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5, that is a felony; and

(ii) the juvenile offender has been previously adjudicated or convicted of an offense involving the use of a dangerous weapon, as defined in Section [~~76-1-601~~] 76-1-101.5; or

(q) an offense other than an offense listed in Subsections (4)(a) through (p) and the juvenile offender has been previously committed to the division for secure care.

(5) (a) The division may continue to have responsibility over a juvenile offender, who is discharged under this section from parole, to participate in a specific educational or rehabilitative program:

(i) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old; and

(ii) under an agreement by the division and the juvenile offender that the program has certain conditions.

(b) The division and the juvenile offender may terminate participation in a program under Subsection (5)(a) at any time.

(c) The division shall offer an educational or rehabilitative program before a juvenile offender's discharge date in accordance with this section.

(d) A juvenile offender may request the services described in this Subsection (5), even if the offender has been previously declined services or services were terminated for noncompliance.

(e) Notwithstanding Subsection (5)(c), the division:

(i) shall consider a request by a juvenile offender under Subsection (5)(d) for the services described in this Subsection (5) for up to 365 days after the juvenile offender's effective date of discharge, even if the juvenile offender has previously declined services or services were terminated for noncompliance; and

(ii) may reach an agreement with the juvenile offender to provide the services described in this Subsection (5) until the juvenile offender is:

(A) if the juvenile offender is a youth offender, 21 years old; or

(B) if the juvenile offender is a serious youth offender, 25 years old.

(f) The division and the juvenile offender may terminate an agreement for services under this Subsection (5) at any time.

Section 71. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if S.B. 123, Criminal Code Recodification, does not pass.

CHAPTER 431
S. B. 134

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

SPECIAL EDUCATION AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill amends provisions related to the delivery of special education services in public schools.

Highlighted Provisions:

This bill:

- requires a local education agency (LEA) to provide special education in the least restrictive environment as determined by an eligible student's individualized education program team;
- permits an LEA to provide special education to a student with disabilities regardless of whether the other students in the class or setting are students without a disability;
- requires an LEA to use state special education funds for special education, even if doing so provides an incidental benefit to students without a disability;
- amends provisions related to the use of state special education funds;
- requires the State Board of Education to:
  - make rules related to accounting for the use of state special education funds; and
  - provide training to LEAs on the appropriate use of special education funds;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

53E-7-201, as last amended by Laws of Utah 2019, Chapter 187 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 187
53E-7-204, as last amended by Laws of Utah 2020, Chapter 354
53E-7-206, as repealed and reenacted by Laws of Utah 2019, Chapter 187
53E-7-207, as repealed and reenacted by Laws of Utah 2019, Chapter 187
53E-7-208, as last amended by Laws of Utah 2020, Chapter 354
53F-2-307, as last amended by Laws of Utah 2020, Chapter 408

ENACTS:

53E-7-209, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:

53F-2-307, as last amended by Laws of Utah 2020, Chapter 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-7-201 is amended to read:

53E-7-201. Definitions.

As used in this part:

(1) "Child with a disability" means the same as that term is defined in 34 C.F.R. Sec. 300.308.

(2) "Due process hearing" means an administrative due process hearing authorized by 20 U.S.C. Sec. 1415.

(3) "IEP team" means the same as that term is defined in 34 C.F.R. Sec. 300.321.

[~~(3)~~] (4) "LEA special education program" means [~~the implementation of an eligible student's IEP by the eligible student's LEA.~~] systems an LEA establishes to:

(a) implement an eligible student's IEP;

(b) appropriately and timely identify eligible students;

(c) evaluate and classify eligible students by qualified personnel;

(d) implement standards for special education classes and services;

(e) deliver special education service responsibilities;

(f) ensure special education instructional staff are appropriately credentialed; and

(g) provide services for dual enrollment students that are:

(i) eligible students; and

(ii) attending public school on a part-time basis.

(5) "Least restrictive environment" means the same as that term is defined in 34 C.F.R. Secs. 300.114 through 300.116.

(6) "Special education" means the same as that term is defined in 34 C.F.R. Sec. 300.39.

(7) "Specially designed instruction" means the same as that term is defined in 34 C.F.R. Sec. 300.39.

[~~(4) "Special education services" means the specialized instruction and related services, described in an eligible student's IEP, that are necessary to provide a free appropriate public education to the eligible student.~~]

[~~(5)~~] (8) "Student who is eligible for special education services" or "eligible student" means a child with a disability who is:

(a) at least 3 years old but younger than 22 years old; or

(b) 22 years old, if the school year in which the child with a disability turned 22 years old has not yet ended.

Section 2. Section 53E-7-204 is amended to read:

53E-7-204. State board special education authority and duties -- Rulemaking.

(1) The state board shall have general control and supervision over [~~all public educational~~] LEA special education programs in the state for eligible students [~~who are eligible for special education services~~].

(2) A program described in Subsection (1) shall comply with state board rule.

(3) In accordance with federal and state law, the state board shall make rules to implement this part, including provisions that ensure:

(a) appropriate and timely identification of a [~~potential~~] potentially eligible student;

(b) the evaluation of a student and classification of a student as an eligible student by qualified personnel;

(c) standards for special education services and supports;

(d) availability of LEA special education programs;

(e) delivery of special education [~~service responsibilities~~] in the least restrictive environment as determined by an eligible student's IEP team;

(f) certification and qualification for the instructional staff of eligible students; and

(g) special education services for eligible students who are dual enrollment students attending public school on a part-time basis as described in Section 53G-6-702.

(4) In accordance with federal and state law, the state board may make rules to otherwise administer the state board's authority described in Subsection (1).

Section 3. Section 53E-7-206 is amended to read:

53E-7-206. Special education funding.

In accordance with Title 53F, Chapter 2, State Funding -- Minimum School Program, state board rule, and other applicable law, the state board shall administer the payment of restricted state and federal funds to an LEA to provide special education [~~services~~] to an eligible student.

Section 4. Section 53E-7-207 is amended to read:

53E-7-207. Local education agency special education duty and authority.

(1) An LEA shall, at no cost to the eligible student, provide a full continuum of special education services and placements to an eligible student enrolled at the LEA.

(2) As determined by an eligible student's IEP team, an LEA may provide special education to an eligible student in the least restrictive environment as determined by the eligible student's IEP team, regardless of whether the other students in the class or setting are eligible students.

[~~(2)~~] (3) (a) Upon request of the Division of Child and Family Services and if the LEA obtains appropriate consent for the evaluation, an LEA shall provide an initial special education evaluation to an individual who enters the custody of the Division of Child and Family Services, if the Division of Child and Family Services suspects the individual may be an eligible student.

(b) (i) Except as provided in Subsection [~~(2)~~] (3)(b)(ii), the LEA shall conduct an evaluation described in Subsection [~~(2)~~] (3)(a) within 30 days after the day on which the Division of Child and Family Services makes the request.

(ii) An LEA may refuse to conduct an evaluation described in Subsection [~~(2)~~] (3)(a) if the LEA reviews the relevant data regarding the individual and, within 10 days after the day on which the LEA received the request described in Subsection [~~(2)~~] (3)(a), gives the Division of Child and Family Services written prior notice of refusal to evaluate.

[~~(3)~~] (4) (a) In accordance with Subsection [~~(3)~~] (4)(b), an LEA may provide education or training for an individual with a disability who is:

(i) younger than 3 years old; or

(ii) at least 22 years old and not an eligible student.

(b) (i) Except as provided in Subsection [~~(3)~~] (4)(b)(ii), an LEA may not use funding described in Title 53F, Chapter 2, State Funding -- Minimum School Program, to pay for the cost of education or training described in Subsection [~~(3)~~] (4)(a).

(ii) An LEA may use adult education program funding described in Section 53F-2-401, in accordance with the requirements described in Section 53F-2-401, to pay for the cost of the education or training described in Subsection [~~(3)~~] (4)(a).

(c) To pay for the cost of education or training described in Subsection [~~(3)~~] (4)(a), an LEA may use fees, contributions, or other funds received by the LEA if the purpose of the fees, contributions, or other funds is to provide the education or training.

Section 5. Section 53E-7-208 is amended to read:

53E-7-208. Special education dispute resolution -- Rulemaking -- Due process hearing -- Right to appeal.

(1) In accordance with this section, the state board shall make rules that:

(a) allow for a prompt, fair, and final resolution of a dispute that arises over the provision of special education [~~services~~] to an eligible student;

(b) establish and maintain procedural safeguards that meet the requirements of 20 U.S.C. Sec. 1415; and

(c) establish timelines that provide adequate time to address and resolve a dispute described in Subsection (1)(a) without unnecessarily disrupting or delaying an eligible student's free appropriate public education.

(2) A party to a dispute described in Subsection (1)(a), including an LEA, shall make a diligent and good faith effort to resolve the dispute informally at the LEA level before seeking a due process hearing under state board rule.

(3) (a) If a dispute is not resolved informally as described in Subsection (2), a party to the dispute may request a due process hearing in accordance with state board rule.

(b) Upon request of a party to a dispute described in Subsection (2), the state board shall, in accordance with state board rule and 20 U.S.C. Sec. 1415:

(i) conduct a due process hearing; and

(ii) issue a decision on the due process hearing.

(4) (a) A party to a due process hearing may appeal the decision resulting from the due process hearing by filing a civil action with a court described in 20 U.S.C. Sec. 1415(i), if the party files the action within 30 days after the day on which the due process hearing decision was issued.

(b) If parties to a due process hearing fail to reach agreement on the payment of attorney fees for the due process hearing, a party may seek to recover attorney fees in accordance with 20 U.S.C. Sec. 1415(i) by filing a court action within 30 days after the day on which the due process hearing decision was issued.

Section 6. Section 53E-7-209 is enacted to read:

53E-7-209. Use of state special education funds.

(1) An LEA may use state special education funds to:

(a) provide an LEA special education program and specially designed instruction and related services and supports to an eligible student in the least restrictive environment;

(b) employ appropriately credentialed staff necessary to provide specially designed instruction and related services; or

(c) employ staff who are trained and supervised by appropriately credentialed staff necessary to provide specially designed instruction and related services.

(2) The state board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act for:

(a) accounting for the use of state special education funds; and

(b) documentation required for an LEA to demonstrate appropriate use of state special education funds under this section.

(3) The state board shall annually provide training and training materials to LEAs on:

(a) appropriate use of state special education funds;

(b) rules the state board creates under Subsection (2)(a); and

(c) the documentation described in Subsection (2)(b).

Section 7. Section 53F-2-307 is amended to read:

53F-2-307. Weighted pupil units for programs for students with disabilities -- Local school board allocation.

(1) As used in this section:

(a) (i) "Charter school" means the same as that term is defined in Section 53G-5-601.

(ii) "Charter school" includes a charter school with satellite charter schools.

(b) "LEA" means:

(i) a school district; or

(ii) a charter school.

(c) "Satellite charter school" means the same as that term is defined in Section 53G-5-303.

[~~(1)~~] (2) The number of weighted pupil units for students with disabilities shall reflect the direct cost of programs for those students conducted in accordance with rules established by the state board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(2) Disability program money allocated to school districts or charter schools is restricted and shall be spent for the education of students with disabilities but may include expenditures for approved programs of services conducted for certified instructional personnel who have students with disabilities in their classes.~~]

(3) (a) An LEA shall use special education program money to pay the costs of providing an LEA special education program, even if the programs or services provide an incidental benefit to a student who is not a student with a disability, including for the uses described in 34 C.F.R. Sec. 300.208.

(b) Costs of providing an LEA special education program include only costs that are in excess of funds allocated to an LEA for general education.

(c) In using special education program money, an LEA shall comply with federal regulations including:

(i) the prohibition on comingling state special education program money with federal funds as described in 34 C.F.R. Sec. 300.162; and

(ii) the requirements described in 34 C.F.R. Sec. 300.203 regarding maintenance of effort.

(d) (i) An LEA may use state special education program money to supplement other state funds, local funds, or federal funds.

(ii) An LEA may not use state special education program money to supplant other state funds, local funds, or federal funds.

[~~(3)~~] (4) The state board shall establish and strictly interpret definitions and provide standards for determining which students have disabilities and shall assist [~~school districts and charter schools~~] LEAs in determining the services that should be provided to students with disabilities.

[~~(4)~~] (5) [~~Each year the~~] The state board shall evaluate the standards and guidelines that establish the identifying criteria for disability classifications to [~~assure strict compliance with those standards by the school districts and charter schools.~~] ensure that LEAs:

(a) comply with the standards and guidelines; and

(b) have flexibility to respond to the needs of students with disabilities.

[~~(5)~~] (6) (a) [~~Money~~] The state board shall allocate money appropriated to the state board for add-on WPUs for students with disabilities enrolled in regular programs [~~shall be allocated to school districts and charter schools~~] to LEAs as provided in this Subsection [~~(5)~~] (6).

(b) The state board shall use [~~a school district's or charter school's~~] an LEA's average number of special education add-on weighted pupil units determined by the previous five year's average daily membership data as a foundation for the special education add-on appropriation.

(c) [~~A school district's or charter school's~~] An LEA's special education add-on WPUs for the current year may not be less than the foundation special education add-on WPUs.

(d) (i) Growth WPUs shall be added to the prior year special education add-on WPUs, and growth WPUs shall be determined [~~as follows:~~] in accordance with this Subsection (6)(d).

[~~(i)~~] (ii) The special education student growth factor is calculated by comparing S-3 total special education ADM of two years previous to the current year to the S-3 total special education ADM three years previous to the current year, not to exceed the official October total school district growth factor from the prior year.

[~~(ii)~~] (iii) When calculating and applying the growth factor, a school district's [~~S-3~~] total special education ADM for a given year is limited to 12.18% of the school district's [~~S-3~~] total student ADM for the same year.

[~~(iii)~~] (iv) Growth ADMs are calculated by applying the growth factor to the [~~S-3~~] total special education ADM of two years previous to the current year.

[~~(iv)~~] (v) Growth ADMs for each school district or each charter school are multiplied by 1.53 weighted pupil units and added to the prior year special education add-on WPU to determine each school district's or each charter school's total allocation.

[~~(6)~~] (7) If money appropriated under this chapter for programs for students with disabilities does not meet the costs of [~~school districts and charter schools~~] LEAs for those programs, each [~~school district and each charter school~~] LEA shall first receive the amount generated for each student with a disability under the basic program.

Section 8. Coordinating S.B. 134 with H.B. 113 -- Substantive and technical amendments.

If this S.B. 134 and H.B. 113, Funding for Students with Disabilities, both pass and become law, it is the intent of the Legislature that the Office of Legislative Research and General Counsel shall prepare the Utah Code database for publication by amending:

(1) Subsection 53F-2-307(4) to read:

"(4) Notwithstanding Subsection (3), special education program money allocated to LEAs may be expended for constructing facilities or altering existing facilities if:

(a) the costs are necessary costs and reasonable costs;

(b) the costs are not for the general purpose of bringing facilities into compliance with:

(i) Section 504 of the Rehabilitation Act of 1973; or

(ii) the Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq.;

(c) the construction or alteration meets the needs of one or more students with disabilities; and

(d) the state board approves the expenditure in accordance with rules the state board makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act."; and

(2) Subsection 53F-2-307(6) to read:

"(6) The state board shall annually evaluate, and amend as needed, the standards and guidelines that establish the identifying criteria for disability classifications to [~~assure strict compliance with those standards by the school districts and charter schools.~~] ensure that LEAs:

(a) comply with the standards and guidelines; and

(b) have flexibility to respond to the needs of students with disabilities.".

CHAPTER 432
S. B. 137

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

PROPERTY DECONTAMINATION AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Clare Collard
Cosponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill modifies the authority of a municipality to regulate the abatement of certain conditions on the property of an owner or occupant.

Highlighted Provisions:

This bill:

- defines the term "hazardous materials";
- authorizes a municipality to designate and regulate the abatement of hazardous materials;
- modifies a municipality's authority regarding municipal inspectors and enforcement of abatement ordinances; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-11-1, as last amended by Laws of Utah 2011, Chapters 144, 172 and last amended by Coordination Clause, Laws of Utah 2011, Chapter 144

10-11-2, as repealed and reenacted by Laws of Utah 2011, Chapter 172

10-11-3, as last amended by Laws of Utah 2011, Chapter 172

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 10-11-1 is amended to read:

10-11-1. Abatement of weeds, garbage, public nuisances, and hazardous materials -- Selection of service provider.

(1) As used in this chapter, "hazardous materials" means the same as that term is defined in Section 19-6-902.

[~~(1)~~] (2) A municipal legislative body may:

(a) designate and regulate the abatement of:

(i) the growth and spread of injurious and noxious weeds;

(ii) garbage and refuse;

(iii) a public nuisance; [~~or~~]

(iv) an illegal object or structure; [~~and~~] or

(v) for a structure or any real property closed to occupancy or entry by a local health department, hazardous materials; and

(b) appoint a municipal inspector for the purpose of carrying out and in accordance with the provisions of this chapter.

[~~(2)~~] (3) A municipal legislative body may not:

(a) prohibit an owner or occupant of real property within the municipality's jurisdiction, including an owner or occupant who receives a notice in accordance with Section 10-11-2, from selecting a person, as defined in Section 10-1-104, to provide an abatement service for injurious and noxious weeds, garbage and refuse, a public nuisance, or an illegal object or structure; or

(b) require that an owner or occupant described in Subsection [~~(2)~~] (3)(a) use the services of the municipal inspector or any assistance employed by the municipal inspector described in Section 10-11-3 to provide an abatement service described in Subsection [~~(2)~~] (3)(a).

[~~(3)~~] (4) A municipality may require that an owner or occupant described in Subsection [~~(2)~~] (3)(a) use the abatement services, as described in Section 10-11-3, of the municipal inspector, including the use of a certified decontamination specialist as described in Section 19-6-906, or any assistance employed by the municipal inspector if:

(a) the municipality adopts an ordinance providing a reasonable period of time of at least 10 days for an owner or occupant to abate the owner's or occupant's property after receiving a notice described in Section 10-11-2; and

(b) the owner or occupant fails to abate the property within the reasonable period of time and in accordance with the notice.

(5) A municipality may require that an owner or occupant use the abatement services of a certified decontamination specialist to abate hazardous materials.

(6) Nothing in this chapter may be construed:

(a) as authorizing a municipality to regulate items that are within the exclusive jurisdiction of the Department of Agriculture and Food as provided in Section 4-2-305, including commercial feed, fertilizer, pesticides, and seeds; or

(b) as limiting or abrogating the authority of a local health department under Section 19-6-905.

Section 2. Section 10-11-2 is amended to read:

10-11-2. Inspection of property -- Notice -- Penalties.

(1) (a) If a municipality adopts an ordinance describing the duties of a municipal inspector appointed under Section 10-11-1, the ordinance:

(i) may, subject to Subsection (1)(b), direct the inspector to examine and investigate real property for:

(A) the growth and spread of injurious and noxious weeds;

(B) garbage and refuse;

(C) a public nuisance; [~~or~~]

(D) an illegal object or structure; [~~and~~] or

(E) hazardous materials; and

(ii) if an inspector conducts an examination and investigation under Subsection (1)(a), shall direct the inspector to deliver written notice of the examination and investigation in accordance with Subsection (2).

(b) An ordinance described in Subsection (1)(a) may not direct an inspector or authorize a municipality to abate conditions solely associated with the interior of a structure, unless required:

(i) for the demolition and removal of the structure[~~.~~]; or

(ii) to eliminate or remove hazardous materials within a structure that has been closed to occupancy or entry by a local health department or fire department.

(c) An ordinance described in Subsection (1)(a) may direct an inspector or authorize a municipality to issue an order limiting or restricting access to a structure and the real property appurtenant to the structure while the municipal inspector or a certified decontamination specialist destroys, removes, or abates hazardous materials within the structure.

(d) If a municipality has adopted an ordinance establishing an administrative proceeding process for the violation of a municipal ordinance in accordance with the requirements of Section 10-3-703.7, the municipality may adopt an ordinance imposing the following for a violation of an order issued under Subsection (1)(c):

(i) a civil penalty in accordance with Subsection 10-3-703(2); or

(ii) in accordance with Subsection 10-3-703(1), a criminal penalty, including by a fine not to exceed the maximum class B misdemeanor fine under Section 76-3-301, by a term of imprisonment up to six months, or by both the fine and term of imprisonment.

(e) An ordinance adopted in accordance with Subsection (1)(d) shall provide 180 days after the day on which the written notice from an inspector is delivered in person or the date the notice is post-marked for the recipient of the notice to:

(i) abate the hazardous materials; or

(ii) appeal the notice and begin the administrative proceeding process.

(2) (a) (i) The municipal inspector shall serve written notice to a property owner of record according to the records of the county recorder in accordance with Subsection (2)(b).

(ii) The municipal inspector may serve written notice in accordance with Subsection (2)(b) to a non-owner occupant of the property or another person responsible for the property who is not the owner of record, including a manager or agent of the owner, if:

(A) the property owner is not an occupant of the property; and

(B) the municipality in which the property is located has adopted an ordinance imposing a duty to maintain the property on an occupant who is not the property owner of record or a person other than the property owner of record who is responsible for the property.

(b) The municipal inspector may serve the written notice:

(i) in person or by mail to the property owner of record as described in Subsection (2)(a)(i), if mailed to the last-known address of the owner according to the records of the county recorder; or

(ii) in person or by mail to a non-owner occupant or another person responsible for the property who is not the owner of record as described in Subsection (2)(a)(ii), if mailed to the property address.

(c) In the written notice described in Subsection (2)(a), the municipal inspector shall:

(i) identify the property owner of record according to the records of the county recorder;

(ii) describe the property and the nature and results of the examination and investigation conducted in accordance with Subsection (1)(a); [~~and~~]

(iii) identify the relevant regulation or ordinance at issue and describe the violation of the relevant regulation or ordinance;

(iv) describe each order, fine, or penalty that may be imposed;

(v) for a structure or any real property closed to occupancy or entry by a local health department because of hazardous materials, explain the right of a property owner, occupant, or, if applicable, another person responsible for the property to abate the hazardous materials or appeal the notice within 180 days after the day on which notice is delivered in person or the date the notice is post-marked; and

[~~(iii)~~] (vi) require the property owner, occupant, or, if applicable, another person responsible for the property to:

(A) eradicate or destroy and remove any identified item examined and investigated under Subsection (1)(a); and

(B) comply with Subsection (2)(c)(iii)(A) in a time period designated by the municipal inspector but no less than 10 days after the day on which notice is delivered in person or post-marked, or for a notice related to hazardous materials, no less than 180 days after the day on which notice is delivered in person or post-marked.

(d) For a notice of injurious and noxious weeds described in Subsection (2)(a), the municipal inspector is not required to make more than one notice for each annual season of weed growth for weeds growing on a property.

(e) The municipal inspector shall serve the notice required under Subsection (2)(a)(i) under penalty of perjury.

(f) For a structure or any real property closed to occupancy or entry by a local health department because of hazardous materials, unless an order issued by a court of competent jurisdiction states otherwise, a municipality may not impose a fine or penalty on a property owner, occupant, or another person responsible for the structure or real property, and may not authorize a municipal inspector or a certified decontamination specialist to begin abatement of the hazardous materials, until:

(i) the appeal and administrative proceeding process is completed; or

(ii) the property owner, occupant, or another person responsible for the property has missed the deadline for filing the appeal.

Section 3. Section 10-11-3 is amended to read:

10-11-3. Neglect of property owners -- Removal or abatement by municipality -- Costs of removal or abatement -- Notice -- File action or lien -- Property owner objection.

(1) (a) If an owner of, occupant of, or other person responsible for real property described in the notice delivered in accordance with Section 10-11-2 fails to comply with Section 10-11-2, a municipal inspector may:

(i) at the expense of the municipality, employ necessary assistance to enter the property and [~~destroy or remove an item~~] destroy, remove, or abate one or more items or conditions identified in a written notice described in Section 10-11-2; and

(ii) (A) prepare an itemized statement in accordance with Subsection (1)(b); and

(B) mail to the owner of record according to the records of the county recorder a copy of the statement demanding payment within 30 days after the day on which the statement is post-marked.

(b) The statement described in Subsection (1)(a)(ii)(A) shall:

(i) include:

(A) the address of the property described in Subsection (1)(a);

(B) an itemized list of and demand for payment for all expenses, including administrative expenses, incurred by the municipality under Subsection (1)(a)(i); and

(C) the address of the municipal treasurer where payment may be made for the expenses; and

(ii) notify the property owner:

(A) that failure to pay the expenses described in Subsection (1)(b)(i)(B) may result in a lien on the property in accordance with Section 10-11-4;

(B) that the owner may file a written objection to all or part of the statement within 20 days after the day of the statement post-mark; and

(C) where the owner may file the objection, including the municipal office and address.

(c) A statement mailed in accordance with Subsection (1)(a) is delivered when mailed by certified mail addressed to the property owner's of record last-known address according to the records of the county recorder.

(d) (i) A municipality may file a notice of a lien, including a copy of the statement described in Subsection (1)(a)(ii)(A) or a summary of the statement, in the records of the county recorder of the county in which the property is located.

(ii) If a municipality files a notice of a lien indicating that the municipality intends to certify the unpaid costs and expenses in accordance with Subsection (2)(a)(ii) and Section 10-11-4, the municipality shall file for record in the county recorder's office a release of the lien after all amounts owing are paid.

(2) (a) If an owner fails to file a timely written objection as described in Subsection (1)(b)(ii)(B) or to pay the amount set forth in the statement under Subsection (1)(b)(i)(B), the municipality may:

(i) file an action in district court; or

(ii) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.

(b) If a municipality pursues collection of the costs in accordance with Subsection (2)(a)(i) or (4)(a), the municipality may:

(i) sue for and receive judgment for all removal and destruction costs, including administrative costs, and reasonable attorney fees, interest, and court costs; and

(ii) execute on the judgment in the manner provided by law.

(3) (a) If a property owner files an objection in accordance with Subsection (1)(b)(ii), the municipality shall:

(i) hold a hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act; and

(ii) mail or deliver notice of the hearing date and time to the property owner.

(b) At the hearing described in Subsection (3)(a)(i), the municipality shall review and determine the actual cost of abatement, if any, incurred under Subsection (1)(a)(i).

(c) The property owner shall pay any actual cost due after a decision by the municipality at the hearing described in Subsection (3)(a)(i) to the municipal treasurer within 30 days after the day on which the hearing is held.

(4) If the property owner fails to pay in accordance with Subsection (3)(c), the municipality may:

(a) file an action in district court for the actual cost determined under Subsection (3)(b); or

(b) certify the past due costs and expenses to the county treasurer of the county in which the property is located in accordance with Section 10-11-4.

(5) This section does not affect or limit:

(a) a municipal governing body's power to pass an ordinance as described in Section 10-3-702; or

(b) a criminal or civil penalty imposed by a municipality in accordance with Section 10-3-703.

CHAPTER 433
S. B. 140

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

HOUSING AND TRANSIT REINVESTMENT ZONE AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill amends provisions related to housing and transit reinvestment zones.

Highlighted Provisions:

This bill:

- defines terms;
- allows housing and transit reinvestment zones around light rail and bus rapid transit facilities;
- amends provisions related to the size limitations and number of allowed housing and transit reinvestment zones;
- requires equal participation by all local taxing entities;
- defines the term of each type of housing and transit reinvestment zone;
- amends the membership of the housing and transit reinvestment zone committee;
- requires relevant zoning changes be made before the housing and transit reinvestment zone may be approved by the committee;
- amends provisions related to the efficiency and feasibility analysis of a housing and transit reinvestment zone; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-924, as last amended by Laws of Utah 2021, Chapters 214 and 388
59-12-103, as last amended by Laws of Utah 2021, Chapters 367, 387, and 411
63N-3-602, as enacted by Laws of Utah 2021, Chapter 411
63N-3-603, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
63N-3-604, as enacted by Laws of Utah 2021, Chapter 411
63N-3-605, as enacted by Laws of Utah 2021, Chapter 411
63N-3-607, as enacted by Laws of Utah 2021, Chapter 411
63N-3-610, as enacted by Laws of Utah 2021, Chapter 411

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-924 is amended to read:

59-2-924. Definitions -- Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the commission.

(1) As used in this section:

(a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with this chapter.

(ii) "Ad valorem property tax revenue" does not include:

(A) interest;

(B) penalties;

(C) collections from redemptions; or

(D) revenue received by a taxing entity from personal property that is semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment.

(b) "Adjusted tax increment" means the same as that term is defined in Section 17C-1-102.

(c) (i) "Aggregate taxable value of all property taxed" means:

(A) the aggregate taxable value of all real property a county assessor assesses in accordance with Part 3, County Assessment, for the current year;

(B) the aggregate taxable value of all real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year; and

(C) the aggregate year end taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls of the taxing entity.

(ii) "Aggregate taxable value of all property taxed" does not include the aggregate year end taxable value of personal property that is:

(A) semiconductor manufacturing equipment assessed by a county assessor in accordance with Part 3, County Assessment; and

(B) contained on the prior year's tax rolls of the taxing entity.

(d) "Base taxable value" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102;

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102; [~~or~~]

(iv) for a host local government, the same as that term is defined in Section 63N-2-502[~~.~~]; or

(v) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, a property's taxable value as shown upon the assessment roll last equalized during the base year, as that term is defined in Section 63N-3-602.

(e) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

(i) an annexation to a taxing entity; or

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property.

(f) (i) "Centrally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(g) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

(h) "Community reinvestment agency" means the same as that term is defined in Section 17C-1-102.

(i) "Eligible new growth" means the greater of:

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth or hotel property new growth.

(j) "Host local government" means the same as that term is defined in Section 63N-2-502.

(k) "Hotel property" means the same as that term is defined in Section 63N-2-502.

(l) "Hotel property new growth" means an amount equal to the incremental value that is no longer provided to a host local government as incremental property tax revenue.

(m) "Incremental property tax revenue" means the same as that term is defined in Section 63N-2-502.

(n) "Incremental value" means:

(i) for an authority created under Section 11-58-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a project area and on which property tax differential is collected; and

(B) the number that represents the percentage of the property tax differential that is paid to the authority;

(ii) for an agency created under Section 17C-1-201.5, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which tax increment is collected; and

(B) the number that represents the adjusted tax increment from that project area that is paid to the agency;

(iii) for an authority created under Section 63H-1-201, the amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property located within a project area and on which property tax allocation is collected; and

(B) the number that represents the percentage of the property tax allocation from that project area that is paid to the authority; [~~or~~]

(iv) for a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the property that is located within a housing and transit reinvestment zone and on which tax increment is collected; and

(B) the number that represents the percentage of the tax increment that is paid to the housing and transit reinvestment zone; or

[~~(iv)~~] (v) for a host local government, an amount calculated by multiplying:

(A) the difference between the taxable value and the base taxable value of the hotel property on which incremental property tax revenue is collected; and

(B) the number that represents the percentage of the incremental property tax revenue from that hotel property that is paid to the host local government.

(o) (i) "Locally assessed new growth" means the greater of:

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

(ii) "Locally assessed new growth" does not include a change in:

(A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or another adjustment;

(B) assessed value based on whether a property is allowed a residential exemption for a primary residence under Section 59-2-103;

(C) assessed value based on whether a property is assessed under Part 5, Farmland Assessment Act; or

(D) assessed value based on whether a property is assessed under Part 17, Urban Farming Assessment Act.

(p) "Project area" means:

(i) for an authority created under Section 11-58-201, the same as that term is defined in Section 11-58-102;

(ii) for an agency created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102; or

(iii) for an authority created under Section 63H-1-201, the same as that term is defined in Section 63H-1-102.

(q) "Project area new growth" means:

(i) for an authority created under Section 11-58-201, an amount equal to the incremental value that is no longer provided to an authority as property tax differential;

(ii) for an agency created under Section 17C-1-201.5, an amount equal to the incremental value that is no longer provided to an agency as tax increment; [~~or~~]

(iii) for an authority created under Section 63H-1-201, an amount equal to the incremental value that is no longer provided to an authority as property tax allocation[~~.~~]; or

(iv) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, an amount equal to the incremental value that is no longer provided to a housing and transit reinvestment zone as tax increment.

(r) "Project area incremental revenue" means the same as that term is defined in Section 17C-1-1001.

(s) "Property tax allocation" means the same as that term is defined in Section 63H-1-102.

(t) "Property tax differential" means the same as that term is defined in Section 11-58-102.

(u) "Qualifying exempt revenue" means revenue received:

(i) for the previous calendar year;

(ii) by a taxing entity;

(iii) from tangible personal property contained on the prior year's tax rolls that is exempt from property tax under Subsection 59-2-1115(2)(b) for a calendar year beginning on January 1, 2022; and

(iv) on the aggregate 2021 year end taxable value of the tangible personal property that exceeds $15,300.

(v) "Tax increment" means:

(A) for a project created under Section 17C-1-201.5, the same as that term is defined in Section 17C-1-102[~~.~~]; or

(B) for a housing and transit reinvestment zone created under Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act, the same as that term is defined in Section 63N-3-602.

(2) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(a) a statement containing the aggregate valuation of all taxable real property a county assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

(b) a statement containing the taxable value of all personal property a county assessor assesses in accordance with Part 3, County Assessment, from the prior year end values.

(3) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(a) the statements described in Subsections (2)(a) and (b);

(b) an estimate of the revenue from personal property;

(c) the certified tax rate; and

(d) all forms necessary to submit a tax levy request.

(4) (a) Except as otherwise provided in this section, the certified tax rate shall be calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the prior year minus the qualifying exempt revenue by the amount calculated under Subsection (4)(b).

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall calculate an amount as follows:

(i) calculate for the taxing entity the difference between:

(A) the aggregate taxable value of all property taxed; and

(B) any adjustments for current year incremental value;

(ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the average of the percentage net change in the value of taxable property for the equalization period for the three calendar years immediately preceding the current calendar year;

(iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product of:

(A) the amount calculated under Subsection (4)(b)(ii); and

(B) the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year; and

(iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount determined by:

(A) multiplying the percentage of property taxes collected for the five calendar years immediately preceding the current calendar year by eligible new growth; and

(B) subtracting the amount calculated under Subsection (4)(b)(iv)(A) from the amount calculated under Subsection (4)(b)(iii).

(5) A certified tax rate for a taxing entity described in this Subsection (5) shall be calculated as follows:

(a) except as provided in Subsection (5)(b) or (c), for a new taxing entity, the certified tax rate is zero;

(b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

(i) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-1 and Subsection 17-36-3(23);

(c) for a community reinvestment agency that received all or a portion of a taxing entity's project area incremental revenue in the prior year under Title 17C, Chapter 1, Part 10, Agency Taxing Authority, the certified tax rate is calculated as described in Subsection (4) except that the commission shall treat the total revenue transferred to the community reinvestment agency as ad valorem property tax revenue that the taxing entity budgeted for the prior year; and

(d) for debt service voted on by the public, the certified tax rate is the actual levy imposed by that section, except that a certified tax rate for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(i) a school levy provided for under Section 53F-8-301, 53F-8-302, or 53F-8-303; and

(ii) a levy to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-1602.

(6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more eligible judgments.

(b) The ad valorem property tax revenue generated by a judgment levy described in Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax rate.

(7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

(i) the taxable value of real property:

(A) the county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the assessment roll;

(ii) the year end taxable value of personal property:

(A) a county assessor assesses in accordance with Part 3, County Assessment; and

(B) contained on the prior year's assessment roll; and

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

(b) For purposes of Subsection (7)(a), taxable value does not include eligible new growth.

(8) (a) On or before June 30, a taxing entity shall annually adopt a tentative budget.

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

(i) the taxing entity's intent to exceed the certified tax rate; and

(ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

(c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by subtracting the total taxable value of real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the current year, from the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet the requirement under Subsection (9)(a)(ii).

Section 2. Section 59-12-103 is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), regardless of whether:

(A) any parts are actually used in the repairs or renovations of that tangible personal property; or

(B) the particular parts used in the repairs or renovations of that tangible personal property are exempt from a tax under this chapter;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (f), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70% plus the rate specified in Subsection (12)(a); and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(e) or (f) and subject to Subsection (2)(k), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(e) or (f), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) Except as provided in Subsection (2)(e) or (f), a state tax is imposed on amounts paid or charged for fuel to a common carrier that is a railroad for use in a locomotive engine at a rate of 4.85%.

(e) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(e)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(e)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(e)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(f) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(f)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

(A) separately states the portion of the transaction that is not subject to taxation under this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(ii) A purchaser and a seller may correct the taxability of a transaction if:

(A) after the transaction occurs, the purchaser and the seller discover that the portion of the transaction that is not subject to taxation under this chapter was not separately stated on an invoice, bill of sale, or similar document provided to the purchaser because of an error or ignorance of the law; and

(B) the seller is able to identify by reasonable and verifiable standards, from the books and records the seller keeps in the seller's regular course of business, the portion of the transaction that is not subject to taxation under this chapter.

(iii) For purposes of Subsections (2)(f)(i) and (ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) (i) If the sales price of a transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate unless the seller, at the time of the transaction:

(A) separately states the items subject to taxation under this chapter at each of the different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

(B) is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business.

(ii) For purposes of Subsection (2)(g)(i), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(h) Subject to Subsections (2)(i) and (j), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(e)(i)(A)(I).

(i) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(j) (i) For a tax rate described in Subsection (2)(j)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(j)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(e)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(k) (i) For a location described in Subsection (2)(k)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(k)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(e)(i)(B).

(c) The state tax imposed by Subsection (2)(d) shall be deposited into the General Fund.

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) $17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than $1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) $17,500,000.

(b) (i) The first $500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), $150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over $150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(b) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(e)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) Subject to Subsection (7)(b)(iv)(E), in all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(iv) (A) As used in this Subsection (7)(b)(iv), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(B) As used in this Subsection (7)(b)(iv), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and [~~(8)(c)(iv)(F)~~] (8)(d)(vi) in any single fiscal year.

(C) As used in this Subsection (7)(b)(iv), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(D) As used in this Subsection (7)(b)(iv), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 17% of the revenue collected from taxes described in Subsections (7)(a)(i)(A) through (D).

(E) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection [~~(7)(c)(iii)~~] (7)(b)(iii) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (7)(b)(iv) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (7)(b)(iv)(F).

(F) The commission shall annually deposit the amount described in Subsection (7)(b)(iv)(E) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(G) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (7)(b)(iv) in the same proportion as the decline in relevant revenue.

(8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsections (8)(b) and (d)(v), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount

equal to 3.68% of the revenues collected from the following taxes:

(i) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); and

(iv) the tax imposed by Subsection (2)(e)(i)(A)(I).

(b) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(a) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(c) The commission shall annually deposit the amount described in Subsection (8)(b) into the Transit Transportation Investment Fund created in Section 72-2-124.

(d) (i) As used in this Subsection (8)(d), "additional growth revenue" means the amount of relevant revenue collected in the current fiscal year that exceeds by more than 3% the relevant revenue collected in the previous fiscal year.

(ii) As used in this Subsection (8)(d), "combined amount" means the combined total amount of money deposited into the Cottonwood Canyons fund under Subsections (7)(b)(iv)(F) and (8)(d)(vi) in any single fiscal year.

(iii) As used in this Subsection (8)(d), "Cottonwood Canyons fund" means the Cottonwood Canyons Transportation Investment Fund created in Subsection 72-2-124(10).

(iv) As used in this Subsection (8)(d), "relevant revenue" means the portion of taxes listed under Subsection (3)(a) that equals 3.68% of the revenue collected from taxes described in Subsections (8)(a)(i) through (iv).

(v) For a fiscal year beginning on or after July 1, 2020, the commission shall annually reduce the deposit under Subsection (8)(a) into the Transportation Investment Fund of 2005 by an amount equal to the amount of the deposit under this Subsection (8)(d) to the Cottonwood Canyons fund in the previous fiscal year plus 25% of additional growth revenue, subject to the limit in Subsection (8)(d)(vi).

(vi) The commission shall annually deposit the amount described in Subsection (8)(d)(v) into the Cottonwood Canyons fund, subject to an annual maximum combined amount for any single fiscal year of $20,000,000.

(vii) If the amount of relevant revenue declines in a fiscal year compared to the previous fiscal year, the commission shall decrease the amount of the contribution to the Cottonwood Canyons fund under this Subsection (8)(d) in the same proportion as the decline in relevant revenue.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, $533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(b), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(ii) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) For purposes of Subsection (10)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(e).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit $1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall, for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (12)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

(13) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall deposit $200,000 into the General Fund as a dedicated credit solely for use of the Search and Rescue Financial Assistance Program created in, and expended in accordance with, Title 53, Chapter 2a, Part 11, Search and Rescue Act.

(14) (a) For each fiscal year beginning with fiscal year 2020-21, the Division of Finance shall annually transfer $1,813,400 of the revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) to the General Fund.

(b) If the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) is less than $1,813,400 for a fiscal year, the Division of Finance shall transfer the total revenue deposited into the Transportation Investment Fund of 2005 under Subsections (6) through (8) during the fiscal year to the General Fund.

(15) Notwithstanding Subsection (3)(a), and as described in Section 63N-3-610, beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the commission, at least annually, shall transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary, as defined in Section 63N-3-602, into the Transit Transportation Investment Fund created in Section 72-2-124.

Section 3. Section 63N-3-602 is amended to read:

63N-3-602. Definitions.

As used in this part:

(1) "Affordable housing" means the same as that term is defined in Section 11-38-102.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year beginning the first day of the calendar quarter determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.

(5) "Bus rapid transit" means a high-quality bus-based transit system that delivers fast and efficient service that may include dedicated lanes, busways, traffic signal priority, off-board fare collection, elevated platforms, and enhanced stations.

[~~(5)~~] (6) (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

[~~(6)~~] (7) "Commuter rail station" means a station, stop, or terminal along an existing commuter rail line, or along an extension to an existing commuter rail line or new commuter rail line that is included in a metropolitan planning organization's adopted long-range transportation plan.

(8) (a) "Developable area" means the portion of land within a housing and transit reinvestment zone available for development and construction of business and residential uses.

(b) "Developable area" does not include portions of land within a housing and transit reinvestment zone that are allocated to:

(i) parks;

(ii) recreation facilities;

(iii) open space;

(iv) trails;

(v) publicly-owned roadway facilities; or

(vi) other public facilities.

[~~(7)~~] (9) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

[~~(8)~~] (10) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities[~~, at an average density of 50 dwelling units or more per acre on the developable acres~~].

[~~(9)~~] (11) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

[~~(10)~~] (12) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

[~~(11)~~] (13) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

[~~(12)~~] (14) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

[~~(13)~~] (15) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(16) "Light rail" means a passenger rail public transit system with right-of-way and fixed rails:

(a) dedicated to exclusive use by light-rail public transit vehicles;

(b) that may cross streets at grade; and

(c) that may share parts of surface streets.

[~~(14)~~] (17) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

[~~(15)~~] (18) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.

[~~(16)~~] (19) "Municipality" means the same as that term is defined in Section 10-1-104.

[~~(17)~~] (20) "Participant" means the same as that term is defined in Section 17C-1-102.

[~~(18)~~] (21) "Participation agreement" means the same as that term is defined in Section 17C-1-102, except that the agency may not provide and the person may not receive a direct subsidy.

[~~(19)~~] (22) "Public transit county" means a county that has created a small public transit district.

[~~(20)~~] (23) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

[~~(21)~~] (24) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

[~~(22)~~] (25) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

[~~(23)~~] (26) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

[~~(24)~~] (27) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

[~~(25)~~] (28) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

[~~(26)~~] (29) "Tax commission" means the State Tax Commission created in Section 59-1-201.

[~~(27)~~] (30) "Tax increment" means the difference between:

(a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in Section 59-2-924.

[~~(28)~~] (31) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

[~~(29)~~] (32) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section 4. Section 63N-3-603 is amended to read:

63N-3-603. Applicability, requirements, and limitations on a housing and transit reinvestment zone.

(1) A housing and transit reinvestment zone proposal created under this part shall promote the following objectives:

(a) higher utilization of public transit;

(b) increasing availability of housing, including affordable housing;

(c) conservation of water resources through efficient land use;

(d) improving air quality by reducing fuel consumption and motor vehicle trips;

(e) encouraging transformative mixed-use development and investment in transportation and public transit infrastructure in strategic areas;

(f) strategic land use and municipal planning in major transit investment corridors as described in Subsection 10-9a-403(2); and

(g) increasing access to employment and educational opportunities.

(2) In order to accomplish the objectives described in Subsection (1), a municipality or public transit county that initiates the process to create a housing and transit reinvestment zone as described in this part shall ensure that the proposal for a housing and transit reinvestment zone includes:

(a) except as provided in Subsection (3), at least 10% of the proposed [~~housing~~] dwelling units within the housing and transit reinvestment zone are affordable housing units;

(b) [~~a dedication of~~] at least 51% of the developable area within the housing and transit reinvestment zone [~~to residential development~~] includes residential uses with, except as provided in Subsection (4)(c), an average of 50 [~~multi-family~~] dwelling units per acre or greater; [~~and~~]

(c) mixed-use development[~~.~~]; and

(d) a mix of dwelling units to ensure that a reasonable percentage of the dwelling units has more than one bedroom.

(3) A municipality or public transit county that, at the time the housing and transit reinvestment zone proposal is approved by the housing and transit reinvestment zone committee, meets the affordable housing guidelines of the United States Department of Housing and Urban Development at 60% area median income is exempt from the requirement described in Subsection (2)(a).

[~~(4) A municipality or public transit county may only propose a housing and transit reinvestment zone that:~~]

(4) (a) A municipality may only propose a housing and transit reinvestment zone at a commuter rail station, and a public transit county may only propose a housing and transit reinvestment zone at a public transit hub, that:

[~~(a)~~] (i) subject to Subsection (5)(a):

[~~(i)~~] (A) (I) except as provided in Subsection (4)(a)(i)(A)(II), for a municipality, does not exceed a 1/3 mile radius of a commuter rail station; [~~or~~]

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, with an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code, does not exceed a 1/2 mile radius of a commuter rail station located within the opportunity zone; or

[~~(B)~~] (III) for a public transit county, does not exceed a 1/3 mile radius of a public transit hub; and

[~~(ii)~~] (B) has a total area of no more than 125 noncontiguous [~~square~~] acres;

[~~(b)~~] (ii) subject to Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 25 consecutive years on each parcel within a 45-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

[~~(c)~~] (iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(b) A municipality or public transit county may only propose a housing and transit reinvestment zone at a light rail station or bus rapid transit station that:

(i) subject to Subsection (5):

(A) does not exceed:

(I) except as provided in Subsection (4)(b)(i)(A)(II) or (III), a 1/4 mile radius of a bus rapid transit station or light rail station;

(II) for a municipality that is a city of the first class with a population greater than 150,000 that is within a county of the first class, a 1/2 mile radius of a light rail station located in an opportunity zone created pursuant to Section 1400Z-1, Internal Revenue Code; or

(III) a 1/2 mile radius of a light rail station located within a master-planned development of 500 acres or more; and

(B) has a total area of no more than 100 noncontiguous acres;

(ii) subject to Subsection (4)(c) and Section 63N-3-607, proposes the capture of a maximum of 80% of each taxing entity's tax increment above the base year for a term of no more than 15 consecutive years on each parcel within a 30-year period not to exceed the tax increment amount approved in the housing and transit reinvestment zone proposal; and

(iii) the commencement of collection of tax increment, for all or a portion of the housing and transit reinvestment zone, will be triggered by providing notice as described in Subsection (6).

(c) For a housing and transit reinvestment zone proposed by a public transit county at a public transit hub, or for a housing and transit reinvestment zone proposed by a municipality at a bus rapid transit station, if the proposed housing density within the housing and transit reinvestment zone is between 39 and 49 dwelling units per acre, the maximum capture of each taxing entity's tax increment above the base year is 60%.

(d) A municipality that is a city of the first class with a population greater than 150,000 in a county of the first class as described in Subsections (4)(a)(i)(A)(II) and (4)(b)(i)(A)(II) may only propose one housing and transit reinvestment zone within an opportunity zone.

[~~(5) If~~] (5) (a) For a housing and transit reinvestment zone for a commuter rail station, if a parcel is bisected by the [~~1/3 mile radius~~] relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(a)(i).

(b) For a housing and transit reinvestment zone for a light rail or bus rapid transit station, if a parcel is bisected by the relevant radius limitation, the full parcel may be included as part of the housing and transit reinvestment zone area and will not count against the limitations described in Subsection (4)(b)(i).

(6) The notice of commencement of collection of tax increment required in Subsection [~~(4)(c)~~] (4)(a)(iii) or (4)(b)(iii) shall be sent by mail or electronically to:

(a) the tax commission;

(b) the State Board of Education;

(c) the state auditor;

(d) the auditor of the county in which the housing and transit reinvestment zone is located;

(e) each taxing entity affected by the collection of tax increment from the housing and transit reinvestment zone; and

(f) the Governor's Office of Economic Opportunity.

(7) (a) The maximum number of housing and transit reinvestment zones at light rail stations is eight in any given county.

(b) The maximum number of housing and transit reinvestment zones at bus rapid transit stations is three in any given county.

Section 5. Section 63N-3-604 is amended to read:

63N-3-604. Process for a proposal of a housing and transit reinvestment zone -- Analysis.

(1) Subject to approval of the housing and transit reinvestment zone committee as described in Section 63N-3-605, in order to create a housing and transit reinvestment zone, a municipality or public transit county that has general land use authority over the housing and transit reinvestment zone area, shall:

(a) prepare a proposal for the housing and transit reinvestment zone that:

(i) demonstrates that the proposed housing and transit reinvestment zone will meet the objectives described in Subsection 63N-3-603(1);

(ii) explains how the municipality or public transit county will achieve the requirements of Subsection 63N-3-603(2)(a);

(iii) defines the specific transportation infrastructure needs, if any, and proposed improvements;

(iv) defines the boundaries of:

(A) the housing and transit reinvestment zone; and

(B) the sales and use tax boundary corresponding to the housing and transit reinvestment zone boundary, as described in Section 63N-3-610;

(v) identifies any development impediments that prevent the development from being a market-rate investment and proposed strategies for addressing each one;

(vi) describes the proposed development plan, including the requirements described in Subsections 63N-3-603(2) and (4);

(vii) establishes a base year and collection period to calculate the tax increment within the housing and transit reinvestment zone;

(viii) establishes a sales and use tax base year to calculate the sales and use tax increment within the housing and transit reinvestment zone;

(ix) describes projected maximum revenues generated and the amount of tax increment capture from each taxing entity and proposed expenditures of revenue derived from the housing and transit reinvestment zone;

(x) includes an analysis of other applicable or eligible incentives, grants, or sources of revenue that can be used to reduce the finance gap;

(xi) evaluates possible benefits to active and public transportation availability and impacts on air quality;

[~~(xi)~~] (xii) proposes a finance schedule to align expected revenue with required financing costs and payments; and

[~~(xii)~~] (xiii) provides a pro-forma for the planned development including the cost differential between surface parked multi-family development and enhanced development that satisfies the requirements described in Subsections 63N-3-603(2), (3), and (4); and

(b) submit the housing and transit reinvestment zone proposal to the Governor's Office of Economic Opportunity.

[~~(2) Before submitting the proposed housing and transit reinvestment zone to the Governor's Office of Economic Opportunity as described in Subsection (1)(b), the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.~~]

(2) As part of the proposal described in Subsection (1), a municipality or public transit county shall study and evaluate possible impacts of a proposed housing and transit reinvestment zone on parking within the city and housing and transit reinvestment zone.

(3) (a) After receiving the proposal as described in Subsection (1)(b), the Governor's Office of Economic Opportunity shall, at the expense of the proposing municipality or public transit county as described in Subsection (5), contract with an independent entity to perform the gap analysis described in Subsection (3)(b).

(b) The gap analysis required in Subsection (3)(a) shall include:

(i) a description of the planned development;

(ii) a market analysis relative to other comparable project developments included in or adjacent to the municipality or public transit county absent the proposed housing and transit reinvestment zone;

(iii) an evaluation of the proposal to and a determination of the adequacy and efficiency of the proposal; [~~and~~]

(iv) an evaluation of the proposed increment capture needed to cover the enhanced development costs associated with the housing and transit reinvestment zone proposal and enable the proposed development to occur; and

[~~(iv)~~] (v) based on the market analysis and other findings, an opinion relative to the minimum amount of potential public financing reasonably determined to be necessary to achieve the objectives described in Subsection 63N-3-603(1).

(4) After receiving the results from the analysis described in Subsection (3)(b), the municipality or public transit county proposing the housing and transit reinvestment zone may:

(a) amend the housing and transit reinvestment zone proposal based on the findings of the analysis described in Subsection (3)(b) and request that the Governor's Office of Economic Opportunity submit the amended housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee; or

(b) request that the Governor's Office of Economic Opportunity submit the original housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee.

(5) (a) The Governor's Office of Economic Opportunity may accept, as a dedicated credit, up to $20,000 from a municipality or public transit county for the costs of the gap analysis described in Subsection (3)(b).

(b) The Governor's Office of Economic Opportunity may expend funds received from a municipality or public transit county as dedicated credits to pay for the costs associated with the gap analysis described in Subsection (3)(b).

Section 6. Section 63N-3-605 is amended to read:

63N-3-605. Housing and Transit Reinvestment Zone Committee -- Creation.

(1) For any housing and transit reinvestment zone proposed under this part, there is created a housing and transit reinvestment zone committee with membership described in Subsection (2).

(2) Each housing and transit reinvestment zone committee shall consist of the following members:

(a) one representative from the Governor's Office of Economic Opportunity, designated by the executive director of the Governor's Office of Economic Opportunity;

(b) one representative from each municipality that is a party to the proposed housing and transit reinvestment zone, designated by the chief executive officer of each respective municipality;

(c) one representative from the Department of Transportation created in Section 72-1-201, designated by the executive director of the Department of Transportation;

(d) one representative from a large public transit district that serves the proposed housing and transit reinvestment zone area, designated by the chair of the board of trustees of a large public transit district;

[~~(e) one representative of each relevant metropolitan planning organization, designated by the chair of the metropolitan planning organization;~~]

(e) one individual from the Office of the State Treasurer, designated by the state treasurer;

(f) one member designated by the president of the Senate;

(g) one member designated by the speaker of the House of Representatives;

[~~(h) one member designated by the chair of the State Board of Education;~~]

(h) one individual from the tax commission, designated by the executive director of the tax commission;

(i) one member designated by the chief executive officer of each county affected by the housing and transit reinvestment zone;

(j) one representative designated by the school superintendent from the school district affected by the housing and transit reinvestment zone; and

(k) one representative, representing the largest participating local taxing entity, after the municipality, county, and school district.

(3) The individual designated by the Governor's Office of Economic Opportunity as described in Subsection (2)(a) shall serve as chair of the housing and transit reinvestment zone committee.

(4) (a) A majority of the members of the housing and transit reinvestment zone committee constitutes a quorum of the housing and transit reinvestment zone committee.

(b) An action by a majority of a quorum of the housing and transit reinvestment zone committee is an action of the housing and transit reinvestment zone committee.

(5) After the Governor's Office of Economic Opportunity receives the results of the analysis described in Section 63N-3-604, and after the Governor's Office of Economic Opportunity has received a request from the submitting municipality or public transit county to submit the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee, the Governor's Office of Economic Opportunity shall notify each of the entities described in Subsection (2) of the formation of the housing and transit reinvestment zone committee.

(6) (a) The chair of the housing and transit reinvestment zone committee shall convene a public meeting to consider the proposed housing and transit reinvestment zone.

(b) A meeting of the housing and transit reinvestment zone committee is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(7) (a) The proposing municipality or public transit county shall present the housing and transit reinvestment zone proposal to the housing and transit reinvestment zone committee in a public meeting.

(b) The housing and transit reinvestment zone committee shall:

(i) evaluate and verify whether the elements of a housing and transit reinvestment zone described in Subsections 63N-3-603(2) and (4) have been met; and

(ii) evaluate the proposed housing and transit reinvestment zone relative to the analysis described in Subsection 63N-3-604(2).

(8) (a) [~~The~~] Subject to Subsection (8)(b), the housing and transit reinvestment zone committee may:

[~~(a)~~] (i) request changes to the housing and transit reinvestment zone proposal based on the analysis described in Section 63N-3-604; or

[~~(b)~~] (ii) vote to approve or deny the proposal.

(b) Before the housing and transit reinvestment zone committee may approve the housing and transit reinvestment zone proposal, the municipality or public transit county proposing the housing and transit reinvestment zone shall ensure that the area of the proposed housing and transit reinvestment zone is zoned in such a manner to accommodate the requirements of a housing and transit reinvestment zone described in this section and the proposed development.

(9) If a housing and transit reinvestment zone is approved by the committee:

(a) the proposed housing and transit reinvestment zone is established according to the terms of the housing and transit reinvestment zone proposal; [~~and~~]

(b) affected local taxing entities are required to participate according to the terms of the housing and transit reinvestment zone proposal[~~.~~]; and

(c) each affected taxing municipality is required to participate at the same rate as a participating county.

(10) A housing and transit reinvestment zone proposal may be amended by following the same procedure as approving a housing and transit reinvestment zone proposal.

Section 7. Section 63N-3-607 is amended to read:

63N-3-607. Payment, use, and administration of revenue from a housing and transit reinvestment zone.

(1) A municipality or public transit county may receive and use tax increment and housing and transit reinvestment zone funds in accordance with this part.

(2) (a) A county that collects property tax on property located within a housing and transit reinvestment zone shall, in accordance with Section 59-2-1365, distribute to the municipality or public transit county any tax increment the municipality or public transit county is authorized to receive up to the maximum approved by the housing and transit reinvestment zone committee.

(b) Tax increment distributed to a municipality or public transit county in accordance with Subsection (2)(a) is not revenue of the taxing entity or municipality or public transit county.

(c) (i) Tax increment paid to the municipality or public transit county are housing and transit reinvestment zone funds and shall be administered by an agency created by the municipality or public transit county within which the housing and transit reinvestment zone is located.

(ii) Before an agency may receive housing and transit reinvestment zone funds from the municipality or public transit county, the municipality or public transit county and the agency shall enter into an interlocal agreement with terms that:

(A) are consistent with the approval of the housing and transit reinvestment zone committee; and

(B) meet the requirements of Section 63N-3-603.

(3) (a) A municipality or public transit county and agency shall use housing and transit reinvestment zone funds within, or for the direct benefit of, the housing and transit reinvestment zone.

(b) If any housing and transit reinvestment zone funds will be used outside of the housing and transit reinvestment zone there must be a finding in the approved proposal for a housing and transit reinvestment zone that the use of the housing and transit reinvestment zone funds outside of the housing and transit reinvestment zone will directly benefit the housing and transit reinvestment zone.

(4) A municipality or public transit county shall use housing and transit reinvestment zone funds to achieve the purposes described in Subsections 63N-3-603(1) and (2), by paying all or part of the costs of any of the following:

(a) income targeted housing costs;

(b) structured parking within the housing and transit reinvestment zone;

(c) enhanced development costs;

(d) horizontal construction costs;

(e) vertical construction costs;

(f) [~~land purchase~~] property acquisition costs within the housing and transit reinvestment zone; or

(g) the costs of the municipality or public transit county to create and administer the housing and transit reinvestment zone, which may not exceed 1% of the total housing and transit reinvestment zone funds, plus the costs to complete the gap analysis described in Subsection 63N-3-604[~~(3)~~](2).

(5) Housing and transit reinvestment zone funds may be paid to a participant, if the agency and participant enter into a participation agreement which requires the participant to utilize the housing and transit reinvestment zone funds as allowed in this section.

(6) Housing and transit reinvestment zone funds may be used to pay all of the costs of bonds issued by the municipality or public transit county in accordance with Title 17C, Chapter 1, Part 5, Agency Bonds, including the cost to issue and repay the bonds including interest.

(7) A municipality or public transit county may create one or more public infrastructure districts within the housing and transit reinvestment zone under [~~Title 17B, Chapter 2a, Part 12~~] Title 17D, Chapter 4, Public Infrastructure District Act, and pledge and utilize the housing and transit

reinvestment zone funds to guarantee the payment of public infrastructure bonds issued by a public infrastructure district.

Section 8. Section 63N-3-610 is amended to read:

63N-3-610. Sales and use tax increment in a housing and transit reinvestment zone.

(1) A housing and transit reinvestment proposal shall, in consultation with the tax commission:

(a) create a sales and use tax boundary as described in Subsection (2); and

(b) establish a sales and use tax base year and collection period to calculate and transfer the state sales and use tax increment within the housing and transit reinvestment zone.

(2) (a) The municipality or public transit county, in consultation with the tax commission, shall establish a sales and use tax boundary that:

(i) is based on state sales and use tax collection boundaries; and

(ii) follows as closely as reasonably practicable the boundary of the housing and transit reinvestment zone.

(b) The municipality or public transit county shall include the sales and use tax boundary in the housing and transit reinvestment zone proposal as described in Section 63N-3-604.

(3) Beginning the first day of the calendar quarter one year after the sales and use tax boundary for a housing and transit reinvestment zone is established, the tax commission shall, at least annually, transfer an amount equal to 15% of the sales and use tax increment within an established sales and use tax boundary into the Transit Transportation Investment Fund created in Section 72-2-124.

(4) (a) The requirement described in Subsection (3) to transfer incremental sales tax revenue shall take effect:

(i) on the first day of a calendar quarter; and

(ii) after a 90-day waiting period, beginning on the date the commission receives notice from the municipality or public transit county meeting the requirements of Subsection (4)(b).

(b) The notice described in Subsection (4)(a) shall include:

(i) a statement that the housing and transit reinvestment zone will be established under this part;

(ii) the approval date and effective date of the housing and transit reinvestment zone; and

(iii) the definitions of the sales and use tax boundary and sales and use tax base year.

CHAPTER 434
S. B. 144

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

GENETIC PRIVACY AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends the Genetic Testing Privacy Act regarding genetic procedures.

Highlighted Provisions:

This bill:

- amends the definition of "DNA" and "private genetic information";
- defines "genetic procedure";
- amends restrictions on employers regarding requests or inquiries about genetic procedures;
- amends restrictions on health insurers regarding requests or inquiries about genetic procedures; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-45-102, as enacted by Laws of Utah 2002, Chapter 120
26-45-103, as enacted by Laws of Utah 2002, Chapter 120
26-45-104, as enacted by Laws of Utah 2002, Chapter 120
26-45-105, as enacted by Laws of Utah 2002, Chapter 120

REPEALS:

26-45-101, as enacted by Laws of Utah 2002, Chapter 120

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-45-102 is amended to read:

CHAPTER 45. GENETIC TESTING AND PROCEDURE PRIVACY ACT

26-45-102. Definitions.

As used in this chapter:

(1) "Blood relative" means [~~a person's~~] an individual's biologically related:

(a) parent;

(b) grandparent;

(c) child;

(d) grandchild;

(e) sibling;

(f) uncle;

(g) aunt;

(h) nephew;

(i) niece; or

(j) first cousin.

(2) "DNA" means:

(a) deoxyribonucleic acid, ribonucleic acid, and chromosomes, which may be analyzed to detect heritable diseases or conditions, including the identification of carriers, predicting risk of disease, or establishing a clinical diagnosis[~~.~~]; or

(b) proteins, enzymes, or other molecules associated with a genetic process, which may be modified, replaced in part or whole, superseded, or bypassed in function by a health or medical procedure.

(3) "DNA sample" means any human biological specimen from which DNA can be extracted, or DNA extracted from such specimen.

(4) "Employer" means the same as that term is defined in Section 34A-2-103.

[~~(4)~~] (5) (a) "Genetic analysis" or "genetic test" means the testing, detection, or analysis of an identifiable individual's DNA that results in information that is derived from the presence, absence, alteration, or mutation of an inherited gene or genes, or the presence or absence of a specific DNA marker or markers.

(b) "Genetic analysis" or "genetic test" does not mean:

(i) a routine physical examination;

(ii) a routine chemical, blood, or urine analysis;

(iii) a test to identify the presence of drugs or HIV infection; or

(iv) a test performed due to the presence of signs, symptoms, or other manifestations of a disease, illness, impairment, or other disorder.

[~~(5) "Individual" means the person from whose body the DNA sample originated.~~]

[~~(6) "Person" means any person, organization, or entity other than the individual.~~]

(6) "Genetic procedure" means any therapy, treatment, or medical procedure that is intended to:

(a) add, remove, alter, activate, change, or cause mutation in an individual's inherited DNA; or

(b) replace, supersede, or bypass a normal DNA function.

(7) "Health care insurance" means the same as that term is defined in Section 31A-1-301.

[~~(7)~~] (8) (a) "Private genetic information" means any information about an identifiable individual that:

(i) is derived from:

(A) the presence, absence, alteration, or mutation of an inherited gene or genes[~~,~~]; or

(B) the presence or absence of a specific DNA marker or markers[~~,~~]; and [~~which~~]

(ii) has been obtained:

[~~(i)~~] (A) from a genetic test or analysis of the individual's DNA; [~~or~~]

[~~(ii)~~] (B) from a genetic test or analysis of [~~a person's DNA to whom the individual is~~] the DNA of a blood relative[~~.~~] of the individual; or

(C) from a genetic procedure.

(b) "Private genetic information" does not include information that is derived from:

(i) a routine physical examination;

(ii) a routine chemical, blood, or urine analysis;

(iii) a test to identify the presence of drugs or HIV infection; or

(iv) a test performed due to the presence of signs, symptoms, or other manifestations of a disease, illness, impairment, or other disorder.

Section 2. Section 26-45-103 is amended to read:

26-45-103. Restrictions on employers.

(1) Except as provided in Subsection (2), an employer[~~, as defined in Section 34A-2-103,~~] may not in connection with a hiring, promotion, retention, or other related decision:

(a) access or otherwise take into consideration private genetic information about an individual;

(b) request or require an individual to consent to a release for the purpose of accessing private genetic information about the individual;

(c) request or require an individual or [~~his~~] the individual's blood relative to submit to:

(i) a genetic test; [~~and~~] or

(ii) a genetic procedure; or

(d) inquire into or otherwise take into consideration the fact that an individual or [~~his~~] the individual's blood relative has:

(i) taken or refused to take a genetic test[~~.~~]; or

(ii) undergone or refused to undergo a genetic procedure.

(2) (a) Notwithstanding Subsection (1), an employer may seek an order compelling the disclosure of private genetic information held by an individual or third party pursuant to Subsection (2)(b) in connection with:

(i) an employment-related judicial or administrative proceeding in which the individual has placed his health at issue; or

(ii) an employment-related decision in which the employer has a reasonable basis to believe that the individual's health condition poses a real and unjustifiable safety risk requiring the change or denial of an assignment.

(b) (i) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) may only be entered upon a finding that:

(A) other ways of obtaining the private information are not available or would not be effective; and

(B) there is a compelling need for the private genetic information which substantially outweighs the potential harm to the privacy interests of the individual.

(ii) An order compelling the disclosure of private genetic information pursuant to this Subsection (2) shall:

(A) limit disclosure to those parts of the record containing information essential to fulfill the objective of the order;

(B) limit disclosure to those persons whose need for the information is the basis of the order; and

(C) include such other measures as may be necessary to limit disclosure for the protection of the individual.

Section 3. Section 26-45-104 is amended to read:

26-45-104. Restrictions on health insurers.

(1) Except as provided in Subsection (2), an insurer offering health care insurance [~~as defined in Section 31A-1-301~~] may not in connection with the offer or renewal of an insurance product or in the determination of premiums, coverage, renewal, cancellation, or any other underwriting decision that pertains directly to the individual or any group of which the individual is a member that purchases insurance jointly:

(a) access or otherwise take into consideration private genetic information about an asymptomatic individual;

(b) request or require an asymptomatic individual to consent to a release for the purpose of accessing private genetic information about the individual;

(c) request or require an asymptomatic individual or [~~his~~] the individual's blood relative to submit to a genetic test; [~~and~~]

(d) inquire into or otherwise take into consideration the fact that an asymptomatic individual or [~~his~~] the individual's blood relative has taken or refused to take a genetic test[~~.~~];

(e) request or require an individual or the individual's blood relative to submit to a genetic procedure; or

(f) inquire into the results of a genetic procedure that an individual or the individual's blood relative undergoes.

(2) An insurer offering health care insurance:

(a) may request information regarding the necessity of a genetic test, but not the results of the test, if a claim for payment for the test has been made against an individual's health insurance policy;

(b) may request information regarding the necessity of a genetic procedure, including the results of the procedure, if a claim for payment for the procedure has been made against an individual's health insurance policy;

[~~(b)~~] (c) may request that portion of private genetic information that is necessary to determine the insurer's obligation to pay for health care services where:

(i) the primary basis for rendering such services to an individual is the result of a genetic test; and

(ii) a claim for payment for such services has been made against the individual's health insurance policy;

[~~(c)~~] (d) may only store information obtained under this Subsection (2) in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996; and

[~~(d)~~] (e) may only use or otherwise disclose the information obtained under this Subsection (2) in connection with a proceeding to determine the obligation of an insurer to pay for a genetic test or health care services, provided that, in accordance with the provisions of the Health Insurance Portability and Accountability Act of 1996, the insurer makes a reasonable effort to limit disclosure to the minimum necessary to carry out the purposes of the disclosure.

(3) (a) An insurer may, to the extent permitted by Subsection (2), seek an order compelling the disclosure of private genetic information held by an individual or third party.

(b) An order authorizing the disclosure of private genetic information pursuant to this Subsection (2) shall:

(i) limit disclosure to those parts of the record containing information essential to fulfill the objectives of the order;

(ii) limit disclosure to those persons whose need for the information is the basis for the order; and

(iii) include such other measures as may be necessary to limit disclosure for the protection of the individual.

(4) Nothing in this section may be construed as restricting the ability of an insurer to use information other than private genetic information to take into account the health status of an individual, group, or population in determining premiums or making other underwriting decisions.

(5) Nothing in this section may be construed as:

(a) requiring an insurer to pay for genetic testing or a genetic procedure; or

(b) prohibiting the use of step-therapy protocols.

(6) Information maintained by an insurer about an individual under this section may be redisclosed:

(a) to protect the interests of the insurer in detecting, prosecuting, or taking legal action against criminal activity, fraud, material misrepresentations, and material omissions;

(b) to enable business decisions to be made about the purchase, transfer, merger, reinsurance, or sale of all or part of the insurer's business; and

(c) to the commissioner of insurance upon formal request.

Section 4. Section 26-45-105 is amended to read:

26-45-105. Private right of action.

(1) (a) An individual whose legal rights arising under this chapter have been violated after June 30, 2003, may recover damages and be granted equitable relief in a civil action.

(b) Subsection (1)(a) does not create a legal right prior to the Legislature enacting the right under this chapter.

(2) Any insurance company or employer who violates the legal rights of an individual arising from this chapter shall be liable to the individual for each separate violation in an amount equal to:

(a) actual damages sustained as a result of the violation;

(b) (i) $100,000 if the violation is the result of an intentional and [~~wilful~~] willful act; or

(ii) punitive damages if the violation is the result of a malicious act; and

(c) reasonable attorneys' fees.

Section 5. Repealer.

This bill repeals:

Section 26-45-101, Title.

CHAPTER 435
S. B. 147

Passed March 4, 2022
Approved March 24, 2022
Effective July 1, 2022

UTAH COMMUNICATIONS AUTHORITY AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill makes amendments related to the amount and collection of charges for the Utah Communications Authority.

Highlighted Provisions:

This bill:

- revokes the Utah Communications Authority's existing exemption from the Budgetary Procedures Act;
- adjusts the collection amount for:
  - the Utah Statewide Radio Restricted Account;
  - the public safety network; and
  - the 911 emergency service charge;
- revokes a repeal date for the emergency services telecommunications charge;
- sets a future repeal date for charges to maintain the public safety communications network; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63H-7a-104, as last amended by Laws of Utah 2021, Chapters 84 and 345
63H-7a-304, as last amended by Laws of Utah 2021, Chapters 162 and 345
63H-7a-403, as last amended by Laws of Utah 2020, Chapter 294
63H-7a-803, as last amended by Laws of Utah 2021, Chapters 84 and 345
63I-1-269, as last amended by Laws of Utah 2019, Chapter 509
63I-2-263, as last amended by Laws of Utah 2021, First Special Session, Chapter 4
69-2-402, as enacted by Laws of Utah 2017, Chapter 430
69-2-403, as last amended by Laws of Utah 2019, Chapter 509
69-2-404, as enacted by Laws of Utah 2017, Chapter 430
69-2-405, as last amended by Laws of Utah 2020, Chapter 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63H-7a-104 is amended to read:

63H-7a-104. Relation to certain acts.

(1) The authority is exempt from:

(a) Title 51, Chapter 5, Funds Consolidation Act;

(b) Title 63A, Utah Government Operations Code; and

[~~(c) Title 63J, Chapter 1, Budgetary Procedures Act; and~~]

[~~(d)~~] (c) Title 63A, Chapter 17, Utah State Personnel Management Act.

(2) The authority is subject to:

(a) Title 52, Chapter 4, Open and Public Meetings Act;

(b) Section 67-3-12;

(c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(d) Title 63G, Chapter 6a, Utah Procurement Code.

Section 2. Section 63H-7a-304 is amended to read:

63H-7a-304. Unified Statewide 911 Emergency Service Account -- Creation -- Administration -- Permitted uses.

(1) There is created a restricted account within the General Fund known as the "Unified Statewide 911 Emergency Service Account," consisting of:

(a) proceeds from the fee imposed in Section 69-2-403;

(b) money appropriated or otherwise made available by the Legislature; and

(c) contributions of money, property, or equipment from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Except as provided in Subsection (4) and subject to Subsection (3) and appropriations by the Legislature, the authority shall disburse funds in the 911 account for the purpose of enhancing and maintaining the statewide public safety communications network and 911 call processing equipment in order to rapidly, efficiently, effectively, and with greater interoperability deliver 911 services in the state.

(b) In expending funds in the 911 account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(c) The authority shall expend funds in the 911 account in accordance with the authority strategic plan described in Section 63H-7a-206.

(d) The authority may not expend funds from the 911 account collected through the 911 emergency service charge imposed in Section 69-2-403 on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) the 911 emergency service defined in Section 69-2-102.

(e) The authority may not expend funds from the 911 account collected through the prepaid wireless 911 service charge revenue distributed in [~~Subsection 69-2-405(9)(c)~~] Subsections 69-2-405(9)(a)(iii) and 69-2-405(9)(b)(iii) on behalf of a PSAP that chooses not to participate in the:

(i) public safety communications network; and

(ii) 911 emergency service defined in Section 69-2-102.

(f) The executive director shall recommend to the board expenditures for the authority to make from the 911 account in accordance with this Subsection (2).

(3) Subject to an appropriation by the Legislature and approval by the board, the Administrative Services Division may use funds in the 911 account to cover the Administrative Services Division's administrative costs related to the 911 account.

(4) (a) The authority shall reimburse from the 911 account to the Utah Geospatial Resource Center created in Section 63A-16-505 an amount equal to up to 1 cent of each unified statewide 911 emergency service charge deposited into the 911 account under Section 69-2-403.

(b) The Utah Geospatial Resource Center shall use the funds reimbursed to the Utah Geospatial Resource Center under Subsection (4)(a) to:

(i) enhance and upgrade digital mapping standards; and

(ii) maintain a statewide geospatial database for unified statewide 911 emergency service.

Section 3. Section 63H-7a-403 is amended to read:

63H-7a-403. Utah Statewide Radio System Restricted Account -- Creation -- Administration.

(1) There is created a restricted account within the General Fund known as the "Utah Statewide Radio System Restricted Account," consisting of:

(a) money appropriated or otherwise made available by the Legislature; and

(b) contributions of money from federal agencies, political subdivisions of the state, persons, or corporations.

(2) (a) Subject to appropriations by the Legislature and subject to this Subsection (2), the authority may expend funds in the Utah Statewide Radio System Restricted Account for the purpose of acquiring, constructing, operating, maintaining, and repairing a statewide radio system public safety communications network as authorized in Section 63H-7a-202, including:

(i) public safety communications network and related facilities, real property, improvements, and equipment necessary for the acquisition, construction, and operation of services and facilities;

(ii) installation, implementation, and maintenance of the public safety communications network;

(iii) maintaining and upgrading VHF and 800 MHz radio networks; and

(iv) an operating budget to include personnel costs not otherwise covered by funds from another account.

(b) For each radio network charge that is deposited into the Utah Statewide Radio System Restricted Account under Section 69-2-404, the authority shall spend, subject to an appropriation by the Legislature and this Subsection (2):

(i) on and after July 1, 2017, [~~18~~] and before January 1, 2025, 18 cents of each total radio network charge to maintain the public safety communications network, including:

(A) the 700 MHz, 800 MHz, and VHF radio networks;

(B) the authority's radio console network connectivity;

(C) funding a statewide interoperability coordinator; and

[~~(D) supplementing costs formerly offset by public safety communications network user fees assessed by the authority before July 1, 2017; and~~]

(D) authority administration costs;

(ii) on and after January 1, 2025, and before July 1, 2033, 27 cents of each total radio network charge to maintain the public safety communications network, including:

(A) the 700 MHz, 800 MHz, and VHF radio networks;

(B) the authority's radio console network connectivity;

(C) funding a statewide interoperability coordinator; and

(D) authority administration costs; and

[~~(ii)~~] (iii) on and after January 1, 2018, [~~34~~] and before January 1, 2025, 34 cents of each total radio network charge to acquire, construct, equip, and install property for, and to make improvements to, the 800 MHz radio system, including debt service costs.

(c) In expending funds in the Utah Statewide Radio System Restricted Account, the authority shall give a higher priority to an expenditure that:

(i) best promotes statewide public safety;

(ii) best promotes interoperability;

(iii) impacts the largest service territory;

(iv) impacts a densely populated area; or

(v) impacts an underserved area.

(d) The authority shall expend funds in the Utah Statewide Radio System Restricted Account in accordance with the authority strategic plan described in Section 63H–7a–206.

(e) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the radio network charge imposed in Section 69–2–404 on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:

(i) public safety communications network; and

(ii) radio communications service defined in Section 69–2–102.

(f) The authority may not expend funds from the Utah Statewide Radio System Restricted Account collected through the prepaid wireless 911 service charge revenue distributed in [~~Subsection 69–2–405(9)(c)~~] Subsections 69–2–405(9)(a)(iii) and 69–2–405(9)(b)(iii) on behalf of a public agency or PSAP if the public agency or PSAP chooses not to participate in the:

(i) public safety communications network; and

(ii) radio communications service defined in Section 69–2–102.

(g) The executive director shall recommend to the board expenditures for the authority to make from the Utah Statewide Radio System Restricted Account in accordance with this Subsection (2).

(3) Subject to appropriations by the Legislature, the Administrative Services Division may expend funds in the Utah Statewide Radio System Restricted Account for administrative costs that the Administrative Services Division incurs related to the Utah Statewide Radio System Restricted Account.

Section 4. Section 63H-7a-803 is amended to read:

63H-7a-803. Relation to certain acts -- Participation in Risk Management Fund.

(1) The Utah Communications Authority is exempt from:

(a) except as provided in Subsection (3), Title 63A, Utah Government Operations Code;

(b) Title 63G, Chapter 4, Administrative Procedures Act; and

(c) Title 63A, Chapter 17, Utah State Personnel Management Act.

(2) (a) The board shall adopt [~~budgetary~~] procedures, accounting, and personnel and human resource policies substantially similar to those from which they have been exempted in Subsection (1).

(b) The authority, the board, and the committee members are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(c) The authority is subject to Title 52, Chapter 4, Open and Public Meetings Act.

(d) The authority is subject to Title 63G, Chapter 6a, Utah Procurement Code.

(e) The authority is subject to Title 63J, Chapter 1, Budgetary Procedures Act, only with respect to money appropriated to the authority by the Legislature.

(3) (a) Subject to the requirements of Subsection 63E–1–304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A–4–201.

(b) The authority is subject to Section 67–3–12.

Section 5. Section 63I-1-269 is amended to read:

63I-1-269. Repeal dates, Title 69.

[~~Section 69–2–403, emergency services telecommunications charge to fund unified statewide 911 emergency service, is repealed July 1, 2025.~~]

Section 6. Section 63I-2-263 is amended to read:

63I-2-263. Repeal dates, Title 63A to Title 63N.

[~~(1) Section 63A–3–111 is repealed June 30, 2021.~~]

[~~(2) Title 63C, Chapter 19, Higher Education Strategic Planning Commission is repealed July 1, 2021.~~]

[~~(3)~~] (1) Title 63C, Chapter 22, Digital Wellness, Citizenship, and Safe Technology Commission is repealed July 1, 2023.

[~~(4)~~] (2) Section 63G–1–502 is repealed July 1, 2022.

[~~(5)~~] (3) The following sections regarding the World War II Memorial Commission are repealed on July 1, 2022:

(a) Section 63G–1–801;

(b) Section 63G–1–802;

(c) Section 63G–1–803; and

(d) Section 63G–1–804.

[~~(6)~~] (4) Section 63H–7a–303 is repealed July 1, 2024.

(5) Subsection 63H–7a–403(2)(b), regarding the charge to maintain the public safety communications network, is repealed July 1, 2033.

[~~(7) Subsection 63J–1–206(3)(c), relating to coronavirus, is repealed July 1, 2021.~~]

[~~(8)~~] (6) Sections 63M–7–213 and 63M–7–213.5 are repealed on January 1, 2023.

[~~(9)~~] (7) Section 63M–7–217 is repealed on July 1, 2022.

[~~(10)~~] (8) Title 63N, Chapter 13, Part 3, Facilitating Public-private Partnerships Act, is repealed January 1, 2024.

[~~(11) Title 63N, Chapter 15, COVID-19 Economic Recovery Programs, is repealed December 31, 2021.~~]

Section 7. Section 69-2-402 is amended to read:

69-2-402. 911 emergency service charge.

(1) As used in this section, "911 emergency service charge" means the 911 emergency service charge levied by the state under Subsection (2).

(2) (a) [~~Subject~~] Before January 1, 2025, and subject to Subsection (6), there is imposed on each access line in the state a 911 emergency service charge of 71 cents per month.

(b) On and after January 1, 2025, and subject to Subsection (6), there is imposed on each access line in the state a 911 emergency service charge of 73 cents per month.

[~~(b)~~] (c) An access line is within the state for the purposes of [~~Subsection~~] Subsections (2)(a) and (b) if the telecommunications services provided over the access line are located within the state:

(i) for the purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) as determined in accordance with Section 59-12-215.

(3) (a) Subject to Subsection (6), the person that provides service to an access line shall bill and collect the 911 emergency service charge.

(b) A person that bills and collects the 911 emergency service charge shall, except for costs retained under Subsection (3)(g)(iii), remit the 911 emergency service charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) Except as provided in Subsections (3)(d) and (e), if an access line user is not required to pay for the service, the access line provider shall collect the 911 emergency service charge from the person that is required to pay for the access line.

(d) The 911 emergency service charge is not imposed on a provider of a consumer of federal wireless lifeline service if the consumer does not pay the provider for the service.

(e) A consumer of federal wireless lifeline service shall pay, and the provider of the service shall collect and remit, the 911 emergency service charge when the consumer purchases from the provider optional services in addition to the federally funded lifeline benefit.

(f) The 911 emergency service charge is not imposed on an access line provided for public pay telecommunications service.

(g) The person that bills and collects the 911 emergency service charge:

(i) shall remit the 911 emergency service charge along with a form prescribed by the commission;

(ii) may bill the 911 emergency service charge in combination with the charges levied under Sections 69-2-403 and 69-2-404 as one line item charge for 911 emergency service; and

(iii) may retain an amount not to exceed 1.5% of the 911 emergency service charge as reimbursement for the cost of billing, collecting, and remitting the 911 emergency service charge.

(4) The commission shall transmit the funds the commission collects from the 911 emergency service charge monthly to a public safety answering point in accordance with Section 69-2-302.

(5) An access line provider that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect the 911 emergency service charge on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 8. Section 69-2-403 is amended to read:

69-2-403. Unified statewide 911 emergency service charge to fund Unified Statewide 911 Emergency Service Account.

(1) As used in this section, "unified statewide 911 emergency service charge" means the unified statewide 911 emergency service charge imposed under Subsection (2).

(2) (a) Subject to Subsection (6), there is imposed on each access line in the state a unified statewide 911 emergency service charge of:

(i) until June 30, 2019, 9 cents per month; and

(ii) beginning July 1, 2019, 25 cents per month.

(b) An access line is within the state for the purposes of Subsection (2)(a) if the telecommunications services provided over the access line are located within the state:

(i) for the purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) as determined in accordance with Section 59-12-215.

(3) (a) The person that provides service to an access line shall bill and collect the unified statewide 911 emergency service charge.

(b) A person that bills and collects the unified statewide 911 emergency service charge shall pay the unified statewide 911 emergency service charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) If an access line user is not required to pay for the access line, the access line provider shall collect the unified statewide 911 emergency service charge from the person that is required to pay for the access line.

(d) The person that bills and collects the unified statewide 911 emergency service charge:

(i) shall remit the unified statewide 911 emergency service charge along with a form prescribed by the commission;

(ii) may bill the unified statewide 911 emergency service charge in combination with the charges levied under Sections 69-2-402 and 69-2-404 as one line item charge for 911 emergency service; and

(iii) may retain an amount not to exceed 1.5% of the unified statewide 911 emergency service charge collected under this section as reimbursement for the cost of billing, collecting, and remitting the unified statewide 911 emergency service charge.

(4) The commission shall deposit any unified 911 emergency service charge remitted to the commission into the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(5) An access line provider that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect an emergency services telecommunications charge under this section on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

[~~(7) This section sunsets in accordance with Section 63I-1-269.~~]

Section 9. Section 69-2-404 is amended to read:

69-2-404. Radio network charge to fund the Utah Statewide Radio System Restricted Account.

(1) As used in this section, "radio network charge" means the radio network charge imposed under Subsection (2).

(2) (a) Subject to Subsection (6), there is imposed on each access line in the state a radio network charge of:

(i) on and after July 1, 2017, and before January 1, 2018, 18 cents per month; [~~and~~]

(ii) on and after January 1, 2018, and before January 1, 2025, 52 cents per month[~~.~~]; and

(iii) on and after January 1, 2025, and before July 1, 2033, 27 cents per month.

(b) An access line is within the state for the purposes of Subsection (2)(a) if the telecommunications services provided over the access line are located within the state:

(i) for the purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act; and

(ii) as determined in accordance with Section 59-12-215.

(3) (a) The person that provides service to an access line shall bill and collect the radio network charge.

(b) A person that bills and collects the radio network charge shall pay the radio network charge to the commission:

(i) monthly on or before the last day of the month immediately following the last day of the previous month if:

(A) the person is required to file a sales and use tax return with the commission monthly under Section 59-12-108; or

(B) the person is not required to file a sales and use tax return under Title 59, Chapter 12, Sales and Use Tax Act; or

(ii) quarterly on or before the last day of the month immediately following the last day of the previous quarter if the person is required to file a sales and use tax return with the commission quarterly under Section 59-12-107.

(c) If an access line user is not required to pay for the access line, the access line provider shall collect the radio network charge from the person that is required to pay for the access line.

(d) The person that bills and collects a radio network charge:

(i) shall remit the radio network charge along with a form prescribed by the commission; and

(ii) may bill the radio network charge in combination with the charges levied under Sections 69-2-402 and 69-2-403 as one line item charge for 911 emergency service.

(4) The commission shall deposit any radio network charge remitted to the commission into the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(5) An access line provider that fails to comply with this section is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

(6) The state may impose, bill, and collect the radio network charge under this section on a mobile telecommunications service only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

Section 10. Section 69-2-405 is amended to read:

69-2-405. Service charges -- Collection and distribution of revenue.

(1) As used in this section:

(a) "Consumer" means a person who purchases prepaid wireless telecommunications service in a transaction.

(b) "Prepaid wireless 911 service charge" means the charge that is required to be collected by a seller from a consumer in the amount established under Subsection (2).

(c) (i) "Prepaid wireless telecommunications service" means a wireless telecommunications service that:

(A) is paid for in advance;

(B) is sold in predetermined units of time or dollars that decline with use in a known amount or provides unlimited use of the service for a fixed amount or time; and

(C) allows a caller to access 911 emergency service.

(ii) "Prepaid wireless telecommunications service" does not include a wireless telecommunications service that is billed:

(A) to a customer on a recurring basis; and

(B) in a manner that includes the charges levied under Sections 69-2-402, 69-2-403, and 69-2-404, for each radio communication access line assigned to the customer.

(d) "Seller" means a person that sells prepaid wireless telecommunications service to a consumer.

(e) "Transaction" means each purchase of prepaid wireless telecommunications service from a seller.

(f) "Wireless telecommunications service" means commercial mobile radio service as defined by 47 C.F.R. Sec. 20.3, as amended.

(2) There is imposed:

(a) (i) before January 1, 2025, a prepaid wireless 911 service charge of 3.7% of the sales price per transaction; and

(ii) on and after January 1, 2025, a prepaid wireless 911 service charge of 3.13% of the sales price per transaction; and

(b) a prepaid wireless telecommunications service charge of 1.2% of the sales price per transaction.

(3) (a) Each charge described in Subsection (2) shall be collected by the seller from the consumer for each transaction occurring in this state.

(b) (i) Except as provided in Subsections (3)(b)(ii) and (iii), if a user of a service subject to a charge described in Subsection (2) is not the consumer, the seller shall collect the charge from the consumer for the service.

(ii) A charge described in Subsection (2) is not imposed on a seller or a consumer of federal wireless lifeline service if the consumer does not pay the seller for the service.

(iii) A consumer of federal wireless lifeline service shall pay, and the seller of the service shall collect and remit, each charge described in Subsection (2) when the consumer purchases from the seller optional services in addition to the federally funded lifeline benefit.

(4) Each charge described in Subsection (2) shall be separately stated on an invoice, receipt, or similar document that is provided by the seller to the consumer.

(5) For purposes of Subsection (3), the location of a transaction is determined in accordance with Sections 59-12-211 through 59-12-215.

(6) When prepaid wireless telecommunications service is sold with one or more other products or services for a single non-itemized price, then the percentage specified in Subsection (2) shall apply to the entire non-itemized price.

(7) A seller may retain 3% of the charges described in Subsection (2) that are collected by the seller from consumers as reimbursement for the cost of billing, collecting, and remitting the charge.

(8) A person that collects a charge described in Subsection (2), except as retained under Subsection (7), shall remit each charge to the commission at the same time that the seller remits to the commission money collected by the person under Title 59, Chapter 12, Sales and Use Tax Act.

(9) The commission shall distribute revenues collected under this section as follows:

(a) Before January 1, 2025:

[~~(a)~~] (i) 47.97% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

[~~(b)~~] (ii) 16.89% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304;

[~~(c)~~] (iii) 35.14% of the prepaid wireless 911 service charge revenue to the Utah Statewide Radio

System Restricted Account created in Section 63H-7a-403; and

[~~(d)~~] (iv) 100% of the prepaid wireless telecommunications service charge revenue to the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15[~~.~~];

(b) after January 1, 2025, and before July 1, 2033:

(i) 58.4% of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

(ii) 20% of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304;

(iii) 21.6% of the prepaid wireless 911 service charge revenue to the Utah Statewide Radio System Restricted Account created in Section 63H-7a-403; and

(iv) 100% of the prepaid wireless telecommunications service charge revenue to the Universal Public Telecommunications Service Support Fund created in Section 54-8b-15; and

(c) after July 1, 2033, when Subsection 63H-7a-403(2)(b) sunsets in accordance with Section 63I-2-263:

(i) 74.49 % of the prepaid wireless 911 service charge revenue to a public safety answering point in accordance with Section 69-2-302;

(ii) 25.51 % of the prepaid wireless 911 service charge revenue to the Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304; and

(iii) 100% of the prepaid wireless telecommunications service charge revenue to the Universal Public Telecommunications Service Support Fund created in Section 54-8-15.

Section 11. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 436
S. B. 148

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

CONSTRUCTION REGISTRY AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill enacts provisions for the creation and maintenance of the Construction Business Registry.

Highlighted Provisions:

This bill:

- defines terms;
- directs the Division of Occupational and Professional Licensing (division) to establish and maintain a database, the Construction Business Registry, of contact information for licensed contractors;
- establishes the parameters of the Construction Business Registry;
- permits the division to establish a fee in relation to the Construction Business Registry;
- grants rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Commerce -- Commerce General Regulation:
  - from General Fund Restricted -- Commerce Service Account, $74,400; and
  - from General Fund Restricted -- Commerce Service Account, One-time, $67,100.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

58-55-701, Utah Code Annotated 1953
58-55-702, Utah Code Annotated 1953
58-55-703, Utah Code Annotated 1953
58-55-704, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-55-701 is enacted to read:

Part 7. Construction Business Registry

58-55-701. Definitions.

As used in this part, "licensed contractor" means a person licensed under this chapter.

Section 2. Section 58-55-702 is enacted to read:

58-55-702. Construction Business Registry.

(1) The division shall establish and maintain the Construction Business Registry as described in this section.

(2) The Construction Business Registry shall consist of a database of contact information for licensed contractors.

(3) Beginning January 1, 2023, the division shall ensure that the Construction Business Registry:

(a) is accessible to the public through an Internet website; and

(b) is indexed by:

(i) the name of the licensed contractor;

(ii) the name of the licensed contractor's licensed business;

(iii) the classification of the licensed contractor, as described in Section 58-55-301; and

(iv) any other identifier that the division considers reasonably appropriate.

(4) The division may link or otherwise associate the Construction Business Registry with the State Construction Registry under Title 38, Chapter 1a, Part 2, State Construction Registry.

(5) (a) The division shall establish a process for a licensed contractor to:

(i) before entry into the Construction Business Registry, specify the licensed contractor's contact information that the licensed contractor wants included in the Construction Business Registry;

(ii) opt out of participation in the Construction Business Registry at any time; or

(iii) amend the licensed contractor's contact information in the Construction Business Registry at any time.

(b) If a licensed contractor does not specify the licensed contractor's contact information for the Construction Business Registry, the division shall include in the Construction Business Registry only public contact information for the licensed contractor.

Section 3. Section 58-55-703 is enacted to read:

58-55-703. Fees.

The division may establish a fee for the entry of a licensed contractor's contact information into the Construction Business Registry, in accordance with Section 63J-1-504, to assist in offsetting the cost of creating, administering, and maintaining the Construction Business Registry.

Section 4. Section 58-55-704 is enacted to read:

58-55-704. Rulemaking.

The division may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish and maintain the Construction Business Registry in accordance with this part.

Section 5. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending

June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Commerce — Commerce General Regulation

From General Fund Restricted — Commerce Service Account	$74,400
From General Fund Restricted — Commerce Service Account, One-Time	$67,100
Schedule of Programs:	
Occupational and Professional Licensing	$141,500

The Legislature intends that:

(1) under Utah Code Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2023; and

(2) the use of any nonlapsing funds is limited to Occupational and Professional Licensing.

CHAPTER 437
S. B. 150

Passed March 3, 2022
Approved March 24, 2022
Effective March 24, 2022

CRIMINAL JUSTICE DATA MANAGEMENT TASK FORCE

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Karianne Lisonbee

LONG TITLE

General Description:

This bill creates the Criminal Justice Data Management Task Force.

Highlighted Provisions:

This bill:

- creates the Criminal Justice Data Management Task Force;
- defines membership;
- sets out the task force's responsibilities; and
- sets a sunset date.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

- to the Commission on Criminal and Juvenile Justice -- CCJJ Commission:
  - from General Fund, One-time -- $50,000.

This bill appropriates in fiscal year 2023:

- to the Commission on Criminal and Juvenile Justice -- CCJJ Commission:
  - from General Fund -- $170,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-236, as last amended by Laws of Utah 2021, Second Special Session, Chapter 8

ENACTS:

36-29-109, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-109 is enacted to read:

36-29-109. (Codified as 36-29-111) Criminal Justice Data Management Task Force.

(1) As used in this section, "task force" means the Criminal Justice Data Management Task Force created in this section.

(2) There is created the Criminal Justice Data Management Task Force consisting of the following members:

(a) three members of the Senate appointed by the president of the Senate, no more than two of whom may be from the same political party;

(b) three members of the House of Representatives appointed by the speaker of the House of Representatives, no more than two of whom may be from the same political party; and

(c) representatives from the following organizations as requested by the executive director of the Commission on Criminal and Juvenile Justice:

(i) the Commission on Criminal and Juvenile Justice;

(ii) the Office of the Utah Attorney General;

(iii) the Judicial Council;

(iv) the Statewide Association of Prosecutors;

(v) the Department of Corrections;

(vi) the Department of Public Safety;

(vii) the Utah League of Cities and Towns;

(viii) the Utah Association of Counties;

(ix) the Utah Chiefs of Police Association;

(x) the Utah Sheriffs Association;

(xi) the Board of Pardons and Parole;

(xii) a representative from a bail bond agency; and

(xiii) any other organizations or groups as recommended by the executive director of the Commission on Criminal and Juvenile Justice.

(3) (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the task force.

(b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

(4) (a) A majority of the members of the task force present at a meeting constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the task force.

(5) (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the task force who is not a legislator:

(i) may not receive compensation for the member's work associated with the task force; and

(ii) may receive per diem and reimbursement for travel expenses incurred as a member of the task force at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The Commission on Criminal and Juvenile Justice shall provide staff support to the task force.

(7) The task force shall review the state's current criminal justice data collection requirements and make recommendations regarding:

(a) possible ways to connect the various records systems used throughout the state so that data can be shared between criminal justice agencies and with policymakers;

(b) ways to automate the collection, storage, and dissemination of the data;

(c) standardizing the format of data collection and retention; and

(d) the collection of data not already required related to criminal justice.

(8) On or before November 30, 2022, the task force shall provide a report, including any proposed legislation, to:

(a) the Law Enforcement and Criminal Justice Interim Committee; and

(b) the Legislative Management Committee.

(9) The task force is repealed April 30, 2023.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-29-107.5 is repealed on November 30, 2023.

(2) Section 36-29-109 is repealed April 30, 2023.

[~~(2)~~] (3) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office - Commission on Criminal and Juvenile Justice - CCJJ Commission

From General Fund, One-time	$50,000
Schedule of Programs:	
CCJJ Commission	$50,000

The Legislature intends that the Commission on Criminal and Juvenile Justice use this appropriation to fund the position of Data Program Manager.

Section 4. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Governor's Office - Commission on Criminal and Juvenile Justice - CCJJ Commission

From General Fund	$170,000
Schedule of Programs:	
CCJJ Commission	$170,000

The Legislature intends that the Commission on Criminal and Juvenile Justice use this appropriation to fund the position of Data Program Manager.

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, Section 3 of this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 438
S. B. 151

Passed February 25, 2022
Approved March 24, 2022
Effective May 4, 2022

ADVANCED PRACTICE REGISTERED NURSE COMPACT

Chief Sponsor: Curtis S. Bramble
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill enacts provisions related to the nursing profession.

Highlighted Provisions:

This bill:

- enacts the Advanced Practice Registered Nurse Compact (compact);
- requires individuals to complete a background check to obtain a license to be a nurse midwife as required by the compact;
- for purposes of the compact, allows an individual licensed as an advanced practice registered nurse to obtain licensure as a certified nurse anesthetist or a nurse midwife; and
- repeals the previously enacted compact related to advanced practice registered nurses and associated provisions.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2020, Chapter 339
58-44a-302, as last amended by Laws of Utah 2016, Chapter 238

ENACTS:

58-44a-302.1, Utah Code Annotated 1953

REPEALS AND REENACTS:

58-31d-101, as enacted by Laws of Utah 2004, Chapter 15
58-31d-102, as enacted by Laws of Utah 2004, Chapter 15

REPEALS:

58-31d-103, as last amended by Laws of Utah 2019, Chapter 233

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of [~~persons~~] individuals who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307 [~~of Title 58, Chapter 17b, Pharmacy Practice Act~~];

(b) Sections 58-24b-302 and 58-24b-302.1 [~~of Title 58, Chapter 24b, Physical Therapy Practice Act~~];

(c) Section 58-31b-302 [~~of Title 58, Chapter 31b, Nurse Practice Act~~];

(d) Section 58-44a-302.1;

[~~(d)~~] (e) Section 58-47b-302 [~~of Title 58, Chapter 47b, Massage Therapy Practice Act~~];

[~~(e)~~] (f) Section 58-55-302 [~~of Title 58, Chapter 55, Utah Construction Trades Licensing Act, as it~~], as Section 58-55-302 applies to alarm companies and alarm company agents;

[~~(f)~~] (g) Sections 58-61-304 and 58-61-304.1 [~~of Title 58, Chapter 61, Psychologist Licensing Act~~];

[~~(g)~~] (h) Section 58-63-302 [~~of Title 58, Chapter 63, Security Personnel Licensing Act~~];

[~~(h)~~] (i) Section 58-64-302 [~~of Title 58, Chapter 64, Deception Detection Examiners Licensing Act~~];

[~~(i)~~] (j) Sections 58-67-302 and 58-67-302.1 [~~of Title 58, Chapter 67, Utah Medical Practice Act~~]; and

[~~(j)~~] (k) Sections 58-68-302 and 58-68-302.1 [~~of Title 58, Chapter 68, Utah Osteopathic Medical Practice Act~~].

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 2. Section 58-31d-101 is repealed and reenacted to read:

58-31d-101. Advanced Practice Registered Nurse Compact.

The Advanced Practice Registered Nurse Compact is hereby enacted and entered into with all other jurisdictions that legally join in the compact, which is, in form, substantially as follows:

ARTICLE I

Findings and Declaration of Purpose

(1) The party states find that:

(a) the health and safety of the public are affected by the degree of compliance with APRN licensure requirements and the effectiveness of enforcement activities related to State APRN licensure laws;

(b) violations of APRN licensure and other laws regulating the practice of nursing may result in injury or harm to the public;

(c) the expanded mobility of APRNs and the use of advanced communication and intervention technologies as part of our nation's health care delivery system require greater coordination and cooperation among states in the areas of APRN licensure and regulation;

(d) new practice modalities and technology make compliance with individual state APRN licensure laws difficult and complex;

(e) the current system of duplicative APRN licensure for APRNs practicing in multiple states is cumbersome and redundant for healthcare delivery systems, payors, state licensing boards, regulators and APRNs; and

(f) uniformity of APRN licensure requirements throughout the states promotes public safety and public health benefits as well as providing a mechanism to increase access to care, particularly in rural and underserved areas.

(2) The general purposes of this compact are to:

(a) facilitate the states' responsibilities to protect the public's health and safety;

(b) ensure and encourage the cooperation of party states in the areas of APRN licensure and regulation, including promotion of uniform licensure requirements;

(c) facilitate the exchange of information between party states in the areas of APRN regulation, investigation, and adverse actions;

(d) promote compliance with the laws governing APRN practice in each jurisdiction;

(e) invest all party states with the authority to hold an APRN accountable for meeting all state practice laws in the state in which the patient is located at the time care is rendered through the mutual recognition of party state privileges to practice;

(f) decrease redundancies in the consideration and issuance of APRN licenses; and

(g) provide opportunities for interstate practice by APRNs who meet uniform licensure requirements.

ARTICLE II

Definitions

As used in this compact:

(1) "Advanced practice registered nurse" or "APRN" means a registered nurse who has gained additional specialized knowledge, skills, and experience through a program of study recognized or defined by the Interstate Commission of APRN Compact Administrators (”Commission") and who is licensed to perform advanced nursing practice. An advanced practice registered nurse is licensed in an APRN role that is congruent with an APRN educational program, certification, and Commission rules.

(2) "Adverse action" means any administrative, civil, equitable or criminal action permitted by a state's laws, which is imposed by a licensing board or other authority against an APRN, including actions against an individual's license or multistate licensure privilege such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other encumbrance on licensure affecting an APRN's authorization to practice, including the issuance of a cease and desist action.

(3) "Alternative program" means a nondisciplinary monitoring program approved by a licensing board.

(4) "APRN licensure" means the regulatory mechanism used by a party state to grant legal authority as an APRN.

(5) "APRN uniform licensure/ requirements" means the minimum uniform licensure, education, and examination requirements set forth in Article III.2 of this Compact.

(6) "Coordinated licensure information system" means an integrated process for collecting, storing, and sharing information on APRN licensure and enforcement activities related to APRN licensure laws that are administered by a nonprofit organization composed of and controlled by licensing boards.

(7) "Current significant investigative information" means:

(a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the APRN to respond, if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

(b) investigative information that indicates that the APRN represents an immediate threat to public health and safety regardless of whether the APRN has been notified and had an opportunity to respond.

(8) "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of nursing imposed by a licensing board in connection with a disciplinary proceeding.

(9) "Home state" means the party state that is the APRN's primary state of residence.

(10) "Licensing board" means a party state's regulatory body responsible for regulating the practice of advanced practice registered nursing.

(11) "Multistate license" means an APRN license to practice as an APRN issued by a home state licensing board that authorizes the APRN to practice as an APRN in all party states under a

multistate licensure privilege, in the same role and population focus as the APRN is licensed in the home state.

(12) "Non-controlled prescription drug" means a device or drug that is not a controlled substance and is prohibited under state or federal law from being dispensed without a prescription. The term includes a device or drug that bears or is required to bear the legend "Caution: federal law prohibits dispensing without prescription" or "prescription only" or other legend that complies with federal law.

(13) "Party state" means any state that has adopted this compact.

(14) "Population focus" means one of the six population foci of family/individual across the lifespan, adult-gerontology, pediatrics, neonatal, women's health/gender-related and psych/mental health.

(15) "Prescriptive authority" means the legal authority to prescribe medications and devices as defined by party state laws.

(16) "Remote state" means a party state that is not the home state.

(17) "Role" means one of the four recognized roles of certified registered nurse anesthetists (CRNA), certified nurse-midwives (CNM), clinical nurse specialists (CNS) and certified nurse practitioners (CNP).

(18) "Single-state license" means an APRN license issued by a party state that authorizes practice only within the issuing state and does not include a multistate licensure privilege to practice in any other party state.

(19) "State" means a state, territory, or possession of the United States and the District of Columbia.

(20) (a) "State practice laws" means a party state's laws, rules, and regulations that govern APRN practice, define the scope of advanced nursing practice, and create the methods and grounds for imposing discipline except that prescriptive authority shall be treated in accordance with Article III.1(d) of this Compact.

(b) "State practice laws" do not include:

(i) a party state's laws, rules, and regulations requiring supervision or collaboration with a healthcare professional, except for laws, rules, and regulations regarding prescribing controlled substances; or

(ii) the requirements necessary to obtain and retain an APRN license, except for qualifications or requirements of the home state.

ARTICLE III

General Provisions and Jurisdiction

(1) (a) A state must implement procedures for considering the criminal history records of applicants for initial APRN licensure or APRN licensure by endorsement.

(b) Such procedures shall include the submission of fingerprints or other biometric-based information by APRN applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state's criminal records.

(2) Each party state shall require an applicant to satisfy, the following APRN uniform licensure requirements to obtain or retain a multistate license in the home state:

(a) meeting the home state's qualifications for licensure or renewal of licensure, as well as, all other applicable state laws;

(b) (i) has completed an accredited graduate-level education program that prepares the applicant for one of the four recognized roles and population foci; or

(ii) has completed a foreign APRN education program for one of the four recognized roles and population foci that:

(A) has been approved by the authorized accrediting body in the applicable country; and

(B) has been verified by an independent credentials review agency to be comparable to a licensing board-approved APRN education program;

(c) has, if a graduate of a foreign APRN education program not taught in English or if English is not the individual's native language, successfully passed an English proficiency examination that includes the components of reading, speaking, writing and listening;

(d) has successfully passed a national certification examination that measures APRN, role and population-focused competencies and maintains continued competence as evidenced by recertification in the role and population focus through the national certification program;

(e) holds an active, unencumbered license as a registered nurse and an active, unencumbered authorization to practice as an APRN;

(f) has successfully passed an NCLEX-RN examination or recognized predecessor, as applicable;

(g) has practiced for at least 2,080 hours as an APRN in a role and population focus congruent with the applicant's education and training. For purposes of this section, practice shall not include hours obtained as part of enrollment in an APRN education program;

(h) has submitted, in connection with an application for initial licensure or licensure by endorsement, fingerprints or other biometric data for the purpose of obtaining criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that state or, if applicable, foreign country's criminal records;

(i) has not been convicted or found guilty, or has entered into an agreed disposition, of a felony offense under applicable state, federal or foreign criminal law;

(j) has not been convicted or found guilty, or has entered into an agreed disposition, of a misdemeanor offense related to the practice of nursing as determined by factors set forth in rules adopted by the Commission;

(k) is not currently enrolled in an alternative program;

(l) is subject to self-disclosure requirements regarding current participation in an alternative program; and

(m) has a valid United States Social Security number.

(3) An APRN issued a multistate license shall be licensed in an approved role and at least one approved population focus.

(4) An APRN multistate license issued by a home state to a resident in that state will be recognized by each party state as authorizing the APRN to practice as an APRN in each party state, under a multistate licensure privilege, in the same role and population focus as the APRN is licensed in the home state.

(5) Nothing in this Compact shall affect the requirements established by a party state for the issuance of a single-state license, except that an individual may apply for a single-state license, instead of a multistate license, even if otherwise qualified for the multistate license. However, the failure of such an individual to affirmatively opt for a single state license may result in the issuance of a multistate license.

(6) Issuance of an APRN multistate license shall include prescriptive authority for non-controlled prescription drugs.

(7) For each state in which an APRN seeks authority to prescribe controlled substances, the APRN shall satisfy all requirements imposed by such state in granting and/or renewing such authority.

(8) (a) An APRN issued a multistate license is authorized to assume responsibility and accountability for patient care independent of any supervisory or collaborative relationship.

(b) This authority may be exercised in the home state and in any remote state in which the APRN exercises a multistate licensure privilege.

(9) (a) All party states shall be authorized, in accordance with state due process laws, to take adverse action against an APRN's multistate licensure privilege such as revocation, suspension, probation or any other action that affects an APRN's authorization to practice under a multistate licensure privilege, including cease and desist actions.

(b) If a party state takes such action, it shall promptly notify the administrator of the coordinated licensure information system.

(c) The administrator of the coordinated licensure information system shall promptly notify the home state of any such actions by remote states.

(10) (a) Except as otherwise expressly provided in this Compact, an APRN practicing in a party state must comply with the state practice laws of the state in which the client is located at the time service is provided.

(b) APRN practice is not limited to patient care, but shall include all advanced nursing practice as defined by the state practice laws of the party state in which the client is located.

(c) APRN practice in a party state under a multistate licensure privilege will subject the APRN to the jurisdiction of the licensing board, the courts, and the laws of the party state in which the client is located at the time service is provided.

(11) Except as otherwise expressly provided in this Compact, this Compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as satisfying any state law requirement for registered nurse licensure as a precondition for authorization to practice as an APRN in that state.

(12) Individuals not residing in a party state shall continue to be able to apply for a party state's single-state APRN license as provided under the laws of each party state. However, the single-state license granted to these individuals will not be recognized as granting the privilege to practice as an APRN in any other party state.

ARTICLE IV

Applications for APRN Licensure in a Party State

(1) Upon application for an APRN multistate license, the licensing board in the issuing party state shall ascertain, through the coordinated licensure information system, whether the applicant has ever held or is the holder of a licensed practical/vocational nursing license, a registered nursing license or an advanced practice registered nursing license issued by another state, whether there are any encumbrances on any license or multistate licensure privilege held by the applicant, whether any adverse action has been taken against a license or multistate licensure privilege held by the applicant, and whether the applicant is currently participating in an alternative program.

(2) An APRN may hold a multistate APRN license issued by the home state, in only one party state at a time.

(3) If an APRN changes primary state of residence by moving between two party states, the APRN must apply for APRN licensure in the new home state, and the multistate license issued by the prior home state shall be deactivated in accordance with applicable Commission rules.

(a) The APRN may apply for licensure in advance of a change in primary state of residence.

(b) A multistate APRN license shall not be issued by the new home state until the APRN provides satisfactory evidence of a change in primary state of residence to the new home state and satisfies all applicable requirements to obtain a multistate APRN license from the new home state.

(4) When an APRN changes primary state of residence by moving from a party state to a non-party state, the APRN multistate license issued by the prior home state will convert to a single-state license, valid only in the former home state.

ARTICLE V

Additional Authorities Invested in Party State Licensing Boards

(1) In addition to the other powers conferred by state law, a licensing board shall have the authority to:

(a) Take adverse action against an APRN's multistate licensure privilege to practice within that party state.

(i) Only the home state shall have the power to impose adverse action against the APRN license issued by the home state.

(ii) For purposes of imposing adverse action, the home state licensing board shall give the same priority and effect to reported conduct that occurred outside the home state as it would if that conduct had occurred within the home state. In so doing, it shall apply its own state laws to determine appropriate action.

(b) Issue cease and desist orders or impose an encumbrance on an APRN's authority to practice within that party state.

(c) Complete any pending investigations of an APRN who changes primary state of residence during the course of such investigations. The licensing board shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of such investigations to the administrator of the coordinated licensure information system. The administrator of the coordinated licensure information system shall promptly notify the new home state of any such actions.

(d) Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses, as well as, the production of evidence in accordance with the following:

(i) Subpoenas issued by a party state licensing board for the attendance and testimony of witnesses, and/or the production of evidence from another party state shall be enforced in the latter state by any court of competent jurisdiction, according to the court's practice and procedure in considering subpoenas issued in its own proceedings.

(ii) The issuing licensing board shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state in which the witnesses and/or evidence are located;

(e) Obtain and submit, for an APRN licensure applicant, fingerprints or other biometric-based information to the Federal Bureau of Investigation for criminal background checks, receive the results of the Federal Bureau of Investigation record search on criminal background checks and use the results in making licensure decision.

(f) If otherwise permitted by state law, recover from the affected APRN the costs of investigations and disposition of cases resulting from any adverse action taken against that APRN.

(g) Take adverse action based on the factual findings of another party state, provided that the licensing board follows its own procedures for taking such adverse action.

(2) (a) If adverse action is taken by a home state against an APRN's multistate licensure, the privilege to practice in all other party states under a multistate licensure privilege shall be deactivated until all encumbrances have been removed from the APRN's multistate license.

(b) All home state disciplinary orders that impose adverse action against an APRN's multistate license shall include a statement that the APRN's multistate licensure privilege is deactivated in all party states during the pendency of the order.

(3) (a) Nothing in this Compact shall override a party state's decision that participation in an alternative program may be used in lieu of adverse action.

(b) The home state licensing board shall deactivate the multistate licensure privilege under the multistate license of any APRN for the duration of the APRN's participation in an alternative program.

ARTICLE VI

Coordinated Licensure Information System and Exchange of Information

(1) All party states shall participate in a coordinated licensure information system of all APRNs, licensed registered nurses and licensed practical/vocational nurses. This system will include information on the licensure and disciplinary history of each APRN, as submitted by party states, to assist in the coordinated administration of APRN licensure enforcement efforts.

(2) The Commission, in consultation with the administrator of the coordinated licensure information system, shall formulate necessary and proper procedures for the identification, collection and exchange of information under this Compact.

(3) All licensing boards shall promptly report to the coordinated licensure information system any adverse action, any current significant investigative information, denials of applications (reason for such denials) and APRN participation in alternative programs known to the licensing board regardless of whether such participation is deemed nonpublic and/or confidential under state law.

(4) Notwithstanding any other provision of law, all party states' licensing boards contributing information to the coordinated licensure information system may designate information that may not be shared with non-party states or disclosed to other entities or individuals without the express permission of the contributing state.

(5) Any personally identifiable information obtained from the coordinated licensure information system by a party state licensing board shall not be shared with non-party states or disclosed to other entities or individuals except to the extent permitted by the laws of the party state contributing the information.

(6) Any information contributed to the coordinated licensure information system that is subsequently required to be expunged by the laws of the party state contributing that information shall also be expunged from the coordinated licensure information system.

(7) The Compact administrator of each party state shall furnish a uniform data set to the Compact administrator of each other party state, which shall include, at a minimum:

(a) identifying information;

(b) licensure data;

(c) information related to alternative program participation information; and

(d) other information that may facilitate the administration of this Compact, as determined by Commission rules.

(8) The Compact administrator of a party state shall provide all investigative documents and information requested by another party state.

ARTICLE VII

Establishment of the Interstate Commission of APRN Compact Administrators

(1) The party states hereby create and establish a joint public agency known as the Interstate Commission of APRN Compact Administrators.

(a) The Commission is an instrumentality of the party states.

(b) Venue is proper, and judicial proceedings by or against the Commission shall be brought solely and exclusively, in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

(2) Membership, Voting and Meetings

(a) Each party state shall have and be limited to one administrator. The head of the state licensing board or designee shall be the administrator of this Compact for each party state. Any administrator may be removed or suspended from office as provided by the law of the state from which the Administrator is appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the party state in which the vacancy exists.

(b) Each administrator shall be entitled to one (1) vote with regard to the promulgation of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission. An administrator shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for an administrator's participation in meetings by telephone or other means of communication.

(c) The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws or rules of the commission.

(d) All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the rulemaking provisions in Article VIII.

(e) The Commission may convene in a closed, nonpublic meeting if the Commission must discuss:

(i) noncompliance of a party state with its obligations under this Compact;

(ii) the employment, compensation, discipline or other personnel matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

(iii) current, threatened, or reasonably anticipated litigation;

(iv) negotiation of contracts for the purchase or sale of goods, services or real estate;

(v) accusing any person of a crime or formally censuring any person;

(vi) disclosure of trade secrets or commercial or financial information that is privileged or confidential;

(vii) disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(viii) disclosure of investigatory records compiled for law enforcement purposes;

(ix) disclosure of information related to any reports prepared by or on behalf of the Commission for the purpose of investigation of compliance with this Compact; or

(x) matters specifically exempted from disclosure by federal or state statute.

(f) If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

(3) The Commission shall, by a majority vote of the administrators, prescribe bylaws or rules to govern its conduct as may be necessary or appropriate to carry out the purposes and exercise the powers of this Compact, including but not limited to:

(a) establishing the fiscal year of the Commission;

(b) providing reasonable standards and procedures:

(i) for the establishment and meetings of other committees; and

(ii) governing any general or specific delegation of any authority or function of the Commission.

(c) (i) Providing reasonable procedures for calling and conducting meetings of the Commission, ensuring reasonable advance notice of all meetings and providing an opportunity for attendance of such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and proprietary information, including trade secrets.

(ii) The Commission may meet in closed session only after a majority of the administrators vote to close a meeting in whole or in part.

(iii) As soon as practicable, the Commission must make public a copy of the vote to close the meeting revealing the vote of each administrator, with no proxy votes allowed;

(d) Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

(e) (i) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission.

(ii) Notwithstanding any civil service or other similar laws of any party state, the bylaws shall exclusively govern the personnel policies and programs of the Commission;

(f) Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of this Compact after the payment and/or reserving of all of its debts and obligations;

(4) The Commission shall publish its bylaws and rules, and any amendments thereto, in a convenient form on the website of the Commission;

(5) The Commission shall maintain its financial records in accordance with the bylaws;

(6) The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the bylaws.

(7) The Commission shall have the following powers:

(a) to promulgate uniform rules to facilitate and coordinate implementation and administration of this Compact. The rules shall have the force and effect of law and shall be binding in all party states;

(b) to bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any licensing board to sue or be sued under applicable law shall not be affected;

(c) to purchase and maintain insurance and bonds;

(d) to borrow, accept or contract for services of personnel, including but not limited to employees of a party state or nonprofit organizations;

(e) to cooperate with other organizations that administer state compacts related to the regulation of nursing, including but not limited to sharing administrative or staff expenses, office space or other resources;

(f) to hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of this Compact, and to establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel and other related personnel matters;

(g) to accept any and all appropriate donations, grants and gifts of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety and/or conflict of interest;

(h) to lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, whether real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

(i) to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, whether real, personal or mixed;

(j) to establish a budget and make expenditures;

(k) to borrow money;

(l) to appoint committees, including advisory committees comprised of administrators, state nursing regulators, state legislators or their representatives, and consumer representatives, and other such interested persons;

(m) to issue advisory opinions;

(n) to provide and receive information from, and to cooperate with, law enforcement agencies;

(o) to adopt and use an official seal; and

(p) to perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact, consistent with the state regulation of APRN licensure and practice.

(8) Financing of the Commission

(a) The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) (i) The Commission may also levy on and collect an annual assessment from each party state to cover the cost of its operations, activities and staff in its annual budget as approved each year.

(ii) The aggregate annual assessment amount, if any, shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a rule that is binding upon all party states.

(c) The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the party states, except by, and with the authority of, such party state.

(d) The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

(9) Qualified Immunity, Defense, and Indemnification

(a) The administrators, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional, willful or wanton misconduct of that person.

(b) The Commission shall defend any administrator, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further that the actual or alleged act, error or omission did not result from that person's intentional, willful or wanton misconduct.

(c) The Commission shall indemnify and hold harmless any administrator, officer, executive director, employee or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error or omission that occurred within the scope of Commission employment, duties or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from the intentional, willful or wanton misconduct of that person.

ARTICLE VIII

Rulemaking

(1) The Commission shall exercise its rulemaking powers pursuant to the criteria set forth in this Article and the rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each rule or amendment and shall have the same force and effect as provisions of this Compact.

(2) Rules or amendments to the rules shall be adopted at a regular or special meeting of the Commission.

(3) Prior to promulgation and adoption of a final rule or rules by the Commission, and at least sixty (60) days in advance of the meeting at which the rule will be considered and voted upon, the Commission shall file a notice of proposed rulemaking:

(a) on the website of the Commission; and

(b) on the website of each licensing board or the publication in which each state would otherwise publish proposed rules.

(4) The notice of proposed rulemaking shall include:

(a) the proposed time, date and location of the meeting in which the rule will be considered and voted upon;

(b) the text of the proposed rule or amendment, and the reason for the proposed rule;

(c) a request for comments on the proposed rule from any interested person; and

(d) the manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

(5) Prior to adoption of a proposed rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

(6) The Commission shall grant an opportunity for a public hearing before it adopts a rule or amendment.

(7) The Commission shall publish the place, time, and date of the scheduled public hearing.

(a) (i) Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

(ii) All hearings will be recorded, and a copy will be made available upon request.

(b) Nothing in this section shall be construed as requiring a separate hearing on each rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

(8) If no one appears at the public hearing, the Commission may proceed with promulgation of the proposed rule.

(9) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

(10) The Commission shall, by majority vote of all administrators, take final action on the proposed rule and shall determine the effective date of the rule, if any, based on the rulemaking record and the full text of the rule.

(11) Upon determination that an emergency exists, the Commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in this Compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the rule. For the purposes of this provision, an emergency rule is one that must be adopted immediately in order to:

(a) meet an imminent threat to public health, safety or welfare;

(b) prevent a loss of Commission or party state funds; or

(c) meet a deadline for the promulgation of an administrative rule that is established by federal law or rule.

(12) The Commission may direct revisions to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge shall be made in writing, and delivered to the Commission, prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

ARTICLE IX

Oversight, Dispute Resolution and Enforcement

(1) Oversight

(a) Each party state shall enforce this Compact and take all actions necessary and appropriate to effectuate this Compact's purposes and intent.

(b) The Commission shall be entitled to receive service of process in any proceeding that may affect the powers, responsibilities or actions of the Commission, and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact or promulgated rules.

(2) Default, Technical Assistance and Termination

(a) If the Commission determines that a party state has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated rules, the Commission shall:

(i) provide written notice to the defaulting state and other party states of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

(ii) provide remedial training and specific technical assistance regarding the default.

(b) (i) If a state in default fails to cure the default, the defaulting state's membership in this Compact may be terminated upon an affirmative vote of a majority of the administrators, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination.

(ii) A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of default.

(c) (i) Termination of membership in this Compact shall be imposed only after all other means of securing compliance have been exhausted.

(ii) Notice of intent to suspend or terminate shall be given by the Commission to the governor of the defaulting state and to the executive officer of the defaulting state's licensing board, the defaulting state's licensing board, and each of the party states.

(d) A state whose membership in this Compact has been terminated is responsible for all assessments, obligations and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The Commission shall not bear any costs related to a state that is found to be in default or whose membership in this Compact has been terminated, unless agreed upon in writing between the Commission and the defaulting state.

(f) (i) The defaulting state may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district in which the Commission has its principal offices.

(ii) The prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(3) Dispute Resolution

(a) Upon request by a party state, the Commission shall attempt to resolve disputes related to the Compact that arises among party states and between party and non-party states.

(b) The Commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes, as appropriate.

(c) In the event the Commission cannot resolve disputes among party states arising under this Compact:

(i) The party states may submit the issues in dispute to an arbitration panel, which will be composed of individuals appointed by the Compact administrator in each of the affected party states and an individual mutually agreed upon by the Compact administrators of all the party states involved in the dispute.

(ii) The decision of a majority of the arbitrators shall be final and binding.

(4) Enforcement

(a) The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this Compact.

(b) By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district in which the Commission has its principal offices against a party state that is in default to enforce compliance with the provisions of this Compact and its promulgated rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorneys' fees.

(c) The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or state law.

ARTICLE X

Effective Date, Withdrawal and Amendment

(1) This Compact shall come into limited effect at such time as this Compact has been enacted into law in seven (7) party states for the sole purpose of establishing and convening the Commission to adopt rules relating to its operation.

(2) Any state that joins this Compact subsequent to the Commission's initial adoption of the APRN uniform licensure requirements shall be subject to all rules that have been previously adopted by the Commission.

(3) (a) Any party state may withdraw from this Compact by enacting a statute repealing the same.

(b) A party state's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

(4) A party state's withdrawal or termination shall not affect the continuing requirement of the withdrawing or terminated state's licensing board to report adverse actions and significant investigations occurring prior to the effective date of such withdrawal or termination.

(5) Nothing contained in this Compact shall be construed to invalidate or prevent any APRN licensure agreement or other cooperative arrangement between a party state and a non-party state that does not conflict with the provisions of this Compact.

(6) This Compact may be amended by the party states. No amendment to this Compact shall become effective and binding upon any party state until it is enacted into the laws of all party states.

(7) Representatives of non-party states to this Compact shall be invited to participate in the activities of the Commission, on a nonvoting basis, prior to the adoption of this Compact by all states.

ARTICLE XI

Construction and Severability

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any party state or of the United States, or if the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held to be contrary to the constitution of any party state, this Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

Section 3. Section 58-31d-102 is repealed and reenacted to read:

58-31d-102. Division rulemaking.

(1) The division shall make rules in accordance with Title 63G, Chapter 3, Administrative Rulemaking Act, to implement Section 58-31d-101.

(2) For purposes of Section 58-31d-101, "role" as defined in Article II(17) includes an individual who is:

(a) licensed to practice under Subsection 58-31b-301(2)(d) or (e); or

(b) licensed to practice under Section 58-44a-301.

(4) Notwithstanding any provision in Section 58-31d-101, Section 58-31d-101 does not supersede state law related to an individual's scope of practice under this title.

(5) Once the compact comes into effect as described in Section 58-31d-101, Article X(1), the

division shall provide a notice that the compact is in effect:

(a) to an individual licensed under:

(i) Subsection 58-31b-201(2)(d) or (e);

(ii) Section 58-44a-301; and

(b) to the Health and Human Services Interim Committee; and

(c) on the division's website with information for potential applicants.

Section 4. Section 58-44a-302 is amended to read:

58-44a-302. Qualifications for licensure.

(1) An applicant for licensure as a nurse midwife shall:

(a) submit an application in a form as prescribed by the division;

(b) pay a fee as determined by the department under Section 63J-1-504;

(c) be of good moral character;

(d) at the time of application for licensure hold a license in good standing as a registered nurse in Utah, or be at that time qualified for a license as a registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(e) have completed:

(i) a certified nurse midwifery education program accredited by the Accreditation Commission for Midwifery Education and approved by the division; or

(ii) a nurse midwifery education program located outside of the United States which is approved by the division and is equivalent to a program accredited by the Accreditation Commission for Midwifery Education, as demonstrated by a graduate's being accepted to sit for the national certifying examination administered by the Accreditation Commission for Midwifery Education or its designee; [~~and~~]

(f) have passed examinations established by the division rule in collaboration with the board within two years after completion of the approved education program required under Subsection (1)(e)[~~.~~]; and

(g) complete and pass a criminal background check in accordance with Section 58-44a-302.1.

(2) For purposes of Subsection (1)(e), as of January 1, 2010, [~~the accredited education program or it's equivalent must grant a graduate degree, including post-master's certificate, in nurse midwifery~~] an applicant shall have completed a graduate degree, including post-master's certificate, in nurse midwifery from the accredited education program or the accredited education program's equivalent.

Section 5. Section 58-44a-302.1 is enacted to read:

58-44a-302.1. Background checks.

(1) An applicant for licensure under this chapter shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section:

(i) the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108; and

(ii) the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) Except for information provided to the applicant, the division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

(6) (a) A new nurse midwife license issued under Section 58-44a-302 is conditional pending completion of the criminal background check.

(b) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, if the criminal background check required in Subsection 58-44a-302(1) demonstrates the applicant has failed to accurately disclose a criminal history, the license is immediately and automatically revoked upon notice to the licensee by the division.

(c) An individual's whose conditional license has been revoked under Subsection (6)(b) is entitled to a postrevocation hearing to challenge the revocation.

(d) The division shall conduct a postrevocation hearing in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(7) The division may not authorize the practice of the licensee under Chapter 31d, Advanced Practice Registered Nurse Compact, until the criminal background check described in this section is completed.

Section 6. Repealer.

This bill repeals:

Section 58-31d-103, Rulemaking authority -- Enabling provisions.

CHAPTER 439
S. B. 152

Passed February 24, 2022
Approved March 24, 2022
Effective May 4, 2022

COMMUNITY ASSOCIATION REGULATION AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: A. Cory Maloy

LONG TITLE

General Description:

This bill amends provisions of the Condominium Ownership Act and the Community Association Act.

Highlighted Provisions:

This bill:

- amends and enacts provisions regarding rules an association of unit owners may establish regarding:
  - a unit owner's display of a religious or holiday sign, symbol, or decoration;
  - the display of a for-sale sign or a campaign sign in a window of the owner's condominium unit;
  - the content or design criteria of a political sign; and
  - water-efficient landscaping;
- amends provisions regarding association records;
- amends provisions regarding rules an association may establish regarding:
  - a lot owner's display of a religious or holiday sign, symbol, or decoration;
  - a lot owner's display of a political sign; and
  - an activity of a lot owner within the confines of a dwelling or lot;
- prohibits an association from establishing a rule prohibiting or restricting:
  - a lot owner from displaying a for-sale sign; or
  - the conversion of a grass parking strip to water-efficient landscaping;
- requires an association to establish a rule supporting water-efficient landscaping;
- amends provisions regarding association of unit owners records;
- enacts provisions regarding electric vehicle charging systems;
- amends provisions regarding solar energy systems; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

57-8-8.1, as last amended by Laws of Utah 2021, Chapter 197
57-8-17, as last amended by Laws of Utah 2018, Chapter 395
57-8a-218, as last amended by Laws of Utah 2021, Chapters 102 and 197
57-8a-227, as last amended by Laws of Utah 2018, Chapter 395
57-8a-701, as enacted by Laws of Utah 2017, Chapter 424

ENACTS:

57-8-8.2, Utah Code Annotated 1953
57-8a-801, Utah Code Annotated 1953
57-8a-802, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 57-8-8.1 is amended to read:

57-8-8.1. Equal treatment by rules required -- Limits on rules.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated unit owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association of unit owners provides to unit owners;

(ii) differ between residential and nonresidential uses; or

(iii) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest.

(2) (a) If a unit owner owns a rental unit and is in compliance with the association of unit owners' governing documents and any rule that the association of unit owners adopts under Subsection (4), a rule may not treat the unit owner differently because the unit owner owns a rental unit.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental unit owner from using the common areas and facilities for purposes other than attending an association meeting or managing the rental unit;

(ii) if the rental unit owner retains the right to use the association of unit owners' common areas and facilities, even occasionally:

(A) charge a rental unit owner a fee to use the common areas and facilities; and

(B) for a unit that a unit owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals that may use the common areas and facilities as the rental unit tenant's guest or as the unit owner's guest; or

(iii) include a provision in the association of unit owners' governing documents that:

(A) requires each tenant of a rental unit to abide by the terms of the governing documents; and

(B) holds the tenant and the rental unit owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule may not interfere with the freedom of a unit owner to determine the composition of the unit owner's household.

(b) Notwithstanding Subsection (3)(a), an association of unit owners may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas and facilities.

(4) Unless contrary to a declaration, a rule may require a minimum lease term.

(5) Unless otherwise provided in the declaration, an association of unit owners may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas and facilities;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas and facilities; and

(ii) a service provided to a unit owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association of unit owners' officers and management committee consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(6) (a) Except as provided in Subsection (6)(b), a rule may not prohibit a unit owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's condominium unit.

(b) A rule may prohibit a unit owner from installing a personal security camera in a common area not physically connected to the owner's unit.

(7) (a) A rule may not abridge the right of a unit owner to display a religious or holiday sign, symbol, or decoration inside the owner's condominium unit.

(b) An association may adopt a reasonable time, place, and manner restriction with respect to a display that is visible from the exterior of a unit.

(8) (a) A rule may not:

(i) prohibit a unit owner from displaying in a window of the owner's condominium unit:

(A) a for-sale sign; or

(B) a political sign;

(ii) regulate the content of a political sign; or

(iii) establish design criteria for a political sign.

(b) Notwithstanding Subsection (8)(a), a rule may reasonably regulate the size and time, place, and manner of posting a for-sale sign or a political sign.

(9) An association of unit owners:

(a) shall adopt rules supporting water-efficient landscaping, including allowance for low water use on lawns during drought conditions; and

(b) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

[~~(7)~~] (10) A rule shall be reasonable.

[~~(8)~~] (11) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) through (5), except Subsection (1)(b)(ii).

[~~(9)~~] (12) This section applies to an association of unit owners regardless of when the association of unit owners is created.

Section 2. Section 57-8-8.2 is enacted to read:

57-8-8.2. Electric vehicle charging systems -- Restrictions -- Responsibilities.

(1) As used in this section:

(a) "Charging system" means a device that is:

(i) used to provide electricity to an electric or hybrid electric vehicle; and

(ii) designed to ensure a safe connection between the electric grid and the vehicle.

(b) "General electrical contractor" means the same as that term is defined in Section 58-55-102.

(c) "Residential electrical contractor" means the same as that term is defined in Section 58-55-102.

(2) Notwithstanding any provision in an association's governing documents to the contrary, an association may not prohibit a unit owner from installing or using a charging system in:

(a) a parking space:

(i) assigned to the unit owner's unit; and

(ii) used for the parking or storage of a vehicle or equipment; or

(b) a limited common area parking space designated for the unit owner's exclusive use.

(3) An association may:

(a) require a unit owner to submit an application for approval of the installation of a charging system;

(b) require the unit owner to agree in writing to:

(i) hire a general electrical contractor or residential electrical contractor to install the charging system; or

(ii) if a charging system is installed in a common area, provide reimbursement to the association for the actual cost of the increase in the association's insurance premium attributable to the installation or use of the charging system;

(c) require a charging system to comply with:

(i) the association's reasonable design criteria governing the dimensions, placement, or external appearance of the charging system; or

(ii) applicable building codes;

(d) impose a reasonable charge to cover costs associated with the review and permitting of a charging station;

(e) impose a reasonable restriction on the installation and use of a charging station that does not significantly:

(i) increase the cost of the charging station; or

(ii) decrease the efficiency or performance of the charging station; or

(f) require a unit owner to pay the costs associated with installation, metering, and use of the charging station, including the cost of:

(i) electricity associated with the charging station; and

(ii) damage to a general common area, a limited common area, or an area subject to the exclusive use of another unit owner that results from the installation, use, maintenance, repair, removal, or replacement of the charging station.

(4) A unit owner who installs a charging system shall disclose to a prospective buyer of the unit:

(a) the existence of the charging station; and

(b) the unit owner's related responsibilities under this section.

(5) Unless the unit owner and the association or the declarant otherwise agree:

(a) a charging station installed under this section is the personal property of the unit owner of the unit with which the charging station is associated; and

(b) a unit owner who installs a charging station shall, before transferring ownership of the owner's unit, unless the prospective buyer of the unit accepts ownership and all rights and responsibilities that apply to the charging station under this section:

(i) remove the charging station; and

(ii) restore the premises to the condition before installation of the charging station.

Section 3. Section 57-8-17 is amended to read:

57-8-17. Records -- Availability for examination.

[~~(1) (a) Subject to Subsection (1)(b), an association of unit owners shall keep and make documents available to unit owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610.~~]

[~~(i)~~] (1) (a) Subject to Subsection (1)(b) and regardless of whether the association of unit owners is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act[~~; and~~], an association of unit owners shall keep and make available to unit owners:

[~~(ii) including keeping and making available to unit owners a copy of the association of unit owners':~~]

[~~(A) declaration and bylaws;~~]

(i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

(ii) a copy of the association's:

(A) governing documents;

(B) most recent approved minutes; [~~and~~]

(C) most recent budget and financial statement[~~.~~];

(D) most recent reserve analysis; and

(E) certificate of insurance for each insurance policy the association of unit owners holds.

(b) An association of unit owners may redact the following information from any document the association of unit owners produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association of unit owners shall:

(i) make documents available to unit owners in accordance with the association of unit owners' governing documents; and

(ii) (A) if the association of unit owners has an active website, make the documents described in [~~Subsection~~] Subsections (1)(a)(ii)(A) through (C) available to unit owners, free of charge, through the website; or

(B) if the association of unit owners does not have an active website, make physical copies of the documents described in [~~Subsection~~] Subsections (1)(a)(ii)(A) through (C) available to unit owners during regular business hours at the association of unit owners' address registered with the Department of Commerce under Section 57-8-13.1.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

(c) If a provision of an association of unit owners' governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents:

(a) a unit owner shall include:

(i) the association of unit owners' name;

(ii) the unit owner's name;

(iii) the unit owner's property address;

(iv) the unit owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a unit owner may:

(i) elect whether to inspect or copy the documents;

(ii) if the unit owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(iii) subject to Subsection (4), request that:

(A) the association of unit owners make the copies or electronic scans of the requested documents;

(B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;

(C) the unit owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or

(D) the association of unit owners email the requested documents to an email address provided in the request.

(4) (a) An association of unit owners shall comply with a request described in Subsection (3).

(b) If an association of unit owners produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the unit owner shall pay the association of unit owners the reasonable cost of the copies or electronic scans and for time spent meeting with the unit owner, which may not exceed:

(A) the actual cost that the association of unit owners paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) 10 cents per page and $15 per hour for the employee's, manager's, or other agent's time making the copies or electronic scans.

(c) If a unit owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association of unit owners shall arrange for the delivery and pick up of the original documents; and

(ii) the unit owner shall pay the duplicating service directly.

(d) Subject to Subsection (9), if a unit owner requests to bring imaging equipment to the inspection, the association of unit owners shall provide the necessary space, light, and power for the imaging equipment.

(5) If, in response to a unit owner's request to inspect or copy documents, an association of unit owners fails to comply with a provision of this section, the association of unit owners shall pay:

(a) the reasonable costs of inspecting and copying the requested documents;

(b) for items described in [~~Subsection~~] Subsections (1)(a)(ii)(A) through (C), $25 to the unit owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the unit owner made the request; and

(c) reasonable attorney fees and costs incurred by the unit owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association of unit owners' governing documents or as otherwise provided by law, a unit owner may file an action in court under this section if:

(i) subject to Subsection (9), an association of unit owners fails to make documents available to the unit owner in accordance with this section, the association of unit owners' governing documents, or as otherwise provided by law; and

(ii) the association of unit owners fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the unit owner may request:

(A) injunctive relief requiring the association of unit owners to comply with the provisions of this section;

(B) $500 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the unit owner, notice to the association of unit owners, and a hearing in which the court finds a likelihood that the association of unit owners failed to comply with a provision of this section, the court shall order the association of unit owners to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the unit owner files the motion.

(d) At least 10 days before the day on which a unit owner files an action described in Subsection (6)(a), the unit owner shall deliver a written notice to the association of unit owners that states:

(i) the unit owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association of unit owners has failed to comply;

(iii) a demand that the association of unit owners comply with each requirement with which the association of unit owners has failed to comply; and

(iv) a date by which the association of unit owners shall remedy the association of unit owners' noncompliance that is at least 10 days after the day on which the unit owner delivers the notice to the association of unit owners.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association of unit owners.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A unit owner's agent may, on the unit owner's behalf, exercise or assert any right that the unit owner has under this section.

(9) An association of unit owners is not liable for identifying or providing a document in error, if the association of unit owners identified or provided the erroneous document in good faith.

Section 4. Section 57-8a-218 is amended to read:

57-8a-218. Equal treatment by rules required -- Limits on association rules and design criteria.

(1) (a) Except as provided in Subsection (1)(b), a rule shall treat similarly situated lot owners similarly.

(b) Notwithstanding Subsection (1)(a), a rule may:

(i) vary according to the level and type of service that the association provides to lot owners;

(ii) differ between residential and nonresidential uses; and

(iii) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner.

(2) (a) If a lot owner owns a rental lot and is in compliance with the association's governing documents and any rule that the association adopts under Subsection (4), a rule may not treat the lot owner differently because the lot owner owns a rental lot.

(b) Notwithstanding Subsection (2)(a), a rule may:

(i) limit or prohibit a rental lot owner from using the common areas for purposes other than attending an association meeting or managing the rental lot;

(ii) if the rental lot owner retains the right to use the association's common areas, even occasionally:

(A) charge a rental lot owner a fee to use the common areas; or

(B) for a lot that an owner leases for a term of less than 30 days, impose a reasonable limit on the number of individuals who may use the common areas and facilities as guests of the lot tenant or lot owner; or

(iii) include a provision in the association's governing documents that:

(A) requires each tenant of a rental lot to abide by the terms of the governing documents; and

(B) holds the tenant and the rental lot owner jointly and severally liable for a violation of a provision of the governing documents.

(3) (a) A rule criterion may not abridge the rights of a lot owner to display a religious [~~and~~] or holiday [~~signs, symbols, and decorations~~] sign, symbol, or decoration:

(i) inside a dwelling on a lot[~~.~~]; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the exterior; or

(C) the front yard of the dwelling, unless the association has an ownership interest in, or a maintenance, repair, or replacement obligation for, the yard.

(b) Notwithstanding Subsection (3)(a), the association may adopt a reasonable time, place, and manner [~~restrictions~~] restriction with respect to [~~displays~~] a display that is:

(i) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling; or

(C) the front yard of the dwelling; and

(ii) visible from outside the [~~dwelling or~~] lot.

(4) (a) A rule may not prohibit a lot owner from displaying a political sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

[~~(4) (a)~~] (b) A rule may not regulate the content of a political [~~signs~~] sign.

[~~(b)~~] (c) Notwithstanding Subsection (4)(a)[~~: (i)~~], a rule may reasonably regulate the time, place, and manner of posting a political sign[~~; and~~].

[~~(ii)~~] (d) [~~an~~] An association design provision may not establish design criteria for a political [~~signs~~] sign.

(5) (a) A rule may not prohibit a lot owner from displaying a for-sale sign:

(i) inside a dwelling on a lot; or

(ii) outside a dwelling on:

(A) a lot;

(B) the exterior of the dwelling, regardless of whether the association has an ownership interest in the exterior; or

(C) the front yard of the dwelling, regardless of whether the association has an ownership interest in the yard.

(b) Notwithstanding Subsection (5)(a), a rule may reasonably regulate the time, place, and manner of posting a for-sale sign.

[~~(5)~~] (6) (a) A rule may not interfere with the freedom of a lot owner to determine the composition of the lot owner's household.

(b) Notwithstanding Subsection [~~(5)~~] (6)(a), an association may:

(i) require that all occupants of a dwelling be members of a single housekeeping unit; or

(ii) limit the total number of occupants permitted in each residential dwelling on the basis of the residential dwelling's:

(A) size and facilities; and

(B) fair use of the common areas.

[~~(6)~~] (7) (a) A rule may not interfere with [~~an~~] a reasonable activity of a lot owner within the confines of a dwelling or lot, including backyard landscaping or amenities, to the extent that the activity is in compliance with local laws and ordinances, including nuisance laws and ordinances.

(b) Notwithstanding Subsection [~~(6)~~] (7)(a), a rule may prohibit an activity within the confines of a dwelling [~~on an owner's lot~~] or lot, including backyard landscaping or amenities, if the activity:

(i) is not normally associated with a project restricted to residential use; or

(ii) (A) creates monetary costs for the association or other lot owners;

(B) creates a danger to the health or safety of occupants of other lots;

(C) generates excessive noise or traffic;

(D) creates unsightly conditions visible from outside the dwelling;

(E) creates an unreasonable source of annoyance to persons outside the lot; or

(F) if there are attached dwellings, creates the potential for smoke to enter another lot owner's dwelling, the common areas, or limited common areas.

(c) If permitted by law, an association may adopt rules described in Subsection [~~(6)~~] (7)(b) that affect the use of or behavior inside the dwelling.

[~~(7)~~] (8) (a) A rule may not, to the detriment of a lot owner and over the lot owner's written objection to the board, alter the allocation of financial burdens among the various lots.

(b) Notwithstanding Subsection [~~(7)~~] (8)(a), an association may:

(i) change the common areas available to a lot owner;

(ii) adopt generally applicable rules for the use of common areas; or

(iii) deny use privileges to a lot owner who:

(A) is delinquent in paying assessments;

(B) abuses the common areas; or

(C) violates the governing documents.

(c) This Subsection [~~(7)~~] (8) does not permit a rule that:

(i) alters the method of levying assessments; or

(ii) increases the amount of assessments as provided in the declaration.

[~~(8)~~] (9) (a) Subject to Subsection [~~(8)~~] (9)(b), a rule may not:

(i) prohibit the transfer of a lot; or

(ii) require the consent of the association or board to transfer a lot.

(b) Unless contrary to a declaration, a rule may require a minimum lease term.

[~~(9)~~] (10) (a) A rule may not require a lot owner to dispose of personal property that was in or on a lot before the adoption of the rule or design criteria if the personal property was in compliance with all rules and other governing documents previously in force.

(b) The exemption in Subsection [~~(9)~~] (10)(a):

(i) applies during the period of the lot owner's ownership of the lot; and

(ii) does not apply to a subsequent lot owner who takes title to the lot after adoption of the rule described in Subsection [~~(9)~~] (10)(a).

[~~(10)~~] (11) A rule or action by the association or action by the board may not unreasonably impede a declarant's ability to satisfy existing development financing for community improvements and right to develop:

(a) the project; or

(b) other properties in the vicinity of the project.

[~~(11)~~] (12) A rule or association or board action may not interfere with:

(a) the use or operation of an amenity that the association does not own or control; or

(b) the exercise of a right associated with an easement.

[~~(12)~~] (13) A rule may not divest a lot owner of the right to proceed in accordance with a completed application for design review, or to proceed in accordance with another approval process, under the terms of the governing documents in existence at the time the completed application was submitted by the owner for review.

[~~(13)~~] (14) Unless otherwise provided in the declaration, an association may by rule:

(a) regulate the use, maintenance, repair, replacement, and modification of common areas;

(b) impose and receive any payment, fee, or charge for:

(i) the use, rental, or operation of the common areas, except limited common areas; and

(ii) a service provided to a lot owner;

(c) impose a charge for a late payment of an assessment; or

(d) provide for the indemnification of the association's officers and board consistent with Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

[~~(14)~~] (15) A rule may not prohibit a lot owner from installing a personal security camera immediately adjacent to the entryway, window, or other outside entry point of the owner's dwelling unit.

(16) An association:

(a) shall adopt rules supporting water-efficient landscaping, including allowance for low water use on lawns during drought conditions; and

(b) may not prohibit or restrict the conversion of a grass park strip to water-efficient landscaping.

[~~(15)~~] (17) (a) Except as provided in Subsection [~~(15)~~] (17)(b), a rule may not prohibit the owner of a residential lot from constructing an internal accessory dwelling unit, as defined in Section 10-9a-530, within the owner's residential lot.

(b) Subsection [~~(15)~~] (17)(a) does not apply if the construction would violate:

(i) a local land use ordinance;

(ii) a building code;

(iii) a health code; or

(iv) a fire code.

[~~(16)~~] (18) A rule shall be reasonable.

[~~(17)~~] (19) A declaration, or an amendment to a declaration, may vary any of the requirements of Subsections (1) [~~through (13)~~], (2), (6), and (8) through (14), except Subsection (1)(b)(ii).

[~~(18)~~] (20) A rule may not be inconsistent with a provision of the association's declaration, bylaws, or articles of incorporation.

[~~(19)~~] (21) This section applies to an association regardless of when the association is created.

Section 5. Section 57-8a-227 is amended to read:

57-8a-227. Records -- Availability for examination.

[~~(1) (a) Subject to Subsection (1)(b), an association shall keep and make documents available to lot owners in accordance with Sections 16-6a-1601 through 1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610.~~]

[~~(i)~~] (1) (a) Subject to Subsection (1)(b) and regardless of whether the association is incorporated under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act[~~; and~~], an association shall keep and make available to lot owners:

[~~(ii) including keeping and making available to lot owners a copy of the association's:~~]

[~~(A) declaration and bylaws;~~]

(i) each record identified in Subsections 16-6a-1601(1) through (5), in accordance with Sections 16-6a-1601, 16-6a-1602, 16-6a-1603, 16-6a-1605, 16-6a-1606, and 16-6a-1610; and

(ii) a copy of the association's:

(A) governing documents;

(B) most recent approved minutes; [~~and~~]

(C) most recent budget and financial statement[~~.~~];

(D) most recent reserve analysis; and

(E) certificate of insurance for each insurance policy the association holds.

(b) An association may redact the following information from any document the association produces for inspection or copying:

(i) a Social Security number;

(ii) a bank account number; or

(iii) any communication subject to attorney-client privilege.

(2) (a) In addition to the requirements described in Subsection (1), an association shall:

(i) make documents available to lot owners in accordance with the association's governing documents; and

(ii) (A) if the association has an active website, make the documents described in [~~Subsection~~] Subsections (1)(a)(ii)(A) through (C) available to lot owners, free of charge, through the website; or

(B) if the association does not have an active website, make physical copies of the documents described in [~~Subsection~~] Subsections (1)(a)(ii)(A) through (C) available to lot owners during regular business hours at the association's address registered with the Department of Commerce under Section 57-8a-105.

(b) Subsection (2)(a)(ii) does not apply to an association as defined in Section 57-19-2.

(c) If a provision of an association's governing documents conflicts with a provision of this section, the provision of this section governs.

(3) In a written request to inspect or copy documents:

(a) a lot owner shall include:

(i) the association's name;

(ii) the lot owner's name;

(iii) the lot owner's property address;

(iv) the lot owner's email address;

(v) a description of the documents requested; and

(vi) any election or request described in Subsection (3)(b); and

(b) a lot owner may:

(i) elect whether to inspect or copy the documents;

(ii) if the lot owner elects to copy the documents, request hard copies or electronic scans of the documents; or

(iii) subject to Subsection (4), request that:

(A) the association make the copies or electronic scans of the requested documents;

(B) a recognized third party duplicating service make the copies or electronic scans of the requested documents;

(C) the lot owner be allowed to bring any necessary imaging equipment to the place of inspection and make copies or electronic scans of the documents while inspecting the documents; or

(D) the association email the requested documents to an email address provided in the request.

(4) (a) An association shall comply with a request described in Subsection (3).

(b) If an association produces the copies or electronic scans:

(i) the copies or electronic scans shall be legible and accurate; and

(ii) the lot owner shall pay the association the reasonable cost of the copies or electronic scans and for time spent meeting with the lot owner, which may not exceed:

(A) the actual cost that the association paid to a recognized third party duplicating service to make the copies or electronic scans; or

(B) 10 cents per page and $15 per hour for the employee's, manager's, or other agent's time.

(c) If a lot owner requests a recognized third party duplicating service make the copies or electronic scans:

(i) the association shall arrange for the delivery and pick up of the original documents; and

(ii) the lot owner shall pay the duplicating service directly.

(d) If a lot owner requests to bring imaging equipment to the inspection, the association shall provide the necessary space, light, and power for the imaging equipment.

(5) Subject to Subsection (9), if, in response to a lot owner's request to inspect or copy documents, an association fails to comply with a provision of this section, the association shall pay:

(a) the reasonable costs of inspecting and copying the requested documents;

(b) for items described in [~~Subsection~~] Subsections (1)(a)(ii)(A) through (C), $25 to the lot owner who made the request for each day the request continues unfulfilled, beginning the sixth day after the day on which the lot owner made the request; and

(c) reasonable attorney fees and costs incurred by the lot owner in obtaining the inspection and copies of the requested documents.

(6) (a) In addition to any remedy in the association's governing documents or otherwise provided by law, a lot owner may file an action in court under this section if:

(i) subject to Subsection (9), an association fails to make documents available to the lot owner in accordance with this section, the association's governing documents, or as otherwise provided by law; and

(ii) the association fails to timely comply with a notice described in Subsection (6)(d).

(b) In an action described in Subsection (6)(a):

(i) the lot owner may request:

(A) injunctive relief requiring the association to comply with the provisions of this section;

(B) $500 or actual damage, whichever is greater; or

(C) any other relief provided by law; and

(ii) the court shall award costs and reasonable attorney fees to the prevailing party, including any reasonable attorney fees incurred before the action was filed that relate to the request that is the subject of the action.

(c) (i) In an action described in Subsection (6)(a), upon motion by the lot owner, notice to the association, and a hearing in which the court finds a likelihood that the association failed to comply with a provision of this section, the court shall order the association to immediately comply with the provision.

(ii) The court shall hold a hearing described in Subsection (6)(c)(i) within 30 days after the day on which the lot owner files the motion.

(d) At least 10 days before the day on which a lot owner files an action described in Subsection (6)(a), the lot owner shall deliver a written notice to the association that states:

(i) the lot owner's name, address, telephone number, and email address;

(ii) each requirement of this section with which the association has failed to comply;

(iii) a demand that the association comply with each requirement with which the association has failed to comply; and

(iv) a date by which the association shall remedy the association's noncompliance that is at least 10 days after the day on which the lot owner delivers the notice to the association.

(7) (a) The provisions of Section 16-6a-1604 do not apply to an association.

(b) The provisions of this section apply regardless of any conflicting provision in Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act.

(8) A lot owner's agent may, on the lot owner's behalf, exercise or assert any right that the lot owner has under this section.

(9) An association is not liable for identifying or providing a document in error, if the association identified or provided the erroneous document in good faith.

Section 6. Section 57-8a-701 is amended to read:

57-8a-701. Solar energy system -- Prohibition or restriction in declaration or association rule.

(1) As used in this section, "detached dwelling" means a detached dwelling for which the association does not have an ownership interest in the detached dwelling's roof.

(2) (a) A governing document other than a declaration may not prohibit an owner of a lot with:

(i) a detached dwelling from installing a solar energy system[~~.~~]; or

(ii) a dwelling attached to other dwellings from installing a solar energy system, if:

(A) the association does not have an ownership interest in the dwelling's roof or building exterior;

(B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and

(C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.

(b) A governing document other than a declaration or an association rule may not restrict an owner of a lot with:

(i) a detached dwelling from installing a solar energy system on the owner's lot[~~.~~]; or

(ii) a dwelling attached to other dwellings from installing a solar energy system on the roof of the dwelling's building, if:

(A) the association does not have an ownership interest in the dwelling's roof or building exterior;

(B) the association does not have a maintenance, repair, or replacement obligation in the dwelling's roof or building exterior; and

(C) all lot owners with attached dwellings in the building agree to the installation of the solar energy system.

(3) A declaration may, for a lot with a detached dwelling:

(a) prohibit a lot owner from installing a solar energy system; or

(b) impose a restriction other than a prohibition on a solar energy system's size, location, or manner of placement if the restriction:

(i) decreases the solar energy system's production by 5% or less;

(ii) increases the solar energy system's cost of installation by 5% or less; and

(iii) complies with Subsection (6).

(4) (a) If a declaration does not expressly prohibit the installation of a solar energy system on a lot with a detached dwelling, an association may not amend the declaration to impose a prohibition on the installation of a solar energy system unless the association approves the prohibition by a vote of greater than 67% of the allocated voting interests of the lot owners in the association.

(b) An association may amend an existing provision in a declaration that prohibits the installation of a solar energy system on a lot with a detached dwelling if the association approves the amendment by a vote of greater than 67% of the allocated voting interests of the lot owners in the association.

(5) An association may, by association rule, for a lot with a detached dwelling, impose a restriction other than a prohibition on a lot owner's installation of a solar energy system if the restriction:

(a) complies with Subsection (6);

(b) decreases the solar energy system's production by 5% or less; and

(c) increases the solar energy system's cost of installation by 5% or less.

(6) A declaration or an association rule may require an owner of a detached dwelling that installs a solar energy system on the owner's lot:

(a) to install a solar energy system that, or install the solar energy system in a manner that:

(i) complies with applicable health, safety, and building requirements established by the state or a political subdivision of the state;

(ii) if the solar energy system is used to heat water, is certified by:

(A) the Solar Rating and Certification Corporation; or

(B) a nationally recognized solar certification entity;

(iii) if the solar energy system is used to produce electricity, complies with applicable safety and performance standards established by:

(A) the National Electric Code;

(B) the Institute of Electrical and Electronics Engineers;

(C) Underwriters Laboratories;

(D) an accredited electrical testing laboratory; or

(E) the state or a political subdivision of the state;

(iv) if the solar energy system is mounted on a roof:

(A) does not extend above the roof line; or

(B) has panel frame, support bracket, or visible piping or wiring that has a color or texture that is similar to the roof material; or

(v) if the solar energy system is mounted on the ground, is not visible from the street that a lot fronts;

(b) to pay any reasonable cost or expense incurred by the association to review an application to install a solar energy system;

(c) be responsible, jointly and severally with any subsequent owner of the lot while the violation of the rule or requirement occurs, for any cost or expense incurred by the association to enforce a declaration requirement or association rule; or

(d) as a condition of installing a solar energy system, to record a deed restriction against the owner's lot that runs with the land that requires the current owner of the lot to indemnify or reimburse the association or a member of the association for any loss or damage caused by the installation, maintenance, or use of the solar energy system, including costs and reasonable attorney fees incurred by the association or a member of the association.

Section 7. Section 57-8a-801 is enacted to read:

Part 8. Electric Vehicle Charging Systems

57-8a-801. Definitions.

As used in this part:

(1) "Charging system" means a device that is:

(a) used to provide electricity to an electric or hybrid electric vehicle; and

(b) designed to ensure a safe connection between the electric grid and the vehicle.

(2) "General electrical contractor" means the same as that term is defined in Section 58-55-102.

(3) "Residential electrical contractor" means the same as that term is defined in Section 58-55-102.

Section 8. Section 57-8a-802 is enacted to read:

57-8a-802. Electric vehicle charging systems -- Restrictions -- Responsibilities.

(1) Notwithstanding any provision in an association's governing documents to the contrary, an association may not prohibit a lot owner from installing or using a charging system in:

(a) a parking space:

(i) on the lot owner's lot; and

(ii) used for the parking or storage of a vehicle or equipment; or

(b) a limited common area parking space designated for the lot owner's exclusive use.

(2) An association may:

(a) require a lot owner to submit an application for approval of the installation of a charging system;

(b) require the lot owner to agree in writing to:

(i) hire a general electrical contractor or residential electrical contractor to install the charging system; or

(ii) if a charging system is installed in a common area, provide reimbursement to the association for the actual cost of the increase in the association's insurance premium attributable to the installation or use of the charging system;

(c) require a charging system to comply with:

(i) the association's reasonable design criteria governing the dimensions, placement, or external appearance of the charging system; or

(ii) applicable building codes;

(d) impose a reasonable charge to cover costs associated with the review and permitting of a charging station;

(e) impose a reasonable restriction on the installation and use of a charging station that does not significantly:

(i) increase the cost of the charging station; or

(ii) decrease the efficiency or performance of the charging station; or

(f) require a lot owner to pay the costs associated with installation, metering, and use of the charging station, including the cost of:

(i) electricity associated with the charging station; and

(ii) damage to a general common area, a limited common area, or an area subject to the exclusive use of another lot owner that results from the installation, use, maintenance, repair, removal, or replacement of the charging station.

(3) A lot owner who installs a charging system shall disclose to a prospective buyer of the lot:

(a) the existence of the charging station; and

(b) the lot owner's related responsibilities under this section.

(4) Unless the lot owner and the association or the declarant otherwise agree:

(a) a charging station installed under this section is the personal property of the lot owner of the lot with which the charging station is associated; and

(b) a lot owner who installs a charging station shall, before transferring ownership of the owner's lot, unless the prospective buyer of the lot accepts ownership and all rights and responsibilities that apply to the charging station under this section:

(i) remove the charging station; and

(ii) restore the premises to the condition before installation of the charging station.

CHAPTER 440
S. B. 154

Passed February 23, 2022
Approved March 24, 2022
Effective May 4, 2022

NATUROPATHIC PHYSICIAN AMENDMENTS

Chief Sponsor: Michael S. Kennedy
House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill modifies the prescribing authority of naturopathic physicians.

Highlighted Provisions:

This bill:

- describes what categories of prescription drugs a naturopathic physician may prescribe;
- allows the Division of Occupational and Professional Licensing to determine whether a naturopathic physician may prescribe newly created prescription drug categories;
- repeals the naturopathic formulary peer committee; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-71-102, as last amended by Laws of Utah 2014, Chapter 110

58-71-804, as last amended by Laws of Utah 2009, Chapter 42

ENACTS:

58-71-203, Utah Code Annotated 1953

REPEALS:

58-71-202, as last amended by Laws of Utah 2014, Chapter 110

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-71-102 is amended to read:

58-71-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Acupuncture" [~~has the same definition as~~] means the same as that term is defined in Section 58-72-102.

(2) "Administrative penalty" means a monetary fine imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) "Board" means the Naturopathic Physicians Licensing Board created in Section 58-71-201.

(4) "Controlled substance" means the same as that term is defined in Section 58-37-2.

[~~(4)~~] (5) "Diagnose" means:

(a) to examine in any manner another [~~person, parts of a person's~~] individual, parts of an individual's body, substances, fluids, or materials excreted, taken, or removed from [~~a person's~~] an individual's body, or produced by [~~a person's~~] an individual's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;

(b) to attempt to conduct an examination or determination described under Subsection [~~(4)~~] (5)(a);

(c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection [~~(4)~~] (5)(a); or

(d) to make an examination or determination as described in Subsection [~~(4)~~] (5)(a) upon or from information supplied directly or indirectly by another [~~person~~] individual, whether or not in the presence of the [~~person making or attempting the diagnosis or examination~~] individual the examination or determination concerns.

[~~(5)~~] (6) "Local anesthesia" means an agent, whether a natural medicine or nonscheduled prescription drug, which:

(a) is applied topically or by injection associated with the performance of minor office procedures;

(b) has the ability to produce loss of sensation [~~at the site of minor office procedures; and~~] to a targeted area of an individual's body;

(c) does not cause loss of consciousness or produce general sedation[~~.~~]; and

(d) is part of the competent practice of naturopathic medicine during minor office procedures.

[~~(6)~~] (7) "Medical naturopathic assistant" means an unlicensed individual working under the direct and immediate supervision of a licensed naturopathic physician and engaged in specific tasks assigned by the licensed naturopathic physician in accordance with the standards and ethics of the profession.

[~~(7)~~] (8) (a) "Minor office procedures" means:

(i) the use of operative, electrical, or other methods for repair and care of superficial lacerations, abrasions, and benign lesions;

(ii) removal of foreign bodies located in the superficial tissues, excluding the eye or ear;

(iii) the use of antiseptics and local anesthetics in connection with minor office surgical procedures; and

(iv) [~~if approved by the United States Food and Drug Administration,~~] percutaneous injection into skin, tendons, ligaments, muscles, and joints with:

[~~(A) local anesthetics and nonscheduled prescription medications; and~~]

(A) local anesthesia or a prescription drug described in Subsection (9)(d); or

(B) natural substances.

(b) "Minor office procedures" does not include:

(i) general or spinal anesthesia;

(ii) office procedures more complicated or extensive than those set forth in Subsection [~~(7)~~] (8)(a);

(iii) procedures involving the eye; and

(iv) any office procedure involving [~~tendons,~~] nerves, veins, or arteries.

[~~(8)~~] (9) "Natural medicine" means any:

[~~(a) food, food extracts, dietary supplements as defined by the federal Food, Drug, and Cosmetics Act, all homeopathic remedies, and plant substances that are not designated as prescription drugs or controlled substances;~~]

(a) food, food extract, dietary supplement as defined by the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., homeopathic remedy, or plant substance that is not designated a prescription drug or controlled substance;

(b) over-the-counter [~~medications~~] medication;

(c) other nonprescription [~~substances~~] substance, the prescription or administration of which is not otherwise prohibited or restricted under federal or state law; or

[~~(d) prescription drugs:~~]

[~~(i) that, except as provided in Subsection (8)(e), are not controlled substances as defined in Section 58-37-2;~~]

[~~(ii) the prescription of which is consistent with the competent practice of naturopathic medicine; and~~]

[~~(iii) the prescription of which is approved by the division in collaboration with the naturopathic formulary advisory peer committee; and~~]

[~~(e) testosterone, if the testosterone is:~~]

[~~(i) bio-identical;~~]

[~~(ii) designed to be:~~]

[~~(A) administered topically, for transdermal absorption; or~~]

[~~(B) absorbed across the mucosal membranes of the mouth; and~~]

[~~(iii) prescribed or administered, in accordance with the requirements of federal and state law, solely for the purpose of treating a patient with a low testosterone level in order to restore the patient to a normal testosterone level.~~]

(d) prescription drug:

(i) the prescription of which is consistent with the competent practice of naturopathic medicine;

(ii) that is not a controlled substance except for testosterone; and

(iii) that is not any of the following as determined by the federal Food and Drug Administration's general drug category list:

(A) an anticoagulant for the management of a bleeding disorder;

(B) an anticonvulsant;

(C) an antineoplastic;

(D) an antipsychotic;

(E) a barbiturate;

(F) a cytotoxic;

(G) a sedative;

(H) a sleeping drug;

(I) a tranquilizer; or

(J) any drug category added after April 1, 2022, unless the division determines the drug category to be consistent with the practice of naturopathic medicine under Section 58-71-203.

[~~(9)~~] (10) (a) "Naturopathic childbirth" means uncomplicated natural childbirth assisted by a naturopathic physician[~~, and includes the use of:~~].

(b) "Naturopathic childbirth" includes the use of:

(i) natural medicines; and

(ii) uncomplicated episiotomy.

[~~(b)~~] (c) "Naturopathic childbirth" does not include the use of:

(i) forceps delivery;

(ii) general or spinal anesthesia;

(iii) caesarean section delivery; or

(iv) induced labor or abortion.

[~~(10)~~] (11) (a) "Naturopathic mobilization therapy"[~~: (a)~~] means manually administering mechanical treatment of body structures or tissues for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body;

(b) "Naturopathic mobilization therapy" does not mean manipulation or adjustment of the joints of the human body beyond the elastic barrier; and

(c) "Naturopathic mobilization therapy" does not include manipulation as used in Title 58, Chapter 73, Chiropractic Physician Practice Act.

[~~(11)~~] (12) (a) "Naturopathic physical medicine" means the use of the physical agents of air, water, heat, cold, sound, light, and electromagnetic nonionizing radiation, and the physical modalities of electrotherapy, acupuncture, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic mobilization therapy, and exercise.

(b) "Naturopathic physical medicine" does not include the practice of physical therapy or physical rehabilitation.

[~~(12)~~] (13) "Practice of naturopathic medicine" means:

(a) a system of primary health care for the prevention, diagnosis, and treatment of human health conditions, injuries, and diseases that uses education, natural medicines, and natural therapies, to support and stimulate the patient's intrinsic self-healing processes by:

(i) using naturopathic childbirth, but only if:

(A) the licensee meets standards of the American College of Naturopathic Obstetricians (ACNO) or [~~its~~] ACNO's successor as determined by the division in collaboration with the board; and

(B) the licensee follows a written plan for naturopathic physicians practicing naturopathic childbirth approved by the division in collaboration with the board, which includes entering into an agreement with a consulting physician and surgeon or osteopathic physician, in cases where the scope of practice of naturopathic childbirth may be exceeded and specialty care and delivery is indicated, detailing the guidelines by which the naturopathic physician will:

(I) refer patients to the consulting physician; and

(II) consult with the consulting physician;

(ii) using naturopathic mobilization therapy;

(iii) using naturopathic physical medicine;

(iv) using minor office procedures;

(v) prescribing or administering natural medicine;

(vi) prescribing medical equipment and devices, diagnosing by the use of medical equipment and devices, and administering therapy or treatment by the use of medical devices necessary and consistent with the competent practice of naturopathic medicine;

(vii) prescribing barrier devices for contraception;

(viii) using dietary therapy;

(ix) taking and using diagnostic x-rays, electrocardiograms, ultrasound, and physiological function tests;

(x) taking of body fluids for clinical laboratory tests and using the results of the tests in diagnosis;

(xi) taking of a history from and conducting of a physical examination upon a human patient; and

[~~(xii) prescribing and administering natural medicines and medical devices, except a naturopathic physician may only administer:~~]

[~~(A) a prescription drug, as defined in Section 58-17b-102, in accordance with Subsection (8)(d); and~~]

[~~(B) local anesthesia that is not a controlled substance, and only in the performance of minor office procedures;~~]

(xii) administering local anesthesia during the performance of a minor office procedure;

(b) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection [~~(12)~~] (13)(a), whether or not for compensation; or

(c) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions, in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "naturopathic physician," "naturopathic doctor," "naturopath," "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medical doctor," "naturopathic medicine," "naturopathic health care," "naturopathy," "N.D.," "N.M.D.," or any combination of these designations in any manner that might cause a reasonable person to believe the individual using the designation is a licensed naturopathic physician.

[~~(13)~~] (14) "Prescribe" means to issue a prescription:

(a) orally or in writing; or

(b) by telephone, facsimile transmission, computer, or other electronic means of communication as defined by division rule.

[~~(14)~~] (15) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person [~~or entity~~] licensed under this chapter or exempt from licensure under this chapter.

[~~(15)~~] (16) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.

[~~(16)~~] (17) "Unlawful conduct" [~~is as defined in~~] means the same as that term is defined in Sections 58-1-501 and 58-71-501.

[~~(17)~~] (18) "Unprofessional conduct" [~~is as defined in~~] means the same as that term is defined in Sections 58-1-501 and 58-71-502, and as may be further defined by division rule.

Section 2. Section 58-71-203 is enacted to read:

58-71-203. Drug category review.

(1) As used in this section, "FDA" means the federal Food and Drug Administration.

(2) After April 1, 2022, if the FDA adds a new drug category to the FDA's general drug category list, the division shall determine whether the drug category is consistent with the practice of naturopathic medicine.

(3) To make the determination described in Subsection (2), the division shall consult with:

(a) the board; and

(b) the board described in Section 58-67-201.

(4) In accordance with Title 63, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to implement this section.

Section 3. Section 58-71-804 is amended to read:

58-71-804. Insurance coverage not mandated.

(1) This chapter does not mandate health insurance coverage for naturopathic medical services.

(2) This chapter does not establish a class of health care providers for the purposes of Section 31A-22-618.

(3) This chapter does not mandate health insurance coverage for the prescription or administration of testosterone[~~, as described in Subsection 58-71-102(8)(e),~~] by a naturopathic physician.

Section 4. Repealer.

This bill repeals:

Section 58-71-202, Naturopathic formulary peer committee.

CHAPTER 441
S. B. 155

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

GUARDIANSHIP AND CONSERVATORSHIP AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Nelson T. Abbott

LONG TITLE

General Description:

This bill amends provisions related to guardianships and conservatorships.

Highlighted Provisions:

This bill:

- amends the duties of the Office of Public Guardian;
- addresses a guardian's authority to make and assist with a ward's health care decisions;
- amends provisions related to the termination, removal, or resignation of a guardian of an incapacitated person;
- amends the duties and responsibilities of a guardian of an incapacitated person;
- amends provisions relating to a proceeding addressing a guardian restricting or prohibiting a ward's associations; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-14-105, as last amended by Laws of Utah 2009, Chapter 75
75-5-304, as last amended by Laws of Utah 2017, Chapter 403
75-5-312.5, as last amended by Laws of Utah 2018, Chapter 244

REPEALS AND REENACTS:

75-5-306, as last amended by Laws of Utah 1977, Chapter 194
75-5-307, as last amended by Laws of Utah 2012, Chapter 274
75-5-312, as last amended by Laws of Utah 2018, Chapters 244 and 294

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-14-105 is amended to read:

62A-14-105. Powers and duties of the office.

(1) The office shall:

(a) [~~before January 1, 2000,~~] develop and operate a statewide program to:

(i) educate the public about the role and function of guardians and conservators; [~~and~~]

(ii) educate guardians and conservators on:

(A) the duties of a guardian and a conservator; and

(B) standards set by the National Guardianship Association for guardians and conservators; and

[~~(ii)~~] (iii) serve as a guardian, conservator, or both for a ward upon appointment by a court when no other person is able and willing to do so and the office petitioned for or agreed in advance to the appointment;

(b) possess and exercise all the powers and duties specifically given to the office by virtue of being appointed as guardian or conservator of a ward, including the power to access a ward's records;

(c) review and monitor the personal and, if appropriate, financial status of each ward for whom the office has been appointed to serve as guardian or conservator;

(d) train and monitor each employee and volunteer, and monitor each contract provider to whom the office has delegated a responsibility for a ward;

(e) retain all court-delegated powers and duties for a ward;

(f) report on the personal and financial status of a ward as required by a court in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property;

(g) handle a ward's funds in accordance with the department's trust account system;

(h) request that the department's audit plan, established pursuant to Section 63I-5-401, include the requirement of an annual audit of all funds and property held by the office on behalf of wards;

(i) maintain accurate records concerning each ward, the ward's property, and office services provided to the ward;

(j) make reasonable and continuous efforts to find a family member, friend, or other person to serve as a ward's guardian or conservator;

(k) after termination as guardian or conservator, distribute a ward's property in accordance with Title 75, Chapter 5, Protection of Persons Under Disability and Their Property; and

(l) submit recommendations for changes in state law and funding to the governor and the Legislature and report to the governor and Legislature, upon request[~~; and~~].

[~~(m) establish, implement, and enforce rules.~~]

(2) The office may:

(a) petition a court pursuant to Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, to be appointed an incapacitated person's guardian, conservator, or both after conducting a prepetition assessment under Section 62A-14-107;

(b) develop and operate a statewide program to recruit, train, supervise, and monitor volunteers to assist the office in providing guardian and conservator services;

(c) delegate one or more responsibilities for a ward to an employee, volunteer, or contract provider, except as provided in Subsection 62A-14-107(1);

(d) solicit and receive private donations to provide guardian and conservator services under this chapter; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) effectuate policy; and

(ii) carry out the office's role as guardian and conservator of wards as provided in this chapter.

Section 2. Section 75-5-304 is amended to read:

75-5-304. Findings -- Limited guardianship preferred -- Order of appointment.

(1) The court may appoint a guardian as requested if [~~it~~] the court is satisfied that [~~the~~]:

(a) the person for whom a guardian is sought is incapacitated [~~and that the~~]; and

(b) the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person.

(2) (a) (i) The court shall prefer a limited guardianship and may only grant a full guardianship if no other alternative exists.

(ii) If the court does not grant a limited guardianship, a specific finding shall be made that nothing less than a full guardianship is adequate.

(b) (i) An order of appointment of a limited guardianship shall state the limitations of the guardianship.

(ii) Letters of guardianship for a limited guardianship shall state the limitations of the guardianship unless the court determines for good cause shown that a limitation should not be listed in the letters.

(3) [~~A~~] (a) Except as provided in Subsection (3)(b), a guardian appointed by will or written instrument, under Section 75-5-301, whose appointment has not been prevented or nullified under Subsection 75-5-301(4), has priority over any guardian who may be appointed by the court[~~, but the court may proceed with an appointment upon~~].

(b) Upon a finding that the testamentary or instrumental guardian has failed to accept the appointment within 30 days after notice of the guardianship proceeding[~~. Alternatively, the court may~~], the court may:

(i) dismiss the proceeding [~~or~~]; or

(ii) enter any other appropriate order.

(4) If the court grants a guardian with the power to make or assist with health care decisions for an incapacitated person, the court shall include in the order of appointment the name of any interested person for whom the guardian must notify of any significant health care or treatment received by the incapacitated person.

Section 3. Section 75-5-306 is repealed and reenacted to read:

75-5-306. Termination of guardianship for incapacitated person -- Termination of authority and responsibility of guardian.

(1) (a) Except for the time period described in Subsection (1)(b), the ward or any person interested in the ward's welfare may petition for an order:

(i) that the ward is no longer incapacitated; and

(ii) for removal or resignation of the guardian in accordance with Section 75-5-307.

(b) In an order adjudicating capacity, a court may specify a minimum period of time, not exceeding one year, during which no petition for an adjudication that the ward is no longer incapacitated can be filed without leave from the court.

(c) A request for the order described in Subsection (1) may be made by informal letter to the court.

(d) Any person who knowingly interferes with a request described in Subsection (1)(a) may be sanctioned by the court.

(2) The authority and responsibility of a guardian for an incapacitated person terminates upon:

(a) the death of the guardian or the ward;

(b) the determination that the guardian is incapacitated; or

(c) the removal or resignation of the guardian in accordance with Section 75-5-307.

(3) Resignation of a guardian does not terminate the guardianship until the resignation has been approved by the court.

(4) Testamentary appointment of a guardian under an informally probated will terminates if the will is later denied probate in a formal proceeding.

(5) Termination of a guardian does not affect the guardian's liability for the guardian's prior acts or the guardian's obligation to account for funds and assets of the guardian's ward.

(6) On a petition to order that a ward's incapacity is terminated, the court shall follow the same procedures to safeguard the rights of the ward for a petition for appointment of a guardian under Section 75-5-303.

Section 4. Section 75-5-307 is repealed and reenacted to read:

75-5-307. Removal or resignation of guardian.

(1) On a petition of resignation from a guardian, the court may:

(a) accept the guardian's resignation; or

(b) make any other order that is appropriate.

(2) On a petition of removal of a guardian from the ward or any person interested in the ward's welfare, the court may remove a guardian if:

(a) the guardian obtained the appointment by fraud, deceit, or gross misrepresentation;

(b) the guardian fails to perform the guardian's duties described in Section 75-5-312;

(c) the guardian is unable to perform the guardian's duties, described in Section 75-5-312, due to incapacity or illness;

(d) the guardian fails to use reasonable care and diligence in the management of the ward's estate;

(e) the guardian is found by the court to have filed a petition frivolously or in bad faith under Section 75-5-312.5;

(f) the guardian's interests have become adverse to the faithful performance of the guardian's duties and there is a risk that the guardian will fail to faithfully perform the guardian's duties; or

(g) removal of the guardian would be in the best interest of the ward.

(3) If the court removes a guardian under Subsection (2), the court may:

(a) appoint a successor guardian; or

(b) make any other order that is appropriate.

(4) On a petition of resignation or removal of a guardian, the court shall follow the same procedures to safeguard the rights of the ward for a petition for appointment of a guardian under Section 75-5-303.

(5) The court is not required to appoint an attorney to represent the ward if the case is uncontested and the ward's incapacity is not at issue.

Section 5. Section 75-5-312 is repealed and reenacted to read:

75-5-312. General powers and duties of guardian -- Penalties.

(1) (a) A guardian of an incapacitated person shall diligently and in good faith carry out the specific duties, powers, and rights that the guardian is granted:

(i) in an order of appointment by a court under Section 75-5-304; and

(ii) under this section.

(b) A court may, in the order of appointment, place specific limitations on the guardian's power, duties, and rights.

(c) (i) Except as provided in this Subsection (1), a guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent's unemancipated minor.

(ii) A guardian is not liable to a third person for acts of the guardian's ward solely by reason of the relationship described in Subsection (1)(c)(i).

(d) In carrying out duties, powers, and rights that a guardian is granted, the guardian shall encourage the ward, to the extent practicable, to participate in decisions, exercise self-determination, act on the ward's own behalf, and develop or regain the capacity to manage the ward's personal affairs.

(e) To the extent known, a guardian, in making decisions about the ward, shall consider the expressed desires, preferences, and personal values of the ward.

(2) Except as modified by an order of appointment under Section 75-5-304, a guardian has the following duties and powers:

(a) to the extent that it is consistent with the terms of any order by a court relating to detention or commitment of the ward, a guardian is entitled to custody of the person of the ward and may establish the ward's place of abode within, or outside of, this state;

(b) if a guardian is entitled to custody of the ward, the guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward's training and education;

(c) without regard to custodial rights of the ward's person, a guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection;

(d) a guardian may give the consent or approval that may be necessary to enable the ward to receive medical or other professional care, counsel, treatment, or service;

(e) a guardian is required to notify any interested person named in the order of appointment under Subsection 75-5-304(4) of any significant health care or treatment received by the ward;

(f) a guardian is required to immediately notify persons who request notification and are not restricted in associating with the ward in accordance with Section 75-5-312.5 of:

(i) the ward's admission to a hospital for three or more days or to a hospice program;

(ii) the ward's death; or

(iii) the arrangements for the disposition of the ward's remains;

(g) a guardian is required to immediately notify all interested persons if the guardian reasonably believes that the ward's death is likely to occur within the next 10 days, based on:

(i) the guardian's own observations; or

(ii) information from the ward's physician or other medical care providers;

(h) a guardian is required to:

(i) unless emergency conditions exist:

(A) file with the court a notice of the guardian's intent to move the ward; and

(B) serve the notice on all interested persons at least 10 days before the day on which the guardian moves the ward; or

(ii) take reasonable steps to:

(A) notify all interested persons of the guardian's intent to move the ward; and

(B) file the notice of the move with the court as soon as practicable following the earlier of the move or the date when the guardian's intention to move the ward is made known to the ward, the ward's care giver, or any other third party;

(i) except as otherwise provided by Section 75-5-312.5, a guardian may not restrict or prohibit a ward's association, as defined in Section 75-5-312.5, with family, relatives, or friends;

(j) if no conservator for the estate of the ward has been appointed, a guardian may:

(i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty;

(ii) compel the production of the ward's estate documents, including the ward's will, trust, power of attorney, and any advance health care directive; and

(iii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward, except that:

(A) the guardian may not use funds from the ward's estate for room and board that the guardian or the guardian's spouse, parent, or child have furnished the ward unless a charge for the service is approved by order of the court made upon notice to at least one adult relative in the nearest degree of kinship to the ward in which there is an adult; and

(B) the guardian shall exercise care to conserve any excess for the ward's needs;

(k) if no conservator for the estate of the ward has been appointed:

(i) for all estates in excess of $50,000 excluding the residence owned by the ward, a guardian shall send a report with a full accounting to the court on an annual basis; or

(ii) for estates less than $50,000 excluding the residence owned by the ward, a guardian shall fill out an informal annual report and mail the report to the court;

(l) a guardian shall provide an annual accounting of the status of the ward, including a report of the physical and mental condition of the ward, the ward's estate that has been subject to the guardian's possession, the ward's place of residence and others living in the same household, to the court in the petition or the annual report as required under Subsection (2)(k); and

(m) a guardian shall comply with standards set by the National Guardianship Association for guardians to the extent that the standards are applicable to the guardian.

(3) For the purposes of Subsections (2)(f), (g), and (h), an interested person is a person required to receive notice in guardianship proceedings as described in Section 75-5-309.

(4) (a) An accounting report under Subsection (2)(k) shall include a statement of assets at the beginning and end of the reporting year, income received during the year, disbursements for the support of the ward, and other expenses incurred by the estate.

(b) The court may require additional information in an accounting report under Subsection (2)(k).

(c) The Judicial Council shall approve forms for the accounting reports described in Subsection (2)(k).

(d) An annual accounting report under Subsection (2)(k) shall be examined and approved by the court.

(e) If the ward's income is limited to a federal or state program requiring an annual accounting report, a copy of that report may be submitted to the court in lieu of the required annual accounting report under Subsection (2)(k).

(f) (i) A corporate fiduciary is not required to petition the court, but shall submit the corporate fiduciary's internal report annually to the court.

(ii) The report under Subsection (4)(f)(i) shall be examined and approved by the court.

(g) If a fee is paid for an accounting of an estate, a fee may not be charged for an accounting of the status of a ward under Subsection (2)(l).

(5) If a conservator has been appointed for a ward:

(a) all of the ward's estate received by the guardian in excess of those funds expended to meet current expenses for support, care, and education of the ward shall be paid to the conservator for management as provided in this chapter; and

(b) the guardian shall account to the conservator for funds expended.

(6) (a) Any guardian of a person for whom a conservator has been appointed:

(i) shall control the custody and care of the ward; and

(ii) is entitled to receive reasonable sums for services and for room and board furnished to the ward as agreed upon between the guardian and the conservator if the amounts agreed upon are reasonable under the circumstances.

(b) The guardian may request the conservator to expend the ward's estate by payment to third persons or institutions for the ward's care and maintenance.

(7) (a) The court may impose a penalty in an amount not to exceed $5,000 if a guardian:

(i) makes a substantial misstatement on filings of annual reports;

(ii) is guilty of gross impropriety in handling the property of the ward; or

(iii) willfully fails to file the report required by this section after receiving written notice from the court of the failure to file and after a grace period of two months has elapsed.

(b) The court may order restitution of funds misappropriated from the estate of a ward.

(c) A penalty under this Subsection (7) shall be paid by the guardian and may not be paid by the ward or the ward's estate.

(d) The provisions and penalties in Subsection (2)(k) or (l) governing annual reports do not apply if the guardian or a coguardian is the parent of the ward.

(8) A person who refuses to accept the authority of a guardian with authority over financial decisions to transact business with the assets of the ward after receiving a certified copy of letters of guardianship is liable for costs, expenses, attorney fees, and damages if the court determines that the person did not act in good faith in refusing to accept the authority of the guardian.

Section 6. Section 75-5-312.5 is amended to read:

75-5-312.5. Association between an adult ward and a relative or acquaintance of the adult ward.

(1) As used in this section:

(a) "Associate" or "association" means:

(i) visitation of an adult ward by a relative or qualified acquaintance; or

(ii) communication between an adult ward and a relative or qualified acquaintance in any form, including by telephone, mail, or electronic communication.

(b) "Qualified acquaintance" means an individual, other than a relative of the adult ward, who:

(i) has established a significant, mutual friendship with the adult ward; or

(ii) is clergy in the adult ward's religion or religious congregation.

(c) "Relative" means an adult ward's spouse, parent, step-parent, child, step-child, sibling, step-sibling, half-sibling, grandparent, grandchild, uncle, aunt, nephew, niece, or first cousin.

(2) (a) Except as otherwise provided by court order, a guardian may not restrict or prohibit the right of an adult ward to associate with a relative or qualified acquaintance of the adult ward.

(b) If an adult ward is unable to express consent to visitation by a relative or a qualified acquaintance of the adult ward, the consent of the adult ward is presumed based on evidence of a prior relationship between the adult ward and the relative or qualified acquaintance of the adult ward.

(c) A guardian may not permit a relative or qualified acquaintance of an adult ward to associate with the adult ward:

(i) if a court order prohibits the association;

(ii) in a manner prohibited by court order; or

(iii) if the adult ward expresses a desire to not associate with the relative or qualified acquaintance.

(3) A guardian may, as part of the initial guardianship proceeding, petition the court to issue an order:

(a) prohibiting or placing conditions on association between an adult ward and a relative or qualified acquaintance of the adult ward; or

(b) granting the guardian the authority to prohibit or place conditions on association between an adult ward and a relative or qualified acquaintance of the adult ward.

(4) A guardian may, at any time after the initial guardianship proceeding:

(a) petition the court to issue an order described in Subsection (3) or to rescind or modify an order described in Subsection (3); or

(b) petition, subject to notice, the court on an emergency basis to issue a temporary order until further order of the court described in Subsection (3) or to rescind or modify an order described in Subsection (3).

(5) An adult ward, a relative of an adult ward, or a qualified acquaintance of an adult ward may, at any time after the initial guardianship proceeding, petition the court to rescind or modify an order described in Subsection (3).

(6) If a guardian violates Subsection (2), the adult ward, a relative of the adult ward, or a qualified acquaintance of the adult ward may [~~do one or more of the following~~], as applicable:

[~~(a) petition the court to issue an order to show cause why the guardian should not be held in contempt of court;~~]

(a) file an ex parte motion to enforce an order or to obtain sanctions;

(b) seek an injunction to enforce compliance by the guardian with the law and any applicable court order; or

(c) petition the court to have the guardian removed as guardian of the adult ward.

(7) For a hearing on a petition filed under this section, a court:

(a) may appoint a court visitor to meet with the adult ward to determine the wishes of the adult ward regarding association;

(b) shall give notice and an opportunity to be heard to the guardian, the adult ward, and the relative or qualified acquaintance;

(c) shall preserve the right of the adult ward to be present at the hearing; and

(d) may order supervised visitation by the relative or qualified acquaintance before the hearing.

(8) A court may not enter an order prohibiting or placing restrictions on association between an adult ward and a relative or qualified acquaintance, unless the court finds by a preponderance of the evidence that:

(a) the adult ward desires the prohibition or restriction;

(b) if the adult ward had the capacity to make a knowing and intelligent decision regarding the association, the adult ward would prohibit the association or impose the restriction; or

(c) the prohibition or restriction is the least restrictive means necessary to protect the health or welfare of the adult ward.

(9) In making the determination described in Subsection (8), the court may consider any relevant evidence, including:

(a) the wishes of the adult ward, expressed during or before the guardianship;

(b) the history of the relationship between the adult ward and the relative or qualified acquaintance;

(c) any history of criminal activity, abuse, neglect, or violence by the relative or qualified acquaintance; or

(d) whether a protective order was ever issued against the relative or qualified acquaintance with respect to the adult ward.

(10) Except as provided in Subsection (11), the guardian shall have the burden of proof when:

(a) seeking an order prohibiting association or placing restrictions on association with a relative or qualified acquaintance of the adult ward;

(b) modifying an order to place additional prohibitions or restrictions on association with a relative or qualified acquaintance of the adult ward; or

(c) opposing an action described in Subsection (6)(a) or (b).

(11) The relative or qualified acquaintance shall have the burden of proof if the relative or qualified acquaintance is seeking to modify an order previously entered by a court under this section.

(12) (a) If, in a proceeding under this section, the court finds that the petition was filed frivolously or in bad faith, the court shall award attorney fees to a party opposing the petition.

(b) If, in a proceeding under this section, the court finds that the guardian is in contempt of court or has acted frivolously or in bad faith in prohibiting or restricting association, the court:

(i) [~~may~~] shall award attorney fees to the prevailing party; and

(ii) may impose a sanction, not to exceed $1,000, against the guardian.

(c) A court shall prohibit attorney fees awarded under this [~~section~~] Subsection (12) from being paid by the adult ward or the adult ward's estate.

CHAPTER 442
S. B. 161

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

CHILD WELFARE APPEALS AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Jefferson S. Burton

LONG TITLE

General Description:

This bill addresses an appeal from a juvenile court order related to adoption or child welfare.

Highlighted Provisions:

This bill:

- removes provisions requiring a party in an adoption or child welfare-related case to keep other parties and the appellate court informed of the party's whereabouts;
- requires a party to an adoption or child welfare-related case to keep the party's counsel informed of the party's whereabouts after a juvenile court disposition;
- removes the requirement that certain claims be made in an adoption or child welfare-related appeal;
- modifies the appeals information a juvenile court is required to provide a party at the conclusion of an adoption or child welfare-related case; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78A-6-359, as renumbered and amended by Laws of Utah 2021, Chapter 261

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78A-6-359 is amended to read:

78A-6-359. Appeals.

(1) An appeal to the Court of Appeals may be taken from any order, decree, or judgment of the juvenile court.

(2) (a) An appeal of right from an order, decree, or judgment by a juvenile court related to a proceeding under Title 78B, Chapter 6, Part 1, Utah Adoption Act, Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, and Title 80, Chapter 4, Termination and Restoration of Parental Rights, shall be filed within 15 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal must be signed by appellant's counsel, if any, and by appellant, unless the appellant is a child or state agency.

(c) If an appellant fails to timely sign a notice of appeal, the appeal shall be dismissed.

(3) An order for a disposition from the juvenile court shall include the following information:

(a) notice that the right to appeal described in Subsection (2)(a) is time sensitive and must be taken within 15 days after the day on which the juvenile court enters the order, decree, or judgment appealed from;

(b) the right to appeal within the specified time limits;

(c) the need for the signature of the parties on a notice of appeal in an appeal described in Subsection (2)(a); and

(d) the need for [~~parties~~] each party to maintain regular contact with the [~~parties'~~] the party's counsel and to keep [~~all other parties and the appellate court~~] the party's counsel informed of the [~~parties'~~] party's whereabouts.

(4) If [~~the parties are~~] a party is not present in the courtroom, the juvenile court shall provide a statement containing the information provided in Subsection (3) to the [~~parties~~] party at the [~~parties'~~] party's last known address.

(5) [~~(a)~~] The juvenile court shall inform [~~the parties' counsel~~] each party's counsel at the conclusion of the proceedings that, if an appeal is filed, [~~the parties' counsel~~] appellate counsel must represent the [~~parties~~] party throughout the appellate process [~~unless relieved of that obligation by the juvenile court upon a showing of extraordinary circumstances~~] unless appellate counsel is not appointed under the Utah Rules of Appellate Procedure, Rule 55.

[~~(b) (i) Until the petition on appeal is filed, claims of ineffective assistance of counsel do not constitute extraordinary circumstances.~~]

[~~(ii) If a claim is raised by trial counsel or a party, the claim must be included in the petition on appeal.~~]

(6) During the pendency of an appeal under Subsection (2)(a), [~~parties~~] a party shall maintain regular contact with the [~~parties'~~] party's appellate counsel, if any, and keep [~~all other parties and the appellate court~~] the party's appellate counsel informed of the [~~parties'~~] party's whereabouts.

(7) (a) In all other appeals of right, the appeal shall be taken within 30 days after the day on which the juvenile court enters the order, decree, or judgment.

(b) A notice of appeal under Subsection (7)(a) must be signed by appellant's counsel, if any, or by appellant.

(8) The attorney general shall represent the state in all appeals under this chapter and Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, Title 80, Chapter 4, Termination and Restoration of Parental Rights, and Title 80, Chapter 6, Juvenile Justice.

(9) Unless the juvenile court stays the juvenile court's order, the pendency of an appeal does not stay the order or decree appealed from in a minor's

case, unless otherwise ordered by the Court of Appeals, if suitable provision for the care and custody of the minor involved is made pending the appeal.

(10) Access to the record on appeal is governed by Title 63G, Chapter 2, Government Records Access and Management Act.

CHAPTER 443
S. B. 163

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

ADMINISTRATIVE RULES AMENDMENTS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill makes changes to the Administrative Rules Review Committee's duties.

Highlighted Provisions:

This bill:

- renames the Administrative Rules Review Committee, the Administrative Rules Review and General Oversight Committee (committee);
- permits the committee to:
  - review certain agency policies, procedures, and practices;
  - recommend action by an interim or standing committee; and
  - prepare legislation for consideration by the Legislature; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-1-206, as last amended by Laws of Utah 2020, Chapters 32 and 152
19-1-207, as enacted by Laws of Utah 2020, Sixth Special Session, Chapter 14
19-5-104.5, as last amended by Laws of Utah 2020, Chapter 256
26-18-20, as enacted by Laws of Utah 2015, Chapter 135
40-6-22, as enacted by Laws of Utah 2020, Sixth Special Session, Chapter 14
53B-27-303, as last amended by Laws of Utah 2020, Chapter 365
54-17-701, as last amended by Laws of Utah 2016, Chapter 13
63A-5b-607, as last amended by Laws of Utah 2020, Chapter 32 and renumbered and amended by Laws of Utah 2020, Chapter 152 and last amended by Coordination Clause, Laws of Utah 2020, Chapter 152
63A-13-202, as last amended by Laws of Utah 2013, Chapter 359 and renumbered and amended by Laws of Utah 2013, Chapter 12
63A-13-305, as enacted by Laws of Utah 2013, Chapter 12
63C-9-403, as last amended by Laws of Utah 2020, Chapters 32 and 152
63G-3-301, as last amended by Laws of Utah 2021, Chapter 382
63G-3-304, as last amended by Laws of Utah 2021, Chapter 437
63G-3-402, as last amended by Laws of Utah 2020, Chapter 408
63G-3-403, as last amended by Laws of Utah 2020, Chapter 408
63G-3-501, as last amended by Laws of Utah 2021, Chapter 437
63G-3-502, as last amended by Laws of Utah 2021, Chapter 437
63N-6-203, as last amended by Laws of Utah 2019, Chapter 214
72-6-107.5, as last amended by Laws of Utah 2020, Chapters 32 and 152
79-2-404, as last amended by Laws of Utah 2020, Chapters 32 and 152

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-1-206 is amended to read:

19-1-206. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department, or a division or board of the department, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division or board of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division or board of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state;

(c) the executive director determines that applying the requirements of this section to a particular contract interferes with the effective response to an immediate health and safety threat from the environment; or

(d) the contract is:

(i) a sole source contract; or

(ii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) a public transit district in accordance with Section 17B-2a-818.5;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) notwithstanding Section 19-1-303, monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and the dependents of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 2. Section 19-1-207 is amended to read:

19-1-207. Regulatory certainty to support economic recovery.

(1) On or before June 30, 2021, the Air Quality Board or the Water Quality Board may not make, amend, or repeal a rule related to air or water quality pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

(a) a state rule related to a federally-delegated program;

(b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or

(c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:

(i) cause an imminent peril to the public health, safety, or welfare;

(ii) cause an imminent budget reduction because of budget restraints or federal requirements;

(iii) place the agency in violation of federal or state law; or

(iv) fail to provide regulatory relief.

(2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall report to the Administrative Rules Review and General Oversight Committee as to whether the need to act meets the requirements of Subsection (1)(c).

(3) On or after August 31, 2020, but on or before June 30, 2021, the Air Quality Board, Division of Air Quality, Water Quality Board, or Division of Water Quality may not impose a new fee or increase a fee related to air or water quality pursuant to this title or rules made under this title.

(4) Only the Legislature may extend the time limitations of this section.

(5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or second class.

(6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1, 2020, but on or before June 30, 2021.

Section 3. Section 19-5-104.5 is amended to read:

19-5-104.5. Legislative review and approval.

(1) Before sending a total maximum daily load and implementation strategy to the EPA for review and approval, the Water Quality Board shall submit the total maximum daily load:

(a) for review to the Natural Resources, Agriculture, and Environment Interim Committee if the total maximum daily load will require a public or private expenditure in excess of $10,000,000 but less than $100,000,000 for compliance; or

(b) for approval to the Legislature if the total maximum daily load will require a public or private expenditure of $100,000,000 or more.

(2) (a) As used in this Subsection (2):

(i) "Expenditure" means the act of expending funds:

(A) by an individual public facility with a Utah Pollutant Discharge Elimination System permit, or by a group of private agricultural facilities; and

(B) through an initial capital investment, or through operational costs over a three-year period.

(ii) "Utah Pollutant Discharge Elimination System" means the state permit system created in accordance with 33 U.S.C. Sec. 1342.

(b) Before the board adopts a nitrogen or phosphorus rule or standard, the board shall submit the rule or standard as directed in Subsections (2)(c) and (d).

(c) (i) If compliance with the rule or standard requires an expenditure in excess of $250,000, but less than $10,000,000, the board shall submit the rule or standard for review to the Natural Resources, Agriculture, and Environment Interim Committee.

(ii) (A) Except as provided in Subsection (2)(c)(ii)(B), the Natural Resources, Agriculture, and Environment Interim Committee shall review a rule or standard the board submits under Subsection (2)(c)(i) during the Natural Resources, Agriculture, and Environment Interim Committee's committee meeting immediately following the day on which the board submits the rule or standard.

(B) If the committee meeting described in Subsection (2)(c)(ii)(A) is within five days after the day on which the board submits the rule or standard for review, the Natural Resources, Agriculture, and Environment Interim Committee shall review the rule or standard during the committee meeting described in Subsection (2)(c)(ii)(A) or during the committee meeting immediately following the committee meeting described in Subsection (2)(c)(ii)(A).

(d) If compliance with the rule or standard requires an expenditure of $10,000,000 or more, the board shall submit the rule or standard for approval to the Legislature.

(e) (i) A facility shall estimate the cost of compliance with a board-proposed rule or standard described in Subsection (2)(b) using:

(A) an independent, licensed engineer; and

(B) industry-accepted project cost estimate methods.

(ii) The board may evaluate and report on a compliance estimate described in Subsection (2)(e)(i).

(f) If there is a discrepancy in the estimated cost to comply with a rule or standard, the Office of the Legislative Fiscal Analyst shall determine the estimated cost to comply with the rule or standard.

(3) In reviewing a rule or standard, the Natural Resources, Agriculture, and Environment Interim Committee may:

(a) consider the impact of the rule or standard on:

(i) economic costs and benefit;

(ii) public health; and

(iii) the environment;

(b) suggest additional areas of consideration; or

(c) recommend the rule or standard to the board for:

(i) adoption; or

(ii) re-evaluation followed by further review by the Natural Resources, Agriculture, and Environment Interim Committee.

(4) When the Natural Resources, Agriculture, and Environment Interim Committee sets the review of a rule or standard submitted under Subsection (2)(c)(i) as an agenda item, the committee shall:

(a) before the review, directly inform the chairs of the Administrative Rules Review and General Oversight Committee of the coming review, including the date, time, and place of the review; and

(b) after the review, directly inform the chairs of the Administrative Rules Review and General Oversight Committee of the outcome of the review, including any recommendation.

Section 4. Section 26-18-20 is amended to read:

26-18-20. Review of claims -- Audit and investigation procedures.

(1) (a) The department shall adopt administrative rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with providers and health care professionals subject to audit and investigation under the state Medicaid program, to establish procedures for audits and investigations that are fair and consistent with the duties of the department as the single state agency responsible for the administration of the Medicaid program under Section 26-18-3 and Title XIX of the Social Security Act.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the department under Subsection (1)(a), the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's Administrative Rules Review and General Oversight Committee created in Section 63G-3-501.

(2) The department shall:

(a) notify and educate providers and health care professionals subject to audit and investigation under the Medicaid program of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the department under the provisions of this section;

(b) ensure that the department, or any entity that contracts with the department to conduct audits:

(i) has on staff or contracts with a medical or dental professional who is experienced in the treatment, billing, and coding procedures used by the type of provider being audited; and

(ii) uses the services of the appropriate professional described in Subsection (3)(b)(i) if the provider who is the subject of the audit disputes the findings of the audit;

(c) ensure that a finding of overpayment or underpayment to a provider is not based on extrapolation, as defined in Section 63A-13-102, unless:

(i) there is a determination that the level of payment error involving the provider exceeds a 10% error rate:

(A) for a sample of claims for a particular service code; and

(B) over a three year period of time;

(ii) documented education intervention has failed to correct the level of payment error; and

(iii) the value of the claims for the provider, in aggregate, exceeds $200,000 in reimbursement for a particular service code on an annual basis; and

(d) require that any entity with which the office contracts, for the purpose of conducting an audit of a service provider, shall be paid on a flat fee basis for identifying both overpayments and underpayments.

(3) (a) If the department, or a contractor on behalf of the department:

(i) intends to implement the use of extrapolation as a method of auditing claims, the department shall, prior to adopting the extrapolation method of auditing, report its intent to use extrapolation to the Social Services Appropriations Subcommittee; and

(ii) determines Subsections (2)(c)(i) through (iii) are applicable to a provider, the department or the contractor may use extrapolation only for the service code associated with the findings under Subsections (2)(c)(i) through (iii).

(b) (i) If extrapolation is used under this section, a provider may, at the provider's option, appeal the results of the audit based on:

(A) each individual claim; or

(B) the extrapolation sample.

(ii) Nothing in this section limits a provider's right to appeal the audit under Title 63G, General Government, Title 63G, Chapter 4, Administrative Procedures Act, the Medicaid program and its manual or rules, or other laws or rules that may provide remedies to providers.

Section 5. Section 40-6-22 is amended to read:

40-6-22. Regulatory certainty to support economic recovery.

(1) On or before June 30, 2021, the board or division may not make, amend, or repeal a rule pursuant to this title, if formal rulemaking was not initiated on or before July 1, 2020, unless the rule constitutes:

(a) a state rule related to a federally-delegated program;

(b) a rule mandated by statute to be made, amended, or repealed on or before July 1, 2020; or

(c) subject to Subsection (2), a rule that is necessary because failure to make, amend, or repeal the rule will:

(i) cause an imminent peril to the public health, safety, or welfare;

(ii) cause an imminent budget reduction because of budget restraints or federal requirements;

(iii) place the agency in violation of federal or state law; or

(iv) fail to provide regulatory relief.

(2) In addition to complying with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board or division shall report to the Administrative Rules Review and General Oversight Committee as to whether the need to act meets the requirements of Subsection (1)(c).

(3) On or after August 31, 2020, but on or before June 30, 2021, the board or division may not impose a new fee or increase a fee pursuant to this title or rules made under this title.

(4) Only the Legislature may extend the time limitations of this section.

(5) Notwithstanding the other provisions of this section, this section does not apply to a rule, fee, or fee increase to the extent that the rule, fee, or fee increase applies to an activity in a county of the first or second class.

(6) Notwithstanding the other provisions of this section, the agencies may engage with stakeholders in the process of discussing, developing, and drafting a rule, fee, or fee increase on or after July 1, 2020, but on or before June 30, 2021.

Section 6. Section 53B-27-303 is amended to read:

53B-27-303. Complaint process -- Reporting.

(1) Before August 1, 2019, the board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing a procedure whereby a student enrolled in an institution may submit a complaint to the board alleging a policy of the institution directly affects one or more of the student's civil liberties.

(2) (a) When a student submits a complaint in accordance with the rules adopted under Subsection (1), the board shall:

(i) examine the complaint and, within 30 days after the day on which the board receives the complaint, determine whether the complaint is made in good faith; and

(ii) (A) if the board determines that the complaint is made in good faith, direct the institution against which the complaint is made to initiate rulemaking proceedings for the challenged policy; or

(B) if the board determines that the complaint is made in bad faith, dismiss the complaint.

(b) Before November 30 of each year, the board shall submit a report to the Administrative Rules Review and General Oversight Committee detailing:

(i) the number of complaints the board received during the preceding year;

(ii) the number of complaints the board found to be made in good faith during the preceding year; and

(iii) each policy that is the subject of a good-faith complaint that the board received during the preceding year.

(3) If the board directs an institution to initiate rulemaking proceedings for a challenged policy in accordance with this section, the institution shall initiate rulemaking proceedings for the policy within 60 days after the day on which the board directs the institution.

Section 7. Section 54-17-701 is amended to read:

54-17-701. Rules for carbon capture and geological storage.

(1) By January 1, 2011, the Division of Water Quality and the Division of Air Quality, on behalf of the Board of Water Quality and the Board of Air Quality, respectively, in collaboration with the commission and the Division of Oil, Gas, and Mining and the Utah Geological Survey, shall present recommended rules to the Legislature's Administrative Rules Review and General

Oversight Committee for the following in connection with carbon capture and accompanying geological sequestration of captured carbon:

(a) site characterization approval;

(b) geomechanical, geochemical, and hydrogeological simulation;

(c) risk assessment;

(d) mitigation and remediation protocols;

(e) issuance of permits for test, injection, and monitoring wells;

(f) specifications for the drilling, construction, and maintenance of wells;

(g) issues concerning ownership of subsurface rights and pore space;

(h) allowed composition of injected matter;

(i) testing, monitoring, measurement, and verification for the entirety of the carbon capture and geologic sequestration chain of operations, from the point of capture of the carbon dioxide to the sequestration site;

(j) closure and decommissioning procedure;

(k) short- and long-term liability and indemnification for sequestration sites;

(l) conversion of enhanced oil recovery operations to carbon dioxide geological sequestration sites; and

(m) other issues as identified.

(2) The entities listed in Subsection (1) shall report to the Legislature's Administrative Rules Review and General Oversight Committee any proposals for additional statutory changes needed to implement rules contemplated under Subsection (1).

(3) On or before July 1, 2009, the entities listed in Subsection (1) shall submit to the Legislature's Public Utilities, Energy, and Technology and Natural Resources, Agriculture, and Environment Interim Committees a progress report on the development of the recommended rules required by this part.

(4) The recommended rules developed under this section apply to the injection of carbon dioxide and other associated injectants in allowable types of geological formations for the purpose of reducing emissions to the atmosphere through long-term geological sequestration as required by law or undertaken voluntarily or for subsequent beneficial reuse.

(5) The recommended rules developed under this section do not apply to the injection of fluids through the use of Class II injection wells as defined in 40 C.F.R. 144.6(b) for the purpose of enhanced hydrocarbon recovery.

(6) Rules recommended under this section shall:

(a) ensure that adequate health and safety standards are met;

(b) minimize the risk of unacceptable leakage from the injection well and injection zone for carbon capture and geologic sequestration; and

(c) provide adequate regulatory oversight and public information concerning carbon capture and geologic sequestration.

Section 8. Section 63A-5b-607 is amended to read:

63A-5b-607. Health insurance requirements -- Penalties.

(1) As used in this section:

(a) "Aggregate amount" means the dollar sum of all contracts, change orders, and modifications for a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Eligible employee" means an employee, as defined in Section 34A-2-104, who:

(i) works at least 30 hours per calendar week; and

(ii) meets the employer eligibility waiting period for qualified health insurance coverage provided by the employer.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health insurance coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract with the division if the prime contract is in an aggregate amount of $2,000,000 or more; and

(b) a subcontractor of a contractor of a design or construction contract with the division if the subcontract is in an aggregate amount of $1,000,000 or more.

(3) The requirements of this section do not apply to a contractor or subcontractor if:

(a) the application of this section jeopardizes the division's receipt of federal funds;

(b) the contract is a sole source contract, as defined in Section 63G-6a-103; or

(c) the contract is the result of an emergency procurement.

(4) A person who intentionally uses a change order, contract modification, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor that is subject to the requirements of this section shall:

(i) make and maintain an offer of qualified health coverage for the contractor's eligible employees and the eligible employees' dependents; and

(ii) submit to the director a written statement demonstrating that the contractor is in compliance with Subsection (5)(a)(i).

(b) A statement under Subsection (5)(a)(ii):

(i) shall be from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(ii) may not be created more than one year before the day on which the contractor submits the statement to the director.

(c) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(b)(i)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the division.

(6) (a) A contractor that is subject to the requirements of this section shall:

(i) ensure that each contract the contractor enters with a subcontractor that is subject to the requirements of this section requires the subcontractor to obtain and maintain an offer of qualified health coverage for the subcontractor's eligible employees and the eligible employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor referred to in Subsection (6)(a)(i) a written statement demonstrating that the subcontractor offers qualified health coverage to eligible employees and eligible employees' dependents.

(b) A statement under Subsection (6)(a)(ii):

(i) shall be from:

(A) an actuary selected by the subcontractor or the subcontractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(ii) may not be created more than one year before the day on which the contractor obtains the statement from the subcontractor.

(7) (a) (i) A contractor that fails to maintain an offer of qualified health coverage during the duration of the contract as required in this section is subject to penalties in accordance with administrative rules adopted by the division under this section.

(ii) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage as required in this section.

(b) (i) A subcontractor that fails to obtain and maintain an offer of qualified health coverage during the duration of the subcontract as required in this section is subject to penalties in accordance with administrative rules adopted by the division under this section.

(ii) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage as required in this section.

(8) The division shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) a public transit district in accordance with Section 17B-2a-818.5;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures for a contractor and a subcontractor to demonstrate compliance with this section, including:

(A) a provision that a contractor or subcontractor's compliance with this section is subject to an audit by the division or the Office of the Legislative Auditor General;

(B) a provision that a contractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (5); and

(C) a provision that a subcontractor that is subject to the requirements of this section obtain a written statement as provided in Subsection (6);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into a future contract with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for eligible employees and dependents of eligible employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website for the department to post the commercially equivalent benchmark for the qualified health coverage that is provided by the Department of Health in accordance with Subsection 26-40-115(2).

(9) During the duration of a contract, the division may perform an audit to verify a contractor or subcontractor's compliance with this section.

(10) (a) Upon the division's request, a contractor or subcontractor shall provide the division:

(i) a signed actuarial certification that the coverage the contractor or subcontractor offers is qualified health coverage; or

(ii) all relevant documents and information necessary for the division to determine compliance with this section.

(b) If a contractor or subcontractor provides the documents and information described in Subsection (10)(a)(i), the Insurance Department shall assist the division in determining if the coverage the contractor or subcontractor offers is qualified health coverage.

(11) (a) (i) In addition to the penalties imposed under Subsection (7), a contractor or subcontractor that intentionally violates the provisions of this section is liable to an eligible employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (11)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5) or (6); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An eligible employee has a private right of action against the employee's employer only as provided in this Subsection (11).

(12) The director shall cause money collected from the imposition and collection of a penalty under this section to be deposited into the Medicaid Restricted Account created by Section 26-18-402.

(13) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(14) An employer's waiting period for an employee to become eligible for qualified health coverage may not extend beyond the first day of the calendar month following 60 days after the day on which the employee is hired.

(15) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (11)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 9. Section 63A-13-202 is amended to read:

63A-13-202. Duties and powers of inspector general and office.

(1) The inspector general of Medicaid services shall:

(a) administer, direct, and manage the office;

(b) inspect and monitor the following in relation to the state Medicaid program:

(i) the use and expenditure of federal and state funds;

(ii) the provision of health benefits and other services;

(iii) implementation of, and compliance with, state and federal requirements; and

(iv) records and recordkeeping procedures;

(c) receive reports of potential fraud, waste, or abuse in the state Medicaid program;

(d) investigate and identify potential or actual fraud, waste, or abuse in the state Medicaid program;

(e) consult with the Centers for Medicaid and Medicare Services and other states to determine and implement best practices for:

(i) educating and communicating with health care professionals and providers about program and audit policies and procedures;

(ii) discovering and eliminating fraud, waste, and abuse of Medicaid funds; and

(iii) differentiating between honest mistakes and intentional errors, or fraud, waste, and abuse, if the office enters into settlement negotiations with the provider or health care professional;

(f) obtain, develop, and utilize computer algorithms to identify fraud, waste, or abuse in the state Medicaid program;

(g) work closely with the fraud unit to identify and recover improperly or fraudulently expended Medicaid funds;

(h) audit, inspect, and evaluate the functioning of the division for the purpose of making recommendations to the Legislature and the department to ensure that the state Medicaid program is managed:

(i) in the most efficient and cost-effective manner possible; and

(ii) in a manner that promotes adequate provider and health care professional participation and the provision of appropriate health benefits and services;

(i) regularly advise the department and the division of an action that could be taken to ensure that the state Medicaid program is managed in the most efficient and cost-effective manner possible;

(j) refer potential criminal conduct, relating to Medicaid funds or the state Medicaid program, to the fraud unit;

(k) refer potential criminal conduct, including relevant data from the controlled substance database, relating to Medicaid fraud, to law enforcement in accordance with Title 58, Chapter 37f, Controlled Substance Database Act;

(l) determine ways to:

(i) identify, prevent, and reduce fraud, waste, and abuse in the state Medicaid program; and

(ii) balance efforts to reduce costs and avoid or minimize increased costs of the state Medicaid program with the need to encourage robust health care professional and provider participation in the state Medicaid program;

(m) recover improperly paid Medicaid funds;

(n) track recovery of Medicaid funds by the state;

(o) in accordance with Section 63A-13-502:

(i) report on the actions and findings of the inspector general; and

(ii) make recommendations to the Legislature and the governor;

(p) provide training to:

(i) agencies and employees on identifying potential fraud, waste, or abuse of Medicaid funds; and

(ii) health care professionals and providers on program and audit policies and compliance; and

(q) develop and implement principles and standards for the fulfillment of the duties of the inspector general, based on principles and standards used by:

(i) the Federal Offices of Inspector General;

(ii) the Association of Inspectors General; and

(iii) the United States Government Accountability Office.

(2) (a) The office may, in fulfilling the duties under Subsection (1), conduct a performance or financial audit of:

(i) a state executive branch entity or a local government entity, including an entity described in Section 63A-13-301, that:

(A) manages or oversees a state Medicaid program; or

(B) manages or oversees the use or expenditure of state or federal Medicaid funds; or

(ii) Medicaid funds received by a person by a grant from, or under contract with, a state executive branch entity or a local government entity.

(b) (i) The office may not, in fulfilling the duties under Subsection (1), amend the state Medicaid program or change the policies and procedures of the state Medicaid program.

(ii) The office shall identify conflicts between the state Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid information bulletins and recommend that the department reconcile inconsistencies. If the department does not reconcile the inconsistencies, the office shall report the inconsistencies to the Legislature's Administrative Rules Review and General Oversight Committee created in Section 63G-3-501.

(iii) Beginning July 1, 2013, the office shall review a Medicaid provider manual and a Medicaid information bulletin in accordance with Subsection (2)(b)(ii), prior to the department making the provider manual or Medicaid information bulletin available to the public.

(c) Beginning July 1, 2013, the Department of Health shall submit a Medicaid provider manual and a Medicaid information bulletin to the office for the review required by Subsection (2)(b)(ii) prior to releasing the document to the public. The department and the Office of Inspector General of Medicaid Services shall enter into a memorandum of understanding regarding the timing of the review process under Subsection (2)(b)(iii).

(3) (a) The office shall, in fulfilling the duties under this section to investigate, discover, and recover fraud, waste, and abuse in the Medicaid program, apply the state Medicaid plan, department administrative rules, Medicaid provider manuals, and Medicaid information bulletins in effect at the time the medical services were provided.

(b) A health care provider may rely on the policy interpretation included in a current Medicaid provider manual or a current Medicaid information bulletin that is available to the public.

(4) The inspector general of Medicaid services, or a designee of the inspector general of Medicaid services within the office, may take a sworn statement or administer an oath.

Section 10. Section 63A-13-305 is amended to read:

63A-13-305. Audit and investigation procedures.

(1) (a) The office shall, in accordance with Section 63A-13-602, adopt administrative rules in consultation with providers and health care professionals subject to audit and investigation under this chapter to establish procedures for audits and investigations that are fair and consistent with the duties of the office under this chapter.

(b) If the providers and health care professionals do not agree with the rules proposed or adopted by the office under Subsection (1)(a) or Section 63A-13-602, the providers or health care professionals may:

(i) request a hearing for the proposed administrative rule or seek any other remedies under the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) request a review of the rule by the Legislature's Administrative Rules Review and General Oversight Committee created in Section 63G-3-501.

(2) The office shall notify and educate providers and health care professionals subject to audit and investigation under this chapter of the providers' and health care professionals' responsibilities and rights under the administrative rules adopted by the office under the provisions of this section and Section 63A-13-602.

Section 11. Section 63C-9-403 is amended to read:

63C-9-403. Contracting power of executive director -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the board, or on behalf of the board, on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the executive director that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the executive director a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the health benefit plan's actuarial value meets the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by the administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the executive director.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage as described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the division under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5b-607;

(iv) a public transit district in accordance with Section 17B-2a-818.5;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for employees and dependents of employees of the contractor or subcontractor who were not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including the administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 12. Section 63G-3-301 is amended to read:

63G-3-301. Rulemaking procedure.

(1) An agency authorized to make rules is also authorized to amend or repeal those rules.

(2) Except as provided in Sections 63G-3-303 and 63G-3-304, when making, amending, or repealing a rule agencies shall comply with:

(a) the requirements of this section;

(b) consistent procedures required by other statutes;

(c) applicable federal mandates; and

(d) rules made by the office to implement this chapter.

(3) Subject to the requirements of this chapter, each agency shall develop and use flexible approaches in drafting rules that meet the needs of the agency and that involve persons affected by the agency's rules.

(4) (a) Each agency shall file the agency's proposed rule and rule analysis with the office.

(b) Rule amendments shall be marked with new language underlined and deleted language struck out.

(c) (i) The office shall publish the information required under Subsection (8) on the rule analysis and the text of the proposed rule in the next issue of the bulletin.

(ii) For rule amendments, only the section or subsection of the rule being amended need be printed.

(iii) If the director determines that the rule is too long to publish, the office shall publish the rule analysis and shall publish the rule by reference to a copy on file with the office.

(5) Before filing a rule with the office, the agency shall conduct a thorough analysis, consistent with the criteria established by the Governor's Office of Planning and Budget, of the fiscal impact a rule may have on businesses, which criteria may include:

(a) the type of industries that will be impacted by the rule, and for each identified industry, an estimate of the total number of businesses within the industry, and an estimate of the number of those businesses that are small businesses;

(b) the individual fiscal impact that would incur to a typical business for a one-year period;

(c) the aggregated total fiscal impact that would incur to all businesses within the state for a one-year period;

(d) the total cost that would incur to all impacted entities over a five-year period; and

(e) the department head's comments on the analysis.

(6) If the agency reasonably expects that a proposed rule will have a measurable negative fiscal impact on small businesses, the agency shall consider, as allowed by federal law, each of the following methods of reducing the impact of the rule on small businesses:

(a) establishing less stringent compliance or reporting requirements for small businesses;

(b) establishing less stringent schedules or deadlines for compliance or reporting requirements for small businesses;

(c) consolidating or simplifying compliance or reporting requirements for small businesses;

(d) establishing performance standards for small businesses to replace design or operational standards required in the proposed rule; and

(e) exempting small businesses from all or any part of the requirements contained in the proposed rule.

(7) If during the public comment period an agency receives comment that the proposed rule will cost small business more than one day's annual average gross receipts, and the agency had not previously performed the analysis in Subsection (6), the agency shall perform the analysis described in Subsection (6).

(8) The rule analysis shall contain:

(a) a summary of the rule or change;

(b) the purpose of the rule or reason for the change;

(c) the statutory authority or federal requirement for the rule;

(d) the anticipated cost or savings to:

(i) the state budget;

(ii) local governments;

(iii) small businesses; and

(iv) persons other than small businesses, businesses, or local governmental entities;

(e) the compliance cost for affected persons;

(f) how interested persons may review the full text of the rule;

(g) how interested persons may present their views on the rule;

(h) the time and place of any scheduled public hearing;

(i) the name and telephone number of an agency employee who may be contacted about the rule;

(j) the name of the agency head or designee who authorized the rule;

(k) the date on which the rule may become effective following the public comment period;

(l) the agency's analysis on the fiscal impact of the rule as required under Subsection (5);

(m) any additional comments the department head may choose to submit regarding the fiscal impact the rule may have on businesses; and

(n) if applicable, a summary of the agency's efforts to comply with the requirements of Subsection (6).

(9) (a) For a rule being repealed and reenacted, the rule analysis shall contain a summary that generally includes the following:

(i) a summary of substantive provisions in the repealed rule which are eliminated from the enacted rule; and

(ii) a summary of new substantive provisions appearing only in the enacted rule.

(b) The summary required under this Subsection (9) is to aid in review and may not be used to contest any rule on the ground of noncompliance with the procedural requirements of this chapter.

(10) A copy of the rule analysis shall be mailed to all persons who have made timely request of the agency for advance notice of the agency's rulemaking proceedings and to any other person who, by statutory or federal mandate or in the judgment of the agency, should also receive notice.

(11) (a) Following the publication date, the agency shall allow at least 30 days for public comment on the rule.

(b) The agency shall review and evaluate all public comments submitted in writing within the time period under Subsection (11)(a) or presented at public hearings conducted by the agency within the time period under Subsection (11)(a).

(12) (a) Except as provided in Sections 63G-3-303 and 63G-3-304, a proposed rule becomes effective on any date specified by the agency that is:

(i) no fewer than seven calendar days after the day on which the public comment period closes under Subsection (11); and

(ii) no more than 120 days after the day on which the rule is published.

(b) The agency shall provide notice of the rule's effective date to the office in the form required by the office.

(c) The notice of effective date may not provide for an effective date before the day on which the office receives the notice.

(d) The office shall publish notice of the effective date of the rule in the next issue of the bulletin.

(e) A proposed rule lapses if a notice of effective date or a change to a proposed rule is not filed with the office within 120 days after the day on which the rule is published.

(13) (a) Except as provided in Subsection (13)(d), before an agency enacts a rule, the agency shall submit to the appropriations subcommittee and interim committee with jurisdiction over the agency the agency's proposed rule for review, if the proposed rule, over a three-year period, has a fiscal impact of more than:

(i) $250,000 to a single person; or

(ii) $7,500,000 to a group of persons.

(b) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) shall:

(i) before the review, directly inform the chairs of the Administrative Rules Review and General Oversight Committee of the coming review, including the date, time, and place of the review; and

(ii) after the review, directly inform the chairs of the Administrative Rules Review and General Oversight Committee of the outcome of the review, including any recommendation.

(c) An appropriations subcommittee or interim committee that reviews a rule submitted under Subsection (13)(a) may recommend to the Administrative Rules Review and General Oversight Committee that the Administrative Rules Review and General Oversight Committee not recommend reauthorization of the rule in the omnibus legislation described in Section 63G-3-502.

(d) The requirement described in Subsection (13)(a) does not apply to:

(i) the State Tax Commission; or

(ii) the State Board of Education.

(14) (a) As used in this Subsection (14), "initiate rulemaking proceedings" means the filing, for the purposes of publication in accordance with Subsection (4), of an agency's proposed rule that is required by state statute.

(b) A state agency shall initiate rulemaking proceedings no later than 180 days after the day on which the statutory provision that specifically requires the rulemaking takes effect, except under Subsection (14)(c).

(c) When a statute is enacted that requires agency rulemaking and the affected agency already has rules in place that meet the statutory requirement, the agency shall submit the rules to the Administrative Rules Review and General Oversight Committee for review within 60 days after the day on which the statute requiring the rulemaking takes effect.

(d) If a state agency does not initiate rulemaking proceedings in accordance with the time requirements in Subsection (14)(b), the state agency shall appear before the legislative Administrative Rules Review and General Oversight Committee and provide the reasons for the delay.

Section 13. Section 63G-3-304 is amended to read:

63G-3-304. Emergency rulemaking procedure.

(1) All agencies shall comply with the rulemaking procedures of Section 63G-3-301 unless an agency finds that these procedures would:

(a) cause an imminent peril to the public health, safety, or welfare;

(b) cause an imminent budget reduction because of budget restraints or federal requirements; or

(c) place the agency in violation of federal or state law.

(2) (a) When finding that its rule is excepted from regular rulemaking procedures by this section, the agency shall file with the office and the members of the Administrative Rules Review and General Oversight Committee:

(i) the text of the rule; and

(ii) a rule analysis that includes the specific reasons and justifications for its findings.

(b) The office shall publish the rule in the bulletin as provided in Subsection 63G-3-301(4).

(c) The agency shall notify interested persons as provided in Subsection 63G-3-301(10).

(d) Subject to Subsection 63G-3-502(4), the rule becomes effective for a period not exceeding 120 days on the date of filing or any later date designated in the rule.

(3) If the agency intends the rule to be effective beyond 120 days, the agency shall also comply with the procedures of Section 63G-3-301.

Section 14. Section 63G-3-402 is amended to read:

63G-3-402. Office of Administrative Rules -- Duties generally.

(1) The office shall:

(a) record in a register the receipt of all agency rules, rule analysis forms, and notices of effective dates;

(b) make the register, copies of all proposed rules, and rulemaking documents available for public inspection;

(c) publish all proposed rules, rule analyses, notices of effective dates, and review notices in the bulletin at least monthly, except that the office may publish the complete text of any proposed rule that the director determines is too long to print or too expensive to publish by reference to the text maintained by the office;

(d) compile, format, number, and index all effective rules in an administrative code, and periodically publish that code and supplements or revisions to it;

(e) publish a digest of all rules and notices contained in the most recent bulletin;

(f) publish at least annually an index of all changes to the administrative code and the effective date of each change;

(g) print, or contract to print, all rulemaking publications the director determines necessary to implement this chapter;

(h) distribute without charge the bulletin and administrative code to state-designated repositories, the Administrative Rules Review and General Oversight Committee, the Office of Legislative Research and General Counsel, and the two houses of the Legislature;

(i) distribute without charge the digest and index to state legislators, agencies, political subdivisions on request, and the Office of Legislative Research and General Counsel;

(j) distribute, at prices covering publication costs, all paper rulemaking publications to all other requesting persons and agencies;

(k) provide agencies assistance in rulemaking;

(l) if the department operates the office as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:

(i) the proposed rate and fee schedule as required by Section 63A-1-114; and

(ii) other information or analysis requested by the Rate Committee;

(m) administer this chapter and require state agencies to comply with filing, publication, and hearing procedures; and

(n) make technological improvements to the rulemaking process, including improvements to automation and digital accessibility.

(2) The office shall establish by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, all filing, publication, and hearing procedures necessary to make rules under this chapter.

(3) The office may after notifying the agency make nonsubstantive changes to rules filed with the office or published in the bulletin or code by:

(a) implementing a uniform system of formatting, punctuation, capitalization, organization, numbering, and wording;

(b) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(c) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(d) updating or correcting annotations associated with a section, part, rule, or title; and

(e) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) In addition, the office may make the following nonsubstantive changes with the concurrence of the agency:

(a) eliminate duplication within rules;

(b) eliminate obsolete and redundant words; and

(c) correct defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules.

(5) For nonsubstantive changes made in accordance with Subsection (3) or (4) after publication of the rule in the bulletin, the office shall publish a list of nonsubstantive changes in the bulletin. For each nonsubstantive change, the list shall include:

(a) the affected code citation;

(b) a brief description of the change; and

(c) the date the change was made.

(6) All funds appropriated or collected for publishing the office's publications shall be nonlapsing.

Section 15. Section 63G-3-403 is amended to read:

63G-3-403. Repeal and reenactment of Utah Administrative Code.

(1) When the director determines that the Utah Administrative Code requires extensive revision and reorganization, the office may repeal the code and reenact a new code according to the requirements of this section.

(2) The office may:

(a) reorganize, reformat, and renumber the code;

(b) require each agency to review its rules and make any organizational or substantive changes according to the requirements of Section 63G-3-303; and

(c) require each agency to prepare a brief summary of all substantive changes made by the agency.

(3) The office may make nonsubstantive changes in the code by:

(a) adopting a uniform system of punctuation, capitalization, numbering, and wording;

(b) eliminating duplication;

(c) correcting defective or inconsistent section and paragraph structure in arrangement of the subject matter of rules;

(d) eliminating all obsolete or redundant words;

(e) correcting obvious errors and inconsistencies in punctuation, capitalization, numbering, referencing, and wording;

(f) changing a catchline to more accurately reflect the substance of each section, part, rule, or title;

(g) updating or correcting annotations associated with a section, part, rule, or title; and

(h) merging or determining priority of any amendment, enactment, or repeal to the same rule or section made effective by an agency.

(4) (a) To inform the public about the proposed code reenactment, the office shall publish in the bulletin:

(i) notice of the code reenactment;

(ii) the date, time, and place of a public hearing where members of the public may comment on the proposed reenactment of the code;

(iii) locations where the proposed reenactment of the code may be reviewed; and

(iv) agency summaries of substantive changes in the reenacted code.

(b) To inform the public about substantive changes in agency rules contained in the proposed reenactment, each agency shall:

(i) make the text of their reenacted rules available:

(A) for public review during regular business hours; and

(B) in an electronic version; and

(ii) comply with the requirements of Subsection 63G-3-301(10).

(5) The office shall hold a public hearing on the proposed code reenactment no fewer than 30 days nor more than 45 days after the publication required by Subsection (4)(a).

(6) The office shall distribute complete text of the proposed code reenactment without charge to:

(a) state-designated repositories in Utah;

(b) the Administrative Rules Review and General Oversight Committee; and

(c) the Office of Legislative Research and General Counsel.

(7) The former code is repealed and the reenacted code is effective at noon on a date designated by the office that is not fewer than 45 days nor more than 90 days after the publication date required by this section.

(8) Repeal and reenactment of the code meets the requirements of Section 63G-3-305 for a review of all agency rules.

Section 16. Section 63G-3-501 is amended to read:

63G-3-501. Administrative Rules Review and General Oversight Committee.

(1) (a) There is created an Administrative Rules Review and General Oversight Committee of the following 10 permanent members:

(i) five members of the Senate appointed by the president of the Senate, no more than three of whom may be from the same political party; and

(ii) five members of the House of Representatives appointed by the speaker of the House of Representatives, no more than three of whom may be from the same political party.

(b) Each permanent member shall serve:

(i) for a two-year term; or

(ii) until the permanent member's successor is appointed.

(c) (i) A vacancy exists when a permanent member ceases to be a member of the Legislature, or when a permanent member resigns from the committee.

(ii) When a vacancy exists:

(A) if the departing member is a member of the Senate, the president of the Senate shall appoint a member of the Senate to fill the vacancy; or

(B) if the departing member is a member of the House of Representatives, the speaker of the House of Representatives shall appoint a member of the House of Representatives to fill the vacancy.

(iii) The newly appointed member shall serve the remainder of the departing member's unexpired term.

(d) (i) The president of the Senate shall designate a member of the Senate appointed under Subsection (1)(a)(i) as a cochair of the committee.

(ii) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (1)(a)(ii) as a cochair of the committee.

(e) Three representatives and three senators from the permanent members are a quorum for the transaction of business at any meeting.

(f) (i) Subject to Subsection (1)(f)(ii), the committee shall meet at least once each month to review new agency rules, amendments to existing agency rules, and repeals of existing agency rules.

(ii) The committee chairs may suspend the meeting requirement described in Subsection (1)(f)(i) at the committee chairs' discretion.

(2) The office shall submit a copy of each issue of the bulletin to the committee.

(3) (a) The committee shall exercise continuous oversight of the rulemaking process.

(b) The committee shall examine each rule, including any rule made according to the emergency rulemaking procedure described in Section 63G-3-304, submitted by an agency to determine:

(i) whether the rule is authorized by statute;

(ii) whether the rule complies with legislative intent;

(iii) the rule's impact on the economy and the government operations of the state and local political subdivisions;

(iv) the rule's impact on affected persons;

(v) the rule's total cost to entities regulated by the state;

(vi) the rule's benefit to the citizens of the state; and

(vii) whether adoption of the rule requires legislative review or approval.

(c) The committee may examine and review:

(i) any executive order issued pursuant to Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act; [~~or~~]

(ii) any public health order issued during a public health emergency declared in accordance with Title 26, Utah Health Code, or Title 26A, Local Health Authorities[~~.~~]; or

(iii) an agency's policies that:

(A) affect a class of persons other than the agency; or

(B) are contrary to legislative intent.

(d) (i) To carry out these duties, the committee may examine any other issues that the committee considers necessary.

(ii) Notwithstanding anything to the contrary in this section, the committee may not examine an agency's internal policies, procedures, or practices.

[~~(ii)~~] (iii) The committee may also notify and refer rules to the chairs of the interim committee that has jurisdiction over a particular agency when the committee determines that an issue involved in an agency's rules may be more appropriately addressed by that committee.

(e) An agency shall respond to a request from the committee for:

(i) an agency's policy described in Subsection (3)(c)(iii); or

(ii) information related to an agency's policy described in Subsection (3)(c)(iii).

[~~(e)~~] (f) In reviewing a rule, the committee shall follow generally accepted principles of statutory construction.

(4) When the committee reviews an existing rule, the committee chairs shall invite the Senate and House chairs of the standing committee and of the appropriation subcommittee that have jurisdiction over the agency whose existing rule is being reviewed to participate as nonvoting, ex officio members with the committee.

(5) The committee may request that the Office of the Legislative Fiscal Analyst prepare a fiscal note on any rule.

(6) In order to accomplish the committee's functions described in this chapter, the committee has all the powers granted to legislative interim committees under Section 36-12-11.

(7) (a) The committee may prepare written findings of the committee's review of a rule [~~or~~], policy, practice, or procedure and may include any recommendation, including:

(i) legislative action; or

(ii) action by a standing committee or interim committee.

(b) When the committee reviews a rule, the committee shall provide to the agency that enacted the rule:

(i) the committee's findings, if any; and

(ii) a request that the agency notify the committee of any changes the agency makes to the rule.

(c) The committee shall provide a copy of the committee's findings described in Subsection (7)(a), if any, to:

(i) any member of the Legislature, upon request;

(ii) any person affected by the rule, upon request;

(iii) the president of the Senate;

(iv) the speaker of the House of Representatives;

(v) the Senate and House chairs of the standing committee that has jurisdiction over the agency [~~that made the rule~~] whose rule, policy, practice, or procedure is the subject of the finding; and

(vi) the Senate and House chairs of the appropriation subcommittee that has jurisdiction over the agency that made the rule.

(8) (a) (i) The committee may submit a report on the committee's review [~~of state agency rules~~] under this section to each member of the Legislature at each regular session.

(ii) The report shall include:

(A) any finding or recommendation the committee made under Subsection (7);

(B) any action an agency took in response to a committee recommendation; and

(C) any recommendation by the committee for legislation.

(b) If the committee receives a recommendation not to reauthorize a rule, as described in Subsection 63G-3-301(13)(b), and the committee recommends to the Legislature reauthorization of the rule, the committee shall submit a report to each member of the Legislature detailing the committee's decision.

(c) If the committee recommends legislation, the committee may prepare legislation for consideration by the Legislature at the next general session.

Section 17. Section 63G-3-502 is amended to read:

63G-3-502. Legislative reauthorization of agency rules -- Extension of rules by governor.

(1) All grants of rulemaking power from the Legislature to a state agency in any statute are made subject to the provisions of this section.

(2) (a) Except as provided in Subsection (2)(b), every agency rule that is in effect on February 28 of any calendar year expires on May 1 of that year unless it has been reauthorized by the Legislature.

(b) Notwithstanding the provisions of Subsection (2)(a), an agency's rules do not expire if:

(i) the rule is explicitly mandated by a federal law or regulation; or

(ii) a provision of Utah's constitution vests the agency with specific constitutional authority to regulate.

(3) (a) The Administrative Rules Review and General Oversight Committee shall have omnibus legislation prepared for consideration by the Legislature during its annual general session.

(b) The omnibus legislation shall be substantially in the following form: "All rules of Utah state agencies are reauthorized except for the following:".

(c) Before sending the legislation to the governor for the governor's action, the Administrative Rules Review and General Oversight Committee may send a letter to the governor and to the agency explaining specifically why the committee believes any rule should not be reauthorized.

(d) For the purpose of this section, the entire rule, a single section, or any complete paragraph of a rule may be excepted for reauthorization in the omnibus legislation considered by the Legislature.

(4) [~~(a)~~] The Administrative Rules Review and General Oversight Committee may have legislation prepared for consideration by the Legislature in the annual general session or a special session regarding any rule made according to emergency rulemaking procedures described in Section 63G-3-304.

(5) The Legislature's reauthorization of a rule by legislation does not constitute legislative approval of the rule, nor is it admissible in any proceeding as evidence of legislative intent.

(6) (a) If an agency believes that a rule that has not been reauthorized by the Legislature or that will be allowed to expire should continue in full force and effect and is a rule within their authorized rulemaking power, the agency may seek the governor's declaration extending the rule beyond the expiration date.

(b) In seeking the extension, the agency shall submit a petition to the governor that affirmatively states:

(i) that the rule is necessary; and

(ii) a citation to the source of its authority to make the rule.

(c) (i) If the governor finds that the necessity does exist, and that the agency has the authority to make the rule, the governor may declare the rule to be extended by publishing that declaration in the Administrative Rules Bulletin on or before April 15 of that year.

(ii) The declaration shall set forth the rule to be extended, the reasons the extension is necessary, and a citation to the source of the agency's authority to make the rule.

(d) If the omnibus bill required by Subsection (3) fails to pass both houses of the Legislature or is found to have a technical legal defect preventing reauthorization of administrative rules intended to be reauthorized by the Legislature, the governor may declare all rules to be extended by publishing a single declaration in the Administrative Rules Bulletin on or before June 15 without meeting requirements of Subsections (6)(b) and (c).

Section 18. Section 63N-6-203 is amended to read:

63N-6-203. Board duties and powers.

(1) The board shall, by rule:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for issuing, calculating, registering, and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns for the investment portfolio of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors;

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) issue debt and borrow funds;

(iv) enter into contracts;

(v) insure against loss; and

(vi) perform any other act necessary to carry out its purpose; and

(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:

(i) whenever made, modified, or repealed; and

(ii) in each even-numbered year.

(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review and General Oversight Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall include the contingencies that must be met for a certificate and its related tax credits to be:

(i) issued by the board;

(ii) transferred by a designated investor; and

(iii) redeemed by a designated investor in order to receive a contingent tax credit.

(b) The board shall tie the contingencies for redemption of certificates to:

(i) for a private investment initiated before July 1, 2015:

(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced one or more times on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds; or

(ii) for an equity-based private investment initiated on or after July 1, 2015, the positive impact on economic development in the state that is related to the fund's investments or the success of the corporation's economic development plan in the state, including:

(A) encouraging the availability of a wide variety of venture capital in the state;

(B) strengthening the state's economy;

(C) helping business in the state gain access to sources of capital;

(D) helping build a significant, permanent source of capital available for businesses in the state; and

(E) creating benefits for the state while minimizing the use of contingent tax credits.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section 63N-6-409.

Section 19. Section 72-6-107.5 is amended to read:

72-6-107.5. Construction of improvements of highway -- Contracts -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) The requirements of this section do not apply to a contractor or subcontractor described in Subsection (2) if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract is a sole source contract; or

(c) the contract is an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) the Department of Natural Resources in accordance with Section 79-2-404;

(iii) the State Building Board in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) a public transit district in accordance with Section 17B-2a-818.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of the employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), that is provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Section 20. Section 79-2-404 is amended to read:

79-2-404. Contracting powers of department -- Health insurance coverage.

(1) As used in this section:

(a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.

(b) "Change order" means the same as that term is defined in Section 63G-6a-103.

(c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:

(i) works at least 30 hours per calendar week; and

(ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.

(d) "Health benefit plan" means:

(i) the same as that term is defined in Section 31A-1-301; or

(ii) an employee welfare benefit plan:

(A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;

(B) for an employer with 100 or more employees; and

(C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.

(e) "Qualified health coverage" means the same as that term is defined in Section 26-40-115.

(f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.

(g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

(a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than $2,000,000; and

(b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than $1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

(a) the application of this section jeopardizes the receipt of federal funds;

(b) the contract or agreement is between:

(i) the department or a division, board, or council of the department; and

(ii) (A) another agency of the state;

(B) the federal government;

(C) another state;

(D) an interstate agency;

(E) a political subdivision of this state; or

(F) a political subdivision of another state; or

(c) the contract or agreement is:

(i) for the purpose of disbursing grants or loans authorized by statute;

(ii) a sole source contract; or

(iii) an emergency procurement.

(4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.

(5) (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:

(i) the contractor offers qualified health coverage that complies with Section 26-40-115;

(ii) is from:

(A) an actuary selected by the contractor or the contractor's insurer;

(B) an underwriter who is responsible for developing the employer group's premium rates; or

(C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and

(iii) was created within one year before the day on which the statement is submitted.

(b) (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.

(ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:

(A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and

(B) the department.

(c) A contractor that is subject to the requirements of this section shall:

(i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and

(ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:

(A) the subcontractor offers qualified health coverage that complies with Section 26-40-115;

(B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d) (i) (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii) (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the State Building Board in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Administrative Rules Review and General Oversight Committee; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

(iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health, in accordance with Subsection 26-40-115(2).

(7) (a) (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.

(ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:

(A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or

(B) the department determines that compliance with this section is not required under the provisions of Subsection (3).

(b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).

(8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26-18-402.

(9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:

(a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:

(i) Section 63G-6a-1602; or

(ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and

(b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

(10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):

(a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;

(b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and

(c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

CHAPTER 444
S. B. 164

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

MARRIAGE SOLEMNIZATION AMENDMENTS

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Mike Winder

LONG TITLE

General Description:

This bill amends provisions related to marriage solemnization.

Highlighted Provisions:

This bill:

- amends the list of individuals authorized to solemnize a marriage to include the state attorney general, the state treasurer, the state auditor, and members of the state's congressional delegation; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-1-6, as last amended by Laws of Utah 2021, Chapter 151

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-1-6 is amended to read:

30-1-6. Who may solemnize marriages -- Certificate.

(1) As used in this section:

(a) "Judge or magistrate of the United States" means:

(i) a justice of the United States Supreme Court;

(ii) a judge of a court of appeals;

(iii) a judge of a district court;

(iv) a judge of any court created by an act of Congress, the judges of which are entitled to hold office during good behavior;

(v) a judge of a bankruptcy court;

(vi) a judge of a tax court; or

(vii) a United States magistrate.

(b) (i) "Native American spiritual advisor" means an individual who:

(A) leads, instructs, or facilitates a Native American religious ceremony or service or provides religious counseling; and

(B) is recognized as a spiritual advisor by a federally recognized Native American tribe.

(ii) "Native American spiritual advisor" includes a sweat lodge leader, medicine person, traditional religious practitioner, or holy man or woman.

(2) The following individuals may solemnize a marriage:

(a) an individual 18 years old or older who is authorized by a religious denomination to solemnize a marriage;

(b) a Native American spiritual advisor;

(c) the governor;

(d) the lieutenant governor;

(e) the state attorney general;

(f) the state treasurer;

(g) the state auditor;

[~~(e)~~] (h) a mayor of a municipality or county executive;

[~~(f)~~] (i) a justice, judge, or commissioner of a court of record;

[~~(g)~~] (j) a judge of a court not of record of the state;

[~~(h)~~] (k) a judge or magistrate of the United States;

[~~(i)~~] (l) the county clerk of any county in the state or the county clerk's designee as authorized by Section 17-20-4;

[~~(j)~~] (m) a senator or representative of the Utah Legislature; [~~or~~]

(n) a member of the state's congressional delegation; or

[~~(k)~~] (o) a judge or magistrate who holds office in Utah when retired, under rules set by the Supreme Court.

(3) An individual authorized under Subsection (2) who solemnizes a marriage shall give to the couple married a certificate of marriage that shows the:

(a) name of the county from which the license is issued; and

(b) date of the license's issuance.

(4) Except for an individual described in Subsection [~~(2)(i)~~] (2)(l), an individual described in Subsection (2) has discretion to solemnize a marriage.

(5) Except as provided in Section 17-20-4 and Subsection [~~(2)(i)~~] (2)(l), and notwithstanding any other provision in law, no individual authorized under Subsection (2) to solemnize a marriage may delegate or deputize another individual to perform the function of solemnizing a marriage.

CHAPTER 445
S. B. 171

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

BEHAVIORAL HEALTH CURRICULUM PROGRAM

Chief Sponsor: Daniel W. Thatcher
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill requires the Huntsman Mental Health Institute, within the University of Utah, to develop a youth behavioral health curriculum.

Highlighted Provisions:

This bill:

- defines terms; and
- requires the Huntsman Mental Health Institute, within the University of Utah, to:
  - coordinate with the State Board of Education to develop a youth curriculum on behavioral health;
  - publish the curriculum online; and
  - annually update the curriculum and distribute the curriculum to certain individuals and organizations in the state.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

53B-17-1301, Utah Code Annotated 1953
53B-17-1302, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53B-17-1301 is enacted to read:

Part 13. Behavioral Health Services

53B-17-1301. Definitions.

As used in this part, "Huntsman Mental Health Institute" means the mental health and substance use treatment institute within the University of Utah.

Section 2. Section 53B-17-1302 is enacted to read:

53B-17-1302. Huntsman Mental Health Institute -- Behavioral health curriculum.

(1) The Huntsman Mental Health Institute shall coordinate with the State Board of Education to develop a youth curriculum to increase awareness about behavioral health challenges facing youth in the state.

(2) The curriculum described in Subsection (1) shall include age-appropriate information on:

(a) the connection and importance of mental health to overall health;

(b) tools for maintaining mental health wellness, including evidence-based practices used to overcome behavioral health challenges;

(c) signs and symptoms of common behavioral health challenges and ways to respond to the signs and symptoms;

(d) the prevalence of behavioral health challenges across all populations;

(e) common behavioral health conditions and evidence-based treatments for common behavioral health conditions; and

(f) how to seek assistance or find support for a behavioral health challenge in a school and the community.

(3) The Huntsman Mental Health Institute shall annually:

(a) update the curriculum in coordination with the State Board of Education;

(b) publish the curriculum on the Huntsman Mental Health Institute's website in a conspicuous location; and

(c) distribute the curriculum as a resource to:

(i) parents and guardians of elementary and secondary school students;

(ii) elementary and secondary schools; and

(iii) other organizations that serve youth in the state.

(4) The Huntsman Mental Health Institute shall consider feedback provided to the Huntsman Mental Health Institute about the curriculum when annually updating the curriculum under Subsection (3)(a).

CHAPTER 446
S. B. 173

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

ALARM SYSTEM AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill regulates the use of a battery-charged suspended-wire system as part of an alarm system.

Highlighted Provisions:

This bill:

- provides that a political subdivision may not pass an ordinance regulating battery-charged suspended-wire systems if the system meets certain requirements;
- modifies the definition of alarm system to include a battery-charged suspended-wire system;
- provides that a battery-charged suspended-wire system that is part of an alarm system must be installed, maintained, repaired, or replaced by a licensed alarm company or business or a licensed alarm company agent;
- describes the requirements for a battery-charged suspended-wire system that is part of an alarm system; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-55-102, as last amended by Laws of Utah 2021, First Special Session, Chapter 3
58-55-308, as last amended by Laws of Utah 2020, Chapter 339

ENACTS:

11-65-101, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 11-65-101 is enacted to read:

CHAPTER 65. (CODIFIED AS CHAPTER 67) BATTERY-CHARGED SUSPENDED-WIRE SYSTEM

11-65-101. (Codified as 11-67-101) Battery-charged suspended-wire system.

(1) A political subdivision may not make an ordinance or other regulation prohibiting or otherwise regulating the installation of a battery-charged suspended-wire system on non-residential property, if the suspended-wire system:

(a) is installed, repaired, maintained, or replaced by a licensed alarm company or business or a licensed alarm company agent; and

(b) meets the requirements described in Subsection 58-55-308(5)(a).

(2) Nothing in this section may be construed to prevent a political subdivision from making an ordinance or other regulation related to a nonelectric perimeter wall or fence, or signage related to the perimeter wall or fence, that surrounds a battery-charged suspended-wire system.

Section 2. Section 58-55-102 is amended to read:

58-55-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) (a) "Alarm business or company" means a person engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system, except as provided in Subsection (1)(b).

(b) "Alarm business or company" does not include:

(i) a person engaged in the manufacture or sale of alarm systems unless:

(A) that person is also engaged in the installation, maintenance, alteration, repair, replacement, servicing, or monitoring of alarm systems;

(B) the manufacture or sale occurs at a location other than a place of business established by the person engaged in the manufacture or sale; or

(C) the manufacture or sale involves site visits at the place or intended place of installation of an alarm system; or

(ii) an owner of an alarm system, or an employee of the owner of an alarm system who is engaged in installation, maintenance, alteration, repair, replacement, servicing, or monitoring of the alarm system owned by that owner.

(2) "Alarm company agent":

(a) except as provided in Subsection (2)(b), means any individual employed within this state by an alarm business; and

(b) does not include an individual who:

(i) is not engaged in the sale, installation, maintenance, alteration, repair, replacement, servicing, or monitoring of an alarm system; and

(ii) does not, during the normal course of the individual's employment with an alarm business, use or have access to sensitive alarm system information.

(3) (a) "Alarm system" means equipment and devices assembled for the purpose of:

[~~(a)~~] (i) detecting and signaling unauthorized intrusion or entry into or onto certain premises; or

[~~(b)~~] (ii) signaling a robbery or attempted robbery on protected premises.

(b) "Alarm system" includes a battery-charged suspended-wire system or fence that is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises.

(4) "Apprentice electrician" means a person licensed under this chapter as an apprentice electrician who is learning the electrical trade under the immediate supervision of a master electrician, residential master electrician, a journeyman electrician, or a residential journeyman electrician.

(5) "Apprentice plumber" means a person licensed under this chapter as an apprentice plumber who is learning the plumbing trade under the immediate supervision of a master plumber, residential master plumber, journeyman plumber, or a residential journeyman plumber.

(6) "Approved continuing education" means instruction provided through courses under a program established under Subsection 58-55-302.5(2).

(7) (a) "Approved prelicensure course provider" means a provider that is the Associated General Contractors of Utah, the Utah Chapter of the Associated Builders and Contractors, or the Utah Home Builders Association, and that meets the requirements established by rule by the commission with the concurrence of the director, to teach the 25-hour course described in Subsection 58-55-302(1)(e)(iii).

(b) "Approved prelicensure course provider" may only include a provider that, in addition to any other locations, offers the 25-hour course described in Subsection 58-55-302(1)(e)(iii) at least six times each year in one or more counties other than Salt Lake County, Utah County, Davis County, or Weber County.

(8) "Board" means the Electrician Licensing Board, Alarm System Security and Licensing Board, or Plumbers Licensing Board created in Section 58-55-201.

(9) "Combustion system" means an assembly consisting of:

(a) piping and components with a means for conveying, either continuously or intermittently, natural gas from the outlet of the natural gas provider's meter to the burner of the appliance;

(b) the electric control and combustion air supply and venting systems, including air ducts; and

(c) components intended to achieve control of quantity, flow, and pressure.

(10) "Commission" means the Construction Services Commission created under Section 58-55-103.

(11) "Construction trade" means any trade or occupation involving:

(a) (i) construction, alteration, remodeling, repairing, wrecking or demolition, addition to, or improvement of any building, highway, road, railroad, dam, bridge, structure, excavation or other project, development, or improvement to other than personal property; and

(ii) constructing, remodeling, or repairing a manufactured home or mobile home as defined in Section 15A-1-302; or

(b) installation or repair of a residential or commercial natural gas appliance or combustion system.

(12) "Construction trades instructor" means a person licensed under this chapter to teach one or more construction trades in both a classroom and project environment, where a project is intended for sale to or use by the public and is completed under the direction of the instructor, who has no economic interest in the project.

(13) (a) "Contractor" means any person who for compensation other than wages as an employee undertakes any work in the construction, plumbing, or electrical trade for which licensure is required under this chapter and includes:

(i) a person who builds any structure on the person's own property for the purpose of sale or who builds any structure intended for public use on the person's own property;

(ii) any person who represents that the person is a contractor, or will perform a service described in this Subsection (13), by advertising on a website or social media, or any other means;

(iii) any person engaged as a maintenance person, other than an employee, who regularly engages in activities set forth under the definition of "construction trade";

(iv) any person engaged in, or offering to engage in, any construction trade for which licensure is required under this chapter; or

(v) a construction manager, construction consultant, construction assistant, or any other person who, for a fee:

(A) performs or offers to perform construction consulting;

(B) performs or offers to perform management of construction subcontractors;

(C) provides or offers to provide a list of subcontractors or suppliers; or

(D) provides or offers to provide management or counseling services on a construction project.

(b) "Contractor" does not include:

(i) an alarm company or alarm company agent; or

(ii) a material supplier who provides consulting to customers regarding the design and installation of the material supplier's products.

(14) (a) "Electrical trade" means the performance of any electrical work involved in the installation, construction, alteration, change, repair, removal, or maintenance of facilities, buildings, or appendages or appurtenances.

(b) "Electrical trade" does not include:

(i) transporting or handling electrical materials;

(ii) preparing clearance for raceways for wiring;

(iii) work commonly done by unskilled labor on any installations under the exclusive control of electrical utilities;

(iv) work involving cable-type wiring that does not pose a shock or fire-initiation hazard; or

(v) work involving class two or class three power-limited circuits as defined in the National Electrical Code.

(15) "Elevator" means the same as that term is defined in Section 34A-7-202, except that for purposes of this chapter it does not mean a stair chair, a vertical platform lift, or an incline platform lift.

(16) "Elevator contractor" means a sole proprietor, firm, or corporation licensed under this chapter that is engaged in the business of erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator.

(17) "Elevator mechanic" means an individual who is licensed under this chapter as an elevator mechanic and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining an elevator under the immediate supervision of an elevator contractor.

(18) "Employee" means an individual as defined by the division by rule giving consideration to the definition adopted by the Internal Revenue Service and the Department of Workforce Services.

(19) "Engage in a construction trade" means to:

(a) engage in, represent oneself to be engaged in, or advertise oneself as being engaged in a construction trade; or

(b) use the name "contractor" or "builder" or in any other way lead a reasonable person to believe one is or will act as a contractor.

(20) (a) "Financial responsibility" means a demonstration of a current and expected future condition of financial solvency evidencing a reasonable expectation to the division and the board that an applicant or licensee can successfully engage in business as a contractor without jeopardy to the public health, safety, and welfare.

(b) Financial responsibility may be determined by an evaluation of the total history concerning the licensee or applicant including past, present, and expected condition and record of financial solvency and business conduct.

(21) "Gas appliance" means any device that uses natural gas to produce light, heat, power, steam, hot water, refrigeration, or air conditioning.

(22) (a) "General building contractor" means a person licensed under this chapter as a general building contractor qualified by education, training, experience, and knowledge to perform or superintend construction of structures for the support, shelter, and enclosure of persons, animals, chattels, or movable property of any kind or any of the components of that construction except plumbing, electrical work, mechanical work, work related to the operating integrity of an elevator, and manufactured housing installation, for which the general building contractor shall employ the services of a contractor licensed in the particular specialty, except that a general building contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(b) The division may by rule exclude general building contractors from engaging in the performance of other construction specialties in which there is represented a substantial risk to the public health, safety, and welfare, and for which a license is required unless that general building contractor holds a valid license in that specialty classification.

(23) (a) "General electrical contractor" means a person licensed under this chapter as a general electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of generators, transformers, conduits, raceways, panels, switch gear, electrical wires, fixtures, appliances, or apparatus that uses electrical energy.

(b) The scope of work of a general electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(24) (a) "General engineering contractor" means a person licensed under this chapter as a general engineering contractor qualified by education, training, experience, and knowledge to perform construction of fixed works in any of the following: irrigation, drainage, water, power, water supply, flood control, inland waterways, harbors, railroads, highways, tunnels, airports and runways, sewers and bridges, refineries, pipelines, chemical and industrial plants requiring specialized engineering knowledge and skill, piers, and foundations, or any of the components of those works.

(b) A general engineering contractor may not perform construction of structures built primarily for the support, shelter, and enclosure of persons, animals, and chattels.

(25) (a) "General plumbing contractor" means a person licensed under this chapter as a general plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in a building by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a general plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(26) "Immediate supervision" means reasonable direction, oversight, inspection, and evaluation of the work of a person:

(a) as the division specifies in rule;

(b) by, as applicable, a qualified electrician or plumber;

(c) as part of a planned program of training; and

(d) to ensure that the end result complies with applicable standards.

(27) "Individual" means a natural person.

(28) "Journeyman electrician" means a person licensed under this chapter as a journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes.

(29) "Journeyman plumber" means a person licensed under this chapter as a journeyman plumber having the qualifications, training, experience, and technical knowledge to engage in the plumbing trade.

(30) "Master electrician" means a person licensed under this chapter as a master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes.

(31) "Master plumber" means a person licensed under this chapter as a master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade.

(32) "Person" means a natural person, sole proprietorship, joint venture, corporation, limited liability company, association, or organization of any type.

(33) (a) "Plumbing trade" means the performance of any mechanical work pertaining to the installation, alteration, change, repair, removal, maintenance, or use in buildings, or within three feet beyond the outside walls of buildings, of pipes, fixtures, and fittings for the:

(i) delivery of the water supply;

(ii) discharge of liquid and water carried waste;

(iii) building drainage system within the walls of the building; and

(iv) delivery of gases for lighting, heating, and industrial purposes.

(b) "Plumbing trade" includes work pertaining to the water supply, distribution pipes, fixtures and fixture traps, soil, waste and vent pipes, the building drain and roof drains, and the safe and adequate supply of gases, together with their devices, appurtenances, and connections where installed within the outside walls of the building.

(34) "Ratio of apprentices" means the number of licensed plumber apprentices or licensed electrician apprentices that are allowed to be under the immediate supervision of a licensed supervisor as established by the provisions of this chapter and by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(35) "Residential and small commercial contractor" means a person licensed under this chapter as a residential and small commercial contractor qualified by education, training, experience, and knowledge to perform or superintend the construction of single-family residences, multifamily residences up to four units, and commercial construction of not more than three stories above ground and not more than 20,000 square feet, or any of the components of that construction except plumbing, electrical work, mechanical work, and manufactured housing installation, for which the residential and small commercial contractor shall employ the services of a contractor licensed in the particular specialty, except that a residential and small commercial contractor engaged in the construction of single-family and multifamily residences up to four units may perform the mechanical work and hire a licensed plumber or electrician as an employee.

(36) "Residential building," as it relates to the license classification of residential journeyman plumber and residential master plumber, means a single or multiple family dwelling of up to four units.

(37) (a) "Residential electrical contractor" means a person licensed under this chapter as a residential electrical contractor qualified by education, training, experience, and knowledge to perform the fabrication, construction, and installation of services, disconnecting means, grounding devices, panels, conductors, load centers, lighting and plug circuits, appliances, and fixtures in a residential unit.

(b) The scope of work of a residential electrical contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(38) "Residential journeyman electrician" means a person licensed under this chapter as a residential journeyman electrician having the qualifications, training, experience, and knowledge to wire, install, and repair electrical apparatus and equipment for light, heat, power, and other purposes on buildings using primarily nonmetallic sheath cable.

(39) "Residential journeyman plumber" means a person licensed under this chapter as a residential journeyman plumber having the qualifications, training, experience, and knowledge to engage in

the plumbing trade as limited to the plumbing of residential buildings.

(40) "Residential master electrician" means a person licensed under this chapter as a residential master electrician having the qualifications, training, experience, and knowledge to properly plan, layout, and supervise the wiring, installation, and repair of electrical apparatus and equipment for light, heat, power, and other purposes on residential projects.

(41) "Residential master plumber" means a person licensed under this chapter as a residential master plumber having the qualifications, training, experience, and knowledge to properly plan and layout projects and supervise persons in the plumbing trade as limited to the plumbing of residential buildings.

(42) (a) "Residential plumbing contractor" means a person licensed under this chapter as a residential plumbing contractor qualified by education, training, experience, and knowledge to perform the fabrication or installation of material and fixtures to create and maintain sanitary conditions in residential buildings by providing permanent means for a supply of safe and pure water, a means for the timely and complete removal from the premises of all used or contaminated water, fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, and a safe and adequate supply of gases for lighting, heating, and industrial purposes.

(b) The scope of work of a residential plumbing contractor may be further defined by rules made by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(43) "Residential project," as it relates to an electrician or electrical contractor, means buildings primarily wired with nonmetallic sheathed cable, in accordance with standard rules and regulations governing this work, including the National Electrical Code, and in which the voltage does not exceed 250 volts line to line and 125 volts to ground.

(44) "Sensitive alarm system information" means:

(a) a pass code or other code used in the operation of an alarm system;

(b) information on the location of alarm system components at the premises of a customer of the alarm business providing the alarm system;

(c) information that would allow the circumvention, bypass, deactivation, or other compromise of an alarm system of a customer of the alarm business providing the alarm system; and

(d) any other similar information that the division by rule determines to be information that an individual employed by an alarm business should use or have access to only if the individual is licensed as provided in this chapter.

(45) (a) "Specialty contractor" means a person licensed under this chapter under a specialty contractor classification established by rule, who is qualified by education, training, experience, and knowledge to perform those construction trades and crafts requiring specialized skill, the regulation of which are determined by the division to be in the best interest of the public health, safety, and welfare.

(b) A specialty contractor may perform work in crafts or trades other than those in which the specialty contractor is licensed if they are incidental to the performance of the specialty contractor's licensed craft or trade.

(46) "Unincorporated entity" means an entity that is not:

(a) an individual;

(b) a corporation; or

(c) publicly traded.

(47) "Unlawful conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-501.

(48) "Unprofessional conduct" means the same as that term is defined in Sections 58-1-501 and 58-55-502 and as may be further defined by rule.

(49) "Wages" means amounts due to an employee for labor or services whether the amount is fixed or ascertained on a time, task, piece, commission, or other basis for calculating the amount.

Section 3. Section 58-55-308 is amended to read:

58-55-308. Scope of practice -- Installation, repair, maintenance, or replacement of gas appliance, combustion system, automatic fire sprinkler system, or battery-powered fence -- Rules.

(1) (a) The commission, with the concurrence of the director, may adopt reasonable rules pursuant to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define and limit the scope of practice and operating standards of the classifications and subclassifications licensed under this chapter in a manner consistent with established practice in the relevant industry.

(b) The commission and the director may limit the field and scope of operations of a licensee under this chapter in accordance with the rules and the public health, safety, and welfare, based on the licensee's education, training, experience, knowledge, and financial responsibility.

(2) (a) The work and scope of practice covered by this Subsection (2) and Subsection (3) is the installation, repair, maintenance, cleaning, or replacement of a residential or commercial gas appliance or combustion system.

(b) The provisions of this Subsection (2) apply to any:

(i) licensee under this chapter whose license authorizes the licensee to perform the work described in Subsection (2)(a); and

(ii) person exempt from licensure under Section 58-55-305.

(c) Any person described in Subsection (2)(b) that performs work described in Subsection (2)(a):

(i) must first receive training and certification as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) shall ensure that any employee authorized under other provisions of this chapter to perform work described in Subsection (2)(a) has first received training and certification as specified in rules adopted by the division.

(d) The division may exempt from the training requirements adopted under Subsection (2)(c) a person that has adequate experience, as determined by the division.

(3) The division may exempt the following individuals from the certification requirements adopted under Subsection (2)(c):

(a) a person who has passed a test equivalent to the level of testing required by the division for certification, or has completed an apprenticeship program that teaches the installation of gas line appliances and is approved by the Federal Bureau of Apprenticeship Training; and

(b) a person working under the immediate one-to-one supervision of a certified natural gas technician or a person exempt from certification.

(4) (a) The work and scope of practice covered by this Subsection (4) is the installation, repair, maintenance, or replacement of an automatic fire sprinkler system.

(b) The provisions of this Subsection (4) apply to an individual acting as a qualifier for a business entity in accordance with Section 58-55-304, where the business entity seeks to perform the work described in Subsection (4)(a).

(c) Before a business entity described in Subsection (4)(b) may perform the work described in Subsection (4)(a), the qualifier for the business entity shall:

(i) be a licensed general building contractor; or

(ii) obtain a certification in fire sprinkler fitting from the division by providing evidence to the division that the qualifier has met the following requirements:

(A) completing a Department of Labor federally approved apprentice training program or completing two-years experience under the immediate supervision of a licensee who has obtained a certification in fire sprinkler fitting; and

(B) passing the Star fire sprinklerfitting mastery examination offered by the National Inspection Testing and Certification Corporation or an equivalent examination approved by the division.

(d) The division may also issue a certification in fire sprinkler fitting to a qualifier for a business entity who has received training and experience equivalent to the requirements of Subsection (4)(c), as specified in rules adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) (a) The scope and practice of this Subsection (5) is the installation, repair, maintenance, or replacement of a battery-charged suspended-wire system or fence that:

(i) is part of and interfaces with an alarm system for the purposes of detecting and deterring unauthorized intrusion or entry into or onto certain premises;

(ii) is located on property that is not designated by a municipality or county for residential use;

(iii) has an energizer that is driven by a commercial storage battery that provides no more than 12 volts of direct current;

(iv) produces an electric charge on contact that does not exceed energizer characteristics set for electric fence energizers by the International Electrotechnical Commission;

(v) is surrounded by a nonelectric perimeter fence or wall that is at least five feet in height;

(vi) is not more than the higher of:

(A) two feet higher than the height of the nonelectric perimeter fence or wall; or

(B) 10 feet in height;

(vii) is marked with conspicuous warning signs that are located on the battery-charged suspended-wire system or fence at no more than 30-foot intervals and that read "WARNING -- ELECTRIC FENCE"; and

(viii) meets any rules related to battery-charged suspended-wire systems or fences adopted by the commission, with the concurrence of the director, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) Before a business entity or person may perform the scope of work described in Subsection (5)(a), the business entity or person shall be a licensed alarm business or company or a licensed alarm company agent.

[~~(5)~~] (6) This section does not prohibit a licensed specialty contractor from accepting and entering into a contract involving the use of two or more crafts or trades if the performance of the work in the crafts or trades, other than that in which the contractor is licensed, is incidental and supplemental to the work for which the contractor is licensed.

CHAPTER 447
S. B. 176

Passed March 3, 2022
Approved March 24, 2022
Effective June 1, 2022
(Exception clause in Section 112)

ALCOHOLIC BEVERAGE CONTROL ACT AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill amends provisions of the Alcoholic Beverage Control Act and provisions related to the Act.

Highlighted Provisions:

This bill:

- defines and amends terms;
- amends proximity requirements for certain arena licensees;
- amends provisions of the Malted Beverage Act regarding:
  - labeling and packaging; and
  - the power of the commission and department to classify flavored malt beverages;
- amends the time period in which a retail manager is required to complete a certain training program;
- changes the name of the "Department of Alcoholic Beverage Control" to the "Department of Alcoholic Beverage Services";
- changes the name of the "Alcoholic Beverage Control Commission" to the "Alcoholic Beverage Services Commission";
- changes the name of the "Alcoholic Beverage Control Advisory Board" to the "Alcoholic Beverage Services Advisory Board";
- amends provisions related to the late renewal of a license;
- amends provisions regarding the liquor control fund;
- amends provisions regarding the calculation of manufacturer production for school lunch program markup purposes;
- requires a package agency to submit any information the commission or department may require for the renewal of a package agency agreement;
- permits a package agency located at a manufacturing facility to, under certain conditions, remain open on a Sunday or on a state or federal holiday;
- amends a provision related to the furnishing of alcohol to a minor;
- amends the application requirements for a retail license;
- amends the requirements for a conditional retail license;
- prohibits the commission from including certain sublicenses in the total number of licenses the commission has issued for each type of retail license;
- permits various retail licensees to sell beer for off-premise consumption under certain conditions;
- makes references to the department's auditing of a retail licensee's records consistent;
- amends provisions regarding a retail licensee's ceasing of operations;
- permits a management agreement under certain conditions;
- prohibits an off-premise beer retailer from:
  - engaging in or permitting on the licensed premises gambling or fringe gambling;
  - having certain devices or games on the licensed premises; or
  - knowingly allowing certain drug-related activities on the licensed premises;
- amends provisions regarding the tracking of enforcement actions to remove references to and requirements related to a repealed section of statute;
- amends the total number of resort licenses permitted at a time in the state to eight;
- permits a hotel licensee or person applying for a hotel license to obtain a spa sublicense;
- amends the number of 72-hour single event permits the director may issue in a calendar year to the same person to 24;
- amends and renumbers the Transfer of Alcohol License Act; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

32B-1-102, as last amended by Laws of Utah 2021, Chapter 291

32B-1-202.1, as enacted by Laws of Utah 2021, Chapter 291

32B-1-603, as enacted by Laws of Utah 2010, Chapter 276

32B-1-604, as last amended by Laws of Utah 2017, Chapter 455

32B-1-605, as last amended by Laws of Utah 2018, Chapter 281

32B-1-606, as last amended by Laws of Utah 2018, Chapter 249

32B-1-701, as last amended by Laws of Utah 2019, Chapter 12 and renumbered and amended by Laws of Utah 2019, Chapter 403

32B-1-704, as renumbered and amended by Laws of Utah 2019, Chapter 403

32B-2-101, as enacted by Laws of Utah 2010, Chapter 276

32B-2-201, as last amended by Laws of Utah 2020, Chapters 352 and 373

32B-2-202, as last amended by Laws of Utah 2020, Chapter 219

32B-2-203, as enacted by Laws of Utah 2010, Chapter 276

32B-2-205, as last amended by Laws of Utah 2020, Chapter 352

32B-2-210, as last amended by Laws of Utah 2018, Chapter 249

32B-2-301, as last amended by Laws of Utah 2021, Chapter 424

32B-2-304, as last amended by Laws of Utah 2021, Chapter 291

32B-2-602, as last amended by Laws of Utah 2011, Chapters 307 and 334
32B-2-605, as last amended by Laws of Utah 2021, Chapter 291
32B-3-202, as last amended by Laws of Utah 2020, Chapter 219
32B-3-205, as last amended by Laws of Utah 2018, Chapters 249 and 329
32B-4-403, as last amended by Laws of Utah 2021, Chapter 291
32B-4-415, as last amended by Laws of Utah 2020, Chapter 219
32B-5-102, as last amended by Laws of Utah 2019, Chapter 403
32B-5-201, as last amended by Laws of Utah 2020, Chapter 219
32B-5-202, as last amended by Laws of Utah 2021, Chapter 291
32B-5-205, as last amended by Laws of Utah 2021, Chapter 291
32B-5-304, as last amended by Laws of Utah 2019, Chapter 403
32B-5-307, as last amended by Laws of Utah 2021, Chapter 291
32B-5-309, as last amended by Laws of Utah 2020, Chapter 219
32B-6-205, as last amended by Laws of Utah 2020, Chapter 219
32B-6-205.2, as last amended by Laws of Utah 2020, Chapter 219
32B-6-205.3, as enacted by Laws of Utah 2017, Chapter 455
32B-6-305, as last amended by Laws of Utah 2019, Chapter 403
32B-6-305.2, as last amended by Laws of Utah 2019, Chapter 403
32B-6-305.3, as enacted by Laws of Utah 2017, Chapter 455
32B-6-404.1, as last amended by Laws of Utah 2018, Chapter 249
32B-6-605, as last amended by Laws of Utah 2021, Chapter 291
32B-6-706, as last amended by Laws of Utah 2017, Chapter 455
32B-6-905, as last amended by Laws of Utah 2019, Chapter 403
32B-6-905.1, as last amended by Laws of Utah 2019, Chapter 403
32B-6-905.2, as last amended by Laws of Utah 2018, Chapter 281
32B-6-1005, as enacted by Laws of Utah 2020, Chapter 219
32B-7-202, as last amended by Laws of Utah 2019, Chapter 403
32B-7-305, as last amended by Laws of Utah 2017, Chapters 163 and 455
32B-8-201, as last amended by Laws of Utah 2020, Chapter 219
32B-8b-301, as last amended by Laws of Utah 2020, Chapter 219
32B-8c-202, as enacted by Laws of Utah 2020, Chapter 219
32B-8d-102, as enacted by Laws of Utah 2020, Chapter 219
32B-8d-103, as enacted by Laws of Utah 2020, Chapter 219
32B-8d-104, as last amended by Laws of Utah 2021, Chapter 291
32B-8d-201, as enacted by Laws of Utah 2020, Chapter 219
32B-8d-202, as renumbered and amended by Laws of Utah 2020, Chapter 219
32B-8d-203, as renumbered and amended by Laws of Utah 2020, Chapter 219
32B-8d-204, as renumbered and amended by Laws of Utah 2020, Chapter 219
32B-8d-205, as renumbered and amended by Laws of Utah 2020, Chapter 219
32B-9-303, as last amended by Laws of Utah 2012, Chapter 365
32B-10-206, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 6
32B-11-208, as last amended by Laws of Utah 2020, Chapter 219
32B-11-303, as last amended by Laws of Utah 2016, Chapter 266
32B-11-403, as last amended by Laws of Utah 2020, Chapter 219
32B-11-503, as last amended by Laws of Utah 2019, Chapter 403
32B-11-504, as enacted by Laws of Utah 2021, Chapter 291
34-52-201, as last amended by Laws of Utah 2019, Chapters 371 and 479
53-2a-802, as last amended by Laws of Utah 2021, Chapters 184 and 344
53-8-105, as last amended by Laws of Utah 2016, Chapter 245
53-10-102, as last amended by Laws of Utah 2019, Chapter 33
53-10-305, as last amended by Laws of Utah 2017, Chapter 455
53F-9-304, as last amended by Laws of Utah 2020, Chapter 161
53G-10-406, as last amended by Laws of Utah 2020, Chapters 161 and 408
59-1-403, as last amended by Laws of Utah 2021, Chapters 282, 367, 369, and 382
59-15-108, as renumbered and amended by Laws of Utah 1987, Chapter 2
62A-1-121, as last amended by Laws of Utah 2021, Chapter 344
62A-15-401, as last amended by Laws of Utah 2019, Chapter 403
63A-17-502, as last amended by Laws of Utah 2021, Chapter 184 and renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-807, as last amended by Laws of Utah 2021, Chapter 184 and renumbered and amended by Laws of Utah 2021, Chapter 344
63B-3-301, as last amended by Laws of Utah 2021, Chapters 280 and 382
63B-5-201, as last amended by Laws of Utah 2021, Chapter 280
63B-10-301, as last amended by Laws of Utah 2008, Chapter 382
63B-11-701, as last amended by Laws of Utah 2008, Chapter 382
63B-13-201, as enacted by Laws of Utah 2004, Chapter 364

63B-14-201, as enacted by Laws of Utah 2005, Chapter 180
63B-15-201, as enacted by Laws of Utah 2006, Chapter 169
63B-16-201, as last amended by Laws of Utah 2020, Chapter 152
63B-17-201, as last amended by Laws of Utah 2020, Chapter 152
63B-18-201, as enacted by Laws of Utah 2009, Chapter 134
63B-24-101, as enacted by Laws of Utah 2015, Chapter 281
63B-26-101, as enacted by Laws of Utah 2016, Chapter 250
63B-27-201, as enacted by Laws of Utah 2017, Chapter 355
63B-28-101, as last amended by Laws of Utah 2020, Chapter 301
63B-29-101, as enacted by Laws of Utah 2019, Chapter 410
63B-31-202, as enacted by Laws of Utah 2021, Chapter 320
63G-12-306, as last amended by Laws of Utah 2014, Chapter 189
63I-5-201 (Superseded 07/01/22), as last amended by Laws of Utah 2021, Chapter 184
63I-5-201 (Effective 07/01/22), as last amended by Laws of Utah 2021, Second Special Session, Chapter 1
63J-1-219, as last amended by Laws of Utah 2021, Chapters 184 and 344
63J-1-602.2, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424
67-22-2, as last amended by Laws of Utah 2021, Chapters 64, 184, 344, and 382

ENACTS:
32B-18-203, Utah Code Annotated 1953
32B-18-205, Utah Code Annotated 1953
32B-18-301, Utah Code Annotated 1953
32B-18-302, Utah Code Annotated 1953
32B-18-303, Utah Code Annotated 1953

RENUMBERS AND AMENDS:
32B-18-101, (Renumbered from 32B-8a-102, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-201, (Renumbered from 32B-8a-201, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-202, (Renumbered from 32B-8a-202, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-204, (Renumbered from 32B-5-310, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-206, (Renumbered from 32B-8a-203, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-207, (Renumbered from 32B-8a-303, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-401, (Renumbered from 32B-8a-501, as last amended by Laws of Utah 2021, Chapter 291)
32B-18-402, (Renumbered from 32B-8a-502, as last amended by Laws of Utah 2020, Chapter 219)

REPEALS:
32B-8a-101, as last amended by Laws of Utah 2020, Chapter 219
32B-8a-302, as last amended by Laws of Utah 2021, Chapters 84, 291, and 345
32B-12-207, as enacted by Laws of Utah 2021, Chapter 291

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-1-102 is amended to read:

32B-1-102. Definitions.

As used in this title:

(1) "Airport lounge" means a business location:

(a) at which an alcoholic product is sold at retail for consumption on the premises; and

(b) that is located at an international airport.

(2) "Airport lounge license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 5, Airport Lounge License.

(3) "Alcoholic beverage" means the following:

(a) beer; or

(b) liquor.

(4) (a) "Alcoholic product" means a product that:

(i) contains at least .5% of alcohol by volume; and

(ii) is obtained by fermentation, infusion, decoction, brewing, distillation, or other process that uses liquid or combinations of liquids, whether drinkable or not, to create alcohol in an amount equal to or greater than .5% of alcohol by volume.

(b) "Alcoholic product" includes an alcoholic beverage.

(c) "Alcoholic product" does not include any of the following common items that otherwise come within the definition of an alcoholic product:

(i) except as provided in Subsection (4)(d), an extract;

(ii) vinegar;

(iii) preserved nonintoxicating cider;

(iv) essence;

(v) tincture;

(vi) food preparation; or

(vii) an over-the-counter medicine.

(d) "Alcoholic product" includes an extract containing alcohol obtained by distillation when it is used as a flavoring in the manufacturing of an alcoholic product.

(5) "Alcohol training and education seminar" means a seminar that is:

(a) required by Chapter 1, Part 7, Alcohol Training and Education Act; and

(b) described in Section 62A-15-401.

(6) "Arena" means an enclosed building:

(a) that is managed by:

(i) the same person who owns the enclosed building;

(ii) a person who has a majority interest in each person who owns or manages a space in the enclosed building; or

(iii) a person who has authority to direct or exercise control over the management or policy of each person who owns or manages a space in the enclosed building;

(b) that operates as a venue; and

(c) that has an occupancy capacity of at least 12,500.

(7) "Arena license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8c, Arena License Act.

(8) "Banquet" means an event:

(a) that is a private event or a privately sponsored event;

(b) that is held at one or more designated locations approved by the commission in or on the premises of:

(i) a hotel;

(ii) a resort facility;

(iii) a sports center;

(iv) a convention center;

(v) a performing arts facility; or

(vi) an arena;

(c) for which there is a contract:

(i) between a person operating a facility listed in Subsection (8)(b) and another person that has common ownership of less than 20% with the person operating the facility; and

(ii) under which the person operating a facility listed in Subsection (8)(b) is required to provide an alcoholic product at the event; and

(d) at which food and alcoholic products may be sold, offered for sale, or furnished.

(9) "Bar structure" means a surface or structure on a licensed premises if on or at any place of the surface or structure an alcoholic product is:

(a) stored; or

(b) dispensed.

(10) (a) "Bar establishment license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(b) "Bar establishment license" includes:

(i) a dining club license;

(ii) an equity license;

(iii) a fraternal license; or

(iv) a bar license.

(11) "Bar license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License.

(12) (a) [~~Subject to Subsection (12)(d), "beer"~~] "Beer" means a product that:

(i) contains:

(A) at least .5% of alcohol by volume[~~, but not~~]; and

(B) no more than 5% of alcohol by volume or 4% by weight; [~~and~~]

(ii) is obtained by fermentation, infusion, or decoction of [~~malted grain.~~]:

(A) malt; or

(B) a malt substitute; and

(iii) is clearly marketed, labeled, and identified as:

(A) beer;

(B) ale;

(C) porter;

(D) stout;

(E) lager;

(F) a malt;

(G) a malted beverage; or

(H) seltzer.

(b) "Beer" may [~~or may not contain hops or other vegetable products.~~] contain:

(i) hops extract; or

(ii) caffeine, if the caffeine is a natural constituent of an added ingredient.

[~~(c) "Beer" includes a product that:~~]

[~~(i) contains alcohol in the percentages described in Subsection (12)(a); and~~]

[~~(ii) is referred to as:~~]

[~~(A) beer;~~]

[~~(B) ale;~~]

[~~(C) porter;~~]

[~~(D) stout;~~]

[~~(E) lager; or~~]

[~~(F) a malt or malted beverage.~~]

[~~(d)~~] (c) "Beer" does not include:

(i) a flavored malt beverage[~~.~~];

(ii) a product that contains alcohol derived from:

(A) spirituous liquor; or

(B) wine; or

(iii) a product that contains an additive masking or altering a physiological effect of alcohol, including kratom, kava, cannabidiol, or natural or synthetic tetrahydrocannabinol.

(13) "Beer-only restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 9, Beer-Only Restaurant License.

(14) "Beer retailer" means a business that:

(a) is engaged, primarily or incidentally, in the retail sale of beer to a patron, whether for consumption on or off the business premises; and

(b) is licensed as:

(i) an off-premise beer retailer, in accordance with Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority; or

(ii) an on-premise beer retailer, in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License.

(15) "Beer wholesaling license" means a license:

(a) issued in accordance with Chapter 13, Beer Wholesaling License Act; and

(b) to import for sale, or sell beer in wholesale or jobbing quantities to one or more retail licensees or off-premise beer retailers.

(16) "Billboard" means a public display used to advertise, including:

(a) a light device;

(b) a painting;

(c) a drawing;

(d) a poster;

(e) a sign;

(f) a signboard; or

(g) a scoreboard.

(17) "Brewer" means a person engaged in manufacturing:

(a) beer;

(b) heavy beer; or

(c) a flavored malt beverage.

(18) "Brewery manufacturing license" means a license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License.

(19) "Certificate of approval" means a certificate of approval obtained from the department under Section 32B-11-201.

(20) "Chartered bus" means a passenger bus, coach, or other motor vehicle provided by a bus company to a group of persons pursuant to a common purpose:

(a) under a single contract;

(b) at a fixed charge in accordance with the bus company's tariff; and

(c) to give the group of persons the exclusive use of the passenger bus, coach, or other motor vehicle, and a driver to travel together to one or more specified destinations.

(21) "Church" means a building:

(a) set apart for worship;

(b) in which religious services are held;

(c) with which clergy is associated; and

(d) that is tax exempt under the laws of this state.

(22) "Commission" means the Alcoholic Beverage [~~Control~~] Services Commission created in Section 32B-2-201.

(23) "Commissioner" means a member of the commission.

(24) "Community location" means:

(a) a public or private school;

(b) a church;

(c) a public library;

(d) a public playground; or

(e) a public park.

(25) "Community location governing authority" means:

(a) the governing body of the community location; or

(b) if the commission does not know who is the governing body of a community location, a person who appears to the commission to have been given on behalf of the community location the authority to prohibit an activity at the community location.

(26) "Container" means a receptacle that contains an alcoholic product, including:

(a) a bottle;

(b) a vessel; or

(c) a similar item.

(27) "Controlled group of [~~breweries"~~] manufacturers" means as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(28) "Convention center" means a facility that is:

(a) in total at least 30,000 square feet; and

(b) otherwise defined as a "convention center" by the commission by rule.

(29) (a) "Counter" means a surface or structure in a dining area of a licensed premises where seating is provided to a patron for service of food.

(b) "Counter" does not include a dispensing structure.

(30) "Crime involving moral turpitude" is as defined by the commission by rule.

(31) "Department" means the Department of Alcoholic Beverage [~~Control~~] Services created in Section 32B-2-203.

(32) "Department compliance officer" means an individual who is:

(a) an auditor or inspector; and

(b) employed by the department.

(33) "Department sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling.

(34) "Dining club license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a dining club license.

(35) "Director," unless the context requires otherwise, means the director of the department.

(36) "Disciplinary proceeding" means an adjudicative proceeding permitted under this title:

(a) against a person subject to administrative action; and

(b) that is brought on the basis of a violation of this title.

(37) (a) Subject to Subsection (37)(b), "dispense" means:

(i) drawing an alcoholic product; and

(ii) using the alcoholic product at the location from which it was drawn to mix or prepare an alcoholic product to be furnished to a patron of the retail licensee.

(b) The definition of "dispense" in this Subsection (37) applies only to:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a reception center license;

(iv) a beer-only restaurant license;

(v) a bar license;

(vi) an on-premise beer retailer;

(vii) an airport lounge license;

(viii) an on-premise banquet license; and

(ix) a hospitality amenity license.

(38) "Dispensing structure" means a surface or structure on a licensed premises:

(a) where an alcoholic product is dispensed; or

(b) from which an alcoholic product is served.

(39) "Distillery manufacturing license" means a license issued in accordance with Chapter 11, Part 4, Distillery Manufacturing License.

(40) "Distressed merchandise" means an alcoholic product in the possession of the department that is saleable, but for some reason is unappealing to the public.

(41) "Equity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as an equity license.

(42) "Event permit" means:

(a) a single event permit; or

(b) a temporary beer event permit.

(43) "Exempt license" means a license exempt under Section 32B-1-201 from being considered in determining the total number of retail licenses that the commission may issue at any time.

(44) (a) "Flavored malt beverage" means a beverage:

(i) that contains at least .5% alcohol by volume;

[~~(ii) that is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer as described in 27 C.F.R. Sec. 25.55;~~]

[~~(iii) to which is added a flavor or other ingredient containing alcohol, except for a hop extract; and~~]

(ii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage is treated by processing, filtration, or another method of manufacture that is not generally recognized as a traditional process in the production of a beer, ale, porter, stout, lager, or malt liquor; and

(iii) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau under 27 C.F.R. Sec. 25.55 because the beverage includes an ingredient containing alcohol.

[~~(iv) (A) for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or~~]

[~~(B) that is not exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.~~]

(b) "Flavored malt beverage" is considered liquor for purposes of this title.

(45) "Fraternal license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 4, Bar Establishment License, that is designated by the commission as a fraternal license.

(46) "Full-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 2, Full-Service Restaurant License.

(47) (a) "Furnish" means by any means to provide with, supply, or give an individual an alcoholic product, by sale or otherwise.

(b) "Furnish" includes to:

(i) serve;

(ii) deliver; or

(iii) otherwise make available.

(48) "Guest" means an individual who meets the requirements of Subsection 32B-6-407(9).

(49) "Hard cider" means the same as that term is defined in 26 U.S.C. Sec. 5041.

(50) "Health care practitioner" means:

(a) a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(b) an optometrist licensed under Title 58, Chapter 16a, Utah Optometry Practice Act;

(c) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

(d) a physical therapist licensed under Title 58, Chapter 24b, Physical Therapy Practice Act;

(e) a nurse or advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

(f) a recreational therapist licensed under Title 58, Chapter 40, Recreational Therapy Practice Act;

(g) an occupational therapist licensed under Title 58, Chapter 42a, Occupational Therapy Practice Act;

(h) a nurse midwife licensed under Title 58, Chapter 44a, Nurse Midwife Practice Act;

(i) a mental health professional licensed under Title 58, Chapter 60, Mental Health Professional Practice Act;

(j) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act;

(k) an osteopath licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

(l) a dentist or dental hygienist licensed under Title 58, Chapter 69, Dentist and Dental Hygienist Practice Act; and

(m) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act.

(51) (a) "Heavy beer" means a product that:

(i) contains more than 5% alcohol by volume; and

(ii) is obtained by fermentation, infusion, or decoction of [~~malted grain.~~]:

(A) malt; or

(B) a malt substitute.

(b) "Heavy beer" is considered liquor for the purposes of this title.

(52) "Hospitality amenity license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 10, Hospitality Amenity License.

(53) (a) "Hotel" means a commercial lodging establishment that:

(i) offers at least 40 rooms as temporary sleeping accommodations for compensation;

(ii) is capable of hosting conventions, conferences, and food and beverage functions under a banquet contract; and

(iii) (A) has adequate kitchen or culinary facilities on the premises to provide complete meals;

(B) has at least 1,000 square feet of function space consisting of meeting or dining rooms that can be reserved for [~~private use under~~] a banquet [~~contract~~] and can accommodate at least 75 individuals; or

(C) if the establishment is located in a small or unincorporated locality, has an appropriate amount of function space consisting of meeting or dining rooms that can be reserved for private use under a banquet contract, as determined by the commission.

(b) "Hotel" includes a commercial lodging establishment that:

(i) meets the requirements under Subsection (53)(a); and

(ii) has one or more privately owned dwelling units.

(54) "Hotel license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8b, Hotel License Act.

(55) "Identification card" means an identification card issued under Title 53, Chapter 3, Part 8, Identification Card Act.

(56) "Industry representative" means an individual who is compensated by salary, commission, or other means for representing and selling an alcoholic product of a manufacturer, supplier, or importer of liquor.

(57) "Industry representative sample" means liquor that is placed in the possession of the department for testing, analysis, and sampling by a local industry representative on the premises of the department to educate the local industry representative of the quality and characteristics of the product.

(58) "Interdicted person" means a person to whom the sale, offer for sale, or furnishing of an alcoholic product is prohibited by:

(a) law; or

(b) court order.

(59) "International airport" means an airport:

(a) with a United States Customs and Border Protection office on the premises of the airport; and

(b) at which international flights may enter and depart.

(60) "Intoxicated" means that a person:

(a) is significantly impaired as to the person's mental or physical functions as a result of the use of:

(i) an alcoholic product;

(ii) a controlled substance;

(iii) a substance having the property of releasing toxic vapors; or

(iv) a combination of Subsections (60)(a)(i) through (iii); and

(b) exhibits plain and easily observed outward manifestations of behavior or physical signs produced by the overconsumption of an alcoholic product.

(61) "Investigator" means an individual who is:

(a) a department compliance officer; or

(b) a nondepartment enforcement officer.

(62) "License" means:

(a) a retail license;

(b) a sublicense;

(c) a license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License;

[~~(c)~~] (d) a license issued in accordance with Chapter 11, Manufacturing and Related Licenses Act;

[~~(d)~~] (e) a license issued in accordance with Chapter 12, Liquor Warehousing License Act;

[~~(e)~~] (f) a license issued in accordance with Chapter 13, Beer Wholesaling License Act; or

[~~(f)~~] (g) a license issued in accordance with Chapter 17, Liquor Transport License Act.

(63) "Licensee" means a person who holds a license.

(64) "Limited-service restaurant license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 3, Limited-Service Restaurant License.

(65) "Limousine" means a motor vehicle licensed by the state or a local authority, other than a bus or taxicab:

(a) in which the driver and a passenger are separated by a partition, glass, or other barrier;

(b) that is provided by a business entity to one or more individuals at a fixed charge in accordance with the business entity's tariff; and

(c) to give the one or more individuals the exclusive use of the limousine and a driver to travel to one or more specified destinations.

(66) (a) (i) "Liquor" means a liquid that:

(A) is:

(I) alcohol;

(II) an alcoholic, spirituous, vinous, fermented, malt, or other liquid;

(III) a combination of liquids a part of which is spirituous, vinous, or fermented; or

(IV) other drink or drinkable liquid; and

(B) (I) contains at least .5% alcohol by volume; and

(II) is suitable to use for beverage purposes.

(ii) "Liquor" includes:

(A) heavy beer;

(B) wine; and

(C) a flavored malt beverage.

(b) "Liquor" does not include beer.

(67) "Liquor Control Fund" means the enterprise fund created by Section 32B-2-301.

(68) "Liquor transport license" means a license issued in accordance with Chapter 17, Liquor Transport License Act.

(69) "Liquor warehousing license" means a license that is issued:

(a) in accordance with Chapter 12, Liquor Warehousing License Act; and

(b) to a person, other than a licensed manufacturer, who engages in the importation for storage, sale, or distribution of liquor regardless of amount.

(70) "Local authority" means:

(a) for premises that are located in an unincorporated area of a county, the governing body of a county;

(b) for premises that are located in an incorporated city, town, or metro township, the governing body of the city, town, or metro township; or

(c) for premises that are located in a project area as defined in Section 63H-1-102 and in a project area plan adopted by the Military Installation Development Authority under Title 63H, Chapter 1, Military Installation Development Authority Act, the Military Installation Development Authority.

(71) "Lounge or bar area" is as defined by rule made by the commission.

(72) "Malt substitute" means:

(a) rice;

(b) grain;

(c) bran;

(d) glucose;

(e) sugar; or

(f) molasses.

[~~(72)~~] (73) "Manufacture" means to distill, brew, rectify, mix, compound, process, ferment, or otherwise make an alcoholic product for personal use or for sale or distribution to others.

[~~(73)~~] (74) "Member" means an individual who, after paying regular dues, has full privileges in an equity licensee or fraternal licensee.

[~~(74)~~] (75) (a) "Military installation" means a base, air field, camp, post, station, yard, center, or homeport facility for a ship:

(i) (A) under the control of the United States Department of Defense; or

(B) of the National Guard;

(ii) that is located within the state; and

(iii) including a leased facility.

(b) "Military installation" does not include a facility used primarily for:

(i) civil works;

(ii) a rivers and harbors project; or

(iii) a flood control project.

[~~(75)~~] (76) "Minibar" means an area of a hotel guest room where one or more alcoholic products are kept and offered for self-service sale or consumption.

[~~(76)~~] (77) "Minor" means an individual under [~~the age of~~] 21 years old.

[~~(77)~~] (78) "Nondepartment enforcement agency" means an agency that:

(a) (i) is a state agency other than the department; or

(ii) is an agency of a county, city, town, or metro township; and

(b) has a responsibility to enforce one or more provisions of this title.

[~~(78)~~] (79) "Nondepartment enforcement officer" means an individual who is:

(a) a peace officer, examiner, or investigator; and

(b) employed by a nondepartment enforcement agency.

[~~(79)~~] (80) (a) "Off-premise beer retailer" means a beer retailer who is:

(i) licensed in accordance with Chapter 7, Off-Premise Beer Retailer Act; and

(ii) engaged in the retail sale of beer to a patron for consumption off the beer retailer's premises.

(b) "Off-premise beer retailer" does not include an on-premise beer retailer.

[~~(80)~~] (81) "Off-premise beer retailer state license" means a state license issued in accordance with Chapter 7, Part 4, Off-Premise Beer Retailer State License.

[~~(81)~~] (82) "On-premise banquet license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 6, On-Premise Banquet License.

[~~(82)~~] (83) "On-premise beer retailer" means a beer retailer who is:

(a) authorized to sell, offer for sale, or furnish beer under a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) engaged in the sale of beer to a patron for consumption on the beer retailer's premises:

(i) regardless of whether the beer retailer sells beer for consumption off the licensed premises; and

(ii) on and after March 1, 2012, operating:

(A) as a tavern; or

(B) in a manner that meets the requirements of Subsection 32B-6-703(2)(e)(i).

[~~(83)~~] (84) "Opaque" means impenetrable to sight.

[~~(84)~~] (85) "Package agency" means a retail liquor location operated:

(a) under an agreement with the department; and

(b) by a person:

(i) other than the state; and

(ii) who is authorized by the commission in accordance with Chapter 2, Part 6, Package Agency, to sell packaged liquor for consumption off the premises of the package agency.

[~~(85)~~] (86) "Package agent" means a person who holds a package agency.

[~~(86)~~] (87) "Patron" means an individual to whom food, beverages, or services are sold, offered for sale, or furnished, or who consumes an alcoholic product including:

(a) a customer;

(b) a member;

(c) a guest;

(d) an attendee of a banquet or event;

(e) an individual who receives room service;

(f) a resident of a resort; or

(g) a hospitality guest, as defined in Section 32B-6-1002, under a hospitality amenity license.

[~~(87)~~] (88) (a) "Performing arts facility" means a multi-use performance space that:

(i) is primarily used to present various types of performing arts, including dance, music, and theater;

(ii) contains over 2,500 seats;

(iii) is owned and operated by a governmental entity; and

(iv) is located in a city of the first class.

(b) "Performing arts facility" does not include a space that is used to present sporting events or sporting competitions.

[~~(88)~~] (89) "Permittee" means a person issued a permit under:

(a) Chapter 9, Event Permit Act; or

(b) Chapter 10, Special Use Permit Act.

[~~(89)~~] (90) "Person subject to administrative action" means:

(a) a licensee;

(b) a permittee;

(c) a manufacturer;

(d) a supplier;

(e) an importer;

(f) one of the following holding a certificate of approval:

(i) an out-of-state brewer;

(ii) an out-of-state importer of beer, heavy beer, or flavored malt beverages; or

(iii) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; or

(g) staff of:

(i) a person listed in Subsections [~~(89)~~] (90)(a) through (f); or

(ii) a package agent.

[~~(90)~~] (91) "Premises" means a building, enclosure, or room used in connection with the storage, sale, furnishing, consumption, manufacture, or distribution, of an alcoholic product, unless otherwise defined in this title or rules made by the commission.

[~~(91)~~] (92) "Prescription" means an order issued by a health care practitioner when:

(a) the health care practitioner is licensed under Title 58, Occupations and Professions, to prescribe a controlled substance, other drug, or device for medicinal purposes;

(b) the order is made in the course of that health care practitioner's professional practice; and

(c) the order is made for obtaining an alcoholic product for medicinal purposes only.

[~~(92)~~] (93) (a) "Primary spirituous liquor" means the main distilled spirit in a beverage.

(b) "Primary spirituous liquor" does not include a secondary flavoring ingredient.

[~~(93)~~] (94) "Principal license" means:

(a) a resort license;

(b) a hotel license; or

(c) an arena license.

[~~(94)~~] (95) (a) "Private event" means a specific social, business, or recreational event:

(i) for which an entire room, area, or hall is leased or rented in advance by an identified group; and

(ii) that is limited in attendance to people who are specifically designated and their guests.

(b) "Private event" does not include an event to which the general public is invited, whether for an admission fee or not.

[~~(95)~~] (96) "Privately sponsored event" means a specific social, business, or recreational event:

(a) that is held in or on the premises of an on-premise banquet licensee; and

(b) to which entry is restricted by an admission fee.

[~~(96)~~] (97) (a) "Proof of age" means:

(i) an identification card;

(ii) an identification that:

(A) is substantially similar to an identification card;

(B) is issued in accordance with the laws of a state other than Utah in which the identification is issued;

(C) includes date of birth; and

(D) has a picture affixed;

(iii) a valid driver license certificate that:

(A) includes date of birth;

(B) has a picture affixed; and

(C) is issued:

(I) under Title 53, Chapter 3, Uniform Driver License Act; [~~or~~]

(II) in accordance with the laws of the state in which it is issued; or

(III) in accordance with federal law by the United States Department of State;

(iv) a military identification card that:

(A) includes date of birth; and

(B) has a picture affixed; or

(v) a valid passport.

(b) "Proof of age" does not include a driving privilege card issued in accordance with Section 53-3-207.

[~~(97)~~] (98) "Provisions applicable to a sublicense" means:

(a) for a full-service restaurant sublicense, the provisions applicable to a full-service restaurant license under Chapter 6, Part 2, Full-Service Restaurant License;

(b) for a limited-service restaurant sublicense, the provisions applicable to a limited-service restaurant license under Chapter 6, Part 3, Limited-Service Restaurant License;

(c) for a bar establishment sublicense, the provisions applicable to a bar establishment license under Chapter 6, Part 4, Bar Establishment License;

(d) for an on-premise banquet sublicense, the provisions applicable to an on-premise banquet license under Chapter 6, Part 6, On-Premise Banquet License;

(e) for an on-premise beer retailer sublicense, the provisions applicable to an on-premise beer retailer license under Chapter 6, Part 7, On-Premise Beer Retailer License;

(f) for a beer-only restaurant sublicense, the provisions applicable to a beer-only restaurant license under Chapter 6, Part 9, Beer-Only Restaurant License;

(g) for a hospitality amenity license, the provisions applicable to a hospitality amenity license under Chapter 6, Part 10, Hospitality Amenity License; and

(h) for a [~~resort~~] spa sublicense, the provisions applicable to the sublicense under Chapter 8d, Part 2, [~~Resort~~] Spa Sublicense.

[~~(98)~~] (99) (a) "Public building" means a building or permanent structure that is:

(i) owned or leased by:

(A) the state; or

(B) a local government entity; and

(ii) used for:

(A) public education;

(B) transacting public business; or

(C) regularly conducting government activities.

(b) "Public building" does not include a building owned by the state or a local government entity when the building is used by a person, in whole or in part, for a proprietary function.

[~~(99)~~] (100) "Public conveyance" means a conveyance that the public or a portion of the public has access to and a right to use for transportation, including an airline, railroad, bus, boat, or other public conveyance.

[~~(100)~~] (101) "Reception center" means a business that:

(a) operates facilities that are at least 5,000 square feet; and

(b) has as its primary purpose the leasing of the facilities described in Subsection [~~(100)~~] (101)(a) to a third party for the third party's event.

[~~(101)~~] (102) "Reception center license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 8, Reception Center License.

[~~(102)~~] (103) (a) "Record" means information that is:

(i) inscribed on a tangible medium; or

(ii) stored in an electronic or other medium and is retrievable in a perceivable form.

(b) "Record" includes:

(i) a book;

(ii) a book of account;

(iii) a paper;

(iv) a contract;

(v) an agreement;

(vi) a document; or

(vii) a recording in any medium.

[~~(103)~~] (104) "Residence" means a person's principal place of abode within Utah.

[~~(104)~~] (105) "Resident," in relation to a resort, means the same as that term is defined in Section 32B-8-102.

[~~(105)~~] (106) "Resort" means the same as that term is defined in Section 32B-8-102.

[~~(106)~~] (107) "Resort facility" is as defined by the commission by rule.

[~~(107) "Resort spa sublicense" means a resort license sublicense issued in accordance with Chapter 8d, Part 2, Resort Spa Sublicense.~~]

(108) "Resort license" means a license issued in accordance with Chapter 5, Retail License Act, and Chapter 8, Resort License Act.

(109) "Responsible alcohol service plan" means a written set of policies and procedures that outlines measures to prevent employees from:

(a) over-serving alcoholic beverages to customers;

(b) serving alcoholic beverages to customers who are actually, apparently, or obviously intoxicated; and

(c) serving alcoholic beverages to minors.

(110) "Restaurant" means a business location:

(a) at which a variety of foods are prepared;

(b) at which complete meals are served; and

(c) that is engaged primarily in serving meals.

(111) "Restaurant license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a limited-service restaurant license; or

(c) a beer-only restaurant license.

(112) "Retail license" means one of the following licenses issued under this title:

(a) a full-service restaurant license;

(b) a master full-service restaurant license;

(c) a limited-service restaurant license;

(d) a master limited-service restaurant license;

(e) a bar establishment license;

(f) an airport lounge license;

(g) an on-premise banquet license;

(h) an on-premise beer license;

(i) a reception center license;

(j) a beer-only restaurant license;

(k) a hospitality amenity license;

(l) a resort license;

(m) a hotel license; or

(n) an arena license.

(113) "Room service" means furnishing an alcoholic product to a person in a guest room or privately owned dwelling unit of a:

(a) hotel; or

(b) resort facility.

(114) (a) "School" means a building in which any part is used for more than three hours each weekday during a school year as a public or private:

(i) elementary school;

(ii) secondary school; or

(iii) kindergarten.

(b) "School" does not include:

(i) a nursery school;

(ii) a day care center;

(iii) a trade and technical school;

(iv) a preschool; or

(v) a home school.

(115) "Secondary flavoring ingredient" means any spirituous liquor added to a beverage for additional flavoring that is different in type, flavor, or brand from the primary spirituous liquor in the beverage.

(116) "Sell" or "offer for sale" means a transaction, exchange, or barter whereby, for consideration, an alcoholic product is either directly or indirectly transferred, solicited, ordered, delivered for value, or by a means or under a pretext is promised or obtained, whether done by a person as a principal, proprietor, or as staff, unless otherwise defined in this title or the rules made by the commission.

(117) "Serve" means to place an alcoholic product before an individual.

(118) "Sexually oriented entertainer" means a person who while in a state of seminudity appears at or performs:

(a) for the entertainment of one or more patrons;

(b) on the premises of:

(i) a bar licensee; or

(ii) a tavern;

(c) on behalf of or at the request of the licensee described in Subsection (118)(b);

(d) on a contractual or voluntary basis; and

(e) whether or not the person is designated as:

(i) an employee;

(ii) an independent contractor;

(iii) an agent of the licensee; or

(iv) a different type of classification.

(119) "Shared seating area" means the licensed premises of two or more restaurant licensees that the restaurant licensees share as an area for alcoholic beverage consumption in accordance with Subsection 32B-5-207(3).

(120) "Single event permit" means a permit issued in accordance with Chapter 9, Part 3, Single Event Permit.

(121) "Small brewer" means a brewer who manufactures less than 60,000 barrels of beer, heavy beer, and flavored malt beverage per year, as the department calculates by:

(a) if the brewer is part of a controlled group of [~~breweries~~] manufacturers, including the combined volume totals of production for all breweries that constitute the controlled group of [~~breweries~~] manufacturers; and

(b) excluding beer, heavy beer, or flavored malt beverage the brewer:

(i) manufactures that is unfit for consumption as, or in, a beverage, as the commission determines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(ii) does not sell for consumption as, or in, a beverage.

(122) "Small or unincorporated locality" means:

(a) a city of the third, fourth, or fifth class, as classified under Section 10-2-301;

(b) a town, as classified under Section 10-2-301; or

(c) an unincorporated area in a county of the third, fourth, or fifth class, as classified under Section 17-50-501.

(123) "Spa sublicense" means a sublicense:

(a) to a resort license or hotel license; and

(b) that the commission issues in accordance with Chapter 8d, Part 2, Spa Sublicense.

[~~(123)~~] (124) "Special use permit" means a permit issued in accordance with Chapter 10, Special Use Permit Act.

[~~(124)~~] (125) (a) "Spirituous liquor" means liquor that is distilled.

(b) "Spirituous liquor" includes an alcoholic product defined as a "distilled spirit" by 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 5.11 through 5.23.

[~~(125)~~] (126) "Sports center" is as defined by the commission by rule.

[~~(126)~~] (127) (a) "Staff" means an individual who engages in activity governed by this title:

(i) on behalf of a business, including a package agent, licensee, permittee, or certificate holder;

(ii) at the request of the business, including a package agent, licensee, permittee, or certificate holder; or

(iii) under the authority of the business, including a package agent, licensee, permittee, or certificate holder.

(b) "Staff" includes:

(i) an officer;

(ii) a director;

(iii) an employee;

(iv) personnel management;

(v) an agent of the licensee, including a managing agent;

(vi) an operator; or

(vii) a representative.

[~~(127)~~] (128) "State of nudity" means:

(a) the appearance of:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus; or

(b) a state of dress that fails to opaquely cover:

(i) the nipple or areola of a female human breast;

(ii) a human genital;

(iii) a human pubic area; or

(iv) a human anus.

[~~(128)~~] (129) "State of seminudity" means a state of dress in which opaque clothing covers no more than:

(a) the nipple and areola of the female human breast in a shape and color other than the natural shape and color of the nipple and areola; and

(b) the human genitals, pubic area, and anus:

(i) with no less than the following at its widest point:

(A) four inches coverage width in the front of the human body; and

(B) five inches coverage width in the back of the human body; and

(ii) with coverage that does not taper to less than one inch wide at the narrowest point.

[~~(129)~~] (130) (a) "State store" means a facility for the sale of packaged liquor:

(i) located on premises owned or leased by the state; and

(ii) operated by a state employee.

(b) "State store" does not include:

(i) a package agency;

(ii) a licensee; or

(iii) a permittee.

[~~(130)~~] (131) (a) "Storage area" means an area on licensed premises where the licensee stores an alcoholic product.

(b) "Store" means to place or maintain in a location an alcoholic product.

[~~(131)~~] (132) "Sublicense" means:

(a) any of the following licenses issued as a subordinate license to, and contingent on the issuance of, a principal license:

(i) a full-service restaurant license;

(ii) a limited-service restaurant license;

(iii) a bar establishment license;

(iv) an on-premise banquet license;

(v) an on-premise beer retailer license;

(vi) a beer-only restaurant license; or

(vii) a hospitality amenity license; or

(b) a [~~resort~~] spa sublicense.

[~~(132)~~] (133) "Supplier" means a person who sells an alcoholic product to the department.

[~~(133)~~] (134) "Tavern" means an on-premise beer retailer who is:

(a) issued a license by the commission in accordance with Chapter 5, Retail License Act, and Chapter 6, Part 7, On-Premise Beer Retailer License; and

(b) designated by the commission as a tavern in accordance with Chapter 6, Part 7, On-Premise Beer Retailer License.

[~~(134)~~] (135) "Temporary beer event permit" means a permit issued in accordance with Chapter 9, Part 4, Temporary Beer Event Permit.

[~~(135)~~] (136) "Temporary domicile" means the principal place of abode within Utah of a person who does not have a present intention to continue residency within Utah permanently or indefinitely.

[~~(136)~~] (137) "Translucent" means a substance that allows light to pass through, but does not allow an object or person to be seen through the substance.

[~~(137)~~] (138) "Unsaleable liquor merchandise" means a container that:

(a) is unsaleable because the container is:

(i) unlabeled;

(ii) leaky;

(iii) damaged;

(iv) difficult to open; or

(v) partly filled;

(b) (i) has faded labels or defective caps or corks;

(ii) has contents that are:

(A) cloudy;

(B) spoiled; or

(C) chemically determined to be impure; or

(iii) contains:

(A) sediment; or

(B) a foreign substance; or

(c) is otherwise considered by the department as unfit for sale.

[~~(138)~~] (139) (a) "Wine" means an alcoholic product obtained by the fermentation of the natural sugar content of fruits, plants, honey, or milk, or other like substance, whether or not another ingredient is added.

(b) "Wine" includes:

(i) an alcoholic beverage defined as wine under 27 U.S.C. Sec. 211 and 27 C.F.R. Sec. 4.10; and

(ii) hard cider.

(c) "Wine" is considered liquor for purposes of this title, except as otherwise provided in this title.

[~~(139)~~] (140) "Winery manufacturing license" means a license issued in accordance with Chapter 11, Part 3, Winery Manufacturing License.

Section 2. Section 32B-1-202.1 is amended to read:

32B-1-202.1. Proximity for certain and arena hotel licensees.

(1) As used in this section, "hotel" means the same as that term is defined in Section 32B-8b-102.

(2) The commission may issue a hotel license for a proposed location that does not meet the proximity requirements under Section 32B-1-202, if:

(a) the proposed hotel is:

(i) located in a city classified as a city of the first class under Section 10-2-301;

(ii) within 600 feet of two community locations, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of each community location;

(iii) not within 300 feet of a community location, as measured from the nearest patron entrance of the proposed hotel by following the shortest route of ordinary pedestrian travel to the property boundary of the community location; and

(iv) not within 200 feet of a community location, as measured in a straight line from the nearest patron entrance of the proposed hotel to the nearest property boundary of the community location;

(b) the proposed sublicensed premises of a bar establishment sublicense under the hotel license:

(i) is on the second or higher floor of a hotel;

(ii) is not accessible at street level; and

(iii) is only accessible to an individual who passes through another area of the hotel in which the bar establishment sublicense is located; and

(c) the applicant meets all other criteria under this title for the hotel license.

(3) The commission may issue authority to operate as a package agency to a hotel licensee who meets the requirements described in Subsection (2).

(4) (a) The commission may issue an arena license for a proposed location that does not meet the proximity requirements described in Section 32B-1-202, if, on the day before the day on which the commission issues the license, each proposed sublicense of the arena license:

(i) operates as an outlet or restaurant; and

(ii) (A) operates on the proposed sublicense premises under a variance to one or more proximity requirements in accordance with Section 32B-1-202; or

(B) has been in operation on the proposed sublicense premises for at least 10 years.

(b) After the commission issues an arena license in accordance with Subsection (4)(a), the commission may not issue the arena licensee an additional sublicense.

Section 3. Section 32B-1-603 is amended to read:

32B-1-603. Power of the commission and department to classify flavored malt beverages.

(1) The commission and department shall regulate a flavored malt beverage as liquor.

(2) (a) The department shall make available to the public on the Internet a list of the flavored malt beverages authorized to be sold in this state as liquor.

(b) The list described in Subsection (2)(a) shall be updated at least quarterly.

(3) (a) A manufacturer shall file, under penalty of perjury, a report with the department listing each flavored malt beverage manufactured by the manufacturer that the manufacturer wants to distribute in this state subject to the manufacturer holding:

(i) a brewery manufacturing license issued in accordance with Chapter 11, Part 5, Brewery Manufacturing License; or

(ii) a certificate of approval.

(b) A manufacturer may not distribute or sell in this state a flavored malt beverage if the manufacturer does not list the flavored malt beverage in a filing with the department in accordance with this Subsection (3) before distributing or selling the flavored malt beverage.

(4) The department may require a manufacturer of a flavored malt beverage to provide the department with a copy of the following filed with the federal Alcohol and Tobacco Tax and Trade Bureau, pursuant to 27 C.F.R. Sec. 25.55:

(a) a statement of process; or

(b) a formula.

(5) (a) A manufacturer of an alcoholic product that the department is classifying or proposes to classify as a flavored malt beverage may submit evidence to the department that [~~its~~] the manufacturer's alcoholic product should not be treated as liquor under this section because [~~the alcoholic product:~~] no formula for the alcoholic product is required to be filed for a reason described in:

(i) Subsection 32B-1-102(44)(a)(ii), as shown by a determination issued by the federal Alcohol and Tobacco Tax and Trade Bureau; or

(ii) Subsection 32B-1-102(44)(a)(iii).

[~~(i) is obtained by fermentation, infusion, or decoction of a malted grain;~~]

[~~(ii) is produced by processing, filtration, or another method of manufacture that is generally recognized as a traditional process in the production of beer as described in 27 C.F.R. Sec. 25.55;~~]

[~~(iii) does not have added to it a flavor or other ingredient containing alcohol, except for a hop extract; and~~]

[~~(iv) (A) is not one for which the producer is required to file a formula for approval with the federal Alcohol and Tobacco Tax and Trade Bureau pursuant to 27 C.F.R. Sec. 25.55; or~~]

[~~(B) is exempt under Subdivision (f) of 27 C.F.R. Sec. 25.55.~~]

(b) The department shall review the evidence submitted by the manufacturer under this Subsection (5).

(c) The department shall make available to the public on the Internet a list of the alcoholic products authorized under this Subsection (5) to be sold as beer in this state.

(d) A decision of the department under this Subsection (5) may be appealed to the commission.

Section 4. Section 32B-1-604 is amended to read:

32B-1-604. Requirements for labeling and packaging -- Authority of the commission and department.

(1) A manufacturer may not distribute or sell a malted beverage:

(a) unless the label and packaging of the malted beverage:

(i) complies with the federal label requirements of 27 C.F.R. Parts 7, 13, and 16; and

(ii) clearly gives notice to the public that the malted beverage is an alcoholic product; and

(b) until the day on which the department in accordance with this title and rules of the commission approves the label and packaging of the malted beverage.

(2) The department shall review the label and packaging of a malted beverage to ensure that the label and packaging meet the requirements of Subsection (1)(a).

(3) Except as otherwise required under Section 32B-1-606, a manufacturer may comply with the requirement of Subsection (1)(a)(ii) by including on a label and packaging for a malted beverage any of the following terms in obvious and clearly visible contrast to the background of the text:

(a) beer;

(b) ale;

(c) porter;

(d) stout;

(e) lager;

(f) lager beer; [~~or~~]

(g) hard seltzer;

(h) spiked seltzer; or

[~~(g)~~] (i) another class or type designation commonly applied to a malted beverage that conveys by a recognized term that the product contains alcohol.

Section 5. Section 32B-1-605 is amended to read:

32B-1-605. General procedure for approval.

(1) To obtain approval of the label and packaging of a malted beverage, the manufacturer of the malted beverage shall submit an application to the department for approval.

(2) The application described in Subsection (1) shall be on a form approved by the department and include the following for each brand and label for which the manufacturer seeks approval:

(a) (i) a copy of a federal certificate of label approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau; or

(ii) if the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau does not require label approval, a copy of formula approval from the United States Department of Treasury, Alcohol and Tobacco Tax and Trade Bureau;

(b) a complete set of original labels for each size of container of the malted beverage;

(c) a description of the size of the container on which a label will be placed;

(d) a description of each type of container of the malted beverage; and

(e) a description of any packaging for the malted beverage.

(3) The department may assess a reasonable fee for reviewing a label and packaging for approval.

(4) (a) The department shall notify a manufacturer within 30 days after the day on which the manufacturer submits [~~an~~] a complete

application whether the label and packaging is approved or denied.

(b) If the department determines that an unusual circumstance requires additional time, the department may extend the time period described in Subsection (4)(a).

(5) A manufacturer shall obtain the approval of the department of a revision of a previously approved label and packaging before a malted beverage using the revised label and packaging may be distributed or sold in this state.

(6) (a) The department may revoke a label and packaging previously approved upon a finding that the label and packaging is not in compliance with this title or rules of the commission.

(b) The department shall notify the [~~person who applies for the approval of a~~] manufacturer who applied for an approved label and packaging at least [~~five~~] 30 business days before the day on which [~~a~~] the label and packaging approval is considered revoked.

(c) [~~After receiving~~] Within 20 business days after the day on which a manufacturer receives the notice under Subsection (6)(b), [~~a~~] the manufacturer may present written argument or evidence to the department on why the revocation should not occur.

(7) (a) A manufacturer that applies for approval of a label and packaging may appeal a denial or revocation of a label and packaging approval to the commission.

(b) During the period in which a manufacturer appeals a denial or revocation of a label and packaging approval to the commission, as permitted under Subsection (7)(a), the denial or revocation shall remain in force.

Section 6. Section 32B-1-606 is amended to read:

32B-1-606. Special procedure for certain malted beverages.

(1) A manufacturer of a malted beverage may not distribute or sell the malted beverage in the state until the day on which the manufacturer receives approval of the labeling and packaging from the department in accordance with:

(a) Sections 32B-1-604 and 32B-1-605; and

(b) this section, if the malted beverage is labeled or packaged in a manner that is:

(i) similar to a label or packaging used for a nonalcoholic beverage; or

(ii) likely to confuse or mislead a patron to believe the malted beverage is a nonalcoholic beverage.

(2) The department may not approve the labeling and packaging of a malted beverage described in Subsection (1) unless in addition to the requirements of Section 32B-1-604 the labeling and packaging complies with the following:

(a) the front of the label on the malted beverage bears a prominently displayed label or a firmly affixed sticker that provides the following information in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text:

(i) the statement:

(A) "alcoholic beverage"; or

(B) "contains alcohol"; and

(ii) the alcohol content of the malted beverage, if the alcohol content is not otherwise provided:

(A) in a serving facts statement on the container; and

(B) in a format allowed by the Federal Alcohol and Tobacco Tax Trade Bureau;

(b) the packaging of the malted beverage prominently includes, either imprinted on the packaging or imprinted on a sticker firmly affixed to the packaging in a font that measures at least three millimeters high and is in obvious and clearly visible contrast to the background of the text, the statement:

(i) "alcoholic beverage"; or

(ii) "contains alcohol";

(c) a statement required by Subsection (2)(a) or (b) appears in a format required by rule made by the commission; and

(d) a statement of alcohol content required by Subsection (2)(a)(ii):

(i) states the alcohol content as a percentage of alcohol by volume or by weight; and

(ii) is in a format required by rule made by the commission.

(3) The department may reject a label or packaging that appears designed to obscure the information required by Subsection (2).

(4) To determine whether a malted beverage is described in Subsection (1) and subject to this section, the department may consider in addition to other factors one or more of the following factors:

(a) whether the coloring, carbonation, and packaging of the malted beverage:

(i) is similar to those of a nonalcoholic beverage or product; or

(ii) can be confused with a nonalcoholic beverage;

(b) whether the malted beverage possesses a character and flavor distinctive from a traditional malted beverage;

(c) whether the malted beverage:

(i) is prepackaged;

(ii) contains high levels of caffeine and other additives; and

(iii) is marketed as a beverage that is specifically designed to provide energy;

(d) whether the malted beverage contains added sweetener or sugar substitutes; or

(e) whether the malted beverage contains an added fruit flavor or other flavor that masks the taste of a traditional malted beverage.

Section 7. Section 32B-1-701 is amended to read:

32B-1-701. Definitions.

As used in this part:

(1) "Off-premise retail manager" means an individual who manages operations at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(2) (a) "Off-premise retail staff" means an individual who sells beer at a premises that is licensed under Chapter 7, Off-Premise Beer Retailer Act.

(b) "Off-premise retail staff" does not include an off-premise retail manager.

(3) "Retail manager" means an individual who:

(a) manages operations at a premises that is licensed under [~~this chapter~~] Chapter 5, Retail License Act; or

(b) supervises the furnishing of an alcoholic product at a premises that is licensed under [~~this chapter~~] Chapter 5, Retail License Act.

(4) (a) "Retail staff" means an individual who serves an alcoholic product at a premises licensed under [~~this chapter~~] Chapter 5, Retail License Act.

(b) "Retail staff" does not include a retail manager.

Section 8. Section 32B-1-704 is amended to read:

32B-1-704. Department training programs.

(1) No later than January 1, 2018, the department shall develop the following training programs that are provided either in-person or online:

(a) a training program for retail managers that addresses:

(i) the statutes and rules that govern alcohol sales and consumption in the state;

(ii) the requirements for operating as a retail licensee;

(iii) using compliance assistance from the department; and

(iv) any other topic the department determines beneficial to a retail manager; and

(b) a training program for an individual employed by a retail licensee or an off-premise beer retailer who violates a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor, that addresses:

(i) the statutes and rules that govern the most common types of violations under this title;

(ii) how to avoid common violations; and

(iii) any other topic the department determines beneficial to the training program.

(2) No later than January 1, 2019, the department shall develop a training program for off-premise retail managers that is provided either in-person or online and addresses:

(a) the statutes and rules that govern sales at an off-premise beer retailer;

(b) the requirements for operating an off-premise beer retailer;

(c) using compliance assistance from the department; and

(d) any other topic the department determines beneficial to an off-premise retail manager.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this section, the department shall make rules to develop and implement the training programs described in this section, including rules that establish:

(a) the requirements for each training program described in this section;

(b) measures that accurately identify each individual who takes and completes a training program;

(c) measures that ensure an individual taking a training program is focused and actively engaged in the training material throughout the training program;

(d) a record that certifies that an individual has completed a training program; and

(e) a fee for participation in a training program to cover the department's cost of providing the training program.

(4) (a) [~~Except as provided in Subsection (5), each~~] Each retail manager shall complete the training described in Subsection (1)(a) no later than the later of:

(i) 30 days after the day on which the retail manager is hired; or

(ii) [~~30 days after~~] the day on which the retail licensee obtains a retail license [~~under this chapter~~].

(b) [~~Except as provided in Subsection (5), each~~] Each off-premise retail manager shall complete the training described in Subsection (2) no later than the later of:

(i) 30 days after the day on which the off-premise retail manager is hired; or

(ii) 30 days after the day on which the off-premise beer retailer obtains an off-premise beer retailer state license.

(c) (i) If the commission finds that a retail licensee violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator, all retail staff, and each retail manager shall complete the training program described in Subsection (1)(b).

(ii) If the commission finds that an off-premise beer retailer violated a provision of this title related to the sale, service, or furnishing of an alcoholic beverage to an intoxicated individual or a minor for a second time within 36 consecutive months after the day on which the first violation was adjudicated, the violator and each off-premise retail manager shall complete the training program described in Subsection (1)(b).

[~~(5) (a) For a person who holds a retail license on January 1, 2018, each retail manager shall complete the training program described in Subsection (1)(a) for the first time as a condition of renewing the licensee's retail license in 2018.~~]

[~~(b) For a person who holds an off-premise beer retailer state license on January 1, 2019, each off-premise retail manager shall complete the training program described in Subsection (1)(b) for the first time as a condition of renewing the licensee's off-premise beer retailer state license in 2019.~~]

[~~(6)~~] (5) If an individual fails to complete a required training program under this section:

(a) the commission may suspend, revoke, or not renew the retail license or off-premise beer retailer state license;

(b) a city, town, metro township, or county in which the retail licensee or off-premise beer retailer is located may suspend, revoke, or not renew the retail licensee's or off-premise beer retailer's business license; or

(c) a local authority may suspend, revoke, or not renew the off-premise beer retailer's license.

Section 9. Section 32B-2-101 is amended to read:

CHAPTER 2. ALCOHOLIC BEVERAGE SERVICES ADMINISTRATION ACT

32B-2-101. Title.

This chapter is known as the "Alcoholic Beverage [~~Control~~] Services Administration Act."

Section 10. Section 32B-2-201 is amended to read:

32B-2-201. Alcoholic Beverage Services Commission created.

(1) There is created the "Alcoholic Beverage [~~Control~~] Services Commission." The commission is the governing board over the department.

(2) (a) The commission is composed of seven part-time commissioners appointed by the governor with the advice and consent of the Senate in accordance with Title 63G, Chapter 24, Part 2, Vacancies.

(b) No more than four commissioners may be of the same political party.

(3) (a) Except as required by Subsection (3)(b), as terms of commissioners expire, the governor shall appoint each new commissioner or reappointed commissioner to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of no more than three commissioners expire in a fiscal year.

(4) (a) When a vacancy occurs on the commission for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(b) Unless removed in accordance with Subsection (6), a commissioner shall remain on the commission after the expiration of a term until a successor is appointed by the governor, with the advice and consent of the Senate.

(5) A commissioner shall take the oath of office.

(6) (a) The governor may remove a commissioner from the commission for cause, neglect of duty, inefficiency, or malfeasance after a public hearing conducted by:

(i) the governor; or

(ii) an impartial hearing examiner appointed by the governor to conduct the hearing.

(b) At least 10 days before the hearing described in Subsection (6)(a), the governor shall provide the commissioner notice of:

(i) the date, time, and place of the hearing; and

(ii) the alleged grounds for the removal.

(c) The commissioner shall have an opportunity to:

(i) attend the hearing;

(ii) present witnesses and other evidence; and

(iii) confront and cross examine witnesses.

(d) After a hearing under this Subsection (6):

(i) the person conducting the hearing shall prepare written findings of fact and conclusions of law; and

(ii) the governor shall serve a copy of the prepared findings and conclusions upon the commissioner.

(e) If a hearing under this Subsection (6) is held before a hearing examiner, the hearing examiner shall issue a written recommendation to the governor in addition to complying with Subsection (6)(d).

(f) A commissioner has five days from the day on which the commissioner receives the findings and conclusions described in Subsection (6)(d) to file written objections to the recommendation before the governor issues a final order.

(g) The governor shall:

(i) issue the final order under this Subsection (6) in writing; and

(ii) serve the final order upon the commissioner.

(7) A commissioner may not receive compensation or benefits for the commissioner's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(8) (a) (i) The governor shall annually appoint the chair of the commission.

(ii) A commissioner serves as chair to the commission at the pleasure of the governor.

(iii) If removed as chair, the commissioner continues to serve as a commissioner unless removed as a commissioner under Subsection (6).

(b) The commission shall elect:

(i) another commissioner to serve as vice chair; and

(ii) other commission officers as the commission considers advisable.

(c) A commissioner elected under Subsection (8)(b) shall serve in the office to which the commissioner is elected at the pleasure of the commission.

(9) (a) Each commissioner has equal voting rights on a commission matter when in attendance at a commission meeting.

(b) Four commissioners is a quorum for conducting commission business.

(c) A majority vote of the quorum present at a meeting is required for the commission to act.

(d) A commissioner shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

(10) (a) The commission shall meet at least monthly, but may hold other meetings at times and places as scheduled by:

(i) the commission;

(ii) the chair; or

(iii) three commissioners upon filing a written request for a meeting with the chair.

(b) (i) Notice of the time and place of a commission meeting shall be given to each commissioner, and to the public in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

(ii) A commission meeting is open to the public, except for a commission meeting or portion of a commission meeting that is closed by the commission as authorized by Sections 52-4-204 and 52-4-205.

Section 11. Section 32B-2-202 is amended to read:

32B-2-202. Powers and duties of the commission.

(1) The commission shall:

(a) consistent with the policy established by the Legislature by statute, act as a general policymaking body on the subject of alcoholic product control;

(b) adopt and issue policies, rules, and procedures;

(c) set policy by written rules that establish criteria and procedures for:

(i) issuing, denying, not renewing, suspending, or revoking a package agency, license, permit, or certificate of approval; and

(ii) determining the location of a state store, package agency, or retail licensee;

(d) decide within the limits, and under the conditions imposed by this title, the number and location of state stores, package agencies, and retail licensees in the state;

(e) issue, deny, suspend, revoke, or not renew the following package agencies, licenses, sublicenses, permits, or certificates of approval for the purchase, storage, sale, offer for sale, furnishing, consumption, manufacture, and distribution of an alcoholic product:

(i) a package agency;

(ii) a full-service restaurant license;

(iii) a master full-service restaurant license;

(iv) a limited-service restaurant license;

(v) a master limited-service restaurant license;

(vi) a bar establishment license;

(vii) an airport lounge license;

(viii) an on-premise banquet license;

(ix) a resort license, which includes four or more sublicenses;

(x) an on-premise beer retailer license;

(xi) a reception center license;

(xii) a beer-only restaurant license;

(xiii) a hotel license, which includes three or more sublicenses;

(xiv) an arena license, which includes three or more sublicenses;

(xv) a hospitality amenity license;

(xvi) subject to Subsection [~~(4)~~] (5), a single event permit;

(xvii) subject to Subsection [~~(4)~~] (5), a temporary beer event permit;

(xviii) a special use permit;

(xix) a manufacturing license;

(xx) a liquor warehousing license;

(xxi) a beer wholesaling license;

(xxii) a liquor transport license;

(xxiii) an off-premise beer retailer state license;

(xxiv) a master off-premise beer retailer state license;

(xxv) one of the following that holds a certificate of approval:

(A) an out-of-state brewer;

(B) an out-of-state importer of beer, heavy beer, or flavored malt beverages; and

(C) an out-of-state supplier of beer, heavy beer, or flavored malt beverages; and

(xxvi) a [~~resort~~] spa sublicense;

(f) issue, deny, suspend, or revoke the following conditional licenses:

(i) a conditional retail license as defined in Section 32B-5-205; and

(ii) a conditional off-premise beer retailer state license as defined in Section 32B-7-406;

(g) prescribe the duties of the department in assisting the commission in issuing a package agency, license, permit, or certificate of approval under this title;

(h) to the extent a fee is not specified in this title, establish a fee allowed under this title in accordance with Section 63J-1-504;

(i) fix prices at which liquor is sold that are the same at all state stores, package agencies, and retail licensees;

(j) issue and distribute price lists showing the price to be paid by a purchaser for each class, variety, or brand of liquor kept for sale by the department;

(k) (i) require the director to follow sound management principles; and

(ii) require periodic reporting from the director to ensure that:

(A) sound management principles are being followed; and

(B) policies established by the commission are being observed;

(l) (i) receive, consider, and act in a timely manner upon the reports, recommendations, and matters submitted by the director to the commission; and

(ii) do the things necessary to support the department in properly performing the department's duties;

(m) obtain temporarily and for special purposes the services of an expert or person engaged in the practice of a profession, or a person who possesses a needed skill if:

(i) considered expedient; and

(ii) approved by the governor;

(n) prescribe by rule the conduct, management, and equipment of premises upon which an alcoholic product may be stored, sold, offered for sale, furnished, or consumed;

(o) make rules governing the credit terms of beer sales within the state to retail licensees; and

(p) in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, take disciplinary action against a person subject to administrative action.

(2) Consistent with the policy established by the Legislature by statute, the power of the commission to do the following is plenary, except as otherwise provided by this title, and not subject to review:

(a) establish a state store;

(b) issue authority to act as a package agent or operate a package agency; and

(c) issue, deny, or deem forfeit a license, permit, or certificate of approval.

(3) (a) Subject to Subsection (3)(b), the commission may:

(i) make rules permitting and establishing the parameters of a late license renewal; and

(ii) establish a fee, in accordance with Section 63J-1-504, for a late license renewal.

(b) The commission may not allow for the late renewal of a license after the later of:

(i) the tenth day of the month after the month in which the license type is required to be renewed; or

(ii) if the tenth day of the month after the month in which the license type is required to be renewed falls on a Saturday, Sunday, or state or federal holiday, the first business day after the Saturday, Sunday, or holiday.

[~~(3)~~] (4) If the commission is authorized or required to make a rule under this title, the commission shall make the rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

[~~(4)~~] (5) Notwithstanding Subsections (1)(e)(xvi) and (xvii), the director or deputy director may issue an event permit in accordance with Chapter 9, Event Permit Act.

Section 12. Section 32B-2-203 is amended to read:

32B-2-203. Department of Alcoholic Beverage Services created.

(1) There is created the Department of Alcoholic Beverage [~~Control~~] Services. The department is governed by the commission.

(2) The director of alcoholic beverage [~~control~~] services appointed under Section 32B-2-205 shall administer the department.

(3) The director shall allocate the duties within the department into the divisions, bureaus,

sections, offices, and committees as the director considers necessary for the administration of this title.

(4) The department shall cooperate with any other recognized agency in the administration of this title and in the enforcement of a policy or rule of the commission or policy of the director.

Section 13. Section 32B-2-205 is amended to read:

32B-2-205. Director of alcoholic beverage services.

(1) (a) In accordance with Subsection (1)(b), the governor, with the advice and consent of the Senate, shall appoint a director of alcoholic beverage [~~control~~] services to a four-year term. The director may be appointed to more than one four-year term. The director is the administrative head of the department.

(b) (i) The governor shall appoint the director from nominations made by the commission.

(ii) The commission shall submit the nomination of three individuals to the governor for appointment of the director.

(iii) By no later than 30 calendar days from the day on which the governor receives the three nominations submitted by the commission, the governor may:

(A) appoint the director; or

(B) reject the three nominations.

(iv) If the governor rejects the nominations or fails to take action within the 30-day period, the commission shall nominate three different individuals from which the governor may appoint the director or reject the nominations until such time as the governor appoints the director.

(v) The governor may reappoint the director without seeking nominations from the commission. Reappointment of a director is subject to the advice and consent of the Senate.

(c) (i) If there is a vacancy in the position of director, during the nomination process described in Subsection (1)(b), the governor may appoint an interim director for a period of up to 30 calendar days.

(ii) If a director is not appointed within the 30-day period, the interim director may continue to serve beyond the 30-day period subject to the advice and consent of the Senate at the next scheduled time for the Senate giving consent to appointments of the governor.

(iii) Except that if the Senate does not act on the consent to the appointment of the interim director within 60 days of the end of the initial 30-day period, the interim director may continue as the interim director.

(d) The director may be terminated by:

(i) the commission by a vote of four commissioners; or

(ii) the governor after consultation with the commission.

(e) The director may not be a commissioner.

(f) The director shall:

(i) be qualified in administration;

(ii) be knowledgeable by experience and training in the field of business management; and

(iii) possess any other qualification prescribed by the commission.

(2) The governor shall establish the director's compensation within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(3) The director shall:

(a) carry out the policies of the commission;

(b) carry out the policies of the department;

(c) fully inform the commission of the operations and administrative activities of the department; and

(d) assist the commission in the proper discharge of the commission's duties.

Section 14. Section 32B-2-210 is amended to read:

32B-2-210. Alcoholic Beverage Services Advisory Board.

(1) There is created within the department an advisory board known as the "Alcoholic Beverage [~~Control~~] Services Advisory Board."

(2) The advisory board shall consist of eight voting members and one nonvoting member as follows:

(a) four voting members appointed by the commission:

(i) one of whom represents the retail alcohol industry;

(ii) one of whom represents the wholesale alcohol industry;

(iii) one of whom represents the alcohol manufacturing industry; and

(iv) one of whom represents the restaurant industry;

(b) two voting members appointed by the commission, each of whom represents an organization that addresses alcohol or drug abuse prevention, alcohol or drug related enforcement, or alcohol or drug related education;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee who serves as a voting member;

(d) the chair of the Utah Substance Use and Mental Health Advisory Council, or the chair's designee, who serves as a voting member; and

(e) the chair of the commission or the chair's designee from the members of the commission, who serves as a nonvoting member.

(3) (a) Except as required by Subsection (3)(b), as terms of current voting members of the advisory board expire, the commission shall appoint each new member or reappointed member to a four-year term beginning July 1 and ending June 30.

(b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of voting advisory board members are staggered so that approximately half of the advisory board is appointed every two years.

(c) No two members of the board may be employed by the same company or nonprofit organization.

(4) (a) When a vacancy occurs in the membership for any reason, the commission shall appoint a replacement for the unexpired term.

(b) The commission shall terminate the term of a voting advisory board member who ceases to be representative as designated by the member's original appointment.

(5) The advisory board shall meet as called by the chair for the purpose of advising the commission and the department, with discussion limited to administrative rules made under this title.

(6) The chair of the commission or the chair's designee shall serve as the chair of the advisory board and call the necessary meetings.

(7) (a) Five members of the board constitute a quorum of the board.

(b) An action of the majority when a quorum is present is the action of the board.

(8) The department shall provide staff support to the advisory board.

(9) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 15. Section 32B-2-301 is amended to read:

32B-2-301. State property -- Liquor Control Fund -- Money to be retained by department -- Department building process.

(1) As used in this section, "base budget" means the same as that term is defined in legislative rule.

(2) The following are property of the state:

(a) the money received in the administration of this title, except as otherwise provided; and

(b) property acquired, administered, possessed, or received by the department.

(3) (a) There is created an enterprise fund known as the "Liquor Control Fund."

(b) Except as provided in [~~Section~~] Sections 32B-2-304, 32B-2-305, and 32B-2-306, the department shall deposit the following into the Liquor Control Fund:

(i) money received in the administration of this title; and

(ii) money received from the markup described in Section 32B-2-304[~~; and~~].

[~~(iii) money credited under Subsection (4).~~]

(c) The department may draw from the Liquor Control Fund only to the extent appropriated by the Legislature or provided by statute.

(d) The net position of the Liquor Control Fund may not fall below zero.

[~~(4) (a) The department shall deposit 0.125% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the Liquor Control Fund.~~]

[~~(b) The department shall deposit 0.27% of the total gross revenue from the sale of liquor with the state treasurer, as determined by the total gross revenue collected for the fiscal year two years preceding the fiscal year for which the deposit is made, to be credited to the Liquor Control Fund.~~]

[~~(5)~~] (4) (a) Notwithstanding Subsection (3)(c), the department may draw by warrant from the Liquor Control Fund without an appropriation for an expenditure that is directly incurred by the department:

(i) to purchase an alcoholic product;

(ii) to transport an alcoholic product from the supplier to a warehouse of the department; or

(iii) for variances related to an alcoholic product, including breakage or theft.

(b) If the balance of the Liquor Control Fund is not adequate to cover a warrant that the department draws against the Liquor Control Fund, to the extent necessary to cover the warrant, the cash resources of the General Fund may be used.

[~~(6)~~] (5) The department's base budget shall include as an appropriation from the Liquor Control Fund:

(a) credit card related fees paid by the department;

(b) package agency compensation;

(c) the department's costs of shipping and warehousing alcoholic products; and

(d) the amount needed, as the Division of Human Resource Management determines, to make the median department salary in the previous fiscal year equal the median market salary in the previous fiscal year for the following positions:

(i) state store manager or equivalent;

(ii) state store assistant manager or equivalent;

(iii) full-time sales clerk at a state store or equivalent;

(iv) part-time sales clerk at a state store or equivalent;

(v) department warehouse manager or equivalent;

(vi) department warehouse assistant manager or equivalent;

(vii) full-time department warehouse worker or equivalent; and

(viii) part-time department warehouse worker or equivalent.

[~~(7)~~] (6) (a) The Division of Finance shall transfer annually from the Liquor Control Fund to the General Fund a sum equal to the amount of net profit earned from the sale of liquor since the preceding transfer of money under this Subsection [~~(7)~~] (6).

(b) After each fiscal year, the Division of Finance shall calculate the amount for the transfer on or before September 1 and the Division of Finance shall make the transfer on or before September 30.

(c) The Division of Finance may make year-end closing entries in the Liquor Control Fund to comply with Subsection 51-5-6(2).

[~~(8)~~] (7) (a) By the end of each day, the department shall:

(i) make a deposit to a qualified depository, as defined in Section 51-7-3; and

(ii) report the deposit to the state treasurer.

(b) A commissioner or department employee is not personally liable for a loss caused by the default or failure of a qualified depository.

(c) Money deposited in a qualified depository is entitled to the same priority of payment as other public funds of the state.

[~~(9)~~] (8) Before the Division of Finance makes the transfer described in Subsection [~~(7)~~] (6), the department may retain each fiscal year from the Liquor Control Fund $1,000,000 that the department may use for:

(a) capital equipment purchases;

(b) salary increases for department employees;

(c) performance awards for department employees; or

(d) information technology enhancements because of changes or trends in technology.

Section 16. Section 32B-2-304 is amended to read:

32B-2-304. Liquor price -- School lunch program -- Remittance of markup.

(1) For purposes of this section:

(a) (i) "Landed case cost" means:

(A) the cost of the product; and

(B) inbound shipping costs incurred by the department.

(ii) "Landed case cost" does not include the outbound shipping cost from a warehouse of the department to a state store.

(b) "Proof gallon" means the same as that term is defined in 26 U.S.C. Sec. 5002.

(2) Except as provided in Subsections (3) and (4):

(a) spirituous liquor sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(b) wine sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department;

(c) heavy beer sold by the department within the state shall be marked up in an amount not less than 66.5% above the landed case cost to the department; and

(d) a flavored malt beverage sold by the department within the state shall be marked up in an amount not less than 88% above the landed case cost to the department.

(3) (a) Liquor sold by the department to a military installation in Utah shall be marked up in an amount not less than 17% above the landed case cost to the department.

(b) Except for spirituous liquor sold by the department to a military installation in Utah, spirituous liquor that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) the spirituous liquor is manufactured by a manufacturer producing less than 30,000 proof gallons of spirituous liquor in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(c) Except for wine sold by the department to a military installation in Utah, wine that is sold by the department within the state shall be marked up 49% above the landed case cost to the department if:

(i) (A) except as provided in Subsection (3)(c)(i)(B), the wine is manufactured by a manufacturer producing less than 20,000 gallons of wine in a calendar year; or

(B) for hard cider, the hard cider is manufactured by a manufacturer producing less than 620,000 gallons of hard cider in a calendar year; and

(ii) the manufacturer applies to the department for a reduced markup.

(d) Except for heavy beer sold by the department to a military installation in Utah, heavy beer that is sold by the department within the state shall be marked up 32% above the landed case cost to the department if:

(i) a small brewer manufactures the heavy beer; and

(ii) the small brewer applies to the department for a reduced markup.

(e) The department shall:

(i) for purposes of Subsections (3)(b) and (c), calculate the production amount of a manufacturer:

(A) by, if the manufacturer is part of a controlled group of manufacturers, including the combined volume totals of spirituous liquor, wine, or cider, as applicable, for all manufacturers that constitute the controlled group of manufacturers; and

(B) without considering the manufacturer's production of any other type of alcoholic product; and

(ii) verify [~~an~~] that a manufacturer meets a production amount described in Subsection (3)(b)[~~, (c), or (d)~~] or (c) and the production amount of a small brewer pursuant to a federal or other verifiable production report.

[~~(f) For purposes of determining whether an alcoholic product qualifies for a markup under this Subsection (3), the department shall evaluate whether the manufacturer satisfies the applicable production requirement without considering the manufacturer's production of any other type of alcoholic product.~~]

(f) A manufacturer seeking to obtain a reduced markup under Subsection (3)(b), (c), or (d), shall provide to the department any documentation or information the department determines necessary to determine if the manufacturer is part of a controlled group of manufacturers.

(g) The department may, at any time, revoke a reduced markup granted to a manufacturer under Subsection (3)(b), (c), or (d), if the department determines the manufacturer no longer qualifies for the reduced markup.

(4) Wine the department purchases on behalf of a subscriber through the wine subscription program established in Section 32B-2-702 shall be marked up not less than 88% above the cost of the subscription for the interval in which the wine is purchased.

(5) The department shall deposit 10% of the total gross revenue from sales of liquor with the state treasurer to be credited to the Uniform School Fund and used to support the school meals program administered by the State Board of Education under Section 53E-3-510.

(6) This section does not prohibit the department from selling discontinued items at a discount.

Section 17. Section 32B-2-602 is amended to read:

32B-2-602. Application and renewal requirements for a package agency.

(1) Before a person may store, sell, offer for sale, or furnish liquor in a sealed container on its premises under a package agency, the person shall first obtain a package agency issued by the commission in accordance with this part.

(2) To obtain a package agency, a person seeking to be the package agent under this part shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee of $125;

(c) written consent of the local authority;

(d) evidence of proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

(e) a bond as specified by Section 32B-2-604;

(f) a floor plan of the premises, including a description and highlighting of that part of the premises in which the person proposes that the package agency be located;

(g) evidence that the package agency is carrying public liability insurance in an amount and form satisfactory to the department;

(h) a signed consent form stating that the package agent permits any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter the premises of the package agency;

(i) if the person applying is an entity, verification that a person who signs the package agency application is authorized to sign on behalf of the entity; and

(j) any other information the commission or department may require.

(3) The commission may not issue a package agency to a person who is disqualified under Section 32B-1-304.

(4) The commission may not issue a package agency for premises that do not meet the proximity requirements of Section 32B-1-202.

(5) For the renewal of a package agency agreement, the package agent shall submit to the department any information the commission or department may require.

Section 18. Section 32B-2-605 is amended to read:

32B-2-605. Operational requirements for package agency.

(1) (a) A person may not operate a package agency until a package agency agreement is entered into by the package agent and the department.

(b) A package agency agreement shall state the conditions of operation by which the package agent and the department are bound.

(c) (i) If a package agent or staff of the package agent violates this title, rules under this title, or the package agency agreement, the department may take any action against the package agent that is allowed by the package agency agreement.

(ii) An action against a package agent is governed solely by its package agency agreement and may include suspension or revocation of the package agency.

(iii) A package agency agreement shall provide procedures to be followed if a package agent fails to pay money owed to the department including a procedure for replacing the package agent or operator of the package agency.

(iv) A package agency agreement shall provide that the package agency is subject to covert investigations for selling an alcoholic product to a minor.

(v) Notwithstanding that this part refers to "package agency" or "package agent," staff of the package agency or package agent is subject to the same requirement or prohibition.

(2) (a) A package agency shall be operated by an individual who is either:

(i) the package agent; or

(ii) an individual designated by the package agent.

(b) An individual who is a designee under this Subsection (2) shall be:

(i) an employee of the package agent; and

(ii) responsible for the operation of the package agency.

(c) The conduct of the designee is attributable to the package agent.

(d) A package agent shall submit the name of the person operating the package agency to the department for the department's approval.

(e) A package agent shall state the name and title of a designee on the application for a package agency.

(f) A package agent shall:

(i) inform the department of a proposed change in the individual designated to operate a package agency; and

(ii) receive prior approval from the department before implementing the change described in this Subsection (2)(f).

(g) Failure to comply with the requirements of this Subsection (2) may result in the immediate termination of a package agency agreement.

(3) (a) A package agent shall display in a prominent place in the package agency the record issued by the commission that designates the package agency.

(b) A package agent that displays or stores liquor at a location visible to the public shall display in a prominent place in the package agency a sign in large letters that consists of text in the following order:

(i) a header that reads: "WARNING";

(ii) a warning statement that reads: "Drinking alcoholic beverages during pregnancy can cause birth defects and permanent brain damage for the child.";

(iii) a statement in smaller font that reads: "Call the Utah Department of Health at [insert most current toll-free number] with questions or for more information.";

(iv) a header that reads: "WARNING"; and

(v) a warning statement that reads: "Driving under the influence of alcohol or drugs is a serious crime that is prosecuted aggressively in Utah."

(c) (i) The text described in Subsections (3)(b)(i) through (iii) shall be in a different font style than the text described in Subsections (3)(b)(iv) and (v).

(ii) The warning statements in the sign described in Subsection (3)(b) shall be in the same font size.

(d) The Department of Health shall work with the commission and department to facilitate consistency in the format of a sign required under this section.

(4) A package agency may not display liquor or a price list in a window or showcase that is visible to passersby.

(5) (a) A package agency may not purchase liquor from a person except from the department.

(b) At the discretion of the department, the department may provide liquor to a package agency for sale on consignment.

(6) A package agency may not store, sell, offer for sale, or furnish liquor in a place other than as designated in the package agent's application, unless the package agent first applies for and receives approval from the department for a change of location within the package agency premises.

(7) (a) Except as provided in Subsection (7)(b), a package agency may not sell, offer for sale, or furnish liquor except at a price fixed by the commission.

(b) A package agency may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if:

(i) the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish an alcoholic product as part of room service;

(ii) staff of the package agency provides the alcoholic product:

(A) in person; and

(B) only to an adult guest in the guest room;

(iii) staff of the package agency does not leave the alcoholic product outside a guest room for retrieval by a guest; and

(iv) the alcoholic product:

(A) is not a spirituous liquor; and

(B) is in an unopened container not to exceed 750 milliliters.

(8) A package agency may not sell, offer for sale, or furnish liquor to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(9) (a) A package agency may not employ a minor to handle liquor.

(b) (i) Staff of a package agency may not:

(A) consume an alcoholic product on the premises of a package agency; or

(B) allow any person to consume an alcoholic product on the premises of a package agency.

(ii) Violation of this Subsection (9)(b) is a class B misdemeanor.

(10) (a) A package agency may not close or cease operation for a period longer than 72 hours, unless:

(i) the package agency notifies the department in writing at least seven days before the day on which the package agency closes or ceases operation; and

(ii) the closure or cessation of operation is first approved by the department.

(b) Notwithstanding Subsection (10)(a), in the case of emergency closure, a package agency shall immediately notify the department by telephone.

(c) (i) The department may authorize a closure or cessation of operation for a period not to exceed 60 days.

(ii) The department may extend the initial period described in Subsection (10)(c)(i) an additional 30 days upon written request of the package agency and upon a showing of good cause.

(iii) A closure or cessation of operation may not exceed a total of 90 days without commission approval.

(d) The notice required by Subsection (10)(a) shall include:

(i) the dates of closure or cessation of operation;

(ii) the reason for the closure or cessation of operation; and

(iii) the date on which the package agency will reopen or resume operation.

(e) Failure of a package agency to provide notice and to obtain department authorization before closure or cessation of operation results in an automatic termination of the package agency agreement effective immediately.

(f) Failure of a package agency to reopen or resume operation by the approved date results in an automatic termination of the package agency agreement effective on that date.

(11) A package agency may not transfer the package agency's operations from one location to another location without prior written approval of the commission.

(12) (a) A person, having been issued a package agency, may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the package agency to another person, whether for monetary gain or not.

(b) A package agency has no monetary value for any type of disposition.

(13) (a) Subject to the other provisions of this Subsection (13):

(i) sale or delivery of liquor may not be made on or from the premises of a package agency, and a package agency may not be kept open for the sale of liquor:

(A) on Sunday; or

(B) on a state or federal legal holiday; and

(ii) sale or delivery of liquor may be made on or from the premises of a package agency, and a package agency may be open for the sale of liquor, only on a day and during hours that the commission directs by rule or order.

(b) A package agency located at a manufacturing facility is not subject to Subsection (13)(a) if:

(i) the package agency is located at a manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act; and

[~~(ii) the manufacturing facility licensed in accordance with Chapter 11, Manufacturing and Related Licenses Act, holds:~~]

[~~(A) a full-service restaurant license;~~]

[~~(B) a limited-service restaurant license;~~]

[~~(C) a beer-only restaurant license;~~]

[~~(D) a dining club license; or~~]

[~~(E) a bar license;~~]

[~~(iii) the restaurant, dining club, or bar is located at the manufacturing facility;~~]

[~~(iv) the restaurant, dining club, or bar sells an alcoholic product produced at the manufacturing facility;~~]

[~~(v) the manufacturing facility:~~]

[~~(A) owns the restaurant, dining club, or bar; or~~]

[~~(B) operates the restaurant, dining club, or bar;~~]

[~~(vi)~~] (ii) the package agency only sells an alcoholic product produced at the manufacturing facility[~~; and~~].

[~~(vii) the package agency's days and hours of sale are the same as the days and hours of sale at the restaurant, dining club, or bar.~~]

(c) (i) Subsection (13)(a) does not apply to a package agency held by the following if the package agent that holds the package agency to sell liquor at a resort or hotel does not sell liquor in a manner similar to a state store:

(A) a resort licensee; or

(B) a hotel licensee.

(ii) The commission may by rule define what constitutes a package agency that sells liquor "in a manner similar to a state store."

(14) (a) Except to the extent authorized by commission rule, a minor may not be admitted into, or be on the premises of, a package agency unless accompanied by a person who is:

(i) 21 years [~~of age~~] old or older; and

(ii) the minor's parent, legal guardian, or spouse.

(b) A package agent or staff of a package agency that has reason to believe that a person who is on the premises of a package agency is under [~~the age of~~] 21 years old and is not accompanied by a person described in Subsection (14)(a) may:

(i) ask the suspected minor for proof of age;

(ii) ask the person who accompanies the suspected minor for proof of age; and

(iii) ask the suspected minor or the person who accompanies the suspected minor for proof of parental, guardianship, or spousal relationship.

(c) A package agent or staff of a package agency shall refuse to sell liquor to the suspected minor and to the person who accompanies the suspected minor into the package agency if the minor or person fails to provide any information specified in Subsection (14)(b).

(d) A package agent or staff of a package agency shall require the suspected minor and the person who accompanies the suspected minor into the package agency to immediately leave the premises of the package agency if the minor or person fails to provide information specified in Subsection (14)(b).

(15) (a) A package agency shall sell, offer for sale, or furnish liquor in a sealed container.

(b) A person may not open a sealed container on the premises of a package agency.

(c) Notwithstanding Subsection (15)(a), a package agency may sell, offer for sale, or furnish liquor in other than a sealed container:

(i) if the package agency is the type of package agency that authorizes the package agency to sell, offer for sale, or furnish the liquor as part of room service;

(ii) if the liquor is sold, offered for sale, or furnished as part of room service; and

(iii) subject to:

(A) staff of the package agency providing the liquor in person only to an adult guest in the guest room or privately owned dwelling unit;

(B) staff of the package agency not leaving the liquor outside a guest room or privately owned dwelling unit for retrieval by a guest or resident; and

(C) the same limits on the portions in which an alcoholic product may be sold by a retail licensee under Section 32B-5-304.

(16) A package agency may not sell, offer for sale, or furnish heavy beer in a sealed container that exceeds two liters.

(17) The department may pay or otherwise remunerate a package agent on any basis, including sales or volume of business done by the package agency.

(18) The commission may prescribe by policy or rule general operational requirements of a package agency that are consistent with this title and relate to:

(a) physical facilities;

(b) conditions of operation;

(c) hours of operation;

(d) inventory levels;

(e) payment schedules;

(f) methods of payment;

(g) premises security; and

(h) any other matter considered appropriate by the commission.

(19) A package agency may not maintain a minibar.

Section 19. Section 32B-3-202 is amended to read:

32B-3-202. Timing of reporting violations.

(1) The department or the commission may not take administrative action against a person subject to administrative action before:

(a) a nondepartment enforcement agency or enforcement officer or a department compliance officer submits to the department a report:

(i) containing facts that could support a finding that the person subject to administrative action violated this title or a commission rule; and

(ii) no more than eight business days after the day on which the nondepartment enforcement agency or officer or the compliance officer completes the investigation containing the facts described in Subsection (1)(a)(i); and

(b) subject to Subsection (5), the department notifies the person subject to administrative action, no more than eight business days after the day on which the department receives the report described in Subsection (1)(a), that the commission or department:

(i) received the report described in Subsection (1)(a); and

(ii) may initiate or maintain a disciplinary proceeding on the basis, in whole or in part, on the facts contained in the report described in Subsection (1)(a).

(2) (a) The department may provide the notice required under this section orally, if after the oral

notification the department provides written notification.

(b) The department may provide the written notification described in Subsection (2)(a) outside the time periods required under this section.

(3) The department shall maintain a record of a notification required under this section that includes:

(a) the name of the person notified;

(b) the date of the notification; and

(c) the type of notification given.

(4) (a) The department may issue an order to show cause if the department receives a report described in Subsection (1)(a), containing facts that could support a finding that the person subject to administrative action violated:

(i) this title regarding necessary licensing requirements; or

(ii) a commission rule regarding necessary licensing requirements.

(b) A necessary licensing requirement described in Subsection (4)(a) includes:

(i) maintaining an approved, licensed premise;

(ii) maintaining insurance;

(iii) maintaining a bond;

(iv) following the requirements in Section 32B-1-304, regarding qualifications;

(v) maintaining required store hours;

(vi) failing to utilize the license issued; or

(vii) transferring a license in violation of [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Change of Alcohol License or Location Act.

(c) The department's issuance of an order to show cause in accordance with this Subsection (4):

(i) does not initiate a disciplinary proceeding; and

(ii) is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(5) The department is not required to provide notice as described in Subsection (1)(b) if the person subject to administrative action is staff.

Section 20. Section 32B-3-205 is amended to read:

32B-3-205. Penalties.

(1) If the commission is satisfied that a person subject to administrative action violates this title or the commission's rules, in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the commission may:

(a) suspend or revoke the person's license, permit, or certificate of approval;

(b) subject to Subsection (2), impose a fine against the person, including individual staff of a licensee, permittee, or certificate holder;

(c) assess the administrative costs of a disciplinary proceeding to the person if the person is a licensee, permittee, or certificate holder; or

(d) take a combination of actions described in this Subsection (1).

(2) (a) A fine imposed may not exceed $25,000 in the aggregate for:

(i) a single notice of agency action; or

(ii) a single action against a package agency.

(b) The commission shall by rule establish a schedule setting forth a range of fines for each violation.

(c) When a presiding officer imposes a fine, the presiding officer shall consider any aggravating circumstances or mitigating circumstances in deciding where within the applicable range to set the fine.

(3) The department shall transfer the costs assessed under this section into the General Fund in accordance with Section 32B-2-301.

(4) (a) If a license or permit is suspended under this section, the licensee or permittee shall prominently display a sign provided by the department:

(i) during the suspension; and

(ii) at the entrance of the premises of the licensee or permittee.

(b) The sign required by this Subsection (4) shall:

(i) read "The Utah Alcoholic Beverage [~~Control~~] Services Commission has suspended the alcoholic product license or permit of this establishment. An alcoholic product may not be sold, offered for sale, furnished, or consumed on these premises during the period of suspension."; and

(ii) include the dates of the suspension period.

(c) A licensee or permittee may not remove, alter, obscure, or destroy a sign required to be displayed under this Subsection (4) during the suspension period.

(5) (a) If a license or permit is revoked, the commission may order the revocation of a bond posted by the licensee or permittee under this title.

(b) Notwithstanding Subsection (5)(a), the department may make a claim against a bond posted by a licensee or permittee for money owed the department under this title without the commission first revoking the license or permit.

(6) A licensee or permittee whose license or permit is revoked may not reapply for a license or permit under this title for three years from the date on which the license or permit is revoked.

(7) If a staff member of a licensee, permittee, or certificate holder is found to have violated this title, in addition to imposing another penalty authorized

by this title, the commission may prohibit the staff member from handling, selling, furnishing, distributing, manufacturing, wholesaling, or warehousing an alcoholic product in the course of acting as staff with a licensee, permittee, or certificate holder under this title for a period determined by the commission.

(8) (a) If the commission makes the finding described in Subsection (8)(b), in addition to other penalties prescribed by this title, the commission may order:

(i) the removal of an alcoholic product of the manufacturer's, supplier's, or importer's from the department's sales list; and

(ii) a suspension of the department's purchase of an alcoholic product described in Subsection (8)(a)(i) for a period determined by the commission.

(b) The commission may take the action described in Subsection (8)(a) if:

(i) a manufacturer, supplier, or importer of liquor or its staff or representative violates this title; and

(ii) the manufacturer, supplier, or importer:

(A) directly commits the violation; or

(B) solicits, requests, commands, encourages, or intentionally aids another to engage in the violation.

(9) If the commission makes a finding that the brewer holding a certificate of approval violates this title or rules of the commission, the commission may take an action against the brewer holding a certificate of approval that the commission could take against a licensee including:

(a) suspension or revocation of the certificate of approval; and

(b) imposition of a fine.

(10) Notwithstanding the other provisions of this title, the commission may not order a disciplinary action or fine in accordance with this section if the disciplinary action or fine is ordered on the basis of a violation:

(a) of a provision in this title related to intoxication or becoming intoxicated; and

(b) if the violation is first investigated by a law enforcement officer, as defined in Section 53-13-103, who has not received training regarding the requirements of this title related to responsible alcoholic product sale or service.

(11) The commission shall expunge each record that relates to an individual's violation of a provision of this title, if the individual does not violate a provision of this title for a period of 36 consecutive months from the day on which the individual's last violation was adjudicated.

Section 21. Section 32B-4-403 is amended to read:

32B-4-403. Unlawful sale, offer for sale, or furnishing to minor.

(1) A person may not sell, offer for sale, or furnish an alcoholic product to a minor.

(2) (a) (i) Except as provided in Subsection (3), a person is guilty of a class B misdemeanor if the person who violates Subsection (1) negligently or recklessly fails to determine whether the recipient of the alcoholic product is a minor.

(ii) As used in this Subsection (2)(a), "negligently" means with simple negligence.

(b) Except as provided in Subsection (3), a person is guilty of a class A misdemeanor if the person who violates Subsection (1) knows the [~~purchaser~~] recipient of the alcoholic product is a minor.

(3) This section does not apply to the furnishing of an alcoholic product to a minor in accordance with this title:

(a) for medicinal purposes by:

(i) the parent or guardian of the minor; or

(ii) the health care practitioner of the minor, if the health care practitioner is authorized by law to write a prescription; or

(b) as part of a religious organization's religious services.

Section 22. Section 32B-4-415 is amended to read:

32B-4-415. Unlawful bringing onto premises for consumption.

(1) Except as provided in Subsection (4) and Section 32B-5-307, a person may not bring an alcoholic product for on-premise consumption onto the premises of:

(a) a retail licensee or person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) an event where an alcoholic product is sold, offered for sale, or furnished under a single event permit or temporary beer event permit issued under this title;

(d) an establishment open to the general public; or

(e) the capitol hill complex.

(2) Except as provided in Subsection (4) and Section 32B-5-307, the following may not allow a person to bring onto its premises an alcoholic product for on-premise consumption or allow consumption of an alcoholic product brought onto its premises in violation of this section:

(a) a retail licensee or a person required to be licensed under this title as a retail licensee;

(b) an establishment that conducts a business similar to a retail licensee;

(c) a single event permittee or temporary beer event permittee;

(d) an establishment open to the general public;

(e) the State Capitol Preservation Board created in Section 63C-9-201; or

(f) staff of a person listed in Subsections (2)(a) through (e).

(3) Except as provided in Subsection (4)(c)(i)(A), a person may not consume an alcoholic product in a limousine or chartered bus if the limousine or chartered bus drops off a passenger at:

(a) a location from which the passenger departs in a private vehicle; or

(b) the capitol hill complex.

(4) (a) A person may bring bottled wine onto the premises of the following and consume the wine pursuant to Section 32B-5-307:

(i) a full-service restaurant licensee;

(ii) a limited restaurant licensee;

(iii) a bar establishment licensee; or

(iv) a person operating under a [~~resort~~] spa sublicense.

(b) A passenger of a limousine may bring onto, possess, and consume an alcoholic product in the limousine if:

(i) the travel of the limousine begins and ends at:

(A) the residence of the passenger;

(B) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(C) the temporary domicile of the passenger;

(ii) the driver of the limousine is separated from the passengers by partition or other means approved by the department; and

(iii) the limousine is not located on the capitol hill complex.

(c) A passenger of a chartered bus may bring onto, possess, and consume an alcoholic product on the chartered bus:

(i) (A) but may consume only during travel to a specified destination of the chartered bus and not during travel back to the place where the travel begins; or

(B) if the travel of the chartered bus begins and ends at:

(I) the residence of the passenger;

(II) the hotel of the passenger, if the passenger is a registered guest of the hotel; or

(III) the temporary domicile of the passenger;

(ii) if the chartered bus has a nondrinking designee other than the driver traveling on the chartered bus to monitor consumption; and

(iii) if the chartered bus is not located on the capitol hill complex.

(5) A person may bring onto any premises, possess, and consume an alcoholic product at a private event.

(6) Notwithstanding Subsection (5), private and public facilities may prohibit the possession or consumption of alcohol on their premises.

(7) The restrictions of Subsections (2) and (3) apply to a resort licensee or hotel licensee or person operating under a sublicense in relationship to:

(a) the boundary of a resort building, as defined in Section 32B-8-102, or the boundary of a hotel, as defined in Section 32B-8b-102, in an area that is open to the public; or

(b) except as provided in Subsection (4), sublicensed premises.

Section 23. Section 32B-5-102 is amended to read:

32B-5-102. Definitions.

[~~As used in this chapter:~~]

[~~(1) "Interim alcoholic beverage management agreement" means an agreement:~~]

[~~(a) in connection with:~~]

[~~(i) the transfer of a retail license; and~~]

[~~(ii) (A) an asset sale of a retail licensee; or~~]

[~~(B) a transfer of the management of a retail licensee to a new entity; and~~]

[~~(b) under which the purchaser or the new management entity agrees to perform the operations of the retail licensee during the period that:~~]

[~~(i) begins when:~~]

[~~(A) the asset sale closes; or~~]

[~~(B) the new management agreement is executed; and~~]

[~~(ii) ends on the day after the day on which the commission approves the transfer of the retail license.~~]

[~~(2) "Inventory transfer agreement" means an agreement under which a retail licensee agrees to sell or otherwise transfer all or part of the retail licensee's inventory of alcoholic product.~~]

Reserved.

Section 24. Section 32B-5-201 is amended to read:

32B-5-201. Application requirements for retail license.

(1) (a) Before a person may store, sell, offer for sale, furnish, or permit consumption of an alcoholic product on licensed premises as a retail licensee, the person shall first obtain a retail license issued by the commission, notwithstanding whether the person holds a local license or a permit issued by a local authority.

(b) Violation of this Subsection (1) is a class B misdemeanor.

(2) To obtain a retail license under this title, a person shall submit to the department:

(a) a written application in a form prescribed by the department;

(b) a nonrefundable application fee in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying;

(c) an initial license fee:

(i) in the amount specified in the relevant chapter or part for the type of retail license for which the person is applying; and

(ii) that is refundable if a retail license is not issued;

(d) written consent of the local authority, including, if applicable, consent for each proposed sublicense;

(e) a copy of:

(i) every license the local authority requires, including the person's current business license; and

(ii) if the person is applying for a principal license, the current business license for each proposed sublicense, except if the [~~relevant political subdivision~~] local authority determines that the business license for a proposed sublicense is included in the person's current business license;

(f) evidence of the proposed retail licensee's proximity to any community location, with proximity requirements being governed by Section 32B-1-202;

(g) a bond as specified by Section 32B-5-204;

(h) a floor plan, and boundary map where applicable, of the premises of the retail license and each, if any, accompanying sublicense, including any:

(i) consumption area; and

(ii) area where the person proposes to store, sell, offer for sale, or furnish an alcoholic beverage;

(i) evidence that the retail licensee carries public liability insurance in an amount and form satisfactory to the department;

(j) evidence that the retail licensee carries dramshop insurance coverage of at least:

(i) $1,000,000 per occurrence and $2,000,000 in the aggregate;

(ii) if the retail licensee is a hotel licensee or a resort licensee, $1,000,000 per occurrence and $2,000,000 in the aggregate to cover both the principal license and all accompanying sublicenses; or

(iii) if the retail licensee is an arena licensee, $10,000,000 per occurrence and $20,000,000 in the aggregate to cover both the arena license and all accompanying sublicenses.

(k) a signed consent form stating that the retail licensee will permit any authorized representative of the commission, department, or any law enforcement officer to have unrestricted right to enter:

(i) the premises of the retail licensee; and

(ii) if applicable, the premises of each of the retail licensee's accompanying sublicenses;

(l) if the person is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity;

(m) a responsible alcohol service plan; [~~and~~]

(n) evidence that each individual the person has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; and

[~~(n)~~] (o) any other information the commission or department may require.

(3) The commission may not issue a retail license to a person who:

(a) is disqualified under Section 32B-1-304; or

(b) is not lawfully present in the United States.

(4) Unless otherwise provided in the relevant chapter or part for the type of retail license for which the person is applying, the commission may not issue a retail license to a person if the proposed licensed premises does not meet the proximity requirements of Section 32B-1-202.

Section 25. Section 32B-5-202 is amended to read:

32B-5-202. Renewal requirements.

(1) A retail license expires each year on the day specified in the relevant chapter or part for that type of retail license.

(2) (a) To renew a person's retail license, a retail licensee shall, on or before the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew, submit:

(i) a completed renewal application in a form prescribed by the department;

(ii) a renewal fee in the amount specified in the relevant chapter or part for the type of retail license that the person seeks to renew; and

(iii) a responsible alcohol service plan if, since the retail licensee's most recent application or renewal, the retail licensee:

(A) made substantial changes to the retail licensee's responsible alcohol service plan; or

(B) violated a provision of this chapter.

[~~(b) (i) Except as provided for in Subsection (2)(b)(ii), a retail licensee shall fulfill the renewal requirements under Subsection (2)(a) on or before the day specified in the relevant chapter or part for the type of retail license that the person seeks to renew.~~]

[~~(ii) The commission may:~~]

[~~(A) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, permitting and establishing the parameters of late retail license renewals; and~~]

[~~(B) establish a fee, in accordance with Section 63J-1-504, for late retail license renewals.~~]

[~~(c)~~] (b) The department may audit a retail licensee's responsible alcohol service plan.

(3) Failure to meet the renewal requirements results in an automatic forfeiture of the retail license effective on the day on which the existing retail license expires.

Section 26. Section 32B-5-205 is amended to read:

32B-5-205. Conditional retail license.

(1) As used in this section:

(a) "Conditional retail license" means a retail license that:

(i) conditions the holder's ability to [~~sell, offer for sale, furnish, or allow the consumption of an alcoholic product on its licensed premises~~] obtain a valid retail license on the person submitting to the department:

(A) a copy of every license or permit the local authority requires for the valid retail license, including the holder's current business license [~~before obtaining a valid retail license; and~~];

(B) a bond;

(C) evidence that the person carries public liability insurance;

(D) evidence that the person carries dramshop insurance;

(E) evidence that each individual the conditional retail licensee has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; or

(F) any other information the department or commission may require for licensure; and

(ii) provides that the holder will be issued a valid retail license if the holder complies with the requirements of Subsection (3).

(b) "Valid retail license" means a retail license issued pursuant to this part under which the holder is permitted to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [~~its~~] the holder's licensed premises.

(2) Subject to the requirements of this section, the commission may issue a conditional retail license to a person if the person:

(a) meets [~~the requirements~~] each requirement to obtain the retail license for which the person is applying, except [~~the~~] a requirement to submit to the department:

(i) a copy of every license or permit the local authority requires for the retail license, including the person's current business license; [~~and~~]

(ii) a bond;

(iii) evidence that the person carries public liability insurance;

(iv) evidence that the person carries dramshop insurance coverage;

(v) evidence that each individual the conditional retail licensee has hired to work as a retail manager, as defined in Section 32B-1-701, has completed the alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; or

(vi) a menu; and

(b) agrees not to sell, offer for sale, furnish, or allow the consumption of an alcoholic product on [~~its~~] the conditional retail licensee's licensed premises before obtaining a valid retail license.

(3) (a) A conditional retail license becomes a valid retail license on the day on which the department notifies the person who holds the conditional retail license that the department finds that the person has complied with Subsection (3)(b).

(b) For a conditional retail license to become a valid retail license, a person who holds the conditional retail license shall:

(i) submit to the department:

(A) a copy of every license or permit the local authority requires for the retail license, including the person's current business license; [~~and~~]

(B) a bond as specified by Section 32B-5-204;

(C) evidence that the conditional retail licensee carries public liability insurance in an amount and form satisfactory to the department;

(D) evidence that the conditional retail licensee carries dramshop insurance coverage as specified in Section 32B-5-201;

(E) evidence that each individual the conditional retail licensee has hired to work as a retail manager, as defined in Section 32B-1-701, has completed an alcohol training and education seminar as required under Chapter 1, Part 7, Alcohol Training and Education Act; and

(F) any other information the department or commission may require; and

(ii) provide to the department evidence satisfactory to the department that:

(A) there has been no change in the information submitted to the commission as part of the person's application for a retail license; and

(B) the person continues to qualify for the retail license.

(4) (a) A conditional retail license expires 18 months after the day on which the commission issues the conditional retail license, unless the conditional retail license becomes a valid retail license before that day.

(b) Notwithstanding Subsection (4)(a), the commission may extend the time period of a conditional retail license an additional six months if the holder of the conditional license can show to the satisfaction of the commission that the holder of the conditional license:

(i) has an active building permit related to the licensed premises; and

(ii) is engaged in a good faith effort to pursue completion within the six-month period.

Section 27. Section 32B-5-304 is amended to read:

32B-5-304. Portions in which alcoholic product may be sold.

(1) (a) A retail licensee may sell, offer for sale, or furnish spirituous liquor that is a primary spirituous liquor only in a quantity that does not exceed 1.5 ounces per beverage dispensed through a calibrated metered dispensing system approved by the department in accordance with commission rules adopted under this title[~~, except that:~~].

[~~(a) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used as a secondary flavoring ingredient in a beverage subject to the following requirements:~~]

[~~(i) the secondary ingredient may be dispensed only in conjunction with the purchase of a primary spirituous liquor;~~]

[~~(ii) the secondary ingredient may not be the only spirituous liquor in the beverage;~~]

[~~(iii) the retail licensee shall designate a location where flavorings are stored on the floor plan submitted to the department; and~~]

[~~(iv) a flavoring container shall be plainly and conspicuously labeled "flavorings";~~]

[~~(b) spirituous liquor need not be dispensed through a calibrated metered dispensing system if used:~~]

[~~(i) as a flavoring on a dessert; and~~]

[~~(ii) in the preparation of a flaming food dish, drink, or dessert; and~~]

(b) A retail license is not required to dispense spirituous liquor through a calibrated metered dispensing system if the spirituous liquor is:

(i) a secondary flavoring ingredient;

(ii) used as a flavoring on a dessert; or

(iii) used to set aflame a food dish, drink, or dessert.

(c) A retail licensee that dispenses spirituous liquor that is a secondary flavoring ingredient shall:

(i) designate a location where the retail licensee stores secondary flavoring ingredients on the floor plan the retail licensee submits to the department; and

(ii) clearly and conspicuously label each secondary flavoring ingredient's container "flavorings".

[~~(c)~~] (d) [~~a~~] A patron may have no more than 2.5 ounces of spirituous liquor at a time.

(2) (a) (i) A retail licensee may sell, offer for sale, or furnish wine by the glass or in an individual portion that does not exceed 5 ounces per glass or individual portion.

(ii) A retail licensee may sell, offer for sale, or furnish an individual portion of wine to a patron in more than one glass if the total amount of wine does not exceed 5 ounces.

(b) (i) A retail licensee may sell, offer for sale, or furnish wine in a container not exceeding 1.5 liters at a price fixed by the commission to a table of four or more persons.

(ii) A retail licensee may sell, offer for sale, or furnish wine in a container not to exceed 750 milliliters at a price fixed by the commission to a table of less than four persons.

(3) A retail licensee may sell, offer for sale, or furnish heavy beer in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(4) A retail licensee may sell, offer for sale, or furnish a flavored malt beverage in an original container at a price fixed by the commission, except that the original container may not exceed one liter.

(5) (a) (i) Subject to Subsection [~~(5)(b)~~] (5)(a)(ii), a retail licensee may sell, offer for sale, or furnish beer for on-premise consumption:

[~~(i)~~] (A) in an open original container; and

[~~(ii)~~] (B) in a container on draft.

[~~(b)~~] (ii) A retail licensee may not sell, offer for sale, or furnish beer under Subsection (5)(a)(i):

[~~(i)~~] (A) in a size of container that exceeds two liters; or

[~~(ii)~~] (B) to an individual patron in a size of container that exceeds one liter.

(b) A retail licensee may sell, offer for sale, or furnish beer for off-premise consumption:

(i) in a sealed container; and

(ii) in a size of container that does not exceed two liters.

(c) A retail licensee may sell, offer for sale, or furnish a flight of beer to an individual patron if the total amount of beer does not exceed 16 ounces.

Section 28. Section 32B-5-307 is amended to read:

32B-5-307. Bringing alcoholic product onto or removing alcoholic product from premises.

(1) Except as provided in Subsections (3) and (4):

(a) a person may not bring onto the licensed premises of a retail licensee an alcoholic product for on-premise consumption;

(b) a retail licensee may not allow a person to:

(i) bring onto licensed premises an alcoholic product for on-premise consumption; or

(ii) consume an alcoholic product brought onto the licensed premises by a person other than the retail licensee; and

(c) a retail licensee may not sell, offer for sale, or furnish an alcoholic product through a window or door to a location off the licensed premises or to a vehicular traffic area.

(2) Except as provided in Subsections (3) and (4) and Subsection 32B-4-415(5):

(a) a person may not carry from [~~a~~] the licensed premises of a retail licensee an open container that:

(i) is used primarily for drinking purposes; and

(ii) contains an alcoholic product;

(b) a retail licensee may not permit a patron to carry from the licensed premises an open container described in Subsection (2)(a); and

(c) (i) a person may not carry from [~~a~~] the licensed premises of a retail licensee a sealed container of liquor that has been purchased from the retail licensee; and

(ii) a retail licensee may not permit a patron to carry from the licensed premises of the retail licensee a sealed container of liquor that has been purchased from the retail licensee.

(3) (a) A patron may bring a bottled wine onto the premises of a retail licensee for on-premise consumption if:

(i) permitted by the retail licensee; and

(ii) the retail licensee is authorized to sell, offer for sale, or furnish wine.

(b) If a patron carries bottled wine onto the licensed premises of a retail licensee, the patron shall deliver the bottled wine to a server or other representative of the retail licensee upon entering the licensed premises.

(c) A retail licensee authorized to sell, offer for sale, or furnish wine, may provide a wine service for a bottled wine carried onto the licensed premises in accordance with this Subsection (3) or a bottled wine purchased at the licensed premises.

(d) A patron may remove from a licensed premises the unconsumed contents of a bottle of wine purchased at the licensed premises, or brought onto the licensed premises in accordance with this Subsection (3), only if before removal the bottle is recorked or recapped.

(4) Neither a patron nor a retail licensee violates this section if:

(a) the patron is in shared seating; and

(b) the patron purchased the patron's alcoholic beverage from a restaurant licensee whose licensed premises include the shared seating area the patron is in.

(5) (a) A patron may carry from a retail licensee's licensed premises a sealed container of beer that has been purchased from the retail licensee.

(b) A retail licensee may permit a patron to carry from the retail licensee's licensed premises a sealed container of beer that has been purchased from the retail licensee.

Section 29. Section 32B-5-309 is amended to read:

32B-5-309. Ceasing operation.

(1) Except as provided in Subsection (8), a retail licensee may not close or cease operation for a period longer than 240 hours, unless:

(a) the retail licensee notifies the department in writing at least seven days before the day on which the retail licensee closes or ceases operation; and

(b) the closure or cessation of operation is first approved by the department.

(2) Notwithstanding Subsection (1), in the case of emergency closure, a retail licensee shall immediately notify the department by telephone.

(3) (a) The department may authorize [~~a~~] an initial closure or cessation of operation of a retail licensee for a period not to exceed 60 days.

(b) [~~The~~] Upon written request of the retail licensee and a showing of good cause, the department may extend the initial period [~~an additional~~] described in Subsection (3)(a) for a period not to exceed the greater of:

(i) 30 days [~~upon:~~]; or

(ii) the number of days until the day on which the commission holds the commission's next regularly scheduled meeting.

[~~(i) written request of the retail licensee; and~~]

[~~(ii) a showing of good cause.~~]

(4) A closure or cessation of operation may not exceed [~~a total of 90 days~~] the time limits described in Subsection (3) without commission approval.

(5) A notice required under this section shall include:

(a) the dates of closure or cessation of operation;

(b) the reason for the closure or cessation of operation; and

(c) the date on which the retail licensee will reopen or resume operation.

(6) Failure of a retail licensee to provide notice and to obtain department approval before closure or cessation of operation results in an automatic forfeiture of:

(a) the retail license; and

(b) the unused portion of the retail license fee for the remainder of the retail license year effective immediately.

(7) Failure of a retail licensee to reopen or resume operation by the approved date results in an automatic forfeiture of:

(a) the retail license; and

(b) the unused portion of the retail license fee for the remainder of the retail license year.

(8) This section does not apply to:

(a) an on-premise beer retailer who is not a tavern; [~~or~~]

(b) an airport lounge licensee; or

(c) a hospitality amenity licensee.

(9) For purposes of this section, the department may not base a determination that a retail licensee has ceased operation solely upon the retail licensee's lack of sales.

Section 30. Section 32B-6-205 is amended to read:

32B-6-205. Specific operational requirements for a full-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) In addition to complying with Subsection 32B-5-301(3), a full-service restaurant licensee shall display in a prominent place in the restaurant a list of the types and brand names of liquor being furnished through the full-service restaurant licensee's calibrated metered dispensing system.

(3) In addition to complying with Section 32B-5-303, a full-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a full-service restaurant licensee.

(6) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product for on-premise consumption except after the full-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not sell, offer for sale, or furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

[~~(b)~~] (c) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(8) (a) Subject to the other provisions of this Subsection (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (8)(a).

(9) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only:

(a) at:

(i) the patron's table;

(ii) a counter; or

(iii) a seating grandfathered bar structure; and

(b) where food is served.

(10) (a) A full-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years [~~of age~~] old or older may:

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

(c) Except as provided in Subsection (10)(d), at a seating grandfathered bar structure a full-service restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a full-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the full-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a full-service restaurant licensee's premises in which the minor is permitted to be.

(11) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the full-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (11)(a).

(12) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years [~~of age~~] old or older.

(14) Except as provided in Subsection 32B-6-205.2(16) and Section 32B-6-205.3, the provisions of this section apply before July 1, 2018.

Section 31. Section 32B-6-205.2 is amended to read:

32B-6-205.2. Specific operational requirements for a full-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a full-service restaurant licensee and staff of the full-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a full-service restaurant licensee;

(ii) individual staff of a full-service restaurant licensee; or

(iii) both a full-service restaurant licensee and staff of the full-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a full-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A full-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a full-service restaurant licensee.

(4) (a) A full-service restaurant licensee may sell, offer for sale, or furnish liquor at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A full-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A full-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the full-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the full-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a full-service restaurant licensee, the full-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the full-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the full-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is five ounces or less.

(c) Notwithstanding Section 32B-5-307, a full-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

[~~(c)~~] (d) A full-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the full-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or dispensing area;

(b) a counter that is located in a dining area or dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years [~~of age~~] old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years [~~of age~~] old and working as an employee of the full-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the full-service restaurant licensee when the full-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the full-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a full-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the full-service restaurant licensee; and

(B) located immediately adjacent to the premises of the full-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A full-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A full-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A full-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of liquor, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a full-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a full-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a full-service restaurant licensee at least once [~~each calendar year~~] annually.

(15) A full-service restaurant licensee may lease to a patron of the full-service restaurant licensee a locked storage space:

(a) that the commission considers proper for the storage of wine; and

(b) for the storage of wine that:

(i) the patron purchases from the full-service restaurant licensee; and

(ii) only the full-service restaurant licensee or staff of the full-service restaurant licensee may remove from the locker for the patron's use in accordance with this title, including:

(A) service and consumption on licensed premises as described in Section 32B-5-306; or

(B) removal from the full-service retail licensee's licensed premises in accordance with Section 32B-5-307.

(16) (a) In accordance with Section 32B-6-205.3, a full-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a full-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a full-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A full-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (16)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-205.

Section 32. Section 32B-6-205.3 is amended to read:

32B-6-205.3. Transition process for full-service restaurant licensees.

(1) For a full-service restaurant license issued on or after July 1, 2017, the full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2.

(2) For a full-service restaurant license issued before July 1, 2017, before the full-service restaurant licensee changes the full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a full-service restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-205.2 on or before July 1, 2018.

(b) A full-service restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a full-service restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a full-service restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-205.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the full-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the full-service restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the full-service restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) A full-service restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-205.2 without a change to the full-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 33. Section 32B-6-305 is amended to read:

32B-6-305. Specific operational requirements for a limited-service restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a limited-service restaurant licensee;

(ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) A limited-service restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of:

(i) spirituous liquor; or

(ii) a flavored malt beverage.

(b) A product listed in Subsection (2)(a) may not be on the premises of a limited-service restaurant licensee except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a limited-service restaurant licensee shall store an alcoholic product in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of an alcoholic product ordered or consumed.

(5) A person's willingness to serve an alcoholic product may not be made a condition of employment as a server with a limited-service restaurant licensee.

(6) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that beings at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product for on-premise consumption except after the limited-service restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not sell, offer for sale, or furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

[~~(b)~~] (c) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(8) (a) Subject to the other provisions of this Subsection (8), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (8)(a).

(9) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only:

(a) at:

(i) the patron's table;

(ii) a counter; or

(iii) a seating grandfathered bar structure; and

(b) where food is served.

(10) (a) A limited-service restaurant licensee may not sell, offer for sale, or furnish an alcoholic product to a patron, and a patron may not consume an alcoholic product at a bar structure that is not a seating grandfathered bar structure.

(b) At a seating grandfathered bar structure a patron who is 21 years [~~of age~~] old or older may:

(i) sit;

(ii) be furnished an alcoholic product; and

(iii) consume an alcoholic product.

(c) Except as provided in Subsection (10)(d), at a seating grandfathered bar structure a limited-service restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

(d) (i) A minor may be at a seating grandfathered bar structure if the minor is employed by a limited-service restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the limited-service restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a seating grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a limited-service restaurant licensee's premises in which the minor is permitted to be.

(11) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a grandfathered bar structure;

(ii) an area adjacent to a grandfathered bar structure that is visible to a patron sitting at the grandfathered bar structure if that area is used to dispense an alcoholic product as of May 12, 2009; or

(iii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are:

(I) not readily visible to a patron; and

(II) not accessible by a patron; and

(B) apart from an area used:

(I) for dining;

(II) for staging; or

(III) as a lobby or waiting area;

(b) the limited-service restaurant licensee uses an alcoholic product that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

(A) immediately before the alcoholic product is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (11)(a).

(12) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(13) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years [~~of age~~] old or older.

(14) Except as provided in Subsection 32B-6-305.2(15) and Section 32B-6-305.3, the provisions of this section apply before July 1, 2018.

Section 34. Section 32B-6-305.2 is amended to read:

32B-6-305.2. Specific operational requirements for a limited-service restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a limited-service restaurant licensee and staff of the limited-service restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a limited-service restaurant licensee;

(ii) individual staff of a limited-service restaurant licensee; or

(iii) both a limited-service restaurant licensee and staff of the limited-service restaurant licensee.

(2) (a) An individual who serves an alcoholic product in a limited-service restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab described in this Subsection (2) shall state the type and amount of each alcoholic product ordered or consumed.

(3) A limited-service restaurant licensee may not make an individual's willingness to serve an alcoholic product a condition of employment with a limited-service restaurant licensee.

(4) (a) A limited-service restaurant licensee may sell, offer for sale, or furnish wine or heavy beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 11:59 p.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 11:59 p.m.

(b) A limited-service restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(i) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(ii) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(5) (a) A limited-service restaurant licensee may not furnish an alcoholic product for on-premise consumption except after:

(i) the patron to whom the limited-service restaurant licensee furnishes the alcoholic product is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the limited-service restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (5)(b), consume the food at the same location where the patron is seated and furnished the alcoholic product.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a limited-service restaurant licensee, the limited-service restaurant licensee may sell, offer for sale, or furnish to the patron one drink that contains a single portion of an alcoholic product as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the limited-service restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's alcoholic product before moving to a seat in the dining area, an employee of the limited-service restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's alcoholic product to the patron's seat in the dining area.

(iii) For purposes of Subsection (5)(b)(i) a single portion of wine is 5 ounces or less.

(c) Notwithstanding Section 32B-5-307, a limited-service restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

[~~(c)~~] (d) A limited-service restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(6) A patron may consume an alcoholic product on the limited-service restaurant licensee's licensed premises only if the patron is seated at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(7) (a) Subject to the other provisions of this Subsection (7), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) An individual portion of wine is considered to be one alcoholic product under Subsection (7)(a).

(8) In accordance with the provisions of this section, an individual who is at least 21 years [~~of~~

~~age~~] old may consume food and beverages in a dispensing area.

(9) (a) Except as provided in Subsection (9)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years [~~of age~~] old and working as an employee of the limited-service restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the limited-service restaurant licensee when the limited-service restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the limited-service restaurant licensee's premises in which the minor is permitted to be.

(10) Except as provided in Subsection 32B-5-307(3), a limited-service restaurant licensee may dispense an alcoholic product only if:

(a) the alcoholic product is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the limited-service restaurant licensee; and

(B) located immediately adjacent to the premises of the limited-service restaurant licensee; and

(b) any instrument or equipment used to dispense alcoholic product is located in an area described in Subsection (10)(a).

(11) (a) A limited-service restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-202(2)(a)(i), (ii), or (iii), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(12) A limited-service restaurant licensee may not:

(a) transfer, dispense, or serve an alcoholic product on or from a movable cart; or

(b) display an alcoholic product or a product intended to appear like an alcoholic product by moving a cart or similar device around the licensed premises.

(13) A limited-service restaurant licensee may state in a food or alcoholic product menu a charge or fee made in connection with the sale, service, or consumption of wine or heavy beer, including:

(a) a set-up charge;

(b) a service charge; or

(c) a chilling fee.

(14) (a) In addition to the requirements described in Section 32B-5-302, a limited-service restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a limited-service restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a limited-service restaurant licensee at least once each calendar year.

(15) (a) In accordance with Section 32B-6-305.3, a limited-service restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a limited-service restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a limited-service restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A limited-service restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (15)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-305.

Section 35. Section 32B-6-305.3 is amended to read:

32B-6-305.3. Transition process for limited-service restaurant licensees.

(1) For a limited-service restaurant license issued on or after July 1, 2017, the limited-service restaurant licensee shall comply with the provisions of Section 32B-6-305.2.

(2) For a limited-service restaurant license issued before July 1, 2017, before the limited-service restaurant licensee changes the limited-service restaurant licensee's approved

location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-305.2, the limited-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a limited-service restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-305.2 on or before July 1, 2018.

(b) A limited-service restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-305.2 without a change to the limited-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a limited-service restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a limited-service restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-305.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the limited-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the limited-service restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the limited-service restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) A limited-service restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-305.2 without a change to the limited-service restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 36. Section 32B-6-404.1 is amended to read:

32B-6-404.1. Transition from dining club license to full-service restaurant license.

(1) As used in this section:

(a) "Converted full-service restaurant licensee" means a dining club licensee that converts to a full-service restaurant licensee on or before July 1, 2018, in accordance with Subsection 32B-6-404(7).

(b) "Grandfathered bar structure" means the same as that term is defined in Section 32B-6-202.

(2) (a) Except as provided in Subsection (2)(c) and subject to the provisions of this section, a converted full-service restaurant licensee shall operate under the provisions that govern a full-service restaurant licensee that has a grandfathered bar structure.

(b) For purposes of applying the provisions that govern a full-service restaurant licensee with a grandfathered bar structure, a converted full-service restaurant licensee's bar structure is considered a grandfathered bar structure.

(c) The provisions of Section 32B-6-205.3 do not apply to a converted full-service restaurant licensee.

(3) (a) A converted full-service restaurant licensee shall comply with the provisions of Section 32B-6-205.2 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the converted full-service restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the converted full-service restaurant licensee's bar structure or dining area; or

(iii) the date on which the converted full-service restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) Before a converted full-service restaurant licensee changes the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-205.2, the converted full-service restaurant licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(c) A converted full-service restaurant licensee that cannot comply with the provisions of Section 32B-6-205.2 without a change to the converted full-service restaurant licensee's approved location for storage, dispensing, or consumption shall submit an application for approval described in Subsection (3)(b) on or before May 1, 2022.

(4) (a) Notwithstanding any provision to the contrary, a converted full-service restaurant licensee shall maintain at least the following

percentage of the converted full-service restaurant licensee's total restaurant business from the sale of food:

(i) beginning the day on which the licensee becomes a converted full-service restaurant licensee, and ending June 30, 2019, 64%;

(ii) beginning July 1, 2019, and ending June 30, 2020, 68%; and

(iii) on and after July 1, 2021, 70%.

(b) For purposes of Subsection (4)(a), a converted full-service restaurant licensee's restaurant business from the sale of food does not include:

(i) mix for an alcoholic product; or

(ii) a service charge.

Section 37. Section 32B-6-605 is amended to read:

32B-6-605. Specific operational requirements for on-premise banquet license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise banquet licensee and staff of the on-premise banquet licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise banquet licensee;

(ii) individual staff of an on-premise banquet licensee; or

(iii) both an on-premise banquet licensee and staff of the on-premise banquet licensee.

(2) An on-premise banquet licensee shall comply with Subsections 32B-5-301(4) and (5) for the entire premises of the hotel, resort facility, sports center, convention center, [~~or~~] performing arts facility, or arena that is the basis for the on-premise banquet license.

(3) (a) For the purpose described in Subsection (3)(b), an on-premise banquet licensee shall provide the department with advance notice of a scheduled banquet in accordance with rules made by the commission.

(b) Any of the following may conduct a random inspection of a banquet:

(i) an authorized representative of the commission or the department; or

(ii) a law enforcement officer.

(4) (a) An on-premise banquet licensee is not subject to Section 32B-5-302, but shall make and maintain the records the commission or department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (4).

(5) (a) Except as otherwise provided in this title, an on-premise banquet licensee may sell, offer for sale, or furnish an alcoholic product at a banquet only for consumption at the location of the banquet.

(b) Except as provided in Subsection 32B-5-307(4), a host of a banquet, a patron, or a person other than the on-premise banquet licensee or staff of the on-premise banquet licensee, may not remove an alcoholic product from the premises of the banquet.

(c) Notwithstanding [~~Subsection 32B-5-307(3)~~] Subsections 32B-5-307(3) and (5) and except as provided in Subsection 32B-5-307(4), a patron at a banquet may not bring an alcoholic product into or onto, or remove an alcoholic product from, the premises of a banquet.

(6) (a) An on-premise banquet licensee may not leave an unsold alcoholic product at the banquet following the conclusion of the banquet.

(b) At the conclusion of a banquet, an on-premise banquet licensee shall:

(i) destroy an opened and unused alcoholic product that is not saleable, under conditions established by the department; and

(ii) return to the on-premise banquet licensee's approved locked storage area any:

(A) opened and unused alcoholic product that is saleable; and

(B) unopened container of an alcoholic product.

(c) Except as provided in Subsection (6)(b) with regard to an open or sealed container of an alcoholic product not sold or consumed at a banquet, an on-premise banquet licensee:

(i) shall store the alcoholic product in the on-premise banquet licensee's approved locked storage area; and

(ii) may use the alcoholic product at more than one banquet.

(7) Notwithstanding Section 32B-5-308, an on-premise banquet licensee may not employ a minor to sell, furnish, or dispense an alcoholic product in connection with the on-premise banquet licensee's banquet and room service activities.

(8) An on-premise banquet licensee:

(a) may provide room service in portions described in Section 32B-5-304;

(b) may not sell, offer for sale, or furnish an alcoholic product at a banquet or in connection with room service any day during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.; and

(c) notwithstanding Section 32B-5-305, may provide as room service one alcoholic product free of charge per guest reservation, per guest room, if the alcoholic product:

(i) is not a spirituous liquor; and

(ii) is in an unopened container not to exceed 750 milliliters.

(9) (a) Subject to the other provisions of this Subsection (9), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A patron may not have more than one spirituous liquor drink at a time before the patron.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (9)(a).

(10) (a) An on-premise banquet licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product.

(b) A person involved in the sale, offer for sale, or furnishing of an alcoholic product shall complete an alcohol training and education seminar.

(11) A staff person of an on-premise banquet licensee shall remain at the banquet at all times when an alcoholic product is sold, offered for sale, furnished, or consumed at the banquet.

(12) (a) Room service of an alcoholic product to a guest room or privately owned dwelling unit of a hotel or resort facility shall be provided in person by staff of an on-premise banquet licensee only to an adult guest in the guest room or privately owned dwelling unit.

(b) An alcoholic product may not be left outside a guest room or privately owned dwelling unit for retrieval by a guest or resident.

(13) An on-premise banquet licensee may not maintain a minibar.

Section 38. Section 32B-6-706 is amended to read:

32B-6-706. Specific operational requirements for on-premise beer retailer license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, an on-premise beer retailer and staff of the on-premise beer retailer shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) an on-premise beer retailer;

(ii) individual staff of an on-premise beer retailer; or

(iii) both an on-premise beer retailer and staff of the on-premise beer retailer.

(2) (a) An on-premise beer retailer is not subject to Section 32B-5-302, but shall make and maintain the records the department requires.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (2).

(3) Notwithstanding Section 32B-5-303, an on-premise beer retailer may not store or sell liquor on its licensed premises.

[~~(4) Beer sold in a sealed container by an on-premise beer retailer may be removed from the on-premise beer retailer premises in the sealed container.~~]

[~~(5)~~] (4) (a) An on-premise beer retailer may not sell, offer for sale, or furnish beer at [~~its~~] the on-premise beer retailer's licensed premises during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) (i) Notwithstanding Subsection [~~(5)~~] (4)(a), a tavern shall remain open for one hour after the tavern ceases the sale and furnishing of beer during which time a patron of the tavern may finish consuming a single serving of beer not exceeding 26 ounces.

(ii) A tavern is not required to remain open:

(A) after all patrons have vacated the premises; or

(B) during an emergency.

[~~(6)~~] (5) Notwithstanding Section 32B-5-308, a minor may not be on the premises of a tavern.

[~~(7)~~] (6) (a) (i) An on-premise beer retailer may not purchase, acquire, possess for the purpose of resale, or sell beer except beer that the on-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) Violation of Subsection [~~(7)~~] (6)(a)(i) is a class A misdemeanor.

(b) (i) If an on-premise beer retailer purchases beer under this Subsection [~~(7)~~] (6) from a beer wholesaler licensee, the on-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the on-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the on-premise beer retailer as provided in Section 32B-13-301.

(ii) Violation of Subsection [~~(7)~~] (6)(b)(i) is a class B misdemeanor.

[~~(8)~~] (7) A tavern shall comply with Section 32B-1-407.

Section 39. Section 32B-6-905 is amended to read:

32B-6-905. Specific operational requirements for a beer-only restaurant license -- Before July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the

beer-only restaurant licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) In addition to complying with Section 32B-5-303, a beer-only restaurant licensee shall store beer in a storage area described in Subsection (11)(a).

(4) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a written beverage tab for each table or group that orders or consumes an alcoholic product on the premises.

(b) A beverage tab required by this Subsection (4) shall list the type and amount of beer ordered or consumed.

(5) A person's willingness to serve beer may not be made a condition of employment as a server with a beer-only restaurant licensee.

(6) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(7) (a) A beer-only restaurant may not sell, offer for sale, or furnish beer for on-premise consumption except after the beer-only restaurant licensee confirms that the patron has the intent to order food prepared, sold, and furnished at the licensed premises.

(b) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not sell, offer for sale, or furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

[~~(b)~~] (c) A beer-only restaurant shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(8) A patron may not have more than two beers at a time before the patron.

(9) A patron may consume a beer on the beer-only restaurant licensee's licensed premises only:

(a) at:

(i) the patron's table;

(ii) a grandfathered bar structure; or

(iii) a counter; and

(b) where food is served.

(10) (a) A beer-only restaurant licensee may not sell, offer for sale, or furnish a beer to a patron, and a patron may not consume an alcoholic product at a bar structure.

(b) Notwithstanding Subsection (10)(a), at a grandfathered bar structure, a patron who is 21 years [~~of age~~] old or older may:

(i) sit;

(ii) be furnished a beer; and

(iii) consume a beer.

(c) Except as provided in Subsection (10)(d), at a grandfathered bar structure, a beer-only restaurant licensee may not permit a minor to, and a minor may not:

(i) sit; or

(ii) consume food or beverages.

(d) (i) A minor may be at a grandfathered bar structure if the minor is employed by a beer-only restaurant licensee:

(A) as provided in Subsection 32B-5-308(2); or

(B) to perform maintenance and cleaning services during an hour when the beer-only restaurant licensee is not open for business.

(ii) A minor may momentarily pass by a grandfathered bar structure without remaining or sitting at the bar structure en route to an area of a beer-only restaurant licensee's premises in which the minor is permitted to be.

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from an area that is:

(i) a grandfathered bar structure; or

(ii) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the storage or dispensing of an alcoholic product are not readily visible to a patron, not accessible by a patron, and apart from an area used for dining, for staging, or as a lobby or waiting area;

(b) the beer-only restaurant licensee uses a beer that is:

(i) stored in an area described in Subsection (11)(a); or

(ii) in an area not described in Subsection (11)(a) on the licensed premises and:

(A) immediately before the beer is dispensed it is in an unopened container;

(B) the unopened container is taken to an area described in Subsection (11)(a) before it is opened; and

(C) once opened, the container is stored in an area described in Subsection (11)(a); and

(c) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) Beginning on July 1, 2018, a minor may not sit, remain, or consume food or beverages within 10 feet of a grandfathered bar structure, unless:

(a) seating within 10 feet of the grandfathered bar structure is the only seating available in the licensed premises; and

(b) the minor is accompanied by an individual who is 21 years [~~of age~~] old or older.

(13) Except as provided in Subsection 32B-6-905.1(15) and Section 32B-6-905.2, the provisions of this section apply before July 1, 2018.

Section 40. Section 32B-6-905.1 is amended to read:

32B-6-905.1. Specific operational requirements for a beer-only restaurant license -- On and after July 1, 2018, or July 1, 2022.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a beer-only restaurant licensee and staff of the beer-only restaurant licensee shall comply with this section.

(b) Failure to comply with Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a beer-only restaurant licensee;

(ii) individual staff of a beer-only restaurant licensee; or

(iii) both a beer-only restaurant licensee and staff of the beer-only restaurant licensee.

(2) (a) A beer-only restaurant licensee on the licensed premises may not sell, offer for sale, furnish, or allow consumption of liquor.

(b) Liquor may not be on the premises of a beer-only restaurant licensee except for use:

(i) as a flavoring on a dessert; or

(ii) in the preparation of a flaming food dish, drink, or dessert.

(3) (a) An individual who serves beer in a beer-only restaurant licensee's premises shall make a beverage tab for each table or group that orders or consumes beer on the premises.

(b) A beverage tab described in this Subsection (3) shall state the type and amount of each beer ordered or consumed.

(4) A beer-only restaurant licensee may not make an individual's willingness to serve beer a condition of employment as a server with a beer-only restaurant licensee.

(5) A beer-only restaurant licensee may sell, offer for sale, or furnish beer at the licensed premises during the following time periods only:

(a) on a weekday, during the period that begins at 11:30 a.m. and ends at 12:59 a.m.; or

(b) on a weekend or a state or federal legal holiday or for a private event, during the period that begins at 10:30 a.m. and ends at 12:59 a.m.

(6) (a) A beer-only restaurant licensee may not furnish beer for on-premise consumption except after:

(i) the patron to whom the beer-only restaurant licensee furnishes the beer is seated at:

(A) a table that is located in a dining area or a dispensing area;

(B) a counter that is located in a dining area or a dispensing area; or

(C) a dispensing structure that is located in a dispensing area; and

(ii) the beer-only restaurant licensee confirms that the patron intends to:

(A) order food prepared, sold, and furnished at the licensed premises; and

(B) except as provided in Subsection (6)(b), consume the food at the same location where the patron is seated and furnished the beer.

(b) (i) While a patron waits for a seat at a table or counter in the dining area of a beer-only restaurant licensee, the beer-only restaurant licensee may sell, offer for sale, or furnish to the patron one portion of beer as described in Section 32B-5-304 if:

(A) the patron is in a dispensing area and seated at a table, counter, or dispensing structure; and

(B) the beer-only restaurant licensee first confirms that after the patron is seated in the dining area, the patron intends to order food prepared, sold, and furnished at the licensed premises.

(ii) If the patron does not finish the patron's beer before moving to a seat in the dining area, an employee of the beer-only restaurant licensee who is qualified to sell and serve an alcoholic product under Section 32B-5-306 shall transport any unfinished portion of the patron's beer to the patron's seat in the dining area.

(c) Notwithstanding Section 32B-5-307, a beer-only restaurant licensee may not furnish beer for off-premise consumption except after the patron consumes on the licensed premises food prepared, sold, and furnished at the licensed premises.

[~~(c)~~] (d) A beer-only restaurant licensee shall maintain on the licensed premises adequate culinary facilities for food preparation and dining accommodations.

(7) A patron may consume a beer on the beer-only licensee's licensed premises only at:

(a) a table that is located in a dining area or a dispensing area;

(b) a counter that is located in a dining area or a dispensing area; or

(c) a dispensing structure located in a dispensing area.

(8) A patron may not have more than two beers at a time before the patron.

(9) In accordance with the provisions of this section, an individual who is at least 21 years [~~of age~~] old may consume food and beverages in a dispensing area.

(10) (a) Except as provided in Subsection (10)(b), a minor may not sit, remain, or consume food or beverages in a dispensing area.

(b) (i) A minor may be in a dispensing area if the minor is:

(A) at least 16 years [~~of age~~] old and working as an employee of the beer-only restaurant licensee; or

(B) performing maintenance and cleaning services as an employee of the beer-only restaurant licensee when the beer-only restaurant licensee is not open for business.

(ii) If there is no alternative route available, a minor may momentarily pass through a dispensing area without remaining or sitting in the dispensing area en route to an area of the beer-only restaurant licensee's premises in which the minor is permitted to be.

(11) A beer-only restaurant licensee may dispense a beer only if:

(a) the beer is dispensed from:

(i) a dispensing structure that is located in a dispensing area;

(ii) an area that is:

(A) separated from an area for the consumption of food by a patron by a solid, translucent, permanent structural barrier such that the facilities for the dispensing of an alcoholic product are not readily visible to a patron and not accessible by a patron; and

(B) apart from an area used for dining, for staging, or as a waiting area; or

(iii) the premises of a bar licensee that is:

(A) owned by the same person or persons as the beer-only restaurant licensee; and

(B) located immediately adjacent to the premises of the beer-only restaurant licensee; and

(b) any instrument or equipment used to dispense the beer is located in an area described in Subsection (11)(a).

(12) (a) A beer-only restaurant licensee may have more than one dispensing area in the licensed premises.

(b) Each dispensing area in a licensed premises may satisfy the requirements for a dispensing area under Subsection 32B-6-902(1)(b)(i)(A), (B), or (C), regardless of how any other dispensing area in the licensed premises satisfies the requirements for a dispensing area.

(13) A beer-only restaurant licensee may not transfer, dispense, or serve beer on or from a movable cart.

(14) (a) In addition to the requirements described in Section 32B-5-302, a beer-only restaurant licensee shall maintain each of the following records for at least three years:

(i) a record required by Section 32B-5-302; and

(ii) a record that the commission requires a beer-only restaurant licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a beer-only restaurant licensee at least once [~~each calendar year~~] annually.

(15) (a) In accordance with Section 32B-6-905.2, a beer-only restaurant licensee:

(i) may comply with the provisions of this section beginning on or after July 1, 2017; and

(ii) shall comply with the provisions of this section:

(A) for a beer-only restaurant licensee that does not have a grandfathered bar structure, on and after July 1, 2018; or

(B) for a beer-only restaurant licensee that has a grandfathered bar structure, on and after July 1, 2022.

(b) A beer-only restaurant licensee that elects to comply with the provisions of this section before the latest applicable date described in Subsection (15)(a)(ii):

(i) shall comply with each provision of this section; and

(ii) is not required to comply with the provisions of Section 32B-6-905.

Section 41. Section 32B-6-905.2 is amended to read:

32B-6-905.2. Transition process for beer-only restaurant licensees.

(1) For a beer-only restaurant license issued on or after July 1, 2017, the beer-only restaurant licensee shall comply with the provisions of Section 32B-6-905.1.

(2) For a beer-only restaurant license issued before July 1, 2017, before the beer-only restaurant licensee changes the beer-only restaurant licensee's approved location for storage, dispensing, or consumption to comply with the provisions of Section 32B-6-905.1, the beer-only restaurant

licensee shall submit an application for approval to the department in accordance with Subsection 32B-5-303(3).

(3) (a) Except as provided in Subsection (4), a person who holds a beer-only restaurant license issued before July 1, 2017, shall comply with the provisions of Section 32B-6-905.1 on or before July 1, 2018.

(b) A beer-only restaurant licensee described in Subsection (3)(a) that cannot comply with the provisions of Section 32B-6-905.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2018.

(c) If a beer-only restaurant licensee described in Subsection (3)(a) submits an application for approval described in Subsection (2) on May 9, 2017, the department shall take action on the application on or before July 1, 2017.

(4) (a) A person who holds a beer-only restaurant license issued before July 1, 2017, and has a grandfathered bar structure shall comply with the provisions of Section 32B-6-905.1 on or before the earlier of:

(i) July 1, 2022;

(ii) the date on which the beer-only restaurant licensee remodels, as defined by commission rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the beer-only restaurant licensee's grandfathered bar structure or dining area; or

(iii) the date on which the beer-only restaurant licensee experiences a change of ownership described in Subsection [~~32B-8a-202~~] 32B-18-202(1).

(b) A beer-only restaurant licensee described in Subsection (4)(a) that cannot comply with the provisions of Section 32B-6-905.1 without a change to the beer-only restaurant licensee's approved location for storage, dispensing, or consumption:

(i) may submit an application for approval described in Subsection (2) on or after May 9, 2017; and

(ii) shall submit an application for approval described in Subsection (2) on or before May 1, 2022.

Section 42. Section 32B-6-1005 is amended to read:

32B-6-1005. Specific operational requirements for hospitality amenity license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hospitality amenity licensee and staff of the hospitality amenity licensee shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hospitality amenity licensee;

(ii) individual staff of the hospitality amenity licensee; or

(iii) both the hospitality amenity licensee and staff of the hospitality amenity licensee.

(2) (a) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product:

(i) to a hospitality guest; and

(ii) for consumption in or on the hospitality amenity licensee's licensed premises.

(b) (i) A hospitality amenity licensee may sell, offer for sale, or furnish an alcoholic product that is not spirituous liquor in or on:

(A) licensed premises physically separated from an area to which a hospitality guest or the public has access by a permanent or temporary structure or barrier; or

(B) licensed premises described in Subsection (2)(b)(ii).

(ii) A hospitality amenity licensee may sell, offer for sale, or furnish spirituous liquor in or on licensed premises that:

(A) allows access only through the use of a key or code; and

(B) fills the entirety of a physically and permanently enclosed area within the hotel or resort.

(c) Spirituous liquor may not be in or on the licensed premises described in Subsection (2)(b)(i)(A) of a hospitality amenity licensee, except for use:

(i) as a flavoring on a dessert; and

(ii) in the preparation of a flaming food dish or dessert.

(d) A hospitality amenity licensee may not allow self-service of an alcoholic product in or on the hospitality amenity licensee's licensed premises.

(3) (a) Subject to Subsections (3)(b) and (c), a hospitality guest may not have more than two alcoholic products of any kind at a time before the hospitality guest.

(b) A hospitality guest may not have more than one spirituous liquor drink at a time before the hospitality guest.

(c) An individual portion of wine is considered to be one alcoholic product under Subsection (3)(a).

(4) A hospitality amenity licensee shall make food available at all times that the licensee sells, offers for sale, furnishes, or allows the consumption of an alcoholic product on the licensed premises.

(5) (a) A hospitality amenity licensee may not sell, offer for sale, or furnish an alcoholic product any day during a period that:

(i) begins at 1:00 a.m.; and

(ii) ends at 9:59 a.m.

(b) A hospitality amenity licensee shall remain open for one hour after the licensee ceases to sell and furnish an alcoholic product, during which time a hospitality guest in or on the hospitality amenity licensed premises may finish consuming:

(i) a single drink containing spirituous liquor;

(ii) a single serving of wine not exceeding five ounces;

(iii) a single serving of heavy beer;

(iv) a single serving of beer not exceeding 26 ounces; or

(v) a single serving of a flavored malt beverage.

(c) A hospitality amenity licensee is not required to remain open:

(i) after all individuals have vacated the licensee's licensed premises; or

(ii) during an emergency.

(6) (a) Notwithstanding Section 32B-5-305, a hospitality amenity licensee may provide a hospitality guest up to two single servings of an alcoholic product free of charge or at a reduced rate, if:

(i) the alcoholic product is not a spirituous liquor; and

(ii) the hospitality amenity licensee offers the alcohol product:

(A) to all hospitality guests;

(B) during a specific time; and

(C) on the hospitality amenity licensee's licensed premises.

(b) Before a hospitality amenity licensee provides an alcoholic product free of charge or at a reduced rate as described in Subsection (6)(a), the licensee shall provide the department with advance notice of the event, in accordance with commission rules that permit a licensee to provide a single notice for a reoccurring event or multiple events.

(7) A hospitality amenity licensee may permit a hospitality guest to purchase an alcoholic product through a charge to the hospitality guest's lodging accommodations.

(8) (a) [~~A~~] Notwithstanding Section 32B-5-307, a hospitality guest, or a person other than the hospitality amenity licensee or staff of the hospitality amenity licensee, may not remove an alcoholic product from the hospitality amenity licensee's licensed premises.

(b) Notwithstanding Subsection 32B-5-307(3), a hospitality guest may not bring an alcoholic product within the hospitality amenity licensee's licensed premises.

(9) A hospitality amenity licensee shall display at each entrance to the licensee's licensed premises a conspicuous sign that:

(a) measures at least 8-1/2 inches long and 11 inches wide; and

(b) clearly states that entry is limited to individuals who are hospitality guests, as defined in this title.

(10) A hospitality amenity licensee may not permit a minor to enter the licensee's licensed premises at any time during which an alcoholic product is sold, offered for sale, furnished, or consumed, unless the minor is accompanied at all times on the licensed premises by a hospitality guest.

(11) A staff person of a hospitality amenity licensee shall remain on the licensed premises at all times when an alcoholic product is sold, offered for sale, furnished, or consumed in or on the licensed premises.

(12) A hospitality amenity licensee may transfer an alcoholic product to or from another licensee within the boundary of the hotel or within the boundary of the resort building, if:

(a) the hospitality amenity licensee and each licensee involved in the transfer tracks the transfer of the alcoholic product; and

(b) the alcoholic product is in a sealed, unopened container.

(13) (a) In addition to the requirements described in Section 32B-5-302, a hospitality amenity licensee shall maintain each of the following records for at least three years:

(i) a record required under Section 32B-5-302; and

(ii) a record that the commission requires a hospitality amenity licensee to use or maintain under a rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) The department shall audit the records of a hospitality amenity licensee at least once [~~each calendar year~~] annually.

Section 43. Section 32B-7-202 is amended to read:

32B-7-202. General operational requirements for off-premise beer retailer.

(1) (a) An off-premise beer retailer or staff of the off-premise beer retailer shall comply with the provisions of this title and any applicable rules made by the commission.

(b) Failure to comply with this section may result in a suspension or revocation of a local license and, on or after July 1, 2018, disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act.

(2) (a) (i) An off-premise beer retailer may not purchase, acquire, possess for the purpose of resale,

or sell beer, except beer that the off-premise beer retailer lawfully purchases from:

(A) a beer wholesaler licensee; or

(B) a small brewer that manufactures the beer.

(ii) A violation of Subsection (2)(a) is a class A misdemeanor.

(b) (i) If an off-premise beer retailer purchases beer under this Subsection (2) from a beer wholesaler licensee, the off-premise beer retailer shall purchase beer only from a beer wholesaler licensee who is designated by the manufacturer to sell beer in the geographical area in which the off-premise beer retailer is located, unless an alternate wholesaler is authorized by the department to sell to the off-premise beer retailer as provided in Section 32B-13-301.

(ii) A violation of Subsection (2)(b) is a class B misdemeanor.

(3) An off-premise beer retailer may not possess, sell, offer for sale, or furnish beer in a container larger than two liters.

(4) (a) Staff of an off-premise beer retailer, while on duty, may not:

(i) consume an alcoholic product; or

(ii) be intoxicated.

(b) A minor may not sell beer on the licensed premises of an off-premise beer retailer unless:

(i) the sale is done under the supervision of a person 21 years [~~of age~~] old or older who is on the licensed premises; and

(ii) the minor is at least 16 years [~~of age~~] old.

(5) An off-premise beer retailer may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(6) (a) Subject to the other provisions of this Subsection (6), an off-premise beer retailer shall:

(i) display all beer accessible by and visible to a patron in no more than two locations on the retail sales floor, each of which is:

(A) a display cabinet, cooler, aisle, floor display, or room where beer is the only beverage displayed; and

(B) not adjacent to a display of nonalcoholic beverages, unless the location is a cooler with a door from which the nonalcoholic beverages are not accessible, or the beer is separated from the display of nonalcoholic beverages by a display of one or more nonbeverage products or another physical divider; and

(ii) display a sign in the area described in Subsection (6)(a)(i) that:

(A) is prominent;

(B) is easily readable by a consumer;

(C) meets the requirements for format established by the commission by rule; and

(D) reads in print that is no smaller than .5 inches, bold type, "These beverages contain alcohol. Please read the label carefully."

(b) Notwithstanding Subsection (6)(a), a nonalcoholic beer may be displayed with beer if the nonalcoholic beer is labeled, packaged, or advertised as a nonalcoholic beer.

(c) The requirements of this Subsection (6) apply to beer notwithstanding that it is labeled, packaged, or advertised as:

(i) a malt cooler; or

(ii) a beverage that may provide energy.

(d) A violation of this Subsection (6) is an infraction.

(e) (i) Except as provided in Subsection (6)(e)(ii), the provisions of Subsection (6)(a)(i) apply on and after May 9, 2017.

(ii) For a beer retailer that operates two or more off-premise beer retailers, the provisions of Subsection (6)(a)(i) apply on and after August 1, 2017.

(7) (a) Staff of an off-premise beer retailer who directly supervises the sale of beer or who sells beer to a patron for consumption off the premises of the off-premise beer retailer shall wear a unique identification badge:

(i) on the front of the staff's clothing;

(ii) visible above the waist;

(iii) bearing the staff's:

(A) first or last name;

(B) initials; or

(C) unique identification in letters or numbers; and

(iv) with the number or letters on the unique identification badge being sufficiently large to be clearly visible and identifiable while engaging in or directly supervising the retail sale of beer.

(b) An off-premise beer retailer shall make and maintain a record of each current staff's unique identification badge assigned by the off-premise beer retailer that includes the staff's:

(i) full name;

(ii) address; and

(iii) (A) driver license number; or

(B) similar identification number.

(c) An off-premise beer retailer shall make available a record required to be made or maintained under this Subsection (7) for immediate inspection by:

(i) a peace officer;

(ii) a representative of the local authority that issues the off-premise beer retailer license; or

(iii) for an off-premise beer retailer state license, a representative of the commission or department.

(d) A local authority may impose a fine of up to $250 against an off-premise beer retailer that does not comply or require its staff to comply with this Subsection (7).

(8) (a) An off-premise beer retailer may sell, offer for sale, or furnish beer through a drive through window.

(b) Subsection (8)(a) does not modify the display limitations and requirements described in Subsection (6).

(9) An off-premise beer retailer may not on the licensed premises:

(a) engage in or permit any form of:

(i) gambling, as defined in Section 76-10-1101; or

(ii) fringe gambling, as defined in Section 76-10-1101;

(b) have any fringe gaming device, video gaming device, or gambling device or record as defined in Section 76-10-1101; or

(c) engage in or permit a contest, game, gaming scheme, or gaming device that requires the risking of something of value for a return or for an outcome when the return or outcome is based upon an element of chance, excluding the playing of an amusement device that confers only an immediate and unrecorded right of replay not exchangeable for value.

(10) An off-premise beer retailer may not knowingly allow a person on the licensed premises to, in violation of Title 58, Chapter 37, Utah Controlled Substances Act, or Chapter 37a, Utah Drug Paraphernalia Act:

(a) sell, distribute, possess, or use a controlled substance, as defined in Section 58-37-2; or

(b) use, deliver, or possess, with the intent to deliver, drug paraphernalia, as defined in Section 58-37a-3.

Section 44. Section 32B-7-305 is amended to read:

32B-7-305. Tracking of enforcement actions -- Costs of enforcement actions.

[~~(1) A local authority that pursuant to this part adjudicates an administrative penalty for a violation of a law involving the sale of an alcoholic product to a minor, shall:~~]

[~~(a) maintain a record of an adjudicated violation until the record is expunged under Subsection (3);~~]

[~~(b) include in the record described in Subsection (1)(a):~~]

[~~(i) the name of the individual who commits the violation;~~]

[~~(ii) the name of the off-premise beer retailer for whom the individual is a staff member at the time of the violation; and~~]

[~~(iii) the date of the adjudication of the violation; and~~]

[~~(c) provide the information described in Subsection (1)(b) to the Department of Public Safety within 30 days of the date on which a violation is adjudicated.~~]

[~~(2) (a) The Department of Public Safety shall develop and operate a system to collect, analyze, maintain, track, and disseminate the violation history information received under Subsection (1).~~]

[~~(b) The Department of Public Safety shall make the system described in Subsection (2)(a) available to:~~]

[~~(i) assist a local authority in assessing administrative penalties under Section 32B-7-303; and~~]

[~~(ii) inform an off-premise beer retailer of an individual who has an administrative violation history under Section 32B-7-303.~~]

[~~(c) The Department of Public Safety shall maintain a record of violation history information received pursuant to Subsection (1) until the record is expunged under Subsection (3).~~]

[~~(3) (a) A local authority and the Department of Public Safety shall expunge from the records maintained an administrative penalty imposed under Section 32B-7-303 for purposes of determining future administrative penalties under Section 32B-7-303 if the individual has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the individual is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.~~]

[~~(b) A local authority shall expunge from the records maintained by the local authority an administrative penalty imposed under Section 32B-7-303 against an off-premise beer retailer for purposes of determining future administrative penalties under Section 32B-7-303 if the off-premise beer retailer or any staff of that off-premise beer retailer has not been found in violation of any law involving the sale of an alcoholic product to a minor for a period of 36 consecutive months from the day on which the off-premise beer retailer or staff of the off-premise beer retailer is last adjudicated as violating a law involving the sale of an alcoholic product to a minor.~~]

[~~(4)~~] (1) The Department of Public Safety shall administer a program to reimburse a municipal or county law enforcement agency:

(a) for the actual costs of an alcohol-related compliance check investigation conducted pursuant to Section 77-39-101 on the premises of an off-premise beer retailer;

(b) for administrative costs associated with reporting the compliance check investigation described in Subsection [~~(4)~~] (1)(a);

(c) if the municipal or county law enforcement agency completes and submits to the Department of Public Safety a report within 90 days [~~of~~] after the day on which the compliance check investigation described in Subsection [~~(4)~~] (1)(a) occurs in a format required by the Department of Public Safety; and

(d) in the order that the municipal or county law enforcement agency submits the report required by Subsection [~~(4)~~] (1)(c) until the amount allocated by the Department of Public Safety to reimburse a municipal or county law enforcement agency is spent.

[~~(5) The Department of Public Safety shall report to the Utah Substance Use and Mental Health Advisory Council by no later than October 1 following a fiscal year on the following funded during the prior fiscal year:~~]

[~~(a) compliance check investigations reimbursed under Subsection (4); and~~]

[~~(b) the collection, analysis, maintenance, tracking, and dissemination of violation history information described in Subsection (2).~~]

(2) By no later than October 1 of each year, the Department of Public Safety shall report to the Utah Substance Use and Mental Health Advisory Council on the compliance check investigations:

(a) funded during the previous fiscal year; and

(b) reimbursed under Subsection (1).

Section 45. Section 32B-8-201 is amended to read:

32B-8-201. Commission's power to issue a resort license.

(1) Before a person as a resort under a single license may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicense premises, the person shall first obtain a resort license from the commission in accordance with this part.

(2) (a) The commission may issue to a person a resort license to allow the storage, sale, offer for sale, furnishing, and consumption of an alcoholic product in connection with a resort designated in the resort license if the person operates at least four sublicenses under the resort license.

(b) A resort license shall:

(i) consist of:

(A) a general resort license; and

(B) four or more sublicenses; and

(ii) designate the boundary of the resort building.

(c) This chapter does not prohibit an alcoholic product in or on the boundary of the resort building to the extent otherwise permitted by this title.

(3) The commission may not issue a total number of resort licenses that at any time totals more than [~~four~~] eight.

Section 46. Section 32B-8b-301 is amended to read:

32B-8b-301. Specific operational requirements for hotel license.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a hotel licensee, staff of the hotel licensee, and a sublicensee or person otherwise operating under a sublicense shall comply with this section.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) the hotel licensee;

(ii) individual staff of the hotel licensee;

(iii) a sublicensee or person otherwise operating under a sublicense of the hotel licensee;

(iv) individual staff of a sublicensee or person otherwise operating under a sublicense of the hotel licensee; or

(v) any combination of the persons listed in this Subsection (1)(b).

(2) (a) A hotel licensee may not sell, offer for sale, or furnish an alcoholic product except:

(i) on sublicensed premises;

(ii) pursuant to a permit issued under this title; or

(iii) under a package agency agreement with the department, subject to Chapter 2, Part 6, Package Agency.

(b) A hotel licensee who sells, offers for sale, or furnishes an alcoholic product as provided in Subsection (2)(a) shall sell, offer for sale, or furnish the alcoholic product:

(i) if on sublicensed premises, in accordance with the operational requirements described in Section 32B-8d-104;

(ii) if under a permit issued under this title, in accordance with the operational requirements under the provisions applicable to the permit; and

(iii) if as a package agency, in accordance with the contract with the department and Chapter 2, Part 6, Package Agency.

(c) Notwithstanding the other provisions of this Subsection (2) and except as provided in Section 32B-8d-104, a hotel licensee may not permit a patron to carry an alcoholic product off the premises of a sublicense in violation of Section 32B-5-307 or off an area designated under a permit.

(3) A hotel licensee shall supervise and direct a person involved in the sale, offer for sale, or furnishing of an alcoholic product under a hotel license.

(4) (a) Room service of an alcoholic product to a lodging accommodation of a hotel licensee shall be

provided in person by staff of the hotel licensee only to an adult occupant in the lodging accommodation.

(b) An alcoholic product may not be left outside a lodging accommodation for retrieval by an occupant.

(5) A hotel licensee shall operate in a manner so that at least 70% of the annual aggregate of the gross receipts related to the sale of food or beverages for the hotel license and each of the hotel license's sublicenses is from the sale of food, not including:

(a) mix for an alcoholic product; and

(b) a charge in connection with the service of an alcoholic product.

Section 47. Section 32B-8c-202 is amended to read:

32B-8c-202. Specific licensing requirements for arena license.

(1) To obtain an arena license, in addition to complying with Chapter 5, Part 2, Retail Licensing Process, a person shall submit with the person's written application:

(a) evidence:

(i) of proximity of the arena to any community location;

(ii) that each proposed sublicense premises is entirely within the arena; and

(iii) that the building designated in the application as the arena qualifies as an arena; and

(b) a description and map of the arena.

(2) (a) An arena license expires on October 31 of each year.

(b) To renew a person's arena license, the person shall comply with the requirements of Chapter 5, Part 2, Retail Licensing Process, by no later than September 30.

(3) (a) The nonrefundable application fee for an arena license is $500.

(b) The initial license fee for an arena license is calculated as follows:

(i) if the person applies for three sublicenses under the arena license, $5,000; or

(ii) if the person applies for more than three sublicenses under the arena license, the sum of:

(A) $5,000; and

(B) $1,000 for each sublicense in excess of three sublicenses for which the person applies.

(c) The renewal fee for an arena license is $1,000 plus $1,000 for each sublicense under the arena license.

(4) (a) The bond amount required for an arena license is the penal sum of $100,000.

(b) An arena licensee is not required to have a separate bond for each sublicense, except that the aggregate of the bonds posted by the arena licensee shall cover each sublicense under the arena license.

(5) [~~In accordance with Subsection 32B-8d-103(4)~~] Except as prohibited in Subsection 32B-1-202.1(4), an arena may request to add a sublicense after the commission issues the arena licensee's arena license, in accordance with Subsection 32B-8d-103(4).

Section 48. Section 32B-8d-102 is amended to read:

32B-8d-102. Definitions.

As used in this chapter:

[~~(1) "Resident" means the same as that term is defined in Section 32B-8-102.~~]

(1) "Boundary of a hotel" means the same as that term is defined in Section 32B-8b-102.

(2) "Boundary of a resort building" means the same as that term is defined in Section 32B-8b-102.

(3) "Hotel" means the same as that term is defined in Section 32B-8b-102.

[~~(2)~~] (4) "Resort building" means the same as that term is defined in Section 32B-8-102.

[~~(3)~~] (5) [~~"Resort spa"~~] "Spa" means a spa:

(a) as the commission defines by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(b) that is within the:

(i) boundary of a resort building[~~.~~]; or

(ii) boundary of a hotel.

Section 49. Section 32B-8d-103 is amended to read:

32B-8d-103. Commission's power to issue a sublicense.

(1) Before a person as a sublicensee may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on sublicensed premises, the person shall first obtain a sublicense from the commission in accordance with:

(a) this chapter;

(b) Chapter 8, Resort License Act;

(c) Chapter 8b, Hotel License Act; and

(d) Chapter 8c, Arena License Act.

(2) (a) The commission may issue to a person a sublicense to allow the storage, sale, offering for sale, furnishing, or consumption of an alcoholic product on the premises of the sublicense, if the person is:

(i) a principal licensee; or

(ii) a person seeking a principal license, contingent on the issuance of the principal license.

(b) The commission may not:

(i) issue a sublicense that is separate from a principal license; or

(ii) issue a single sublicense that covers more than one outlet in or on the boundaries of the principal licensee.

(3) (a) [~~Subject to Subsections (3)(b) and (c)~~] Except as provided in Subsection (3)(b), when determining the total number of licenses the commission has issued for each type of retail license, the commission may not include a sublicense as one of the retail licenses issued under the provisions applicable to that sublicense.

[~~(b) If a principal license includes a bar establishment sublicense that before the issuance of the principal license was a bar establishment license, the commission shall include the bar establishment sublicense as a bar establishment license in calculating the total number of licenses issued under the provisions applicable to a bar establishment license.~~]

[~~(c)~~] (b) If a resort license includes a sublicense that before the issuance of the resort license was a retail license that was not a bar establishment license, the commission shall include the sublicense as a license in calculating the total number of licenses issued under the provisions applicable to the sublicense.

(4) If a principal licensee seeks to add a sublicense after the commission issues the person's principal license, the principal licensee shall file with the department:

(a) a nonrefundable $300 application fee;

(b) an initial license fee of $2,250, which the commission shall refund if the commission does not issue the proposed sublicense;

(c) written consent of the local authority;

(d) a copy of:

(i) the principal licensee's current business; and

(ii) the proposed sublicensee's current business license, if the relevant political subdivision determines that the proposed sublicensee's business license is separate from the principal licensee's business license;

(e) evidence that the proposed sublicensed premises is entirely within the boundary of the principal license;

(f) a description, floor plan, and boundary map of the proposed sublicensed premises designating:

(i) each location at which the principal licensee proposes that an alcoholic product be stored; and

(ii) each location from which the principal licensee proposes that an alcoholic product be sold, furnished, or consumed;

(g) evidence that the principal licensee carries:

(i) public liability insurance in an amount and form satisfactory to the department; and

(ii) dramshop insurance coverage in the amount required by Section 32B-5-201 that covers the proposed sublicense;

(h) a signed consent form stating that the principal licensee will permit any authorized representative of the commission or department, or any law enforcement officer, to have an unrestricted right to enter the proposed sublicensed premises;

(i) if the principal licensee is an entity, proper verification evidencing that a person who signs the application is authorized to sign on behalf of the entity; and

(j) any other information the commission or department may require.

Section 50. Section 32B-8d-104 is amended to read:

32B-8d-104. General operational requirements for a sublicense.

(1) Except as provided in Subsections (2) through (4), a person operating under a sublicense is subject to the operational requirements under the provisions applicable to the sublicense.

(2) Notwithstanding a requirement in the provisions applicable to the sublicense, a person operating under the sublicense is not subject to a requirement that a certain percentage of the gross receipts for the sublicense be from the sale of food, except to the extent that the gross receipts for the sublicense are included in calculating the percentages under Subsections 32B-8-401(3), 32B-8b-301(5), and 32B-8c-301(3).

(3) Notwithstanding Sections 32B-6-202 and 32B-6-302, a bar structure in a sublicensed premises operated under a full-service restaurant sublicense or a limited-service restaurant sublicense is considered a grandfathered bar structure if the sublicense is a sublicense to a resort license issued on or before December 31, 2010.

(4) Notwithstanding Section 32B-5-307:

(a) a patron may transport beer between the sublicensed premises of an arena licensee's accompanying sublicenses, if the patron transports the beer from and to an area of each sublicensed premises:

(i) that is adjacent to the other; and

(ii) where the consumption of beer is permitted; and

(b) staff of a sublicensee or person otherwise operating under a sublicense of a hotel licensee or a resort licensee may transport an alcoholic beverage from and to sublicensed premises of the hotel license or resort license, if:

(i) the sublicensee is:

(A) a full-service restaurant sublicensee;

(B) a limited-service restaurant sublicensee;

(C) a bar establishment sublicensee;

(D) a beer-only restaurant sublicensee; or

(E) an on-premise beer retailer sublicensee;

(ii) the individual staff carries the alcoholic beverage:

(A) from the sublicensed premises of a sublicensee described in Subsection (4)(b)(i);

(B) briefly through an unlicensed area or briefly through sublicensed premises on which the type of alcoholic beverage that the individual staff carries is permitted; and

(C) to the sublicensed premises of a sublicensee described in Subsection (4)(b)(i); and

(iii) the individual staff at all times stays within:

(A) the boundary of the hotel[~~, as defined in Section 32B-8b-102~~]; or

(B) the boundary of the resort building[~~, as defined in Section 32B-8-102~~].

(5) Except as provided in Section 32B-8-502, for purposes of interpreting an operational requirement imposed by the provisions applicable to a sublicense:

(a) a requirement imposed on a sublicensee or person operating under a sublicense applies to the principal licensee; and

(b) a requirement imposed on staff of a sublicensee or person operating under a sublicense applies to staff of the principal licensee.

Section 51. Section 32B-8d-201 is amended to read:

32B-8d-201. Title.

This part is known as "[~~Resort~~] Spa Sublicense."

Section 52. Section 32B-8d-202 is amended to read:

32B-8d-202. Commission's power to issue a spa sublicense.

(1) Before a person may store, sell, offer for sale, furnish, or allow the consumption of an alcoholic product on the person's premises as a [~~resort~~] spa sublicensee, a resort licensee, a hotel licensee, or a person applying for a resort license or a hotel license shall first obtain a [~~resort~~] spa sublicense from the commission in accordance with this part.

(2) The commission may only issue a [~~resort~~] spa sublicense to:

(a) a resort licensee; [~~or~~]

(b) a hotel licensee;

[~~(b)~~] (c) a person applying for a resort license, contingent on the issuance of the resort license[~~.~~]; or

(d) a person applying for a hotel license, contingent on the issuance of the hotel license.

(3) [~~The resort~~] A spa sublicense premises shall fall entirely within the:

(a) boundary of a resort building that is part of the resort to which the [~~resort~~] spa sublicense is connected[~~.~~]; or

(b) boundary of a hotel that is part of the hotel to which the spa sublicense is connected.

Section 53. Section 32B-8d-203 is amended to read:

32B-8d-203. Specific licensing requirements for spa sublicense.

(1) (a) In accordance with Subsection 32B-8d-103(2), a person may not file a written application with the department to obtain a [~~resort~~] spa sublicense that is separate from the person's application [~~of the~~] for a resort license or a hotel license, unless the person seeks the [~~resort~~] spa sublicense after the commission issues the person a resort license or a hotel license.

(b) If a resort licensee or a hotel licensee seeks to add a [~~resort~~] spa sublicense after [~~its~~] the licensee's resort license or hotel license is issued, the [~~resort~~] licensee shall comply with Subsection 32B-8d-103(4).

(2) (a) A [~~resort~~] spa sublicense expires on October 31 of each year.

(b) [~~A resort licensee desiring to renew the resort licensee's resort~~] To renew a spa sublicense, the corresponding resort licensee or hotel licensee shall renew the [~~resort~~] spa sublicense as part of renewing the licensee's resort license or hotel license.

(c) (i) Failure of a resort licensee to meet the renewal requirements for a resort license results in an automatic forfeiture of the [~~resort~~] spa sublicense effective [~~on the date~~] the day on which the resort license expires.

(ii) Failure of a hotel licensee to meet the renewal requirements for a hotel license results in an automatic forfeiture of the spa sublicense effective the day on which the hotel license expires.

Section 54. Section 32B-8d-204 is amended to read:

32B-8d-204. Specific qualifications for a spa sublicense.

(1) A person employed to act in a supervisory or managerial capacity for the [~~resort~~] spa sublicense is subject to qualification requirements of Section 32B-1-304 for licensees.

(2) If a person no longer possesses the qualifications required by Section 32B-1-304 for obtaining the [~~resort license or resort~~] spa sublicense or the corresponding resort license or hotel license, the commission may suspend or revoke the [~~resort~~] spa sublicense that is part of the resort license or hotel license.

Section 55. Section 32B-8d-205 is amended to read:

32B-8d-205. Specific operational requirements for a spa sublicense.

(1) (a) In addition to complying with Chapter 5, Part 3, Retail Licensee Operational Requirements, a resort licensee [~~and~~], staff of the resort licensee, a hotel licensee, and staff of the hotel licensee, shall comply with this section.

(b) A [~~resort~~] spa sublicensee or a person otherwise operating under a [~~resort~~] spa sublicense and staff of a [~~resort~~] spa sublicensee or a person otherwise operating under a [~~resort~~] spa sublicense shall comply with:

(i) Chapter 5, Part 3, Retail Licensee Operational Requirements as if the [~~resort~~] spa sublicensee is a retail licensee, unless a provision conflicts with this chapter; and

(ii) this chapter.

(c) Subject to Section 32B-8-502, failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a resort licensee;

(ii) staff of [~~the~~] a resort licensee;

(iii) a hotel licensee;

(iv) staff of a hotel licensee;

[~~(iii)~~] (v) a [~~resort~~] spa sublicensee or person otherwise operating under a [~~resort~~] spa sublicense;

[~~(iv)~~] (vi) individual staff of a [~~resort~~] spa sublicensee or person otherwise operating under a [~~resort~~] spa sublicense; or

[~~(v)~~] (vii) any combination of the persons listed in Subsections (1)(c)(i) through [~~(iv)~~] (vi).

(2) (a) For purposes of the [~~resort~~] spa sublicense, the corresponding resort licensee or hotel licensee shall ensure that a record is maintained or used for the [~~resort~~] spa sublicense:

(i) as the department requires; and

(ii) for a minimum period of three years.

(b) A [~~resort~~] spa sublicensee record is subject to inspection by an authorized representative of the commission and the department.

(c) A resort licensee or a hotel licensee shall allow the department, through a compliance officer of the department, to audit the records for a [~~resort~~] spa sublicense at the times the department considers advisable.

(d) The department shall audit the records for a [~~resort~~] spa sublicense at least once annually.

(e) Section 32B-1-205 applies to a record required to be made, maintained, or used in accordance with this Subsection (2).

(3) (a) A [~~resort~~] spa sublicensee or person operating under a [~~resort~~] spa sublicense may not sell, offer for sale, or furnish liquor at a [~~resort~~] spa during a period that:

(i) begins at 1 a.m.; and

(ii) ends at 9:59 a.m.

(b) A [~~resort~~] spa sublicensee or person operating under a [~~resort~~] spa sublicense may sell, offer for sale, or furnish beer during the hours specified in Chapter 6, Part 7, On-Premise Beer Retailer License, for an on-premise beer retailer.

(c) (i) Notwithstanding Subsections (3)(a) and (b), a [~~resort~~] spa shall remain open for one hour after the [~~resort~~] spa ceases the sale and furnishing of an alcoholic product during which time a person at the [~~resort~~] spa may finish consuming:

(A) a single drink containing spirituous liquor;

(B) a single serving of wine not exceeding five ounces;

(C) a single serving of heavy beer;

(D) a single serving of beer not exceeding 26 ounces; or

(E) a single serving of a flavored malt beverage.

(ii) A [~~resort~~] spa is not required to remain open:

(A) after all individuals have vacated the [~~resort~~] spa sublicensee's sublicensed premises; or

(B) during an emergency.

(4) (a) A minor may not be admitted into, use, or be on the sublicensed premises of a [~~resort~~] spa sublicense unless accompanied by an individual 21 years [~~of age~~] old or older.

(b) A minor permitted under Subsection (4)(a) to be admitted into, use, or be on the sublicensed premises of a [~~resort~~] spa sublicense:

(i) may only be admitted into or be on a lounge or bar area of the [~~resort~~] spa sublicensee's sublicensed premises momentarily while en route to another area of the [~~resort~~] spa; and

(ii) may not remain or sit in the lounge or bar area of the [~~resort~~] spa sublicensee's sublicensed premises.

(5) A [~~resort~~] spa sublicensee shall have food available at all times when an alcoholic product is sold, offered for sale, furnished, or consumed on the [~~resort~~] spa sublicensee's sublicensed premises.

(6) (a) Subject to the other provisions of this Subsection (6), a patron may not have more than two alcoholic products of any kind at a time before the patron.

(b) A [~~resort~~] spa patron may not have two spirituous liquor drinks before the [~~resort~~] spa patron if one of the spirituous liquor drinks consists only of the primary spirituous liquor for the other spirituous liquor drink.

(c) An individual portion of wine is considered to be one alcoholic product under this Subsection (6).

(7) (a) An alcoholic product may only be consumed at a table or counter.

(b) An alcoholic product may not be served to or consumed by a patron at a dispensing structure.

(8) (a) A [~~resort~~] spa sublicensee or person operating under a [~~resort~~] spa sublicense shall have available on the [~~resort~~] spa sublicense's sublicensed premises for a patron to review at the time that the patron requests it, a written alcoholic product price list or a menu containing the price of an alcoholic product sold or furnished by the [~~resort~~] spa sublicensee including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(b) A charge or fee made in connection with the sale, service, or consumption of liquor may be stated in food or alcoholic product menus including:

(i) a set-up charge;

(ii) a service charge; or

(iii) a chilling fee.

(9) (a) A resort licensee or hotel licensee shall own or lease premises suitable for the [~~resort~~] spa sublicense's activities.

(b) A resort licensee or hotel licensee may not maintain premises in a manner that barricades or conceals the [~~resort~~] spa sublicense's operation.

(10) Subject to the other provisions of this section, a [~~resort~~] spa sublicensee or person operating under a [~~resort~~] spa sublicense may not sell an alcoholic product to or allow an individual to be admitted to or use the [~~resort~~] spa sublicensee's sublicensed premises other than:

(a) a resident; or

(b) a customer.

Section 56. Section 32B-9-303 is amended to read:

32B-9-303. Director's power to issue single event permit.

(1) Before a person may sell, offer for sale, or furnish liquor at retail for on-premise consumption at an event, the person shall first obtain a single event permit from the director in accordance with this part.

(2) (a) Subject to Subsection (5), the director may issue a single event permit to any of the following that is conducting a convention, civic, or community enterprise, a bona fide:

(i) partnership;

(ii) corporation;

(iii) limited liability company;

(iv) religious organization;

(v) political organization;

(vi) incorporated association;

(vii) recognized subordinate lodge, chapter, or other local unit of an entity described in this Subsection (2)(a);

(viii) state agency; or

(ix) political subdivision of the state.

(b) The director may not issue a single event permit to an entity that has not been in existence as a bona fide entity for at least one year before the day on which the entity applies for a single event permit.

(3) (a) A single event permit may authorize:

(i) the storage, sale, offering for sale, furnishing, and consumption of liquor at an event at which the storage, sale, offering for sale, furnishing, or consumption of liquor is otherwise prohibited by this title under either:

(A) a 120 hour single event permit; or

(B) a 72 hour single event permit; and

(ii) the storage, sale, offer for sale, furnishing, and consumption of beer at the same event for the period that the storage, sale, offer for sale, furnishing, or consumption of liquor is authorized under Subsection (3)(a)(i) for the single event permit.

(b) The single event permit shall state in writing whether [~~it~~] the single event permit is:

(i) a 120 hour single event permit; or

(ii) a 72 hour single event permit.

(4) The director may not issue more than:

(a) four single event permits in any one calendar year to the same person listed in Subsection (2) if one or more of the single event permits is a 120 hour single event permit; or

(b) [~~12~~] 24 single event permits in any one calendar year to the same person listed in Subsection (2) if each of the single event permits issued to that person is a 72 hour single event permit.

(5) Before the director issues or denies the issuance of a single event permit under this section, the director shall comply with Section 32B-9-202.

Section 57. Section 32B-10-206 is amended to read:

32B-10-206. General operational requirements for special use permit.

(1) (a) A special use permittee and staff of the special use permittee shall comply with this title and rules of the commission, including the relevant part of the chapter that applies to the type of special use permit held by the special use permittee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a special use permittee;

(ii) individual staff of a special use permittee; or

(iii) a special use permittee and staff of the special use permittee.

(c) The commission may suspend or revoke a special use permit with or without cause.

(2) (a) If there is a conflict between this part and the relevant part under this chapter for the specific type of special use permit, the relevant part under this chapter governs.

(b) Notwithstanding that this part may refer to "liquor" or an "alcoholic product," a special use permittee may only purchase, use, store, sell, offer for sale, allow consumption, or manufacture an alcoholic product authorized for the special use permit that is held by the special use permittee.

(c) Notwithstanding that this part or the relevant part under this chapter for the type of special use permit held by a special use permittee refers to "special use permittee," a person involved in the purchase, use, storage, sale, offering for sale, allowing consumption, or manufacture of an alcoholic product for which the special use permit is issued is subject to the same requirement or prohibition.

(3) (a) A special use permittee shall make and maintain a record, as required by commission rule, of any alcoholic product purchased, used, sold, or manufactured.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) (a) Except as otherwise provided in this title, a special use permittee may not purchase liquor except from a state store or package agency.

(b) A special use permittee may transport liquor purchased by the special use permittee in accordance with this Subsection (4) from the place of purchase to the special use permittee's premises.

(c) A special use permittee shall purchase liquor at prices set by the commission.

(d) When authorized by a special use permit, a special use permittee may purchase and receive an alcoholic product directly from a manufacturer for a purpose that is industrial, educational, scientific, or manufacturing.

(e) A health care facility may purchase and receive an alcoholic product directly from a manufacturer for use at the health care facility.

(5) A special use permittee may not use, mix, store, sell, offer for sale, furnish, manufacture, or allow consumption of an alcoholic product in a location other than as designated in a special use permittee's:

(a) application; or

(b) change of location request, as described in Section 32B-10-305, if:

(i) the special use permittee is a public service permittee; and

(ii) the commission approved the special use permittee's change in location request.

(6) Except as otherwise provided, a special use permittee may not sell, offer for sale, or furnish an alcoholic product to:

(a) a minor;

(b) a person actually, apparently, or obviously intoxicated;

(c) a known interdicted person; or

(d) a known habitual drunkard.

(7) A special use permittee may not employ a minor to handle an alcoholic product.

(8) (a) The location specified in a special use permit may not be transferred from one location to another location, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 3, Alcohol License Change of Location.

(b) A special use permittee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the permit to another person whether for monetary gain or not, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 2, Alcohol License Changes of Ownership.

(9) A special use permittee may not purchase, use, mix, store, sell, offer for sale, furnish, consume, or manufacture an alcoholic product for a purpose other than that authorized by the special use permit.

(10) The commission may prescribe by policy or rule consistent with this title, the general operational requirements of a special use permittee relating to:

(a) physical facilities;

(b) conditions of purchase, use, storage, sale, consumption, or manufacture of an alcoholic product;

(c) purchase, storage, and sales quantity limitations; and

(d) other matters considered appropriate by the commission.

Section 58. Section 32B-11-208 is amended to read:

32B-11-208. General operational requirements for manufacturing license.

(1) (a) A manufacturing licensee and staff of the manufacturing licensee shall comply with this title and the rules of the commission, including the relevant part of this chapter applicable to the type of manufacturing license held by the manufacturing licensee.

(b) Failure to comply as provided in Subsection (1)(a) may result in disciplinary action in accordance with Chapter 3, Disciplinary Actions and Enforcement Act, against:

(i) a manufacturing licensee;

(ii) individual staff of a manufacturing licensee; or

(iii) a manufacturing licensee and staff of the manufacturing licensee.

(2) A manufacturing licensee shall prominently display the manufacturing license on the licensed premises.

(3) (a) A manufacturing licensee shall make and maintain the records required by the department.

(b) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (3).

(4) A manufacturing licensee may not sell liquor within the state except to:

(a) the department; or

(b) a military installation.

(5) A manufacturing license may not be transferred from one location to another location, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 3, Alcohol License Change of Location.

(6) (a) A manufacturing licensee may not sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the license to another person, whether for monetary gain or not, except as provided in [~~Chapter 8a, Transfer of Alcohol License Act~~] Chapter 18, Part 2, Alcohol License Changes of Ownership.

(b) A manufacturing license has no monetary value for any type of disposition.

(7) A manufacturing licensee may not advertise the manufacturing licensee's product in violation of this title or any other federal or state law, except that nothing in this title prohibits the advertising or solicitation of an order for industrial alcohol from a holder of a special use permit.

(8) A manufacturing licensee shall from time to time, on request of the department, furnish for analytical purposes a sample of the alcoholic product that the manufacturing licensee has:

(a) for sale; or

(b) in the course of manufacture for sale in this state.

(9) The commission may prescribe by policy or rule, consistent with this title, the general operational requirements of a manufacturing licensee relating to:

(a) physical facilities;

(b) conditions of storage, sale, or manufacture of an alcoholic product;

(c) storage and sales quantity limitations; and

(d) other matters considered appropriate by the commission.

Section 59. Section 32B-11-303 is amended to read:

32B-11-303. Specific authority and operational requirements for winery manufacturing license.

(1) A winery manufacturing license allows a winery manufacturing licensee to:

(a) store, manufacture, transport, import, or export wine;

(b) sell wine at wholesale to:

(i) the department; and [~~to~~]

(ii) an out-of-state [~~customers~~] customer who is at least 21 years old, as the state in which the customer is located permits;

(c) purchase liquor for fortifying wine, if the department is notified of the purchase and date of delivery; and

(d) warehouse on the licensed premises liquor that is manufactured or purchased for manufacturing purposes.

(2) (a) A wine, brandy, wine spirit, or other liquor imported under authority of a winery manufacturing license shall conform to the standards of identity and quality established in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

(b) The federal definitions, standards of identity, and quality and labeling requirements for wine, in regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with the laws of this state.

(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of unsuitable wine-making equipment or material;

(c) a winery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and wine-making equipment;

(d) that a marc, pomace, or fruit be destroyed, denatured, or removed from the licensed premises because it is considered:

(i) unfit for wine making; or

(ii) as producing or likely to produce an unsanitary condition;

(e) a winery manufacturing licensee to distill or cause to be distilled or disposed of under the department's supervision:

(i) any unsound, poor quality finished wine; or

(ii) unfinished wine that will not be satisfactory when finished; or

(f) that a record pertaining to the grapes and other materials and ingredients used in the manufacture of wine be available to the commission or department upon request.

(4) A winery manufacturing licensee may not permit wine to be consumed on [~~its~~] the winery manufacturing licensee's premises, except [~~under the following circumstances~~] that:

(a) [~~A~~] a winery manufacturing licensee may allow [~~its~~] the winery manufacturing licensee's on-duty staff to taste on the licensed premises the alcoholic product that the winery manufacturing licensee manufactures on [~~its~~] the winery manufacturing licensee's premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise[~~.~~];

(b) [~~A~~] a winery manufacturing licensee may allow a person who can lawfully purchase wine for wholesale or retail distribution to consume a bona fide sample of the winery manufacturing licensee's product on the licensed premises[~~.~~]; and

(c) [~~A~~] a winery manufacturing licensee may conduct [~~tastings~~] a tasting as provided in Section 32B-11-210.

Section 60. Section 32B-11-403 is amended to read:

32B-11-403. Specific authority and operational requirements for distillery manufacturing license.

(1) A distillery manufacturing license allows a distillery manufacturing licensee to:

(a) store, manufacture, transport, import, or export liquor;

(b) sell liquor to:

(i) the department;

(ii) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits; and

(iii) as provided in Subsection (2);

(c) purchase an alcoholic product for mixing and manufacturing purposes if the department is notified of:

(i) the purchase; and

(ii) the date of delivery;

(d) warehouse on the distillery manufacturing licensee's licensed premises an alcoholic product that the distillery manufacturing licensee manufactures or purchases for manufacturing purposes;

(e) if the distillery manufacturing licensee holds two or more distillery manufacturing licenses under this chapter, transport an alcoholic product from one of the distillery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) storing a bulk container or an alcoholic product that is distilled and packaged in the state, including the transport of an alcoholic product to a package agency located at any of the distillery manufacturing licensee's licensed premises; and

(f) receive samples of an alcoholic product from a person outside the state for the sole purpose of performing tests and analysis, if the distillery manufacturing licensee:

(i) performs the tests and analysis in accordance with 27 C.F.R. Secs. 19.434(a), (c), (d), (e), and (f), Secs. 19.435 through 19.437, and Sec. 19.616;

(ii) keeps records of the samples received, including:

(A) all data required under 27 C.F.R. Sec. 19.616;

(B) a description of the sample; and

(C) the date the distillery manufacturing licensee receives the sample; and

(iii) upon request, provides the records described in Subsection (1)(f)(ii) to the department.

(2) (a) Subject to the other provisions of this Subsection (2), a distillery manufacturing licensee may directly sell an alcoholic product to a person engaged within the state in:

(i) a mechanical or industrial business that requires the use of an alcoholic product; or

(ii) scientific pursuits that require the use of an alcoholic product.

(b) A person who purchases an alcoholic product under Subsection (2)(a) shall hold a valid special use permit issued in accordance with Chapter 10, Special Use Permit Act, authorizing the use of the alcoholic product.

(c) A distillery manufacturing licensee may sell to a special use permittee described in Subsection (2)(b) an alcoholic product only in the type for which the special use permit provides.

(d) The sale of an alcoholic product under this Subsection (2) is subject to rules prescribed by the department and the federal government.

(3) The federal definitions, standards of identity and quality, and labeling requirements for distilled liquor, in the regulations issued under Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq., are adopted to the extent the regulations are not contrary to or inconsistent with laws of this state.

(4) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of unsuitable alcoholic product-making equipment or material;

(c) a distillery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be made available to the commission or department upon request.

(5) A distillery manufacturing licensee may not permit an alcoholic product to be consumed on the distillery manufacturing licensee's premises, except that:

(a) a distillery manufacturing licensee may allow the distillery manufacturing licensee's on-duty staff to taste on the licensed premises an alcoholic product that the distillery manufacturing licensee manufactures on the distillery manufacturing licensee's licensed premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise;

(b) a distillery manufacturing licensee may allow a person who can lawfully purchase an alcoholic product for wholesale or retail distribution to consume a bona fide sample of the distillery manufacturing licensee's product on the licensed premises; and

(c) a distillery manufacturing licensee may conduct [~~tastings~~] a tasting as provided in Section 32B-11-210.

Section 61. Section 32B-11-503 is amended to read:

32B-11-503. Specific authority and operational requirements for brewery manufacturing license.

(1) A brewery manufacturing license allows a brewery manufacturing licensee to:

(a) store, manufacture, brew, transport, or export beer, heavy beer, and flavored malt beverages;

(b) sell heavy beer and a flavored malt beverage to:

(i) the department;

(ii) a military installation; or

(iii) an out-of-state customer who is at least 21 years old, as the state in which the customer is located permits;

(c) sell beer to a beer wholesaler licensee;

(d) in the case of a small brewer, in accordance with Subsection (5), sell beer manufactured by the small brewer to:

(i) a retail licensee;

(ii) an off-premise beer retailer; or

(iii) an event permittee;

(e) warehouse on [~~its~~] the brewery manufacturing licensee's premises an alcoholic product that the brewery manufacturing licensee manufactures or purchases for manufacturing purposes; and

(f) if the brewery manufacturing licensee holds two or more brewery manufacturing licenses, transport beer, heavy beer, or flavored malt beverage from one of the brewery manufacturing licensee's licensed premises to another, if the transportation occurs for the purpose of:

(i) continuing or completing the manufacturing process; or

(ii) transferring the beer, heavy beer, or flavored malt beverage for storage at a licensed premises of the brewery manufacturing licensee that is at a package agency.

(2) A brewery manufacturing licensee may not sell the following to a person within the state except the department or a military installation:

(a) heavy beer; or

(b) a flavored malt beverage.

(3) If considered necessary, the commission or department may require:

(a) the alteration of the plant, equipment, or licensed premises;

(b) the alteration or removal of any unsuitable alcoholic product-making equipment or material;

(c) a brewery manufacturing licensee to clean, disinfect, ventilate, or otherwise improve the sanitary and working conditions of the plant, licensed premises, and equipment; or

(d) that a record pertaining to the materials and ingredients used in the manufacture of an alcoholic product be available to the commission or department upon request.

(4) A brewery manufacturing licensee may not permit any beer, heavy beer, or flavored malt beverage to be consumed on the licensed premises, except [~~under the circumstances described in this Subsection (4).~~] that:

(a) [~~A~~] a brewery manufacturing licensee may allow [~~its~~] the brewery manufacturing licensee's on-duty staff to taste the alcoholic product that the brewery manufacturing licensee manufactures on [~~its~~] the brewery manufacturing licensee's premises without charge, but only in connection with the on-duty staff's duties of manufacturing the alcoholic product during the manufacturing process and not otherwise[~~.~~];

(b) [~~A~~] a brewery manufacturing licensee may allow a person who can lawfully purchase the following for wholesale or retail distribution to consume a bona fide sample of the brewery manufacturing licensee's product on the licensed premises:

(i) beer;

(ii) heavy beer; or

(iii) a flavored malt beverage[~~.~~];

(c) [~~A~~] a brewery manufacturing licensee may operate a retail facility that complies with the requirements of Chapter 7, Part 2, Off-Premise Beer Retailer Local Authority[~~.~~]; and

(d) [~~A~~] a brewery manufacturing licensee may conduct [~~tastings~~] a tasting as provided in Section 32B-11-210.

(5) (a) A small brewer shall own, lease, or maintain and control a warehouse facility located in this state for the storage of beer to be sold to a person described in Subsection (1)(d) if the small brewer:

(i) (A) (I) is located in this state; and

(II) holds a brewery manufacturing license; or

(B) (I) is located outside this state; and

(II) holds a certificate of approval to sell beer in this state; and

(ii) sells beer manufactured by the small brewer directly to a person described in Subsection (1)(d).

(b) A small brewer may not sell beer to a person described in Subsection (1)(d) unless the beer:

(i) is manufactured by the small brewer; and

(ii) is first placed in the small brewer's warehouse facility in this state.

(c) (i) A small brewer warehouse shall make and maintain complete beer importation, inventory, tax, distribution, sales records, and other records as the department and State Tax Commission may require.

(ii) The records described in Subsection (5)(c)(i) are subject to inspection by:

(A) the department; and

(B) the State Tax Commission.

(iii) Section 32B-1-205 applies to a record required to be made or maintained in accordance with this Subsection (5), except that the provision is considered to include an action described in Section 32B-1-205 made for the purpose of deceiving the State Tax Commission, or an official or employee of the State Tax Commission.

[~~(6) Subject to Subsection (7):~~]

(6) (a) [~~A~~] Subject to Subsection (7), a brewery manufacturing licensee may not sell beer in this state except under a written agreement with a beer wholesaler licensee in this state.

(b) An agreement described in Subsection (6)(a) shall:

(i) create a restricted exclusive sales territory that is mutually agreed upon by the persons entering into the agreement;

(ii) designate the one or more brands that may be distributed in the sales territory; and

(iii) set forth the exact geographical area of the sales territory.

(c) A brewery manufacturing licensee may have more than one agreement described in [~~this~~] Subsection (6)(a) if each brand of the brewery manufacturing licensee is covered by one exclusive sales territory.

(d) A brewery manufacturing licensee may not enter into an agreement described in Subsection (6)(a) with more than one beer wholesaler licensee to distribute the same brand of beer in the same sales territory or any portion of the sales territory.

(7) A small brewer is not subject to the requirements of Subsection (6).

Section 62. Section 32B-11-504 is amended to read:

32B-11-504. Department's authority regarding small-brewer status.

(1) A brewer seeking to obtain small-brewer status shall provide to the department any documentation or information the department determines necessary to determine if the brewer is part of a controlled group of [~~breweries~~] manufacturers.

(2) The department may revoke a brewer's small-brewer status at any time, if the department determines the brewer does not qualify as a small brewer.

Section 63. Section 32B-18-101, which is renumbered from Section 32B-8a-102 is renumbered and amended to read:

CHAPTER 18. CHANGE OF ALCOHOL LICENSE OR LOCATION ACT

Part 1. General Provisions

[~~32B-8a-102~~]. 32B-18-101. Definitions.

As used in this chapter:

(1) (a) "Alcohol license" means:

(i) a retail license;

(ii) an off-premise beer retailer state license;

(iii) a brewery manufacturing license;

(iv) a distillery manufacturing license;

(v) a winery manufacturing license; [~~and~~]

(vi) a liquor warehousing license; and

[~~(vi)~~] (vii) a special use permit that is an industrial or manufacturing use permit.

(b) "Alcohol license" does not include a:

(i) master full-service restaurant license;

(ii) master limited-service restaurant license; or

(iii) master off-premise beer retailer state license.

(2) "Business entity" means a corporation, partnership, limited liability company, sole proprietorship, or similar entity.

[~~(3) "Transfer fee" means a fee described in Section 32B-8a-303.~~]

[~~(4) "Transferee or buyer" means a person who intends to hold an alcohol license after the transfer of the alcohol license if the transfer is approved by the commission under this chapter.~~]

[~~(5) "Transferor or seller" means an alcohol licensee who intends to transfer an alcohol license held by the alcohol licensee if the commission approves the transfer under this chapter.~~]

(3) "Interim alcoholic beverage management agreement" means a management agreement:

(a) in connection with:

(i) a change of ownership in the entity holding an alcohol license; or

(ii) a transfer of the management of an alcohol license to another entity; and

(b) under which the new owner or new management agrees to perform the operations of the alcohol licensee during the period that:

(i) begins when:

(A) the change of ownership closes; or

(B) the new management agreement is executed; and

(ii) ends on the day after the day on which the commission approves the alcohol license for the new owner.

(4) "Inventory transfer agreement" means an agreement under which an alcohol licensee agrees to sell or otherwise transfer all or part of the alcohol licensee's inventory of alcoholic products.

(5) "Management agreement" means an agreement between two people regarding the operation and management of an alcohol license.

Section 64. Section 32B-18-201, which is renumbered from Section 32B-8a-201 is renumbered and amended to read:

Part 2. Alcohol License Changes of Ownership

[~~32B-8a-201~~]. 32B-18-201. Transferability of an alcohol license.

(1) [~~(a)~~] An alcohol license [~~is~~]:

(a) is not ascribed any value in the sale or transfer of a business entity or the business entity's assets;

(b) is neither tangible nor intangible property to the holder of the license; and

(c) is completely separate from other property of an alcohol licensee.

[~~(b)~~] (2) [~~Notwithstanding Subsection (1)(a), the~~] The Legislature may terminate or modify the existence of any type of alcohol license.

[~~(c)~~] (3) Except as provided in this [~~chapter~~] part, a person may not[~~: (i) transfer an alcohol license from one location to another location; or (ii)~~] sell, transfer, assign, exchange, barter, give, or attempt in any way to dispose of the alcohol license to another person whether for monetary gain or not.

[~~(d) If approved by the commission and subject to the requirements of this chapter, an alcohol licensee may transfer the alcohol license:~~]

[~~(i) from the alcohol licensee to another person, regardless of whether the alcohol license is for the same premises; and~~]

[~~(ii) from one premises of the alcohol licensee to another premises of the alcohol licensee.~~]

[~~(2) (a) The commission may not approve the transfer of an alcohol license that results in a transferee or buyer holding a different type of alcohol license than is held by the transferor or seller.~~]

[~~(b) Unless the alcohol license is a bar establishment license, the commission may not approve the transfer of an alcohol license from one location to another location, if the location of the premises to which the alcohol license would be transferred is in a different county than the location of the licensed premises of the alcohol license being transferred.~~]

[~~(3) The commission may not approve the transfer of an alcohol license if the transferee or buyer is not eligible to hold the same type of alcohol license as the alcohol license to be transferred at the premises to which the alcohol license would be transferred.~~]

[~~(4) The commission may not approve the transfer of an alcohol license unless the transferee or buyer attests, subject to the penalty for making a false material statement under Section 32B-4-504, that the transferee or buyer is in compliance with:~~]

[~~(a) federal tax laws;~~]

[~~(b) Title 35A, Chapter 4, Employment Security Act; and~~]

[~~(c) Title 59, Revenue and Taxation.~~]

[~~(5) The commission may not approve the transfer of an alcohol license unless the transferor or seller attests, subject to the penalty for making a false material statement under Section 32B-4-504, that the transferor or seller is not delinquent on any lease obligation related to the licensed premises for the alcohol license the transferor or seller is transferring.~~]

Section 65. Section 32B-18-202, which is renumbered from Section 32B-8a-202 is renumbered and amended to read:

[~~32B-8a-202~~]. 32B-18-202. Effect of change of ownership of business entity.

(1) (a) When the ownership of 51% or more of the shares of stock of a corporation is [~~acquired by or transferred to~~] restructured to include one or more persons who did not hold the ownership of 51% of those shares of stock on the [~~date~~] day on which an alcohol license is issued to the corporation, the corporation shall comply with this chapter to [~~transfer the alcohol license to the corporation as if the corporation is newly constituted~~] reflect the restructuring.

(b) When there is a new general partner or when the ownership of 51% or more of the capital or profits of a limited partnership is [~~acquired by or transferred to~~] restructured to include one or more persons as general or limited partners and who did not hold ownership of 51% or more of the capital or profits of the limited partnership on the [~~date~~] day on which an alcohol license is issued to the limited partnership, the limited partnership shall comply with this chapter to [~~transfer the alcohol license to the limited partnership as if the limited partnership is newly constituted~~] reflect the restructuring.

(c) When the ownership of 51% or more of the interests in a limited liability company is [~~acquired by or transferred to~~] restructured to include one or more persons as members who did not hold ownership of 51% or more of the interests in the limited liability company on the [~~date~~] day on which an alcohol license is issued to the limited liability company, the limited liability company shall comply with this chapter to [~~transfer the alcohol license to the limited liability company as if the limited liability company is newly constituted~~] reflect the restructuring.

(2) A business entity shall comply with this section within 60 days after the day on which a [~~sale or transfer described in Subsection (1) occurs~~] restructuring of the business entity becomes effective.

Section 66. Section 32B-18-203 is enacted to read:

32B-18-203. Application -- Approval process.

(1) (a) A person seeking an alcohol license in accordance with this part that is currently held by another person shall submit to the department:

(i) a written application for a new license in a form prescribed by the department; and

(ii) a fee in accordance with Section 32B-18-207.

(b) If the person seeking an alcohol license as described in Subsection (1) seeks to take over the daily operations of the alcohol license before the commission grants the transfer, the person and the alcohol licensee shall enter into an interim alcoholic beverage management agreement that:

(i) provides for all proceeds from the sale of alcohol, less cost of goods sold, to accrue to the current alcohol licensee;

(ii) provides for the duration of the agreement, that the current alcohol licensee:

(A) shall comply with the requirements of this title that are applicable to the alcohol license; and

(B) in accordance with this title, is subject to disciplinary action by the commission for a violation of this title; and

(iii) the department approves.

(c) If the person seeking an alcohol license as described in Subsection (1) seeks to buy the inventory from the existing licensee, the person and the alcohol licensee shall enter into an inventory transfer agreement that the department approves.

(2) An alcohol licensee seeking to restructure the alcohol licensee's internal ownership of 51% or more shall submit to the department:

(a) a written application in a form prescribed by the department; and

(b) a fee in accordance with Section 32B-18-207.

(3) A person or business entity shall comply with this section within 60 days after the day on which the sale of the business's assets closes or the restructuring of the business entity becomes effective.

(4) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the requirements of an interim alcoholic beverage management agreement.

Section 67. Section 32B-18-204, which is renumbered from Section 32B-5-310 is renumbered and amended to read:

[~~32B-5-310~~]. 32B-18-204. Notifying department of change in ownership.

[~~(1)~~]The commission may suspend or revoke [~~a retail~~] an alcohol license if the [~~retail~~] alcohol licensee does not notify the department, within 60 days after the day on which the change occurs, of a change in:

[~~(a)~~] (1) ownership of the [~~retail~~] business entity holding the alcohol license;

[~~(b) the entity that manages the retail licensee or a premises licensed under this chapter;~~]

[~~(c)~~] (2) for a corporate owner, the:

[~~(i)~~] (a) corporate officers or directors of the [~~retail~~] alcohol licensee; or

[~~(ii)~~] (b) shareholders holding at least 20% of the total issued and outstanding stock of the corporation; or

[~~(d)~~] (3) for a limited liability company:

[~~(i)~~] (a) managers of the limited liability company; or

[~~(ii)~~] (b) members owning at least 20% of the limited liability company.

[~~(2) Notwithstanding any other provision of this title, in connection with an event described in Section 32B-8a-202 or an asset sale of a retail licensee, the parties to the transaction may enter into an inventory transfer agreement.~~]

[~~(3) A retail licensee may enter into an interim alcoholic beverage management agreement that provides:~~]

[~~(a) all proceeds, less cost of goods sold, from the sale of alcohol shall accrue to the current retail licensee; and~~]

[~~(b) for the duration of the agreement, the current retail licensee:~~]

[~~(i) shall comply with the requirements of this title that are applicable to the retail license; and~~]

[~~(ii) in accordance with this title, is subject to disciplinary action by the commission for any violation of this title.~~]

[~~(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing the requirements of:~~]

[~~(a) an inventory transfer agreement; and~~]

[~~(b) an interim alcoholic beverage management agreement.~~]

Section 68. Section 32B-18-205 is enacted to read:

32B-18-205. Management agreements -- Inventory transfers.

(1) (a) A management agreement may provide for the sharing of revenue from a business utilizing an

alcohol license if, regardless of which party holds the alcohol license, all parties to the management agreement qualify under Section 32B–1–304 to hold the license.

(b) The parties to a management agreement shall submit to the department:

(i) a copy of the management agreement; and

(ii) any other information the department requires.

(c) If there is a material change to the management agreement submitted to the department under Subsection (1)(b), the parties to the management agreement shall submit to the department the following within 30 days after the day on which the change occurs:

(i) a copy of the changed management agreement; and

(ii) any other information the department requires.

(2) Notwithstanding any other provision of this title, in connection with a change of ownership described in Section 32B–18–202 or an asset sale of an alcohol licensee, the parties to the transaction may enter into an inventory transfer agreement.

(3) In accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules governing the requirements of:

(a) a management agreement; or

(b) an inventory transfer agreement.

Section 69. Section 32B-18-206, which is renumbered from Section 32B-8a-203 is renumbered and amended to read:

[~~32B-8a-203~~]. 32B-18-206. Operational requirements for change of ownership or location.

(1) (a) [~~A transferee or buyer shall begin operations of the alcohol license~~] Except as provided in Subsections (1)(b) and (c), operations of an alcohol licensee shall begin within 30 days after the day on which [~~a transfer is approved by~~] the commission[~~, except that:~~] approves a change of ownership for the alcohol license.

[~~(i) the~~] (b) The department may grant an extension of [~~this~~] the time period described in Subsection (1)(a) for a period not to exceed the greater of:

(i) 30 days; [~~and~~] or

(ii) the number of days until the day on which the commission holds the commission's next regularly scheduled commission meeting.

[~~(ii)~~] (c) [~~after the extension is authorized by~~] After the department [~~under~~] authorizes an extension described in Subsection [~~(1)(a)(i)~~] (1)(b), the commission may grant one or more additional extensions [~~not to exceed, in the aggregate, seven months from the day on which the commission approves the transfer, if the transferee or buyer can demonstrate~~] if:

(i) the alcohol licensee demonstrates to the commission that the [~~transferee or buyer: (A)~~] alcohol licensee cannot begin operations because the [~~transferee or buyer~~] alcohol licensee:

(A) is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection [~~(1)(a)(ii)(A)~~] (1)(c)(i)(A), if the respective local [~~government entity~~] authority requires a building permit for the improvements; and

(C) is working expeditiously to complete the improvements to the licensed premises[~~.~~]; or

(ii) the commission determines that circumstances beyond the control of the alcohol licensee negate the licensee's ability to begin operations in a timely manner.

[~~(b)~~] (2) [~~A transferee or buyer~~] An alcohol licensee is considered to have begun operations of the alcohol license if the [~~transferee or buyer~~] alcohol licensee:

[~~(i)~~] (a) has a licensed premises that is open for business;

[~~(ii) (A)~~] (b) (i) sells, offers for sale, or furnishes an alcoholic [~~products~~] product to a patron on the licensed premises described in Subsection [~~(1)(b)(i)~~] (2)(a);

[~~(B)~~] (ii) manufactures an alcoholic product on the licensed premises described in Subsection [~~(1)(b)(i)~~] (2)(a); [~~or~~]

[~~(C)~~] (iii) engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection [~~(1)(b)(i)~~] (2)(a); [~~and~~] or

(iv) warehouses liquor on the licensed premises described in Subsection (2)(a); and

[~~(iii)~~] (c) has a valid business license.

[~~(2)~~] (3) If [~~a transferee or buyer~~] an alcohol licensee fails to begin operations of the alcohol license within the time period required by Subsection (1), the following are automatically forfeited effective immediately:

(a) the alcohol license; and

(b) the [~~alcohol license~~] fee described in Section 32B–18–207.

[~~(3) A transferee or buyer~~] (4) (a) Except as provided in Subsection (4)(b), if the commission approves a change of ownership, the new owner of the alcohol license shall begin operations of the alcohol license at the location to which the [~~transfer~~] alcohol license applies before the [~~transferee or buyer~~] new owner may [~~seek a transfer of~~] move the alcohol license to a different location in accordance with Part 3, Alcohol License Change of Location.

(b) Subsection (4)(a) does not apply to a new owner of an alcohol license if the commission determines that a bona fide exigent circumstance exists that warrants a change in location before operations begin.

[~~(4)~~] (5) Notwithstanding Subsection (1), the commission may not issue a conditional license unless the requirements of Section 32B-5-205 are met, except that the time periods required by this section supersede the time period provided in Section 32B-5-205.

Section 70. Section 32B-18-207, which is renumbered from Section 32B-8a-303 is renumbered and amended to read:

[~~32B-8a-303~~]. 32B-18-207. Change fees.

(1) [~~Except as otherwise provided in this section, the~~] The department shall charge the following [~~transfer~~] fees for a change of ownership under this part:

(a) for a [~~transfer~~] change of ownership of an alcohol license from an alcohol licensee to another person, the [~~transfer~~] change fee equals the initial license fee amount specified in the relevant chapter or part for the type of alcohol license [~~that is being transferred~~] for which the change of ownership occurs; and

[~~(b) for the transfer of an alcohol license from one premises to another premises of the same alcohol licensee, the transfer fee is $300;~~]

[~~(c)~~] (b) [~~subject to Subsections (1)(d) and (2), for a transfer~~] for a change of ownership described in Section [~~32B-8a-202~~] 32B-18-202, the [~~transfer~~] change fee equals the renewal fee amount specified in the relevant chapter or part for the type of alcohol license [~~that is being transferred;~~] for which the change of ownership occurs.

[~~(d) for a transfer of an alcohol license to include the parent or adult child of an alcohol licensee, when no consideration is given for the transfer, the transfer fee is one-half of the amount described in Subsection (1)(a); and~~]

[~~(e) for one of the following transfers, the transfer fee is one-half of the amount described in Subsection (1)(a):~~]

[~~(i) an alcohol license of one spouse to the other spouse when the transfer application is made before the entry of a final decree of divorce;~~]

[~~(ii) an alcohol license of a deceased alcohol licensee to:~~]

[~~(A) the one or more surviving partners of the deceased alcohol licensee;~~]

[~~(B) the executor, administrator, or conservator of the estate of the deceased alcohol licensee; or~~]

[~~(C) the surviving spouse of the deceased alcohol licensee, if the deceased alcohol licensee leaves no estate to be administered;~~]

[~~(iii) an alcohol license of an incompetent person or conservatee by or to the conservator or guardian for the incompetent person or conservatee who is the alcohol licensee;~~]

[~~(iv) an alcohol license of a debtor in a bankruptcy case by or to the trustee of a bankrupt estate of the alcohol licensee;~~]

[~~(v) an alcohol license of a person for whose estate a receiver is appointed may be transferred by or to a receiver of the estate of the alcohol licensee;~~]

[~~(vi) an alcohol license of an assignor for the benefit of creditors by or to an assignee for the benefit of creditors of a licensee with the consent of the assignor;~~]

[~~(vii) an alcohol license transferred to a revocable living trust if the alcohol licensee is the trustee of the revocable living trust;~~]

[~~(viii) an alcohol license transferred between partners when no new partner is being licensed;~~]

[~~(ix) an alcohol license transferred between corporations whose outstanding shares of stock are owned by the same individuals;~~]

[~~(x) upon compliance with Section 32B-8a-202, an alcohol license to a corporation whose entire stock is owned by:~~]

[~~(A) the transferor or seller; or~~]

[~~(B) the spouse of the transferor or seller;~~]

[~~(xi) upon compliance with Section 32B-8a-202, an alcohol license to a limited liability company whose entire membership consists of:~~]

[~~(A) the transferor or seller; or~~]

[~~(B) the spouse of the transferor or seller; or~~]

[~~(xii) an alcohol license transferred from a corporation to a person who owns, or whose spouse owns, the entire stock of the corporation.~~]

[~~(2) If there are multiple and simultaneous transfers of alcohol licenses under Section 32B-8a-202, a transfer fee described in Subsection (1)(c) is required for only one of the alcohol licenses being transferred.~~]

[~~(3) (a) Except as provided in Subsection (3)(b), a transfer fee required under Subsection (1) is due for a transfer subsequent to a transfer under Subsection (1)(e)(xii) if the subsequent transfer is of 51% of the stock in a corporation to which an alcohol license is transferred by an alcohol licensee or the spouse of an alcohol licensee.~~]

[~~(b) If the transfer of stock described in Subsection (3)(a) is from a parent to the parent's adult child or adult grandchild, the transfer fee is one-half of the amount described in Subsection (1)(a).~~]

[~~(4) Money collected from a transfer fee shall be deposited in the Liquor Control Fund.~~]

(2) The department shall deposit a fee collected under Subsection (1) into the Liquor Control Fund.

Section 71. Section 32B-18-301 is enacted to read:

Part 3. Alcohol License Change of Location

32B-18-301. Change of location provisions.

(1) Except as provided in this part, a person may not move an alcohol license from one location to another.

(2) Before an alcohol licensee moves the alcohol licensee's license from one location to another, the alcohol licensee shall submit to the department:

(a) an application for a change of location, in the form the department determines; and

(b) a change of location fee.

(3) Before the commission approves a change of location requested in accordance with this part, the commission shall:

(a) ensure that the new location meets the physical requirements for the type of license for which the change of location is requested, including any proximity requirement; and

(b) consider the locality within which the proposed licensed premises is located, including the relevant factors for the type of license for which the change of location is requested.

Section 72. Section 32B-18-302 is enacted to read:

32B-18-302. Operational requirements for change of location.

(1) (a) Except as permitted under Subsections (1)(b) and (c), operations of an alcohol licensee shall begin within 30 days after the day on which the commission approves a change of location for the alcohol license.

(b) The department may grant an extension to the 30 days described in Subsection (1)(a), not to exceed the greater of:

(i) 30 days; or

(ii) the number of days until the next regularly scheduled commission meeting.

(c) After the department authorizes an extension described in Subsection (1)(b), the commission may grant one or more additional extensions, if:

(i) the alcohol licensee demonstrates to the commission that the alcohol licensee cannot begin operations because the alcohol licensee:

(A) is improving the licensed premises;

(B) has obtained a building permit for the improvements described in Subsection (1)(c)(i)(A), if the respective local authority requires a building permit for the improvements; and

(C) is working expeditiously to complete the improvements to the licensed premises; or

(ii) the commission determines that circumstances beyond the control of the alcohol licensee negate the licensee's ability to begin operations in a timely manner.

(2) An alcohol licensee is considered to have begun operations of the alcohol license if the alcohol licensee:

(a) has a licensed premises that is open for business;

(b) (i) sells, offers for sale, or furnishes an alcoholic product to a patron on the licensed premises described in Subsection (1)(a);

(ii) manufactures an alcoholic product on the licensed premises described in Subsection (2)(a);

(iii) engages in an industrial or manufacturing pursuit containing alcohol on the licensed premises described in Subsection (2)(a); or

(iv) warehouses liquor on the licensed premises described in Subsection (2)(a); and

(c) has a valid business license.

(3) If an alcohol licensee fails to begin operations of the alcohol license within the time period required under Subsection (1), the following are automatically forfeited effective immediately:

(a) the alcohol license; and

(b) the change of location fee.

Section 73. Section 32B-18-303 is enacted to read:

32B-18-303. Change of location fees.

(1) The department shall charge a $300 fee for a change in location of an alcohol licensee's licensed premises.

(2) The department shall deposit a fee collected under Subsection (1) in the Liquor Control Fund.

Section 74. Section 32B-18-401, which is renumbered from Section 32B-8a-501 is renumbered and amended to read:

Part 4. Prohibited Activities

[~~32B-8a-501~~]. 32B-18-401. License not to be pledged as security -- Prohibited changes, transfers, and moves.

(1) An alcohol licensee may not enter into any agreement under which the alcohol licensee pledges the alcohol license as security for a loan or as security for the fulfillment of any agreement.

[~~(2) An alcohol licensee may not transfer an alcohol license if the transfer is to:~~]

[~~(a) satisfy a loan or to fulfill an agreement entered into more than 90 days before the day on which the transfer application is filed;~~]

[~~(b) gain or establish a preference to or for any creditor of the transferor or seller, except as provided by Section 32B-8a-202; or~~]

[~~(c) defraud or injure a creditor of the transferor or seller.~~]

[~~(3) An alcohol licensee may not transfer a bar establishment license in a manner that~~

~~circumvents the limitations of Subsection 32B-8d-103(3)(b) or (c).~~]

[~~(4)~~] (2) An alcohol licensee may not change, transfer, or move an alcohol license except [~~in accordance with~~] as expressly permitted under this chapter.

Section 75. Section 32B-18-402, which is renumbered from Section 32B-8a-502 is renumbered and amended to read:

[~~32B-8a-502~~]. 32B-18-402. Effect of change, transfer, or move in violation of this chapter.

(1) If an alcohol license is changed, transferred, or moved in violation of this chapter, the commission may:

(a) void the change, transfer, or move; and

(b) require the alcohol license to be forfeited.

(2) Subsection (1) is in addition to any other penalty under this title that is applicable to the person who violates this chapter.

Section 76. Section 34-52-201 is amended to read:

34-52-201. Public employer requirements.

(1) A public employer may not exclude an applicant from an initial interview because of a past criminal conviction.

(2) A public employer excludes an applicant from an initial interview if the public employer:

(a) requires an applicant to disclose, on an employment application, a criminal conviction;

(b) requires an applicant to disclose, before an initial interview, a criminal conviction; or

(c) if no interview is conducted, requires an applicant to disclose, before making a conditional offer of employment, a criminal conviction.

(3) (a) A public employer may not make any inquiry related to an applicant's expunged criminal history.

(b) An applicant seeking employment from a public employer may answer a question related to an expunged criminal record as though the action underlying the expunged criminal record never occurred.

(4) Subject to Subsections (1) through (3), nothing in this section prevents a public employer from:

(a) asking an applicant for information about an applicant's criminal conviction history during an initial interview or after an initial interview; or

(b) considering an applicant's conviction history when making a hiring decision.

(5) Subsections (1) through (3) do not apply:

(a) if federal, state, or local law, including corresponding administrative rules, requires the consideration of an applicant's criminal conviction history;

(b) to a public employer that is a law enforcement agency;

(c) to a public employer that is part of the criminal or juvenile justice system;

(d) to a public employer seeking a nonemployee volunteer;

(e) to a public employer that works with children or vulnerable adults;

(f) to the Department of Alcoholic Beverage [~~Control~~] Services created in Section 32B-2-203;

(g) to the State Tax Commission;

(h) to a public employer whose primary purpose is performing financial or fiduciary functions; and

(i) to a public transit district hiring or promoting an individual for a safety sensitive position described in Section 17B-2a-825.

Section 77. Section 53-2a-802 is amended to read:

53-2a-802. Definitions.

(1) (a) "Absent" means:

(i) not physically present or not able to be communicated with for 48 hours; or

(ii) for local government officers, as defined by local ordinances.

(b) "Absent" does not include a person who can be communicated with via telephone, radio, or telecommunications.

(2) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Alcoholic Beverage [~~Control~~] Services Commission, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Workforce Services, the Labor Commission, the National Guard, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Department of Human Services, the State Tax Commission, the Department of Transportation, any other major administrative subdivisions of state government, the State Board of Education, the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement Board, and each institution of higher education within the system of higher education.

(3) "Division" means the Division of Emergency Management established in Title 53, Chapter 2a, Part 1, Emergency Management Act.

(4) "Emergency interim successor" means a person designated by this part to exercise the powers and discharge the duties of an office when the person legally exercising the powers and duties of the office is unavailable.

(5) "Executive director" means the person with ultimate responsibility for managing and overseeing the operations of each department, however denominated.

(6) (a) "Office" includes all state and local offices, the powers and duties of which are defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

(b) "Office" does not include the office of governor or the legislative or judicial offices.

(7) "Place of governance" means the physical location where the powers of an office are being exercised.

(8) "Political subdivision" includes counties, cities, towns, metro townships, districts, authorities, and other public corporations and entities whether organized and existing under charter or general law.

(9) "Political subdivision officer" means a person holding an office in a political subdivision.

(10) "State officer" means the attorney general, the state treasurer, the state auditor, and the executive director of each department.

(11) "Unavailable" means:

(a) absent from the place of governance during a disaster that seriously disrupts normal governmental operations, whether or not that absence or inability would give rise to a vacancy under existing constitutional or statutory provisions; or

(b) as otherwise defined by local ordinance.

Section 78. Section 53-8-105 is amended to read:

53-8-105. Duties of Highway Patrol.

In addition to the duties in this chapter, the Highway Patrol shall:

(1) enforce the state laws and rules governing use of the state highways;

(2) regulate traffic on all highways and roads of the state;

(3) assist the governor in an emergency or at other times at his discretion;

(4) in cooperation with federal, state, and local agencies, enforce and assist in the enforcement of all state and federal laws related to the operation of a motor carrier on a highway, including all state and federal rules and regulations;

(5) inspect certain vehicles to determine road worthiness and safe condition as provided in Section 41-6a-1630;

(6) upon request, assist with any condition of unrest existing or developing on a campus or related facility of an institution of higher education;

(7) assist the Alcoholic Beverage [~~Control~~] Services Commission in an emergency to enforce the state liquor laws;

(8) provide security and protection for both houses of the Legislature while in session as the speaker of the House of Representatives and the president of the Senate find necessary;

(9) enforce the state laws and rules governing use of the capitol hill complex as defined in Section 63C-9-102; and

(10) carry out the following for the Supreme Court and the Court of Appeals:

(a) provide security and protection to those courts when in session in the capital city of the state;

(b) execute orders issued by the courts; and

(c) carry out duties as directed by the courts.

Section 79. Section 53-10-102 is amended to read:

53-10-102. Definitions.

As used in this chapter:

(1) "Administration of criminal justice" means performance of any of the following: detection, apprehension, detention, pretrial release, posttrial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

(2) "Alcoholic beverage" is as defined in Section 32B-1-102.

(3) "Alcoholic product" is as defined in Section 32B-1-102.

(4) "Commission" means the Alcoholic Beverage [~~Control~~] Services Commission.

(5) "Communications services" means the technology of reception, relay, and transmission of information required by public safety agencies in the performance of their duty.

(6) "Conviction record" means criminal history information indicating a record of a criminal charge which has led to a declaration of guilt of an offense.

(7) "Criminal history record information" means information on individuals consisting of identifiable descriptions and notations of:

(a) arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising from any of them; and

(b) sentencing, correctional supervision, and release.

(8) "Criminal justice agency" means courts or a government agency or subdivision of a government agency that administers criminal justice under a statute, executive order, or local ordinance and that allocates greater than 50% of its annual budget to the administration of criminal justice.

(9) "Criminalist" means the scientific discipline directed to the recognition, identification, individualization, and evaluation of physical evidence by application of the natural sciences in law-science matters.

(10) "Department" means the Department of Public Safety.

(11) "Director" means the division director appointed under Section 53-10-103.

(12) "Division" means the Criminal Investigations and Technical Services Division created in Section 53-10-103.

(13) "Executive order" means an order of the president of the United States or the chief executive of a state that has the force of law and that is published in a manner permitting regular public access to it.

(14) "Forensic" means dealing with the application of scientific knowledge relating to criminal evidence.

(15) "Mental defective" means an individual who, by a district court, as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease, is found:

(a) to be a danger to himself or herself or others;

(b) to lack the mental capacity to contract or manage the individual's own affairs;

(c) to be incompetent by a court in a criminal case; or

(d) to be incompetent to stand trial or found not guilty by reason or lack of mental responsibility.

(16) "Missing child" means any person under the age of 18 years who is missing from the person's home environment or a temporary placement facility for any reason and whose location cannot be determined by the person responsible for the child's care.

(17) "Missing person" is as defined in Section 26-2-27.

(18) "Pathogens" means disease-causing agents.

(19) "Physical evidence" means something submitted to the bureau to determine the truth of a matter using scientific methods of analysis.

(20) "Qualifying entity" means a business, organization, or a governmental entity that employs persons or utilizes volunteers who deal with:

(a) national security interests;

(b) care, custody, or control of children;

(c) fiduciary trust over money;

(d) health care to children or vulnerable adults; or

(e) the provision of any of the following to a vulnerable adult:

(i) care;

(ii) protection;

(iii) food, shelter, or clothing;

(iv) assistance with the activities of daily living; or

(v) assistance with financial resource management.

Section 80. Section 53-10-305 is amended to read:

53-10-305. Duties of bureau chief.

The bureau chief, with the consent of the commissioner, shall do the following:

(1) conduct in conjunction with the state boards of education and higher education in state schools, colleges, and universities, an educational program concerning alcoholic beverages and alcoholic products, and work in conjunction with civic organizations, churches, local units of government, and other organizations in the prevention of alcoholic beverage, alcoholic product, and drug violations;

(2) coordinate law enforcement programs throughout the state and accumulate and disseminate information related to the prevention, detection, and control of violations of this chapter and Title 32B, Alcoholic Beverage Control Act, as it relates to storage or consumption of an alcoholic beverage or alcoholic product on premises maintained by a bar establishment licensee, or a person required to obtain a bar establishment license, as defined in Section 32B-1-102;

(3) make inspections and investigations as required by the commission and the Department of Alcoholic Beverage [~~Control~~] Services;

(4) perform other acts as may be necessary or appropriate concerning control of the use of an alcoholic beverage or alcoholic product and drugs; and

(5) make reports and recommendations to the Legislature, the governor, the commissioner, the commission, and the Department of Alcoholic Beverage [~~Control~~] Services as may be required or requested.

Section 81. Section 53F-9-304 is amended to read:

53F-9-304. Underage Drinking and Substance Abuse Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking and Substance Abuse Prevention Program Restricted Account created in this section.

(2) There is created within the Education Fund a restricted account known as the "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage [~~Control~~] Services deposits any portion of the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage [~~Control~~] Services shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, $1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the Department of Alcoholic Beverage [~~Control~~]

Services deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year.

(b) For purposes of this Subsection (3), the Department of Alcoholic Beverage [~~Control~~] Services shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The state board shall use money in the account for the Underage Drinking and Substance Abuse Prevention Program described in Section 53G-10-406.

Section 82. Section 53G-10-406 is amended to read:

53G-10-406. Underage Drinking and Substance Abuse Prevention Program -- State board rules.

(1) As used in this section:

(a) "Advisory council" means the Underage Drinking and Substance Abuse Prevention Program Advisory Council created in this section.

(b) "Program" means the Underage Drinking and Substance Abuse Prevention Program created in this section.

(c) "School-based prevention program" means an evidence-based program that:

(i) is aimed at preventing underage consumption of alcohol and underage use of electronic cigarette products;

(ii) is delivered by methods that engage students in storytelling and visualization;

(iii) addresses the behavioral risk factors associated with underage drinking and use of electronic cigarette products; and

(iv) provides practical tools to address the dangers of underage drinking and use of electronic cigarette products.

(2) There is created the Underage Drinking and Substance Abuse Prevention Program that consists of:

(a) a school-based prevention program for students in grade 4 or 5;

(b) a school-based prevention program for students in grade 7 or 8; and

(c) a school-based prevention program for students in grade 9 or 10 that increases awareness of the dangers of driving under the influence of alcohol.

(3) (a) Beginning with the 2018-19 school year, an LEA shall offer the program each school year to each student in grade 7 or 8 and grade 9 or 10.

(b) In addition to Subsection (3)(a), beginning with the 2020-21 school year, an LEA shall offer the program each school year to each student in grade 4 or 5.

(c) An LEA shall select from the providers qualified by the state board under Subsection (6) to offer the program.

(4) The state board shall administer the program with input from the advisory council.

(5) There is created the Underage Drinking and Substance Abuse Prevention Program Advisory Council comprised of the following members:

(a) the executive director of the Department of Alcoholic Beverage [~~Control~~] Services or the executive director's designee;

(b) the executive director of the Department of Health or the executive director's designee;

(c) the director of the Division of Substance Abuse and Mental Health or the director's designee;

(d) the director of the Division of Child and Family Services or the director's designee;

(e) the director of the Division of Juvenile Justice Services or the director's designee;

(f) the state superintendent or the state superintendent's designee; and

(g) two members of the state board, appointed by the chair of the state board.

(6) (a) In accordance with Title 63G, Chapter 6a, Utah Procurement Code, the state board shall qualify one or more providers to provide the program to an LEA.

(b) In selecting a provider described in Subsection (6)(a), the state board shall consider:

(i) whether the provider's program complies with the requirements described in this section;

(ii) the extent to which the provider's prevention program aligns with core standards for Utah public schools; and

(iii) the provider's experience in providing a program that is effective.

(7) (a) The state board shall use money from the Underage Drinking and Substance Abuse Prevention Program Restricted Account described in Section 53F-9-304 for the program.

(b) The state board may use money from the Underage Drinking Prevention Program Restricted Account to fund up to .5 of a full-time equivalent position to administer the program.

(8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules that:

(a) beginning with the 2018-19 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 7 or 8 and grade 9 or 10;

(b) beginning with the 2020-21 school year, require an LEA to offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5; and

(c) establish criteria for the state board to use in selecting a provider described in Subsection (6).

Section 83. Section 59-1-403 is amended to read:

59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.

(1) As used in this section:

(a) "Distributed tax, fee, or charge" means a tax, fee, or charge:

(i) the commission administers under:

(A) this title, other than a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;

(B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

(C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;

(D) Section 19-6-805;

(E) Section 63H-1-205; or

(F) Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges; and

(ii) with respect to which the commission distributes the revenue collected from the tax, fee, or charge to a qualifying jurisdiction.

(b) "Qualifying jurisdiction" means:

(i) a county, city, town, or metro township; or

(ii) the military installation development authority created in Section 63H-1-201.

(2) (a) Any of the following may not divulge or make known in any manner any information gained by that person from any return filed with the commission:

(i) a tax commissioner;

(ii) an agent, clerk, or other officer or employee of the commission; or

(iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

(b) An official charged with the custody of a return filed with the commission is not required to produce the return or evidence of anything contained in the return in any action or proceeding in any court, except:

(i) in accordance with judicial order;

(ii) on behalf of the commission in any action or proceeding under:

(A) this title; or

(B) other law under which persons are required to file returns with the commission;

(iii) on behalf of the commission in any action or proceeding to which the commission is a party; or

(iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

(c) Notwithstanding Subsection (2)(b), a court may require the production of, and may admit in evidence, any portion of a return or of the facts shown by the return, as are specifically pertinent to the action or proceeding.

(3) This section does not prohibit:

(a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;

(b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

(c) the inspection by the attorney general or other legal representative of the state of the report or return of any taxpayer:

(i) who brings action to set aside or review a tax based on the report or return;

(ii) against whom an action or proceeding is contemplated or has been instituted under this title; or

(iii) against whom the state has an unsatisfied money judgment.

(4) (a) Notwithstanding Subsection (2) and for purposes of administration, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for a reciprocal exchange of information with:

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209 and 59-12-210, if the political subdivision, other state, or the federal government grant substantially similar privileges to this state.

(c) Notwithstanding Subsection (2) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, provide for the issuance of information concerning the identity and other information of taxpayers who have failed to file tax returns or to pay any tax due.

(d) Notwithstanding Subsection (2), the commission shall provide to the director of the Division of Environmental Response and Remediation, as defined in Section 19-6-402, as requested by the director of the Division of Environmental Response and Remediation, any records, returns, or other information filed with the commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program participation fee.

(e) Notwithstanding Subsection (2), at the request of any person the commission shall provide that person sales and purchase volume data reported to the commission on a report, return, or other information filed with the commission under:

(i) Chapter 13, Part 2, Motor Fuel; or

(ii) Chapter 13, Part 4, Aviation Fuel.

(f) Notwithstanding Subsection (2), upon request from a tobacco product manufacturer, as defined in Section 59-22-202, the commission shall report to the manufacturer:

(i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer and reported to the commission for the previous calendar year under Section 59-14-407; and

(ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the manufacturer for which a tax refund was granted during the previous calendar year under Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

(g) Notwithstanding Subsection (2), the commission shall notify manufacturers, distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

(h) Notwithstanding Subsection (2), the commission may:

(i) provide to the Division of Consumer Protection within the Department of Commerce and the attorney general data:

(A) reported to the commission under Section 59-14-212; or

(B) related to a violation under Section 59-14-211; and

(ii) upon request, provide to any person data reported to the commission under Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

(i) Notwithstanding Subsection (2), the commission shall, at the request of a committee of the Legislature, the Office of the Legislative Fiscal Analyst, or the Governor's Office of Planning and Budget, provide to the committee or office the total amount of revenues collected by the commission under Chapter 24, Radioactive Waste Facility Tax Act, for the time period specified by the committee or office.

(j) Notwithstanding Subsection (2), the commission shall make the directory required by Section 59-14-603 available for public inspection.

(k) Notwithstanding Subsection (2), the commission may share information with federal, state, or local agencies as provided in Subsection 59-14-606(3).

(l) (i) Notwithstanding Subsection (2), the commission shall provide the Office of Recovery Services within the Department of Human Services any relevant information obtained from a return filed under Chapter 10, Individual Income Tax Act, regarding a taxpayer who has become obligated to the Office of Recovery Services.

(ii) The information described in Subsection (4)(l)(i) may be provided by the Office of Recovery Services to any other state's child support collection agency involved in enforcing that support obligation.

(m) (i) Notwithstanding Subsection (2), upon request from the state court administrator, the commission shall provide to the state court administrator, the name, address, telephone number, county of residence, and social security number on resident returns filed under Chapter 10, Individual Income Tax Act.

(ii) The state court administrator may use the information described in Subsection (4)(m)(i) only as a source list for the master jury list described in Section 78B-1-106.

(n) (i) As used in this Subsection (4)(n):

(A) "GO Utah office" means the Governor's Office of Economic Opportunity created in Section 63N-1a-301.

(B) "Income tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(C) "Other tax information" means information gained by the commission that is required to be attached to or included in a return filed with the commission except for a return filed under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual Income Tax Act.

(D) "Tax information" means income tax information or other tax information.

(ii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(ii)(B) or (C), the commission shall at the request of the GO Utah office provide to the GO Utah office all income tax information.

(B) For purposes of a request for income tax information made under Subsection (4)(n)(ii)(A), the GO Utah office may not request and the commission may not provide to the GO Utah office a person's address, name, social security number, or taxpayer identification number.

(C) In providing income tax information to the GO Utah office, the commission shall in all instances protect the privacy of a person as required by Subsection (4)(n)(ii)(B).

(iii) (A) Notwithstanding Subsection (2) and except as provided in Subsection (4)(n)(iii)(B), the commission shall at the request of the GO Utah office provide to the GO Utah office other tax information.

(B) Before providing other tax information to the GO Utah office, the commission shall redact or remove any name, address, social security number, or taxpayer identification number.

(iv) The GO Utah office may provide tax information received from the commission in accordance with this Subsection (4)(n) only:

(A) as a fiscal estimate, fiscal note information, or statistical information; and

(B) if the tax information is classified to prevent the identification of a particular return.

(v) (A) A person may not request tax information from the GO Utah office under Title 63G, Chapter 2, Government Records Access and Management Act, or this section, if the GO Utah office received the tax information from the commission in accordance with this Subsection (4)(n).

(B) The GO Utah office may not provide to a person that requests tax information in accordance with Subsection (4)(n)(v)(A) any tax information other than the tax information the GO Utah office provides in accordance with Subsection (4)(n)(iv).

(o) Notwithstanding Subsection (2), the commission may provide to the governing board of the agreement or a taxing official of another state, the District of Columbia, the United States, or a territory of the United States:

(i) the following relating to an agreement sales and use tax:

(A) information contained in a return filed with the commission;

(B) information contained in a report filed with the commission;

(C) a schedule related to Subsection (4)(o)(i)(A) or (B); or

(D) a document filed with the commission; or

(ii) a report of an audit or investigation made with respect to an agreement sales and use tax.

(p) Notwithstanding Subsection (2), the commission may provide information concerning a taxpayer's state income tax return or state income tax withholding information to the Driver License Division if the Driver License Division:

(i) requests the information; and

(ii) provides the commission with a signed release form from the taxpayer allowing the Driver License Division access to the information.

(q) Notwithstanding Subsection (2), the commission shall provide to the Utah Communications Authority, or a division of the Utah Communications Authority, the information requested by the authority under Sections 63H-7a-302, 63H-7a-402, and 63H-7a-502.

(r) Notwithstanding Subsection (2), the commission shall provide to the Utah Educational Savings Plan information related to a resident or nonresident individual's contribution to a Utah Educational Savings Plan account as designated on the resident or nonresident's individual income tax return as provided under Section 59-10-1313.

(s) Notwithstanding Subsection (2), for the purpose of verifying eligibility under Sections 26-18-2.5 and 26-40-105, the commission shall provide an eligibility worker with the Department of Health or its designee with the adjusted gross income of an individual if:

(i) an eligibility worker with the Department of Health or its designee requests the information from the commission; and

(ii) the eligibility worker has complied with the identity verification and consent provisions of Sections 26-18-2.5 and 26-40-105.

(t) Notwithstanding Subsection (2), the commission may provide to a county, as determined by the commission, information declared on an individual income tax return in accordance with Section 59-10-103.1 that relates to eligibility to claim a residential exemption authorized under Section 59-2-103.

(u) Notwithstanding Subsection (2), the commission shall provide a report regarding any access line provider that is over 90 days delinquent in payment to the commission of amounts the access line provider owes under Title 69, Chapter 2, Part 4, Prepaid Wireless Telecommunications Service Charges, to the board of the Utah Communications Authority created in Section 63H-7a-201.

(v) Notwithstanding Subsection (2), the commission shall provide the Department of Environmental Quality a report on the amount of tax paid by a radioactive waste facility for the previous calendar year under Section 59-24-103.5.

(w) Notwithstanding Subsection (2), the commission may, upon request, provide to the Department of Workforce Services any information received under Chapter 10, Part 4, Withholding of Tax, that is relevant to the duties of the Department of Workforce Services.

(x) Notwithstanding Subsection (2), the commission may provide the Public Service Commission or the Division of Public Utilities information related to a seller that collects and remits to the commission a charge described in Subsection 69-2-405(2), including the seller's identity and the number of charges described in Subsection 69-2-405(2) that the seller collects.

(y) (i) Notwithstanding Subsection (2), the commission shall provide to each qualifying jurisdiction the collection data necessary to verify the revenue collected by the commission for a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(ii) In addition to the information provided under Subsection (4)(y)(i), the commission shall provide a qualifying jurisdiction with copies of returns and other information relating to a distributed tax, fee, or charge collected within the qualifying jurisdiction.

(iii) (A) To obtain the information described in Subsection (4)(y)(ii), the chief executive officer or the chief executive officer's designee of the qualifying jurisdiction shall submit a written request to the commission that states the specific information sought and how the qualifying jurisdiction intends to use the information.

(B) The information described in Subsection (4)(y)(ii) is available only in official matters of the qualifying jurisdiction.

(iv) Information that a qualifying jurisdiction receives in response to a request under this subsection is:

(A) classified as a private record under Title 63G, Chapter 2, Government Records Access and Management Act; and

(B) subject to the confidentiality requirements of this section.

(z) Notwithstanding Subsection (2), the commission shall provide the Alcoholic Beverage [~~Control~~] Services Commission, upon request, with taxpayer status information related to state tax obligations necessary to comply with the requirements described in Section 32B-1-203.

(5) (a) Each report and return shall be preserved for at least three years.

(b) After the three-year period provided in Subsection (5)(a) the commission may destroy a report or return.

(6) (a) Any individual who violates this section is guilty of a class A misdemeanor.

(b) If the individual described in Subsection (6)(a) is an officer or employee of the state, the individual shall be dismissed from office and be disqualified from holding public office in this state for a period of five years thereafter.

(c) Notwithstanding Subsection (6)(a) or (b), the GO Utah office, when requesting information in accordance with Subsection (4)(n)(iii), or an individual who requests information in accordance with Subsection (4)(n)(v):

(i) is not guilty of a class A misdemeanor; and

(ii) is not subject to:

(A) dismissal from office in accordance with Subsection (6)(b); or

(B) disqualification from holding public office in accordance with Subsection (6)(b).

(7) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 84. Section 59-15-108 is amended to read:

59-15-108. Construction and equipment of establishments.

No brewery or other establishment may be constructed or equipped in a manner which facilitates any breach of this chapter or the rules of the Alcoholic Beverage [~~Control~~] Services Commission or State Tax Commission. Any structure or equipment in violation of this section shall be removed by order of the Alcoholic Beverage Control Commission or the State Tax Commission.

Section 85. Section 62A-1-121 is amended to read:

62A-1-121. Tracking effects of abuse of alcoholic products.

(1) There is created a committee within the department known as the "Alcohol Abuse Tracking Committee" that consists of:

(a) the executive director or the executive director's designee;

(b) the executive director of the Department of Health or that executive director's designee;

(c) the commissioner of the Department of Public Safety or the commissioner's designee;

(d) the director of the Department of Alcoholic Beverage [~~Control~~] Services or that director's designee;

(e) the executive director of the Department of Workforce Services or that executive director's designee;

(f) the chair of the Utah Substance Use and Mental Health Advisory Council or the chair's designee;

(g) the state court administrator or the state court administrator's designee; and

(h) the director of the Division of Technology Services or that director's designee.

(2) The executive director or the executive director's designee shall chair the committee.

(3) (a) Four members of the committee constitute a quorum.

(b) A vote of the majority of the committee members present when a quorum is present is an action of the committee.

(4) The committee shall meet at the call of the chair, except that the chair shall call a meeting at least twice a year:

(a) with one meeting held each year to develop the report required under Subsection (7); and

(b) with one meeting held to review and finalize the report before the report is issued.

(5) The committee may adopt additional procedures or requirements for:

(a) voting, when there is a tie of the committee members;

(b) how meetings are to be called; and

(c) the frequency of meetings.

(6) The committee shall establish a process to collect for each calendar year the following information:

(a) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to underage drinking of alcohol;

(b) the number of individuals statewide who are convicted of, plead guilty to, plead no contest to, plead guilty in a similar manner to, or resolve by diversion or its equivalent to a violation related to driving under the influence of alcohol;

(c) the number of violations statewide of Title 32B, Alcoholic Beverage Control Act, related to over-serving or over-consumption of an alcoholic product;

(d) the cost of social services provided by the state related to abuse of alcohol, including services provided by the Division of Child and Family Services;

(e) the location where the alcoholic products that result in the violations or costs described in Subsections (6)(a) through (d) are obtained; and

(f) any information the committee determines can be collected and relates to the abuse of alcoholic products.

(7) The committee shall report the information collected under Subsection (6) annually to the governor and the Legislature by no later than the July 1 immediately following the calendar year for which the information is collected.

Section 86. Section 62A-15-401 is amended to read:

62A-15-401. Alcohol training and education seminar.

(1) As used in this part:

(a) "Instructor" means a person that directly provides the instruction during an alcohol training and education seminar for a seminar provider.

(b) "Licensee" means a person who is:

(i) (A) a new or renewing licensee under Title 32B, Alcoholic Beverage Control Act; and

(B) engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee; or

(ii) a business that is:

(A) a new or renewing licensee licensed by a city, town, or county; and

(B) engaged in the retail sale of beer for consumption off the premises of the licensee.

(c) "Off-premise beer retailer" is as defined in Section 32B-1-102.

(d) "Seminar provider" means a person other than the division who provides an alcohol training and education seminar meeting the requirements of this section.

(2) (a) This section applies to:

(i) a retail manager as defined in Section 32B-1-701;

(ii) retail staff as defined in Section 32B-1-701; and

(iii) an individual who, as defined by division rule:

(A) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(B) sells beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) If the individual does not have a valid record that the individual has completed an alcohol training and education seminar, an individual described in Subsection (2)(a) shall:

(i) (A) complete an alcohol training and education seminar within 30 days of the following if the individual is described in Subsection (2)(a)(i) or (ii):

(I) if the individual is an employee, the day the individual begins employment;

(II) if the individual is an independent contractor, the day the individual is first hired; or

(III) if the individual holds an ownership interest in the licensee, the day that the individual first engages in an activity that would result in that individual being required to complete an alcohol training and education seminar; or

(B) complete an alcohol training and education seminar within the time periods specified in Subsection 32B-1-703(1) if the individual is described in Subsection (2)(a)(iii)(A) or (B); and

(ii) pay a fee:

(A) to the seminar provider; and

(B) that is equal to or greater than the amount established under Subsection (4)(h).

(c) An individual shall have a valid record that the individual completed an alcohol training and education seminar within the time period provided in this Subsection (2) to engage in an activity described in Subsection (2)(a).

(d) A record that an individual has completed an alcohol training and education seminar is valid for:

(i) three years from the day on which the record is issued for an individual described in Subsection (2)(a)(i) or (ii); and

(ii) five years from the day on which the record is issued for an individual described in Subsection (2)(a)(iii)(A) or (B).

(e) On and after July 1, 2011, to be considered as having completed an alcohol training and education seminar, an individual shall:

(i) attend the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar in the physical presence of an instructor of the seminar provider; or

(ii) complete the alcohol training and education seminar and take any test required to demonstrate completion of the alcohol training and education seminar through an online course or testing program that meets the requirements described in Subsection (2)(f).

(f) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish one or more requirements for an online course or testing program described in Subsection (2)(e) that are designed to inhibit fraud in the use of the online course or testing program. In developing the requirements by rule the division shall consider whether to require:

(i) authentication that the an individual accurately identifies the individual as taking the online course or test;

(ii) measures to ensure that an individual taking the online course or test is focused on training material throughout the entire training period;

(iii) measures to track the actual time an individual taking the online course or test is actively engaged online;

(iv) a seminar provider to provide technical support, such as requiring a telephone number, email, or other method of communication that allows an individual taking the online course or test to receive assistance if the individual is unable to participate online because of technical difficulties;

(v) a test to meet quality standards, including randomization of test questions and maximum time limits to take a test;

(vi) a seminar provider to have a system to reduce fraud as to who completes an online course or test, such as requiring a distinct online certificate with information printed on the certificate that identifies the person taking the online course or test, or requiring measures to inhibit duplication of a certificate;

(vii) measures for the division to audit online courses or tests;

(viii) measures to allow an individual taking an online course or test to provide an evaluation of the online course or test;

(ix) a seminar provider to track the Internet protocol address or similar electronic location of an individual who takes an online course or test;

(x) an individual who takes an online course or test to use an e-signature; or

(xi) a seminar provider to invalidate a certificate if the seminar provider learns that the certificate does not accurately reflect the individual who took the online course or test.

(3) (a) A licensee may not permit an individual who is not in compliance with Subsection (2) to:

(i) serve or supervise the serving of an alcoholic product to a customer for consumption on the premises of the licensee;

(ii) engage in any activity that would constitute managing operations at the premises of a licensee that engages in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(iii) directly supervise the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(iv) sell beer to a customer for consumption off the premises of an off-premise beer retailer.

(b) A licensee that violates Subsection (3)(a) is subject to Section 32B-1-702.

(4) The division shall:

(a) (i) provide alcohol training and education seminars; or

(ii) certify one or more seminar providers;

(b) establish the curriculum for an alcohol training and education seminar that includes the following subjects:

(i) (A) alcohol as a drug; and

(B) alcohol's effect on the body and behavior;

(ii) recognizing the problem drinker or signs of intoxication;

(iii) an overview of state alcohol laws related to responsible beverage sale or service, as determined in consultation with the Department of Alcoholic Beverage [~~Control~~] Services;

(iv) dealing with the problem customer, including ways to terminate sale or service; and

(v) for those supervising or engaging in the retail sale of an alcoholic product for consumption on the premises of a licensee, alternative means of transportation to get the customer safely home;

(c) recertify each seminar provider every three years;

(d) monitor compliance with the curriculum described in Subsection (4)(b);

(e) maintain for at least five years a record of every person who has completed an alcohol training and education seminar;

(f) provide the information described in Subsection (4)(e) on request to:

(i) the Department of Alcoholic Beverage [~~Control~~] Services;

(ii) law enforcement; or

(iii) a person licensed by the state or a local government to sell an alcoholic product;

(g) provide the Department of Alcoholic Beverage [~~Control~~] Services on request a list of any seminar provider certified by the division; and

(h) establish a fee amount for each person attending an alcohol training and education seminar that is sufficient to offset the division's cost of administering this section.

(5) The division shall by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(a) define what constitutes under this section an individual who:

(i) manages operations at the premises of a licensee engaged in the retail sale of an alcoholic product for consumption on the premises of the licensee;

(ii) supervises the serving of an alcoholic product to a customer for consumption on the premises of a licensee;

(iii) serves an alcoholic product to a customer for consumption on the premises of a licensee;

(iv) directly supervises the sale of beer to a customer for consumption off the premises of an off-premise beer retailer; or

(v) sells beer to a customer for consumption off the premises of an off-premise beer retailer;

(b) establish criteria for certifying and recertifying a seminar provider; and

(c) establish guidelines for the manner in which an instructor provides an alcohol education and training seminar.

(6) A seminar provider shall:

(a) obtain recertification by the division every three years;

(b) ensure that an instructor used by the seminar provider:

(i) follows the curriculum established under this section; and

(ii) conducts an alcohol training and education seminar in accordance with the guidelines established by rule;

(c) ensure that any information provided by the seminar provider or instructor of a seminar provider is consistent with:

(i) the curriculum established under this section; and

(ii) this section;

(d) provide the division with the names of all persons who complete an alcohol training and education seminar provided by the seminar provider;

(e) (i) collect a fee for each person attending an alcohol training and education seminar in accordance with Subsection (2); and

(ii) forward to the division the portion of the fee that is equal to the amount described in Subsection (4)(h); and

(f) issue a record to an individual that completes an alcohol training and education seminar provided by the seminar provider.

(7) (a) If after a hearing conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division finds that a seminar provider violates this section or that an instructor of the seminar provider violates this section, the division may:

(i) suspend the certification of the seminar provider for a period not to exceed 90 days;

(ii) revoke the certification of the seminar provider;

(iii) require the seminar provider to take corrective action regarding an instructor; or

(iv) prohibit the seminar provider from using an instructor until such time that the seminar provider establishes to the satisfaction of the division that the instructor is in compliance with Subsection (6)(b).

(b) The division may certify a seminar provider whose certification is revoked:

(i) no sooner than 90 days from the date the certification is revoked; and

(ii) if the seminar provider establishes to the satisfaction of the division that the seminar provider will comply with this section.

Section 87. Section 63A-17-502 is amended to read:

63A-17-502. Overtime policies for state employees.

(1) As used in this section:

(a) "Accrued overtime hours" means:

(i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end of the fiscal year, have not been paid and have not been taken as time off by the nonexempt state employee who accrued them; and

(ii) for exempt employees, overtime hours earned during an overtime year.

(b) "Appointed official" means:

(i) each department executive director and deputy director, each division director, and each member of a board or commission; and

(ii) any other person employed by a department who is appointed by, or whose appointment is required by law to be approved by, the governor and who:

(A) is paid a salary by the state; and

(B) who exercises managerial, policy-making, or advisory responsibility.

(c) "Department" means the Department of Government Operations, the Department of Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage [~~Control~~] Services, the Insurance Department, the

Public Service Commission, the Labor Commission, the Department of Agriculture and Food, the Department of Human Services, the Department of Natural Resources, the Department of Transportation, the Department of Commerce, the Department of Workforce Services, the State Tax Commission, the Department of Cultural and Community Engagement, the Department of Health, the National Guard, the Department of Environmental Quality, the Department of Public Safety, the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney General, merit employees in the Office of the State Treasurer, merit employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.

(d) "Elected official" means any person who is an employee of the state because the person was elected by the registered voters of Utah to a position in state government.

(e) "Exempt employee" means a state employee who is exempt as defined by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of compensation the nonexempt employee will receive for overtime.

(h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division applying FLSA requirements.

(i) "Overtime" means actual time worked in excess of the employee's defined work period.

(j) "Overtime year" means the year determined by a department under Subsection (4)(b) at the end of which an exempt employee's accrued overtime lapses.

(k) "State employee" means every person employed by a department who is not:

(i) an appointed official;

(ii) an elected official; or

(iii) a member of a board or commission who is paid only for per diem or travel expenses.

(l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.

(m) "Work period" means:

(i) for all nonexempt employees, except law enforcement and hospital employees, a consecutive seven day 24 hour work period of 40 hours;

(ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

(iii) for nonexempt law enforcement and hospital employees, the period established by each department by rule for those employees according to the requirements of the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

(2) Each department shall compensate each state employee who works overtime by complying with the requirements of this section.

(3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.

(b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:

(i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or

(ii) being paid for the overtime worked at the rate of one and one-half times the rate per hour that the state employee receives for nonovertime work.

(c) Any nonexempt employee who elects to take time off under this Subsection (3) shall be paid for any overtime worked in excess of the cap established by the division.

(d) Before working any overtime, each nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.

(e) Each department shall:

(i) for employees who elect to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and

(ii) for employees who elect to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.

(f) If a department pays a nonexempt employee for overtime, that department shall charge that payment to that department's budget.

(g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall compensate exempt employees who work overtime by granting them time off at the rate of one hour off for each hour of overtime worked.

(ii) The director of the division may grant limited exceptions to this requirement, where work circumstances dictate, by authorizing a department to pay employees for overtime worked at the rate per hour that the employee receives for nonovertime work, if that department has funds available.

(b) (i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (4), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a benefit, and is not a vested right.

(ii) A court may not construe the overtime for exempt employees authorized by this Subsection (4) as an entitlement, a benefit, or as a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and

(ii) unless authorized by the director of the division under Subsection (4)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.

(5) The division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether that employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

(ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;

(iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;

(iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;

(v) subject to the FLSA, establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;

(vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and

(vii) establishing procedures for adjudicating appeals of any FLSA determinations made by the division as required by this section;

(d) monitor departments for compliance with the FLSA; and

(e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.

(6) (a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.

(b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, any employee who is aggrieved by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.

(c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.

(d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.

Section 88. Section 63A-17-807 is amended to read:

63A-17-807. Department award program.

(1) As used in this section:

(a) "Department" means the Department of Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage [~~Control~~] Services, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Workforce Services, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Services, the Insurance Department, the National Guard, the Department of Natural Resources, the Department of Public Safety, the Public Service Commission, the Labor Commission, the State Board of Education, the Utah Board of Higher

Education, the State Tax Commission, and the Department of Transportation.

(b) "Department head" means the individual or body of individuals in whom the ultimate legal authority of the department is vested by law.

(2) There is created a department awards program to award an outstanding employee in each department of state government.

(3) (a) On or before April 1 of each year, each department head shall solicit nominations for outstanding employee of the year for that department from the employees in that department.

(b) On or before July 1 of each year, the department head shall:

(i) select a person from the department to receive the outstanding employee of the year award using the criteria established in Subsection (3)(c); and

(ii) announce the recipient of the award to the employees of the department.

(c) Department heads shall make the award to an employee who demonstrates:

(i) extraordinary competence in performing the employee's function;

(ii) creativity in identifying problems and devising workable, cost-effective solutions;

(iii) excellent relationships with the public and other employees;

(iv) a commitment to serving the public as the client; and

(v) a commitment to economy and efficiency in government.

(4) (a) The division shall divide any appropriation for outstanding department employee awards that the division receives from the Legislature equally among the departments.

(b) If a department receives money from the division or if a department budget allows, that department head shall provide the employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

(5) (a) A department head may name the award after an exemplary present or former employee of the department.

(b) A department head may not name the award for oneself or for any relative as defined in Section 52-3-1.

Section 89. Section 63B-3-301 is amended to read:

63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

(a) the lease purchase obligation; or

(b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East

Business Park in Salt Lake City, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $9,000,000 for the acquisition or construction of up to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to $5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage [~~Control~~] Services not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the executive director of the Governor's Office of Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections, the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth

Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm;

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of State Parks, formerly known as the Division of Parks and Recreation, and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use $250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Board of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 90. Section 63B-5-201 is amended to read:

63B-5-201. Legislative intent statements.

(1) If the United States Department of Defense has not provided matching funds to construct the National Guard Armory in Orem by December 31, 1997, the Division of Facilities Construction and Management shall transfer any funds received from issuance of a General Obligation Bond for benefit of the Orem Armory to the Provo Armory for capital improvements.

(2) It is the intent of the Legislature that the University of Utah use institutional funds to plan, design, and construct:

(a) the Health Science East parking structure under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) the Health Science Office Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) the new Student Housing/Olympic Athletes Village under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(3) It is the intent of the Legislature that Utah State University use institutional funds to plan, design, and construct a multipurpose facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(4) It is the intent of the Legislature that the Utah Geologic Survey use agency internal funding to plan, design, and construct a sample library facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(5) (a) If legislation introduced in the 1996 General Session to fund the Wasatch State Park Club House does not pass, the State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,500,000 for the remodel and expansion of the clubhouse at Wasatch Mountain State Park for the Division of State Parks, formerly known as the Division of Parks and Recreation, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of State Parks, formerly known as the Division of Parks and Recreation, to seek out the most cost effective and prudent lease purchase plan available.

(6) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $835,300 for the construction of a liquor store in the Snyderville area, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Alcoholic Beverage [~~Control~~] Services to seek out the most cost effective and prudent lease purchase plan available.

(7) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $15,000,000 for the construction of the Huntsman Cancer Institute, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of the Huntsman Cancer Institute facility.

(8) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $857,600 for the construction of an addition to the Human Services facility in Vernal, Utah together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Department of Human Services to seek out the most cost effective and prudent lease purchase plan available.

(9) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $3,470,200 for the construction of the Student Services Center, at Utah State University Eastern, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with Utah State University Eastern to seek out the most cost effective and prudent lease purchase plan available.

(10) (a) Notwithstanding anything to the contrary in Title 53B, Chapter 21, Revenue Bonds, which prohibits the issuance of revenue bonds payable from legislative appropriations, the State Board of Regents, on behalf of Dixie College, may issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit of the income and revenues, including legislative appropriations, of Dixie College, to finance the acquisition of the Dixie Center.

(b) (i) The bonds or other evidences of indebtedness authorized by this section shall be issued in accordance with Title 53B, Chapter 21, Revenue Bonds, under terms and conditions and in amounts that the board, by resolution, determines are reasonable and necessary and may not exceed $6,000,000 together with additional amounts necessary to:

(A) pay cost of issuance;

(B) pay capitalized interest; and

(C) fund any debt service reserve requirements.

(ii) To the extent that future legislative appropriations will be required to provide for payment of debt service in full, the board shall ensure that the revenue bonds are issued containing a clause that provides for payment from future legislative appropriations that are legally available for that purpose.

(11) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $10,479,000 for the construction of a facility for the Courts – Davis County Regional Expansion, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(12) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $4,200,000 for the purchase and remodel of the Washington County Courthouse, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Administrative Office of the Courts to seek out the most cost effective and prudent lease purchase plan available.

(13) (a) The State Building Ownership Authority, under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $14,299,700 for the construction of a facility for the State Library and the Division of Services for the Blind and Visually Impaired, together with additional amounts necessary to:

(i) pay costs of issuance;

(ii) pay capitalized interest; and

(iii) fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the State Board of Education and the Governor's Office of Economic Opportunity to seek out the most cost effective and prudent lease purchase plan available.

Section 91. Section 63B-10-301 is amended to read:

63B-10-301. Revenue bond authorizations.

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,281,000 for the construction of an expansion of the Department of Alcoholic Beverage [~~Control~~] Services warehouse together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage [~~Control~~] Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

(2) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $957,100 for the acquisition of a site and construction of a store in the western part of Salt Lake County for the Department of Alcoholic Beverage [~~Control~~] Services together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage [~~Control~~] Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2).

(3) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,497,700 for the acquisition of a site and construction of a store in the southern part of Salt Lake County for the Department of Alcoholic

Beverage [~~Control~~] Services together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that enhanced revenues of the Department of Alcoholic Beverage [~~Control~~] Services be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3).

(4) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $100,000,000 for the acquisition and construction of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) The State Building Ownership Authority shall work cooperatively with the Division of Facilities Construction and Management and the University of Utah to seek out the most cost effective and prudent lease purchase plan available.

(c) It is the intent of the Legislature that the University of Utah lease land to the State Building Ownership Authority for the construction of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center.

(d) The anticipated revenue sources for repayment of any obligation created under authority of this section are:

(i) the institutional funds of the University of Utah, including the University's annual distribution of tobacco settlement funds from the state; and

(ii) donations from the Huntsman Cancer Foundation and other donors.

(e) By September 1 of each year of the existence of this revenue bond, the University of Utah shall give an annual report regarding the status of the bond and the bond payments to the Legislative Fiscal Analyst. This report shall be reviewed by the Higher Education Appropriations Subcommittee and the Capital Facilities Appropriation Subcommittee.

(5) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the University of Utah, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an expansion of the University Hospital;

(b) University Hospital revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $25,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(6) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Salt Lake Community College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Salt Lake Community College to borrow money on the credit, revenues, and reserves of Salt Lake Community College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping the remodel of the cafeteria and expansion of the Student Center;

(b) student fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $6,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(7) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Dixie College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Dixie College to borrow money on the credit, revenues, and reserves of Dixie College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping an expansion of the Gardner Student Center;

(b) student fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $1,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

Section 92. Section 63B-11-701 is amended to read:

63B-11-701. Revenue bond authorizations.

(1) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of the University of Utah, issue, sell, and deliver revenue bonds or other evidences of indebtedness of the University of Utah to borrow money on the credit, revenues, and reserves of the University of Utah, other than appropriations of the Legislature, to refinance the cost of acquiring, constructing, furnishing, and equipping the East-Campus Central Plant and related energy improvements;

(b) savings in heating and cooling costs be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $33,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Utah State University, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Utah State University to borrow money on the credit, revenues, and reserves of Utah State University, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping research and office facilities at its Research Park;

(b) revenues from research activities, the Utah State University Research Foundation, and other institutional funds be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $19,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(3) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Southern Utah University, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Southern Utah University to borrow money on the credit, revenues, and reserves of Southern Utah University, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping a Student Living and Learning Facility;

(b) student housing and other auxiliary revenues and student building fees be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $9,000,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(4) It is the intent of the Legislature that:

(a) the Board of Regents, on behalf of Snow College, issue, sell, and deliver revenue bonds or other evidences of indebtedness of Snow College to borrow money on the credit, revenues, and reserves of Snow College, other than appropriations of the Legislature, to finance the cost of acquiring, constructing, furnishing, and equipping a Multi-Event Center in Richfield;

(b) usage fees and other operating revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the bonds or other evidences of indebtedness authorized by this section may provide up to $2,500,000, together with other amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(5) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $1,836,000 for the acquisition of a site and construction of a store in Tooele for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

Section 93. Section 63B-13-201 is amended to read:

63B-13-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $8,205,000 for the acquisition and construction of five stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the stores to be addressed through this authorization are:

(i) a new Park City store;

(ii) replacement of the Mount Olympus store;

(iii) replacement of the Ogden City 2nd Street store;

(iv) replacement of the Ogden Patterson Street store; and

(v) expansion of the Provo store.

(c) It is the intent of the Legislature that proceeds from the sale of stores replaced through this authorization shall be deposited in the General Fund.

(d) It is further the intent of the Legislature that increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (1).

(2) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a

lease purchase agreement in which participation interests may be created, to provide up to $8,914,000 for the acquisition and construction of a new regional office building in Ogden, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is further the intent of the Legislature that existing rent budgets be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (2).

(3) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $1,450,000 for the acquisition of the leased regional office building and adjacent land in Moab, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is further the intent of the Legislature that existing rent budgets be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (3).

(4) (a) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $7,103,000 for the acquisition of the Tooele Courts building and adjacent land in Tooele City, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(b) It is further the intent of the Legislature that court fees be used as the primary revenue source for repayment of any obligation created under authority of this Subsection (4).

Section 94. Section 63B-14-201 is amended to read:

63B-14-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $7,867,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) It is the intent of the Legislature that the stores to be addressed through this authorization are:

(a) a new wine store in the downtown Salt Lake City area;

(b) a new store in Washington County; and

(c) a new store in southwest Salt Lake County.

(3) It is the intent of the Legislature that:

(a) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this subsection; and

(b) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 95. Section 63B-15-201 is amended to read:

63B-15-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) It is the intent of the Legislature that the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $7,371,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements.

(2) It is the intent of the Legislature that the stores to be addressed through this authorization are:

(a) a new store in the Holladay/Cottonwood area of Salt Lake County;

(b) expansion and remodel of the Kimball Junction store in Summit County; and

(c) expansion and remodel of the Redwood Road store in Salt Lake County.

(3) It is the intent of the Legislature that:

(a) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(b) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 96. Section 63B-16-201 is amended to read:

63B-16-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) It is the intent of the Legislature that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,662,000 for the acquisition and construction of three stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the stores to be addressed through this authorization are:

(i) expansion of the North Temple store in Salt Lake County;

(ii) expansion of the Taylorsville store in Salt Lake County; and

(iii) reconstruction of the Bountiful store in Davis County;

(c) increased sales revenues be used as the primary revenue source for repayment of any obligation created under authority of this section; and

(d) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

(2) It is the intent of the Legislature that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $1,476,000 for the acquisition and construction of a production warehouse for Utah Correctional Industries, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) Utah Correctional Industries' revenues be used as the primary revenue source for repayment of any obligation created under authority of this section;

(c) Utah Correctional Industries may plan, design, and construct the production warehouse subject to requirements in Section 63A-5b-604; and

(d) Utah Correctional Industries may not request state funds for operation and maintenance costs or capital improvements.

Section 97. Section 63B-17-201 is amended to read:

63B-17-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to $90,000,000 for the acquisition and construction of phase II-B of a cancer clinical research hospital facility adjacent to the University of Utah Medical Center, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the University of Utah use institutional funds as the primary revenue source for repayment of any obligation created under authority of this section;

(c) the university may plan, design, and construct phase II-B of a cancer clinical research hospital facility subject to the requirements of Section 63A-5b-604; and

(d) the university may not request state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $23,700,000 for the acquisition and construction of five stores for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the stores to be addressed through this authorization are:

(i) the replacement of a liquor store in Cedar City;

(ii) a new Utah County North liquor store;

(iii) a new Utah County South liquor store;

(iv) a new Washington County South liquor store; and

(v) a new Wasatch County Heber/Midway liquor store;

(c) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section; and

(d) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 98. Section 63B-18-201 is amended to read:

63B-18-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to

$3,800,000 for the acquisition of property in the Salt Lake City, Utah area on which to construct a Department of Alcoholic Beverage [~~Control~~] Services warehouse expansion, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements; and

(b) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $19,904,000 for the construction of a warehouse expansion for the Department of Alcoholic Beverage [~~Control~~] Services, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this section; and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 99. Section 63B-24-101 is amended to read:

63B-24-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $86,936,000 for the Fourth District Provo Courthouse Expansion, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the judicial branch use court fees and existing lease budgets as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1); and

(c) the judicial branch may use state funds for operation and maintenance costs or capital improvements.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $4,447,900 for a West Valley Liquor Store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use increased sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 100. Section 63B-26-101 is amended to read:

63B-26-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $3,000,000 for the Fourth District Provo Courthouse parking lot, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the judicial branch use court fees and existing lease budgets as the primary revenue sources for repayment of any obligation created under authority of this Subsection (1);

(c) the judicial branch may use state funds for operation and maintenance costs or capital improvements; and

(d) the revenue bond authorized under this Subsection (1) may not be issued until on or after March 1, 2017.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,043,400 for a Syracuse liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 101. Section 63B-27-201 is amended to read:

63B-27-201. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,451,800 for a Farmington liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,451,800 for a southwest Salt Lake County liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 102. Section 63B-28-101 is amended to read:

63B-28-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,451,800 for a Pleasant Grove or Lehi market area liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $10,759,000 for reconstructing the Store 4: Foothill liquor store, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 103. Section 63B-29-101 is amended to read:

63B-29-101. Revenue bond authorizations -- State Building Ownership Authority.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $10,091,100 for the downtown liquor store relocation, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (1); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenue.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations, or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $14,000,000 for two liquor stores in the Taylorsville and West Valley City market areas, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenue as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenue.

Section 104. Section 63B-31-202 is amended to read:

63B-31-202. State Building Ownership Authority obligations for new state liquor stores.

(1) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $11,725,700 for a Salt Lake City market area liquor store in Sugarhouse, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (1);

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues; and

(d) the Department of Alcoholic Beverage [~~Control~~] Services use up to $5,000,000 to repay the State Store Land Acquisition Fund under Section 32B-2-307.

(2) The Legislature intends that:

(a) the State Building Ownership Authority, under the authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, may issue or execute obligations or may enter into or arrange for a lease-purchase agreement in which participation interests may be created, to provide up to $5,524,000 for a Salt Lake City area market liquor store in east Sandy, together with additional amounts necessary to pay costs of issuance, pay capitalized interest, and fund any existing debt service reserve requirements;

(b) the Department of Alcoholic Beverage [~~Control~~] Services use sales revenues as the primary revenue source for repayment of any obligation created under authority of this Subsection (2); and

(c) the Department of Alcoholic Beverage [~~Control~~] Services may request operation and maintenance funding from sales revenues.

Section 105. Section 63G-12-306 is amended to read:

63G-12-306. Penalties.

(1) As used in this section:

(a) "Applicable license" means a license issued under:

(i) Title 32B, Alcoholic Beverage Control Act;

(ii) Title 58, Occupations and Professions; or

(iii) Title 61, Securities Division - Real Estate Division.

(b) "First violation" means the first time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(c) "Second violation" means the second time the department imposes a penalty under this section, regardless of the number of individuals the private employer hired in violation of Subsection 63G-12-301(1).

(d) "Third or subsequent violation" means a violation of Subsection 63G-12-301(1) committed after a second violation.

(2) (a) On or after the program start date, a private employer who violates Subsection 63G-12-301(1) is subject to a penalty provided in this section under an action brought by the department in accordance with Section 63G-12-305.

(b) For a first violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed $100 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(c) For a second violation of Subsection 63G-12-301(1), the department shall impose a civil penalty on the private employer not to exceed $500 for each individual employed by the private employer during the time period specified in the notice of agency action who is an unauthorized alien who does not hold a valid permit.

(d) For a third or subsequent violation of Subsection 63G-12-301(1), the department shall:

(i) order the revocation of the one or more applicable licenses that are issued to an owner, officer, director, manager, or other individual in a similar position for the private employer for a period not to exceed one year; or

(ii) if no individual described in Subsection (2)(d)(i) holds an applicable license, impose a civil penalty on the private employer not to exceed $10,000.

(3) (a) If the department finds a third or subsequent violation, the department shall notify the Department of Commerce and the Department of Alcoholic Beverage [~~Control~~] Services once the department's order:

(i) is not appealed, and the time to appeal has expired; or

(ii) is appealed, and is affirmed, in whole or in part on appeal.

(b) The notice required under Subsection (3)(a) shall state:

(i) that the department has found a third or subsequent violation;

(ii) that any applicable license held by an individual described in Subsection (2)(d)(i) is to be revoked; and

(iii) the time period for the revocation, not to exceed one year.

(c) The department shall base its determination of the length of revocation under this section on evidence or information submitted to the department during the action under which a third or subsequent violation is found, and shall consider the following factors, if relevant:

(i) the number of unauthorized aliens who do not hold a permit that are employed by the private employer;

(ii) prior misconduct by the private employer;

(iii) the degree of harm resulting from the violation;

(iv) whether the private employer made good faith efforts to comply with any applicable requirements;

(v) the duration of the violation;

(vi) the role of the individuals described in Subsection (2)(d)(i) in the violation; and

(vii) any other factor the department considers appropriate.

(4) Within 10 business days of receipt of notice under Subsection (3), the Department of Commerce and the Department of Alcoholic Beverage [~~Control~~] Services shall:

(a) (i) if the Department of Commerce or Alcoholic Beverage [~~Control~~] Services Commission has issued an applicable license to an individual described in Subsection (2)(d)(i), notwithstanding any other law, revoke the applicable license; and

(ii) notify the department that the applicable license is revoked; or

(b) if the Department of Commerce or Alcoholic Beverage [~~Control~~] Services Commission has not issued an applicable license to an individual described in Subsection (2)(d)(i), notify the department that an applicable license has not been issued to an individual described in Subsection (2)(d)(i).

(5) If an individual described in Subsection (2)(d)(i) is licensed to practice law in the state and the department finds a third or subsequent violation of Subsection 63G-12-301(1), the department shall notify the Utah State Bar of the third and subsequent violation.

Section 106. Section 63I-5-201 (Superseded 07/01/22) is amended to read:

63I-5-201 (Superseded 07/01/22). Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage [~~Control~~] Services shall establish an internal audit program under the direction of the Alcoholic Beverage [~~Control~~] Services Commission.

Section 107. Section 63I-5-201 (Effective 07/01/22) is amended to read:

63I-5-201 (Effective 07/01/22). Internal auditing programs -- State agencies.

(1) (a) The departments of Administrative Services, Agriculture, Commerce, Cultural and Community Engagement, Corrections, Workforce Services, Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and Transportation, and the State Tax Commission shall conduct various types of auditing procedures as determined by the agency head or governor.

(b) The governor may, by executive order, require a state agency not described in Subsection (1)(a) to establish an internal audit program.

(c) The governor shall ensure that each state agency that reports to the governor has adequate internal audit coverage.

(2) (a) The Administrative Office of the Courts shall establish an internal audit program under the direction of the Judicial Council, including auditing procedures for courts not of record.

(b) The Judicial Council may, by rule, require other judicial agencies to establish an internal audit program.

(3) (a) Utah Tech University, the University of Utah, Utah State University, Salt Lake Community College, Southern Utah University, Utah Valley University, Weber State University, and Snow College shall establish an internal audit program under the direction of the Utah Board of Higher Education.

(b) The Utah Board of Higher Education may issue policies requiring other higher education entities or programs to establish an internal audit program.

(4) The State Board of Education shall establish an internal audit program that provides internal audit services for each program administered by the State Board of Education.

(5) Subject to Section 32B-2-302.5, the internal audit division of the Department of Alcoholic Beverage [~~Control~~] Services shall establish an internal audit program under the direction of the Alcoholic Beverage [~~Control~~] Services Commission.

Section 108. Section 63J-1-219 is amended to read:

63J-1-219. Definitions -- Federal receipts reporting requirements.

(1) As used in this section:

(a) (i) "Designated state agency" means the Department of Government Operations, the Department of Agriculture and Food, the Department of Alcoholic Beverage [~~Control~~] Services, the Department of Commerce, the Department of Cultural and Community Engagement, the Department of Corrections, the Department of Environmental Quality, the Department of Financial Institutions, the Department of Health, the Department of Human Services, the Department of Insurance, the Department of Natural Resources, the Department of Public Safety, the Department of Transportation, the Department of Veterans and Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of Economic Opportunity, the Public Service Commission, the Utah Board of Higher Education, the State Board of Education, the State Tax Commission, or the Utah National Guard.

(ii) "Designated state agency" does not include the judicial branch, the legislative branch, or an office or other entity within the judicial branch or the legislative branch.

(b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C. Sec. 7501, that is reported as part of a single audit.

(c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

(2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or before October 31, prepare a report that:

(a) reports the aggregate value of federal receipts the designated state agency received for the preceding fiscal year;

(b) reports the aggregate amount of federal funds appropriated by the Legislature to the designated state agency for the preceding fiscal year;

(c) calculates the percentage of the designated state agency's total budget for the preceding fiscal year that constitutes federal receipts that the designated state agency received for that fiscal year; and

(d) develops plans for operating the designated state agency if there is a reduction of:

(i) 5% or more in the federal receipts that the designated state agency receives; and

(ii) 25% or more in the federal receipts that the designated state agency receives.

(3) (a) The report required by Subsection (2) that the Utah Board of Higher Education prepares shall include the information required by Subsections (2)(a) through (c) for each state institution of higher education listed in Section 53B-2-101.

(b) The report required by Subsection (2) that the State Board of Education prepares shall include the information required by Subsections (2)(a) through (c) for each school district and each charter school within the public education system.

(4) A designated state agency that prepares a report in accordance with Subsection (2) shall submit the report to the Division of Finance on or before November 1 of each year.

(5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a report that:

(i) compiles and summarizes the reports the Division of Finance receives in accordance with Subsection (4); and

(ii) compares the aggregate value of federal receipts each designated state agency received for the previous fiscal year to the aggregate amount of federal funds appropriated by the Legislature to that designated state agency for that fiscal year.

(b) The Division of Finance shall, as part of the report required by Subsection (5)(a), compile a list of designated state agencies that do not submit a report as required by this section.

(6) The Division of Finance shall submit the report required by Subsection (5) to the Executive Appropriations Committee on or before December 1 of each year.

(7) Upon receipt of the report required by Subsection (5), the chairs of the Executive Appropriations Committee shall place the report on the agenda for review and consideration at the next Executive Appropriations Committee meeting.

(8) When considering the report required by Subsection (5), the Executive Appropriations Committee may elect to:

(a) recommend that the Legislature reduce or eliminate appropriations for a designated state agency;

(b) take no action; or

(c) take another action that a majority of the committee approves.

Section 109. Section 63J-1-602.2 is amended to read:

63J-1-602.2. List of nonlapsing appropriations to programs.

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F–9–103.

(3) The Percent–for–Art Program created in Section 9–6–404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section 11–38–301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17–16–21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19–2a–104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23–21a–6.

(8) The emergency medical services grant program in Section 26–8a–207.

(9) The primary care grant program created in Section 26–10b–102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26–18–3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26–46–102.

(12) The Rural Physician Loan Repayment Program created in Section 26–46a–103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26–55–107.

(14) Funds that the Department of Alcoholic Beverage [~~Control~~] Services retains in accordance with Subsection [~~32B–2–301(9)(a)~~] 32B–2–301(8)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A–3–401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41–1a–1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53–2a–1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53–3–905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B–6–104.

(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B–24–202.

(22) The Division of Services for People with Disabilities, as provided in Section 62A–5–102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A–9–401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C–6–104.

(25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A–16–903.

(26) The Office of Administrative Rules for publishing, as provided in Section 63G–3–402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A–2–8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A–17–106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69–2–301.

(33) The Traffic Noise Abatement Program created in Section 72–6–112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73–2–1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77–10a–19.

(36) A state rehabilitative employment program, as provided in Section 78A–6–210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of Facilities Construction and Management.

Section 110. Section 67-22-2 is amended to read:

67-22-2. Compensation -- Other state officers.

(1) As used in this section:

(a) "Appointed executive" means the:

(i) commissioner of the Department of Agriculture and Food;

(ii) commissioner of the Insurance Department;

(iii) commissioner of the Labor Commission;

(iv) director, Department of Alcoholic Beverage [~~Control~~] Services;

(v) commissioner of the Department of Financial Institutions;

(vi) executive director, Department of Commerce;

(vii) executive director, Commission on Criminal and Juvenile Justice;

(viii) adjutant general;

(ix) executive director, Department of Cultural and Community Engagement;

(x) executive director, Department of Corrections;

(xi) commissioner, Department of Public Safety;

(xii) executive director, Department of Natural Resources;

(xiii) executive director, Governor's Office of Planning and Budget;

(xiv) executive director, Department of Government Operations;

(xv) executive director, Department of Environmental Quality;

(xvi) executive director, Governor's Office of Economic Opportunity;

(xvii) executive director, Department of Workforce Services;

(xviii) executive director, Department of Health, Nonphysician;

(xix) executive director, Department of Human Services;

(xx) executive director, Department of Transportation; [~~and~~]

(xxi) executive director, Department of Veterans and Military Affairs; and

(xxii) executive director, Public Lands Policy Coordinating Office, created in Section 63L-11-201.

(b) "Board or commission executive" means:

(i) members, Board of Pardons and Parole;

(ii) chair, State Tax Commission;

(iii) commissioners, State Tax Commission;

(iv) executive director, State Tax Commission;

(v) chair, Public Service Commission; and

(vi) commissioners, Public Service Commission.

(c) "Deputy" means the person who acts as the appointed executive's second in command as determined by the Division of Human Resource Management.

(2) (a) The director of the Division of Human Resource Management shall:

(i) before October 31 of each year, recommend to the governor a compensation plan for the appointed executives and the board or commission executives; and

(ii) base those recommendations on market salary studies conducted by the Division of Human Resource Management.

(b) (i) The Division of Human Resource Management shall determine the salary range for the appointed executives by:

(A) identifying the salary range assigned to the appointed executive's deputy;

(B) designating the lowest minimum salary from those deputies' salary ranges as the minimum salary for the appointed executives' salary range; and

(C) designating 105% of the highest maximum salary range from those deputies' salary ranges as the maximum salary for the appointed executives' salary range.

(ii) If the deputy is a medical doctor, the Division of Human Resource Management may not consider that deputy's salary range in designating the salary range for appointed executives.

(c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for board or commission executives, the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 90% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(ii) or (iii), the Division of Human Resource Management shall set the maximum salary in the salary range for each of those positions at 100% of the salary for district judges as established in the annual appropriation act under Section 67-8-2.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a specific salary for each appointed executive within the range established under Subsection (2)(b).

(ii) If the executive director of the Department of Health is a physician, the governor shall establish a salary within the highest physician salary range established by the Division of Human Resource Management.

(iii) The governor may provide salary increases for appointed executives within the range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the appointed executives.

(4) Salaries for other Schedule A employees, as defined in Section 63A-17-301, that are not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial Salary Act, shall be established as provided in Section 63A-17-301.

(5) (a) The Legislature fixes benefits for the appointed executives and the board or commission executives as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same leave, holidays, and allowances granted to Schedule B state employees as follows:

(A) sick leave;

(B) converted sick leave if accrued prior to January 1, 2014;

(C) educational allowances;

(D) holidays; and

(E) annual leave except that annual leave shall be accrued at the maximum rate provided to Schedule B state employees;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(6) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the adjutant general a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

Section 111. Repealer.

This bill repeals:

Section 32B-8a-101, Title.

Section 32B-8a-302, Application -- Approval process.

Section 32B-12-207, Changing location of a warehousing facility.

Section 112. Effective date.

This bill takes effect on June 1, 2022, with the exception of Section 63I-5-201 (Effective 07/01/22) which takes effect on July 1, 2022.

CHAPTER 448
S. B. 182

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

DIGITAL ASSET AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill establishes a framework for the ownership of digital assets.

Highlighted Provisions:

This bill:

- defines terms; and
- provides a basis for understanding the ownership of digital assets.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

13-61-101, Utah Code Annotated 1953
13-61-102, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-61-101 is enacted to read:

CHAPTER 61. (CODIFIED AS CHAPTER 62) DIGITAL ASSET MANAGEMENT ACT

Part 1. General Provisions

13-61-101. (Codified as 13-62-101) Definitions.

As used in this chapter:

(1) "Agent" means a person who is authorized to act on behalf of an owner with respect to a digital asset.

(2) "Control" means:

(a) an owner or an agent has the exclusive legal authority to conduct a transaction relating to the digital asset, including by means of a private key or the use of a multi-signature arrangement the owner or agent authorizes; or

(b) a secured party has created a smart contract which gives the secured party exclusive legal authority to conduct a transaction relating to a digital security.

(3) (a) "Digital asset" means a representation of economic, proprietary, or access rights that is stored in a computer readable format.

(b) "Digital asset" includes:

(i) a digital user asset; or

(ii) a digital security.

(4) "Digital security" means a digital asset which constitutes a security, as that term is defined in Section 70A-8-101.

(5) (a) "Digital user asset" means a digital asset that is used or bought primarily for consumptive, personal, or household purposes.

(b) "Digital user asset" includes an open blockchain token.

(c) "Digital user asset" does not include a digital security.

(6) "Multi-signature arrangement" means a system of access control relating to a digital asset for the purposes of preventing unauthorized transactions relating to the asset, in which two or more private keys are required to conduct a transaction.

(7) "Private key" means a unique element of cryptographic data, which is:

(a) held by a person;

(b) paired with a unique, publicly available element of cryptographic data; and

(c) associated with an algorithm that is necessary to carry out an encryption or decryption required to execute a transaction.

(8) "Smart contract" means a transaction which is comprised of code, script, or programming language that executes the terms of an agreement, and which may include taking custody of and transferring a digital asset, or issuing executable instructions for these actions, based on the occurrence or nonoccurrence of specified conditions.

Section 2. Section 13-61-102 is enacted to read:

13-61-102. (Codified as 13-62-102) Ownership of digital assets.

(1) Digital securities are intangible personal property and shall be considered securities and investment property for purposes of this chapter, Title 70A, Chapter 8, Uniform Commercial Code – Investment Securities, and Title 70A, Chapter 9a, Uniform Commercial Code – Secured Transactions.

(2) An owner of a digital user asset may demonstrate ownership of the digital user asset through control.

(3) Nothing in this chapter shall be interpreted to restrict or impair an owner's right to own a digital asset.

CHAPTER 449
S. B. 183

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

FINANCIAL INSTITUTIONS MODIFICATIONS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill enacts and modifies provisions related to financial institutions.

Highlighted Provisions:

This bill:

- modifies the definition of "control" for purposes of the Financial Institutions Act;
- enacts the Commercial Financing Registration and Disclosure Act, which requires persons who provide certain commercial financing products to:
  - register with the Department of Financial Institutions; and
  - make certain disclosures in connection with each commercial financing product; and
- provides penalties for failure to comply with the registration and disclosure requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

7-1-103, as last amended by Laws of Utah 2017, Chapter 169
7-1-401, as last amended by Laws of Utah 2018, Third Special Session, Chapter 1

ENACTS:

7-1-103.5, Utah Code Annotated 1953
7-27-101, Utah Code Annotated 1953
7-27-102, Utah Code Annotated 1953
7-27-201, Utah Code Annotated 1953
7-27-202, Utah Code Annotated 1953
7-27-301, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 7-1-103 is amended to read:

7-1-103. Definitions.

As used in this title:

(1) (a) "Bank" means a person authorized under the laws of this state, another state, or the United States to accept deposits from the public.

(b) "Bank" does not include:

(i) a federal savings and loan association or federal savings bank;

(ii) an industrial bank subject to Chapter 8, Industrial Banks;

(iii) a federally chartered credit union; or

(iv) a credit union subject to Chapter 9, Utah Credit Union Act.

(2) "Banking business" means the offering of deposit accounts to the public and the conduct of such other business activities as may be authorized by this title.

(3) (a) "Branch" means a place of business of a financial institution, other than its main office, at which deposits are received and paid.

(b) "Branch" does not include:

(i) an automated teller machine, as defined in Section 7-16a-102;

(ii) a point-of-sale terminal, as defined in Section 7-16a-102; or

(iii) a loan production office under Section 7-1-715.

(4) "Commissioner" means the Commissioner of Financial Institutions.

(5) [~~"Control"~~] Subject to Section 7-1-103.5, "control" means the power, directly or indirectly, or through or in concert with one or more persons, to:

(a) direct or exercise a controlling influence over:

(i) the management or policies of a financial institution; or

(ii) the election of a majority of the directors or trustees of an institution; or

(b) vote [~~20%~~] 25% or more of any class of voting securities of a financial institution [~~by an individual; or~~].

[~~(c) vote more than 10% of any class of voting securities of a financial institution by a person other than an individual.~~]

(6) "Credit union" means a cooperative, nonprofit association incorporated under:

(a) Chapter 9, Utah Credit Union Act; or

(b) 12 U.S.C. Sec. 1751 et seq., Federal Credit Union Act, as amended.

(7) "Department" means the Department of Financial Institutions.

(8) "Depository institution" means a bank, savings and loan association, savings bank, industrial bank, credit union, or other institution that:

(a) holds or receives deposits, savings, or share accounts;

(b) issues certificates of deposit; or

(c) provides to its customers other depository accounts that are subject to withdrawal by checks, drafts, or other instruments or by electronic means to effect third party payments.

(9) (a) "Depository institution holding company" means:

(i) a person other than an individual that:

(A) has control over a depository institution; or

(B) becomes a holding company of a depository institution under Section 7-1-703; or

(ii) a person other than an individual that the commissioner finds, after considering the specific circumstances, is exercising or is capable of exercising a controlling influence over a depository institution by means other than those specifically described in this section.

(b) Except as provided in Section 7-1-703, a person is not a depository institution holding company solely because it owns or controls shares acquired in securing or collecting a debt previously contracted in good faith.

(10) "Financial institution" means an institution subject to the jurisdiction of the department because of this title.

(11) (a) "Financial institution holding company" means a person, other than an individual that has control over a financial institution or a person that becomes a financial institution holding company under this chapter, including an out-of-state or foreign depository institution holding company.

(b) Ownership of a service corporation or service organization by a depository institution does not make that institution a financial institution holding company.

(c) A person holding 10% or less of the voting securities of a financial institution is rebuttably presumed not to have control of the institution.

(d) A trust company is not a holding company solely because it owns or holds 20% or more of the voting securities of a financial institution in a fiduciary capacity, unless the trust company exercises a controlling influence over the management or policies of the financial institution.

(12) "Foreign depository institution" means a depository institution chartered or authorized to transact business by a foreign government.

(13) "Foreign depository institution holding company" means the holding company of a foreign depository institution.

(14) "Home state" means:

(a) for a state chartered depository institution, the state that charters the institution;

(b) for a federally chartered depository institution, the state where the institution's main office is located; and

(c) for a depository institution holding company, the state in which the total deposits of all depository institution subsidiaries are the largest.

(15) "Host state" means:

(a) for a depository institution, a state, other than the institution's home state, where the institution maintains or seeks to establish a branch; and

(b) for a depository institution holding company, a state, other than the depository institution holding company's home state, where the depository institution holding company controls or seeks to control a depository institution subsidiary.

(16) "Industrial bank" means a corporation or limited liability company conducting the business of an industrial bank under Chapter 8, Industrial Banks.

(17) "Industrial loan company" means the same as that term is defined in Section 7-8-21.

(18) "Insolvent" means the status of a financial institution that is unable to meet its obligations as they mature.

(19) "Institution" means:

(a) a corporation;

(b) a limited liability company;

(c) a partnership;

(d) a trust;

(e) an association;

(f) a joint venture;

(g) a pool;

(h) a syndicate;

(i) an unincorporated organization; or

(j) any form of business entity.

(20) "Institution subject to the jurisdiction of the department" means an institution or other person described in Section 7-1-501.

(21) "Liquidation" means the act or process of winding up the affairs of an institution subject to the jurisdiction of the department by realizing upon assets, paying liabilities, and appropriating profit or loss, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(22) "Liquidator" means a person, agency, or instrumentality of this state or the United States appointed to conduct a liquidation.

(23) (a) "Money services business" includes:

(i) a check casher;

(ii) a deferred deposit lender;

(iii) an issuer or seller of traveler's checks or money orders; and

(iv) a money transmitter.

(b) "Money services business" does not include:

(i) a bank;

(ii) a person registered with, and functionally regulated or examined by the Securities Exchange Commission or the Commodity Futures Trading Commission, or a foreign financial agency that engages in financial activities that, if conducted in the United States, would require the foreign financial agency to be registered with the Securities Exchange Commission or the Commodity Futures Trading Commission; or

(iii) an individual who engages in an activity described in Subsection (23)(a) on an infrequent basis and not for gain or profit.

(24) "Negotiable order of withdrawal" means a draft drawn on a NOW account.

(25) (a) "NOW account" means a savings account from which the owner may make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) A "NOW account" is not a demand deposit.

(c) The owner of a NOW account or any third party holder of an instrument requesting withdrawal from the account does not have a legal right to make withdrawal on demand.

(26) "Out-of-state" means, in reference to a depository institution or depository institution holding company, an institution or company whose home state is not Utah.

(27) "Person" means:

(a) an individual;

(b) a corporation;

(c) a limited liability company;

(d) a partnership;

(e) a trust;

(f) an association;

(g) a joint venture;

(h) a pool;

(i) a syndicate;

(j) a sole proprietorship;

(k) an unincorporated organization; or

(l) any form of business entity.

(28) "Receiver" means a person, agency, or instrumentality of this state or the United States appointed to administer and manage an institution subject to the jurisdiction of the department in receivership, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(29) "Receivership" means the administration and management of the affairs of an institution subject to the jurisdiction of the department to conserve, preserve, and properly dispose of the assets, liabilities, and revenues of an institution in possession, as provided in Chapter 2, Possession of Depository Institution by Commissioner, and Chapter 19, Acquisition of Failing Depository Institutions or Holding Companies.

(30) "Savings account" means a deposit or other account at a depository institution that is not a transaction account.

(31) "Savings and loan association" means:

(a) a federal savings and loan association; and

(b) an out-of-state savings and loan association.

(32) "Service corporation" or "service organization" means a corporation or other business entity owned or controlled by one or more financial institutions that is engaged or proposes to engage in business activities related to the business of financial institutions.

(33) "State" means, unless the context demands otherwise:

(a) a state;

(b) the District of Columbia; or

(c) the territories of the United States.

(34) "Subsidiary" means a business entity under the control of an institution.

(35) "Technology service provider" means a person that provides a data processing service or activity that supports the financial services or Internet related services of a depository institution subject to the jurisdiction of the department, including supporting:

(a) lending;

(b) money transfers;

(c) fiduciary activities;

(d) trading activities;

(e) deposit taking;

(f) web services and electronic bill payments;

(g) mobile applications;

(h) system and software development and maintenance; and

(i) security monitoring.

(36) (a) "Transaction account" means a deposit, account, or other contractual arrangement in which a depositor, account holder, or other customer is permitted, directly or indirectly, to make withdrawals by:

(i) check or other negotiable or transferable instrument;

(ii) payment order of withdrawal;

(iii) telephone transfer;

(iv) other electronic means; or

(v) any other means or device for the purpose of making payments or transfers to third persons.

(b) "Transaction account" includes:

(i) demand deposits;

(ii) NOW accounts;

(iii) savings deposits subject to automatic transfers; and

(iv) share draft accounts.

(37) "Trust company" means a person authorized to conduct a trust business, as provided in Chapter 5, Trust Business.

(38) "Utah depository institution" means a depository institution whose home state is Utah.

(39) "Utah depository institution holding company" means a depository institution holding company whose home state is Utah.

Section 2. Section 7-1-103.5 is enacted to read:

7-1-103.5. Control.

(1) There is a rebuttable presumption that a person has control of a financial institution if the person has the power, directly or indirectly, or through or in concert with one or more persons, to vote more than 10% but less than 25% of any class of voting securities of a financial institution.

(2) Except as provided in rule made under Subsection (3), a person seeking to rebut a presumption of control described in Subsection (1) shall submit an application to the commissioner.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commissioner may make rules that specify:

(a) the procedures and requirements for an application described in Subsection (2); and

(b) the conditions under which a person may obtain a determination that the person is not in control of a financial institution without filing an application in accordance with Subsection (2).

(4) The commissioner has sole discretion to determine whether a person rebuts a presumption of control under this section.

Section 3. Section 7-1-401 is amended to read:

7-1-401. Fees payable to commissioner.

(1) Except for an out-of-state depository institution with a branch in Utah, a depository institution under the jurisdiction of the department shall pay an annual fee:

(a) computed by averaging the total assets of the depository institution shown on each quarterly report of condition for the depository institution for the calendar year immediately preceding the date on which the annual fee is due under Section 7-1-402; and

(b) at the following rates:

(i) on the first $5,000,000 of these assets, the greater of:

(A) 65 cents per $1,000; or

(B) $500;

(ii) on the next $10,000,000 of these assets, 35 cents per $1,000;

(iii) on the next $35,000,000 of these assets, 15 cents per $1,000;

(iv) on the next $50,000,000 of these assets, 12 cents per $1,000;

(v) on the next $200,000,000 of these assets, 10 cents per $1,000;

(vi) on the next $300,000,000 of these assets, 6 cents per $1,000; and

(vii) on all amounts over $600,000,000 of these assets, 2 cents per $1,000.

(2) A financial institution with a trust department shall pay a fee determined in accordance with Subsection (7) for each examination of the trust department by a state examiner.

(3) Notwithstanding Subsection (1), a credit union in its first year of operation shall pay a basic fee of $25 instead of the fee required under Subsection (1).

(4) A trust company that is not a depository institution or a subsidiary of a depository institution holding company shall pay:

(a) an annual fee of $500; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(5) Any person or institution under the jurisdiction of the department that does not pay a fee under Subsections (1) through (4) shall pay:

(a) an annual fee of $200; and

(b) an additional fee determined in accordance with Subsection (7) for each examination by a state examiner.

(6) A person filing an application or request under Section 7-1-503, 7-1-702, 7-1-703, 7-1-704, 7-1-713, 7-5-3, or 7-18a-202 shall pay:

(a) (i) a filing fee of $500 if on the day on which the application or request is filed the person:

(A) is a person with authority to transact business as a depository institution, a trust company, or any other person described in Section 7-1-501 as being subject to the jurisdiction of the department; and

(B) has total assets in an amount less than $5,000,000; or

(ii) a filing fee of $2,500 for any person not described in Subsection (6)(a)(i); and

(b) all reasonable expenses incurred in processing the application.

(7) (a) Per diem assessments for an examination shall be calculated at the rate of $55 per hour:

(i) for each examiner; and

(ii) per hour worked.

(b) For an examination of a branch or office of a financial institution located outside of this state, in addition to the per diem assessment under this Subsection (7), the institution shall pay all reasonable travel, lodging, and other expenses incurred by each examiner while conducting the examination.

(8) In addition to a fee under Subsection (5), a person registering under Section 7-23-201 [~~or~~], 7-24-201, or 7-27-201 shall pay an original registration fee of $300.

(9) In addition to a fee under Subsection (5), a person applying for licensure under Chapter 25, Money Transmitter Act, shall pay an original license fee of $300.

Section 4. Section 7-27-101 is enacted to read:

CHAPTER 27. COMMERCIAL FINANCING REGISTRATIONAND DISCLOSURE ACT

Part 1. General Provisions

7-27-101. Definitions.

As used in this chapter:

(1) "Accounts receivable purchase transaction" means a transaction in which a business forwards or otherwise sells to a person all or a portion of the business's accounts, as defined in Section 70A-9a-102, or payment intangibles, as defined in Section 70A-9a-102, at a discount to the accounts' or payment intangibles' expected value.

(2) "Broker" means a person who, for compensation or the expectation of compensation, arranges a commercial financing transaction between a third party and a business in the state.

(3) "Business" means a private enterprise carried on for the purpose of gain or economic profit.

(4) (a) "Business purpose transaction" means a transaction from which the resulting proceeds that a business receives are:

(i) provided to the business; or

(ii) intended to be used to carry on the business.

(b) "Business purpose transaction" does not include a transaction from which the resulting proceeds are intended to be used for personal, family, or household purposes.

(c) For purposes of determining whether a transaction is a business purpose transaction, a provider may rely on a written statement of intended purpose, signed by an individual authorized to sign on behalf of the business. The written statement may be contained in an application, agreement, or other document signed by an individual authorized to sign on behalf of the business.

(5) "Commercial financing transaction" means a business purpose transaction:

(a) under which a person extends a business a commercial loan or a commercial open-end credit plan; or

(b) that is an accounts receivable purchase transaction.

(6) "Commercial loan" means a loan to a business, regardless of whether the loan is secured.

(7) "Commercial open-end credit plan" means commercial financing extended to a business on terms under which:

(a) the creditor reasonably contemplates repeat transactions; and

(b) subject to any limit set by the creditor, the amount of financing that the creditor may extend to the business during the term of the plan is made available to the extent that any outstanding balance is repaid.

(8) "Motor vehicle dealer" means a dealer as defined in Section 41-3-102.

(9) (a) "Provider" means a person who consummates more than five commercial financing transactions in the state during any calendar year.

(b) "Provider" includes a person who, under a written agreement with a depository institution, offers one or more commercial financing products provided by the depository institution via an online platform that the person administers.

Section 5. Section 7-27-102 is enacted to read:

7-27-102. Application.

The provisions of this chapter do not apply to:

(1) a provider that is a depository institution;

(2) a provider that is:

(a) (i) a subsidiary of a depository institution; or

(ii) a service corporation for a depository institution; and

(b) regulated by a federal banking agency;

(3) a provider that is regulated under the federal Farm Credit Act 12 U.S.C. Sec. 2001 et seq.;

(4) a provider that is licensed as a money transmitter in accordance with Chapter 25, Money Transmitter Act;

(5) a provider that consummates five or fewer commercial financing products in the state during any 12 month period;

(6) a commercial financing transaction secured by real property;

(7) a commercial financing transaction that is a lease as defined in Section 70A-2a-103;

(8) a commercial financing transaction that is a purchase-money obligation as defined in Section 70A-9a-103;

(9) a commercial financing transaction that:

(a) involves a commercial loan or a commercial open-end credit plan;

(b) is $50,000 or more; and

(c) extends the commercial loan or the commercial open-end credit plan to:

(i) a motor vehicle dealer or the motor vehicle dealer's affiliate; or

(ii) a motor vehicle rental company as defined in Section 13-48-103 or the motor vehicle rental company's affiliate;

(10) a commercial financing transaction offered by a person in connection with the sale of a product or service that:

(a) the person manufactures, licenses, or distributes; or

(b) the person's parent company or the person's owned and controlled subsidiary manufactures, licenses, or distributes; or

(11) a commercial financing transaction of more than $1,000,000.

Section 6. Section 7-27-201 is enacted to read:

Part 2. Registration

7-27-201. Registration requirements -- Rulemaking.

(1) (a) Beginning January 1, 2023, it is unlawful for a person to engage in a commercial financing transaction as a provider in Utah or with a Utah resident, unless the person:

(i) registers with the department in accordance with this chapter; and

(ii) maintains a valid registration.

(b) An officer or employee of a person required to register under this section is not required to register if the person for whom the individual is an officer or employee is registered.

(2) (a) A registration and a renewal of registration expires on December 31 of each year.

(b) To register or renew a registration under this section, a person shall:

(i) pay an original registration fee established under Subsection 7-1-401(8); and

(ii) submit a registration statement containing the information described in Subsection (2)(d).

(c) To renew a registration under this section, a person shall:

(i) pay the annual fee established under Subsection 7-1-401(5); and

(ii) submit a renewal statement containing the information described in Subsection (2)(d).

(d) A registration or renewal statement shall state:

(i) the name of the person;

(ii) the name in which the business will be transacted if different from that required in Subsection (2)(d)(i);

(iii) the address of the person's principal business office, regardless of whether in the state or outside the state;

(iv) the address of each office in this state at which the person engages in commercial financing transactions;

(v) if the person engages in commercial financing transactions in this state but does not maintain an office in the state, a brief description of the manner in which the business is conducted;

(vi) the name and address in this state of a designated agent upon whom service of process may be made;

(vii) whether there is a conviction of a crime:

(A) involving an act of fraud, dishonesty, breach of trust, or money laundering; and

(B) with respect to that person, an officer, director, manager, operator, or principal of that person, or an employee of that person engaged in the business described in this chapter;

(viii) evidence satisfactory to the department that the person is registered with the Nationwide Multistate Licensing System and Registry; and

(ix) any other information required by the rules of the department.

(e) (i) The commissioner may impose an administrative fine determined under Subsection (2)(e)(ii) on a person if:

(A) the person is required to be registered under this chapter;

(B) the person fails to register or renew a registration in accordance with this chapter;

(C) the department notifies the person that the person is in violation of this chapter for failure to be registered; and

(D) the person fails to register within 30 days after the day on which the person receives the notice described in Subsection (2)(e)(i)(C).

(ii) Subject to Subsection (2)(e)(iii), the administrative fine imposed under this Subsection (2)(e) is:

(A) $500 if the person has zero or one office in this state at which the person engages in commercial financing transactions; or

(B) if the person has two or more offices in this state at which the person engages in commercial financing transactions, $500 for each office at which the person engages in commercial financing transactions.

(iii) The commissioner may reduce or waive a fine imposed under this Subsection (2)(e) if the person shows good cause.

(3) If the information in a registration or renewal statement required under Subsection (2) becomes inaccurate after filing, a person is not required to notify the department until:

(a) that person is required to renew the registration; or

(b) the department specifically requests earlier notification.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules consistent with this section:

(a) providing for the form, content, and filing of a registration and renewal statement; and

(b) providing for the transition of persons registering with the nationwide database.

Section 7. Section 7-27-202 is enacted to read:

7-27-202. Disclosures for commercial financing transactions.

(1) (a) Before consummating a commercial financing transaction, a provider shall disclose the terms of the commercial financing transaction in accordance with this section and rules made by the commissioner.

(b) In addition to the requirements of Subsection (1)(a), for a commercial open-end credit plan, the provider shall make the disclosures described in this section:

(i) after any disbursement of funds that occurs after the parties consummate the commercial financing transaction; and

(ii) no later than 15 days after the last day of the calendar month in which the disbursement of funds occurs.

(2) A provider shall disclose the following information in connection with each commercial financing transaction:

(a) the total amount of funds provided to the business under the terms of the commercial financing transaction;

(b) the total amount of funds disbursed to the business under the terms of the commercial financing transaction, if less than the amount described in Subsection (2)(a);

(c) the total amount to be paid to the provider under the terms of the commercial financing transaction;

(d) the total dollar cost of the commercial financing transaction, calculated by finding the difference between:

(i) the amount described in Subsection (2)(a); and

(ii) the amount described in Subsection (2)(c);

(e) (i) the manner, frequency, and amount of each payment; or

(ii) if the amount of each payment may vary, the manner, frequency, and estimated amount of the initial payment;

(f) a statement of whether there are any costs or discounts associated with prepayment under the commercial financing transaction, including a reference to the paragraph in the commercial financing transaction agreement that creates each cost or discount; and

(g) any amount of the funds described in Subsection (2)(a) that the provider pays to a broker in connection with the commercial financing transaction.

(3) The commercial financing transaction agreement shall include a description of the methodology for calculating any variable payment amount and the circumstances that may cause a payment amount to vary.

(4) The provisions of this section apply to a commercial financing transaction consummated on or after January 1, 2023.

Section 8. Section 7-27-301 is enacted to read:

Part 3. Enforcement

7-27-301. Penalties.

(1) Subject to the requirements of Title 63G, Chapter 4, Administrative Procedures Act, the department may:

(a) receive and act on complaints;

(b) take action designed to obtain voluntary compliance with this chapter; or

(c) commence administrative or judicial proceedings on the department's own initiative to enforce compliance with this chapter.

(2) A person who violates a provision of this chapter is subject to a civil penalty of $500 per violation, not to exceed $20,000 for all violations arising from the use of the same transaction documentation or materials.

(3) A person who violates a provision of this chapter after receiving written notice of a prior violation is subject to a civil penalty of $1,000 per violation, not to exceed $50,000 for all violations arising from the use of the same transaction documentation or materials.

(4) Nothing in this chapter creates a private right of action against any person based on failure to comply with the provisions of this chapter.

(5) A violation of this chapter does not affect the enforceability of any underlying agreement.

CHAPTER 450
S. B. 184

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

RECORDING AMENDMENTS

Chief Sponsor: Daniel McCay
House Sponsor: Calvin R. Musselman

LONG TITLE

General Description:

This bill modifies requirements for county recorders to accept electronic documents.

Highlighted Provisions:

This bill:

- requires county recorders to accept an electronic version of a plat for recording; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-21-18.5, as last amended by Laws of Utah 2019, Chapter 302

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 17-21-18.5 is amended to read:

17-21-18.5. Fees of county recorder -- Electronic recording of instruments.

(1) The county recorder shall receive the following fees:

(a) for recording any instrument, not otherwise provided for, other than bonds of public officers, $40;

(b) for recording any instrument, including those provided for under Title 70A, Uniform Commercial Code, other than bonds of public officers, and not otherwise provided for, $40, and if an instrument contains more than 10 descriptions, $2 for each additional description;

(c) for recording mining location notices and affidavits of labor affecting mining claims, $40; and

(d) for an affidavit or proof of labor which contains more than 10 mining claims, $2 for each additional mining claim.

(2) (a) Each county recorder shall record the mining rules of the several mining districts in each county without fee.

(b) Certified copies of these records shall be received in all tribunals and before all officers of this state as prima facie evidence of the rules.

(3) The county recorder shall receive the following fees:

(a) for copies of any record or document, a reasonable fee as determined by the county legislative body;

(b) for each certificate under seal, $5;

(c) for recording any plat, $50 for each sheet and $2 for each lot or unit designation;

(d) for taking and certifying acknowledgments, including seal, $5 for one name and $2 for each additional name;

(e) for recording any license issued by the Division of Occupational and Professional Licensing, $40; and

(f) for recording a federal tax lien, $40, and for the discharge of the lien, $40.

(4) A county recorder may not charge more than one recording fee for each instrument, regardless of whether the instrument bears multiple descriptive titles or includes one or more attachments as part of the instrument.

(5) (a) [~~By~~] Beginning on or before January 1, 2022, each county shall accept and provide for the electronic recording of instruments.

(b) Beginning on or before January 1, 2023, each county shall:

(i) provide for the electronic recording of a plat; and

(ii) accept an electronic document for the recording of a plat.

(6) The county may determine and collect a fee for all services not enumerated in this section.

(7) A county recorder may not be required to collect a fee for services that are unrelated to the county recorder's office.

CHAPTER 451
S. B. 186

Passed February 28, 2022
Approved March 24, 2022
Effective May 4, 2022

FUNDS AMENDMENTS

Chief Sponsor: Don L. Ipson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill updates existing trust accounts for compliance with Government Accounting Standards Board requirements and repeals contribution dependent accounts that have not received a sufficient level of contributions, together with those accounts' associated programs, where applicable.

Highlighted Provisions:

This bill:

- modifies fund definitions and descriptions;
- changes the fund type of certain trust or agency funds to comply with Government Accounting Standards Board requirements;
- repeals the Nurse Home Visiting Restricted Account and all statutory provisions related to the Nurse Home Visiting Pay-for-Success Program;
- repeals the Respite Care Assistance Fund;
- repeals the State Archives Fund;
- repeals the Public Lands Litigation Expendable Special Revenue Fund;
- repeals the Transportation of Veterans to Memorials Support Restricted Account, the Transportation of Veterans to Memorials Support Restricted Account Act, and the Transportation of Veterans special license plate; and
- repeals the Abortion Litigation Account.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

9-6-503, as last amended by Laws of Utah 2020, Chapter 419
9-8-703, as last amended by Laws of Utah 2014, Chapter 166
11-8-3, as last amended by Laws of Utah 2017, Chapter 363
17-36-6, as last amended by Laws of Utah 2014, Chapter 176
19-6-402, as last amended by Laws of Utah 2021, Chapter 202
19-6-405.7, as last amended by Laws of Utah 2014, Chapter 227
19-6-409, as last amended by Laws of Utah 2021, Chapter 202
19-6-410.5, as last amended by Laws of Utah 2021, Chapter 202
19-6-411, as last amended by Laws of Utah 2014, Chapter 227
19-6-415, as last amended by Laws of Utah 2021, Chapter 202
40-6-19, as last amended by Laws of Utah 2009, Chapter 344
41-1a-418, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
49-11-903, as enacted by Laws of Utah 2019, Chapter 473
51-5-4, as last amended by Laws of Utah 2013, Chapter 400
59-2-924.2, as last amended by Laws of Utah 2018, Chapters 364 and 436
59-2-926, as last amended by Laws of Utah 2018, Chapters 415 and 456
59-2-1601, as last amended by Laws of Utah 2020, Chapter 447
59-2-1602, as last amended by Laws of Utah 2021, Chapter 367
59-2-1603, as last amended by Laws of Utah 2014, Chapter 270
59-10-1312, as renumbered and amended by Laws of Utah 2008, Chapter 389
63A-3-109, as enacted by Laws of Utah 2015, Chapter 162
63A-3-205, as last amended by Laws of Utah 2017, Chapters 56 and 345
63B-1b-102, as last amended by Laws of Utah 2019, Chapter 479
63B-1b-202, as last amended by Laws of Utah 2017, Chapter 345
63C-4a-308, as last amended by Laws of Utah 2021, Chapter 382
63I-1-226, as last amended by Laws of Utah 2021, Chapters 13, 50, 64, 163, 182, 234, and 417
63J-1-601, as last amended by Laws of Utah 2021, Chapter 280
63J-1-602.1, as last amended by Laws of Utah 2021, Chapters 280, 382, 401, and 438
63J-2-102, as last amended by Laws of Utah 2020, Chapter 365
63J-7-102, as last amended by Laws of Utah 2018, Chapter 415
67-4a-801, as repealed and reenacted by Laws of Utah 2017, Chapter 371
78B-22-102, as last amended by Laws of Utah 2021, Chapters 228, 235, 262 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 262
78B-22-404, as last amended by Laws of Utah 2021, Chapter 228
78B-22-454, as last amended by Laws of Utah 2020, Chapter 371 and renumbered and amended by Laws of Utah 2020, Chapter 392
78B-22-455, as renumbered and amended by Laws of Utah 2020, Chapter 392
78B-22-501, as last amended by Laws of Utah 2020, Chapter 392
78B-22-701, as renumbered and amended by Laws of Utah 2019, Chapter 326

REPEALS:

26-63-101, as enacted by Laws of Utah 2018, Chapter 430

26-63-102, as last amended by Laws of Utah 2019, Chapter 136
26-63-201, as enacted by Laws of Utah 2018, Chapter 430
26-63-202, as enacted by Laws of Utah 2018, Chapter 430
26-63-203, as enacted by Laws of Utah 2018, Chapter 430
26-63-204, as enacted by Laws of Utah 2018, Chapter 430
26-63-301, as last amended by Laws of Utah 2019, Chapter 136
26-63-302, as enacted by Laws of Utah 2018, Chapter 430
26-63-303, as enacted by Laws of Utah 2018, Chapter 430
26-63-401, as last amended by Laws of Utah 2019, Chapter 136
26-63-402, as last amended by Laws of Utah 2019, Chapter 136
26-63-403, as enacted by Laws of Utah 2018, Chapter 430
26-63-501, as enacted by Laws of Utah 2018, Chapter 430
26-63-502, as enacted by Laws of Utah 2018, Chapter 430
26-63-503, as enacted by Laws of Utah 2018, Chapter 430
26-63-504, as enacted by Laws of Utah 2018, Chapter 430
26-63-601, as renumbered and amended by Laws of Utah 2018, Chapter 430
62A-1-119, as last amended by Laws of Utah 2016, Chapter 168
63A-12-109, as last amended by Laws of Utah 2013, Chapter 400
63C-4a-405, as renumbered and amended by Laws of Utah 2019, Chapter 246
71-14-101, as enacted by Laws of Utah 2019, Chapter 213
71-14-102, as enacted by Laws of Utah 2019, Chapter 213
76-7-317.1, as last amended by Laws of Utah 2010, Chapter 278

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 9-6-503 is amended to read:

9-6-503. Arts and museums endowment funds.

(1) Any Utah nonprofit arts or museum organization that meets the requirements described in this part may create an endowment fund into which there may be deposited money from the state fund.

(2) The principal of each endowment fund described in this section may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization.

(3) Interest income earned on the amount in each endowment fund described in this section may be expended by the qualifying organization.

(4) The principal of each endowment fund described in this section shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

(5) If a qualifying organization that creates an endowment fund as described in this section receives:

(a) $50,000 or more from the state fund, the money shall be administered by the qualifying organization's professional management in accordance with generally accepted accounting principles; or

(b) less than $50,000 from the state fund, the money shall be placed in a state [~~trust and agency~~] fiduciary fund under the direction of the state treasurer, and the state treasurer shall allocate interest income to the qualifying organization.

(6) If an endowment fund is under the direction of the state treasurer, the state treasurer shall deduct administrative costs related to the endowment fund before allocating any interest income to the qualifying organization.

Section 2. Section 9-8-703 is amended to read:

9-8-703. History organization endowment funds.

(1) (a) A qualifying organization may create an endowment fund into which there may be deposited money from funds made available for that purpose.

(b) The principal of each endowment fund may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization or by the Division of Finance on behalf of the qualifying organization.

(c) Only interest income earned on the amount in each endowment fund may be expended by the qualifying organization.

(d) The principal of each endowment fund shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.

(2) (a) An endowment fund shall be administered in accordance with generally accepted accounting principles by professional endowment management personnel.

(b) If no professional endowment management personnel is available to the qualifying organization, the qualifying organization shall place the endowment fund in a state [~~trust and agency~~] fiduciary fund administered by the Division of Finance.

(3) If an endowment fund is administered by the Division of Finance:

(a) the Division of Finance shall allocate interest income to the qualifying organization annually; and

(b) the costs for the administration shall be deducted from the interest income before allocations of interest income may be made to the qualifying organization by the Division of Finance.

Section 3. Section 11-8-3 is amended to read:

11-8-3. Department of Environmental Quality to negotiate loans for sewage facilities.

(1) The Department of Environmental Quality may negotiate loans from the Retirement Systems Fund, State Land Principal Fund, or any state [~~trust and agency~~] fiduciary fund which has sums available for loaning, as these funds are defined in Title 51, Chapter 5, Funds Consolidation Act, not to exceed $1,000,000 in any fiscal year for the purposes of providing the funding for the loans provided for in Section 11-8-2.

(2) The terms of any borrowing and repayment shall be negotiated between the borrower and the lender consistent with the legal duties of the lender.

Section 4. Section 17-36-6 is amended to read:

17-36-6. Required funds and accounts.

(1) In its system of accounts, each county shall maintain the following funds or account groups that are appropriate to its needs:

(a) a county general fund;

(b) special revenue funds;

(c) debt service funds to account for the retirement of general obligation bonds or other long-term indebtedness including the payment of interest;

(d) capital project funds, as required to account for the application of proceeds from the sale of general obligation bonds or other general long-term debt, or funds derived from other sources, to the specific purposes for which they are authorized;

(e) a separate fund for each utility or enterprise such as an airport fund, a sewer fund, a water fund, or other similar funds;

(f) intragovernmental service funds;

(g) [~~trust and agency~~] fiduciary funds such as a cemetery perpetual-care fund or a retirement fund;

(h) a separate fund for each special improvement district, which shall be known as a special assessment fund;

(i) a ledger or group of accounts to record the details relating to the general fixed assets of the county;

(j) a ledger or group of accounts to record the details relating to the general obligation bonds or other long-term indebtedness of the county;

(k) municipal services fund as required in Section 17-36-9; and

(l) any other funds for special purposes required or established under the uniform system of budgeting, accounting, and reporting.

(2) The county shall classify the funds and account groups established under the authority of this section according to the uniform procedures established by this chapter.

Section 5. Section 19-6-402 is amended to read:

19-6-402. Definitions.

As used in this part:

(1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate:

(a) a release from a petroleum storage tank; or

(b) the damage caused by that release.

(2) "Aboveground petroleum storage tank" means a storage tank that is, by volume, less than 10% buried in the ground, including the pipes connected to the storage tank and:

(a) (i) has attached underground piping; or

(ii) rests directly on the ground;

(b) contains regulated substances;

(c) has the capacity to hold 501 gallons or more; and

(d) is not:

(i) used in agricultural operations, as defined by the board by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(ii) used for heating oil for consumptive use on the premises where stored;

(iii) related to a petroleum facility under SIC Code 2911 or 5171 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(iv) directly related to oil or gas production and gathering operations; or

(v) used in the fueling of aircraft or ground service equipment at a commercial airport that serves passengers or cargo, with commercial airport defined in Section 72-10-102.

(3) "Board" means the Waste Management and Radiation Control Board created in Section 19-1-106.

(4) "Bodily injury" means bodily harm, sickness, disease, or death sustained by a person.

(5) "Certificate of compliance" means a certificate issued to a facility by the director:

(a) demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has met the requirements of this part; and

(b) listing petroleum storage tanks at the facility, specifying:

(i) which tanks may receive petroleum; and

(ii) which tanks have not met the requirements for compliance.

(6) "Certificate of registration" means a certificate issued to a facility by the director demonstrating that an owner or operator of a facility containing one or more petroleum storage tanks has:

(a) registered the tanks; and

(b) paid the annual tank fee.

(7) (a) "Certified petroleum storage tank consultant" means a person who:

(i) for a fee, or in connection with services for which a fee is charged, provides or contracts to provide information, opinions, or advice relating to underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation;

(ii) has submitted an application to the director;

(iii) received a written statement of certification from the director; and

(iv) meets the education and experience standards established by the board under Subsection 19-6-403(1)(a)(vii).

(b) "Certified petroleum storage tank consultant" does not include:

(i) (A) an employee of the owner or operator of the underground storage tank; or

(B) an employee of a business operation that has a business relationship with the owner or operator of the underground storage tank, and markets petroleum products or manages underground storage tanks; or

(ii) a person licensed to practice law in this state who offers only legal advice on underground storage tank release:

(A) management;

(B) abatement;

(C) investigation;

(D) corrective action; or

(E) evaluation.

(8) "Closed" means a petroleum storage tank that is no longer in use that has been:

(a) emptied and cleaned to remove the liquids and accumulated sludges; and

(b) (i) removed along with all underground components; or

(ii) filled with an inert solid material, and in the case of piping, secured and capped.

(9) "Corrective action plan" means a plan for correcting a release from a petroleum storage tank that includes provisions for any of the following:

(a) cleanup or removal of the release;

(b) containment or isolation of the release;

(c) treatment of the release;

(d) correction of the cause of the release;

(e) monitoring and maintenance of the site of the release;

(f) provision of alternative water supplies to a person whose drinking water has become contaminated by the release; or

(g) temporary or permanent relocation, whichever is determined by the director to be more cost-effective, of a person whose dwelling has been determined by the director to be no longer habitable due to the release.

(10) "Costs" means money expended for:

(a) investigation;

(b) abatement action;

(c) corrective action;

(d) judgments, awards, and settlements for bodily injury or property damage to third parties;

(e) legal and claims adjusting costs incurred by the state in connection with judgments, awards, or settlements for bodily injury or property damage to third parties; or

(f) costs incurred by the state risk manager in determining the actuarial soundness of the fund.

(11) "Covered by the fund" means the requirements of Section 19-6-424 have been met.

(12) "Director" means the director of the Division of Environmental Response and Remediation.

(13) "Division" means the Division of Environmental Response and Remediation, created in Subsection 19-1-105(1)(c).

(14) "Dwelling" means a building that is usually occupied by a person lodging there at night.

(15) "Enforcement proceedings" means a civil action or the procedures to enforce orders established by Section 19-6-425.

(16) "Facility" means the petroleum storage tanks located on a single parcel of property or on any property adjacent or contiguous to that parcel.

(17) "Fund" means the Petroleum Storage Tank [~~Trust~~] Fund created in Section 19-6-409.

(18) "Operator" means a person in control of or who is responsible on a daily basis for the maintenance of a petroleum storage tank that is in use for the storage, use, or dispensing of a regulated substance.

(19) "Owner" means:

(a) in the case of an underground storage tank in use on or after November 8, 1984, a person who owns an underground storage tank used for the storage, use, or dispensing of a regulated substance;

(b) in the case of an underground storage tank in use before November 8, 1984, but not in use on or after November 8, 1984, a person who owned the tank immediately before the discontinuance of its use for the storage, use, or dispensing of a regulated substance; and

(c) in the case of an aboveground petroleum storage tank, a person who owns the aboveground petroleum storage tank.

(20) "Petroleum" includes crude oil or a fraction of crude oil that is liquid at:

(a) 60 degrees Fahrenheit; and

(b) a pressure of 14.7 pounds per square inch absolute.

(21) "Petroleum storage tank" means a tank that:

(a) is an underground storage tank;

(b) is an aboveground petroleum storage tank; or

(c) is a tank containing regulated substances that is voluntarily submitted for participation in the Petroleum Storage Tank [~~Trust~~] Fund under Section 19-6-415.

(22) "Petroleum Storage Tank Restricted Account" means the account created in Section 19-6-405.5.

(23) "Program" means the Environmental Assurance Program under Section 19-6-410.5.

(24) "Property damage" means physical injury to, destruction of, or loss of use of tangible property.

(25) (a) "Regulated substance" means petroleum and petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing.

(b) "Regulated substance" includes motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(26) (a) "Release" means spilling, leaking, emitting, discharging, escaping, leaching, or disposing a regulated substance from a petroleum storage tank into ground water, surface water, or subsurface soils.

(b) A release of a regulated substance from a petroleum storage tank is considered a single release from that tank system.

(27) (a) "Responsible party" means a person who:

(i) is the owner or operator of a facility;

(ii) owns or has legal or equitable title in a facility or a petroleum storage tank;

(iii) owned or had legal or equitable title in a facility at the time petroleum was received or contained at the facility;

(iv) operated or otherwise controlled activities at a facility at the time petroleum was received or contained at the facility; or

(v) is an underground storage tank installation company.

(b) "Responsible party" is as defined in Subsections (27)(a)(i), (ii), and (iii) does not include:

(i) a person who is not an operator and, without participating in the management of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership:

(A) primarily to protect the person's security interest in the facility; or

(B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an employee benefit plan; or

(ii) governmental ownership or control of property by involuntary transfers as provided in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

(c) The exemption created by Subsection (27)(b)(i)(B) does not apply to actions taken by the state or its officials or agencies under this part.

(d) The terms and activities "indicia of ownership," "primarily to protect a security interest," "participation in management," and "security interest" under this part are in accordance with 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

(e) The terms "participate in management" and "indicia of ownership" as defined in 40 C.F.R. Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the fiduciaries listed in Subsection (27)(b)(i)(B).

(28) "Rests directly on the ground" means that at least some portion of a petroleum storage tank situated aboveground is in direct contact with soil.

(29) "Soil test" means a test, established or approved by board rule, to detect the presence of petroleum in soil.

(30) "State cleanup appropriation" means money appropriated by the Legislature to the department to fund the investigation, abatement, and corrective action regarding releases not covered by the fund.

(31) "Underground piping" means piping that is buried in the ground that is in direct contact with soil and connected to an aboveground petroleum storage tank.

(32) "Underground storage tank" means a tank regulated under Subtitle I, Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

(a) underground pipes and lines connected to a storage tank;

(b) underground ancillary equipment;

(c) a containment system; and

(d) each compartment of a multi-compartment storage tank.

(33) "Underground storage tank installation company" means a person, firm, partnership, corporation, governmental entity, association, or other organization that installs underground storage tanks.

(34) "Underground storage tank installation company permit" means a permit issued to an underground storage tank installation company by the director.

(35) "Underground storage tank technician" means a person employed by and acting under the direct supervision of a certified petroleum storage tank consultant to assist in carrying out the functions described in Subsection (7)(a).

Section 6. Section 19-6-405.7 is amended to read:

19-6-405.7. Petroleum Storage Tank Cleanup Fund -- Revenue and purposes -- Relation to Petroleum Storage Tank Fund.

(1) There is created [~~a private-purpose trust~~] an enterprise fund entitled the "Petroleum Storage Tank Cleanup Fund," which is referred to in this section as the cleanup fund.

(2) The cleanup fund sources of revenue are:

(a) any voluntary contributions received by the department for the cleanup of facilities;

(b) legislative appropriations made to the cleanup fund; and

(c) costs recovered under this part.

(3) The cleanup fund shall earn interest, which shall be deposited in the cleanup fund.

(4) The director may use the cleanup fund money for administration, investigation, abatement action, and preparing and implementing a corrective action plan regarding releases and suspected releases not covered by the Petroleum Storage Tank [~~Trust~~] Fund created in Section 19-6-409.

Section 7. Section 19-6-409 is amended to read:

19-6-409. Petroleum Storage Tank Fund -- Source of revenues.

(1) (a) There is created [~~a private-purpose trust~~] an enterprise fund entitled the "Petroleum Storage Tank [~~Trust~~] Fund."

(b) The sole sources of revenues for the fund are:

(i) petroleum storage tank fees paid under Section 19-6-411;

(ii) underground storage tank installation company permit fees paid under Section 19-6-411;

(iii) the environmental assurance fee and penalties paid under Section 19-6-410.5;

(iv) appropriations to the fund;

(v) principal and interest received from the repayment of loans made by the director under Subsection (5); and

(vi) interest accrued on revenues listed in this Subsection (1)(b).

(c) Interest earned on fund money is deposited into the fund.

(2) The director may expend money from the fund to pay costs:

(a) covered by the fund under Section 19-6-419;

(b) of administering the:

(i) fund; and

(ii) environmental assurance program and fee under Section 19-6-410.5;

(c) incurred by the state for a legal service or claim adjusting service provided in connection with a claim, judgment, award, or settlement for bodily injury or property damage to a third party;

(d) incurred by the director in determining the actuarial soundness of the fund;

(e) incurred by a third party claiming injury or damages from a release reported on or after May 11, 2010, for hiring a certified petroleum storage tank consultant:

(i) to review an investigation or corrective action by a responsible party; and

(ii) in accordance with Subsection (4); and

(f) allowed under this part that are not listed under this Subsection (2).

(3) Costs for the administration of the fund and the environmental assurance fee shall be appropriated by the Legislature.

(4) The director shall:

(a) in paying costs under Subsection (2)(e):

(i) determine a reasonable limit on costs paid based on the:

(A) extent of the release;

(B) impact of the release; and

(C) services provided by the certified petroleum storage tank consultant;

(ii) pay, per release, costs for one certified petroleum storage tank consultant agreed to by all third parties claiming damages or injury;

(iii) include costs paid in the coverage limits allowed under Section 19-6-419; and

(iv) not pay legal costs of third parties;

(b) review and give careful consideration to reports and recommendations provided by a certified petroleum storage tank consultant hired by a third party; and

(c) make reports and recommendations provided under Subsection (4)(b) available on the Division of Environmental Response and Remediation's website.

(5) The director may loan, in accordance with this section, money available in the fund to a person to be used for:

(a) upgrading an underground storage tank;

(b) replacing an underground storage tank; or

(c) permanently closing an underground storage tank.

(6) (a) A person may apply to the director for a loan under Subsection (5)(c) if all tanks owned or operated by that person are in substantial compliance with all state and federal requirements or will be brought into substantial compliance using money from the fund.

(b) A person may apply to the director for a loan under Subsection (5)(a) or (b) if:

(i) the requirements of Subsection (6)(a) are met; and

(ii) the person participates in the Environmental Assurance Program under Section 19-6-410.5.

(7) The director shall consider loan applications under Subsection (6) to meet the following objectives:

(a) support availability of gasoline in rural parts of the state;

(b) support small businesses; and

(c) reduce the threat of a petroleum release endangering the environment.

(8) (a) A loan made under this section may not be for more than:

(i) $300,000 for all tanks at any one facility;

(ii) $100,000 per tank; and

(iii) 80% of the total cost of:

(A) upgrading an underground storage tank;

(B) replacing an underground storage tank; or

(C) permanently closing an underground storage tank.

(b) A loan made under this section shall:

(i) have a fixed annual interest rate of 0%;

(ii) have a term no longer than 10 years;

(iii) be made on the condition the loan applicant obtains adequate security for the loan as established by board rule under Subsection (9); and

(iv) comply with rules made by the board under Subsection (9).

(9) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing:

(a) form, content, and procedure for a loan application;

(b) criteria and procedures for prioritizing a loan application;

(c) requirements and procedures for securing a loan;

(d) procedures for making a loan;

(e) procedures for administering and ensuring repayment of a loan, including late payment penalties;

(f) procedures for recovering on a defaulted loan; and

(g) the maximum amount of the fund that may be used for loans.

(10) A decision by the director to loan money from the fund and otherwise administer the fund is not subject to Title 63G, Chapter 4, Administrative Procedures Act.

(11) The Legislature shall appropriate money from the fund to the department for the administration costs associated with making loans under this section.

(12) The director may enter into an agreement with a public entity or private organization to perform a task associated with administration of loans made under this section.

Section 8. Section 19-6-410.5 is amended to read:

19-6-410.5. Environmental Assurance Program -- Participant fee -- State Tax Commission administration, collection, and enforcement of tax.

(1) As used in this section:

(a) "Cash balance" means cash plus investments and current accounts receivable minus current accounts payable, excluding the liabilities estimated by the executive director.

(b) "Commission" means the State Tax Commission, as defined in Section 59-1-101.

(2) (a) There is created an Environmental Assurance Program.

(b) The program shall provide to a participating owner or operator, upon payment of the fee imposed under Subsection (4), assistance with satisfying the financial responsibility requirements of 40 C.F.R., Part 280, Subpart H, by providing funds from the Petroleum Storage Tank [~~Trust~~] Fund established in Section 19-6-409, subject to the terms and conditions of this part, and rules implemented under this part.

(3) (a) Subject to Subsection (3)(b), participation in the program is voluntary.

(b) An owner or operator seeking to satisfy financial responsibility requirements through the program shall use the program for all petroleum storage tanks that the owner or operator owns or operates.

(4) (a) There is assessed an environmental assurance fee of 13/20 cent per gallon on the first sale or use of petroleum products in the state.

(b) The environmental assurance fee and any other revenue collected under this section shall be deposited in the Petroleum Storage Tank [~~Trust~~] Fund created in Section 19-6-409 and used solely for the purposes listed in Section 19-6-409.

(5) (a) The commission shall administer, collect, and enforce the fee imposed under this section according to the same procedures used in the administration, collection, and enforcement of the state sales and use tax under:

(i) Title 59, Chapter 1, General Taxation Policies; and

(ii) Title 59, Chapter 12, Part 1, Tax Collection.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules to establish:

(i) the method of payment of the environmental assurance fee;

(ii) the procedure for reimbursement or exemption of an owner or operator that does not participate in the program, including an owner or operator of an above ground storage tank; and

(iii) the procedure for confirming with the department that an owner or operator qualifies for reimbursement or exemption under Subsection (5)(b)(ii).

(c) The commission may retain an amount not to exceed 2.5% of fees collected under this section for the cost to the commission of rendering its services.

(d) By January 1, 2015, for underground storage tanks, and by July 1, 2026, for aboveground petroleum storage tanks, the division shall, by rule, create:

(i) a model for assessing the risk profile of each facility participating in the program, for purposes of qualifying for a rebate of a portion of the environmental assurance fee described in Subsection (4) collected from an owner or operator that participates in the program; and

(ii) a rebate schedule listing the amount of the environmental assurance fee that an owner or operator participating in the program may qualify for based on risk profiles determined by the model developed under Subsection (5)(d)(i).

(e) The rebate described in Subsection (5)(d):

(i) may not exceed 40% of the actual fee collected from an owner or operator of a low-risk underground storage tank as defined in the risk-based model developed under Subsection (5)(d);

(ii) is administered on a per facility basis;

(iii) is based on the facility's risk profile at the end of the prior calendar year;

(iv) is only applicable to an environmental assurance fee collected after December 30, 2014, for underground storage tanks, and June 30, 2026, for aboveground petroleum storage tanks; and

(v) shall be claimed in the form of a refund from the commission.

(f) The refund described in Subsection (5)(e)(v) may be claimed on a monthly basis.

(6) (a) The person responsible for payment of the fee under this section shall, by the last day of the month following the month in which the sale occurs:

(i) complete and submit the form prescribed by the commission; and

(ii) pay the fee to the commission.

(b) (i) The penalties and interest for failure to file the form or to pay the environmental assurance fee are the same as the penalties and interest under Sections 59-1-401 and 59-1-402.

(ii) The commission shall deposit penalties and interest collected under this section in the Petroleum Storage Tank [~~Trust~~] Fund.

(c) The commission shall report to the department a person who is delinquent in payment of the fee under this section.

(7) (a) (i) If the cash balance of the Petroleum Storage Tank [~~Trust~~] Fund on June 30 of any year exceeds $50,000,000, the assessment of the environmental assurance fee as provided in Subsection (4) is reduced to 1/4 cent per gallon beginning November 1.

(ii) The reduction under this Subsection (7)(a) remains in effect until modified by the Legislature in a general or special session.

(b) The commission shall determine the cash balance of the fund each year as of June 30.

(c) Before September 1 of each year, the department shall provide the commission with the accounts payable of the fund as of June 30.

Section 9. Section 19-6-411 is amended to read:

19-6-411. Petroleum storage tank fee for program participants.

(1) In addition to the underground storage tank registration fee paid in Section 19-6-408, the owner or operator of a petroleum storage tank who elects to participate in the environmental assurance program under Section 19-6-410.5 shall also pay an annual petroleum storage tank fee to the department for each facility as follows:

(a) an annual fee of:

(i) $450 for each tank in a facility with an annual facility throughput rate of 70,000 gallons or less;

(ii) $150 for each tank in a facility with an annual facility throughput rate of greater than 70,000 gallons; and

(iii) $450 for each tank in a facility regarding which:

(A) the facility's throughput rate is not reported to the department within 30 days after the date this throughput information is requested by the department; or

(B) the owner or operator elects to pay the fee under this Subsection (1)(a)(iii), rather than report under Subsection (1)(a)(i) or (ii); and

(b) for any new tank:

(i) that is installed to replace an existing tank at an existing facility, any annual petroleum storage tank fee paid for the current fiscal year for the existing tank is applicable to the new tank; and

(ii) installed at a new facility or at an existing facility, which is not a replacement for another existing tank, the fees are as provided in Subsection (1)(a)(ii).

(2) (a) As a condition of receiving a permit and being eligible for benefits under Section 19-6-419 from the Petroleum Storage Tank [~~Trust~~] Fund, each underground storage tank installation company shall pay to the department the following fees to be deposited in the fund:

(i) an annual fee of:

(A) $2,000 per underground storage tank installation company if the installation company has installed 15 or fewer underground storage tanks within the 12 months preceding the fee due date; or

(B) $4,000 per underground storage tank installation company if the installation company has installed 16 or more underground storage tanks within the 12 months preceding the fee due date; and

(ii) $200 for each underground storage tank installed in the state, to be paid prior to completion of installation.

(b) The board shall make rules specifying which portions of an underground storage tank installation shall be subject to the permitting fees when less than a full underground storage tank system is installed.

(3) (a) Fees under Subsection (1) are due on or before July 1 annually.

(b) If the department does not receive the fee on or before July 1, the department shall impose a late penalty of $60 per facility.

(c) (i) The fee and the late penalty accrue interest at 12% per annum.

(ii) If the fee, the late penalty, and all accrued interest are not received by the department within 60 days after July 1, the eligibility of the owner or operator to receive payments for claims against the fund lapses on the 61st day after July 1.

(iii) In order for the owner or operator to reinstate eligibility to receive payments for claims against the fund, the owner or operator shall meet the requirements of Subsection 19-6-428(3).

(4) (a) (i) Fees under Subsection (2)(a)(i) are due on or before July 1 annually. If the department does not receive the fees on or before July 1, the department shall impose a late penalty of $60 per installation company. The fee and the late penalty accrue interest at 12% per annum.

(ii) If the fee, late penalty, and all accrued interest due are not received by the department within 60 days after July 1, the underground storage tank installation company's permit and eligibility to receive payments for claims against the fund lapse on the 61st day after July 1.

(b) (i) Fees under Subsection (2)(a)(ii) are due prior to completion of installation. If the department does not receive the fees prior to completion of installation, the department shall impose a late penalty of $60 per facility. The fee and the late penalty accrue interest at 12% per annum.

(ii) If the fee, late penalty, and all accrued interest are not received by the department within 60 days after the underground storage tank installation is completed, eligibility to receive payments for claims against the fund for that tank lapse on the 61st day after the tank installation is completed.

(c) The director may not reissue the underground storage tank installation company permit until the fee, late penalty, and all accrued interest are received by the department.

(5) If the executive director determines that the fees established in Subsections (1) and (2) and the environmental assurance fee established in Section 19-6-410.5 are insufficient to maintain the fund on an actuarially sound basis, the executive director may petition the Legislature to increase the petroleum storage tank and underground storage tank installation company permit fees, and the environmental assurance fee to a level that will sustain the fund on an actuarially sound basis.

(6) The director may waive all or part of the fees required to be paid on or before May 5, 1997, for a petroleum storage tank under this section if no fuel has been dispensed from the tank on or after July 1, 1991.

(7) (a) The director shall issue a certificate of compliance to the owner or operator of a petroleum storage tank or underground storage tank, for which payment of fees has been made and other requirements have been met to qualify for a certificate of compliance under this part.

(b) The board shall make rules providing for the identification, through a tag or other readily identifiable method, of a petroleum storage tank or underground storage tank under Subsection (7)(a) that does not qualify for a certificate of compliance under this part.

Section 10. Section 19-6-415 is amended to read:

19-6-415. Participation of excluded or exempt tanks.

(1) An underground storage tank exempt from regulation under 40 C.F.R., Part 280, Subpart A, may become eligible for payments from the Petroleum Storage Tank [~~Trust~~] Fund if the underground storage tank:

(a) (i) is a farm or residential tank with a capacity of 1,100 gallons or less and is used for storing motor fuel for noncommercial purposes;

(ii) is used for storing heating oil for consumptive use on the premises where stored; or

(iii) is used for any oxygenate blending component for motor fuels;

(b) complies with the requirements of Section 19-6-412;

(c) meets other requirements established by rules made under Section 19-6-403; and

(d) pays registration and tank fees and environmental assurance fees, equivalent to those fees outlined in Sections 19-6-408, 19-6-410.5, and 19-6-411.

(2) An aboveground petroleum storage tank excluded from the definition of aboveground petroleum storage tank under Section 19-6-402, may become eligible for payments from the Petroleum Storage Tank [~~Trust~~] Fund if the owner or operator:

(a) pays those fees that are equivalent to the registration and tank fees and environmental assurance fees under Sections 19-6-408, 19-6-410.5, and 19-6-411;

(b) complies with the requirements of Section 19-6-412; and

(c) meets other requirements established by rules made under Section 19-6-403.

Section 11. Section 40-6-19 is amended to read:

40-6-19. Bond and Surety Forfeiture Fund -- Contents -- Use of fund money.

(1) There is created [~~a private-purpose trust fund~~] an administrative fund within the General Fund known as the "Bond and Surety Forfeiture [~~Trust~~] Fund."

(2) Money collected by the Division of Oil, Gas, and Mining as a result of bond or surety forfeitures shall be deposited in the fund.

(3) Interest earned on money in the fund shall accrue to the fund.

(4) (a) Money from each forfeited bond or surety, together with interest, shall be used by the Division of Oil, Gas, and Mining to accomplish the requisite performance standards under the program to which the forfeited bond or surety corresponds.

(b) Any money not used for a project shall be returned to the rightful claimant.

Section 12. Section 41-1a-418 is amended to read:

41-1a-418. Authorized special group license plates.

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

(ii) the Division of Wildlife Resources;

(iii) the Department of Veterans and Military Affairs;

(iv) the Division of State Parks or the Division of Recreation;

(v) the Department of Agriculture and Food;

(vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;

(vii) the Boy Scouts of America;

(viii) spay and neuter programs through No More Homeless Pets in Utah;

(ix) the Boys and Girls Clubs of America;

(x) Utah public education;

(xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;

(xii) the Department of Public Safety;

(xiii) programs that support Zion National Park;

(xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;

(xv) programs that promote bicycle operation and safety awareness;

(xvi) programs that conduct or support cancer research;

(xvii) programs that create or support autism awareness;

(xviii) programs that create or support humanitarian service and educational and cultural exchanges;

(xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;

(xx) programs that support and promote adoptions;

(xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;

(xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;

(xxiii) programs that support children with heart disease;

(xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

[~~(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;~~]

[~~(xxix)~~] (xxviii) programs that promote motorcycle safety awareness;

[~~(xxx)~~] (xxix) organizations that promote clean air through partnership, education, and awareness;

[~~(xxxi)~~] (xxx) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

[~~(xxxii)~~] (xxxi) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families; or

[~~(xxxiii)~~] (xxxii) public education on behalf of the Kiwanis International clubs.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle registration, with the contribution allocated as described in Section 41-1a-422.

Section 13. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

[~~(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;~~]

[~~(EE)~~] (DD) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

[~~(FF)~~] (EE) the Latino Community Support Restricted Account created in Section 13-1-16;

[~~(GG)~~] (FF) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

[~~(HH)~~] (GG) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 14. Section 49-11-903 is amended to read:

49-11-903. State appropriation funding offset -- Proportionate share determination and reporting.

(1) As used in this section:

(a) "Baseline period" means calendar years 2013, 2014, and 2015.

(b) "Premium tax receipts" means the money received by the office under Subsection 49-11-901.5(1) and paid in accordance with Subsections 49-11-901.5(2)(a) and (b).

(c) "State appropriation" means the ongoing state appropriation from the General Fund to the Firefighters Retirement [~~Trust and Agency~~] Fund that offsets the gross expense of the Firefighters' Retirement System.

(2) The office shall make a determination for the Firefighters' Retirement System, as recommended by the actuary and adopted by the executive director, as follows:

(a) determine for the baseline period:

(i) the average annual dollar amount of premium tax receipts;

(ii) the average annual dollar amount of total employer contributions; and

(iii) the proportionate share of total dollar employer contributions funded by premium tax receipts for the baseline period, which is calculated as the average annual dollar amount of premium tax receipts divided by the average annual dollar amount of total employer contributions;

(b) determine for each calendar year, beginning after calendar year 2020, the proportionate share of total dollar employer contributions funded by the state appropriation, which is calculated as the dollar amount of the state appropriation divided by the total dollar employer contributions; and

(c) if the proportionate share for the year exceeds the proportionate share for the baseline period under Subsection (2)(a)(iii), recommend the actuarially determined dollar amount, if any, that the state appropriation may be reduced by in the future to maintain an equivalent proportionate share that is not expected to exceed the proportionate share for the baseline period.

(3) (a) If the determination under Subsection (2)(c) results in recommending a reduction to the state appropriation, the office shall report the dollar amount of the recommended reduction to the governor and Legislature, which may be included in the annual report on contribution rates required under Subsection 49-11-203(1)(h).

(b) If the Legislature reduces the state appropriation, the board's subsequent certified contribution rates for the Firefighters' Retirement System shall include any additional member or employer contributions required to maintain the system on a financially and actuarially sound basis due to the reduced funding offset dollars.

(4) As required to implement this section, the office may make the determinations using actuarial assumptions and methods adopted by the board.

Section 15. Section 51-5-4 is amended to read:

51-5-4. Funds established -- Titles of funds -- Fund functions.

(1) (a) (i) The funds enumerated in this section are established as major fund types.

(ii) All resources and financial transactions of Utah state government shall be accounted for within one of these major fund types.

(b) (i) All funds or subfunds shall be consolidated into one of the state's major fund types.

(ii) Where a specific statute requires that a fund or account be established, that fund or account shall be accounted for as an individual fund, subfund, or account within the major fund type to meet generally accepted accounting principles.

(iii) Existing and new activities of state government authorized by the Legislature shall be accounted for within the framework of the major fund types established in this section.

(c) The Division of Finance shall determine the accounting classification that complies with generally accepted accounting principles for all funds, subfunds, or accounts created by the Legislature.

(d) (i) Major fund types shall be added by amending this chapter.

(ii) Whenever a new act creates or establishes a fund, subfund, or account without amending this chapter, the reference to a fund, subfund, or account in the new act shall be classified within one of the major fund types established by this section.

(2) Major Fund Type Titles:

(a) General Fund;

(b) Special Revenue Funds;

(c) Capital Projects Funds;

(d) Debt Service Funds;

(e) Permanent Funds;

(f) Enterprise Funds;

(g) Internal Service Funds;

(h) [~~Trust and Agency~~] Fiduciary Funds; and

(i) Discrete Component Unit Funds.

(3) The General Fund shall receive all revenues and account for all expenditures not otherwise provided for by law in any other fund.

(4) Special Revenue Funds are used to account for and report proceeds of specific revenue sources that are restricted or committed to be expended for a specified purpose.

(a) The Education Fund is a Special Revenue Fund that:

(i) receives all revenues from taxes on intangible property or from a tax on income; and

(ii) is designated for public and higher education.

(b) The Transportation Fund is a Special Revenue Fund that accounts for all revenues that are required by law to be expended for highway purposes.

(c) (i) An Expendable Special Revenue Fund is a Special Revenue Fund created by legislation or contractual relationship with parties external to the state that:

(A) identifies specific revenues collected from fees, taxes, dedicated credits, donations, federal funds, or other sources;

(B) defines the use of the money in the fund for a specific function of government or program within an agency; and

(C) delegates spending authority or authorization to use the fund's assets to a governing board, administrative department, or other officials as defined in the enabling legislation or contract establishing the fund.

(ii) An Expendable Special Revenue Fund may only be created by contractual relationship with external parties when the sources of revenue for the fund are donated revenues or federal revenues.

(iii) Expendable Special Revenue Funds are subject to annual legislative review by the appropriate legislative appropriations subcommittee.

(5) (a) Capital Projects Funds account for financial resources to be expended for the acquisition or construction of capital outlays, including the acquisition or construction of a capital facility and other capital assets. Capital Projects Funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments.

(b) The Transportation Investment Fund of 2005 is a Capital Projects Fund that accounts for revenues that are required by law to be expended for the maintenance, construction, reconstruction, or renovation of certain state and federal highways.

(6) Debt Service Funds account for the accumulation of resources for, and the payment of, the principal and interest on general long-term obligations.

(7) Permanent Funds account for assets that are legally restricted to the extent that only earnings, and not principal, may be used for a specific purpose.

(8) Enterprise Funds are designated to account for the following:

(a) operations, financed and operated in a manner similar to private business enterprises, where the Legislature intends that the costs of providing goods or services to the public are financed or recovered primarily through user charges;

(b) operations where the Legislature requires periodic determination of revenues earned, expenses incurred, and net income;

(c) operations for which a fee is charged to external users for goods or services; or

(d) operations that are financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the operations.

(9) Internal Service Funds account for the financing of goods or services provided by one department, division, or agency to other departments, divisions, or agencies of the state, or to other governmental units, on a cost-reimbursement basis.

(10) (a) [~~Trust and Agency~~] Fiduciary Funds account for assets held by the state as trustee or agent for individuals, private organizations, or other governmental units.

(b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and [~~Agency~~]

Custodial Funds are [~~Trust and Agency~~] Fiduciary Funds.

(11) Discrete Component Unit Funds account for the financial resources used to operate the state's colleges and universities and other discrete component units.

Section 16. Section 59-2-924.2 is amended to read:

59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.

(1) For purposes of this section, "certified tax rate" means a certified tax rate calculated in accordance with Section 59-2-924.

(2) Beginning January 1, 1997, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of any county imposing a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(i) decreased on a one-time basis by the amount of the estimated sales and use tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(ii) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-405, 59-2-405.1, 59-2-405.2, 59-2-405.3, or 72-10-110.5 as a result of the decrease in the certified tax rate under Subsection (3)(a)(i).

(b) The commission shall determine estimates of sales and use tax distributions for purposes of Subsection (3)(a).

(4) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales and use tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales and use tax imposed under Section 59-12-402.

(5) (a) This Subsection (5) applies to each county that:

(i) establishes a countywide special service district under Title 17D, Chapter 1, Special Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

(ii) levies a property tax on behalf of the special service district under Section 17D-1-105.

(b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be decreased by the amount necessary to reduce county revenues by the same amount of revenues that will be generated by the property tax imposed on behalf of the special service district.

(ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the levy on behalf of the special service district under Section 17D-1-105.

(6) (a) As used in this Subsection (6):

(i) "Annexing county" means a county whose unincorporated area is included within a public safety district by annexation.

(ii) "Annexing municipality" means a municipality whose area is included within a public safety district by annexation.

(iii) "Equalized public safety protection tax rate" means the tax rate that results from:

(A) calculating, for each participating county and each participating municipality, the property tax revenue necessary:

(I) in the case of a fire district, to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

(Aa) for a participating county, in the unincorporated area of the county; and

(Bb) for a participating municipality, in the municipality; or

(II) in the case of a police district, to cover all the costs:

(Aa) associated with providing law enforcement service:

(Ii) for a participating county, in the unincorporated area of the county; and

(IIii) for a participating municipality, in the municipality; and

(Bb) that the police district board designates as the costs to be funded by a property tax; and

(B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all participating counties and all participating municipalities and then dividing that sum by the aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

(I) for participating counties, in the unincorporated area of all participating counties; and

(II) for participating municipalities, in all the participating municipalities.

(iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act:

(A) created to provide fire protection, paramedic, and emergency services; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(v) "Participating county" means a county whose unincorporated area is included within a public safety district at the time of the creation of the public safety district.

(vi) "Participating municipality" means a municipality whose area is included within a public safety district at the time of the creation of the public safety district.

(vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service Area Act, within a county of the first class:

(A) created to provide law enforcement service; and

(B) in the creation of which an election was not required under Subsection 17B-1-214(3)(d).

(viii) "Public safety district" means a fire district or a police district.

(ix) "Public safety service" means:

(A) in the case of a public safety district that is a fire district, fire protection, paramedic, and emergency services; and

(B) in the case of a public safety district that is a police district, law enforcement service.

(b) In the first year following creation of a public safety district, the certified tax rate of each participating county and each participating municipality shall be decreased by the amount of the equalized public safety tax rate.

(c) In the first budget year following annexation to a public safety district, the certified tax rate of each annexing county and each annexing municipality shall be decreased by an amount equal to the amount of revenue budgeted by the annexing county or annexing municipality:

(i) for public safety service; and

(ii) in:

(A) for a taxing entity operating under a January 1 through December 31 fiscal year, the prior calendar year; or

(B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior fiscal year.

(d) Each tax levied under this section by a public safety district shall be considered to be levied by:

(i) each participating county and each annexing county for purposes of the county's tax limitation under Section 59-2-908; and

(ii) each participating municipality and each annexing municipality for purposes of the municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a city.

(e) The calculation of a public safety district's certified tax rate for the year of annexation shall be adjusted to include an amount of revenue equal to one half of the amount of revenue budgeted by the annexing entity for public safety service in the annexing entity's prior fiscal year if:

(i) the public safety district operates on a January 1 through December 31 fiscal year;

(ii) the public safety district approves an annexation of an entity operating on a July 1 through June 30 fiscal year; and

(iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

(7) (a) The base taxable value as defined in Section 17C-1-102 shall be reduced for any year to the extent necessary to provide a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate, calculated in accordance with Section 59-2-924, if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17C-1-403 or 17C-1-404.

(b) The base taxable value as defined in Section 17C-1-102 shall be increased in any year to the extent necessary to provide a community reinvestment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the base taxable value as defined in Section 17C-1-102 is reduced due to a decrease in the certified tax rate under Subsection (2) or (3)(a); and

(ii) the certified tax rate of a city, school district, local district, or special service district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a), the amount of money allocated and, when collected, paid each year to a community reinvestment agency established under Title 17C, Limited Purpose Local Government Entities - Community Reinvestment Agency Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2) or (3)(a).

(8) (a) For the calendar year beginning on January 1, 2014, the calculation of a county assessing and collecting levy shall be adjusted by the amount necessary to offset:

(i) any change in the certified tax rate that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3; and

(ii) the difference in the amount of revenue a taxing entity receives from or contributes to the Property Tax Valuation [~~Agency~~] Fund, created in Section 59-2-1602, that may result from amendments to Part 16, Multicounty Assessing and Collecting Levy, in Laws of Utah 2014, Chapter 270, Section 3.

(b) A taxing entity is not required to comply with the notice and public hearing requirements in Section 59-2-919 for an adjustment to the county assessing and collecting levy described in Subsection (8)(a).

Section 17. Section 59-2-926 is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a tax rate that exceeds the applicable tax rate described in Section 53F-2-301 or 53F-2-301.5, or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual legislative general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus eligible new growth as defined in Section 59-2-924, but exclusive of revenue from collections from redemptions, interest, and penalties:

(i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border;

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF TAX INCREASE

The state has budgeted an increase in its property tax revenue from $__________ to $__________ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) $__________ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) $__________ of the increase will come from natural increases in the value of the tax base due to (explain cause of eligible new growth, such as new building activity, annexation, etc.); and

(c) a home valued at $100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, applicable tax rate for the Property Tax Valuation [~~Agency~~] Fund, or both) paid $____________ in property taxes would pay the following:

(i) $__________ if the state of Utah did not budget an increase in property tax revenue exclusive of eligible new growth; and

(ii) $__________ under the increased property tax revenues exclusive of eligible new growth budgeted by the state of Utah."

Section 18. Section 59-2-1601 is amended to read:

59-2-1601. Definitions.

As used in this part:

(1) "County additional property tax" means the property tax levy described in Subsection 59-2-1602(4).

(2) "Fund" means the Property Tax Valuation [~~Agency~~] Fund created in Section 59-2-1602.

(3) "Multicounty Appraisal Trust" means the Multicounty Appraisal Trust created by an agreement:

(a) entered into by all of the counties in the state; and

(b) authorized by Title 11, Chapter 13, Interlocal Cooperation Act.

(4) "Multicounty assessing and collecting levy" means a property tax levied in accordance with Subsection 59-2-1602(2).

(5) "Statewide property tax system" means a computer assisted system for mass appraisal, equalization, collection, distribution, and administration related to property tax, created in accordance with Section 59-2-1606.

Section 19. Section 59-2-1602 is amended to read:

59-2-1602. Property Tax Valuation Fund -- Statewide levy -- Additional county levy.

(1) (a) There is created [~~an agency~~] a custodial fund known as the "Property Tax Valuation [~~Agency~~] Fund."

(b) The fund consists of:

(i) deposits made and penalties received under Subsection (3); and

(ii) interest on money deposited into the fund.

(c) Deposits, penalties, and interest described in Subsection (1)(b) shall be disbursed and used as provided in Section 59-2-1603.

(2) (a) Each county shall annually impose a multicounty assessing and collecting levy as provided in this Subsection (2).

(b) The tax rate of the multicounty assessing and collecting levy is:

(i) for a calendar year beginning on or after January 1, 2020, and before January 1, 2025, .000012; and

(ii) for a calendar year beginning on or after January 1, 2025, the certified revenue levy.

(c) The state treasurer shall allocate revenue collected from the multicounty assessing and collecting levy as follows:

(i) 18% of the revenue collected shall be deposited into the Property Tax Valuation [~~Agency~~] Fund, up to $500,000 annually; and

(ii) after the deposit described in Subsection (2)(c)(i), all remaining revenue collected from the multicounty assessing and collecting levy shall be deposited into the Multicounty Appraisal Trust.

(3) (a) The multicounty assessing and collecting levy imposed under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and collecting levy.

(b) The multicounty assessing and collecting levy is:

(i) exempt from Sections 17C-1-403 through 17C-1-406;

(ii) in addition to and exempt from the maximum levies allowable under Section 59-2-908; and

(iii) exempt from the notice and public hearing requirements of Section 59-2-919.

(c) (i) Each county shall transmit quarterly to the state treasurer the revenue collected from the multicounty assessing and collecting levy.

(ii) The revenue transmitted under Subsection (3)(c)(i) shall be transmitted no later than the tenth day of the month following the end of the quarter in which the revenue is collected.

(iii) If revenue transmitted under Subsection (3)(c)(i) is transmitted after the tenth day of the month following the end of the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of 10% each year until the revenue is transmitted.

(d) The state treasurer shall allocate the penalties received under this Subsection (3) in the same manner as revenue is allocated under Subsection (2)(c).

(4) (a) A county may levy a county additional property tax in accordance with this Subsection (4).

(b) The county additional property tax:

(i) shall be separately stated on the tax notice as a county assessing and collecting levy;

(ii) may not be incorporated into the rate of any other levy;

(iii) is exempt from Sections 17C-1-403 through 17C-1-406; and

(iv) is in addition to and exempt from the maximum levies allowable under Section 59-2-908.

(c) Revenue collected from the county additional property tax shall be used to:

(i) promote the accurate valuation and uniform assessment levels of property as required by Section 59-2-103;

(ii) promote the efficient administration of the property tax system, including the costs of assessment, collection, and distribution of property taxes;

(iii) fund state mandated actions to meet legislative mandates or judicial or administrative orders that relate to promoting:

(A) the accurate valuation of property; and

(B) the establishment and maintenance of uniform assessment levels within and among counties; and

(iv) establish reappraisal programs that:

(A) are adopted by a resolution or ordinance of the county legislative body; and

(B) conform to rules the commission makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 20. Section 59-2-1603 is amended to read:

59-2-1603. Allocation of money in the Property Tax Valuation Fund -- Use of funds.

(1) The state auditor shall annually conduct a study of each county of the fourth, fifth, or sixth class to determine:

(a) the costs of assessing and collecting property taxes;

(b) the ability to generate revenue from an assessing and collecting levy; and

(c) the tax burden of levying a property tax sufficient to cover the costs of assessing and collecting property taxes.

(2) Subject to Subsection (3), and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the auditor shall make rules providing for the allocation of money in the Property Tax Valuation [~~Agency~~] Fund.

(3) The rules described in Subsection (2) shall give priority in the allocation of money in the Property Tax Valuation [~~Agency~~] Fund to the counties of the fourth, fifth, or sixth class that the state auditor determines:

(a) in accordance with the study required by Subsection (1), to have the highest tax burden; or

(b) to have the greatest need to improve:

(i) the accurate valuation and uniform assessment levels of property as required by Section 59-2-103; or

(ii) the efficiency of the property tax system.

(4) A county shall use money disbursed from the Property Tax Valuation [~~Agency~~] Fund to:

(a) offset the costs of assessing and collecting property taxes;

(b) improve the accurate valuation and uniform assessment levels of property as required by Section 59-2-103; or

(c) improve the efficiency of the property tax system.

(5) If money remains in the fund after all allocations have been distributed to receiving counties in a calendar year, the state auditor shall retain the money in the fund for distribution the following calendar year.

Section 21. Section 59-10-1312 is amended to read:

59-10-1312. Election Campaign Fund -- Creation -- Funding for account -- Disbursement and distribution -- State treasurer requirement to provide a list of contributions designated to each political party.

(1) (a) As used in this section, "fund" means the Election Campaign Fund created by this section.

(b) There is created [~~an agency~~] a custodial fund known as the "Election Campaign Fund."

(c) The fund shall consist of all amounts deposited to the fund in accordance with Section 59-10-1311.

(2) On or before four months after the due date for filing a return required by this chapter in which a contribution is made in accordance with Section 59-10-1311, the state treasurer shall:

(a) disburse that portion of the amounts deposited in the fund since the last disbursement:

(i) that are designated for a political party; and

(ii) to the political party to which the amounts are designated; and

(b) provide to the political party described in Subsection (2)(a)(ii) a list disclosing, for each county, the total amount designated by resident or nonresident individuals, other than nonresident aliens, in that county.

Section 22. Section 63A-3-109 is amended to read:

63A-3-109. Contribution dependent accounts -- Annual report.

(1) As used in this section:

(a) (i) "Contribution" means a voluntary donation of money or other valuable property to a state fund or account.

(ii) "Contribution" does not include:

(A) a fee or tax levied by a state entity; or

(B) a voluntary donation made under Title 41, Chapter 1a, Motor Vehicle Act or Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act.

(b) (i) "Contribution dependent account" means a state fund or account that:

(A) receives at least 50% of the fund's or account's revenue from contributions; and

(B) is not intended to be used to directly provide services exclusively to a person who makes a contribution to the fund or account.

(ii) "Contribution dependent account" does not include a [~~trust and agency~~] fiduciary fund as defined in Section 51-5-4.

(2) The Division of Finance shall annually prepare a report that:

(a) lists each contribution dependent account that did not receive at least $30,000 in contributions during at least one of the three fiscal years before the day on which the report is compiled; and

(b) recommends that the Legislature close each contribution dependent account listed in the report.

(3) The Division of Finance shall present the report described in Subsection (2) to the Executive Appropriations Committee by November 30 of each year.

Section 23. Section 63A-3-205 is amended to read:

63A-3-205. Revolving loan funds -- Standards and procedures.

(1) As used in this section, "revolving loan fund" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank [~~Trust~~] Fund, created in Section 19-6-409;

(j) the Uintah Basin Revitalization Fund, created in Section 35A-8-1602;

(k) the Navajo Revitalization Fund, created in Section 35A-8-1704; and

(l) the Energy Efficiency Fund, created in Section 11-45-201.

(2) The division shall for each revolving loan fund make rules establishing standards and procedures governing:

(a) payment schedules and due dates;

(b) interest rate effective dates;

(c) loan documentation requirements; and

(d) interest rate calculation requirements.

Section 24. Section 63B-1b-102 is amended to read:

63B-1b-102. Definitions.

As used in this chapter:

(1) "Agency bonds" means any bond, note, contract, or other evidence of indebtedness representing loans or grants made by an authorizing agency.

(2) "Authorized official" means the state treasurer or other person authorized by a bond document to perform the required action.

(3) "Authorizing agency" means the board, person, or unit with legal responsibility for administering and managing revolving loan funds.

(4) "Bond document" means:

(a) a resolution of the commission; or

(b) an indenture or other similar document authorized by the commission that authorizes and secures outstanding revenue bonds from time to time.

(5) "Commission" means the State Bonding Commission, created in Section 63B-1-201.

(6) "Revenue bonds" means any special fund revenue bonds issued under this chapter.

(7) "Revolving Loan Funds" means:

(a) the Water Resources Conservation and Development Fund, created in Section 73-10-24;

(b) the Water Resources Construction Fund, created in Section 73-10-8;

(c) the Water Resources Cities Water Loan Fund, created in Section 73-10-22;

(d) the Clean Fuel Conversion Funds, created in Title 19, Chapter 1, Part 4, Clean Fuels and Vehicle Technology Program Act;

(e) the Water Development Security Fund and its subaccounts, created in Section 73-10c-5;

(f) the Agriculture Resource Development Fund, created in Section 4-18-106;

(g) the Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(h) the Permanent Community Impact Fund, created in Section 35A-8-303;

(i) the Petroleum Storage Tank [~~Trust~~] Fund, created in Section 19-6-409; and

(j) the State Infrastructure Bank Fund, created in Section 72-2-202.

Section 25. Section 63B-1b-202 is amended to read:

63B-1b-202. Custodial officer -- Powers and duties.

(1) (a) There is created within the Division of Finance an officer responsible for the care, custody, safekeeping, collection, and accounting of all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) Notwithstanding Subsection (1)(a), the officer described in Subsection (1)(a) is not responsible for the care, custody, safekeeping, collection, and accounting of a bond, note, contract, trust document, or other evidence of indebtedness relating to the:

(i) Agriculture Resource Development Fund, created in Section 4-18-106;

(ii) Utah Rural Rehabilitation Fund, created in Section 4-19-105;

(iii) Petroleum Storage Tank [~~Trust~~] Fund, created in Section 19-6-409;

(iv) Olene Walker Housing Loan Fund, created in Section 35A-8-502; and

(v) Brownfields Fund, created in Section 19-8-120.

(2) (a) Each authorizing agency shall deliver to this officer for the officer's care, custody, safekeeping, collection, and accounting all bonds, notes, contracts, trust documents, and other evidences of indebtedness:

(i) owned or administered by the state or any of its agencies; and

(ii) except as provided in Subsection (1)(b), relating to revolving loan funds.

(b) This officer shall:

(i) establish systems, programs, and facilities for the care, custody, safekeeping, collection, and accounting for the bonds, notes, contracts, trust documents, and other evidences of indebtedness submitted to the officer under this Subsection (2); and

(ii) shall make available updated reports to each authorizing agency as to the status of loans under their authority.

(3) The officer described in Section 63B-1b-201 shall deliver to the officer described in Subsection (1)(a) for the care, custody, safekeeping, collection, and accounting by the officer described in Subsection (1)(a) of all bonds, notes, contracts, trust

documents, and other evidences of indebtedness closed as provided in Subsection 63B-1b-201(2)(b).

Section 26. Section 63C-4a-308 is amended to read:

63C-4a-308. Commission duties with regards to federal lands.

The commission shall:

(1) review and make recommendations on the transfer of federally controlled public lands to the state;

(2) review and make recommendations regarding the state's sovereign right to protect the health, safety, and welfare of its citizens as it relates to public lands, including recommendations concerning the use of funds in the account created in Section 63C-4a-404;

(3) study and evaluate the recommendations of the public lands transfer study and economic analysis conducted by the Public Lands Policy Coordinating Office in accordance with Section 63L-11-304;

(4) coordinate with and report on the efforts of the executive branch, the counties and political subdivisions of the state, the state congressional delegation, western governors, other states, and other stakeholders concerning the transfer of federally controlled public lands to the state including convening working groups, such as a working group composed of members of the Utah Association of Counties;

(5) study and make recommendations regarding the appropriate designation of public lands transferred to the state, including stewardship of the land and appropriate uses of the land;

(6) study and make recommendations regarding the use of funds received by the state from the public lands transferred to the state; and

(7) receive reports from and make recommendations to the attorney general, the Legislature, and other stakeholders involved in litigation on behalf of the state's interest in the transfer of public lands to the state, regarding:

(a) preparation for potential litigation;

(b) selection of outside legal counsel;

(c) ongoing legal strategy for the transfer of public lands; and

(d) use of money[~~: (i)~~] appropriated by the Legislature for the purpose of securing the transfer of public lands to the state under Section 63C-4a-404[~~; and~~].

[~~(ii) disbursed from the Public Lands Litigation Expendable Special Revenue Fund created in Section 63C-4a-405.~~]

Section 27. Section 63I-1-226 is amended to read:

63I-1-226. Repeal dates, Title 26.

(1) Subsection 26-1-7(1)(f), related to the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(2) Subsection 26-1-7(1)(h), related to the Primary Care Grant Committee, is repealed July 1, 2025.

(3) Section 26-1-7.5, which creates the Utah Health Advisory Council, is repealed July 1, 2025.

(4) Section 26-1-40 is repealed July 1, 2022.

(5) Section 26-1-41 is repealed July 1, 2026.

(6) Section 26-7-10 is repealed July 1, 2025.

(7) Subsection 26-7-11(5), regarding reports to the Legislature, is repealed July 1, 2028.

(8) Section 26-7-14 is repealed December 31, 2027.

(9) Title 26, Chapter 9f, Utah Digital Health Service Commission Act, is repealed July 1, 2025.

(10) Subsection 26-10-6(5), which creates the Newborn Hearing Screening Committee, is repealed July 1, 2026.

(11) Section 26-10b-106, which creates the Primary Care Grant Committee, is repealed July 1, 2025.

(12) Subsection 26-15c-104(3), relating to a limitation on the number of microenterprise home kitchen permits that may be issued, is repealed on July 1, 2022.

(13) Subsection 26-18-2.6(9), which addresses reimbursement for dental hygienists, is repealed July 1, 2028.

(14) Section 26-18-27 is repealed July 1, 2025.

(15) Title 26, Chapter 18, Part 2, Drug Utilization Review Board, is repealed July 1, 2027.

(16) Subsection 26-18-418(2), the language that states "and the Behavioral Health Crisis Response Commission created in Section 63C-18-202" is repealed July 1, 2023.

(17) Section 26-33a-117 is repealed on December 31, 2023.

(18) Title 26, Chapter 33a, Utah Health Data Authority Act, is repealed July 1, 2024.

(19) Title 26, Chapter 36b, Inpatient Hospital Assessment Act, is repealed July 1, 2024.

(20) Title 26, Chapter 36c, Medicaid Expansion Hospital Assessment Act, is repealed July 1, 2024.

(21) Title 26, Chapter 36d, Hospital Provider Assessment Act, is repealed July 1, 2024.

(22) Section 26-39-201, which creates the Residential Child Care Licensing Advisory Committee, is repealed July 1, 2024.

(23) Section 26-40-104, which creates the Utah Children's Health Insurance Program Advisory Council, is repealed July 1, 2025.

(24) Section 26-50-202, which creates the Traumatic Brain Injury Advisory Committee, is repealed July 1, 2025.

(25) Title 26, Chapter 54, Spinal Cord and Brain Injury Rehabilitation Fund and Pediatric Neuro-Rehabilitation Fund, is repealed January 1, 2025.

[~~(26) Title 26, Chapter 63, Nurse Home Visiting Pay-for-Success Program, is repealed July 1, 2026.~~]

[~~(27)~~] (26) Title 26, Chapter 66, Early Childhood Utah Advisory Council, is repealed July 1, 2026.

[~~(28)~~] (27) Title 26, Chapter 68, COVID-19 Vaccine Restrictions Act, is repealed July 1, 2024.

Section 28. Section 63J-1-601 is amended to read:

63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.

(1) As used in this section:

(a) "Education grant subrecipient" means a nonfederal entity that:

(i) receives a subaward from the State Board of Education to carry out at least part of a federal or state grant program; and

(ii) does not include an individual who is a beneficiary of the federal or state grant program.

(b) "Transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

(i) enterprise funds;

(ii) internal service funds;

(iii) [~~trust and agency~~] fiduciary funds;

(iv) capital projects funds;

(v) discrete component unit funds;

(vi) debt service funds; and

(vii) permanent funds;

(b) those appropriations from a fund or account or appropriations to a program that are designated as nonlapsing under Section 63J-1-602.1 or 63J-1-602.2;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of State Parks or the Division of Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A, Chapter 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) (a) For purposes of this chapter, a reimbursement request received from an education grant subrecipient:

(i) is not a liability or expense to the state for budgetary purposes, unless the State Board of Education receives the claim within the time periods described in Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the State Board of Education records on a claim invoice is the date of receipt.

(7) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section 29. Section 63J-1-602.1 is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4–42–102.

(2) The Native American Repatriation Restricted Account created in Section 9–9–407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9–18–102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9–19–102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11–42a–106.

(6) Money received by the Utah Inland Port Authority, as provided in Section 11–58–105.

(7) The "Latino Community Support Restricted Account" created in Section 13–1–16.

(8) The Clean Air Support Restricted Account created in Section 19–1–109.

(9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19–2a–106.

(10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19–5–126.

(11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section 23–14–13.5.

(12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24–4–117.

(13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26–1–38.

(14) The Children with Cancer Support Restricted Account created in Section 26–21a–304.

(15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26–40–108.

(16) The Children with Heart Disease Support Restricted Account created in Section 26–58–102.

[~~(17) The Nurse Home Visiting Restricted Account created in Section 26–63–601.~~]

[~~(18)~~] (17) The Technology Development Restricted Account created in Section 31A–3–104.

[~~(19)~~] (18) The Criminal Background Check Restricted Account created in Section 31A–3–105.

[~~(20)~~] (19) The Captive Insurance Restricted Account created in Section 31A–3–304, except to the extent that Section 31A–3–304 makes the money received under that section free revenue.

[~~(21)~~] (20) The Title Licensee Enforcement Restricted Account created in Section 31A–23a–415.

[~~(22)~~] (21) The Health Insurance Actuarial Review Restricted Account created in Section 31A–30–115.

[~~(23)~~] (22) The Insurance Fraud Investigation Restricted Account created in Section 31A–31–108.

[~~(24)~~] (23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B–2–306.

[~~(25)~~] (24) The School Readiness Restricted Account created in Section 35A–15–203.

[~~(26)~~] (25) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A–13–202.

[~~(27)~~] (26) The Oil and Gas Administrative Penalties Account created in Section 40–6–11.

[~~(28)~~] (27) The Oil and Gas Conservation Account created in Section 40–6–14.5.

[~~(29)~~] (28) The Division of Oil, Gas, and Mining Restricted account created in Section 40–6–23.

[~~(30)~~] (29) The Electronic Payment Fee Restricted Account created by Section 41–1a–121 to the Motor Vehicle Division.

[~~(31)~~] (30) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41–3–110 to the State Tax Commission.

[~~(32)~~] (31) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53–1–120.

[~~(33)~~] (32) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53–2a–603.

[~~(34)~~] (33) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53–3–106.

[~~(35)~~] (34) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53–8–303.

[~~(36)~~] (35) The DNA Specimen Restricted Account created in Section 53–10–407.

[~~(37)~~] (36) The Canine Body Armor Restricted Account created in Section 53–16–201.

[~~(38)~~] (37) The Technical Colleges Capital Projects Fund created in Section 53B–2a–118.

[~~(39)~~] (38) The Higher Education Capital Projects Fund created in Section 53B–22–202.

[~~(40)~~] (39) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C–3–202.

[~~(41)~~] (40) The Public Utility Regulatory Restricted Account created in Section 54–5–1.5, subject to Subsection 54–5–1.5(4)(d).

[~~(42)~~] (41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–3a–105.

[~~(43)~~] (42) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58–17b–505.

[~~(44)~~] (43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–22–104.

[~~(45)~~] (44) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–55–106.

[~~(46)~~] (45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58–56–3.5.

[~~(47)~~] (46) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58–63–103.

[~~(48)~~] (47) The Relative Value Study Restricted Account created in Section 59–9–105.

[~~(49)~~] (48) The Cigarette Tax Restricted Account created in Section 59–14–204.

[~~(50)~~] (49) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61–2c–202.

[~~(51)~~] (50) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61–2f–204.

[~~(52)~~] (51) Certain funds donated to the Department of Human Services, as provided in Section 62A–1–111.

[~~(53)~~] (52) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A–1–202.

[~~(54)~~] (53) Certain funds donated to the Division of Child and Family Services, as provided in Section 62A–4a–110.

[~~(55)~~] (54) The Choose Life Adoption Support Restricted Account created in Section 62A–4a–608.

[~~(56)~~] (55) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G–3–402.

[~~(57)~~] (56) The Immigration Act Restricted Account created in Section 63G–12–103.

[~~(58)~~] (57) Money received by the military installation development authority, as provided in Section 63H–1–504.

[~~(59)~~] (58) The Computer Aided Dispatch Restricted Account created in Section 63H–7a–303.

[~~(60)~~] (59) The Unified Statewide 911 Emergency Service Account created in Section 63H–7a–304.

[~~(61)~~] (60) The Utah Statewide Radio System Restricted Account created in Section 63H–7a–403.

[~~(62)~~] (61) The Utah Capital Investment Restricted Account created in Section 63N–6–204.

[~~(63)~~] (62) The Motion Picture Incentive Account created in Section 63N–8–103.

[~~(64)~~] (63) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N–10–301.

[~~(65)~~] (64) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64–13e–104(2).

[~~(66)~~] (65) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A–8–103.

[~~(67) The Transportation of Veterans to Memorials Support Restricted Account created in Section 71–14–102.~~]

[~~(68)~~] (66) The Amusement Ride Safety Restricted Account, as provided in Section 72–16–204.

[~~(69)~~] (67) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73–3–25.

[~~(70)~~] (68) The Water Resources Conservation and Development Fund, as provided in Section 73–23–2.

[~~(71)~~] (69) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A–6–203(1)(c).

[~~(72)~~] (70) Fees for certificate of admission created under Section 78A-9-102.

[~~(73)~~] (71) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

[~~(74)~~] (72) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

[~~(75)~~] (73) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

[~~(76)~~] (74) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

[~~(77)~~] (75) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

[~~(78)~~] (76) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

Section 30. Section 63J-2-102 is amended to read:

63J-2-102. Definitions.

As used in this chapter:

(1) (a) "Agency" means each department, commission, board, council, agency, institution, officer, corporation, fund, division, office, committee, authority, laboratory, library, unit, bureau, panel, or other administrative unit of the state.

(b) "Agency" does not include the legislative branch, the Utah Board of Higher Education, the Utah Higher Education Assistance Authority, the board of trustees of each higher education institution, each higher education institution and its associated branches, centers, divisions, institutes, foundations, hospitals, colleges, schools, or departments, a public education entity, or an independent agency.

(2) "Dedicated credits" means the same as that term is defined in Section 63J-1-102.

(3) "Fees" means revenue collected by an agency for performing a service or providing a function that the agency deposits or accounts for as dedicated credits.

(4) (a) "Governmental fund" means funds used to account for the acquisition, use, and balances of expendable financial resources and related liabilities using a measurement focus that emphasizes the flow of financial resources.

(b) "Governmental fund" does not include internal service funds, enterprise funds, capital projects funds, debt service funds, or [~~trust and agency~~] fiduciary funds as established in Section 51-5-4.

(5) "Independent agency" means the Utah State Retirement Office and the Utah Housing Corporation.

(6) "Program" means the same as that term is defined in Section 63J-1-102.

(7) "Revenue types" means the categories established by the Division of Finance under the authority of this chapter that classify revenue according to the purpose for which it is collected.

Section 31. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a [~~Trust and Agency~~] Fiduciary Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the Education Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in Section 4-22-103;

(k) a grant to the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

(m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

(n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

(o) a grant to the Utah State Retirement Office created in Section 49-11-201;

(p) a grant to the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

(r) a grant to the Medical Education Program created in Section 53B-24-202;

(s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

(t) a grant to the Utah Charter School Finance Authority created in Section 53G-5-602;

(u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or

(v) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 32. Section 67-4a-801 is amended to read:

67-4a-801. Unclaimed Property Fund -- Deposit of funds by administrator.

(1) (a) There is created a [~~private-purpose trust~~] custodial fund entitled the "Unclaimed Property [~~Trust~~] Fund."

(b) Except as otherwise provided in this section, the administrator shall deposit all funds received under this chapter, including proceeds from the sale of property under Part 7, Sale of Property by Administrator, in the fund.

(c) The fund shall earn interest.

(2) The administrator shall:

(a) pay any legitimate claims or deductions authorized by this chapter from the fund;

(b) before the end of the fiscal year, estimate the amount of money from the fund that will ultimately be needed to be paid to claimants; and

(c) at the end of the fiscal year, transfer any amount in excess of that amount to the Uniform School Fund, except that unclaimed restitution for crime victims shall be transferred to the Crime Victim Reparations Fund.

(3) Before making any transfer to the Uniform School Fund, the administrator may deduct from the fund:

(a) amounts appropriated by the Legislature for administration of this chapter;

(b) any costs incurred in connection with the sale of abandoned property;

(c) costs of mailing and publication in connection with any abandoned property;

(d) reasonable service charges; and

(e) costs incurred in examining records of holders of property and in collecting the property from those holders.

Section 33. Section 78B-22-102 is amended to read:

78B-22-102. Definitions.

As used in this chapter:

(1) "Account" means the Indigent Defense Resources Restricted Account created in Section 78B-22-405.

(2) "Board" means the Indigent Defense Funds Board created in Section 78B-22-501.

(3) "Commission" means the Utah Indigent Defense Commission created in Section 78B-22-401.

(4) "Child welfare case" means a proceeding under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination or Restoration of Parental Rights.

(5) "Executive Director" means the executive director of the Office of Indigent Defense Services, created in Section 78B-22-451, who is appointed in accordance with Section 78B-22-453.

(6) (a) "Indigent defense resources" means the resources necessary to provide an effective defense for an indigent individual, including the costs for a competent investigator, expert witness, scientific or medical testing, transcripts, and printing briefs.

(b) "Indigent defense resources" does not include an indigent defense service provider.

(7) "Indigent defense service provider" means an attorney or entity appointed to represent an indigent individual pursuant to:

(a) a contract with an indigent defense system to provide indigent defense services; or

(b) an order issued by the court under Subsection 78B-22-203(2)(a).

(8) "Indigent defense services" means:

(a) the representation of an indigent individual by an indigent defense service provider; and

(b) the provision of indigent defense resources for an indigent individual.

(9) "Indigent defense system" means:

(a) a city or town that is responsible for providing indigent defense services;

(b) a county that is responsible for providing indigent defense services in the district court, juvenile court, and the county's justice courts; or

(c) an interlocal entity, created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, that is responsible for providing indigent defense services according to the terms of an agreement between a county, city, or town.

(10) "Indigent individual" means:

(a) a minor who is:

(i) arrested and admitted into detention for an offense under Section 78A-6-103;

(ii) charged by petition or information in the juvenile or district court; or

(iii) described in this Subsection (9)(a), who is appealing an adjudication or other final court action; and

(b) an individual listed in Subsection 78B-22-201(1) who is found indigent pursuant to Section 78B-22-202.

(11) "Minor" means the same as that term is defined in Section 80-1-102.

(12) "Office" means the Office of Indigent Defense Services created in Section 78B-22-451.

(13) "Participating county" means a county that complies with this chapter for participation in the Indigent Aggravated Murder Defense [~~Trust~~] Fund as provided in Sections 78B-22-702 and 78B-22-703.

Section 34. Section 78B-22-404 is amended to read:

78B-22-404. Powers and duties of the commission.

(1) The commission shall:

(a) adopt core principles for an indigent defense system to ensure the effective representation of indigent individuals consistent with the requirements of the United States Constitution, the Utah Constitution, and the Utah Code, which principles at a minimum shall address the following:

(i) an indigent defense system shall ensure that in providing indigent defense services:

(A) an indigent individual receives conflict-free indigent defense services; and

(B) there is a separate contract for each type of indigent defense service; and

(ii) an indigent defense system shall ensure an indigent defense service provider has:

(A) the ability to exercise independent judgment without fear of retaliation and is free to represent an indigent individual based on the indigent defense service provider's own independent judgment;

(B) adequate access to indigent defense resources;

(C) the ability to provide representation to accused individuals in criminal cases at the critical stages of proceedings, and at all stages to indigent individuals in juvenile delinquency and child welfare proceedings;

(D) a workload that allows for sufficient time to meet with clients, investigate cases, file appropriate documents with the courts, and otherwise provide effective assistance of counsel to each client;

(E) adequate compensation without financial disincentives;

(F) appropriate experience or training in the area for which the indigent defense service provider is representing indigent individuals;

(G) compensation for legal training and education in the areas of the law relevant to the types of cases for which the indigent defense service provider is representing indigent individuals; and

(H) the ability to meet the obligations of the Utah Rules of Professional Conduct, including expectations on client communications and managing conflicts of interest;

(b) encourage and aid indigent defense systems in the state in the regionalization of indigent defense services to provide for effective and efficient representation to the indigent individuals;

(c) emphasize the importance of ensuring constitutionally effective indigent defense services;

(d) encourage members of the judiciary to provide input regarding the delivery of indigent defense services; and

(e) oversee individuals and entities involved in providing indigent defense services.

(2) The commission may:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the commission's duties under this part;

(b) assign duties related to indigent defense services to the office to assist the commission with the commission's statutory duties;

(c) request supplemental appropriations from the Legislature to address a deficit in the Indigent Inmate [~~Trust~~] Fund created in Section 78B-22-455; and

(d) request supplemental appropriations from the Legislature to address a deficit in the Child Welfare Parental Representation Fund created in Section 78B-22-804.

Section 35. Section 78B-22-454 is amended to read:

78B-22-454. Defense of indigent inmates.

(1) The office shall pay for indigent defense services for indigent inmates from the Indigent Inmate [~~Trust~~] Fund created in Section 78B-22-455.

(2) A contract under this part shall ensure that indigent defense services are provided in a manner consistent with the core principles described in Section 78B-22-404.

(3) The county attorney or district attorney of a county of the third, fourth, fifth, or sixth class shall function as the prosecuting entity.

(4) (a) A county of the third, fourth, fifth, or sixth class where a state prison is located may impose an

additional property tax levy by ordinance at .0001 per dollar of taxable value in the county.

(b) If the county governing body imposes the additional property tax levy by ordinance, the revenue shall be deposited into the Indigent Inmate [~~Trust~~] Fund as provided in Section 78B-22-455 to fund the purposes of this part.

(c) Upon notification that the fund has reached the amount specified in Subsection 78B-22-455(6), a county shall deposit revenue derived from the property tax levy after the county receives the notice into a county account used exclusively to provide indigent defense services.

(d) A county that chooses not to impose the additional levy by ordinance may not receive any benefit from the Indigent Inmate [~~Trust~~] Fund.

Section 36. Section 78B-22-455 is amended to read:

78B-22-455. Indigent Inmate Fund.

(1) There is created a [~~private-purpose trust~~] custodial fund known as the "Indigent Inmate [~~Trust~~] Fund" to be disbursed by the office in accordance with contracts entered into under Subsection 78B-22-452(1)(g).

(2) Money deposited into this [~~trust~~] fund shall only be used:

(a) to pay indigent defense services for an indigent inmate who:

(i) is incarcerated in a state prison located in a county of the third, fourth, fifth, or sixth class as defined in Section 17-50-501;

(ii) is charged with having committed a crime within that state prison; and

(iii) has been appointed counsel in accordance with Section 78B-22-203; and

(b) to cover costs of administering the Indigent Inmate [~~Trust~~] Fund.

(3) The [~~trust~~] fund consists of:

(a) proceeds received from counties that impose the additional tax levy by ordinance under Subsection 78B-22-454(4), which shall be the total county obligation for payment of costs listed in Subsection (2) for defense services for indigent inmates;

(b) appropriations made to the fund by the Legislature; and

(c) interest and earnings from the investment of fund money.

(4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the fund.

(5) (a) In any calendar year in which the fund has insufficient funding, or is projected to have insufficient funding, the commission shall request a supplemental appropriation from the Legislature in the following general session to provide sufficient funding.

(b) The state shall pay any or all of the reasonable and necessary money to provide sufficient funding into the Indigent Inmate [~~Trust~~] Fund.

(6) The fund is capped at $1,000,000.

(7) The office shall notify the contributing counties when the fund approaches $1,000,000 and provide each county with the amount of the balance in the fund.

(8) Upon notification by the office that the fund is near the limit imposed in Subsection (6), the counties may contribute enough money to enable the fund to reach $1,000,000 and discontinue contributions until notified by the office that the balance has fallen below $1,000,000, at which time counties that meet the requirements of Section 78B-22-454 shall resume contributions.

Section 37. Section 78B-22-501 is amended to read:

78B-22-501. Indigent Defense Funds Board -- Members -- Administrative support.

(1) As used in this part, "fund" means the Indigent Aggravated Murder Defense [~~Trust~~] Fund created in Section 78B-22-701.

(2) There is created the Indigent Defense Funds Board within the Division of Finance.

(3) The board is composed of the following nine members:

(a) two members who are current commissioners or county executives of participating counties appointed by the board of directors of the Utah Association of Counties;

(b) one member at large appointed by the board of directors of the Utah Association of Counties;

(c) two members who are current county attorneys of participating counties appointed by the Utah Prosecution Council;

(d) the director of the Division of Finance or the director's designee;

(e) one member appointed by the Administrative Office of the Courts; and

(f) two members who are private attorneys engaged in or familiar with the criminal defense practice appointed by the members of the board listed in Subsections (3)(a) through (e).

(4) Members appointed under Subsection (3)(a), (b), (c), or (f) shall serve four-year terms.

(5) A vacancy is created if a member appointed under:

(a) Subsection (3)(a) no longer serves as a county commissioner or county executive; or

(b) Subsection (3)(c) no longer serves as a county attorney.

(6) If a vacancy occurs in the membership for any reason, a replacement shall be appointed for the remaining unexpired term in the same manner as the original appointment.

(7) The Division of Finance may provide administrative support and may seek payment for

the costs or the board may contract for administrative support to be paid from the fund.

(8) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(9) The fund shall pay per diem and expenses for board members.

(10) Five members shall constitute a quorum and, if a quorum is present, the action of a majority of the members present shall constitute the action of the board.

Section 38. Section 78B-22-701 is amended to read:

Part 7. Indigent Aggravated Murder Defense Fund

78B-22-701. Establishment of Indigent Aggravated Murder Defense Fund -- Use of fund -- Compensation for indigent legal defense from fund.

(1) For purposes of this part, "fund" means the Indigent Aggravated Murder Defense [~~Trust~~] Fund.

(2) (a) There is established a [~~private-purpose trust~~] custodial fund known as the "Indigent Aggravated Murder Defense [~~Trust~~] Fund."

(b) The Division of Finance shall disburse money from the fund at the direction of the board and subject to this chapter.

(3) The fund consists of:

(a) money received from participating counties as provided in Sections 78B-22-702 and 78B-22-703;

(b) appropriations made to the fund by the Legislature as provided in Section 78B-22-703; and

(c) interest and earnings from the investment of fund money.

(4) The state treasurer shall invest fund money with the earnings and interest accruing to the fund.

(5) The fund shall be used to assist participating counties with financial resources, as provided in Subsection (6), to fulfill their constitutional and statutory mandates for the provision of an adequate defense for indigent individuals prosecuted for the violation of state laws in cases involving aggravated murder.

(6) Money allocated to or deposited in this fund shall be used only:

(a) to reimburse participating counties for expenditures made for an attorney appointed to represent an indigent individual, other than a state inmate in a state prison, prosecuted for aggravated murder in a participating county; and

(b) for administrative costs pursuant to Section 78B-22-501.

Section 39. Repealer.

This bill repeals:

Section 26-63-101, Title.

Section 26-63-102, Definitions.

Section 26-63-201, Creation.

Section 26-63-202, Department duties.

Section 26-63-203, Nurse home visiting program.

Section 26-63-204, Service providers.

Section 26-63-301, Pay-for-success contract -- Success payments -- Outcome measures.

Section 26-63-302, Performance outcome measures.

Section 26-63-303, Independent evaluator.

Section 26-63-401, Pilot phase.

Section 26-63-402, Implementation phase.

Section 26-63-403, Study and expansion phase.

Section 26-63-501, Reporting requirement.

Section 26-63-502, Medicaid waiver.

Section 26-63-503, Limited liability.

Section 26-63-504, Repeal date.

Section 26-63-601, Nurse Home Visiting Restricted Account.

Section 62A-1-119, Respite Care Assistance Fund -- Use of money -- Restrictions.

Section 63A-12-109, State Archives Fund created -- Donations -- Use of money -- Reporting.

Section 63C-4a-405, Public Lands Litigation Expendable Special Revenue Fund -- Creation -- Source of funds -- Use of funds -- Reports.

Section 71-14-101, Title.

Section 71-14-102, Restricted Account.

Section 76-7-317.1, Abortion Litigation Account.

Section 40. Revisor instructions.

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, on May 4, 2022, replace "Petroleum Storage Tank Trust Fund" with "Petroleum Storage Tank Fund" in any new language added to the Utah Code by legislation passed during the 2022 General Session.

CHAPTER 452
S. B. 195

Passed March 4, 2022
Approved March 24, 2022
Effective March 24, 2022

MEDICAL CANNABIS ACCESS AMENDMENTS

Chief Sponsor: Luz Escamilla
House Sponsor: Raymond P. Ward

LONG TITLE

General Description:

This bill amends provisions regarding patient access and medical professionals in relation to medical cannabis.

Highlighted Provisions:

This bill:

- defines terms;
- requires a hospice program to provide at least one qualified medical provider;
- renames the Cannabinoid Product Board as the Cannabis Research Review Board (board);
- requires physician members of the board to be qualified medical providers;
- adds acute pain for which a medical professional may generally prescribe opioids as a qualifying condition for a limited supply of medical cannabis;
- amends provisions related to advertising regarding medical cannabis;
- requires a recommending medical provider to consider a patient's history of substance use or opioid use disorder before recommending medical cannabis;
- amends provisions regarding the process to renew a medical cannabis card;
- allows a designated caregiver facility to receive medical cannabis shipments on behalf of a resident patient;
- codifies a rule regarding the names and logos of medical cannabis pharmacies;
- clarifies the enforcement authority of the Department of Health in relation to licensed medical cannabis couriers;
- requires certain individuals overseeing certain higher education medical training to be qualified medical providers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

4-41a-102, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-21-2.1, as last amended by Laws of Utah 1997, Chapter 209
26-61-102, as enacted by Laws of Utah 2017, Chapter 398
26-61-201, as last amended by Laws of Utah 2018, Chapter 110
26-61a-102, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-104, as last amended by Laws of Utah 2020, Chapter 12
26-61a-105, as last amended by Laws of Utah 2021, Chapter 350
26-61a-106, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-201, as last amended by Laws of Utah 2021, Chapters 17, 337, and 350 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 337
26-61a-202, as last amended by Laws of Utah 2021, Chapters 17, 337, and 350
26-61a-403, as last amended by Laws of Utah 2021, Chapters 337 and 350
26-61a-505, as last amended by Laws of Utah 2021, Chapter 350
26-61a-604, as last amended by Laws of Utah 2020, Chapter 354
26-61a-607, as last amended by Laws of Utah 2021, Chapter 350
26-61a-702, as last amended by Laws of Utah 2020, Chapter 354

ENACTS:

26-61a-116, Utah Code Annotated 1953
53B-17-903, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 4-41a-102 is amended to read:

4-41a-102. Definitions.

As used in this chapter:

(1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

(a) pesticides;

(b) heavy metals;

(c) solvents;

(d) microbial life;

(e) toxins; or

(f) foreign matter.

(2) [~~"Cannabinoid Product~~] "Cannabis Research Review Board" means the [~~Cannabinoid Product~~] Cannabis Research Review Board created in Section 26-61-201.

(3) "Cannabis" means the same as that term is defined in Section 26-61a-102.

(4) "Cannabis concentrate" means:

(a) the product of any chemical or physical process applied to naturally occurring biomass that concentrates or isolates the cannabinoids contained in the biomass; and

(b) any amount of a natural, derivative, or synthetic cannabinoid in the synthetic cannabinoid's purified state.

(5) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

(6) "Cannabis cultivation facility" means a person that:

(a) possesses cannabis;

(b) grows or intends to grow cannabis; and

(c) sells or intends to sell cannabis to a cannabis cultivation facility, a cannabis processing facility, or a medical cannabis research licensee.

(7) "Cannabis cultivation facility agent" means an individual who:

(a) is an employee of a cannabis cultivation facility; and

(b) holds a valid cannabis production establishment agent registration card.

(8) "Cannabis derivative product" means a product made using cannabis concentrate.

(9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold in a form that is recognizable as a portion of a cannabis plant.

(10) "Cannabis processing facility" means a person that:

(a) acquires or intends to acquire cannabis from a cannabis production establishment;

(b) possesses cannabis with the intent to manufacture a cannabis product;

(c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis extract; and

(d) sells or intends to sell a cannabis product to a medical cannabis pharmacy or a medical cannabis research licensee.

(11) "Cannabis processing facility agent" means an individual who:

(a) is an employee of a cannabis processing facility; and

(b) holds a valid cannabis production establishment agent registration card.

(12) "Cannabis product" means the same as that term is defined in Section 26-61a-102.

(13) "Cannabis production establishment" means a cannabis cultivation facility, a cannabis processing facility, or an independent cannabis testing laboratory.

(14) "Cannabis production establishment agent" means a cannabis cultivation facility agent, a cannabis processing facility agent, or an independent cannabis testing laboratory agent.

(15) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

(a) authorizes an individual to act as a cannabis production establishment agent; and

(b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

(16) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(17) "Cultivation space" means, quantified in square feet, the horizontal area in which a cannabis cultivation facility cultivates cannabis, including each level of horizontal area if the cannabis cultivation facility hangs, suspends, stacks, or otherwise positions plants above other plants in multiple levels.

(18) "Delta-9-tetrahydrocannabinol" or "delta-9-THC" means the cannabinoid identified as CAS# 1972-08-03, the primary psychotropic cannabinoid in cannabis.

(19) "Department" means the Department of Agriculture and Food.

(20) "Derivative cannabinoid" means any cannabinoid that has been intentionally created using a process to convert a naturally occurring cannabinoid into another cannabinoid.

(21) "Family member" means a parent, step-parent, spouse, child, sibling, step-sibling, uncle, aunt, nephew, niece, first cousin, mother-in-law, father-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandparent, or grandchild.

(22) (a) "Independent cannabis testing laboratory" means a person that:

(i) conducts a chemical or other analysis of cannabis or a cannabis product; or

(ii) acquires, possesses, and transports cannabis or a cannabis product with the intent to conduct a chemical or other analysis of the cannabis or cannabis product.

(b) "Independent cannabis testing laboratory" includes a laboratory that the department operates in accordance with Subsection 4-41a-201(14).

(23) "Independent cannabis testing laboratory agent" means an individual who:

(a) is an employee of an independent cannabis testing laboratory; and

(b) holds a valid cannabis production establishment agent registration card.

(24) "Industrial hemp waste" means:

(a) a cannabinoid extract above 0.3% total THC derived from verified industrial hemp biomass; or

(b) verified industrial hemp biomass with a total THC concentration of less than 0.3% by dry weight.

(25) "Inventory control system" means a system described in Section 4-41a-103.

(26) "Licensing board" or "board" means the Cannabis Production Establishment Licensing Advisory Board created in Section 4-41a-201.1.

(27) "Medical cannabis" means the same as that term is defined in Section 26-61a-102.

(28) "Medical cannabis card" means the same as that term is defined in Section 26-61a-102.

(29) "Medical cannabis pharmacy" means the same as that term is defined in Section 26-61a-102.

(30) "Medical cannabis pharmacy agent" means the same as that term is defined in Section 26-61a-102.

(31) "Medical cannabis research license" means a license that the department issues to a research university for the purpose of obtaining and possessing medical cannabis for academic research.

(32) "Medical cannabis research licensee" means a research university that the department licenses to obtain and possess medical cannabis for academic research, in accordance with Section 4-41a-901.

(33) "Medical cannabis treatment" means the same as that term is defined in Section 26-61a-102.

(34) "Medicinal dosage form" means the same as that term is defined in Section 26-61a-102.

(35) "Qualified medical provider" means the same as that term is defined in Section 26-61a-102.

(36) "Qualified Production Enterprise Fund" means the fund created in Section 4-41a-104.

(37) "Recommending medical provider" means the same as that term is defined in Section 26-61a-102.

(38) "Research university" means the same as that term is defined in Section 53B-7-702 and a private, nonprofit college or university in the state that:

(a) is accredited by the Northwest Commission on Colleges and Universities;

(b) grants doctoral degrees; and

(c) has a laboratory containing or a program researching a schedule I controlled substance described in Section 58-37-4.

(39) "State electronic verification system" means the system described in Section 26-61a-103.

(40) "Synthetic cannabinoid" means any cannabinoid that:

(a) was chemically synthesized from starting materials other than a naturally occurring cannabinoid; and

(b) is not a derivative cannabinoid.

(41) "Tetrahydrocannabinol" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(42) "Total composite tetrahydrocannabinol" means all detectable forms of tetrahydrocannabinol.

(43) "Total tetrahydrocannabinol" or "total THC" means the sum of the determined amounts of delta-9-THC and tetrahydrocannabinolic acid, calculated as "total THC = delta-9-THC + (THCA x 0.877)."

Section 2. Section 26-21-2.1 is amended to read:

26-21-2.1. Services.

(1) General acute hospitals and specialty hospitals shall remain open and be continuously ready to receive patients 24 hours of every day in a year and have an attending medical staff consisting of one or more physicians licensed to practice medicine and surgery under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act.

(2) A specialty hospital shall provide on-site all basic services required of a general acute hospital that are needed for the diagnosis, therapy, or rehabilitation offered to or required by patients admitted to or cared for in the facility.

(3) (a) A home health agency shall provide at least licensed nursing services or therapeutic services directly through the agency employees.

(b) A home health agency may provide additional services itself or under arrangements with another agency, organization, facility, or individual.

(4) Beginning January 1, 2023, a hospice program shall provide at least one qualified medical provider, as that term is defined in Section 26-61a-102, for the treatment of hospice patients.

Section 3. Section 26-61-102 is amended to read:

26-61-102. Definitions.

As used in this chapter:

(1) "Approved study" means a medical research study:

(a) the purpose of which is to investigate the medical benefits and risks of cannabinoid products; and

(b) that is approved by an IRB.

(2) "Board" means the [~~Cannabinoid Product~~] Cannabis Research Review Board created in Section 26-61-201.

(3) "Cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(4) "Cannabis" means the same as that term is defined in Section 58-37-3.6.

(5) "Expanded cannabinoid product" means the same as that term is defined in Section 58-37-3.6.

(6) "Institutional review board" or "IRB" means an institutional review board that is registered for human subject research by the United States Department of Health and Human Services.

Section 4. Section 26-61-201 is amended to read:

26-61-201. Cannabis Research Review Board.

(1) There is created the [~~Cannabinoid Product~~] Cannabis Research Review Board within the department.

(2) The department shall appoint, in consultation with a professional association based in the state that represents physicians, seven members to the [~~Cannabinoid Product~~] Cannabis Research Review Board as follows:

(a) three individuals who are medical research professionals; and

(b) four physicians who are qualified medical providers.

(3) The department shall ensure that at least one of the board members appointed under Subsection (2) is a member of the Controlled Substances Advisory Committee created in Section 58-38a-201.

(4) (a) Four of the board members appointed under Subsection (2) shall serve an initial term of two years and three of the board members appointed under Subsection (2) shall serve an initial term of four years.

(b) Successor board members shall each serve a term of four years.

(c) A board member appointed to fill a vacancy on the board shall serve the remainder of the term of the board member whose departure created the vacancy.

(5) The department may remove a board member without cause.

(6) The board shall:

(a) nominate a board member to serve as chairperson of the board by a majority vote of the board members[~~.~~]; and

[~~(7) The board shall~~] (b) meet as often as necessary to accomplish the duties assigned to the board under this chapter.

[~~(8)~~] (7) Each board member, including the chair, has one vote.

[~~(9)~~] (8) (a) A majority of board members constitutes a quorum.

(b) A vote of a majority of the quorum at any board meeting is necessary to take action on behalf of the board.

[~~(10)~~] (9) A board member may not receive compensation for the member's service on the board, but may, in accordance with rules adopted by the board in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, receive:

(a) per diem at the rate established under Section 63A-3-106; and

(b) travel expenses at the rate established under Section 63A-3-107.

(10) If a board member appointed under Subsection (2)(b) does not meet the qualifications of Subsection (2)(b) before July 1, 2022:

(a) the board member's seat is vacant; and

(b) the department shall fill the vacancy in accordance with this section.

Section 5. Section 26-61a-102 is amended to read:

26-61a-102. Definitions.

As used in this chapter:

(1) "Active tetrahydrocannabinol" means Delta-8-THC, Delta-9-THC, and tetrahydrocannabinolic acid.

(2) "[~~Cannabinoid Product~~] Cannabis Research Review Board" means the [~~Cannabinoid Product~~] Cannabis Research Review Board created in Section 26-61-201.

(3) "Cannabis" means marijuana.

(4) "Cannabis cultivation facility" means the same as that term is defined in Section 4-41a-102.

(5) "Cannabis processing facility" means the same as that term is defined in Section 4-41a-102.

(6) "Cannabis product" means a product that:

(a) is intended for human use; and

(b) contains cannabis or tetrahydrocannabinol.

(7) "Cannabis production establishment" means the same as that term is defined in Section 4-41a-102.

(8) "Cannabis production establishment agent" means the same as that term is defined in Section 4-41a-102.

(9) "Cannabis production establishment agent registration card" means the same as that term is defined in Section 4-41a-102.

(10) "Community location" means a public or private elementary or secondary school, a church, a public library, a public playground, or a public park.

(11) "Conditional medical cannabis card" means an electronic medical cannabis card that the department issues in accordance with Subsection 26-61a-201(1)(b) to allow an applicant for a medical cannabis card to access medical cannabis during the department's review of the application.

(12) "Controlled substance database" means the controlled substance database created in Section 58-37f-201.

(13) "Delta-8-tetrahydrocannabinol" or "Delta-8-THC" means the cannabinoid that:

(a) is similar to Delta-9-THC with a lower psychotropic potency; and

(b) interacts with the CB1 receptor of the nervous system.

(14) "Delta-9-tetrahydrocannabinol" or "Delta-9-THC" means the primary psychotropic cannabinoid in cannabis.

(15) "Department" means the Department of Health.

(16) "Designated caregiver" means:

(a) an individual:

(i) whom an individual with a medical cannabis patient card or a medical cannabis guardian card designates as the patient's caregiver; and

(ii) who registers with the department under Section 26-61a-202; or

(b) (i) a facility that an individual designates as a designated caregiver in accordance with Subsection 26-61a-202(1)(b); or

(ii) an assigned employee of the facility described in Subsection 26-61a-202(1)(b)(ii).

(17) "Directions of use" means recommended routes of administration for a medical cannabis treatment and suggested usage guidelines.

(18) "Dosing guidelines" means a quantity range and frequency of administration for a recommended treatment of medical cannabis.

(19) "Financial institution" means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.

(20) "Home delivery medical cannabis pharmacy" means a medical cannabis pharmacy that the department authorizes, as part of the pharmacy's license, to deliver medical cannabis shipments to a medical cannabis cardholder's home address to fulfill electronic orders that the state central patient portal facilitates.

(21) "Inventory control system" means the system described in Section 4-41a-103.

(22) "Legal dosage limit" means an amount that:

(a) is sufficient to provide 30 days of treatment based on the dosing guidelines that the relevant recommending medical provider or the state central patient portal or pharmacy medical provider, in accordance with Subsection 26-61a-502(4) or (5), recommends; and

(b) may not exceed:

(i) for unprocessed cannabis in a medicinal dosage form, 113 grams by weight; and

(ii) for a cannabis product in a medicinal dosage form, a quantity that contains, in total, greater than 20 grams of active tetrahydrocannabinol.

(23) "Legal use termination date" means a date on the label of a container of unprocessed cannabis flower:

(a) that is 60 days after the date of purchase of the cannabis; and

(b) after which, the cannabis is no longer in a medicinal dosage form outside of the primary residence of the relevant medical cannabis patient cardholder.

(24) "Limited medical provider" means an individual who:

(a) meets the recommending qualifications; and

(b) has no more than 15 patients with a valid medical cannabis patient card or provisional patient card as a result of the individual's recommendation, in accordance with Subsection 26-61a-106(1)(b).

(25) "Marijuana" means the same as that term is defined in Section 58-37-2.

(26) "Medical cannabis" means cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(27) "Medical cannabis card" means a medical cannabis patient card, a medical cannabis guardian card, a medical cannabis caregiver card, or a conditional medical cannabis card.

(28) "Medical cannabis cardholder" means:

(a) a holder of a medical cannabis card; or

(b) a facility or assigned employee, described in Subsection (16)(b), only:

(i) within the scope of the facility's or assigned employee's performance of the role of a medical cannabis patient cardholder's caregiver designation under Subsection 26-61a-202(1)(b); and

(ii) while in possession of documentation that establishes:

(A) a caregiver designation described in Subsection 26-61a-202(1)(b);

(B) the identity of the individual presenting the documentation; and

(C) the relation of the individual presenting the documentation to the caregiver designation.

(29) "Medical cannabis caregiver card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual whom a medical cannabis patient cardholder or a medical cannabis guardian cardholder designates as a designated caregiver; and

(b) is connected to the electronic verification system.

(30) "Medical cannabis courier" means a courier that:

(a) the department licenses in accordance with Section 26-61a-604; and

(b) contracts with a home delivery medical cannabis pharmacy to deliver medical cannabis shipments to fulfill electronic orders that the state central patient portal facilitates.

(31) "Medical cannabis courier agent" means an individual who:

(a) is an employee of a medical cannabis courier; and

(b) who holds a valid medical cannabis courier agent registration card.

(32) (a) "Medical cannabis device" means a device that an individual uses to ingest or inhale cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(b) "Medical cannabis device" does not include a device that:

(i) facilitates cannabis combustion; or

(ii) an individual uses to ingest substances other than cannabis.

(33) "Medical cannabis guardian card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to the parent or legal guardian of a minor with a qualifying condition; and

(b) is connected to the electronic verification system.

(34) "Medical cannabis patient card" means an electronic document that a cardholder may print or store on an electronic device or a physical card or document that:

(a) the department issues to an individual with a qualifying condition; and

(b) is connected to the electronic verification system.

(35) "Medical cannabis pharmacy" means a person that:

(a) (i) acquires or intends to acquire medical cannabis or a cannabis product in a medicinal dosage form from a cannabis processing facility or another medical cannabis pharmacy or a medical cannabis device; or

(ii) possesses medical cannabis or a medical cannabis device; and

(b) sells or intends to sell medical cannabis or a medical cannabis device to a medical cannabis cardholder.

(36) "Medical cannabis pharmacy agent" means an individual who:

(a) is an employee of a medical cannabis pharmacy; and

(b) who holds a valid medical cannabis pharmacy agent registration card.

(37) "Medical cannabis pharmacy agent registration card" means a registration card issued by the department that authorizes an individual to act as a medical cannabis pharmacy agent.

(38) "Medical cannabis shipment" means a shipment of medical cannabis or a medical cannabis product that a home delivery medical cannabis pharmacy or a medical cannabis courier delivers to a medical cannabis cardholder's home address to fulfill an electronic medical cannabis order that the state central patient portal facilitates.

(39) "Medical cannabis treatment" means cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(40) (a) "Medicinal dosage form" means:

(i) for processed medical cannabis or a medical cannabis product, the following with a specific and consistent cannabinoid content:

(A) a tablet;

(B) a capsule;

(C) a concentrated liquid or viscous oil;

(D) a liquid suspension;

(E) a topical preparation;

(F) a transdermal preparation;

(G) a sublingual preparation;

(H) a gelatinous cube, gelatinous rectangular cuboid, or lozenge in a cube or rectangular cuboid shape; or

(I) a resin or wax;

(ii) for unprocessed cannabis flower, a container described in Section 4-41a-602 that:

(A) contains cannabis flowers in a quantity that varies by no more than 10% from the stated weight at the time of packaging;

(B) at any time the medical cannabis cardholder transports or possesses the container in public, is contained within an opaque bag or box that the medical cannabis pharmacy provides; and

(C) is labeled with the container's content and weight, the date of purchase, the legal use termination date, and after December 31, 2020, a barcode that provides information connected to an inventory control system; and

(iii) a form measured in grams, milligrams, or milliliters.

(b) "Medicinal dosage form" includes a portion of unprocessed cannabis flower that:

(i) the medical cannabis cardholder has recently removed from the container described in Subsection (40)(a)(ii) for use; and

(ii) does not exceed the quantity described in Subsection (40)(a)(ii).

(c) "Medicinal dosage form" does not include:

(i) any unprocessed cannabis flower outside of the container described in Subsection (40)(a)(ii), except as provided in Subsection (40)(b);

(ii) any unprocessed cannabis flower in a container described in Subsection (40)(a)(ii) after the legal use termination date; or

(iii) a process of vaporizing and inhaling concentrated cannabis by placing the cannabis on a nail or other metal object that is heated by a flame, including a blowtorch.

(41) "Nonresident patient" means an individual who:

(a) is not a resident of Utah or has been a resident of Utah for less than 45 days;

(b) has a currently valid medical cannabis card or the equivalent of a medical cannabis card under the laws of another state, district, territory, commonwealth, or insular possession of the United States; and

(c) has been diagnosed with a qualifying condition as described in Section 26-61a-104.

(42) "Payment provider" means an entity that contracts with a cannabis production establishment or medical cannabis pharmacy to facilitate transfers of funds between the establishment or pharmacy and other businesses or individuals.

(43) "Pharmacy medical provider" means the medical provider required to be on site at a medical cannabis pharmacy under Section 26-61a-403.

(44) "Provisional patient card" means a card that:

(a) the department issues to a minor with a qualifying condition for whom:

(i) a recommending medical provider has recommended a medical cannabis treatment; and

(ii) the department issues a medical cannabis guardian card to the minor's parent or legal guardian; and

(b) is connected to the electronic verification system.

(45) "Qualified medical provider" means an individual:

(a) who meets the recommending qualifications; and

(b) whom the department registers to recommend treatment with cannabis in a medicinal dosage form under Section 26-61a-106.

(46) "Qualified Patient Enterprise Fund" means the enterprise fund created in Section 26-61a-109.

(47) "Qualifying condition" means a condition described in Section 26-61a-104.

(48) "Recommend" or "recommendation" means, for a recommending medical provider, the act of suggesting the use of medical cannabis treatment, which:

(a) certifies the patient's eligibility for a medical cannabis card; and

(b) may include, at the recommending medical provider's discretion, directions of use, with or without dosing guidelines.

(49) "Recommending medical provider" means a qualified medical provider or a limited medical provider.

(50) "Recommending qualifications" means that an individual:

(a) (i) has the authority to write a prescription;

(ii) is licensed to prescribe a controlled substance under Title 58, Chapter 37, Utah Controlled Substances Act; and

(iii) possesses the authority, in accordance with the individual's scope of practice, to prescribe a Schedule II controlled substance; and

(b) is licensed as:

(i) a podiatrist under Title 58, Chapter 5a, Podiatric Physician Licensing Act;

(ii) an advanced practice registered nurse under Title 58, Chapter 31b, Nurse Practice Act;

(iii) a physician under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; or

(iv) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.

(51) "State central patient portal" means the website the department creates, in accordance with Section 26-61a-601, to facilitate patient safety, education, and an electronic medical cannabis order.

(52) "State central patient portal medical provider" means a physician or pharmacist that the department employs in relation to the state central patient portal to consult with medical cannabis cardholders in accordance with Section 26-61a-602.

(53) "State electronic verification system" means the system described in Section 26-61a-103.

(54) "Tetrahydrocannabinol" or "THC" means a substance derived from cannabis or a synthetic equivalent as described in Subsection 58-37-4(2)(a)(iii)(AA).

(55) "Valid form of photo identification" means any of the following forms of identification that is either current or has expired within the previous six months:

(a) a valid state-issued driver license or identification card;

(b) a valid United States federal-issued photo identification, including:

(i) a United States passport;

(ii) a United States passport card;

(iii) a United States military identification card; or

(iv) a permanent resident card or alien registration receipt card; or

(c) a passport that another country issued.

Section 6. Section 26-61a-104 is amended to read:

26-61a-104. Qualifying condition.

(1) By designating a particular condition under Subsection (2) for which the use of medical cannabis to treat symptoms is decriminalized, the Legislature does not conclusively state that:

(a) current scientific evidence clearly supports the efficacy of a medical cannabis treatment for the condition; or

(b) a medical cannabis treatment will treat, cure, or positively affect the condition.

(2) For the purposes of this chapter, each of the following conditions is a qualifying condition:

(a) HIV or acquired immune deficiency syndrome;

(b) Alzheimer's disease;

(c) amyotrophic lateral sclerosis;

(d) cancer;

(e) cachexia;

(f) persistent nausea that is not significantly responsive to traditional treatment, except for nausea related to:

(i) pregnancy;

(ii) cannabis-induced cyclical vomiting syndrome; or

(iii) cannabinoid hyperemesis syndrome;

(g) Crohn's disease or ulcerative colitis;

(h) epilepsy or debilitating seizures;

(i) multiple sclerosis or persistent and debilitating muscle spasms;

(j) post-traumatic stress disorder that is being treated and monitored by a licensed mental health therapist, as that term is defined in Section 58-60-102, and that:

(i) has been diagnosed by a healthcare provider or mental health provider employed or contracted by the United States Veterans Administration, evidenced by copies of medical records from the United States Veterans Administration that are included as part of the qualified medical provider's pre-treatment assessment and medical record documentation; or

(ii) has been diagnosed or confirmed, through face-to-face or telehealth evaluation of the patient, by a provider who is:

(A) a licensed board-eligible or board-certified psychiatrist;

(B) a licensed psychologist with a master's-level degree;

(C) a licensed clinical social worker with a master's-level degree; or

(D) a licensed advanced practice registered nurse who is qualified to practice within the psychiatric mental health nursing [~~speciality~~] specialty and who has completed the clinical practice requirements in psychiatric mental health nursing, including in psychotherapy, in accordance with Subsection 58-31b-302(4)(g);

(k) autism;

(l) a terminal illness when the patient's remaining life expectancy is less than six months;

(m) a condition resulting in the individual receiving hospice care;

(n) a rare condition or disease that:

(i) affects less than 200,000 individuals in the United States, as defined in Section 526 of the Federal Food, Drug, and Cosmetic Act; and

(ii) is not adequately managed despite treatment attempts using:

(A) conventional medications other than opioids or opiates; or

(B) physical interventions;

(o) pain lasting longer than two weeks that is not adequately managed, in the qualified medical provider's opinion, despite treatment attempts using:

(i) conventional medications other than opioids or opiates; or

(ii) physical interventions; [~~and~~]

(p) pain that is expected to last for two weeks or longer for an acute condition, including a surgical procedure, for which a medical professional may generally prescribe opioids for a limited duration, subject to Subsection 26-61a-201(5)(c); and

[~~(p)~~] (q) a condition that the Compassionate Use Board approves under Section 26-61a-105, on an individual, case-by-case basis.

Section 7. Section 26-61a-105 is amended to read:

26-61a-105. Compassionate Use Board.

(1) (a) The department shall establish a Compassionate Use Board consisting of:

(i) seven qualified medical providers that the executive director appoints and the Senate confirms:

(A) who are knowledgeable about the medicinal use of cannabis;

(B) who are physicians licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(C) whom the appropriate board certifies in the specialty of neurology, pain medicine and pain management, medical oncology, psychiatry, infectious disease, internal medicine, pediatrics, or gastroenterology; and

(ii) as a nonvoting member and the chair of the Compassionate Use Board, the executive director or the director's designee.

(b) In appointing the seven qualified medical providers described in Subsection (1)(a), the executive director shall ensure that at least two have a board certification in pediatrics.

(2) (a) Of the members of the Compassionate Use Board that the executive director first appoints:

(i) three shall serve an initial term of two years; and

(ii) the remaining members shall serve an initial term of four years.

(b) After an initial term described in Subsection (2)(a) expires:

(i) each term is four years; and

(ii) each board member is eligible for reappointment.

(c) A member of the Compassionate Use Board may serve until a successor is appointed.

(3) Four members constitute a quorum of the Compassionate Use Board.

(4) A member of the Compassionate Use Board may receive:

(a) notwithstanding Section 63A-3-106, compensation or benefits for the member's service; and

(b) travel expenses in accordance with Section 63A-3-107 and rules made by the Division of Finance in accordance with Section 63A-3-107.

(5) The Compassionate Use Board shall:

(a) review and recommend for department approval a petition to the board regarding an individual described in Subsection 26-61a-201(2)(a), a minor described in Subsection 26-61a-201(2)(c), or an individual who is not otherwise qualified to receive a medical cannabis card to obtain a medical cannabis card for compassionate use, for the standard or a reduced period of validity, if:

(i) for an individual who is not otherwise qualified to receive a medical cannabis card, the individual's qualified medical provider is actively treating the individual for an intractable condition that:

(A) substantially impairs the individual's quality of life; and

(B) has not, in the qualified medical provider's professional opinion, adequately responded to conventional treatments;

(ii) the qualified medical provider:

(A) recommends that the individual or minor be allowed to use medical cannabis; and

(B) provides a letter, relevant treatment history, and notes or copies of progress notes describing relevant treatment history including rationale for considering the use of medical cannabis; and

(iii) the Compassionate Use Board determines that:

(A) the recommendation of the individual's qualified medical provider is justified; and

(B) based on available information, it may be in the best interests of the individual to allow the use of medical cannabis;

(b) review and approve or deny the use of a medical cannabis device for an individual described in Subsection 26-61a-201(2)(a)(i)(B) or a minor described in Subsection 26-61a-201(2)(c) if the individual's or minor's qualified medical provider recommends that the individual or minor be allowed to use a medical cannabis device to vaporize the medical cannabis treatment;

(c) unless no petitions are pending:

(i) meet to receive or review compassionate use petitions at least quarterly; and

(ii) if there are more petitions than the board can receive or review during the board's regular schedule, as often as necessary;

(d) except as provided in Subsection (6), complete a review of each petition and recommend to the department approval or denial of the applicant for qualification for a medical cannabis card within 90 days after the day on which the board received the petition;

(e) consult with the department regarding the criteria described in Subsection (6); and

(f) report, before November 1 of each year, to the Health and Human Services Interim Committee:

(i) the number of compassionate use recommendations the board issued during the past year; and

(ii) the types of conditions for which the board recommended compassionate use.

(6) The department shall make rules, in consultation with the Compassionate Use Board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a process and criteria for a petition to the board to automatically qualify for expedited final review and approval or denial by the department in cases where, in the determination of the department and the board:

(a) time is of the essence;

(b) engaging the full review process would be unreasonable in light of the petitioner's physical condition; and

(c) sufficient factors are present regarding the petitioner's safety.

(7) (a) (i) The department shall review:

(A) any compassionate use for which the Compassionate Use Board recommends approval under Subsection (5)(d) to determine whether the board properly exercised the board's discretion under this section; and

(B) any expedited petitions the department receives under the process described in Subsection (6).

(ii) If the department determines that the Compassionate Use Board properly exercised the board's discretion in recommending approval under Subsection (5)(d) or that the expedited petition merits approval based on the criteria established in accordance with Subsection (6), the department shall:

(A) issue the relevant medical cannabis card; and

(B) provide for the renewal of the medical cannabis card in accordance with the recommendation of the qualified medical provider described in Subsection (5)(a).

(b) (i) If the Compassionate Use Board recommends denial under Subsection (5)(d), the individual seeking to obtain a medical cannabis card may petition the department to review the board's decision.

(ii) If the department determines that the Compassionate Use Board's recommendation for denial under Subsection (5)(d) was arbitrary or capricious:

(A) the department shall notify the Compassionate Use Board of the department's determination; and

(B) the board shall reconsider the Compassionate Use Board's refusal to recommend approval under this section.

(c) In reviewing the Compassionate Use Board's recommendation for approval or denial under Subsection (5)(d) in accordance with this Subsection (7), the department shall presume the board properly exercised the board's discretion unless the department determines that the board's recommendation was arbitrary or capricious.

(8) Any individually identifiable health information contained in a petition that the Compassionate Use Board or department receives under this section is a protected record in accordance with Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The Compassionate Use Board shall annually report the board's activity to the [~~Cannabinoid Product~~] Cannabis Research Review Board.

Section 8. Section 26-61a-106 is amended to read:

26-61a-106. Qualified medical provider registration -- Continuing education -- Treatment recommendation -- Limited medical provider.

(1) (a) (i) Except as provided in Subsection (1)(b), an individual may not recommend a medical cannabis treatment unless the department registers the individual as a qualified medical provider in accordance with this section.

(ii) Notwithstanding Subsection (1)(a)(i), a qualified medical provider who is podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, may not recommend a medical cannabis treatment except within the course and scope of a practice of podiatry, as that term is defined in Section 58-5a-102.

(b) Beginning on the earlier of September 1, 2021, or the date on which the department gives notice that the electronic verification system is functionally capable as described in Subsection 26-61a-103(2)(d), an individual who meets the recommending qualifications may recommend a medical cannabis treatment as a limited medical provider without registering under Subsection (1)(a) if:

(i) the individual recommends the use of medical cannabis to the patient through an order described in Subsection (1)(c) after:

(A) a face-to-face visit for an initial recommendation or the renewal of a recommendation for a patient for whom the limited medical provider did not make the patient's original recommendation; or

(B) a visit using telehealth services for a renewal of a recommendation for a patient for whom the limited medical provider made the patient's original recommendation; and

(ii) the individual's recommendation or renewal would not cause the total number of the individual's patients who have a valid medical cannabis patient card or provisional patient card resulting from the individual's recommendation to exceed 15.

(c) The individual described in Subsection (1)(b) shall communicate the individual's recommendation through an order for the medical cannabis pharmacy to record the individual's recommendation or renewal in the state electronic verification system under the individual's recommendation that:

(i) (A) that the individual or the individual's employee sends electronically to a medical cannabis pharmacy; or

(B) that the individual gives to the patient in writing for the patient to deliver to a medical cannabis pharmacy; and

(ii) may include:

(A) directions of use or dosing guidelines; and

(B) an indication of a need for a caregiver in accordance with Subsection 26-61a-201(3)(c).

(d) If the limited medical provider gives the patient a written recommendation to deliver to a medical cannabis pharmacy under Subsection (1)(c)(i)(B), the limited medical provider shall ensure that the document includes all of the information that is included on a prescription the provider would issue for a controlled substance, including:

(i) the date of issuance;

(ii) the provider's name, address and contact information, controlled substance license information, and signature; and

(iii) the patient's name, address and contact information, age, and diagnosed qualifying condition.

(e) In considering making a recommendation as a limited medical provider, an individual may consult information that the department makes available on the department's website for recommending providers.

(2) (a) The department shall, within 15 days after the day on which the department receives an application from an individual, register and issue a qualified medical provider registration card to the individual if the individual:

(i) provides to the department the individual's name and address;

(ii) provides to the department a report detailing the individual's completion of the applicable continuing education requirement described in Subsection (3);

(iii) provides to the department evidence that the individual meets the recommending qualifications;

(iv) for an applicant on or after November 1, 2021, provides to the department the information described in Subsection (10)(a); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $300 for an initial registration.

(b) The department may not register an individual as a qualified medical provider if the individual is:

(i) a pharmacy medical provider; or

(ii) an owner, officer, director, board member, employee, or agent of a cannabis production establishment, a medical cannabis pharmacy, or a medical cannabis courier.

(3) (a) An individual shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) for an individual as a condition precedent to registration, four hours; and

(ii) for a qualified medical provider as a condition precedent to renewal, four hours every two years.

(b) In accordance with Subsection (3)(a), a qualified medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the recommendation of cannabis to patients; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a podiatrist licensed under Title 58, Chapter 5a, Podiatric Physician Licensing Act, the Podiatric Physician Board;

(B) for an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act, the Board of Nursing;

(C) for a qualified medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board;

(D) for a qualified medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board; and

(E) for a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act, the Physician Assistant Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, or palliative care; and

(v) best practices for recommending the form and dosage of medical cannabis products based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) Except as provided in Subsection (4)(b), a qualified medical provider may not recommend a medical cannabis treatment to more than 275 of the qualified medical provider's patients at the same time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system.

(b) A qualified medical provider may recommend a medical cannabis treatment to up to 600 of the qualified medical provider's patients at any given time, as determined by the number of medical cannabis cards under the qualified medical provider's name in the state electronic verification system, if:

(i) the appropriate American medical board has certified the qualified medical provider in the specialty of anesthesiology, gastroenterology, neurology, oncology, pain, hospice and palliative medicine, physical medicine and rehabilitation, rheumatology, endocrinology, or psychiatry; or

(ii) a licensed business employs or contracts with the qualified medical provider for the specific purpose of providing hospice and palliative care.

(5) A recommending medical provider may recommend medical cannabis to an individual under this chapter only in the course of a provider-patient relationship after the recommending medical provider has completed and documented in the patient's medical record a

thorough assessment of the patient's condition and medical history based on the appropriate standard of care for the patient's condition.

(6) (a) Except as provided in Subsection (6)(b), an individual may not advertise that the individual recommends a medical cannabis treatment [~~in accordance with this chapter~~].

(b) [~~For purposes of~~] Notwithstanding Subsection (6)(a)[~~, the communication of the following, through a website, by a qualified medical provider, does not constitute advertising:~~] and subject to Section 26-61a-116, a qualified medical provider or clinic or office that employs a qualified medical provider may advertise the following:

(i) a green cross;

(ii) the provider's or clinic's name and logo;

[~~(ii)~~] (iii) a qualifying condition that the individual treats;

[~~(iii)~~] (iv) [~~the individual's registration~~] that the individual is registered as a qualified medical provider and recommends medical cannabis; or

[~~(iv)~~] (v) a scientific study regarding medical cannabis use.

(7) (a) A qualified medical provider registration card expires two years after the day on which the department issues the card.

(b) The department shall renew a qualified medical provider's registration card if the provider:

(i) applies for renewal;

(ii) is eligible for a qualified medical provider registration card under this section, including maintaining an unrestricted license under the recommending qualifications;

(iii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iv) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(v) pays the department a fee in an amount that:

(A) the department sets, in accordance with Section 63J-1-504; and

(B) does not exceed $50 for a registration renewal.

(8) The department may revoke the registration of a qualified medical provider who fails to maintain compliance with the requirements of this section.

(9) A recommending medical provider may not receive any compensation or benefit for the qualified medical provider's medical cannabis treatment recommendation from:

(a) a cannabis production establishment or an owner, officer, director, board member, employee, or agent of a cannabis production establishment;

(b) a medical cannabis pharmacy or an owner, officer, director, board member, employee, or agent of a medical cannabis pharmacy; or

(c) a recommending medical provider or pharmacy medical provider.

(10) (a) On or before November 1, 2021, a qualified medical provider shall report to the department, in a manner designated by the department:

(i) if applicable, that the qualified medical provider or the entity that employs the qualified medical provider represents online or on printed material that the qualified medical provider is a qualified medical provider or offers medical cannabis recommendations to patients; and

(ii) the fee amount that the qualified medical provider or the entity that employs the qualified medical provider charges a patient for a medical cannabis recommendation, either as an actual cash rate or, if the provider or entity bills insurance, an average cash rate.

(b) The department shall:

(i) ensure that the following information related to qualified medical providers and entities described in Subsection (10)(a)(i) is available on the department's website or on the health care price transparency tool under Subsection (10)(b)(ii):

(A) the name of the qualified medical provider and, if applicable, the name of the entity that employs the qualified medical provider;

(B) the address of the qualified medical provider's office or, if applicable, the entity that employs the qualified medical provider; and

(C) the fee amount described in Subsection (10)(a)(ii); and

(ii) share data collected under this Subsection (10) with the state auditor for use in the health care price transparency tool described in Section 67-3-11.

Section 9. Section 26-61a-116 is enacted to read:

26-61a-116. Advertising.

(1) Except as provided in this chapter, a person may not advertise regarding the recommendation, sale, dispensing, or transportation of medical cannabis.

(2) Notwithstanding any authorization to advertise regarding medical cannabis under this chapter, the person advertising may not advertise:

(a) using promotional discounts or incentives;

(b) a particular medical cannabis product, medical cannabis device, or medicinal dosage form; or

(c) an assurance regarding an outcome related to medical cannabis treatment.

(3) Notwithstanding Subsection (1):

(a) a nonprofit organization that offers financial assistance for medical cannabis treatment to low-income patients may advertise the organization's assistance if the advertisement does not relate to a specific medical cannabis pharmacy or a specific medical cannabis product; and

(b) a medical cannabis pharmacy may provide information regarding subsidies for the cost of medical cannabis treatment to patients who affirmatively accept receipt of the subsidy information.

(4) To ensure that the name and logo of a licensee under this chapter have a medical rather than a recreational disposition, the name and logo of the licensee:

(a) may include terms and images associated with:

(i) a medical disposition, including "medical," "medicinal," "medicine," "pharmacy," "apothecary," "wellness," "therapeutic," "health," "care," "cannabis," "clinic," "compassionate," "relief," "treatment," and "patient;" or

(ii) the plant form of cannabis, including "leaf," "flower," and "bloom";

(b) may not include:

(i) any term, statement, design representation, picture, or illustration that is associated with a recreational disposition or that appeals to children;

(ii) an emphasis on a psychoactive ingredient;

(iii) a specific cannabis strain; or

(iv) terms related to recreational marijuana, including "weed," "pot," "reefer," "grass," "hash," "ganga," "Mary Jane," "high," "buzz," "haze," "stoned," "joint," "bud," "smoke," "euphoria," "dank," "doobie," "kush," "frost," "cookies," "rec," "bake," "blunt," "combust," "bong," "budtender," "dab," "blaze," "toke," or "420."

(5) The department shall define standards for advertising authorized under this chapter, including names and logos in accordance with Subsection (4), to ensure a medical rather than recreational disposition.

Section 10. Section 26-61a-201 is amended to read:

26-61a-201. Medical cannabis patient card -- Medical cannabis guardian card -- Conditional medical cannabis card -- Application -- Fees -- Studies.

(1) (a) The department shall, within 15 days after the day on which an individual who satisfies the eligibility criteria in this section or Section 26-61a-202 submits an application in accordance with this section or Section 26-61a-202:

(i) issue a medical cannabis patient card to an individual described in Subsection (2)(a);

(ii) issue a medical cannabis guardian card to an individual described in Subsection (2)(b);

(iii) issue a provisional patient card to a minor described in Subsection (2)(c); and

(iv) issue a medical cannabis caregiver card to an individual described in Subsection 26-61a-202(4).

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of facilitating a conditional medical cannabis card under this Subsection (1)(b), upon the entry of a recommending medical provider's medical cannabis recommendation for a patient in the state electronic verification system, either by the provider or the provider's employee or by a medical cannabis pharmacy medical provider or medical cannabis pharmacy in accordance with Subsection 26-61a-501(11)(a), the department shall issue to the patient an electronic conditional medical cannabis card, in accordance with this Subsection (1)(b).

(ii) A conditional medical cannabis card is valid for the lesser of:

(A) 60 days; or

(B) the day on which the department completes the department's review and issues a medical cannabis card under Subsection (1)(a), denies the patient's medical cannabis card application, or revokes the conditional medical cannabis card under Subsection (8).

(iii) The department may issue a conditional medical cannabis card to an individual applying for a medical cannabis patient card for which approval of the Compassionate Use Board is not required.

(iv) An individual described in Subsection (1)(b)(iii) has the rights, restrictions, and obligations under law applicable to a holder of the medical cannabis card for which the individual applies and for which the department issues the conditional medical cannabis card.

(2) (a) An individual is eligible for a medical cannabis patient card if:

(i) (A) the individual is at least 21 years old; or

(B) the individual is 18, 19, or 20 years old, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(ii) the individual is a Utah resident;

(iii) the individual's recommending medical provider recommends treatment with medical cannabis in accordance with Subsection (4);

(iv) the individual signs an acknowledgment stating that the individual received the information described in Subsection (8); and

(v) the individual pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) (i) An individual is eligible for a medical cannabis guardian card if the individual:

(A) is at least 18 years old;

(B) is a Utah resident;

(C) is the parent or legal guardian of a minor for whom the minor's qualified medical provider recommends a medical cannabis treatment, the individual petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition;

(D) the individual signs an acknowledgment stating that the individual received the information described in Subsection (9);

(E) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203; and

(F) the individual has not been convicted of a misdemeanor or felony drug distribution offense under either state or federal law, unless the individual completed any imposed sentence six months or more before the day on which the individual applies for a medical cannabis guardian card.

(ii) The department shall notify the Department of Public Safety of each individual that the department registers for a medical cannabis guardian card.

(c) (i) A minor is eligible for a provisional patient card if:

(A) the minor has a qualifying condition;

(B) the minor's qualified medical provider recommends a medical cannabis treatment to address the minor's qualifying condition;

(C) one of the minor's parents or legal guardians petitions the Compassionate Use Board under Section 26-61a-105, and the Compassionate Use Board recommends department approval of the petition; and

(D) the minor's parent or legal guardian is eligible for a medical cannabis guardian card under Subsection (2)(b) or designates a caregiver under Subsection (2)(d) who is eligible for a medical cannabis caregiver card under Section 26-61a-202.

(ii) The department shall automatically issue a provisional patient card to the minor described in Subsection (2)(c)(i) at the same time the department issues a medical cannabis guardian card to the minor's parent or legal guardian.

(d) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, if the parent or legal guardian of a minor described in Subsections (2)(c)(i)(A) through (C) does not qualify for a medical cannabis guardian card under Subsection (2)(b), the parent or legal guardian may designate up to two caregivers in accordance with Subsection 26-61a-202(1)(c) to ensure that the minor has adequate and safe access to the recommended medical cannabis treatment.

(3) (a) An individual who is eligible for a medical cannabis card described in Subsection (2)(a) or (b) shall submit an application for a medical cannabis card to the department:

(i) through an electronic application connected to the state electronic verification system;

(ii) with the recommending medical provider; and

(iii) with information including:

(A) the applicant's name, gender, age, and address;

(B) the number of the applicant's valid form of photo identification;

(C) for a medical cannabis guardian card, the name, gender, and age of the minor receiving a medical cannabis treatment under the cardholder's medical cannabis guardian card; and

(D) for a provisional patient card, the name of the minor's parent or legal guardian who holds the associated medical cannabis guardian card.

(b) The department shall ensure that a medical cannabis card the department issues under this section contains the information described in Subsection (3)(a)(iii).

(c) (i) If a recommending medical provider determines that, because of age, illness, or disability, a medical cannabis patient cardholder requires assistance in administering the medical cannabis treatment that the recommending medical provider recommends, the recommending medical provider may indicate the cardholder's need in the state electronic verification system, either directly or, for a limited medical provider, through the order described in Subsections 26-61a-106(1)(c) and (d).

(ii) If a recommending medical provider makes the indication described in Subsection (3)(c)(i):

(A) the department shall add a label to the relevant medical cannabis patient card indicating the cardholder's need for assistance;

(B) any adult who is 18 years old or older and who is physically present with the cardholder at the time the cardholder needs to use the recommended medical cannabis treatment may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment; and

(C) an individual of any age who is physically present with the cardholder in the event of an emergency medical condition, as that term is defined in Section 31A-22-627, may handle the medical cannabis treatment and any associated medical cannabis device as needed to assist the cardholder in administering the recommended medical cannabis treatment.

(iii) A non-cardholding individual acting under Subsection (3)(c)(ii)(B) or (C) may not:

(A) ingest or inhale medical cannabis;

(B) possess, transport, or handle medical cannabis or a medical cannabis device outside of the immediate area where the cardholder is present or with an intent other than to provide assistance to the cardholder; or

(C) possess, transport, or handle medical cannabis or a medical cannabis device when the cardholder is not in the process of being dosed with medical cannabis.

(4) To recommend a medical cannabis treatment to a patient or to renew a recommendation, a recommending medical provider shall:

(a) before recommending or renewing a recommendation for medical cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form:

(i) verify the patient's and, for a minor patient, the minor patient's parent or legal guardian's valid form of identification described in Subsection (3)(a);

(ii) review any record related to the patient and, for a minor patient, the patient's parent or legal guardian in:

(A) for a qualified medical provider, the state electronic verification system; and

(B) the controlled substance database created in Section 58-37f-201; and

(iii) consider the recommendation in light of the patient's qualifying condition, history of substance use or opioid use disorder, and history of medical cannabis and controlled substance use during an initial face-to-face visit with the patient; and

(b) state in the recommending medical provider's recommendation that the patient:

(i) suffers from a qualifying condition, including the type of qualifying condition; and

(ii) may benefit from treatment with cannabis in a medicinal dosage form or a cannabis product in a medicinal dosage form.

(5) (a) Except as provided in Subsection (5)(b) or (c), a medical cannabis card that the department issues under this section is valid for the lesser of:

(i) an amount of time that the recommending medical provider determines; or

(ii) (A) six months for the first issuance, and, except as provided in Subsection (5)(a)(ii)(B), for a renewal; or

(B) for a renewal, one year if, after at least one year following the issuance of the original medical cannabis card, the recommending medical provider determines that the patient has been stabilized on the medical cannabis treatment and a one-year renewal period is justified.

(b) (i) A medical cannabis card that the department issues in relation to a terminal illness described in Section 26-61a-104 does not expire.

(ii) The recommending medical provider may revoke a recommendation that the provider made in relation to a terminal illness described in Section 26-61a-104 if the medical cannabis cardholder no longer has the terminal illness.

(c) A medical cannabis card that the department issues in relation to acute pain as described in Section 26-61a-104 expires 30 days after the day on which the department first issues a conditional or full medical cannabis card.

(6) (a) A medical cannabis patient card or a medical cannabis guardian card is renewable if:

(i) at the time of renewal, the cardholder meets the requirements of Subsection (2)(a) or (b); or

(ii) the cardholder received the medical cannabis card through the recommendation of the Compassionate Use Board under Section 26-61a-105.

(b) [~~A~~] The recommending medical provider who made the underlying recommendation for the card of a cardholder described in Subsection (6)(a) may renew the cardholder's card[~~: (i) using the application process described in Subsection (3); or (ii)~~] through phone or video conference with the [~~recommending medical provider who made the recommendation underlying the card, at the qualifying~~] cardholder, at the recommending medical provider's discretion.

(c) [~~A~~] Before having access to a renewed card, a cardholder under Subsection (2)(a) or (b) [~~who renews the cardholder's card~~] shall pay to the department a renewal fee in an amount that:

(i) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(ii) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(d) If a minor meets the requirements of Subsection (2)(c), the minor's provisional patient card renews automatically at the time the minor's parent or legal guardian renews the parent or legal guardian's associated medical cannabis guardian card.

(7) (a) A cardholder under this section shall carry the cardholder's valid medical cannabis card with the patient's name.

(b) (i) A medical cannabis patient cardholder or a provisional patient cardholder may purchase, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(ii) A cardholder under this section may possess or transport, in accordance with this chapter and the recommendation underlying the card, cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device.

(iii) To address the qualifying condition underlying the medical cannabis treatment recommendation:

(A) a medical cannabis patient cardholder or a provisional patient cardholder may use cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device; and

(B) a medical cannabis guardian cardholder may assist the associated provisional patient cardholder with the use of cannabis in a medicinal dosage form, a medical cannabis product in a medicinal dosage form, or a medical cannabis device.

(c) If a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021, a cardholder under this section:

(i) may possess:

(A) up to the legal dosage limit of unprocessed cannabis in a medicinal dosage form;

(B) up to the legal dosage limit of a cannabis product in a medicinal dosage form; and

(C) marijuana drug paraphernalia; and

(ii) is not subject to prosecution for the possession described in Subsection (7)(c)(i).

(8) The department may revoke a medical cannabis card that the department issues under this section if the cardholder:

(a) violates this chapter; or

(b) is convicted under state or federal law of[~~: (i) a felony; or (ii)~~], after March 17, 2021, a [~~misdemeanor for~~] drug distribution offense.

(9) The department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to provide information regarding the following to an individual receiving a medical cannabis card:

(a) risks associated with medical cannabis treatment;

(b) the fact that a condition's listing as a qualifying condition does not suggest that medical cannabis treatment is an effective treatment or cure for that condition, as described in Subsection 26-61a-104(1); and

(c) other relevant warnings and safety information that the department determines.

(10) The department may establish procedures by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the application and issuance provisions of this section.

(11) (a) On or before September 1, 2021, the department shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a process to allow an individual from another state to register with the department in order to purchase medical cannabis or a medical cannabis device from a medical cannabis pharmacy while the individual is visiting the state.

(b) The department may only provide the registration process described in Subsection (11)(a):

(i) to a nonresident patient; and

(ii) for no more than two visitation periods per calendar year of up to 21 calendar days per visitation period.

(12) (a) A person may submit to the department a request to conduct a research study using medical cannabis cardholder data that the state electronic verification system contains.

(b) The department shall review a request described in Subsection (12)(a) to determine whether an institutional review board, as that term is defined in Section 26-61-102, could approve the research study.

(c) At the time an individual applies for a medical cannabis card, the department shall notify the individual:

(i) of how the individual's information will be used as a cardholder;

(ii) that by applying for a medical cannabis card, unless the individual withdraws consent under Subsection (12)(d), the individual consents to the use of the individual's information for external research; and

(iii) that the individual may withdraw consent for the use of the individual's information for external research at any time, including at the time of application.

(d) An applicant may, through the medical cannabis card application, and a medical cannabis cardholder may, through the state central patient portal, withdraw the applicant's or cardholder's consent to participate in external research at any time.

(e) The department may release, for the purposes of a study described in this Subsection (12), information about a cardholder under this section who consents to participate under Subsection (12)(c).

(f) If an individual withdraws consent under Subsection (12)(d), the withdrawal of consent:

(i) applies to external research that is initiated after the withdrawal of consent; and

(ii) does not apply to research that was initiated before the withdrawal of consent.

(g) The department may establish standards for a medical research study's validity, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(13) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 11. Section 26-61a-202 is amended to read:

26-61a-202. Medical cannabis caregiver card -- Registration -- Renewal -- Revocation.

(1) (a) (i) A cardholder described in Section 26-61a-201 may designate, through the

state central patient portal, up to two individuals, or an individual and a facility in accordance with Subsection (1)(b), to serve as a designated caregiver for the cardholder.

(ii) The designation described in Subsection (1)(a)(i) takes effect if the state electronic verification system reflects a recommending medical provider's indication that the provider determines that, due to physical difficulty or undue hardship, including concerns of distance to a medical cannabis pharmacy, the cardholder needs assistance to obtain the medical cannabis treatment that the recommending medical provider recommends.

(b) (i) Beginning on the earlier of September 1, 2021, or the date on which the electronic verification system is functionally capable of servicing the designation, a cardholder described in Section 26-61a-201 [~~who is a patient in~~] may designate one of the following types of facilities [~~may designate the facility~~] as one of the caregivers described in Subsection (1)(a):

(A) for a patient or resident, an assisted living facility, as that term is defined in Section 26-21-2;

(B) for a patient or resident, a nursing care facility, as that term is defined in Section 26-21-2; or

(C) for a patient, a general acute hospital, as that term is defined in Section 26-21-2.

(ii) A facility may:

(A) assign one or more employees to assist patients with medical cannabis treatment under the caregiver designation described in this Subsection (1)(b)[~~.~~]; and

(B) receive a medical cannabis shipment from a medical cannabis pharmacy or a medical cannabis courier on behalf of the medical cannabis cardholder within the facility who designated the facility as a caregiver.

(iii) The department shall make rules to regulate the practice of facilities and facility employees serving as designated caregivers under this Subsection (1)(b).

(c) A parent or legal guardian described in Subsection 26-61a-201(2)(d), in consultation with the minor and the minor's qualified medical provider, may designate, through the state central patient portal, up to two individuals to serve as a designated caregiver for the minor, if the department determines that the parent or legal guardian is not eligible for a medical cannabis guardian card under Section 26-61a-201.

(2) An individual that the department registers as a designated caregiver under this section and a facility described in Subsection (1)(b):

(a) for an individual designated caregiver, may carry a valid medical cannabis caregiver card;

(b) in accordance with this chapter, may purchase, possess, transport, or assist the patient in the use of cannabis in a medicinal dosage form, a cannabis product in a medicinal dosage form, or a medical cannabis device on behalf of the designating medical cannabis cardholder;

(c) may not charge a fee to an individual to act as the individual's designated caregiver or for a service that the designated caregiver provides in relation to the role as a designated caregiver;

(d) may accept reimbursement from the designating medical cannabis cardholder for direct costs the designated caregiver incurs for assisting with the designating cardholder's medicinal use of cannabis; and

(e) if a licensed medical cannabis pharmacy is not operating within the state after January 1, 2021:

(i) may possess up to the legal dosage limit of:

(A) unprocessed medical cannabis in a medicinal dosage form; and

(B) a cannabis product in a medicinal dosage form;

(ii) may possess marijuana drug paraphernalia; and

(iii) is not subject to prosecution for the possession described in Subsection (2)(e)(i).

(3) (a) The department shall:

(i) within 15 days after the day on which an individual submits an application in compliance with this section, issue a medical cannabis card to the applicant if the applicant:

(A) is designated as a caregiver under Subsection (1);

(B) is eligible for a medical cannabis caregiver card under Subsection (4); and

(C) complies with this section; and

(ii) notify the Department of Public Safety of each individual that the department registers as a designated caregiver.

(b) The department shall ensure that a medical cannabis caregiver card contains the information described in Subsection (5)(b).

(4) An individual is eligible for a medical cannabis caregiver card if the individual:

(a) is at least 21 years old;

(b) is a Utah resident;

(c) pays to the department a fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504, plus the cost of the criminal background check described in Section 26-61a-203;

(d) signs an acknowledgment stating that the applicant received the information described in Subsection 26-61a-201(9); and

(e) has not been convicted of a misdemeanor or felony drug distribution offense that is a felony under either state or federal law, unless the individual completes any imposed sentence two or more years before the day on which the individual submits the application.

(5) An eligible applicant for a medical cannabis caregiver card shall:

(a) submit an application for a medical cannabis caregiver card to the department through an electronic application connected to the state electronic verification system; and

(b) submit the following information in the application described in Subsection (5)(a):

(i) the applicant's name, gender, age, and address;

(ii) the name, gender, age, and address of the cardholder described in Section 26-61a-201 who designated the applicant; and

(iii) if a medical cannabis guardian cardholder designated the caregiver, the name, gender, and age of the minor receiving a medical cannabis treatment in relation to the medical cannabis guardian cardholder.

(6) Except as provided in Subsection (6)(b), a medical cannabis caregiver card that the department issues under this section is valid for the lesser of:

(a) an amount of time that the cardholder described in Section 26-61a-201 who designated the caregiver determines; or

(b) the amount of time remaining before the card of the cardholder described in Section 26-61a-201 expires.

(7) (a) If a designated caregiver meets the requirements of Subsection (4), the designated caregiver's medical cannabis caregiver card renews automatically at the time the cardholder described in Section 26-61a-201 who designated the caregiver:

(i) renews the cardholder's card; and

(ii) renews the caregiver's designation, in accordance with Subsection (7)(b).

(b) The department shall provide a method in the card renewal process to allow a cardholder described in Section 26-61a-201 who has designated a caregiver to:

(i) signify that the cardholder renews the caregiver's designation;

(ii) remove a caregiver's designation; or

(iii) designate a new caregiver.

(8) The department may revoke a medical cannabis caregiver card if the designated caregiver:

(a) violates this chapter; or

(b) is convicted under state or federal law of:

(i) a felony drug distribution offense; or

(ii) after December 3, 2018, a misdemeanor drug distribution offense.

(9) The department shall record the issuance or revocation of a medical cannabis card under this section in the controlled substance database.

Section 12. Section 26-61a-403 is amended to read:

26-61a-403. Pharmacy medical providers -- Registration -- Continuing education.

(1) (a) A medical cannabis pharmacy:

(i) shall employ a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, as a pharmacy medical provider;

(ii) may employ a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, as a pharmacy medical provider;

(iii) shall ensure that a pharmacy medical provider described in Subsection (1)(a)(i) works onsite during all business hours; and

(iv) shall designate one pharmacy medical provider described in Subsection (1)(a)(i) as the pharmacist-in-charge to oversee the operation of and generally supervise the medical cannabis pharmacy.

(b) An individual may not serve as a pharmacy medical provider unless the department registers the individual as a pharmacy medical provider in accordance with Subsection (2).

(2) (a) The department shall, within 15 days after the day on which the department receives an application from a medical cannabis pharmacy on behalf of a prospective pharmacy medical provider, register and issue a pharmacy medical provider registration card to the prospective pharmacy medical provider if the medical cannabis pharmacy:

(i) provides to the department:

(A) the prospective pharmacy medical provider's name and address;

(B) the name and location of the licensed medical cannabis pharmacy where the prospective pharmacy medical provider seeks to act as a pharmacy medical provider;

(C) a report detailing the completion of the continuing education requirement described in Subsection (3); and

(D) evidence that the prospective pharmacy medical provider is a pharmacist who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, or a physician who has the authority to write a prescription and is licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act; and

(ii) pays a fee to the department in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(b) The department may not register a recommending medical provider or a state central patient portal medical provider as a pharmacy medical provider.

(3) (a) A pharmacy medical provider shall complete the continuing education described in this Subsection (3) in the following amounts:

(i) as a condition precedent to registration, four hours; and

(ii) as a condition precedent to renewal of the registration, four hours every two years.

(b) In accordance with Subsection (3)(a), the pharmacy medical provider shall:

(i) complete continuing education:

(A) regarding the topics described in Subsection (3)(d); and

(B) offered by the department under Subsection (3)(c) or an accredited or approved continuing education provider that the department recognizes as offering continuing education appropriate for the medical cannabis pharmacy practice; and

(ii) make a continuing education report to the department in accordance with a process that the department establishes by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in collaboration with the Division of Occupational and Professional Licensing and:

(A) for a pharmacy medical provider who is licensed under Title 58, Chapter 17b, Pharmacy Practice Act, the Board of Pharmacy;

(B) for a pharmacy medical provider licensed under Title 58, Chapter 67, Utah Medical Practice Act, the Physicians Licensing Board; and

(C) for a pharmacy medical provider licensed under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, the Osteopathic Physician and Surgeon's Licensing Board.

(c) The department may, in consultation with the Division of Occupational and Professional Licensing, develop the continuing education described in this Subsection (3).

(d) The continuing education described in this Subsection (3) may discuss:

(i) the provisions of this chapter;

(ii) general information about medical cannabis under federal and state law;

(iii) the latest scientific research on the endocannabinoid system and medical cannabis, including risks and benefits;

(iv) recommendations for medical cannabis as it relates to the continuing care of a patient in pain management, risk management, potential addiction, and palliative care; or

(v) best practices for recommending the form and dosage of a medical cannabis product based on the qualifying condition underlying a medical cannabis recommendation.

(4) (a) A pharmacy medical provider registration card expires two years after the day on which the department issues or renews the card.

(b) A pharmacy medical provider may renew the provider's registration card if the provider:

(i) is eligible for a pharmacy medical provider registration card under this section;

(ii) certifies to the department in a renewal application that the information in Subsection (2)(a) is accurate or updates the information;

(iii) submits a report detailing the completion of the continuing education requirement described in Subsection (3); and

(iv) pays to the department a renewal fee in an amount that:

(A) subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(B) may not exceed the cost of the relatively lower administrative burden of renewal in comparison to the original application process.

(5) (a) Except as provided in Subsection (5)(b), [~~an individual~~] a person may not advertise that the [~~individual~~] person or another person dispenses medical cannabis.

(b) [~~For purposes of this~~] Notwithstanding Subsection (5)(a)[~~, the communication of the following, through a website, by a pharmacy medical provider, does not constitute advertising~~] and subject to Section 26-61a-116, a registered pharmacy medical provider may advertise the following:

(i) a green cross;

(ii) [~~the individual's registration~~] that the person is registered as a pharmacy medical provider and dispenses medical cannabis; or

(iii) a scientific study regarding medical cannabis use.

Section 13. Section 26-61a-505 is amended to read:

26-61a-505. Medical cannabis pharmacy advertising.

(1) Except as provided in this section, a [~~medical cannabis pharmacy~~] person may not advertise in any medium regarding a medical cannabis pharmacy or the dispensing of medical cannabis within the state.

(2) [~~A~~] Subject to Section 26-61a-116, a medical cannabis pharmacy may:

(a) advertise an employment opportunity at the medical cannabis pharmacy[~~.~~];

[~~(3) (a) Notwithstanding~~]

(b) notwithstanding any municipal or county ordinance prohibiting signage, [~~a medical cannabis pharmacy may~~] use signage on the outside of the medical cannabis pharmacy that:

(i) includes only:

(A) in accordance with Subsection [~~(3)(b)~~] 26-61a-116(4), the medical cannabis pharmacy's name, logo, and hours of operation; and

(B) a green cross; and

(ii) complies with local ordinances regulating signage[~~.~~];

[~~(b) The department shall define standards for a medical cannabis pharmacy's name and logo to ensure a medical rather than recreational disposition.~~]

[~~(4) (a) A medical cannabis pharmacy may maintain a website that includes information about:~~]

(c) advertise in any medium:

(i) the pharmacy's name and logo;

[~~(i)~~] (ii) the location and hours of operation of the medical cannabis pharmacy;

[~~(ii)~~] (iii) a [~~product or~~] service available at the medical cannabis pharmacy;

[~~(iii)~~] (iv) personnel affiliated with the medical cannabis pharmacy;

(v) whether the medical cannabis pharmacy is licensed as a home delivery medical cannabis pharmacy;

[~~(iv)~~] (vi) best practices that the medical cannabis pharmacy upholds; and

[~~(v)~~] (vii) educational material related to the medical use of cannabis, as defined by the department[~~.~~]; and

(d) hold an educational event for the public or medical providers in accordance with Subsection (3) and the rules described in Subsection (4).

[~~(b) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define the educational material described in Subsection (4)(a).~~]

[~~(5) (a) A medical cannabis pharmacy may hold an educational event for the public or medical providers in accordance with this Subsection (5) and the rules described in Subsection (5)(c).~~]

[~~(b)~~] (3) A medical cannabis pharmacy may not include in an educational event described in Subsection [~~(5)(a)~~] (2)(d):

[~~(i)~~] (a) any topic that conflicts with this chapter or Title 4, Chapter 41a, Cannabis Production Establishments;

[~~(ii)~~] (b) any gift items or merchandise other than educational materials, as those terms are defined by the department;

[~~(iii)~~] (c) any marketing for a specific product from the medical cannabis pharmacy or any other statement, claim, or information that would violate the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301, et seq.; or

[~~(iv)~~] (d) a presenter other than the following:

[~~(A)~~] (i) a pharmacist licensed under Title 58, Chapter 17b, Pharmacy Practice Act;

[~~(B)~~] (ii) an advanced practice registered nurse licensed under Title 58, Chapter 31b, Nurse Practice Act;

[~~(C)~~] (iii) a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;

[~~(D)~~] (iv) a physician assistant licensed under Title 58, Chapter 70a, Utah Physician Assistant Act;

[~~(E)~~] (v) a medical practitioner, similar to the practitioners described in this Subsection [~~(5)(b)(iv)~~] (3)(d)(v), who is licensed in another state or country;

[~~(F)~~] (vi) a state employee; or

[~~(G)~~] (vii) if the presentation relates to a cannabis topic other than medical treatment or medical conditions, an individual whom the department approves based on the individual's background and credentials in the presented topic.

[~~(c)~~] (4) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to define:

(a) the educational material described in Subsection (2)(c)(v); and

(b) the elements of and restrictions on the educational event described in Subsection [~~(5)(a),~~] (3), including:

(i) a minimum age of 21 years old for attendees; and

(ii) an exception to the minimum age for a medical cannabis patient cardholder who is at least 18 years old.

Section 14. Section 26-61a-604 is amended to read:

26-61a-604. Home delivery of medical cannabis shipments -- Medical cannabis couriers -- License.

(1) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safety, security, and efficiency of a home delivery medical cannabis pharmacy's fulfillment of electronic medical cannabis orders that the state central patient portal facilitates, including rules regarding the safe and controlled delivery of medical cannabis shipments.

(2) A person may not operate as a medical cannabis courier without a license that the department issues under this section.

(3) (a) Subject to Subsections (5) and (6), the department shall issue a license to operate as a medical cannabis courier to an applicant who is eligible for a license under this section.

(b) An applicant is eligible for a license under this section if the applicant submits to the department:

(i) the name and address of an individual who:

(A) has a financial or voting interest of 2% or greater in the proposed medical cannabis pharmacy; or

(B) has the power to direct or cause the management or control of a proposed cannabis production establishment;

(ii) an operating plan that includes operating procedures to comply with the operating requirements for a medical cannabis courier described in this chapter; and

(iii) an application fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(4) If the department determines that an applicant is eligible for a license under this section, the department shall:

(a) charge the applicant an initial license fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504; and

(b) notify the Department of Public Safety of the license approval and the names of each individual described in Subsection (3)(b)(ii).

(5) The department may not issue a license to operate as a medical cannabis courier to an applicant if an individual described in Subsection (3)(b)(ii):

(a) has been convicted under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution; or

(b) is younger than 21 years old.

(6) The department may revoke a license under this part if:

(a) the medical cannabis courier does not begin operations within one year after the day on which the department issues the initial license;

(b) the medical cannabis courier makes the same violation of this chapter three times; or

(c) an individual described in Subsection (3)(b)(ii) is convicted, while the license is active, under state or federal law of:

(i) a felony; or

(ii) after September 23, 2019, a misdemeanor for drug distribution.

(7) The department shall deposit the proceeds of a fee imposed by this section in the Qualified Patient Enterprise Fund.

(8) The department shall begin accepting applications under this section on or before July 1, 2020.

(9) The department's authority to issue a license under this section is plenary and is not subject to review.

(10) Each applicant for a license as a medical cannabis courier shall submit, at the time of application, from each individual who has a financial or voting interest of 2% or greater in the applicant or who has the power to direct or cause the management or control of the applicant:

(a) a fingerprint card in a form acceptable to the Department of Public Safety;

(b) a signed waiver in accordance with Subsection 53-10-108(4) acknowledging the registration of the individual's fingerprints in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service; and

(c) consent to a fingerprint background check by:

(i) the Bureau of Criminal Identification; and

(ii) the Federal Bureau of Investigation.

(11) The Bureau of Criminal Identification shall:

(a) check the fingerprints the applicant submits under Subsection (10) against the applicable state, regional, and national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System;

(b) report the results of the background check to the department;

(c) maintain a separate file of fingerprints that applicants submit under Subsection (10) for search by future submissions to the local and regional criminal records databases, including latent prints;

(d) request that the fingerprints be retained in the Federal Bureau of Investigation Next Generation Identification System's Rap Back Service for search by future submissions to national criminal records databases, including the Next Generation Identification System and latent prints; and

(e) establish a privacy risk mitigation strategy to ensure that the department only receives notifications for an individual with whom the department maintains an authorizing relationship.

(12) The department shall:

(a) assess an individual who submits fingerprints under Subsection (10) a fee in an amount that the department sets in accordance with Section 63J-1-504 for the services that the Bureau of Criminal Identification or another authorized agency provides under this section; and

(b) remit the fee described in Subsection (12)(a) to the Bureau of Criminal Identification.

(13) The department shall renew a license under this section every year if, at the time of renewal:

(a) the licensee meets the requirements of this section; and

(b) the licensee pays the department a license renewal fee in an amount that, subject to Subsection 26-61a-109(5), the department sets in accordance with Section 63J-1-504.

(14) A person applying for a medical cannabis courier license shall submit to the department a

proposed operating plan that complies with this section and that includes:

(a) a description of the physical characteristics of any proposed facilities, including a floor plan and an architectural elevation, and delivery vehicles;

(b) a description of the credentials and experience of each officer, director, or owner of the proposed medical cannabis courier;

(c) the medical cannabis courier's employee training standards;

(d) a security plan; and

(e) storage and delivery protocols, both short and long term, to ensure that medical cannabis shipments are stored and delivered in a manner that is sanitary and preserves the integrity of the cannabis.

(15) (a) Except as provided in Subsection (15)(b), a person may not advertise regarding the transportation of medical cannabis.

(b) Notwithstanding Subsection (15)(a) and subject to Section 26-61a-116, a licensed home delivery medical cannabis pharmacy or a licensed medical cannabis courier may advertise:

(i) a green cross;

(ii) the pharmacy's or courier's name and logo; and

(iii) that the pharmacy or courier is licensed to transport medical cannabis shipments.

Section 15. Section 26-61a-607 is amended to read:

26-61a-607. Home delivery of medical cannabis shipments.

(1) An individual may not receive and a medical cannabis pharmacy agent or a medical cannabis courier agent may not deliver a medical cannabis shipment from a home delivery medical cannabis pharmacy unless:

(a) the individual receiving the shipment presents:

(i) a valid form of photo identification; and

(ii) (A) a valid medical cannabis card under the same name that appears on the valid form of photo identification; [~~and~~] or

(B) for a facility that a medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b), evidence of the facility caregiver designation; and

(b) the delivery occurs at:

(i) the medical cannabis cardholder's home address that is on file in the state electronic verification system[~~.~~]; or

(ii) the facility that the medical cannabis cardholder has designated as a caregiver under Subsection 26-61a-202(1)(b).

(2) Before a medical cannabis pharmacy agent or a medical cannabis courier agent distributes a medical cannabis shipment to a medical cannabis cardholder, the agent shall:

(a) verify the shipment information using the state electronic verification system;

(b) ensure that the individual satisfies the identification requirements in Subsection (1);

(c) verify that payment is complete; and

(d) record the completion of the shipment transaction in a manner such that the delivery of the shipment will later be recorded within a reasonable period in the electronic verification system.

(3) The medical cannabis courier shall:

(a) (i) store each medical cannabis shipment in a secure manner until the recipient medical cannabis cardholder receives the shipment or the medical cannabis courier returns the shipment to the home delivery medical cannabis pharmacy in accordance with Subsection (4); and

(ii) ensure that only a medical cannabis courier agent is able to access the medical cannabis shipment until the recipient medical cannabis cardholder receives the shipment;

(b) return any undelivered medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), after the medical cannabis courier has possessed the shipment for 10 business days; and

(c) return any medical cannabis shipment to the home delivery medical cannabis pharmacy, in accordance with Subsection (4), if a medical cannabis cardholder refuses to accept the shipment.

(4) (a) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered medical cannabis shipment that remains unopened, the home delivery medical cannabis pharmacy may repackage or otherwise reuse the shipment.

(b) If a medical cannabis courier or home delivery medical cannabis pharmacy agent returns an undelivered or refused medical cannabis shipment under Subsection (3) that appears to be opened in any way, the home delivery medical cannabis pharmacy shall dispose of the shipment by:

(i) rendering the shipment unusable and unrecognizable before transporting the shipment from the home delivery medical cannabis pharmacy; and

(ii) disposing of the shipment in accordance with:

(A) federal and state laws, rules, and regulations related to hazardous waste;

(B) the Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991 et seq.;

(C) Title 19, Chapter 6, Part 5, Solid Waste Management Act; and

(D) other regulations that the department makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 16. Section 26-61a-702 is amended to read:

26-61a-702. Enforcement -- Fine -- Citation.

(1) (a) The department may, for a medical cannabis pharmacy's or a medical cannabis courier's violation of this chapter or an applicable administrative rule:

(i) revoke the medical cannabis pharmacy or medical cannabis courier license;

(ii) refuse to renew the medical cannabis pharmacy or medical cannabis courier license; or

(iii) assess the medical cannabis pharmacy or medical cannabis courier an administrative penalty.

(b) The department may, for a medical cannabis pharmacy agent's or medical cannabis courier agent's violation of this chapter:

(i) revoke the medical cannabis pharmacy agent or medical cannabis courier agent registration card;

(ii) refuse to renew the medical cannabis pharmacy agent or medical cannabis courier agent registration card; or

(iii) assess the medical cannabis pharmacy agent or medical cannabis courier agent an administrative penalty.

(2) The department shall deposit an administrative penalty imposed under this section into the General Fund.

(3) For a person subject to an uncontested citation, a stipulated settlement, or a finding of a violation in an adjudicative proceeding under this section, the department may:

(a) for a fine amount not already specified in law, assess the person a fine of up to $5,000 per violation, in accordance with a fine schedule that the department establishes by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(b) order the person to cease and desist from the action that creates a violation.

(4) The department may not revoke a medical cannabis pharmacy's license or a medical cannabis courier's license without first directing the medical cannabis pharmacy or the medical cannabis courier to appear before an adjudicative proceeding conducted under Title 63G, Chapter 4, Administrative Procedures Act.

(5) If, within 20 calendar days after the day on which the department issues a citation for a violation of this chapter, the person that is the subject of the citation fails to request a hearing to contest the citation, the citation becomes the department's final order.

(6) The department may, for a person who fails to comply with a citation under this section:

(a) refuse to issue or renew the person's license or agent registration card; or

(b) suspend, revoke, or place on probation the person's license or agent registration card.

(7) (a) Except where a criminal penalty is expressly provided for a specific violation of this chapter, if an individual violates a provision of this chapter, the individual is:

(i) guilty of an infraction; and

(ii) subject to a $100 fine.

(b) An individual who is guilty of a violation described in Subsection (7)(a) is not guilty of a violation of Title 58, Chapter 37, Utah Controlled Substances Act, for the conduct underlying the violation described in Subsection (7)(a).

Section 17. Section 53B-17-903 is enacted to read:

53B-17-903. Education in pain treatment.

The University of Utah School of Medicine shall ensure that any licensed physicians who oversee fellowship training to specialize in pain treatment are qualified medical providers, as that term is defined in Section 26-61a-102.

Section 18. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 453
S. B. 201

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

ALCOHOLIC BEVERAGE CONTROL ACT ENFORCEMENT FUND

Chief Sponsor: Derrin R. Owens
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill amends provisions regarding money in the Alcoholic Beverage Control Act Enforcement Fund.

Highlighted Provisions:

This bill:

- requires the Division of Finance to deposit into the General Fund $3 million of unspent money in the Alcoholic Beverage Control Act Enforcement Fund; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

32B-2-305, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 32B-2-305 is amended to read:

32B-2-305. Alcoholic Beverage Control Act Enforcement Fund.

(1) As used in this section:

(a) "Alcohol-related law enforcement officer" is as defined in Section 32B-1-201.

(b) "Enforcement ratio" is as defined in Section 32B-1-201.

(c) "Fund" means the Alcoholic Beverage Control Act Enforcement Fund created in this section.

(2) There is created an expendable special revenue fund known as the "Alcoholic Beverage Control Act Enforcement Fund."

(3) (a) The fund consists of:

(i) deposits made under Subsection (4); and

(ii) interest earned on the fund.

(b) (i) The fund shall earn interest.

(ii) Interest on the fund shall be deposited into the fund.

(4) After the deposit made under Section 32B-2-304 for the school lunch program, the department shall deposit 0.875% of the total gross revenue from the sale of liquor with the state treasurer to be credited to the fund to be:

(a) used by the Department of Public Safety as provided in Subsection (5)[~~.~~]; and

(b) reallocated to the General Fund as described in Subsection (6).

(5) (a) The Department of Public Safety shall expend money from the fund to supplement appropriations by the Legislature so that the Department of Public Safety maintains a sufficient number of alcohol-related law enforcement officers such that beginning on July 1, 2012, each year the enforcement ratio as of July 1 is equal to or less than the number specified in Section 32B-1-201.

(b) Beginning July 1, 2012, four alcohol-related law enforcement officers shall have as a primary focus the enforcement of this title in relationship to restaurants.

(6) For fiscal year 2023, the Division of Finance shall deposit into the General Fund $3 million of unspent money in the fund.

CHAPTER 454
S. B. 203

Passed March 4, 2022
(Passed into law without governor's signature)
Effective May 4, 2022

TIRE RECYCLING FUND AMENDMENTS

Chief Sponsor: Scott D. Sandall
House Sponsor: Joel Ferry

LONG TITLE

General Description:

This bill makes changes related to the administration and composition of the Waste Tire Recycling Fund.

Highlighted Provisions:

This bill:

- defines terms;
- requires a municipality that owns or operates a landfill more than 10 miles outside the municipality's jurisdictional boundaries to deposit all revenue from the landfill into the Waste Tire Recycling Fund;
- requires the Division of Finance to disburse revenue received from municipal landfill operators to the county within whose boundary the landfill is located; and
- provides for the disbursement of surplus amounts in the Waste Tire Recycling Fund to qualified recyclers.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

19-6-807, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 20

ENACTS:

19-6-808.5, Utah Code Annotated 1953
19-6-816.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 19-6-807 is amended to read:

19-6-807. Special revenue fund -- Creation -- Deposits.

(1) There is created an expendable special revenue fund entitled the "Waste Tire Recycling Fund."

(2) The fund shall consist of:

(a) the proceeds of the fee imposed under Section 19-6-805; [~~and~~]

(b) penalties collected under this part[~~.~~]; and

(c) money paid into the account under Section 19-6-808.5.

(3) Money in the fund shall be used for:

(a) partial reimbursement of the costs of transporting, processing, recycling, or disposing of waste tires as provided in this part; [~~and~~]

(b) payment of administrative costs of local health departments as provided in Section 19-6-817[~~.~~]; and

(c) payment to a county pursuant to Section 19-6-808.5.

(4) The Legislature may appropriate money from the fund to pay for:

(a) the costs of the Department of Environmental Quality in administering and enforcing this part; and

(b) other operational costs of the Department of Environmental Quality, if the Legislature estimates there is a deficit in the Department of Environmental Quality's budget for the current or next fiscal year.

Section 2. Section 19-6-808.5 is enacted to read:

19-6-808.5. Municipal landfill deposits.

(1) As used in this section, "municipal landfill operator" means a municipality:

(a) in a county of the third class;

(b) that contains a land grant university within the municipality's jurisdictional boundaries; and

(c) that owns or operates a landfill that has its permitted boundary more than 10 miles from the municipality's jurisdictional boundaries.

(2) Beginning on July 1, 2023, a municipal landfill operator shall pay to the Division of Finance for deposit into the fund:

(a) all reimbursements that the municipality receives under Section 19-6-812; and

(b) all revenue collected by the municipality in relation to the landfill.

(3) A municipality's payment under Subsection (2) shall be accompanied by a form prescribed by the Division of Finance.

(4) The Division of Finance shall pay amounts received from a landfill under this section quarterly to the county in whose jurisdictional boundaries the landfill is located.

Section 3. Section 19-6-816.5 is enacted to read:

19-6-816.5. Fund balance maintenance.

(1) As used in this section:

(a) "Qualified recycler" means a recycler who is qualified to receive a partial reimbursement under Section 19-6-809 during a fiscal year for which there are surplus funds.

(b) "Surplus funds" means, at the end of a fiscal year, money in the fund in excess of $2,000,000 after all partial reimbursements and payments to local health departments, and all payments to a county as provided in this part have been paid.

(2) At the end of a fiscal year, the Division of Finance shall use surplus funds to make payments to qualified recyclers equal to $10 for each ton of waste tires, material derived from waste tires, or chipped tires, for which the recycler received a partial reimbursement under Subsection 19-6-809(2).

(3) If the surplus funds are insufficient to make the payments described in Subsection (2), the Division of Finance shall prorate the amount per ton that is paid to each qualified recycler.

(4) The Division of Finance may not make any payment under this section that would cause the balance of the fund to be less than $2,000,000.

CHAPTER 455
S. B. 204

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

AUTOMOBILE AMENDMENTS

Chief Sponsor: Curtis S. Bramble
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This bill makes changes related to automobile manufacturers, franchisors, and franchisees.

Highlighted Provisions:

This bill:

- defines terms;
- amends provisions regarding the timing of charge backs for an incentive program;
- clarifies the types of documents that a franchisor may request from a franchisee during an audit;
- amends the definition of "direct-sale manufacturer" to include small-volume manufacturers; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-14-204, as last amended by Laws of Utah 2018, Chapter 245
41-3-102, as last amended by Laws of Utah 2020, Chapter 367
41-3-103, as last amended by Laws of Utah 2018, Chapter 387

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-14-204 is amended to read:

13-14-204. Franchisor's obligations related to service -- Franchisor audits -- Time limits.

(1) Each franchisor shall specify in writing to each of the franchisor's franchisees licensed as a new motor vehicle dealer in this state:

(a) the franchisee's obligations for new motor vehicle preparation, delivery, and warranty service on the franchisor's products;

(b) the schedule of compensation to be paid to the franchisee for parts, work, and service; and

(c) the time allowance for the performance of work and service.

(2) (a) The schedule of compensation described in Subsection (1) shall include reasonable compensation for diagnostic work, as well as repair service, parts, and labor.

(b) Time allowances described in Subsection (1) for the diagnosis and performance of warranty work and service shall be reasonable and adequate for the work to be performed.

(3) (a) In the determination of what constitutes reasonable compensation under this section, the principal factor to be considered is the prevailing wage rates being paid by franchisees in the relevant market area in which the franchisee is doing business.

(b) (i) Compensation of the franchisee for warranty service or recall repair work may not be less than the amount charged by the franchisee for like parts and service to retail or fleet customers, if the amounts are reasonable.

(ii) In the case of a recreational vehicle franchisee, reimbursement for parts used in the performance of warranty repairs, including those parts separately warranted directly to the consumer by a recreational vehicle parts supplier, may not be less than the franchisee's cost plus 20%.

(iii) For purposes of Subsection (3)(b)(ii), the term "cost" shall be that same price paid by a franchisee to a franchisor or supplier for the part when the part is purchased for a nonwarranty repair.

(4) A franchisor may not fail to:

(a) perform any warranty obligation;

(b) include in written notices of franchisor's recalls to new motor vehicle owners and franchisees the expected date by which necessary parts and equipment will be available to franchisees for the correction of the defects; or

(c) in accordance with Subsections (2) and (3), compensate a franchisee for all diagnostic work, labor, and parts the franchisor requires to perform a recall repair.

(5) If a franchisor disallows a franchisee's claim for a defective part, alleging that the part is not defective, the franchisor at the franchisor's option shall:

(a) return the part to the franchisee at the franchisor's expense; or

(b) pay the franchisee the cost of the part.

(6) (a) A claim made by a franchisee pursuant to this section for diagnostic work, labor, or parts shall be paid within 30 days after the claim's approval.

(b) The franchisor shall approve or disapprove a claim within 30 days after receipt of the claim on a form generally used by the franchisor and containing the generally required information. Any claim not specifically disapproved of in writing within 30 days after the receipt of the form is considered to be approved and payment shall be made within 30 days.

(7) A franchisor may conduct warranty service audits and recall repair audits of the franchisor's franchisee records on a reasonable basis.

(8) A franchisor may deny a franchisee's claim for warranty compensation or recall repair compensation only if:

(a) the franchisee's claim is based on a nonwarranty repair or a nonrecall repair;

(b) the franchisee lacks material documentation for the claim;

(c) the franchisee fails to comply materially with specific substantive terms and conditions of the franchisor's warranty compensation program or recall repair compensation program; or

(d) the franchisor has a bona fide belief based on competent evidence that the franchisee's claim is intentionally false, fraudulent, or misrepresented.

(9) (a) Any charge back for a warranty part or service compensation, recall repair compensation, or service incentive is only enforceable for the six-month period immediately following the day on which the franchisor makes the payment compensating the franchisee for the warranty part or service, recall repair, or service incentive.

(b) Except as provided in Subsection (9)(e), all charge backs levied by a franchisor for sales compensation or sales incentives arising out of the sale or lease of a motor vehicle sold or leased by a franchisee shall be compensable only if written notice of the charge back is received by the franchisee within six months immediately following the sooner of:

(i) the day on which the [~~sales incentive program terminates~~] franchisee reports the sale to the franchisor; or

(ii) the day on which the franchisor makes the payment for the sales compensation or sales incentive to the franchisee.

(c) (i) Upon an audit, the franchisor shall provide the franchisee automated or written notice explaining the amount of and reason for a charge back.

(ii) A franchisee may respond in writing within 30 days after the notice under Subsection (9)(c)(i) to:

(A) explain a deficiency; or

(B) provide materials or information to correct and cure compliance with a provision that is a basis for a charge back.

(d) A charge back:

(i) may not be based on a nonmaterial error that is clerical in nature; and

(ii) (A) shall be based on one or more specific instances of material noncompliance with the franchisor's warranty compensation program, sales incentive program, recall repair program, or recall compensation program; and

(B) may not be extrapolated from a sampling of warranty claims, recall repair claims, or sales incentive claims.

(e) The time limitations of this Subsection (9) do not preclude charge backs for any fraudulent claim that was previously paid.

(10) (a) If within 30 days after the day on which a franchisor issues an initial notice of recall a part or remedy is not reasonably available to perform the recall repair on a used motor vehicle, each calendar month thereafter the franchisor shall pay the franchisee an amount equal to at least 1.35% of the value of the used motor vehicle, if:

(i) the franchisee holding the used motor vehicle for sale is authorized to sell and service a new vehicle of the same line-make;

(ii) after May 7, 2018, the franchisor issues a stop-sale or do-not-drive order on the used motor vehicle; and

(iii) (A) the used motor vehicle is in the franchisee's inventory at the time the franchisor issued the order described in Subsection (10)(a)(ii); or

(B) after the franchisor issues the order described in Subsection (10)(a)(ii), the franchisee takes the used motor vehicle into the franchisee's inventory at the termination of the consumer lease for the vehicle, as a consumer trade-in accompanying the purchase of a new vehicle from the franchisee, or for any other reason in the ordinary course of business.

(b) A franchisor shall pay the compensation described in Subsection (10)(a):

(i) beginning:

(A) 30 days after the day on which the franchisee receives the stop-sale or do-not-drive order; or

(B) if a franchisee obtains the used motor vehicle more than 30 days after the day on which the franchisee receives the stop-sale or do-not-drive order, the day on which the franchisee obtains the used motor vehicle; and

(ii) ending the earlier of the day on which:

(A) the franchisor makes the recall part or remedy available for order and prompt shipment to the franchisee; or

(B) the franchisee sells, trades, or otherwise disposes of the used motor vehicle.

(c) A franchisor shall prorate the first and last payment for a used motor vehicle to a franchisee under this Subsection (10).

(d) A franchisor may direct the manner in which a franchisee demonstrates the inventory status of an affected used motor vehicle to determine eligibility under this Subsection (10), if the manner is not unduly burdensome.

(11) (a) A franchisee that offsets recall repair compensation received from a franchisor under this section against recall repair compensation the franchisee receives under a state or federal recall repair compensation remedy may pursue any other available remedy against the franchisor.

(b) As an alternative to providing recall repair compensation under this section, a franchisor may compensate a franchisee for a recall repair:

(i) under a national recall repair compensation program, if the compensation is equal to or greater than the compensation provided under this section; or

(ii) as the franchisor and franchisee otherwise agree, if the compensation is equal to or greater than the compensation provided under this section.

(c) Nothing in this section requires a franchisor to provide compensation to a franchisee that exceeds the value of the used motor vehicle affected by a recall.

(12) During an audit under this section, a franchisor may not request a document from the franchisee that originated from the franchisor or a subsidiary of the franchisor, unless the document required additional information from the customer.

Section 2. Section 41-3-102 is amended to read:

41-3-102. Definitions.

As used in this chapter:

(1) "Administrator" means the motor vehicle enforcement administrator.

(2) "Agent" means a person other than a holder of any dealer's or salesperson's license issued under this chapter, who for salary, commission, or compensation of any kind, negotiates in any way for the sale, purchase, order, or exchange of three or more motor vehicles for any other person in any 12-month period.

(3) "Auction" means a dealer engaged in the business of auctioning motor vehicles, either owned or consigned, to the general public.

(4) "Authorized service center" means an entity that:

(a) is in the business of repairing exclusively the motor vehicles of the same line-make as the motor vehicles a single direct-sale manufacturer manufactures;

(b) the direct-sale manufacturer described in Subsection (4)(a) authorizes to complete warranty repair work for motor vehicles that the direct-sale manufacturer sells, displays for sale, or offers for sale or exchange; and

(c) conducts business primarily from an enclosed commercial repair facility that is permanently located in the state.

(5) "Board" means the advisory board created in Section 41-3-106.

(6) "Body shop" means a person engaged in rebuilding, restoring, repairing, or painting the body of motor vehicles for compensation.

(7) "Commission" means the State Tax Commission.

(8) "Crusher" means a person who crushes or shreds motor vehicles subject to registration under [~~Title 41,~~] Chapter 1a, Motor Vehicle Act, to reduce the useable materials and metals to a more compact size for recycling.

(9) (a) "Dealer" means a person:

(i) whose business in whole or in part involves selling new, used, or new and used motor vehicles or off-highway vehicles; and

(ii) who sells, displays for sale, or offers for sale or exchange three or more new or used motor vehicles or off-highway vehicles in any 12-month period.

(b) "Dealer" includes a representative or consignee of any dealer.

(10) "Direct-sale manufacturer" means a person:

(a) that is both a manufacturer and a dealer;

[~~(b) that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:~~]

[~~(i) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;~~]

[~~(ii) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or~~]

[~~(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and~~]

[~~(iii) manufactured by the person;~~]

(b) that is:

(i) an electric vehicle manufacturer; or

(ii) a low-volume manufacturer;

(c) that is not a franchise holder;

(d) that is domiciled in the United States; and

(e) whose chief officers direct, control, and coordinate the person's activities as a direct-sale manufacturer from a physical location in the United States.

(11) "Direct-sale manufacturer salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by a direct-sale manufacturer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of a motor vehicle manufactured by the direct-sale manufacturer who employs the individual.

(12) (a) "Dismantler" means a person engaged in the business of dismantling motor vehicles subject to registration under [~~Title 41,~~] Chapter 1a, Motor Vehicle Act, for the resale of parts or for salvage.

(b) "Dismantler" includes a person who dismantles three or more motor vehicles in any 12-month period.

(13) "Distributor" means a person who has a franchise from a manufacturer of motor vehicles to distribute motor vehicles within this state and who in whole or in part sells or distributes new motor vehicles to dealers or who maintains distributor representatives.

(14) "Distributor branch" means a branch office similarly maintained by a distributor for the same purposes a factory branch is maintained.

(15) "Distributor representative" means a person and each officer and employee of the person engaged as a representative of a distributor or distributor branch of motor vehicles to make or

promote the sale of the distributor or the distributor branch's motor vehicles, or for supervising or contacting dealers or prospective dealers of the distributor or the distributor branch.

(16) "Division" means the Motor Vehicle Enforcement Division created in Section 41-3-104.

(17) "Electric vehicle manufacturer" means a person that, in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line-make that are:

(a) exclusively propelled through the use of electricity, a hydrogen fuel cell, or another non-fossil fuel source;

(b) (i) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(ii) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(c) manufactured by the person.

[~~(17)~~] (18) "Factory branch" means a branch office maintained by a person who manufactures or assembles motor vehicles for sale to distributors, motor vehicle dealers, or who directs or supervises the factory branch's representatives.

[~~(18)~~] (19) "Factory representative" means a person and each officer and employee of the person engaged as a representative of a manufacturer of motor vehicles or by a factory branch to make or promote the sale of the manufacturer's or factory branch's motor vehicles, or for supervising or contacting the dealers or prospective dealers of the manufacturer or the factory branch.

[~~(19)~~] (20) (a) "Franchise" means a contract or agreement between a dealer and a manufacturer of new motor vehicles or a manufacturer's distributor or factory branch by which the dealer is authorized to sell any specified make or makes of new motor vehicles.

(b) "Franchise" includes a contract or agreement described in Subsection [~~(19)~~] (20)(a) regardless of whether the contract or agreement is subject to Title 13, Chapter 14, New Automobile Franchise Act, Title 13, Chapter 35, Powersport Vehicle Franchise Act, or neither.

[~~(20)~~] (21) (a) "Franchise holder" means a manufacturer who:

(i) previously had a franchised dealer in the United States;

(ii) currently has a franchised dealer in the United States;

(iii) is a successor to another manufacturer who previously had or currently has a franchised dealer in the United States;

(iv) is a material owner of another manufacturer who previously had or currently has a franchised dealer in the United States;

(v) is under legal or common ownership, or practical control, with another manufacturer who previously had or currently has a franchised dealer in the United States; or

(vi) is in a partnership, joint venture, or similar arrangement for production of a commonly owned line-make with another manufacturer who previously had or currently has a franchised dealer in the United States.

(b) "Franchise holder" does not include a manufacturer described in Subsection [~~(20)~~] (21)(a), if at all times during the franchised dealer's existence, the manufacturer had legal or practical common ownership or common control with the franchised dealer.

(22) "Low-volume manufacturer" means a manufacturer who:

(a) in this state, sells, displays for sale, or offers for sale or exchange only new motor vehicles of the person's own line make that are:

(i) (A) passenger vehicles with a gross vehicle weight rating of 14,000 pounds or less; or

(B) trucks with a gross vehicle weight rating of 14,000 pounds or less; and

(ii) manufactured by the person; and

(b) constructs no more than 325 new motor vehicles in any 12-month period.

[~~(21)~~] (23) "Line-make" means motor vehicles that are offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer.

[~~(22)~~] (24) "Manufacturer" means a person engaged in the business of constructing or assembling new motor vehicles, ownership of which is customarily transferred by a manufacturer's statement or certificate of origin, or a person who constructs three or more new motor vehicles in any 12-month period.

[~~(23)~~] (25) "Material owner" means a person who possesses, directly or indirectly, the power to direct, or cause the direction of, the management, policies, or activities of another person:

(a) through ownership of voting securities;

(b) by contract or credit arrangement; or

(c) in another way not described in Subsections [~~(23)~~] (25)(a) and (b).

[~~(24)~~] (26) (a) "Motor vehicle" means a vehicle that is:

(i) self-propelled;

(ii) a trailer;

(iii) a travel trailer;

(iv) a semitrailer;

(v) an off-highway vehicle; or

(vi) a small trailer.

(b) "Motor vehicle" does not include:

(i) mobile homes as defined in Section 41-1a-102;

(ii) trailers of 750 pounds or less unladen weight;

(iii) a farm tractor or other machine or tool used in the production, harvesting, or care of a farm product; and

(iv) park model recreational vehicles as defined in Section 41-1a-102.

[~~(25)~~] (27) "Motorcycle" means the same as that term is defined in Section 41-1a-102.

[~~(26)~~] (28) "New motor vehicle" means a motor vehicle that:

(a) has never been titled or registered; and

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven less than 7,500 miles.

[~~(27)~~] (29) "Off-highway vehicle" means the same as that term is defined in Section 41-22-2.

[~~(28)~~] (30) "Pawnbroker" means a person whose business is to lend money on security of personal property deposited with him.

[~~(29)~~] (31) (a) "Principal place of business" means a site or location in this state:

(i) devoted exclusively to the business for which the dealer, manufacturer, remanufacturer, transporter, dismantler, crusher, or body shop is licensed, and businesses incidental to them;

(ii) sufficiently bounded by fence, chain, posts, or otherwise marked to definitely indicate the boundary and to admit a definite description with space adequate to permit the display of three or more new, or new and used, or used motor vehicles and sufficient parking for the public; and

(iii) that includes a permanent enclosed building or structure large enough to accommodate the office of the establishment and to provide a safe place to keep the books and other records of the business, at which the principal portion of the business is conducted and the books and records kept and maintained.

(b) "Principal place of business" means, with respect to a direct-sale manufacturer, the direct-sale manufacturer's showroom, which shall comply with the requirements of Subsection [~~(29)~~] (31)(a).

[~~(30)~~] (32) "Remanufacturer" means a person who reconstructs used motor vehicles subject to registration under [~~Title 41,~~] Chapter 1a, Motor Vehicle Act, to change the body style and appearance of the motor vehicle or who constructs or assembles motor vehicles from used or new and used motor vehicle parts, or who reconstructs, constructs, or assembles three or more motor vehicles in any 12-month period.

[~~(31)~~] (33) "Salesperson" means an individual who for a salary, commission, or compensation of any kind, is employed either directly, indirectly, regularly, or occasionally by any new motor vehicle dealer or used motor vehicle dealer to sell, purchase, or exchange or to negotiate for the sale, purchase, or exchange of motor vehicles.

[~~(32)~~] (34) "Semitrailer" means the same as that term is defined in Section 41-1a-102.

[~~(33)~~] (35) "Showroom" means a site or location in the state that a direct-sale manufacturer uses for the direct-sale manufacturer's business, including the display and demonstration of new motor vehicles that are exclusively of the same line-make that the direct-sale manufacturer manufactures.

[~~(34)~~] (36) "Small trailer" means a trailer that has an unladen weight of:

(a) more than 750 pounds; and

(b) less than 2,000 pounds.

[~~(35)~~] (37) "Special equipment" includes a truck mounted crane, cherry picker, material lift, post hole digger, and a utility or service body.

[~~(36)~~] (38) "Special equipment dealer" means a new or new and used motor vehicle dealer engaged in the business of buying new incomplete motor vehicles with a gross vehicle weight of 12,000 or more pounds and installing special equipment on the incomplete motor vehicle.

[~~(37)~~] (39) "Trailer" means the same as that term is defined in Section 41-1a-102.

[~~(38)~~] (40) "Transporter" means a person engaged in the business of transporting motor vehicles as described in Section 41-3-202.

[~~(39)~~] (41) "Travel trailer" means the same as that term is defined in Section 41-1a-102.

[~~(40)~~] (42) "Used motor vehicle" means a vehicle that:

(a) has been titled and registered to a purchaser other than a dealer; or

(b) for a motor vehicle that is not a trailer, travel trailer, or semitrailer, has been driven 7,500 or more miles.

[~~(41)~~] (43) "Wholesale motor vehicle auction" means a dealer primarily engaged in the business of auctioning consigned motor vehicles to dealers or dismantlers who are licensed by this or any other jurisdiction.

Section 3. Section 41-3-103 is amended to read:

41-3-103. Exceptions to "dealer" definition -- Dealer licensed in other state -- Direct-sale manufacturer -- Direct-sale manufacturer salesperson.

Under this chapter:

(1) (a) An insurance company, bank, finance company, company registered as a title lender under Title 7, Chapter 24, Title Lending Registration Act, company registered as a check casher or deferred deposit lender under Title 7, Chapter 23, Check Cashing and Deferred Deposit Lending Registration Act, public utility company, commission impound yard, federal or state governmental agency, or any political subdivision of

any of them or any other person coming into possession of a motor vehicle as an incident to its regular business, that sells the motor vehicle under contractual rights that it may have in the motor vehicle is not considered a dealer.

(b) A person who sells or exchanges only those motor vehicles that the person has owned for over 12 months is not considered a dealer.

(2) (a) A person engaged in leasing motor vehicles is not considered as coming into possession of the motor vehicles incident to the person's regular business.

(b) A pawnbroker engaged in selling, exchanging, or pawning motor vehicles is considered as coming into possession of the motor vehicles incident to the person's regular business and must be licensed as a used motor vehicle dealer.

(3) A person currently licensed as a dealer or salesperson by another state or country and not currently under license suspension or revocation by the administrator may only sell motor vehicles in this state to licensed dealers, dismantlers, or manufacturers, and only at their places of business.

(4) Except as otherwise expressly provided:

(a) a direct-sale manufacturer is subject to the same provisions under this chapter as a new motor vehicle dealer; and

(b) a direct-sale manufacturer salesperson is subject to the same provisions under this chapter as a salesperson.

(5) Notwithstanding any provision of this chapter to the contrary, a direct-sale manufacturer:

(a) may, without a franchise, sell, display for sale, or offer for sale or exchange a motor vehicle:

(i) described in Subsection [~~41-3-102(10)(b) without a franchise; and~~] 41-3-102(17) if the direct-sale manufacturer is an electric vehicle manufacturer; or

(ii) described in Subsection 41-3-102(23) if the direct-sale manufacturer is a low-volume manufacturer; and

(b) may not sell, display for sale, or offer for sale or exchange a new motor vehicle that is not of the same line-make the direct-sale manufacturer manufactures.

CHAPTER 456
S. B. 211

Passed March 4, 2022
Approved March 24, 2022
Effective March 24, 2022
(Exception clause in Section 35)

INCOME TAX FUND AMENDMENTS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill changes the name of the Education Fund to the Income Tax Fund.

Highlighted Provisions:

This bill:

- changes the name of the Education Fund to the Income Tax Fund.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378
51-5-4, as last amended by Laws of Utah 2013, Chapter 400
53B-7-703, as last amended by Laws of Utah 2021, Chapter 351
53B-8-112, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 13
53B-8-202, as last amended by Laws of Utah 2018, Chapter 281
53E-3-802, as last amended by Laws of Utah 2019, Chapter 186
53E-6-505, as last amended by Laws of Utah 2019, Chapter 186
53E-7-405, as enacted by Laws of Utah 2020, Fourth Special Session, Chapter 3
53F-2-203, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 14
53F-9-201, as last amended by Laws of Utah 2021, Chapters 336 and 382
53F-9-201.1 (Superseded 07/01/22), as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 13
53F-9-201.1 (Effective 07/01/22), as last amended by Laws of Utah 2021, Chapter 6
53F-9-204, as last amended by Laws of Utah 2020, Chapter 207
53F-9-301, as last amended by Laws of Utah 2019, Chapter 186
53F-9-302, as last amended by Laws of Utah 2019, Chapter 186
53F-9-303, as renumbered and amended by Laws of Utah 2018, Chapter 2
53F-9-304, as last amended by Laws of Utah 2020, Chapter 161
53F-9-305, as last amended by Laws of Utah 2019, Chapter 186
53F-9-306, as last amended by Laws of Utah 2019, Chapter 186
53F-9-307, as enacted by Laws of Utah 2021, Chapter 308
59-7-532, as last amended by Laws of Utah 2020, Chapter 207
59-7-614.1, as last amended by Laws of Utah 2016, Chapter 375
59-10-544, as last amended by Laws of Utah 2020, Chapter 207
59-10-1005, as last amended by Laws of Utah 2017, Chapter 148
59-10-1105, as last amended by Laws of Utah 2016, Chapter 375
59-13-202, as last amended by Laws of Utah 2016, Third Special Session, Chapter 1
63A-5b-406, as enacted by Laws of Utah 2020, Chapter 152
63J-1-102, as last amended by Laws of Utah 2019, Chapter 182
63J-1-205, as last amended by Laws of Utah 2021, Chapter 382
63J-1-217, as last amended by Laws of Utah 2021, Chapter 382
63J-1-312, as last amended by Laws of Utah 2019, Chapter 229
63J-1-313, as last amended by Laws of Utah 2015, Chapter 214
63J-3-103, as last amended by Laws of Utah 2021, Chapter 382
63J-7-102, as last amended by Laws of Utah 2018, Chapter 415

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 41-1a-422 is amended to read:

41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), “contributor” means a person who has donated or in whose name at least $25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children’s Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of State Parks for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the [~~Education Fund~~] Uniform School Fund.

(ii) (A) For a veterans special group license plate described in Subsection 41-1a-421(1)(a)(v) or 41-1a-422(4), "contributor" means a person who has donated or in whose name at least a $25 donation at the time of application and $10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least $15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least $35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months prior to registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 2. Section 51-5-4 is amended to read:

51-5-4. Funds established -- Titles of funds -- Fund functions.

(1) (a) (i) The funds enumerated in this section are established as major fund types.

(ii) All resources and financial transactions of Utah state government shall be accounted for within one of these major fund types.

(b) (i) All funds or subfunds shall be consolidated into one of the state's major fund types.

(ii) Where a specific statute requires that a fund or account be established, that fund or account shall be accounted for as an individual fund, subfund, or account within the major fund type to meet generally accepted accounting principles.

(iii) Existing and new activities of state government authorized by the Legislature shall be accounted for within the framework of the major fund types established in this section.

(c) The Division of Finance shall determine the accounting classification that complies with generally accepted accounting principles for all funds, subfunds, or accounts created by the Legislature.

(d) (i) Major fund types shall be added by amending this chapter.

(ii) Whenever a new act creates or establishes a fund, subfund, or account without amending this chapter, the reference to a fund, subfund, or account in the new act shall be classified within one of the major fund types established by this section.

(2) Major Fund Type Titles:

(a) General Fund;

(b) Special Revenue Funds;

(c) Capital Projects Funds;

(d) Debt Service Funds;

(e) Permanent Funds;

(f) Enterprise Funds;

(g) Internal Service Funds;

(h) Trust and Agency Funds; and

(i) Discrete Component Unit Funds.

(3) The General Fund shall receive all revenues and account for all expenditures not otherwise provided for by law in any other fund.

(4) Special Revenue Funds are used to account for and report proceeds of specific revenue sources that are restricted or committed to be expended for a specified purpose.

(a) The [~~Education Fund~~] Income Tax Fund is a Special Revenue Fund that:

(i) receives all revenues from taxes on intangible property or from a tax on income; and

(ii) is designated for public and higher education.

(b) The Transportation Fund is a Special Revenue Fund that accounts for all revenues that are required by law to be expended for highway purposes.

(c) (i) An Expendable Special Revenue Fund is a Special Revenue Fund created by legislation or contractual relationship with parties external to the state that:

(A) identifies specific revenues collected from fees, taxes, dedicated credits, donations, federal funds, or other sources;

(B) defines the use of the money in the fund for a specific function of government or program within an agency; and

(C) delegates spending authority or authorization to use the fund's assets to a governing board, administrative department, or other officials as defined in the enabling legislation or contract establishing the fund.

(ii) An Expendable Special Revenue Fund may only be created by contractual relationship with external parties when the sources of revenue for the fund are donated revenues or federal revenues.

(iii) Expendable Special Revenue Funds are subject to annual legislative review by the appropriate legislative appropriations subcommittee.

(5) (a) Capital Projects Funds account for financial resources to be expended for the acquisition or construction of capital outlays, including the acquisition or construction of a capital facility and other capital assets. Capital Projects Funds exclude those types of capital-related outflows financed by proprietary funds or for assets that will be held in trust for individuals, private organizations, or other governments.

(b) The Transportation Investment Fund of 2005 is a Capital Projects Fund that accounts for revenues that are required by law to be expended for the maintenance, construction, reconstruction, or renovation of certain state and federal highways.

(6) Debt Service Funds account for the accumulation of resources for, and the payment of, the principal and interest on general long-term obligations.

(7) Permanent Funds account for assets that are legally restricted to the extent that only earnings, and not principal, may be used for a specific purpose.

(8) Enterprise Funds are designated to account for the following:

(a) operations, financed and operated in a manner similar to private business enterprises, where the Legislature intends that the costs of providing goods or services to the public are financed or recovered primarily through user charges;

(b) operations where the Legislature requires periodic determination of revenues earned, expenses incurred, and net income;

(c) operations for which a fee is charged to external users for goods or services; or

(d) operations that are financed with debt that is secured solely by a pledge of the net revenues from fees and charges of the operations.

(9) Internal Service Funds account for the financing of goods or services provided by one department, division, or agency to other departments, divisions, or agencies of the state, or to other governmental units, on a cost-reimbursement basis.

(10) (a) Trust and Agency Funds account for assets held by the state as trustee or agent for individuals, private organizations, or other governmental units.

(b) Pension Trust Funds, Investment Trust Funds, Private-Purpose Trust Funds, and Agency Funds are Trust and Agency Funds.

(11) Discrete Component Unit Funds account for the financial resources used to operate the state's colleges and universities and other discrete component units.

Section 3. Section 53B-7-703 is amended to read:

53B-7-703. Performance Funding Restricted Account -- Creation -- Deposits into account -- Legislative review.

(1) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Performance Funding Restricted Account."

(2) Money in the account shall be:

(a) used for performance funding for:

(i) degree-granting institutions; and

(ii) technical colleges; and

(b) appropriated by the Legislature in accordance with Section 53B-7-705.

(3) (a) Money in the account shall earn interest.

(b) All interest earned on account money shall be deposited into the account.

(4) (a) Except as provided in Subsection (4)(b), the Division of Finance shall deposit into the account an amount equal to 20% of the estimated revenue growth from targeted jobs upon appropriation by the Legislature for a fiscal year beginning on or after July 1, 2019.

(b) (i) As used in this Subsection (4)(b), "total higher education appropriations" means, for the current fiscal year, the total state funded appropriations to:

(A) the board;

(B) degree-granting institutions; and

(C) technical colleges.

(ii) If a deposit described in Subsection (4)(a) would exceed 10% of total higher education appropriations, upon appropriation by the Legislature, the Division of Finance shall deposit into the account an amount equal to 10% of total higher education appropriations.

(c) The Legislature may appropriate money to the account.

(5) (a) As used in this Subsection (5):

(i) "Base budget" means the same as that term is defined in legislative rule.

(ii) "Remaining available ongoing [~~Education Fund~~] Income Tax Fund revenue" means the difference between:

(A) the estimated ongoing [~~Education Fund~~] Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate in the next fiscal year; and

(B) the amount of ongoing appropriations from the [~~Education Fund~~] Income Tax Fund and Uniform School Fund for the current year plus ongoing appropriations required under Sections 53F-9-201 and 53F-9-204 for the next fiscal year.

(b) Except as described in Subsection (5)(c), for a fiscal year beginning on or after July 1, 2023, when preparing the Higher Education Base Budget, the Office of the Legislative Fiscal Analyst shall:

(i) include in the base budget the lesser of the amount described in Subsection (4) or the remaining available ongoing [~~Education Fund~~] Income Tax Fund revenue; and

(ii) appropriate the funds described in Subsection (5)(b)(i) to the Utah Board of Higher Education to distribute to institutions as described in Section 53B-7-705.

(c) In a fiscal year beginning on or after July 1, 2023, in which the remaining available ongoing [~~Education Fund~~] Income Tax Fund revenue is less than zero, when preparing the base budget, the Office of the Legislative Fiscal Analyst shall include in the base budget an amount equal to the difference in the amount described in Subsection (4) for the current year and the amount described in Subsection (4) for the prior year, adjusted for any base budget reductions as directed by the Executive Appropriations Committee.

(6) During the interim following a legislative general session in which an amount described in Subsection (4)(b) is deposited into the account, the Higher Education Appropriations Subcommittee shall review performance funding described in this part and make recommendations to the Legislature about:

(a) the performance levels required for degree-granting institutions and technical colleges to receive performance funding as described in Section 53B-7-705;

(b) the performance metrics described in Sections 53B-7-706 and 53B-7-707; and

(c) the amount of individual income tax revenue dedicated to higher education performance funding.

Section 4. Section 53B-8-112 is amended to read:

53B-8-112. Public Safety Officer Career Advancement Reimbursement Program.

(1) The Public Safety Officer Career Advancement Reimbursement Program is created.

(2) Subject to legislative appropriations and Subsection (7) the board shall reimburse an applicant who:

(a) is a certified peace officer, currently employed by a law enforcement agency within the state;

(b) has been employed as a certified peace officer for three or more consecutive years;

(c) is seeking a post-secondary degree in the area of criminal justice from a credit-granting higher education institution within the state system of higher education, described in Section 53B-1-102; and

(d) is employed as a peace officer for one year following completion of the academic year for which the individual is seeking reimbursement.

(3) Individuals who qualify for reimbursement from the Public Safety Officer Career Advancement Reimbursement Program may apply for reimbursement by July 1 one year after each academic year for which they are requesting reimbursement.

(4) Subject to Legislative appropriations, of the funds appropriated for the Public Safety Officer Career Advancement Reimbursement Program:

(a) 25% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the third or fourth class; and

(b) 12% of the annual appropriation shall be designated for applicants who are currently employed by a law enforcement agency with jurisdiction in a county of the fifth or sixth class.

(5) (a) A qualified applicant may be reimbursed up to half of the cost of tuition and fees.

(b) A reimbursement under Subsection (5)(a) is limited to:

(i) a maximum of $5,000 each academic year; and

(ii) a maximum of eight academic years.

(6) (a) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) set deadlines for receiving reimbursement applications and supporting documentation; and

(ii) establish the application process and an appeal process for a reimbursement from the Public Safety Officer Career Advancement Reimbursement Program, including procedures to allow for online application submittals.

(b) The board shall include a disclosure on all applications and related materials that the amount of the awarded reimbursements may be subject to funding or be reduced, in accordance with Subsection (7).

(7) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the [~~Education Fund~~] Income Tax Fund to the board for the costs associated with the Public Safety Officer Career Advancement Reimbursement Program authorized under this section.

(b) Notwithstanding the provisions of this section, if the appropriation under this section is insufficient to cover the costs associated with the Public Safety Officer Career Advancement Reimbursement Program, the board:

(i) may reduce the amount of a reimbursement; and

(ii) shall distribute reimbursements on a pro rata basis to all eligible applicants who submitted a complete application before the application deadline.

(c) Any individual who is denied reimbursement because of insufficient funds appropriated may re-apply for reimbursement up to two years after the first year of eligibility.

Section 5. Section 53B-8-202 is amended to read:

53B-8-202. Regents' Scholarship Program -- General provisions -- Board policies.

(1) This section only applies to a student who graduates from high school on or before July 1, 2018.

(2) The Regents' Scholarship Program is created to award merit scholarships to students who complete a rigorous core course of study in high school.

(3) (a) A student who is awarded the Base Regents' scholarship established in Section 53B-8-203 may also be awarded each of the supplemental awards established in Sections 53B-8-204 and 53B-8-205.

(b) A student may not receive both a Regents' scholarship and a New Century scholarship established in Section 53B-8-105.

(4) A Regents' scholarship may only be used at a:

(a) credit-granting higher education institution within the state system of higher education; or

(b) private, nonprofit college or university in the state that is accredited by the Northwest Commission on Colleges and Universities.

(5) (a) A scholarship holder shall enroll full-time at a higher education institution described in Subsection (4) by no later than the fall term immediately following the student's high school graduation date or receive an approved deferral from the board.

(b) The board may grant a deferral or leave of absence to a scholarship holder, but the student may only receive scholarship money within five years of the student's high school graduation date.

(6) (a) The board shall annually report on the Regents' Scholarship Program at the beginning of each school year to the Higher Education Appropriations Subcommittee.

(b) The board shall ensure that the report includes the number of students in each school district and public high school who meet the academic criteria for the Base Regents' scholarship and for the Exemplary Academic Achievement Scholarship.

(c) The State Board of Education, school districts, and public high schools shall cooperate with the board to facilitate the collection and distribution of Regents' Scholarship Program data.

(7) The State Board of Education shall annually provide the board a complete list of directory information, including student name and address, for all grade 8 students in the state.

(8) The board shall adopt policies establishing:

(a) the high school and college course requirements described in Subsection 53B-8-203(2)(d)(i);

(b) the additional weights assigned to grades earned in certain courses described in Subsections 53B-8-203(5) and 53B-8-205(8);

(c) the regional accrediting bodies that may accredit a private high school described in Subsection 53B-8-203(2)(a)(ii);

(d) (i) the application process and an appeal process for a Regents' scholarship, including procedures to allow a student to apply for the scholarship on-line; and

(ii) a disclosure on all applications and related materials that the amount of the awards is subject to funding and may be reduced, in accordance with Subsection (9)(b); and

(e) how college credits correlate to high school units for purposes of Subsection 53B-8-203(2)(d)(i).

(9) (a) Subject to future budget constraints, the Legislature shall make an annual appropriation from the [~~Education Fund~~] Income Tax Fund to the board for the costs associated with the Regents' Scholarship Program authorized under this section and Sections 53B-8-203, 53B-8-204, and 53B-8-205.

(b) Notwithstanding the provisions of this section and Sections 53B-8-203, 53B-8-204, and 53B-8-205, if the appropriation under Subsection (9)(a) is insufficient to cover the costs associated with the Regents' Scholarship Program, the board may reduce the amount of the Base Regents' scholarships and supplemental awards.

(10) The board may set deadlines for receiving Regents' scholarship applications and supporting documentation.

Section 6. Section 53E-3-802 is amended to read:

53E-3-802. Federal programs -- School official duties.

(1) School officials may:

(a) apply for, receive, and administer funds made available through programs of the federal government;

(b) only expend federal funds for the purposes for which they are received and are accounted for by the state, school district, or charter school; and

(c) reduce or eliminate a program created with or expanded by federal funds to the extent allowed by law when federal funds for that program are subsequently reduced or eliminated.

(2) School officials shall:

(a) prioritize resources, especially to resolve conflicts between federal provisions or between federal and state programs, including:

(i) providing first priority to meeting state goals, objectives, program needs, and accountability systems as they relate to federal programs; and

(ii) subject to Subsection (4), providing second priority to implementing federal goals, objectives, program needs, and accountability systems that do not directly and simultaneously advance state goals, objectives, program needs, and accountability systems;

(b) interpret the provisions of federal programs in the best interest of students in this state;

(c) maximize local control and flexibility;

(d) minimize additional state resources that are diverted to implement federal programs beyond the federal money that is provided to fund the programs;

(e) request changes to federal educational programs, especially programs that are underfunded or provide conflicts with other state or federal programs, including:

(i) federal statutes;

(ii) federal regulations; and

(iii) other federal policies and interpretations of program provisions; and

(f) seek waivers from all possible federal statutes, requirements, regulations, and program provisions from federal education officials to:

(i) maximize state flexibility in implementing program provisions; and

(ii) receive reasonable time to comply with federal program provisions.

(3) The requirements of school officials under this part, including the responsibility to lobby federal officials, are not intended to mandate school officials to incur costs or require the hiring of lobbyists, but are intended to be performed in the course of school officials' normal duties.

(4) (a) As used in this Subsection (4):

(i) "Available [~~Education Fund~~] Income Tax Fund revenue surplus" means the [~~Education Fund~~] Income Tax Fund revenue surplus after the statutory transfers and set-asides described in Section 63J-1-313.

(ii) "[~~Education Fund~~] Income Tax Fund revenue surplus" means the same as that term is defined in Section 63J-1-313.

(b) Before prioritizing the implementation of a future federal goal, objective, program need, or accountability system that does not directly and simultaneously advance a state goal, objective, program need, or accountability system, the state board may:

(i) determine the financial impact of failure to implement the federal goal, objective, program need, or accountability system; and

(ii) if the state board determines that failure to implement the federal goal, objective, program need, or accountability system may result in a financial loss, request that the Legislature mitigate the financial loss.

(c) A mitigation requested under Subsection (4)(b)(ii) may include appropriating available [~~Education Fund~~] Income Tax Fund revenue surplus through an appropriations act, including an appropriations act passed during a special session called by the governor or a general session.

(d) This mitigation option is in addition to and does not restrict or conflict with the state's authority provided in this part.

Section 7. Section 53E-6-505 is amended to read:

53E-6-505. Meetings and expenses of UPPAC members.

(1) UPPAC shall meet at least quarterly and at the call of the chair or of a majority of the members.

(2) Members of UPPAC serve without compensation but are allowed reimbursement for actual and necessary expenses under the rules of the Division of Finance.

(3) The state board shall pay reimbursement to UPPAC members out of the [~~Education Fund~~] Income Tax Fund.

Section 8. Section 53E-7-405 is amended to read:

53E-7-405. Program donations -- Scholarship granting organization requirements.

(1) A person that makes a donation to a scholarship granting organization to help fund scholarships through the program may be eligible to receive a nonrefundable tax credit as described in Sections 59-7-625 and 59-10-1041.

(2) In accordance with Section 53E-7-404, an organization may enter into an agreement with the state board to be a scholarship granting organization.

(3) A scholarship granting organization shall:

(a) accept program donations;

(b) adopt an application process in accordance with Subsection (5);

(c) review scholarship applications and determine scholarship awards;

(d) allocate scholarship money to a scholarship student's parent or, on the parent's behalf, to a qualifying school in which the scholarship student is enrolled;

(e) adopt a process, with state board approval, that allows a parent to use a scholarship to pay for a nontuition scholarship expense for the scholarship student;

(f) ensure that:

(i) at least 92% of the scholarship granting organization's revenue from program donations is spent on scholarships;

(ii) up to 5% of the scholarship granting organization's revenue from program donations is spent on administration of the program;

(iii) up to 3% of the scholarship granting organization's revenue from program donations is spent on marketing and fundraising costs; and

(iv) all revenue from program donations' interest or investments is spent on scholarships;

(g) carry forward no more than 40% of the scholarship granting organization's program donations from the state fiscal year in which the scholarship granting organization received the program donations to the following state fiscal year;

(h) at the end of a fiscal year, remit to the state treasurer donation amounts greater than the amount described in Subsection (3)(g);

(i) prohibit a scholarship granting organization employee or officer from handling, managing, or processing program donations, if, based on a criminal background check conducted by the state board in accordance with Section 53E-7-404, the state board identifies the employee or officer as posing a risk to the appropriate use of program donations;

(j) ensure that a scholarship can be transferred during the school year to a different qualifying school that accepts the scholarship student;

(k) report to the state board on or before June 1 of each year the following information, prepared by a certified public accountant:

(i) the name and address of the scholarship granting organization;

(ii) the total number and total dollar amount of program donations that the scholarship granting organization received during the previous calendar year;

(iii) the total number and total dollar amount of scholarships the scholarship granting organization awarded during the previous calendar year; and

(iv) the percentage of first-time scholarship recipients who were enrolled in a public school during the previous school year or who entered kindergarten or a higher grade for the first time in Utah;

(l) issue tax credit certificates as described in Section 53E-7-407; and

(m) require a parent to notify a scholarship granting organization if the parent's scholarship recipient:

(i) receives scholarship money for tuition expenses; and

(ii) does not have continuing enrollment and attendance at a qualifying school.

(4) The state treasurer shall deposit the money described in Subsection (3)(h) into the [~~Education Fund~~] Income Tax Fund.

(5) (a) An application for a scholarship shall contain an acknowledgment by the applicant's parent that the qualifying school selected by the parent for the applicant to attend using a scholarship is capable of providing the level of disability services required for the student.

(b) A scholarship application form shall contain the following statement:

"I acknowledge that:

(1) A private school may not provide the same level of disability services that are provided in a public school;

(2) I will assume full financial responsibility for the education of my scholarship recipient if I accept this scholarship;

(3) Acceptance of this scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.; and

(4) My child may return to a public school at any time."

(c) Upon acceptance of a scholarship, the parent assumes full financial responsibility for the education of the scholarship recipient.

(d) Acceptance of a scholarship has the same effect as a parental refusal to consent to services as described in 24 C.F.R. Sec. 300.300, issued under the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq.

(e) The creation of the program or granting of a scholarship does not:

(i) imply that a public school did not provide a free and appropriate public education for a student; or

(ii) constitute a waiver or admission by the state.

(6) A scholarship granting organization shall demonstrate the scholarship granting organization's financial accountability by annually submitting to the state board a financial information report that:

(a) complies with the uniform financial accounting standards described in Section 53E-7-404; and

(b) is prepared by a certified public accountant.

(7) (a) If a scholarship granting organization allocates $500,000 or more in scholarships annually through the program, the scholarship granting organization shall:

(i) contract for an annual audit, conducted by a certified public accountant who is independent from:

(A) the scholarship granting organization; and

(B) the scholarship granting organization's accounts and records pertaining to program donations; and

(ii) in accordance with Subsection (7)(b), report the results of the audit to the state board for review.

(b) For the report described in Subsection (7)(a)(ii), the scholarship granting organization shall:

(i) include the scholarship granting organization's financial statements in a format that meets generally accepted accounting standards; and

(ii) submit the report to the state board no later than 180 days after the last day of a scholarship granting organization's fiscal year.

(c) The certified public accountant shall conduct an audit described in Subsection (7)(a)(i) in accordance with generally accepted auditing standards and rules made by the state board.

(d) (i) The state board shall review a report submitted under this section and may request that the scholarship granting organization revise or supplement the report if the report is not in compliance with the provisions of this Subsection (7) or rules adopted by the state board.

(ii) A scholarship granting organization shall provide a revised report or supplement to the report no later than 45 days after the day on which the state board makes a request described in Subsection (7)(d)(i).

(8) (a) A scholarship granting organization may not allocate scholarship money to a qualifying school if:

(i) the scholarship granting organization determines that the qualifying school intentionally or substantially misrepresented information on overpayment;

(ii) the qualifying school fails to refund an overpayment in a timely manner; or

(iii) the qualifying school routinely fails to provide scholarship recipients with promised educational goods or services.

(b) A scholarship granting organization shall notify a scholarship recipient if the scholarship granting organization stops allocation of the recipient's scholarship money to a qualifying school under Subsection (8)(a).

(9) If a scholarship recipient transfers to another qualifying school during the school year, the scholarship granting organization may prorate scholarship money between the qualifying schools according to the time the scholarship recipient spends at each school.

(10) A scholarship granting organization may not:

(a) award a scholarship to a relative of the scholarship granting organization's officer or employee; or

(b) allocate scholarship money to a qualifying school at which the scholarship recipient has a relative who is an officer or an employee of the qualifying school.

Section 9. Section 53F-2-203 is amended to read:

53F-2-203. Reduction of LEA governing board allocation based on insufficient revenues.

(1) As used in this section, "Minimum School Program funds" means the total of state and local funds appropriated for the Minimum School Program, excluding:

(a) an appropriation for a state guaranteed local levy increment as described in Section 53F-2-601; and

(b) the appropriation to charter schools to replace local property tax revenues pursuant to Section 53F-2-704.

(2) If the Legislature reduces appropriations made to support public schools under this chapter because an [~~Education Fund~~] Income Tax Fund budget deficit, as defined in Section 63J-1-312, exists, the state board, after consultation with each LEA governing board, shall allocate the reduction among school districts and charter schools in proportion to each school district's or charter school's percentage share of Minimum School Program funds.

(3) Except as provided in Subsection (5) and subject to the requirements of Subsection (7), an LEA governing board shall determine which programs are affected by a reduction pursuant to Subsection (2) and the amount each program is reduced.

(4) Except as provided in Subsections (5) and (6), the requirement to spend a specified amount in any particular program is waived if reductions are made pursuant to Subsection (2).

(5) An LEA governing board may not reduce or reallocate spending of funds distributed to the school district or charter school for the following programs:

(a) educator salary adjustments provided in Section 53F-2-405;

(b) the Teacher Salary Supplement Program provided in Section 53F-2-504;

(c) the extended year for special educators provided in Section 53F-2-310;

(d) the School LAND Trust Program described in Sections 53F-2-404 and 53G-7-1206; or

(e) a special education program within the basic school program.

(6) An LEA governing board may not reallocate spending of funds distributed to the school district or charter school to a reserve account.

(7) An LEA governing board that reduces or reallocates funds in accordance with this section shall report all transfers into, or out of, Minimum School Program programs to the state board as part of the school district or charter school's Annual Financial and Program report.

Section 10. Section 53F-9-201 is amended to read:

53F-9-201. Uniform School Fund -- Contents -- Trust Distribution Account.

(1) As used in this section:

(a) "Annual distribution calculation" means, for a given fiscal year, the average of:

(i) 4% of the average market value of the State School Fund for that fiscal year; and

(ii) the distribution amount for the prior fiscal year, multiplied by the sum of:

(A) one;

(B) the percent change in student enrollment from the school year two years prior to the prior school year; and

(C) the actual total percent change of the consumer price index during the last 12 months as measured in June of the prior fiscal year.

(b) "Average market value of the State School Fund" means the results of a calculation completed by the SITFO director each fiscal year that averages the value of the State School Fund for the past 20 consecutive quarters ending in the prior fiscal year.

(c) "Consumer price index" means the Consumer Price Index for All Urban Consumers: All Items Less Food & Energy, as published by the Bureau of Labor Statistics of the United States Department of Labor.

(d) "SITFO director" means the director of the School and Institutional Trust Fund Office appointed under Section 53D-1-401.

(e) "State School Fund investment earnings distribution amount" or "distribution amount" means, for a fiscal year, the lesser of:

(i) the annual distribution calculation; or

(ii) 4% of the average market value of the State School Fund.

(2) The Uniform School Fund, a special revenue fund [~~within the Education Fund~~] , established by Utah Constitution, Article X, Section 5, consists of:

(a) distributions derived from the investment of money in the permanent State School Fund established by Utah Constitution, Article X, Section 5;

(b) money transferred to the fund pursuant to Title 67, Chapter 4a, Revised Uniform Unclaimed Property Act; and

(c) all other constitutional or legislative allocations to the fund, including:

(i) appropriations for the Minimum School Program, enrollment growth, and inflation under Section 53F-9-201.1; and

(ii) revenues received by donation.

(3) (a) There is created within the Uniform School Fund a restricted account known as the Trust Distribution Account.

(b) The Trust Distribution Account consists of:

(i) in accordance with Subsection (4), quarterly deposits of the State School Fund investment earnings distribution amount from the prior fiscal year;

(ii) all interest earned on the Trust Distribution Account in the prior fiscal year; and

(iii) any unused appropriation for the administration of the School LAND Trust Program, as described in Subsection 53F-2-404(1)(c).

(4) If, at the end of a fiscal year, the Trust Distribution Account has a balance remaining after

subtracting the appropriation amount described in Subsection 53F-2-404(1)(a) for the next fiscal year, the SITFO director shall, during the next fiscal year, apply the amount of the remaining balance from the prior fiscal year toward the current fiscal year's distribution amount by reducing a quarterly deposit to the Trust Distribution Account by the amount of the remaining balance from the prior fiscal year.

(5) On or before October 1 of each year, the SITFO director shall:

(a) in accordance with this section, determine the distribution amount for the following fiscal year; and

(b) report the amount described in Subsection (5)(a) as the funding amount, described in Subsection 53F-2-404(1)(c), for the School LAND Trust Program, to:

(i) the State Treasurer;

(ii) the Legislative Fiscal Analyst;

(iii) the Division of Finance;

(iv) the director of the Land Trusts Protection and Advocacy Office, appointed under Section 53D-2-203;

(v) the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(vi) the state board; and

(vii) the Governor's Office of Planning and Budget.

(6) The School and Institutional Trust Fund Board of Trustees created in Section 53D-1-301 shall:

(a) annually review the distribution amount; and

(b) make recommendations, if necessary, to the Legislature for changes to the formula for calculating the distribution amount.

(7) Upon appropriation by the Legislature, the SITFO director shall place in the Trust Distribution Account funds for the School LAND Trust Program as described in Subsections 53F-2-404(1)(a) and (c).

Section 11. Section 53F-9-201.1 (Superseded 07/01/22) is amended to read:

53F-9-201.1 (Superseded 07/01/22). Appropriations to the Minimum School Program from the Uniform School Fund.

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall:

(a) include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to the sum of:

(i) the ongoing [~~Education Fund~~] Income Tax Fund and Uniform School Fund appropriations to the Minimum School Program in the current fiscal year; and

(ii) subject to Subsection 53F-9-204(3)(b), enrollment growth and inflation estimates; and

(b) except as provided in Subsection (4), an appropriation to increase the value of the weighted pupil unit that is greater than or equal to 10% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(i) the estimated amount of ongoing [~~Education Fund~~] Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(ii) the amount of ongoing appropriations from the [~~Education Fund~~] Income Tax Fund and Uniform School Fund in the current fiscal year.

(3) The total annual amount deposited into the Uniform School Fund, including the deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given fiscal year may not exceed the amount appropriated from the Uniform School Fund for that fiscal year.

(4) (a) If an appropriation to increase the value of the weighted pupil unit described in Subsection (2)(b) would cause the cumulative amount of increases to the value of the weighted pupil unit, beginning for fiscal year 2022, to exceed $140,500,000, the Office of the Legislative Fiscal Analyst:

(i) shall include in the Public Education Base Budget an appropriation to increase the value of the weighted pupil unit that would cause the cumulative amount of increases to equal $140,500,000; and

(ii) is exempt from future application of Subsection (2)(b).

(b) Nothing in this section limits the Legislature's ability to appropriate additional amounts to increase the value of the weighted pupil unit.

Section 12. Section 53F-9-201.1 (Effective 07/01/22) is amended to read:

53F-9-201.1 (Effective 07/01/22). Appropriations to the Minimum School Program from the Uniform School Fund.

(1) As used in this section:

(a) "Base budget" means the same as that term is defined in legislative rule.

(b) "Enrollment growth and inflation estimates" means the cost estimates regarding enrollment growth and inflation described in Section 53F-2-208.

(2) Except as provided in Subsection 53F-9-204(3), for a fiscal year beginning on or after July 1, 2021, when preparing the Public Education Base Budget, the Office of the Legislative Fiscal Analyst shall include appropriations to the Minimum School Program from the Uniform School Fund, and, subject to Subsection 53F-9-204(3), the Public Education Economic Stabilization Restricted Account, in an amount that is greater than or equal to the sum of:

(a) the ongoing [~~Education Fund~~] Income Tax Fund and Uniform School Fund appropriations to the Minimum School Program in the current fiscal year; and

(b) subject to Subsection 53F-9-204(3)(b), enrollment growth and inflation estimates.

(3) The total annual amount deposited into the Uniform School Fund, including the deposits through the distributions described in Sections 59-7-532 and 59-10-544, for a given fiscal year may not exceed the amount appropriated from the Uniform School Fund for that fiscal year.

Section 13. Section 53F-9-204 is amended to read:

53F-9-204. Public Education Economic Stabilization Restricted Account.

(1) There is created within the Uniform School Fund a restricted account known as the "Public Education Economic Stabilization Restricted Account."

(2) (a) Except as provided in Subsection (2)(b), the account shall be funded from the following revenue sources:

(i) 15% of the difference between, as determined by the Office of the Legislative Fiscal Analyst:

(A) the estimated amount of ongoing [~~Education Fund~~] Income Tax Fund and Uniform School Fund revenue available for the Legislature to appropriate for the next fiscal year; and

(B) the amount of ongoing appropriations from the [~~Education Fund~~] Income Tax Fund and Uniform School Fund in the current fiscal year; and

(ii) other appropriations as the Legislature may designate.

(b) If the appropriation described in Subsection (2)(a) would cause the ongoing appropriations to the account to exceed 11% of Uniform School Fund appropriations described in Section 53F-9-201.1 for the same fiscal year, the Legislature shall appropriate only those funds necessary to ensure that the ongoing appropriations to the account equal 11% of Uniform School Fund appropriations for that fiscal year.

(3) Subject to the availability of ongoing appropriations to the account, in accordance with Utah Constitution, Article X, Section 5, Subsection (4), the ongoing appropriation to the account shall be used to fund:

(a) except for a year described in Subsection (3)(b), one-time appropriations to the public education system; and

(b) the Minimum School Program for a year in which [~~Education Fund~~] Income Tax Fund revenue and Uniform School Fund revenue are insufficient to fund:

(i) ongoing appropriations to the public education system; and

(ii) enrollment growth and inflation estimates, as defined in Section 53F-9-201.1.

(4) (a) The account shall earn interest.

(b) All interest earned on account money shall be deposited in the account.

(5) On or before December 31, 2023, and every three years thereafter, the Office of the Legislative Fiscal Analyst shall:

(a) review the percentages described in Subsections (2)(a)(i) and (2)(b); and

(b) recommend to the Executive Appropriations Subcommittee any changes based on the review described in Subsection (5)(a).

Section 14. Section 53F-9-301 is amended to read:

53F-9-301. Charter School Levy Account.

(1) (a) The terms defined in Section 53G-5-102 apply to this section.

(b) As used in this section, "account" means the Charter School Levy Account created in this section.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Charter School Levy Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-703.

(4) Upon appropriation from the Legislature, the state board shall distribute funds from the account as described in Section 53F-2-703.

(5) The account shall earn interest.

(6) Interest earned on the account shall be deposited into the account.

(7) Funds in the account are nonlapsing.

Section 15. Section 53F-9-302 is amended to read:

53F-9-302. Minimum Basic Growth Account.

(1) As used in this section, "account" means the Minimum Basic Growth Account created in this section.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Minimum Basic Growth Account."

(3) The account shall be funded by amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) Upon appropriation by the Legislature:

(a) 75% of the money from the account shall be used to fund the state's contribution to the voted local levy guarantee described in Section 53F-2-601;

(b) 20% of the money from the account shall be used to fund the Capital Outlay Foundation Program as provided in Section 53F-3-202; and

(c) 5% of the money from the account shall be used to fund the Capital Outlay Enrollment Growth Program as provided in Section 53F-3-203.

Section 16. Section 53F-9-303 is amended to read:

53F-9-303. Charter School Reserve Account.

(1) The terms defined in Section 53G-5-601 apply to this section.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Charter School Reserve Account."

(3) The reserve account consists of:

(a) money credited to the account pursuant to Section 53G-5-607;

(b) money appropriated to the account by the Legislature;

(c) all income and interest derived from the deposit and investment of money in the account;

(d) federal grants; and

(e) private donations.

(4) Money in the reserve account may be appropriated by the Legislature to:

(a) restore amounts on deposit in a debt service reserve fund of a qualifying charter school to the debt service reserve fund requirement;

(b) pay fees and expenses of the authority;

(c) pay the principal of and interest on bonds issued for a qualifying charter school; or

(d) otherwise provide financial assistance to a qualifying charter school.

Section 17. Section 53F-9-304 is amended to read:

53F-9-304. Underage Drinking and Substance Abuse Prevention Program Restricted Account.

(1) As used in this section, "account" means the Underage Drinking and Substance Abuse Prevention Program Restricted Account created in this section.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Underage Drinking and Substance Abuse Prevention Program Restricted Account."

(3) (a) Before the Department of Alcoholic Beverage Control deposits any portion of the markup collected under Section 32B-2-304 into the Liquor Control Fund in accordance with Section 32B-2-301, the Department of Alcoholic Beverage Control shall deposit into the account:

(i) for the fiscal year that begins July 1, 2017, $1,750,000; or

(ii) for each fiscal year that begins on or after July 1, 2018, an amount equal to the amount that the Department of Alcoholic Beverage Control deposited into the account during the preceding fiscal year increased or decreased by a percentage equal to the percentage difference between the Consumer Price Index for the second preceding calendar year and the Consumer Price Index for the preceding calendar year.

(b) For purposes of this Subsection (3), the Department of Alcoholic Beverage Control shall calculate the Consumer Price Index in accordance with 26 U.S.C. Secs. 1(f)(4) and 1(f)(5).

(4) The account shall be funded:

(a) in accordance with Subsection (3);

(b) by appropriations made to the account by the Legislature; and

(c) by interest earned on money in the account.

(5) The state board shall use money in the account for the Underage Drinking and Substance Abuse Prevention Program described in Section 53G-10-406.

Section 18. Section 53F-9-305 is amended to read:

53F-9-305. Local Levy Growth Account.

(1) As used in this section, "account" means the Local Levy Growth Account created in this section.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Local Levy Growth Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the state board.

Section 19. Section 53F-9-306 is amended to read:

53F-9-306. Teacher and Student Success Account.

(1) As used in this section, "account" means the Teacher and Student Success Account created in this section.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account known as the "Teacher and Student Success Account."

(3) The account shall be funded by:

(a) amounts deposited into the account in accordance with Section 53F-2-301 or 53F-2-301.5, as applicable; and

(b) other legislative appropriations.

(4) The account shall earn interest.

(5) Interest earned on the account shall be deposited into the account.

(6) The Legislature shall appropriate money in the account to the state board.

Section 20. Section 53F-9-307 is amended to read:

53F-9-307. Charter School Closure Reserve Account.

(1) As used in this section:

(a) "Account" means the Charter School Closure Reserve Account created in this section.

(b) "Charter school authorizer" or "authorizer" means an entity listed in Section 53G-5-205 that authorizes a charter school.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a special revenue fund known as the "Charter School Closure Reserve Account."

(3) The account consists of:

(a) appropriations of the Legislature;

(b) amounts deposited into the account in accordance with this section; and

(c) interest earned on money in the account.

(4) (a) The account shall earn interest.

(b) Interest earned on the account shall be deposited into the account.

(5) (a) In a fiscal year that begins on or after July 1, 2021, a charter school shall annually contribute to the account $2 per student enrolled in the charter school until the account balance reaches $3,000,000.

(b) (i) Beginning with the fiscal year following the first fiscal year in which the account balance reaches $3,000,000, except as provided in Subsections (5)(b)(ii) and (iii), in any fiscal year in which the account balance is less than $3,000,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(ii) Except as provided in Subsection (5)(b)(iii), if no funds have been withdrawn from the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2024, in which the account balance is less than $2,500,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(iii) If no funds have been withdrawn from the account due to a charter school closure, in a fiscal year that begins on or after July 1, 2026, in which the account balance is less than $2,000,000, a charter school shall contribute to the account a prorated amount, not to exceed $2 per student enrolled in a charter school, in accordance with Subsection (6).

(c) The state board shall ensure that the total contribution from charter schools described in Subsection (5)(b) equals the lesser of:

(i) (A) in a fiscal year after the first fiscal year in which the account balance reaches $3,000,000, an amount sufficient to maintain an account balance of $3,000,000;

(B) in a fiscal year that begins on or after July 1, 2024, if no funds have been withdrawn from the account due to charter school closure, an amount sufficient to maintain an account balance of $2,500,000; or

(C) in a fiscal year that begins on or after July 1, 2026, if no funds have been withdrawn from the account due to charter school closure, an amount sufficient to maintain an account balance of $2,000,000; and

(ii) $2 per student enrolled in a charter school.

(6) The state board of education shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(a) calculating the amounts described in Subsections (5)(b) and (c);

(b) a process for collecting charter school contributions to the account described in this section; and

(c) a process for depositing charter school contributions to the account described in this section into the account.

(7) Money in the account may only be used upon closure of a charter school that closes on or after January 1, 2021:

(a) to pay debts that the charter school owes to:

(i) the state board; or

(ii) the state or federal government;

(b) after the charter school has made other reasonable attempts to resolve debts the charter school owes to:

(i) the state board; or

(ii) the state or federal government; and

(c) after a charter school liquidates all of the charter school's assets.

(8) Money in the account may not be used to pay bond debt.

(9) The state board, in partnership with a charter school authorizer:

(a) may authorize the use of money in the account, subject to the restrictions described in Subsections (7) and (8); and

(b) before authorizing the use of funds in the account as described in Subsection (9)(a), shall investigate all reasonable alternatives for a charter school to pay debt that the charter school owes to:

(i) the state board; and

(ii) the state or federal government.

Section 21. Section 59-7-532 is amended to read:

59-7-532. Revenue received by commission -- Deposit with state treasurer -- Distribution or crediting to Income Tax Fund -- Refund claim payments.

(1) (a) The commission shall deposit at least quarterly all revenue collected or received by the commission under this chapter with the state treasurer.

(b) The commission shall, subject to the refund provisions of this section, distribute or credit, at least quarterly and based on a pro rata share of [~~Education Fund~~] Income Tax Fund and Uniform School Fund appropriations for the current fiscal year, the revenue described in Subsection (1)(a) to:

(i) the [~~Education Fund~~] Income Tax Fund; and

(ii) the Uniform School Fund in accordance with Section 53F-9-201.1.

(c) The commission may credit to or draw from the [~~Education Fund~~] Income Tax Fund and the Uniform School Fund:

(i) annually to adjust for differences between estimates and actual amounts; or

(ii) in the proportion described in Subsection (1)(b) to issue a refund.

(2) The commission shall from time to time certify to the state auditor the amount of any refund authorized by it, the amount of interest computed on it under the provisions of Section 59-7-533, from whom the tax to be refunded was collected, or by whom it was paid, and such refund claims shall be paid in order out of the funds first accruing to the [~~Education Fund~~] Income Tax Fund from the provisions of this section.

Section 22. Section 59-7-614.1 is amended to read:

59-7-614.1. Refundable tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Income Tax Fund -- Rulemaking authority.

(1) For a taxable year beginning on or after January 1, 2004, a taxpayer may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the taxpayer pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than $250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A taxpayer:

(a) shall retain the following to establish the amount of tax the resident or nonresident individual paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b):

(i) the commission shall make a refund to a taxpayer that claims a tax credit under this section if the amount of the tax credit exceeds the taxpayer's tax liability under this chapter; and

(ii) the Division of Finance shall transfer at least annually from the General Fund into the [~~Education Fund~~] Income Tax Fund an amount equal to the amount of tax credit claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a taxpayer as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the [~~Education Fund~~] Income Tax Fund as required by Subsection (3)(a)(ii).

Section 23. Section 59-10-544 is amended to read:

59-10-544. General powers and duties of the commission -- Deposit, distribution, or credit of revenues -- Refund reverts to state under certain circumstances.

(1) (a) The commission shall administer and enforce a tax imposed under this chapter for which

purpose it may divide the state into districts in each of which a branch office of the commission may be maintained.

(b) A county may not be divided in forming a district.

(2) (a) The commission shall deposit at least quarterly all revenue collected or received by the commission under this chapter with the state treasurer.

(b) Subject to Sections 59-10-529 and 59-10-531, the commission shall distribute and credit, at least quarterly and based on a pro rata share of [~~Education Fund~~] Income Tax Fund and Uniform School Fund appropriations for the current fiscal year, the revenue described in Subsection (2)(a) to:

(i) the [~~Education Fund~~] Income Tax Fund; and

(ii) the Uniform School Fund in accordance with Section 53F-9-201.1.

(c) The commission may credit to or draw from the [~~Education Fund~~] Income Tax Fund and the Uniform School Fund:

(i) annually to adjust for differences between estimates and actual amounts; or

(ii) in the proportion described in Subsection (2)(b) to issue a refund.

(d) If a refund the commission makes is not claimed within two years from the date the commission issues the refund:

(i) the refund reverts to the state to be credited to the [~~Education Fund~~] Income Tax Fund; and

(ii) no further claim may be made on the commission for the amount of the refund.

Section 24. Section 59-10-1005 is amended to read:

59-10-1005. Tax credit for at-home parent.

(1) As used in this section:

(a) "At-home parent" means a parent:

(i) who provides full-time care at the parent's residence for one or more of the parent's own qualifying children;

(ii) who claims the qualifying child as a dependent on the parent's individual income tax return for the taxable year for which the parent claims the credit; and

(iii) if the sum of the following amounts are $3,000 or less for the taxable year for which the parent claims the credit:

(A) the total wages, tips, and other compensation listed on all of the parent's federal Forms W-2; and

(B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or Loss From Business.

(b) "Parent" means an individual who:

(i) is the biological mother or father of a qualifying child;

(ii) is the stepfather or stepmother of a qualifying child;

(iii) (A) legally adopts a qualifying child; or

(B) has a qualifying child placed in the individual's home:

(I) by a child-placing agency, as defined in Section 62A-2-101; and

(II) for the purpose of legally adopting the child;

(iv) is a foster parent of a qualifying child; or

(v) is a legal guardian of a qualifying child.

(c) "Qualifying child" means a child who is no more than 12 months of age on the last day of the taxable year for which the tax credit is claimed.

(2) For a taxable year beginning on or after January 1, 2000, a claimant may claim on the claimant's individual income tax return a nonrefundable tax credit of $100 for each qualifying child if:

(a) the claimant or another claimant filing a joint individual income tax return with the claimant is an at-home parent; and

(b) the adjusted gross income of all of the claimants filing the individual income tax return is less than or equal to $50,000.

(3) A claimant may not carry forward or carry back a tax credit authorized by this section.

(4) (a) In accordance with any rules prescribed by the commission under Subsection (4)(b), the Division of Finance shall transfer at least annually from the General Fund into the [~~Education Fund~~] Income Tax Fund the aggregate amount of all tax credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for making a transfer from the General Fund into the [~~Education Fund~~] Income Tax Fund as required by Subsection (4)(a).

Section 25. Section 59-10-1105 is amended to read:

59-10-1105. Tax credit for hand tools used in farming operations -- Procedures for refund -- Transfers from General Fund to Income Tax Fund -- Rulemaking authority.

(1) For a taxable year beginning on or after January 1, 2004, a claimant, estate, or trust may claim a refundable tax credit:

(a) as provided in this section;

(b) against taxes otherwise due under this chapter; and

(c) in an amount equal to the amount of tax the claimant, estate, or trust pays:

(i) on a purchase of a hand tool:

(A) if the purchase is made on or after July 1, 2004;

(B) if the hand tool is used or consumed primarily and directly in a farming operation in the state; and

(C) if the unit purchase price of the hand tool is more than $250; and

(ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i).

(2) A claimant, estate, or trust:

(a) shall retain the following to establish the amount of tax the claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection (1)(c)(i):

(i) a receipt;

(ii) an invoice; or

(iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and

(b) may not carry forward or carry back a tax credit under this section.

(3) (a) In accordance with any rules prescribed by the commission under Subsection (3)(b):

(i) the commission shall make a refund to a claimant, estate, or trust that claims a tax credit under this section if the amount of the tax credit exceeds the claimant's, estate's, or trust's tax liability under this chapter; and

(ii) the Division of Finance shall transfer at least annually from the General Fund into the [~~Education Fund~~] Income Tax Fund an amount equal to the aggregate amount of all tax credits claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for making:

(i) a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i); or

(ii) transfers from the General Fund into the [~~Education Fund~~] Income Tax Fund as required by Subsection (3)(a)(ii).

Section 26. Section 59-13-202 is amended to read:

59-13-202. Refund of tax for agricultural uses on individual income and corporate franchise and income tax returns -- Application for permit for refund -- Division of Finance to pay claims -- Rules permitted to enforce part -- Penalties -- Revenue and Taxation Interim Committee study.

(1) As used in this section:

(a) (i) Except at provided in Subsection (1)(a)(ii), "claimant" means a resident or nonresident person.

(ii) "Claimant" does not include an estate or trust.

(b) "Estate" means a nonresident estate or a resident estate.

(c) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or trust may claim:

(i) as provided by statute; and

(ii) regardless of whether, for the taxable year for which the claimant, estate, or trust claims the tax credit, the claimant, estate, or trust has a tax liability under:

(A) Chapter 7, Corporate Franchise and Income Taxes; or

(B) Chapter 10, Individual Income Tax Act.

(d) "Trust" means a nonresident trust or a resident trust.

(2) Any claimant, estate, or trust that purchases and uses any motor fuel within the state for the purpose of operating or propelling stationary farm engines and self-propelled farm machinery used for nonhighway agricultural uses, and that has paid the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the conditions and limitations provided under this part.

(3) (a) A claimant, estate, or trust desiring a nonhighway agricultural use refund under this part shall claim the refund as a refundable tax credit on the tax return the claimant, estate, or trust files under:

(i) Chapter 7, Corporate Franchise and Income Taxes; or

(ii) Chapter 10, Individual Income Tax Act.

(b) A claimant, estate, or trust not subject to filing a tax return described in Subsection (3)(a) shall obtain a permit and file claims on a calendar year basis.

(c) Any claimant, estate, or trust claiming a refundable tax credit under this section is required to furnish any or all of the information outlined in this section upon request of the commission.

(d) A refundable tax credit under this section is allowed only on purchases on which tax is paid during the taxable year covered by the tax return.

(4) In order to obtain a permit for a refund of motor fuel tax paid, an application shall be filed containing:

(a) the name of the claimant, estate, or trust;

(b) the claimant's, estate's, or trust's address;

(c) location and number of acres owned and operated, location and number of acres rented and operated, the latter of which shall be verified by a signed statement from the legal owner;

(d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

(e) make, size, and type of fuel used and power rating of each piece of equipment using fuel. If the claimant, estate, or trust is an operator of self-propelled or tractor-pulled farm machinery with which the claimant, estate, or trust works for hire doing custom jobs for other farmers, the application shall include information the commission requires and shall all be contained in, and be considered part of, the original application. The claimant, estate, or trust shall also file with the application a certificate from the county assessor showing each piece of equipment using fuel. This original application and all information contained in it constitutes a permanent file with the commission in the name of the claimant, estate, or trust.

(5) A claimant, estate, or trust claiming the right to a refund of motor fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for the previous calendar year. The claim shall state the name and address of the claimant, estate, or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and the amount paid for the motor fuel. The claimant, estate, or trust shall retain the original invoice to support the claim. No more than one claim for a tax refund may be filed annually by each user of motor fuel purchased for nonhighway agricultural uses.

(6) Upon commission approval of the claim for a refund, the Division of Finance shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for refunds shall be paid from motor fuel taxes.

(7) The commission may refuse to accept as evidence of purchase or payment any instruments that show alteration or that fail to indicate the quantity of the purchase, the price of the motor fuel, a statement that the motor fuel is purchased for purposes other than transportation, and the date of purchase and delivery. If the commission is not satisfied with the evidence submitted in connection with the claim, the commission may reject the claim or require additional evidence.

(8) A claimant, estate, or trust aggrieved by the decision of the commission with respect to a refundable tax credit or refund may file a request for agency action, requesting a hearing before the commission.

(9) A claimant, estate, or trust that makes any false claim, report, or statement, as claimant, estate, trust, agent, or creditor, with intent to defraud or secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal penalties provided under Section 59-1-401, and the commission shall initiate the filing of a complaint for alleged violations of this part. In addition to these penalties, the claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a creditor of a claimant, estate, or trust for refund for a period of five years.

(10) (a) In accordance with any rules prescribed by the commission under Subsection (10)(b), the Division of Finance shall transfer at least annually from the Transportation Fund into the [~~Education Fund~~] Income Tax Fund an amount equal to the amount of the refund claimed under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules providing procedures for:

(i) making a refund to a claimant, estate, or trust as required by Subsection (3)(a)(i);

(ii) making a transfer from the Transportation Fund into the [~~Education Fund~~] Income Tax Fund as required by Subsection (10)(a); or

(iii) enforcing this part.

(11) (a) On or before November 30, 2017, and every three years after 2017, the Revenue and Taxation Interim Committee shall review the tax credit provided by this section and make recommendations concerning whether the tax credit should be continued, modified, or repealed.

(b) In conducting the review required by Subsection (11)(a), the Revenue and Taxation Interim Committee shall:

(i) schedule time on at least one committee agenda to conduct the review;

(ii) invite state agencies, individuals, and organizations concerned with the credit under review to provide testimony;

(iii) ensure that the recommendations described in this section include an evaluation of:

(A) the cost of the tax credit to the state;

(B) the purpose and effectiveness of the tax credit; and

(C) the extent to which the state benefits from the tax credit; and

(iv) undertake other review efforts as determined by the chairs of the Revenue and Taxation Interim Committee.

Section 27. Section 63A-5b-406 is amended to read:

63A-5b-406. Limitations on new projects.

(1) The Legislature may authorize:

(a) the total square footage to be occupied by each agency; and

(b) the total square footage and total cost of lease space for each agency.

(2) If construction of a new building or facility will require an immediate or future increase in state funding for operations and maintenance or for capital improvements, the Legislature may not authorize the new building or facility until the Legislature appropriates funds for:

(a) the portion of operations and maintenance, if any, that will require an immediate or future increase in state funding; and

(b) the portion of capital improvements, if any, that will require an immediate or future increase in state funding.

(3) (a) Except as provided in Subsections (3)(b) and (c), the Legislature may not fund the design or construction of any new capital development

project, except to complete the funding of a project for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities and infrastructure to capital improvements.

(b) If the Legislature determines that there exists an [~~Education Fund~~] Income Tax Fund budget deficit, as defined in Section 63J-1-312, or a General Fund budget deficit, as defined in Section 63J-1-312, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings and infrastructure.

(c) Subsection (3)(a) does not apply to a dedicated project as defined in Section 63A-5b-403.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), the Legislature may not fund the design and construction of a new facility in phases over more than one year unless the Legislature approves the funding for both the design and construction by a vote of two-thirds of all the members elected to each house.

(ii) Subsection (4)(a)(i) does not apply to a dedicated project as defined in Section 63A-5b-403.

(b) An agency shall receive approval from the director before the agency begins programming for a new facility:

(i) that requires legislative approval; or

(ii) to be built under Subsection 63A-5b-404(2).

(c) The division or an agency may fund the programming of a new facility before the Legislature makes an appropriation for the new facility under Subsection (4)(a).

(5) (a) The director, with the approval of the Office of the Legislative Fiscal Analyst, shall develop standard forms to present capital development project and capital improvement project cost summary data.

(b) The director shall:

(i) within 30 days after the completion of each capital development project, submit cost summary data for the project on the standard form to the Office of the Legislative Fiscal Analyst; and

(ii) upon request, submit cost summary data for a capital improvement project to the Office of the Legislative Fiscal Analyst on the standard form.

(6) (a) After the Legislature approves capital development project priorities under Section 63A-5b-402 and capital improvement project priorities under Section 63A-5b-405, the director may reallocate capital development project or capital improvement project funds to address a critical need for a capital improvement project:

(i) if an emergency arises that creates an unforeseen and critical need for the capital improvement project; and

(ii) notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act.

(b) The director shall report any changes the director makes in capital development project or capital improvement project allocations approved by the Legislature to:

(i) the Office of the Legislative Fiscal Analyst within 30 days after the reallocation; and

(ii) the Legislature at the Legislature's next annual general session.

Section 28. Section 63J-1-102 is amended to read:

63J-1-102. Definitions.

As used in this chapter:

(1) "Agency" means a unit of accounting, typically associated with a department, division, board, council, committee, institution, office, bureau, or other similar administrative unit of state government, that includes line items and programs.

(2) "Budget execution plan" means a proposal submitted by an administrative unit of state government to the Division of Finance enumerating expected revenues and authorized expenditures within line items and among programs.

(3) "Debt service" means the money that is required annually to cover the repayment of interest and principal on state debt.

(4) (a) "Dedicated credits" means collections by an agency that fund agency operations.

(b) "Dedicated credits" includes:

(i) assessments;

(ii) sales of goods and materials;

(iii) sales of services;

(iv) permits, licenses, and other fees;

(v) fines, penalties, and forfeitures; and

(vi) rental revenue.

(c) "Dedicated credits" does not include:

(i) expendable receipts;

(ii) revenues otherwise designated by law for deposit into another fund or account;

(iii) federal revenues and the related pass through; or

(iv) revenues that are not deposited in governmental funds.

(5) (a) "Expendable receipts" means collections by an agency for expenditures that are limited by a nonstate entity that provides the funds.

(b) "Expendable receipts" includes:

(i) grants;

(ii) state matches for federal revenues paid by a nonstate entity; and

(iii) rebates, including pharmacy rebates, that have similar restrictions on expenditures as the original program.

(c) "Expendable receipts" does not include:

(i) dedicated credits;

(ii) revenues otherwise designated by law for deposit into another fund or account;

(iii) federal revenues and the related pass through; or

(iv) revenues that are not deposited into governmental funds.

(6) "Federal revenues" means collections by an agency from a federal source that are deposited into an account for expenditure by the agency.

(7) "Free revenue" includes:

(a) collections that are required by law to be deposited in:

(i) the General Fund;

(ii) the [~~Education Fund~~] Income Tax Fund;

(iii) the Uniform School Fund; or

(iv) the Transportation Fund;

(b) collections that are not otherwise designated by law;

(c) collections that are not externally restricted; and

(d) collections that are not included in an approved budget execution plan.

(8) "Grant" means the same as that term is defined in Section 63J-7-101.

(9) (a) "Item of appropriation" means an authorization of expenditure contained in legislation that appropriates funds and includes the following:

(i) the name of the agency and line item to which authorization is granted; and

(ii) sources of finance from which authorization is granted and associated amounts authorized.

(b) "Item of appropriation" also includes:

(i) a schedule of programs;

(ii) intent language;

(iii) approved full-time equivalent employment;

(iv) authorized capital outlay; and

(v) other conditions of appropriation.

(10) "Line item" means a unit of accounting, typically representing an administrative unit of state government within an agency, that contains one or more programs.

(11) "Major revenue types" means:

(a) free revenue;

(b) federal revenue;

(c) restricted revenue;

(d) dedicated credits; and

(e) expendable receipts.

(12) "Program" means a unit of accounting included on a schedule of programs within a line item used to track budget authorizations, collections, and expenditures on specific purposes or functions.

(13) "Restricted revenue" means collections that are:

(a) deposited, by law, into a separate fund, subfund, or account; and

(b) designated for a specific program or purpose.

(14) "Schedule of programs" means a list of programs and associated authorization amounts within an item of appropriation.

Section 29. Section 63J-1-205 is amended to read:

63J-1-205. Revenue volatility report.

(1) Beginning in 2011 and continuing every three years after 2011, the Legislative Fiscal Analyst and the Governor's Office of Planning and Budget shall submit a joint revenue volatility report to the Executive Appropriations Committee prior to the committee's December meeting.

(2) The Legislative Fiscal Analyst and the Governor's Office of Planning and Budget shall ensure that the report:

(a) discusses the tax base and the tax revenue volatility of the revenue streams that provide the source of funding for the state budget;

(b) considers federal funding included in the state budget and any projected changes in the amount or value of federal funding;

(c) identifies the balances in the General Fund Budget Reserve Account and the [~~Education Fund~~] Income Tax Fund Budget Reserve Account;

(d) analyzes the adequacy of the balances in the General Fund Budget Reserve Account and the [~~Education Fund~~] Income Tax Fund Budget Reserve Account in relation to the volatility of the revenue streams and the risk of a reduction in the amount or value of federal funding;

(e) recommends changes to the deposit amounts or transfer limits established in Sections 63J-1-312 and 63J-1-313, if the Legislative Fiscal Analyst and Governor's Office of Planning and Budget consider it appropriate to recommend changes; and

(f) presents options for a deposit mechanism linked to one or more tax sources on the basis of each tax source's observed volatility, including:

(i) an analysis of how the options would have performed historically within the state;

(ii) an analysis of how the options will perform based on the most recent revenue forecast; and

(iii) recommendations for deposit mechanisms considered likely to meet the budget reserve account targets established in Sections 63J-1-312 and 63J-1-313.

Section 30. Section 63J-1-217 is amended to read:

63J-1-217. Overexpenditure of budget by agency -- Prorating budget income shortfall.

(1) Expenditures of departments, agencies, and institutions of state government shall be kept within revenues available for such expenditures.

(2) (a) Line items of appropriation shall not be overexpended.

(b) Notwithstanding Subsection (2)(a), if an agency's line item is overexpended at the close of a fiscal year:

(i) the director of the Division of Finance may make payments from the line item to vendors for goods or services that were received on or before June 30; and

(ii) the director of the Division of Finance shall immediately reduce the agency's line item budget in the current year by the amount of the overexpenditure.

(c) Each agency with an overexpended line item shall:

(i) prepare a written report explaining the reasons for the overexpenditure; and

(ii) present the report to:

(A) the Board of Examiners as required by Section 63G-9-301; and

(B) the Office of the Legislative Fiscal Analyst.

(3) (a) As used in this Subsection (3):

(i) "[~~Education Fund~~] Income Tax Fund budget deficit" has the same meaning as in Section 63J-1-312; and

(ii) "General Fund budget deficit" has the same meaning as in Section 63J-1-312.

(b) If an [~~Education Fund~~] Income Tax Fund budget deficit or a General Fund budget deficit exists and the adopted estimated revenues were prepared in consensus with the Governor's Office of Planning and Budget, the governor shall:

(i) direct state agencies to reduce commitments and expenditures by an amount proportionate to the amount of the deficiency; and

(ii) direct the Division of Finance to reduce allotments to institutions of higher education by an amount proportionate to the amount of the deficiency.

(c) The governor's directions under Subsection (3)(b) are rescinded when the Legislature rectifies the [~~Education Fund~~] Income Tax Fund budget deficit and the General Fund budget deficit.

(4) (a) A department may not receive an advance of funds that cannot be covered by anticipated revenue within the budget execution plan of the fiscal year, unless the governor allocates money from the governor's emergency appropriations.

(b) All allocations made from the governor's emergency appropriations shall be reported to the budget subcommittee of the Legislative Management Committee by notifying the Office of the Legislative Fiscal Analyst at least 15 days before the effective date of the allocation.

(c) Emergency appropriations shall be allocated only to support activities having existing legislative approval and appropriation, and may not be allocated to any activity or function rejected directly or indirectly by the Legislature.

Section 31. Section 63J-1-312 is amended to read:

63J-1-312. Establishing a General Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "[~~Education Fund~~] Income Tax Fund budget deficit" means a situation where appropriations made by the Legislature from the [~~Education Fund~~] Income Tax Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the [~~Education Fund~~] Income Tax Fund in that fiscal year.

(b) "General Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the General Fund.

(c) "General Fund budget deficit" means a situation where General Fund appropriations made by the Legislature for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the General Fund in that fiscal year.

(d) "General Fund revenue surplus" means a situation where actual General Fund revenues collected in a completed fiscal year exceed the estimated revenues for the General Fund for that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(e) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the General Fund is less than zero.

(2) There is created within the General Fund a restricted account to be known as the General Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is a General Fund revenue surplus, the Division of Finance shall

transfer 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account.

(ii) If the transfer of 25% of the General Fund revenue surplus to the General Fund Budget Reserve Account would cause the balance in the account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of General Fund appropriations for the fiscal year in which the General Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if a General Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the General Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the General Fund revenue surplus to the General Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the General Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 9% of General Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) after making the transfer of General Fund revenue surplus to the Medicaid Growth Reduction and Budget Stabilization Account, as provided in Section 63J-1-315;

(B) before transferring from the General Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(C) excluding any direct legislative appropriation made to the General Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the General Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless otherwise specified in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the General Fund Budget Reserve Account within the past 10 years and have not yet been replaced.

(4) The Legislature may appropriate money from the General Fund Budget Reserve Account only to:

(a) resolve a General Fund budget deficit, for the fiscal year in which the General Fund budget deficit occurs;

(b) pay some or all of state settlement agreements approved under Title 63G, Chapter 10, State Settlement Agreements Act;

(c) pay claims approved under Section 63G-9-304;

(d) pay retroactive tax refunds;

(e) resolve an [~~Education Fund~~] Income Tax Fund budget deficit; or

(f) finance an existing federally funded program or activity when:

(i) the federal funds expected to fund the federal program or activity are not available to fund the program or activity; and

(ii) the Legislature and governor concurrently determine that the program or activity is essential.

(5) Interest generated from investments of money in the General Fund Budget Reserve Account shall be deposited into the General Fund.

Section 32. Section 63J-1-313 is amended to read:

63J-1-313. Establishing an Income Tax Fund Budget Reserve Account -- Providing for deposits and expenditures from the account -- Providing for interest generated by the account.

(1) As used in this section:

(a) "[~~Education Fund~~] Income Tax Fund appropriations" means the sum of the spending authority for a fiscal year that is:

(i) granted by the Legislature in all appropriation acts and bills; and

(ii) identified as coming from the [~~Education Fund~~] Income Tax Fund.

(b) "[~~Education Fund~~] Income Tax Fund budget deficit" means a situation where appropriations made by the Legislature from the [~~Education Fund~~] Income Tax Fund for a fiscal year exceed the estimated revenues adopted by the Executive Appropriations Committee of the Legislature for the [~~Education Fund~~] Income Tax Fund in that fiscal year.

(c) "[~~Education Fund~~] Income Tax Fund revenue surplus" means a situation where actual [~~Education Fund~~] Income Tax Fund revenues collected in a completed fiscal year exceed the estimated revenues for the [~~Education Fund~~] Income Tax Fund in that fiscal year that were adopted by the Executive Appropriations Committee of the Legislature.

(d) "Operating deficit" means that, at the end of the fiscal year, the unassigned fund balance in the [~~Education Fund~~] Income Tax Fund is less than zero.

(2) There is created within the [~~Education Fund~~] Income Tax Fund a restricted account to be known as the [~~Education Fund~~] Income Tax Fund Budget Reserve Account, which is designated to receive the legislative appropriations and the surplus revenue required to be deposited into the account by this section.

(3) (a) (i) Except as provided in Subsection (3)(a)(ii), at the end of any fiscal year in which the Division of Finance, in consultation with the Legislative Fiscal Analyst and in conjunction with the completion of the annual audit by the state auditor, determines that there is an [~~Education Fund~~] Income Tax Fund revenue surplus, the Division of Finance shall transfer 25% of the [~~Education Fund~~] Income Tax Fund revenue surplus to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account.

(ii) If the transfer of 25% of the [~~Education Fund~~] Income Tax Fund revenue surplus to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account under Subsection (3)(a)(i) would cause the balance in the account to exceed 11% of [~~Education Fund~~] Income Tax Fund appropriations for the fiscal year in which the [~~Education Fund~~] Income Tax Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 11% of the [~~Education Fund~~] Income Tax Fund appropriations for the fiscal year in which the [~~Education Fund~~] Income Tax Fund revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(a):

(A) before transferring from the [~~Education Fund~~] Income Tax Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account for the fiscal year.

(b) (i) Except as provided in Subsection (3)(b)(ii), in addition to Subsection (3)(a)(i), if an [~~Education Fund~~] Income Tax Fund revenue surplus exists and if, within the last 10 years, the Legislature has appropriated any money from the [~~Education Fund~~] Income Tax Fund Budget Reserve Account that has not been replaced by appropriation or as provided in this Subsection (3)(b), the Division of Finance shall transfer up to 25% more of the [~~Education Fund~~] Income Tax Fund revenue surplus to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account to replace the amounts appropriated, until direct legislative appropriations, if any, and transfers from the [~~Education Fund~~] Income Tax Fund revenue surplus under this Subsection (3)(b) have replaced the appropriations from the account.

(ii) If the transfer under Subsection (3)(b)(i) would cause the balance in the account to exceed 11% of [~~Education Fund~~] Income Tax Fund appropriations for the fiscal year in which the [~~Education Fund~~] Income Tax Fund revenue surplus occurred, the Division of Finance shall transfer only those funds necessary to ensure that the balance in the account equals 11% of [~~Education Fund~~] Income Tax Fund appropriations for the fiscal year in which the revenue surplus occurred.

(iii) The Division of Finance shall calculate the amount to be transferred under this Subsection (3)(b):

(A) before transferring from the [~~Education Fund~~] Income Tax Fund revenue surplus any other year-end contingency appropriations, year-end set-asides, or other year-end transfers required by law; and

(B) excluding any direct legislative appropriation made to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account for the fiscal year.

(c) For appropriations made by the Legislature to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account, the Division of Finance shall treat those appropriations, unless specified otherwise in the appropriation, as replacement funds for appropriations made from the account if funds were appropriated from the account within the past 10 years and have not yet been replaced.

(4) Notwithstanding Subsection (3), if, at the end of a fiscal year, the Division of Finance determines that an operating deficit exists, the Division of Finance may reduce the transfer to the [~~Education Fund~~] Income Tax Fund Budget Reserve Account by the amount necessary to eliminate the operating deficit.

(5) The Legislature may appropriate money from the [~~Education Fund~~] Income Tax Fund Budget Reserve Account only to resolve an [~~Education Fund~~] Income Tax Fund budget deficit.

(6) Interest generated from investments of money in the [~~Education Fund~~] Income Tax Fund Budget Reserve Account shall be deposited into the [~~Education Fund~~] Income Tax Fund.

Section 33. Section 63J-3-103 is amended to read:

63J-3-103. Definitions.

As used in this chapter:

(1) (a) "Appropriations" means actual unrestricted capital and operating appropriations from unrestricted General Fund and [~~Education Fund~~] Income Tax Fund sources.

(b) "Appropriations" includes appropriations that are contingent upon available surpluses in the General Fund and [~~Education Fund~~] Income Tax Fund.

(c) "Appropriations" does not mean:

(i) public education expenditures;

(ii) Utah Education and Telehealth Network expenditures in support of public education;

(iii) Utah Board of Higher Education expenditures in support of public education;

(iv) State Tax Commission expenditures related to collection of income taxes in support of public education;

(v) debt service expenditures;

(vi) emergency expenditures;

(vii) expenditures from all other fund or subfund sources;

(viii) transfers or appropriations from the [~~Education Fund~~] Income Tax Fund to the Uniform School Fund;

(ix) transfers into, or appropriations made to, the General Fund Budget Reserve Account established in Section 63J-1-312;

(x) transfers into, or appropriations made to, the [~~Education~~] Income Tax Fund Budget Reserve Account established in Section 63J-1-313;

(xi) transfers in accordance with Section 63J-1-314 into, or appropriations made to the Wildland Fire Suppression Fund created in Section 65A-8-204 or the State Disaster Recovery Restricted Account created in Section 53-2a-603;

(xii) money appropriated to fund the total one-time project costs for the construction of capital development projects as defined in Section 63A-5b-401;

(xiii) transfers or deposits into or appropriations made to the Centennial Highway Fund created by Section 72-2-118;

(xiv) transfers or deposits into or appropriations made to the Transportation Investment Fund of 2005 created by Section 72-2-124;

(xv) transfers or deposits into or appropriations made to:

(A) the Department of Transportation from any source; or

(B) any transportation-related account or fund from any source; or

(xvi) supplemental appropriations from the General Fund to the Division of Forestry, Fire, and State Lands to provide money for wildland fire control expenses incurred during the current or previous fire years.

(2) "Base year real per capita appropriations" means the result obtained for the state by dividing the fiscal year 1985 actual appropriations of the state less debt money by:

(a) the state's July 1, 1983 population; and

(b) the fiscal year 1983 inflation index divided by 100.

(3) "Calendar year" means the time period beginning on January 1 of any given year and ending on December 31 of the same year.

(4) "Fiscal emergency" means an extraordinary occurrence requiring immediate expenditures and includes the settlement under Laws of Utah 1988, Fourth Special Session, Chapter 4.

(5) "Fiscal year" means the time period beginning on July 1 of any given year and ending on June 30 of the subsequent year.

(6) "Fiscal year 1985 actual base year appropriations" means fiscal year 1985 actual capital and operations appropriations from General Fund and non-Uniform School Fund income tax revenue sources, less debt money.

(7) "Inflation index" means the change in the general price level of goods and services as measured by the Gross National Product Implicit Price Deflator of the Bureau of Economic Analysis, U.S. Department of Commerce calculated as provided in Section 63J-3-202.

(8) (a) "Maximum allowable appropriations limit" means the appropriations that could be, or could have been, spent in any given year under the limitations of this chapter.

(b) "Maximum allowable appropriations limit" does not mean actual appropriations spent or actual expenditures.

(9) "Most recent fiscal year's inflation index" means the fiscal year inflation index two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(10) "Most recent fiscal year's population" means the fiscal year population two fiscal years previous to the fiscal year for which the maximum allowable inflation and population appropriations limit is being computed under this chapter.

(11) "Population" means the number of residents of the state as of July 1 of each year as calculated by the Governor's Office of Planning and Budget according to the procedures and requirements of Section 63J-3-202.

(12) "Revenues" means the revenues of the state from every tax, penalty, receipt, and other monetary exaction and interest connected with it that are recorded as unrestricted revenue of the General Fund and from non-Uniform School Fund income tax revenues, except as specifically exempted by this chapter.

(13) "Security" means any bond, note, warrant, or other evidence of indebtedness, whether or not the bond, note, warrant, or other evidence of

indebtedness is or constitutes an "indebtedness" within the meaning of any provision of the constitution or laws of this state.

Section 34. Section 63J-7-102 is amended to read:

63J-7-102. Scope and applicability of chapter.

(1) Except as provided in Subsection (2), and except as otherwise provided by a statute superseding provisions of this chapter by explicit reference to this chapter, the provisions of this chapter apply to each agency and govern each grant received on or after May 5, 2008.

(2) This chapter does not govern:

(a) a grant deposited into a General Fund restricted account;

(b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;

(c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;

(d) a grant made to the state without a restriction or other designated purpose that is deposited into the General Fund as free revenue;

(e) a grant made to the state that is restricted only to "education" and that is deposited into the [~~Education Fund~~] Income Tax Fund or Uniform School Fund as free revenue;

(f) in-kind donations;

(g) a tax, fees, penalty, fine, surcharge, money judgment, or other money due the state when required by state law or application of state law;

(h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax Contribution Act;

(i) a grant received by an agency from another agency or political subdivision;

(j) a grant to the Utah Dairy Commission created in Section 4-22-103;

(k) a grant to the Heber Valley Historic Railroad Authority created in Section 63H-4-102;

(l) a grant to the Utah State Railroad Museum Authority created in Section 63H-5-102;

(m) a grant to the Utah Housing Corporation created in Section 63H-8-201;

(n) a grant to the Utah State Fair Corporation created in Section 63H-6-103;

(o) a grant to the Utah State Retirement Office created in Section 49-11-201;

(p) a grant to the School and Institutional Trust Lands Administration created in Section 53C-1-201;

(q) a grant to the Utah Communications Authority created in Section 63H-7a-201;

(r) a grant to the Medical Education Program created in Section 53B-24-202;

(s) a grant to the Utah Capital Investment Corporation created in Section 63N-6-301;

(t) a grant to the Utah Charter School Finance Authority created in Section 53G-5-602;

(u) a grant to the State Building Ownership Authority created in Section 63B-1-304; or

(v) a grant to the Military Installation Development Authority created in Section 63H-1-201.

(3) An agency need not seek legislative review or approval of grants under Part 2, Grant Approval Requirements, if:

(a) the governor has declared a state of emergency; and

(b) the grant is donated to the agency to assist victims of the state of emergency under Subsection 53-2a-204(1).

Section 35. Effective date.

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) The amendments to Section 53F-9-201.1 (Effective 07/01/22) take effect on July 1, 2022.

CHAPTER 457
S. B. 213

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

BUSINESS NAME PROHIBITIONS

Chief Sponsor: Karen Mayne
House Sponsor: Jordan D. Teuscher

LONG TITLE

General Description:

This bill modifies provisions related to business names.

Highlighted Provisions:

This bill:

- prohibits the use of 911 in:
  - a nonprofit corporation's name;
  - a corporation's name;
  - a professional corporation's name;
  - an assumed name;
  - a limited liability partnership's name;
  - a limited partnership's name; or
  - a limited liability company's name;
- defines terms;
- prohibits a person from using 911 in the person's name with the purpose to deceive the public that the person operates or represents emergency services;
- creates penalties for a person who uses 911 in the person's name with the purpose to deceive the public that the person operates or represents emergency services; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

16-6a-401, as last amended by Laws of Utah 2010, Chapter 218
16-10a-401, as last amended by Laws of Utah 2011, Chapter 353
16-11-16, as last amended by Laws of Utah 2011, Chapter 353
26-23-6, as last amended by Laws of Utah 2021, Chapter 437
42-2-6.6, as last amended by Laws of Utah 2015, Chapter 240
48-1d-1105, as enacted by Laws of Utah 2013, Chapter 412
48-2e-108, as enacted by Laws of Utah 2013, Chapter 412
48-3a-108, as last amended by Laws of Utah 2015, Chapter 227

ENACTS:

26-8a-502.1, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 16-6a-401 is amended to read:

16-6a-401. Corporate name.

(1) The corporate name of a nonprofit corporation:

(a) may, but need not contain:

(i) the word "corporation," "incorporated," or "company"; or

(ii) an abbreviation of "corporation," "incorporated," or "company";

(b) may not contain:

(i) any word or phrase that indicates or implies that [~~it~~] the nonprofit corporation is organized for [~~any purpose other than one or more of the purposes contained in~~] a purpose other than that permitted by:

(A) Section 16-6a-301; and [~~its~~]

(B) the nonprofit corporation's articles of incorporation; or

(ii) for a nonprofit corporation that changes the nonprofit corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911";

(c) except as authorized by the division under Subsection (2), shall be distinguishable, as defined in Section 16-10a-401, from:

(i) the name of any domestic corporation incorporated in this state;

(ii) the name of any foreign corporation authorized to conduct affairs in this state;

(iii) the name of any domestic nonprofit corporation incorporated in this state;

(iv) the name of any foreign nonprofit corporation authorized to conduct affairs in this state;

(v) the name of any domestic limited liability company formed in this state;

(vi) the name of any foreign limited liability company authorized to conduct affairs in this state;

(vii) the name of any limited partnership formed or authorized to conduct affairs in this state;

(viii) any name that is reserved under Section 16-6a-402 or 16-10a-402;

(ix) the name of any entity that has registered [~~its~~] the entity's name under Section 42-2-5;

(x) the name of any trademark or service mark registered by the division; or

(xi) any assumed name filed under Section 42-2-5;

(d) shall be, for purposes of recordation, either translated into English or transliterated into letters of the English alphabet if [~~it~~] the nonprofit corporation's name is not in English;

(e) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; and

(f) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution."

(2) The division may authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks described in Subsection (1)(c) that are on the division's records; or

(b) if the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state registered or reserved with the division pursuant to the laws of this state.

(3) A nonprofit corporation may use the name of another domestic or foreign corporation that is used in this state if:

(a) the other corporation is incorporated or authorized to conduct affairs in this state; and

(b) the proposed user corporation:

(i) has merged with the other corporation;

(ii) has been formed by reorganization of the other corporation; or

(iii) has acquired all or substantially all of the assets, including the corporate name, of the other corporation.

(4) (a) A nonprofit corporation may apply to the division for authorization to file [~~its~~] the nonprofit corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (1).

(b) The division shall approve the application filed under Subsection (4)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:

(A) consents to the filing, registration, or reservation in writing; and

(B) submits an undertaking in a form satisfactory to the division to change [~~its~~] the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.

(5) Only names of corporations may contain the:

(a) words "corporation," or "incorporated"; or

(b) abbreviation "corp." or "inc."

(6) The division may not issue a certificate of incorporation to any association violating the provisions of this section.

Section 2. Section 16-10a-401 is amended to read:

16-10a-401. Corporate name.

(1) The name of a corporation:

(a) except for the name of a depository institution as defined in Section 7-1-103, shall contain:

(i) the word:

(A) "corporation";

(B) "incorporated"; or

(C) "company";

(ii) the abbreviation:

(A) "corp.";

(B) "inc."; or

(C) "co."; or

(iii) words or abbreviations of like import to the words or abbreviations listed in Subsections (1)(a)(i) and (ii) in another language;

(b) may not contain:

(i) language stating or implying that the corporation is organized for a purpose other than that permitted by:

[~~(i)~~] (A) Section 16-10a-301; and

[~~(ii)~~] (B) the corporation's articles of incorporation; or

(ii) for a corporation that changes the corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911";

(c) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; and

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution."

(2) Except as authorized by Subsections (3) and (4), the name of a corporation shall be distinguishable, as defined in Subsection (5), upon the records of the division from:

(a) the name of any domestic corporation incorporated in or foreign corporation authorized to transact business in this state;

(b) the name of any domestic or foreign nonprofit corporation incorporated or authorized to transact business in this state;

(c) the name of any domestic or foreign limited liability company formed or authorized to transact business in this state;

(d) the name of any limited partnership formed or authorized to transact business in this state;

(e) any name reserved or registered with the division for a corporation, limited liability company, or general or limited partnership, under the laws of this state; and

(f) any business name, fictitious name, assumed name, trademark, or service mark registered by the division.

(3) (a) A corporation may apply to the division for authorization to file [~~its~~] the corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon [~~its~~] the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the application filed under Subsection (3)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:

(A) consents to the filing, registration, or reservation in writing; and

(B) submits an undertaking in a form satisfactory to the division to change [~~its~~] the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.

(4) A corporation may make a filing under the name, including the fictitious name, of another domestic or foreign corporation that is used or registered in this state if:

(a) the other corporation is incorporated or authorized to transact business in this state; and

(b) the filing corporation:

(i) has merged with the other corporation; or

(ii) has been formed by reorganization of the other corporation.

(5) (a) A name is distinguishable from other names, trademarks, and service marks on the records of the division if [~~it~~] the name:

(i) contains one or more different letters or numerals; or

(ii) has a different sequence of letters or numerals from the other names on the division's records.

(b) Differences which are not distinguishing are:

(i) the words or abbreviations of the words:

(A) "corporation";

(B) "company";

(C) "incorporated";

(D) "limited partnership";

(E) "L.P.";

(F) "limited";

(G) "limited liability company";

(H) "limited company";

(I) "L.C."; or

(J) "L.L.C.";

(ii) the presence or absence of the words or symbols of the words "the," "and," or "a";

(iii) differences in punctuation and special characters;

(iv) differences in capitalization;

(v) differences between singular and plural forms of words for a corporation:

(A) incorporated in or authorized to do business in this state on or after May 4, 1998; or

(B) that changes [~~its~~] the corporation's name on or after May 4, 1998;

(vi) differences in whether the letters or numbers immediately follow each other or are separated by one or more spaces if:

(A) the sequence of letters or numbers is identical; and

(B) the corporation:

(I) is incorporated in or authorized to do business in this state on or after May 3, 1999; or

(II) changes [~~its~~] the corporation's name on or after May 3, 1999; or

(vii) differences in abbreviations, for a corporation:

(A) incorporated in or authorized to do business in this state on or after May 1, 2000; or

(B) that changes [~~its~~] the corporation's name on or after May 1, 2000.

(c) The director of the division has the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed on the division by this section.

(6) A name that implies that the corporation is an agency of this state or of any of [~~its~~] the state's

political subdivisions, if [~~it~~] the corporation is not actually such a legally established agency or subdivision, may not be approved for filing by the division.

(7) (a) The requirements of Subsection (1)(d) do not apply to a corporation incorporated in or authorized to do business in this state on or before May 4, 1998, until December 31, 1998.

(b) On or after January 1, 1999, any corporation incorporated in or authorized to do business in this state shall comply with the requirements of Subsection (1)(d).

Section 3. Section 16-11-16 is amended to read:

16-11-16. Corporate name.

(1) The name of each professional corporation as set forth in [~~its~~] the professional corporation's articles of incorporation:

(a) shall contain the terms:

(i) "professional corporation"; or

(ii) "P.C.";

(b) may not contain the words:

(i) "incorporated"; or

(ii) "inc.";

(c) may not contain:

(i) language stating or implying that the professional corporation is organized for a purpose other than that permitted by:

[~~(i)~~] (A) Section 16-11-6; and

[~~(ii)~~] (B) the professional corporation's articles of incorporation; or

(ii) for a professional corporation that changes the professional corporation's name or is incorporated in or authorized to do business in the state on or after May 4, 2022, the number sequence "911";

(d) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; and

(e) without the written consent of the Division of Consumer Protection in accordance with Section 13-34-114, may not contain the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution."

(2) The professional corporation may not imply by any word in the name that [~~it~~] the professional corporation is an agency of the state or of any of [~~its~~] the state's political subdivisions.

(3) A person, other than a professional corporation formed or registered under this chapter, may not use in [~~its~~] the person's name in this state any of the terms:

(a) "professional corporation"; or

(b) "P.C."

(4) Except as authorized by Subsection (5), the name of the professional corporation shall be distinguishable, as defined in Subsection (6), upon the records of the division from:

(a) the name of any domestic corporation incorporated in or foreign corporation authorized to transact business in this state;

(b) the name of any domestic or foreign nonprofit corporation incorporated or authorized to transact business in this state;

(c) the name of any domestic or foreign limited liability company formed or authorized to transact business in this state;

(d) the name of any limited partnership formed or authorized to transact business in this state;

(e) any name reserved or registered with the division for a corporation, limited liability company, or general or limited partnership, under the laws of this state; and

(f) any business name, fictitious name, assumed name, trademark, or service mark registered by the division.

(5) (a) A professional corporation may apply to the division for authorization to file [~~its~~] the professional corporation's articles of incorporation under, or to register or reserve, a name that is not distinguishable upon [~~its~~] the division's records from one or more of the names described in Subsection (4).

(b) The division shall approve the application filed under Subsection (5)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file, or which the applicant desires to register or reserve:

(A) consents to the filing, registration, or reservation in writing; and

(B) submits an undertaking in a form satisfactory to the division to change [~~its~~] the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to make the requested filing in this state under the name applied for.

(6) (a) A name is distinguishable from other names, trademarks, and service marks registered with the division if [~~it~~] the name:

(i) contains one or more different letters or numerals from other names upon the division's records; or

(ii) has a different sequence of letter or numerals from the other names on the division's records.

(b) The following differences are not distinguishable:

(i) the words or abbreviations of the words:

(A) "corporation";

(B) "incorporated";

(C) "company";

(D) "limited partnership";

(E) "limited";

(F) "L.P.";

(G) "limited liability company";

(H) "limited company";

(I) "L.C."; or

(J) "L.L.C.";

(ii) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(iii) differences in punctuation and special characters;

(iv) differences in capitalization; or

(v) differences in abbreviations.

(7) The director of the division shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed upon the division by this section.

Section 4. Section 26-8a-502.1 is enacted to read:

26-8a-502.1. Prohibition on the use of "911".

(1) As used in this section:

(a) "Emergency services" means services provided by a person in response to an emergency.

(b) "Emergency services" includes:

(i) fire protection services;

(ii) paramedic services;

(iii) law enforcement services;

(iv) 911 ambulance or paramedic services, as defined in Section 26-8a-102; and

(v) any other emergency services.

(2) A person may not use "911" or other similar sequence of numbers in the person's name with the purpose to deceive the public that the person operates or represents emergency services, unless the person is authorized to provide emergency services.

(3) A violation of Subsection (2) is:

(a) a class C misdemeanor; and

(b) subject to a fine of up to $500 per violation.

Section 5. Section 26-23-6 is amended to read:

26-23-6. Criminal and civil penalties and liability for violations.

(1) (a) Any person, association, [~~or~~] corporation, or [~~the officers of any of them~~] an officer of a person, an association, or a corporation, who violates any provision of this chapter or lawful orders of the department or a local health department in a criminal proceeding is guilty of a class B misdemeanor for the first violation, and for any subsequent similar violation within two years, is guilty of a class A misdemeanor, except this section does not establish the criminal penalty for a violation of Section 26-23-5.5 or Section 26-8a-502.1.

(b) Conviction in a criminal proceeding does not preclude the department or a local health department from assessment of any civil penalty, administrative civil money penalty or to deny, revoke, condition, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(2) (a) Subject to Subsections (2)(c) and (d), any association, [~~or~~] corporation, or [~~the officers of any of them, who violate~~] an officer of an association or a corporation, who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $5,000 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $5,000 per violation.

(b) Subject to Subsections (2)(c) and (d), an individual who violates any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department:

(i) may be assessed, in a judicial civil proceeding, a penalty not to exceed the sum of $150 per violation; or

(ii) may be assessed, in an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act, or similar procedures adopted by local or county government, a penalty not to exceed the sum of $150 per violation.

(c) (i) Except as provided in Subsection (2)(c)(ii), a penalty described in Subsection (2)(a) or (b) may only be assessed against the same individual, association, or corporation one time in a calendar week.

(ii) Notwithstanding Subsection (2)(c)(i), an individual, an association, a corporation, or [~~the~~

~~officers of any of them, that willfully disregard or recklessly violate~~] an officer of an association or a corporation, who willfully disregards or recklessly violates a provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department, may be assessed a penalty as described in Subsection (2)(a) for each day of violation if it is determined that the violation is likely to result in a serious threat to public health.

(d) Upon reasonable cause shown in judicial civil proceeding or an administrative action, a penalty imposed under this Subsection (2) may be waived or reduced.

(3) Assessment of any civil penalty or administrative penalty does not preclude the department or a local health department from seeking criminal penalties or to deny, revoke, impose conditions on, or refuse to renew a permit, license, or certificate or to seek other injunctive or equitable remedies.

(4) In addition to any penalties imposed under Subsection (1), [~~the~~] a person, association, [~~or~~] corporation, or [~~the officers of any of them~~] an officer of a person, an association, or a corporation, is liable for any expense incurred by the department in removing or abating any health or sanitation violations, including any nuisance, source of filth, cause of sickness, or dead animal.

Section 6. Section 42-2-6.6 is amended to read:

42-2-6.6. Assumed name.

(1) The assumed name:

(a) may not contain:

(i) any word or phrase that indicates or implies that the business is organized for any purpose other than [~~one or more of the purposes~~] a purpose contained in [~~its~~] the business's application; or

(ii) for an assumed name that is changed or approved on or after May 4, 2022, the number sequence "911";

(b) shall be distinguishable from any registered name or trademark of record in the offices of the Division of Corporations and Commercial Code, as defined in Subsection 16-10a-401(5), except as authorized by the Division of Corporations and Commercial Code pursuant to Subsection (2);

(c) without the written consent of the United States Olympic Committee, may not contain the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius";

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114, may not contain the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution"; and

(e) an assumed name authorized for use in this state on or after May 1, 2000, may not contain the words:

(i) "incorporated";

(ii) "inc."; or

(iii) a variation of "incorporated" or "inc."

(2) Notwithstanding Subsection (1)(e), an assumed name may contain a word listed in Subsection (1)(e) if the Division of Corporations and Commercial Code authorizes the use of the name by a corporation as defined in:

(a) Subsection 16-6a-102(26);

(b) Subsection 16-6a-102(35);

(c) Subsection 16-10a-102(11); or

(d) Subsection 16-10a-102(20).

(3) The Division of Corporations and Commercial Code shall authorize the use of the name applied for if:

(a) the name is distinguishable from one or more of the names and trademarks that are on the division's records; or

(b) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) The assumed name, for purposes of recordation, shall be either translated into English or transliterated into letters of the English alphabet if [~~it~~] the assumed name is not in English.

(5) The Division of Corporations and Commercial Code may not approve an application for an assumed name to any person violating this section.

(6) The director of the Division of Corporations and Commercial Code shall have the power and authority reasonably necessary to interpret and efficiently administer this section and to perform the duties imposed on the division by this section.

(7) A name that implies by any word in the name that [~~it~~] the business is an agency of the state or of any of [~~its~~] the state's political subdivisions, if [~~it~~] the business is not actually such a legally established agency, may not be approved for filing by the Division of Corporations and Commercial Code.

(8) Section 16-10a-403 applies to this chapter.

(9) (a) The requirements of Subsection (1)(d) do not apply to a person who filed a certificate of assumed and of true name with the Division of Corporations and Commercial Code on or before May 4, 1998, until December 31, 1998.

(b) On or after January 1, 1999, any person who carries on, conducts, or transacts business in this state under an assumed name shall comply with the requirements of Subsection (1)(d).

Section 7. Section 48-1d-1105 is amended to read:

48-1d-1105. Permitted names.

(1) The name of a partnership that is not a limited liability partnership may not contain the phrase "Registered Limited Liability Partnership" or "Limited Liability Partnership" or the abbreviation "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

(2) The name of a limited liability partnership must contain the words "Registered Limited Liability Partnership", "Limited Liability Partnership", "R.L.L.P.", "L.L.P.", "RLLP", or "LLP".

(3) Except as otherwise provided in Subsection (6), the name of a limited liability partnership and the name under which a foreign limited liability partnership may register to do business in this state must be distinguishable on the records of the division from any:

(a) name of an existing person whose formation required the filing of a record by the division;

(b) name of a limited liability partnership;

(c) name of a person that is registered to do business in this state by the filing of a record by the division;

(d) name reserved under Section 48-1d-1106 or other law of this state providing for the reservation of a name by the filing of a record by the division;

(e) name registered under Section 48-1d-1107 or other law of this state providing for the registration of a name by the filing of a record by the division; or

(f) assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.

(4) If a person consents in a record to the use of [~~its~~] the person's name and submits an undertaking in a form satisfactory to the division to change [~~its~~] the person's name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (3), the name of the consenting person may be used by the person to which the consent was given.

(5) Except as otherwise provided in Subsection (6), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", or "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.

(6) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from [~~its~~] the person's name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (5). In such a case, the person need not change [~~its~~] person's name pursuant to Subsection (4).

(7) The division may not approve for filing a name that implies that a limited liability partnership is an agency of this state or any of [~~its~~] the state's political subdivisions, if [~~it~~] the limited liability partnership is not actually such a legally established agency or subdivision.

(8) The authorization to file a certificate under or to reserve or register a limited liability partnership name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(9) The name of a limited liability partnership or foreign limited liability partnership may not contain:

(a) the words:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "limited liability company";

(v) "limited company";

(vi) "limited partnership"; or

(vii) "Ltd.";

(b) any word or abbreviation that is of like import to the words listed in Subsection (9)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; [~~and~~]

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution"[~~.~~]; or

(e) for a limited liability partnership that changes the limited liability partnership's name or registers to do business in the state on or after May 4, 2022, the number sequence "911."

Section 8. Section 48-2e-108 is amended to read:

48-2e-108. Permitted names.

(1) The name of a limited partnership may contain the name of any partner.

(2) The name of a limited partnership that is not a limited liability limited partnership [~~must~~] shall contain the words "limited partnership" or the abbreviation "L.P." or "LP" and may not contain the words "limited liability limited partnership" or the abbreviation "L.L.L.P." or "LLLP".

(3) The name of a limited liability limited partnership [~~must~~] shall contain the words "limited liability limited partnership" or the abbreviation "LLLP" or "L.L.L.P." and [~~must~~] may not contain the abbreviation "L.P." or "LP".

(4) Except as otherwise provided in Subsection (7), the name of a limited partnership, and the name under which a foreign limited partnership may register to do business in this state, [~~must~~] shall be distinguishable on the records of the division from:

(a) the name of an existing person whose formation required the filing of a record by the division;

(b) the name of a limited liability partnership;

(c) the name of a person that is registered to do business in this state by the filing of a record by the division;

(d) each name reserved under Section 48-2e-109 or other law of this state providing for the reservation of a name by the filing of a record by the division;

(e) each name registered under Section 48-2e-110 or other law of this state providing for the registration of a name by the filing of a record by the division; or

(f) an assumed name registered under Title 42, Chapter 2, Conducting Business Under Assumed Name.

(5) If a person consents in a record to the use of [~~its~~] the person's name and submits an undertaking in a form satisfactory to the division to change [~~its~~] the person's name to a name that is distinguishable on the records of the division from any name in any category of names in Subsection (4), the name of the consenting person may be used by the person to which the consent was given.

(6) Except as otherwise provided in Subsection (7), in determining whether a name is the same as or not distinguishable on the records of the division from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as "corporation", "corp.", "incorporated", "Inc.", "professional corporation", "PC", "P.C.", "professional association", "PA", "P.A.", "Limited", "Ltd.", "limited partnership", "LP", "L.P.", "limited liability partnership", "LLP", "L.L.P.", "registered limited liability partnership", "RLLP", "R.L.L.P.", "limited liability limited partnership", "LLLP", "L.L.L.P.", "registered limited liability limited partnership", "RLLLP", "R.L.L.L.P.", "limited liability company", "LLC", "L.L.C.", "professional limited liability company", "PLLC", or "P.L.L.C.", may not be taken into account.

(7) A person may consent in a record to the use of a name that is not distinguishable on the records of the division from [~~its~~] the person's name except for the addition of a word, phrase, or abbreviation indicating the type of person as provided in Subsection (6). In such a case, the person [~~need not change its~~] is not required to change the person's name pursuant to Subsection (5).

(8) The division may not approve for filing a name that implies that a limited partnership is an agency of this state or any of [~~its~~] the state's political subdivisions, if [~~it~~] the limited partnership is not actually such a legally established agency or subdivision.

(9) The authorization to file a certificate under or to reserve or register a limited partnership name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(10) The name of a limited partnership or foreign limited partnership may not contain:

(a) the words:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "limited liability company"; or

(v) "limited company";

(b) any word or abbreviation that is of like import to the words listed in Subsection (10)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; [~~and~~]

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution"[~~.~~]; or

(e) for a limited partnership that changes the limited partnership's name or is formed on or after May 4, 2022, the number sequence "911."

Section 9. Section 48-3a-108 is amended to read:

48-3a-108. Permitted names.

(1) Except as provided in Section 48-3a-1104 or 48-3a-1302, the name of a limited liability company [~~must~~] shall contain the words "limited liability company" or "limited company" or the abbreviation "L.L.C.", "LLC", "L.C.", or "LC". "Limited" may be abbreviated as "Ltd.", and "company" may be abbreviated as "Co.".

(2) Except as authorized by Subsection (3), the name of a company [~~must~~] shall be distinguishable as defined in Subsection (4) upon the records of the division from:

(a) the actual name, reserved name, or fictitious or assumed name of any entity registered with the division; or

(b) any tradename, trademark, or service mark registered with the division.

(3) (a) A company may apply to the division for approval to file [~~its~~] the company's certificate of organization under or to reserve a name that is not distinguishable upon the division's records from one or more of the names described in Subsection (2).

(b) The division shall approve the name for which the company applies under Subsection (3)(a) if:

(i) the other person whose name is not distinguishable from the name under which the applicant desires to file:

(A) consents to the filing in writing; and

(B) submits an undertaking in a form satisfactory to the division to change [~~its~~] the person's name to a name that is distinguishable from the name of the applicant; or

(ii) the applicant delivers to the division a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name in this state.

(4) A name is distinguishable from other names, trademarks, and service marks registered with the division if [~~it~~] the name contains one or more different words, letters, or numerals from other names upon the division's records.

(5) The following differences are not distinguishing:

(a) the term:

(i) "corp.";

(ii) "corporation";

(iii) "Inc.";

(iv) "incorporated";

(v) "professional corporation";

(vi) "P.C." or "PC";

(vii) "professional association";

(viii) "P.A." or "PA";

(ix) "professional limited liability company";

(x) "P.L.L.C." or "PLLC";

(xi) "company";

(xii) "limited partnership";

(xiii) "limited";

(xiv) "L.P." or "LP";

(xv) "Ltd.";

(xvi) "limited liability company";

(xvii) "limited company";

(xviii) "L.C." or "LC";

(xix) "L.L.C." or "LLC";

(xx) "registered limited liability partnership";

(xxi) "R.L.L.P." or "RLLP";

(xxii) "limited liability partnership";

(xxiii) "L.L.P." or "LLP";

(xxiv) "limited liability limited partnership";

(xxv) "L.L.L.P." or "LLLP";

(xxvi) "registered limited liability limited partnership"; or

(xxvii) "R.L.L.L.P." or "RLLLP";

(b) an abbreviation of a word listed in Subsection (5)(a);

(c) the presence or absence of the words or symbols of the words "the," "and," "a," or "plus";

(d) differences in punctuation and special characters;

(e) differences in capitalization; or

(f) for a company that is formed in this state on or after May 4, 1998, or registered as a foreign company in this state on or after May 4, 1998, differences in singular and plural forms of words.

(6) The division may not approve for filing a name that implies that a limited liability company is an agency of this state or any of [~~its~~] the state's political subdivisions, if [~~it~~] the limited liability company is not actually such a legally established agency or subdivision.

(7) The authorization to file a certificate under or to reserve or register a limited liability company name as granted by the division does not:

(a) abrogate or limit the law governing unfair competition or unfair trade practices;

(b) derogate from the common law, the principles of equity, or the statutes of this state or of the United States with respect to the right to acquire and protect names and trademarks; or

(c) create an exclusive right in geographic or generic terms contained within a name.

(8) The name of a limited liability company or foreign limited liability company may not contain:

(a) the term:

(i) "association";

(ii) "corporation";

(iii) "incorporated";

(iv) "partnership";

(v) "limited partnership"; or

(vi) "L.P.";

(b) any word or abbreviation that is of like import to the words listed in Subsection (8)(a);

(c) without the written consent of the United States Olympic Committee, the words:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius"; [~~and~~]

(d) without the written consent of the Division of Consumer Protection issued in accordance with Section 13-34-114 the words:

(i) "university";

(ii) "college"; or

(iii) "institute" or "institution"[~~.~~]; or

(e) for a limited liability company that changes the limited liability company's name or is formed on or after May 4, 2022, the number sequence "911."

(9) (a) A person, other than a company formed under this chapter or a foreign company authorized to transact business in this state, may not use in [~~its~~] the person's name in this state the term:

(i) "limited liability company";

(ii) "limited company";

(iii) "L.L.C.";

(iv) "L.C.";

(v) "LLC"; or

(vi) "LC".

(b) Notwithstanding Subsection (2)(a):

(i) a foreign corporation whose actual name includes the term "limited" or "Ltd." may use [~~its~~] the foreign corporation's actual name in this state if [~~it~~] the foreign corporation also uses:

(A) "corporation" or "corp."; or

(B) "incorporated" or "Inc."; and

(ii) a limited liability partnership may use in [~~its~~] the limited liability partnership's name the term:

(A) "limited liability partnership";

(B) "L.L.P."; or

(C) "LLP".

CHAPTER 458
S. B. 214

Passed March 2, 2022
Approved March 24, 2022
Effective March 24, 2022

UTAH BROADBAND CENTER ADVISORY COMMISSION

Chief Sponsor: Chris H. Wilson
House Sponsor: Robert M. Spendlove

LONG TITLE

General Description:

This bill creates the Utah Broadband Center Advisory Commission.

Highlighted Provisions:

This bill:

- defines terms;
- creates the Utah Broadband Center Advisory Commission (the commission);
- directs the appointment of members to the commission;
- directs the commission to:
  - solicit input from stakeholders;
  - make recommendations to the Utah Broadband Center with respect to the development of a strategic plan; and
  - make recommendations to the Utah Broadband Center with respect to the use of funds;
- requires the Utah Broadband Center to consult with the commission;
- requires the Utah Broadband Center to report annually to the commission and to the Public Utilities, Energy, and Technology Interim Committee; and
- sets a repeal date for the commission.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-236, as last amended by Laws of Utah 2021, Second Special Session, Chapter 8
63N-17-201, as enacted by Laws of Utah 2021, Chapter 282

ENACTS:

36-29-109, Utah Code Annotated 1953
63N-17-203, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 36-29-109 is enacted to read:

36-29-109. Utah Broadband Center Advisory Commission.

(1) As used in this section:

(a) "Broadband infrastructure funds" means the funds available for broadband infrastructure pursuant to:

(i) the Infrastructure Investment and Jobs Act, Pub. L. No. 115-58;

(ii) legislative appropriations; and

(iii) state and federal grants.

(b) "Center" means the Utah Broadband Center created in Section 63N-17-201.

(c) "Commission" means the Utah Broadband Center Advisory Commission created in Subsection (2).

(d) "Strategic plan" means the statewide digital connectivity plan described in Section 63N-17-203.

(2) There is created the Utah Broadband Center Advisory Commission consisting of the following nine voting members:

(a) two members of the Senate, appointed by the president of the Senate;

(b) two members of the House of Representatives, appointed by the speaker of the House of Representatives;

(c) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;

(d) the governor shall appoint four members who currently work in the public sector and who have professional experience in:

(i) broadband or broadband infrastructure;

(ii) applying for federal grants; or

(iii) financing infrastructure.

(3) In addition to the nine voting members, the director of the center, or the director's designee, shall serve on the commission in a nonvoting capacity.

(4) (a) The president of the Senate shall designate one of the members described in Subsection (2)(a) to serve as cochair of the commission.

(b) The speaker of the House of Representatives shall designate one of the members described in Subsection (2)(b) to serve as cochair of the commission.

(5) (a) If a vacancy occurs in the membership of the commission, the member shall be replaced in the same manner in which the original appointment was made.

(b) A member shall serve until the member's successor is appointed and qualified.

(6) (a) A majority of the members of the commission constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(7) (a) Salaries and expenses of the members of the commission who are legislators shall be paid in accordance with:

(i) Section 36-2-2;

(ii) Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses; and

(iii) Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A member of the commission who is not a legislator may not receive compensation for the member's work associated with the commission but may receive per diem and reimbursement for travel expenses incurred as a member of the commission at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance in accordance with Sections 63A-3-106 and 63A-3-107.

(8) The center shall provide staff support to the commission.

(9) The commission shall:

(a) make recommendations to the center with respect to:

(i) strategic plan development; and

(ii) the application for and use of broadband infrastructure funds;

(b) solicit input from relevant stakeholders, including:

(i) public and private entities who may assist in developing and implementing the strategic plan; and

(ii) public and private entities whom the strategic plan may impact;

(c) provide recommendations for strategic plan development and implementation based on the input described in Subsection (9)(b);

(d) review strategic plan drafts; and

(e) recommend changes.

(10) The commission shall meet as needed.

Section 2. Section 63I-2-236 is amended to read:

63I-2-236. Repeal dates -- Title 36.

(1) Section 36-29-107.5 is repealed on November 30, 2023.

(2) The following sections regarding the State Flag Task Force are repealed on January 1, 2024:

(a) Section 36-29-201;

(b) Section 36-29-202; and

(c) Section 36-29-203.

(3) Section 36-29-109 is repealed on November 30, 2027.

Section 3. Section 63N-17-201 is amended to read:

63N-17-201. Utah Broadband Center -- Creation -- Director -- Duties.

(1) There is created within the office the Utah Broadband Center.

(2) The executive director shall appoint a director of the broadband center to oversee the operations of the broadband center.

(3) The broadband center shall:

(a) ensure that publicly funded broadband projects continue to be publicly accessible and provide a public benefit;

(b) develop [~~a statewide digital connectivity plan~~] the statewide digital connectivity plan described in Section 63N-17-203;

(c) carry out the duties described in Section 63N-17-202; and

(d) administer the Broadband Access Grant Program in accordance with Part 3, Broadband Access Grant Program.

(e) The broadband center shall ensure efficiency with respect to:

(i) expenditure of funds; and

(ii) avoiding duplication of efforts.

(f) The broadband center shall consider administering broadband infrastructure funds in a manner that:

(i) efficiently maximizes the leverage of federal funding;

(ii) avoids the use of public funds for broadband facilities that duplicate existing broadband facilities that already meet or exceed federal standards; and

(iii) accounts for the benefits and costs to the state of existing facilities, equipment, and services of public and private broadband providers.

Section 4. Section 63N-17-203 is enacted to read:

63N-17-203. Statewide digital connectivity plan.

(1) As used in this section:

(a) "Commission" means the Utah Broadband Center Advisory Commission created in Section 36-29-109.

(b) "Strategic plan" means the statewide digital connectivity plan created in Subsection (2).

(2) The center shall develop the statewide digital connectivity plan.

(3) The strategic plan shall include strategies to:

(a) implement broadband connectivity statewide;

(b) promote digital equity;

(c) apply for federal infrastructure funds; and

(d) apply for additional funds.

(4) In developing the strategic plan, the center shall work with the commission.

(5) The center shall provide the commission with status updates regarding:

(a) implementation of the commission's recommendations;

(b) recommendations the center has received from the Transportation Commission, created in Section 72-1-301;

(c) strategic plan development;

(d) strategic plan implementation;

(e) grants received;

(f) projects funded; and

(g) recommendations for legislation.

(6) The center shall submit the strategic plan to the commission for the commission's recommendation before finalizing the strategic plan.

(7) On or before November 30 of each year, the center shall report to the commission and the Public Utilities, Energy, and Technology Interim Committee regarding the status updates described in Subsection (5).

Section 5. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

CHAPTER 459
S. B. 220
Passed March 3, 2022
Approved March 24, 2022
Effective July 1, 2022

MISSING CHILD IDENTIFICATION PROGRAM

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This bill creates the Missing Child Identification Program to be administered by the attorney general.

Highlighted Provisions:

This bill:

- creates the Missing Child Identification Program to be administered by the attorney general to provide a fingerprint and DNA collection kit to a parent or legal guardian of a child entering kindergarten.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

67-5-38, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 67-5-38 is enacted to read:

67-5-38. Missing Child Identification Program.

(1) As used in this section:

(a) "Kit" means a fingerprint and DNA identification kit that may be used to collect and store fingerprint and DNA information.

(b) "Program" means the Missing Child Identification Program created in this section.

(2) (a) There is created the Missing Child Identification Program to be administered by the attorney general as described in this section.

(b) The purpose of the program is to provide a kit to a parent or legal guardian of a kindergarten student, to be distributed by the student's elementary school, which the parent or guardian may use to collect and store a child's fingerprint and DNA information for potential use by law enforcement in the event that the child is missing.

(c) If the Legislature does not appropriate funds specifically for the program, the attorney general may implement the program using other available appropriations.

(3) (a) The attorney general shall provide kits to each Utah elementary school to be distributed to the parent or legal guardian of each student entering kindergarten in the elementary school.

(b) The attorney general shall obtain the kits in compliance with Title 63G, Chapter 6a, Utah Procurement Code.

(c) The kits described in Subsection (3)(a) may be delivered to an elementary school directly through the supplier of the kits.

(d) The State Board of Education, or the State Board of Education's designee, shall coordinate with the attorney general to determine how many kits are needed each year at each elementary school.

(e) An elementary school that receives a supply of kits shall offer a kit to a parent or legal guardian for a student entering kindergarten at the elementary school.

(4) The attorney general may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the program.

Section 2. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 460
S. B. 222

Passed March 2, 2022
Approved March 24, 2022
Effective May 4, 2022

EMERGENCY MEDICAL SERVICE PERSONNEL AMENDMENTS

Chief Sponsor: Wayne A. Harper
House Sponsor: Stephen G. Handy

LONG TITLE

General Description:

This bill amends provisions related to the licensure of emergency medical service personnel.

Highlighted Provisions:

This bill:

- specifically lists categories for whom the State Emergency Medical Services Committee may establish initial and ongoing licensure and training requirements.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-8a-302, as last amended by Laws of Utah 2021, Chapters 208 and 237

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-8a-302 is amended to read:

26-8a-302. Licensure of emergency medical service personnel.

(1) To promote the availability of comprehensive emergency medical services throughout the state, the committee shall establish:

(a) initial and ongoing licensure and training requirements for emergency medical service personnel in the following categories:

(i) paramedic;

(ii) [~~medical director;~~] advanced emergency medical services technician;

(iii) emergency medical [~~service instructor~~] services technician;

(iv) behavioral emergency services technician; and

(v) advanced behavioral emergency services technician[~~; and~~];

[~~(vi) except emergency medical dispatchers, other types of emergency medical service personnel as the committee considers necessary;~~]

(b) a method to monitor the certification status and continuing medical education hours for emergency medical dispatchers; and

(c) guidelines for giving credit for out-of-state training and experience.

(2) The department shall, based on the requirements established in Subsection (1):

(a) develop, conduct, and authorize training and testing for emergency medical service personnel;

(b) issue a license and license renewals to emergency medical service personnel other than emergency medical dispatchers; and

(c) verify the certification of emergency medical dispatchers.

(3) The department shall coordinate with the Department of Human Services established in Section 62A-1-102, and local mental health authorities described in Section 17-43-301, to develop and authorize initial and ongoing licensure and training requirements for licensure as a:

(a) behavioral emergency services technician; and

(b) advanced behavioral emergency services technician.

(4) As provided in Section 26-8a-502, an individual issued a license or certified under this section may only provide emergency medical services to the extent allowed by the license or certification.

(5) An individual may not be issued or retain a license under this section unless the individual obtains and retains background clearance under Section 26-8a-310.

(6) An individual may not be issued or retain a certification under this section unless the individual obtains and retains background clearance in accordance with Section 26-8a-310.5.

CHAPTER 461
S. B. 226
Passed March 3, 2022
Approved March 24, 2022
Effective July 1, 2022
(Exception clause in Section 23)

HIGHER EDUCATION DATA PRIVACY AND GOVERNANCE REVISIONS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill enacts and amends provisions related to higher education data privacy and governance.

Highlighted Provisions:

This bill:

- transfers the Utah Data Resource Center (center) from the Department of Workforce Services to the Utah System of Higher Education;
- expands the duties of the center by requiring the center to collect and promote access to data from institutions of higher education and collaborate with the Board of Higher Education and the State Board of Education to coordinate access to certain student identifier information;
- requires the commissioner of higher education to:
  - appoint a director of the center to serve as chair of the Utah Data Research Advisory Board; and
  - appoint the member who represents the center to the School Readiness Board;
- requires the center to include information regarding the center's activities and accomplishments in the center's annual report to the Legislature;
- provides for higher education student data protection at the state and institution of higher education (institution) levels;
- requires the state privacy officer to establish a privacy advisory group;
- enacts requirements for data protection and maintenance for the Utah Board of Higher Education, institutions, and third-party contractors;
- creates requirements for a third-party contractor's use of student data;
- creates penalties for an institution that contracts with a third-party contractor that permits unauthorized collecting, sharing, or use of student data;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Utah Board of Higher Education -- Administration, as an ongoing appropriation:
  - from the Education Fund, $770,000; and
- to Utah Board of Higher Education -- Administration, as a one-time appropriation:
  - from the Education Fund, $275,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

35A-15-201, as last amended by Laws of Utah 2019, Chapters 246, 246 and renumbered and amended by Laws of Utah 2019, Chapters 342, 342 and last amended by Coordination Clause, Laws of Utah 2019, Chapter 342

53B-1-109, as last amended by Laws of Utah 2020, Chapter 365

53E-1-201, as last amended by Laws of Utah 2021, Chapters 64, 251, and 351

53E-4-308, as last amended by Laws of Utah 2020, Chapter 365

53E-10-706, as last amended by Laws of Utah 2019, Chapter 186

53E-10-707, as last amended by Laws of Utah 2019, Chapter 186

ENACTS:

53B-28-501, Utah Code Annotated 1953
53B-28-502, Utah Code Annotated 1953
53B-28-503, Utah Code Annotated 1953
53B-28-504, Utah Code Annotated 1953
53B-28-505, Utah Code Annotated 1953
53B-28-506, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

53B-33-101, (Renumbered from 35A-14-102, as last amended by Laws of Utah 2020, Chapter 365)

53B-33-201, (Renumbered from 35A-14-201, as enacted by Laws of Utah 2017, Chapter 375)

53B-33-202, (Renumbered from 35A-14-203, as last amended by Laws of Utah 2020, Chapter 365)

53B-33-203, (Renumbered from 35A-14-204, as enacted by Laws of Utah 2017, Chapter 375)

53B-33-301, (Renumbered from 35A-14-301, as enacted by Laws of Utah 2017, Chapter 375)

53B-33-302, (Renumbered from 35A-14-302, as last amended by Laws of Utah 2020, Chapter 365)

53B-33-303, (Renumbered from 35A-14-303, as enacted by Laws of Utah 2017, Chapter 375)

53B-33-304, (Renumbered from 35A-14-304, as enacted by Laws of Utah 2017, Chapter 375)

REPEALS:

35A-14-101, as enacted by Laws of Utah 2017, Chapter 375

35A-14-202, as enacted by Laws of Utah 2017, Chapter 375

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-15-201 is amended to read:

35A-15-201. Establishment of the School Readiness Board -- Membership -- Funding prioritization.

(1) There is created the School Readiness Board within the department composed of:

(a) the executive director or the executive director's designee;

(b) one member appointed by the State Board of Education;

(c) one member appointed by the chair of the State Charter School Board;

(d) two members who have research experience in the area of early childhood development, with:

(i) one member who is not a legislator and is appointed by the speaker of the House of Representatives; and

(ii) one member who represents the Utah Data Research Center created in Section 53B-33-201, appointed by the [~~executive director~~] commissioner of higher education;

(e) one member, who is not a legislator and is appointed by the president of the Senate, who:

(i) has expertise in results-based contracts; or

(ii) represents a financial institution that has experience managing a portfolio that meets the requirements of the Community Reinvestment Act, 12 U.S.C. Sec. 2901 et seq.;

(f) one member, appointed by the executive director, who has expertise in early childhood education;

(g) one member, appointed by the state superintendent, who has expertise in early childhood education;

(h) one member, appointed by the governor, who represents a nonprofit corporation that focuses on early childhood education; and

(i) one member, appointed by the executive director, who owns and operates a licensed child care center located in the state.

(2) (a) A member described in Subsection (1)(b), (c), (d), (e), (f), (g), or (h) shall serve for a term of two years.

(b) If a vacancy occurs for a member described in Subsection (1)(b), (c), (d), (e), (f), (g), or (h), the individual appointing the member shall appoint a replacement to serve the remainder of the member's term.

(3) (a) A member may not receive compensation or benefits for the member's service.

(b) A member may serve more than one term.

(4) The department shall provide staff support to the board.

(5) (a) The board members shall elect a chair of the board from the board's membership.

(b) The board shall meet upon the call of the chair or a majority of the board members.

(6) In allocating funding received under this chapter, the board shall:

(a) give first priority to repayment of an investor who is a party to a results-based contract under the Laws of Utah, 2014, Chapter 304, Section 10; and

(b) determine prioritization of funding for the remaining programs described in this chapter.

Section 2. Section 53B-1-109 is amended to read:

53B-1-109. Coordination of higher education and public education information technology systems -- Use of unique student identifier.

(1) As used in this section[~~, "unique~~]:

(a) "Center" means the Utah Data Research Center created in Section 53B-33-201.

(b) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.

(c) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

(2) The board and State Board of Education, in collaboration with the center, shall:

(a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53E-4-308[~~.~~]; and

(b) coordinate access to the unique student identifier of a public education student who later attends an institution of higher education.

(3) Information technology systems used at an institution [~~within the state system~~] of higher education shall use the unique student identifier of all students who have previously been assigned a unique student identifier.

Section 3. Section 53B-28-501 is enacted to read:

Part 5. Higher Education Student Data Protection

53B-28-501. Definitions.

As used in this part:

(1) "Advisory group" means the institution of higher education privacy advisory group established by the state privacy officer under Section 53B-28-502.

(2) "Aggregate data" means data that:

(a) are totaled and reported at the group, cohort, class, course, institution, region, or state level, with at least 10 individuals in the level; and

(b) do not reveal personally identifiable student data.

(3) "Data breach" means an unauthorized release of or unauthorized access to personally identifiable student data that an education entity maintains.

(4) "Data governance plan" means an education entity's comprehensive plan for managing education data that:

(a) incorporates reasonable data industry best practices to maintain and protect student data and other education-related data;

(b) describes the role, responsibility, and authority of the board or an institution privacy officer;

(c) provides for necessary technical assistance, training, support, and auditing;

(d) describes the process for sharing student data between the education entity and another person;

(e) describes the education entity's data expungement process, including how to respond to requests for expungement;

(f) describes the data breach response process; and

(g) is published annually and available on the institution's website or the Utah System of Higher Education's website.

(5) "Education entity" means the Utah Board of Higher Education or an institution.

(6) "Higher education privacy officer" means a privacy officer that the board designates under Section 53B-28-503.

(7) "Institution" means an institution of higher education described in Section 53B-1-102.

(8) "Minor" means a person younger than 18 years old.

(9) (a) "Personally identifiable student data" means student data that identifies or is used by the holder to identify a student.

(b) "Personally identifiable student data" includes:

(i) a student's first and last name;

(ii) the first and last name of a student's family member;

(iii) a student's or a student's family's home or physical address;

(iv) a student's email address or other online contact information;

(v) a student's telephone number;

(vi) a student's social security number;

(vii) a student's biometric identifier;

(viii) a student's health or disability data;

(ix) a student's education entity student identification number;

(x) a student's social media user name and password or alias;

(xi) if associated with personally identifiable student data, the student's persistent identifier, including:

(A) a customer number held in a cookie; or

(B) a processor serial number;

(xii) a combination of a student's last name or photograph with other information that together permits a person to contact the student online;

(xiii) information about a student or a student's family that a person collects online and combines with other personally identifiable student data to identify the student; and

(xiv) information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

(10) "State privacy officer" means the state privacy officer described in Section 67-3-13.

(11) "Student" means an individual enrolled in an institution.

(12) (a) "Student data" means information about a student at the individual student level.

(b) "Student data" does not include aggregate or de-identified data.

(13) "Third-party contractor" means a person who:

(a) is not an institution or an employee of an institution; and

(b) pursuant to a contract with an education entity, collects or receives student data in order to provide a product or service, as described in the contract, if the product or service is not related to school photography, yearbooks, graduation announcements, or a similar product or service.

Section 4. Section 53B-28-502 is enacted to read:

53B-28-502. State student data protection governance.

(1) The state privacy officer shall establish a higher education privacy advisory group to advise institutions and institution boards of trustees on student data protection.

(2) The advisory group shall consist of:

(a) the state privacy officer;

(b) the higher education privacy officer; and

(c) the following members, appointed by the commissioner of higher education:

(i) at least one Utah system of higher education employee; and

(ii) at least one representative of the Utah Board of Higher Education.

(3) The advisory group shall:

(a) discuss and make recommendations to the board and institutions regarding:

(i) existing and proposed:

(A) board rules; or

(B) board policies of the Utah Board of Higher Education or institutions; and

(ii) training on protecting student data privacy; and

(b) perform other tasks related to student data protection as designated by the Utah Board of Higher Education.

(4) The higher education privacy officer shall:

(a) provide training and support to institution boards and employees; and

(b) produce:

(i) resource materials;

(ii) model data governance plans;

(iii) model forms for institution student data protection governance; and

(iv) a model data collection notice.

(5) The board shall:

(a) (i) create and maintain a data governance plan; and

(ii) annually publish the data governance plan on the Utah System of Higher Education website; and

(b) establish standards for:

(i) institution policies to protect student data;

(ii) institution data governance plans; and

(iii) a third-party contractor's use of student data.

Section 5. Section 53B-28-503 is enacted to read:

53B-28-503. Institution student data protection governance.

(1) (a) An institution shall adopt policies to protect student data in accordance with this part and board rule, including the standards the board establishes under Subsection 53B-28-502(5).

(b) The policies described in Subsection (1)(a) shall take into account the specific needs and priorities of the institution.

(2) The board shall designate a higher education privacy officer.

(3) The higher education privacy officer shall:

(a) verify compliance with student privacy laws, rules, and policies throughout the Utah System of Higher Education;

(b) support institutions in developing data governance plans and student data privacy training; and

(c) act as the primary point of contact for the state privacy officer.

(4) An institution shall:

(a) designate an individual to act as the primary contact for the higher education privacy officer;

(b) create and maintain an institution:

(i) data governance plan that complies with the standards the board establishes under Subsection 53B-28-502(5); and

(ii) record of student data privacy training; and

(c) annually publish the institution's data governance plan on the institution's website.

Section 6. Section 53B-28-504 is enacted to read:

53B-28-504. Notification of significant data breach.

(1) If a significant data breach occurs at an institution, the institution shall notify each student whose personally-identifiable student data was disclosed.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules to define a significant data breach described in Subsection (1).

Section 7. Section 53B-28-505 is enacted to read:

53B-28-505. Third-party contractors.

(1) A third-party contractor shall use personally identifiable student data received under a contract with an education entity strictly for the purpose of providing the contracted product or service within the negotiated contract terms.

(2) When contracting with a third-party contractor, an education entity, or a government agency contracting on behalf of an education entity, shall:

(a) ensure that the contract terms comply with the standards the board establishes under Subsection 53B-28-502(5); and

(b) require the following provisions in the contract:

(i) requirements and restrictions related to the collection, use, storage, or sharing of student data by the third-party contractor that are necessary for the education entity to ensure compliance with the provisions of this part and board rule;

(ii) a description of a person, or type of person, including an affiliate of the third-party contractor, with whom the third-party contractor may share student data;

(iii) provisions that, at the request of the education entity, govern the deletion of the student data received by the third-party contractor;

(iv) except as provided in Subsection (4) and if required by the education entity, provisions that prohibit the secondary use of personally identifiable student data by the third-party contractor; and

(v) an agreement by the third-party contractor that, at the request of the education entity that is a party to the contract, the education entity or the education entity's designee may audit the third-party contractor to verify compliance with the contract.

(3) As authorized by law or court order, a third-party contractor shall share student data as requested by law enforcement.

(4) A third-party contractor may:

(a) use student data for adaptive learning or customized student learning purposes;

(b) market an educational application or product to a student if the third-party contractor does not use student data, shared by or collected on behalf of an education entity, to market the educational application or product;

(c) use a recommendation engine to recommend to a student:

(i) content that relates to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party; or

(ii) services that relate to learning or employment, within the third-party contractor's application, if the recommendation is not motivated by payment or other consideration from another party;

(d) respond to a student request for information or feedback, if the content of the response is not motivated by payment or other consideration from another party;

(e) use student data to allow or improve operability and functionality of the third-party contractor's application; or

(f) identify for a student nonprofit institutions of higher education or scholarship providers that are seeking students who meet specific criteria:

(i) regardless of whether the identified nonprofit institutions of higher education or scholarship providers provide payment or other consideration to the third-party contractor; and

(ii) only if the third-party contractor obtains authorization in writing from:

(A) the student's parent, if the student is a minor; or

(B) the student.

(5) At the completion of a contract with an education entity, if the contract has not been renewed, a third-party contractor shall return or delete upon the education entity's request all personally identifiable student data under the control of the education entity unless a student or a minor student's parent consents to the maintenance of the personally identifiable student data.

(6) (a) A third-party contractor may not:

(i) except as provided in Subsection (6)(b), sell student data;

(ii) collect, use, or share student data, if the collection, use, or sharing of the student data is inconsistent with the third-party contractor's contract with the education entity; or

(iii) use student data for targeted advertising.

(b) A person may obtain student data through the purchase of, merger with, or otherwise acquiring a third-party contractor if the third-party contractor remains in compliance with this section.

(7) The provisions of this section do not:

(a) apply to the use of a general audience application, including the access of a general audience application with login credentials created by a third-party contractor's application;

(b) apply if the student data is shared in accordance with the education entity's directory information policy, as described in 34 C.F.R. Sec. 99.37;

(c) apply to the providing of Internet service; or

(d) impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. Sec. 230, to review or enforce compliance with this section.

(8) A provision of this section that relates to a student's student data does not apply to a third-party contractor if the education entity or third-party contractor obtains authorization from the following individual, in writing, to waive that provision:

(a) the student's parent, if the student is a minor; or

(b) the student.

Section 8. Section 53B-28-506 is enacted to read:

53B-28-506. Penalties.

(1) (a) An institution that contracts with a third-party contractor that knowingly or recklessly permits unauthorized collecting, sharing, or use of student data under this part:

(i) except as provided in Subsection (1)(b), may not enter into a future contract with the third-party contractor; and

(ii) may be required by the board to pay a civil penalty of up to $25,000.

(b) An education entity may enter into a contract with a third-party contractor that knowingly or recklessly permitted unauthorized collecting, sharing, or use of student data if:

(i) the education entity determines that the third-party contractor has corrected the errors that caused the unauthorized collecting, sharing, or use of student data; and

(ii) the third-party contractor demonstrates:

(A) if the third-party contractor is under contract with the education entity, current compliance with this part; or

(B) an ability to comply with the requirements of this part.

(c) The board may assess the civil penalty described in Subsection (1)(a)(ii) in accordance with

Title 63G, Chapter 4, Administrative Procedures Act.

(d) The board may bring an action in the district court of the county in which the office of the education entity is located, if necessary, to enforce payment of the civil penalty described in Subsection (1)(a)(ii).

(e) An individual who knowingly or intentionally permits unauthorized collecting, sharing, or use of student data may be found guilty of a class A misdemeanor.

(2) (a) A student or a minor student's parent may bring an action against an institution in a court of competent jurisdiction for damages caused by a knowing or reckless violation of Section 53B-28-505 by a third-party contractor that the institution contracts with under 53B-28-505.

(b) If the court finds that a third-party contractor has violated Section 53B-28-505, the court may order the institution to pay to the parent or student:

(i) damages; and

(ii) costs.

Section 9. Section 53B-33-101, which is renumbered from Section 35A-14-102 is renumbered and amended to read:

[~~35A-14-102~~]. 53B-33-101. Definitions.

As used in this chapter:

(1) "Advisory board" means the Utah Data Research Advisory Board created in Section [~~35A-14-203~~] 53B-33-203.

(2) "Center" means the Utah Data Research Center created in Section 53B-33-201.

(3) "Data" means any information about a person stored in a physical or electronic record.

(4) "Data research program" means the data maintained by the center in accordance with Section [~~35A-14-301~~] 53B-33-301.

(5) "De-identified data" means data about a person that cannot, without additional information, identify the person to another person or machine.

(6) "Director" means the director of the [~~Workforce Research and Analysis Division~~] Utah Data Research Center created in Section 53B-33-201.

(7) "Institution of higher education" means an institution of higher education described in Section 53B-1-102.

[~~(7)~~] (8) "Participating entity" means:

(a) the State Board of Education, which includes the director as defined in Section 53E-10-701;

(b) the [~~Utah Board of Higher Education~~] board;

(c) the Department of Workforce Services; and

(d) the Department of Health and Human Services.

(9) "Unique student identifier" means the same as that term is defined in Section 53E-4-308.

Section 10. Section 53B-33-201, which is renumbered from Section 35A-14-201 is renumbered and amended to read:

[~~35A-14-201~~]. 53B-33-201. Utah Data Research Center -- Creation.

The Utah Data Research Center is created within the [~~Workforce Research and Analysis Division within the department~~] Utah system of higher education.

Section 11. Section 53B-33-202, which is renumbered from Section 35A-14-203 is renumbered and amended to read:

[~~35A-14-203~~]. 53B-33-202. Utah Data Research Advisory Board -- Composition -- Appointment.

(1) There is created the Utah Data Research Advisory Board [~~in accordance with this section~~].

(2) The [~~Utah Data Research Advisory Board~~] advisory board is composed of the following members:

(a) the state superintendent of the State Board of Education or the state superintendent's designee;

(b) the commissioner [~~of higher education or the commissioner of higher education's~~] or the commissioner's designee;

(c) the executive director of the Department of Workforce Services or the executive director's designee; and

(d) the executive director of the Department of Health and Human Services or the executive director's designee.

(3) The [~~executive director~~] commissioner shall serve as chair.

(4) A member of the advisory board:

(a) except to the extent a member's service on the advisory board is related to the member's duties outside of the advisory board, may not receive compensation or benefits for the member's service; and

(b) may receive per diem and travel expenses in accordance with:

(i) Section 63A-3-106;

(ii) Section 63A-3-107; and

(iii) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 12. Section 53B-33-203, which is renumbered from Section 35A-14-204 is renumbered and amended to read:

[~~35A-14-204~~]. 53B-33-203. Director -- Additional staff -- Administrative support.

(1) The commissioner shall appoint a director [~~shall~~] to manage the day-to-day operations of the center.

(2) The director may, with the [~~department's~~] commissioner's approval, hire staff, including:

(a) data scientists;

(b) data technology experts; and

(c) data security experts.

Section 13. Section 53B-33-301, which is renumbered from Section 35A-14-301 is renumbered and amended to read:

[~~35A-14-301~~]. 53B-33-301. Data research program.

(1) The center shall establish a data research program for the purpose of analyzing data that is:

(a) collected over time;

(b) aggregated from multiple sources; and

(c) connected and de-identified.

(2) The center may, in order to establish the data research program described in Subsection (1):

(a) acquire property or equipment in order to store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(b) contract with a private entity in accordance with Title 63G, Chapter 6a, Utah Procurement Code, or with a state government entity to:

(i) store aggregated, connected, and de-identified data derived from data contributed by the participating entities; or

(ii) utilize existing aggregated, connected, and de-identified data maintained by a state government entity.

(3) A participating entity shall contribute data to the data research program described in Subsection (1) within guidelines established by the center.

(4) The center may only release data maintained by the center in accordance with the procedures described in this chapter.

(5) The center shall:

(a) as directed by the board, serve as a repository in the state of data from institutions of higher education;

(b) collaborate with the board and the State Board of Education to coordinate access to the unique student identifier of a public education student who later attends an institution of higher education in accordance with Sections 53B-1-109 and 53E-4-308;

(c) develop, establish, and maintain programs that promote access to data from institutions of higher education;

(d) identify initiatives that leverage education data that will improve a state citizen's ability to:

(i) access services at an institution of higher education; or

(ii) graduate with a postsecondary certificate or degree; and

(e) perform all other duties provided in this chapter.

(6) The director shall identify the resources necessary to successfully implement initiatives described in Subsection (5)(d), in accordance with Section 53B-7-101.

(7) The center may:

(a) employ staff necessary to carry out the center's duties;

(b) purchase, own, create, or maintain equipment necessary to:

(i) collect data from the participating entities;

(ii) connect and de-identify data collected by the center;

(iii) store connected and de-identified data; or

(iv) conduct research on data stored or obtained by the center; or

(c) contract with a private entity, another state or federal entity, or a political subdivision of the state to carry out the center's duties as provided in this chapter.

[~~(5)~~] (8) The data research program is not subject to Title 63G, Chapter 2, Government Records Access and Management Act.

Section 14. Section 53B-33-302, which is renumbered from Section 35A-14-302 is renumbered and amended to read:

[~~35A-14-302~~]. 53B-33-302. Data research requests.

(1) The center shall use data that the center maintains or that a participating entity contributes to the data research program under Section [~~35A-14-301~~] 53B-33-301 to conduct research for the purpose of developing public policy for the state.

(2) The director, with consultation by the advisory board, shall create a prioritized list of data research for the center to conduct using the data research program each year.

(3) (a) In developing the list described in Subsection (2), the center shall accept data research requests from:

(i) a legislative committee or a legislative staff office;

(ii) the governor or an executive branch agency;

(iii) the State Board of Education; and

(iv) the [~~Utah Board of Higher Education~~] board.

[~~(b) The department shall begin accepting the data research requests described in Subsection (3)(a) on July 1, 2017.~~]

[~~(c)~~] (b) The center shall report the list described in Subsection (2) to the Education Interim Committee before December 1 of each year.

(4) In addition to conducting data research in accordance with the prioritized list described in

Subsection (2), the center may use additional resources to prepare data research at the request of:

(a) a state government entity;

(b) a political subdivision of the state;

(c) a private entity; or

(d) a member of the public.

(5) The director, with approval by the advisory board, shall determine, for a data research request described in Subsection (4):

(a) whether the center has the resources to complete the data research request;

(b) the order in which the center shall complete the data research request, if at all; and

(c) a reasonable estimated cost for the request.

(6) The center, after evaluating a request under Subsection (5), shall:

(a) provide the person that requested the data research with a cost estimate; and

(b) require, before accepting a data research request, that the person that submitted the data research request agree to pay, once the data research is complete, the full cost of completing the data research request as determined by the center under Subsection (5).

(7) The center shall make available to the public, on a website maintained by the center, any data research request that the center completes under this section.

(8) The center shall ensure that any data contained in a completed data research request is de-identified.

(9) The center shall:

(a) establish, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) procedures for submitting a data research request under this section;

(ii) criteria to determine how to prioritize data research requests; and

(iii) minimum standards for information a person is required to include in a data research request; and

(b) create a fee schedule in accordance with Section 63J-1-504 for completing a data research request.

(10) In addition to submitting a data research request under Subsection (4), a participating entity, executive branch agency, or legislative staff office may request, and the center may release, a data set from the data research program if the data set is:

(a) connected;

(b) aggregated; and

(c) de-identified.

(11) (a) The center shall use any fee the center collects under this section to cover the center's costs to administer this chapter.

(b) The center shall deposit any fee the center collects under this section not used to cover the center's costs into the General Fund.

Section 15. Section 53B-33-303, which is renumbered from Section 35A-14-303 is renumbered and amended to read:

[~~35A-14-303~~]. 53B-33-303. Data visualization access.

(1) In addition to performing data research and responding to data research requests under Section [~~35A-14-302~~] 53B-33-302, the center shall create an online data visualization portal that provides access to the public to connected, aggregated, and de-identified data in the program.

(2) The data visualization portal described in Subsection (1) shall include role-based dashboards that:

(a) allow a user to query data in the program;

(b) integrate real-time data; and

(c) allow a user to view queried data in a customizable environment.

Section 16. Section 53B-33-304, which is renumbered from Section 35A-14-304 is renumbered and amended to read:

[~~35A-14-304~~]. 53B-33-304. Reporting.

(1) The center shall report to the Education Interim Committee:

(a) before July 1 of each year regarding the center's:

(i) research and services priorities for the year; [~~and~~]

(ii) completed research from the previous year; and

(iii) activities and accomplishments in the previous year; and

(b) before December 1 of each year, the center's ongoing data research and services priority list described in Subsection [~~35A-14-302(2)~~] 53B-33-302(2).

(2) The Education Interim Committee shall provide the center ongoing input regarding the center's activities and data research priorities.

Section 17. Section 53E-1-201 is amended to read:

53E-1-201. Reports to and action required of the Education Interim Committee.

(1) In accordance with applicable provisions and Section 68-3-14, the following recurring reports are due to the Education Interim Committee:

(a) the report described in Section 9-22-109 by the STEM Action Center Board, including the information described in Section 9-22-113 on the status of the computer science initiative and

Section 9-22-114 on the Computing Partnerships Grants Program;

(b) the prioritized list of data research described in Section [~~35A-14-302~~] 53B-33-302 and the report on research and activities described in Section [~~35A-14-304~~] 53B-33-304 by the Utah Data Research Center;

(c) the report described in Section 35A-15-303 by the State Board of Education on preschool programs;

(d) the report described in Section 53B-1-402 by the Utah Board of Higher Education on career and technical education issues and addressing workforce needs;

(e) the annual report of the Utah Board of Higher Education described in Section 53B-1-402;

(f) the reports described in Section 53B-28-401 by the Utah Board of Higher Education regarding activities related to campus safety;

(g) the State Superintendent's Annual Report by the state board described in Section 53E-1-203;

(h) the annual report described in Section 53E-2-202 by the state board on the strategic plan to improve student outcomes;

(i) the report described in Section 53E-8-204 by the state board on the Utah Schools for the Deaf and the Blind;

(j) the report described in Section 53E-10-703 by the Utah Leading through Effective, Actionable, and Dynamic Education director on research and other activities;

(k) the report described in Section 53F-4-203 by the state board and the independent evaluator on an evaluation of early interactive reading software;

(l) the report described in Section 53F-4-407 by the state board on UPSTART;

(m) the reports described in Sections 53F-5-214 and 53F-5-215 by the state board related to grants for professional learning and grants for an elementary teacher preparation assessment; and

(n) the report described in Section 53F-5-405 by the State Board of Education regarding an evaluation of a partnership that receives a grant to improve educational outcomes for students who are low income.

(2) In accordance with applicable provisions and Section 68-3-14, the following occasional reports are due to the Education Interim Committee:

(a) the report described in Section 35A-15-303 by the School Readiness Board by November 30, 2020, on benchmarks for certain preschool programs;

(b) the report described in Section 53B-28-402 by the Utah Board of Higher Education on or before the Education Interim Committee's November 2021 meeting;

(c) the reports described in Section 53E-3-520 by the state board regarding cost centers and implementing activity based costing;

(d) if required, the report described in Section 53E-4-309 by the state board explaining the reasons for changing the grade level specification for the administration of specific assessments;

(e) if required, the report described in Section 53E-5-210 by the state board of an adjustment to the minimum level that demonstrates proficiency for each statewide assessment;

(f) in 2022 and in 2023, on or before November 30, the report described in Subsection 53E-10-309(7) related to the PRIME pilot program;

(g) the report described in Section 53E-10-702 by Utah Leading through Effective, Actionable, and Dynamic Education;

(h) if required, the report described in Section 53F-2-513 by the state board evaluating the effects of salary bonuses on the recruitment and retention of effective teachers in high poverty schools;

(i) upon request, the report described in Section 53F-5-207 by the state board on the Intergenerational Poverty Intervention Grants Program;

(j) the report described in Section 53F-5-210 by the state board on the Educational Improvement Opportunities Outside of the Regular School Day Grant Program;

(k) the report described in Section 53G-7-503 by the state board regarding fees that LEAs charge during the 2020-2021 school year;

(l) the reports described in Section 53G-11-304 by the state board regarding proposed rules and results related to educator exit surveys;

(m) the report described in Section 62A-15-117 by the Division of Substance Abuse and Mental Health, the State Board of Education, and the Department of Health regarding recommendations related to Medicaid reimbursement for school-based health services; and

(n) the reports described in Section 63C-19-202 by the Higher Education Strategic Planning Commission.

Section 18. Section 53E-4-308 is amended to read:

53E-4-308. Unique student identifier -- Coordination of higher education and public education information technology systems -- Coordination of preschool and public education information technology systems.

(1) As used in this section, "unique student identifier" means an alphanumeric code assigned to each public education student for identification purposes, which:

(a) is not assigned to any former or current student; and

(b) does not incorporate personal information, including a birth date or Social Security number.

(2) The state board, through the state superintendent, shall assign each public education student a unique student identifier, which shall be used to track individual student performance on achievement tests administered under this part.

(3) The state board and the Utah Board of Higher Education, in collaboration with the Utah Data Research Center created in Section 53B-33-201, shall:

(a) coordinate public education and higher education information technology systems to allow individual student academic achievement to be tracked through both education systems in accordance with this section and Section 53B-1-109[~~.~~]; and

[~~(4)~~] (b) [~~The state board and the Utah Board of Higher Education shall~~] coordinate access to the unique student identifier of a public education student who later attends an institution within the state system of higher education.

[~~(5)~~] (4) (a) The state board and the Department of Workforce Services shall coordinate assignment of a unique student identifier to each student enrolled in a program described in Title 35A, Chapter 15, Preschool Programs.

(b) A unique student identifier assigned to a student under Subsection [~~(5)~~] (4)(a) shall remain the student's unique student identifier used by the state board when the student enrolls in a public school in kindergarten or a later grade.

(c) The state board, the Department of Workforce Services, and a contractor as defined in Section 53F-4-401, shall coordinate access to the unique student identifier of a preschool student who later attends an LEA.

Section 19. Section 53E-10-706 is amended to read:

53E-10-706. Electronic resources -- Research clearinghouse.

(1) The state board shall publish a ULEAD website containing information provided by the director as described in this part.

(2) The director shall within two years of appointment:

(a) develop and maintain a research clearinghouse publicly available through the website described in Subsection (1); and

(b) include in the research clearinghouse:

(i) research on K-12 education, including peer-reviewed research;

(ii) information on K-12 education innovation and best practices;

(iii) an index and explanation of academic, state, federal, or other K-12 education research repositories;

(iv) K-12 education research and policy briefs generated by Utah public and private institutions of higher education, including participating institutions, categorized and searchable by topic;

(v) access points to and explanation of currently available K-12 education data, including data managed by the Utah Data Research Center created in Section [~~35A-14-201~~] 53B-33-201 and data maintained by the state board;

(vi) other K-12 education information as determined by the director, including information regarding efforts by institutions or other individuals to promote innovative and effective education practices in Utah; and

(vii) each innovative practice report prepared by ULEAD, categorized and searchable by topic, location of the studied LEA, and socioeconomic and demographic profile.

(3) The director shall publish:

(a) an electronic directory of K-12 education experts identified in ULEAD research and reports; and

(b) a monthly report to LEAs, via electronic channels provided by the state board, highlighting ULEAD activities and soliciting proposals from education practitioners for ULEAD research and reports.

(4) The director may provide electronic seminars or forums for professional learning regarding subjects of ULEAD research and reports to K-12 practitioners.

Section 20. Section 53E-10-707 is amended to read:

53E-10-707. ULEAD Steering Committee.

(1) (a) There is created the ULEAD Steering Committee.

(b) The director is the chair of the steering committee.

(2) The steering committee shall consist of the following members each appointed for a term of one year:

(a) the director;

(b) one member appointed by the chair of the state board;

(c) the state superintendent or the state superintendent's designee;

(d) the staff director of the State Charter School Board or the director's designee;

(e) one member appointed by the office of the governor;

(f) one member, appointed by the director, who is a superintendent of a school district;

(g) one member, appointed by the director, of a local school board;

(h) two principals or other public school leaders of public schools that are not charter schools, appointed by the director;

(i) two principals or other public school leaders of charter schools, appointed by the director;

(j) two educators who hold a current license under Chapter 6, Education Professional Licensure, nominated by LEA leaders and appointed by the director; and

(k) two members representing citizens or business, nominated by the members of the public and appointed by the director.

(3) (a) A member of the steering committee may be appointed for more than one term.

(b) If a midterm vacancy occurs on the steering committee, the appointing individual, as described in Subsection (2), for the vacant position shall appoint an individual for the remainder of the term.

(4) (a) The steering committee shall hold a meeting at least semi annually in January and July or on dates otherwise chosen by the director.

(b) The state board shall provide space for the steering committee to meet.

(5) The steering committee shall:

(a) discuss prospective and current ULEAD projects and findings;

(b) consult with and make recommendations to the director to prioritize ULEAD reports and areas of focused research;

(c) facilitate connections between the director and Utah's political, business, education technology, and academic communities; and

(d) make recommendations to improve gathering, retaining, and disseminating education data and research and evaluation findings for use by participating institutions and other education policy researchers, including data managed by the Utah Data Research Center created in Section [~~35A-14-201~~] 53B-33-201.

(6) In order to determine research priorities for ULEAD, the director shall consult with:

(a) members of the Legislature responsible for public education;

(b) members of Utah professional education associations, including principals and LEA governing board members; and

(c) policy-research centers based in Utah.

(7) The state board or state superintendent may request that the director arrange with a participating institution to prepare a report on a specific LEA or area of practice meeting the criteria established in this part.

(8) A member of the steering committee may not receive compensation except a member who is a legislator shall receive compensation for travel and other expense reimbursements in accordance with Section 36-2-2.

(9) The steering committee shall hold a meeting described in this section in accordance with Title 52, Chapter 4, Open and Public Meetings Act.

Section 21. Repealer.

This bill repeals:

Section 35A-14-101, Title.

Section 35A-14-202, Utah Data Research Center -- Powers.

Section 22. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Utah Board of Higher Education -- Administration

From Education Fund	$770,000
From Education Fund, One-time	$275,000
Schedule of Programs:	
Administration	$1,045,000

The Legislature intends that Utah Board of Higher Education use the appropriation provided under this item to pay for up to seven full-time positions and up to two full-time temporary positions, including related costs, for the purposes of implementing the data research program established by the Utah Data Research Center in accordance with Section 53B-33-301 and restructuring the storage system for data maintained by the Utah Data Research Center.

Section 23. Effective date.

This bill takes effect on July 1, 2022, except that Section 53B-28-506 takes effect on January 1, 2024.

CHAPTER 462
S. B. 227

Passed March 3, 2022
Approved March 24, 2022
Effective December 31, 2023

CONSUMER PRIVACY ACT

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill enacts the Utah Consumer Privacy Act.

Highlighted Provisions:

This bill:

- defines terms;
- provides consumers the right to:
  - access and delete certain personal data maintained by certain businesses; and
  - opt out of the collection and use of personal data for certain purposes;
- requires certain businesses that control and process consumers' personal data to:
  - safeguard consumers' personal data;
  - provide clear information to consumers regarding how the consumers' personal data are used; and
  - accept and comply with a consumer's request to exercise the consumer's rights under this bill;
- creates a right for a consumer to know what personal data a business collects, how the business uses the personal data, and whether the business sells the personal data;
- upon request and subject to exceptions, requires a business to delete a consumer's personal data or stop selling the consumer's personal data;
- allows the Division of Consumer Protection to accept and investigate consumer complaints regarding the processing of personal data;
- authorizes the Office of the Attorney General to take enforcement action and impose penalties; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2021, Chapter 266

ENACTS:

13-61-101, Utah Code Annotated 1953
13-61-102, Utah Code Annotated 1953
13-61-103, Utah Code Annotated 1953
13-61-201, Utah Code Annotated 1953
13-61-202, Utah Code Annotated 1953
13-61-203, Utah Code Annotated 1953
13-61-301, Utah Code Annotated 1953
13-61-302, Utah Code Annotated 1953
13-61-303, Utah Code Annotated 1953
13-61-304, Utah Code Annotated 1953
13-61-305, Utah Code Annotated 1953
13-61-401, Utah Code Annotated 1953
13-61-402, Utah Code Annotated 1953
13-61-403, Utah Code Annotated 1953
13-61-404, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 13-2-1 is amended to read:

13-2-1. Consumer protection division established -- Functions.

(1) There is established within the Department of Commerce the Division of Consumer Protection.

(2) The division shall administer and enforce the following:

(a) Chapter 5, Unfair Practices Act;

(b) Chapter 10a, Music Licensing Practices Act;

(c) Chapter 11, Utah Consumer Sales Practices Act;

(d) Chapter 15, Business Opportunity Disclosure Act;

(e) Chapter 20, New Motor Vehicle Warranties Act;

(f) Chapter 21, Credit Services Organizations Act;

(g) Chapter 22, Charitable Solicitations Act;

(h) Chapter 23, Health Spa Services Protection Act;

(i) Chapter 25a, Telephone and Facsimile Solicitation Act;

(j) Chapter 26, Telephone Fraud Prevention Act;

(k) Chapter 28, Prize Notices Regulation Act;

(l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;

(m) Chapter 34, Utah Postsecondary Proprietary School Act;

(n) Chapter 34a, Utah Postsecondary School State Authorization Act;

(o) Chapter 41, Price Controls During Emergencies Act;

(p) Chapter 42, Uniform Debt-Management Services Act;

(q) Chapter 49, Immigration Consultants Registration Act;

(r) Chapter 51, Transportation Network Company Registration Act;

(s) Chapter 52, Residential Solar Energy Disclosure Act;

(t) Chapter 53, Residential, Vocational and Life Skills Program Act;

(u) Chapter 54, Ticket Website Sales Act;

(v) Chapter 56, Ticket Transferability Act; [~~and~~]

(w) Chapter 57, Maintenance Funding Practices Act[~~.~~]; and

(x) Chapter 61, Utah Consumer Privacy Act.

Section 2. Section 13-61-101 is enacted to read:

CHAPTER 61. UTAH CONSUMER PRIVACY ACT

Part 1. General Provisions

13-61-101. Definitions.

As used in this chapter:

(1) "Account" means the Consumer Privacy Restricted Account established in Section 13-61-403.

(2) "Affiliate" means an entity that:

(a) controls, is controlled by, or is under common control with another entity; or

(b) shares common branding with another entity.

(3) "Aggregated data" means information that relates to a group or category of consumers:

(a) from which individual consumer identities have been removed; and

(b) that is not linked or reasonably linkable to any consumer.

(4) "Air carrier" means the same as that term is defined in 49 U.S.C. Sec. 40102.

(5) "Authenticate" means to use reasonable means to determine that a consumer's request to exercise the rights described in Section 13-61-201 is made by the consumer who is entitled to exercise those rights.

(6) (a) "Biometric data" means data generated by automatic measurements of an individual's unique biological characteristics.

(b) "Biometric data" includes data described in Subsection (6)(a) that are generated by automatic measurements of an individual's fingerprint, voiceprint, eye retinas, irises, or any other unique biological pattern or characteristic that is used to identify a specific individual.

(c) "Biometric data" does not include:

(i) a physical or digital photograph;

(ii) a video or audio recording;

(iii) data generated from an item described in Subsection (6)(c)(i) or (ii);

(iv) information captured from a patient in a health care setting; or

(v) information collected, used, or stored for treatment, payment, or health care operations as those terms are defined in 45 C.F.R. Parts 160, 162, and 164.

(7) "Business associate" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(8) "Child" means an individual younger than 13 years old.

(9) "Consent" means an affirmative act by a consumer that unambiguously indicates the consumer's voluntary and informed agreement to allow a person to process personal data related to the consumer.

(10) (a) "Consumer" means an individual who is a resident of the state acting in an individual or household context.

(b) "Consumer" does not include an individual acting in an employment or commercial context.

(11) "Control" or "controlled" as used in Subsection (2) means:

(a) ownership of, or the power to vote, more than 50% of the outstanding shares of any class of voting securities of an entity;

(b) control in any manner over the election of a majority of the directors or of the individuals exercising similar functions; or

(c) the power to exercise controlling influence of the management of an entity.

(12) "Controller" means a person doing business in the state who determines the purposes for which and the means by which personal data are processed, regardless of whether the person makes the determination alone or with others.

(13) "Covered entity" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(14) "Deidentified data" means data that:

(a) cannot reasonably be linked to an identified individual or an identifiable individual; and

(b) are possessed by a controller who:

(i) takes reasonable measures to ensure that a person cannot associate the data with an individual;

(ii) publicly commits to maintain and use the data only in deidentified form and not attempt to reidentify the data; and

(iii) contractually obligates any recipients of the data to comply with the requirements described in Subsections (14)(b)(i) and (ii).

(15) "Director" means the director of the Division of Consumer Protection.

(16) "Division" means the Division of Consumer Protection created in Section 13-2-1.

(17) "Governmental entity" means the same as that term is defined in Section 63G-2-103.

(18) "Health care facility" means the same as that term is defined in Section 26-21-2.

(19) "Health care provider" means the same as that term is defined in Section 26-21-2.

(20) "Identifiable individual" means an individual who can be readily identified, directly or indirectly.

(21) "Institution of higher education" means a public or private institution of higher education.

(22) "Local political subdivision" means the same as that term is defined in Section 11-14-102.

(23) "Nonprofit corporation" means:

(a) the same as that term is defined in Section 16-6a-102; or

(b) a foreign nonprofit corporation as defined in Section 16-6a-102.

(24) (a) "Personal data" means information that is linked or reasonably linkable to an identified individual or an identifiable individual.

(b) "Personal data" does not include deidentified data, aggregated data, or publicly available information.

(25) "Process" means an operation or set of operations performed on personal data, including collection, use, storage, disclosure, analysis, deletion, or modification of personal data.

(26) "Processor" means a person who processes personal data on behalf of a controller.

(27) "Protected health information" means the same as that term is defined in 45 C.F.R. Sec. 160.103.

(28) "Pseudonymous data" means personal data that cannot be attributed to a specific individual without the use of additional information, if the additional information is:

(a) kept separate from the consumer's personal data; and

(b) subject to appropriate technical and organizational measures to ensure that the personal data are not attributable to an identified individual or an identifiable individual.

(29) "Publicly available information" means information that a person:

(a) lawfully obtains from a record of a governmental entity;

(b) reasonably believes a consumer or widely distributed media has lawfully made available to the general public; or

(c) if the consumer has not restricted the information to a specific audience, obtains from a person to whom the consumer disclosed the information.

(30) "Right" means a consumer right described in Section 13-61-201.

(31) (a) "Sale," "sell," or "sold" means the exchange of personal data for monetary consideration by a controller to a third party.

(b) "Sale," "sell," or "sold" does not include:

(i) a controller's disclosure of personal data to a processor who processes the personal data on behalf of the controller;

(ii) a controller's disclosure of personal data to an affiliate of the controller;

(iii) considering the context in which the consumer provided the personal data to the controller, a controller's disclosure of personal data to a third party if the purpose is consistent with a consumer's reasonable expectations;

(iv) the disclosure or transfer of personal data when a consumer directs a controller to:

(A) disclose the personal data; or

(B) interact with one or more third parties;

(v) a consumer's disclosure of personal data to a third party for the purpose of providing a product or service requested by the consumer or a parent or legal guardian of a child;

(vi) the disclosure of information that the consumer:

(A) intentionally makes available to the general public via a channel of mass media; and

(B) does not restrict to a specific audience; or

(vii) a controller's transfer of personal data to a third party as an asset that is part of a proposed or actual merger, an acquisition, or a bankruptcy in which the third party assumes control of all or part of the controller's assets.

(32) (a) "Sensitive data" means:

(i) personal data that reveals:

(A) an individual's racial or ethnic origin;

(B) an individual's religious beliefs;

(C) an individual's sexual orientation;

(D) an individual's citizenship or immigration status; or

(E) information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional;

(ii) the processing of genetic personal data or biometric data, if the processing is for the purpose of identifying a specific individual; or

(iii) specific geolocation data.

(b) "Sensitive data" does not include personal data that reveals an individual's:

(i) racial or ethnic origin, if the personal data are processed by a video communication service; or

(ii) if the personal data are processed by a person licensed to provide health care under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, or Title 58, Occupations and Professions, information regarding an individual's medical history, mental or physical health condition, or medical treatment or diagnosis by a health care professional.

(33) (a) "Specific geolocation data" means information derived from technology, including global position system level latitude and longitude coordinates, that directly identifies an individual's specific location, accurate within a radius of 1,750 feet or less.

(b) "Specific geolocation data" does not include:

(i) the content of a communication; or

(ii) any data generated by or connected to advanced utility metering infrastructure systems or equipment for use by a utility.

(34) (a) "Targeted advertising" means displaying an advertisement to a consumer where the advertisement is selected based on personal data obtained from the consumer's activities over time and across nonaffiliated websites or online applications to predict the consumer's preferences or interests.

(b) "Targeted advertising" does not include advertising:

(i) based on a consumer's activities within a controller's website or online application or any affiliated website or online application;

(ii) based on the context of a consumer's current search query or visit to a website or online application;

(iii) directed to a consumer in response to the consumer's request for information, product, a service, or feedback; or

(iv) processing personal data solely to measure or report advertising:

(A) performance;

(B) reach; or

(C) frequency.

(35) "Third party" means a person other than:

(a) the consumer, controller, or processor; or

(b) an affiliate or contractor of the controller or the processor.

(36) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(a) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from the information's disclosure or use; and

(b) is the subject of efforts that are reasonable under the circumstances to maintain the information's secrecy.

Section 3. Section 13-61-102 is enacted to read:

13-61-102. Applicability.

(1) This chapter applies to any controller or processor who:

(a) (i) conducts business in the state; or

(ii) produces a product or service that is targeted to consumers who are residents of the state;

(b) has annual revenue of $25,000,000 or more; and

(c) satisfies one or more of the following thresholds:

(i) during a calendar year, controls or processes personal data of 100,000 or more consumers; or

(ii) derives over 50% of the entity's gross revenue from the sale of personal data and controls or processes personal data of 25,000 or more consumers.

(2) This chapter does not apply to:

(a) a governmental entity or a third party under contract with a governmental entity when the third party is acting on behalf of the governmental entity;

(b) a tribe;

(c) an institution of higher education;

(d) a nonprofit corporation;

(e) a covered entity;

(f) a business associate;

(g) information that meets the definition of:

(i) protected health information for purposes of the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., and related regulations;

(ii) patient identifying information for purposes of 42 C.F.R. Part 2;

(iii) identifiable private information for purposes of the Federal Policy for the Protection of Human Subjects, 45 C.F.R. Part 46;

(iv) identifiable private information or personal data collected as part of human subjects research pursuant to or under the same standards as:

(A) the good clinical practice guidelines issued by the International Council for Harmonisation; or

(B) the Protection of Human Subjects under 21 C.F.R. Part 50 and Institutional Review Boards under 21 C.F.R. Part 56;

(v) personal data used or shared in research conducted in accordance with one or more of the requirements described in Subsection (2)(g)(iv);

(vi) information and documents created specifically for, and collected and maintained by, a committee listed in Section 26-1-7;

(vii) information and documents created for purposes of the federal Health Care Quality Improvement Act of 1986, 42 U.S.C. Sec. 11101 et seq., and related regulations;

(viii) patient safety work product for purposes of 42 C.F.R. Part 3; or

(ix) information that is:

(A) deidentified in accordance with the requirements for deidentification set forth in 45 C.F.R. Part 164; and

(B) derived from any of the health care-related information listed in this Subsection (2)(g);

(h) information originating from, and intermingled to be indistinguishable with, information under Subsection (2)(g) that is maintained by:

(i) a health care facility or health care provider; or

(ii) a program or a qualified service organization as defined in 42 C.F.R. Sec. 2.11;

(i) information used only for public health activities and purposes as described in 45 C.F.R. Sec. 164.512;

(j) (i) an activity by:

(A) a consumer reporting agency, as defined in 15 U.S.C. Sec. 1681a;

(B) a furnisher of information, as set forth in 15 U.S.C. Sec. 1681s-2, who provides information for use in a consumer report, as defined in 15 U.S.C. Sec. 1681a; or

(C) a user of a consumer report, as set forth in 15 U.S.C. Sec. 1681b;

(ii) subject to regulation under the federal Fair Credit Reporting Act, 15 U.S.C. Sec. 1681 et seq.; and

(iii) involving the collection, maintenance, disclosure, sale, communication, or use of any personal data bearing on a consumer's:

(A) credit worthiness;

(B) credit standing;

(C) credit capacity;

(D) character;

(E) general reputation;

(F) personal characteristics; or

(G) mode of living;

(k) a financial institution or an affiliate of a financial institution governed by, or personal data collected, processed, sold, or disclosed in accordance with, Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Sec. 6801 et seq., and related regulations;

(l) personal data collected, processed, sold, or disclosed in accordance with the federal Driver's Privacy Protection Act of 1994, 18 U.S.C. Sec. 2721 et seq.;

(m) personal data regulated by the federal Family Education Rights and Privacy Act, 20 U.S.C. Sec. 1232g, and related regulations;

(n) personal data collected, processed, sold, or disclosed in accordance with the federal Farm Credit Act of 1971, 12 U.S.C. Sec. 2001 et seq.;

(o) data that are processed or maintained:

(i) in the course of an individual applying to, being employed by, or acting as an agent or independent contractor of a controller, processor, or third party, to the extent the collection and use of the data are related to the individual's role;

(ii) as the emergency contact information of an individual described in Subsection (2)(o)(i) and used for emergency contact purposes; or

(iii) to administer benefits for another individual relating to an individual described in Subsection (2)(o)(i) and used for the purpose of administering the benefits;

(p) an individual's processing of personal data for purely personal or household purposes; or

(q) an air carrier.

(3) A controller is in compliance with any obligation to obtain parental consent under this chapter if the controller complies with the verifiable parental consent mechanisms under the Children's Online Privacy Protection Act, 15 U.S.C. Sec. 6501 et seq., and the act's implementing regulations and exemptions.

(4) This chapter does not require a person to take any action in conflict with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. Sec. 1320d et seq., or related regulations.

Section 4. Section 13-61-103 is enacted to read:

13-61-103. Preemption -- Reference to other laws.

(1) This chapter supersedes and preempts any ordinance, resolution, rule, or other regulation adopted by a local political subdivision regarding the processing of personal data by a controller or processor.

(2) Any reference to federal law in this chapter includes any rules or regulations promulgated under the federal law.

Section 5. Section 13-61-201 is enacted to read:

Part 2. Rights Relating to Personal Data

13-61-201. Consumer rights -- Access -- Deletion -- Portability -- Opt out of certain processing.

(1) A consumer has the right to:

(a) confirm whether a controller is processing the consumer's personal data; and

(b) access the consumer's personal data.

(2) A consumer has the right to delete the consumer's personal data that the consumer provided to the controller.

(3) A consumer has the right to obtain a copy of the consumer's personal data, that the consumer previously provided to the controller, in a format that:

(a) to the extent technically feasible, is portable;

(b) to the extent practicable, is readily usable; and

(c) allows the consumer to transmit the data to another controller without impediment, where the processing is carried out by automated means.

(4) A consumer has the right to opt out of the processing of the consumer's personal data for purposes of:

(a) targeted advertising; or

(b) the sale of personal data.

(5) Nothing in this section requires a person to cause a breach of security system as defined in Section 13-44-102.

Section 6. Section 13-61-202 is enacted to read:

13-61-202. Exercising consumer rights.

(1) A consumer may exercise a right by submitting a request to a controller, by means prescribed by the controller, specifying the right the consumer intends to exercise.

(2) In the case of processing personal data concerning a known child, the parent or legal guardian of the known child shall exercise a right on the child's behalf.

(3) In the case of processing personal data concerning a consumer subject to guardianship, conservatorship, or other protective arrangement under Title 75, Chapter 5, Protection of Persons Under Disability and Their Property, the guardian or the conservator of the consumer shall exercise a right on the consumer's behalf.

Section 7. Section 13-61-203 is enacted to read:

13-61-203. Controller's response to requests.

(1) Subject to the other provisions of this chapter, a controller shall comply with a consumer's request under Section 13-61-202 to exercise a right.

(2) (a) Within 45 days after the day on which a controller receives a request to exercise a right, the controller shall:

(i) take action on the consumer's request; and

(ii) inform the consumer of any action taken on the consumer's request.

(b) The controller may extend once the initial 45-day period by an additional 45 days if reasonably necessary due to the complexity of the request or the volume of the requests received by the controller.

(c) If a controller extends the initial 45-day period, before the initial 45-day period expires, the controller shall:

(i) inform the consumer of the extension, including the length of the extension; and

(ii) provide the reasons the extension is reasonably necessary as described in Subsection (2)(b).

(d) The 45-day period does not apply if the controller reasonably suspects the consumer's request is fraudulent and the controller is not able to authenticate the request before the 45-day period expires.

(3) If, in accordance with this section, a controller chooses not to take action on a consumer's request, the controller shall within 45 days after the day on which the controller receives the request, inform the consumer of the reasons for not taking action.

(4) (a) A controller may not charge a fee for information in response to a request, unless the request is the consumer's second or subsequent request during the same 12-month period.

(b) (i) Notwithstanding Subsection (4)(a), a controller may charge a reasonable fee to cover the administrative costs of complying with a request or refuse to act on a request, if:

(A) the request is excessive, repetitive, technically infeasible, or manifestly unfounded;

(B) the controller reasonably believes the primary purpose in submitting the request was something other than exercising a right; or

(C) the request, individually or as part of an organized effort, harasses, disrupts, or imposes undue burden on the resources of the controller's business.

(ii) A controller that charges a fee or refuses to act in accordance with this Subsection (4)(b) bears the burden of demonstrating the request satisfied one or more of the criteria described in Subsection (4)(b)(i).

(5) If a controller is unable to authenticate a consumer request to exercise a right described in Section 13-61-201 using commercially reasonable efforts, the controller:

(a) is not required to comply with the request; and

(b) may request that the consumer provide additional information reasonably necessary to authenticate the request.

Section 8. Section 13-61-301 is enacted to read:

Part 3. Requirements for Controllers and Processors

13-61-301. Responsibility according to role.

(1) A processor shall:

(a) adhere to the controller's instructions; and

(b) taking into account the nature of the processing and information available to the processor, by appropriate technical and organizational measures, insofar as reasonably practicable, assist the controller in meeting the controller's obligations, including obligations related to the security of processing personal data and notification of a breach of security system described in Section 13-44-202.

(2) Before a processor performs processing on behalf of a controller, the processor and controller shall enter into a contract that:

(a) clearly sets forth instructions for processing personal data, the nature and purpose of the processing, the type of data subject to processing, the duration of the processing, and the parties' rights and obligations;

(b) requires the processor to ensure each person processing personal data is subject to a duty of confidentiality with respect to the personal data; and

(c) requires the processor to engage any subcontractor pursuant to a written contract that requires the subcontractor to meet the same obligations as the processor with respect to the personal data.

(3) (a) Determining whether a person is acting as a controller or processor with respect to a specific processing of data is a fact-based determination that depends upon the context in which personal data are to be processed.

(b) A processor that adheres to a controller's instructions with respect to a specific processing of personal data remains a processor.

Section 9. Section 13-61-302 is enacted to read:

13-61-302. Responsibilities of controllers -- Transparency -- Purpose specification and data minimization -- Consent for secondary use -- Security -- Nondiscrimination -- Nonretaliation -- Nonwaiver of consumer rights.

(1) (a) A controller shall provide consumers with a reasonably accessible and clear privacy notice that includes:

(i) the categories of personal data processed by the controller;

(ii) the purposes for which the categories of personal data are processed;

(iii) how consumers may exercise a right;

(iv) the categories of personal data that the controller shares with third parties, if any; and

(v) the categories of third parties, if any, with whom the controller shares personal data.

(b) If a controller sells a consumer's personal data to one or more third parties or engages in targeted advertising, the controller shall clearly and conspicuously disclose to the consumer the manner in which the consumer may exercise the right to opt out of the:

(i) sale of the consumer's personal data; or

(ii) processing for targeted advertising.

(2) (a) A controller shall establish, implement, and maintain reasonable administrative, technical, and physical data security practices designed to:

(i) protect the confidentiality and integrity of personal data; and

(ii) reduce reasonably foreseeable risks of harm to consumers relating to the processing of personal data.

(b) Considering the controller's business size, scope, and type, a controller shall use data security practices that are appropriate for the volume and nature of the personal data at issue.

(3) Except as otherwise provided in this chapter, a controller may not process sensitive data collected from a consumer without:

(a) first presenting the consumer with clear notice and an opportunity to opt out of the processing; or

(b) in the case of the processing of personal data concerning a known child, processing the data in accordance with the federal Children's Online Privacy Protection Act, 15 U.S.C. Sec. 6501 et seq., and the act's implementing regulations and exemptions.

(4) (a) A controller may not discriminate against a consumer for exercising a right by:

(i) denying a good or service to the consumer;

(ii) charging the consumer a different price or rate for a good or service; or

(iii) providing the consumer a different level of quality of a good or service.

(b) This Subsection (4) does not prohibit a controller from offering a different price, rate, level, quality, or selection of a good or service to a consumer, including offering a good or service for no fee or at a discount, if:

(i) the consumer has opted out of targeted advertising; or

(ii) the offer is related to the consumer's voluntary participation in a bona fide loyalty, rewards, premium features, discounts, or club card program.

(5) A controller is not required to provide a product, service, or functionality to a consumer if:

(a) the consumer's personal data are or the processing of the consumer's personal data is reasonably necessary for the controller to provide the consumer the product, service, or functionality; and

(b) the consumer does not:

(i) provide the consumer's personal data to the controller; or

(ii) allow the controller to process the consumer's personal data.

(6) Any provision of a contract that purports to waive or limit a consumer's right under this chapter is void.

Section 10. Section 13-61-303 is enacted to read:

13-61-303. Processing deidentified data or pseudonymous data.

(1) The provisions of this chapter do not require a controller or processor to:

(a) reidentify deidentified data or pseudonymous data;

(b) maintain data in identifiable form or obtain, retain, or access any data or technology for the purpose of allowing the controller or processor to associate a consumer request with personal data; or

(c) comply with an authenticated consumer request to exercise a right described in Subsections 13-61-202(1) through (3), if:

(i) (A) the controller is not reasonably capable of associating the request with the personal data; or

(B) it would be unreasonably burdensome for the controller to associate the request with the personal data;

(ii) the controller does not:

(A) use the personal data to recognize or respond to the consumer who is the subject of the personal data; or

(B) associate the personal data with other personal data about the consumer; and

(iii) the controller does not sell or otherwise disclose the personal data to any third party other than a processor, except as otherwise permitted in this section.

(2) The rights described in Subsections 13-61-201(1) through (3) do not apply to pseudonymous data if a controller demonstrates that any information necessary to identify a consumer is kept:

(a) separately; and

(b) subject to appropriate technical and organizational measures to ensure the personal data are not attributed to an identified individual or an identifiable individual.

(3) A controller who uses pseudonymous data or deidentified data shall take reasonable steps to ensure the controller:

(a) complies with any contractual obligations to which the pseudonymous data or deidentified data are subject; and

(b) promptly addresses any breach of a contractual obligation described in Subsection (3)(a).

Section 11. Section 13-61-304 is enacted to read:

13-61-304. Limitations.

(1) The requirements described in this chapter do not restrict a controller's or processor's ability to:

(a) comply with a federal, state, or local law, rule, or regulation;

(b) comply with a civil, criminal, or regulatory inquiry, investigation, subpoena, or summons by a federal, state, local, or other governmental entity;

(c) cooperate with a law enforcement agency concerning activity that the controller or processor reasonably and in good faith believes may violate federal, state, or local laws, rules, or regulations;

(d) investigate, establish, exercise, prepare for, or defend a legal claim;

(e) provide a product or service requested by a consumer or a parent or legal guardian of a child;

(f) perform a contract to which the consumer or the parent or legal guardian of a child is a party, including fulfilling the terms of a written warranty or taking steps at the request of the consumer or parent or legal guardian before entering into the contract with the consumer;

(g) take immediate steps to protect an interest that is essential for the life or physical safety of the consumer or of another individual;

(h) (i) detect, prevent, protect against, or respond to a security incident, identity theft, fraud, harassment, malicious or deceptive activity, or any illegal activity; or

(ii) investigate, report, or prosecute a person responsible for an action described in Subsection (1)(h)(i);

(i) (i) preserve the integrity or security of systems; or

(ii) investigate, report, or prosecute a person responsible for harming or threatening the integrity or security of systems, as applicable;

(j) if the controller discloses the processing in a notice described in Section 13-61-302, engage in public or peer-reviewed scientific, historical, or statistical research in the public interest that adheres to all other applicable ethics and privacy laws;

(k) assist another person with an obligation described in this subsection;

(l) process personal data to:

(i) conduct internal analytics or other research to develop, improve, or repair a controller's or processor's product, service, or technology;

(ii) identify and repair technical errors that impair existing or intended functionality; or

(iii) effectuate a product recall;

(m) process personal data to perform an internal operation that is:

(i) reasonably aligned with the consumer's expectations based on the consumer's existing relationship with the controller; or

(ii) otherwise compatible with processing to aid the controller or processor in providing a product or service specifically requested by a consumer or a parent or legal guardian of a child or the performance of a contract to which the consumer or a parent or legal guardian of a child is a party; or

(n) retain a consumer's email address to comply with the consumer's request to exercise a right.

(2) This chapter does not apply if a controller's or processor's compliance with this chapter:

(a) violates an evidentiary privilege under Utah law;

(b) as part of a privileged communication, prevents a controller or processor from providing personal data concerning a consumer to a person covered by an evidentiary privilege under Utah law; or

(c) adversely affects the privacy or other rights of any person.

(3) A controller or processor is not in violation of this chapter if:

(a) the controller or processor discloses personal data to a third party controller or processor in compliance with this chapter;

(b) the third party processes the personal data in violation of this chapter; and

(c) the disclosing controller or processor did not have actual knowledge of the third party's intent to commit a violation of this chapter.

(4) If a controller processes personal data under an exemption described in Subsection (1), the controller bears the burden of demonstrating that the processing qualifies for the exemption.

(5) Nothing in this chapter requires a controller, processor, third party, or consumer to disclose a trade secret.

Section 12. Section 13-61-305 is enacted to read:

13-61-305. No private cause of action.

A violation of this chapter does not provide a basis for, nor is a violation of this chapter subject to, a private right of action under this chapter or any other law.

Section 13. Section 13-61-401 is enacted to read:

Part 4. Enforcement

13-61-401. Investigative powers of division.

(1) The division shall establish and administer a system to receive consumer complaints regarding a controller's or processor's alleged violation of this chapter.

(2) (a) The division may investigate a consumer complaint to determine whether the controller or processor violated or is violating this chapter.

(b) If the director has reasonable cause to believe that substantial evidence exists that a person identified in a consumer complaint is in violation of this chapter, the director shall refer the matter to the attorney general.

(c) Upon request, the division shall provide consultation and assistance to the attorney general in enforcing this chapter.

Section 14. Section 13-61-402 is enacted to read:

13-61-402. Enforcement powers of the attorney general.

(1) The attorney general has the exclusive authority to enforce this chapter.

(2) Upon referral from the division, the attorney general may initiate an enforcement action against a controller or processor for a violation of this chapter.

(3) (a) At least 30 days before the day on which the attorney general initiates an enforcement action against a controller or processor, the attorney general shall provide the controller or processor:

(i) written notice identifying each provision of this chapter the attorney general alleges the controller or processor has violated or is violating; and

(ii) an explanation of the basis for each allegation.

(b) The attorney general may not initiate an action if the controller or processor:

(i) cures the noticed violation within 30 days after the day on which the controller or processor receives the written notice described in Subsection (3)(a); and

(ii) provides the attorney general an express written statement that:

(A) the violation has been cured; and

(B) no further violation of the cured violation will occur.

(c) The attorney general may initiate an action against a controller or processor who:

(i) fails to cure a violation after receiving the notice described in Subsection (3)(a); or

(ii) after curing a noticed violation and providing a written statement in accordance with Subsection (3)(b), continues to violate this chapter.

(d) In an action described in Subsection (3)(c), the attorney general may recover:

(i) actual damages to the consumer; and

(ii) for each violation described in Subsection (3)(c), an amount not to exceed $7,500.

(4) All money received from an action under this chapter shall be deposited into the Consumer Privacy Account established in Section 13-61-403.

(5) If more than one controller or processor are involved in the same processing in violation of this chapter, the liability for the violation shall be allocated among the controllers or processors according to the principles of comparative fault.

Section 15. Section 13-61-403 is enacted to read:

13-61-403. Consumer Privacy Restricted Account.

(1) There is created a restricted account known as the "Consumer Privacy Account."

(2) The account shall be funded by money received through civil enforcement actions under this chapter.

(3) Upon appropriation, the division or the attorney general may use money deposited into the account for:

(a) investigation and administrative costs incurred by the division in investigating consumer complaints alleging violations of this chapter;

(b) recovery of costs and attorney fees accrued by the attorney general in enforcing this chapter; and

(c) providing consumer and business education regarding:

(i) consumer rights under this chapter; and

(ii) compliance with the provisions of this chapter for controllers and processors.

(4) If the balance in the account exceeds $4,000,000 at the close of any fiscal year, the Division of Finance shall transfer the amount that exceeds $4,000,000 into the General Fund.

Section 16. Section 13-61-404 is enacted to read:

13-61-404. Attorney general report.

(1) The attorney general and the division shall compile a report:

(a) evaluating the liability and enforcement provisions of this chapter, including the effectiveness of the attorney general's and the division's efforts to enforce this chapter; and

(b) summarizing the data protected and not protected by this chapter including, with reasonable detail, a list of the types of information that are publicly available from local, state, and federal government sources.

(2) The attorney general and the division may update the report as new information becomes available.

(3) The attorney general and the division shall submit the report to the Business and Labor Interim Committee before July 1, 2025.

Section 17. Effective date.

This bill takes effect on December 31, 2023.

CHAPTER 463
S. B. 232

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

MILITARY INSTALLATION DEVELOPMENT AUTHORITY REVISIONS

Chief Sponsor: Jerry W. Stevenson
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions governing the Military Installation Development Authority and related funds.

Highlighted Provisions:

This bill:

- exempts the Military Installation Development Authority (authority) from physically posting notice;
- modifies provisions governing money repaid to the military development infrastructure revolving loan fund;
- directs the Division of Finance to deposit an amount equal to interest payments on certain highway bonds into the Transportation Investment Fund of 2005;
- redirects certain highway bond proceeds to the military development infrastructure revolving loan fund;
- authorizes an authority subsidiary to:
  - create tax areas;
  - apply different property tax rates to each tax area; and
  - secure a bond from property taxes from one or more tax areas;
- exempts the authority from Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, in certain circumstances;
- provides that an official act by an officer who has failed to take the oath of office may not be invalidated due to failure to take the oath;
- prohibits a person who gives consent for the person's land to be included in a project area from revoking that consent;
- authorizes the authority to enforce a delinquent annual payment in the same manner as a delinquent property tax;
- amends provisions governing notice of the authority's public hearing on an annual budget;
- directs the Department of Transportation to transfer a loan made from the State Infrastructure Bank Fund to the military development infrastructure revolving loan fund; and
- makes conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-2-1317, as last amended by Laws of Utah 2021, Chapter 314
63A-3-403, as enacted by Laws of Utah 2021, Chapter 415
63A-3-404, as enacted by Laws of Utah 2021, Chapter 415
63B-27-101, as last amended by Laws of Utah 2020, Chapter 366
63H-1-104, as enacted by Laws of Utah 2021, Chapter 415
63H-1-202, as last amended by Laws of Utah 2021, Chapter 414
63H-1-401, as last amended by Laws of Utah 2012, Chapter 80
63H-1-501, as last amended by Laws of Utah 2020, Chapter 282
63H-1-502, as last amended by Laws of Utah 2021, Chapter 414
63H-1-701, as last amended by Laws of Utah 2021, Chapters 84 and 345
72-2-202, as last amended by Laws of Utah 2021, Chapter 121

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-2-1317 is amended to read:

59-2-1317. Tax notice -- Contents of notice -- Procedures and requirements for providing notice.

(1) As used in this section, "political subdivision lien" means the same as that term is defined in Section 11-60-102.

(2) Subject to the other provisions of this section, the county treasurer shall:

(a) collect the taxes and tax notice charges; and

(b) provide a notice to each taxpayer that contains the following:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) a separate statement of the taxes levied only on a certain kind or class of property for a special purpose;

(vi) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vii) any tax notice charges applicable to the property, including:

(A) if applicable, a political subdivision lien for road damage that a railroad company causes, as described in Section 10-7-30;

(B) if applicable, a political subdivision lien for municipal water distribution, as described in

Section 10-8-17, or a political subdivision lien for an increase in supply from a municipal water distribution, as described in Section 10-8-19;

(C) if applicable, a political subdivision lien for unpaid abatement fees as described in Section 10-11-4;

(D) if applicable, a political subdivision lien for the unpaid portion of an assessment assessed in accordance with Title 11, Chapter 42, Assessment Area Act, or Title 11, Chapter 42a, Commercial Property Assessed Clean Energy Act, including unpaid costs, charges, and interest as of the date the local entity certifies the unpaid amount to the county treasurer;

(E) if applicable, for a local district in accordance with Section 17B-1-902, a political subdivision lien for an unpaid fee, administrative cost, or interest;

(F) if applicable, a political subdivision lien for an unpaid irrigation district use charge as described in Section 17B-2a-506;

(G) if applicable, a political subdivision lien for a contract assessment under a water contract, as described in Section 17B-2a-1007; [~~and~~]

(H) if applicable, a property tax penalty that a public infrastructure district imposes, as described in Section 17D-4-304; and

(I) if applicable, an annual payment to the Military Installation Development Authority or an entity designated by the authority in accordance with Section 63H-1-501;

(viii) if a county's tax notice includes an assessment area charge, a statement that, due to potentially ongoing assessment area charges, costs, penalties, and interest, payment of a tax notice charge may not:

(A) pay off the full amount the property owner owes to the tax notice entity; or

(B) cause a release of the lien underlying the tax notice charge;

(ix) the date the taxes and tax notice charges are due;

(x) the street address at which the taxes and tax notice charges may be paid;

(xi) the date on which the taxes and tax notice charges are delinquent;

(xii) the penalty imposed on delinquent taxes and tax notice charges;

(xiii) a statement that explains the taxpayer's right to direct allocation of a partial payment in accordance with Subsection (9);

(xiv) other information specifically authorized to be included on the notice under this chapter; and

(xv) other property tax information approved by the commission.

(3) (a) Unless expressly allowed under this section or another statutory provision, the treasurer may not add an amount to be collected to the property tax notice.

(b) If the county treasurer adds an amount to be collected to the property tax notice under this section or another statutory provision that expressly authorizes the item's inclusion on the property tax notice:

(i) the amount constitutes a tax notice charge; and

(ii) (A) the tax notice charge has the same priority as property tax; and

(B) a delinquency of the tax notice charge triggers a tax sale, in accordance with Section 59-2-1343.

(4) For any property for which property taxes or tax notice charges are delinquent, the notice described in Subsection (2) shall state, "Prior taxes or tax notice charges are delinquent on this parcel."

(5) Except as provided in Subsection (6), the county treasurer shall:

(a) mail the notice required by this section, postage prepaid; or

(b) leave the notice required by this section at the taxpayer's residence or usual place of business, if known.

(6) (a) Subject to the other provisions of this Subsection (6), a county treasurer may, at the county treasurer's discretion, provide the notice required by this section by electronic mail if a taxpayer makes an election, according to procedures determined by the county treasurer, to receive the notice by electronic mail.

(b) A taxpayer may revoke an election to receive the notice required by this section by electronic mail if the taxpayer provides written notice to the treasurer on or before October 1.

(c) A revocation of an election under this section does not relieve a taxpayer of the duty to pay a tax or tax notice charge due under this chapter on or before the due date for paying the tax or tax notice charge.

(d) A county treasurer shall provide the notice required by this section using a method described in Subsection (5), until a taxpayer makes a new election in accordance with this Subsection (6), if:

(i) the taxpayer revokes an election in accordance with Subsection (6)(b) to receive the notice required by this section by electronic mail; or

(ii) the county treasurer finds that the taxpayer's electronic mail address is invalid.

(e) A person is considered to be a taxpayer for purposes of this Subsection (6) regardless of whether the property that is the subject of the notice required by this section is exempt from taxation.

(7) (a) The county treasurer shall provide the notice required by this section to a taxpayer on or before November 1.

(b) The county treasurer shall keep on file in the county treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail a tax receipt acknowledging payment.

(8) This section does not apply to property taxed under Section 59-2-1302 or 59-2-1307.

(9) (a) A taxpayer who pays less than the full amount due on the taxpayer's property tax notice may, on a form provided by the county treasurer, direct how the county treasurer allocates the partial payment between:

(i) the total amount due for property tax;

(ii) the amount due for assessments, past due local district fees, and other tax notice charges; and

(iii) any other amounts due on the property tax notice.

(b) The county treasurer shall comply with a direction submitted to the county treasurer in accordance with Subsection (9)(a).

(c) The provisions of this Subsection (9) do not:

(i) affect the right or ability of a local entity to pursue any available remedy for non-payment of any item listed on a taxpayer's property tax notice; or

(ii) toll or otherwise change any time period related to a remedy described in Subsection (9)(c)(i).

Section 2. Section 63A-3-403 is amended to read:

63A-3-403. Money in infrastructure funds.

(1) Money in each of the infrastructure funds shall be kept separate and accounted for separately from money in the other infrastructure funds.

(2) Each infrastructure fund includes money:

(a) appropriated to that fund by the Legislature;

(b) transferred to the fund from the State Infrastructure Bank Fund created in Section 72-2-202, if applicable;

(c) from federal, state, or other public grants or contributions;

(d) that an independent political subdivision transfers to the fund from other money available to the independent political subdivision;

(e) contributed or granted to the infrastructure fund from a private source; and

(f) collected from repayments of loans of infrastructure fund money.

(3) In addition to money identified in Subsection (2), the military development fund includes money repaid [~~after May 5, 2021~~] under the terms of a loan agreement, as described in Section 63A-3-404, executed on or after October 1, 2021, from a loan under Subsection 63B-27-101(3)(a)(i).

(4) (a) Each infrastructure fund shall earn interest.

(b) All interest earned on infrastructure fund money shall be deposited into the respective infrastructure fund and included in the money of the infrastructure fund available to be loaned.

(5) The state treasurer shall invest infrastructure fund money as provided in Title 51, Chapter 7, State Money Management Act.

Section 3. Section 63A-3-404 is amended to read:

63A-3-404. Loan agreement.

(1) (a) A borrower that borrows money from an infrastructure fund shall enter into a loan agreement with the division for repayment of the money.

(b) (i) A loan agreement under Subsection (1)(a) shall be secured by:

(A) bonds, notes, or another evidence of indebtedness validly issued under state law; or

(B) revenue generated from an infrastructure project.

(ii) The security provided under Subsection (1)(b)(i) may include the borrower's pledge of some or all of a revenue source that the borrower controls.

(c) The respective loan approval committee may determine that property tax revenue or revenue from the infrastructure project for which the infrastructure loan is obtained is sufficient security for an infrastructure loan.

(2) An infrastructure loan shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.

(3) (a) Subject to Subsection (3)(b), the respective loan approval committee shall determine the length of term of an infrastructure loan.

(b) If the security for an infrastructure loan is property tax revenue, the repayment terms of the infrastructure loan agreement shall allow sufficient time for the property tax revenue to generate sufficient money to cover payments under the infrastructure loan.

(4) An infrastructure loan agreement may provide for a portion of the loan proceeds to be applied to a reserve fund to secure repayment of the infrastructure loan.

(5) (a) If a borrower fails to comply with the terms of an infrastructure loan agreement, the division may:

(i) seek any legal or equitable remedy to obtain:

(A) compliance with the agreement; or

(B) the payment of damages; and

(ii) request a state agency with money due to the borrower to withhold payment of the money to the borrower and instead to pay the money to the division to pay any amount due under the infrastructure loan agreement.

(b) A state agency that receives a request from the division under Subsection (5)(a)(ii) shall pay to the division the money due to the borrower to the extent of the amount due under the infrastructure loan agreement.

(6) Upon approval from the respective loan approval committee, the division shall loan money from an infrastructure fund according to the terms established by the respective loan approval committee.

(7) (a) The division shall administer and enforce an infrastructure loan according to the terms of the infrastructure loan agreement.

(b) (i) Beginning May 5, 2021, the division shall assume responsibility from the State Infrastructure Bank Fund for servicing the loan under Subsection 63B-27-101(3)(a)(i).

(ii) Payments due [~~after May 5, 2021~~] on or after October 1, 2021, under the loan under Subsection 63B-27-101(3)(a)(i) shall be made to the division rather than to the State Infrastructure Bank Fund, to be deposited into the military development fund.

(iii) Notwithstanding Subsection (7)(b)(ii) and upon receipt of each debt service payment, the division shall deposit an amount equal to interest payments due on the bond described in Subsection 63B-27-101(3)(a)(i) into the Transportation Investment Fund of 2005 created in Section 72-2-124.

Section 4. Section 63B-27-101 is amended to read:

63B-27-101. Highway bonds -- Maximum amount -- Use of proceeds for highway projects.

(1) (a) Subject to the restriction in Subsection (1)(c), the total amount of bonds issued under this section may not exceed $1,000,000,000 for acquisition and construction proceeds, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, with the total amount of the bonds not to exceed $1,010,000,000.

(b) When the Department of Transportation certifies to the commission that the requirements of Subsection 72-2-124(7) have been met and certifies the amount of bond proceeds that the commission needs to provide funding for the projects described in Subsection (2) for the current or next fiscal year, the commission may issue and sell general obligation bonds in an amount equal to the certified amount, plus additional amounts necessary to pay costs of issuance, to pay capitalized interest, and to fund any existing debt service reserve requirements, not to exceed 1% of the certified amount.

(c) The commission may not issue general obligation bonds authorized under this section if the issuance of the general obligation bonds would result in the total current outstanding general obligation debt of the state exceeding 50% of the limitation described in the Utah Constitution, Article XIV, Section 1.

(2) Except as provided in Subsections (3) and (4), proceeds from the issuance of bonds shall be provided to the Department of Transportation to pay all or part of the costs of the following state highway construction or reconstruction projects:

(a) state and federal highways prioritized by the Transportation Commission through the prioritization process for new transportation capacity projects adopted under Section 72-1-304, giving priority consideration for projects with a regional significance or that support economic development within the state, including:

(i) projects that are prioritized but exceed available cash flow beyond the normal programming horizon; or

(ii) projects prioritized in the state highway construction program; and

(b) $100,000,000 to be used by the Department of Transportation for transportation improvements as prioritized by the Transportation Commission for projects that:

(i) have a significant economic development impact associated with recreation and tourism within the state; and

(ii) address significant needs for congestion mitigation.

(3) (a) Forty-six million dollars of the bond proceeds issued under this section shall be provided to the State Infrastructure Bank Fund created by Section 72-2-202 to make funds available for a transportation infrastructure loan or transportation infrastructure assistance under Title 72, Chapter 2, Part 2, State Infrastructure Bank Fund, including the amounts as follows:

[~~(a)~~] (i) subject to Subsection (3)(b), $14,000,000 to the military installation development authority created in Section 63H-1-201;

[~~(b)~~] (ii) $5,000,000 to the Inland Port Authority created in Section 11-58-201, for highway, infrastructure, and rail right-of-way acquisition, design, engineering, and construction, to be repaid through tax differential; and

[~~(c)~~] (iii) $7,000,000 to Midvale City for a parking structure in proximity to an intermodal transportation facility that enhances economic development within the city.

(b) When the loan described in Subsection (3)(a)(i) is transferred in accordance with Section 72-2-202, the bond proceeds for the loan shall be provided to the military development infrastructure revolving loan fund created in Section 63A-3-402.

(4) (a) Four million dollars of the bond proceeds issued under this section shall be used for a public transit fixed guideway rail station associated with or adjacent to an institution of higher education.

(b) Nineteen million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for the design, engineering, construction, or reconstruction of underpasses under a state highway connecting a state park and a project area created by a military installation development authority created in Section 63H-1-201.

(c) Nine million dollars of the bond proceeds issued under this section shall be used by the Department of Transportation for infrastructure improvements related to the Provo Airport.

(d) If project savings are identified by the Department of Transportation from the funds provided to the Department of Transportation as described in this section, the Department of Transportation may use available funding to study, design, engineer, and construct rail access through I-80 in western Salt Lake County.

(5) The bond proceeds issued under this section shall be provided to the Department of Transportation.

(6) The costs under Subsection (2) may include the costs of studies necessary to make transportation infrastructure improvements, the costs of acquiring land, interests in land, and easements and rights-of-way, the costs of improving sites, and making all improvements necessary, incidental, or convenient to the facilities, and the costs of interest estimated to accrue on these bonds during the period to be covered by construction of the projects plus a period of six months after the end of the construction period, interest estimated to accrue on any bond anticipation notes issued under the authority of this title, and all related engineering, architectural, and legal fees.

(7) The commission or the state treasurer may make any statement of intent relating to a reimbursement that is necessary or desirable to comply with federal tax law.

(8) The Department of Transportation may enter into agreements related to the projects described in Subsection (2) before the receipt of proceeds of bonds issued under this section.

Section 5. Section 63H-1-104 is amended to read:

63H-1-104. Loan approval committee -- Approval of infrastructure loans.

(1) As used in this section:

(a) "Borrower" means the same as that term is defined in Section 63A-3-401.5.

(b) "Infrastructure loan" means the same as that term is defined in Section 63A-3-401.5.

(c) "Infrastructure project" means the same as that term is defined in Section 63A-3-401.5.

(d) "Military development fund" means the same as that term is defined in Section 63A-3-401.5.

(e) "Loan approval committee" means a committee consisting of:

(i) the board member who is appointed by the governor under Subsection 63H-1-302(2)(a);

(ii) the board member who is appointed by the governor under Subsection 63H-1-302(2)(c);

(iii) the board members who are appointed by the president of the Senate and the speaker of the House of Representatives under Subsection 63H-1-302(3); and

(iv) a voting or nonvoting board member designated by the board.

(2) The loan approval committee may approve an infrastructure loan from the military development fund to a borrower for an infrastructure project undertaken by the borrower.

(3) The loan approval committee shall establish the terms of an infrastructure loan in accordance with Section 63A-3-404.

(4) The loan approval committee may establish policies and guidelines with respect to prioritizing requests for infrastructure loans and approving infrastructure loans.

(5) Beginning May 5, 2021, the loan approval committee shall assume jurisdiction from the State Infrastructure Bank Fund relating to the terms of a loan under Subsection 63B-27-101(3)(a)(i).

(6) Within 60 days after the execution of an infrastructure loan, the loan approval committee shall report the infrastructure loan, including the loan amount, terms, and security, to the Executive Appropriations Committee.

(7) (a) A meeting of the loan approval committee does not constitute a meeting of the board, even if a quorum of the board is present at a loan approval committee meeting.

(b) A quorum of board members present at a meeting of the loan approval committee may not conduct board business at the loan approval committee meeting.

(8) (a) Salaries and expenses of committee members who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A committee member who is not a legislator may not receive compensation or benefits for the member's service on the committee, but may receive per diem and reimbursement for travel expenses incurred as a committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Section 6. Section 63H-1-202 is amended to read:

63H-1-202. Applicability of other law.

(1) As used in this section:

(a) "Subsidiary" means an authority subsidiary that is a public body as defined in Section 52-4-103.

(b) "Subsidiary board" means the governing body of a subsidiary.

(2) The authority or land within a project area is not subject to:

(a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;

(b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;

(c) ordinances or regulations of a county or municipality, including those relating to land use, health, business license, or franchise; or

(d) the jurisdiction of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or a special service district under Title 17D, Chapter 1, Special Service District Act.

(3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(4) (a) The definitions in Section 57-8-3 apply to this Subsection (4).

(b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act, or any other provision of law:

(i) if the military is the owner of land in a project area on which a condominium project is constructed, the military is not required to sign, execute, or record a declaration of a condominium project; and

(ii) if a condominium unit in a project area is owned by the military or owned by the authority and leased to the military for $1 or less per calendar year, not including any common charges that are reimbursements for actual expenses:

(A) the condominium unit is not subject to any liens under Title 57, Chapter 8, Condominium Ownership Act;

(B) condominium unit owners within the same building or commercial condominium project may agree on any method of allocation and payment of common area expenses, regardless of the size or par value of each unit; and

(C) the condominium project may not be dissolved without the consent of all the condominium unit owners.

(5) Notwithstanding any other provision, when a law requires the consent of a local government, the authority is the consenting entity for a project area.

(6) (a) A department, division, or other agency of the state and a political subdivision of the state shall cooperate with the authority to the fullest extent possible to provide whatever support, information, or other assistance the authority requests that is reasonably necessary to help the authority fulfill the authority's duties and responsibilities under this chapter.

(b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a project area located within the boundary of the political subdivision.

(7) (a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public Meetings Act, except that:

[~~(a)~~] (i) notwithstanding Section 54-2-104, the timing and nature of training to authority board members or subsidiary board members on the requirements of Title 52, Chapter 4, Open and Public Meetings Act, may be determined by:

[~~(i)~~] (A) the board chair, for the authority board; or

[~~(ii)~~] (B) the subsidiary board chair, for a subsidiary board;

[~~(b)~~] (ii) authority staff may adopt a rule governing the use of electronic meetings under Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to authority staff the power to adopt the rule; and

[~~(c)~~] (iii) for an electronic meeting of the authority board or subsidiary board that otherwise complies with Section 52-4-207, the authority board or subsidiary board, respectively:

[~~(i)~~] (A) is not required to establish an anchor location; and

[~~(ii)~~] (B) may convene and conduct the meeting without the written determination otherwise required under Subsection 52-4-207(4).

(b) Except as provided in Subsection (7)(c), the authority is not required to physically post notice notwithstanding any other provision of law.

(c) The authority shall physically post notice in accordance with Subsection 52-4-202(3)(a)(i).

(8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records Access and Management Act, except that:

(a) notwithstanding Section 63G-2-701:

(i) the authority may establish an appeals board consisting of at least three members;

(ii) an appeals board established under Subsection (8)(a)(i) shall include:

(A) one of the authority board members appointed by the governor;

(B) the authority board member appointed by the president of the Senate; and

(C) the authority board member appointed by the speaker of the House of Representatives; and

(iii) an appeal of a decision of an appeals board is to district court, as provided in Section 63G-2-404, except that the State Records Committee is not a party; and

(b) a record created or retained by the authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(9) The authority or a subsidiary acting in the role of a facilitator under Subsection 63H-1-201(3)(v) is

not prohibited from receiving a benefit from a public-private partnership that results from the facilitator's work as a facilitator.

(10) (a) (i) A subsidiary created as a public infrastructure district under [~~Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act~~] Title 17D, Chapter 4, Public Infrastructure District Act, may, subject to limitations of [~~Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act~~] Title 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the operations and maintenance of the public infrastructure district's financed infrastructure and related improvements, subject to a maximum rate of .015.

(ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure district property tax levy for a bond.

(b) If a subsidiary created as a public infrastructure district issues a bond:

(i) the subsidiary may:

(A) delay the effective date of the property tax levy for the bond until after the period of capitalized interest payments; and

(B) covenant with bondholders not to reduce or impair the property tax levy; and

(ii) notwithstanding a provision to the contrary in [~~Title 17B, Chapter 2a, Part 12, Public Infrastructure District Act,~~] Title 17D, Chapter 4, Public Infrastructure District Act, the tax rate for the property tax levy for the bond may not exceed a rate that generates more revenue than required to pay the annual debt service of the bond plus administrative costs, subject to a maximum of .02.

(c) (i) A subsidiary created as a public infrastructure district under Title 17D, Chapter 4, Public Infrastructure District Act, may create tax areas, as defined in Section 59-2-102, within the public infrastructure district and apply a different property tax rate to each tax area, subject to the maximum rate limitations described in Subsections (10)(a)(i) and (10)(b)(ii).

(ii) If a subsidiary created by a public infrastructure district issues bonds, the subsidiary may issue bonds secured by property taxes from:

(A) the entire public infrastructure district; or

(B) one or more tax areas within the public infrastructure district.

(11) (a) Terms defined in Section 57-11-2 apply to this Subsection (11).

(b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an offer or disposition of an interest in land if the interest in land lies within the boundaries of the project area and the authority:

(i) (A) has a development review committee using at least one professional planner;

(B) enacts standards and guidelines that require approval of planning, land use, and plats, including the approval of plans for streets, culinary water, sanitary sewer, and flood control; and

(C) will have the improvements described in Subsection (11)(b)(i)(B) plus telecommunications and electricity; and

(ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory assurance of completion of the improvements described in Subsection (11)(b)(i)(C).

(12) (a) As used in this Subsection (12), "officer" means the same as an officer within the meaning of the Utah Constitution Article IV, Section 10.

(b) An official act of an officer may not be invalidated for the reason that the officer failed to take the oath of office.

Section 7. Section 63H-1-401 is amended to read:

63H-1-401. Preparation of project area plan -- Required contents of project area plan.

(1) (a) The authority board shall adopt a project area plan as provided in this part.

(b) In order to adopt a project area plan, the authority board shall:

(i) prepare a draft project area plan;

(ii) give notice as required under Subsection 63H-1-402(2);

(iii) hold at least one public meeting, as required under Subsection 63H-1-402(1); and

(iv) after holding at least one public meeting and subject to Subsection (1)(c), adopt the draft project area plan as the project area plan.

(c) Before adopting a draft project area plan as the project area plan, the authority board may make modifications to the draft project area plan that the board considers necessary or appropriate.

(d) (i) A lease or development agreement that the authority enters before the creation of a project area shall provide that the board is not required to create a project area.

(ii) An authority may not be required to pay any amount or incur any loss or penalty for the board's failure to create a project area.

(2) Each project area plan and draft project area plan shall contain:

(a) a legal description of the boundary of the project area that is the subject of the project area plan;

(b) the authority's purposes and intent with respect to the project area; and

(c) the board's findings and determination that:

(i) there is a need to effectuate a public purpose;

(ii) there is a public benefit to the proposed development project;

(iii) it is economically sound and feasible to adopt and carry out the project area plan; and

(iv) carrying out the project area plan will promote the public peace, health, safety, and welfare of the community in which the project area is located.

(3) (a) A project area described in a project area plan:

[~~(a)~~] (i) shall include military land; and

[~~(b)~~] (ii) may include public or private land, whether or not it is contiguous to military land, if:

[~~(i)~~] (A) the legislative body of the county in which the public or private land is located, if the public land or private land is located in an unincorporated county, passes a resolution consenting to the inclusion of the land in the project area;

[~~(ii)~~] (B) the legislative body of an included municipality passes a resolution consenting to the inclusion of the land in the project area; and

[~~(iii)~~] (C) the owner of the public or private land consents to the inclusion of the land in the project area.

(b) (i) Consent provided under Subsection (3)(a)(ii)(A), (B), or (C) is irrevocable.

(ii) The authority may rely on a consent provided under Subsection (3)(a)(ii)(A), (B), or (C) for long-term planning, contractual commitments, and issuing bonds or other indebtedness.

Section 8. Section 63H-1-501 is amended to read:

63H-1-501. Authority receipt and use of property tax allocation -- Contractual annual payment -- Distribution of property tax allocation.

(1) (a) The authority may:

(i) subject to Subsection (1)(b):

(A) receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and

(B) after the time period described in Subsection (1)(a)(i)(A) expires, receive up to 75% of the property tax allocation for up to 15 years, if the board determines the additional years will produce significant benefit; and

(ii) use the property tax allocation before, during, and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i)(A) begins on the day on which the authority receives the first property tax allocation from that parcel.

(2) (a) For purposes of Subsection (1)(b), the authority may designate an improved portion of a parcel in a project area as a separate parcel.

(b) An authority designation of an improved portion of a parcel as a separate parcel under Subsection (2)(a) is for purposes of Subsection (1)(b) only and does not constitute a subdivision for any other purpose.

(c) A county recorder shall assign a separate tax identification number to the improved portion of a parcel designated by the authority as a separate parcel under Subsection (2)(a).

(3) Improvements on a parcel within a project area become subject to property tax on January 1 immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(4) (a) If the authority or an entity designated by the authority has not issued a certificate of occupancy for a private parcel within a project area, the private parcel owner shall make an annual payment to the authority:

(i) that is equal to 1.2% of the taxable value of the parcel above the base taxable value of the parcel; and

(ii) until the parcel becomes subject to the property tax described in Subsection (3).

(b) The authority may use the revenue from payments described in Subsection (4)(a) for any purpose described in Subsection 63H-1-502(1).

(c) The authority may submit for recording to the office of the recorder of the county in which a private parcel described in Subsection (4)(a) is located:

(i) a copy of an agreement between the authority and the private parcel owner that memorializes the payment obligation under Subsection (4)(a); or

(ii) a notice that describes the payment obligation under Subsection (4)(a).

(d) An owner of a private parcel described in Subsection (4)(a) may not be required to make a payment that exceeds or is in addition to the payment described in Subsection (4)(a)(i) until the private parcel becomes subject to the property tax described in Subsection (3).

(e) Upon the transfer of title of a private parcel described in Subsection (4)(a), the amount of the annual payment required under Subsection (4)(a) shall be:

(i) treated the same as a property tax; and

(ii) prorated between the previous owner and the owner who acquires title from the previous owner.

(f) A person who fails to pay or is delinquent in paying an annual payment described in Subsection (4)(a) is subject to the same penalties and interest as the failure or delinquent payment of a property tax in accordance with Title 59, Chapter 2, Property Tax Act.

(g) If requested by the authority, a county treasurer shall:

(i) include the annual payment described in Subsection (4)(a) on a county property tax notice in accordance with Section 59-2-1317; and

(ii) collect the annual payment as part of the property tax collection.

(5) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

(6) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.

(7) The following property owned by the authority is not subject to any property tax under Title 59, Chapter 2, Property Tax Act, or any privilege tax under Title 59, Chapter 4, Privilege Tax, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity under which the privately owned entity agrees to operate the property:

(a) a hotel;

(b) a hotel condominium unit in a condominium project, as defined in Section 57-8-3; and

(c) a commercial condominium unit in a condominium project, as defined in Section 57-8-3.

Section 9. Section 63H-1-502 is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

(a) for any purpose authorized under this chapter;

(b) for administrative, overhead, legal, and other operating expenses of the authority;

(c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of public infrastructure and improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation and construction of public infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) (A) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

[~~(ii)~~] (B) for a passenger ropeway, at least one end of the ropeway is located within the project area; or

(ii) (A) the funds expended are appropriated by the Legislature; and

(B) the authority is directed to expend the funds, and the project or purpose is directed, by the Legislature;

(f) to pay the principal and interest on bonds issued by the authority;

(g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected; or

(h) to pay for the promotion of:

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the authority's operation of public infrastructure and improvements to:

(a) operate and maintain the public infrastructure and improvements; and

(b) pay for authority operating expenses, including administrative, overhead, and legal expenses.

(3) For purposes of Subsection (1), the authority may use:

(a) tax revenue received under Subsection 59-12-205(2)(b)(ii);

(b) resort communities tax revenue;

(c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated;

(d) MIDA accommodations tax revenue, received under Section 63H-1-205;

(e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

(f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

(g) payments received under Subsection 63H-1-501(4).

(4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

Section 10. Section 63H-1-701 is amended to read:

63H-1-701. Annual authority budget -- Fiscal year -- Public hearing required -- Auditor forms -- Requirement to file form.

(1) The authority shall prepare and its board adopt an annual budget of revenues and expenditures for the authority for each fiscal year.

(2) Each annual authority budget shall be adopted before June 30.

(3) The authority's fiscal year shall be the period from July 1 to the following June 30.

(4) (a) Before adopting an annual budget, the authority board shall hold a public hearing on the annual budget.

(b) The authority shall provide notice of the public hearing on the annual budget by publishing notice:

(i) at least once in a newspaper of general circulation within the state, at least one week before the public hearing; and

(ii) on the Utah Public Notice Website created in Section 63A-16-601, for at least one week immediately before the public hearing.

(c) The authority shall make the annual budget available for public inspection at least three days before the date of the public hearing.

(5) The state auditor shall prescribe the budget forms and the categories to be contained in each authority budget, including:

(a) revenues and expenditures for the budget year;

(b) legal fees; and

(c) administrative costs, including rent, supplies, and other materials, and salaries of authority personnel.

(6) (a) Within 30 days after adopting an annual budget, the authority board shall file a copy of the annual budget with the auditor of each county in which a project area of the authority is located, the State Tax Commission, the state auditor, the State Board of Education, and each taxing entity that levies a tax on property from which the authority collects property tax allocation.

(b) The requirement of Subsection (6)(a) to file a copy of the annual budget with the state as a taxing entity is met if the authority files a copy with the State Tax Commission and the state auditor.

Section 11. Section 72-2-202 is amended to read:

72-2-202. State Infrastructure Bank Fund -- Creation -- Use of money.

(1) There is created a revolving loan fund entitled the State Infrastructure Bank Fund.

(2) (a) The fund consists of money generated from the following revenue sources:

(i) appropriations made to the fund by the Legislature;

(ii) federal money and grants that are deposited in the fund;

(iii) money transferred to the fund by the commission from other money available to the department;

(iv) state grants that are deposited in the fund;

(v) contributions or grants from any other private or public sources for deposit into the fund; and

(vi) subject to Subsection (2)(b), all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.

(b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.

(3) (a) The fund shall earn interest.

(b) All interest earned on fund money shall be deposited into the fund.

(4) Money in the fund shall be used by the department, as prioritized by the commission, only to:

(a) provide infrastructure loans or infrastructure assistance; and

(b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.

(5) (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.

(6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

(7) Before July 1, 2022, the department shall transfer the loan described in Subsection 63B-27-101(3)(a)(i) from the State Infrastructure Bank Fund to the military development infrastructure revolving loan fund created in Section 63A-3-402.

CHAPTER 464
S. B. 233

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

MILITARY SERVICEMEMBER CHILD ENROLLMENT

Chief Sponsor: Ann Millner
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions regarding nonresident and open enrollment for children of military servicemembers.

Highlighted Provisions:

This bill:

- amends provisions regarding nonresident and open enrollment for children of military servicemembers to provide additional opportunity; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53G-6-306, as last amended by Laws of Utah 2021, Chapter 321
53G-6-402, as last amended by Laws of Utah 2019, Chapter 293

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-306 is amended to read:

53G-6-306. Permitting attendance by nonresident of the state -- Tuition.

(1) As used in this section:

(a) "Armed forces" means the same as that term is defined in Section 68-3-12.5.

(b) "Eligible student" means a student who is a dependent child of a member of uniformed services who is:

(i) (A) relocating to the state and does not reside in the state during an LEA's enrollment period; or

(B) relocating out of the state during the school year; and

(ii) on permanent change of station orders.

(c) "Nonresident child" means a child residing outside the state.

(d) "Provisional enrollment" means enrollment in a public school by an eligible student:

(i) before the eligible student relocates to the state; or

(ii) after the eligible student's parent relocates out of the state, but before the eligible student relocates out of the state.

(e) "Uniformed services" means:

(i) the same as that term is defined in Section 68-3-12.5;

(ii) the reserve components of the armed forces; and

(iii) the national guard of a state.

(2) (a) An LEA may permit a nonresident child to attend school within the district, giving priority to a child of a military servicemember, as that term is defined in Section 53B-8-102.

(b) With the exception of a child enrolled under Section 53G-6-707, a nonresident child is not included for the purpose of apportionment of state funds.

(3) (a) An LEA shall charge a nonresident child who enrolls in a school within the LEA tuition in an amount at least equal to the per capita cost of the school program in which the nonresident child enrolls unless the LEA, in open meeting, determines to waive the charge for that nonresident child in whole or in part.

(b) The official minutes of the meeting described in Subsection (3)(a) shall reflect the LEA's determination to waive the charge described in Subsection (3)(a).

(4) (a) Notwithstanding anything to the contrary in Subsection (3), an LEA shall allow an eligible student to:

(i) provisionally enroll in a public school in the LEA at the same time and in the same manner as individuals who reside in the state; or

(ii) provisionally enroll in virtual education options that the LEA provides in the same manner as an individual residing in the state.

(b) An LEA may not require proof of residency from an eligible student at the time the eligible student applies to enroll in a public school in the LEA.

(c) An LEA shall require proof of residence within 10 days after the eligible student's first day of residence in the state.

Section 2. Section 53G-6-402 is amended to read:

53G-6-402. Open enrollment options -- Procedures -- Processing fee -- Continuing enrollment.

(1) Each local school board is responsible for providing educational services consistent with Utah state law and rules of the state board for each student who resides in the district and, as provided in this section through Section 53G-6-407 and to the extent reasonably feasible, for any student who resides in another district in the state and desires to attend a school in the district, giving priority to a child of a military servicemember, as that term is defined in Section 53B-8-102.

(2) (a) A school is open for enrollment of nonresident students if the enrollment level is at or below the open enrollment threshold.

(b) If a school's enrollment falls below the open enrollment threshold, the local school board shall allow a nonresident student to enroll in the school.

(3) A local school board may allow enrollment of nonresident students in a school that is operating above the open enrollment threshold.

(4) (a) A local school board shall adopt policies describing procedures for nonresident students to follow in applying for entry into the district's schools.

(b) Those procedures shall provide, as a minimum, for:

(i) distribution to interested parties of information about the school or school district and how to apply for admission;

(ii) use of standard application forms prescribed by the state board;

(iii) (A) submission of applications from December 1 through the third Friday in February by those seeking admission during the early enrollment period for the following year; or

(B) submission of applications from August 1 through November 1 by those seeking admission during the early enrollment period for the following year in a school district described in Subsection 53G-6-401(1)(b);

(iv) submission of applications by those seeking admission during the late enrollment period;

(v) written notification to the student's parent of acceptance or rejection of an application:

(A) within six weeks after receipt of the application by the district or by March 31, whichever is later, for applications submitted during the early enrollment period;

(B) within two weeks after receipt of the application by the district or by the Friday before the new school year begins, whichever is later, for applications submitted during the late enrollment period for admission in the next school year; and

(C) within two weeks after receipt of the application by the district, for applications submitted during the late enrollment period for admission in the current year;

(vi) written notification to the resident school for intradistrict transfers or the resident district for interdistrict transfers upon acceptance of a nonresident student for enrollment; and

(vii) written notification to the parents of each student that resides within the school district and other interested parties of the revised early enrollment period described in Subsection 53G-6-401(1)(b) if:

(A) the school district is doing a district wide grade reconfiguration of its elementary, middle, junior, and senior high schools; and

(B) the grade reconfiguration described in Subsection (4)(b)(vii)(A) will be implemented in the next school year.

(c) (i) Notwithstanding the dates established in Subsection (4)(b) for submitting applications and notifying parents of acceptance or rejection of an application, a local school board may delay the dates if a local school board is not able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school due to:

(A) school construction or remodeling;

(B) drawing or revision of school boundaries; or

(C) other circumstances beyond the control of the local school board.

(ii) The delay may extend no later than four weeks beyond the date the local school board is able to make a reasonably accurate projection of the early enrollment school capacity or late enrollment school capacity of a school.

(5) A school district may charge a one-time $5 processing fee, to be paid at the time of application.

(6) An enrolled nonresident student shall be permitted to remain enrolled in a school, subject to the same rules and standards as resident students, without renewed applications in subsequent years unless one of the following occurs:

(a) the student graduates;

(b) the student is no longer a Utah resident;

(c) the student is suspended or expelled from school; [~~or~~]

(d) except for a student described in Subsection (6)(e), the district determines that enrollment within the school will exceed the school's open enrollment threshold[~~.~~]; or

(e) for a child of a military servicemember, as that term is defined in Section 53B-8-102, who moves from temporary to permanent housing outside of the relevant school district boundaries following a permanent change of station:

(i) in kindergarten through grade 10, the student completes the current school year; or

(ii) in grades 11 and 12, the student graduates.

(7) (a) Determination of which nonresident students will be excluded from continued enrollment in a school during a subsequent year under Subsection (6)(d) is based upon time in the school, with those most recently enrolled being excluded first and the use of a lottery system when multiple nonresident students have the same number of school days in the school.

(b) Nonresident students who will not be permitted to continue their enrollment shall be notified no later than March 15 of the current school year.

(8) The parent of a student enrolled in a school that is not the student's school of residence may withdraw the student from that school for

enrollment in another public school by submitting notice of intent to enroll the student in:

(a) the district of residence; or

(b) another nonresident district.

(9) Unless provisions have previously been made for enrollment in another school, a nonresident district releasing a student from enrollment shall immediately notify the district of residence, which shall enroll the student in the resident district and take such additional steps as may be necessary to ensure compliance with laws governing school attendance.

(10) (a) Except as provided in Subsection (10)(c), a student who transfers between schools, whether effective on the first day of the school year or after the school year has begun, by exercising an open enrollment option under this section may not transfer to a different school during the same school year by exercising an open enrollment option under this section.

(b) The restriction on transfers specified in Subsection (10)(a) does not apply to a student transfer made for health or safety reasons.

(c) A local school board may adopt a policy allowing a student to exercise an open enrollment option more than once in a school year.

(11) Notwithstanding Subsections (2) and (6)(d), a student who is enrolled in a school that is not the student's school of residence, because school bus service is not provided between the student's neighborhood and school of residence for safety reasons:

(a) shall be allowed to continue to attend the school until the student finishes the highest grade level offered; and

(b) shall be allowed to attend the middle school, junior high school, or high school into which the school's students feed until the student graduates from high school.

(12) Notwithstanding any other provision of this part or Part 3, School District Residency, a student shall be allowed to enroll in any charter school or other public school in any district, including a district where the student does not reside, if the enrollment is necessary, as determined by the Division of Child and Family Services, to comply with the provisions of 42 U.S.C. Section 675.

CHAPTER 465
S. B. 236

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

PHARMACY PRACTICE AMENDMENTS

Chief Sponsor: Evan J. Vickers
House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill amends the Pharmacy Practice Act.

Highlighted Provisions:

This bill:

- amends provisions related to the accepting back and redistributing of an unused drug;
- amends refill provisions for insulin;
- amends provisions related to the dispensing of diabetes supplies;
- amends provisions related to the dispensing of prescription drugs by a hospital pharmacy;
- authorizes the dispensing of a drug to treat a sexually transmitted disease by a physician treating a patient at a state or local health department clinic; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-17b-502, as last amended by Laws of Utah 2020, Chapter 25
58-17b-503, as last amended by Laws of Utah 2016, Chapter 405
58-17b-608.2, as enacted by Laws of Utah 2020, Chapter 310
58-17b-610.6, as enacted by Laws of Utah 2017, Chapter 44
58-17b-610.8, as enacted by Laws of Utah 2020, Chapter 372
58-17b-620, as last amended by Laws of Utah 2012, Chapter 150

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-17b-502 is amended to read:

58-17b-502. Unprofessional conduct.

(1) "Unprofessional conduct" includes:

(a) willfully deceiving or attempting to deceive the division, the board, or their agents as to any relevant matter regarding compliance under this chapter;

(b) except as provided in Subsection (2):

(i) paying or offering rebates to practitioners or any other health care providers, or receiving or soliciting rebates from practitioners or any other health care provider; or

(ii) paying, offering, receiving, or soliciting compensation in the form of a commission, bonus, rebate, kickback, or split fee arrangement with practitioners or any other health care provider, for the purpose of obtaining referrals;

(c) misbranding or adulteration of any drug or device or the sale, distribution, or dispensing of any outdated, misbranded, or adulterated drug or device;

(d) engaging in the sale or purchase of drugs or devices that are samples or packages bearing the inscription "sample" or "not for resale" or similar words or phrases;

(e) except as provided in Section 58-17b-503 [~~or Part 9, Charitable Prescription Drug Recycling Act~~], accepting back and redistributing any unused drug, or a part of it, after it has left the premises of [~~any~~] a pharmacy[~~, unless the drug is in a unit pack, as defined in Section 58-17b-503, or the manufacturer's sealed container, as defined in rule~~];

(f) an act in violation of this chapter committed by a person for any form of compensation if the act is incidental to the person's professional activities, including the activities of a pharmacist, pharmacy intern, or pharmacy technician;

(g) violating:

(i) the federal Controlled Substances Act, Title II, P.L. 91-513;

(ii) Title 58, Chapter 37, Utah Controlled Substances Act; or

(iii) rules or regulations adopted under either act;

(h) requiring or permitting pharmacy interns or technicians to engage in activities outside the scope of practice for their respective license classifications, as defined in this chapter and division rules made in collaboration with the board, or beyond their scope of training and ability;

(i) administering:

(i) without appropriate training, as defined by rule;

(ii) without a physician's order, when one is required by law; and

(iii) in conflict with a practitioner's written guidelines or written protocol for administering;

(j) disclosing confidential patient information in violation of the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended, or other applicable law;

(k) engaging in the practice of pharmacy without a licensed pharmacist designated as the pharmacist-in-charge;

(l) failing to report to the division any adverse action taken by another licensing jurisdiction, government agency, law enforcement agency, or court for conduct that in substance would be considered unprofessional conduct under this section;

(m) as a pharmacist or pharmacy intern, compounding a prescription drug in a dosage form which is regularly and commonly available from a manufacturer in quantities and strengths prescribed by a practitioner;

(n) failing to act in accordance with Title 26, Chapter 64, Family Planning Access Act, when dispensing a self-administered hormonal contraceptive under a standing order;

(o) violating the requirements of Title 26, Chapter 61a, Utah Medical Cannabis Act; or

(p) falsely making an entry in, or altering, a medical record with the intent to conceal:

(i) a wrongful or negligent act or omission of an individual licensed under this chapter or an individual under the direction or control of an individual licensed under this chapter; or

(ii) conduct described in Subsections (1)(a) through (o) or Subsection 58-1-501(1).

(2) Subsection (1)(b) does not apply to:

(a) giving or receiving a price discount based on purchase volume;

(b) passing along a pharmaceutical manufacturer's rebate; or

(c) providing compensation for services to a veterinarian.

(3) "Unprofessional conduct" does not include, in accordance with Title 26, Chapter 61a, Utah Medical Cannabis Act:

(a) when registered as a pharmacy medical provider, as that term is defined in Section 26-61a-102, providing pharmacy medical provider services in a medical cannabis pharmacy; or

(b) when acting as a state central patient portal medical provider, as that term is defined in Section 26-61a-102, providing state central patient portal medical provider services.

(4) Notwithstanding Subsection (3), the division, in consultation with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, shall define unprofessional conduct for a pharmacist described in Subsections (3)(a) and (b).

Section 2. Section 58-17b-503 is amended to read:

58-17b-503. Exception to unprofessional conduct.

(1) For purposes of this section:

(a) "Licensed intermediate care facility for people with an intellectual disability" means an intermediate care facility for people with an intellectual disability that is licensed as a nursing care facility or a small health care facility under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.

(b) "Nursing care facility" means the same as that term is defined in Section 26-21-2.

(c) "Unit pack" means a tamper-resistant nonreusable single-dose single-drug package with identification that indicates the lot number and expiration date for the drug.

(2) A pharmacist may accept and redistribute an unused drug, or part of it, after it has left the premises of the pharmacy:

(a) [~~accept and redistribute an unused drug under~~] in accordance with Part 9, Charitable Prescription Drug Recycling Act; [~~or~~]

(b) [~~accept back and redistribute any unused drug, or a part of it, after it has left the premises of the pharmacy~~] if:

(i) the drug was prescribed to a patient in a nursing care facility, licensed intermediate care facility for people with an intellectual disability, or state prison facility, county jail, or state hospital;

(ii) the drug was stored under the supervision of a licensed health care provider according to manufacturer recommendations;

(iii) the drug is in a unit pack or in the manufacturer's sealed container;

(iv) the drug was returned to the original dispensing pharmacy;

(v) the drug was initially dispensed by a licensed pharmacist or licensed pharmacy intern; and

(vi) accepting back and redistributing of the drug complies with federal Food and Drug Administration and Drug Enforcement Administration regulations[~~.~~];

(c) if:

(i) the pharmacy has attempted to deliver the drug to a patient or a patient's agent via the United States Postal Service, a licensed common carrier, or supportive personnel;

(ii) the drug is returned to the pharmacy by the same person or carrier that attempted to deliver the drug; and

(iii) in accordance with United States Food and Drug Administration regulations and rules established by the division, a pharmacist at the pharmacy determines that the drug has not been adversely affected by the drug's attempted delivery and return.

Section 3. Section 58-17b-608.2 is amended to read:

58-17b-608.2. Insulin prescriptions and diabetes supplies.

(1) As used in this section, "exhausted prescription" means a prescription for an insulin that the patient is currently using that:

(a) expired no earlier than six months before the patient requests the pharmacist for a refill; or

(b) is not expired and has no refills remaining.

(2) If a valid prescription for insulin includes an authorization for one or more refills, a pharmacist may combine refills to dispense a supply for [~~90~~] 100 days but may not exceed the total supply authorized by the refills.

(3) Notwithstanding Section 58-17b-608 and Subsection (2), a pharmacist may, on an emergency basis, dispense a refill for an exhausted prescription based on the prescribing practitioner's instructions for the exhausted prescription in an amount up to a supply for 60 days.

(4) A pharmacist may dispense insulin for an exhausted prescription described in Subsection (3) no more than one time per exhausted prescription.

(5) Before a pharmacist may dispense insulin under Subsection (3), the pharmacist shall:

(a) attempt to contact the prescribing practitioner to inform the prescribing practitioner that the patient's prescription has expired; and

(b) notify the patient of the outcome of the attempt described in Subsection (5)(a).

(6) Within 30 days after the day on which a pharmacist dispenses insulin under Subsection (3), the pharmacist shall inform the prescribing practitioner of:

(a) the amount of insulin dispensed; and

(b) the type of insulin dispensed.

[~~(7) The division, in consultation with the Board of Pharmacy and the Physicians Licensing Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to ensure the safe dispensing of insulin under Subsection (3).~~]

[~~(8) Notwithstanding Section 58-17b-605.5, a pharmacist, when filling a prescription for insulin, may dispense an interchangeable biological product, as defined in Subsection 58-17b-605.5(1), except that the pharmacist may not dispense an interchangeable biological product if a prescribing practitioner prohibits the substitution through a method described in Subsection 58-17b-605.5(6).~~]

[~~(9)~~] (7) A pharmacist may dispense [~~the~~] a therapeutic equivalent when filling a prescription for:

(a) a glucometer;

(b) diabetes test strips;

(c) lancets; [~~or~~]

(d) syringes[~~.~~];

(e) needles; or

(f) other supplies for treating diabetes designated by rule made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 4. Section 58-17b-610.6 is amended to read:

58-17b-610.6. Hospital pharmacy dispensing prescription drugs.

(1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in consultation with hospital pharmacies, to establish guidelines under which a hospital pharmacy may dispense a limited supply of a prescription drug to an individual who is no longer a patient in the hospital setting if:

(a) the individual is discharged from the hospital on the same day that the hospital pharmacy dispenses the prescription drug to the individual;

[~~(b) the prescription drug relates to the reason for which the individual was a patient at the hospital before being discharged;~~]

[~~(c)~~] (b) the class A pharmacy with which the patient has an established pharmacy-patient relationship:

(i) is not open at the time of the patient's discharge; or

(ii) unable to dispense the medication for any reason;

[~~(d)~~] (c) the hospital pharmacy dispenses a quantity of the prescription drug that is [~~the lesser of:(i)~~] not more than a 72-hour supply; [~~or~~] and

[~~(ii) an adequate amount to treat the discharged patient through the first day on which the pharmacy described in Subsection (1)(c) is open after the patient's discharge from the hospital; and~~]

[~~(e)~~] (d) dispensing the prescription drug complies with protocols established by the hospital pharmacy.

(2) A hospital pharmacy may dispense a prescription drug in accordance with rules made under Subsection (1).

Section 5. Section 58-17b-610.8 is amended to read:

58-17b-610.8. Prescription devices.

(1) The following documents from a prescribing practitioner shall be considered a prescription for purposes of dispensing of and payment for a device described in Subsection (3), if the device is prescribed or indicated by the document and the document is on file with a pharmacy:

(a) a written prescription; or

(b) a written record of a patient's:

(i) current diagnosis; or

(ii) treatment protocol.

(2) A pharmacist or pharmacy intern at a pharmacy at which a document that is considered a prescription under Subsection (1) is on file may dispense [~~a~~] under prescription a device described in Subsection (3) to the patient in accordance with:

(a) the document that is considered a prescription under Subsection (1); and

(b) rules made by the division under Subsection (4).

(3) This section applies to:

(a) nebulizers;

(b) spacers for use with nebulizers or inhalers; and

(c) diabetic [~~testing~~] supplies.

(4) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and in consultation with the board, the Physicians Licensing Board created in Section 58-67-201, and the Osteopathic Physician and Surgeon's Licensing Board created in Section 58-68-201, to implement this section.

Section 6. Section 58-17b-620 is amended to read:

58-17b-620. Prescriptions issued within the public health system.

(1) As used in this section:

(a) "Department of Health" means the state Department of Health created in Section 26-1-4.

(b) "Health department" means either the Department of Health or a local health department.

(c) "Local health departments" mean the local health departments created in Title 26A, Chapter 1, Local Health Departments.

(2) When it is necessary to treat a reportable disease or non-emergency condition that has a direct impact on public health, a health department may implement the prescription procedure described in Subsection (3) for a prescription drug that is not a controlled substance for use in:

(a) a clinic; or

(b) a remote or temporary off-site location, including a triage facility established in the community, that provides:

(i) treatment for sexually transmitted infections;

(ii) fluoride treatment;

(iii) travel immunization;

(iv) preventative treatment for an individual with latent tuberculosis infection;

(v) preventative treatment for an individual at risk for an infectious disease that has a direct impact on public health when the treatment is indicated to prevent the spread of disease or to mitigate the seriousness of infection in the exposed individual; or

(vi) other treatment as defined by the Department of Health rule.

(3) In a circumstance described in Subsection (2), an individual with prescriptive authority may write a prescription for each contact, as defined in Section 26-6-2, of a patient of the individual with prescriptive authority without a face-to-face exam, if:

(a) the individual with prescriptive authority is treating the patient for a reportable disease or non-emergency condition having a direct impact on public health; and

(b) the contact's condition is the same as the patient of the individual with prescriptive authority.

(4) The following prescription procedure shall be carried out in accordance with the requirements of Subsection (5) and may be used only in the circumstances described under Subsections (2) and (3):

(a) a physician writes and signs a prescription for a prescription drug, other than a controlled substance, without the name and address of the patient and without the date the prescription is provided to the patient; and

(b) the physician authorizes a registered nurse employed by the health department to complete the prescription written under this Subsection (4) by inserting the patient's name and address, and the date the prescription is provided to the patient, in accordance with the physician's standing written orders and a written health department protocol approved by the physician and the medical director of the state Department of Health.

(5) A physician assumes responsibility for all prescriptions issued under this section in the physician's name.

(6) (a) All prescription forms to be used by a physician and health department in accordance with this section shall be serially numbered according to a numbering system assigned to that health department.

(b) All prescriptions issued shall contain all information required under this chapter and rules adopted under this chapter.

(7) Notwithstanding Sections 58-17b-302 and 58-17b-309, a nurse who is employed by a health department and licensed under Title 31b, Nurse Practice Act, may dispense a drug to treat a sexually transmitted infection if the drug is:

(a) a prepackaged drug as defined in Section 58-17b-802;

(b) dispensed under a prescription authorized by this section;

(c) provided at a location that is described in Subsection (2)(a) or (b) and operated by the health department;

(d) provided in accordance with a dispensing standard that is issued by a physician who is employed by the health department; and

(e) if applicable, in accordance with requirements established by the division in collaboration with the board under Subsection (8).

(8) The division may make rules in collaboration with the board and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish specific requirements regarding the dispensing of a drug under Subsection (7).

CHAPTER 466
S. B. 237

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

COUNSELING STATE COMPACT

Chief Sponsor: Curtis S. Bramble
House Sponsor: Brian S. King

LONG TITLE

General Description:

This bill enacts the Counseling Compact.

Highlighted Provisions:

This bill:

- enacts the Counseling Compact;
- provides rulemaking authority; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

58-1-301.5, as last amended by Laws of Utah 2020, Chapter 339
58-60-205, as last amended by Laws of Utah 2020, Chapter 339
58-60-305, as last amended by Laws of Utah 2020, Chapter 339
58-60-405, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

ENACTS:

58-60-103.1, Utah Code Annotated 1953
58-60a-101, Utah Code Annotated 1953
58-60a-102, Utah Code Annotated 1953
58-60a-103, Utah Code Annotated 1953
58-60a-104, Utah Code Annotated 1953
58-60a-105, Utah Code Annotated 1953
58-60a-106, Utah Code Annotated 1953
58-60a-107, Utah Code Annotated 1953
58-60a-108, Utah Code Annotated 1953
58-60a-109, Utah Code Annotated 1953
58-60a-110, Utah Code Annotated 1953
58-60a-111, Utah Code Annotated 1953
58-60a-112, Utah Code Annotated 1953
58-60a-113, Utah Code Annotated 1953
58-60a-114, Utah Code Annotated 1953
58-60a-115, Utah Code Annotated 1953
58-60a-201, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 58-1-301.5 is amended to read:

58-1-301.5. Division access to Bureau of Criminal Identification records.

(1) The division shall have direct access to local files maintained by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification, for background screening of persons who are applying for licensure, licensure renewal, licensure reinstatement, or relicensure, as required in:

(a) Section 58-17b-307 of [~~Title 58,~~] Chapter 17b, Pharmacy Practice Act;

(b) Sections 58-24b-302 and 58-24b-302.1 of [~~Title 58,~~] Chapter 24b, Physical Therapy Practice Act;

(c) Section 58-31b-302 of [~~Title 58,~~] Chapter 31b, Nurse Practice Act;

(d) Section 58-47b-302 of [~~Title 58,~~] Chapter 47b, Massage Therapy Practice Act;

(e) Section 58-55-302 of [~~Title 58,~~] Chapter 55, Utah Construction Trades Licensing Act, as it applies to alarm companies and alarm company agents;

(f) Sections 58-60-103.1, 58-60-205, 58-60-305, and 58-60-405, of Chapter 60, Mental Health Professional Practice Act;

[~~(f)~~] (g) Sections 58-61-304 and 58-61-304.1 of [~~Title 58,~~] Chapter 61, Psychologist Licensing Act;

[~~(g)~~] (h) Section 58-63-302 of [~~Title 58,~~] Chapter 63, Security Personnel Licensing Act;

[~~(h)~~] (i) Section 58-64-302 of [~~Title 58,~~] Chapter 64, Deception Detection Examiners Licensing Act;

[~~(i)~~] (j) Sections 58-67-302 and 58-67-302.1 of [~~Title 58,~~] Chapter 67, Utah Medical Practice Act; and

[~~(j)~~] (k) Sections 58-68-302 and 58-68-302.1 of [~~Title 58,~~] Chapter 68, Utah Osteopathic Medical Practice Act.

(2) The division's access to criminal background information under this section:

(a) shall meet the requirements of Section 53-10-108; and

(b) includes convictions, pleas of nolo contendere, pleas of guilty or nolo contendere held in abeyance, dismissed charges, and charges without a known disposition.

(3) The division may not disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section.

Section 2. Section 58-60-103.1 is enacted to read:

58-60-103.1. Criminal background check.

(1) An applicant for licensure under this chapter who requires a criminal background check shall:

(a) submit fingerprint cards in a form acceptable to the division at the time the license application is filed; and

(b) consent to a fingerprint background check conducted by the Bureau of Criminal Identification and the Federal Bureau of Investigation regarding the application.

(2) The division shall:

(a) in addition to other fees authorized by this chapter, collect from each applicant submitting fingerprints in accordance with this section the fee that the Bureau of Criminal Identification is authorized to collect for the services provided under Section 53-10-108 and the fee charged by the Federal Bureau of Investigation for fingerprint processing for the purpose of obtaining federal criminal history record information;

(b) submit from each applicant the fingerprint card and the fees described in Subsection (2)(a) to the Bureau of Criminal Identification; and

(c) obtain and retain in division records a signed waiver approved by the Bureau of Criminal Identification in accordance with Section 53-10-108 for each applicant.

(3) The Bureau of Criminal Identification shall, in accordance with the requirements of Section 53-10-108:

(a) check the fingerprints submitted under Subsection (2)(b) against the applicable state and regional criminal records databases;

(b) forward the fingerprints to the Federal Bureau of Investigation for a national criminal history background check; and

(c) provide the results from the state, regional, and nationwide criminal history background checks to the division.

(4) For purposes of conducting a criminal background check required under this section, the division shall have direct access to criminal background information maintained under Title 53, Chapter 10, Part 2, Bureau of Criminal Identification.

(5) The division may not:

(a) disseminate outside of the division any criminal history record information that the division obtains from the Bureau of Criminal Identification or the Federal Bureau of Investigation under the criminal background check requirements of this section; or

(b) issue a letter of qualification to participate in the Counseling Compact under Chapter 60a, Counseling Compact, until the criminal background check described in this section is completed.

Section 3. Section 58-60-205 is amended to read:

58-60-205. Qualifications for licensure or certification as a clinical social worker, certified social worker, and social service worker.

(1) An applicant for licensure as a clinical social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203;

(d) have completed a minimum of 4,000 hours of clinical social work training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a supervisor approved by the division in collaboration with the board who is a:

(A) clinical mental health counselor;

(B) psychiatrist;

(C) psychologist;

(D) registered psychiatric mental health nurse practitioner;

(E) marriage and family therapist; or

(F) clinical social worker; and

(iii) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 4,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii);

(f) have completed a case work, group work, or family treatment course sequence with a clinical practicum in content as defined by rule under Section 58-1-203; [~~and~~]

(g) pass the examination requirement established by rule under Section 58-1-203[~~.~~]; and

(h) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) An applicant for licensure as a certified social worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a master's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work; or

(ii) a doctoral degree that contains a clinical social work concentration and practicum approved by the division, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that is consistent with Section 58-1-203; and

(d) pass the examination requirement established by rule under Section 58-1-203.

(3) (a) An applicant for certification as a certified social worker intern shall meet the requirements of Subsections (2)(a), (b), and (c).

(b) Certification under Subsection (3)(a) is limited to the time necessary to pass the examination required under Subsection (2)(d) or six months, whichever occurs first.

(c) A certified social worker intern may provide mental health therapy under the general supervision, as defined by rule, of a supervisor described in Subsection (1)(d)(ii).

(4) An applicant for licensure as a social service worker shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts from an accredited institution of higher education recognized by the division in collaboration with the board verifying satisfactory completion of an education and an earned degree as follows:

(i) a bachelor's degree in a social work program accredited by the Council on Social Work Education or by the Canadian Association of Schools of Social Work;

(ii) a master's degree in a field approved by the division in collaboration with the board;

(iii) a bachelor's degree in any field if the applicant:

(A) has completed at least three semester hours, or the equivalent, in each of the following areas:

(I) social welfare policy;

(II) human growth and development; and

(III) social work practice methods, as defined by rule; and

(B) provides documentation that the applicant has completed at least 2,000 hours of qualifying experience under the supervision of a mental health therapist, which experience is approved by the division in collaboration with the board, and which is performed after completion of the requirements to obtain the bachelor's degree required under this Subsection (4); or

(iv) successful completion of the first academic year of a Council on Social Work Education approved master's of social work curriculum and practicum; and

(d) pass the examination requirement established by rule under Section 58-1-203.

(5) The division shall ensure that the rules for an examination described under Subsections (1)(g), (2)(d), and (4)(d) allow additional time to complete the examination if requested by an applicant who is:

(a) a foreign born legal resident of the United States for whom English is a second language; or

(b) an enrolled member of a federally recognized Native American tribe.

Section 4. Section 58-60-305 is amended to read:

58-60-305. Qualifications for licensure.

(1) All applicants for licensure as marriage and family therapists shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of a masters or doctorate degree in marriage and family therapy from:

(i) a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education; or

(ii) an accredited institution meeting criteria for approval established by rule under Section 58-1-203;

(d) have completed a minimum of 4,000 hours of marriage and family therapy training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a mental health therapist supervisor who meets the requirements of Section 58-60-307;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement described in Subsection (1)(c)(i) or (1)(c)(ii), which training may be included as part of the 4,000 hours of training described in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the supervised hours were obtained during direct, personal supervision, as defined by rule, by a mental health therapist supervisor qualified under Section 58-60-307; [~~and~~]

(f) pass the examination requirement established by division rule under Section 58-1-203[~~.~~]; and

(g) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All applicants for licensure as an associate marriage and family therapist shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) An individual's license as an associate marriage and family therapist is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed, unless the individual presents satisfactory evidence to the division and the appropriate board that the individual is making reasonable progress toward passing of the qualifying examination for that profession or is otherwise on a course reasonably expected to lead to licensure, but the period of time under this Subsection (2)(b) may not exceed two years past the date the minimum supervised clinical training requirement has been completed.

Section 5. Section 58-60-405 is amended to read:

58-60-405. Qualifications for licensure.

(1) An applicant for licensure as a clinical mental health counselor shall:

(a) submit an application on a form provided by the division;

(b) pay a fee determined by the department under Section 63J-1-504;

(c) produce certified transcripts evidencing completion of:

(i) a master's or doctorate degree conferred to the applicant in:

(A) clinical mental health counseling, clinical rehabilitation counseling, counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs; or

(B) clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation; and

(ii) at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(d)(i);

(d) have completed a minimum of 4,000 hours of clinical mental health counselor training as defined by division rule under Section 58-1-203:

(i) in not less than two years;

(ii) under the supervision of a clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist supervisor approved by the division in collaboration with the board;

(iii) obtained after completion of the education requirement in Subsection (1)(c); and

(iv) including a minimum of two hours of training in suicide prevention via a course that the division designates as approved;

(e) document successful completion of not less than 1,000 hours of supervised training in mental health therapy obtained after completion of the education requirement in Subsection (1)(c), which training may be included as part of the 4,000 hours of training in Subsection (1)(d), and of which documented evidence demonstrates not less than 100 of the hours were obtained under the direct supervision of a mental health therapist, as defined by rule; [~~and~~]

(f) pass the examination requirement established by division rule under Section 58-1-203[~~.~~]; and

(g) if the applicant is applying to participate in the Counseling Compact under Chapter 60a, Counseling Compact, consent to a criminal background check in accordance with Section 58-60-103.1 and any requirements established by division rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) An applicant for licensure as an associate clinical mental health counselor shall comply with the provisions of Subsections (1)(a), (b), and (c).

(b) Except as provided under Subsection (2)(c), an individual's licensure as an associate clinical mental health counselor is limited to the period of time necessary to complete clinical training as described in Subsections (1)(d) and (e) and extends not more than one year from the date the minimum requirement for training is completed.

(c) The time period under Subsection (2)(b) may be extended to a maximum of two years past the date the minimum supervised clinical training requirement has been completed, if the applicant presents satisfactory evidence to the division and the appropriate board that the individual is:

(i) making reasonable progress toward passing of the qualifying examination for that profession; or

(ii) otherwise on a course reasonably expected to lead to licensure.

(3) (a) Notwithstanding Subsection (1)(c), an applicant satisfies the education requirement described in Subsection (1)(c) if the applicant submits documentation verifying:

(i) satisfactory completion of a doctoral or master's degree from an educational program in rehabilitation counseling accredited by the Council for Accreditation of Counseling and Related Educational Programs;

(ii) satisfactory completion of at least 60 semester credit hours or 90 quarter credit hours of coursework related to an educational program described in Subsection (1)(c)(i); and

(iii) that the applicant received a passing score that is valid and in good standing on:

(A) the National Counselor Examination; and

(B) the National Clinical Mental Health Counseling Examination.

(b) During the 2021 interim, the division shall report to the Occupational and Professional Licensure Review Committee created in Section 36-23-102 on:

(i) the number of applicants who applied for licensure under this Subsection (3);

(ii) the number of applicants who were approved for licensure under this Subsection (3);

(iii) any changes to division rule after May 12, 2020, regarding the qualifications for licensure under this section; and

(iv) recommendations for legislation or other action that the division considers necessary to carry out the provisions of this Subsection (3).

Section 6. Section 58-60a-101 is enacted to read:

CHAPTER 60a. COUNSELING COMPACT

Part 1. Compact Text

58-60a-101. Section 1 -- Purpose.

The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

A. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;

B. Enhance the States' ability to protect the public's health and safety;

C. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;

D. Support spouses of relocating Active Duty Military personnel;

E. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;

F. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;

G. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;

H. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;

I. Eliminate the necessity for licenses in multiple States; and

J. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.

Section 7. Section 58-60a-102 is enacted to read:

58-60a-102. Section 2 -- Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

A. "Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

B. "Adverse Action" means any administrative, civil, equitable or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.

C. "Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.

D. "Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

E. "Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

F. "Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction;

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

G. "Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice and Adverse Action information.

H. "Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

I. "Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.

J. "Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

K. "Home State" means the Member State that is the Licensee's primary State of residence.

L. "Impaired Practitioner" means an individual who has a condition(s) that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

M. "Investigative Information" means information, records, and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation.

N. "Jurisprudence Requirement" if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

O. "Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.

P. "Licensee" means an individual who currently holds an authorization from the State to practice as a Licensed Professional Counselor.

Q. "Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors.

R. "Member State" means a State that has enacted the Compact.

S. "Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State.

T. "Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor.

U. "Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice.

V. "Rule" means a regulation promulgated by the Commission that has the force of law.

W. "Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

X. "State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling.

Y. "Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions.

Z. "Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

Section 8. Section 58-60a-103 is enacted to read:

58-60a-103. Section 3 -- State participation in the Compact.

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;

2. Require Licensees to pass a nationally recognized exam approved by the Commission;

3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:

a. Professional Counseling Orientation and Ethical Practice;

b. Social and Cultural Diversity;

c. Human Growth and Development;

d. Career Development;

e. Counseling and Helping Relationships;

f. Group Counseling and Group Work;

g. Diagnosis and Treatment; Assessment and Testing;

h. Research and Program Evaluation; and

i. Other areas as determined by the Commission;

4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission; and

5. Have a mechanism in place for receiving and investigating complaints about Licensees.

B. A Member State shall:

1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;

2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;

3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;

a. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions;

b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.

4. Comply with the Rules of the Commission;

5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;

6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and

7. Provide for the attendance of the State's commissioner to the Counseling Compact Commission meetings.

C. Member States may charge a fee for granting the Privilege to Practice.

D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

Section 9. Section 58-60a-104 is enacted to read:

58-60a-104. Section 4 -- Privilege to Practice.

A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:

1. Hold a license in the Home State;

2. Have a valid United States Social Security Number or National Practitioner Identifier;

3. Be eligible for a Privilege to Practice in any Member State in accordance with Section 4(D), (G) and (H);

4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;

5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);

6. Pay any applicable fees, including any State fee, for the Privilege to Practice;

7. Meet any Continuing Competence/Education requirements established by the Home State;

8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and

9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within 30 days from the date the action is taken.

B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of Subsection 4(A) to maintain the Privilege to Practice in the Remote State.

C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, and/or take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and

2. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of Subsection 4(A) to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;

2. All fines have been paid;

3. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of Subsection 4(G) have been met, the Licensee must meet the requirements in Subsection 4(A) to obtain a Privilege to Practice in a Remote State.

Section 10. Section 58-60a-105 is enacted to read:

58-60a-105. Section 5 -- Obtaining a new Home State license based on a Privilege to Practice.

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Section 58-60a-104 via the Data System, without need for primary source verification except for:

a. a Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

b. other criminal background checks as required by the new Home State; and

c. completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Section 58-60a-104, the new Home State may apply its requirements for issuing a new Single State License.

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

Section 11. Section 58-60a-106 is enacted to read:

58-60a-106. Section 6 -- Active Duty Military personnel or their spouses.

Active Duty Military personnel, or their spouses, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Section 58-60a-105.

Section 12. Section 58-60a-107 is enacted to read:

58-60a-107. Section 7 -- Compact Privilege to Practice Telehealth.

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Section 58-60a-103 and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

Section 13. Section 58-60a-108 is enacted to read:

58-60a-108. Section 8 -- Adverse actions.

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State; and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

Section 14. Section 58-60a-109 is enacted to read:

58-60a-109. Section 9 -- Establishment of Counseling Compact Commission.

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within 60 days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations.

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

d. Maintain financial records on behalf of the Commission;

e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;

f. Establish additional committees as necessary; and

g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Section 58-60a-111.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

a. Non-compliance of a Member State with its obligations under the Compact;

b. The employment, compensation, discipline or other matters, practices or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;

c. Current, threatened, or reasonably anticipated litigation;

d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;

e. Accusing any person of a crime or formally censuring any person;

f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

h. Disclosure of investigative records compiled for law enforcement purposes;

i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or

j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred

within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Section 15. Section 58-60a-110 is enacted to read:

58-60a-110. Section 10 -- Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;

2. Licensure data;

3. Adverse Actions against a license or Privilege to Practice;

4. Non-confidential information related to Alternative Program participation;

5. Any denial of application for licensure, and the reason(s) for such denial;

6. Current Significant Investigative Information; and

7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

Section 16. Section 58-60a-111 is enacted to read:

58-60a-111. Section 11 -- Rulemaking.

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this Section and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and

2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;

3. A request for comments on the proposed Rule from any interested person; and

4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;

2. A State or federal governmental subdivision or agency; or

3. An association having at least twenty-five (25) members.

I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this section shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this section.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this section shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;

2. Prevent a loss of Commission or Member State funds;

3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or

4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Section 17. Section 58-60a-112 is enacted to read:

58-60a-112. Section 12 -- Oversight, dispute resolution, and enforcement.

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

C. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

D. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

E. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

F. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

G. The defaulting State may appeal the action of the Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

Section 18. Section 58-60a-113 is enacted to read:

58-60a-113. Section 13 -- Date of implementation of the Counseling Compact Commission and associated Rules, withdrawal, and amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member States.

Section 19. Section 58-60a-114 is enacted to read:

58-60a-114. Section 14 -- Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Section 20. Section 58-60a-115 is enacted to read:

58-60a-115. Section 15 -- Binding Effect of Compact and other Laws.

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

Section 21. Section 58-60a-201 is enacted to read:

Part 2. Division Implementation

58-60a-201. Rulemaking authority -- State authority over scope of practice.

(1) The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement this chapter.

(2) Notwithstanding any provision in Sections 58-60a-101 through 58-60a-115, Sections 58-60a-101 through 58-60a-115 do not supersede state law related to an individual's scope of practice under this title.

CHAPTER 467
S. B. 238

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

HOMELESS SERVICES MODIFICATIONS

Chief Sponsor: Jacob L. Anderegg
House Sponsor: Steve Waldrip

LONG TITLE

General Description:

This bill enacts provisions related to the COVID-19 Homeless Housing and Services Grant Program.

Highlighted Provisions:

This bill:

- defines terms;
- establishes the COVID-19 Homeless Housing and Services Grant Program (grant program);
- directs the Office of Homeless Services to administer the program;
- directs the Utah Homelessness Council to award grants;
- establishes grant criteria; and
- requires the state homelessness coordinator to submit an annual report.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- to Department of Workforce Services -- Office of Homeless Services, as a one-time appropriation:
  - from Federal Funds -- American Rescue Plan, One-time, $55,000,000.

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

35A-16-401, Utah Code Annotated 1953
35A-16-402, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 35A-16-401 is enacted to read:

Part 4. (Codified as Part 6) COVID-19 Homeless Housing and Services Grant Program

35A-16-401. (Codified as 35A-16-601) Definitions.

As used in this part:

(1) "COVID-19" means:

(a) severe acute respiratory syndrome coronavirus 2; or

(b) the disease caused by severe acute respiratory syndrome coronavirus 2.

(2) "COVID-19 emergency" means the spread of COVID-19 that the World Health Organization declared a pandemic on March 11, 2020.

(3) "Grant program" means the COVID-19 Homeless Housing and Services Grant Program established in Section 35A-16-402.

Section 2. Section 35A-16-402 is enacted to read:

35A-16-402. (Codified as 35A-16-602) COVID-19 Homeless Housing and Services Grant Program.

(1) There is established the COVID-19 Homeless Housing and Services Grant Program, a competitive grant program administered by the office and funded in accordance with 42 U.S.C. Sec. 802.

(2) The office shall distribute money to fund one or more projects that:

(a) include affordable housing units for households:

(i) whose income is no more than 30% of the area median income for households of the same size in the county or municipality where the project is located;

(ii) at rental rates no greater than the rates described in Subsection 35A-8-511(2)(b); and

(iii) that have been impacted by the COVID-19 emergency in accordance with 42 U.S.C. Sec. 802; and

(b) have been approved by the homelessness council.

(3) The office shall:

(a) administer the grant program, including:

(i) reviewing grant applications and making recommendations to the homelessness council; and

(ii) distributing grant money to approved grant recipients; and

(b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer the program, including:

(i) grant application requirements;

(ii) procedures to approve a grant; and

(iii) procedures for distributing money to grant recipients.

(4) When reviewing an application for approval, the homelessness council shall consider:

(a) an applicant's rental income plan;

(b) proposed case management and service plans for households;

(c) any matching funds proposed by an applicant;

(d) proposed restrictions, including deed restrictions, and the duration of restrictions on housing units to facilitate long-term assistance to households;

(e) whether use of funds for the proposed project complies with 42 U.S.C. Sec. 802; and

(f) any other considerations as adopted by the council.

(5) A grant award under this section shall comply with the requirements of 42 U.S.C. Sec. 802.

(6) On or before October 1, the coordinator, in cooperation with the homelessness council shall submit an annual report electronically to the Social Services Appropriations Subcommittee that gives a complete account of the office's disbursement of funds under this section.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Department of Workforce Services -- Office of Homeless Services

From Federal Funds -- American Rescue Plan, One-time	$55,000,000
Schedule of Programs:	
Homeless Services	$55,000,000

The Legislature intends that:

(1) under Utah Code Section 63J-1-603, appropriations under this section not lapse at the close of fiscal year 2023; and

(2) the use of any nonlapsing funds is limited to the COVID-19 Homeless Housing and Services Grant Program.

CHAPTER 468
S. B. 239

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

CONGREGATE CARE PROGRAM AMENDMENTS

Chief Sponsor: Michael K. McKell
House Sponsor: Brady Brammer

LONG TITLE

General Description:

This bill amends provisions related to congregate care programs.

Highlighted Provisions:

This bill:

- defines terms;
- modifies the definition of "congregate care program";
- removes the requirement that restraint and seclusion procedures align with industry standards;
- requires a congregate care program to allow confidential voice-to-voice communication unless certain circumstances are met;
- requires a youth transportation company to register with the office;
- requires individuals who transport a child for a youth transportation company to submit to a background check;
- imposes a criminal penalty for referring individuals to youth transportation companies in exchange for renumeration, or fee sharing;
- creates a fee for registration of a youth transportation company; and
- makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

62A-2-101, as last amended by Laws of Utah 2021, Chapters 117 and 400
62A-2-116, as last amended by Laws of Utah 2018, Chapters 316 and 439
62A-2-120, as last amended by Laws of Utah 2021, Chapters 117, 262, and 400
62A-2-123, as enacted by Laws of Utah 2021, Chapter 400

ENACTS:

62A-2-126, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 62A-2-101 is amended to read:

62A-2-101. Definitions.

As used in this chapter:

(1) "Adult day care" means nonresidential care and supervision:

(a) for three or more adults for at least four but less than 24 hours a day; and

(b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.

(2) "Applicant" means a person [~~who~~] that applies for an initial license or a license renewal under this chapter.

(3) (a) "Associated with the licensee" means that an individual is:

(i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or

(ii) applying to become affiliated with a licensee in a capacity described in Subsection (3)(a)(i).

(b) "Associated with the licensee" does not include:

(i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:

(A) a local mental health authority described in Section 17-43-301;

(B) a local substance abuse authority described in Section 17-43-201; or

(C) a board of an organization operating under a contract to provide mental health or substance abuse programs, or services for the local mental health authority or substance abuse authority; or

(ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.

(4) (a) "Boarding school" means a private school that:

(i) uses a regionally accredited education program;

(ii) provides a residence to the school's students:

(A) for the purpose of enabling the school's students to attend classes at the school; and

(B) as an ancillary service to educating the students at the school;

(iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (4)(b)(i); and

(iv) (A) does not provide the treatment or services described in Subsection (37)(a); or

(B) provides the treatment or services described in Subsection (37)(a) on a limited basis, as described in Subsection (4)(b)(ii).

(b) (i) For purposes of Subsection (4)(a)(iii), "education" means a course of study for one or more of grades kindergarten through 12th grade.

(ii) For purposes of Subsection (4)(a)(iv)(B), a private school provides the treatment or services described in Subsection (37)(a) on a limited basis if:

(A) the treatment or services described in Subsection (37)(a) are provided only as an incidental service to a student; and

(B) the school does not:

(I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (37)(a); or

(II) have a primary purpose of providing the treatment or services described in Subsection (37)(a).

(c) "Boarding school" does not include a therapeutic school.

(5) "Child" means an individual under 18 years old.

(6) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:

(a) finding a person to adopt the child;

(b) placing the child in a home for adoption; or

(c) foster home placement.

(7) "Child-placing agency" means a person that engages in child placing.

(8) "Client" means an individual who receives or has received services from a licensee.

(9) (a) "Congregate care program" means any of the following that provide services to a child:

[~~(a)~~] (i) an outdoor youth program;

[~~(b)~~] (ii) a residential support program;

[~~(c)~~] (iii) a residential treatment program; or

[~~(d)~~] (iv) a therapeutic school.

(b) "Congregate care program" does not include a human services program that:

(i) is licensed to serve adults; and

(ii) is approved by the office to serve a child for a limited time.

(10) "Day treatment" means specialized treatment that is provided to:

(a) a client less than 24 hours a day; and

(b) four or more persons who:

(i) are unrelated to the owner or provider; and

(ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.

(11) "Department" means the Department of Human Services.

(12) "Department contractor" means an individual who:

(a) provides services under a contract with the department; and

(b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.

(13) "Direct access" means that an individual has, or likely will have:

(a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or

(b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.

(14) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background screening approval issued by the office.

(15) "Director" means the director of the Office of Licensing.

(16) "Domestic violence" means the same as that term is defined in Section 77-36-1.

(17) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.

(18) "Elder adult" means a person 65 years old or older.

(19) "Executive director" means the executive director of the department.

(20) "Foster home" means a residence that is licensed or certified by the Office of Licensing for the full-time substitute care of a child.

(21) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.

(22) "Health care provider" means the same as that term is defined in Section 78B-3-403.

(23) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.

(24) (a) "Human services program" means:

(i) a foster home;

(ii) a therapeutic school;

(iii) a youth program;

(iv) an outdoor youth program;

(v) a residential treatment program;

(vi) a residential support program;

(vii) a resource family home;

(viii) a recovery residence; or

(ix) a facility or program that provides:

(A) adult day care;

(B) day treatment;

(C) outpatient treatment;

(D) domestic violence treatment;

(E) child-placing services;

(F) social detoxification; or

(G) any other human services that are required by contract with the department to be licensed with the department.

(b) "Human services program" does not include:

(i) a boarding school; or

(ii) a residential, vocational and life skills program, as defined in Section 13-53-102.

(25) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(26) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.

(27) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.

(28) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:

(a) cannot live independently or in a less restrictive environment; and

(b) requires, without the individual's consent or control, the use of locked doors to care for the individual.

(29) "Licensee" means an individual or a human services program licensed by the office.

(30) "Local government" means a city, town, metro township, or county.

(31) "Minor" has the same meaning as "child."

(32) "Office" means the Office of Licensing within the Department of Human Services.

(33) "Outdoor youth program" means a program that provides:

(a) services to a child that has:

(i) a chemical dependency; or

(ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;

(b) a 24-hour outdoor group living environment; and

(c) (i) regular therapy, including group, individual, or supportive family therapy; or

(ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.

(34) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.

(35) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:

(a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and

(b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.

(36) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.

(37) (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:

(i) provides a supervised living environment for individuals recovering from a substance use disorder;

(ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;

(iii) provides or arranges for residents to receive services related to their recovery from a substance use disorder, either on or off site;

(iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or

(v) (A) receives public funding; or

(B) is run as a business venture, either for-profit or not-for-profit.

(b) "Recovery residence" does not mean:

(i) a residential treatment program;

(ii) residential support program; or

(iii) a home, residence, or facility, in which:

(A) residents, by their majority vote, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;

(B) residents equitably share rent and housing-related expenses; and

(C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.

(38) "Regular business hours" means:

(a) the hours during which services of any kind are provided to a client; or

(b) the hours during which a client is present at the facility of a licensee.

(39) (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

(b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:

(i) emotional;

(ii) psychological;

(iii) developmental; or

(iv) behavioral.

(c) Treatment is not a necessary component of a residential support program.

(d) "Residential support program" does not include:

(i) a recovery residence; or

(ii) a program that provides residential services that are performed:

(A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or

(B) in a facility that serves fewer than four individuals.

(40) (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.

(b) "Residential treatment" does not include a:

(i) boarding school;

(ii) foster home; or

(iii) recovery residence.

(41) "Residential treatment program" means a program or facility that provides:

(a) residential treatment; or

(b) intermediate secure treatment.

(42) "Seclusion" means the involuntary confinement of an individual in a room or an area:

(a) away from the individual's peers; and

(b) in a manner that physically prevents the individual from leaving the room or area.

(43) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act, and that include:

(a) room and board for persons who are unrelated to the owner or manager of the facility;

(b) specialized rehabilitation to acquire sobriety; and

(c) aftercare services.

(44) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 62A-15-1202.

(45) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:

(a) designed to provide:

(i) specialized drug or alcohol treatment;

(ii) rehabilitation; or

(iii) habilitation services; and

(b) that provides the treatment or services described in Subsection (45)(a) to persons with:

(i) a diagnosed substance use disorder; or

(ii) chemical dependency disorder.

(46) "Therapeutic school" means a residential group living facility:

(a) for four or more individuals that are not related to:

(i) the owner of the facility; or

(ii) the primary service provider of the facility;

(b) that serves students who have a history of failing to function:

(i) at home;

(ii) in a public school; or

(iii) in a nonresidential private school; and

(c) that offers:

(i) room and board; and

(ii) an academic education integrated with:

(A) specialized structure and supervision; or

(B) services or treatment related to:

(I) a disability;

(II) emotional development;

(III) behavioral development;

(IV) familial development; or

(V) social development.

(47) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.

(48) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:

(a) provide personal protection;

(b) provide necessities such as food, shelter, clothing, or mental or other health care;

(c) obtain services necessary for health, safety, or welfare;

(d) carry out the activities of daily living;

(e) manage the adult's own resources; or

(f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.

(49) (a) "Youth program" means a program designed to provide behavioral, substance abuse, or mental health services to minors that:

(i) serves adjudicated or nonadjudicated youth;

(ii) charges a fee for its services;

(iii) may provide host homes or other arrangements for overnight accommodation of the youth;

(iv) may provide all or part of its services in the outdoors;

(v) may limit or censor access to parents or guardians; and

(vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.

(b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.

(50) (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.

(b) "Youth transportation company" does not include:

(i) a relative of the child;

(ii) a state agency; or

(iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

Section 2. Section 62A-2-116 is amended to read:

62A-2-116. Violation -- Criminal penalties.

(1) (a) A person who owns, establishes, conducts, maintains, manages, or operates a human services program in violation of this chapter is guilty of a class A misdemeanor if the violation endangers or harms the health, welfare, or safety of persons participating in that program.

(b) Conviction in a criminal proceeding does not preclude the office from:

(i) assessing a civil penalty or an administrative penalty;

(ii) denying, placing conditions on, suspending, or revoking a license; or

(iii) seeking injunctive or equitable relief.

(2) Any person that violates a provision of this chapter, lawful orders of the office, or rules adopted under this chapter may be assessed a penalty not to exceed the sum of $10,000 per violation, in:

(a) a judicial civil proceeding; or

(b) an administrative action in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(3) Assessment of a judicial penalty or an administrative penalty does not preclude the office from:

(a) seeking criminal penalties;

(b) denying, placing conditions on, suspending, or revoking a license; or

(c) seeking injunctive or equitable relief.

(4) The office may assess the human services program the cost incurred by the office in placing a monitor.

(5) Notwithstanding Subsection (1)(a) and subject to Subsections (1)(b) and (2), an individual is guilty of a class A misdemeanor if the individual knowingly and willfully offers, pays, promises to pay, solicits, or receives any remuneration, including any commission, bonus, kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind, or engages in any split-fee arrangement in return for:

(a) referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder;

(b) receiving a referred individual for the furnishing or arranging for the furnishing of any item or service for the treatment of a substance use disorder; or

(c) referring a clinical sample to a person, including a laboratory, for testing that is used toward the furnishing of any item or service for the treatment of a substance use disorder.

(6) Subsection (5) does not prohibit:

(a) any discount, payment, waiver of payment, or payment practice not prohibited by 42 U.S.C. Sec. 1320a-7(b) or regulations made under 42 U.S.C. Sec. 1320a-7(b);

(b) patient referrals within a practice group;

(c) payments by a health insurer who reimburses, provides, offers to provide, or administers health, mental health, or substance use disorder goods or services under a health benefit plan;

(d) payments to or by a health care provider, practice group, or substance use disorder treatment program that has contracted with a local mental health authority, a local substance abuse authority, a health insurer, a health care purchasing group, or the Medicare or Medicaid program to provide health, mental health, or substance use disorder services;

(e) payments by a health care provider, practice group, or substance use disorder treatment program to a health, mental health, or substance use disorder information service that provides information upon request and without charge to consumers about providers of health care goods or services to enable consumers to select appropriate providers or facilities, if the information service:

(i) does not attempt, through standard questions for solicitation of consumer criteria or through any other means, to steer or lead a consumer to select or consider selection of a particular health care provider, practice group, or substance use disorder treatment program;

(ii) does not provide or represent that the information service provides diagnostic or counseling services or assessments of illness or injury and does not make any promises of cure or guarantees of treatment; and

(iii) charges and collects fees from a health care provider, practice group, or substance use disorder treatment program participating in information services that:

(A) are set in advance;

(B) are consistent with the fair market value for those information services; and

(C) are not based on the potential value of the goods or services that a health care provider, practice group, or substance use disorder treatment program may provide to a patient; or

(f) payments by a laboratory to a person that:

(i) does not have a financial interest in or with a facility or person who refers a clinical sample to the laboratory;

(ii) is not related to an owner of a facility or a person who refers a clinical sample to the laboratory;

(iii) is not related to and does not have a financial relationship with a health care provider who orders the laboratory to conduct a test that is used toward the furnishing of an item or service for the treatment of a substance use disorder;

(iv) identifies, in advance of providing marketing or sales services, the types of clinical samples that each laboratory will receive, if the person provides marketing or sales services to more than one laboratory;

(v) the person does not identify as or hold itself out to be a laboratory or part of a network with an insurance payor, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(vii)(B);

(vi) the person identifies itself in all marketing materials as a salesperson for a licensed laboratory and identifies each laboratory that the person represents, if the person provides marketing or sales services under a contract with a laboratory, as described in Subsection (6)(f)(vii)(B); and

(vii) (A) is a sales person employed by the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment; or

(B) is a person under contract with the laboratory to market or sell the laboratory's services to a person who provides substance use disorder treatment, if the total compensation paid by the laboratory does not exceed the total compensation that the laboratory pays to employees of the laboratory for similar marketing or sales services.

(7) (a) A person may not knowingly or willfully, in exchange for referring an individual to a youth transportation company:

(i) offer, pay, promise to pay, solicit, or receive any remuneration directly or indirectly, overtly or covertly, in cash or in kind, including:

(A) a commission;

(B) a bonus;

(C) a kickback;

(D) a bribe; or

(E) a rebate; or

(ii) engage in any split-fee arrangement.

(b) A person who violates Subsection (7)(a) is guilty of a class A misdemeanor and shall be assessed a penalty in accordance with Subsection (2).

Section 3. Section 62A-2-120 is amended to read:

62A-2-120. Background check -- Direct access to children or vulnerable adults.

(1) As used in this section:

(a) (i) "Applicant" means:

(A) the same as that term is defined in Section 62A-2-101;

(B) an individual who is associated with a licensee and has or will likely have direct access to a child or a vulnerable adult;

(C) an individual who provides respite care to a foster parent or an adoptive parent on more than one occasion;

(D) a department contractor;

(E) an individual who transports a child for a youth transportation company;

[~~(E)~~] (F) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and resides in a home, that is licensed or certified by the office, with the child or vulnerable adult who is receiving services; or

[~~(F)~~] (G) a guardian submitting an application on behalf of an individual, other than the child or vulnerable adult who is receiving the service, if the individual is 12 years old or older and is a person described in Subsection (1)(a)(i)(A), (B), (C), or (D).

(ii) "Applicant" does not mean an individual, including an adult, who is in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services.

(b) "Application" means a background screening application to the office.

(c) "Bureau" means the Bureau of Criminal Identification within the Department of Public Safety, created in Section 53-10-201.

(d) "Incidental care" means occasional care, not in excess of five hours per week and never overnight, for a foster child.

(e) "Personal identifying information" means:

(i) current name, former names, nicknames, and aliases;

(ii) date of birth;

(iii) physical address and email address;

(iv) telephone number;

(v) driver license or other government-issued identification;

(vi) social security number;

(vii) only for applicants who are 18 years old or older, fingerprints, in a form specified by the office; and

(viii) other information specified by the office by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) Except as provided in Subsection (13), an applicant or a representative shall submit the following to the office:

(i) personal identifying information;

(ii) a fee established by the office under Section 63J-1-504; and

(iii) a disclosure form, specified by the office, for consent for:

(A) an initial background check upon submission of the information described under this Subsection (2)(a);

(B) ongoing monitoring of fingerprints and registries until no longer associated with a licensee for 90 days;

(C) a background check when the office determines that reasonable cause exists; and

(D) retention of personal identifying information, including fingerprints, for monitoring and notification as described in Subsections (3)(d) and (4).

(b) In addition to the requirements described in Subsection (2)(a), if an applicant resided outside of the United States and its territories during the five years immediately preceding the day on which the information described in Subsection (2)(a) is submitted to the office, the office may require the applicant to submit documentation establishing whether the applicant was convicted of a crime during the time that the applicant resided outside of the United States or its territories.

(3) The office:

(a) shall perform the following duties as part of a background check of an applicant:

(i) check state and regional criminal background databases for the applicant's criminal history by:

(A) submitting personal identifying information to the bureau for a search; or

(B) using the applicant's personal identifying information to search state and regional criminal background databases as authorized under Section 53-10-108;

(ii) submit the applicant's personal identifying information and fingerprints to the bureau for a criminal history search of applicable national criminal background databases;

(iii) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(iv) search the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(v) search the juvenile court records for substantiated findings of severe child abuse or neglect described in Section 80-3-404; and

(vi) search the juvenile court arrest, adjudication, and disposition records, as provided under Section 78A-6-209;

(b) shall conduct a background check of an applicant for an initial background check upon submission of the information described under Subsection (2)(a);

(c) may conduct all or portions of a background check of an applicant, as provided by rule, made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) for an annual renewal; or

(ii) when the office determines that reasonable cause exists;

(d) may submit an applicant's personal identifying information, including fingerprints, to the bureau for checking, retaining, and monitoring of state and national criminal background databases and for notifying the office of new criminal activity associated with the applicant;

(e) shall track the status of an approved applicant under this section to ensure that an approved applicant is not required to duplicate the submission of the applicant's fingerprints if the applicant applies for:

(i) more than one license;

(ii) direct access to a child or a vulnerable adult in more than one human services program; or

(iii) direct access to a child or a vulnerable adult under a contract with the department;

(f) shall track the status of each license and each individual with direct access to a child or a vulnerable adult and notify the bureau within 90 days after the day on which the license expires or the individual's direct access to a child or a vulnerable adult ceases;

(g) shall adopt measures to strictly limit access to personal identifying information solely to the individuals responsible for processing and entering the applications for background checks and to protect the security of the personal identifying information the office reviews under this Subsection (3);

(h) as necessary to comply with the federal requirement to check a state's child abuse and neglect registry regarding any individual working in a congregate care program, shall:

(i) search the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006; and

(ii) require the child abuse and neglect registry be checked in each state where an applicant resided at any time during the five years immediately preceding the day on which the applicant submits the information described in Subsection (2)(a) to the office; and

(i) shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the provisions of this Subsection (3) relating to background checks.

(4) (a) With the personal identifying information the office submits to the bureau under Subsection (3), the bureau shall check against state and regional criminal background databases for the applicant's criminal history.

(b) With the personal identifying information and fingerprints the office submits to the bureau under Subsection (3), the bureau shall check against national criminal background databases for the applicant's criminal history.

(c) Upon direction from the office, and with the personal identifying information and fingerprints the office submits to the bureau under Subsection (3)(d), the bureau shall:

(i) maintain a separate file of the fingerprints for search by future submissions to the local and regional criminal records databases, including latent prints; and

(ii) monitor state and regional criminal background databases and identify criminal activity associated with the applicant.

(d) The bureau is authorized to submit the fingerprints to the Federal Bureau of Investigation Next Generation Identification System, to be retained in the Federal Bureau of Investigation Next Generation Identification System for the purpose of:

(i) being searched by future submissions to the national criminal records databases, including the Federal Bureau of Investigation Next Generation Identification System and latent prints; and

(ii) monitoring national criminal background databases and identifying criminal activity associated with the applicant.

(e) The Bureau shall notify and release to the office all information of criminal activity associated with the applicant.

(f) Upon notice from the office that a license has expired or an individual's direct access to a child or a vulnerable adult has ceased for 90 days, the bureau shall:

(i) discard and destroy any retained fingerprints; and

(ii) notify the Federal Bureau of Investigation when the license has expired or an individual's direct access to a child or a vulnerable adult has ceased, so that the Federal Bureau of Investigation will discard and destroy the retained fingerprints from the Federal Bureau of Investigation Next Generation Identification System.

(5) (a) After conducting the background check described in Subsections (3) and (4), the office shall deny an application to an applicant who, within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check, has been convicted of any of the following, regardless of whether the offense is a felony, a misdemeanor, or an infraction:

(i) an offense identified as domestic violence, lewdness, voyeurism, battery, cruelty to animals, or bestiality;

(ii) a violation of any pornography law, including sexual exploitation of a minor;

(iii) prostitution;

(iv) an offense included in:

(A) Title 76, Chapter 5, Offenses Against the Person;

(B) Section 76-5b-201, Sexual Exploitation of a Minor; or

(C) Title 76, Chapter 7, Offenses Against the Family;

(v) aggravated arson, as described in Section 76-6-103;

(vi) aggravated burglary, as described in Section 76-6-203;

(vii) aggravated robbery, as described in Section 76-6-302;

(viii) identity fraud crime, as described in Section 76-6-1102; or

(ix) a felony or misdemeanor offense committed outside of the state that, if committed in the state, would constitute a violation of an offense described in Subsections (5)(a)(i) through (viii).

(b) If the office denies an application to an applicant based on a conviction described in Subsection (5)(a), the applicant is not entitled to a comprehensive review described in Subsection (6).

(c) If the applicant will be working in a program serving only adults whose only impairment is a mental health diagnosis, including that of a serious mental health disorder, with or without co-occurring substance use disorder, the denial provisions of Subsection (5)(a) do not apply, and the office shall conduct a comprehensive review as described in Subsection (6).

(6) (a) The office shall conduct a comprehensive review of an applicant's background check if the applicant:

(i) has an open court case or a conviction for any felony offense, not described in Subsection (5)(a), with a date of conviction that is no more than 10 years before the date on which the applicant submits the application;

(ii) has an open court case or a conviction for a misdemeanor offense, not described in Subsection (5)(a), and designated by the office, by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the conviction is within three years before the day on which the applicant submits information to the office under Subsection (2) for a background check;

(iii) has a conviction for any offense described in Subsection (5)(a) that occurred more than three years before the day on which the applicant submitted information under Subsection (2)(a);

(iv) is currently subject to a plea in abeyance or diversion agreement for any offense described in Subsection (5)(a);

(v) has a listing in the Department of Human Services, Division of Child and Family Services' Licensing Information System described in Section 62A-4a-1006;

(vi) has a listing in the Department of Human Services, Division of Aging and Adult Services' vulnerable adult abuse, neglect, or exploitation database described in Section 62A-3-311.1;

(vii) has a record in the juvenile court of a substantiated finding of severe child abuse or neglect described in Section 80-3-404;

(viii) has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or misdemeanor, if the applicant is:

(A) under 28 years old; or

(B) 28 years old or older and has been convicted of, has pleaded no contest to, or is currently subject to a plea in abeyance or diversion agreement for a felony or a misdemeanor offense described in Subsection (5)(a);

(ix) has a pending charge for an offense described in Subsection (5)(a); or

(x) is an applicant described in Subsection (5)(c).

(b) The comprehensive review described in Subsection (6)(a) shall include an examination of:

(i) the date of the offense or incident;

(ii) the nature and seriousness of the offense or incident;

(iii) the circumstances under which the offense or incident occurred;

(iv) the age of the perpetrator when the offense or incident occurred;

(v) whether the offense or incident was an isolated or repeated incident;

(vi) whether the offense or incident directly relates to abuse of a child or vulnerable adult, including:

(A) actual or threatened, nonaccidental physical, mental, or financial harm;

(B) sexual abuse;

(C) sexual exploitation; or

(D) negligent treatment;

(vii) any evidence provided by the applicant of rehabilitation, counseling, psychiatric treatment received, or additional academic or vocational schooling completed;

(viii) the applicant's risk of harm to clientele in the program or in the capacity for which the applicant is applying; and

(ix) any other pertinent information presented to or publicly available to the committee members.

(c) At the conclusion of the comprehensive review described in Subsection (6)(a), the office shall deny an application to an applicant if the office finds that approval would likely create a risk of harm to a child or a vulnerable adult.

(d) At the conclusion of the comprehensive review described in Subsection (6)(a), the office may not deny an application to an applicant solely because the applicant was convicted of an offense that occurred 10 or more years before the day on which the applicant submitted the information required under Subsection (2)(a) if:

(i) the applicant has not committed another misdemeanor or felony offense after the day on which the conviction occurred; and

(ii) the applicant has never been convicted of an offense described in Subsection (14)(c).

(e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office may make rules, consistent with this chapter, to establish procedures for the comprehensive review described in this Subsection (6).

(7) Subject to Subsection (10), the office shall approve an application to an applicant who is not denied under Subsection (5), (6), or (14).

(8) (a) The office may conditionally approve an application of an applicant, for a maximum of 60 days after the day on which the office sends written

notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised, if the office:

(i) is awaiting the results of the criminal history search of national criminal background databases; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(b) The office may conditionally approve an application of an applicant, for a maximum of one year after the day on which the office sends written notice to the applicant under Subsection (12), without requiring that the applicant be directly supervised if the office:

(i) is awaiting the results of an out-of-state registry for providers other than foster and adoptive parents; and

(ii) would otherwise approve an application of the applicant under Subsection (7).

(c) Upon receiving the results of the criminal history search of a national criminal background database, the office shall approve or deny the application of the applicant in accordance with Subsections (5) through (7).

(9) A licensee or department contractor may not permit an individual to have direct access to a child or a vulnerable adult unless, subject to Subsection (10):

(a) the individual is associated with the licensee or department contractor and:

(i) the individual's application is approved by the office under this section;

(ii) the individual's application is conditionally approved by the office under Subsection (8); or

(iii) (A) the individual has submitted the background check information described in Subsection (2) to the office;

(B) the office has not determined whether to approve the applicant's application; and

(C) the individual is directly supervised by an individual who has a current background screening approval issued by the office under this section and is associated with the licensee or department contractor;

(b) (i) the individual is associated with the licensee or department contractor;

(ii) the individual has a current background screening approval issued by the office under this section;

(iii) one of the following circumstances, that the office has not yet reviewed under Subsection (6), applies to the individual:

(A) the individual was charged with an offense described in Subsection (5)(a);

(B) the individual is listed in the Licensing Information System, described in Section 62A-4a-1006;

(C) the individual is listed in the vulnerable adult abuse, neglect, or exploitation database, described in Section 62A-3-311.1;

(D) the individual has a record in the juvenile court of a substantiated finding of severe child abuse or neglect, described in Section 80-3-404; or

(E) the individual has a record of an adjudication in juvenile court for an act that, if committed by an adult, would be a felony or a misdemeanor as described in Subsection (5)(a) or (6); and

(iv) the individual is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(c) the individual:

(i) is not associated with the licensee or department contractor; and

(ii) is directly supervised by an individual who:

(A) has a current background screening approval issued by the office under this section; and

(B) is associated with the licensee or department contractor;

(d) the individual is the parent or guardian of the child, or the guardian of the vulnerable adult;

(e) the individual is approved by the parent or guardian of the child, or the guardian of the vulnerable adult, to have direct access to the child or the vulnerable adult;

(f) the individual is only permitted to have direct access to a vulnerable adult who voluntarily invites the individual to visit; or

(g) the individual only provides incidental care for a foster child on behalf of a foster parent who has used reasonable and prudent judgment to select the individual to provide the incidental care for the foster child.

(10) An individual may not have direct access to a child or a vulnerable adult if the individual is prohibited by court order from having that access.

(11) Notwithstanding any other provision of this section, an individual for whom the office denies an application may not have direct access to a child or vulnerable adult unless the office approves a subsequent application by the individual.

(12) (a) Within 30 days after the day on which the office receives the background check information for an applicant, the office shall give notice of the clearance status to:

(i) the applicant, and the licensee or department contractor, of the office's decision regarding the background check and findings; and

(ii) the applicant of any convictions and potentially disqualifying charges and adjudications found in the search.

(b) With the notice described in Subsection (12)(a), the office shall also give the applicant the details of any comprehensive review conducted under Subsection (6).

(c) If the notice under Subsection (12)(a) states that the applicant's application is denied, the notice shall further advise the applicant that the applicant may, under Subsection 62A-2-111(2), request a hearing in the department's Office of Administrative Hearings, to challenge the office's decision.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules, consistent with this chapter:

(i) defining procedures for the challenge of the office's background check decision described in Subsection (12)(c); and

(ii) expediting the process for renewal of a license under the requirements of this section and other applicable sections.

(13) An individual or a department contractor who provides services in an adults only substance use disorder program, as defined by rule, is exempt from this section. This exemption does not extend to a program director or a member, as defined by Section 62A-2-108, of the program.

(14) (a) Except as provided in Subsection (14)(b), in addition to the other requirements of this section, if the background check of an applicant is being conducted for the purpose of giving clearance status to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant seeking to provide a prospective foster home, or an applicant seeking to provide a prospective adoptive home, the office shall:

(i) check the child abuse and neglect registry in each state where each applicant resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the prospective foster parent or prospective adoptive parent is listed in the registry as having a substantiated or supported finding of child abuse or neglect; and

(ii) check the child abuse and neglect registry in each state where each adult living in the home of the applicant described in Subsection (14)(a)(i) resided in the five years immediately preceding the day on which the applicant applied to be a foster parent or adoptive parent, to determine whether the adult is listed in the registry as having a substantiated or supported finding of child abuse or neglect.

(b) The requirements described in Subsection (14)(a) do not apply to the extent that:

(i) federal law or rule permits otherwise; or

(ii) the requirements would prohibit the Division of Child and Family Services or a court from placing a child with:

(A) a noncustodial parent under Section 62A-4a-209, 80-3-302, or 80-3-303; or

(B) a relative, other than a noncustodial parent, under Section 62A-4a-209, 80-3-302, or 80-3-303, pending completion of the background check described in Subsection (5).

(c) Notwithstanding Subsections (5) through (9), the office shall deny a clearance to an applicant seeking a position in a congregate care program, an applicant for a one-time adoption, an applicant to become a prospective foster parent, or an applicant to become a prospective adoptive parent if the applicant has been convicted of:

(i) a felony involving conduct that constitutes any of the following:

(A) child abuse, as described in Section 76-5-109;

(B) commission of domestic violence in the presence of a child, as described in Section 76-5-109.1;

(C) abuse or neglect of a child with a disability, as described in Section 76-5-110;

(D) endangerment of a child or vulnerable adult, as described in Section 76-5-112.5;

(E) aggravated murder, as described in Section 76-5-202;

(F) murder, as described in Section 76-5-203;

(G) manslaughter, as described in Section 76-5-205;

(H) child abuse homicide, as described in Section 76-5-208;

(I) homicide by assault, as described in Section 76-5-209;

(J) kidnapping, as described in Section 76-5-301;

(K) child kidnapping, as described in Section 76-5-301.1;

(L) aggravated kidnapping, as described in Section 76-5-302;

(M) human trafficking of a child, as described in Section 76-5-308.5;

(N) an offense described in Title 76, Chapter 5, Part 4, Sexual Offenses;

(O) sexual exploitation of a minor, as described in Section 76-5b-201;

(P) aggravated arson, as described in Section 76-6-103;

(Q) aggravated burglary, as described in Section 76-6-203;

(R) aggravated robbery, as described in Section 76-6-302; or

(S) domestic violence, as described in Section 77-36-1; or

(ii) an offense committed outside the state that, if committed in the state, would constitute a violation of an offense described in Subsection (14)(c)(i).

(d) Notwithstanding Subsections (5) through (9), the office shall deny a license or license renewal to a prospective foster parent or a prospective adoptive parent if, within the five years immediately preceding the day on which the individual's application or license would otherwise be approved, the applicant was convicted of a felony involving conduct that constitutes a violation of any of the following:

(i) aggravated assault, as described in Section 76-5-103;

(ii) aggravated assault by a prisoner, as described in Section 76-5-103.5;

(iii) mayhem, as described in Section 76-5-105;

(iv) an offense described in Title 58, Chapter 37, Utah Controlled Substances Act;

(v) an offense described in Title 58, Chapter 37a, Utah Drug Paraphernalia Act;

(vi) an offense described in Title 58, Chapter 37b, Imitation Controlled Substances Act;

(vii) an offense described in Title 58, Chapter 37c, Utah Controlled Substance Precursor Act; or

(viii) an offense described in Title 58, Chapter 37d, Clandestine Drug Lab Act.

(e) In addition to the circumstances described in Subsection (6)(a), the office shall conduct the comprehensive review of an applicant's background check pursuant to this section if the registry check described in Subsection (14)(a) indicates that the individual is listed in a child abuse and neglect registry of another state as having a substantiated or supported finding of a severe type of child abuse or neglect as defined in Section 62A-4a-1002.

Section 4. Section 62A-2-123 is amended to read:

62A-2-123. Congregate care program regulation.

(1) A congregate care program may not use a cruel, severe, unusual, or unnecessary practice on a child, including:

(a) a strip search unless the congregate care program determines and documents that a strip search is necessary to protect an individual's health or safety;

(b) a body cavity search unless the congregate care program determines and documents that a body cavity search is necessary to protect an individual's health or safety;

(c) inducing pain to obtain compliance;

(d) hyperextending joints;

(e) peer restraints;

(f) discipline or punishment that is intended to frighten or humiliate;

(g) requiring or forcing the child to take an uncomfortable position, including squatting or bending;

(h) for the purpose of punishing or humiliating, requiring or forcing the child to repeat physical movements or physical exercises such as running laps or performing push-ups;

(i) spanking, hitting, shaking, or otherwise engaging in aggressive physical contact;

(j) denying an essential program service;

(k) depriving the child of a meal, water, rest, or opportunity for toileting;

(l) denying shelter, clothing, or bedding;

(m) withholding personal interaction, emotional response, or stimulation;

(n) prohibiting the child from entering the residence;

(o) abuse as defined in Section 80-1-102; and

(p) neglect as defined in Section 80-1-102.

(2) Before a congregate care program may use a restraint or seclusion, the congregate care program shall:

(a) develop and implement written policies and procedures that:

(i) describe the circumstances under which a staff member may use a restraint or seclusion;

(ii) describe which staff members are authorized to use a restraint or seclusion;

(iii) describe procedures for monitoring a child that is restrained or in seclusion;

(iv) describe time limitations on the use of a restraint or seclusion;

(v) require immediate and continuous review of the decision to use a restraint or seclusion;

(vi) require documenting the use of a restraint or seclusion;

(vii) describe record keeping requirements for records related to the use of a restraint or seclusion;

(viii) to the extent practicable, require debriefing the following individuals if debriefing would not interfere with an ongoing investigation, violate any law or regulation, or conflict with a child's treatment plan:

(A) each witness to the event;

(B) each staff member involved; and

(C) the child who was restrained or in seclusion[~~.~~];

(ix) include a procedure for complying with Subsection (5); and

(x) provide an administrative review process and required follow up actions after a child is restrained or put in seclusion; and

(b) consult with the office to ensure that the congregate care program's written policies and procedures align with [~~industry standards and~~] applicable law.

(3) A congregate care program:

(a) may use a passive physical restraint only if the passive physical restraint is supported by a nationally or regionally recognized curriculum focused on non-violent interventions and de-escalation techniques;

(b) may not use a chemical or mechanical restraint unless the office has authorized the congregate care program to use a chemical or mechanical restraint;

(c) shall ensure that a staff member that uses a restraint on a child is:

(i) properly trained to use the restraint; and

(ii) familiar with the child and if the child has a treatment plan, the child's treatment plan; and

(d) shall train each staff member on how to intervene if another staff member fails to follow correct procedures when using a restraint.

(4) (a) A congregate care program:

(i) may use seclusion if:

(A) the purpose for the seclusion is to ensure the immediate safety of the child or others; and

(B) no less restrictive intervention is likely to ensure the safety of the child or others; and

(ii) may not use seclusion:

(A) for coercion, retaliation, or humiliation; or

(B) due to inadequate staffing or for the staff's convenience.

(b) While a child is in seclusion, a staff member who is familiar to the child shall actively supervise the child for the duration of the seclusion.

(5) Subject to the office's review and approval, a congregate care program shall develop:

(a) suicide prevention policies and procedures that describe:

(i) how the congregate care program will respond in the event a child exhibits self-injurious, self-harm, or suicidal behavior;

(ii) warning signs of suicide;

(iii) emergency protocol and contacts;

(iv) training requirements for staff, including suicide prevention training;

(v) procedures for implementing additional supervision precautions and for removing any additional supervision precautions;

(vi) suicide risk assessment procedures;

(vii) documentation requirements for a child's suicide ideation and self-harm;

(viii) special observation precautions for a child exhibiting warning signs of suicide;

(ix) communication procedures to ensure all staff are aware of a child who exhibits warning signs of suicide;

(x) a process for tracking suicide behavioral patterns; and

(xi) a post-intervention plan with identified resources; and

(b) based on state law and industry best practices, policies and procedures for managing a child's behavior during the child's participation in the congregate care program.

(6) (a) A congregate care program:

[~~(a)~~] (i) [~~when not otherwise prohibited by law~~] subject to Subsection (6)(b), shall facilitate weekly confidential [~~communication~~] voice-to-voice communication between a child and the child's parents, guardian, foster parents, and siblings, as applicable;

[~~(b)~~] (ii) shall ensure that the communication described in Subsection (6)(a)(i) complies with the child's treatment plan, if any; and

[~~(c)~~] (iii) may not use family contact as an incentive for proper behavior or withhold family contact as a punishment.

(b) For the communication described in Subsection (6)(a)(i), a congregate care program may not:

(i) deny the communication unless state law or a court order prohibits the communication; or

(ii) modify the frequency or form of the communication unless:

(A) the office approves the modification; or

(B) state law or a court order prohibits the frequency or the form of the communication.

Section 5. Section 62A-2-126 is enacted to read:

62A-2-126. (Codified as 62A-2-128) Youth transportation company registration.

(1) The office shall establish a registration system for youth transportation companies.

(2) The office shall establish a fee:

(a) under Section 63J-1-504 that does not exceed $500; and

(b) that when paid by all registrants generates sufficient revenue to cover or substantially cover the costs for the creation and maintenance of the registration system.

(3) A youth transportation company shall:

(a) register with the office; and

(b) provide the office:

(i) proof of a business insurance policy that provides at least $1,000,000 in coverage; and

(ii) a valid business license from the state where the youth transportation company is headquartered.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules to implement this section.

CHAPTER 469
S. B. 240

Passed March 4, 2022
Approved March 24, 2022
Effective July 1, 2022

HEALTH CARE LIABILITY INSURANCE AMENDMENTS

Chief Sponsor: Lincoln Fillmore
House Sponsor: Cheryl K. Acton

LONG TITLE

General Description:

This bill enacts provisions related to the Medicaid program.

Highlighted Provisions:

This bill:

- prohibits the Medicaid program from paying for home health services unless the provider of the services has liability insurance.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

26-18-5.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 26-18-5.5 is enacted to read:

26-18-5.5. Liability insurance required.

The Medicaid program may not reimburse a home health agency, as defined in Section 26-21-2, for home health services provided to an enrollee unless the home health agency has liability coverage of:

(1) at least $500,000 per incident; or

(2) an amount established by department rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 2. Effective date.

This bill takes effect on July 1, 2022.

CHAPTER 470
S. B. 242

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

CHILD SUPPORT AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill amends provisions related to child support.

Highlighted Provisions:

This bill:

- creates a sunset date for certain child support tables;
- modifies the application of the child support tables;
- modifies the child support tables;
- provides the effective dates of the child support tables; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-2-278, as last amended by Laws of Utah 2021, Chapter 416
78A-6-356, as renumbered and amended by Laws of Utah 2021, Chapter 261
78B-12-205, as renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-210, as last amended by Laws of Utah 2012, Chapter 19
78B-12-301, as last amended by Laws of Utah 2008, Chapter 37 and renumbered and amended by Laws of Utah 2008, Chapter 3
78B-12-302, as enacted by Laws of Utah 2008, Chapter 3 and last amended by Laws of Utah 2008, Chapter 37

ENACTS:

78B-12-303, Utah Code Annotated 1953
78B-12-304, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 63I-2-278 is amended to read:

63I-2-278. Repeal dates -- Title 78A and Title 78B.

(1) If Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is not in effect before January 1, 2031, Title 78B, Chapter 6, Part 22, Cause of Action to Protect Minors from Unfiltered Devices, is repealed January 1, 2031.

(2) Sections 78B-12-301 and 78B-12-302 are repealed on January 1, 2025.

Section 2. Section 78A-6-356 is amended to read:

78A-6-356. Child support obligation when custody of a child is vested in an individual or institution.

(1) As used in this section:

(a) "Office" means the Office of Recovery Services.

(b) "State custody" means that a child is in the custody of a state department, division, or agency, including secure care.

(2) Under this section, a juvenile court may not issue a child support order against an individual unless:

(a) the individual is served with notice that specifies the date and time of a hearing to determine the financial support of a specified child;

(b) the individual makes a voluntary appearance; or

(c) the individual submits a waiver of service.

(3) Except as provided in Subsection (11), when a juvenile court places a child in state custody or if the guardianship of the child has been granted to another party and an agreement for a guardianship subsidy has been signed by the guardian, the juvenile court:

(a) shall order the child's parent, guardian, or other obligated individual to pay child support for each month the child is in state custody or cared for under a grant of guardianship;

(b) shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act; and

(c) may refer the establishment of a child support order to the office.

(4) When a juvenile court chooses to refer a case to the office to determine support obligation amounts in accordance with Title 78B, Chapter 12, Utah Child Support Act, the juvenile court shall:

(a) make the referral within three working days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(b) inform the child's parent, guardian, or other obligated individual of:

(i) the requirement to contact the office within 30 days after the day on which the juvenile court holds the hearing described in Subsection (2)(a); and

(ii) the penalty described in Subsection (6) for failure to contact the office.

(5) Liability for child support ordered under Subsection (3) shall accrue:

(a) except as provided in Subsection (5)(b), beginning on day 61 after the day on which the juvenile court holds the hearing described in Subsection (2)(a) if there is no existing child support order for the child; or

(b) beginning on the day the child is removed from the child's home, including time spent in detention or sheltered care, if the child is removed after having been returned to the child's home from state custody.

(6) (a) If the child's parent, guardian, or other obligated individual contacts the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a), the child support order may not include a judgment for past due support for more than two months.

(b) Notwithstanding Subsections (5) and (6)(a), the juvenile court may order the liability of support to begin to accrue from the date of the proceeding referenced in Subsection (3) if:

(i) the court informs the child's parent, guardian, or other obligated individual, as described in Subsection (4)(b), and the parent, guardian, or other obligated individual fails to contact the office within 30 days after the day on which the court holds the hearing described in Subsection (2)(a); and

(ii) the office took reasonable steps under the circumstances to contact the child's parent, guardian, or other obligated individual within 30 days after the last day on which the parent, guardian, or other obligated individual was required to contact the office to facilitate the establishment of a child support order.

(c) For purposes of Subsection (6)(b)(ii), the office is presumed to have taken reasonable steps if the office:

(i) has a signed, returned receipt for a certified letter mailed to the address of the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established; or

(ii) has had a documented conversation, whether by telephone or in person, with the child's parent, guardian, or other obligated individual regarding the requirement that a child support order be established.

(7) In collecting arrears, the office shall comply with Section 62A-11-320 in setting a payment schedule or demanding payment in full.

(8) (a) Unless a court orders otherwise, the child's parent, guardian, or other obligated individual shall pay the child support to the office.

(b) The clerk of the juvenile court, the office, or the Department of Human Services and the department's divisions shall have authority to receive periodic payments for the care and maintenance of the child, such as social security payments or railroad retirement payments made in the name of or for the benefit of the child.

(9) An existing child support order payable to a parent or other individual shall be assigned to the Department of Human Services as provided in Section 62A-1-117.

(10) (a) Subsections (4) through (9) do not apply if legal custody of a child is vested by the juvenile court in an individual.

(b) (i) If legal custody of a child is vested by the juvenile court in an individual, the court may order the child's parent, guardian, or other obligated individual to pay child support to the individual in whom custody is vested.

(ii) In the same proceeding, the juvenile court shall inform the child's parent, guardian, or other obligated individual, verbally and in writing, of the requirement to pay child support in accordance with Title 78B, Chapter 12, Utah Child Support Act.

(11) The juvenile court may not order an individual to pay child support for a child in state custody if:

(a) the individual's only form of income is a government-issued disability benefit;

(b) the benefit described in Subsection (11)(a) is issued because of the individual's disability, and not the child's disability; and

(c) the individual provides the juvenile court and the office evidence that the individual meets the requirements of Subsections (11)(a) and (b).

(12) After the juvenile court or the office establishes an individual's child support obligation ordered under Subsection (3), the office shall waive the obligation without further order of the juvenile court if:

(a) the individual's child support obligation is established [~~under Subsection 78B-12-205(6) or Section 78B-12-302~~] under the low income table in Section 78B-12-302 or 78B-12-304; or

(b) the individual's only source of income is a means-tested, income replacement payment of aid, including:

(i) cash assistance provided under Title 35A, Chapter 3, Part 3, Family Employment Program; or

(ii) cash benefits received under General Assistance, social security income, or social security disability income.

Section 3. Section 78B-12-205 is amended to read:

78B-12-205. Calculation of obligations.

(1) Each parent's child support obligation shall be established in proportion to their adjusted gross incomes, unless the low income table is applicable. Except during periods of court-ordered parent-time as set forth in Section 78B-12-216, the parents are obligated to pay their proportionate shares of the base combined child support obligation. If physical custody of the child changes from that assumed in the original order, modification of the order is not necessary, even if only one parent is specifically ordered to pay in the order.

[~~(2) Except in cases of joint physical custody and split custody as defined in Section 78B-12-102 and~~

~~in cases where the obligor's adjusted gross income is $1,050 or less monthly, the base child support award shall be determined as follows:~~]

(2) Except in cases of joint physical custody and split custody and except as provided in Subsection (4)(a), the base child support award shall be determined as follows:

(a) combine the adjusted gross incomes of the parents and determine the base combined child support obligation using the base combined child support obligation table; and

(b) calculate each parent's proportionate share of the base combined child support obligation by multiplying the combined child support obligation by each parent's percentage of combined adjusted gross income.

(3) In the case of an incapacitated adult child, any amount that the incapacitated adult child can contribute to the incapacitated adult child's support may be considered in the determination of child support and may be used to justify a reduction in the amount of support ordered, except that in the case of orders involving multiple children, the reduction shall not be greater than the effect of reducing the total number of children by one in the child support table calculation.

[~~(4) In cases where the monthly adjusted gross income of either parent is between $650 and $1,050, the base child support award shall be the lesser of the amount calculated in accordance with Subsection (2) and the amount calculated using the low income table.~~]

(4) (a) In cases where the monthly adjusted gross income of either parent is less than the highest amount of monthly adjusted gross income shown in the low income table, the base child support award shall be the lesser of the amount calculated under Subsection (2) and the amount calculated using the low income table.

(b) If the income and number of children is found in an area of the low income table in which no amount is shown, the base combined child support obligation table is to be used but the base child support may not be less than $30.

(5) The base combined child support obligation table provides combined child support obligations for up to six children. For more than six children, additional amounts may be added to the base child support obligation shown. Unless rebutted by Subsection 78B-12-210(3), the amount ordered may not be less than the amount which would be ordered for up to six children.

[~~(6) If the monthly adjusted gross income of either parent is $649 or less, the tribunal shall determine the amount of the child support obligation on a case-by-case basis, but the base child support award may not be less than $30.~~]

(6) A base child support award on a sole custody worksheet may not be less than $30.

(7) The amount shown on the table is the support amount for the total number of children, not an amount per child.

(8) For all worksheets, income and support award figures shall be rounded to the nearest dollar.

Section 4. Section 78B-12-210 is amended to read:

78B-12-210. Application of guidelines -- Use of ordered child support.

(1) The guidelines in this chapter apply to any judicial or administrative order establishing or modifying an award of child support entered on or after July 1, 1989.

(2) (a) The guidelines shall be applied as a rebuttable presumption in establishing or modifying the amount of temporary or permanent child support.

(b) The rebuttable presumption means the provisions and considerations required by the guidelines, the award amounts resulting from the application of the guidelines, and the use of worksheets consistent with these guidelines are presumed to be correct, unless rebutted under the provisions of this section.

(3) A written finding or specific finding on the record supporting the conclusion that complying with a provision of the guidelines or ordering an award amount resulting from use of the guidelines would be unjust, inappropriate, or not in the best interest of a child in a particular case is sufficient to rebut the presumption in that case. If an order rebuts the presumption through findings, it is considered a deviated order.

(4) The following shall be considered deviations from the guidelines, if:

(a) the order includes a written finding that it is a deviation from the guidelines;

(b) the guidelines worksheet has:

(i) the box checked for a deviation; and

(ii) an explanation as to the reason; or

(c) the deviation is made because there were more children than provided for in the guidelines table.

(5) If the amount in the order and the amount on the guidelines worksheet differ by $10 or more:

(a) the order is considered deviated; and

(b) the incomes listed on the worksheet may not be used in adjusting support for emancipation.

(6) (a) Natural or adoptive children of either parent who live in the home of that parent and are not children in common to both parties may at the option of either party be taken into account under the guidelines in setting a child support award, as provided in Subsection (7).

(b) Additional worksheets shall be prepared that compute the base child support award of the respective parents for the additional children. The base child support award shall then be subtracted from the appropriate parent's income before determining the award in the instant case.

(7) In a proceeding to adjust or modify an existing award, consideration of natural or adoptive children born after entry of the order and who are not in common to both parties may be applied to mitigate an increase in the award but may not be applied:

(a) for the benefit of the obligee if the credit would increase the support obligation of the obligor from the most recent order; or

(b) for the benefit of the obligor if the amount of support received by the obligee would be decreased from the most recent order.

(8) (a) If a child support order has not been issued or modified within the previous three years, a parent, legal guardian, or the office may move the court to adjust the amount of a child support order.

(b) Upon receiving a motion under Subsection (8)(a), the court shall, taking into account the best interests of the child:

(i) determine whether there is a difference between the payor's ordered support amount and the payor's support amount that would be required under the guidelines; and

(ii) if there is a difference as described in Subsection (8)(b)(i), adjust the payor's ordered support amount to the payor's support amount provided in the guidelines if:

(A) the difference is 10% or more;

(B) the difference is not of a temporary nature; and

(C) the order adjusting the payor's ordered support amount does not deviate from the guidelines.

(c) A showing of a substantial change in circumstances is not necessary for an adjustment under this Subsection (8).

(9) (a) A parent, legal guardian, or the office may at any time petition the court to adjust the amount of a child support order if there has been a substantial change in circumstances. A change in the base combined child support obligation table [~~set forth in Section 78B-12-301~~] is not a substantial change in circumstances for the purposes of this Subsection (9).

(b) For purposes of this Subsection (9), a substantial change in circumstances may include:

(i) material changes in custody;

(ii) material changes in the relative wealth or assets of the parties;

(iii) material changes of 30% or more in the income of a parent;

(iv) material changes in the employment potential and ability of a parent to earn;

(v) material changes in the medical needs of the child; or

(vi) material changes in the legal responsibilities of either parent for the support of others.

(c) Upon receiving a petition under Subsection (9)(a), the court shall, taking into account the best interests of the child:

(i) determine whether a substantial change has occurred;

(ii) if a substantial change has occurred, determine whether the change results in a difference of 15% or more between the payor's ordered support amount and the payor's support amount that would be required under the guidelines; and

(iii) adjust the payor's ordered support amount to that which is provided for in the guidelines if:

(A) there is a difference of 15% or more; and

(B) the difference is not of a temporary nature.

(10) Notice of the opportunity to adjust a support order under Subsections (8) and (9) shall be included in each child support order.

Section 5. Section 78B-12-301 is amended to read:

78B-12-301. Base combined child support obligation table -- Both parents -- Child support orders entered before January 1, 2023.

The table in this section shall be used to:

(1) establish a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2007, if the new order is entered on or after January 1, 2008, but before January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2007, if the modification is made on or after January 1, 2010, but before January 1, 2025.

[~~Monthly Combined Adj. Gross Income~~] Combined Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
726 –	750	138	245	286	319	351	382
751 –	775	141	252	294	328	360	392
776 –	800	146	259	301	336	370	402
801 –	825	151	265	309	345	379	412
826 –	850	155	272	317	353	389	423
851 –	875	160	279	324	362	398	433
876 –	900	165	285	332	370	407	443
901 –	925	169	292	340	379	417	453
926 –	950	174	299	348	387	426	464
951 –	975	179	305	355	396	436	474
976 –	1,000	183	312	363	405	445	484
1,001 –	1,050	193	322	374	417	459	500
1,051 –	1,100	201	335	390	435	478	520
1,101 –	1,150	210	348	405	452	497	541
1,151 –	1,200	220	362	420	469	516	561
1,201 –	1,250	229	375	436	486	535	582
1,251 –	1,300	238	388	451	503	553	602
1,301 –	1,350	248	401	467	520	572	623
1,351 –	1,400	256	414	481	536	590	642
1,401 –	1,450	265	426	495	552	607	661
1,451 –	1,500	275	438	510	568	625	680
1,501 –	1,550	284	451	524	584	643	699
1,551 –	1,600	293	463	538	600	660	718
1,601 –	1,650	303	476	553	616	678	737
1,651 –	1,700	311	488	567	632	695	757
1,701 –	1,750	320	500	581	648	713	776
1,751 –	1,800	330	513	596	664	731	795
1,801 –	1,850	339	525	610	680	748	814
1,851 –	1,900	348	538	624	696	766	833
1,901 –	1,950	358	550	638	712	783	852
1,951 –	2,000	366	562	652	727	800	870
2,001 –	2,100	385	580	673	750	825	898
2,101 –	2,200	399	604	701	781	859	935
2,201 –	2,300	410	628	728	812	893	972
2,301 –	2,400	420	652	756	843	927	1,009
2,401 –	2,500	431	676	784	874	961	1,046
2,501 –	2,600	443	700	811	904	995	1,082
2,601 –	2,700	453	723	838	934	1,028	1,118
2,701 –	2,800	464	747	865	964	1,060	1,154
2,801 –	2,900	475	770	891	994	1,093	1,189
2,901 –	3,000	485	794	918	1,024	,1,126	1,225
3,001 –	3,100	496	817	945	1,054	1,159	1,261
3,101 –	3,200	508	838	970	1,081	1,189	1,294
3,201 –	3,300	518	859	994	1,108	1,219	1,326
3,301 –	3,400	529	881	1,018	1,135	1,248	1,358
3,401 –	3,500	539	902	1,042	1,162	1,278	1,391
3,501 –	3,600	548	923	1,066	1,189	1,308	1,423
3,601 –	3,700	555	944	1,090	1,216	1,337	1,455
3,701 –	3,800	564	965	1,115	1,243	1,367	1,487
3,801 –	3,900	573	985	1,138	1,269	1,396	1,519
3,901 –	4,000	581	1,004	1,160	1,294	1,423	1,548
4,001 –	4,100	590	1,024	1,182	1,318	1,450	1,577
4,101 –	4,200	599	1,043	1,204	1,342	1,477	1,607
4,201 –	4,300	608	1,062	1,226	1,367	1,503	1,636
4,301 –	4,400	616	1,081	1,248	1,391	1,530	1,665
4,401 –	4,500	624	1,101	1,270	1,416	1,557	1,694
4,501 –	4,600	633	1,119	1,291	1,439	1,583	1,722
4,601 –	4,700	641	1,133	1,306	1,456	1,601	1,742

4,701 - 4,800	650	1,147	1,321	1,473	1,620	1,762
4,801 - 4,900	659	1,161	1,336	1,489	1,638	1,783
4,901 - 5,000	668	1,175	1,351	1,506	1,657	1,803
5,001 - 5,100	676	1,189	1,366	1,523	1,675	1,823
5,101 - 5,200	684	1,203	1,381	1,540	1,694	1,843
5,201 - 5,300	693	1,217	1,396	1,557	1,712	1,863
5,301 - 5,400	701	1,227	1,408	1,570	1,726	1,878
5,401 - 5,500	710	1,238	1,419	1,582	1,741	1,894
5,501 - 5,600	719	1,248	1,431	1,595	1,755	1,909
5,601 - 5,700	728	1,259	1,442	1,608	1,769	1,925
5,701 - 5,800	733	1,269	1,454	1,621	1,783	1,940
5,801 - 5,900	739	1,280	1,465	1,634	1,797	1,956
5,901 - 6,000	745	1,290	1,477	1,647	1,812	1,971
6,001 - 6,100	751	1,302	1,490	1,661	1,827	1,988
6,101 - 6,200	756	1,313	1,503	1,676	1,843	2,005
6,201 - 6,300	763	1,325	1,516	1,690	1,859	2,023
6,301 - 6,400	769	1,336	1,528	1,704	1,874	2,039
6,401 - 6,500	775	1,347	1,540	1,717	1,889	2,055
6,501 - 6,600	780	1,358	1,553	1,731	1,904	2,072
6,601 - 6,700	786	1,369	1,565	1,745	1,919	2,088
6,701 - 6,800	786	1,380	1,577	1,759	1,934	2,105
6,801 - 6,900	841	1,391	1,590	1,772	1,950	2,121
6,901 - 7,000	850	1,402	1,602	1,786	1,965	2,138
7,001 - 7,100	859	1,413	1,614	1,800	1,980	2,154
7,101 - 7,200	868	1,417	1,618	1,804	1,985	2,159
7,201 - 7,300	876	1,420	1,621	1,807	1,988	2,163
7,301 - 7,400	883	1,423	1,624	1,811	1,992	2,167
7,401 - 7,500	888	1,426	1,627	1,814	1,996	2,171
7,501 - 7,600	894	1,429	1,630	1,818	1,999	2,175
7,601 - 7,700	899	1,432	1,633	1,821	2,003	2,179
7,701 - 7,800	904	1,436	1,636	1,824	2,007	2,184
7,801 - 7,900	910	1,439	1,639	1,828	2,011	2,188
7,901 - 8,000	915	1,442	1,642	1,831	2,014	2,192
8,001 - 8,100	921	1,445	1,646	1,835	2,018	2,196
8,101 - 8,200	926	1,448	1,649	1,838	2,022	2,200
8,201 - 8,300	933	1,451	1,652	1,842	2,026	2,204
8,301 - 8,400	938	1,454	1,655	1,845	2,029	2,208
8,401 - 8,500	944	1,460	1,661	1,852	2,037	2,216
8,501 - 8,600	949	1,475	1,678	1,871	2,058	2,240
8,601 - 8,700	954	1,491	1,696	1,891	2,080	2,263
8,701 - 8,800	960	1,506	1,714	1,911	2,102	2,287
8,801 - 8,900	965	1,522	1,732	1,931	2,124	2,311
8,901 - 9,000	971	1,537	1,749	1,951	2,146	2,334
9,001 - 9,100	976	1,553	1,767	1,970	2,167	2,358
9,101 - 9,200	983	1,568	1,785	1,990	2,189	2,382
9,201 - 9,300	988	1,584	1,803	2,010	2,211	2,405
9,301 - 9,400	994	1,599	1,820	2,030	2,233	2,429
9,401 - 9,500	999	1,614	1,838	2,049	2,254	2,453
9,501 - 9,600	1,004	1,630	1,856	2,069	2,276	2,477
9,601 - 9,700	1,010	1,645	1,874	2,089	2,298	2,500
9,701 - 9,800	1,015	1,661	1,891	2,109	2,320	2,524
9,801 - 9,900	1,021	1,673	1,905	2,124	2,336	2,542
9,901 - 10,000	1,026	1,683	1,917	2,137	2,351	2,557
10,001 - 10,100	1,033	1,694	1,928	2,150	2,365	2,573
10,101 - 10,200	1,039	1,704	1,940	2,163	2,379	2,589
10,201 - 10,300	1,045	1,715	1,951	2,176	2,394	2,604
10,301 - 10,400	1,051	1,725	1,963	2,189	2,408	2,620
10,401 - 10,500	1,058	1,736	1,975	2,202	2,422	2,635
10,501 - 10,600	1,064	1,746	1,986	2,215	2,436	2,651
10,601 - 10,700	1,070	1,757	1,998	2,228	2,451	2,666
10,701 - 10,800	1,077	1,767	2,010	2,241	2,465	2,682
10,801 - 10,900	1,083	1,778	2,021	2,254	2,479	2,697
10,901 - 11,000	1,090	1,788	2,033	2,267	2,494	2,713
11,001 - 11,100	1,096	1,799	2,045	2,280	2,508	2,729

11,101 – 11,200	1,103	1,809	2,056	2,293	2,522	2,744
11,201 – 11,300	1,109	1,820	2,068	2,306	2,537	2,760
11,301 – 11,400	1,116	1,830	2,080	2,319	2,551	2,775
11,401 – 11,500	1,123	1,841	2,091	2,332	2,565	2,791
11,501 – 11,600	1,129	1,851	2,103	2,345	2,579	2,806
11,601 – 11,700	1,136	1,862	2,115	2,358	2,594	2,822
11,701 – 11,800	1,143	1,872	2,126	2,371	2,608	2,838
11,801 – 11,900	1,150	1,882	2,138	2,383	2,622	2,852
11,901 – 12,000	1,157	1,892	2,148	2,395	2,635	2,867
12,001 – 12,100	1,164	1,901	2,159	2,407	2,648	2,881
12,101 – 12,200	1,171	1,910	2,170	2,419	2,661	2,895
12,201 – 12,300	1,178	1,919	2,180	2,431	2,674	2,910
12,301 – 12,400	1,185	1,929	2,191	2,443	2,687	2,924
12,401 – 12,500	1,192	1,938	2,202	2,455	2,700	2,938
12,501 – 12,600	1,199	1,947	2,212	2,467	2,714	2,952
12,601 – 12,700	1,206	1,956	2,223	2,479	2,727	2,967
12,701 – 12,800	1,213	1,966	2,234	2,491	2,740	2,981
12,801 – 12,900	1,220	1,975	2,245	2,503	2,753	2,995
12,901 – 13,000	1,227	1,984	2,255	2,514	2,766	3,009
13,001 – 13,100	1,233	1,993	2,265	2,525	2,778	3,022
13,101 – 13,200	1,239	2,001	2,275	2,536	2,790	3,035
13,201 – 13,300	1,245	2,010	2,285	2,547	2,802	3,049
13,301 – 13,400	1,250	2,018	2,294	2,558	2,814	3,062
13,401 – 13,500	1,256	2,027	2,304	2,569	2,826	3,075
13,501 – 13,600	1,262	2,035	2,314	2,580	2,838	3,088
13,601 – 13,700	1,267	2,044	2,324	2,591	2,850	3,101
13,701 – 13,800	1,273	2,052	2,334	2,602	2,862	3,114
13,801 – 13,900	1,279	2,061	2,344	2,613	2,875	3,127
13,901 – 14,000	1,284	2,069	2,354	2,624	2,887	3,141
14,001 – 14,100	1,290	2,078	2,363	2,635	2,899	3,154
14,101 – 14,200	1,296	2,087	2,373	2,646	2,911	3,167
14,201 – 14,300	1,301	2,095	2,383	2,657	2,923	3,180
14,301 – 14,400	1,306	2,104	2,393	2,668	2,935	3,193
14,401 – 14,500	1,312	2,112	2,403	2,679	2,947	3,206
14,501 – 14,600	1,317	2,121	2,413	2,690	2,959	3,220
14,601 – 14,700	1,323	2,129	2,423	2,701	2,971	3,233
14,701 – 14,800	1,329	2,138	2,432	2,712	2,983	3,246
14,801 – 14,900	1,334	2,146	2,442	2,723	2,995	3,259
14,901 – 15,000	1,340	2,155	2,452	2,734	3,008	3,272
15,001 – 15,100	1,345	2,163	2,461	2,744	3,018	3,284
15,101 – 15,200	1,351	2,170	2,469	2,752	3,028	3,294
15,201 – 15,300	1,357	2,177	2,476	2,761	3,037	3,304
15,301 – 15,400	1,362	2,184	2,484	2,769	3,046	3,314
15,401 – 15,500	1,368	2,191	2,491	2,778	3,056	3,325
15,501 – 15,600	1,373	2,198	2,499	2,786	3,065	3,335
15,601 – 15,700	1,379	2,205	2,507	2,795	3,074	3,345
15,701 – 15,800	1,384	2,211	2,514	2,803	3,084	3,355
15,801 – 15,900	1,390	2,218	2,522	2,812	3,093	3,365
15,901 – 16,000	1,395	2,225	2,529	2,820	3,102	3,375
16,001 – 16,100	1,401	2,232	2,537	2,829	3,112	3,385
16,101 – 16,200	1,407	2,239	2,545	2,837	3,121	3,396
16,201 – 16,300	1,412	2,246	2,552	2,846	3,130	3,406
16,301 – 16,400	1,418	2,253	2,560	2,854	3,140	3,416
16,401 – 16,500	1,423	2,260	2,567	2,863	3,149	3,426
16,501 – 16,600	1,429	2,267	2,575	2,871	3,158	3,436
16,601 – 16,700	1,434	2,274	2,583	2,880	3,168	3,446
16,701 – 16,800	1,440	2,281	2,590	2,888	3,177	3,457
16,801 – 16,900	1,445	2,288	2,598	2,897	3,186	3,467
16,901 – 17,000	1,451	2,295	2,605	2,905	3,196	3,477
17,001 – 17,100	1,456	2,302	2,613	2,914	3,205	3,487
17,101 – 17,200	1,462	2,309	2,621	2,922	3,214	3,497
17,201 – 17,300	1,467	2,316	2,628	2,931	3,224	3,507
17,301 – 17,400	1,473	2,323	2,636	2,939	3,233	3,517
17,401 – 17,500	1,478	2,330	2,643	2,947	3,242	3,528

17,501 – 17,600	1,483	2,337	2,651	2,956	3,252	3,538
17,601 – 17,700	1,489	2,344	2,659	2,964	3,261	3,548
17,701 – 17,800	1,494	2,351	2,666	2,973	3,270	3,558
17,801 – 17,900	1,499	2,358	2,674	2,981	3,280	3,568
17,901 – 18,000	1,505	2,365	2,682	2,990	3,289	3,578
18,001 – 18,100	1,510	2,372	2,689	2,998	3,298	3,588
18,101 – 18,200	1,516	2,379	2,697	3,007	3,308	3,599
18,201 – 18,300	1,520	2,386	2,704	3,015	3,317	3,609
18,301 – 18,400	1,525	2,392	2,712	3,024	3,326	3,619
18,401 – 18,500	1,530	2,399	2,720	3,032	3,336	3,629
18,501 – 18,600	1,535	2,406	2,727	3,041	3,345	3,639
18,601 – 18,700	1,540	2,413	2,735	3,049	3,354	3,649
18,701 – 18,800	1,545	2,420	2,742	3,058	3,364	3,659
18,801 – 18,900	1,550	2,427	2,750	3,066	3,373	3,670
18,901 – 19,000	1,555	2,434	2,758	3,075	3,382	3,680
19,001 – 19,100	1,560	2,441	2,765	3,083	3,391	3,690
19,101 – 19,200	1,565	2,448	2,773	3,092	3,401	3,700
19,201 – 19,300	1,570	2,455	2,780	3,100	3,410	3,710
19,301 – 19,400	1,575	2,462	2,788	3,109	3,419	3,720
19,401 – 19,500	1,580	2,469	2,796	3,117	3,429	3,731
19,501 – 19,600	1,585	2,476	2,803	3,126	3,438	3,741
19,601 – 19,700	1,590	2,483	2,811	3,134	3,447	3,751
19,701 – 19,800	1,595	2,490	2,818	3,143	3,457	3,761
19,801 – 19,900	1,600	2,497	2,826	3,151	3,466	3,771
19,901 – 20,000	1,605	2,504	2,834	3,159	3,475	3,781
20,001 – 22,000	1,766	2,754	3,117	3,475	3,822	4,159
22,001 – 24,000	1,926	3,005	3,401	3,791	4,170	4,537
24,001 – 26,000	2,087	3,255	3,684	4,107	4,518	4,915
26,001 – 28,000	2,247	3,506	3,968	4,423	4,865	5,293
28,001 – 30,000	2,408	3,756	4,251	4,739	5,213	5,672
30,001 – 32,000	2,508	3,916	4,451	4,979	5,473	5,952
32,001 – 34,000	2,608	4,076	4,651	5,219	5,733	6,232
34,001 – 36,000	2,708	4,236	4,851	5,459	5,993	6,512
36,001 – 38,000	2,808	4,396	5,051	5,699	6,253	6,792
38,001 – 40,000	2,908	4,556	5,251	5,939	6,513	7,072
40,001 – 42,000	3,008	4,716	5,451	6,179	6,773	7,352
42,001 – 44,000	3,108	4,876	5,651	6,419	7,033	7,632
44,001 – 46,000	3,208	5,036	5,851	6,659	7,293	7,912
46,001 – 48,000	3,308	5,196	6,051	6,899	7,553	8,192
48,001 – 50,000	3,408	5,356	6,251	7,139	7,813	8,472
50,001 – 52,000	3,508	5,476	6,391	7,299	7,993	8,672
52,001 – 54,000	3,608	5,596	6,531	7,459	8,173	8,872
54,001 – 56,000	3,708	5,716	6,671	7,619	8,353	9,072
56,001 – 58,000	3,808	5,836	6,811	7,779	8,533	9,272
58,001 – 60,000	3,908	5,956	6,951	7,939	8,713	9,472
60,001 – 62,000	4,008	6,076	7,091	8,099	8,893	9,672
62,001 – 64,000	4,108	6,196	7,231	8,259	9,073	9,872
64,001 – 66,000	4,208	6,316	7,371	8,419	9,253	10,072
66,001 – 68,000	4,308	6,436	7,511	8,579	9,433	10,272
68,001 – 70,000	4,408	6,556	7,651	8,739	9,613	10,472
70,001 – 72,000	4,508	6,676	7,791	8,899	9,793	10,672
72,001 – 74,000	4,608	6,796	7,931	9,059	9,973	10,872
74,001 – 76,000	4,708	6,916	8,071	9,219	10,153	11,072
76,001 – 78,000	4,808	7,036	8,211	9,379	10,333	11,272
78,001 – 80,000	4,908	7,156	8,351	9,539	10,513	11,472
80,001 – 82,000	5,008	7,276	8,491	9,699	10,693	11,672
82,001 – 84,000	5,108	7,396	8,631	9,859	10,873	11,872
84,001 – 86,000	5,208	7,516	8,771	10,019	11,053	12,072
86,001 – 88,000	5,308	7,636	8,911	10,179	11,233	12,272
88,001 – 90,000	5,408	7,756	9,051	10,339	11,413	12,472
90,001 – 92,000	5,508	7,876	9,191	10,499	11,593	12,672
92,001 – 94,000	5,608	7,996	9,331	10,659	11,773	12,872
94,001 – 96,000	5,708	8,116	9,471	10,819	11,953	13,072
96,001 – 98,000	5,808	8,236	9,611	10,979	12,133	13,272

98,001 -100,000	5,908	8,356	9,751	11,139	12,313	13,472

Section 6. Section 78B-12-302 is amended to read:

78B-12-302. Low income table -- Obligor parent only -- Child support orders entered before January 1, 2023.

The table in this section shall be used to:

(1) establish a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2008, but before January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2007, if the new order is entered on or after January 1, 2008, but before January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2007, if the modification is made on or after January 1, 2010, but before January 1, 2025.

[~~Monthly Combined Adj.]~~ Individual Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
0 -	649	30	30	30	30	30	30
650 -	675	30	30	30	30	31	31
676 -	700	58	60	60	61	61	62
701 -	725	88	88	90	91	92	92
726 -	750	117	118	119	120	122	123
751 -	775		148	149	151	153	155
776 -	800		178	179	182	183	186
801 -	825		207	209	212	214	216
826 -	850		236	239	242	244	247
851 -	875		266	269	272	275	278
876 -	900			299	303	305	309
901 -	925			329	333	337	339
926 -	950				363	366	370
951 -	975				393	398	402
976 -	1,000					428	433
1,001 -	1,050						494

Section 7. Section 78B-12-303 is enacted to read:

78B-12-303. Based combined child support obligation table -- Both parents -- Child support orders entered on or after January 1, 2023.

The following table shall be used to:

(1) establish a child support order entered for the first time on or after January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2022, if the new order is entered on or after January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2022, if the modification is made on or after January 1, 2025.

Combined Monthly Adjusted Gross Income				Number of Children			
		1	2	3	4	5	6
From	To						
1,951 -	2,000	366					
2,001 -	2,100	385					
2,101 -	2,200	399					
2,201 -	2,300	410	628	728			
2,301 -	2,400	420	652	756	843	927	
2,401 -	2,500	431	676	784	874	961	1,046

2,501 –	2,600	443	700	811	904	995	1,082
2,601 –	2,700	453	723	838	934	1,028	1,118
2,701 –	2,800	464	747	865	964	1,060	1,154
2,801 –	2,900	475	770	891	994	1,093	1,189
2,901 –	3,000	485	794	918	1,024	1,126	1,225
3,001 –	3,100	496	817	945	1,054	1,159	1,261
3,101 –	3,200	508	838	970	1,081	1,189	1,294
3,201 –	3,300	518	859	994	1,108	1,219	1,326
3,301 –	3,400	529	881	1,018	1,135	1,248	1,358
3,401 –	3,500	539	902	1,042	1,162	1,278	1,391
3,501 –	3,600	548	923	1,066	1,189	1,308	1,423
3,601 –	3,700	555	944	1,090	1,216	1,337	1,455
3,701 –	3,800	564	965	1,115	1,243	1,367	1,487
3,801 –	3,900	573	985	1,138	1,269	1,396	1,519
3,901 –	4,000	581	1,004	1,160	1,294	1,423	1,548
4,001 –	4,100	590	1,024	1,182	1,318	1,450	1,577
4,101 –	4,200	599	1,043	1,204	1,342	1,477	1,607
4,201 –	4,300	608	1,062	1,226	1,367	1,503	1,636
4,301 –	4,400	616	1,081	1,248	1,391	1,530	1,665
4,401 –	4,500	624	1,101	1,270	1,416	1,557	1,694
4,501 –	4,600	633	1,119	1,291	1,439	1,583	1,722
4,601 –	4,700	641	1,133	1,306	1,456	1,601	1,742
4,701 –	4,800	650	1,147	1,321	1,473	1,620	1,762
4,801 –	4,900	659	1,161	1,336	1,489	1,638	1,783
4,901 –	5,000	668	1,175	1,351	1,506	1,657	1,803
5,001 –	5,100	676	1,189	1,366	1,523	1,675	1,823
5,101 –	5,200	684	1,203	1,381	1,540	1,694	1,843
5,201 –	5,300	693	1,217	1,396	1,557	1,712	1,863
5,301 –	5,400	701	1,227	1,408	1,570	1,726	1,878
5,401 –	5,500	710	1,238	1,419	1,582	1,741	1,894
5,501 –	5,600	719	1,248	1,431	1,595	1,755	1,909
5,601 –	5,700	728	1,259	1,442	1,608	1,769	1,925
5,701 –	5,800	733	1,269	1,454	1,621	1,783	1,940
5,801 –	5,900	739	1,280	1,465	1,634	1,797	1,956
5,901 –	6,000	745	1,290	1,477	1,647	1,812	1,971
6,001 –	6,100	751	1,302	1,490	1,661	1,827	1,988
6,101 –	6,200	756	1,313	1,503	1,676	1,843	2,005
6,201 –	6,300	763	1,325	1,516	1,690	1,859	2,023
6,301 –	6,400	769	1,336	1,528	1,704	1,874	2,039
6,401 –	6,500	775	1,347	1,540	1,717	1,889	2,055
6,501 –	6,600	780	1,358	1,553	1,731	1,904	2,072
6,601 –	6,700	786	1,369	1,565	1,745	1,919	2,088
6,701 –	6,800	786	1,380	1,577	1,759	1,934	2,105
6,801 –	6,900	841	1,391	1,590	1,772	1,950	2,121
6,901 –	7,000	850	1,402	1,602	1,786	1,965	2,138
7,001 –	7,100	859	1,413	1,614	1,800	1,980	2,154
7,101 –	7,200	868	1,417	1,618	1,804	1,985	2,159
7,201 –	7,300	876	1,420	1,621	1,807	1,988	2,163
7,301 –	7,400	883	1,423	1,624	1,811	1,992	2,167
7,401 –	7,500	888	1,426	1,627	1,814	1,996	2,171
7,501 –	7,600	894	1,429	1,630	1,818	1,999	2,175
7,601 –	7,700	899	1,432	1,633	1,821	2,003	2,179
7,701 –	7,800	904	1,436	1,636	1,824	2,007	2,184
7,801 –	7,900	910	1,439	1,639	1,828	2,011	2,188
7,901 –	8,000	915	1,442	1,642	1,831	2,014	2,192
8,001 –	8,100	921	1,445	1,646	1,835	2,018	2,196
8,101 –	8,200	926	1,448	1,649	1,838	2,022	2,200
8,201 –	8,300	933	1,451	1,652	1,842	2,026	2,204
8,301 –	8,400	938	1,454	1,655	1,845	2,029	2,208
8,401 –	8,500	944	1,460	1,661	1,852	2,037	2,216
8,501 –	8,600	949	1,475	1,678	1,871	2,058	2,240
8,601 –	8,700	954	1,491	1,696	1,891	2,080	2,263
8,701 –	8,800	960	1,506	1,714	1,911	2,102	2,287
8,801 –	8,900	965	1,522	1,732	1,931	2,124	2,311
8,901 –	9,000	971	1,537	1,749	1,951	2,146	2,334
9,001 –	9,100	976	1,553	1,767	1,970	2,167	2,358
9,101 –	9,200	983	1,568	1,785	1,990	2,189	2,382
9,201 –	9,300	988	1,584	1,803	2,010	2,211	2,405
9,301 –	9,400	994	1,599	1,820	2,030	2,233	2,429

9,401 –	9,500	999	1,614	1,838	2,049	2,254	2,453
9,501 –	9,600	1,004	1,630	1,856	2,069	2,276	2,477
9,601 –	9,700	1,010	1,645	1,874	2,089	2,298	2,500
9,701 –	9,800	1,015	1,661	1,891	2,109	2,320	2,524
9,801 –	9,900	1,021	1,673	1,905	2,124	2,336	2,542
9,901 –	10,000	1,026	1,683	1,917	2,137	2,351	2,557
10,001 –	10,100	1,033	1,694	1,928	2,150	2,365	2,573
10,101 –	10,200	1,039	1,704	1,940	2,163	2,379	2,589
10,201 –	10,300	1,045	1,715	1,951	2,176	2,394	2,604
10,301 –	10,400	1,051	1,725	1,963	2,189	2,408	2,620
10,401 –	10,500	1,058	1,736	1,975	2,202	2,422	2,635
10,501 –	10,600	1,064	1,746	1,986	2,215	2,436	2,651
10,601 –	10,700	1,070	1,757	1,998	2,228	2,451	2,666
10,701 –	10,800	1,077	1,767	2,010	2,241	2,465	2,682
10,801 –	10,900	1,083	1,778	2,021	2,254	2,479	2,697
10,901 –	11,000	1,090	1,788	2,033	2,267	2,494	2,713
11,001 –	11,100	1,096	1,799	2,045	2,280	2,508	2,729
11,101 –	11,200	1,103	1,809	2,056	2,293	2,522	2,744
11,201 –	11,300	1,109	1,820	2,068	2,306	2,537	2,760
11,301 –	11,400	1,116	1,830	2,080	2,319	2,551	2,775
11,401 –	11,500	1,123	1,841	2,091	2,332	2,565	2,791
11,501 –	11,600	1,129	1,851	2,103	2,345	2,579	2,806
11,601 –	11,700	1,136	1,862	2,115	2,358	2,594	2,822
11,701 –	11,800	1,143	1,872	2,126	2,371	2,608	2,838
11,801 –	11,900	1,150	1,882	2,138	2,383	2,622	2,852
11,901 –	12,000	1,157	1,892	2,148	2,395	2,635	2,867
12,001 –	12,100	1,164	1,901	2,159	2,407	2,648	2,881
12,101 –	12,200	1,171	1,910	2,170	2,419	2,661	2,895
12,201 –	12,300	1,178	1,919	2,180	2,431	2,674	2,910
12,301 –	12,400	1,185	1,929	2,191	2,443	2,687	2,924
12,401 –	12,500	1,192	1,938	2,202	2,455	2,700	2,938
12,501 –	12,600	1,199	1,947	2,212	2,467	2,714	2,952
12,601 –	12,700	1,206	1,956	2,223	2,479	2,727	2,967
12,701 –	12,800	1,213	1,966	2,234	2,491	2,740	2,981
12,801 –	12,900	1,220	1,975	2,245	2,503	2,753	2,995
12,901 –	13,000	1,227	1,984	2,255	2,514	2,766	3,009
13,001 –	13,100	1,233	1,993	2,265	2,525	2,778	3,022
13,101 –	13,200	1,239	2,001	2,275	2,536	2,790	3,035
13,201 –	13,300	1,245	2,010	2,285	2,547	2,802	3,049
13,301 –	13,400	1,250	2,018	2,294	2,558	2,814	3,062
13,401 –	13,500	1,256	2,027	2,304	2,569	2,826	3,075
13,501 –	13,600	1,262	2,035	2,314	2,580	2,838	3,088
13,601 –	13,700	1,267	2,044	2,324	2,591	2,850	3,101
13,701 –	13,800	1,273	2,052	2,334	2,602	2,862	3,114
13,801 –	13,900	1,279	2,061	2,344	2,613	2,875	3,127
13,901 –	14,000	1,284	2,069	2,354	2,624	2,887	3,141
14,001 –	14,100	1,290	2,078	2,363	2,635	2,899	3,154
14,101 –	14,200	1,296	2,087	2,373	2,646	2,911	3,167
14,201 –	14,300	1,301	2,095	2,383	2,657	2,923	3,180
14,301 –	14,400	1,306	2,104	2,393	2,668	2,935	3,193
14,401 –	14,500	1,312	2,112	2,403	2,679	2,947	3,206
14,501 –	14,600	1,317	2,121	2,413	2,690	2,959	3,220
14,601 –	14,700	1,323	2,129	2,423	2,701	2,971	3,233
14,701 –	14,800	1,329	2,138	2,432	2,712	2,983	3,246
14,801 –	14,900	1,334	2,146	2,442	2,723	2,995	3,259
14,901 –	15,000	1,340	2,155	2,452	2,734	3,008	3,272
15,001 –	15,100	1,345	2,163	2,461	2,744	3,018	3,284
15,101 –	15,200	1,351	2,170	2,469	2,752	3,028	3,294
15,201 –	15,300	1,357	2,177	2,476	2,761	3,037	3,304
15,301 –	15,400	1,362	2,184	2,484	2,769	3,046	3,314
15,401 –	15,500	1,368	2,191	2,491	2,778	3,056	3,325
15,501 –	15,600	1,373	2,198	2,499	2,786	3,065	3,335
15,601 –	15,700	1,379	2,205	2,507	2,795	3,074	3,345
15,701 –	15,800	1,384	2,211	2,514	2,803	3,084	3,355
15,801 –	15,900	1,390	2,218	2,522	2,812	3,093	3,365
15,901 –	16,000	1,395	2,225	2,529	2,820	3,102	3,375
16,001 –	16,100	1,401	2,232	2,537	2,829	3,112	3,385
16,101 –	16,200	1,407	2,239	2,545	2,837	3,121	3,396
16,201 –	16,300	1,412	2,246	2,552	2,846	3,130	3,406

16,301 –	16,400	1,418	2,253	2,560	2,854	3,140	3,416
16,401 –	16,500	1,423	2,260	2,567	2,863	3,149	3,426
16,501 –	16,600	1,429	2,267	2,575	2,871	3,158	3,436
16,601 –	16,700	1,434	2,274	2,583	2,880	3,168	3,446
16,701 –	16,800	1,440	2,281	2,590	2,888	3,177	3,457
16,801 –	16,900	1,445	2,288	2,598	2,897	3,186	3,467
16,901 –	17,000	1,451	2,295	2,605	2,905	3,196	3,477
17,001 –	17,100	1,456	2,302	2,613	2,914	3,205	3,487
17,101 –	17,200	1,462	2,309	2,621	2,922	3,214	3,497
17,201 –	17,300	1,467	2,316	2,628	2,931	3,224	3,507
17,301 –	17,400	1,473	2,323	2,636	2,939	3,233	3,517
17,401 –	17,500	1,478	2,330	2,643	2,947	3,242	3,528
17,501 –	17,600	1,483	2,337	2,651	2,956	3,252	3,538
17,601 –	17,700	1,489	2,344	2,659	2,964	3,261	3,548
17,701 –	17,800	1,494	2,351	2,666	2,973	3,270	3,558
17,801 –	17,900	1,499	2,358	2,674	2,981	3,280	3,568
17,901 –	18,000	1,505	2,365	2,682	2,990	3,289	3,578
18,001 –	18,100	1,510	2,372	2,689	2,998	3,298	3,588
18,101 –	18,200	1,516	2,379	2,697	3,007	3,308	3,599
18,201 –	18,300	1,520	2,386	2,704	3,015	3,317	3,609
18,301 –	18,400	1,525	2,392	2,712	3,024	3,326	3,619
18,401 –	18,500	1,530	2,399	2,720	3,032	3,336	3,629
18,501 –	18,600	1,535	2,406	2,727	3,041	3,345	3,639
18,601 –	18,700	1,540	2,413	2,735	3,049	3,354	3,649
18,701 –	18,800	1,545	2,420	2,742	3,058	3,364	3,659
18,801 –	18,900	1,550	2,427	2,750	3,066	3,373	3,670
18,901 –	19,000	1,555	2,434	2,758	3,075	3,382	3,680
19,001 –	19,100	1,560	2,441	2,765	3,083	3,391	3,690
19,101 –	19,200	1,565	2,448	2,773	3,092	3,401	3,700
19,201 –	19,300	1,570	2,455	2,780	3,100	3,410	3,710
19,301 –	19,400	1,575	2,462	2,788	3,109	3,419	3,720
19,401 –	19,500	1,580	2,469	2,796	3,117	3,429	3,731
19,501 –	19,600	1,585	2,476	2,803	3,126	3,438	3,741
19,601 –	19,700	1,590	2,483	2,811	3,134	3,447	3,751
19,701 –	19,800	1,595	2,490	2,818	3,143	3,457	3,761
19,801 –	19,900	1,600	2,497	2,826	3,151	3,466	3,771
19,901 –	20,000	1,605	2,504	2,834	3,159	3,475	3,781
20,001 –	22,000	1,766	2,754	3,117	3,475	3,822	4,159
22,001 –	24,000	1,926	3,005	3,401	3,791	4,170	4,537
24,001 –	26,000	2,087	3,255	3,684	4,107	4,518	4,915
26,001 –	28,000	2,247	3,506	3,968	4,423	4,865	5,293
28,001 –	30,000	2,408	3,756	4,251	4,739	5,213	5,672
30,001 –	32,000	2,508	3,916	4,451	4,979	5,473	5,952
32,001 –	34,000	2,608	4,076	4,651	5,219	5,733	6,232
34,001 –	36,000	2,708	4,236	4,851	5,459	5,993	6,512
36,001 –	38,000	2,808	4,396	5,051	5,699	6,253	6,792
38,001 –	40,000	2,908	4,556	5,251	5,939	6,513	7,072
40,001 –	42,000	3,008	4,716	5,451	6,179	6,773	7,352
42,001 –	44,000	3,108	4,876	5,651	6,419	7,033	7,632
44,001 –	46,000	3,208	5,036	5,851	6,659	7,293	7,912
46,001 –	48,000	3,308	5,196	6,051	6,899	7,553	8,192
48,001 –	50,000	3,408	5,356	6,251	7,139	7,813	8,472
50,001 –	52,000	3,508	5,476	6,391	7,299	7,993	8,672
52,001 –	54,000	3,608	5,596	6,531	7,459	8,173	8,872
54,001 –	56,000	3,708	5,716	6,671	7,619	8,353	9,072
56,001 –	58,000	3,808	5,836	6,811	7,779	8,533	9,272
58,001 –	60,000	3,908	5,956	6,951	7,939	8,713	9,472
60,001 –	62,000	4,008	6,076	7,091	8,099	8,893	9,672
62,001 –	64,000	4,108	6,196	7,231	8,259	9,073	9,872
64,001 –	66,000	4,208	6,316	7,371	8,419	9,253	10,072
66,001 –	68,000	4,308	6,436	7,511	8,579	9,433	10,272
68,001 –	70,000	4,408	6,556	7,651	8,739	9,613	10,472
70,001 –	72,000	4,508	6,676	7,791	8,899	9,793	10,672
72,001 –	74,000	4,608	6,796	7,931	9,059	9,973	10,872
74,001 –	76,000	4,708	6,916	8,071	9,219	10,153	11,072
76,001 –	78,000	4,808	7,036	8,211	9,379	10,333	11,272
78,001 –	80,000	4,908	7,156	8,351	9,539	10,513	11,472
80,001 –	82,000	5,008	7,276	8,491	9,699	10,693	11,672
82,001 –	84,000	5,108	7,396	8,631	9,859	10,873	11,872

84,001 -	86,000	5,208	7,516	8,771	10,019	11,053	12,072
86,001 -	88,000	5,308	7,636	8,911	10,179	11,233	12,272
88,001 -	90,000	5,408	7,756	9,051	10,339	11,413	12,472
90,001 -	92,000	5,508	7,876	9,191	10,499	11,593	12,672
92,001 -	94,000	5,608	7,996	9,331	10,659	11,773	12,872
94,001 -	96,000	5,708	8,116	9,471	10,819	11,953	13,072
96,001 -	98,000	5,808	8,236	9,611	10,979	12,133	13,272
98,001 -	100,000	5,908	8,356	9,751	11,139	12,313	13,472

Section 8. Section 78B-12-304 is enacted to read:

78B-12-304. Low income table -- Obligor parent only -- Child support orders entered on or after January 1, 2023.

The following table shall be used to:

(1) establish a child support order entered for the first time on or after January 1, 2023;

(2) modify a child support order entered for the first time on or after January 1, 2023;

(3) modify a temporary judicial child support order established on or before December 31, 2022, if the new order is entered on or after January 1, 2023; or

(4) modify a final child support order entered on or before December 31, 2022, if the modification is made on or after January 1, 2025.

Individual Monthly Adjusted Gross Income		Number of Children					
		1	2	3	4	5	6
From	To						
0 -	50	30	30	30	30	30	30
51 -	100	30	40	50	50	50	50
101 -	150	30	50	75	75	75	75
151 -	750	30	55	75	90	100	105
751 -	1,256	60	111	151	181	201	211
1,257 -	1,270	75	138	189	226	251	264
1,271 -	1,280	76	140	191	229	254	267
1,281 -	1,290	77	141	192	231	256	269
1,291 -	1,300	77	142	194	232	258	271
1,301 -	1,310	78	143	195	234	260	273
1,311 -	1,320	79	144	197	236	262	275
1,321 -	1,330	79	145	198	238	264	277
1,331 -	1,340	80	146	200	240	266	280
1,341 -	1,350	80	148	201	241	268	282
1,351 -	1,360	95	162	216	257	284	297
1,361 -	1,370	95	163	218	259	286	299
1,371 -	1,380	96	165	219	260	288	302
1,381 -	1,390	97	166	221	262	290	304
1,391 -	1,400	97	167	223	264	292	306
1,401 -	1,410	98	168	224	266	294	308
1,411 -	1,420	113	183	240	282	310	325
1,421 -	1,430	114	185	242	284	313	327
1,431 -	1,440	114	186	243	286	315	329
1,441 -	1,450	115	187	245	288	317	331
1,451 -	1,460	116	189	247	290	319	334
1,461 -	1,470	131	205	263	307	336	351
1,471 -	1,480	132	206	265	309	338	353
1,481 -	1,490	133	207	267	311	341	355
1,491 -	1,500	134	209	268	313	343	358
1,501 -	1,510	135	210	270	315	345	360
1,511 -	1,520	151	227	287	332	363	378
1,521 -	1,530	152	228	289	335	365	380
1,531 -	1,540	153	230	291	337	367	383
1,541 -	1,550	154	231	293	339	370	385
1,551 -	1,560	155	233	295	341	372	388
1,561 -	1,570	172	250	312	359	390	406

1,571 –	1,580	173	251	314	361	393	408
1,581 –	1,590	174	253	316	364	395	411
1,591 –	1,600	175	255	318	366	398	414
1,601 –	1,610	176	256	320	368	400	416
1,611 –	1,620	193	274	338	387	419	435
1,621 –	1,630	195	276	340	389	421	438
1,631 –	1,640	196	277	343	391	424	440
1,641 –	1,650	197	279	345	394	427	443
1,651 –	1,660	198	281	347	396	429	446
1,661 –	1,670	216	299	365	415	448	465
1,671 –	1,680	217	301	368	418	451	468
1,681 –	1,690	219	303	370	420	454	471
1,691 –	1,700	220	304	372	423	457	473
1,701 –	1,710	221	306	374	425	459	476
1,711 –	1,720	240	325	394	445	479	496
1,721 –	1,730	241	327	396	447	482	499
1,731 –	1,740	242	329	398	450	485	502
1,741 –	1,750	244	331	400	453	487	505
1,751 –	1,760	245	333	403	455	490	508
1,761 –	1,770	264	352	423	475	511	528
1,771 –	1,780	266	354	425	478	514	531
1,781 –	1,790	267	356	427	481	516	534
1,791 –	1,800	269	358	430	484	519	537
1,801 –	1,810	270	360	432	486	522	540
1,811 –	1,820	290	380	453	507	543	561
1,821 –	1,830	291	382	455	510	546	565
1,831 –	1,840	293	385	458	513	549	568
1,841 –	1,850	295	387	460	515	552	571
1,851 –	1,860	296	389	463	518	555	574
1,861 –	1,870	316	409	484	540	577	596
1,871 –	1,880	318	412	486	543	580	599
1,881 –	1,890	320	414	489	545	583	602
1,891 –	1,900	321	416	492	548	586	605
1,901 –	1,910	323	418	494	551	589	608
1,911 –	1,920	344	440	516	573	612	631
1,921 –	1,930	346	442	519	576	615	634
1,931 –	1,940	348	444	521	579	618	637
1,941 –	1,950	349	446	524	582	621	641
1,951 –	1,960	351	449	527	585	624	644
1,961 –	1,970		471	549	608	647	667
1,971 –	1,980		473	552	611	650	670
1,981 –	1,990		475	555	614	654	674
1,991 –	2,000		478	557	617	657	677
2,001 –	2,050		480	560	620	660	680
2,051 –	2,100		513	595	656	697	718
2,101 –	2,150		546	630	693	735	756
2,151 –	2,200		581	667	731	774	796
2,201 –	2,250		616	704	770	814	836
2,251 –	2,300				810	855	878
2,301 –	2,350					897	920
2,351 –	2,400						964
2,401 –	2,450						1,008

CHAPTER 471
S. B. 243

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

PARENT-TIME AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill amends provisions related to parent-time schedules.

Highlighted Provisions:

This bill:

- defines terms;
- modifies and clarifies parent-time schedules; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

30-3-32, as last amended by Laws of Utah 2019, Chapter 188

REPEALS AND REENACTS:

30-3-35, as last amended by Laws of Utah 2020, Chapter 50

30-3-35.1, as last amended by Laws of Utah 2019, Chapter 188

30-3-35.5, as last amended by Laws of Utah 2017, Chapter 120

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 30-3-32 is amended to read:

30-3-32. Parent-time -- Definitions -- Considerations for parent-time -- Relocation.

[~~(1) It is the intent of the Legislature to promote parent-time at a level consistent with all parties' interests.~~]

(1) As used in Sections 30-3-32 through 30-3-37:

(a) "Child" means the child of divorcing, separating, or adjudicated parents.

(b) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.

(c) "Surrogate care" means care by any individual other than the parent of the child.

(d) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.

(e) "Virtual parent-time" means parent-time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media, to supplement in-person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent.

(2) (a) A court shall consider as primary the safety and well-being of the child and the parent who experiences domestic or family violence.

(b) Absent a showing by a preponderance of evidence of real harm or substantiated potential harm to the child:

(i) it is in the best interests of the child of divorcing, divorced, or adjudicated parents to have frequent, meaningful, and continuing access to each parent following separation or divorce;

(ii) each divorcing, separating, or adjudicated parent is entitled to and responsible for frequent, meaningful, and continuing access with the parent's child consistent with the child's best interests; and

(iii) it is in the best interests of the child to have both parents actively involved in parenting the child.

[~~(c)~~] (3) An order issued by a court pursuant to Title 78B, Chapter 7, Part 6, Cohabitant Abuse Protective Orders, shall be considered evidence of real harm or substantiated potential harm to the child.

[~~(3) For purposes of this section through Section 30-3-37:~~]

[~~(a) "Child" means the child or children of divorcing, separating, or adjudicated parents.~~]

[~~(b) Subject to Subsection (5), "Christmas school vacation" means:~~]

[~~(i) for a single child, the time period beginning on the evening the child is released from school for the Christmas or winter school break and ending the evening before the child returns to school; and~~]

[~~(ii) for multiple children when the children's school schedules differ, at the option of the parent exercising the holiday or the parent's half of the holiday, the time period may begin on the first evening all children's schools are released for the Christmas or winter school break and end the evening before any of the children returns to school.~~]

[~~(c) "Extended parent-time" means a period of parent-time other than a weekend, holiday as provided in Subsections 30-3-35(2)(f) and (2)(g), religious holidays as provided in Subsections 30-3-33(3) and (17), and "Christmas school vacation."~~]

[~~(d) "Supervised parent-time" means parent-time that requires the noncustodial parent to be accompanied during parent-time by an individual approved by the court.~~]

[~~(e) "Surrogate care" means care by any individual other than the parent of the child.~~]

[~~(f) "Uninterrupted time" means parent-time exercised by one parent without interruption at any time by the presence of the other parent.~~]

[~~(g) "Virtual parent–time" means parent–time facilitated by tools such as telephone, email, instant messaging, video conferencing, and other wired or wireless technologies over the Internet or other communication media to supplement in–person visits between a noncustodial parent and a child or between a child and the custodial parent when the child is staying with the noncustodial parent. Virtual parent–time is designed to supplement, not replace, in–person parent–time.~~]

(4) If a parent relocates because of an act of domestic violence or family violence by the other parent, the court shall make specific findings and orders with regards to the application of Section 30–3–37.

[~~(5) A Christmas school vacation shall be divided equally as required by Section 30–3–35.~~]

Section 2. Section 30-3-35 is repealed and reenacted to read:

30-3-35. Minimum schedule for parent-time for a child five to 18 years old.

(1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) The parent–time schedule in this section applies to a child who is five to 18 years old.

(3) If the parties do not agree to a parent–time schedule for a child described in Subsection (2), the following schedule is considered the minimum parent–time to which the noncustodial parent is entitled to the child:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) at the election of the noncustodial parent, one weekday to be specified by the noncustodial parent or the court:

(A) beginning at the time that the child's school is regularly dismissed and ending at 8:30 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 9 a.m. and ending at 8:30 p.m.;

(b) (i) beginning on the first weekend after entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Sunday at 7 p.m.; or

(ii) at the election of the noncustodial parent and beginning on the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time that the child's school is regularly dismissed on Friday and ending on Sunday at 7 p.m.; or

(B) if school is not in session, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Sunday at 7 p.m.;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (13); and

(d) extended parent–time with the child when school is not in session for summer break in accordance with Subsection (4).

(4) (a) For extended parent–time with the child under Subsection (3)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent–time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent–time for a noncustodial parent under Subsection (4)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent–time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent–time.

(c) A custodial parent is entitled to uninterrupted parent–time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(5) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of extended parent–time for summer break under Subsection (4).

(b) For the notification requirement under Subsection (5)(a):

(i) in odd–numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even–numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (5)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (5)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent–time under Subsection (4)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent–time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(6) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(7) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (13);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (4) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (13) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (4); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(8) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(9) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(10) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(11) (a) Telephone contact shall be at reasonable hours and for a reasonable duration.

(b) (i) Virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, shall be at reasonable hours and for reasonable duration.

(ii) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(A) the best interests of the child;

(B) each parent's ability to handle any additional expenses for virtual parent-time; and

(C) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(12) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(13) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent	Even years	Odd years

	granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.		
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or Other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or Other parent granted the holiday in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Odd years	Even years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. On Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. On the day before school resumes.	Even years	Odd years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years

Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Even years	Odd years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Even years	Odd years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years

Section 3. Section 30-3-35.1 is repealed and reenacted to read:

30-3-35.1. Optional schedule for parent-time for a child five to 18 years old.

(1) As used in this section, "weekends" include any snow days, teacher development days, or other days when school is not scheduled and that are contiguous to the weekend period.

(2) (a) The optional parent-time schedule in this section applies to a child who is five to 18 years old.

(b) The optional parent-time schedule in this section is 145 overnights.

(c) Any impact on child support shall be consistent with joint physical custody, as defined in Section 78B-12-102.

(3) The parents and the court may consider the increased parent-time schedule in this section as a minimum parent-time schedule when the parties agree or the noncustodial parent can demonstrate:

(a) the noncustodial parent has been actively involved in the child's life;

(b) the parties can communicate effectively regarding the child or the noncustodial parent has a plan to accomplish effective communications regarding the child;

(c) the noncustodial parent has the ability to facilitate the increased parent-time;

(d) the increased parent-time would be in the best interest of the child; and

(e) any other factor the court considers relevant.

(4) In determining whether a noncustodial parent has been actively involved in the child's life, the court shall consider:

(a) demonstrated responsibility in caring for the child;

(b) involvement in childcare;

(c) presence or volunteer efforts in the child's school and at extracurricular activities;

(d) assistance with the child's homework;

(e) involvement in preparation of meals, bath time, and bedtime for the child;

(f) bonding with the child; and

(g) any other factor the court considers relevant.

(5) In determining whether a noncustodial parent has the ability to facilitate the increased parent-time, the court shall consider:

(a) the geographic distance between the residences of the parents and the distance between the parents' residences and the child's school;

(b) the noncustodial parent's ability to assist with after school care;

(c) the health of the child and the noncustodial parent in accordance with Subsection 30-3-10(6);

(d) flexibility of employment or another schedule of the noncustodial parent;

(e) ability to provide appropriate playtime with the child;

(f) history and ability of the noncustodial parent to implement a flexible schedule for the child;

(g) physical facilities of the noncustodial parent's residence; and

(h) any other factor the court considers relevant.

(6) If the parties agree or the court enters an order for the optional parent-time schedule under this section, a parenting plan in compliance with Sections 30-3-10.7 through 30-3-10.10 shall be filed with any order incorporating the optional parent-time schedule described in Subsection (7).

(7) The following schedule is considered the optional parent-time to which the noncustodial parent is entitled to the child:

(a) (i) one weekday evening to be specified by the noncustodial parent or the court or Wednesday evening if not specified, beginning at 5:30 p.m. and ending the following day upon delivering the child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, one weekday specified by the noncustodial parent or the court:

(A) beginning at the time the child's school is regularly dismissed until the following day upon delivering the child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning at 8 a.m. and ending on the following day upon delivering the child to school or at 8 a.m. if there is no school;

(b) (i) beginning the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or

(ii) at the election of the noncustodial parent, beginning the first weekend after the entry of the decree, alternating weekends:

(A) beginning at the time the child's school is regularly dismissed on Friday and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school; or

(B) if there is no school, the noncustodial parent is available to be with the child, and in accommodation with the custodial parent's work schedule, beginning on Friday at 9 a.m. and ending on Monday upon delivering the child to school or at 8 a.m. if there is no school;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (16); and

(d) extended parent-time with the child when school is not in session for summer break in accordance with Subsection (8).

(8) (a) For extended parent-time with the child under Subsection (7)(d) and at the election of the noncustodial parent, the noncustodial parent is entitled up to four weeks of parent-time with the child, which may be consecutive, when school is not in session for summer break.

(b) For the four weeks of extended parent-time for a noncustodial parent under Subsection (8)(a):

(i) two weeks, which may be consecutive, shall be uninterrupted parent-time for the noncustodial parent; and

(ii) two weeks, which may be consecutive, may be interrupted by the custodial parent for a weekday visit on the same day on which the noncustodial parent is granted weekday day parent-time.

(c) A custodial parent is entitled to uninterrupted parent-time with the child for two weeks, which may be consecutive, when school is not in session for summer break.

(9) (a) Each parent shall provide notification to the other parent of the parent's plans for the exercise of parent-time for summer break under Subsection (8).

(b) For the notification requirement under Subsection (9)(a):

(i) in odd-numbered years:

(A) the noncustodial parent shall provide notice to the custodial parent by May 1; and

(B) the custodial parent shall provide notice to the noncustodial parent by May 15; and

(ii) in even-numbered years:

(A) the custodial parent shall provide notice to the noncustodial parent by May 1; and

(B) the noncustodial parent shall provide notice to the custodial parent by May 15.

(c) (i) If a parent fails to provide a notification within the time periods described in Subsection (9)(b), the complying parent may determine the schedule for summer break for the noncomplying parent.

(ii) If both parents fail to provide notice within the time periods described in Subsection (9)(b), the first parent to provide notice may determine the schedule for summer break for the other parent.

(d) If a custodial parent intends to interrupt a noncustodial parent's parent-time under Subsection (8)(b)(ii), the custodial parent shall provide notification to the noncustodial parent of the intent to interrupt parent-time within 10 days after the day on which the custodial parent receives notification of the noncustodial parent's plans for the exercise of interrupted extended parent-time.

(10) (a) An election should be made by the noncustodial parent at the time of entry of the divorce decree or court order, except that the

election may be changed by mutual agreement, court order, or by the noncustodial parent in the event of a change in the child's schedule.

(b) An election by either parent concerning parent-time shall be made a part of the decree and made a part of the parent-time order.

(11) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (16);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (8) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (16) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (8); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(12) A stepparent, grandparent, or other responsible adult designated by the noncustodial parent, may pick up the child for parent-time if the custodial parent is aware of the identity of the individual and the noncustodial parent will be with the child by 7 p.m.

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(14) If there is more than one child and the children's school schedules vary for purpose of a holiday, at the option of the parent exercising the holiday or the parent's half of the holiday, the children may remain together for the holiday period beginning the first evening that all children's schools are dismissed for the holiday and ending the evening before any child returns to school.

(15) If there is a child five to 18 years old and a child under five years old and both children are the natural or adopted children of the parties, the parents and the court should consider an upward deviation for parent-time with all the children so that parent-time is uniform based on a schedule under this section.

(16) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday (2) Holiday ends: (a) upon delivering of the child to school on the day following Dr. Martin Luther King Jr. Day; or (b) at 8 a.m. on the day following Dr. Martin Luther King Jr. Day if there is no school.	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following President's Day; or (b) at 8 a.m. on the day following President's Day if there is no school.	Even years	Odd years

Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends: (a) upon delivering the child to school on the day following the end of spring break; or (b) at 8 a.m. on the day following the end of spring break if there is no school.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Memorial Day; or (b) at 8 a.m. on the day following Memorial Day if there is no school.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or Other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or Other parent granted the holiday in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m. (2) Holiday ends on July 25th at 6 p.m.	Odd years	Even years
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if school is not in session and the parent can be with the child; (b) the time that school is regularly dismissed; or (c) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends: (a) upon delivering the child to school on the day following Labor Day; or (b) at 8 a.m. on the day following Labor Day if there is no school.	Odd years	Even years
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. On Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends: (a) upon delivering the child to school on the day following the end of fall break; or (b) at 8 a.m. on the day following the end of fall break if there is no school.	Even years	Odd years

Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Even years	Odd years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends a) upon delivering the child to school on the Monday following Thanksgiving; or (b) at 8 a.m. on the Monday following Thanksgiving if there is no school.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Even years	Odd years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends upon delivering the child to school on the day that school resumes after the winter break.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years

Section 4. Section 30-3-35.5 is repealed and reenacted to read:

30-3-35.5. Minimum schedule for parent-time for child under five years old.

(1) The parent-time schedule in this section applies to a child who is younger than five years old.

(2) If the parties do not agree to a parent-time schedule, the schedules in Subsections (3) through (8) are considered the minimum parent-time to which the noncustodial parent is entitled to the child.

(3) For a child who is younger than five months old, the noncustodial parent is entitled to:

(a) three two-hour visits every week; and

(b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).

(4) For a child who is at least five months old but younger than nine months old, the noncustodial parent is entitled to:

(a) three three-hour visits every week; and

(b) two hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).

(5) For a child who is at least nine months old but younger than 12 months old, the noncustodial parent is entitled to the child:

(a) one eight-hour visit every week;

(b) one three-hour visit every week; and

(c) eight hours for each holiday granted to the noncustodial parent in accordance with the holiday schedule under Subsection (15).

(6) For a child who is at least 12 months old but younger than 18 months old, the noncustodial parent is entitled to:

(a) one three-hour visit every week;

(b) one eight-hour visit on alternating weekends to be specified by the noncustodial parent or court;

(c) an overnight visit on opposite weekends from Subsection (6)(b) beginning at 6 p.m. on Friday and ending at noon on Saturday; and

(d) eight hours for each holiday granted to the noncustodial parent in the holiday schedule under Subsection (15).

(7) For a child who is at least 18 months old but younger than three years old, the noncustodial parent is entitled to:

(a) one weekday evening to be specified by the noncustodial parent or the court:

(i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;

(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and

(d) extended parent-time for two one-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:

(i) one week of uninterrupted parent-time for the noncustodial parent; and

(ii) one week of interrupted parent-time where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection (7)(a).

(8) For a child who is at least three years old but younger than five years old, the noncustodial parent is entitled to:

(a) one weekday evening to be specified by the noncustodial parent or the court:

(i) beginning at 5:30 p.m. and ending at 8:30 p.m.; or

(ii) if the child is being cared for during the day outside the child's regular place of residence and with advance notice to the custodial parent, beginning at the time that the child is picked up from the caregiver and ending at 8:30 p.m.;

(b) beginning on the first weekend after the entry of the decree, alternating weekends beginning at 6 p.m. on Friday and ending at 7 p.m. on Sunday;

(c) each holiday granted to the noncustodial parent in accordance with the holiday schedule described in Subsection (15); and

(d) extended parent-time for two two-week periods, separated by at least four weeks, at the option of the noncustodial parent, as follows:

(i) two weeks of uninterrupted parent-time, which may be consecutive, for the noncustodial parent; and

(ii) two weeks of interrupted parent-time, which may be consecutive, where the custodial parent may have an equal amount of weekday parent-time as the noncustodial parent on the same day on which the noncustodial parent is granted weekday parent-time under Subsection (8)(a).

(9) For a child who is at least 18 months old but younger than five years old, the custodial parent is entitled to one week of uninterrupted extended parent-time.

(10) (a) For a child who is nine months old or older, the noncustodial parent shall have at least two times a week:

(i) brief telephone contact at reasonable hours and for a reasonable duration; and

(ii) virtual parent-time, if the equipment is reasonably available and the parents reside at least 100 miles apart, at reasonable hours and for reasonable duration.

(b) If the parties cannot agree on whether the equipment is reasonably available, the court shall decide whether the equipment for virtual parent-time is reasonably available, taking into consideration:

(i) the best interests of the child;

(ii) each parent's ability to handle any additional expenses for virtual parent-time; and

(iii) any other factors the court considers material.

(c) Virtual parent-time supplements, but does not replace, in-person parent-time.

(11) For a child who is younger than nine months old, unless the parents agree otherwise, parent-time should take place in the home of the custodial parent, an established child-care setting, or other environment familiar to the child.

(12) (a) Changes may not be made to the parent-time schedule under this section, except that if a conflict arises in the parent-time schedule, the following order of precedence shall be applied when determining which parent is entitled to parent-time:

(i) the holiday schedule for Mother's Day or Father's Day under Subsection (15);

(ii) the holiday schedule for the child's birthday, unless a parent is exercising uninterrupted extended parent-time under Subsection (7)(d), (8)(d), or (9) and takes the child away from that parent's residence during the uninterrupted extended parent-time;

(iii) the holiday schedule for any holiday under Subsection (15) that is not Father's Day, Mother's Day, or the child's birthday;

(iv) extended parent-time under Subsection (7)(d), (8)(d), or (9); and

(v) the schedule for weekday or weekend parent-time.

(b) A parent exercising parent-time for the child's birthday may bring other siblings along for the child's birthday.

(13) If a holiday falls on a regularly scheduled school day, the parent exercising parent-time shall be responsible for the child's attendance at school for that school day.

(14) A parent shall notify the other parent at least 30 days in advance of the parent's plans for the exercise of extended parent-time under Subsection (7)(d), (8)(d), or (9).

(15) The following table is the holiday schedule for parent-time under this section.

Holiday	Holiday Time Period	Years Noncustodial Parent is Granted Holiday	Years Custodial Parent is Granted Holiday
Dr. Martin Luther King Jr. Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday (2) Holiday ends at 7 p.m. on Martin Luther King Jr. Day	Odd years	Even years
President's Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on President's Day.	Even years	Odd years
Spring Break	(1) Holiday begins at 6 p.m. on the day that school dismisses for spring break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Odd years	Even years
Memorial Day	(1) Holiday begins Friday at: (a) 9 a.m. if the parent is avaiable to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Memorial Day.	Even years	Odd years
Mother's Day	(1) Holiday begins on Mother's Day at 9 a.m. (2) Holiday ends on Mother's Day at 7 p.m.	All years if noncustodial parent is the mother or other parent granted the holiday in the order.	All years if custodial parent is the mother or Other parent granted the holiday in the order.
Father's Day	(1) Holiday begins on Father's Day at 9 a.m. (2) Holiday ends on Father's Day at 7 p.m.	All years if noncustodial parent is the father or other parent granted the holiday in the order.	All years if custodial parent is the father or Other parent granted the holiday in the order.
Independence Day	(1) Holiday begins on July 3rd at 6 p.m. (2) Holiday ends on July 5th at 6 p.m.	Odd years	Even years
Pioneer Day	(1) Holiday begins on July 23rd at 6 p.m.	Odd years	Even years

	(2) Holiday ends on July 25th at 6 p.m.		
Labor Day	(1) Holiday begins on Friday at: (a) 9 a.m. if the parent is available to be with the child; or (b) 6 p.m. at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on Labor Day.	Odd	Even
Columbus Day	(1) Holiday begins at 6 p.m. on the day before Columbus Day. (2) Holiday ends at 7 p.m. on Columbus Day.	Even years	Odd years
Fall Break	(1) Holiday begins at 6 p.m. on the day school is dismissed for fall break. (2) Holiday ends at 7 p.m. on the day before school resumes.	Even years	Odd years
Halloween	(1) Holiday begins on October 31st or the day that Halloween is traditionally celebrated in the local community: (a) at the time that school is dismissed; or (b) at 4 p.m. if there is no school. (2) Holiday ends at 9 p.m. on the same day the holiday begins.	Even years	Odd years
Veterans Day	(1) Holiday begins at 6 p.m. on the day before Veterans Day. (2) Holiday ends at 7 p.m. on Veterans Day.	Even years	Odd years
Thanksgiving	(1) Holiday begins on Wednesday at: (a) 6 p.m.; or (b) the time school is regularly dismissed for Thanksgiving at the election of the parent granted the holiday. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Winter Break (First Half)	(1) Holiday begins at: (a) 6 p.m. on the day on that school dismisses for winter break; or (b) the time school is regularly dismissed on the day that school dismisses for winter break at the election of the parent granted the holiday. (2) Holiday ends on December 27th at 7 p.m.	Even years	Odd years
Winter Break (Second Half)	(1) Holiday begins on December 27th at 7 p.m. (2) Holiday ends at 7 p.m. on the night before school resumes.	Even years	Odd years
Day of Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years
Day Before or After Child's Birthday	(1) Holiday begins at 3 p.m. (2) Holiday ends at 9 p.m.	Even years	Odd years

CHAPTER 472
S. B. 244

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

ETHNIC STUDIES AMENDMENTS

Chief Sponsor: Kirk A. Cullimore
House Sponsor: Sandra Hollins

LONG TITLE

General Description:

This bill requires ethnic studies in public schools.

Highlighted Provisions:

This bill:

- requires the State Board of Education to incorporate ethnic studies into the core standards for Utah public schools (core standards);
- requires a local education agency to:
  - adopt ethnic studies instructional materials and curriculum that align with core standards; and
  - integrate ethnic studies into regular school work for kindergarten through grade 12;
- creates the Ethnic Studies Commission (commission) to:
  - study the contributions of Utahns of diverse ethnicities; and
  - recommend to the state board how to incorporate ethnic studies into core standards;
- provides a sunset date for the commission; and
- defines terms.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196, 260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

ENACTS:

53E-4-204.1, Utah Code Annotated 1953
63C-25-101, Utah Code Annotated 1953
63C-25-201, Utah Code Annotated 1953
63C-25-202, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-4-204.1 is enacted to read:

53E-4-204.1. Ethnic studies core standards and curriculum requirements.

(1) As used in this section:

(a) "Core standards for Utah public schools" or "core standards" means the standards the state board establishes as described in Section 53E-4-202.

(b) "Ethnic studies" means the interdisciplinary social and historical study of how different populations have experienced and participated in building the United States of America, including the study of the culture, history, and contributions of Utahns of diverse ethnicities.

(c) "Ethnic Studies Commission" means the Ethnic Studies Commission created in Section 63C-25-201.

(d) "Utahns of diverse ethnicities" means individuals who are residents of Utah and:

(i) Native American;

(ii) Alaska Native;

(iii) Native Hawaiian;

(iv) Pacific Islander;

(v) Hispanic or Latino;

(vi) Black or African American;

(vii) Asian or Asian American; or

(viii) from diverse backgrounds and experiences.

(2) (a) The state board shall incorporate ethnic studies into the core standards for Utah public schools.

(b) Before the state board takes formal action to incorporate ethnic studies into the core standards, the state board shall:

(i) consult with the Ethnic Studies Commission; and

(ii) submit the proposed core standards incorporating ethnic studies to the Ethnic Studies Commission for review and recommendations.

(3) In incorporating ethnic studies into the core standards, the state board shall consider, at a minimum:

(a) existing core standards that increase cultural awareness of, and focus on the character traits described in Section 53G-10-204 for, all Utah communities;

(b) opportunities to recognize and incorporate into the ethnic studies core standards the histories, contributions, and perspectives of Utahns of diverse ethnicities; and

(c) recommendations of the Ethnic Studies Commission.

(4) Subject to legislative appropriations, the state board shall provide funding for professional learning in ethnic studies for teachers.

(5) (a) By August 1, 2024, an LEA shall select curriculum and instructional materials for teaching ethnic studies to students in kindergarten through grade 12 that:

(i) align with the core standards incorporating ethnic studies described in this section; and

(ii) are integrated with regular school work.

(b) An LEA shall implement an ethnic studies curriculum that, at a minimum:

(i) focuses on shared identity and honoring unique cultural differences, including:

(A) that each individual student has unique characteristics;

(B) the common elements that unite Utahns; and

(C) respect for distinct socio-cultural identities; and

(ii) includes themes including cultural histories within the context of United States history and global history.

(c) An LEA shall:

(i) modify or revise as needed the ethnic studies instructional materials and curriculum the LEA selects as described in Subsection (5)(a), to ensure alignment with core standards incorporating ethnic studies; and

(ii) submit a report to the state board that provides evidence that the LEA is complying with the requirements of Subsections (5)(a) and (b).

(d) In fulfilling the requirements of this section, an LEA may offer a course on ethnic studies.

(6) The state board shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules:

(a) to develop guidelines and methods for LEAs to more fully incorporate ethnic studies into other core standards for Utah public schools courses; and

(b) for the report described in Subsection (5)(c).

(7) The guidelines and methods described in Subsection (6)(a) may not change:

(a) the number of instructional hours required for elementary and secondary students; or

(b) the number of instructional hours dedicated to the existing curriculum.

Section 2. Section 63C-25-101 is enacted to read:

CHAPTER 25. (CODIFIED AS CHAPTER 28) ETHNIC STUDIES COMMISSION

Part 1. General Provisions

63C-25-101. (Codified as 63C-28-101) Definitions.

As used in this part:

(1) "Commission" means the Ethnic Studies Commission created in Section 63C-25-201.

(2) "Core standards for Utah public schools" or "core standards" means the standards the state board establishes as described in Section 53E-4-202.

(3) "Education entity" means:

(a) the Utah Board of Higher Education;

(b) an institution of higher education, as that term is defined in Section 53B-3-102;

(c) the state board;

(d) a local school board;

(e) a charter school governing board;

(f) a school district;

(g) a district school;

(h) a charter school; or

(i) the Utah Schools for the Deaf and the Blind.

(4) "Ethnic studies" means the same as that term is defined in Section 53E-4-204.1.

(5) "State board" means the State Board of Education.

(6) "Utahns of diverse ethnicities" means the same as that term is defined in Section 53E-4-204.1.

Section 3. Section 63C-25-201 is enacted to read:

Part 2. Ethnic Studies Commission

63C-25-201. (Codified as 63C-28-201) Ethnic Studies Commission created.

(1) There is created the Ethnic Studies Commission to:

(a) consider and review the contributions of Utahns of diverse ethnicities to the state; and

(b) make recommendations to the state board for incorporating ethnic studies into core standards.

(2) The commission consists of the following members:

(a) five members of the Senate, appointed by the president of the Senate, one of whom the president of the Senate shall designate to serve as co-chair of the commission;

(b) five members of the House of Representatives, appointed by the speaker of the House of Representatives, one of whom the speaker of the House of Representatives shall designate to serve as co-chair of the commission; and

(c) two members appointed by the governor.

(3) (a) A majority of the members of the commission constitutes a quorum of the commission.

(b) The action by a majority of the members of a quorum constitutes the action of the commission.

(4) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(5) The state board shall provide staff support to the commission.

Section 4. Section 63C-25-202 is enacted to read:

63C-25-202. (Codified as 63C-28-202) Ethnic Studies Commission duties.

(1) The commission shall:

(a) review the contributions of Utahns of diverse ethnicities in the state;

(b) advise the governor, state agencies, and the Legislature regarding issues that impact Utahns of diverse ethnicities;

(c) make recommendations for recognizing the contributions of Utahns of diverse ethnicities in the state, including:

(i) policy recommendations to the governor; and

(ii) recommendations for legislation to the Legislature;

(d) review proposed core standards incorporating ethnic studies the state board submits as described in Section 53E-4-204.1; and

(e) make recommendations to the state board for incorporating ethnic studies into core standards.

(2) (a) The commission may establish subcommittees as needed to assist the commission in accomplishing the commission's duties under this section.

(b) A subcommittee described in Subsection (2)(a) may include representatives from:

(i) community organizations;

(ii) education entities; or

(iii) the general public.

Section 5. Section 63I-1-263 is amended to read:

63I-1-263. Repeal dates, Titles 63A to 63N.

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

[~~(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.~~]

(11) Title 63C, Chapter 25, Ethnic Studies Commission, is repealed July 1, 2026.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2(5), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2(6), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2(24), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) Title 63J, Chapter 4, Part 5, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d).".

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

[~~(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.~~]

[~~(28)~~] (27) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

[~~(29)~~] (28) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

[~~(30)~~] (29) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection [~~(30)~~] (29)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

[~~(31)~~] (30) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

[~~(32)~~] (31) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

[~~(33)~~] (32) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

CHAPTER 473
S. B. 245

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

SCHOOL TURNAROUND PROGRAM REVISIONS

Chief Sponsor: Ann Millner
House Sponsor: Bradley G. Last

LONG TITLE

General Description:

This bill makes changes to the school turnaround program.

Highlighted Provisions:

This bill:

- requires the State Board of Education (state board) to:
  - identify the lowest performing non-Title I schools as springboard schools;
  - accept applications to be designated as an elevate school from non-Title I schools that are implementing targeted support and improvement activities under federal requirements; and
  - identify at least six elevate schools in each year the state board does not designate springboard schools;
- permits the state board to hire or contract with individuals to conduct a needs assessment for springboard schools or elevate schools;
- repeals provisions related to turnaround school teacher recruitment and retention;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53E-5-301, as last amended by Laws of Utah 2020, Chapters 146 and 408
53E-5-302, as last amended by Laws of Utah 2021, Chapter 439
53E-5-303, as last amended by Laws of Utah 2019, Chapters 186 and 451
53E-5-304, as last amended by Laws of Utah 2019, Chapters 186 and 451
53E-5-305, as last amended by Laws of Utah 2021, Chapter 346
53E-5-306, as last amended by Laws of Utah 2020, Chapters 146 and 408
53E-5-309, as last amended by Laws of Utah 2020, Chapter 408
53E-5-311, as renumbered and amended by Laws of Utah 2018, Chapter 1

ENACTS:

53E-5-302.1, Utah Code Annotated 1953

REPEALS:

53E-5-308, as last amended by Laws of Utah 2020, Chapter 408

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53E-5-301 is amended to read:

Part 3. School Improvement and Leadership Development

53E-5-301. Definitions.

As used in this part:

(1) "Charter school authorizer" means the same as that term is defined in Section 53G-5-102.

(2) "Cohort" means all district schools and charter schools identified as [~~low performing~~]:

(a) springboard schools based on school [~~accountabilty~~] accountability results from the same school year[~~.~~]; or

(b) elevate schools based on school accountability results from the same school year.

(3) "Continuous improvement expert" means a person identified by the state board under Section 53E-5-305.

[~~(3)~~] (4) "Educator" means the same as that term is defined in Section 53E-6-102.

(5) "Elevate school" means a district school or charter school that:

(a) is not a Title I school;

(b) is implementing targeted support and improvement activities under 20 U.S.C. Sec. 6311; and

(c) has applied and been designated by the state board as an elevate school as described in Section 53E-5-302.1.

[~~(4)~~] (6) "Final remedial year" means the second or third school year following the initial remedial year, as determined by the state board.

[~~(5) "Independent school turnaround expert" or "turnaround expert" means a person identified by the state board under Section 53E-5-305.~~]

[~~(6)~~] (7) "Initial remedial year" means the school year a district school or charter school is designated as a [~~low performing~~] springboard school under Section 53E-5-302 or elevate school under Section 53E-5-302.1.

[~~(7)~~] (8) "LEA governing board" means a local school board or charter school governing board.

[~~(8) "Low performing school" means a district school or charter school that has been designated a low performing school by the state board because the school is:~~]

[~~(a) for two consecutive school years in the lowest performing 3% of schools statewide according to the percentage of possible points earned under the school accountability system; and~~]

[~~(b) a low performing school according to other outcome-based measures as may be defined in rules made by the state board in accordance with~~]

[~~Title 63G, Chapter 3, Utah Administrative Rulemaking Act.~~]

(9) "School accountability system" means the school accountability system established in Part 2, School Accountability System.

(10) "School grade" or "grade" means the letter grade assigned to a school as the school's overall rating under the school accountability system.

(11) "School [~~turnaround~~] improvement committee" means a committee established under:

(a) for a district school, Section 53E–5–303; or

(b) for a charter school, Section 53E–5–304.

(12) "School [~~turnaround~~] improvement plan" means a plan described in:

(a) for a district school, Section 53E–5–303; or

(b) for a charter school, Section 53E–5–304.

(13) "Springboard school" means a district school or charter school that has been designated a springboard school by the state board because the school:

(a) is not a Title I school; and

(b) when ranked according to the percentage of possible points the state board awards under Title 53E, Chapter 5, Part 2, School Accountability System, averaged over three school years is:

(i) one of the five lowest performing elementary, middle, or junior high schools statewide; or

(ii) one of the two lowest performing high schools statewide.

Section 2. Section 53E-5-302 is amended to read:

53E-5-302. State board to designate springboard schools -- Needs assessment.

(1) [~~Except as provided in Subsection (4), the~~] The state board shall:

(a) [~~annually~~] beginning in the 2025–2026 school year, and every four years thereafter, designate a school as a [~~low performing~~] springboard school; and

(b) conduct a needs assessment for a [~~low performing~~] springboard school by thoroughly analyzing the root causes of the [~~low performing~~] springboard school's [~~low~~] performance qualifying the school for designation as a springboard school.

(2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(b).

[~~(3) A school that was designated as a low performing school based on 2015–2016 school year performance that is not in the lowest performing 3% of schools statewide following the 2016–2017 school year is exempt from the provisions of this part.~~]

[~~(4) (a) The state board is not required to designate as a low performing school a school for which the state board is not required to assign an overall rating in accordance with Section 53E–5–204.~~]

[~~(b) The requirement to designate a school as a low performing school described in Subsection (1) does not apply in the school year immediately following the 2020–2021 or 2021–2022 school year.~~]

Section 3. Section 53E-5-302.1 is enacted to read:

53E-5-302.1. State board to designate elevate schools -- Needs assessment.

(1) Beginning in the 2022–2023 school year, in every year that the state board does not designate a springboard school, the state board shall:

(a) accept applications to be designated an elevate school from schools that:

(i) are not Title I schools; and

(ii) are implementing targeted support and improvement activities under 20 U.S.C. Sec. 6311;

(b) identify at least six schools as elevate schools; and

(c) conduct a needs assessment for an elevate school by thoroughly analyzing the root causes of the school's previous performance of targeted support and improvement student groups.

(2) The state board may use up to 5% of the appropriation provided under this part to hire or contract with one or more individuals to conduct a needs assessment described in Subsection (1)(c).

Section 4. Section 53E-5-303 is amended to read:

53E-5-303. Required action for district springboard schools and district elevate schools -- Notification to parents and municipality for springboard schools.

(1) In accordance with deadlines established by the state board, a local school board of a [~~low performing~~] springboard school or elevate school shall:

(a) establish a school [~~turnaround~~] improvement committee composed of the following members:

(i) the local school board member who represents the voting district where the [~~low performing~~] springboard school or elevate school is located;

(ii) the school principal;

(iii) three parents of students enrolled in the [~~low performing~~] springboard school or elevate school appointed by the chair of the school community council;

(iv) one teacher at the [~~low performing~~] springboard school or elevate school appointed by the principal;

(v) one teacher at the [~~low performing~~] springboard school or elevate school appointed by the school district superintendent; and

(vi) one school district administrator;

(b) solicit proposals from a [~~turnaround~~] continuous improvement expert identified by the state board under Section 53E-5-305;

(c) partner with the school [~~turnaround~~] improvement committee to select a proposal;

(d) submit the proposal described in Subsection (1)(b) to the state board for review and approval; and

(e) subject to Subsections (3) and (4), contract with a [~~turnaround~~] continuous improvement expert.

(2) A proposal described in Subsection (1)(b) shall include a:

(a) strategy to address the root causes of the [~~low performing~~] springboard school's or elevate school's low performance identified through the needs assessment described in Section 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection (4)(b).

(3) A local school board may not select a [~~turnaround~~] continuous improvement expert that is:

(a) the school district; or

(b) an employee of the school district.

(4) A contract between a local school board and a [~~turnaround~~] continuous improvement expert:

(a) shall be based on an explicit stipulation of desired outcomes and consequences for not meeting goals, including cancellation of the contract;

(b) shall include a scope of work that requires the [~~turnaround~~] continuous improvement expert to at a minimum:

(i) develop and implement, in partnership with the school [~~turnaround~~] improvement committee, a school [~~turnaround~~] improvement plan that meets the criteria described in Subsection (5);

(ii) monitor the effectiveness of a school [~~turnaround~~] improvement plan through reliable means of evaluation, including on-site visits, observations, surveys, analysis of student achievement data, and interviews;

(iii) provide ongoing implementation support and project management for a school [~~turnaround~~] improvement plan;

(iv) provide high-quality professional [~~development~~] learning personalized for school staff that is designed to build:

(A) the leadership capacity of the school principal;

(B) the instructional capacity of school staff;

(C) educators' capacity with data-driven strategies by providing actionable, embedded data practices; and

(v) leverage support from community partners to coordinate an efficient delivery of supports to students inside and outside the classroom;

(c) may include a scope of work that requires the [~~turnaround~~] continuous improvement expert to:

(i) develop sustainable school district and school capacities to effectively respond to the academic and behavioral needs of students in high poverty communities; or

(ii) other services that respond to the needs assessment conducted under Section 53E-5-302;

(d) shall include travel costs and payment milestones; and

(e) may include pay for performance provisions.

(5) A school [~~turnaround~~] improvement committee shall partner with the [~~turnaround~~] continuous improvement expert selected under Subsection (1) to develop and implement a school [~~turnaround~~] improvement plan that:

(a) addresses the root causes of the [~~low performing~~] springboard school's or elevate school's low performance identified through the needs assessment described in Section 53E-5-302;

(b) includes recommendations regarding changes to the [~~low performing~~] springboard school's or elevate school's personnel, culture, curriculum, assessments, instructional practices, governance, leadership, finances, policies, or other areas that may be necessary to implement the school [~~turnaround~~] improvement plan;

(c) includes measurable student achievement goals and objectives and benchmarks by which to measure progress;

(d) includes a professional development plan that identifies a strategy to address problems of instructional practice;

(e) includes a detailed budget specifying how the school [~~turnaround~~] improvement plan will be funded;

(f) includes a plan to assess and monitor progress;

(g) includes a plan to communicate and report data on progress to stakeholders; and

(h) includes a timeline for implementation.

(6) A local school board of a [~~low performing~~] springboard school or elevate school shall:

(a) prioritize school district funding and resources to the [~~low performing~~] springboard school or elevate school;

(b) grant the [~~low performing~~] springboard school or elevate school streamlined authority over staff, schedule, policies, budget, and academic programs to implement the school [~~turnaround~~] improvement plan;

(c) assist the [~~turnaround~~] continuous improvement expert and the [~~low performing~~] springboard school or elevate school with:

(i) addressing the root cause of the [~~low performing~~] springboard school's or elevate school's low performance; and

(ii) the development or implementation of a school [~~turnaround~~] improvement plan; and

(d) for a springboard school, provide initial and annual notice:

(i) that includes the following information regarding the [~~low performing~~] springboard school:

(A) the school's [~~turnaround~~] improvement status;

(B) the goals, benchmarks, and timetable in the school's [~~turnaround~~] improvement plan and any progress toward the goals, benchmarks, and timetable; and

(C) how the community may provide support to the school and students of the school inside and outside the classroom; and

(ii) to:

(A) parents of students enrolled in the school, using the same form of communication the local school board regularly uses to communicate with parents; and

(B) the governing council and the mayor of the municipality in which the school is located.

(7) (a) On or before June 1 of an initial remedial year, a school [~~turnaround~~] improvement committee shall submit the school [~~turnaround~~] improvement plan to the local school board for approval.

(b) Except as provided in Subsection (7)(c), on or before July 1 of an initial remedial year, a local school board of a [~~low performing~~] springboard school or elevate school shall submit the school [~~turnaround~~] improvement plan to the state board for approval.

(c) If the local school board does not approve the school [~~turnaround~~] improvement plan submitted under Subsection (7)(a), the school [~~turnaround~~] improvement committee may appeal the disapproval in accordance with rules made by the state board as described in Subsection 53E-5-305(6).

(8) A local school board, or a local school board's designee, shall annually report to the state board progress toward the goals, benchmarks, and timetable in a [~~low performing school's turnaround~~] springboard school's or elevate school's improvement plan.

Section 5. Section 53E-5-304 is amended to read:

53E-5-304. Required action for a springboard charter school or elevate charter school -- Notification to parents and municipality for a springboard charter school.

(1) In accordance with deadlines established by the state board, a charter school authorizer of a [~~low performing~~] springboard school shall initiate a review to determine whether the charter school is in compliance with the school's charter agreement described in Section 53G-5-303, including the school's established minimum standards for student achievement.

(2) If a [~~low performing~~] springboard school is found to be out of compliance with the school's charter agreement, the charter school authorizer may terminate the school's charter agreement in accordance with Section 53G-5-503.

(3) A charter school authorizer shall make a determination on the status of a [~~low performing~~] springboard school's charter agreement under Subsection (2) on or before a date specified by the state board in an initial remedial year.

(4) In accordance with deadlines established by the state board, if a charter school authorizer does not terminate a [~~low performing~~] springboard school's charter agreement under Subsection (2), a charter school governing board of a [~~low performing~~] springboard school or elevate school shall:

(a) establish a school [~~turnaround~~] improvement committee composed of the following members:

(i) a member of the charter school governing board, appointed by the chair of the charter school governing board;

(ii) the school principal;

(iii) three parents of students enrolled in the [~~low performing~~] springboard school or elevate school, appointed by the chair of the charter school governing board; and

(iv) two teachers at the [~~low performing~~] springboard school or elevate school, appointed by the school principal;

(b) solicit proposals from a [~~turnaround~~] continuous improvement expert identified by the state board under Section 53E-5-305;

(c) partner with the school [~~turnaround~~] improvement committee to select a proposal;

(d) submit the proposal described in Subsection (4)(b) to the state board for review and approval; and

(e) subject to Subsections (6) and (7), contract with a [~~turnaround~~] continuous improvement expert.

(5) A proposal described in Subsection (4)(b) shall include a:

(a) strategy to address the root causes of the [~~low performing~~] springboard school's or elevate school's low performance identified through the needs assessment described in Section 53E-5-302; and

(b) scope of work to facilitate implementation of the strategy that includes at least the activities described in Subsection 53E-5-303(4)(b).

(6) A charter school governing board may not select a [~~turnaround~~] continuous improvement expert that:

(a) is a member of the charter school governing board;

(b) is an employee of the charter school; or

(c) has a contract to operate the charter school.

(7) A contract entered into between a charter school governing board and a [~~turnaround~~] continuous improvement expert shall include and reflect the requirements described in Subsection 53E-5-303(4).

(8) (a) A school [~~turnaround~~] improvement committee shall partner with the [~~independent school turnaround~~] continuous improvement expert selected under Subsection (4) to develop and implement a school [~~turnaround~~] improvement plan that includes the elements described in Subsection 53E-5-303(5).

(b) A charter school governing board shall assist a [~~turnaround~~] continuous improvement expert and a [~~low performing charter~~] springboard school or elevate school with:

(i) addressing the root cause of the [~~low performing~~] springboard school's low performance; and

(ii) the development or implementation of a school [~~turnaround~~] improvement plan.

(9) (a) On or before June 1 of an initial remedial year, a school [~~turnaround~~] improvement committee shall submit the school [~~turnaround~~] improvement plan to the charter school governing board for approval.

(b) Except as provided in Subsection (9)(c), on or before July 1 of an initial remedial year, a charter school governing board of a [~~low performing~~] springboard school or elevate school shall submit the school [~~turnaround~~] improvement plan to the state board for approval.

(c) If the charter school governing board does not approve the school [~~turnaround~~] improvement plan submitted under Subsection (9)(a), the school [~~turnaround~~] improvement committee may appeal the disapproval in accordance with rules made by the state board as described in Subsection 53E-5-305(6).

(10) The provisions of this part do not modify or limit a charter school authorizer's authority at any time to terminate a charter school's charter agreement in accordance with Section 53G-5-503.

(11) (a) A charter school governing board or a charter school governing board's designee shall annually report to the state board progress toward the goals, benchmarks, and timetable in a [~~low performing school's turnaround~~] springboard school's or elevate school's improvement plan.

(b) A charter school governing board of a [~~low performing~~] springboard school shall provide initial and annual notice:

(i) that includes the following information regarding the [~~low performing~~] springboard school:

(A) the school's [~~turnaround~~] improvement status;

(B) the goals, benchmarks, and timetable in the school's [~~turnaround~~] improvement plan and any progress toward the goals, benchmarks, and timetable; and

(C) how the community may provide support to the school and students of the school inside and outside the classroom; and

(ii) to:

(A) parents of students enrolled in the school, using the same form of communication the charter school governing board regularly uses to communicate with parents; and

(B) the governing council and the mayor of the municipality in which the school is located.

Section 6. Section 53E-5-305 is amended to read:

53E-5-305. State board to identify continuous improvement experts -- Review and approval of school improvement plans -- Appeals process.

(1) [~~The~~] Beginning with the 2023-2024 school year, and every three years thereafter, the state board shall identify two or more approved [~~independent school turnaround~~] continuous improvement experts, through a standard procurement process, that a [~~low performing~~] springboard school or elevate school may contract with to:

(a) respond to the needs assessment conducted under Section 53E-5-302; and

(b) provide the services described in Section 53E-5-303 or 53E-5-304, as applicable.

(2) In identifying [~~independent school turnaround~~] continuous improvement experts under Subsection (1), the state board shall identify experts that:

(a) have a credible track record of improving student academic achievement in public schools with various demographic characteristics, as measured by statewide assessments described in Section 53E-4-301;

(b) have experience designing, implementing, and evaluating data-driven instructional systems in public schools;

(c) have experience coaching public school administrators and teachers on designing data-driven school improvement plans;

(d) have experience working with the various education entities that govern public schools;

(e) have experience coordinating the services provided to participating schools by other experts or providers;

[~~(e)~~] (f) have experience delivering high-quality professional development in instructional effectiveness to public school administrators and teachers; and

[~~(f)~~] (g) are willing to partner with any [~~low performing~~] springboard school or elevate school in the state, regardless of location.

(3) (a) The state board shall:

(i) review a proposal submitted for approval under Section 53E-5-303 or 53E-5-304 no later than 30 days after the day on which the proposal is submitted;

(ii) review a school [~~turnaround~~] improvement plan submitted for approval under Subsection 53E-5-303(7)(b) or under Subsection 53E-5-304(9)(b) within 30 days of submission; and

(iii) approve a school [~~turnaround~~] improvement plan that:

(A) is timely;

(B) is well-developed; and

(C) meets the criteria described in Subsection 53E-5-303(5).

(b) The state board may not approve a school [~~turnaround~~] improvement plan that is not aligned with the needs assessment conducted under Section 53E-5-302.

(4) (a) Subject to legislative appropriations, when a school [~~turnaround~~] improvement plan is approved by the state board, the state board shall distribute funds to each LEA governing board with a [~~low performing~~] springboard school or elevate school to carry out the provisions of Sections 53E-5-303 and 53E-5-304.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing a distribution method and allowable uses of the funds described in Subsection (4)(a).

(5) The state board shall:

(a) monitor and assess progress toward the goals, benchmarks and timetable in each school [~~turnaround~~] improvement plan; and

(b) act as a liaison between a local school board, [~~low performing~~] springboard school or elevate school, and [~~turnaround~~] continuous improvement expert.

(6) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules to establish an appeals process for:

(i) a [~~low performing~~] springboard district school or elevate district school that is not granted approval from the district school's local school board under Subsection 53E-5-303(7)(b);

(ii) a [~~low performing~~] springboard charter school or elevate charter school that is not granted approval from the charter school's charter school governing board under Subsection 53E-5-304(9)(b); and

(iii) a local school board or charter school governing board that is not granted approval from the state board under Subsection (3)(a) or (b).

(b) The state board shall ensure that rules made under Subsection (6)(a) require an appeals process described in:

(i) Subsections (6)(a)(i) and (ii) to be resolved on or before July 1 of the initial remedial year; and

(ii) Subsection (6)(a)(iii) to be resolved on or before August 15 of the initial remedial year.

(7) Except as provided in Subsection (8), if the amount is approved by the state board in an open meeting, the state board may use [~~up to 4%~~] a portion of the funds appropriated by the Legislature to carry out the provisions of this part for [~~administration if the amount for administration is approved by the state board in an open meeting.~~]:

(a) administration; or

(b) other school improvement supports for all public schools, including for data resources.

(8) For the 2020-21, 2021-22, and 2022-23 school years, if the state board approves the use in an open meeting, the state board may use funds the Legislature appropriated in prior years to carry out the provisions of this part:

(a) for administration;

(b) up to $1,000,000 to contract with a provider, through a request for proposals process, to pilot complementary approaches to school improvement that draw on community resources and engagement; and

(c) to analyze the effectiveness of supports provided:

(i) under this part; and

(ii) by other school improvement programs.

Section 7. Section 53E-5-306 is amended to read:

53E-5-306. Implications for failing to improve school performance.

(1) As used in this section, "high performing charter school" means a charter school that:

(a) satisfies all requirements of state law and state board rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) meets or exceeds standards for student achievement established by the charter school's charter school authorizer; and

(c) has received at least a B grade under the school accountability system in the previous two school years.

(2) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules establishing:

(i) the final remedial year for a cohort;

(ii) exit criteria for a [~~low performing~~] springboard school or elevate school;

(iii) criteria for granting a school an extension as described in Subsection (3); and

(iv) implications for a [~~low performing~~] springboard school that does not meet exit criteria after the school's final remedial year or the last school year of the extension period described in Subsection (3).

(b) In establishing exit criteria for a [~~low performing school identified based on school accountability results from the 2018-19 school year and later~~] springboard school, the state board shall:

(i) determine for each [~~low performing~~] springboard school the number of points awarded under the school accountability system that represent a substantive improvement over the number of points awarded under the school accountability system in the school year immediately preceding the initial remedial year; and

(ii) establish a method to provide a target for each [~~low performing~~] springboard school.

(c) The state board shall through a competitively awarded contract engage a third party with expertise in school accountability and assessments to verify the exit criteria adopted under Subsections (2)(a)(i) and (ii).

(3) (a) A [~~low performing~~] springboard school may petition the state board for an extension to continue school improvement efforts for up to two years if the [~~low performing~~] springboard school does not meet the exit criteria established by the state board as described in Subsection (2).

(b) A school that has been granted an extension under this Subsection (3) is eligible for[~~:~~]

[~~(i)~~] continued funding under Section 53E-5-305. [~~; and~~]

[~~(ii) the school teacher recruitment and retention incentive under Section 53E-5-308.~~]

(4) If a [~~low performing~~] springboard school does not meet exit criteria after the school's final remedial year or the last school year of the extension period, the state board may intervene by:

(a) restructuring a district school, which may include:

(i) contract management; or

(ii) conversion to a charter school; [~~or~~]

[~~(iii) state takeover;~~]

(b) restructuring a charter school by:

(i) terminating a school's charter agreement;

(ii) closing a charter school; or

(iii) transferring operation and control of the charter school to:

(A) a high performing charter school; or

(B) the school district in which the charter school is located; or

(c) other appropriate action as determined by the state board.

Section 8. Section 53E-5-309 is amended to read:

53E-5-309. School Leadership Development Program.

(1) As used in this section, "school leader" means a school principal or assistant principal.

(2) There is created the School Leadership Development Program to increase the [~~number~~] supply of highly effective school leaders capable of:

(a) initiating, achieving, and sustaining school improvement efforts; and

(b) forming and sustaining community partnerships as described in Section 53F-5-402.

(3) The state board shall identify one or more providers, through a request for proposals process, to develop or provide leadership development training for school leaders that:

(a) may provide in-depth training in proven strategies to [~~turn around low performing~~] improve springboard schools and elevate schools;

(b) may emphasize hands-on and job-embedded learning;

(c) aligns with the state's leadership standards established by state board rule;

(d) reflects the needs of a school district or charter school where a school leader serves;

(e) may include training on using student achievement data to drive decisions;

(f) may develop skills in implementing and evaluating evidence-based instructional practices;

(g) may develop skills in leading collaborative school improvement structures, including professional learning communities; and

(h) includes instruction on forming and sustaining community partnerships as described in Section 53F-5-402.

(4) Subject to legislative appropriations, the state board shall provide incentive pay to a school leader who:

(a) completes leadership development training under this section; and

(b) agrees to work, for at least five years, in a school that received an F grade or D grade under the school accountability system in the school year previous to the first year the school leader:

(i) completes leadership development training; and

(ii) begins to work, or continues to work, in a school described in this Subsection (4)(b).

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state board shall make rules specifying:

(a) eligibility criteria for a school leader to participate in the School Leadership Development Program;

(b) application procedures for the School Leadership Development Program;

(c) criteria for selecting school leaders from the application pool; and

(d) procedures for awarding incentive pay under Subsection (4).

Section 9. Section 53E-5-311 is amended to read:

53E-5-311. Coordination with the Partnerships for Student Success Grant Program.

If a [~~low performing~~] springboard school or elevate school is a member of a partnership that receives a grant under Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program, the school [~~turnaround~~] improvement committee shall:

(1) coordinate the school [~~turnaround~~] improvement committee's efforts with the efforts of the partnership; and

(2) ensure that the goals and outcomes of the partnership are aligned with the school [~~turnaround~~] improvement plan described in this part.

Section 10. Repealer.

This bill repeals:

Section 53E-5-308, Turnaround school teacher recruitment and retention.

CHAPTER 474
S. B. 246
Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

STATUTE OF LIMITATIONS FOR CRIMINAL CONDUCT AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Brian S. King

LONG TITLE

General Description:
This bill allows an individual to bring a cause of action after a criminal proceeding for a limited period of time even if a statute of limitations has expired.

Highlighted Provisions:
This bill:

- defines terms; and
- provides the circumstances under which an individual who is a victim of certain crimes may bring a civil cause of action after a criminal proceeding ends even if a statute of limitations has expired.

Monies Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:

ENACTS:
78B-2-119, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 78B-2-119 is enacted to read:

78B-2-119. Statute of limitations after criminal proceeding.

(1) As used in this section:

(a) "Cause of action" means any civil claim that a victim could bring against a defendant for criminal conduct committed against the victim.

(b) "Criminal conduct" means any act that is charged as a felony under:

(i) Title 76, Chapter 5, Offenses Against the Person; or

(ii) Title 76, Chapter 4, Inchoate Offenses, that is directly related to prohibited conduct under Title 76, Chapter 5, Offenses Against the Person.

(c) "Victim" means an individual directly harmed by criminal conduct or the individual's representative.

(2) (a) Notwithstanding any statute of limitations, a victim may bring a cause of action if:

(i) the defendant to the cause of action was charged by a criminal complaint, indictment, or information for criminal conduct;

(ii) the cause of action is brought within one year from the day on which a final disposition for the criminal proceeding is issued;

(iii) the cause of action is brought to address any harm resulting from the criminal conduct that was at issue in the criminal proceeding described in Subsection (2)(a)(ii); and

(iv) the applicable statute of limitations that would apply to the conduct at issue in the cause of action did not expire before May 4, 2022.

(b) A defendant does not need to be convicted of the criminal conduct for an individual to bring a cause of action under Subsection (2)(a).

(3) Subsection (2)(a) does not:

(a) shorten an applicable statute of limitations or an applicable tolling provision;

(b) toll or extend an applicable statute of limitations for an action that is brought against an employer or former employer of a defendant described in Subsection (2)(a)(i); or

(c) require an insurer to defend or indemnify a defendant for a cause of action that would otherwise be barred if not for Subsection (2)(a).

CHAPTER 475
S. B. 249

Passed March 4, 2022
Approved March 24, 2022
Effective May 4, 2022

PUBLIC EMPLOYEES' HEALTH PROGRAM AMENDMENTS

Chief Sponsor: Todd D. Weiler
House Sponsor: Matthew H. Gwynn

LONG TITLE

General Description:

This bill modifies provisions related to the Public Employees' Benefit and Insurance Program's coverage of treatment for autism spectrum disorder.

Highlighted Provisions:

This bill:

- repeals the autism spectrum disorder treatment pilot program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

REPEALS:

49-20-411, as last amended by Laws of Utah 2015, Chapter 258

Be it enacted by the Legislature of the state of Utah:

Section 1. Repealer.

This bill repeals:

Section 49-20-411, Autism Spectrum Disorder Treatment Program.

CHAPTER 476
S. B. 251

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

GROW YOUR OWN TEACHER AND SCHOOL COUNSELOR PIPELINE PROGRAM

Chief Sponsor: Kathleen A. Riebe
House Sponsor: Jefferson Moss

LONG TITLE

General Description:

This bill makes changes to the Grow Your Own Teacher and School Counselor Pipeline Program.

Highlighted Provisions:

This bill:

- permits a local education agency to select certain teachers as candidates for a scholarship award through the Grow Your Own Teacher and School Counselor Pipeline Program (program);
- allows scholarship money awarded through the program to be used for stipends for school counselor assistants;
- defines terms; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53F-5-218, as enacted by Laws of Utah 2021, Chapter 298

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53F-5-218 is amended to read:

53F-5-218. Grow Your Own Teacher and School Counselor Pipeline Program.

(1) As used in this section:

(a) "Paraprofessional" means an individual who:

(i) works with students in an LEA as a paraprofessional or in a similar teaching assistant position; and

(ii) is not licensed to teach.

(b) "Program" means the Grow Your Own Teacher and School Counselor Pipeline Program that this section creates.

(c) "School counselor" means an educator who is:

(i) licensed as a school counselor in accordance with state board rule; and

(ii) assigned to provide direct and indirect services to students in accordance with a school counseling program model that the state board provides.

(d) "School counselor assistant" means a student who is:

(i) enrolled in an accredited bachelor's degree program in a related field; and

(ii) completing the student's practicum experience in a school counseling department under the supervision of a licensed school counselor.

(e) "School counselor intern" means a student who is:

(i) enrolled in an accredited school counselor master's degree program; and

(ii) completing the student's hours of a supervised counseling internship by applying appropriate school counseling techniques under the supervision of a licensed school counselor.

(f) "Teacher" means an educator who has an assignment to teach in a classroom.

(2) The Grow Your Own Teacher and School Counselor Pipeline Program is a competitive grant program created to provide funding to LEAs to award scholarships to paraprofessionals, teachers, school counselor assistants, and school counselor interns within the LEA for education and training to become licensed teachers or licensed school counselors.

(3) The state board shall use money appropriated for the program to provide funding to LEAs that are awarded grants under the program to award scholarships to eligible candidates whom principals within the LEA nominate, in an amount that the state board determines.

(4) An LEA that participates in the program may select a candidate for a scholarship award if:

(a) the candidate is a resident of the state; and

(b) (i) for a paraprofessional:

(A) a school district or charter school has employed the candidate as a paraprofessional for at least one year before entering the program; or

(B) subject to Subsection (5), the candidate has experience outside the school district, charter school, or state that is equivalent to the experience described in Subsection (4)(b)[~~(ii)~~] (i)(A);

(ii) for a teacher, the candidate:

(A) was a paraprofessional who was awarded a scholarship;

(B) was offered employment as a teacher before the teacher completed the training to become a professionally licensed teacher; and

(C) is working as a teacher for the same LEA where the teacher previously worked as a paraprofessional and was awarded the scholarship.

[~~(ii)~~] (iii) for a school counselor assistant, the candidate:

(A) is enrolled in a bachelor's degree program in a related field; and

(B) demonstrates a commitment to continue the school counselor assistant's education after graduation in school counseling; or

[~~(iii)~~] (iv) for a school counselor intern, the candidate is enrolled in an accredited school counselor master's degree program accredited by:

(A) the Council for Accreditation of Counseling and Related Educational Programs; or

(B) another regionally recognized accrediting body that meets the state board's standards for school counselor education programs.

(5) The percentage of an LEA's paraprofessional scholarship recipients who are eligible for a scholarship using equivalent experience under Subsection (4)(b)(i)(B) may not exceed 20%.

(6) A scholarship award under the program may only be used for:

(a) tuition, books, fees, and certification tests for required coursework and licensure;

(b) stipends for mentors or school counselor assistants; and

(c) if the LEA pays 0.15 of a full-time equivalent and all employee benefits, payment of a 0.35 full-time equivalent for:

(i) a paraprofessional, up to one semester of student teaching; or

(ii) a school counselor assistant or school counselor intern, up to two semesters of practicum or internship hours.

(7) A paraprofessional scholarship recipient must be continuously employed as a paraprofessional by the paraprofessional's LEA while pursuing a degree using scholarship money under the program.

(8) The state board shall make rules in accordance with this section and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program, including rules regarding:

(a) grant and scholarship application procedures;

(b) procedures for distributing scholarship money;

(c) assignment and eligibility of qualified mentors;

(d) stipends for mentors or school counselor assistants;

(e) administrative costs for regional education service agencies, as that term is defined in Section 53G-4-410; and

(f) eligibility requirements for potential candidates for scholarships regarding the completion of the Free Application for Federal Student Aid and the acceptance of other grants, tuition or fee waivers, and scholarships offered to the candidate.

CHAPTER 477
S. B. 258

Passed March 3, 2022
Approved March 24, 2022
Effective May 4, 2022

ROCKY MOUNTAIN CENTER FOR OCCUPATIONAL AND ENVIRONMENTAL HEALTH AMENDMENTS

Chief Sponsor: Karen Mayne
House Sponsor: Val L. Peterson

LONG TITLE

General Description:

This bill amends provisions related to donations to the Rocky Mountain Center for Occupational and Environmental Health (center).

Highlighted Provisions:

This bill:

- modifies certain donations that a workers' compensation insurer may make to the center to offset against certain workers' compensation-related assessments to include donations supporting undergraduate level education and training.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-9-102.5, as last amended by Laws of Utah 2021, Chapter 425

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 59-9-102.5 is amended to read:

59-9-102.5. Offset for occupational health and safety related donations.

(1) As used in this section:

(a) "Occupational health and safety center" means the Rocky Mountain Center for Occupational and Environmental Health created in Title 53B, Chapter 30, Part 2, Rocky Mountain Center for Occupational and Environmental Health.

(b) "Qualified donation" means a donation that is:

(i) cash;

(ii) given directly to an occupational health and safety center; and

(iii) given exclusively for the purpose of:

(A) supporting undergraduate or graduate level education and training in fields of:

(I) safety and ergonomics;

(II) industrial hygiene;

(III) occupational health nursing;

(IV) occupational injury prevention; and

(V) occupational medicine;

(B) providing continuing education programs for employers designed to promote workplace safety; and

(C) paying reasonable administrative, personnel, equipment, and overhead costs of the occupational health and safety center.

(c) "Workers' compensation insurer" means an admitted insurer writing workers' compensation insurance in this state that is required to pay the premium assessment imposed under Subsection 59-9-101(2).

(2) (a) A workers' compensation insurer may offset against the premium assessment imposed under Subsection 59-9-101(2) an amount equal to the lesser of:

(i) the total of qualified donations made by the workers' compensation insurer in the calendar year for which the premium assessment is calculated; and

(ii) .20% of the workers' compensation insurer's total workers' compensation premium income as defined in Subsection 59-9-101(2)(b) in the calendar year for which the premium assessment is calculated.

(b) The offset provided under this Subsection (2) shall be allocated in proportion to the percentages provided in Subsection 59-9-101(2)(c).

(3) An occupational health and safety center shall:

(a) provide a workers' compensation insurer a receipt for any qualified donation made by the workers' compensation insurer to the occupational health and safety center;

(b) expend money received by a qualified donation:

(i) for the purposes described in Subsection (1)(b)(iii); and

(ii) in a manner that can be audited to ensure that the money is expended for the purposes described in Subsection (1)(b)(iii); and

(c) in conjunction with the report required by Section 34A-2-202.5, report to the Office of the Legislative Fiscal Analyst for review by the Higher Education Appropriations Subcommittee by no later than August 15 of each year:

(i) the qualified donations received by the occupational health and safety center in the previous calendar year; and

(ii) the expenditures during the previous calendar year of qualified donations received by the occupational health and safety center.

CHAPTER 478
H. B. 11

Passed March 4, 2022
Vetoed March 22, 2022
(Veto override March 25, 2022)

STUDENT ELIGIBILITY IN INTERSCHOLASTIC ACTIVITIES

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble
Cosponsors: Cheryl K. Acton
Melissa G. Ballard
Marsha Judkins
Karianne Lisonbee
Candice B. Pierucci
Susan Pulsipher
Judy Weeks Rohner
Christine F. Watkins

LONG TITLE

General Description:

This bill addresses student athlete participation in gender-designated sports in the public education system.

Highlighted Provisions:

This bill:

- ▸ defines terms;
- ▸ imposes limits on participation in female sports, by:
  - • requiring schools and local education agencies to designate athletic activities by sex;
  - • prohibiting a student of the male sex from competing against another school on a team designated for female students;
  - • prohibiting certain complaints or investigations based on a school or local education agency maintaining separate athletic activities for female students; and
  - • providing for severability;
- ▸ in the alternative if a court invalidates the above policy:
  - • conditions student athlete participation in gender-designated sports in the public education system on the student's birth certificate;
  - • establishes the School Activity Eligibility Commission (commission) and provides the commission's membership and duties;
  - • requires the commission to establish a baseline range of students in a given gender-designated interscholastic activity for a given age;
  - • provides that records of the commission related to a specific student are protected;
  - • provides immunity from suit for members of the commission;
  - • allows a student to participate in a gender-designated interscholastic activity that does not correspond to the sex designation on the student's birth certificate or in the case of a gender transition if the student receives the commission's eligibility approval;
  - • provides processes for an athletic association to notify the commission when a student registers to participate in a gender-designated sport in a situation that requires the commission's eligibility approval;
  - • provides processes for the commission to receive information and evidence;
  - • provides for the confidentiality of the proceedings, commission vote, eligibility determination, and student's identity; and
  - • establishes a standard for the commission's considerations in rendering an eligibility determination;
  - • allows for commission meetings in which the commission discusses and votes on a specific student's request to be closed under the Open and Public Meetings Act;
  - • provides for reasonable accommodations in school facilities related to gender identity for students participating in interscholastic activities; and
  - • provides for severability; and
- ▸ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

52-4-205, as last amended by Laws of Utah 2021, Chapters 179 and 231

ENACTS:

53G-6-901, Utah Code Annotated 1953
53G-6-902, Utah Code Annotated 1953
53G-6-903, Utah Code Annotated 1953
53G-6-1001, Utah Code Annotated 1953
53G-6-1002, Utah Code Annotated 1953
53G-6-1003, Utah Code Annotated 1953
53G-6-1004, Utah Code Annotated 1953
53G-6-1005, Utah Code Annotated 1953
53G-6-1006, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 52-4-205 is amended to read:

52-4-205. Purposes of closed meetings -- Certain issues prohibited in closed meetings.

(1) A closed meeting described under Section 52-4-204 may only be held for:

(a) except as provided in Subsection (3), discussion of the character, professional competence, or physical or mental health of an individual;

(b) strategy sessions to discuss collective bargaining;

(c) strategy sessions to discuss pending or reasonably imminent litigation;

(d) strategy sessions to discuss the purchase, exchange, or lease of real property, including any form of a water right or water shares, if public discussion of the transaction would:

(i) disclose the appraisal or estimated value of the property under consideration; or

(ii) prevent the public body from completing the transaction on the best possible terms;

(e) strategy sessions to discuss the sale of real property, including any form of a water right or water shares, if:

(i) public discussion of the transaction would:

(A) disclose the appraisal or estimated value of the property under consideration; or

(B) prevent the public body from completing the transaction on the best possible terms;

(ii) the public body previously gave public notice that the property would be offered for sale; and

(iii) the terms of the sale are publicly disclosed before the public body approves the sale;

(f) discussion regarding deployment of security personnel, devices, or systems;

(g) investigative proceedings regarding allegations of criminal misconduct;

(h) as relates to the Independent Legislative Ethics Commission, conducting business relating to the receipt or review of ethics complaints;

(i) as relates to an ethics committee of the Legislature, a purpose permitted under Subsection 52-4-204(1)(a)(iii)(C);

(j) as relates to the Independent Executive Branch Ethics Commission created in Section 63A-14-202, conducting business relating to an ethics complaint;

(k) as relates to a county legislative body, discussing commercial information as defined in Section 59-1-404;

(l) as relates to the Utah Higher Education Assistance Authority and its appointed board of directors, discussing fiduciary or commercial information as defined in Section 53B-12-102;

(m) deliberations, not including any information gathering activities, of a public body acting in the capacity of:

(i) an evaluation committee under Title 63G, Chapter 6a, Utah Procurement Code, during the process of evaluating responses to a solicitation, as defined in Section 63G-6a-103;

(ii) a protest officer, defined in Section 63G-6a-103, during the process of making a decision on a protest under Title 63G, Chapter 6a, Part 16, Protests; or

(iii) a procurement appeals panel under Title 63G, Chapter 6a, Utah Procurement Code, during the process of deciding an appeal under Title 63G, Chapter 6a, Part 17, Procurement Appeals Board;

(n) the purpose of considering information that is designated as a trade secret, as defined in Section 13-24-2, if the public body's consideration of the information is necessary in order to properly conduct a procurement under Title 63G, Chapter 6a, Utah Procurement Code;

(o) the purpose of discussing information provided to the public body during the procurement process under Title 63G, Chapter 6a, Utah Procurement Code, if, at the time of the meeting:

(i) the information may not, under Title 63G, Chapter 6a, Utah Procurement Code, be disclosed to a member of the public or to a participant in the procurement process; and

(ii) the public body needs to review or discuss the information in order to properly fulfill its role and responsibilities in the procurement process;

(p) as relates to the governing board of a governmental nonprofit corporation, as that term is defined in Section 11-13a-102, the purpose of discussing information that is designated as a trade secret, as that term is defined in Section 13-24-2, if:

(i) public knowledge of the discussion would reasonably be expected to result in injury to the owner of the trade secret; and

(ii) discussion of the information is necessary for the governing board to properly discharge the board's duties and conduct the board's business; or

(q) a purpose for which a meeting is required to be closed under Subsection (2).

(2) The following meetings shall be closed:

(a) a meeting of the Health and Human Services Interim Committee to review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4);

(b) a meeting of the Child Welfare Legislative Oversight Panel to:

(i) review a report described in Subsection 62A-16-301(1)(a), and the responses to the report described in Subsections 62A-16-301(2) and (4); or

(ii) review and discuss an individual case, as described in Subsection 62A-4a-207(5);

(c) a meeting of the Opioid and Overdose Fatality Review Committee, created in Section 26-7-13, to review and discuss an individual case, as described in Subsection 26-7-13(10);

(d) a meeting of a conservation district as defined in Section 17D-3-102 for the purpose of advising the Natural Resource Conservation Service of the United States Department of Agriculture on a farm improvement project if the discussed information is protected information under federal law;

(e) a meeting of the Compassionate Use Board established in Section 26-61a-105 for the purpose of reviewing petitions for a medical cannabis card in accordance with Section 26-61a-105; [~~and~~]

(f) a meeting of the Colorado River Authority of Utah if:

(i) the purpose of the meeting is to discuss an interstate claim to the use of the water in the Colorado River system; and

(ii) failing to close the meeting would:

(A) reveal the contents of a record classified as protected under Subsection 63G-2-305(82);

(B) reveal a legal strategy relating to the state's claim to the use of the water in the Colorado River system;

(C) harm the ability of the Colorado River Authority of Utah or river commissioner to negotiate the best terms and conditions regarding the use of water in the Colorado River system; or

(D) give an advantage to another state or to the federal government in negotiations regarding the use of water in the Colorado River system[~~.~~]; and

(g) a meeting of the School Activity Eligibility Commission, described in Section 53G-6-1003, if the commission is in effect in accordance with Section 53G-6-1002, to consider, discuss, or determine, in accordance with Section 53G-6-1004, an individual student's eligibility to participate in an interscholastic activity, as that term is defined in Section 53G-6-1001, including the commission's determinative vote on the student's eligibility.

(3) In a closed meeting, a public body may not:

(a) interview a person applying to fill an elected position;

(b) discuss filling a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office; or

(c) discuss the character, professional competence, or physical or mental health of the person whose name was submitted for consideration to fill a midterm vacancy or temporary absence governed by Title 20A, Chapter 1, Part 5, Candidate Vacancy and Vacancy and Temporary Absence in Elected Office.

Section 2. Section 53G-6-901 is enacted to read:

Part 9. Participation in Female Sports

53G-6-901. Definitions.

As used in this part:

(1) "Coed" or "mixed" means that a team is composed of members of both sexes who traditionally compete together.

(2) "Interscholastic athletic activity" means that a student represents the student's school or LEA in competition against another school or LEA in an athletic or sporting activity.

(3) "Sex" means the biological, physical condition of being male or female, determined by an individual's genetics and anatomy at birth.

Section 3. Section 53G-6-902 is enacted to read:

53G-6-902. Participation in school athletic activities.

(1) Notwithstanding any state board rule:

(a) a public school or LEA, or a private school that competes against a public school or LEA, shall expressly designate school athletic activities and teams as one of the following, based on sex:

(i) designated for students of the male sex;

(ii) designated for students of the female sex; or

(iii) "coed" or "mixed";

(b) a student of the male sex may not compete, and a public school or LEA may not allow a student of the male sex to compete, with a team designated for students of the female sex in an interscholastic athletic activity; and

(c) a government entity or licensing or accrediting organization may not entertain a complaint, open an investigation, or take any other adverse action against a school or LEA described in Subsection (1)(a) for maintaining separate school athletic activities for students of the female sex.

(2) Nothing in this section prohibits an LEA or school from allowing a student of either gender from participating with a team designated for students of the female sex, consistent with school policy, outside of competition in an interscholastic athletic activity, in accordance with Subsection (1)(b).

Section 4. Section 53G-6-903 is enacted to read:

53G-6-903. Severability.

(1) If any provision of this part or the application of any provision of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this part shall be given effect without the invalidated provision or application.

(2) The provisions of this part are severable.

Section 5. Section 53G-6-1001 is enacted to read:

Part 10. Student Eligibility in Interscholastic Activities

53G-6-1001. Definitions.

As used in this part:

(1) "Athletic association" means an association, as that term is defined in Section 53G-7-1101.

(2) "Commission" means the School Activity Eligibility Commission created in Section 53G-6-1003.

(3) "Female-designated" means that an interscholastic activity is designated specifically for female students.

(4) "Gender-designated" means that an interscholastic activity or facility is designated specifically for female or male students.

(5) "Gender identity" means the same as that term is defined in Section 34A-5-102.

(6) "Interscholastic activity" means an activity in which a student represents the student's school in the activity in competition against another school.

(7) "Male-designated" means that an interscholastic activity is designated specifically for male students.

(8) "Student" means a student who is enrolled in a public school that participates in interscholastic activities.

Section 6. Section 53G-6-1002 is enacted to read:

53G-6-1002. Effect contingent on court ruling.

This part becomes effective if a court of competent jurisdiction invalidates or enjoins Title 53G, Chapter 6, Part 9, Participation in Female Sports.

Section 7. Section 53G-6-1003 is enacted to read:

53G-6-1003. School Activity Eligibility Commission -- Baseline range.

(1) There is created the School Activity Eligibility Commission.

(2) (a) The commission shall consist of the following members:

(i) the following two members whom the president of the Senate appoints:

(A) a mental health professional; and

(B) a statistician with expertise in the analysis of medical data;

(ii) the following two members whom the speaker of the House of Representatives appoints:

(A) a board-certified physician with expertise in gender identity healthcare; and

(B) a sports physiologist;

(iii) the following two members whom the governor appoints:

(A) a representative of an athletic association; and

(B) an athletic trainer who serves student athletes on the collegiate level; and

(iv) one ad hoc member, serving on a case-by-case basis, who is:

(A) appointed by the athletic association in which the relevant student's school competes; and

(B) a certified high school coach or official who coaches or officiates in a separate region or classification from the relevant student's school and in the sport in which the relevant student seeks eligibility.

(b) An athletic association may prepare and communicate the association's sport-specific appointments described in Subsection (2)(a)(iv) in preparation for student requests in a given sport.

(3) (a) A member of the commission described in Subsections (2)(a)(i) through (iii) shall serve an initial term of one year, subject to reappointment for subsequent terms of two years.

(b) If a vacancy occurs in the membership of the commission, the individual responsible for the appointment of the vacant seat as described in Subsection (2) shall fill the vacancy in the same manner as the original appointment.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), all members of the commission constitute a quorum of the commission for a meeting to determine the eligibility of a student.

(ii) All members of the commission described in Subsections (2)(a)(i) through (iii) constitute a quorum for any meeting other than the meeting described in Subsection (4)(a)(i).

(b) An action of a majority of a quorum constitutes an action of the commission.

(5) A majority of the commission members described in Subsections (2)(a)(i) through (iii) shall elect a chair from among the members described in Subsections (2)(a)(i) through (iii) to:

(a) schedule meetings of the commission;

(b) set the agenda of commission meetings; and

(c) facilitate discussion among the commission's members.

(6) A commission member:

(a) may not receive compensation or benefits for the member's service on the commission; and

(b) may receive per diem and reimbursement for travel expenses that the commission member incurs as a commission member at the rates that the Division of Finance establishes under:

(i) Sections 63A-3-106 and 63A-3-107; and

(ii) rules that the Division of Finance makes under Sections 63A-3-106 and 63A-3-107.

(7) The commission may enter into an agreement with an athletic association to provide staff support to the commission.

(8) (a) The commission shall establish a baseline range of physical characteristics for students participating in a specific gender-designated activity at a specific age to provide the context for the evaluation of an individual student's eligibility for a given gender-designated interscholastic activity under Section 53G-6-1004.

(b) In creating the baseline ranges described in Subsection (8)(a), the commission shall include the physical characteristics for the age and gender group in a given gender-designated interscholastic activity that are relevant to the specific interscholastic activity.

(c) The physical characteristics described in Subsection (8)(b) may include height, weight, physical characteristics relevant to the application of the standard described in Subsection 53G-6-1004(3), or the extent of physical characteristics affected by puberty, giving consideration to the practicability of considering the physical characteristic when making an assessment of an individual student's eligibility under Section 53G-6-1004.

(9) Any record of the commission, including any communication between an athletic association and the commission, that relates to a specific student shall be classified as a protected record under Title 63G, Chapter 2, Government Records Access and Management Act.

(10) Members of the commission are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this part.

(11) The commission has no authority in relation to eligibility questions other than participation in a gender-designated interscholastic activity under this part.

Section 8. Section 53G-6-1004 is enacted to read:

53G-6-1004. Eligibility for interscholastic activities.

(1) (a) Notwithstanding any state board rule or policy of an athletic association, and except as provided in Subsections (1)(b) and (c):

(i) once a student has obtained the eligibility approval of the commission under Subsection (2), the student may participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate; and

(ii) if a student does not obtain the eligibility approval of the commission under Subsection (2), the student may not participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate.

(b) A student who has undergone or is undergoing a gender transition shall obtain the eligibility approval of the commission under Subsection (2) to participate in a gender-designated interscholastic activity that corresponds with the student's gender identity.

(c) Nothing in this subsection prohibits a student from participating in a gender-designated interscholastic activity in accordance with 34 C.F.R. Sec. 106.41(b).

(2) (a) When a student registers with an athletic association to participate in a gender-designated interscholastic activity:

(i) a student who has undergone or is undergoing a gender transition shall notify the athletic association of the student's transition and the need for the commission's eligibility approval as described in Subsection (1)(b);

(ii) the athletic association shall notify the commission of:

(A) a student for whom an eligibility determination of the commission is required due to the sex designation on the student's birth certificate not corresponding with the gender designation of the gender-designated interscholastic activity in which the student seeks to participate or the student's notice of a gender transition under Subsection (1)(a)(ii); and

(B) the association's ad hoc appointment to the commission described in Subsection 53G-6-1003(2)(a)(iv); and

(iii) the commission shall notify the student described in Subsection (2)(a) regarding the process for determining the student's eligibility for the activity under this section.

(b) The commission shall:

(i) schedule a closed meeting to consider a student's eligibility to be held within 30 days after the day on which the commission receives the notification described in Subsection (2)(a); and

(ii) notify the relevant athletic association and the student's parents or legal guardians of the scheduled meeting.

(c) Before the meeting described in Subsection (2)(b):

(i) the student for whom the commission has scheduled the meeting or the student's parent or guardian is not required but may submit to the commission any information the student wishes to disclose to the commission that may be relevant to the commission's eligibility determination, including information regarding:

(A) the gender-designated interscholastic activities for which the student seeks eligibility;

(B) the gender-designated interscholastic activities in which the student has previously participated; and

(C) the student's physical characteristics or medical treatments that support the student's eligibility for the specific gender-designated interscholastic activity;

(ii) the commission may request additional evidence from the student that is:

(A) limited to the extent possible to protect the student's privacy; and

(B) only directly relevant to the commission's eligibility determination; and

(iii) the commission may offer the student a voucher to cover the cost of a diagnostic assessment if the commission makes a request for medical information under Subsection (2)(c)(ii) for which the student's insurance does not provide coverage or reimbursement for the diagnostic that:

(A) would provide the requested information; and

(B) is not free or otherwise readily available to the student.

(d) During the meeting described in Subsection (2)(b):

(i) only the following individuals may be present or participate electronically:

(A) the student for whom the commission is meeting to make an eligibility determination;

(B) the student's parents or guardians;

(C) the members and necessary staff of the commission; and

(D) any medical professionals or other witnesses the student chooses to include to support the student's eligibility;

(ii) attendees may participate in person or electronically; and

(iii) the commission shall:

(A) hear the information that supports the student's eligibility;

(B) deliberate the facts relevant to the student's physical characteristics and eligibility in camera or otherwise after temporarily excusing from the meeting the student, the student's parents or legal guardians, and any medical professionals or other witnesses whom the student includes; and

(C) render the commission's eligibility determination in accordance with Subsection (3) or request additional information and schedule an additional commission meeting to be held within 30 days of the meeting and in accordance with this Subsection (2)(d) to discuss the additional information and render the commission's eligibility determination.

(3) In making an eligibility determination, the commission, after considering whether the student's assertion of a gender identity is consistent with the statutory definition of gender identity as that term is defined in Section 34A-5-102, including the implications for the student's mental health of participating in the gender-designated interscholastic activity, shall:

(a) make a determination regarding whether, when measured against the relevant baseline range described in Subsection 53G-6-1003(8), granting the student's eligibility would:

(i) present a substantial safety risk to the student or others that is significantly greater than the inherent risks of the given activity; or

(ii) likely give the student a material competitive advantage when compared to students of the same age competing in the relevant gender-designated activity, including consideration of the student's previous history of participation in gender-designated interscholastic activities; and

(b) record the commission's decision and rationale in writing and provide the written decision to the student within 30 days after the day on which the commission renders an eligibility decision under Subsection (3)(a) in a meeting described in Subsection (2)(b).

(4) (a) Notwithstanding any other provision of law and except as provided in Subsections (3)(b) and (4)(b), the commission may not disclose:

(i) the name of a student whose eligibility the commission will consider, is considering, or has considered; or

(ii) the commission's determination regarding a student's eligibility.

(b) The commission shall disclose the commission's determination of a student's eligibility for a given gender-designated interscholastic activity to the relevant athletic association, only for the purpose of confirming whether the student is eligible for the interscholastic activity.

(c) (i) Notwithstanding any other provision of law, an athletic association may not disclose the information described in Subsections (4)(a)(i) and (ii).

(ii) Nothing in this Subsection (4) prohibits an athletic association from affirming that a student is eligible if the eligibility of a student is questioned.

Section 9. Section 53G-6-1005 is enacted to read:

53G-6-1005. Reasonable accommodations.

Nothing in this part prohibits an athletic association, LEA, or school from adopting reasonable safety and privacy rules and policies that designate facilities, including restrooms, shower facilities, and dressing facilities, provided that the rules and policies described in this section afford reasonable accommodations based on gender identity to all students.

Section 10. Section 53G-6-1006 is enacted to read:

53G-6-1006. Severability.

(1) If any provision of this part or the application of any provision of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this part shall be given effect without the invalidated provision or application.

(2) The provisions of this part are severable.

Section 11. Effective date.

This bill takes effect on July 1, 2022.

Resolutions

passed at the

General Session

of the

Sixty-Fourth Legislature

2022

H.C.R. 1
Passed February 18, 2022
Approved February 22, 2022
Effective February 22, 2022

CONCURRENT RESOLUTION TO WORK TOGETHER TO ADDRESS THE CLIMATE, PUBLIC LANDS, AND CARBON SEQUESTRATION

Chief Sponsor: Keven J. Stratton
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This resolution recognizes and encourages best management practices to reduce carbon emissions while also preserving and expanding forests and other lands to improve climate outcomes.

Highlighted Provisions:

This resolution:

- recognizes certain challenges and concerns with current land and forest management practices and how those practices conflict with goals to slow and reverse climate change; and
- encourages improved land management practices, including coordination with all relevant parties, to reverse trends of carbon emissions with new and evolving technology, expand natural carbon sequestration, and improve health, safety, and forest and ecosystem vitality.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, in his January 27, 2021, Executive Order, President Biden stated that “the United States and the world face a profound climate crisis” and to deal with it he pledged “to implement a government-wide approach that reduces climate pollution in every sector of the economy, increases resilience to the impacts of climate change, protects public health, and conserves our lands, waters, and biodiversity”;

WHEREAS, at the recent United Nations COP 26 climate meeting in Glasgow, Scotland, President Biden announced “a new plan to conserve global forests, halt forest loss, restore critical carbon sinks, and improve land management,” and committed the United States to an international declaration to reverse global deforestation by protecting forests and mitigating wildfire damage and restoring degraded land by 2030;

WHEREAS, many people are concerned that rising levels of carbon dioxide (CO2) and green house gases (GHGs) resulting from the continued use of fossil fuels are causing climate changes that threaten human health and wellbeing through more frequent extreme weather events, damage to critical ecosystems, threats to food supplies, and other harms;

WHEREAS, the primary approaches to slow or reduce the levels of CO2 and other GHGs being pursued by climate policy advocates would rapidly replace the current “all-of-the-above” energy mix with an increasingly heavy reliance on renewable sources;

WHEREAS, there is wide concern over some of these proposed climate policies, including that the policies would increase energy costs, damage the economic competitiveness of the United States, and undermine national security;

WHEREAS, the national debate over climate change policy is becoming increasingly heated and divisive;

WHEREAS, in contrast, the state of Utah has adopted an “all-of-the-above” energy approach policy and goals as Utah’s strategy to ensure that energy is affordable and reliable;

WHEREAS, in such a policy environment, the wisest course is to emphasize first adopting the most efficacious elements of the various proposed responses to climate change on which there is wide agreement;

WHEREAS, national and international policies, agreements and reports, including specific mention in the Paris Accords, multiple reports by the United Nations Intergovernmental Panel on Climate Change, the international “4 per 1,000 Initiative” and President Biden’s proposed climate policy, among others, all recognize the importance of natural systems in removing and sequestering GHGs and call for these natural sinks to be protected and expanded where possible;

WHEREAS, forests and rangelands, including those managed by the federal government in Utah and nationally, can either be sinks for atmospheric carbon or emitters of CO2 and other GHGs, largely depending on how they are managed;

WHEREAS, for a number of reasons, federally-managed land in Utah and nationally that had been functioning as carbon sinks are increasingly becoming emitters of CO2 and other GHGs;

WHEREAS, the same conditions that convert carbon sinks into GHG emitters, such as wildland fire and soil erosion, also create a wide range of economic, health, social, and environmental problems;

WHEREAS, a growing body of scientific research, practical application, and demonstrated results on tens of millions of acres in the United States and around the world prove that in many cases degraded natural systems can be restored as vitally important carbon sinks and that the sequestration potential of existing sinks can be vastly increased by applying proven land management practices;

WHEREAS, while the importance of natural systems functioning as sinks for GHGs is widely accepted, their true potential is often not recognized;

WHEREAS, some scientists have calculated that globally applying these widely demonstrated and proven best management practices to forests, rangelands, and agricultural lands could sequester all of the CO2 produced by human activities from the beginning of the Industrial Revolution and continue to sequester enough to achieve not just net zero emissions but net negative emissions for decades to come;

WHEREAS, this research and practical experience have also shown that these same advanced and proven sequestration and management techniques also simultaneously produce a cascade of valuable and significant environmental and economic co-benefits, including greater overall ecosystem integrity and productivity, increased biodiversity, improved water quantity and quality, better fish and wildlife habitat, greater drought resilience, reduced flooding risk, more and better forage for wildlife and livestock, sustainable timber, and enhanced recreation opportunities, among others;

WHEREAS, these associated co-benefits are so valuable and cost effective in their own right that tens of millions of acres in the United States and around the world are being managed solely to generate them and not to achieve any climate-related goals;

WHEREAS, at a minimum, responsible land stewardship requires employing the best possible practices to protect, and enhance where possible, the land and resources over which the steward has responsibility;

WHEREAS, because some previous carbon sinks may not be repairable for decades or even centuries, if at all, prudent stewardship dictates putting primary emphasis on protecting them from degradation to the maximum possible extent;

WHEREAS, for a number of reasons, the federal government has not met this minimal standard of stewardship in its management of much of the public lands and resources in Utah and across the country;

WHEREAS, by failing in this stewardship responsibility, the federal government has caused a wide range of environmental and economic harm while at the same time also converting what had previously been effective carbon sinks into emitters of CO2 and other GHGs;

WHEREAS, protecting and enhancing natural carbon sinks is clearly a non-controversial win-win solution in the climate change debate because it addresses the concerns about rising GHG levels while at the same time largely alleviating the concerns of those resistant to many of the other approaches being considered to achieve this goal;

WHEREAS, in addition to helping control the rise in GHG emissions, the many co-benefits generated by adopting this win-win approach increases resilience to projected climate change and better allows for adaptation and mitigation;

WHEREAS, because of these many recognized co-benefits that carbon sinks generate, fostering them should bring an important measure of unity among all parties in the climate policy debate since all can agree on the value of this approach;

WHEREAS, research is revealing significant human health impacts from exposure to wildfire smoke and small particulate matter, including respiratory and heart issues and an increase in premature births, among others;

WHEREAS, the Salt Lake City metropolitan area has had a number of days in 2021 with the worst or close to the worst air quality of any metropolitan area in the world, and studies have found that wildland fire smoke contributes close to half of the concentration of these pollutant levels in western states; and

WHEREAS, efforts to protect and enhance natural carbon sinks are easily and rapidly scalable in Utah and nationally and would provide numerous and immediate benefits:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, challenges the Biden Administration and Congress to make meeting the federal government's stewardship responsibility in managing the federal public lands their highest priority in implementing any climate policy, thereby protecting and enhancing natural carbon sinks and, further, that they undertake this effort while recognizing Utah's state sovereignty and their statutory mandates under the Federal Land Policy and Management Act and the National Forest Management Act to fully coordinate and integrate these activities with the relevant land management and resource management plans of the state of Utah, Native American tribes, and local governments.

BE IT FURTHER RESOLVED the Legislature and the Governor find that the standard of responsible federal land and resources stewardship should be to achieve on federally-managed public lands the highest level of soil and ecosystem health and productivity that is being achieved on comparable land by tribal, state, local, and private managers or make a public report on why the agency is unable to restore this level of ecosystem health and productivity.

BE IT FURTHER RESOLVED that the Legislature and the Governor recognize that while increased funding and attention is being proposed, also challenge the Biden Administration and Congress to urgently initiate and fund emergency efforts to expand forest and rangeland fuel reduction and other fire pre-suppression activities to the maximum acreage of federal land as quickly as possible to prevent the harm and damage now being caused on millions of acres annually.

BE IT FURTHER RESOLVED that the Legislature and the Governor declare that until adequate funding is provided for such an emergency effort to protect and enhance natural sinks on federally-managed land, no funding for such purposes should be provided for similar activities in other countries unless the federal government first provides a detailed analysis justifying spending those funds abroad instead of spending them to further improve the health and fire resistance of forests and rangelands in this country.

BE IT FURTHER RESOLVED that the Legislature and the Governor find that the federal government should apply a social benefits of carbon control cost-benefits funding test to identify and compare the co-benefits of protecting, rehabilitating, and expanding carbon sinks in natural systems on federally-managed land as a mechanism to control GHGs with the co-benefits that might be generated with any other alternative approach and make those calculations available to the public.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge Congress to request that the U.S. Government Accountability Office analyze the potential capabilities of federal land management agencies to protect, enhance, and expand carbon sinks on federally-managed land in response to a maximum effort directive and estimate the annual costs of doing so, and, further, request, and provide funding if necessary, for several appropriate professional organizations such as the National Association of State Foresters and the Society for Range Management to undertake a similar analysis and include any recommendations for changes in federal policy, adoption of new management techniques, and any other suggestions that would improve the effectiveness and efficiency of such a maximum effort.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge all state agencies with authority to manage state-managed public lands to continue to manage them in ways that increase soil carbon sequestration and to the extent they can, to encourage greater soil carbon sequestration on private lands.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the President of the United States, the Majority Leader of the United States Senate, the Speaker of the United States House of Representatives, the United States Secretary of the Interior, the United States Secretary of Agriculture, the United States Secretary of Health and Human Services, the United States Secretary of Housing and Urban Development, the United States Secretary of Commerce, the United States Secretary of Energy, the United States Secretary of Transportation, the United States Environmental Protection Agency, the leader of each legislative house in each of the other states, and the members of Utah's congressional delegation.

H. C. R. 4

Passed February 28, 2022
Approved March 24, 2022
Effective March 24, 2022

CONCURRENT RESOLUTION CALLING FOR PROTECTION OF ARCHAEOLOGICAL SITES

Chief Sponsor: Karen Kwan
Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This concurrent resolution addresses the protection of archaeological sites.

Highlighted Provisions:

This resolution:

- describes the significance of archaeological sites in Utah;
- provides examples of laws that address the protection of archaeological sites;
- calls for the federal government to responsibly fund the protection of archaeologically significant sites on lands managed by the federal government;
- calls for the Department of Cultural and Community Engagement working with other government agencies to responsibly protect archaeological sites on state lands; and
- calls for education of the public.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah has over 100,000 known archaeological sites with over 13,000 years of human history represented in all 29 counties and all land jurisdictions;

WHEREAS, in Utah Code Section 9-8-401 the Legislature determines and declares "that the public has a vital interest in all antiquities, historic and prehistoric ruins, and historic sites, buildings, and objects which, when neglected, desecrated, destroyed or diminished in aesthetic value, result in an irreplaceable loss to the people of this state";

WHEREAS, in Utah Code Section 9-8-301 the Legislature declares "that the general public and the beneficiaries of the school and institutional land grants have an interest in the preservation and protection of the state's archaeological and anthropological resources and a right to the knowledge derived and gained from scientific study of those resources";

WHEREAS, the state of Utah's Resource Management Plan celebrates the significance of archaeological and historical values within Utah's communities, finds these values benefit the quality of life in Utah, and establishes an objective to partner with federal agencies for archaeological site protections;

WHEREAS, recreational activities and visitation on Utah's public lands and school and institutional trust lands is increasing at an exponential rate;

WHEREAS, in recent years there have been multiple, publicized acts of vandalism on Utah's irreplaceable cultural resources from defacement and theft of cultural patrimony;

WHEREAS, laws exist to provide for the prosecution of vandalism and looting of archaeological sites;

WHEREAS, Utah Code, Title 76, Chapter 6, Part 9, Cultural Sites Protection, which applies to state and private lands in the state, makes it unlawful for a person to intentionally alter, remove, injure, or destroy antiquities without the landowner's consent;

WHEREAS, Utah has provisions protecting ancient Native American human remains from abuse or desecration from grave-robbing or disturbance;

WHEREAS, the United States federal government has laws protecting archaeological resources such as the Archeological Resources Protection Act, which provides for the prosecution of unauthorized excavation, removal, alteration, or defacement of archaeological resources;

WHEREAS, many archaeological resources have ongoing historical, traditional, or cultural importance central to some or all of Utah's eight federally recognized Indian Tribes, and executive agencies, with the assistance of the Division of Indian Affairs when needed, are directed to consult with Indian Tribes when engaging in a state action with tribal implications; and

WHEREAS, Indian Tribes, visitors and tourists, all Utahns, and descendant communities have a stake in the preservation and protection of the legacy of previous generations who called what is now known as Utah home:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, calls for the federal government to responsibly fund the protection of archaeologically significant sites on lands managed by of the federal government.

BE IT FURTHER RESOLVED that the Legislature and Governor call for the Department of Cultural and Community Engagement, working with other government agencies, to responsibly protect archaeological sites on state lands.

BE IT FURTHER RESOLVED that the Legislature and Governor call for efforts to educate the public, especially the youth, on the importance of protecting cultural heritage and archaeological sites, including education efforts by the Department of Cultural and Community Engagement, other government agencies, non-profits, and other interested parties.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the Department of Cultural and Community Engagement, the Public Lands Policy Coordinating Office, the Office of Economic Opportunity, Utah's Office of Tourism, School and Institutional Trust Lands Administration, Utah's congressional delegation, the United States Secretary of the Interior, the director of the United States Department of the Interior Bureau of Land Management, the Bureau of Indian Affairs, the United States Secretary of Agriculture, and the chief of the United States Department of Agriculture Forest Service.

H.C.R. 5
Passed February 11, 2022
Approved February 17, 2022
Effective February 17, 2022

CONCURRENT RESOLUTION CONDEMNING THE UNDEMOCRATIC GOVERNMENT OF VENEZUELA

Chief Sponsor: Jordan D. Teuscher
Senate Sponsor: Lincoln Fillmore
Cosponsors: Cheryl K. Acton
Kera Birkeland
Brady Brammer
Joel Ferry
Stephen G. Handy
Jon Hawkins
Ken Ivory
Dan N. Johnson
Karianne Lisonbee
Steven J. Lund
Jefferson Moss
Candice B. Pierucci
Susan Pulsipher
Judy Weeks Rohner
Travis M. Seegmiller
V. Lowry Snow
Christine F. Watkins
Douglas R. Welton
Ryan D. Wilcox

LONG TITLE

General Description:

This resolution strongly condemns the undemocratic government of Venezuela.

Highlighted Provisions:

This resolution:

- strongly condemns Nicolàs Maduro's regime for its violation of the basic human rights of countless Venezuelans;
- calls upon the government of Venezuela to reject socialism and restore democracy;
- supports and stands in solidarity with the people of Venezuela and their fight to achieve freedom and democracy;
- urges the United States federal government to take substantive action to ensure Maduro's resignation and a peaceful transition to democracy in Venezuela; and
- encourages Utah schools and higher learning institutions to teach Utah students about these current events and the dangers of socialism and authoritarian regimes.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the collapse of democratic governance and the proliferation of political corruption, criminal violence, failed economic policies, and hyperinflation have created a devastating humanitarian crisis in Venezuela;

WHEREAS, the majority of Venezuela's citizens lack access to essential medicines and basic food supplies;

WHEREAS, in September 2020 a United Nations mission found that Nicolàs Maduro and his regime have carried out thousands of extrajudicial murders of peaceful dissidents and political opponents since Maduro's rise to power in 2013;

WHEREAS, the Maduro regime has a demonstrated track record of holding fraudulent elections over the last five years;

WHEREAS, on December 6, 2020, the regime of Nicolàs Maduro held fraudulent legislative elections for Venezuela's National Assembly that did not comply with international standards for free, fair, and transparent electoral processes;

WHEREAS, the Maduro regime has detained hundreds of political prisoners in dangerous and inhumane conditions across Venezuela, including a Utah native, who was freed in 2018;

WHEREAS, the Maduro regime's security forces continue to engage in torture and sexual abuse of political prisoners and members of their families to stoke terror and repress pro-democracy efforts in Venezuela;

WHEREAS, the Maduro regime has increased arbitrary detention and intimidation of journalists, frontline workers, and legislators to silence criticism of the regime's mishandling of the COVID-19 pandemic;

WHEREAS, the average Venezuelan lost 24 pounds of body weight in 2017 due to widespread poverty and food shortages;

WHEREAS, the Maduro regime has consistently restricted the ability of nonprofits and humanitarian aid organizations to assist Venezuelans in need of basic foodstuffs and hygiene items;

WHEREAS, to date, these deteriorating conditions have led over 5.6 million Venezuelans to leave their country, making it the second-largest external displacement crisis in the world; and

WHEREAS, Utah is home to thousands of Venezuelan asylees, refugees, and citizens of Venezuelan descent, many of whom long to return to their native country if political conditions improve:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, strongly condemns Nicolàs Maduro's regime for its violation of the basic human rights of countless Venezuelans.

BE IT FURTHER RESOLVED that the Legislature and the Governor call upon the government of Venezuela to reject socialism and restore democracy.

BE IT FURTHER RESOLVED that the Legislature and the Governor support and stand in solidarity with the people of Venezuela and their fight to achieve freedom and democracy.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the United States federal government to take substantive action to ensure Maduro's resignation and a peaceful transition to democracy in Venezuela.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Utah schools and higher learning institutions to teach Utah students about these current events and the dangers of socialism and authoritarian regimes.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the members of Utah's congressional delegation.

H. C. R. 7

Passed February 22, 2022
Approved March 3, 2022
Effective March 3, 2022

CONCURRENT RESOLUTION REGARDING IMPROVING AIR QUALITY THROUGH ENHANCED ZERO EMISSION RAIL

Chief Sponsor: Melissa G. Ballard
Senate Sponsor: David P. Hinkins
Cosponsors: Cheryl K. Acton
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Jefferson S. Burton
Kay J. Christofferson
Clare Collard
Jennifer Dailey-Provost
Joel Ferry
Stephen G. Handy
Suzanne Harrison
Timothy D. Hawkes
Dan N. Johnson
Marsha Judkins
Brian S. King
Michael L. Kohler
Karen Kwan
Rosemary T. Lesser
Carol Spackman Moss
Merrill F. Nelson
Douglas V. Sagers
Robert M. Spendlove
Jeffrey D. Stenquist
Steve Waldrip
Christine F. Watkins
Elizabeth Weight
Mark A. Wheatley

LONG TITLE

General Description:

This concurrent resolution addresses improving air quality through encouraging rail development and zero emission technology deployment.

Highlighted Provisions:

This resolution:

- addresses air quality and its impacts in the state;
- describes solutions to reduce air pollution;
- describes the rail transportation impact on air quality;

- acknowledges the role of certain governmental agencies in the shift of freight traffic to rail;
- highlights that technology solutions, including information and communications technology and zero emission locomotives, can further reduce rail emission impacts;
- addresses funding and innovative procurement solutions;
- encourages the phased replacement of existing locomotives used in railroad and industrial plant switching services in nonattainment areas in the state with zero emission locomotives; and
- encourages the transition of rail transportation in general to zero emission locomotives.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah continuously demonstrates the state's commitment to and interest in the state's air quality;

WHEREAS, good air quality is a vital component of the economy and human health in Utah and research conducted by Utah universities shows the harmful impacts of air pollution on human health, with the greatest negative impact on the health of children, the elderly, and those with compromised immune systems;

WHEREAS, for example, exposure to direct small particulate matter exacerbates asthma, increases the risk of cancer, and leads to acute respiratory symptoms, bronchitis, chronic obstructive pulmonary disease, heart attacks, nervous system effects, lost work days, and premature death;

WHEREAS, there is now a broad range of technologically and economically viable solutions to significantly reduce air pollution and ensure that future economic and population growth does not compromise air quality;

WHEREAS, embracing zero emission technologies will help grow our state's robust clean technology sector;

WHEREAS, as of 2017, railroad transportation contributed 9.2% of NOx and 1.4% of the PM2.5 along the Wasatch Front;

WHEREAS, as of 2017, the Division of Air Quality found that locomotives used for short line, industrial plant, and switch engine operations contributed 3.4% of NOx and 0.16% of PM2.5 of the total Wasatch Front inventory of emissions, equivalent to approximately 1,828 tons of NOx and 19 tons of PM2.5;

WHEREAS, in addition to significant numbers of heavy haul freight locomotives operating in and through the state, as of 2017 there were approximately 63 short line locomotives, industrial plant locomotives, or switch engines operating in Utah;

WHEREAS, the majority of the short line locomotives, industrial plant locomotives, and switch engines operating in Utah are legacy platforms certified to the United States Environmental Protection Agency as meeting Tier 0 or Tier 0+ emission standards, and almost all emissions from these locomotives occur within two of Utah's PM2.5 nonattainment areas based on the United States National Ambient Air Quality Standards;

WHEREAS, under the federal Clean Air Act, an area where air pollution levels persistently exceed a National Ambient Air Quality Standard may be designated as a "nonattainment" area by the United States Environmental Protection Agency;

WHEREAS, designation as a nonattainment area requires the development of a State Implementation Plan with increasing mandatory requirements if the area does not return to attainment within prescribed timelines, and may result in the imposition of a Federal Implementation Plan and sanctions that could impact the availability and use of federal highway funds;

WHEREAS, the Utah Department of Transportation, other agencies of the state, and the Utah Inland Port Authority, a political subdivision of the state, can play a vital role in accelerating the modal shift of freight traffic to rail, helping to meet health and air quality goals;

WHEREAS, the Utah Inland Port Authority anticipates assisting in the reduction of trucks from the road and the modal shift to rail, while using the regulatory sandbox to test new freight movement and cargo handling equipment at the inland port to increase use of zero emission vehicles;

WHEREAS, to complement accelerating this modal shift to rail, a broad spectrum of technologies, including information and communications technologies that enable more efficient rail operation reducing fuel use and emissions, and entirely new locomotive power technologies such as hydrogen fuel cell-electric and battery-electric, must be encouraged and supported to further decrease total freight section emissions, including freight rail emissions;

WHEREAS, funding support and innovative procurement solutions made available through the Utah Department of Transportation and the Utah Inland Port Authority can assist private sector operators of short line locomotives, industrial plant locomotives, and switch engines with transitioning to zero emission technologies, including for freight rail, that can materially increase the state's air quality; and

WHEREAS, substantial federal funding is expected to be available to support this transition, and the Utah Department of Transportation and the Utah Inland Port Authority should maximize their efforts to secure the federal funding to facilitate deployment of zero emission technologies, including freight rail, that can materially increase the state's air quality:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages the introduction of new zero emission locomotives operated by short line locomotives, industrial plant locomotives, and switch engines in nonattainment areas, a continued shift of freight transportation growth to rail to help meet the state's air quality goals, phasing out legacy locomotive engines in short line, industrial plant, and switch engine rail service in nonattainment areas in the state, and phasing in the use of zero emission engines to 100% use by short line locomotives, industrial plant locomotives, and switch engines by 2050.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage, in addition to short line locomotives, industrial plant locomotives, and switch engines all rail transition to zero emission technologies, including commuter rail, passenger rail, and long haul freight rail.

H.C.R. 8

Passed February 22, 2022
Approved March 3, 2022
Effective March 3, 2022

CONCURRENT RESOLUTION ACKNOWLEDGING COMPLETION OF BOARD GOVERNANCE TRAINING

Chief Sponsor: Steve Waldrip
Senate Sponsor: Derrin R. Owens

LONG TITLE

General Description:

This resolution commends the local school boards and individual school board members that have met the requirements to receive the Utah School Boards Association's (USBA) Master Board Certification and recognizes the importance of professional development activities for local school boards.

Highlighted Provisions:

This resolution:

- commends the local school boards and individual school board members that met the requirements for USBA's Master Board Certification in 2021;
- highlights USBA's professional development program and the requirements for local school boards and individual school board members to receive the Master Board Certification; and
- acknowledges the benefits of professional development activities of local school board members on student academic achievement and the culture and climate of school districts and schools.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, local school boards serve as governing bodies for each of the state's 41 school districts, and members of local school boards are elected officials;

WHEREAS, the Utah School Boards Association (USBA) provides professional development to members of the state's local school boards through the USBA PowerUp Program, which includes four training sections that each take one year to complete;

WHEREAS, USBA provides a Master Board Certification to individual board members who have completed the statutorily required board trainings and mastered the annual requirements of the USBA PowerUp Program, and to local school boards where a majority of board members have received individual Master Board Certification;

WHEREAS, in 2021, over 130 board members in Utah were eligible for Master Board Certification, and 23 local school boards – over half of Utah's local school boards – met the requirements for the board to receive USBA's Master Board Certification;

WHEREAS, the collective efforts of these over 130 board members represent hundreds of hours of rigorous training and significant time and effort, in addition to the time-consuming work of serving on a local school board;

WHEREAS, after mastering all four sections of the USBA PowerUp Program – strategic learning, continuing education, professional improvement, and advanced development – board members annually repeat the statutorily required board trainings and the advanced development section for continuing professional development;

WHEREAS, a central role of local school boards is educating students and cultivating a school and district climate that supports student learning;

WHEREAS, a local school board provides leadership to the school district through a variety of activities, such as overseeing district finances, adopting district operating policies, hiring a district superintendent, and approving curricular materials;

WHEREAS, the actions of local school board members influence the culture and climate of both the school district and individual schools, which ultimately affects administrators, staff, educators, and students and their families;

WHEREAS, ongoing professional development helps board members be more effective in their leadership roles and duties;

WHEREAS, some research suggests that when board members engage in ongoing professional development, it positively impacts the academic achievement of the district's students; and

WHEREAS, USBA emphasizes the importance of school board members engaging in professional development and learning activities to create shared knowledge, values, commitments, and collaboration with communities and families, all of which foster a district and school environment where student learning can thrive:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, congratulates the over 130 board members that met the requirements for

USBA's Master Board Certification in 2021, and the 23 school districts where the local school boards qualified for the Master Board Certification in 2021:

- Alpine School District,
- Box Elder School District,
- Canyons School District,
- Daggett School District,
- Davis School District,
- Garfield School District,
- Juab School District,
- Kane School District,
- Logan City School District,
- Millard School District,
- Morgan School District,
- Nebo School District,
- Ogden School District,
- Park City School District,
- Piute School District,
- Provo City School District,
- Salt Lake School District,
- Sevier School District,
- South Sanpete School District,
- Tintic School District,
- Tooele School District,
- Washington School District, and
- Wayne School District.

BE IT FURTHER RESOLVED that the Legislature and the Governor thank the individual board members that have completed this training for their significant personal and professional sacrifices in achieving the Master Board Certification and for their efforts in helping their school boards achieve this laudable goal, and encourage all school board members in Utah to seek out USBA's Master Board Certification.

H.C.R. 10
Passed February 28, 2022
Approved March 3, 2022
Effective March 3, 2022

CONCURRENT RESOLUTION REGARDING AN INTERLOCAL AGREEMENT CREATING THE JORDAN RIVER COMMISSION

Chief Sponsor: Cheryl K. Acton
Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This concurrent resolution expresses support for the expansion of the Jordan River Commission.

Highlighted Provisions:

This resolution:

- ▸ supports the participation of the Department of Transportation on the Jordan River Commission.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, an Interlocal Cooperation Agreement (Agreement) establishing the Jordan River Commission was created in 2010 and has been subject to modification;

WHEREAS, the Agreement is amongst state agencies, political subdivisions, including the Department of Natural Resources, the Department of Environmental Quality, the Utah Transit Authority, the Jordan Valley Water Conservancy District, Davis County, Salt Lake County, and municipalities located within the Jordan River watershed, and other interested governmental and nongovernmental parties;

WHEREAS, the state is a party to ongoing dialogue and involvement in the Jordan River's future and development, and is at the forefront of input and planning;

WHEREAS, the Agreement allows for the addition of state agencies into the Jordan River Commission;

WHEREAS, the Agreement also provides that a state agency may withdraw from the Jordan River Commission after proper notice of intent to withdraw;

WHEREAS, the Department of Transportation has expertise that would prove valuable to the Jordan River Commission with state highways running over or adjacent to the Jordan River;

WHEREAS, examples of issues where the Jordan River Commission can benefit from cooperation with the Department of Transportation include, as funding allows:

(1) having the Department of Transportation post by no later than July 1, 2024, consistent and attractive signs where a highway that is designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act, crosses the Jordan River;

(2) developing methods to provide and improve pedestrian and bicycle access from state highways, not including freeways, to the trails along the Jordan River, vehicular access to trailheads, and directional and way-finding signage;

(3) developing methods to improve water quality and pollution prevention from storm water flowing off state highways directly into the Jordan River, which may contain litter and debris, chemicals, sediment, and organic matter detrimental to the Jordan River; and

(4) developing and implementing other shared goals of the Department of Transportation and the Jordan River Commission;

WHEREAS, the Jordan River Commission currently includes a governing board and provides for technical advisory committees on which a representative of the Department of Transportation may participate once made a member of the Jordan River Commission; and

WHEREAS, the Department of Transportation may provide support to the Jordan River Commission through financial or in-kind contributions:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, gives approval to the Department of Transportation to enter into the Agreement with the Jordan River Commission.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the Jordan River Commission and the Department of Transportation.

H.C.R. 11

Passed February 23, 2022
Approved March 3, 2022
Effective March 3, 2022

CONCURRENT RESOLUTION HONORING THE WORK OF PRIMARY CARE PROVIDERS TO THE CITIZENS OF UTAH

Chief Sponsor: Jennifer Dailey-Provost
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This concurrent resolution acknowledges and expresses gratitude for the ongoing work of primary care providers in Utah.

Highlighted Provisions:

This resolution:

- ▸ acknowledges and expresses gratitude for the ongoing work of primary care providers to maintain the health of Utah citizens.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the health and well-being of all Utahns is of vital importance to the economic strength of the state;

WHEREAS, the health and well-being of all Utahns is paramount to maintaining a healthcare workforce;

WHEREAS, to reduce the growing costs of urgent, emergent, untreated, and chronic health issues, the health and well-being of all Utahns is critical;

WHEREAS, primary care providers work every day to improve the health and well-being of all Utahns;

WHEREAS, primary care providers include:

- family physicians;
- pediatricians;
- nurse practitioners;
- physician assistants;
- nurses;
- medical assistants;
- clinic clerical staff, front office staff, and support staff; and
- many others from various disciplines;

WHEREAS, primary care providers provide well care, including vaccinations, checkups, preventative procedures, anticipatory health guidance, and other health-sustaining efforts;

WHEREAS, primary care providers provide care for those presenting with injuries, illnesses, and chronic diseases that require ongoing maintenance care;

WHEREAS, primary care providers work tirelessly to provide a continuity of care with patients, regardless of pandemics, endemics, seasonal viral infections, or other such conditions; and

WHEREAS, primary care providers are of particularly critical importance in rural areas of our state, serving a wide geographical area and caring for more isolated communities:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses its deep appreciation and sincere gratitude to Utah's vast network of primary care providers for their commitment to the health and well-being of all Utahns.

H. C. R. 13
Passed March 1, 2022
Approved March 21, 2022
Effective March 21, 2022

CONCURRENT RESOLUTION CREATING THE BRIDAL VEIL FALLS STATE MONUMENT

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Curtis S. Bramble
Cosponsors: Nelson T. Abbott
Carl R. Albrecht
Gay Lynn Bennion
Brady Brammer
Joel K. Briscoe
Jefferson S. Burton
Scott H. Chew
Kay J. Christofferson
Suzanne Harrison
Jon Hawkins
Marsha Judkins
Michael L. Kohler
A. Cory Maloy
Jefferson Moss
Val L. Peterson
Adam Robertson
Rex P. Shipp
Norman K. Thurston
Christine F. Watkins
Douglas R. Welton
Stephen L. Whyte

LONG TITLE

General Description:

This concurrent resolution creates the Bridal Veil Falls State Monument.

Highlighted Provisions:

This resolution:

- describes the general process for proposing the creation of the Bridal Veil Falls State Monument;
- describes reasons for creating the Bridal Veil Falls State Monument; and
- approves the creation of the Bridal Veil Falls State Monument.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah Code Title 79, Chapter 4, Part 12, State Monuments Act, provides a process for the creation of a state monument when a county determines that a state monument designation within the county's jurisdictional boundaries is appropriate;

WHEREAS, the Board of County Commissioners of Utah County has determined, by Resolution 2022-88, that it is in the best interest of Utah County to preserve and maintain the Bridal Veil Falls area as a state monument;

WHEREAS, by Resolution 2022-88, the Board of County Commissioners of Utah County has consented and expressed support for the designation of the Bridal Veil Falls area as a state monument;

WHEREAS, the five parcels of real property to be designated as a state monument in the Bridal Veil Falls area are owned by Utah County;

WHEREAS, the Bridal Veil Falls area has important recreational, cultural, historic, scenic, and aesthetic significance;

WHEREAS, the Bridal Veil Falls area is one of Utah's most spectacular and beautiful natural waterfalls, conveniently located in Provo Canyon and easily accessible from both the Wasatch Front and Heber Valley;

WHEREAS, thousands of visitors enjoy sightseeing and recreating at the Bridal Veil Falls area each year;

WHEREAS, the Legislature appropriated $1.2 million in 2021 for a feasibility study and improvements to the Bridal Veil Falls area;

WHEREAS, Utah County will match, dollar for dollar, any money the state spends to improve the Bridal Veil Falls area;

WHEREAS, Utah County has set aside nearly $1.5 million to improve the trails and safety at the Bridal Veil Falls area; and

WHEREAS, the Division of State Parks has completed a feasibility study and economic analysis in coordination with Utah County to determine the costs associated with improving the visitor experience and resolving safety concerns at the Bridal Veil Falls area:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the State of Utah, the Governor concurring therein, approves the creation of the Bridal Veil Falls State Monument comprising five parcels of real property in Provo Canyon, Utah County, which parcels are owned by Utah County and are more specifically described by a map and legal description on file with the Division of State Parks.

BE IT FURTHER RESOLVED that the Bridal Veil Falls State Monument is to be managed by Utah County, pursuant to an agreement with the Division of State Parks and the provisions of Utah Code Title 79, Chapter 4, Part 12, State Monuments Act.

BE IT FURTHER RESOLVED that a copy of this resolution be delivered to Utah County and the Division of State Parks.

H. C. R. 15

Passed March 4, 2022
Approved March 24, 2022
Effective March 24, 2022

CONCURRENT RESOLUTION CONDEMNING ANTISEMITISM

Chief Sponsor: Doug Owens
Senate Sponsor: Curtis S. Bramble
Cosponsors: Clare Collard
Steve Eliason
Steven J. Lund
Carol Spackman Moss
Karen M. Peterson
Stephanie Pitcher
Susan Pulsipher
Jeffrey D. Stenquist
Jordan D. Teuscher
Mike Winder

LONG TITLE

General Description:

This resolution condemns antisemitic acts and statements as hateful expressions of intolerance that are contradictory to the values that define the people of the state of Utah.

Highlighted Provisions:

This resolution:

- denounces antisemitism and all hateful speech and violent action that casts blame, promotes racism or discrimination, or harms the state of Utah Jewish community;
- highlights Utah's Jewish history; and
- calls upon all residents to treat each other with respect.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, antisemitism is the centuries-old bigotry and form of racism faced by Jewish people simply because they are Jews;

WHEREAS, in 2020 the Federal Bureau of Investigation reported a 6 percent increase in reported hate crimes from the previous year, representing the highest total in 12 years, and found that attacks against Jews or Jewish institutions made up nearly 60 percent of all religious-based hate crimes;

WHEREAS, there is an urgent need to ensure the safety and security of Jewish communities, including synagogues, schools, cemeteries, and other institutions;

WHEREAS, Jews are the targets of antisemitic violence at even higher rates in many other countries than they are in the United States;

WHEREAS, antisemitism includes blaming Jews when things go wrong; calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or extremist view of religion; or making mendacious, dehumanizing, demonizing, or stereotyped allegations about Jews;

WHEREAS, antisemitism also includes denying the Jewish people their right to self-determination; using the symbols and images associated with classic antisemitism (e.g., claims of blood libel) to characterize Israel or Israelis; drawing comparisons of contemporary Israeli policy to that of the Nazis; or holding Jews collectively responsible for the actions of Israel;

WHEREAS, Jewish people are subject in the media and political campaigns to numerous other dangerous antisemitic myths as well, including that Jews control the United States government or seek global, political, and financial domination, and that Jews are obsessed with money;

WHEREAS, the state of Utah is fully committed to the safety, security, and equal treatment of its residents;

WHEREAS, each individual has the ability to promote inclusiveness, celebrate diversity, support all fellow community members, and reject hate and bias in all forms;

WHEREAS, it is critical that the state of Utah take leadership and stand in solidarity with its Jewish communities to send a message that discriminatory and hate-motivated behavior or violence will not be tolerated;

WHEREAS, all persons are encouraged to report any antisemitic incidents to the proper authorities for investigation;

WHEREAS, the state of Utah wishes to affirm its commitment to the well-being and safety of its Jewish community members and ensure they know they are not alone and that the state of Utah is committed to ending the spread of all forms of hate and bigotry;

WHEREAS, Utah values the history and contribution of its Jewish citizens;

WHEREAS, Fannie & Julius Gerson Brooks were the first Jewish family in Utah, having entered the territory in 1853;

WHEREAS, in 1866, Utah's first governor, Brigham Young, invited Salt Lake City's Jewish population to use space on Temple Square for Yom Kippur services;

WHEREAS, in 1881, the first synagogue in Utah, Temple B'nai Israel, was established in Salt Lake City;

WHEREAS, Utah elected the second Jewish governor in the history of the United States, Simon Bamberger, in 1917;

WHEREAS, Clarion, Utah was the home of a Jewish agricultural settlement established in 1911 and was home to 300 Jewish families; and

WHEREAS, Utah's Jewish citizens have been prominent and essential contributors to the state's artistic, business, cultural, athletic, political, medical, academic, and other successes:

NOW, THEREFORE, BE IT RESOLVED that the Legislature and the Governor condemn antisemitic acts and statements as hateful expressions of intolerance that are contradictory to the values that define the people of the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor denounce antisemitism and all hateful speech and violent action that casts blame, promotes racism or discrimination, or harms the state of the Utah Jewish community.

BE IT FURTHER RESOLVED that the Legislature and the Governor join with cities, counties, and states across the country in affirming commitment to the safety and well-being of Jewish communities, and in combatting antisemitic crimes.

BE IT FURTHER RESOLVED that the Legislature and the Governor will continue efforts to protect residents, targets, and victims of antisemitism, and to prosecute and curb antisemitic acts in partnership with nonprofit organizations and police departments.

BE IT FURTHER RESOLVED that the Legislature and the Governor pledge to support the inalienable rights of all people in the community, recognize that all people should be treated with respect, and call upon all residents to treat each other with respect.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge residents to join them in calling attention to these harms and denouncing antisemitism.

H.C.R. 16
Passed March 4, 2022
Approved March 24, 2022
Effective March 24, 2022

CONCURRENT RESOLUTION RECOGNIZING STUDENT ATHLETES' RIGHT TO RELIGIOUS FREEDOM AND MODESTY

Chief Sponsor: Candice B. Pierucci
Senate Sponsor: Kirk A. Cullimore
Cosponsors: Nelson T. Abbott
Cheryl K. Acton
Carl R. Albrecht
Melissa G. Ballard
Stewart E. Barlow
Gay Lynn Bennion
Kera Birkeland
Brady Brammer
Joel K. Briscoe
Walt Brooks
Jefferson S. Burton
Scott H. Chew
Kay J. Christofferson
Clare Collard
Jennifer Dailey-Provost
James A. Dunnigan
Steve Eliason
Joel Ferry
Matthew H. Gwynn
Stephen G. Handy
Suzanne Harrison
Jon Hawkins
Sandra Hollins
Ken Ivory
Dan N. Johnson
Marsha Judkins
Brian S. King
Michael L. Kohler
Karen Kwan
Bradley G. Last
Rosemary T. Lesser
Karianne Lisonbee
Steven J. Lund
Phil Lyman
A. Cory Maloy
Ashlee Matthews
Kelly B. Miles
Carol Spackman Moss
Jefferson Moss
Calvin R. Musselman
Merrill F. Nelson
Doug Owens
Michael J. Petersen
Karen M. Peterson
Val L. Peterson
Stephanie Pitcher
Susan Pulsipher
Adam Robertson
Judy Weeks Rohner
Angela Romero
Douglas V. Sagers
Travis M. Seegmiller
Rex P. Shipp
V. Lowry Snow
Robert M. Spendlove
Jeffrey D. Stenquist
Andrew Stoddard
Keven J. Stratton
Mark A. Strong
Jordan D. Teuscher
Steve Waldrip
Raymond P. Ward
Christine F. Watkins
Elizabeth Weight
Douglas R. Welton
Mark A. Wheatley
Stephen L. Whyte
Ryan D. Wilcox
Brad R. Wilson
Mike Winder

LONG TITLE

General Description:

This resolution encourages all municipalities, public and private K-12 schools, universities, and organizations supporting youth athletic teams and activities to allow youth to wear religious clothing or headwear or to modify their uniforms to accommodate religious beliefs or personal values of modesty without barriers or limitations.

Highlighted Provisions:

This resolution:

- acknowledges that all children and youth should have access to athletic teams and activities without barriers and limitations; and

- encourages all municipalities, public and private schools, and organizations that support athletic teams and activities to revise internal policies and allow all children and youth participating in athletic activities to wear religious clothing or headwear or to modify their uniforms to accommodate religious beliefs and personal values of modesty.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Utah's children and youth participate in team sports and other athletic activities through municipal youth sports programs, public and private K-12 schools, colleges, universities, leagues, and clubs;

WHEREAS, participating in athletic teams and activities has many positive benefits for children and youth, like helping them develop friendships, develop leadership and teamwork skills, improve academic performance, improve mental and physical health, learn responsibility, and can lead to college scholarships and other enriching opportunities;

WHEREAS, if children and youth are excluded from athletic teams or activities at a young age, many will be hesitant to seek these opportunities again and miss out on the benefits and opportunities that would otherwise be available to them;

WHEREAS, children and youth who want to participate in athletic teams or activities should have access to those opportunities from an early age without barriers or limitations;

WHEREAS, municipalities, schools, and organizations that support athletic teams and activities should not use policies and practices that exclude children and youth who seek to observe the tenants of their religion or personal values of modesty through their clothing from participating, particularly with prohibitions against modifying uniforms to accommodate religious clothing and headwear and making modesty adjustments to uniforms, or by making it difficult to obtain permission to do so;

WHEREAS, over the past several years, many municipalities, states, and youth athletics organizations across the country and in Utah have created policies to allow young athletes to participate in athletic teams or activities while accommodating religious practices and beliefs and personal values of modesty without needing uniform waivers; and

WHEREAS, all schools and organizations in the state have an opportunity to foster the same inclusivity for all young athletes:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages all municipalities, local education agencies, private K-12 schools, colleges, universities, leagues, athletic associations, and clubs with youth athletic teams or activities to evaluate and revise any policies and practices that prevent aspiring young athletes from participating, particularly those that would prevent participants from wearing religious clothing and headwear while participating, or prevent them from modifying athletic uniforms to accommodate religious practices and beliefs or sincerely held values about modesty.

BE IT FURTHER RESOLVED that the Legislature and Governor encourage the State Board of Education and all local education agency governing boards to create policies allowing students to modify athletic uniforms to accommodate their religious clothing, headwear, practices and beliefs, or personal values of modesty without uniform waivers.

BE IT FURTHER RESOLVED that the Legislature and Governor commend all organizations in the state that have proactively taken steps to allow children and youth participating in athletic teams and activities to wear religious clothing and headwear or make modesty adjustments to athletic uniforms, creating an inclusive environment for all of Utah's aspiring young athletes.

H.C.R. 17

Passed March 3, 2022
Approved March 24, 2022
Effective March 24, 2022

CONCURRENT RESOLUTION SUPPORTING UTAH'S ECONOMIC AND CULTURAL RELATIONSHIP WITH TAIWAN

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This resolution reaffirms the friendship between the state of Utah and Taiwan.

Highlighted Provisions:

This resolution:

- recognizes that Utah and Taiwan share important values, including a commitment to religious freedom, democracy, human rights, the rule of law, and a free market economy;
- recognizes that Utah and Taiwan maintain strong ties, including a sister-state and sister-city relationships;
- recognizes that during the COVID-19 pandemic, Utah and Taiwan worked together to help each other fight against the spread of the infectious disease; and
- supports efforts to further strengthen religious, trade, educational, and cultural relationships between Utah and Taiwan.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah is proud of the friendship that it has enjoyed with Taiwan over the years, which is characterized by a strong exchange in religion, education, culture, tourism, and scientific and technological development, and continued cooperation;

WHEREAS, since 1956, the Church of Jesus Christ of Latter-day Saints has dispatched more than 43,000 missionaries, including former Utah Governor Jon Huntsman and Congressman John Curtis, to Taiwan as a friendly exchange between our peoples;

WHEREAS, despite Taiwan's strict border control measures during a COVID-19 surge in mid-2021, the government of Taiwan agreed to issue "special permits" for new leaders of the Church's Taichung Mission to enter Taiwan and is working hard to help missionaries enter Taiwan;

WHEREAS, Utah and Taiwan share important values, including a commitment to religious freedom, democracy, human rights, the rule of law, and a free market economy;

WHEREAS, Taiwan Ambassador Bi-khim Hsiao was invited to visit Utah in July 2021 to attend the American Legislative Exchange Council (ALEC) 2021 Conference, where she delivered a speech at its general meeting, stressing the importance of the collaborative relationship between Taiwan and Utah, as well as Taiwan and the United States;

WHEREAS, Taiwan is Utah's fifth largest trading partner and sixth largest export destination, with Utah exporting more than $650 million in goods to Taiwan in 2020, including electronics, food, chemicals, and machinery;

WHEREAS, Taiwanese companies like TCI are investing in Utah and Utah companies are investing in Taiwan;

WHEREAS, Utah and Taiwan maintain strong ties, including a sister-state relationship established in 1980 and several sister-city relationships;

WHEREAS, during the COVID-19 pandemic, Utah and Taiwan worked together to help each other fight against the spread of the infectious disease;

WHEREAS, in 2020, Taiwan donated over 200,000 medical masks to Utah, including the Navajo Nation area, to help contain the COVID-19 pandemic;

WHEREAS, in 2021, Keelung, Taiwan, donated 10,000 facial masks to Salt Lake City;

WHEREAS, in 2021, the United States, with support from United States Senator Mitt Romney and others, donated a total of four million doses of COVID-19 vaccines to Taiwan; and

WHEREAS, this year marks the 43rd anniversary of the Taiwan Relations Act, a foundation upon which the United States generally, and Utah in particular, have maintained and steadily strengthened their economic, security, educational, and cultural ties:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, on behalf of the people of the state of Utah, reaffirms the friendship between the state of Utah and Taiwan.

BE IT FURTHER RESOLVED that the Legislature and the Governor support efforts to further strengthen religious, trade, educational, and cultural relationships between Utah and Taiwan, including teacher and student exchanges, a driver's license reciprocity agreement, and other measures consistent with the Taiwan Relations Act.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the United States Secretary of State, each member of the Utah Congressional delegation, and the Taipei Economic and Cultural Office in San Francisco.

H.C.R. 21

Passed February 28, 2022
Approved March 22, 2022
Effective March 22, 2022

CONCURRENT RESOLUTION CONCERNING THE CONFLICT IN UKRAINE

Chief Sponsor: Keven J. Stratton
Senate Sponsor: Michael S. Kennedy
Cosponsors: Gay Lynn Bennion
Kay J. Christofferson
Ken Ivory
Brian S. King
Travis M. Seegmiller
Casey Snider
Jordan D. Teuscher

LONG TITLE

General Description:

This resolution denounces Russia's unjustified invasion of Ukraine.

Highlighted Provisions:

This resolution:

- calls upon the Russian Federation to cease fire and vacate the sovereign territory of Ukraine; and
- urges the United States federal government to take action against the Russian Federation and restore peace in Europe.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, on January 21, 1990, more than 300,000 Ukrainians called for unity and independence from the Soviet Union by forming a human chain between the cities of Kyiv and Ivano-Frankivsk;

WHEREAS, after years of oppression, in 1991, Ukraine won freedom from the Soviet Union's totalitarian dictatorship because of the Ukrainians' love of liberty;

WHEREAS, on February 8, 1994, Ukraine was the first member state of the Commonwealth of Independent States to join the Partnership for Peace program of the North Atlantic Treaty Organization (NATO) and has since deepened its relationship with NATO, recognized as an Enhanced Opportunities Partner;

WHEREAS, on December 5, 1994, in an effort to solidify security commitments to Ukraine in return for its nuclear disarmament, the United States, the Russian Federation, and the United Kingdom signed the Budapest Memorandum on Security Assurances, whereby each country pledged to respect the independence and sovereignty of Ukraine's borders while refraining from the threat or use of force against Ukraine;

WHEREAS, over the past three decades, the Russian Federation has illegally seized Ukrainian land in Crimea, armed Russian-backed separatists leading to thousands of deaths, interfered in elections, used chemical weapons to attempt assassinations, carried out cyberattacks and disinformation campaigns abroad, and violated international arms control agreements;

WHEREAS, at least 14,000 Ukrainians have been killed defending their homeland and millions more displaced since the conflict with Russia began;

WHEREAS, in March and November 2021, the Russian Federation deployed a massive troop and weapons buildup on the border with Ukraine;

WHEREAS, on February 23, 2022, the Russian military began a brutal assault on the people of Ukraine without provocation, justification, or necessity;

WHEREAS, this invasion was premeditated and planned by the Russian Federation, namely its President Vladimir Putin, for months;

WHEREAS, the Russian Federation has rejected every good-faith effort the United States and its allies and partners made to address concerns through dialogue to avoid needless conflict and avert human suffering;

WHEREAS, to attempt to justify its invasion, the Russian Federation has made outlandish and baseless claims about Ukraine without any evidence;

WHEREAS, the Russian Federation has flagrantly violated international law in attempting to unilaterally create two new so-called republics on sovereign Ukrainian territory; and

WHEREAS, lasting peace and prosperity require respect for the sovereignty and territorial integrity of countries and respect for human rights:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, commends the courage, resolve, and restraint shown by the Ukrainian people in their pursuit of sovereignty and democracy, and pays tribute to the many men and women who gave their lives in pursuit of a free and democratic Ukraine.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly denounce Russia's unprovoked and unjustified invasion of Ukraine and call upon the Russian Federation to immediately cease fire and vacate all areas of the sovereign territory of Ukraine.

BE IT FURTHER RESOLVED that the Legislature and the Governor support and stand in solidarity with the people of Ukraine and Ukraine's fight to defend its sovereignty, territorial integrity, and the freedom of its citizens.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the United States federal government and its allies to take substantive action to punish the Russian Federation for its evil actions and restore peace in Europe.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the United States federal government and its allies to provide humanitarian relief to those suffering in Ukraine.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage unity among NATO allies and the broader transatlantic community to convey solidarity in response to Russia's unprovoked military aggression against Ukraine.

BE IT FURTHER RESOLVED that the Legislature and the Governor urge the United States federal government and its allies to take every appropriate action to be energy and mineral independent.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the president of the United States and the members of Utah's congressional delegation.

H.J.R. 11

Passed February 24, 2022
Effective February 24, 2022

JOINT RESOLUTION SUPPORTING SERVICES FOR VETERANS

Chief Sponsor: Jefferson S. Burton
Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This joint resolution encourages the Utah Department of Veterans and Military Affairs to submit a grant application for replacement and expansion of the Salt Lake Veterans Home.

Highlighted Provisions:

This bill:

- honors all who have served in the United States Armed Forces;
- recognizes that the William E. Christofferson Salt Lake Veterans Home is in need of an update in design and expansion; and
- encourages and supports the submission of a grant application to the State Veterans Home Construction Grant Program.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, Utah honors and is proud of all who have worn the uniform of our great nation while serving in the United States Armed Forces;

WHEREAS, Utah is home to almost 150,000 military veterans;

WHEREAS, there are four state-owned Veterans Homes in Utah under the oversight of the Utah Department of Veterans and Military Affairs providing skilled-nursing services to over 400 residents;

WHEREAS, the oldest of those homes is the William E. Christofferson Veterans Home in Salt Lake City and is in need of an update in design and expansion to meet the changing standard of care and increase in demand;

WHEREAS, the current William E. Christofferson Salt Lake Veterans Home is not able to be upgraded and expanded at its current location;

WHEREAS, the Legislature has supported and encouraged the construction of Veterans Homes in the past;

WHEREAS, the United State Department of Veterans Affairs participates with states in the construction of state-owned veterans homes through the VA State Veterans Home Construction Grant Program:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah supports the Utah Department of Veterans and Military Affairs in applying for a grant to assist in the construction of a new Veterans Home in Salt Lake City.

BE IT FURTHER RESOLVED that the Legislature of the state of Utah encourages the Utah Department of Veterans and Military Affairs to submit a grant application to the United States Department of Veterans Affairs for participation in the State Veterans Home Construction Grant Program for replacement and expansion of the Salt Lake Veterans Home.

H.J.R. 12

Passed February 18, 2022
Effective February 18, 2022

JOINT RESOLUTION RECOGNIZING THE UTAH OLYMPIC LEGACY

Chief Sponsor: Jon Hawkins
Senate Sponsor: Michael K. McKell

LONG TITLE

General Description:

This bill recognizes organizations involved with the 2002 Salt Lake City Olympic and Paralympic Winter Games (2002 Games) and encourages continued efforts to maintain Olympic winter sport venues.

Highlighted Provisions:

This resolution:

- recognizes the contributions of the Utah Olympic Legacy Foundation (UOLF), Salt Lake Organizing Committee for the 2002 Games (SLOC), and other state leaders who helped make the 2002 Games a success;
- recognizes the ongoing role of the Legislature in guiding Olympic efforts;
- recognizes the long-term success of the UOLF;
- describes the positive impact of access to Olympic winter sport venues in the state; and
- recognizes and encourages the continued efforts by the UOLF to maintain and develop the Olympic winter sport venues built for the 2002 Games.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the work of the SLOC helped make the 2002 Games a globally recognized and highly lauded success;

WHEREAS, the state contributed in significant ways to the success of the 2002 Games, including the initial funding to build winter sport venues;

WHEREAS, Utah has seen a rapid growth of winter sport athletic training and sporting events following the 2002 Games;

WHEREAS, over the past 20 years, the Legislature has passed more than 10 joint resolutions to provide guidance on Olympic efforts;

WHEREAS, S.J.R. 17, 1994 General Session, and subsequent joint resolutions of the Legislature, governed the sale of the Winter Sports Park, assisted with establishing the structure and scope of the Utah Athletic Foundation (d.b.a. the UOLF), and provided ongoing assistance with operation and maintenance of certain Olympic winter sport venues;

WHEREAS, the Salt Lake City Bid Committee for the Olympic Winter Games, which preceded the SLOC, reimbursed the state for the state's original contribution of $59 million to build winter sport infrastructure and the SLOC provided $76 million in seed funding to the UOLF following the 2002 Games;

WHEREAS, with H.B. 484, 2018 General Session, the Legislature created the Winter Sports Venue Grant Fund to support improvement efforts for winter sport venues in the state;

WHEREAS, additional resources have dramatically improved the UOLF's capability to train more national and international athletes and to hold additional winter sport events in Utah communities;

WHEREAS, Utah has explored and is in the process of initiating a bid to host a future Olympic and Paralympic Winter Games;

WHEREAS, the Legislature passed, with the Governor concurring, S.C.R. 9, 2020 General Session, expressing comfort with the concepts and principles of the latest Olympic host agreement documents provided by the International Olympic Committee, and the state signing similar Olympic host agreement documents for a future Winter Olympics and Paralympics bid;

WHEREAS, each Olympic winter sports venue used in the 2002 Games is still in use in Utah;

WHEREAS, the Team U.S.A. 223-person roster for the 2022 Beijing Olympic and Paralympic Winter Games has 75 athletes connected to Utah, including Utah natives and athletes who train in the state for more than six months of the year or attend a school or university in the state;

WHEREAS, with winter sports venues available, winter sport participation efforts in Utah have seen a dramatic increase in the learn-to and development level programs;

WHEREAS, thousands of youth and development level athletes use Olympic winter sport venues, tens of thousands of individuals use the venues for recreation, and millions of individuals use the venues for public activity;

WHEREAS, each year Utah's Olympic winter sport venues are visited by athletes from over 40 countries to train and compete in a variety of winter sports;

WHEREAS, cumulative 20-year total spending by the UOLF on actual operating and capital project expenditures for winter sport venues is $315 million;

WHEREAS, the UOLF has seen the UOLF's original $76 million Legacy Fund earn over $84 million in investment earnings, now holding a fund value of $62 million;

WHEREAS, Utah has seen over 200 international and national level sports events ranging from U.S. National Championships in a variety of winter sports to International World Cups and World Championships; and

WHEREAS, Utah has distinguished the state's ongoing Olympic efforts by maintaining Olympic winter sport venues to support Team U.S.A. athletes and community recreation for Utah's youth and public:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes on the 20th anniversary of the 2002 Games, the SLOC, the UOLF, and other state leaders who contributed to the formation and success of the 2002 Games.

BE IT FURTHER RESOLVED that the Legislature recognizes the continued efforts of the UOLF to ensure the Olympic winter sport venues built for the 2002 Games are properly maintained and developed.

BE IT FURTHER RESOLVED that the Legislature supports the UOLF in future developments of the Olympic winter sport venues to ensure that Utah remains an international destination for winter sport training and competition.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to the UOLF.

H.J.R. 13

Passed March 4, 2022
Effective March 4, 2022

JOINT RESOLUTION AMENDING COURT RULES OF PROCEDURE AND EVIDENCE TO ADDRESS THE MEDICAL CANDOR PROCESS

Chief Sponsor: Merrill F. Nelson
Senate Sponsor: Michael S. Kennedy

LONG TITLE

General Description:

This joint resolution amends court rules of procedure and evidence to address the medical candor process.

Highlighted Provisions:

This resolution:

- amends Rule 26 of the Utah Rules of Civil Procedure to address communications, materials, and information created for or during a medical candor process;
- amends Rule 409 of the Utah Rules of Evidence to address evidence created for or during a medical candor process; and
- makes technical and conforming changes.

Special Clauses:

This resolution provides a contingent effective date.

Utah Rules of Civil Procedure Affected:

AMENDS:

Rule 26, Utah Rules of Civil Procedure

Utah Rules of Evidence Affected:

AMENDS:

Rule 409, Utah Rules of Evidence

Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:

As provided in Utah Constitution Article VIII, Section 4, the Legislature may amend rules of procedure and evidence adopted by the Utah Supreme Court upon a two-thirds vote of all members of both houses of the Legislature:

Section 1. Rule 26, Utah Rules of Civil Procedure is amended to read:

Rule 26. General provisions governing disclosure of discovery.

(a) Disclosure. This rule applies unless changed or supplemented by a rule governing disclosure and discovery in a practice area.

(1) Initial disclosures. Except in cases exempt under paragraph (a)(3), a party must, without waiting for a discovery request, serve on the other parties:

(A) the name and, if known, the address and telephone number of:

(i) each individual likely to have discoverable information supporting its claims or defenses, unless solely for impeachment, identifying the subjects of the information; and

(ii) each fact witness the party may call in its case-in-chief and, except for an adverse party, a summary of the expected testimony;

(B) a copy of all documents, data compilations, electronically stored information, and tangible things in the possession or control of the party that the party may offer in its case-in-chief, except charts, summaries, and demonstrative exhibits that have not yet been prepared and must be disclosed in accordance with paragraph (a)(5);

(C) a computation of any damages claimed and a copy of all discoverable documents or evidentiary material on which such computation is based, including materials about the nature and extent of injuries suffered;

(D) a copy of any agreement under which any person may be liable to satisfy part or all of a judgment or to indemnify or reimburse for payments made to satisfy the judgment; and

(E) a copy of all documents to which a party refers in its pleadings.

(2) Timing of initial disclosures. The disclosures required by paragraph (a)(1) must be served on the other parties:

(A) by a plaintiff within 14 days after the filing of the first answer to that plaintiff's complaint; and

(B) by a defendant within 42 days after the filing of that defendant's first answer to the complaint.

(3) Exemptions.

(A) Unless otherwise ordered by the court or agreed to by the parties, the requirements of paragraph (a)(1) do not apply to actions:

(i) for judicial review of adjudicative proceedings or rule making proceedings of an administrative agency;

(ii) governed by Rule 65B or Rule 65C;

(iii) to enforce an arbitration award; or

(iv) for water rights general adjudication under Title 73, Chapter 4, Determination of Water Rights.

(B) In an exempt action, the matters subject to disclosure under paragraph (a)(1) are subject to discovery under paragraph (b).

(4) Expert testimony.

(A) Disclosure of retained expert testimony. A party must, without waiting for a discovery request, serve on the other parties the following information regarding any person who may be used at trial to present evidence under Rule 702 of the Utah Rules of Evidence and who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony: (i) the expert's name and qualifications, including a list of all publications authored within the preceding 10 years, and a list of any other cases in which the expert has testified as an expert at trial or by deposition within the preceding four years, (ii) a brief summary of the opinions to which the witness is expected to testify, (iii) the facts, data, and other information specific to the case that will be relied upon by the witness in forming those opinions, and (iv) the compensation to be paid for the witness's study and testimony.

(B) Limits on expert discovery. Further discovery may be obtained from an expert witness either by deposition or by written report. A deposition must not exceed four hours and the party taking the deposition must pay the expert's reasonable hourly fees for attendance at the deposition. A report must be signed by the expert and must contain a complete statement of all opinions the expert will offer at trial and the basis and reasons for them. Such an expert may not testify in a party's case-in-chief concerning any matter not fairly disclosed in the report. The party offering the expert must pay the costs for the report.

(C) Timing for expert discovery.

(i) The party who bears the burden of proof on the issue for which expert testimony is offered must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the close of fact discovery. Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted.

(ii) The party who does not bear the burden of proof on the issue for which expert testimony is offered must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the disclosure under paragraph (a)(4)(C)(i) is due, or (B) service of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(i). Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted.

(iii) If the party who bears the burden of proof on an issue wants to designate rebuttal expert witnesses, it must serve on the other parties the information required by paragraph (a)(4)(A) within 14 days after the later of (A) the date on which the election under paragraph (a)(4)(C)(ii) is due or (B) service of the written report or the taking of the expert's deposition pursuant to paragraph (a)(4)(C)(ii). Within 14 days thereafter, the party opposing the expert may serve notice electing either a deposition of the expert pursuant to paragraph (a)(4)(B) and Rule 30, or a written report pursuant to paragraph (a)(4)(B). The deposition must occur, or the report must be served on the other parties, within 42 days after the election is served on the other parties. If no election is served on the other parties, then no further discovery of the expert must be permitted. The court may preclude an expert disclosed only as a rebuttal expert from testifying in the case in chief.

(D) Multiparty actions. In multiparty actions, all parties opposing the expert must agree on either a report or a deposition. If all parties opposing the expert do not agree, then further discovery of the expert may be obtained only by deposition pursuant to paragraph (a)(4)(B) and Rule 30.

(E) Summary of non-retained expert testimony. If a party intends to present evidence at trial under Rule 702 of the Utah Rules of Evidence from any person other than an expert witness who is retained or specially employed to provide testimony in the case or a person whose duties as an employee of the party regularly involve giving expert testimony, that party must serve on the other parties a written summary of the facts and opinions to which the witness is expected to testify in accordance with the deadlines set forth in paragraph (a)(4)(C). Such a witness cannot be required to provide a report pursuant to paragraph (a)(4)(B). A deposition of such a witness may not exceed four hours and, unless manifest injustice would result, the party taking the deposition must pay the expert's reasonable hourly fees for attendance at the deposition.

(5) Pretrial disclosures.

(A) A party must, without waiting for a discovery request, serve on the other parties:

(i) the name and, if not previously provided, the address and telephone number of each witness, unless solely for impeachment, separately identifying witnesses the party will call and witnesses the party may call;

(ii) the name of witnesses whose testimony is expected to be presented by transcript of a deposition;

(iii) designations of the proposed deposition testimony; and

(iv) a copy of each exhibit, including charts, summaries, and demonstrative exhibits, unless solely for impeachment, separately identifying those which the party will offer and those which the party may offer.

(B) Disclosure required by paragraph (a)(5)(A) must be served on the other parties at least 28 days before trial. Disclosures required by paragraph (a)(5)(A)(i) and (a)(5)(A)(ii) must also be filed on the date that they are served. At least 14 days before trial, a party must serve any counter designations of deposition testimony and any objections and grounds for the objections to the use of any deposition, witness, or exhibit if the grounds for the objection are apparent before trial. Other than objections under Rules 402 and 403 of the Utah Rules of Evidence, other objections not listed are waived unless excused by the court for good cause.

(6) Form of disclosure and discovery production. Rule 34 governs the form in which all documents, data compilations, electronically stored information, tangible things, and evidentiary material should be produced under this Rule.

(b) Discovery scope.

(1) In general. Parties may discover any matter, not privileged, which is relevant to the claim or defense of any party if the discovery satisfies the standards of proportionality set forth below.

(2) Privileged matters.

(A) Privileged matters that are not discoverable or admissible in any proceeding of any kind or character include:

(i) all information in any form provided during and created specifically as part of a request for an investigation, the investigation, findings, or conclusions of peer review, care review, or quality assurance processes of any organization of health care providers as defined in [~~the~~] Utah Code Title 78B, Chapter 3, Part 4, Utah Health Care Malpractice Act, for the purpose of evaluating care provided to reduce morbidity and mortality or to improve the quality of medical care, or for the purpose of peer review of the ethics, competence, or professional conduct of any health care provider[~~.~~]; and

(ii) except as provided in paragraph (b)(2)(C), (D), or (E), all communications, materials, and information in any form specifically created for or during a medical candor process under Utah Code Title 78B, Chapter 3, Part 4a, Utah Medical Candor Act, including any findings or conclusions from the investigation and any offer of compensation.

(B) Disclosure or use in a medical candor process of any communication, material, or information in any form that contains any information described in paragraph (b)(2)(A)(i) does not waive any privilege or protection against admissibility or discovery of the information under paragraph (b)(2)(A)(i).

(C) Any communication, material, or information in any form that is made or provided in the ordinary course of business, including a medical record or a business record, that is otherwise discoverable or admissible and is not created for or during a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(D) (i) Any information that is required to be documented in a patient's medical record under state or federal law is not privileged by the use or disclosure of the information during a medical candor process.

(ii) Information described in paragraph (b)(2)(D)(i) does not include an individual's mental impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(E) (i) Any communication, material, or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(ii) Any communication, material, or information described in paragraph (b)(2)(E)(i) does not include a written notice described in Utah Code section 78B-3-452.

(F) The terms defined in Utah Code section 78B-3-450 apply to paragraphs (b)(2)(A)(ii), (B), (C), (D), and (E).

(G) Nothing in this paragraph (b)(2) shall prevent a party from raising any other privileges provided by law or rule as to the admissibility or discovery of any communication, information, or material described in paragraph (b)(2)(A), (B), (C), (D), or (E).

[~~(2)~~] (3) Proportionality. Discovery and discovery requests are proportional if:

(A) the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues;

(B) the likely benefits of the proposed discovery outweigh the burden or expense;

(C) the discovery is consistent with the overall case management and will further the just, speedy, and inexpensive determination of the case;

(D) the discovery is not unreasonably cumulative or duplicative;

(E) the information cannot be obtained from another source that is more convenient, less burdensome, or less expensive; and

(F) the party seeking discovery has not had sufficient opportunity to obtain the information by discovery or otherwise, taking into account the parties' relative access to the information.

[~~(3)~~] (4) Burden. The party seeking discovery always has the burden of showing proportionality and relevance. To ensure proportionality, the court may enter orders under Rule 37.

[~~(4)~~] (5) Electronically stored information. A party claiming that electronically stored information is not reasonably accessible because of undue burden or cost must describe the source of the electronically stored information, the nature and extent of the burden, the nature of the information not provided, and any other information that will enable other parties to evaluate the claim.

[~~(5)~~] (6) Trial preparation materials. A party may obtain otherwise discoverable documents and tangible things prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials and that the party is unable without undue hardship to obtain substantially equivalent materials by other means. In ordering discovery of such materials, the court must protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party.

[~~(6)~~] (7) Statement previously made about the action. A party may obtain without the showing required in paragraph [~~(b)(5)~~] (b)(6) a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement about the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order under Rule 37. A statement previously made is (A) a written statement signed or approved by the person making it, or (B) a stenographic, mechanical, electronic, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

[~~(7)~~] (8) Trial preparation; experts.

(A) Trial-preparation protection for draft reports or disclosures. Paragraph [~~(b)(5)~~] (b)(6) protects drafts of any report or disclosure required under paragraph (a)(4), regardless of the form in which the draft is recorded.

(B) Trial-preparation protection for communications between a party's attorney and expert witnesses. Paragraph [~~(b)(5)~~] (b)(6) protects communications between the party's attorney and any witness required to provide disclosures under paragraph (a)(4), regardless of the form of the communications, except to the extent that the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's attorney provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's attorney provided and that the expert relied on in forming the opinions to be expressed.

(C) Expert employed only for trial preparation. Ordinarily, a party may not, by interrogatories or otherwise, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at trial. A party may do so only:

(i) as provided in Rule 35(b); or

(ii) on showing exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

[~~(8)~~] (9) Claims of privilege or protection of trial preparation materials.

(A) Information withheld. If a party withholds discoverable information by claiming that it is privileged or prepared in anticipation of litigation or for trial, the party must make the claim expressly and must describe the nature of the documents, communications, or things not produced in a manner that, without revealing the information itself, will enable other parties to evaluate the claim.

(B) Information produced. If a party produces information that the party claims is privileged or prepared in anticipation of litigation or for trial, the producing party may notify any receiving party of the claim and the basis for it. After being notified, a receiving party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The producing party must preserve the information until the claim is resolved.

(c) Methods, sequence, and timing of discovery; tiers; limits on standard discovery; extraordinary discovery.

(1) Methods of discovery. Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; requests for admission; and subpoenas other than for a court hearing or trial.

(2) Sequence and timing of discovery. Methods of discovery may be used in any sequence, and the fact that a party is conducting discovery must not delay any other party's discovery. Except for cases exempt under paragraph (a)(3), a party may not seek discovery from any source before that party's initial disclosure obligations are satisfied.

(3) Definition of tiers for standard discovery. Actions claiming $50,000 or less in damages are permitted standard discovery as described for Tier 1. Actions claiming more than $50,000 and less than $300,000 in damages are permitted standard discovery as described for Tier 2. Actions claiming $300,000 or more in damages are permitted standard discovery as described for Tier 3. Absent an accompanying damage claim for more than $300,000, actions claiming non-monetary relief are permitted standard discovery as described for Tier 2. Domestic relations actions are permitted standard discovery as described for Tier 4.

(4) Definition of damages. For purposes of determining standard discovery, the amount of damages includes the total of all monetary damages sought (without duplication for alternative theories) by all parties in all claims for relief in the original pleadings.

(5) Limits on standard fact discovery. Standard fact discovery per side (plaintiffs collectively, defendants collectively, and third-party defendants collectively) in each tier is as follows. The days to complete standard fact discovery are calculated from the date the first defendant's first disclosure is due and do not include expert discovery under paragraphs (a)(4)(C) and (D).

Tier	Amount of Damages	Total Fact Deposition Hours	Rule 33 Interrogatories including all discrete subparts	Rule 34 Requests for Production	Rule 36 Requests for Admission	Days to Complete Fact Discovery
1	$50,000 or less	3	0	5	5	120
2	More than $50,000 and less than $300,00 or non-monetary relief	15	10	10	10	180
3	$300,000 or more	30	20	20	20	210
4	Domestic relations actions	4	10	10	10	90

(6) Extraordinary discovery. To obtain discovery beyond the limits established in paragraph (c)(5), a party must:

(A) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, file a stipulated statement that extraordinary discovery is necessary and proportional under paragraph (b)(2) and, for each party represented by an attorney, a statement that the attorney consulted with the client about the request for extraordinary discovery;

(B) before the close of standard discovery and after reaching the limits of standard discovery imposed by these rules, file a request for extraordinary discovery under Rule 37(a); or

(C) obtain an expanded discovery schedule under Rule 100A.

(d) Requirements for disclosure or response; disclosure or response by an organization; failure to disclose; initial and supplemental disclosures and responses.

(1) A party must make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(2) If the party providing disclosure or responding to discovery is a corporation, partnership, association, or governmental agency, the party must act through one or more officers, directors, managing agents, or other persons, who must make disclosures and responses to discovery based on the information then known or reasonably available to the party.

(3) A party is not excused from making disclosures or responses because the party has not completed investigating the case, the party challenges the sufficiency of another party's disclosures or responses, or another party has not made disclosures or responses.

(4) If a party fails to disclose or to supplement timely a disclosure or response to discovery, that party may not use the undisclosed witness, document, or material at any hearing or trial unless the failure is harmless or the party shows good cause for the failure.

(5) If a party learns that a disclosure or response is incomplete or incorrect in some important way, the party must timely serve on the other parties the additional or correct information if it has not been made known to the other parties. The supplemental disclosure or response must state why the additional or correct information was not previously provided.

(e) Signing discovery requests, responses, and objections. Every disclosure, request for discovery, response to a request for discovery, and objection to a request for discovery must be in writing and signed by at least one attorney of record or by the party if the party is not represented. The signature of the attorney or party is a certification under Rule 11. If a request or response is not signed, the receiving party does not need to take any action with respect to it. If a certification is made in violation of the rule, the court, upon motion or upon its own initiative, may take any action authorized by Rule 11 or Rule 37(b).

(f) Filing. Except as required by these rules or ordered by the court, a party must not file with the court a disclosure, a request for discovery, or a response to a request for discovery, but must file only the certificate of service stating that the disclosure, request for discovery, or response has been served on the other parties and the date of service.

Section 2. Rule 409, Utah Rules of Evidence is amended to read:

Rule 409. Payment of Medical and Similar Expenses; Expressions of Apology; Medical Candor Process.

(a) Evidence of furnishing, promising to pay, or offering to pay medical, hospital, or similar expenses resulting from an injury is not admissible to prove liability for the injury.

(b) Evidence of unsworn statements, affirmations, gestures, or conduct made to a patient or a person associated with the patient by a defendant that expresses the following is not admissible in a malpractice action against a health care provider or an employee of a health care provider to prove liability for an injury[~~.~~]:

(b) (1) apology, sympathy, commiseration, condolence, compassion, or general sense of benevolence; or

(b) (2) a description of the sequence of events relating to the unanticipated outcome of medical care or the significance of events.

(c) Evidence of any communication, information, material, or conduct created for or during a medical candor process under Utah Code Title 78B, Chapter 3, Part 4a, Utah Medical Candor Act, is not admissible in a malpractice action against a health care provider or an employee of a health care provider to prove liability for an injury, including:

(c) (1) any findings or conclusions of an investigation under Utah Code section 78B-3-451 that are shared with a patient or a representative of a patient; or

(c) (2) any offer of compensation made to the patient or a representative of a patient during or as part of the medical candor process.

(d) The terms defined in Utah Code section 78B-3-450 apply to paragraph (c).

Section 3. Effective date.

This resolution takes effect upon approval by a constitutional two-thirds vote of all members elected to each house, only if H.B. 344, Utah Medical Candor Act (2022 General Session), passes the Legislature and becomes law on May 4, 2022.

H.J.R. 14
Passed February 25, 2022
Effective February 25, 2022

JOINT RULES RESOLUTION - LEGISLATIVE PROCEDURE REVISIONS

Chief Sponsor: Timothy D. Hawkes
Senate Sponsor: David G. Buxton

LONG TITLE

General Description:

This resolution modifies joint legislative rules related to legislative procedures.

Highlighted Provisions:

This resolution:

- addresses conference committee procedures;
- clarifies that the Office of Legislative Research and General Counsel may not place a committee note on a piece of legislation unless the legislation was drafted and distributed to committee members at the time the committee voted to favorably recommend the legislation;
- requires a standing committee to consider only legislation from the opposite body during a portion of the last week of the annual general session;
- repeals certain procedures related to legislation that affects executive branch workload;
- allows the Legislative Expenses Oversight Committee to adopt policies related to rates for lodging and meal reimbursements;
- addresses when news media may access the area behind the dais at a legislative committee meeting;
- limits the legislative committees that have authority to open a committee bill file or adopt legislation as a committee bill;
- provides that any committee bill file that does not receive a favorable recommendation at the committee's last scheduled meeting of the calendar year is abandoned; and
- makes technical corrections and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR3-2-902
JR3-2-903
JR4-2-101
JR4-2-401
JR4-2-501
JR4-2-505
JR4-3-103
JR4-3-301
JR4-3-302
JR4-5-104
JR5-2-101
JR5-2-102
JR7-1-101
JR7-1-405
JR7-1-602.5
JR7-1-603
JR7-1-604
JR7-1-605
JR7-1-606
JR7-1-607
JR7-1-608
JR7-1-609
JR7-1-610
JR7-1-611

ENACTS:

JR7-1-103
JR7-1-601.1

RENUMBERS AND AMENDS:

JR7-1-601.5, (Renumbered from JR7-1-601)

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-902 is amended to read:

JR3-2-902. Conference committee procedures.

(1) The chair from the house of origin of the bill shall chair meetings of the committee.

(2) Staff from the Office of Legislative Research and General Counsel may attend the conference committee meeting to assist in the preparation of the committee report.

(3) (a) Subject to Subsection (3)(b), conference committee meetings are open to the public.

(b) Public comment may not be received or made during a conference committee meeting unless a majority of committee members from one house and at least 50% from the other house vote to receive public comment.

(4) (a) A majority of committee members from each house must approve a conference committee report in order for it to be presented to the Legislature.

(b) (i) If the conference committee cannot reach an agreement, the committee shall report the failure to agree to both houses.

(ii) Upon notice that a conference committee has failed to agree[~~,~~]:

(A) the presiding officer of each house may [~~either~~] appoint a new committee by following the requirements of JR3-2-901 or reappoint the former committee and announce the time and place of the committee's meeting[~~.~~]; or

(B) either house may vote to refuse further conferences.

(iii) If a house votes to refuse further conferences, the bill shall be returned to the originating house and filed.

[~~(5) Before a bill being considered by a conference committee is abandoned, not to be reviewed again by either house during the remainder of the session, each house shall vote to refuse further conferences by the same committee or a new committee.~~]

Section 2. JR3-2-903 is amended to read:

JR3-2-903. Conference committee report -- Contents -- Disposition.

(1) The conference committee's report shall:

(a) be in writing; and

(b) list the vote of each member of the conference committee by name.

(2) (a) Subject to Subsection (2)(b), the committee may report any modifications or amendments to the bill that [~~it~~] the committee thinks advisable.

(b) A conference committee may not consider or report on any matter except those at issue between the two houses.

(3) (a) If the bill being discussed by the conference committee is a House bill, the Senate conference committee members shall present the conference committee report first to the Senate.

(b) If the bill being discussed by the conference committee is a Senate bill, the House conference committee members shall present the conference committee report first to the House.

[~~(4) (a) After a motion to adopt the conference committee report is approved, the bill shall be put at the top of the third reading calendar in the first house for consideration.~~]

[~~(b) When the first house has acted on the bill, it shall transmit the bill and the report to the other house, along with a letter explaining its action.~~]

[~~(c) Before a house's vote is taken on the conference committee report, the report shall be read.~~]

(4) Before a house votes on a motion to adopt a conference committee report, the report shall be read.

(5) (a) If a house approves a motion to adopt a conference committee report, the bill shall be put at the top of the house's third reading calendar for consideration.

(b) If the house is the first house to consider the conference committee report, after the house acts on the bill, the house shall transmit the bill and the conference committee report to the other house along with a letter explaining the house's action.

(6) (a) If a motion to adopt a conference committee report fails, either house may request that the other house:

(i) appoint a new committee by following the requirements of JR3-2-901; or

(ii) reappoint the former committee and announce the time and place of the committee's meeting.

(b) If a house refuses a request under Subsection (6)(a), the bill shall be returned to the originating house and filed.

Section 3. JR4-2-101 is amended to read:

JR4-2-101. Requests for legislation -- Contents -- Timing.

(1) (a) A legislator wishing to introduce a bill or resolution shall file a request for legislation with the Office of Legislative Research and General Counsel within the time limits established by this rule.

(b) The request for legislation shall:

(i) designate the chief sponsor, who is knowledgeable about and responsible for providing pertinent information as the legislation is drafted;

(ii) if the request is for a general session, designate any supporting legislators from the same house as the chief sponsor who wish to cosponsor the legislation; and

(iii) (A) provide specific information concerning the change or addition to law or policy that the legislator intends the proposed legislation to make; or

(B) identify the specific situation or concern that the legislator intends the legislation to address.

(2) (a) Any legislator may file a request for legislation beginning 60 days after the Legislature adjourns its annual general session sine die.

(b) A legislator-elect may file a request for legislation beginning on:

(i) the day after the date the election canvass is completed; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the date the election results for the legislator-elect's race are finalized.

(c) (i) An incumbent legislator may not file any requests for legislation as of the date that the legislator:

(A) fails to file to run for election to a seat in the Legislature;

(B) resigns or is removed from office; or

(C) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term.

(ii) Subsection (2)(c)(i) does not apply to a request for legislation for a special session that occurs before the legislator leaves office.

(iii) The Office of Legislative Research and General Counsel shall abandon each request for legislation from the legislator that is pending on that date unless, within 30 days after that date, another member of the Legislature qualified to file a request for legislation assumes sponsorship of the legislation.

(d) (i) If, for any reason, a legislator who filed a request for legislation is unavailable to serve in the next annual general session, the former legislator shall seek another legislator to assume sponsorship of each request for legislation filed by the legislator who is unavailable to serve.

(ii) If the former legislator is unable to find another legislator to sponsor the legislation within 30 days, the Office of Legislative Research and General Counsel shall abandon each pending request for legislation from the legislator who is unavailable to serve.

(e) (i) If a legislator dies while in office and is the chief sponsor of one or more requests for legislation or pieces of legislation, the individual appointed to the legislator's seat may assume sponsorship of each request for legislation or piece of legislation.

(ii) If the individual appointed to the legislator's seat chooses not to assume sponsorship of one or more of the legislator's requests for legislation or pieces of legislation, the following individual shall seek another legislator to assume sponsorship of each request for legislation or piece of legislation:

(A) if the legislator was a member of the House majority caucus, the House majority leader;

(B) if the legislator was a member of the House minority caucus, the House minority leader;

(C) if the legislator was a member of the Senate majority caucus, the Senate majority leader; or

(D) if the legislator was a member of the Senate minority caucus, the Senate minority leader.

(iii) If the individual described in Subsection (2)(e)[~~(i)~~](ii) does not find a new sponsor for a request for legislation, the Office of Legislative Research and General Counsel shall abandon the request for legislation.

(3) (a) Except as provided in Subsection (3)(c), a legislator may not file a request for legislation with the Office of Legislative Research and General Counsel after noon on the 11th day of the annual general session.

(b) Except as provided in Subsection (3)(c), by noon on the 11th day of the annual general session, each legislator shall, for each Request for Legislation on file with the Office of Legislative Research and General Counsel, either approve the request for numbering or abandon the request.

(c) After the date established by this Subsection (3), a legislator may file a Request for Legislation and automatically approve the legislation for numbering if:

(i) for House legislation, the representative makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority of the House; or

(ii) for Senate legislation, the senator makes a motion to request a bill or resolution for drafting and introduction and that motion is approved by a constitutional majority vote of the Senate.

(4) After a request for legislation is abandoned, a legislator may not revive the request for legislation.

(5) A legislator wishing to obtain funding for a project, program, or entity, when that funding request does not require that a statute be enacted, repealed, or amended, may not file a Request for Legislation but instead shall file a request for appropriation by following the procedures and requirements of JR3-2-701.

Section 4. JR4-2-401 is amended to read:

JR4-2-401. Committee notes -- Notations on bill.

[~~(1) As used in this rule:~~]

[~~(a) "Legislative committee" means a committee, commission, task force, or other policy or advisory body that is created by statute, legislation, or by the Legislative Management Committee and that is composed exclusively of legislators.~~]

[~~(b) (i) "Legislative committee" does not mean a standing committee or an appropriations subcommittee.~~]

[~~(ii) Notwithstanding Subsection (1)(b)(i), "legislative committee" includes each Rules Committee.~~]

[~~(c) "Mixed committee" means a committee, commission, task force, or other policy or advisory body that is:~~]

[~~(i) created by statute, legislation, or by the Legislative Management Committee;~~]

[~~(ii) composed of legislator members and nonlegislative members; and~~]

[~~(iii) staffed by the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst.~~]

(1) As used in this rule, "authorized legislative committee" means the same as that term is defined in JR7-1-101.

(2) [~~When a legislative committee or mixed committee has reviewed and voted to recommend a piece of legislation~~] After an authorized legislative committee approves a motion to favorably recommend draft legislation, the Office of Legislative Research and General Counsel shall note the following on the legislation when the legislation is numbered for introduction as a bill:

(a) that the authorized legislative committee recommended the legislation; and

(b) [~~(i) for a legislative committee,~~] the committee vote, listed by numbers of yeas, nays, and absent[~~; or~~].

[~~(ii) for a mixed committee:~~]

[~~(A) the number of legislators and nonlegislators on the mixed committee;~~]

[~~(B) the committee vote, listed by the number of yeas, nays, and absent; and~~]

[~~(C) the votes cast by legislators on the committee, listed by the number of yeas, nays, and absent.~~]

(3) The Office of Legislative Research and General Counsel may not place a note described in Subsection (2) on a piece of legislation if the motion to favorably recommend the draft legislation was made in violation of JR7-1-512(3).

Section 5. JR4-2-501 is amended to read:

JR4-2-501. Numbering and distributing bills and resolutions.

After receiving approval from the sponsor under JR4-2-301, the Office of Legislative Research and General Counsel shall:

(1) proofread the legislation and perform other quality control measures;

(2) indicate on the first page of the legislation that the drafting attorney has approved the legislation for filing;

(3) place a committee [~~or task force~~] note on the legislation if required by JR4-2-401;

(4) assign a number to the legislation to appear after the designation required by JR4-1-202 and JR4-1-301;

(5) electronically set the legislation's line numbers; and

(6) distribute an electronic copy of the legislation as required by JR4-2-503.

Section 6. JR4-2-505 is amended to read:

JR4-2-505. Bill information requirements on legislative website.

The Office of Legislative Research and General Counsel shall publicly provide the following information on the Legislature's website:

(1) a listing of each legislator's name and the number of [~~bill files~~] requests for legislation that are currently open in the name of that legislator for the current legislative session; and

(2) on the respective web page for each authorized legislative committee [~~or mixed committee, as those terms are~~] as defined in JR4-2-401:

(a) a listing of the short title of each [~~piece of~~] request for legislation that:

(i) is opened by the committee or the committee's chairs, as provided under JR7-1-602; or

[~~(ii) is adopted as a committee bill by the committee; or~~]

[~~(iii) is reviewed by the committee and receives a vote for committee recommendation; and~~]

[~~(b) if a vote to recommend a piece of legislation listed in Subsection (2)(a) was held:~~]

[~~(i) by a legislative committee:~~]

(ii) the authorized legislative committee voted to favorably recommend; and

(b) if the authorized legislative committee voted on a motion to favorably recommend a request for legislation described in Subsection (2)(a):

[~~(A)~~] (i) a notation as to whether [~~the legislation was recommended by the committee or not~~] the authorized legislative committee approved the motion; and

[~~(B)~~] (ii) a listing of the votes cast by the members of the authorized legislative committee, listed by name and vote[~~; or~~].

[~~(ii) by a mixed committee:~~]

[~~(A) a listing of votes cast by the members of the committee as a whole, listed by name and vote; and~~]

[~~(B) a listing of only those votes cast by legislator members of the committee, listed by name and vote.~~]

Section 7. JR4-3-103 is amended to read:

JR4-3-103. Standing committee responsibilities -- Limitations.

(1) Each standing committee shall:

(a) examine legislation referred to it;

(b) amend or substitute the legislation if necessary; and

(c) report the legislation back to the floor.

(2) After noon on the 41st day of the annual general session:

(a) a House standing committee may not consider a piece of legislation introduced by a member of the House; and

(b) a Senate standing committee may not consider a piece of legislation introduced by a member of the Senate.

[~~(2)~~] (3) If legislation is referred to an interim committee, the interim committee may examine and recommend to the sponsor any changes to it that the committee considers necessary.

Section 8. JR4-3-301 is amended to read:

JR4-3-301. Definitions.

[~~As used in this part:~~]

[~~(1) (a) "Affects workload" means:~~]

[~~(i) increases legislative workload; or~~]

[~~(ii) requiring:~~]

[~~(A) a state agency to staff a board, commission, task force, or other public body; or~~]

[~~(B) a person to submit or present a report to a legislative committee, a mixed committee, the Executive Appropriations Committee, or an appropriations subcommittee.~~]

[~~(b) "Affects workload" includes reauthorizing an existing requirement described in Subsection (1)(a)(ii).~~]

[~~(2)(a)~~] (1) [~~"Increases~~] As used in this part, "increase legislative workload" means:

[~~(i)~~] (a) placing a member of the Legislature on a board, commission, task force, or other public body;

[~~(ii)~~] (b) giving authority to a member of the Legislative Management Committee to appoint a member of a board, commission, task force, or other public body; or

[~~(iii)~~] (c) requiring a legislative staff office to staff a board, commission, task force, or other public body.

[~~(b)~~] (2) "Increases legislative workload" includes reauthorizing an existing provision described in Subsection [~~(2)(a)~~] (1).

[~~(3) "Legislative committee" means the same as that term is defined in JR4-2-401.~~]

[~~(4) "Mixed committee" means the same as that term is defined in JR4-2-401.~~]

[~~(5) "State agency" means an office, department, agency, authority, commission, board, institution, hospital, college, university, or other instrumentality of the state.~~]

Section 9. JR4-3-302 is amended to read:

JR4-3-302. Considering legislation that increases legislative workload.

(1) (a) The House shall refer any Senate legislation that [~~affects~~] increases legislative workload to the House Rules Committee before giving the legislation a third reading.

(b) The Senate shall table on third reading any House legislation that [~~affects~~] increases legislative workload.

(2) Before adjourning on the 45th day of the annual general session:

(a) each legislator shall prioritize legislation that [~~affects~~] increases legislative workload in accordance with the process established by legislative leadership; and

(b) the Legislature may pass or defeat any legislation prioritized under Subsection (2)(a).

Section 10. JR4-5-104 is amended to read:

JR4-5-104. Effect of governor's inaction on concurrent resolutions.

(1) If the governor does not approve a concurrent resolution before the expiration of the time limit described in Utah Constitution, Article VII, Section 8 that would apply if the concurrent resolution were a bill, the concurrent resolution converts to a joint resolution.

(2) The legislative general counsel may make technical revisions to convert a resolution described in Subsection (1) from a concurrent resolution to a joint resolution, including the revisions necessary to comply with JR4-1-301.

(3) For a resolution that converts to a joint resolution in accordance with Subsection (1), the Office of Legislative Research and General Counsel shall note in the Laws of Utah and on the final version of the joint resolution that the resolution converted from a concurrent resolution to a joint resolution in accordance with this rule.

[~~(4) This rule does not apply to a constitutional joint resolution.~~]

Section 11. JR5-2-101 is amended to read:

JR5-2-101. Reimbursement of lodging.

(1) Subject to the other provisions of this [~~section~~] rule, if a legislator's official duties necessitate overnight accommodations, the legislator may receive reimbursement for any actual lodging expenses incurred by the legislator[~~, not to exceed the daily rates published in the administrative rules governing reimbursement of lodging expenses for state employees,~~] for an:

(a) authorized legislative day; or

(b) authorized legislative training day.

(2) Except as provided in the policies and procedures established in accordance with Subsection (3), reimbursement under Subsection (1) may not exceed the daily rates published in the administrative rules governing reimbursement of lodging expenses for state employees.

[~~(2)~~] (3) Reimbursement for actual lodging expenses for a legislator for an authorized legislative day or authorized legislative training day shall be as provided in policies and procedures established by the Legislative Expenses Oversight Committee.

Section 12. JR5-2-102 is amended to read:

JR5-2-102. Reimbursement of meal expenses.

(1) Subject to the other provisions of this [~~section,~~] rule, for each authorized legislative day or authorized legislative training day a legislator may receive reimbursement for any actual meal expenses incurred by the legislator in association with the legislator's official duties[~~, not to exceed the rates and subject to the time calculation requirements set in the administrative rules governing reimbursement of meal expenses for state employees for an:~~].

[~~(a) authorized legislative day; or~~]

[~~(b) authorized legislative training day.~~]

(2) Except as provided in the policies and procedures established in accordance with Subsection (3), reimbursement under Subsection (1):

(a) may not exceed the rates set in administrative rules governing reimbursement and meal expenses for state employees; and

(b) is subject to the time calculation requirements set in administrative rules governing reimbursement and meal expenses for state employees.

[~~(2)~~] (3) Reimbursement for actual meal expenses for a legislator for an authorized legislative day or authorized legislative training day shall be as provided in policies and procedures established by the Legislative Expenses Oversight Committee.

Section 13. JR7-1-101 is amended to read:

JR7-1-101. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Authorized legislative committee" means:

(a) an interim committee;

(b) when functioning as an interim committee:

(i) the Senate Rules Committee created in SR3-1-101; or

(ii) the House Rules Committee created in HR3-1-101; or

(c) a special committee:

(i) that is not a mixed special committee; and

(ii) to the extent the special committee has statutory authority to open a committee bill file or create a committee bill.

[~~(2)~~] (3) "Bill" means the same as that term is defined in JR4-1-101.

[~~(3)~~] (4) "Chair" except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection [~~(3)~~] (4)(a), (b), or (c) to act as chair under JR7-1-202.

[~~(4)~~] (5) "Committee bill" means draft legislation that receives a favorable recommendation from an authorized legislative committee.

[~~(5)~~] (6) "Committee bill file" means a request for legislation made by:

(a) a majority vote of [~~a legislative~~] an authorized committee; or

(b) the chairs of an interim committee, if the interim committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

[~~(6)~~] (7) "Committee note" means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

[~~(7)~~] (8) "Draft legislation" means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

[~~(8)~~] (9) "Electronic meeting" means a public meeting of a legislative committee that is partially convened or conducted by means of a voice telephone or computer web or video conference.

[~~(9)~~] (10) "Electronic notice" means electronic mail or fax.

[~~(10)~~] (11) "Favorable recommendation" means an action of [~~a~~] an authorized legislative committee by majority vote to favorably recommend legislation.

[~~(11)~~] (12) "Legislative committee" means:

(a) an interim committee; or

(b) a special committee.

[~~(12)~~] (13) "Interim committee" means a committee created under JR7-1-201.

[~~(13)~~] (14) "Legislative sponsor" means:

(a) for a committee bill file, the chairs of the authorized legislative committee that opened the committee bill file or the chairs' designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator's designee.

[~~(14)~~] (15) "Majority vote" means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

[~~(15)~~] (16) "Mixed special committee" means a special committee that is composed of one or more members who are legislators and one or more members who are not legislators.

[~~(16)~~] (17) "Monitor" means to:

(a) hear live, by speaker, or by other equipment, all of the public statements of each member of the legislative committee who is participating in a meeting; or

(b) see and hear, by computer screen or other visual medium, all of the public statements of each member of the legislative committee who is participating in a meeting.

[~~(17)~~] (18) "Original motion" means a nonprivileged motion that is accepted by the chair when no other motion is pending.

[~~(18)~~] (19) "Participate" means the ability to communicate with all of the members of a legislative committee, either verbally or electronically, so that each member of the legislative committee can hear or see the communication.

[~~(19)~~] (20) "Pending motion" means a motion described in JR7-1-307.

[~~(20)~~] (21) "Privileged motion" means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

[~~(21)~~] (22) "Public statement" means a statement made in the ordinary course of business of a legislative committee with the intent that all other members of the legislative committee receive it.

[~~(22)~~] (23) "Remote location" means a location other than the anchor location from which a member of a legislative committee may participate in the meeting.

[~~(23)~~] (24) "Request for legislation" means the same as that term is defined in JR4-1-101.

[~~(24)~~] (25) "Resolution" means the same as that term is defined in JR4-1-101.

[~~(25)~~] (26) (a) "Special committee" means a committee, commission, [~~or~~] task force, or other similar body that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

[~~(26)~~] (27) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

[~~(27)~~] (28) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 14. JR7-1-103 is enacted to read:

JR7-1-103. News media.

When present for a meeting of a legislative committee, news media may not enter the area behind the dais without the permission of the chair.

Section 15. JR7-1-405 is amended to read:

JR7-1-405. Prohibited meeting times -- Exceptions.

(1) Except as provided in this rule, a legislative committee may not meet:

(a) while the Senate or the House of Representatives is in session; or

(b) during the period that begins on the first Thursday in December and ends the day after the day on which the Legislature adjourns [~~that~~] the following calendar year's general session sine die.

(2) Subsection (1) does not apply to:

(a) the Legislative Management Committee and its subcommittees;

(b) the Senate or House Management Committee;

(c) the Senate or House Rules Committee;

(d) the Senate or House Legislative Expenses Oversight Committee;

(e) a senate confirmation committee;

(f) a meeting of the Administrative Rules Review Committee for the purpose of considering draft legislation reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(g) the Legislative Process Committee.

(3) A meeting otherwise prohibited by this rule may be held if approved by:

(a) the president of the Senate and the speaker of the House of Representatives; or

(b) a majority vote of the Senate and a majority vote of the House of Representatives.

(4) Any action of a legislative committee that occurs during a meeting that violates this rule is invalid.

Section 16. JR7-1-601.1 is enacted to read:

JR7-1-601.1. Applicability of part -- Limitations on authority.

(1) The provisions of Part 6, Draft Legislation, only apply to an authorized legislative committee.

(2) Notwithstanding any rule to the contrary:

(a) a legislative committee other than an authorized legislative committee may not open a committee bill file;

(b) a legislative committee's favorable recommendation creates a committee bill only if the legislative committee is an authorized legislative committee; and

(c) an authorized legislative committee that is not an interim committee or a rules committee acting as an interim committee may not open a committee bill file or create a committee bill except to the extent authorized by statute.

Section 17. JR7-1-601.5, which is renumbered from Section JR7-1-601 is renumbered and amended to read:

[~~JR7-1-601~~]. JR7-1-601.5. Opening committee bill files.

(1) Except as provided in Subsection (3), a member of [~~a~~] an authorized legislative committee may make a motion to open a committee bill file if:

(a) the member describes the general subject matter of the legislation;

(b) the subject matter is germane to the subject matter over which the authorized legislative committee has jurisdiction; and

(c) the member intends that the authorized legislative committee take action on the resulting draft legislation before the next general session in a meeting of the authorized legislative committee.

(2) Except as provided in JR7-1-602, [~~a~~] an authorized legislative committee may not authorize any individual or group of individuals to open a committee bill file.

(3) [~~A~~] An authorized legislative committee may not open a committee bill file during the period that begins January 1 and ends the day after the day on which the Legislature adjourns that year's general session sine die.

Section 18. JR7-1-602.5 is amended to read:

JR7-1-602.5. Draft legislation presented to authorized legislative committees during the interim.

(1) Draft legislation that is presented to [~~a~~] an authorized legislative committee for the committee's review shall be:

(a) listed on the agenda of the committee's meeting in accordance with Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and

(b) publicly posted on the Legislature's website at least 24 hours in advance of the time of commencement of the committee meeting.

(2) (a) A legislator seeking to present draft legislation to [~~a~~] an authorized legislative committee for review shall provide the drafting attorney with clear and final instructions for completing the draft legislation no later than three full working days before the commencement time of the committee meeting where the legislation will be reviewed, or at an earlier time if significant drafting time is required.

(b) Draft legislation will be drafted in the priority and order set forth under JR4-2-102.

(3) (a) Draft legislation that is recommended by [~~a~~] an authorized legislative committee but did not meet the posting requirements of Subsection (1)(b) may not be placed directly on the reading calendar by a rules committee under SR3-1-102 or HR3-1-102.

(b) This Subsection (3) does not apply to draft legislation that met the requirements of Subsection (1)(b) but was amended or substituted during the committee meeting.

Section 19. JR7-1-603 is amended to read:

JR7-1-603. Four phases when considering draft legislation -- Exception.

(1) Subject to Subsection (2), [~~a~~] an authorized legislative committee shall consider draft legislation in the following four phases:

(a) the presentation phase as described in JR7-1-604;

(b) the clarifying questions phase as described in JR7-1-605;

(c) the public comment phase as described in JR7-1-606; and

(d) the [~~legislative~~] committee action phase as described in JR7-1-607.

(2) The chair, or the authorized legislative committee by majority vote, may elect to have the authorized legislative committee consider draft legislation in a manner different from the four phases described in this part.

Section 20. JR7-1-604 is amended to read:

JR7-1-604. Presentation phase.

(1) During the presentation phase:

(a) the chair shall permit the legislative sponsor of the draft legislation to present the draft legislation to the authorized legislative committee; and

(b) a member of the authorized legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation.

(2) At the election of the legislative sponsor, the chair shall allow another individual to assist with the legislative sponsor's presentation if the individual has expertise related to the draft legislation.

Section 21. JR7-1-605 is amended to read:

JR7-1-605. Clarifying questions phase.

(1) During the clarifying questions phase:

(a) the chair shall allow members of the authorized legislative committee to ask the legislative sponsor questions to help clarify:

(i) the intent or purpose of the draft legislation; or

(ii) the meaning of the language of the draft legislation; and

(b) a member of the authorized legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation.

(2) The chair shall allow the legislative sponsor to respond to any clarifying question from a member of the authorized legislative committee.

Section 22. JR7-1-606 is amended to read:

JR7-1-606. Public comment phase.

(1) Except as otherwise provided in this rule, during the public comment phase:

(a) the chair shall take comment from one or more members of the public; and

(b) a member of the authorized legislative committee may not make a motion to amend the draft legislation or dispose of the draft legislation.

(2) The chair, or the authorized legislative committee by majority vote, may preclude or terminate the public comment phase.

Section 23. JR7-1-607 is amended to read:

JR7-1-607. Committee action phase.

During the committee action phase, a member of the authorized legislative committee may make a motion authorized by this chapter, including a motion to amend the draft legislation or favorably recommend the draft legislation.

Section 24. JR7-1-608 is amended to read:

JR7-1-608. Motions related to draft legislation.

[~~A~~] An authorized legislative committee may approve one or more of the following motions with respect to draft legislation it considers:

(1) move to the next item on the agenda;

(2) amend the draft legislation, subject to the requirements of JR7-1-609; or

(3) favorably recommend the draft legislation as a committee bill.

Section 25. JR7-1-609 is amended to read:

JR7-1-609. Amending draft legislation -- Verbal amendments -- Amendments must be germane and clear.

(1) Subject to Subsection (2), when timely and when recognized by the chair, a member of [~~a~~] an authorized legislative committee may make a motion to amend the draft legislation under consideration.

(2) (a) A member of the authorized legislative committee may make a motion to amend the draft legislation only if the subject of the proposed amendment is germane to the subject of the draft legislation.

(b) If a member of the authorized legislative committee believes a proposed amendment is not germane to the subject of the draft legislation, the member may make a point of order in accordance with JR7-1-509.

(3) A member of the authorized legislative committee may make a motion for a verbal amendment only if the verbal amendment is sufficiently clear to allow the members of the authorized legislative committee to know how the draft legislation will read when the verbal amendment is incorporated into the draft legislation.

Section 26. JR7-1-610 is amended to read:

JR7-1-610. Committee bill files -- Effect of favorable recommendation -- Committee bill files without recommendation abandoned.

(1) After [~~a~~] an authorized legislative committee reviews draft legislation the authorized legislative committee may give the draft legislation a favorable recommendation.

(2) If [~~a~~] an authorized legislative committee gives draft legislation a favorable recommendation, the Office of Legislative Research and General Counsel shall:

(a) attach a committee note to the committee bill, as required under JR4-2-401; and

(b) assign the committee bill a bill number in accordance with JR4-2-501.

(3) (a) Except as provided in Subsection (3)(b), a committee bill file that does not receive a favorable recommendation [~~before December 31 of the~~] at the committee's last scheduled meeting of the calendar year in which the committee bill file was opened is abandoned.

(b) Subsection (3)(a) does not apply to a committee bill file opened by:

(i) the Administrative Rules Review Committee for the purpose of reauthorizing agency rules in accordance with Utah Code Section 63G-3-502; or

(ii) the Legislative Process Committee.

(4) (a) Nothing in this rule prohibits a legislator from making a request for legislation in the legislator's name to sponsor legislation that was abandoned in accordance with Subsection (3).

(b) A request for legislation described in Subsection (4)(a) is subject to the drafting priority described in JR4-2-102.

Section 27. JR7-1-611 is amended to read:

JR7-1-611. Assignment of committee bills -- Report on committee bills and study items.

(1) The chairs of each authorized legislative committee shall:

(a) assign each of the authorized legislative committee's bills a chief sponsor and a floor sponsor from the opposite chamber; and

(b) deliver to the Senate Rules Committee and the House Rules Committee a report that includes, for each of the authorized legislative committee's committee bills:

(i) the short title;

(ii) the chief sponsor;

(iii) the floor sponsor; and

(iv) how each member of the authorized legislative committee voted when the authorized legislative committee gave the committee bill a favorable recommendation, including whether a member was absent at the time of the vote.

(2) In addition to the items described in Subsection (1), the chairs of each interim committee shall deliver to the Legislative Management Committee:

(a) a copy of the report described in Subsection (1)(b); and

(b) the disposition of each issue assigned to or studied by the interim committee during the preceding calendar year.

(3) (a) The chairs of an interim committee shall comply with this rule on or before December 15.

(b) The chairs of [~~a special committee~~] an authorized legislative committee that is not an interim committee shall comply with this rule as soon as practicable.

H.J.R. 15
Passed March 2, 2022
Effective March 2, 2022

JOINT RESOLUTION RECOGNIZING THE EMPLOYMENT FIRST INITIATIVE

Chief Sponsor: Steve Eliason
Senate Sponsor: Chris H. Wilson

LONG TITLE

General Description:

This joint resolution recognizes the Employment First initiative as a means to preserve the dignity, self-esteem, and pride of individuals with a disability in Utah.

Highlighted Provisions:

This resolution:

- describes the Employment First initiative and the initiative's benefits;
- recognizes that individuals with a disability have the right to make choices with respect to where the individuals seek employment;
- supports collaboration between Utah state agencies, businesses, and organizations who provide employment services to individuals with a disability; and
- recognizes and promotes the guiding principles of the Employment First initiative.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the citizens of the state of Utah deserve the dignity and freedom to find work in the place of employment that best reflects the citizens' needs and skills;

WHEREAS, an individual's employment and work promote involvement and fellowship in other community activities;

WHEREAS, Employment First is an initiative affirming the philosophy that choice of an employment setting is a right of all individuals and a choice that should be made by the individual;

WHEREAS, the mission of Employment First is to establish opportunities for all working-age individuals with a disability to gain employment within a setting that meets the individuals' unique needs and skills, and to engage businesses and organizations that value the contributions of employees with a disability;

WHEREAS, implementation of Employment First ensures that individual preference, interest, and need are the guiding principles of determining appropriate employment settings;

WHEREAS, state agencies can adopt measurable goals and objectives to promote assessment of progress toward full implementation of Employment First:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah recognizes that an individual's choice of employment and work setting result in tangible and intangible benefits, including the enhancement of independence and economic self-sufficiency, a sense of purpose, dignity, self-esteem, accomplishment, and pride.

BE IT FURTHER RESOLVED that the Legislature recognizes that a diverse workforce enriches local communities, promotes a well-rounded working environment, and enhances economic development.

BE IT FURTHER RESOLVED that the Legislature recognizes that all individuals, including those with a disability, should have choices with respect to where the individuals seek employment and professional development.

BE IT FURTHER RESOLVED that the Legislature promotes the dignity, self-esteem, and economic self-sufficiency of working-age individuals with a disability by providing access to paid employment aligned with the individuals' interests, desires, and needs.

BE IT FURTHER RESOLVED that the Legislature encourages state agencies that provide services and support to individuals with a disability and agencies that provide employment and related services to collaborate to implement Employment First to ensure that state programs, policies, procedures, and funding support a full array of employment services.

H.J.R. 19

Passed March 4, 2022
Effective March 4, 2022

APPROPRIATIONS PROCEDURES JOINT RESOLUTION

Chief Sponsor: Jefferson Moss
Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This resolution enacts joint rules governing requests for appropriation and actions on proposed budget items.

Highlighted Provisions:

This resolution:

- defines "request for appropriation";
- with certain exceptions, prohibits inclusion of a request for appropriation in legislation unless certain requirements are met;
- allows a legislator to file a request for appropriation after the request deadline if the request is presented by a member of the Executive Appropriations Committee; and
- makes conforming amendments.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR3-2-101
JR3-2-701
JR3-2-702
JR3-2-703
JR3-2-704
JR3-2-810

Be it resolved by the Legislature of the state of Utah:

Section 1. JR3-2-101 is amended to read:

JR3-2-101. Definitions.

As used in this chapter:

(1) “Accountable process budget” means a budget that is created by starting from zero and adding line items and programs recommended through an accountable budget process.

(2) “Accountable budget process” means a review of a line item or program in a simple base budget to determine whether or the extent to which to recommend the line item or program be included in a budget for the upcoming fiscal year.

(3) “Base budget” means:

(a) an accountable process budget; or

(b) for a line item or program that was not the subject of an accountable process budget analysis during the immediately preceding interim, a simple base budget.

(4) “Chair” means:

(a) the chair of an appropriations subcommittee or the Executive Appropriations Committee; or

(b) a member of a joint appropriations subcommittee or the Executive Appropriations Committee member who is authorized to act as chair under JR3–2–303.

(5) “Committee” means a joint appropriations subcommittee or the Executive Appropriations Committee.

(6) “Majority vote” means a majority of a quorum as provided in JR3–2–404.

(7) “Original motion” means a non–privileged motion that is accepted by the chair when no other motion is pending.

(8) “Pending motion” refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or when the chair calls for a vote on the motion.

(9) (a) “Privileged motion” means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(b) “Privileged motions” are not substitute motions.

(10) (a) “Proposed budget item” means any funding item under consideration [~~by an appropriations committee~~] for inclusion in an appropriations bill.

(b) “Proposed budget item” includes a request for appropriation.

(11) “Request for appropriation” means a legislator request to:

(a) obtain funding for a project or program that has not previously been funded;

(b) significantly expand funding for an existing project or program; or

(c) obtain separate funding for a project or program.

[~~(11)~~] (12) (a) “Simple base budget” means amounts appropriated by the Legislature for each line item for the current fiscal year that:

(i) are not designated as one–time in an appropriation, regardless of whether the appropriation is covered by ongoing or one–time revenue sources; and

(ii) were not vetoed by the governor, unless the Legislature overrode the veto.

(b) “Simple base budget” includes:

(i) any changes to those amounts approved by the Executive Appropriations Committee; and

(ii) amounts appropriated for debt service.

[~~(12)~~] (13) “Substitute motion” means a non–privileged motion that is made when a non–privileged motion is pending.

[~~(13)~~] (14) “Under consideration” means the time starting when a chair opens a discussion on a subject or an appropriations request that is listed on a committee agenda and ending when the committee disposes of the subject or request, moves on to another item on the agenda, or adjourns.

Section 2. JR3-2-701 is amended to read:

JR3-2-701. Request for appropriation -- Contents -- Timing.

(1) (a) A legislator [~~wishing to obtain funding for a project or program that has not previously been funded, or to obtain additional or separate funding for a project or program, shall~~] intending to file a request for appropriation shall file the request for appropriation with the Office of the Legislative Fiscal Analyst in accordance with this rule.

(b) Except for an amendment to a proposed budget item described in JR3–2–703, a committee may not adopt, recommend, or prioritize a request for appropriation that is not filed or generated in accordance with this rule.

[~~(b)~~] (c) A legislator may not file a request for appropriation if the request is intended to fund the fiscal impact of legislation.

[~~(c)~~] (d) The Office of the Legislative Fiscal Analyst shall automatically generate a request for appropriation to fund the fiscal impact of legislation if:

(i) the legislation has an expenditure impact of $1,000,000 or more from the General Fund or the Education Fund; and

(ii) the Office of the Legislative Fiscal Analyst knows the fiscal impact of the legislation before the deadline described in Subsection (3)(a).

(2) (a) A legislator may file a request for appropriation beginning 60 days after the day on which the Legislature adjourns its annual general session sine die.

(b) A legislator–elect may file a request for appropriation beginning on:

(i) the day after the day on which the election canvass is complete; or

(ii) if the legislator-elect's election results have not been finalized as of the canvass date, the day after the day on which the election results for the legislator-elect's race are final.

(c) An incumbent legislator may not file a request for appropriation as of the date that the legislator:

(i) fails to file to run for reelection;

(ii) resigns or is removed from office; or

(iii) is ineligible to be included on the ballot for the election in which the legislator would have sought an additional term.

(3) (a) Except as provided in Subsection (3)(b), a legislator may not file a request for appropriation with the Office of the Legislative Fiscal Analyst after noon on the 11th day of the annual general session.

(b) After the date established by this Subsection (3), a legislator may file a request for appropriation if:

(i) for a request by a House member, the representative makes a motion to file a request for appropriation and that motion is approved by a constitutional majority of the House; [~~or~~]

(ii) for a request by a senator, the senator makes a motion to file a request for appropriation and that motion is approved by a constitutional majority vote of the Senate[~~.~~]; or

(iii) a member of the Executive Appropriations Committee has presented the request at a public meeting of the Executive Appropriations Committee.

(4) A legislator who files a request for appropriation:

(a) is the chief sponsor; and

(b) shall provide the following information related to the project or program that is the subject of the request for appropriation:

(i) the name and a description of the project or program;

(ii) the statewide purpose of the project or program;

(iii) if applicable, the legislator's designee who is knowledgeable about and responsible for providing pertinent information while the Office of the Legislative Fiscal Analyst processes the request;

(iv) the state funding source from which the legislator proposes to fund the project or program;

(v) the amount of the request and whether the amount is to be appropriated one-time, ongoing, or a combination of one-time and ongoing;

(vi) an itemized budget for the project or program;

(vii) the state agency that has jurisdiction over the project or program;

(viii) if the request is for pass through funding that a state agency will distribute, the type of entity or organization the legislator intends to receive the funding;

(ix) the scalability of the project or program; and

(x) one or more outcomes the legislator expects the project or program to achieve.

Section 3. JR3-2-702 is amended to read:

JR3-2-702. Review and referral of requests for appropriation.

(1) (a) The legislative fiscal analyst shall review each request for appropriation.

(b) If the request for appropriation requires that a statute be enacted, amended, or repealed, the legislative fiscal analyst shall immediately transfer the request to the Office of Legislative Research and General Counsel as a request for legislation.

(c) If the request for appropriation contains each item described in JR3-2-701(4) and does not require that a statute be enacted, amended, or repealed, the legislative fiscal analyst shall number, title, and refer the request for appropriation to:

(i) the House chair of the Executive Appropriations Committee, if the sponsor is a House member; or

(ii) the Senate chair of the Executive Appropriations Committee, if the sponsor is a Senate member.

(2) The House or Senate chair of the Executive Appropriations Committee shall refer the request for appropriation to the joint appropriations subcommittee with oversight responsibility or to the Executive Appropriations Committee.

(3) Each joint appropriations subcommittee that receives a request for appropriation shall:

(a) allow the sponsor to present and discuss the request for appropriation with the subcommittee;

(b) discuss the request for appropriation; and

(c) do one of the following:

(i) include all or part of the [~~requested appropriation~~] request for appropriation in the budget recommendation made by the subcommittee or the Executive Appropriations Committee;

(ii) reject the request for appropriation; or

(iii) recommend to the Executive Appropriations Committee that all or part of the requested appropriation be placed on a funding prioritization list.

Section 4. JR3-2-703 is amended to read:

JR3-2-703. Amending proposed budget items -- Amendments must be germane.

(1) (a) Except as provided in Subsection (2), and if recognized by the chair, a committee member may make a motion to amend a proposed budget item [~~or request for appropriation~~] that is under consideration.

(b) (i) A committee member may propose a verbal amendment to a proposed budget item [~~or request for appropriation~~] under consideration if the amendment contains 15 or fewer words.

(ii) Before proposing a motion to amend, a committee member shall ensure that a proposed amendment that contains more than 15 words is printed and distributed to committee staff and to all committee members present.

(2) (a) A committee member may only make a motion to amend that is germane to the proposed budget item [~~or request for appropriation~~] under consideration.

(b) A committee member who believes that an amendment is not germane to the subject of the proposed budget item [~~or request for appropriation~~] may make a point of order or appeal as described in JR3-2-806.

Section 5. JR3-2-704 is amended to read:

JR3-2-704. Reconsideration of action.

(1) Except as provided in Subsection (2), and if recognized by the chair, a committee member may make a motion to reconsider the committee's action on a proposed budget item [~~or request for appropriation~~] if the proposed budget item [~~or request for appropriation~~] is:

(a) assigned to the committee; and

(b) listed on the committee agenda as required by Utah Code Title 52, Chapter 4, Open and Public Meetings Act.

(2) A committee may not reconsider its action:

(a) more than once in a meeting; and

(b) until the committee has considered other committee business.

Section 6. JR3-2-810 is amended to read:

JR3-2-810. Repeating defeated motion.

(1) Except as provided in Subsection (2), a motion that is defeated may not be made by a committee member until the committee has considered other committee business.

(2) A motion to postpone a proposed budget item [~~or a request for appropriation~~] to a day certain, if defeated, may not be made again by any committee member during the same committee meeting.

H.R. 2
Passed March 1, 2022
Effective March 1, 2022

HOUSE RULES RESOLUTION - AMENDMENTS TO HOUSERULES

Chief Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This rules resolution modifies House rules.

Highlighted Provisions:

This resolution:

- defines terms;
- clarifies the number of votes required to adopt, amend, or suspend House rules;
- modifies a provision related to news media access to certain areas of the House;
- requires the committee chair's permission before news media may enter the area behind the dais in a committee room;
- eliminates the House Rules Committee's ability to recommend that a nonbinding resolution be placed on the consent calendar;
- prohibits a standing committee from considering legislation if a legislative sponsor is not present;
- modifies who is permitted on the House floor;
- modifies who may assist a representative sponsoring legislation while the legislation is being debated by the House;
- clarifies the process by which legislation is reassigned from a standing committee;
- for legislation on the concurrence calendar, clarifies when a motion to reconsider the final vote is in order;
- provides the voting requirements for a motion to circle legislation and a motion to uncircle legislation;
- clarifies the number of votes required for a motion to pass; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

HR1-1-101
HR2-4-101
HR2-4-101.2
HR3-1-102
HR3-2-101
HR3-2-305
HR3-2-306
HR4-1-101
HR4-3-102
HR4-4-401
HR4-6-202
HR4-7-102

ENACTS:

HR1-9-102

RENUMBERS AND AMENDS:

HR1-9-101, (Renumbered from HR2-4-105)

Be it resolved by the House of Representatives of the state of Utah:

Section 1. HR1-1-101 is amended to read:

HR1-1-101. Adoption, amendment, or suspension of House Rules.

(1) The House of Representatives shall adopt House rules, by a constitutional two-thirds vote, at the beginning of each new Legislature convening in odd-numbered years.

(2) Except as provided in this rule:

(a) (i) during an annual general session held in an even-numbered year, rules adopted by the House of Representatives during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the House; and

(ii) during any special session, House rules apply as provided in JR2-1-101.

(b) for a session described in this Subsection (2), the chief clerk shall announce to the House that the previously adopted rules apply to the newly convened session.

(3) (a) Except as otherwise provided in [~~Subsection (4)~~] this Subsection (3), additional rules may be adopted and existing rules may be suspended, amended, or repealed by a majority vote[~~, except the following, which~~].

(b) The following rules require a two-thirds vote to [~~adopt, suspend, amend, or repeal~~] suspend:

[~~(a)~~] (i) rules governing limitation of debate;

[~~(b)~~] (ii) rules governing a motion to end debate (call the previous question);

[~~(c)~~] (iii) rules governing motions for lifting tabled legislation from committee;

[~~(d)~~] (iv) rules governing consideration or reconsideration of legislation during the last three days of a session; [~~and~~]

[~~(e)~~] (v) rules governing voting in Title 4, Chapter 7, Voting; and

(vi) rules that include a two-thirds voting requirement.

[~~(4) (a) A rule that includes a voting requirement of more than a constitutional majority must be adopted and may only be amended, suspended, or repealed by a constitutional two-thirds vote of all representatives.~~]

(c) A rule that includes a constitutional majority voting requirement may only be suspended by a constitutional majority vote.

(d) A rule that includes a constitutional two-thirds voting requirement may only be suspended by a constitutional two-thirds vote.

[~~(b)~~] (e) If the suspension of any House rule is governed by the Utah Constitution or Utah statutes, the House may suspend that rule only as provided by that constitutional or statutory provision.

[~~(5)~~] (4) If a motion to adopt the rules under Subsection (1) meets or exceeds a majority vote but fails to reach a constitutional two-thirds vote:

(a) rules adopted by the House of Representatives during the immediately preceding general session, as amended during that general session and any intervening session, apply to the conduct of the House; and

(b) the chief clerk shall announce to the House that the previously adopted rules apply to the newly convened Legislature.

Section 2. HR1-9-101, which is renumbered from Section HR2-4-105 is renumbered and amended to read:

CHAPTER 9. NEWS MEDIA

[~~HR2-4-105~~]. HR1-9-101. News media -- House chamber and designated House areas.

[~~(1) (a) News media with House press credentials shall be admitted to the House chamber, halls, and committee rooms.~~]

(1) (a) News media may access non-public areas of the House, including the chamber, halls, and conference rooms, if the news media:

(i) have permission from the speaker or the speaker's designee; and

(ii) hold a Utah Capitol media credential.

(b) While the House is convened in the House [~~chambers~~] chamber, news media shall remain in the area designated for the news media and may not enter the floor of the House, the circle, lounge, or the speaker's dais.

(2) (a) With permission of the speaker or the speaker's designee, the news media may conduct and record interviews in the House lounge, halls, available committee rooms, or in the House chamber or gallery.

(b) When conducting an interview in the House chamber, the news media may enter the chamber for the purpose of conducting a specific interview and shall exit the chamber promptly after completing the interview.

(3) A representative may not hold a press conference in the House chamber without the permission of the speaker of the House.

(4) News media shall also comply with the other provisions in HR2-4-102 and HR2-4-103.

(5) The sergeant-at-arms, under the direction of the speaker, shall enforce the requirements of this rule.

Section 3. HR1-9-102 is enacted to read:

HR1-9-102. News media access -- House committees.

When present for a meeting of a House standing committee or any other special committee of the House, news media may not enter the area behind the dais without the permission of the committee chair.

Section 4. HR2-4-101 is amended to read:

HR2-4-101. Definitions.

As used in this chapter:

(1) "Department head" means the same as that term is defined in Utah Code Section 63A-17-807 or a department head's designee.

[~~(1)~~] (2) "Former legislator" means a person who is not a current member of the Legislature, but who served in the Utah House or Utah Senate at one time.

[~~(2)~~] (3) (a) "Guest" means an individual who is afforded access to the House space under a provision of this chapter, who is not an individual described in Subsection [~~(2)~~] (3)(c) or a special guest as described under HR2-4-101.2(5).

(b) "Guest" includes:

(i) the governor, the lieutenant governor, the state attorney general, the state treasurer, the state auditor, and governor's staff; and

(ii) a former legislator who is an individual described in Subsection [~~(2)~~] (3)(b)(i).

(c) "Guest" does not mean a legislator, a member of House or Senate staff, a member of professional legislative staff, a House intern, or a lobbyist.

[~~(3)~~] (4) "House conference rooms" means one of the conference rooms adjacent to the House lounge, speaker's office, or the majority caucus room.

[~~(4)~~] (5) "House halls" means the passageways that allow access to:

(a) the House chamber;

(b) the House lounge;

(c) the House offices; or

(d) any other nonpublic areas adjoining the House chamber.

[~~(5)~~] (6) "House intern" means an individual who is:

(a) an official participant in the student intern program sponsored by the Utah Legislature and administered by the Office of Legislative Research and General Counsel; and

(b) is assigned to a representative.

[~~(6)~~] (7) "House offices" means:

(a) Representatives' offices adjacent to the House chamber;

(b) Representatives' offices on the third and fourth floors of the capitol building;

(c) Representatives' offices in the House building; and

(d) kitchens, restrooms, elevators, and any auxiliary rooms in the nonpublic areas connected with the offices listed above.

[~~(7)~~] (8) "House or Senate staff" means an individual who is employed directly by the House or Senate.

[~~(8)~~] (9) (a) "House space" means the House chamber, House lounge, House offices, House halls, and House conference rooms.

(b) "House space" does not mean the common public space outside the House chamber.

[~~(9)~~] (10) "Immediate family" means any parent, spouse, child, grandparent, grandchild, great-grandparent, great-grandchild, sibling, aunt, uncle, niece, or nephew of a member of the House, provided that the individual is not a lobbyist.

[~~(10)~~] (11) "Lobbying" means communicating with a legislator for the purpose of influencing the passage, defeat, amendment, or postponement of legislative action.

[~~(11)~~] (12) "Lobbyist" means an individual who is required to register as a lobbyist by Utah Code Section 36-11-103.

[~~(12)~~] (13) "Professional legislative staff" means an individual employed by one of the Legislature's profession-based staff offices, namely the Office of Legislative Research and General Counsel, the Office of the Legislative Fiscal Analyst, the Office of the Legislative Auditor General, or the Office of Legislative Printing.

Section 5. HR2-4-101.2 is amended to read:

HR2-4-101.2. Admittance to House floor -- Prohibition against lobbying.

[~~(1) Except as otherwise provided in this rule, while the House is convened in annual general session or special session, only the following individuals are permitted on the House floor:~~]

[~~(a) a legislator;~~]

[~~(b) a member of House or Senate staff;~~]

[~~(c) a member of professional legislative staff;~~]

[~~(d) a House intern; and~~]

[~~(e) a former legislator who is not:~~]

[~~(i) a lobbyist; or~~]

[~~(ii) the governor, lieutenant governor, state attorney general, state treasurer, or state auditor.~~]

(1) Subject to the requirements of this rule, while the House is convened in annual general session or special session, only the following individuals are permitted on the House floor:

(a) a legislator;

(b) a member of House or Senate staff;

(c) a member of professional legislative staff;

(d) a House intern;

(e) a former legislator who is not:

(i) a lobbyist; or

(ii) the governor, lieutenant governor, state attorney general, state treasurer, or state auditor;

(f) a guest; and

(g) a department head.

(2) (a) While the House is convened in annual general session or special session, a representative may invite one guest who is not a lobbyist to accompany the representative on the House floor, provided that:

(i) the guest sits next to the representative;

(ii) the representative ensures that the guest does not impede staff work, distract from the work of the House, or encroach on a neighboring representative's desk;

(iii) the guest complies with the requirements of this rule, HR2-4-102, and HR2-4-103; and

(iv) no representative objects.

(b) A representative may have no more than one guest on the House floor at any one time.

[~~(3) A lobbyist, a guest, or an individual described in Subsection (1)(e) is prohibited from lobbying on the House floor.~~]

(c) An individual described in Subsections (1)(e) through (g) is prohibited from lobbying on the House floor.

[~~(4) (a) Except as provided in this Subsection (4), a~~]

(3) While the House is convened in annual general session or special session, a lobbyist is not permitted on the House floor.

[~~(b) A representative sponsoring a piece of legislation being debated by the House may invite one lobbyist with expertise on the legislation being considered to be present on the House floor during the presentation and debate on the legislation, if:~~]

[~~(i) the representative informs the sergeant-at-arms that the lobbyist is present on the House floor;~~]

[~~(ii) the representative ensures that the lobbyist is seated on a bench on the House floor during the presentation and debate on the legislation;~~]

[~~(iii) the representative ensures that the lobbyist does not engage in lobbying on the House floor; and~~]

[~~(iv) the lobbyist leaves the House floor when the House moves to another item of business.~~]

[~~(c) If the representative sponsoring the legislation needs the assistance of the lobbyist during the course of debate on the legislation, the representative may request permission of the speaker to have the lobbyist approach the representative sponsoring the legislation to provide the needed information to the representative.~~]

[~~(5)~~] (4) The speaker or the speaker's designee may authorize special guests to be present in the House chamber or on the House floor.

(5) (a) A representative sponsoring a piece of legislation being debated by the House may, with the permission of the speaker, invite one department head with expertise on the legislation to assist the sponsor during the course of debate.

(b) A representative who invites a department head to assist the representative under Subsection (5)(a) shall ensure that the department head:

(i) does not engage in lobbying while on the House floor; and

(ii) promptly exits the House floor when the House moves to another item of business.

Section 6. HR3-1-102 is amended to read:

HR3-1-102. House Rules Committee -- Assignment duties.

(1) The presiding officer shall submit all legislation introduced in the House of Representatives to the House Rules Committee.

(2) For all legislation not specified in HR3-1-103 that is referred to the House Rules Committee, the committee shall examine the legislation referred to it for proper form, including fiscal note and committee note, if any, and either:

(a) refer the legislation to the House with a recommendation that the legislation be:

(i) referred to a standing committee for consideration; or

(ii) read the second time and placed on the third reading calendar if the legislation:

(A) [~~the bill~~] has received a favorable recommendation from a House standing committee;

(B) [~~the bill~~] is exempted from the House standing committee review requirements under HR3-2-401;

(C) [~~the bill~~] has received a favorable recommendation from the House Rules Committee meeting as a standing committee as permitted under HR3-1-101; or

[~~(D) if the legislation is a nonbinding resolution as defined in HR3-2-405, read the second time and placed on the consent calendar; or~~]

[~~(E)~~] (D) [~~the legislation~~] was approved by a unanimous vote of the members present at an interim committee meeting and met the posting requirements of JR7-1-602.5; or

(b) hold the legislation.

(3) If the chair of the House Rules Committee receives a summary report from the Occupational and Professional Licensure Review Committee related to newly regulating an occupation or profession within the two calendar years immediately preceding the session in which a piece of legislation is introduced related to the regulation by the Division of Occupational and Professional Licensing of that occupation or profession:

(a) the chair of the House Rules Committee shall ensure that the House Rules Committee is informed of the summary report before the House Rules Committee takes action on the legislation; and

(b) if the House Rules Committee refers the legislation to the House as provided for in Subsection (2)(a):

(i) the Office of Legislative Research and General Counsel shall make the summary report reasonably available to the public and to legislators; and

(ii) if the legislation is referred to a standing committee, the House Rules Committee shall forward the summary report to the standing committee.

(4) In carrying out [~~its~~] the House Rules Committee's functions and responsibilities under this rule, the [~~House Rules Committee~~] committee may not:

(a) table legislation without the written consent of the sponsor;

(b) report out any legislation that has been tabled by a standing committee;

(c) amend legislation without the written consent of the sponsor; or

(d) substitute legislation without the written consent of the sponsor.

(5) The House Rules Committee may recommend a time certain for floor consideration of any legislation when it is reported out of the House Rules Committee, or at any other time.

(6) When the [~~committee~~] House Rules Committee is carrying out [~~its~~] the committee's functions and responsibilities under this rule, the committee shall:

(a) when the Legislature is in session, give notice of [~~its~~] the committee's meetings according to the requirements of HR3-1-106;

(b) when the Legislature is not in session, post a notice of meeting at least 24 hours before the meeting convenes;

(c) have as [~~its~~] the committee's agenda all legislation in [~~its~~] the committee's possession for assignment to committee or to the House calendars; and

(d) prepare minutes that include a record, by individual representative, of votes taken.

(7) House Rules Committee meetings are open to the public, but comments and discussion are limited to members of the committee and the committee's staff.

Section 7. HR3-2-101 is amended to read:

HR3-2-101. Definitions.

As used in this chapter:

(1) "Chair" means:

(a) the chair of a standing committee; or

(b) a standing committee member who is authorized to act as chair under HR3-2-202.

(2) "Committee" means a standing committee created under HR3-2-201.

(3) "Dispose of legislation" refers to a committee action that transfers ownership of legislation to the House Rules Committee, to another standing committee, or to the House floor.

(4) "Favorable recommendation" refers to a committee action that transfers ownership of legislation to the House second reading calendar.

(5) "Legislation" means a Senate bill, House bill, Senate resolution, House resolution, joint resolution, or concurrent resolution.

(6) "Legislative sponsor" means:

(a) the chief sponsor; or

(b) the legislator designated by the chief sponsor to be the opposite chamber floor sponsor.

[~~(6)~~] (7) "Majority vote" means a majority of a quorum as provided in HR3-2-203.

[~~(7)~~] (8) "Original motion" means a non-privileged motion that is accepted by the chair when no other motion is pending.

[~~(8)~~] (9) "Pending motion" refers to a motion starting when a chair accepts a motion and ending when the motion is withdrawn or when the chair calls for a vote on the motion.

[~~(9)~~] (10) (a) "Privileged motion" means a procedural motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

(b) Privileged motions are not substitute motions.

[~~(10)~~] (11) "Substitute motion" means a non-privileged motion that is made when an original motion is pending.

[~~(11)~~] (12) "Under consideration" means the time starting when a chair opens a discussion on a subject or piece of legislation that is listed on a committee agenda and ending when the committee disposes of the legislation, moves on to another item on the agenda, or adjourns.

Section 8. HR3-2-305 is amended to read:

HR3-2-305. Four phases when considering legislation.

(1) Legislation under consideration by a standing committee is subject to four distinct phases during a committee meeting:

[~~(1)~~] (a) the sponsor's presentation as provided in HR3-2-306;

[~~(2)~~] (b) clarifying questions as provided in HR3-2-307;

[~~(3)~~] (c) public comment as provided in HR3-2-308; and

[~~(4)~~] (d) committee action as provided in HR3-2-309.

(2) A standing committee may not consider legislation unless the legislative sponsor is present.

Section 9. HR3-2-306 is amended to read:

HR3-2-306. Sponsor presentation.

(1) Except as provided in Subsection (2), during the presentation phase, a committee member may not amend legislation, substitute legislation, or dispose of legislation. All other motions are in order during the presentation phase.

(2) During the presentation phase of a committee meeting, the chair may accept a simple motion to amend legislation if the chair permits:

(a) committee questions and debate;

(b) public comment as provided in HR3-2-308;

(c) the sponsor of the legislation affected by the amendment to respond to the motion to amend; and

(d) the committee member who made the motion to amend to have the final word on the motion as required under HR3-2-313.

(3) During the presentation phase of a standing committee meeting, the chair shall:

(a) permit the [~~chief sponsor or the legislator designated by the chief sponsor to be the floor sponsor in the opposite house~~] legislative sponsor to present the [~~chief~~] sponsor's legislation; and

(b) except as provided in Subsection (4), and at the election of [~~a~~] the legislative sponsor, permit persons who have expertise on the legislation to assist with the presentation as provided in HR3-2-304.

(4) The chair may not permit[~~: (a) legislation to be presented if the legislative sponsor is not present; or (b) legislative interns or legislative aides~~] a legislative intern or a legislative aide to present legislation.

Section 10. HR4-1-101 is amended to read:

HR4-1-101. Definitions.

As used in this title:

(1) "Appropriations bill" means a bill that appropriates money and makes no change to statute.

(2) "Constitutional majority vote" means [~~that the matter requires at least 38 votes to pass on the House floor~~] an affirmative vote of at least 38 members.

(3) "Constitutional two-thirds vote" means [~~that the matter requires at least 50 votes to pass on the House floor~~] an affirmative vote of at least 50 members.

(4) "Majority vote" means [~~that the matter requires the votes of at least a majority of a quorum to pass on the House floor~~], while a quorum is present, an affirmative vote of a majority of the members present.

(5) "Two-thirds vote" means [~~that the matter requires the vote of at least two-thirds of a quorum to pass on the House floor~~], while a quorum is present, an affirmative vote of at least two-thirds of the members present.

(6) "Point of order" means a question raised by a representative about whether or not there has been a breach of order, a breach of rules, or a breach of established parliamentary practice.

(7) "Presiding officer" means the person presiding over the Utah House of Representatives and includes:

(a) the speaker;

(b) the speaker pro tempore; and

(c) any representative presiding under HR1-3-103.

(8) "Quorum" means that at least 38 members of the House of Representatives are present.

Section 11. HR4-3-102 is amended to read:

HR4-3-102. Reassigning legislation assigned to a standing committee.

(1) Legislation that has been assigned to a standing committee may be [~~assigned~~] reassigned to the Rules committee or a different standing committee by:

[~~(1)~~] (a) the presiding officer, subject to Subsection (2);

[~~(2)~~] (b) the House of Representatives by majority vote upon motion from the floor; or

[~~(3)~~] (c) the House of Representatives by majority vote if the committee to which the legislation was assigned recommends in [~~its committee~~] the committee's report that the legislation be [~~returned to the House Rules Committee~~] reassigned to a different committee.

(2) Before the presiding officer reassigns legislation under Subsection (1)(a), the presiding officer shall announce on the floor the committee to which the presiding officer intends to reassign the legislation.

Section 12. HR4-4-401 is amended to read:

HR4-4-401. Concurrence calendar.

(1) After the chief clerk or the chief clerk's designee reads the transmittal letter from the Senate informing the House that the Senate has amended a piece of House legislation, the presiding officer shall place the legislation on the concurrence calendar.

(2) (a) During the first 43 days of the annual general session, the legislation shall remain on the concurrence calendar for at least one legislative day before the House may consider the question of concurrence.

(b) During the last two days of the annual general session, and during any special session, the House may consider legislation for concurrence after the House has been given a reasonable time to review the Senate amendments.

(3) (a) When presenting legislation to the House for concurrence, the presiding officer shall ask the sponsor of the legislation for a motion.

(b) The sponsor of the legislation may move to either:

(i) concur with the Senate amendments; or

(ii) refuse to concur with the Senate amendments and ask the Senate to recede from [~~their~~] its amendments.

(4) (a) If a motion to concur with the Senate amendments passes by majority vote, the presiding officer shall open the vote on final passage of the legislation.

(b) (i) If a motion to concur with the Senate amendments passes by a majority vote but the legislation fails to pass the final vote:

[~~(i)~~] (A) except as provided in Subsection (4)(b)(ii), a motion to reconsider the final vote on the legislation is in order; and

[~~(ii)~~] (B) if a motion to reconsider the final vote on the legislation is successful, the legislation shall be placed on the concurrence calendar and a motion to reconsider the vote to concur with the Senate amendments is in order.

(ii) As provided in HR4-9-103(4)(c), the House may not reconsider legislation under this Subsection (4) if the House previously voted to reconsider a final vote on the legislation.

(c) If a motion to concur with the Senate amendments fails, a motion to refuse to concur with the Senate amendments and ask the Senate to recede from its amendments is in order.

(5) If a motion to refuse to concur with the Senate amendments and ask the Senate to recede from its amendments passes by a majority vote:

(a) the chief clerk shall return the legislation to the Senate for its further action; and

(b) if the Senate refuses to recede, the Senate and House shall follow the procedures and requirements of [~~JR3-2-601~~] JR3-2-901 relating to the appointment of a conference committee.

Section 13. HR4-6-202 is amended to read:

HR4-6-202. Motion to circle.

(1) A motion to circle legislation holds the legislation in place on the calendar.

(2) (a) A motion to circle preserves all amendments to the legislation already adopted by the House.

(b) A motion to circle extinguishes all amendments pending at the time that the motion is made.

(3) Legislation that has been circled may only be uncircled by [~~the~~]:

(a) the chief House sponsor of the legislation; or

(b) the representative designated by the chief Senate sponsor to be the House floor sponsor of the legislation.

(4) When a motion to uncircle is made:

(a) amendments already adopted by the House are part of the legislation; and

(b) any pending motions to amend at the time the legislation was circled are extinguished and a new motion to amend must be made in order to revive them.

(5) A motion to circle and a motion to uncircle require a majority vote to pass.

Section 14. HR4-7-102 is amended to read:

HR4-7-102. Number of votes required for passage.

[~~(1)~~] Unless otherwise specified in these rules:

[~~(a)~~] (1) each piece of legislation requires a constitutional majority vote -- 38 votes -- to pass;

[~~(b)~~] (2) amendments to the Utah Constitution, legislation that is intended to take effect earlier than 60 days after adjournment of the session in which it passes, amendments to court rules, and certain motions specified in these rules require a constitutional two-thirds vote -- 50 votes -- to pass; and

[~~(c) certain motions require a two-thirds vote -- two-thirds of those present -- to pass; and~~]

[~~(d) other motions require a majority vote -- a majority of those present -- to pass.~~]

(3) a motion requires a majority vote to pass.

[~~(2) The House may only suspend a rule requiring that a motion must receive a two-thirds vote or a constitutional two-thirds vote to pass by a two-thirds vote.~~]

S.C.R. 1
Passed March 3, 2022
Approved March 22, 2022
Effective March 22, 2022

CONCURRENT RESOLUTION AUTHORIZING STATE PICKUP OF PUBLIC SAFETY AND FIREFIGHTER EMPLOYEE RETIREMENT CONTRIBUTIONS

Chief Sponsor: Wayne A. Harper
House Sponsor: Ryan D. Wilcox

LONG TITLE

General Description:

This concurrent resolution increases the employer pick up of certain employee contributions required for state employees who are eligible for and participate as members in the New Public Safety and Firefighter Tier II Contributory Retirement System.

Highlighted Provisions:

This resolution:

- declares that the state will prospectively pick up and pay required employee contributions up to a maximum of 2.59% of each employee's compensation for all state employees who are members of the New Public Safety and Firefighter Tier II Contributory Retirement System;
- includes provisions relating to the employer pick up; and
- provides that an equal nonelective contribution will be made to public safety and firefighters who are members of the Tier II Defined Contribution Plan.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, agencies of the state employ employees who are eligible for and participate as members in the New Public Safety and Firefighter Tier II Contributory Retirement System administered by the Utah Retirement Systems;

WHEREAS, in accordance with federal and state law, including Section 414(h)(2) of the Internal Revenue Code, employers may take formal action to pick up required employee contributions, which will be paid by the employer in lieu of employee contributions;

WHEREAS, the state, in the 2020 General Session through H.C.R. 9, Concurrent Resolution Authorizing Pick Up of Public Safety and Firefighter Employee Retirement Contributions, took action to formally pick up a maximum of 2% of an employee's compensation, which represents a portion of the employee contributions required to be paid under Subsection 49-23-301(2), for all state employees participating in the New Public Safety and Firefighters Tier II Contributory Retirement System;

WHEREAS, the state now desires to pick up an additional amount of the employee contribution required to be paid under Subsection 49-23-301(2) for all state employees participating in the New Public Safety and Firefighter Tier II Contributory Retirement System;

WHEREAS, the state is required under Subsection 49-23-401(1)(b) to make an equal nonelective contribution to a public safety or firefighter employee who is a member of the Tier II Defined Contribution Plan;

WHEREAS, the Legislature and the Governor are duly authorized to take this formal action on behalf of the state as a participating employer with the Utah Retirement Systems:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, declares that beginning July 1, 2022, the state, on behalf of the state's agencies, shall prospectively pick up and pay required employee contributions for all state employees who are members of the New Public Safety and Firefighter Tier II Contributory Retirement System, subject to a maximum of 2.59% of compensation for each employee.

BE IT FURTHER RESOLVED that the picked up contributions paid by the employer, even though designated as employee contributions for state law purposes, are being paid by the state on behalf of the state's agencies in lieu of the required employee contributions.

BE IT FURTHER RESOLVED that the picked up contributions will not be included in the gross income of the employees for tax reporting purposes, that is, for federal or state income tax withholding, until distributed from the Utah Retirement Systems, so that the contributions are treated as employer contributions pursuant to Section 414(h)(2) of the Internal Revenue Code.

BE IT FURTHER RESOLVED that the picked up contributions are a supplement and not a salary reduction to the state employees who are eligible for and participating members in the New Public Safety and Firefighter Tier II Contributory Retirement System.

BE IT FURTHER RESOLVED that, from and after the date of this pick up, a state employee may not have a cash or deferred election right with respect to the designated employee contributions, including that an employee may not be permitted to opt out of the pick up and may not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the state on behalf of the state's employees to the Utah Retirement Systems.

BE IT FURTHER RESOLVED that the state will make an equal nonelective contribution to the public safety and firefighter employees who are members of the Tier II Defined Contribution Plan.

S.C.R. 2

Passed February 11, 2022
Approved February 17, 2022
Effective February 17, 2022

CONCURRENT RESOLUTION HIGHLIGHTING UTAH'S WILLINGNESS TO COOPERATE WITH THE FEDERAL PARTNERS FOR EFFICIENT AND SUSTAINABLE MANAGEMENT OF PUBLIC LANDS

Chief Sponsor: Ronald M. Winterton
House Sponsor: Keven J. Stratton

LONG TITLE

General Description:

This resolution recognizes the need for and encourages cooperation and coordination between the state of Utah and relevant federal agencies to manage more efficiently the resources and lands of the state of Utah.

Highlighted Provisions:

This resolution:

- recognizes the goals of the federal government to protect natural resources, lands, and waters of the nation;
- recognizes that a high percentage of lands in Utah are managed by the federal government;
- recognizes that Utah has a strong history of responsible stewardship over public lands in Utah;
- recognizes that the ongoing drought and other conditions in the state of Utah require stronger and more immediate response to properly manage the resources and public lands in the state of Utah;
- recognizes certain aspects of the management of the resources in the state of Utah have failed to properly preserve the resources and protect the citizens of the state of Utah; and
- encourages greater cooperation and coordination between the state of Utah and relevant federal agencies to improve the management and protection of the resources of the state of Utah.

Special Clauses:
None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, President Joseph R. Biden's Executive Order 14008 sets a goal of conserving at least 30% of America's land and water resources by the year 2030;

WHEREAS, the United States Department of the Interior, United States Department of Agriculture, United States Department of Commerce, and the Council on Environmental Quality released the Conserving and Restoring America the Beautiful Report on May 6, 2021, that similarly sets a goal of conserving 30% of America's lands and water resources by the year 2030;

WHEREAS, the Conserving and Restoring America the Beautiful Report acknowledges that land and water stewardship by private property owners, states, and local governments demonstrates that the most effective and enduring conservation strategies are those that reflect the priorities, needs, and perspectives of the families and communities that know, live, work, and care for the lands and waters;

WHEREAS, approximately 23% of Utah, or 12,628,600 acres, receives the highest level of protection available as national parks, wilderness areas, national monuments, and other highly restricted Federal lands;

WHEREAS, a host of different federal statutes, including the National Environmental Policy Act, the Federal Land Policy and Management Act, the National Forests Management Act, the National Park Service Organic Act, the Antiquities Act, the Taylor Grazing Act, the Clean Air Act, the Clean Water Act, the Archeological Resources Protection Act, the National Historic Preservation Act, and others provide varying layers of protections for America's lands, waters, air, and cultural resources;

WHEREAS, the people of Utah have a long history of successful stewardship over Utah's lands and waters;

WHEREAS, Utah is currently suffering from extreme drought through much of the state;

WHEREAS, decades of wildfire suppression and a dearth of timber harvest have led to a growing problem of catastrophic wildfires throughout Utah;

WHEREAS, bark beetle infestations have caused significant tree mortality in many of Utah's forests;

WHEREAS, changes in Utah's vegetation cover, including the encroachment of coniferous trees into aspen forests and sagebrush rangelands, has degraded habitat for wildlife and domestic livestock;

WHEREAS, the state of Utah, in cooperation with federal partners, is successfully working to restore sagebrush and aspen habitat through Utah through the Watershed Restoration Initiative;

WHEREAS, the state of Utah is actively working with the United States Forest Service, Natural Resources Conservation Service, and other partners through the Shared Stewardship Program to reduce the risk of catastrophic wildfires and protect Utah's critical water sources;

WHEREAS, the state of Utah's Endangered Species Mitigation Fund successfully directs conservation efforts to assist in the recovery of threatened and endangered species leading to the downlisting of species including: June sucker, humpback chub, razorback sucker, Kanab ambersnail, and Deseret milkvetch;

WHEREAS, livestock grazing on public lands forms a critical part of Utah's culture and economy, and is a sustainable, renewable form of food and fiber production on public lands;

WHEREAS, Utah's domestic livestock provide critical ecosystem services on public lands, including removal of noxious weeds and reduction in wildfire risk;

WHEREAS, the state of Utah's Grazing Improvement Program works to improve sustainable grazing operations throughout the state, including the implementation of rotational grazing systems to reduce environmental impacts and installation of water infrastructure to reduce livestock impacts on water sources;

WHEREAS, the Utah Division of State History's anti-vandalism campaign actively works to educate the public on the proper stewardship of archeological resources and better protect archeological resources on public lands;

WHEREAS, the state of Utah's Utah Migration Initiative currently works to connect wildlife habitats and migration corridors throughout Utah, including the construction of wildlife overpasses, fish passage structures, and other pro-wildlife infrastructure;

WHEREAS, federal designations of Utah's lands and waters, such as national monuments and wilderness areas, can impair the ability of the state and federal agencies partners to achieve conservation and stewardship goals within those designated lands; and

WHEREAS, federal designations of Utah's lands and waters can hinder the efforts of the State and federal agencies to improve wildlife habitat and promote biodiversity:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, supports the conservation and stewardship of Utah's lands and waters through the voluntary efforts of state agencies, local governments, and private landowners.

BE IT FURTHER RESOLVED that the Legislature and the Governor oppose the use of federal designations to lock up more federal land in Utah without the consent of the Legislature and demands that the federal government honor the principles of state sovereignty.

BE IT FURTHER RESOLVED that the Legislature and the Governor strongly encourage state agencies to work with federal partners to honor the state sovereignty, follow the state's resource management plans, and achieve the goals of the Conserving and Restoring America the Beautiful Report in a manner that does not impair the ability of Utahns to use and benefit from Utah's public lands.

S.C.R. 3

Passed February 3, 2022
Approved February 11, 2022
Effective February 11, 2022

CONCURRENT RESOLUTION HIGHLIGHTING UTAH'S RARE EARTH MINERAL POSITION

Chief Sponsor: David P. Hinkins
House Sponsor: Carl R. Albrecht

LONG TITLE

General Description:

This resolution recognizes the state of Utah's unique position as an essential source for critical minerals and encourages cooperation between state and federal stakeholders to take full advantage of the essential critical minerals and rare earth elements found in the state of Utah.

Highlighted Provisions:

This resolution:

- recognizes Utah as a known source of 28 of the 35 current federally listed critical minerals necessary for national defense and economic prosperity;
- recognizes that Utah consistently ranks as a top 10 state for mining with a 2020 estimated $3.7 billion in mining production value;
- recognizes that renewable energy production is increasing across the state and the country and there is a heightened need for critical minerals, rare earth elements, and many other minerals, including copper, to meet the infrastructure, collection, distribution, and transmission requirements to foster a reliable and affordable energy economy;
- recognizes that critical minerals and traditional mineral resources are also used for a variety of other essential purposes beyond energy production, including manufacturing, technology, defense, aerospace, fertilizer, and medical application; and
- resolves that the state of Utah and relevant federal agencies work together to promote national security, economic prosperity, and sustainability through efficient promotion and utilization of the many resources of the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the population of the state of Utah is increasing and there exists an urgent need to develop additional collection, distribution, and transmission infrastructure to ensure a reliable and affordable energy future;

WHEREAS, President Joseph R. Biden's Executive Order 14017 on America's Supply Chains identifies critical minerals and rare earth elements as essential to the American economy;

WHEREAS, the Biden Administration's Report on Building Resilient Supply Chains finds that the United States must secure reliable and sustainable supplies of critical minerals and metals to ensure resilience across United States' manufacturing and defense needs, and do so in a manner consistent with America's labor, environmental, equity and other values;

WHEREAS, Utah is an all-of-the-above energy state;

WHEREAS, fostering an innovative traditional and renewable energy economy is a growing trend with widespread support within the state and across the nation;

WHEREAS, approximately 23% of Utah, or 12,628,600 acres, receives the highest level of protection available as national parks, wilderness areas, national monuments, and other highly restricted federal lands;

WHEREAS, the state of Utah is a state consisting of approximately 71% of Utah or Utah's land area, over 38,578,390 acres as public lands;

WHEREAS, the state of Utah opposes landscape scale designations that limit access to public lands for energy development, mineral extraction, and other practices;

WHEREAS, access to public lands is needed in many cases for energy production and to obtain mineral resources required for infrastructure development;

WHEREAS, it is not possible or economically feasible to promote a renewable energy economy without the mining industry;

WHEREAS, Utah is a top ten state for mining with a 2020 estimated mineral production value of $3.7 billion;

WHEREAS, the people of Utah have a long history of successful stewardship and reclamation over the state's resources;

WHEREAS, the federal government has established a list of critical minerals for national defense and economic prosperity;

WHEREAS, Utah has known sources of 28 of the 35 current federally listed critical mineral resources;

WHEREAS, Utah is the primary global provider of beryllium, the only domestic producer of magnesium metal, and one of only two states producing lithium;

WHEREAS, the Bingham Canyon Mine produces platinum, palladium, rhenium, and soon will produce tellurium from byproducts of copper, gold, and silver mining;

WHEREAS, the federal critical mineral list does not contain all mineral resources required to facilitate a renewable energy industry or infrastructure development;

WHEREAS, copper is Utah's most valuable metal commodity and is required for all energy projects and transmission infrastructure;

WHEREAS, uranium is readily available in Utah and uranium is now considered a fuel mineral and is consequently not eligible for listing under the federal list for critical minerals; and

WHEREAS, the combination of land access, mining, and energy development provide economic support for citizens of the state and allow for affordable energy resources:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, expresses through this resolution the necessity of ensuring access to public lands, the continuation of the mineral extraction industry in Utah, and sustainable development of renewable energy on public lands and through the state of Utah.

BE IT FURTHER RESOLVED that the Legislature and the Governor find that federal designations of Utah's lands and waters, without state legislative approval, is hostile to state sovereignty, and can hinder the efforts of the state and federal agencies to promote national security and economic prosperity.

BE IT FURTHER RESOLVED that the Legislature and the Governor find that the state of Utah is a public land state that stands able and willing to promote mineral extraction and the development of energy resources, including renewable energy resources, for the citizens of Utah and other Americans.

S.C.R. 4

Passed February 24, 2022
Approved March 3, 2022
Effective March 3, 2022

CONCURRENT RESOLUTION ON FISCAL SUSTAINABILITY

Chief Sponsor: Ronald M. Winterton
House Sponsor: Kay J. Christofferson

LONG TITLE

General Description:

This resolution recognizes Utah as a leader in budgetary and fiscal sustainability, and calls on the federal government to establish a Fiscal Sustainability Commission and amend the United States Constitution.

Highlighted Provisions:

This resolution:

- recognizes the state of Utah as a leader in fiscal responsibility, sustainability, and management;
- recognizes some of the efforts and methods used by the state of Utah to enable fiscal sustainability; and
- calls on the federal government to adopt similar fiscal sustainability strategies and establish a Fiscal Sustainability Commission and propose a Constitutional Fiscal Sustainability Amendment.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah has been and remains a leader in the nation in fiscal responsibility and sustainability;

WHEREAS, the state of Utah has been prudent in the management of its financial resources;

WHEREAS, the state of Utah balances its budget every year;

WHEREAS, the state of Utah has created statutory stabilization funds to provide stability and sustainability, such as the General Fund Budget Reserve Account, the Education Fund Budget Reserve Account, and the Medicaid Budget Stabilization Restricted Account;

WHEREAS, the state of Utah monitors in great detail other funding sources, including federal revenues;

WHEREAS, the state of Utah employs a robust approval and monitoring process for new and existing federal funds;

WHEREAS, the Legislature receives reports and analysis of federal funds annually, and accounts for those funds in budgetary decision making;

WHEREAS, these and other measures are included in the efforts of the state of Utah to ensure fiscal sustainability and responsibility for the state of Utah and its citizens;

WHEREAS, federal public debt/gross domestic product exceeds 100%, is at an all-time high, and is increasing;

WHEREAS, over 70% of federal spending is deemed to be mandatory and is increasing;

WHEREAS, the Treasury Department, the Government Accountability Office, and a variety of parties have publicly acknowledged that the federal government is on an imprudent and unsustainable fiscal path;

WHEREAS, acting sooner rather than later to address this structural fiscal imbalance would require fewer changes, provide additional transition time, and reduce the likelihood of a future financial crisis;

WHEREAS, significant adverse consequences will likely be imposed on the states and the American people if the federal government fails to address its large and growing fiscal imbalances:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah, the Governor concurring therein, that the time has come to create a statutory federal Fiscal Sustainability Commission to actively engage the American people and make a range of budget, spending, tax, and other recommendations that would be designed to reduce the public debt to gross domestic product ratio to a reasonable and sustainable level within a specified time period.

BE IT FURTHER RESOLVED that the Legislature and the Governor find that the Congress of the United States should propose a Constitutional Fiscal Sustainability Amendment that would be designed to stabilize the public debt to gross domestic product ratio over time and include other appropriate provisions designed to promote financial accountability and fiscal sustainability.

BE IT FURTHER RESOLVED that the Legislature and the Governor find that if the Congress fails to propose such a constitutional amendment by December 31, 2022, the states should complete the steps necessary within the constitutional powers of the state to achieve the above objectives.

S.C.R. 5
Passed February 25, 2022
Approved March 3, 2022
Effective March 3, 2022

CONCURRENT RESOLUTION HONORING 125TH ANNIVERSARY OF THE NATIONAL PARENT TEACHER ASSOCIATION

Chief Sponsor: Ann Millner
House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This resolution recognizes the 125th anniversary of the National Parent Teacher Association.

Highlighted Provisions:

This resolution:

- recognizes the 125th anniversary of the National Parent Teacher Association;
- acknowledges the importance of engaged and involved parents and families in strong student academic performance;
- recognizes the role of the National Parent Teacher Association and Utah Parent Teacher Association in engaging parents and families in their children's education to elevate student performance; and
- encourages all citizens of Utah to actively engage in the education of the state's children and youth.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, research has shown that students from all income, education levels, and ethnic and cultural groups who have parents and families involved and engaged in their education have strong and consistent gains in their academic performance;

WHEREAS, the National Parent Teacher Association (PTA) aims to support family engagement practices, programs, and policies across the educational system so that every parent is treated as a valuable partner in their child's education;

WHEREAS, the PTA is the oldest and largest volunteer child advocacy organization in the nation, welcoming within its membership all people dedicated to making a difference in the education, health, and welfare of children and youth;

WHEREAS, the PTA serves as a resource to engage and empower families and communities to advocate for both their own children and for all children;

WHEREAS, the PTA has given millions of people an opportunity to participate in a meaningful way in schools and in education, thereby benefitting children, themselves, and the nation;

WHEREAS, PTA Founders Day has been celebrated each February 17 since the PTA's founding in 1897;

WHEREAS, the month of February in 2022 marks the 125th anniversary of the founding of the PTA;

WHEREAS, on February 17 through February 19, 1897, Mrs. C. E. Allen and Mrs. Arthur Brown of the International Kindergarten Union in Salt Lake City, Utah attended the first Annual Session of the National Congress of Mothers, which would later be renamed as the PTA, in Washington, D.C.;

WHEREAS, the Utah PTA was established not long after the national organization and is the largest and oldest child advocacy organization in Utah; and

WHEREAS, continued support of Utah PTA volunteers and their involvement in the schools and in education will strengthen the quality of the educational experience for all Utah children:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors the 125th anniversary of the Parent Teacher Association and the thousands of hours parent volunteers have dedicated to support the education of Utah's students.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage all citizens of Utah to actively participate in the education of Utah's most precious resource: its children and youth.

S.C.R. 6

Passed February 16, 2022
Approved February 17, 2022
Effective February 17, 2022

CONCURRENT RESOLUTION ENCOURAGING SUPPORT FOR INTERNATIONALLY ADOPTED INDIVIDUALS

Chief Sponsor: Jani Iwamoto
House Sponsor: Robert M. Spendlove
Cosponsors: Jacob L. Anderegg
Gene Davis
Luz Escamilla
Lincoln Fillmore
Derek L. Kitchen
Kathleen A. Riebe
Todd D. Weiler
Ronald M. Winterton

LONG TITLE

General Description:

This concurrent resolution encourages United States Congress and the President of the United States to support efforts related to legally adopted internationally born individuals and encourages certain state agencies to support adopted children in accessing adoption resources.

Highlighted Provisions:

This resolution:

- describes the value of international adoption;
- outlines the technical oversight in federal law that excluded legally adopted internationally-born individuals from receiving automatic United States citizenship;
- addresses the challenges that internationally-adopted children who are excluded from United States citizenship face under current law;
- describes the mental health needs of adopted children;
- describes the need for federal legislation to address the technical oversight in federal law; and
- encourages:
  - Utah's health and education systems to support adopted children in accessing adoption resources; and
  - United States Congress and the President of the United States to support efforts to address the technical oversight in federal law.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the state of Utah has a long history of welcoming children through international adoption;

WHEREAS, all Utahns benefit from the removal of barriers to citizenship attained through international adoption;

WHEREAS, in 2000, federal legislation aimed to provide automatic United States citizenship to all internationally-born children of United States citizens, subject to certain requirements;

WHEREAS, the federal legislation contained a technical oversight that prevents internationally-born individuals who were adopted by United States citizens as children but were over 18 years old at the time the federal legislation passed from receiving United States citizenship under the federal legislation;

WHEREAS, as a result of the technical oversight, an estimated tens of thousands of legally adopted internationally-born individuals born before February 27, 1983, remain without citizenship and potentially subject to deportation despite being adopted and raised by United States citizens;

WHEREAS, the technical oversight has caused dozens of known deportations of legally adopted internationally-born individuals, breaking up families and resulting in the return of the individuals to countries to which the individuals do not have any cultural or social ties;

WHEREAS, United States' legal international adoptees have been deported to countries such as Argentina, Brazil, China, Colombia, Costa Rica, Germany, El Salvador, India, Ireland, Haiti, Iran, Japan, Mexico, Panama, Philippines, Russia, South Korea, St. Kitts, Taiwan, Ukraine, and Vietnam;

WHEREAS, legally adopted internationally-born individuals who are unable to obtain citizenship face numerous challenges, including challenges in accessing banking services, voting, applying for a passport or driver license, receiving social security or disability benefits, obtaining financial aid for postsecondary education, and joining the armed forces;

WHEREAS, legally adopted internationally-born individuals are often English language learners and face significant challenges throughout education systems;

WHEREAS, numerous studies have shown that adoptee populations are overrepresented in mental health counseling needs, experience increased risk of substance use disorders, and are uniquely impacted by various other mental health disorders that can stem from high levels of childhood stress;

WHEREAS, congressional efforts have been made to correct the technical oversight and grant United States citizenship to legally adopted internationally-born individuals who were excluded under the technical oversight because the individuals were older than 18 years old at the time the federal legislation passed;

WHEREAS, passage of federal legislation to address the technical oversight will result in the naturalization of legally adopted internationally-born adults who were brought as children to the United States under the promise of finding a permanent home and with the expectation of citizenship that matched the adults' adopted parents; and

WHEREAS, congressional efforts to correct the technical oversight have seen bipartisan support in

United States Congress and have widespread praise among the nation's leading adoption advocacy organizations:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages United States Congress and the President of the United States to support any efforts to address the technical oversight in the federal legislation passed in 2000.

BE IT FURTHER RESOLVED that the Legislature and the Governor encourage Utah's health and education systems to assist Utah families with accessing available resources for adopted children.

BE IT FURTHER RESOLVED that a copy of this resolution be sent to Utah's congressional delegation, the speaker of the United States House of Representatives, the majority leader of the United States Senate, the chairs and ranking members of the United States Senate and House of Representatives Judiciary Committees, and the President of the United States.

S.C.R. 7
Passed February 16, 2022
Approved February 17, 2022
Effective February 17, 2022

CONCURRENT RESOLUTION CALLING ON LOCAL GOVERNMENTS TO TREAT ABOVE-TREND REVENUE GROWTH AS ONE-TIME REVENUE

Chief Sponsor: Lincoln Fillmore
House Sponsor: Andrew Stoddard

LONG TITLE

General Description:

This resolution encourages counties, cities, towns, and metro townships to consider treating above-trend revenue growth as one-time revenue instead of ongoing revenue.

Highlighted Provisions:

This resolution:

- recognizes the volatility of tax revenue and federal funds received by state and local governments;
- recognizes the benefits of treating above-trend revenue growth as one-time revenue; and
- encourages counties, cities, towns, and metro townships to treat above-trend revenue growth as one-time revenue instead of ongoing revenue.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, the business cycle creates fluctuations in state and local government revenues;

WHEREAS, tax revenue volatility can increase suddenly and unexpectedly, as seen during the Great Recession and the COVID-19 pandemic, increasing the difficulty of revenue forecasting;

WHEREAS, the Great Recession and the COVID-19 pandemic demonstrate that the amount of federal funds received by state and local governments can also fluctuate significantly and unexpectedly;

WHEREAS, state and local government tax and budget policies can contribute to or mitigate revenue volatility and its effects;

WHEREAS, treating unexpected, or above-trend, revenue growth as one-time money can help protect against the negative effects of revenue volatility;

WHEREAS, treating above-trend revenue growth as one-time money can reduce the need for difficult and often inefficient budget choices when revenue declines, including reductions in government services or increased taxes;

WHEREAS, treating above-trend revenue growth as one-time money can protect against unsustainable growth in government budgets when revenue increases; and

WHEREAS, the Legislature considers treating above-trend revenue growth as one-time money instead of ongoing money for all major tax types and for federal funds when setting the state's budget:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, encourages counties, cities, towns, and metro townships in the state to also consider treating above-trend growth in sales and use tax revenue and in federal funds as one-time money instead of ongoing money when setting a budget.

S.C.R. 8
Passed February 24, 2022
Approved March 4, 2022
Effective March 4, 2022

CONCURRENT RESOLUTION RECOGNIZING THE IMPORTANCE OF THE AGRICULTURE INDUSTRY

Chief Sponsor: Ronald M. Winterton
House Sponsor: Scott H. Chew

LONG TITLE

General Description:

This concurrent resolution recognizes the importance of the agriculture industry to the state and declares the Decade of Agriculture.

Highlighted Provisions:

This resolution:

- addresses how the agriculture industry affects the world, the state, emergencies, and the environment;

- discusses the characteristics of Utah agriculture now and into the future;
- addresses Utah's agriculture community being unified in an effort to pursue a Decade of Agriculture;
- acknowledges the importance of agriculture; and
- declares the Decade of Agriculture.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, farmers and ranchers, who have long been stewards of our land and animals, and as the providers of sustenance for our people, have shown over the course of history the ability to create economically viable solutions in harmony with ecological sustainability, thereby feeding the world;

WHEREAS, the world population is expected to increase by 2 billion in the next 30 years, exceeding 9 billion by 2050, and consequently global agricultural output will need to grow by no less than 70% to feed humanity;

WHEREAS, episodic weather events, environmental and climate stressors, loss of farmland from urbanization, declining revenue share to the producer, and regulatory complexity impose strain on the production of food and fiber, and have the potential to impede necessary growth;

WHEREAS, the economic, social, and environmental demands of a growing global population require resilient and creative solutions that Utah, as an agricultural leader, is already engaged in through sustainable practices and investing in much-needed research to inform the future;

WHEREAS, Utah is well positioned as a state to further invest in the potential of its agricultural community and commit to being part of a forward-thinking, economically viable and sustainable future;

WHEREAS, Utah's agricultural industry is resilient, innovative, evidence-based, solution-oriented, and learns from a remarkable past;

WHEREAS, Utah's agricultural industry is restorative, continually adapting management practices, and making systemic improvements;

WHEREAS, Utah's agricultural industry is climate smart:

- developing and conserving healthy soils, clean water, and clean air;
- making strides toward carbon reduction through biodiversity, use of biofuels, cover crops, crop rotation, no and reduced till techniques, and carbon cycling; and
- implementing protective and practical fertilization and waste management practices;

WHEREAS, Utah's agricultural industry is productive of food, natural fiber, and clean energy;

WHEREAS, Utah's agricultural industry is sustainable, employing proper stewardship practices, maximizing animal welfare, minimizing waste, and investing in the future through improved farm technology, infrastructure development, and university innovation, research and endowments;

WHEREAS, Utah's agricultural industry is economically viable, making market-based decisions that fit a profitable business model, and contributing $1.8 billion in annual sales and employing 25,148 Utah workers;

WHEREAS, Utah's agricultural industry is vibrant, diverse (over 18,000 farms), equitable, collaborative and a major producer in the United States of livestock and crop commodities (such as pork, milk, cherries, corn, hay, wheat, trout, lamb, and wool);

WHEREAS, 98% of farms and ranches are owned by individuals, family partnerships, or family corporations;

WHEREAS, Utah's agricultural industry is prosperous, feeding the world, informing and educating consumers, developing respect and value across economic sectors, and deserving of protection and continuity for our future;

WHEREAS, agriculture workers have been categorized as essential in emergency declarations and continue to work through recent pandemic surges despite obvious health risks;

WHEREAS, agriculture has been impacted by recent supply chain concerns and wants to be part of solutions that ensure Utah's food and other needs are met, even during times of emergency;

WHEREAS, although 79.4% of diverted water is used in agriculture, the most beneficial use of water in Utah is in support of production agriculture because Utah's farmers and ranchers produce commodities worth $1.82 billion of products sold in 2019, and increase other sales as a result of agricultural producers doing business with other businesses; and

WHEREAS, Utah's agriculture community is unified in an effort to pursue a Decade of Agriculture where resilient, restorative, economically viable and climate-smart agricultural systems produce abundant and nutritious food, natural fiber, and clean energy for a sustainable, vibrant, and prosperous America:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, acknowledges the importance of agriculture to the state and agriculture's critical contributions into the future.

BE IT FURTHER RESOLVED that the Legislature and Governor declare that the decade of 2020 to 2030 be known as the Decade of Agriculture.

S.C.R. 9
Passed March 4, 2022
Approved March 24, 2022
Effective March 24, 2022

CONCURRENT RESOLUTION HONORING THE LIFE ANDACHIEVEMENTS OF HELEN FOSTER SNOW

Chief Sponsor: Evan J. Vickers
House Sponsor: Karen Kwan
Cosponsor: Jani Iwamoto

LONG TITLE

General Description:

This concurrent resolution honors the life and achievements of Helen Foster Snow.

Highlighted Provisions:

This resolution:

- recognizes the life of Helen Foster Snow in the United States and China;
- honors the work Helen Foster Snow created when she served as a war correspondent in China;
- commemorates the awards and honors she received; and
- honors her legacy and recognizes August 2022 as the 91st anniversary of when Helen Foster Snow moved to China.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:

WHEREAS, Helen Foster Snow, a descendant of Mormon pioneers, was born in 1907 in Cedar City to John Moody Foster and Hannah Davis and was raised as a member of The Church of Jesus Christ of Latter-day Saints;

WHEREAS, Helen became interested in journalism at a young age as a result of her genealogy work interviewing her elderly relatives and compiling their stories of early Utah pioneer life;

WHEREAS, Helen attended West High School where she became the editor of the school's yearbook and vice president of the student government, the highest position for a female student at that time;

WHEREAS, upon graduation Helen attended the University of Utah;

WHEREAS, in 1931, Helen traveled to China to pursue writing where she met and married Edgar Snow;

WHEREAS, Helen, under the pen name Nym Wales, at risk of her life, reported on major events in Asia in the 1930s, including the Chinese Civil War, the Korean Independence movement, and the Second Sino-Japanese War;

WHEREAS, Helen's work as a journalist and an organizer had a worldwide impact;

WHEREAS, Helen's insights on Chinese politics and factions were delivered to President Franklin D. Roosevelt, and her ideas were endorsed by First Lady Eleanor Roosevelt and Prime Minister Jawaharlal Nehru of India;

WHEREAS, prominent Korean academics recommended commendations for Helen to the President of Korea as "the American journalist and writer who, among all non-Koreans, best understands the Korean people";

WHEREAS, Helen was twice nominated for the Nobel Peace Prize in 1981 and 1982, for her work promoting peace and progress in the world;

WHEREAS, in 2009, a bronze statue of Helen Foster Snow was placed in the Main Street Park in her hometown of Cedar City;

WHEREAS, Helen continues to be recognized in China through museum exhibits, books, news articles, video documentaries, dramatized TV series, and a memorial garden;

WHEREAS, in 2018, the Helen Foster Snow Foundation was established in Utah to preserve, promote, and continue Helen's legacy of building bridges of international understanding;

WHEREAS, Senator Orrin Hatch saluted Helen Foster Snow at the time of her death by writing, "Mrs. Snow built a bridge of goodwill between the hearts of the Americans to the hearts of the Chinese people. Let her life stand as a reminder that what lies behind the very different political systems of the world are real people whose hearts and minds are not so far apart.";

WHEREAS, Helen Foster Snow was an exceptional Utahn whose pioneer heritage made a positive impact on the world stage;

WHEREAS, Helen Foster Snow represented Utah values of empathy, cooperation, integrity, and industry; and

WHEREAS, August 2022 will be the 91st anniversary of when Helen Foster Snow went to China:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, honors the memory and contributions of Helen Foster Snow and her legacy as a journalist, author, and humanitarian, who dedicated her life as a bridge-builder between the peoples of the United States, India, Korea, China, and the Philippines.

BE IT FURTHER RESOLVED that the Legislature and the Governor view Helen Foster Snow's bridge of goodwill as a reminder of the power of Utah values in bringing peace and understanding in the world.

BE IT FURTHER RESOLVED that the Legislature and the Governor commemorate August of 2022 as the 91st anniversary of Helen Foster Snow's first arrival in Asia.

S.J.R. 1

Passed January 21, 2022
Effective January 21, 2022

JOINT RESOLUTION AUTHORIZING PAY OF IN-SESSION EMPLOYEES

Chief Sponsor: Evan J. Vickers
House Sponsor: Mike Schultz

LONG TITLE

General Description:

This joint resolution of the Legislature sets the compensation for legislative in-session employees for 2022.

Highlighted Provisions:

This resolution:

- sets the compensation for legislative in-session employees for 2022.

Special Clauses:

This resolution provides retrospective operation to January 1, 2022.

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the Legislature, acting under authority of Utah Code Section 36-2-2, is required to set the compensation of legislative in-session employees by joint resolution:

NOW, THEREFORE, BE IT RESOLVED by the Legislature of the state of Utah that the compensation of the legislative in-session employees for actual hours worked be set as follows:

Employees shall be paid the hourly rate as specified in this resolution.

Employees who are working their first annual general session shall be paid under the “Level 1” scale.

Employees who are working their second annual general session shall be paid under the “Level 2” scale.

Employees who are working their third annual general session shall be paid under the “Level 3” scale.

Employees who are working their fourth annual general session shall be paid under the “Level 4” scale.

Employees who are working their fifth to ninth annual general session shall be paid under the “Level 5” scale.

Employees who are working their 10th to 14th annual general session shall be paid under the “Level 6” scale.

Employees who are working their 15th to 19th annual general session shall be paid under the “Level 7” scale.

Employees who are working their 20th or more annual general session shall be paid under the “Level 8” scale.

Senate employees are designated with an “S.” House of Representatives employees are designated with an “H.”

Employee Position	Level 1	Level 2	Level 3	Level 4	Level 5	Level 6	Level 7	Level 8
	Wage	Wage	Wage	Wage	Wage	Wage	Wage	Wage
Admin. Asst. to Third House (H)	$17.18	$17.41	$17.61	$17.86	$18.10	$18.33	$18.54	$18.77
Amending Clerk (H-S)	$19.36	$19.68	$19.86	$20.06	$20.29	$20.47	$20.68	$20.93
Assistant Page Supervisor (H-S)	$16.76	$16.98	$17.20	$17.44	$17.64	$17.85	$18.10	$18.31
Asst. Sergeant-at-Arms (H-S)	$16.76	$16.98	$17.20	$17.44	$17.64	$17.85	$18.10	$18.31
Calendar/Voting System Specialist (H)	$17.13	$17.41	$17.65	$17.86	$18.08	$18.33	$18.54	$18.77
Committee Secretary (H-S)	$18.70	$18.91	$19.13	$19.30	$19.52	$19.75	$19.98	$20.17
Docket Clerk/Legislative Aide (H-S)	$21.05	$21.34	$21.64	$21.93	$22.23	$22.56	$22.86	$23.16
Reading Clerk (S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Kitchen Specialist (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
IT Technician (S)	$18.98	$19.70	$19.97	$20.24	$20.49	$20.76	$21.06	$21.29
Page (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Page Supervisor (H-S)	$18.98	$19.70	$19.97	$20.24	$20.49	$20.76	$21.06	$21.29
Public Information Specialist (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Receptionist (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Receptionist and Legislative Aide (H-S)	$17.18	$17.41	$17.61	$17.74	$18.06	$18.33	$18.54	$18.77
Audio Specialist (H-S)	$16.33	$16.56	$16.78	$17.00	$17.23	$17.42	$17.63	$17.88
Rules Committee Secretary (H-S)	$19.53	$19.77	$20.01	$20.30	$20.55	$20.81	$21.10	$21.35
Security (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Sergeant-at-Arms (H-S)	$18.98	$19.70	$19.97	$20.24	$20.49	$20.76	$21.06	$21.29
Supply/Copy Room Specialist(H)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Tour Liaison (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99
Video Specialist (H-S)	$15.57	$15.76	$15.98	$16.16	$16.38	$16.59	$16.81	$16.99

The compensation schedule established by this resolution has retrospective operation to January 1, 2022.

S.J.R. 2

Passed February 3, 2022
Effective February 3, 2022

JOINT RESOLUTION URGING CONGRESS TO PROPOSE THE KEEP NINE AMENDMENT TO THE UNITED STATES CONSTITUTION

Chief Sponsor: Chris H. Wilson
House Sponsor: Ken Ivory

LONG TITLE

General Description:

This joint resolution urges the United States Congress to propose the "Keep Nine Amendment."

Highlighted Provisions:

This resolution:

- urges Congress to propose the "Keep Nine Amendment," which would amend the United States Constitution and require the Supreme Court of the United States to remain at nine justices.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, an independent Supreme Court of the United States is an essential element of America's system of checks and balances that protects our constitutional rights;

WHEREAS, the Supreme Court of the United States has been composed of nine justices for more than 150 years; and

WHEREAS, the President of the United States and the United States Congress should be prohibited from undermining the independence of the Supreme Court of the United States by changing the number of justices on the Court:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah urges the United States Congress to propose the "Keep Nine Amendment," which would add the following language to the Constitution of the United States: "The Supreme Court of the United States shall be composed of nine Justices."

BE IT FURTHER RESOLVED that the secretary of the Senate shall send an electronic copy of this resolution to each member of Utah's congressional delegation.

S.J.R. 3

Passed January 21, 2022
Effective January 21, 2022

JOINT RESOLUTION TO TERMINATE PUBLIC HEALTH ORDERS PERTAINING TO FACE COVERINGS

Chief Sponsor: Daniel McCay
House Sponsor: Candice B. Pierucci

LONG TITLE

General Description:

This resolution terminates public health orders of constraint requiring the wearing of a mask or face covering.

Highlighted Provisions:

This resolution:

- terminates public health orders of constraint that require the wearing of a mask or face covering in Salt Lake County, Summit County, Salt Lake City, or any other place in the state of Utah.

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, on March 16, 2020, Mayor Jennifer Wilson of Salt Lake County issued an order declaring a public health state of emergency in Salt Lake County in response to the COVID-19 pandemic;

WHEREAS, the Salt Lake County Council has voted numerous times to extend the state of emergency, including the most recent vote on January 11, 2022, to extend the state of emergency until midnight, February 15, 2022;

WHEREAS, on January 7, 2022, Mayor Wilson and Dr. Angela C. Dunn, Executive Director of the Salt Lake County Health Department, jointly issued a public health order of constraint "to require every individual living within or visiting Salt Lake County, Utah, to wear a respirator (or until you are able to obtain a respirator, a well-fitting mask or face covering as an alternative) in public spaces while indoors or queueing outdoors...";

WHEREAS, on August 21, 2021, Dr. Philip Bondurant, Summit County Health Officer, issued an order declaring a public health state of emergency in Summit County in response to the Delta Variant of COVID-19;

WHEREAS, on September 20, 2021, and again on December 31, 2021, the Summit County Council voted to extend the public health state of emergency, with the current expiration date of June 30, 2022;

WHEREAS, on January 6, 2022, Summit County and the Summit County Health Department issued a public health order of constraint "to require all individuals living within or visiting Summit County, Utah, to wear Face-Coverings while inside publicly accessed indoor establishments...";

WHEREAS, on August 20, 2021, Salt Lake City Mayor Erin Mendenhall declared a local emergency and issued an executive order stating that, "All staff, visitor, members of the public, teachers, and students attending kindergarten through grade 12 at a public, charter, or private school in Salt Lake City, shall be required to wear a face mask..";

WHEREAS, Utah Code Section 26A-1-114 empowers the Legislature to "terminate by joint resolution an order of constraint issued by a local health department in response to a declared public health emergency that has been in effect for more than 30 days";

WHEREAS, Utah Code Section 53-2a-216 empowers the Legislature to terminate by joint resolution "an order, a rule, ordinance, or action by a chief executive officer of a county or municipality as described in Section 53-2a-205 in response to a state of emergency that has been in effect for more than 30 days":

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah does not concede or confirm the validity of a state of emergency in Salt Lake County, Summit County, or Salt Lake City declared pursuant to Title 53, Chapter 2a, Emergency Management Act.

BE IT FURTHER RESOLVED that the Legislature does not concede or confirm the validity of a public health emergency in Salt Lake County or Summit County declared pursuant to Title 26A, Chapter 1, Local Health Departments.

BE IT FURTHER RESOLVED that the Legislature hereby terminates the public health order of constraint dated January 7, 2022, signed by Mayor Jennifer Wilson and Director Angela C. Dunn, requiring the wearing of a mask or face covering in Salt Lake County.

BE IT FURTHER RESOLVED that the Legislature hereby terminates the public health order of constraint dated January 6, 2022, signed by Thomas C. Fisher, Summit County Manager, and Dr. Philip Bondurant, Summit County Health Officer, requiring the wearing of a mask or face covering in Summit County.

BE IT FURTHER RESOLVED that the Legislature hereby terminates the executive order of Mayor Erin Mendenhall dated August 20, 2021, requiring the wearing of a mask or face covering in K-12 schools in Salt Lake City.

BE IT FURTHER RESOLVED that the Legislature hereby terminates any other public health order of constraint issued or in effect in the state as of the date of this resolution that requires the wearing of a mask or face covering.

S.J.R. 5
Passed February 25, 2022
Effective February 25, 2022

JOINT RULES RESOLUTION - ELECTRONIC MEETINGS MODIFICATIONS

Chief Sponsor: David G. Buxton
House Sponsor: Timothy D. Hawkes

LONG TITLE

General Description:

This rules resolution modifies joint legislative rules related to electronic meetings.

Highlighted Provisions:

This resolution:

- defines terms;
- allows a legislative public body to convene and conduct an electronic meeting;
- specifies the circumstances under which a member of a legislative public body may participate remotely in an electronic meeting;
- addresses the requisite appearance and conduct of a member who participates remotely in an electronic meeting; and
- makes technical and conforming changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR1-4-401
JR7-1-101

REPEALS AND REENACTS:

JR1-4-402

REPEALS:

JR1-4-403
JR7-1-407

Be it resolved by the Legislature of the state of Utah:

Section 1. JR1-4-401 is amended to read:

JR1-4-401. Definitions.

As used in this part:

(1) "Anchor location" means the same as that term is defined in Utah Code Section 52-4-103.

(2) "Electronic meeting" means the same as that term is defined in Utah Code Section 52-4-103.

[~~(3) "Public health emergency" means the same as that term is defined in Utah Code Section 26-23b-102.~~]

(3) "Emergency electronic meeting" means an electronic meeting described in Utah Code Subsection 52-4-207(5).

(4) "Legislative public body" means a public body as defined in Utah Code Section 52-4-103 that is governed by legislative rules.

(5) "Meeting" means the same as that term is defined in Utah Code Section 52-4-103.

(6) "Participate" means the same as that term is defined in Utah Code Section 52-4-103.

(7) (a) "Presiding officer" means the individual presiding over the Senate or the House of Representatives.

(b) "Presiding officer" includes:

(i) for the Senate:

(A) the president;

(B) the president pro tempore; and

(C) any senator presiding under SR1-3-103; and

(ii) for the House of Representatives:

(A) the speaker;

(B) the speaker pro tempore; and

(C) any representative presiding under HR1-3-103.

(8) "Specified reason" means:

(a) illness or injury of a member or a member's relative;

(b) health or safety concerns of a member or a member's relative;

(c) emergency travel;

(d) an emergency work related issue;

(e) an emergency child care related issue;

(f) a mandatory action day or a special circumstance day as those terms are defined in Utah Code Section 63A-17-111; or

(g) a circumstance similar to the circumstances described in Subsections (8)(a) through (f).

Section 2. JR1-4-402 is repealed and reenacted to read:

JR1-4-402. Meeting format and participation -- Electronic meeting policy.

(1) In accordance with this part and Utah Code Title 52, Chapter 4, Open and Public Meetings Act, a legislative public body may convene and conduct a meeting of the legislative public body as an electronic meeting, subject to budget, public policy, and logistical considerations.

(2) (a) Except as allowed under this rule, a member of a legislative public body who attends a meeting of the legislative public body, including an electronic meeting, shall attend the meeting in person.

(b) A member of a legislative public body may attend an electronic meeting of the legislative public body by electronic means only if the member:

(i) has a specified reason; and

(ii) informs:

(A) the presiding officer or the presiding officer's designee; or

(B) the chair or the chair's designee.

(c) A legislative public body shall provide a description of how to electronically connect to an electronic meeting:

(i) to each member authorized to attend the meeting by electronic means under Subsection (2)(b); and

(ii) (A) 24 hours before the meeting is scheduled to begin; or

(B) if it is impracticable to comply with the 24-hour requirement in Subsection (1)(c)(ii)(A), as soon as possible before the meeting begins.

(3) The presiding officer or the chair of a legislative public body shall conduct an electronic meeting of the legislative public body from the anchor location.

(4) When a legislative public body convenes an electronic meeting, a member of the legislative public body is considered present for all purposes, including determining a quorum, only if the member is:

(a) present in person at the anchor location; or

(b) participating in the meeting by electronic means.

(5) When a member of a legislative public body attends a meeting of the legislative public body by electronic means in accordance with this part, the member shall ensure that:

(a) if participating via video conference, the member's attire and appearance are consistent with the attire and appearance that would be expected if the member were attending the meeting in person; and

(b) the member's location:

(i) reflects the dignity of the meeting, particularly if the member is attending via video conference; and

(ii) is free from any sight or noise that:

(A) can be seen or heard by others during the meeting; and

(B) is extraneous, distracting, disruptive, or inappropriate.

(6) A member of a legislative public body may not attend a meeting by electronic means while engaging in any activity that would be abnormal or prohibited if the member were attending the meeting in person, including operating a motor vehicle.

(7) In accordance with Utah Code Section 52-4-207, a legislative public body that convenes and conducts an electronic meeting may provide a means by which members of the public who are not physically present at the anchor location may attend the meeting by electronic means.

(8) Notwithstanding the other provisions of this rule:

(a) any member of a legislative public body may attend an emergency electronic meeting by electronic means; and

(b) the presiding officer or the chair of a legislative public body may conduct an emergency electronic meeting of the legislative public body remotely by electronic means.

Section 3. JR7-1-101 is amended to read:

JR7-1-101. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

(a) an electronic meeting originates; or

(b) the participants are connected.

(2) "Bill" means the same as that term is defined in JR4-1-101.

(3) "Chair" except as otherwise expressly provided, means:

(a) the member of the Senate appointed as chair of an interim committee by the president of the Senate under JR7-1-202;

(b) the member of the House of Representatives appointed as chair of an interim committee by the speaker of the House of Representatives under JR7-1-202;

(c) a member of a special committee appointed as chair of the special committee; or

(d) a member of a legislative committee designated by the chair of the legislative committee under Subsection (3)(a), (b), or (c) to act as chair under JR7-1-202.

(4) "Committee bill" means draft legislation that receives a favorable recommendation.

(5) "Committee bill file" means a request for legislation made by:

(a) a majority vote of a legislative committee; or

(b) the chairs of an interim committee, if the interim committee authorizes the chairs to open one or more committee bill files in accordance with JR7-1-602.

(6) "Committee note" means a note that the Office of Legislative Research and General Counsel places on legislation in accordance with JR4-2-401.

(7) "Draft legislation" means a draft of a bill or resolution before it is numbered by the Office of Legislative Research and General Counsel.

(8) "Electronic meeting" means [~~a public meeting of a legislative committee that is partially convened or conducted by means of a voice telephone or computer web or video conference~~] the same as that term is defined in Utah Code Section 52-4-103.

[~~(9) "Electronic notice" means electronic mail or fax.~~]

[~~(10)~~] (9) "Favorable recommendation" means an action of a legislative committee by majority vote to favorably recommend legislation.

[~~(11)~~] (10) "Legislative committee" means:

(a) an interim committee; or

(b) a special committee.

[~~(12)~~] (11) "Interim committee" means a committee created under JR7-1-201.

[~~(13)~~] (12) "Legislative sponsor" means:

(a) for a committee bill file, the chairs of the legislative committee that opened the committee bill file or the chairs' designee; or

(b) for a request for legislation that is not a committee bill file, the legislator who requested the request for legislation or the legislator's designee.

[~~(14)~~] (13) "Majority vote" means:

(a) with respect to an interim committee, an affirmative vote of at least 50% of a quorum of members of the interim committee from one chamber and more than 50% of a quorum of members of the interim committee from the other chamber; or

(b) with respect to a special committee, an affirmative vote of more than 50% of a quorum.

[~~(15)~~] (14) "Mixed special committee" means a special committee that is composed of one or more members who are legislators and one or more members who are not legislators.

[~~(16) "Monitor" means to:~~]

[~~(a) hear live, by speaker, or by other equipment, all of the public statements of each member of the legislative committee who is participating in a meeting; or~~]

[~~(b) see and hear, by computer screen or other visual medium, all of the public statements of each member of the legislative committee who is participating in a meeting.~~]

[~~(17)~~] (15) "Original motion" means a nonprivileged motion that is accepted by the chair when no other motion is pending.

[~~(18) "Participate" means the ability to communicate with all of the members of a legislative committee, either verbally or electronically, so that each member of the legislative committee can hear or see the communication.~~]

[~~(19)~~] (16) "Pending motion" means a motion described in JR7-1-307.

[~~(20)~~] (17) "Privileged motion" means a motion to adjourn, set a time to adjourn, recess, end debate, extend debate, or limit debate.

[~~(21)~~] (18) "Public statement" means a statement made in the ordinary course of business of a legislative committee with the intent that all other members of the legislative committee receive it.

[~~(22)~~] (19) "Remote location" means a location other than the anchor location from which a member of a legislative committee may participate in the meeting.

[~~(23)~~] (20) "Request for legislation" means the same as that term is defined in JR4-1-101.

[~~(24)~~] (21) "Resolution" means the same as that term is defined in JR4-1-101.

[~~(25)~~] (22) (a) "Special committee" means a committee, commission, or task force that is:

(i) created by legislation; and

(ii) staffed by:

(A) the Office of Legislative Research and General Counsel; or

(B) the Office of the Legislative Fiscal Analyst.

(b) "Special committee" does not include:

(i) an interim committee;

(ii) a standing committee created under SR3-2-201 or HR3-2-201; or

(iii) a Senate confirmation committee described in SR3-3-101 or SR3-3-201.

[~~(26)~~] (23) "Subcommittee" means a subsidiary unit of a legislative committee formed in accordance with JR7-1-411.

[~~(27)~~] (24) "Substitute motion" means a nonprivileged motion that a member of a legislative committee makes when there is a nonprivileged motion pending.

Section 4.

Repealer.

This resolution repeals:

JR1-4-403, Requirements of emergency electronic meetings.

JR7-1-407, Electronic meetings for remote participation by a member.

S.J.R. 10
Passed March 3, 2022
Effective March 3, 2022

JOINT RESOLUTION EMPHASIZING A DESIRE AND READINESS TO HOST A FUTURE OLYMPIC AND PARALYMPIC WINTER GAMES

Chief Sponsor: Derek L. Kitchen
House Sponsor: Jon Hawkins

LONG TITLE

General Description:

This joint resolution of the Legislature emphasizes Utah's desire and readiness to host a future Olympic and Paralympic Winter Games.

Highlighted Provisions:

This resolution:

- emphasizes Utah's desire and readiness to host a future Olympic and Paralympic Winter Games (Games).

Special Clauses:

None

Be it resolved by the Legislature of the state of Utah:

WHEREAS, the state of Utah values the experience of hosting the 2002 Games and the legacy that the historic event left on the state and people of Utah;

WHEREAS, the Olympic spirit remains in Utahns of all ages who benefitted from seeing athletes and fans from around the world come together in mutual appreciation of friendship, solidarity, and fair play;

WHEREAS, the state of Utah aims to be "Games Ready" by 2027;

WHEREAS, the infrastructure from the 2002 Games continues to be used and improved upon, and has served as an ongoing asset with Utah being able to contribute to the development of current and future Olympic athletes;

WHEREAS, because of the maintenance and improvements made to Utah's sports systems since the 2002 Games, national and international sporting events continue to choose Utah as host to a diverse range of sporting events;

WHEREAS, the institutional knowledge gained and retained from the 2002 Games places Utah in a favorable position to leverage the venues, transportation improvements, sustainability initiatives, and employment opportunities that the Games bring;

WHEREAS, Utah has a long history of embracing the values of inclusion, fairness, and sustainability, which were on display during the 2002 Games, and would be reinforced with a future hosting of the Games;

WHEREAS, a future hosting of the Games will benefit Utah greatly, and will set a new, positive standard for the world to see how a Games can be held in a way that fortifies the individuals, communities, and environment that the Games impacts; and

WHEREAS, by ensuring that public and private investments in new facilities, housing, and transportation systems will be designed to benefit residents, Utah will continue to set a standard for the dynamic use of facilities that will be used by the community and global athletes for many years to come, and will be affordable, sustainable, and accessible:

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah emphasizes Utah's desire and readiness to host a future Olympic and Paralympic Winter Games.

S.R. 1
Passed February 15, 2022
Effective February 15, 2022

SENATE RULES RESOLUTION - SENATE ACCESS PROCEDURES

Chief Sponsor: Michael K. McKell

LONG TITLE

General Description:

This rules resolution modifies Senate rules related to news media.

Highlighted Provisions:

This resolution:

- addresses the circumstances under which news media may access certain areas of the Senate; and
- requires the committee chair's permission before news media may enter the area behind the dais in a committee room.

Special Clauses:

None

Legislative Rules Affected:

ENACTS:
SR1-10-101
SR1-10-102

REPEALS:
SR2-4-105

Be it resolved by the Senate of the state of Utah:

Section 1. SR1-10-101 is enacted to read:

CHAPTER 10. NEWS MEDIA

SR1-10-101. News media access -- Senate chamber and designated Senate areas.

(1) News media may access non-public areas of the Senate, including the chamber, floor, halls, lounge, and committee rooms, if the news media:

(a) have permission from the Senate media designee;

(b) hold a Utah Capitol media credential; and

(c) comply with the Senate's media access and credentialing policy, SR2-4-102, and SR2-4-103.

(2) When, with permission of the Senate media designee, news media enter a designated, non-public area of the Senate for the purpose of conducting a specific interview, a senator or the Senate media designee shall:

(a) accompany the news media while in the designated area; and

(b) after the news media complete the specific interview, ensure that the news media promptly exit the designated area.

(3) News media that do not hold a Utah Capitol media credential may not access non-public areas of the Senate, except under extraordinary circumstances and with the permission of the Senate media designee.

Section 2. SR1-10-102 is enacted to read:

SR1-10-102. News media access -- Senate committees.

When present for a meeting of a Senate standing committee, a Senate confirmation committee meeting, or any other special committee of the Senate, news media may not enter the area behind the dais without the permission of the committee chair.

Section 3. Repealer.

This resolution repeals:

SR2-4-105, News media.

LEGISLATION, LAW WITHOUT SIGNATURE, AND LINE ITEMS VETOED BY THE GOVERNOR

The Governor vetoed 3 line items in H.B. 3.
See page 3973 for the Governor's letter that explains the vetoed lines.
See Chapter 300, page 2151, for complete text.

The Governor vetoed H.B. 11 and on March 25, 2022, the Legislature overrode that veto.
H.B. 11 is Chapter 478, page 3901, within this volume.
The Governor's Veto Letter is on page 3969.

State of Utah
Office of the Governor
Salt Lake City, Utah
84114-2220

Spencer J. Cox
Governor

Deidre M. Henderson
Lieutenant Governor

March 22, 2022

The Honorable J. Stuart Adams
President of the Senate

and

The Honorable Brad R. Wilson
Speaker of the House

Mr. President and Mr. Speaker,

I believe in fairness and protecting the integrity of women's sports. I know both of you are committed to these same ideals and that we have worked very hard together to resolve the many issues surrounding transgender student participation in sports. Unfortunately, HB11 has several fundamental flaws and should be reconsidered. Because the bill was substantially changed in the final hours of the legislative session with no public input and in a way that will likely bankrupt the Utah High School Athletic Association and result in millions of dollars in legal fees for local school districts with no state protection, and for several other reasons below, I have chosen to veto this bill.

The transgender sports participation issue is one of the most divisive of our time. Because there are logical and passionate arguments by many parties, finding compromise or common ground can be difficult. Sadly, there is very little room for nuance in this debate. But I hope you will permit me an opportunity to explain my reasons for vetoing HB11.

Utah has a history of trying to approach complicated issues in ways that bring collaboration and fairness. From immigration and criminal justice reform to LGBTQ protections and religious freedom, Utah has often shown an unusual willingness to find new and compassionate ways to solve the most toxic debates of our time. For this reason, I was heartened and encouraged to see legislators sitting down with LGBTQ advocates to work on a compromise that would both protect women's sports and allow some participation for our most marginalized transgendered youth. No other state has done this, and we hoped that Utah could be the first.

As you know, the negotiations centered around the potential compromise of a commission of experts that would help decide on an individual basis which kids would be able to participate.

The concept was fairly simple. For the very small number of transgender kids who are looking to find a sense of connection and community–without posing any threat to women's sports–the commission would allow participation. However, the committee would prohibit participation in the rare circumstance of an outlier who could pose a safety threat or dominate a sport in a way that would eliminate competitive opportunities for biological females.

Unfortunately, over time, the negotiations got bogged down debating the makeup of the commission and some of the language in the bill. While we were not able to reach an agreement on the commission, the bill sponsors did agree to remove some of the most troubling language. As the hallmark of a good compromise, neither side was thrilled, but there was a path forward. And while I admit it was not perfect, there was general agreement that we could pass the bill and continue tweaking the concept during the next year as necessary.

On the last day of the legislative session we began hearing rumors of a 4th substitute of the bill that would implement an all-out ban, with the new commission only coming into play if a court prohibited the ban. While it is not unusual to have legislators propose changes to bills, it is unusual to have major overhauls proposed at the last minute on significant policy issues that had been the subject of so much negotiation. It is even rarer to have these pass, especially with no communication with those who had been negotiating the issue. So, you can imagine my surprise when the 4th substitute was revealed late on the last day of the session and debated and passed just a few hours before midnight.

It is important to note that a complete ban was never discussed, never contemplated, never debated and never received any public input prior to the Legislature passing the bill on the 45th and final night of the session. For this reason, many legislators who might have otherwise supported the policy felt compelled to vote against it.

I believe in process. How we make policy matters almost as much as the policy itself. An opportunity to participate is a critical component of public trust. While changes are inevitable, this was more than just a cosmetic change. This was a complete reversal of every discussion, public or private. Every article written by the media on this issue was about the commission and a compromise. Every answer given during press availability was about the commission and a compromise.

Much of the debate that night centered around the difficulties of bad process and a lack of time to get constituent input. This lack of time and input has serious legal and financial implications as well (more on that below). And while I appreciate the apologies I have received from legislators involved in the truncated proceeding, I feel a veto is necessary to improve the process and to better allow the public an opportunity to weigh in.

One of the worst results of that process was the inability of legislators to understand the financial impacts that will be forced upon the Utah High School Athletic Association (UHSAA) and local Utah school districts that will inevitably get sued under this bill. The UHSAA is a private organization and runs the real risk of insolvency and bankruptcy, putting our entire state athletics program in danger. Having just completed a lengthy and very expensive lawsuit, the organization does not have significant reserves on hand. Furthermore, the UHSAA has been clear that if the state ever attempted a ban, the state would also need to provide indemnification to hold the organization harmless in the forthcoming lawsuit.

Unfortunately, HB11 provides no financial protection for the UHSAA, only an explicit invitation for a lawsuit. With several lawsuits already being litigated across the country, why would Utah insist — even encourage — expensive and debilitating legal action with no recourse for the organization that serves our own student athletes and schools? I hope you can agree that if we want to protect women's sports, bankrupting the institution that is responsible for their participation is a bad place to start.

To make matters worse, shortly after the introduction of the 4th substitute there was a hastily adopted amendment to explicitly exclude Utah's local schools from indemnification. Because the 4th substitute was so quickly introduced and at the very end of the session, there was significant confusion at the time about the reason such a clause was necessary and the impact it would have. Clearly, the reason for the amendment was to avoid a fiscal note that could not have been funded at such a late hour without nullifying the bill. However, during the discussion on the Senate floor it was incorrectly argued that government immunity would protect schools from a lawsuit based on the ban. Because these lawsuits would involve potential civil rights violations, they would not qualify for governmental immunity. This means that schools would inevitably face costly litigation and the potential for significant damages.

For this reason, many schools across the state of Utah have reached out expressing concern. Had they been aware of the language of the 4th substitute with enough time to comment, they undoubtedly would have shared a similar message with legislators who were forced to vote on the bill with no public input. Again, why would we risk significant legal exposure for some of our poorest schools with no financial support when other states are already funding identical legal defenses across the country? If the state insists on a policy that encourages significant litigation, I believe the state should pay for the litigation. It is my understanding that you have polled your members and that you have the sufficient two-thirds majority to override a veto. Should this occur, I will immediately call a special session to change this section of the bill in order to avoid bankrupting our athletic association and local schools. A simple veto override will not resolve this fundamental issue.

I also think it’s important to address some of the arguments that came up during the passing of the 4th substitute of the bill. Many legislators brought up the trans swimmer at the University of Pennsylvania, who has recently dominated women’s swimming, setting records and lapping the field. I agree with those who are concerned with this egregious example. I believe this is terrible for women’s sports. There are natural advantages that come from our birth sex, which is the very reason that we have men’s and women’s sports in the first place. Setting records and taking scholarships away from biological gendered women should give everyone pause. It’s bad for women and it is bad for the LGBTQ community, as it turns allies and reasonable people into opponents. I don’t believe that this type of participation is compelled by the Constitution, but that decision will be left to the courts in the months and years to come.

However, there are a few problems with this example being the reason for a complete ban in Utah. First, this bill would do nothing to prevent that example, as HB11 only applies to high school and middle school and does not impact collegiate athletes. And second, if there was a similar example in a Utah high school, the proposed commission would prevent it from happening. Indeed, that is the very purpose of the commission: it would attempt to both protect women’s sports and allow our most vulnerable an opportunity to participate. Interestingly, the very legislator who introduced the 4th substitute of the bill called the commission concept “brilliant.” I do not know if the commission would completely solve this divisive issue, but I appreciate the innovative and respectful approach that it offers.

I also believe there is broad misunderstanding around the current rules regarding transgender participation in sports. In particular, from the testimony of many, there seems to be a belief that any biologically-born male could simply say he was transgender and begin participating in women’s sports. This is incorrect. For many years now, the UHSAA has had in place a rule that only allows male-to-female transgender participation in women’s sports after a full year of difficult transition hormone therapy and in consultation with a health care professional. This has likely prevented some participation and helped to even the playing field. As a representative of the UHSAA stated: “As we read the science right now, we like our policy. This year we have four students who have gone through our paperwork and we have not had any complaints from any other students or families or school administrators.” I should note that while I have some reservations about a policy that requires or incentivizes these transitions, it is the policy in place.

Finally, there is one more important reason for this veto. I must admit, I am not an expert on transgenderism. I struggle to understand so much of it and the science is conflicting. When in doubt however, I always try to err on the side of kindness, mercy and compassion. I also try to get proximate and I am learning so much from our transgender community. They are great kids who face enormous struggles. Here are the numbers that have most impacted my decision: 75,000, 4, 1, 86 and 56.

- 75,000 high school kids participating in high school sports in Utah.

- 4 transgender kids playing high school sports in Utah.

- 1 transgender student playing girls sports.

- 86% of trans youth reporting suicidality.

- 56% of trans youth having attempted suicide[1]

Four kids and only one of them playing girls sports. That's what all of this is about. Four kids who aren't dominating or winning trophies or taking scholarships. Four kids who are just trying to find some friends and feel like they are a part of something. Four kids trying to get through each day. Rarely has so much fear and anger been directed at so few. I don't understand what they are going through or why they feel the way they do. But I want them to live. And all the research shows that even a little acceptance and connection can reduce suicidality significantly. For that reason, as much as any other, I have taken this action in the hope that we can continue to work together and find a better way. If a veto override occurs, I hope we can work to find ways to show these four kids that we love them and they have a place in our state.

I recognize the political realities of my decision. Politically, it would be much easier and better for me to simply sign the bill. I have always tried to do what I feel is the right thing regardless of the consequences. Sometimes I don't get it right, and I do not fault those who disagree with me. But even if you disagree with me, I hope this letter helps you understand the reasons for my decision.

Sincerely,

Spencer J. Cox
Governor

[1] Austin, Ashley, Shelley L. Craig, Sandra D'Souza, and Lauren B. McInroy. 2022. "Suicidality Among Transgender Youth: Elucidating the Role of Interpersonal Risk Factors." *Journal of Interpersonal Violence.* Vol. 37(5-6) NP2696–NP2718.

STATE OF UTAH

SPENCER J. COX
GOVERNOR

OFFICE OF THE GOVERNOR
SALT LAKE CITY, UTAH
84114-2220

DEIDRE M. HENDERSON
LIEUTENANT GOVERNOR

Mar. 24, 2022

The Honorable J. Stuart Adams
President of the Senate

and

The Honorable Brad R. Wilson
Speaker of the House

Dear President Adams and Speaker Wilson,

This letter serves to inform you that on Mar. 24, 2022, I signed, HB3, Appropriations Adjustments, with the following vetoes:

- Item 155, lines 1332-1339, House Bill 220, *Pregnancy and Postpartum Medicaid Coverage Amendments* did not pass
- Item 250, lines 2319-2325, House Bill 150, *Disability Ombudsman Program* was duplicative because HB 150 carried its own appropriation
- Item 271, lines 2497-2500, misdirected funding intended for Davis Technical College to Dixie Technical College

House Bill 11 *Student Eligibility in Interscholastic Activities* was also vetoed, but the corresponding funding in Item 304 in House Bill 3 was intentionally retained. This preserves funding to support a commission should one go into effect.

Sincerely,

Spencer J. Cox
Governor

LAWS

of the

STATE OF UTAH, 2022

Passed at the

THIRD SPECIAL SESSION

of the

SIXTY-FOURTH LEGISLATURE

Convened at the State Capitol in the City of Salt Lake
and Adjourned Sine Die
March 25, 2022

STATE OF UTAH

OFFICE OF THE LIEUTENANT GOVERNOR

CERTIFICATE

THIS IS TO CERTIFY that the acts and resolutions published in this volume are, according to our best information and belief, full and correct copies of the originals passed at the 2022 Third Special Session of the Sixty-Fourth Legislature of the State of Utah, as they appear of record in the Office of the Lieutenant Governor; and

That the 2022 Third Special Session of the Sixty-Fourth Legislature of the State of Utah convened at the Capitol in Salt Lake City on the 25th of March 2022 and adjourned sine die on the 25th of March 2022.

IN TESTIMONY WHEREOF, I have hereunto
set my hand and affixed the Great Seal of
the State of Utah at Salt Lake City,

this 30th day of November 2022

DEIDRE M. HENDERSON
Lieutenant Governor

CHAPTER 1
H. B. 3001

Passed March 25, 2022
Approved March 30, 2022
Effective July 1, 2022

SEX-DESIGNATED INTERSCHOLASTIC ATHLETICS INDEMNIFICATION

Chief Sponsor: Kera Birkeland
Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses liability regarding state limitations on student competition in interscholastic athletic activities designated for students of the female sex.

Highlighted Provisions:

This bill:

- provides for defense and indemnification regarding state limitations on student competition in interscholastic athletic activities designated for students of the female sex; and
- provides that a local education agency or school is responsible for enforcement of state limitations on student competition in interscholastic athletic activities designated for students of the female sex.

Monies Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- To the Attorney General – Attorney General – Civil as a one-time appropriation:
  - From the General Fund, One-time, $500,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

53G-6-904, Utah Code Annotated 1953
53G-6-1007, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section 53G-6-904 is enacted to read:

53G-6-904. Indemnification -- Enforcement.

(1) The state shall defend, indemnify, and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

(a) are brought or incurred as a result of this part; and

(b) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section 2. Section 53G-6-1007 is enacted to read:

53G-6-1007. Indemnification -- Enforcement.

(1) The state shall defend, indemnify, and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

(a) are brought or incurred as a result of this part; and

(b) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section 3. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1	
To Attorney General – Attorney General	
From General Fund, One-time	500,000
Schedule of Programs:	
Civil	500,000

The Legislature intends that appropriations provided under this section be used for the purposes described in Sections 53G-6-904 and 53G-6-1007. Under Section 63J-1-603, appropriations provided under this section do not lapse at the close of fiscal year 2023. The use of any nonlapsing funds is limited to the indemnification described in Section 53G-6-904.

Section 4. Effective date.

This bill takes effect on July 1, 2022.

UTAH CODE SECTION INDEX

The following Code Section Index lists, in section order, each Utah Code section affected by bills passed during the 2021 Second Special Session, 2022 General Session, and 2022 Third Special Session. The first column lists the section affected. The second column lists the action taken with the following abbreviations: A = Amends, E = Enacts, F = Former Section Number, N = Renumbered and Amended, R = Repeals, T = Technical Renumbers, X = Repeals and Reenacts. The third column lists the bill number. The fourth column lists either the former number or the new number, if applicable. The fifth column lists the chapter number.

See Technical Action Index (page 4009) for explanations and clarifications of sections that were technically renumbered.

2021 Second Special Session

Section	Action	Bill Number	Former/ Renumber	Chapter Number
10-3-920	R	HB2003		4
11-13-314	A	SB2002		7
11-13-316	E	SB2002		7
11-13-603	A	SB2002		7
11-13-604	A	SB2002		7
17-22-5.5	A	HB2003		4
17-32-1	A	HB2003		4
17-32-2	A	HB2003		4
20A-9-202	A	SB2001		6
20A-9-407	A	SB2001		6
20A-9-408	A	SB2001		6
20A-9-409	A	SB2001		6
20A-13-101.1	A	HB2004		2
20A-13-101.5	A	HB2004		2
20A-13-102	A	HB2004		2
20A-13-102.2	A	HB2004		2
20A-13-103	A	HB2004		2
20A-13-104	A	HB2004		2
20A-14-101.1	A	SB2005		10
20A-14-101.5	A	SB2005		10
20A-14-102	A	SB2005		10
20A-14-102.1	A	SB2005		10
20A-14-102.2	A	SB2005		10
20A-14-102.3	A	SB2005		10
20A-14-103	A	SB2005		10
20A-14-201	A	SB2001		6
26-68-201	E	SB2004		9
31A-1-301	A	HB2003		4
31A-35-504	A	HB2003		4
35A-4-303	A	HB2002		3
36-1-101.1	A	SB2006		11
36-1-101.5	A	SB2006		11
36-1-102	A	SB2006		11
36-1-103	A	SB2006		11
36-1-103.2	A	SB2006		11
36-1-104	A	SB2006		11
36-1-105	A	SB2006		11
36-1-201.1	A	HB2005		5
36-1-201.5	A	HB2005		5
36-1-202	A	HB2005		5
36-1-202.2	A	HB2005		5
36-1-203	A	HB2005		5
36-1-204	A	HB2005		5
36-29-202	A	SB2003		8
36-29-203	A	SB2003		8
53B-1-102	A	HB2001		1
53B-2-101	A	HB2001		1
53B-2-111	A	HB2001		1
53B-2a-112	A	HB2001		1
53B-8-103	A	HB2001		1
53B-16-101	A	HB2001		1
53B-26-301	A	HB2001		1
53B-31-101	A	HB2001		1
53B-31-201	A	HB2001		1
53B-31-301	A	HB2001		1
53B-31-401	A	HB2001		1
53G-5-102	A	HB2001		1
63I-2-220	A	SB2001		6
63I-2-236	A	SB2003		8
63I-5-201	A	HB2001		1
63M-7-215	A	HB2003		4
63N-1b-101	A	HB2001		1
77-17-8	A	HB2003		4
77-18a-1	A	HB2003		4
77-20-1	R	HB2003		4
77-20-1.1	N	HB2003	77-20-103	4
77-20-3.1	R	HB2003		4
77-20-3.2	N	HB2003	77-20-203	4
77-20-4	N	HB2003	77-20-402	4
77-20-7	R	HB2003		4
77-20-8	N	HB2003	77-20-301	4
77-20-8.5	N	HB2003	77-20-503	4
77-20-9	N	HB2003	77-20-404	4
77-20-10	N	HB2003	77-20-302	4
77-20-101	E	HB2003		4
77-20-102	E	HB2003		4
77-20-103	F	HB2003	77-20-1.1	4
77-20-201	E	HB2003		4
77-20-202	E	HB2003		4
77-20-203	F	HB2003	77-20-3.2	4
77-20-204	E	HB2003		4
77-20-205	E	HB2003		4
77-20-206	E	HB2003		4
77-20-207	E	HB2003		4
77-20-208	E	HB2003		4
77-20-301	F	HB2003	77-20-8	4
77-20-302	F	HB2003	77-20-10	4
77-20-401	E	HB2003		4
77-20-402	F	HB2003	77-20-4	4
77-20-403	T	HB2003	77-20-404	4
77-20-404	F	HB2003	77-20-9	4
77-20-501	F	HB2003	77-20b-101	4
77-20-502	F	HB2003	77-20b-102	4
77-20-503	F	HB2003	77-20-8.5	4
77-20-504	E	HB2003		4
77-20-505	F	HB2003	77-20b-104	4
77-20b-100	R	HB2003		4
77-20b-101	N	HB2003	77-20-501	4
77-20b-102	N	HB2003	77-20-502	4
77-20b-103	R	HB2003		4
77-20b-104	N	HB2003	77-20-505	4
77-20b-105	R	HB2003		4
78A-2-220	A	HB2003		4
78A-7-118	A	HB2003		4
78B-7-802	A	HB2003		4
78B-9-108	A	HB2003		4
78B-22-201.5	E	HB2003		4
78B-22-202	A	HB2003		4
78B-22-1001	E	HB2003		4
78B-22-1002	E	HB2003		4

2022 General Session

Section	Action	Bill Number	Former/ Renumber	Chapter Number
4-2-103	A	HB0305		68
4-2-103	A	HB0423		79
4-2-108	A	SB0091		274
4-2-602	A	HB0297		67
4-2-801	E	SB0083		268
4-14-103	A	HB0423		79
4-18-102	A	HB0305		68
4-18-105	A	HB0305		68
4-18-106	A	HB0423		79
4-18-108	A	HB0423		79
4-18-302	A	SB0091		274
4-18-306	A	SB0091		274
4-19-105	A	HB0423		79
4-20-102	A	SB0017		84
4-20-103	A	SB0017		84
4-24-202	A	HB0423		79
4-24-306	A	HB0423		79
4-24-308	A	HB0423		79
4-32-116	A	SB0124		430
4-34-102	A	HB0142		53
4-34-106	A	HB0142		53
4-34-108	E	HB0142		53
4-35-106	A	HB0423		79
4-37-109	A	HB0423		79
4-37-110	A	HB0423		79
4-37-201	A	HB0423		79
4-37-202	A	HB0423		79
4-37-203	A	HB0423		79
4-37-204	A	HB0423		79
4-37-301	A	HB0423		79
4-37-302	A	HB0423		79
4-37-303	A	HB0423		79
4-37-305	A	HB0423		79
4-37-401	A	HB0423		79
4-37-601	A	HB0423		79
4-37-602	A	HB0423		79
4-41-102	A	HB0385		74
4-41-102	A	SB0190		290
4-41-103	R	HB0385		74
4-41-103.1	A	HB0385		74
4-41-103.2	A	HB0385		74
4-41-103.3	A	SB0190		290
4-41-103.4	A	SB0190		290
4-41-104	A	HB0385		74
4-41-105	A	HB0385		74
4-41-105	A	SB0190		290
4-41-106	A	HB0385		74
4-41-204	R	HB0385		74
4-41-402	A	SB0190		290
4-41-403	A	HB0385		74
4-41a-102	A	SB0190		290
4-41a-102	A	SB0195		452
4-41a-201	A	SB0190		290
4-41a-203	A	SB0190		290
4-41a-501	A	SB0190		290
4-41a-502	A	SB0190		290
4-41a-602	A	SB0190		290
4-41a-603	A	SB0190		290
4-41a-701	A	SB0190		290

Section	Action	Bill Number	Former/ Renumber	Chapter Number
4-41a-802	A	SB0153		97
4-46-101	E	HB0305		68
4-46-102	F	HB0305	11-38-102	68
4-46-103	E	HB0305		68
4-46-104	E	HB0305		68
4-46-201	E	HB0305		68
4-46-202	F	HB0305	11-38-202	68
4-46-301	F	HB0305	11-38-301	68
4-46-302	F	HB0305	11-38-302	68
4-46-303	F	HB0305	11-38-304	68
4-46-401	E	HB0305		68
4-46-402	E	HB0305		68
4-46-403	E	HB0305		68
7-1-103	A	SB0183		449
7-1-103.5	E	SB0183		449
7-1-401	A	SB0183		449
7-27-101	E	SB0183		449
7-27-102	E	SB0183		449
7-27-201	E	SB0183		449
7-27-202	E	SB0183		449
7-27-301	E	SB0183		449
9-1-210	E	HB0050		36
9-6-503	A	SB0186		451
9-8-204	A	HB0350		369
9-8-205	A	HB0350		369
9-8-703	A	SB0186		451
9-8-901	E	HB0350		369
9-8-902	E	HB0350		369
9-8-903	E	HB0350		369
9-8-904	E	HB0350		369
9-8-905	E	HB0350		369
9-9-104.6	A	SB0028		245
9-9-112	A	HB0305		68
9-23-101	F	HB0333	63N-10-102	362
9-23-201	F	HB0333	63N-10-201	362
9-23-202	F	HB0333	63N-10-203	362
9-23-204	F	HB0333	63N-10-204	362
9-23-205	F	HB0333	63N-10-205	362
9-23-301	F	HB0333	63N-10-301	362
9-23-302	F	HB0333	63N-10-302	362
9-23-303	F	HB0333	63N-10-303	362
9-23-304	F	HB0333	63N-10-304	362
9-23-305	F	HB0333	63N-10-305	362
9-23-306	F	HB0333	63N-10-306	362
9-23-307	F	HB0333	63N-10-307	362
9-23-308	F	HB0333	63N-10-308	362
9-23-309	F	HB0333	63N-10-309	362
9-23-310	F	HB0333	63N-10-310	362
9-23-311	F	HB0333	63N-10-311	362
9-23-312	F	HB0333	63N-10-312	362
9-23-313	F	HB0333	63N-10-313	362
9-23-314	F	HB0333	63N-10-314	362
9-23-315	F	HB0333	63N-10-315	362
9-23-316	F	HB0333	63N-10-316	362
9-23-317	F	HB0333	63N-10-317	362
9-23-318	F	HB0333	63N-10-318	362
9-24-101	F	HB0333	63N-3-701	362
9-24-102	F	HB0333	63N-3-702	362
9-24-103	F	HB0333	63N-3-703	362
10-1-203	A	HB0146		306
10-1-304	A	HB0438		237
10-2-407	A	HB0303		355
10-2-501	A	HB0303		355
10-3-208	A	HB0267		151
10-3-913	A	HB0249		335
10-3-1103	A	HB0449		166
10-3-1103	A	SB0063		177
10-3c-203	A	SB0162		288
10-8-2	A	HB0151		307
10-8-41.6	A	SB0045		255
10-8-84.6	E	HB0015		21
10-8-501	N	HB0462	63L-12-102	406
10-9a-103	A	HB0462		406
10-9a-103	A	HB0303		355
10-9a-205	A	HB0303		355
10-9a-212	A	HB0303		355
10-9a-401	A	HB0462		406
10-9a-401	A	SB0110		282
10-9a-403	A	SB0110		282
10-9a-403	A	HB0462		406
10-9a-403.1	E	HB0462		406
10-9a-404	A	HB0462		406
10-9a-404	A	SB0110		282
10-9a-408	A	HB0462		406
10-9a-509	A	HB0462		406
10-9a-509	A	HB0303		355
10-9a-509	A	HB0218		325
10-9a-511	A	HB0303		355
10-9a-521	A	HB0118		216
10-9a-535	E	HB0303		355
10-9a-535	E	HB0282		230
10-9a-536	T	HB0282	10-9a-535	230
10-9a-601	A	HB0303		355
10-9a-603	A	HB0303		355
10-9a-608	A	HB0303		355
10-9a-801	A	HB0303		355
10-11-1	A	SB0137		432
10-11-2	A	SB0137		432
10-11-3	A	SB0137		432
11-8-3	A	SB0186		451
11-13-302	A	SB0020		239
11-13-316	A	SB0092		422
11-13-317	E	HB0215		322
11-13-603	A	SB0092		422
11-14-203	A	SB0019		170
11-14-301	A	HB0218		325
11-36a-102	A	HB0438		237
11-36a-202	A	HB0462		406
11-38-101	R	HB0305		68
11-38-102	N	HB0305	4-46-102	68
11-38-201	R	HB0305		68
11-38-202	N	HB0305	4-46-202	68
11-38-203	R	HB0305		68
11-38-301	N	HB0305	4-46-301	68
11-38-302	N	HB0305	4-46-302	68
11-38-304	N	HB0305	4-46-303	68
11-41-102	A	HB0151		307
11-41-103	A	HB0151		307
11-41-104	E	HB0151		307
11-42b-101	E	HB0373		376
11-42b-102	E	HB0373		376
11-42b-103	E	HB0373		376
11-42b-104	E	HB0373		376
11-42b-105	E	HB0373		376
11-42b-106	E	HB0373		376
11-42b-107	E	HB0373		376
11-42b-108	E	HB0373		376
11-42b-109	E	HB0373		376
11-42b-110	E	HB0373		376
11-42b-111	E	HB0373		376
11-42b-112	E	HB0373		376
11-42b-113	E	HB0373		376
11-56-102	A	HB0146		306
11-56-103	A	HB0146		306
11-56-104	A	HB0146		306
11-58-101	R	HB0443		82
11-58-102	A	HB0443		82
11-58-106	A	HB0443		82
11-58-106	A	HB0082		207
11-58-202	A	HB0044		32
11-58-202	A	HB0443		82
11-58-203	A	HB0443		82
11-58-205	A	HB0443		82
11-58-302	A	HB0443		82
11-58-303	A	HB0443		82
11-58-304	A	HB0443		82
11-58-305	A	HB0443		82
11-58-601	A	HB0443		82
11-58-602	A	HB0443		82
11-58-603	E	HB0443		82
11-58-604	E	HB0443		82
11-58-701	A	HB0082		207
11-58-801	A	HB0443		82
11-59-101	R	HB0438		237
11-59-102	A	HB0438		237
11-59-104	A	HB0438		237
11-59-104	A	HB0082		207
11-59-202	A	HB0082		207
11-59-202	A	HB0438		237
11-59-203	A	HB0462		406
11-59-205	E	HB0438		237
11-59-206	E	HB0438		237
11-59-207	E	HB0438		237
11-59-208	E	HB0438		237
11-59-306	A	HB0438		237
11-65-101	E	HB0146		306
11-65-101	E	HB0232		59
11-65-101	E	SB0173		446
11-65-102	E	HB0232		59
11-65-103	E	HB0232		59
11-65-201	E	HB0232		59
11-65-202	E	HB0232		59
11-65-203	E	HB0232		59
11-65-204	E	HB0232		59
11-65-205	E	HB0232		59
11-65-206	E	HB0232		59
11-65-301	E	HB0232		59
11-65-302	E	HB0232		59

Section	Action	Bill Number	Former/ Renumber	Chapter Number
11-65-303	E	HB0232		59
11-65-304	E	HB0232		59
11-65-305	E	HB0232		59
11-65-306	E	HB0232		59
11-65-401	E	HB0232		59
11-65-402	E	HB0232		59
11-65-403	E	HB0232		59
11-65-404	E	HB0232		59
11-65-405	E	HB0232		59
11-65-501	E	HB0232		59
11-65-502	E	HB0232		59
11-65-503	E	HB0232		59
11-65-504	E	HB0232		59
11-65-505	E	HB0232		59
11-65-506	E	HB0232		59
11-65-601	E	HB0232		59
11-65-602	E	HB0232		59
11-65-603	E	HB0232		59
11-65-604	E	HB0232		59
11-65-605	E	HB0232		59
11-65-606	E	HB0232		59
11-65-701	E	HB0232		59
11-66-101	T	HB0146	11-65-101	306
11-67-101	T	SB0173	11-65-101	446
13-1-2	A	SB0043		415
13-1b-101	E	SB0016		413
13-1b-102	E	SB0016		413
13-1b-201	E	SB0016		413
13-1b-202	E	SB0016		413
13-1b-203	E	SB0016		413
13-1b-301	E	SB0016		413
13-1b-302	E	SB0016		413
13-1b-303	E	SB0016		413
13-1b-304	E	SB0016		413
13-2-1	A	HB0038		201
13-2-1	A	SB0227		462
13-14-204	A	SB0204		455
13-15-1	N	SB0026	13-15-101	243
13-15-2	N	SB0026	13-15-102	243
13-15-3	N	SB0026	13-15-301	243
13-15-4	N	SB0026	13-15-202	243
13-15-4.5	R	SB0026		243
13-15-5	N	SB0026	13-15-203	243
13-15-6	N	SB0026	13-15-302	243
13-15-7	R	SB0026		243
13-15-101	F	SB0026	13-15-1	243
13-15-102	F	SB0026	13-15-2	243
13-15-201	E	SB0026		243
13-15-202	F	SB0026	13-15-4	243
13-15-203	F	SB0026	13-15-5	243
13-15-301	F	SB0026	13-15-3	243
13-15-302	F	SB0026	13-15-6	243
13-15-401	E	SB0026		243
13-23-2	A	SB0043		415
13-23-2	A	HB0436		400
13-23-3	A	HB0436		400
13-23-4	A	SB0091		274
13-23-5	A	HB0436		400
13-23-6	A	HB0436		400
13-23-8	A	HB0436		400
13-25a-102	A	HB0217		324
13-25a-103	A	HB0217		324
13-26-2	A	HB0217		324
13-26-3	A	HB0217		324
13-26-4	A	HB0217		324
13-26-5	A	HB0217		324
13-26-8	A	HB0217		324
13-26-11	A	HB0217		324
13-26-12	A	HB0217		324
13-32a-101	A	HB0038		201
13-32a-102	A	HB0038		201
13-32a-104	A	HB0038		201
13-32a-104.7	E	HB0038		201
13-32a-105	A	HB0038		201
13-32a-106	A	HB0038		201
13-32a-106	A	SB0091		274
13-32a-106.5	A	HB0038		201
13-32a-108	A	HB0038		201
13-32a-109	A	HB0038		201
13-32a-109	A	SB0091		274
13-32a-109.5	A	HB0038		201
13-32a-110	A	HB0038		201
13-32a-110.5	A	HB0038		201
13-32a-111	A	HB0038		201
13-32a-112	A	HB0038		201
13-32a-112.1	A	HB0038		201
13-32a-112.5	A	HB0038		201
13-32a-113	A	HB0038		201
13-32a-114	A	HB0038		201
13-32a-115	A	HB0038		201
13-32a-116	A	HB0038		201
13-32a-116.5	A	HB0038		201
13-32a-116.5	A	SB0091		274
13-32a-118	E	HB0038		201
13-35-103	A	SB0027		244
13-47-201	A	HB0252		338
13-53-111	E	SB0179		187
13-55-101	R	HB0243		332
13-55-102	R	HB0243		332
13-55-103	R	HB0243		332
13-55-104	R	HB0243		332
13-55-105	R	HB0243		332
13-55-106	R	HB0243		332
13-55-107	R	HB0243		332
13-55-108	R	HB0243		332
13-58-302	A	SB0091		274
13-61-101	E	SB0182		448
13-61-101	E	SB0227		462
13-61-102	E	SB0227		462
13-61-102	E	SB0182		448
13-61-103	E	SB0227		462
13-61-201	E	SB0227		462
13-61-202	E	SB0227		462
13-61-203	E	SB0227		462
13-61-301	E	SB0227		462
13-61-302	E	SB0227		462
13-61-303	E	SB0227		462
13-61-304	E	SB0227		462
13-61-305	E	SB0227		462
13-61-401	E	SB0227		462
13-61-402	E	SB0227		462
13-61-403	E	SB0227		462
13-61-404	E	SB0227		462
13-62-101	T	SB0182	13-61-101	448
13-62-102	T	SB0182	13-61-102	448
15A-1-102	A	SB0043		415
15A-3-202	A	HB0039		28
15A-3-203	A	HB0039		28
15A-3-205	A	HB0039		28
15A-3-206	A	HB0039		28
15A-3-306	A	HB0039		28
15A-3-402	A	HB0039		28
15A-3-402	A	SB0043		415
15A-5-202	A	HB0039		28
15A-5-203	A	HB0292		350
15A-5-302	A	HB0039		28
16-6a-401	A	SB0213		457
16-10a-401	A	SB0213		457
16-11-16	A	SB0213		457
17-16-21	A	HB0249		335
17-18a-504	A	SB0057		260
17-19a-101	A	SB0162		288
17-19a-102	A	SB0162		288
17-19a-203	R	SB0162		288
17-19a-205	A	SB0162		288
17-20-5	A	SB0018		18
17-21-18.5	A	SB0043		415
17-21-18.5	A	SB0184		450
17-21-20	A	SB0080		420
17-22-2	A	HB0249		335
17-22-5.5	A	HB0028		115
17-22-8	A	HB0077		123
17-22-30	A	SB0043		415
17-22-32	A	SB0179		187
17-23-17	A	SB0043		415
17-27a-102	A	HB0151		307
17-27a-103	A	HB0462		406
17-27a-205	A	HB0303		355
17-27a-212	A	HB0303		355
17-27a-401	A	HB0462		406
17-27a-401	A	SB0110		282
17-27a-403	A	SB0110		282
17-27a-403	A	HB0462		406
17-27a-404	A	HB0462		406
17-27a-404	A	SB0110		282
17-27a-408	A	HB0462		406
17-27a-508	A	HB0462		406
17-27a-508	A	HB0303		355
17-27a-508	A	HB0218		325
17-27a-510	A	HB0303		355
17-27a-520	A	HB0118		216
17-27a-531	E	HB0303		355
17-27a-531	E	HB0282		230
17-27a-532	T	HB0282	17-27a-531	230
17-27a-601	A	HB0303		355
17-27a-603	A	HB0303		355
17-27a-608	A	HB0303		355
17-27a-801	A	HB0303		355

Section	Action	Bill Number	Former/ Renumber	Chapter Number
17-27a-1103	A	SB0091		274
17-31-2	A	HB0323		360
17-31-3	A	HB0323		360
17-31-5	A	HB0323		360
17-31-5.5	A	HB0323		360
17-33-5	A	HB0449		166
17-33-5	A	SB0063		177
17-36-3	A	SB0162		288
17-36-4	A	SB0162		288
17-36-6	A	SB0186		451
17-36-8	A	SB0162		288
17-36-10	A	SB0162		288
17-36-11	A	SB0162		288
17-36-15	A	SB0162		288
17-36-20	A	SB0162		288
17-36-22	A	SB0162		288
17-36-23	A	SB0162		288
17-36-32	A	SB0162		288
17-36-36	A	SB0162		288
17-36-37	A	SB0162		288
17-41-101	A	HB0378		72
17-41-405	A	SB0091		274
17-43-102	A	SB0045		255
17-43-201	A	SB0045		255
17-43-301	A	SB0045		255
17-50-333	A	SB0045		255
17-50-339	E	HB0015		21
17-53-211	A	HB0205		319
17-53-212	A	SB0162		288
17-53-216	A	HB0146		306
17-53-302	A	HB0182		039
17-53-302	A	SB0057		260
17-53-303	A	SB0162		288
17-53-316	A	SB0057		260
17-54-101	R	HB0333		362
17-54-102	R	HB0333		362
17-54-103	R	HB0333		362
17-54-104	N	HB0333	63N-4-803	362
17-55-101	E	SB0179		187
17-55-201	E	SB0179		187
17B-1-212	A	HB0388		381
17B-1-213	A	HB0388		381
17B-1-302	A	HB0388		381
17B-1-303	A	HB0388		381
17B-1-304	A	HB0388		381
17B-1-306	A	HB0388		381
17B-1-306	A	SB0018		18
17B-1-307	A	HB0388		381
17B-1-608	A	HB0237		330
17B-1-618	A	HB0388		381
17B-2a-802	A	HB0462		406
17B-2a-802	A	HB0322		69
17B-2a-804	A	HB0322		69
17B-2a-804	A	HB0462		406
17B-2a-806	A	HB0322		69
17B-2a-807.2	A	SB0051		259
17B-2a-808.1	A	HB0082		207
17B-2a-808.2	A	HB0322		69
17B-2a-818	A	HB0404		76
17B-2a-818.5	A	SB0082		421
17B-2a-822	A	HB0388		381
17B-2a-1104	A	HB0388		381
17C-1-407	A	HB0151		307
17C-1-409	A	HB0151		307
17C-1-412	A	HB0015		21
17D-4-102	A	HB0438		237
17D-4-102	A	HB0443		82
17D-4-203	A	HB0443		82
17D-4-301	A	HB0082		207
19-1-108	A	HB0250		336
19-1-206	A	SB0082		421
19-1-206	A	SB0163		443
19-1-207	A	SB0163		443
19-1-401	R	SB0188		100
19-1-402	A	SB0188		100
19-1-403	A	SB0188		100
19-1-404	A	SB0188		100
19-2a-102.5	E	SB0136		95
19-3-104	A	HB0250		336
19-4-115	E	HB0021		194
19-5-104.5	A	SB0163		443
19-5-201	E	HB0269		66
19-5-202	E	HB0269		66
19-5-203	E	HB0269		66
19-6-102	A	SB0097		424
19-6-307	A	HB0250		336
19-6-402	A	SB0186		451
19-6-405.7	A	SB0186		451
19-6-409	A	SB0186		451
19-6-410.5	A	SB0186		451
19-6-411	A	SB0186		451
19-6-415	A	SB0186		451
19-6-509	E	HB0394		385
19-6-807	A	HB0250		336
19-6-807	A	SB0203		454
19-6-808.5	E	SB0203		454
19-6-816.5	E	SB0203		454
20A-1-102	A	SB0019		170
20A-1-102	A	SB0018		18
20A-1-204	A	SB0019		170
20A-1-206	A	SB0011		167
20A-1-306	A	HB0218		325
20A-1-403	A	SB0019		170
20A-1-508	A	SB0063		177
20A-1-508	A	SB0170		13
20A-1-508	A	HB0449		166
20A-1-509.1	A	SB0170		13
20A-1-509.3	A	SB0018		18
20A-1-603	A	HB0313		156
20A-1-604	A	SB0019		170
20A-1-608	A	SB0018		18
20A-1-609	A	HB0218		325
20A-1-611	A	SB0018		18
20A-2-101.5	A	SB0124		430
20A-2-107	A	SB0019		170
20A-2-204	A	HB0117		215
20A-2-207	A	SB0018		18
20A-2-304	A	HB0313		156
20A-2-305	A	HB0067		121
20A-2-306	A	HB0067		121
20A-2-308	A	HB0313		156
20A-3a-201	A	SB0018		18
20A-3a-202	A	SB0018		18
20A-3a-202	A	HB0313		156
20A-3a-202	A	HB0067		121
20A-3a-204	A	HB0313		156
20A-3a-401	A	HB0411		392
20A-3a-402	A	HB0387		380
20A-3a-404	E	HB0387		380
20A-3a-404	E	HB0313		156
20A-3a-405	T	HB0387	20A-3a-404	380
20A-3a-801	A	SB0018		18
20A-3a-801	A	HB0387		380
20A-3a-807	E	HB0387		380
20A-4-101	A	HB0264		342
20A-4-102	A	HB0264		342
20A-4-104	A	HB0387		380
20A-4-105	A	HB0387		380
20A-4-202	A	HB0313		156
20A-4-304	A	HB0264		342
20A-4-306	A	SB0018		18
20A-4-403	A	SB0018		18
20A-4-405	A	SB0018		18
20A-4-601	A	HB0264		342
20A-4-602	A	SB0019		170
20A-4-603	A	HB0264		342
20A-4-604	A	HB0264		342
20A-5-102	A	SB0019		170
20A-5-102	A	SB0018		18
20A-5-207	E	SB0219		299
20A-5-207	E	HB0313		156
20A-5-403	A	SB0018		18
20A-5-403.5	A	HB0313		156
20A-5-405	A	SB0019		170
20A-5-406	A	SB0018		18
20A-5-410	A	SB0032		248
20A-5-601	A	SB0018		18
20A-5-605	A	SB0019		170
20A-5-901	E	HB0313		156
20A-5-902	E	HB0313		156
20A-5-903	E	HB0313		156
20A-5-904	E	HB0313		156
20A-5-905	E	HB0313		156
20A-6-108	E	HB0313		156
20A-7-101	A	HB0218		325
20A-7-101	A	SB0162		288
20A-7-103	A	SB0019		170
20A-7-103	A	HB0218		325
20A-7-203	A	HB0218		325
20A-7-204	A	HB0218		325
20A-7-205	A	HB0218		325
20A-7-206	A	HB0218		325
20A-7-206.3	A	HB0218		325
20A-7-207	A	HB0218		325
20A-7-209	A	SB0038		251
20A-7-211	A	SB0018		18
20A-7-213	A	HB0218		325
20A-7-215	E	HB0218		325

Section	Action	Bill Number	Former/ Renumber	Chapter Number
20A-7-216	E	HB0218		325
20A-7-217	E	HB0218		325
20A-7-303	A	HB0218		325
20A-7-304	A	HB0218		325
20A-7-304.5	A	HB0218		325
20A-7-305	A	HB0218		325
20A-7-306	A	HB0218		325
20A-7-306.3	A	HB0218		325
20A-7-307	A	HB0218		325
20A-7-307	A	SB0091		274
20A-7-308	A	SB0038		251
20A-7-312	A	HB0218		325
20A-7-313	E	HB0218		325
20A-7-314	E	HB0218		325
20A-7-315	E	HB0218		325
20A-7-502.6	A	HB0218		325
20A-7-502.7	A	HB0218		325
20A-7-503	A	HB0218		325
20A-7-504	A	HB0218		325
20A-7-505	A	HB0218		325
20A-7-506	A	HB0218		325
20A-7-506.3	A	HB0218		325
20A-7-507	A	HB0218		325
20A-7-508	A	SB0038		251
20A-7-512	A	HB0218		325
20A-7-514	E	HB0218		325
20A-7-515	E	HB0218		325
20A-7-516	E	HB0218		325
20A-7-601	A	HB0462		406
20A-7-602.7	A	HB0218		325
20A-7-602.8	A	HB0218		325
20A-7-602.8	A	HB0462		406
20A-7-603	A	HB0218		325
20A-7-604	A	HB0218		325
20A-7-604.5	A	HB0218		325
20A-7-605	A	HB0218		325
20A-7-606	A	HB0218		325
20A-7-606.3	A	HB0218		325
20A-7-607	A	HB0218		325
20A-7-607	A	SB0091		274
20A-7-608	A	SB0038		251
20A-7-611	A	SB0018		18
20A-7-611	A	HB0218		325
20A-7-612	A	HB0218		325
20A-7-613	A	HB0218		325
20A-7-614	E	HB0218		325
20A-7-615	E	HB0218		325
20A-7-616	E	HB0218		325
20A-7-702	A	HB0040		11
20A-7-702.5	E	HB0040		11
20A-8-402.5	A	SB0170		13
20A-9-101	A	SB0170		13
20A-9-101	A	HB0218		325
20A-9-201	A	SB0170		13
20A-9-201	A	SB0018		18
20A-9-201.5	E	SB0170		13
20A-9-403	A	HB0218		325
20A-9-405	A	HB0218		325
20A-9-406	A	SB0170		13
20A-9-407	A	SB0170		13
20A-9-408	A	SB0170		13
20A-9-408	A	HB0218		325
20A-9-502	A	SB0170		13
20A-9-503	A	SB0170		13
20A-9-503	A	SB0018		18
20A-11-101	A	HB0091		126
20A-11-202	A	SB0018		18
20A-11-601	A	HB0258		340
20A-11-603	A	HB0258		340
20A-11-901	A	SB0018		18
20A-11-1604	A	SB0019		170
20A-12-201	A	HB0045		202
20A-13-101.5	A	SB0018		18
20A-14-101.5	A	SB0018		18
20A-14-201	A	SB0078		265
20A-14-202	A	SB0078		265
20A-14-203	A	SB0078		265
20A-14-203	A	SB0170		13
20A-15-104	A	SB0018		18
20A-16-406	R	SB0018		18
20A-16-407	R	SB0018		18
20A-20-203	A	SB0091		274
20A-21-101	E	HB0218		325
20A-21-201	E	HB0218		325
23-13-20	E	HB0078		37
23-14-14.2	A	HB0305		68
23-14-14.3	E	HB0142		53
23-16-1.1	A	HB0062		45
23-16-3	A	HB0062		45
23-16-3.1	A	HB0062		45
23-16-3.2	A	HB0062		45
23-16-4	A	HB0062		45
23-16-5	A	SB0206		294
23-19-5.5	A	HB0231		58
23-19-11	A	HB0206		57
23-19-12	A	HB0206		57
23-19-49	E	SB0205		102
23-20-14	A	SB0068		87
23-20-33	E	HB0062		45
23-21-2.6	E	HB0141		52
24-1-102	A	SB0065		179
24-2-104	A	SB0091		274
24-2-104	A	HB0065		120
24-2-105	A	SB0065		179
24-2-106	A	HB0065		120
24-2-107	A	HB0065		120
24-2-107	A	SB0065		179
24-2-108	A	SB0065		179
24-2-108	A	HB0065		120
24-3-101.5	A	HB0065		120
24-3-101.5	A	SB0091		274
24-4-102	A	SB0091		274
24-4-102	A	HB0029		116
24-4-103	A	SB0065		179
24-4-103.3	A	HB0065		120
24-4-103.5	A	HB0065		120
24-4-105	A	SB0065		179
24-4-115	A	SB0065		179
24-4-118	A	SB0091		274
26-1-1	R	SB0045		255
26-1-2	A	SB0045		255
26-1-3	R	SB0045		255
26-1-4	N	SB0045	26B-1-207	255
26-1-4.1	R	SB0045		255
26-1-5	N	SB0045	26B-1-213	255
26-1-6	N	SB0045	26B-1-209	255
26-1-7	R	SB0045		255
26-1-7.1	R	SB0045		255
26-1-8	R	SB0045		255
26-1-9	R	SB0045		255
26-1-10	A	SB0045		255
26-1-11	A	SB0045		255
26-1-13	R	SB0045		255
26-1-14	R	SB0045		255
26-1-15	R	SB0045		255
26-1-16	N	SB0045	26B-1-301	255
26-1-17	R	SB0045		255
26-1-17.1	N	SB0045	26B-1-211	255
26-1-17.5	N	SB0045	26B-1-212	255
26-1-18	R	SB0045		255
26-1-20	R	SB0045		255
26-1-21	R	SB0045		255
26-1-22	R	SB0045		255
26-1-23	R	SB0045		255
26-1-24	R	SB0045		255
26-1-25	R	SB0045		255
26-1-30	R	SB0045		255
26-1-32	N	SB0045	26B-1-104	255
26-1-33	N	SB0045	26B-1-105	255
26-1-34	N	SB0045	26B-1-304	255
26-1-43	E	SB0041		253
26-1-43	E	SB0194		189
26-1-43	E	HB0050		36
26-1-44	T	HB0050	26-1-43	36
26-1-45	T	SB0194	26-1-43	189
26-2-2	A	SB0043		415
26-2-4	A	HB0310		231
26-2-4	A	HB0341		365
26-2-7	A	HB0310		231
26-2-12.5	A	HB0249		335
26-2-12.5	A	SB0045		255
26-2-12.6	A	SB0045		255
26-2-12.6	A	HB0341		365
26-4-2	A	SB0101		277
26-4-10.5	A	SB0043		415
26-4-17	A	SB0045		255
26-6-27	A	SB0043		415
26-6-27	A	SB0124		430
26-6-27	A	SB0015		169
26-6-27	A	HB0249		335
26-6-32	A	SB0015		169
26-6-42	A	HB0183		5
26-7-2.5	N	SB0028	26B-1-305	245
26-7-10	A	SB0045		255
26-7-12	N	HB0110	62A-15-403	211
26-7-13	A	SB0043		415
26-7-14	A	SB0124		430
26-8a-102	A	SB0045		255

Section	Action	Bill Number	Former/ Renumber	Chapter Number
26-8a-102	A	HB0441		404
26-8a-102	A	HB0293		351
26-8a-103	A	SB0045		255
26-8a-107	A	SB0045		255
26-8a-203	A	HB0398		387
26-8a-208	A	SB0045		255
26-8a-212	E	HB0441		404
26-8a-302	A	SB0045		255
26-8a-302	A	SB0222		460
26-8a-310	A	SB0045		255
26-8a-310	A	SB0043		415
26-8a-310	A	HB0249		335
26-8a-404	A	HB0293		351
26-8a-413	A	SB0091		274
26-8a-416	A	HB0293		351
26-8a-502.1	E	SB0213		457
26-8a-603	E	HB0289		347
26-9f-103	A	SB0045		255
26-10-6	A	SB0045		255
26-10-9	A	SB0124		430
26-10b-101	A	SB0045		255
26-10b-106	A	SB0045		255
26-15-3	A	SB0043		415
26-18-2.4	A	SB0045		255
26-18-5.5	E	SB0240		469
26-18-20	A	SB0163		443
26-18-28	E	HB0080		206
26-18-402.5	A	HB0190		40
26-18-405.5	A	HB0236		149
26-18-410	A	HB0200		226
26-18-411	A	HB0413		394
26-18-427	E	HB0413		394
26-18-427	E	SB0041		253
26-18-428	E	HB0413		394
26-18-429	T	SB0041	26-18-427	253
26-18-503	A	SB0091		274
26-18-701	E	HB0248		334
26-18-702	E	HB0248		334
26-18-703	F	HB0248	62A-4a-709	334
26-21-2	A	SB0045		255
26-21-2.1	A	SB0195		452
26-21-3	A	SB0045		255
26-21-22	A	SB0043		415
26-21-26	A	SB0043		415
26-21-204	A	SB0043		415
26-21-204	A	HB0249		335
26-23-6	A	SB0213		457
26-23b-102	A	SB0045		255
26-25-1	A	SB0045		255
26-29-1	A	SB0082		421
26-29-3	A	SB0082		421
26-33a-102	A	SB0045		255
26-33a-103	A	SB0045		255
26-33a-106.1	A	HB0210		321
26-39-102	A	HB0015		21
26-39-102	A	SB0045		255
26-39-200	A	SB0045		255
26-39-201	A	SB0045		255
26-39-301	A	SB0045		255
26-39-301	A	HB0015		21
26-39-401	A	HB0015		21
26-39-402	A	HB0015		21
26-39-402	A	HB0249		335
26-39-402	A	SB0045		255
26-39-403	A	HB0015		21
26-39-405	E	HB0021		194
26-45-101	R	SB0144		434
26-45-102	A	SB0144		434
26-45-103	A	SB0144		434
26-45-104	A	SB0144		434
26-45-105	A	SB0144		434
26-49-102	A	SB0045		255
26-49-205	A	SB0043		415
26-54-103	A	SB0045		255
26-55-105	A	SB0043		415
26-55-108	A	SB0043		415
26-60-104	A	SB0043		415
26-60-104	A	SB0045		255
26-61-102	A	SB0195		452
26-61-201	A	SB0195		452
26-61-202	A	SB0043		415
26-61a-102	A	SB0195		452
26-61a-102	A	SB0190		290
26-61a-103	A	SB0190		290
26-61a-103	A	SB0043		415
26-61a-104	A	SB0101		277
26-61a-104	A	SB0195		452
26-61a-105	A	SB0195		452
26-61a-106	A	SB0195		452
26-61a-106	A	SB0043		415
26-61a-111	A	SB0040		174
26-61a-111	A	SB0046		256
26-61a-111	A	SB0190		290
26-61a-116	E	SB0195		452
26-61a-201	A	SB0195		452
26-61a-201	A	SB0190		290
26-61a-201	A	HB0031		198
26-61a-202	A	SB0190		290
26-61a-202	A	SB0195		452
26-61a-204	A	SB0190		290
26-61a-204	A	HB0031		198
26-61a-301	A	SB0190		290
26-61a-303	A	SB0190		290
26-61a-303	A	SB0043		415
26-61a-305	A	SB0190		290
26-61a-401	A	SB0190		290
26-61a-401	A	SB0043		415
26-61a-403	A	SB0043		415
26-61a-403	A	SB0195		452
26-61a-501	A	SB0190		290
26-61a-501	A	SB0043		415
26-61a-502	A	SB0190		290
26-61a-503	A	SB0043		415
26-61a-505	A	SB0195		452
26-61a-506	A	SB0043		415
26-61a-604	A	SB0195		452
26-61a-604	A	SB0190		290
26-61a-605	A	SB0043		415
26-61a-606	A	SB0043		415
26-61a-606	A	SB0190		290
26-61a-607	A	SB0195		452
26-61a-702	A	SB0195		452
26-61a-703	A	SB0153		97
26-62-304	A	SB0091		274
26-62-305	A	SB0091		274
26-63-101	R	SB0186		451
26-63-102	R	SB0186		451
26-63-201	R	SB0186		451
26-63-202	R	SB0186		451
26-63-203	R	SB0186		451
26-63-204	R	SB0186		451
26-63-301	R	SB0186		451
26-63-302	R	SB0186		451
26-63-303	R	SB0186		451
26-63-401	R	SB0186		451
26-63-402	R	SB0186		451
26-63-403	R	SB0186		451
26-63-501	R	SB0186		451
26-63-502	R	SB0186		451
26-63-503	R	SB0186		451
26-63-504	R	SB0186		451
26-63-601	R	SB0186		451
26-64-102	A	SB0043		415
26-67-102	A	SB0045		255
26-67-202	A	SB0045		255
26-68-201	N	HB0063	34-56-101	119
26-69-101	E	HB0176		224
26-69-101	E	HB0225		327
26-69-101	E	SB0104		279
26-69-102	E	SB0104		279
26-69-102	E	HB0225		327
26-69-103	E	SB0104		279
26-69-104	E	SB0104		279
26-69-105	E	SB0104		279
26-69-106	E	SB0104		279
26-69-107	E	SB0104		279
26-69-201	E	HB0176		224
26-69-202	E	HB0176		224
26-69-203	E	HB0176		224
26-69-301	E	HB0176		224
26-69-401	F	HB0176	53B-24-102	224
26-69-402	F	HB0176	53B-24-302	224
26-69-403	F	HB0176	53B-24-202	224
26-69-404	F	HB0176	53B-24-303	224
26-69-405	F	HB0176	53B-24-304	224
26-69-406	F	HB0176	53B-24-402	224
26-69-407	T	HB0295	53B-24-501	154
26-69-408	T	HB0295	53B-24-502	154
26-70-101	T	HB0225	26-69-101	327
26-70-102	T	HB0225	26-69-102	327
26-71-101	T	SB0104	26-69-101	279
26-71-102	T	SB0104	26-69-102	279
26A-1-102	A	SB0045		255
26A-1-108	A	HB0182		39
26A-1-113	A	SB0043		415
26A-1-114	A	SB0043		415
26A-1-114	A	SB0124		430
26A-1-114	A	HB0182		39

Section	Action	Bill Number	Former/ Renumber	Chapter Number
26A-1-121	A	SB0045		255
26A-1-126	A	SB0043		415
26B-1-101	R	SB0045		255
26B-1-102	A	SB0045		255
26B-1-103	A	SB0045		255
26B-1-104	F	SB0045	26-1-32	255
26B-1-105	F	SB0045	26-1-33	255
26B-1-201	A	SB0045		255
26B-1-201.1	A	SB0045		255
26B-1-202	F	SB0045	62A-1-111	255
26B-1-203	F	SB0045	62A-1-108	255
26B-1-204	F	SB0045	62A-1-105	255
26B-1-205	F	SB0045	62A-1-109	255
26B-1-206	F	SB0045	62A-1-107.5	255
26B-1-207	F	SB0045	26-1-4	255
26B-1-208	F	SB0045	62A-1-112	255
26B-1-209	F	SB0045	26-1-6	255
26B-1-210	F	SB0045	62A-1-113	255
26B-1-211	F	SB0045	26-1-17.1	255
26B-1-212	F	SB0045	26-1-17.5	255
26B-1-213	F	SB0045	26-1-5	255
26B-1-301	F	SB0045	26-1-16	255
26B-1-301	E	SB0028		245
26B-1-302	E	SB0028		245
26B-1-302	F	SB0045	62A-1-202	255
26B-1-303	F	SB0045	62A-1-119	255
26B-1-303	E	SB0028		245
26B-1-304	E	SB0028		245
26B-1-304	F	SB0045	26-1-34	255
26B-1-305	F	SB0028	26-7-2.5	245
26B-1-305	E	SB0045		255
26B-1-306	E	SB0028		245
26B-1-307	E	SB0028		245
26B-1a-101	T	SB0028	26B-1-301	245
26B-1a-102	T	SB0028	26B-1-302	245
26B-1a-103	T	SB0028	26B-1-303	245
26B-1a-104	T	SB0028	26B-1-304	245
26B-1a-105	T	SB0028	26B-1-305	245
26B-2-101	E	SB0045		255
26B-3-101	E	SB0045		255
26B-4-101	E	SB0045		255
26B-5-101	E	SB0045		255
26B-6-101	E	SB0045		255
26B-7-101	E	SB0045		255
26B-8-101	E	SB0045		255
26B-9-101	E	SB0045		255
30-1-1	A	HB0122		217
30-1-3	X	HB0122		217
30-1-6	A	SB0164		444
30-1-12	A	HB0310		231
30-3-5	A	SB0074		263
30-3-5.2	A	HB0249		335
30-3-5.4	A	SB0074		263
30-3-11.3	A	SB0087		272
30-3-11.4	A	SB0087		272
30-3-32	A	SB0243		471
30-3-34.5	A	SB0124		430
30-3-35	X	SB0243		471
30-3-35.1	X	SB0243		471
30-3-35.5	X	SB0243		471
30-3-38	A	HB0249		335
30-5-2	A	HB0249		335
30-5a-103	A	HB0249		335
30-5a-103	A	SB0124		430
30-5a-103	A	SB0167		185
31A-1-301	A	HB0031		198
31A-2-210	A	HB0031		198
31A-2-403	A	HB0031		198
31A-4-115	A	HB0031		198
31A-5-506	A	HB0031		198
31A-6a-104	A	HB0031		198
31A-16-102.6	E	HB0031		198
31A-16-105	A	HB0031		198
31A-16-106	A	HB0031		198
31A-16-109	A	HB0031		198
31A-17-408	A	HB0031		198
31A-17-519	R	HB0031		198
31A-17-601	A	HB0031		198
31A-21-201	A	HB0031		198
31A-21-303	A	HB0031		198
31A-21-501	A	SB0167		185
31A-21-501	A	SB0124		430
31A-22-305	A	HB0402		163
31A-22-305.3	A	HB0402		163
31A-22-305.3	A	HB0031		198
31A-22-508	A	HB0360		373
31A-22-602	A	HB0031		198
31A-22-618.6	A	HB0031		198
31A-22-618.7	A	HB0031		198
31A-22-618.8	A	HB0031		198
31A-22-626.5	R	HB0044		32
31A-22-627	A	HB0031		198
31A-22-636	A	HB0031		198
31A-22-642	A	SB0043		415
31A-22-657	E	HB0031		198
31A-22-727	E	HB0031		198
31A-23a-111	A	HB0031		198
31A-23a-902	A	HB0338		364
31A-23a-902.1	E	HB0338		364
31A-23a-905	A	HB0338		364
31A-23a-908	E	HB0338		364
31A-23a-909	E	HB0338		364
31A-23a-910	E	HB0338		364
31A-23a-911	E	HB0338		364
31A-23a-912	E	HB0338		364
31A-27a-104	A	HB0031		198
31A-27a-111	A	HB0031		198
31A-30-103	A	HB0031		198
31A-35-404	A	HB0031		198
31A-47-101	R	HB0243		332
31A-47-102	R	HB0243		332
31A-47-103	R	HB0243		332
31A-47-104	R	HB0243		332
31A-47-105	R	HB0243		332
31A-47-106	R	HB0243		332
31A-47-107	R	HB0243		332
31A-47-108	R	HB0243		332
31A-48-102	A	HB0031		198
31A-48-103	A	HB0031		198
32B-1-102	A	SB0176		447
32B-1-202.1	A	SB0176		447
32B-1-603	A	SB0176		447
32B-1-604	A	SB0176		447
32B-1-605	A	SB0176		447
32B-1-606	A	SB0176		447
32B-1-701	A	SB0176		447
32B-1-704	A	SB0176		447
32B-2-101	A	SB0176		447
32B-2-201	A	SB0176		447
32B-2-202	A	SB0176		447
32B-2-203	A	SB0176		447
32B-2-205	A	SB0176		447
32B-2-210	A	SB0176		447
32B-2-212	E	SB0014		412
32B-2-301	A	SB0176		447
32B-2-304	A	SB0176		447
32B-2-305	A	SB0201		453
32B-2-307	A	HB0191		315
32B-2-308	A	SB0045		255
32B-2-402	A	SB0045		255
32B-2-602	A	SB0176		447
32B-2-605	A	SB0176		447
32B-2-701	A	SB0014		412
32B-2-702	A	SB0014		412
32B-2-703	A	SB0014		412
32B-2-801	E	SB0014		412
32B-2-802	E	SB0014		412
32B-2-803	E	SB0014		412
32B-3-202	A	SB0176		447
32B-3-205	A	SB0176		447
32B-4-305	A	SB0043		415
32B-4-403	A	SB0176		447
32B-4-415	A	SB0176		447
32B-5-102	A	SB0176		447
32B-5-201	A	SB0176		447
32B-5-202	A	SB0176		447
32B-5-205	A	SB0176		447
32B-5-304	A	SB0176		447
32B-5-307	A	SB0176		447
32B-5-309	A	SB0176		447
32B-5-310	N	SB0176	32B-18-204	447
32B-6-205	A	SB0176		447
32B-6-205.2	A	SB0176		447
32B-6-205.3	A	SB0176		447
32B-6-305	A	SB0176		447
32B-6-305.2	A	SB0176		447
32B-6-305.3	A	SB0176		447
32B-6-404.1	A	SB0176		447
32B-6-605	A	SB0176		447
32B-6-706	A	SB0176		447
32B-6-905	A	SB0176		447
32B-6-905.1	A	SB0176		447
32B-6-905.2	A	SB0176		447
32B-6-1005	A	SB0176		447
32B-7-202	A	SB0176		447
32B-7-305	A	SB0176		447
32B-8-201	A	SB0176		447
32B-8a-101	R	SB0176		447

Section	Action	Bill Number	Former/ Renumber	Chapter Number
32B-8a-102	N	SB0176	32B-18-101	447
32B-8a-201	N	SB0176	32B-18-201	447
32B-8a-202	N	SB0176	32B-18-202	447
32B-8a-203	N	SB0176	32B-18-206	447
32B-8a-302	R	SB0176		447
32B-8a-303	N	SB0176	32B-18-207	447
32B-8a-501	N	SB0176	32B-18-401	447
32B-8a-502	N	SB0176	32B-18-402	447
32B-8b-301	A	SB0176		447
32B-8c-202	A	SB0176		447
32B-8d-102	A	SB0176		447
32B-8d-103	A	SB0176		447
32B-8d-104	A	SB0176		447
32B-8d-201	A	SB0176		447
32B-8d-202	A	SB0176		447
32B-8d-203	A	SB0176		447
32B-8d-204	A	SB0176		447
32B-8d-205	A	SB0176		447
32B-9-303	A	SB0176		447
32B-10-206	A	SB0176		447
32B-11-208	A	SB0176		447
32B-11-303	A	SB0176		447
32B-11-403	A	SB0176		447
32B-11-503	A	SB0176		447
32B-11-504	A	SB0176		447
32B-12-207	R	SB0176		447
32B-18-101	F	SB0176	32B-8a-102	447
32B-18-201	F	SB0176	32B-8a-201	447
32B-18-202	F	SB0176	32B-8a-202	447
32B-18-203	E	SB0176		447
32B-18-204	F	SB0176	32B-5-310	447
32B-18-205	E	SB0176		447
32B-18-206	F	SB0176	32B-8a-203	447
32B-18-207	F	SB0176	32B-8a-303	447
32B-18-301	E	SB0176		447
32B-18-302	E	SB0176		447
32B-18-303	E	SB0176		447
32B-18-401	F	SB0176	32B-8a-501	447
32B-18-402	F	SB0176	32B-8a-502	447
34-38-13	A	SB0043		415
34-52-201	A	SB0176		447
34-56-101	F	HB0063	26-68-201	119
34-56-102	E	HB0063		119
34-56-201	E	HB0063		119
34A-2-107	A	HB0044		32
34A-2-110	A	SB0124		430
34A-2-601	A	HB0369		375
34A-2-705	A	HB0044		32
34A-3-113	A	HB0287		346
34A-5-104	A	HB0044		032
34A-6-307	A	HB0245		333
35A-1-109	A	HB0333		362
35A-3-103	A	SB0045		255
35A-3-212	E	HB0015		21
35A-6-105	A	SB0043		415
35A-8-101	A	HB0462		406
35A-8-304	A	SB0111		427
35A-8-503	A	HB0462		406
35A-8-504	A	HB0462		406
35A-8-507.5	A	HB0462		406
35A-8-508	A	HB0462		406
35A-8-509	A	HB0462		406
35A-8-509.5	E	HB0462		406
35A-8-510	A	HB0462		406
35A-8-511	A	HB0462		406
35A-8-512	A	HB0462		406
35A-8-513	A	HB0462		406
35A-8-803	A	HB0462		406
35A-8-901	A	HB0249		335
35A-8-1201	N	HB0017	63N-3-801	22
35A-8-1202	N	HB0017	63N-3-802	22
35A-8-1203	N	HB0017	63N-3-803	22
35A-8-2105	A	HB0462		406
35A-8-2105	A	HB0305		068
35A-8-2106	A	HB0462		406
35A-8-2202	A	HB0036		118
35A-8-2203	A	HB0036		118
35A-8-2203	A	HB0462		406
35A-9-201	A	HB0050		36
35A-9-202	E	HB0050		36
35A-9-301	R	HB0050		36
35A-9-302	R	HB0050		36
35A-9-303	R	HB0050		36
35A-9-304	R	HB0050		36
35A-9-305	R	HB0050		36
35A-9-306	R	HB0050		36
35A-9-501	R	HB0050		36
35A-11-101	R	HB0333		362
35A-11-102	N	HB0333	63N-1b-401	362
35A-11-201	N	HB0333	63N-1b-402	362
35A-11-202	N	HB0333	63N-1b-403	362
35A-11-203	N	HB0333	63N-1b-404	362
35A-14-101	R	SB0226		461
35A-14-102	N	SB0226	53B-33-101	461
35A-14-201	N	SB0226	53B-33-201	461
35A-14-202	R	SB0226		461
35A-14-203	N	SB0226	53B-33-202	461
35A-14-204	N	SB0226	53B-33-203	461
35A-14-301	N	SB0226	53B-33-301	461
35A-14-302	N	SB0226	53B-33-302	461
35A-14-303	N	SB0226	53B-33-303	461
35A-14-304	N	SB0226	53B-33-304	461
35A-15-102	A	HB0290		348
35A-15-102	A	HB0193		316
35A-15-201	A	SB0226		461
35A-15-202	A	HB0290		348
35A-16-102	A	HB0440		403
35A-16-203	A	HB0440		403
35A-16-204	A	HB0440		403
35A-16-205	A	HB0440		403
35A-16-206	E	HB0440		403
35A-16-207	E	HB0440		403
35A-16-304	N	HB0440	35A-16-402	403
35A-16-304	A	HB0443		082
35A-16-305	N	HB0440	35A-16-403	403
35A-16-306	R	HB0440		403
35A-16-307	N	HB0440	35A-16-404	403
35A-16-401	E	HB0440		403
35A-16-401	E	SB0238		467
35A-16-402	E	SB0238		467
35A-16-402	F	HB0440	35A-16-304	403
35A-16-403	F	HB0440	35A-16-305	403
35A-16-404	F	HB0440	35A-16-307	403
35A-16-501	E	HB0440		403
35A-16-502	E	HB0440		403
35A-16-503	E	HB0440		403
35A-16-601	T	SB0238	35A-16-401	467
35A-16-602	T	SB0238	35A-16-402	467
36-11-102	A	HB0090		125
36-11-103	A	HB0090		125
36-11-103.5	E	HB0090		125
36-11-106	A	HB0090		125
36-11-201	A	HB0090		125
36-11-304	A	HB0090		125
36-11-305.5	A	HB0090		125
36-11-401	A	HB0090		125
36-11-404	A	HB0090		125
36-11-405	A	HB0090		125
36-11a-101	R	HB0090		125
36-11a-102	R	HB0090		125
36-11a-102	A	HB0267		151
36-11a-201	R	HB0090		125
36-11a-202	R	HB0090		125
36-11a-203	R	HB0090		125
36-11a-301	R	HB0090		125
36-11a-302	R	HB0090		125
36-11a-303	R	HB0090		125
36-12-7	A	HB0159		222
36-12-8.2	E	SB0153		97
36-23-101	R	SB0016		413
36-23-101.5	R	SB0016		413
36-23-102	R	SB0016		413
36-23-102	A	SB0043		415
36-23-103	R	SB0016		413
36-23-104	R	SB0016		413
36-23-105	R	SB0016		413
36-23-106	R	SB0016		413
36-23-107	R	SB0016		413
36-23-107	A	SB0043		415
36-23-108	R	SB0016		413
36-23-109	R	SB0016		413
36-29-108	A	SB0050		175
36-29-109	E	SB0150		437
36-29-109	E	SB0214		458
36-29-109	E	HB0335		363
36-29-110	T	HB0335	36-29-109	363
36-29-111	T	SB0150	36-29-109	437
36-29-301	E	HB0167		141
36-29-302	E	HB0167		141
36-29-303	E	HB0167		141
36-33-101	E	HB0248		334
36-33-102	E	HB0248		334
36-33-103	F	HB0248	62A-4a-207	334
38-1a-102	A	SB0119		429
38-1a-102	A	SB0043		415
38-1a-301	A	SB0119		429
38-1a-506	A	SB0119		429
38-1b-102	A	SB0043		415

Section	Action	Bill Number	Former/ Renumber	Chapter Number
38-11-102	A	SB0043		415
38-11-103	A	SB0043		415
39-1-1	N	HB0360	39A-4-101	373
39-1-2	R	HB0360		373
39-1-3	N	HB0360	39A-3-102	373
39-1-4	R	HB0360		373
39-1-5	R	HB0360		373
39-1-7	R	HB0360		373
39-1-8	N	HB0360	39A-4-112	373
39-1-9	N	HB0360	39A-3-103	373
39-1-10	R	HB0360		373
39-1-12	N	HB0360	39A-1-201	373
39-1-12.5	R	HB0360		373
39-1-13	R	HB0360		373
39-1-14	R	HB0360		373
39-1-15	R	HB0360		373
39-1-16	R	HB0360		373
39-1-17	R	HB0360		373
39-1-18	R	HB0360		373
39-1-19	R	HB0360		373
39-1-21	R	HB0360		373
39-1-22	R	HB0360		373
39-1-23	N	HB0360	39A-1-202	373
39-1-24	R	HB0360		373
39-1-25	R	HB0360		373
39-1-26	R	HB0360		373
39-1-28	R	HB0360		373
39-1-29	R	HB0360		373
39-1-30	R	HB0360		373
39-1-31	R	HB0360		373
39-1-32	R	HB0360		373
39-1-33	R	HB0360		373
39-1-34	R	HB0360		373
39-1-35	R	HB0360		373
39-1-37	R	HB0360		373
39-1-38	R	HB0360		373
39-1-38.5	R	HB0360		373
39-1-39	R	HB0360		373
39-1-40.5	N	HB0360	39A-3-110	373
39-1-41	R	HB0360		373
39-1-41.5	N	HB0360	39A-5-207	373
39-1-44	R	HB0360		373
39-1-45	R	HB0360		373
39-1-46	R	HB0360		373
39-1-47	N	HB0360	39A-3-108	373
39-1-50	N	HB0360	39A-3-111	373
39-1-51	N	HB0360	39A-3-107	373
39-1-52	R	HB0360		373
39-1-53	R	HB0360		373
39-1-54	R	HB0360		373
39-1-56	R	HB0360		373
39-1-58	R	HB0360		373
39-1-59	N	HB0360	39A-3-203	373
39-1-59.5	N	HB0360	39A-3-204	373
39-1-60	R	HB0360		373
39-1-62	R	HB0360		373
39-1-63	N	HB0360	39A-3-201	373
39-1-65	N	HB0360	39A-3-202	373
39-2-1	N	HB0360	39A-2-101	373
39-2-1	A	SB0082		421
39-2-2	N	HB0360	39A-2-102	373
39-2-7	R	HB0360		373
39-2-9	N	HB0360	39A-2-103	373
39-4-1	N	HB0360	39A-4-102	373
39-4-2	R	HB0360		373
39-4-3	N	HB0360	39A-4-106	373
39-4-4	N	HB0360	39A-4-111	373
39-4-5	N	HB0360	39A-4-108	373
39-4-6	R	HB0360		373
39-4-7	N	HB0360	39A-4-110	373
39-4-8	N	HB0360	39A-4-107	373
39-4-9	N	HB0360	39A-4-103	373
39-4-10	N	HB0360	39A-4-105	373
39-4-11	N	HB0360	39A-4-104	373
39-4-12	N	HB0360	39A-4-109	373
39-4-13	R	HB0360		373
39-5-1	R	HB0360		373
39-5-2	R	HB0360		373
39-5-3	R	HB0360		373
39-6-1	N	HB0360	39A-5-101	373
39-6-2	N	HB0360	39A-5-102	373
39-6-3	N	HB0360	39A-5-104	373
39-6-4	N	HB0360	39A-5-109	373
39-6-5	N	HB0360	39A-5-105	373
39-6-6	N	HB0360	39A-5-103	373
39-6-7	N	HB0360	39A-5-107	373
39-6-8	N	HB0360	39A-5-108	373
39-6-9	N	HB0360	39A-5-110	373
39-6-10	N	HB0360	39A-5-111	373
39-6-11	N	HB0360	39A-5-112	373
39-6-12	N	HB0360	39A-5-113	373
39-6-14	N	HB0360	39A-5-302	373
39-6-15	N	HB0360	39A-5-202	373
39-6-16	N	HB0360	39A-5-203	373
39-6-17	N	HB0360	39A-5-306	373
39-6-18	R	HB0360		373
39-6-19	N	HB0360	39A-5-208	373
39-6-20	N	HB0360	39A-5-206	373
39-6-21	R	HB0360		373
39-6-22	N	HB0360	39A-5-214	373
39-6-23	N	HB0360	39A-5-114	373
39-6-24	N	HB0360	39A-5-115	373
39-6-26	N	HB0360	39A-5-116	373
39-6-27	N	HB0360	39A-5-117	373
39-6-28	N	HB0360	39A-5-118	373
39-6-29	N	HB0360	39A-5-211	373
39-6-30	N	HB0360	39A-5-209	373
39-6-31	N	HB0360	39A-5-210	373
39-6-32	N	HB0360	39A-5-216	373
39-6-33	N	HB0360	39A-5-215	373
39-6-34	N	HB0360	39A-5-213	373
39-6-35	N	HB0360	39A-5-212	373
39-6-36	R	HB0360		373
39-6-37	N	HB0360	39A-5-235	373
39-6-38	N	HB0360	39A-5-217	373
39-6-39	N	HB0360	39A-5-219	373
39-6-40	N	HB0360	39A-5-106	373
39-6-41	N	HB0360	39A-5-218	373
39-6-42	N	HB0360	39A-5-220	373
39-6-43	N	HB0360	39A-5-221	373
39-6-44	N	HB0360	39A-5-222	373
39-6-45	N	HB0360	39A-5-223	373
39-6-46	N	HB0360	39A-5-224	373
39-6-47	N	HB0360	39A-5-226	373
39-6-48	R	HB0360		373
39-6-49	N	HB0360	39A-5-301	373
39-6-50	N	HB0360	39A-5-304	373
39-6-51	N	HB0360	39A-5-305	373
39-6-52	N	HB0360	39A-5-225	373
39-6-53	N	HB0360	39A-5-227	373
39-6-54	N	HB0360	39A-5-228	373
39-6-55	N	HB0360	39A-5-229	373
39-6-56	N	HB0360	39A-5-230	373
39-6-57	R	HB0360		373
39-6-58	N	HB0360	39A-5-231	373
39-6-59	N	HB0360	39A-5-232	373
39-6-61	N	HB0360	39A-5-233	373
39-6-62	N	HB0360	39A-5-234	373
39-6-63	N	HB0360	39A-5-236	373
39-6-64	N	HB0360	39A-5-237	373
39-6-65	N	HB0360	39A-5-238	373
39-6-107	N	HB0360	39A-5-239	373
39-6-108	N	HB0360	39A-5-205	373
39-6-109	N	HB0360	39A-5-204	373
39-6-110	N	HB0360	39A-5-303	373
39-6-111	R	HB0360		373
39-6-112	R	HB0360		373
39-6-113	R	HB0360		373
39-6-114	N	HB0360	39A-5-119	373
39-7-101	R	HB0360		373
39-7-102	N	HB0360	39A-6-101	373
39-7-103	R	HB0360		373
39-7-104	N	HB0360	39A-6-104	373
39-7-105	N	HB0360	39A-6-105	373
39-7-106	N	HB0360	39A-6-106	373
39-7-107	N	HB0360	39A-6-107	373
39-7-108	N	HB0360	39A-6-108	373
39-7-109	N	HB0360	39A-6-109	373
39-7-110	N	HB0360	39A-6-110	373
39-7-111	N	HB0360	39A-6-111	373
39-7-112	N	HB0360	39A-6-112	373
39-7-113	N	HB0360	39A-6-113	373
39-7-114	N	HB0360	39A-6-114	373
39-7-115	N	HB0360	39A-6-115	373
39-7-116	N	HB0360	39A-6-116	373
39-7-117	N	HB0360	39A-6-117	373
39-7-119	N	HB0360	39A-6-103	373
39-8-101	R	HB0360		373
39-8-102	R	HB0360		373
39-9-101	N	HB0360	39A-7-101	373
39-9-102	N	HB0360	39A-7-102	373
39-9-103	N	HB0360	39A-7-103	373
39-9-104	N	HB0360	39A-7-104	373
39-9-105	N	HB0360	39A-7-105	373
39-9-106	R	HB0360		373
39-9-107	R	HB0360		373
39-10-101	N	HB0360	39A-8-101	373
39-10-102	N	HB0360	39A-8-102	373

Section	Action	Bill Number	Former/ Renumber	Chapter Number
39-10-103	N	HB0360	39A-8-103	373
39-10-104	N	HB0360	39A-8-104	373
39-10-105	N	HB0360	39A-8-105	373
39A-1-101	E	HB0360		373
39A-1-102	E	HB0360		373
39A-1-201	F	HB0360	39-1-12	373
39A-1-202	F	HB0360	39-1-23	373
39A-1-203	E	HB0360		373
39A-2-101	F	HB0360	39-2-1	373
39A-2-102	F	HB0360	39-2-2	373
39A-2-103	F	HB0360	39-2-9	373
39A-2-104	E	HB0360		373
39A-3-101	E	HB0360		373
39A-3-102	F	HB0360	39-1-3	373
39A-3-103	F	HB0360	39-1-9	373
39A-3-104	E	HB0360		373
39A-3-105	E	HB0360		373
39A-3-106	E	HB0360		373
39A-3-107	F	HB0360	39-1-51	373
39A-3-108	F	HB0360	39-1-47	373
39A-3-109	E	HB0360		373
39A-3-110	F	HB0360	39-1-40.5	373
39A-3-111	F	HB0360	39-1-50	373
39A-3-201	F	HB0360	39-1-63	373
39A-3-202	F	HB0360	39-1-65	373
39A-3-203	F	HB0360	39-1-59	373
39A-3-204	F	HB0360	39-1-59.5	373
39A-4-101	F	HB0360	39-1-1	373
39A-4-102	F	HB0360	39-4-1	373
39A-4-103	F	HB0360	39-4-9	373
39A-4-104	F	HB0360	39-4-11	373
39A-4-105	F	HB0360	39-4-10	373
39A-4-106	F	HB0360	39-4-3	373
39A-4-107	F	HB0360	39-4-8	373
39A-4-108	F	HB0360	39-4-5	373
39A-4-109	F	HB0360	39-4-12	373
39A-4-110	F	HB0360	39-4-7	373
39A-4-111	F	HB0360	39-4-4	373
39A-4-112	F	HB0360	39-1-8	373
39A-5-101	F	HB0360	39-6-1	373
39A-5-102	F	HB0360	39-6-2	373
39A-5-103	F	HB0360	39-6-6	373
39A-5-104	F	HB0360	39-6-3	373
39A-5-105	F	HB0360	39-6-5	373
39A-5-106	F	HB0360	39-6-40	373
39A-5-107	F	HB0360	39-6-7	373
39A-5-108	F	HB0360	39-6-8	373
39A-5-109	F	HB0360	39-6-4	373
39A-5-110	F	HB0360	39-6-9	373
39A-5-111	F	HB0360	39-6-10	373
39A-5-112	F	HB0360	39-6-11	373
39A-5-113	F	HB0360	39-6-12	373
39A-5-114	F	HB0360	39-6-23	373
39A-5-115	F	HB0360	39-6-24	373
39A-5-116	F	HB0360	39-6-26	373
39A-5-117	F	HB0360	39-6-27	373
39A-5-118	F	HB0360	39-6-28	373
39A-5-119	F	HB0360	39-6-114	373
39A-5-201	E	HB0360		373
39A-5-202	F	HB0360	39-6-15	373
39A-5-203	F	HB0360	39-6-16	373
39A-5-204	F	HB0360	39-6-109	373
39A-5-205	F	HB0360	39-6-108	373
39A-5-206	F	HB0360	39-6-20	373
39A-5-207	F	HB0360	39-1-41.5	373
39A-5-208	F	HB0360	39-6-19	373
39A-5-209	F	HB0360	39-6-30	373
39A-5-210	F	HB0360	39-6-31	373
39A-5-211	F	HB0360	39-6-29	373
39A-5-212	F	HB0360	39-6-35	373
39A-5-213	F	HB0360	39-6-34	373
39A-5-214	F	HB0360	39-6-22	373
39A-5-215	F	HB0360	39-6-33	373
39A-5-216	F	HB0360	39-6-32	373
39A-5-217	F	HB0360	39-6-38	373
39A-5-218	F	HB0360	39-6-41	373
39A-5-219	F	HB0360	39-6-39	373
39A-5-220	F	HB0360	39-6-42	373
39A-5-221	F	HB0360	39-6-43	373
39A-5-222	F	HB0360	39-6-44	373
39A-5-223	F	HB0360	39-6-45	373
39A-5-224	F	HB0360	39-6-46	373
39A-5-225	F	HB0360	39-6-52	373
39A-5-226	F	HB0360	39-6-47	373
39A-5-227	F	HB0360	39-6-53	373
39A-5-228	F	HB0360	39-6-54	373
39A-5-229	F	HB0360	39-6-55	373
39A-5-230	F	HB0360	39-6-56	373
39A-5-231	F	HB0360	39-6-58	373
39A-5-232	F	HB0360	39-6-59	373
39A-5-233	F	HB0360	39-6-61	373
39A-5-234	F	HB0360	39-6-62	373
39A-5-235	F	HB0360	39-6-37	373
39A-5-236	F	HB0360	39-6-63	373
39A-5-237	F	HB0360	39-6-64	373
39A-5-238	F	HB0360	39-6-65	373
39A-5-239	F	HB0360	39-6-107	373
39A-5-301	F	HB0360	39-6-49	373
39A-5-302	F	HB0360	39-6-14	373
39A-5-303	F	HB0360	39-6-110	373
39A-5-304	F	HB0360	39-6-50	373
39A-5-305	F	HB0360	39-6-51	373
39A-5-306	F	HB0360	39-6-17	373
39A-6-101	F	HB0360	39-7-102	373
39A-6-102	E	HB0360		373
39A-6-103	F	HB0360	39-7-119	373
39A-6-104	F	HB0360	39-7-104	373
39A-6-105	F	HB0360	39-7-105	373
39A-6-106	F	HB0360	39-7-106	373
39A-6-107	F	HB0360	39-7-107	373
39A-6-108	F	HB0360	39-7-108	373
39A-6-109	F	HB0360	39-7-109	373
39A-6-110	F	HB0360	39-7-110	373
39A-6-111	F	HB0360	39-7-111	373
39A-6-112	F	HB0360	39-7-112	373
39A-6-113	F	HB0360	39-7-113	373
39A-6-114	F	HB0360	39-7-114	373
39A-6-115	F	HB0360	39-7-115	373
39A-6-116	F	HB0360	39-7-116	373
39A-6-117	F	HB0360	39-7-117	373
39A-7-101	F	HB0360	39-9-101	373
39A-7-102	F	HB0360	39-9-102	373
39A-7-103	F	HB0360	39-9-103	373
39A-7-104	F	HB0360	39-9-104	373
39A-7-105	F	HB0360	39-9-105	373
39A-8-101	F	HB0360	39-10-101	373
39A-8-102	F	HB0360	39-10-102	373
39A-8-103	F	HB0360	39-10-103	373
39A-8-104	F	HB0360	39-10-104	373
39A-8-105	F	HB0360	39-10-105	373
40-6-2	A	SB0146		96
40-6-2	A	HB0244		62
40-6-5	A	HB0244		62
40-6-16	A	SB0250		108
40-6-19	A	SB0186		451
40-6-20.5	E	HB0244		62
40-6-22	A	SB0163		443
40-6-24	E	SB0250		108
40-8-4	A	HB0378		72
40-11-1	E	HB0244		62
40-11-2	E	HB0244		62
40-11-3	E	HB0244		62
40-11-4	E	HB0244		62
40-11-5	E	HB0244		62
40-11-6	E	HB0244		62
40-11-7	E	HB0244		62
40-11-8	E	HB0244		62
40-11-9	E	HB0244		62
40-11-10	E	HB0244		62
40-11-11	E	HB0244		62
40-11-12	E	HB0244		62
40-11-13	E	HB0244		62
40-11-14	E	HB0244		62
40-11-15	E	HB0244		62
40-11-16	E	HB0244		62
40-11-17	E	HB0244		62
40-11-18	E	HB0244		62
40-11-19	E	HB0244		62
40-11-20	E	HB0244		62
40-11-21	E	HB0244		62
40-11-22	E	HB0244		62
41-1a-102	A	SB0109		92
41-1a-102	A	SB0077		180
41-1a-201	A	SB0051		259
41-1a-210.5	A	SB0064		178
41-1a-213	A	HB0328		158
41-1a-214	A	SB0099		91
41-1a-226	A	SB0051		259
41-1a-401	A	SB0051		259
41-1a-404	A	SB0051		259
41-1a-404	A	SB0077		180
41-1a-418	A	SB0186		451
41-1a-418	A	HB0305		68
41-1a-418	A	HB0088		48
41-1a-418	A	HB0013		19
41-1a-422	A	HB0013		19
41-1a-422	A	HB0088		48
41-1a-422	A	HB0249		335

Section	Action	Bill Number	Former/ Renumber	Chapter Number
41-1a-422	A	HB0305		68
41-1a-422	A	SB0186		451
41-1a-422	A	SB0211		456
41-1a-422	A	SB0051		259
41-1a-422	A	SB0045		255
41-1a-802	A	HB0108		49
41-1a-1103	A	SB0109		92
41-1a-1104	A	SB0109		92
41-1a-1201	A	SB0051		259
41-1a-1206	A	SB0051		259
41-1a-1206	A	HB0186		56
41-3-102	A	SB0204		455
41-3-103	A	SB0204		455
41-3-105	A	SB0051		259
41-6a-102	A	SB0066		86
41-6a-102	A	SB0109		92
41-6a-102	A	SB0215		104
41-6a-501	A	HB0029		116
41-6a-502	A	SB0043		415
41-6a-502.5	A	SB0043		415
41-6a-502.5	A	HB0137		134
41-6a-503	A	HB0137		134
41-6a-503	A	HB0143		137
41-6a-503	A	HB0029		116
41-6a-505	A	HB0029		116
41-6a-505	A	HB0143		137
41-6a-505	A	HB0137		134
41-6a-509	A	HB0029		116
41-6a-513	A	HB0029		116
41-6a-517	A	HB0029		116
41-6a-518	A	SB0087		272
41-6a-518.2	A	HB0029		116
41-6a-520	A	HB0029		116
41-6a-520	A	HB0137		134
41-6a-528	A	SB0053		176
41-6a-529	A	HB0029		116
41-6a-601	A	SB0053		176
41-6a-602	A	HB0235		42
41-6a-603	A	HB0235		42
41-6a-606	A	SB0053		176
41-6a-903.1	E	HB0076		47
41-6a-1115.5	A	SB0066		86
41-6a-1203	A	SB0215		104
41-6a-1205	A	SB0215		104
41-6a-1206	A	SB0215		104
41-6a-1406	A	SB0109		92
41-6a-1509	A	HB0305		68
41-6a-1635	A	SB0149		183
41-6a-1642	A	SB0051		259
41-6a-1642	A	HB0336		160
41-6a-1716	A	SB0102		426
41-6a-1901	A	HB0029		116
41-6a-2003	A	HB0443		82
41-21-1	A	SB0051		259
41-22-2	A	SB0072		88
41-22-2	A	HB0305		68
41-22-3	A	HB0180		143
41-22-5.1	A	HB0180		143
41-22-5.1	A	HB0305		68
41-22-5.5	A	HB0305		68
41-22-8	A	HB0305		68
41-22-10	A	HB0305		68
41-22-10.7	A	HB0305		68
41-22-12.2	A	HB0180		143
41-22-12.5	A	HB0180		143
41-22-19	A	HB0180		143
41-22-19	A	HB0305		68
41-22-30	A	HB0180		143
41-22-31	A	HB0180		143
41-22-31	A	HB0206		57
41-22-31	A	HB0305		68
41-22-32	A	HB0206		57
41-22-33	A	HB0305		68
41-22-35	A	HB0305		68
41-22-35	A	HB0180		143
41-26-102.1	A	HB0137		134
41-26-103	A	HB0137		134
42-2-6.6	A	SB0213		457
46-1-2	A	HB0328		158
48-1d-1105	A	SB0213		457
48-2e-108	A	SB0213		457
48-3a-108	A	SB0213		457
49-11-404	A	HB0070		122
49-11-603	A	SB0024		171
49-11-626	E	HB0075		205
49-11-903	A	SB0186		451
49-11-904	R	SB0024		171
49-11-1207	A	SB0024		171
49-12-102	A	SB0024		171
49-12-203	A	HB0075		205
49-13-102	A	SB0024		171
49-13-203	A	HB0075		205
49-14-102	A	SB0024		171
49-14-201	A	SB0024		171
49-14-602	E	HB0070		122
49-15-102	A	SB0024		171
49-15-201	A	SB0024		171
49-15-602	E	HB0070		122
49-16-102	A	SB0024		171
49-20-201	A	HB0289		347
49-20-401	A	HB0066		302
49-20-411	R	SB0249		475
49-22-102	A	SB0024		171
49-22-201	A	SB0024		171
49-22-203	A	HB0075		205
49-22-204	A	SB0024		171
49-22-205	A	SB0024		171
49-22-401	A	SB0024		171
49-23-102	A	SB0024		171
49-23-201	A	SB0024		171
49-23-203	A	SB0024		171
49-23-401	A	SB0024		171
49-23-602	E	HB0070		122
51-2a-301	A	SB0075		89
51-5-4	A	SB0211		456
51-5-4	A	SB0186		451
51-7-2	A	SB0172		186
51-7-2	A	SB0218		298
51-9-901	E	HB0409		77
51-9-902	E	HB0409		77
52-4-103	A	SB0092		422
52-4-203	A	HB0439		402
52-4-204	A	SB0015		169
52-4-204	A	SB0092		422
52-4-205	A	SB0092		422
52-4-205	A	SB0190		290
52-4-205	A	HB0438		237
52-4-205	A	HB0011		478
52-4-205	A	HB0243		332
52-4-205	A	HB0249		335
52-4-207	A	HB0022		24
52-4-207	A	HB0439		402
53-1-106.2	E	SB0051		259
53-2a-102	A	HB0182		39
53-2a-104	A	HB0169		38
53-2a-205	A	HB0182		39
53-2a-208	A	HB0182		39
53-2a-213	A	HB0182		39
53-2a-221	E	HB0169		38
53-2a-603	A	HB0016		111
53-2a-603	A	HB0360		373
53-2a-802	A	SB0176		447
53-2a-1102	A	HB0305		68
53-2a-1102	A	HB0383		73
53-2a-1205	A	SB0043		415
53-2a-1501	E	HB0418		396
53-2a-1501	E	HB0016		111
53-2a-1502	E	HB0016		111
53-2a-1502	E	HB0418		396
53-2a-1503	E	HB0418		396
53-2a-1503	E	HB0016		111
53-2a-1601	T	HB0016	53-2a-1501	111
53-2a-1602	T	HB0016	53-2a-1502	111
53-2a-1603	T	HB0016	53-2a-1503	111
53-3-102	A	HB0391		162
53-3-105	A	HB0222		146
53-3-105	A	SB0051		259
53-3-106	A	SB0045		255
53-3-106	A	SB0109		92
53-3-205	A	HB0068		46
53-3-206	A	HB0163		16
53-3-206	A	SB0216		105
53-3-207	A	HB0328		158
53-3-218	A	SB0102		426
53-3-219	A	SB0051		259
53-3-220	A	HB0029		116
53-3-223	A	HB0029		116
53-3-402	A	SB0102		426
53-3-407	A	HB0068		46
53-3-410.1	A	HB0068		46
53-3-414	A	HB0068		46
53-3-414	A	HB0029		116
53-3-805	A	HB0328		158
53-5-704	A	SB0035		250
53-5-707.6	A	SB0045		255
53-5a-102	A	SB0115		428
53-5a-103.5	E	SB0115		428
53-6-106	A	HB0094		127

Section	Action	Bill Number	Former/ Renumber	Chapter Number
53-6-107	A	SB0126		182
53-6-203	A	SB0096		10
53-6-210.5	E	SB0126		182
53-8-105	A	SB0176		447
53-10-102	A	SB0176		447
53-10-102	A	SB0248		192
53-10-104.5	A	SB0124		430
53-10-108	A	SB0045		255
53-10-108	A	SB0248		192
53-10-114	A	SB0043		415
53-10-202.5	A	SB0035		250
53-10-202.5	A	HB0392		384
53-10-305	A	SB0176		447
53-10-403	A	SB0124		430
53-10-403	A	HB0029		116
53-10-404.5	A	HB0019		113
53-10-406	A	HB0019		113
53-10-801	F	SB0124	76-5-501	430
53-10-802	F	SB0124	76-5-502	430
53-10-803	F	SB0124	76-5-503	430
53-10-804	F	SB0124	76-5-504	430
53-10-901	F	SB0124	76-5-601	430
53-10-902	F	SB0124	76-5-602	430
53-10-903	F	SB0124	76-5-603	430
53-10-904	F	SB0124	76-5-604	430
53-10-905	F	SB0124	76-5-605	430
53-10-906	F	SB0124	76-5-606	430
53-10-907	F	SB0124	76-5-607	430
53-10-908	F	SB0124	76-5-608	430
53-10-909	F	SB0124	76-5-609	430
53-10-910	F	SB0124	76-5-610	430
53-13-104	A	SB0096		10
53-13-105	A	SB0096		10
53-13-110	A	HB0249		335
53-13-110.5	A	SB0124		430
53-18-101	R	HB0345		367
53-18-102	A	HB0345		367
53-18-103	A	HB0345		367
53-20-101	E	HB0023		114
53-20-101	E	HB0065		120
53-20-102	E	HB0023		114
53-20-102	E	HB0065		120
53-20-103	E	HB0023		114
53-20-103	E	HB0065		120
53-20-104	E	HB0065		120
53-21-101	T	HB0023	53-20-101	114
53-21-102	T	HB0023	53-20-102	114
53-21-103	T	HB0023	53-20-103	114
53B-1-109	A	SB0226		461
53B-1-114	R	HB0333		362
53B-1-201	A	HB0346		368
53B-1-202	A	HB0346		368
53B-1-301	A	HB0355		370
53B-1-301	A	HB0226		147
53B-1-301	A	SB0091		274
53B-1-401	A	SB0063		177
53B-1-401	A	HB0449		166
53B-1-402	A	HB0449		166
53B-1-402	A	SB0063		177
53B-1-404	A	HB0333		362
53B-1-407	R	HB0333		362
53B-2a-112	A	SB0082		421
53B-2a-112	A	SB0082		421
53B-2a-113	A	SB0082		421
53B-2a-117	A	SB0082		421
53B-7-101	A	SB0082		421
53B-7-103	A	SB0082		421
53B-7-703	A	SB0211		456
53B-7-709	E	SB0042		254
53B-7-801	E	SB0172		186
53B-7-802	E	SB0172		186
53B-7-803	E	SB0172		186
53B-8-105	A	HB0355		370
53B-8-112	A	HB0355		370
53B-8-112	A	SB0211		456
53B-8-201	A	HB0355		370
53B-8-202	A	SB0211		456
53B-8-203	A	HB0390		383
53B-8-205	A	HB0390		383
53B-8-301	R	HB0355		370
53B-8-302	R	HB0355		370
53B-8-303	R	HB0355		370
53B-8-304	N	HB0355	53B-13a-106	370
53B-8d-102	A	HB0249		335
53B-10-101	A	HB0355		370
53b-10-106	E	HB0355		370
53B-10-201	A	HB0355		370
53B-10-202	A	HB0355		370
53B-10-204	R	HB0355		370
53B-10-205	A	HB0355		370
53B-11-104	R	HB0355		370
53B-12-101	A	SB0172		186
53B-12-109	E	SB0172		186
53B-13a-101	R	HB0355		370
53B-13a-102	A	HB0355		370
53B-13a-103	A	HB0355		370
53B-13a-104	X	HB0355		370
53B-13a-105	R	HB0355		370
53B-13a-106	F	HB0355	53B-8-304	370
53B-17-903	E	SB0195		452
53B-17-1301	E	SB0171		445
53B-17-1302	E	SB0171		445
53B-18-1701	E	SB0133		094
53B-18-1702	E	SB0133		094
53B-18-1703	E	SB0133		094
53B-21-104	A	SB0082		421
53B-22-204	A	SB0082		421
53B-24-101	R	HB0176		224
53B-24-102	N	HB0176	26-69-401	224
53B-24-201	R	HB0176		224
53B-24-202	N	HB0176	26-69-403	224
53B-24-301	R	HB0176		224
53B-24-302	N	HB0176	26-69-402	224
53B-24-303	N	HB0176	26-69-404	224
53B-24-304	N	HB0176	26-69-405	224
53B-24-304	A	SB0043		415
53B-24-401	R	HB0176		224
53B-24-402	N	HB0176	26-69-406	224
53B-24-501	E	HB0295		154
53B-24-502	E	HB0295		154
53B-26-101	R	HB0355		370
53B-26-102	R	HB0355		370
53B-26-103	R	HB0355		370
53B-26-202	A	HB0176		224
53B-27-303	A	SB0163		443
53B-28-202	A	HB0249		335
53B-28-303	A	HB0249		335
53B-28-304	A	SB0124		430
53B-28-501	E	SB0226		461
53B-28-502	E	SB0226		461
53B-28-503	E	SB0226		461
53B-28-504	E	SB0226		461
53B-28-505	E	SB0226		461
53B-28-506	E	SB0226		461
53B-33-101	F	SB0226	35A-14-102	461
53B-33-101	E	HB0226		147
53B-33-101	E	HB0346		368
53B-33-101	F	HB0333	63N-1b-101	362
53B-33-102	F	HB0333	63N-1b-301	362
53B-33-103	F	HB0333	63N-1b-302	362
53B-33-104	F	HB0333	63N-1b-303	362
53B-33-105	F	HB0333	63N-1b-304	362
53B-33-106	F	HB0333	63N-1b-305	362
53B-33-107	F	HB0333	63N-1b-306	362
53B-33-108	F	HB0333	63N-1b-307	362
53B-33-109	E	HB0333		362
53B-33-201	E	HB0346		368
53B-33-201	E	HB0226		147
53B-33-201	F	SB0226	35A-14-201	461
53B-33-202	F	SB0226	35A-14-203	461
53B-33-202	E	HB0226		147
53B-33-203	F	SB0226	35A-14-204	461
53B-33-301	F	SB0226	35A-14-301	461
53B-33-302	F	SB0226	35A-14-302	461
53B-33-303	F	SB0226	35A-14-303	461
53B-33-304	F	SB0226	35A-14-304	461
53B-35-101	T	HB0226	53B-33-101	147
53B-35-201	T	HB0226	53B-33-201	147
53B-35-202	T	HB0226	53B-33-202	147
53B-36-101	T	HB0346	53B-33-101	368
53B-36-201	T	HB0346	53B-33-201	368
53E-1-102	A	HB0114		214
53E-1-201	A	HB0226		147
53E-1-201	A	HB0302		354
53E-1-201	A	HB0273		229
53E-1-201	A	SB0226		461
53E-1-201	A	SB0191		291
53E-1-201	A	SB0127		285
53E-1-201	A	SB0091		274
53E-1-202	A	SB0091		274
53E-1-203	A	HB0125		218
53E-1-203	A	HB0050		36
53E-1-206	E	HB0050		36
53E-2-303	A	HB0302		354
53E-3-513	A	HB0249		335
53E-3-516	A	HB0428		399
53E-3-518	A	SB0079		266
53E-3-524	E	HB0230		329

Section	Action	Bill Number	Former/ Renumber	Chapter Number
53E-3-706	A	SB0082		421
53E-3-802	A	SB0211		456
53E-3-1001	E	SB0127		285
53E-3-1002	E	SB0127		285
53E-3-1003	E	SB0127		285
53E-3-1004	E	SB0127		285
53E-4-202	A	HB0374		377
53E-4-204.1	E	SB0244		472
53E-4-307	A	SB0127		285
53E-4-308	A	SB0226		461
53E-4-314	A	HB0193		316
53E-4-403	A	HB0374		377
53E-5-301	A	SB0245		473
53E-5-302	A	SB0245		473
53E-5-302.1	E	SB0245		473
53E-5-303	A	SB0245		473
53E-5-304	A	SB0245		473
53E-5-305	A	SB0245		473
53E-5-306	A	SB0245		473
53E-5-308	R	SB0245		473
53E-5-309	A	SB0245		473
53E-5-311	A	SB0245		473
53E-6-301	A	SB0127		285
53E-6-302	A	SB0127		285
53E-6-505	A	SB0211		456
53E-6-506	A	SB0035		250
53E-6-701	A	HB0249		335
53E-7-201	A	SB0134		431
53E-7-204	A	SB0134		431
53E-7-206	A	SB0134		431
53E-7-207	A	SB0134		431
53E-7-208	A	SB0134		431
53E-7-209	E	SB0134		431
53E-7-401	A	SB0062		262
53E-7-402	A	SB0062		262
53E-7-404	A	SB0062		262
53E-7-405	A	SB0062		262
53E-7-405	A	SB0211		456
53E-7-407	A	SB0062		262
53E-7-408	A	SB0062		262
53E-9-203	A	HB0249		335
53E-9-308	A	HB0249		335
53E-10-307	A	HB0390		383
53E-10-701	A	HB0437		401
53E-10-702	A	HB0437		401
53E-10-703	A	HB0437		401
53E-10-703	A	HB0386		236
53E-10-704	A	HB0437		401
53E-10-706	A	HB0437		401
53E-10-706	A	SB0226		461
53E-10-707	A	SB0226		461
53E-10-707	A	HB0437		401
53F-2-102	A	HB0184		17
53F-2-203	A	SB0211		456
53F-2-208	A	HB0001		1
53F-2-209	A	HB0001		1
53F-2-301.5	A	HB0001		1
53F-2-301.5	A	SB0002		409
53F-2-302.1	A	HB0001		1
53F-2-303	A	SB0002		409
53F-2-305	A	SB0043		415
53F-2-307	A	SB0134		431
53F-2-307	A	HB0113		213
53F-2-314	A	SB0002		409
53F-2-402	A	SB0002		409
53F-2-405	A	SB0043		415
53F-2-408.5	A	HB0390		383
53F-2-409	A	HB0390		383
53F-2-409	A	SB0002		409
53F-2-415	A	SB0002		409
53F-2-503	A	HB0481		408
53F-2-507	A	HB0193		316
53F-2-510	A	HB0481		408
53F-2-513	A	HB0315		232
53F-2-524	E	SB0002		409
53F-4-207	A	HB0103		208
53F-4-401	A	HB0193		316
53F-4-404	A	HB0193		316
53F-4-406	A	HB0193		316
53F-4-518	E	HB0417		395
53F-5-207	A	HB0050		036
53F-5-214	A	SB0127		285
53F-5-215	A	SB0127		285
53F-5-218	A	SB0251		476
53F-5-219	E	HB0273		229
53F-5-402	A	HB0050		036
53F-5-402	A	SB0127		285
53F-7-202	E	HB0396		386
53F-7-202	E	HB0475		407
53F-7-203	T	HB0396	53F-7-202	386
53F-9-201	A	SB0211		456
53F-9-201.1	A	SB0211		456
53F-9-201.1	A	SB0211		456
53F-9-204	A	SB0211		456
53F-9-204	A	HB0396		386
53F-9-301	A	SB0211		456
53F-9-302	A	SB0211		456
53F-9-303	A	SB0211		456
53F-9-304	A	SB0211		456
53F-9-304	A	SB0176		447
53F-9-305	A	SB0211		456
53F-9-306	A	SB0211		456
53F-9-307	A	SB0211		456
53F-9-601	E	HB0475		407
53F-10-101	E	HB0475		407
53F-10-102	E	HB0475		407
53F-10-201	E	HB0475		407
53F-10-202	E	HB0475		407
53F-10-301	E	HB0475		407
53F-10-302	E	HB0475		407
53G-3-305	A	SB0078		265
53G-4-412	E	HB0030		197
53G-4-412	E	HB0162		309
53G-4-413	T	HB0162	53G-4-412	309
53G-5-303	A	SB0191		291
53G-5-303	A	HB0294		352
53G-5-407	A	SB0103		278
53G-5-414	E	HB0162		309
53G-6-208	A	HB0249		335
53G-6-302	A	HB0249		335
53G-6-306	A	SB0233		464
53G-6-402	A	SB0233		464
53G-6-402	A	HB0380		378
53G-6-502	A	HB0294		352
53G-6-603	A	HB0230		329
53G-6-707	A	HB0249		335
53G-6-805	E	HB0270		343
53G-6-901	E	HB0420		398
53G-6-901	E	HB0011		478
53G-6-902	E	HB0011		478
53G-6-902	T	HB0420	53G-6-901	398
53G-6-903	E	HB0011		478
53G-6-1001	E	HB0011		478
53G-6-1002	E	HB0011		478
53G-6-1003	E	HB0011		478
53G-6-1004	E	HB0011		478
53G-6-1005	E	HB0011		478
53G-6-1006	E	HB0011		478
53G-7-203	A	HB0193		316
53G-7-218	A	HB0481		408
53G-7-219	A	HB0114		214
53G-7-221	E	HB0302		354
53G-7-221	E	SB0191		291
53G-7-222	E	SB0191		291
53G-7-223	T	HB0302	53G-7-221	354
53G-8-303	A	HB0249		335
53G-8-802	A	HB0428		399
53G-9-203	A	HB0249		335
53G-9-204	A	HB0114		214
53G-9-207	A	HB0249		335
53G-9-209	A	HB0249		335
53G-9-210	A	HB0183		5
53G-9-212	E	HB0241		227
53G-9-212	E	HB0021		194
53G-9-213	T	HB0241	53G-9-212	227
53G-9-301	A	SB0045		255
53G-9-306	A	HB0230		329
53G-9-308	A	HB0230		329
53G-9-309	A	SB0045		255
53G-9-403	A	HB0114		214
53G-9-606	A	HB0428		399
53G-9-802	A	HB0251		337
53G-10-103	E	HB0374		377
53G-10-204	A	HB0273		229
53G-10-306	E	SB0127		285
53G-10-406	A	SB0176		447
53G-10-408	E	SB0192		292
53G-10-601	E	HB0386		236
53G-10-602	E	HB0386		236
53G-10-603	E	HB0386		236
53G-10-604	E	HB0386		236
53G-10-605	E	HB0386		236
53G-10-606	E	HB0386		236
53G-10-607	E	HB0386		236
53G-10-608	E	HB0386		236
53G-11-303	A	SB0127		285
53G-11-305	E	SB0127		285
53G-11-405	A	SB0124		430

Section	Action	Bill Number	Former/ Renumber	Chapter Number
54-1-2	A	HB0181		314
54-2-1	A	HB0181		314
54-3-8	A	HB0181		314
54-4-1	A	HB0181		314
54-4-2	A	HB0181		314
54-4-14	A	HB0181		314
54-4-15	A	HB0181		314
54-7-13.6	A	SB0188		100
54-17-701	A	SB0163		443
55-12-100	N	HB0248	80-6-1101	334
55-12-101	N	HB0248	80-6-1102	334
55-12-102	N	HB0248	80-6-1103	334
55-12-103	N	HB0248	80-6-1104	334
55-12-104	N	HB0248	80-6-1105	334
55-12-105	N	HB0248	80-6-1106	334
55-12-106	N	HB0248	80-6-1107	334
55-12-107	N	HB0248	80-6-1108	334
55-12-108	N	HB0248	80-6-1109	334
55-12-109	N	HB0248	80-6-1110	334
55-12-110	N	HB0248	80-6-1111	334
55-12-111	N	HB0248	80-6-1112	334
55-12-112	N	HB0248	80-6-1113	334
55-12-113	N	HB0248	80-6-1114	334
55-12-114	N	HB0248	80-6-1115	334
55-12-115	N	HB0248	80-6-1116	334
55-12-116	N	HB0248	80-6-1117	334
55-12-117	N	HB0248	80-6-1118	334
55-12-118	N	HB0248	80-6-1119	334
57-1-5	A	HB0276		344
57-1-5.1	A	HB0291		349
57-1-45	A	HB0303		355
57-3-105	A	SB0080		420
57-8-8.1	A	SB0152		439
57-8-8.2	E	SB0152		439
57-8-17	A	SB0152		439
57-8a-218	A	SB0152		439
57-8a-227	A	SB0152		439
57-8a-231	E	HB0282		230
57-8a-701	A	SB0152		439
57-8a-801	E	SB0152		439
57-8a-802	E	SB0152		439
57-12-3	A	SB0235		107
57-12-9	A	SB0235		107
57-12-13	A	SB0235		107
57-13a-104	A	SB0091		274
57-13c-101	E	HB0132		305
57-13c-102	E	HB0132		305
57-13c-103	E	HB0132		305
57-13c-104	E	HB0132		305
57-13c-105	E	HB0132		305
57-13c-106	E	HB0132		305
57-13c-107	E	HB0132		305
57-13c-108	E	HB0132		305
57-13c-109	E	HB0132		305
57-13c-110	E	HB0132		305
57-13c-111	E	HB0132		305
57-13c-112	E	HB0132		305
57-13c-113	E	HB0132		305
57-13c-114	E	HB0132		305
57-14-102	A	SB0124		430
57-14-204	A	HB0305		068
58-1-101	R	SB0043		415
58-1-102	A	SB0043		415
58-1-103	A	SB0043		415
58-1-110	R	SB0016		413
58-1-112	E	HB0176		224
58-1-202	A	SB0043		415
58-1-301	A	SB0043		415
58-1-301	A	SB0016		413
58-1-301.5	A	SB0151		438
58-1-301.5	A	SB0237		466
58-1-301.5	A	HB0154		221
58-1-302	A	SB0043		415
58-1-510	E	HB0384		379
58-1-601	A	SB0045		255
58-1-602	E	HB0195		317
58-3a-302	A	SB0043		415
58-5a-102	A	SB0190		290
58-5a-305	R	SB0043		415
58-9-302	A	SB0043		415
58-13-2	A	SB0023		241
58-13-2.5	A	HB0031		198
58-13-3	A	SB0023		241
58-15-1	R	SB0043		415
58-15-2	N	SB0043	58-15-101	415
58-15-3	N	SB0043	58-15-201	415
58-15-4	N	SB0043	58-15-301	415
58-15-4.5	N	SB0043	58-15-302	415
58-15-10	N	SB0043	58-15-501	415
58-15-11	N	SB0043	58-15-303	415
58-15-12	N	SB0043	58-15-401	415
58-15-101	F	SB0043	58-15-2	415
58-15-201	F	SB0043	58-15-3	415
58-15-301	F	SB0043	58-15-4	415
58-15-302	F	SB0043	58-15-4.5	415
58-15-303	F	SB0043	58-15-11	415
58-15-401	F	SB0043	58-15-12	415
58-15-501	F	SB0043	58-15-10	415
58-16a-302	A	SB0043		415
58-17b-302	A	HB0301		353
58-17b-309	A	HB0301		353
58-17b-502	A	SB0236		465
58-17b-503	A	SB0236		465
58-17b-504	A	SB0043		415
58-17b-608.2	A	SB0236		465
58-17b-610.6	A	SB0236		465
58-17b-610.8	A	SB0236		465
58-17b-620	A	SB0236		465
58-17b-620	A	SB0045		255
58-17b-627	A	SB0045		255
58-17b-902	A	SB0045		255
58-17b-902	A	SB0041		253
58-17b-905	A	SB0041		253
58-17b-907	A	SB0045		255
58-20b-102	A	SB0043		415
58-22-102	A	SB0043		415
58-22-305	A	HB0039		028
58-28-304	A	SB0043		415
58-28-502	A	SB0209		103
58-28-503	A	SB0043		415
58-31b-102	A	SB0101		277
58-31b-301	A	SB0101		277
58-31b-302	A	SB0101		277
58-31b-303	A	SB0101		277
58-31b-303	A	SB0043		415
58-31b-304	A	SB0101		277
58-31b-306.1	E	SB0101		277
58-31b-502	A	SB0190		290
58-31b-503	A	SB0043		415
58-31b-601	A	HB0389		382
58-31b-803	A	SB0091		274
58-31d-101	X	SB0151		438
58-31d-102	X	SB0151		438
58-31d-103	R	SB0151		438
58-37-2	A	SB0043		415
58-37-2	A	HB0442		165
58-37-4	A	HB0442		165
58-37-6	A	SB0043		415
58-37-8	A	SB0043		415
58-37-8	A	SB0124		430
58-37-8	A	HB0029		116
58-37c-5	A	SB0043		415
58-37c-6	A	SB0043		415
58-37c-21	A	SB0043		415
58-37d-9	A	SB0043		415
58-37f-201	A	HB0029		116
58-37f-704	A	HB0029		116
58-38a-201	A	SB0043		415
58-41-4	A	SB0043		415
58-42a-302	A	HB0154		221
58-42a-302.1	E	HB0154		221
58-42b-101	E	HB0154		221
58-42b-102	E	HB0154		221
58-42b-103	E	HB0154		221
58-42b-104	E	HB0154		221
58-42b-105	E	HB0154		221
58-42b-106	E	HB0154		221
58-42b-107	E	HB0154		221
58-42b-108	E	HB0154		221
58-42b-109	E	HB0154		221
58-42b-110	E	HB0154		221
58-42b-111	E	HB0154		221
58-42b-112	E	HB0154		221
58-42b-113	E	HB0154		221
58-42b-114	E	HB0154		221
58-42b-201	E	HB0154		221
58-44a-302	A	SB0043		415
58-44a-302	A	SB0151		438
58-44a-302.1	E	SB0151		438
58-44a-402	A	SB0043		415
58-50-9	A	HB0028		115
58-55-102	A	SB0043		415
58-55-102	A	SB0173		446
58-55-201	A	SB0016		413
58-55-201	A	HB0044		32
58-55-302	A	SB0043		415
58-55-308	A	SB0173		446
58-55-502	A	SB0043		415

Section	Action	Bill Number	Former/ Renumber	Chapter Number
58-55-503	A	SB0043		415
58-55-701	E	SB0148		436
58-55-702	E	SB0148		436
58-55-703	E	SB0148		436
58-55-704	E	SB0148		436
58-56-2	A	SB0043		415
58-57-14	A	SB0043		415
58-60-103.1	E	SB0237		466
58-60-112	A	HB0111		212
58-60-114	A	HB0249		335
58-60-205	A	HB0283		345
58-60-205	A	SB0237		466
58-60-305	A	SB0237		466
58-60-305	A	SB0044		416
58-60-305	A	HB0283		345
58-60-405	A	HB0283		345
58-60-405	A	SB0044		416
58-60-405	A	SB0237		466
58-60-509	A	HB0249		335
58-60a-101	E	SB0237		466
58-60a-102	E	SB0237		466
58-60a-103	E	SB0237		466
58-60a-104	E	SB0237		466
58-60a-105	E	SB0237		466
58-60a-106	E	SB0237		466
58-60a-107	E	SB0237		466
58-60a-108	E	SB0237		466
58-60a-109	E	SB0237		466
58-60a-110	E	SB0237		466
58-60a-111	E	SB0237		466
58-60a-112	E	SB0237		466
58-60a-113	E	SB0237		466
58-60a-114	E	SB0237		466
58-60a-115	E	SB0237		466
58-60a-201	E	SB0237		466
58-61-704	A	SB0043		415
58-61-713	A	HB0249		335
58-63-102	A	SB0043		415
58-63-302	A	SB0043		415
58-67-102	A	HB0316		233
58-67-201	A	SB0121		284
58-67-302.8	A	HB0400		389
58-67-305	A	HB0316		233
58-67-503	A	SB0043		415
58-67-807	A	HB0400		389
58-68-102	A	HB0316		233
58-68-302.5	A	HB0400		389
58-68-305	A	HB0316		233
58-68-503	A	SB0043		415
58-68-807	A	HB0400		389
58-70a-503	A	SB0190		290
58-70b-101	E	SB0121		284
58-70b-102	E	SB0121		284
58-70b-201	E	SB0121		284
58-70b-301	E	SB0121		284
58-70b-302	E	SB0121		284
58-70b-303	E	SB0121		284
58-70b-401	E	SB0121		284
58-70b-402	E	SB0121		284
58-71-102	A	SB0154		440
58-71-202	R	SB0154		440
58-71-203	E	SB0154		440
58-71-402	A	SB0043		415
58-71-804	A	SB0154		440
58-72-304	A	HB0195		317
58-73-302	A	SB0043		415
58-73-501	A	SB0043		415
58-73-601	A	SB0084		269
58-81-102	A	SB0023		241
58-83-102	A	SB0043		415
58-83-301	A	SB0091		274
58-83-302	A	SB0043		415
58-83-401	A	SB0043		415
58-83-502	A	SB0043		415
58-87-103	A	SB0043		415
58-88-201	E	HB0301		353
58-88-202	E	HB0301		353
58-88-203	E	HB0301		353
58-88-204	E	HB0301		353
58-88-205	E	HB0301		353
59-1-401	A	HB0444		238
59-1-403	A	SB0176		447
59-1-1420	A	SB0090		273
59-2-102	A	SB0020		239
59-2-103.5	A	SB0020		239
59-2-201	A	SB0020		239
59-2-301.3	A	SB0081		267
59-2-301.9	E	SB0174		289
59-2-306	A	SB0200		293
59-2-306	A	SB0020		239
59-2-306.5	E	SB0020		239
59-2-307	A	SB0020		239
59-2-308	A	SB0020		239
59-2-325	A	HB0041		29
59-2-407	A	HB0117		215
59-2-919.1	A	SB0200		293
59-2-924	A	SB0020		239
59-2-924	A	SB0140		433
59-2-924	A	HB0438		237
59-2-924.2	A	SB0186		451
59-2-926	A	SB0186		451
59-2-1004	A	SB0012		168
59-2-1005	A	SB0020		239
59-2-1101	A	HB0347		235
59-2-1102	A	HB0347		235
59-2-1115	A	HB0199		41
59-2-1115	A	SB0093		275
59-2-1115	A	SB0200		293
59-2-1209	A	HB0026		196
59-2-1317	A	SB0232		463
59-2-1346	A	SB0061		261
59-2-1351	A	HB0106		15
59-2-1601	A	SB0186		451
59-2-1602	A	SB0186		451
59-2-1602	A	SB0020		239
59-2-1603	A	SB0186		451
59-2-1801	A	SB0025		242
59-2-1802	A	SB0025		242
59-2-1804	A	SB0025		242
59-5-216	E	SB0250		108
59-7-104	A	SB0059		12
59-7-159	A	SB0076		264
59-7-159	A	SB0091		274
59-7-201	A	SB0059		12
59-7-302	A	HB0268		228
59-7-303	A	HB0268		228
59-7-532	A	SB0211		456
59-7-538	E	SB0048		258
59-7-614	A	SB0091		274
59-7-614.1	A	SB0211		456
59-7-614.2	A	HB0035		200
59-7-621	A	HB0025		195
59-7-624	A	SB0076		264
59-7-625	A	SB0062		262
59-9-101	A	HB0338		364
59-9-102.5	A	SB0258		477
59-10-103.1	A	SB0048		258
59-10-104	A	SB0059		12
59-10-114	A	HB0444		238
59-10-116	A	SB0039		252
59-10-117	A	SB0039		252
59-10-117.5	E	SB0039		252
59-10-137	A	SB0076		264
59-10-402	A	SB0039		252
59-10-405.5	A	SB0039		252
59-10-406	A	HB0444		238
59-10-544	A	SB0211		456
59-10-552	E	SB0048		258
59-10-1002.2	A	SB0059		12
59-10-1005	A	SB0211		456
59-10-1019	A	SB0048		258
59-10-1038	A	HB0025		195
59-10-1041	A	SB0062		262
59-10-1042	A	SB0048		258
59-10-1042	A	SB0059		12
59-10-1043	A	SB0048		258
59-10-1044	E	SB0059		12
59-10-1044	E	HB0444		238
59-10-1045	T	HB0444	59-10-1044	238
59-10-1103	A	HB0444		238
59-10-1104	A	HB0249		335
59-10-1105	A	SB0211		456
59-10-1111	A	SB0043		415
59-10-1112	A	SB0076		264
59-10-1113	A	SB0091		274
59-10-1312	A	SB0186		451
59-10-1402	A	HB0444		238
59-10-1403	A	HB0444		238
59-10-1403.2	A	HB0444		238
59-12-103	A	HB0409		77
59-12-103	A	SB0221		106
59-12-103	A	SB0140		433
59-12-104	A	SB0093		275
59-12-104	A	SB0106		280
59-12-104	A	HB0360		373
59-12-104	A	HB0268		228
59-12-104.2	A	SB0091		274
59-12-107	A	SB0090		273

Section	Action	Bill Number	Former/ Renumber	Chapter Number
59-12-205	A	HB0443		82
59-12-205	A	HB0440		403
59-12-205	A	HB0232		59
59-12-2220	A	SB0051		259
59-13-201	A	HB0305		68
59-13-202	A	SB0211		456
59-14-102	A	HB0034		199
59-15-108	A	SB0176		447
59-21-2	A	HB0305		68
59-28-103	A	HB0305		68
61-2c-202	A	HB0069		204
61-2c-203	A	HB0069		204
61-2c-402	A	HB0069		204
61-2e-401	A	HB0069		204
61-2f-103	A	HB0069		204
61-2f-202	A	HB0069		204
61-2f-203	A	HB0069		204
61-2f-204	A	HB0069		204
61-2f-206	A	HB0069		204
61-2f-207	A	HB0069		204
61-2f-401	A	HB0069		204
61-2f-402	A	HB0069		204
62A-1-101	R	SB0045		255
62A-1-102	R	SB0045		255
62A-1-104	A	SB0045		255
62A-1-105	N	SB0045	26B-1-204	255
62A-1-106	R	SB0045		255
62A-1-107	A	SB0045		255
62A-1-107.5	N	SB0045	26B-1-206	255
62A-1-108	N	SB0045	26B-1-203	255
62A-1-109	N	SB0045	26B-1-205	255
62A-1-110	R	SB0045		255
62A-1-111	N	SB0045	26B-1-202	255
62A-1-111	A	SB0091		274
62A-1-111	A	HB0190		40
62A-1-111.6	R	HB0190		40
62A-1-112	N	SB0045	26B-1-208	255
62A-1-113	N	SB0045	26B-1-210	255
62A-1-114	R	SB0045		255
62A-1-118	R	SB0045		255
62A-1-118	A	HB0249		335
62A-1-119	N	SB0045	26B-1-303	255
62A-1-119	R	SB0186		451
62A-1-121	A	SB0176		447
62A-1-123	E	HB0050		36
62A-1-202	N	SB0045	26B-1-302	255
62A-2-101	A	SB0239		468
62A-2-101	A	HB0248		334
62A-2-108.6	F	HB0248	62A-4a-602	334
62A-2-115.1	F	HB0248	62A-4a-603	334
62A-2-115.2	F	HB0248	62A-4a-605	334
62A-2-116	A	SB0239		468
62A-2-117.5	A	HB0249		335
62A-2-120	A	HB0249		335
62A-2-120	A	SB0239		468
62A-2-120	A	SB0167		185
62A-2-120	A	SB0124		430
62A-2-121	A	SB0045		255
62A-2-121	A	HB0249		335
62A-2-123	A	SB0239		468
62A-2-126	E	SB0239		468
62A-2-126	F	HB0248	62A-4a-607	334
62A-2-127	F	HB0248	62A-4a-606	334
62A-2-128	T	SB0239	62A-2-126	468
62A-3-202	A	SB0043		415
62A-3-301	A	SB0124		430
62A-3-305	A	SB0091		274
62A-3-305	A	SB0043		415
62A-3-305	A	HB0249		335
62A-3-311.1	A	SB0043		415
62A-3-312	A	SB0043		415
62A-4a-101	N	HB0248	80-2-102	334
62A-4a-101.5	E	HB0248		334
62A-4a-102	N	HB0248	80-2-302	334
62A-4a-103	N	HB0248	80-2-201	334
62A-4a-104	N	HB0248	80-2-202	334
62A-4a-105	N	HB0248	80-2-301	334
62A-4a-105	A	SB0124		430
62A-4a-105.5	N	HB0248	80-2-401	334
62A-4a-106	N	HB0248	80-2-805	334
62A-4a-107	N	HB0248	80-2-402	334
62A-4a-107.5	N	HB0248	80-2-405	334
62A-4a-109	R	HB0248		334
62A-4a-110	N	HB0248	80-2-404	334
62A-4a-111	N	HB0248	80-2-305	334
62A-4a-112	N	HB0248	80-2-1007	334
62A-4a-113	N	HB0248	80-2-303	334
62A-4a-114	R	HB0248		334
62A-4a-115	N	HB0248	80-2-304	334
62A-4a-117	N	HB0248	80-2-1102	334
62A-4a-117	A	SB0132		287
62A-4a-118	N	HB0248	80-2-1103	334
62A-4a-119	R	HB0248		334
62A-4a-120	R	HB0248		334
62A-4a-121	N	HB0248	80-2-307	334
62A-4a-201	N	HB0248	80-2a-201	334
62A-4a-202	N	HB0248	80-2-306	334
62A-4a-202.1	N	HB0248	80-2a-202	334
62A-4a-202.2	N	HB0248	80-2a-203	334
62A-4a-202.3	N	HB0248	80-2-702	334
62A-4a-202.3	A	HB0153		308
62A-4a-202.4	N	HB0248	80-2-709	334
62A-4a-202.6	N	HB0248	80-2-703	334
62A-4a-202.8	N	HB0248	80-2-706	334
62A-4a-203	N	HB0248	80-2a-302	334
62A-4a-203.1	N	HB0248	80-2-403	334
62A-4a-205	N	HB0248	80-3-307	334
62A-4a-205.5	R	HB0248		334
62A-4a-205.6	N	HB0248	80-2-804	334
62A-4a-206	N	HB0248	80-2a-304	334
62A-4a-206	A	SB0132		287
62A-4a-206.1	R	HB0248		334
62A-4a-206.5	N	HB0248	80-2a-303	334
62A-4a-207	N	HB0248	36-33-103	334
62A-4a-208	N	HB0248	80-2-1104	334
62A-4a-209	N	HB0248	80-2a-301	334
62A-4a-209	A	SB0132		287
62A-4a-212	N	HB0248	80-2-308	334
62A-4a-213	N	HB0248	80-2-503.5	334
62A-4a-301	R	HB0248		334
62A-4a-302	R	HB0248		334
62A-4a-303	R	HB0248		334
62A-4a-304	R	HB0248		334
62A-4a-305	R	HB0248		334
62A-4a-306	R	HB0248		334
62A-4a-307	R	HB0248		334
62A-4a-308	R	HB0248		334
62A-4a-309	N	HB0248	80-2-501	334
62A-4a-310	R	HB0248		334
62A-4a-311	N	HB0248	80-2-1101	334
62A-4a-401	N	HB0248	80-2-601	334
62A-4a-402	R	HB0248		334
62A-4a-403	N	HB0248	80-2-602	334
62A-4a-404	N	HB0248	80-2-603	334
62A-4a-405	N	HB0248	80-2-604	334
62A-4a-406	N	HB0248	80-2-607	334
62A-4a-407	N	HB0248	80-2-605	334
62A-4a-408	N	HB0248	80-2-606	334
62A-4a-409	N	HB0248	80-2-701	334
62A-4a-409	A	HB0153		308
62A-4a-410	N	HB0248	80-2-610	334
62A-4a-411	N	HB0248	80-2-609	334
62A-4a-411	A	SB0043		415
62A-4a-412	A	SB0045		255
62A-4a-412	A	SB0124		430
62A-4a-412	A	SB0179		187
62A-4a-412	N	HB0248	80-2-1005	334
62A-4a-414	N	HB0248	80-2-704	334
62A-4a-415	N	HB0248	80-2-705	334
62A-4a-601	R	HB0248		334
62A-4a-601	A	HB0219		326
62A-4a-602	A	HB0219		326
62A-4a-602	N	HB0248	62A-2-108.6	334
62A-4a-602	A	SB0132		287
62A-4a-603	A	SB0043		415
62A-4a-603	N	HB0248	62A-2-115.1	334
62A-4a-605	N	HB0248	62A-2-115.2	334
62A-4a-606	N	HB0248	62A-2-127	334
62A-4a-607	N	HB0248	62A-2-126	334
62A-4a-607	R	HB0219		326
62A-4a-608	N	HB0248	80-2-502	334
62A-4a-609	R	HB0248		334
62A-4a-609	R	HB0219		326
62A-4a-701	N	HB0248	80-2-905	334
62A-4a-702	N	HB0248	80-2-906	334
62A-4a-703	N	HB0248	80-2-902	334
62A-4a-704	N	HB0248	80-2-903	334
62A-4a-705	N	HB0248	80-2-907	334
62A-4a-706	N	HB0248	80-2-908	334
62A-4a-707	N	HB0248	80-2-904	334
62A-4a-708	N	HB0248	80-2-909	334
62A-4a-709	N	HB0248	26-18-703	334
62A-4a-710	N	HB0248	80-2-910	334
62A-4a-711	N	HB0248	76-7-205	334
62a-4a-711	R	HB0219		326
62A-4a-801	N	HB0248	80-4-501	334
62A-4a-802	N	HB0248	80-4-502	334
62A-4a-901	R	HB0248		334

Section	Action	Bill Number	Former/ Renumber	Chapter Number
62A-4a-902	N	HB0248	80-2-801	334
62A-4a-903	N	HB0248	80-2-806	334
62A-4a-904	R	HB0248		334
62A-4a-905	N	HB0248	80-2-807	334
62A-4a-906	N	HB0248	80-2-808	334
62A-4a-907	N	HB0248	80-2-809	334
62A-4a-1001	R	HB0248		334
62A-4a-1002	R	HB0248		334
62A-4a-1003	N	HB0248	80-2-1001	334
62A-4a-1003.5	E	HB0248		334
62A-4a-1004	R	HB0248		334
62A-4a-1005	N	HB0248	80-2-708	334
62A-4a-1006	N	HB0248	80-2-1002	334
62A-4a-1007	N	HB0248	80-2-611	334
62A-4a-1008	N	HB0248	80-2-1003	334
62A-4a-1009	N	HB0248	80-2-707	334
62A-4a-1010	N	HB0248	80-2-1004	334
62A-5-304	R	SB0045		255
62A-5-501	E	HB0150		220
62A-5-502	E	HB0150		220
62A-5-503	E	HB0150		220
62A-5-504	E	HB0150		220
62A-5-505	E	HB0150		220
62A-11-304.4	A	HB0249		335
62A-14-105	A	SB0155		441
62A-14-108	A	SB0045		255
62A-15-102	A	SB0045		255
62A-15-103	A	SB0045		255
62A-15-103	A	SB0043		415
62A-15-103	A	SB0179		187
62A-15-103.5	R	SB0179		187
62A-15-104	A	SB0045		255
62A-15-120	R	HB0023		114
62A-15-123	A	SB0179		187
62A-15-124	E	HB0236		149
62A-15-202	A	HB0299		155
62A-15-204	A	HB0299		155
62A-15-401	A	SB0176		447
62A-15-403	F	HB0110	26-7-12	211
62A-15-602	A	SB0179		187
62A-15-602	A	HB0363		374
62A-15-627	A	HB0363		374
62A-15-629	A	HB0363		374
62A-15-629	A	HB0261		341
62A-15-631	A	HB0363		374
62A-15-1101	A	HB0236		149
62A-15-1103	A	HB0236		149
62A-15-1103	A	HB0013		19
62A-16-102	A	HB0249		335
62A-16-302	A	SB0091		274
62A-18-105	A	HB0249		335
63A-1-105.5	A	SB0015		169
63A-1-109	A	SB0015		169
63A-1-114	A	SB0015		169
63A-2-103	A	SB0015		169
63A-2-401	A	SB0015		169
63A-2-501	E	HB0302		354
63A-2-502	E	HB0302		354
63A-3-109	A	SB0186		451
63A-3-112	E	HB0456		405
63A-3-201	A	SB0015		169
63A-3-203	A	SB0015		169
63A-3-205	A	SB0188		100
63A-3-205	A	SB0186		451
63A-3-302	A	SB0061		261
63A-3-310	A	SB0015		169
63A-3-401.5	A	HB0438		237
63A-3-401.5	A	HB0443		82
63A-3-402	A	HB0438		237
63A-3-403	A	SB0232		463
63A-3-404	A	SB0232		463
63A-3-404	A	HB0438		237
63A-3-502	A	HB0216		323
63A-3-502.5	E	HB0216		323
63A-4-101.5	A	SB0015		169
63A-4-102	A	SB0015		169
63A-4-201	A	SB0015		169
63A-5b-102	A	SB0082		421
63A-5b-201	R	SB0082		421
63A-5b-202	R	SB0082		421
63A-5b-203	R	SB0082		421
63A-5b-203	A	SB0015		169
63A-5b-303	A	SB0015		169
63A-5b-303	A	SB0082		421
63A-5b-402	A	SB0082		421
63A-5b-403	A	SB0082		421
63A-5b-404	A	SB0082		421
63A-5b-406	A	SB0211		456
63A-5b-503	A	SB0082		421
63A-5b-601	A	SB0082		421
63A-5b-603	A	SB0082		421
63A-5b-604	A	SB0082		421
63A-5b-606	A	SB0015		169
63A-5b-607	A	SB0015		169
63A-5b-607	A	SB0163		443
63A-5b-802	A	SB0082		421
63A-5b-803	A	SB0082		421
63A-5b-806	A	SB0082		421
63A-5b-901	A	SB0082		421
63A-5b-902	A	SB0082		421
63A-5b-903	A	SB0015		169
63A-5b-904	A	SB0082		421
63A-5b-905	A	SB0082		421
63A-5b-907	A	SB0082		421
63A-5b-907.5	E	SB0082		421
63A-5b-909	A	SB0202		101
63A-5b-910	A	SB0082		421
63A-5b-1001	A	SB0082		421
63A-5b-1003	A	SB0082		421
63A-5b-1104	A	SB0082		421
63A-5b-1108	E	HB0121		50
63A-9-401	A	SB0015		169
63A-9-501	A	SB0015		169
63A-12-101	A	SB0015		169
63A-12-104	A	SB0015		169
63A-12-109	R	SB0186		451
63A-13-102	A	SB0045		255
63A-13-202	A	SB0163		443
63A-13-305	A	SB0163		443
63A-14-202	A	HB0090		125
63A-15-201	A	HB0090		125
63A-16-102	A	SB0015		169
63A-16-104	A	SB0015		169
63A-16-105	A	SB0015		169
63A-16-106	R	SB0015		169
63A-16-201	A	SB0015		169
63A-16-202	A	SB0015		169
63A-16-203	A	SB0015		169
63A-16-205	A	SB0015		169
63A-16-208	A	SB0015		169
63A-16-211	A	SB0015		169
63A-16-212	R	SB0015		169
63A-16-213	R	SB0015		169
63A-16-301	A	SB0015		169
63A-16-401	R	SB0015		169
63A-16-402	R	SB0015		169
63A-16-403	R	SB0015		169
63A-16-501	A	SB0015		169
63A-16-502	R	SB0015		169
63A-16-503	R	SB0015		169
63A-16-504	A	SB0015		169
63A-16-505	A	SB0015		169
63A-16-701	A	SB0015		169
63A-16-701	R	HB0280		153
63A-16-702	R	HB0280		153
63A-16-702	A	SB0015		169
63A-16-804	A	SB0015		169
63A-16-903	A	SB0015		169
63A-16-1001	E	HB0403		390
63A-16-1002	E	HB0403		390
63A-17-102	A	HB0104		209
63A-17-106	A	HB0104		209
63A-17-106	A	SB0015		169
63A-17-106	A	HB0449		166
63A-17-106	A	SB0063		177
63A-17-107	A	SB0015		169
63A-17-110	A	SB0015		169
63A-17-110	A	SB0091		274
63A-17-112	E	HB0104		209
63A-17-202	A	SB0015		169
63A-17-301	A	HB0104		209
63A-17-304	A	SB0015		169
63A-17-306	A	SB0015		169
63A-17-307	A	SB0015		169
63A-17-307	A	HB0104		209
63A-17-502	A	SB0176		447
63A-17-511	A	SB0100		425
63A-17-806	A	SB0015		169
63A-17-807	A	SB0176		447
63A-17-901	N	SB0015	67-27-102	169
63A-17-902	N	SB0015	67-27-103	169
63A-17-902	A	HB0249		335
63A-17-903	N	SB0015	67-27-104	169
63A-17-1004	A	SB0015		169
63B-1-101	A	SB0082		421
63B-1-304	A	SB0082		421
63B-1-305	A	HB0082		207
63B-1a-102	A	HB0082		207

Section	Action	Bill Number	Former/ Renumber	Chapter Number
63B-1b-102	A	SB0188		100
63B-1b-102	A	SB0186		451
63B-1b-202	A	SB0186		451
63B-1b-202	A	HB0333		362
63B-3-301	A	SB0176		447
63B-5-201	A	SB0176		447
63B-10-301	A	SB0176		447
63B-11-701	A	SB0176		447
63B-13-201	A	SB0176		447
63B-14-201	A	SB0176		447
63B-15-201	A	SB0176		447
63B-16-201	A	SB0176		447
63B-17-201	A	SB0176		447
63B-18-201	A	SB0176		447
63B-24-101	A	SB0176		447
63B-26-101	A	SB0176		447
63B-27-101	A	SB0232		463
63B-27-201	A	SB0176		447
63B-28-101	A	SB0176		447
63B-28-101	A	HB0191		315
63B-29-101	A	HB0191		315
63B-29-101	A	SB0176		447
63B-31-103	A	SB0051		259
63B-31-201	A	HB0191		315
63B-31-202	A	HB0191		315
63B-31-202	A	SB0176		447
63B-32-101	E	HB0191		315
63B-32-102	E	HB0191		315
63C-4a-303	A	HB0209		320
63C-4a-304	A	HB0209		320
63C-4a-308	A	SB0186		451
63C-4a-405	R	SB0186		451
63C-9-403	A	SB0082		421
63C-9-403	A	SB0163		443
63C-21-201	A	HB0305		68
63C-21-202	A	HB0305		68
63C-23-102	A	SB0091		274
63C-25-101	E	SB0244		472
63C-25-101	E	HB0280		153
63C-25-101	E	HB0215		322
63C-25-101	E	HB0082		207
63C-25-201	E	HB0082		207
63C-25-201	E	HB0215		322
63C-25-201	E	HB0280		153
63C-25-201	E	SB0244		472
63C-25-202	E	SB0244		472
63C-25-202	E	HB0280		153
63C-25-202	E	HB0215		322
63C-25-202	E	HB0082		207
63C-25-203	E	HB0082		207
63C-25-203	E	HB0280		153
63C-25-204	E	HB0280		153
63C-25-205	E	HB0280		153
63C-25-206	E	HB0280		153
63C-26-101	T	HB0215	63C-25-101	322
63C-26-201	T	HB0215	63C-25-201	322
63C-26-202	T	HB0215	63C-25-202	322
63C-27-101	T	HB0280	63C-25-101	153
63C-27-201	T	HB0280	63C-25-201	153
63C-27-202	T	HB0280	63C-25-202	153
63C-27-203	T	HB0280	63C-25-203	153
63C-28-101	T	SB0244	63C-25-101	472
63C-28-201	T	SB0244	63C-25-201	472
63C-28-202	T	SB0244	63C-25-202	472
63E-1-102	A	HB0254		63
63E-1-102	A	HB0046		44
63E-1-401	A	HB0090		125
63E-1-404	A	HB0090		125
63G-1-301	A	HB0238		331
63G-1-401	A	SB0058		14
63G-1-601	A	SB0116		283
63G-2-106	A	SB0254		109
63G-2-203	A	HB0096		128
63G-2-302	A	HB0248		334
63G-2-302	A	SB0015		169
63G-2-305	A	HB0406		391
63G-2-305	A	HB0399		388
63G-2-305	A	HB0249		335
63G-2-305	A	HB0097		303
63G-2-305	A	HB0038		201
63G-2-305	A	HB0040		11
63G-2-305	A	HB0031		198
63G-2-305	A	SB0254		109
63G-2-305	A	SB0043		415
63G-2-405	A	HB0399		388
63G-2-802	A	HB0399		388
63G-3-301	A	SB0163		443
63G-3-304	A	SB0163		443
63G-3-402	A	SB0163		443
63G-3-403	A	SB0163		443
63G-3-501	A	SB0163		443
63G-3-502	A	SB0163		443
63G-4-102	A	HB0151		307
63G-6a-103	A	SB0082		421
63G-6a-103	A	SB0092		422
63G-6a-107.5	E	SB0092		422
63G-6a-109	A	SB0082		421
63G-6a-204	A	SB0082		421
63G-6a-303	A	SB0082		421
63G-6a-1302	A	SB0082		421
63G-7-102	A	HB0287		346
63G-7-301	A	HB0399		388
63G-7-301	A	SB0115		428
63G-7-302	A	HB0399		388
63G-12-102	A	SB0124		430
63G-12-306	A	SB0176		447
63G-12-402	A	HB0355		370
63G-12-402	A	HB0229		328
63G-21-201	A	SB0060		419
63G-23-102	A	HB0090		125
63H-1-102	A	HB0443		82
63H-1-102	A	SB0091		274
63H-1-104	A	SB0232		463
63H-1-104	A	HB0082		207
63H-1-201	A	SB0091		274
63H-1-202	A	SB0091		274
63H-1-202	A	SB0232		463
63H-1-301	A	SB0091		274
63H-1-401	A	SB0232		463
63H-1-501	A	SB0232		463
63H-1-502	A	SB0232		463
63H-1-502	A	HB0443		82
63H-1-601	A	HB0082		207
63H-1-701	A	SB0232		463
63H-2-101	R	HB0046		44
63H-2-102	N	HB0046	79-6-901	44
63H-2-201	R	HB0046		44
63H-2-202	N	HB0046	79-6-902	44
63H-2-203	R	HB0046		44
63H-2-204	R	HB0046		44
63H-2-301	R	HB0046		44
63H-2-302	R	HB0046		44
63H-2-401	R	HB0046		44
63H-2-402	R	HB0046		44
63H-2-403	R	HB0046		44
63H-2-404	R	HB0046		44
63H-2-501	R	HB0046		44
63H-2-502	R	HB0046		44
63H-2-503	R	HB0046		44
63H-2-504	R	HB0046		44
63H-5-111	E	HB0254		63
63H-6-103	A	SB0082		421
63H-6-108	A	SB0082		421
63H-7a-104	A	SB0147		435
63H-7a-304	A	SB0147		435
63H-7a-403	A	SB0147		435
63H-7a-803	A	SB0147		435
63I-1-204	A	SB0017		084
63I-1-207	A	HB0014		20
63I-1-210	A	SB0091		274
63I-1-213	A	SB0016		413
63I-1-213	A	SB0027		244
63I-1-219	A	HB0021		194
63I-1-226	A	HB0021		194
63I-1-226	A	HB0080		206
63I-1-226	A	HB0176		224
63I-1-226	A	HB0289		347
63I-1-226	A	SB0041		253
63I-1-226	A	SB0045		255
63I-1-226	A	SB0186		451
63I-1-232	A	HB0048		34
63I-1-235	A	HB0050		36
63I-1-235	A	HB0036		118
63I-1-235	A	HB0024		25
63I-1-235	A	HB0333		362
63I-1-236	A	SB0050		175
63I-1-236	A	SB0030		247
63I-1-241	A	SB0109		92
63I-1-241	A	SB0215		104
63I-1-241	A	HB0305		68
63I-1-241	A	HB0010		110
63I-1-253	A	HB0021		194
63I-1-253	A	HB0042		30
63I-1-253	A	HB0043		31
63I-1-253	A	HB0125		218
63I-1-253	A	HB0176		224
63I-1-253	A	HB0273		229
63I-1-253	A	HB0386		236

Section	Action	Bill Number	Former/ Renumber	Chapter Number
63I-1-253	A	SB0091		274
63I-1-253	A	SB0096		10
63I-1-253	A	SB0021		414
63I-1-253	A	SB0036		172
63I-1-253	A	SB0037		173
63I-1-253	A	SB0042		254
63I-1-258	A	SB0043		415
63I-1-258	A	SB0044		416
63I-1-258	A	HB0047		33
63I-1-259	A	HB0125		218
63I-1-262	A	HB0048		34
63I-1-262	A	HB0049		35
63I-1-262	A	HB0236		149
63I-1-262	A	HB0249		335
63I-1-262	A	SB0047		257
63I-1-263	A	SB0049		417
63I-1-263	A	SB0060		419
63I-1-263	A	SB0034		249
63I-1-263	A	SB0091		274
63I-1-263	A	SB0212		296
63I-1-263	A	SB0244		472
63I-1-263	A	HB0172		313
63I-1-263	A	HB0048		34
63I-1-263	A	HB0020		23
63I-1-263	A	HB0125		218
63I-1-263	A	HB0386		236
63I-1-263	A	HB0280		153
63I-1-263	A	HB0305		68
63I-1-263	A	HB0333		362
63I-1-263	A	HB0326		361
63I-1-267	A	SB0029		246
63I-1-269	A	SB0147		435
63I-1-272	A	SB0051		259
63I-1-273	A	HB0305		68
63I-1-273	A	HB0423		79
63I-1-277	A	HB0392		384
63I-1-278	A	HB0392		384
63I-1-278	A	HB0196		318
63I-1-278	A	SB0095		423
63I-1-278	A	SB0181		188
63I-1-279	A	HB0305		68
63I-1-280	E	HB0249		335
63I-2-204	A	HB0305		68
63I-2-204	A	HB0297		67
63I-2-210	A	SB0091		274
63I-2-213	A	HB0436		400
63I-2-217	A	HB0077		123
63I-2-219	A	SB0136		095
63I-2-226	A	SB0045		255
63I-2-226	A	HB0341		365
63I-2-235	A	HB0015		21
63I-2-236	A	HB0167		141
63I-2-236	A	HB0335		363
63I-2-236	A	SB0153		97
63I-2-236	A	SB0150		437
63I-2-236	A	SB0214		458
63I-2-253	A	SB0091		274
63I-2-253	A	HB0355		370
63I-2-253	A	HB0302		354
63I-2-253	A	HB0273		229
63I-2-253	A	SB0002		409
63I-2-253	A	HB0103		208
63I-2-259	A	SB0076		264
63I-2-262	A	HB0023		114
63I-2-262	A	HB0248		334
63I-2-263	A	HB0104		209
63I-2-263	A	HB0254		63
63I-2-263	A	HB0302		354
63I-2-263	A	SB0076		264
63I-2-263	A	SB0025		242
63I-2-263	A	SB0022		240
63I-2-263	A	SB0147		435
63I-2-265	A	HB0145		219
63I-2-272	A	HB0186		56
63I-2-272	A	SB0013		83
63I-2-272	A	SB0051		259
63I-2-276	A	HB0032		117
63I-2-278	A	SB0242		470
63I-2-279	A	HB0305		68
63I-5-201	A	SB0015		169
63I-5-201	A	SB0176		447
63I-5-201	A	SB0176		447
63I-5-201	A	SB0015		169
63I-5-301	A	HB0419		397
63J-1-102	A	SB0211		456
63J-1-205	A	SB0211		456
63J-1-206	A	SB0100		425
63J-1-206	A	HB0190		40
63J-1-217	A	SB0211		456
63J-1-217.5	R	HB0190		40
63J-1-219	A	SB0176		447
63J-1-312	A	SB0211		456
63J-1-313	A	SB0211		456
63J-1-315	A	SB0045		255
63J-1-504	A	HB0383		73
63J-1-601	A	HB0305		68
63J-1-601	A	SB0186		451
63J-1-602.1	A	SB0186		451
63J-1-602.1	A	SB0229		191
63J-1-602.1	A	SB0045		255
63J-1-602.1	A	SB0043		415
63J-1-602.1	A	HB0249		335
63J-1-602.1	A	HB0088		48
63J-1-602.2	A	HB0176		224
63J-1-602.2	A	HB0232		59
63J-1-602.2	A	HB0305		68
63J-1-602.2	A	HB0295		154
63J-1-602.2	A	HB0386		236
63J-1-602.2	A	SB0025		242
63J-1-602.2	A	SB0176		447
63J-1-801	R	HB0440		403
63J-1-802	R	HB0440		403
63J-2-102	A	SB0186		451
63J-3-103	A	SB0211		456
63J-4-401	A	SB0082		421
63J-4-802	A	HB0462		406
63J-7-102	A	HB0176		224
63J-7-102	A	SB0211		456
63J-7-102	A	SB0186		451
63L-2-301	A	HB0333		362
63L-7-104	A	HB0305		68
63L-8-403	A	SB0017		84
63L-10-103	A	HB0160		55
63L-11-203	A	SB0091		274
63L-11-301	A	SB0091		274
63L-11-305	A	HB0172		313
63L-11-402	A	HB0305		68
63L-12-101	E	HB0462		406
63L-12-102	F	HB0462	10-8-501	406
63M-7-204	A	SB0179		187
63M-7-209	A	HB0050		36
63M-7-214	A	HB0403		390
63M-7-218	E	HB0403		390
63M-7-218	E	SB0179		187
63M-7-301	A	SB0045		255
63M-7-303	A	HB0110		211
63M-7-404	A	HB0028		115
63M-7-404	A	HB0229		328
63M-7-404	A	SB0167		185
63M-7-405	A	SB0091		274
63M-7-502	A	SB0167		185
63M-7-502	A	SB0124		430
63M-7-502	A	HB0228		148
63M-7-509	A	HB0228		148
63M-7-513	A	SB0124		430
63M-7-701	E	HB0208		145
63M-7-702	E	HB0208		145
63M-7-703	E	HB0208		145
63M-10-101	R	HB0248		334
63M-10-201	R	HB0248		334
63M-14-202	A	SB0160		98
63M-14-203	A	SB0160		98
63M-14-206	R	SB0160		98
63M-14-209	A	SB0160		98
63M-14-210	A	SB0160		98
63N-1a-102	A	HB0035		200
63N-1a-102	A	HB0333		362
63N-1a-201	A	HB0333		362
63N-1a-202	A	HB0333		362
63N-1a-202	A	HB0035		200
63N-1a-301	A	HB0035		200
63N-1a-301	A	HB0151		307
63N-1a-303	A	HB0333		362
63N-1a-306	A	HB0333		362
63N-1a-307	E	HB0333		362
63N-1a-401	F	HB0333	63N-1b-201	362
63N-1a-402	F	HB0333	63N-1b-202	362
63N-1b-101	N	HB0333	53B-33-101	362
63N-1b-102	A	HB0036		118
63N-1b-201	N	HB0333	63N-1a-401	362
63N-1b-202	N	HB0333	63N-1a-402	362
63N-1b-301	N	HB0333	53B-33-102	362
63N-1b-301	A	SB0043		415
63N-1b-302	N	HB0333	53B-33-103	362
63N-1b-303	N	HB0333	53B-33-104	362
63N-1b-304	N	HB0333	53B-33-105	362
63N-1b-305	N	HB0333	53B-33-106	362
63N-1b-306	N	HB0333	53B-33-107	362

Section	Action	Bill Number	Former/ Renumber	Chapter Number
63N-1b-307	N	HB0333	53B-33-108	362
63N-1b-401	F	HB0333	35A-11-102	362
63N-1b-402	F	HB0333	35A-11-201	362
63N-1b-403	F	HB0333	35A-11-202	362
63N-1b-404	F	HB0333	35A-11-203	362
63N-2-102	A	HB0035		200
63N-2-103	A	HB0035		200
63N-2-104	A	HB0035		200
63N-2-104	A	HB0333		362
63N-2-104.1	E	HB0035		200
63N-2-104.2	E	HB0035		200
63N-2-104.3	E	HB0035		200
63N-2-105	A	HB0035		200
63N-2-107	A	HB0035		200
63N-2-108	R	HB0035		200
63N-2-110	E	HB0035		200
63N-2-304	A	SB0076		264
63N-2-511	A	HB0333		362
63N-2-810	A	HB0333		362
63N-3-102	A	HB0035		200
63N-3-105	A	HB0333		362
63N-3-109	A	HB0333		362
63N-3-111	A	HB0035		200
63N-3-112	A	HB0333		362
63N-3-113	E	HB0462		406
63N-3-204	A	HB0333		362
63N-3-602	A	HB0305		68
63N-3-602	A	SB0140		433
63N-3-603	A	SB0140		433
63N-3-603	A	HB0462		406
63N-3-603	A	HB0015		21
63N-3-604	A	SB0140		433
63N-3-605	A	SB0140		433
63N-3-607	A	SB0140		433
63N-3-610	A	SB0140		433
63N-3-701	N	HB0333	9-24-101	362
63N-3-702	N	HB0333	9-24-102	362
63N-3-703	N	HB0333	9-24-103	362
63N-3-801	E	HB0333		362
63N-3-801	E	HB0326		361
63N-3-801	E	SB0212		296
63N-3-801	F	HB0017	35A-8-1201	22
63N-3-802	F	HB0017	35A-8-1202	22
63N-3-802	E	SB0212		296
63N-3-802	E	HB0326		361
63N-3-802	E	HB0333		362
63N-3-803	F	HB0017	35A-8-1203	22
63N-3-901	T	HB0326	63N-3-801	361
63N-3-902	T	HB0326	63N-3-802	361
63N-3-1001	T	HB0333	63N-3-801	362
63N-3-1002	T	HB0333	63N-3-802	362
63N-3-1101	T	SB0212	63N-3-801	296
63N-3-1102	T	SB0212	63N-3-802	296
63N-4-103	A	SB0091		274
63N-4-104	A	HB0333		362
63N-4-201	R	HB0333		362
63N-4-202	R	HB0333		362
63N-4-203	R	HB0333		362
63N-4-204	R	HB0333		362
63N-4-205	R	HB0333		362
63N-4-302	A	HB0025		195
63N-4-303	A	HB0025		195
63N-4-305	A	HB0025		195
63N-4-307	A	HB0025		195
63N-4-309	A	HB0025		195
63N-4-402	A	HB0333		362
63N-4-403	A	HB0333		362
63N-4-404	A	HB0333		362
63N-4-502	A	HB0101		129
63N-4-601	R	HB0333		362
63N-4-602	R	HB0333		362
63N-4-603	R	HB0333		362
63N-4-604	R	HB0333		362
63N-4-701	R	HB0333		362
63N-4-702	R	HB0333		362
63N-4-703	R	HB0333		362
63N-4-704	R	HB0333		362
63N-4-801	E	HB0333		362
63N-4-802	E	HB0333		362
63N-4-803	F	HB0333	17-54-104	362
63N-4-804	E	HB0333		362
63N-4-805	E	HB0333		362
63N-6-101	R	SB0218		298
63N-6-102	R	SB0218		298
63N-6-103	A	SB0218		298
63N-6-201	R	SB0218		298
63N-6-202	R	SB0218		298
63N-6-203	R	SB0218		298
63N-6-203	A	SB0163		443
63N-6-204	A	SB0218		298
63N-6-301	A	SB0218		298
63N-6-301	A	HB0333		362
63N-6-302	R	SB0218		298
63N-6-303	A	SB0218		298
63N-6-304	R	SB0218		298
63N-6-305	A	SB0218		298
63N-6-306	R	SB0218		298
63N-6-401	A	SB0218		298
63N-6-402	A	SB0218		298
63N-6-403	R	SB0218		298
63N-6-404	A	SB0218		298
63N-6-405	A	SB0218		298
63N-6-406	R	SB0218		298
63N-6-407	R	SB0218		298
63N-6-408	R	SB0218		298
63N-6-409	R	SB0218		298
63N-6-410	A	SB0218		298
63N-6-411	R	SB0218		298
63N-7-101	X	HB0333		362
63N-7-102	X	HB0333		362
63N-7-103	X	HB0333		362
63N-7-104	E	HB0333		362
63N-7-201	X	HB0333		362
63N-7-202	X	HB0333		362
63N-7-301	A	HB0333		362
63N-7-301	A	SB0091		274
63N-8-102	A	SB0049		417
63N-8-103	A	SB0049		417
63N-9-101	R	HB0305		68
63N-9-102	R	HB0305		68
63N-9-102	A	SB0091		274
63N-9-103	N	HB0305	79-7-103	68
63N-9-104	R	HB0305		68
63N-9-105	R	HB0305		68
63N-9-106	R	HB0305		68
63N-9-201	R	HB0305		68
63N-9-202	N	HB0305	79-8-401	68
63N-9-203	N	HB0305	79-8-402	68
63N-10-101	R	HB0333		362
63N-10-102	N	HB0333	9-23-101	362
63N-10-102	A	SB0124		430
63N-10-201	N	HB0333	9-23-201	362
63N-10-203	N	HB0333	9-23-202	362
63N-10-204	N	HB0333	9-23-204	362
63N-10-205	N	HB0333	9-23-205	362
63N-10-301	N	HB0333	9-23-301	362
63N-10-302	N	HB0333	9-23-302	362
63N-10-303	N	HB0333	9-23-303	362
63N-10-304	N	HB0333	9-23-304	362
63N-10-305	N	HB0333	9-23-305	362
63N-10-306	N	HB0333	9-23-306	362
63N-10-307	N	HB0333	9-23-307	362
63N-10-308	N	HB0333	9-23-308	362
63N-10-309	N	HB0333	9-23-309	362
63N-10-310	N	HB0333	9-23-310	362
63N-10-311	N	HB0333	9-23-311	362
63N-10-312	N	HB0333	9-23-312	362
63N-10-313	N	HB0333	9-23-313	362
63N-10-314	N	HB0333	9-23-314	362
63N-10-315	N	HB0333	9-23-315	362
63N-10-316	N	HB0333	9-23-316	362
63N-10-317	N	HB0333	9-23-317	362
63N-10-318	N	HB0333	9-23-318	362
63N-13-302	A	SB0022		240
63N-13-303	A	SB0022		240
63N-13-304	A	SB0022		240
63N-13-305	A	SB0022		240
63N-13-306	A	SB0022		240
63N-13-306	A	HB0082		207
63N-16-102	A	HB0243		332
63N-16-103	A	HB0243		332
63N-16-104	A	HB0243		332
63N-16-201	A	HB0243		332
63N-16-202	A	HB0243		332
63N-16-206	A	HB0243		332
63N-17-201	A	SB0214		458
63N-17-203	E	SB0214		458
63N-19-101	E	HB0333		362
63N-19-102	E	HB0333		362
63N-19-103	E	HB0333		362
63N-19-104	E	HB0333		362
64-13-6	A	SB0179		187
64-13-14.7	A	HB0028		115
64-13-21	A	SB0179		187
64-13-21.5	A	SB0096		10
64-13-26	A	SB0179		187
64-13-29	A	HB0028		115
64-13-48	E	HB0194		144

Section	Action	Bill Number	Former/ Renumber	Chapter Number
64-13e-102	A	HB0355		370
64-13e-103	A	SB0179		187
64-13f-102	A	HB0152		139
64-13f-103	A	HB0152		139
64-13g-101	E	HB0412		393
64-13g-102	E	HB0412		393
64-13g-103	E	HB0412		393
65A-2-8	A	HB0319		357
65A-2-8	A	HB0173		223
65A-3-1	A	HB0317		234
65A-3-1	A	HB0305		68
65A-5-1	A	HB0157		54
65A-5-1.5	E	HB0157		54
65A-5-2	A	HB0157		54
65A-8-209.1	A	HB0145		219
65A-8-214	E	HB0145		219
65A-10-2	A	HB0305		68
65A-10-8	A	HB0410		78
65A-15-201	A	HB0240		60
65A-16-101	E	HB0410		78
65A-16-102	E	HB0410		78
65A-16-201	E	HB0410		78
65A-16-202	E	HB0410		78
65A-16-203	E	HB0410		78
65A-16-301	E	HB0410		78
67-1a-2	A	SB0018		18
67-1a-3	A	SB0018		18
67-1a-14	R	SB0018		18
67-3-1	A	HB0151		307
67-3-11	A	SB0045		255
67-3-12	A	SB0091		274
67-3-12	A	HB0075		205
67-3-12	A	SB0015		169
67-4a-801	A	SB0186		451
67-5-1	A	HB0159		222
67-5-1.1	A	HB0159		222
67-5-1.5	A	HB0097		303
67-5-16	A	HB0249		335
67-5-22	R	HB0097		303
67-5-37	A	HB0038		201
67-5-38	E	SB0220		459
67-5a-1	A	SB0035		250
67-8-2	A	SB0098		276
67-19a-101	A	SB0091		274
67-19a-101	A	SB0015		169
67-19a-202	A	HB0104		209
67-19a-302	A	HB0104		209
67-19a-401	A	HB0104		209
67-20-2	A	HB0289		347
67-20-2	A	HB0287		346
67-20-3	A	HB0287		346
67-20-4	A	HB0287		346
67-21-2	A	SB0040		174
67-21-3	A	SB0040		174
67-21-3.5	A	SB0040		174
67-21-3.6	A	SB0040		174
67-21-3.7	A	SB0040		174
67-21-4	A	SB0040		174
67-21-6	A	SB0040		174
67-22-2	A	SB0176		447
67-27-101	E	SB0015		169
67-27-102	F	SB0015	63A-17-901	169
67-27-103	F	SB0015	63A-17-902	169
67-27-104	F	SB0015	63A-17-903	169
69-2-402	A	SB0147		435
69-2-403	A	SB0147		435
69-2-404	A	SB0147		435
69-2-405	A	SB0147		435
71-14-101	R	SB0186		451
71-14-102	R	SB0186		451
72-1-102	A	HB0322		69
72-1-201	A	HB0427		80
72-1-202	A	HB0322		69
72-1-208	A	HB0322		69
72-1-213	R	SB0051		259
72-1-213.1	A	SB0051		259
72-1-213.1	A	HB0186		56
72-1-213.2	A	SB0051		259
72-1-216.1	A	SB0166		99
72-1-216.1	A	SB0122		93
72-1-303	A	SB0166		99
72-1-304	A	HB0462		406
72-2-121	A	SB0051		259
72-2-124	A	SB0051		259
72-2-124	A	HB0462		406
72-2-124	A	HB0322		69
72-2-126	A	SB0166		99
72-2-132	E	SB0166		99
72-2-202	A	SB0232		463
72-4-105.1	E	SB0013		83
72-4-106	A	SB0013		83
72-4-114	A	SB0013		83
72-4-119	A	SB0013		83
72-4-123	A	SB0013		83
72-4-125	A	SB0013		83
72-5-111	A	SB0202		101
72-5-309	A	SB0051		259
72-5-403	A	SB0051		259
72-6-107.5	A	SB0082		421
72-6-107.5	A	SB0163		443
72-9-603	A	SB0109		92
72-11-204	A	HB0305		68
72-14-102	A	SB0166		99
72-14-103	A	SB0166		99
72-14-203	A	HB0259		64
73-1-14	A	HB0166		310
73-1-21	A	HB0037		27
73-2-1	A	HB0168		311
73-2-1	A	HB0177		225
73-2-1	A	HB0393		75
73-2-1.6	E	SB0221		106
73-2-1.7	E	HB0393		75
73-2-4	A	HB0334		70
73-3-3	A	HB0033		43
73-3-5.6	A	SB0031		85
73-3-8	A	HB0033		43
73-3-21.1	A	HB0168		311
73-3-21.3	E	HB0168		311
73-3-21.5	E	HB0168		311
73-3-30	A	HB0033		43
73-3-31	A	HB0305		68
73-4-5	A	HB0377		71
73-4-12	A	HB0377		71
73-5-17	E	HB0393		75
73-10-32	A	SB0089		90
73-10-32.5	A	SB0089		90
73-10-34	A	HB0242		61
73-10-34.5	E	HB0242		61
73-10-36	E	HB0121		50
73-10-36	E	SB0110		282
73-10-37	T	HB0121	73-10-36	50
73-10c-3	A	HB0269		66
73-10g-204	A	HB0423		79
73-10g-304	A	HB0263		65
73-10g-401	E	HB0269		66
73-10g-401	E	HB0429		81
73-10g-402	E	HB0429		81
73-10g-402	E	HB0269		66
73-10g-403	E	HB0269		66
73-10g-403	E	HB0429		81
73-10g-404	E	HB0429		81
73-10g-404	E	HB0269		66
73-10g-405	E	HB0429		81
73-10g-501	T	HB0269	73-10g-401	66
73-10g-502	T	HB0269	73-10g-402	66
73-10g-503	T	HB0269	73-10g-403	66
73-10g-504	T	HB0269	73-10g-404	66
73-18-2	A	HB0305		68
73-18-3.5	A	HB0305		68
73-18-4	A	HB0305		68
73-18-7	A	HB0305		68
73-18-8	A	HB0305		68
73-18-11	A	HB0305		68
73-18-13	A	HB0305		68
73-18-13.5	A	HB0305		68
73-18-15	A	HB0305		68
73-18-16	A	HB0305		68
73-18a-1	A	HB0305		68
73-18a-4	A	HB0305		68
73-18a-5	A	HB0305		68
73-18a-12	A	HB0305		68
73-18b-1	A	HB0305		68
73-18c-102	A	HB0305		68
73-18c-201	A	HB0305		68
73-18c-201	A	SB0091		274
73-27-103	A	HB0121		50
75-2-803	A	HB0029		116
75-2-803	A	HB0314		157
75-2-803	A	SB0124		430
75-2-807	A	SB0124		430
75-2a-103	A	SB0101		277
75-5-301.5	E	HB0320		358
75-5-304	A	SB0155		441
75-5-306	X	SB0155		441
75-5-307	X	SB0155		441
75-5-312	X	SB0155		441
75-5-312	A	HB0320		358
75-5-312.5	A	SB0155		441

Section	Action	Bill Number	Former/ Renumber	Chapter Number
75-5-417	A	HB0320		358
75-9-105	A	SB0124		430
75-9-108	A	HB0149		138
76-1-101.5	F	SB0123	76-1-601	181
76-1-101.6	E	SB0123		181
76-1-301	A	SB0123		181
76-1-302	A	SB0167		185
76-1-601	N	SB0123	76-1-101.5	181
76-2-106	E	SB0122		93
76-2-304.5	A	SB0123		181
76-2-401	A	SB0123		181
76-2-402	A	SB0123		181
76-2-404	A	SB0123		181
76-2-408	A	SB0123		181
76-2-408	A	HB0123		130
76-3-202	A	SB0123		181
76-3-203.1	A	SB0167		185
76-3-203.2	A	SB0123		181
76-3-203.5	A	SB0123		181
76-3-203.5	A	SB0167		185
76-3-203.5	A	SB0056		418
76-3-203.6	A	SB0123		181
76-3-203.7	A	SB0123		181
76-3-203.8	A	SB0123		181
76-3-203.10	A	SB0123		181
76-3-203.13	A	SB0123		181
76-3-406	A	SB0123		181
76-3-407	A	SB0167		185
76-4-401	A	SB0123		181
76-5-101	A	SB0123		181
76-5-102	A	SB0123		181
76-5-102.1	E	HB0029		116
76-5-102.3	A	SB0123		181
76-5-102.4	A	SB0123		181
76-5-102.4	A	HB0360		373
76-5-102.5	A	SB0123		181
76-5-102.6	A	SB0123		181
76-5-102.7	A	SB0123		181
76-5-102.7	A	HB0032		117
76-5-102.8	A	SB0123		181
76-5-102.9	A	SB0123		181
76-5-103	A	SB0123		181
76-5-103.5	A	SB0123		181
76-5-104	A	SB0123		181
76-5-105	A	SB0123		181
76-5-106	A	SB0123		181
76-5-106.5	A	SB0123		181
76-5-106.5	A	SB0056		418
76-5-106.5	A	HB0175		142
76-5-107	A	SB0123		181
76-5-107.1	A	SB0123		181
76-5-107.3	A	SB0123		181
76-5-107.5	A	SB0123		181
76-5-108	A	SB0123		181
76-5-109	A	SB0123		181
76-5-109	A	HB0249		335
76-5-109.1	N	SB0123	76-5-114	181
76-5-109.2	E	SB0123		181
76-5-109.3	E	SB0123		181
76-5-110	A	SB0123		181
76-5-111	A	SB0123		181
76-5-111.2	E	SB0123		181
76-5-111.3	E	SB0123		181
76-5-111.4	E	SB0123		181
76-5-112	A	SB0123		181
76-5-112.5	A	SB0123		181
76-5-113	A	SB0123		181
76-5-114	F	SB0123	76-5-109.1	181
76-5-201	A	SB0123		181
76-5-201	A	HB0029		116
76-5-202	A	SB0123		181
76-5-203	A	SB0123		181
76-5-205	A	SB0123		181
76-5-205.5	A	SB0123		181
76-5-206	A	SB0123		181
76-5-207	A	SB0123		181
76-5-207	A	HB0029		116
76-5-207.5	A	SB0123		181
76-5-207.5	A	SB0102		426
76-5-208	A	SB0123		181
76-5-209	A	SB0123		181
76-5-210	R	SB0123		181
76-5-301	A	SB0123		181
76-5-301.1	A	SB0123		181
76-5-302	A	SB0123		181
76-5-303	A	SB0123		181
76-5-303.5	A	SB0123		181
76-5-304	A	SB0123		181
76-5-305	A	SB0123		181
76-5-306	R	SB0123		181
76-5-307	A	SB0123		181
76-5-308	A	SB0123		181
76-5-308.1	E	SB0123		181
76-5-308.3	E	SB0123		181
76-5-308.5	A	SB0123		181
76-5-309	A	SB0123		181
76-5-310	A	SB0123		181
76-5-310.1	E	SB0123		181
76-5-311	A	SB0123		181
76-5-401	A	SB0123		181
76-5-401.1	A	SB0123		181
76-5-401.2	A	SB0123		181
76-5-401.3	A	SB0123		181
76-5-402	A	SB0123		181
76-5-402.1	A	SB0123		181
76-5-402.2	A	SB0123		181
76-5-402.3	A	SB0123		181
76-5-403	A	SB0123		181
76-5-403.1	A	SB0123		181
76-5-404	A	SB0123		181
76-5-404.1	A	SB0123		181
76-5-404.3	E	SB0123		181
76-5-405	A	SB0123		181
76-5-406.3	A	SB0123		181
76-5-406.5	A	SB0123		181
76-5-407	A	SB0123		181
76-5-412	A	SB0123		181
76-5-412.2	E	SB0123		181
76-5-413	A	SB0123		181
76-5-413	A	SB0045		255
76-5-413.2	E	SB0123		181
76-5-416	R	SB0123		181
76-5-501	N	SB0124	53-10-801	430
76-5-501	A	SB0045		255
76-5-502	N	SB0124	53-10-802	430
76-5-503	N	SB0124	53-10-803	430
76-5-504	N	SB0124	53-10-804	430
76-5-601	N	SB0124	53-10-901	430
76-5-602	N	SB0124	53-10-902	430
76-5-603	N	SB0124	53-10-903	430
76-5-604	N	SB0124	53-10-904	430
76-5-605	N	SB0124	53-10-905	430
76-5-606	N	SB0124	53-10-906	430
76-5-607	N	SB0124	53-10-907	430
76-5-608	N	SB0124	53-10-908	430
76-5-609	N	SB0124	53-10-909	430
76-5-610	N	SB0124	53-10-910	430
76-5-701	A	SB0123		181
76-5-701	A	HB0249		335
76-5-702	A	SB0123		181
76-5-703	A	HB0249		335
76-5-704	A	SB0123		181
76-5b-103	A	SB0123		181
76-5b-201	A	SB0123		181
76-5b-201	A	SB0167		185
76-5b-201.1	E	SB0167		185
76-5b-202	A	SB0123		181
76-5b-203	A	SB0123		181
76-5b-203.5	A	SB0123		181
76-5b-204	A	SB0123		181
76-5b-204	A	SB0156		184
76-5b-205	A	SB0167		185
76-5b-205	A	SB0123		181
76-5b-205	A	HB0018		112
76-6-102	A	SB0123		181
76-6-203	A	SB0123		181
76-6-206	A	SB0068		87
76-6-206.3	A	SB0068		87
76-6-302	A	SB0123		181
76-6-406	A	HB0434		164
76-6-408	A	HB0038		201
76-6-412	A	HB0038		201
76-6-521	A	HB0031		198
76-6-1406	A	HB0038		201
76-7-101	A	SB0123		181
76-7-102	A	HB0122		217
76-7-205	F	HB0248	62A-4a-711	334
76-7-302	A	HB0249		335
76-7-304.5	A	SB0132		287
76-7-305	A	SB0123		181
76-7-317.1	R	SB0186		451
76-8-309	A	SB0123		181
76-8-316	A	SB0123		181
76-8-318	A	SB0123		181
76-8-318	A	HB0249		335
76-8-418	A	HB0249		335
76-8-504	A	HB0229		328
76-9-101	A	SB0123		181

Section	Action	Bill Number	Former/ Renumber	Chapter Number
76-9-202	A	HB0353		161
76-9-308	A	SB0166		99
76-9-702	A	SB0123		181
76-9-702.1	A	SB0123		181
76-9-702.5	A	SB0167		185
76-9-804	A	SB0123		181
76-9-1003	A	SB0123		181
76-10-101	A	HB0034		199
76-10-500	A	SB0115		428
76-10-528	A	HB0329		159
76-10-1301	A	HB0081		124
76-10-1302	A	HB0081		124
76-10-1302	A	SB0123		181
76-10-1302	A	SB0167		185
76-10-1303	A	HB0081		124
76-10-1306	A	SB0123		181
76-10-1313	A	SB0123		181
76-10-1313	A	HB0081		124
76-10-1315	A	HB0081		124
76-10-1315	A	HB0249		335
76-10-1315	A	SB0123		181
76-10-1504	A	SB0123		181
76-10-1602	A	SB0167		185
76-10-1602	A	SB0123		181
76-10-3201	E	SB0043		415
77-2-4.2	A	HB0139		136
77-2-4.3	A	HB0305		68
77-2a-3	A	HB0029		116
77-7-5	A	HB0124		131
77-7-8	A	HB0124		131
77-7-8.1	E	HB0124		131
77-7a-107	A	HB0260		150
77-18-103	A	HB0028		115
77-18-105	A	HB0028		115
77-18-105	A	HB0321		359
77-18-108	A	HB0028		115
77-18-114	A	HB0216		323
77-18-114	A	HB0321		359
77-18-118	A	HB0321		359
77-22-2.5	A	SB0167		185
77-23a-8	A	SB0124		430
77-23c-102	A	SB0091		274
77-27-7	A	SB0124		430
77-27-9	A	SB0124		430
77-27-10	A	SB0124		430
77-27-11	A	HB0028		115
77-32b-103	A	HB0229		328
77-32b-103	A	HB0321		359
77-36-1	A	SB0124		430
77-36-1	A	SB0167		185
77-36-2.2	A	SB0124		430
77-36-5	A	HB0249		335
77-37-3	A	SB0124		430
77-37-4	A	HB0249		335
77-37-5	A	SB0124		430
77-38-3	A	SB0124		430
77-38-3	A	HB0134		133
77-38-15	A	SB0124		430
77-38-204	A	HB0249		335
77-38-601	E	HB0117		215
77-38-602	E	HB0117		215
77-38-603	E	HB0117		215
77-38-604	E	HB0117		215
77-38-605	E	HB0117		215
77-38-606	E	HB0117		215
77-38-607	E	HB0117		215
77-38-608	E	HB0117		215
77-38-609	E	HB0117		215
77-38-610	E	HB0117		215
77-38-611	E	HB0117		215
77-38-612	E	HB0117		215
77-38-613	E	HB0117		215
77-38-614	E	HB0117		215
77-38-615	E	HB0117		215
77-38-616	E	HB0117		215
77-38-617	E	HB0117		215
77-38-618	E	HB0117		215
77-38-619	E	HB0117		215
77-38-620	E	HB0117		215
77-38-621	E	HB0117		215
77-38b-102	A	HB0321		359
77-38b-204	A	HB0229		328
77-38b-303	A	HB0321		359
77-38b-304	A	HB0216		323
77-38b-402	A	HB0229		328
77-40-101	R	SB0035		250
77-40-101.5	N	SB0035	77-40a-102	250
77-40-102	N	SB0035	77-40a-101	250
77-40-102	A	SB0124		430
77-40-102	A	HB0029		116
77-40-103	A	HB0392		384
77-40-103	R	SB0035		250
77-40-104	N	SB0035	77-40a-302	250
77-40-104.1	N	SB0035	77-40a-105	250
77-40-105	N	SB0035	77-40a-303	250
77-40-105	A	HB0029		116
77-40-106	A	HB0392		384
77-40-106	N	SB0035	77-40a-304	250
77-40-107	N	SB0035	77-40a-305	250
77-40-107	A	HB0392		384
77-40-108	N	SB0035	77-40a-401	250
77-40-108.5	N	SB0035	77-40a-402	250
77-40-109	N	SB0035	77-40a-403	250
77-40-110	N	SB0035	77-40a-404	250
77-40-111	N	SB0035	77-40a-104	250
77-40-112	N	SB0035	77-40a-405	250
77-40-113	N	SB0035	77-40a-103	250
77-40-114	N	SB0035	77-40a-201	250
77-40-115	N	SB0035	77-40a-202	250
77-40-116	N	SB0035	77-40a-203	250
77-40-117	E	HB0392		384
77-40a-101	F	SB0035	77-40-102	250
77-40a-102	F	SB0035	77-40-101.5	250
77-40a-103	F	SB0035	77-40-113	250
77-40a-104	F	SB0035	77-40-111	250
77-40a-105	F	SB0035	77-40-104.1	250
77-40a-107	T	HB0392	77-40-117	384
77-40a-201	F	SB0035	77-40-114	250
77-40a-202	F	SB0035	77-40-115	250
77-40a-203	F	SB0035	77-40-116	250
77-40a-301	E	SB0035		250
77-40a-302	F	SB0035	77-40-104	250
77-40a-303	F	SB0035	77-40-105	250
77-40a-304	F	SB0035	77-40-106	250
77-40a-305	F	SB0035	77-40-107	250
77-40a-306	E	SB0035		250
77-40a-401	F	SB0035	77-40-108	250
77-40a-402	F	SB0035	77-40-108.5	250
77-40a-403	F	SB0035	77-40-109	250
77-40a-404	F	SB0035	77-40-110	250
77-40a-405	F	SB0035	77-40-112	250
77-41-102	A	SB0124		430
77-41-102	A	SB0167		185
77-41-106	A	SB0167		185
77-41-106	A	SB0124		430
77-43-102	A	SB0124		430
78A-1-103	A	SB0086		271
78A-1-104	A	SB0086		271
78A-2-106	A	SB0098		276
78A-2-231	A	SB0046		256
78A-2-301	A	SB0098		276
78A-2-301	A	HB0392		384
78A-2-301.5	A	HB0392		384
78A-2-302	A	SB0087		272
78A-2-303	A	SB0087		272
78A-2-304	A	SB0087		272
78A-2-305	A	SB0087		272
78A-2-306	A	SB0087		272
78A-2-309	A	SB0087		272
78A-2-704	A	HB0249		335
78A-2-705	A	SB0087		272
78A-2-801	A	HB0248		334
78A-2-802	A	HB0248		334
78A-2-803	A	HB0248		334
78A-2-803	A	SB0087		272
78A-3-101	A	SB0098		276
78A-4-102	A	SB0098		276
78A-4-103	A	HB0399		388
78A-5-101	A	HB0299		155
78A-5-102	A	HB0299		155
78A-5-102	A	HB0196		318
78A-5-102.5	E	HB0299		155
78A-5-106	A	SB0098		276
78A-5-110	A	HB0305		68
78A-5-111	A	SB0082		421
78A-5-201	A	SB0179		187
78A-6-102	A	HB0249		335
78A-6-103	A	HB0249		335
78A-6-103	A	HB0299		155
78A-6-103.5	A	HB0299		155
78A-6-104	A	HB0249		335
78A-6-120	A	HB0299		155
78A-6-203	A	SB0098		276
78A-6-209	A	SB0124		430
78A-6-209	A	HB0249		335
78A-6-351	A	HB0248		334
78A-6-356	A	HB0248		334
78A-6-356	A	SB0242		470

Section	Action	Bill Number	Former/ Renumber	Chapter Number
78A-6-357	A	HB0248		334
78A-6-359	A	SB0161		442
78A-6-450	A	HB0249		335
78A-7-105	A	HB0257		339
78A-7-106	A	HB0299		155
78A-7-106	A	HB0196		318
78A-7-120	A	HB0305		68
78A-7-120	A	SB0075		89
78A-7-202	A	SB0098		276
78A-7-206	A	SB0098		276
78A-7-209.5	E	SB0098		276
78A-7-301	A	SB0098		276
78A-7-301	A	HB0139		136
78A-8-102	A	HB0107		210
78A-12-102	A	HB0040		11
78A-12-201	A	HB0040		11
78A-12-203	A	HB0040		11
78A-12-205	A	HB0040		11
78A-12-206	A	HB0040		11
78B-2-119	E	SB0246		474
78B-2-308	A	SB0124		430
78B-3-105	A	SB0207		190
78B-3-106.5	A	SB0091		274
78B-3-108	A	HB0038		201
78B-3-403	A	HB0318		356
78B-3-403	A	SB0043		415
78B-3-412	A	HB0318		356
78B-3-416	A	HB0318		356
78B-3-416	A	HB0111		212
78B-3-418	A	HB0111		212
78B-3-420	A	HB0111		212
78B-3-423	A	HB0111		212
78B-3-450	E	HB0344		366
78B-3-451	E	HB0344		366
78B-3-452	E	HB0344		366
78B-3-453	E	HB0344		366
78B-3-454	E	HB0344		366
78B-3-502	A	HB0249		335
78B-4-518	E	SB0095		423
78B-5-618	A	HB0225		327
78B-5-825	A	SB0087		272
78B-5-902	A	SB0045		255
78B-5-903	A	SB0045		255
78B-6-103	A	HB0249		335
78B-6-107	A	HB0249		335
78B-6-117	A	SB0124		430
78B-6-117	A	SB0167		185
78B-6-124	A	HB0249		335
78B-6-128	A	HB0249		335
78B-6-131	A	HB0249		335
78B-6-205	A	SB0087		272
78B-6-207	A	HB0249		335
78B-6-208	A	HB0249		335
78B-6-509	A	HB0357		371
78B-6-521	A	SB0202		101
78B-6-850	E	HB0359		372
78B-6-851	E	HB0359		372
78B-6-852	E	HB0359		372
78B-6-853	E	HB0359		372
78B-6-854	E	HB0359		372
78B-6-1270	E	HB0120		304
78B-6-1271	E	HB0120		304
78B-6-1272	E	HB0120		304
78B-6-1273	E	HB0120		304
78B-6-1274	E	HB0120		304
78B-6-1275	E	HB0120		304
78B-6-1276	E	HB0120		304
78B-6-1277	E	HB0120		304
78B-6-1278	E	HB0120		304
78B-6-1279	E	HB0120		304
78B-6-1280	E	HB0120		304
78B-6-1281	E	HB0120		304
78B-6-2301	E	SB0115		428
78B-6-2302	E	SB0115		428
78B-6-2303	E	SB0115		428
78B-7-102	A	SB0124		430
78B-7-102	A	HB0175		142
78B-7-104	A	SB0217		297
78B-7-105	A	HB0175		142
78B-7-404	A	HB0175		142
78B-7-502	A	SB0124		430
78B-7-603	A	HB0175		142
78B-7-701	A	SB0217		297
78B-7-801	A	SB0124		430
78B-7-903	A	SB0124		430
78B-7-903	A	SB0056		418
78B-7-1001	E	SB0085S		270
78B-7-1002	E	SB0085S		270
78B-7-1003	E	SB0085		270
78B-7-1004	E	SB0085		270
78B-9-104	A	HB0065		120
78B-9-105	A	HB0065		120
78B-9-107	A	HB0065		120
78B-9-108	A	HB0065		120
78B-9-108	A	SB0035		250
78B-9-109	A	SB0210		295
78B-9-202	A	HB0065		120
78B-9-301	A	SB0091		274
78B-9-402	A	SB0124		430
78B-9-402	A	HB0029		116
78B-10-106	A	HB0249		335
78B-12-205	A	SB0242		470
78B-12-210	A	SB0242		470
78B-12-212	A	SB0074		263
78B-12-301	A	SB0242		470
78B-12-302	A	SB0242		470
78B-12-303	E	SB0242		470
78B-12-304	E	SB0242		470
78B-20-302	A	HB0360		373
78B-20-311	A	HB0360		373
78B-22-102	A	SB0186		451
78B-22-102	A	SB0108		281
78B-22-201	A	SB0108		281
78B-22-203	A	SB0108		281
78B-22-404	A	SB0186		451
78B-22-406	A	SB0108		281
78B-22-454	A	SB0186		451
78B-22-455	A	SB0186		451
78B-22-501	A	SB0186		451
78B-22-701	A	SB0186		451
78B-22-701	A	SB0108		281
78B-22-805	E	SB0181		188
78B-22-901	A	SB0210		295
78B-22-901	A	SB0108		281
78B-22-903	A	SB0210		295
78B-22-904	A	SB0210		295
78B-24-101	E	HB0219		326
78B-24-102	E	HB0219		326
78B-24-201	E	HB0219		326
78B-24-202	E	HB0219		326
78B-24-203	E	HB0219		326
78B-24-204	E	HB0219		326
78B-24-205	E	HB0219		326
78B-24-301	E	HB0219		326
78B-24-302	E	HB0219		326
78B-24-303	E	HB0219		326
78B-24-304	E	HB0219		326
78B-24-305	E	HB0219		326
78B-24-306	E	HB0219		326
78B-24-307	E	HB0219		326
78B-24-308	E	HB0219		326
78B-24-401	E	HB0219		326
78B-24-402	E	HB0219		326
78B-24-403	E	HB0219		326
78B-24-404	E	HB0219		326
79-1-104	E	HB0305		68
79-2-201	A	HB0305		68
79-2-202	A	HB0305		68
79-2-206	A	HB0305		68
79-2-404	A	SB0163		443
79-2-404	A	SB0082		421
79-2-406	E	HB0118		216
79-2-601	E	HB0131		51
79-2-602	E	HB0131		51
79-2-603	E	HB0131		51
79-2-604	E	HB0131		51
79-2-605	E	HB0131		51
79-2-606	E	HB0131		51
79-3-202	A	HB0118		216
79-4-203	A	HB0305		68
79-4-304	A	HB0155		140
79-4-402	A	HB0088		48
79-4-404	N	HB0305	79-7-303	68
79-4-1103	A	HB0305		68
79-4-1202	A	HB0027		26
79-4-1203	A	HB0027		26
79-4-1204	R	HB0027		26
79-4-1205	R	HB0027		26
79-4-1207	R	HB0027		26
79-4-1208	A	HB0027		26
79-5-102	A	HB0305		68
79-5-201	R	HB0305		68
79-5-202	R	HB0305		68
79-5-501	A	HB0305		68
79-5-503	A	HB0305		68
79-6-302	A	HB0305		68
79-6-401	A	HB0215		322
79-6-505	A	HB0305		68

Section	Action	Bill Number	Former/ Renumber	Chapter Number
79-6-602	A	HB0046		44
79-6-603	A	HB0046		44
79-6-604	A	HB0046		44
79-6-605	A	HB0305		68
79-6-901	F	HB0046	63H-2-102	44
79-6-902	F	HB0046	63H-2-202	44
79-6-903	E	HB0046		44
79-7-101	R	HB0305		68
79-7-102	A	HB0305		68
79-7-103	F	HB0305	63N-9-103	68
79-7-201	A	HB0305		68
79-7-203	A	HB0305		68
79-7-206	E	HB0305		68
79-7-303	F	HB0305	79-4-404	68
79-8-102	A	SB0091		274
79-8-102	A	HB0305		68
79-8-103	A	HB0305		68
79-8-104	R	HB0305		68
79-8-105	R	HB0305		68
79-8-106	A	HB0305		68
79-8-106	A	SB0091		274
79-8-201	A	HB0305		68
79-8-202	A	HB0305		68
79-8-302	A	HB0305		68
79-8-303	A	HB0305		68
79-8-304	A	HB0305		68
79-8-401	F	HB0305	63N-9-202	68
79-8-402	F	HB0305	63N-9-203	68
80-1-101	R	HB0248		334
80-1-102	A	HB0248		334
80-1-102	A	HB0219		326
80-1-102	A	HB0122		217
80-1-102	A	HB0299		155
80-1-102	A	SB0167		185
80-1-102	A	SB0124		430
80-1-102	A	SB0045		255
80-2-101	R	HB0248		334
80-2-102	F	HB0248	62A-4a-101	334
80-2-201	F	HB0248	62A-4a-103	334
80-2-202	F	HB0248	62A-4a-104	334
80-2-301	F	HB0248	62A-4a-105	334
80-2-302	F	HB0248	62A-4a-102	334
80-2-303	F	HB0248	62A-4a-113	334
80-2-304	F	HB0248	62A-4a-115	334
80-2-305	F	HB0248	62A-4a-111	334
80-2-306	F	HB0248	62A-4a-202	334
80-2-307	F	HB0248	62A-4a-121	334
80-2-308	F	HB0248	62A-4a-212	334
80-2-401	F	HB0248	62A-4a-105.5	334
80-2-402	F	HB0248	62A-4a-107	334
80-2-403	F	HB0248	62A-4a-203.1	334
80-2-404	F	HB0248	62A-4a-110	334
80-2-405	F	HB0248	62A-4a-107.5	334
80-2-501	F	HB0248	62A-4a-309	334
80-2-502	F	HB0248	62A-4a-608	334
80-2-503	E	HB0248		334
80-2-503.5	F	HB0248	62A-4a-213	334
80-2-601	F	HB0248	62A-4a-401	334
80-2-602	F	HB0248	62A-4a-403	334
80-2-603	F	HB0248	62A-4a-404	334
80-2-604	F	HB0248	62A-4a-405	334
80-2-605	F	HB0248	62A-4a-407	334
80-2-606	F	HB0248	62A-4a-408	334
80-2-607	F	HB0248	62A-4a-406	334
80-2-608	E	HB0248		334
80-2-609	F	HB0248	62A-4a-411	334
80-2-610	F	HB0248	62A-4a-410	334
80-2-611	F	HB0248	62A-4a-1007	334
80-2-701	F	HB0248	62A-4a-409	334
80-2-702	F	HB0248	62A-4a-202.3	334
80-2-703	F	HB0248	62A-4a-202.6	334
80-2-704	F	HB0248	62A-4a-414	334
80-2-705	F	HB0248	62A-4a-415	334
80-2-706	F	HB0248	62A-4a-202.8	334
80-2-707	F	HB0248	62A-4a-1009	334
80-2-708	F	HB0248	62A-4a-1005	334
80-2-709	F	HB0248	62A-4a-202.4	334
80-2-801	F	HB0248	62A-4a-902	334
80-2-802	E	HB0248		334
80-2-803	E	HB0248		334
80-2-804	F	HB0248	62A-4a-205.6	334
80-2-805	F	HB0248	62A-4a-106	334
80-2-806	F	HB0248	62A-4a-903	334
80-2-807	F	HB0248	62A-4a-905	334
80-2-808	F	HB0248	62A-4a-906	334
80-2-809	F	HB0248	62A-4a-907	334
80-2-901	E	HB0248		334
80-2-902	F	HB0248	62A-4a-703	334
80-2-903	F	HB0248	62A-4a-704	334
80-2-904	F	HB0248	62A-4a-707	334
80-2-905	F	HB0248	62A-4a-701	334
80-2-906	F	HB0248	62A-4a-702	334
80-2-907	F	HB0248	62A-4a-705	334
80-2-908	F	HB0248	62A-4a-706	334
80-2-909	F	HB0248	62A-4a-708	334
80-2-910	F	HB0248	62A-4a-710	334
80-2-1001	F	HB0248	62A-4a-1003	334
80-2-1002	F	HB0248	62A-4a-1006	334
80-2-1003	F	HB0248	62A-4a-1008	334
80-2-1004	F	HB0248	62A-4a-1010	334
80-2-1005	F	HB0248	62A-4a-412	334
80-2-1006	E	HB0248		334
80-2-1007	F	HB0248	62A-4a-112	334
80-2-1101	F	HB0248	62A-4a-311	334
80-2-1102	F	HB0248	62A-4a-117	334
80-2-1103	F	HB0248	62A-4a-118	334
80-2-1104	F	HB0248	62A-4a-208	334
80-2a-101	E	HB0248		334
80-2a-201	F	HB0248	62A-4a-201	334
80-2a-202	F	HB0248	62A-4a-202.1	334
80-2a-203	F	HB0248	62A-4a-202.2	334
80-2a-301	F	HB0248	62A-4a-209	334
80-2a-302	F	HB0248	62A-4a-203	334
80-2a-303	F	HB0248	62A-4a-206.5	334
80-2a-304	F	HB0248	62A-4a-206	334
80-3-101	R	HB0248		334
80-3-102	A	HB0248		334
80-3-102	A	SB0132		287
80-3-104	A	HB0248		334
80-3-107	A	HB0249		335
80-3-109	A	HB0248		334
80-3-110	A	SB0046		256
80-3-201	A	HB0248		334
80-3-204	A	HB0249		335
80-3-301	A	HB0248		334
80-3-301	A	SB0132		287
80-3-302	A	SB0132		287
80-3-302	A	HB0248		334
80-3-303	A	HB0249		335
80-3-303	A	SB0132		287
80-3-305	A	HB0248		334
80-3-307	F	HB0248	62A-4a-205	334
80-3-404	A	SB0045		255
80-3-404	A	HB0248		334
80-3-405	A	HB0249		335
80-3-406	A	HB0248		334
80-3-406	A	SB0132		287
80-3-407	A	SB0132		287
80-3-407	A	HB0249		335
80-3-409	A	HB0249		335
80-3-409	A	SB0132		287
80-3-504	E	HB0248		334
80-4-101	R	HB0248		334
80-4-102	A	HB0249		335
80-4-105	A	HB0248		334
80-4-106	A	HB0248		334
80-4-107	A	HB0248		334
80-4-203	A	HB0249		335
80-4-301	A	HB0249		335
80-4-305	A	HB0248		334
80-4-305	A	SB0132		287
80-4-307	A	SB0091		274
80-4-501	F	HB0248	62A-4a-801	334
80-4-502	F	HB0248	62A-4a-802	334
80-5-101	R	HB0248		334
80-5-102	A	SB0045		255
80-5-201	A	HB0299		155
80-5-202	A	HB0126		132
80-5-202	A	HB0055		203
80-5-302	A	HB0299		155
80-5-601	A	HB0248		334
80-6-101	R	HB0248		334
80-6-102	A	HB0299		155
80-6-201	A	HB0249		335
80-6-202	A	HB0249		335
80-6-205	A	HB0299		155
80-6-206	A	HB0299		155
80-6-206	A	HB0249		335
80-6-206	A	HB0171		312
80-6-207	A	HB0299		155
80-6-302	A	HB0299		155
80-6-303	A	HB0299		155
80-6-304	A	SB0124		430
80-6-401	A	HB0277		152
80-6-402	A	HB0277		152
80-6-403	A	HB0277		152
80-6-501	A	HB0299		155
80-6-502	A	HB0299		155

Section	Action	Bill Number	Former/ Renumber	Chapter Number
80-6-502	A	HB0138		135
80-6-504	A	HB0138		135
80-6-504	A	HB0299		155
80-6-505	A	HB0299		155
80-6-507	A	HB0138		135
80-6-603	A	HB0299		155
80-6-606	A	HB0299		155
80-6-703	A	SB0124		430
80-6-705	A	SB0124		430
80-6-707	A	HB0029		116
80-6-707	A	HB0248		334
80-6-709	A	HB0299		155
80-6-710	A	HB0299		155
80-6-710	A	HB0248		334
80-6-711	A	HB0299		155
80-6-712	A	HB0299		155
80-6-712	A	HB0029		116
80-6-712	A	SB0124		430
80-6-712	A	SB0102		426
80-6-802	A	HB0299		155
80-6-804	A	HB0299		155
80-6-804	A	HB0029		116
80-6-804	A	HB0055		203
80-6-804	A	SB0102		426
80-6-804	A	SB0124		430
80-6-809	E	HB0055		203
80-6-1002	A	HB0248		334
80-6-1004	A	HB0248		334
80-6-1101	F	HB0248	55-12-100	334
80-6-1102	F	HB0248	55-12-101	334
80-6-1103	F	HB0248	55-12-102	334
80-6-1104	F	HB0248	55-12-103	334
80-6-1105	F	HB0248	55-12-104	334
80-6-1106	F	HB0248	55-12-105	334
80-6-1107	F	HB0248	55-12-106	334
80-6-1108	F	HB0248	55-12-107	334
80-6-1109	F	HB0248	55-12-108	334
80-6-1110	F	HB0248	55-12-109	334
80-6-1111	F	HB0248	55-12-110	334
80-6-1112	F	HB0248	55-12-111	334
80-6-1113	F	HB0248	55-12-112	334
80-6-1114	F	HB0248	55-12-113	334
80-6-1115	F	HB0248	55-12-114	334
80-6-1116	F	HB0248	55-12-115	334
80-6-1117	F	HB0248	55-12-116	334
80-6-1118	F	HB0248	55-12-117	334
80-6-1119	F	HB0248	55-12-118	334
80-7-101	R	HB0248		334
HR1-1-101	A	HR0002		
HR1-9-101	F	HR0002	HR2-4-105	
HR1-9-102	E	HR0002		
HR2-4-101	A	HR0002		
HR2-4-101.2	A	HR0002		
HR2-4-105	N	HR0002	HR1-9-101	
HR3-1-102	A	HR0002		
HR3-2-101	A	HR0002		
HR3-2-305	A	HR0002		
HR3-2-306	A	HR0002		
HR4-1-101	A	HR0002		
HR4-3-102	A	HR0002		
HR4-4-401	A	HR0002		
HR4-6-202	A	HR0002		
HR4-7-102	A	HR0002		
JR1-4-401	A	SJR005		
JR1-4-402	X	SJR005		
JR1-4-403	R	SJR005		
JR3-2-101	A	HJR019		
JR3-2-701	A	HJR019		
JR3-2-702	A	HJR019		
JR3-2-703	A	HJR019		
JR3-2-704	A	HJR019		
JR3-2-810	A	HJR019		
JR3-2-902	A	HJR014		
JR3-2-903	A	HJR014		
JR4-2-101	A	HJR014		
JR4-2-401	A	HJR014		
JR4-2-501	A	HJR014		
JR4-2-505	A	HJR014		
JR4-3-103	A	HJR014		
JR4-3-301	A	HJR014		
JR4-3-302	A	HJR014		
JR4-5-104	A	HJR014		
JR5-2-101	A	HJR014		
JR5-2-102	A	HJR014		
JR7-1-101	A	HJR014		
JR7-1-101	A	SJR005		
JR7-1-103	E	HJR014		
JR7-1-405	A	HJR014		
JR7-1-407	R	SJR005		
JR7-1-601	N	HJR014	JR7-1-601.5	
JR7-1-601.1	E	HJR014		
JR7-1-601.5	F	HJR014	JR7-1-601	
JR7-1-602.5	A	HJR014		
JR7-1-603	A	HJR014		
JR7-1-604	A	HJR014		
JR7-1-605	A	HJR014		
JR7-1-606	A	HJR014		
JR7-1-607	A	HJR014		
JR7-1-608	A	HJR014		
JR7-1-609	A	HJR014		
JR7-1-610	A	HJR014		
JR7-1-611	A	HJR014		
SR1-10-101	E	SR0001		
SR1-10-102	E	SR0001		
SR2-4-105	R	SR0001		

2022 Third Special Session

Section	Action	Bill Number	Former/ Renumber	Chapter Number
53G-6-904	E	HB3001		1
53G-6-1007	E	HB3001		1

TECHNICAL ACTION INDEX

Subsection 36-12-12(2)(g) of the Utah code grants the legislative general counsel the power to "correct any technical errors . . . in order to enroll the legislation and prepare the laws for publication; . . . ." The following Technical Action Index lists Utah Code sections that were modified by the Office of Legislative Research and General Counsel after the 2022 General Session to resolve technical errors identified by the office. The modified sections are listed in order by the section numbers used to identify them in the bills.

2021 Second Special Session

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
77-20-404	77-20-403	T	H.B. 2003	4	Technically renumbered for proper placement in Chapter.

2022 General Session

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
10-9a-535	10-9a-536	T	H.B. 282	230	Technically renumbered to avoid duplication of newly enacted Section also in HB 303, Chapter 355.
11-65-101	11-66-101	T	H.B. 146	306	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 232, Chapter 59 and SB 173, Chapter 446.
11-65-101	11-67-101	T	S.B. 173	446	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 232, Chapter 59 and HB 146, Chapter 306.
13-61-101	13-62-101	T	S.B. 182	448	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 227, Chapter 462.
13-61-102	13-62-102	T	S.B. 182	448	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 227, Chapter 462.
17-27a-531	17-27a-532	T	H.B. 282	230	Technically renumbered to avoid duplication of newly enacted Section also in HB 303, Chapter 355.
20A-3a-404	20A-3a-405	T	H.B. 387	380	Technically renumbered to avoid duplication of newly enacted Section also in HB 313, Chapter 156.
26-1-43	26-1-44	T	H.B. 50	36	Technically renumbered to avoid duplication of newly enacted Section also in SB 41, Chapter 253 and SB 194. Chapter 189.
26-1-43	26-1-45	T	S.B. 194	189	Technically renumbered to avoid duplication of newly enacted Section also in SB 41, Chapter 253 and HB 50, Chapter 36.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
26-18-427	26-18-429	T	S.B. 41	253	Technically renumbered to avoid duplication of newly enacted Section also in HB 413, Chapter 394.
26-69-101	26-70-101	T	H.B. 225	327	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 176, Chapter 224 and SB 104, Chapter 279.
26-69-101	26-71-101	T	S.B. 104	279	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 176, Chapter 224 and HB 225, Chapter 327.
26-69-102	26-70-102	T	H.B. 225	327	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 104, Chapter 279.
26-69-102	26-71-102	T	S.B. 104	279	Technically renumbered to avoid duplication of newly enacted Chapter also in HB 225, Chapter 327.
26-69-103	26-71-103	T	S.B. 104	279	Technically renumbered for proper placement in Title 26, Chapter 71.
26-69-104	26-71-104	T	S.B. 104	279	Technically renumbered for proper placement in Title 26, Chapter 71.
26-69-105	26-71-105	T	S.B. 104	279	Technically renumbered for proper placement in Title 26, Chapter 71.
26-69-106	26-71-106	T	S.B. 104	279	Technically renumbered for proper placement in Title 26, Chapter 71.
26-69-107	26-71-107	T	S.B. 104	279	Technically renumbered for proper placement in Title 26, Chapter 71.
26B-1-301	26B-1a-101	T	S.B. 28	245	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 45, Chapter 255.
26B-1-302	26B-1a-102	T	S.B. 28	245	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 45, Chapter 255.
26B-1-303	26B-1a-103	T	S.B. 28	245	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 45, Chapter 255.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
26B–1–304	26B–1a–104	T	S.B. 28	245	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 45, Chapter 255.
26B–1–305	26B–1a–105	T	S.B. 28	245	Technically renumbered to avoid duplication of newly enacted Chapter also in SB 45, Chapter 255.
26B–1–306	26B–1a–106	T	S.B. 28	245	Technically renumbered for proper placement in Title 26B, Chapter 1a.
26B–1–307	26B–1a–107	T	S.B. 28	245	Technically renumbered for proper placement in Title 26B, Chapter 1a.
35A–16–401	35A–16–601	T	S.B. 238	467	Technically renumbered to avoid duplication of newly enacted Section also in HB 440, Chapter 403.
35A–16–402	35A–16–602	T	S.B. 238	467	Technically renumbered to avoid duplication of enacted Section also enacted in HB 440, Chapter 403.
36–29–109	36–29–110	T	H.B. 335	363	Technically renumbered to avoid duplication of enacted Section also enacted in SB 214, Chapter 458 and SB 150, Chapter 437.
36–29–109	36–29–111	T	S.B. 150	437	Technically renumbered to avoid duplication of enacted Section also enacted in SB 214, Chapter 458 and HB 335, Chapter 363.
53–2a–1501	53–2a–1601	T	H.B. 16	111	Technically renumbered to avoid duplication of enacted Section also enacted in HB 418, Chapter 396.
53–2a–1502	53–2a–1602	T	H.B. 16	111	Technically renumbered to avoid duplication of enacted Section also enacted in HB 418, Chapter 396.
53–2a–1503	53–2a–1603	T	H.B. 16	111	Technically renumbered to avoid duplication of enacted Section also enacted in HB 418, Chapter 396.
53–20–101	53–21–101	T	H.B. 23	114	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 65, Chapter 120.
53–20–102	53–21–102	T	H.B. 23	114	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 65, Chapter 120.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
53-20-103	53-21-103	T	H.B. 23	114	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 65, Chapter 120.
53B-24-501	26-69-407	T	H.B. 295	154	Coordination Clause from HB0295 instructed to technically renumber this this section.
53B-24-502	26-69-408	T	H.B. 295	154	Coordination Clause from HB0295 instructed to technically renumber this this section.
53B-33-101	53B-34-101	T	H.B. 333	362	Technically renumbered to avoid duplication of enacted Chapter also enacted in SB 226, Chapter 461, HB 226, Chapter 147, and HB 346, Chapter 368. This also has a future effective date of 7/1/2022.
53B-33-101	53B-35-101	T	H.B. 226	147	Technically renumbered to avoid duplication of enacted Chapter also enacted in SB 226, Chapter 461, HB 333, Chapter 362, and HB 346, Chapter 368.
53B-33-101	53B-36-101	T	H.B. 346	368	Technically renumbered to avoid duplication of enacted Chapter also enacted in SB 226, Chapter 461, HB 333, Chapter 362, and HB 226, Chapter 147.
53B-33-102	53B-34-102	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-103	53B-34-103	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-104	53B-34-104	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-105	53B-34-105	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-106	53B-34-106	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-107	53B-34-107	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-108	53B-34-108	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
53B-33-109	53B-34-109	T	H.B. 333	362	Technically renumbered for proper placement in Title 53B, Chapter 34.
53B-33-201	53B-35-201	T	H.B. 226	147	Technically renumbered to avoid duplication of enacted Chapter also enacted in SB 226, Chapter 461, and HB 346, Chapter 368.
53B-33-201	53B-36-201	T	H.B. 346	368	Technically renumbered to avoid duplication of enacted Chapter also enacted in SB 226, Chapter 461, and HB 226, Chapter 147.
53B-33-202	53B-35-202	T	H.B. 226	147	Technically renumbered to avoid duplication of enacted Chapter also enacted in SB 226, Chapter 461.
53F-7-202	53F-7-203	T	H.B. 396	386	Technically renumbered to avoid duplication of enacted Section also enacted in HB 475, Chapter 407.
53G-4-412	53G-4-413	T	H.B. 162	309	Technically renumbered to avoid duplication of enacted Section also enacted in HB 30, Chapter 197.
53G-6-901	53G-6-1101	T	H.B. 420	398	Technically renumbered to avoid duplication of enacted Section also enacted in HB 11, Chapter 478.
53G-7-221	53G-7-223	T	H.B. 302	354	Technically renumbered to avoid duplication of enacted Section also enacted in SB 191, Chapter 291.
53G-9-212	53G-9-213	T	H.B. 241	227	Technically renumbered to avoid duplication of enacted Section also enacted in HB 21, Chapter 194.
59-10-1044	59-10-1045	T	H.B. 444	238	Technically renumbered to avoid duplication of enacted Section also enacted in SB 59, Chapter 12.
62A-2-126	62A-2-128	T	S.B. 239	468	Technically renumbered to avoid duplication of enacted Section also enacted in HB 248, Chapter 334.
63C-25-101	63C-26-101	T	H.B. 215	322	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 280, Chapter 153, and SB 244, Chapter 472.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63C-25-101	63C-27-101	T	H.B. 280	153	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 215, Chapter 322, and SB 244, Chapter 472.
63C-25-101	63C-28-101	T	S.B. 244	472	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 215, Chapter 322, and HB 280, Chapter 153.
63C-25-201	63C-26-201	T	H.B. 215	322	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 280, Chapter 153, and SB 244, Chapter 472.
63C-25-201	63C-27-201	T	H.B. 280	153	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 215, Chapter 322, and SB 244, Chapter 472.
63C-25-201	63C-28-201	T	S.B. 244	472	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 215, Chapter 322, and HB 280, Chapter 153.
63C-25-202	63C-26-202	T	H.B. 215	322	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 280, Chapter 153, and SB 244, Chapter 472.
63C-25-202	63C-27-202	T	H.B. 280	153	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 215, Chapter 322, and SB 244, Chapter 472.
63C-25-202	63C-28-202	T	S.B. 244	472	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207, HB 215, Chapter 322, and HB 280, Chapter 153.
63C-25-203	63C-27-203	T	H.B. 280	153	Technically renumbered to avoid duplication of enacted Chapter also enacted in HB 82, Chapter 207.
63C-25-204	63C-27-204	T	H.B. 280	153	Technically renumbered for proper placement in Title 63C, Chapter 27.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
63C-25-205	63C-27-205	T	H.B. 280	153	Technically renumbered for proper placement in Title 63C, Chapter 27.
63C-25-206	63C-27-206	T	H.B. 280	153	Technically renumbered for proper placement in Title 63C, Chapter 27.
63N-3-801	63N-3-901	T	H.B. 326	361	Technically renumbered to avoid duplication of enacted Part also enacted in HB 17, Chapter 22, HB 333, Chapter 362, and SB 212, Chapter 296.
63N-3-801	63N-3-1001	T	H.B. 333	362	Technically renumbered to avoid duplication of enacted Part also enacted in HB 17, Chapter 22, HB 326, Chapter 361, and SB 212, Chapter 296.
63N-3-801	63N-3-1101	T	S.B. 212	296	Technically renumbered to avoid duplication of enacted Part also enacted in HB 17, Chapter 22, HB 326, Chapter 361, and HB 333, Chapter 362.
63N-3-802	63N-3-902	T	H.B. 326	361	Technically renumbered to avoid duplication of enacted Part also enacted in HB 17, Chapter 22, HB 333, Chapter 362, and SB 212, Chapter 296.
63N-3-802	63N-3-1002	T	H.B. 333	362	Technically renumbered to avoid duplication of enacted Part also enacted in HB 17, Chapter 22, HB 326, Chapter 361, and SB 212, Chapter 296.
63N-3-802	63N-3-1102	T	S.B. 212	296	Technically renumbered to avoid duplication of enacted Part also enacted in HB 17, Chapter 22, HB 326, Chapter 361, and HB 333, Chapter 362.
73-10-36	73-10-37	T	H.B. 121	50	Technically renumbered to avoid duplication of enacted Section also enacted in SB 110, Chapter 282.
73-10g-401	73-10g-501	T	H.B. 269	66	Technically renumbered to avoid duplication of enacted Part also enacted in HB 429, Chapter 81.
73-10g-402	73-10g-502	T	H.B. 269	66	Technically renumbered to avoid duplication of enacted Part also enacted in HB 429, Chapter 81.

Section Number Used In Bill	Codified as Section Number	Action	Bill Number	Chapter Number	Additional Information
73-10g-403	73-10g-503	T	H.B. 269	66	Technically renumbered to avoid duplication of enacted Part also enacted in HB 429, Chapter 81.
73-10g-404	73-10g-504	T	H.B. 269	66	Technically renumbered to avoid duplication of enacted Part also enacted in HB 429, Chapter 81.
77-40-117	77-40a-107	T	H.B. 392	384	Technically renumbered for proper placement in Title 77, Chapter 40a.

SUBJECT INDEX

The following topical or subject index is intended to aid in locating a bill according to its subject matter. Titles of bills are listed under the subject heading and are followed by the page numbers on which they begin.

2021 SECOND SPECIAL SESSION

ALCOHOL
Alcohol License and Permit Amendments, H. B. 6006, 22

BAIL/PRETRIAL DETENTION
Pretrial Amendments, H. B. 2003, 16

BUSINESS
Workplace Covid-19 Amendments, S. B. 2004, 74

BUSINESS ENTITIES
Workplace Covid-19 Amendments, S. B. 2004, 74

CONSUMER PROTECTION
Concurrent Resolution Urging Congress and the President to Protect Consumer Privacy in Banking and Financial Transactions, H. C. R. 201, 84

EDUCATION
Utah Tech University, H. B. 2001, 3

ELECTION LAW
Election Schedule Amendments, S. B. 2001, 61

GOVERNMENT OPERATIONS (STATE ISSUES)
Election Schedule Amendments, S. B. 2001, 61
State Flag Amendments, S. B. 2003, 72

HEALTH
Workplace Covid-19 Amendments, S. B. 2004, 74

HEALTH CARE
Workplace Covid-19 Amendments, S. B. 2004, 74

HIGHER EDUCATION
Utah Tech University, H. B. 2001, 3

IMMUNIZATIONS
Workplace Covid-19 Amendments, S. B. 2004, 74

INTERLOCAL ENTITIES
Interlocal Cooperation Act Amendments, S. B. 2002, 68

JUDICIAL OPERATIONS
Pretrial Amendments, H. B. 2003, 16

LEGISLATIVE OPERATIONS
Congressional Boundaries Designation, H. B. 2004, 10
State Board of Education Boundaries and Election Designation, S. B. 2005, 76
Utah State House Boundaries Designation, H. B. 2005, 57
Utah State Senate Boundaries and Election Designation, S. B. 2006, 80

POLITICAL SUBDIVISIONS (LOCAL ISSUES)
Unemployment Insurance Rates Amendments, H. B. 2002, 13

PUBLIC UTILITIES AND TECHNOLOGY
Interlocal Cooperation Act Amendments, S. B. 2002, 68

REDISTRICTING
Congressional Boundaries Designation, H. B. 2004, 10
State Board of Education Boundaries and Election Designation, S. B. 2005, 76
Utah State House Boundaries Designation, H. B. 2005, 57
Utah State Senate Boundaries and Election Designation, S. B. 2006, 80

RESOLUTIONS
Concurrent Resolution Urging Congress and the President to Protect Consumer Privacy in Banking and Financial Transactions, H. C. R. 201, 84

SPECIAL SESSION
Congressional Boundaries Designation, H. B. 2004, 10
State Board of Education Boundaries and Election Designation, S. B. 2005, 76
Utah State House Boundaries Designation, H. B. 2005, 57
Utah State Senate Boundaries and Election Designation, S. B. 2006, 80

STATE SYMBOLS AND DESIGNATIONS
State Flag Amendments, S. B. 2003, 72

UNEMPLOYMENT INSURANCE
Unemployment Insurance Rates Amendments, H. B. 2002, 13

2022 GENERAL SESSION

ABUSE
Neglect, or Dependency, Child Welfare Interview Requirements, H. B. 153, 2320

ACTIVE TRANSPORTATION
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Natural Resources Revisions, H. B. 305, 464
Recreation Infrastructure Amendments, H. B. 409, 556

ACUPUNCTURISTS
Acupuncturist Liability Amendments, S. B. 23, 1683
Auricular Detoxification Amendments, H. B. 195, 2355

ADMINISTRATIVE RULEMAKING
Administrative Rules Amendments, S. B. 163, 3544
Colorado River Authority of Utah Amendments, S. B. 160, 659
Department of Government Operations, S. B. 15, 1018
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Grow Your Own Teacher and School Counselor Pipeline Program, S. B. 251, 3898
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Licensing Amendments, S. B. 16, 3166
Natural Resources Revisions, H. B. 305, 464
Preferences of Water Rights Amendments, H. B. 168, 2327
Reauthorization of Administrative Rules, S. B. 128, 2049
Regulatory Sandbox in Education, S. B. 191, 2122
Secondary Water Metering Amendments, H. B. 242, 438
Water Well Amendments, H. B. 177, 1577

ADMINISTRATIVE RULEMAKING AND PROCEDURES
Administrative Rules Amendments, S. B. 163, 3544
Alarm System Amendments, S. B. 173, 3571
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Child Care Amendments, H. B. 15, 286
Civics Education Amendments, H. B. 273, 1595
Colorado River Authority of Utah Amendments, S. B. 160, 659
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Department of Government Operations, S. B. 15, 1018
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Economic and Workforce Development Amendments, H. B. 333, 2766
Economic Development Modifications, H. B. 35, 1413
Effective Teachers in High Poverty Schools Incentive Program Amendments, H. B. 315, 1605
Ethnic Studies Amendments, S. B. 244, 3884
Financial Institutions Modifications, S. B. 183, 3678
Full-day Kindergarten, H. B. 193, 2349
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Higher Education Financial Aid Amendments, H. B. 355, 2840
Homeless Services Amendments, H. B. 440, 3020
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Licensing Amendments, S. B. 16, 3166
Medicaid Waiver for Medically Complex Children Amendments, H. B. 200, 1579
Medical Cannabis Access Amendments, S. B. 195, 3716
Mineral Exploration Tax Credit, S. B. 250, 697
Natural Resources Revisions, H. B. 305, 464
Occupational Therapy Licensure Compact, H. B. 154, 1547
Preferences of Water Rights Amendments, H. B. 168, 2327
Reauthorization of Administrative Rules, S. B. 128, 2049
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Retail Facility Incentive Payments Amendments, H. B. 151, 2305
Secondary Water Metering Amendments, H. B. 242, 438
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469
State Employment Amendments, H. B. 104, 1495
State Innovation Amendments, H. B. 326, 2763
Utah Housing Affordability Amendments, H. B. 462, 3038
Water Conservation Modifications, H. B. 121, 398
Water Well Amendments, H. B. 177, 1577
Wildfire Amendments, H. B. 145, 1543
Wildlife Conservation Fund, H. B. 78, 345

ADOPTION
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Concurrent Resolution Encouraging Support for Internationally Adopted Individuals, S. C. R. 6, 3955
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434

ADULT SERVICES
Disability Ombudsman Program, H. B. 150, 1545

AERONAUTICS
Aviation Amendments, S. B. 166, 662
Law Enforcement Use of Unmanned Aircraft, H. B. 259, 457
Unmanned Aircraft Amendments, S. B. 122, 649

AGENCY TECHNOLOGY SERVICES AND PUBLIC WEBSITES
Identity Theft Reporting System Amendments, H. B. 97, 2281

AGRICULTURE
Concurrent Resolution Recognizing the Importance of the Agriculture Industry, S. C. R. 8, 3956
Hemp and CBD Amendments, H. B. 385, 547
Medical Cannabis Access Amendments, S. B. 195, 3716
Medical Cannabis Act Amendments, S. B. 190, 2081
Medical Cannabis Governance Study, S. B. 153, 657
Medical Cannabis Patient Protection Amendments, S. B. 46, 1837
Outdoor Recreation Related Education, H. B. 206, 414

AGRICULTURE AND FOOD
Big Game Amendments, H. B. 62, 375
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution Recognizing the Importance of the Agriculture Industry, S. C. R. 8, 3956
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Department of Agriculture and Food Amendments, H. B. 423, 570
Donation of Food, H. B. 142, 404
Food Security Amendments, S. B. 133, 650
Grazing Advisory Board Amendments, S. B. 17, 609
Hemp and Cbd Amendments, H. B. 385, 547
Local Food Advisory Council Amendments, H. B. 297, 463
Medical Cannabis Access Amendments, S. B. 195, 3716
Medical Cannabis Act Amendments, S. B. 190, 2081
Medical Cannabis Governance Study, S. B. 153, 657
Medical Cannabis Patient Protection Amendments, S. B. 46, 1837
Natural Resources Revisions, H. B. 305, 464
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Outdoor Recreation Related Education, H. B. 206, 414
Veterinarian Regulations Amendments, S. B. 209, 675

AIR QUALITY
Air Quality Policy Amendments, S. B. 136, 652

Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Energy Efficiency Amendments, S. B. 188, 666
State Innovation Amendments, H. B. 326, 2763

ALCOHOL
Alcoholic Beverage Control Act Amendments, S. B. 176, 3577
Alcoholic Beverage Control Act Enforcement Fund, S. B. 201, 3739
Consumer Alcoholic Beverage Purchasing, S. B. 14, 3164
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342

ANIMAL FOOD PRODUCTS
Donation of Food, H. B. 142, 404

ANIMALS
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Department of Agriculture and Food Amendments, H. B. 423, 570
Grazing Advisory Board Amendments, S. B. 17, 609
Protection of Animals Amendments, H. B. 175, 861
Target Shooting Regulations, H. B. 141, 403
Veterinarian Regulations Amendments, S. B. 209, 675

ANTIDISCRIMINATION
Business and Labor Reporting Requirements, H. B. 44, 327
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939

APPROPRIATIONS
Appropriations Adjustments, H. B. 3, 2151
Appropriations Procedures Joint Resolution, H. J. R. 19, 3940
Behavioral Health Services Amendments, S. B. 41, 1740
Business, Economic Development, and Labor Base Budget, S. B. 4, 171
Current Fiscal Year Supplemental Appropriations, S. B. 3, 3116
Education Innovation Program, H. B. 386, 1620
Executive Offices and Criminal Justice Base Budget, H. B. 6, 117
Higher Education Base Budget, S. B. 1, 161
Income Tax Fund Amendments, S. B. 211, 3748
Infrastructure and General Government Base Budget, S. B. 6, 192
Jordan River Recreation Area Amendments, H. B. 173, 1565
National Guard, Veterans Affairs, and Legislature Base Budget, S. B. 7, 206
Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 102
New Fiscal Year Supplemental Appropriations Act, H. B. 2, 1287
Public Education Base Budget Amendments, H. B. 1, 87
Public Education Budget Amendments, S. B. 2, 3104
Recreation Infrastructure Amendments, H. B. 409, 556
Social Services Base Budget, H. B. 7, 135
State Agency and Higher Education Compensation Appropriations, S. B. 8, 3137
State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, H. B. 8, 2190

AQUACULTURE AND GAME RANCHING
Department of Agriculture and Food Amendments, H. B. 423, 570

ARCHIVES AND RECORDS
Birth Certificate Amendments, H. B. 341, 2825
Department of Government Operations, S. B. 15, 1018
Government Records Fee Amendments, H. B. 96, 824

ARREST AND DETENTION
Asset Forfeiture Amendments, S. B. 65, 1111
Community Correctional Center Revisions, H. B. 152, 856
DNA Specimen Analysis Amendments, H. B. 19, 713
Forensic Biological Evidence Preservation, H. B. 65, 779
Juvenile Justice Changes, H. B. 299, 918
Law Enforcement Recording Release Amendments, H. B. 260, 894
Medication for Inmates, H. B. 77, 796

ASSAULT AND BATTERY
Health Care Worker Protection Amendments, H. B. 32, 771

ASSESSMENT AND EQUALIZATION
Affordable Housing Tax Amendments, S. B. 81, 1897
County Property Tax Statement Amendments, H. B. 41, 323
Pollution Control Equipment Tax Amendments, S. B. 174, 2080
Property Tax Amendments, S. B. 20, 1661
Property Tax Appeals Process Amendments, S. B. 12, 1015

ATHLETICS
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Economic and Workforce Development Amendments, H. B. 333, 2766
Joint Resolution Recognizing the Utah Olympic Legacy, H. J. R. 12, 3924

ATTORNEY GENERAL
Attorney General Prosecution Review Amendments, H. B. 159, 1560
Criminal Justice Data Management Task Force, S. B. 150, 3507
Identity Theft Reporting System Amendments, H. B. 97, 2281
Missing Child Identification Program, S. B. 220, 3786
Property Theft Amendments, H. B. 38, 1426
Transportation Amendments, S. B. 51, 1844
Utah Lake Authority, H. B. 232, 418

ATTORNEYS
Attorney General Prosecution Review Amendments, H. B. 159, 1560
Criminal Justice Data Management Task Force, S. B. 150, 3507
Indigent Defense Amendments, S. B. 108, 2022
Justice Reinvestment Initiative Modifications, H. B. 403, 2978

BACKGROUND CHECKS
BCI Background Check Amendments, S. B. 248, 1282
Forensic Biological Evidence Preservation, H. B. 65, 779
Property Theft Amendments, H. B. 38, 1426

BAIL/PRETRIAL DETENTION
Insurance Amendments, H. B. 31, 1342
Juvenile Justice Changes, H. B. 299, 918

BANKS
Board of Bank Advisors Sunset Extension, H. B. 14, 285
Digital Asset Amendments, S. B. 182, 3677

BICYCLES
Electric Assisted Bicycle Use Amendments, S. B. 66, 614

BLOCKCHAIN
Blockchain and Digital Innovation Task Force, H. B. 335, 2815

BOARD OF PARDONS AND PAROLE
Criminal Justice Data Management Task Force, S. B. 150, 3507
Domestic Violence Offender Treatment Board, H. B. 208, 877
Offender Supervision Amendments, H. B. 28, 719

BOARDS AND COMMITTEES
Blockchain and Digital Innovation Task Force, H. B. 335, 2815
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Domestic Violence Offender Treatment Board, H. B. 208, 877
Executive Residence Commission Sunset Extension, S. B. 29, 1706
Federal Land Disposal Law Amendments, H. B. 172, 2332
Grazing Advisory Board Amendments, S. B. 17, 609
Grid Resilience Committee, H. B. 418, 2998
Jordan River Improvement Amendments, H. B. 319, 2746
Legislative Process Committee Sunset Extension, S. B. 30, 1707
Local Food Advisory Council Amendments, H. B. 297, 463
Medicaid Amendments, H. B. 413, 2993
State Facilities Management Amendments, S. B. 82, 3306
State Historic Preservation Office Amendments, H. B. 350, 2837
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Utah Broadband Center Advisory Commission, S. B. 214, 3783
Utah Lake Authority, H. B. 232, 418
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334
Utah Watersheds Council Amendments, H. B. 263, 458

BOATING
Natural Resources Revisions, H. B. 305, 464

BUSINESS
Access to Medical Records Amendments, H. B. 225, 2445
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Alarm System Amendments, S. B. 173, 3571
Alcoholic Beverage Control Act Amendments, S. B. 176, 3577
Alcoholic Beverage Control Act Enforcement Fund, S. B. 201, 3739
Amendments to the Division of Consumer Protection, H. B. 436, 3006
Anesthesia and Sedation Amendments, H. B. 384, 2930
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Automobile Amendments, S. B. 204, 3742
Board of Bank Advisors Sunset Extension, H. B. 14, 285
Business and Labor Reporting Requirements, H. B. 44, 327
Business Name Prohibitions, S. B. 213, 3773
Community Association Regulation Amendments, S. B. 152, 3521
Concurrent Resolution Highlighting Utah’s Rare Earth Mineral Position, S. C. R. 3, 3952
Construction Registry Amendments, S. B. 148, 3505
Consumer Alcoholic Beverage Purchasing, S. B. 14, 3164
Consumer Privacy Act, S. B. 227, 3799
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Counseling State Compact, S. B. 237, 3826
Covid-19 Vaccine Exemptions, H. B. 63, 776
Digital Asset Amendments, S. B. 182, 3677
Division of Consumer Protection Amendments, S. B. 26, 1692
Division of Real Estate Amendments, H. B. 69, 1454
Employee Verification Requirements, H. B. 252, 2668
Eviction Records Amendments, H. B. 359, 2857
Financial Institutions Modifications, S. B. 183, 3678
Genetic Privacy Amendments, S. B. 144, 3495
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
Insurance Amendments, H. B. 31, 1342
Joint Tenancy Presumption Amendments, H. B. 276, 2682
Licensing Amendments, S. B. 16, 3166
Limitations on Employer Liability, S. B. 95, 3366
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Microenterprise Home Kitchen Amendments, H. B. 292, 2698
Nurse Apprentice Licensing Act, S. B. 101, 1997
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Occupational Safety and Health Amendments, H. B. 245, 2471
Occupational Therapy Licensure Compact, H. B. 154, 1547
Preconstruction and Construction Liens Amendments, S. B. 119, 3387

Primary Care Spending Amendments, H. B. 210, 2364
Property and Financial Offense Amendments, H. B. 229, 2448
Property Theft Amendments, H. B. 38, 1426
Public-private Partnership Amendments, S. B. 22, 1680
Real Estate Interest Termination Amendments, H. B. 291, 2697
Real Property Recording Amendments, S. B. 80, 3303
Regulatory Sandbox Program Amendments, H. B. 243, 2462
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900
State Construction Code Amendments, H. B. 39, 305
Telephone Solicitation Amendments, H. B. 217, 2373
Travel Insurance Amendments, H. B. 338, 2817
Utah Powersport Vehicle Franchise Advisory Board Amendments, S. B. 27, 1700
Water Wise Landscaping Amendments, H. B. 282, 1601

BUSINESS ENTITIES
Business Name Prohibitions, S. B. 213, 3773
Business Tax Amendments, S. B. 93, 1977
Covid-19 Vaccine Exemptions, H. B. 63, 776
Utah Powersport Vehicle Franchise Advisory Board Amendments, S. B. 27, 1700

BUSINESS LICENSING
Local Licensing Amendments, H. B. 146, 2299

CAMPAIGN FINANCE
Campaign Finance Amendments, H. B. 267, 896
Financial Disclosures Amendments, H. B. 91, 816
Political Action Committee Amendments, H. B. 258, 2670

CAPITOL HILL
Local Health Department Order Amendments, H. B. 182, 349

CHARTER SCHOOLS
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Charter School Admissions Amendments, H. B. 294, 2704
Civics Education Amendments, H. B. 273, 1595
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
In-person Learning Amendments, H. B. 183, 158
Military Servicemember Child Enrollment, S. B. 233, 3819
Period Products in Schools, H. B. 162, 2324
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Regulatory Sandbox in Education, S. B. 191, 2122
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
School Dropout Prevention Amendments, H. B. 251, 2666
School Enrollment Amendments, H. B. 380, 2928
School Information Management System Amendments, S. B. 79, 1895
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469
Special Education Licensing Amendments, S. B. 103, 2007
Student Eligibility in Interscholastic Activities, H. B. 11, 3901
Student Tribal Regalia Use Amendments, H. B. 30, 1341
Students with Disabilities Funding Revisions, H. B. 113, 1514
Teacher Professional Development Amendments, H. B. 184, 252
Title IX Reporting, H. B. 420, 3002
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

CHILD CARE
Child Care Amendments, H. B. 15, 286
School and Child Care Center Water Testing Requirements, H. B. 21, 1329

CHILD CARE LICENSING
Child Care Amendments, H. B. 15, 286

CHILD CUSTODY/PARENT TIME
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Court-appointed Therapists Amendments, H. B. 111, 1509
Parent-time Amendments, S. B. 243, 3872
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434
Victim Address Confidentiality Program, H. B. 117, 1518

CHILD SUPPORT
Child Support Amendments, S. B. 242, 3858
Child Welfare Appeals Amendments, S. B. 161, 3542
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416

CHILD WELFARE
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Child Welfare Interview Requirements, H. B. 153, 2320
Concurrent Resolution Encouraging Support for Internationally Adopted Individuals, S. C. R. 6, 3955
Congregate Care Program Amendments, S. B. 239, 3843
Office of American Indian-alaska Native Health and Family Services, S. B. 28, 1702
Parental Representation Amendments, S. B. 181, 1274
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434

CHIROPRACTIC PHYSICIANS
Chiropractic Practice Amendments, S. B. 84, 1900
Occupational and Professional Licensing Modifications, S. B. 43, 3173

CIGARETTE AND TOBACCO TAXES
Cigarette Amendments, H. B. 34, 1409

CIVIL COMMITMENT
Civil Commitment Revisions, H. B. 261, 2673
Modifications to Civil Commitment, H. B. 363, 2909

CLEAN FUELS
Air Quality Policy Amendments, S. B. 136, 652

Energy Efficiency Amendments, S. B. 188, 666
Vehicle Registration Amendments, H. B. 186, 409

COMMERCE AND TRADE
Access to Medical Records Amendments, H. B. 225, 2445
Amendments to the Division of Consumer Protection, H. B. 436, 3006
Automobile Amendments, S. B. 204, 3742
Construction Registry Amendments, S. B. 148, 3505
Consumer Privacy Act, S. B. 227, 3799
Division of Consumer Protection Amendments, S. B. 26, 1692
Property Theft Amendments, H. B. 38, 1426
Telephone Solicitation Amendments, H. B. 217, 2373
Utah Powersport Vehicle Franchise Advisory Board Amendments, S. B. 27, 1700

COMMERCIAL DRIVER LICENSE (CDL)
Commercial Driver License Amendments, H. B. 68, 380

COMMERCIAL MOTOR VEHICLE REGULATION
Commercial Driver License Amendments, H. B. 68, 380
Electronic Vehicle Registration Amendments, S. B. 99, 630
Towing Amendments, S. B. 109, 631

COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
Criminal Justice Amendments, S. B. 179, 1255
Criminal Justice Data Management Task Force, S. B. 150, 3507
Domestic Violence Offender Treatment Board, H. B. 208, 877
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Victim Address Confidentiality Program, H. B. 117, 1518

COMMUNITY DEVELOPMENT
Community Association Regulation Amendments, S. B. 152, 3521

COMMUNITY HEALTH CLINICS
Community Health Worker Certification Process, S. B. 104, 2009
Pharmacy Practice Amendments, S. B. 236, 3822

COMMUNITY REINVESTMENT AGENCIES
Child Care Amendments, H. B. 15, 286
Economic Development Modifications, H. B. 35, 1413

COMMUNITY/CONDOMINIUM ASSOCIATIONS (HOAS)
Community Association Regulation Amendments, S. B. 152, 3521
Water Wise Landscaping Amendments, H. B. 282, 1601

CONCURRENT ENROLLMENT
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947

CONGESTION MANAGEMENT
Vehicle Merger Amendments, H. B. 76, 389

CONSERVATION DISTRICTS
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Natural Resources Revisions, H. B. 305, 464

CONSERVATORS
Guardianship and Conservatorship Amendments, S. B. 155, 3536
Power of Attorney Amendments, H. B. 149, 855

CONSTITUTIONAL OFFICERS
Attorney General Prosecution Review Amendments, H. B. 159, 1560
Ballot Amendments, S. B. 38, 1729
Criminal Justice Data Management Task Force, S. B. 150, 3507
Election Security Amendments, H. B. 313, 946
Fine Amendments, S. B. 75, 625
Identity Theft Reporting System Amendments, H. B. 97, 2281
Missing Child Identification Program, S. B. 220, 3786
Property Theft Amendments, H. B. 38, 1426
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Transportation Amendments, S. B. 51, 1844

CONSTRUCTION
Construction Registry Amendments, S. B. 148, 3505
Microenterprise Home Kitchen Amendments, H. B. 292, 2698
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Preconstruction and Construction Liens Amendments, S. B. 119, 3387
State Construction Code Amendments, H. B. 39, 305

CONSTRUCTION AND FIRE CODES
Microenterprise Home Kitchen Amendments, H. B. 292, 2698
State Construction Code Amendments, H. B. 39, 305

CONSUMER PROTECTION
Access to Medical Records Amendments, H. B. 225, 2445
Amendments to the Division of Consumer Protection, H. B. 436, 3006
Consumer Privacy Act, S. B. 227, 3799
Division of Consumer Protection Amendments, S. B. 26, 1692
Telephone Solicitation Amendments, H. B. 217, 2373

CONTRACTS AND OBLIGATIONS
Amendments to the Division of Consumer Protection, H. B. 436, 3006
Public-private Partnership Amendments, S. B. 22, 1680

CONTROLLED SUBSTANCES
Behavioral Health Services Amendments, S. B. 41, 1740
Driving Offenses Amendments, H. B. 29, 729
Extension for Controlled Substance Prescription Requirements, H. B. 47, 333
Marijuana Definitions Amendments, H. B. 442, 990
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092

Veterinarian Regulations Amendments,
S. B. 209, 675
Weapon Possession Penalty Amendments,
H. B. 329, 965

CORPORATE TAX
Sales and Income Tax Amendments,
H. B. 268, 1581
Special Needs Opportunity Scholarship Program
Amendments, S. B. 62, 1875
Tax Amendments, S. B. 59, 229

COUNTIES
Ballot Measure Amendments, H. B. 218, 2382
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications,
H. B. 449, 1002
Convention and Tourism Business Assessment
Area Act, H. B. 373, 2918
County Amendments, S. B. 57, 1871
County Governance Amendments, S. B. 162, 2070
County Officer Fees Amendments,
H. B. 205, 2359
Criminal Justice Data Management Task Force,
S. B. 150, 3507
Department of Government Operations,
S. B. 15, 1018
Election Revisions, S. B. 19, 1055
Firearm Preemption Amendments,
S. B. 115, 3382
First Responder Mental Health Services
Amendments, H. B. 23, 716
Joint Resolution to Terminate Public Health
Orders Pertaining to Face Coverings,
S. J. R. 3, 3961
Local Land Use Amendments, H. B. 303, 2717
Local Licensing Amendments, H. B. 146, 2299
Medicaid Amendments, H. B. 413, 2993
Medication for Inmates, H. B. 77, 796
Public Prosecutor Modifications, H. B. 257, 2669
Real Property Recording Amendments,
S. B. 80, 3303
Recording Amendments, S. B. 184, 3685
Search and Rescue Advisory Board Sunset
Extension, S. B. 37, 1091
Speed Limit Designation Amendments,
H. B. 235, 361
State Monuments Act Amendments, H. B. 27, 301
Tangible Personal Property Tax Amendments,
H. B. 199, 359
Tire Recycling Fund Amendments, S. B. 203, 3740
Transient Room Tax Amendments,
H. B. 323, 2759
Transparency in Lobbying and Disclosures
Amendments, H. B. 90, 802
Utah Housing Affordability Amendments,
H. B. 462, 3038
Utah Protection of Public Employees Act
Amendments, S. B. 40, 1092
Water as Part of General Plan, S. B. 110, 2026
Water Wise Landscaping Amendments,
H. B. 282, 1601
Wetland Amendments, H. B. 118, 1530
Wildfire Amendments, H. B. 145, 1543

COUNTY AND MUNICIPAL FINANCE
Convention and Tourism Business Assessment
Area Act, H. B. 373, 2918
County Governance Amendments, S. B. 162, 2070
Housing and Transit Reinvestment Zone
Amendments, S. B. 140, 3477
Transient Room Tax Amendments,
H. B. 323, 2759

COUNTY OFFICERS
County Amendments, S. B. 57, 1871
County Officer Fees Amendments,
H. B. 205, 2359
Joint Resolution to Terminate Public Health
Orders Pertaining to Face Coverings,
S. J. R. 3, 3961
Public Prosecutor Modifications, H. B. 257, 2669
Recording Amendments, S. B. 184, 3685
Transparency in Lobbying and Disclosures
Amendments, H. B. 90, 802

COURT RULES
Asset Forfeiture Amendments, S. B. 65, 1111
Guardianship Bill of Rights, H. B. 320, 2748
Joint Resolution Amending Court Rules of
Procedure and Evidence to Address the
Medical Candor Process, H. J. R. 13, 3925
Juvenile Amendments Cross References,
H. B. 249, 2592
Protective Order and Stalking Injunction
Expungement, S. B. 85, 1902
Victim Address Confidentiality Program,
H. B. 117, 1518

COURTS
Alimony Modifications, S. B. 74, 1883
Asset Forfeiture Amendments, S. B. 65, 1111
Child Welfare Amendments, S. B. 132, 2050
Court Fee Waiver Amendments, S. B. 87, 1905
Criminal Justice Data Management Task Force,
S. B. 150, 3507
Custodial Interrogation Amendments,
H. B. 171, 2330
District and Juvenile Court Judge Amendments,
S. B. 86, 1904
Domestic Violence Offender Treatment Board,
H. B. 208, 877
Expungement Fee Amendments, H. B. 392, 2951
Expungement Modifications, S. B. 35, 1711
Government Record Amendments,
H. B. 399, 2964
Guardianship Bill of Rights, H. B. 320, 2748
Indigent Defense Amendments, S. B. 108, 2022
Joint Resolution Amending Court Rules of
Procedure and Evidence to Address the
Medical Candor Process, H. J. R. 13, 3925
Joint Resolution Urging Congress to Propose the
Keep Nine Amendment to the United States
Constitution, S. J. R. 2, 3961
Judiciary Amendments, S. B. 98, 1989
Justice Reinvestment Initiative Modifications,
H. B. 403, 2978
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References,
H. B. 249, 2592
Juvenile Competency Amendments,
H. B. 277, 903
Juvenile Justice Changes, H. B. 299, 918
Juvenile Justice Modifications, H. B. 138, 845
Limitations on Employer Liability, S. B. 95, 3366
Modifications to Civil Commitment,
H. B. 363, 2909
Offender Supervision Amendments, H. B. 28, 719
Office of State Debt Collection Amendments,
H. B. 216, 2368
Post Conviction Representation Amendments,
S. B. 210, 2135
Power of Attorney Amendments, H. B. 149, 855
Protection of Animals Amendments,
H. B. 175, 861
Protective Order and Stalking Injunction
Expungement, S. B. 85, 1902
Protective Order Revisions, S. B. 217, 2140

Restitution Amendments, H. B. 321, 2753
Small Claims Amendments, H. B. 107, 1505
Statute of Limitations for Criminal Conduct Amendments, S. B. 246, 3896
Tax Administration Amendments, S. B. 90, 1918
Transfer of Domestic Violence Cases, H. B. 196, 2356
Uniform Easement Relocation Act, H. B. 132, 2293
Uniform Partition of Heirs' Property Act, H. B. 120, 2288
Wrongful Death Action Amendments, S. B. 207, 1278

CREDIT UNIONS
Digital Asset Amendments, S. B. 182, 3677

CRIMES
Commercial Driver License Amendments, H. B. 68, 380
Crime Victim Reparations Amendments, H. B. 228, 885
Criminal Code Recodification, S. B. 123, 1125
Criminal Stalking Exemption Amendments, S. B. 56, 3296
Domestic Violence Offender Treatment Board, H. B. 208, 877
Driving Offenses Amendments, H. B. 29, 729
DUI Amendments, H. B. 137, 836
DUI Penalty Amendments, H. B. 143, 851
Expungement Modifications, S. B. 35, 1711
False Emergency Reporting Amendments, H. B. 353, 970
Health Care Worker Protection Amendments, H. B. 32, 771
Inheritance Disqualification Amendments, H. B. 314, 954
Intimate Image Distribution Amendments, H. B. 18, 711
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Marijuana Definitions Amendments, H. B. 442, 990
Missing Child Identification Program, S. B. 220, 3786
Offender Supervision Amendments, H. B. 28, 719
Property and Financial Offense Amendments, H. B. 229, 2448
Property Theft Amendments, H. B. 38, 1426
Protection Against Extortion Amendments, S. B. 156, 1214
Protection of Animals Amendments, H. B. 175, 861
Protective Order Revisions, S. B. 217, 2140
Sexual Exploitation Amendments, S. B. 167, 1217
Sexual Solicitation Amendments, H. B. 81, 798
Theft by Extortion Amendments, H. B. 434, 989
Traffic Violation Amendments, H. B. 139, 848
Transfer of Domestic Violence Cases, H. B. 196, 2356
Victims' Rights Revisions, H. B. 134, 834
Weapon Possession Penalty Amendments, H. B. 329, 965
Wrongful Death Action Amendments, S. B. 207, 1278

CRIMINAL PROCEDURE
Criminal Code Recodification Cross References, S. B. 124, 3391
Driving Offenses Amendments, H. B. 29, 729
Forcible Entry Warrant Modifications, H. B. 124, 829
Forensic Biological Evidence Preservation, H. B. 65, 779
Intimate Image Distribution Amendments, H. B. 18, 711
Law Enforcement Recording Release Amendments, H. B. 260, 894
Public Prosecutor Modifications, H. B. 257, 2669
Restitution Amendments, H. B. 321, 2753

CRISIS LINE
Behavioral Health Amendments, H. B. 236, 889

CULTURAL AND COMMUNITY ENGAGEMENT
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Economic and Workforce Development Amendments, H. B. 333, 2766
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Volunteer Government Workers Amendments, H. B. 287, 2686

CULTURAL ENGAGEMENT
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911

DAMS AND CANALS
Water Facility Amendments, H. B. 166, 2326

DATA AND CYBER SECURITY
Criminal Justice Data Management Task Force, S. B. 150, 3507
Cybersecurity Commission, H. B. 280, 908
Department of Government Operations, S. B. 15, 1018
Public Safety Employee Personal Data Amendments, H. B. 345, 2831

DEFENSES
Criminal Code Recodification, S. B. 123, 1125
Criminal Stalking Exemption Amendments, S. B. 56, 3296

DENTISTS AND DENTAL HYGIENISTS
Anesthesia and Sedation Amendments, H. B. 384, 2930
Dental Provider Malpractice Amendments, H. B. 318, 2742

DEPARTMENT OF AGRICULTURE AND FOOD
Concurrent Resolution Recognizing the Importance of the Agriculture Industry, S. C. R. 8, 3956
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Department of Agriculture and Food Amendments, H. B. 423, 570
Hemp and Cbd Amendments, H. B. 385, 547
Medical Cannabis Act Amendments, S. B. 190, 2081
Medical Cannabis Governance Study, S. B. 153, 657
Natural Resources Revisions, H. B. 305, 464

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
Alcoholic Beverage Control Act Amendments, S. B. 176, 3577

Alcoholic Beverage Control Act Enforcement Fund, S. B. 201, 3739
Consumer Alcoholic Beverage Purchasing, S. B. 14, 3164

DEPARTMENT OF COMMERCE
Alarm System Amendments, S. B. 173, 3571
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Construction Registry Amendments, S. B. 148, 3505
Consumer Privacy Act, S. B. 227, 3799
Counseling State Compact, S. B. 237, 3826
Licensing Amendments, S. B. 16, 3166
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Nurse Apprentice Licensing Act, S. B. 101, 1997
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Occupational Therapy Licensure Compact, H. B. 154, 1547
Regulatory Sandbox Program Amendments, H. B. 243, 2462
Utah Health Workforce Act, H. B. 176, 1567

DEPARTMENT OF CORRECTIONS
Community Correctional Center Revisions, H. B. 152, 856
Correctional Officer Eligibility Amendments, S. B. 96, 212
Criminal Justice Amendments, S. B. 179, 1255
Criminal Justice Data Management Task Force, S. B. 150, 3507
Department of Corrections Education Services, H. B. 194, 875
Domestic Violence Offender Treatment Board, H. B. 208, 877
Higher Education and Corrections Council, H. B. 226, 881
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Juvenile Justice Modifications, H. B. 138, 845
Offender Supervision Amendments, H. B. 28, 719
Physician Workforce Amendments, H. B. 295, 913
Probation and Parole Employment Incentive Program, H. B. 412, 2990

DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911
Economic and Workforce Development Amendments, H. B. 333, 2766
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338

DEPARTMENT OF ENVIRONMENTAL QUALITY
Air Quality Policy Amendments, S. B. 136, 652
Energy Efficiency Amendments, S. B. 188, 666
Environmental Quality Revenue Amendments, H. B. 250, 2662

DEPARTMENT OF FINANCIAL INSTITUTIONS
Board of Bank Advisors Sunset Extension, H. B. 14, 285
Financial Institutions Modifications, S. B. 183, 3678

DEPARTMENT OF GOVERNMENT OPERATIONS
Alcoholic Beverage Control Act Enforcement Fund, S. B. 201, 3739
Birth Certificate Amendments, H. B. 341, 2825
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Department of Government Operations, S. B. 15, 1018
Educational Language Services Amendments, H. B. 302, 2711
Office of State Debt Collection Amendments, H. B. 216, 2368
State Facilities Management Amendments, S. B. 82, 3306
Tire Recycling Fund Amendments, S. B. 203, 3740

DEPARTMENT OF HEALTH
Access to Medical Records Amendments, H. B. 225, 2445
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Behavioral Health Services Amendments, S. B. 41, 1740
Birth Certificate Amendments, H. B. 341, 2825
Child Care Amendments, H. B. 15, 286
Commercial Driver License Amendments, H. B. 68, 380
Community Health Worker Certification Process, S. B. 104, 2009
Community Paramedicine Amendments, H. B. 441, 3033
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Covid–19 Vaccine Exemptions, H. B. 63, 776
Department of Health and Human Services Amendments, S. B. 45, 1746
Diabetes Prevention Program, H. B. 80, 1476
Emergency Medical Service Personnel Amendments, S. B. 222, 3787
Ground Ambulance Interfacility Transport Licensing, H. B. 293, 2700
In–person Learning Amendments, H. B. 183, 158
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Medicaid Amendments, H. B. 413, 2993
Medicaid Waiver for Medically Complex Children Amendments, H. B. 200, 1579
Medical Cannabis Access Amendments, S. B. 195, 3716
Medical Cannabis Act Amendments, S. B. 190, 2081
Medical Rationing Amendments, S. B. 194, 1276
Office of American Indian–Alaska Native Health and Family Services, S. B. 28, 1702
Pharmacy Practice Amendments, S. B. 236, 3822
Primary Care Spending Amendments, H. B. 210, 2364
Student Eligibility in Interscholastic Activities, H. B. 11, 3901
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Vital Records Special Characters, H. B. 310, 1603
Volunteer Government Workers Amendments, H. B. 287, 2686

DEPARTMENT OF HUMAN SERVICES
Alcohol Education Amendments, H. B. 110, 1507
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740

Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Child Welfare Interview Requirements, H. B. 153, 2320
Civil Commitment Revisions, H. B. 261, 2673
Congregate Care Program Amendments, S. B. 239, 3843
Coordinating Council for Persons with Disabilities Sunset Extension, S. B. 47, 1840
Counseling State Compact, S. B. 237, 3826
Criminal Justice Amendments, S. B. 179, 1255
Department of Health and Human Services Amendments, S. B. 45, 1746
Disability Ombudsman Program, H. B. 150, 1545
Domestic Violence Offender Treatment Board, H. B. 208, 877
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References, H. B. 249, 2592
Juvenile Competency Amendments, H. B. 277, 903
Medicaid Amendments, H. B. 413, 2993
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Parental Representation Amendments, S. B. 181, 1274
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334

DEPARTMENT OF NATURAL RESOURCES
Atv Weight Limit Amendments, S. B. 72, 623
Big Game Amendments, H. B. 62, 375
Concurrent Resolution Creating the Bridal Veil Falls State Monument, H. C. R. 13, 3918
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Environmental Quality Revenue Amendments, H. B. 250, 2662
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Natural Resources Revisions, H. B. 305, 464
Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 102
Outdoor Recreation Related Education, H. B. 206, 414
Preferences of Water Rights Amendments, H. B. 168, 2327
Recreation Infrastructure Amendments, H. B. 409, 556
Secondary Water Metering Amendments, H. B. 242, 438
Sovereign Lands Revenue Amendments, H. B. 157, 406
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
State Monuments Act Amendments, H. B. 27, 301
Utah Lake Amendments, H. B. 240, 436
Utah Watersheds Council Amendments, H. B. 263, 458
Water Conservation Modifications, H. B. 121, 398
Water Facility Amendments, H. B. 166, 2326
Water Related Sales and Use Tax Amendments, S. B. 221, 686
Water Rights Proofs on Small Amounts of Water, S. B. 31, 612
Watershed Restoration Initiative, H. B. 131, 401
Wildlife Conservation Fund, H. B. 78, 345

DEPARTMENT OF PUBLIC SAFETY
Commercial Driver License Amendments, H. B. 68, 380
Criminal Justice Amendments, S. B. 179, 1255
Criminal Justice Data Management Task Force, S. B. 150, 3507
DNA Specimen Analysis Amendments, H. B. 19, 713
Domestic Violence Offender Treatment Board, H. B. 208, 877
Driving Offenses Amendments, H. B. 29, 729
First Responder Mental Health Services Amendments, H. B. 23, 716
Forensic Biological Evidence Preservation, H. B. 65, 779
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Lane Filtering Amendments, H. B. 10, 707
Law Enforcement Recording Release Amendments, H. B. 260, 894
Officer Intervention and Reporting Amendments, S. B. 126, 1211
Post Council Membership Amendments, H. B. 94, 822
Property Theft Amendments, H. B. 38, 1426
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Transportation Amendments, S. B. 51, 1844
Use of Force Revisions, H. B. 123, 827

DEPARTMENT OF TRANSPORTATION
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Department of Transportation Adjudication Process Revisions, S. B. 235, 694
Fine Amendments, S. B. 75, 625
Jordan River Improvement Amendments, H. B. 319, 2746
Railroad Crossing Maintenance Amendments, H. B. 181, 2335
Right-of-way Disposal Amendments, S. B. 202, 671
State Road Jurisdiction Amendments, S. B. 13, 606
Vehicle Registration Amendments, H. B. 186, 409

DEPARTMENT OF VETERANS AND MILITARY AFFAIRS
Veteran Access to State Parks, H. B. 155, 858

DEPARTMENT OF WORKFORCE SERVICES
Child Care Amendments, H. B. 15, 286
Commission on Housing Affordability Amendments, H. B. 36, 773
Employment Advisory Council Amendments, H. B. 24, 300
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Homeless Services Amendments, H. B. 440, 3020

Intergenerational Poverty Mitigation
Amendments, H. B. 50, 338
Permanent Community Impact Fund Board
Amendments, S. B. 111, 3380
State Small Business Credit Initiative Program
Fund Amendments, H. B. 17, 294
Utah Housing Affordability Amendments,
H. B. 462, 3038

DISABILITIES
Coordinating Council for Persons with Disabilities
Sunset Extension, S. B. 47, 1840
Disability Ombudsman Program, H. B. 150, 1545
Electric Assisted Bicycle Use Amendments,
S. B. 66, 614
Joint Resolution Recognizing the Employment
First Initiative, H. J. R. 15, 3939
Medicaid Waiver for Medically Complex Children
Amendments, H. B. 200, 1579
Students with Disabilities Funding Revisions,
H. B. 113, 1514

DISEASE CONTROL AND PREVENTION
Covid-19 Vaccine Exemptions, H. B. 63, 776
Medicaid Waiver for Medically Complex Children
Amendments, H. B. 200, 1579

DIVISION OF CHILD AND FAMILY SERVICES
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Interview Requirements,
H. B. 153, 2320
Congregate Care Program Amendments,
S. B. 239, 3843
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References,
H. B. 249, 2592
Uniform Unregulated Child Custody Transfer
Act, H. B. 219, 2434

DIVISION OF HUMAN RESOURCE MANAGEMENT
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications,
H. B. 449, 1002
Department of Government Operations,
S. B. 15, 1018
Paid Leave Modifications, S. B. 100, 3369
State Employment Amendments, H. B. 104, 1495

DIVISION OF INDIAN AFFAIRS
Concurrent Resolution Calling for Protection of
Archaeological Sites, H. C. R. 4, 3911

DIVISION OF MOTOR VEHICLES
Electronic Vehicle Registration Amendments,
S. B. 99, 630
Identification for Vehicle Registration
Amendments, S. B. 64, 1110
License Plate Revisions, H. B. 88, 390
Towing Amendments, S. B. 109, 631
Vehicle Inspection Amendments, H. B. 108, 397

DIVISION OF PURCHASING AND GENERAL SERVICES
Department of Government Operations,
S. B. 15, 1018
Educational Language Services Amendments,
H. B. 302, 2711

DIVISION OF RECREATION
Atv Weight Limit Amendments, S. B. 72, 623
Natural Resources Revisions, H. B. 305, 464
Outdoor Recreation Related Education,
H. B. 206, 414
Recreation Infrastructure Amendments,
H. B. 409, 556

DIVISION OF RISK MANAGEMENT
Department of Government Operations,
S. B. 15, 1018

DIVISION OF STATE PARKS
Concurrent Resolution Creating the Bridal Veil
Falls State Monument, H. C. R. 13, 3918
Instream Water Flow Amendments, H. B. 33, 362
State Monuments Act Amendments, H. B. 27, 301

DIVISION OF TECHNOLOGY SERVICES
Criminal Justice Data Management Task Force,
S. B. 150, 3507
Department of Government Operations,
S. B. 15, 1018
Identity Theft Reporting System Amendments,
H. B. 97, 2281
Justice Reinvestment Initiative Modifications,
H. B. 403, 2978

DOMESTIC VIOLENCE
Crime Victim Reparations Amendments,
H. B. 228, 885
Criminal Code Recodification, S. B. 123, 1125
Criminal Stalking Exemption Amendments,
S. B. 56, 3296
Domestic Violence Offender Treatment Board,
H. B. 208, 877
Offender Supervision Amendments, H. B. 28, 719
Protection of Animals Amendments,
H. B. 175, 861
Protective Order Revisions, S. B. 217, 2140
Transfer of Domestic Violence Cases,
H. B. 196, 2356

DRINKING WATER
Capital Assets Related to Water, H. B. 269, 460
School and Child Care Center Water Testing
Requirements, H. B. 21, 1329
Water Amendments, S. B. 89, 627
Water as Part of General Plan, S. B. 110, 2026

DRIVER LICENSE
Driver License Testing Modifications,
H. B. 163, 251
Modifications to Driver License Examination,
S. B. 216, 684
Wireless Communication Device Use in a Motor
Vehicle, S. B. 102, 3373

DRIVING UNDER THE INFLUENCE (DUI)
Driving Offenses Amendments, H. B. 29, 729
DUI Amendments, H. B. 137, 836
DUI Penalty Amendments, H. B. 143, 851

EASEMENTS
Uniform Easement Relocation Act,
H. B. 132, 2293

ECONOMIC DEVELOPMENT
Concurrent Resolution Recognizing Student
Athletes' Right to Religious Freedom and
Modesty, H. C. R. 16, 3920
Convention and Tourism Business Assessment
Area Act, H. B. 373, 2918
Department of Agriculture and Food
Amendments, H. B. 423, 570
Economic and Workforce Development
Amendments, H. B. 333, 2766
Economic Development Modifications,
H. B. 35, 1413

Energy Efficiency Amendments, S. B. 188, 666
Fund of Funds Modifications, S. B. 218, 2143
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Joint Resolution Recognizing the Utah Olympic Legacy, H. J. R. 12, 3924
Jordan River Recreation Area Amendments, H. B. 173, 1565
Manufacturing Modernization Grant Program, S. B. 212, 2137
Public-private Partnership Amendments, S. B. 22, 1680
Recycling Transparency Amendments, H. B. 394, 2959
Regulatory Sandbox Program Amendments, H. B. 243, 2462
Retail Facility Incentive Payments Amendments, H. B. 151, 2305
Rural Coworking and Innovation Center Grant Program Amendments, H. B. 101, 826
Secondary Water Metering Amendments, H. B. 242, 438
State Film Production Incentives Amendments, S. B. 49, 3292
State Innovation Amendments, H. B. 326, 2763
State Small Business Credit Initiative Program Fund Amendments, H. B. 17, 294
Transient Room Tax Amendments, H. B. 323, 2759
Utah Rural Jobs Act Amendments, H. B. 25, 1333

EDUCATION
Audit Committee Authority Amendments, H. B. 419, 3000
Behavioral Health Curriculum Program, S. B. 171, 3570
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Charter School Admissions Amendments, H. B. 294, 2704
Civics Education Amendments, H. B. 273, 1595
Concurrent Resolution Acknowledging Completion of Board Governance Training, H. C. R. 8, 3915
Concurrent Resolution Honoring 125th Anniversary of the National Parent Teacher Association, S. C. R. 5, 3954
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Department of Corrections Education Services, H. B. 194, 875
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Early Literacy Outcomes Improvement, S. B. 127, 2039
Economic and Workforce Development Amendments, H. B. 333, 2766
Education Innovation Program, H. B. 386, 1620
Education Reporting Amendments, H. B. 481, 3098
Education Research and Innovation Amendments, H. B. 437, 3012
Education Sunset Extensions, H. B. 42, 324
Educational Language Services Amendments, H. B. 302, 2711
Effective Teachers in High Poverty Schools Incentive Program Amendments, H. B. 315, 1605
Ethnic Studies Amendments, S. B. 244, 3884
Full-day Kindergarten, H. B. 193, 2349
Funding Independence in Foreign Language Education, H. B. 346, 2834
Grow Your Own Teacher and School Counselor Pipeline Program, S. B. 251, 3898
Higher Education and Corrections Council, H. B. 226, 881
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Higher Education Financial Aid Amendments, H. B. 355, 2840
Higher Education Performance Funding Goals, S. B. 42, 1744
Higher Education Student Assistance Amendments, S. B. 172, 1252
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
In-person Learning Amendments, H. B. 183, 158
Income Tax Fund Amendments, S. B. 211, 3748
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Military Servicemember Child Enrollment, S. B. 233, 3819
Missing Child Identification Program, S. B. 220, 3786
Nursing Education Program Amendments, H. B. 389, 2946
Online Course Access Amendments, H. B. 417, 2997
Paid Professional Hours for Educators, H. B. 396, 2960
Parent Access to School Data Comparison, H. B. 270, 2681
Period Products in Schools, H. B. 162, 2324
Physician Workforce Amendments, H. B. 295, 913
Public Education Budget Amendments, S. B. 2, 3104
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Regulatory Sandbox in Education, S. B. 191, 2122
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
School Board Expansion Requirements, S. B. 78, 1892
School Dropout Prevention Amendments, H. B. 251, 2666
School Enrollment Amendments, H. B. 380, 2928
School Epilepsy Training Amendments, H. B. 241, 1580
School Information Management System Amendments, S. B. 79, 1895
School Nursing Services Amendments, H. B. 114, 1516
School Readiness Amendments, H. B. 290, 2694
School Safety Amendments, H. B. 428, 3003
School Standards Review Committee Sunset Extension, S. B. 21, 3172
School Turnaround Program Revisions, S. B. 245, 3888
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469
Special Education Licensing Amendments, S. B. 103, 2007

Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
State Transient Room Tax Modifications, H. B. 125, 1539
Student Eligibility in Interscholastic Activities, H. B. 11, 3901
Student Intervention Early Warning Program, H. B. 103, 1492
Student Tribal Regalia Use Amendments, H. B. 30, 1341
Students with Disabilities Funding Revisions, H. B. 113, 1514
Teacher Professional Development Amendments, H. B. 184, 252
Title IX Reporting, H. B. 420, 3002
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Use of Public Education Stabilization Account One-time Funding, H. B. 475, 3093
Utah Health Workforce Act, H. B. 176, 1567

EDUCATION GRANT PROGRAMS
Education Innovation Program, H. B. 386, 1620

EDUCATIONAL TELECOMMUNICATIONS
Online Course Access Amendments, H. B. 417, 2997

ELECTION ADMINISTRATION
Ballot Amendments, S. B. 38, 1729
Ballot Measure Amendments, H. B. 218, 2382
Ballot Processing Amendments, H. B. 387, 2932
Election Funding Amendments, S. B. 219, 2150
Election Modifications, S. B. 18, 254
Election Revisions, S. B. 19, 1055
Election Schedule Amendments, S. B. 170, 232
Election Security Amendments, H. B. 313, 946
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Local Election Amendments, S. B. 11, 1012
Municipal Alternate Voting Methods Amendments, H. B. 264, 2675
Voter Roll Maintenance Amendments, H. B. 67, 789
Voting Administration Amendments, H. B. 411, 2988
Voting History Amendments, S. B. 32, 1708

ELECTION LAW
Ballot Amendments, S. B. 38, 1729
Ballot Measure Amendments, H. B. 218, 2382
Ballot Processing Amendments, H. B. 387, 2932
Campaign Finance Amendments, H. B. 267, 896
Election Funding Amendments, S. B. 219, 2150
Election Modifications, S. B. 18, 254
Election Revisions, S. B. 19, 1055
Election Schedule Amendments, S. B. 170, 232
Election Security Amendments, H. B. 313, 946
Financial Disclosures Amendments, H. B. 91, 816
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Justice Court Judge Elections Amendments, H. B. 45, 1449
Local Election Amendments, S. B. 11, 1012
Municipal Alternate Voting Methods Amendments, H. B. 264, 2675
Political Action Committee Amendments, H. B. 258, 2670
School Board Expansion Requirements, S. B. 78, 1892
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Victim Address Confidentiality Program, H. B. 117, 1518
Voter Roll Maintenance Amendments, H. B. 67, 789
Voting Administration Amendments, H. B. 411, 2988
Voting History Amendments, S. B. 32, 1708

ELECTRIC COOPERATIVES
Electrical Facility Sales Tax Exemption, S. B. 106, 2011

ELECTRICITY
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Project Entity Oversight Modifications, S. B. 92, 3352
Renter's Credit Amendments, H. B. 26, 1340
Water Reporting Amendments, H. B. 393, 552

ELECTRONIC DATABASES
Election Security Amendments, H. B. 313, 946
Eviction Records Amendments, H. B. 359, 2857
Expungement Fee Amendments, H. B. 392, 2951
Expungement Modifications, S. B. 35, 1711
Identity Theft Reporting System Amendments, H. B. 97, 2281
Protective Order and Stalking Injunction Expungement, S. B. 85, 1902
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Victim Address Confidentiality Program, H. B. 117, 1518

ELECTRONIC TRANSACTIONS
Digital User Asset Payment Amendments, H. B. 456, 3036

EMERGENCY MANAGEMENT
Community Paramedicine Amendments, H. B. 441, 3033
Emergency Management Administration Council Sunset Extension, S. B. 36, 1090
Emergency Response Amendments, H. B. 16, 708
Grid Resilience Committee, H. B. 418, 2998
In-person Learning Amendments, H. B. 183, 158
Post Disaster Recovery and Mitigation Restricted Account Amendments, S. B. 229, 1279

EMERGENCY MEDICAL SERVICES AND PREPAREDNESS
Community Paramedicine Amendments, H. B. 441, 3033
Emergency Medical Service Personnel Amendments, S. B. 222, 3787
Ground Ambulance Interfacility Transport Licensing, H. B. 293, 2700
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Volunteer Government Workers Amendments, H. B. 287, 2686

EMERGENCY POWERS
State and Local Employee Disaster Services, H. B. 169, 346

EMINENT DOMAIN
Eminent Domain Appraisal Amendments, H. B. 357, 2854

EMISSIONS CONTROL
Air Quality Policy Amendments, S. B. 136, 652
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913

Large Public Transit District Amendments, H. B. 404, 555
Transportation Amendments, S. B. 51, 1844
Vehicle Inspection Amendments, H. B. 108, 397

ENERGY
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Division of Oil, Gas, and Mining Amendments, S. B. 146, 654
Energy Efficiency Amendments, S. B. 188, 666
Natural Resources Revisions, H. B. 305, 464
Project Entity Oversight Committee, H. B. 215, 2365
Railroad Crossing Maintenance Amendments, H. B. 181, 2335
Solid and Hazardous Waste Amendments, S. B. 97, 3367
Utah Energy Infrastructure Amendments, H. B. 46, 368

ENVIRONMENT
Air Quality Policy Amendments, S. B. 136, 652
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Department of Agriculture and Food Amendments, H. B. 423, 570
Energy Efficiency Amendments, S. B. 188, 666
Environmental Quality Revenue Amendments, H. B. 250, 2662
Geological Carbon Sequestration Amendments, H. B. 244, 444
Great Salt Lake Amendments, H. B. 429, 581
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Jordan River Improvement Amendments, H. B. 319, 2746
Recycling Transparency Amendments, H. B. 394, 2959
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
Solid and Hazardous Waste Amendments, S. B. 97, 3367
State Construction Code Amendments, H. B. 39, 305
State Innovation Amendments, H. B. 326, 2763
State Water Policy Amendments, H. B. 37, 303
Tire Recycling Fund Amendments, S. B. 203, 3740
Water Conservation Modifications, H. B. 121, 398
Water Rights Adjudication Amendments, H. B. 377, 536
Watershed Restoration Initiative, H. B. 131, 401

ENVIRONMENTAL RESPONSE AND REMEDIATION
Geological Carbon Sequestration Amendments, H. B. 244, 444

ETHICS
Election Revisions, S. B. 19, 1055
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

FACILITIES
Construction, and Management, State Facilities Management Amendments, S. B. 82, 3306

FAMILY
Alimony Modifications, S. B. 74, 1883
Child Welfare Interview Requirements, H. B. 153, 2320
Court-appointed Therapists Amendments, H. B. 111, 1509
Family Terminology Amendments, H. B. 122, 1532
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Guardianship and Conservatorship Amendments, S. B. 155, 3536
Juvenile Amendments, H. B. 248, 2473
Juvenile Justice Changes, H. B. 299, 918
Marriage Solemnization Amendments, S. B. 164, 3569
Parent-time Amendments, S. B. 243, 3872
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434
Victim Address Confidentiality Program, H. B. 117, 1518

FEDERALISM
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution on Fiscal Sustainability, S. C. R. 4, 3953
Concurrent Resolution to Work Together to Address the Climate, Public Lands, and Carbon Sequestration, H. C. R. 1, 3909
Federalism Commission Amendments, H. B. 209, 2360

FINANCE
Alcoholic Beverage Control Act Enforcement Fund, S. B. 201, 3739
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Office of State Debt Collection Amendments, H. B. 216, 2368
Tire Recycling Fund Amendments, S. B. 203, 3740

FINANCIAL INSTITUTIONS
Board of Bank Advisors Sunset Extension, H. B. 14, 285
Digital Asset Amendments, S. B. 182, 3677
Financial Institutions Modifications, S. B. 183, 3678

FINES
Division of Consumer Protection Amendments, S. B. 26, 1692
Fine Amendments, S. B. 75, 625
Property and Financial Offense Amendments, H. B. 229, 2448
Property Theft Amendments, H. B. 38, 1426
Trespass Penalty Amendments, S. B. 68, 620

FIRE CONTROL
Target Shooting Regulations, H. B. 141, 403

Wildfire Amendments, H. B. 145, 1543

FIREFIGHTERS' RETIREMENT
Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions, S. C. R. 1, 3949
Public Safety Disability Benefits Amendments, H. B. 70, 793
Utah Retirement Systems Revisions, S. B. 24, 1067

FISCAL PROCEDURES
County Governance Amendments, S. B. 162, 2070

FISHING
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Outdoor Recreation Related Education, H. B. 206, 414
Sovereign Lands Revenue Amendments, H. B. 157, 406
Trespass Penalty Amendments, S. B. 68, 620
Wildlife Conservation Fund, H. B. 78, 345

FOOD
Concurrent Resolution Recognizing the Importance of the Agriculture Industry, S. C. R. 8, 3956
Donation of Food, H. B. 142, 404
Food Security Amendments, S. B. 133, 650
Local Food Advisory Council Amendments, H. B. 297, 463
Occupational and Professional Licensing Modifications, S. B. 43, 3173

FOOD QUALITY
Occupational and Professional Licensing Modifications, S. B. 43, 3173

FOOD SECURITY
Food Security Amendments, S. B. 133, 650

FOOD SERVICES AND DRINKING PLACES
Alcoholic Beverage Control Act Amendments, S. B. 176, 3577
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325

FORESTRY AND FIRE
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
State Resource Management Plan Amendments, H. B. 160, 408
Target Shooting Regulations, H. B. 141, 403
Wildfire Amendments, H. B. 145, 1543

FORESTRY, FIRE, AND STATE LANDS
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Sovereign Lands Revenue Amendments, H. B. 157, 406
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
Utah Lake Authority, H. B. 232, 418

FORM OF LOCAL GOVERNMENT
County Amendments, S. B. 57, 1871

FOSSIL FUELS
Division of Oil, Gas, and Mining Amendments, S. B. 146, 654
Solid and Hazardous Waste Amendments, S. B. 97, 3367

FOSTER CARE
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542

FRANCHISES
Amendments to the Division of Consumer Protection, H. B. 436, 3006
Automobile Amendments, S. B. 204, 3742
Division of Consumer Protection Amendments, S. B. 26, 1692
Utah Powersport Vehicle Franchise Advisory Board Amendments, S. B. 27, 1700

FRAUD
Insurance Amendments, H. B. 31, 1342
Property and Financial Offense Amendments, H. B. 229, 2448
Telephone Solicitation Amendments, H. B. 217, 2373

GOVERNMENT OPERATIONS (STATE ISSUES)
Agency Fee Assessment Amendments, H. B. 383, 543
Agreements to Provide State Services Sunset Extension, S. B. 60, 3301
Alcoholic Beverage Control Act Enforcement Fund, S. B. 201, 3739
Appropriations Adjustments, H. B. 3, 2151
Attorney General Prosecution Review Amendments, H. B. 159, 1560
Ballot Amendments, S. B. 38, 1729
Ballot Measure Amendments, H. B. 218, 2382
Ballot Processing Amendments, H. B. 387, 2932
Behavioral Health Services Amendments, S. B. 41, 1740
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Birth Certificate Amendments, H. B. 341, 2825
Blockchain and Digital Innovation Task Force, H. B. 335, 2815
Budgetary Procedures Modifications, H. B. 190, 356
Business, Economic Development, and Labor Base Budget, S. B. 4, 171
Campaign Finance Amendments, H. B. 267, 896
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution on Fiscal Sustainability, S. C. R. 4, 3953
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Concurrent Resolution to Work Together to Address the Climate, Public Lands, and Carbon Sequestration, H. C. R. 1, 3909
Criminal Justice Data Management Task Force, S. B. 150, 3507

Current Fiscal Year Supplemental Appropriations, S. B. 3, 3116
Day of Remembrance Observing the Incarceration of Japanese Americans During World War II, S. B. 58, 247
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Department of Government Operations, S. B. 15, 1018
Educational Language Services Amendments, H. B. 302, 2711
Elected Public Body Transparency Amendments, H. B. 439, 3017
Election Funding Amendments, S. B. 219, 2150
Election Modifications, S. B. 18, 254
Election Revisions, S. B. 19, 1055
Election Schedule Amendments, S. B. 170, 232
Election Security Amendments, H. B. 313, 946
Environmental Quality Revenue Amendments, H. B. 250, 2662
Eviction Records Amendments, H. B. 359, 2857
Executive Offices and Criminal Justice Base Budget, H. B. 6, 117
Executive Residence Commission Sunset Extension, S. B. 29, 1706
Expungement Fee Amendments, H. B. 392, 2951
Expungement Modifications, S. B. 35, 1711
Federal Land Disposal Law Amendments, H. B. 172, 2332
Federalism Commission Amendments, H. B. 209, 2360
Financial Disclosures Amendments, H. B. 91, 816
Fine Amendments, S. B. 75, 625
Funds Amendments, S. B. 186, 3686
Government Record Amendments, H. B. 399, 2964
Government Records Fee Amendments, H. B. 96, 824
Grazing Advisory Board Amendments, S. B. 17, 609
Grid Resilience Committee, H. B. 418, 2998
Higher Education Base Budget, S. B. 1, 161
Identity Theft Reporting System Amendments, H. B. 97, 2281
Infrastructure and General Government Base Budget, S. B. 6, 192
Jail Photo Distribution Prohibition, H. B. 406, 2981
Jordan River Improvement Amendments, H. B. 319, 2746
Jordan River Recreation Area Amendments, H. B. 173, 1565
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Justice Court Judge Elections Amendments, H. B. 45, 1449
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Legislative Process Committee Sunset Extension, S. B. 30, 1707
Licensing Amendments, S. B. 16, 3166
Local Election Amendments, S. B. 11, 1012
Local Food Advisory Council Amendments, H. B. 297, 463
Local Health Department Order Amendments, H. B. 182, 349
Medicaid Amendments, H. B. 413, 2993
Medical Cannabis Patient Protection Amendments, S. B. 46, 1837
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Missing Child Identification Program, S. B. 220, 3786
Municipal Alternate Voting Methods Amendments, H. B. 264, 2675
National Guard, Veterans Affairs, and Legislature Base Budget, S. B. 7, 206
Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 102
New Fiscal Year Supplemental Appropriations Act, H. B. 2, 1287
Office of State Debt Collection Amendments, H. B. 216, 2368
Open and Public Meetings Act Modifications, H. B. 22, 298
Paid Leave Modifications, S. B. 100, 3369
Political Action Committee Amendments, H. B. 258, 2670
Property Theft Amendments, H. B. 38, 1426
Protective Order and Stalking Injunction Expungement, S. B. 85, 1902
Public Education Base Budget Amendments, H. B. 1, 87
Public Education Budget Amendments, S. B. 2, 3104
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Recreation Infrastructure Amendments, H. B. 409, 556
Retirement System Amendments, H. B. 75, 1469
Revisor's Technical Corrections to Utah Code, S. B. 91, 1926
School Board Expansion Requirements, S. B. 78, 1892
Social Services Base Budget, H. B. 7, 135
Sovereign Lands Revenue Amendments, H. B. 157, 406
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
Special License Plate Designation, H. B. 13, 280
State Agency and Higher Education Compensation Appropriations, S. B. 8, 3137
State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, H. B. 8, 2190
State and Local Employee Disaster Services, H. B. 169, 346
State Bird of Prey Designation, S. B. 116, 2036
State Employment Amendments, H. B. 104, 1495
State Facilities Management Amendments, S. B. 82, 3306
State Finance Review Commission, H. B. 82, 1478
State Historic Preservation Office Amendments, H. B. 350, 2837
State Holiday Modifications, H. B. 238, 2460
State Monuments Act Amendments, H. B. 27, 301
State Resource Management Plan Amendments, H. B. 160, 408
Tire Recycling Fund Amendments, S. B. 203, 3740
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Transportation Amendments, S. B. 51, 1844
Utah Broadband Center Advisory Commission, S. B. 214, 3783
Utah Lake Authority, H. B. 232, 418
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092
Utah Watersheds Council Amendments, H. B. 263, 458

Victim Address Confidentiality Program, H. B. 117, 1518
Vital Records Special Characters, H. B. 310, 1603
Volunteer Government Workers Amendments, H. B. 287, 2686
Voter Roll Maintenance Amendments, H. B. 67, 789
Voting Administration Amendments, H. B. 411, 2988
Voting History Amendments, S. B. 32, 1708
Water Conservation Modifications, H. B. 121, 398
Water Facility Amendments, H. B. 166, 2326
Wildlife Conservation Fund, H. B. 78, 345

GOVERNMENT RECORDS
Department of Government Operations, S. B. 15, 1018
Election Revisions, S. B. 19, 1055
Election Security Amendments, H. B. 313, 946
Eviction Records Amendments, H. B. 359, 2857
Expungement Fee Amendments, H. B. 392, 2951
Expungement Modifications, S. B. 35, 1711
Government Record Amendments, H. B. 399, 2964
Government Records Fee Amendments, H. B. 96, 824
Identity Theft Reporting System Amendments, H. B. 97, 2281
Jail Photo Distribution Prohibition, H. B. 406, 2981
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Protective Order and Stalking Injunction Expungement, S. B. 85, 1902
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Victim Address Confidentiality Program, H. B. 117, 1518
Vital Records Special Characters, H. B. 310, 1603
Voting History Amendments, S. B. 32, 1708

GOVERNMENTAL IMMUNITY
Government Record Amendments, H. B. 399, 2964
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916

GOVERNOR
Utah Lake Amendments, H. B. 240, 436

GOVERNOR'S OFFICE OF ECONOMIC OPPORTUNITY
Economic and Workforce Development Amendments, H. B. 333, 2766
Economic Development Modifications, H. B. 35, 1413
Manufacturing Modernization Grant Program, S. B. 212, 2137
Public-private Partnership Amendments, S. B. 22, 1680
Regulatory Sandbox Program Amendments, H. B. 243, 2462
Retail Facility Incentive Payments Amendments, H. B. 151, 2305
State Innovation Amendments, H. B. 326, 2763
State Small Business Credit Initiative Program Fund Amendments, H. B. 17, 294

GOVERNOR'S OFFICE OF ENERGY DEVELOPMENT
Natural Resources Revisions, H. B. 305, 464
Utah Energy Infrastructure Amendments, H. B. 46, 368

GRANT PROGRAMS AND INCENTIVES
Department of Agriculture and Food Amendments, H. B. 423, 570
Economic and Workforce Development Amendments, H. B. 333, 2766
Energy Efficiency Amendments, S. B. 188, 666
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Jordan River Recreation Area Amendments, H. B. 173, 1565
Manufacturing Modernization Grant Program, S. B. 212, 2137
Retail Facility Incentive Payments Amendments, H. B. 151, 2305
Rural Coworking and Innovation Center Grant Program Amendments, H. B. 101, 826
Secondary Water Metering Amendments, H. B. 242, 438
State Innovation Amendments, H. B. 326, 2763
State Small Business Credit Initiative Program Fund Amendments, H. B. 17, 294

GUARDIAN AD LITEM
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References, H. B. 249, 2592

GUARDIANS
Guardianship and Conservatorship Amendments, S. B. 155, 3536
Guardianship Bill of Rights, H. B. 320, 2748
Power of Attorney Amendments, H. B. 149, 855
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434

HAZARDOUS MATERIALS
Environmental Quality Revenue Amendments, H. B. 250, 2662

HEALTH
Access to Medical Records Amendments, H. B. 225, 2445
Acupuncturist Liability Amendments, S. B. 23, 1683
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Anesthesia and Sedation Amendments, H. B. 384, 2930
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Associate Physician License Amendments, H. B. 400, 2974
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Birth Certificate Amendments, H. B. 341, 2825
Business and Labor Reporting Requirements, H. B. 44, 327
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Child Care Amendments, H. B. 15, 286
Chiropractic Practice Amendments, S. B. 84, 1900
Civil Commitment Revisions, H. B. 261, 2673
Commercial Driver License Amendments, H. B. 68, 380
Community Health Worker Certification Process, S. B. 104, 2009

Community Paramedicine Amendments, H. B. 441, 3033
Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah, H. C. R. 11, 3917
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Counseling State Compact, S. B. 237, 3826
Covid-19 Vaccine Exemptions, H. B. 63, 776
Dental Provider Malpractice Amendments, H. B. 318, 2742
Department of Health and Human Services Amendments, S. B. 45, 1746
Diabetes Prevention Program, H. B. 80, 1476
Disability Ombudsman Program, H. B. 150, 1545
Driving Offenses Amendments, H. B. 29, 729
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Emergency Medical Service Personnel Amendments, S. B. 222, 3787
Extension for Controlled Substance Prescription Requirements, H. B. 47, 333
First Responder Mental Health Services Amendments, H. B. 23, 716
Genetic Privacy Amendments, S. B. 144, 3495
Ground Ambulance Interfacility Transport Licensing, H. B. 293, 2700
Health Care Liability Insurance Amendments, S. B. 240, 3857
Health Care Worker Protection Amendments, H. B. 32, 771
In-person Learning Amendments, H. B. 183, 158
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings, S. J. R. 3, 3961
Local Health Department Order Amendments, H. B. 182, 349
Medicaid Amendments, H. B. 413, 2993
Medicaid Waiver for Medically Complex Children Amendments, H. B. 200, 1579
Medical Assistant Amendments, H. B. 316, 1607
Medical Cannabis Access Amendments, S. B. 195, 3716
Medical Cannabis Act Amendments, S. B. 190, 2081
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Medical Rationing Amendments, S. B. 194, 1276
Medication Dispenser Amendments, H. B. 301, 2707
Medication for Inmates, H. B. 77, 796
Mental Health Professional Licensing Amendments, H. B. 283, 2683
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Naturopathic Physician Amendments, S. B. 154, 3532
Nurse Apprentice Licensing Act, S. B. 101, 1997
Nursing Education Program Amendments, H. B. 389, 2946
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Occupational Therapy Licensure Compact, H. B. 154, 1547
Pharmacy Practice Amendments, S. B. 236, 3822
Physician Workforce Amendments, H. B. 295, 913
Primary Care Spending Amendments, H. B. 210, 2364
Public Employees' Health Program Amendments, S. B. 249, 3897
Student Eligibility in Interscholastic Activities, H. B. 11, 3901
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Utah Health Workforce Act, H. B. 176, 1567
Utah Medical Candor Act, H. B. 344, 2827
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092
Veterinarian Regulations Amendments, S. B. 209, 675
Vital Records Special Characters, H. B. 310, 1603
Volunteer Government Workers Amendments, H. B. 287, 2686

HEALTH BENEFITS AND CLAIMS
Access to Medical Records Amendments, H. B. 225, 2445

HEALTH CARE
Access to Medical Records Amendments, H. B. 225, 2445
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Anesthesia and Sedation Amendments, H. B. 384, 2930
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Civil Commitment Revisions, H. B. 261, 2673
Community Paramedicine Amendments, H. B. 441, 3033
Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah, H. C. R. 11, 3917
Counseling State Compact, S. B. 237, 3826
Covid-19 Vaccine Exemptions, H. B. 63, 776
Dental Provider Malpractice Amendments, H. B. 318, 2742
Diabetes Prevention Program, H. B. 80, 1476
Genetic Privacy Amendments, S. B. 144, 3495
Health Care Liability Insurance Amendments, S. B. 240, 3857
Health Care Worker Protection Amendments, H. B. 32, 771
Medicaid Amendments, H. B. 413, 2993
Medical Assistant Amendments, H. B. 316, 1607
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Medication Dispenser Amendments, H. B. 301, 2707
Mental Health Professional Licensing Amendments, H. B. 283, 2683
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Naturopathic Physician Amendments, S. B. 154, 3532
Nursing Education Program Amendments, H. B. 389, 2946
Pharmacy Practice Amendments, S. B. 236, 3822
Physician Workforce Amendments, H. B. 295, 913
Primary Care Spending Amendments, H. B. 210, 2364
Utah Medical Candor Act, H. B. 344, 2827

HEALTH CARE DATA AND INFORMATICS

Access to Medical Records Amendments, H. B. 225, 2445
Primary Care Spending Amendments, H. B. 210, 2364
Traffic Safety Data Sharing Amendments, H. B. 398, 2963

HEALTH CARE FACILITIES

Access to Medical Records Amendments, H. B. 225, 2445
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Services Amendments, S. B. 41, 1740
Civil Commitment Revisions, H. B. 261, 2673
Community Paramedicine Amendments, H. B. 441, 3033
Health Care Worker Protection Amendments, H. B. 32, 771
Medication Dispenser Amendments, H. B. 301, 2707
Pharmacy Practice Amendments, S. B. 236, 3822

HEALTH CARE PROFESSIONALS

Access to Medical Records Amendments, H. B. 225, 2445
Acupuncturist Liability Amendments, S. B. 23, 1683
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Anesthesia and Sedation Amendments, H. B. 384, 2930
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Associate Physician License Amendments, H. B. 400, 2974
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Services Amendments, S. B. 41, 1740
Chiropractic Practice Amendments, S. B. 84, 1900
Civil Commitment Revisions, H. B. 261, 2673
Community Health Worker Certification Process, S. B. 104, 2009
Community Paramedicine Amendments, H. B. 441, 3033
Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah, H. C. R. 11, 3917
Counseling State Compact, S. B. 237, 3826
Court-appointed Therapists Amendments, H. B. 111, 1509
Dental Provider Malpractice Amendments, H. B. 318, 2742
Diabetes Prevention Program, H. B. 80, 1476
Health Care Liability Insurance Amendments, S. B. 240, 3857
Health Care Worker Protection Amendments, H. B. 32, 771
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Medicaid Amendments, H. B. 413, 2993
Medical Assistant Amendments, H. B. 316, 1607
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Medication Dispenser Amendments, H. B. 301, 2707
Mental Health Professional Licensing Amendments, H. B. 283, 2683
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Naturopathic Physician Amendments, S. B. 154, 3532
Nurse Apprentice Licensing Act, S. B. 101, 1997
Nursing Education Program Amendments, H. B. 389, 2946
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Occupational Therapy Licensure Compact, H. B. 154, 1547
Pharmacy Practice Amendments, S. B. 236, 3822
Physician Workforce Amendments, H. B. 295, 913
Volunteer Government Workers Amendments, H. B. 287, 2686

HEALTH INSURANCE

Access to Medical Records Amendments, H. B. 225, 2445
Behavioral Health Amendments, H. B. 236, 889
Budgetary Procedures Modifications, H. B. 190, 356
Business and Labor Reporting Requirements, H. B. 44, 327
Genetic Privacy Amendments, S. B. 144, 3495
Health Care Liability Insurance Amendments, S. B. 240, 3857
Insurance Amendments, H. B. 31, 1342
Medicaid Amendments, H. B. 413, 2993
Pharmacy Practice Amendments, S. B. 236, 3822
Primary Care Spending Amendments, H. B. 210, 2364
Public Employees' Health Program Amendments, S. B. 249, 3897

HIGHER EDUCATION

Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Department of Corrections Education Services, H. B. 194, 875
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Economic and Workforce Development Amendments, H. B. 333, 2766
Funding Independence in Foreign Language Education, H. B. 346, 2834
Higher Education and Corrections Council, H. B. 226, 881
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Higher Education Financial Aid Amendments, H. B. 355, 2840
Higher Education Performance Funding Goals, S. B. 42, 1744
Higher Education Student Assistance Amendments, S. B. 172, 1252
Nursing Education Program Amendments, H. B. 389, 2946
Physician Workforce Amendments, H. B. 295, 913
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900
State Transient Room Tax Modifications, H. B. 125, 1539
Student Intervention Early Warning Program, H. B. 103, 1492
Utah Health Workforce Act, H. B. 176, 1567

HIGHER EDUCATION STUDENTS

Higher Education and Corrections Council, H. B. 226, 881

HISTORY
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950

HOMELESSNESS
Homeless Services Amendments, H. B. 440, 3020
Homeless Services Modifications, S. B. 238, 3841

HOMICIDE
Criminal Code Recodification, S. B. 123, 1125
Inheritance Disqualification Amendments, H. B. 314, 954

HOSPITALS
Pharmacy Practice Amendments, S. B. 236, 3822

HOTELS AND HOTEL KEEPERS
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325

HOUSING
Affordable Housing Tax Amendments, S. B. 81, 1897
Commission on Housing Affordability Amendments, H. B. 36, 773
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Utah Housing Affordability Amendments, H. B. 462, 3038

HUMAN SERVICES
Alcohol Education Amendments, H. B. 110, 1507
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Child Welfare Interview Requirements, H. B. 153, 2320
Civil Commitment Revisions, H. B. 261, 2673
Concurrent Resolution Encouraging Support for Internationally Adopted Individuals, S. C. R. 6, 3955
Congregate Care Program Amendments, S. B. 239, 3843
Coordinating Council for Persons with Disabilities Sunset Extension, S. B. 47, 1840
Counseling State Compact, S. B. 237, 3826
Criminal Justice Amendments, S. B. 179, 1255
Department of Health and Human Services Amendments, S. B. 45, 1746
Disability Ombudsman Program, H. B. 150, 1545
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Domestic Violence Offender Treatment Board, H. B. 208, 877
Driving Offenses Amendments, H. B. 29, 729
First Responder Mental Health Services Amendments, H. B. 23, 716
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Guardianship and Conservatorship Amendments, S. B. 155, 3536
Homeless Services Modifications, S. B. 238, 3841
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References, H. B. 249, 2592
Medicaid Amendments, H. B. 413, 2993
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Modifications to Civil Commitment, H. B. 363, 2909
Office of American Indian-Alaska Native Health and Family Services, S. B. 28, 1702
Parental Representation Amendments, S. B. 181, 1274
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334

HUMAN SERVICES FACILITIES
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337

HUMAN SERVICES LICENSURE
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826

HUMAN SERVICES PROGRAMS
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826

HUMAN TRAFFICKING
Commercial Driver License Amendments, H. B. 68, 380

HUNTING
Air Rifle Hunting Amendments, S. B. 205, 674
Donation of Food, H. B. 142, 404
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Limits Related to Big Game, S. B. 206, 2134
Outdoor Recreation Related Education, H. B. 206, 414
Sovereign Lands Revenue Amendments, H. B. 157, 406
Trespass Penalty Amendments, S. B. 68, 620
Wildlife Conservation Fund, H. B. 78, 345

IMMIGRATION
Employee Verification Requirements, H. B. 252, 2668

IMMUNIZATIONS
Covid-19 Vaccine Exemptions, H. B. 63, 776

Medical Assistant Amendments, H. B. 316, 1607

IMPACT FEES
Utah Housing Affordability Amendments, H. B. 462, 3038

INCOME TAX
Economic Development Modifications, H. B. 35, 1413
Income Tax Modifications, S. B. 48, 1841
Income Tax Revisions, H. B. 444, 1646
Mobile Workforce Income Tax Amendments, S. B. 39, 1734
Sales and Income Tax Amendments, H. B. 268, 1581
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
State Film Production Incentives Amendments, S. B. 49, 3292
Targeted Business Income Tax Credit Amendments, S. B. 76, 1887
Tax Amendments, S. B. 59, 229
Utah Rural Jobs Act Amendments, H. B. 25, 1333

INDEPENDENT ENTITIES
Fund of Funds Modifications, S. B. 218, 2143
Military Installation Development Authority Revisions, S. B. 232, 3809
State Finance Review Commission, H. B. 82, 1478
Utah Energy Infrastructure Amendments, H. B. 46, 368
Utah State Railroad Museum Authority Amendments, H. B. 254, 455

INDIAN AFFAIRS
Colorado River Authority of Utah Amendments, S. B. 160, 659
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911
Energy Efficiency Amendments, S. B. 188, 666
Office of American Indian–alaska Native Health and Family Services, S. B. 28, 1702

INDIGENT COUNSEL
Indigent Defense Amendments, S. B. 108, 2022
Parental Representation Amendments, S. B. 181, 1274
Post Conviction Representation Amendments, S. B. 210, 2135

INDIVIDUAL INCOME TAX
Income Tax Modifications, S. B. 48, 1841
Income Tax Revisions, H. B. 444, 1646
Mobile Workforce Income Tax Amendments, S. B. 39, 1734
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
Tax Amendments, S. B. 59, 229

INITIATIVES
Ballot Amendments, S. B. 38, 1729
Ballot Measure Amendments, H. B. 218, 2382

INMATES
Community Correctional Center Revisions, H. B. 152, 856
Department of Corrections Education Services, H. B. 194, 875
Medication for Inmates, H. B. 77, 796

INSANITY DEFENSE/COMPETENCY
Juvenile Competency Amendments, H. B. 277, 903

INSURANCE
Access to Medical Records Amendments, H. B. 225, 2445
Business and Labor Reporting Requirements, H. B. 44, 327
Genetic Privacy Amendments, S. B. 144, 3495
Insurance Amendments, H. B. 31, 1342
Primary Care Spending Amendments, H. B. 210, 2364
Public Employees' Health Program Amendments, S. B. 249, 3897
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900
Travel Insurance Amendments, H. B. 338, 2817

INSURANCE DEPARTMENT
Business and Labor Reporting Requirements, H. B. 44, 327
Insurance Amendments, H. B. 31, 1342
Primary Care Spending Amendments, H. B. 210, 2364
Regulatory Sandbox Program Amendments, H. B. 243, 2462
Travel Insurance Amendments, H. B. 338, 2817

INTERGENERATIONAL POVERTY
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338

INTERLOCAL AGREEMENTS
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Jordan River Improvement Amendments, H. B. 319, 2746
Jordan River Recreation Area Amendments, H. B. 173, 1565

INTERLOCAL COOPERATION
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Jordan River Improvement Amendments, H. B. 319, 2746
Jordan River Recreation Area Amendments, H. B. 173, 1565
Property Tax Amendments, S. B. 20, 1661

INTERLOCAL ENTITIES
Property Tax Amendments, S. B. 20, 1661

INTERNATIONAL TRADE
Economic and Workforce Development Amendments, H. B. 333, 2766

JOB TRAINING
Economic and Workforce Development Amendments, H. B. 333, 2766
Employment Advisory Council Amendments, H. B. 24, 300

JUDGES
Criminal Justice Data Management Task Force, S. B. 150, 3507
District and Juvenile Court Judge Amendments, S. B. 86, 1904
Joint Resolution Urging Congress to Propose the Keep Nine Amendment to the United States Constitution, S. J. R. 2, 3961
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Judiciary Amendments, S. B. 98, 1989
Justice Court Judge Elections Amendments, H. B. 45, 1449

JUDICIAL ADMINISTRATION
Asset Forfeiture Amendments, S. B. 65, 1111
Attorney General Prosecution Review Amendments, H. B. 159, 1560
Child Welfare Amendments, S. B. 132, 2050
Court Fee Waiver Amendments, S. B. 87, 1905
Crime Victim Reparations Amendments, H. B. 228, 885
Criminal Justice Data Management Task Force, S. B. 150, 3507
District and Juvenile Court Judge Amendments, S. B. 86, 1904
Domestic Violence Offender Treatment Board, H. B. 208, 877
Eviction Records Amendments, H. B. 359, 2857
Expungement Modifications, S. B. 35, 1711
Fine Amendments, S. B. 75, 625
Guardianship Bill of Rights, H. B. 320, 2748
Indigent Defense Amendments, S. B. 108, 2022
Joint Resolution Urging Congress to Propose the Keep Nine Amendment to the United States Constitution, S. J. R. 2, 3961
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Judiciary Amendments, S. B. 98, 1989
Justice Court Judge Elections Amendments, H. B. 45, 1449
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References, H. B. 249, 2592
Juvenile Justice Changes, H. B. 299, 918
Juvenile Justice Modifications, H. B. 138, 845
Modifications to Civil Commitment, H. B. 363, 2909
Offender Supervision Amendments, H. B. 28, 719
Office of State Debt Collection Amendments, H. B. 216, 2368
Post Conviction Representation Amendments, S. B. 210, 2135
Protection of Animals Amendments, H. B. 175, 861
Protective Order and Stalking Injunction Expungement, S. B. 85, 1902
Protective Order Revisions, S. B. 217, 2140
Small Claims Amendments, H. B. 107, 1505
Statute of Limitations for Criminal Conduct Amendments, S. B. 246, 3896
Tax Administration Amendments, S. B. 90, 1918
Transfer of Domestic Violence Cases, H. B. 196, 2356
Uniform Partition of Heirs' Property Act, H. B. 120, 2288
Victim Address Confidentiality Program, H. B. 117, 1518

JUDICIAL OPERATIONS
Acupuncturist Liability Amendments, S. B. 23, 1683
Alimony Modifications, S. B. 74, 1883
Asset Forfeiture Amendments, S. B. 65, 1111
Attorney General Prosecution Review Amendments, H. B. 159, 1560
Child Support Amendments, S. B. 242, 3858
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Counseling State Compact, S. B. 237, 3826
Court Fee Waiver Amendments, S. B. 87, 1905
Court-appointed Therapists Amendments, H. B. 111, 1509
Crime Victim Reparations Amendments, H. B. 228, 885
Criminal Code Recodification, S. B. 123, 1125
Criminal Justice Data Management Task Force, S. B. 150, 3507
Criminal Stalking Exemption Amendments, S. B. 56, 3296
Custodial Interrogation Amendments, H. B. 171, 2330
District and Juvenile Court Judge Amendments, S. B. 86, 1904
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Domestic Violence Offender Treatment Board, H. B. 208, 877
Driving Offenses Amendments, H. B. 29, 729
Eviction Records Amendments, H. B. 359, 2857
Expungement Fee Amendments, H. B. 392, 2951
Expungement Modifications, S. B. 35, 1711
Extension of the Utah Council on Victims of Crime, H. B. 20, 296
False Emergency Reporting Amendments, H. B. 353, 970
Family Terminology Amendments, H. B. 122, 1532
Fine Amendments, S. B. 75, 625
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Forcible Entry Warrant Modifications, H. B. 124, 829
Forensic Biological Evidence Preservation, H. B. 65, 779
Guardianship and Conservatorship Amendments, S. B. 155, 3536
Guardianship Bill of Rights, H. B. 320, 2748
Indigent Defense Amendments, S. B. 108, 2022
Inheritance Disqualification Amendments, H. B. 314, 954
Insurance Amendments, H. B. 31, 1342
Intimate Image Distribution Amendments, H. B. 18, 711
Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process, H. J. R. 13, 3925
Joint Resolution Urging Congress to Propose the Keep Nine Amendment to the United States Constitution, S. J. R. 2, 3961
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Judiciary Amendments, S. B. 98, 1989
Justice Court Judge Elections Amendments, H. B. 45, 1449
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References, H. B. 249, 2592
Juvenile Competency Amendments, H. B. 277, 903
Juvenile Justice Changes, H. B. 299, 918
Juvenile Justice Modifications, H. B. 138, 845
Juvenile Justice Services Amendments, H. B. 55, 1451
Law Enforcement Recording Release Amendments, H. B. 260, 894
Limitations on Employer Liability, S. B. 95, 3366
Marriage Solemnization Amendments, S. B. 164, 3569
Modifications to Civil Commitment, H. B. 363, 2909
Offender Supervision Amendments, H. B. 28, 719
Office of State Debt Collection Amendments, H. B. 216, 2368
Parent-time Amendments, S. B. 243, 3872
Parental Representation Amendments, S. B. 181, 1274

Post Conviction Representation Amendments, S. B. 210, 2135
Power of Attorney Amendments, H. B. 149, 855
Protection of Animals Amendments, H. B. 175, 861
Protective Order and Stalking Injunction Expungement, S. B. 85, 1902
Protective Order Revisions, S. B. 217, 2140
Public Prosecutor Modifications, H. B. 257, 2669
Restitution Amendments, H. B. 321, 2753
Small Claims Amendments, H. B. 107, 1505
Statute of Limitations for Criminal Conduct Amendments, S. B. 246, 3896
Tax Administration Amendments, S. B. 90, 1918
Transfer of Domestic Violence Cases, H. B. 196, 2356
Uniform Partition of Heirs' Property Act, H. B. 120, 2288
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434
Victim Address Confidentiality Program, H. B. 117, 1518
Victims' Rights Revisions, H. B. 134, 834
Wrongful Death Action Amendments, S. B. 207, 1278

JUVENILE JUSTICE
Child Welfare Appeals Amendments, S. B. 161, 3542
Custodial Interrogation Amendments, H. B. 171, 2330
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Juvenile Amendments, H. B. 248, 2473
Juvenile Competency Amendments, H. B. 277, 903
Juvenile Justice Changes, H. B. 299, 918
Juvenile Justice Modifications, H. B. 138, 845
Juvenile Justice Services Amendments, H. B. 55, 1451

JUVENILE JUSTICE SERVICES
Child Welfare Appeals Amendments, S. B. 161, 3542
Congregate Care Program Amendments, S. B. 239, 3843
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Domestic Violence Offender Treatment Board, H. B. 208, 877
Juvenile Amendments, H. B. 248, 2473
Juvenile Amendments Cross References, H. B. 249, 2592

JUVENILES
Child Welfare Amendments, S. B. 132, 2050
Child Welfare Appeals Amendments, S. B. 161, 3542
Congregate Care Program Amendments, S. B. 239, 3843
Custodial Interrogation Amendments, H. B. 171, 2330
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Juvenile Amendments, H. B. 248, 2473
Juvenile Competency Amendments, H. B. 277, 903
Juvenile Justice Changes, H. B. 299, 918
Juvenile Justice Modifications, H. B. 138, 845
Juvenile Justice Services Amendments, H. B. 55, 1451

K-12 EDUCATION
Behavioral Health Curriculum Program, S. B. 171, 3570
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Charter School Admissions Amendments, H. B. 294, 2704
Civics Education Amendments, H. B. 273, 1595
Concurrent Resolution Acknowledging Completion of Board Governance Training, H. C. R. 8, 3915
Concurrent Resolution Honoring 125th Anniversary of the National Parent Teacher Association, S. C. R. 5, 3954
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Early Literacy Outcomes Improvement, S. B. 127, 2039
Education Innovation Program, H. B. 386, 1620
Education Reporting Amendments, H. B. 481, 3098
Education Research and Innovation Amendments, H. B. 437, 3012
Education Sunset Extensions, H. B. 42, 324
Educational Language Services Amendments, H. B. 302, 2711
Effective Teachers in High Poverty Schools Incentive Program Amendments, H. B. 315, 1605
Ethnic Studies Amendments, S. B. 244, 3884
Full–day Kindergarten, H. B. 193, 2349
Grow Your Own Teacher and School Counselor Pipeline Program, S. B. 251, 3898
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
In–person Learning Amendments, H. B. 183, 158
Military Servicemember Child Enrollment, S. B. 233, 3819
Missing Child Identification Program, S. B. 220, 3786
Parent Access to School Data Comparison, H. B. 270, 2681
Period Products in Schools, H. B. 162, 2324
Public Education Budget Amendments, S. B. 2, 3104
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Regulatory Sandbox in Education, S. B. 191, 2122
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
School Board Expansion Requirements, S. B. 78, 1892
School Dropout Prevention Amendments, H. B. 251, 2666
School Enrollment Amendments, H. B. 380, 2928
School Epilepsy Training Amendments, H. B. 241, 1580
School Information Management System Amendments, S. B. 79, 1895
School Nursing Services Amendments, H. B. 114, 1516
School Readiness Amendments, H. B. 290, 2694
School Safety Amendments, H. B. 428, 3003
School Standards Review Committee Sunset Extension, S. B. 21, 3172
School Turnaround Program Revisions, S. B. 245, 3888
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469

Special Education Licensing Amendments, S. B. 103, 2007
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
Student Eligibility in Interscholastic Activities, H. B. 11, 3901
Student Intervention Early Warning Program, H. B. 103, 1492
Student Tribal Regalia Use Amendments, H. B. 30, 1341
Students with Disabilities Funding Revisions, H. B. 113, 1514
Teacher Professional Development Amendments, H. B. 184, 252
Title IX Reporting, H. B. 420, 3002
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Use of Public Education Stabilization Account One-time Funding, H. B. 475, 3093

KIDNAPPING
Missing Child Identification Program, S. B. 220, 3786

LABOR AND EMPLOYMENT
Business and Labor Reporting Requirements, H. B. 44, 327
Covid-19 Vaccine Exemptions, H. B. 63, 776
Employee Verification Requirements, H. B. 252, 2668
Genetic Privacy Amendments, S. B. 144, 3495
Health Care Worker Protection Amendments, H. B. 32, 771
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Licensing Amendments, S. B. 16, 3166
Limitations on Employer Liability, S. B. 95, 3366
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Mobile Workforce Income Tax Amendments, S. B. 39, 1734
Occupational Safety and Health Amendments, H. B. 245, 2471
Probation and Parole Employment Incentive Program, H. B. 412, 2990
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900
Volunteer Government Workers Amendments, H. B. 287, 2686

LABOR COMMISSION
Business and Labor Reporting Requirements, H. B. 44, 327

LAND USE
Eminent Domain Appraisal Amendments, H. B. 357, 2854
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Local Land Use Amendments, H. B. 303, 2717
Utah Housing Affordability Amendments, H. B. 462, 3038
Utah Lake Authority, H. B. 232, 418
Water as Part of General Plan, S. B. 110, 2026
Wetland Amendments, H. B. 118, 1530

LANDLORD -- TENANT
Eviction Records Amendments, H. B. 359, 2857

LAW ENFORCEMENT AND CRIMINAL JUSTICE
Asset Forfeiture Amendments, S. B. 65, 1111
Attorney General Prosecution Review Amendments, H. B. 159, 1560
BCI Background Check Amendments, S. B. 248, 1282
Commercial Driver License Amendments, H. B. 68, 380
Community Correctional Center Revisions, H. B. 152, 856
Correctional Officer Eligibility Amendments, S. B. 96, 212
Crime Victim Reparations Amendments, H. B. 228, 885
Criminal Code Evaluation Task Force Sunset Extension, S. B. 50, 1097
Criminal Code Recodification, S. B. 123, 1125
Criminal Code Recodification Cross References, S. B. 124, 3391
Criminal Justice Amendments, S. B. 179, 1255
Criminal Justice Data Management Task Force, S. B. 150, 3507
Criminal Stalking Exemption Amendments, S. B. 56, 3296
Custodial Interrogation Amendments, H. B. 171, 2330
Department of Corrections Education Services, H. B. 194, 875
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
DNA Specimen Analysis Amendments, H. B. 19, 713
Domestic Violence Offender Treatment Board, H. B. 208, 877
Driving Offenses Amendments, H. B. 29, 729
DUI Amendments, H. B. 137, 836
DUI Penalty Amendments, H. B. 143, 851
Education Reporting Amendments, H. B. 481, 3098
Emergency Management Administration Council Sunset Extension, S. B. 36, 1090
Emergency Response Amendments, H. B. 16, 708
Expungement Fee Amendments, H. B. 392, 2951
Expungement Modifications, S. B. 35, 1711
False Emergency Reporting Amendments, H. B. 353, 970
Fine Amendments, S. B. 75, 625
Firearm Preemption Amendments, S. B. 115, 3382
First Responder Mental Health Services Amendments, H. B. 23, 716
Forcible Entry Warrant Modifications, H. B. 124, 829
Forensic Biological Evidence Preservation, H. B. 65, 779
Health Care Worker Protection Amendments, H. B. 32, 771
Higher Education and Corrections Council, H. B. 226, 881
Identity Theft Reporting System Amendments, H. B. 97, 2281
Inheritance Disqualification Amendments, H. B. 314, 954
Intimate Image Distribution Amendments, H. B. 18, 711
Jail Photo Distribution Prohibition, H. B. 406, 2981
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Juvenile Justice Changes, H. B. 299, 918
Juvenile Justice Modifications, H. B. 138, 845
Lane Filtering Amendments, H. B. 10, 707
Law Enforcement Recording Release Amendments, H. B. 260, 894

Law Enforcement Use of Unmanned Aircraft, H. B. 259, 457
Marijuana Definitions Amendments, H. B. 442, 990
Medication for Inmates, H. B. 77, 796
Missing Child Identification Program, S. B. 220, 3786
Occupational Safety and Health Amendments, H. B. 245, 2471
Offender Supervision Amendments, H. B. 28, 719
Officer Intervention and Reporting Amendments, S. B. 126, 1211
Physician Workforce Amendments, H. B. 295, 913
Post Council Membership Amendments, H. B. 94, 822
Post Disaster Recovery and Mitigation Restricted Account Amendments, S. B. 229, 1279
Probation and Parole Employment Incentive Program, H. B. 412, 2990
Property and Financial Offense Amendments, H. B. 229, 2448
Property Theft Amendments, H. B. 38, 1426
Protection Against Extortion Amendments, S. B. 156, 1214
Protection of Animals Amendments, H. B. 175, 861
Protective Order Revisions, S. B. 217, 2140
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Restitution Amendments, H. B. 321, 2753
Search and Rescue Advisory Board Sunset Extension, S. B. 37, 1091
Sexual Exploitation Amendments, S. B. 167, 1217
Sexual Solicitation Amendments, H. B. 81, 798
Theft by Extortion Amendments, H. B. 434, 989
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Transfer of Domestic Violence Cases, H. B. 196, 2356
Trespass Penalty Amendments, S. B. 68, 620
Use of Force Revisions, H. B. 123, 827
Victim Address Confidentiality Program, H. B. 117, 1518
Victims' Rights Revisions, H. B. 134, 834
Weapon Possession Penalty Amendments, H. B. 329, 965

LEGISLATIVE COMMITTEES AND TASK FORCES
Administrative Rules Amendments, S. B. 163, 3544
Criminal Code Evaluation Task Force Sunset Extension, S. B. 50, 1097
Federalism Commission Amendments, H. B. 209, 2360
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Legislative Process Committee Sunset Extension, S. B. 30, 1707
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Water Conservation Modifications, H. B. 121, 398

LEGISLATIVE EMPLOYEES AND COMPENSATION
Joint Resolution Authorizing Pay of In-session Employees, S. J. R. 1, 3959

LEGISLATIVE OPERATIONS
Administrative Rules Amendments, S. B. 163, 3544
Agreements to Provide State Services Sunset Extension, S. B. 60, 3301
Appropriations Procedures Joint Resolution, H. J. R. 19, 3940
Behavioral Health Services Amendments, S. B. 41, 1740
Business and Labor Reporting Requirements, H. B. 44, 327
Child Care Amendments, H. B. 15, 286
Commission on Housing Affordability Amendments, H. B. 36, 773
Concurrent Resolution Acknowledging Completion of Board Governance Training, H. C. R. 8, 3915
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911
Concurrent Resolution Concerning the Conflict in Ukraine, H. C. R. 21, 3922
Concurrent Resolution Condemning Antisemitism, H. C. R. 15, 3919
Concurrent Resolution Condemning the Undemocratic Government of Venezuela, H. C. R. 5, 3912
Concurrent Resolution Creating the Bridal Veil Falls State Monument, H. C. R. 13, 3918
Concurrent Resolution Encouraging Support for Internationally Adopted Individuals, S. C. R. 6, 3955
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution Honoring 125th Anniversary of the National Parent Teacher Association, S. C. R. 5, 3954
Concurrent Resolution Honoring the Life and Achievements of Helen Foster Snow, S. C. R. 9, 3958
Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah, H. C. R. 11, 3917
Concurrent Resolution Recognizing the Importance of the Agriculture Industry, S. C. R. 8, 3956
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Concurrent Resolution Supporting Utah's Economic and Cultural Relationship with Taiwan, H. C. R. 17, 3921
Concurrent Resolution to Work Together to Address the Climate, Public Lands, and Carbon Sequestration, H. C. R. 1, 3909
Coordinating Council for Persons with Disabilities Sunset Extension, S. B. 47, 1840
Criminal Code Evaluation Task Force Sunset Extension, S. B. 50, 1097
Criminal Code Recodification, S. B. 123, 1125
Criminal Code Recodification Cross References, S. B. 124, 3391
Department of Agriculture and Food Amendments, H. B. 423, 570
Department of Health and Human Services Amendments, S. B. 45, 1746
Education Sunset Extensions, H. B. 42, 324
Employment Advisory Council Amendments, H. B. 24, 300
Executive Residence Commission Sunset Extension, S. B. 29, 1706

Extension for Controlled Substance Prescription Requirements, H. B. 47, 333
Extension of the Utah Council on Victims of Crime, H. B. 20, 296
Federalism Commission Amendments, H. B. 209, 2360
Fund of Funds Modifications, S. B. 218, 2143
Grazing Advisory Board Amendments, S. B. 17, 609
Health Care Worker Protection Amendments, H. B. 32, 771
Higher Education Financial Aid Amendments, H. B. 355, 2840
Higher Education Performance Funding Goals, S. B. 42, 1744
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
House Rules Resolution – Amendments to House Rules, H. R. 2, 3943
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Income Tax Fund Amendments, S. B. 211, 3748
Insurance Amendments, H. B. 31, 1342
Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process, H. J. R. 13, 3925
Joint Resolution Authorizing Pay of In–session Employees, S. J. R. 1, 3959
Joint Resolution Emphasizing a Desire and Readiness to Host a Future Olympic and Paralympic Winter Games, S. J. R. 10, 3965
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Joint Resolution Recognizing the Utah Olympic Legacy, H. J. R. 12, 3924
Joint Resolution Supporting Services for Veterans, H. J. R. 11, 3923
Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings, S. J. R. 3, 3961
Joint Rules Resolution – Electronic Meetings Modifications, S. J. R. 5, 3962
Joint Rules Resolution – Legislative Procedure Revisions, H. J. R. 14, 3931
Jordan River Recreation Area Amendments, H. B. 173, 1565
Lane Filtering Amendments, H. B. 10, 707
Legislative Process Committee Sunset Extension, S. B. 30, 1707
Licensing Amendments, S. B. 16, 3166
Local Food Advisory Council Amendments, H. B. 297, 463
Medical Cannabis Governance Study, S. B. 153, 657
Property Tax Deferral Amendments, S. B. 25, 1687
Recreation Infrastructure Amendments, H. B. 409, 556
Revisor's Technical Corrections to Utah Code, S. B. 91, 1926
School Board Expansion Requirements, S. B. 78, 1892
School Standards Review Committee Sunset Extension, S. B. 21, 3172
Senate Rules Resolution – Senate Access Procedures, S. R. 1, 3966
State Film Production Incentives Amendments, S. B. 49, 3292
State Innovation Amendments, H. B. 326, 2763
Student Intervention Early Warning Program, H. B. 103, 1492
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Utah Energy Infrastructure Amendments, H. B. 46, 368
Utah Lake Amendments, H. B. 240, 436
Utah Powersport Vehicle Franchise Advisory Board Amendments, S. B. 27, 1700
Utah State Railroad Museum Authority Amendments, H. B. 254, 455
Utah Statewide Radio System Restricted Account Sunset Amendments, S. B. 34, 1709
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334
Water Conservation Modifications, H. B. 121, 398

LEGISLATIVE ORGANIZATION
Administrative Rules Amendments, S. B. 163, 3544
Criminal Code Evaluation Task Force Sunset Extension, S. B. 50, 1097
Federalism Commission Amendments, H. B. 209, 2360
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Legislative Process Committee Sunset Extension, S. B. 30, 1707
Water Conservation Modifications, H. B. 121, 398

LEGISLATIVE OVERSIGHT OF ADMINISTRATIVE RULES
Administrative Rules Amendments, S. B. 163, 3544
Reauthorization of Administrative Rules, S. B. 128, 2049

LEGISLATIVE STAFF OFFICES
Federalism Commission Amendments, H. B. 209, 2360
State Finance Review Commission, H. B. 82, 1478

LEGISLATIVE WATER DEVELOPMENT COMMISSION
State Water Policy Amendments, H. B. 37, 303
Water Conservation Modifications, H. B. 121, 398

LIABILITY
Acupuncturist Liability Amendments, S. B. 23, 1683
Court–appointed Therapists Amendments, H. B. 111, 1509
Limitations on Employer Liability, S. B. 95, 3366
Utah Medical Candor Act, H. B. 344, 2827
Wrongful Death Action Amendments, S. B. 207, 1278

LICENSE PLATES
Driver License and License Plate Amendments, H. B. 328, 957
License Plate Revisions, H. B. 88, 390
Military Vehicle License Plate Amendments, S. B. 77, 1120
Off–road Vehicle Safety Education, H. B. 180, 869
Special License Plate Designation, H. B. 13, 280

LIENS
Preconstruction and Construction Liens Amendments, S. B. 119, 3387

LIEUTENANT GOVERNOR
Ballot Amendments, S. B. 38, 1729
Election Security Amendments, H. B. 313, 946
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

LIFE INSURANCE AND ANNUITIES
Insurance Amendments, H. B. 31, 1342

LIMITED PURPOSE LOCAL GOVERNMENT ENTITIES
Child Care Amendments, H. B. 15, 286
Economic Development Modifications, H. B. 35, 1413
Local District Modifications, H. B. 237, 2459
Local Districts Amendments, H. B. 388, 2937
Local Election Amendments, S. B. 11, 1012
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Utah Housing Affordability Amendments, H. B. 462, 3038

LIVESTOCK
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Grazing Advisory Board Amendments, S. B. 17, 609

LOBBYING
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

LOCAL DISTRICTS
Local District Modifications, H. B. 237, 2459
Local Districts Amendments, H. B. 388, 2937
Local Election Amendments, S. B. 11, 1012
Utah Housing Affordability Amendments, H. B. 462, 3038

LOCAL GOVERNMENT EMPLOYEES
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092
Wildfire Amendments, H. B. 145, 1543

LOCAL GOVERNMENT INFRASTRUCTURE AND UTILITIES
Water as Part of General Plan, S. B. 110, 2026

LOCAL GOVERNMENT ORDINANCES
Property Decontamination Amendments, S. B. 137, 3473
Water Wise Landscaping Amendments, H. B. 282, 1601

LOCAL HEALTH DEPARTMENTS
Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings, S. J. R. 3, 3961
Local Health Department Order Amendments, H. B. 182, 349
Pharmacy Practice Amendments, S. B. 236, 3822

LOCAL MENTAL HEALTH AUTHORITIES
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Criminal Justice Amendments, S. B. 179, 1255
Medicaid Amendments, H. B. 413, 2993
Modifications to Civil Commitment, H. B. 363, 2909

LOCAL OPTION SALES TAXES
Transportation Amendments, S. B. 51, 1844

LOCAL SUBSTANCE ABUSE AUTHORITIES
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Services Amendments, S. B. 41, 1740
Medicaid Amendments, H. B. 413, 2993

LOCAL TAXATION AND FEES
Convention and Tourism Business Assessment Area Act, H. B. 373, 2918
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Transient Room Tax Amendments, H. B. 323, 2759

LONG-TERM CARE OMBUDSMAN
Disability Ombudsman Program, H. B. 150, 1545

MANUFACTURING
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899

MARRIAGE/DIVORCE
Alimony Modifications, S. B. 74, 1883
Court-appointed Therapists Amendments, H. B. 111, 1509
Family Terminology Amendments, H. B. 122, 1532
Marriage Solemnization Amendments, S. B. 164, 3569
Parent-time Amendments, S. B. 243, 3872

MEDICAID
Behavioral Health Amendments, H. B. 236, 889
Budgetary Procedures Modifications, H. B. 190, 356
Diabetes Prevention Program, H. B. 80, 1476
Health Care Liability Insurance Amendments, S. B. 240, 3857
Medicaid Amendments, H. B. 413, 2993
Medicaid Waiver for Medically Complex Children Amendments, H. B. 200, 1579
Primary Care Spending Amendments, H. B. 210, 2364

MEDICAL CANNABIS
Hemp and Cbd Amendments, H. B. 385, 547
Medical Cannabis Access Amendments, S. B. 195, 3716
Medical Cannabis Act Amendments, S. B. 190, 2081
Medical Cannabis Governance Study, S. B. 153, 657
Medical Cannabis Patient Protection Amendments, S. B. 46, 1837
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092
Veterinarian Regulations Amendments, S. B. 209, 675

MEDICAL EXAMINER
Commercial Driver License Amendments, H. B. 68, 380

MEDICAL MALPRACTICE
Court-appointed Therapists Amendments, H. B. 111, 1509
Dental Provider Malpractice Amendments, H. B. 318, 2742

MEDICAL RECORDS
Access to Medical Records Amendments, H. B. 225, 2445
Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process, H. J. R. 13, 3925

Utah Medical Candor Act, H. B. 344, 2827

MENTAL HEALTH
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Civil Commitment Revisions, H. B. 261, 2673
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Criminal Justice Amendments, S. B. 179, 1255
Domestic Violence Offender Treatment Board, H. B. 208, 877
First Responder Mental Health Services Amendments, H. B. 23, 716
Medicaid Amendments, H. B. 413, 2993
Mental Health Professional Licensing Amendments, H. B. 283, 2683
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Mental Illness Psychotherapy Drug Task Force, H. B. 167, 859
Modifications to Civil Commitment, H. B. 363, 2909
Special License Plate Designation, H. B. 13, 280
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334

MENTAL HEALTH FACILITIES
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Criminal Justice Amendments, S. B. 179, 1255
Medicaid Amendments, H. B. 413, 2993
Modifications to Civil Commitment, H. B. 363, 2909
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337

MENTAL HEALTH PROFESSIONALS
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Civil Commitment Revisions, H. B. 261, 2673
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Court-appointed Therapists Amendments, H. B. 111, 1509
Criminal Justice Amendments, S. B. 179, 1255
Medicaid Amendments, H. B. 413, 2993
Mental Health Professional Licensing Amendments, H. B. 283, 2683
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Modifications to Civil Commitment, H. B. 363, 2909
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337

METRO TOWNSHIPS
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

MILITARY INSTALLATION DEVELOPMENT AUTHORITY
Military Installation Development Authority Revisions, S. B. 232, 3809
State Finance Review Commission, H. B. 82, 1478

MINING
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Mineral Exploration Tax Credit, S. B. 250, 697
Mining Operations Amendments, H. B. 378, 538
Sovereign Lands Revenue Amendments, H. B. 157, 406
State Resource Management Plan Amendments, H. B. 160, 408

MORTGAGE/DEED OF TRUST
Division of Real Estate Amendments, H. B. 69, 1454

MOTION PICTURES
State Film Production Incentives Amendments, S. B. 49, 3292

MOTOR VEHICLE EQUIPMENT
Tinted Vehicle Windows Amendments, S. B. 149, 1213

MOTOR VEHICLE INSURANCE
Insurance Amendments, H. B. 31, 1342
Uninsured Motorist Amendments, H. B. 402, 976

MOTOR VEHICLE SIZE LIMITS
ATV Weight Limit Amendments, S. B. 72, 623

MOTOR VEHICLES
ATV Weight Limit Amendments, S. B. 72, 623
Automobile Amendments, S. B. 204, 3742
Commercial Driver License Amendments, H. B. 68, 380
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Driver License Testing Modifications, H. B. 163, 251
Driver Speeding Amendments, S. B. 53, 1099
Driving Privilege Card Amendments, H. B. 222, 879
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Identification for Vehicle Registration Amendments, S. B. 64, 1110
Lane Filtering Amendments, H. B. 10, 707
License Plate Revisions, H. B. 88, 390
Military Vehicle License Plate Amendments, S. B. 77, 1120
Natural Resources Revisions, H. B. 305, 464
Off-road Vehicle Safety Education, H. B. 180, 869
Outdoor Recreation Related Education, H. B. 206, 414
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
Special License Plate Designation, H. B. 13, 280
Tinted Vehicle Windows Amendments, S. B. 149, 1213
Towing Amendments, S. B. 109, 631
Transportation Amendments, S. B. 51, 1844
Uninsured Motorist Amendments, H. B. 402, 976

Vehicle Inspection Amendments, H. B. 108, 397
Vehicle Merger Amendments, H. B. 76, 389
Vehicle Registration Amendments, H. B. 186, 409
Vehicle Registration Modifications, H. B. 336, 966
Wireless Communication Device Use in a Motor Vehicle, S. B. 102, 3373

MOTORCYCLES
Autocycle Amendments, H. B. 391, 972
Lane Filtering Amendments, H. B. 10, 707
Transportation Amendments, S. B. 51, 1844

MULTICULTURAL AFFAIRS
Educational Language Services Amendments, H. B. 302, 2711

MUNICIPAL OFFICERS
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

MUNICIPALITIES
Ballot Measure Amendments, H. B. 218, 2382
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Campaign Finance Amendments, H. B. 267, 896
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Department of Government Operations, S. B. 15, 1018
Election Revisions, S. B. 19, 1055
Firearm Preemption Amendments, S. B. 115, 3382
Homeless Services Amendments, H. B. 440, 3020
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Local Election Amendments, S. B. 11, 1012
Local Land Use Amendments, H. B. 303, 2717
Local Licensing Amendments, H. B. 146, 2299
Municipal Alternate Voting Methods Amendments, H. B. 264, 2675
Property Decontamination Amendments, S. B. 137, 3473
Speed Limit Designation Amendments, H. B. 235, 361
State Monuments Act Amendments, H. B. 27, 301
Tire Recycling Fund Amendments, S. B. 203, 3740
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Utah Housing Affordability Amendments, H. B. 462, 3038
Utah Inland Port Authority Amendments, H. B. 443, 584
Water as Part of General Plan, S. B. 110, 2026
Water Wise Landscaping Amendments, H. B. 282, 1601
Wetland Amendments, H. B. 118, 1530

NATURAL GAS
Renter's Credit Amendments, H. B. 26, 1340

NATURAL RESOURCES
Air Rifle Hunting Amendments, S. B. 205, 674
ATV Weight Limit Amendments, S. B. 72, 623
Big Game Amendments, H. B. 62, 375
Capital Assets Related to Water, H. B. 269, 460
Colorado River Authority of Utah Amendments, S. B. 160, 659
Concurrent Resolution Creating the Bridal Veil Falls State Monument, H. C. R. 13, 3918
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Department of Agriculture and Food Amendments, H. B. 423, 570
Division of Oil, Gas, and Mining Amendments, S. B. 146, 654
Donation of Food, H. B. 142, 404
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Environmental Quality Revenue Amendments, H. B. 250, 2662
Federal Land Disposal Law Amendments, H. B. 172, 2332
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Government Records Access Revisions, S. B. 254, 700
Great Salt Lake Amendments, H. B. 429, 581
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Jordan River Improvement Amendments, H. B. 319, 2746
Limits Related to Big Game, S. B. 206, 2134
Mineral Exploration Tax Credit, S. B. 250, 697
Mining Operations Amendments, H. B. 378, 538
Natural Resources Revisions, H. B. 305, 464
Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 102
Outdoor Recreation Related Education, H. B. 206, 414
Preferences of Water Rights Amendments, H. B. 168, 2327
Recreation Infrastructure Amendments, H. B. 409, 556
Secondary Water Metering Amendments, H. B. 242, 438
Solid and Hazardous Waste Amendments, S. B. 97, 3367
Sovereign Lands Revenue Amendments, H. B. 157, 406
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
State Engineer Modifications, H. B. 334, 535
State Monuments Act Amendments, H. B. 27, 301
State Resource Management Plan Amendments, H. B. 160, 408
State Transient Room Tax Modifications, H. B. 125, 1539
State Water Policy Amendments, H. B. 37, 303
Target Shooting Regulations, H. B. 141, 403
Trespass Penalty Amendments, S. B. 68, 620
Utah Energy Infrastructure Amendments, H. B. 46, 368
Utah Lake Amendments, H. B. 240, 436
Utah Watersheds Council Amendments, H. B. 263, 458
Veteran Access to State Parks, H. B. 155, 858
Water Amendments, S. B. 89, 627
Water as Part of General Plan, S. B. 110, 2026

Water Conservation Modifications, H. B. 121, 398
Water Facility Amendments, H. B. 166, 2326
Water Related Sales and Use Tax Amendments, S. B. 221, 686
Water Reporting Amendments, H. B. 393, 552
Water Rights Adjudication Amendments, H. B. 377, 536
Water Rights Proofs on Small Amounts of Water, S. B. 31, 612
Water Well Amendments, H. B. 177, 1577
Water Wise Landscaping Amendments, H. B. 282, 1601
Watershed Restoration Initiative, H. B. 131, 401
Wetland Amendments, H. B. 118, 1530
Wildfire Amendments, H. B. 145, 1543
Wildlife Accident Protections, H. B. 427, 580
Wildlife Conservation Fund, H. B. 78, 345

NATUROPATHIC PHYSICIANS
Naturopathic Physician Amendments, S. B. 154, 3532

NEW RULEMAKING AUTHORITY
Alarm System Amendments, S. B. 173, 3571
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Child Care Amendments, H. B. 15, 286
Civics Education Amendments, H. B. 273, 1595
Consumer Alcoholic Beverage Purchasing, S. B. 14, 3164
Cosmetic Manufacturing Certificate Program, S. B. 83, 1899
Department of Government Operations, S. B. 15, 1018
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Economic and Workforce Development Amendments, H. B. 333, 2766
Economic Development Modifications, H. B. 35, 1413
Effective Teachers in High Poverty Schools Incentive Program Amendments, H. B. 315, 1605
Ethnic Studies Amendments, S. B. 244, 3884
Financial Institutions Modifications, S. B. 183, 3678
Full-day Kindergarten, H. B. 193, 2349
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Grow Your Own Teacher and School Counselor Pipeline Program, S. B. 251, 3898
Higher Education Financial Aid Amendments, H. B. 355, 2840
Homeless Services Amendments, H. B. 440, 3020
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Licensing Amendments, S. B. 16, 3166
Medicaid Waiver for Medically Complex Children Amendments, H. B. 200, 1579
Medical Cannabis Access Amendments, S. B. 195, 3716
Mineral Exploration Tax Credit, S. B. 250, 697
Natural Resources Revisions, H. B. 305, 464
Occupational Therapy Licensure Compact, H. B. 154, 1547
Preferences of Water Rights Amendments, H. B. 168, 2327
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Regulatory Sandbox in Education, S. B. 191, 2122
Retail Facility Incentive Payments Amendments, H. B. 151, 2305
Secondary Water Metering Amendments, H. B. 242, 438
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469
State Employment Amendments, H. B. 104, 1495
State Innovation Amendments, H. B. 326, 2763
Utah Housing Affordability Amendments, H. B. 462, 3038
Water Conservation Modifications, H. B. 121, 398
Wildfire Amendments, H. B. 145, 1543

NURSES
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Medication Dispenser Amendments, H. B. 301, 2707
Nurse Apprentice Licensing Act, S. B. 101, 1997
Nursing Education Program Amendments, H. B. 389, 2946
Pharmacy Practice Amendments, S. B. 236, 3822
School Nursing Services Amendments, H. B. 114, 1516

OCCUPATIONAL AND PROFESSIONAL LICENSING
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Alarm System Amendments, S. B. 173, 3571
Anesthesia and Sedation Amendments, H. B. 384, 2930
Anesthesiologist Assistant Licensing Act, S. B. 121, 2037
Business and Labor Reporting Requirements, H. B. 44, 327
Chiropractic Practice Amendments, S. B. 84, 1900
Community Health Worker Certification Process, S. B. 104, 2009
Community Paramedicine Amendments, H. B. 441, 3033
Construction Registry Amendments, S. B. 148, 3505
Counseling State Compact, S. B. 237, 3826
Court-appointed Therapists Amendments, H. B. 111, 1509
Emergency Medical Service Personnel Amendments, S. B. 222, 3787
Extension for Controlled Substance Prescription Requirements, H. B. 47, 333
Licensing Amendments, S. B. 16, 3166
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Naturopathic Physician Amendments, S. B. 154, 3532
Nurse Apprentice Licensing Act, S. B. 101, 1997
Nursing Education Program Amendments, H. B. 389, 2946
Occupational and Professional Licensing Modifications, S. B. 43, 3173
Occupational Therapy Licensure Compact, H. B. 154, 1547
Physician Workforce Amendments, H. B. 295, 913
State Construction Code Amendments, H. B. 39, 305
Utah Health Workforce Act, H. B. 176, 1567

OCCUPATIONAL THERAPISTS
Occupational Therapy Licensure Compact, H. B. 154, 1547

OFF-HIGHWAY VEHICLES
ATV Weight Limit Amendments, S. B. 72, 623

Electric Assisted Bicycle Use Amendments,
S. B. 66, 614
Natural Resources Revisions, H. B. 305, 464
Off-road Vehicle Safety Education, H. B. 180, 869
Outdoor Recreation Related Education,
H. B. 206, 414
Sovereign Lands Trespassing Amendments,
H. B. 317, 1613

OFFICE OF ADMINISTRATIVE RULES
Department of Government Operations,
S. B. 15, 1018
Reauthorization of Administrative Rules,
S. B. 128, 2049

OFFICE OF RECOVERY SERVICES
Child Support Amendments, S. B. 242, 3858
Fishing and Hunting Restrictions for
Nonpayment of Child Support,
H. B. 231, 416

OIL AND GAS
Division of Oil, Gas, and Mining Amendments,
S. B. 146, 654
Solid and Hazardous Waste Amendments,
S. B. 97, 3367

ONLINE LEARNING AND/OR TECHNOLOGY
In-person Learning Amendments, H. B. 183, 158

OPEN AND PUBLIC MEETINGS
Department of Government Operations,
S. B. 15, 1018
Elected Public Body Transparency Amendments,
H. B. 439, 3017
Government Records Fee Amendments,
H. B. 96, 824
Open and Public Meetings Act Modifications,
H. B. 22, 298

OPIOIDS
Extension for Controlled Substance Prescription
Requirements, H. B. 47, 333

OPTOMETRISTS
Medication Dispenser Amendments,
H. B. 301, 2707

OSTEOPATHIC PHYSICIANS AND SURGEONS
Anesthesia and Sedation Amendments,
H. B. 384, 2930
Associate Physician License Amendments,
H. B. 400, 2974
Medication Dispenser Amendments,
H. B. 301, 2707
Pharmacy Practice Amendments, S. B. 236, 3822
Physician Workforce Amendments, H. B. 295, 913

OUTDOOR RECREATION
State Transient Room Tax Modifications,
H. B. 125, 1539

PARENTAGE
Uniform Unregulated Child Custody Transfer
Act, H. B. 219, 2434

PARENTAL DEFENSE
Parental Representation Amendments,
S. B. 181, 1274

PARKS AND RECREATION
State Transient Room Tax Modifications,
H. B. 125, 1539
Veteran Access to State Parks, H. B. 155, 858

PAROLE
Offender Supervision Amendments, H. B. 28, 719
Probation and Parole Employment Incentive
Program, H. B. 412, 2990

PARTNERSHIPS
Public-private Partnership Amendments,
S. B. 22, 1680

PAWNSHOPS AND SECONDHAND MERCHANDISE
Property Theft Amendments, H. B. 38, 1426

PEACE OFFICERS
Criminal Stalking Exemption Amendments,
S. B. 56, 3296
False Emergency Reporting Amendments,
H. B. 353, 970
Law Enforcement Recording Release
Amendments, H. B. 260, 894
Officer Intervention and Reporting Amendments,
S. B. 126, 1211
Post Council Membership Amendments,
H. B. 94, 822
Public Safety Employee Personal Data
Amendments, H. B. 345, 2831
Use of Force Revisions, H. B. 123, 827

PERMANENT COMMUNITY IMPACT FUND
Permanent Community Impact Fund Board
Amendments, S. B. 111, 3380
State Finance Review Commission, H. B. 82, 1478

PERSONAL SERVICES, CONSTRUCTION REGISTRY AMENDMENTS, S. B. 148, 3505

PHARMACEUTICALS
Medication Dispenser Amendments,
H. B. 301, 2707
Pharmacy Practice Amendments, S. B. 236, 3822

PHARMACIES
Medication Dispenser Amendments,
H. B. 301, 2707
Pharmacy Practice Amendments, S. B. 236, 3822

PHARMACISTS
Pharmacy Practice Amendments, S. B. 236, 3822

PHARMACY BENEFIT MANAGERS
Pharmacy Practice Amendments, S. B. 236, 3822

PHYSICIAN ASSISTANTS
Medication Dispenser Amendments,
H. B. 301, 2707
Pharmacy Practice Amendments, S. B. 236, 3822

PHYSICIANS AND SURGEONS
Anesthesia and Sedation Amendments,
H. B. 384, 2930
Associate Physician License Amendments,
H. B. 400, 2974
Behavioral Health Services Amendments,
S. B. 41, 1740
Medication Dispenser Amendments,
H. B. 301, 2707
Pharmacy Practice Amendments, S. B. 236, 3822
Physician Workforce Amendments, H. B. 295, 913

PLANNING AND ZONING
Housing and Transit Reinvestment Zone
Amendments, S. B. 140, 3477

Water as Part of General Plan, S. B. 110, 2026

PODIATRIC PHYSICIANS
Anesthesia and Sedation Amendments, H. B. 384, 2930

POLITICAL PARTIES
Ballot Measure Amendments, H. B. 218, 2382
Election Revisions, S. B. 19, 1055
Voting Administration Amendments, H. B. 411, 2988

POLITICAL SUBDIVISIONS (LOCAL ISSUES)
Alarm System Amendments, S. B. 173, 3571
Ballot Measure Amendments, H. B. 218, 2382
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Campaign Finance Amendments, H. B. 267, 896
Child Care Amendments, H. B. 15, 286
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Convention and Tourism Business Assessment Area Act, H. B. 373, 2918
County Amendments, S. B. 57, 1871
County Governance Amendments, S. B. 162, 2070
County Officer Fees Amendments, H. B. 205, 2359
Criminal Justice Data Management Task Force, S. B. 150, 3507
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Department of Government Operations, S. B. 15, 1018
Economic Development Modifications, H. B. 35, 1413
Election Revisions, S. B. 19, 1055
Eminent Domain Appraisal Amendments, H. B. 357, 2854
Firearm Preemption Amendments, S. B. 115, 3382
First Responder Mental Health Services Amendments, H. B. 23, 716
Homeless Services Amendments, H. B. 440, 3020
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings, S. J. R. 3, 3961
Jordan River Improvement Amendments, H. B. 319, 2746
Jordan River Recreation Area Amendments, H. B. 173, 1565
Local District Modifications, H. B. 237, 2459
Local Districts Amendments, H. B. 388, 2937
Local Election Amendments, S. B. 11, 1012
Local Land Use Amendments, H. B. 303, 2717
Local Licensing Amendments, H. B. 146, 2299
Medicaid Amendments, H. B. 413, 2993
Medication for Inmates, H. B. 77, 796
Microenterprise Home Kitchen Amendments, H. B. 292, 2698
Municipal Alternate Voting Methods Amendments, H. B. 264, 2675
Point of the Mountain State Land Authority Amendments, H. B. 438, 1629
Property Decontamination Amendments, S. B. 137, 3473
Property Tax Amendments, S. B. 20, 1661
Public Prosecutor Modifications, H. B. 257, 2669
Real Property Recording Amendments, S. B. 80, 3303
Recording Amendments, S. B. 184, 3685
Recycling Transparency Amendments, H. B. 394, 2959
Retail Facility Incentive Payments Amendments, H. B. 151, 2305
Speed Limit Designation Amendments, H. B. 235, 361
State and Local Employee Disaster Services, H. B. 169, 346
State Finance Review Commission, H. B. 82, 1478
State Monuments Act Amendments, H. B. 27, 301
Tire Recycling Fund Amendments, S. B. 203, 3740
Transient Room Tax Amendments, H. B. 323, 2759
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Utah Housing Affordability Amendments, H. B. 462, 3038
Utah Inland Port Authority Amendments, H. B. 443, 584
Utah Lake Authority, H. B. 232, 418
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092
Water as Part of General Plan, S. B. 110, 2026
Water Facility Amendments, H. B. 166, 2326
Water Wise Landscaping Amendments, H. B. 282, 1601
Wetland Amendments, H. B. 118, 1530
Wildfire Amendments, H. B. 145, 1543

PORNOGRAPHY
Intimate Image Distribution Amendments, H. B. 18, 711
Sexual Exploitation Amendments, S. B. 167, 1217

PORTS OF ENTRY
Utah Inland Port Authority Amendments, H. B. 443, 584

POWER OF ATTORNEY
Power of Attorney Amendments, H. B. 149, 855

PREKINDERGARTEN
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
School Readiness Amendments, H. B. 290, 2694

PROBATE
Inheritance Disqualification Amendments, H. B. 314, 954
Power of Attorney Amendments, H. B. 149, 855
Uniform Partition of Heirs' Property Act, H. B. 120, 2288

PROBATION
Juvenile Justice Changes, H. B. 299, 918
Offender Supervision Amendments, H. B. 28, 719
Probation and Parole Employment Incentive Program, H. B. 412, 2990

PROPERTY AND CASUALTY INSURANCE
Insurance Amendments, H. B. 31, 1342

PROPERTY TAX
Affordable Housing Tax Amendments, S. B. 81, 1897
Business Tax Amendments, S. B. 93, 1977
County Property Tax Statement Amendments, H. B. 41, 323

Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Point of the Mountain State Land Authority Amendments, H. B. 438, 1629
Pollution Control Equipment Tax Amendments, S. B. 174, 2080
Property Tax Amendments, S. B. 20, 1661
Property Tax Appeals Process Amendments, S. B. 12, 1015
Property Tax Deferral Amendments, S. B. 25, 1687
Property Tax Exemption Amendments, H. B. 347, 1615
Renter's Credit Amendments, H. B. 26, 1340
Revisions to Property Tax, S. B. 200, 2130
Tangible Personal Property Tax Amendments, H. B. 199, 359
Tax Sale Notice Amendments, H. B. 106, 249
Utah Inland Port Authority Amendments, H. B. 443, 584

PROPERTY TAX COLLECTION
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Military Installation Development Authority Revisions, S. B. 232, 3809
Property Tax Amendments, S. B. 20, 1661
Renter's Credit Amendments, H. B. 26, 1340
Tax Sale Notice Amendments, H. B. 106, 249

PROPERTY TAX RELIEF
Property Tax Deferral Amendments, S. B. 25, 1687
Property Tax Exemption Amendments, H. B. 347, 1615
Tangible Personal Property Tax Amendments, H. B. 199, 359

PROTECTIVE ORDERS
Criminal Stalking Exemption Amendments, S. B. 56, 3296
Offender Supervision Amendments, H. B. 28, 719
Protection of Animals Amendments, H. B. 175, 861
Protective Order and Stalking Injunction Expungement, S. B. 85, 1902
Protective Order Revisions, S. B. 217, 2140

PUBLIC BONDS
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342
State Finance Review Commission, H. B. 82, 1478

PUBLIC BUDGETING
Appropriations Adjustments, H. B. 3, 2151
Budgetary Procedures Modifications, H. B. 190, 356
Business, Economic Development, and Labor Base Budget, S. B. 4, 171
Concurrent Resolution on Fiscal Sustainability, S. C. R. 4, 3953
Current Fiscal Year Supplemental Appropriations, S. B. 3, 3116
Executive Offices and Criminal Justice Base Budget, H. B. 6, 117
Federalism Commission Amendments, H. B. 209, 2360
Higher Education Base Budget, S. B. 1, 161
Infrastructure and General Government Base Budget, S. B. 6, 192
National Guard, Veterans Affairs, and Legislature Base Budget, S. B. 7, 206
Natural Resources, Agriculture, and Environmental Quality Base Budget, H. B. 5, 102
New Fiscal Year Supplemental Appropriations Act, H. B. 2, 1287
Public Education Base Budget Amendments, H. B. 1, 87
Public Education Budget Amendments, S. B. 2, 3104
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342
Social Services Base Budget, H. B. 7, 135
State Agency and Higher Education Compensation Appropriations, S. B. 8, 3137
State Agency Fees and Internal Service Fund Rate Authorization and Appropriations, H. B. 8, 2190

PUBLIC EDUCATION DATA AND REPORTING
Education Reporting Amendments, H. B. 481, 3098
School Information Management System Amendments, S. B. 79, 1895
Title IX Reporting, H. B. 420, 3002

PUBLIC EMPLOYEES INSURANCE AND BENEFITS
Public Employees' Insurance Plan Amendments, H. B. 66, 2279

PUBLIC EMPLOYEES LONG-TERM DISABILITIES BENEFITS
Public Safety Disability Benefits Amendments, H. B. 70, 793

PUBLIC EMPLOYEES RETIREMENT
Utah Retirement Systems Revisions, S. B. 24, 1067

PUBLIC EMPLOYEES' HEALTH PROGRAM
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Public Employees' Health Program Amendments, S. B. 249, 3897
Public Employees' Insurance Plan Amendments, H. B. 66, 2279

PUBLIC FUNDS AND ACCOUNTS
Agency Fee Assessment Amendments, H. B. 383, 543
Concurrent Resolution on Fiscal Sustainability, S. C. R. 4, 3953
Environmental Quality Revenue Amendments, H. B. 250, 2662
Funds Amendments, S. B. 186, 3686
Higher Education Student Assistance Amendments, S. B. 172, 1252
Post Disaster Recovery and Mitigation Restricted Account Amendments, S. B. 229, 1279
Recreation Infrastructure Amendments, H. B. 409, 556
Retirement System Amendments, H. B. 75, 1469
Sovereign Lands Revenue Amendments, H. B. 157, 406
Special License Plate Designation, H. B. 13, 280
State Finance Review Commission, H. B. 82, 1478
Wildlife Conservation Fund, H. B. 78, 345

PUBLIC GUARDIAN
Guardianship and Conservatorship Amendments, S. B. 155, 3536

PUBLIC HEALTH
Community Health Worker Certification Process, S. B. 104, 2009

Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah, H. C. R. 11, 3917
Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings, S. J. R. 3, 3961
Medical Assistant Amendments, H. B. 316, 1607
Occupational and Professional Licensing Modifications, S. B. 43, 3173

PUBLIC LANDS
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution to Work Together to Address the Climate, Public Lands, and Carbon Sequestration, H. C. R. 1, 3909
Federal Land Disposal Law Amendments, H. B. 172, 2332
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Natural Resources Revisions, H. B. 305, 464
Sovereign Lands Revenue Amendments, H. B. 157, 406
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
State Monuments Act Amendments, H. B. 27, 301
State Resource Management Plan Amendments, H. B. 160, 408
State Transient Room Tax Modifications, H. B. 125, 1539
Utah Lake Amendments, H. B. 240, 436
Utah Lake Authority, H. B. 232, 418
Veteran Access to State Parks, H. B. 155, 858

PUBLIC RETIREMENT AND INSURANCE
Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions, S. C. R. 1, 3949
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Public Employees' Health Program Amendments, S. B. 249, 3897
Public Employees' Insurance Plan Amendments, H. B. 66, 2279
Public Safety Disability Benefits Amendments, H. B. 70, 793
Retirement System Amendments, H. B. 75, 1469
Utah Retirement Systems Revisions, S. B. 24, 1067

PUBLIC SAFETY
Correctional Officer Eligibility Amendments, S. B. 96, 212
Criminal Justice Data Management Task Force, S. B. 150, 3507
Criminal Stalking Exemption Amendments, S. B. 56, 3296
DNA Specimen Analysis Amendments, H. B. 19, 713
Driving Offenses Amendments, H. B. 29, 729
Emergency Management Administration Council Sunset Extension, S. B. 36, 1090
Emergency Response Amendments, H. B. 16, 708
False Emergency Reporting Amendments, H. B. 353, 970
Firearm Preemption Amendments, S. B. 115, 3382
First Responder Mental Health Services Amendments, H. B. 23, 716
Forcible Entry Warrant Modifications, H. B. 124, 829
Forensic Biological Evidence Preservation, H. B. 65, 779
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Law Enforcement Recording Release Amendments, H. B. 260, 894
Officer Intervention and Reporting Amendments, S. B. 126, 1211
Post Council Membership Amendments, H. B. 94, 822
Post Disaster Recovery and Mitigation Restricted Account Amendments, S. B. 229, 1279
Property Theft Amendments, H. B. 38, 1426
Protection Against Extortion Amendments, S. B. 156, 1214
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Search and Rescue Advisory Board Sunset Extension, S. B. 37, 1091
Sexual Exploitation Amendments, S. B. 167, 1217
Use of Force Revisions, H. B. 123, 827
Weapon Possession Penalty Amendments, H. B. 329, 965

PUBLIC SAFETY RETIREMENT
Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions, S. C. R. 1, 3949
Public Safety Disability Benefits Amendments, H. B. 70, 793
Utah Retirement Systems Revisions, S. B. 24, 1067

PUBLIC SERVICE COMMISSION
Project Entity Oversight Committee, H. B. 215, 2365
Railroad Crossing Maintenance Amendments, H. B. 181, 2335

PUBLIC TRANSIT
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Public Transit Capital Development Modifications, H. B. 322, 524
Transportation Amendments, S. B. 51, 1844

PUBLIC UTILITIES
Department of Government Operations, S. B. 15, 1018
Energy Efficiency Amendments, S. B. 188, 666
Grid Resilience Committee, H. B. 418, 2998
Project Entity Oversight Modifications, S. B. 92, 3352
Recycling Transparency Amendments, H. B. 394, 2959
Renter's Credit Amendments, H. B. 26, 1340
Tire Recycling Fund Amendments, S. B. 203, 3740
Water Reporting Amendments, H. B. 393, 552

PUBLIC UTILITIES AND TECHNOLOGY
Blockchain and Digital Innovation Task Force, H. B. 335, 2815
Criminal Justice Data Management Task Force, S. B. 150, 3507
Cybersecurity Commission, H. B. 280, 908
Department of Government Operations, S. B. 15, 1018
Digital User Asset Payment Amendments, H. B. 456, 3036
Election Security Amendments, H. B. 313, 946

Electrical Facility Sales Tax Exemption, S. B. 106, 2011
Energy Efficiency Amendments, S. B. 188, 666
Geological Carbon Sequestration Amendments, H. B. 244, 444
Grid Resilience Committee, H. B. 418, 2998
Identity Theft Reporting System Amendments, H. B. 97, 2281
Project Entity Oversight Modifications, S. B. 92, 3352
Public Safety Employee Personal Data Amendments, H. B. 345, 2831
Recycling Transparency Amendments, H. B. 394, 2959
Tire Recycling Fund Amendments, S. B. 203, 3740
Utah Communications Authority Amendments, S. B. 147, 3498
Water Reporting Amendments, H. B. 393, 552

PUNISHMENT
Division of Consumer Protection Amendments, S. B. 26, 1692
Fine Amendments, S. B. 75, 625
Intimate Image Distribution Amendments, H. B. 18, 711
Juvenile Justice Changes, H. B. 299, 918
Occupational Safety and Health Amendments, H. B. 245, 2471
Offender Supervision Amendments, H. B. 28, 719
Probation and Parole Employment Incentive Program, H. B. 412, 2990
Property and Financial Offense Amendments, H. B. 229, 2448
Property Theft Amendments, H. B. 38, 1426
Protection Against Extortion Amendments, S. B. 156, 1214
Restitution Amendments, H. B. 321, 2753
Sexual Exploitation Amendments, S. B. 167, 1217
Trespass Penalty Amendments, S. B. 68, 620
Weapon Possession Penalty Amendments, H. B. 329, 965

RADIATION
Environmental Quality Revenue Amendments, H. B. 250, 2662

RAILROADS
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Railroad Crossing Maintenance Amendments, H. B. 181, 2335
Railroad Crossing Modifications, S. B. 215, 676

REAL ESTATE
Division of Real Estate Amendments, H. B. 69, 1454
Eviction Records Amendments, H. B. 359, 2857
Joint Tenancy Presumption Amendments, H. B. 276, 2682
Real Estate Interest Termination Amendments, H. B. 291, 2697
Uniform Easement Relocation Act, H. B. 132, 2293
Uniform Partition of Heirs' Property Act, H. B. 120, 2288

REAL PROPERTY
Community Association Regulation Amendments, S. B. 152, 3521
Division of Real Estate Amendments, H. B. 69, 1454
Eviction Records Amendments, H. B. 359, 2857
Joint Tenancy Presumption Amendments, H. B. 276, 2682
Microenterprise Home Kitchen Amendments, H. B. 292, 2698
Preconstruction and Construction Liens Amendments, S. B. 119, 3387
Real Estate Interest Termination Amendments, H. B. 291, 2697
Real Property Recording Amendments, S. B. 80, 3303
State Construction Code Amendments, H. B. 39, 305
Telephone Solicitation Amendments, H. B. 217, 2373
Uniform Easement Relocation Act, H. B. 132, 2293
Uniform Partition of Heirs' Property Act, H. B. 120, 2288
Water Wise Landscaping Amendments, H. B. 282, 1601

RECODIFICATION
Criminal Code Recodification, S. B. 123, 1125
Criminal Code Recodification Cross References, S. B. 124, 3391
Expungement Modifications, S. B. 35, 1711

RECYCLING
Recycling Transparency Amendments, H. B. 394, 2959
Tire Recycling Fund Amendments, S. B. 203, 3740

REDISTRICTING
School Board Expansion Requirements, S. B. 78, 1892

REFERENDA
Ballot Amendments, S. B. 38, 1729
Ballot Measure Amendments, H. B. 218, 2382

RENEWABLE AND CLEAN ENERGY
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Water Reporting Amendments, H. B. 393, 552

RESOLUTIONS
Appropriations Procedures Joint Resolution, H. J. R. 19, 3940
Concurrent Resolution Acknowledging Completion of Board Governance Training, H. C. R. 8, 3915
Concurrent Resolution Calling for Protection of Archaeological Sites, H. C. R. 4, 3911
Concurrent Resolution Concerning the Conflict in Ukraine, H. C. R. 21, 3922
Concurrent Resolution Condemning Antisemitism, H. C. R. 15, 3919
Concurrent Resolution Condemning the Undemocratic Government of Venezuela, H. C. R. 5, 3912
Concurrent Resolution Creating the Bridal Veil Falls State Monument, H. C. R. 13, 3918
Concurrent Resolution Encouraging Support for Internationally Adopted Individuals, S. C. R. 6, 3955
Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position, S. C. R. 3, 3952
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Concurrent Resolution Honoring 125th Anniversary of the National Parent Teacher Association, S. C. R. 5, 3954

Concurrent Resolution Honoring the Life and Achievements of Helen Foster Snow, S. C. R. 9, 3958
Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah, H. C. R. 11, 3917
Concurrent Resolution on Fiscal Sustainability, S. C. R. 4, 3953
Concurrent Resolution Recognizing the Importance of the Agriculture Industry, S. C. R. 8, 3956
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Concurrent Resolution Supporting Utah's Economic and Cultural Relationship with Taiwan, H. C. R. 17, 3921
Concurrent Resolution to Work Together to Address the Climate, Public Lands, and Carbon Sequestration, H. C. R. 1, 3909
House Rules Resolution - Amendments to House Rules, H. R. 2, 3943
Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process, H. J. R. 13, 3925
Joint Resolution Authorizing Pay of In-session Employees, S. J. R. 1, 3959
Joint Resolution Emphasizing a Desire and Readiness to Host a Future Olympic and Paralympic Winter Games, S. J. R. 10, 3965
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939
Joint Resolution Recognizing the Utah Olympic Legacy, H. J. R. 12, 3924
Joint Resolution Supporting Services for Veterans, H. J. R. 11, 3923
Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings, S. J. R. 3, 3961
Joint Resolution Urging Congress to Propose the Keep Nine Amendment to the United States Constitution, S. J. R. 2, 3961
Joint Rules Resolution - Electronic Meetings Modifications, S. J. R. 5, 3962
Joint Rules Resolution - Legislative Procedure Revisions, H. J. R. 14, 3931
Senate Rules Resolution - Senate Access Procedures, S. R. 1, 3966

RESOLUTIONS, RULES
Appropriations Procedures Joint Resolution, H. J. R. 19, 3940
Concurrent Resolution Creating the Bridal Veil Falls State Monument, H. C. R. 13, 3918
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
House Rules Resolution - Amendments to House Rules, H. R. 2, 3943
Joint Rules Resolution - Electronic Meetings Modifications, S. J. R. 5, 3962
Joint Rules Resolution - Legislative Procedure Revisions, H. J. R. 14, 3931
Senate Rules Resolution - Senate Access Procedures, S. R. 1, 3966

RESTITUTION
Juvenile Justice Changes, H. B. 299, 918
Restitution Amendments, H. B. 321, 2753
Trespass Penalty Amendments, S. B. 68, 620

REVENUE
Concurrent Resolution Calling on Local Governments to Treat Above-trend Revenue Growth as One-time Revenue, S. C. R. 7, 3956

REVENUE AND TAXATION
Affordable Housing Tax Amendments, S. B. 81, 1897
Business Tax Amendments, S. B. 93, 1977
Cigarette Amendments, H. B. 34, 1409
Concurrent Resolution Calling on Local Governments to Treat Above-trend Revenue Growth as One-time Revenue, S. C. R. 7, 3956
County Property Tax Statement Amendments, H. B. 41, 323
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Economic Development Modifications, H. B. 35, 1413
Electrical Facility Sales Tax Exemption, S. B. 106, 2011
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Identification for Vehicle Registration Amendments, S. B. 64, 1110
Income Tax Modifications, S. B. 48, 1841
Income Tax Revisions, H. B. 444, 1646
License Plate Revisions, H. B. 88, 390
Military Installation Development Authority Revisions, S. B. 232, 3809
Mineral Exploration Tax Credit, S. B. 250, 697
Mobile Workforce Income Tax Amendments, S. B. 39, 1734
Point of the Mountain State Land Authority Amendments, H. B. 438, 1629
Pollution Control Equipment Tax Amendments, S. B. 174, 2080
Property Tax Amendments, S. B. 20, 1661
Property Tax Appeals Process Amendments, S. B. 12, 1015
Property Tax Deferral Amendments, S. B. 25, 1687
Property Tax Exemption Amendments, H. B. 347, 1615
Recreation Infrastructure Amendments, H. B. 409, 556
Renter's Credit Amendments, H. B. 26, 1340
Revenue Bond and Capital Facilities Amendments, H. B. 191, 2342
Revisions to Property Tax, S. B. 200, 2130
Sales and Income Tax Amendments, H. B. 268, 1581
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
State Film Production Incentives Amendments, S. B. 49, 3292
State Transient Room Tax Modifications, H. B. 125, 1539
Tangible Personal Property Tax Amendments, H. B. 199, 359
Targeted Business Income Tax Credit Amendments, S. B. 76, 1887
Tax Administration Amendments, S. B. 90, 1918
Tax Amendments, S. B. 59, 229
Tax Sale Notice Amendments, H. B. 106, 249
Transient Room Tax Amendments, H. B. 323, 2759
Travel Insurance Amendments, H. B. 338, 2817

Utah Energy Infrastructure Amendments, H. B. 46, 368
Utah Inland Port Authority Amendments, H. B. 443, 584
Utah Rural Jobs Act Amendments, H. B. 25, 1333
Water Related Sales and Use Tax Amendments, S. B. 221, 686

REVISOR LEGISLATION
Revisor's Technical Corrections to Utah Code, S. B. 91, 1926

RIGHT OF WAY
Right-of-Way Disposal Amendments, S. B. 202, 671

ROADS/HIGHWAYS
Driver Speeding Amendments, S. B. 53, 1099
Jordan River Improvement Amendments, H. B. 319, 2746
Right-of-way Disposal Amendments, S. B. 202, 671
Speed Limit Designation Amendments, H. B. 235, 361
State Road Jurisdiction Amendments, S. B. 13, 606
Traffic Violation Amendments, H. B. 139, 848
Vehicle Merger Amendments, H. B. 76, 389

RULEMAKING PROCEDURES
Department of Government Operations, S. B. 15, 1018
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216

RURAL DEVELOPMENT
Economic and Workforce Development Amendments, H. B. 333, 2766
Rural Coworking and Innovation Center Grant Program Amendments, H. B. 101, 826
State Film Production Incentives Amendments, S. B. 49, 3292
Utah Rural Jobs Act Amendments, H. B. 25, 1333

SALES AND USE TAX
Business Tax Amendments, S. B. 93, 1977
Electrical Facility Sales Tax Exemption, S. B. 106, 2011
Point of the Mountain State Land Authority Amendments, H. B. 438, 1629
Recreation Infrastructure Amendments, H. B. 409, 556
Sales and Income Tax Amendments, H. B. 268, 1581
State Transient Room Tax Modifications, H. B. 125, 1539
Tax Administration Amendments, S. B. 90, 1918
Water Related Sales and Use Tax Amendments, S. B. 221, 686

SALES TAX EXEMPTIONS
Business Tax Amendments, S. B. 93, 1977
Electrical Facility Sales Tax Exemption, S. B. 106, 2011
Sales and Income Tax Amendments, H. B. 268, 1581

SCHOLARSHIPS AND FINANCIAL AID
Higher Education Financial Aid Amendments, H. B. 355, 2840

SCHOOL ACCOUNTABILITY
Parent Access to School Data Comparison, H. B. 270, 2681
School Turnaround Program Revisions, S. B. 245, 3888

SCHOOL DISTRICTS
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Civics Education Amendments, H. B. 273, 1595
Concurrent Resolution Acknowledging Completion of Board Governance Training, H. C. R. 8, 3915
Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty, H. C. R. 16, 3920
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Full-day Kindergarten, H. B. 193, 2349
In-person Learning Amendments, H. B. 183, 158
Military Servicemember Child Enrollment, S. B. 233, 3819
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Regulatory Sandbox in Education, S. B. 191, 2122
School Board Expansion Requirements, S. B. 78, 1892
School Dropout Prevention Amendments, H. B. 251, 2666
School Enrollment Amendments, H. B. 380, 2928
School Information Management System Amendments, S. B. 79, 1895
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469
Student Intervention Early Warning Program, H. B. 103, 1492
Student Tribal Regalia Use Amendments, H. B. 30, 1341
Students with Disabilities Funding Revisions, H. B. 113, 1514
Teacher Professional Development Amendments, H. B. 184, 252
Title IX Reporting, H. B. 420, 3002

SCHOOL FACILITIES
Period Products in Schools, H. B. 162, 2324
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
School Information Management System Amendments, S. B. 79, 1895

SCHOOL FINANCE
Early College and Concurrent Enrollment Program Amendments, H. B. 390, 2947
Full-day Kindergarten, H. B. 193, 2349
Funding Independence in Foreign Language Education, H. B. 346, 2834
Higher Education Performance Funding Goals, S. B. 42, 1744
Period Products in Schools, H. B. 162, 2324
Public Education Budget Amendments, S. B. 2, 3104
School Information Management System Amendments, S. B. 79, 1895
Special Education Amendments, S. B. 134, 3469
Student Intervention Early Warning Program, H. B. 103, 1492
Students with Disabilities Funding Revisions, H. B. 113, 1514

SCHOOL PERSONNEL
Early Literacy Outcomes Improvement, S. B. 127, 2039
Effective Teachers in High Poverty Schools Incentive Program Amendments, H. B. 315, 1605

Grow Your Own Teacher and School Counselor Pipeline Program, S. B. 251, 3898
Paid Professional Hours for Educators, H. B. 396, 2960
School Nursing Services Amendments, H. B. 114, 1516
School Readiness Amendments, H. B. 290, 2694
Special Education Licensing Amendments, S. B. 103, 2007
Teacher Professional Development Amendments, H. B. 184, 252

SEARCH AND SEIZURE
Asset Forfeiture Amendments, S. B. 65, 1111
Forcible Entry Warrant Modifications, H. B. 124, 829

SECURITIES
Digital Asset Amendments, S. B. 182, 3677

SERVICES FOR PEOPLE WITH DISABILITIES
Coordinating Council for Persons with Disabilities Sunset Extension, S. B. 47, 1840
Disability Ombudsman Program, H. B. 150, 1545
Joint Resolution Recognizing the Employment First Initiative, H. J. R. 15, 3939

SEVERANCE TAX
Mineral Exploration Tax Credit, S. B. 250, 697

SEXUAL OFFENSES
Criminal Code Recodification, S. B. 123, 1125
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Intimate Image Distribution Amendments, H. B. 18, 711
Protection Against Extortion Amendments, S. B. 156, 1214
Sexual Exploitation Amendments, S. B. 167, 1217
Sexual Solicitation Amendments, H. B. 81, 798

SIGNS AND BILLBOARDS
Jordan River Improvement Amendments, H. B. 319, 2746

SOVEREIGN LANDS
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Sovereign Lands Revenue Amendments, H. B. 157, 406
Sovereign Lands Trespassing Amendments, H. B. 317, 1613

SPECIAL EDUCATION
Special Education Amendments, S. B. 134, 3469
Special Education Licensing Amendments, S. B. 103, 2007
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
Students with Disabilities Funding Revisions, H. B. 113, 1514

SPECIAL SERVICE DISTRICT
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802

SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS
Occupational and Professional Licensing Modifications, S. B. 43, 3173

SPEED LIMITS
Driver Speeding Amendments, S. B. 53, 1099
Speed Limit Designation Amendments, H. B. 235, 361

STANDARDS AND CURRICULUM
Behavioral Health Curriculum Program, S. B. 171, 3570
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Civics Education Amendments, H. B. 273, 1595
Early Literacy Outcomes Improvement, S. B. 127, 2039
Education Innovation Program, H. B. 386, 1620
Education Sunset Extensions, H. B. 42, 324
Ethnic Studies Amendments, S. B. 244, 3884
School Standards Review Committee Sunset Extension, S. B. 21, 3172
Sensitive Materials in Schools, H. B. 374, 2925

STATE AGENCY ADJUDICATIVE PROCEEDINGS
Department of Transportation Adjudication Process Revisions, S. B. 235, 694

STATE AUDITOR
Fine Amendments, S. B. 75, 625

STATE BOARD OF EDUCATION
Audit Committee Authority Amendments, H. B. 419, 3000
Behavioral Health Curriculum Program, S. B. 171, 3570
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
Civics Education Amendments, H. B. 273, 1595
Early Literacy Outcomes Improvement, S. B. 127, 2039
Education Innovation Program, H. B. 386, 1620
Education Reporting Amendments, H. B. 481, 3098
Education Research and Innovation Amendments, H. B. 437, 3012
Educational Language Services Amendments, H. B. 302, 2711
Effective Teachers in High Poverty Schools Incentive Program Amendments, H. B. 315, 1605
Ethnic Studies Amendments, S. B. 244, 3884
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338
Parent Access to School Data Comparison, H. B. 270, 2681
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455
Regulatory Sandbox in Education, S. B. 191, 2122
School Epilepsy Training Amendments, H. B. 241, 1580
School Information Management System Amendments, S. B. 79, 1895
School Readiness Amendments, H. B. 290, 2694
School Safety Amendments, H. B. 428, 3003
School Standards Review Committee Sunset Extension, S. B. 21, 3172
School Turnaround Program Revisions, S. B. 245, 3888
Sensitive Materials in Schools, H. B. 374, 2925
Special Education Amendments, S. B. 134, 3469
Special Education Licensing Amendments, S. B. 103, 2007
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
Student Eligibility in Interscholastic Activities, H. B. 11, 3901

Students with Disabilities Funding Revisions, H. B. 113, 1514
Transparency in Lobbying and Disclosures Amendments, H. B. 90, 802
Utah Health Workforce Act, H. B. 176, 1567

STATE ENGINEER
Preferences of Water Rights Amendments, H. B. 168, 2327
State Engineer Modifications, H. B. 334, 535
Water Reporting Amendments, H. B. 393, 552
Water Rights Adjudication Amendments, H. B. 377, 536
Water Rights Proofs on Small Amounts of Water, S. B. 31, 612
Water Well Amendments, H. B. 177, 1577

STATE FACILITIES
State Facilities Management Amendments, S. B. 82, 3306
Water Conservation Modifications, H. B. 121, 398

STATE LANDS
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Point of the Mountain State Land Authority Amendments, H. B. 438, 1629
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
Utah Lake Amendments, H. B. 240, 436

STATE OFFICERS AND EMPLOYEES
Bereavement Leave Amendments, S. B. 63, 1101
Bereavement Leave Modifications, H. B. 449, 1002
Department of Government Operations, S. B. 15, 1018
Elected Public Body Transparency Amendments, H. B. 439, 3017
Government Record Amendments, H. B. 399, 2964
Government Records Fee Amendments, H. B. 96, 824
Medical Cannabis Patient Protection Amendments, S. B. 46, 1837
Paid Leave Modifications, S. B. 100, 3369
Retirement System Amendments, H. B. 75, 1469
State Employment Amendments, H. B. 104, 1495
Utah Protection of Public Employees Act Amendments, S. B. 40, 1092

STATE SCHOOL FUNDING DISTRIBUTION
Students with Disabilities Funding Revisions, H. B. 113, 1514
Use of Public Education Stabilization Account One-time Funding, H. B. 475, 3093

STATE SYMBOLS AND DESIGNATIONS
Day of Remembrance Observing the Incarceration of Japanese Americans During World War II, S. B. 58, 247
State Bird of Prey Designation, S. B. 116, 2036
State Holiday Modifications, H. B. 238, 2460

STATE TAX COMMISSION
Delinquent Property Tax Collection Amendments, S. B. 61, 1873
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Identification for Vehicle Registration Amendments, S. B. 64, 1110
Income Tax Modifications, S. B. 48, 1841
License Plate Revisions, H. B. 88, 390
Property Tax Amendments, S. B. 20, 1661
Property Tax Deferral Amendments, S. B. 25, 1687
Tax Administration Amendments, S. B. 90, 1918
Utah Rural Jobs Act Amendments, H. B. 25, 1333

STATE TREASURER
Higher Education Student Assistance Amendments, S. B. 172, 1252
State Finance Review Commission, H. B. 82, 1478

STATUTE OF LIMITATIONS
Statute of Limitations for Criminal Conduct Amendments, S. B. 246, 3896

STUDENT ASSESSMENT
Student Intervention Early Warning Program, H. B. 103, 1492

STUDENT HEALTH AND SAFETY
Cardiopulmonary Resuscitation in Schools, S. B. 192, 2128
In-person Learning Amendments, H. B. 183, 158
Period Products in Schools, H. B. 162, 2324
School Epilepsy Training Amendments, H. B. 241, 1580
School Safety Amendments, H. B. 428, 3003

STUDENT PRIVACY
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Refugee and Immigrant Student Policies Amendments, H. B. 230, 2455

SUBSTANCE ABUSE
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Driving Offenses Amendments, H. B. 29, 729
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334

SUBSTANCE ABUSE AND MENTAL HEALTH
Alcohol Education Amendments, H. B. 110, 1507
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Civil Commitment Revisions, H. B. 261, 2673
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Criminal Justice Amendments, S. B. 179, 1255
Medicaid Amendments, H. B. 413, 2993
Mental Health Professional Practice Act Amendments, S. B. 44, 3289
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334

SUBSTANCE USE DISORDER TREATMENT
Auricular Detoxification Amendments, H. B. 195, 2355
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Behavioral Health Services Amendments, S. B. 41, 1740
Congregate Care Program Amendments, S. B. 239, 3843
Counseling State Compact, S. B. 237, 3826
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337

SUICIDE
Behavioral Health Amendments, H. B. 236, 889
Behavioral Health Curriculum Program, S. B. 171, 3570
Special License Plate Designation, H. B. 13, 280

SUNSETS AND REPEALERS
Agreements to Provide State Services Sunset Extension, S. B. 60, 3301
Behavioral Health Services Amendments, S. B. 41, 1740
Board of Bank Advisors Sunset Extension, H. B. 14, 285
Child Care Amendments, H. B. 15, 286
Commission on Housing Affordability Amendments, H. B. 36, 773
Coordinating Council for Persons with Disabilities Sunset Extension, S. B. 47, 1840
Criminal Code Evaluation Task Force Sunset Extension, S. B. 50, 1097
Department of Agriculture and Food Amendments, H. B. 423, 570
Department of Health and Human Services Amendments, S. B. 45, 1746
Division of Consumer Protection Amendments, S. B. 26, 1692
Education Sunset Extensions, H. B. 42, 324
Educational Language Services Amendments, H. B. 302, 2711
Emergency Management Administration Council Sunset Extension, S. B. 36, 1090
Employment Advisory Council Amendments, H. B. 24, 300
Executive Residence Commission Sunset Extension, S. B. 29, 1706
Extension for Controlled Substance Prescription Requirements, H. B. 47, 333
Extension of the Utah Council on Victims of Crime, H. B. 20, 296
Fund of Funds Modifications, S. B. 218, 2143
Funds Amendments, S. B. 186, 3686
Grazing Advisory Board Amendments, S. B. 17, 609
Health Care Worker Protection Amendments, H. B. 32, 771
Higher Education Financial Aid Amendments, H. B. 355, 2840
Higher Education Performance Funding Goals, S. B. 42, 1744
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
Insurance Amendments, H. B. 31, 1342
Lane Filtering Amendments, H. B. 10, 707
Legislative Process Committee Sunset Extension, S. B. 30, 1707
Licensing Amendments, S. B. 16, 3166
Local Food Advisory Council Amendments, H. B. 297, 463
Property Tax Deferral Amendments, S. B. 25, 1687
School Standards Review Committee Sunset Extension, S. B. 21, 3172
Search and Rescue Advisory Board Sunset Extension, S. B. 37, 1091
State Film Production Incentives Amendments, S. B. 49, 3292
State Innovation Amendments, H. B. 326, 2763
State Transient Room Tax Modifications, H. B. 125, 1539
Student Intervention Early Warning Program, H. B. 103, 1492
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337
Targeted Business Income Tax Credit Amendments, S. B. 76, 1887
Utah Energy Infrastructure Amendments, H. B. 46, 368
Utah Powersport Vehicle Franchise Advisory Board Amendments, S. B. 27, 1700
Utah State Railroad Museum Authority Amendments, H. B. 254, 455
Utah Statewide Radio System Restricted Account Sunset Amendments, S. B. 34, 1709
Utah Substance Use and Mental Health Advisory Council Sunset Extension, H. B. 48, 334

TAX CREDITS
Economic and Workforce Development Amendments, H. B. 333, 2766
Economic Development Modifications, H. B. 35, 1413
Income Tax Modifications, S. B. 48, 1841
Mineral Exploration Tax Credit, S. B. 250, 697
Special Needs Opportunity Scholarship Program Amendments, S. B. 62, 1875
State Film Production Incentives Amendments, S. B. 49, 3292
Targeted Business Income Tax Credit Amendments, S. B. 76, 1887
Tax Amendments, S. B. 59, 229
Utah Energy Infrastructure Amendments, H. B. 46, 368
Utah Rural Jobs Act Amendments, H. B. 25, 1333

TECHNICAL COLLEGES
Student Intervention Early Warning Program, H. B. 103, 1492

TECHNOLOGY
Blockchain and Digital Innovation Task Force, H. B. 335, 2815
Criminal Justice Data Management Task Force, S. B. 150, 3507
Cybersecurity Commission, H. B. 280, 908
Department of Government Operations, S. B. 15, 1018
Digital User Asset Payment Amendments, H. B. 456, 3036
Election Security Amendments, H. B. 313, 946
Public Safety Employee Personal Data Amendments, H. B. 345, 2831

TELECOMMUNICATIONS
Department of Government Operations, S. B. 15, 1018
Telephone Solicitation Amendments, H. B. 217, 2373

THEFT
Property and Financial Offense Amendments, H. B. 229, 2448
Property Theft Amendments, H. B. 38, 1426

Theft by Extortion Amendments, H. B. 434, 989

TITLE AND ESCROW
Insurance Amendments, H. B. 31, 1342

TOBACCO AND OTHER NICOTINE PRODUCTS
Cigarette Amendments, H. B. 34, 1409

TOURISM
Convention and Tourism Business Assessment Area Act, H. B. 373, 2918
Economic and Workforce Development Amendments, H. B. 333, 2766
Hospitality and Tourism Management Cte Pilot Program Sunset Extension, H. B. 43, 325
Joint Resolution Recognizing the Utah Olympic Legacy, H. J. R. 12, 3924
Transient Room Tax Amendments, H. B. 323, 2759

TOWING
Towing Amendments, S. B. 109, 631
Transportation Amendments, S. B. 51, 1844

TRAFFIC VIOLATIONS
Driver Speeding Amendments, S. B. 53, 1099
Expungement Modifications, S. B. 35, 1711
Traffic Violation Amendments, H. B. 139, 848
Vehicle Merger Amendments, H. B. 76, 389

TRAILS
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Natural Resources Revisions, H. B. 305, 464
Recreation Infrastructure Amendments, H. B. 409, 556

TRANSPORTATION
Atv Weight Limit Amendments, S. B. 72, 623
Autocycle Amendments, H. B. 391, 972
Automobile Amendments, S. B. 204, 3742
Aviation Amendments, S. B. 166, 662
Commercial Driver License Amendments, H. B. 68, 380
Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail, H. C. R. 7, 3913
Department of Transportation Adjudication Process Revisions, S. B. 235, 694
Driver License and License Plate Amendments, H. B. 328, 957
Driver License Testing Modifications, H. B. 163, 251
Driver Speeding Amendments, S. B. 53, 1099
Driving Offenses Amendments, H. B. 29, 729
Driving Privilege Card Amendments, H. B. 222, 879
DUI Amendments, H. B. 137, 836
DUI Penalty Amendments, H. B. 143, 851
Electric Assisted Bicycle Use Amendments, S. B. 66, 614
Electronic Vehicle Registration Amendments, S. B. 99, 630
Fine Amendments, S. B. 75, 625
Housing and Transit Reinvestment Zone Amendments, S. B. 140, 3477
Identification for Vehicle Registration Amendments, S. B. 64, 1110
Jordan River Improvement Amendments, H. B. 319, 2746
Lane Filtering Amendments, H. B. 10, 707
Large Public Transit District Amendments, H. B. 404, 555
Law Enforcement Use of Unmanned Aircraft, H. B. 259, 457
License Plate Revisions, H. B. 88, 390
Military Vehicle License Plate Amendments, S. B. 77, 1120
Modifications to Driver License Examination, S. B. 216, 684
Natural Resources Revisions, H. B. 305, 464
Off-road Vehicle Safety Education, H. B. 180, 869
Outdoor Recreation Related Education, H. B. 206, 414
Public Transit Capital Development Modifications, H. B. 322, 524
Railroad Crossing Maintenance Amendments, H. B. 181, 2335
Railroad Crossing Modifications, S. B. 215, 676
Recreation Infrastructure Amendments, H. B. 409, 556
Right-of-way Disposal Amendments, S. B. 202, 671
Sovereign Lands Trespassing Amendments, H. B. 317, 1613
Special License Plate Designation, H. B. 13, 280
Speed Limit Designation Amendments, H. B. 235, 361
State Road Jurisdiction Amendments, S. B. 13, 606
Tinted Vehicle Windows Amendments, S. B. 149, 1213
Towing Amendments, S. B. 109, 631
Traffic Violation Amendments, H. B. 139, 848
Transportation Amendments, S. B. 51, 1844
Unmanned Aircraft Amendments, S. B. 122, 649
Utah Inland Port Authority Amendments, H. B. 443, 584
Vehicle Inspection Amendments, H. B. 108, 397
Vehicle Merger Amendments, H. B. 76, 389
Vehicle Registration Amendments, H. B. 186, 409
Vehicle Registration Modifications, H. B. 336, 966
Wireless Communication Device Use in a Motor Vehicle, S. B. 102, 3373

TRANSPORTATION COMMISSION
Vehicle Registration Amendments, H. B. 186, 409

TRANSPORTATION FUNDING
Vehicle Registration Amendments, H. B. 186, 409

TRANSPORTATION RELATED FEES
Vehicle Registration Amendments, H. B. 186, 409

UNIFORM LAWS
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Counseling State Compact, S. B. 237, 3826
Uniform Easement Relocation Act, H. B. 132, 2293
Uniform Partition of Heirs' Property Act, H. B. 120, 2288
Uniform Unregulated Child Custody Transfer Act, H. B. 219, 2434

UNMANNED AIRCRAFT
Law Enforcement Use of Unmanned Aircraft, H. B. 259, 457
Unmanned Aircraft Amendments, S. B. 122, 649

UTAH BOARD OF HIGHER EDUCATION
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Higher Education Performance Funding Goals, S. B. 42, 1744

Higher Education Student Assistance Amendments, S. B. 172, 1252
Physician Workforce Amendments, H. B. 295, 913

UTAH CAPITAL INVESTMENT CORPORATION
Fund of Funds Modifications, S. B. 218, 2143

UTAH COMMUNICATIONS AUTHORITY
Utah Communications Authority Amendments, S. B. 147, 3498

UTAH ENERGY INFRASTRUCTURE AUTHORITY
Utah Energy Infrastructure Amendments, H. B. 46, 368

UTAH HIGHWAY PATROL
Driving Offenses Amendments, H. B. 29, 729
Justice Reinvestment Initiative Modifications, H. B. 403, 2978
Lane Filtering Amendments, H. B. 10, 707
Law Enforcement Recording Release Amendments, H. B. 260, 894
Transportation Amendments, S. B. 51, 1844

UTAH NATIONAL GUARD
Title 39a – National Guard and Militia Act, H. B. 360, 2859

UTAH STATE HOSPITAL
Study on State Hospital Capacity Sunset Amendments, H. B. 49, 337

UTAH STATE RAILROAD MUSEUM AUTHORITY
Utah State Railroad Museum Authority Amendments, H. B. 254, 455

UTAH STATE RETIREMENT OFFICE
Utah Retirement Systems Revisions, S. B. 24, 1067

UTAH SYSTEM OF HIGHER EDUCATION
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Utah Health Workforce Act, H. B. 176, 1567

VEHICLE REGISTRATION
Electronic Vehicle Registration Amendments, S. B. 99, 630
Identification for Vehicle Registration Amendments, S. B. 64, 1110
Transportation Amendments, S. B. 51, 1844
Vehicle Inspection Amendments, H. B. 108, 397
Vehicle Registration Amendments, H. B. 186, 409
Vehicle Registration Modifications, H. B. 336, 966

VETERANS AFFAIRS
Income Tax Modifications, S. B. 48, 1841
Joint Resolution Supporting Services for Veterans, H. J. R. 11, 3923
Veteran Access to State Parks, H. B. 155, 858

VETERANS AND MILITARY AFFAIRS
Income Tax Modifications, S. B. 48, 1841
Title 39a – National Guard and Militia Act, H. B. 360, 2859
Veteran Access to State Parks, H. B. 155, 858

VETERANS AND MILITARY BENEFITS
Income Tax Modifications, S. B. 48, 1841
Veteran Access to State Parks, H. B. 155, 858

VETERINARY CARE
Veterinarian Regulations Amendments, S. B. 209, 675

VICTIMS
Division of Juvenile Justice Services Rulemaking Amendments, H. B. 126, 832
Domestic Violence Offender Treatment Board, H. B. 208, 877
Extension of the Utah Council on Victims of Crime, H. B. 20, 296
Juvenile Justice Changes, H. B. 299, 918
Offender Supervision Amendments, H. B. 28, 719
Victims' Rights Revisions, H. B. 134, 834

VITAL STATISTICS
Birth Certificate Amendments, H. B. 341, 2825
Student Eligibility in Interscholastic Activities, H. B. 11, 3901
Traffic Safety Data Sharing Amendments, H. B. 398, 2963
Vital Records Special Characters, H. B. 310, 1603

VOLUNTEER HEALTH WORKERS
Insurance Coverage for Emergency Medical Service Personnel, H. B. 289, 2690
Volunteer Government Workers Amendments, H. B. 287, 2686

VOLUNTEERS
Volunteer Government Workers Amendments, H. B. 287, 2686

VOTING AND VOTER REGISTRATION
Ballot Amendments, S. B. 38, 1729
Ballot Measure Amendments, H. B. 218, 2382
Ballot Processing Amendments, H. B. 387, 2932
Election Modifications, S. B. 18, 254
Election Revisions, S. B. 19, 1055
Election Security Amendments, H. B. 313, 946
Financial Disclosures Amendments, H. B. 91, 816
Judicial Performance Evaluation Commission Amendments, H. B. 40, 216
Justice Court Judge Elections Amendments, H. B. 45, 1449
Municipal Alternate Voting Methods Amendments, H. B. 264, 2675
Victim Address Confidentiality Program, H. B. 117, 1518
Voter Roll Maintenance Amendments, H. B. 67, 789
Voting Administration Amendments, H. B. 411, 2988
Voting History Amendments, S. B. 32, 1708

WAGES
Mobile Workforce Income Tax Amendments, S. B. 39, 1734

WASTE
Recycling Transparency Amendments, H. B. 394, 2959
Solid and Hazardous Waste Amendments, S. B. 97, 3367
Tire Recycling Fund Amendments, S. B. 203, 3740

WATER
Capital Assets Related to Water, H. B. 269, 460
Colorado River Authority of Utah Amendments, S. B. 160, 659
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950

Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission, H. C. R. 10, 3916
Department of Agriculture and Food Amendments, H. B. 423, 570
Government Records Access Revisions, S. B. 254, 700
Great Salt Lake Amendments, H. B. 429, 581
Great Salt Lake Watershed Enhancement, H. B. 410, 565
Instream Water Flow Amendments, H. B. 33, 362
Jordan River Improvement Amendments, H. B. 319, 2746
Preferences of Water Rights Amendments, H. B. 168, 2327
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
Secondary Water Metering Amendments, H. B. 242, 438
Sovereign Lands Revenue Amendments, H. B. 157, 406
State Construction Code Amendments, H. B. 39, 305
State Engineer Modifications, H. B. 334, 535
State Innovation Amendments, H. B. 326, 2763
State Resource Management Plan Amendments, H. B. 160, 408
State Water Policy Amendments, H. B. 37, 303
Utah Lake Amendments, H. B. 240, 436
Utah Lake Authority, H. B. 232, 418
Utah Watersheds Council Amendments, H. B. 263, 458
Water Amendments, S. B. 89, 627
Water as Part of General Plan, S. B. 110, 2026
Water Conservation Modifications, H. B. 121, 398
Water Facility Amendments, H. B. 166, 2326
Water Related Sales and Use Tax Amendments, S. B. 221, 686
Water Reporting Amendments, H. B. 393, 552
Water Rights Adjudication Amendments, H. B. 377, 536
Water Rights Proofs on Small Amounts of Water, S. B. 31, 612
Water Well Amendments, H. B. 177, 1577
Water Wise Landscaping Amendments, H. B. 282, 1601
Watershed Restoration Initiative, H. B. 131, 401

WATER COMPANY
Capital Assets Related to Water, H. B. 269, 460
Secondary Water Metering Amendments, H. B. 242, 438
Water Amendments, S. B. 89, 627

WATER QUALITY
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
Utah Lake Amendments, H. B. 240, 436
Watershed Restoration Initiative, H. B. 131, 401

WATER RIGHTS
Great Salt Lake Amendments, H. B. 429, 581
Instream Water Flow Amendments, H. B. 33, 362
Utah Lake Amendments, H. B. 240, 436
Water Related Sales and Use Tax Amendments, S. B. 221, 686
Water Rights Adjudication Amendments, H. B. 377, 536
Water Rights Proofs on Small Amounts of Water, S. B. 31, 612

WATER UTILITIES, IRRIGATION, AND SEWER
Capital Assets Related to Water, H. B. 269, 460
Secondary Water Metering Amendments, H. B. 242, 438
Water Amendments, S. B. 89, 627
Water Conservation Modifications, H. B. 121, 398
Water Facility Amendments, H. B. 166, 2326

WEAPONS
Firearm Preemption Amendments, S. B. 115, 3382
Weapon Possession Penalty Amendments, H. B. 329, 965

WILDLIFE
Air Rifle Hunting Amendments, S. B. 205, 674
Big Game Amendments, H. B. 62, 375
Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands, S. C. R. 2, 3950
Donation of Food, H. B. 142, 404
Fishing and Hunting Restrictions for Nonpayment of Child Support, H. B. 231, 416
Instream Water Flow Amendments, H. B. 33, 362
Limits Related to Big Game, S. B. 206, 2134
Natural Resources Revisions, H. B. 305, 464
Outdoor Recreation Related Education, H. B. 206, 414
Sovereign Lands Revenue Amendments, H. B. 157, 406
State Resource Management Plan Amendments, H. B. 160, 408
Target Shooting Regulations, H. B. 141, 403
Trespass Penalty Amendments, S. B. 68, 620
Utah Lake Amendments, H. B. 240, 436
Wildlife Accident Protections, H. B. 427, 580
Wildlife Conservation Fund, H. B. 78, 345

WILLS
Inheritance Disqualification Amendments, H. B. 314, 954
Uniform Partition of Heirs' Property Act, H. B. 120, 2288

WORKERS' COMPENSATION
Business and Labor Reporting Requirements, H. B. 44, 327
Medical Panel Governmental Immunity Amendments, H. B. 369, 2916
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900

WORKFORCE SERVICES
Advanced Practice Registered Nurse Compact, S. B. 151, 3509
Affordable Housing Tax Amendments, S. B. 81, 1897
Child Care Amendments, H. B. 15, 286
Commission on Housing Affordability Amendments, H. B. 36, 773
Criminal Justice Amendments, S. B. 179, 1255
Economic and Workforce Development Amendments, H. B. 333, 2766
Employment Advisory Council Amendments, H. B. 24, 300
Higher Education Data Privacy and Governance Revisions, S. B. 226, 3788
Homeless Services Amendments, H. B. 440, 3020
Intergenerational Poverty Mitigation Amendments, H. B. 50, 338

Permanent Community Impact Fund Board Amendments, S. B. 111, 3380
Physician Workforce Amendments, H. B. 295, 913
School and Child Care Center Water Testing Requirements, H. B. 21, 1329
State Small Business Credit Initiative Program Fund Amendments, H. B. 17, 294
Utah Health Workforce Act, H. B. 176, 1567
Utah Housing Affordability Amendments, H. B. 462, 3038

WORKPLACE SAFETY AND HEALTH
Health Care Worker Protection Amendments, H. B. 32, 771
Occupational Safety and Health Amendments, H. B. 245, 2471
Rocky Mountain Center for Occupational and Environmental Health Amendments, S. B. 258, 3900

2022 THIRD SPECIAL SESSION

CHARTER SCHOOLS
Sex-designated Interscholastic Athletics Indemnification, H. B. 3001, 3979

EDUCATION
Sex-designated Interscholastic Athletics Indemnification, H. B. 3001, 3979

K-12 EDUCATION
Sex-designated Interscholastic Athletics Indemnification, H. B. 3001, 3979

SCHOOL DISTRICTS
Sex-designated Interscholastic Athletics Indemnification, H. B. 3001, 3979

BILL NUMBER INDEX

The Bill Number Index enables a reader who knows a bill's number to locate the chapter in which that bill is published. Titles and beginning page numbers follow each chapter number.

2021 SECOND SPECIAL SESSION

Bill	Chapter	Title	Page
H. B. 2001	1	Utah Tech University	3
H. B. 2002	3	Unemployment Insurance Rates Amendments	13
H. B. 2003	4	Pretrial Amendments	16
H. B. 2004	2	Congressional Boundaries Designation	10
H. B. 2005	5	Utah State House Boundaries Designation	57
S. B. 2001	6	Election Schedule Amendments	61
S. B. 2002	7	Interlocal Cooperation Act Amendments	68
S. B. 2003	8	State Flag Amendments	72
S. B. 2004	9	Workplace Covid-19 Amendments	74
S. B. 2005	10	State Board of Education Boundaries and Election Designation	76
S. B. 2006	11	Utah State Senate Boundaries and Election Designation	80
H. C. R. 201		Concurrent Resolution Urging Congress and the President to Protect Consumer Privacy in Banking and Financial Transactions	84

2022 GENERAL SESSION

Bill	Chapter	Title	Page
H. B. 1	1	Public Education Base Budget Amendments	87
H. B. 2	193	New Fiscal Year Supplemental Appropriations Act	1287
H. B. 3	300	Appropriations Adjustments	2151
H. B. 5	2	Natural Resources, Agriculture, and Environmental Quality Base Budget	102
H. B. 6	3	Executive Offices and Criminal Justice Base Budget	117
H. B. 7	4	Social Services Base Budget	135
H. B. 8	301	State Agency Fees and Internal Service Fund Rate Authorization and Appropriations	2190
H. B. 10	110	Lane Filtering Amendments	707
H. B. 11	478	Student Eligibility in Interscholastic Activities	3901
H. B. 13	19	Special License Plate Designation	280
H. B. 14	20	Board of Bank Advisors Sunset Extension	285
H. B. 15	21	Child Care Amendments	286
H. B. 16	111	Emergency Response Amendments	708
H. B. 17	22	State Small Business Credit Initiative Program Fund Amendments	294
H. B. 18	112	Intimate Image Distribution Amendments	711
H. B. 19	113	DNA Specimen Analysis Amendments	713
H. B. 20	23	Extension of the Utah Council on Victims of Crime	296
H. B. 21	194	School and Child Care Center Water Testing Requirements	1329
H. B. 22	24	Open and Public Meetings Act Modifications	298
H. B. 23	114	First Responder Mental Health Services Amendments	716
H. B. 24	25	Employment Advisory Council Amendments	300
H. B. 25	195	Utah Rural Jobs Act Amendments	1333
H. B. 26	196	Renter's Credit Amendments	1340
H. B. 27	26	State Monuments Act Amendments	301
H. B. 28	115	Offender Supervision Amendments	719
H. B. 29	116	Driving Offenses Amendments	729
H. B. 30	197	Student Tribal Regalia Use Amendments	1341
H. B. 31	198	Insurance Amendments	1342
H. B. 32	117	Health Care Worker Protection Amendments	771
H. B. 33	43	Instream Water Flow Amendments	362
H. B. 34	199	Cigarette Amendments	1409
H. B. 35	200	Economic Development Modifications	1413
H. B. 36	118	Commission on Housing Affordability Amendments	773
H. B. 37	27	State Water Policy Amendments	303
H. B. 38	201	Property Theft Amendments	1426
H. B. 39	28	State Construction Code Amendments	305
H. B. 40	11	Judicial Performance Evaluation Commission Amendments	216
H. B. 41	29	County Property Tax Statement Amendments	323
H. B. 42	30	Education Sunset Extensions	324
H. B. 43	31	Hospitality and Tourism Management CTE Pilot Program Sunset Extension	325

H. B. 44	32	Business and Labor Reporting Requirements	327
H. B. 45	202	Justice Court Judge Elections Amendments	1449
H. B. 46	44	Utah Energy Infrastructure Amendments	368
H. B. 47	33	Extension for Controlled Substance Prescription Requirements	333
H. B. 48	34	Utah Substance Use and Mental Health Advisory Council Sunset Extension	334
H. B. 49	35	Study on State Hospital Capacity Sunset Amendments	337
H. B. 50	36	Intergenerational Poverty Mitigation Amendments	338
H. B. 55	203	Juvenile Justice Services Amendments	1451
H. B. 62	45	Big Game Amendments	375
H. B. 63	119	Covid-19 Vaccine Exemptions	776
H. B. 65	120	Forensic Biological Evidence Preservation	779
H. B. 66	302	Public Employees' Insurance Plan Amendments	2279
H. B. 67	121	Voter Roll Maintenance Amendments	789
H. B. 68	46	Commercial Driver License Amendments	380
H. B. 69	204	Division of Real Estate Amendments	1454
H. B. 70	122	Public Safety Disability Benefits Amendments	793
H. B. 75	205	Retirement System Amendments	1469
H. B. 76	47	Vehicle Merger Amendments	389
H. B. 77	123	Medication for Inmates	796
H. B. 78	37	Wildlife Conservation Fund	345
H. B. 80	206	Diabetes Prevention Program	1476
H. B. 81	124	Sexual Solicitation Amendments	798
H. B. 82	207	State Finance Review Commission	1478
H. B. 88	48	License Plate Revisions	390
H. B. 90	125	Transparency in Lobbying and Disclosures Amendments	802
H. B. 91	126	Financial Disclosures Amendments	816
H. B. 94	127	Post Council Membership Amendments	822
H. B. 96	128	Government Records Fee Amendments	824
H. B. 97	303	Identity Theft Reporting System Amendments	2281
H. B. 101	129	Rural Coworking and Innovation Center Grant Program Amendments	826
H. B. 103	208	Student Intervention Early Warning Program	1492
H. B. 104	209	State Employment Amendments	1495
H. B. 106	15	Tax Sale Notice Amendments	249
H. B. 107	210	Small Claims Amendments	1505
H. B. 108	49	Vehicle Inspection Amendments	397
H. B. 110	211	Alcohol Education Amendments	1507
H. B. 111	212	Court-appointed Therapists Amendments	1509
H. B. 113	213	Students with Disabilities Funding Revisions	1514
H. B. 114	214	School Nursing Services Amendments	1516
H. B. 117	215	Victim Address Confidentiality Program	1518
H. B. 118	216	Wetland Amendments	1530
H. B. 120	304	Uniform Partition of Heirs' Property Act	2288
H. B. 121	50	Water Conservation Modifications	398
H. B. 122	217	Family Terminology Amendments	1532
H. B. 123	30	Use of Force Revisions	827
H. B. 124	131	Forcible Entry Warrant Modifications	829
H. B. 125	218	State Transient Room Tax Modifications	1539
H. B. 126	132	Division of Juvenile Justice Services Rulemaking Amendments	832
H. B. 131	51	Watershed Restoration Initiative	401
H. B. 132	305	Uniform Easement Relocation Act	2293
H. B. 134	133	Victims' Rights Revisions	834
H. B. 137	134	DUI Amendments	836
H. B. 138	135	Juvenile Justice Modifications	845
H. B. 139	136	Traffic Violation Amendments	848
H. B. 141	52	Target Shooting Regulations	403
H. B. 142	53	Donation of Food	404
H. B. 143	137	DUI Penalty Amendments	851
H. B. 145	219	Wildfire Amendments	1543
H. B. 146	306	Local Licensing Amendments	2299
H. B. 149	138	Power of Attorney Amendments	855
H. B. 150	220	Disability Ombudsman Program	1545
H. B. 151	307	Retail Facility Incentive Payments Amendments	2305

H. B. 152	139	Community Correctional Center Revisions	856
H. B. 153	308	Child Welfare Interview Requirements	2320
H. B. 154	221	Occupational Therapy Licensure Compact	1547
H. B. 155	140	Veteran Access to State Parks	858
H. B. 157	54	Sovereign Lands Revenue Amendments	406
H. B. 159	222	Attorney General Prosecution Review Amendments	1560
H. B. 160	55	State Resource Management Plan Amendments	408
H. B. 162	309	Period Products in Schools	2324
H. B. 163	16	Driver License Testing Modifications	251
H. B. 166	310	Water Facility Amendments	2326
H. B. 167	141	Mental Illness Psychotherapy Drug Task Force	859
H. B. 168	311	Preferences of Water Rights Amendments	2327
H. B. 169	38	State and Local Employee Disaster Services	346
H. B. 171	312	Custodial Interrogation Amendments	2330
H. B. 172	313	Federal Land Disposal Law Amendments	2332
H. B. 173	223	Jordan River Recreation Area Amendments	1565
H. B. 175	142	Protection of Animals Amendments	861
H. B. 176	224	Utah Health Workforce Act	1567
H. B. 177	225	Water Well Amendments	1577
H. B. 180	143	Off-road Vehicle Safety Education	869
H. B. 181	314	Railroad Crossing Maintenance Amendments	2335
H. B. 182	39	Local Health Department Order Amendments	349
H. B. 183	5	In-person Learning Amendments	158
H. B. 184	17	Teacher Professional Development Amendments	252
H. B. 186	56	Vehicle Registration Amendments	409
H. B. 190	40	Budgetary Procedures Modifications	356
H. B. 191	315	Revenue Bond and Capital Facilities Amendments	2342
H. B. 193	316	Full-day Kindergarten	2349
H. B. 194	144	Department of Corrections Education Services	875
H. B. 195	317	Auricular Detoxification Amendments	2355
H. B. 196	318	Transfer of Domestic Violence Cases	2356
H. B. 199	41	Tangible Personal Property Tax Amendments	359
H. B. 200	226	Medicaid Waiver for Medically Complex Children Amendments	1579
H. B. 205	319	County Officer Fees Amendments	2359
H. B. 206	57	Outdoor Recreation Related Education	414
H. B. 208	145	Domestic Violence Offender Treatment Board	877
H. B. 209	320	Federalism Commission Amendments	2360
H. B. 210	321	Primary Care Spending Amendments	2364
H. B. 215	322	Project Entity Oversight Committee	2365
H. B. 216	323	Office of State Debt Collection Amendments	2368
H. B. 217	324	Telephone Solicitation Amendments	2373
H. B. 218	325	Ballot Measure Amendments	2382
H. B. 219	326	Uniform Unregulated Child Custody Transfer Act	2434
H. B. 222	146	Driving Privilege Card Amendments	879
H. B. 225	327	Access to Medical Records Amendments	2445
H. B. 226	147	Higher Education and Corrections Council	881
H. B. 228	148	Crime Victim Reparations Amendments	885
H. B. 229	328	Property and Financial Offense Amendments	2448
H. B. 230	329	Refugee and Immigrant Student Policies Amendments	2455
H. B. 231	58	Fishing and Hunting Restrictions for Nonpayment of Child Support	416
H. B. 232	59	Utah Lake Authority	418
H. B. 235	42	Speed Limit Designation Amendments	361
H. B. 236	149	Behavioral Health Amendments	889
H. B. 237	330	Local District Modifications	2459
H. B. 238	331	State Holiday Modifications	2460
H. B. 240	60	Utah Lake Amendments	436
H. B. 241	227	School Epilepsy Training Amendments	1580
H. B. 242	61	Secondary Water Metering Amendments	438
H. B. 243	332	Regulatory Sandbox Program Amendments	2462
H. B. 244	62	Geological Carbon Sequestration Amendments	444
H. B. 245	333	Occupational Safety and Health Amendments	2471
H. B. 248	334	Juvenile Amendments	2473

H. B. 249	335	Juvenile Amendments Cross References	2592
H. B. 250	336	Environmental Quality Revenue Amendments	2662
H. B. 251	337	School Dropout Prevention Amendments	2666
H. B. 252	338	Employee Verification Requirements	2668
H. B. 254	63	Utah State Railroad Museum Authority Amendments	455
H. B. 257	339	Public Prosecutor Modifications	2669
H. B. 258	340	Political Action Committee Amendments	2670
H. B. 259	64	Law Enforcement Use of Unmanned Aircraft	457
H. B. 260	150	Law Enforcement Recording Release Amendments	894
H. B. 261	341	Civil Commitment Revisions	2673
H. B. 263	65	Utah Watersheds Council Amendments	458
H. B. 264	342	Municipal Alternate Voting Methods Amendments	2675
H. B. 267	151	Campaign Finance Amendments	896
H. B. 268	228	Sales and Income Tax Amendments	1581
H. B. 269	66	Capital Assets Related to Water	460
H. B. 270	343	Parent Access to School Data Comparison	2681
H. B. 273	229	Civics Education Amendments	1595
H. B. 276	344	Joint Tenancy Presumption Amendments	2682
H. B. 277	152	Juvenile Competency Amendments	903
H. B. 280	153	Cybersecurity Commission	908
H. B. 282	230	Water Wise Landscaping Amendments	1601
H. B. 283	345	Mental Health Professional Licensing Amendments	2683
H. B. 287	346	Volunteer Government Workers Amendments	2686
H. B. 289	347	Insurance Coverage for Emergency Medical Service Personnel	2690
H. B. 290	348	School Readiness Amendments	2694
H. B. 291	349	Real Estate Interest Termination Amendments	2697
H. B. 292	350	Microenterprise Home Kitchen Amendments	2698
H. B. 293	351	Ground Ambulance Interfacility Transport Licensing	2700
H. B. 294	352	Charter School Admissions Amendments	2704
H. B. 295	154	Physician Workforce Amendments	913
H. B. 297	67	Local Food Advisory Council Amendments	463
H. B. 299	155	Juvenile Justice Changes	918
H. B. 301	353	Medication Dispenser Amendments	2707
H. B. 302	354	Educational Language Services Amendments	2711
H. B. 303	355	Local Land Use Amendments	2717
H. B. 305	68	Natural Resources Revisions	464
H. B. 310	231	Vital Records Special Characters	1603
H. B. 313	156	Election Security Amendments	946
H. B. 314	157	Inheritance Disqualification Amendments	954
H. B. 315	232	Effective Teachers in High Poverty Schools Incentive Program Amendments	1605
H. B. 316	233	Medical Assistant Amendments	1607
H. B. 317	234	Sovereign Lands Trespassing Amendments	1613
H. B. 318	356	Dental Provider Malpractice Amendments	2742
H. B. 319	357	Jordan River Improvement Amendments	2746
H. B. 320	358	Guardianship Bill of Rights	2748
H. B. 321	359	Restitution Amendments	2753
H. B. 322	69	Public Transit Capital Development Modifications	524
H. B. 323	360	Transient Room Tax Amendments	2759
H. B. 326	361	State Innovation Amendments	2763
H. B. 328	158	Driver License and License Plate Amendments	957
H. B. 329	159	Weapon Possession Penalty Amendments	965
H. B. 333	362	Economic and Workforce Development Amendments	2766
H. B. 334	70	State Engineer Modifications	535
H. B. 335	363	Blockchain and Digital Innovation Task Force	2815
H. B. 336	160	Vehicle Registration Modifications	966
H. B. 338	364	Travel Insurance Amendments	2817
H. B. 341	365	Birth Certificate Amendments	2825
H. B. 344	366	Utah Medical Candor Act	2827
H. B. 345	367	Public Safety Employee Personal Data Amendments	2831
H. B. 346	368	Funding Independence in Foreign Language Education	2834
H. B. 347	235	Property Tax Exemption Amendments	1615
H. B. 350	369	State Historic Preservation Office Amendments	2837

H. B. 353	161	False Emergency Reporting Amendments	970
H. B. 355	370	Higher Education Financial Aid Amendments	2840
H. B. 357	371	Eminent Domain Appraisal Amendments	2854
H. B. 359	372	Eviction Records Amendments	2857
H. B. 360	373	Title 39a – National Guard and Militia Act	2859
H. B. 363	374	Modifications to Civil Commitment	2909
H. B. 369	375	Medical Panel Governmental Immunity Amendments	2916
H. B. 373	376	Convention and Tourism Business Assessment Area Act	2918
H. B. 374	377	Sensitive Materials in Schools	2925
H. B. 377	71	Water Rights Adjudication Amendments	536
H. B. 378	72	Mining Operations Amendments	538
H. B. 380	378	School Enrollment Amendments	2928
H. B. 383	73	Agency Fee Assessment Amendments	543
H. B. 384	379	Anesthesia and Sedation Amendments	2930
H. B. 385	74	Hemp and Cbd Amendments	547
H. B. 386	236	Education Innovation Program	1620
H. B. 387	380	Ballot Processing Amendments	2932
H. B. 388	381	Local Districts Amendments	2937
H. B. 389	382	Nursing Education Program Amendments	2946
H. B. 390	383	Early College and Concurrent Enrollment Program Amendments	2947
H. B. 391	162	Autocycle Amendments	972
H. B. 392	384	Expungement Fee Amendments	2951
H. B. 393	75	Water Reporting Amendments	552
H. B. 394	385	Recycling Transparency Amendments	2959
H. B. 396	386	Paid Professional Hours for Educators	2960
H. B. 398,	387	Traffic Safety Data Sharing Amendments	2963
H. B. 399	388	Government Record Amendments	2964
H. B. 400	389	Associate Physician License Amendments	2974
H. B. 402	163	Uninsured Motorist Amendments	976
H. B. 403	390	Justice Reinvestment Initiative Modifications	2978
H. B. 404	76	Large Public Transit District Amendments	555
H. B. 406	391	Jail Photo Distribution Prohibition	2981
H. B. 409	77	Recreation Infrastructure Amendments	556
H. B. 410	78	Great Salt Lake Watershed Enhancement	565
H. B. 411	392	Voting Administration Amendments	2988
H. B. 412	393	Probation and Parole Employment Incentive Program	2990
H. B. 413	394	Medicaid Amendments	2993
H. B. 417	395	Online Course Access Amendments	2997
H. B. 418	396	Grid Resilience Committee	2998
H. B. 419	397	Audit Committee Authority Amendments	3000
H. B. 420	398	Title IX Reporting	3002
H. B. 423	79	Department of Agriculture and Food Amendments	570
H. B. 427	80	Wildlife Accident Protections	580
H. B. 428	399	School Safety Amendments	3003
H. B. 429	81	Great Salt Lake Amendments	581
H. B. 434	164	Theft by Extortion Amendments	989
H. B. 436	400	Amendments to the Division of Consumer Protection	3006
H. B. 437	401	Education Research and Innovation Amendments	3012
H. B. 438	237	Point of the Mountain State Land Authority Amendments	1629
H. B. 439	402	Elected Public Body Transparency Amendments	3017
H. B. 440	403	Homeless Services Amendments	3020
H. B. 441	404	Community Paramedicine Amendments	3033
H. B. 442	165	Marijuana Definitions Amendments	990
H. B. 443	82	Utah Inland Port Authority Amendments	584
H. B. 444	238	Income Tax Revisions	1646
H. B. 449	166	Bereavement Leave Modifications	1002
H. B. 456	405	Digital User Asset Payment Amendments	3036
H. B. 462	406	Utah Housing Affordability Amendments	3038
H. B. 475	407	Use of Public Education Stabilization Account One–time Funding	3093
H. B. 481	408	Education Reporting Amendments	3098
H. C. R. 1		Concurrent Resolution to Work Together to Address the Climate, Public Lands, and Carbon Sequestration	3909
H. C. R. 4		Concurrent Resolution Calling for Protection of Archaeological Sites	3911

H. C. R. 5		Concurrent Resolution Condemning the Undemocratic Government of Venezuela	3912
H. C. R. 7		Concurrent Resolution Regarding Improving Air Quality Through Enhanced Zero Emission Rail	3913
H. C. R. 8		Concurrent Resolution Acknowledging Completion of Board Governance Training	3915
H. C. R. 10		Concurrent Resolution Regarding an Interlocal Agreement Creating the Jordan River Commission	3916
H. C. R. 11		Concurrent Resolution Honoring the Work of Primary Care Providers to the Citizens of Utah	3917
H. C. R. 13		Concurrent Resolution Creating the Bridal Veil Falls State Monument	3918
H. C. R. 15		Concurrent Resolution Condemning Antisemitism	3919
H. C. R. 16		Concurrent Resolution Recognizing Student Athletes' Right to Religious Freedom and Modesty	3920
H. C. R. 17		Concurrent Resolution Supporting Utah's Economic and Cultural Relationship with Taiwan	3921
H. C. R. 21		Concurrent Resolution Concerning the Conflict in Ukraine	3922
H. J. R. 11		Joint Resolution Supporting Services for Veterans	3923
H. J. R. 12		Joint Resolution Recognizing the Utah Olympic Legacy	3924
H. J. R. 13		Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process	3925
H. J. R. 14		Joint Rules Resolution – Legislative Procedure Revisions	3931
H. J. R. 15		Joint Resolution Recognizing the Employment First Initiative	3939
H. J. R. 19		Appropriations Procedures Joint Resolution	3940
H. R. 2		House Rules Resolution – Amendments to House Rules	3943
S. B. 1	6	Higher Education Base Budget	161
S. B. 2	409	Public Education Budget Amendments	3104
S. B. 3	410	Current Fiscal Year Supplemental Appropriations	3116
S. B. 4	7	Business, Economic Development, and Labor Base Budget	171
S. B. 6	8	Infrastructure and General Government Base Budget	192
S. B. 7	9	National Guard, Veterans Affairs, and Legislature Base Budget	206
S. B. 8	11	State Agency and Higher Education Compensation Appropriations	3137
S. B. 11	167	Local Election Amendments	1012
S. B. 12	168	Property Tax Appeals Process Amendments	1015
S. B. 13	83	State Road Jurisdiction Amendments	606
S. B. 14	412	Consumer Alcoholic Beverage Purchasing	3164
S. B. 15	169	Department of Government Operations	1018
S. B. 16	413	Licensing Amendments	3166
S. B. 17	84	Grazing Advisory Board Amendments	609
S. B. 18	18	Election Modifications	254
S. B. 19	170	Election Revisions	1055
S. B. 20	239	Property Tax Amendments	1661
S. B. 21	414	School Standards Review Committee Sunset Extension	3172
S. B. 22	240	Public-private Partnership Amendments	1680
S. B. 23	241	Acupuncturist Liability Amendments	1683
S. B. 24	171	Utah Retirement Systems Revisions	1067
S. B. 25	242	Property Tax Deferral Amendments	1687
S. B. 26	243	Division of Consumer Protection Amendments	1692
S. B. 27	244	Utah Powersport Vehicle Franchise Advisory Board Amendments	1700
S. B. 28	245	Office of American Indian-alaska Native Health and Family Services	1702
S. B. 29	246	Executive Residence Commission Sunset Extension	1706
S. B. 30	247	Legislative Process Committee Sunset Extension	1707
S. B. 31	85	Water Rights Proofs on Small Amounts of Water	612
S. B. 32	248	Voting History Amendments	1708
S. B. 34	249	Utah Statewide Radio System Restricted Account Sunset Amendments	1709
S. B. 35	250	Expungement Modifications	1711
S. B. 36	172	Emergency Management Administration Council Sunset Extension	1090
S. B. 37	173	Search and Rescue Advisory Board Sunset Extension	1091
S. B. 38	251	Ballot Amendments	1729
S. B. 39	252	Mobile Workforce Income Tax Amendments	1734
S. B. 40	174	Utah Protection of Public Employees Act Amendments	1092
S. B. 41	253	Behavioral Health Services Amendments	1740

S. B. 42	254	Higher Education Performance Funding Goals	1744
S. B. 43	415	Occupational and Professional Licensing Modifications	3173
S. B. 44	416	Mental Health Professional Practice Act Amendments	3289
S. B. 45	255	Department of Health and Human Services Amendments	1746
S. B. 46	256	Medical Cannabis Patient Protection Amendments	1837
S. B. 47	257	Coordinating Council for Persons with Disabilities Sunset Extension	1840
S. B. 48	258	Income Tax Modifications	1841
S. B. 49	417	State Film Production Incentives Amendments	3292
S. B. 50	175	Criminal Code Evaluation Task Force Sunset Extension	1097
S. B. 51	259	Transportation Amendments	1844
S. B. 53	176	Driver Speeding Amendments	1099
S. B. 56	418	Criminal Stalking Exemption Amendments	3296
S. B. 57	260	County Amendments	1871
S. B. 58	14	Day of Remembrance Observing the Incarceration of Japanese Americans During World War II	247
S. B. 59	12	Tax Amendments	229
S. B. 60	419	Agreements to Provide State Services Sunset Extension	3301
S. B. 61	261	Delinquent Property Tax Collection Amendments	1873
S. B. 62	262	Special Needs Opportunity Scholarship Program Amendments	1875
S. B. 63	177	Bereavement Leave Amendments	1101
S. B. 64	178	Identification for Vehicle Registration Amendments	1110
S. B. 65	179	Asset Forfeiture Amendments	1111
S. B. 66	86	Electric Assisted Bicycle Use Amendments	614
S. B. 68	87	Trespass Penalty Amendments	620
S. B. 72	88	ATV Weight Limit Amendments	623
S. B. 74	263	Alimony Modifications	1883
S. B. 75	89	Fine Amendments	625
S. B. 76	264	Targeted Business Income Tax Credit Amendments	1887
S. B. 77	180	Military Vehicle License Plate Amendments	1120
S. B. 78	265	School Board Expansion Requirements	1892
S. B. 79	266	School Information Management System Amendments	1895
S. B. 80	420	Real Property Recording Amendments	3303
S. B. 81	267	Affordable Housing Tax Amendments	1897
S. B. 82	421	State Facilities Management Amendments	3306
S. B. 83	268	Cosmetic Manufacturing Certificate Program	1899
S. B. 84	269	Chiropractic Practice Amendments	1900
S. B. 85	270	Protective Order and Stalking Injunction Expungement	1902
S. B. 86	271	District and Juvenile Court Judge Amendments	1904
S. B. 87	272	Court Fee Waiver Amendments	1905
S. B. 89	90	Water Amendments	627
S. B. 90	273	Tax Administration Amendments	1918
S. B. 91	274	Revisor's Technical Corrections to Utah Code	1926
S. B. 92	422	Project Entity Oversight Modifications	3352
S. B. 93	275	Business Tax Amendments	1977
S. B. 95	423	Limitations on Employer Liability	3366
S. B. 96	10	Correctional Officer Eligibility Amendments	212
S. B. 97	424	Solid and Hazardous Waste Amendments	3367
S. B. 98	276	Judiciary Amendments	1989
S. B. 99	91	Electronic Vehicle Registration Amendments	630
S. B. 100	425	Paid Leave Modifications	3369
S. B. 101	277	Nurse Apprentice Licensing Act	1997
S. B. 102	426	Wireless Communication Device Use in a Motor Vehicle	3373
S. B. 103	278	Special Education Licensing Amendments	2007
S. B. 104	279	Community Health Worker Certification Process	2009
S. B. 106	280	Electrical Facility Sales Tax Exemption	2011
S. B. 108	281	Indigent Defense Amendments	2022
S. B. 109	92	Towing Amendments	631
S. B. 110	282	Water as Part of General Plan	2026
S. B. 111	427	Permanent Community Impact Fund Board Amendments	3380
S. B. 115	428	Firearm Preemption Amendments	3382
S. B. 116	283	State Bird of Prey Designation	2036
S. B. 119	429	Preconstruction and Construction Liens Amendments	3387
S. B. 121	284	Anesthesiologist Assistant Licensing Act	2037

S. B. 122	93	Unmanned Aircraft Amendments	649
S. B. 123	181	Criminal Code Recodification	1125
S. B. 124	430	Criminal Code Recodification Cross References	3391
S. B. 126	182	Officer Intervention and Reporting Amendments	1211
S. B. 127	285	Early Literacy Outcomes Improvement	2039
S. B. 128	286	Reauthorization of Administrative Rules	2049
S. B. 132	287	Child Welfare Amendments	2050
S. B. 133	94	Food Security Amendments	650
S. B. 134	431	Special Education Amendments	3469
S. B. 136	95	Air Quality Policy Amendments	652
S. B. 137	432	Property Decontamination Amendments	3473
S. B. 140	433	Housing and Transit Reinvestment Zone Amendments	3477
S. B. 144	434	Genetic Privacy Amendments	3495
S. B. 146	96	Division of Oil, Gas, and Mining Amendments	654
S. B. 147	435	Utah Communications Authority Amendments	3498
S. B. 148	436	Construction Registry Amendments	3505
S. B. 149	183	Tinted Vehicle Windows Amendments	1213
S. B. 150	437	Criminal Justice Data Management Task Force	3507
S. B. 151	438	Advanced Practice Registered Nurse Compact	3509
S. B. 152	439	Community Association Regulation Amendments	3521
S. B. 153	97	Medical Cannabis Governance Study	657
S. B. 154	440	Naturopathic Physician Amendments	3532
S. B. 155	441	Guardianship and Conservatorship Amendments	3536
S. B. 156	184	Protection Against Extortion Amendments	1214
S. B. 160	98	Colorado River Authority of Utah Amendments	659
S. B. 161	442	Child Welfare Appeals Amendments	3542
S. B. 162	288	County Governance Amendments	2070
S. B. 163	443	Administrative Rules Amendments	3544
S. B. 164	444	Marriage Solemnization Amendments	3569
S. B. 166	99	Aviation Amendments	662
S. B. 167	185	Sexual Exploitation Amendments	1217
S. B. 170	13	Election Schedule Amendments	232
S. B. 171	445	Behavioral Health Curriculum Program	3570
S. B. 172	186	Higher Education Student Assistance Amendments	1252
S. B. 173	446	Alarm System Amendments	3571
S. B. 174	289	Pollution Control Equipment Tax Amendments	2080
S. B. 176	447	Alcoholic Beverage Control Act Amendments	3577
S. B. 179	187	Criminal Justice Amendments	1255
S. B. 181	188	Parental Representation Amendments	1274
S. B. 182	448	Digital Asset Amendments	3677
S. B. 183	449	Financial Institutions Modifications	3678
S. B. 184	450	Recording Amendments	3685
S. B. 186	451	Funds Amendments	3686
S. B. 188	100	Energy Efficiency Amendments	666
S. B. 190	290	Medical Cannabis Act Amendments	2081
S. B. 191	291	Regulatory Sandbox in Education	2122
S. B. 192	292	Cardiopulmonary Resuscitation in Schools	2128
S. B. 194	189	Medical Rationing Amendments	1276
S. B. 195	452	Medical Cannabis Access Amendments	3716
S. B. 200	293	Revisions to Property Tax	2130
S. B. 201	253	Alcoholic Beverage Control Act Enforcement Fund	3739
S. B. 202	101	Right-of-way Disposal Amendments	671
S. B. 203	454	Tire Recycling Fund Amendments	3740
S. B. 204	455	Automobile Amendments	3742
S. B. 205	102	Air Rifle Hunting Amendments	674
S. B. 206	294	Limits Related to Big Game	2134
S. B. 207	190	Wrongful Death Action Amendments	1278
S. B. 209	103	Veterinarian Regulations Amendments	675
S. B. 210	295	Post Conviction Representation Amendments	2135
S. B. 211	456	Income Tax Fund Amendments	3748
S. B. 212	296	Manufacturing Modernization Grant Program	2137
S. B. 213	457	Business Name Prohibitions	3773
S. B. 214	458	Utah Broadband Center Advisory Commission	3783

S. B. 215	104	Railroad Crossing Modifications	676
S. B. 216	105	Modifications to Driver License Examination	684
S. B. 217	297	Protective Order Revisions	2140
S. B. 218	298	Fund of Funds Modifications	2143
S. B. 219	299	Election Funding Amendments	2150
S. B. 220	459	Missing Child Identification Program	3786
S. B. 221	106	Water Related Sales and Use Tax Amendments	686
S. B. 222	460	Emergency Medical Service Personnel Amendments	3787
S. B. 226	461	Higher Education Data Privacy and Governance Revisions	3788
S. B. 227	462	Consumer Privacy Act	3799
S. B. 229	191	Post Disaster Recovery and Mitigation Restricted Account Amendments	1279
S. B. 232	463	Military Installation Development Authority Revisions	3809
S. B. 233	464	Military Servicemember Child Enrollment	3819
S. B. 235	107	Department of Transportation Adjudication Process Revisions	694
S. B. 236	465	Pharmacy Practice Amendments	3822
S. B. 237	466	Counseling State Compact	3826
S. B. 238	467	Homeless Services Modifications	3841
S. B. 239	468	Congregate Care Program Amendments	3843
S. B. 240	469	Health Care Liability Insurance Amendments	3857
S. B. 242	470	Child Support Amendments	3858
S. B. 243	471	Parent–time Amendments	3872
S. B. 244	472	Ethnic Studies Amendments	3884
S. B. 245	473	School Turnaround Program Revisions	3888
S. B. 246	474	Statute of Limitations for Criminal Conduct Amendments	3896
S. B. 248	192	BCI Background Check Amendments	1282
S. B. 249	475	Public Employees' Health Program Amendments	3897
S. B. 250	109	Mineral Exploration Tax Credit	697
S. B. 251	476	Grow Your Own Teacher and School Counselor Pipeline Program	3898
S. B. 254	109	Government Records Access Revisions	700
S. B. 258	477	Rocky Mountain Center for Occupational and Environmental Health Amendments	3900
S. C. R. 1		Concurrent Resolution Authorizing State Pick up of Public Safety and Firefighter Employee Retirement Contributions	3949
S. C. R. 2		Concurrent Resolution Highlighting Utah's Willingness to Cooperate with the Federal Partners for Efficient and Sustainable Management of Public Lands	3950
S. C. R. 3		Concurrent Resolution Highlighting Utah's Rare Earth Mineral Position	3952
S. C. R. 4		Concurrent Resolution on Fiscal Sustainability	3953
S. C. R. 5		Concurrent Resolution Honoring 125th Anniversary of the National Parent Teacher Association	3954
S. C. R. 6		Concurrent Resolution Encouraging Support for Internationally Adopted Individuals	3955
S. C. R. 7		Concurrent Resolution Calling on Local Governments to Treat Above–trend Revenue Growth as One–time Revenue	3956
S. C. R. 8		Concurrent Resolution Recognizing the Importance of the Agriculture Industry	3956
S. C. R. 9		Concurrent Resolution Honoring the Life and Achievements of Helen Foster Snow	3958
S. J. R. 1		Joint Resolution Authorizing Pay of In–session Employees	3959
S. J. R. 2		Joint Resolution Urging Congress to Propose the Keep Nine Amendment to the United States Constitution	3961
S. J. R. 3		Joint Resolution to Terminate Public Health Orders Pertaining to Face Coverings	3961
S. J. R. 5		Joint Rules Resolution – Electronic Meetings Modifications	3962
S. J. R. 10		Joint Resolution Emphasizing a Desire and Readiness to Host a Future Olympic and Paralympic Winter Games	3965
S. R. 1		Senate Rules Resolution – Senate Access Procedures	3966

2022 THIRD SPECIAL SESSION

H. B. 3001	1	Sex–designated Interscholastic Athletics Indemnification	3979